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FIRST SESSION

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, September 21, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D, offered the following prayer:

Seek the Lord while He may be found, call upon Him while He is near; let the wicked forsake his way, and the unrighteous man his thoughts; let him return to the Lord, that He may have mercy on him, and to our God, for He will abundantly pardon.—Isaiah 55: 6, 7.

Almighty God, by whose mercy we joined our Hebrew friends in entering a new year, now we come to join them again in confessing our sins. We have done those things we ought not to have done and we have left undone those things we ought to have done. We have fallen short of Thy purposes for our lives and we have failed to use wisely the gifts Thou hast given us. Humbly we make our confession unto Thee.

We pray that Thou wilt create in us clean hearts and renew a right spirit within us. Strengthen us in our resolve to mend our ways, to trust Thee more fully, and to serve our people more faithfully. Do Thou establish peace within our souls that we may be truly one with Thee and with our fellow creatures.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 602) entitled "An act to extend and revise the Library Services and Construction Act, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4544. An act to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General.

PROVIDING FOR CONSIDERATION OF H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 743 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 743

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be considered as having been read for amendment. After the disposition of the amendment jointly recommended by the Committee on Ways and Means and by the Committee on Interstate and Foreign Commerce beginning on page 2, line 1 through page 66, line 21 of the reported bill, it shall be in order to consider the second amendment recommended by the Committee on Ways and Means beginning on page 66, line 22 through page 70, line 5 of the reported bill and to consider the second amendment recommended by the Committee on Interstate and Foreign Commerce beginning on page 70, line 6 through page 72, line 16 of the reported bill as a substitute therefor. After the disposition of said second amendment it shall be in order to consider the third amendment recommended by the Committee on Ways and Means beginning on page 72, line 17 and printed in italic through page 113, line 12 of the reported bill, and to consider the third amendment recommended by the Committee on Interstate and Foreign Commerce printed in H. Rept. 95–393, part II beginning on page 21 through page 36 as a substitute therefor. After the disposition of said third amendment it shall be in order to consider the fourth amendment recommended by the Committee on Interstate and Foreign Commerce now printed on page 113, line 13 through page 116, line 23 of the reported bill. No amendments to the bill or to the amendments made in order by this resolution shall be in order except germane amendments printed in the Congressional Record at least two (legislative) days prior to consideration thereof, except that it shall be in order to debate said bill and amendments by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 743 provides for the consideration of H.R. 3, the medicare-medicaid antifraud and abuse amendments. This resolution provides for a modified open rule with 2 hours of general debate to be equally divided between the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce.

Since H.R. 3 was jointly referred to two committees, an opportunity is provided by the rule for each committee to offer amendments to the bill. In most cases these amendments are technical in nature. There is only one section in the bill where there is a substantive disagreement between the committees, the section which pertains to the confidentiality of medical records. In this instance each of the committees will offer an amendment reflecting its approach to the resolution of this controversial issue.

House Resolution 743 provides that after the disposition of the first amendment which has been jointly recommended by both committees, it shall be in order to consider the second amendment recommended by Ways and Means as well as a substitute to that amendment recommended by Interstate and Foreign Commerce. This amendment deals with the confidentiality of medical records and is the only one reported by the two committees in complete substantive disagreement.

After the disposition of the second amendment it shall be in order to consider the third amendment recommended by Ways and Means as well as a substitute to that amendment recommended by Interstate and Foreign Commerce. This amendment relates to a technical problem which would have precluded a few States from receiving Fed-

eral matching money to establish a separate medicaid fraud and abuse unit.

After the disposition of this amendment it shall be in order to consider the fourth amendment recommended by the Committee on Interstate and Foreign Commerce. This fourth amendment is a technical amendment to the medicaid program, which is solely under the jurisdiction of the Commerce Committee. Ways and Means has no objections to this amendment.

House Resolution 743 makes in order only committee amendments and germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to floor consideration.

The rule also allows for a motion to recommit with or without instructions.

H.R. 3 gives the Federal and State Governments new powers and sanctions in monitoring and controlling possible fraud and abuse in the medicare and medicaid programs. The bill increases the requirements for disclosure of financial information, strengthens the program's penalty provisions, and makes needed improvements in the professional standards review program. This bill would require HEW to suspend from the medicare and medicaid programs any practitioner convicted of a criminal offense related to the programs.

This bill makes a number of changes in the administration of the programs in order to monitor the programs better and to detect and correct fraud and abuse. The Comptroller General is directed to conduct a comprehensive review of the present administrative structure for the processing of medicare claims. Additionally, the Secretary of HEW is required to report to Congress with an analysis and recommendations relating to all aspects of the delivery of home health services under medicare.

The legislation also addresses the issue of the confidentiality of medical records, the circumstances under which records may be appropriately examined, and the safeguards that need to be established with respect to the disclosure of records. The committees substantively disagree in this area, as I mentioned earlier, and will present to the House their respective positions on this matter.

H.R. 3 was jointly referred to both committees in January. Since that time the two committees have worked closely together in developing this legislation. The one point of disagreement between the committees will be voted on by the House. I know of no opposition to the rule. Therefore, I urge the adoption of House Resolution 743 in order that H.R. 3 may be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Illinois (Mr. MURPHY) has gone into detail in explaining the rule and the purpose of the bill; and I support the rule.

We know how important our medicaid and medicare programs are throughout the country. I would like to see them expanded. At the same time, I think we should give the Government the opportunity to investigate fraudulent operation of the programs and also give the Government the authority to prosecute and punish fraudulent practices.

Mr. Speaker, I support not only the rule, but I support the bill.

I have no further requests for time, but I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, the two committees involved in the development of the medicare-medicaid fraud and abuse bill sought this rather complex rule to expedite floor consideration of this important legislation.

As my colleagues are aware, the 1974 committee reorganization transferred medicaid, a general revenue health program, to the Commerce Committee, while the Ways and Means Committee retained responsibility for the tax-based insurance program for the aged and disabled—medicare.

However, the parallel nature of medicare and medicaid often requires that legislation relating to these programs be coordinated. This has been done on H.R. 3. In legislation containing over 36 different substantive provisions, our committee bills differ on only 3 provisions, and 2 of these differences are strictly technical ones which will be rectified with the adoption of the committee amendments. Thus we really differ on only one provision—the issue of confidentiality of medical records. And on that issue, disagreement only arose at the full committee level since the two health subcommittees adopted identical provisions on this issue.

Without debating the relative merits of the difference in the treatment of the confidentiality of medical records, I would like to insert in the RECORD for my colleagues information two letters that bear directly on the issue.

The letters follow:

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., September 21, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: H.R. 3, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, will be debated on the House floor this week. This measure contains many vital anti-fraud and abuse provisions, on which both the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means have agreed. The Administration strongly supports most of these provisions, and we commend the members of the two Committees for their tireless combined effort on this landmark bill.

There is one provision, however, on which the two Committees have failed to agree. The Ways and Means amendments to H.R. 3 contain a provision sponsored by Representatives Philip Crane and Fortney P. Stark, which is concerned with prohibiting Federal officers, agents or employees from inspecting, acquiring or disclosing individually identifiable medical records. This provision, section 5(1)(1), will be the subject of a substitute amendment offered by Representative Paul Rogers, on behalf of the Committee on Interstate and Foreign Commerce.

The Administration is seriously concerned with the potential adverse effects of the Crane-Stark amendment on our Nation's health, and the purpose of this letter is to express our strong support for the Rogers substitute amendment.

Medical record confidentiality has long been a matter vitally important to Congress and to the Executive Branch. It has been the subject of a wide array of statutes affecting personal privacy, freedom of information, occupational health and safety, alcoholism and drug abuse treatment, and of various criminal laws. A substantial body of Federal regulations, covering such diverse areas as Food and Drug Administration enforcement, protection of biomedical research subjects, and Federal tax law enforcement, have also been directly concerned with medical record confidentiality.

Most recently, the Privacy Protection Study Commission, created by Congress in the Privacy Act of 1974, spent two years examining issues associated with the confidentiality of all records, including medical records. That Commission, whose seven members included Representatives Edward I. Koch and Barry M. Goldwater, Jr., issued its report on July 12, 1977, and HEW is currently engaged in a painstaking analysis of its recommendations.

While we recognize the concerns expressed by Ways and Means Committee members when they first adopted the Crane-Stark amendment, we believe those concerns will be more thoroughly and properly addressed in the context of legislation to implement the Privacy Commission's recommendations. We note that such legislation has already been introduced by Representatives Koch and Goldwater, Jr. Moreover, it is our intention to transmit our own legislative proposals to Congress in the very near future.

For that reason, we urge your strong support for the Rogers substitute amendment, which specifically addresses itself to the Privacy Commission recommendations by requiring HEW to produce its legislative proposals within 90 days of the publication of that report.

We are convinced that to act precipitously at this time on a broadly worded blanket restriction such as is contained in the Crane-Stark amendment would have immediate and far-reaching adverse consequences for the health of our nation.

Among other things, the Crane-Stark amendment would seriously hamper this Department's ability to assist States in preventing and controlling disease and epidemics. It would interfere with our ability to study the origins of diseases resulting from environmental hazards or occupational exposure to cancer-causing agents, where symptoms may take years to manifest. It would impede efforts to assure drug efficacy and safety. It would seriously undermine our efforts to control fraud and abuse in the Medicare and Medicaid programs, and to assure that Federal programs are paying for covered services which are reasonably priced and medically necessary.

Nor should other measures based on the Crane-Stark approach, such as the Satterfield amendment, which was rejected by the Commerce Committee, be adopted at this time, without careful and thorough consideration, including the opportunity for public hearings, in the regular Committee process. Personal privacy and confidentiality of records involve too many important ethical, legal and Constitutional considerations to be taken up outside that process.

We thank you for your attention to this matter, and we hope and trust you will support the Rogers amendment.

With best regards.

Sincerely,

JOSEPH A. CALIFANO, Jr.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 20, 1977.

DEAR COLLEAGUE: Our purpose in writing is to help clarify questions that might arise during consideration of the section of H.R. 3 relating to the confidentiality of medical records.

The Interstate and Foreign Commerce Committee and the Ways and Means Committee have reported differing amendments pertaining to the confidentiality of medical records. As reported from the Commerce Committee, section 5(1) requires the Secretary of HEW to submit to the Congress his legislative recommendations in this complex area within 90 days after the release of the Privacy Protection Study Commission report. All legislative proposals would then receive the benefit of full public hearings so that all implications of such legislative changes could be thoroughly analyzed. The full Ways and Means Committee changed an identical provision in its Subcommittee's bill to include an amendment which would impose sweeping limitations on access to medical records. It is now apparent that this would adversely affect such activities as epidemic control, epidemiologic research, identification of persons to permit notification of exposure of hazardous substances, IRS auditing of medical providers, and law enforcement and judicial deliberations in areas where medical evidence is relevant to the issue in question.

We urge you to support the Commerce Committee substitute to the second Committee amendment and oppose all other amendments to this section. Our position on this issue is strongly endorsed by the Administration, and by our colleague on the Privacy Commission, the Honorable Edward Koch, who is the chief congressional sponsor of legislation to implement the Commission's recommendations.

Further information is attached for your review.

PAUL G. ROGERS,
DAN ROSTENKOWSKI,
TIM LEE CARTER,
Members of Congress.

This week the House will consider H.R. 3, the Medicare-Medicaid Anti-Fraud and Abuse Amendments. This bill has been reported by both the Committees on Interstate and Foreign Commerce and Ways and Means. As reported by Ways and Means, Section 5(1) of H.R. 3 provides that no officer, employee, or agent of the United States may inspect, acquire, or require the disclosure of any identifiable medical record unless the patient has given a detailed and specific authorization.

While the intent of that provision is laudable, i.e. the protection of the individual's privacy as it relates to his or her medical record, the provision as it now stands would be crippling to existing critical public health programs. In some instances, denying access to records could even preclude necessary action in a life threatening situation.

In addition to affecting the programs of the Department of Health, Education and Welfare, some of which we will outline for you, this provision also affects programs of Defense, the Veterans Administration, Labor, and the Consumers' Product Safety Commission among others. Representatives of these organizations appeared before the Subcommittee on Health and the Environment to oppose the provision in the Ways and Means reported bill.

A few of the vital program activities which would be significantly altered, if not terminated, by this provision include:

1. Epidemic investigation—frequently numerous records must be reviewed rapidly; individuals at risk identified, found, and offered appropriate protective measures or treatment; and community control programs planned. Recent examples include the hundreds of potential contacts to Legionnaire's Disease; St. Louis Encephalitis epidemics in four Southeastern States in 1975; and a nationwide exposure of patients to bacterially contaminated intravenous fluids;

2. Epidemiologic research—especially that related to the cause and course of illness over a long period of time. Again, individuals who at some past point in time may have been exposed to a toxic or carcinogenic agent, must be identified, found, examined, and treated if necessary. Recent examples include studies linking the use of DES in pregnant women to vaginal cancer in their daughters; vinyl chloride work exposure to an increased risk of liver cancer; and x-ray treatment two or three decades ago to an increased risk of thyroid cancer;

3. Communicable Disease Control—even such important ongoing programs as immunization and venereal disease control would be affected. In immunization programs it is often necessary to review a child's record to see what vaccines may be needed, not only routinely, but in the face of an epidemic control effort. Penicillin resistant gonorrhea a major new VD threat to this country, can only be controlled by identifying and treating all exposed individuals *before* they can transmit this organism to others;

4. Laboratory records—Certain findings, which may result from even routine testing, such as evidence of hepatitis, syphillis, and typhoid require immediate identification and follow-up not only for the protection of the individual, but the public as well;

5. Unpredictable events—examples include the recent life threatening situation of a young boy with Lasa Fever, where the only way to prevent his death was to identify the very small number of travellers to Africa who had had Lasa Fever and who could provide protection to the child on a few hours notice. Another recent example is that of Guillain-Barre syndrome associated with swine flu vaccine. All known cases of Guillain-Barre in the nation had to be quickly identified, seen vaccine history established so that a scientifically valid decision could be made as to the possible relation between immunization and that syndrome; and

6. Other important health activities including the monitoring of new-drug research by the Food and Drug Administration, qualify assurance activities of PSRO physicians (Connecticut, for example, requires their review of care paid for by private, insurors), and even reimbursement procedures under Titles XVIII and XIX are all affected by this amendment.

These are only some examples.

The issue of individual protection of course, is an important one. As you know, we established a Privacy Protection Study Commission two years ago to study the full implications of this problem. In July, that Commission submitted its final report which contained a series of recommendations designed to safeguard privacy with respect to medical records, but not cripple research and critical public health activities by an inappropriate, and even unsafe, prohibition to necessary access.

Other colleagues, the Honorable Ed Koch and Barry Goldwater, Jr., who served on the Privacy Commission, have introduced legislation (H.R. 8283, and H.R. 8286) to implement the findings of the Commission. HEW is also developing legislative proposals in this area. Everyone involved with this issue, however, is concerned that the complexity of the problem requires additional thought and benefit of full public hearings.

Other amendments have been proposed which do deal with some of the problems raised by the sweeping nature of the Ways and Means reported bill; however, even under these proposals significant problems remain. For example, one amendment relies on existing State law to provide necessary access to medical records. Unfortunately, we cannot rely on State statute, even temporarily, to resolve this problem for us. A review of State law by HEW has found that while most States do give record access authority to State officials for purposes of communicable disease control, many do not address chronic disease problems, or multi-generation carcinogen exposure, and few speak to the newly discovered health effects of certain environmental toxicological, or chemical exposures.

We hope you will join us in urging retention of the language of the bill as reported by the Committee on Interstate and Foreign Commerce which requires HEW to present to the Congress, within 90 days of the release of the Privacy Commission Report, draft legislation to implement the Commission's recommendations on medical records, which we can then consider with benefit of appropriate public hearings.

The rule that we have requested allows for continued coordination and consultation between the two committees while still allowing the House to work its will. Publication in the RECORD of amendments allows us to better evaluate amendments and coordinate our positions on proposed modifications to these very complex and expensive programs.

Finally, Mr. Speaker, I would like to explain for my colleagues, what I anticipate will be the order of business during the amendment process on H.R. 3.

First. The first committee amendment reported from each committee is identical.

Second. The second committee amendment is where there is substantive disagreement on the confidentiality issue and possible alternative amendments might arise.

Third. The Commerce Committee position on the third committee amendment contains one technical refinement not contained in the Ways and Means bill which had been reported prior to the discovery of the need for this minor change. The Ways and Means Committee recommends the adoption of the Commerce substitute amendment here.

Fourth. Finally, the Commerce Committee has a fourth amendment relating to utilization review of long-term care under medicaid which is not contained in the Ways and Means bill. I urge my colleagues to endorse it and I know of no Ways and Means objection to its adoption.

Mr. ROGERS. Mr. Speaker, H.R. 3 is an important piece of legislation which can add significantly to the ability of the State and Federal Governments to uncover and prosecute fraud and to reduce abuse of our public medical care financing programs. The proposed legislation is truly a joint product of the Committees on Interstate and Foreign Commerce and Ways and Means. Our Subcommittees on Health worked closely throughout preparation and consideration of the legislation. We held joint hearings on the bill. We held sequential markup sessions, with each subcommit-

tee reconvening to consider the product of the other subcommittee's deliberations. The result has been a bill reported by both committees which is substantially the same in all aspects; in only one area, that relating to access to medical records, is the substantive approach adopted by the committees different. The result of this cooperation is not only uniformity in the reports of the committees: I believe it is a stronger and more carefully crafted piece of legislation as a result of the positive interaction of the two committees.

The rule on H.R. 3 is designed to allow continuation of the cooperation and coordination of the two committees as we now bring this legislation before the Members. The rule provides that, in addition to the amendments reported by each of the committees, amendments will be in order only if they are germane amendments and are printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration of H.R. 3 on the floor. This allows the committees to continue their procedure of considering jointly the proposals, and wherever possible, reaching recommendations with respect to the amendments that are consistent.

The first amendment in order under the rule is an amendment recommended jointly by the committees. It includes the portions of the bill which assure that power of attorney arrangements will not be used to circumvent the existing prohibition of current law against "factoring" arrangements, and which require disclosure of certain ownership information by medicare and medicaid providers. It also includes a provision which clarifies and reclassifies most fraudulent acts which are misdemeanors under the current law to make them felonies, subject to maximum penalties of 5 years in prison and a $25,000 fine. The amendment also contains provisions which are designed to enhance the capacity of individual PSRO's to review matters of quality and necessity of medical care services effectively, and which strengthen the State role in participating in PSRO selection and reviewing PSRO performance.

The second set of amendments to be considered will be the amendment reported by the Ways and Means Committee and the alternate amendment reported by the Committee on Interstate and Foreign Commerce concerning confidentiality of individually identifiable medical records. These amendments deal with the only area of substantive disagreement between the two committees. The Ways and Means Committee amendment prohibits any Federal employee, official or agent, or a PSRO, from inspecting any individually identifiable medical record without prior patient consent, except for medicare or medicaid related patient records where the inspection is for the purpose of PSRO review or fraud and abuse detection. The amendment recommended by the Committee on Interstate and Foreign Commerce would require the Secretary to review the recommendations of the Privacy Protection Study Commission and translate those recommendations into proposed legislation by mid-October, so that the Congress may hold full legislative hearings on the proposals prior to action. The commerce amendment also bans access by Federal employees to any individually identifiable medical data reviewed by a PSRO if it relates to care that was not paid for by medicare or medicaid.

The third set of amendments were identically reported by the two committees, except for a provision included in the Commerce Committee amendment which allows States to receive the higher Federal matching rate made available under the bill for the establishment and operation of a medicaid fraud unit even if the Constitution of the State prohibits prosecution by a statewide authority, provided the unit in such a State has procedures acceptable to the Secretary of HEW for referral of suspected criminal violations for prosecution.

The third amendments reported by the committees include a provision giving authority to the Comptroller General to subpena records in his investigations of medicare and medicaid, a provision suspending physicians or other practitioners from participation in medicare and medicaid if they have been convicted of a program-related criminal offense, and a provision requiring the disclosure of the names of any owner or manager of an institutional provider who has been convicted of fraud in medicare, medicaid, or the social services programs. These amendments also include provisions to provide incentive funding to establish State units to investigate fraud in medicaid, to require the Secretary of HEW to report to the Congress on how to assure quality of services provided in home health care programs, and to establish a system of uniform reporting for hospitals and other health care facilities, as well as to make several administrative reforms in the medicare program.

The fourth amendment is one reported by the Committee on Interstate and Foreign Commerce to provide States with additional time to meet the requirements of law concerning review of services delivered in long-term care institutions. The provision delays the imposition of some $250 million in penalties imposed on some 20 States by the Secretary of HEW in June and again this month until after December 31, and provides for permanent waiver of those penalties if the State is in compliance with the requirements of the law at that time.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 6, not voting 54, as follows:

[Roll No. 571]

YEAS—374

Abdnor
Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stockman
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wiggins
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Ashbrook
Bauman
Edwards, Okla.
Moore
Quayle
Symms

NOT VOTING—54

Allen
Ambro
Badillo
Beard, Tenn.
Bolling
Brooks
Brown, Mich.
Buchanan
Burke, Fla.
Caputo
Clawson, Del
Cornwell
Crane
Dent
Derwinski
Edwards, Ala.
Evans, Ind.
Giaimo
Hall
Harris
Hightower
Ichord
Jeffords
Johnson, Calif.
Kelly
Koch
Krueger
Lehman
Lent
Levitas
Lott
Lundine
McDonald
Metcalfe
Mineta
Mitchell, Md.
Moss
Nix
Nolan
O'Brien
Rose
Sawyer
Schroeder
Sisk
Steed
Stokes
Teague
Whalen
Whitehurst
Wilson, Bob
Wilson, Tex.
Wolff
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. McDonald against.

Until further notice:

Mr. Nix with Mr. Jeffords.
Mr. Teague with Mr. Brown of Michigan.
Mr. Wolff with Mr. Caputo.
Mr. Metcalfe with Mr. Young of Alaska.
Mr. Mineta with Mr. Beard of Tennessee.
Mr. Mitchell of Maryland with Mr. Bob Wilson.
Mr. Brooks with Mr. Kelly.
Mr. Ambro with Mr. Del Clawson.
Mr. Badillo with Mr. Edwards of Alabama.
Mr. Koch with Mr. Whalen.
Mr. Giaimo with Mr. Buchanan.
Mr. Johnson of California with Mr. Derwinski.
Mr. Moss with Mr. Crane.
Mr. Steed with Mr. Lent.
Mr. Stokes with Mr. Burke of Florida.
Mr. Ichord with Mr. Lott.
Mr. Allen with Mr. Whitehurst.
Mr. Cornwell with Mr. Sawyer.
Mr. Evans of Indiana with Mr. O'Brien.
Mr. Hightower with Mr. Harris.
Mr. Hall with Mr. Krueger.
Mr. Lehman with Mr. Lundine.
Mr. Levitas with Mr. Charles Wilson of Texas.
Mr. Sisk with Mrs. Schroeder.
Mr. Rose with Mr. Nolan.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the rule House Resolution 743 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 8638, NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 767 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 767

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 767 provides for the consideration of H.R. 8638, the Nuclear Anti-proliferation Act of 1977. This is an open rule providing for 1 hour of general debate to be divided and controlled in the customary manner by the Committee on International Relations, and the bill shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill, the previous question shall be considered as ordered on the bill and any amendments thereto, and there shall be no intervening motion except a motion to recommit. There are no waivers of any points of order against this legislation.

Mr. Speaker, H.R. 8638 is an indirect product of several years of congressional concern over the possibilities of nuclear weapons proliferation due to diversion of nuclear fuels from peaceful uses. This legislation has had input from administrative agencies as well as extensive testimony before the Subcommittees on Security and Scientific Affairs, and on Economic Policy and Trade of the International Relations Committee. H.R. 8638 represents a compromise of the two previous bills (H.R. 4409 and H.R. 6910), and it was reported as a clean bill from subcommittee, later being reported from full committee by unanimous voice vote.

There are seven titles to this legislation, each of which is designed to give the United States greater control over the export of nuclear fuel and equipment. Title II of the bill reaffirms our commitment to the International Atomic Energy Agency, and seeks to strengthen the IAEA safeguards program, as well as to establish uniform measurement standards for all nuclear material.

Title III pledges the United States to be a reliable supplier of enriched uranium to those countries which adhere to proper safeguards and antiproliferation policies, and it further instructs the President to study international nuclear fuel demands and possible arrangements for internationally supervised uranium enrichment.

Title IV of the bill establishes a number of conditions which will be made applicable to new agreements in regard to peaceful nuclear energy use. Among such requirements is that the United States shall retain the right of approval of any transfer of materials or equipment from one country to another.

Title V contains provisions by which the ERDA Administrator shall determine subsequent arrangements necessary to any agreement of cooperation. This section contains the requirement of timely warning of any diversion of plutonium which may be used for the manufacture of weapons.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Florida, my distinguished colleague on the committee (Mr. PEPPER), I believe has adequately explained for the House the important substantive features of the legislation that would be made in order by this rule. I rise in support of the rule.

Mr. Speaker, this is a straight, 1-hour open rule, providing for the consideration of H.R. 8638, the so-called Nuclear Anti-proliferation Act of 1977. Following 1 hour of debate, to be equally divided and controlled between the chairman and ranking minority member of the International Relations Committee, the bill will be read for amendment under the 5-minute rule, by titles instead of by sections. Finally, the rule provides for a motion to recommit.

Mr. Speaker, when this legislation was originally heard in the Rules Committee on Wednesday, September 14, there was some question as to the administration's position on some of the specific provisions of the bill. The author and manager of the bill, the gentleman from New York (Mr. BINGHAM) informed our committee that he had received a letter from the Secretary of State dated September 12, in which the Secretary expressed general

support for the legislation but in which he also suggested further changes. Because this legislation does involve some very delicate and ongoing negotiations, the Rules Committee decided to postpone action on reporting a rule until further discussions between the committee and the administration could be held to resolve these concerns.

The chairman of the International Relations Committee, along with the gentleman from New York (Mr. BINGHAM) and the gentleman from Illinois (Mr. FINDLEY), subsequently wrote to Secretary of State Vance on September 16 informing him of their intention to offer and support five amendments to address the concerns of the administration, along with offering some clarifying remarks for the RECORD to resolve any possible misinterpretations. Secretary of State Vance then responded to the chairman of the International Relations Committee on September 17 indicating that the five amendments and the clarifications, and I quote, "meet all of our concerns except for our continuing concern about the use of the concurrent resolution congressional review procedure." Secretary Vance added that—

Aside from this exception we are able to confirm that the Administration strongly supports the bill and wishes to see its prompt passage by the House without further amendment.

Mr. Speaker, having responded to the concerns of the administration, and the Rules Committee, the gentleman from New York (Mr. BINGHAM) renewed his request for a rule and the matter was promptly scheduled for Rules Committee consideration on Tuesday, September 20. Following brief presentations by Mr. BINGHAM and Mr. FINDLEY reciting the agreement worked out with the administration, our committee granted a rule on a voice vote.

Mr. Speaker, I do not want to go into the details of this legislation or the five amendments and additional clarifications which will be offered, since this rule does allot 1 hour's time to debate the substantive merits of the bill as well as additional time for the consideration of any amendments. Suffice it to say at this point, I think the Rules Committee acted properly and judiciously in holding this matter up briefly so that additional accommodation could be reached with the administration, and I think the International Relations Committee was both responsive and responsible in acting on the suggestion of the Rules Committee. As a result, this rule is no longer controversial because the committee has done the additional work necessary to build a more thorough and responsible legislative record to present to the House on this bill. I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 46, as follows:

[Roll No. 572]

YEAS—388

Abdnor
Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—46

Allen
Ambro
Badillo
Bolling
Brooks
Brown, Mich.
Buchanan
Burke, Fla.
Caputo
Clawson, Del
Crane
Dent
Derwinski
Downey
Edwards, Ala.
Evans, Ind.
Ford, Mich.
Giaimo
Hightower
Johnson, Calif.
Koch
Krueger
Lehman
Lent
Levitas
Lundine
Metcalfe
Mineta
Mitchell, Md.
Moakley
Moss
Pattison
Rose
Sawyer
Schroeder
Sisk
Stark
Stokes
Teague
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wolff
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Dent with Mr. Sawyer.
Mr. Giaimo with Mr. Young of Alaska.
Mr. Ford of Michigan with Mr. Lent.
Mr. Brooks with Mr. Brown of Michigan.
Mr. Koch with Mr. Bob Wilson.
Mr. Badillo with Mr. Caputo.
Mr. Johnson of California with Mr. Derwinski.
Mr. Levitas with Mr. Wiggins.
Mr. Ambro with Mr. Crane.
Mr. Downey with Mr. Sisk.
Mr. Evans of Indiana with Mr. Buchanan.
Mr. Teague with Mr. Edwards of Alabama.
Mr. Wolff with Mr. Whitehurst.
Mr. Stokes with Mr. Del Clawson.
Mr. Stark with Mr. Krueger.
Mrs. Schroeder with Mr. Burke of Florida.
Mr. Rose with Mr. Lundine.
Mr. Hightower with Mr. Whalen.
Mr. Moakley with Mr. Lehman.
Mr. Metcalfe with Mr. Pattison of New York.
Mr. Moss with Mr. Mitchell of Maryland.
Mr. Mineta with Mr. Allen.

Mr. UDALL changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 7073, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 620 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 620

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 620 provides for the consideration of H.R. 7073 to extend, the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

This is an open rule with 1 hour of general debate. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The resolution provides for a waiver of section 402(a) of the Budget Act which provides that it shall not be in order to consider a bill authorizing the enactment of new budget authority for a fiscal year unless the bill has been reported by May 15 preceding the beginning of that fiscal year. The waiver is necessary because H.R. 7073 contains an authorization for fiscal year 1977 and, thus, should have been reported prior to May 15, 1976 to avoid a point of order on the floor.

Mr. Speaker, H.R. 7073 authorizes $46,636,000, the amount appropriated for fiscal year 1977 and $49,300,000 for fiscal year 1978 to the Environmental Protection Agency to carry out its insecticide programs pursuant to the FIFRA Act. Although the Committee on Agriculture has conducted a number of oversight hearings relating to the many problems besetting the FIFRA program, the Committee decided to report a bill simply authorizing amounts for the two fiscal years. The committee expects to take a comprehensive look at the FIFRA program later on in this session.

Mr. Speaker, I urge my colleagues to adopt House Resolution 620 so that we might proceed to the consideration of H.R. 7073.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated, this resolution provides for the consideration of H.R. 7073, the Federal Insecticide, Fungicide, and Rodenticide Act extension, under a 1-hour, open rule. Points of order are waived against a part of the bill containing fiscal year 1977 authorizations, which would violate section 402(a) of the Congressional Budget Act. It is my understanding that the fiscal year 1977 appropriations authorized in the legislation were provided in the supplemental appropriation bill and assumed in the third budget resolution for fiscal year 1977.

The purpose of the bill is to extend the authorization for funding of pesticide programs established pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act through fiscal year 1978. The authorization provided in the measure for the current fiscal year is $46,636,000 and for fiscal year 1978 is $49,300,000.

During the consideration of this legislation by the Rules Committee, comments were made relative to the often burdensome and unduly restrictive regulation of pesticides by EPA. This issue is not a new one, especially in the parts of the country that produce our food and fiber; and maybe we need to take a fresh, new look at the problem of balancing ecology and agriculture.

Consideration of this legislation will give us an opportunity to take that look. I urge the adoption of this rule so that we may proceed.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 10, not voting 41, as follows:

[Roll No. 573]

YEAS—383

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Nebr.

Snyder	Thornton	Weaver
Solarz	Traxler	White
Spellman	Treen	Whitley
Spence	Trible	Whitten
St Germain	Tsongas	Wilson, C. H.
Staggers	Tucker	Wilson, Tex.
Stangeland	Udall	Winn
Stanton	Ullman	Wirth
Steed	Van Deerlin	Wright
Steers	Vander Jagt	Wydler
Steiger	Vanik	Wylie
Stockman	Vento	Yates
Stokes	Volkmer	Yatron
Stratton	Waggonner	Young, Alaska
Studds	Walgren	Young, Fla.
Stump	Walker	Young, Mo.
Taylor	Walsh	Zablocki
Teague	Wampler	Zeferetti
Thompson	Watkins	
Thone	Waxman	

NAYS—10

Ashbrook	Holt	Symms
Bauman	McDonald	Weiss
Edwards, Okla.	Marlenee	
Hansen	Smith, Iowa	

NOT VOTING—41

Allen	Downey	Mineta
Badillo	Edwards, Ala.	Mitchell, Md.
Bolling	Evans, Ind.	Moss
Bonior	Fascell	Panetta
Brooks	Ford, Mich.	Rose
Brown, Mich.	Giaimo	Sisk
Buchanan	Gibbons	Stark
Burke, Fla.	Hightower	Whalen
Caputo	Jacobs	Whitehurst
Chisholm	Johnson, Calif.	Wiggins
Clawson, Del	Koch	Wilson, Bob
Crane	Krueger	Wolff
Dent	Levitas	Young, Tex.
Derwinski	Metcalfe	

The Clerk announced the following pairs:

Mr. Dent with Mr. Wiggins.
Mr. Giaimo with Ms. Chisholm.
Mr. Brooks with Mr. Allen.
Mr. Badillo with Mr. Brown of Michigan.
Mr. Johnson of California with Mr. Bob Wilson.
Mr. Koch with Mr. Gibbons.
Mr. Evans of Indiana with Mr. Derwinski.
Mr. Wolff with Mr. Crane.
Mr. Rose with Mr. Buchanan.
Mr. Hightower with Mr. Edwards of Alabama.
Mr. Metcalfe with Mr. Whitehurst.
Mr. Moss with Mr. Del Clawson.
Mr. Mineta with Mr. Burke of Florida.
Mr. Sisk with Mr. Whalen.
Mr. Mitchell of Maryland with Mr. Downey.
Mr. Bonior with Mr. Ford of Michigan.
Mr. Fascell with Mr. Jacobs.
Mr. Levitas with Mr. Krueger.
Mr. Panetta with Mr. Stack.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING UNITED STATES CODE TO PROVIDE AUTOMOBILE ASSISTANCE ALLOWANCE TO VETERANS OF WORLD WAR I

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6502) to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) section 1901 of title 38, United States Code, is amended by striking out "on or after September 16, 1940" in clauses (A) and (B) of paragraph (1).

(b) The amendment made by subsection (a) of this section shall become effective October 1, 1977.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi for concurrence in the Senate amendment?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not intend to object, but for the benefit of the Members of the House, I would ask our distinguished friend, the gentleman from Mississippi, to explain exactly what the amendment is about.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding. He is ranking minority member of the subcommittee, and has been very fair to me. I have been asked by Chairman ROBERTS to handle these three legislative matters affecting veterans and their compensation.

Mr. Speaker, this bill passed the House on May 23, 1977. As passed by the House, the bill would have extended to veterans of World War I some assistance in purchasing an automobile and in acquiring special adaptive equipment needed to overcome their service-connected disabilities. These are individuals who are blind or who have lost, or lost the use of, an extremity.

This assistance is now provided to eligible veterans with service since September 15, 1940.

The House-passed bill would have cost about a million dollars the first year and some $1.9 million over the next 5 years.

On August 3, the Senate passed our bill with an amendment to extend the benefit to all eligible disabled veterans regardless of period of service. The Senate amendment is expected to add only about 438 beneficiaries to that proposed by the House and would cost a bit more, just over $3 million the first year.

The additional cost will not exceed our budget allocation and I urge the adoption of the Senate amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I would like to take this opportunity to associate myself with the remarks of the distinguished chairman of the Subcommittee on Compensation, Pension and Insurance of the Committee on Veterans' Affairs, Mr. MONTGOMERY. I feel very strongly about providing the automobile allowance to veterans of World War I. The Senate amendment makes it available to all veterans who meet the other eligibility requirements, irrespective of the dates of service. This is not an unacceptable proposition. Transportation becomes more and more important every day. We know how important it is to us. It is even more important to those who have suffered serious service-connected disabilities. I therefore would urge all of my colleagues to support H.R. 6502 as amended by the Senate to include all veterans who are eligible for this assistance.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, I concur in the Senate amendment.

This bill, Mr. Speaker, would extend and improve the present law which provides assistance in the purchase of a conveyance and of needed adaptive equipment for all veterans who served on or after September 16, 1940, and who, because of service-incurred disability, have lost, or lost the use of, a hand or a foot or who have suffered blindness.

The Subcommittee on Compensation, Pension and Insurance conducted hearings on this matter. On May 23, the House, by a large majority, passed H.R. 6502. The bill, as passed, would have extended the benefits to veterans of World War I who had suffered the required service-connected disability.

The Senate considered and passed our bill on August 3. That body amended the bill to extend the benefit to all who have served and are so disabled regardless of the period of time in which the service-connected disability was incurred.

The reasons given by the Senate for extending this measure is that the benefit has become general in nature for those now entitled.

As amended, the increased costs are small as veterans' benefits go, $3.3 million the first year and only $3.9 million during the next 5 years.

I urge that we adopt the Senate amendment and send the measure on to the President without further delay.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1977

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

Strike out all after the enacting clause and insert: That this Act be cited as the "Veterans and Survivors Pension Adjustment Act of 1977."

TITLE I—VETERANS' AND SURVIVORS' PENSIONS

SEC. 101. Section 521 of title 38, United States Code, is amended by—

(1) amending the table in section (b)(1) to read as follows:

"The monthly rate of pension shall be $197 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,100
.07	1,100	1,700
.08	1,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension for a veteran shall be—	For each $1 of annual income	
	Which is more than—	But not more than—
$212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—		
$0.00	0	$500
.02	$500	700
.03	700	1,000
.04	1,000	2,000
.05	2,000	3,000
.06	3,000	3,200
.07	3,200	3,600
.08	3,600	5,070";

(4) striking out "$4,760" in subsection (c)(3) and inserting in lieu thereof "$5,070";

(5) striking out "$155" in paragraphs (1) and (2) of subsection (d) and inserting in lieu thereof "$165"; and

(6) striking out "$57" in subsection (e) and inserting in lieu thereof "$61".

SEC. 102. Section 541 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of pension shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,100
.05	1,100	1,800
.06	1,800	2,700
.07	2,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension shall be $159 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,600
.03	1,600	2,400
.04	2,400	2,900
.05	2,900	5,070";

(4) striking out "$4,760" in subsection (c)(2) and inserting in lieu thereof "$5,070"; and

(5) striking out "$24" in subsection (d) and inserting in lieu thereof "$26".

SEC. 103. Section 542 of title 38, United States Code, is amended by—

(1) striking out "$57" and "$24" in subsection (a) and inserting in lieu thereof "$61" and "$26", respectively; and

(2) striking out "$2,890" in subsection (c) and inserting in lieu thereof "$3,080".

SEC. 104. Section 544 of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 105. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,300 and $4,760 instead of $3,100 and $4,460, respectively.".

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Section 415 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $152 reduced by —	For each $1 annual income	
	Which is more than —	But not more than —
$0.00	0	$800
.03	$800	1,000
.05	1,000	1,200
.06	1,200	1,500
.08	1,500	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $107 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.05	1,100	2,000
.06	2,000	2,600
.07	2,600	3,770";

(4) striking out "$3,540" in subsection (c)(3) and inserting in lieu thereof "$3,770";

(5) amending the table in subsection (d)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $102 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,000
.03	2,000	2,900
.04	2,900	3,600
.05	3,600	3,900
.06	3,900	5,070";

(6) striking out "$4,760" in subsection (d)(3) and inserting in lieu thereof "$5,070"; and

(7) striking out "$74" in subsection (h) and inserting in lieu thereof "$79".

TITLE III—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 301. Section 322(b) of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 302. The provisions of this Act shall take effect January 1, 1978.

The Clerk read the Senate amendment, as follows:

The Clerk read the House amendment to the Senate amendment, as follows:

On page 6 of the Senate engrossed amendment, between lines 8 and 9 insert the following:

SEC. 202. Section 541 of title 38, United States Code, is amended by adding at the end thereof the following paragraph:

"(g) The monthly rate of pension payable to any surviving spouse under any of subsections (b), (c), and (d) of this section, including the increase, if any, payable under section 544 of this title, shall be increased by 25 per centum beginning on the first day of the month in which the surviving spouse attains age seventy-eight.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and House amendment thereto be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi to concur in the Senate amendment with an amendment?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and again I do not intend to object, but I do think that it is important that the House know exactly what the agreement is.

Therefore, I yield to my distinguished colleague from Mississippi, who is chairman of the Subcommittee on Compensation, Pensions, and Insurance, to explain this to the House.

Mr. MONTGOMERY. Mr. Speaker, on July 12, 1977, the House, by a vote of 403 to 0, passed and sent to the Senate H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977. There were two principal provisions of the bill. It provided for an across the board cost-of-living increase for those veterans, widows, and children drawing pension benefits through the non-service-connected pension program and for needy parents of veterans who have died in service or from service-connected causes.

These increases were fixed at 7 percent over the maximum current rates of the payment formulas. The bill also made increases in the maximum income limitation now applying. These increased income limitations were fixed at a level which would assure that no pensioner would lose his pension solely because of the June 1 increase in social security payments.

The bill also provided that in addition to the 7-percent rate increase, upon reaching 78 years of age eligible widows would be entitled to another 25-percent increase in their current law pension rates. In other words, the total increase for these needy widows would be about 32 percent. This provision is the same as that provided last year in Public Law 94-432 for older veterans. The provision is primarily designed to give added relief to our elderly World War I widows.

The fiscal year 1978 cost of the House-passed bill is estimated to be $185.9 million.

On August 3, the Senate amended our bill and returned the measure to the House. The Senate amendment provided for a 6.5-percent increase in pension rates rather than 7 percent recommended by the House. The reduction was based on the latest CBO inflation factor during this calendar year.

The Senate amendment also eliminated the additional 25-percent increase for the widow at age 78.

The proposed House amendment would accept the 6.5-percent rate increase. Although I personally would have preferred a 7-percent increase, the Senate has indicated it would rather limit the increase to the latest CBO figures which indicate the rise in cost of living this calendar year should not exceed 6.5 percent.

We are insisting on the additional 25 percent rate increase for widows at age 78 years. When added to the 7 percent increase it will provide a combined increase of 32 percent for this group. I am aware of the plight of so many elderly widows, especially the widows of our World War I veterans. Every Member of the House has expressed a desire to provide more benefits for these individuals, who we all recognize have very special problems, and the 25 percent add-on, will provide some needed help.

In view of the very strong feelings of the House on this particular issue, it is my hope the other body will concur and send this worthwhile legislation on to the President.

For the reasons I have outlined, I urge the adoption of the proposed amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I support the amendment offered by my distinguished colleague from Mississippi (Mr. MONTGOMERY). I agree with the Senate language which will provide a 6.5 percent cost-of-living increase in pensions and the earning limitations. However, I cannot agree with the other body's decision to eliminate the 25 percent additional pension for widows of veterans upon reaching the age of 78. The House overwhelmingly accepted this language by a vote of 403 to 0 on July 12.

I have strong feelings about the 25 percent add-on for widows for several reasons, but the most important is the simplest. We gave the veteran a 25-percent add-on when he reached his 78th birthday last year. The mere fact that the nonservice-connected pension program is a needs-based program in the first place tells the entire story. These people are on fixed incomes; very low incomes, as a matter of fact. We all know the costs which our elderly are facing today. I do not believe I have to say much to convince you of the impact an additional 25 percent has on surviving spouses. I urge you to support the amendment which would restore the House language pertaining to the 25-percent additional pension to H.R. 7345.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, on the 12th of July, 1977, by unanimous vote of 403 to 0, the House passed H.R. 7345 and sent it to the Senate. The bill had two major provisions. First, it provided for a 7 percent across-the-board increase in pension rates for those wartime veterans who are permanently and totally disabled and have limited incomes and for the widows and children of such veterans who meet the income limitations.

The other principal purpose, and one that we all agree to be extremely important, was to provide to the widows, principally the widows of World War I, the 25 percent pension add-on that we gave the older veterans last year in Public Law 94–432.

When we passed that 25 percent increase in pension rates for veterans aged 78 and over, we said that we would be considering the needs of the older widows this year as budgetary constraints dictated a deferral at that time.

The House-passed bill has been considered in the Senate and passed with amendments. Our rate increase was originally fixed at 7 percent and it was based on estimates of cost-of-living increases that have subsequently proven too high.

The rate increase provided by the Senate is 6.5 percent. Those increases actually represent only three $1 differences in the pension scales and one $1 difference in the parents' DIC scales. The income limitations are essentially the same as the ones we provided differing by $5 only for the single veteran or widow without a child and by $10 for a veteran with dependents or a widow with a child or children.

The increase in income limitations goes now to $3,770 annually for those without dependents and to $5,070 annually for those with dependents. Since only 90 percent of social security and other annuity type payments are considered as income, this means effective income limitations of $4,189 for those without dependents and $5,634 yearly for those with dependents.

I would urge that you support the request which would accept this part of the Senate amendment to our bill.

I must tell you, however, that when the Senate passed H.R. 7345, they dropped completely the 25 percent add-on feature for the widows aged 78 and over. The proposed amendment would restore this feature. I consider this one of our most important pieces of unfinished business. It is for that reason that I strongly urge you to join me in supporting passage of this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS' DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1977

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1862) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1977".

TITLE I—VETERANS DISABILITY COMPENSATION

SEC. 101. (a) Section 314 of title 38, United States Code, is amended by—

(1) striking out in subsection (a) "$38" and inserting in lieu thereof "$41";

(2) striking out in subsection (b) "$70" and inserting in lieu thereof "$75";

(3) striking out in subsection (c) "$106" and inserting in lieu thereof "$113";

(4) striking out in subsection (d) "$145" and inserting in lieu thereof "$155";

(5) striking out in subsection (e) "$203" and inserting in lieu thereof "$216";

(6) striking out in subsection (f) "$255" and inserting in lieu thereof "$272";

(7) striking out in subsection (g) "$302" and inserting in lieu thereof "$322";

(8) striking out in subsection (h) "$350" and inserting in lieu thereof "$373";

(9) striking out in subsection (i) "$393" and inserting in lieu thereof "$419";

(10) striking out in subsection (j) "$707" and inserting in lieu thereof "$754";

(11) striking out in subsection (k) "$879" and "$1,231" and inserting in lieu thereof "$937" and "$1,312", respectively;

(12) striking out in subsection (l) "$879" and inserting in lieu thereof "$937";

(13) striking out in subsection (m) "$968" and inserting in lieu thereof "$1,032";

(14) striking out in subsection (n) "$1,099" and inserting in lieu thereof "$1,172";

(15) striking out in subsections (o) and (p) "$1,231" each time it appears and inserting in lieu thereof "$1,312";

(16) striking out in subsection (r) "$528" and inserting in lieu thereof "$563"; and

(17) striking out in subsection (s) "$791" and inserting in lieu thereof "$843".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. Section 315(1) of title 38, United States Code, is amended by—

(1) striking out in subparagraph (A) "$43" and inserting in lieu thereof "$46";

(2) striking out in subparagraph (B) "$72" and inserting in lieu thereof "$77";

(3) striking out in subparagraph (C) "$92" and inserting in lieu thereof "98";

(4) striking out in subparagraph (D) "$113" and "$21" and inserting in lieu thereof "$120" and "$22", respectively;

(5) striking out in subparagraph (E) "$28" and inserting in lieu thereof "$30";

(6) striking out in subparagraph (F) "$49" and inserting in lieu thereof "$52";

(7) striking out in subparagraph (G) "$72" and "$21" and inserting in lieu thereof "$77" and "$22", respectively;

(8) striking out in subparagraph (H) "$35" and inserting in lieu thereof "$37";

(9) striking out in subparagraph (I) "$78" and inserting in lieu thereof "$83"; and

(10) striking out in subparagraph (J) "$66" and inserting in lieu thereof "$70".

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"§ 411. Dependency and indemnity compensation to a surviving spouse

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*
E–1	$277
E–2	286
E–3	293
E–4	311
E–5	320
E–6	327
E–7	343
E–8	362
E–9	[1] 378
W–1	350
W–2	364
W–3	375
W–4	397
O–1	350
O–2	362
O–3	388
O–4	409
O–5	451
O–6	507
O–7	550
O–8	602
O–9	647
O–10	[2] 708

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by Sec. 402 of this title, the surviving spouse's rate shall be $407.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by Sec. 402 of this title, the surviving spouse's rate shall be $759.

"(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $33 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $83 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

SEC. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) one child, $140;

"(2) two children, $201;

"(3) three children, $259; and

"(4) more than three children, $259, plus $52 for each child in excess of three.".

SEC. 203. Section 414 of title 38, United States Code, is amended by—

(1) striking out in subsection (a) "$78" and inserting in lieu thereof "$83";

(2) striking out in subsection (b) "$131" and inserting in lieu thereof "$140"; and

(3) striking out subsection (c) "$67" and inserting in lieu thereof "$71".

TITLE III—CLOTHING ALLOWANCE

SEC. 301. Section 362 of title 38, United States Code, is amended by striking out "$190" and inserting in lieu thereof "$203".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Section 403 of Public Law 94–433 is amended by—

(1) striking out "nonamputee veterans." in clause (2) of subsection (b) and inserting in lieu thereof "such claims of veterans having nonamputation service-connected disabilities."; and

(2) (A) inserting "(1)" immediately after "(c)", and striking out in subsection (c)(1) (as so redesignated) "June 30, 1977." and inserting in lieu thereof "February 28, 1979."; and

(B) inserting immediately below subsection (c)(1) (as redesignated by subclause (A) of this clause) the following new paragraph:

"(2) If the Administrator enters into a contract for the conduct of the statistical analysis required by subsection (b)(2) of this section, (A) such contract shall specify that (i) the results of such analysis shall be submitted to the Administrator not later than December 31, 1978, and (ii) the statistical analysis and the contractor's findings and conclusions arising therefrom shall remain the exclusive property of the Administrator and may not be disclosed by the contractor until after the submission of the report required by paragraph (1) of this subsection to the Speaker of the House and the President of the Senate, and (B) the Administrator shall facilitate, to the maximum extent feasible, the conduct of such statistical analysis by the contractor.".

SEC. 402. Clause (3) of section 801 of title 38, United States Code, is amended to read as follows:

"(3) due to the loss or loss of use of one lower extremity together with (A) residuals of organic disease or injury, or (B) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude, or render medically inadvisable, locomotion without resort to crutches or a wheelchair,".

SEC. 403. (a) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Administrator certifies such benefits for payment, monetary benefits under laws administered by the Veterans' Administration may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Administrator to be in the best interest of such payees and the management of monetary benefits programs by the Veterans' Administration.

"(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Administrator shall, to the maximum extent praticable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.".

(b) Not later than sixty days after the effective date of this section, the Administrator of Veterans' Affairs shall submit to the appropriate committee of the Congress a report on the actions taken to implement the new subsection (e) added to section 3020 of such title by the amendment made by subsection (a) of this section.

(c)(1) The catchline of section 3020 of such title is amended to read as follows:

"§ 3020. Payment of benefits; delivery".

(2) The table of sections at the beginning of such chapter is amended by striking out

"3020. Payment of benefits by check; delivery."

and inserting in lieu thereof

"3020. Payment of benefits; delivery.".

(d) The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 404. (a) Section 1820 of title 38, United States Code, is amended by inserting before the semicolon in clause (1) of subsection (a) a comma and "but nothing in this clause shall be construed as authorizing garnishment or attachment against the Administrator, the Veterans' Administration, or any of its employees".

(b) The amendment made by subsection (a) of this section shall be effective on the date of enactment of this Act.

TITLE V—EFFECTIVE DATE PROVISIONS

SEC. 501. Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code, shall become effective on October 1, 1977.

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendment.

The Clerk read the House amendments to the Senate amendment, as follows:

On page 6 of the Senate engrossed amendment, strike out line 12 and all that follows thereafter down through line 12 on page 7.

On page 7, line 13, of the Senate engrossed amendment, strike out "402." and insert "401.".

On page 7 of the Senate engrossed amendment, strike out lines 19 and 20 and insert the following: "pulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,".

On page 7, line 21, of the Senate engrossed amendment, strike out "403." and insert "402.".

Page 8 of the Senate engrossed amendment, strike out line 22 and all that follows thereafter down through line 4 on page 9.

On page 9, line 5, of the Senate engrossed amendment, strike out "(c)" and insert "(b)".

On page 9, line 13, of the Senate engrossed amendment, strike out "(d)" and insert "(c)".

On page 9, line 15, of the Senate engrossed amendment, strike out "404." and insert "403.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the unanimous-consent request to concur in the Senate amendment with amendments?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and again I do not plan to object, I would ask the distinguished gentleman to give us a brief explanation of what we are agreeing to.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, on May 23, 1977, by unanimous vote, the House passed H.R. 1862. The bill would have provided an increase of approximately 6 percent in the monthly benefit rates for more than 2.2 million veterans disabled due to their service in the Armed Forces and for more than 330,000 widows and children of veterans who died as a result of their service-incurred disease or disability. The rate increase, costing about $313 million in fiscal year 1978, was based on CBO cost-of-living data estimates in May.

On September 9, the Senate passed H.R. 1862 with a number of amendments. Based on the latest CBO cost-of-living estimates since October 1, 1976, the Senate amendment calls for a 6.6-percent increase in the rates. For the reasons I have outlined, we are accepting the higher increase. This will add about $49 million to the cost in fiscal year 1978, still within our budget allocation.

Earlier this year we passed H.R. 7658, providing specially adapted housing grants for individuals with service-connected loss of one upper and one lower extremity requiring crutches, wheelchairs, braces, or canes. The Senate would also provide the assistance but would do so under a more stringent rule, limiting the grant to those with loss of one upper and one lower extremity where functions of balance or propulsion are so affected as to preclude or render medically inadvisable locomotion without crutches or a wheelchair. The proposed amendment generally tracks the language as originally proposed by the House.

Another Senate amendment would provide legal authority for the Administrator of Veterans' Affairs to pay monthly benefits by electronic transfer of funds to beneficiary bank accounts. We understand this is already being done and we are accepting the amendment.

Another amendment would require the Administrator to make benefit payments due on the first day of a month on the Friday preceding the first day of the month if that day falls on a Saturday, Sunday, or holiday. The amendment is said to be intended to alleviate hardship. Although the committee has found no cases of such hardship, having heard no objection from the Veterans' Administration to the Senate amendment, we are accepting it in order not to delay an important rate increase for our service-connected veterans and their eligible widows and children.

Another Senate amendment would extend the time in which the Administrator was to have completed and reported to the Congress on a study required by Public Law 94-433. The study was to have examined the relationship, if any, that service-connected extremity amputations bear to subsequently developing cardiovascular disease. The report was not received as required by law on June 30, 1977. The Veterans' Administration now proposes to contract with the National Academy of Science to do the study at a substantial cost of some $200,000. We had been assured by the VA that the study could be conducted in-house at a cost of no more than $60,000. In addition, our experience with the Academy based on a recently completed study has not been good. The Veterans' Administration has paid $6 million to the Academy for a study related to the staffing needs of VA health facilities to assure quality care for our veterans. We received no staffing information not already available in the VA. We are not accepting the Senate amendment.

We are accepting a Senate amendment that clarifies the Administrator's current immunity to garnishment suits except for child support.

The proposed House amendments would cost about $362 million in fiscal year 1978 as compared to $359.2 million as originally proposed by the House. Since the Veterans' Administration needs to crank in the proposed rate increases this week so that veterans will not encounter a delay in getting the increase in their October checks, I urge that the House adopt the proposed amendments which I feel will be acceptable to the other body.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I would like to associate myself with the remarks of the distinguished chairman of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs, Mr. MONTGOMERY, on H.R. 1862. The compromise that we have reached with the Senate on this measure keeps the strong points of the bills adopted by both House and Senate. There is no one on this body who will disagree with me when I say that the service-connected compensation bill is one of the most important bills to reach this body. The recipients of the benefits afforded by this bill have given a lot to this Nation. Many have been severely disabled and recipients of dependency and indemnity payments have given the supreme sacrifice—the loss of a loved one. All have served this country in a time of need, and it is truly necessary that this House respond in a like manner today. There are some changes from the original House language which passed on May 23, but I believe you will agree with me when I say the bill is a good one. The major change is acceptance of the Senate across-the-board, 6.6-percent increase compared to our 6-percent version. This will place an additional $49.2 million in the pockets of the Nation's disabled veterans, but I believe that a look at the Consumer Price Index will reflect the rate of inflation and justify the other body's figure of 6.6 percent for a cost-of-living increase.

I urge you to join me in supporting H.R. 1862.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, on May 23, 1977, by unanimous vote, the House passed H.R. 1862. This is a bill which is addressed to the needs of more than 2,246,000 veterans who suffer disablement due to their service in the Armed Forces of the Nation. The bill would also benefit more than 330,000 widows and children of veterans who died in the military service or who died of disease or disability attributed to their service.

The Senate, on September 9, 1977, passed H.R. 1862 with a number of amendments.

The bill as the House passed it would provide for an increase of approximately 6 percent in the monthly benefit rates. This action was based on the estimates back in May that the increase in the cost of living would be about 5 percent from October 1, 1976, the date rates were last increased, until October 1, 1977, the proposed effective date of the bill.

We have now learned that the cost-of-living indicators will probably show between a 6.3 and 6.5 percent increase by October 1.

It is for this reason that I recommend we accept the rates proposed by the Senate which would provide for across-the-board increases in payments for service-connected disability and death of about 6.6 percent.

These rate increases are justified by the rise in living costs these most deserving veterans and widows must cope with. The increases as passed by the Senate are estimated to add some $49.2 million to first year compensation and DIC rates.

The bill, as passed by the House was limited to rate increases for service-connected disability. The House has, as you will recall, passed several other bills designed to benefit those who have service-connected disabilities. Two bills that I think of have not been considered in the Senate. One other has been incorporated with changes in the Senate amendments to H.R. 1862.

The last bill I refer to is H.R. 7658, a bill which would liberalize entitlement criteria applying to the grant of assistance money for specially adapted housing. We passed the bill on July 12.

Currently, these grants are available to veterans if they have a compensable permanent and total service-connected disability, first, due to loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or second, which includes blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity; or third, due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.

The assistance furnished under this program consists of payment of up to 50 percent of the total cost to the eligible veteran of a house having special fixtures or movable facilities made necessary by the nature of the veteran's

disability. The grant may not exceed $25,000, however, and there is no distinction between disabilities incurred in wartime and peacetime service.

The bill we posed on July 12 provides a modest liberalization of the current law by extending the specially adapted housing assistance to veterans with a compensable permanent and total service-connected disability resulting from the loss, or loss of use, of one upper and one lower extremity requiring crutches, wheelchair, braces, or canes.

The bill would add to the specially adapted housing program an additional group of veterans who also have a need for special housing facilities. Some of these veterans have severe disabilities that are of a nature which either can prevent natural mobility in a conventional house or which render various fixtures and facilities in such a house unusable to them without special adaptation. The Veterans' Administration estimates that over a 5-year period approximately 2,227 veterans would be eligible for the benefit should the reported bill become law. The cost for the first year is estimated to be about $18 million.

The Senate proposes a more stringent rule, limiting the grant to those with loss of one upper and one lower extremity where functions of balance or propulsion are so affected as to preclude or render medically inadvisable locomotion without crutches or a wheelchair. We have major problems with excluding canes and braces. It is hard to believe that an individual with loss of use of one arm and the loss, or loss of a leg could use a crutch. In addition, we have problems with the term "or render medically inadvisable" locomotion without crutches or a wheelchair. The medical determination is already required by law. I am glad, therefore, that the proposed amendment would provide the housing grant for permanent and total service-connected disability due to the loss, or loss of use of one upper and one lower extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

During our hearings we heard from most of the national service organizations, and we have heard from some of them since the Senate adopted the more restrictive language in order to establish eligibility. The Disabled American Veterans strongly objects to the Senate language suggesting that it would exclude many severely disabled service-connected veterans who would otherwise be eligible under the proposed House amendment. I hope it will be adopted by the other body.

Let me also say that I support the gentleman in the remarks he has made in reference to the National Academy of Science study recently conducted and submitted to the Congress related to the VA's health care program. Other than some very adverse publicity prompted by the Academy's public relations department, we received very little to help us determine what the staffing needs are in the VA health care system. I, for one, will not endorse VA's entering into another contract with the Academy to conduct any study. Based on the results or lack thereof, obtained by the agency in the first report, which cost the agency more than $6 million, I seriously question the agency's decision to proceed as it has. I am delighted the Senate amendment is being rejected.

Finally, Mr. Speaker, the proposed amendments make clear the intention long in the law with respect to the limited waiver of immunity provided by 38 U.S.C. 1820, which permits suits by and against the Administrator of Veterans' Affairs in, but specifically limits such suits to, loan guaranty matters. Despite the Congress' clear intent and the statutory language, in Chicago Housing Authority against Davis, decided November 20, 1975, the U.S. District Court for the northern district of Illinois held that 38 U.S.C. 1820(a)(1) permitted garnishment of a VA employee's salary for the benefit of a creditor on the theory that it constituted a complete waiver of sovereign immunity. This decision clearly exceeded the scope of 38 U.S.C. 1820, as well as the scope of 42 U.S.C. 659 (enacted in Public Law 93-647) which permits garnishment of Federal employees' salaries only for alimony and child support purposes. As a result, we understand from the Veterans' Administration that several hundred garnishment actions have been instituted against the VA in the Chicago area. On the basis of this one case, the agency has had to honor the writs of garnishment which have been issued in that judicial district.

Nothing in this amendment shall be construed as limiting or nullifying the specific provisions of Public Law 93-647 which permit garnishment of Federal employees' salaries and other benefits based upon remuneration for employment for alimony and child support purposes.

Mr. Speaker, on May 23, the House passed H.R. 6501, to provide increased awards of service-connected compensation to certain veterans who suffered the loss or loss of use of paired extremities. This measure is most important in that it would provide more equitable benefits for severely disabled service-connected veterans; however, the Senate has elected not to take any action on the measure and we would urge that body, Mr. Speaker, to give serious consideration to the House-passed bill. I had hoped that the Senate would have incorporated the provisions of H.R. 6501 in the amendment which is before us today; however, it did not elect to do so. I hope we can get some action before the adjournment of the Congress.

I support the proposed amendments and urge that they be adopted so that we can proceed to get the additional benefits to be provided to our veterans and their eligible survivors.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks on the three bills concerning veterans benefits just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DAVIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 390, nays 1, not voting 43, as follows:

[Roll No. 574]

YEAS—390

Abdnor	Bonker	Corcoran
Addabbo	Bowen	Corman
Akaka	Brademas	Cornell
Alexander	Breaux	Cotter
Ambro	Breckinridge	Coughlin
Ammerman	Brinkley	Cunningham
Anderson, Calif.	Brodhead	D'Amours
Anderson, Ill.	Broomfield	Daniel, Dan
Andrews, N.C.	Brown, Calif.	Daniel, R. W.
Andrews, N. Dak.	Brown, Ohio	Danielson
Annunzio	Broyhill	Davis
Applegate	Burgener	de la Garza
Archer	Burke, Calif.	Delaney
Armstrong	Burke, Fla.	Dellums
Ashbrook	Burke, Mass.	Derrick
Ashley	Burleson, Tex.	Devine
Aspin	Burlison, Mo.	Dickinson
AuCoin	Burton, Phillip	Dicks
Badham	Butler	Dingell
Bafalis	Byron	Dodd
Baldus	Carney	Dornan
Barnard	Carr	Drinan
Baucus	Carter	Duncan, Oreg.
Bauman	Cavanaugh	Duncan, Tenn.
Beard, R.I.	Cederberg	Early
Beard, Tenn.	Chappell	Eckhardt
Bedell	Chisholm	Edgar
Beilenson	Clausen, Don H.	Edwards, Calif.
Benjamin	Clay	Edwards, Okla.
Bennett	Cleveland	Eilberg
Bevill	Cochran	Emery
Biaggi	Cohen	Erlenborn
Bingham	Coleman	Ertel
Blanchard	Collins, Ill.	Evans, Colo.
Boggs	Collins, Tex.	Evans, Del.
Bonior	Conable	Evans, Ga.
	Conte	Fary
		Fascell

Penwick	Lloyd, Tenn.	Robinson
Findley	Long, La.	Roe
Fish	Long, Md.	Rogers
Fisher	Lott	Rostenkowski
Fithian	Lujan	Rooney
Flippo	Luken	Rosenthal
Flood	Lundine	Rostenkowski
Florio	McClory	Rousselot
Flowers	McCloskey	Roybal
Flynt	McCormack	Rudd
Foley	McDade	Runnels
Ford, Tenn.	McDonald	Ruppe
Forsythe	McEwen	Russo
Fountain	McHugh	Ryan
Fowler	McKay	Santini
Fraser	McKinney	Sarasin
Frenzel	Madigan	Satterfield
Frey	Maguire	Sawyer
Fuqua	Mahon	Scheuer
Gammage	Mann	Schroeder
Gaydos	Markey	Schulze
Gephardt	Marks	Sebelius
Gibbons	Marlenee	Sharp
Gilman	Marriott	Shipley
Ginn	Martin	Shuster
Glickman	Mathis	Sikes
Goldwater	Matsox	Simon
Gonzalez	Mazzoli	Skelton
Goodling	Meeds	Skubitz
Gore	Meyner	Slack
Gradison	Michel	Smith, Iowa
Grassley	Mikulski	Smith, Nebr.
Gudger	Mikva	Snyder
Guyer	Milford	Solars
Hagedorn	Miller, Calif.	Spellman
Hall	Miller, Ohio	Spence
Hamilton	Minish	St Germain
Hammer-schmidt	Mitchell, N.Y.	Staggers
Hanley	Moakley	Stangeland
Hannaford	Moffett	Stanton
Hansen	Mollohan	Stark
Harkin	Montgomery	Steed
Harrington	Moore	Steers
Harris	Moorhead, Calif.	Steiger
Harsha	Moorhead, Pa.	Stockman
Hawkins	Motti	Stokes
Heckler	Murphy, Ill.	Stratton
Hefner	Murphy, N.Y.	Studds
Heftel	Murphy, Pa.	Stump
Hillis	Murtha	Symms
Holland	Myers, Gary	Taylor
Hollenbeck	Myers, John	Teague
Holt	Myers, Michael	Thompson
Holtzman	Natcher	Thone
Horton	Neal	Thornton
Howard	Nedzi	Traxler
Hubbard	Nichols	Treen
Huckaby	Nix	Trible
Hughes	Nolan	Tsongas
Hyde	Nowak	Tucker
Ichord	O'Brien	Udall
Ireland	Oakar	Ullman
Jacobs	Oberstar	Van Deerlin
Jeffords	Obey	Vander Jagt
Jenkins	Ottinger	Vanik
Jenrette	Panetta	Vento
Johnson, Colo.	Patten	Volkmer
Jones, N.C.	Patterson	Waggonner
Jones, Okla.	Pattison	Walgren
Jones, Tenn.	Pease	Walker
Jordan	Pepper	Walsh
Kasten	Perkins	Wampler
Kastenmeier	Pettis	Watkins
Kazen	Pickle	Waxman
Kelly	Pike	Weaver
Kemp	Poage	Weiss
Ketchum	Pressler	White
Keys	Preyer	Whitley
Kildee	Price	Whitten
Kindness	Pritchard	Wilson, Tex.
Kostmayer	Pursell	Winn
Krebs	Quayle	Wirth
LaFalce	Quie	Wright
Lagomarsino	Quillen	Wydler
Latta	Rahall	Wylie
Le Fante	Railsback	Yates
Leach	Rangel	Yatron
Lederer	Regula	Young, Alaska
Leggett	Reuss	Young, Fla.
Lehman	Rhodes	Young, Mo.
Lent	Richmond	Young, Tex.
Livingston	Rinaldo	Zablocki
Lloyd, Calif.	Roberts	Zeferetti

NAYS—1

Mitchell, Md.

NOT VOTING—43

Allen	Brooks	Clawson, Del
Badillo	Brown, Mich.	Conyers
Blouin	Buchanan	Cornwell
Boland	Burton, John	Crane
Bolling	Caputo	Dent
Derwinski	Koch	Seiberling
Diggs	Krueger	Sisk
Downey	Levitas	Whalen
Edwards, Ala.	McFall	Whitehurst
English	Metcalfe	Wiggins
Evans, Ind.	Mineta	Wilson, Bob
Ford, Mich.	Moss	Wilson, C. H.
Giaimo	Risenhoover	Wolff
Hightower	Rodino	
Johnson, Calif.	Rose	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6796, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, September 20, title I had been considered as having been read and open for amendment at any point. Are there any further amendments to title I?

TECHNICAL AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer a technical amendment.

The Clerk read as follows:

Technical Amendment offered by Mr. FLOWERS: On page 25, in line 7, strike out "(A-E and long-lead procurement only)", and in line 10, after "thereof)" insert "(A-E and long-lead procurement only)."

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Madam Chairman, as I said, this is a technical amendment. It is needed to correct an error in printing. It merely inserts an omitted phrase and strikes an extraneous one in another section. They balance each other out. It has been cleared with the other side.

After reviewing the earlier debate and comments on this bill I would like to further clarify on our intentions regarding clean fuels from coal demonstrations. Earlier this session we passed a bill designed to shift our energy use from natural gas and petroleum to coal, believing, and I feel properly believing, that the national interest is best served by shifting our energy dependence to a domestic resource base. We also passed new amendments to the Clean Air Act to insure that the fuels we burn are burned in the most environmentally sound way possible. Now, the necessary third leg of this approach to meeting our energy and environmental needs is to insure the commercial availability of clean fuels from coal that will meet both requirements. All three components are necessary for a comprehensive energy policy and the third, a clean fuel from coal, is needed at the earliest practicable date. In this bill we authorize $30 million for a solvent refined coal demonstration plant. It is our intent in doing so to end further unnecessary delay and proceed immediately in fiscal year 1978 to demonstrate the commercial viability of the SRC solids process, the product of which has recently undergone a very successful, commercial burn test.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Could the gentleman just apprise us what the omitted matter is?

Mr. FLOWERS. The thing it relates to, as the amendment shows, is on page 25, lines 7 and 10. In the first instance, the omitted phrase is added to this authorization under the High Btu Test Facility section. The High Btu Test Facility project is a large and entirely new concept and, therefore, all the funds needed under this bill will be needed for the A&E work and long-lead procurement, to which the phrase that is added by the amendment "(A-E and long-lead procurement)" applies in that section and not in the next section where it erroneously was inserted. That is the reason for the amendment.

The CHAIRMAN. The question is on the technical amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The technical amendment was agreed to.

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COUGHLIN: Page 33, after line 11, add the following new section:

SEC. 106. Section 106(a) of Public Law 91-273 (as amended by section 103(d) of Public Law 94-187) is amended by adding at the end the following: "No sums are authorized to be appropriated or otherwise made available for the purposes of the Clinch River Breeder Reactor to pay for more than that percent of any cost of such Reactor, after the total cost of such Reactor equals $2,000,000,000, which is determined as follows: 70 percent when the cumulative total cost equals or is less than $2,250,000,000; 60 percent when the cumulative total cost equals or is less than $2,500,000,000 but is greater than $2,250,000,000; and 50 percent when the cumulative total cost exceeds $2,500,000,000."

Mr. COUGHLIN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Madam Chairman, this amendment was printed in the RECORD and has been described in the various briefing sheets. It would gradually increase the private financial participation in the Clinch River breeder reactor for all costs of that facility above $2 billion. The Clinch River project is currently estimated to cost $1.95 billion, so we are asking for a private participation in the overruns only, gradually increasing the private participation to 50 percent of those overruns.

This amendment, Madam Chairman, is identical to an amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD) and myself and voted on last May 20, 1976. At that time 173 Members of this House voted in favor of the amendment. There have been, as the Members know, changes in administration policy since that time that make this amendment even more imperative.

As the Members well know, the Clinch River breeder project is a massive project. The entire breeder project is a massive project. It recommends expenditures over the next 5 years of $2.6 billion, equal to 63 percent of our total nuclear fission research budget and 26 percent of all of our energy research and development.

The project also has been plagued by huge cost overruns. In 1969 the whole breeder project was estimated to cost $3.9 billion. Now it is up to $11.8 billion. The Clinch River breeder alone has escalated in cost from $699 million to the present $1.9 billion. At the same time the private participation has been declining from what was originally agreed to at 50 percent to some 13 percent today.

The idea of cost sharing is not new. The original legislation that authorized this program provided for a 50 percent private and a 50 percent public participation in the program. That amendment initially was offered by our former colleague, Mr. Hosmer, at the time the legislation was adopted but it was subsequently removed.

We are not talking now about asking private industry to contribute 50 percent of the total capital cost, as was the original proposal. We are asking that private industry contribute up to 50 percent of the overruns only.

This cost sharing plan is not new in other programs. ERDA's present policy with respect to the fossil fuel research and demonstration plants requires 50 percent private participation in such demonstration plants.

Why should this be different? Why should not private industry be required to contribute here, too?

At the present time 65 percent of the management of the liquid metal fast breeder reactor is in private hands. According to the General Accounting Office in two recent reports they have critized the breeder project because of inefficient management. If 65 percent of management is in fact in private hands and if they have been, as the General Accounting Office says they have been, inefficient, perhaps the private financial participation would create incentive to stop the cost overruns and improve performance of those participating in the breeder project.

This increase in private participation would also help to demonstrate the commitment of private industry to the breeder program, and after all in the long run it will eventually be private industry that will be the beneficiary of that program.

For these two very important reasons, to help to encourage an incentive for better management and to help provide an initial commitment of private industry, we would urge the support of this amendment. This project needs to be cost effective. It must stand the test of good management responsibility, and it should not be just an open-ended public commitment without the private commitment to go with it to insure that it is responsibly managed and responsibly done.

I remind the 173 of my colleagues who voted for this amendment at the time when all the facts we have now available to us were not available. These new facts makes it all the more important that we now have this private participation.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. COUGHLIN) has expired.

(On request of Mr. WYDLER, and by unanimous consent, Mr. COUGHLIN was allowed to proceed for 1 additional minute.)

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, is a cost overrun any amount above $2 billion? Is that the definition the gentleman is using?

Mr. COUGHLIN. The definition in the amendment is an amount over $2 billion.

Mr. WYDLER. In other words, if there is an inflationary period in the country, that is considered a cost overrun on the part of the project? Is that the definition we are going to be dealing with under the gentleman's amendment?

Mr. COUGHLIN. The $1.9 billion estimate includes an 8-percent inflation factor as well as a $197-million contingency factor. That is built into the figure of $1.95 billion.

Mr. WYDLER. I understand that.

Mr. COUGHLIN. The $2 billion allows for inflation. The cost overrun will be over and above the inflation factor.

Mr. WYDLER. But if inflation is over that, the gentleman's amendment will consider it a cost overrun under his present definition.

Mr. COUGHLIN. If the inflation rate is greater than an 8-percent factor, which is already included in the cost figure.

Mr. WYDLER. Of course, if the inflation is over 8 percent, that would be the responsibility of the Federal Government, would it not?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. COUGHLIN was allowed to proceed for 1 additional minute.)

Mr. COUGHLIN. Madam Chairman, I would certainly hope the inflation rate would not be over 8 percent. That is a very generous allowance. That is the one used by ERDA, by this administration and the past administration, for use in costing out this project.

Mr. WYDLER. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I was one of those 173 Members that supported this amendment in the past. Therefore, I can speak to my colleagues today and urge them with all the strength that I can not to follow my past example, but rather to follow the example that I am going to set forth today in my vote, which is against this amendment.

Now, this is a very mischievous amendment when you really analyze what it will do and what the facts of the matter are. It sounds good. We are all for economy, but actually when you analyze this amendment, when you see what it really does, it puts no pressure, no pressure whatsoever on the private companies that are involved in the Clinch River project. It puts all the pressure on the Federal Government.

We are tying ourselves up in knots here with this kind of amendment, if we really analyze what would happen.

What we would do if we pass this amendment, we give the private companies a veto power over the project. All they have to say is that, "We don't want to pay any more," and that will be the end of it. I certainly do not think when we are dealing with a matter of national interest such as this, which may well cure our energy problems by the year 2000, that we should turn the decisionmaking over in a matter like this really to some private electric companies and they determine that they do not want to go any further. That is a determination that we as Representatives of the people in the country should be making.

So I would say this is a most mischievous amendment. It really does undermine the whole Federal involvement and commitment to the breeder reactor.

I really feel that we should let negotiations in this matter, whatever the facts are at the time, be done by the new Secretary of Energy, Mr. Schlesinger. He is going to be in a position to look at all the facts. He has some doubts about the breeder that he has expressed recently and if he feels private industry is not doing their share or doing more or less here, he can make those determinations and let the Congress know what he thinks should be done; but for us to stand up here now and erect this wall so that any of these private companies can simply say, "We don't want to go any further," and that is the end of the program, I think that would be a very poor way to legislate at the present time.

I recommend that my colleagues reject the amendment.

Mr. COUGHLIN. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Madam Chairman, is the gentleman aware of the original authorizing legislation, which required a 50-percent participation by private industry in the entire cost of the project?

Mr. WYDLER. I understand that. I understand what we are dealing with here is a breeder reactor which has been chosen by most of the major countries of the world, such as France, as their major hope for solving their energy problems. Great Britain, West Germany, Japan, are all betting their futures on the breeder reactor. They are going to make that decision on a national basis.

What the gentleman's amendment would do would be to turn this decision over to the private companies to make. I certainly do not want to be a party to that. If they decided to get completely out and I thought it was in the national interest to continue, I want to be free to

do that. I do not want to tie myself up with an amendment that, in effect, turns all the decisionmaking power over to them. That is the end result of the gentleman's amendment, when we analyze it.

Mr. COUGHLIN. Madam Chairman, if the gentleman will yield further, is the gentleman aware that under the present ERDA policy all demonstration plants in the fossil fuel area require a 50-percent private participation?

Mr. WYDLER. That may be justified. I do not know if it is or not. I am not aware of that. I am not aware of what provision we are talking about or what is being built under that provision. In the particular case, we may want to do it. I think it is bad policy.

Mr. COUGHLIN. Does not the gentleman think that if this breeder reactor is going to be a cost effective method of producing electricity, private capital should not be delighted to help finance it if there is a cost overrun?

Mr. WYDLER. I would be delighted if we could get private industry to finance all research projects in the energy field, including solar and geothermal energy, including all the other projects coming before this Congress in this bill. Some of them are way out. They have very little chance of producing any energy for our Nation, but we are funding one after the other.

But, in this particular case we are telling private industry to come in and pick up a particular dollar amount on this project. In effect, when we are doing that, we are giving them the power to cut it off. Certainly as a Member of this Congress and a Representative of the people of my district, I do not want to let private industry make that decision.

Mr. HARKIN. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, I want to commend the gentleman from Pennsylvania for reintroducing his amendment which he had introduced last year, and which I had supported at that time, and which, as he indicated, was supported by 178 of our colleagues. I know there are a number of Members who voted for Mr. COUGHLIN's amendment last year who did not vote for the Brown amendment yesterday. I think this is a good chance once again for us here in this body to tell the private industries that are involved in the Clinch River breeder reactor, if in fact we are going ahead with it, that we are not going to put up with some of the waste and mismanagement and cost overruns that have come about in the past.

The gentleman from New York, my colleague on the committee, said that we do not want to get this thing tied up. But, again Mr. COUGHLIN answered that by pointing out that in the initial legislation it was contemplated and specifically spelled out that private industry would come up with 50 percent of the cost of this project. Over the years, the legislation has been changed to relieve them of that responsibility.

Again, I refer to an article that was in the Washington Star. Let me read a couple of passages:

> A secret corporate memorandum for officials within the engineering firm that holds the $175 million government contract to design the controversial Clinch River Breeder Reactor predicted four years ago that because of the mismanagement, confusion, design mistakes and politics surrounding it "the project results will be extremely poor."

The memorandum was on a Burns & Roe letterhead, and there are two other passages which I think are of significance:

> Under the initial concept of the Clinch River breeder, the electric utility industry was expected to share about half of the project's costs. As the cost estimates of the facility soared, however, the federal government absorbed all of the increase. Despite some prodding from ERDA, the industry has refused to contribute more than its initial promise of $250 million.

> The memo blamed some of the project's problems on Westinghouse, the designer of the breeder hardware. "Westinghouse also is more interested in playing politics with the AEC and the schedule than it taking on the hard issues necessary and being straightforward with the utilities regarding the status of the project."

Here we have a project that started at just a few hundred million dollars, and now is mushrooming to $2 billion or $1.9 billion estimate of cost. What we are saying, even with the inflation factor that was built in, as the gentleman from Pennsylvania pointed out, if they do not tighten down on this thing; if in fact we are going ahead with it—and I will accept the vote of the House yesterday, although I was one of those opposed to going ahead with it—but if in fact we are going ahead we cannot just open up this Pandora's box by saying that regardless of the cost, private utility companies and private electric companies do not have to come up with another cent. It can be $2.5 billion or $2.3 billion, but it does not make any difference. Regardless of how badly they mismanage it or how badly they fumble the ball, the taxpayers are going to pick up the bill.

I do not believe that is the way we ought to conduct the business of this country. I do not believe the taxpayers in our districts want us to vote for something like this which says that regardless of what private industry does, we are going to bail them out. That is exactly what this bill is doing. That is exactly what has happened in the last 4 years everytime this thing has come up.

We keep reducing and reducing the amount of participation by the private industries. As the gentleman from Pennsylvania so accurately pointed out, when we talk about pilot plants for fossil fuels; when we talk about solar energy plants, we are talking about cost sharing. We are talking about getting private industry involved in them. But, on this one, on the one everybody says is going to produce so much electricity for us, private industries want to get bailed out. So, I say put it on the line, and at least put some cost consciousness into the building of this plant.

Madam Chairman, I would even go further than the gentleman from Pennsylvania. I would think that we ought to have something like $1.5 billion, that any cost overruns over $1.5 billion ought to be shared equally. But I understand the sentiment of the House. I can read the votes yesterday.

This, however, is over $2 billion, any cost overruns over $2 billion they have to share equally. I think it is a good amendment.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Madam Chairman, the gentleman spoke of the Burns & Roe report. Is it not true that the Burns & Roe report is actually an instrument to monitor the efficiency of the program, and that they did make recommendations for a course of adjustment? And did not Burns & Roe recently come out with the report that, because of that earlier report, adjustments were made in the program, and they do not disagree with the project at this time?

Mr. HARKIN. I did not say they did not agree with the project. I would remind the gentleman that he said yesterday that the cost overruns were due, in most part, to the delays caused here in the Congress. I am pointing out that the Burns & Roe report shows that is not the case.

Mr. GARY A. MYERS. If the gentleman will yield further, the Burns & Roe report was warning that if no corrections were made that there would be cost overruns, and they also reported at a later date corrections were made. Any construction stage which is properly monitored should have regular monitoring. I do not think we should criticize if we are interested in a proper system.

Mr. HARKIN. I know that Burns & Roe suggested some changes. Some changes were made. They do support the program. However, I am saying that we should not leave them off the hook. I think they read the votes, too. We had a vote of 178 last year on the Coughlin amendment. If these cost overruns keep going up and keep going up, they are going to know that someplace along the line this Congress is not going to stand for it. I say we have reached that point.

Mr. GARY A. MYERS. If the gentleman will yield further, is the gentleman aware that the original cost for the Alaska pipeline project was to be $900 million and the final construction cost was $9 billion?

Mr. HARKIN. Madam Chairman, I would also remind the gentleman from Pennsylvania that private industry came

up with all of the money for it, and not this Congress.

Mr. GARY A. MYERS. I am not disputing that. I am apprising the gentleman that there has been a shift in the economy.

Mr. HARKIN. If they want to run this program like they built the Alaska pipeline, I am all for it, if that is what the gentleman wants.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I think it is important for us to understand what the purpose of this amendment is and what it would do.

In the first place, this amendment would simply have the effect of voiding the environmental impact statement which has now been completed. After about 3 or 4 years of work, we are now ready to start excavation and construction at Clinch River.

Madam Chairman, if this amendment were to be agreed to, if it were to become part of the law, we would be clear back to where we started.

How can we under the law require private corporations to contribute to a Federal project? We might just as well require them to contribute to the construction of a new Federal building.

Is there any rationale at all that indicates we can, out of the blue, say to some specific private citizens, "We hereby require you to contribute to a Federal project"? If there is, why should we not do this in all research and development? We have solar energy projects with 400 percent overruns in one year, but there is no talk about making the people involved in those overruns participate in the funding.

This amendment is a blatant attempt to reverse yesterday's vote on the Clinch River project, and the sponsor of the amendment, as we all know, has always opposed Clinch River and has offered one amendment after another to try to kill it.

The history of this situation is that when the project was first conceived way back in 1970's, there were extensive negotiations among the Atomic Energy Commission, the Joint Committee on Atomic Energy, and the private industries.

The private companies agreed voluntarily to participate up to the extent of about $275 million. There was no coercion. There was a simple agreement among them, and a semiprivate, semipublic corporation was established to manage the operation.

When it became apparent that because of inflation and because of additional regulations on the construction and design of the CRBR, this House voted to not require any more money of private industry and to put the rest of the burden on the Federal Government.

Private industry has no further obligation in this matter, we have no mechanism to make them legally participate, and they have no certain mechanism to participate. A utility would have to go back to its public utility commission and get permission to participate. All this amendment does is "goof" the project up, and everybody knows it.

I want to comment further on two points. One is that we will undoubtedly be going to a prototype, full-sized, commercial breeder. Industry is already heavily involved in working on this, and there is every reason to believe that an agreement with private industry will be arranged for joint sharing of all costs of the prototype breeder. However, there is no way to do that for the Clinch River plant.

Second, the gentleman from Iowa (Mr. HARKIN) used the words, "waste" and "mismanagement." Those words are totally undocumented. This is an attempt to rewrite history as the gentleman sees fit, after reading from a slanted news article.

On the Burns & Roe report, the gentleman was speaking as if that was information that just came out, rather than from a 4-year-old report. All the complaints made at that time were thoroughly reviewed by the Joint Committee on Atomic Energy, and substantial modifications were made in the program as a result. For example, the site of the project was actually moved about 400 feet.

To take a 4-year-old article on a report that was handled by the Joint Committee on Atomic Energy years ago, rehash the complaints that were resolved and make them the basis of an excuse to require private industry to fund a public project is ridiculous.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, I thank my colleague, the gentleman from Washington, for yielding.

I want to associate myself with the gentleman's remarks. I very strongly oppose the amendment offered by my dear friend, the gentleman from Pennsylvania (Mr. COUGHLIN), and ask that the House vote it down overwhelmingly.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, the subject of industry's participation in the project has come up in the past, as the gentleman from Washington (Mr. McCORMACK) has indicated.

During a hearing that our committee held, a gentleman by the name of Mr. Behnke appeared and testified on the subject, and after the hearing I asked him to supply a letter to me on the subject. Mr. Behnke is with the Project Management Corp., which is a group of supervisors on the breeder reactor project.

He wrote to me and gave what I thought were some convincing arguments as to why he thought it was unrealistic to try to expand the role of the funding by private corporations in the CRBR project. He went into a little bit of the background. He indicated, for instance, that the concept of a fixed percentage for private industry in this project was never a factor, that what was required was that the corporations agree to contribute, and that they did not feel that once their commitment was made, there was a flexible, open-end policy toward their funding.

They feel it would be unfair and unrealistic to expect their ratepayers to assume that sort of responsibility, and they feel it is unrealistic to expect that the regulatory bodies within the States, which have control over them, to allow that type of open-ended commitment to the electric customers throughout the country.

Madam Chairman, Mr. Behnke indicated that the project is, in fact, a Federal project and that the controls over the project lie within the Federal Government essentially. He also indicated that the decisions to go ahead, to slow down, to speed up, or whatever else in the overall management are decisions that can be effected by the Federal Government and that no prudent private manager would enter into an agreement which had an open-ended financial commitment under which they could not control major decisions.

Madam Chairman, as the gentleman from Washington (Mr. McCORMACK) pointed out, there is a different stage of development in which an increasing role of private capital was most appropriate.

Mr. Behnke mentioned that when we move into the large prototype facilities, certainly they would expect their role to be expanded; but on balance, he indicated that the private utilities had agreed to contribute to this project, making it the largest single research project that the electric utilities have undertaken in all of their history. He also indicated that it would be an imprudent decision by the Congress to expect them to accept an open-ended policy.

In closing, Madam Chairman, I would like to say that the gentleman from New York pointed out that we have to look beyond the narrow view of whether or not the utilities can afford to develop these projects. I think what we have to look at is whether or not we agree with the decision we made yesterday. Do we need the development of the breeder reactor and of the Clinch River project as an appropriate step in that development?

If that is true and if we honestly believe that there is no good rationale for the Congress lying back and saying that we are going to wait for some private concern to fund a portion of that or all of the research we should reject this amendment.

Madam Chairman, as I pointed out to the gentleman from Iowa, there are other examples of escalated costs. I do not know of any construction project planned in the late 1960's which spanned a 7-, 8-, or 9-year period of development that did not face severe problems with respect to final costs lining up with projected costs.

Madam Chairman, if there were good examples and comparisons to show that obviously mismanagement and inappro-

priate planning were an element of this project, I would be openminded about it; but the major projects across the country have suffered severely.

Mr. COUGHLIN. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Madam Chairman, I thank the gentleman for yielding.

At the time this amendment was drafted in 1976, we did check with the utility commissioners of several different States. They all indicated that there was no problem from a utility standpoint with respect to this matter.

Mr. GARY A. MYERS. Madam Chairman, I think the gentleman should clarify that.

Did the regulatory bodies indicate to the gentleman that they were willing to give approval to the utilities having an open ended financial obligation, and they would automatically approve any rate increase associated with it?

Mr. COUGHLIN. Not that they would automatically approve any rate increase, but they indicated that this could be worked out.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(On request of Mr. COUGHLIN and by unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, I thank the gentleman for getting me this additional time.

I think the gentleman's statement clarifies the matter.

The concern of the utilities is as to whether they can continue to make a profit and provide service to their customers on a sound financial basis while having an open ended obligation to the Federal Government to contribute to a basic research project.

I would like to see a letter of confirmation from the Pennsylvania Utility Commission or any other body with respect to that question.

Mr. COUGHLIN. If the gentleman will yield, I believe I can supply that.

The other thing I was astonished to hear was the statement by the gentleman from Washington (Mr. McCORMACK) to the effect that there was no precedent for private industry to contribute to the project along with the Federal Government. We do that all the time, so there is ample precedent for this kind of cost-sharing approach.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, let me say that we do not establish cost sharing programs by trying to coerce someone into participation. We invite them into a program, or respond to their requests.

Mr. HARKIN. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Iowa.

Mr. HARKIN. Madam Chairman, I am interested in what the gentleman from Washington (Mr. McCORMACK) said about coercion.

I have a letter here dated March 10, 1975, from the administrator, Mr. Seamans, to Senator Pastore in which he outlines the history of the program.

The initial authorizing legislation authorized $7 million for this thing and, under cooperative arrangements with the reactor manufacturers and others, in accordance with the criteria that had been previously submitted by the Joint Committee on Atomic Energy.

So, we did not coerce them, they were here at the doorstep wanting to join in with the Government in building it.

Mr. GARY A. MYERS. We did not coerce them to increase beyond their original volunteered effort. The question is can we now go back to private industry and say that they must continue under a certain proportion? That would be coercion.

Mr. HARKIN. The original estimate was 50 percent to the private utilities and 50 percent to the Government, and if it goes over $2 billion then we would like to have them pick it up.

Mr. GARY A. MYERS. Madam Chairman, I would like to read the remarks of Wallace B. Behnke on that subject in which he says:

> A memorandum of understanding incorporating the concept of limited industry liability was negotiated by the parties and submitted to Congress for approval. Following Congressional approval, the provisional utility pledges were converted into legally enforceable contribution agreements totalling over $257 million and these agreements were incorporated in project arrangements which were approved by Congress in 1973. . . .

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. He goes on to say:

> . . . The commitment thus obtained represents by far the greatest financial support ever extended by the utility industry to a single research and development effort.

Therefore there is no fixed liability on a percentage basis on this project and to imply that there is is inaccurate.

Mr. HARKIN. Madam Chairman, I have to disagree with the gentleman because it had a 50–50 percent type of agreement, with the strict provision that the Government would not finance any additional capital additions for that plant.

Mr. GARY A. MYERS. Congress did go back and remove that requirement from the private utility industry, that is just the same situation as we can refer to such as in the old Social Security laws, and a lot of other things that Congress has done and then came along and revised. This, as actually negotiated, had a commitment from the private industry, it was before the private utility industry made their individual commitment and the memorandum of understanding shows that there was no fixed perecntage.

Mr. HARKIN. They anticipated it would be for $750 million, and they raised $250 million, just like that.

It was because of the huge cost overruns that they wanted to get out.

Mr. GARY A. MYERS. According to prudent and controlled management under today's conditions, the Government made an agreement and left control of the program in the hands of the Government.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I want to make the point that whether it is going to get the approval of the utility regulatory commissions of the proposals, or not, when the private utility companies paid more for this, it only means that their rates have to go up and the consumers have to pay for it. That is all we are talking about. Because private utility companies do not have a bank where they can draw the money out, they draw it out of the consumers. All you are talking about when you talk about making the private utility companies pay is raising the utility rates for the consumers of the United States.

I hope the amendment will be defeated soundly.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROWN of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the gentleman from New York (Mr. WYDLER) has demonstrated that he is not bound by the hobgoblin of small minds, which is consistency, in his vote on the Coughlin amendment, since he now opposes what he supported last year. I will put myself in his select company because I opposed the Coughlin amendment last year and support it this year.

Madam Chairman, I believe the House does not need to belabor this. The matter has been debated at considerable length both today and in prior years. I wanted to take this opportunity, however, to shed, I hope, a little light on the history of the breeder because there still seems to be some misunderstanding as to the extent of our breeder program and the patterns of finance for the Clinch River project and previous breeders.

As I said yesterday in connection with the debate on the amendment which I offered, breeders have been with us since the beginning of the nuclear age. We built experimental breeder reactor No. 1, which is now out of service, experimental breeder reactor No. 2, the fast flux test facility, the thorium cycle breeder, which is planned for operation later this year up at Shippingport, and then a breeder which many of us seem to have forgotten about, the Fermi reactor in Detroit, which was built entirely by private industry. It was intended to build upon the research and development experience of experimental breeders Nos. 1 and 2, which were 100 percent Government-financed. It was financed on its part by a consortium of utilities who paid for the entire cost of the Fermi reactor.

The Fermi plant was completely constructed, was in the process of being tested, and was generating power. It generated a very substantial amount of power, but never operated for any period of time at peak power, and then suffered a fuel-element failure which led to a core melt-down that was corrected. I might say that the plant demonstrated that its design was safe. This accident occurred with no loss of life. All of the safety features worked adequately, but it was necessary to slightly redesign and then rebuild major elements of the plant. In the process of seeking renewed licensing, it ran into problems with the Nuclear Regulatory Commission, and the problems, as with many other similar problems right today, required more money to correct than the private investors thought was desirable. So the plant was scrapped and is in the process of decommissioning at the present time.

The reason that I bring this up was because the gentleman from Washington (Mr. McCORMACK) has referred to this as a Government project, like a post office or a Federal building, and that the next prototype plant will be perhaps 50–50 financed between Government and industry. We tend to forget that the history of breeders has already included one 100 percent privately financed demonstration plant. Actually it was intended to be an operating plant that would supply base load power to the Detroit Edison Co. When they failed to get relicensing, the utilities felt that the breeder program should go ahead, but they did not want to undertake the cost commitment which they had found to be excessive. The overruns were great on the Fermi plant, as they are on Government plants. Their costs far exceeded what they originally expected, so they wanted the Government to participate. That led to the 50–50 arrangement on the Clinch River project. Clinch River is really only a very small amount larger than the Fermi plant. Clinch River is going to be the plant that corrects the mistakes that the private utilities made with the Fermi plant.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I agree with everything the gentleman stated, but I want to make one addition. That is, after the Fermi plant it became obvious that the AEC would not license a plant without having experience with demonstration facilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and on a division (demanded by Mr. COUGHLIN) there were—ayes 13, noes 19.

Mr. COUGHLIN. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. COUGHLIN. Madam Chairman, If I can get a recorded vote, I will withdraw my point of order.

The CHAIRMAN. The Chair had announced that a quorum is not present, and the gentleman may not withdraw his request at this time.

Mr. COUGHLIN. Madam Chairman, I ask unanimous consent to withdraw my request.

The CHAIRMAN. The Chair will advise the gentleman that he cannot withdraw his request even by unanimous consent.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. COUGHLIN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 206, not voting 32, as follows:

[Roll No. 575]

AYES—196

Addabbo
Akaka
Ambro
Ammerman
Anderson, Calif.
Applegate
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Byron
Cavanaugh
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
D'Amours
Danielson
Delaney
Dellums
Derrick
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Gephardt
Gibbons
Gilman
Glickman
Goodling
Hagedorn
Hamilton
Hanley
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Holtzman
Howard
Hughes
Jacobs
Jeffords
Jordan
Kasten
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Leach
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Mattox
Meeds
Meyner
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Moss
Motti
Murphy, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pattison
Pease
Perkins
Pike
Pressler
Pursell
Quayle
Quie
Rahall
Rangel
Regula
Reuss
Richmond
Rodino
Rogers
Roncalio
Rosenthal
Roybal
Russo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shuster
Simon
Skelton
Skubitz
Solarz
St Germain
Stangeland
Stark
Steers
Steiger
Stockman
Stokes
Studds
Thompson
Traxler
Tsongas
Tucker
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Wirth
Wylie
Yates
Zeferetti

NOES—206

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Boggs
Bowen
Breckinridge
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Carney
Carter
Cedergberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Coleman
Collins, Tex.
Conable
Cotter
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Devine
Dickinson
Dicks
Diggs
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Fary
Flippo
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fowler
Frey
Fuqua
Gammage
Gaydos
Ginn
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hall
Hammer-schmidt
Hannaford
Hansen
Harsha
Hefner
Hillis
Holland
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lederer
Lent
Livingston
Lloyd, Tenn.
Lott
Lujan
Luken
McClory
McCormack
McDonald
McEwen
McFall
Mahon
Mann
Marks
Marriott
Martin
Mathis
Mazzoli
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Nichols
Nix
O'Brien
Patten
Pepper
Pettis
Pickle
Poage
Preyer
Price
Pritchard
Quillen
Railsback
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Sebelius
Shipley
Sikes
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton
Steed
Stratton
Stump
Symms
Taylor
Teague
Thone
Thornton
Treen
Trible
Ullman
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NOT VOTING—32

Alexander
Allen
Bolling
Breaux
Brooks
Brown, Mich.
Buchanan
Caputo
Carr
Clawson, Del
Dent
Derwinski
Edwards, Ala.
Evans, Ind.
Giaimo
Hightower
Johnson, Calif.
Koch
Krueger
Levitas
Long, La.
Metcalfe
Mineta
Rose
Ryan
Sisk
Spellman

Whalen Wilson, Bob Young, Alaska
Whitehurst Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Dent against.
Mr. Levitas for, with Mr. Brooks against.
Mr. Mineta for, with Mr. Krueger against.
Mrs. Spellman for, with Mr. Rose against.
Mr. Metcalfe for, with Mr. Allen against.
Mr. Koch for, with Mr. Sisk against.
Mr. Evans of Indiana for, with Mr. Buchanan against.
Mr. Whalen for, with Mr. Derwinski against.
Mr. Young of Alaska for, with Mr. Whitehurst against.

Mr. BIAGGI changed his vote from "no" to "aye."

Mr. SMITH of Iowa changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. TEAGUE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the leadership has asked us to please expedite this bill as much as possible.

We were criticized a little yesterday for being very liberal with respect to time and for taking too much time. I would hope and plead that Members use their time wisely and well and not use a lot of time which they really do not need.

Madam Chairman, I will be constrained to object to any excessive requests for additional time.

I thank the Chair.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: On page 23, line 10, add the following: "*Provided*, That at least $10,400,000 of the amount authorized for the Liquid Metal Fast Breeder program shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development."

and,

On page 26, line 20, after "California", strike "(A-E only), $4,000,000" and insert in lieu thereof the following:

"(to include A-E effort, Long Lead Procurement and Limited Construction), $9,000,000."

Mr. GOLDWATER. Madam Chairman, this amendment basically restores several low cost, but critical and essential development and testing activities that will markedly improve the schedule and increase the likelihood that breeder reactors will be available when needed.

It makes this restoration without requiring that any additional operating funds be authorized. Instead, it directs that these more essential activities be performed within the operating funding limits already provided in the bill. The amount of work in question totals $10.4 million.

The amendment does require that an additional $5 million in capital funds be provided for the construction of facilities to test some of the components to be developed under this proposal.

Several of the activities to be restored are applicable to all types of breeder fuel cycles—rather than to the liquid metal fast breeder alone—and thus may be considered supportive of the President's proposal for an alternative fuel cycle program.

These activities had been included in the original fiscal year 1978 budget submitted to the Congress, but were eliminated in early budget cuts. They apply to both the Clinch River breeder reactor (CRBR) and the LMFBR base program.

The specific activities to be reinstated by this amendment are: Steam generator development and testing, development and testing of liquid metal pumps; and advanced fuel development.

The steam generator work is needed to maintain full design, manufacturing and testing capability for the prototype and plant-unit steam generators to be used in the CRBR. This component is the critical path item for the entire breeder program, and a minimum of 1 year will be saved if this activity is reinstated.

The work on liquid metal pumps is not for the CRBR, but is directed at later, larger breeders that may require advanced pumping concepts with increased reliability and safety. This activity will provide needed assurance that these pumps will be available when needed.

The advanced fuel development work will lead to the use of fuels with longer life and the higher breeding ratios needed to provide fuel for additional nuclear plants. This is the payoff of breeder reactors and should be expedited in the event that a national decision to employ breeder technology is implemented.

The $5 million in capital expenses is needed for the construction of additional steam generator testing facilities in support of the steam generator development work described above. Reinstatement of these capital funds will permit substantial schedule benefits to the steam generator work, which is the critical path item for the CRBR and the entire breeder program. A minimum of 1 year or more will be saved in the overall effort if this activity is reinstated.

These are not new items, but are reinstatements of several critical, relatively low-cost development activities that were eliminated in earlier budget cuts. They are needed to maintain the breeder option, not just for CRBR, but as part of the base R. & D. program in which the United States has always been a world leader.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I am happy to yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, I would like to say to the gentleman from California (Mr. GOLDWATER) that I would have no objection to his amendment at this time. It merely specifies that certain things would be done with the authorization which appear to be called for in the program. Speaking for myself, and also I believe for the majority, I have no objection to the gentleman's amendment.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, there is no objection to the gentleman's amendment from the minority side.

Mr. FREY. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Florida.

Mr. FREY. Madam Chairman, I am pleased to join my colleagues from both sides of the aisle in supporting H.R. 6796, the ERDA authorization bill for fiscal year 1978.

Due to some controversy and time restrictions at the end of last year, the Congress did not complete action on the ERDA fiscal year 1977 authorization bill until just a few months ago. Now our committee is bringing the fiscal year 1978 authorization to the floor with a carefully-considered expansion of the scope of our energy development efforts.

Madam Chairman there are many worthwhile programs included in this bill. We have already heard many of our distinguished committee members describe some of them. I would like to take the time allotted to me to comment briefly on a program that holds great promise for energy production. I am referring to ocean thermal energy conversion—OTEC.

In fiscal year 1977 the OTEC funding was authorized at $18 million, with $13.5 million actually appropriated. The bill before us today authorizes $45 million—although the amount requested was around $25 million. Why did the committee almost double ERDA's request? Essentially we found that what ERDA was doing with their $18 million was not much—in fact, ERDA was so casual about the OTEC program that only two people were assigned to the program.

I want the Members present to understand that we are not talking about some pie-in-the-sky scheme far off in the distant future. A form of ocean thermal energy was put to a practical test off the coast of Cuba in the twenties. The venture was not a commercial success, but it did prove that by taking cooler water from the ocean depths and running it to the warmer waters at the ocean surface, a steam can be produced to run a turbine. The theory was—and is—simple. No major breakthrough is necessary. The possibilities are endless for capturing abundant, environmentally safe, energy.

I have been interested in OTEC for some time—partially because I am a scuba diver, and particularly because Florida and the gulf States are prime locations off which an OTEC plant could function.

As a result of my interest and service on the Science and Technology Committee, Subcommittee Chairman MCCORMACK asked me to question Dr. Robert Hirsch, the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems and Dr. Henry Marvin, the Director of the Division of Solar Energy, in February of this year. I would like to recap their answers to my questions for the record:

FREY. Your program summary that you've done indicates that OTEC is the only solar operation—and I think you've said in your testimony that you felt this, on page 7 at least, and there's no question that you view this as one of the key ways or key potentials to go. Is that quite true, there's no question about that now?

HIRSCH. There is question. In raising the questions that I raise with respect to priorities in the program, these questions I raised before the General Advisory Committee, and it seems to me the things we were seeing in the OTEC Program led to there being greater promise in that area than the budget and the balance that we had provided for that aspect of the program. So I would say that I would agree with you that there are implications that this particular technology is more promising than our past funding might indicate.

FREY. So what you're really saying is that funds for this fiscal year aren't really commensurate with the potential that we have, or at least where we are today in total funding.

* * * * *

FREY. While I applaud what's been done, compared to how we're getting had overseas, it's ridiculous. Could you for the record possibly lay out for us what an accelerated pace on this program could do, if we had an increase in funds? What milestones you could potentially move up for us, and how much we could get to the point where we know if it's going to make sense or not? Like you, I don't want to waste money, but we're going to have to make an investment.

Congressman HAMILTON FISH (R-N.Y.). I don't know if this is going to help with the Administrator, but he told us this morning before another Committee he's here to defend the President's budget, and maybe he could put himself in a different posture as a scientist and a scholar in response to your question, with certain assumption such as a doubling of the amount of money this year.

HIRSCH. You're talking about doubling the requested level of $25 million, which is already a doubling of the program over the present year?

FISH. I think that's what Mr. Frey has in mind. What's going to happen if you put more money behind it?

* * * * *

FREY. I guess the question we're trying to ask is—all right, if we put some more money in, can we move up the schedule?

HIRSCH. The answer is yes.

Madam Chairman, that is the exchange that brings us here today with a $45 million authorization for the OTEC program. While I realize there are more controversial aspects of this legislation involved in the debate today, I do want the Members to understand the logic behind such a large jump in funding.

As I said earlier, Florida is one of the prime locations where an OTEC plant could function properly—another prime location is Hawaii. The State of Florida is most interested in pursuing OTEC, in fact, our State solar energy center is working on OTEC research now. Whether or not we will go ahead with the project, I cannot say, but I will tell you that other States are interested and other States recognize the incredible potential of ocean thermal energy.

There are some scientists who claim OTEC could provide 10 percent of the world's energy—not this country—but the world. The idea of using thermal gradients to run a turbine is not new, as I said earlier, but there are some modern applications that also hold great promise. One of these is ammonia production. Scientists tell us we can produce ammonia at sea at an OTEC plant. The fertilizer industry is greatly dependent on natural gas as the energy feedstock for fertilizer—and, in turn, the farmers of this Nation shudder every time natural gas prices go up and supplies go down. An unlimited amount of ammonia would certainly go a long way toward easing the fertilizer industry's dependence on natural gas. So while it would seem on the surface that OTEC benefits could only be reaped by tropical climates, the opposite is true.

At this point in our energy dilemma, we cannot afford to rule out any new source—especially one that is tried and tested. OTEC is such a source, with unlimited potential for the entire Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

Mr. BROWN of California. Madam Chairman, I move to strike the last word.

Mr. LUNDINE. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. I would inquire of the gentleman from California what is the intent of section 105? Section 105 authorizes $2 million for the development of a decontamination and decommissioning plan by ERDA, to be completed and submitted to the Congress within 1 year after the date of enactment. This study will include analysis and recommendation of the options for management, ownership, and ultimate disposition of the radioactive waste disposal operations at the Western New York Nuclear Service Center, at West Valley, N.Y., the only commercial nuclear fuel reprocessing plant ever to have operated in the United States.

Mr. BROWN of California. Section 105 is designed in part as a first step toward a definitive solution to the complex nuclear waste management and nuclear decontamination problems at the Western New York Nuclear Service Center. The plan is to be developed with joint cooperation from the Environment and Safety Divisions and the Nuclear Research and Development Divisions at ERDA with responsibility then being transferred to the new Department of Energy accordingly.

Mr. LUNDINE. The Western New York Nuclear Service Center, as you know, is located in my congressional district. Development of the plan authorized under section 105 is of particular importance to the people in my district. The plant, which will never operate again, must be decommissioned and decontaminated in a safe manner, the high level nuclear liquid wastes solidified and buried, and the two low-level waste burial grounds monitored.

My constituents have also experienced the economic benefits from employment and from the local tax revenues from Nuclear Fuel Services, a subsidiary of Getty Oil, who operated the plant from 1966 to 1972.

I feel it is extremely important that my constituents be active participants in the resolution of these extremely complex problems, and that careful consideration be given to the local economic impact of the forthcoming plan. Can the gentleman assure them that this will be the case?

Mr. BROWN of California. In approving section 105, the Science and Technology Committee was careful to provide for citizen participation. Prior to completion of the plan, informal public hearings must be held at times and locations convenient to those concerned. It is the intent of the committee that all interested parties be given opportunity to participate.

Mr. LUNDINE. I very much appreciate your cooperation in achieving this understanding of section 105.

Mr. HARSHA. Madam Chairman, I move to strike the requisite number of words.

I take this time to inquire of my distinguished friend, the gentleman from Alabama (Mr. FLOWERS), the chairman of the subcommittee dealing with this legislation, I notice on page 30 in title I of the bill, lines 21 through 24, the language authorizing an additional sum of $180 million for the enriched uranium production facilities, gas centrifuge that is authorized by this language. However, there is no particular designation, as appears in several other items in this title as to the location of that centrifuge plant. Could the gentleman inform me as to why that language does not contain a specific designation or location?

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to the gentleman.

Mr. FLOWERS. I thank the gentleman for yielding.

I know of the gentleman's interest in the centrifuge process. Let me say this, that when the committee dealt with this subject, it had not been determined by the Energy Research and Development Administration how they were going to handle the proposed centrifuge plant and/or the so-called Portsmouth add-on facility, which would be the gaseous diffusion facility, which I know is in the gentleman's district.

The committee intentionally remained silent on the subject to allow the Administrator to make that determination on the merits. It is not our intention here to deal with the issue of the location. That determination, as I understand it, has been made by the Energy Research and Development Administration. They decided to build the centrifuge plant, or announced that they decided to build the centrifuge plant, at Portsmouth. We do not intend to try to mandate that decision and have, thus, remained silent on the subject. This money obviously is intended to authorize funding for that project as determined by ERDA.

Mr. HARSHA. Then would the gentleman assure me that by this language and by the language in the report that

there is no intention to make a determination as to where the facility should go, that that will be the sole prerogative of the Administration, and that this language would not take away that prerogative?

Mr. FLOWERS. Will the gentleman yield further?

Mr. HARSHA. I am happy to yield to the gentleman.

Mr. FLOWERS. There is no intention on the part of this Member, or the committee, by remaining silent to affect the determination in any way whatsoever.

Mr. HARSHA. Could the gentleman further advise me as to whether or not the sum of $180 million for fiscal year 1978 is sufficient to continue uninterrupted the project activities for that particular project during fiscal year 1978?

Mr. FLOWERS. It is the full authorization that was requested of our committee.

Mr. HARSHA. I thank the gentleman.

Mr. PERKINS. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to my good colleague and friend, the gentleman from Kentucky.

Mr. PERKINS. Madam Chairman, I thank my distinguished colleague, the gentleman from Ohio (Mr. HARSHA) for yielding to me.

I am on the opposite side of the river and, naturally, the gentleman from Ohio (Mr. HARSHA) has been interested in the Portsmouth plant and the additions thereto, and legislation was written into the authorization heretofore. The answer given by the gentleman from Alabama (Mr. FLOWERS) certainly is satisfactory to me, and I am delighted that the gentleman from Ohio took the initiative to make sure that there was no intentional omission. I can agree with the gentleman from Alabama (Mr. FLOWERS) that the decision was not firmly made by ERDA at the time the bill was written, but now we have the assurances from the gentleman from Alabama.

I want to commend the gentleman from Ohio (Mr. HARSHA) on having worked for this plant and the additions thereto, the add-ons, for many years. We had so much interest in the Portsmouth and South Portsmouth area that we do not lose those jobs. There is no better place in the world, no more desirable location in the world, than at the Portsmouth plant.

Mr. HARSHA. I thank the gentleman for his comments. I certainly would be remiss in my remarks if I did not point out the fact that the distinguished gentleman from Kentucky was very instrumental and helpful in securing the location of this plant in the State of Ohio.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MCCORMACK, and by unanimous consent, Mr. HARSHA was allowed to proceed for 1 additional minute.)

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Washington.

Mr. MCCORMACK. Madam Chairman, I thank the gentleman from Ohio for yielding.

I wish to associate myself with the remarks of the chairman of the subcommittee (Mr. FLOWERS), the gentleman from Alabama, and also the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Ohio (Mr. HARSHA). The committee was silent on this issue, as has been explained, but I think as long as we are making legislative history it would be appropriate to point out the committee puts no restraints at all on the number of ultimate sites or the number of ultimate contractors who can be involved in uranium enrichment. As a matter of fact, there could easily be four separate contractors operating new centrifuge facilities at a Portsmouth site because it will be built in four modules. Those modules could be built and operated by separate contractors. In summary, there is no limit fixed in any law as to the number of sites that may be developed for uranium enrichment, either by centrifuge technologies or any other technology, and there is no limit on the number of contractors that may become involved in uranium enrichment, by any technology, or at any site.

Mr. HARSHA. I thank the gentleman from Washington for his remarks.

Madam Chairman, I rise in support of H.R. 6796, the energy research and development authorization for civilian research and development for fiscal year 1978.

This important legislation authorizes $180 million for the commencement of construction of a new uranium enrichment facility at Portsmouth, Ohio, which I have the privilege of representing in Congress.

The need for this additional enrichment facility is clearly demonstrated by the fact that all of the existing enrichment facilities are fully committed to fulfilling existing contracts. and it is only through the construction of this facility that ERDA can again accept orders for enrichment services.

The need for the placement of this facility in Portsmouth is also clear. With an unemployment rate of over twice the State average, the Portsmouth area desperately needs the jobs that this facility would create, both during the construction phase and after it becomes operational.

No community could have worked harder to attain this project. Thousands of letters were written to the President urging him to place the facility in Portsmouth. Also, many individuals and businesses in the area have invested large sums in capital improvements to accommodate the influx of plant and construction personnel.

The residents of the Portsmouth area clearly want and certainly deserve the economic opportunities which this facility would create, and it is my hope that this legislation will be approved by the Congress and that the administration will proceed with this project as expeditiously as possible.

AMENDMENT OFFERED BY MR. BEDELL

Mr. BEDELL. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEDELL: On page 22, line 15, strike out the period and add the following: ", including sufficient funds not to exceed $5,000,000, for research concerning and commercial scale demonstration of one or more advanced processes for the rerefining of used lubricating oils; Provided that, to the maximum extent feasible, construction of commercial demonstration plant provided for in the preceding sentence shall proceed simultaneously with the conduct of necessary research."

Mr. BEDELL. Madam Chairman, in our search for solutions to our Nation's energy problems, efforts to promote greater production and alternative sources have appeared more visible and hence more attractive than efforts to conserve energy, and the result has been that we have often overlooked effective, and sometimes simple, conservation measures. I believe that, while perhaps understandable, this situation should be acknowledged and corrected if we are to devise a truly balanced national energy program.

Today, I am offering an amendment to H.R. 6796, the fiscal year 1978 ERDA authorization bill, which would focus greater attention on one such conservation measure—the rerefining of used lubricating oil. My amendment would assure that there are sufficient funds within the ERDA budget for research and commercial demonstrations of advanced processes for the rerefining of used lubricating oil, without adding any additional funding to the ERDA budget and without diverting obligated moneys from other conservation programs. It would simply allow ERDA officials to insure that their rerefining program has sufficient funding by authorizing the allocation of necessary funds up to $5 million to the program from within the ERDA budget.

The recycling of used lubricating oil holds great potential as a conservation practice. Americans use about 1.2 billion gallons of such oil each year. Only half of this oil is consumed during use, and, while the remaining oil could be salvaged, reprocessed, and used again, it is more likely to be burned, dumped on roadways, or poured down sewers. While we could be instituting and supporting measures to protect our environment and conserve a precious resource, we are simply ignoring the potential of recycling used lubricating oil.

There are significant reasons for improving our Nation's capability for rerefining used lubricating oil. Rerefining could reduce oil pollution in our Nation's harbors and waterways caused by indiscriminate dumping and by drain-off from waste oil used as a road dust suppressant. It could eliminate a major source of atmospheric lead pollution which results from used lubricating oil being burned as a component of home heating oil. It could conserve those particular types of crude oil which are in shortest supply and are necessary to the manufacture of lubricating oil. And it could save 42,000 barrels of crude oil each day, a most significant figure in light of our heavy dependence upon imported crude oil. In short, the promotion of research, development, and

demonstration on rerefining of used lubricating oil will protect the environment, conserve energy, and benefit the economy.

Unfortunately, there are currently several obstacles to the widespread recycling of used lubricating oil as has been clearly demonstrated by a decline in the number of rerefining companies in the United States from 150 to 30 companies over the past decade.

While a natural obstacle has been the low priority in past years placed on conservation in our society, several specific Federal policies and actions have exacerbated the decline in rerefining companies. For example, in 1965, the Federal Trade Commission issued a trade regulation rule which required that the label "made from previously used oil" be displayed on the front of each container of rerefined lubricating oil, and which prohibited the use of the term "rerefined" with respect to most such oil. This decision has had a major impact on consumer perceptions of the rerefining industry and their products. While recent tests have shown that using rerefined oil does not affect lifetime engine wear and, in fact, wears equal to or better than quality virgin lubricating oil, this FTC ruling remains unchanged. The result has been to foreclose the automotive motor oil market to rerefined products.

The most pressing problem to the refining waste oil industry has been the environmentally damaging acidic sludge produced from the present rerefining process. This has, without question, been a serious concern. However, recent technological breakthroughs at the Bartlesville Energy Research Center (BERC) have produced a new solvent and distillation treatment which allows high recovery yields of purified oil without creating an environmentally objectionable byproduct. By assuring adequate funding for this ERDA program, we can make the necessary research and demonstration advances in minimizing pollution and thus help reverse the sharp decline in the small companies which have been involved in the rerefining process. Their contribution to saving oil and combating pollution has been obstructed and overlooked long enough, and it is time to encourage their involvement in the effort to develop an effective and acceptable rerefining process.

ERDA officials involved with this process are enthusiastic about the potential of recycling of used lubricating oil. ERDA plans call for a sizable demonstration or pilot plant to improve performance capabilities on a larger scale. However, before moving to this phase, they are evaluating the advantages, disadvantages, benefits, and costs of the process recently developed at BERC with existing technologies.

An aerospace study has been commissioned by ERDA to assess continued ERDA funding of the waste oil project. The study, which will be released in the very near future, evaluates funding levels and any supplemental factors which would be involved in assisting commercialization.

Madam Chairman, my objective in introducing this amendment is to support this recommendation by assuring that sufficient funds will be available within the ERDA budget for advanced research and demonstration efforts. These efforts need to be strengthened to maximize the potential energy conservation and environmental protections which the recovery and recycling of used lubricating oil can afford our Nation.

In closing, I would like to compliment the committee on their hard work and for the many hours which they have spent producing this ERDA authorization bill. I am also aware of the tight budgetary constraints under which the committee worked.

However, it is my belief that, because of the slow progress of Federal efforts to encourage waste oil recovery, congressional intent on this issue must be clearly established. Indeed, the priority of the waste oil recovery program within ERDA should be strengthened, and every reasonable effort should be made to provide the program with sufficient funding.

My intention is not to take money away from other valuable conservation programs authorized by this bill. Nor do I seek to add funds to the committee bill for recycling of used lubricating oil. However, I do believe that with the advances in research being made at Bartlesville, any unspent moneys within the ERDA budget should be available for transfer to this program if necessary and appropriate. My amendment would leave this decision to officials within ERDA.

I believe that with adequate funding and expedited research and demonstration this rerefining program can bring the advanced technology into the marketplace in the very near future. Such action would provide the needed protections to our environment as well as making great strides in promoting conservation efforts.

Mr. TEAGUE. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I am not sure I understand the gentleman's amendment, but if I do understand it the gentleman is giving ERDA authority to transfer money into this project without coming back to our committee which has the responsibility for reprograming money. If that be true, I am very much against the gentleman's amendment.

That comes under the subcommittee of the gentleman from the State of Washington and I wish he would comment on it, but that is my understanding of the amendment.

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Washington.

Mr. MCCORMACK. Madam Chairman, I thank the gentleman from Texas for yielding.

I agree with the gentleman from Texas. In the first place, our subcommittee has already authorized $400,000 for this type of research. What the gentleman in the well is attempting to do is allow ERDA to take almost $5 million out of other projects where we are already short.

I would point out to the gentleman that the appropriations bill, which has already been passed, cut almost a quarter of our money out. It cut $72 million out of our end use energy conservation technology. What is left has to be spread among all these projects, and the gentleman now is attempting to give ERDA authority to move money around in an area where we have not had adequate information.

I would be glad to have hearings on the matter and find out what the gentleman wants, but the effect of the amendment would be to give ERDA authority to reprogram funds without coming back to our committee.

Madam Chairman, I oppose the amendment.

Mr. TEAGUE. Is it not correct that ERDA has authority to do that now if they want to?

Mr. MCCORMACK. Not now.

Mr. BEDELL. Madam Chairman, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Iowa.

Mr. BEDELL. Madam Chairman, I think the chairman put his finger on the exact issue. ERDA does have authority, as has already been mentioned by a previous speaker. They have authority for $4 worth of spending for the $3 that they have. They do not have authority to proceed with the demonstration pilot project on this matter. This does not mandate that they do so. It simply gives them that authority, as they have in other areas of discretionary authority, if they feel they do not need the money for other projects and they need it for this project.

Mr. TEAGUE. Madam Chairman, why does the gentleman object to our committee having authority? We have never been a stumbling block to ERDA reprograming authority. Why does the gentleman object to them coming back to us?

Mr. BEDELL. I have no objection at all. We are at this time passing this legislation which will tie their hands through this authorization period. There are indications that that research is proceeding rapidly enough and making a breakthrough, that it is very likely that the people at ERDA would say, "Look, this is proceeding well enough, we should proceed with the demonstration project". I believe we should not keep them from doing so.

Mr. TEAGUE. As I understand, we would not even know where the money came from.

I think our committee does work hard and knows what is going on. I have much sympathy with what the gentleman is trying to do.

The gentleman from Washington (Mr. MCCORMACK) has promised to hold hearings on this issue.

Mr. BEDELL. Madam Chairman, if the gentleman will yield further, they would know where the money comes from, exactly the same as with other ERDA projects.

Mr. TEAGUE. Not if it comes back as already programed, we know exactly where it comes from.

Mr. BEDELL. But the projects authorized in ERDA already have indicated

they have authority to go ahead with those projects without coming back to the committee.

Mr. TEAGUE. Why does the gentleman oppose the subcommittee?

Mr. BEDELL. Because I was not aware of the problem at that time.

Mr. TEAGUE. Certainly this is important enough to hold hearings on. That is the only reason I oppose the gentleman's amendment.

Mr. RISENHOOVER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise for an inquiry of the chairman. I will not take the 5 minutes.

This project is located in my district. I am aware of it. There has been a problem of getting ERDA involved in the funding. Of course, they pass the buck back and forth from one to the other. I do not object to the way the committee has handled the business. If the chairman of the subcommittee is willing to go out there and hold hearings, I think it is a very worthwhile project.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. RISENHOOVER. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I agree with the gentleman. It is very worthwhile. As I say, we put $400,000 into research for this coming fiscal year into this area, recognizing the potential; but we were not aware of the project at the time we wrote this bill, anymore than the gentleman is. We have had no chance to hold hearings on it. This is the reason we object to it now.

I will guarantee we will hold hearings on it by the subcommittee. We want to move ahead, but we feel that the amendment moves ahead without our knowing where we are going.

Mr. RISENHOOVER. As I understand, if the gentleman holds hearings and the subcommittee decides it is a worthwhile project, they would have to wait until next year, that ERDA has the authority to put money into the project before next year.

Mr. McCORMACK. I see no way to get it in before fiscal year 1979. ERDA has an opportunity now to come to us and expand the program already authorized. They could go in and put up money for funding the Bartlesville project if they approve it, without the existing amendment, and if we hold hearings on the subject and they then come back to us and request a transfer of funds and we have a chance to hold hearings, then we would be very likely to approve the transfer; but the amendment would take it out of our hands and, therefore, I object.

Mr. BEDELL. Madam Chairman, will the gentleman yield?

Mr. RISENHOOVER. I yield.

Mr. BEDELL. Am I correct that if the committee wanted to go ahead with the development project, the sample project, they would not be able to do that for a year even if they came back to the committee, and the purpose of this amendment is to get that opportunity?

Mr. McCORMACK. They could come back to the committee and obtain that opportunity now with our approval, but what the amendment would do would be to take away the committee's jurisdiction. We already have appropriations following that where other parts of the projects we have already authorized are not going to be funded.

This exacerbates that situation. We hold hearings, we can have a review of the subject if ERDA wants to expand on it and transfer funds to it.

Mr. BEDELL. On this year's authorization period?

Mr. McCORMACK. Yes.

Mr. RISENHOOVER. On the amendment offered by the gentleman from Iowa, if it comes to a vote I will vote for the committee. I am very satisfied with the chairman's explanation, and when he holds hearings I will be glad to request it.

Mr. McCORMACK. The subcommittee will be happy to cooperate, but I do recommend that the gentleman withdraw his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BEDELL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: On Page 24 after line 10, insert a new section 102: "*Provided*, That prior to the obligation of any funds authorized pursuant to this Act for research, development, assessment, evaluation and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, a program plan be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate for their approvals. The Administrator is authorized to solicit proposals for any of the aforementioned activities. However, before any of these activities are undertaken, the Administrator is required to transmit the plan containing a description of such activities together with all pertinent data to such Committees and wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objections to the proposed action."

Mr. GARY A. MYERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, I would like to explain just briefly the effects of my amendment. The Senate bill now has, apparently, an authorization of up to $14 million for alternative fuel cycle research and development. It appears that a significant amount of that, perhaps as much as $13 million, could be attributed to research and development of fuel cycles at the Barnwell Nuclear Fuels Plant, which is a private enterprise venture, in reprocessing by the Allied General Nuclear Services Organization.

Madam Chairman, I do not have any argument with the idea of attempting to get research done at this facility. My concern is that the staff which now is located at Barnwell is not the appropriate staff structure, necessarily to accomplish the needs in the area, and some adjustments would have to be made. My concern is that we should not authorize what can be regarded as a bail-out for that corporation by authorizing the administration to fund just any project.

All this amendment does is to require after the administrator has solicited a research proposal, that the proposal be submitted to our committees, and not to exercise the obligation until after 30 days unless ERDA has had a disapproval of the committees.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, the gentleman from Pennsylvania, of course, talked to me about this amendment and the desirability of including it in this section. We have no objection to it on this side.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I support the amendment.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from California.

Mr. GOLDWATER. Madam Chairman, I rise in support of the amendment. I fully agree with the gentleman's proposal that the Science and Technology Committee take an active role in determining the nature of the activities to be conducted at the Barnwell Plant. This amendment will lend assurance that activities consistent with efficient usage of the plant will be conducted in an expeditious manner.

As many of my colleagues know, reprocessing is the activity in which "used" nuclear fuel is chopped up, dissolved and chemically treated to recover unburned uranium and plutonium that can be used again in a nuclear power plant. For many years the premise has been that the value of these recovered products would exceed the costs required to produce them, and I think this is still considered by most experts to be the case. Even more compelling in these times of energy shortages is the fact that uranium and plutonium "produced" via reprocessing would obviate the need to mine an equivalent amount of fresh material. Thus, uranium ore requirements could be reduced by about 25 percent, and important savings in uranium enrichment plants would also be obtained.

Until the first several months of this year, it had been generally expected that the United States would avail itself of the resource inherent in fuel reprocessing. Indeed, a commercial reprocessing plant had been built by Allied General Nuclear Services at Barnwell, S.C., at a cost of about $250 million, with operation originally scheduled for 1974.

However, due to changing regulatory requirements, additional processing and waste management facilities are needed at the plant, and operation has been delayed for another several years. In 1975, in response to Government studies showing a need for additional work on reprocessing technology, the plant owners proposed a joint Government-industry demonstration project to complete and operate the Barnwell facility. They believed then, as they do now, that the plant could be operated without exacerbating the proliferation problem. Extensive safeguards are to be employed at Barnwell, in full accordance with the requirements of the Nuclear Regulatory Commission and with at least as much stringency as those to be employed at any other commercial reprocessing plant in the world.

Unfortunately, the potential for using the energy resource inherent in the Barnwell Plant's capabilities took a turn for the worse on April 7, 1977, when President Carter said in his proliferation message that Barnwell "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility."

I find this position especially ironic on two counts. First, it represents a failure to aggressively utilize a proven energy resource; namely, the 25-percent increase in uranium availability represented in spent nuclear fuel. In full operation, Barnwell would recover the energy equivalent of 1 million barrels of oil every operating day—some 300 million barrels a year. Even at the modest price of $10 a barrel, that would be the equivalent of $3 billion a year in imported oil. What is more, by the year 2000 the energy equivalent of the world's spent fuel will be almost 100 billion barrels of oil, equal to about 6 years of production at current free-world levels. This Nation cannot afford to cut its options on a technology with this much yield. It does not make good energy sense, but that is exactly what we are doing.

Second, I find it morally indefensible that the U.S. Government should completely disregard its implied commitments to the plant owners. The plant was constructed during a period when the United States actively encouraged the participation of private industry in nuclear fuel cycle activities. Substantial private investment was obtained. Now that Government policy has changed, we cannot walk away leaving the owners high and dry. This sets the worst possible example as the United States encourages and counts on private sector investment in other energy technologies to meet the Nation's needs as we see them today. We cannot expect investor support with this kind of cavalier behavior.

Fortunately, the situation may be on the brink of improving, with the administration recognizing that the facility represents an asset with possible application to ERDA's current fuel cycle research and development programs. Funds have been provided in the recently passed public works appropriations bill to conduct studies and research at Barnwell, up to $14 million, in support of the Nation's nonproliferation policies. Long-term uses of the facility will also be examined under this plan and under the ERDA Authorization bill as passed by the other body. Utilization of the plant and staff on useful R. & D. programs will allow Congress and the administration time to explore long-range options for using Barnwell.

The agreements to provide funding for R. & D. at Barnwell in fiscal year 1978 appear to reflect in part the requirement imposed by the Science and Technology Committee for ERDA to prepare a full report on the possible uses of the Barnwell facility. This report is to consider the plant's uses in safeguards demonstration, spent fuel handling and storage, and fuel cycle evaluation. Consideration of activities of this nature is certainly a step in the right direction, and the amendment now offered by the gentleman from Pennsylvania will add to the likelihood that this report will be worthwhile.

This Nation needs the energy represented by nuclear fuel reprocessing. We are also aware of the potential for misuse of the materials that reprocessing plants produce. However, as I have said many times, there is no reason why we cannot have the needed energy and at the same time assure that the potential for poliferation is completely controlled. In fact, with vigorous efforts in proliferation control technology, such as those now being considered at Barnwell, coupled with diplomatic initiatives to strengthen international safeguards, the United States can reduce the threat of proliferation much more effectively than if it abdicates its position of technological leadership. The studies and research activities now proposed at the Barnwell plant represent a first important step in using this plant to decrease the potential for proliferation. I support this use of Barnwell, and urge that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will report title II.

The Clerk read as follows:

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Non-nuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Acts providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities. No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Each grant under paragraph (1)(A) shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant.

"(3) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national

programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress, unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting cost incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

"(j) Nothing in this section shall apply with respect to authorization or appropriation of funds for nuclear weapons purposes.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 102(a) (13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 (except that the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy); and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. Any funds appropriated for magnetohydro-dynamics pursuant to section 101 (a) (1) or 102(b)(9) of this Act or pursuant to authorizations contained in any other law, to the extent provided for use at or in connection with facilities other than the Component Development and Integration Facility currently under construction, shall hereafter be expended for or in connection with facilities at such sites as may be selected by the Administrator.

SEC. 204. The Administrator, in cooperation with the Secretary of State, shall report to Congress within six months after the date of the enactment of this Act on the effects of April 27, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy" on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to Congress on each subsequent major related initiative.

SEC. 205. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 206. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations."; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however,* That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 207. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended.—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts,".

SEC. 208. The last item in section 101(b)(8) of Public Law 94-187, relating to project 76-8-g, is amended by inserting "gas centrifuge," after "production,".

SEC. 209. The Energy Research and Development Administration is directed to encourage and promote participation of State governments in the development of the Administration's plans and programs. The Administration may also provide, where consistent with its plans and programs, matching funds to States which are expending State funds for complementary energy activities.

SEC. 210. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided,* That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further,* That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and constructon costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the con-

dition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating reveneus are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligations to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or migrating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the condition of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and centum per annum of the outstanding inthorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demontrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administration to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be up dated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized,

taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committees on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee commitment to guarantee cooperative agreement or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereinafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c))."

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will read the committee amendment to title II recommended by the Committee on Armed Services.

The Clerk read as follows:

Committee amendment: On page 79, line 1, insert:

SEC. 211. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended).

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD. It has been read before and it has been considered, and we have accepted it.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. THORNTON

Mr. THORNTON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THORNTON: On page 60, lines 14 and 15, strike the words "for which a waiver was made by the Administrator under section 9 of this Act".

On page 61, line 1, insert the following after "shall": "in case of default".

On page 75, line 6, insert after the word "shall" the following: "in case of default".

Mr. THORNTON. Madam Chairman, my amendments to section 210 of this bill, which provides loan guarantees for alternative fuel demonstration facilities, are designed to make clear that the provisions to give the Federal Government title to such patents as may be developed shall apply only in the event there is a default in payment under the loan guarantee.

As the bill presently reads, any invention which is developed under a guaranteed loan shall become the property of the United States, subject to the possibility of a waiver, even if there is no default by the borrower.

The legislation as it currently reads is undesirable for two reasons. First, it seems to me to be inequitable for the Government to automatically become the owner of inventions under a program where research, innovation, and development is carried out and paid for by the private sector. This loan guarantee mechanism is designed to accomplish the worthwhile public purpose of demonstrating commercial feasibility of alternate energy sources, and should there be a default, it is proper that assets, including inventions, should be treated as part of the security for the loan.

Not only does fairness suggest that the Government should not be entitled to patents in circumstances where no default occurs, but, also, we should consider that by depriving developers of property interests in inventions produced at their own expense as a result of personal work, potential participants might be discouraged from entering into the program. The public interest in the development of alternative fuels will thus be hurt. It is vital to the success of the program that we not drive away prospective developers by a provision relating to patents.

My amendments give us a viable way to achieve a balance between legitimate private and governmental interests. Patent rights would remain with the private developer unless default should occur. Once the Government is required to make payments directly to a synthetic fuels project under a default arrangement, then it would receive the patent rights.

I urge the adoption of my amendments.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

Madam Chairman, we have talked about the desirability of this amendment. I want to commend the gentleman for offering it.

Madam Chairman, not only do I not have any objection to it, I fully support the amendment and I would urge all Members to support it. I do not think there is any objection on the majority side to the gentleman's amendment.

Mr. THORNTON. I thank the gentleman for his remarks.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

Madam Chairman, I rise in support of this amendment. I think it is an appropriate amendment. What we are trying to do with these loan guarantees is accelerate the innovation and development of new technology in the area of energy. Certainly, the concern over the loss of patents, patent rights and patent protection is a legitimate concern. If the proper protection as provided by the gentleman's amendment is not taken into consideration or implemented, certainly it would act as a disincentive for attracting new technology to this loan guarantee program.

So, Madam Chairman, I compliment the gentleman from Arkansas for offering his amendment, and I urge my colleagues on this side of the aisle to support it.

Mr. THORNTON. Madam Chairman, I thank the gentleman for his support.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Arkansas (Mr. THORNTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: On page 43, in line 13, strike "shall, for a period of ten years," and insert in lieu thereof, "is authorized, for a period of ten years, to".

On page 45, in line 21, strike "required or".

Mr. FLOWERS. Madam Chairman, this is merely a technical amendment necessitated by the Budget Act. At the time we appeared before the Committee on Rules and obtained a rule for this bill, we made a commitment to the members of the Committee on the Budget and the distinguished chairman of the Committee on the Budget that this amendment would be offered, and I do so now for the purpose of abiding by that commitment.

Madam Chairman, I urge the adoption of the amendment by the committee. I do not think there is any objection whatsoever to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 78, after line 25, insert the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) The Administrator of the Energy Research and Development Administration, under the Administration's energy traineeship program, is authorized during the fiscal year 1978 to make awards in amounts not exceeding $7,000 per student to finance the education of a total of 500 graduate students in engineering, science, and socioeconomic sciences related to energy, particularly in the areas of alternative energy sources (including wind, solar heating and cooling, photovoltaics, ocean thermal energy, biomass, and geothermal energy), energy conversion and utilization, and energy conservation. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $3,425,000.

(b) The Administrator is authorized to establish vocational training courses in solar heating and cooling and in energy conservation at approximately 100 community colleges, vocational schools, and other educational institutions in all parts of the country, and to provide assistance to any such institution in the conduct of such courses during the fiscal year 1978 in an amount not exceeding the sum of $5,000 per teacher for equipment and teaching facilities, $5,000 per teacher for the operation of the courses, and $1,000 per teacher for teacher training and instruction. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $1,150,000.

Mr. TSONGAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TSONGAS. Madam Chairman, in 1957 the Soviet Union launched Sputnik and dramatized this country's lag in aerospace development. Wheels were then set in motion to respond to the challenge, and as we all know, that challenge was in time successfully met.

One of the critical ingredients of that effort was a program initiated by NASA to provide 1,000 yearly graduate traineeships to establish the manpower technical base needed to develop an aerospace industry.

Today we have an energy crisis that, in terms of long-run implications, dwarfs the Sputnik crisis of the 1950's and 1960's, and yet ERDA presently allows for only some 20 energy traineeships. That can only mean one thing—a serious shortfall of trained manpower.

My amendment seeks to meet that shortfall. It provides 500 graduate traineeships—only half of the NASA counterpart in aerospace—in engineering and physical and social sciences related to energy. It also provides for 100 courses in solar heating and cooling, as well as energy conservation at vocational schools, community colleges, and other educational institutions.

We need trained manpower to develop technologies and also to translate technological theory into hardware.

Madam Chairman, I have discussed this amendment with the gentleman from Washington (Mr. MCCORMACK), but first let me raise one other issue.

To give the Members some idea of what the current situation is in terms of the universities' capability to turn out graduate students in engineering, there are approximately 3,000 graduate students who leave the universities and graduate in each given year. In 1975 only 18 percent of the engineers and 10 percent of the scientists in industry were in the vital area of energy. Only a very few percent were in advanced technologies such as solar, geothermal, and areas related to other sources. Furthermore, while the number of graduates in engineering on advanced levels has remained steady in the last decade, the numbers of foreign students have increased from 8 percent in 1968 to almost 40 percent in 1976. In essence, American students simply do not have the financial wherewithal to continue in this field.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, it is my understanding that the subcommittee that handled this matter in the full committee would like to see this amendment accepted, and the majority is glad to accept the amendment.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

We do believe this is a worthwhile amendment. The figures now proposed have been reduced from the figures the gentleman originally suggested and we accept the amendment.

Mr. TSONGAS. Madam Chairman, I thank the gentleman for his concurrence.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at varying levels of subsidy (for example, at 20, 40, 60, 80, and 100 percent levels);

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense

(ii) the Department of Transportation (including the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration)

(iii) the Department of Commerce

(iv) the Department of Agriculture

(v) the Department of the Interior

(C) provide a preliminary report to Congress within six months following the enactment of this Act.

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act.

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry—to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act.

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy system for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act.

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $28,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, under the mechanisms provided in the National Energy Act.

SEC. 211. (b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $10,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

Mr. TSONGAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TSONGAS. Madam Chairman, several years ago, solar energy was viewed as something esoteric, academic, and even a bit strange, if you will, something for those who like to tinker with bizarre mechanical ideas.

However, events have begun to change all that. Thousands of people in this country have begun to experience rather similar situations.

People in my part of the country and in the Midwest saw severe dislocation due to the extreme cold of this past winter. Whole cities were trapped in the so-called energy shortage, while energy from the sun streamed down upon them, silent, sure, and unused. Enough energy to heat their homes—right there—and yet, all attention was on natural gas from Algeria and crude oil from Nigeria.

Madam Chairman, every summer Washingtonians suffer from air pollution that staggers the imagination, while the sun shines its pollution-free energy upon us—again silent and sure and unused.

New Yorkers have endured the infamous blackouts while the sun offered its energy to the Big Apple—silent, sure, and unused.

Madam Chairman, solar energy is a critical energy source just waiting to be embraced. Limitless, pollution-free, and decentralized, it is there; and it is about time that we maximize our use of it.

Solar cells or the so-called photovoltaic cells is the process of converting solar energy directly into electricity. It is to be distinguished from solar heating and cooling, which warms a particular liquid and transfers that into heat for a home.

Solar cells such as the one I have here are wafer-like silicon or, in some cases, cadmium sulfide areas wired together. The sunlight forms an electrical current when it strikes the cell.

These cells can be used in homes, thus providing truly decentralized electricity, and in remote locations, thus offering maintenance-free savings.

Why do we not start to use them?

Very simply, they cost too much because there is no market, and there is no market because they cost too much.

Madam Chairman, this vicious cycle has to be broken.

Solar cells used in very specialized areas have gone from $500 to $13.50 per peak watt, which is the recent price. That cost must be driven down to between 50 cents and $1 per peak watt to be competitive with nuclear, coal, and oil-based electrical generation.

Madam Chairman, that reduction will only come about if the Government works to create a market. That is what my amendment is all about.

Can the Government use them? My amendment provides for a 4-megawatt buy.

An FEA study done for DOD found that a 150-megawatt market exists over the next 5 years for use at remote facilities, at a potential savings of $500 million to the Federal Government, and that is just for DOD.

The potential of numerous other Federal agencies where solar cells could be cost-effective has not yet been analyzed, nor has the enormous market in Third World countries which do not have electrical grill systems, but do have sunshine.

Madam Chairman, I quote from the FEA study, as follows:

Photovoltaics offer a number of advantages to the DOD. In addition to potential cost and fuel savings, photovoltaic energy systems would provide the DOD a highly reliable, silent power source allowing virtually unattended operation in most areas of the world. Near term benefits to the DOD include cost and logistics savings at remote sites, in portable equipment and off-shore applications.

The U.S. would also receive national benefits from accelerated commercialization of photovoltaics. Over the longer term, photovoltaic energy systems will offer the nation a cost competitive source of commercial electric power or provide a user-owned dispersed source of power, thus reducing dependence on foreign energy sources. Other national benefits include the development of exports to underdeveloped countries where photovoltaic systems could be utilized for rural electrification and irrigation pumping.

That was the study conducted by FEA for the DOD.

It is time to move. In fiscal year 1977 ERDA is purchasing only 0.2 megawatts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TSONGAS. Madam Chairman, I ask unanimous consent that I may be permitted to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. TEAGUE. Madam Chairman, I must reluctantly object.

The CHAIRMAN. Objection is heard.

Mr. OTTINGER. Madam Chairman, I move to strike the last word.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, I thank the gentleman for yielding to me.

To continue with what I was saying, Madam Chairman, in fiscal year 1978, which is the object of this bill, ERDA will purchase only 0.5 to 1.5 megawatts. My amendment would earmark $28 million to raise this to 4.5 to 5.5 megawatts.

This would put the fiscal year 1978 buy in line with the National Energy Act which, as the Members know, provides for a 3-year—1979 to 1981—procurement, between $39 million, the House version and $98 million which is the Senate version. Lower per unit costs should cause this buy to range up to 12 megawatts a year.

All of this is far below the 150 megawatts that DOD can already use by itself.

If anything, this amendment errs on the side of insufficiency.

Again, my amendment calls for $28 million to purchase 4 megawatts of solar cells and $10 million for technological development, particularly for engineering design and development of the manufacturing process—the area where the savings hope to be achieved—to study the potential of solar cell use at non-DOD Federal installations.

The one remaining issue is the capacity of industry to provide the cells. The gentleman from New York (Mr. OTTINGER) will address himself to that matter.

Mr. OTTINGER. Madam Chairman, I strongly support the amendment just introduced by my colleague, the gentleman from Massachusetts, PAUL TSONGAS. It is high time that the Federal Government give a real push to solar photovoltaic electricity. and the best way to do that is to provide a market for solar cells and systems for use by the Federal Government itself.

This amendment will do three good things:

First, it will give a market push to the photovoltaic industry, thus encouraging firms to invest in mass production techniques.

Second, with the lower solar cell prices that result, the amendment will provide our Nation an expanding new source of electricity from the sun.

And, third, it will provide a reliable source of electricity in Federal installations—systems that are lifetime cost effective.

This amendment will fill the fiscal 1978 photovoltaic gap—the gap caused by the fact that the National Energy Act, as passed by both Houses, includes Federal purchases of solar cell electric systems only to begin in fiscal 1979. We cannot and must not lose that year when we could and should be pushing ahead.

The Tsongas amendment provides that the Federal Government will contract to buy $28 million—up to 4 megawatts of generating capacity—in fiscal 1978, for delivery and installation by the end of fiscal 1979. Can the solar cell industry meet the demands of this expanded market? The answer is yes.

Last week I conducted a telephone survey of seven of the leading firms in the photovoltaics industry: Solarex, Spectrolab, Optical Coatings, Solar Technology, International, Motorola, Solar Power Corp. and Mobil-Tyco. All seven answered "yes" to that question.

Prof. James Gibbons of the Stanford Electronics Laboratories at Palo Alto, Calif., and a renowned expert in concentrator photovoltaic systems, says in a letter to our committee:

My general response to the Tsongas amendment would be to favor it enthusiastically. It will provide the funds we need to improve future price estimates, and to increase the

level of commercial activity in this field. At the same time, it is not large enough to cause the industry to freeze its options or focus its research activity too narrowly on a given technology.

Professor Gibbons said without this kind of a buy, we cannot even know on what we ought to concentrate our research and development.

Gary Johnson, manager of solar market planning for Motorola, said in a letter to one of our colleagues on the committee:

Several charts from my testimony before the Science and Technology Committee clearly attest to the fact that moderate near-term (1978) solar electric purchases are essential to the rapid development of the solar electric cell market. Demonstrations would be of particular assistance in the growth of commercial, government, and less-developed-country market segments.

The solar cell industry supports this amendment. Environmental, consumer, and labor groups support it. The Federal Government can make good and wise use of the solar electric systems it will buy.

I congratulate my colleaguee, the gentleman from Massachusetts, and urge adoption of the amendment.

Mr. McCORMACK. Madam Chairman, I move to strike the last word, and I rise to oppose the amendment.

I want to urge all Members to pay close attention to the discussion on this amendment which would increase the ERDA authorization by $38 million for the coming fiscal year for the Federal purchase of additional photovoltaic cells.

Though I am supportive of the photovoltaic program and of Federal purchases of photovoltaic cells, I agree with the administration and recommend no additional funding for this purpose in fiscal year 1978.

As we learn more about the photovoltaic market, and as the technology progresses, larger purchases than this year's may be practical. In fact, I have stood up and debated for an increased purchase for 1979, and, depending upon the President's request, we may be able to realize it at that time.

The total capacity for manufacturing photovoltaics, measured by the total sales in this country is about 750 kilowatts. The Tsongas amendment proposes to buy an additional 4,000 kilowatts worth of photovoltaic cells, that is, about 5½ times the manufacturing capacity, and to do so in the fiscal year which starts in 10 days. It completely ignores the fact that this manufacturing capacity does not exist, and that other orders will be made by NASA for its space program and by the Department of Energy—already authorized in this bill.

For fiscal year 1978, the administration requested $52.2 million for photovoltaics, including $3.5 million for a direct purchase of flat plate photovoltaic collectors for demonstrations, and we increased it to $57.2 million, an increase of $5 million, for demonstrations of concentrating collectors.

The Tsongas amendment would require the purchase of far more photovoltaic cells than could currently be produced, yet it does not allow time for conversion to mass production systems.

In May of this year the Assistant Secretary of Defense, testifying on this subject before the Committee on Public Works said:

The Department of Defense is concerned that the state-of-the-art of photovoltaic systems is not yet sufficiently established to warrant a full-scale commercialization program. It should be noted that the current U.S. capacity to produce photovoltaic devices is less than 1 megawatt—that is, less than 1,000 kilowatts—and that the equipment and procedures to expand this capacity through automated production are now being investigated.

They are just being studied.

In testimony before my subcommittee, Mr. Donald Beattie speaking for the administration just a few days ago this month, said:

Now, at this time we feel that the budget is adequate to proceed with the program that we have laid out and, as I mentioned in my opening comment, we are looking very carefully at the direction the program should go. It's receiving very top level scrutiny at this time, and we expect within the next few months to make some decisions, and those will be reflected in what we would ask for in the 1979 budget.

He further said that the administration would try to subsidize buyers to buy the cells, not manufacturers to make them. This is the principle embodied in the Solar Heating and Cooling Demonstration Act of 1974.

Since ERDA's program already contains a purchase of 500 kilowatts of photovoltaic cells, we in the committee believe that the additional massive purchase of photovoltaic cells should not be attempted for fiscal year 1978. We believe that such purchases may well be completely justified in 1979, depending upon the administration's new program and the progress we make in fiscal year 1978.

We can all be proud of the fact that we have increased the budget for solar energy to about $360 million for fiscal year 1978. That is a 900 percent increase in 3 years, following an organized, rational plan for developing these new technologies. It is not necessary or responsible to spend Federal money recklessly for projects which have no sound engineering basis or favorable economic studies.

We urge the Members to vote against the Tsongas amendment.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, is there any information as to what would be an appropriate size for a commercial production plant? Do we know how many plants we would be requiring to come on the line or what size?

Mr. McCORMACK. All we know is it would total about 4 or 5 times the present capacity of this Nation regardless of what other demands there will be. Our present plan is to create incentives to develop lower cost mass production capacities by authorizing this purchase of significant quantities in the future.

Mr. GARY A. MYERS. Would it not be more appropriate to make a commitment to a firm which could make a commitment to a long-range plan rather than to over buy at this time?

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Madam Chairman, I agree with the gentleman from Pennsylvania on the longer range program, which is what the administration, OTA, ERDA, the Budget Office and the United Nations recommends, a long range incentive plan.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. Madam Chairman, is it not true what the $57.2 million authorized is photovoltaic systems in fiscal year 1978 only and $20 million is for purchase and installation of photovoltaic systems for approximately 1.5 megawatts. None of this is for actual use. It is all for research and development purposes.

Mr. McCORMACK. No, not at all. This is for demonstration purposes. We even agree to go ahead with that extra $5 million for demonstration programs as the gentleman requested.

Mr. OTTINGER. Right.

Mr. FREY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to ask the gentleman from Washington, in terms of the funding on this resolution, where are we going to get the money? Where is it going to come from if this is passed?

Mr. McCORMACK. If the gentleman will yield, the answer to his question is that the extra money for these purchases would have to be appropriated by the Appropriations Committee, above and beyond what has been appropriated for solar energy.

Mr. FREY. It would have to be a supplemental appropriation.

Mr. McCORMACK. Yes, it would have to come in the supplemental appropriation bill.

Mr. FREY. I must admit I am somewhat on the fence on amendment. I have been rather discouraged with ERDA and the progress they have made in the entire solar energy area. Our committee has carried the load and insured an increase in solar energy. The really sad fact is where we started from. When I was first elected to the Congress, the total funding for solar energy research was around $100,000 or such, which was criminal.

Certainly there is a lot to do. Certainly in the area of photovoltaic systems I would like to see more effort and more sense of urgency.

I would like to ask the gentleman from Washington, who has done a very fine job in the subcommittee and for whose ability I have great respect, what can we look forward to in the next fiscal year? Are we going to be able to catch up and

put more emphasis on this form of research?

Mr. McCORMACK. Madam Chairman, if the gentleman will yield, I appreciate the gentleman's comments.

We are doing everything that appears to be reasonable. I am proud of the work of our subcommittee and of the full Science and Technology Committee, on which the gentleman from Florida serves, for taking the leadership role for aggressive—but responsible—solar energy research, development, and demonstration programs. We will continue to move forward with demonstration programs using photovoltaic cells in fiscal year 1979, even though we do not think photovoltaic electricity will be competitive at that time with the cost of ordinary electric power.

We think the demonstration programs are important, just as we do in wind energy, ocean thermal gradients, bioconversion, and heating and cooling, all of which we have supported lavishly.

Mr. FREY. I do not know about lavishly, but they have been supported very wisely and very well. Madam Chairman, on balance I support this amendment—solar energy can provide near term energy—to write it off for this 21st century is wrong. I will continue my fight to insure the funding for solar energy to continue to rise and that commercialization is emphasized. I hope someday, solar energy will be the main source of electric energy in this country.

Mr. GORE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in enthusiastic support of the solar cell purchasing amendment. As a member of the subcommittee, I would like to make a couple of points. First, it has been said that all these cells will have to be purchased in the coming year. This is not actually true. The contracts must be signed next year but the deliveries are not required until the end of the fiscal year 1979.

Second, some statements have been made about the capacity of the solar industry to produce this number of cells. The people in the industry say that they can do it and the people familiar with the capacity say this very definitely can be done.

I did not approach this issue, Madam Chairman, as one who had a preconceived notion that solar energy is the undiscovered panacea for our Nation's energy problems, but rather as one who has devoted a lot of time and effort to the study of the merits and demerits, the promises and problems of most all of our energy resources.

As a member of three subcommittees dealing with energy, I have had an opportunity to work with the technical and policy issues of natural gas, of petroleum, of uranium and nuclear fission and fusion.

My support of solar technologies comes not from illusions, but from an analysis of the facts about electricity from the sun.

Madam Chairman, the facts are impressive, indeed. This industry has suffered from a measured neglect on the part of policy makers. The virtually unanimous conclusion of studies by private industry, universities, and the Government—that is ERDA, FEA and the Office of Technological Assessment—is that no further technological breakthroughs are required to significantly lower solar-cell prices. In addition, these studies have identified a myriad of applications where solar cells are cost-effective even at today's prices.

Given these facts, Madam Chairman, it makes no sense to continue the one-track ERDA solar cell program which exists today. No one disputes the need to continue advancing along the one development track we are currently following; that is, basic research for new breakthroughs. But we urgently need to now lay a complementary program-track alongside; namely, a significant market boost to greatly increase production levels in the industry.

Even this conclusion is no longer a subject of real dispute. In hearings just a week ago Friday, before the Advanced Energy Technologies Subcommittee, of which I am a member, ERDA discussed a proposed restructuring of its solar cell program to emphasize, as ERDA put it, "market-pull" in addition to the existing "technology-push" strategy. Other witnesses from inside and outside Government emphasized that significant Federal purchases of solar cell systems would have the additional effect of providing the essential, practical experience necessary to induce new, even more significant technological innovations.

In other words, both continued research projects and additional purchase programs are needed to best achieve our goals for solar cells.

Madam Chairman, it has been suggested that this amendment would operate to "freeze" current technology, because producers would rely on current, labor-intensive assembly techniques, rather than moving to automation. I am convinced, Madam Chairman, that this suggestion is quite unfounded.

First, just as in the National Energy Act purchases, the amendment program calls for contracts to be signed in fiscal 1978, but deliveries need not begin until fiscal 1979. This provides at least 1 year for automated assembly lines to be established. The size of the purchase, when added to the growing commercial market, virtually assures that automation will be used. This is the purpose of "stretching" the current industry capacity.

Second, just as in the National Energy Act, ERDA can be expected and encouraged to stipulate in its contracts that producers must show evidence that automated procedures will be used in the production of cells under the contract.

I understand this is the current practice, and would certainly be continued.

Third, the amendment provides for $10 million in Federal research on improved manufacturing processes, which will then be available for adoption by industry.

Finally, this amendment adds another year of guaranteed market levels for solar cells. It is agreed that the existence of an assured multiyear market is necessary to induce private investment in automated procedures.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

(By unanimous consent Mr. GORE was allowed to proceed for 2 additional minutes.)

Mr. GORE. Madam Chairman, it is outdated, discredited thinking by persons in the Government—both in the executive branch and in the Congress—that is the main impediment to developing solar energy technologies. Too many Government leaders have, for too long, relegated solar energy exclusively to a long-term role. I find it ironic that it is the American people and the solar industry that are leading the Congress on this issue, and not the other way around. They recognize the fact that solar energy and solar cells have a here-and-now practicality, while promising even greater utility in the future.

This amendment is the best way to speed the development and use of solar cells. It will help develop both an inexpensive technology and an industry capable of producing large quantities of cells in the future. Finally, the amendment is a needed, logical bridge to the National Energy Act purchase program already passed by this House. Thus, I strongly urge my colleagues to vote for the adoption of the solar cell purchasing amendment.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. At the same subcommittee meeting the gentleman referred to, the same question was asked, about what the 1977 price was going to be. The answer was that they did not know because they are not in yet. The same process would take place in 1978 under this amendment; buy in 1978, delivery in 1979. That is exactly what is happening today.

Mr. GORE. I would like to underscore that point. We need a year to work on automated systems. The way this purchase system operates, it provides us with that year.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from New York.

Mr. OTTINGER. I would like to point out on that very point that Professor Gibbons of Stanford University said that if he had orders today for 10,000 concentrator cells, he could deliver them for $5 a peak watt. He said that the main inhibition on solar electric system cost reductions is the lack of orders in sufficient quantities and that this, too, is a principal limitation on further research and development progress.

Mr. GORE. Madam Chairman, I would like to share with my colleagues an exchange of correspondence I have recently had with a representative of one of the companies working in this field, Motorola, Inc., Motorola has recently decided to enter the solar cell production industry. Mr. Gary B. Johnson testified before

the Advanced Energy Technologies Subcommittee but unfortunately was unable to complete his testimony. I wrote to Mr. Johnson to clarify his testimony as it pertains to this amendment. I request that my letter and Mr. Johnson's response be entered into the RECORD following my remarks. Thank you, Madam Chairman.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 12, 1977.

Mr. GARY B. JOHNSON,
Solar Energy Market Planning, Motprola Corp., Arlington, Va.

DEAR MR. JOHNSON: Thank you for your informative testimony on Friday, September 9, 1977, concerning the status of solar photovoltaic technologies, the potential market for these devices, and the need for increased federal procurement activities to meet our national energy goals.

Unfortunately, the press of House business left little time for you to present your testimony or to answer questions from members of the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration. Because of the great relevance of your statement to the upcoming debate on the ERDA authorization bill for FY '78, I would appreciate your response to the following questions on matters which were the subject of some confusion during the hearing. Please address these questions in any order or combination that you wish.

(1) Is there a need for increased federal purchasing of photovoltaic energy systems in order to further lower costs?

(2) How large a federal purchase program is needed to assure the development of a private solar cell industry capable of meeting our national solar energy goals?

(3) Should an increased federal purchase program, if any, begin in fiscal 1978 (October 1, 1977 to September 30, 1978)?

(4) Would a significant increase in federal purchasing of photovoltaic systems necessarily "lock-in" present technology and discourage further cost reduction innovations? Or would continued or increased funding for research, development and demonstration programs help alleviate any problem in this regard?

I have a number of additional questions for you which I will defer to a later date. Your expeditious response to the above questions would be of great assistance to me in considering the forthcoming ERDA authorization bill.

Thank you again for your valuable time and expert opinion on this matter of great national interest.

Sincerely,

ALBERT GORE, Jr.,
Member of Congress.

MOTOROLA INC.,
September 13, 1977.

Hon. ALBERT GORE, Jr.,
Longworth Office Building,
Washington, D.C.

DEAR SIR: In response to your request of September 12, I would like to clarify the data presented at the hearing and the subsequent discussion. I would like to thank you and others for the opportunity to address the Subcommittee on Advanced Energy Technologies and Conservation, and for the opportunity to respond to the questions for clarification.

Several charts from my testimony should clearly attest to the fact that moderate, near-term (1978) solar electric purchases are essential to the rapid development of the solar electric cell market. Demonstrations would be of particular assistance in the growth of commercial, government, and less developed country market segments.

The charts labeled low end and high end major market projections represent our best current estimate of the flat plate electric cell market. We believe the market will develop to a low end sixty million dollars in 1981 with moderately expanded procurements represented by the new Marvin Plan for ERDA. Our fifty percent probable high end market chart requires an additional market pull of fifty three million dollars from 1978 to 1981 to accomplish. Let me point out that this is a solar flat plate panel number in 1975 dollars. It does not include money for system components such as batteries, regulators, inverters, installation, etc.

The chart labeled fundings estimate to reach the national goal should be interpreted to indicate that an additional three hundred and thirty million dollars would be required by the entire industry through 1982 to be on schedule with the national goal. It is unlikely that the industry could absorb this much money without a carefully controlled master plan. Large portions of money from such an effort must be directed at R & D, particularly in the materials area. Automation from large procurements does not yet represent the major cost reduction capability for solar; cheaper high grade materials still dominate the price reduction potential, hence, the need for continuing large efforts in research and development in addition to procurements.

My testimony will be revised to reflect these clarifications and then submitted to the Subcommittee for the record.

Sincerely yours,

GARY B. JOHNSON,
Manager, Solar Market Planning.
RAYMOND KENDALL,
Program Development Manager—Solar.

Mr. GOLDWATER. Madam Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Madam Chairman, my colleagues, I rise in opposition to this amendment. I do so with some reluctance, as I am not at all opposed to the continuation of an orderly program in the area of photovoltaic electricity production. There is no question that we have to pursue solar energy in all its forms if the Nation is to be assured of a balanced and adequate energy supply. Photovoltaic electricity is here now, and will surely play a greater role in the future.

Mr. JEFFORDS. Madam Chairman, I move to strike the requisite number of words.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, in reference to the last point of implementation, in the bill there is $100 million for laser fusion, $320 million for magnetic fusion and $700 million for the breeder. Certainly photovoltaic cells are a lot closer to implementation than either of those three.

Mr. JEFFORDS. Madam Chairman, I thank the gentleman from Massachusetts, and I certainly agree with his statement.

Madam Chairman, I have participated in these debates for some time on the solar energy issue, and I certainly commend our committee for the increase over the years. But I would like to remind the Members how they fought these increases in the past. These increases which they said were not necessary, now they endorse. Here is another time when we are being asked to put in an increase they again think we should endorse.

Madam Chairman, yesterday we made a commitment to commercialization. We said it is essential to work fast and go forward with commercialization. We did that with the breeder. That is a technology we are looking for in the next century. Here is a technology which, from the studies we have had, may become possible in this decade. Can we now turn back an amendment which will really logically move forward and do something in this decade which we need so desperately? That is why I support it.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Madam Chairman, I congratulate the gentleman on his statement.

I would like to acknowledge that I made an error in my previous statement. The gentleman from Washington is correct, that there is $5 million in the fiscal 1978 budget for purchase of photovoltaic cells for use. But there are only $20 million altogether in the 1978 authorization for this purpose. In the hearings which the gentleman from Washington conducted, all of the people who were actually involved in this industry, the Motorola people, the people who were actually working on it in California at Stanford, said the purchase of $28 million this year could really make a difference in learning the answers which are needed to many of the questions in respect to research, in making solar electric cell production economical. I think this is a prudent step. They also testified, as I read from the letter, that this is not such a large purchase as would lock in existing technology.

ERDA has been slow in advancing solar technology. It has virtually no money involved in concentrator systems which at the present time look as though they may be the most economical systems. Photovoltaic allows us to have that energy production right where it is needed, without the need for transmission lines, just what is needed where we need it. It is pollution-free, it is cheap, and I think it is something that deserves the kind of risk we are taking in the nuclear field, in the synthetic fuels field. We are spending $700 million for just the breeder reactor program, over $200 million on nuclear fusion. Certainly it is worth $28 million to start this year on a photovoltaic buy. Many scientists believe that solar electric is the energy source we will be relying on in the future. It is time we got started.

The Tsongas amendment deserves support. It is a very modest "buy." We are talking here only about $28 million.

Madam Chairman, I hope the gentleman's amendment will be adopted.

Mr. JEFFORDS. Madam Chairman, I

thank the gentleman for his support and for his comments, with which I agree.

I will also point out to the Members that this is one chance we have to buy something that will be immediately useful, something that has not yet undergone commercialization. We are going to be able to obtain something that can be commercialized so that we can help to achieve the independence in energy that we need.

Let us not lose sight of the purpose of Federal spending in the solar area. It is to generate a market at an artificially rapid pace—faster than would occur at normal free-marketplace economics. The purpose is to drive costs down so that widespread use in the civilian non-Federal marketplace will occur.

Will the level of spending of the Tsongas amendment have a reasonable chance of driving costs down, and stimulating the growth of a national marketplace of photovoltaic technologies?

A recent study done in close collaboration with FEA shows that:

First, a very significant Federal marketplace—or potential megawatt demand—for photovoltaic systems exists now, today, in the Department of Defense;

Second, fulfilling part of this demand through the Tsongas amendment will drive costs down significantly more quickly than the current ERDA plan; and

Third, the DOD applications are generally "directly transferable to the private sector."

The transferability of many of the products to the private sector, includes, for example, microwave repeater stations, airway navigation, and large scale applications at remote sites and for export to the remote areas of the world. The study shows that though the DOD market is large, the non-DOD market is "often several times larger." Thus, direct transfer of the DOD products to the private sector will be a key element in the photovoltaic industry's development and in photovoltaic energy system commercialization.

The key question we are faced with is leadtime. If we want automated production lines within 2 years, large scale buys today must be planned. The National Energy Act is a beginning, as it provides money for significant buys in fiscal years 1979, 1980, and 1981. But industry and FEA agree that the time is now—fiscal year 1978—to begin this process. There are about 10 manufacturers in the United States today, but no large automated facilities exist.

The purpose of this crucial amendment is to produce demand-pull incentives for expanded, automated, low-cost capacity, so as to generate self-sustaining momentum in the private sector within a decade. Recent indications are that this can clearly be done through an aggressive program.

The study done for FEA compared a baseline solar case, which is a continuation of existing ERDA procurement policies with an accelerated solar scenario; that is, a more active Federal effort to promote photovoltaic commercialization—and the projected difference is dramatic. The business-as-usual scenario leads to an array cost per peak watt of over $5 in 1979, whereas the accelerated scenario brings costs to an even $2 in 1979. By 1981, the accelerated scenario drops costs to just over $1.

The fact is that a large near-term-market for DOD applications of photovoltaic energy systems exists. Over a cumulative 5-year program, according to FEA, a 150-megawatt market exists which emphasizes replacing gasoline-powered generators and batteries—the savings to the Government through the program will be $500 million for an investment of $240. So here we have our cake and eat it, too. We save money, stimulate the photovoltaic market, and help reduce fossil fuel consumption all at once. Under the Tsongas amendment delivery and installation of photovoltaic power systems occurs by the end of fiscal year 1979.

A large near-term market for applications of photovoltaic energy systems now exists. ERDA has recently proposed restructuring its photovoltaic program to near-term goals and accomplishments. The assumption, and I quote from the most recent ERDA document.

The key assumption in undertaking this reorientation is that the market will enter an *explosive self-sustaining growth phase at an array price of $1 to $2 per peak watt. We think it is possible to achieve this price level in 1980.*

ERDA goes on to say that driving costs down to this level will "open a wide spectrum of market sectors that range from small dispersed systems to central power stations, and will include agricultural, residential, service/commercial/institutional, industrial, and utility applications."

Where will such an aggressive program bring us in roughly 10 years? By 1986, ERDA believes; that is, the midterm, photovoltaic array prices of $0.50 can be achieved with an annual production rate of 500 peak megawatts—this brings energy costs to the range of 50 to 80 mills per kilowatt hour, and that will allow competition for both distributed and large load-center utility-type applications. That is, aggressive action now will extend the probability to us of significant markets for large-scale photovoltaic systems in 10 years. And in the far term ERDA asserts such a program could energy costs to the range of 50 to 80 mills achieve an array price of $0.10–$0.30 per peak watt in 1990, energy costs dropping 40 to 60 mills, which should be cost effective for utility applications.

I should emphasize that this ERDA aggressive scenario projection is not part of the ERDA present program. The purpose of the Tsongas amendment is to make the scenario a reality.

For a wide variety of applications economic breakthrough points with competing fuel source systems occur 2 to 3 years earlier under the Tsongas scenario than under the current ERDA business-as-usual program. This is true for the time frame 1979 to 1983, and includes a host of systems for which direct transferability to the civilian sector is possible.

In a race against time to reduce oil imports, these benefits for one of our promising solar programs cannot be ignored.

Such a buy program will go a long way toward reducing demand-related barriers in the non-DOD markets for:

First, product development, including demonstration of systems reliability; and

Second, large-scale applications engineering. DOD would then absorb a large portion of applications-engineering and development expenses.

We must automate to achieve the benefits and milestones I have mentioned. Today's lack of automation impedes industry growth and market development. The industry is ready to go—it is only the limitation of the demand side which is holding manufacturers back from investing the capital to automate this very new industry.

Finally, I would like to point out that although I think Congress has gotten the message on the necessity to commercialize in the area of photovoltaics, I do not think that message has gotten down to the energy bureaucracy yet. The Department of Energy organization plan does not indicate they have yet received that message. The adoption of this amendment will help alert them to congressional desires, that the Congress and the Nation wants early commercialization in the photovoltaic field, with all the advantages it would give the Nation.

In reviewing the organization chart of the new department, it is apparent that there are a number of glaring deficiencies. First, in the solar electric area, both photovoltaics and solar thermal functions are placed under the direction of the Assistant Secretary for Energy Technology, an exclusively long-term research and development operation; and there is no provision discernible whatever for rapid commercialization of solar electric technologies.

This appears to fly in the face of the encouraging memorandum dated August 5, 1977, from the ERDA Director of the Division of Solar Energy, in which it is stated that:

The Photovoltaic Program is being restructured. The desire is to reorient the program to near term goals and accomplishments; to involve industry in the identification and selection of the right technology, experiments and systems; and to increase activity in breakthrough (high risk) research. The key assumption in undertaking this reorientation is that the market will enter an explosive self-sustaining growth phase at an array price of $1 to $2 per peak watt. We think it is possible to achieve this price level in 1980.

This laudable goal to hothouse the commercialization of photovoltaics is not apparent in either the organization chart or the language accompanying it. Does this mean that there has been a downgrading of the importance of pressing photovoltaics for the near term?

Second, most of the research and de-

velopment money for solar has been placed under an Assistant Secretary whose primary function is to promote nuclear and fossil technologies. There thus appears to be no discernible organizational differences from the present energy organization structure, where attention to solar technologies has taken a back seat to nuclear and fossil technologies. Since all these technologies are being placed under the same Assistant Secretary, I am concerned that a concerted first-rate commitment to the solar option is in jeopardy.

Third, in the discussion section of the organization proposal, 15 projects are listed for an accelerated "early consideration." All of them are either coal or synthetic fuel technologies, none are related to solar. This language, too, gives me cause for concern that the commitment to solar does not match the overwhelming support in the country at large for a major push for solar technologies.

These problems are serious enough for me to conclude that the future of the solar program is unclear in the new Department and we are going to have to watch it closely.

Mr. RUDD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to this amendment.

It is billed as a pro-solar energy amendment. Quite the contrary, it is in reality an anti-solar energy provision.

The amendment will have the practical effect of restricting, and maybe even destroying, the progress we are making toward developing a full, cost-effective photovoltaic industry.

This amendment would require the Federal Government to make sufficient guaranteed purchases of photovoltaics to produce 4 megawatts of electric power in just 1 year. This is totally unrealistic and counterproductive.

That is twice the amount of electric power that has been produced by solar technology in 20 years.

It is more than five times the amount of electricity that will be produced by solar technology this year.

The progress being made by private industry in this area of solar photovoltaics is tremendous.

The Motorola Corp. in my own district of Arizona, and several other companies, are making giant strides that need to be encouraged by the Federal Government.

But industry experts at Motorola and elsewhere tell me that this amendment requires much too much, much too soon.

Very fast technological changes are occurring in photovoltaics, and the cost is dropping appreciably each year.

The cost of producing a peak watt of electricity with photovoltaic flat-plates is now about $15. Next year, that price might drop to $10 per peak watt.

By 1986, it is expected to be down to about 50 cents a watt.

At least four major different technological approaches are being tried by the several large companies that are heavily involved in this area. The danger of this amendment is that it will require mass production in an irresponsibly short period of time, which will force critical technological decisions to be made too soon.

This will freeze current technology, which will prevent needed improvements to meet the goal of producing photovoltaic electricity at a cost of no more than 50 cents per peak watt by 1986.

Or it will predictably result in the Federal Government's purchase of photovoltaic systems that will be too costly when they are purchased, and may even be obsolete by the time that they are delivered.

Madam Chairman, the current House bill includes a carefully-timed program of increasing the Federal Government's photovoltaic purchases. It includes $39 million for a 3-year procurement, with a reasonable production of 500 kilowatts the flirst year.

The amount in the final bill will be somewhat higher, since the Senate version authorizes $98 million.

This bill schedule will provide the needed incentive for the private sector to justify continued capital investments that will improve photovoltaic technology, and dramatically reduce costs over the next several years.

The unreasonable schedule required by this amendment, however, poses the risk for any company to waste a corporate investment in mass production equipment that is later found to be using the wrong process.

This amendment will not speed up the development of a full, cost-effective photovoltaic industry, because no major companies will make a big push until an established commercial photovoltaic market is there.

The bill's current carefully-timed schedule for Federal photovoltaic procurement will help bring on that private industrial development and reduced costs of photovoltaic electricity.

I therefore urge defeat of this proposed amendment.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

I would like to respond to the comment the gentleman from Vermont (Mr. JEFFORDS) made to the effect that this committee has fought against the advantages of solar energy and increases in solar energy and greater solar energy research and development.

Quite the contrary. We have led all the way in this field. On the floor we have objected to what we consider to be irresponsible amendments, but the actual expenditures this year are exactly what we predicted they would be.

I would like also to say that when comparing nuclear energy and solar energy budgets, we should keep in mind that nuclear energy will always be more expensive on a project-by-project basis. Research and development in solar energy is very easy to conduct by comparison

For example the $3½ million we have provided in this bill for flat plate photovoltaic projects is sufficient for 23 demonstration projects.

Mr. RUDD. Madam Chairman, I thank the gentleman from Washington.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, the gentleman from Arizona (Mr. RUDD) made reference to industry and its attitude toward the amendment. We took time to go to the industries and get reports on this amendment. Those industries include Motorola, which is the company to which the gentleman referred.

Let me read what the responses from Motorola were to the particular questions that were asked:

Question. Do you think that this Federal purchase is a good idea?

Answer (By Motorola). Yes.

Question. Do you think that this purchase will speed up the decline in the price of solar cells?

Answer (By Motorola). Yes.

Question. Do you think that the solar cell industry as a whole will be able to produce the 4 megawatts of capacity stipulated in the amendment in the time period specified?

Answer (By Motorola). Yes.

Question. Do you think that this program of Federal purchase and use will stifle innovation in the solar photovoltaic industry?

Answer (By Motorola). No.

Mr. RUDD. Madam Chairman, let me ask the gentleman this:

What is the basis of the questions that were asked, and where were the questions asked?

Mr. TSONGAS. These were questions that we posed or that were posed to the various companies involved in the photovoltaic industry, and I will give the gentleman a copy of them.

Mr. RUDD. The gentleman from industry, who testified in committee agreed with what I said earlier, in reference to them and that is, that this would be too much too fast.

Madam Chairman, I urge the House of Representatives to vote this amendment down.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I want to congratulate the gentleman in the well on the statement he has made.

Frankly, I do not take much stock in the colloquy that just took place regarding some answers.

As I understand it, that was a telephone call somebody made from the office of the gentleman from New York (Mr. OTTINGER) to somebody who was working for the Motorola Co.

Madam Chairman, I think the gentleman from Arizona is telling us the truth about Motorola because he knows the facts.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. RUDD) has expired.

The question is on the amendment

offered by the gentleman from Massachusetts (Mr. TSONGAS).

The question was taken; and on a division (demanded by Mr. TEAGUE) there were—ayes 27, noes 30.

RECORDED VOTE

Mr. TSONGAS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 179, not voting 28, as follows:

[Roll No. 576]

AYES—227

Addabbo	Fenwick	Natcher
Akaka	Findley	Neal
Ambro	Fish	Nedzi
Ammerman	Fisher	Nolan
Anderson, Calif.	Fithian	Nowak
Andrews, N.C.	Florio	Oakar
Andrews, N. Dak.	Ford, Mich.	Oberstar
Applegate	Ford, Tenn.	Obey
Armstrong	Fraser	Ottinger
Aspin	Frenzel	Panetta
AuCoin	Frey	Patterson
Badillo	Gephardt	Pattison
Bafalis	Gibbons	Pease
Baldus	Gilman	Pickle
Baucus	Glickman	Pike
Beard, R.I.	Goodling	Pressler
Bedell	Gore	Pursell
Bellenson	Grassley	Quayle
Benjamin	Hamilton	Quie
Bennett	Hanley	Railsback
Bingham	Hannaford	Rangel
Blanchard	Harkin	Rhodes
Blouin	Harrington	Richmond
Boggs	Harris	Rinaldo
Bonior	Hawkins	Risenhoover
Bonker	Heckler	Rodino
Brademas	Holland	Roe
Breckinridge	Holtzman	Rogers
Brodhead	Howard	Rooney
Burke, Calif.	Huckaby	Rosenthal
Burke, Fla.	Hughes	Rousselot
Burke, Mass.	Ireland	Ruppe
Burton, John	Jacobs	Russo
Burton, Phillip	Jeffords	Ryan
Byron	Jenrette	Santini
Carney	Kasten	Sarasin
Carr	Kastenmeier	Sawyer
Cavanaugh	Keys	Scheuer
Chappell	Kildee	Schroeder
Chisholm	Kostmayer	Schulze
Clausen, Don H.	Krebs	Seiberling
Clay	LaFalce	Sharp
Cleveland	Lagomarsino	Simon
Cohen	Latta	Skelton
Coleman	Leggett	Skubitz
Collins, Ill.	Lehman	Smith, Nebr.
Conable	Lent	Solarz
Conte	Long, Md.	St Germain
Conyers	Luken	Staggers
Corcoran	Lundine	Stark
Corman	McClory	Steers
Cornell	McCloskey	Stokes
Cornwell	McDade	Studds
Coughlin	McHugh	Thompson
D'Amours	McKinney	Thone
Daniel, Dan	Maguire	Traxler
Dellums	Markey	Trible
Derrick	Marks	Tsongas
Dicks	Marlenee	Tucker
Dingell	Mattox	Udall
Dodd	Mazzoli	Ullman
Dornan	Meyner	Van Deerlin
Downey	Mikulski	Vanik
Drinan	Mikva	Vento
Early	Miller, Calif.	Vo.kmer
Eckhardt	Miller, Ohio	Walgren
Edgar	Minish	Waxman
Edwards, Calif.	Mitchell, Md.	Weaver
Eilberg	Mitchell, N.Y.	Weiss
Emery	Moakley	White
English	Moffett	Wilson, Tex.
Ertel	Moorhead, Calif.	Wirth
Evans, Del.	Mottl	Wright
Fascell	Murphy, Pa.	Wylie
		Yates
		Yatron
		Young, Tex.

NOES—179

Abdnor	Ashbrook	Beard, Tenn.
Alexander	Ashley	Bevill
Anderson, Ill.	Badham	Biaggi
Annunzio	Barnard	Boland
Archer	Bauman	Bowen
Breaux	Hefner	Perkins
Brinkley	Heftel	Pettis
Broomfield	Hillis	Poage
Brown, Calif.	Hollenbeck	Preyer
Brown, Ohio	Holt	Price
Broyhill	Horton	Pritchard
Burgener	Hubbard	Quillen
Burleson, Tex.	Hyde	Rahall
Burlison, Mo.	Ichord	Regula
Butler	Jenkins	Reuss
Carter	Johnson, Colo.	Roberts
Cederberg	Jones, N.C.	Robinson
Cochran	Jones, Okla.	Roncalio
Collins, Tex.	Jones, Tenn.	Rostenkowski
Cotter	Jordan	Roybal
Crane	Kazen	Rudd
Cunningham	Kelly	Runnels
Daniel, R. W.	Kemp	Satterfield
Danielson	Ketchum	Sebelius
Davis	Kindness	Shipley
de la Garza	Lederer	Shuster
Delaney	Livingston	Sikes
Devine	Lloyd, Calif.	Sisk
Dickinson	Lloyd, Tenn.	Slack
Duncan, Oreg.	Long, La.	Snyder
Duncan, Tenn.	Lott	Spence
Edwards, Okla.	Lujan	Stangeland
Erlenborn	McCormack	Stanton
Evans, Colo.	McDonald	Steed
Evans, Ga.	McEwen	Steiger
Fary	McFall	Stockman
Flippo	McKay	Stratton
Flood	Mahon	Stump
Flowers	Mann	Symms
Flynt	Marriott	Taylor
Foley	Martin	Teague
Forsythe	Mathis	Thornton
Fountain	Michel	Treen
Fowler	Milford	Vander Jagt
Fuqua	Mollohan	Waggonner
Gammage	Montgomery	Walker
Gaydos	Moore	Walsh
Giaimo	Moorhead, Pa.	Wampler
Ginn	Moss	Watkins
Goldwater	Murphy, Ill.	Whitley
Gonzalez	Murphy, N.Y.	Whitten
Gradison	Murtha	Wiggins
Gudger	Myers, Gary	Wilson, C. H.
Guyer	Myers, John	Winn
Hagedorn	Myers, Michael	Wydler
Hall	Nichols	Young, Alaska
Hammer-schmidt	Nix	Young, Fla.
Hansen	O'Brien	Young, Mo.
Harsha	Patten	Zablocki
	Pepper	Zeferetti

NOT VOTING—28

Allen	Edwards, Ala.	Mineta
Bolling	Evans, Ind.	Rose
Brooks	Hightower	Smith, Iowa
Brown, Mich.	Johnson, Calif.	Spellman
Buchanan	Koch	Whalen
Caputo	Krueger	Whitehurst
Clawson, Del	Levitas	Wilson, Bob
Dent	Madigan	Wolff
Derwinski	Meeds	
Diggs	Metcalfe	

Messrs. FLORIO, YOUNG of Texas, COLEMAN, ROUSSELOT, RHODES, JENRETTE, MOORHEAD of California, LE FANTE and CARNEY changed their vote from "no" to "aye."

Mr. BOLAND changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. Effective January 1, 1978, title V of Public Law 94-187 is amended to read as follows:

"TITLE V—AIR TRANSPORTATION OF PLUTONIUM

"SEC. 501. Subject to section 502, the Energy Research and Development Administration shall not ship plutonium in any form by aircraft (whether exports, imports, or domestic shipment) except in safe containers which (as determined by the Administration on the basis of appropriate tests) will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. If it is determined pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration that a particular shipment of plutonium by aircraft must be made for purposes of national security, but such shipment cannot be made in a safe container or containers in accordance with the requirement imposed by section 501, the shipment may be made notwithstanding such requirement but only if—

"(1) express written authorization for the shipment is given by the Administrator personally; and

"(2) the Administrator transmits to the Committees on Science and Technology and Armed Services of the House of Representatives and the Committees on Energy and Natural Resources and Armed Services of the Senate, at the time of the shipment or within 10 days thereafter, a written notification and description of the shipment together with a detailed explanation of the reasons why it was necessary to make the shipment by aircraft and why it was not possible to make the shipment in a safe container or containers as required by section 501.".

Mr. WIRTH (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Madam Chairman, I have what I hope will be a noncontroversial amendment designed to increasing the safety of all Americans who live along the flight paths where plutonium is shipped.

ERDA is expected to have by October a container for such shipments that will not break or leak even as a result of an air crash. This amendment will prohibit the shipment of plutonium except in such containers after January 1, 1978. ERDA has informed me that there will be occasional shipments of national security plutonium materials that will be too large to fit in the container, and the amendment therefore allows the administration to grant a waiver for national security shipments, provided he sends an explanation within 10 days to the appropriate committees of the House and Senate.

Up until now there has been no such container, and ERDA has tried to minimize the shipment of plutonium by air. They have allowed such shipments, however, for a wide variety of reasons, from national security to medical. With the advent of the new container, however, almost all such shipments, including all nonnational security shipments, can be made in a safe manner. Nonnational security shipments of plutonium involve powdered materials, and therefore any quantity can be shipped in the safe containers if enough of them are used. Only military applications involve the shipments of large pieces of metallic plutonium, some of which are too large to fit in the new container. It is for this reason that the amendment allows an exemption, but only for national security shipments. Since ERDA estimates that

they will only be making 10 to 20 national security air shipments per year, and since most of them will fit in the approved container, the requirement for written permission and written reporting to Congress will not constitute any great burden on the administrator. It will, however, give many of the regulations that ERDA has drawn up for itself now the force of law, and provide a great measure of assurance to our citizens that these shipments are being made for legitimate reasons and in the safest possible manner.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, on this side we have considered the gentleman's amendment and think it improves the present situation. We accept his amendment.

Mr. STARK. Madam Chairman, today, the gentleman from Colorado, Mr. TIM WIRTH, and I are offering an amendment to the ERDA authorization bill for civilian research and development that is designed to restrict the air shipment of plutonium to containers capable of withstanding high-speed air accidents.

Although the Congress has acted before to protect the public from the dangers inherent in the transportation of plutonium, our intent has been subverted by ERDA. In 1975, Congressman SCHEUER passed amendments to the appropriations of both the Nuclear Regulatory Agency and ERDA prohibiting the shipment of this material by air until a safe container was developed. Certain classifications, however, such as those deemed necessary to our national security and our public health, were exempted. Due to these broadly interpreted provisions, all of the 88 shipments authorized by ERDA during the past year were shipped in grossly inadequate containers—designed to withstand an impact only one-fifth as severe as that which would occur in the event of an actual air crash. In fact, under the current laws, ERDA is able to justify just about any air shipment of plutonium as being exempt from the reasonable safeguards we attempted to impose in 1975.

What would happen if there was an accident involving the leakage of plutonium? The Union of Concerned Scientists has stated that as little as one-millionth of a gram if inhaled could cause cancer in humans. Indeed, according to a study commissioned by the NRC, if plutonium was leaked in a metropolitan area, it could necessitate the evacuation of an entire city. This is of special concern to me because of the fact that this most toxic material is constantly being flown in and out of the Livermore Municipal Airport, located in the district I represent. Obviously, the continued use of the container presently in use would be tantamount to negligence on the part of the Federal Government.

ERDA now expects that a container capable of withstanding midair collisions will be in production within weeks. Regrettably, however, ERDA holds that it would not be required under present law to transport any of the types of plutonium shipments that it authorized last year in these newer and safer containers. Such an opinion is indicative of a callous disregard for the health and safety of those Americans who reside near the flight paths of plutonium shipments. In fact, such an interpretation of the law makes the prohibitions passed by Congress in 1975 absolutely meaningless.

Our amendment requires that ERDA use the new containers for all air shipments of plutonium after January 1978. Under the amendment, only certain national shipments could be exempted. In these rare cases of national emergency, the Secretary of Energy would be required to not only authorize personally the exemption, but also promptly notify both Houses of Congress of the shipment and of the reasons it was absolutely necessary. Since almost all of the so-called national security shipments of the past year could have been transported by alternate means, this requirement should serve to discourage strongly the air shipment of plutonium in anything but a safe container. Indeed, the use of surface transportation is a far more desirable method of transporting plutonium shipments either too large or otherwise unsuited for the new container.

It is important that the dangers inherent in the air transportation of plutonium be reduced. Due to the development of this new container by ERDA, this is now possible. The very least we can do is require its use. I urge you to support our amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH).

The amendment was agreed to.

Mr. FITHIAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to engage in a brief colloquy with the distinguished chairman of the subcommittee, the gentleman from Alabama (Mr. FLOWERS), after which I would like to make a comment on the thrust of this bill.

Am I correct, Madam Chairman, in believing that the science and technology people would assume that over the next 5 years we would get somewhere in the vicinity of 10 percent of our total energy package coming from nuclear power, and possibly 15 percent?

Mr. FLOWERS. I think that is an accurate statement. It is somewhere in that neighborhood of the electrical energy needs of this country at this time. It will be progressively increasing as we move toward the end of the century.

Mr. FITHIAN. And if I am correct, President Carter has called for a 65-percent increase in coal production by 1985, if I remember the President's message correctly. Is that also correct?

Mr. FLOWERS. That is correct.

Mr. FITHIAN. Well Madam Chairman, my problem with this whole bill does not stem from any opposition that I have to nuclear power. As a matter of fact, I think nuclear power has to figure in our system in a very real way in the next 20 years if our energy efforts are going to be meaningful. My concern, Madam Chairman, stems from my belief that ERDA has given too little attention to coal and coal technology, and too much attention to nuclear power, in a relative sense. I would cite to the House the fact that in the present budget, taken from the report to H.R. 796, that approximately five times the amount of money is being allotted for nuclear power as to the entire coal research and development portion of our efforts.

Now, I do not know the figures, but I believe it is correct to say that all geologists and all assessments that anybody has ever read would indicate that in the next 100 years or 200 years or 300 years, coal must figure as the major element in the energy equation. Yet, I find in this bill an authorization to spend five times the amount of money on nuclear power development as on coal development.

I would be interested in the subcommittee's view and the full committee's view as to whether or not ERDA is going in the right direction with regard to our overall energy development, or whether we are not treating coal as a kind of a bastard child, sometimes to be remembered and occasionally to be put upon in terms of environmental questions or whatever, but we have not really addressed ourselves in the energy development of this country to coal. That is my basic complaint about what we are doing here with this bill in the past 2 days.

Mr. FLOWERS. Will the gentleman yield further?

Mr. FITHIAN. I will be happy to yield.

Mr. FLOWERS. I think the gentleman makes a valid point. That is not to say that I think we are spending too much, or authorizing too much, on nuclear research and development, but I tend to agree with the gentleman that there is not enough emphasis being placed on coal or coal technology by the Energy Research and Development Administration. We are very cognizant of that in my subcommittee, I will say to my friend from Indiana.

We have attempted in several different areas to stimulate the interest of the administration. I think the gentleman will find that in high Btu coal gasification, particularly in solid coal field and others, low Btu, in almost every aspect of emerging coal technology, which we will need for the future to use coal more and burn it cleaner, our committee has recommended an increase in what ERDA has come to us with.

Not only do we feel that increases are necessary, we want to see ERDA move ahead aggressively in coal research. Undoubtedly the gentleman is right, that we are going to have to burn more coal, but we will have to find ways to burn it cleaner, we will have to find better ways to get it to the marketplace, and all of these things require a great deal of work on the part of the Federal Government.

Mr. FITHIAN. I thank the distinguished chairman.

Madam Chairman, let me just say that if my figures are correct and if 90 percent of our energy resources in this country lie in coal, then it speaks ill of this House and of this administration and of our colleagues across the way in the other body when we look at an item that constitutes 90 percent of our energy resource and find only 18 percent of our energy production coming from that source. We in no way correct this gross imbalance in this bill. ERDA must be made to realize that we cannot continue to place such lopsided emphasis on one energy source at the expense of the major energy source available. That major source is coal.

Mr. STARK. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to discuss a matter regarding an amendment that I had intended to offer today.

I am delighted to announce that within the last couple of days the University of California has agreed to a new set of guidelines for relations with employee organizations. This is an historic agreement setting the stage for the establishment of a clear-cut and equitable labor-management policy. As the new guidelines are similar to those required by my amendment, I am withdrawing the amendment. In doing this, of course, I am relying on the good faith of the university to promulgate the guidelines without delay.

I am very pleased that the labor/management problem at the Lawrence Livermore Laboratory can be resolved in this manner. Clearly, an administrative solution is preferable to a legislative one. The ERDA authorization bill is no longer threatened with burdensome and what some thought to be confusing language. And the specter of endless litigation is removed. But most importantly, it is a proven fact that the most workable and effective labor policies have been achieved through voluntary agreements rather than legislative demands. Thus, I am very happy that the university has finally seen fit to accept its responsibility in achieving the resolution of a labor/management conflict.

I would now like to discuss in some detail the provisions of this agreement which covers not only the 6,700 employees of the Lawrence Livermore Laboratory, but also the entire university system totaling over 100,000 employees.

First. The agreement calls for the use of the State conciliation service for mediation in a dispute settlement.

Second. It provides for the establishment of a grievance procedure terminating in third party final and binding arbitration with an outside hearing officer chosen under the auspices of the American Arbitration Association. Furthermore, verbal assurance has been given by Dr. Archie Kleingartner's office that the rules of the American Arbitration Association will be basically adhered to in the arbitration process. The university will no longer be allowed to veto unilaterally a grievant's appeal.

Third. The university is obligated to deal with employee organization representatives "promptly upon the request of either party, at reasonable times, to confer in good faith, to freely exchange appropriate information, opinions, and proposals and to endeavor to reach agreement on issues of mutual concern." Furthermore, when requested by employee organization representatives the university will put in writing a statement from management confirming the results of the discussions or negotiations. It is my understanding that this statement will confirm the results of the discussions as agreed upon by both parties.

The substance of this agreement is very similar to the provisions of my amendment.

Where the amendment calls for an impartial grievance procedure including binding arbitration as the final step in all rights disputes in accordance with the rules of the American Arbitration Association, the agreement calls for the development of a proposal whose object is to provide third party binding arbitration as the terminal point for processing grievances.

Where the amendment calls for collective bargaining as defined in section 7 of the National Labor Relations Act, the agreement defines the obligation of the University of California to deal with employee organization representatives in terms of section 7 language.

Where the amendment calls for the use of the Atomic Energy Labor-Management Relations Panel for mediation services, the agreement calls for the use of the State conciliation service.

In essence, the agreement provides for that which my amendment provided that LLL employees will be afforded the basic recognized labor rights similar to those of their 80,000 counterparts at other Government-owned, contractor-operated ERDA facilities who are covered under the National Labor Relations Act. This is a great step forward in labor management policy at the Laboratory which has previously been marked by conflicting and overlapping procedures. I know that the establishment of one clear-cut set of guidelines based on commonly accepted labor practices will be beneficial to all those involved.

While the University of California will, of course, be ultimately responsible for the implementation of the guidelines, each campus and laboratory will tailor specific policies, in accordance with the U.C. guidelines, to its own needs. For instance, budgetary considerations at LLL and the contract with ERDA may make for a situation different from that of one of the campuses and accordingly the actual procedures in operation under the guidelines may show some variance.

I hope the university sees that implementation at all campuses and laboratory facilities is begun without delay. Specifically I would call for the scheduling of a meeting in the very near future with LLL management officials and all interested employee organization representatives to discuss the establishment of lab procedures under these guidelines. A member of my staff should be present to witness these discussions.

I would also hope that discussions on implementation of the guidelines would commerce at LLL as soon as possible. There is no reason for them not to begin in a matter of days. In fact, I would hold that whether or not this agreement was in fact made in good faith will be demonstrated by the speed in which it is fully implemented. I would construe any procrastination as a breach of faith.

In conclusion, I want to thank Senator CRANSTON for his tireless efforts in including our amendment in the Senate version of this bill.

I also want to thank groups in California and Washington who have supported these efforts. Shortly after my election to Congress, when I began to hear about the lab's labor/management problems—arbitrary firings, wage disputes, reclassifications et cetera—I began compiling voluminous files on problems faced by lab employees. Last year, when I first thought of offering an amendment to the ERDA bill to remedy the situation, I sought the help of the California State Employees Association which had represented certain of these employees. CSEA has remained helpful and supportive throughout.

Finally, I want to thank other employee representative groups, especially the Laborers' International Union whose efforts have been tireless and who provided invaluable assistance in hammering out details of the agreement with the university and its representatives.

Perhaps most important, throughout this time, the members of the committee and the subcommittee involved have shown total patience and cooperation for which I am grateful.

It is been a long haul, but I think that finally, all parties can welcome the results.

Madam Chairman. I would like to read and insert in the RECORD the specific guidelines issued by the university:

UNIVERSITY OF CALIFORNIA
SYSTEMWIDE ADMINISTRATION,
Berkeley, Calif., September 19, 1977.

PRESIDENT SAXON, CHANCELLORS, LABORATORY DIRECTORS: The following is a set of guidelines for the University of California, including the Lawrence Livermore Laboratory, on relations with employee organizations.

1. The Use of Mediation in Dispute Settlement

The University recognizes the extensive use of mediation in both the private and public sectors. As a California State institution, the University favors the use of the State Conciliation Service because of its familarity with the relationship between the University and state government and state policies generally. The State Conciliation Service has been involved in the settlement of interest disputes at several of the University campuses. We expect Chancellors and Laboratory Directors and employee representatives to be familiar with the potential utilization of the Conciliation Service and to use it for the resolution of disputes within appropriate guidelines.

2. The Use of Binding Arbitration in Grievance Settlement

The University now has a grievance resolution procedure which we firmly believe has

worked well. It provides for advisory arbitration with a hearing officer or a committee appointed generally from the University faculty, or, if the grievant prefers, an outside hearing officer, chosen under the auspices of the American Arbitration Association. Our experience with the use of the American Arbitration has led to conclude that a grievance procedure terminating in final and binding arbitration will prove successful. The University recognizes the extensive use of a binding grievance resolution procedure in the private and public sectors. For that reason, I am developing a proposal whose object is to provide third party binding arbitration as the terminal point for the processing of grievances. I anticipate that after consultation, including with employee organizations, the study and the modified procedure will become effective in the near future.

3. The Matter of Reducing Agreements Reached With Employee Organizations to Writing

The University does deal with employee organization representatives now on matters of wages, hours, and other terms and conditions of employment. The University herein defines this obligation as including to meet promptly, upon request of either party, at reasonable times, to confer in good faith, to freely exchange appropriate information, opinions, and proposals, and to endeavor to reach agreement on issues of mutual concern.

When requested by employee organization representatives, the University is willing to put in writing a statement from management confirming the results of the meet and confer process.

(Signed) ARCHIE KLEINGARTNER,
Vice President.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. STARK. I yield to the distinguished gentleman.

Mr. TEAGUE. I thank the gentleman for yielding.

Madam Chairman, the gentleman in the well has been very instrumental in working out this solution to a very troublesome problem. There is no question that there were pluses and minuses on both sides. But labor representatives, university representatives and ERDA representatives have worked out an agreement, and I understand the statements of the gentleman in the well do set forth what has been agreed to.

Mr. Jack Curran, of the Labor International Union, called me this morning and said they were very satisfied with what has been worked out.

Mr. LUJAN. Madam Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Madam Chairman, I would like to ask the gentleman, would that include only those employees of the University of California who are domiciled in California, or would that include employees in other States who may be under contract with the University of California?

Mr. STARK. Madam Chairman, the memo I have, which is signed by the director of labor relations for the university—and "systemwide administration" is what appears in the heading—indicates that these guidelines of the University of California, including the Lawrence Livermore Laboratory, would cover university employees, and I would presume it would cover them also if they were in another State.

In another State, however, as in the State of New Mexico, I assume that the State law there would prevail, so there may be some difference. But, basically, the three guidelines are listed, and interest disputes would come before the Caliofrnia State Conciliation Service. That obviously would not be possible in the State the gentleman from New Mexico (Mr. LUJAN) represents. They would use binding arbitration in grievance settlements, and they would reduce agreements with employee organizations to writing.

These are the basic tenets of the agreement, and I think if they are carried out in the same spirit in the State of New Mexico as they are in the State of California, the gentleman's constituents would be well served.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: On page 71, lines 18 and 19, strike "legislation" and insert "any authorization and appropriation".

Mr. OTTINGER. Madam Chairman, the synthetic fuels loan guarantee provisions of this legislation indeed have been difficult. In fact, two very similar proposals were defeated by the 94th Congress, but the current proposal, while it still causes me grave apprehensions and I cannot support it, has been substantially restricted, safeguarding the public against some of the worst possible abuses. I therefore have decided not to oppose those provisions today.

LEGISLATIVE HISTORY

This legislation began in the summer of 1975, when the other body passed the ERDA authorization bill for fiscal year 1976 (S. 588; S. Rept. 94–332) and added a bobtailed loan guarantee provision with open-ended authorization. As soon as it was passed by that body, the former chairman of the Fossil Energy Subcommittee, Representative KEN HECHLER of West Virginia, wrote to ERDA on August 1, 1975, and asked a series of questions about the provision. Almost at the same time, one of the principal beneficiaries of the project, WESCO, which is composed of Texas Eastern Transmission Corp. and Pacific Lighting Corp., filed with ERDA on July 30, 1975, a proposal for "ERDA to provide Federal Guarantees for Construction and Permanent Financing of the WESCO Coal Gasification Project" in New Mexico (Hearings, Vol. I, No. 36, 94th Congress, page 1253).

Thus began a monumental series of hearings in September and October 1975 by the Hechler subcommittee prior to the conference on the Senate version (S. 588). The House version (H.R. 3474) of the ERDA authorization bill did not, at that time, contain a loan guarantee provision. Subsequently, a conference committee met and reported H.R. 3474 with a vastly changed loan guarantee provision which is remarkably similar to the proposal before us today, except that it authorized $6 billion for loan guarantees and it clearly and specifically provided that loan guarantees could be used to finance plants that would produce synthetic fuels commercially (see H. Conf. Rept. 94–696). That provision of the conference report was rejected by the House on December 11, 1975, by a vote of 263 to 140.

During the entire period prior to this defeat, WESCO representatives and other oil and gas interests lobbied intensively for this subsidy to the oil and gas industry.

In the second session of the 94th Congress, H.R. 12112 was introduced, which authorized up to $4 billion in loan guarantees for synthetic fuels as a first bite on the original $6 million program. In all other respects it was identical to the loan guarantee provisions in the conference report. Extensive additional hearings were held by the Science and Technology Committee. The bill was amended in the committee and reported on May 15, 1976 (H. Rept. 94–1170; see Dissenting Views, page 107, et seq.). One such amendment was to delete all references in the bill to the words "commercial demonstration." The committee said (page 28, H. Rept. 94–1170):

The amendment recommended by the Committee does not contain the phrase "commercial demonstration" which was a part of the language contained in H.R. 12112 as introduced. The Committee emphasizes that the bill as amended establishes a program to further energy research, development and demonstration. The loan guarantees contained in the amendment are for the purpose of achieving the demonstrations of the several technologies which can be built up to full scale. The bill, as amended, is merely for the purposes of demonstrating technologies and not for commercial plant production.

Thereafter, three more committees considered H.R. 12112 and issued reports: Committee on Banking, Currency and Housing (H. Rept. 94–1170, part 2, June 18, 1976); Committee on Ways and Means (H. Rept. 94–1170, part 3, June 21, 1976); and Committee on Interstate and Foreign Commerce (H. Rept. 94–1170, part 4, June 25, 1976). In September 1976, the full House of Representatives rejected H.R. 12112. Thereafter, on September 30, 1976, the House approved the conference report on H.R. 13350, which was the ERDA authorization bill for fiscal year 1977 and which included loan guarantee authority (CONGRESSIONAL RECORD, Sept. 30, 1976 p. 34154). However, the conference report failed passage in the Senate on the last day of the 94th Congress.

H.R. 6796

The provisions of H.R. 6796, authorizing loan guarantees for synthetic fuels are nearly identical to those in H.R. 12112 as reported in May 1975, and amended by the House Committee on Science and Technology and the Ways and Means Committee. The main difference is that this bill does not authorize price

supports for these projects, nor does it authorize any funding for the program.

There are, however, two important matters that deserve comment here.

As I mentioned earlier, the Science and Technology Committee improved H.R. 12112 by making it clear that the bill was not intended to build plants for commercial production. The report on H.R. 6796 is even more forceful in this regard. The report states (page 262):

This amendment addresses the need for demonstrating energy conserving technologies, urban waste conversion and technologies utilizing renewable resources, as well as the demonstration of the production of synthetic fuels. However, it must be clearly understood at the outset, that these demonstrations are not of full-sized commercial facilities. The Federal Nonnuclear Act, which this amends, only authorized demonstration of energy technologies, not commercialization of them. For example, the Administrator, pursuant to Section 7(d), could demonstrate a high Btu coal gasification plant which is approximately half the size of a commercially viable plant.

Chairman TEAGUE, in a July 13, 1977 letter to Congressman JOHN D. DINGELL, also reiterated this statement of the Committee:

We did try and think through the problem of the size of the facilities as we considered the legislation, and concluded that the report language coupled with the requirement for specific authorization was the best way to handle it. Our report on H.R. 6796 (H. Rept. No. 95–349, Part 1) states on page 262: "The Federal Nonnuclear Act, which this amends, only authorized demonstration of energy technologies, not commercialization of them. For example, the Administrator, pursuant to Section 7(d), could demonstrate a high Btu gasification plant which is approximately half the size of a commercially viable plant." This was written to be in concert with the Administration's Alternative Fuels Demonstration Program.

These statements are quite helpful in understanding the legislative history of this proposal, clearly, commercialization is not authorized, whatever the size of the plant.

Related to this issue is the understanding that loan guarantees are to apply only to "new technologies" as defined in letters first from FEA Administrator O'Leary and then from Secretary Schlesinger to the chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce. They make a number of important commitments on how this legislation will be implemented. I insert the letters in the RECORD at the end of these remarks.

The area of principal concern is the definition of the term "new technologies." WESCO plans to use a technology developed during World War II. It is not useful in connection with eastern coals. It is not new technology. I am pleased to see that Secretary Schlesinger has shown skepticism in his letters about supporting such technology. I believe that we should be in dire straits before the Federal Government subsidizes the giant energy companies in commercial (but uneconomic) production of a technology developed more than a quarter of a century ago. Surely our energy industry is more progressive than that. Surely, the American ingenuity can do better.

And surely the U.S. taxpayers should not be asked to subsidize multibillion-dollar corporations like Exxon—a previous applicant for H.R. 12112 guarantees—and Texas Eastern to undertake production which they find too unsound to invest in themselves. As Dr. Schlesinger states, Federal loan guarantees should be used only to finance demonstration of new technologies.

The O'Leary and Schlesinger letters follow:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 24, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of May 17, 1977, concerning the proposed amendments to the Federal Nonnuclear Energy Research and Development Act of 1974 being considered by the House Committee on Science and Technology. Mr. Teague requested my technical views on these amendments and, as is our practice with respect to all such requests from the Congress, I provided them to him. As you will note in my reply, I specifically noted that explicit criteria for selecting and financing new energy technologies would be a useful addition to the Committee report. Such an addition would insure that only demonstration-scale projects which serve the public interest and meet our energy objectives would receive loan guarantee assistance. Loan guarantee assistance should not be a mechanism for the government to take over functions which the private sector ought to perform. This is an issue still under active consideration in the Administration and as you pointed out, the program falls within ERDA's purview.

The responses to the specific questions posed by your letter of May 17 are as follows:

Q. 1(a) What is your definition of "demonstration scale project"?

A. A "demonstration scale project" is a project which is sized to demonstrate, to the satisfaction of the financial and technical community, the commercial viability of the technology, including its economies, its environmental acceptability, its technological applicability, its socio-economic impact and such other factors as are appropriate. In order to achieve these objectives, demonstration plants must be sufficiently large to provide reliable projections for their economic and technical operating characteristics. Generally speaking, plants up to and including one-half of commercial scale i.e., projects sized for maximum economic return to the investors, can be regarded as demonstration plants. Thus a demonstration plant can produce commercial quantities of fuel, but at less than optimum costs.

For a coal gasification plant, a demonstration scale project would be one whose size was approximately 125 to 144 million cubic feet/day (cfd).

Q. 1(b) What is your definition of a "full-sized commercial" facility?

A. Within the context of the proposed Energy Research and Development Administration (ERDA) amendments, the term "full-sized commercial facility" is a term of art which refers to a facility sized to optimize the economics associated with it. It is important to note that less than "full-sized commercial" plants can produce commercial quantities of fuels, but at higher prices than optimally sized plants.

Q.1(c) Do you intend that the amendment *not* authorize loan guarantees for facilities producing synthetic fuels in commercial quantities, such as the WESCO proposal as approved by the FPC?

A. Yes, that is my view, since the WESCO plant which is a "full-sized commercial facility," with an output of about 250 million cfd, would exceed the limit that I have recommended.

Q.1(d) The amendment approved by the Science Committee authorizes loan guarantees for "full-sized" oil shale facilities, after a modular facility is demonstrated, and for commercial facilities of any size that do not cost more than $50 million. We understand your letter to state unequivocably that you *do not* support authorization of loan guarantees for "full-sized" oil shale facilities or for commercial facilities of any size regardless of their cost. Is our understanding correct?

A. Yes, that is correct. I do not support loan guarantees for commercial oil shale facilities because, it is my understanding that several oil shale operators have indicated a willingness to proceed with commercial ventures without government support.

Q.1(e) Would you support an amendment that limits loan guarantees to demonstration scale projects, as defined by you? If not, why not?

A. Yes, I would support such an amendment. As stated in my letter to Rep. Teague, the addition of loan guarantee authority would complement existing authority and provide a needed means of achieving public objectives in demonstrating new non-nuclear technologies.

Q.2 If a facility, such as a demonstration facility, is not capable of producing synthetic fuels in commercial quantities without adding more modules, we understand that it will not receive sufficient revenues to pay off a loan over the prescribed time. If such a loan is guaranteed by ERDA, such a situation is likely to result in default.

(a) What consideration did you give to this problem in writing your letter of May 11?

(b) How do you plan to overcome this problem in the case of any demonstration scale project?

A. I will answer these two questions together since they deal with the same basic concern. First, let me state that it is not my intent to propose the creation of a giveaway program or to provide a mechanism for the government to support projects which the financial community considers suspect.

Demonstration projects are by their nature marginally economic and, when they can attract the capital, are subject to high interest costs. Loan guarantees could reduce the interest costs and, most importantly, make the necessary capital available.

While the concern you raise is real, I believe that careful review and selection of the projects which are presented for loan guarantee assistance will minimize the risk of default. For example, the House Science and Technology Committee would require that ERDA give careful consideration to the cost of making the technology commercially viable, the price at which the energy would have to be sold and the ability to market the energy, as well as other factors, before it recommends the approval of the project. Additionally, the ERDA amendments would require that Congress approve the project before the loan guarantee is granted.

I believe that this screening process will insure only the most economically viable projects offering the greatest return to the public will receive the requested support.

Q. 3. You state that you believe "it is desirable that Congress have the opportunity to review each major project on its merits."

(a) What is your understanding of the

meaning of the term "major project" in dollar and product terms?

A. Consistent with the Non-Nuclear Energy Research and Development Act of 1974 and ERDA's proposed amendments, a "major project" would include any project in which the federal contribution to construction costs exceeds $50 million or where the Federal Government is contingently liable for $50 million or more, as in the case of a loan guarantee.

(b) We assume you mean that Congress should approve each "major project" by enactment of authorizing legislation and not merely through the appropriation process. Is our assumption accurate?

A. The amendment which I support would require the approval of each proposed major project separately by Congress. The Congress should determine which mechanism is the most appropriate for approving these projects. However, it should not be less than a line item budget review through the appropriation process.

Q.4(a) You also indicate that loan guarantees should be limited to "demonstrating new nonnuclear technologies." We note that the term "new technologies" is used in section 7(a)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974.

(a) Please explain to us what this term means.

A. Since the Act is being administered by ERDA, I expect that they will develop the official or working definition for this term. However, I believe that it should include all technologies which are not now commercially developed in the U.S.

(b) Does it encompass coal, but not oil shale, technologies developed as far back as the end of World War II?

A. It is indeed my view that the term "new technologies" should be allowed to include, or at the least not exclude, coal technologies or any other technologies under development since or even before World War II so long as they have not been commercially demonstrated in the U.S. Were we to apply an artificial time horizon, we might exclude technologies which could make significant contribution to our energy policy.

Q.5 Your letter states that "the objective of the proposed amendments is consistent with the President's energy program." Please indicate what you mean by this statement, as we are unaware of any statements by President Carter endorsing legislation authorizing loan guarantees for synthetic fuels.

A. Although the President's National Energy Plan does not explicitly refer to loan guarantees for synthetic fuel development, it does envision some form of subsidy support through the demonstration phase.

It is clear that the plan envisions a flexible policy in determining the form of government assistance which would be most appropriate and cost effective for the various technologies to be considered and the different stages of their development. I believe that limited loan guarantees offer a cost effective mechanism for assisting coal gasification development through the demonstration phase.

Sincerely,

JOHN F. O'LEARY,
Administrator.

THE WHITE HOUSE,
Washington, D.C., June 13, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. DINGELL: This letter responds to your letter of May 25 posing a series of questions on the Administration's synthetic fuels policy.

The Administration's policy on the issues you raise was stated in the National Energy Plan as follows:

In the long run, high Btu synthetic gas produced from coal may provide a substitute for declining natural gas supplies. The Administration will pursue an active RD&D program for high Btu coal gasification using advanced technologies. The program will be conducted with the urgency required to ensure that the new technology will be ready when needed.

The basic Federal role in this process is research, development and demonstration of new technologies. In general, the Government seeks to avoid subsidization of existing technologies, although circumstances may sometimes merit an exception to that policy. (Plan, Pg. 69)

* * * * *

An effective Federal research, development, and demonstration (RD&D) program is indispensable for the production of new energy sources. Research is not an end in itself. The purpose of RD&D is to produce technologies for practical use. The final stage of a successful RD&D program is commercialization, the movement of a functioning technology into the marketplace.

The ground work for eventual commercialization should generally be laid during the RD&D stage. Before embarking on costly research projects, the Government should have the best possible information on prospects for economic success and institutional acceptance. As scientific and technical advances are made, economic and institutional barriers to commercialization should also be addressed, so that if technical success is achieved in the RD&D program, commercialization can take place rapidly.

However, Government support of scientific research and engineering development does not constitute a commitment to subsequent demonstrations of technologies that do not meet technical, economic, national security, health, safety, and environmental criteria. The Government should support multiple parallel technological options in their early stages, but it should not drift unwittingly into a long-term guarantee of support for all options initially pursued. Only those technologies that satisfy criteria for practical success should be supported into the demonstration stage. Recognition that early Government support should not be regarded as a blank check for the future should benefit the entire RD&D program.

Commercialization activities, and in particular commercial demonstration projects, also must not become a hidden subsidy of technically feasible but economically uncompetitive technologies. Where subsidies are justified, they should be awarded in an open process that is responsive to national priorities.

A balanced RD&D program should have near-term as well as long-term benefits, should promote conservation and nonconventional resources as well as conventional resources, should support small-scale as well as large-scale projects, and should enlist the talents of individual inventors and small business as well as major corporations. . . . (Plan Pg. 79)

Answers to your specific questions follow:

Q1: "Clearly, the current ERDA statutes authorize subsidies for demonstrations. The issue is whether the Administration is *now endorsing* legislation authorizing loan guarantees to subsidize "marginally economic" demonstration plants that "produce commercial quantities of fuel, but at less than optimum costs," and that use "technologies under development since or even before World War II so long as they have not been commercially demonstrated in the U.S.". That is what Mr. O'Leary has endorsed.

"(a) Is the Administration now endorsing that broad a program?

A: The purpose of a Federal energy RD&D program is ". . . to develop technologies that will use energy more efficiently as well as those that will enlarge the supply of economical, environmentally acceptable sources of energy. In such an RD&D program it may be necessary to address economic and institutional issues in addition to strictly technological questions, but any determination must be made on a case-by-case basis. As the policy states we would not propose to the Congress "a hidden subsidy of technically feasible but economically uncompetitive technologies". The application of generic loan guarantee authority will be implemented in accordance with the policy guidelines quoted above.

Q2: "The amendments adopted by the Science Committee do not limit the size of a demonstration plant to 'one-half of commercial scale'. I note that in February, 1976, ERDA defined, in testimony before the Science Committee, demonstration plants as follows (Hearings, Pg. 78):"

"A demonstration plant is of sufficient size to eliminate doubt as to the process economics and performance of a commercial size plant. A commercial facility, as considered under the loan guarantee program is concerned with the resolution of commercial and financial uncertainties as well as social and environmental costs of the technical process.

"Mr. O'Leary's definition, although somewhat more wordy, closely parallels that of ERDA in 1976. Remember, in 1976, ERDA called H.R. 12112 a 'commercial demonstration program' and endorsed that concept. Please explain to me how Mr. O'Leary's definition really differs from ERDA's 1976 definition."

A: The optimal size of a plant to demonstrate commercial viability would vary with the technology. Mr. O'Leary's definition is not substantially different from the definition by ERDA in 1976 that you quoted. However, I believe that they are both generally descriptive of such plants and should be read in conjunction with the general policy that "only those technologies that satisfy criteria for practical success should be supported into the demonstration stage."

Q3: "At that same hearing, ERDA said that the objective of its present fossil energy demonstration program which now provides subsidies to 'support' demonstration 'is to establish the feasibility of advanced technolgies; i.e., second- and third-generation processes' through construction of 'single module demonstration-sized plants using commercial-sized equipment' that could serve as a 'nucleus of commercial plants by their replication in kind'."

"(a) Is it your understanding that World War II technologies, not yet demonstrated in the U.S., would be encompassed by the term 'advanced technologies'? Please explain."

A: The Administration's policy contains two elements: demonstrating new technology and overcoming economic and institutional barriers to commercialization. Both need be assessed on a case by case basis. Technologies which are well within the state-of-the-art will be less likely to need demonstration support than those that are more advanced, but would not be ruled out if there were substantial advantages to demonstrating economic and institutional viability. Our policy is that "In general, the Government seeks to avoid subsidization of existing technologies, although circumstances may sometimes merit an exception to that policy".

Q3(b): "What is the relationship of this loan guarantee demonstration program to the 'High Btu Coal Gasification Test Facility' program discussed in the Science Committee report (H. Rpt. 95-349, Part 1, pp. 40-43) and for which $20 million is authorized in FY 1978? The report states that the test facility would 'demonstrate and evaluate first and second generation gasification technologies in a single installation'. Why do we need loan guarantees to do the same thing?"

A: The generic loan guarantee authority is not confined to coal gasification. It could enable us to expand the research and development program for a variety of technologies at a pace faster than would be possible in its absence. Loan guarantee authority is adaptable to demonstrations of promising new technology by entrepreneurs who could not otherwise raise the capital. Thus demonstrations of technologies including biomass, wind power, and other decentralized technologies as well as promising second generation high-Btu technologies and projects for converting wastes to high-Btu gas could be advanced by loan guarantees.

Finally, we understand from conversations with your staff that you wish to know whether the Administration has any objections to project-by-project review by the authorizing committee as well as review for any necessary appropriations, and also whether alternatives to loan guarantees—such as all-events tariffs—would be considered. Our response is that we are in agreement that projects where significant sums are being guaranteed should be reviewed by Congress on a case-by-case basis and we have no objection to the normal requirements for authorization as well as appropriation. We will, of course, examine the alternatives to loan guarantees for all projects and utilize loan guarantees only where it is the best approach to carry out our policy.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

Mr. OTTINGER. I continue to oppose these loan guarantee provisions because I think they encourage the United States to continue down the wrong energy path, the so-called hard path of huge capital cost, centralized, high-technology solutions.

I also think that Federal loan guarantees are a dangerous Federal intrusion into our capital markets and an invasion of our budget processes. I feel loan guarantees are properly used only to finance small companies that cannot otherwise raise capital, and then only to demonstrate genuinely new or unproven technology that could not otherwise attract capital in the marketplace. I thus have supported limited loan guarantees for the introduction of new electric car or other alternative engine concepts, and for solar, geothermal and biomass demonstration projects, provided the amounts are sufficiently restricted to assure their benefits are directed to relatively small companies.

I have one further concern about approving these loan guarantee provisions in this bill. The Senate has passed broader synthetic loan guarantee authorities, without many of the important protections provided in this bill. The sentiment on the House Science and Technology Committee is clearly in favor of an expanded synthetic fuels program. I fear that some of the protections we worked so long and hard to have included in this bill might get dropped or diluted in conference.

Lastly, ERDA and the new FEA Director have shown no appreciation whatsoever of the dangers of loan guarantees or the need for restriction of their use to protect against a raid on the Treasury by the large energy companies; indeed, they have been intimately involved in helping these companies try to obtain the broadest guarantees possible. There is, therefore, reason for concern that whatever authority we may grant will be abused and whatever restrictions we provide, evaded or even ignored. In the past, ERDA has proceeded without first obtaining the results of studies they themselves described as crucial for a sound determination and without reports to Congress it promised to deliver. The ERDA "Congressional Relations" lobbyists have virtually panted for unrestricted loan guarantee authority. Moreover, as a recent GAO report notes, ERDA failed to adequately administer the Coalcon project. The result is that the project has been terminated at a cost of over $15 million to the taxpayers.

So, from every vantage point, I think passage of these synfuel loan guarantee authorities is dangerous and unwise.

I refrain from another effort to delete these provisions this year only because of my confidence in the honor of the gentleman from Texas, our good chairman, Mr. TEAGUE.

He held endless hearings on these provisions to hear the environmental, community, and budgetary problems with these provisions. He supported the numerous protections we added. He has assured me he will seek to preserve these protections in conference and enforce their observation by ERDA and its successors in the Department of Energy. He has acted in the utmost of good faith and with infinite patience. The House is weary of dispute on this issue, and it would be a substantial imposition, having had these many protections adopted, to put our colleagues through this fight again.

Therefore, noting my severe reservations, relying heavily on the great integrity of our chairman, and having been assured that the protections adopted in committee and contained in the bill and report as previously described will be retained, I am not opposing this provision today.

Madam Chairman, I do have some questions to raise with respect to the amendment I have offered. It is a technical problem, and I do not intend to press the amendment; I intend to withdraw it. First, however, I would like to engage in a short colloquy with the chairman of the committee.

My amendment is technical in nature and clarifying. It amends the new section 19(m) which is proposed to be added to the Federal Nonnuclear Energy Research and Development Act.

The questions, I would like to ask Chairman TEAGUE are as follows:

It is my understanding that under this section the ERDA Administrator must submit a detailed report to the appropriate committees of Congress on each demonstration project and all related agreements or contracts before the Administrator makes any guarantee or commitments to guarantee under section 19. Is that correct?

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Texas.

Mr. TEAGUE. The gentleman from New York is correct.

Mr. OTTINGER. Of course, under the provision, the ERDA Administrator is expected to take all actions required under section 19 that can be completed before submitting that detailed report to the committees so that the committees and, of course, the public will be considering a proposal that is ready for execution by ERDA. Indeed, presumably the ERDA Administrator will include his recommendations in that report.

Mr. TEAGUE. That is correct.

Mr. OTTINGER. Do you agree that the appropriate committees then have 90 calendar days to consider that report and ERDA cannot take any final action on the proposed guarantee or related project agreements during this 90-day period?

Mr. TEAGUE. I agree, but I observe that the 90-day period does not run during any time that either House adjourns for more than 3 calendar days to a day certain.

Mr. OTTINGER. During this period, the committees could hold hearings on the proposal and make recommendations to ERDA, but they could not veto it, except by Congress enacting a later law or resolution vetoing the project. Is that correct?

Mr. TEAGUE. Yes.

Mr. OTTINGER. Where the actual cost of the entire demonstration facility for which a loan guarantee is sought exceeds $50 million, then there must also be a report submitted to the committees, but no loan guarantee agreement can be finalized by ERDA until Congress approves it through the enactment of an authorization bill and an appropriation bill, or a resolution is passed by both Houses in which the Congress states it favors the project. Is that your understanding of the provision?

Mr. TEAGUE. Yes.

Mr. OTTINGER. Passage of such a resolution would, of course, not obviate the need for an Appropriation Act pursuant to subsection (u) of section 20. Would you agree?

Mr. TEAGUE. Yes.

Mr. OTTINGER. I thank the distinguished gentleman from Texas who has been very patient and fair in the handling of this very difficult and controversial synthetic fuel legislation.

Mr. TEAGUE. I am aware of the gentleman's previous concern about some of the project sponsors. I was pleased to know of Mr. OTTINGER's support for loan guarantees based on the colloquy we have just had because of the history of previous opposition, however well intentioned. I am also pleased to note that the administration's earlier comments on this provision have also been clarified in respect to full-sized facilities by the

letters of Mr. James Schlesinger to Mr. JOHN DINGELL and me.

The ERDA authorization bill for fiscal year 1978, H.R. 6796, contains an amendment to the Non-Nuclear Energy Research and Development Act of 1974 which would provide authority to ERDA or its successor agency in the Department of Energy to use loan guarantees in the development of alternative forms of energy.

I want to make it clear that it is not the purpose of this amendment to write into the Non-Nuclear Act limitations which would restrict the latitude of the agency in administering loan guarantees not now imposed in authorizing other forms of assistance.

The Congress has indicated in section 8 of the act the applicability and intent of the act regarding demonstrations of full-size commercial facilities. This section authorizes the Administrator to "enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis." The act is clear in that the intent of Congress is that commercial scale facilities qualify for assistance.

If the development of coal gasification is to proceed through the assistance of loan guarantees it is important that the agency be able to look at different demonstration projects under this legislation with respect to coal, environmental, and socioeconomic impact and other geographical limiting parameters. The agency must be free to consider all of the coal gasification projects so far announced based on their contribution to the energy technology and inventories of this country and not have that selection unnecessarily narrowed through prejudgment of legislation establishing procedure, eliminating what otherwise would be viable projects.

This section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant would vary with the technology and with the particular situation. For example, if the administration was considering proposing a high Btu coal gasification plant demonstration, they might choose to guarantee construction of a commercial size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential participants that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound R.D. & D. policy would be to build a plant which would provide sufficient participants to bid for the award. The language of section 210 does not prohibit the Administrator from ERDA from making this choice to upgrade the size of the facility.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place it is important now that the agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

Madam Chairman, if the gentleman will yield further, I would like to express appreciation to the gentleman from New York (Mr. OTTINGER) for his patience in an attempt to work out something that we needed to work out and that we have worked out. I thank the gentleman.

Mr. OTTINGER. Madam Chairman, I thank my chairman, the gentleman from Texas.

Based on our previous conversations, I had given notice to the House that I would offer two other amendments. I will not be offering those amendments, Madam Chairman. I withdraw them.

The CHAIRMAN. The amendments are withdrawn.

Mr. OTTINGER. Madam Chairman, I ask unanimous consent to withdraw the amendment now pending.

The CHAIRMAN. Without objection, so ordered.

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906), as amended by section 210 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) Federal loan guarantees under section 20: *Provided*, That all of the other provisions of this Act shall apply to such guarantees in the same manner and to the same extent as they apply to demonstrations under this Act.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is amended by adding at the end thereof (after the new section added by section 210 of this Act) the following new section:

"LOAN GUARANTEES FOR COMMERCIAL BIOMASS DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy from biomass;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels and other forms of energy; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is autorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels; and (B) financing the construction and startup costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from bioconversion. The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), and (B), of this paragraph shall at no time exceed $300,000,000.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others;

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator:

"(d) At least sixty days prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing to the Governor reasons for not concurring with such recommendation. The administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, and start-up costs.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patent and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation, for and on behalf of the borrower, from the fund established by this section, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (s) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) and (B), of subsection (b)(1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annually for the duration of that program under this section.

"(l) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of such commercial demonstration facility exceeds $50,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(m)(1) There is hereby created within

the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), and (B), of subsection (b)(1) and subsections (g) and (h) of this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A) and (B) of section (b)(1) and subsections (g) and (h) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(n) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(o) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(p) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreement, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (2) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(q) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(r) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which biomass or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (m) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

On page 48, line 14, and page 49, line 5, strike out "biomass,".

Mr. TSONGAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TSONGAS. Madam Chairman, title II refers to the provisions with respect to conversion to synthetic fuels from coal, et cetera.

Our concern is with regard to the biomass section which relates to urban waste conversion which, for example, take place today in Saugus, Mass., and in other places, which we think is not adequately addressed.

Madam Chairman, my amendment to the bill, which was contained in the Senate version, passed both the House and Senate last year, but was lost in a filibuster on the Senate floor. It provides for $300 million in loan guarantees for biomass conversion, specifically looking to conversion of urban waste, solid waste, agricultural wastes, and so forth, to direct energy and synthetic fuels and also deals with other such aspects of biomass conversion.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

I should like to point out that already we have two provisions in the bill that impinge upon this very subject: One is the overall loan guarantee authority for alternative fuel demonstration facilities, a subject which came up in the colloquy just a moment ago between the chairman and the gentleman from New York (Mr. OTTINGER); the other is title IV, which authorizes grants and contracts for municipalities to convert wastes to energy.

The provisions of the amendment which the gentleman is suggesting be added today are identical to those that were included in the ERDA authorization package for 1977, which failed in the other body in the last hour. It is appropriate to include them in this bill so long as we keep in mind the fact that the primary thrust of this particular amendment is to help municipalities convert their wastes into energy.

Would that not be the gentleman's concept?

Mr. TSONGAS. That would be the primary thrust of the amendment. Other entities would also be eligible, however.

Mr. McCORMACK. Certainly.

We have already requested the legislative counsel to analyze the three overlapping provisions which would occur in this bill, given the adoption of the gentleman's amendment. We would like to have available for the conference committee a consolidation of the three provisions. We have already been advised that there are no conflicts involved, and it should be a relatively straightforward process.

Given those understandings I would be happy to accept the gentleman's amendment.

Mr. TSONGAS. If the gentleman would yield, the issue I am concerned about, however, is that the $300 million loan guarantee authority not be transferred laterally to the same section, namely, synthetic fuels which we fought over last year by having the biomass section withdrawn.

Mr. McCORMACK. I agree with the gentleman on that. I believe we want to keep that authority as is provided in the gentleman's amendment.

Mr. TEAGUE. Madam Chairman, I am pretty sure the gentleman knows the history and intent of our committee. We have pressed forward, in favor of biomass research.

Mr. TSONGAS. Yes.

Mr. TEAGUE. Of course we cannot tell the gentleman what the conference will do. The gentleman knows that we are bound by the House and by the rules of the House. I do not think the gentleman has anything to be worried about. As I say, the history of our committee has been to encourage that which the gentleman wants to do, to support research and development for production of energy from biomass sources.

Mr. OTTINGER. Madam Chairman, if the gentleman will yield, I wonder if I could ask the chairman for some additional assurances. I am concerned that this not be used as a means for eliminating the various protections we agreed on in the loan guarantee program, the environmental agreements, the agreements to protect local communities in the course of the combination of this provision with the loan guarantee program mentioned by the gentleman from Washington. and I would like to have some assurances.

Mr. TEAGUE. The gentleman from New York (Mr. OTTINGER) will be one of the conferees if he so wishes. I cannot give the gentleman other assurances.

Mr. OTTINGER. All I wish to ask for is your assurance on the position you are taking and on the position of the gentleman from Washington.

Mr. TEAGUE. I do not know what position the gentleman is asking me to take. I have stated to the gentleman the whole purpose of the committee and the whole history of the committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOWERS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I will be glad to try to wind up with the gentleman from New York (Mr. OTTINGER) and the gentleman from Kansas (Mr. GLICKMAN) their concerns about this. Let me say that it appears to me you are asking us for assurances when you are giving nothing in return. The amendment is being accepted. It is part of the legislation. We support it. There is no problem there.

Mr. OTTINGER. What I am concerned about is the author's intention.

Mr. FLOWERS. It is clearly stated in the legislative history. There is nothing devious going on here. Something we are interested in, I will say to my friend from New York, is to have support for a synthetic fuels loan guarantee program as well. I am not sure that we have support from the gentleman from Massachusetts (Mr. TSONGAS). Let me ask the gentleman from Massachusetts (Mr. TSONGAS) do we have your support for the other aspects of the guarantee program?

Mr. TSONGAS. Which aspect, title II?

Mr. FLOWERS. Title II, yes.

Mr. TSONGAS. You have my support.

Mr. FLOWERS. Where is the other loan guarantee? Is it in title IV?

Mr. TEAGUE. It is in title IV.

Mr. FLOWERS. That is right.

Mr. TSONGAS. I support the provision in title IV, as well.

Mr. FLOWERS. How about the gentleman from Kansas? Does the gentleman wish me to yield?

Mr. GLICKMAN. I would like to ask some questions and I would like to do it on my own time.

Mr. FLOWERS. I think what we are all trying to do is to finish with this bill this afternoon so that we can quit early.

Mr. THORNTON. Madam Chairman, if the gentleman will yield, in order that I may proceed quickly on my own to offer my amendment, an amendment which simply brings this loan guarantee program into conformity with the language which we voted earlier, among other things I would like to exchange with the gentleman is his understanding as to whether my amendment to his amendment would be accepted?

Mr. TSONGAS. Madam Chairman, I read the gentleman's amendment and concur in it.

AMENDMENT OFFERED BY MR. THORNTON TO THE AMENDMENT OFFERED BY MR. TSONGAS

Mr. THORNTON. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. THORNTON to the amendment offered by Mr. TSONGAS: In subsection (g)(4), insert after the word "facility", which appears in the phrase "facility shall be available to the Government", the following "in case of default".

In subsection (q), insert after the word "shall" the following: "in case of default".

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Madam Chairman, I shall not take the 5 minutes. This is similar to the amendment which has been previously adopted by this committee with regard to the loan guarantee programs established by section 210. This amendment provides that patent rights should not automatically become the property of the Government unless the project goes into default and the

Government puts up some money under its loan guarantees. The earlier amendment was accepted, and adoption of this amendment would conform the language to that previously adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. THORNTON) to the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS), as amended.

The amendment as amended was agreed to.

Mr. GLICKMAN. Madam Chairman, I move to strike the last word.

Madam Chairman, I do support the amendment. First of all, I would like to thank my subcommittee chairman, the gentleman from Washington (Mr. MCCORMACK), for his help in getting funds for biomass, and specifically for alcohol and gasoline blends in this bill, and I appreciate his interest.

I am particularly interested in biomass as it relates to alcohol production. I would like to ask the author of the amendment a couple of questions. One, would the gentleman's amendment to provide loan guarantees to finance these projects using biomass cover not only the use of solid wastes but also fuels produced from growing crops such as wheat, corn, sugar cane, and others, related to growing crops?

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

I would say to the gentleman that the definition in the amendment includes the concerns of the gentleman.

Mr. GLICKMAN. Would the loan guarantees include those projects producing alcohol and alcohol-based products and derivatives from growing crops, solid waste, and other materials generally defined as biomass-related?

Mr. TSONGAS. If the gentleman will yield, yes, they would.

Mr. GLICKMAN. Madam Chairman, I strongly support this amendment. I would point out to this body that the Senate Finance Committee just yesterday approved, by a vote of 16 to 1, an exemption from Federal gasoline taxes for alcohol-based fuels using a 10-percent blend. I think that this phenomenon of utilizing alcohol as a blend in existing automobiles is a technology that is coming here and should be expedited.

Mrs. FENWICK. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I wonder if in the definition of crops might be included waste products from lumber and wood products?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts for a response.

Mr. TSONGAS. The definition includes timber wastes. That, I believe, is what the gentlewoman is referring to.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I agree with the gentleman 100 percent. We should be pushing much further on the development of fuels from crops and alcohol-based fuels.

I would just like to ask the gentleman from Massachusetts one question. I assume in his definition as stated in the amendment biomass is a reference mainly to solar-energy-derived products, not only animal and timber waste, sewerage sludge, and oceanic and terrestrial crops—of course, including the alcohol fuels that the gentleman from Kansas referred to. This would exclude domestic coal conversion, oil shale, and other synthetic fuels projects, as far as his amendment is concerned.

Mr. TSONGAS. If the gentleman will yield, the gentleman is correct in his understanding of the amendment. The amendment is specifically for loan guarantees to biomass technologies, and specifically not for use for synthetic fuels—to include coal conversion and gasification, oil shale, and other synthetic fuels projects.

Mr. OTTINGER. I thank the gentleman.

Mr. GLICKMAN. Madam Chairman, I would like to commend my colleague from Massachusetts for the amendment we are now considering and for including crop production within his definition of biomass. I am convinced that alcohol-gasoline blends can take us a long way toward dealing with this energy problem, and I have been working to bring these blends into commercial use ever since I entered the House 9 months ago. This technology can improve our energy situation without imposing hardship on any Americans. And the technology is readily available, it just needs a push.

Though I have received differing reports from auto manufacturers, it is generally agreed that cars now on the road could run on gasoline-alcohol mixtures containing 5-percent alcohol. Use of 5 percent blends would mean a savings of 5 billion gallons of gasoline annually. Some manufacturers, Chrysler for example, indicate that cars now in use could be fueled with blends of up to 10-percent alcohol with no adjustments whatsoever. That would mean even greater energy savings.

But the technology just has not been developed commercially. I see two reasons why. First, the oil companies do not control the resources used in alcohol production—agricultural commodities, urban wastes, animal and timber wastes, and they would be forced to compete in the market place for some of their raw materials, just as American citizens have to buy our energy supplies in the market place.

Second, the economics of the technology have not been favorable. But this is changing rapidly. Today, depending on the particular blend, "gasohol" costs less than 5 cents per gallon more than unleaded gasoline.

I am afraid that the private sector just will not develop this technology without a push from the Government. In fact, several pushes might be needed. We need to act on several fronts. I am working to exempt these blended fuels from the Federal excise tax on gasoline. There have been proposals to adjust the tax treatment of distilleries producing alcohol for fuel. Representative TSONGAS' amendment to provide loan guarantees for commercial biomass demonstration facilities would help move "gasohol" along as well. I urge all of my House colleagues to join me in supporting this effort.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The question is on report title III.

The Clerk read as follows:

TITLE III—AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Transport Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobiles, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, safety, and energy conservation;

(2) advanced alternatives to existing automobiles could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobiles could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile technology;

(4) an expanded research and development effort with respect to advanced automobile technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy, safety, and environmental problems are urgent, and therefore advanced automobile technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy Research and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile, automobile propulsion systems, and automobile components; and

(3) supplement, but neither supplant nor duplicate, the automotive research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile" means a personal-use transportation vehicle which is fuel-propelled and is energy-efficient, safe, reliable, damage-resistant, and environmentally sound, and which—

(A) requires, consistent with environmental requirements, the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing automobiles with respect to such factors;

(B) to the extent practicable, is capable of utilizing different types of fuel;

(C) can be mass produced at the lowest possible cost consistent with the requirements of this title;

(D) has a projected ownership cost to the first owner which is competitive with automobiles of the same size and class which are produced using standard technology, taking into account the other features of such advanced automobile which may justify costs different than those associated with standard technology;

(E) operates safely and with efficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

(F) to the extent practicable, is capable of intermodal adaptability; and

(G) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including requirements for fuel economy, exhaust emissions, noise control, safety, and damage resistance;

(3) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(4) "advanced automobile subsystem" means a subsystem which impacts materially the performance of the automobile in terms of fuel economy, environmental impact, safety, damageability, or reliability, and for which there is promise of technological improvement in such performance through research and development;

(5) "damage resistance" refers to the ability of an automobile to withstand physical damage when involved in an accident;

(6) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(7) "fuel" means any energy source capable of propelling an automobile;

(8) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(9) "integrated test vehicle" means a vehicle which incorporates an advanced automobile propulsion system and other advanced automobile subsystems which have not gone through production engineering and have not been made ready for mass production, and which are used to determine, when functioning in an integrated manner, the compatibility and performance characteristics of these advanced subsystems over their useful life, (A) consistent with the Nation's need to increase substantially automobile fuel economy, to reduce substantially environmental impact, to conform to Federal requirements, including safety and damageability standards, and otherwise to provide automobiles satisfactory to consumers without unduly compromising the advanced automotive propulsion system and other subsystems; and (B) compatible with the criteria for an advanced automobile, and provided that such vehicle shall not be designed as a production prototype;

(10) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(11) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(12) "safety" refers to the performance of an automobile or automobile system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(13) "Secretary" means the Secretary of Transportation; and

(14) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used, except that in integrating the various features of an automobile for the purpose of constructing integrated test vehicles, the Administrator shall incorporate advanced technology with respect to safety, damageability, and the other features of an integrated test vehicle in a manner which recognizes the automobile as a personal transportation system;

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry;

(4) require that not less than 75 per centum of appropriated funds shall be expended for development of the advanced automotive propulsion system; and

(5) insure that no more than thirty integrated test vehicles shall be produced.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for—

(1) research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives;

(2) research and development on other automobile subsystems in which possible improvements can be identified and which are suitable for inclusion in an integrated test vehicle; and

(3) the integration of advanced automobile propulsion systems developed under this program, with other advanced automobile subsystems developed under this program or elsewhere, into integrated test vehicles, which will be fully tested to determine the characteristics of such advanced propulsion system and other subsystems when integrated.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobiles.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administrator shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the maximum extent practicable in the areas of safety and damageability research and development and, to the extent deemed appropriate by the Administrator, in other areas of research and development on automobile technology; and

(2) may utilize any other Federal agency, (except as provided in paragraph (1)) in accordance with subsection (c), in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality

of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environment Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each integrated test vehicle developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all tests data and the results of such tests to the Administrator.

(c) The Secretary shall test, or shall cause to be tested in a facility subject to supervision by the Secretary, each type of integrated test vehicle developed in whole or in part with Federal financial assistance under this title, or referred to the Secretary for such purpose by the Administrator, to determine whether such vehicle complies with any standards promulgated as of the date of such testing, or reasonably expected to be promulgated in the future, under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and whose provisions are applicable to automobiles where testing would be appropriate. All test data and the results of all tests conducted by the Secretary shall be submitted to the Administrator.

(d) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile technology; and

(5) suggestions for improvements in advanced automobile research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Transport Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Strike out title III (beginning on page 79, line 18, and ending on page 97, line 2) and insert in lieu thereof the following:

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy Research and Development Administration in cooperation with the Department of Transportation to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research

and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f-5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administration shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive propulsion system research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 303. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environment Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "con-

tract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

Mr. BROWN of California (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield to the gentleman.

Mr. TEAGUE. There has been considerable controversy—that is not quite the right word—about coming into agreement on this amendment.

Mr. BROWN of California. Madam Chairman, I rise to offer an amendment to title III which has been worked out with the administration and the various Members who have been actively involved with this automotive propulsion research and development program. The amendment is basically technical, and as far as I can discern, there is no controversy.

Madam Chairman, the Automotive Propulsion Research and Development Act of 1977 has been before this body for several years, and it has passed the full House, in one version or another, on three occasions by more than two-thirds majority votes. This proposal is only before us today because the other body, which has passed this proposal an equal number of times, fell short of the votes needed to override a veto in the last Congress.

The Automotive Propulsion Research and Development Act of 1977 establishes, in the Energy Research and Development Administration, which is now in the Department of Energy, a 5-year research and development program for the development of advanced automotive propulsion systems. This legislation builds upon the existing programs in the Federal Government and private industry which deal with automobiles. It will add guidance and structure to these existing programs, and enable the Congress to oversee this program, which relates to a very important aspect of our national economy. Since automobiles consume the bulk of the oil this country uses, they are the best place to focus our efforts to conserve our scarce petroleum resources and reduce our oil imports. The only surprise is that this sensible approach has taken so long to become a reality.

I do not intend to give the background or full legislative intent of this legislation here. The changes which my amendment makes do not change the legislative intent, although the scope of the defined program is narrowed somewhat. This was primarily done to reduce the interagency conflict between the Department of Transportation and the Department of Energy, or its predecessor, ERDA. However, the main and primary purpose of this legislation, to develop advanced propulsion systems for advanced automobiles, remains unchanged. These advanced propulsion systems are expected to include the Brayton cycle engine, the Rankine cycle engine, the Stirling cycle engine, and other advanced engine concepts. The new engines will need to meet environmental standards, especially the Clean Air Act's auto emission standards, and fuel economy standards. The engines of the future should also be flexible in the type of fuel they use, so that the automobiles of the future can shift away from their dependence on our scarce petroleum resources.

Madam Chairman, I urge support of this amendment, and title III, the Automobile Propulsion Research and Development Act of 1977.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. Madam Chairman, I understand that the gentleman from California has worked this out with other Members of the House and the administration, and as far as the chairman is concerned, we accept the amendment.

Mr. LUJAN. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New Mexico.

Mr. LUJAN. Madam Chairman, it is my understanding that the minority has discussed the amendment with the gentleman from California, and the minority has no objection.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I congratulate the gentleman on his efforts to get a reconciliation between the Department of Transportation and the Department of Energy on this amendment. There is a significant modification in the legislation with this amendment but it is something I think everyone can live with and we can move forward comfortably.

I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III? There being none, the Clerk will read.

The Clerk read as follows:

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 210 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $200,000,000.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary, pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue produing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid waste; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. There being no amendments to title IV, the Clerk will read.

The Clerk read as follows:

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under sections 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) price for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any price established under this subsection shall be on such a basis a will recover not less than the Government's costs over a reasonable period of time and, in the opinion of the Administrator of the Energy Research and Development Administration, will not discourage the development of domestic sources of supply independent of the Energy Research and Development Administration: *And provided further*, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Administrator establishes such criteria, the Administrator shall transmit the criteria, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and wait a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.".

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: Page 103, line 10, strike out "and".

Page 103, strike out "and," in line 12 and all that follows down through the end of line 16 and insert in lieu thereof the following:

, and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and the normal and ordinary business expenses which would otherwise be incurred by a private operator providing similar services and so certified by the Comptroller General of the United States: And

Page 104, line 5, after "criteria" insert

"or any price for uranium enrichment services".

Page 104, line 6, strike out "the criteria" and insert in lieu thereof "such criteria or price".

Mr. FLOWERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. FLOWERS. Madam Chairman, the existing language found in the Atomic Energy Act only allows the Government to recover its costs over a reasonable period of time. This has resulted in uranium enrichment prices much lower than would be tolerated in a private business. Some ordinary and normal business expenses such as State or local taxes and rate of return on investment have not been included.

In order to correct this situation the committee recommends in title V that a price floor be established so that the Government has to recover all of its costs. We also propose, by the amendment, to add to this language suggested by the administration to include a price ceiling, beyond which the Government cannot charge. This ceiling would allow the Government to add charges which would reflect comparable charges for improving the machines and equipment, State and local taxes, insurance and an equity return. Without this ceiling under the proposed legislation which ERDA submitted to Congress, ERDA would have the authority, subject to congressional approval, to escalate charges. Although we have no reason to believe that ERDA would not exercise responsible control over future increases in the cost of uranium enrichment services, this ceiling will fully protect us from any such possibility.

I am pleased that the distinguished chairman of the Armed Services Committee (Mr. PRICE) who was previously chairman of the Joint Committee on Atomic Energy supports this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 33, noes 0.

So the amendment was agreed to.

The CHAIRMAN. There being no further amendments to title V, the Clerk will read.

The Clerk read as follows:

TITLE VI—TECHNICAL AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs:

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Subsection 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof "$100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Admistrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c) (1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case

of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TSONGAS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, it was my intention to introduce an amendment regarding solar centers and research, that the regional centers be fully funded.

I am not going to pursue that amendment, but I simply want to put the Energy Administration on notice that it is my intention to follow with interest the regional solar centers.

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, I thank the gentleman for not offering the original amendment proposed. I think we are all interested in the direction of solar energy research and how that is going to be coordinated. The original plan put together by the National Academy of Sciences for a centralized body was ultimately awarded to us in Colorado. I think we are all interested in working with the committee on our future energy needs.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, this amendment has been prepared as a result of conclusions reached following appropriation enactments for fiscal year 1978, and following oversight hearings held in July 1977 before the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration, which originated the electric vehicle R.D. & D. legislation.

These hearings, and a thorough evaluation by Purdue University of the electric vehicle demonstration plans, provided convincing arguments that the electric vehicle legislation as originally conceived needs revision.

The intent of these changes is to strengthen the program, consistent with the revised proposals by the ERDA, and to enhance the electric vehicle industry's ability to survive as a viable commercial endeavor when the R.D. & D. program is completed and Government support is withdrawn.

The proposed amendment extends the demonstration phase of the program, and converts it into one flexible, but continuous program, similar to that employed for commercial vehicle technology development. The pace of the demonstration program will now be determined as an engineering decision by ERDA/DOE. The new administration and the DOE support this change, and place a high priority on the electric vehicle program.

The new flexibility will allow for the evolutionary improvement of electric vehicle systems, rather than limiting them to two discrete steps. Ongoing research results will be introduced regularly into the procurement specifications for demonstration vehicles. Without this change the demonstration program probably would miss major battery advances expected in the early 1980's.

It is also planned that the early stages of demonstration will be oriented toward vehicle fleets operating over well established duty cycles. This improves the chances for a successful demonstration, and the dependability of data collection.

Several other Government agencies also have an interest in electric vehicles. The amendment provides for their participation in the ERDA/DOE demonstration program. This is an inexpensive way of expanding the demonstration program, and improving data collection and validity on electric vehicle performance and use.

The amendment also makes the Electric Vehicle Loan Guarantee program identical to the one for geothermal energy.

Members of Congress will be pleased to know that the electric vehicle program is, after some delay, getting under way. These amendments, which are requested by the administration, will accelerate and improve the program.

The CHAIRMAN. Are there further amendments to title VI? If not, are there further amendments to the bill?

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: Page 119, after line 12, add the following new title:

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under subsection (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurements will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal year 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicle acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

Mr. McCORMACK (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, I understand there is no controversy over the amendment. As far as I am concerned, the amendment is accepted.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. GOLDWATER. Madam Chairman, this is an amendment that involves the electric vehicle program and it is one that has been worked on by members of the committee. I would urge this side of the aisle to accept it.

Mr. McCORMACK. Madam Chairman, I thank the gentleman from California, particularly for the gentleman's hard work in developing this.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. Madam Chairman, I support the amendment.

Mr. FRENZEL. Madam Chairman, I rise today in support of H.R. 6796 the ERDA civilian research and development programs authorization.

In today's bill we are authorizing funding for a number of useful projects. Among these are loan guarantees for new technology demonstrations, grant and loan authority for municipal waste reprocessing, and a new automotive R. & D. program.

In trying to meet these needs the bill clearly spends too much of the taxpayer's money, but a pleasant surprise is that a great portion of the increases over last year's programs is spent in the right places. Most significant of the increases are: Geothermal up 85.7 percent, conservation research up 145 percent, solar energy up 16.4 percent, fossil fuels up 67 percent, and environmental research and safety up 18.3 percent.

In considering this bill many of our colleagues have notified us of their intention to offer amendments. Several of them appear worthy but I am particularly concerned with those regarding the Clinch River breeder reactor project and the encouragement of the solar voltaic cell industry.

Like many Members, I have some reservations about our Nation's nuclear energy policies. I believe that we have made some errors in the past. Although our history of safety has been good, strict safety measures are needed. Likewise, we need better resource management and siting of facilities. We have the best program available today but it certainly is not perfect. I have consistently voted to improve deficiencies in these and other vital areas. However, I am not convinced that a decision to terminate our program work on the demonstration of a breeder reactor technology is wise.

Our breeder reactor program is alleged to have been poorly managed, with an increase in project costs of 300 percent in just the last 4 years. It is further stated that the contributions of the 753 independent utilities cooperating with the TVA and the Federal Government have been woefully inadequate. I cannot argue with those statements. If they are accurate, they call for a massive restructuring of our management and financial policies.

But, the awful fact is that we do not live in a vacuum. The "plutonium genie" is out of the bottle. A minimum of 7 nations now have technological capabilities and within a few more years that number may well reach 10 or 12. These nations are not just sitting on their hands. Some are moving forward aggressively.

On July 6, just short weeks after President Carter's announcement, the New York Times carried articles describing the agreements just signed by

the French, West Germans, and other European nations for further research, development and sale of breeder reactors. The Japanese have also made clear their intention to forge ahead.

It seems unreasonable to believe that a group of nations, suffering because natural resources which they so desperately require are controlled by foreigners, would willingly accept further outside control of a scarce raw material when they have an opportunity to avoid it. This is simple logic both strategically and economically. However, that logic does not apply to them alone. Our best estimates of existing domestic supply range from a conservative 1.7 million tons to a high of 5 million tons. Even the skeptics tell us that this will not be sufficient for our future needs.

The costs of the breeder program are enormous. I would love to vote against the breeder on economic justification alone. But the overall economics of a delay in demonstration capability may well be worse than the costs of this project. ERDA's most recent cost benefit analysis, completed less than 3 years ago, concluded that each year of delay; could cost us almost $1.5 billion. This is only slightly less than the total which we could save on today's one-shot basis.

In trying to balance all of these factors I can only conclude that we should continue our domestic program. Much as I would want to vote against it, our energy needs must take priority. We should and must make every possible effort to build upon and tighten it. Our program must be strictly improved. The efforts of the International Atomic Energy Agency further encourage the development of coprocessing technologies unsuitable for weapons proliferation.

I will support amendments to streamline and improve the program but terminating it before we know whether it works seems to me to be too great a risk for our country.

My second major concern is with the amendment offered to provide a form of assured Federal market for the mass production of photovoltaic cells. I am normally leery of "pull through" markets but this seems to be an exceptional case. Increasingly higher rates of energy conversion clearly require a higher cost technology and that technology is presently only available through Government sponsored programs. The photovoltaic cell now in use was developed for NASA purposes and utilizes a single silicon cell approach. This technology was developed with an eye to getting the greatest wattage per pound of cell rather than increasing watts per dollar. Only with additional funding can this be reversed.

However, in searching for a commercially acceptable technology we cannot limit our efforts to single silicon cell research. The development of polycrystalline technologies is crucial for the future of solar power production and requires further R. & D. encouragement. Additionally we should not neglect the apparently less expensive technologies of cadmium sulfide or gallium arsenide single crystal cells. I will support the photovoltaic cell amendment, and I hope that the House will pass this measure.

Mr. VANIK. Madam Chairman, I rise in support of this amendment to target ERDA research funds for rerefinement of waste oil. These funds are urgently needed to develop an important energy recovery technology as well as to end a significant source of pollution. In the past, Congress has supported legislation for waste oil. The amendment before us today represents a vital stage in the development of the rerefinement industry. We have already begun to strengthen this important conservation industry; the amendment proposed by my distinguished colleague, Mr. BEDELL, is essential if the industry is to continue to develop an important energy supply.

During the past 2 years, Congress has enacted some legislation encouraging the use of recycled waste oil. However, much more is needed. The Energy Policy and Conservation Act of 1975 directed the National Bureau of Standards to develop tests to determine equivalent standards of quality for recycled waste oil and new oil. It also provided for the establishment of labeling standards for containers of waste oil. As part of the National Energy Act, the House has passed a provision to remove an excise tax that has hindered the full development of recycled waste oil. This tax had unfairly compromised the potential of the industry. On August 5, I reintroduced the National Oil Recycling Act to establish a comprehensive program to recycle used oil. Today's amendment is a vital step toward full utilization of the rerefinement process.

Rerefinement of waste oil reaps several economic and environmental benefits. Although about 50 percent of lube oil is consumed during use, the remainder is salvageable through the rerefining process. Unfortunately, currently, a large portion of our waste oil—which is produced by automobiles—is being collected at service stations and sold to unscrupulous oil dealers who mix used oil with heating oil and sell it to an unsuspecting consumer. This practice not only victimizes the consumer of heating oil, it robs the rerefiner of valuable feedstock for his process. The National Oil Recycling Act contains provisions to deal with this problem.

The use of recycled oil would prevent it from being wasted and threatening the environment. Each year, 1.2 billion gallons of used oil are generated. We reprocess and recycle less than 8 percent. Used oil is wasted in several ways. It is applied to roads to keep dust from rising; this oil eventually runs off, polluting nearby fields and streams. It is burned in a mixture with heating oil, creating more air pollution than pure heating oil. Finally, it is simply dumped into our Nation's waterways, to the extent of 35,000 barrels per day. This waste robs our country of a potential source of bolstering its energy self-sufficiency.

Use of recycled oil would reduce oil imports by 70,000 barrels per day. Its use would help protect our environment and provide us with a needed extra supply of energy.

Passage of the amendment today will remove another major obstacle to the rerefining process. Previous rerefining processes produced an acidic sludge byproduct, which was a potential pollutant. Now, however, at a rerefining plant in Bartlesville, Okla., ERDA has developed a process which will yield high amounts of purified rerefined oil without the polluting byproduct.

Madam Chairman, I urge support for this amendment which is vital to the development of the rerefinement process of waste oil. It proposes no additional authorizations for the ERDA budget. It simply assures that enough funds, up to $5 million, are allocated for the research projects. This amendment to H.R. 6796, proposed today by my distinguished colleague from Iowa, Mr. BEDELL, represents a continuation in the effort to bolster this country's energy self-sufficiency through more efficient use of our current resources.

Mr. McCORMACK. Madam Chairman, I move to strike the last word.

Madam Chairman, the pending amendment adds a new title to H.R. 6796, changing several provisions of the Electric and Hybrid Vehicle Research Development and Demonstration Act passed by the Congress last year.

The amendment does five things which I will mention briefly and then expand upon:

First. It stretches out the electric vehicle demonstration program and at the same time allows an evenly paced expansion of the number of vehicles included in the demonstrations.

Second. It creates one continuous demonstration out of the two-step demonstration procedure now in the current law.

Third. Without changing the fiscal year 1978 start or the minimum number of demonstration vehicles, it extends the scheduled procurement of demonstration vehicles 2 years to 1984.

Fourth. It strengthens the electric vehicle loan guarantee program.

Fifth. It allows electric vehicle demonstrations sponsored by other agencies to be included in the ERDA/DOE electric vehicle demonstration.

As many of you may recall, the Electric Vehicle Research, Development, and Demonstration Act—Public Law 94-413—was passed over a Presidential veto under the previous administration. Considerable programmatic direction and guidance was written into this act because of the reluctance of the administration to support an expedited program.

Our current administration and the new Department of Energy strongly supports the electric vehicle program according to testimony provided during electric vehicle hearings on July 12, 1977. As a result of this new light and understanding of the important role of electric vehicles, we can rely more on administration program decisions. Much of this amendment revises programmatic directions based on recent evaluations of the demonstration program and this new attitude in the executing agency.

Your votes last year, sufficient to override a veto, were clearly motivated by a concern over the growing U.S. dependence on foreign petroleum supplies, environmental degradation in urban areas because of existing petroleum-fueled vehicles, and the weak competitive position of U.S. industry in potential electric and hybrid vehicle markets.

The changes to the Electric and Hybrid Vehicle Research, Development and Demonstration Act through this amendment will improve and strengthen the chances that these goals will be met.

Stretching out the procurement portion of the demonstration, as I mentioned earlier, will allow the inclusion of more advanced vehicles and advanced batteries in the demonstration. Contracting for procurement or lease of electric and hybrid vehicles will start as originally scheduled in fiscal year 1978; however, the completion of vehicle leasing and procurement is extended 2 years by the amendment. The minimum number of vehicles will remain the same at 7,500; however, this number can be raised to 10,000 at the discretion of the agency administrator. The inclusion of advanced technology allowed by the stretchout is expected to provide considerable performance and cost improvements which will in turn effect the market acceptance of electric and hybrid vehicles.

The stretching out of the demonstration and providing a paced build-up of the number of vehicles included in the demonstration was recommended by ERDA, the committee staff, and an independent evaluation of the proposed demonstration. This evaluation, called for the original act, was completed by Purdue University in September 1977. Had it been available earlier, an amendment such as this would have been considered during our markup sessions.

The paced buildup of vehicles included in the program along with the 2-year stretch-out, will also allow a continuous updating of electric vehicle procurement specifications as the state-of-the-art and industrial production capability advance. The current law contains provisions for two electric vehicle procurement specifications and two procurements: One a fiscal year 1978 state-of-the-art and a second keyed to fiscal year 1981 technology. The proposed amendment will allow the administering agency to advance the procurement specifications annually as the technology advances.

The amendment also strengthens the important loan guarantee provisions of the act. Loan guarantees are essential because of the many small businesses which have been encouraged by other provisions of the act to become involved in the design, development and production of electric and hybrid vehicles. The loan guarantee provisions are identical to the geothermal loan guarantee provisions of this bill.

Mr. OTTINGER. Madam Chairman, I move to strike the requisite number of words, and, Madam Chairman, I ask unanimous consent that these remarks appear in the permanent RECORD immediately prior to the Committee rising on Wednesday, September 21, 1977.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Madam Chairman, I wish to engage the gentleman from Washington (Mr. McCORMACK) in a colloquy about the amendment. As I understand the amendment, it would slow up the timetable for purchase of vehicles, indicating that the deadline for contracting to purchase the first 2,500 vehicles slips from June 1978—under the act—to October of 1980—under the amendment. Is this accurate? Is it advisable?

I also understand that the amendment permits a very slow start in these purchases: 200 vehicles in fiscal year 1978, 600 in fiscal year 1979 and the remaining 1,700 in fiscal year 1980. Is this correct? Advisable?

Since this is a decelerated schedule, I would want to urge congressional oversight to assure that, as and when appropriations are increased, vehicle purchases will be accelerated accordingly. Is it accurate to assume that this will be done?

Mr. McCORMACK. Since the Congress passed this bill with a veto overridden in September of 1976, the ERDA has been examining the job we gave them, and with the help of Purdue University has studied in depth the risks embodied in the current schedule and act. They made many recommendations for improving both the program and the governing legislation. You may recall some of these recommendations being mentioned during our hearings on July 12, 1977.

The amendment requires the administering agency to institute their first contracts for the procurement of demonstration vehicles at the same time that contracting would be required under the current law. It also contains an accelerating schedule of vehicle entry into the demonstration program. This eventually would add up to 10,000 vehicles by the year 1984. However, this accelerating schedule is still considered a minimum. I would expect and have discussed with the agency that procurements should exceed this minimum rate when vehicles meeting agency specifications are available.

It should be noted that, although the phase-in for the ordering of demonstration vehicles is more gradual under the amendment, the actual delivery dates do not slip substantially. Under the original law, 2,500 vehicles ordered in June 1978 were to be delivered by December 1979. This amendment should be interpreted to mean that 2,500 vehicles will have been delivered by the end of fiscal year 1980.

The agency has told our committee staff that the planned procurement for fiscal year 1978 could be as large as 500 vehicles, well above the 200-vehicle minimum.

Regarding these matters, the Purdue University risk analysis makes the following recommendations:

First. Extend the electric and hybrid vehicle research, development, and demonstration program to 10 years. The act now specifies 6 years for the program.

Second. Change the restrictive vehicle acquisition requirements in the act to allow flexibility in vehicle procurement procedures, timing, and numbers in order to respond to market opportunities and technology advances.

Third. Forge linkages among manufacturers, sale and service facilities, and users through innovative marketing and purchase approaches. The Government should serve as a catalyst and a cost-and-risk sharer.

Fourth. Concentrate in the demonstration program on those uses and markets, such as commercial fleets, where the special characteristics of electric and hybrid vehicles are most appropriate.

Fifth. Establish a continuing market for electric and hybrid vehicles within the Federal Government.

Sixth. Foster the image of electric and hybrid vehicles by protecting the investments of buyers and sales and service managers, insuring excellent maintenance and customer service, guaranteeing depreciation rates (or a vehicle after-market), developing innovative marketing approaches, and demonstrating them in favorable sites and appropriate missions.

Mr. OTTINGER. Will the amendment affect the dual emphasis on hybrid as well as strictly electric vehicles? There should be continued emphasis on the development on vehicles that combine electric propulsion systems with other technologies such as sterling engines, flywheels, or more efficient internal combustion engines. Can we be sure that this type of work will continue?

Mr. McCORMACK. The amendment does not change this dual emphasis on electric and hybrid vehicles or the associated technology development. The amendment when it mentions electric vehicles always includes hybrid vehicles.

The agency has instituted a comprehensive R. & D. program under the act which includes balanced emphasis on the pure, both pure electric and hybrid. In the Government program the hybrid vehicle should follow the pure electric by no more than 1 year.

Mr. OTTINGER. Can we also assure that there will be continuing emphasis on providing financial assistance to small firms, as stipulated in sections 9 and 10 of the act?

Mr. McCORMACK. The assistance will be improved. The loan guarantee provisions have been made identical to the new provisions of the geothermal loan guarantee program. This will make the guarantee program much more acceptable to the banking community.

Mr. OTTINGER. The hearings of July 12, 1977, included testimony by Dr. Gene Mannella of ERDA, who stated that they planned to limit their early demonstrations to "protected" or "sheltered" environments, that is, for use in warehouse operations for mail service, as airport buses, to furnish light agricultural transportation, in van carpooling and as patrol cars on military bases. Regular runs, predetermined distances, regular maintenance.

Is it your understanding that this will

be the only kind of program that is undertaken in fiscal year 1978?

Since this means neglecting the potential use of electric/hybrid vehicles as family transportation, what can be done to avoid the potential loss of information that would encourage fuel-saving by families?

Will there be some projects which emphasize the use of electric vehicles by families for short-run, limited-speed uses?

Mr. McCORMACK. The focus of the several objectives of the Electric and Hybrid Vehicle Research Development and Demonstration Act is to save oil imports—to cut down on our dependence on foreign oil. Many studies have shown that this second-car market you mention has the largest potential savings. This amendment does not change this objective. It improves our chances of getting there by improving the acceptance of electric and hybrid vehicles through the demonstration of up to 10,000 vehicles.

The demonstration should move rapidly to the second-car market. Although initial demonstration vehicles will most likely emphasize commercial or sheltered environments, the introduction of reliable, practical passenger vehicles will begin as soon as they become available.

It is expected that some portion of the first increment of 200 to 500 vehicles scheduled for 1978 will be passenger-carrying vehicles suitable for the family-second-car market.

I include the following letter from ERDA stating that McCORMACK's views reflect their opinions.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., September 23, 1977.

Hon. RICHARD L. OTTINGER,
House of Representatives.

DEAR MR. OTTINGER: The responses given by Representative McCormack to your questions represent the Energy Research and Development Administration view of the Electric and Hybrid Vehicle Program.

Sincerely,

VINCENT J. ESPOSITO,
Division of Transportation, Energy Conservation.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, as I understand what is happening, this is a stretch out concerning the electric vehicles; is that essentially what we are doing?

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, the amendment would change the program from two separate buys over the next several years, to a continuous purchase program over approximately the same length of time, allowing it to be stretched out further as engineering requirements determine.

Mr. WYDLER. Madam Chairman, I would just say that I think this is in the best interest of the country. Frankly, I do not think that this is a good program to begin with and the longer it is stretched out, the better we all will be so far as purchasing, I believe some, 5,000 electric vehicles that nobody really wants and nobody knows how to use, or how they will work does not seem to be exactly the best way to spend the taxpayers' money. But I would only feel comfortable with this program, frankly, if I knew that the vehicles we were going to purchase were going to be used by the Speaker of the House and the majority leader of the Senate and the President of the United States because somebody is going to get stuck with these vehicles. Nobody will want to drive them when they get them; but I would like to see that kind of a disposition made of them because then I feel that maybe the whole program would get the right attention it deserves.

Mr. McCORMACK. Madam Chairman, it is our position and our belief that the quality of these electric vehicles will be such that any person would be proud to ride in them.

Mr. WYDLER. I wonder if the gentleman would let the amendment be made that they be driven by the Speaker and the majority leader and the President, and whoever else really desires one.

Mr. OTTINGER. The gentleman from North Carolina (Mr. ROSE) is already driving such a vehicle back and forth to work at the House of Representatives. The market for them is increasing rapidly. An electric hybrid vehicle was demonstrated at the Rayburn Building yesterday that has high feasibility, and I think the gentleman will find that his skepticism is not warranted.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words.

I would like to indulge in a short colloquy with the chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, the gentleman from Alabama (Mr. FLOWERS).

I would like to express my pleasure and commend both the distinguished gentleman from Texas, the chairman of the committee, and the distinguished gentleman from Alabama, the chairman of the Subcommittee on Fossil and Nuclear Energy for their fine job on the fiscal year 1978 authorization. I would also like to commend my colleagues for their support of the Clinch River breeder reactor project. In voting for the $150 million authorization, the House has strongly endorsed proceeding with the project at maximum speed. I understand that the intention of the House in voting to fully authorize the Clinch River breeder reactor project is to maximize achievement of project objectives in accordance with existing—March 1977—project arrangements, objectives and schedules, and to minimize costly and unrecoverable delays. I would like to ask the gentleman from Alabama if I am correct in this understanding?

Mr. FLOWERS. Yes, that is correct. At the same time we must recognize that there are differences between our position and that of the other body. In particular, levels of funding in the other body are not consistent with maximum progress for the project and there is some ambiguity about the status of licensing. The intention of our vote for full funding and of prior authorization acts is clear and unambiguous. The demonstration of licensability is a stated objective of the project and is incorporated in the statutory criteria.

In voting for full funding we approved President Carter's February 1977 budget submittal. Thus we fully intend that the project proceed in accordance with all objectives, including licensing. We hope to proceed to conference as expeditiously as possible and to obtain a resolution of the differences which would maximize achievement of project objectives and minimize unrecoverable delays. We contemplate that all procurements shall proceed as scheduled and that the licensing activities will go forward as expeditiously as possible to get maximum benefit from the program during fiscal year 1978.

Mr. McCORMACK. Madam Chairman, allow me to add some emphasis to your remarks with respect to the benefits of licensing.

First and foremost, the licensing process will provide the most effective forum for resolution of the basic environmental and safety issues which have been raised concerning the CRBRP. The Congress, the administration and the public must have the undeniable benefit of the detailed record created in the NRC Staff technical review and licensing hearings.

Second, a conscious suspension of the licensing process would have a disproportionate impact on the cost and timing of the project. GAO's analyses indicate cost increases ranging from $346 million to $546 million and delays ranging from 1 to 3 years as a result of a 6-month suspension of licensing activities.

House action on the CRBRP authorization has reflected a clear and unambiguous intention to proceed with licensing activities for the CRBRP. The project would be directed to proceed with the NRC technical review and hearing process to the maximum extent possible and to recoup as much of the lost time in the hearing process as possible. The public interest requires that the record on all issues be developed, that the earliest resolution of these issues be obtained, and that further undue and unrecoverable delays in the project be avoided.

The avoidance of these further unrecoverable delays and increased costs is a paramount intention of the Congress. Congress must make it clear that to the maximum extent possible the facility shall be constructed in accordance with the existing project arrangements, objectives, and schedules.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 38, noes 0.

Mr. ASHBROOK. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. TEAGUE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee having had under consideration the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, had come to no resolution thereon.

THE PANAMA CANAL TREATIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, there are a number of arguments that can, and should, be raised against these proposed canal treaties. Most of them will be discussed in depth subsequently by a number of my distinguished colleagues but, to set the stage, let me point out that no nation can expect any more from a treaty than the other signatory nation—(or nations)—believes it has agreed to. In this case, it is increasingly apparent that Panama has a far different understanding of these treaties than do many people here in the United States and, for that reason, it behooves us to examine not just the basic treaty and the neutrality pact but also Panamanian interpretations of them. If we do not—before it is too late—we may well find we can neither defend the canal nor insure its neutrality.

Just about a month ago, the head of the Panamanian negotiating team, Dr. Romulo Escobar Bethancourt, made a speech before the Panamanian National Assembly on the proposed neutrality pact wherein he outlined what the United States wanted originally, what was compromised and what he believes Panama has agreed to. In the process, he made 11 key points which boil down to the following:

First, Panama, and not the United States, will be the sole guarantor of the canal's neutrality;

Second, neutrality will not necessarily apply in cases of foreign attack;

Third, Panama is not obligated to keep the canal open regardless of circumstance; and

Fourth, U.S. warships are not entitled to preferential treatment in transiting the canal, even in time of war.

When laid alongside the basic Panama Canal treaty, these provisions cast serious doubt on our ability to defend the canal, not just after the basic treaty expires in 1999 but even in the interim. Moreover, they do not guarantee the canal will be either permanently open or permanently neutral. In fact, what they look like is a throwback to the Constantinople Convention of 1888 which provided for the neutrality of the Suez Canal but which did not prevent the Egyptians from nationalizing it in 1956.

Let us look at the provisions of this proposed neutrality pact a little more closely, especially article IV, which allegedly gives the United States the right to defend the canal against foreign aggression after the year 2000, and article VI, which provides for expeditious rather than preferential transit of the canal by our warships. Article IV, despite President Carter's statement that ". . . we have no constraints on the action we can take as a nation to guarantee that neutrality," does not say a word about defense rights. All it says is that the United States and Panama ". . . agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the canal shall remain permanently neutral.

The key word, of course, is "maintain." The administration seems to take the view that the word means "uphold" but it could just as easily be taken to mean "continue" in which case we have no right to intervene at all. In addition, the basic treaty states that the United States will pull out all of its military forces by 1999 and article V of the neutrality pact provides that only Panama shall have military forces in the area after the year 2000, so even if we have the right to intervene in theory we are effectively prevented from doing so in fact. Thus, when Dr. Escobar says, specifically, that Panama "is not giving the right of intervention" he would appear to have a pretty solid case.

Article VI, as a matter of fact, buttresses that point and then some. Quite obviously, if we cannot send our warships through the canal quicker than anyone else, it would be most difficult to defend the canal from attack. Not only that, but allowing all warships to use the canal on an equal basis, including those of nations that might have a vested interest in a takeover attempt, presents further problems. But, perhaps even more significantly, what all this plus Dr. Escobar's speech shows is that Panamanians view the United States not as a friend of neutrality but as a threat to it. Thus, the United States is only deluding itself if it infers that neutrality means to the Panamanians anything other than keeping us, above all, out of canal affairs after 2000 or that the Panamanians will interpret the treaties in any other light.

Another point should be raised about article VI as well and that is—what effect does it have on article IV of the basic Panama Canal Treaty? While it may be inferred that denying U.S. warships preferential treatment in matters of transit applies mainly to the post-2000 era, this is not explicitly stated and one must wonder if our defense rights up to the year 2000 might not be further circumscribed. If so, it would be more difficult to fight a guerrilla type conflict where speed of movement is essential to success.

Concluding, as one must, that our defense rights are no more foolproof or permanent than the aforementioned neutrality guarantees, let us turn to the question of keeping the canal permanently open. Here again, the comments of Dr. Escobar are most enlightening. According to him, the United States originally sought assurances that nothing would interfere with keeping the canal open. But the Panamanians insisted on exceptions, such as times when the canal is not operating at a profit, and, according to Escobar, rather than have them written into the treaty the United States dropped its request for a blanket assurance. As a consequence, Dr. Escobar's comment that Panama was then "freed of the obligation to maintain the canal open permanent" is not so much rhetoric but a reflection on what is likely to be reality.

If all these questions and contradictions are not enough to make us think twice about the wisdom of ratifying these treaties, then let me point out that the canal is still vital to both our economy and our defense posture and its importance is likely to increase rather than diminish in the years ahead. For one thing, Alaskan oil is beginning to come online and, by 1980, some 45 percent of it will be shipped through the canal to our Eastern ports. For another, of our 480 combat ships, only 13—the big aircraft carriers—are too big to use the canal and that number is likely to drop as carriers get smaller in the future. Finally, if we lose control over, and use of, the canal, it would necessitate the building of a two-ocean navy, something that would be very expensive to say the least.

As I noted at the outset, there are a lot more arguments that should be raised—the cost to the taxpayer, the human rights question, the psychological effect on other nations, the role of the big banks, and so forth—but, knowing these will be covered more fully by others, let me conclude by reiterating the point I made earlier—that we cannot consider these treaties in a vacuum. To make any type of intelligent judgment, we must take the Panamanian perspective into account.

Therefore, I urge my colleagues, if they have not done so already, to take a look at Dr. Escobar's speech, lay it alongside the proposed treaties and official U.S. explanation of them, and do a little comparing. I think you will see why some of us are so concerned.

Mr. FLOOD. Mr. Speaker, the signing in Washington, D.C., on September 7, 1977, of two proposed new Panama Canal treaties, which was preceded and attended by a carefully planned propaganda deluge, was no surprise to informed observers of interoceanic canal questions; instead, it was a direct consequence of the February 7, 1974, Kissinger-tack eight-point "agreement of principles" to govern the negotiation of the treaty, which negotiation involving the disposal of valuable territory and property of the United States, was not authorized by the Congress.

Briefly summarized, those "principles" provided for the following:

First, the Treaty of 1903 with Panama and its amendments will be abrogated.

Two. The concept of perpetuity, which was embodied in the 1903 treaty, will be eliminated and replaced by a fixed termination date.

Three. The ending of U.S. jurisdiction over the Canal Zone will take place promptly.

Fourth. The Canal Zone will be "returned" to Panamanian jurisdiction.

Fifth. The geographical location of Panama on both sides of the Canal Zone will be recognized as its "principal" resource and Panama will be given "just and equitable" share of canal benefits.

Sixth. Panama will participate in canal administration.

Seventh. Panama will participate in the protection and defense of the canal.

Eighth. The United States and Panama will agree on new projects to "enlarge canal capacity."

The foregoing principles represented the major Panamanian demands over a period of years. They were promptly recognized by informed Members of the Congress as a "blueprint" for an abject surrender by the United States of its treaty-based sovereign rights, power, and authority over both the canal and its indispensable protective frame of the Canal Zone.

Mr. Speaker, in my years of study of Panama Canal history and problems, I have learned that there is little that is new. Today's problems existed in the early part of the 20th century when U.S. Isthmian Canal policies were formulated. In a superficial sense conditions have changed not for the better but for the worse. For these and many other reasons, a knowledge of Panama Canal history is imperative to arrive at policies derived from a reasoned line of thought.

Mr. Speaker, before the various aspects of the proposed treaties are discussed, it is absolutely essential to understand the diplomatic foundations of present Panama Canal policies, which are rooted in three important treaties.

First, the 1901 Hay-Pauncefote Treaty with Great Britain in which the United States made the long-term commitment to construct and operate the Isthmian Canal under the main points in the 1888 convention for the operation of the Suez Canal; and

Second, the 1903 Hay-Bunauvarilla Treaty with Panama, as amended, for the construction, maintenance, operation, sanitation, and protection of the Panama Canal, which was negotiated pursuant to the Spooner Act of 1902 that authorized the President to acquire by treaty the perpetual control of what is today the Canal Zone; and

Third, the 1914–22 Thomson-Urrutia Treaty with Colombia, which recognized the title to the Panama Canal and Railroad as vested entirely and absolutely in the United States, in return, it gave Colombia financial compensation and granted it permanent rights in the use of both the canal and railroad.

The negotiation of these three important treaties were the contributions of some of the ablest U.S. leaders in American history. They knew the background of the isthmus as a land of endemic revolution and endless political intrigue. They had learned the lessons of the Suez Canal.

They understood the difficulties with Colombia experienced during the first efforts to secure a satisfactory treaty for the Panama Canal and determined to solve permanently the problem of sovereignty in the Canal Zone by means of a treaty grant of "sovereignty en bloc" in perpetuity.

With duality of control over the Canal Zone as originally provided with the treaty with Colombia removed in the treaty with Panama, the framers of the 1903 treaty were justified in feeling that what would have been perpetual causes of conflicts and recriminations that usually feature extra-territorial rights had been eliminated forever. More than any other single factor, it was full sovereign control over the Canal Zone that enabled the United States to accomplish the difficult task of constructing, managing and protecting the canal effectively in both peace and war.

The Canal Zone is a constitutionally acquired domain of the United States. The treaties and statutes relating to it, as embodied in an extensive Canal Zone Code, are the "supreme law of the land." The validity of the U.S. title over the zone and canal is completely established.

As estimated in 1974, the cost of acquiring the Canal Zone was over $166,000,000, our most costly territorial acquisition. The total investment in the enterprise since 1904, including defense, is over $7,000,000,000.

The canal has proved its strategic value in two world wars, the Korean and Vietnam wars, and the Cuban missile crisis. The U.S. armed forces, on two relatively recent occasions, in fulfillment of our treaty obligations, protected the canal against "lawlessness and disorder" by repelling attempted Red-led mob invasions of the Canal Zone.

In defiance of the lessons of history and the realities involved in the mounting struggle for world domination, the framers of the September 7, 1977, proposed treaties would surrender this priceless asset of the United States to a small, weak, unstable and technologically primitive country. Such surrender is a program for disaster, and this fact is recognized by a vast-majority of our people in spite of an extensive propaganda to the contrary.

Mr. Speaker, the participants in this colloquy are to be highly commended for their clarifications and revelations concerning a highly complicated situation, what they have stated will be repeated both at home and abroad and aid in bringing about the rejection of the two giveaway treaties.

When the canal problem is reduced to its essentials there are only two crucial issues and they are simple:

First, retention by the United States of its undiluted sovereign control over the Canal Zone; and, second, the major modernization of the existing canal under existing treaty provisions.

Such modernization under the strongly supported terminal lake-third locks solution, which was developed in the Panama Canal Organization during World War II, can be accomplished at "comparatively low cost" with every assurance of success.

It will avoid diplomatic entanglements and provide the world with the best canal for the transit of vessels practicable of achievement. It will revitalize the isthmus and alleviate the economic conditions in Panama enormously as well as stimulate employment in the United States.

In addition, the Congress should authorize the election of a delegate in the Congress by U.S. citizen residents in the Canal Zone.

The situation on the isthmus is not a mere conflict between Panama and the United States but a focal matter in the current U.S.S.R. effort for world domination through gaining control of strategic waterways. The strength of the U.S. Navy has been reduced from 1,000 vessels a decade ago to about 470 ships today. Thus the Panama Canal is a more vital element in the U.S. seapower than ever. We can surrender its sovereign control only at our peril, for its loss would quickly transform the Caribbean and the Gulf of Mexico into red lakes.

As to current efforts to polarize proponents of surrender of the Canal Zone and opponents as liberals and conservatives, respectively, this is a fallacious endeavor. The canal question transcends all partisan considerations for it is an American issue relating to the security of the United States and of the entire free world.

Finally, Mr. Speaker, the United States is a great and powerful nation. The time has come to stop grovelling accommodations to repeated threats of violence and to act the part of a great power. There is no better place to draw the line than in the U.S. Canal Zone by rejecting the proposed treaties in their entirety.

Mr. ASHBROOK. Mr. Speaker, the Carter administration is attempting to get the new Panama Canal Treaty accepted by Congress and the American people. One of the main arguments used by the President and his associates is that the United States will be able to defend the neutrality of the canal.

Taking a look at that assertion does not give much confidence. Who honestly thinks that an American President would dispatch American troops to the Panama Canal once this country turned over the canal to the Panamanians? Of course, the answer is, very few.

In spite of rhetoric about the United States guaranteeing "the security and defense of the Panama Canal," the reality is clear. The new treaty would give up the canal to an unstable country ruled by a dictator. How that country will be able to protect the canal better than the United States is a question that has not been answered.

Proponents of giving the canal away argue that it is no longer as important to the United States. However, this overlooks the fact that the number and average size of ships using the canal is growing. In addition, during the Vietnam period the number of Government ships passing through it grew from 284 in 1965 to 1,504 in 1968. According to figures that I have from a few years ago, about 70 percent of the traffic through this waterway either originates or terminates in U.S. ports.

Stripped to their essentials, the agreements reached are little more than a surrender of American sovereignty over the U.S. owned zone and canal. The Panama Canal is far too important to give away to the anti-American Panamanian dictator. It is vital to the defense of the Americas. Last year, when I asked the Department of Defense how many American naval vessels could not navigate the waterway, I was told 13. The use of the canal for defense purposes is obvious.

Hanson W. Baldwin, a former military correspondent for the New York Times and Pulitzer Prize winner, has written an excellent article in opposition to a Panama Canal giveaway. According to Baldwin, "The future security and well being of the United States are threatened by the administration's proposed abandonment of sovereignty over the Panama Canal and the Canal Zone."

Not only does President Carter want to give the canal to Panama but he also would have us pay the Panamanians for the privilege of taking it. In addition to increasing payments from the operation of the canal to Panama to as much as $70 million a year, the U.S. negotiators have pledged up to $200 million in Export-Import Bank credits; up to $75 million in AID housing guarantees and a 20 million Overseas Private Investment Corp. loan guarantee. It makes one wonder who our negotiators were negotiating for.

This becomes even more the case once the treaty terms are read. The terms of the treaty show what a sell-out it really is. Following is a summary of those terms from the Washington Star.

SUMMARY OF TREATY TERMS

(Note.—Here is a summary of major principles of the two Panama Canal treaties signed last night by President Carter and Panamanian leader Omar Torrijos).

CONTROL

The United States and Panama would administer the canal jointly until the expiration of the new treaty on Dec. 31, 1999, turning control, management and maintenance of the canal at that time over to the Panamanian government. The old treaty, signed in 1903, gave the United States perpetual control over the canal and adjacent Canal Zone.

DEFENSE

For the duration of the treaty the United States has primary responsibility for defense of the canal. A board of U.S. and Panamanian military officers is established to consult on defense matters and every five years review military resources made available by both countries. The United States may decide on its own how and when to reduce its 9,000-man military force in the Canal Zone and schedule the closing of 14 bases there during the life of the treaty.

COMPENSATION

The United States will pay Panama $50 million to $60 million annually from canal revenue and an additional $10 million a year for the canal's operation. Panama also will receive $50 million in military assistance over the next 10 years.

LANDS AND WATERS

About 70 percent of the 500-square-mile Canal Zone reverts to Panama as soon as the treaty is ratified with the United States retaining temporary control over the rest, including areas considered vital to running the canal.

JURISDICTION

Within three years of ratification, the 3,500 American civilian employes in the Canal Zone would be subject to Panamanian law instead of American law. Panama after three years would take responsibility for public and social services, including schools, the Canal Zone police force and postal service.

NEUTRALITY

Under a separate treaty, the two countries agree to a guarantee that the canal will remain open to ships of all nations and that the canal's neutrality will be respected "in times of war as in times of peace." American and Panamanian warships and other vessels are given priority to use the canal.

Mr. DORNAN. Mr. Speaker, as a member of the Subcommittee on the Panama Canal, I have spent much of my time researching the technical, diplomatic and military history of the U.S. Canal Zone and Panama Canal. And the more I study, the more I admire the vision of the framers of our canal policy in insuring our sovereignty over the canal and its protective shell of the zone.

Although there were many opportunities for the framers to settle for an arrangement that granted less than sovereign rights, they foresaw the importance to the United States of maintaining ultimate power and authority over the canal and zone.

No aspect of the canal illustrates this importance more clearly than the military. In military affairs there is simply no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace to our enemies. In a letter to President Carter, four former Chiefs of Naval Operations brought home the danger to the United States if the canal and zone were to be controlled by a foreign power:

Under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense with enormous potential consequences for evil.

Many of the proponents of the President's canal treaties argue that the canal has a declining strategic and economic value. The truth of the matter is that this strategic waterway is not only important to the United States today, but may well be more important than ever before in the history of this country.

As is clear to anyone who looks at a map of the world, the canal enables the United States to transfer its naval forces from ocean to ocean to meet strategic needs. This is particularly important in view of the dwindling size of our navy and the increasing size of the Soviet fleet.

Those who favor the Carter-Torrijos treaties also state that the canal is outdated—and therefore useless—because not all of our naval ships can transit it. It is true, of course, that there are 13 aircraft carriers which are too wide to pass thru the canal. Although this small percentage of our ships cannot transit the canal as it exists today, hundreds of combatant vessels, from submarines to cruisers to supply ships can be and are being sent through the canal with ease. Moreover, the Navy's largest aircraft carriers which cannot transit the canal as it is today can be strategically stationed as international tensions build in any part of the globe. In the longer run, even this shortcoming can be corrected: as carriers become smaller or as the canal is modernized under U.S. auspices, this problem will disappear.

The strategic value of the canal is not theoretical. Time and time again, the waterway has proven its worth to American military strategy. Emergency transits of our naval units and the consequent massive logistic support of our Armed Forces were effected during the Second World War, Korea, Vietnam, and the Cuban missile crisis. As long as the vast bulk of our navy can transit as it can now, the canal offers inestimable strategic advantages to the United States at minimum cost. To put it simply, it is the best bargain in our military arsenal.

But the strategic value of the canal would be completely inverted if the United States were to surrender its sovereignty and control to Panama. As mentioned, the value to the United States of denying the use of this strategic waterway to our adversaries would be lost to us.

At a time when the U.S. naval capabilities are being overshadowed by those of the Soviet Union, the threat to our Nation's safety is compounded by the possibility that the canal may be turned over to Panama, a nation the size of Atlanta. A country of this size—even if it had the best of intentions to remain a friend of the United States—would find it difficult, if not impossible, to resist the pressures of stronger nations. And I for one do not believe that Panama has the intention of remaining a friend of the United States. The present Panamanian Government has the closest of ties with Castro's Cuban dictatorship which, in turn, is up to its neck in Soviet alliances. A schoolchild could add up those facts and know that any surrender of our sovereign power to Panama is little better than surrendering it directly to the Soviets. Already there are reports of Soviet "advisers" pouring into Panama as they did in Cuba. Already the Panamanian-Soviet link has been strengthened by the recent signing of an economic pact which will serve only to make the Torrijos regime more dependent on Soviet good will. Parenthetically, it should be noted that the Soviet Union is the only power besides the United States with the technical expertise to operate the canal. Once the Yanquis have gone home, it is obvious to whom Torrijos will turn to run his canal.

Soviet advisers today. Soviet airfields and ports tomorrow, and a Soviet Canal by the year 2000.

There are some in Congress and across the United States who do not know whom to believe on the issue of the Panama Canal treaties. The State Department tells them one thing and strategic experts tell them another. To those people, I would say: Just remember what the State Department told you in 1960 about Fidel Castro. They said that he was not a Communist. Now those same people are telling you not to worry about turning over our canal because Torrijos is not a Communist. The State Department was wrong then and it is wrong now. It is imperative that the canal remain in our hands—for our own safety and for the safety of the Western Hemisphere.

Mr. BAUMAN. Mr. Speaker, one of the most important points of the new treaty on the Panama Canal is the issue of permanent neutrality. In the opinion of many observers, this—along with the defense issue—is really at the heart of the matter. According at least to most of those who are in favor of ratification, if the treaty guarantees neutrality and if U.S. defense priorities are firm there is very little left with which to object,

and passage of the treaty would be in the best interests of the United States. Many of my colleagues, Mr. Speaker, will address the issue of national defense. Permit me to make known a number of other points on the related issue of neutrality. If it can be shown that this treaty in fact jeopardizes the canal's permanent neutral status then, I believe, that the Congress has an obligation, not just to the American people, but to the international community at large to reject the present treaty.

The fact that this issue is vital is illustrated by the separate and distinct pact, signed separately by President Carter and General Torrijos, governing the conditions of neutrality. Article I of this second treaty guarantees the permanent neutrality of the canal. Article II pledges the signatories to equality of passage, while article III lists several stipulations regarding security, efficiency and maintenance. A number of other articles deal with the implementation of permanent neutrality. In an accompanying protocol to the second treaty it is further stipulated that all nations of the world be invited to sign the neutrality instrument, which will be deposited at the Organization of American States.

On the face of it, Mr. Speaker, it appears that the permanency of neutrality is a universally guaranteed right which cannot be abrogated. It is my own opinion, however, that this is anything but the case and, to the contrary, the passage of the present treaty contains a number of pitfalls which might, in the future, seriously jeopardize neutrality.

In the first place, I am philosophically skeptical of the wisdom of placing our faith in the observance of a treaty with the present Government of Panama. One solid fact of accomplishment, in this connection, stands out: under American presence and administration the canal has always been open during both war and peacetime. This is a record which all Americans can be very proud of, and it is a record, furthermore, which required no special treaty to guarantee it.

Even under the best of conditions, second, I would still be skeptical about leaving the enforcement of neutrality in hands other than American. What can substitute for the guaranteed presence of American military power? The strategic vacuum that will be created by this treaty—even before the year 2000—offers at best a paper pledge no better than the intent of those countries in a position to enforce it. And who are these, Mr. Speaker: Only two—the United States and Panama will be in real position to determine the future accessibility of the canal to world shipping. It is of the utmost importance, therefore, to understand how these two countries interpret the neutrality conditions and, in effect, how they intend to enforce them.

Does the interpretation of the treaty held in the United States coincide exactly with the Panamanian interpretation? If the answer is no, the treaty is not only in grave trouble in the U.S. Congress, but the canal itself might be in equal trouble during the years ahead.

I believe, Mr. Speaker, that there is sufficient evidence that Panama's view of the treaty seriously differs with the American view. Dr. Romulo Escobar Bethancourt, Panama's chief treaty negotiator, told his country's national assembly on August 19 of this year that the canal might not remain open under all circumstances. "Differences . . . arose," he declared, "in what they—American negotiators—understood by neutrality and what we understood by neutrality." The American position, he went on, required a U.S. guarantee of the canal's neutrality and a permanently open canal. On both points, Dr. Escobar related, the United States conceded to Panama. Under the present treaty, we will not guarantee the canal, nor can we be assured that it will always remain open.

If Panama should decide that the canal is unprofitable, for example, it reserves the right to close it. If internal disorder in Panama dictated it, furthermore, Panama would also be able to temporarily close the canal. Thus, Dr. Escobar concluded, "Panama was freed of the obligation to maintain the Canal open permanently".

This is an amazing admission, Mr. Speaker, which I am sure is unknown to most Americans. What good is a permanently neutral canal, I ask, if it is not guaranteed by military power or if it can be closed by the country in territorial possession? Was the neutrality of the Suez Canal worth much during the many years that it was closed by Egypt?

Lest there be any mistake about this matter, let me conclude by reaffirming what we are doing if we ratify this treaty. We are taking ourselves out of the Panama Canal, lock, stock, and barrel. Even before the termination date of 2000, we are permitting Panama—and Panama alone—to determine the essential neutrality of the canal. Treaty pledges notwithstanding, Panama believes that it has the option to define neutrality and to enforce it. Listen again to Dr. Escobar:

> We did not give in either to the American's insistence that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone, in other words, that Panama be the one to declare the Canal permanently neutral.

Mr. Speaker, in light of these interpretations of the treaty by Panama's chief negotiator, I ask publicly that the administration give us its own view of the neutrality pledges and how it intends to enforce them. As it stands, I oppose ratification of this treaty and I will continue to oppose any change in the status quo.

Mr. McDONALD. Mr. Speaker, I am pleased to join today with my friend and colleague Congressman PHIL CRANE of Illinois in this Special Order on the proposed Panama Canal Treaty.

The Carter administration has begun its educational process on the treaty and it hopes thereby to convince the American people somehow that it is right to give up our canal in Panama and to pay the Panamanians for taking it off our hands.

Now that this treaty is in the public view, the boys in the State Department have to convince the American people that a leftist dictator is the proper person to take custody of the American property and look after it. We are further to be convinced that we still have the right to defend the canal, even though no such language exists in the treaty to provide for any defense by the United States after December 31, 1999. The so-called neutrality protocol of the treaty is worthless.

We are further informed that the canal is no longer strategic in spite of the fact that all but our largest naval aircraft carriers can use the canal, and now with a smaller navy, strategic mobility is needed more than ever for our fleet.

Furthermore, a new element has entered the picture. Alaskan oil is now going through the canal. This oil will increase traffic through the canal by some 700 transits a year by 1982, it is estimated. This oil is vital for the eastern United States.

Other questions need to be answered as regards the treaty President Carter signed. Such as, were the very generous financial terms promised to Panama related to the large loans outstanding to certain New York City banks? Was not it a conflict of interest for Mr. Sol Linowitz to have negotiated this treaty while at the same time having an official capacity with one of those same New York City banks? Did we grant too many concessions to Panama in order to meet a time deadline so that Mr. Linowitz's appointment would not run over 6 months and he would have to come before the U.S. Senate for confirmation?

The American people, through their elected Representatives, have a right to answers to these questions and more. They have a right to be represented by their elected Representatives in approval or disapproval of this treaty in accordance with article IV, section 3, clause 2, of the Constitution, which states that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." And there is no question but what this is sovereign American territory. This has been stated in three U.S. treaties with Panama and upheld by the U.S. Supreme Court on several occasions, for example, Wilson against Shaw, 1907, and U.S. against Husband R in 1972.

Will there be violence and sabotage in the Canal Zone? There may, and if it comes, it ought to be dealt with very firmly. Any that does occur will have to be on the orders of General Torrijos as nothing happens by accident in a dictatorship, and we should remember that. We can and should defend the canal. Not by getting out and having to invade it at some future date in order to save it from a Castro, but by maintaining whatever military presence in the Canal Zone necessary to protect our interests.

Lastly, we should not forget that Torrijos is a friend of Castro and the Soviets are also waiting in the wings. A top level Soviet delegation was just recently in Panama. Our canal could go the way of the Suez Canal and be closed for 8 years

at tremendous cost to the American consumer. The treaty should be defeated.

Mr. SNYDER. Mr. Speaker, I want to call to the attention of my colleagues several questions put to Ambassadors Linowitz and Bunker on April 17 last in open hearings of the Committee on Merchant Marine and Fisheries regarding the new Panama Canal treaties.

What is of particular interest is the way these questions were ducked.

Of course, the negotiations at that point were still unconcluded.

Now that the treaties have been signed, however, uncertainty remains—what exactly are the answers to these specific questions?

The Ambassadors wanted to testify on August 17 only in executive session. Chairman JOHN MURPHY of New York promised them such a session at a later date.

I ask at this point, is there anything they could tell us in executive session that is worth a continental? If it is not spelled out in the treaties someplace, what good is it?

The existence of secret agreements has been officially denied, so all that binds Panama is what we can read in the treaty texts.

On August 17 the following questions were asked by my colleague from Kentucky (Mr. HUBBARD), and the gentlelady from Maryland (Ms. MIKULSKI), and myself:

1. Mr. HUBBARD. I understand the United States is not restricted from intervening militarily after the year 2000. Does this mean that the United States will have an affirmative right under international law to intervene, and should we intervene, would the United States risk international repudiation if other nations were to disagree with the decision of our Government to intervene?

Ambassador LINOWITZ. It would not be appropriate at this time for us to talk about the precise language. When the treaty is put into official form, you will have adequate opportunity to examine it.

Mr. HUBBARD. But you would try to protect our right under international law to intervene, in the wording?

Ambassador LINOWITZ. We will not use the words "intervene" or "intervention", I can guarantee you.

2. Mr. SNYDER. Do you mean "perpetuity" when you say "indefinite" and "permanent" in your statement today?

Ambassador LINOWITZ. I mean indefinite. On the record we will not go into further discussion on that point.

3. Mr. SNYDER. Well, does the neutrality that you refer to in your statement today mean that warships of an enemy at war with the United States could pass through the canal?

Ambassador LINOWITZ. Again, you are getting into specific provisions of the treaty which will have to wait until the treaty is ready.

4. Mr. SNYDER. Does it mean warships of an enemy of the United States not yet at war can cross through the canal?

Ambassador LINOWITZ. Mr. Congressman, you are asking these questions and I cannot address them in open session.

5. Mr. SNYDER. The State Department fact sheet, page 3, states, "Panama will assume general territorial jurisdiction over the present Canal Zone at the Treaty's start." Does that take place immediately upon ratification by the President, with the advice and consent of the Senate, or after various kinds of legislation that your counsel said we are going to have to adopt to implement the treaty?

Ambassador LINOWITZ. Territorial jurisdiction would not require implementing legislation.

Mr. SNYDER. So that will take place immediately upon the ratification of the treaty by the President with the advice and consent of the Senate?

Ambassador LINOWITZ. Yes, sir.

Mr. SNYDER. Does that language mean that the Guardia Nacional would be able to move into the Zone at that time, that is, Torrijos' army?

Ambassador LINOWITZ. The United States has the primary responsibility for the defense of the canal under the terms of the treaty?

Mr. SNYDER. We are not talking about defense; we are talking about police. That is, his police force.

Ambassador LINOWITZ. I am saying that any force that comes into the canal comes in with the knowledge that the primary responsibility is that of the United States and we are in that position.

Mr. SNYDER. Who will do the policing of the canal, not the defense?

Ambassador LINOWITZ. We are now getting into the terms of the treaty which I don't think we ought to discuss.

6. Mr. SNYDER. If we have a problem with the leadership down there in violation of the treaty, which they have done in times past, might not we be involved in another Normandy-type landing?

Ambassador LINOWITZ. It would not be appropriate for us to discuss this in open session.

Mr. SNYDER. You wouldn't want to pass judgment, then, on whether it might be a Bay of Pigs instead of Normandy?

7. Mr. SNYDER. Will you tell me how the U.S. military forces can take quick and effective action coming in over the beaches after the year 2000 to maintain the neutrality of the Canal without a secured air field down there?

Ambassador LINOWITZ. I don't think we can discuss that.

8. Ms. MIKULSKI. Thank you, Mr. Chairman. I would like to come back to a very fundamental question where we talk about maintaining the neutrality of the Canal. How do you see that neutrality being maintained

Ambassador LINOWITZ. You mean specifically?

Ms. MIKULSKI. Yes, specifically. Everybody says the Canal is going to be neutral territory. How will that be maintained? Since we are going to assume the responsibilities for maintaining the neutrality, how are we going to do it?

Ambassador LINOWITZ. The U.S. and Panama will have responsibility for maintaining the neutrality of the Canal. We will be in a position to undertake whatever is necessary to assure that neutrality is maintained.

Ms. MIKULSKI. What does "undertaking whatever is necessary" mean?

Ambassador LINOWITZ. I don't think in this open session we should go into that.

Has publication of the treaties answered these questions thoroughly?

Are they answered to the satisfaction of the Congress and the American people?

I think not.

Mr. Hubbard's question was pointed at our right to intervene to protect the canal and what other nations would think of it? I ask now, how can we intervene if Panama herself says we have no right to intervene?

Yet that is precisely what Panama's chief negotiator, Romulo Escobar Bethancourt, has been saying.

Article IV of the "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal," is the basis for the administration's claim that the United States has the right to intervene to protect the canal.

It states:

> The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

Listen to what Escobar Bethancourt declared on this vital matter in an August 24 press conference in Panama City, as reported by the Panama City Domestic Service:

> Now, there is the question of whether this does or does not give the United States rights to intervene in Panama.
>
> Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word [intervention] was discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. What is the meaning of "will maintain?" In practice, the meaning of "will maintain is that, if neutrality is ever violated, Panama on one hand and the United States on the other, or the two countries jointly, will determine how they will guard the canal against such a violation.
>
> "Continuing on the subject of neutrality, Escobar Bethancourt maintained that "the neutrality pact does not provide that the United States will say when neutrality is violated. That is not provided there. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remains open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not.

In no way did the Ambassadors answer my question regarding the tenure of the Neutrality Treaty by equating perpetuity with indefinite, or permanent, and there is a vast difference, obviously. Mr. Linowitz declared in the hearing that the word perpetuity did not appear in the treaty, and it does not.

The same article IV is evidently the only basis for anyone's interpretation of the life of the Neutrality Treaty.

Panama can renounce that pact anytime it chooses, and then where will we be?

I am certain the American people are interested in the answers to my questions regarding the right of enemy warships to pass freely through the canal.

The Ambassadors ducked my two questions.

The Neutrality Treaty states quite clearly in article III(e):

> Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance.

I wonder if the Senate wants to assent to a treaty by which the United States would be required to insure the safe passage through the canal of warships of the U.S.S.R. at a time we would be at war with the Soviets?

We cannot forget that neutrality is a vague, abstract concept which is defined

by the rules and regulations set forth by the sovereign or the authority that controls the waterway. Clearly, after year 2000, that will be Panama, exclusively. We have that exclusive right today. Even before 2000, Panama could give us trouble on this point since she will have a measure of joint authority over the canal.

Panama, after 2000, can define neutrality as meaning no U.S.S.R., no U.S.A., no anybody through the canal whose policies she does not like should it be to her self-interest.

In regard to my questions concerning the Guardia Nacional moving into the zone, what is still the major question is what President Carter would do should the Senate consent to ratification. Would he exchange ratifications with Panama—assuming that country ratifies the treaty—before, or after the whole Congress acts on implementing legislation regarding the transfer of property?

Questions still remain regarding the specific matter of policing the zone.

William R. Drummond, president of the Canal Zone Police Union, Local 1798, American Federation of Government Employees, indicates that certain aspects of the treaty are still open to question and interpretation. These areas include procedures for criminal investigation and criminal jurisdiction over both canal employees and their families, and armed forces personnel and their families.

My last two questions put to the Ambassadors, and Congresswoman MIKULSKI's question, addressed the same vital matter—the canal's neutrality—how would we go about moving in to protect the canal after we have pulled out?

The Ambassadors ducked the questions, and obviously the treaty does not answer them.

Of course, Escobar Bethancourt has already thrown monkey wrenches into our very right to intervene.

How can we possibly be better off under the proposed treaties than we are now?

It is a simple military concept that it takes at least three times the force to take an objective than to hold it.

We have military forces on site in the Canal Zone now.

We will have zero military force on site there after 2000.

That signifies perhaps at least three times the loss of American lives should we have to retake the Canal Zone if an aggressor seizes it, than would be involved to protect it if we do not give it to Panama.

The proposed treaties should be rejected.

Mrs. HOLT. Mr. Speaker, I wish to join my distinguished colleagues in expressing grave concern over the fate of Panama Canal under these new treaties. One aspect of the treaties which should be of particular concern to the United States is the effect which an American withdrawal from the Canal Zone will have on the balance of power and influence in the region.

All sides in this dispute agree that the U.S. presence in the Canal Zone is a formidable one. It is at the same time a peaceful one, and a force for stability in the area. Through that presence, the vital interests of the United States are protected—particularly the right of free and unhindered passage for our merchant and military vessels. The American presence is also a reliable and trustworthy guarantee that the canal will remain neutral, and that the vessels of all nations will be afforded the right of free passage. The efficient American administration of the canal and governance of the Canal Zone has thus operated to the benefit of all nations, Panama included, by holding the canal separate and apart from the political or ideological conflicts of the day.

It should also be pointed out that while the rights of all nations are thus protected by the American presence, the effective neutrality of the canal is a matter of particular importance to the United States. As a nation which spans the continent, the canal provides a vital sea link between the East and West coasts. It is also in our interest to forestall the intrusion of hostile foreign influences in nearby areas which could possibly pose a threat to American security. The Cuban missile crisis and its lessons remain with us today, and I would shudder to think of what this Nation's strategic position would be today if we had not had the courage to squarely meet the threat of offensive Soviet missiles in Cuba.

We must not lull ourselves into thinking that the hemispheric challenge posed by the Soviets is past, however. In fact, the vacuum left behind by a U.S. withdrawal from the Panama Canal Zone may afford an ideal opportunity for the expansion of Soviet influence in the Carribbean. The Soviet-Cuban connection is already well documented; Socialist or Marxist-style regimes are currently in place in Jamaica and Guyana, and the sympathies of both governments with the regime of Fidel Castro are scarcely disguised. The Soviet Union is also known to be attempting to expand its influence with the leftist military Government of Peru.

These are developments which bear watching. Infinitely more important, however, is the possibility that Soviet influence might one day fill the vacuum left behind by an American withdrawal from the Panama Canal Zone. This is not idle speculation, but a very real and plausible security consideration for this country. It carries direct implications for the effective guarantee of the canal's neutrality once it is under Panamanian control. I might point to the remarks of Dr. Romula Bethancourt, head of the Panamanian negotiating team, made before the National Assembly of Panama this last August 19. Speaking of the negotiating process leading to the final treaties, Bethancourt revealed that—

> The United States then proposed that there be a neutrality treaty between Panama and the United States and no one else. Because they did not want for either the Russians, the Cubans, or the Chinese they said so exactly—to intervene in the neutrality of the Panama Canal. Our position was that neutrality didn't make any sense if limited to two countries as a result of a treaty between the United States and Panama and that we opposed the other countries not having the right to join in that treaty. They changed their position and agreed to allow the countries of the American continent (except for Cuba), but no other, to join. We said no, that this was meaningless, because in case of a war between the United States and Russia or China, those countries not being a part of the neutrality agreement would be under no commitment to respect the Canal or the Isthmus of Panama. That was another reason for long delays, until they finally accepted the idea that all countries of the world could join the neutrality treaty.

So then, the door is open. What will happen? Even now, the Soviets are evidencing a new interest in Panama. A little over 2 months ago, from July 11–19, a Soviet economic delegation paid a visit to Panama. It has been revealed that during that visit, the Soviets discussed: a possible purchase from Panama of 50,000 metric tons of sugar; possible establishment of a Russian factory to repair sugar refining equipment; possible construction by the Russians of a hydroelectric plant; and the establishment of a Soviet presence in the Colon free zone, on the Atlantic side of Panama. It is also believed that discussions were held on the opening of a Soviet bank in Panama City.

It has been pointed out that these arrangements offer little commercial advantage to the Soviets, who already have an excess supply of sugar, yet have offered to pay Panama high prices for its own excess. We cannot know for sure, but this very strongly suggests that the objectives of this Soviet opening to Panama are other than commercial. What seems likely, in fact, is that already the Soviet Union is laying the groundwork for an expansion of its own influence in the void that will inevitably be left behind by an American withdrawal from the zone. The instability of the Torrijos regime and the leftist views of General Torrijos himself suggest that a Panama devoid of American presence may offer fertile ground for Soviet manipulation and influence.

This, I firmly believe, is something we cannot afford. Such a development may or may not come to pass. It is impossible to read what will happen in the future, but already we have evidence before us, and it is not encouraging. The interest of this country in the neutrality and impartial operation of the Panama Canal is too great to allow us to run the risk that we might be supplanted in the Canal Zone by a Soviet or any other hostile influence. Against such influence, these treaties offer no guarantee. I strongly urge their defeat.

Mr. SPENCE. Mr. Speaker, there are so many reasons why the U.S. Congress should not ratify the newly negotiated Panama Canal treaties that I hardly know where to begin. But please note that I spoke of the U.S. Congrses, rather than the Senate alone, in connection with ratification. I did so deliberately, because I do not believe it is either legal or constitutional for the vast amount of territory which the United States owns in Panama—territory to which we possess fee simple title—to be given away by the President and the Senate without the concurrence of this body. Others more qualified than I will probably discuss that

issue in detail today, but I want to make it absolutely clear that I will consider any transfer of title to property this Government now owns by right of purchase in Panama to be illegal and in direct violation of article IV, section 3, clause 2 of the Constitution, unless the House concurs in its transfer.

Second, let me note that I resent the idea currently being given such wide currency by proponents of the treaties that they must be ratified or we will be precipitating violent opposition in Panama and will be subjecting the United States to embarrassment and vilification in the capitals of the world. To take such a position is to engage in political blackmail, more compatible with the Marxist regime in Panama than with the representative democracy and system of checks and balances which are a revered part of the constitutional government we enjoy in the United States.

Who, after all, negotiated the treaty? The executive branch. Who announced its theretofore secret terms only days before the signing ceremony? The Chief Executive. If the United States treaty-making procedures, as outlined in the Constitution, were not clearly spelled out for the benefit and understanding of the leaders of Panama with whom we were negotiating, then there has been a reprehensible breach of faith both with those Panamanian leaders and with the Congress and the people of the United States. If it was so spelled out, then the leaders of Panama know that the treaty means nothing until it is ratified and failure to ratify it provides no legitimate cause for violence or rebellion which does not already exist.

That, then, is the crucial issue. Does any legitimate reason currently exist for such threats as Panama's chief negotiator, Dr. Romulo Escobar Bethancourt, made when he warned on August 19 that—

> If the Senate does not approve the treaty, Panama will adopt a course of violence.

When viewed against the historical background that there would be no Panama if it were not for the United States; that there would be no Panama Canal if it were not for the United States; that Panama received what amounted at the time to very generous compensation for the land required for the Canal Zone—over $44 million in addition to the $25 million we paid Colombia, her parent republic; that the United States has increased the annual payments to Panama as inflation has hit the world and has paid, through 1976, annuities totaling $56,600,000; that we have financed improvements there costing nearly $1.4 billion; and that we own fee simple title to the land and have consistently kept the canal open to ships of all nations—in view of all these facts, and the obvious willingness of Congress to agree to more participation by Panama in the operation of the canal and more generous financial arrangements in the future, I fail to see how any reasonable person could suggest that Panama has any legitimate grievance against the United States at all, let alone any that is worthy of a resort to violence. And, if their grievances are not legitimate, to give in to their demands or even to dignify them by serious negotiation is the rankest sort of appeasement. To do so gives new hope to every political terrorist group in the world and encourages every country with whom we have negotiated agreements for bases or other facilities or from whom we may have purchased territory, to demand it back with the same threats Panama has used and under the same munificent terms conceded to Panama in these treaties.

Mr. Speaker, despite my misgivings on these and many other points, the major topic I wish to address today is the question of whether the treaties do, in fact, insure our right to maintain the neutrality of the canal in the future and how we would accomplish that goal.

All of the verbal assurances we have received from the administration to the contrary notwithstanding, my personal review of the treaties and everything I have read relative to their interpretation convinces me that we have absolutely no such guarantee and that our ability to insure the neutrality of the canal in the future—or even our own right to use it—depends entirely upon our willingness to go to war for that purpose. Were the canal to come under military attack, that is, of course, our only resort even now, and the canal would be difficult enough to hold and protect militarily today. However, if it is indeed the case that the treaties provide us no legal right to unilaterally enforce neutrality, then giving up our bases and our physical presence there, as the treaties require, would greatly impair our ability to enforce such neutrality, as we are pledged to do under the Hay-Pauncefote Treaty with Britain, or to insure our own access to the canal even by military means in the future.

I am deeply concerned that we are being asked to approve a set of treaties which in fact do not do what we have been told they will do with regard to this matter of neutrality. The treaty language which purports to protect this right is unconscionably vague. And the assurances we have been given by the administration that Panama "understands" the language to mean that we have a right to guarantee neutrality are betrayed by the words of the very Panamanian who served as that country's chief negotiator of the treaties. Let me quote him directly, from a speech of August 19 to the Panamanian National Assembly:

> We did not give in either to the American's insistence that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone; in other words, that Panama be the one to declare the Canal permanently neutral . . . Those are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention.

If the power to guarantee neutrality is, in fact vested solely in Panama, or even if it requires the cooperation of Panama—if, in other words, the right is not unilateral with the United States—then the treaty is not worth the paper it is written on insofar as the questions of neutrality or the protection of our own legitimate interests in the canal are concerned.

Mr. Speaker, in support of this viewpoint, I ask unanimous consent to insert at the conclusion of my remarks the text of Dr. Bethancourt's speech before the National Assembly; the text of a feature article from the September 17 issue of Human Events, entitled "Do New Treaties Give United States Right To Defend Canal?"; and the text of a column by Charles Maechling, Jr., entitled "The Canal Treaty: Words of Caution," which appeared in the August 8 issue of the New York Times.

As a member of the House Committee on Armed Services, it is of great importance to me to be assured that the canal will remain neutral and that neutrality can be guaranteed with as much ease and assurance as is humanly possible.

I do not consider such assurance necessary or important for any solely nationalistic reasons, but because it is plain to me on the face of the proposition that it is in the best interests of every legitimate, fair-minded, peace-loving country in the world. Indeed, it is I believe in Panama's best interests, if she were capable of dispassionately assessing her own best interests. Things have a way of changing in the political world. Today's enemies often turn out to be tomorrow's friends, and vice versa.

As I read the treaties, we are turning over enormous responsibility to a small country with an instable government which presently has a strong Marxist orientation. Many of the treaty provisions depend for their full implementation upon executive agreements which are not subject to the ratification process and which can easily be changed by this or future administrations, without the consent of Congress. The neutrality provision, indeed, as I have already suggested, seems to depend upon a mere "gentleman's agreement" for its legal force and interpretation. How can we depend upon a "gentleman's agreement" with leaders who threaten violent response if their demands are not met? How can we know who will be in power in Panama in the year 2001? What assurance can we possibly have on the basis of their past record that a future government will not unilaterally repudiate the treaties?

Furthermore, we are giving the Panamanians control over the operation of the canal and the setting of tolls. How can we be assured that their policies with regard to the operation of the canal will not provoke international incidents in the future?

How, under such circumstances, would we defend the canal or guarantee its neutrality? Can we use military means if necessary, without risking censure in the court of world opinion as a treaty violator? Or are we constrained to limit our efforts to diplomatic persuasion? The treaties ought to make this clear. Congress ought to know what the options are—what the language really means, not

only to the State Department but to the Panamanians—before we agree to put them into force and effect. Otherwise, we are asking for future trouble of a far more serious sort than that which we are supposedly attempting to resolve in the new treaties.

While I recognize that no one can absolutely guarantee anything in this world, I believe the United States has demonstrated repeatedly in times of crisis its ability and willingness to be fair and to abide by its treaty agreements and by international law. Those who are so anxious to be rid of the American presence in the Canal Zone today may see the day come when they would be ever so glad to have us there. Though I am aware that we are presently engaged in a pattern of waffling on our own commitments in such places as Taiwan, South Korea, Israel, and West Germany in what I consider to be a misguided effort to curry favor with our enemies and save a little money, I still believe we can stand comparison with any other country in the world in terms of our political stability and the keeping of commitments.

In conclusion, let me say that I have long been opposed, on the basis of principle, to the negotiation of treaties that would turn the Panama Canal over to Panama. I am now even more vehemently opposed to the specific treaties which have been negotiated, on the grounds that they have been negotiated under apparently misleading circumstances and in an atmosphere of unreasonable secrecy and blackmail; that, as noted earlier, they are vague and poorly drawn in their provisions and depend heavily for their implementation upon executive agreements not subject to the ratification process and easily changed; that they do not accomplish what they purport to accomplish; and that they contain clear provisions which are not in the best interests of this country or of peace in the future.

The material follows:

Dr. Romulc Bethancourt, Head of the Panamanian Negotiating Team Before the National Assembly of Panama—Address Concerning the Neutrality Pact with the United States, August 9, 1977.

The original (American) position was that to reach an agreement with Panama there would have to be a neutrality treaty and a military treaty. The military treaty would be made before the end of this century to be operative after the year 2000. This kept the negotiations stalled for a long time, because Panama opposed the enactment of a military treaty. Such treaty would have implied two things: First, the continued U.S. military presence in Panama after the end of the present treaty (2000); and second, the United States, as a great power, is a country frequently involved in wars in other parts of the world, and we did not want that, because of the existence of a military treaty the future youth of our country to have to go fight in the American battlefields with the pretext that this related to the defense of the Panama Canal. This was a position maintained until the United States withdrew the idea of a military treaty. We were then able to negotiate a neutrality treaty alone.

With regard to the neutrality pact, the following situation arose: The United States asked if Panama would disagree with the idea of the Canal being neutral. We told them we didn't, that on the contrary, a long-standing aspiration of Panama had been that the Panama Canal would be neutral. They said that they wanted the Panama Canal to be neutral and we said we entirely agreed with them. Differences then arose only in what they understood by neutrality and what we understood by neutrality. They proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality. Panama was opposed to this concept, explaining that we did not want the United States to maintain a guarantee over the State of Panama, using the neutrality issue as an excuse. This was another source of debate that kept the negotiations stalled *until the United States gave up the idea of its guaranteeing the Canal's neutrality.*

Another of the positions they presented was that Panama must agree to maintain the Canal permanently neutral and permanently open. We told them that Panama could commit herself to maintain the Canal permanently neutral because that was her wish. Panama has no interest in having anything other than a neutral Canal, the Panama Canal, because otherwise the Isthmus of Panama could become a battlefield. But we said *Panama could not promise to maintain the Canal permanently open* because of three circumstances that might arise. One, because of natural causes; we explained that an earthquake could take place, for instance, which would close the Canal, and, in such a situation, Panama could not be under an obligation to keep it open. Another possibility was temporary disruptions—landslides could take place and the Canal would have to be closed to carry out clean up operations. *The third possibility was that the Canal could become unprofitable for Panama; in such a situation, Panama could not be tied down to keeping open a canal which was not earning revenue.* They (United States negotiators) accepted the first two reasons—natural causes and temporary disruptions—but they did not accept the third reason, lack of profits. This, too kept the negotiations stalled for a long time.

They argued that if the Canal was not profitable, Panama could obtain money from the United States or the other countries that use the Canal to keep it open. We told them that when the new treaty with the United States ended, we did not want Panama to be under either direct or indirect obligation to turn to the United States or any other country to request money to keep the Canal open. Our respective positions remained unchanged until we reached the agreement I am about to describe. They said we can't present to our Congress an article that states you will close the Canal because of insufficient revenues. And we said we could not present an article committing us to operating the Canal permanently when we have no way of knowing if the Canal someday will yield no profit. We finally agreed to eliminate that article, and so Panama was freed of the obligation to maintain the Canal open permanently. The negotiations then went exclusively to the issue of neutrality.

The United States then proposed that there be a neutrality treaty between Panama and the United States and no one else. Because they did not want for either the Russians, the Cubans or the Chinese—they said so exactly—to intervene in the neutrality of the Panama Canal. Our position was that neutrality didn't make any sense if limited to two countries as a result of a treaty between the United States and Panama and that we opposed the other countries not having the right to join in that treaty. They changed their position and agreed to allow the countries of the American continent (except for Cuba), but no others, to join. We said no, that this was meaningless, because in case of a war between the United States and Russia or China, those countries not being a part of the neutrality agreement would be under no commitment to respect the Canal or the Isthmus of Panama. That was another reason for long delays, until they finally accepted the idea that all the countries of the world could join the neutrality treaty.

Later, there arose the problem of choosing a forum for all the nations of the world to join the pact. We said it had to be done in the United Nations. They answered that they did not much like the idea of the United Nations because of their problems with the non-aligned countries, the Third World, the Arabs, etc. They proposed the O.A.S. We agreed, provided that this body only serve as a depository, as the physical location where all the nations of the world would sign the treaty, and that O.A.S. would have no say in determining which countries would sign. This was another cause for discussion. It was solved through a protocol of neutrality—that famous protocol which has been attacked as giving the United States the right to intervene in Panama by some who apparently read such a description in a Miami newspaper. This protocol is only a note* indicating the existence of the neutrality pact. It summarizes the agreement and sets down that country such-and-such agrees to abide by it. That is the famous protocol. It is the same thing as the neutrality treaty but in the form of a protocol (that is what it is called), and the O.A.S. is the depository.

Another issue was preferential right of way through the Canal for American warships. The Americans said that they had two problems. First, they had to please the Pentagon—they had to present it with something it liked so it would support the treaty; and second, that as they would be leaving Panama as soon as the treaty ended, they should be allowed at least that much, if nothing else, because they built the Canal. We pointed out that we recognized they had indeed built the Canal, but that writing in the neutrality pact that the United States warships would have preferential right of way over the rest of the vessels violated the neutrality treaty and that was contrary to the objective of the treaty we were negotiating. This was another cause for lengthy discussion and much analysis. They searching through their books and we searching through ours; they invoking their treaty writers and we invoking ours. This is how these discussions are carried out. Changing their position, they asked for preferential right of way during times when the United States was at war—originally they wanted it in times of peace and war—and that this right be granted only when requested by the ship's captain. We said no—that war time was the least appropriate moment to grant preferential passage rights since it would be a violation of neutrality. After long discussions they accepted that U. S. warships could not be granted preferential rights. Then both countries set about looking for a formula which would not involve preferential rights, and we came to the agreement that the warships of the United States, in times of peace or in times of war, and the warships of Panama—we still don't have any now, but maybe by the year 2000 we will have some—will have the right to speedy passage through the Canal. This means that they will have the right to as rapid a passage as possible. We were able to agree on this because it's not in any country's interest to have another nation's warships delaying for long in its territorial waters; so the faster they go through, the better.

Another of the issues in the neutrality pact that we were—I should explain that I am giving you the true picture of what the neutrality agreement will consist of. We did not give in either to the American's insistence

* The meaning of "note" is not clear. It could mean a note of explanation or a small piece of paper.

that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone, in other words, that Panama be the one to declare the Canal permanently neutral. They proposed that in our declaration we say that the state of neutrality was intended to prevent the Canal from becoming a theater of war. We answered that we were declaring the Canal neutral so that neither the Panama Canal nor the Isthmus of Panama would become a theater of war. They wanted to separate the Canal and the Isthmus. We told them that we could not do that, that the Canal was part of our Isthmus, and that our neutrality only made sense if it covered both the Canal and the rest of the country. We wouldn't be any better off if, rather than dropping a bomb in the canal, they dropped it, for example, on Ocu or Santiago. They accepted that the declaration of neutrality be worded in such a way that neither the Canal nor any part of the Isthmus of Panama could be the object of reprisals in the course of another nation's conflict.

The other point we made in relation to our concept of neutrality is that it is not a neutrality which will allow the United States ships to transit peacefully, but rather one which will allow ships flying all the flags in the world to transit peacefully, notwithstanding what country may be involved, its being a communist country, a fascist country, or a monarchy—that we were not insistent on its being a democratic country to allow it peaceful passage. And finally, that the pact was to be made between the two countries, and it is stated there that Panama declared the neutrality of the Canal, in the manner that I already explained to you, following the establishment of a neutrality pact with the United States and a commitment being made on the part of both nations to maintain that neutrality. This concept of maintaining the neutrality was that which replaced their original position of guaranteeing the neutrality. The upholding of the neutrality is indicated within the treaty and in the protocol all other countries are committing themselves to this protocol.

Later came a discussion on their proposal that the two countries commit themselves to upholding this neutrality under all circumstances. We said that if the phrase "under all circumstances" was included, two important exceptions would have to be made. The first was that this would apply only so long as internal order was not involved, since these are problems for one country or our national guard to address; and second, in the case of an attack on the Isthmus or the Panama Canal by a third country. This was cause for much discussion, and in the end, they preferred to leave out the phrase so that we would not include the exception. We also pointed out that the neutrality pact must indicate clearly that after the 31st of December 1999 at 12 o'clock noon—or at 12 noon as Edwin (Edwin Fabroga) says or at 12 midnight as Ahumada (Adolfo Ahumada) says—that from that date on, the American troops could not be in Panama. After much discussion, they said, "We don't like that phrase—that there can be Russian troops or Cuban troops." Then a proposal was made to change the phrase to read that from the 31st of December 1999 on only Panamanian troops could be stationed in Panama. We were in perfect agreement with this. They were happy, because they had been half-thinking that we are going to call in the Russians, and we were happy because one of our aspirations was precisely that our troops be the only ones here.

So this is the "problem" with the neutrality pact. (Sarcastic) The criticisms made of it—some that you have heard or have read—indicate that we give the United States the right to intervene in our country after the year 2000. These critics think that rights of intervention are granted in the treaty. To the great powers, no one gives the right of intervention; they intervene whenever they feel like it with or without a treaty. When they (the Americans) landed in Santo Domingo, they had no military treaty with Santo Domingo, nor had any right of intervention in Santo Domingo, and they landed anyway. But there are people here who think that it is in the articles of a code (law code) that tell a country if it has the right to intervene or not, and they don't know that it is the bayonets, the guns, and the atomic bomb that gives a country the strength to intervene. And so a country like the United States can land in Panama whenever it feels like it after the year 2000 with or without a neutrality pact. But it cannot land, for example, in Russia, even if Russia tells it to land. These are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention. What we are giving is an assurance that the Canal will be permanently neutral, that we are not going to close the Canal so that their ships or this ship or that ship cannot go through. Why this neutrality pact? Because they are thinking, "By the year 2000 this country (Panama) may have gone socialist and become our (U.S.) enemy and we now want to make sure that even if they become socialist, they cannot close our passage."

And, frankly speaking, they do not need this neutrality pact to intervene or not intervene. They need it to present it to their Congress, to tell their Congress, "Look, we are giving the Canal to those Panamanians, but we retain the right to watch over it so that they behave themselves." That's the truth. It's an internal political problem; they are trying to solve an internal problem with a Congress intensely opposed to these negotiations and one which, in addition, includes members who have not been elected by the American people but rather who have become members of Congress of their own accord—these are certain Panamanaians living here and others in Miami. (n.b. Referring to exiled people opposed to Torrijos' government.)

So about the neutrality pact, these are its real contents, distinguished Representatives. It was very carefully thought out, as you can see from my description of how its final form was arrived at. I might add that we feel very proud of the way the matter has been resolved. You should have seen the original draft they presented along with the military treaty. Agreeing totally to that would have been shameful; I would not have dared to sit at this table now to give you any kind of explanation if I'd brought with me their original draft for the military treaty and the neutrality treaty.

The other problem concerned the option for the construction of the sea level canal. Two months ago, almost on the day of the opening of the Alaskan pipelines, President Carter delivered a speech in which he said that his government was deeply interested in the construction of a sea level canal either through Panama or through another point in Central America, and right after President Carter's speech the American negotiators brought the question of the option to the negotiating table. During the earlier negotiations of 1966 and 1968 this issue had been intensely debated by the negotiators of that time, Doctor Diogenes de La Rosa and others since it was at that time that they (the Americans) were making the studies which they later completed and they wanted to speed up the time-table for possible construction. But in the present round of negotiations it appears they had put the problem aside until now, with President Carter's speech and the Alaskan oil.

And so the discussion of the option begun. We talked about this option approximately two times and we arrived at no conclusion. Then came the Bogota conference.

There, the problem of the option truly made for a crisis, because there a very complete proposal was laid out for agreement by all the presidents, with Carter working through negotiators Linowitz and Bunker, and our side being represented by our Chancellor, Gonzales Revilla, and our negotiating team. They (U.S.) proposed that Panama have an option to build a sea level canal at an unspecified time; and second, that Panama commit herself to the idea that no other country could construct a sea level canal. They presented that proposal in Bogota, and we read it to the presidents. It was the proposal that the negotiators had brought and we read it to them, and as a result the negotiations between the two countries were practically broken off.

The General said in his statement that we had come to this Bogota conference to celebrate a new treaty only to find that we had come to a wake. There, the struggle between the two countries began, with Bogota taking part also, since the other presidents were meddling as if they were Panamanians too.

There was no way to reach an agreement on what they proposed. Panama's delegation wrote a proposal which met with general approval. Read word for word, it is more or less like this:

Article 3—The possibility of constructing a third set of locks or a sea level canal.

1. The Republic of Panama and the United States agree that a sea level canal could be important in the future or in the context of international relations.

Consequently, after its approval, the question of construction will be dealt with. There isn't even an option. The option relates only to studying the matter. We will sit down and analyze with the United States if it is feasible. If it is, the two countries will build it, maybe during the next 10 or 15 years. The generations of the future will be much more prepared. We do not give you a copy of the treaty because its release is pending on the announcement of President Carter and of General Torrijos, and its becoming an official document. We will publish it wholly when it does become (official), and we will debate it publicly.

The ones who cannot prove that this treaty is better than the one of 1903, that perpetuity is better, will have the problem. That the two million dollars a year is better than what is proposed now. We don't care if they say that General Torrijos is a dictator; those who are opposed and say that we are not revolutionaries—let them grab their knapsack and their grenade and go prove it with deeds.

DO NEW TREATIES GIVE UNITED STATES RIGHT TO DEFEND CANAL?

With officials from 23 other hemispheric nations assembled at the headquarters of the Organization of American States, President Carter and Panamanian strongman Gen. Omar Torrijos signed those two historic treaties last week that relinquish U.S. control over the Panama Canal. But the atmospherics and the President's rhetoric about a "new" relationship south of the border concealed a grim aspect about these ceremonies: that they cap a headlong U.S. retreat around the globe—from Asia, Africa and now even Latin America.

Not all the pomp and glitter that filled Washington can cloak the fact that the U.S., primarily because of a lack of will, is surrendering a strategic waterway to an un-

trustworthy, pro-Marxist government of just 1.8 million people.

A key selling point of the Administration's is that the Canal Zone and the waterway won't really be yielded to Panama until Dec. 31, 1999, and that the U.S., through the second "neutrality" pact, can unilaterally and legally reintervene to protect the canal's neutrality thereafter. But this is an extremely dubious argument, at best.

As the text of the treaties—divulged two days prior to the signing—makes clear, the Torrijos government will exert major control over both the Zone and the canal long before the year 2000: U.S. sovereignty over the Zone, for instance, dissolves upon ratification of the pacts.

The Torrijos government will take over approximately 65 per cent of the Zone immediately after the treaties take effect. Just 30 months from the day they become operative, immigration, customs, schools, courts, prisons and police—now in the hands of the Americans—will be run entirely by Panamanians under Torrijos' direction.

U.S. citizens remaining in what is now called the Zone—many of them ship pilots, engineers and managers absolutely essential to the smooth operation of the canal—will be suddenly subject to Panamanian rule. In short, effective control of the Zone will pass to Torrijos some 20 years *before* U.S. is technically scheduled to leave.

A New Panama Canal Commission, comprised of five Americans and four Panamanians, will have the responsibility for canal operations until the year 2000. But the administrator of the canal—the man who will supervise the day-to-day operations—must be a Panamanian beginning Jan. 1, 1990. The Commission, furthermore, is charged with flushing out American workers and replacing them with Panamanians. Within the first five years of the treaties, for instance, the number of U.S. nationals working for the Canal Commission must be reduced by "at least 20 per cent. . . ."

Out of 14 military bases now in the Canal Zone, only four will remain after implementation, and these bases will be under direct Panamanian civil and political jurisdiction. The "implementation" agreements accompanying the treaties suggest that the Republic of Panama will share, with the U.S., "the responsibility for control of entry" to our defense sites.

In other words, there is a great myth in the making when the Administration says that the U.S. will "slowly" turn over the canal to Panama; the U.S., in fact, will surrender its interests quite quickly.

What is even more astonishing, however, is the language contained in the "neutrality" treaty that the White House and the State Department have repeatedly declared permanently gives the U.S. the unilateral right to reintervene to protect the canal and its neutrality after the year 2000. But no such explicit right exists.

The only reference to this "right" is contained in a vaguely worded passage, Article IV, which says: "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two contracting parties."

As a Chicago Tribune correspondent noted: "The wording leaves unclear what action the U.S. could take should the neutrality be threatened—could it use military force? Would it be restricted to using diplomatic persuasion?" Indeed, the wording even suggests the U.S. might not be able to act in any fashion without the cooperation of Panama.

In rebutting such criticism, Administration officials insist there is an "understanding" with the Panamanians that Article IV means what U.S. officials say it means. If there is such an "understanding," however, Panama's chief negotiator, Romulo Escobar Bethancourt, is not letting on that he knows about it.

Appearing at an August 24 press conference before the Public Health Ministry in Panama City, Escobar was asked what rights the neutrality pact gave the United States.

"Now," said Escobar," "there is the question of whether this does or does not give the United States rights to intervene in Panama. Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word [intervention] was discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. . . ."

But the neutrality pact, Escobar continued, "does not provide that the United States will say when neutrality is violated. That is not provided there. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remain open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not." Yet if the United States cannot unilaterally decide when neutrality is violated, our "right" to guarantee the canal's neutrally means nothing at all.

In a speech before the National Assembly of Panama on August 19, Escobar went even further in denying U.S. intervention rights. The Americans, said Escobar, "proposed that Panama and the United States declare that the canal was neutral and that the United States would guaranntee that neutrality.

"Panama was opposed to this concept, explaining that we did not want that with the excuse of neutrality, the United States would maintain a guarantee over the state of Panama. This was another cause of discussion that kept the negotiations detained *until the United States gave up on the idea of its having a guarantee of neutrality over the canal* [emphasis added]."

Even if the Administration believes it has an "understanding" of some sort with Panama how good can this be when Panama's chief negotiator is saying something quite different to is own people?

Moreover, Escobar isn't the only one who believe the U.S. has no legal right to reintervene to guarantee the canal's neutrality. Roger Fontaine, director, Latin American Studies, Center for Strategic and International Studies at Georgetown University, told HUMAN EVENTS last week—after the treaties were disclosed—"I see no legal right to intervene unilaterally to guarantee the canal's neutrality. We can do so by force of arms, but on no other basis. Which means we can only do so by going to war".

What is most disturbing about the treaties, however, has nothing to do with their actual wording, but the obvious lack of good faith of Panama's top leaders, including its key negotiator, Escobar. If Panama intends to open up a "new" and more "harmonious" relationship with the U.S. because of these treaties, why is it, then, that Escobar continues to defame the U.S. before his own people at every conceivable opportunity? Why is it that he feels compelled to fuel the volatile student leaders with combustible rhetoric, virtually inciting them to confront the U.S. even after the treaties take effect?

Down in Panama, Escobar has yet to be caught flattering the Carter Administration for its munificent present. Instead, Escobar, while repeatedly condemning American "gringos", crows that whatever concessions were forthcoming from the United States were squeezed out of a reluctant and imperialist nation.

In his August 12 address to the Federation of Panamanian Students, as we disclosed last week, Escobar suggested that the students should strike out on their own if they are disenchanted with some of the "ugly" features of the treaties, such as the presence of U.S. military installations in Panama for 23 years.

"In the past," said Escobar in one of his most incendiary speeches, "when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. You have never asked anyone for permission.

"When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation."

At the Organization of American States' ceremonies last week, Panama's strongman, Gen. Omar Torrijos, decided to imitate his chief negotiator by striking a sour note.

While President Carter was more than gracious, Torrijos stressed that despite the new treaties, the Panamanians would not be especially happy because "the 23 years agreed upon as a transition period means 8,395 days during which time United States military bases will remain, turning my country into a possible strategic target for reprisal." He also stressed he was fearful that the U.S. might try to exploit the neutrality treaty as "an instrument of permanent intervention." By this sort of rhetoric, of course, what Escobar and Torrijos have done is to set the stage for future confrontations and future negotiations.

President Carter, in truth, is asking the U.S. Congress to embrace two highly questionable treaties that will surrender one of the world's most strategic waterways to a nation ruled by dishonorable and disreputable men with mean and thuggish mentalities. The Congress should turn the treaties down flat.

THE CANAL TREATY: WORDS OF CAUTION

(By Charles Maechling, Jr.)

WASHINGTON.—The terms of the proposed new Panama Canal treaty are about to surface, and already an orchestrated campaign has begun to sell it without amendment to Congress and the public. In the process, two crucial and interrelated considerations are likely to be glossed over:

First is the need for an unconditional obligation on the part of the Republic of Panama to keep the Canal open at all times to international shipping; second is an assurance that sovereignty over the Canal Zone will reside with the United States before final turnover of territory and property to Panama.

It is not generally realized that, for 70 years, two treaties, not one, have governed the legal status of the Canal. The one the public never hears about, because its effects are taken for granted, is the Hay-Pauncefote Treaty of 1900 between the United States and Britain, under which we pledge to keep any isthmian canal "free and open to the vessels of commerce and of war of all nations" on terms of equality and without discrimination as to "conditions and charges of traffic." Panama has no such obligation and is not anxious to assume one.

The new treaty, to replace the old 1903 Hay-Bunau-Varilla Treaty between the United States and Panama, will undoubtedly contain some such language, but it will be an obligation running to the United States alone. By insisting on a bilatral treaty, the United States has foreclosed protection by an international umbrella and freed Panama from any independent obligation to the other maritime nations. The world community will have no assurance that in some future crisis, perhaps unrelated to the Canal itself, the Panamanian regime of the moment will not impose discriminatory tolls or suspend transit rights.

Indeed, the current dictator, Brig. Gen. Omar Torrijos Herrera, has openly implied that he will use the Canal as a political weapon and has even offered cut-rate transit to Latin-American states in exchange for support in the United Nations.

The Canal's strategic and economic importance to the United States will soon be underscored by the regular passage of Alaskan oil to the Gulf Coast and East Coast. But the Canal is just as important to other countries—77 percent of Nicaragua's trade, 50 percent of Ecuador's, and 40 percent of Peru's depend on it; and 23 percent and 40 percent of the Canal's east and westbound tonnage respectively have Japan as a terminus.

To allow the security of this traffic to rest on the vagaries of Latin-American politics and an obligation to the United States alone would be folly. If we cannot have an international regime for the Canal, there ought at least to be an additional commitment from Panama to other maritime users that the Canal will remain inviolate under all conditions.

The sovereignty issue has been equally muddied. Under international law, sovereignty is not a matter of mere verbal definition but of an effective bundle of jurisdictional rights actually exercised over a territory and its population.

By Article 3 of the 1903 treaty, full jurisdiction over the Canal Zone—executive, legislative and judicial—was granted to the United States "to the entire exclusion of the exercise by the Republic of Panama of any sovereign rights, power or authority." The so-called residual or titular sovereignty retained by Panama—not explicitly but by implication—was historically regarded as of no significance until inflated by American negotiators as early as the 1930's to placate Panama and, more recently, to downgrade American rights preparatory to their surrender.

Under the proposed arrangement, there will be a 25-year transition period during which the United States will gradually turn over bases, zonal territory, and Canal management to Panama. At the end of this period, sovereignty over what remains should automatically pass to Panama.

But any broad transfer of essential jurisdictional rights after three years could be interpreted as a premature transfer of all vestiges of United States sovereignty as well. Once sovereignty over the Zone has been ceded, either expressly or by implication, Panama could with some plausibility assert the right to impose every kind of burden or disability on American installations and personnel not specifically prohibited by the new treaty. There would be little hope for the United States to marshal international support against such harassment, for where sovereign rights are concerned the rest of Latin America would fall into line behind Panama. In no event should blanket transfer of jurisdiction or sovereignty precede transfer of territory or property.

We already have had a taste of Panamanian blackmail in these negotiations—a billion dollar demand at the front end and indeterminate demands later on. No reasonable person would deny the need for a new treaty, but why this should encompass blind faith in the long-term reliability of an unstable Central-American republic, currently headed by a Marxist-nationalist strongman, defies reason.

Mr. RUDD. Mr. Speaker, I want to congratulate my distinguished colleague from Pennsylvania (Mr. FLOOD) for his continued vigilance to inform the Congress and the American people about the vital stake of the United States in our canal in Panama.

I also congratulate the distinguished Congressman from Illinois (Mr. CRANE) for joining Chairman FLOOD in this special order today on the canal and the many serious questions over the proposed new treaty between the United States and Panama.

I took a special order on August 4 to bring the House's attention to the cleverly calculated initiatives of the Soviet Union to take advantage of the President's proposed giveaway of the canal, so that the Soviets could fill the void in Panama once the United States had withdrawn from the Canal Zone.

On July 19, a Soviet delegation headed by Nikolai Zinoviev, chief of all Soviet trade affairs in Latin America, signed a commercial agreement with Panama to open up extensive Soviet-Panama commercial operations.

These include the Soviet purchase of 50,000 tons of crude sugar, the construction by the Soviets in Panama of a $40 million hydroelectric plant, Soviet access to the free zone at Colon and establishment of Soviet facilities at old France Field airbase, and the possible opening of a major Soviet bank in Panama to conduct Moscow's commercial operations throughout Central America.

The agreement was signed by Panama's legislative commission coordinator, Marcelino Jaen, brother-in-law of Panama Dictator Omar Torrijos.

Just prior to the signing of the Soviet-Panama commercial agreement, a top Soviet Politburo delegation headed by Aleksei Romanov, chief of Communist Party operations and Soviet expansion in Latin America, also visited Panama with the approval of Dictator Torrijos.

The Soviet Communist Party delegation met with Panamanian Communist Party and government officials to discuss Communist activities and Panama's role along with Castro Cuba in assisting with the Soviet Communist program throughout this hemisphere.

Mr. Speaker, all this information has been carried prominently in Panama's and Cuba's Spanish language press and carried on radio and television throughout Central and South America.

Transcripts of news stories about these Soviet initiatives have been published by the U.S. Information Agency in its foreign broadcast information service report, which is distributed daily to U.S. Government agencies and officials, to Members of Congress, and to members of the U.S. news media.

These Soviet initiatives in Panama follow exactly the same pattern of Soviet initiatives to gain a foothold and eventually to control Castro Cuba in the early 1960's.

I cannot for the life of me understand why President Carter is so anxious to give away the Panama Canal, so anxious to withdraw our American presence in that vital and strategic location from a national security point of view, and so anxious to allow a Soviet presence and Soviet initiatives to establish another important beachhead for Communist expansionism and threats to our own people in the country of Panama.

It is most disturbing to me, and I am sure to other Members of Congress, that the President and the news media have to date refused to acknowledge the magnitude and the seriousness of the Soviet Union's aggressive initiatives in Panama

There can be no doubt about the true intentions of the Soviet Union, both from a commercial viewpoint, but more importantly from a military and political viewpoint, in Panama.

One only needs to follow the public Spanish-language press, as does our U.S. Information Agency and the State Department. But rather than hiding the facts from the American people, which is the current policy of the State Department and this administration, we need to publicize these Soviet intentions and talk about them in connection with this proposed new United States-Panama treaty over ownership, control, and operation of the Panama Canal.

Take for example a recent article in Red Star (source: Intelligence Digest publication from Cheltenham, England, August 24, 1977), the official Soviet military organ, which was reprinted in the Cuban magazine Bohemia.

This article representing the official Soviet Communist Party line concerning Panama was written by Maj. Sergei Yuworov, a Soviet army officer, who stated:

> Due to its privileged location as the juncture between South America and the rest of the continent, including the canal that permits United States warships to operate simultaneously in the Atlantic and Pacific, it—the Canal Zone—must be considered by the Soviet Union as a "priority zone." A second zone (from which to attack Panama) is the Central American isthmus, located to the north of Panama. The canal itself can be attacked as well from Colombia.

In his Red Star article reprinted in the Cuban magazine, Yuworov points to a third choice of "converting Cuba, and implicitly Puerto Rico, into bases from which Moscow's plans can be consummated."

This article by a Soviet army strategist obviously points to Soviet options for disabling or taking over the Panama Canal in the event of war with the United States. Now that President Carter has signed a proposed treaty to give up U.S. ownership and control of the Panama Canal to Dictator Torrijos, the Soviet Union is obviously restructuring its strategy after its experience with Castro. The current Soviet-Panama initiatives obviously represent a pattern leading to future Soviet influence or control of the canal's operations, if the proposed U.S.-Panama treaty is ratified by the Senate.

I believe that the United States Senate, as well as the House of Representatives, have a solemn constitutional obligation to thoroughly investigate and explore all these aspects of the Panama Canal situation.

We must not allow the staged media events that have been held so far, or the fact of President Carter's signature on the treaty with that of Dictator Torrijos, to influence our action along these lines.

The stakes for the American people are too high. We must stand up and look out for our own people and our Nation's best interests first. It is President Carter's problem if he has put his neck on the line—along with his credibility—in the eyes of other world leaders.

We must not be railroaded into giving up the Panama Canal.

The Congress also has a vital stake in this matter, and I for one will insist that we give every aspect of this questionable treaty the fullest possible examination, as well as its ramifications on the strategic world situation.

Mr. SYMMS. Mr. Speaker, I rise to associate myself with the remarks of Congressman PHIL CRANE and my other col-

leagues participating in this discussion of the Panama Canal Treaty. I would also like to express my appreciation to my friend PHIL CRANE for his leadership on this vital issue.

Mr. Speaker, one provision of the treaty signed by President Carter that concerns me is article XII, section 2(b). This provision would effectively preclude the United States from negotiating with any Western Hemisphere nation other than Panama for the construction of a new interoceanic canal. This is, at a minimum, a dangerous provision. Article XII, section 2(b) reads as follows:

During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

I find this provision to be unacceptable. What if we need a larger canal in the future to handle supertankers or large carriers? Under this provision of the treaty we would be totally at the mercy of the Government of Panama; they could simply say no—no to a modernized canal in Panama or no to a new canal in Nicaragua. It is incredible that we are now at such a point in our foreign policy that we are willing to allow third parties to have a veto over our dealings with another nation. This is one of the many reasons that I urge the Senate of the United States to reject this treaty.

Mr. ROBINSON. Mr. Speaker, I believe it would be dangerous to America's long-term national security, defense, economic, and geopolitical interests to give away, at the cost of some $7 billion to U.S. taxpayers, our Nation's sovereign rights in perpetuity over the Panama Canal and the buffering Canal Zone. I am, therefore, totally opposed to the Carter administration's proposed new treaties that would end effective U.S. control over this vital international waterway.

Should the Senate misguidedly ratify these treaties, I will be among those fighting to assure that we in the House of Representatives are accorded the right, under article IV, section 3, clause 2 of the Constitution, to deny this unwise proposed disposition of U.S. territory and property.

As a member of the House Defense Appropriations Subcommittee and as a citizen, I would like at this time to spell out certain elements of my position, with particular attention to the implications of the treaties to our national defense.

As proposed, these treaties would, among many important negative results, cede to Panama; immediately after ratification, some 65 percent of the 648-mile Canal Zone; end our ownership, control, management, and maintenance of the Panama Canal by the year 2000; and phase out all U.S. military bases there, with the evacuation of the U.S. military presence to be completed by the year 2000.

Thereafter, the United States and Panama would be pledged to "maintain the regime of neutrality" over the canal, but there does not appear to be one single word in the treaties that would preserve or guarantee the right of the United States to militarily defend the canal after the year 2000.

In fact, Dr. Romulo Escobar Bethancourt, the chief Panamanian negotiator, has already proclaimed at a press conference on August 24 that—

The treaty does not establish that the United States has the right to intervene in Panama.

He denied that the treaty gives the United States the right to decide when neutrality is violated, and denied that U.S. warships would always have the right to expeditious transit without conditions.

To understand the follies of such proposals, it is necessary to examine first the military importance of the Panama Canal and, secondarily, the nature of the Panamanian Government.

America is the commanding power on two oceans in the Western Hemisphere in part, because of the vital canal linkage that was built and that is owned, operated, policed, and controlled by this country. It has made it possible for us to maintain a one-ocean navy, rather than having had to construct a second enormously expensive fleet to assure navies to meet crises in both the Atlantic and Pacific Oceans.

Nearly every U.S. naval vessel, save for our present 13 aircraft carriers, can transit the canal, and the next generation of smaller carriers will also be able to pass through. Some 96 percent of the U.S. merchant fleet can also use it, as can most of the world's merchant vessels.

Its importance in peace or war should never be minimized. It was vital to the United States during World War II and the Korean war. During the Vietnam war, approximately 70 percent of cargo used to support the war effort moved through the canal. In normal commerce, some 68 percent of the trade transiting the canal either originates or terminates in the United States.

Its importance will continue to grow. Already, petroleum products account for about 22 percent of the canal's commerce. Almost 45 percent of the Alaskan oil output will be shipped through the canal by 1980.

Using the canal in preference to the Cape Horn route around the tip of South America saves about 30 days and 8,000 miles, to say nothing of the vast quantities of fuel saved. A trip from Norfolk, Va., to Yokohama, Japan, through the canal saves 5,666 miles. Between 1972 and 1975, there were about 750 U.S. naval transits through the canal. If these ships had been forced to navigate via the cape route, it would have cost about $20 million in extra petroleum costs alone.

The Canal Zone is also a command and coordination center for most U.S. military activities in Latin America, including intelligence and operational preparedness. We have 14 separate military facilities located there, with 9,300 combat and support personnel—a force that has been decisively increased in past time of war.

Such considerations led four former Chiefs of Naval Operations to declare in June of this year that—

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security.

In a joint letter to President Carter at the time, they noted:

Sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense capability, with enormous potential consequences for evil.

Adm. Thomas H. Moorer, a former Chairman of the Joint Chiefs of Staff, pointed out before a Senate subcommittee in July that the interocean mobility of the U.S. Navy would be seriously threatened should the Soviet Union ever be in a position to control the canal. He said:

The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized.

This, of course, brings me to the subject of the unstable Government of Panama, which in July concluded tentative economic and commercial agreements with the Soviet Union, an adversary of ours eager to increase its control over the vital canal "choke point."

At least one authority reports there were a minimum 53 uprisings in the area of Panama before the country was created, and it has had 32 heads of government in 72 years.

At the time of the riots in Panama in 1964, which were used to launch the drive to end U.S. sovereignty over the Panama Canal and Zone, the Communist influence sparking the trouble had become prominent.

No less an authority than Ellsworth Bunker, later to become our chief U.S. treaty negotiator, wrote the State Department following the riots:

If an investigation is made . . . it will show that violent mobs infiltrated and, led by extremists, including persons trained in communist countries for political action of the kind that took place, assaulted the Zone on a wide perimeter, setting fire inside the Zone and attacking with incendiary bombs . . . It will show the government of Panama, instead of attempting to restore order, was, through a controlled press, television and radio, inciting the people to attack and to violence.

Mr. Bunker's observations were echoed by Joseph Califano, who was serving at that time as the American Counsel to the Organization of American States. Mr. Califano concluded:

We know that some of the leaders in the rioting were known and identifiable communists—members of the P.D.P., the communist party of Panama—and people who belonged to the Vanguard of National Action, which is openly and proudly the Castro communist party in Panama.

Since Gen. Omar Torrijos installed his military dictatorship in Panama in 1968 in a bloodless coup, the pro-Communist orientation of his government seems more pronounced. The dictator, who maintains friendly ties with Castro in Cuba, has said publicly that if there is not new treaty:

We would have to walk the Ho Chi Minh trail. The Ho Chi Minh trail is long and it exerts a heavy toll in blood.

More recently, he said that 50,000 young Panamanians would die if a new treaty should not be signed.

It is a matter of record that since his seizure of power, Torrijos has succeeded in suspending the legislature, suppressing the media, and subordinating the judiciary to his personally controlled 8,000-man national guard, which doubles as his police force.

From all the foregoing, Mr. Speaker, it is necessary to conclude that the proposed treaties represent a mess of pottage for the American people and the free world in general. They would risk the impairment of the worldwide mobility of our Nation's naval forces in the event of war. They would subject us to the grave danger that the Panama Canal would be nationalized and the right of U.S. warships to transit the canal would be denied in time of emergency.

The outcome of a war for allies in Europe or Asia could hinge upon a failure of U.S. supply and logistics at the critical Canal passage point.

The United States can defend the canal and prevent such eventualities only if our access and control of the zone and its U.S. military bases remain guaranteed. That can only be assured by rejection of the proposed treaties.

Mr. Speaker, I realize there is great concern among Americans over the reaction throughout Latin America if the United States should reject these treaties. However, I believe these fears may well be exaggerated.

Panama's per capita annual income, the fourth highest in all of Latin America, is largely attributable to the Panama Canal, and it remains in the strong economic interest of the Panamanians to keep the canal in operation. Any sustained terrorism leveled against the United States in Panama could, moreover, produce the economic and political collapse of the Torrijos regime. His regime has already produced for that nation's 1.7 million people a $1.5 billion national debt, with a debt service of about 40 percent of the entire national budget. The Panamanians have experienced a zero rate of economic growth in the past 2 years and a level of inflation that has increased at the rate of 10 to 15 percent.

It is entirely possible, in fact, that the canal's vulnerability to sabotage or disruption would increase if the proposed treaties were ratified. A rabid, anti-Torrijos Panamanian nationalist, for example, would probably be more inclined to undertake a wrecking mission at the canal if it were in the hands of his people's oppressor than if it were in the hands of a friendly democracy.

And if, as expected, the Panamanians were to drastically increase canal tolls to users following their takeover of the waterway, it is far more likely that military retaliation would be launched against Panama than against the United States.

GENERAL LEAVE

Mr. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Illinois (Mr. CRANE).

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Florida?

There was no objection.

ONLY THE EL PASO PROJECT GUARANTEES THE MAXIMUM USE OF U.S. LABOR AND U.S.-PRODUCED STEEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, I support the proposed El Paso Alaskan natural gas route and oppose the administration-supported Alcan route—the one which would go through Canada. There are competing, alternative routes for bringing natural gas from Alaskan to the lower 48 States.

I have made this decision on only one basis, but it is the basis on which every Member of Congress should oppose the Alcan project. I am referring to the U.S. economy.

Let me put it in a nutshell.

The chairman of the El Paso project has sworn under oath before the Federal Power Commission that this project will use goods and services purchased from the U.S. economy and create American jobs.

By contrast, the Alcan route assures—it maximizes—the non-American use of foods and services. That is not conjecture. It is fact. Turn to the pages of the National Energy Board's report on the Alcan project. What one reads there is a complete Canadianization of the project.

It is beyond me how the administration could choose a project which will use steel produced outside the United States, when the U.S. steel industry is as depressed today as during any point in history, and when the jobs in the steel industry, the use of such U.S. steel would create, run into the tens of thousands, perhaps hundreds of thousands.

In its support of the Alcan, trans-Canadian project, the administration has chosen a project which will preclude the creation of jobs in the American construction trades and American steel manufacturing, not to mention American transportation and related job areas. These will go to Canadians, unless Congress approves the El Paso route.

Several weeks ago, one of the largest employers in western New York, Bethlehem Steel, announced a layoff of 3,500 employees at its Lackawanna plant. It simultaneously announced a layoff of an additional 3,800 employees at its Johnstown, Pa., plant. The reasons were multiple, but they all boil down to inadequate demand for steel. The problems our domestic steel industry has—foreign competition, environmental control costs, and so forth—could all be overcome if the U.S. steel industry were vibrant, running at full speed, all from the increased demand which would make them more competitive in the world markets. That increased demand would be greatly fostered by the steel products for this mammoth natural gas pipeline project coming from U.S. steel mills.

Members of Congress and State and local officials are already meeting about the problems of the domestic steel industry. Senator PAT MOYNIHAN, Congressman HENRY NOWAK, in whose district the Lackawanna plant is actually located, myself and Congressman JOHN LAFALCE, in whose districts together with Congressman NOWAK's the workers at that plant live, have had meetings with Bethlehem officials and steelworkers. Similar meetings are being held in Pennsylvania and Ohio this month. State and local officials are having similar meetings.

How, Mr. Speaker, are we to help these thousands of unemployed American workers, and additional thousands who could become unemployed unless the situation reverses itself—how are we to help the ailing U.S. steel industry—when we are being undercut by a decision that gives jobs to Canadians instead?

The divergent positions of the El Paso project and the Alcan project are not conjecture. They are a matter of public record.

In testimony before the Federal Power Commission on May 27, 1975, the chairman of the El Paso project, Howard Boyd, in responding to the question said:

With respect to what facets of the proposal do you think there is a possibility that the project money would not be invested in the United States—

I think all of it would be invested in the United States.

That was a followup on his more extensive statement in prepared direct testimony to the Commission on March 24 of that year:

What effect will the El Paso project have upon the economy?

The Trans-Alaska Gas Project will cost, using 1973 dollars, approximately $6.7 billion. We are committed to spend this money to the extent possible in the United States. It will provide an important boost for the U.S. economy. It will create jobs for Americans in Alaska, on the West Coast, and in the shipyards and mills and factories all over America. It will pay taxes to American governmental entities and generate revenues which would be payable to American businesses. In contrast, a Canadian pipeline would siphon thousands of jobs to Canada, require the payment of taxes and revenues to Canadian entities, and the billions of dollars for this project, which could be spent in the United States, will be used to stoke the Canadian economy. While the El Paso project would not affect the U.S. balance of payments, the construction of a Canadian pipeline would severely and adversely affect our balance of payments and thereby further devalue the dollar on the world markets. This would further serve to increase our costs for imports, including OPEC oil.

That position was reiterated and stressed in a letter from El Paso to the President as the administration neared its final decision.

By contrast, we have the Canadian National Energy Board making no bones about what they intend to do. I quote from page 1–183 of the NEB's report of June of this year, "Reasons for Decision: National Pipelines":

In respect to Canadian content:

(1) The Company shall so design its program for the procurement of goods and services for the project to assure that:

* * * * *

(b) The level of Canadian content is optimized, so far as practicable, with respect to the origin of products, services, and their constituent components.

(2) The Company shall submit to the Board for its approval a report specifying the proposed contractural and purchasing arrangements for procuring goods and services for the project, such report to respond, in a manner to be detailed by the Board, to the requirements set forth in subsection (1) hereof.

What those remarks boil down to is this: The administration has decided to give tens of thousands of jobs to Canadians, instead of to Americans.

I am not talking about trade restrictions or any sanctions against our good Canadian neighbors. I am talking about a commonsense decision to use a golden opportunity to help members of the unemployed, U.S. working force.

There are other reasons to support the El Paso route also.

One, protecting the environment—in Alaska, in Canada, in the United States. The Alaskan construction would follow the existing oil pipeline route, the bulk of the transportation would then be over sea routes, and little construction would be required in the Continental United States. The Alcan route, by contrast is entirely over land, cutting through Canada, then branching out in two directions, and cutting through the United States.

Two, security, in terms of U.S. interests, is much better assured by the El Paso route, because its pipeline portions are entirely overland in the United States.

But I want to concentrate these remarks on the jobs and steel production reasons for supporting the El Paso project.

The administration's decision must be reversed. It must be held to its campaign promise to reduce unemployment and to revitalize the American economy.

I say to my colleagues, if you are a Member from a district with high unemployment, you should support the El Paso project. If you are from a district with high unemployment in the construction trades, you should support the El Paso project.

I say to my colleagues, if you are a Member from a district with a steel plant or steelworkers in it, you should support the El Paso project.

The Congress of the United States should approve a project only if it will guarantee jobs and income to Americans—That is the El Paso project.

HELSINKI'S UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 10 minutes.

Mr. TRIBLE. Mr. Speaker, I am pleased to join my distinguished colleague, Representative DRINAN, in a project he inaugurated entitled "Helsinki's Unfulfilled Promise." Ninety-four other Members of Congress have joined us in this project to aid the courageous struggle of Soviet Jews who are being held against their will in the U.S.S.R.

The 35 nations which signed the Helsinki Final Act, in August 1975, pledged to facilitate the reunification of families separated by political boundaries. Regrettably, the Soviet Union is not abiding by that pledge. Thousands of Soviet Jewish families and individuals have been denied the right to emigrate.

I would like to call your attention to the tragic story of one such family—Raul and Valentina Braz. Raul Braz reluctantly left his wife and young daughter behind when he was granted an exit permit from the Soviet officials. He believed that only administrative reasons prevented the authorities from allowing his wife and child to accompany him. He fully expected the period of separation to be short. Much time has passed since then and still he is alone. His hope and that of his young wife and daughter has not come to fruition. Instead, they remain separated today with little hope for a life together.

Raul's many appeals to officials have been ignored and answered with silence. Recently, he wrote a letter to President Carter which raises several points worthy of further consideration by the Members of the House. In his letter, Raul said:

We know, Mr. President, of your concern with the problem of the Jews in the Soviet Union. We also know of some of your statements on this issue. But, without claiming that not enough has been done, we are bound to express our feeling that not enough has been achieved. And here again, as on many occasions, it is the U.S.A. which is—and should be—heading this great human enterprise.

It is our conviction that the active defense of this cause remains and will remain an inseparable part of America's basic policies. This can be pursued without detriment to the principle of non-interference in the internal affairs of any country.

Ours is an issue which does not affect internal Soviet affairs, nor Soviet policy towards national minorities or general questions of emigration. It is crystal clear to everybody that the Jews are the only minority in the USSR which—unlike all other Soviet nationalities—is so closely related, personally and nationally to a majority of their people living outside the boundaries of the Soviet Union.

We take the liberty, with all due respect, to suggest to you, Mr. President, what might be the best way to emphasize the intention of making this issue a permanent element of American policy: let world public opinion know you are deeply and unequivocally concerned about this question. What better way is there to show this than by interceding in a few of the many cases of families tragically separated through no fault of their own?

The treatment received by the Braz family at the hands of Soviet Government brings into question the sincerity of their solemn promises at Helsinki. We are, therefore, obligated to insure that the pledges undertook in the Final Act do not go unfulfilled and that families such as the Braz's are allowed to be reunited. This can only be achieved by continued pressure from the West. On the eve of Yom Kippur, I encourage every Member of Congress to express his concern by participating in this vigil for Soviet Jews.

WISLA SOCIAL ATHLETIC CLUB CELEBRATES 50TH YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 1 the Wisla Social Athletic Club is celebrating its 50th year of service to Polish youth of Chicago, and I send my congratulations to the members on this achievement.

Wisla is affiliated with the National Soccer League and is located at 4411 West Fullerton Avenue in Chicago. Staffed by volunteers from the community, the social athletic club was founded in 1927 so that boys through the ages of 12 to 21 can have a place for athletic activities to build strong bodies and healthy minds.

I was delighted to have an American flag flown over the Capitol in honor of the 50th anniversary of the athletic club as recognition for the service record of this fine organization, and this flag will be presented at the banquet and awards ceremony which will take place on October 1.

The Wisla Social Athletic Club has long been a symbol of excellence and creative adult leadership for the youth of our Chicago community, and I extend my warmest best wishes to the members and the leaders of the athletic club for many more years of inspiration for our community.

Mr. Speaker, a short history of the Wisla Social Athletic Club follows:

SHORT HISTORY OF WISLA SOCIAL ATHLETIC CLUB

Wisla Social Athletic Club was established in 1927, and has served youth for 50 years since. Organized by a veteran of General Haller's Army, Mr. Joseph Rekucki, through the years it has grown in stature through volunteered efforts of many devoted people, mostly of Polish descent. Prime object of the organization is to occupy young people with sports and social activities. By growing in an atmosphere of unselfish devotion of elders, youth grow to up-right citizens. Teams are affiliated with the oldest in the country National Soccer League of Illinois, thus in the span of 50 years gave opportunities to generations of young men.

Wisla sponsored international games E.G. vs Sloboda S.C. in Soldiers Field in 1933 and most recently G.K.S. Tychy of Poland vs Cats in 1976.

Activities of the club were curtailed during the Second World War, when boys becoming men went to all front lines to defend this country. After the Second World War, the club started rebuilding, reaching in 1948 Major division status. Influx of new immigrants broadened the scope of the organization.

Starting work for youngsters at lower age level, the Wisla S.A.C. provided leadership for youth during the early, formative years.

Reaching for wider acceptance, the club organized Junior and Juvenile teams, which were credits to their coaches.

In recent years, Wisla Senior team gained honors of State of Illinois Soccer Champion (1975), outdoor champion of National Soccer League—Red section (1976), leader of Red section again in 1977, and presently in hot pursuit of State of Illinois champion title, advancing to semi-finals without a loss.

On a Junior level—Wisla S.A.C. Junior soccer team gained in 1976/77—Triple Crown Championships: indoor, outdoor and state.

Elected officials of this unselfish organization for the current Jubilee year (1927–1977) are:

Edward E. Nowak—Chairman, Edward Mazur—President, Michal Kuczynski, Zygmunt Spott, Tadeusz Osadzinski, vice presidents, Edward Skiba—Secretary, Joseph Jakubow—Treasurer, Henryk Czaplak, Alderman George Hagopian, Rep. Ted Lechowicz, Boleslaw Centkowski, Tadeusz Kozlowski, Henryk Florczak, Wladyslaw Tutaj, John Guzik.

Directors. Manager of Major division team—Jan Sliwa.

Coach of Major division team—Henryk Sass.

Captain of the team—Wojciech Tofilo.

Reserve team Manager—Henryk Marciniak.

The 50th Anniversary of Wisla Social Athletic Club attests to the accomplishments of young people guided honestly today to be tomorrow's responsible citizens of U.S.A., country of dreams and opportunities.

PUBLIC LAW 86-90—CAPTIVE NATIONS WEEK—IN STRONG, ENDURING EFFECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, this year's 19th observance of Captive Nations Week successfully added another chapter to the series of observances started back in 1959 with Public Law 86-90. Along with each preceding annual observance, it has demonstrated that this law is in strong, enduring effect. And the reason for this persistent continuum is not difficult to understand. To penetrate and erase all the myths that have accumulated over the years about this national event, all one need do is to read the original Captive Nations Week resolution and objectively relate its farseeing contents to the world today and its prospective future. The reality of the captive nations still is very much existent and, worse still, is an expanding reservoir of resource exploitation for Soviet Russian expansionism in the world at large.

As further selected additions to our report on the 19th observance, I submit the proclamation of Mayor Thomas J. Early of Worcester, Mass., the resolution passed by the American Legion National Convention, and reports, articles, and commentaries in the Riverside, Calif., Press, the Parkersburg, W. Va., Sentinel, the West Frankfort, Ill., American, the Sunday News-Union Leader, the Denver Rocky Mountain News, the Gary, Ind., Post-Tribune, the Manchester Union-Leader, the Chicago Tribune, and the New Orleans Times-Picayune:

CITY OF WORCESTER, MASS.

PROCLAMATION

Whereas: The imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Thomas J. Early, Mayor of the City of Worcester, do hereby proclaim the week of July 17–23, 1977 as: Captive Nations Week in the City of Worcester, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

[From the American Legion National Convention, Aug. 23, 24, 25, 1977]

CAPTIVE NATIONS

Resolution 448 (Texas) as amended and consolidated with Resolution (Ky), and 55 (Ill.).

Whereas, the Captive Nations now represent the enslavement of more than one billion people, more than 30 percent of the world's inhabitants, and all are oppressed by communist-led dictatorships; and

Whereas, people living in the Captive Nations are denied such basic human rights as free speech, free press, freedom to vote for a choice, freedom of assembly and freedom to criticize those in authority; and

Whereas, the Captive Nations now include Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, and the Soviet Union, Known as the Union of Soviet Socialist Republics, plus the fiercely independent Baltic Republics of Latvia, Lithuania and Estonia; plus the Eastern European Nations of Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, Hungary, East Germany; plus the Asian nations of Mainland China, Tibet, North Korea, North Vietnam, South Vietnam, Cambodia and Laos, plus the Western Hemisphere's Cuba; and

Whereas, other nations including Panama, Angola, Mozambique, Somalia, Ethiopia are seriously threatened with communist enslavement; and

Whereas, such anti-communist governments as Taiwan, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, the Kingdoms of Lesotho and Swaziland are under heavy pressure to surrender to communist pressures; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we urge the leaders of the United States Government as the world symbol of life, liberty and the pursuit of happiness to speak out forthrightly in support of human rights for those enslaved inside the Captive Nations whose communist leaders deny the existence of God and the spiritual dimension of life, and whose avowed purpose is to destabilize noncommunist governments by destroying their purpose, values, traditions, and social systems, and be it further

Resolved, That we call upon the President and the Congress of the United States to exert the same political and economic pressures against communist governments on behalf of human rights as has been done against non-communist governments.

[From the Riverside (Calif.) Press, July 21, 1977]

CAPTIVE NATIONS WEEK GETS LATE CARTER PROCLAMATION

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

[From the Parkersburg (W. Va.) Sentinel, July 21, 1977]

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[From the W. Frankfort (Ill.) American July 21, 1977]

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[From the Sunday News Union Leader, June 25, 1977]

CAPTIVE NATIONS MEMORIAL GETS NEW HOME

(By Ken Gould)

ASHLAND, June 25.—The Captive Nations Memorial here that has hosted the annual Captive Nations Observance for 11 years has been dismantled and moved and the man who created it has sold his business and moved. George Ober Jr. who created the Memorial Cemetery that called public atten-

tion to the 47 nations that, once free, had forced to enlarge it twice to make room for all the white crosses that graphically portrayed the plight of those nations.

The crosses, signs, guard tower and Trojan Horse have been taken to the property of Frank and Barbara Anderson in Epsom where they will be assembled for display. The Captive Nations Observance this year, however, will be held at the Highway Motel in Concord on July 17.

Many persons well known in their support of all oppressed peoples in their fight for freedom have spoken at the observances here warning Americans of the enslavement by Communism of free peoples and the loss of personal rights and dignity once their country went behind the Iron Curtain.

Among them have been Dr. Bernardo Figuerado who with his family escaped from Cuba; Robert Opal and his wife Lucy who escaped from Poland; Jozef Miot-Mroz, Polish Freedom Fighters; Mrs. Erma Zirgan formerly of Latvia; Raisa Stankievic of Byelorussia; Prof Ernesto Blanco who fled Cuba when Castro seized power.

Sustaining their descriptions of life under Communism have been Robert Hammond and Lee Hayes, crewmen on the Pueblo who experienced first hand the brutal treatment in a Communist prison. Numerous nationally known and state officials lent their support to telling the story.

Gov. Meldrim Thomson Jr. has attended and spoken at many of the sessions. Herbert Philbrick, former FBI counterspy has been a speaker; Gen. Harrison Thyng told of the torture of an American officer by the North Vietnamese. John P. H. Chandler Jr. chairman of the N.H. Conservative Union and Mrs. Cele Hammons of Lebanon, vice president of Freedom Foundation of Valley Forge have spoken, as well as Al Thomaier of Nashua.

Messages have come from Senators Norris Cotton and Thomas McIntyre plus Congressman James Cleveland. A sample message from Senator Cotton sums up the thinking of many of the speakers. "Freedom is not relative . . . it is total. As long as any among our family of nations is captive . . . we too are captive." This too was echoed by John Pemmington Gardner who spoke in 1976 on "The Age of Betrayal."

Mrs. Luella Ball of Claremont who has been general chairman of the event for many years points to the growing list of 47 Captive Nations stretching from the year 1917 when Russia fell to the three latest victims Ethiopia, Mozambique and Angola. When Cuba fell in 1960 the curtain was brought close to American shores, she commented. How much closer must it get before Americans become aroused she asks.

In this age of shrinking from patriotism by a large segment of the population, boldly standing for it has not been easy for George Ober Jr. The cemetery was first set up across the street from his vacation business here. However constant damage to the crosses and other items made a move necessary.

A neighbor, Roland Morrill, offered his land adjacent to the Ober home. "I set up the cemetery right outside my bedroom window so I could keep an eye on it," said Ober. Many a sleepless night have resulted.

Even this failed to deter persons bent on wrecking it. One person drove an automobile right through it ripping down the barbed wire and crosses. Another burned the signs asking America To Wake Up, others stole crosses; one person stole the guard tower and another person carried off the large figure of the guard.

A college professor who said he was from Canada berated Ober for the display and called him a Fascist. Some area ministers opposed the display and spoke of it in their churches.

Throughout it all Ober stood his ground. A religious man, he commented, "God gave me that job to do and I did it. Freedom dies as fighters for it die."

An editorial in a newspaper written during some of his ordeal describes Ober. "Wherever * * *. We need more such men . . . men who are motivated not by personal ambitions but by genuine concern for human conditions . . . men who have the love of God in their hearts. Such a man is George Ober Jr."

[From the Denver (Colo.) Rocky Mountain News, July 22, 1977]

CARTER BACKTRACKS, ISSUES CAPTIVE NATIONS PROCLAMATION

(By Ted Knap)

WASHINGTON.—President Carter changed his mind and issued a Captive Nations Proclamation because the Kremlin hath no fury like American ethnic voters scorned.

Every year since 1959 U.S. presidents have proclaimed the third week of July as Captive Nations Week, in accord with a joint resolution adopted by Congress.

Last week, when it became time to issue the proclamation, Carter decided to break with tradition.

A National Security Council official who worked on the matter said Carter decided not to issue the proclamation because he felt it would be "superfluous and unnecessary" and because he was "a little bit" concerned that it might further offend the Soviet Union.

The Soviets already had accused him of intervening in their domestic affairs with his publicized campaign for human rights. The campaign has become more subdued since the Kremlin called Carter an "enemy of detente" and rejected his proposals for a treaty limiting nuclear arms.

When American ethnic groups and congressmen representing ethnic districts heard of Carter's decision, they raised hell in several languages.

The National Captive Nations Committee said it was "appalled."

Chairman Lev E. Dobriansky made public a strongly worded letter to Carter.

"Your indifference to this concrete issue," Dobriansky wrote, "reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

Dobriansky noted caustically that Carter had issued a Captive Nations Proclamation when he was governor of Georgia and had attacked President Ford for saying mistakenly in their second campaign debate that "there is no Soviet domination of Eastern Europe."

Republican ethnic leaders girded for attack. Rep. Edward J. Derwinski, R-Ill., prepared a statement saying Carter's silence on Captive Nations Week was a "contradiction to his human rights crusade." Several Democratic congressmen warned the White House that Carter's refusal to issue the proclamation would be seen by American ethnic voters as a sign of weakness and abandonment of their cause. Rep. Daniel J. Flood, D-Pa., reserved an hour of time in the House to talk about captive nations.

In face of such overwhelming political pressure, Carter changed his mind and issued a hurriedly drafted proclamation Wednesday, declaring Captive Nations Week retroactively back to Sunday.

The proclamation simply reaffirmed the traditional American belief in national self-determination, liberty and human rights. It did not mention the Soviet Union.

When President Eisenhower issued the first Captive Nations Proclamation 18 years ago, it bristled with indignation over people having been "made captive by the imperialistic and aggressive policies of the Soviet Communists."

The language was softened during the Kennedy and Johnson administrations, and by the time President Nixon established detente, direct references to the Soviet Union had been dropped.

A White House official said Carter did not consider this the "right occasion" for making an abrasive statement.

[From the Gary (Ind.) Post-Tribune, July 31, 1977]

RIGHTS WOES ON TWO SIDES

The most frequent complaints one hears about President Carter's outspokenness on human rights, particularly in foreign countries, have come from Soviet boss Leonid Brezhnev and from those in this country and Europe who fear the stance is damaging U.S.-U.S.S.R. relations without helping Iron Curtain dissidents.

But they aren't the only ones. Now the President is catching flak from the National Captive Nations Committee for what its news release calls his "four-day late and weakly worded" Captive Nations proclamation.

Captive Nations Week was first proclaimed at the height of the Cold War to stress this country's concern over Soviet domination of the governments of Eastern Europe. It has received little more than lip service ever since President Dwight Eisenhower recognized what he considered the futility of this country going to the aid of Hungarian revolutionaries.

But the committee is now prompted to ask: "Which is more important to this administration—human rights or relations with the Soviet Union?"

Which probably principally serves to emphasize just how complicated the presidential job can be.

[From the Manchester (N.H.) Union Leader, July 24, 1977]

IS CARTER STARTING RETREAT ON HUMAN RIGHTS?

(By Edith K. Roosevelt)

WASHINGTON, July 3.—President Carter's four-day-late proclamation on Captive Nations Week yesterday was called "the beginning of a retreat on human rights" by Dr. Lev E. Dobriansky, Chairman of the National Captive Nations Committee.

Dr. Dobriansky, who earlier this week sharply criticized President Carter for his failure to proclaim Captive Nations Week, which began last Sunday, charged that there was "no excuse" for the delay—the first in the 19-year history of Captive Nations Week.

"Captive nations and human rights are a natural combination," Dobriansky said, "and we therefore expected a prompt and strongly worded proclamation from President Carter.

"Instead, we were first informed there would be no proclamation. Then we are presented with a pro formâ statement which makes no mention of any of the 7 nations now under Communist captivity or the primary cause of their captivity—Soviet Russia.

"We note that this deplorable misreading of the cause of captive nations follows closely the formation of the interagency committee on U.S.-U.S.S.R. relations—the first such governmental agency of its kind.

"We felt compelled to ask: What is more important to this administration—human rights or relations with the Soviet Union?

"We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he, himself, has called his 'crusade for human rights.'

"His near disastrous inaction on Captive Nations Week suggests that his commitment to his human rights crusade is growing lukewarm if not cold.

"If so, that is tragic news for the hundreds of millions living under communism who look to the United States and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

[From the Chicago Tribune, July 28, 1977]

CAPTIVE NATIONS "IGNORED"

(By Lev E. Dobriansky)

WASHINGTON.—President Carter's failure to proclaim Captive Nations Week is a grave disappointment to millions of Americans and our allies abroad. The Kremlin doubtless is delighted by this inaction, and will weigh it accordingly.

From Mr. Carter, who is supposedly committed to human rights globally, we expected the strongest proclamation yet. Instead, he chose to ignore, for the first time since 1959, this observance for the more than 27 nations held in Communist captivity.

The President's indifference to this issue reflects poor judgment and casts doubt on the substance of his human rights advocacy. This indifference marks a new low in the barometer of our foreign policy toward the imperio-totalitarian part of the world.

[From the New Orleans (La.) Times Picayune, July 25, 1977]

OPPRESSED ARE TARGET OF "WEEK"

(By Phyllis Schlafly)

Captive Nations Week is an annual observance designated by Congress and proclaimed by the president in accordance with Public Law 86-90.

The Captive Nations Resolution, which was passed by overwhelming majorities in Congress and signed into law by President Eisenhower, lists 22 nations that have been enslaved by "Communist Russia," and then states: "It is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive."

The original passage of the Captive Nations Resolution in 1969 worried the Kremlin dictators more than any action the United States has ever taken, more even than our annual appropriations for military weapons. The Kremlin dictators were shaken by our official declaration that the United States does not consider their rule over the satellite nations either legitimate or permanent.

Nikita Khrushchev was so upset at the Captive Nations Resolution approval on July 17, 1959, that he could talk of little else when Vice President Richard Nixon visited Moscow later that month. Khrushchev's reaction made it clear that the resolution had inadvertently touched the Achilles' heel of the Communist colossus.

Everyone knows that the Soviets enjoy total control over the captive nations of Eastern Europe. But de facto control is not enough for the Kremlin dictators. They yearn for the mantle of legality. They have always had a perpetual passion to extract an admission by the West that Soviet control of the satellite nations is both legitimate and permanent.

That is why for 19 years the Soviets kept calling for a European Security Conference whose principal purpose would be to proclaim that the West acknowledges and recognizes Soviet occupation of nine Eastern European countries as lawful.

The United States finally agreed to participate in such a conference, and the first session took place in Helsinki in July, 1973.

The Soviets made no secret of their objectives, bluntly proclaiming that they specifically reserve the right to carry out future Czechoslovakia-type invasions of any East European satellites.

This so-called right to invade a peaceful neighbor is called the Brezhnev Doctrine.

The United States ignored this flaunting of Soviet aggressive intentions and continued to negotiate until 1976 when the Helsinki Agreement was signed. The Soviets interpreted this agreement as tacit recognition of the legitimacy of their control of Eastern European countries.

The permanence of Soviet control, however, is again in jeopardy because of Leonid Brezhnev's illness.

According to the Washington Post, French President Valery Giscard d'Estaing told Secretary of State Cyrus Vance what many have suspected but feared to say. Namely, that Brezhnev's physical condition at their recent Paris conference was so poor that he was unable to engage in any meaningful conversation. Official denials were unpersuasive.

Despite his failing health, Brezhnev recently fired the president of the USSR and assumed that post himself. The vote to elect him was unanimous. No one dared vote against him.

When Brezhnev dies or collapses, the Soviet Union will start a period of indecision among the leaders and an opportunity for the captive nations to proclaim their independence and freedom.

The Kremlin could not cope with a rebellion involving most of its citizens. During the Hungarian Revolution in 1956, Russian soldiers refused to fire on the freedom fighters and Khrushchev had to bring in Siberian troops.

HEARINGS BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY ON THE REORGANIZATION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime, which I chair, of the House Committee on the Judiciary will hold further hearings on the reorganization of the Law Enforcement Assistance Administration of the Department of Justice.

Last June, a study group appointed by the Attorney General to make recommendations to him on the reorganization and restructuring of LEAA issued its report. On August 1, the subcommittee held a hearing at which the study group was invited to explain its findings and recommendations.

During a 60-day period which has just ended, the Attorney General invited all interested parties to submit to him their comments on the study group's report and recommendations. I asked the Attorney General to furnish to the subcommittee copies of all such comments received by him to facilitate our continued oversight activities. Subcommittee staff review of these comments, which number in the hundreds, reveals many thoughtful and persuasive observations and recommendations that need to be carefully considered in any reorganization of LEAA.

Many of those commentators will be among the witnesses who will appear when the hearings convene at 10 a.m. in room 2237 Rayburn House Office Building, on October 3, 1977, and continue at 1 p.m. in room 2226 Rayburn House Office Building on October 4.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

Mr. CAVANAUGH. Mr. Speaker, on September 15, I introduced H.R. 9141. At that time my colleague from Tennessee, JAMES H. QUILLEN, was erroneously listed as a cosponsor of the bill. He did not wish to be a cosponsor.

AGENCY RESPONSIVENESS ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 30 minutes.

Mr. HAMILTON. Mr. Speaker, any Member of Congress who is close to his constituents knows that they are deeply disturbed by the poor performance of the government. Social security beneficiaries, veterans, food stamp recipients and a host of others who depend on government programs in one way or another have expressed their misgivings to me time and time again. Conversations with my colleagues have convinced me that such misgivings are all too common. I do not exaggerate when I say that grave doubts about the competence of the government have taken root in every region of the Nation. To put it briefly, the American people are uncertain that the typical government agency has the vigor and imagination necessary to carry out its mission.

Such an attitude would not be so distressing if it were accompanied by a belief that the situation could easily be set right. It is a simple fact, however, that the American people have no such belief. Rather, they think that the government has become too remote from them and they question their own ability to influence it. They no longer perceive a direct relationship between their needs and the government's understanding of their needs. The ultimate result has been a disillusionment with government unprecedented in our history. It goes without saying that there is danger in this for a political establishment based on the consent of the governed. If such disillusionment were to persist, then it would only be a matter of time before consent to govern was withdrawn.

The sheer size of the Government has done much to foster negative attitudes and beliefs among the American people. After all, a political establishment which has 5 million employees, spends over $400 billion annually, owns one-third of the Nation's land, occupies 433 million square feet of office space and administers some 1,000 aid programs through 11 Cabinet departments, 59 independent agencies, and 1,240 advisory boards can hardly be as intelligible and efficient as the Founding Fathers intended it to be. Of course, intelligibility is an important

factor in the public's perception of Government: if agencies and activities are so varied that even the seasoned public servant is ignorant of most of them, then how can the average citizen be faulted if he complains that he does not know where to take a problem?

Efficiency is also an important factor in the public's perception of Government: while no one expects an immense not-for-profit-institution to function as smoothly as a profit-oriented small business, how can the average citizen be faulted if he complains that routine responses to his inquiries are delayed for months?

Beyond the sheer size of the Government—with its obvious implications for intelligibility and efficiency—there is the matter of rising expectations. The American people think the Government unresponsive and distant partly because their standards of performance are more strict now than ever before. In both the public and private sectors, the demand for more services of higher quality is outstripping the capabilities of the providing institutions and businesses. Naturally, there is disappointment when expectations are not met. The disappointment is especially acute when unsatisfactory services are tax-supported.

Nonetheless—and in stark contrast to their conservative tendencies of the past—the American people now look to the Government to solve increasing numbers of problems in increasingly efficient ways. The proliferation of regulatory agencies in the last few decades—nearly 50 such agencies have been created since 1960—is ample evidence of the new trend. Whether the Government has provided services of high quality is another question. Millions of Americans would say that it has not.

While many Government activities are objects of public dissatisfaction, there is one activity in particular which has received intense criticism. I am referring to the handling of citizens' complaints and inquiries by Federal agencies. What Member of Congress has not read angry letters from constituents whom Federal agencies have been unable or unwilling to help? What Member of Congress has not been made aware of the sluggishness, the unhelpfulness or the outright negligence of Federal agencies in their relations with the public? Such a state of affairs is intolerable and should not be allowed to continue.

Beyond its obvious implications for the citizen who has a problem to be solved, a question to be answered or a need for information, the handling of complaints and inquiries is one of the most critical of all Government services simply because it constitutes the principal presence of the Government in the life of most people. Although they may never attend a Government hearing, work for the Government or run for elective office, Americans nonetheless contact Federal agencies quite frequently. If their contacts with the House of Representatives are any indication—285,000 letters per day, not to mention telephone calls and personal visits—then Americans are contacting their Government more frequently than ever before. It is not difficult to see the effect that poor Government performance in this area must have. It is likely that it contributes as much as anything else to the universally low esteem in which public servants seem to be held.

These observations about the public relations of Federal agencies have recently been substantiated—with a vengeance. Under contract from the Office of Consumer Affairs in the Department of Health, Education, and Welfare, Technical Assistance Research Programs, Inc. of Washington, D.C., has just completed a study of the procedures for handling citizens' complaints in the central offices of seven Federal agencies. Although the study covered only complaints, it is probable that a parallel study of the procedures for handling inquiries would produce much the same results. I would like to share with my colleagues some of the more upsetting aspects of the study's conclusions.

First, the study reveals that agency procedures for receiving complaints are in need of reform. For example, citizens' complaints received by mail are not logged at most agencies. Furthermore, complaints received by telephone are not logged at any agency. This latter finding is significant in that a substantial number of telephoned complaints are received at all the agencies under study. If it is thought that the agencies believe logging to be unimportant, then another finding ought to raise a few eyebrows: so-called executive mail, that is, the complaint-related correspondence of congressional offices, et cetera, is logged in a uniformly excellent manner. In the absence of a contrary explanation, it might be thought that agencies are determined to provide high-quality service only to those who control their budgets. The failure of an agency to log complaints is not, of course, the most serious omission of which an agency can be accused, but it does have far-reaching consequences for the tracking of complaints and the establishment of an adequate data base for use by management. There are other deficiencies in the procedures for receiving complaints, but I shall not discuss them here.

Second, the study shows that agency responses to complaints are in need of improvement. Of the seven agencies under study, three fail to issue a final response more than 10 percent of the time. One of these three ultimately leaves one in five complaints unanswered. Such performance may seem marginally adequate until one realizes that most Federal agencies—including all of those under study—maintain statutory monopolies in their areas of service. The people receiving no final response from such agencies have nowhere else to go with their complaints. The potential for public frustration is apparent.

If a lack of final response were not bad enough, then there would still be the inappropriateness of the response issued. From 18 percent to 47 percent of the people polled say that responses of the agencies do not fit the complaints made. Such a disparity between the answer expected and the answer given is strong evidence that the lines of communication between the public and the agencies are in danger of breaking down. Undoubtedly the isolated life of the bureaucrat, complete with its dialect of English, is partly at fault.

Third, the report indicates that agency procedures for handling complaints are much too slow. The time consumed by such procedures, from receipt of the complaint to issuance of the final response, ranges from an average of 15 days for the fastest agency to an average of 49 days for the slowest. The public rightfully takes such delays to be unacceptable: from 34 to 65 percent of the people polled say that their complaints are not handled quickly enough. While agency footdragging in the handling of complaints comes as no surprise, there is no reason at all to excuse it. A delayed response may reach a person who has lost interest, or it may arrive too late to be of any use. There is every indication that the agencies can respond expeditiously: complaints from congressional offices are processed 10 days faster than others on the average. Again, the fact of preferential treatment for Congress suggests that agencies provide high-quality service only when their own well-being is at stake. Of course, fear of a reduced budget is not the proper sort of motivation for a tax-supported institution. It should be motivated by the importance of the mission it has been directed to carry out.

Fourth, the report gives reason to believe that the agencies under study do not go far enough to convince the public that complaints are pursued in a fair and evenhanded manner. The public perception of unfairness of treatment is a genuine problem: from 32 to 57 percent of the people polled say that the agencies handling their complaints discriminate against them in one way or another. While it is likely that the alleged discrimination is really a matter of insufficient authority to act forcefully enough to resolve complaints, the public perception of unfairness of treatment should not be ignored. An agency should take great pains to explain the limits of its authority to any person who may believe that he is being discriminated against. The belief that equitable treatment is being received is often as important as the equitable treatment itself.

Fifth, and finally, the report reveals a widespread feeling that the agencies under study do not handle complaints in an aggressive and effective fashion. When people lodging complaints with the agencies are asked whether they think that the agencies do as much as possible to resolve the complaints, from 45 to 65 percent reply that adequate effort is not exerted. Worse yet, when the same people are asked whether they get what they want from the agencies, from 48 percent to 70 percent reply that they do not. Again, such feelings may be due in part to public misunderstanding of the limits of agency authority, but in this case it is not realistic to assume that agency actions are as aggressive and effective as they might be. Every Member of Congress knows that too many bureaucrats have become too secure in their jobs, too self-serving and too insensitive for it to be so.

I myself find such a state of affairs deeply troubling. My experience in public office has convinced me that the American people will forgive the honest mistakes and inevitable failings of their Government if they believe that it truly cares about their problems and does what is humanly possible to meet their needs. However, my experience has also convinced me that the American people have a low tolerance for uncaring attitudes and slipshod performance on the part of public servants. They will allow their hard-earned tax dollars to be drained off in subsidies to these negligent workers for only so long a time.

The recent report of Technical Assistance Research Programs, Inc. has confirmed what many Members of Congress—and virtually all congressional caseworkers—have long suspected: the complaint-handling mechanisms of Federal agencies are, with few exceptions, in a state of disarray. Consequently, I believe that Congress and the Executive should begin to think about remedies. Since it is safe to suppose that the mechanisms for handling inquiries—where these are distinct—are in a similar state of disarray, such mechanisms should not be excluded from deliberations. To help set the process in motion I am joining with Congressman GOODLOE BYRON in introducing the Agency Responsiveness Act of 1977. The measure is designed to facilitate, on the part of both the legislative and executive branches, governmentwide review and reform of the procedures of Federal agencies for handling citizens' complaints and inquiries. I am mindful that the bill may only be a first step toward comprehensive review and reform, but it is a step that must be taken.

In very brief terms, the Agency Responsiveness Act of 1977 would—

Require that the head of each executive agency submit to Congress, within 90 days after enactment, a report containing brief descriptions of: First, the administrative procedures used to screen, log, review and analyze citizens' complaints and inquiries; second, the resources committed to such procedures, and third, the administrative steps taken to improve such procedures;

Direct that the head of each executive agency take, within 90 days after enactment, such steps as may be necessary to improve the uniformity, speed, and comprehensiveness of responses to citizens' complaints and inquiries;

Require that the head of each executive agency submit to Congress, within 270 days after enactment, a report containing summaries of: First, citizens' complaints and inquiries received by the agency during the previous 6 months; second, the responses made to such complaints and inquiries; third, the time taken to make such responses, and fourth, legislative recommendations to improve further the agency's handling of such complaints and inquiries; and

Direct the congressional Committees on the Budget, in their annual allocation of funds, to take account of the efforts of agencies to insure efficient and adequate responses to citizens' complaints and inquiries.

Mr. Speaker, I have no illusions about the improvement in service that we could expect with the passage of the Agency Responsiveness Act of 1977. The problems of agency sluggishness and insensitivity have developed over many years and it will likely take some years to correct them fully. However, I do view this legislation as a promising start. It would give Congress the data necessary to address an unacceptable situation with forcefulness and resolve. Also, it would give executive agencies a reasonable chance to set their affairs in order on their own. Finally, it would serve as a notice to public officials who neglected the people that the winds of change were beginning to blow. I encourage my colleagues to lend their support to this worthy legislation.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, because of an important White House meeting on the 1980 census I missed two votes on two rules. Had I been present I would have voted for both rules.

A TRIBUTE TO WILLIAM REECE SMITH, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, William Reece Smith, Jr., of Tampa, will receive the B'nai B'rith Humanitarian Award at a Gold Medallion Dinner Sunday evening, September the 25th. He will be presented this distinguished award by Mr. David M. Blumberg, president of B'nai B'rith International.

Reece Smith has earned this award because of the excellence of his service to mankind. I first met Reece when he came to practice law in Tampa in the early 1950's. He became an outstanding lawyer and was so recognized by his law partners by being elected president of his law firm and president of the Florida Bar. But, Reece was not one who stuck narrowly to his business and profession. He has always been active in community affairs and in humanitarian endeavors.

He recently became the president of the University of South Florida where he was admired and respected by his staff and loved by his students. He possesses those excellent qualities of leadership that enable him to get the job done in a highly professional manner. He has recently stepped down as president of the University of South Florida in order that he be eligible for election to a high national office. Everyone who knows Reece respects him and honors him.

Martha and I extend our congratulations to Reece and his lovely wife Marlene. Together they have done their work well as husband and wife, as parents, and as leaders. At this time, Mr. Speaker, I would like to read to the House the encomium of the B'nai B'rith Humanitarian Award:

William Reece Smith, Jr. is a man of outstanding achievement whose vision and leadership have brought great distinction to all his endeavors. One of Tampa's leading citizens, Mr. Smith stands as a magnificent example for all our young people.

A renowned attorney, Mr. Smith is prominent in numerous professional and legal organizations, having served as president of the Hillsborough County Bar Association, The Florida Bar, and the American Bar Endowment.

A former city attorney of Tampa, Mr. Smith has continued to serve its people through a multitude of community activities. While president of The Florida Bar, Mr. Smith was founding president of Florida Legal Services, Inc., a state-wide organization facilitating delivery of legal services to the poor. Currently, Mr. Smith is the chairman of the State of Florida Human Rights Advocacy Committee, a position he was appointed to by Governor Askew.

Mr. Smith is past president of the Tampa Philharmonic Association, the Florida Gulf Coast Symphony, and the Tampa chapter of United Cerebral Palsy. He was also chairman of the Community Mental Health Society and director of the Tampa chapters of the American Red Cross, American Cancer Society, Muscular Dystrophy Association and Visiting Nurses Association.

A patron of education, Mr. Smith is concerned about youth and the future of America. He is interim-president and past chairman of the Council of Advisors at the University of South Florida. He is also a former member of the Counselors at the University of Tampa and the Board of Visitors at Florida State University, College of Law.

William Reece Smith, Jr. is a man whose commitment to his community exemplifies the finest in American tradition. B'nai B'rith is proud to honor him with its National Humanitarian Award.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CAPUTO (at the request of Mr. RHODES), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KELLY) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 60 minutes, today.
Mr. KEMP, for 5 minutes, today.
Mr. COLEMAN, for 60 minutes, September 22, 1977.
Mr. TRIBLE, for 10 minutes, today.

(The following Members (at the request of Mr. BONIOR) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. RYAN, for 5 minutes, today.
Mr. CAVANAUGH, for 5 minutes, today.

Mr. HAMILTON, for 30 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.
Mr. GIBBONS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OTTINGER, to include extraneous matter during debate on ERDA authorization bill.

Mr. STARK, immediately following the remarks of Mr. WIRTH on the Wirth amendment in the Committee of the Whole today on H.R. 6796.

(The following Members (at the request of Mr. KELLY) and to include extraneous material:)

Mr. MCKINNEY.
Mr. KELLY.
Mr. LAGOMARSINO in five instances.
Mr. ABDNOR in two instances.
Mr. HYDE.
Mr. BAUMAN in two instances.
Mr. SNYDER.
Mr. FINDLEY.
Mr. STEIGER.
Mr. SHUSTER.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. DAN DANIEL.
Mr. RYAN.
Mr. MAZZOLI in two instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. FLORIO.
Mr. ROSENTHAL.
Mr. EILBERG.
Mr. MCDONALD in four instances.
Mr. HAMILTON.
Mrs. SCHROEDER.
Mr. SIMON.
Mr. NOWAK.
Mr. CONYERS in two instances.
Mr. VANIK.
Mr. DOWNEY.
Mr. WOLFF.
Mr. CARNEY.
Mr. OBERSTAR.
Mr. MURTHA.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General; to the Committee on the Judiciary.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 18 minutes p.m.) the House adjourned until tomorrow, Thursday, September 22, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2420. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's proposed fiscal year 1977 program in Costa Rica, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2421. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's proposed fiscal year 1977 program in Guyana, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2422. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934; to the Committee on Interstate and Foreign Commerce.

2423. A letter from the Acting Executive Director, Blinded Veterans Association, transmitting the report on the audit of the organization's financial statements for the year ended June 30, 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2424. A letter from the Secretary of Commerce, transmitting a report on the molluscan shellfish industries and water quality, pursuant to section 16(a) of Public Law 94-370; to the Committee on Merchant Marine and Fisheries.

2425. A letter from the Comptroller General of the United States, transmitting a report on the U.S. lethal chemical munitions policy (PSAD-77-84, September 21, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2426. A letter from the Secretary of Health, Education, and Welfare, transmitting the Department's position on various amendments to H.R. 3, the Medicare-Medicaid Antifraud and Abuse Amendments of 1977; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5643. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; with amendment (Rept. No. 95-615). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5858. A bill to amend the Tariff Schedules of the United States to permit the free entry of Canadian petroleum (including reconstituted crude petroleum) and crude shale oil, provided that an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum (including reconstituted crude petroleum) and crude shale oil has been exported to Canada; with amendment (Rept. No. 95-616). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MAHON:

H.R. 9232. A bill to rescind certain budget authority recommended in the message of the President of July 19, 1977 (H. Doc. 95-187), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 9233. A bill to rescind certain budget authority recommended in the message of the President of July 26, 1977 (H. Doc. 95-197), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. BREAUX:

H.R. 9234. A bill for the relief of the Alabama-Coushatta Tribes of Texas and the Coushatta Tribe of Louisiana; to the Committee on Interior and Insular Affairs.

By Mr. CARNEY (for himself and Mr. APPLEGATE):

H.R. 9235. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON:

H.R. 9236. A bill to improve agency responsiveness to citizen complaints and inquiries, to require submission to Congress of information on administrative procedures used to handle citizen complaints and inquiries, and for other purposes; to the Committee on Government Operations.

By Mr. HAMMERSCHMIDT:

H.R. 9237. A bill to repeal the provisions of the Postal Reorganization Act and reenact the former provisions of title 39, United States Code; to the Committee on Post Office and Civil Service.

H.R. 9238. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

H.R. 9239. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the purchase and installation of certain teletypewriters for use by individuals whose sight, hearing, or speech is impaired; to the Committee on Ways and Means.

By Mr. MICHAEL O. MYERS:

H.R. 9240. A bill to amend section 5901 of title 5, United States Code, to increase the authorized maximum uniform allowance for Federal employees to $300 per annum; to the Committee on Post Office and Civil Service.

H.R. 9241. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR:

H.R. 9242. A bill to establish national policies to promote the adoption of Government programs which can be expected to provide the greatest net public benefit and to prevent Government programs from having unreasonable public costs, to establish a system requiring regulatory cost/benefit assessments to be prepared for any proposed legislation or regulation which may have a significant economic impact, and for other purposes; to the Committee on Government Operations.

By Mr. PERKINS (for himself and Mr. BUCHANAN):

H.R. 9243. A bill to provide for orderly trade in iron and steel products; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. CORRADA, Mr. DERRICK, Mr. EILBERG, Mr. FLORIO, Mr. FUQUA, Mr. ICHORD, Mr. LEHMAN, and Ms. SPELLMAN):

H.R. 9244. A bill to amend the Social Security Act to include optometrists in the professional standards review organization; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. SCHULZE:

H.R. 9245. A bill to amend title 38 of the United States Code in order to extend from 10 years to 15 years the period in which veterans' educational assistance may be used; to the Committee on Veterans' Affairs.

By Mr. STARK (for himself, Ms. BOGGS, Ms. BURKE of California, and Ms. SCHROEDER):

H.R. 9246. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H. Res. 771. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

255. By the SPEAKER: Memorial of the Legislature of the State of Texas, relative to section 14(b) of the Taft-Hartley Act; to the Committee on Education and Labor.

256. Also, memorial of the Legislature of the State of Texas, relative to establishment of a post office at Klein, Tex.; to the Committee on Post Office and Civil Service.

257. Also, memorial of the Legislature of the State of Texas, relative to a national energy program; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

246. By the SPEAKER: Petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to educational accountability; to the Committee on Education and Labor.

247. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to reorganization of the Law Enforcement Assistance Administration; to the Committee on the Judiciary.

248. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to section 404 of the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

249. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to textile imports; to the Committee on Ways and Means.

250. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to the Federal forestry incentives program; jointly, to the Committees on Agriculture and Appropriations.

251. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to revenue for transportation projects; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

252. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to energy policy; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, Public Works and Transportation, Science and Technology, and Ways and Means.

SENATE — *Wednesday, September 21, 1977*

The Senate met at 10:30 a.m., and was called to order by Hon. WENDELL R. ANDERSON, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God, in the silence of this moment speak to our waiting hearts. Refresh us with Thy spirit to quicken our thinking, steady our nerves, control our emotions, sharpen our judgments, and strengthen our wills. Grant us wisdom and courage to do what must be done for our times, to do it as best we are able and as Thou dost give us light, to do all according to Thy will. With Thee may we begin, with Thee may we labor, and with Thee may we end the day. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 21, 1977.
To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL R. ANDERSON, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ANDERSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Tuesday, September 20, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures on the Unanimous Consent Calendar that were cleared for action and placed on the Unanimous Consent Calendar yesterday. I ask unanimous consent that the Senate proceed to the consideration of those three measures.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THUY BACH KANTER

The bill (S. 1654) for the relief of Thuy Bach Kanter was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, the periods of time Thuy Bach Kanter, an alien lawfully admitted for permanent residence to the United States, has resided in the United States shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act. Thuy Bach Kanter may file a petition for naturalization with any court having naturalization jurisdiction under section 310 of such Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-430), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of the bill is a 26-year-old native and citizen of South Vietnam who was admitted to the United States for permanent residence on December 11, 1975. She currently resides in Dacca, Bangladesh, where her husband, a U.S. citizen employed with the International Rice Research Institute, is now stationed. Mr. Kanter's employment requires him to spend extensive periods of time abroad; his wife is now traveling with a reentry permit and desires expeditious naturalization so that she may obtain a U.S. passport and alleviate difficulties encountered in the course of their travels.

YOUNG SHIN JOO

The Senate proceeded to consider the bill (S. 1005) for the relief of Young Shin Joo, which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 11, after the period, to insert the following:

Section 204 (c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young Shin Joo may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Ronald Taggart, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act, Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-431), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as an immediate relative of the prospective adoptive child of U.S. citizens. The purpose of the amendment is to waive the provision of existing law relating to the number of petitions which may be approved.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of Korea who was born January 8, 1977. She is currently in the care of the Social Welfare Society of Korea; her natural parents are unknown. The prospective adoptive parents, Mr. and Mrs. Ronald Taggart, are U.S. citizens. They have two other adopted children who are natives of Korea.

WILLIAM H. SESSUMS III, ROBERT L. SESSUMS, AND GLORIA J. SESSUMS

The resolution (S. Res. 261) to pay a gratuity to William H. Sessums III, Robert L. Sessums, and Gloria J. Sessums, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to William H. Sessums, III and Robert L. Sessums, sons of William H. Sessums and to Gloria J. Sessums, daughter to William H. Sessums, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum to each equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may move, en bloc, to reconsider the votes by which the measures were passed.

The ACTING PRESIDENT pro tempore. Without objec ion, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished acting Republican leader, are there any nominations to which anyone on his side objects?

Mr. STEVENS. There are no objections to any of the nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. I thank the distinguished assistant Republican leader. I ask unanimous consent that the nominations on the Executive Calendar be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Arthur J. Goldberg, of the District of Columbia, to be Ambassador at Large and Representative to the Conference on Security and Cooperation in Europe (CSCE) and Chairman of the U.S. Delegation to the CSCE.

George W. Landau, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

Andrew J. Young, of Georgia, James F. Leonard, Jr., of New York, Lester L. Wolff, U.S. Representative from the State of New York, Charles W. Whalen, Jr., U.S. Representative from the State of Ohio, and Coretta Scott King, of Georgia, to be Representatives of the United States of America to the 32d Session of the General Assembly of the United Nations.

Donald F. McHenry, of Illinois, Melissa F. Wells, of New York, Allard Kenneth Lowenstein, of New York, Marjorie Craig Benton, of Illinois, and John Clifford Kennedy, of Oklahoma, to be Alternate Representatives of the United States of America to the 32d Session of the General Assembly of the United Nations.

U.S. AIR FORCE

Maj. Gen. Abner B. Martin, U.S. Air Force, to be Lieutenant General.

Brig. Gen Walter D. Reed, U.S. Air Force, for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force.

Lt. Gen. John F. Gonge, U.S. Air Force, for appointment on the retired list, to Lieutenant general.

U.S. ARMY

Maj. Gen. George Gordon Cantlay to be lieutenant general.

Maj. Gen. Charles Calvin Pixley for appointment as the Surgeon General, U.S. Army, with the grade of lieutenant general.

Brig. Gen. Spencer Beal Reid, Brig. Gen. George Ivan Baker, and Brig. Gen. William Sinclair Augerson to the grade of major general Medical Corps.

Col. Quinn Henderson Becker, Col. William Raymond Dwyre, and Col. Edward James Huycke to the grade of brigadier general, Medical Corps.

Maj. Gen. William Albert Boyson and Maj. Gen. Charles Calvin Pixley to the grade of major general, Medical Corps.

Brig. Gen. Spencer Beal Reid, Brig. Gen. George Ivan Baker, and Maj. Gen. Kenneth Ray Dirks to the grade of brigadier general, Medical Corps.

Brig. Gen. William Emmett Ingram and Brig. Gen. James George Sieben to be major generals.

Col. Robert Lee Childers and Col. Francis Alphonse Ianni to be brigadier generals.

Lt. Gen. Richard Ray Taylor to be lieutenant general.

Col. James Julius Young to be brigadier general, Medical Service Corps.

U.S. NAVY

Rear Adm. James B. Stockdale to be vice admiral.

Rear Adm. William J. Crowe, Jr., to be vice admiral and senior Navy member of the Military Staff Committee of the United Nations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Air Force nominations beginning Peter J. Abadie, to be captain, and ending Gary A. Wandmacher, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1977.

Air Force nominations beginning William D. Bates, to be colonel, and ending Charles O. Titus, to be colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the Congressional Record on September 7, 1977.

Air Force nominations beginning Alfred R. Abbatiello, to be lieutenant colonel, and ending Rita J. Wetzel, to be lieutenant colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the Congressional Record on September 7, 1977.

Air Force nominations beginning Barry S. Abbott, to be first lieutenant, and ending Richard W. Siefke, to be first lieutenant, which nominations were received by the Senate on August 16, 1977, and appeared in the Congressional Record on September 7, 1977.

Air Force nominations beginning Robert O. Osborne, to be major, and ending Peter H. V. Winters, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 14, 1977.

Army nominations beginning Gasper V. Abene, to be lieutenant colonel, and ending Johnny L. Cokley, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1977.

Army nominations beginning Harold L. Albert, to be colonel, and ending Barbara J. Young, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 4, 1977.

Army nominations beginning James B. Baylor, to be colonel, and ending Robert T. Cummins, to be lieutenant colonel, which nominations were received by the Senate on August 29, 1977, and appeared in the Congressional Record on September 7, 1977.

Navy nominations beginning Farouk B. Asaad, to be lieutenant commander, and ending Deborah N. Moore, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1977.

Navy nominations beginning Thomas C. Adams, to be captain, and ending Marilyn A. Edgar, to be lieutenant, which nominations were received by the Senate on August 15, 1977, and appeared in the Congressional Record on September 7, 1977.

Marine Corps nominations beginning Joseph P. Holt, to be second lieutenant, and ending James P. Guerrero, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 4, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider, en bloc, the votes by which the nominations on the Executive Calendar were considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. I yield back the minority leader's time.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. I will say this, Mr. President—and the distinguished assistant Republican leader may certainly reserve any time that he has to respond—I would hope that we would begin to see some momentum today on the natural gas pricing bill, and I would hope that Senators on both sides of the aisle have been made fully aware of my statement and that of the minority leader to the effect that if the natural gas pricing bill has not been resolved by the close of business on Friday, there will be a Saturday session. There may also be some late, late, late, late sessions, and I would hope that in view of the statements, and also in view of the fact that we expect to adjourn in October, conferees for both houses will be working assiduously in efforts to get the conference reports back to the respective Houses on measures that are in conference.

The committees of the Senate might also be well advised to have early meetings and to work long and hard in the effort to report out such remaining measures as there be unreported at this time, which must be acted upon before we adjourn over until January.

I hope that the respective cloak rooms will alert Senators daily that if action on this pending bill is not completed on Friday and there has been no resolution thereof, there will definitely be a Saturday session.

I thank the Chair and I thank the Senate. I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I had yielded back the time on this side, but if I may just comment before that is accepted? We endorse the majority leader's goal of completing action on this bill this week.

It is our hope that all Senators will realize that the leadership, and particularly the Senator from West Virginia in his role as majority leader, have tried to be very understanding with regard to the situation of those who went to the NATO Parliamentarians' meeting and also with respect to the calendar as far as the religious holiday this week is concerned. As a consequence, the time frame for voting has been severely limited during this week, and it will require the cooperation of all Senators involved if we are to avoid a Saturday session.

I, for one, hope we do, but at the same time I understand the urgency of completing action on this bill in order that we may continue progress on the overall energy package.

It is, of course, our hope that we will be able to bring the bill to a vote early on Friday, as far as the major issue is concerned.

I can assure the majority leader that those who are managing the bill on this side have indicated a desire to get on with the schedule and to have the votes occur as soon as possible. I yield back the remainder of our time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I understand this request is necessary because witnesses have been notified to appear at the hearings to which I will refer. I am reluctant to seek unanimous consent for committees or subcommittees to meet during the session of the Senate at this stage of the session, as I indicated earlier—ample notice was given many, many weeks ago—except in instances where there are extenuating circumstances or the committees are being expected to report legislation that has to be acted upon before the Senate and House adjourn.

I ask unanimous consent that the Agricultural Production, Marketing, and Stabilization of Prices Subcommittee of the Agriculture, Nutrition, and Forestry Committee be authorized to conduct oversight hearings on Wednesday, September 28, to hear witnesses concerning the problems associated with the transportation of agricultural products.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair. I yield to the distinguished Senator from South Dakota for a unanimous-consent request.

PRIVILEGE OF THE FLOOR—S. 2104

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Bethany Weidner, of my staff, be granted the privileges of the floor during voting and consideration of the natural gas legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, for the information of the distinguished majority leader, I shall use no more than half of the time which has been alloted to me.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator. I apologize for having imposed on his time by my extended remarks this morning.

Mr. ALLEN. That is all right. I anticipated there would be some remarks.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, last week I had occasion to speak from time to time on matters involving the proposed Panama Canal treaty and the proposed neutrality treaty for the Canal Zone. In my study of the terms of both treaties, I have relied heavily on Panamanian interpretations of the various documents involved inasmuch as the Panamanian negotiators have been somewhat more candid with the Panamanian National Assembly that our own negotiators have been with the U.S. Congress.

Too, Mr. President, the information we gathered as to the interpretation that the Panamanians put on these treaties is of vital concern to the Senate in reaching a determination as to whether it shall advise and give its consent to the ratification of these treaties. Because of the fact there has been no meeting of the minds between the two countries, the treaties would, in effect, be completely worthless if we had one interpretation and the Panamanians had another.

I might add also, Mr. President, that the dictator-controlled Panamanian Press, in many respects, has set forth more real information on this subject than has our own press. Over the weekend, I ran across an informative editorial in a U.S. newspaper, this week's Army Times, and this editorial does deserve high commendation for its very accurate assessment of one facet of the executive department's propaganda offensive for ratification of these treaties.

The Army Times editorial is entitled "Using the Chiefs"—having reference to the Joint Chiefs of Staff—and it points out the double standard, the inconsistency, and the impropriety of chastising military personnel on the one hand for speaking out against the policies of the executive branch yet coercing them on the other hand to speak out in favor of such policies. The editors of Army Times apparently share my own deep conviction that the professional military cannot be permitted to intervene publicly in politics and that grave danger is posed by deliberate misuse of the military for political advantage.

Army Times states its disapproval in this manner:

One of the reservations we have about the administration merchandising of the treaty is the early use of the Joint Chiefs of Staff to promote ratification.

In addition, JCS chairman Gen. George S. Brown, supposedly on his own accord, met with ranking military retirees in the Washington area in an attempt to win their support for the treaty.

We accept the contention that the chiefs acted out of honest conviction in their protreaty effort. But their presence among political figures who are endorsing the treaty is cause for concern. Critics of the pact already are charging that the military leaders acted out of loyalty to the Commander in Chief. Brown has denied the charge but probably has not laid it to rest.

We would rather have seen the military views given in that forum instead of the White House extravaganza preceding it.

I might state that while the Joint Chiefs have endorsed the treaty, four former Chiefs of Naval Operations have come out in strong opposition to the treaty, showing the direct contrast between those who are still on the payroll and in active military service who may have one view, but their equally distinguished colleagues, many of them, and certainly four former Chiefs of Naval Operations, have come out against the treaty.

You know, Mr. President, we have just recently been treated to the public spectacle of a senior military commander in Korea being summarily relieved of command for remarks thought inconsistent with the executive department's apparent determination to abandon South Korea, yet almost in the same breath we have had paraded before us assorted active-duty generals and admirals, all chorusing in unison the praise of the President and endorsing to a man this strategically disastrous treaty proposal. The irony, at least, has not been lost on the editors of Army Times who see danger in this obvious politicizing of the role of the military decisionmakers.

I again quote the Army Times:

It is fair, in our view, to criticize the President for the service leader's participation in the pre-debate "education" effort.

I welcome an education effort, educating the American people about these treaties, because the more they find out about the treaties, in my opinion, the harder and the more determined will the opposition of the American people be to the treaties.

When general officers have spoken out on other national policy matters, he and his representatives have been quick to remind them of the bounds of their military responsibilities.

"He," in this case, is the President.

In this case, however, the military leaders are showing approval of administration policy, not opposition. The difference may be difficult to explain and may result in some erosion in the military's traditional political neutrality.

Mr. President, I do believe that the fair and dispassionate views of our leading military officers should be considered by the Congress, but I trust the Members will recognize the unseemliness of ballyhooing active-duty military support for the new treaties, when such support is so obviously generated by a desire for job security and personal advancement rather than out of loyalty to the national interest of the United States, at least as I perceive it.

Mr. President, from time to time I have spoken out against these treaties, and I have pointed out reasons for my opposition. I am going to continue, week in and week out, until this matter comes before the Senate, with the approval of the distinguished majority leader and his graciousness in getting me this time, to speak out against these treaties and to give a backlog of information showing that approval by the Senate of these treaties will be contrary to our national interest.

I believe that the education process which the executive department is going to carry on in connection with trying to sell this treaty to the Senate and to the American people will be counterproductive insofar as getting approval of the treaties is concerned; and that public opinion will be stronger and stronger, as time goes on, against the treaties.

Mr. President, I ask unanimous consent that the editorial to which I referred be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

USING THE CHIEFS

The administration's selling job on the new Panama Canal treaty has to be one of the major political spectaculars of recent memory.

While Congress was on vacation in August, the President worked to rally support for the pact among legislators, key people in the former administration, union leaders, governors, business people and others. The signing brought more heads of foreign governments to Washington than have been here since the last state funeral.

The political activity gives the impression that the treaty is about to take effect. In fact, it still faces Senate ratification and what amounts to House endorsement through approval of related money bills. Heated debate on the issue is predicted.

The administration's effort may be good political strategy, but it tends to raise questions. If the treaty—actually two treaties are involved—is good, it may be asked, why the hard sell and why, until now, the lack of specifics?

We don't pretend at this point to know whether the treaty is the best arrangement the U.S. can make with Panama. Senate hearings and debate should provide light as well as heat on the issues involved. But it should be evident that overwhelming protreaty arguments are going to have to be made to persuade lawmakers and perhaps a majority of the American public that the U.S. should relinquish its Canal rights.

For many Americans the treaty surfaces at the wrong time. The U.S. has "lost" a war in Asia, and is preparing to withdraw ground combat forces from South Korea. Negotiating away American rights on the canal comes as the final straw.

One of the reservations we have about the administration merchandising of the treaty is the early use of the Joint Chiefs of Staff to promote ratification.

In addition, JCS chairman Gen. George S. Brown, supposedly on his own accord, met with ranking military retirees in the Washington area in an attempt to win their support for the treaty.

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We would rather have seen the military views given in that forum instead of the White House extravaganza preceding it.

It is fair, in our view, to criticize the President for the service leaders' participation in the pre-debate "education" effort. When general officers have spoken out on other national policy matters, he and his representatives have been quick to remind them of the bounds of their military responsibilities.

In this case, however, the military leaders are showing approval of administration policy, not opposition. The difference may be difficult to explain and may result in some erosion in the military's traditional political neutrality.

Mr. ALLEN. I yield back the remainder of my time, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, for the purpose of committees submitting their reports, and Senators submitting statements and petitions and memorials, bills, and resolutions for introduction.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. Reserving the right to object, what was the request?

The ACTING PRESIDENT pro tempore. For morning business.

Mr. ROBERT C. BYRD. If the Senator will just not get excited about anything at this point, I assure him that no advantage is being taken of any Senator vis-a-vis the natural gas pricing bill.

Mr. ABOUREZK. I do not think the majority leader would try to take advantage. I only wanted to know what the request was.

Mr. ROBERT C. BYRD. The Senator is entitled to know.

I was asking that there be a brief period for the transaction of morning business so that committees could report and Senators could introduce bills and resolutions and make statements and so on, and that the period be limited to 15 minutes, with statements limited to 2 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

PROPOSED AMENDMENTS TO NATURAL GAS LEGISLATION

Mr. ABOUREZK. May I be recognized, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. ABOUREZK. I have a series of amendments, which I do not have prepared yet, to the natural gas legislation. I ask unanimous consent at this time that I be allowed to introduce those during the day today.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Reserving the right to object, why does the Senator need unanimous consent to introduce them?

Mr. ABOUREZK. I do not want to sign every one of them. I want to do it from the floor and I do not have them all prepared yet. It is just to avoid signing every one of them before offering them to the desk. As the majority leader said, I shall not take advantage of anybody by so doing.

Mr. STEVENS. This Senator does not feel the Senator from South Dakota will take advantage, but I do not understand why he needs unanimous consent to introduce amendments that he can introduce at any time.

Let me inquire of the Chair, is unanimous consent required?

The ACTING PRESIDENT pro tempore. If the Senator is submitting amendments for printing, that is considered morning business, and if done from the floor would not have to be signed. Apparently, he wants to offer them later without the need to sign each one.

Mr. STEVENS. No, these are to the pending bill, so he will not need consent from anybody, as I understand it.

Mr. ROBERT C. BYRD. These are amendments to the natural gas pricing bill. The Senator can offer amendments and have them printed at any time during the day.

The ACTING PRESIDENT pro tempore. The Chair understands that he just wants to submit them for printing.

Mr. ABOUREZK. That is all.

Mr. STEVENS. If it is necessary to have unanimous consent, I have no objection. But if it is something extraordinary, I might have to look into it.

Mr. ABOUREZK. It is only to have them printed and I did not want to sign them all. That is the only reason I made the request.

Mr. STEVENS. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXPRESSION OF APPRECIATION TO LEADERSHIP

Mr. ALLEN. Mr. President, in light of the colloquy just a moment ago between the distinguished majority leader and the distinguished Senator from South Dakota (Mr. ABOUREZK), I commend the distinguished majority leader for his manner and method of conducting the business of the Senate. In view of the fact that committees are necessarily in session during the time that the Senate is in session, if we did not have some way to register our objection to proceedings here in the Senate, the various steps that might be taken that would prejudice the interests of a particular Senator, we would all have to refrain from going to committee meetings. But the distinguished majority leader and the distinguished minority leader allow us to register objections, state positions, and urge that no steps be taken contrary to those positions, and we are able to depend absolutely on being protected in our positions on procedural matters by the two leaders. I express my commendation and my appreciation to the leaders for this fine policy that they have.

I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

UN-NATURAL GAS

Mr. STEVENS. Mr. President, I shall have statements later today concerning this matter, but I would like to call the attention of the Senate to this morning's Wall Street Journal editorial concerning un-natural gas. The first paragraph of that editorial ought to bring everyone in the Senate up short, because it states:

As it prepares to vote on the deregulation of natural gas, the Senate needs to understand that the much-touted pipeline to bring gas from Alaska will never be built.

I commend this editorial to the Members of the Senate because it accurately addresses the problem of uncertainty in gas pricing as it affects the ability to finance a project whose cost was originally estimated at $10 billion and now is projected for at least $14 billion. No one knows for sure what it will really cost. This editorial only deals with a few of the reasons why the pipeline through Canada to carry Alaska's gas from Prudhoe Bay to what we call the south 48 may never be built; but, certainly, the discussion of the pricing mechanisms as they affect the ability to finance a project which, admittedly, is going to cost more than $10 billion, ought to be considered by the Members of the Senate. Above all, they ought to be considered by the Members of the Senate who come from industrial States that are going to be relying upon Alaska resources, particularly Alaska natural gas resources, whether they like it or not. I think the question of pricing is a significant question that must be considered—not the price of gas at the Alaska wellhead, but the price of gas as it affects the stability of the gas industry and the price of gas, as it determines whether or not the resources that may be available in the south 48 have actually been inventoried so that investors can be sure that the cost of transporting Alaskan gas, particularly transporting Alaskan gas through Canada, is absolutely necessary.

Again, Mr. President, I commend the Wall Street Journal editorial to the Members of the Senate and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UN-NATURAL GAS

As it prepares to vote on the deregulation of natural gas, the Senate needs to understand that the much-touted pipeline to bring gas from Alaska will never be built.

Oh, "never" may be a mite too strong. The Congress can build the pipeline if it is willing to soak the U.S. taxpayer for its cost of $10 billion and up. And in the far future the line will be built if it becomes clear that natural gas cannot be had for less than the $3.50 per thousand cubic feet (mcf) the Alaskan gas will cost crossing the U.S. border. But until we have exhausted the possibility that gas can be had right here in the Lower 48 at a cost below the $3.50 Alaskan price and above the $1.75 Carter control price, there will be no way the pipeline developers will be able to borrow $10 billion to build the project.

At $10 billion the pipeline will be the most expensive ever built, indeed the costliest private project ever devised by man. And when you consider that the Alaskan oil pipeline eventually cost 10 times the original estimate, the $10 billion estimate could prove to be far too modest. The sums involved are likely to dwarf the capitalization not only of the builders but the gas utilities that must pay back the cost by buying the gas. Raising such an enormous sum will be a problem simply because there are only so many financial institutions, each with prudent limits for investment in any one project.

The investment is huge, and the risk will be intolerable if Mr. Carter prevails with his $1.75 price ceiling. For then there will be no test of the possibility that if the price were ever decontrolled the nation would be awash in gas before it ever reached $3.50, a possibility suggested by resource estimates by some of the Carter administration's MOPPS experts and by the head of the United States Geological Survey. The administration can try to suppress or fog up the MOPPS estimates and fire the head of the USGS, but this is not much comfort to folks asked to shell out $10 billion to produce $3.50 gas.

The investors have to contemplate what would happen if come 1985, say, a President Simon succeeded in deregulating the price of gas. Presumably the Alcan line would at that point have long-term contracts with the gas utilities to buy $3.50 gas, and the utilities would have promises that they could roll this price into their rate base. But there is no guarantee that such promises and contracts would survive the political heat that would be generated if $2.50 gas floods the market.

The prudence of lenders always puts some limit on the folly of government. What sense does it make, after all, to cheer about spending $10 billion to bring gas from Alaska at a price of $3.50 while passing laws against getting gas from Oklahoma at $2? Mexico has also recently discovered huge reserves of gas, which probably will be imported into the U.S. at a price of $2.60 to $2.80. If you drilled straight down where those pipelines will cross the border, you could probably bring up gas at $2.

For that matter, there is right today a glut of gas in Alberta, which can and should be imported at $2. All you have to do is be willing to pay the Canadians a price it is illegal to pay the Texans. Don't be shocked, companies are already negotiating to pay $2.75 to buy liquefied natural gas from the Algerians. But Mr. Carter and Mr. Schlesinger don't want to deregulate because they're afraid someone might make a windfall profit.

Actually profits will in any event gravitate toward the same market return on investment everyone else gets, and in doing so will insure that the most economical resources will be exploited first. Conceivably it corresponds to someone's sense of social justice to take Alaska first even if Oklahoma would be cheaper. But if meeting the nation's energy needs means borrowing money for projects the size of the Alcan pipeline, you simply won't get the expensive resources so long as there is a risk that cheaper ones may be around. And the only way you can eliminate the risk is to deregulate the price and see what comes out of the ground.

(Routine morning business transacted and additional statements submitted will be printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2104, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 887

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 887 in the nature of a substitute, by the Senator from Oklahoma.

AMENDMENT NO. 957

Mr. METZENBAUM. Mr. President, I call up amendment No. 957, introduced by Senator KENNEDY.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. BUMPERS addressed the Chair.

Mr. STEVENS. A point of order, Mr. President. Is there not an amendment pending before the Senate?

The ACTING PRESIDENT pro tempore. Yes, there is, but it is in the nature of a substitute, and amendment 957 perfects the original bill and takes precedence.

Mr. STEVENS. The amendment called up by the Senator from Ohio will take precedence over the amendment offered by the Senator from Oklahoma?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BUMPERS. Mr. President, if I may, I inquire of the Senator from Ohio, through the Chair, is this an amendment offered in the nature of a substitute to the Bartlett amendment?

Mr. METZENBAUM. The answer is no.

The ACTING PRESIDENT pro tempore. It is an amendment to the original bill.

Mr. STEVENS. A parliamentary inquiry, again, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STEVENS. Was the amendment of the Senator from Washington in the nature of a substitute adopted for the purpose of original text?

The ACTING PRESIDENT pro tempore. It has never been called up.

Mr. STEVENS. So that the amendment that is offered by the Senator from Ohio is in the nature of a substitute to the bill as reported from the committee?

The ACTING PRESIDENT pro tempore. It is a perfecting amendment to the bill as reported.

Mr. STEVENS. A perfecting amendment in the nature of a substitute?

The ACTING PRESIDENT pro tempore. No.

Mr. STEVENS. Is it a substitute?

The ACTING PRESIDENT pro tempore. No, it just perfects. It is not a complete substitute.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) on behalf of Mr. KENNEDY proposes an amendment numbered 957:

On page 8, beginning on line 18, strike out all through line 19 and insert in lieu thereof the following: "be the price which was determined to be just and reasonable by the Commission and was in effect on April 20, 1977.".

AMENDMENT NO. 958

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, at this time, I call up amendment No. 958 for Senator KENNEDY, which is an amendment to amendment No. 957.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) on behalf of Mr. Kennedy proposes an amendment numbered 958 to amendment No. 957:

In lieu of the language proposed to be inserted, insert the following: "not exceed $1.45 per Mcf, plus the inflation adjustment as defined in section 3(a) (20).".

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STEVENS. Is this also a perfecting amendment?

The ACTING PRESIDENT pro tempore. It is a second-degree amendment. It is in order.

Mr. STEVENS. It is a second-degree perfecting amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STEVENS. An amendment to the perfecting amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STEVENS. And is it my understanding that if this amendment is called up by the Senator from Ohio that no further amendments are in order at this time?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STEVENS. And are there any other amendments that could be called up, or could the Chair state whether there are any amendments that could take precedence to the amendment that has been offered by the Senator from Ohio?

The ACTING PRESIDENT pro tempore. No, because it is in the second degree.

The PRESIDING OFFICER (Mr. METZENBAUM). The Chair should like to clarify an earlier response to the Senator from Alaska.

When the Senator from Alaska asked whether any further amendments were in order at this time, the Chair responded, "no." That was before the Chair had an opportunity to study the two pending amendments. Since they are a substitute for a section of the original bill, a perfecting amendment to that language to be stricken in the original bill would be in order at this time.

Mr. ROBERT C. BYRD. To be stricken by which amendment?

The PRESIDING OFFICER. By the first Kennedy amendment.

Mr. STEVENS. No. 958?

The PRESIDING OFFICER. 957, 958 being second.

Mr. ROBERT C. BYRD. As I understand what the Chair is saying—I have not seen the amendments, and I am in no position to have said—the perfecting amendment in the first degree is a "strike out and insert."

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Which does mean, then, that the language of the bill which is to be stricken by the amendment in the first degree is open to perfecting amendments in two degrees.

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. So you could very easily have two amendments in that regard, in addition to the two amendments that now have been offered—that is four—plus the substitute by the Senator from Oklahoma which is also pending. You could have a plethora of amendments.

I think the Chair accurately has put the matter in focus. So the Senator from Alaska understands now that if he or any other Senator wishes to offer a perfecting amendment to the language to be stricken by the amendment in the first degree to the amendment offered by Mr. METZENBAUM, such amendment is in order.

Mr. STEVENS. I thank the Chair and the majority leader.

(This concludes proceedings which occurred subsequently.)

(Subsequently the following occurred:)

Mr. STEVENS. Is there a time agreement on this amendment?

The ACTING PRESIDENT pro tempore. There is not.

Mr. STEVENS. May I inquire whether it is possible to discuss the question of a time agreement on this amendment with the Senator from Ohio?

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I can only answer that it is not possible to discuss a time agreement with respect to these two amendments, the Senator from Ohio actually having acted at the request of the Senator from Massachusetts whose amendments they are, the Senator from Massachusetts being engaged in committee responsibilities at the moment, and whether or not he would or would not be agreeable to a time agreement is a matter that I am not in a position to address myself to.

Mr. BARTLETT. Will the Senator yield?

Mr. METZENBAUM. I am glad to.

Mr. BARTLETT. Would the Senator make an effort to find out whether a time agreement could be achieved?

As the Senator knows, the Senator from Oklahoma, whose amendment was pending, was hoping to have a time agreement. I think this would be in the interest of moving ahead. We would certainly welcome an opportunity to discuss a time agreement on this amendment, on both of these amendments.

Mr. METZENBAUM. The Senator from Ohio indicated yesterday, for myself, not speaking for any Senator other than myself, that I would not be agreeable to a time limit, particularly with respect to the Senator from Oklahoma's amendment, as well as the matter that the Senate will be coming to, absent some understanding and discussion with reference to a unanimous-consent agreement that amendments would be accepted should either the Bartlett amendment in the nature of a substitute or the Pearson-Bentsen amendment in the nature of a substitute be agreed to.

I had that colloquy yesterday with the minority leader. The minority leader indicated that such a unanimous-consent agreement would not be acceptable, and absent that, I would not be prepared to agree to any time limit.

Mr. BARTLETT. My question also applies to the Senator from Ohio's amendments.

Would the Senator from Ohio be receptive to a time agreement on these two amendments called up?

Mr. METZENBAUM. The Senator from Ohio thought he made clear that I would not be in any position to make any agreement with respect to a time limit on these amendments.

These amendments actually being the amendments of the Senator from Massachusetts and not my amendments, I having called them up as an accommodation to him.

Mr. BARTLETT. The Senator probably did not understand my question. My question had to do with his own personal attitude about the matter and not the attitude of the Senator from Massachusetts.

I just wondered what his attitude would be. I assume that he is trying to expedite indications to the Senator from Massachusetts to find out what the Senator from Massachusetts' preference would be.

But I am asking about the position of the Senator from Ohio regarding a time agreement on these two amendments of the Senator from Massachusetts.

Mr. METZENBAUM. I would not be prepared to answer that question without discussing the subject further with the Senator from Massachusetts.

Mr. BARTLETT. The Senator from Oklahoma requests that the Senator from Ohio advise us at the earliest moment when this communication comes through so that we would know the desires.

We keep asking. We are not trying to bother the Senator from Ohio, but we would like to know just what the desires are.

Mr. METZENBAUM. I will try to accommodate the Senator from Oklahoma to that extent.

Mr. BARTLETT. I thank the Senator from Ohio.

Mr. STEVENS. Mr. President, for myself, I suggest that the Senator from Massachusetts and the Senator from Ohio permit us to go ahead and have a vote on the Bartlett amendment. That was anticipated by the leadership, I think. If my memory serves me correctly, the majority leader indicated he anticipated a vote on the Bartlett amendment today, too.

Certainly, this is not the Pearson-Bentsen amendment that we all know will be the subject of greater controversy. But I think the Senator from Oklahoma had reason to believe he would have a vote on his amendment today, and we should have it.

I hope that the Senator from Ohio will contact the Senator from Massachusetts and determine whether we can set this matter aside, these two amendments, and discuss and vote upon the Bartlett amendment, as was anticipated.

I, for one, have to express surprise at this action. I say to the Senator from Ohio that my nose tells me I smell a filibuster. I think if we are going to smell a filibuster, we better get a cloture motion in here pretty quickly. I do not know what the majority leader intends to do about it; but I personally do not want to spend Saturday here just to participate in a filibuster or to oppose a filibuster, either way.

I cannot understand a premature calling up of amendments that would block further consideration of any of the other amendments.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, maybe I can help and somehow clarify the situation.

The amendment that was offered on yesterday by Mr. BARTLETT was an amendment in the nature of a substitute. That amendment is open to an amendment, it being a complete substitute for the bill.

Mr. BARTLETT. Yes.

Mr. ROBERT C. BYRD. So, then, it is open to amendment in two degrees.

The bill, in the meantime, however, is open to perfecting amendments in two degrees.

The Senator from Ohio was within his right to offer, on behalf of Mr. KENNEDY, a perfecting amendment to the bill itself and then to follow with an amendment to the perfecting amendment.

So he exercised his rights under the rules to offer both the amendment in the first degree and the amendment in the second degree. Disposition of those perfecting amendments will precede the disposition of the substitute amendment by the Senator from Oklahoma.

If the amendment in the second degree is disposed of, another amendment in the second degree may be offered to the pending amendment in the first degree. They are all subject to tabling motions.

In the event that the amendment in the first degree were tabled, it would carry with it the amendment in the second degree. In that event, another perfecting amendment to the bill would be in order.

So what I am saying is that perfecting amendments to the bill are in order prior to action on the substitute, because the desire is to perfect a bill, to make it as nearly perfect as possible, before voting on a substitute for the bill which was reported by the committee. I hope I have helped to clarify the matter.

I share the hopes that have been expressed by the distinguished acting Republican leader and the able Senator from Oklahoma that action will be taken on the amendments that have been offered on behalf of Mr. KENNEDY by Mr. METZENBAUM and that action will also be taken one way or the other on the amendment by Mr. BARTLETT today.

I must say that I do not see any filibuster occurring at the moment. I have been asked that question a number of times by the press, and I have been able to say truly that I have not heard that word used by Mr. METZENBAUM or anyone else, other than the representatives of the press. I have, however, the euphemistic term "extended debate" used by a Senator or some Senators, but that does not disturb me too much at this point. I know how these things go around here.

However, I have said that we are going to complete action on the energy package before this Congress adjourns; and that means if such a thing as a filibuster should develop—I do not believe it is going to develop—we just have to work our way through it.

Whether I win or lose on a given amendment, I make my fight, and that is it. It is the Senate's will that must be recorded.

So I believe that all Senators will approach the matter in that spirit. I know that all sides on a very controversial amendment do everything they possibly can to win for their respective position, but there comes a time when the Senate should vote. At this point, I do not want to believe, and have no reason to believe, that there will be any deliberate effort to kill this bill by a filibuster. If that becomes evident to me, then I will take recourse in any way I possibly can to see that the Senate finally works its will on the measure, and as soon as possible.

I hope that we are off to a good start now. I believe that before the day is over, we will see some votes on the floor, and that, in turn, may help open the way to more votes and—who knows—eventually perhaps a time agreement.

Mr. STEVENS. Mr. President, I ask unanimous consent that John Burnett and Douglas Logan, of my staff have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. STEVENS. Mr. President, I make the same request for Donna West of Senator DOMENICI's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe and Richard Arnold, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I appreciate the consideration of the Chair and the clarification of the rights of Senators to offer further amendments. I appreciate the statement of the majority leader.

No one likes to smell filibusters. I do have a slight perception of the aroma of a filibuster, not that that is a bad aroma,

but it is something that is coming into my senses. I hope I am wrong. The majority leader believes I am wrong, and I believe we would be well advised to act on the basis that I am wrong.

I do not believe that this is a bill—a significant portion of the energy package—which should be the subject of a filibuster. I believe we should have some votes today.

As I said, we have been most considerate of the problems of other Senators, both on Monday and Tuesday, and we are maintaining more than a quorum of Senators in order to do business. We should have the opportunity to vote today on some of the amendments to this bill, particularly in view of the fact that we shall not vote from sundown tonight until sundown tomorrow.

Looking forward to the prospect of spending Saturday here, it is only fair to the Members of the Senate that we have been attempting to move forward on the bill in the meanwhile. If this is not to come to conclusion by any other means today, I, for one, shall offer a motion to table it before 6 p.m.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Erich Evered of my staff be accorded the privileges of the floor during the consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I would just like to say I am not going to offer my amendment as a perfecting amendment in the area to delete the language at this time, and may not at all. But I did want to say it is my understanding that the distinguished Senator from Massachusetts is agreeable to a time limitation. So I do hope that avenue will be pursued and we can at the earliest possible moment agree to such a time limitation.

Mr. BUMPERS. Mr. President, I have been absent for the past 2 days. Although I have not previously spoken about this subject of deregulation of natural gas, my position on it is fairly well known.

To the Senator from Alaska I would like to say I do not know of any devious plots going on in the Senate dealing with a filibuster. This is obviously, together with some of the tax measures, the centerpiece of the President's energy proposal. I feel strongly about it, so strongly that I certainly think the debate should not be cut short.

I have detected since I have been in the Senate the last 2½ years that filibusters only have an odor if you happen to be on the other side, and they smell quite differently to one who happens to be opposed to a measure that is about to go through.

I have never participated in one, and I can say here with a great deal of satisfaction I have voted for cloture every time it has ever been presented in the Senate for a very simple reason. I am always willing to face an issue up or down.

There are exceptions to my rule. I certainly would not vote for cloture if I thought a measure was going to have an unfair, disadvantageous effect on my home State. There will be instances where I may believe that a matter is unconstitutional, and I may not vote for cloture. There may even be a matter that I feel very strongly about—I am not sure that natural gas deregulation bill is such an issue—and would feel the Senate was making an impulsive, grave mistake, and that might cause me to vote against cloture.

But I have always believed the Senate ought to expedite debate in consideration of measures that come before it.

I know, however, the Senator from Alaska will agree with me. This matter is much too important to cut short the debate.

The Senator from Oklahoma's amendment is pending now. I know he feels as sincerely about that as anybody in this Senate feels about any measure he is going to offer here. I know the Senator from Colorado (Mr. HART) has an amendment which would exempt the independents, the independent gas producers in this country, and I know how strongly he feels about that because I have discussed it with him.

Then I know that the Pearson-Bentsen amendment is really the centerpiece of the debate here.

Then the Senator from Louisiana (Mr. JOHNSTON) feels very strongly about a measure he is going to propose which, as I understand, effectively deregulates gas over a 5-year period.

My point is there are divergent views in the Senate. A lot of the Senators feel very strongly about whatever their position is, and everybody ought to have the right to present his amendment in its best light, and he ought to be satisfied that all the Senators are well versed in whatever his position is. Then they can vote accordingly.

I do not think anybody here wants to impede the passage of some kind of measure here. I know the majority leader feels very strongly about getting us out of here by the middle of October. He also wants to accommodate the President by at least saying yes or no to the President on all of these energy matters. I think most Senators conscientiously feel we can and will do a satisfactory job on this energy legislation.

But, if I may, Mr. President, I would like to make some points. This is not a particularly good time to make them, because I think that with a few minor exceptions most people are fairly well locked in on how they are going to vote on this matter.

But this whole issue of deregulation of natural gas reminds me of Lucy holding the football for Charlie Brown every September. He insists that she is going to pull the ball out from him just the minute he gets there, and each September she swears she will not do it. She says, "This time I'm going to hold the ball and let you kick it." Every September Charlie falls for it, and every September Lucy pulls the football out, and Charlie takes a tumble.

Last winter was the harshest in modern history. We had gas curtailments everywhere, with industries shut down and people out of jobs. It was a golden opportunity for the oil and gas companies of this country to say, "See I told you. That mean old Congress has not deregulated the price of gas and oil and that is the reason for the big shortage. It just isn't enough incentive for us to go out and find all those trillions of cubic feet of natural gas that are waiting impatiently for us to find them, and unless you deregulate, the same thing is going to happen next winter."

Now, Mr. President, unfortunately a lot of my colleagues have fallen for that because they are afraid we are going to have another harsh winter, and the oil and gas companies are going to make these same arguments, and we are all going to get that same ton of mail we got last winter saying, "Why don't you let the oil companies find all this gas so I won't lose my job?"

There were, fortunately, some Members of the Senate last year who were ingenious enough to think up a counter argument. They argued that there really was no shortage, but the oil and gas companies withheld gas from the market, and that is the reason the shortage existed. They had it and refused to ship it because they saw they had the country in a stranglehold, and they could make their point a lot more dramatically by seeing people lose their jobs.

There are people in this Chamber who bought that argument. There was some substance to that argument.

But the truth of the matter is, Mr. President, neither of those arguments is worthy of our consideration. The truth of the matter is that in the last week of August there were 2,345 rotary drilling rigs in existence in this country, and all of them except 305 were in operation, and every rig in this country has been in operation for the last 2 years except those that were in the shop for repairs or those that were in transit from one location to another.

What have we gotten for it? Oil production has declined 500,000 barrels a day every year since the Arab oil embargo. The oil and gas companies in this country, if you raised the price of gas to $10 per Mcf tomorrow, could not drill an extra single hole because they do not have anything to drill them with.

The Congressional Budget Office says if we keep adding 20 to 30 new rotary rigs a week to the national supply, by 1985 we will indeed increase the supply of gas by 5 percent. God only knows what the price would be at that time if we passed the so-called Pearson-Bentsen amendment, but they will increase the supply of gas 5 percent.

Do you know what that 5 percent represents? It represents 5 percent of gas we are going to find faster than we otherwise would.

Mr. President, I have some strong philosophical feelings about this whole subject. We can solve the energy crisis of this country by mandate, by conservation, or we can solve it by price.

If we are going to pass a crude oil tax so that domestic oil costs the same price as some artificial price set by the OPEC nations and raise the price of gasoline 7 cents a gallon and home heating oil by that much or more, if we are going to deregulate natural gas and increase the winter gas bills next winter by 40 percent, if we are going to do those things and solve the energy crisis off the

hides and off the backs of the working people and the retired people on fixed income of this country, for heaven's sake let us have the decency to tell them that is the way we are going to solve it.

Let us tell them that there is not an ounce of sensitivity left in this body. All we are concerned with is what Franklin Roosevelt said at one time:

> It is really an enigma of the human personality that the fat pocketbook groans louder than empty bellies.

That is what the Senate is listening to. It is listening to the groan of fat pocketbooks.

I do not know how this vote is going to come out, but I can tell you one thing. I am going to go home and look at the constituents in my State and tell them that I did everything in the world I could to solve this problem in a decent, sensitive, fair way so that those people who are legitimately engaged in producing more energy can do so and make a big profit and at the same time at least allow them to stay warm even though it is going to take an absolutely unbelievable proportion of their incomes to do so.

Mr. President, it is hard for me to accept the President's proposal to raise the price of gas to $1.75. I have no idea what it will go to if we agree to Pearson-Bentsen, and no one else in this Chamber does either. I do not care what anyone says here. God just made so much natural gas, and that is all we are going to find.

Let me give you an example. They are crying about how they cannot make any money. Let me give you an example. They come to my office saying: "Senator, it takes a million dollars to drill a gas well. We are having to drill 15,000 and 20,000 feet deep, and it costs a million dollars a well, and a lot of them are dry."

Under the President's proposal here is what that amounts to. Let us assume that they drilled five holes at $1 million each, and let us assume that four of them are dusters and only one produces. Assume further that the one that produces only produces 10 million cubic feet of gas a day.

Mr. President, I come from Franklin County, Ark., and there is a lot of gas around there. Arkansas is not considered a big gas-producing State. We import 80 percent of the gas we use in our State, and the other 20 percent is mostly produced around my home area.

But we have a lot of wells in that area that have produced more than 10 million cubic feet, and they are not considered big wells.

But assume you drill five wells. It costs you $5 million. And only one of them produces 10 million cubic feet a day.

Do you know what the return is at $1.75, the price the President is proposing? It is $6.4 million the first year.

How high is high? That is a pretty good return. I will sink my money into that kind of an operation any time. I have very few investments that pay 100 percent return the first year, and I doubt there are many people in this Chamber who have such investments. That is just about what the national drilling average is right now, about 1 out of 5.

I made a speech out in Michigan yesterday to a group of oil jobbers, and the oil jobbers' interests are not necessarily the same as the major oil and gas companies, as the Senator knows.

There was a fellow who came up to me after I had spoken and said:

> Senator, how in the world can you champion $1.75 for natural gas that is produced in the United States when we just signed a contract to buy gas from Mexico for $2 or more an Mcf?

If you are sitting around the coffee shop in Charleston, Ark., that makes a lot of sense, because I used to do it. I tell you that the problems were so much simpler to solve before I got to the position of having to solve them. I just cannot believe the difference. We used to solve everything in the coffee shop every morning, and it was so simple, until I got to the Senate and all of a sudden things got more complicated.

But I tell you the short answer to that is the people of Mexico are not paying over $2 an Mcf. It is only that gas that the national oil company, owned by the Government of Mexico, ships across the border that they sell for $2.

Mr. President, if we are going to sell any of our natural gas across the border, even though it is privately owned, I think we should get $3 or $4 a Mcf for it because we do not have enough anyway. The reason Mexico is selling us gas is because they have a lot and we do not have enough. They know we can afford to pay it and will pay it. But they are not charging their own citizens that amount.

Do you know what the Congressional Budget Office said? They said that even under the President's proposal very shortly your winter gas bills are going to go up 20 percent. If you adopt deregulation your gas bills are going to go up 40 percent.

Mr. President, look at my mail last winter from the people who were trying to survive the harshest winter in recent times and pay their gas bills and stay warm. I am not going to write those people and say, "I voted for a bill that raised those prices still another 40 percent."

If it were a matter of not having the gas because the oil and gas companies could not make a profit, I would reevaluate my position. That is not what we are talking about here, and that is not what we are going to continue to be talking about.

Mr. President, that is probably about all I am going to have to say on this issue. I may make this speech a couple more times when I have a little larger audience because I like the speech. But that is about the sum and substance of my attitude about this bill we are debating here today.

Mr. HEINZ. Mr. President, I ask unanimous consent that Bill Reinsch, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, because it pertains to the gas supply issue, I shall address the Senate for a few moments on the agreement that was signed with Canada yesterday concerning the pipeline to be built from the Prudhoe Bay deposit in Alaska to the South 48 through Canada.

I am sure it comes as no surprise. I have opposed that pipeline. I continue to oppose the pipeline through Canada for many reasons.

I do believe, however, it is incumbent upon those of us who are involved in this issue to try to get all the facts we can to our constituents.

Therefore, I ask unanimous consent that at the close of my remarks on this subject the agreement be printed in the RECORD at that point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, it was my privilege this morning to meet with the President and Members of the Senate on general matters, and one of the subjects the President discussed with us was the alarming rate of the increased deficit in our balance of payments.

I find it incongruous at the time this deficit is increasing that we should be willing to export to our neighbor, Canada, the jobs and manufacturing capacity that will be lost as we send our resource through Canada.

The estimate of that pipeline that is being used now by the administration is $10 billion. Of that estimate $6 billion is attributed to the cost of the pipeline going through Canada, and that does not include that so-called Dempster latteral.

The portion that will go through Canada is the portion that is subject to the predicted cost overrun, mainly because the portion of that pipeline that would be built through my State parallels the existing oil pipeline right-of-way.

I think it is incumbent, as I said earlier today, for the Senate to realize that Alaska's natural gas resources are not going to be cheap. To the Senator from Arkansas, I would say it makes no sense, to me, to be fighting over an amendment that would limit the price of natural gas to $1.45 in lieu of the President's recommended price of $1.75, when we know that the cost alone of getting Alaska's gas to the South 48 will exceed that. What it means is that we will be committing our resources to guarantee a pipeline through Canada. We will be exporting our dollars; we will be denying our unemployed the right to work; we will be watching more steel plants close down while the Canadians tool up their steel plants to build a pipeline to carry our gas to our customers, and at a cost which far exceeds the price that apparently, in interstate commerce, would be paid for gas in the South 48.

I happen to believe that a free market is the best market we can deal with—at least a market which is as unregulated as possible in the circumstances that exist. But it is a strange national policy which exports jobs, exports dollars, and exports manufacturing demand, and at the same time places a limit on the amount that we pay for our gas, or at least proposes to, which is far below that which we are paying Canada for Canada's gas, or paying Algeria for Algerian

LNG, or Indonesia for Indonesian LNG, and will in fact increase the deficit in our balance of payments.

For years we have been worried about the problem of reliance upon foreign sources for our oil. Well, Mr. President, it is pretty obvious that we should become worried about relying upon foreign sources for liquefied natural gas. I wonder how many Americans know that there is no capacity in this country for liquefying large amounts of natural gas. The major plant is in Alaska already; it is the Kenai plant.

We see Savannah, Ga., in the process of building a billion-dollar plant to regasify LNG—imported liquified natural gas. There is no alternative source of supply of that product. We see California getting ready to approve regasification facilities for Indonesian liquefied natural gas, when they refuse to even consider approving a project for regasifying Alaska's liquefied natural gas. I am of the opinion that if that project had been approved, this pipeline would not have been approved to go through Canada.

The natural consequence of it, Mr. President, is that this country is not just drifting, it is being propelled, down a line which will lead to nationalization. I think that is what the proponents of these amendments, who want to limit the price of gas, really want: To force us into the circumstances that only the Federal Government will produce oil and gas in this country, and only the Federal Government will explore for oil and gas. I think they ought to take a good long look at what happened to England once that country started down the road to nationalization.

Mr. President, I really cannot be too strong in my disapproval of the pipeline decision to take our gas through Canada. But I also cannot be too strong in my opposition to these arbitrary limits on the price of gas. The homeowner in the eastern part of the United States who currently relies on gas may well be shut off this year because of the loss of about 10 percent of the supply—that 10 percent is not going to be there because the price was not sufficient to induce people to bring about the production that is necessary. The cost to that homeowner to convert to coal or oil is staggering. I estimate that it would cost him more to convert to another fuel than he could pay in the rest of his lifetime if we increased the price of natural gas tenfold, because we are only dealing with a 10-percent shortage on the east coast at the present time. It is not the same as if he were paying the full amount of the increase for all of his gas; he would be paying it only for the incremental amount that would be necessary to keep him onstream as a gas user. Therefore, if there is a 10-percent shortage, even if there were a tenfold increase he would still be paying only 10 percent more for his gas.

Somehow or other the economics of deregulating new natural gas has been so distorted in this body that it gets all out of proportion. But above all, I think it is incumbent upon us, particularly those who represent frontier areas—and there is no more frontier area in the country than my own—to realize that the cost of that natural gas from the Prudhoe Bay is going to be almost double the amount that would be provided by the amendment now pending before the Senate, and that is just the cost of getting it down here, without regard to what the wellhead price is.

Some people ask us why we care about the wellhead price: we never will get the high wellhead price that would be achieved by production that is near the major population centers for the country.

My answer is this: Alaskans will get the true value of their natural gas if there is a free market. We cannot hope to achieve the return that we should get from our natural resource as it is produced if there is an arbitrarily controlled market.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question at this point?

Mr. STEVENS. Let me finish this one point, and then I will.

Mr. President, the question of going through Canada will again come before this body later this month. I think everyone concerned with the matter that is before us now, natural gas pricing, ought to realize that that issue involves not only pricing, but it involves the economy of this country, the exporting of some $6 billion to $10 billion in demand for our labor and manufacturing market, as I say, at a time when the administration and Congress together must recognize that the most pressing problem that we have on the domestic scene is in fact this continuing deficit in the balance of payments. We cannot continue to export these dollars, at a time when the demand from the rest of the world for our products is diminishing. The economies of the rest of the world cannot absorb any increased production from this country, and therefore, even if we did improve our own economic climate, we would be faced with the problem of what to do to earn money to pay this deficit in the balance of payments; and the money is not going to be there. It is not going to be there particularly if we pursue a policy of exporting to our neighbor to the north the demand for our manufactured products and the jobs that could have been associated with an all-American route for transporting Alaska's natural gas to the markets in the South 48.

EXHIBIT 1

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON PRINCIPLES APPLICABLE TO A NORTHERN NATURAL GAS PIPELINE

The Government of the United States of America and the Government of Canada,

Desiring to advance the national economic and energy interests and to maximize related industrial benefits of each country, through the construction and operation of a pipeline system to provide for the transportation of natural gas from Alaska and from Northern Canada,

Hereby agree to the following principles for the construction and operation of such a system:

1. Pipeline routes:

The construction and operation of a pipeline for the transmission of Alaska natural gas will be along the route set forth in Annex I, such pipeline being hereinafter referred to as "the Pipeline". All necessary action will be taken to authorize the construction and operation of the Pipeline in accordance with the principles set out in this Agreement.

2. Expeditious construction; timetable:

(a) Both Governments will take measures to ensure the prompt issuance of all necessary permits, licenses, certificates, rights-of-way, leases and other authorizations required for the expeditious construction and commencement of operation of the Pipeline, with a view to commencing construction according to the following timetable:

Alaska, January 1, 1980.

Yukon, main line pipe laying January 1, 1981.

Other construction in Canada to provide for timely completion of the Pipeline to enable initial operation by January 1, 1983.

(b) All charges for such permits, licenses, certificates, rights-of-way, leases and other authorizations will be just and reasonable and apply to the Pipeline in the same non-discriminatory manner as to any other similar pipeline.

(c) Both Governments will take measures necessary to facilitate the expeditious and efficient construction of the Pipeline, consistent with the respective regulatory requirements of each country.

3. Capacity of pipeline and availability of gas:

(a) The initial capacity of the Pipeline will be sufficient to meet, when required, the contractual requirements of United States shippers and of Canadian shippers. It is contemplated that this capacity will be 2.4 billion cubic feet per day (bcfd) for Alaska gas and 1.2 bcfd for northern Canadian gas. At such time as a lateral pipeline transmitting Northern Canadian gas, hereinafter referred to as "the Dempster Line", is to be connected to the Pipeline or at any time additional pipeline capacity is needed to meet the contractual requirements of United States or Canadian shippers, the required authorizations will be provided, subject to regulatory requirements, to expand the capacity of the Pipeline in an efficient manner to meet those contractual requirements.

(b) The shippers on the Pipeline will, upon demonstration that an amount of Canadian gas equal on a British Thermal Unit (BTU) replacement value basis will be made available for contemporaneous export to the United States, make available from Alaska gas transmitted through the Pipeline, gas to meet the needs of remote users in the Yukon and in the provinces through which the Pipeline passes. Such replacement gas will be treated as hydrocarbons in transit for purposes of the Agreement between the Government of Canada and the Government of the United States of America concerning Transit Pipelines, hereinafter referred to as "the Transit Pipeline Treaty". The shippers on the Pipeline will not incur any cost for provision of such Alaska gas except those capital costs arising from the following provisions:

(i) the owner of the Pipeline in the Yukon will make arrangements to provide gas to the communities of Beaver Creek, Burwash Landing, Destruction Bay, Haines Junction, Whitehorse, Teslin, Upper Liard and Watson Lake at a total cost to the owner of the Pipeline not to exceed Canadian $2.5 million;

(ii) the owner of the Pipeline in the Yukon will make arrangements to provide gas to such other remote communities in the Yukon as may request such gas within a period of two years following commencement of operation of the Pipeline at a cost to the owner not to exceed the product of Canadian $2500 and the number of customers in the communities, to a maximum total cost of Canadian $2.5 million.

4. Financing:

(a) It is understood that the construction of the Pipeline will be privately financed.

Both Governments recognize that the companies owning the Pipeline in each country will have to demonstrate to the satisfaction of the United States or the Canadian Government, as applicable, that protections against risks of non-completion and interruption are on a basis acceptable to that Government before proof of financing is established and construction allowed to begin.

(b) The two Governments recognize the importance of constructing the Pipeline in a timely way and under effective cost controls. Therefore, the return on the equity investment in the Pipeline will be based on a variable rate of return for each company owning a segment of the Pipeline, designed to provide incentives to avoid cost overruns and to minimize costs consistent with sound pipeline management. The base for the incentive program used for establishing the appropriate rate of return will be the capital costs used in measuring cost overruns as set forth in Annex III.

(c) It is understood that debt instruments issued in connection with the financing of the Pipeline in Canada will not contain any provision, apart from normal trust indenture restrictions generally applicable in the pipeline industry, which would prohibit, limit or inhibit the financing of the constructon of the Dempster Line; nor will the variable rate of return provisions referred to in subparagraph (b) be continued to the detriment of financing the Dempster Line.

5. *Taxation and provincial undertakings:*

(a) Both Governments reiterate their commitments as set forth in the Transit Pipeline Treaty with respect to non-discriminatory taxation, and take note of the statements issued by Governments of the Provinces of British Columbia, Alberta and Saskatchewan, attached hereto as Annex V, in which those Governments undertake to ensure adherence to the provisions of the Transit Pipeline Treaty with respect to non-interference with throughput and to non-discriminatory treatment with respect to taxes, fees or other monetary charges on either the Pipeline or throughput.

(b) With respect to the Yukon Property Tax imposed on or for the use of the Pipeline the following principles apply:

(i) The maximum level of the property tax, and other direct taxes having an incidence exclusively, or virtually exclusively, on the Pipeline, including taxes on gas used as compressor fuel, imposed by the Government of the Yukon Territory or any public authority therein on or for the use of the Pipeline, herein referred to as "the Yukon Property Tax", will not exceed $30 million Canadian per year adjusted annually from 1983 by the Canadian Gross National Product price deflator as determined by Statistics Canada, hereinafter referred to as the GNP price deflator.

(ii) For the period beginning January 1, 1980, and ending on December 31 of the year in which leave to open the Pipeline is granted by the appropriate regulatory authority, the Yukon Property Tax will not exceed the following:

1980—$5 million Canadian.

1981—$10 million Canadian.

1982—$20 million Canadian.

Any subsequent year to which this provision applies—$25 million Canadian.

(iii) The Yukon Property Tax formula described in subparagraph (b)(i) will apply from January 1 after the year in which leave to open the Pipeline is granted by the appropriate regulatory authority until the date that is the earlier of the following, hereinafter called the tax termination date:

(A) December 31, 2008; or

(B) December 31 of the year in which leave to open the Dempster Line is granted by the appropriate regulatory authority.

(iv) Subject to subparagraph (b) (iii), if for the year ending on December 31, 1987, the percentage increase of the aggregate per capita revenue derived from all property tax levied by any public authority in the Yukon Territory (excluding the Yukon Property Tax) and grants to municipalities and Local Improvement Districts from the Government of the Yukron Territory as compared to aggregate per capita revenue derived from such sources for 198 is greater than the percentage increase for 1987 of the Yukon Property Tax as compared to the Yukon Property Tax for 1983, the maximum level of the Yukon Property Tax for 1987 may be increased to equal the amount it would have reached had it increased over the period at the same rate as the aggregate per capita revenue.

(v) If for any year in the period commencing January 1, 1988, and ending on the tax termination date, the annual percentage increase of the aggregate per capita revenue derived from all property tax levied by any public authority in the Yukon Territory (excluding the Yukon Property Tax) and grants to municipalities and Local Improvement Districts from the Government of the Yukon Territory as compared to the aggregate per capita revenue derived from such sources for the immediately preceding year exceeds the percentage increase for that year of the Yukon Property Tax as compared to the Yukon Property Tax for the immediately preceding year, the maximum level of the Yukon Property Tax for that year may be adjusted by the percentage increase of the aggregate per capita revenue in place of the percentage increase that otherwise might apply.

(vi) The provisions of subparagraph (b) (i) will apply to the value of the Pipeline for the capacities contemplated in this Agreement. The Yukon Property Tax will increase for the additional facilities beyond the aforesaid contemplated capacity in direct proportion to the increase in the gross asset value of the Pipeline.

(vii) In the event that between the date of this Agreement and January 1, 1983, the rate of the Alaska property tax on pipelines, taking into account the mill rate and the method of valuation, increases by a percentage greater than the cumulative percentage increase in the Canadian GNP deflator over the same period, there may be an adjustment on January 1, 1983, to the amount of $30 million Canadian described in subparagraph (b)(i) of the Yukon Property Tax to reflect this difference. In defining the Alaska property tax for purposes of this Agreement, the definition of the Yukon Property Tax will apply *mutatis mutandis*.

(viii) In the event that, for any year during the period described in subparagraph (iii), the annual rate of the Alaska property tax on or for the use of the Pipeline in Alaska increases by a percentage over that imposed for the immediate preceding year that is greater than the increase in percentage of the Yukon Property Tax for the year, as adjusted, from that applied to the immediately preceding year, the Yukon Property Tax may be increased to reflect the percentage increase of the Alaska property tax.

(ix) It is understood that indirect socio-economic costs in the Yukon Territory will not be reflected in the cost-of-service to the United States shippers other than through the Yukon Property Tax. It is further understood that no public authority will require creation of a special fund or funds in connection with construction of the Pipeline in the Yukon, financed in a manner which is reflected in the cost of service to U.S. shippers, other than through the Yukon Property Tax. However, should public authorities in the State of Alaska require creation of a special fund or funds, financed by contributions not fully reimbursable, in connection with construction of the Pipeline in Alaska, the Governments of Canada or the Yukon Territory will have the right to take similar action.

(c) The Government of Canada will use its best endeavors to ensure that the level of any property tax imposed by the Government of the Northwest Territories on or for the use of that part of the Dempster Line that is within the Northwest Territories is reasonably comparable to the level of the property tax imposed by the Government of the Yukon Territory on or for the use of that part of the Dempster Line that is in the Yukon.

6. Tariffs and cost allocation:

It is agreed that the following principles will apply for purposes of cost allocation used in determining the cost of service applicable to each shipper on the Pipeline in Canada:

(a) The Pipeline in Canada and the Dempster Line will be divided into zones as set forth in Annex II. Except for fuel and except for Zone 11 (the Dawson-Whitehorse portion of the Dempster Line), the cost of service to each shipper in each zone will be determined on the basis of volumes as set forth in transportation contracts. The volumes used to assign these costs will reflect the original BTU content of Alaskan gas for U.S. shippers and Northern Canadian gas for Canadian shippers, and will make allowance for the change in heat content as the result of commingling. Each shipper will provide volumes for line losses and line pack in proportion to the contracted volumes transported in the zone. Each shipper will provide fuel requirements in relation to the volume of his gas being carried and to the content of the gas as it affects fuel consumption.

(b) It is understood that, to avoid increased construction and operating costs for the transportation of Alaskan gas, the Pipeline will follow a southern route through the Yukon along the Alaska Highway rather than a northern route through Dawson City and along the Klondike Highway. In order to provide alternative benefits for the transportation of Canadian gas to replace those benefits that would have been provided by the northern route through Dawson City, U.S. shippers will participate in the cost of service in Zone 11. It is agreed that if cost overruns on construction of the Pipeline in Canada do not exceed filed costs set forth in Part D of Annex III by more than 35 percent, U.S. shippers will pay the full cost of service in Zone 11.

U.S. shipper participation will decline if overruns on the Pipeline in Canada exceed 35 percent; however, at the minimum the U.S. shippers' share will be the greater of either two-thirds of the cost of service or the proportion of contracted Alaska gas in relation to all contracted gas carried in the Pipeline. The proportion of the cost of service borne by U.S. shippers in Zone 11 will be reduced should overruns on the cost of construction in that Zone exceeds 35 percent after allowance for the benefits to U.S. shippers derived from Pipeline construction cost savings in other Zones. Notwithstanding the foregoing, at the minimum, the U.S. shippers' share will be the greater of either two-thirds of the cost of service or the proportion of contracted Alaska gas in relation to all contracted gas carried in the Pipeline. Details of this allocation of cost-of-service are set out in Annex III.

(c) Notwithstanding the principles in subparagraphs (a) and (b), in the event that the total volume of gas offered for shipment exceeds the efficient capacity of the Pipeline, the method of cost allocation for the cost of service for shipments of Alaskan gas (minimum entitlement 2.4 bcfd) or Northern Canadian gas (minimum entitlement 1.2 bcfd) in excess of the efficient capacity of the Pipeline will be subject to review and subsequent agreement by both Governments; provided however that shippers of either country may transport additional volumes without such review and agreement, but subject to appropriate regualtory approval, if such transportation does not lead to a higher

cost of service or share of Pipeline fuel requirements attributable to shippers of the other country.

(d) It is agreed that Zone 11 costs of service allocated to U.S. shippers will not include costs additional to those attributable to a pipe size of 42 inches. It is understood that in Zones 10 and 11 the Dempster Line will be of the same gauge and diameter and similar in other respects, subject to differences in terrain. Zone 11 costs will include only facilities installed at the date of issuance of the leave to open order, or that are added within three years thereafter.

7. Supply of goods and services:

(a) Having regard to the objectives of this Agreement, each Government will endeavor to ensure that the supply of goods and services to the Pipeline project will be on generally competitive terms. Elements to be taken into account in weighing competitiveness will include price, reliability, servicing capacity and delivery schedules.

(b) It is understood that through the coordination procedures in Paragraph 8 below, either Government may institute consultations with the other in particular cases where it may appear that the objectives of subparagraph (a) are not being met. Remedies to be considered would include the renegotiation of contracts or the repoening of bids.

8. Coordination and consultation:

Each Government will designate a senior official for the purpose of carrying on periodic consultations on the implementation of these principles relating to the construction and operation of the Pipeline. The designated senior officials may, in turn, designate additional representatives to carry out such consultations, which representatives, individually or as a group, may make recommendations with respect to particular disputes or other matters, and may take such other action as may be mutually agreed, for the purpose of facilitating the construction and operation of the Pipeline.

9. Regulatory authorities—consultation:

The respective regulatory authorities of the two Governments will consult from time to time on relevant matters arising under this Agreement, particularly on the matters referred to in paragraphs 4, 5 and 6, relating to tariffs for the transportation of gas through the Pipeline.

10. Technical study group on pipe:

(a) The Governments will establish a technical study group for the purpose of testing and evaluating 54-inch 1120 pounds per square inch (psi), 48-inch 1260 psi, and 48-inch 1680 psi pipe or any other combination of pressure and diameter which would achieve safety, reliability and economic efficiency for operation of the Pipeline. It is understood that the decision relating to pipeline specifications remains the responsibility of the appropriate regulatory authorities.

(b) It is agreed that the efficient pipe for the volumes contemplated (including reasonable provision for expansion), subject to appropriate regulatory authorization, will be installed from the point of interconnection of the Pipeline with the Dempster Line near Whitehorse to the point near Caroline, Alberta, where the Pipeline bifurcates into a western and an eastern leg.

11. Direct charges by public authorities:

(a) Consultation will take place at the request of either Government to consider direct charges by public authorities imposed on the Pipeline where there is an element of doubt as to whether such charges should be included in the cost of service.

(b) It is understood that the direct charges imposed by public authorities requiring approval by the appropriate regulatory authority for inclusion in the cost of service will be subject to all of the tests required by the appropriate legislation and will include only:

(i) those charges that are considered by the regulatory authority to be just and reasonable on the basis of accepted regulatory practice, and

(ii) those charges of a nature that would normally be paid by a natural gas pipeline in Canada. Examples of such charges are listed in Annex IV.

12. Other costs:

It is understood that there will be no charges on the Pipeline having an effect on the cost of service other than those:

(i) imposed by a public authority as contemplated in this Agreement or in accordance with the Transit Pipeline Treaty, or

(ii) caused by Acts of God, other unforeseen circumstances, or

(iii) normally paid by natural gas pipelines in Canada in accordance with accepted regulatory practice.

13. Compliance with terms and conditions:

The principles applicable directly to the construction, operation and expansion of the Pipeline will be implemented through the imposition by the two Governments of appropriate terms and conditions in the granting of required authorizations. In the event of subsequent non-fulfillment of such a term or condition by an owner of the Pipeline, or by any other private person, the two Governments will not have responsibility therefor, but will take such appropriate action as is required to cause the owner to remedy or mitigate the consequences of such non-fulfillment.

14. Legislation:

The two Governments recognize that legislation will be required to implement the provisions of this Agreement. In this regard, they will expeditiously seek all required legislative authority so as to facilitate the timely and efficient construction of the Pipeline and to remove any delays or impediments thereto.

15. Entry into force:

This Agreement will become effective upon signature and shall remain in force for a period of 35 years and thereafter until terminated upon 12 months' notice given in writing by one Government to the other, provided that those provisions of the Agreement requiring legislative action will become effective upon exchange of notification that such legislative action has been completed.

In witness whereof the undersigned representatives, duly authorized by their respective Governments, have signed this Agreement.

Done in duplicate at Ottawa in the English and French languages, both versions being equally authentic, this —— day of ———, 1977.

———, ———,

For the Government of the United States.

———, ———,

For the Government of Canada.

ANNEX I

THE PIPELINE ROUTE

In Alaska

The Pipeline constructed in Alaska by Alcan will commence at the discharge side of the Prudhoe Bay Field gas plant facilities. It will parallel the Alyeska oil pipeline southward on the North Slope of Alaska, cross the Brooks Range through the Atigun Pass, and continue on to Delta Junction.

At Delta Junction, the Pipeline will diverge from the Alyeska oil pipeline and follow the Alaska Highway and Haines oil products pipeline passing near the towns of Tanacross, Tok, and Northway Junction in Alaska. The Alcan facilities will connect with the proposed new facilities of Foothills Pipe Lines (South Yukon) Ltd. at the Alaska-Yukon border.

In Canada

In Canada the Pipeline will commence at the Boundary of the State of Alaska, and the Yukon Territory in the vicinity of the towns of Border City, Alaska and Boundary, Yukon. The following describes the general routing of the Pipeline in Canada:

From the Alaska-Yukon border, the foothills Pipe Lines (South Yukon) Ltd. portion of the Pipeline will proceed in a southerly direction generally along the Alaska Highway to a point near Whitehorse, Yukon, and thence to a point on the Yukon-British Columbia border near Watson Lake, Yukon, where it will join with the Foothills Pipe Lines (North B.C.) Ltd. portion of the Pipeline.

The Foothills Pipe Lines (North B.C.) Ltd. portion of the Pipeline will extend from Watson Lake in a southeasterly direction across the north eastern part of the Province of British Columbia to a point on the boundary between the Provinces of British Columbia and Alberta near Boundary Lake where it will interconnect with the Foothills Pipe Lines (Alta.) Ltd. portion of the Pipeline.

The Foothills Pipe Lines (Alta.) Ltd. portion of the Pipeline will extend from a point on the British Columbia-Alberta boundary near Boundary Lake in a southeasterly direction to Gold Creek and thence parallel to the existing right-of-way of the Alberta Gas Trunk Line Company Limited to James River near Caroline.

From James River a "western leg" will proceed in a southerly direction, generally following the existing right-of-way of the Alberta Gas Trunk Line Company Limited to a point on the Alberta-British Columbia boundary near Coleman in the Crow's Nest Pass area. At or near Coleman the Foothills Pipe Lines (Alta.) Ltd. portion of the Pipeline will interconnect with the Foothills Pipe Lines (South B.C.) Ltd. portion of the Pipeline.

The Foothills Pipe Lines (South B.C.) Ltd. portion of the Pipeline will extend from a point on the Alberta-British Columbia boundary near Coleman in a southwesterly direction across British Columbia generally parallel to the existing pipeline facilities of Alberta Natural Gas Company Ltd. to a point on the International Boundary Line between Canada and the United States of America at or near Kingsgate in the Province of British Columbia where it will interconnect with the facilities of Pacific Gas Transmission Company.

Also, from James River, an "eastern leg" will proceed in a southeasterly direction to a point on the Alberta-Saskatchewan boundary near Empress Alberta where it will interconnect with the Foothills Pipe Lines (Sask.) Ltd. portion of the Pipeline. The Foothills Pipe Lines (Sask.) Ltd. portion of the Pipeline will extend in a southeasterly direction across Saskatchewan to a point on the International Boundary Line between Canada and the United States of America at or near Monchy, Saskatchewan where it will interconnect with the facilities of Northern Border Pipeline Company.

ANNEX II

ZONE FOR THE PIPELINE AND THE DEMPSTER LINE IN CANADA

Zone 1—Foothills Pipe Lines (South Yukon) Ltd. Alaska Boundary to point of interconnection with the Dempster Line at or near Whitehorse.

Zone 2—Foothills Pipe Lines (South Yukon) Ltd. Whitehorse to Watson Lake.

Zone 3—Foothills Pipe Lines (North B.C.) Ltd. Watson Lake to point of interconnection with Westcoast's main pipeline near Fort Nelson.

Zone 4—Foothills Pipe Lines (North B.C.) Ltd. Point of interconnection with Westcoast's main pipeline near Fort Nelson to the Alberta-B.C. border.

Zone 5—Foothills Pipe Lines (Alta.) Ltd. Alberta-B.C. border to point of bifurcation near Caroline, Alberta.

Zone 6—Foothills Pipe Lines (Alta.) Ltd. Caroline, Alta. to Alberta-Saskatchewan border near Empress.

Zone 7—Foothills Pipe Lines (Alta.) Ltd. Caroline to Alberta-B.C. border near Coleman.

Zone 8—Foothills Pipe Lines (South B.C.) Ltd. Alberta-B.C. border near Coleman to B.C.-U.S. border near Kingsgate.

Zone 9—Foothills Pipe Lines (Sask.) Ltd. Alberta-Saskatchewan border near Empress to Saskatchewan-U.S. border near Monchy.

Zone 10—Foothills Pipe Lines (North Yukon) Ltd. Mackenzie Delta Gas fields in the Mackenzie Delta, N.W.T., to a point near the junction of the Klondike and Dempster highways just west of Dawson, Yukon Territory.

Zone 11—Foothills Pipe Lines (South Yukon) Ltd. A point near the junction of the Klondike and Dempster highways near Dawson to the connecting point with the Pipeline at or near Whitehorse.

ANNEX III

COST ALLOCATION IN ZONE 11

The cost of service in Zone 11 shall be allocated to United States shippers on the following basis:

(i) There will be calculated, in accordance with (iii) below, a percentage for Zones 1–9 in total by dividing the actual capital costs by the filed capital costs and multiplying by 100. If actual capital costs are equal to or less than 135 percent of filed capital costs, then United States shippers will pay 100 percent of the cost of service in Zone 11. If actual capital costs in Zones 1–9 are between 135 percent and 145 percent of filed capital costs, then the percentage paid by United States shippers will be adjusted between 100 percent and 66⅔ percent on a straight-line basis, except that in no case will the portion of cost of service paid by United States shippers be less than the proportion of the contracted volumes of Alaskan gas at the Alaska-Yukon border to the same volume of Alaskan gas plus the contracted volume of Northern Canadian gas. If the actual capital costs are equal to or exceed 145 percent of filed capital costs, the portion of the cost of service paid by United States shippers will be not less than 66⅔ percent or the proportion as calculated above, whichever is the greater.

(ii) There will be calculated a percentage for the cost-overrun on the Dawson to Whitehorse lateral (Zone 11). After determining the dollar value of the overrun, there will be deducted from it:

(a) the dollar amount by which actual capital costs in zone 1, 7, 8 and 9 (carrying U.S. gas only) are less than 135 percent of filed capital costs referred to in (iii) below;

(b) in each of Zones 2, 3, 4, 5 and 6 the dollar amount by which actual capital costs are less than 135 percent of filed capital costs referred to in (iii) below, multiplied by the proportion that the U.S. contracted volume bears to the total contracted volume in that zone.

If the actual capital costs in Zone 11, after making this adjustment, are equal to or less than 135 percent of filed capital costs, then no adjustment is required to the percentage of the cost of service paid by United States shippers as calculated in (i) above. If, however, after making this adjustment, the actual capital cost in Zone 11 is greater than 135 percent of the filed capital cost, then the proportion of the cost of service paid by United States shippers will be a fraction (not exceeding 1) of the percentage of the cost of service calculated in (i) above, where the numerator of the fraction is 135 percent of the filed capital cost and the denominator of the fraction is actual capital cost less the adjustments from (a) and (b) above. Notwithstanding the adjustments outlined above, in no case will the percentage of the actual cost of service borne by United States shippers be less than the greater of 66⅔ percent or the proportion of the contracted volumes of Alaskan gas at the Alaska-Yukon border to the same volume of Alaskan gas plus the contracted volume of Northern Canadian gas.

(iii) The "filed capital cost" to be applied to determine cost overruns for the purpose of cost allocation in (i) and (ii) above will be:

"Filed capital cost" estimates for the pipeline in Canada

[Millions of Canadian dollars]

The pipeline in Canada (zones 1–9): [1]	
48"—1,260 lb. pressure pipeline	3,873
or 48"—1,680 lb. pressure pipeline	4,418
or 54"—1,120 lb. pressure pipeline	4,234

"Filed capital cost" estimates for the pipeline in Canada

[Millions of Canadian dollars]

Zone 11 of the Dempster Line: [2]	
30" section of Demptster line from Whitehorse to Dawson	549
or 36" section of Dempster line from Whitehorse to Dawson	585
or 42" section of Dempster line from Whitehorse to Dawson	705

[1] These filed capital costs include and are based upon (a) a 1,260 psi, 48-inch line from the Alaska-Yukon border to the point of possible interconnection near Whitehorse; (b) a 1,260 psi, 48-inch; or 1,680 psi, 48-inch; or 1,120 psi 54-inch line from the point of possible interconnection near Whitehorse to Caroline Junction; (c) a 42-inch line from Caroline Junction to the Canada-U.S. border near Monchy, Saskatchewan; and (d) a 36-inch line from Caroline Junction to the Canada-U.S. border near Kingsgate, British Columbia. These costs are escalated for a date of commencement of operations of January 1, 1983.

[2] The costs are escalated for a date of commencement of operations of January 1, 1985.

Details for Zones 1–9 are shown in the following table:

FILED CAPITAL COSTS FOR THE PIPELINE IN CANADA

[In millions of Canadian dollars]

	48 in 1,260 psi	48 in 1,680 psi	54 in 1,120 psi
Zone:			
1	707	707	707
2	721	864	805
3	738	850	803
4	380	488	456
5	677	859	813
6	236	236	236
7	126	126	126
8	83	83	83
9 [1]	205	205	205
Total zones 1 to 9	3,873	4,418	4,234

[1] The last compression station in zone 9 includes facilities to provide compression up to 1,440 psi.

It is recognized that the above are estimates of capital costs. They do not include working capital, property taxes or the provisions for road maintenance in the Yukon Territory (not to exceed $30 million Canadian).

If at the time construction is authorized, both Governments have agreed to a starting date for the operation of the Pipeline different from January 1, 1983, then the capital cost estimates shall be adjusted for the difference in time using the GNP price deflactor from January 1, 1983. Similarly at the time construction is authorized for the Dempster Line, if the starting date for the operation agreed to by the Canadian Government is different from January 1, 1985, then the capital cost estimate shall be adjusted for the difference in timing using the GNP price deflator from January 1, 1985. The diameter of the pipeline in Zone 11, for purposes of cost allocation, may be 30", 36" or 42", so long as the same diameter pipe is used from the Delta to Dawson (Zone 10).

The actual capital cost, for purposes of this Annex will be the booked cost as of the date "leave to open" is granted plus amounts still outstanding to be accrued on a basis to be approved by the National Energy Board. Actual capital costs will exclude working capital, property taxes, and direct charges for road maintenance of up to $30 million Canadian in the Yukon Territory as specifically provided herein.

For purposes of this Annex above, actual capital costs will exclude the effect of increases in cost or delays caused by actions attributable to the U.S. shippers, related U.S. pipeline companies, Alaskan producers, the Prudhoe Bay deliverability or gas conditioning plant construction and the United States or State Governments. If the appropriate regulatory bodies of the two countries are unable to agree upon the amount of such costs to be excluded, the determination shall be made in accordance with the procedures set forth in Article IX of the Transit Pipeline Treaty.

The filed capital costs of facilities in Zones 7 and 8 will be included in calculations pursuant to this Annex only to the extent that such Facilities are constructed to meet the requirements of U.S. shippers.

DIRECT CHARGES BY PUBLIC AUTHORITIES

1. Crossing damages (roads, railroad crossings, etc.; this item is usually covered in the crossing permit).*
2. Road damages caused by exceeding design load limits.*
3. Required bridge reinforcements caused by exceeding design load limits.*
4. Airfield and airstrip repairs.
5. Drainage maintenance.
6. Erosion control.
7. Borrow pit reclamation.
8. Powerline damage.
9. Legal liability for fire damage.
10. Utility system repair (water, sewer, etc.)
11. Camp waste disposal.
12. Camp site reclamation.
13. Other items specified in environmental stipulations.
14. Costs of surveillance and related studies as required by regulatory bodies or applicable laws.

BRITISH COLUMBIA STATEMENT

The Government of the Province of British Columbia agrees in principle to the provisions contained in the Canada-United States Pipeline Treaty of January 28, 1977, and furthermore British Columbia is prepared to cooperate with the Federal Government to ensure that the provisions of the Canada-United States Treaty, with respect to non-interference of throughput and non-discriminatory treatment with respect to taxes, fees or other monetary charges on either the pipeline or throughput, are adhered to. Specific details of this undertaking will be the subject of a Federal-Provincial Agreement to be negotiated at as early a date as possible. Such Agreements should guarantee that British Columbia's position expressed in its telegram of August 31 is protected.

ALBERTA STATEMENT

The Government of the Province of Alberta agrees in principle to the provisions contained in the Canada-United States Pipeline Treaty of January 28, 1977, and furthermore, Alberta is prepared to cooperate with the Federal Government to ensure that the provisions of the Canada-United States Treaty, with respect to non-interference of

* In the case of these items and all other road related charges by public authorities, total charges in the Yukon Territory shall not exceed Canadian $30 million.

throughput and non-discriminatory treatment with respect to taxes, fees, or other monetary charges on either the Pipeline or throughput, are adhered to. Specific details of this undertaking will be the subject of a Federal-Provincial Agreement to be negotiated when the Canada-United States protocol or understanding has been finalized.

SASKATCHEWAN STATEMENT

The Government of Saskatchewan is willing to cooperate with the Government of Canada to facilitate construction of the Alcan Pipeline through southwestern Saskatchewan and, to that end, the Government of Saskatchewan expresses its concurrence with the principles elaborated in the Transit Pipeline Agreement signed between Canada and the United States on January 28, 1977. In so doing, it intends not to take any discriminatory action towards such pipelines in respect of throughput, reporting requirements, and environmental protection, pipeline safety, taxes, fees or monetary charges that it would not take against any similar pipeline passing through its jurisdiction. Further details relating to Canada-Saskatchewan relations regarding the Alcan Pipeline will be the subject of Federal-Provincial agreements to be negotiated after a Canada-United States understanding has been finalized.

Mr. STEVENS. Now I am happy to listen to my friend from South Dakota. Does he have a question, I might ask?

Mr. ABOUREZK. Yes, on a couple of points. I want to ask about the pipeline itself, because in my area of the country there is great interest in a trans-Canada pipeline of some sort.

But on the question of the cost of natural gas which might come out of Alaska, I understood the Senator to say that the cost of producing that gas is much more than what the marketplace is right now, the wellhead price; is that correct?

Mr. STEVENS. That is my understanding, yes.

Mr. ABOUREZK. Based on that, does the Senator from Alaska advocate deregulating the wellhead price of natural gas, for whatever purposes he might want that deregulation?

Mr. STEVENS. I am of the impression that the cost of transporting the frontier gas that will be produced on the Outer Continental Shelf and from Alaska down here to the south 48—and I remind the Senator that 70 percent of the Outer Continental Shelf is in fact off Alaska, so if we are talking about Outer Continental Shelf gas we are talking about Alaskan gas—will exceed the price we are currently debating for the market price in the south 48.

It does not seem to me to be good economics to recognize that it is going to cost us that much to go up there and get that gas when at the same time we are arbitrarily keeping the price for the south 48 produced gas so low that there is no incentive to produce whatever there is to produce here.

The incentive would be to loan the money to the people to build this pipeline because we will get more money out of investing in a regulated pipeline than from investing in gas where the only price increase would be subject to the normal inflationary spiral. I thought we were trying to control inflation.

This pricing mechanism proposed here is self-defeating, in my opinion. It increases demand for OCS gas and frontier gas and probably propels us into the development of it prematurely in some places, so far as I am concerned. We do not want to run pellmell into this production. We want to do it on a planned and orderly basis. But there is no alternative. No one will drill for gas down here at this price, in my opinion. I think it ought to be an unregulated price for new gas. I firmly support that.

Mr. ABOUREZK. If no one drills for gas down here, if what the Senator says is accurate, would that create an instant market for new gas from, say, Alaska?

Mr. STEVENS. We have to remember we will not get the wellhead price, as I said. We would much rather see it come into the market at a time when the market has adjusted to demand, when we are not that far out of line in terms of pricing. Does the Senator understand what I am saying?

Mr. ABOUREZK. I understand what the Senator is saying, but the question recurs, if nobody is going to drill for new gas down here, would there be an instant market for new gas coming from Alaska even though it might be at a higher price under the regulation procedures?

Mr. STEVENS. That is what I say. I do not want to see that happen. I do not want to see an arbitrary price setting for gas.

Mr. ABOUREZK. The alternative, as I see it, is to raise the price for all new gas down here, whatever might be produced here, plus all the new gas in Alaska. Why would the Senator want to do that? Why would he not want to keep some of the gas at as low a price as we possibly could, while still returning to producers whatever their cost might be, plus an adequate profit? Why would the Senator want to artificially raise the price here in the Lower 48?

Mr. STEVENS. I do not want to artificially raise the price. I want the price to be what the market determines it should be.

Mr. ABOUREZK. There is not much of a market when there is a limited supply of the resource and a limited number of people producing that resource. That is not much of a free market.

Mr. STEVENS. There is a limited supply and a limited number of people involved because of Government regulation.

Mr. ABOUREZK. Does the Senator think there would be more people involved without Government regulation?

Mr. STEVENS. Yes.

Mr. ABOUREZK. Where would they find the gas fields which are not already taken? How does one get into the gas business?

Mr. STEVENS. One puts together enough money to go and drill a well. I have seen it done. I assisted in drililng one once.

Mr. ABOUREZK. Where do we find the leases that are not already taken?

Mr. STEVENS. I think there are many places in this country that have not been fully explored for oil and gas.

Mr. ABOUREZK. Why would they not be explored?

Mr. STEVENS. Because they can make more money investing in Time magazine than in gas right now.

Mr. ABOUREZK. I will try and respond to that. If I were in the gas business, I would do it because I was assured under the present law I would get my cost of production plus an adequate profit. Do they want something more than an adequate profit?

Mr. STEVENS. They want what the market price should be.

Mr. ABOUREZK. It is not much of a market. It is not a free market. It is pretty much of a monopoly.

Mr. STEVENS. Why should we be in a position where Alaskan production should be forced to come onstream prematurely at a price which is arbitrarily low, as far as the wellhead is concerned, because the transportation costs are, by definition, much higher? I think the Senator should look at the thing from the point of view of the producing States for just a moment. The demand is increasing.

As I say, one of the reasons it is increasing is because we are now realizing how much more reliant we are on foreign sources for LNG. Why should we rely on Algeria and Indonesia to the extent we do? We have substantial portions of the country which will be completely reliant, to the tune of about a quarter of their demand, on offshore sources. If we have an embargo of that gas, the southern industrial establishment and the California industrial establishment will really be crippled. There is nothing to take its place. That is one reason we wanted the LNG system developed now for Alaska. We wanted to have the mobility that would come from the distribution of our gas where it is needed most.

During the last winter, for instance, the gas from the Kenai Peninsula was taken all the way up to Massachusetts. That is the only source of LNG they had beyond foreign sources.

Why should we be locked into a transportation system that locks us into going through Canada? There is no increased gas coming from Canada. The Canadians will not sell us any more gas. The Senator says his people are interested in it. Everyone I have talked to from his region say if we put the pipeline through Canada they will sell us more gas. They will not sell us more gas. They might anticipate deliveries of Alaskan gas but they will not increase by one cubic foot the commitment for the sale of gas in the United States as far as any public pronouncement I have seen.

This has to do with pricing ultimately because, again, the only place they are going to be able to produce gas will be from the frontier areas. The reason for it is they project the volumes will be so great that if they hit a Prudhoe Bay they will make money. They are not all Prudhoe Bays in California, Texas, and Louisiana to be discovered, which will be producible, but they ought to have the incentives to do it. Today there is no incentive. There is not a marketplace incentive.

Again I say the shortage which will take place on the east coast is around 10 percent. It will not do a homeowner much good to have 10 percent less than the amount of gas he needs to heat his home. He will have to convert. At least a

portion of the area will have to convert because there will be curtailments. Those curtailments make no sense if there could in fact be an incremental supply of gas brought to the market because of market forces. Rather than convert to oil or coal, let me tell the Senator if he faces that problem he would be more than willing to pay the market price of gas to get new gas.

This whole thing came about because of an arbitrary decision in the Phillips case in the fifties. It makes no sense. It made no sense then and it makes no sense now, in my opinion, for us to continue this type of regulation.

On the other hand, I recognize—and I support the amendment of Senator BARTLETT—that there is not overwhelming support for the position of my good friend. Probably deregulation of new natural gas makes a lot more political sense right now. That is what we are talking about, new gas coming on stream to meet these demands.

Let me ask the Senator, why should he invest now in the drilling equipment, and the whole package it would take to explore for gas, to find it, to produce it, if he knows that by the time he got it to market the only adjustment there would be in the price that he would get for gas currently being produced is the inflationary cost? Why would he put his money in that? Why would he not put it in Time magazine, or why not put it in some of these big earners on the big board? Who is going to invest in the gas industry?

Is there something special about people from resource States that they ought to invest in producing oil and gas in the national interest when all of the stock advisers say to put it with the people who are making money and paying large dividends? Is there some reason we should be motivated to put money into facilities to produce gas 5 or 10 years from now under a regulated market price?

Mr. ABOUREZK. Let me quote one of the advertising slogans by one of the oil companies which produces natural gas: "We are producing energy to help people."

What the Senator is saying is that that is not quite true, that they are doing it to make money.

Mr. STEVENS. Making money is helping people, as far as I am concerned.

Mr. ABOUREZK. Which people?

Mr. STEVENS. They pay taxes, they support Government when they make money, they employ people when they make money. That is helping people.

I do not think anyone ever wanted to accuse the Senate of trying to tell the oil and gas industry of the United States that they should not make a profit.

Mr. ABOUREZK. They have not done that. The Senate has said in the past, and I hope will continue to say in the future, that an adequate profit is what the gas industry is entitled to. What the Senate has said in the past is that gas producers are not entitled to exorbitant profits. I think that is fair.

I do not know why, with a very precious natural resource such as natural gas or oil or coal, the Senate, and Congress as a whole, ought to say that, since these people have the edge on everybody else, have gotten the leases or are in the gas business, they ought to be able to take whatever they can from the American people.

Mr. STEVENS. The Senator represents a farm State. Does he tell his farmers, "Go ahead and plant corn for next year and we are going to have a program that tells you that we will take into account what it costs you to plant and we are going to be sure that you get a fair rate of return on your investment. But, of course, you cannot have the market price based on demand. We are not going to let that happen. If there is more demand for corn than you produce, you are just not going to be able to raise the price of that corn"?

Does the Senator really practice that kind of economics on farmers?

Mr. ABOUREZK. That is exactly the kind of economics the Department of Agriculture practices with farmers.

Mr. STEVENS. Baloney. The price goes up on demand and the Senator knows it. There is no ceiling on the price of corn.

Mr. ABOUREZK. There is no ceiling on the price of corn, but there is a floor.

Mr. STEVENS. Why does the Senator want to put a ceiling on the price of my gas?

Mr. ABOUREZK. If the Senator will let me finish, I shall try to explain it.

There is no ceiling on the price of corn. There is a floor on the price of corn which operates as a ceiling. When the Agriculture Department tells the farmers that they are going to give them so much of a percentage of parity—parity being some sort of complicated formula for computing the cost of production of that particular corn crop—they always come well under the price. Especially this year, the price is well below the cost of production for those farmers. In some years, it is a little more. Sometimes it is a little less, sometimes it is a great deal less.

Mr. STEVENS. I have supported all the floors under the agricultural products since I have been here, even though we do not get any of the benefits of those agriculture programs in my State. I do it because I believe that those people should be assured that, if they meet the national urgency and they attempt to produce and something causes that price to fall, when they are our largest earner in the foreign field, as exporters of farm products, we owe it to them to have a floor under their economic system. But I think that farmers, above all, ought to understand this concept we are talking about now.

This is not a floor; this is a ceiling.

Mr. ABOUREZK. That is right. Farmers understand that very well.

Mr. STEVENS. This is a ceiling where, no matter what you produce, you are not going to get more than this amount. If you produce to meet demand and someone is willing to pay a nickel more an mcf, you cannot have it. You cannot be moved at all by any economic incentive. The whole concept of free enterprise does not work in the natural resources area.

If the Senator wants to take a look at an interesting map sometime, I have one in my office. He should take a look at Siberia and the mining properties that are under development in Siberia. Take a look at western Canada and see the mining properties under development in western Canada. Then look at my State, which has greater potential in mining metals and minerals than either Siberia or Canada, and see that there are two mines producing.

Does the Senator know why? They have incentives. Even in Siberia, they have incentives to develop mines and minerals that we do not have. Somehow or other, the whole concept of free enterprise goes out the door when we talk about nonrenewable natural resources. Somehow or other, we have a great fear of our ability to produce, I guess.

I cannot understand it. For the life of me, I cannot understand why the marketplace should not determine the price that we pay for oil and gas, why we must insist upon arbitrary limitations on the price of this production.

The net result, incidentally, is that the American public is paying more now for gas and oil than they would have had it not been for the Phillips decision and for the regulation that we put into effect, back in 1972, on the price of oil.

Mr. ABOUREZK. I cannot agree with my colleague from Alaska that gas costs more now under regulation than it would under a free market system. The fact is that there can be no free market system in gas and oil. The reason there cannot be is that it is a limited resource, controlled by a limited number of people. There is no way that any kind of free market system can operate that way.

I wonder if the Senator would respond to a question on that pipeline.

Mr. STEVENS. I shall be glad to do that.

Mr. ABOUREZK. I am concerned—I am interested, as are other people in my State—with a pipeline bringing gas produced in Alaska down through Canada, not necessarily Canadian natural gas being hooked onto the pipeline. We are concerned about where the end of that pipeline will be. If it goes through Canada, of course, that will be available to midwest States. If it does not go through Canada, if it goes down—I think it was anticipated that it would go through Valdez——

Mr. STEVENS. Gravina Point, near Cordova. It is about 70 miles away.

Mr. ABOUREZK. And it would have to be shipped down to the Gulf ports or through California?

Mr. STEVENS. It could be shipped anywhere in the United States where there is a regasification facility. There are currently about six under construction and the major one would have been in California.

Mr. ABOUREZK. That would mean that the Midwest, which has a need for natural gas, would not have an insured source of supply——

Mr. STEVENS. Ah, that is where my friend is wrong.

Mr. ABOUREZK. Let me finish asking the question.

—if the pipeline went anywhere else except through Canada and down through the Midwest. Does the Senator have other information?

Mr. STEVENS. The existing gas supply pipelines come out of the South—Louisiana, Texas, Oklahoma. They basically start around Midland, Tex.,

and go currently west and east from there. Those pipelines are operating sort of like fingers on a hand. They are operating today at less than full capacity because the supply is not there. When Alaska gas comes in, it is going to come in from the north under this proposal of the administration. It is going to come in at the top of the fingers; we cannot put gas in the existing pipelines. So there are going to have to be additional pipelines built in the United States, through the northern tier, to take care of them.

If it came down the way we want, and it came through California and went over to Midland, Tex., it would have been injected into the existing gas pipeline. If it were put in those pipelines—as I said, they are operating at less than full capacity—the existing consumers of gas would get an incremental supply.

That was the system we wanted. That way, that would have linked Alaska gas into the existing gas supplies and provided the incremental supply that most areas of the country need. What this does is come down into the Midwest, into the Ohio Valley. There is no question that the great automobile and steel industries are wise to support that proposal. That is where the majority of the support comes from, the automobile industry and the steel industry and the steelworkers and automobile workers. There is no question that they want that gas to come in for industrial use.

The way we see it is that Alaska's gas is pretty well committed to industrial use now by virtue of this decision. It is not just an incremental supply, it is a stable supply for the two major industries of the country. That is going to be one of the things that those in this body 10 years from now are going to have to tussle with: When do we break the hold of major industries on gas supply and make certain it is available for residential users, who really should get the first priority? I think they do in any area where we have curtailment. But in this instance, there will not be any curtailment in those areas, because they will have more gas than they need now, because our gas cannot go any place other than the Midwest and East now, if that project is approved.

Mr. ABOUREZK. Were not those outlets operating at full capacity during the January emergency?

Mr. STEVENS. There was a release by California of some gas that enabled those pipelines to operate at full capacity, where some of the intrastate gas was made available for interstate use.

There again, I hope that phrase turns on a light for my good friend from South Dakota, because the reason that gas got into those interstate pipelines was because the price was a little higher than it had been previously. The gas came out of intrastate commerce and went into interstate commerce.

Mr. ABOUREZK. It turned on a light sometime ago for me when I learned, for example, that Exxon was not in business solely to establish wildlife refuges. They are there to get as much profit as the market will bear. That is why they need regulation. That is exactly what the Senator from Alaska reminded me of. I appreciate that.

Mr. STEVENS. I hope the Senator will live long enough to see an oversupply of gas. I think I will, and I believe it will come. We have one-fifth the supply of the United States. Only two of the basins have currently been explored for gas. There are many different zones in United States that have not been fully explored for gas. I think we will see an oversupply of gas, and we will see an adjustment of the gas price for the marketplace when that comes.

I also think we will see a substitution come about to thermal energy from the differential temperatures of the ocean, and to solar energy much quicker. We will go to the forms of energy that are most efficient quicker by virtue of the marketplace than we will get by virtue of some bureaucrat coming up asking us for money to bring about the conversion.

The substitution came from cordwood to oil and oil to gas naturally through the marketplace. No government ever told all these people in the East to change from oil to gas, but they did because gas was available and it was cheaper.

Solar will not be cheaper than gas as long as we keep it artificially regulated to the point where we will not have any gas in the first place.

Second, people will be unwilling to pay the price for solar heating or for differential thermal heating. The differential thermal heating we will get from the ocean offers the greatest hope for mankind, in my opinion.

They will never pay the price as long as we think some bureaucrat will hand us gas at less than what the market price will be.

This is the great fallacy of this regulatory program—it prevents the substitution of more efficient forms of energy according to the demands and dictates of the marketplace. We shifted our energy forms at least twice in the history of this country and without any great economic trauma, and we did so to our advantage, in terms of our productive capacity.

Mr. ABOUREZK. If we try to establish what the Senator calls the market price for gas—I wonder if I might have the Senator's attention to ask him this question.

Mr. STEVENS. I criticized the filibuster, so I will yield in a minute to my good friend. Someone might be filibustering. I do not want to participate in anything that looks like it, or sounds like it, or walks like it, or smells like it.

Mr. ABOUREZK. The Senator does not want to answer any question?

Mr. STEVENS. I will answer the Senator's questions, yes.

Mr. ABOUREZK. If the Senator intends to talk about a free market for natural gas, what would the Senator's definition of a free market be? Would it be a willing buyer and a willing seller with plenty of resources available for all the buyers who want it?

Mr. STEVENS. We are talking about wellhead price. I know the Senator knows there will be plenty of room for regulatory control and, in effect, its impact on the price the consumers pay because they bear a portion of the cost of transportation.

But I am talking about determining the price of gas the way the price of corn is. We want a floor under it. But if we want ceilings on it, the same thing will happen to corn as to the gas, if we put an arbitrary ceiling on it.

I am happy to yield to the Senator.

Mr. ABOUREZK. Not an arbitrary ceiling because there has been an adequate supply of corn.

Mr. STEVENS. I am not criticizing farmers. I support them. I think they responded to demand. I hope we never treat them the way we have gas producers and put a ceiling on instead of a floor.

Mr. ABOUREZK. We never associated the——

Mr. STEVENS. Do I have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. I yield to my good friend.

Mr. DOMENICI. Mr. President, just for 2 or 3 minutes, I want to make a comment on one of the Senator's statements.

I would like the RECORD today, Mr. President, to reflect my view on an issue that I think is subtly involved in some people's minds as we talk about natural gas supply, and I want to make this particular comment and give this observation.

I hope that no one is seriously talking about regulating the price of new natural gas with the idea in mind that there is not a lot of natural gas around for Americans and humankind to use, thus saying, "Let's leave this wonderful product in the ground rather than take it out." Because 30, 40, 50, 60 years from now we might need that tremendous source of energy because we use it for some very high-valued human purposes—medicinal. We use it in many of the synthetics, feed stocks, and the like.

So some people might want to leave the impression that we ought to really hold down the demand and the supply in a regulated manner so it will be around 30, 40, 50, 100 years from now for high-valued uses.

I want to make this point because I think anyone that studied it will agree with me, that is a rather irrational approach to this resource.

Why? Because everyone knows right now we can convert coal to natural gas, and everyone should understand that that natural gas that comes from coal is exactly the same product as the natural gas we get from under the ground.

Everyone admits the supply of coal in America is not the 10 years, the 20 years. We may have as much as 100 years' supply if it was to supply us with all our energy needs.

So the point I want to make is that we can, indeed, if we need small quantities of natural gas, almost for as far down the line as we could conceive of a use, it will be available through the conversion of coal to natural gas which most certainly will happen in large quantities. The technology is available. It has been done in Germany and other countries

and it will be done here. We have done it at demonstration projects.

So we should not approach it in any subtle manner or on any misconceived ideas prompting us to try and abuse the American consumer on the present needs that have been developed around natural gas by saying, "Let's make them pay an inordinate price by regulating and controlling it, let's get them off natural gas quicker than we ought to, let's force houses to get completely off natural gas because we want to leave some of that supply in the ground for 100 years from now."

There is no need for that. Anyone that studied it would say there is no need for that. It is a false issue in the debate on regulation or deregulation of some or all of the natural gas available, potential or probable, from lands under and by the United States, which can be developed to supply this tremendous product.

I have had occasion to talk about this issue with a number of experts and with people in the administration, including Dr. Schlesinger, and I do believe the issue of preserving natural gas in mother earth for generations yet unborn because of the high quality of use is not very logical in light of the potential to have that available almost forever under the conversion of coal to natural gas.

Mr. BARTLETT. Will the Senator yield?

Mr. DOMENICI. I am delighted to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I would like to ask a couple of questions of the distinguished Senator from South Dakota.

One, is the distinguished Senator from South Dakota interested in a time agreement on this amendment?

We would very much like to have one. We think it is important to have an early consideration of the amendment and a vote.

I just ask if that might be negotiated.

Mr. ABOUREZK. To answer the question, I am not interested in a time agreement; no.

May I ask a parliamentary inquiry, Mr. President?

Mr. BARTLETT addressed the Chair.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. BARTLETT. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska yielded to the Senator from New Mexico.

Mr. ABOUREZK. I raise a point of order that the Senator from Alaska has lost the floor and I ask for recognition.

Mr. DOMENICI addressed the Chair.

Mr. BARTLETT addressed the Chair.

Mr. ABOUREZK. I seek recognition.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. BARTLETT. Will the Senator from New Mexico yield?

Mr. DOMENICI. I am pleased to yield to the Senator from Oklahoma.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. How did the Senator from New Mexico get the floor when it was held by the Senator from Alaska who has left the floor?

I say to the Senator, it is up for grabs, and I seek recognition.

The PRESIDING OFFICER. The Senator from New Mexico has the floor, having been recognized.

Mr. BARTLETT. Mr. President, the Senator from New Mexico yielded then to the Senator from Oklahoma and left his desk.

Mr. DOMENICI. I had not left the floor. If I have the floor, does the Senator from Oklahoma desire the Senator from New Mexico to yield to him?

Mr. BARTLETT. I do.

Mr. DOMENICI. I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. I have one other question to ask the distinguished Senator from South Dakota, and then I will yield the floor. I should like the attention of the Senator from South Dakota. I request the attention of the Senator from South Dakota. I should like to ask a second question.

I asked him a minute ago about a time certain to vote on this, and he declined. The next question is this: What is the purpose and the intent of the two amendments? Is the purpose to establish a price of $1.45 per mcf, a price less than that in the administration bill as reported by the committee? In other words, my question has to do with whether the price is higher or lower. Is the price lower than would be expected from the administration bill?

Mr. ABOUREZK. Is the Senator asking me the question?

Mr. BARTLETT. I would be glad to have it answered by the Senator from Ohio. I just want an answer to the question.

Mr. METZENBAUM. The answer is "Yes."

Mr. BARTLETT. Yes, that the price that the amendment offered by the Senator from Massachusetts, with the support of the Senator from Ohio, would establish would be less than the price of the administration bill, as the Senator from Ohio understands it.

Mr. METZENBAUM. As the Senator from Ohio said yesterday, it does not make good sense to have the price of natural gas at $1.45 today. It was 17 cents just a few years ago. The Federal Power Commission raised the price to 51 cents and at that time said they were going to allow a 15-percent return on the investment of the natural gas producers. Then, without any cost base relationship whatsoever, the Federal Power Commission increased the price to $1.41 or $1.42, and now the price is something like $1.45 or $1.46.

As I stated yesterday in the debate on this measure, I would favor rolling back the price, and the natural gas producers still would get more than an adequate return on their investment.

The Carter proposal provides that the price will go to $1.75 or an equivalent related to the oil price in this country. But under the proposal that has been offered by the Senator from Massachusetts, it would indeed cause a holding of the line instead of permitting it to go up another 30 cents per thousand cubic feet. I think that is entirely meritorious. It is in the best interests of the economy of this Nation. It will help to hold down the increasing unemployment that actually is taking place in this country. It will help us in moving forward so far as the gross national product is concerned.

The amendment is proposed by the distinguished Senator from Massachusetts (Mr. KENNEDY), and I think there is no question as to what the thrust of that amendment is. It is to establish a price lower than that proposed by the Carter administration. I do, indeed, support it. If I thought it were at all practical or pragmatic, or possible to do, I would support a rollback of the price, because there was no reason under the sun for the Federal Power Commission to establish a price of $1.41. It had no cost base relationship.

There recently has been a determination by a distinguished accounting firm that Gulf, which is complaining about the price they were getting, could have made a profit at 27 cents per thousand cubic feet.

So, indeed, the intention is to hold the line and not to permit any further increases as proposed by the Carter administration. If that position did not hold, I would support the $1.75 price of the Carter administration. If that did not hold, I would support $1.76 or $1.77. But I would not support—because there is no evidence of any reason to support—a deregulation of natural gas prices as is proposed by the distinguished Senator from Oklahoma, my good friend. Although he is my good friend, in this particular issue he and I have strong disagreement as to what would be in the best interests of our country.

Mr. BARTLETT. I thank the distinguished Senator from Ohio for answering my question. I am not going to comment on what he said, other than to say that, obviously, I strongly disagree.

Certainly, the FPC did make cost-base considerations in their testimony—which he knows is in the testimony—and if he observed it very closely, he would find out that the replacement cost of the gas was actually higher than the figures arrived at.

I have accomplished my purpose. I just wanted an answer to that question, as to what the intent was of the proposal by the Senator from Massachusetts.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I have had the cloakrooms try to determine whether or not any Senator wishes to come to the floor at the moment and speak on the pending question or on the pending bill, and there has been no indication of such desire. Senator KENNEDY at the moment is at the White House, and naturally cannot be here to speak on his amendment.

In consideration of these factors, I shall shortly ask that the Senate recess until 1:30 p.m. today. I believe that by that time Senator KENNEDY will have returned and will be able to speak to his amendment; and other Senators may be ready also at that time.

Therefore, if no Senator wishes the floor at this time, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m. today.

There being no objection, at 12:50 p.m. the Senate took a recess until 1:30 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. MCINTYRE).

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to sit during the sessions of the Senate on October 10 through October 14, to consider the Panama Canal Treaties and other matters pending before the committee which might have to be shifted to the afternoons to accommodate morning sessions on the canal treaties.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John I. Brooks and Jack F. Davis, of my staff, be granted the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5262.

The PRESIDING OFFICER (Mr. MCINTYRE) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5262) to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, and the Asian Development Fund, and for other purposes, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE I—PURPOSE AND POLICY; DECLARATION OF CONGRESSIONAL INTENT IN RESPECT TO CONTINUED PARTICIPATION OF THE UNITED STATES GOVERNMENT IN INTERNATIONAL FINANCIAL INSTITUTIONS FOSTERING ECONOMIC DEVELOPMENT IN LESS DEVELOPED COUNTRIES

SEC. 101. (a) It is the sense of the Congress that—

(1) for humanitarian, economic, and political reasons, it is in the national interest of the United States to assist in fostering economic development in the less developed countries of this world;

(2) the development-oriented international financial institutions have proved themselves capable of playing a significant role in assisting economic development by providing to less developed countries access to capital and technical assistance and soliciting from them maximum self-help and mutual cooperation;

(3) this has been achieved with minimal risk of financial loss to contributing countries;

(4) such institutions have proved to be an effective mechanism for sharing the burden among developed countries of stimulating economic development in the less developed world; and

(5) although continued United States participation in the international financial institutions is an important part of efforts by the United States to assist less developed countries, more of this burden should be shared by other developed countries. As a step in that direction, in future negotiations, the United States should work toward aggregate contributions to future replenishments to international financial institutions covered by this Act not to exceed 25 per centum.

(b) The Congress recognizes that economic development is a long-term process needing funding commitments to international financial institutions. It also notes that the availability of funds for the United States contributions to international financial institutions is subject to the appropriations process.

TITLE II—INTERNATIONAL BANK RECONSTRUCTION AND DEVELOPMENT

SEC. 201. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 27. (a) The United States Governor of the Bank is authorized—

"(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the Bank; and

"(2) if such increase becomes effective, to subscribe on behalf of the United States to thirteen thousand and five additional shares of the capital stock of the Bank: *Provided, however*, That any subscription to additional shares will be made only after the amount required for such subscription has been appropriated.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, $1,568,856,318 for payment by the Secretary of the Treasury.".

TITLE III—INTERNATIONAL FINANCE CORPORATION

SEC. 301. The International Finance Corporation Act (22 U.S.C. 282 et seq.) is further amended by adding at the end thereof the following new section—

"SEC. 11. (a) The United States Governor of the Corporation is authorized—

"(1) to vote for an increase of five hundred and forty thousand shares in the authorized capital stock of the Corporation; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to one hundred and eleven thousand four hundred and ninety-three additional shares of the capital stock of the Corporation: *Provided, however*, That any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $111,493,000 for payment by the Secretary of the Treasury.".

TITLE IV—INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 401. The International Development Association Act, as amended (22 U.S.C. 284 et seq.), is further amended by adding at the end thereof the following new section:

"SEC. 16. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $2,400,000,000 as the United States contribution to the fifth replenishment of the Resources of the Association: *Provided, however*, That such amounts for contributions are provided in appropriation Acts.

"(b) In order to pay for the United States contribution provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $2,400,000,000 for payment by the Secretary of the Treasury.".

TITLE V—ASIAN DEVELOPMENT BANK AND ASIAN DEVELOPMENT FUND

SEC. 501. The Asian Development Bank Act, as amended (22 U.S.C. 285–285r), is further amended by adding at the end thereof the following new sections:

"SEC. 22. (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank: *Provided, however*, That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $814,286,250 for payment by the Secretary of the Treasury.

"SEC. 23. (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $180,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $180,000,000 for payment by the Secretary of the Treasury.".

TITLE VI—AFRICAN DEVELOPMENT FUND

SEC. 601. The African Development Fund Act (22 U.S.C. 290g–4(a)) is amended by adding the following new section:

"SEC. 212. (a) The United States Governor is hereby authorized to contribute on behalf of the United States $50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the African Development Fund provided for in this section, there are authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.".

TITLE VII—HUMAN RIGHTS

SEC. 701. (a) The United States Government, in connection with its voice and role in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a consistent pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane or degrading treatment, or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

(b) Further, the Secretary of the Treasury shall instruct each Executive Director of the above institutions to consider in carrying out his duties:

(1) specific actions by either the executive branch or the Congress as a whole on individual bilateral assistance programs because of human rights considerations;

(2) the extent to which the economic assistance provided by the above institutions directly benefit the needy people in the recipient country;

(3) whether the recipient country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons or both; and

(4) in relation to assistance for the Socialist Republic of Vietnam, the People's Democratic Republic of Laos and Democratic Kampuchea (Cambodia), the responsiveness of the governments of such countries in providing a more substantial accounting of Americans missing in action.

(c) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress toward achieving the goals of this title, including the listing required in subsection (d).

(d) The United States Government, in connection with its voice and vote in the institutions listed in subsection (a), shall seek to channel assistance to projects which address basic human needs of the people of the recipient country. The annual report required under subsection (b) shall include a listing of categories of such assistance granted, with particular attention to categories that address basic human needs.

(e) In determining whether a country is in gross violation of internationally recognized human rights standards, as defined by the provisions of subsection (a), the United States Government shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

(f) The United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a)(1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

SEC. 702. Section 28 of the Inter-American Development Bank Act, as amended (22 U.S.C. 283y), section 211 of the Act of May 31, 1976 (22 U.S.C. 290g–9), and section 15 of the International Department Association Act, as amended (22 U.S.C. 284m), are repealed.

SEC. 703. (a) The Secretary of State and the Secretary of the Treasury shall initiate a wide consultation designed to develop a viable standard for the meeting of basic human needs and the protection of human rights and a mechanism for acting together to insure that the rewards of international economic cooperation are especially available to those who subscribe to such standards and are seen to be moving toward making them effective in their own systems of governance.

(b) Not later than one year after the date of enactment of this Act, the Secretary of State and the Secretary of the Treasury shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in carrying out this section.

SEC. 704. The President shall direct the United States Executive Directors of such international financial institutions to take all appropriate actions to keep the salaries and benefits of the employees of such institutions to levels comparable to salaries and benefits of employees of private business and the United States Government in comparable positions.

TITLE VIII—LIGHT CAPITAL TECHNOLOGY

SEC. 801. (a) The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall promote the development and utilization of light capital technologies, otherwise known as intermediate, appropriate, or village technologies, by such international institutions as major facets of their development strategies, with major emphasis on the production and conservation of energy through light capital technologies.

(b) The Secretary of the Treasury shall report to the Congress not later than six months after the date of enactment of this section and annually hereafter on the progress toward achieving the goals of this title. Each report shall include a separate and comprehensive discussion, with examples of specific projects and policies, of each institution's activity in light capital technologies and of United States efforts to carry out subsection (a) with respect to each institution.

TITLE IX—HUMAN NUTRITION IN DEVELOPING COUNTRIES

SEC. 901. (a) The Congress declares it to be the policy of the United States, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank, to combat hunger and malnutrition and to encourage economic development in the developing countries, with emphasis on assistance to those countries that are determined to improve their own agricultural production, by seeking to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country. The United States representatives to the institutions named in this section shall oppose any loan or other financial assistance for establishing or expanding production for export of palm oil, sugar, or citrus crops if such loan or assistance will cause injury to United States producers of the same, similar, or competing agricultural commodity.

(b) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress towards achieving the goals of this title.

TITLE X—EFFECTIVE DATE

SEC. 1001. This Act shall take effect on the date of its enactment, except that no funds authorized to be appropriated by any amendment contained in title II, III, IV, V, or VI may be available for use or obligation prior to October 1, 1977.

Mr. SPARKMAN. The House has rejected the conference report on H.R. 5262, a bill to authorize contributions to various international financial institutions, and has sent the bill back to the Senate with an amendment which affects the human rights provisions of the bill.

The House has amended only subsection 701(f) of the version agreed to in the conference committee. As recommended by the committee of conference, that subsection stated:

(f) In addition, where other means have proven ineffective in achieving the purpose of subsection (a), the United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a)(1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance.

The House amendment deletes the words "In addition, where other means have proven ineffective in achieving the purpose of subsection (a)," at the beginning of the subsection and the words, "or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance," at the end of the subsection.

No part of this legislation was more carefully considered and debated in committee, in this Chamber and in the com-

mittee of conference than the human rights provisions. The Senate, the House, and the President agree that one of the objectives of our participation in the international financial institutions is to advance the cause of human rights. At issue here is how best to achieve that objective.

I would have preferred the language recommended by the committee of conference on which I served. The bill, as amended by the House, does reduce the flexibility of the President in his efforts to advance the cause of human rights. However, I believe that, as amended, the human rights provisions of this bill are acceptable and should be approved by the Senate.

Before the Senate votes on the House amendment, it is important to be clear about the meaning of the word "oppose" as it is used in subsection 701(f).

Subsection 701(f) requires U.S. Executive Directors of specified international financial institutions to oppose assistance to any country described in subsection (a) (1) or (2) of the bill. Subsection 701(f) does not require the U.S. Executive Director to vote "no" on any assistance. This distinction is a fine one but important because it provides the Executive Director with some flexibility as they represent the United States in the international financial institutions.

The term "oppose" is both broader and more flexible than a simple directive to vote against assistance. "Oppose" is broader because the opposition of the U.S. Executive Director may come at any point in the process of the institution's consideration of a loan or other forms of assistance—not just when a loan comes to the Board of Directors for a formal vote. The term is more flexible because the U.S. Executive Director is not required to vote against a loan. The Executive Director could, for example, engage in informal efforts to persuade his counterparts representing other governments that a loan should not be extended because of the human rights record of the recipient government. Such persuasive representations could stop a loan before it is presented to the Board. It was the clear intention of the conference that "oppose" meant voting against, abstaining, or voting "present."

We must keep the objective of subsection 701(f) clearly in mind—that objective is to advance the cause of human rights. How the U.S. Executive Directors as representatives of the U.S. Government achieve that objective is less important than the achievement of that objective itself.

We have had some experience with the impact of a mandated "no" vote on the effectiveness of U.S. Executive Directors. Section 15 of the International Development Association Act now requires the U.S. representative to IDA to vote against any loans to any country which develops a nuclear explosive device unless the country becomes a party to the Nonproliferation Treaty. In reviewing the effects of that provision, we found that it has neither led to the modification of the policies of recipient governments as intended nor has it stopped the flow of loans to them because we lack a blocking percentage in the Banks. Instead, the U.S. Executive Director has not been able to participate effectively in the institution's internal negotiations affecting proposed loans.

Experience with that provision is one of the reasons why the Senate modified that section to enlarge the scope of possible action in such cases and insisted that the U.S. Executive Directors retain flexibility in their actions concerning assistance to governments which violate the basic human rights of their citizens.

If the Congress had intended to instruct the Executive Directors to vote "no" on assistance to a country which is described in subsection 701(a) (1) or (2) the legislation would say so. But it does not. The legislation, as modified by the House, does not require the U.S. Executive Directors to vote "no."

They could, for example, not vote at all or formally abstain if that is permitted within the rules of the institution. Opposition may also take place as the loan is being processed prior to formal approval by the Board.

After review and consideration of the House change, I have concluded that the Senate can accept the House amendment. Passage of this bill will make an important contribution to the objectives of our foreign policy and will help to advance the cause of human rights.

I move to concur in the House amendment to the Senate amendment to the House bill.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. Yes, I yield.

Mr. TOWER. I assume this matter has been cleared with the ranking Republican, Senator Case?

Mr. SPARKMAN. Yes, it has been cleared on both sides.

Mr. TOWER. I thank my distinguished friend.

Mr SCOTT. Mr. President, will the Senator yield briefly?

Mr. SPARKMAN. Yes.

Mr. SCOTT. I am not familiar with this bill by number. Is this the general foreign aid bill the distinguished Senator is talking about?

Mr. SPARKMAN. Yes, it is, dealing with contributions to various international organizations.

Mr. SCOTT. Does the Senator recall the vote by which this bill was passed by the Senate? Was it a divided vote on this?

Mr. SPARKMAN. I cannot give the Senator the exact vote, but it was, shall I say, a very one-sided vote. It was overwhelmingly——

Mr. SCOTT. Overwhelmingly favorable?

Mr. SPARKMAN. Yes.

Mr. SCOTT. I thank the Senator.

Mr. SPARKMAN. I therefore move, Mr. President, that the Senate concur in the House amendment to the Senate amendment to the House bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate recede from its amendment to the title.

The motion was agreed to.

ORDER OF BUSINESS

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Mr. Kent Wolgamott, a member of my staff, be accorded the privilege of the floor during debate and rollcall votes on the bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I ask unanimous consent that Mr. Steve McGregor and Mr. John Kirtland, of the staff of the Committee on Commerce, Science, and Transportation, be accorded the privilege of the floor during the discussion and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Dick Burdette and Hayden Bryant be granted privilege of the floor for the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

AMENDMENT NOS. 957–958

Mr. KENNEDY. Mr. President, the purpose of my amendment is to retain the present price of $1.45 per thousand cubic feet of natural gas.

Mr. President, the $1.45 figure I propose must be compared to either the price set in the administration proposal which would now be $1.75, and to the unregulated price that would rise to substantially more than that. The best estimates suggest the price will rise to at least $3 and probably higher. These figures can be placed in better content when we consider that every 1 cent increase in the price of natural gas costs the American consumer at least $225 million in increased bills and higher prices for goods.

Even the $1.45 price set in my amendment is considered by most experts to be significantly greater than what would represent a fair, even a generous, return on investment for producers. It is likely much higher than any strictly cost-based price would be, and it is not in any sense a market-determined price. But it does represent the Federal Power Commission's latest conclusions, and in the absence of any better yardstick, that is where I think we should draw the line.

But once again, Mr. President, the American people are being confronted with insistent demands by the oil and gas industry for still higher prices for energy products. At a recent FEA hearing, producers came forward one after another and complained about the "low" crude oil prices in the United States. And now Congress is being asked by the industry's supporters to remove controls on natural gas prices so that the U.S. domestic natural gas prices can zoom up until the oil companies' appetites for higher profits are satiated.

I want to emphasize at the start that natural gas prices already have risen by several hundred percent. Even in interstate commerce, regulated by the Federal Power Commission, prices for new natural gas have been permitted to go up by about 500 percent since 1972. Ceilings that were at 22 cents per thousand cubic feet in 1972 are now at $1.45.

But the producers say that is not enough. We must pay more, they say, if we want more output. In fact, they suggest that Congress should abandon consumers to take their chances in an unregulated market with the OPEC cartel, a highly concentrated domestic oil industry, and the prospect of rigid physical shortages of gas staring us right in the face. This is really like asking us to hold a gun at the heads of American consumers while the oil companies empty their pockets.

Will deregulation of natural gas prices really get us more gas? I think that is a very basic and fundamental question. Most objective studies have concluded that they will not. Let me review the recent major studies one by one.

The Congressional Budget Office, in a study just completed for the Energy Committee, compared the administration price proposal—$1.75 Mcf plus escalation—with deregulation, and concluded that by 1985 very little additional gas would be produced—and at much higher cost. While the study did not specifically look at lower price alternatives, it did have this to say about the recent past:

> By CPO calculations, deregulation of natural gas prices two years ago would not have yielded significantly more gas than has actually been found. Yet deregulated prices of new gas would be much higher today than they are, because of bidding by interstate consumers.

In other words, with the rise in the FPC's price for new gas to $1.42 a thousand cubic feet plus escalation, the industry did as much as it would have with deregulation.

The General Accounting Office got into this matter in its July 25 report, "An Evaluation of the National Energy Plan." Referring to an earlier report, GAO stood by its conclusion that "due to physical limitations it was unlikely that higher prices for natural gas, even under total deregulation, would result in increased gas supplies over current levels at least through 1985." GAO's conclusion is that the administration likewise has hopelessly overestimated the response of supply to prices which it has proposed.

ERDA's market oriented program planning study included a workshop on conventional gas supplies. The participants concluded that ". . . the bulk of the proven reserves can presumably be sold profitably at the current $1.42 ceiling."

Finally, the Joint Economic Committee staff study released last weekend compared supply curves estimated by the Federal Energy Administration at various times. FEA hired the best talent it could get as consultants on these projects. The 1974 Project Independence supply curve indicated that no additional gas would be available by 1985 for any price boosts beyond $1 per 1,000 cubic feet. Allowing for inflation since then we still have a price well below $1.45 mcf, beyond which there will be virtually no supply response. The 1976 FEA estimate is not much better.

What all of this means is that last year the FPC had been able to cost-justify new gas prices of about 55 cents mcf. It went ahead and introduced a price of $1.42 with automatic escalation—without cost justification—primarily to give the industry all the incentive it needed. Now, there is simply no reason for raising this price another 30-odd cents. It will raise costs to consumers—directly in their home heating bills and indirectly in the prices of almost everything they buy—without providing enough additional gas to even think twice about.

How can it be that higher prices yield no more output? The answer is that the large volume of gas that is supposed to be brought forth with deregulation is a figment of the gas industry's imagination. Very little new onshore gas exists. But while these promised bonanzas may dance like sugarplums in industry official's dreams, the deregulated prices that they would conjure forth would haunt consumers like recurring nightmares.

To begin with, oil and gas producers already are engaged in a full-blown drilling boom in response to the enormous increases in prices and profitability that have taken place since 1972. The number of new gas wells drilled annually has risen by 85 percent since 1972 and has substantially more than doubled since 1971. In fact, the number of gas wells drilled set a new all-time record in 1973 and in each year since that time. A table in the new Joint Economic Committee staff study shows the record of accelerated drilling activity in the United States since 1957.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DRILLING ACTIVITY IN THE UNITED STATES

Year	Total well completions: Oil	Gas	Dry	Service	Total	Total feet drilled (million feet)
1957	28.612	4.626	20.893	1.409	55.024	233.1
1958	24.578	4.803	19.043	1.615	50.039	198.2
1959	25.800	5.029	19.265	1.670	51.764	209.2
1960	21.186	5.258	17.574	2.733	46.751	190.7
1961	21.101	5.664	17.106	3.091	46.962	192.1
1962	21.249	5.848	16.682	2.400	46.179	198.6
1963	20.288	4.751	16.347	2.267	43.653	184.4
1964	20.620	4.855	17.488	2.273	45.236	189.9
1965	18.761	4.724	16.025	1.922	41.432	181.5
1966	16.780	4.377	15.227	1.497	37.881	166.0
1967	15.329	3.659	13.246	1.584	33.818	144.7
1968	14.331	3.456	12.812	2.315	32.914	149.3
1969	14.368	4.083	13.736	1.866	34.053	160.9
1970	13.020	3.840	11.260	1.347	29.467	142.4
1971	11.858	3.830	10.163	1.449	27.300	128.3
1972	11.306	4.928	11.057	1.464	28.755	138.4
1973	9.902	6.385	10.305	1.010	27.602	138.9
1974	12.784	7.240	11.674	1.195	32.893	153.8
1975	16.408	7.580	13.247	1.862	39.097	178.5
1976	16.996	9.045	13.690	1.690	41.421	185.2

Source: Independent Petroleum Association of America.

Mr. KENNEDY. Mr. President, in other words, oil and gas producers are drilling flat out right now. The active rig count has risen steadily as new rigs become available. Producers could not drill any more at twice the price than they are drilling now.

In truth, prices may be too high already. Profits are certainly high enough. The oil companies in constant dollar terms earned in the first 6 months of this year 45 percent more than they earned during the same period in 1972. And there is ample capital in the industry to stretch the available physical resources as far as they will go. Oil and gas producers are already investing heavily in other resources and industries, looking for new places to put their money down.

More money for the producers will just inflate costs in the industry again. Steel producers will be glad to raise the prices of oil field goods again. Shipyards and other steel fabricators will eagerly raise the prices of new drilling rigs. If there are excess profits left after these cost increases, landowners will simply charge more for mineral rights. But there will not be much more output to show for it.

Another reason why the prospect of large amounts of high-cost gas is not very plausible is that really large deposits of gas are almost by definition low in cost per thousand cubic feet. This is because the drilling costs of a prolific find are spread over its many units of output. The JEC staff study concludes that very few gas finds will be so high in development costs or so low in productivity that they will not pay at today's high prices. Any find that is uneconomic to develop at today's prices will not be very large. And these would not add up to much additional output.

If supply curves for natural gas are as inelastic as FEA and CBO believe them to be, then an increase in gas prices from $2 to $2.50 per thousand cubic feet in constant dollars will call forth only about 1 trillion cubic feet of additional gas by 1985. This would be roughly a 5 percent increase in annual production. Under deregulation, however, the price increase would apply to virtually all gas produced by 1985 including old, already flowing gas. Therefore, this 5 percent supply boost would cost consumers about 30 percent more in overall gas costs.

The extra output would cost no less

than about $12 per thousand cubic feet in aggregate price increases.

The President's gas pricing proposal also is designed to entice this extra increment of high-cost natural gas out of the ground. While it would do so at a fraction of the cost of the deregulation approach, the price it sets is still substantially higher than necessary to provide an incentive for full exploration and development of our Nation's gas resources. Under the President's proposal and my amendment, a special price category would be established for gas from wells that are found to involve exceptionally high costs. But these special prices would not be permitted to spread to all gas, including that discovered and developed at yesteryear's much lower costs.

THE NEED FOR A FIRM GAS PRICE CEILING

The best thing Congress can do to increase gas production is to put a firm ceiling on natural gas prices that cannot be expected to rise by more than the rate of inflation. I say this because there is much circumstantial evidence that expectations of rapid gas price increases over the past decade have resulted in underreporting of reserves and reduced output. Indeed, with the Federal Power Commission's repeatedly approved large increases in new gas prices and the previous administration's pushing hard for total deregulation of gas prices, producers with any business sense would have been foolish not to hoard as much gas as possible for higher prices—or at least to make investment decisions regarding increasing production accordingly. I think it is fair to assume that gas producers are smart businesspeople and have responded to the market prospects facing them where they could do so without incurring legal penalties.

In support of these suppositions, I submit for the record two more tables from the new JEC staff study. The first one shows how revisions of estimated reserves in existing gas fields, which made substantial positive contributions to reserves before 1969, turned negative in that year and have remained so except for one year since then. Thus, as expectations of major price increases arose, producers systematically cut back the estimated outputs that they could produce from reservoirs already committed to customers at old prices. The second table shows how rapidly reserves have been revised downward in specific Texas and Louisiana gas fields.

I ask unanimous consent to have the tables printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ANNUAL ESTIMATES OF PROVED NATURAL GAS RESERVES IN THE UNITED STATES, 1965 THROUGH 1976, TOTAL ALL TYPES

[Millions of cubic feet—14.73 lb/in²a, at 60° F.]

Year	Changes in reserves during year							Proved reserves at end of year	Net change from previous year
	Revisions	Extensions	New field discoveries	New reservoir discoveries in old fields	Total of discoveries, revisions and extensions	Net change in underground storage	Production*		
1965	†14,775,570		†6,543,709		21,319,279	150,483	16,252,293	286,468,923	5,217,469
1966	4,937,962	9,224,745	2,947,329	3,110,396	20,220,432	134,523	17,491,073	289,332,805	2,863,882
1967	6,570,578	9,538,584	3,170,520	2,524,651	21,804,333	151,403	18,380,838	292,907,703	3,574,898
1968	3,016,146	7,758,821	1,376,429	1,545,612	13,697,008	‡118,568	‡19,373,427	287,349,852	(5,557,851)
1969	(1,238,261	5,800,489	1,769,557	2,043,219	8,375,004	107,169	20,723,190	275,108,835	(12,241,017)
1970	(99,721)	6,158,168	27,770,223	3,367,689	37,196,359	402,018	21,960,804	290,746,408	15,637,573
1971	(1,227,400)	6,374,706	1,317,574	3,360,541	9,825,421	310,301	22,076,512	278,805,618	(11,940,790)
1972	(1,077,791)	6,153,683	1,462,539	3,096,132	9,634,563	156,563	22,511,898	266,084,846	(12,720,772)
1973	(3,474,756)	6,177,286	2,152,151	1,970,368	6,825,049	**(354,282)	22,605,406	249,950,207	(16,134,639)
1974	(1,333,285)	5,847,251	2,013,745	2,151,473	8,679,184	**(178,424)	21,318,470	237,132,497	(12,817,710)
1975	383,449	6,027,433	2,423,382	1,649,424	10,483,688	**302,561	19,718,570	228,200,176	(8,932,321)
1976	(1,197,119)	5,337,707	1,421,013	1,993,867	7,555,468	(187,550)	19,542,020	216,026,074	(12,174,102)

*Preliminary net production.
†Separation of revisions from extensions of new field discoveries from new reservoir discoveries in old fields not available prior to 1966.
‡This value has been changed to correct a numerical error made in vol. 23.
**See footnote e, table I.

( ) Denotes negative volume.

Source: American Petroleum Institute. Reserves of Crude Oil, Natural Gas Liquids and Natural Gas in the United States and Canada as of Dec. 31, 1976.

AMERICAN GAS ASSOCIATION ESTIMATES OF ULTIMATE RECOVERY OF NATURAL GAS, SELECTED YEARS OF RESERVOIR DISCOVERIES AND ESTIMATES

[Billion cubic feet (BCF)]

	Years			Estimates (BCF)	
	Discovery	From	Through	From	To
A. Nonassociated:					
Texas:					
District 1	1953	1970	1974	390.4	206.0
District 2	1963	1967	1970	430.2	187.1
District 3	1935	1970	1973	5,809.5	3,828.3
District 4	1940	1970	1975	1,504.4	854.5
District 7B	1929	1966	1967	74.0	7.4
District 7C	1965	1969	1971	694.1	365.8
District 9	1950	1968	1969	2,442.7	2,204.7
Louisiana:					
North	1927	1966	1967	647.1	.4
South	1959	1969	1973	5,391.4	593.3
B. Associated dissolved:					
Texas:					
District 3	1929	1966	1974	543.7	82.0
District 4	1939	1970	1975	1,714.4	1,147.6
District 5	1933	1969	1970	192.0	142.0
District 6	1930	1967	1974	1,958.1	1,414.5
District 8	1949	1966	1968	1,509.1	76.5
Louisiana: South	1937	1969	1975	2,939.3	1,925.3

Source: Tabulations prepared by Joseph Lerner from Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas . . ., American Petroleum Institute & American Gas Association, various editions

In several cases, three-quarters or more of the reserves remaining in these fields were "depleted" within one to three years. Such depletion rates are completely implausible, except in terms of the strong incentives to manipulate figures so as to avoid delivering this gas at the prices contracted for earlier. Clearly, if we want to maximize production now, we must put an end to the incentive to withhold that pervades this market. And this requires a firm price ceiling that covers both the intrastate and interstate markets.

Deregulation today would continue this atmosphere of higher price expectations because it would free domestic wellhead prices to rise in response to any OPEC oil price increase.

It also would permit them to go to extreme scarcity levels in the event that another harsh winter or an oil embargo should again result in a sudden physical shortage.

It is my own suspicion that the imposition of a fair but firm nationwide natural gas price ceiling will lead to more output in the next few years than many experts believe is possible. This is because most supply forecasts nowadays are based on reserve data of the past several years when the incentive to underreport reserves has been very strong. While I am not suggesting that a burst of output from secret reserves will solve the Nation's gas shortage, I suspect that we will be pleasantly surprised at the trends in production if we can end the current price uncertainty with a fair but firm price ceiling.

WILL HIGHER GAS PRICES EFFECTIVELY CURB CONSUMPTION

Industry spokesmen as well as many disinterested economists point out that higher gas prices would help to eliminate the present gas shortage by encouraging conservation and switching by consumers to other fuels.

The best recent information to come to my attention on the price sensitivity of natural gas demand is from my attention on the price sensitivity of natural gas demand from a model constructed by economists at FEA which, among other things, takes into account the economics of equipment replacement by commercial, residential, and industrial users. I am submitting another table drawn from the JEC staff study showing the elasticities of demand estimated by FEA for each of these three sectors for periods up to 8 years. This table shows that the conservation response to a price increase today increases modestly over the years but remains quite limited even in the longer run. It shows that every 1 percent rise in prices will yield much less than a 1 percent cutback in gas consumption even by 1985. These low elasticities imply furthermore that gas price increases will continue to pack an inflationary wallop even as far as 1985, because consumers will not be able to cut consumption by nearly enough to offset the price increases.

The lowest elasticities, in fact, are estimated for the industrial sector, which under most plans would incur the largest gas price increases. This sector's long-run demand elasticity is estimated at −0.36. This means that only 36 percent of the price increase would be offset through conservation. Sixty-four percent would constitute a cost increase, and most of this would be passed through in the form of higher prices. If these elasticities are accurate—and they are based on the best analysis I have seen—then radically higher gas prices to industrial users will have the primary effect not of saving gas but of aggravating the inflation rate.

PRICE ELASTICITIES OF NATURAL GAS DEMAND BY CONSUMING SECTOR, 1977–85

Year	Commercial	Residential	Industrial	Total
1977	−0.403	−0.332	−0.213	−0.268
1978	−.490	−.388	−.264	−.331
1979	−.559	−.428	−.297	−.358
1980	−.614	−.458	−.318	−.382
1981	−.659	−.481	−.333	−.399
1982	−.696	−.499	−.343	−.411
1983	−.726	−.514	−.350	−.420
1984	−.751	−.526	−.356	−.426
1985	−.773	−.535	−.360	−.431

Source: Federal Energy Administration.

These projected price elasticities of demand imply that increases in gas prices should not be imposed in large near-term jumps. Instead they should be programed in advance but stretched over several years so as to put consumers on notice to emphasize conservation when replacing their gas-using equipment without burdening the national economy in the initial years when little can be done to conserve. Further, they should be approached by the Government's capturing the addition to price, not through giving the industry a windfall.

The administration's gas pricing plan, as modified by the House, aims to do just this by imposing its taxes on oil and gas over several years. In addition to these taxes, regulatory controls on wasteful uses of gas and a more rational system of priorities for allocating gas during shortages should be adopted. I know that administrative controls are awkward and unpopular, but they can get the job done without the kind of pervasive damage to the economy that a chronically higher inflation rate involves.

WHAT WILL GAS PRICES DO UNDER DEREGULATION?

Price in a deregulated gas market probably would go much higher than today's new intrastate gas prices—$1.80 per mcf. and even higher than the equivalent of OPEC oil prices—around $2.40 per mcf. Today's intrastate prices, for instance, have been held down by the influence of controlled interstate prices and the fact that regulated interstate pipelines have been almost entirely precluded from bidding for intrastate gas. If these pipelines are permitted to enter intrastate markets without restraint, prices probably would be bid up until a substantial class of users switches to other fuels, relieving the shortage.

The first category of gas users likely to switch out of natural gas would be large commercial and industrial users, who could change to coal or oil. Few of them would do so, however, until gas reaches a price substantially above that of, say, middle distillate fuel oil. Such a switching price is estimated by the Joint Economic Committee staff to be in the range of $3 per mcf. Indeed, if the rigid physical shortage of gas were aggravated again by a severe winter or a new oil embargo, prices of gas without controls could rise to desperation levels of $5 per mcf. or even more for a period. The impact on the economy of rationing such a shortage using scarcity pricing would be pure disaster.

In my judgment, it would be far wiser to maintain Government control over prices in this volatile market and to reduce and ultimately eliminate the excess demand through deliberate and systematic substitution of other fuels for natural gas, using regulatory methods focused on certain large volume commercial and industrial uses.

THE MACROECONOMIC CONSEQUENCES OF DEREGULATION

The world economy still is staggering under the impact of the energy price revolution of 4 years ago. These price increases raised crude energy price directly by an estimated $58 billion annually by 1975, with markups and other second-round ripple effects accounting for substantially more. Data Resources, Inc., a leading economic consulting firm in Lexington, Mass., has estimated that energy price increases, aggravated by a very harsh monetary policy adopted in response to them, contributed perhaps one-half of the alarming inflation rate of the 1974–75 period. It contributed a considerably larger fraction of the increase in the inflation rate that year. DRI also attributed perhaps one-half of the decline in output and the rise in unemployment likewise to the energy shocks.

Even now, it is estimated that the continuing rise in energy prices has contributed 1 full percentage point to the rise in the Consumer Price Index over the past year. This consists of increases in gasoline prices, increases in electric rates, and sharp rises in natural gas prices even under FPC controls. These energy price increases are a major reason for which the so-called underlying rate of inflation remains at a higher level than it used to be.

The energy price increases incorporated in this bill would add to this dangerously high rate of inflation. Some of them are perhaps necessary in putting together an effective energy policy. But an outright deregulation of natural gas prices in this context would seem to me to be throwing all caution to the winds.

Let us be perfectly clear about the magnitude of the danger to the economy in any ill-advised measure that increases inflation. Higher inflation tends to push up interest rates, choking off the economy's growth. It tends to undermine business confidence and the investment that we need to create jobs and boost productivity. And I have no doubt that radical increases in gas prices would cause some enterprises simply to close their doors and let their labor forces go.

There can be no doubt about the drastic nature of the price increases we are talking about. By 1985 the administration's plan will be adding $16.7 billion a year and about $51 billion cumulatively to the cost of gas, according to the Joint Economic Committee study. The Congressional Budget Office estimates that deregulation will cost a cumulative $162 billion more than the administration's proposal leaving a potential total difference between present prices and what I propose of more than $200 billion. Subtracting for the fact that the CBO study included offshore gas which Pearson-Bentsen would not deregulate for 5 years, the increase is still over $150 billion.

The proposal I advance is clearly the responsible course. It concludes a cost-of-living inflation adjustment. It includes a provision allowing higher prices for high-price gas. It pegs the price well above the historic cost of producing gas. It saves consumers money. It reduces inflation. It fixes a firm price which will, once and for all, tell the oil and gas companies that this Congress has taken a stand and there is no benefit to them to withhold production any longer.

If the commodity we were discussing were any one other than gas or oil this debate could hardly take place. After a 350-percent increase in one jump just 14 months ago would we seriously stand here and vote for a further increase if the commodity were potatoes or automobiles or coffee? Yet that is exactly what we might do.

The oil and gas companies are spending tens of millions of dollars to excite this country to the possibility that American ingenuity, the spirit of discovery, and a few tens of billions of dollars for them will somehow put us back in command of our destiny. The imagery is appearing. The challenge excites possibilities. But the gas companies are not going to tell you what it costs. They will not tell you we are talking about tens of billions of dollars.

My amendment offers the only alternative to higher prices, the only opportunity to stop before we use gas to fuel—not more homes or industries—but inflation. That is the choice before us.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. KENNEDY. I just have a few more comments and then I would be glad to yield.

Mr. President, I ask unanimous consent to have included in the RECORD the tables to which I made reference in terms of the costs we are considering in this particular bill.

The Joint Economic Committee, in its review and study—and I will include this particular study—on page 75 of the Joint Economic Committee staff study is a very clear indication of exactly what will be the cumulative effect in moving toward the $1.75 per mcf with the gradual inflator going through 1985.

And then you can also see from this table what would be the normal inflationary factor. If we take my amendment at $1.45 and move it over the period of 1985, as you see clearly that the saving during that period would be approximately $40 billion in saving over the present administration's proposal.

Before we get into talking about what the extraordinary cost would be if we go toward the deregulated price, I think it is important that there be an understanding from that particular table what the cost of the administration's proposal would be.

I also will refer to two tables on page 45 about the long-term effect of price on natural gas production in 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF THE ADMINISTRATION PLAN WITH DEREGULATION, 1978, 1980, AND 1985

	1978		1980		1985	
	Administration plan	Deregulation	Administration plan	Deregulation	Administration plan	Deregulation
Wellhead price of new gas (cents per thousand cubic feet)	175	400	189	317	208	280
Average price of all gas (cents per thousand cubic feet)	103	149	121	178	156	220
Net annual production (trillion cubic feet)	19.2	19.5	18.7	19.1	18.9	19.8
Revenues to industry (billions of dollars) [1]	20	28	23	32	29	41
Total consumer costs (billions of dollars) [2]	46	54	49	58	57	[illegible]
Typical monthly winter heating bill (dollars per month)	42.80	55.60	43.20	61.60	47.20	70.00

[1] Revenues to industry are measured at the wellhead and are computed on the basis of the quantity produced under the administration's plan. The difference in cumulative revenues by 1985 comes to $76,500,000,000.

[2] The difference in cumulative costs by 1990 comes to $162,000,000,000. These costs include wellhead prices, pipeline costs, and substitute fuels. Consumer costs are measured after shipment to the point of consumption.

Note: Prices are expressed in 1977 dollars.

Mr. KENNEDY. Mr. President, on the one side of the graph they have the dollars per mcf and on the other the increase in production. What any person can understand from this is the inelasticity of production in response to price. Even the most optimistic estimates about what can be realized show dramatically what the increase in cost was going to be. In other words, you are not going to discover dramatically more with the much higher cost.

If you look at those particular charts, you will see that at the outer limitations of productivity all the chart does is go straight up. That is the price. The horizontal bar of the chart shows the increase in productivity of natural gas and the vertical line is the increase in costs. I will tell you that no matter how high the increase in costs goes, you just do not see much increase in production.

These conclusions are based upon the most extensive studies that were done, based upon the figures which were available at this time. There are those who suggest all we have to do is just increase the cost and we are going to find all the gas that we effectively need. That is just not true.

The other chart refers to the natural gas pricing proposals. This is a comparative analysis done for the Committee on Energy. The chart, on page 13 in its studies, shows the comparison of the programs between the administration plan with 1978, 1980, and 1985. It also shows the typical monthly winter heating bills going up under deregulation. For a family home it will create increases from the administration's proposals of $42.80, to $55.60. By 1980, under the administration program it creeps up to $43.20 over the $42.80, but the deregulation increased from $55 to $61. By 1985 the administration estimates show a $47.20 price, about $4.50 increase, but the deregulation has increased by 1985 to $70.

It seems to me that no matter how we look at this particular issue in billions of dollars or in the cost for home heating oil the situation is very clear, and that is, that the American consumer is going to be at an extraordinary disadvantage.

I am glad to yield to Senator BARTLETT.

The PRESIDING OFFICER (Mr. McGOVERN). The Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Massachusetts.

I heard the Senator say that he favored price controls on natural gas. I ask the distinguished Senator if he is of the opinion that this will increase or decrease the amounts of gas available to citizens in Massachusetts and the rest of the country.

Mr. KENNEDY. The proposal I am supporting would maintain the price which exists at the present time. With regulation we already have a 300-percent increase in about the last 14 months. This price will get all the production that we can possibly expect and a very substantial profit for the major gas companies. I do not believe that the case has been made by those who support deregulation that would convince the people of this country or of my region. Although we are not a major consumer in terms of heating oil, we are only about a 10-percent consumer of natural gas. We are basically a consuming part of the country. When you have dramatic increase in inflation we are going to see it very amply expressed in terms of inflation in goods that we purchase.

I think all the new gas that could be discovered would be developed under my proposal since it would clearly be understood that we were not going to see enormous increases by Congress in tampering with the price. If we were to pass what I have proposed here today and the natural gas producers and developers will understand that they could not say, "all we have to do is wait for another year or 2 and we can jack up that price another 300 percent," as we have seen in the recent years. I think the suggestion of the Senator from Oklahoma might see a lot of gas produced if we take a strong stand and a firm position, and say, "This is where we are going." I am completely satisfied that we will get the production. It is not only my own review, but, as the Senator I am sure is familiar with the study that was done by the Energy Committee, that study which would indicate that.

On page 13 they do the comparison by 1985 between what they think will be produced under the administration program and under deregulation, even though the cost will be billions of dollars higher—close to $150 billion from the American consumer—it would only produce, an additional 900 million Mcf. There is a difference, referring to this chart, of going from 18.9 trillion cubic feet up to 19.8. So there is some validity that there will be some increase. It is not insignificant, or unimportant, but look at the price we have to pay for it. We probably can reach nearly that amount by making a firm decision.

Mr. BARTLETT. Will the Senator yield further?

Mr. KENNEDY. Yes.

Mr. BARTLETT. I am very much aware that in the State of Massachusetts the citizens of Massachusetts are very successful in obtaining a lot of fish from the Atlantic Ocean.

Mr. KENNEDY. Not as many as we like. We are doing better.

Mr. BARTLETT. We in Oklahoma like the fish very much, and I know the people here do in Washington, D.C. I am just wondering if the Senator favors control of prices on fish that are produced by the fishermen from Massachusetts and if he would favor a rollback in those prices as this would be in comparison with the administration bill?

Mr. KENNEDY. I fail to see any possible tie-in with the issue that we are

talking about here or any possible comparison. If the Senator were talking about a small cartel of the North American shores which had 25 percent of the total known resources of fish product and if by some means all the United States fishermen were able to get together and combined with the other great fish-producing countries of the world, perhaps China, and perhaps a small group of other nations, and fix that particular price, then I think there might be some relevancy to the Senator's question. But the fact of the matter is we are not talking about fish.

If I may just take 1 minute of the Senate's time, the problem would be similar if farmers who live in the distinguished Senator's State were able to get together with the peanut farmers of Georgia and the highland farmers of Montana. We cannot get the fishermen of New England together and the shrimpers of Louisiana and the gulf with the tuna people of the west coast.

So the comparisons have absolutely no relationship here. We are talking about relating the price—as I understand the administration proposal—to the price of crude oil. The crude oil price is an administered price, the international price as a result of the cartel, and has absolutely no relevance to market forces. So obviously the answer would be in the negative. These is no comparison.

Mr. BARTLETT. If the Senator will yield further, I should like to point out the relevancy this way: The price of natural gas, of course, is not a cartel price fixed by American companies. The cartel price, of course, is on oil, and gas from Algeria that we import, on which we pay a higher price.

But the question first was whether the Senator's proposal of price controls would bring on additional gas. He indicated it would. I was wanting to ask him whether price controls on fish would bring on additional fish, if the price were reduced. I would assume it would not.

I think it is very relevant to point out that we are not going to have additional gas for the State of Massachusetts if the price is less than it otherwise would be with the administration bill, any more than we in Oklahoma would expect to have more fish available at a reasonable price if the price were rolled back. The people of Oklahoma might like to buy their fish at a lesser price, but I think they know that if they want fish, they are going to have to pay the price.

To carry the comparison a little farther, if the State of Massachusetts were selling fish both in an interstate market and an intrastate market, and the prices for fish were established in the same way that price controls were established on natural gas, then you would be paying a higher price in your own State than you would receive for the fish sent to Oklahoma, and you would be sending Oklahoma fish in the interstate market at prices lower than it is possible to catch or produce those fish.

So I think there is a good corollary here, which brings out that while you favor your price controls program when it does not have anything to do with industry in your State, primarily, it still affects it very much, in my opinion, because it affects the supply you would otherwise have. If Massachusetts is to have a supply of natural gas, other than domestic supplies, the price would be critical, because otherwise you would have only a choice between Algerian imported gas, synthetic gas, or imported gas from Canada, all at prices higher than the price of domestic natural gas. So your choice is limited by your desire to have available additional reserves of natural gas that could be available to Massachusetts.

If the utilities in Massachusetts do not want to purchase that gas, they do not have to, but it would be available if they were permitted and wished to do so.

Mr. KENNEDY. I would say to my good friend from Oklahoma that the comparison between the fishing industry and the oil industry really escapes me. Any student of the fishing industry in our part of the country knows it is highly competitive. There have been a number of things that have disadvantaged it, aside from the market and availability of resources. We have been faced, for example, with the 1894 act that has prevented New England fishermen from being able to purchase their ships overseas, and therefore they are limited in the number of ships they can afford.

The difference between the oil and gas industry and the fishing industry is the difference between night and day. The Senator knows we are dealing with administrative prices in the petroleum industry. Natural gas prices are related on a Btu equivalence basis, under the terms of the President's proposal. That is an administrative price; and the fact of the matter is that the Senator from Oklahoma, I do not think, has been convincing that we would see a production increase with deregulation.

We in New England have been glad for the natural gas we have been able to receive. When the producers in the southern part of the country were flaring that gas, they were glad to ship it up to New England, a gas-starved area of the country. Now we have become about 10 to 12 percent dependent on that product. When they had a surplus, they got us hooked on it, and I do not want to see that part of the population disadvantaged, any more than other people who have become dependent upon petroleum supplies.

But I respect the comments of the Senator, and will be glad, at some time, to exchange ideas with him in greater detail as to the relationship between the oil and gas industry and the fishing industry.

Mr. BARTLETT. I thank the distinguished Senator from Massachusetts. I think if we had a Kennedy-Bartlett fishing and oil company, we would get something done.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. DURKIN Does the Senator's amendment contemplate phasing out controls over a 3 or 4 year period?

Mr. KENNEDY. No. The price would increase with the inflationary index.

There is another provision which is extremely important for us to understand: That where a gas development project is going to require a substantially higher price, then the Secretary can make an independent decision. If this flexibility and authority he would have would mean a substantially higher price for development of a particular fuel or a particular resource, we want to give him that flexibility, instead of providing the broad sweep and scope of a market price under the Bartlett amendment, which would mean an additional $150 billion——

Mr. DURKIN. But your amendment has no fixed decontrol provision?

Mr. KENNEDY. The Senator is correct.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I ask unanimous consent that a member of my staff, Mr. Ed Knight, be accorded the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER (Mr. McGOVERN). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I have had quite an education on the fishing industry in the discussion between the Senator from Oklahoma and the Senator from Massachusetts. About the only analogy I could think of was that of the fellow who caught a catfish down home and said, "Don't wiggle, little catfish; all I am going to do is gut you." That is about how I feel about this amendment, when they talk about rolling the price back to $1.45.

The price of new gas found in Texas today is from $2 to $2.25. We have had commitments made on that basis; we have had loans committed, wells drilled, and pipelines laid. Then the Senator comes in and talks about cutting it back to $1.45.

I have heard the JEC report quoted here. One of the problems with the JEC report is that it anticipates things that are not in the Pearson-Bentsen amendment, or that the Pearson-Bentsen amendment specifically prohibits. One of the things it assumes is that we have total deregulation. That is not the case at all. What we are talking about is deregulation of new gas. We are talking about 6 to 7 percent of the gas that might come onstream, of totally deregulated new gas.

Another thing which is not really considered too often is the fact of what the effect at the wellhead is when it finally gets to the burner tip. We are talking about 20 to 30 percent of the final cost at the wellhead that results in a cost at the burner tip. The rest is taken up by taxes, by distribution, by transporting it all the way to the markets to the north and to the northeast.

Another assumption under the JEC study which is specifically prohibited by the Pearson-Bentsen amendment is that they are going to redrill all the old fields. The Pearson-Bentsen amendment does not allow that at all. That would have cost $5 billion in additional cost, and what would have been classified as new gas under the JEC study. But it is not applicable and that is not the case.

Another thing the JEC study anticipates is that there would be a deregula-

tion of interstate contracts, and that that is going to cost another $3.5 billion.

Our amendment specifically applies the present regulations on that, so there would not be that kind of a deregulation.

The study is not valid.

We talk about paying foreign producers, paying the Canadians, $2.5 billion to $3.5 billion, whatever figures one wants to come up with, to build a $10 billion pipeline to bring gas from Alaska and Canada into this country. We speak of paying those kinds of costs, but we do not want to pay that to domestic producers. We do not want to spend the additional money to bring in the marginal fields and the deep holes that have to be drilled. No, we would rather go down to Mexico and help them finance a major pipeline, help them with their balance of trade, when we will have $45 billion worth of oil products imported into this country this year; when we are going to have a deficit in our balance of trade of almost $25 billion.

No, do not spend it here, to find reserves in this country. Let us pay it to someone else. Let us get down on our knees to the Arabs and pay them for it, but do not pay the additional amount of money that could take care of the problem here.

The MOPPS study said we would be awash with deregulated gas at the prices we would expect to see.

Let us talk about increased drilling. If they want to talk about the last 4 years we have had increased drilling, but if we go back to 1956 we have only recovered a fraction of the amount of drilling that was taking place then. Why has there been an increase in drilling in the last 4 years? Because we have seen the price of gas go up where it is making it economically viable to drill more wells. The problem is it still has not reached the price, in some of the instances, necessary to go after some of the marginal fields and some of the deep tests.

Where have we seen most of the drilling taking place? Over 90 percent of that drilling is taking place in areas that include where we think 70 percent of the new reserves will be found, because the potential new reserves we believe to be in those deeper areas and some of those high risk areas that have not been effectively drilled yet.

The argument has been made that these oil companies have so much money they are investing in other fields; they are going out and buying department stores and chain stores, that type of thing, instead of drilling. Why do Members think they are doing that? One of the reasons is because they find a more profitable place to put their money than putting it into the ground and drilling for oil and gas.

Drilling these oil wells and gas fields cannot be mandated. It will be done if there are the economic incentives there for them to do it. That is what the Pearson-Bentsen amendment would bring about.

Let me give an example of what has happened to some of the increased costs of drilling. The cost of just cracking a well today is over $300,000. Wells are costing as much as $5 million. Those are major commitments. Exploratory drilling has been going downhill for several years. Only in the last 4 years have we seen exploratory drilling beginning to pick up again. One of the reasons for that is because of the increased price being paid for gas.

If we have low prices we are going to do two things; and we are going to work at counterproductive purposes: If we force the prices lower than they are today, we are going to increase the use of a very cheap fuel, of a finite resource, and at the same time we are going to curtail the drilling to bring it on stream. So we achieve exactly the opposite kind of result than we are trying to achieve in our national energy policy.

I hope the Senate has the good wisdom to defeat this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I wonder if the Senator from Texas would discuss the costs increasing a great deal for the exploration and production of natural gas.

The price of natural gas at the wellhead has gone up in the last 5 years some 500 percent. It was 22 cents some 5 or 6 years ago and jumped up to 42 cents, 72 cents, and it is now $1.45, or somewhere in there. I wonder if the Senator might advise the Senate how much additional natural gas has been found as a result of that 500-percent increase in the wellhead price?

Mr. BENTSEN. There is a substantial amount which has been found but the overall reserves have gone down. I assume that is the point the Senator wants to make. One of the specific reasons for that is that we have seen developed wells generally being drilled, not really exploratory wells. We have seen the costs go up to the point where they have not been willing to drill the deep wells, which are extremely expensive.

Mr. ABOUREZK. But is the cost of drilling those deep wells included in the price set for that gas? Is that what the law requires, that the price of the wellhead gas is based on the cost of production?

Mr. BENTSEN. No, that is not correct.

Mr. ABOUREZK. That is my understanding.

Mr. BENTSEN. No, that is not correct. If we are dealing in unregulated gas, as we would have in Texas, for example, the price would not be based on that.

Mr. ABOUREZK. Upon what is it based?

Mr. BENTSEN. It is finally a free market system in the unregulated market.

Mr. ABOUREZK. I am talking about regulated gas.

Mr. BENTSEN. But I am making the argument on the other side, for the unregulated gas. If the Senator is getting into regulated gas, then we have an arbitrary fix put on it that I really do not think correlates with the cost of gas.

Mr. ABOUREZK. If we are talking about unregulated gas, that should not be debatable because, presumably, unregulated gas can sell for whatever they can get out of it. Is that correct?

Mr. BENTSEN. That is correct.

Mr. ABOUREZK. So, presumably, they are charging somewhat more than what their costs are.

Mr. BENTSEN. I would hope so or they are not going to stay in business very long.

Mr. ABOUREZK. That is right. But on regulated gas they are charging more than what their costs are because that is what the law requires, that the price at the wellhead be based upon the cost of production plus an adequate profit.

Mr. BENTSEN. But the problem they are running into there is they are living off their old reserves and that is figured into that cost, reserves which were brought in at very cheap prices, and they are not being paid the cost of replenishing those reserves. That is the serious problem we face in this country.

Mr. ABOUREZK. Does the Senator mean for new exploration?

Mr. BENTSEN. That is correct, to add to those reserves.

Mr. ABOUREZK. Why are they not being paid for new exploration? I cannot imagine that gas companies would not demand that as part of the price.

Mr. BENTSEN. As I stated before, they are paying them for their overall costs based on an inventory which was acquired at a very cheap cost. Let me give an example. I will put it in terms which might be more easily understood.

In a situation where you have a shoestore and the price of shoes had gone up substantially, but you were allowed a price that you could charge the customers coming in, based on the average price, which included shoes bought at a very low price some time in the past but substantially less than what you had to pay for new inventory and new shoes, you would have a self-liquidating process. You cannot continue to buy new shoes for your inventory at the price that you were required to sell it to the customer for. So down goes your stock and finally, you are out of business.

Mr. ABOUREZK. My question, then, is, What does it cost to produce gas per mcf right now?

Mr. BENTSEN. That depends on the depth of the well and how expensive a well it is and it depends on how fortunate you are in finding gas. I can give no easy answer. That is one that ought to be dictated by the marketplace.

Mr. ABOUREZK. What is the most expensive cost of producing a well?

Mr. BENTSEN. I would say the most expensive cost of producing a well is when you put $5 million in a well and do not get anything. That gets quite expensive.

Mr. ABOUREZK. Is there a tax write-off?

Mr. BENTSEN. That reminds me of my wife, when she tells me, "You can expense it." I still have to have the funds for the purchase.

Mr. ABOUREZK. I have to be very honest; I have not yet heard of an oil company that produces gas or a gas company that produces gas that has gone broke.

Mr. BENTSEN. I shall bring in a list of them.

Mr. ABOUREZK. I would be happy to see it.

Mr. BENTSEN. I shall be happy to bring one in, because a lot of them have gone broke.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, will the Senator let me proceed to address a few remarks in response to the Senator from Texas, if he will be good enough?

Mr. METZENBAUM. Yes.

Mr. KENNEDY. I wanted to respond to some of the remarks that the Senator from Texas made concerning the study of natural gas pricing questions by the staff of the Joint Economic Committee, issued by the Joint Economic Committee's Subcommittee on Energy. I regret to say that the Senator seriously misconstrued the contents of that study in his remarks yesterday. The study addresses the issue of deregulation of new natural gas pricing in its broadest form. Then it attempts to show how various limiting provisions would affect the cost of this action.

The Senator refers to the study as a "remarkable exercise in erroneous assumptions," but he, himself, seems to make the erroneous assumption that the study refers only to him. In fact, the report is not intended to comment on a particular variant of the deregulation provision. It is not targeted toward the Pearson-Bentsen amendment. Nowhere does it contain any description of the proposals of the Senator from Texas. It tabulates all the potential costs that deregulation of new gas prices would pose so that Members of Congress would be informed of the many pitfalls to be faced in considering the proposal.

The Senator from Texas was not correct, when he concluded that the Joint Economic Committee staff study deals with the immediate deregulation of all gas. In fact, the study limits deregulation only to so-called new gas. But that is precisely the joker in this deck. How is new gas to be defined? The study outlines in some detail the great significance of the new gas definition.

The Senator from Texas contends that his deregulation proposal contains a narrow definition of new gas. I agree that his current definition is somewhat tighter than the one he proposed to this body 2 years ago. He now concedes that gas from old wells for which delivery contracts have expired should not be reconstituted as new gas at many times the price. He also has made an attempt to exclude new gas prices for output from infield wells in old production areas, the easiest method of circumventing the new gas definition.

Nonetheless, the Pearson-Bentsen deregulation amendment would permit new gas prices for gas from extensions of old reservoirs and from new reservoirs in old fields. As we know very well from past experience, moreover, it has been very difficult to anticipate the ingenuity of the producers in circumventing the intention of the new-old gas definition. They have found many ways of getting their output out from under lower price ceilings in the past, and I see no reason to believe that they will behave differently in the future. That is one major reason why I oppose the major increase in the new gas price that the Pearson-Bentsen deregulation provision would usher in.

To avoid ambiguity about the new gas definition, the administration's natural gas pricing proposal would require a well producing new gas to be at least 2½ miles away from or 1,000 feet deeper than any existing well. But the Pearson-Bentsen amendment has no such restrictions in its definition. I gather, therefore, that even a shallower well in an old field, which would cost little to drill, would qualify for the new gas price if it had not been produced before. Also, production from an extension well adjacent to an old producing field would qualify. Indeed, production from already well-known and even proven gas reserves would get the new gas price, if the first production from the reservoir occurs after last April 20. This would mean, of course, that output from any reserves that have been hoarded during the past 10 years of rapidly rising gas prices now would benefit from deregulation under the Pearson-Bentsen language.

Finally, I would say that in regard to the estimates of cost and price, we could move very comfortably from the Joint Economic study to the Congressional Budget Office study. They are virtually identical when you find the comparable basis of comparison. CBO shows a cumulative cost of $162 billion.

When we talk about getting down on our knees to foreigners, with all the bleeding hearts that we hear from in the oil industry, we see that their profits have increased 45 percent over 1972—50 percent over 1972. In spite of all the heartache that we hear about of those rough and ready pioneers going out there to face the elements, they are doing pretty well. They are doing very well.

It is against this background that we find that, just about every one of the studies that have been done by various congressional groups shows that we just cannot give the assurance that the Senator from Texas has been willing to give us that those increased prices are going to mean that we are going to have the kind of natural gas needed to respond to the needs of this country. Quite to the contrary, they reach different conclusions. If the Senator has more information, either from studies or reports, that could give us some idea about elasticity of pricing or what he believes we are going to need in increased production, rather than the general hope that it would, I would be interested in hearing from the Senator.

Mr. BENTSEN. I say to the Senator from Massachusetts that when we are talking about bringing in a new reserve in a new formation, of course, it is classified as new gas, be it deep or be it shallow. That is really not the problem and should not be.

Then, insofar as heartaches, I do not know of any heartaches being expressed. These people are competent people who are able to stay in the business, able to survive in the business. But, again, they cannot be mandated, they cannot be directed to drill these wells. If they can find a more advantageous place to invest this money, they are going to do it. That is what some of them have done. I think that is a serious mistake when we are trying to develop energy self-sufficiency in this country.

I know of no other situation where we are willing to pay foreigners more than we are willing to pay our domestic producers or domestic manufacturers, whether we are talking about shoes that are manufactured in Massachusetts or Texas or something else. We generally hope to see that our domestic producers do equally well, at least, as foreign manufacturers. This is the one instance where we find a variance.

Mr. METZENBAUM. Will the Senator from Texas yield for a question?

Mr. BENTSEN. I am pleased to yield.

Mr. METZENBAUM. The Senator from Massachusetts has addressed himself to the cost of deregulation and the recent Joint Economic Committee figures. I asked Mr. David Schwartz, who was formerly assistant chief economist for the Federal Power Commission, to do an analysis for me with respect to the cost of the Pearson-Bentsen bill as compared to the Bartlett measure, which is for total deregulation at this time.

I would like to ask the Senator from Texas whether he would agree with the following paragraph which Mr. Schwartz included in a report to me, and I quote:

> In contrast to the JEC deregulation cost impact of $20.8 billion in 1978, the adjustment for roll-over gas which reduces the impact from $2.7 billion to $700 million will result in a cost of Pearson-Bentsen of $18.8 billion instead of $20.8 billion. For 1979, the adjustment for roll-over gas which reduces the total deregulation cost of $3.4 billion to $868 million and reduces the total impact of $30.7 billion to $27.6 billion.

Or, in other words, that whereas total deregulation would cost $20.8 million, according to the JEC report, in 1978, the measure which the Senator coauthors would cost $18.8 billion, approximately 10 percent less, and for 1979 the Pearson-Bentsen measure would cost again about 10 percent less, $27.6 billion instead of $30.7 billion.

Would the Senator agree with that analysis or does he have any——

Mr. BENTSEN. No, I do not agree with that analysis and the Senator knows that. The question of renegotiation of contracts, favored nation clauses, we vitiated that, Pearson-Bentsen as finally introduced.

The question of a redrilling of the old wells, as the Senator from Massachusetts stated, that is not in this bill as it was in the Pearson-Bentsen that passed in October of 1975. That has been changed. The same situation on rolled over gas.

So, no, I do not agree.

Mr. METZENBAUM. Would the Senator from Texas be good enough to advise the Senate as to what his staff or such analysts as he has used have determined would be the cost to the American consumers if Pearson-Bentsen is enacted for the years 1978, 1979, and 1980?

Mr. BENTSEN. I will be happy to do that. I will produce that in the debate as we go into the Pearson-Bentsen amendment.

Mr. METZENBAUM. I will look forward to that.

Mr. BENTSEN. I will also try to give him some idea as to being able to cut

back on some of the shortages he would experience in Ohio if we do not pass it.

Mr. METZENBAUM. I will be very happy to learn that information inasmuch as the head of one of the two major companies in Ohio has indicated that, whether or not there is deregulation, there will not be any additional gas available for a period of at least 5 years. That comes from one who is a strong supporter of deregulation.

I would hope also that at the time the Senator addresses himself to this question and the ensuing debate that he would also address himself to the fact that although the price of natural gas in his home State has increased, I think, tenfold, the actual amount of reserves and production presently available, or the production during this, has in fact decreased in spite of those price increases.

Mr. BENTSEN. I have stated to the Senator that most of the drilling has been in development wells because of the concern about what was going to happen here in the Senate, what the politics would be if the Government was going to take over the regulation, if they were going to roll prices back, as the attempt is being made in this amendment.

So what we have seen them spending money on is development wells in the less costly fields with the least risk because when they find that Congress and the Senators and regulators can come back in and change the rules of the game after they have invested millions of their investors' dollars and stockholders' dollars, it means they will play it as close to the chest as they can and not take the high risk.

The studies have shown that 90 percent of these wells are being drilled in those kinds of locations, rather than in those areas where most of the geologists and petroleum engineers think the great potential reserves will be found.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in support of the amendment offered by the Senator from Massachusetts. The purpose of the Kennedy amendment is to retain the existing $1.45 Mcf price ceiling for new natural gas. This price established in July 1976 by the Federal Power Commission, would replace the Btu related price proposed in the administration's bill.

The logic of this amendment is compelling. The regulated price of new natural gas has increased five times over in the last 4 years, and despite these unprecedented price increases, natural gas production has declined.

Let me review the facts. In August 1965 the price of new gas was set in the Permian Basin area rate case at 16.5 cents per Mcf. By July 1971, the price was adjusted by the southern Louisiana area II rate decision to 26 cents per Mcf, a level which gas producers testified would enable them to increase production and obtain a generous rate of return through October 1977. In August 1973 in the second Permian Basin area rate, new gas was allowed the price of 35 cents per Mcf and 1 year later a 43-percent increase was permitted, revising the price to 50 cents per Mcf Less than 2 years after the 50-cent price was fixed, the FPC in a very controversial decision, set a nationwide rate for new gas of $1.42 Mcf.

I realize that this information is familiar to many of my colleagues, but I think that it is crucial to remember that if we were proposing a price increase of this magnitude in any other necessity, such as food, clothing, or housing, it would be considered outrageous and would be universally opposed. Yet strangely, increasing the price of natural gas is somehow acceptable to many.

At $1.75 Mcf, gas will be selling at: 10 times what producers were getting for gas a decade ago; 6½ times the 26-cent price agreed to by producers in 1970 as an incentive price to bring forth additional supplies and meet the demands of consumers; almost 3½ times the last court-approved just and reasonable rate of 50 cents; almost 3 times the 60-cent range which the FPC staff has said would produce ample returns and incentives; well above the levels in recent years of the uncontrolled intrastate gas prices which President Carter called "exorbitant," about 25 percent above the most recently set rate of $1.42 Mcf.

Is it not logical, therefore, that we support the Kennedy amendment, which would say that indeed the $1.75 price is better than the Pearson-Bentsen amendment; the $1.75 price is better than total deregulation? But the $1.75 price cannot be justified, and the price that should be set is that which is in existence today.

It is argued that increased profits are required for increased production, but over the last 4 years, a fourfold increase in gas prices has accompanied a 12-percent decrease in production over the same time period.

The increased profits that resulted from price increases do not go to struggling companies. They go to Houston Natural Gas, whose earnings rose 35 percent in 1976 over 1975—Texas Gas Corp., whose earnings rose 35.7 percent in 1976—and Columbia Transmission Co., the pipeline subsidiary of the Nation's largest integrated company, whose earnings rose an amazing 85.5 percent in 1976. They also go to the oil companies who own 13 of the 14 largest natural gas companies.

Recently, during a hearing before the Senate Energy Committee, I asked FEA Administrator O'Leary how the administration determined the $1.75 price for natural gas. He responded that the price was established through a "give and take" by interested parties and was set to eliminate any uncertainty.

I am still unclear why we cannot have the same degree of certainty if we establish a 52-cent price—or a $1 price—or even $1.25.

But the facts are that the administration simply does not have the data to determine producer's costs, despite their authority to get it. When the chairman of the Energy Committee, Senator JACKSON, recently asked Mr. O'Leary how soon the administration could get data with respect to the actual costs of discovery and production, his answer was: "Three or four years."—

I was a businessman for a long time and I know that no business would tolerate this kind of practice. This information is available. As a matter of fact, I have received a copy of a confidential accounting study of a major Gulf Oil natural gas field. The study was conducted by the prestigious accounting firm of Price Waterhouse. It showed that Gulf's average total exploration and production costs will be 24 cents per Mcf during the 20-year contract. I want to note that the study was dated January 1976. The 24 cents per Mcf price was broken down as follows: 10.09 cents for investment; 8.6 cents for expenses; and 4.7 cents for royalty purchaser costs.

These figures show beyond a doubt that high natural-gas prices are not justified. While natural-gas companies will respond to this by saying that these figures are the exception—I challenge them to prove their point. Let them submit to Congress their detailed expense figures and profits on other contracts.

There has been an effort over a period of years to obtain these figures from the natural-gas producers. There has been double talk as to why the figures could not and would not be made available. But if they really have economic needs, then I think Congress is entitled to know about that fact, if Congress is expected to act on a measure such as the Pearson-Bentsen proposal or the Bartlett proposal to decontrol natural-gas prices totally.

I have no argument with the notion that producers require adequate incentives to deliver a sufficient quantity of natural gas to meet the needs of America. I am convinced that more than adequate incentives will be available at the $1.45 price, increased by an automatic cost-of-living inflator as provided by Senator Kennedy's amendment. I urge support for this amendment which I believe will serve both consumers and producers well in meeting their needs.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. PEARSON. Mr. President, a parliamentary inquiry. Is the pending matter now before the Senate the Kennedy amendment No. 957?

The PRESIDING OFFICER. The pending amendment is the Kennedy amendment, but it is No. 958.

Mr. PEARSON. And that is subject to a further amendment in the second degree, 957?

The PRESIDING OFFICER. No, it is not.

Mr. PEARSON. Mr. President, it is my intention to move to table the Kennedy amendment, if all debate has been concluded.

Mr. President, I move to table the Kennedy amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. To clarify—if the Senator from Kansas will withhold that—the pending amendment is No. 958, which is an amendment to No. 957.

Mr. PEARSON. I move to table the amendment in the first degree which is

pending before the Senate, which I understand would carry with it the amendment in the second degree.

The PRESIDING OFFICER. The Senator is correct in that interpretation.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

Mr. PEARSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

I did not quite understand the Chair's announcement. Are we now about to vote on a tabling motion against amendment No. 957, which would take 958 with it?

The PRESIDING OFFICER. Yes, the Senator is correct in that interpretation.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. PELL assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 73, nays 21, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—73

Allen	Ford	Melcher
Baker	Garn	Muskie
Bartlett	Glenn	Nunn
Bayh	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Biden	Hansen	Percy
Brooke	Hart	Randolph
Bumpers	Haskell	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hathaway	Scott
Cannon	Hayakawa	Sparkman
Chafee	Heinz	Stafford
Chiles	Helms	Stennis
Church	Huddleston	Stevens
Curtis	Inouye	Stevenson
Danforth	Johnston	Stone
DeConcini	Laxalt	Talmadge
Dole	Leahy	Thurmond
Domenici	Long	Tower
Durkin	Lugar	Wallop
Eagleton	Matsunaga	Weicker
Eastland	McClure	Zorinsky
	McIntyre	

NAYS—21

Abourezk	Javits	Nelson
Case	Kennedy	Proxmire
Clark	Magnuson	Ribicoff
Cranston	McGovern	Riegle
Culver	Metcalf	Sarbanes
Hollings	Metzenbaum	Sasser
Jackson	Moynihan	Williams

NOT VOTING—6

Anderson	Mathias	Morgan
Humphrey	McClellan	Young

So Mr. PEARSON's motion to lay on the table Mr. KENNEDY's amendment (No. 957) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion to lay the amendment on the table was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I yield to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. BAYH. Mr. President, I ask unanimous consent that Eve Lubalin, of my staff, be granted the privilege of the floor during the debate and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I thank the distinguished Senator from Alabama.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ALLEN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that Gary Klein, of the committee staff, be accorded the privilege of the floor during debate and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Alabama is recognized.

TAXPAYER ATTORNEY FEES

Mr. ALLEN. Mr. President, during the last Congress, I offered an amendment to the Civil Rights Attorneys' Fee Award Act. My amendment was intended to permit taxpayers to recover attorney fees from the Government in lawsuits involving the Internal Revenue Service if the court hearing the case in its discretion felt that an award of fees would be justified. My amendment became law as part of Public Law 94-559 and has been codified in the United States Code at 42 U.S.C. 1988.

Although the new statute was given an unfortunate and overly restrictive construction by the Tax Court in the case of *Key Buick* v. *Commissioner*, 68 Tax Court No. 17 decided in 1977, the measure nevertheless is finding application in many cases in which the Government is behaving vexatiously or frivolously in pursuing meritless claims against U.S. taxpayers.

Yesterday I learned that a court in my own State has made perhaps the first fee award under the statute, and in my judgment, Senators should find the decision in the case interesting inasmuch as it demonstrates the potential broad applicability of the statute.

The case is styled *United States and Wayne E. Jackson, Internal Revenue Service Agent* v. *Garrison Construction Company, Inc.*, Civil Action No. 77-MO334, Northern District of Alabama, decided in 1977, and involves an attempt by the IRS to enforce a summons for a second audit of the taxpayer's business records. In an opinion dated September 13, 1977, Chief Judge Frank McFadden of the northern district of Alabama held that the Government had behaved vexatiously and that its suit against the taxpayer amounted to harassment which would support an award of an attorney fee to the successful taxpayer-defendant.

Accordingly judgment was entered against the Government in the amount of $1,000 so that the taxpayer would not be required to bear the burden of paying attorney fees for the defense of an action filed for no good purpose.

Although the taxpayer's attorney fee statute refers only to the court's discretion and makes no reference whatsoever to bad faith, the Government, in Garrison Construction, asserted that bad faith must be demonstrated before a fee could be awarded. Judge McFadden, to his great credit, apparently relied more on the actual wording of the statute than he did on the less-than-persuasive arguments of the Government. In short, the Judge found that it was "not necessary to show bad faith" and that an award would be supported by "vexatious or harassing treatment not amounting to bad faith."

Mr. President, this is a landmark decision and promises to shape the law in this area in a manner which reflects the intention of Congress in enacting the statute in the first instance and in a manner which will encourage the Internal Revenue Service to behave toward taxpayers with greater courtesy and respect.

Mr. President, some time ago the distinguished majority whip, Senator CRANSTON, and I introduced a bill, S. 1610, to correct the narrow construction given to 42 U.S.C. 1988 by the Tax Court in the Key Buick case. The bill was referred to the Subcommittee on Separation of Powers of the Committee on the Judiciary. At the present time the Department of the Treasury is consulting with the members of the Subcommittee on Separation of Powers and with the distinguished majority whip in an effort to draft legislation based on S. 1610 designed to broaden the scope of 42 U.S.C. 1988 without doing any damage to the ability of the IRS to collect just taxes.

I am, indeed, hopeful, that these discussions and consultations will produce a measure worthy of the support of the Congress and of the executive department, because I do believe virtually all of us now see the necessity for some rectification of the serious imbalance in resources which exists between the Government and the average taxpayer when a question of tax liability or some related question of procedure is disputed in Federal court. Garrison Construction shows we have made progress in establishing a balance, but more work remains to be done.

I understood the distinguished Senator from South Dakota wished to offer an amendment to S. 2104 at this time, so I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 889

Mr. McGOVERN. Mr. President, I call up my amendment No. 889 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes amendment No. 889.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act'.

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop all natural gas and oil resources on Federal lands to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation' which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

"(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

"(e) Any member appointed to fill a vacancy in the Board occurring pior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

"(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

"(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation, or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

"(h) The Board shall direct the exercise of all the powers of the Corporation.

"(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

"(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further to assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

"(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

"OFFICERS AND EMPLOYEES OF CORPORATION

"SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

"(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

"(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rare of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employees and employers

"(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title.

"(d) In the appointment of officials and the selection of employees for the Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropirate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal, State, foreign, or private lands: *Provided*, That exploration on State lands shall be in accord with leasing or other State land disposition or utilization program;

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal statute relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

"(13) shall have the power to sell commerically valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

"(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

"(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

"(c) The Corporation shall maintain its principal office at a place determined by it.

"(d) Section 101 of the Government Corporation Control Act is amended by inserting 'Federal Oil and Gas Corporation;' after 'Tennessee Valley Authority;'.

"(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

"TRANSMISSION PIPELINES

"SEC. 206. In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

"OBLIGATIONS

"SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*, That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate of no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(e) The Board may—

"(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to obligations guaranteed under this section.

"(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

"(h) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"MISCELLANEOUS PROVISIONS

"SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(d) The provision of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limi-

tations of the Corporation under section 203 of this title.

"LEASES

"SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"SALES OF NATURAL GAS

"SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other suppliers.

"(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

"TAXATION

"SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"ROYALTY

"SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

"(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in summary, shall be made available to any interested person upon receipt of a specific and identifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"STATE AND LOCAL STATUTES

"SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

"ENVIRONMENTAL IMPACTS

"SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinity and the region.

"(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

"(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

"(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

"(1) public interest and environmental groups having a regional or national scope; and

"(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

"(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall provide the committee with an adequate staff.

"(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

"ANNUAL REPORT

"SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

"(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report. Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

"OFFENSES; FINE AND PUNISHMENT

"SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"CONDEMNATION PROCEEDINGS

"SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, rights-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled 'An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain', approved February 26, 1931 (46 Stat. 1421).

"SEVERABILITY

"SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

"AUTHORIZATION OF APPROPRIATION

"SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

"(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

"REVIEW

"SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title."

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. WALLOP: Rob Wallace; Mr. MCGOVERN: Paul Skravel and John Holum; Mr. DOMENICI: Darla West and Charles Gentry; Mr. CHAFEE: Nancy Barrow.

Mr. MCGOVERN. Mr. President, just to identify this matter for the benefit of Senators present, it has been referred to as a "yardstick amendment."

In brief, what the amendment would do would be to create a small government gas and oil corporation, not for the purpose of nationalizing the energy industry in this country, but, quite the contrary, to provide a public yardstick by which we can measure accurately what it costs to produce gas and oil, to bring it to production, and to market it.

To avoid any fear that this is an effort to take over the production of gas by Government ownership and production, the amendment would limit to 10 percent those reserves that could be developed under public direction, even though the Government owns vast quantities of gas and oil that belong to all of the American people. This amendment's purpose is not to nationalize the production of those energy resources, but, along the lines of the Tennessee Valley Authority, which provided a useful yardstick in determining the cost of the development and marketing of hydroelectric power, this amendment would provide the same authority with regard to gas and oil; and, as I have indicated, would be limited to 10 percent of the reserves available to the Government.

Mr. President, as debate continues over the nature of the energy crisis and our possible responses to it, there are at least two questions that remain at the forefront, that are unanswered.

One of those is the question of how much oil and gas there is yet to be developed. As Senators know, who have been following this debate in recent days and at earlier times, that is a question that is wide open. You can get as many opinions on that question as there are experts.

The second question is, What will it cost to produce the oil and gas? Here again, as we were reminded just a few minutes ago in the remarks of the Senator from Ohio (Mr. METZENBAUM), when this question of cost determination was directed to the Federal Energy Administrator, he said it might be 3 or 4 years before they really had accurate cost estimates in hand.

So these questions remain unanswered, and I think in part they remain unanswered because the information used in preparation of the analysis is suspect. It is suspect because the statistics are supplied by parties with a vested interest in generating the right kind of answers: namely, those answers that best serve their purposes, answers which may be tailored to serve predetermined objectives. In the case now before us, the oil and gas industry supplies the economic data which are used to determine or to estimate the remaining reserves of gas and oil, as well as information concerning the cost of production. We are pretty much dependent on what the industry is willing to tell us with regard both to the extent of reserves and also to what the cost factors are.

Yet this statistical base supplied by industry must then be used by various Government agencies to determine what is a fair price level, which will serve as adequate incentive to bring forth new gas and oil. If the numbers indicate that it would be more expensive to bring new gas and oil on line, then, of course, prices would have to rise to provide the necessary incentives. I think it is obvious to any fair-minded person that it would be tempting if not irresistible for those providing the underlying data to shade it, at least, in some way that best served their interests. Thus the numbers, at least in some quarters, are suspect. Presently there is little that one can do to dispel the suspicion. That is why I offer this so-called yardstick amendment at this time.

The amendment would establish a public corporation with the authority to explore and develop natural gas and oil resources on Federal lands. In the process of its operation, this corporation would generate independent economic data—independent data, data which could then be used to determine how much gas and oil remains to develop, and at what cost. It would then be possible to compare the numbers generated by the oil and gas companies to those provided by the public corporation called for in this amendment.

Mr. President, let me just say this: If I were the chairman of the board of one of our large energy companies, and I had nothing to hide, I would urge support for this amendment as a further means of building public confidence in the estimates provided by my company. It would provide a means of removing the widespread suspicions surrounding the current system of estimating reserves and costs.

I am frankly not in any position, Mr. President, to say that we are being given dishonest information with regard to reserves or with regard to cost factors, but I think we are in a position to say that we really do not know whether the data being furnished to us by the private corporations are accurate; and this amendment would provide a further measuring rod to make that determination. A corporation board or executive, confident of their estimates, should further recommend the comparison and be eager to show how their company and the whole oil and gas industry measure up to the yardstick of a public corporation.

As the sponsor of the amendment, I would like to anticipate some of the questions and perhaps some of the charges that may be raised against it. I think Senators know that this is not a new proposal; it is one that has been considered at various times when we have discussed energy matters. Based on the previous questions that have been raised, and others one could anticipate, I would like to consider what some of those possible objections might be, and then at least briefly attempt to respond to them.

First, there doubtless will be those who will insist that this will be the first step in the nationalization of the domestic energy industry. While it is indeed true that it is impossible to know what will happen in the next Congress or in Congresses 10 to 20 years down the road, and therefore no one could give any absolute assurance that we will not one day consider the nationalization of the energy industry, that is not the purpose of this amendment.

Certainly, nationalization is not a step that would be taken lightly or without considerable thought and study. I cannot conceive of this Congress registering a strong vote in that direction.

While it is difficult to predict what the future holds, the involvement of this limited public corporation in the domestic energy industry does not present any such threat. The terms of the amendment would limit it to not more than 10 percent of such oil and gas rights as are offered at the time for sale or lease to other qualified persons.

I reiterate, the intent of this amendment is to provide us with a yardstick by which the performance of private industry can be judged. It is not an effort to get a foot in the door toward nationalization.

I might just say parenthetically, Mr. President, that one of the problems, very frankly, that the private oil and gas industry has in this country is the widespread public suspicion about its fairness and about the cost factors it submits by which the price is determined. As I said earlier, this ought to be a way of increasing public confidence, not destroying public confidence, in the way we set oil and gas prices in the United States.

Second, others may express the fear that public agencies, public corporations, bureaucracies, whatever, will grow beyond their intended size. I would simply point out, Mr. President, that we have the means to control such growth if we

choose to do so, and this corporation would be subject to all of the traditional controls available to the Congress. It would be subject to new legislation; it would be subject to the power of the purse; it would be subject, and should be, to oversight hearings, and it would be subject to the General Accounting Office and other restraints the Congress sees fit to deal with a public or quasi-public corporation of this kind.

In addition, the amendment would subject the corporation to a comprehensive review by the President, who would then prepare a report which would be submitted to the Congress for its consideration.

Third, some may say that while this sounds like a reasonable idea, it is not, in practice, feasible. That is, can a Federal oil and gas corporation successfully enter into the highly developed and sophisticated energy industry?

It has been pointed out that the key considerations here are: Can the corporation attract qualified personnel against the rival claims of private industry? Can it obtain sufficient capital? Can it establish a satisfactory market?

While one must, before the fact, of course, be content to answer those questions based on reasoning rather than actual proof, it can be said that the history of the Tennessee Valley Authority suggests that affirmative answers are possible; that it is possible, based upon the history of TVA, for an agency of that kind to recruit and maintain competent personnel; that it can be operated efficiently; that it can be operated competitively; that it can serve the public interest in providing a public measuring rod against which we have some test as to the reasonableness of the cost factors given to us by a purely private operation of the energy industry.

Fourth, the whole point of creating this public corporation is to act as a yardstick against which private companies can be measured. That being the case, will this corporation operate under conditions which are sufficiently similar to those of the private companies so that the yardstick has some meaning? I think that is a legitimate question and one which needs to be addressed.

While it is true that the two environments would not be identical—for example, the public corporation would not pay Federal taxes; its capital costs will be different; environmental safeguards may be given greater prominence in the public corporation, and so forth, all of these factors would be present—it is likely that they will be sufficiently similar to provide at least some rough comparison.

There would be ways of comparing cost factors, taking into consideration these different factors I have just mentioned. Those comparisons could be very useful at least in making general judgments about the performance of the private companies. At least, it would be one further indication which is not now present to us as to whether the cost figures being supplied by private energy are reasonable or not.

In a 1974 congressional research service study of the feasibility of a public energy corporation, it was concluded:

> The evidence suggests that a Federal oil and gas corporation would certainly be economically viable. There is no reason why it could not run at a high level of technical competence and general efficiency.

Mr. President, if anything has changed in the intervening years since 1974, it is the even greater urgency of the need for reliable information which could be provided by such a public corporation. If we are to provide the answers to the two questions at the forefront of our energy debate, the question of what our reserves are and what the cost factors are, and if these answers are to be free of the suspicion of being self-serving, then it seems to me the acceptance of this yardstick amendment is in the public interest, and I hope very much the Senate will see fit to adopt it.

Mr. President, this week I sent a letter to all of my colleagues in the Senate, setting forth the purposes of this amendment. I would like to briefly summarize this letter because I believe it does present a succinct statement Senators may wish to look at in getting a quick overview of what the amendment does.

Many of the key features of the major bill now before us, to which this amendment is offered as an amendment, call upon the President to calculate a variety of prices for new natural gas. In part, under the language of the bill, S. 2104, now before us, the President is called upon to calculate the Btu-related price for natural gas.

He is asked to calculate the maximum lawful price for new natural gas.

He is called upon to set a special incentive price for high-cost natural gas, and to calculate a price ceiling in the event of extraordinary supply and demand conditions.

Mr. President, to accurately calculate such prices requires intimate knowledge of underlying economic data, data which is in addition to but independent of that provided by the energy companies themselves. That, if seems to me, make the case for the yardstick amendment. That amendment establishing a public corporation with limited authority to explore and develop natural gas and oil resources on Federal lands seems to me to be the most reasonable way to get at this question of the independent data that we need to have to make these other calculations called for in S. 2104. I hope very much that the Senators will look at the terms of this amendment and see it as a reasonable effort not to subvert the private development and marketing of energy in this field, but to make that private operation more responsive to the public need and also to build the degree of public confidence that is going to be necessary to make workable the responsibilities that this legislation places on the President to develop a rational system of pricing for natural gas and other energy resources.

Mr. President, I yield the floor.

Mr. ALLEN. Will the Senator yield?

Mr. McGOVERN. Yes, I yield to the Senator from Alabama.

Mr. ALLEN. There are a number of Senators, as the distinguished Senator knows, who are interested in this bill and will be interested in this amendment, who are not present at this time because they are conferring elsewhere in an effort to expedite consideration of amendments and of the bill. So, in their absence, I might ask a few additional questions to elicit as much information as we can about this amendment which the Senator has before us.

Mr. McGOVERN. I shall be happy to respond to the Senator. I also think that, in view of what the Senator just said, it might be useful to defer a vote on this until a later time. I would be perfectly happy to make that kind of arrangement.

Mr. ALLEN. I appreciate the Senator's saying that because I would—and I know the Senator would—in deference to the absent Senators, not wish the amendment to come to a vote.

Mr. McGOVERN. As I say to the Senator, I even prefer that it not come to a vote today because I think if Senators have a chance of studying it overnight, we shall have a much better chance of passing it with a resounding margin.

Mr. ALLEN. I am not sure that, no matter how much time they have to study the amendment, they will come around to the view of supporting it. Nevertheless, I would like to find out a little more about the amendment.

What would be the taxpayers' investment in this public corporation? What would be the authorized capitalization, shall we say?

Mr. McGOVERN. The bill does not establish that figure, I say to the Senator. It is an effort to get the concept adopted in this legislation to authorize such a corporation. But it does not attempt to set cost figures.

Mr. ALLEN. Would that mean that such amount as Congress might appropriate would be authorized under the amendment?

Mr. McGOVERN. That is the intent.

Mr. ALLEN. Would it run $1 billion, $2 billion, $5 billion? What would be the Senator's best judgment?

Mr. McGOVERN. The limiting factor in the legislation is that in no case could this corporation be involved in the development of more than 10 percent of the available oil and gas being offered to other bidders.

What I am trying to establish in this amendment is the authority for such a corporation to be created. I realize that Congress would then, at a later date, have to approve of this concept and have to set a limit of how much we want to invest in it and how far we want to carry the principle. It is designed to carry the principle of a public yardstick. That would then later have to be evaluated in terms of how much we want to invest in carrying out that concept.

Mr. ALLEN. Would a ballpark figure be somewhere in the neighborhood of $5 billion?

Mr. McGOVERN. I would not want to make an estimate on it at this point.

Mr. ALLEN. Would the corporation be limited to exploration and production of oil and gas on Federal lands?

Mr. McGOVERN. That is correct.

Mr. ALLEN. After exploration and development and production of oil or gas, what disposition, then, would be made of the oil or gas?

Mr. McGOVERN. Will the Senator repeat that?

Mr. ALLEN. What disposition would be made of the oil or gas that might be explored for and produced?

Mr. McGOVERN. Up to the 10 percent level that the corporation is authorized to develop, it could be sold in the private market.

Mr. ALLEN. Would it entail, then——

Mr. McGOVERN. Let me say to the Senator, perhaps the best analogy I can give him as to how it would work would by the Tennessee Valley Authority. I would not envision that this is anything like that size an operation, but that is the principle. In the same sense that the Tennessee Valley Authority has been authorized by Congress to market a certain amount of hydroelectric energy, this corporation would be permitted, on Government-owned lands and reserves, to develop up to 10 percent of those reserves for marketing in normal commercial channels.

Mr. ALLEN. Would it be necessary to build pipelines to get the oil to market?

Mr. McGOVERN. It might be in some cases. The corporation presumably would have the same authority to do that that a private corporation would have. It would not be given special privileges that are not available to other corporations, because the purpose is to determine costs of exploration, production, and distribution. The Government corporation would be tailored, insofar as we could do it, to give us an accurate measuring rod to determine what these costs really are.

I want to stress to the Senator that, while this is sometimes a charge that is made against a proposal like this, it is not designed as an opening wedge to take over the energy industry of this country, but, rather, to provide the kinds of data that I think are now being challenged by a great many people.

We really do not know whether the data we are now being given by the major oil companies as to what it costs them to produce energy are reliable or not. While a public corporation of this kind is not going to give us absolute proof, it would give us one further indication by which we could measure the private estimates that we are now being given.

Mr. ALLEN. Could this yardstick, then, work both ways? There would be figures on the production costs—and I assume a provision for taxes which the corporation would not have to pay, but which private enterprise would have to pay—and then return on the investment.

Mr. McGOVERN. We would have to factor that in.

Mr. ALLEN. If those figures showed that such regulated figure at which oil or gas might be sold was too low, would it be the Senator's notion that, based on these yardstick figures, Congress then should enact legislation raising these ceilings?

Mr. McGOVERN. Absolutely.

Mr. ALLEN. So it would work both ways?

Mr. McGOVERN. Absolutely. It is the only fair way to do it. I would have to say, as one who does not claim to be an expert on the oil industry, that I really do not know whether these cost estimates that we are being given by the major oil companies are right or not. They may very well be. As the Senator has indicated, it is conceivable that they may be too low. I do not think that is the case, but if it turns out, after a reasonable test by the kind of public yardstick I have suggested here, that the cost factors are even higher than we have been led to believe, I would say it ought to work both ways.

Mr. ALLEN. Does the Senator think that the areas in which Government corporations have entered and established such a record of performance on the part of Government activity have been so good as to encourage one to think that this public corporation for exploring for and developing oil and gas would be better than the experience we have had with other intrusions by the Government into the area of private enterprise?

Mr. McGOVERN. I think it depends on the quality of the people that we would bring in to staff such a corporation.

Sometimes those things have worked well, sometimes they have not.

I do not think the corporation we set up a few years ago has been a great success. I would say on the other side that I do not think private enterprise has done a very good job of running the Penn Central Railway or the Lockheed Aircraft Corp.

So these things depend a lot on the personnel we get, whether it is in the private sector or the public sector.

The Tennessee Valley Authority, by a contrast, which I had the privilege to visit and look at firsthand, and I have come to know some of the men and women who work in that agency, I think has been run rather well.

Mr. ALLEN. I agree on that Tennessee Valley Authority.

Mr. McGOVERN. I think if we could use that as a kind of model of the way we staff up a Government gas and oil corporation, take some of the lessons we have learned in TVA which, as the Senator knows, has attracted the respect of people from all over the world, it is one of the great engineering and technological wonders of the United States, they come from all over the world to see it. If we can take that as a standard by which to measure the quality of the staff and the directors and the way we structure a gas and electric corporation, I would feel the chances are pretty good and we could maintain an efficient operation.

Mr. ALLEN. Of course, the Senator realizes the Tennessee Valley Authority does a whole lot more than produce power. They have flood control, navigation, and recreation facilities.

Mr. McGOVERN. Yes.

Mr. ALLEN. And reclamation of land. It does a whole lot more than merely provide electric power.

Mr. McGOVERN. I did not think the Senator would want me to get this Government oil corporation into too many different activities, so I have limited it.

Mr. ALLEN. I just wonder if it needs to get into any activity at all. I am not worried about how many, just about whether it ought to get into one.

But I do appreciate the information the Senator has given us on this subject. I am sure there will be other Senators who wish to question the distinguished Senator, or else make independent comments. But due to the absence of the Senators who are most interested in managing the bill, unless someone else wishes to question the Senator, I want to suggest the absence of a quorum.

Mr. SPARKMAN. Will the Senator withhold that?

Mr. ALLEN. Yes, I will.

Mr. SPARKMAN. I have listened to this with a great deal of interest and listened to the comparison or contrast, whichever it might be, with the TVA.

I live in the TVA area, as does my colleague.

Of course, the TVA, as the Senator has recognized, goes far beyond in public service, I think, than the proposed corporation would go.

But what about the matter of taxation? Would it pay taxes to the Federal Government in the area it represents?

Mr. McGOVERN. As it is presently structured, it would not. As I tried to explain earlier, if we were using this corporation as a yardstick, which is its purpose, we would have to factor in the tax cost as one of those things that would have to be an add-on in terms of figuring what private industry should be entitled to.

I think that while the corporation would not operate tax free, its prices ought to take into consideration, so that it does not have an unfair competitive advantage, what would be a price factor sufficient to allow for taxes to the Federal Government.

But I do not think it would make sense to the Federal Government to tax its own entity, its own Federal entity.

TVA, for example, does not pay any Federal taxes.

Mr. SPARKMAN. As a matter of fact, when the TVA was just beginning, I was a Member of the House of Representatives and I was a member of the Military Affairs Committee which at that time had jurisdiction over TVA because it began as an offspring of the Federal operation there in the Muscle Shoals District. Wilson Dam was really the beginning of it.

I sponsored a bill as a member of that committee. First of all, it authorized TVA to issue bonds. But we also dealt with the matter of taxation. It was decided that the TVA would pay taxes—I cannot say the basis on which they would pay it—to the States in the area.

I was the author of that bill.

Mr. McGOVERN. Would that be an income tax, or a tax on——

Mr. ALLEN. A payment in lieu of taxes.

Mr. SPARKMAN. In lieu of taxes.

Just a few days ago, this article appeared in the paper:

> TVA's payments in lieu of taxes to be $68 million in this fiscal year.

The fiscal year that this applied to.

Mr. McGOVERN. I just have been advised here by counsel that while I answered the question correctly, that the corporation would not pay Federal taxes, it does in fact follow the TVA formula in requiring it to make payments to the States in lieu of taxes.

Mr. SPARKMAN. In the area in which it operates.

Mr. McGOVERN. The same formula as in the TVA system.

Mr. SPARKMAN. I am pleased to hear that because I think this has been a real constructive action that was taken back in the early days of the TVA.

As I say, it appeared in the press just a few days ago that the Tennessee Valley Authority's payments to State and local governments in lieu of taxes this year will be $20 million more than fiscal 1976, and in the headline it says that it will pay $68 million in lieu of taxes during the present fiscal year.

Mr. McGOVERN. I am glad the Senator pointed that out because, as I say, we did make some effort in discussing the amendment to profit from the lessons of the TVA experience, and the formula is the same in the amendment.

Mr. SPARKMAN. I am pleased to hear that.

Mr. ALLEN. I say to my distinguished colleague that TVA pays to the Federal Government a large amount each year—in the tens of millions of dollars—on the Government's capital investment in the Tennessee Valley Authority.

So they are paying the money back.

Mr. SPARKMAN. The Senator is correct, and that was a part of that bond issue.

Mr. ALLEN. Yes. Of course, the bond issue is private capital investing in TVA.

But aside from that, TVA each year makes a payment to the U.S. Treasury as interest on the Government's capital investment in the Tennessee Valley Authority.

Mr. SPARKMAN. That is the point I was going to make. Not called an income tax, but it is a payment in lieu of taxes.

Mr. ALLEN. Yes, it is.

Mr. SPARKMAN. Based on the financing, individually, of the project.

Mr. ALLEN. That is correct.

Mr. SPARKMAN. And in addition to that, it pays in the present fiscal year $68 million to State and local governments.

Mr. ALLEN. That is correct.

Mr. McGOVERN. On that point, if the Senator will yield here again, there is a similar provision that if the sale of oil and gas in the Government corporation goes beyond cost, which it is expected it would, anything above cost would revert back to the Government.

Mr. SPARKMAN. I may say further in this connection, the States to which it pays taxes are listed.

In our own State of Alabama, 2 years are given, and this year's figures are $16,362,231 to the State of Alabama. It goes on and names the various States.

If the Senator will permit, I would like this news item to be printed in the RECORD.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the item that the Senator from Alabama referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TVA'S PAYMENTS IN LIEU OF TAXES TO BE $68 MILLION IN FISCAL YEAR

KNOXVILLE, TENN.—The Tennessee Valley Authority's payments to state and local governments in lieu of taxes this year will be $20 million more than fiscal 1976.

The agency's Division of Navigation Development and Regional Studies said Thursday the payments to states, counties and cities will total more than $68 million by Sept. 30, when the federal fiscal year ends.

Since TVA is a federal agency, state and local governments cannot levy taxes against it. However, the in-lieu-of-tax payments make it the single largest taxpayer in Tennessee and one of the largest in Alabama.

As required by law, the payments represent five percent of the government utility's power revenues for the previous year, excluding sales to government and military installations.

Spokesman Lee Sheppeard said more than another $40 million in taxes and tax equivalents will be paid to state and local governments by municipal and cooperative electric systems that distribute TVA power.

Except for Alabama, Virginia and Illinois, all or part of the amount the states receive from TVA is redistributed to counties and cities. Local governments also will get most of the $40 million paid by local electric systems.

The payments are divided among the states under a formula that takes into consideration revenues from customers and the value of property in each state. They are made monthly on a preliminary basis.

The payment for each state, with this year's figures listed first and fiscal 1976 amounts second, are:

Alabama $16,362,231–$11,437,335; Georgia $657,812–$473,934; Illinois $10,000–$10,000; Kentucky $5,375,000–$4,280,790; Mississippi $2,953,407–$2,059,893; North Carolina $373,337–$300,756; South Dakota $35,376–$35,376; Tennessee $42,155,388–$29,591,935; Virginia $256,808–$179,632.

Mr. SPARKMAN. I thank the Senator.

Mr. McGOVERN. I thank the Senator from Alabama.

Mr. ALLEN. Mr. President, the distinguished majority leader was anxious that no action be taken on the bill or any of the amendments until the conference between the managers of the bill and those interested in some phase of the bill had concluded and those Senators had returned to the Chamber.

RECESS UNTIL 5:15 P.M.

At this time, I take the liberty of asking unanimous consent that the Senate stand in recess until 5:15 this afternoon.

The PRESIDING OFFICER (Mr. MATSUNAGA). Is there objection?

There being no objection, the Senate, at 5:01 p.m., recessed until 5:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

The PRESIDING OFFICER. The Senator from Alabama.

RESIGNATION OF BERT LANCE

Mr. ALLEN. Mr. President, the President of the United States has just announced the resignation of the Honorable Bert Lance as the Director of the Office of Management and Budget and, further, that he, as President, has accepted his resignation.

I personally hate to see Mr. Lance retire from this position. I think it is significant that not one single word of criticism has been leveled at Mr. Lance's record as Director of the Office of Management and Budget. Apparently he has done an outstanding job in that position.

I heard him testify at the hearings that all of the work of the department was up to date. In spite of his many difficulties and handicaps under which he was working, the work of the Office of Management and Budget had not been neglected, and there is no statement of any sort that he had not done an outstanding job.

Back last Wednesday, I believe, here on the floor of the Senate I stated if Mr. Lance had done nothing other than to encourage the President to drop his $50 rebate earlier this year, he would have justified his being named Director of OMB.

I think, too, Mr. Lance was and is the architect of the President's balanced budget by fiscal year 1981 goal, and I feel that Mr. Lance represents, despite his personal financial dealings, a demand for fiscal sanity and fiscal conservatism in the operation of our Federal Government.

I do not know where the Government is going to be headed with Mr. Lance absent from this position. I believe the course he was directing in his capacity as Director of OMB was one toward fiscal responsibility, fiscal sanity, and movement in the direction of a balanced budget. All of us admired the goal of a balanced Federal budget, although few of us felt there was much chance of that being achieved in the near future. But I am hopeful the President will name someone equally as sound as Bert Lance to this position.

I regard Mr. Lance as a honorable man, an able man, a man of high principles, and I think it is entirely possible that a person can be somewhat lax in his personal financial management and still demand on the part of the Government strict adherence to the best principles of fiscal management.

There was much support throughout the country and in Congress for a retention of Mr. Lance. Some of us felt that the demand for Mr. Lance being given a hearing and then that he resign was somewhat like the frontier justice of old where the vigilantes would say that, "We are going to give this horse thief a fair trial and then we are going to hang him." So it looked like that was the impression that was left. He was going to be given an opportunity to be heard and then he was going to be fired.

Apparently the decision was Mr. Lance's decision. The President did not say what he would have done had Mr. Lance not resigned, whether he would have discharged him or not.

But this is not something that gives me a great deal of comfort as I ponder the future of this administration.

I feel that Senator EAGLETON had a whole lot to be said in his favor when he said that Mr. Lance was the victim of guilt by, not association, but by accumulation, accumulation of rumors, accumulation of charges, that even if answered would not restore the confidence that had been lost as a result of these charges.

But I am apprehensive of the great power of the media to influence the course and direction of Government. I do not know who their guns will be turned on next. It will be somebody because that is what the media thrives on. Who it is going to be we will just have to wait and see.

It would have been difficult for President Carter to have retained Mr. Lance in office with the continuing charges leveled against him. There seemed to be no end to the clamor incited by the media for his scalp. Well, they have gotten his scalp. But I seriously question whether the best interest of the Government has been served by the fact that they have gotten his scalp.

I am wondering if that is going to be the fate of others in the administration. The President having caved in to the media demands, I am wondering if he can ever recover from this sad situation. If another attempt arises will he give in to the demands of the media or will he stand firm? I do not know whether this was the place to make a stand or not. I feel that it was.

But I do not believe that this is an unmixed blessing that this matter has now been resolved because it opens up more questions about the direction of our Government than have been solved by the resignation of Mr. Lance and the acceptance of his resignation by the President.

There was much support here in the Senate for the retention of Mr. Lance. The decision had to be made by the President or by Mr. Lance. Certainly in the ultimate by the President himself.

I think this is a sad day for the country and for the prospects of success in this administration. I really think that this was a testing time for the administration, whether the President was going to stand firm or not. Where we are going, I do not know. I do not believe the cause of fiscal conservatism and fiscal sanity in Government has been well served because from the impression I gained of Mr. Lance's record in office, and I am speaking of his record in office and I do not excuse or exonerate him from the practices in which he engaged—I do not say that that was not wrong—but I do say that he was doing a good job as Director of the Office of Management and Budget. He was instituting the requirement of zero-based budgeting that has a good chance of saving many billions of dollars in the operation of our Government. He was doing a good job and many of us here in the Senate hate to see him removed from office.

I am pleased that we are informed that the people of Georgia and I will say much of the Nation continue to admire and respect Bert Lance and his performance in office. This man sacrificed much.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. SPARKMAN. I want to say that I fully agree with my colleague in what he has been saying. By the way, I am sorry that our session comes at the same time that the press conference is going on, but I think it has been a remarkable job that President Carter has been performing out there, answering questions of all kinds, and I admire his standing up and defending his personal friend, his long-time friend and his selection to head up the Office of Management and Budget.

After all, that office under our setup is the President's office. I mean it is under his jurisdiction. I remember when the act was passed making these divisions. The General Acounting Office was set up as an agency of Congress. The Budget Office was the counterpart under the President. In the past they performed well and even now I think they perform well, both of them, in those respective capacities.

I just want to say that President Carter is standing by his friend, and he is doing it on sound ground, in making those pronouncements. This Senator was out watching the TV until he had to come back in here. I think it is a wonderful display, and I wish that all Senators could be seeing it.

I thank my colleague for the remarks he has made, and I join him completely in them.

Mr. ALLEN. Mr. President, I thank my distinguished senior colleague. We have not consulted on this matter, and I doubt that we had even had any conversation at all about it up to this time.

Mr. SPARKMAN. We did not mention it.

Mr. ALLEN. No, that is true.

Mr. SPARKMAN. We were sitting in there watching it, but you were in one part of the room and I was in another, and I had not mentioned it to you.

Mr. ALLEN. I am certainly pleased that our separate and independent thinking in this matter has brought us so close to the same conclusion.

Mr. SPARKMAN. By the way, I watched on TV a good part of Mr. Lance's appearance before the committee, and I felt that he put up a very fine, honest, and honorable performance, even when the attacks against him were quite heavy. They never broke him.

Mr. ALLEN. That is certainly true.

Mr. SPARKMAN. And I admire the way the man has been able to handle himself under such difficulties.

Mr. ALLEN. I thank the distinguished Senator.

Mr. President, I wonder what the comparative results of the decision to let Mr. Lance go would have been in comparison with a decision to retain him in office, whether letting him go would be more advantageous to the administration than holding him in office. Over a period of years, over the 5 to 7 years of the Carter administration remaining, I would feel, just in my own personal opinion, that to have held on to him would have portended better for the ultimate success of the administration than the decision to let him go, because this will encourage the media to attack at another point, and it will lessen the President's resolve to withstand such attacks in the future, whereas standing firm in the matter, I believe, would have greatly strengthened this administration and added to the respect of the Nation and of the Congress for the administration.

Certainly that is my own view, because I do not know of anything that the President has done that has caused me to admire him more than his holding on to Mr. Lance during the time that he did.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ALLEN. I will be delighted.

Mr. GOLDWATER. Mr. President, I have listened to the statement of my friend from Alabama, and I just wanted to make a comment or two on the subject that he is addressing himself to.

I felt and I said that I thought if Mr. Lance resigned, it would help the office of the President, which is the most important thing. It does not make any difference who the President is; it is the office. Now he has done that.

The thing that bothers me is not the media, although no one is a great admirer of the total media. Their job is to report, and that is what they have done. I think they have been, in some few cases, overly vicious. But the thing that disturbs me, and again this is not a criticism of the television and the media, is the fact that we have now found out that all you need to do to attract a large collection of television cameras is to find something that sounds a bit out of the ordinary, something that might even have the odor of illegality, and then it is "Katy bar the door," because the American people begin to be shown the weaknesses that every one of us has. I do not think there is a man in this body who could stand the kind of scrutiny that Bert Lance was subjected to. And whether we were wrong or right, we could be made to look wrong in the eyes of the American people.

I am afraid that we have opened a door that we are going to be sorry for, when we see the proliferation of televised hearings in the future based not just on what might grow out of a hearing on one person, but based on matters that sound newsworthy. We have been subjected this week to a television show on matters that were made news 2 years ago, and I am just fearful that we have now turned the stone and we are going to live to regret it.

Getting back to Mr. Lance, I have respect for his business ability. I do not think he made the right judgments at times, but have we made the right judgment every time? No.

So I commend the Senator from Alabama, and I will end by saying it might sound strange for a Republican to be talking like this about a Democrat, when Democrats were overjoyed when similar occasions occurred within the Republican ranks, but I just hope that this is not going to make it impossible to go out into the country and get the kind of men that we have to have back here to help us in our sometimes futile efforts to run this Government.

Mr. ALLEN. I thank the distinguished Senator from Arizona for the wisdom of his comments and his contribution to this discussion.

Mr. President, unless someone else wishes to speak at this time, I am going to suggest the absence of a quorum in accordance with the wishes of the distinguished majority leader.

The PRESIDING OFFICER (Mr. MATSUNAGA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of the bill (S. 2104).

Mr. ROBERT C. BYRD. Mr. President, very shortly, after some calls are made to three Senators, I would hope to be in a position to propound a unanimous-consent request that would have to do with a rollcall vote on a motion to table the Pearson-Bentsen amendment tomorrow evening, circa 6 p.m., 6:15 p.m., 6:30, 6:45 p.m., or 7 p.m. I believe we will shortly have the answer to that question.

Pending hearing from those Senators, and we are making that effort now, I wish to impose on the time of the Senate for about 3 minutes.

RESIGNATION OF OMB DIRECTOR BERT LANCE

Mr. ROBERT C. BYRD. Mr. President, the decision by Bert Lance that he resign as Director of the Office of Management and Budget was clearly one of great personal agony for both the President and Mr. Lance.

Like the President, I believe that the decision was the right one. It is not easy to look beyond the kind of deep and long personal friendship shared by the President and Mr. Lance. But they managed to put that friendship aside. They recognized that from a national standpoint, the personal problems of Mr. Lance were of secondary importance to the great issues facing our country. The President and Mr. Lance are to be commended for their decision. The difficulty of the decision makes it all the more commendable.

One of the things that made the decision especially difficult, aside from the close friendship of the two men, was the fact that Mr. Lance's performance as Director of OMB during these several months was not in question. Indeed, every word of testimony about Mr. Lance's performance of his duties as OMB Director has been favorable.

His testimony before the Governmental Affairs Committee was important. The charges against Mr. Lance had been aired publicly, and he asked for an opportunity to answer them in a similarly public fashion and in a public forum. The President, I think rightfully, concluded that Mr. Lance should have that opportunity before any final decision was reached on his future as OMB Director, and the Governmental Affairs Committee afforded him that opportunity.

Despite the fact that Mr. Lance's testimony put some questions to rest, others remained unanswered.

The public reports on his personal financial situation could have seriously impaired his future performance in office.

Mr. Lance and the President obviously recognized that fact—as well as the fact that other unresolved questions, and the length of time needed to resolve them—could divert Mr. Lance's attention to his own personal affairs and could divert the attention of the President and Mr. Lance away from issues critical to the future of the Nation.

The Office of Management and Budget is a highly sensitive and extremely important agency. The Nation cannot afford to have as Director of OMB a man whose personal financial problems are of such magnitude that they detract from the time he can spend on his public duties.

Under other circumstances perhaps Mr. Lance might have continued to be an excellent executive as the Nation's fiscal leader. So it is to his credit and to the President's credit that Mr. Lance and the President recognized the several factors that could have hampered Mr. Lance in the effective fulfillment of his duties.

Mr. Lance and the President realized that the interests of the Nation must come first. Mr. Lance and the President put those interests first in this decision.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT—BARTLETT AMENDMENT AND PEARSON-BENTSEN AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I, and several Senators on both sides of the aisle and on both sides of the question as it pertains to the Pearson-Bentsen amendment, have been in consultation for the last hour, give or take a few minutes. It is the consensus of that group that Mr. BARTLETT will withdraw his amendment shortly and that Mr. BENTSEN and Mr. PEARSON will lay down their amendment.

It is the consensus of that group that a vote occur on a motion to table the Pearson-Bentsen amendment.

I therefore ask unanimous consent that at 6:30 p.m. tomorrow Mr. JACKSON be recognized for the purpose of offering a motion to table the Pearson-Bentsen amendment. That will be a rollcall vote. I further ask unanimous consent that that rollcall vote be a not-to-exceed 30-minute rollcall vote, which means that the rollcall vote can extend as long as 30 minutes, but in the meantime, if all Senators have voted, the Chair may announce the vote at any time prior to the expiration of the 30 minutes, but no sooner than the expiration of 15 minutes.

I am glad to yield to the distinguished minority leader.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, I thank my friend, the majority leader.

First I say that I think this is a good agreement and I commend, I congratulate, the adversaries on this measure for reaching the agreement. I think it significantly advances the work of the Senate. I think that it gives us a fair test of the issues involved in this important controversy.

Mr. President, I ask the majority leader if I understand correctly now that, at 6:30 tomorrow evening, as the first rollcall vote, we shall vote on the tabling motion to be made by the Senator from Washington against the Pearson-Bentsen amendment, and no other amendment or rollcall vote on another amendment will come ahead of that tabling motion?

Mr. ROBERT C. BYRD. The Senator is eminently correct.

Mr. BAKER. And that rollcall, for the sake of protecting certain Senators who might have trouble with their plane schedules or otherwise, will extend for not more than 30 minutes, so the rollcall, in any event, will be terminated by 7 p.m.

Mr. ROBERT C. BYRD. The Senator from Tennessee is preeminently correct.

Mr. BAKER. I am improving.

Mr. President, I have no objection.

Mr. ABOUREZK. Reserving the right to object, Mr. President. As to this agreement, I should like the majority leader to state for the record that it does not foreclose any of the rights any Senator might have on the amendments to the Pearson-Bentsen amendment should the tabling motion fail, or any procedural matters which might be available to different Senators.

Mr. ROBERT C. BYRD. Should it fail?

Mr. ABOUREZK. Should it fail.

Mr. ROBERT C. BYRD. The Senator from South Dakota is also preeminently correct.

Mr. ABOUREZK. There are no time agreements on debate or anything included in this? We shall only recognize the Senator from Washington for the purpose of making that tabling motion?

Mr. ROBERT C. BYRD. That is all that is contained in the request.

Mr. ABOUREZK. I thank the Senator.

Mr. BAKER. Reserving the right to object once again, Mr. President, I have such great respect for the Senator from South Dakota and his procedural prowess that I am concerned a little about his question about other procedural matters. I ask the majority leader, then, to reassure me on this point: That, regardless of any procedural matter other than a motion to adjourn, which might be so privileged that we might not preclude it, I assume, there will be a rollcall vote on a motion to table to be made by the Senator from Washington against the Pearson-Bentsen amendment to begin at 6:30 tomorrow night.

Mr. ROBERT C. BYRD. The distinguished minority leader is correct.

Mr. BAKER. I thank the distinguished majority leader.

I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object——

Mr. BUMPERS. Reserving the right to object, if I may just clarify it, Mr. President, I want to address one additional question to the leader. I think I know the answer, but this is for clarification purposes.

The Pearson-Bentsen amendment will be subject to amendments after it becomes the pending business and, should the motion to table fail, we could start voting on those amendments immediately thereafter. We could even ask for, or would it be in order to ask for a unanimous-consent request, for example, that an amendment be voted on, in the event the motion to table fails, immediately thereafter?

Mr. ROBERT C. BYRD. Such a unanimous-consent request would be in order.

Mr. METZENBAUM. Will the leader yield for another question?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. The unanimous-consent-request though, would only be made after the time set for the vote with respect to the Pearson-Bentsen tabling motion?

Mr. ROBERT C. BYRD. No, that unanimous-consent request could be made prior thereto, but it would require unanimous consent for it to be implemented.

Mr. METZENBAUM. But am I correct in my understanding that those of us who will not be present tomorrow will have an opportunity to be on the floor should such a unanimous-consent request be made?

Mr. ROBERT C. BYRD. That kind of unanimous-consent request—the Senator would be protected on a unanimous-consent request of that nature.

Mr. METZENBAUM. I appreciate the assurance of the majority leader.

I assume that, likewise, we shall be protected with respect to any time agreement request that might be made during the day.

Mr. ROBERT C. BYRD. With respect to this bill.

Mr. METZENBAUM. With respect to this bill.

Mr. ROBERT C. BYRD. Yes, the Senator will be protected.

Mr. METZENBAUM. I thank the majority leader.

Mr. BARTLETT. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. As far as laying my amendment 887 aside, I would like to say it would be with the understanding that it could be brought up at another time to not interfere with Pearson-Bentsen. It would be done in the spirit that this would facilitate and bring to a time certain a vote on the Pearson-Bentsen amendment. It would be done, also, with the understanding that there be a spirit prevailing on both sides that this would not be exposing the Pearson-Bentsen amendment to unfair treatment or extended debate. I would certainly count on the spirit prevailing that it would be considered expeditiously, properly, with all rights for amendments being preserved by the individual Senators. With that understanding, that feeling, I do ask unanimous consent that amendment No. 887——

Mr. ROBERT C. BYRD. Mr. President, I should like the ruling first.

The PRESIDING OFFICER. There is a unanimous-consent request pending.

Is there objection? The Chair hears none. Without objection, it is so ordered.

The text of the agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That at 6:30 p.m. on Thursday, September 22, 1977, the Senator from Washington (Mr. JACKSON) be recognized for the purpose of moving to table the amendment in the nature of a substitute, No. 862, by the Senator from Kansas (Mr. PEARSON) and the Senator from Texas (Mr. BENTSEN);

Ordered further, That the rollcall vote on the motion to table shall not exceed 30 minutes, and the results of the vote may not be announced before 15 minutes have expired on the vote.

Mr. ROBERT C. BYRD. Mr. President, I yield now to the distinguished Senator from Oklahoma to withdraw his amendment. Then I should like to be recognized again.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I firmly believe that the answer to the evils of regulation is most certainly not more regulation.

It is in that spirit that I have offered for consideration as a substitute amendment No. 887, identical to Senate bill 110, which I introduced during the opening days of this first session of the 95th Congress.

The following of my colleagues have asked to be added as cosponsors of amendment No. 887: Senators GARN, HANSEN, LAXALT, TOWER, and WEICKER.

Mr. President, one of the most important goals of an energy plan for the United States must be to increase the supplies of natural gas available to our consumers across the land. The specter of last winter's bitter cold forcing school shutdowns, factory layoffs, and worse, will not soon fade from our memory.

The tragedy of last winter's emergency is that it need not have happened. This country has no shortage of natural gas resources. What we are painfully low in are deliverable reserves.

Resources represent the physical presence of natural gas in some form or other in the ground. Reserves are those resources which have been found, quantified, and connected to a delivery system to carry it to where it is needed.

Resources need three things in order to be converted to reserves: Technology, time, and favorable economics.

We have the technology to locate and tap much of the vast resource of natural gas we know is there. We are learning how to drill deeper, to drill in greater water depths offshore, to squeeze more and more gas out of tight Western sandstones and impermeable Eastern shales. We can get substitute natural gas from coal, and now we hear of a possible new source of natural gas dissolved in geopressurized brines.

The technology is burgeoning and is not a limiting factor to getting more gas.

Time is on our side only if we act now to create the favorable economic climate to put technology to work.

Mr. President, S. 110 will create that necessary economic climate.

S. 110, as embodied in amendment No. 887 in the form of a substitute, would deregulate the wellhead price of new natural gas, defined in a straightforward sense.

Any natural gas dedicated to interstate commerce for the first time after the first of this year would qualify for a market-clearing price. This includes gas from properties just beginning production, as well as gas formerly in intrastate commerce being newly dedicated to the interstate market following expiration of the intrastate contract.

Natural gas produced from any well completed after the first of this year would command a free market price. In addition, any new gas production resulting from a well being deepened or recompleted into a new reservoir would be free of price controls.

Finally, regarding natural gas reserves remaining upon the expiration of a contract in interstate commerce, if that gas is continued in interstate commerce it would be entitled to an unregulated wellhead price.

There is no distinction between onshore and offshore natural gas.

The bill as introduced contains no provisions with respect to most favored nation clauses, allocation authority, curtailment priorities, incremental pricing, or a so-called windfall profits tax.

The bill does place some reasonable precautionary limitations on the Federal Power Commission, or rather its successor in the new Department of Energy, the Federal Energy Regulatory Commission. These limitations are as follows:

First. The Regulatory Commission may not disallow any portion of the price a pipeline pays for unregulated gas at the wellhead in determining what it may charge to its customers.

Second. The Commission may not deny, or condition the grant of, a pipeline certificate on the basis of the price of deregulated natural gas.

The purpose of these provisions is to prevent whatever regulatory body inherits the Federal Power Commission jurisdictions from "back-door" regulation of wellhead natural gas prices. Wellhead prices would be outside their authority, of course, but the temptation would be great for them to attempt to manipulate wellhead prices through other powers they do have.

There are two other restrictions:

Third. The Regulatory Commission may not disallow any portion of what a company charges an affiliate for gas, as long as the amount is not greater than comparable charges to nonaffiliates.

This is to preserve the integrity of "arm's-length" contracts.

Fourth. The Commission may not roll back any price it has previously determined as "just and reasonable."

This last provision is intended to guarantee the producer some dependability of price, something he has not often enjoyed in the past.

Mr. President, this amendment is simple and straightforward. I believe it represents the optimum solution to our country's dangerous shortage of natural gas reserves.

Mr. President, I ask unanimous consent that my amendment be withdrawn with the spirit and the conditions that I have mentioned. I realize that this is not a compelling matter on the part of any Senator, but I think it is very important that the Pearson-Bentsen amendment not be unfairly attacked or held up in any way. I realize that having it brought up in this way could lead to a filibuster, which I certainly hope will not be the case. It could lead to many unimportant amendments being considered. So it is my hopes that this will not occur.

The PRESIDING OFFICER. The Senator from Oklahoma has a right to withdraw his amendment.

The amendment was withdrawn.

Mr. ROBERT C. BYRD. Mr. President,

I express, on my own personal behalf and I believe on behalf of the Senate, gratitude to the very able, distinguished and dedicated Senator from Oklahoma (Mr. BARTLETT) for the fine spirit of accommodation and cooperation that he has exemplified by agreeing to withdraw his amendment.

Mr. President, I believe that, under the agreement, Mr. PEARSON and Mr. BENTSON were to be allowed to lay down their amendment at this time.

Mr. President, I ask unanimous consent that it be in order to offer the Bentsen-Pearson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 862

Mr. BENTSEN. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of the Senator from Kansas (Mr. PEARSON) and myself and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself and Mr. PEARSON, proposes an amendment in the nature of a substitute numbered 862.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided*, That such natural gas was not sold or delivered in intrastate commerce for the first time prior to January 1, 1977: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market, or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas: *Provided*, That old natural gas sold or delivered in intrastate commerce for the first time prior to January 1, 1977 shall, if sold or delivered in interstate commerce for the first time after January 1, 1977, be deemed by the Commission as having been sold or delivered from wells commenced on or after January 1, 1975.

"'(9) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following four new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"'(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"'(b) The Commission shall monitor the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in subsection (a).

"'(c) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(d) Pending the establishment of a national ceiling pursuant to subsection (a) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States in effect on the date of enactment of the Natural Gas Act Amendments of 1977 as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to subsection (a) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(e) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(f) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(g) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"'(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"'(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"'(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable';

"'(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"'(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"'(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"'(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978, and January 1, 1979,'".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

Mr. DOMENICI. Mr. President, will the Senator yield for a request?

Mr. BENTSEN. I am delighted to yield to my distinguished friend.

Mr. DOMENICI. Mr. President, I ask the Senator from Texas if he would request that I be shown as an original co-

sponsor of the amendment which has just been laid before the Senate.

Mr. BENTSEN. Mr. President, I request that the distinguished Senator from New Mexico be shown as an original cosponsor.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator from Texas.

Mr. BENTSEN. I am very pleased to have him as a cosponsor.

Mr. BENTSEN. Mr. President, 2 years ago the U.S. Senate passed the Pearson-Bentsen bill deregulating the price of new natural gas by a vote of 58 to 32. We debated this proposal almost 2 months, off and on. Every possible argument, for and against deregulation of new gas was considered, analyzed, and discussed by this body. And the overwhelming verdict was that deregulation made sense for the country.

The Pearson-Bentsen bill was defeated by four votes in the House of Representatives. As a result we lost 2 years of increased incentives to production. We suffered through the so-called natural gas shortage in the winter of 1977. We have increased our dependence on expensive, imported sources of energy, and we have raised havoc with our balance-of-payments in the process.

Today the Senate again has the opportunity to redress the repressive, counterproductive regulatory policies of the past 23 years; policies that have clearly inhibited our inability to produce natural gas—the cleanest, most efficient, least expensive source of energy in general use.

Let me ask a question, Mr. President. Let me ask what has transpired since our vote of 2 years ago to suggest that deregulation of the price of new natural gas is less desirable, less logical, or less beneficial to America today than it was when last approved by the Senate.

We have had a striking demonstration of what it means to run short of natural gas. We saw schools and industries shut down across the country last winter, at a time we were struggling out of a recession.

We have seen a trend toward increased imports of expensive natural gas and oil.

And we have seen vast reserves of natural gas remain underground because it is not economic for the producers to explore, drill for, and market these hard-to-find reserves that are absolutely essential to our economic well-being.

To answer my own question, Mr. President, deregulation of the price of natural gas was a good idea 2 years ago. Today it has become a compelling national necessity.

There is one new element bearing on the equation of natural gas pricing in this country—the President's energy plan. Last April, when this plan was issued, I commended the President for his courage and foresight in bringing an important issue before the American people and for proposing a comprehensive national energy plan.

I said in April that there should be changes in the President's proposals, and events of the past few months, in both houses of Congress, have demonstrated that there is nothing sacrosanct about the President's program.

It can be improved. One way it can be improved is for Congress to recognize and accommodate the clear requirement for production incentives. The President implicitly realized that we have been holding the price of natural gas artificially low, but he merely proposed continued regulation at a higher peg, at $1.75.

Mr. President, this will not do the trick. Natural gas is to alternative sources of energy as sirloin steak is to chopped chuck. It is clean; it is cheap to produce and transport; it is readily available with current technology. In any rational system of pricing, one would expect to pay a premium price for the benefits of natural gas.

But we have chosen instead to price our sirloin steak lower than chopped chuck, and then we scratch our heads and wonder why we cannot get enough of it. We cannot get enough of it because there are not enough incentives to produce it.

The advantage of deregulation is increased natural gas production at a price still below that of other fuels.

It is interesting to sit in the Finance Committee and hear them talking about adding $3 a barrel to produce gasoline out of shale, or adding $3 a barrel, or 20 percent, to do it out of coal, but then to talk about proposing natural gas at a cost less than the cost of replenishing the supply.

The advantage of deregulation is decreased dependence on imported energy and a consequent improvement in our balance-of-payments position.

The advantage of deregulation is increased conservation of our most precious fuel; people will be less inclined to use natural gas in a wasteful or inefficient manner.

The advantage of deregulation is decreased reliance on expensive, environmentally risky coal and nuclear power plants.

The advantage of deregulation is that we bring the dynamics of the free market to bear on our energy problem. We permit our traditional system of economic incentives and rewards to function effectively.

In the Finance Committee I have supported the idea that we give an extra premium for coal where it is converted into gasoline, that we give an extra subsidy for doing it from oil shale, but I also think we should not be ignoring natural gas. That helps us buy time. We have a finite resource, but one of the ways we can stretch it is by incentives to drill the marginal supplies that should be brought into production.

The advantages are clear. They are not denied, even by opponents of deregulation. Some, however, would maintain that the benefits of deregulating the price of new natural gas are outweighed by the consequences of this policy.

Mr. President, the most compelling argument against deregulation of new gas is also the most politically potent. It is that, with deregulation, the average citizen who heats his home with natural gas will confront higher utility bills. The corollary of this position is that it is better to continue to subsidize this homeowner by holding natural gas prices artificially low and pray that the supply will somehow hold out in the absence of measures to improve the economics of production. This is not a proposition I would like to bet on.

It is true that deregulated new gas will cost more than regulated old gas. It is true, Mr. President, because the current pricing structure of natural gas does not reflect the realities of the marketplace.

However, deregulation of new natural gas will not—cannot—double or triple the utility bill of the American homeowner as some might suggest. There has been a great deal of misrepresentation and scare tactics on that point.

Let us be clear on one point: We are talking about new natural gas, not existing supplies. The cost of this new gas will be rolled in with the lower cost natural gas under long-term contracts and subject to Federal price controls. By the most optimistic projections, new gas will account for perhaps 15 or 20 percent of domestic consumption by 1985.

We should also understand that no more than one-third of the American homeowner's gas bill is attributable to the wellhead price of gas; two-thirds of the price reflects pipeline and retail transmission expenses, distribution, and taxes.

In 1976, the average homeowner's gas bill was about $240; let us assume for the sake of argument that it was in fact $300. Only $100 of this figure is directly related to the wellhead price. If the average consumer obtained 15 percent of his fuel from new, deregulated gas at a price that was double that of old gas, the impact of deregulation on his gas bill would be only $15 per year; 1.4 cents less than the current rate of inflation. Compare that to a much more assured supply, and I think the answer is obvious as to what the consumer would want.

For this 5 percent, the consumer would have a far greater certainty of supply.

The second major argument levied against deregulation of new gas is that the concept is not worth the candle because there is not enough unrecovered gas in this country to make much difference. The Congressional Budget Office Report, "Natural Gas Pricing Proposals," for example, suggests that new gas would result in only about 0.9 trillion cubic feet per year additional production in 1985, or about 5 percent of current consumption.

It is difficult to credit this estimate. It is apparently based on recent drilling and productivity experience which has been largely confined to shallow, inexpensive onshore areas precisely because with regulation these are the only wells that are economical to drill. Improve the economics, and you will increase exploration, drilling, and production.

By every reliable estimate available there are between 700 and 1200 trillion cubic feet of natural gas in this country waiting to be recovered. A supply that, at current production rates, will last for 35 to 60 years. A supply that should help us get over the hump of the energy crisis and give us additional time to develop

alternative sources of energy. A supply that, if tapped, will reduce our dependence on imported energy.

One of the true ironies of the energy crisis is that this country, with its rich reserves of natural gas, is increasingly looking abroad for supplies—to Canada, to Mexico, and to Algeria. Imports of natural gas are expected to be more than 3 billion cubic feet per day this year. The best thing we can do to check expensive foreign supplies which impact on our balance of payments would be to provide the incentives to encourage increased domestic production.

Finally, Mr. President, there is a glaring inconsistency in the CBO study that has given rise to the canard that deregulation of natural gas will somehow be a multibillion dollar rip-off of the American public.

In calculating the additional supplies that would be made available to the market by deregulation, the CBO cites the very pessimistic, unrealistic figure of .9 trillion cubic feet per year by 1985. But in calculating the cost of deregulation, the CBO unaccountably assumes that 4 trillion cubic feet of gas will be priced at $4/mcf in the year 1978. There is no new gas pricing formula I know of that would permit such a loose definition of new gas. No more than 4 to 6 percent of new marketed gas would receive deregulated prices during the first year of the program. The CBO study has accordingly bloated and distorted the cost to the consumer of deregulation of new gas.

Natural gas is a fuel for today; it is probably the best source of energy available to us.

We are currently in a period of energy transition. We are looking increasingly to coal; we are attempting to conserve; we are developing new sources of energy. Available natural gas can ease this transition; it can make us more self-reliant in an era of increased dependence.

In the absence of deregulation of new natural gas, we shall squander a valuable national resource. We will permit trillions of cubic feet of natural gas to remain underground because we balk at providing the incentives necessary to exploit it. Because we are reluctant to market natural gas at a price that reflects the true costs of production.

Mr. President, a recent New York Times survey suggested that 57 percent of the American people do not believe that we have an energy shortage—57 percent of the American people are wrong. We have an energy shortage, but we also have the means to overcome it.

In the final analysis, resources are not things. They are a process; the application of human knowledge to nature. Fossil oil was not a resource until people, compelled by a whale oil crisis, learned to drill for it and put it to productive use.

With the proper economic climate, interaction between human knowledge and nature works to produce new resources and new technology. Nowhere has this process worked more effectively or more consistently than in the United States of America. I am convinced that the ultimate answer to the energy problem lies in the development of new resources.

Until these technological breakthroughs occur, we confront a very real and very dangerous problem. We must make maximum use of available resources. We must do everything in our power to stem the hemorrhage of dollars—$45 billion in this year alone—that we send abroad to pay for our energy requirements.

The deregulation of new natural gas is one important tool at our disposal. It is a step that makes sense for America and it deserves the continued support of the Senate.

Mr. SCHMITT. Mr. President, I intend to support the Pearson-Bentsen substitute for S. 2104 for a number of technical and economic reasons. Most importantly, it is a proposal oriented toward consumers who want assured supplies of gas. My colleagues have been privately debating the issues raised by the bill for some weeks, and publicly on this floor, since Monday. Having listened to this discussion, I would like to focus my remarks in a slightly different area; the problems faced by our State governments.

The past few weeks have produced several resolutions from regional organizations representing the Nation's Governors calling for the deregulation of new natural gas prices at the wellhead. Only five State Governors voted against the standing resolution of the National Governor's Association supporting deregulation. While the details of the various statements differ, the essential point which they make is that we cannot afford to subject individual States and the Nation to the unemployment and shortages of home gas which would be forthcoming should proven natural gas supplies continue to diminish rapidly under continued price regulation.

Let me ask the rhetorical question: Why is there nearly unanimous support in our 50 statehouses over an issue that is so closely divided in both Houses of our Federal Government? Deregulation would not create financial windfalls for our States, nor can it be argued that 45 State Governors are in the vest pockets of the natural gas lobby.

The answer to this question is plain: Our State Governors fear the effects of a reduction in the supply of natural gas as much as they fear the effects of an increase in price. I believe this is true for a number of reasons.

First, the States face an enormous loss of revenue when a major portion of their industrial tax base is put out of business by natural gas curtailments. At the same time, they are confronted with increased liabilities in the form of unemployment compensation. While the national legislators and the administration can simply crank up the money presses to deal with this situation, the State governments cannot. They are not permitted the luxury of long-term deficit spending. As a result, natural gas curtailments can create a severe financial crisis for State and local governments.

Second, State governments are very sensitive to the size and stability of their respective long-term industrial tax bases. Continued shortages of natural gas will cause some industries to move in search of more stable energy supplies. There are relatively few States and municipalities which are willing to gamble their tax revenues by allowing Federal regulatory agencies to make decisions which will effect the exodus of State industries. Such Federal agencies are notoriously unresponsive to State problems.

Third, State governments are much closer to the hardships caused by industrial displacement. In addition to unemployment, they must deal with increasing crime rates, deteriorating services and a host of other social problems. State and local governments are not able to write off these costs in terms of national average statistics. They must deal first hand with idle workers in Cincinnati, Detroit, Boston, New York, and the thousands of small towns heavily dependent upon the availability of natural gas. Last winter's shortages were nothing more than the first gusts of what promises to be a major national storm if our gas supply picture is not improved. Cities and States know that and they also know who will take the brunt of the resulting public reaction.

Finally, State governments also face problems with residential utility customers. Many State public service commissions are unable to answer the growing number of consumers who ask, "Why can't I have natural gas to heat my home?" Moratoriums force new customers to install expensive electrical heat at nearly 10 times the cost of gas per Btu—or solar heat if they are particularly well off—while those customers who are fortunate enough to already have gas continue to receive a generous subsidy from federally enforced artificially low prices. Contrary to the President's intentions, this is not equitable. State governments are called upon far too often to answer for Federal policies on which they had no input.

Last week, I began to insert in the RECORD resolutions prepared by the State Governors. Today, I would like to offer section D.9, dealing with natural gas policy, of a statement prepared by the National Governor's Association. As with the previous resolutions, there are parts of section D.9 with which I cannot agree, but the call for deregulation is clear and unmistakable.

Mr. President, it appears to me that the overwhelming number of State governments view the deregulation of natural gas prices as the most effective long-term solution to the gas supply problem. I agree, and I ask that my colleagues consider deregulation from this unique consumer-oriented perspective.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION STATEMENT ON NATURAL GAS POLICY

D.9—NATURAL GAS

The total resource of domestic fossil fuels is finite, and the total annual production of energy from these sources is limited. Natural gas is the most environmentally acceptable, readily usable and least expensive fuel, which has led to the rapid exploitation of available supplies.

Since 1968, production of natural gas has exceeded additions to inventory. Future natural gas curtailments are expected to cause increased distortion and dislocation in the

economy. Even with stringent conservation, discovery of new gas fields will be needed to provide lead-time while alternate energy resources are developed.

Federal price policies in the face of mounting prices for rival fuels have undervalued interstate gas with respect to other fuels, which results in lowered incentives for exploration, an artificially high demand and few incentives for conservation.

The National Governors' Conference supports the deregulation of new gas wellhead prices. Such deregulation should not affect contracts in force on the date of enactment of legislation, but the purchase of gas at the end of a contract should not be subject to federal wellhead price control. This phased process will serve to mitigate abrupt increases to existing customers. To determine the effects of deregulation, the federal government should provide for continued monitoring and evaluation of the performance of the natural gas industry, and report its findings to Congress.

The deregulation of producers' prices for new natural gas would offer an incentive for exploration and would provide the nation's oil and gas operators with the ability to attract needed capital. Such deregulation would encourage sales in the interstate market and ease the specter of sharp curtailments in the many States relying on interstate supplies. Increased average prices should encourage conservation and the conversion to alternate energy sources.

The deregulation of natural gas will result in an increase in the price of new gas. These higher prices create the possibility of excessive profits. It is highly desirable that any excess profits be used to explore for, find and develop new natural gas supplies.

If the price of new natural gas is deregulated, the Governors believe that Congress should simultaneously enact an effective excess profits tax which contains a plow-back provision that provides relief from such tax if excess earnings are dedicated to the exploration and development of new natural gas supplies.

To prevent accelerated depletion of remaining supplies of natural gas which could result from deregulation, such action should be accompanied by legislative and executive commitments to determine national priorities of use of natural gas, specific programs designed to promote natural gas conservation, and a major effort to convert and phase out as rapidly as possible those existing natural gas facilities which do not represent the wisest and best use of natural gas under current circumstances.

A program should be developed which would commit new supplies of gas sold to interstate pipeline carriers in such a way that inequities among regions are reduced.

There is evidence of vertical and horizontal integration and interlocking relationships among natural gas producers and purchasing pipelines. There is also evidence of integrated and interlocking relationships among natural gas, petroleum, coal and uranium mining firms.

There is a strong concern that this may result in an anti-competitive aspect of the energy industry which could cause an artificial inflation of the price of natural gas and other energy supplies.

It is the position of the Governors that developments of the energy industry should be closely monitored to determine whether the letter and spirit of national antitrust laws are fully respected.

The Conference urges prompt action by the Administration and Congress to facilitate the earliest availability of natural gas from the Arctic slope to markets in the Midwest, East, Middle South and Pacific Coast States. This resource, essential to the health of these sections of the United States, must not be withheld because of delays in administrative agency approval or unnecessarily extended court proceedings.

The Conference supported neutral procedural legislation which would achieve the above goals by providing:

1. A limit to court challenges to orders allowing construction of the pipeline.
2. A March 1, 1977 deadline for a Federal Power Commission recommendation of a pipeline system.
3. An April 1, 1977 deadline for other affected federal agencies to file their reports.
4. July 1, 1977 deadline for the President to issue a final decision.
5. The concurrent approval by both Houses of Congress of the route selected by the President with congressional analysis and review of the environmental impact of the proposed route as a critical part of the process.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

DISABILITY PENSIONS

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7345.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, as follows:

Page 6 of the Senate engrossed amendment, after line 8, insert:

SEC. 202. Section 541 of title 38, United States Code, is amended by adding at the end thereof the following paragraph:

"(g) The monthly rate of pension payable to any surviving spouse under any of subsections (b), (c), and (d) of this section, including the increase, if any, payable under section 544 of this title, shall be increased by 25 per centum beginning on the first day of the month in which the surviving spouse attains age seventy-eight.".

Mr. CRANSTON. Mr. President, I rise to urge that the House amendment to H.R. 7345 not be agreed to, and that the measure be returned to the House.

As originally passed by the House on July 13, 1977, H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977, contained a 7-percent cost-of-living increase and a provision increasing the pension rates for surviving spouses age 78 or over by 25 percent. The Senate Committee unanimously voted to report the bill on July 21, 1977, with an amendment in the nature of a committee substitute providing for a 6.5-percent increase and without the 25 percent add-on for surviving spouses age 78 or over.

As reported by the committee and unanimously passed by the Senate on August 3, 1977, this bill will have—

First, provided an increase of approximately 6.5 percent in the rates of disability and death pension under current law, including the additional amount authorized for dependents;

Second, increased by approximately 6.5 percent the rates of dependency and indemnity compensation (DIC) payable to parents;

Third, increased by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law;

Fourth, increased by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or housebound status; and

Fifth, increased additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance.

On September 21, 1977, Mr. President, the House agreed to the Senate amendment with an amendment. In effect, the House has agreed to the 6.5-percent increase contained in the Senate-passed bill, and it has amended the bill to restore its 25-percent increase in pension rates for surviving spouses age 78 or over.

Mr. President, as chairman of the Veterans' Affairs Committee, I am deeply concerned with the difficulties experienced by elderly wartime veterans and their surviving spouses who must live on low fixed incomes. In many instances, these persons are forced to turn to income-assistance or in-kind programs such as supplementary security income or food stamps merely to survive. The veterans' and survivors' pension rates are scaled too low to enable many pensioners to live their lives in dignity. They are particularly vulnerable to hardship caused by inflation, which diminishes the purchasing power of their incomes. The 6.5 percent cost-of-living increase provided by H.R. 7345 will alleviate, to some extent, the harsh effects of continuing inflation for the vast majority of elderly pensioners.

The problem experienced by many pensioners, of suffering a reduction in pension in January attributable to the social security cost-of-living increase in July, will also be largely alleviated by this pension rate increase.

Nevertheless, a rate increase in and by itself does not restructure the present pension program, which contains numerous inequities, anomalies, and inconsistencies. In the 94th Congress I cosponsored, together with all the other members of the committee, S. 2635, a bill to reform the present pension program. Although that bill was unanimously passed by the Senate, the House did not act on it.

Subsequently, in Public Law 94-432, the VA was required to conduct a thorough study of the pension program and various alternatives to the program. I am sure that this study—which the VA has advised will be submitted by November 1—will provide extremely valuable information to the Congress about the present program. Moreover, I intend to introduce within 2 weeks, on behalf of the Veterans' Affairs Committee, a comprehensive bill which will provide for a thoroughgoing restructuring of the pension program including the following provisions intended to meet the particular needs of elderly veterans and surviving spouses receiving pension:

First. Substantially increased pension rates for needy veterans and surviving spouses age 65 or over based on the national minimum standard of need and sufficient to prevent their having to turn to income-assistance and in-kind programs.

Second. Substantially increased pension rates for needy surviving spouses age 65 or over who require aid and attendance.

Third. Annual automatic cost-of-living increases in the restructured pension program combined with a provision that the Veterans' Administration determine the increased pension amount in such a way as to prevent any reduction in pension attributable to a cost-of-living increase in social security benefits.

I am very hopeful that this bill will receive wide bipartisan support, and that it will be favorably received in the House. Hearings will be scheduled on this forthcoming measure early next year.

Mr. President, the Veterans' Administration opposed the House's 25 percent add-on because it is not need-based. The VA and the Senate committee prefer that any modifications in the basic pension program be deferred until such time as a comprehensive restructuring of the pension program—which would address the various inequities, anomalies, and inconsistencies of the program—can be considered. The bill which I will shortly introduce will provide for comprehensive restructuring in a way which will substantially improve the situation of elderly surviving spouses eligible for pension.

In view of this, I respectfully request that the Senate disagree with the House amendment to H.R. 7345, and that the measure be returned to the House.

Mr. President, I move that the Senate disagree to the amendment of the House to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pensions and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

DISABILITY COMPENSATION FOR VETERANS

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 1862.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the amendment of the Senate to the bill (H.R. 1862) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, as follows:

Page 6, strike out line 12 and all that follows over to and including line 12 on page 7.

Page 7, line 13, strike out "402." and insert: 401.

Page 7, strike out lines 19 and 20 and insert: pulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,".

Page 7, line 21, strike out "403". and insert: 402.

Page 8, strike out line 22 and all that follows over to and including line 4 on page 9.

Page 9, line 5, strike out "(c)" and insert: (b)

Page 9, line 13, strike out "(d)" and insert: (c)

Page 9, line 15, strike out "404." and insert: 403.

Mr. CRANSTON. Mr. President, I rise to urge the Senate to agree to the House amendments to H.R. 1862, a bill to provide a 6.6-percent cost-of-living increase in disability compensation for service-connected disabled veterans, in the rates of dependency and compensation rates for their survivors, and for other purposes and send it to the President.

Mr. President, on September 9, 1977, the Senate unanimously passed and sent to the House H.R. 1862, the Veterans Disability Compensation and Survivor Benefits Act of 1977. This bill was reported to the Senate by the Committee on Veterans' Affairs, which I am privileged to chair, with an amendment in the nature of a committee substitute, and with the full support of all of the members of the committee. The committee report, No. 95-412, provides a thorough explanation and discussion of each provision of the bill. As passed by the Senate, H.R. 1862 would have:

First, provided a 6.6-percent cost-of-living increase in basic compensation rates and those payable for more serious disabilities; in the additional allowances for spouses, children, and dependent parents paid to veterans rated 50-percent disabled or more; in dependency and indemnity compensation benefits payable to surviving spouses of veterans whose deaths were service-connected, including the additional allowances payable for dependent children and to those in need of aid and attendance; in benefits payable to the children of veterans whose deaths were service-connected, when there is no surviving spouse; in benefits payable to surviving children who have become permanently incapable of self-support prior to the age of 18; and in the annual clothing allowance paid to certain seriously disabled veterans whose disability tends to tear or wear out their clothing.

Second, extended to February 28, 1979, the date for submission to Congress of the study mandated by Public Law 94-433 on the relationship between amputation and cardiovascular disorders, and clarified other provisions of the study.

Third, in a provision derived from S. 1141, introduced by the Senator from Florida (Mr. STONE), extended eligibility for specially adapted housing grants to permanently and totally service-connected disabled veterans with certain severe disabilities.

Fourth, in response to a request from the Veterans' Administration, authorized the VA to cooperate with the Department of the Treasury's electronic fund transfer system so that benefit payments could be automatically deposited in a recipient's account if the recipient elects payment in this manner.

Fifth, incorporate the basic provisions of S. 543, cosponsored by the Senator from Rhode Island (Mr. PELL) and the Senator from Maine (Mr. HATHAWAY), so as to require, for any month in which the first of the month falls on a Saturday, Sunday, or legal public holiday, the Veterans' Administration to mail or otherwise transmit benefit payments so that they arrive, to the maximum extent practicable, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal public holiday, on the weekday—other than Saturday—immediately preceding the holiday, and required a VA report on actions under this provision.

Sixth, reaffirmed, by a clarifying amendment, the intent of the Congress not to permit garnishment or attachment of VA employees' salaries except as authorized in 42 U.S.C. 659—permitting garnishment for alimony and child support.

After negotiations between the Veterans' Affairs Committees of both bodies resulting in a compromise agreement, Mr. President, the House this morning unanimously concurred in the Senate amendment to H.R. 1862 without amending the first three titles of the bill, relating to the 6.6 percent cost-of-living increases. However, the House amended the fourth title of the bill in several particulars. First, section 401 has been deleted in its entirety. This section would have extended the date for the cardiovascular-amputation study mandated by Public Law 94-433 and now underway at the Veterans' Administration, and it would also have added some clarifying amendments to section 403 of Public Law 94-433.

Although I regret that the House did not find it necessary to include these clarifying amendments in its bill, I am satisfied that the study now underway will be a statistically valid analysis of the possible causal relationship between service-connected amputation and the development of subsequent cardiovascular disorders, as Public Law 94-433 requires. In addition, the Veterans' Administration has assured me that the study will analyze the cases of veterans with amputations below the knee as well as those with above-knee amputations; that the control group will consist of those veterans who have service-connected disabilities other than amputation; and that the VA will facilitate, to the maximum extent feasible, the conduct of the statistical analysis, so that the study will be completed and the VA report submitted to the Congress by February 28, 1979.

The House also amended the section dealing with eligibility for specially adapted housing grants for permanently and totally disabled veterans who have

suffered the service-connected loss of one upper and one lower extremity. Under the House amendent, which we have agreed to, clause (3) of section 801 of title 38, United States Code, would provide eligibility for such grants to veterans who have lost, or lost the use of, one lower extremity, together with residuals of organic disease or injury, or together with the loss or loss of use of one upper extremity, affecting the functions of balance and propulsion so as to preclude locomotion without the aid of braces, canes, crutches, or a wheelchair.

Mr. President, the Senate amendment used the phrase "without resort to" rather than "without the aid of", but I am satisfied that the phrase "without the aid of" in our agreed upon provision, which is precisely the same as that in clause (1) of section 801, has the same meaning as the phrase "without resort to" found in the Senate amendment.

We have also deleted the phrase "or render medically inadvisable," and added the words "braces" and "canes", the same words that appear in existing clause (1) of section 801 of title 38. This section, as it will now be amended, then, would slightly liberalize the law with respect to the eligibility of veterans who have lost, or lost the use of one lower extremity and who have residuals of organic injury or disease, and it would extend eligibility to those veterans whose loss or loss of use of one upper and one lower extremity severely impairs their ability to ambulate without the aid of mechanical devices such as braces, canes, crutches, or a wheelchair.

A third amendment in our agreed-upon measure deletes the requirement that the VA report to the Veterans' Affairs Committee of both congressional bodies on its efforts to implement the provision in H.R. 1862 requiring the VA to mail or electronically transmit benefit payments, in any month in which the first of the month falls on a Saturday, Sunday, or legal public holiday, so that they arrive on the preceding Friday, or the preceding weekday other than Saturday in the case of a legal public holiday.

The deletion of the requirement that the VA submit a report on its implementation of this provision will, of course, not have any effect on its duty to implement this provision to the maximum extent practicable. As chairman of the Senate Veterans' Affairs Committee, I will urge the VA to take steps to minimize the possibility of any overpayments resulting from this provision, and I will request a report to the committee promptly regarding plans for implementation.

Mr. President, I strongly favor the prompt enactment of this critical legislation, and I thus recommend that the Senate concur in the House amendments.

Mr. President, I move that the Senate agree to the amendments of the House to the amendment of the Senate to H.R. 1862, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. I thank all Senators for their cooperation.

ORDER EXTENDING TIME TO FILE REPORT ON S. 897

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the deadline for the Committee on Foreign Relations and the Committee on Governmental Affairs to report S. 897, the Nuclear Nonproliferation Act of 1977, be extended from September 23, 1977 to September 30, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

COUNCIL ON WAGE AND PRICE STABILITY AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 368.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2056) to amend the Council on Wage and Price Stability Act.

The Senate proceeded to consider the bill.

Mr. TOWER. Mr. President, S. 2056 amends the Council on Wage and Price Stability Act by extending the Council's authority from September 30, 1977 to September 30, 1979, and incorporating several new provisions into that act. Those new provisions are relatively minor. They include a statement that full employment is one objective of the anti-inflation program, directions to the Council in the course of its public hearings to emphasize the purpose of controlling inflation, and directions to the Council to review information about the effect of inflation in this country's participation in the world economy.

I have no major objection to this bill. I am skeptical over the Council's effectiveness in dealing with inflation, however, because I believe inflation is caused by overly stimulative fiscal and monetary policies more than anything else. The Council, of course, has no authority to impose mandatory controls in any form whatsoever and, in my opinion, should never be given such authority. The Council serves strictly as a monitoring agency and I would oppose any effort to expand its authority beyond that function.

I have been concerned, however, over recent press accounts that the administration may be developing wage/price standards or guidelines. For example, an article appearing in the Washington Post on September 1, 1977, noted that—

> An administration source was widely quoted Tuesday as saying the Carter administration would begin work within a month on drafts of voluntary wage and price increase standards that would vary from industry to industry.

I ask unanimous consent that the article as it appeared in the Washington Post be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSINESS, LABOR OPPOSE VOLUNTARY WAGE STANDARDS

NEW YORK, Aug. 31.—The Carter administration's reported interest in drafting voluntary wage-price standards is being met with opposition from major business groups and skepticism from labor.

A spokesman for the United Steelworkers said he was certain that labor would oppose wage and price guidelines. He said the reports sounded like "somebody's floating a trial balloon out of the White House."

"It's been shown in the past that they don't work. It's impossible to police prices," he said.

Economists for the U.S. Chamber of Commerce and National Association of Manufacturers said they feared that even discussion of some form of government wage-price system might further dampen business interest in capital investment because of the uncertainties it would raise.

Presidential spokesman Jody Powell said today that Carter was unaware of any study on wage-price standards and had given no instructions to develop one. But Powell left open the possibility that such a study might be progressing at some level of the administration below that of the President's attention.

An administration source was widely quoted Tuesday as saying the Carter administration would begin work within a month on drafts of voluntary wage and price increase standards that would vary from industry to industry.

The source described the step as preliminary and said voluntary wage-price standards were only one anti-inflation option under consideration. If approved by Carter, they could be ready within six months, the unidentified source said.

Major steel and auto companies, which have been key elements in previous administrations' wage-price efforts, declined to comment on the administration source report. Officials of the United Auto Workers were not available for comment.

Jack W. Carlson, chief economist for the U.S. Chamber of Commerce, and a former deputy member of the Cost of Living Council under the Nixon administration, said he believed any move in the direction of wage-price standards or guidelines could only harm the economy.

"The administration is making a mistake in talking about wage and price controls and in talking about six months from now because that will tend to discourage investment and make the economy less healthy," said Carlson.

Carlson, who predicts that the level of business fixed investment will average 6 or 7 per cent over the next 18 months, said there should be efforts to increase that to 10 or 12 per cent in order to lower unemployment and encourage a healthier economy.

George Hagedorn, chief economist for the National Association of Manufacturers, said that if the report is true—he also found it disturbing and detrimental to the economy to have the subject cropping up again even as a voluntary system.

"Either the program is a disguised form of compulsory controls or it is something that nobody pays any attention to," said Hagedorn.

"It (wage-price control) never has worked in peacetime and I don't think it ever will."

Mr. TOWER. The accounts in the press raised the specter of the wage/price guidelines, that were in vogue during the 1960's. The development of those guidelines during that period reflected an in-

creasing desire to involve the Federal Government in private wage and price decisions. As early as 1957, the economic report of the President stated that fiscal and monetary policies must be supported by private policies to assure a high level of economic activity and a stable dollar. By 1962, formal guideposts were outlined in the economic report of the President. By 1966, the report of the Council of Economic Advisers claimed that "in the years since 1962, the guideposts have gained increasing significance," and that the guideposts had become an "essential pillar for price stability."

The growing significance of guideposts in wage and price decisions over that period is outlined below:

EXCERPTS FROM THE ECONOMIC REPORTS OF THE PRESIDENT AND COUNCIL OF ECONOMIC ADVISERS 1957–66

1957. Statement that proper governmental fiscal and monetary policies must be supported by appropriate private policies to assure a high level of economic activity and a stable dollar.

1958. Statement that price increases should be warranted by increases in costs and that wage increases should not exceed productivity gains.

1959. Restatement of the public interest in settlements of contracts between business and management. Congress asked to make reasonable price stability an explicit goal of federal economic policy.

1960. Statement that the national average of wage increases should not exceed sustainable rates of growth in national productivity and that price reductions warranted by especially rapid productivity gains should be frequent.

1961. Statement focusing on the responsibility of government not to create inflationary pressures through fiscal or monetary policy. The control of unit labor costs is primarily a private responsibility.

1962. Formal statement of guideposts. Price level stability does not rule out flexible relative prices. Government policies must increase, not limit, private freedom. Guideposts "are not concerned primarily with the relation of employers and employees to each other, but rather with their joint relation to the rest of the economy." Productivity is a guide rather than a rule for appraising wage and price behavior.

1963. Restatement of the 1962 guideposts, with indication they are designed to provide standards for evaluating the normal processes of free private decisions and negotiations and are not to replace them.

1964. Restatement with some modifications. Productivity trend change defined as the five-year moving average of the annual percentage change in output per man-hour in the private economy. Government will strive to reinforce competition and notes that it is "the economy's single largest buyer of goods and services." A freezing of labor and nonlabor shares is not intended; and the guideposts call for price reductions in some instances.

1965. Restatement.

1966. Restatement recommending the continuation of 3.2 per cent as "trend productivity" rather than the five-year moving average.

SOURCE.—Guidelines, Informal Controls, and the Market Place: Policy Choices in a Full Employment Economy, 1966.

The point of all this is that the road to mandatory controls is paved with little steps of good intentions. Wage and price guidelines cannot be expected to deal with inflation. Inflation is caused by inappropriate fiscal and monetary policies. Failure to bring fiscal and monetary policies under control means that inflation cannot be brought under control, and failure to bring inflation under control through voluntary guidelines only encourages ever-widening and engulfing search for other, less voluntary means of controlling inflation. Ruinous mandatory controls are the end result.

In view of my concern over the possibility of wage and price guidelines, as reported in the press, I requested the administration to outline its intentions regarding the adoption of wage/price guidelines. I ask unanimous consent that a letter I sent to the President on September 13, 1977, be reprinted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 13, 1977.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: According to recent press accounts, the Administration may be considering the adoption of wage/price standards or guidelines as a means of controlling inflation.

I find these press accounts disturbing. I am greatly concerned over the presently high rate of inflation and the lack of progress in continuing to bring the rate of inflation down. However, I am also concerned over the effect which wage/price standards and guidelines, voluntary or otherwise, would have in shattering business confidence, reducing capital investment and creating uncertainties, inequities and distortions throughout the economy. The mere discussion of possible wage/price standards and guidelines in the press already appears to have created a great deal of concern on the part of wage earners and businessmen, particularly in view of legislation pending in the Senate to extend the life of the Council on Wage and Price Stability until September 30, 1979.

I am, therefore, writing to you for the purpose of determining the Administration's intentions regarding the adoption of wage/price standards or guidelines. An indication of the Administration's intentions would be particularly helpful to members of the Senate who will be expected to vote before the end of this month on the legislation to extend the Council's life. If the Administration could provide assurances that such standards or guidelines will not be adopted, I feel that this would go a long way towards reducing uncertainty and instilling confidence in the private sector.

Sincerely,

JOHN TOWER.

Mr. TOWER. On September 19, 1977, I received a reply from Mr. Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy. Mr. Eizenstat, writing on behalf of the President, stated that "a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy of inflation." I ask unanimous consent that the letter from Mr. Eizenstat be reprinted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 19, 1977.

The Honorable JOHN TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: The President has asked me to reply to your letter of September 13. The President regrets that recent newspaper accounts suggesting the Administration's attitude toward developing formal numerical guidelines or standards as an anti-inflation tool have caused you concern. He is particularly disturbed because the news accounts were misleading and inaccurate. You will recall that the White House press office immediately denied the stories.

The Administration formally opposes mandatory wage and price controls including standby controls. Moreover, it is our judgment that a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy for inflation. Instead, the President has stressed the importance of meeting with business and labor leaders and other groups in the private sector to seek voluntary ways to deal with the serious problem of inflation. Members of the Cabinet and presidential advisors have been doing so. That effort, of course, will continue.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

Mr. TOWER. I am encouraged by this letter from the administration. Not only does it describe guidelines as undesirable and ineffective, but it restates the administration's opposition to mandatory wage and price controls, including standby controls.

I agree that wage and price guidelines would not be a desirable or effective solution to the problem of inflation. The American public should be wary of wage and price guidelines, or any other seemingly-simple and deceptive solution to controlling inflation.

Inflation is a very serious problem that can be best solved by avoiding overly-stimulative fiscal and monetary policies. It cannot be solved by wage/price guidelines or controls, which only cause distortions, create gross inequities and discourage us from pursuing noninflationary fiscal and monetary policies. Moreover, informal and voluntary guidelines have a way of becoming something more than originally intended and they seduce us into thinking that mandatory controls will work where voluntary controls have failed. And mandatory controls are a bankrupt economic policy for any nation.

Mr. PROXMIRE. Mr. President, the bill before the Senate, S. 2056, would amend the Council on Wage and Price Stability Act of 1974 to extend the Council to September 30, 1979. Without this legislation the Council will expire on September 30 and the administration and the Congress would lose the services of a small agency, with an appropriation of only slightly more than $2 million, whose sole job is to monitor inflationary pressures and developments in the private sector and within the Government.

When the Council was created it was very clear that the Congress did not intend to create a powerful agency. It also had no intentions of making any move toward the establishment of mandatory wage and price controls in order to control inflation and with good reason: mandatory controls have not been successful in the past and cannot be successful in the future. The Congress intended the Council on Wage and Price Stability to perform its mission by means of intensive investigations into

the causes of inflation at the point where inflationary pressures develop and decisions to increase prices and wages and other cost factors are made—at the level of the individual firm and industry. Moreover, the Congress intended the Council to investigate the inflationary impact of Government regulations and current regulations that have been proposed.

The Council has a very limited staff to do the important job of monitoring and analyzing inflationary developments in the economy. Inflation is a very serious problem that we must come to grips with, and it has been quite evident that monetary policy almost alone cannot stop inflation to any significant degree without exacting an enormous toll on the economy in terms of lost jobs, income, and output, to say nothing of the loss of human dignity that goes along with unemployment.

The Council's work is that of a highly talented research group, and its output comes in the form of published reports and public filings on situations which it has closely reviewed. The job of the Council is to educate the participants in the economy as to the causes of rising prices and to engage the public interest in strengthening voluntary compliance with its findings in order to prevent cost pressures from being magnified as they are transmitted through the economy. Public opinion was considered, and still is, the key to reinforcing the Council's efforts in restraining inflationary actions by business or unions or Government agencies.

It is painfully evident that we are making only slow progress in beating down the underlying inflation rate to less than its present 6-percent annual rate. There have been encouraging signs that prices in certain areas have been going up at a more reasonable rate, but I think that we must all recognize that we still have a very serious problem and that we must take steps, even if they are small steps, to prevent return to the double digit rates of inflation that plagued us only 2 years ago.

We must also be realistic in what we expect from the Council on Wage and Price Stability. It cannot be expected to deliver any stunning victories in this long fight against inflation. It is, after all, primarily a watchdog agency. But it can work within the Government and with business and labor to develop new ideas and possible courses of action that will help to moderate price increases.

Nearly everyone recognizes that the current situation is bad, that new methods must be found to help, that traditional macro-economic policies that work by decreasing demand exact intolerable tolls. But nearly everyone involved in making decisions to increase prices and wages is somewhat adverse to change for fear that they will be losers in the process. This need not be the case at all. And it is in this respect that the Council can perform its most important job.

President Carter, in his reorganization of the White House and the executive office of the President, chose to retain the Council and to name the Chairman of the Council of Economic Advisors as the Chairman of the Council. This arrangement should foster a coordinated effort against inflation within the Administration.

Mr. President, by approving an extension of the Council on Wage and Price Stability, the Senate will indicate its deep concern with inflation. And its understanding that we must seek new ways to moderate price increases with reliance on macro-stabilization policies. I urge the Senate to support the fight against inflation by approving S. 2056.

Mr. STEVENSON. Mr. President, although I support passage of S. 2056, I do so reluctantly because I believe this bill does not address the principal deficiencies in the Council's structure—its inability to delay excessive wage and price decisions and its small staff. It lacks the resources to monitor effectively $1 trillion economy.

The Council on Wage and Price Stability was created to identify the causes of inflation, expose inflationary behavior to public scrutiny, and temper irresponsible wage and price increases. To fulfill its mandate, the Council is required to review and analyze economic concentration, anticompetitive practices, and the inflationary impact of governmental policies and programs. It is required to work with labor and management in sectors of the economy having special economic problems in order to improve the structure of collective bargaining, as well as to improve the performance of those sectors in restraining prices. The Council is required to improve wage and price data bases in order to improve collective bargaining and encourage price restraint. It is required to conduct public hearings in order to provide public scrutiny of inflationary problems. And it is required to monitor the economy as a whole by acquiring reports on wages, costs, productivity, prices, sales, profits, imports, and exports.

Obviously the Council does not have the tools to do its job. It cannot require prenotification of wages or price increases that would significantly increase inflation. It cannot, as the Chairman of the Federal Reserve Board has proposed, delay temporarily excessive wage or price increases. Its staff resources are grossly inadequate. It does not have the tools because government still lacks the courage of its professed concern about inflation.

I considered again introducing amendments to strengthen the Council, but learned they would receive no more support from this administration than its predecessors, such amendments being, as they are, opposed by powerful interests which might be exposed by a Council competent to do so.

S. 2056 contains a worthwhile improvement in the Council's mandate. The Council will be required to review and analyze international factors that play an increasingly important role in the health of our domestic economy. But once again, the Senate is asked to renew the Council's authority, to make a few technical and other amendments, and to continue its modest budget. We still lack the conviction that irresponsible inflationary behavior is a grave danger to our economy and one that must be subject to the strongest public scrutiny and pressure.

I submit that prenotification and delay authority would put teeth in the jawbone by giving the Council, the President, and the Congress time to fashion appropriate remedies before the public is made to suffer the consequences of irresponsible inflationary behavior. It would also afford the pressure of public opinion time to effect restraint. I believe such powers would be far preferable to the sporadic cries for wage and price controls which are ill suited to today's world, creating, as controls do, inequities and shortages.

We, as public policymakers, cannot approach today's economic problems in the lockstep of outmoded economic orthodoxy or in the dazzle of complex econometric models that tend more to confuse than clarify.

We must face up to our responsibilities and be willing to take actions that permit the democratic will to be exerted on market behavior—whether by business, labor, or government—that threatens our stability and economic growth. Sadly, approval of S. 2056 is but a shuffle step in that direction. I hope that the next time around, the administration and Congress will demonstrate their conviction and give the Council authority to wage a fight against inflation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-408), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

INTRODUCTION

The committee bill reported herein amends the Council on Wage and Price Stability Act to extend the expiration date of the Council on Wage and Price Stability from September 30, 1977, to September 30, 1979. The legislation would also authorize the appropriation of $2,210,000 for the Council's activities for the fiscal years 1978 and 1979.

The committee had referred to it S. 1542 which contained some of the same provisions as the committee bill herein. In addition, the committee considered several of the provisions contained in H.R. 6951 as reported (Rept. 95-316) by the House Committee on Banking, Finance and Urban Affairs. Those provisions would include full employment as one objective of the anti-inflation program, would direct the Council in the course of its public hearings to emphasize the purpose of controlling inflation, and would direct the Council to review information about and analyze the effects on the U.S. economy of U.S. participation in the world economy.

The committee conducted a single day of hearings on S. 1542 on July 19, 1977, and considered the legislation in markup session on August 4, 1977. The committee agreed without objection to approve a clean bill which contained a number of changes from S. 1542. The committee ordered a clean bill introduced and reported the bill by a unanimous vote of 15 to 0.

NATURE AND PURPOSE OF THE BILL

The Council on Wage and Price Stability Act provides for the establishment of the Council on Wage and Price Stability which was established on August 24, 1974, to monitor inflationary wage and price developments in the private sector of the economy, as well as the inflationary activities of the agencies and departments of the Federal Government.

As originally introduced on May 16, 1977, S. 1542 would have extended the life of the Council to September 30, 1978, and increased its expenditure authorization from $1,700,000 to $2,500,000 for fiscal years 1978 and 1979. The additional authorization would have allowed the Council to increase its staff by 10 professionals. However, President Carter indicated in his reorganization plan that the size of the Council's staff would be held to 39. The administration advised the committee subsequently that a reduced expenditure authorization of $2,210,000 per year would be sufficient to cover the Council's activities for fiscal year 1978 and fiscal year 1979. The committee agreed to the lower authorization request.

S. 1542 would have deleted reference to the Deputy Director of the Council. In his testimony on July 19, 1971, Dr. Barry Bosworth, on Wage and Price Stability at that time, indicated that he would like the title retained. In a letter to Chairman Proxmire who was the Director-designee of the Council dated August 3, 1977, Dr. Bosworth requested formally that the title be retained so that in the Director's absence, authority would be delegated to the Deputy Director for the Council's day-to-day operations. Since one of the Council's senior staff members will be designated as Deputy Director the size of the Council's staff will not be affected by retaining the title.

The other sections of S. 1542 would have made technical clarifying amendments to the Council on Wage and Price Stability Act. Those amendments would have made it clear that (1) the Council is authorized to collect data relating to "inventories, shipments, orders, and other similar aspects of business operations," (2) the Council could resort to the courts for enforcement of its authority to require periodic reports as well as its authority to subpena data, and (3) data submitted voluntarily to the Council is afforded the same degree of protection and confidentiality as data that the Council subpenas. S. 1542 would also strengthen the present language of the act by requiring the Council to maintain the confidentiality of trade secrets and other confidential business information submitted to it.

The administration indicated by letter to Chairman Proxmire that it wanted to study further the amendments that would have clarified the Council's authorization to collect data and to resort to the courts to enforce its request for periodic reports. The committee agreed to delete that section of S. 1542. The amendments on confidentiality of information submitted to the Council were approved by the committee.

The committee also considered three provisions contained in H.R. 6951 as reported by the House Committee on Banking, Finance and Urban Affairs. Those provisions would include full employment as one of the objectives of the anti-inflation program, would have the Council in the course of its public hearings emphasize the purpose of controlling inflation, and would have the Council review information about and analyze the affects of the U.S. economy of U.S. participation in international trade and commerce, changing patterns of supplies and prices of commodities in the world market, investment of U.S. capital in foreign countries, short- and long-term weather changes in the world, interest rates, capital formation, and changing patterns of world energy supplies and prices.

The committee agreed to the three provisions contained in H.R. 6951. The committee indicated, however, that it did not feel the Council should initiate any forecasting of short- or long-term weather conditions in the world, but rather that it merely analyze existing information about weather conditions as they may affect the supply of raw materials and food stuffs. Nor does the committee expect the Council to intervene in the conduct of overall fiscal and monetary policies in carrying out the proposed directive to consider full employment as part of its anti-inflation program.

ESTIMATED COST OF THE LEGISLATION

Enactment of the legislation will result in an increase in authorized expenditures from $1,700,000 to $2,210,000 in each of the fiscal years 1978 and 1979.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Council on Wage and Price Stability Amendments of 1977."

SEC. 2. Section 3(a) of the Council on Wage and Price Stability Act is amended—

(1) by inserting "for the purpose of controlling inflation" immediately before the semicolon at the end of clause (4);

(2) by inserting "and focus attention on the need to move toward full employment" immediately before the semicolon at the end of clause (5);

(3) by striking out "and" at the end of clause (7);

(4) by striking out the period at the end of clause (8) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new clause:

"(9) review information about and analyze the effects on the United States economy of—

"(A) the participation of the United States in international trade and commerce;

"(B) the changing patterns of supplies and prices of commodities in the world market;

"(C) the investment of United States capital in foreign countries;

"(D) short- and long-term weather changes in the world;

"(E) interest rates;

"(F) capital formation; and

"(G) the changing patterns of world energy supplies and prices.".

SEC. 3. Section 4(f) of the Council on Wage and Price Stability Act is amended—

(1) by inserting in paragraph (1) after "section 2(g)" the following: "or submitted voluntarily pursuant to a Council request and judged by the Council to be confidential information";

(2) by striking out all that follows "United States Code" in paragraph (1) and inserting in lieu thereof a period and the following sentence: "Neither the Director nor any member of the Council may permit anyone other than sworn officers, members, and employees of the Council to examine such data."; and

(3) by inserting after "section 2(g)" in paragraph (2) the following: "or submitted voluntarily pursuant to a Council request".

SEC. 4. Section 6 of the Council on Wage and Price Stability Act is amended by inserting after "October 1, 1977," the following: "not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal year ending September 30, 1979,".

SEC. 5. Section 7 of the Council on Wage and Price Stability Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1979".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders numbered 391, 392, 393, and 396.

INTRAVENOUS FAT EMULSION

The Senate proceeded to consider the bill (H.R. 1904) to suspend until July 1, 1980, the duty on intravenous fat emulsion which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, following "That" insert "(a)";

On page 2, line 1, strike "SEC. 2." and insert "(b)";

On page 2, line 1, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 5, insert the following:

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.60 the following new items:

" 907.10	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure (provided for in item 403.60, part 1B, schedule 4) to be used in the manufacture of photographic color couplers..	Free	No change.	On or before 6 30 80.
" 907.12	Photographic color couplers (provided for in item 405.20, part 1C, schedule 4)..	Free	No change.	On or before 6 30 80. "

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 912.05 the following new item:

" 912.06	Field glasses, opera glasses, prism binoculars, and other telescopes not designed for use with infrared light (provided for in item 708.51, 708.52, or 708.53, part 2A, schedule 7).....	Free	No change	On or before 12 31 78 "

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 4. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out ", or 300 cigarettes," in item 812.20; and

(2) by amending item 812.25 to read as follows: "Not exceeding $100 in value of articles (including not more than 100 cigars but not including alcoholic beverages except for 1 wine gallon of such beverages accompanying residents of American Samoa, Guam, or the Virgin Islands arriving directly or indirectly therefrom) accompanying such person to be disposed of by him as bona fide gifts (except that cigarettes may be entered under this item 812.25 for such person's

own consumption or as bona fide gifts), if such person has not claimed an exemption under this item 812.25 within the 6 months immediately preceding his arrival and he intends to remain in the United States for not less than 72 hours.".

(b) The amendments made by subsection (a) shall apply with respect to articles entered on or after the thirtieth day after the date of enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to suspend until July 1, 1980, the duty on intravenous fat emulsion, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-432), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

H.R. 1904, as amended, would accomplish four objectives:

Temporarily permit (through June 30, 1980) duty-free treatment of imports of intravenous fat emulsion, a product used as a source of calories and essential fatty acids for patients requiring intravenous nutrition for an extended period;

Temporarily permit (through June 30, 1980) duty-free treatment for imports of color couplers and coupler intermediates which are chemicals used in the manufacture of color photographic paper, film, and graphic arts materials;

Temporarily permit (through December 31, 1978) duty-free treatment of imports of certain field glasses, opera glasses, binoculars, and other telescopes; and

Eliminate differences in the tariff treatment of cigarettes and liquor brought into the United States by nonresidents and residents of the United States for personal use or as gifts.

II. REASONS FOR THE BILL

The provisions of the bill regarding intravenous fat emulsions are intended to reduce the cost of those imports. There is no domestic production of the product.

The provisions regarding color coupler and coupler intermediates would eliminate an unnecessary cost of such products at a time when there is insufficient domestic production. Additional domestic production is scheduled to be in place by mid-1980, by which time the duty-free treatment provided in this bill will have ended.

The provisions of the bill regarding field glasses, opera glasses, binoculars, and other telescopes are intended to remove the present duty on the imports to permit savings to consumers. There is very little domestic production of the products.

The provisions of the bill regarding liquor and cigarette imports are intended to eliminate differences in the customs treatment accorded nonresidents and residents of the United States on imports of those products under the personal exemption provisions of the Tariff Schedules of the United States. Nonresidents now may bring in significantly larger amounts of cigarettes and liquor duty free for their own use or as gifts than may U.S. residents.

III GENERAL EXPLANATION

A. Intravenous fat emulsion

The first section of the bill would add a new item 907.75 to the Appendix of the Tariff Schedules of the United States (TSUS) providing duty-free treatment for column 1 (MFN) and column 2 (non-MFN) imports of intravenous fat emulsion entered, or withdrawn from warehouse, for consumption before July 1, 1980. Imports of intravenous fat emulsion are now classified under TSUS item 440.00 with a column 1 rate of duty of 5 percent ad valorem and a column 2 rate of duty of 25 percent ad valorem. If produced in a beneficiary developing country, column 1 imports of intravenous fat emulsion are eligible for duty-free treatment under the Generalized System of Preferences.

Intravenous fat emulsion is used as a source of calories and essential fatty acids for patients requiring intravenous nutrition for an extended period. It is especially valuable in treating infants and patients under cancer therapy or extensive burn treatment. Only one intravenous fat emulsion, imported from Sweden, is marketed in the United States. The product is imported and marketed in the United States by one company. There has been no production of intravenous fat emulsion in the United States in the last 5 years. Annual imports are valued at $2.5 million.

The Subcommittee on International Trade of the Committee on Finance held a public hearing on H.R. 1904 on July 14, 1977. No objections were heard. The Department of Commerce submitted a report favoring enactment of this provision and the International Trade Commission submitted an information report.

B. Color couplers and coupler intermediates

Section 2 of the bill, which is a committee amendment containing the substance of H.R. 5052, 95th Congress, would add new items 907.10 and 907.12 to the Appendix to the TSUS, providing duty-free treatment for imports of color couplers and coupler intermediates entered under column 1 before July 1, 1980. Color intermediates are now classified under item 403.60 of the TSUS at a column 1 duty rate of 1.7 cents per pound plus 12.5 percent ad valorem. Color couplers are classified under item 405.20 of the TSUS at a column 1 duty rate of 3 cents per pound plus 19 percent ad valorem. Column 1 imports of color couplers from designated beneficiary developing countries are eligible for duty-free treatment under the Generalized System of Preferences. The ad valorem duty rate for imports of color intermediates and couplers must be assessed on the American selling price of a similar competitive article if such an article is produced in the United States.

Color coupler intermediates are chemicals used to make color couplers, which are chemicals used to make color photographic paper, film, and graphic arts materials. Color couplers and intermediates are produced in the United States by two firms which do not offer the chemicals for sale. One firm imports the couplers and intermediates from an Italian subsidiary and accounts for the bulk of the imports. This bill would enable the firm to import the articles duty free from its subsidiary for a temporary period in order to supply their requirements photographic paper production. The firm anticipates building a plant near its photographic paper plant to produce these chemicals domestically. This plant is scheduled to be in place by mid-1980.

The Subcommittee on International Trade held a public hearing on H.R. 5052 on July 14, 1977. No objections to the bill were received from any source. The Department of Commerce submitted a report stating no objections to the bill. The U.S. International Trade Commission submitted an information report.

C. Field glasses, opera glasses, binoculars, and other telescopes

Section 2 of the bill is a committee amendment containing the substance of S. 1519, 95th Congress. It would add new item 912.06 to the Appendix to the TSUS providing duty-free treatment for imports of field glasses, opera glasses, prism binoculars, and other telescopes, all not designed for use with infrared light, entered, or withdrawn from warehouse, for consumption under column 1 before January 1, 1979.

These products are now dutiable under TSUS items 708.51, 708.52, and 708.53 at column 1 rates ranging from 8.5 percent to 20 percent ad valorem. Column 1 imports under all three items are eligible for duty-free treatment if imported from a designated beneficiary developing country under the Generalized System of Preferences.

There is no U.S. production of most of the imported articles. U.S. producers use imported prisms for high quality, expensive spotting scopes and telescopic sights for rifles for a limited market. The bulk of imports are from Japan. During 1976, the value of imports was $36 million.

The Subcommittee on International Trade held a public hearing on S. 1519 on July 14, 1977. Favorable testimony was heard. The Departments of State, of the Treasury, and of Commerce submitted reports opposing enactment of S. 1519 because the President may be able to secure in the Multilateral Trade Negotiations concessions from Japan in return for reduced duties on these articles. The committee believes the short period of this duty suspension will not reduce the value of the duties affected in the Multilateral Trade Negotiations. The U.S. International Trade Commission submitted an information report.

D. Cigarettes and liquor

Current law permits nonresidents to bring in more liquor and cigarettes duty free for personal use or as gifts than may residents. Adult nonresidents now may enter duty free, under TSUS item 81220, for personal consumption, not over 1 quart of alcoholic beverages and not over either 50 cigars, 300 cigarettes, or 3 pounds of smoking tobacco. Nonresidents now may also bring in duty free under TSUS item 812.25 not over 1 wine gallon of alcoholic beverages and not over 100 cigars if they are to be disposed of as bona fide gifts and various other restrictions are satisfied. Residents now may enter duty free under TSUS item 813.30 upon arrival in the United States from abroad not more than 1 quart of alcoholic beverages (1 wine gallon if an individual arrives from American Samoa, Guam, or the Virgin Islands of the United States) and not more than 100 cigars if acquired abroad as an incident of the journey from which they are returning and if for personal or household use. There is no quantitative limit on the number of cigarettes a resident may enter duty free subject to the $100 limitation for all duty-free items provided in item 813.30.

Sections 4(a) (1) and (2) of the bill would amend TSUS items 812.20 and 812.25. Item 812.20, as amended would no longer permit non-residents to enter up to 300 cigarettes duty free for their personal consumption. However, under item 812.25, as amended, nonresidents, within the $100 limitation applicable, could enter duty-free cigarettes for their own consumption or as bona fide gifts. Item 812.25, as amended, would also provide that nonresidents may no longer bring into the United States duty free any alcoholic beverages for gifts, except that residents of American Samoa, Guam, and the Virgin Islands could still enter duty free up to 1 wine gallon of such beverage as gifts. The remainder of present law discussed above regarding nonresidents is unchanged.

Because of the differences in the treatment

accorded residents and nonresidents of the United States described above a returning resident may enter 1 quart of liquor duty-free while a visitor to the U.S. may enter 6 fifths of liquor duty free. The possibility exists for the development of a "black market" in duty free liquor brought in by non-residents to the detriment of tax revenues to U.S. States. This factor, along with the more favorable tariff treatment accorded nonresidents over U.S. residents as regards the personal exemption on liquor and cigarettes, convinced the committee that more equal treatment was required.

IV. COST OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates the customs revenue effect of carrying out the bill as it relates to intravenous fat emulsion at a $126,000 loss per annum; as it relates to color couplers and coupler intermediates a $550,000 loss per annum; as it relates to field glasses, opera glasses, prism binoculars, and other telescopes, a $3 million loss per annum; and as it relates to cigarettes and liquor, an indeterminant revenue gain each year.

V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the committee states that the bill, as amended, will not regulate any individuals or businesses.

RUBBER LATEX MATTRESS BLANKS

The Senate proceeded to consider the bill (H.R. 2849) to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, after "That" insert "(a)";

On page 1, line 7, strike "SEC. 2. (a)" and insert "(b)";

On page 1, line 7, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 1, strike "(b)" and insert "(c)";

On page 2, line 8, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 15, insert the following:

SEC. 2. (a) Subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 734.97 and inserting in lieu thereof the following:

" 734.98	Bobsleds and luges of a kind used in international competition	Free	Free
734.99	Other	9% ad val.	45% ad val. "

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 3. (a) Section 4946(a)(2) of the Internal Revenue Code of 1954 (relating to substantial contributors) is amended to read as follows:

"(2) SUBSTANTIAL CONTRIBUTOR.—For purposes of paragraph (1), the term 'substantial contributor' means a person who is described in section 507(d)(2), except that, for purposes of section 4941 (relating to taxes on self-dealing), contributions made before October 9, 1969, which were made on account of or in lieu of payments required under a lease in effect prior to such date and which were coincident with or by reason of the reduction in the required payments under such lease shall not be taken into account for purposes of applying section 507(d)(2).".

(b) For the purposes of applying section 507(d)(2)(B)(iv) of the Internal Revenue Code of 1954, the amendment made by subsection (a) shall be treated as having taken effect on January 1, 1970.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to suspend until July 1, 1978, the rate of duty on mattress blanks of latex rubber, and for other purposes.

YARNS OF SILK

The Senate proceeded to consider the bill (H.R. 3373) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, after "That" insert "(a)";

On page 1, line 7, strike "SEC. 2. (a)" and insert "(B)";

On page 1, line 7, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 1, strike "(b)" and insert "(c)";

On page 2, line 8, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 15, insert the following:

SEC. 2. (a) Headnote 1(b) of the headnotes to schedule 1, part 15, subpart C of the Tariff Schedule of the United States is amended to read as follows:

"(b) the term 'mixed feeds' and 'mixed-feed ingredients' in item 184.70 embrace products which are admixtures of grains (or products, including byproducts, obtained in milling grains) or of soybeans (or products, including byproducts, obtained in processing soybeans) with molasses, oil cake, oil-cake meal, or other feedstuffs, except that there shall not be included in the terms 'mixed feeds' and 'mixed-feed ingredients' in item 184.70 products which are admixtures of soy beans or soybean products with other soybean products, or of soybeans or soybean products with milk products, or with products containing milk or milk derivatives; and which consist of not less than 6 percent by weight of said grains or grain products or of said soybeans or soybean products.".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 3. (a) Section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax on communications services) is amended to read as follows:

"SEC. 4254. Computation of tax.

"(a) GENERAL RULE.—The amount on which a tax imposed by section 4251 is based shall not include, if separately stated, any tax on the amount paid for such service imposed by a State or political subdivision of a State or by the District of Columbia.

"(b) BILLS RENDERED FOR LOCAL TELEPHONE SERVICE OR TOLL TELEPHONE SERVICE.—If a bill is rendered the taxpayer for local telephone service or toll telephone service—

"(1) the amount on which the tax with respect to such services shall be based shall be the sum of all changes for such services included in the bill; except that

"(2) if the person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then (A) the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group and (B) the tax on the remaining items not included in any such group shall be based on the charge for each item separately.

"(c) WHERE PAYMENT IS MADE FOR TOLL TELEPHONE SERVICE IN COIN-OPERATED TELEPHONES.—If the tax imposed by section 4251 with respect to toll telephone service is paid by inserting coins in coin-operated telephones, tax shall be computed to the nearest multiple of 5 cents, except that, where the tax is midway between multiples of 5 cents, the next higher multiple shall apply.".

(b) Section 4254(a) of the Internal Revenue Code of 1954, as amended by subsection (a), shall apply with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than twenty days after the date of enactment of this Act, but such section, as so amended, shall not apply with respect to amounts paid for services rendered more than two months before such first day and for which a bill has not been rendered before such first day.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to extend for an additional temporary suspension of duties on certain classifications of yarns of silk, and for other purposes.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The resolution (S. Res. 243) authorizing supplemental expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 164, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out the amount "$610,000" and inserting in lieu thereof "$670,000".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver to Calendar Order No. 394 at the desk.

I ask unanimous consent that the Senate proceed to the consideration of that resolution of budget waiver.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1682, legislation to provide for the implementation of treaties for the transfer of offenders to or from foreign countries. Such waiver is necessary to allow for the authorization of $900,000 of fiscal year 1978 funds for use in the implementation of these treaties. Compliance with section 402(a) of the Congressional Budget Act of 1974, was not possible by May 15, 1977, because the treaties with Canada and Mexico which this legislation implements were not ratified until July 19 and July 21, 1977.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF OFFENDERS FOR ADMINISTRATION OF FOREIGN PENAL SENTENCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 394, S. 1682.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1682) to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That title 18, United States Code, is amended by inserting after chapter 305 the following new chapter:

"Chapter 306.—TRANSFER TO OR FROM FOREIGN COUNTRIES

"Sec.
"4100. Scope and limitation of chapter.
"4101. Definitions.
"4102. Authority of the Attorney General.
"4103. Applicability of United States laws.
"4104. Transfer of offenders on probation.
"4105. Transferred offender serving sentence of imprisonment.
"4106. Tranfers of offenders on parole; parole of offenders transferred.
"4107. Verification of consent of offender to transfer from the United States.
"4108. Verification of consent of offender to transfer to the United States.
"4109. Right to counsel, appointment of counsel.
"4110. Transfer of juveniles.
"4111. Prosecution barred by foreign conviction.
"4112. Loss of rights, disqualification.
"4113. Status of alien offender transferred to a foreign country.
"4114. Return of transferred offenders.
"4115. Execution of sentences imposing an obligation to make restitution or reparations.

"§ 4100. Scope and limitation of chapter

"(a) The provisions of this chapter relating to the transfer of offenders shall be applicable only when a treaty providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such a treaty. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the United States pursuant to a treaty shall be subject to being fully executed in the United States even though the treaty under which the offender was transferred is no longer in force.

"(b) An offender may be transferred from the United States pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the United States may be transferred to the United States. An offender may be transferred to or from the United States only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in this chapter. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under eighteen years of age the transfer shall not be accomplished unless consent to the transfer be given by a parent or guardian or by an appropriate court of the sentencing country.

"(c) An offender shall not be transferred to or from the United States if a proceeding by way of appeal or of collateral attack upon the conviction or sentence be pending.

"(d) The United States upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country.

"§ 4101. Definitions

"As used in this chapter the term—

"(a) 'double criminality' means that at the time of transfer of an offender the offense for which he has been sentenced is still an offense in the transferring country and is also an offense in the receiving country. With regard to a country which has a federal form of government, an act shall be deemed to be an offense in that country if it is an offense under the federal laws or the laws of any state or province thereof;

"(b) 'imprisonment' means a penalty imposed by a court under which the individual is confined to an institution;

"(c) 'juvenile' means—

"(1) a person who is under eighteen years of age; or

"(2) for the purpose of proceedings and disposition under chapter 403 of this title because of an act of juvenile delinquency, a person who is under twenty-one years of age;

"(d) 'juvenile delinquency' means—

"(1) a violation of the laws of the United States or a State thereof or of a foreign country committed by a juvenile which would have been a crime if committed by an adult; or

"(2) noncriminal acts committed by a juvenile for which supervision or treatment by juvenile authorities of the United States, a State thereof, or of the foreign country concerned is authorized;

"(e) 'offender' means a person who has been convicted of an offense or who has been adjudged to have committed an act of juvenile delinquency;

"(f) 'parole' means any form of release of an offender from imprisonment to the community by a releasing authority prior to the expiration of his sentence, subject to conditions imposed by the releasing authority and to its supervision;

"(g) 'probation' means any form of a sentence to a penalty of imprisonment the execution of which is suspended and the offender is permitted to remain at liberty under supervision and subject to conditions for the breach of which the suspended penalty of imprisonment may be ordered executed;

"(h) 'sentence' means not only the penalty imposed but also the judgment of conviction in a criminal case or a judgment of acquittal in the same proceeding, or the adjudication of delinquency in a juvenile delinquency proceeding or dismissal of allegations of delinquency in the same proceedings;

"(i) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(j) 'transfer' means a transfer of an individual for the purpose of the execution in one country of a sentence imposed by the courts of another country; and

"(k) 'treaty' means a treaty under which an offender sentenced in the courts of one country may be transferred to the country of which he is a citizen or national for the purpose of serving the sentence.

"§ 4102. Authority of the Attorney General

"The Attorney General is authorized—

"(1) to act on behalf of the United States as the authority referred to in a treaty;

"(2) to receive custody of offenders under a sentence of imprisonment, on parole, or on probation who are citizens or nationals of the United States transferred from foreign countries and as appropriate confine them in penal or correctional institutions, or assign them to the parole or probation authorities for supervision;

"(3) to transfer offenders under a sentence of imprisonment, on parole, or on probation to the foreign countries of which they are citizens or nationals;

"(4) to make regulations for the proper implementation of such treaties in accordance with this chapter and to make regulations to implement this chapter;

"(5) to render to foreign countries and to receive from them the certifications and reports required to be made under such treaties;

"(6) to make arrangements by agreement with the States for the transfer of offenders in their custody who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals and for the confinement, where appropriate, in State institutions of offenders transferred to the United States;

"(7) to make agreements and establish regulations for the transportation through the territory of the United States of offenders convicted in a foreign country who are being transported to a third country for the execution of their sentences, the expenses of which shall be paid by the country requesting the transportation;

"(8) to make agreements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of juveniles who are transferred pursuant to treaty, the expenses of which shall be paid by the country of which the juvenile is a citizen or national;

"(9) in concert with the Secretary of Health, Education, and Welfare, to make arrangements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of individuals who are accused of an offense but who have been determined to be mentally ill; the expenses of which shall be paid by the country of which such person is a citizen or national;

"(10) to designate agents to receive, on behalf of the United States, the delivery by a foreign government of any citizen or national of the United States being transferred to the United States for the purpose of serving a sentence imposed by the courts of the foreign country, and to convey him to the place designated by the Attorney General. Such agent shall have all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with the offender, so far as such power is requisite for the offender's transfer and safekeeping; within the territory of a foreign country such agent shall have such powers as the authorities of the foreign country may accord him;

"(11) to delegate the authority conferred by this chapter to officers of the Department of Justice.

"§ 4103. Applicability of United States laws

"All laws of the United States, as appropriate, pertaining to prisoners, probationers, parolees, and juvenile offenders shall be applicable to offenders transferred to the United States, unless a treaty or this chapter provides otherwise.

"§ 4104. Transfer of offenders on probation

"(a) Prior to consenting to the transfer to the United States of an offender who is on probation, the Attorney General shall determine that the appropriate United States district court is willing to undertake the supervision of the offender.

"(b) Upon the receipt of an offender on probation from the authorities of a foreign country, the Attorney General shall cause the offender to be brought before the United States district court which is to exercise supervision over the offender.

"(c) The court shall place the offender under supervision of the probation officer of the court. The offender shall be supervised by a probation officer, under such conditions as are deemed appropriate by the court as though probation had been imposed by the United States district court.

"(d) The probation may be revoked in accordance with section 3653 of this title and rule 32(f) of the Federal Rules of Criminal Procedure. A violation of the conditions of probation shall constitute grounds for revocation. If probation is revoked the suspended sentence imposed by the sentencing court shall be executed.

"(e) The provisions of sections 4105 and 4106 of this title shall be applicable following a revocation of probation.

"(f) Prior to consenting to the transfer from the United States of an offender who is on probation, the Attorney General shall obtain the assent of the court exercising jurisdiction over the probationer.

"§ 4105. Transfer of offenders serving sentence of imprisonment

"(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

"(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

"(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits for good time, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 4161 of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 4164 of this title.

"(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 4161 of this title.

"(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

"(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.

"(5) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

"§ 4106. Transfer of offenders on parole; parole of offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205 (d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.

"(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

"§ 4107. Verification of consent of offender to transfer from the United States

"(a) Prior to the transfer of an offender from the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a United States magistrate or a judge as defined in section 451 of title 28, United States Code.

"(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

"(1) only the appropriate courts in the United States may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

"(2) the sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

"(3) if a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of that country, he may be returned to the United States for the purpose of completing the sentence if the United States requests his return; and

"(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

"(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

"(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

"(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

"§ 4108. Verification of consent of offender to transfer to the United States

"(a) Prior to the transfer of an offender to the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified in the country in which the sentence was imposed by a United States magistrate, or by a citizen specifically designated by a judge of the United States as defined in section 451 of title 28, United States Code. The designation of a citizen who is an employee or officer of a department or agency of the United States shall be with the approval of the head of that department or agency.

"(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

"(1) only the country in which he was convicted and sentenced can modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in that country;

"(2) the sentence shall be carried out according to the laws of the United States and that those laws are subject to change;

"(3) if a United States court should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of the United States, he may be returned to the country which imposed the sentence for the purpose of completing the sentence if that country requests his return; and

"(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

"(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

"(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

"(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

"§ 4109. Right to counsel, appointment of counsel

"In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel—

"(1) counsel for proceedings conducted under section 4107 shall be appointed in accordance with the Criminal Justice Act (18 U.S.C. 3006A). Such appointment shall be considered an appointment in a misdemeanor

case for purposes of compensation under the Act;

"(2) counsel for proceedings conducted under section 4108 shall be appointed by the verifying officer pursuant to such regulations as may be prescribed by the Director of the Administrative Office of the United States Courts. The Secretary of State shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under the Criminal Justice Act (18 U.S.C. 3006(a)) for representation in a misdemeanor case. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the chief judge of the United States court of appeals for the appropriate circuit. Counsel from other agencies in any branch of the Government may be appointed: *Provided*, That in such cases the Secretary of State shall pay counsel directly, or reimburse the employing agency for travel and transportation expenses. Notwithstanding section 3648 of the revised statutes as amended (31 U.S.C. 529), the Secretary may make advance payments of travel and transportation expenses to counsel appointed under this subsection.

"§ 4110. Transfer of juveniles

"An offender transferred to the United States because of an act which would have been an act of juvenile delinquency had it been committed in the United States or any State thereof shall be subject to the provisions of chapter 403 of this title except as otherwise provided in the relevant treaty or in an agreement pursuant to such treaty between the Attorney General and the authority of the foreign country.

"§ 4111. Prosecution barred by foreign conviction

"An offender transferred to the United States shall not be detained, prosecuted, tried, or sentenced by the United States, or any State thereof for any offense the prosecution of which would have been barred if the sentence upon which the transfer was based had been by a court of the jurisdiction seeking to prosecute the transferred offender, or if prosecution would have been barred by the laws of the jurisdiction seeking to prosecute the transferred offender if the sentence on which the transfer was based had been issued by a court of the United States or by a court of another State.

"§ 4112. Loss of rights, disqualification

"An offender transferred to the United States to serve a sentence imposed by a foreign court shall not incur any loss of civil, political, or civic rights nor incur any disqualification other than those which under the laws of the United States or of the State in which the issue arises would result from the fact of the conviction in the foreign country.

"§ 4113. Status of alien offender transferred to a foreign country

"(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 1252 (b) (or section 1254(e) of title 8, United States Code, and who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

"(b) An alien who is the subject of an order of deportation from the United States pursuant to section 1252 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

"(c) An alien who is the subject of an order of exclusion and deportation from the United States pursuant to section 1226 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the United States.

"§ 4114. Return of transferred offenders

"(a) Upon a final decision by the courts of the United States that the transfer of the offender to the United States was not in accordance with the treaty or the laws of the United States and ordering the offender released from serving the sentence in the United States the offender may be returned to the country from which he was transferred to complete the sentence if the country in which the sentence was imposed requests his return. The Attorney General shall notify the appropriate authority of the country which imposed the sentence, within ten days, of a final decision of a court of the United States ordering the offender released. The notification shall specify the time within which the sentencing country must request the return of the offender which shall be no longer than thirty days.

"(b) Upon receiving a request from the sentencing country that the offender ordered released be returned for the completion of his sentence, the Attorney General may file a complaint for the return of the offender with any justice or judge of the United States or any authorized magistrate within whose jurisdiction the offender is found. The complaint shall be upon oath and supported by affidavits establishing that the offender was convicted and sentenced by the courts of the country to which his return is requested; the offender was transferred to the United States for the execution of his sentence; the offender was ordered released by a court of the United States before he had completed his sentence because the transfer of the offender was not in accordance with the treaty or the laws of the United States; and that the sentencing country has requested that he be returned for the completion of the sentence. There shall be attached to the complaint a copy of the sentence of the sentencing court and of the decision of the court which ordered the offender released.

"A summons or a warrant shall be issued by the justice, judge or magistrate ordering the offender to appear or to be brought before the issuing authority. If the justice, judge, or magistrate finds that the person before him is the offender described in the complaint and that the facts alleged in the complaint are true, he shall issue a warrant for commitment of the offender to the custody of the Attorney General until surrender shall be made. The findings and a copy of all the testimony taken before him and of all documents introduced before him shall be transmitted to the Secretary of State, that a Return Warrant may issue upon the the requisition of the proper authorities of the sentencing country, for the surrender of offender.

"(c) A complaint referred to in subsection (b) must be filed within sixty days from the date on which the decision ordering the release of the offender becomes final.

"(d) An offender returned under this section shall be subject to the jurisdiction of the country to which he is returned for all purposes.

"(e) The return of an offender shall be conditioned upon the offender being given credit toward service of the sentence for the time spent in the custody of or under the supervision of the United States.

"(f) Sections 3186, 3188 through 3191, and 3195 of this title shall be applicable to the return of an offender under this section. However, an offender returned under this section shall not be deemed to have been extradicted for any purpose.

"(g) An offender whose return is sought pursuant to this section may be admitted to bail or be released on his own recognizance at any stage of the proceedings.

"§ 4115. Execution of sentences imposing an obligation to make restitution or reparations

"If in a sentence issued in a penal proceeding of a transferring country an offender transferred to the United States has been ordered to pay a sum of money to the victim of the offense for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be transmitted through diplomatic channels to the treaty authority of the transferring country for distribution to the victim.".

SEC. 2. That section 636 of title 28, United States Code, is amended by adding a subsection (f) as follows:

"(f) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code. A magistrate may be assigned by a judge of any United States district court to perform the vertification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.".

SEC. 3. That chapter 153 of title 28, United States Code, is amended by adding the following section:

"§ 2256. Jurisdiction of proceedings relating to transferred offenders

"When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders—

"(1) the country in which the offender was convicted shall have exclusive jurisdiction and competence over proceedings seeking to challenge, modify, or set aside convictions or sentences handed down by a court of such country;

"(2) all proceedings instituted by or on behalf of an offender transferred from the United States to a foreign country seeking to challenge, modify, or set aside the conviction or sentence upon which the transfer was based shall be brought in the court which would have jurisdiction and competence if the offender had not been transferred;

"(3) all proceedings instituted by or on behalf of an offender transferred to the United States pertaining to the manner of execution in the United States of the sentence imposed by a foreign court shall be brought in the United States district court for the district in which the offender is confined or in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings;

"(4) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer from the United States shall be brought in the United States district court of the district in which the proceedings to determine the validity of the offender's consent were held and shall name the Attorney General as respondent; and

"(5) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer to the United States shall be brought in the United States district court of the district in which the offender is confined or of the district in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings.".

SEC. 4. That chapter 48, title 10, United States Code, is amended by adding the following sections:

"§ 955. Prisoners transferred to or from foreign countries

"(a) When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders, the Secretary concerned may, with the concurrence of the Attorney General, transfer to said foreign country any offender against chapter 47 of this title. Said transfer shall be effected subject to the terms of said treaty and chapter 306 of title 18, United States Code.

"(b) Whenever the United States is party to an agreement on the status of forces under which the United States may request that it take custody of a prisoner belonging to its armed forces who is confined by order of a foreign court, the Secretary concerned may provide for the carrying out of the terms of such confinement in a military correctional facility of his department or in any penal or correctional institution under the control of the United States or which the United States may be allowed to use. Except as otherwise specified in such agreement, such person shall be treated as if he were an offender against chapter 47 of this title.".

SEC. 5. (a) There is authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

(b) The Attorney General shall certify to the Secretary of State the expenses of the United States related to the return of an offender to the foreign country of which the offender is a citizen or national for which the United States is entitled to seek reimbursement from that country under a treaty providing for transfer and reimbursement.

(c) The Attoney General shall certify to the Administrative Office of the United States Courts those expenses which it is obligated to pay on behalf of an indigent offender under section 3006A of title 18, United States Code, and similar statutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–435), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 1682 is to provide the statutory framework to implement treaties with Canada and Mexico providing for the transfer of convicted offenders for the purpose of administering penal sentences.

PURPOSE OF AMENDMENTS

The purpose of the amendment to S. 1682 which is proposed in the nature of a substitute is to strengthen the proceedings at which the informed consent of prisoners desiring to participate in transfer under this legislation will be determined, to improve the procedures for appointment of counsel to advise the prisoners, and to make technical and clarifying amendments to the bill.

GENERAL STATEMENT

The Committee on the Judiciary recommends enactment of S. 1682, as amended, to implement treaties between the United States and Canada, and the United States and Mexico. This bill establishes a procedural framework for the transfer of prisoners convicted of crimes in a foreign country so that they may serve their sentence of confinement or supervision in their home nation.

This legislation contains the following major provisions:

1. The transfer and custody of prisoners who come under this treaty shall be carried out by the Attorney General.

2. Any person to be transferred to or from the United States will appear before a U.S. magistrate or judicial officer to verify that he has willingly and knowingly agreed to be transferred.

3. Any person who is to appear at a verification proceeding has a right to be advised by counsel, and if he is indigent, counsel shall be appointed for him through U.S. courts.

4. Any American citizen returning to this country as a prisoner is eligible for parole pursuant to U.S. law and regulations.

5. An American citizen returning home under this treaty does not waive an American's right to bring a writ of habeas corpus in a U.S. court, but when he volunteers for transfer, he would not gain opportunity to collaterally attack his foreign conviction in a U.S. court.

6. If an American returning to this country is freed by U.S. courts before his foreign sentence has expired, he may be delivered back to foreign authorities to complete his term.

The changes which the 20th century has brought to our lives are nowhere more evident than in the field of travel and communications. Travel by Americans to foreign countries is commonplace, and our government actively seeks tourists from abroad. One result is the increasing number of people who are convicted of crimes in a foreign country, and who find themselves in a foreign prison. This is no longer a matter limited to border areas.

Without this freedom of travel, we would not find situations such as the large number of Americans who are incarcerated in Mexico, mostly on charges of possessing marihuana and abusable drugs. They have generated adverse publicity by complaining about the legal process in Mexico by which the convictions were obtained, the difficulty in obtaining assistance from American consular officials, and the crowded and unsavory conditions in Mexican prisons. Our government has encouraged Mexican officials to toughen their enforcement of drug laws, and our drug enforcement agents continue to operate in Mexico. However, these prisoners have become an impediment to good relations with our neighbors. The transfer of prisoners will improve our relations with Mexico, but it will also benefit the prisoners who would be returned to this country. They can complete their prison sentences closer to home and family.

At first glance, many would question such a prisoner transfer, because it involves the use of the power and authority of the United States to administer punishment meted out by a foreign court that may not provide all the same rights a defendant enjoys in an American courtroom.

The committee, after considering the legislation, and after approving several substantial amendments, has found good reason to believe that allowing the transfer of prisoners offers benefits to the United States and to its citizens that warrant enactment of S. 1682. This transfer of prisoners is a part of American concern about human rights, because it provides an opportunity to improve the status of the prisoners who come under it. President Carter has recommended enactment of this legislation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the amendment of the Senate to the bill (H.R. 6502) to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2558. An act for the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam;

H.R. 2662. An act for the relief of Christopher Robert West.

At 3:27 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House had passed the bill (H.R. 3625) for the relief of Peter Neal Smith, in which it requests the concurrence of the Senate.

At 4:55 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House agrees to the amendment of the Senate to the bill (H.R. 1862) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, with amendments in which it requests the Senate to concur.

The House agrees to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, in which it requests the Senate to concur.

PETITIONS

Mr. BAKER. Mr. President, I have received petitions from my constituents, Mr. S. Lee Vance and Mr. Sammy K. Keesecker, of Erwin, Tenn., who request that the Congress repeal the withholding tax law. Mr. Vance and Mr. Keesecker have requested that I present their petitions to the Senate and I now submit them for appropriate referral.

The PRESIDING OFFICER. The petitions will be received and appropriately referred.

(The petitions were referred to the Committee on Finance.)

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of September 20, 1977, the following committee reports were submitted on September 20, during the adjournment of the Senate:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

S. Res. 263. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the con-

sideration of S. 2114. Referred to the Committee on the Budget

S. 2114. An original bill to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes (Rept. No. 95–442).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

With an amendment:

S. 1651. A bill to insure equal protection of the laws as guaranteed by the fifth or fourteenth amendments to the Constitution of the United States (together with additional and minority views) (Rept. No. 95–443).

By Mr. BAYH, from the Committee on the Judiciary:

With an amendment:

H.R. 5742. An act to amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under that Act for the expenses of the Department of Justice on carrying out that Act (Rept. No. 95–444).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With amendments:

S. 1509. A bill to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico and for such land to be held in trust by the United States for such tribes (Rept. No. 95–445).

By Mr. WILLIAMS, from the Committee on Human Resources:

Without recommendation:

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes (Rept. No. 95–446).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 245. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1682. (Rept. No. 95–447).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, without reservation:

Exec. A, 95–1. Protocol to the Convention on International Civil Aviation (Exec. Rept. 95–11).

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.

Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Lawrence Owen Cooper, Sr., of Mississippi; and

Edgar C. Rutherford, of California, to be members of the Federal Farm Credit Board, Farm Credit Administration.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

BILL PLACED ON THE CALENDAR

Under authority of the order of September 7, 1977, the Committee on the Judiciary was discharged from further consideration of the bill (S. 957) to promote commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes, and the bill was placed on the Calendar.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 2558. An act for the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam; to the Committee on the Judiciary.

H.R. 2662. An act for the relief of Christopher Robert West; to the Committee on the Judiciary.

H.R. 3625. An act for the relief of Peter Neal Smith; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

The enrolled bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes, was signed today by the President pro tempore.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 21, 1977, he presented to the President of the United States the following enrolled bills:

S. 1731. An Act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services; and

S. 275. An Act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF:

S. 2115. A bill to amend the Internal Revenue Code of 1954 to provide a fairer system of taxation of income earned abroad by United States citizens living or residing abroad; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 2116. A bill to prohibit the excessing of cabin sites and removal of cabins located at Conchas Lake, New Mexico prior to 1996 without State approval; to the Committee on Environment and Public Works.

By Mr. EASTLAND:

S. 2117. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, and for other purposes; to the Commitee on the Judiciary.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2118. A bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 2119. A bill for the relief of Calvin Graham; to the Committee on Armed Services.

By Mr. METCALF:

S. 2120. A bill to amend section 133(e) of the Legislative Reorganization Act of 1946 in order to provide for individual views in the Senate committee reports in lieu of supplemental views; to the Committee on Rules and Administration.

By Mr. WILLIAMS:

S. 2121. A bill to declare a portion of the Delaware River in Burlington County, New Jersey, nonnavigable; to the Committee on Environment and Public Works.

S. 2122. A bill to prohibit the United States Postal Service or the Postal Rate Commission from requiring handwritten addresses or return addresses on letters of individuals receiving certain special rates; to the Committee on Governmental Affairs.

By Mr. THURMOND:

S. 2123. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery; to the Committee on Veterans' Affairs.

By Mr. DECONCINI:

S. 2124. A bill to increase the tariff on imported copper and to exclude copper imports from the Generalized System of Preferences created by the Trade Act of 1974; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2125. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to authorize the Pension Benefit Guaranty Corporation to extend, for not more than 18 months, the date on which the corporation first begins paying benefits under terminated multiemployer plans; jointly, by unanimous consent, to the Committees on Finance and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 2115. A bill to amend the Internal Revenue Code of 1954 to provide a fairer system of taxation of income earned abroad by U.S. citizens living or residing abroad; to the Committee on Finance.

Mr. RIBICOFF. Mr. President, I am introducing legislation today that will establish a new and more fair system of taxing income earned by Americans who work overseas. This legislation will enable Americans to compete more effectively in overseas job markets by allowing tax deductions for the amounts by which basic living costs increase as a result of working abroad. My proposal replaces the existing fixed-level exclusion with a series of itemized deductions that will enable taxpayers to compute their taxes on the basis of actual circumstances and legitimate needs. The existing overseas income exclusion has proven to be arbitrary and unfair. Despite repeated attempts by the Congress to make the present system work, some taxpayers continue to receive an unjustified tax windfall while others are forced to pay unreasonably high taxes.

The overseas incomes exclusion directly affects the ability of Americans to work abroad. It involves serious issues of U.S. trade policy. Unfortunately, this provision, like other issues in the area of foreign source taxation, has been

treated in the past as if it solely involved questions of domestic tax policy.

The impact of this provision on American jobs in other countries has been almost completely overlooked. The truth is that to many Americans working abroad, the future looks grim. Increasing numbers of Americans are finding themselves unable to compete for overseas jobs against workers from other countries. Many Americans abroad are being forced out of their jobs. Both foreign and American companies are turning more and more to foreign instead of American labor. Even in highly skilled jobs, American companies are training foreign workers to do things that today can only be done by Americans.

Americans working in foreign countries are being squeezed out of their jobs because they are at a competitive disadvantage with respect to their foreign counterparts. They are losing out through no fault of their own. The serious problem facing the 126,000 Americans working abroad is a direct result of differences in the tax systems used by the United States and other countries. The United States is one of the only countries in the world that taxes income earned in other countries. So the American who gets a job overseas is generally taxed in this country on his foreign earnings. His foreign counterpart, on the other hand, does not have to pay any tax back home. In competing for a job, the foreign competitor can be paid less and still take home more money than the American each week. The more U.S. tax the Ameriacn has to pay, the larger his competitive disadvantage in a foreign country.

The size of the problem facing Americans working in foreign countries is greatly magnified by the extraordinarily high costs of living in many foreign places. For both U.S. and foreign workers, maintaining a reasonable standard of living and a familiar lifestyle abroad can be much more costly than at home. Neither is likely to accept an overseas assignment or compete for a job in another country without being reimbursed for the substantial increases in basic and necessary living costs due to working abroad. Consequently, companies looking to hire individuals for overseas jobs usually have no choice but to provide additional compensation to prospective employees for the added costs of living and working abroad. And the American has to pay tax on these reimbursements on top of the tax for his basic salary, while the foreign worker does not. So the American is really at a serious competitive disadvantage.

Generally, increased costs that result from working overseas fall into three basic categories: Housing, education, and increases in day-to-day living expenses like food, household goods, and medical care. In the Mideast, for example, housing that normally would cost $3,000 annually in the United States costs as much as $30,000 annually. In certain parts of the world, American-style primary and secondary education cost $7,000. In the United States, equivalent education would be available free through the public school system. Basic costs of living vary greatly overseas. In Oslo, for example, the cost of living is 164 percent of Washington, D.C. costs.

Because of increased costs in these three basic categories, it is not unusual for an American living and working abroad who earned $20,000 in the United States to spend as much as $80,000 a year to maintain an equivalent standard of living. Without an effective overseas income exclusion, the American who earned $20,000 in the United States and who competes with foreign workers for a job in the Mideast may have to pay as much as $40,000 in taxes while his competitors do not have to pay any tax at all.

From the employer's point of view, the tax an American employee faces back home acts as a strong disincentive to hiring Americans for jobs overseas. Because the American working in a foreign country has to bear the added expense of his taxes back home, it is less costly for employers to hire foreign labor. American employers overseas face a tough choice: they either have to offset U.S. taxes for American employees by providing them with extra compensation or lay off Americans and fill their jobs with foreign workers. Instead of protecting American jobs by making Americans more employable overseas, the present system often encourages American employers to train foreigners to do jobs that otherwise could only be done by Americans. Instead of helping safeguard American technology and know how, the current income exclusion promotes the transfer of these resources to others. As American companies are forced to turn in increasing numbers to these so-called tax equalization plans, the inevitable result will be that more and more Americans are going to lose their jobs and be pushed out of overseas markets.

As part of the Tax Reform Act last year, Congress made some major changes in the overseas income exclusion. In doing so, however, far too little attention was given to the serious impact of the income exclusion on U.S. trade policy. Without fully understanding the importance of the provision or the effect the changes would have on Americans trying to earn their living abroad, Congress reduced the level of the exclusion from $20,000—or $25,000, depending upon the length of the time overseas—to $15,000 for most taxpayers. The tax treatment of excluded income was also changed. As a result, the value of the provision for taxpayers facing inflated tax bills because of extraordinary living costs in foreign countries has been greatly reduced. Altogether, the changes made by the Tax Reform Act reduced the value of the income exclusion by more than 75 percent.

There is no way to make the type of fixed-level exclusion provided under present law equitable for all taxpayers working abroad. After all, Americans working in different locations overseas have no more in common than the fact that they earn their livings outside the United States.

As increases in basic living costs vary from one foreign location to another, so too does the amount of the additional tax burden by which the American worker is disadvantaged with respect to his foreign counterpart. The trouble with the present system is that the fixed-level exclusion does not provide tax relief on the basis of the taxpayer's actual and legitimate needs. As a result, the present system cannot adequately offset the competitive disadvantage facing taxpayers working in foreign places where basic living costs are extraordinarily high. For other taxpayers who work in foreign places with comparable living costs to those in the United States, the fixed-level exclusion generates an unjustified tax windfall. Since the competitive disadvantage facing Americans overseas fluctuates on the basis of increases in basic living costs, so too should tax deductions for additional foreign living costs.

At a time when the United States is running a record trade deficit that may reach $25 billion this year, we can hardly afford to minimize the importance of the overseas income exclusion in making Americans competitive for jobs in other countries and in helping to achieve other objectives of U.S. trade policy. The United States has taken many steps to pave the way for American companies to do business effectively in foreign countries. The cost of these steps far exceeds the cost of granting tax relief for increases resulting from additional foreign living costs. An important part of the justification for measures like DISC, deferral of taxes on corporate foreign source income and the granting of foreign tax credits is that they create jobs for Americans in new markets abroad. But once a company enters an overseas market, it has to choose between employing Americans and hiring foreign laborers. Because the present income exclusion is often inadequate, many companies have already started to choose foreign labor. From everything I have seen, I believe companies will turn away from Americans in increasing numbers until the strong disincentives to hiring Americans caused by the big tax bills in this country are reduced. By enacting this legislation, we can effectively and equitably deal with the urgent problem facing Americans abroad.

Mr. President, the General Accounting Office began major indepth study of the problems relating to the overseas income exclusion several months ago. The information-gathering phase of that study has not been completed. I asked the Comptroller General to study my proposal and last week I received a letter in which the Comptroller discussed both the GAO study and his views on my proposal. That letter stated:

> . . . Any special tax treatment for Americans working overseas would provide tax relief to help achieve objectives of U.S. trade policy and other issues of public policy . . . GAO's role, then, is to identify policy options and to provide objective information with which to evaluate those options.
>
> . . . The obvious purpose of the bill is to convert . . . to a system that provides tax relief for the unusually high, but necessary, costs of living in certain overseas areas. We believe that the draft bill, in principle, adequately provides for such a conversion. We provided detailed comments informally on a preliminary draft of your bill. We understand that the final draft of

your proposed legislation has been revised to take these comments into account.

Mr. President, I ask unanimous consent that the bill and the text of the Comptroller General's letter appear in the RECORD along with a technical explanation of my proposal and a series of realistic examples that show the effects of the bill for Americans working in various foreign countries.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. ADDITIONAL FOREIGN LIVING COSTS.

"(a) GENERAL RULE.—There is allowed as a deduction to an individual citizen of the United States—

"(1) who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) who, during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period,

the amount determined under subsection (c) for the taxable year.

"(b) EARNED INCOME LIMITATION.—The amount of the deduction allowed by subsection (a) for the taxable year shall not exceed the earned income of the taxpayer for the taxable year.

"(c) DETERMINATION OF AMOUNT.—

"(1) GENERAL RULE.—The amount of the deduction allowed by subsection (a) for the taxable year is an amount equal to the sum of the taxpayer's cost-of-living, housing, and education expense amounts for the taxable year.

"(2) COST-OF-LIVING EXPENSE AMOUNT.—The term 'cost-of-living expense amount' means the lesser of—

"(A) the amount paid to an individual by his employer as compensation for the amount by which the cost of living (exclusive of housing and education costs) in the foreign place in which that individual is resident or present exceeds the cost of living comparably in the United States; or

"(B) the amount set forth in the typical cost-of-living expense amount table prescribed by the Secretary under subsection (d) applicable to the foreign place in which that individual is resident or present.

"(3) HOUSING EXPENSE AMOUNT.—The term 'housing expense amount' means the excess of—

"(A) the lesser of—

"(i) the amount paid to an individual by his employer as compensation for the reasonable cost of housing in the foreign place in which that individual is resident or present to the extent it is not lavish or extravagant under the circumstances and is reasonably comparable to typical United States style housing, or

"(ii) the amount which an individual reasonably expended for the taxable year for United States style housing (including utilities) located in a particular foreign place in which he is resident or present (exclusive of amounts which are lavish or extravagant under the circumstances), over

"(B) an amount representing typical United States housing costs which is deemed to equal 20 percent of the individual's earned income for the taxable year, after his earned income is reduced by the sum of—

"(i) the amount determined under subparagraph (A),

"(ii) the amount determined under paragraph (2), and

"(iii) the amount determined under paragraph (4).

"(4) EDUCATION EXPENSE AMOUNT.—The term 'education expense amount' means the least of—

"(A) the amount paid to an individual by his employer as compensation for the amount by which the cost of school fees in the foreign place in which that individual is resident or present exceeds the cost of school fees for public education at the same or similar levels in the United States,

"(B) the sum of the amounts paid or incurred by the individual for the taxable year for school fees, or

"(C) the amount set forth in the typical education expense amount table prescribed by the Secretary under subsection (d) applicable to the foreign place in which that individual is resident or present.

"(d) TABLES.—

"(1) IN GENERAL.—The Secretary shall prescribe and update annually each of the following tables:

"(A) TYPICAL COST-OF-LIVING EXPENSE AMOUNT TABLE.—A table setting forth the amount by which the cost of living (exclusive of education and housing expenses) of an American family in various foreign places exceeds the cost of living (exclusive of education and housing expenses) in the United States, for families of different sizes, based upon the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-12.

"(B) TYPICAL EDUCATION EXPENSE AMOUNT TABLE.—A table setting forth, for various foreign places in which United States citizens claiming the benefit of this subsection are resident or present, the reasonable amount of school fees at adequate United States type schools (generally available to United States citizens) located within a reasonable daily commuting distance of such places. Such table shall also set forth an amount for foreign places not listed equal to the average of school fees based on a representative sample of adequate United States type schools located abroad.

"(C) AVERAGE COST-OF-LIVING, HOUSING, AND EDUCATION EXPENSE AMOUNT TABLES.—Tables setting forth, for each category of expense described in paragraphs (2), (3), and (4) of subsection (c), and for various foreign places, average amounts claimed by individuals claiming the deduction allowed by this section (other than individuals described in subsection (e) (1) and (2)) for taxable years ending with or within the most recently ended calendar year.

"(2) CONSULTATION WITH INTERESTED PARTIES.—The Secretary is authorized, in prescribing the tables described in subparagraphs (A) and (B), to consult with the Secretaries of State and Labor and firms and individuals outside the Government.

"(e) SPECIAL RULES.—

"(1) SELF-EMPLOYED INDIVIDUALS AND EMPLOYEES OF FOREIGN CORPORATIONS.—In the case of a self-employed individual (within the meaning of section 217(f)(1)) or an employee of a foreign person which is not engaged in a trade or business within the United States (other than a controlled corporation within the meaning of section 957)—

"(A) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the latest average cost-of-living expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present, or

"(B) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be the lesser of—

"(i) the amount set forth in the latest average housing expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present, or

"(ii) the amount which would be determined under paragraph (3) of subsection (c) without clause (i) or subparagraph (A) thereof; and

"(C) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be the lesser of—

"(i) the amount set forth in the latest average education expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the table year for the foreign place in which the individual is resident or present, or

"(ii) the sum of the amounts paid or incurred by the individual for school fees for the taxable year.

"(2) EMPLOYEES OF CHARITABLE ORGANIZATIONS; EMPLOYEES FURNISHED LODGING; AND EMPLOYEES IN CAMPS.—

"(A) In the case of an individual who performs qualified charitable services during the taxable year, to whom his employer furnishes lodging the value of which would be excludible from gross income under section 119 if he did not elect to claim the deduction allowed by subsection (a), or an individual who, because of his employment, resides in a camp—

"(i) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the latest average cost-of-living expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present;

"(ii) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be the amount set forth in the latest average housing expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present; and

"(iii) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be the lesser of—

"(I) the amount set forth in the latest average education expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the table year for the foreign place in which the individual is resident or present, or

"(II) the sum of the amounts paid or incurred by the individual for school fees for the taxable year.

"(B) QUALIFIED CHARITABLE SERVICES.—For purposes of this paragraph, the term "qualified charitable services' means services performed by an employee outside the United States for an employer created or organized in the United States, or under the law of the United States, any State, or the District of Columbia, which meets the requirements of section 501(c)(3).

"(3) APPLICATION WITH SECTION 119.—The deduction allowed by subsection (a) shall not be allowed to an individual who is entitled under section 119 to exclude from gross income the value of meals or lodging furnished to him by his employer outside the United States unless he elects not to exclude the value of such meals or lodging from gross income for the taxable year.

"(4) EMPLOYER CERTIFICATION REQUIREMENTS.—For purposes of this section—

"(A) an amount shall be treated as paid by an employer as a cost-of-living expense amount, a housing expense amount, or an education expense amount only if such amount is paid in addition to regular compensation (which is not less than reasonable compensation in the United States for similar services), and is certified by the employer as paid specifically for such purpose,

"(B) an amount shall be treated as paid by an employer as a housing expense amount only if the employer certifies that—

"(i) such amount does not exceed what the employer regards as the reasonable cost of housing in the foreign place in which that individual is resident or present to the extent it is not lavish or extravagant under the circumstances and is reasonably comparable to typical United States style housing, and

"(ii) the amount paid to the employee for such purpose is not substantially in excess of amounts paid by the employer (or if not aplicable, by other employers to the extent information is available to the employer) to other employees performing similar services, or with the same responsibilities in the same area, and

"(C) no amount shall be taken into account under paragraph (2), (3), or (4) of subsection (c) as paid by an employer if the employer fails to make the required certification applicable to such paragraph.

"(5) REGULATIONS.—The Secretary shall issue regulations implementing this section, including regulations establishing procedures for employer certification of amounts, rules for situations in which the employer furnishes goods and services at less than fair market value, rules for situations in which the individual is in a particular foreign country for only part of the year, and rules covering changes in employment or familial status or change in location within a foreign country, during the taxable year.

"(6) APPLICATION WITH SECTION 911.—For taxable years ending before January 1, 1980, the deduction allowed by subsection (a) shall not be allowed to an individual unless he has elected, under section 911(e), not to have the provisions of section 911 apply to him.

"(7) DOUBLE DEDUCTIONS DISALLOWED.—An individual shall not be allowed, as a deduction under any other provision of this chapter (other than under section 151), any amount to the extent that the item to which such amount is attributable is properly allocable to, or chargeable against, amounts taken into account under paragraphs (3) and (4) of subsection (c).

"(8) VALUATION OF IN-KIND PAYMENTS.—In the case of goods or services furnished by an employer to an employee (or to the dependents of an employee), the value of the goods or services shall be the fair market value thereof at the loaclity at which they are furnished.

"(9) TREATMENT OF EMPLOYER CHARGES.—In the case of an employer charge or offset for housing, to reflect the cost of housing in the United States, to the extent the charge or offset does not exceed the amount described in subsection (c)(3)(B), the charge or offset shall be treated as a reduction in income but shall not be taken into account for purposes of computing the housing expense amount of subsection (c) or for purposes of the employer certification of subsection (e)(4). Any excess and all other employer charges and offsets shall be treated as a reduction in income which reduces employer compensation, as provided in the regulations issued by the Secretary, for purposes of computing the amount of the deduction in accordance with subsection (c).

"(e) DEFINITIONS.—For purposes of this section—

"(1) EARNED INCOME.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income. The term 'earned income' does not include any amount—

"(A) received as a pension or annuity, or

"(B) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust), section 403(c) (relating to taxability of beneficiary under a nonexempt annuity), or section 403 (d) (relating to taxability of beneficiary under certain forfeitable contracts purchased by exempt organizations).

"(2) SCHOOL FEES.—The term 'school fees' means tuition, books, and local transportation for the primary (including kindergarten but not nursery school) and secondary education of any dependent of the taxpayer with respect to whom the taxpayer is allowed an exemption under section 151(e), at adequate United States type schools outside of the United States where such dependent is a full-time pupil or student. Such term does not include the cost of private lessons (other than remedial academic lessons), room, board, or other transportation.

"(3) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of paragraph (3), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(4) TREATMENT OF COMMUNITY INCOME.—In applying paragraph (3) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount taken into account shall be the amount which would be taken into account if such amounts did not constitute community income.

"(5) TEST OF BONA FIDE RESIDENCE.—A statement by an individual who has earned income from sources within a foreign country to the authorities of that country that he is not a resident of that country, if he is not held subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings, shall be conclusive evidence with respect to such earnings that he is not a bona fide resident of that country for purposes of this section.".

(b) DEDUCTION ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 of such Code (relating to definition of adjusted gross income) is amended by adding after paragraph (13) the following new paragraph:

"(14) CERTAIN FOREIGN-SOURCE INCOME RELATED EXPENSES.—The deduction allowed by section 221.".

(c) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and by inserting in lieu thereof the following:

"Sec. 221. Additional foreign living costs.
"Sec. 222. Cross references.".

SEC. 2. AMENDMENTS RELATING TO SECTION 911.

(a) LIMITATIONS ON AMOUNT OF EXCLUSION; PHASEOUT.—Paragraph (1) of section 911(c) of the Internal Revenue Code of 1954 (relating to limitations on amount of exclusion) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (b), $20,000 in the case of an individual who qualifies under subsection (a), or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.

For taxable years beginning after December 31, 1976, and before January 1, 1978, '$15,000' shall be substituted for '$20,000' in subparagraph (A) and for '$25,000' in subparagraph (B). For taxable years beginning after December 31, 1977, and before January 1, 1979, '$10,000' shall be substituted for '$20,000' in subparagraph (A) and for '$25,000' in subparagraph (B). For taxable years beginning after December 31, 1978, and before January 1, 1980, '$5,000' shall be substituted for '$20,000' in subparagraph (A) and for '$25,000' in subparagraph (B).".

(b) REPEAL OF SECTION 911.—Subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out section 911 and by redesignating section 912 as section 911.

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 37(e)(8)(B) of such Code (relating to earned income) is amended by striking out "section 911(b)" and inserting in lieu thereof "section 221(e)(4)".

(2) Section 43(c)(1)(B) of such Code (relating to eligible individual) is amended to read as follows:

"(B) is not entitled to a deduction under section 221 (relating to certain foreign source income related expenses) or to exclude any amount from gross income under section 931 (relating to income from sources within the possessions of the United States).".

(3) Section 220(b)(7) of such Code (relating to employed spouses) is amended by striking out "determined without regard to section 911)".

(4) Section 403(b)(3) of such Code (relating to includable compensation) is amended by striking out "and 911".

(5) Section 410(b)(2)(C) of such Code (relating to exclusion of certain employees) is amended by striking out "(within the meaning of section 911(b))" and inserting in lieu thereof "(within the meaning of section 221(e)(4))".

(6) Section 415(b)(3) of such Code (relating to exclusion of certain employees) is amended by striking out "(within the meaning of section 201(c)(2) but determined without regard to any exclusion under section 911)" and inserting in lieu thereof the following: "within the meaning of section 401(c)(2))".

(7) Section 879(a)(1) of such Code (relating to earned income) is amended by striking out "(within the meaning of section 911(b))," and inserting in lieu thereof the following: "(within the meaning of section 221(e)(4)).".

(8) Section 1302(b)(2)(A)(i) of such Code (relating to base period income) is amended by striking out "section 911 (relating to earned income from sources without the United States) and".

(9) Section 1303(c)(2) of such Code (relating to exceptions for individuals receiving

support from others) is amended by striking out "(within the meaning of section 911 (b))" and inserting in lieu thereof the following: "(within the meaning of section 221 (e)(4))".

(10) Section 1304(b) of such Code (relating to certain provisions inapplicable) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(11) Section 1348(b)(1)(A) of such Code (relating to personal service income) is amended by striking out "or section 911(b)".

(12) Section 1402(a)(8) of such Code (relating to net earnings from self-employment) is amended by striking out "section 911 (relating to earned income from sources without the United States)".

(13) Section 3401(a)(8) of such Code (relating to wages) is amended by striking out subparagraph (a) and by inserting in lieu thereof the following:

"(8)(A) For services for an employer (other than the United States or any agency thereof) performed in a foreign country or in a possession of the United States by such citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration, or".

(14) Section 6012(c) of such Code (relating to certain income earned abroad or from sale of residence) is amended—

(A) by striking out "Earned Abroad or" in the caption thereof, and

(B) by striking out "and without regard to the exclusion provided for in section 911 (relating to earned income from sources without the United States)".

(15) Section 6091(b)(1)(B)(iii) of such Code (relating to place for filing returns or other documents) is amended by striking out "section 911 (relating to earned income from sources without the United States)," and inserting in lieu thereof the following: "section 221 (relating to certain foreign source income related expenses),".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the items relating to sections 911 and 912 and by inserting in lieu thereof the following:

"Sec. 911. Exemption for certain allowances.".

SEC. 3. TREATY OBLIGATIONS.

No amendment made by this Act shall apply in any case in which its application would be contrary to any treaty obligation of the United States. For purposes of the preceding sentence, the extension of a benefit provided by any amendment made by this Act shall not be considered to be contrary to a treaty obligation of the United States.

The amendments made by section 1 and section 2(a) shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (b), (c), and (d) of section 2 shall apply with respect to taxable years beginning December 31, 1979.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 16, 1977.

Hon. ABRAHAM RIBICOFF,
U.S. Senate.

DEAR SENATOR RIBICOFF: This is in response to your request for our views on a bill which we understand you plan to introduce to adjust the tax treatment accorded to foreign source income, and for information on the status of our review of the impact of the 1976 Tax Reform Act changes to Section 911 of the Internal Revenue Code.

This spring we became aware of widespread concern among U.S. individuals and businesses operating overseas that the subject changes might inordinately diminish U.S. competitiveness. Our subsequent inquiries revealed that there was a high degree of uncertainty within the Government concerning the impact of these changes. In June, therefore, we initiated our review to:

Secure the views of various U.S. company officials and individual citizens operating overseas (about 200 companies and 300 individual citizens in 11 countries) concerning the anticipated impact of these changes on (1) U.S. international investment and trade, (2) U.S. company employment practices overseas, and (3) U.S. citizens living and working abroad.

Develop estimates of the additional income flows to Treasury that will result from the subject changes to Section 911.

Analyze the impact of Section 911 changes on the cost of U.S. Government programs overseas.

The information-gathering phase of our review is nearing completion. The remaining questionnaires from companies and individuals operating overseas are scheduled to be returned to us in the next few days. We plan to complete a computer analysis of the responses to these questionnaires in about 2 to 4 weeks.

The Internal Revenue Service is assembling data from a sample of 8,000 of the 141,000 returns that claimed Section 911 exclusions in 1975. This data will permit us to estimate the income flows to the Treasury resulting from the changes to Section 911. It will also provide a basis for estimating the income flows under other potential legislative options.

If the Congress takes up the question of Section 911 relief this session, we will be available by early October to brief and/or testify on our analysis of the views of U.S. businesses and individuals operating overseas.

Should the Congress hold this question until the next session, our objective is to have a report on these matters ready for issuance early in the next session.

Our views concerning the draft bill you plan to introduce are as follows:

We regard taxation of Americans overseas as part of the continuing conflict between the goal of raising revenues and serving other objectives of U.S. policy. Any special tax treatment for Americans working overseas would provide tax relief to help achieve objectives of U.S. trade policy and other issues of public policy. Such special treatment and the extent thereof, are policy matters to be decided by the Congress. GAO's role, then, is to identify policy options and to provide objective information with which to evaluate those options. Accordingly, we regard the draft bill as one of several possible legislative options to liberalize the tax treatment of many, but not all, Americans overseas.

The obvious purpose of the bill is to convert, over a period of time, from a special tax exclusion of $15,000 ($20,000 for charitable organization employees) to a system that provides tax relief for the unusually high, but necessary, costs of living in certain overseas areas. We believe that the draft bill, in principle, adequately provides for such a conversion. We provided detailed comments informally on a preliminary draft of your Bill. We understand that the final draft of your proposed legislation has been revised to take these comments into account.

Please let us know if we can be of further assistance on this Bill or other matters.

Sincerely yours,

R. F. KELLER,
Comptroller General
of the United States.

TECHNICAL EXPLANATION OF PROPOSED LEGISLATION ON TAXATION OF U.S. CITIZENS WORKING ABROAD

1. Section 911 To Be Repealed and Replaced by Deduction for Additional Foreign Living Costs—

The Internal Revenue Code would be amended to phase-out the standard exclusion of section 911 (now $15,000) over a period of three years starting in 1977. The standard exclusion would be $15,000 in 1977, $10,000 in 1978, $5,000 in 1979, and would no longer be in effect in 1980 and thereafter. In lieu thereof, the bill would provide a deduction for additional foreign living costs of U.S. citizens employed in foreign countries, determined under three categories. The three elements are cost-of-living, education, and housing. During the phase-out period, the deduction for additional foreign living costs would not be available unless the taxpayer made an irrevocable election not to have section 911 apply.

2. The Three Elements of the Deduction—

In the case of a U.S. citizen who is an employee of a U.S. person or a U.S.-controlled foreign corporation or a foreign person engaged in trade or business in the United States, the elements of the deduction for additional foreign living costs would be as follows:

a. Cost-of-Living Element:

This element of the deduction would be equal to the lesser of the amount reimbursed by the taxpayer's employer for this purpose and the amount set forth in a table issued by the Internal Revenue Service. The IRS table would show, for various foreign places and families of different sizes, the amount by which the general cost-of-living (excluding education and housing) exceeds the average general cost-of-living in the United States for a family with an income of $20,000. The $20,000 will be automatically adjusted for inflation in accordance with adjustments in Federal pay.

b. Educational Element:

This element of the deduction is designed to cover the cost of tuition, fees, books and local transportation for the education, from kindergarten through grade 12, of dependent children in American-type schools located in the foreign country of employment. The deduction would be the least of (i) the amount reimbursed by the taxpayer's employer for this purpose, (ii) the actual amount expended by the taxpayer for this purpose, and (iii) the amount set forth in a table issued by the Internal Revenue Service. The IRS table would show for various foreign places the reasonable amount of such costs for American-type education. Where there is no local American-type school in the place of employment, the amount set forth in the IRS table as the general worldwide average of these costs is to be used. The deduction would not be augmented by the cost of non-local travel or room and board.

c. Housing Element:

The taxpayer could deduct the amount by which (i) the lesser of the amount reimbursed by the taxpayer's employer for this purpose, and the amount reasonably expended by the taxpayer for U.S. style housing in the foreign country, exceeds (ii) the cost of housing which that taxpayer would typically incur were he residing in the U.S. Typical U.S. housing costs are set at 16⅔ percent of the individual's earned income, less the three elements of the deduction for additional foreign living costs, general cost-of-living, education and housing. The 16⅔ percent was derived from statistics released by the Bureau of Labor Statistics on May 5, 1976, showing that the average housing cost for a family in the U.S. with a total budget (including income taxes, social security, etc.) of $22,000 is 16.5 percent of the total budget.

It will be noted that the bill uses 20 percent as this percent is applied to a different base; it is the mathematical equivalent of 16⅔ percent applied to the base described.

The bill recognizes that many employers while reimbursing the employee for the full cost of foreign housing will charge the employee for what the employer regards as an appropriate amount to represent U.S. housing costs. To the extent the charge does not exceed the amount determined under the bill for typical U.S. housing costs, the charge reduces income, but does not affect the computation of the housing element. Nevertheless, the employer is required to separately state the full cost of foreign housing which it deems to be reasonable and on which its reimbursement is based; this is designed to serve as a further check on the amount of the deduction. Any excess housing charge, or any other employer charge, will be treated as a reduction in employer reimbursement as provided in regulations to be issued by the Internal Revenue Service.

3. Special Categories of Taxpayers—

The deduction for additional foreign living costs would be determined in a special way for four categories of U.S. citizens: (i) the self-employed, (ii) employees of foreign persons (other than U.S.-controlled foreign corporations and foreign persons engaged in trade or business in the U.S.), (iii) employees of charitable organizations, and (iv) employees who are furnished housing by their employers which is excluded from the employee's income under section 119 or which is located in a camp.

For determining the deduction for additional foreign living costs for U.S. citizens in the four special categories, the IRS would develop a table of averages, setting forth the average amounts for each element of the deduction, for various foreign places, of U.S. citizens entitled to the deduction who are not in one of the four special categories.

For such U.S. citizens, the average table serves the same control function as the employer's reimbursement requirement for employees of U.S. corporations.

For self-employed individuals and employees of foreign persons, the elements of the deduction for additional foreign living costs would be determined as follows:

a. General cost of living element. The amount set forth in the average table issued by the IRS.

b. Education element. The lesser of (i) the amount set forth in the average table issued by the IRS, and (ii) the actual amount expended by the taxpayer for this purpose.

c. Housing element. The lesser of (i) the amount set forth in the average table issued by the IRS, and (ii) the excess of the actual amount reasonably expended by the taxpayer for U.S.-style housing in the foreign country over the cost of housing which that taxpayer would typically incur were he or she residing in the U.S. Typical U.S. housing costs would be determined in the same way as for employees of U.S. corporations.

For employees of charitable organizations and employees furnished housing as described, the table of averages would be used to determine all elements of the deduction, except the education element could not exceed the amount actually expended by the taxpayer for that purpose. The reason for such treatment of charitable and camp employees is that they are typically required to make an unusual sacrifice in their standard of living when they go overseas. In order to avoid imposing additional hardship on Americans in such categories, the bill provides the same deductions as are available to other U.S. citizens in foreign countries.

4. Technical Rules in Fitting the Deductions for Additional Foreign Living Costs into the Internal Revenue Code—

This part of the Technical Explanations will describe how the deduction for additional foreign living costs will be made part of the technical structure of the Internal Revenue Code.

The proposed legislation would put the deduction for additional foreign living costs in the same category as the deduction for moving expenses and the deduction for employee-related expenses reimbursed by the employer, as these are the deductions which the new deduction most closely resembles. As a result, a taxpayer will be able to claim the deduction for additional foreign living costs without losing his or her ability to claim the standard deduction. However, it is provided that deductions related to housing such as interest and real estate taxes cannot be taken a second time to the extent they are part of the deduction for additional foreign living costs.

Taxpayers who claim the benefit of the deduction for additional foreign living costs would be able to claim the foreign tax credit for income taxes paid to foreign countries, but the amount of the credit will be tightly controlled by the foreign tax credit limitation which would be computed by considering the deduction for additional foreign living cost as entirely related to foreign-source income.

U.S. citizens will be able to claim the deduction for additional foreign living costs when they have qualified under the same tests as now provided under section 911. The requirement under these tests is either one taxable year of foreign residence or presence abroad during 510 days in 18 consecutive months.

The amount of the deduction for additional foreign living costs cannot exceed the amount of earned income and for this purpose a pension or annuity is not considered earned income.

Employees who would otherwise be entitled to the benefits of section 119 will not be able to claim the deduction for additional foreign living costs unless they waive the benefits of section 119.

Employees would be required to file with their tax returns an employer certification attesting to the fact that the reimbursements are in addition to normal compensation. With respect to the housing element, the certification must also state that the amount of the reimbursement does not exceed what the employer regards as a reasonable cost in the foreign country for typical U.S. style housing and does not exceed what it or others pay as reimbursements to other employees performing similar services in the same area.

Where the employer furnishes goods or services in kind or charges less than local fair market value for items furnished, the local value, or the excess of the local value over the charge, is taken into income by the employee before computing the deduction for additional foreign living costs.

In devising tables, the Internal Revenue Service is authorized to consult with the Secretaries of Labor and State and others and can draw on surveys undertaken with respect to the compensation of Government employees. There are provisions in the bill designed to assure the prompt issuance and revision of the necessary tables.

As in the case of existing section 911, the deduction is available only to citizens of the United States, except to the extent made available to resident aliens by treaty.

COMPARISON OF U.S. TAX LIABILITY UNDER OLD LAW, CURRENT LAW, AND BILL

	Japan	Mexico	Saudi Arabia	England	Switzerland	Norway
INCOME						
Base salary	$23,000	$22,000	$21,000	$20,000	$22,000	$20,000
Family size	(3)	(3)	(3)	(3)	(3)	(3)
Allowances paid by employer:						
Cost of living	8,600	700	5,900	700	6,700	10,500
Housing	18,400	13,000	30,000	10,300	9,700	9,500
Education	3,000	1,000	2,200	1,500	2,100	2,600
Other allowances	5,550	2,250	23,050	2,600	5,800	2,660
Total allowances	35,550	16,950	61,150	15,100	24,300	25,200
Total earned income	$58,550	$38,950	$82,150	$35,100	$46,300	$45,200
Deduction for cost of living, education, and housing under bill	24,290	9,850	30,380	7,980	12,940	18,080
Total U.S. taxes (before foreign tax credit):						
Pre-1977 law	8,522	2,250	19,910	1,343	4,158	3,640
Tax Reform Act of 1976	14,614	5,601	26,414	4,146	8,687	7,860
Proposed legislation (when fully effective)	6,060	4,344	11,092	3,772	5,736	3,562

NOTES FOR CHART ENTITLED "COMPARISON OF U.S. TAX LIABILITY UNDER OLD LAW, CURRENT LAW AND BILL"

1. Calculations based on practice of several U.S. corporations as applicable to actual employees. It is assumed that there is no other income.

2. It is assumed that the allowances for cost-of-living and education will be fully deductible under the IRS tables. It is assumed that the allowance for housing represents reasonable foreign housing costs and is deductible to the extent it exceeds typical U.S. housing costs (as defined by the bill). It is assumed that the employer charge to the employee for U.S. housing costs is less than the comparable amount determined under the bill and, therefore, reduces income but does not affect the computation of the housing element of the deduction.

3. Other allowances are overseas allowances typically paid which are not deductible under the bill. The employer charge to the employee for housing is netted against other allowances in these examples.

4. For the pre-1977 calculations, it is assumed that there are itemized deductions of $1,000. In all other cases, it is assumed that the standard deduction of current law, $3,200 for a joint return, has been taken.

5. In computing tax, the rates and general tax credit applicable to 1977 have been used for all periods.

6. In cases where there is no foreign tax liability or it is less than the U.S. tax liability, the amounts stated for pre-1977 law and the bill will represent the total of U.S. and foreign taxes after foreign tax credit.

7. No account has been taken of tax equalization payments which employers typically make. It is noted that under many plans, there are no such payments in the first year of foreign employment. Also, the amount of payments made under tax equalization plan will be substantially reduced as a result of the bill.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 2116. A bill to prohibit the excessing of cabin sites and removal of cabins located at Conchas Lake, N. Mex., prior to 1996 without State approval; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, this bill prevents an injustice. In 1946 the Corps of Engineers agreed that private individ-

uals could construct recreational cabins around Conchas Lake in eastern New Mexico. Approximately 70 cottages were built in the area, and, in fact, 13 of the cabin owners permanently reside on the site. In addition, the State derives income from the cottages that goes to repaying revenue bonds.

Unfortunately, the corps has decided not to renew the leases on which the cabins stand, and the cabins must be phased out by 1982. My bill corrects this hard-hearted approach adopted by the corps by extending the leases through 1996. The importance of this date is that it allows for a subsequent review of the leases and the need for parkland in the area.

I would hope that the Senate Public Works Committee would take up this bill either this year or next and that my colleagues in the Senate would support it.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is prohibited from determining the 45 acre cabin site in the South Recreation Area at Conchas Lake, New Mexico to be excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

SEC. 2. The Secretary of Army shall not require the removal or sale and purchase of existing cabins, cottages or other privately-owned improvements located on the site referred to in Section (1) of this Act prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2118. A bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; to the Committee on Energy and Natural Resources.

Mr. GRAVEL. Mr. President, today I am introducing a bill which would enable the Department of Agriculture through the Forest Service to convey several homesites within the Chugach and Tongass National Forests in Alaska.

After the Chugach and Tongass Forests were established in Alaska in 1907 there remained little land near population centers in southeast and portions of south-central Alaska which was available for settlement. Thus, the Forest Service and the Department of the Interior through the Bureau of Land Management entered into an agreement to provide certain lands within the national forests as homesites under the provisions of existing public land laws.

Under this arrangement the Forest Service granted special land-use permits to individuals for small-tract homesite locations in the forests. After meeting the 3-year residency requirements under the applicable public law (43 U.S.C. 687a), the Forest Service would recommend to the Bureau of Land Management that the homesite be eliminated from the national forest. Upon such recommendation the Bureau of Land Management would convert the homesite to public domain land and proceed to issue patent to the homesite occupant.

With the passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act it was felt that sufficient national forest lands would be converted to private ownership for purposes of settlement, development, et cetera, and subsequently, the homesite program was discontinued. However, because the administrative process was taking several years, patents to several homesites recommended for elimination from the forests were not conveyed by October 22, 1976.

On this date the National Forest Management Act of 1976 (Public Law 94-588) was signed into law. Section 9 of this act provided that no land now or hereafter reserved or withdrawn from the public domain as national forests could be returned to the public domain except by an act of Congress. Thus, several persons in Alaska who had met all of the requirements were denied patents to their homesites because the land could not be converted to public domain land to effect the conveyance of patent under the administrative procedures.

Discussions with the concerned agencies and their respective solicitors' offices resulted in the conclusion that no administrative provisions or actions could overcome this problem and that congressional action would be necessary.

The bill I am introducing does not undermine in any way the language of the National Forest Management Act of 1976, nor does it allow for any "raids" on national forest lands. The bill simply allows the Department of Agriculture to grant quitclaim deeds to those few persons who the Forest Service acknowledges have met all the requirements for forest homesites under previous statutes and regulations, but who through no fault of their own, were inadvertently denied patents due to the general provisions of the National Forest Management Act of 1976.

I ask my colleagues for speedy passage of this bill. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2118

Be it enacted by the Senate and House of Respresentatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey the following tracts of National Forest land in Alaska, occupied as homesites, to the present occupants of said lands or their lawful successors in interest, provided such persons would otherwise qualify to purchase said lands under the requirements of the Act of May 14, 1898, as amended (43 U.S.C. 687):

Chugach National Forest

Homesite No. 222, Clear Lake Group, Lot 3, U.S. Survey No. 4979, Containing 1.58 acres.

Homesite No. 205, Clear Lake Group, Lot 1, U.S. Survey No. 4979, Containing 1.68 acres.

Homesite No. 208, Heney Creek Group, Lot 31, U.S. Survey No. 3601, Containing 3.03 acres.

Homesite No. 210, Heney Creek Group, Lot 46, U.S. Survey No. 3601, Containing 1.75 acres.

Homesite No. 225, Lakeview Group, Lots M and LL, U.S. Survey No. 3533, Containing 2.15 acres.

Homesite No. 224, Lawing Extension Group, Lot 4, U.S. Survey No. 3532, Containing 1.60 acres.

Homesite No. 186, Snug Harbor Group, Lot 3, U.S. Survey No. 3531, Containing 1.58 acres.

Tongass National Forest

Homesite No. 1144, Gartina Game Creek Group, Lot 9, U.S. Survey No. 2414, Containing 3.03 acres.

SEC. 2. Such conveyances shall be for the same consideration as established by the Act of May 14, 1898, as amended (43 U.S.C. 687a).

By Mr. BENTSEN:

S. 2119. A bill for the relief of Calvin Graham; to the Committee on Armed Services.

CALVIN GRAHAM

Mr. BENTSEN. Mr. President, 35 years ago, a boy from Texas enlisted in the Navy. He was 12 years old; his name was Calvin Graham, and he forged some of the documents required for enlistment.

As a member of the crew of the U.S.S. *South Dakota*, Calvin Graham served his country in two of the most important sea battles in the Pacific theater—Guadalcanal and Santa Cruz. He was injured and he received a Bronze Star for his bravery at the tender age of 13. When Calvin Graham's mother sent a copy of his birth certificate to the Navy, Calvin was sent home—spent 3 months in the brig and dismissed from the Navy without an honorable discharge. As far as the Navy is concerned, Calvin enlisted fraudulently and was never a bona fide member of the Armed Forces.

But the fact of the matter is that Calvin Graham did serve; he did see combat; he was wounded in the line of duty; he was a gunner on the U.S.S. *South Dakota* in some very important military operations. He is, by all accounts, the youngest veteran of World War II.

When he came of legal age, Calvin Graham enlisted in the Marine Corps during the Korean war, but was discharged when he broke his back. Mr. Graham's military injuries still trouble him; he has had recurring problems with his back and now seeks assistance for the dental injuries suffered during World War II. He is eligible for veterans' benefits for his Marine Corps injury, but cannot obtain assistance for his dental problems because of the questions surrounding his World War II enlistment and subsequent discharge.

Mr. President, in proposing special legislation to grant Calvin Graham an honorable discharge for his World War II service, I am compelled by a sense of justice as well as my humanitarian considerations.

At a time when President Carter has upgraded Vietnam discharges, it is inconceivable to me that a person who actively sought to serve his country in its hour of need should be denied an honorable discharge on a technicality. Calvin Graham deserves the forgiveness and the dignity that accompany an honorable discharge. He also deserves the right to veterans' benefits in the treatment of the consequences of that injury.

Mr. Graham has appealed his case on several occasions, most recently to President Carter, but to no avail. He has been informed by the Navy that his World War II service was "somewhat unusual and did not fall within the scope of the normal discharge process."

I would agree that Mr. Graham's service was indeed unusual; in fact, it was unique. The circumstances, surrounding his enlistment 35 years ago should not be held against him today when we are upgrading Vietnam discharges. Calvin Graham deserves recognition for his World War II service, and he deserves the benefits that should accrue to him from that service.

Mr. President, I ask unanimous consent that an editorial from the Fort Worth Star-Telegram be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

VETERAN DESERVES BENEFITS

U.S. Senator Lloyd Bentsen rates a salute for championing the cause of World War II veteran Calvin Graham, who, despite having won a Bronze Star, has been denied an honorable discharge from the Navy because of a technicality.

That technicality resides in Graham's having enlisted at age 12. Because of that the Navy claims he technically never served.

But the facts are that he did serve and that he was injured aboard the U.S.S. *South Dakota* at Guadalcanal and Santa Cruz.

Still, because the Navy insists that Graham technically never served, the veteran cannot receive treatment at a veterans hospital.

Bentsen has promised to introduce special legislation in the Senate to grant Graham the discharge has has sought vainly from every administration since Franklin D. Roosevelt's.

Hopefully that legislation will encounter smooth sailing and not be shipwrecked by a technicality.

By Mr. WILLIAMS:

S. 2122. A bill to prohibit the United States Postal Service or the Postal Rate Commission from requiring handwritten addresses or return addresses on letters of individuals receiving certain special rates; to the Committee on Governmental Affairs.

CITIZENS RATE MAIL

Mr. WILLIAMS. Mr. President, the U.S. Postal Service recently proposed the establishment of new rates for first class mail. Under this proposal private, sealed mail would be eligible for a special "citizen rate" of 13 cents a letter, while other first class mail, such as business letters, would carry a charge of 16 cents a letter. One of the criteria for determining eligibility for the citizen rate would require handwritten addresses and/or return addresses. I believe that this requirement would unfairly single out certain groups of private citizens to pay higher postage rates and would inefficiently distinguish between private and commercial first class mail. Therefore, I am introducing legislation today to insure that such a requirement does not go into effect.

The most important reason for establishing a specially reduced rate for personal, noncommercial first-class mail is to relieve the financial impact of steadily advancing postage rates on the pocketbooks of average citizens. Unfortunately, the Postal Service's proposal that citizen rate mail carry handwritten addresses would deny the privilege of reduced rates to many of the people who need it the most. For example, in the United States there are over 600,000 cerebral palsy victims, about 750,000 people who are completely paralyzed, and as many as 1.5 million persons with severe visual impairment. The overwhelming majority of these individuals, as well as thousands of others such as amputees or arthritis victims, find it physically impossible to hand-address their mail. Since they often live on modest incomes, the Postal Service proposal would impose an additional burden on the handicapped that the largest proportion of nonhandicapped people would not experience. The need to protect the handicapped from sharp rate hikes in postage is particularly important in light of the large number of handicapped persons who are homebound. These individuals depend on the mail as one of their few real links with the world at large. Increased postage rates may force them to curtail their use of the mail which would diminish the quality of their lives.

The proposed Postal Service requirement for handwritten addresses and return addresses also should be rejected because of its potential impact on the Postal Service's costs and the quality of its service. Since the proposal would deny lower postage rates to mailers who use printed or typed addresses, we could reasonably expect an increase in the proportion of hand-addressed mail. Such mail can be much more difficult to process because many of the addresses are hard to read. This can mean greater handling costs and an increase in the amount of mail that experiences delay.

I fully recognize that the Postal Service must establish certain standards in order to distinguish citizen rate mail from other first-class mail. However, I believe that all Americans, not just those without serious physical handicaps, should have an equal opportunity to meet the standards that are created. Furthermore, I believe that the standards for citizen rate mail should not entail additional costs and administrative problems for the Postal Service, which already has a huge deficit and more than enough processing problems.

The legislation I have introduced today would not impose on the Postal Service any specific additional criteria to be used in determining which mail would qualify for the new citizen rate. Also, it would not disturb the other proposed standards for this class of mail. However, my bill's removal of the requirement for handwritten addresses from the list of citizen rate mail criteria would send a clear message to the Postal Service that Congress expects the criteria for mail classes to apply equitably and efficiently.

The primary mission of the Postal Service is public service for all of the people. I believe that my legislation would remind the Postal Service of its obligation to maintain this basic purpose.

By Mr. THURMOND:

S. 2123. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, today I am reintroducing legislation which would provide assistance to certain persons who wish to have the right to be buried, upon their death, beside a deceased former spouse who is buried in a post cemetery or the post section of a national cemetery.

During the last Congress I was contacted by one of my constituents concerning his mother's request to be buried next to his father in a military cemetery. This was an unusual situation. His father had died in 1940 and was buried in a church cemetery. Since that time, Fort Jackson annexed this property and made it a post cemetery. Since this cemetery is now a military cemetery, this lady could not be buried next to her husband because she did not meet the requirements spelled out in the provisions of an act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes" (62 Stat. 234; 24 U.S.C. 281). A private relief bill had to be passed to allow this lady to be buried next to her husband.

I am sure there are other individuals in this same situation at Fort Jackson and other areas across the country. I do not believe a private relief bill should have to be passed in each such instance. For this reason, I am reintroducing this bill which would allow any surviving spouse of a person buried in a post cemetery or the post section of a national cemetery located in the United States or any territory of the United States to be buried in the gravesite or the adjoining gravesite of such person.

By Mr. DECONCINI:

S. 2124. A bill to increase the tariff on imported copper and to exclude copper imports from the generalized system of preferences created by the Trade Act of 1974; to the Committee on Finance.

Mr. DECONCINI. Mr. President, the United States is the world's largest copper producing nation, and copper is an essential element of our total national wealth. The State of Arizona which I represent produces 60 percent of American copper. Copper has long been central to the State's economic well-being.

The State of Arizona, Mr. President, is now faced with a crisis which shows no signs of abating, and every sign of exacerbating. The price of world copper has plummeted, putting pressure on American manufacturers to lower their own prices to the point where they are operating at a loss. Just recently, the American copper industry lowered its price from 65 cents a pound to 60 cents a pound in an attempt to remain competitive with foreign imports. Since American producers need approximately 70 cents per pound to break even, substantial layoffs have occurred as American producers attempt to cut their losses.

In Arizona alone there are approximately 9,000 copper workers laid off. Each week my office receives new information about the possibility of further mines being closed. Clearly, some type of

Government action is needed. I do not believe that the people of Arizona can tolerate continued inaction. The economic future of our State is at issue.

I recognize, Mr. President, that the problem of copper is a complex one; certainly, I do not believe that the legislation I am introducing today is the final answer. It is, however, a beginning; and a necessary beginning. Furthermore, the problem is more than simply economic; it is, in part, political.

To some degree, I think we can fruitfully think of the present crisis as the result of the interaction of the free enterprise system with Government-owned industries. Most of the major copper producing countries outside the North American continent have nationalized their copper producing facilities. Thus, they no longer respond to the push and pull of the marketplace. In fact, much of the worldwide problem has been the result of their acting in a manner contrary to what economic logic would dictate.

In most of these countries—notably, Peru, Chile, Zambia, and Zaire—the copper industry serves two basic purposes. First, it is an important source of employment in restive and unstable societies. Second, copper is the commodity which yields the much-needed hard currency required to purchase essential fuel supplies. Thus, while prices have been dropping, these countries have actually increased their production, creating a serious glut in the world market and intolerably low prices. But since these are Government entities which need not be profitable because they serve other social and economic purposes, they have been operated at a loss.

American producers, on the other hand, are in the copper business to make a profit. We can hardly expect that they will continue to produce at a loss. It is my understanding that once the differential between the London price of copper and the New York price reaches 8 cents a pound there is a shift to foreign copper. Up to that point, American consumers of copper will buy the American product. The differential now stands at about 13 cents a pound and there is a clear shift toward imported copper.

To remain competitive, the price of American copper has been reduced to 60 cents a pound. U.S. copper producers are losing an estimated 10 to 15 cents on every pound of copper sold. The president of Newmont Mining Corp. which owns Magma Copper Co., a major Arizona producer, was recently quoted as saying:

> At these prices, there won't be more than two or three mines in the entire country that can operate profitably, even on a cash basis—not counting interest and capital costs. And some of the "temporary" cutbacks may be more permanent than is now being implied.

A Journal of Commerce article on September 2 of this year referred to statements by George B. Munroe, chairman of the board of Phelps Dodge, another major Arizona company, to the effect that "the production curtailments were a direct result of increased shipments of foreign copper to the United States." Other reports suggest that copper imports will account for 20 percent of American consumption this year. Normal imports rarely rise above 10 percent.

The Copper Employment and Protection Act of 1977 which I am introducing today moves toward a resolution of the domestic copper crisis. It is clear to me that the American worker cannot compete with imported copper being subsidized by foreign governments and produced with little or no regard for cost. This is not a typical trade question because it involves private companies competing with Government-owned entities.

At present, if the U.S. price for copper is less than 24 cents a pound, a tariff of 1 cent a pound is imposed on imported copper. If the American price is 24 cents or above, the tariff is reduced to eight-tenths of 1 cent per pound. In either case, the trigger of 24 cents is unrealistically low and reflects economic conditions 15 years ago when the rate schedules were first published.

The Copper Employment and Protection Act changes the triggering mechanism, using a figure that has been adjusted to mirror contemporary economic conditions. Rather than 24 cents, the bill uses 70 cents as its trigger. This figure was selected because it represents what is generally conceded to be the break-even point for the American production of copper.

However, the act goes well beyond simply a change in the triggering mechanism. It doubles, across-the-board, all the duty rates on copper. For example, the present duty on unwrought copper is eight-tenths of 1 cent per pound when the U.S. price is 24 cents or over and 1 cent when it falls below 24 cents. Under my bill, unwrought copper would be subject to a duty of 1.6 cents a pound when the price of U.S. copper was 70 cents or more, and 2 cents a pound when the U.S. price fell below 70 cents. The same doubling applies to all rates of duty on copper.

These are figures which I believe to be wholly realistic and consistent with other aspects of our national policy. We demand—rightfully so—that our mining industry follow certain guidelines designed to protect both the environment and the atmosphere from degradation. These measures are necessarily expensive, and they increase the cost of American copper production. It is not unreasonable, therefore, to impose a tariff to assist our industry in meeting those standards when it is in competition with other producing nations that have no such environmental restrictions. At the very least, it can be argued that we should not demand that American workers sacrifice their jobs and means of livelihood. Simple justice demands that there be some equity.

These changes in the trigger and the rates of duty would be meaningless in the real world unless another factor is taken into consideration. Outside of the North American Continent, there are four major producers of copper from which well over 50 percent of U.S. imports originate. They are Chile, Peru, Zaire, and Zambia. By the terms of the Trade Act of 1974, these are "less developed countries" which receive preferential trade treatment. This means that their exports to the United States are duty-free. Therefore, unless some change is made to this part of the law, the other provisions will have virtually no impact.

Consequently, title II of the Copper Employment and Protection Act eliminates copper as an item given preferential trade treatment. I certainly have no quarrel with the policy of extending a helping hand to nations in need. However, I do believe that the U. S. Government has an absolute obligation to its own citizens which must take precedence. In the case at hand, the copper preference is doing serious harm to working men and women across the country, especially in Arizona. Certainly, we can devise other means of helping the less-developed nations than do pursue policies which deprive our own citizens of jobs.

Mr. President, I would urge my colleagues in the Senate—and especially the members of the Finance Committee to which this legislation will be referred—to view with sympathy the plight of 9,000 Arizona working men and women who face indefinite unemployment. And, their numbers will be rising. More mines are scheduled to be closed this month. The legislation I am offering today is not a total solution, but it is a starting point which is necessary if we are to revive what was once a dynamic industry. No one likes to advocate the raising of tariffs.

Like most Americans, I believe that we should compete in world markets on equal terms with our neighbors. But in this instance, we are forcing American workers to bear the brunt of competition from Government-owned industries which can and do operate at a loss. Raising the tariff on copper and assuring that it is applied to all countries is a reasonable response to a dangerous situation.

I ask unanimous consent, Mr. President, to include in the RECORD not only the text of the bill, but a series of newspaper articles outlining the genesis of the present crisis in the American copper industry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this act may be cited as the "Copper Employment and Protection Act of 1977".

TITLE I—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 101. Items 602.28, 603.49, and 603.54 of part I of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are hereby amended as follows:

(a) by striking the number "24" under the heading "Articles" and inserting in lieu thereof the number "70";

(b) by striking the number "1" under the heading "Rates of duty" and the subheading "1" and inserting in lieu thereof the number "2"; and

(c) by striking the number "4" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "8".

SEC. 102. Items 602.30, 603.50 and 603.55 of part 1 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are hereby amended as follows:

(a) by striking the number "0.8" under the heading "Rates of duty" and the subheading "1" and inserting in lieu thereof the number "1.6"; and

(b) by striking the number "4" under the heading "Rates of duty" and in the subheading "2" and inserting in lieu thereof the number "8".

SEC. 103. Headnote 5 to subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is hereby amended by striking the number "24" wherever it appears in said headnote and inserting in lieu thereof the number "70".

SEC. 104. Items 612.02, 612.03, 612.05, 612.06, 612.08, 612.10, 612.15, 612.35, 612.39, 612.44, 612.61, 612.62, 612.64, 612.70, 612.71, 612.72, 612.73, 612.81, 613.10, and 613.11 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States are amended as follows:

(a) by striking the number "0.8" under the heading "Rates of duty" and the subheading "1-a" and inserting in lieu thereof the number "1.6";

(b) by striking the number "1" before "¢ per lb. on copper content" under the heading "Rates of duty" and the subheading "1-b" and inserting in lieu thereof the number "2"; and

(c) by striking the number "4" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "8".

SEC. 105. Items 612.17, 612.20, 612.30, 612.32, 612.36, 612.38, 612.40, 612.41, 612.43, 612.45, 612.50, 612.52, 612.56, 612.63, 612.80, 612.82, 613.04, 613.06, 613.08, 612.12, and 613.18 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are hereby amended as follows:

(a) by striking the number "0.6" under the heading "Rates of duty" and the subheading "1-a" and inserting in lieu thereof the number "1.2";

(b) by striking the number "0.75" under the heading "Rates of duty" and the subheading "1-b" and inserting in lieu thereof the number "1.5"; and

(c) by striking the number "3" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "6".

SEC. 106. Item 612.31 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States is hereby amended as follows:

(a) by striking the number "1.4" under the heading "Rates of duty" and the subheading "1-a" and inserting in lieu thereof the number "2.8";

(b) by striking the number "1.625" under the heading "Rates of duty" and the subheading "1-b" and inserting in lieu thereof the number "3.25"; and

(c) by striking the number "3" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "6".

SEC. 107. Item 612.55 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is hereby amended as follows:

(a) by striking the number "5.6" under the heading "Rates of duty" and the subheading "1-a" and inserting in lieu thereof the number "11.2";

(b) by striking the number "5.75" under the heading "Rates of duty" and the subheading "1-b" and inserting in lieu thereof the number "11.5"; and

(c) by striking the number "17" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "34".

SEC. 108. Item 612.60 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States is hereby amended as follows:

(a) by striking the number "1.4" under the heading "Rates of duty" and the subheading "1-a" and inserting in lieu thereof the number "2.8";

(b) by striking the number "1.6" under the heading "Rates of duty" and the subheading "1-b" and inserting in lieu thereof the number "3.2"; and

(c) by striking the number "1.6" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "13".

SEC. 109. Item 613.02 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States is hereby amended as follows:

(a) by striking the number "2.6" under the heading "Rates of duty" and the subheading "1-a" and inserting in lieu thereof the number "5.2";

(b) by striking the number "2.75" under the heading "Rates of duty" and the subheading "1-b" and inserting in lieu thereof the number "5.5"; and

(c) by striking the number "11" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "22".

SEC. 110. All numbers struck from the Tariff Schedules of the United States (19 U.S.C. 1202) in sections 101 through 109 above refer to said schedules as amended through December 3, 1976. If said numbers are superseded before the enactment of this Act, the superseding numbers in effect on the date this Act is enacted will be struck in lieu thereof.

TITLE II—AMENDMENTS TO THE TRADE ACT OF 1974

SEC. 201. Subsection 503(c) of title V of the Trade Act of 1974 (88 Stat. 2069) is hereby amended as follows:

(a) by striking the subsection heading "(2)" and inserting in lieu thereof the subsection heading "(3)"; and

(b) by inserting after "Preferences", in subsection 503(c)(1)(G) and before the renumbered subsection heading 503(c)(3) the following new subsection:

"(2) No article shall be an eligible article under this title with respect to the duty on its copper content as provided for in items 602.28 through 602.30, 603.49 through 603.55, and 612.02 through 613.10: *Provided*, That nothing in this subsection prohibits any item named herein from being an eligible article with respect to the duty on its content of any mineral or substance other than copper.".

[From the New York Times, Aug. 20, 1977]

KENNECOTT, TWO OTHERS JOIN 7.7 PERCENT CUT IN COPPER PRICE

(By Brendan Jones)

Three more companies, including the Kennecott Copper Corporation, the industry's giant, joined yesterday in a 7.7 percent cut in copper prices.

The 5-cent-a-pound reduction—from 65 to 60 cents a pound on electrolytic copper cathodes, the basic form of refined copper—was announced also by the Phelps Dodge Corporation, the No. 2 producer, and the Cities Service Company.

Yesterday's price action was a follow-through on the 5-cent-a-pound cuts initiated Wednesday by Asarco Inc. and the Duval Corporation, a subsidiary of the Pennzoil Company. The reduction, the fourth and the largest for copper since April, when the price stood at 74 cents a pound, indicates worsening of the excess world copper supply that has plagued the industry for the last three years.

The latest round of price-cutting, which has been enforced by a growing spread in domestic and foreign copper prices, is expected to become general in the industry next week.

"It is a matter of facing the realities of the world market conditions," said one industry official. Another commented that "business is so slow at present, it is doubtful that much more copper will be sold at 60 cents a pound than at 65 cents."

The basic reason for the slump has been continued sluggishness in the general economy and continued high production of copper by Third World countries, such as Zaire and Zambia. They have been maintaining production to sustain foreign-exchange earnings and employment.

As a result, the world copper supply is reportedly now at more than two million tons, an historic high that is twice the normal level. And even though there has been a recent pick-up of construction in this country, copper consumers still have large inventories to work off.

The difference between copper prices on the New York Market and on the London Metal Exchange has widened increasingly in recent weeks, with prices in London tending to be 10 cents a pound lower. Traditionally a London price that is only 8 cents below the United States price is enough to trigger a switch to imports by American copper consumers.

In announcing its 5-cents-a-pound cut on Wednesday, Asarco cited the disparity in domestic and foreign copper prices, as well as rising imports. The reduction, a company spokesman said, was "to help us stay competitive".

Meanwhile copper producers, who also have substantial inventories on hand, have been cutting production to about 85 percent of capacity. Many mines already are down to 95 percent of capacity.

Another disrupting factor in the industry was the relative snortness of a strike early last month by 45,000 copper workers. Many copper company officials had expected the strike to last three or four months and thus bring a welcome cut in supply.

Kennecott, however, made a surprise settlement with the unions less than a week after the start of the strike. While some companies have been slow to settle with the unions, the general reaction has been to announce scheduled layoffs and longer vacation shutdowns of operations to achieve lower production.

In Arizona, which accounts for 60 percent of domestic copper production, some 3,000 copper workers have been laid off so far this summer, and another 3,000 are reported to be still on strike. There are nearly 20 mines and seven smelters in the Tucson area, which contains the main part of the Arizona operations.

Commenting on big inventories being held by producers, one copper company executive said sadly yesterday: "There's a mountain of copper out there".

[From the Journal of Commerce, Sept. 2, 1977]

U.S. COPPER OUTPUT SLASHES HELD LIKELY

(By Tony Gampetro)

More production cutbacks by U.S. producers of copper and a continued lack of significant strength for prices appears likely to continue until the worldwide supply-demand picture for the metal moves into closer balance.

This appears to be the view of some market analysts recently. Their belief is based on the fact that worldwide inventories of the metal are at record levels—estimated by some at approximately 2 million tons.

London Metal Exchange (LME) warehouse stocks have recently been reported at 609,400 tons and on the Commodity Exchange Inc. at over 200,000 tons.

Also, while U.S. producers have begun to cut production, foreign producers are maintaining high output levels. And, despite the recent 5 cent cut in the U.S. producer price to 60 cents per pound, there continues to be a wide gap between LME and U.S. selling prices.

SOME BRIGHT SPOTS

There are some bright spots on the horizon, however, with economic trends expected to also play a major part in the metals picture.

ACLI International Commodity Services Inc. in their mid-August report on New York Commodities stated that "As bearish as the supply side of the fundamental balance is, however, it is unlikely that futures

values would have sunk as low as they have were it not for the reserved purchasing posture of industrial users. Because of widespread stockpiling in advance of this summer's strike, the buying power which would normally be supporting the market today already has been spent. Compounding, too, the seasonal weakness of consumption related to vacation shutdowns has been widening concern as to outlook for economic growth. . . ."

MORE NORMAL BALANCE

The report also stated that "once the large precautionary inventories built up in defense against this summer's walkout have been depleted (which, hopefully, will be accomplished in the early part of the third quarter), a more normal supply/demand balance should be gradually restored and prices should rebound to levels closer in accordance with production costs."

Analysts say that recent cuts in U.S. production and the strike within the industry this summer have been favorable factors in bringing the supply-demand situation into closer balance. Also some market observers have stated that foreign producers may eventually realize that high production at low prices is not favorable for anyone.

RECENT CUTBACKS

Some of the recent cutbacks by U.S. companies include:

Phelps Dodge announced in early August that it was restricting production at its western copper mines which would leave output at 85 per cent of capacity. This compares with 95 per cent prior to the strike.

George B. Munroe, chairman of Phelps Dodge Corp., stated that the production curtailments were a direct result of increased shipments of foreign copper to the United States.

Sales of foreign copper here are made possible by the lower prices quoted by foreign government controlled mines which, regardless of prevailing market conditions seek to maximize production and sales in order to obtain foreign exchange and maintain employment, according to the Phelps Dodge announcement.

Less than one-third of Inspiration Consolidated Copper Co.'s Arizona miners were to return to work following settlement of the company's labor disputes.

According to John B. Howkins, Inspiration's president, this curtailment of operations is necessary in view of the copper market situation caused by the high rate of foreign production that has resulted in very large inventories of refined copper and depressed prices. A substantial amount of this foreign copper is being imported into the United States, Mr. Howkins said.

Kennecott Copper Corp. has stated that it was cutting mine and concentrator output at its Nevada division. The Nevada concentrator is to process an average of 15,000 tons a day instead of 22,500 tons, which was the recent average.

[From Business Week, Sept. 5, 1977]

THE PLUNGE IN PRICES HITS COPPER OUTPUT

With copper prices plunging to a two-year low, industry executives are trimming production at some mines and considering further paring and complete shutdowns at others. "There will have to be more cutbacks," says Jack E. Thompson, president of Newmont Mining Corp., which owns Magma Copper Co. "At these prices, there won't be more than two or three mines in the entire country that can operate profitably, even on a cash basis—not counting interest and capital costs. And some of the 'temporary' cutbacks may be more permanent than is now being implied."

Industry spokesmen refuse to say whether they plan to close mines. But as George B. Munroe, chairman of Phelps Dodge Corp., puts it: "Long-term shutdowns are something that we, like the rest of the industry, are now looking at very closely."

The industrywide scrutiny of current operations is being prompted by last week's nickel-a-pound price cut to 60¢ per lb. While costs vary from mine to mine, the breakeven point for the U.S. industries estimated at roughly 70¢ a lb. Asarco Inc. and Pennzoil Co.'s Duval Corp. led the current round of price reductions. By this week, all major producers had fallen into line except Inspiration Consolidated Copper Co.

The nation's copper companies are slashing prices well below the cost of production to bring them closer to world spot prices, established on the London Metal Exchange. Before last week's announcement, the price of copper purchased on the world exchange had drifted as much as 13¢ a lb. beneath the U.S. price. When world prices move 8¢ or more below domestic levels, foreign supplies become attractive to U.S. consumers—despite transportation costs plus the 0.8¢-a-lb. import duty.

INVENTORY

The depressed metal exchange price is caused by a 2 million-ton inventory of copper held in the world's warehouses—about twice the normal stock—that has little chance of being whittled down soon. A sluggish world economy, the quick settlement with copper workers' unions in July, and full-speed production by nationalized copper companies abroad slim the chances of using up the bulging inventories.

While U.S. copper consumption has picked up briskly, use of the red metal in the rest of the industrialized world is still about 20% below the rate of 1974, the last good year for copper. "The economies of Western Europe and Japan haven't picked up enough to be able to work off this oversupply," says Simon D. Strauss, vice-chairman of Asarco.

Many in the copper industry and its industrial customers expected a long strike this year. A walkout of three months would have reduced copper stocks by about 350,000 tons. Anticipating a strike, consumers bought heavily before July as a hedge against any cutbacks in production. Yet the strike was settled unexpectedly soon, interrupting most operations for just a few weeks (BW—July 18).

FOREIGN PRODUCERS

But copper executives think the most lasting and troubling dilemma, brought to light by the recent price cuts, is that posed by foreign producers. The largest copper nations outside North America are Chile, Zambia, Zaire, and Peru. All are poor countries that desperately need foreign currency to make payments to the world's bankers on their sizable loans (page 31).

These countries have also nationalized their copper operations. As government trusts, they are less bound by the pricing system than private companies. "What we're really seeing in copper is the first real confrontation between nationalized producers abroad and private industry in the U.S.," says John B. M. Place, chairman of Anaconda Co., an Atlantic Richfield Co. subsidiary.

The combined effect of government aid to these less-developed nations and U.S. environmental regulations, which add at least 8¢ a lb. to production costs, justifies some type of trade restraints on copper imports, industry executives claim. Imports are expected to almost double their share of U.S. consumption this year to 20%. Some copper executives have reportedly discussed the subject with federal officials, though no organized lobbying effort is yet under way.

Government sources, noting the Administration's commitment to free trade and aid for poor nations, doubt that the copper industry will find a sympathetic ear in Washington. But without some government help, says Newmont's Thompson, "I don't see anything that will make the prospects for our industry during the next few years look any brighter than they are right now."

[From the New York Times, Sept. 10, 1977]

COPPER GLUT IS FORCING PRODUCERS TO IDLE MINES IN BID TO CUT COSTS

Faced with a veritable mountain of copper that has caused prices to tumble, the nation's producers have begun to idle their workers and mines in an attempt to cut costs and whittle inventories.

In one of a string of recent developments, the Kennecott Copper Corporation, the industry giant, said yesterday that it was eliminating 10 percent of the more than 10,000 jobs in Kennecott's four copper mining divisions. Part of a cost-cutting and productivity drive, the layoffs began in August and are scheduled to conclude in the next few months.

Although it is reducing its work force, Kennecott said it intended to maintain its production output. This, it said, would allow it gains on costs.

OUTPUT LOWERED BY 11 PERCENT

Meanwhile, the Duval Corporation, the mining subsidiary of the Pennzoil Company, announced yesterday that it would close two of its four copper production operations. Its Esperanza property near Tucson, Ariz., will be closed for an indefinite period on Sept. 26, and its Battle Mountain, Nev., mine and concentrator will be phased out over the next 90 days.

Duvall's announcement followed a six-week period during which all of the company's copper properties were closed. This cut production by about 11 percent. The forthcoming shutdown of the two Duval properties will lower output by roughly 20 percent.

Two days ago, Asarco Inc. announced the suspension of all its copper mining operations, idling some 1,300 workers. An additional 365 refinery employees were temporarily laid off because of some copper refining curtailments.

Asarco had only recently become the last of the Big Six United States copper producers to agree to a new labor contract, thus winding up a two-month strike by 3,600 copper workers.

In the last two months, a growing number of copper companies have curtailed production and closed mines in an effort to wrest themselves from the condition of excess supply that has characterized industry for more than three years.

RELENTLESS ROUND OF CUTS

The industry has been in a glum mood. It has been forced to participate in a relentless round of price cuts that have left the price of copper at 60 cents a pound. Industry observers believe companies are losing as much as 10 cents to 15 cents on every pound of copper they sell.

The trouble, of course, is too much copper. While United States producers are trimming production schedules, such underdeveloped nations as Chile, Zambit and Zaire are pounding out copper in substantial amounts, despite slack demand, in hopes of increasing foreign-exchange earnings.

Western nations' inventories are currently crammed with an estimated 2.2 million tons of copper, roughly double the normal level.

The copper industry had hoped to find relief from its tribulations when 45,000 copper workers went on strike at mines and smelters after contracts expired on June 30. A long strike seemed in the offing.

MAJORITY FOLLOWED SUIT

It never materialized. Kennecott, raced to a settlement, drawing rage from others in the industry, the majority of whom quickly followed suit.

"Copper buyers had anticipated a long strike," said David Healy, copper analyst at Drexel Burnham Lambert, in a telephone interview yesterday. "When the strikes were settled much faster than expected, there was a hunk of copper looking for a home. I think everyone is pretty well provided with copper for three or four months."

The problem at hand remains that of striking a balance between United States production and that of the government-owned producers in developing nations.

"The balancing factor that is coming into play right now is the closing of United States copper mines," said George Cleaver, copper analyst at White, Weld & Company. "This action has been in the cards for some time. And I don't think it's all going to be temporary. Some of the mines that are being closed will probably never reopen."

Industry observers expect many more layoffs and nine closings soon. One large producer that has not yet announced any substantial curtailments is the Anaconda Company, a spokesman, however, acknowledged yesterday that, "since it's costing us more money to produce copper than we're getting in return, we have to be thinking about possible actions."

Another leading copper producer, the Phelps Dodge Corporation, has been operating at around 70 percent of capacity. Its Ajo, Ariz., mine is closed, and it is not expected to resume operations until next month.

"There have to be more closings," Mr. Cleaver said. "Some companies are merely hanging on to that element known as hope. Stick in there and maybe, just maybe, a year from now copper prices will be flying high again. But it's not that simple. I think it's going to be a two-year process before this imbalance sorts itself out. It's going to be a terribly uncomfortable process."

By Mr. WILLIAMS:

S. 2125. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to authorize the Pension Benefit Guaranty Corporation to extend, for not more than 18 months, the date on which the corporation first begins paying benefits under terminated multiemployer plans; jointly, by unanimous consent, to the Committee on Finance and Human Resources.

ERISA OVERSIGHT HEARINGS; A BILL TO PERMIT A DELAY IN MANDATORY MULTIEMPLOYER PLAN TERMINATION INSURANCE; DUAL JURISDICTION, PLANS OF SMALL EMPLOYERS AND OTHER MATTERS

Mr. WILLIAMS. Mr. President, the pension plan termination insurance program contained in title IV of the Employee Retirement Income Security Act of 1974 (ERISA) became immediately and fully effective for single employer pension plans in 1974. But for multiemployer plans, title IV contains a delayed effective date of January 1, 1978. Until that date, the Pension Benefit Guaranty Corporation may, in its discretion, provide insurance for the participants of terminating multiemployer plans, but on and after January 1, 1978, termination insurance coverage will be mandatory for these plans.

In recent months, I have become increasingly concerned about reports that a substantial number of multiemployer plans may terminate on or shortly after January 1 of next year, resulting in a severe drain on PBGC's multiemployer fund and a consequent extraordinary rise in the premiums that PBGC will have to charge to multiemployer plans. This, in turn, could trigger even more terminations.

The apprehensions about excessive multiemployer plan terminations may be well founded. Furthermore, I have concluded that a thorough review of title IV of ERISA is in order to determine whether interpretive or legislative changes must be made to better reflect the nature of these plans. I am therefore introducing legislation today to permit PBGC to postpone the effective date for mandatory multiemployer plan coverage under title IV for a period of not more than 18 months. To help insure that we will not have to repeat the postponement exercise, my bill also requires that if the PBGC exercises its discretion to postpone mandatory coverage, it will furnish a report to the Congress, explaining the reasons for the postponement and setting forth any proposals for legislative changes it believes are necessary to better accommodate title IV to multiemployer plans.

Mr. President, I ask unanimous consent that the text of the legislative proposal be included in the RECORD at the conclusion of my remarks.

Mr. President, as the principal Senate sponsor of the Employee Retirement Income Security Act of 1974, I have closely followed its implementation by the three Federal agencies which have administrative and enforcement responsibility under its provisions—the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation. I have followed with equal interest the course of Government and private litigation under ERISA.

When the Senate overwhelmingly endorsed ERISA on August 22, 1974, we knew at the time that we were enacting landmark legislation. Those of us on the Human Resources Committee knew only too well the magnitude of what was to be undertaken, for we had labored long and hard—first with our colleagues on the Finance Committee and later in conference with our colleagues from the House—to determine ERISA's substantive standards and administrative mechanisms. We were proud of what we had accomplished, but we were also apprehensive. Enactment was only the first step, and the great hurdle of implementation lay ahead.

The standards contained in ERISA would have to protect the interests of more than 40 million employees covered by private sector pension and welfare plans. Three separate Federal agencies would have to work together to administer and enforce the law properly—a law designed to be strong enough to accomplish its intended results, yet flexible enough to accommodate the legitimate interests of the many institutions and groups that comprise the modern employee benefit plan complex. For 3 years, I have held back from speaking out on implementation issues, believing that premature judgments were not in order.

Now the time has come for a careful evaluation. ERISA's termination insurance program has been in effect for more than 3 years. The reporting, disclosure, and fiduciary provisions have been in effect for more than 31 months. The minimum standards for funding, participation, and vesting, and the rules for related matters first came into play over 19 months ago. It is time to analyze the results and resolve outstanding issues.

I, for one, believe the substantive concepts of ERISA are generally sound. Most of the fiduciary rules, the minimum participation, vesting and funding standards, and the use of detailed reporting and broad disclosure as both a prophylactic and an enforcement tool seem to be suitable means of accomplishing ERISA's ends. The investigative and enforcement authority lodged with the Secretary of Labor appears to be both ample and flexible. The Pension Benefit Guaranty Corporation is operating and thousands of retirees are receiving benefits, thanks to PBGC's termination insurance.

But I have also observed certain problem areas. In some cases, these problems can be traced to administrative difficulties. In others, they arise because ERISA's rules have not worked as well in certain particulars as we had hoped and expected they would.

DUAL JURISDICTION

Of all of the problems I have observed in the implementation of ERISA, there is one that seems to be dominant. It is called "dual jurisdiction," a term used to describe the fact that many of ERISA's rules are subject to interpretation and enforcement by both the Labor Department and the Internal Revenue Service. In 1974, there was wide recognition that dual jurisdiction would make efficient administration of ERISA difficult, and after 3 years of dual jurisdiction, there is no question in my mind that bipartite—and in some cases tripartite—administration of the law has resulted in inefficiency, confusion, waste, and needless expense. Dual jurisdiction also has hindered the development of a rational and coherent overall philosophic approach to the myriad of issues relating to retirement security and welfare plan protection that were not explicitly addressed in ERISA.

There are three logical alternatives to dealing with the dual jurisdiction problem. First, agency administrative and enforcement jurisdiction could be further fragmented by mandating that the Labor Department be exclusively responsible for certain portions of the act and the IRS be exclusively responsible for other portions. Second, jurisdiction could be consolidated in one place. Third, the administrative structure could be left entirely or largely as it is. Obviously, there are variations of each of these broad alternative approaches.

The further fragmentation approach is designed to enhance efficiency and reduce duplication of effort, overlap, and resultant confusion by eliminating the necessity for both agencies to pass on the same matters. But this concept needs to be carefully examined. Among the questions that should be asked about proposals for further fragmentation are the following:

First. Is it wise, and will it be productive in the long run, to further separate the administrative and/or enforcement responsibilities of the agencies when the law that they are administering was conceived of, considered, and enacted as an integrated whole?

Second. To the extent that dual jurisdiction has prevented the development of a coherent, rational, philosophic ap-

proach to the problems associated with our national policy regarding retirement security and welfare plan coverage and protection, will not further fragmentation of administrative responsibility make development of sound national policy even less likely? On reflection, it seems to me that we are no further advanced in our thinking now than we were in 1974. The critical problems such as the respective roles of our private and public retirement security mechanisms, the desirability of further strengthening of ERISA's substantive provisions, the feasibility of the concepts of portability and reciprocity, the utility of the excise tax and disqualification as remedial tools, and the major, overriding problem of how our private retirement system is going to cope with the significantly increased proportion of our population that will be reaching retirement age early in the 21st century, remain unresolved.

Third. Given the pull and tug of competing demands on our time and resources, will not further fragmentation of administrative and policymaking functions so diffuse responsibility that the significant, important interests which we in the Congress recognized when we enacted ERISA will be lost or overwhelmed by other national interests and priorities?

Fourth. Is it possible that the proponents of further fragmentation of agency responsibility are overlooking the fact that, because the various subject-matter parts of ERISA are so inherently related to one another, there will of necessity be a great need for the agencies to consult and coordinate extensively even when their responsibilities for administration and enforcement have been separated? And will not this continuing need for consultation and cooperation undercut the very efficiencies that further fragmentation is designed to bring about?

For example, in many cases, conduct that gives rise to a violation of the participation, vesting, accrual, or related rules will also give rise to a violation of the fiduciary rules. Also, an issue arising under the annual financial report that is required to be filed with the Labor Department is likely to raise a similar issue under the tax return that is required to be filed with IRS. And even if responsibility for interpreting ERISA's definitional terms is split between the agencies, coordination and consultation will be required to avoid inconsistent application.

Furthermore, because ERISA is in fact an integral whole, it is inevitable that in the day-to-day administration of its provisions, the agencies will have to consult extensively with each other, and the public will often have to seek guidance from both agencies on different aspects of the same issues. Finally, none of the fragmentation approaches has addressed the problems caused by the present necessity for PBGC interaction with both Labor and IRS.

The second broad alternative would be a consolidation of administrative, enforcement, and policymaking functions. Within this broad alternative, there are many possible variations. However, at this point I am more concerned with the broader questions of whether consolidation is a good idea and whether it is feasible.

Having observed the effects of dual jurisdiction for 3 years, I have become convinced that consolidation merits serious consideration. Consolidation would undoubtedly significantly reduce inefficiency. It would end the duplication of effort that now exists and would continue to exist under the fragmentation approach. The need for coordination and consultation between different agencies of the Federal Government would not be ended, but it would be significantly reduced. And over the long term, the reduction in duplication of effort and overlap of function would result in a savings of taxpayer dollars.

Most importantly, placing the policymaking, administrative, and enforcement functions of ERISA in one agency would permit and foster the development of a sound and coherent national policy regarding the issues of retirement security for all American workers. Consolidation should also result in an entity with the motivation, ability, and strength to insure a fair hearing for the policy options it has under consideration and, most importantly, a fair and comprehensive hearing in the arena of public affairs for the policies it decides to choose and implement.

Compared to dual jurisdiction or further fragmentation of jurisdiction, consolidation of functions and assembling in one place the authority and the people with the skills and talents necessary to deal with this complex area of law and national policy is undeniably attractive.

In 1974, I concluded reluctantly that unified administration for ERISA was not feasible. A series of factors present at that time seemed to preclude unitary administration. However, during our 3 years of experience, enough has happened to warrant renewed consideration of a consolidated approach to ERISA's administration.

We have now experienced 3 years of dual jurisdiction. It has not been a happy experience. It has been a time of confusion and frustration. I have heard personally from many of my own constituents about the ways in which dual jurisdiction has impeded sound administration and coherent policymaking under ERISA. I am certain that most, if not all, of my colleagues in the Senate and House have received similar complaints. And I know that the problems of dual jurisdiction have hindered the staffs of the Labor Department, IRS, and PBGC in their efforts to administer the act.

Nor have the effects of dual jurisdiction been limited to rank and file workers and agency staffs. Major financial institutions that manage employee benefit plan assets and furnish services and products to plans have been affected. Lawyers, accountants, actuaries, investment advisers, and other professionals who are involved with the administration or asset management of plans have grappled with the conflict and confusion that has accompanied dual jurisdiction. Dual jurisdiction is no longer, as it was in 1974, a potential cause of apprehension. It is here, it is real, and it has caused significant problems. Those who opposed unitary administration in the years 1972 through 1974 have now lived through the realities of dual jurisdiction, and may wish to reconsider the idea of unified administration.

During the period 1972–74, when ERISA was being shaped, our thoughts and attention were focused primarily on the substantive concepts and standards that were to be included. In late 1973 and throughout 1974, we were forced to move rapidly in melding together the differing viewpoints of the four committees involved. Now, with ERISA's general concepts in place and operative, we can give the jurisdictional question a fresh, dispassionate review and reach a far better solution than we did in 1974.

The third broad alternative is to leave things as they are. If it appears that unified administration is not possible at this time, it may be better to do nothing for the time being. Dual jurisdiction is certainly not a desirable solution, but further fragmentation may turn out to be even worse if, as I suspect, it proves to be impossible to avoid substantial continued consultation and coordination between the agencies, resulting in continued confusion and delay.

OVERSIGHT HEARINGS

Mr. President, I have not made up my mind on the dual jurisdiction issues and I intend to examine them carefully. Therefore, I have scheduled oversight hearings by the Labor Subcommittee of the Human Resources Committee. These hearings will last for at least 3 days, commencing on Tuesday, October 11, 1977.

Our committee's oversight hearings will also cover several other subjects on which attention should be focused.

APPLICATION OF FEDERAL SECURITIES LAWS

A recent decision by the U.S. Court of Appeals in Chicago in the case of Daniel against IBT, et al., affirming a lower court ruling that the antifraud provisions of the Federal securities laws can be applied to a jointly administered, Taft-Hartley pension plan and its sponsoring union has caused consternation on the part of many plans, their fiduciaries, and their sponsors while at the same time being applauded by some advocates of workers rights. The circuit court decision leaves me with mixed feelings, for I am sympathetic to the plaintiff in the case, who lost a pension after more than 22 years of covered service because of a 4-month break in service. But at the same time I am disturbed by reports I have heard concerning the ruinous liability that may be visited on plans if the antifraud provisions are applied.

I am also greatly disturbed by the spectre of yet another Federal agency—the Securities and Exchange Commission—becoming heavily involved in the regulation of employee benefit plans, and about the further confusion that will result from application of yet another body of law. And I am troubled by the cavalier fashion in which the court of appeals dealt in its decision with the labor relations and collective bargaining ramifications that could flow from the application of the Securities Acts' antifraud provisions to collectively bargained plans.

MULTIEMPLOYER PLANS

Three years' experience with ERISA's substantive provisions have brought to light certain other problems that may warrant statutory adjustment. One entire set of problems arises from ERISA's application to multiemployer, jointly administered pension and welfare plans, which are subject to section 302(c) of the Labor-Management Relations Act as well as to ERISA. Multiemployer plans have encountered particular difficulties in satisfying certain of ERISA's requirements. In some cases, the Labor Department, IRS, and PBGC, by regulation and other forms of interpretation, have been able to ameliorate these problems without lessening the protections of the act for participants and beneficiaries—as in multiemployer class exemptions from certain of the prohibited transaction rules.

Nevertheless, certain problems remain, and they are serious enough to warrant our consideration. I suspect that many of the difficulties that multiemployer plans are experiencing under ERISA and the Tax Code have a common cause. I think the cause is that neither ERISA nor the Tax Code recognize and account for how truly different in nature these plans are from single employer plans.

When ERISA was enacted, we recognized that in some instances multiemployer plans merited different treatment. But all too often, the distinctions between these plans and single employer plans have been ignored. In addition, difficulties have arisen in applying the termination insurance provisions of the act to multiemployer plans, even though title IV contains numerous special provisions for these plans. These difficulties account for the apprehensions—shared alike by knowledgeable private sector observers and PBGC officials—concerning mandatory application of title IV to multiemployer plans, and are responsible for my decision to introduce legislation today. In this area and perhaps in others, consideration must be given to changes in interpretation and, if necessary, new statutory language that will recognize the differences between multiemployer plans and corporate, single employer plans.

The typical Taft-Hartley plan involves numerous employers, no one of which has the power to control the plan. Indeed, not even all of the contributing employers, represented by trustees they or their association has designated, can control the plan. Similarly, the union trustees, acting alone, cannot control the plan. In the abstract, this is not objectionable—indeed, it is desirable in light of ERISA's mandate that fiduciaries, such as a Taft-Hartley plan's joint board of trustees, act solely in the interest of the plan's participants and beneficiaries.

However, under title IV and elsewhere in ERISA, and also in the Internal Revenue Code, a tight, mutual relationship of responsibility and accountability between the plan sponsor and the plan itself is assumed. This assumption is the basis for the concept of contingent employer liability, which is the only effective deterrent in title IV against frivolous or otherwise unjustified terminations. It is also the basis for the Tax Code's remedies of disqualification and excise tax.

I believe that the key to understanding—and properly resolving—the difficulties of multiemployer plans under ERISA, and especially under title IV, will be found in a careful reexamination of this assumption. In addition, unique problems are encountered by multiple employer plans in industries that have experienced economic downturns, and resolution of these problems should be given a high priority.

Mr. President, in introducing legislation that will permit PBGC to postpone the date of mandatory termination insurance coverage for multiemployer plans and in focusing attention on the difficulties of these plans under ERISA, I am not suggesting that the level of protection for the rights and interests of their participants be reduced and I am distressed that it appears necessary to authorize PBGC to postpone coverage, even for a temporary period. But a postponement may be necessary to avoid the severe strains that will be placed on both PBGC and multiemployer plans if, as now seems possible, many of these plans choose to terminate as soon as PBGC protections become mandatory.

It may be, and it is my hope, that over the next few months the picture will brighten sufficiently so that PBGC will choose not to exercise its postponement authority. The almost 8 million participants covered under multiemployer pension plans deserve the same level of protection enjoyed by participants in single employer plans. Multiemployer plans play an important role, and their maintenance and growth should be fostered and encouraged.

However, application of ERISA and the Tax Code as they are now structured and interpreted may be impeding that goal rather than furthering it. Accordingly, at our upcoming oversight hearings and in the months ahead, I intend to carefully review whether adjustments in the law can and should be made to insure that the differences between multiemployer plans and single employer plans are recognized and accounted for.

PLANS OF SMALL EMPLOYERS

Another major problem area under ERISA involves the plans of small employers. Here again, in my opinion, ERISA may not sufficiently take into account the differences between small plans and plans maintained by large, corporate employers. Although the figures and explanations to date on plan termination frequency do not present a very coherent picture, I am concerned that ERISA's paperwork and compliance burdens for small plans, coupled with the alternative opportunities presented by individual retirement accounts, may be responsible for some proportion of the total plan terminations.

Adjustments to the law so that its compliance burdens for small plans are structured in a more equitable fashion may be possible. But no solution that involves a reduction in the level of protection provided by ERISA to the participants in small plans will be acceptable.

PREEMPTION

We also must examine the effects of ERISA's sweeping preemption provision, particularly as it relates to welfare plans—including uninsured, "self-funded" health care arrangements.

Regarding the self-funded health care arrangements being marketed by various entrepreneurs, I am hopeful that the Labor Department will be successful, through regulation or litigation, in drawing some clear lines concerning the differences between employee benefit plans intended to be covered by ERISA and to be protected from conflicting or multiple State regulation by ERISA's preemption provisions, and schemes that are designed to look like employee benefit plans but are really risk-pooling arrangements seeking to avoid State insurance laws. However, if it appears that legislative change is necessary, despite the best efforts of the Labor Department, I am certain that we will give it careful consideration.

FURTHER IMPROVEMENTS

Mr. President, it has been suggested that the time is appropriate for consideration of further improvements in ERISA's protections. There is merit to this suggestion. Although ERISA was a big step forward, it was really only an initial step. However, the administering agencies have yet to promulgate important regulations under the 1974 law. Also, I suspect that the confusions and difficulties engendered by dual jurisdiction have to some extent obscured dispassionate judgments about the impact of ERISA's substantive provisions on plan sponsors and administrators, as well as on plan participants and beneficiaries.

While it may be too early to legislate new advances, it is certainly not too early to consider potential changes. Expanding individual retirement accounts, such as limited IRA's for workers covered under plans which provide only meager benefits, should be considered not only on its merits, but also in light of the effect that the availability of IRA's has already had on existing plans and the further effect that an expansion might have. We must also measure the desirability of IRA's and the obvious value of the flexibility they offer to individuals seeking retirement security against the transactional costs and loss of economies of scale that are inherent in individually established IRA's as opposed to plans maintained by a sponsor.

Portability of vested credits as well as reciprocity arrangements for nonvested, accrued benefits are both ideas that merit consideration. The problems of devising a feasible system for either concept are formidable, as we recognized in 1972–74. However, I think it is incumbent on us to thoroughly explore these ideas, as well as a mechanism to safeguard retirees' benefits from the effects of inflation, because in the absence of immediate vesting, or a feasible portability and reciprocity system, there will continue to be significant hardships at retirement time for people whose employment does not continue steadily with the same company or under the same plan. Workable solutions to these problems and to other problems, such as continued plan coverage opportunities for workers of small companies, may be found in governmentally established and controlled mechanisms, such as pooled funds or accounts, but it seems

to me that our strong and remarkably diverse private employee benefit plan system can also serve as a proving ground for new ideas and concepts.

Mr. President, all of the matters and problems to which I have alluded will be addressed in our committee's October oversight hearings. The time has come to productively review the results of the historically significant legislation we put into effect 3 years ago and the performance of the agencies in which we vested its administration. If we can conclude, as I surely believe we will, that ERISA's precepts have proven appropriate and its concepts have proven sound, we can devote our full attention to those areas in which operational problems have arisen and in which interpretive or legislative adjustments should be made.

Seven years have passed since the beginning of the Human Resources Committee's initial study of private pension plans, which finally culminated with the enactment of ERISA on Labor Day, 1974. This was a great triumph for American workers and a source of great satisfaction for us all. I am proud of the role that I was able to play in that process by virtue of my chairmanship of the Human Resources Committee.

Today, I am strongly committed to continue that role through effective oversight, thoughtful study, and the development of legislation, if necessary, to cure existing defects and to insure as best we can that our goal of true retirement security and health and welfare care for America's workers is in fact realized.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4082(c) of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) is amended—

(1) by inserting after "January 1, 1978" each place it appears the following: ", or the date fixed by the corporation under paragraph (5), whichever is later",

(2) by inserting after "December 31, 1977" the following: ", or the day before the date fixed by the corporation under paragraph (5), whichever is later", and

(3) by adding at the end thereof the following new paragraph:

"(5) The corporation may delay the January 1, 1978 effective date for benefit payments with respect to terminations of multiemployer plans to a date not later than July 1, 1979 if it determines, before January 1, 1978 that such a delay is necessary to prevent serious financial difficulty for the corporation and to insure proper coverage for multiemployer plans terminating after such effective date.".

(b) Section 4082 of such Act is amended by adding at the end thereof the following new subsection:

"(d) If, pursuant to subsection (c)(5), the corporation exercises its authority to fix a date later than January 1, 1978, the corporation shall present to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Human Resources and the Committee on Finance of the Senate a report which comprehensively addresses those matters which caused the corporation to determine to fix a date later than January 1, 1978, including a full and complete explanation of any actions taken or to be taken by the corporation to alleviate or eliminate the difficulties referred to in subsection (c)(5), and explanations of options for other actions considered and rejected by the corporation. If the report contains recommendations for amendments to this title, such recommendations shall be fully explained, and shall be accompanied by explanations of other options for legislative change considered and rejected by the corporation. The report shall be presented by the earlier of—

(1) July 1, 1978, or

(2) 270 days before the date fixed by the corporation pursuant to subsection (c)(5)."

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from New Jersey (Mr. WILLIAMS), to amend the Employees Retirement Income Security Act of 1974, be jointly referred to the Committees on Finance and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 991

At the request of Mr. RIBICOFF, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 990, to establish a Department of Education.

S. 1245

At the request of Mr. GRIFFIN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1245, the Corrections Construction and Program Development Act of 1977.

S. 1585

At the request of Mr. MATHIAS, the Senator from Kansas (Mr. DOLE) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 1585, the Protection of Children from Sexual Exploitation Act.

S. 1586

Mr. THURMOND. Mr. President, I ask unanimous consent that my name be added as a cosponsor to S. 1586, a bill to establish an Antitrust Review and Revision Commission. The bill was introduced by the distinguished senior Senator from New York (Mr. JAVITS), for himself and Senators ABOUREZK, DOLE, DOMENICI, and MATHIAS. My two predecessors, as ranking minority members of the Senate Antitrust and Monopoly Subcommittee, were cosponsors of previous bills for such an Antitrust Study Commission; namely, Everett McKinley Dirksen and Roman L. Hruska.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1587

At the request of Mr. STONE, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes.

S. 1651

At the request of Mr. BIDEN, the Senators from Kentucky (Mr. HUDDLESTON and Mr. FORD), the Senator from Indiana (Mr. LUGAR), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Utah (Mr. GARN), the Senator from Florida (Mr. CHILES), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1651, a bill to insure equal protection of the laws.

S. 1692

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1692, to reform the Postal Service.

S. 1736, S. 1737, S. 1738

At the request of Mr. LEAHY, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1736, S. 1737, and S. 1738, the Solar Energy for Homes Acts.

S. 1820

At the request of Mr. METCALF, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1820, to establish programs for the maintenance of natural diversity.

S. 1868

At the request of Mr. MELCHER, the Senators from Oklahoma (Mr. BELLMON and Mr. BARTLETT), and the Senators from New Mexico (Mr. DOMENICI and Mr. SCHMITT) were added as cosponsors of S. 1868, the National Crude Oil Supply and Transportation Act.

S. 1888

At the request of Mr. BELLMON, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1888 to amend the Social Security Act to allow States to provide community work and training programs under State plans for aid to families with dependent children.

S. 1891

At the request of Mr. BELLMON, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1891, to amend the Social Security Act to improve assistance to dependent children of unemployed fathers.

S. 2088

At the request of Mr. METCALF, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2088, the Advisory Committee Termination Act.

S. CON. RES. 31

At the request of Mr. GRIFFIN, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of Senate Concurrent Resolution 31, to disapprove the Federal Motor Vehicle Safety Standard relating to passive restraints.

S. CON. RES. 44

At his own request, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of Senate Concurrent Resolution 44, honoring Thaddeus Kosciuszko.

S.J. RES. 60

At the request of Mr. STONE, the Senator from Michigan (Mr. RIEGLE) was added as a consponsor of Senate Joint Resolution 60, to establish a White House Conference on Energy Conservation.

AMENDMENT NO. 864

At the request of Mr. SCHWEIKER, the Senator from Utah (Mr. GARN), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Texas (Mr. TOWER), were added as cosponsors of amendment No. 864, intended to be proposed to S. 1871, the Fair Labor Standards Amendments of 1977.

AMENDMENT NO. 886

At the request of Mr. FORD, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of amendment No. 886, intended to be proposed to amendment No. 868 to S. 2104, to establish a comprehensive natural gas policy.

SENATE RESOLUTION 264—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. BELLMON (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, Mr. HATFIELD, Mr. CLARK, and Mr. HOLLINGS) submitted the following resolution:

S. RES. 264

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, and extended by S. Res. 4 through December 31, 1977, is hereby extended through December 31, 1979.

SEC. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpoena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services, (6) to interview employees of the Federal, State, and local governments and other individuals, and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 3. For purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or Chairman of the Select Committee on Nutrition and Human Needs shall not be taken into account if such Senator, on the day preceding the effective date of title I of the Committee System Reorganization Amendments of 1977, was serving as a member of the Select Committee. However, in no case shall a member or chairman of the Select Committee be a member or chairman of more than three other standing, select, or special committees of the Senate, or joint committees of Congress.

SEC. 4. The expenses of the committee under this resolution shall not exceed $250,000 per annum of which amount not to exceed $20,000 shall be available for the procurement of the services of individual consultants, or organizations thereof.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers should not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. BELLMON. Mr. President, today I am submitting a resolution to extend the life of the Select Committee on Nutrition and Human Needs for 2 years beyond the scheduled termination date at the end of this calendar year. I am joined in this resolution by Senators HUMPHREY, HATFIELD, SCHWEIKER, CLARK, and HOLLINGS. We are initiating this action because we believe that the gains our society stands to make by increasing our understanding of human nutrition are so significant that termination of the select committee's efforts at this time would be a premature act and a costly error.

The Senate needs a strong focus upon nutrition during the next 2 years while a wide variety of Federal efforts related to nutrition take new form. Those of us who will be required to make decisions about funding Federal feeding programs and nutrition research efforts would be greatly helped by a continuing committee forum organized around the concept of nutrition. We need a nonlegislative committee composed of members from various standing committees having legislative responsibilities related to nutrition. The shape and form of considerable legislation could be positively influenced by understanding gained through the Select Committee on Nutrition and Human Needs.

Many of my colleagues would join me in expressing anxiety about the alarming rate of increase in the costs of medical care in this country. Committees are wrestling with the difficult problem of finding ways to arrest this dangerous inflationary tendency in our existing system of medical care. That system is basically oriented toward the provision of medical services for the ill and toward the conduct of research into disease treatment. That vital system will be strengthened and streamlined by current Senate efforts, but it could be complemented by the parallel development of preventive measures developed through improved nutrition. By extending the life of the Select Committee on Nutrition and Human Needs, we have an opportunity to innovate approaches to improving human well-being by placing more responsibility in the hands of the individual citizens for their own health. We have an opportunity to stimulate avenues of disease prevention available to all citizens. We have a chance to dampen the growing demand for medical services and thereby to avert a crisis in our economy and social system.

Mr. President, current Federal food programs have grown to the point where they constitute a substantial obligation of Federal funds. The food stamp program, which cost the Nation $35 million in 1965, amounted to $5.689 billion just 11 years later in 1976. Child feeding programs, which have grown in their categorical numbers and their coverage, cost $497 million in 1965 and now require $2.471 billion in 1976. If we add to this substantial base the nutrition program for the elderly, the community food and nutrition program, food distribution programs, and the expanded food and nutrition program, we have 1976 Federal obligations of $8.376 billion—a 1,100-percent increase in this Nation's food program expenditures between 1965 and 1976. It would be a happy circumstance if I could say that these enormous Federal expenditures were cost-effective and were producing nutritionally sound and coordinated Federal food and nutrition education programs. Unfortunately, this may not be the case.

These programs have grown independently in response to various pressures, and their structure reflects a basic lack of organization around a central nutrition policy.

In the case of nutrition education programs which are federally funded, there are 30 such programs, but because of administrative complexity and lack of central organization, it is impossible to break out the cost data for 16 of these programs. Of the 30 programs of 11 agencies within 2 departments of the Federal Government which claim "nutrition education" as a component of their activities, only 14 can identify the portion of their budget actually expended on nutrition education. Almost universally, reliable data are lacking on the impact of nutrition education upon improving consumer decisionmaking in food purchases. In order to evaluate Federal feeding programs and nutritional education efforts, we need to develop criteria for judging their worth. Once developed, these criteria could then be worked into appropriate legislation so that program efforts would stand a much better chance of being effective. As Federal expenditures for food and nutrition programs move toward $9 billion, the absence of reliable program evaluation is a severe handicap to the Congress. The Select Committee on Nutrition and Human Needs will provide the focus we need to accomplish a more rational and effective use of this huge sum of taxpayers' dollars.

Mr. President, Congress has already begun a movement toward the allocation of more research dollars into human nutrition research. The estimated fiscal year 1977 expenditures for this research in the Department of Health, Education, and Welfare, the Department of Agriculture, the Agency for International Development, the Department of Defense, the Veterans' Administration, and the National Science Foundation, is slightly more than $112 million. As the realization grows that the best preventive medicine may be sound nutrition knowledge coupled with effective nutrition education, we can expect that more funds will have to be devoted to nutrition research. Those of us who have to make judgments about such funding could be greatly assisted by the work of the Select Committee on Nutrition and Human Needs during a 2-year extension of its life.

I would like to point out what the select committee would likely accomplish during the coming 2 years.

First, stimulate the development of a sensible Federal policy concerning nutrition research, feeding programs, and nutrition education. I have already pointed out that considerable thought needs to be given to a workable framework for maximizing the effectiveness of the Federal effort in these areas.

On the matter of human nutrition re-

search, a recent GAO study underscores this need with the following recommendations:

Human nutrition research has entered a new era marked by growing evidence implicating diet as a major cause of disease and by increasing public concern with nutrition. To determine the potential of diet for helping reduce disease and related cost of health care, nutrition research faces complex challenges needing long-term and interdisciplinary investigation. These challenges are to:

Define human nutritional requirements for promoting or maintaining growth, development, or well-being during pregnancy, infancy and lactation, and during childhood and adolescence; and for women, the elderly, those with disease and stress, and those persons taking drugs and vitamins;

Determine the nutrient composition of the current food supply and the biological availability of the nutrients in foods;

Evaluate the health consequences of the modern diet; and

Monitor on a continuous basis the nation's nutritional status and determine the relationship between nutritional status at one period of life on health in subsequent periods.

To help meet these challenges, action is needed to (1) establish a central focus for human nutrition research and provide Government-wide coordination of research programs, (2) define the subject areas comprising human nutrition research, and the reponsibilities of Federal agencies involved in such research, and (3) assess the need for establishing regional nutrition research centers in conjunction with colleges and universities having comprehensive nutrition departments and programs.

Second, continue and extend its work with dietary goals as guides to individual and institutional decisionmaking. At this point, it is important that practical steps in the application of dietary goals be developed and applied. Techniques for providing dietary information to citizens and concerned groups would be investigated. Needs for nutrition education for all citizens would be assessed. The means for providing this education would be explored, including public television, classroom instruction, private and voluntary efforts, personalized nutritional counseling, extension programs, et cetera.

Next year, the Department of Agriculture, which allocates the funds to feed 30 million children each day, will consider the reorganization of its child nutrition programs as well as its nutrition education programs. With 9 years of experience in health, poverty, and nutrition, the select committee will be able to conduct a parallel effort in the Senate, including hearings involving school administrators, parents, nutritionists, program evaluators, et cetera. Instead of simply reacting to administration proposals, the Senate would have the necessary resource to make its own input.

Title VII of the Older Americans Act will be renewed next year. At present, the only group which has looked at the needs of millions of homebound elderly is the select committee. Since there will be legislative changes proposed, it would be wise to continue the select committee to provide the necessary expertise.

Next year, there will probably be legislation proposed to stimulate nutrition education in medical schools. The select committee currently has a study underway to outline present practices, and it would be useful to continue this work.

Most likely, there will be forthcoming legislative proposals to require nutritional labeling of foods. The resources of the select committee will be of considerable assistance in evaluating these proposals.

The select committee has taken the lead in preparing legislation to reorient the health research establishment to give equal attention to prevention as it presently does to crisis care. We can expect that this will be an active and significant area of legislation which would benefit from the continued efforts of the committee.

Mr. President, I favor the progress made in the Senate toward reducing the number of committees and simplifying the committee assignments of Members. It has made our work much more manageable and effective. However, I am now convinced that the remaining work which needs to be done by the Select Committee on Nutrition and Human Needs should not be sacrificed. In recent months, the Office of Science and Technology Policy, the National Academy of Science, and the General Accounting Office have each concluded that a central focus for nutrition is badly needed in the Federal Government. This would seem to be exactly the wrong time to dismantle the select committee. I believe that all of us would subsequently regret the termination of this effort, since we are on the verge of making funding, legislative, and program decisions for future years in an area where focused research and activity has been absent. My earlier support of the committee's phase-out at the end of this year now seems premature. I strongly urge the prompt consideration of this resolution to extend the Select Committee for Nutrition and Human Needs for an additional 2 years by the Rules Committee. I hope there is early approval by the Senate.

Mr. President, I ask unanimous consent that a short statement by Senator HUMPHREY in support of this resolution be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Mr. President, I would like to express my support for the continuation of the Select Committee on Nutrition and Human Needs.

I applaud Senator Bellmon for his leadership in offering this resolution. This act demonstrates the Senator from Oklahoma's continuing strong commitment to the need to improve the nutritional wellbeing of this nation.

This resolution is important because it offers the opportunity to maintain a legislative resource, the Select Committee, that has been at the forefront of every nutrition issue for nearly the past ten years.

The Select Committee has led the way to improving nutrition programs that have particularly benefited elderly persons, schoolchildren, poor people and Indians.

While the Select Committee has led the way for the disadvantaged, helping them achieve a voice in the affairs of the nation, the Select Committee also has been instrumental in shaping discussion concerning issues and programs that affect all Americans as well as people abroad.

Before the Select Committee was created, the commitment of the Senate—and that of the federal government—to nutritional issues was weak at best. There has been a surging interest in nutrition and I attribute a large part of that interest to the Select Committee and its efforts.

Nothing, in my opinion, is more important in this broad issue area than the relationship of nutrition to physical and mental health. Six of the ten leading killer diseases that afflict Americans are linked to poor nutrition. Only recently the Select Committee began the task to correlate the relationship of nutrition to mental health.

Indeed, there is work to be done. Nothing demonstrates this more than the fact that of all the dollars spent on agriculture and health related research, only three percent goes to research on human nutrition. I submit that this is a dreadfully low amount, one that should be scrutinized very carefully in the years ahead.

Perhaps what we need in the area of nutrition is a broad, new and innovative thrust. I can think of no institution that can contribute more to this type of effort than the organization that did so much to raise our awareness in the first place, the Select Committee.

The Select Committee is a vital adjunct to the Committee on Agriculture, Nutrition and Forestry. It has served this Committee well and it promises to serve it even more in the future.

In essence, the issue here concerns whether or not the Senate would like to remain deeply and fully informed on nutrition issues so that it can play a more constructive and innovative role in nutrition policy. This resolution offers an opportunity to make that choice, a choice that will impact on the nation in a positive and constructive manner.

AMENDMENTS SUBMITTED FOR PRINTING

MINIMUM WAGE RATES—S. 1871

AMENDMENT NO. 963

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

NATIONAL ENERGY POLICY—H.R. 8444

AMENDMENT NO. 986

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, today I am submitting an amendment to the energy tax bill to encourage the use and commercialization of ethanol and methanol automotive fuels. I learned this morning that an amendment similar to mine was introduced yesterday in the Committee on Finance by my distinguished colleague from Kansas, Senator DOLE. That amendment passed the committee by a vote of 16 to 1. The amendment I am introducing differs from that of Senator DOLE sufficiently to warrant its introduction today. In fact, Senator DOLE has agreed to cosponsor this new amendment along with Senators BAYH, BURDICK, CURTIS, FORD, MATHIAS, PELL, and YOUNG.

Specifically, the amendment will exempt automotive fuels composed of at least 10 percent nonpetroleum derived alcohol from the present Federal excise

tax of 4 cents per gallon. This exemption would cover alcohol derived from agricultural products, forest materials, coal, and other nonpetroleum sources.

The amendment adopted by the Committee on Finance yesterday would also exempt alcohol-blended fuels from the excise tax. However, the amount of exemption would vary, depending on the source of alcohol. I believe that this provision would unnecessarily complicate the goal we have in mind—that of providing the public with a simple choice; either conventional gasoline, or a renewable, domestic, clean alcohol fuel. Different prices for different types of alcohol will confuse the public and decrease the effectiveness of alcohol fuel as an alternative to imported petroleum.

Therefore, I wish to formally introduce this amendment on the floor today, and I ask unanimous consent that the text of the amendment, along with a letter concerning it which I recently wrote to my colleagues, be printed in the RECORD.

There being no objection, material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 986

On page 370, between lines 4 and 5, insert the following new section:

SEC. 2025A. REMOVAL OF CERTAIN EXCISE TAXES ON ALCOHOL AND FUELS CONTAINING ALCOHOL.

(a) ALCOHOL USED AS FUEL NOT SUBJECT TO TAXES ON DISTILLED SPIRITS.—

(1) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and by adding after paragraph (9) the following new paragraph:

"(10) without payment of tax to the extent that such spirits are alcohol (other than alcohol produced from petroleum or natural gas) the primary use of which is fuel for motor vehicles.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to alcohol withdrawn after the date of the enactment of this Act.

(b) GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

"(c) Gasoline Mixed With Alcohol.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum or natural gas.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after the date of the enactment of this Act and before January 1, 1984.

(c) ALCOHOL MIXED WITH SPECIAL FUEL.—

(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after the date of enactment of this Act, and before January 1, 1984.

(d) REPORTS.—

(1) ANNUAL REPORT.—On April 1 of each year, beginning with April 1, 1979, and ending on April 1, 1983, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State and the amount of gasoline saved in each such State,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k), and 4081(c) of the Internal Revenue Code of 1954, and

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

(2) The reports submitted to the Congress on April 1, 1983, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., September 15, 1977.

DEAR COLLEAGUE: I will soon be introducing an amendment to the Energy Tax Bill to encourage the use and commercialization of alcohol automotive fuel. Specifically, the amendment will exempt gasoline with a minimum blend of 10 percent non-petroleum derived ethanol or methanol from the present federal fuel tax of 4 cents per gallon for a test period of six years.

Alcohol as an automotive fuel could make a significant contribution towards reducing this nation's dependence on foreign sources of petroleum. It is completely usable in present engine designs when combined with gasoline in amounts of 20 percent or less. In addition, alcohol fuel can aid dramatically in eliminating harmful pollutants from car exhaust and in improving mileage efficiency.

The United States presently consumes 103 billion gallons of gasoline each year. The use of 10 percent alcohol-blended gasoline could cut this nation's oil imports by 20 billion gallons yearly, or almost one and one-half million barrels of crude oil each day. Alcohol will not only substitute for the dwindling supply of petroleum, but its increased utilization would provide a strong market for agricultural surplus and wastes, forest products, coal, and even urban sewage.

Several states have taken important initiatives in the development of alcohol fuel. They are designing methods of alcohol production that are consistent with the peculiarities of their specific regions. The success of these initiatives demonstrates the many benefits of a domestic fuel industry fed on American agricultural and natural resources.

Despite this progress, the development of a private alcohol fuel industry is still a risky enterprise. Alcohol production is more costly than gasoline and, therefore, less profitable. Economies of scale will not be realized until use becomes widespread. With increased demand, however, a blended-fuel market should grow to profitable proportions. Preferential treatment of alcohol is required to stimulate demand for this valuable domestic resource.

Exemption from the present 4 cents per gallon federal fuel tax for alcohol-blended gasoline would provide a mechanism to do just this. By making alcohol fuel price competitive with gasoline, public awareness of alcohol fuel as a way of decreasing our dependence on foreign oil would be promoted. It will serve to consume agricultural residues, timber products, coal, and sewage. As the demand for alcohol fuel increases, the construction and commercialization of alcohol producing plants would be encouraged.

The exemption will cause little revenue loss to the U.S. Treasury because at present, the capacity to produce alcohol is small and will require several years to grow. The exemption will end on January 1, 1984. By that time, alcohol-blended fuels are expected to be cost competitive with gasoline. In addition, because total consumption of automotive fuel will not be affected by the blending of alcohol with gasoline, state gasoline tax revenues will not be reduced.

A copy of the amendment is attached for your consideration. If you have any questions, or would like to co-sponsor this amendment, please have your staff contact Dave Carol (4-1460) or Chris Palmer (4-1462).

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

Mr. DOLE. Mr. President, the Senate Finance Committee during the energy tax bill markup yesterday accepted an amendment I introduced which would encourage the use and development of gasohol. My amendment provided that the 4-cent Federal gasoline tax will not be imposed on sales of gasoline which is at least 10 percent ethanol or methanol. Alcohol, either ethanol or methanol, will not qualify if it is produced from petroleum or natural gas. Use of coal-based alcohol will subject the gasohol to a 1-cent tax. The use of all other alcohol will exempt the gasohol from the entire 4-cent tax.

SURPLUS AGRICULTURAL PRODUCTS

The Senator from Kansas is pleased to join with the Senator from Illinois, Mr. PERCY, in providing further incentives for gasohol. Mr. President, the primary source of nonpetroleum based alcohol is excess agricultural products. The United States presently has a surplus of many feed grains including wheat. The technology is being developed which can economically and efficiently produce grain alcohol from these grains and also utilize the byproducts for animal feed and alternative agricultural uses.

A plant for this type of wheat fractionation has recently been built in Kansas with very promising results.

CHANCE TO REDUCE OIL IMPORTS

A 4-cent tax break for gasohol would make it price competitive with gasoline. Although I do not anticipate immediate substantial production of gasohol, I feel increased use of gasohol will help the industry to grow. Sales of gasohol means that public consciousness that gasohol can reduce our national dependence on foreign imports will be expanded. The energy savings for the next year or two may be small, however, no practical al-

ternative should be overlooked in our struggle for energy self-sufficiency.

NEW MARKETS

Use of wheat or corn to produce the grain alcohol will result in a new market for farmers, a new industry for agricultural areas and a more efficient fuel for motorists. Gasohol produces less pollution than regular gasoline. The State of Nebraska has led the way in promoting consumer use of gasohol by cutting the State gasoline tax on this fuel. Their program has been so successful that at least three other States have authorized studies of gasohol use.

Farmers are not the only ones which will benefit from more consumption of gasohol. The alcohol can be distilled from timber waste, municipal garbage, wastepaper and coal. Alcohol production plants are much cheaper to build than gasoline refineries and the few years which these amendments cover would be sufficient to develop a viable alcohol industry.

This amendment covers two areas that were not addressed by my original amendment. First, it will eliminate the tax on distilled spirits for alcohol produced for use in gasohol. Second, it will extend the same treatment of gasohol in my amendment to special motor fuels such as those used in airplanes and motor boats. I support both of these modifications. The net effect will be to increase even more the tax incentives for production and consumption of gasohol instead of gasoline.

Alcohol blends for use in autos cost more per gallon than gasoline at current prices. Yet, the benefits in reducing pollution, improving the economy and reducing the dependence on oil imports must also be considered in the economics. With these limited tax incentives, gasohol can be made competitive and a net energy savings be realized by America.

DISTRICT OF COLUMBIA APPROPRIATIONS—H.R. 9005

AMENDMENT NO. 980

(Ordered to be printed and to lie on the table.)

Mr. WEICKER (for himself and Mr. EAGLETON) submitted an amendment intended to be proposed to the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 964

(Ordered to be printed and to lie on the table.)

Mr. FORD. Mr. President, I submit an amendment for printing and I ask unanimous consent that the text of the amendment and an explanation in connection therewith be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 6–7, by striking all beginning with line 11, page 6 through line 1, page 7 and inserting the following:

"(1) The term 'new natural gas' means natural gas—

"(i) sold or delivered for the first time on or after April 20, 1977: *Provided*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that at any time prior to April 20, 1977, such gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than fifteen years or for the life of the reservoir from which it is produced if less than fifteen years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (five years or less) or temporary emergency contracts including sales made pursuant to the Emergency Natural Gas Act of 1977 shall not be considered, for the purpose of this provision, as having been sold or delivered in commerce prior to April 20, 1977; or

"(2) produced from a new well the completion location of which—

"(i) is 2.5 statute miles or more (horizontal distance) from any old well; or

"(ii) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well; or

"(iii) is in a newly discovered reservoir."

COMMENT ON FORD AMENDMENT 964: NEW NATURAL GAS DEFINITION

The definition in the committee bill severely restricts the amount of gas that would qualify for the new gas price. The bulk of additional offshore Federal Domain gas will be produced from leases accuired prior to April 20, 1977 (not from "new leases") and, hence, will be ineligible for the new gas rate. Absent modification, this provision will unduly discourage new drilling. Furthermore, the "newly discovered reservoir" requirement will offer little incentive for developmental drilling. The "new well gas" in (2) conforms to the House definition. The amendment prohibits withheld gas from being defined as "new gas"; requires commitment of O.C.S. gas for delivery.

AMENDMENTS NOS. 965 THROUGH 979 AND 981 AND 982

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted 17 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 983 AND 984

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 985

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 987 AND 988

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. MORGAN, and Mr. HELMS) submitted two amendments intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 989

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. JOHNSTON, Mr. TOWER, Mr. HUDDLESTON, Mr. DOMENICI, Mr. HELMS, and Mr. BARTLETT) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, September 27, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Hugh H. Bownes, of New Hampshire, to be U.S. circuit judge for the first circuit vice Edward M. McEntee, retired.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the third circuit vice Francis L. Van Dusen, retired.

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia vice William B. Jones, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

PROHIBITION OF POLYGRAPH-TYPE EQUIPMENT

Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled hearings on S. 1845 proposing legislation to protect the rights of individuals guaranteed by the Constitution of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph-type equipment for certain purposes, for Tuesday and Wednesday, September 27 and 28, 1977, beginning at 9 a.m. in room 2228, Dirksen Building.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, Suite 102–B, Russell Senate Office Building, Washington, D.C. 20510.

RURAL TRANSPORTATION PROBLEMS

Mr. HUDDLESTON. Mr. President, last week I announced that the Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices would hold hearings on September 27, 28, and 29 on transportation problems affecting agriculture, forestry, and rural development. The hearings were scheduled to begin at 9 a.m. in room 322, Russell Senate Office Building. Since scheduling these hearings, it has been necessary to change the time of the September 28 hearing. It will now begin at 2 p.m. The hearings on September 27 and 29 will begin as scheduled, at 9 a.m.

NOMINATIONS BEFORE THE COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Tuesday, September 27, 1977, at 10 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of:

Bertram R. Cottine, of the District of Columbia, to be a member of the Occupational Safety and Health Review Commission;

George Claude Pimentel, of California, to be an Assistant Director of the National Science Foundation;

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation;

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

INDOCHINA REFUGEES—"LET'S NOT PULL AWAY THE HELPING HAND"

Mr. CRANSTON. Mr. President, on Thursday the Human Resources Committee will hold hearings on S. 2108 and the Humphrey-Kennedy-Cranston-Hayakawa amendment No. 876 to S. 2108 to extend and revise the Indochina Migration and Refugee Assistance Act of 1975.

The committee will be acting under what amounts to emergency conditions. The Indochina Refugee Assistance Act expires September 30—less than 9 days away. Of the 146,000 Indochina refugees in the country, some 50,771 are receiving cash assistance. With the expiration of the act, these individuals will be thrown onto the general relief rolls of the various communities in which they reside. Meanwhile, 15,000 new Indochina refugees are entering the country—with no assistance program to provide for their care, housing, feeding, or assimilation into our society.

Congress cannot be blamed for the delay. The administration's legislation was introduced Friday, September 16. Hearings in the Human Resources Committee will be held Thursday and a markup in the committee is scheduled for Wednesday the 28th. We have been able to move as quickly as we have because of the total cooperation of Chairman WILLIAMS and the distinguished ranking minority members Senator JAVITS. It is my hope that a consensus on the legislation can be achieved and our schedule of action expedited further.

If—and this certainly is a big "if"—it is possible for the Human Resources Committee to reach an informal consensus within the next day or so I would like to see us discuss the Senate proposal with key members of the House Committee on the Judiciary who will be holding a hearing on companion legislation to S. 2108 on Friday. Our objective would be to present an agreed upon bill in the Human Resources Committee markup on Wednesday the 28th so that Congress can send a bill to the President as quickly as possible.

There are other difficult problems with the Budget Control Act and perhaps other difficulties of a procedural nature as well.

I have outlined the obstacles and possibilities in this general way so that those many citizens who are concerned and actively working to assist the Indochina refugees will understand why Congress may fall short of the October 1 deadline. I intend to work hard for quick enactment and I am confident that many of my colleagues feel the same as I.

I ask unanimous consent that the editorial "Let's Not Pull Away the Helping Hand," which appeared in the Los Angeles Times of September 21, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LET'S NOT PULL AWAY THE HELPING HAND

The deadline is only days away, but Congress still has not passed legislation needed to continue assistance that was first provided in 1975 to help relocate Vietnamese war refugees and to reimburse states for the welfare assistance that they have provided.

If Congress doesn't act by the end of the month, when the current program is scheduled to expire, the burden will fall on state and county welfare agencies. If that happens, California, which houses about one-half (75,000) of all the refugees in the nation, will be hit hard. This will be particularly true in the southern counties, and especially Los Angeles and Orange, where most of California's refugees are concentrated.

Mario Obledo, California's health and welfare secretary, estimates that the expiration of the federal program would cost California $39 million a year. The cost to Los Angeles County taxpayers has been estimated at $5 million; in Orange County, the tax rate would have to be raised another 3 cents per $100 assessed valuation to cover refugee aid.

That's a financial burden that federal officials should not pass on to the states and counties; they do not have the funds to meet it.

Historically, welfare has not been a way of life in Vietnam. And most of the refugees, in the short time that they have been here, have made remarkable adjustments. Many, however, have serious health, education and housing problems, and do need help. About 35% of the refugees (22,000 in California) are presently receiving some form of public cash assistance. Their plight is a national, not a local, problem.

There are several bills pending in Congress. They come down to two approaches:

One, being pushed by Sen. Hubert H. Humphrey (D-Minn.) and Rep. Fortney H. Stark (D-Calif.), would provide full federal funding for one year, then reduced reimbursement for the next two years. But its key point is a continuation of social services and special projects to provide funds for language and job-training programs to help make the refugees employable and self-sufficient. The estimated first-year cost is $118 million.

The Administration measure would cost an estimated $72 million, but it is strictly a welfare bill that calls for reduced reimbursements over the three-year period, and no special funding for training programs.

The Humphrey-Stark approach is much better. And with 15,000 more refugees from Southeast Asia being admitted to the United States under a special program, it is only fair to continue the full federal financing for at least one more year.

The refugees pose a special problem. The more than 50,000 still on welfare rolls are a strong indication that they need more time and help to develop job and language skills they must have to take their places beside other refugees as productive, self-sufficient residents of the American community.

ADDITIONAL STATEMENTS

HHH RURAL DEVELOPMENT SPEECH

Mr. ANDERSON. Mr. President, the beloved and distinguished senior Senator from Minnesota, HUBERT HUMPHREY, has fathered more important legislation than any Member of Congress in the 20th century. Not the least of his many achievements is the Rural Development Act of 1972.

Rural America is one of our Nation's richest resources. Our farmers possess a productive genius unmatched anywhere in the world or in history. Rural America at its best offers a way of life and a way of looking at life that must be preserved. Yet, our rural areas have needs that are just as pressing as the crying needs of our central cities. Our rural communities need jobs, housing, better educational facilities, better medical care, more access to credit and capital.

Many people called these problems to our attention, but only the genius that is HUMPHREY could come up with a way of attacking the problems on a broad, imaginative, and practical scale and then turn around and get the bill passed which incorporated the solution—the Rural Development Act of 1972.

On August 11, 1977, Senator HUMPHREY addressed the first annual Minnesota Rural Youth Institute held at Southwest State University in Marshall, Minn.

This innovative institute is under the leadership of Southwest State University's new president, Jon Wefald, a voice representing Minnesota agriculture whose eloquence is surpassed only by HUBERT HUMPHREY. In selecting a speaker for the first annual Rural Youth Institute, President Wefald made the only possible choice. He chose Senator HUMPHREY.

The August 11 speech is a Humphrey classic—straightforward and candid with ideas scattered across each page. Here is the definitive assessment of how the Rural Development Act has fared during these past 5 years. Senator HUMPHREY's remarks deserve not only the widest circulation, they demand the attention of both the administration and the Congress, because there is much work left to be done.

Mr. President, I ask unanimous consent that the text of Senator HUMPHREY's memorable speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SENATOR HUMPHREY'S REMARKS

I am pleased to be here tonight to talk about a subject very close to us—Rural America. I can not think of a place more appropriate to address this subject than Southwest State University, an institution that promises to distinguish itself in the area of rural affairs, not only in Minnesota, but throughout this nation.

Before I begin, I want to congratulate all of you who have been involved in the creation of the Rural Youth Institute. Under the leadership of President Jon Wefad—one of the finest Commissioners of Agriculture Minnesota has ever had—the Institute is bound to flourish. The concept is sound.

Unless youth can be convinced that Rural America offers promise, the young will continue to leave the countryside for urban life. While this trend shows some sign of reversing itself, it is important that mechanisms such as this Institute be created to deal with this problem in a constructive manner.

In thinking about rural life, it is important to remember that man existed for years and years without either the blessing or the curse of cities. It was only when man could produce a surplus of food that cities were

created. With advances in technology and worker productivity in agribusiness, urban areas throughout the world grew and prospered.

This historic rural to urban exodus, which has occurred worldwide for centuries, has not been without its side effects. As populations shifted to cities, the needs of those left in rural regions increasingly were neglected.

This became more evident in the United States in this century, particularly after World War II. With the advent of modern communications, man was forced to confront the problems of rural life, not only here at home but abroad as well.

In my comments tonight, I would like to emphasize our own situation here in this country. However, I would be remiss not to mention that rural people throughout the world have similar problems. It is true that the nature or depth of the problems may be different, but basically they are the same.

We live in an interdependent world with common problems. When we finally recognize and begin to cope with this reality, then we will take a long step down the road of solving the problems of mankind.

The stated policy of this nation has been to strive for rural development at the same rate as urban development. If much discrepancy exists between the standards of living between those in urban and rural areas, serious social and economic problems are almost sure to arise.

A major landmark in public policy regarding rural development was accomplished when the Rural Development Act of 1972, which I sponsored, went into effect.

Unfortunately, the full benefits of this legislation have not been felt by Rural Americans. Until this year, the executive branch has differed philosophically with the Congress as to how rural development should be accomplished. This resulted in some of the authorized programs not being implemented fully or in a timely manner.

A number of problems continue to plague Rural America. Many of these problems should have been dealt with as a result of the 1972 Act. Probably the most important, in many respects, is the employment picture.

The job situation has many dimensions. There is a high degree of hopelessness among the rural unemployed. A lower percentage of unemployed people of working age in rural areas are looking for work than the unemployed in urban areas.

The reasons for this, while not obvious, are none the less evident. The diversity of opportunity that is available in cities simply does not exist in rural areas. And, more importantly, wages are lower.

In 1975, the median annual income was $11,600 for rural families, while it was $14,909 for urban families—a $3 309 difference. But the reasons do not stop there. The jobs that are available in rural areas are lower skilled. Indeed, this combination of factors constitutes the heart of the economic problems that rural Americans experience.

We need jobs for Rural America and they need to be good jobs:

Housing is another important segment of the sad story on Rural America. Rural Americans occupy one-third of all the housing in the U.S. Yet they occupy 56 percent of all the sub-standard housing in this country.

The Farmers Home Administration was created in the midst of the depression to make loans and grants for housing assistance in rural areas. Private lending institutions simply did not have the faith in Rural America or the necessary capital to finance rural housing needs.

However, the Farmers Home Administration has not always fulfilled its Congressional mandate. It was the intent of Congress that those most in need get first priority on housing loans. But, the Farmers Home Administration began to view itself as a conventional lending institution and therefore chose to overlook the needs of the poorest Rural Americans.

In recent years this situation has been shameful. Those with moderate incomes have been fighting for loans against those who are poor—all during a time period when the Farmers Home Administration failed to use its total appropriated funds.

Another problem area in rural life is education. The sad fact is that rural areas have lagged far behind urban areas. Only three years ago, eight percent of rural adults were functionally illiterate, having less than five years of schooling. Expenditures per pupil in rural versus urban areas are disgraceful.

Clearly, people in rural areas are at a serious disadvantage when it comes to educational opportunity.

Other public facilities are lacking. Public transportation is weak in rural areas. Railroad lines have been reduced, airport facilities may be far away and provide limited service, and bus lines now find it unprofitable to stop at towns that have had such service for decades.

With low population density and property values, other less obvious transportation problems arise. Taxes often are insufficient to pay for upkeep of roads and bridges.

High quality law enforcement also often is hard to come by for rural communities. Again, inadequate revenues is the problem.

Another problem is water and sewer service. Inadequate solid waste disposal is a frequently found problem.

Fire prevention in rural areas is another major concern. Firefighting equipment is costly and personnel shortages plague many areas.

And health care facilities are lacking. It is more profitable for doctors, particularly specialists, to locate in urban areas. As a result, adequate health care is not easily available in non-metropolitan areas.

Some Rural Americans, of course, are more fortunate than others. So, who are the unfortunate?

Statistics plainly show that the black and the elderly show up worse than the average rural individual in the quality of lifestyle, education and health care that they receive.

But, we are making progress on this litany of problems. The Rural Development Act of 1972 has given us a statutory and funding base for coping with most of the problems outlined above.

Unfortunately, funding levels have been inadequate or the Executive has lacked the inspiration it needs to properly fulfill the will of the Congress.

Perhaps we should not be surprised that we have failed to make longer strides. Senator Herman Talmadge, Chairman of the Committee on Agriculture, Nutrition and Forestry, warned that:

"The Rural Development Act of 1972 will enable this nation to help to develop more and better jobs and income earning opportunities in rural communities to relieve the pressures of population, overcrowding and environmental pollution in the cities. However, the enactment of this legislation is only a beginning. The executive branch must do an agressive, dedicated job of implementing and administering the law if the intent of Congress is to be honored."

Unfortunately, Chairman Talmadge's concerns were real.

While the new Administration, under Secretary Bergland, offers bright hope for fulfilling many of these broken mandates, Congress has not always lived up to its responsibilities either. A brief review of rural development appropriations under the '72 Act depicts questionable commitment by Congress.

In a number of areas, Congress simply has not appropriated the funding needed to fully implement this legislation. We have yet to fully fund rural development planning grants, authorities to provide technical and financial assistance to public bodies for control of agriculture-related pollution and disposal of solid wastes, and authority for the Secretary of Agriculture to carry out a land inventory and monitoring program to study erosion and sediment damages, soil, water and related resource conditions at not less than five year intervals.

Most importantly, the 1972 Act authorized research by our institutions of higher education to insure that our farms units are as efficient as possible. Funds have not been requested for this type of endeavor. And, this comes at a time when the news media has informed us that agricultural schools are the fastest growing institutions of higher education in the nation.

Congress has had its failures in fulfilling the needs of Rural America. But now is not the time to bemoan the past. It is the time to look to the future.

We in the Congress must aggressively seek to equate rural and urban standards of living. If we find that we do not have the tools to build an adequate balance between urban and rural growth, then we should design new tools.

It is time to make a bold move forward in the steps toward rural progress. The Agricultural Act of 1970 states that "The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to peace, prosperity and welfare of all of our citizens that highest priority must be given to the revitalization and development of rural areas".

We must live up to that promise. It is in the interests of this nation that we have a strong Rural America. Our roots lie in the countryside.

Life in the rural areas must improve, or future generations will have no other choice but to move to the cities. This would lead us further down the path of highly mechanized, capital-intensive agriculture.

We need a healthy Rural America. Without one, we will have foreclosed our options for the future.

ALCOHOL FUELS: AN OVERLOOKED ANSWER FOR ENERGY

Mr. PERCY. Mr. President, the use of alcohol as an automotive fuel has become an important and visible issue in recent months. Alcohol can contribute significantly towards reducing this nation's dependence on foreign sources of petroleum and can provide a strong market for agricultural wastes, coal, and even urban sewage. It is a more efficient fuel than gasoline and reduces the amount of toxic emissions in automobile exhaust.

I will introduce an amendment today to the energy tax bill which will encourage the use and commercialization of alcohol fuel. Specifically, in order to make alcohol-blended fuel price-competitive with straight gasoline, I propose to exempt gasoline with a minimum blend of 10 percent nonpetroleum derived ethanol or methanol from the 4 cents per gallon Federal fuel tax. The exemption should help to create a demand for this new fuel which will, in return, induce private enterprise to invest in and develop an alcohol fuel industry.

In addition, I am considering legislation which will require a Federal agency to operate its passenger vehicles on alcohol-blended fuel for a period of 3

years. This will provide further research into this valuable domestic alternative to improved petroleum.

Developing a renewable, domestic, and clean alternative to the billions of dollars we spend each year on foreign energy supplies is a goal toward which we must all strive. A recent article by Jack Anderson of the Washington Post brought this point home. Mr. Anderson stated:

> We can make up much of the oil deficit, experts attest, by producing alcohol fuels.

He also strongly condemned the oil industry for squashing attempts to build an alcohol fuel market. I have no way of verifying the truth of these allegations. However, I hope all Americans will recognize the importance of alcohol fuel as a valuable answer to our energy needs and will unite in furthering its development. Petroleum will one day run out all together. But if we develop a viable alcohol fuel industry, we need not fear the day when the wells run dry.

I ask unanimous consent to print Mr. Anderson's article, "Alcohol Fuels: An Overlooked Answer for Energy" in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALCOHOL FUELS: AN OVERLOOKED ANSWER FOR ENERGY

(By Jack Anderson)

A miracle may not be needed after all to reduce the nation's huge purchases of overseas oil. We can make up much of the oil deficit, experts attest, by producing alcohol fuels. Not only would this eliminate our dangerous dependence upon overseas supplies, but the billions we now pay to the oil potentates could be spent at home instead.

The automobile industry is prepared to adjust from gasoline to alcohol engines. General Motors' top energy researcher, Joseph Colucci, has declared in a company newsletter: "We'll be ready if the government should legislate its use in automobiles."

The technology is not new. In Europe, alcohol blended with gasoline has been sold as a motor fuel for decades. Years ago, Chrysler Motors modified some cars slightly to accommodate alcohol fuels and shipped them to oil-short New Zealand. Today, many racecar drivers prefer alcohol fuels to gasoline. With only minor modifications in the fuel system, automobiles will operate on straight alcohol fuels.

Instead of hauling crude from Saudi Arabia, we could distill alcohol fuels from agricultural surpluses, timber wastes, wastepaper, even municipal garbage. The distilleries would also be far cheaper to construct than oil refineries.

Government experts tell us that alcohol engines would have two characteristics: They would operate more efficiently and produce less pollution. Studies by General Motors and Volkswagen, confirmed by Exxon's own internal research, have also shown that pure alcohol fuels reduce the noxious exhaust fumes now stifling our cities.

We spent several weeks investigating the alcohol-fuel story and reported our findings in a recent column. This stimulated a flood of letters into our office, demanding to know what the government is doing to promote alcohol fuels. The answer, regrettably, is not much. President Carter's 103-page national energy program devoted only a single sentence to the alcohol potential.

This strange reluctance to accept alcohol as a substitute for gasoline, despite the high stakes involved, can be traced partly to the oil industry. Officials close to the major oil companies control the policymaking machinery that produces the multi-billion-dollar energy decisions.

Investigators for Rep. Ben Rosenthal (D-N.Y.) have found a heavy concentration of executives from the energy industry holding down policymaking positions at the Federal Energy Administration and Energy Research and Development Administration. But there is no real statistical measure of the stranglehold that the oil industry has on the federal government.

The oilmen and politicians communicate with one another through inaudible poses and gestures. If there is to be a deal between them, they don't blatantly come to terms about it. The arrangement is carried off through a process that is almost imperceptible. There is not going to be an incriminating document, tape recording or photograph left behind.

At a crucial stage of the 1976 presidential campaign, for example, two oil-state governors, Oklahoma's David Boren and Texas' Dolph Briscoe, watched a football game a few seats apart in Dallas. A third spectator, then-Democratic National Chairman Robert Strauss, took a seat next to Briscoe.

Between plays, they talked about oil policy. It was all idle, innocent conversation, Strauss has assured us. But the two governors left the game assured that Jimmy Carter would look favorably upon the oil industry. Both Boren and Briscoe hit the campaign trail, thereafter, with renewed vigor. The grateful Carter, since assuming the presidential powers, has not gone out of his way to offend the oil crowd.

Next month, the federal energy establishment will be consolidated under James Schlesinger in the new Department of Energy. No one in Schlesinger's inner circle has shown much inclination to replace gasoline with alcohol fuels in our automobiles.

The prevailing attitude is best illustrated by the indifference of the energy officials now at the Agriculture Department. They have done little to convert agricultural surpluses into alcohol, even though farmers are eager to unload the surpluses, and the protein mash from the distilleries could still be sold as a food source. But the agriculture experts told our associate, Hal Bernton: "We haven't developed a position yet. We're studying the matter."

The Agriculture Department has been studying the matter for nearly 40 years. We dug up a 1938 report from the department's files commenting on the merits of 10 per cent alcohol blended with gasoline. "Experience has shown," states the 1938 study, "that blends of 10 per cent will function in present motor cars with practically the same efficiency as gasoline."

The oil industry, meanwhile, has moved quietly to block the development of alcohol fuels in outlying areas. The California legislature, for example, considered operating a fleet of experimental, state-owned cars on alcohol blends in 1975. The experiment would have been evaluated after a trial period and then perhaps expanded.

But the oil companies sent expert witnesses to testify against the project. They declared solemnly that it wasn't practical and that it would be costly to install new pumps at California gas stations. The project was eliminated, and the major oil companies are still fighting alcohol legislation in California.

The oil operators have also tried to block the state of Nebraska from producing and marketing a 10 per cent blend of grain alcohol and gasoline. Nebraska congressmen began receiving quiet calls from representatives of the Nebraska Petroleum Marketers, urging them to oppose the alcohol project.

Alcohol fuels might save the nation from an early energy crisis. But they would also threaten oil profits and break the oil industry's monopoly. Any small company or municipality could start producing fuel from grain or garbage.

THE ATLANTIC TREATY ASSOCIATION ASSEMBLY

Mr. JACKSON. Mr. President, the Atlantic Treaty Association held its Annual Assembly in Reykjavik, Iceland from August 26 to August 29. As my colleagues know, the ATA is a nongovernmental agency composed of the national organizations or councils—like the Atlantic Council of the United States—of the NATO countries. The main purposes of the ATA are to inform the public concerning the aims of the Atlantic Alliance and to promote the solidarity of the peoples who belong to the Atlantic community.

I believe two documents associated with the recent ATA Assembly will be of special interest to the Congress: the final resolution approved by the 15 delegations, and a copy of the letter President Carter sent to the ATA reaffirming his strong support for NATO.

I ask unanimous consent that these two documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

XXIIIRD ANNUAL ASSEMBLY OF THE A.T.A.

(Reykjavik, 26–29 August, 1977)

FINAL RESOLUTION

I. The XXIIIrd Annual Assembly of the Atlantic Treaty Association was held in Reykjavik on August 26–29, 1977. The Assembly expressed its appreciation to the Icelandic Atlantic Association for their efficient organization of the Assembly, and to the Association and to the Icelandic authorities for their warm and gracious hospitality. The Assembly also expressed its admiration for Iceland's centuries-long commitment to what the Secretary General of NATO, Dr. Joseph Luns, rightly called the longest unbroken parliamentary tradition in the world".

The Assembly welcomed the presence for the first time of a member of the recently elected Spanish Cortes as an observer. It hopes that representatives of all democratic political tendencies in Spain will soon accept the President's invitation to participate.

I. INTRODUCTION

2. The theme of the Assembly, presented by Pr. Nils Orvik, was "How to meet the growing threat". In approaching this question, the Prime Minister of Iceland, Mr. Geir Hallgrimsson, pointed out, "those living in a state of insecurity are at a disadvantage and prone to act imprudently and often forced to behave contrary to their own interests".

The Allied nations as a group have enough economic strength to achieve and maintain a favorable deterrent equilibrium of military force in every theatre vital to Alliance interests. *What is required is the political will to translate potential influence into military power and effective programs of political collaboration and diplomacy.* We have complete faith that the democratic peoples of the Alliance, when properly informed, will support whatever is required to maintain their institutions and their liberties.

3. Two years ago, in Paris, we noted that while the Soviet threat was increasing rapidly, the perception of the threat in the West had diminished.

One of the causes of this disturbing phenomenon was the uncertainty of Western opinion about the reality of détente. True détente is and must remain a major aspiration of Western policy; with deterrence and

defence, détente is one of the three pillars of NATO. The members of the Alliance will never give up their patient quest for political understanding with the Soviet Union.

But by any definition the goals of détente have not yet been achieved; Soviet foreign policy has not become reassuring in recent years. It is backed by conventional and strategic military force which is growing at an unprecedented rate.

4. We observe with satisfaction that Western opinion is beginning to recognize this development. The reversal of the trend in public awareness has been achieved by the course of events, and by educational and political efforts throughout the Alliance.

We have turned an important corner, but much remains to be done. While public opinion is moving towards a more realistic perception of the growing threat, the security of the Alliance remains precarious. It continues to depend upon a diplomacy which combines effective deterrence and Alliance solidarity. The success of that diplomacy turns upon the effectiveness of Alliance policy in containing the pressures of Soviet imperialism.

II. POLITICAL AND ECONOMIC ISSUES

5. One of the important duties of the Alliance and its members is to do everything possible to maintain and strengthen allied solidarity, and to restore solidarity when serious disagreements among Allies occur. In this connection, the Assembly notes with satisfaction the termination during the last year of longstanding disputes over fishing rights involving Iceland, Great Britain, Germany and other members of the European Community, and commends the Secretary General of NATO for his effective assistance in facilitating that result.

Ever since the meeting in Ottawa in 1974, the Assembly has expressed increasing concern about the failure to achieve a fair and balanced settlement of the disputes between Greece and Turkey, in the spirit of respect for their equal dignity and sovereignty, and for rights established by international treaties.

These difficulties have persisted too long. They could soon threaten the military and political cohesion of the Alliance as a whole.

We therefore urge the nations directly and indirectly concerned to cooperate urgently in actions and negotiations dominated by the overriding interest of all the Allies in the solidarity and effectiveness of the Alliance.

To this end, the Assembly expresses its hope that the United States promptly ratify the bilateral aid agreement between Turkey and the United States, and also the pending aid agreement between Greece and the United States when it is signed, on the basis of the equal treatment of those nations as friends and allies.

The Assembly hopes as well that the future of Cyprus can be agreed shortly in a manner satisfactory to all the parties concerned, on a humanitarian basis which scrupulously safeguards the human rights of all its people, and fully respects its sovereignty and integrity.

Equally, the Assembly expresses the hope that Greek forces will soon return to the NATO system of integrated command.

6. The Assembly considered at some length what purports to be the growing diversification of the communist parties of Europe, that is, the phenomenon popularly called national communism or Euro-Communisms. The new approach of some European communist parties claims to put national interests above international ideological solidarity. Whether West European communist leaders could be able and willing to accept the basic rules of Western democracy in practice, and to oppose the aggressive policies of the Soviet Union towards NATO, especially if they were to achieve power, remain grave and unanswered questions.

The Assembly therefore welcomes the decision of the Council to discuss these problems at a Seminar in Portgual next May.

Meanwhile, it reaffirms its Resolution on the subject adopted at Copenhagen in 1976, which appeals to public opinion for active solidarity among democratic parties in their fight against totalitarianism and for democratic government in their countries. This is important for the purpose of maintaining the units and defensive effectiveness of the Alliance.

7. The members of the Alliance, in cooperation with the other democratic industrial states, have made little progress during the past year in their efforts to restore and manage the integrated, progressive, and non-inflationary economy which served the world so well between 1945 and 1971. The world monetary system has continued in disarray, and the institutions and habits of economic policy discipline have continued to decline in influence.

Until the industrialized democracies establish effective rules and institutions for the management and harmonization of their increasingly integrated economies, they will be unable to bring inflation under control or achieve just systems of economic cooperation with the developing nations and those of the communist world.

In this area, as in the area of security, we call for the development of programs of action which improve collective decision-making and genuinely match the gravity of the situation.

8. The Assembly stresses the importance of a thorough review of the record of implementation of the Helsinki Final Act, particularly with respect to the "principles governing relations between States", confidence building measures, the removal of barriers to the freer exchange of information, people, and ideas between East and West, including the jamming of broadcast, and the deception of clandestine broadcasts, and expanded economic and technological cooperation. At the Belgrade meeting in October the Final act should be amplified so as to focus and strengthen the commitments of the nations to a more open and cooperative order in Europe. In this connection, the Assembly draws attention to the need to uphold and protect human rights as a fundamental principle.

III. MILITARY PROBLEMS

9. Within the last year, two facts have been widely recognized throughout the West: 1) that the Soviet Union and its allies have been increasing their nuclear and conventional military forces far more rapidly than the Western Allies; and 2) if present trends were to continue, the Warsaw Pact would have the capacity to undertake programs of political intimidation based on nuclear and conventional-force blackmail. The possibility of aggressions cannot be excluded.

To meet this threat it is essential that the second-strike capacity of United States strategic forces continue to be clearly assured, and that the capacity of the Alliance to deter and if necessary defeat conventional force attack in accordance with the strategy of flexible response be effectively maintained and strengthened.

10. It is and must remain the fundamental policy of the Alliance to preserve the full territorial integrity of all its members. In that connection, the Assembly welcomes the statement in President Carter's letter of August 26, 1977 to our President, Dr. Mommer, that "the United States remains categorically committed to NATO's strategy of forward defence and flexible response". It agrees with President Carter's conviction "that this strategy, kept credible through timely force improvements, can preserve the territorial integrity of all Alliance members".

11. In this perspective, we welcome the position taken by the North Atlantic Council in May, 1977, urging the Allies to intensify their cooperation in defence planning and production and increase their defence budgets at the rate of at least 3% a year in real terms, in order to maintain a force level adequate "for the purposes of defence and deterrence in the face of the continuing growth in the strength of offensive capabilities of the armed forces of the Warsaw Pact countries".

12. We hope that the policy of increases in Alliance defence capability at the rate of at least 3% a year in real terms will make a major contribution to maintaining and strengthening deterrent balance in the relationship between NATO and Warsaw Pact forces. The Soviet Union is in a position of strategic parity, at least, with the United States. And the Warsaw Pact's conventional forces are larger than those of NATO, mainly so far as the land forces are concerned. Furthermore, the Warsaw Pact's forces have achieved formidable qualitative improvements in equipment and training. The military budget of the Soviet Union is estimated to have been increasing at the rate of at least 5% a year in real terms.

Moreover, as President Carter said in his statement of May 10, 1977, "the Warsaw Pact's conventional forces in Europe emphasize an offensive posture . . . and are much stronger than needed for any defences purpose".

We note also the warning of the Chairman of the NATO Military Committee, General H. P. Zeiner Gundersen, in his address to our first plenary session: "Against the background of the strategic nuclear balance", General Zeiner Gundersen said, "and substantial advances in their tactical nuclear capability, they have provided their conventional forces with an ability to initiate a potentially devastating attack with little warning".

13. Increased rationalization will improve the economy of our defense effort, enabling the Alliance to maximize the improvements in its defense posture as a result of a real growth in expenditure. The Assembly therefore strongly supports the nine-point program adopted by the North Atlantic Council in May, 1977, designed to achieve an improvement in the military posture of allied forces, particularly with regard to reinforcement plans; the use of reserve forces; force readiness; maritime deployments; air defence; rationalization, interoperability, and standardization; improvements in logistics; electronic warfare; command and control and other communications systems; and the modernization of nuclear weapons. The Assembly stresses the importance in many perspectives of continuing to develop two-way programs of standardization and cooperation between Europe and North America in the design and production of military equipment. The European members of NATO should give special attention and priority to programs of manufacturing defence equipment for American use in response to recent American policy on that subject. In carrying out this policy, production should be as widely dispersed as possible for industrial and security reasons. All members should give serious attention to the adequacy of their mobilization plans under current circumstances, including those affecting reserve units, and the capacity of their industries to produce military equipment in sufficient quantities.

14. The Assembly stresses the critical need of the Alliance to strengthen all its bilateral and multilateral programs in the area of mutual support.

15. The expansion of the Soviet Navy has increased the vulnerability of the Alliance in the Atlantic. Iceland, Denmark, and Norway occupy positions of strategic importance of the Alliance. The importance of the Alliance to the countries of the Northern flank remains vital.

16. The Treaty area was defined before the Soviet Union became a major sea power, and developed its long-range air-lift capacity. Soviet activities and policies outside the Treaty area threatens vital security interests of the Alliance, and may continue to pose such threats in many parts of the globe. In recent years, the Assembly has repeatedly recommended that consultations, planning, and possibly exercises addressed to such problems be studies by the North Atlantic Council, and that interested members of the Alliance undertake appropriate consultation and measures, as envisaged by the Harmel Resolution adopted by the North Atlantic Council in 1967. Reiterating its previous Resolutions on the subject, the Assembly therefore appeals to the governments and to public opinion to consider the necessity to assure the availability of essential military and civilian supplies.

17. Military personnel have provided effective assistance in time of natural disaster, and the military staff of NATO has filed a report on the feasibility of such programs. The Assembly recommends that the North Atlantic Council develop plans which would make such assistance available to governments when they request it on the basis that no diversion of military effort be involved. Mutual cooperation within NATO would be enhanced by such action.

We urge greater cooperation and teamwork among the members of the Atlantic Alliance in the military, political, economic and cultural fields. If this can be achieved in sufficient degree it would do much to bring a period of stability and progress unparalleled in modern history and a better life for all our people.

LETTER FROM THE PRESIDENT TO THE ATLANTIC TREATY ASSOCIATION

Mr. KARL MOMMER,
President, Atlantic Treaty Association.

DEAR MR. MOMMER: I ask you to extend to the Association my warmest greetings as you assemble again to consider the current state of our Alliance. We look to you, opinion leaders in the North Atlantic Community, for insights on how we should move to strengthen even further the security on which the Atlantic Community vitally depends.

Your deliberations have never been more timely. We are faced with a renewed military challenge from the Warsaw Pact. In the last decade, the Warsaw Pact has steadily and impressively strengthened its forces deployed against Western Europe.

At last May's NATO Summit, I joined my Alliance colleagues in a thorough review of the challenge. We chose our response carefully—a major program of defense improvements, both short and long term, as well as both conventional and nuclear. My government is solidly committed to these efforts, which we believe will maintain the credibility of existing NATO strategy into the 1980s and beyond. We are intensively engaged, in cooperation with our Allies, in charting concrete force improvements in pursuit of this objective.

I would also like to reiterate that the United States remains categorically committed to NATO's strategy of forward defense and flexible response. This is my own firm conviction, and it will remain the policy of the United States as long as I am President. Since this is also the firm conviction of the Congress and the American people, there is absolutely no doubt that my successors in office will continue this commitment.

We continue to be convinced that this strategy, kept credible through timely force improvements, can preserve the territorial integrity of all Alliance members.

My nation's commitment to the defense of Western Europe is at the center of our foreign and security policies. The security of the North Atlantic community continues to be vital to that of the United States itself.

JIMMY CARTER.

MORE WOMEN NEEDED IN ALL-VOLUNTEER FORCE

Mr. PROXMIRE. Mr. President, the call for increasing the use of women in the military is growing.

A number of people around the country—military and nonmilitary—have recently urged a wider role for women in the service, not excluding combat.

One of the reasons for this stand is the fact that the All-Volunteer Force is failing to recruit qualified males. For the upcoming recruiting year the Army is hoping that 56 percent of the male recruits will be high school graduates. On the other hand the services have no trouble finding female graduates.

An editorial in the Flagstaff, Ariz., Sun on August 15 states:

> Meanwhile, the all-volunteer Army is being called a flop in some circles. Some believe the recruiting problem, as far as the Army is concerned, could be solved if more high-quality women were recruited. Now the Army seems to be doing most of its recruiting among high school dropouts. We see no reason why the armed forces couldn't recruit more women.

And a UPI story quotes Col. Mary A. Marsh, the first women to command an American Air Force base, as saying that though it may take 5 to 10 years:

> I very definitely do see a combat role for women in the Air Force. After all, we now are starting to train women to be navigators and pilots.

On September 1, the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee held a hearing on the role of women in the military, which brought out some interesting information and perspectives:

According to Dr. Carol Parr, who represented the National Organization for Women and other women's groups:

> Average annual per capita costs associated with housing, medical care, and transportation are roughly $982 less for military women than for men. Thus, based on differences in dependency status, the average military woman costs the Department of Defense about eight percent less.

Maj. Gen. Jeanne M. Holm, the only woman ever to reach this rank, pointed out that—

> American service women have been shot at, some have died from enemy action, some have been prisoners of war, and many have received combat decorations. . . . I applaud the Air Force's decision to train a few women as pilots and navigators, but I am mystified by what their test program is expected to prove; certainly not that women can fly airplanes. We already know that.

Jill Laurie Goodman of the American Civil Liberties Union addressed the moral difficulties of placing women in danger:

> I suggest that concern for exposing women to the dangers of war is misplaced. It is based on the untenable proposition that the lives of women are more valuable than the lives of men. But I find it doubtful that mothers or fathers weep more for their daughters than for their sons.

Col. Mary Hallaren, U.S. Army, Retired, former director of the WACS, dismissed the notion that women could not serve under great stress by drawing upon her own experiences in London during World War II.

All four women agreed that any assignment distinction in the military should be based on ability, rather than gender, and none shrank from the prospect of sending women into direct combat.

The Senate and the services must accede to a larger role for women in the military. We cannot afford not to.

THE PRICE OF DAM 26

Mr. HUDDLESTON. Mr. President, maintenance of a healthy transportation system is vital to the economy of the Nation. This means that all modes must function to their maximum efficiency, competing against each other for the ultimate benefit of the consumer.

The issue of whether or not those who use the public waterways should pay for that privilege has been debated for years and is reaching a climax in this Congress. In an editorial which appeared yesterday in the Journal of Commerce the issue is discussed. I recommend it and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PRICE OF DAM 26

It now seems highly likely that waterways operators will have to begin paying user charges two years hence to defray some of the costs incurred by the Corps of Engineers in maintaining and improving inland navigation systems.

Although they have long fought successfully against efforts to impose such charges, those involved in for-hire transportation (represented largely by the Water Transportation Association) appear to have recognized the difficulty of persuading Congress to fund any more important navigation projects along the inland rivers unless they accept what they so long rejected.

The urgent need for new locks at a particular bottleneck on the Mississippi, a facility at Alton, Ill., doubtless spurred their willingness to accept a compromise. Some members of Congress have said they will not vote for the Ralton project, which also includes a dam, and President Carter has indicated he won't sign a bill funding it unless it contains some user charge provision. The railroads have been insisting on the charge for many years and have found a staunch ally in the Department of Transportation. In the face of such formidable pressure from the White House, Capitol Hill, DOT and their principal competitors, the waterways operators had little option but to retreat or face defeat.

What waterways operators have agreed to accept is a fuel tax of four cents per gallon on commercial traffic using 26 inland water routes beginning Oct. 1, 1979. This tax rate, about equal to other federal taxes on fuel used in transportation, would increase to six cents a gallon four years hence. It is, naturally enough, more than WTA members want to pay, but considerably less than the railroads think they should pay.

Barge lines will probably have to raise their rates if the bill (H.R. 8309) passes the House and Senate. This will be good news to the railroads long vexed by waterway competition, though not to industrial consumers of the bulk commodities traditionally moved by barge. As it stands, the bill wouldn't greatly upset the existing relationships between rail and barge rates on bulk commodi-

ties. The real question is how long it will be allowed to stand in its present form.

After 1981 that will depend on the pressure that can be brought to bear on Capitol Hill by the railroads, on one hand, and, on the other, by the waterways operators and the industries depending upon the waterways for their raw materials. For the former, disappointed as they may be in the initial tax rates specified in HR 8309, the most important thing is that its enactment would provide a hole in which a powerful lever could be inserted.

This is doubtless recognized by such waterways spokesmen as John A. Creedy, president of the WTA, and J. W. Hershey, president of American Commercial Lines, both of whom endorsed the compromise in addresses before the National Waterways Conference in Kansas City last week. Both know that the price of the locks and Dam 26 at Alton will be the establishment of a precedent that may cause them much trouble in the future.

The precedent, as noted above, involves the concept that commercial users of waterways should bear a share of the cost of maintaining and improving waterways that serve a number of different purposes, not all commercial, such as flood control, recreation and the like. How much of that share should they, and their industrial shippers, be required to bear?

Our guess would be that they will be bearing a fair share of it if HR 8309 is enacted and signed by the President in its present form. What bothers us is the question of what will happen on Capitol Hill after the four cents per gallon tax is raised to six cents in 1981. Will the new fuel taxes (or user taxes) by held to these rather moderate levels for long? Or will the big lever be employed to pry them up to much higher levels? These are questions the shippers will have to bear in mind.

We recognize, as do all parties having a direct interest in HR 8309, that it is more difficult to get Congress to establish a precedent than it is to expand on that precedent, once established. A case in point is the Social Security System, which started modestly as an actuarily-based retirement program managed by the government, but which has been vastly expanded in terms of rates, benefits and coverage for the better part of 40 years.

Another is the minimum wage law. Under the relentless pressure of the labor unions the minimum has been forced upward, step by step, for many years and is apparently to be levered up once again to $2.65 an hour, regardless of indications that one consequence of this will be to close off employment possibilities to teen-agers and unskilled minority workers.

Once the concept of special taxes on users of inland waterways gets on the statute books, it will be relatively easy for Congress to vote increases in the tax rates; much easier than getting the precedent established. So if the barge lines and their customers are a bit uneasy over the price they are paying for Dam 26 and the new locks at Alton, we think they have reason to be. Once Congress gets accustomed to the idea that it can legislate barge rates up to almost any levels, it is any man's guess what it will do.

WHERE CHILDREN WIN

Mr. HARRY F. BYRD, JR. Mr. President, the Nation should be deeply concerned, I feel, over the continuing decline in educational standards which has resulted in a 14-year drop in standardized test scores.

The question is whether we are willing to reverse our own educational policy mistakes which have led to this result.

A recent editorial in the Richmond Times-Dispatch suggests that too many seem too content to march in educational "mark time" for the foreseeable future.

That editorial commends school Superintendent Sam A. Owen of Greensville, Va., and his decision to institute merit-based promotions. Mr. Owens is an excellent superintendent and, incidentally, a fine friend.

In 1973, Mr. Owen began conditioning promotions on satisfactory scores on standardized tests. Since that time, Greensville students have advanced from scores well below the national average to test performance which, for many grades, well exceeds national performance.

The failure rate in Greensville schools has stopped by 50 percent, and the dropout rate has decreased to 60 percent of its initial level.

Mr. President, I ask unanimous consent that the Richmond, Va., Times-Dispatch editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHERE CHILDREN WIN

Little Greensville County in southern Virginia has been a beacon of hope for persons not only in this state but throughout the United States who would like the public schools to see to it that children learn to read and write and compute. By junking "social promotions" and instead requiring that a pupil master one grade's work before being moved on to the next and eventually handed a diploma, Greensville has been in the vanguard of an exciting educational revolution that is beginning to spread across the country.

But the State Conference of the NAACP, citing fears that the nationally standardized tests used to measure achievement in Greensville may have unbalanced some of the classrooms racially, is asking the federal Department of Health, Education and Welfare (HEW) to investigate. That is depressing news on the eve of another school year opening, for there are, unfortunately, many bureaucrats within HEW who value statistics and abstractions more than they do real learning and real people.

It is encouraging, however, that Supt. Sam A. Owen and his staff appear undaunted by the impending probe and that they are determined to press ahead with a program that they sincerely believe is in the best interest of each and every child in Greensville County. Mr. Owen has welcomed any "genuinely interested" group to look into "our programs, which I feel are the best that can be offered."

And well should the superintendent and his dedicated educators, black and white, feel that way. For the pupils in Greensville, 65 per cent of whom are black, have made amazing progress since the school board instituted achievement-based promotion—and sound basic education programs to back up that policy—in 1973–74.

Since that time, achievement scores on national tests of literacy have gone from well below the national average to well above it at many grade levels in the system. During the same period, the failure rate has been more than halved, the dropout rate has decreased from 15 per cent to 9 per cent, and the proportion of high school graduates who are well-prepared to continue their education or begin careers has increased dramatically. Whereas, according to Mr. Owen, less than half of the county's graduating class used to go on to college, 134 of the 182 graduates will this fall. And the remaining 48, he said, have learned skills they can market with employers.

While the achievement grouping in Greensville may have resulted in a few classrooms being more black or more white than the school system as a whole, there is clearly no intent to segregate by race. For the focus in Greensville is on learning by the individual, which is what education is supposed to be all about. As for the tests used, there is nothing sinister about them. They are published by the Science Research Associates, a highly respected firm, and are used by school systems nationwide.

A child in the public schools today will be tested many times tomorrow when he leaves school to make a living. Isn't it far better that he learns how to pass tests, how to succeed, while still in school? As the late Knute Rockne, Notre Dame football coach, used to say:

"Education is supposed to prepare a young man [and woman, we'd add] for life. Life is competition. Success in life goes only to the man who competes successfully. A successful lawyer is the man who goes out and wins—wins law cases. A successful physician is a man who goes out and wins—saves lives and restores men to health. A successful sales manager is a man who goes out and wins—sells the goods . . . There is no reward for the loser. There is nothing wrong with the will to win. The only penalty should be that the man who wins unfairly should be set down."

In Greensville, they're trying to prepare a lot of life's winners. Would they be doing more of a favor to the children by contenting themselves with losers under the safe status quo?

WOMEN IMPROVE WISCONSIN NATIONAL GUARD

Mr. PROXMIRE. Mr. President, the Wisconsin National Guard has a remarkable military history dating back to action in the Civil War. For years the Wisconsin Guard has retained its reputation for excellence and combat readiness.

Thus, when the adjutant general of the Wisconsin National Guard states that women have made a great improvement in the Guard, his conclusions carry weight. And that precisely is what Brig. Gen. Hugh M. Simonson has confirmed.

The Wisconsin National Guard has increased its women members from 40 to 400 in just over 4 years—a remarkable achievement. The 40 officers and 350 enlisted women obviously have been attracted by the broad range of opportunities that are available through the National Guard. The benefits are generous and there is equality in pay, dependent allowances, travel, and pensions.

As Brigadier General Simonson says:

The old image of the servicewoman is changing—and today's female member is making it change. She no longer sits on the sidelines and watches. She is professional in every sense of the word. She can direct traffic for convoys, pitch a tent, dig a fox hole, fire an M-16 and challenge her male counterpart to outperform her.

In the years to come as new legislation opens up even more job opportunities for women in the military, the National Guard will be the beneficiary of the growing skills of women military members.

Mr. President, I ask unanimous consent that the article by Brigadier General Simonson be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN MY OPINION—WOMEN HAVE MADE A GREAT IMPROVEMENT IN THE NATIONAL GUARD IN WISCONSIN

What made National Guard men and women excel recently when within hours of being called up in the dark of night, they were manning prison guard towers instead of a bank teller's cage, and caring for invalids requiring total care instead of driving an 18 wheeler? Why did they do so well at tasks totally unrelated to their trained professions?

What makes a hundred Guard men and women give up the three major holiday weekends during the summer to operate military trucks and helicopters aiding disabled motorists on the crowded highways or attending injured motorists at an accident scene and transporting them to a hospital?

SERVICE DEMANDS SACRIFICE, TRAINING

Whatever prompts Guard men and women to cheerfully accomplish these essential services in times of emergency also caused them to volunteer for military service to protect and preserve the state and the nation.

The same thing causes members of the National Guard to sacrifice vacation time for 15 days of annual training—training that taxes both their physical and psychological capacities. The same motivation causes Guard members to give up countless weekends with their families to take on long periods of service schooling. It is not the easy way. But it is the rewarding way to display pride in our state and our country.

THEY'RE LEADERS IN TIMES OF CRISIS

The Guard, performing in an emergency situation has the image of a person who has everything under control, is ready to listen to what others have to say, is courteous and concerned for the rights of others. These are traits of a good leader. Leadership is essential and is required of every solider.

The Guard men and women who perform so diligently as a last resort when all civilian services fail to contain a situation, are carrying out their secondary mission. Their primary mission is to provide the trained, equipped and ready units required in time of war or other national emergency.

To those Guardsmen who chose to retire or separate within the past few years—eat your hearts out. Our rapidly expanding women's program—Army and Air— has substantially improved the complexion, as well as the readiness, of the National Guard.

From 40 to over 400 in a little over four years. That's what the Wisconsin National Guard has accomplished in bringing women into its ranks. With more than 40 officers and 350 enlisted women in Wisconsin's Guard, they are involved in almost every phase of operation. The new female Guard members want challenge, more responsibility, and competition. Today's Guard woman is a mechanic, truck driver, military policewoman, nurse, doctor, public information specialist, band member, communications and radio equipment operator, to name only a few.

Benefits, such as choice of jobs, opportunities for promotion, pay and retirement, are all part of the equality afforded women in the National Guard. They receive the same pay, dependent allowances, chance to travel and, of course, pension after 20 years.

THE OLD IMAGE NO LONGER HOLDS

The old image of the servicewoman is changing—and today's female member is making it change. She no longer sits on the sidelines and watches. She is professional in every sense of the word. She can direct traffic for convoys, pitch a tent, dig a fox hole, fire an M-16 and challenge her male counterpart to outperform her.

Acceptance of women into this new role in the military has been a challenge. In a once predominantly male world, women are being accepted as soldiers/airmen by their male peers. That's exactly as it should be.

They will always be women (who wants to change that?) but they are troops. And that's also as it should be.—

HUGH M. SIMONSON.

AN OUTSTANDING U.S. DELEGATION TO THE U.N. GENERAL ASSEMBLY

Mr. PERCY. Mr. President, early in his administration, President Carter made a commitment to strengthen U.S. participation in the United Nations. He pledged that he would appoint a highly qualified delegation to represent the United States at this year's United Nations General Assembly to demonstrate to other nations the importance with which this administration regards U.S. participation in the organization.

Today the Senate confirmed the nominations of one of the most outstanding delegations the United States has sent to the U.N. General Assembly in many years. President Carter should be commended for the quality of the people he has selected to work with our former colleague and now U.N. Ambassador, Andrew Young.

United States representatives include James Leonard, Jr., former president of the United Nations Association; LESTER WOLFF, U.S. Congressman from New York, and active member of the House International Relations Committee who has demonstrated a great deal of interest and knowledge in U.S. participation in international organizations; CHARLES W. WHALEN, Jr. U.S. Congressman from Ohio, a former professor of economics and also an active and knowledgeable member of the House International Relations Committee; and Coretta Scott King of Georgia, my friend and an indefatigable advocate of social justice.

I am particularly pleased that two Illinois residents have been appointed to be alternate representatives to the U.N. General Assembly this year.

I have known Mrs. Marjorie Craig Benton, of Wilmette, for many years and have long admired her active involvement in issues of local, State, and national public concern. Among other activities, she serves as president of the Better Government Association in Chicago, as Chairman of the Citizens Committee on the River City Project in Chicago, and as an early supporter and initiator, with her husband Charles Benton, and the Benton Foundation, of the 1976 Presidential forums which ultimately led to the 1976 Presidential debates.

Donald F. McHenry from Chicago, formerly with the State Department and the Carnegie Endowment for International Peace, will also be serving as an alternate delegate. Other alternate delegates are Melissa Wells, former Ambassador to Guinea-Bissau, Allard Kenneth Lowenstein, former Congressman from New York, and John Clifford Kennedy, a partner and general manager of Kennedy & Co., Lawton, Okla.

The 32d session of the U.N. General Assembly promises to be important and undoubtedly controversial. Issues involving the Middle East, Southern Africa, and the ongoing North-South dialog on international economic issues will demand the greatest negotiating skill, coordination, and good commonsense the U.S. delegation can muster. I think President Carter has put together a team that will serve with distinction and will bring credit to the Carter administration and to the country.

HE WHO IS BLIND, WILL NOT SEE: THE CAMBODIAN MASSACRE

Mr. PROXMIRE. Mr. President, I have urged ratification of the Human Rights Convention on Genocide during every session of every Congress since 1967. One of the most frustrating reactions encountered by advocates of this treaty is blind indifference. We, as Members of the Senate, seem to believe if we close our eyes to this issue, it will forever be allayed.

I would like to bring to the attention of my colleagues a recent article in the Los Angeles Times written by William F. Buckley, Jr., concerning the situation in Cambodia. Although, I disagree with the call for military action, I feel the article brings up some cogent issues.

The situation is frightening. In the past 2 years, since the Khmer Rouge took over, an estimated 800,000 Cambodians have died. The majority of these deaths have been executions. I could continue with shocking specifics, but the situation is apparent for all those who will look.

As Mr. Buckley writes:

"What is happening in Cambodia mocks every speech made by every politician in the United Nations and elsewhere about our common devotion to human rights."

We, in the Senate, cannot resort to the argument that the Human Rights Convention prohibited practices which no longer occur—it is obvious, Mr. President, that they do. I urge the Senate to put the United States on record by ratifying the convention so that our objection to such atrocities will not be viewed as hypocritical.

Mr. President, I ask the unanimous consent that Mr. Buckley's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMBODIA—OUR SINFUL SLOTH

(By William F. Buckley, Jr.)

I am quite serious: Why doesn't Congress authorize the necessary money to finance an international military force to overrun Cambodia?

That force should be made up primarily of Asians—Thais, notably, but also Malaysians, Filipinos, Taiwanese and Japanese. Detachments from North Vietnam and China should also be permitted, and token representatives from voluntary units of other countries that are signatories to the Genocide Convention as well as to the various protocols on human rights.

Our inactivity in respect to Cambodia is a sin as heinous as our inactivity to save the Jews from the Holocaust. Worse, actually, because we did mobilize eventually to destroy Hitler. We are doing nothing to save the Cambodians.

What is happening in Cambodia mocks every speech made by every politician in the

United Nations and elsewhere about our common devotion to human rights.

The idea, in Cambodia, isn't to go there and set up a democratic state. It is rather to go there and take power away from one, two, three, perhaps as many as a half-dozen sadistic madmen who have brought on their country the worst suffering, the worst conditions brought on any country in this bloody century.

The Rev. Francois Ponchaud, who lived in Cambodia from 1965 to 1975, estimates that 800,000 Cambodians have died since the Khmer Rouge took over two years ago. And he is thought to be inaccurate on the low side.

Richard Holbrooke, our assistant secretary of state for East Asian and Pacific affairs, puts the figure as high as 1.2 million.

Hundreds of thousands of these deaths were executions. The cause of the balance was worse: death mostly by starvation. (We finally mustered the judicial energy to execute Gary Gilmore last January; we could not have found one American, short possibly of the Son of Sam, who would have voted to starve him to death.) Other Cambodians have died of malaria and other diseases. The Khmer Rouge disdains to accept medical aid, or food, from the West.

As for the death figures, just what do they mean to those for whom human life means nothing?

Stephane Groueff, of France Soir, went to within a dozen kilometers of Cambodia recently, talking to hundreds of refugees. It is the deepest mystery as to what actually is the constitution of that evil leadership, as no correspondent has been there in two years, and the eight diplomatic delegations (seven Communist, plus Egypt) are all housebound, and denied permission to speak to any Cambodians.

There is speculation that 46-year-old French-educated Khieu Samphan, the head of the Presidium, as running the show in that country.

When you ask the Cambodian refugees who is the authority behind the Khmer Rouge, they will tell you, presumably in whispers, "the angkar." What is Khieu Samphan to the angkar? What is the role of Prime Minister Pol Pot? Or of Ieng Sari, the Hanoi intellectual whose real name is Nguyen Sao Levy? Or the Communist Party secretary general, Saloth Sar?

Groueff reports that there is only one known interview with Samphan. It was given to an Italian journalist at last summer's Colombo conference.

"In five years of war," Khieu Samphan reportedly told him, "more than a million Cambodians died. The present population of the country is 5 million. Before the war it was 7 million."

"What happened to the other million?" the journalist asked.

Samphan was annoyed.

"It's incredible," he said, "the way you Westerners worry about war criminals."

Two out of seven Cambodians are already dead. That is the equivalent of 57 million Americans killed. Even Stalin might have shrunk from genocide on such a scale. And what are we doing about it? Waiting for Rolph Hochhuth to write a play?

Is there no practical idealism left in this world? Only the endless talk that desecrates the language and atrophies the soul?

THE NUTRITION COMMITTEE

Mr. HOLLINGS. Mr. President, I believe the work of the Nutrition Committee, which was and is absolutely vital to the well-being of millions of the most vulnerable among us, is simply not yet done. That is why I rise today to support its continuation.

There are still millions of Americans who go to bed hungry each evening. Although Congress has been increasingly responsive to the problems of hunger and poverty, there remains a shamefully large segment of our population, mostly those least able to withstand the deprivation, who lack the minimum diet necessary to lead a healthy and productive life.

For example, we know that there are between 2 and 3 million homebound elderly citizens who are poor, who have no access to the present elderly nutrition programs, who live sad and isolated lives as the result of some infirmity, and who enter nursing homes at a very great expense to themselves and the Government, by the tens of thousands simply to receive adequate meals. All this information has recently been brought to the surface solely by the Nutrition Committee, and only the committee has developed comprehensive recommendations for legislative action to solve this problem.

This kind of investigation, oversight, and public education is exactly what the committee does best.

Under no other structure which currently exists in Congress would this kind of indepth, specialized, and often mutijurisdictional work, proving and exposing need and offering constructive alternative solutions, get done, except under the structure of a select committee. And this group—the homebound handicapped and elderly—represent just one very large group among us that still needs and deserves the attention of Congress.

Another group—low-income pregnant and nursing women and infants—are supposed to be served by the women, infants, and children program (WIC). This program provides high protein diet supplementation to low-income pregnant or nursing women and infants. The committee's early investigation proved that the period of greatest brain growth is the time for the most effective and low-cost nutritional supplements, which also, because of the early date, has the greatest chance for breaking the cycle of poverty.

This specific program, which connects adequate nutrition and health maintenance, has been evaluated by USDA and held to be a total success. Birth weights, head circumferences, and heights, have all been improved, while anemia and other deficiencies have been drastically reduced. The program is saving lives and reducing the shameful number of low income and minority children who die in infancy. I would like to point to this program when some decry the effectiveness of social intervention programs. The results of this program are of tremendous personal satisfaction to me, and I am proud to have been an original cosponsor. I am also happy that over 25,000 low-income women and infants participate in South Carolina.

The problem is that the program, as currently structured, cannot possibly reach more than one-fourth of those eligible in the country. I believe the committee still has a special obligation to fulfill to the more than 3 million eligible not reachable under current law.

There is another point to make about WIC. It is true that it is a program for low-income people. There is no doubt about it. But it is also a health program. It is administered through health clinics and run by doctors. It is a perfect example of the kind of multifaceted approach that can be constructed by a select committee such as the Nutrition Committee, that is charged with the obligation to investigate and educate in one particular area—like hunger—but which is left free to make recommendations that may cross traditional lines—in this case nutrition, education, and health.

I would hate to see this flexibility, which has proved to be so productive, lost. I would also hate to see the intensive oversight cease at a time when hundreds of thousands of eligibles are on waiting lists, and sustained and orderly program growth could mean so much to so many. The expertise to do this exists in the Nutrition Committee. What good could possibly come from eliminating it?

There are many other examples of the Nutrition Committee's unfinished business. Some Senators may assume that our child nutrition programs—school lunch, school breakfast, child care, summer food, commodity supplemental, and the WIC programs—are reaching most of those they are meant for. This is not necessarily true.

For example, the breakfast program serves only 10 percent of those served lunch, yet teachers and nutritionists tell us it may be a more important meal than lunch, in terms of its impact on school performance.

Over 15,000 schools still have no lunch program at all, with over 1 million low-income children left with no real access to an adequate noon meal.

That is one of the main reasons the committee should be maintained, its function, if anything, expanded.

I believe its elimination is a concession to form, an attempt at organizational cleanliness at the expense of national realities. By eliminating the Nutrition Committee, we might be hoping to eliminate hunger or poverty, but it is not going to work that way.

I have reviewed the reorganization statements made months earlier and find no suggestion that the work of the Nutrition Committee is complete or inadequate or no longer necessary. The reorganization plan did not begin to deal with the importance of the work done by the committee.

Regardless of the reasoning, however, the result is not one with which I believe a majority of Americans would concur.

The interest in problems of domestic hunger is greater than ever. Food is a finite resource basic to the maintenance of life and worthy of much gerater public scrutiny, not less. Good nutrition is the most important building block in the edifice of our individual and collective well-being. The public knows these things. We in the Senate would not be well served to ignore them.

And that brings me to the second basic reason for continuing the Nutrition Committee. Not only is the job of feeding the hungry not yet complete, the job of educating all consumers, regardless of income, in matters of diet and health, has only begun.

There is no doubt in my mind that diet and nutrition play a major role in preventing our most debilitating killer diseases, as well as extending our productive years. It is apparent that the best hope for achieving any significant extension of life expectancy lies in the areas of disease prevention, not cure or crisis care, and that nutrition along with life style and habits of personal care, provides the foundation for sound prevention.

It is also apparent that the economic costs of health care and disease, which has been a major concern of mine and many other Senators, are a large and growing burden on the Nation's resources. Many studies, including one completed recently by USDA, show how improving the American diet could help ease that burden by preventing disease before it strikes, with potential cost savings in the hundreds of millions of dollars.

The most complete possible factual background connecting diet and health has been made by testimony before the Nutrition Committee over the last several months. There is not a member of the committee who has not been profoundly impressed by the data linking dietary components to the development of atherosclerosis, the underlying cause of the No. 1 killer, heart disease, and to more than half of all cancers in women and at least one-third in men. Moreover, they have learned that nutrition has thus far been the only environmental factor which has been shown to increase the lifespan of experimental animals. Their witnesses have included the highest officials of government as well as the most respected of university lecturers and researchers.

The question before Congress now is where to go with all this new information, much of it alarming. What research need be done to determine the potential for helping reduce disease and related cost of health care? How should a food and fiber policy, taking into account health concerns and all segments of the food system, be coordinated, and who should be in charge? We do not even know, really, how present diets, changed as they are from a few years ago, affect human functional performance, or what the nutrient composition of the current food supply is.

We are at about the same stage of knowledge in dietary health matters now that we were 10 years ago with regard to poverty-related malnutrition.

The President and Members of Congress have responded to these questions, to the increasing public concern with diet, and to the growing evidence implicating diet as a major cause of disease, by asking for new, objective, expert advice.

As a result, two long-term studies have just been released by two of our most respected and unbiased groups: "World Food and Nutrition Study—The Potential Contributions of Research," by the National Academy of Science, and "Federal Human Nutrition Research—Need for Coordinated Approach To Advance Our Knowledge," by the General Accounting Office.

Both of these reports, which took many months to complete, acknowledge that major gaps in nutrition knowledge and research needs now exist, and, I quote, "the No. 1 barrier to progress in human nutrition research is a lack of central focus and coordination."

Another recent report, by the Congressional Research Service, found that—

> The planning and conduct of human nutrition research is scattered throughout complex and diversified Federal organization, none of which provides comprehensive nutrition information. Although Congressional interest in human nutrition is increasing, comprehensive information for determining the focus and direction of Federal human nutrition research is lacking.

Every group studying this issue has concluded, in short, that there is yet no fundamental structure for the management of the increasing Federal funding for human nutrition research and consequently there is much uncoordinated activity without reference to specific goals. At this early juncture, it is extremely important that a sound, sensible organizational basis be established within the Federal Government to conduct this important work, and to most wisely spend the money.

In saying this, I mean to take nothing away from the Agriculture Committee, whose chairman, the distinguished Senator from Georgia, I highly respect. I listened carefully in February when proponents of reorganization argued that eliminating this committee would do minimal damage because many of the Senators on it also serve on the Agriculture Committee.

But I think both interests—the traditional interests of the Agriculture Committee and the new highly visible nutrition issues—will be best served by the continuation of the Nutrition Committee, perhaps at only part of its current funding level, in the interests of reduced spending.

The Nutrition Committee has already established, alone among congressional committees, the most in-depth background testimony and research in many of the nutrition questions now undergoing such intense scrutiny—human nutrition research, nutrition education, food labeling, food quality, dietary goals, TV advertising, nutrition policy, elderly nutrition needs, and many others. It has members with health care expertise, who feel deeply the need to invest more in prevention through nutrition and diet and less in crisis care, whose expertise should not be lost. It has Senators and staff already familiar with legislation necessary to focus the Government's work in the above areas. I cannot believe losing this focal point, at a time when all concerned recognize this as the single most necessary ingredient in the development of a prudent food and nutrition policy, would serve our public interest. Before the Government can focus, Congress must be able to, and the Nutrition Committee has a head start on the field.

The work of the Agriculture Committee is very important, and our farm programs are well served by it.

But I am simply not sure it is geared up to, or should gear up, to do the kind of multidisciplinary work in dietetics, biochemistry, food technology, education, medicine, genetics, physiology, and agricultural science that underlie the broadening scope of human nutrition in the United States. For the next several months, at least, I sincerely believe that both committees would be best served by allowing the Nutrition Committee to continue its important work in the area of diet and health.

By doing original and much needed work in the area of diet and health, as well as continuing to provide a unique forum for the poor, the young, and the hungry, the committee is in a position to continue to help the people of America.

Members of the committee have worked hard and believe strongly in that work, and we all have benefited from it. That is why it should be continued.

THADDEUS KOSCIUSZKO

Mr. STEVENSON. Mr. President, Thaddeus Kosciuszko's significant contributions to the military victory of the United States in our War of Independence is a source of pride to all of us as recognized in Senate Concurrent Resolution 44. As we continue to mark our Bicentennial, it is fitting to recall the part General Kosciuszko played in planning the fortification of Philadelphia as well as his key role in the Battle of Saratoga and in the campaigns in North and South Carolina. I am pleased to join as a cosponsor of Senate Concurrent Resolution 44.

HUMAN RIGHTS AND NOMINATIONS

Mr. CASE. Mr. President, the Senate's confirmation today of Arthur Goldberg as chairman of the U.S. delegation to the Conference of Security and Cooperation—the CSCE—and George Landau as ambassador to Chile represent, respectively, the good news and bad news in the administration's handling of human rights.

The nomination of Ambassador Goldberg to head our delegation certainly was good news. As the original Senate sponsor of the legislation which established the Helsinki Commission, I was most pleased that President Carter selected a man who is both dedicated to the advancement of human rights and is effective in difficult negotiations.

As I commented during yesterday's confirmation hearing by the Senate Foreign Relations Committee, I also welcome the nomination of Ambassador Goldberg as an indication that the administration is not backing away from its dedication to human rights.

There have been recent comments by administration officials, including a

statement by President Carter, and even more important, some silences which have given cause for concern in that respect.

Of course there are many factors in shaping our foreign policy and dealing with individual nations. I, for one, am not prepared to claim that human rights in every case is the determining factor in relations with every country—there are limits to what we can do as a practical matter. However, I believe that through the efforts of Congress during the last session and the current one, and the welcome statements by the new administration, especially in its early days, human rights concerns have been given a higher priority in shaping our foreign policy.

On October 4, the Belgrade Conference will resume, continue the task of reviewing and following up the 1975 Helsinki accords in which 35 nations of East and West Europe and North America pledged themselves to a series of guidelines for the protection of human rights.

Therefore, I believe it is very important that this Government reaffirm its commitment to human rights.

The confirmation of Ambassador Goldberg is a welcome move in this direction.

Our concern over human rights is not confined to countries of one form of government or another, it is addressed to dictatorships of all stripes.

Therefore I questioned the nomination of a new Ambassador to Chile at this particular time. The move might be seen as a sign that the more traditional approach of the foreign service bureaucracy is still at work.

I am not concerned about the qualifications of the man selected for the job, George Landau, a career officer of considerable experience. Therefore I decided not to oppose the nomination.

But I do feel it is necessary to voice my concern over the timing. The improvements in the human rights situation in Chile are not all that perceptible. True, the old secret police technically has been abolished but apparently this is primarily a change in name. Some political prisoners have been released, but other persons have been arrested.

It is most unfortunate that the confirmation of Mr. Landau came as friends of Orlando Letelier, a former cabinet minister, marked the murder a year ago of the former cabinet minister and an American associate, Ronni Moffitt.

I hope this confirmation is not taken as a sign of a relaxation of U.S. concerns over human rights. As far as this Senator is concerned, it should not be. I trust that Mr. Landau, who handled himself very well before the Foreign Relations Committee yesterday, presses for the human rights both in individual cases and in the overall situation.

In Chile, as in dealing with the Soviet Union, we may not be able to obtain overnight improvements, but it is important to keep up the effort.

SUPPORT FOR SCHWEIKER MEDICAL SCHOOL ADMISSIONS BILL

Mr. SCHWEIKER. Mr. President, several months ago, I introduced legislation to protect medical school applicants from discrimination based on their views on abortion. My bill, S. 784, is a very simple one: it forbids schools which receive Federal support from asking their applicants' views on abortion or sterilization, or from discriminating against any applicants because of their views. Although the bill is primarily directed at medical schools, it would also apply to nursing schools and other federally-supported institutions dealing with health care education.

The need for the bill was made manifest by a survey done last year by Dr. Eugene Diamond, which I included in the CONGRESSIONAL RECORD on February 24, 1977, at page 5196. Dr. Diamond discovered that a large number of medical schools asked prospective students about abortion, and some admitted that pro-life views would be a negative factor in the admissions process.

These findings are disturbing for two reasons. First, much of the widespread disaffection with the medical profession in this country is based on the increasing depersonalization of health care, where technology often overwhelms more human concerns about care of the whole patient. I believe that a person who is opposed to abortion may well have the respect and concern for life that we should be encouraging in our young doctors.

The other reason is more basic. Although I have never seen precise statistics, I would be surprised if as many as one doctor in ten in our country has ever performed an abortion. Most physicians have practices that do not involve these questions at all. It makes no sense to screen out antiabortion students at the beginning of medical school when most of the students will not be concerned with that area of medicine in later practice.

Since introducing S. 784, I have heard from a number of people in support of this bill. Some of them have been students who faced the kind of questioning I propose to ban. Many of these students have expressed a very natural reluctance to "get involved," in some cases because they are still trying to get into medical schools. Fortunately, several students have been willing to give me their stories, which establish clearly the kind of questioning and discrimination that Dr. Diamond's study revealed in some of America's medical schools. Of equal importance is the perception of discrimination that is felt by these students, which can lead many of them not to apply to medical school at all. I would like to share a number of these letters with my colleagues, and ask unanimous consent that they be printed at this point in my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

The Honorable RICHARD S. SCHWEIKER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHWEIKER: I strongly support your proposal which would disallow a medical school interviewer from asking a prospective student his position on abortion. I support this because I believe that the emotional atmosphere of this issue almost cost me my acceptance to a U.S. medical school.

While obtaining my undergraduate training at the University of San Francisco I became heavily involved in the Students United for Life. When I applied to medical school, I naturally listed these involvements as extracurricular activities. Little did I know at that time that my beliefs regarding abortion would probably prevent me from entering several medical schools.

At the University of California at Davis School of Medicine I just "happened" to be interviewed by Dr. Fred Hanson, an OB/GYN specialist who does abortions. In the next hour that I spoke with him, we debated the abortion issue for approximately forty minutes. He told me that it is difficult to say when life ends, and therefore it is also hard to say when it begins. Dr. Hanson stated that amniocentesis is 100 percent accurate, and asked whether I would abort a fetus diagnosed with Down's Syndrome. He knew that my youngest brother, Michael, had Down's Syndrome, and had been killed two months earlier, so he decided to rephrase the question. Would I abort someone with hemophilia? I asked him what sort of life these people had, since it occurred to me that if a hemophiliac led a miserable life, he could end it quite easily. He replied that hemophiliacs lead an existence that is not worth living. And so it went with Dr. Hanson.

My other U.C. Davis interviewer was a female medical student. (I believe her name was Jan Ewing.) She also was concerned about my views on abortion, and especially how I would feel toward a patient who had had an abortion.

My student interviewer at the University of Southern California School of Medicine quizzed me about my abortion beliefs, and concluded that I was consistent at the end of that issue.

At Northwestern University School of Medicine my student interviewer, because of his Jewish background, had a natural interest in Tay Sach's disease. This student, like the U.C. Davis interviewers, felt that everyone had his limit where he would or would not do abortions. His limit was Tay Sach's disease (and not Down's Syndrome), especially since the child would die by his second to fourth years anyway. Because I didn't agree with him, he accused me of being insensitive. Once again, my moral beliefs may have prevented me from entering a medical school.

In interviews at Georgetown University, Tulane University, St. Louis University, and Creighton University, the abortion issue was not discussed.

I was accepted at Georgetown, and have noted that the students in my class represent a wide variety of opinions about abortion and many other moral and ethical questions.

I wholly applaud this proposal, but I believe that it should be expanded to include nursing schools and other paramedical training programs.

Sincerely,

CHARLES T. MORTON,
First Year Student,
Georgetown University School of Medicine.

TUESDAY, *May 31, 1977.*

RICHARD S. SCHWEIKER,
U.S. Senator, Pennsylvania.

DEAR SENATOR: I am addressing this letter to you in support of the bill to curb medical school discrimination. I applied to a number of medical schools this year and I am writing this letter because of my belief that I was discriminated against by the University of California at San Francisco. The fact that I was interviewed there in October indicates in part how strong they originally considered my application to be. I was interviewed by two people at separate times. One interview, by Dr. Perloff, was held in her office at the

medical school. She asked a number of personal questions and somehow the question of my religious background came up and I told her I was and am a Catholic. She questioned me further on the degree of my Catholic upbringing and after she was apparently satisfied she changed the subject to abortion. The fact that it was my first interview and I was nervous put me at a great disadvantage. She knew it and used it to her advantage. I told her that I am generally against abortion except in the case in which the life of the mother is involved. She accepted my stand without much comment and then went on to the subject of birth control. We had an open disagreement about birth control and finally the subject was dropped. I felt uneasy throughout the interview, but not until afterwards did I realize exactly what had happened. I was upset shortly thereafter because I felt the interview went badly. I do not know to what degree I was discriminated against except that as stated in the article "Changing Values and the Selection Process for Medical School," written by John Wellington M.D., Associate Dean at UCSF, the interview is rated highest of all considerations in the selection process, and I feel Dr. Perloff did not agree with my position on abortion and the interview went badly because of it. Perhaps if this hadn't been my first interview I could have handled myself better, but nevertheless I feel that I was discriminated against.

I am writing this letter because I now realize the urgent need for legislation to prevent interviewers from asking questions of such a controversial nature that it could lead to discrimination.

I was rejected from UCSF, but I am happy to announce that I was found acceptable at UC Davis. I hope that this letter will be of help to you.

Sincerely yours,

GREGORY SPOWART.

SANTA MARIA, CALIF., *April 23, 1977.*

Re Committee on Human Resources Medical School Applicants.

Senator RICHARD S. SCHWEIKER,
Senate Office Building
Washington, D.C.

DEAR SENATOR SCHWEIKER: This is response to your recent letter regarding our son Douglas' medical school application experiences. I have consulted with him once more for verification.

1. At the University of Southern California (a private non-denominational school) he was asked if he would do abortions. He said he would not because of personal convictions, rather, he would try to educate the woman on the subject. He felt he had excellent substantiations, including scientific (having just completed a genetics course), for any questioning. He later received notice of rejection of his application. Since he knew his application presented an ideal experience-academic-recommendation (from numerous physicians as well) background, and since he felt the interview had proceeded very well, he wrote a letter to the Assistant Dean for Admissions. Doug told him that he felt he ought to be aware of the abortion questioning if he weren't already, and that such querying was a form of "reverse discrimination". The Assistant Dean's response was "the rejection was not on the basis of a poor interview report from the interviewer to whom you allude". It should be made clear that no one is asked to come for an interview unless his application meets all competitive requirements. The interviewer could give him the good report personally, but his viewpoints on abortions could nevertheless be a deciding factor. Who will ever know?

2. He had another interview at a California state medical school where the matter of abortion and related areas was discussed for a large part of the hour interview. Once again he cited his personal convictions and strong scientific arguments. A week later, after learning of your proposed legislation, I myself wrote the Dean of the Medical School attaching the enclosed clipping and relating our son's experience. The Dean promptly wrote a long and very nice letter assuring no prejudice, though he apparently was not aware of the abortion, etc., questioning. Doug is apparently on that school's waiting list for placement. At this point in time we would rather not relate the name of the specific school—perhaps later.

(It so happens that interviewers at both schools were lady M.D.'s. This may or may not be pertinent.)

3. Of further interest. From the University of California at Davis (state school), apparently all applicants received a 4-page questionnaire to "self-identify as disadvantaged". This is the school setting for the Bakke case appealed to the Supreme Court by the California Regents. From the "Medical School Admissions Requirements" handbook is this quote: "A special introductory three-week course is offered to these students. The purpose of this course is to introduce these students to the faculty through small group meetings, to familiarize the students with medical terminology, and to improve their learning techniques."!! It is impossible to believe anyone's learning techniques can be that much improved in three weeks after already finishing four years of college.

We trust all of the above will be of help in verifying that there truly are these forms of subtle "reverse discrimination" against those most qualified. In the instance of the Davis selection process, the quality of medicine cannot help but become diluted.

Sincerely,

Mrs. R. C. RIEHLE.

IDEA,
June 14, 1977.

Mr. RICHARD VODRA,
Legislative Aide,
Hon. RICHARD S. SCHWEIKER,
Russell Senate Office Building,
Washington, D.C.

DEAR MR. VODRA: After our telephone conversation in Washington last week, and upon my return to Chicago, I was in touch with two young men whose cases I feel would clearly show evidence of discrimination against medical school applicants who oppose abortion for conscientious reasons.

I have interviewed these candidates personally, and one of them on two occasions, as to the facts of their medical school interviews, the questions asked them, their backgrounds and academic qualifications (which are excellent), and some surrounding circumstantial evidence which in my estimate lends additional credibility to their accounts.

There is no question but that there has been discrimination against these medical school candidates precisely because of their prolife stances, and that they were denied admission to the first school of their choice because of their stands on abortion.

I spoke with them on my return from Washington, and assured them that their cases could be disguised sufficiently to make it difficult for anyone to detect their true identities, if they would be willing to give an affidavit for use by Senator Schweiker in furthering the legislation he has introduced. Both students discussed the matter with their families over the weekend.

I have been informed by both that upon further consideration they and their families have decided they would rather not come forward at this time. Both have subsequently been accepted by other medical schools in the area, and because of the regular meetings of Medical School Deans and other personnel, they feel it would be a simple enough procedure for anyone interested in so doing, to uncover their identities and place difficulties in their studies towards the M.D.

They are upset by these fears, but both were very upset also by the interviews and the overwhelming evidence of prejudice against them as prolifers. If it is of any use to Senator Schweiker in furthering his legislation, he has my permission to use this letter.

Sincerely,

FATHER CHARLES C. FIORE,
Director, IDEA.

Mr. SCHWEIKER. Mr. President, in addition to these letters, I have been encouraged by the number of press endorsements of S. 784. Many of these emphasize the need to protect the freedom of conscience of our Nation's students. I ask unanimous consent that a selection of these stories appear at this point in my remarks.

There being no objection, the stories were ordered to be printed in the RECORD, as follows:

THE RIGHT TO DISSENT

Human rights have suddenly made the headlines as a hot topic in Washington and around the world. Defining what they are in different societies and cultures may well prove a more difficult task than promoting the concept itself, but in the United States, at least, the freedom to hold religious and ethical beliefs that sometimes run contrary to the prevailing mores of American society has a long history as a constitutionally protected human right.

Since the Supreme Court's 1973 decision striking down most state and Federal abortion laws, the right of individuals and of hospitals not to participate in abortion procedures has been under fire by pro-abortion groups. Indeed, a survey of medical schools, conducted by Dr. Eugene F. Diamond and published last year in The Linacre Quarterly, indicates that in certain cases a suspicious interest in a future doctor's attitude toward abortion has been pushed all the way back to the student's interview for admission. Of the 60 schools that responded to the survey, 21 admitted that applicants were questioned about their position on abortion, and 17 said that such questions were possible; 18 denied such questions were asked, and four did not answer. To the survey's deliberately loaded, and intentionally rhetorical question, "Would a refusal to participate in abortion and/or sterilization procedures be considered a negative factor in an applicant?" two out of the 21 schools said yes. Why, one wondered, do the other 19 (or possibly as many as 40) schools bother to ask if the applicant's negative answer has no bearing on admittance?

Senator Richard S. Schweiker (R., Pa.) wonders, too, and he hopes to remove the speculation by introducing legislation that would prevent any school or institution receiving Federal funds under the Health Programs Extension Act of 1973 from questioning prospective students about their views on abortion and from discriminating against applicants because of their refusal "to counsel, suggest, recommend, assist or in any way participate in the performance of abortion or other medical services contrary to [their] religious beliefs or moral convictions." A policy, however informal, aimed at eliminating dissent within the medical profession on a controversial ethical question like abortion should not be tolerated in American society. If it requires legislation to discourage such a policy, then Senator Schweiker's bill deserves our support.

[From the Church Today, Apr. 4, 1977]

BEYOND THE ABORTION RULING

(By Rev. John C. Reedy)

If Senator Richard Schweiker's charge is true, there should be a lot of very loud screaming—which has not yet developed.

He is concerned about medical schools which are questioning applicants on their attitude toward abortion. In a news release about a bill which he has introduced, Schweiker referred to a survey which showed that 21 out of 60 schools admitted that they do question applicants on this subject.

Of the remaining 39, eighteen institutions reported that the subject might be brought up at the discretion of the interviewer.

Thirteen of the schools said that an applicant's refusal to participate in an abortion would present "administrative problems," and two said that such a refusal would be a strike against the applicant.

Given the present legal status of abortion, it's not difficult to see why these educators would prefer to avoid problems arising from conscientious objection to the procedure. They are training doctors for professional service in many hospitals which offer this choice to patients.

When classes are being taught abortion methods, would these students have to be excused? When it came time for students to be placed in residency, would the schools have to inform the hospitals that these students would refuse to participate in an abortion? In certifying the professional competence of their graduates, would they have to add a footnote saying, "with the exception of abortion procedures."

The "administrative problems" are understandable, but it would be outrageous if these problems were allowed to screen out applicants whose consciences see abortion as immoral.

If that were to happen, the wrong-headed judgment of the Supreme Court would go far beyond its intention of permitting a woman to have an abortion without legal interference; it would establish optional abortion as the approved medical and social rule in our society. And like the Amish, those who disagree with that rule would just have to endure the social penalties of dissent.

Whatever one thinks of the chances of reversing the court decision, this medical school practice represents a further step, and it calls for public response.

From the time the abortion judgment was handed down, the defenders of the decision have been less than candid in insisting that there were no social implications beyond protection of "the rights of a woman over her own body."

It was obvious that the medical profession and social welfare agencies would find it almost impossible to avoid their own dilemmas of formally endorsing abortion-on-demand or of complying only to the extent required by law.

Could public hospitals avoid discrimination, in hiring and assignment policies, against nurses and doctors who would refuse to cooperate in abortion procedures? Would not nursing schools face the same "administrative problems" found in the medical schools?

Is there any way to make sure that welfare administrators and social workers do not use the benefits they administer as a pressure to force poor women to chose abortions they don't want?

Senator Schweiker's proposal should alert groups and individuals who see the social acceptance of abortion as a national disaster.

The extension of a preabortion policy into social, medical and educational agencies is not established by decree of the Supreme Court. It is much more susceptible to public protest and political action.

Such action calls for vigilance in reviewing the policies and practices of these agencies which can give social approval to permissive abortion. It calls for forceful response, politically and legally, whenever these agencies do adopt procedures which extend the court's decision.

Even if his bill goes no further than his campaign for the Vice Presidency, Senator Schweiker deserves our thanks for calling attention to these medical school practices.

[From the Fredericksburg (Va) Free-Lance Star, March 17, 1977]

MED SCHOOL BIAS SEEN AGAINST ABORTION FOES

WASHINGTON.—If you are applying to medical schools and oppose abortion, don't let them know it. You might not get in, say some opponents of abortion.

A survey taken by a group of Catholic physicians "indicated that discrimination against candidates who oppose abortion does, in fact, exist on a small scale," says its author.

Sen. Richard S. Schweiker (R-Penn.) has recently introduced legislation designed to prevent medical schools from discriminating against applicants who oppose abortion or sterilization.

Schweiker's proposal would prohibit any medical school receiving federal funds from questioning prospective students about their views on such topics, according to Richard Vodra, a legislative assistant to Schweiker.

Federally funded schools that violate the bill's strictures would lose those funds, Vodra said.

Medical schools currently receive a total of about $300 million to $350 million per year in federal aid, according to Vodra.

"I doubt if you could run a medical school without federal money," Vodra says.

In introducing his bill in Congress, Schweiker included a survey of 60 medical schools concerning the kinds of questions they asked applicants in interviews, and what effect the answers had on the schools' admissions decisions.

The study was compiled by Dr. Eugene F. Diamond of Chicago for the National Federation of Catholic Physicians' Guilds, an association of Catholic doctors.

According to the survey, 21 of the 60 medical schools indicated they ask applicants about abortion. Another 18 said such questions were asked at the discretion of the interviewer.

Of the 60 schools, 13 said a student who refused to participate in abortion operations would cause "administrative problems" for the school.

Two schools acknowledged that an applicant's opposition to abortion or sterilization would be considered "a negative factor" in his application.

Diamond would not reveal the names of those two schools. "I feel it's a matter I should hold in confidence," he said in an interview.

In a comment attached to the survey, Diamond wrote "The results of this survey indicated that discrimination against candidates who oppose abortion does, in fact, exist on a small scale."

In the interview, Diamond said that asking a medical school applicant's views on abortion is an area of "potential bias."

Some persons in the medical education field feel that Schweiker and others are making too much out of something that may not exist.

Dr. Robert Keimowitz, director of admissions at George Washington University's medical school, says "I get the most bizarre comments" from applicants who are not accepted and from their parents.

Keimowitz says it is hard for these people to accept their denial. The pressures from such people might prompt a legislator to introduce a bill such as Schweiker's, he added.

But Keimowitz said he could not recall having heard any allegations of discrimination based on the abortion issue.

Competition for entrance to medical schools is tough.

Figures for the 1976–77 school year show that 41,684 persons applied for 15,153 places in the nation's 116 medical schools, according to Charles Fentress, spokesman for the Association of American Medical Colleges (AAMC). All of the medical schools belong to the AAMC, Fentress says.

Keimowitz said he would regard a bill like Schweiker's as "another legislative interference" in the medical education field.

Stephen R. Ramee, a first-year medical student at George Washington who was interviewed at five medical schools, says it is his impression that interviewers aren't trying to "pick people out" because of their views on such topics as abortion.

Ramee said interviewers ask "thought questions" to stimulate an intelligent response or defense of a position.

Ramee said when he was interviewed he was asked general questions about his attitudes on various subjects and about his specific goals in the medical field.

Although he wasn't asked about abortion in his interviews, Ramee said, "I've heard of questions like that asked."

Mr. SCHWEIKER. Mr. President, finally, I would like to explain in more detail why my bill is needed, and show some precedent for the approach I have chosen. Several years ago, Dr. John S. Wellington of the University of California, San Francisco, Medical Center, wrote a detailed article on the medical school admissions process, as seen by one on the inside. Wellington, John S., M.D., "Changing Values and the Selection Process for Medical School," in Ethics of Health Care—National Academy of Sciences, 1974, at 159. He revealed that the interview process is the most crucial, yet nonquantifiable, step in the selection procedure. In Dr. Wellington's words:

> Still, the principal instrument for assessing personal qualities in the candidate remains the interview. The interview has long since been stripped of any status as a valid predictor of any behavior that can be measured subsequently; yet the relative weight given to it in the selection process has increased, rather than decreased, in the 30 or more years it has been in general use. Why is this so? The answer is probably that it represents the only way in which admissions commission members feel that they can test for and apply to their own individual value system to selection. (at page 166)

Given the central role of the interview and the fact that so many of the complaints of discrimination arise from the interview setting, I felt that it was only appropriate that the question of abortion be taken out of the process. Abortion, as we all know, is a subject on which emotions run very high.

There is not likely to be any comparable subject for which the members of an admissions committee would be so ready to condemn an applicant for the "wrong" opinions. Emotions and prejudice run in both directions, and I would think we should be upset whether a student is kept out of a medical school because he is thought to be a "murderer of the unborn" or because he is thought to be "insensitive to the needs of women." I strongly believe that whatever minimal positive information could be gained from an abortion question is far outweighed by the prejudicial potential of the issue.

The method I chose in S. 784 to deal with the problem is one that originated in the civil rights struggle of recent years. At first in facing racial imbalance, we simply tried to prohibit discrimination, but learned that the problems of proof were nearly insoluble in most cases.

A better approach turned out to be a flat prohibition on the collection of data that discrimination would be based upon. In short, if you do not ask, you will not know, and if you do not know, you cannot discriminate. New York State recently passed amendments to its human rights law that spell this principle out in more detail. I ask unanimous consent to have printed at this point in my remarks an article from the New York Times of February 6, 1977, explaining the new rules.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ILLEGAL QUESTIONS FOR JOB INTERVIEWS DETAILED IN NEW YORK STATE BOOKLET

ALBANY, Feb. 5—Amendments to the State's human rights law, passed during the last year by the Legislature, have made illegal dozens of personal questions commonly asked of those seeking jobs or housing.

But many people have no way of knowing their rights under the new legislation, so the Division of Human Rights has issued a 21-page booklet giving examples of typically asked questions that are now illegal.

Following are some of the questions on various subjects.

Age—Legal question: "Are you between 18 and 65 years of age? If not, state your age." Illegal question: "How old are you?" or "what is your date of birth?"

Arrest record—Legal question: "Have you ever been convicted of a crime? Give details." Illegal question: "Have you ever been arrested?"

Health—Legal question: "Do you have any impairments that would interfere with your ability to perform the job for which you have applied?"

Illegal question: "Do you have a disability?" or "Have you ever been treated for any of the following diseases. . . ?"

The Human Rights Division also points out that it is illegal for a prospective employer or landlord to inquire about marital status, either directly or through an indirect question such as "Do you wish to be addressed as Miss or Mrs.?" or "What are the ages of your children, if any?"

Other blanket prohibitions include questions about the use of birth control or future plans for having children, the applicant's place of birth, whether the applicant is a native-born or naturalized American citizen, national background or religion.

According to the state agency, a prospective employer cannot ask an applicant to "list all clubs or societies to which you belong" and cannot require or even suggest that the applicant enclose a photograph.

Many of these questions may legally be asked once the applicant has been given the job or apartment. Penalties, which can be imposed by the Human Rights Commissioner, range from a reprimand to a $500 fine.

The explanatory booklet, called "Rulings on Inquiries," may be obtained free from the division's office at 2 World Trade Center, New York, N.Y. 10047.

Werner H. Kramarsky, the Human Rights Commissioner, urged anyone who had been asked an illegal question to file a complaint through any of the division's 13 regional offices.

Mr. SCHWEIKER. Mr. President, my bill was introduced to deal with a problem that has been shown to exist both by survey and personal experience. It is not only an abortion bill. It is also a first amendment bill, seeking to protect the freedom of those who hold an opinion that may not be shared by some within the medical education establishment to enter and practice the profession of their choice, if they are otherwise qualified to do so. I hope that the Senate will have the opportunity to act on this legislation in the near future.

THE HELSINKI ACT

Mr. DOMENICI. Mr. President, on the eve of the Belgrade Conference reviewing the progress and problems of implementing the Helsinki Final Act, I wish to remind the Soviet Union that the U.S. Congress remains ever vigilant in its duty of monitoring these accords.

The Helsinki agreement espouses many sound international principles such as sovereignty, equality, and respect for the rights inherent in sovereignty; refraining from the threat or use of force; inviolability of frontiers; cooperation among states; and respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and equal rights and self-determination of peoples.

As a result of this agreement, the Soviets have gained recognition of the postwar boundaries and political status quo in Europe; reaffirmed the Soviet predominate position in Eastern Europe and at the same time increased their influence in Western Europe, gradually reducing American influence without precipitating a strong united Western Europe; expanded economic cooperation with the West, gaining access to Western technology and know-how and, lastly, improved their international image, tarnished by the 1968 Czechoslovak invasion.

The Communist countries are seeking cooperation in business, economic matters and the sciences. The Soviets have received what they have wanted since 1954; Western recognition of the existing postwar borders of Eastern Europe.

From a democratic point of view, such concessions can only be truly justified if the Soviet bloc countries live up to the human rights sections they accepted in the document.

The real thrust of the human rights sections are the underlying principles inherent in the human condition—that is the striving for freedom and individual liberty. Only those repressive governments which do not afford their people elemental social, political or religious rights would not and could not comply with the accords of Helsinki.

I wish at this time to publicize the U.S. Government exit visa representation list of divided families, which as of September 8, contained 107 cases involving 295 individuals who want to be reunited with their families as provided in the Helsinki agreement. Typical of these cases is the situation of Aloyas Jurgutis of Chicago. Mr. Jurgutis is an immigrant to this country, having left his native Lithuania 3 years ago. His wife, Maria, and 13-year-old daughter, Daina, have requested exit visas three times and have three times been denied. Maria Jurgutis has been placed under constant surveillance, has lost her job, and her daughter has been expelled from school. Are these not denials of human rights? Does this not violate the spirit of Helsinki?

Secretary of State Cyrus Vance has presented this list of families begging for reunification to Soviet authorities on numerous occasions. There has been no response.

It is time we receive as many concessions as we give. We will not be satisfied with cosmetic compliance.

The Soviet Union is actively pushing for compliance of the nine sections of the act which benefit it and unless we push for compliance with the human rights section this will go down in history as another in a series of victories for the Soviets at the bargaining table.

I, for one, will continue to demand the reunification of families listed on the exit visa representation list. I will not relent in demanding compliance with the human rights sections of the Helsinki Act, and I will continue to speak on behalf of those who cannot speak for themselves. I know many of my colleagues in the Senate join with me in these sentiments.

THE ECONOMIC OPPORTUNITY AMENDMENTS OF 1977

Mr. WILLIAMS. Mr. President, on September 14, 1977, I was pleased to cosponsor with my colleague from Wisconsin (Mr. NELSON) and others, S. 2090, the Economic Opportunity Amendments of 1977. This legislation reauthorizes the programs operated under the auspices of the Economic Opportunity Act, most of which are operated by the Community Services Administration, for a 3-year period. The intent of the amendments proposed is to enable this agency to function more effectively and efficiently in delivering services to the poor.

The Office of Economic Opportunity, the predecessor of CSA, was created in 1964 to lead the War on Poverty. For many of this agency's supporters, the memory of the turbulent history of OEO remains as real today as the significant segments of our society who still suffer from the problems caused by poverty. The decision to dismantle OEO by the Nixon administration caused Congress to rename the organization the Community Services Administration and to reiterate its status as an independent agency. The effort of the dismantling effort, however, had caused instability, low morale among employees, ineffective personnel management, and in some instances, a lack of fiscal and program control. In spite of this background this agency and its mission to the poor has survived. More importantly, local poverty programs with their involvement of the community have established an effective delivery system for providing services while helping to alleviate the dilemmas confronting poor people.

A recent congressional report suggested major reforms were needed in the Community Services Administration and it elaborated upon many of the problems which exist in this agency. Many of the recommendations suggested by that re-

port have already been implemented by the dynamic, aggressive, and committed leadership which is now managing this agency. During the recent hearings on the confirmation of its Director, Ms. Graciela Olivarez and the agency's Deputy and Assistant Directors, I was most impressed with the enthusiasm and creative new approaches envisioned by this new management for CSA. Many of the appointees have previous experience in the poverty program and a demonstrated commitment and sensitivity to the problems of the poor. In addition, the hearings revealed an appreciation by this new leadership for the stringent program and fiscal management needed by this agency.

CSA has already developed and implemented new methods for interdepartmental coordination and cooperation as well as new requirements for program planning and evaluation. It is hoped CSA will testify in the near future before the Human Resources Committee on the status of their plans for implementing changes throughout CSA in program evaluation.

The amendments proposed by this legislation will enable CSA to seek innovative and effective methods to alleviate the effects of poverty as well as to assist in the proper management of the program. These proposed amendments will also assist CSA in implementing long range planning and in monitoring the size and length of service of those community representatives serving on the local board.

A minimum of 15 persons is suggested on a CAA's Board of Directors so as to reflect more accurately local participation. Such persons may serve no more than a total of 7 years. In addition, it is proposed that the Director will be permitted to delegate to regional officials the authority to make grants or contracts so as to reduce funding delays and decentralize authority.

Since 1967 the local contribution or non-Federal share by local programs has increased. Many CAA's could not increase their local financial support and waivers provided by statute for instances of extreme poverty and the failure of reasonable efforts to raise the match locally, had to be granted by the Agency. I am pleased, then, that the administration is recommending the amendment to return the non-Federal share to 20 percent with the Federal share not to exceed 80 percent.

The independence of CSA as mandated by Congress is most significant and largely accounts for the very survival of the poverty program. Because of the very strong congressional commitment to independence in 1974, conferees amended the statute to require the President to submit to Congress any reorganization plan which may have involved a transfer of the program. The proposed amendment would repeal this requirement because of the enactment of more general reorganization authority. The unique role of CSA as an independent advocate for the poor in forcing other agencies and departments to deal with problems of poverty and as a laboratory for testing new approaches to fighting poverty is critically important and must be continued.

The Economic Opportunity Amendments of 1977 propose to repeal a portion of section 222(a)(12) which grants authority to CSA to winterize homes for the poor and elderly. This weatherization program was successfully developed by CSA and it involves a total community effort which utilizes local CAP agencies as the delivery network. The CSA weatherization effort is not a program of merely insulating the homes of low-income people or the elderly thereby reducing their fuel costs. CSA's weatherization program is a community effort which employs and utilizes the skills of the poor within a given area. It is for this reason I cannot support this proposed amendment.

I would like to also underscore, Mr. President, another important provision in this proposed legislation which will reauthorize the Head Start program through 1981. As my colleagues will readily concur, this is a program that has been widely recognized to be one of the most popular and successful early childhood programs ever instituted by the Federal Government. As chairman of the Senate Human Resources Committee which has jurisdiction over this children's program and also a long-time supporter of the Head Start program, I would like to take this opportunity to reaffirm my support for the continuation of this program which has proved so vital to the lives of so many of our children.

This program was proposed in the original War on Poverty legislation by President Johnson to assist the economically disadvantaged child to reach his or her potential through a series of services.

The services ranged from comprehensive health screening and treatment, to nutritional, social, educational, and mental health services to eligible preschool children. Much of the early attention of the program focused on improving the cognitive skills of the children. Yet, the program also served as a vehicle to improve the child's health, to aid the child's social and emotional development and to improve and expand the child's ability to think, reason, and speak clearly. The program further assisted the whole family to better utilize community resources, as well as to overall improve communication between parent and child.

Each of the basic components of the Head Start program have enjoyed considerable success. The most notable achievements, however, have been in the area of health and the socialization of children. An illustration of some of these accomplishments may be cited from some of the numerous evaluations of the program. One representative report stated that the early Head Start detection and screening program resulted in fewer cases of anemia, substantially improved immunization levels, better nutritional practice, and overall better health for the participants of the program.

A candid examination of these Government and privately sponsored program evaluations will reveal that the program has not been without some fault. Recommendations have been made, some of which have already been incorporated and others of which I am hopeful we will be able to more carefully examine during the course of oversight hearings on this legislation. The consensus of the reports points to the many accomplishments of this landmark program and supports the need to continue such services to children of poor families.

One feature of the Head Start program that I believe has been key to the success of this preschool child development program is the important role that parents have played in the participation of the program as well as in program planning and administration. I feel very strongly that a provision which would require the active participation of the parent should be intricately woven into any Head Start legislation that moves through the Congress.

Unfortunately, the remarkable achievements the program has enjoyed are not appropriately reflected in the past funding levels for Head Start. The Nixon and Ford administrations gave little priority to the needs of the disadvantaged and this was reflected in the low budgets for child development programs serving the needy. It greatly concerns me that only 15 percent of the children eligible for this program are actually receiving services. Even the projected increases allowed in the Labor-HEW appropriations bill for fiscal year 1978 will merely increase services to 90,000 additional children. This level will still only bring the services to less than 20 percent of the children in need. Thus, a stronger commitment to expand the program is clearly necessary if we are to assist the underpriviledged child to break the vicious cycle of poverty.

Head Start has served as a prototype and inspiration for numerous other developmental programs that have benefited our children. As a long time supporter of the Head Start program, I welcome this opportunity to underscore the need to continue this program which has so vitally impacted upon the lives of our children. As chairman of the Senate Human Resources Committee, I look forward to holding hearings on this and other child develooment programs.

Mr. President, therefore, I am pleased to reaffirm my continuing support for the Community Services Administration.

THE PANAMA CANAL TREATY

Mr. THURMOND. Mr. President, I have before me a news article written by John Chamberlain for publication in The Florida Times-Union and published in the August 19, 1977, edition. Mr. Chamberlain's analysis of the terms of the Panama Canal treaties is informative and one with which I totally agree.

The Panama Canal is vital to our national security and economic well-being. President Carter is attempting to persuade the American people to put both in jeopardy in order that Panama be appeased. In view of the importance of this issue to the U.S. Senate and the American people, I ask unanimous consent that this excellent analysis by Mr. Chamberlain be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Jacksonville (Fla.) Times-Union, Aug. 19, 1977]

GUANTANAMO SURRENDER NEXT

(By John Chamberlain)

The Carter Administration pulled a fast one when it divulged the major points of its proposed new Panama Canal Treaty during a Congressional recess.

This meant it would be days before the opposition, including Democrats as well as Republicans, could form its lines for putting pressure on 17 more or less undecided Senators who are still needed to block the treaty, which must have 67 votes to pass.

There must also be House of Representatives concurrence, a requisite for treaties that dispose of U.S. property.

The treaty, as set forth by our negotiators, contains its superficially reassuring features. We do not propose to relinquish all control of the canal until the year 2000. By then the present Panamanian dictator, Omar Torrijos, will be overthrown or dead. We can be sure the face of the world will be changed almost unrecognizably in 23 years.

Brezhnev will be gone, Jimmy Carter (if the fates are kind to him) will be sitting on a porch in Plains, Ga., shelling peanuts. Ronald Reagan may still be riding a horse but he will no longer be a political force unless Geritol develops some unsuspected properties.

By 2000 there may not be much Alaskan oil left to put in big tankers that can't get through the canal anyway.

So why, since many of us won't even be around in 2000 A.D., isn't it the mark of expedient wisdom to leave the long-term future of the canal up to our children, along with the six trillion of debt obligations that we have already bequeathed to them?

The reason why this is a stupid question is that Marxists of every stripe regard the fight over the treaty as a test of will in a struggle that is not going to be postponed to 2000.

The Panamanian Marxists have already made blackmail claims on us to compensate for artificially low canal fees. Our willingness to give up sovereignty over the sublime engineering feat that our technology (and our tropical medical hygiene) made possible where the French canal builders had failed will not be lost on Fidel Castro, who will surely be raising the question of our Caribbean base in Guantanamo.

The Jamaican Prime Minister, Michael Manley, who has welcomed thousands of Cubans to his country to run such things as a "people's militia," will be putting in more phone calls to Havana. The Washington-based Council for Inter-American Security, which has excellent correspondents, speaks of Jamaicans staring with awe at closed circuit television replays of Panamanian youth being trained in warfare, singing and shouting Marxist slogans. This is the sort of thing that dictator Torrijos looks upon with complaisance, even if it is "unofficial" insofar as his government is concerned. It makes it look as though we were quitting the canal out of fear.

Some of the still officially undivulged terms of the Treaty which I saw circulating last week at an Inter-American Symposium at the University of Miami in Florida would seem to indicate that many of the attributes of Canal Zone sovereignty are scheduled to be relinquished to Panama long before 2000. U.S. citizens working for the Department of Defense or whatever authority will be operating the canal will be required to have Panamanian visas on ID cards. U.S. Customs employees will lose their jobs immediately.

There could be a five-year rotation plan for canal employees recruited in the U.S. for "noncritical" jobs (pilots and marine engineers would, fortunately, be another matter). PX and Army commissary privileges would be discontinued after five years, with no compensatory cost-of-living subsidy from the U.S. government.

In short, the treaty would make it unpleasant for U.S. citizens to take jobs in the Canal Zone. With U.S. police jobs being turned over to Panamanians, who knows how many Castroites would be telling Americans where to park their cars or when to put out their lights?

We are told that the Canal Treaty must be accepted if Latin America as a whole is to be appeased. This is arrant nonsense. There is only worry in the West Coast Latin countries (Chile and Peru with their copper, Ecuador with its bananas) lest a Panamanian-owned canal, presumably "nationalized," should hike the canal tolls. When Brazil and the Argentine complain of Yankee "imperialism" these days, they have Carter's selective statements on "human rights" in mind, not the U.S. engineers who keep watch on the canal's Gaillard cut and Gatun dam.

The Senate, if it is seeking to know the truth about Latin American opinion, should find some means of conducting honest polls all the way from Guatemala to Cape Horn. An honest poll might disclose a yearning for a "users' control" of the Canal after 2000.

Everyone knows what happened to the Suez Canal when the "users" lost sovereignty there.

THE CHRISTENING OF THE "MESABI MINER"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Minnesota (Mr. HUMPHREY), and the blessing attached thereto.

There being no objection, the statement and the blessing were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

Earlier this summer, Mrs. Humphrey and I had the pleasure and honor of participating in the christening of the ore ship, *Mesabi Miner*, in Duluth, Minnesota.

The Reverend Norbert W. W. Mokros, the seafarers' pastor for the Port of Duluth-Superior, delivered the blessing for the ship. Because I was so moved and impressed with what Reverend Mokros had to say in his blessing, I would like to share his words with my colleagues.

THE OCCASION OF THE CHRISTENING OF THE M/V MESABI MINER—A BLESSING

(By Norbert W. W. Mokros; Seafarers' Pastor, Port of Duluth-Superior, Saturday, June 11, 1977)

In the beginning God created all things.

He touched the earth of Nothern Minnesota and blessed it with a great abundance of iron ore. He looked upon his creation. Behold, it was and is good.

In the beginning of mining activities in Northern Minnesota men and women of different heritage joined in daily work to harvest the treasures which God had placed into the ground. The Mesabi miners looked upon God's gift and upon the work of their hands. Behold, they were and are good.

In the beginning of her journey through life we have come together to dedicate this great ship, the *Mesabi Miner*. Behold, she is forged out of God's gift, the iron ore. She is a good ship.

God's blessings come without human prayers but we pray at this time that in her journey through life the *Mesabi Miner* may be blessed to be a blessing.

May her name remind present and future generations of the men and women of the Mesabi Range whose hard work has become the cornerstone of our prosperity.

May present and future generations of iron ore miners prosper as the *Mesabi Miner* carries the evidence of their daily work to distant ports.

May shipyard workers who built her be praised for a job well done.

May those who own and manage her be richly rewarded for their faith in the future.

May present and future generations of seafarers look on her with pride and may they find the *Mesabi Miner* a safe and good ship in all seasons.

May wind and waves and the secrets of the deep cause her no harm.

May her life be long and may her time upon the waters bring daily work and daily bread for generations to come.

MESABI MINER,

I bless you to be a blessing!

From the bow to the stern, from the keel to the bridge, from port to starboard.

In the name of the Father, and the Son, and the Holy Spirit.

Amen!

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years; vice Robert W. Rust, resigned.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years; vice Doyle W. James.

Roy A. Smith, of Ohio, to be U.S. marshall for the southern district of Ohio for the term of 4 years; vice Elmer J. Reis, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, September 28, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years; vice Jonathan L. Goldstein.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, September 28, 1977, any representations or objections they

may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR ADJOURNMENT UNTIL 2 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 2 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 2104 TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that after Mr. ALLEN has been recognized on tomorrow under the order previously entered, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, earlier today, I obtained unanimous consent for the Foreign Relations Committee to sit during the sessions of the Senate October 10 to 14 to consider the Panama Canal treaties. I now wish to supplement that request to include September 26, 27, 29, 30, and October 4 and 5. I make this request because it is very possible that the Senate will be convening early on those days.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. I, of course, join the majority leader in that request. The majority leader and I have cosigned a letter to the chairman and ranking member of the Foreign Relations Committee urging them to conduct hearings, extensively and exhaustively and indicating to them that we shall make our respective efforts as majority and minority leader to expedite progress of those proceedings. So, not only do I not object to this, I urge the Foreign Relations Committee to continue those hearings for as long as necessary to make sure we make a thorough and complete record on this subject.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for this observation and I join with him in his statement fully.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the role.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 2 p.m. After the two leaders have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes after which the Senate will resume consideration of the unfinished business, S. 2104.

Debate on that bill, or on amendments in relation thereto, may ensue during the afternoon. It is conceivable that, governed by circumstances that may obtain at some point during the afternoon, the Senate could very well go to some other matter and transact other business.

However, no rollcall vote will occur on tomorrow prior to the hour of 6:30 p.m., unless it should become necessary to have a rollcall vote in order to establish a quorum. I do not anticipate that happening, but I think I should point out for the record that such exigency can, of course, occur.

But other than that possibility, there will be no rollcall votes tomorrow until 6:30 p.m. At 6:30 p.m. tomorrow Mr. JACKSON will be recognized for the purpose only of moving to table the Pearson-Bentsen substitute to the bill S. 2104.

That will be a rollcall vote, and I ask unanimous consent at this time that it be in order at any time tomorrow to order the yeas and nays on that motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That rollcall vote to table the Pearson-Bentsen amendment in the nature of a substitute, No. 862, will occur at 6:30 p.m. and that rollcall vote on that motion to table that substitute shall not exceed 30 minutes, and the results of the vote shall not be announced before 15 minutes have expired on the vote.

Mr. BAKER. Will the majority leader yield to me a second?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I believe in previous conversation this was made clear, but for the record is it clear that if we reduce the time for the rollcall from 30 minutes down to not less than 15 minutes it will be done only on the concurrence of our respective sides speaking through the majority leader and minority leader?

Mr. ROBERT C. BYRD. Yes. As the minority leader has correctly stated, the minimum time for the rollcall vote will be 15 minutes, the maximum time will be 30 minutes. If in the opinion of the distinguished minority leader and myself, based on the advice we receive from our very diligent and effective staffs, all Senators have answered the rollcall vote in less time than 30 minutes, the Chair then will announce the results of that vote.

It is unclear at this time as to what will occur following the vote on the motion to table the Pearson-Bentsen amendment. It is conceivable that other rollcall votes may have been ordered during the afternoon on other matters, and that agreement has been reached by the Senate during the afternoon that such other rollcall votes would occur back to back behind the vote on the motion to table.

But what I have stated with respect to back-to-back votes would be a matter for the Senate to determine, and would require unanimous consent. So, all Senators are adequately protected.

I would hope that following the vote on the motion to lay on the table the Bentsen-Pearson amendment in the nature of a substitute, the circumstances would be such that the Senate could proceed further into the evening and make additional progress on the legislation. We cannot foresee at this time whether that will be the case, but I would hope that all Senators would be prepared to stay late tomorrow evening, in the event that circumstances following the vote which begins at 6:30 p.m. would indicate that progress can be made.

Friday I suspect—at this point at least—will be a long day, and rollcall votes will occur throughout the day on the Natural Gas Pricing Act and/or other matters. Senators are informed—and they have been repeatedly told—that if there is not a resolution of the natural gas pricing bill by the close of business Friday, the Senate will be in session on Saturday.

Now, by "resolution" I mean final action on that bill or a unanimous-consent agreement which would provide a time certain for final action on that bill—in either of which events the Senate would not be in session on Saturday. As of now, I should think that the chances for avoidance of a Saturday session, inasmuch as they hinge entirely on either of those two possible eventualities, are not good; but I hope that time will provide the answer and that all Senators, being reasonable men, will work together in an effort to resolve the pending matter before the close of business Friday.

Mr. BAKER. Mr. President, the majority leader kindles just a slight glow of hope that we may not be in session on Saturday, but I must say in all candor that I believe at this point I should still estimate, for those on my side who are curious about that calendar, that the chances are no better than 50–50 that we will avoid a Saturday session.

Mr. ROBERT C. BYRD. Mr. President, I am glad the distinguished minority leader has made this observation. I doubt that the chances are even close to 50–50. I did not make that statement for the record for the purpose, at all, of kindling any spark of hope, but, made the statement rather hoping that it might stimulate the thinking of Senators and generate their willingness to find a way to resolve the matter before the close of business on Friday.

I really think it is a forlorn hope at this point, but "hope springs eternal in the human breast," and the distinguished minority leader and I always wish for a little portion of luck in any case.

ADJOURNMENT UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 2 o'clock tomorrow afternoon.

The motion was agreed to; and at 6:45 p.m. the Senate adjourned until tomorrow, Thursday, September 22, 1977, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 21, 1977:

DEPARTMENT OF STATE

Arthur J. Goldberg, of the District of Columbia, to be Ambassador at Large and United States Representative to the Conference on Security and Cooperation in Europe (CSCE) and Chairman of the United States Delegation to the CSCE.

George W. Landau, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

The following-named persons to be representatives of the United States of America to the thirty-second session of the General Assembly of the United Nations:

Andrew J. Young, of Georgia.
James F. Leonard, Jr., of New York.
Lester L. Wolff, U.S. Representative from the State of New York.
Charles W. Whalen, Jr., U.S. Representative from the State of Ohio.
Coretta Scott King, of Georgia.

The following-named persons to be alternative representatives of the United States of America to the thirty-second session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.
Melissa F. Wells, of New York.
Allard Kenneth Lowenstein, of New York.
Marjorie Craig Benton, of Illinois.
John Clifford Kennedy, of Oklahoma.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Abner B. Martin, (50), 251-30-1478FR (major general, Regular Air Force), U.S. Air Force.

Brig. Gen. Walter D. Reed, 485-14-6258FR (brigadier general, Regular Air Force), U.S. Air Force for promotion to the grade of major general and for appointment as The Judge Advocate General, United States Air Force, under the provisions of chapter 839 and section 8072, title 10 of the United States Code.

Lt. Gen. John F. Gonge, U.S. Air Force, (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. George Gordon Cantlay, 576-09-4398, U.S. Army.

Maj. Gen. Charles Calvin Pixley, 541-22-4653, Army of the United States (brigadier general, Medical Corps, U.S. Army) for appointment as the Surgeon General, U.S. Army, with the grade of lieutenant general, under the provisions of title 10, United States Code, section 3036.

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

To be major general, Medical Corps

Brig. Gen. Spencer Beal Reid, 549-22-0429, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. George Ivan Baker, 081-32-6144, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. William Sinclair Augerson, 050-24-6674, Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Col. Quinn Henderson Becker, 491-28-4564, Medical Corps, U.S. Army.

Col. William Raymond Dwyre, 009-24-4142, Medical Corps, U.S. Army.

Col. Edward James Huycke, 512-24-0763, Medical Corps, U.S. Army.

The following-named Army Medical Department officers for appointment in the Regular Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3284, 3306, and 3307.

To be major general, Medical Corps

Maj. Gen. William Albert Boyson, 203-10-5293, Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Charles Calvin Pixley, 541-22-4653, Army of the United States (brigadier general, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Brig. Gen. Spencer Beal Reid, 549-22-0429, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. George Ivan Baker, 081-32-6144, Army of the United States (colonel, Medical Corps, U.S. Army).

Maj. Gen. Kenneth Ray Dirks, 561-54-4313, Army of the United States (colonel, Medical Corps, U.S. Army).

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. William Emmett Ingram, 238-16-9890.

Brig. Gen. James George Sieben, 476-12-5555.

To be brigadier general

Col. Robert Lee Childers, 234-18-8174.
Col. Francis Alphonse Ianni, 726-10-0555.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Richard Ray Taylor, (age 54), 512-14-4928, Army of the United States (major general, U.S. Army).

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general, Medical Service Corps

Col. James Julius Young, 460-32-9756, Medical Service Corps, U.S. Army.

IN THE NAVY

Rear Adm. James B. Stockdale, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. William J. Crowe, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving and for appointment as senior Navy member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711.

IN THE AIR FORCE

Air Force nominations beginning Peter J. Abadie, to be captain, and ending Gary A. Wandmacher, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 1, 1977.

Air Force nominations beginning William D. Bates, to be colonel, and ending Charles O. Titus, to be colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

Air Force nominations beginning Alfred R. Abbatiello, to be lieutenant colonel, and ending Rita J. Wetzel, to be lieutenant colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

Air Force nominations beginning Barry S. Abbott, to be first lieutenant, and ending Richard W. Siefke, to be first lieutenant, which nominations were received by the Senate on August 16, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

Air Force nominations beginning Robert O. Osborne, to be major, and ending Peter H. V. Winters, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 14, 1977.

IN THE ARMY

Army nominations beginning Gasper V. Abene, to be lieutenant colonel, and ending Johnny L. Cokley, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 1, 1977.

Army nominations beginning Harold L. Albert, to be colonel, and ending Barbara J. Young, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 4, 1977.

Army nominations beginning James B. Baylor, to be colonel, and ending Robert T. Cummins, to be lieutenant colonel, which nominations were received by the Senate on August 29, 1977, and appeared in the CONGRESSIONAL RECORD of September 7, 1977.

IN THE NAVY

Navy nominations beginning Farouk B. Asaad, to be lieutenant commander, and ending Deborah N. Moore, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 1, 1977.

Navy nominations beginning Thomas C. Adams, to be captain, and ending Marilyn A. Edgar, to be lieutenant, which nominations were received by the Senate on August 15, 1977 and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

IN THE MARINE CORPS

Marine Corps nominations beginning beginning Joseph P. Holt, to be second lieutenant, and ending James P. Guerrero, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 4, 1977.

EXTENSIONS OF REMARKS

MARIGOLD—SHOULD BE THE FLORAL EMBLEM OF AMERICA

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. KOSTMAYER. Mr. Speaker, I rise today to share with my colleagues the words of a constituent, David Burpee of Doylestown, Pa., on why the marigold should be the floral emblem of the United States.

Mr. Burpee's family has been in the seed business for over 100 years and has pioneered much work and research in the field of plant breeding. The Burpee Co. was the first American seed company to create and market seeds for many hybrid vegetables and flowers.

David Burpee has been the head of the W. Atlee Burpee Co. for over 40 years. The Burpee Co. distributes 4 million catalogs annually and I am proud that my home county, Bucks County, is the headquarters for this fine business.

The material follows:

REASONS WHY THE AMERICAN MARIGOLD SHOULD BE THE FLORAL EMBLEM OF THE UNITED STATES OF AMERICA

There are many reasons why the American Marigold (Tagetes erecta) should be the Floral Emblem of the United States.

Let me tell you some of them: The Marigold is native to Southwestern United States and to Mexico. It grows well and is popular in every state of our Union from Florida to Maine and from Hawaii to Alaska and also in every civilized country of the world. And it is known as the Friendship Flower.

The Marigold is not the state flower of any one of our states and is not the national flower of any foreign nation.

The Rose is the national flower of England and is considered a symbol of warfare.—The War of the Roses. The Rose is also the national flower of six other nations, two of which are behind the Iron Curtain.

When Cortez conquered ancient Mexico he found Marigolds growing there. The gorgeous golden Marigolds were so beautiful Cortez took seed with him back to Spain.

In Spain the beautiful golden Marigolds became the favorite flower of the devout to place at the altar of the Virgin Mary and because of that they were called Mary's Gold and then became known as Marigolds.

Then seed of Marigolds was taken to every civilized country of the world. They were so easy to grow everywhere and so beautiful they became popular everywhere.

In India Marigolds became, and still are, the favorite flower to put in leis to place around a person's neck to indicate friendship and because of that they have become known as friendship flowers.

It is my thought that since we are the only great nation in the world that does not have a floral emblem that especially in this Bicentennial year, when world affairs are so troubled, it would be very desirable to name as our National Floral Emblem the American Marigold, The Friendship Flower.

It would indicate that we desire to be friends with all the peoples of the world and through friendship it would perhaps help to deter future wars.

I earnestly urge you to support the American Marigold for the National Floral Emblem of the United States of America.

UTILITY CONSUMER EDUCATION

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 21, 1977

Mr. METCALF. Mr. President, a recent issue of the Audubon Society magazine carried an article regarding the electric power industry's latest attempt to mold the minds of schoolchildren. The article, by Marvin Zeldin, describes "The Energy-Environment Game" which was sponsored by Edison Electric Institute, from whom Potomac Electric Power purchased 250 copies for free distribution to area schools.

One of the educators who was interviewed by the Washington Star regarding use of the Edison Electric Institute material pointed out that public interest and environmental groups often do not have the money to produce such attractive teaching aids or distribute them free. I hope that he and other educators take note of a Federal program designed to help the educators themselves develop such materials. I refer to the consumers education grant program enacted by section 505 of the Education Amendments of 1972 (Public Law 92-318, 20 U.S.C. 887d). Under this program, which the distinguished Senator from California (Mr. CRANSTON) and I initiated, applications for grants are being accepted, under December 16, 1977, from institutions of higher education, local educational agencies, State educational agencies and other public and private nonprofit organizations and institutions, including libraries.

Pepco customers unwittingly paid the $3,750 which Edison Electric Institute billed Pepco, because the utility reported the expenditure, improperly in my opinion, as an "above the line" cost, to be passed on to the customers.

I would hope that most school officials would prefer to develop their own teaching aids in this area, rather than depend on industry public relations devices. They have that opportunity under the consumer education grant program.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Zeldin's article in the July 1977 issue of the Audubon Cause Miss Sheilah Kast's article in the August 1, 1977, issue of the Washington Star and the announcement in the September 19 Federal Register regarding applications for grants to support research, demonstration, and pilot projects designed to provide consumers' education to the public.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

MIND CONTROL, THE EDISON ELECTRIC WAY

(By Marvin Zeldin)

(It was realized that the point of view formed in the impressionable years of youth is . . . likely to remain . . . through future years . . . Money was no object, because the public pays . . . No means of presenting the utility story to all schools was overlooked—even the kindergarten being provided with a specially published picture book.

("Efforts by Associations and Agencies of Electric and Gas Utilities to Influence Public Opinion," summary report of the Federal Trade Commission to the U.S. Senate, 1934.)

One day in the fall of 1976, students in an economics class at Albert Einstein High School in Kensington, Maryland, began playing "The Energy-Environment Game." The game, in the words of its promoters, is "a simulation dealing with society's demand for energy and its effect on the environment.'" Further, "the game is a representation of reality in which players assume roles of adults in the real world. Students, through a series of meetings, consider society's demand for energy, its potential impact on the environment, and possible trade-offs."

The game is based on a proposal by a fictitious electric utility company to build a new powerplant at one of three sites in a mythical community—a nuclear plant at one site, a fossil-fuel plant at another, or a nuclear or fossil-fuel plant at the third. A governor's commission considers the plans and sites for the new plant in a series of open hearings and through citizen task forces.

The game kit contains a teacher's guide, 32 guides for student players, a filmstrip and record, site-selection information, wall map for the classroom, reference materials, and 32 role cards. The 32 roles are divided into four groups: eight utility company officials; eight conservation organization types; eight commerce, industry, and professional types; and eight "residents," including housewife, construction worker, labor leader, lawyer, economics instructor, postman, and two students.

Purportedly, the game is impartial and objective. Indeed, in the teacher's guide, the game's promoters say, "This simulation program does not in any way give answers" to the problems of energy and environment, how much energy people really need, whether we use energy wisely, whether there are limits to growth, and whether technology can solve our current problems. "There is no planned, specific outcome to this game," the guide stresses.

Despite such disclaimers, the game is a slick but nevertheless transparent propaganda package. It promotes nuclear power as the answer to society's electricity needs. It pretends to characterize the conservation types fairly, but the pretense is destroyed by distorting conservationists into unthinking fools who oppose all new powerplants, whether nuclear or fossil-fueled. Consider:

The role card for the executive director of the "Natural World Society"—"You believe there should be opposition to every new proposed powerplant. . . . You'll use any argument you can to block the approval of a site."

The role card for a director of the "Universe Club"—"Your goal is to make people wake up and get involved in the human problem. That means organized opposition to all new powerplants."

The role card for a university physics teacher who is regional representative of "Scientists for Safety"—"You will try to prevent new plants from being built."

The role card for the president of the "Student Quality of Life Group"—"Your group intends to blanket this town with material that tells all about the long-term consequences of building new powerplants."

The role card for an architect and city planner, clearly another environmentalist type—"You oppose the building of more new powerplants because they are just adding to the abuses of the environment. . . . You further believe that to allow the electric utility industry to continue to build new monster plants will only prolong the day until man realizes that he has to change his way of life drastically. . . . If it takes blackouts to wake people up to the need for change, then blackouts it should be."

The role card for a college student whose way of life is "radical"—"You are known as kind of an oddball in this area because you live without electricity. . . . You are against building any new powerplants."

In contrast to the environmentalists and other oddballs who say no more powerplants should be built, the game has a hospital administrator, a reporter, an accountant, a labor union official, and assorted other reasonable characters giving their blessings to a new plant.

The role cards for the utility company officials portray them as well-meaning people who want a "balanced" approach to the energy-environment conflict. The reasonable utility company officials nevertheless get in their licks:

The role card for the utility company president—"You are concerned with the environment, but you feel some environmentalists have taken extreme positions. . . . You believe that many environmentalists are one-sided; they are not facing the trade-off condition honestly. They want 100 percent victory on their side—no harm to the environment at *no* additional cost." [Italics added.] The utility company president also complains about "delays caused by environmental concerns" and warns of "region-wide brownouts or even blackouts" if construction of new powerplants is delayed.

The role card for the utility's senior vice-president—"You firmly support nuclear-fueled powerplants. . . . You point out that not only is there little or no air pollution from nuclear-fueled plants, but that the transportation of nuclear fuel is easy and safe. . . . The trouble with some of the conservation groups is that they are so extreme that they are stopping *all* progress." [Italics added.]

The role card for the utility's director of environmental activities—"The proposal to build a nuclear plant is sound, you believe, because nuclear plants produce little or no air pollution . . . and nuclear fuel is . . . less harmful to the environment than are the fossil fuels."

The role card for another utility company official—"You favor the nuclear fuel because you believe that it is the only way we can cut down on air pollution."

The role card for still another utility company official—"You get fed up with hearing the environmentalists say, 'We don't need any more power.' You know from experience what it's like when there is a temporary power failure . . . You bet that some of the loudest complainers are some of the loudest conservationists! They just don't know what they are talking about."

And the role card for another utility spokesman—Conservationsts "scream at you" about pollution and "demand that no more powerplants be built."

The player's guide given to each student adds to the favorable image of the electric power industry. It tells the student that the industry "historically has provided the electric energy demanded by the public at reasonable costs"; that "rates have been kept low"; and that, in the words of the director of environmental activities of the fictitious utility, "We are doing our best with technology to offer the needed electricity, cut down on environmental effects, and help clean up the environment."

Whether electric rates are "reasonable" and "low" is, at a minimum, debatable; but the guide put into students' hands presents it as fact. And the statement that electric utilities are doing their "best" to help clean up the environment is more than debatable. Although the industry has made many improvements, some electric utilities still drag their feet on installation of scrubbers to clean up emissions; still lobby Congress to weaken the Clean Air Act and the Federal Water Pollution Control Act; and still fight pollution-control regulations in the courts.

Another character role in the energy-environment melodrama is that of the executive director of the local chamber of commerce. The role card instructs the student to portray the chamber official as a reasonable person, as one who believes energy is necessary to sustain economic growth but who is also concerned about the "long-term view—to keep the environment useful and attractive."

But in its zeal to promote nuclear power, the promoters of the game have the chamber of commerce official complaining that "fossil-fuel plants . . . interrupt natural beauty with . . . awkward-looking transmission lines." As if electricity from nuclear plants can somehow be delivered to customers without "awkward-looking" lines.

The total impact of the energy-environment game is clear: reasonable, responsible people are for more powerplants, especially nuclear plants, while unreasonable, irresponsible people—conservationists and other "oddballs"—are against all new powerplants.

Conservation organizations have certainly opposed specific powerplants at specific sites. But never have I known any spokesman for a responsible organization to proclaim "there should be opposition to all new powerplants."

Rational people agree that more powerplants are necessary. The question is not do we need more powerplants. The questions are: Where and when should new powerplants be built? Should they be nuclear or coal-fired? How stringent should pollution-control requirements be? Who should determine sites for new powerplants—utilities, unilaterally, or the public, through an accountable governmental body?

To give students a game that depicts conservation organization leaders as advocating "opposition to all new powerplants" is to libel serious, responsible, and intelligent men and women who have raised legitimate questions about specific proposed powerplants, about safety of nuclear power, and about lack of technology to store high-level radioactive wastes generated by nuclear powerplants safely and permanently for the literally thousands of years some wastes will remain lethal.

And to say—as the utility company president's role card does—that environmentalists want "no harm to the environment at no additional cost" is to distort the truth. As Russell E. Train, former Environmental Protection Agency administrator, has said, "We really do not have the option of not paying environmental costs at all. We have the option only of deciding in which form we shall pay them: in the form of pollution-control costs or increasing health hazards, of higher electric bills or higher doctor bills."

How did this pro-nuclear, anti-environmentalist game come to be played in a high school class in Kensington? Courtesy of the Potomac Electric Power Company (Pepco), the real electric utility serving Washington, D.C., and adjoining suburban Maryland communities.

The game was sponsored by the Edison Electric Institute (EEI), the national trade association for investor-owned electric utilities. Pepco, a member of EEI, purchased 250 of the energy-environment games from EEI at $15 each, according to Jill Downs, manager of Pepco's Educational Services Department. Pepco then listed the game in the "Dear Educator" brochure offering free "supplementary teaching aids" it sends to schools in its service area.

Before the Montgomery County school system accepted Pepco's offer, a committee reviewed and approved the game in 1974, according to Richard Wilson, coordinator of secondary social studies in the school system's division of instructional materials. Efforts to learn the names of members of the selection committee in order to interview them failed. "I raised this question with the people at the division of instructional materials," Wilson told me, "and they said 'no.' County policy forbids us to give that information out." Why? "I don't know," said Wilson.

Although they approved the game, the Montgomery County teachers who served on the committee apparently had some reservations about the game's objectivity. In a teacher resource manual on "energy and society," the school system notes that "factual data" for environmental advocates are "not adequately covered in the game." The teacher resource manual also notes: "It is important that this role-playing game be used as a closure. The game is structured so that until the students have acquired additional information . . . they should not attempt the game."

Despite that caution, the Einstein High School economics class played the game cold, as both introduction and closing item on the subject of energy and the environment. After the game's bias was called to the attention of the teacher, however, he did hold an open-class discussion about the slant of the EEI simulation.

By the end of 1976, Pepco had donated 235 of the 250 EEI energy-environment games to schools in Montgomery and Prince Georges counties and the District of Columbia. Pepco also said it charged the cost of the games—$3,750—to Account 909 in its report to the Federal Power Commission, which, under 1936 reforms triggered by the Federal Trade Commission's 1934 report on abuses by electric and gas utilities, established a uniform system of accounts for utilities.

Account 909, says the Federal Power Commission, is for "the cost of labor, materials used, and expenses incurred in activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing electric service to protect health and safety, to encourage environmental protection, to utilize their electric equipment safely and economically, or to conserve electric energy."

Not to be listed in Account 909 are "expenses of a promotional, institutional, good-will, or political nature." Those expenses belong in other accounts, such as Account 426.4, which is for expenses for "certain civic, political, and related activities."

The difference is significant. Account 909 is an "above the line" account; such expenses are supposed to be legitimate utility operating costs. In effect, Account 909 expenses are paid by Pepco's customers.

Account 426.4 is a "below the line" account; these expenses are not utility operating costs and are not charged to customers. Thus, 426.4 expenses are paid by Pepco's stockholders because they are deducted before dividends are paid.

Pepco's brochure describing the energy-environment game says, "No conclusion is preconceived—the decision belongs to the students." Richard B. Scheetz, coordinator of educational services at Edison Electric Institute headquarters in New York City, agrees with the brochure. "We have had a number of what I would call 'conversions' of people who violently attacked the structure of the game and then who used it with groups, both students and adults. After using it they became converts to the fact that we weren't trying to ram positions down people's throats." There are no "set" or "pat" answers, said Scheetz.

Scheetz added, however, "Most frequently they come out in favor of more electricity—and nuclear."

The news that most players of the energy-

environment game come out in favor of more nuclear powerplants was a shock to Raymond Montgomery, formerly of Creative Studies, a Boston firm that specializes in educational simulations. Creative Studies developed the game for Edison Electric Institute under contract.

"The last thing I want to do is promote nuclear power," Montgomery told me. "On the contrary, my personal bias is anti-nuclear. But I bent over backwards to keep my bias out. Perhaps I bent over backwards too far."

I have no reason to doubt Montgomery's intentions. But the facts are that Edison Electric, which is pro-nuclear, is delighted with the game's impact and has widely circulated the game. According to Scheetz, Edison Electric had distributed some 5,050 energy-environment game kits to utilities across the nation since 1974, at $15 a game to member utilities, $20 to schools, and $25 to companies that are not EEI members. Another 350 games have been distributed at this year's higher prices. "We encourage our member companies to make these available to educators in their service areas without charge," Scheetz added.

The game was "slightly revised" recently, Scheetz said. One change: reference materials that were not prepared by EEI were removed from the kit. To Montgomery, this was more than a "slight" revision, and he has protested the change. "They are going to mind-control the kids if they do not put the prime source material in the kit," Montgomery said. It would appear the EEI kit is already doing that.

Though the price of the game has gone up this year, that is not likely to bother electric utilities. If they write off costs of the game as Pepco does, we, the customers, will pick up the bill for the private power industry's brainwashing of our children.

"Money was no object, because the public pays," said the Federal Trade Commission in 1934. *Plus ça change, plus c'est la même chose.*

SOME TEACHERS CALL PEPCO'S GAME SLANTED, BUT USE IT ANYWAY

(By Sheliah Kast)

Among the $36,000 worth of films, booklets and other items the Potomac Electric Power Co. distributes free to classrooms each year is a game in which students play the roles of residents deciding where to build a new power plant in a fictitious town.

The game is biased in favor of utility companies' interests in more power plants, according to several teachers and curriculum specialists in Fairfax and Montgomery Counties.

But they say they approved "The Energy Environment Game" to be used in classrooms because they believe teachers can point out the biases to their students. One teacher who used the game, however, acknowledged that some students miss its bias.

Officials in the District and Prince Georges County schools said they do not suspect the game of bias, although Prince Georges plans to review it.

The loudest argument that the game is not biased comes from Pepco itself. Said spokesman Gayle Butler: "We think it's a really useful kind of tool and we don't think it forces the kids to any conclusions."

Reasoning that the game does not "try to propagandize any particular viewpoint," Butler said, Pepco included the money it has spent on the games—about $3,750 at $15 a game—in that part of its expenses paid by customers. A separate account, paid by Pepco stockholders, would be used to cover promotional expenses.

The game, designed for 7th through 12th grades, calls for 32 students to take varying roles as utility company executives, environmentalists, businessmen and residents. Some of them sit on a fictitious governor's commission deciding whether there should be a new power plant, whether it should use nuclear or fossil fuel, and where it should be located.

The Edison Electric Institute (EEI), a national trade association of investor-owned utility companies, hired a Boston consulting firm to develop the game about five years ago. Since 1974 EEI has sold 5,500 of the games, mostly to utility companies and occasionally directly to schools.

Richard Sheetz, EEI's coordinator of educational services, said that of the classes he watched when the game was being tested, "I observed that more frequently than not they came out favoring more electricity and more nuclear."

Argued Jill Downs, Pepco's educational services manager, "That's just what the kids have come up with themselves. It's not a preconceived effect of the game."

The game is only a small part of what Pepco puts into the classrooms, and an even smaller portion of what is placed there by industry and trade groups in general.

Conversations with a half-dozen curriculum specialists and teachers in the area indicated they have made peace with the influx of industry materials by reviewing them before they are allowed in the classroom and then either (a) balancing them against teaching resources from public interest or trade groups with the opposite bias, or (b) at least pointing out the bias to students.

"We're usually a little leery of material put out by trade groups because obviously the purpose of putting it out is not to be nice guys—it's to send a message," explained Kenneth Muir, spokesman for the Montgomery public schools.

Muir pointed to educational aids put out by the National Dairy Council. "The message of the dairy council is, 'Let's drink a lot of milk.' But they're also good nutritional information, and it's hard to find good nutrition information for small kids."

The answer, according to Muir, is to capitalize on the material's content, including its bias, "to provoke a discussion that maybe the utility company wouldn't like."

Doug Lapp, science curriculum specialist for the Fairfax schools, sought out four copies of "The Energy-Environment Game" to include in a kit of teaching aids about the energy crisis. The kit contains more than a dozen items, including "a quite impassioned pamphlet from the National Wildlife Federation . . . that focuses on solar and geothermal (power) as the sole solution," Lapp said.

"There's no question the Edison Electric materials are biased for the free enterprise interests. . . . The role definitions certainly do their best to make the power companies look good," Lapp added. But because of the over-all balance of material in the kit, he said, "I'm not so concerned about a bias in the Edison Electric materials."

Lapp pointed out a possible shortcoming in his own approach: Public interest and environmental groups often do not have the money to produce attractive, sophisticated teaching aids or distribute them free.

"If it's only the publishing companies and the industries that have money to produce educational materials, who's going to represent the public interest?" Lapp asked.

"If there had been a simulation available from the National Science Foundation, we would have preferred to use that. Anything that comes from an industry you're sure is being published for a reason."

"The Energy Environment Game" has been called biased for two reasons—the way it describes the roles of the 32 players, and the fact that it does not include conservation and solar energy as possible ways to avoid building a new power plant.

"The weakness of the thing is much more subtle than that it makes environmentalists look like simpletons," said David Harrison, a teacher who was the Montgomery schools' environmental education specialist when he approved using the game two years ago.

"The premise of the game was oversimplified. It basically presented two contrasting views—a view the power plant would be built, that would increase pollution but prevent unemployment, or the view there'd be no new power plant, and the nature lovers would be happy but there would be unemployment."

Harrison said he included a memo with the game warning that teachers should use it only if extra materials were provided to point out a third viewpoint—conservation.

Richard Sheetz at the Edison Electric Institute acknowledged that conservation and alternative power sources such as solar heat are not stressed in the game. In 1972–73, when the game was being developed, he argued, the conservation argument was not being made as often as it is now.

Harrison and John L. Day, a teacher who used the game with his economics class at Albert Einstein High School in Kensington and calls it "an excellent educational device," both said they thought Montgomery families are sophisticated enough that their children will be exposed to both sides of an issue.

But Day acknowledged that some students saw bias in the Edison Electric game and some did not.

"It was mostly the students who gave it a little extra thought who saw the bias," Day said. "It's very subtle."

Marvin Zeldin, who wrote an irate article about the game for the National Audubon Society magazine after his daughter played it in Day's class, has filed a formal request for the Montgomery schools to review the game. Spokesman Muir said he expected the review by a committee of teachers and parents to be made by November.

Zeldin noted that the cards which describe the roles in the game tended to "distort conservationists into unthinking fools who oppose all new power plants, whether nuclear or fossil-fueled."

Sheetz and Downs argue that Zeldin took the comments out of context, and that each category of roles includes some extreme and moderate positions.

Prince Georges County schools also plan to have a committee review the game. John J. Neville, acting supervisor of environmental education, said it has never been approved for use in the classroom, although some teachers may have sent for copies of it after it appeared in Pepco's brochure of teaching aids.

In the District, Asst. Supt. James Guines said "The Energy-Environment Game" had been tested in a limited number of schools but he did not know which ones. Guines said someone from Pepco had called him to arrange a meeting about expending the use of the game but Pepco's Downs said she knew of no such call.

In answer to those who say utility companies are trying to send a message to schoolchildren, she said, "There's definitely a message, different messages at different times."

Some of the educational materials, she said, are aimed at safety, preventing accidents that could damage Pepco's distribution system or lead to lawsuits against the utility.

"Industry has been criticized for not having a sense of community responsibility or wanting to get involved," she said. "I'm not sure this is the only answer but it's at least a start."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION, CONSUMERS' EDUCATION PROGRAM, CLOSING DATE FOR RECEIPT OF APPLICATIONS FOR FISCAL YEAR 1978

Notice is hereby given that, pursuant to the authority contained in Section 811 of the Elementary and Secondary Education

Act of 1965, as enacted by Section 505 of the Education Amendments of 1972, Pub. L. 92-318, 20 U.S.C. 887d, applications for grants are being accepted from institutions of higher education, local educational agencies, State educational agencies, and other public and private non-profit organizations and institutions (including libraries) for the support of research, demonstration, and pilot projects designed to provide consumers' education to the public.

Closing Date: December 16, 1977.

A. *Application forms and information:* Application forms and program information packages are available and will be mailed upon publication of this Notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.564, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flights, tardy messenger service, or other unexpected circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 12, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered application:* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *State comment:* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. A State educational agency wishing to submit advice and comments on any LEA application originating within its State may do so by forwarding such advice and comments to the Office of Consumers' Education, U.S. Office of Education. (See address under "For Further Information Contact.") Advice and comments received from SEA's not later than January 6, 1978 will be considered in reviewing applications.

E. *Program information:* The amount of funds available under this program is $4,068,000, with approximately $3.6 million going for grant awards for applications submitted in response to this notice, and the balance for procurement contracts. It is estimated that a total of approximately 80 new grants will be awarded during Fiscal Year 1978. The average grant is expected to be about $45,000, though to minimum or maximum amounts have been predetermined.

F. *For further information contact:* Dustin W. Wilson, Jr., 7th & D St., SW., Washington, D.C. 20202, (202-245-0636).

G. *Applicable regulations:* Awards made pursuant to this notice will be subject to (1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 and, (2) the regulation for the Consumers' Education Program published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21191-21199).

(20 U.S.C. 887d.)

(Catalog of Federal Domestic Assistance Number 13,564; Consumers' Education Program.)

Dated: September 15, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-27297 Filed 9-16-77;8:45 am]

TRIBUTE TO THE LATE WILLIAM R. "BILL" HULL

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CORMAN. Mr. Speaker, those of us who had the privilege of knowing and working with former Representative Bill Hull were very saddened to learn of his death on August 15, 1977, in Kansas City, Mo.

Billy was a kind and compassionate man who pledged his energies and resources toward making a meaningful contribution to his city of Westin and his entire constituency encompassing the Sixth District in Missouri. He served as mayor of Westin, as did his father, and was on the Westin School Board. From that experience and a significant meeting with former Speaker Sam Rayburn at the 1952 convention, Bill decided to expand his public service and seek election to the Congress. In 1954, he won the Democratic primary in the Sixth District of Missouri by 27 votes receiving the campaign assistance of Speaker Sam and former Representative Harold Cooley of North Carolina. He went on to win the general election and took his seat in the 84th Congress.

Bill was particularly kind to me in my first few terms in the House when we all go through a difficult period of adjustment to legislative procedures and congressional decorum. He was always anxious to help a newcomer by explaining the nuances of parliamentary procedure or simply identifying the crucial elements of a bill under floor discussion.

Although we never had the opportunity to serve on the same committee, I know Bill's well-earned reputation for hard work and diligence when he sat on the Public Works Committee and later on the Interstate and Foreign Commerce and Appropriation Committees. He has been characterized as one of the most hard-working and conscientious members of the House Appropriations Subcommittee on Agriculture and Health, Education, and Welfare. And his long record of accomplishments for the Sixth District of Missouri include planning and construction starts on water development and flood control projects north of the Missouri River.

Mr. Speaker, Bill Hull represented his district for nine terms and left a legacy of devotion and diligence which is difficult for anyone to match. He was a fine man, a good Congressman, and a credit to the State of Missouri which benefited from his service in the U.S. Congress. He was my very good friend and I shall miss him.

SHUSTER BLASTS FIRM FOR DEFENDING DANGEROUS AMUSEMENT RIDE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. SHUSTER. Mr. Speaker, I would like to bring to the attention of the House a matter in regard to my continuing attempts to ban the so-called amusement ride called the "Zipper." This ride has killed four children and I am appalled that the manufacturer is attempting to keep the ride on the market.

I have gathered evidence indicating that defective door latches may have been responsible for at least one of the deaths and possibly all. As a result of this evidence which I turned over to the Consumer Product Safety Commission; they commenced action to have the "Zipper" banned as an "imminent public hazard."

The Chance Manufacturing Co., maker of the product, responded to the proposed ban by filing suit on September 14 in New York Federal District Court, claiming that the Commission does not have jurisdiction over such rides, because they are "rented."

It is difficult to believe that this company would attempt to use a legal technicality to keep this dangerous product on the market after the deaths of these children. Actions such as these destroy the public's confidence in the business community. It brings to mind Lenin's admonition that capitalists "are so hungry for profits that they will sell the rope with which to hang themselves."

In all my life, I have never been exposed to such an apparent callous disregard for the safety of our young people. Killed thus far on the "Zipper" ride were:

Patty Hauser, 17, of New York; Rhonda Jo Racine, 15, of Princeton, Indiana; Esther Urbalejo, 12, of Tempe, Arizona; and Amy Gilbert, 14, of Bedford, Pennsylvania.

I have urged the Consumer Product Safety Commission to vigorously pursue this matter in the courts and today I have formally asked the Justice Department to initiate an investigation into potential charges of criminal violations against either the owners of the Chance Manufacturing Co. or the owner-operators of the rides.

AN OPPONENT TO NEW PANAMA CANAL TREATIES

HON. ROBERT J. LAGOMARSINO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony by an opponent to the new Panama Canal treaties. At the time of his testimony, on September 15, 1977, the media apparently decided it was not of sufficient merit for their coverage, despite the fact that they gave full coverage to statements by advocates of the treaties during committee hearings.

This statement was made by Dr. John Wasylik, national commander-in-chief of the Veterans of Foreign Wars of the United States before the International Relations Committee, September 15:

STATEMENT

Mr. Chairman and Members of this Distinguished Committee: My name is Doctor John Wasylik, and my home is in Sandusky, Ohio. As National Commander-in-Chief of the Veterans of Foreign Wars of the United States, I am pleased and honored to appear before this distinguished body to share with you our views on the proposed Treaties affecting the Inter-Oceanic Canal and its framework, the U.S. Canal Zone on the Isthmus of Panama.

I am accompanied here today by two of my V.F.W. colleagues, Mr. Cooper T. Holt, Executive Director of our Washington Office and Colonel Phelps Jones, USA (Ret.), my Director of National Security and Foreign Affairs.

As you may be aware, positions in the Veterans of Foreign Wars are arrived at democratically at our annual National Conventions.

Our 78th National Convention was held in Minneapolis, Minnesota during the period August 20–26, 1977. Fourteen thousand delegates, representing more than 10,000 V.F.W. Posts and 1.8 million members were joined by delegates representing more than 600,000 members of the V.F.W.'s Ladies Auxiliary.

Our delegates gave respectful attention to arguments supporting the proposed treaty advanced by the Chief of Staff, U.S. Army, General Bernard W. Rogers, USA, and arguments opposing the treaty as set forth by Senator Strom Thurmond (S.C.).

Following these two thoughtful presentations by two patriotic and dedicated Americans, on Tuesday, August 23d both the V.F.W. and the Ladies Auxiliary delegates were asked by the Chair for an expression of their views. Both groups of delegates voted unanimously to accept Resolution Number 402, "U.S. Sovereignty Over the 'United States Canal' Located on the Isthmus of Panama."

Following this display of solidarity, the Chair gavelled the Convention into order and repeatedly asked if there was anyone there present who desired to speak in favor of the Treaty and assured the delegates than anyone who so desired would be given a courteous and respectful hearing.

No one rose to oppose the unanimous views of the delegates.

With the Chairman's permission, I would like to read the "Be It Resolved" portion of Resolution Number 402, with the request that the entire Resolution be included in the transcript of these hearings.

On the Canal Treaties issue, the heart of our mandate reads:

"Be It Resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

"(a) U.S. operation, control and defense of the Canal are non-negotiable;

"(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangement;

"(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

"(d) the foregoing position be again communicated to both the President (who in October, 1976 asserted that he would 'never give up complete or practical control' of the Canal) and the Congress;

"(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

"(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress."

This is where we stand. Now why do we hold so resolutely to this view?

In the first instance we are totally unpersuaded both by the assumptions which led to the treaty negotiations and by the proposed treaties which emerged from these negotiations.

Since August, 1914, the United States Canal on the Isthmus of Panama has been responsibly operated and defended to the benefit of the United States, the International shipping community, Panama, Central America, and Latin America.

The "payaway treaty" clique has fallen back on (1) implied blackmail ("unless we give it to the Panamanians, they may blow it up"), (2) self-fulfilling prophecy (forecasts of Vietnam-like guerrilla warfare), and, (3) self-inflicted descriptions of "colonialism."

The current ploy of much of the "prestige media" on the Canal question is, feigning more disdain than anger, to dismiss all who have stood in steadfast opposition to the proposed "payaway" (an accurate term, "sellout" would imply the Panamanians are seeking to buy our $7 billion Canal; they are not) as jingoistic non-readers of history who are carelessly calling for war

Nothing could be farther from the truth.

Long before the Canal and the Canal Zone turned into a political issue, the V.F.W. sought to inform the American public of the true nature of the issues involved.

There follows arguments advanced by the "payaway apologists" and the relevant V.F.W. response.

"PAYAWAY APOLOGISTS. How can anyone in 1977 argue for a policy of "colonialism?"

V.F.W. RESPONSE. Colonialism is, definitively, an exploitation arrangement wherein a natural resource; i.e., cotton, rice, tin, etc., is farmed, harvested, or mined by an oppressed people for processing, manufacturing, packaging and sale of the finished product abroad.

Panama "oppressed?" Clearly not! Panama (a) has the highest per capital income of any of the seven countries of Central America and stands 4th (of 20 nations) in all of Latin America; (b) is dependent on the Canal and the Zone for 30% of her foreign currency earnings while 13% of her gross national product arises from the same source.

Panamanian per capita wealth is about twice that of Colombia who, until 1903, was the country of which pre-1903 Panama was a province.

Panama "oppressed?" Tell that to Cambodia!

"PAYAWAY APOLOGISTS. What is needed is a *modern* arrangement to replace a treaty (Hay-Bunau Varilla) now 74 years old.

V.F.W. RESPONSE. Modernity, like beauty, rests in the eye of the beholder. Britain has occupied the "Rock of Gibraltar" since the 1713 Treaty of Utrecht which ended the War of the Spanish Succession. (Sensible people are thankful the British have been on the "Rock" for the past 264 years.) Unlike the Canal, Gibraltar has not played any significant role in Spanish economic growth. Like the Panamanians, the Spanish are unhappy about the status quo. Unlike our State Department, the British Foreign Office has kept a lid on the situation (to the benefit of us all) for 264 years, not 74.

Perhaps we should ask the British Foreign Office to conduct a "crash course" on how to protect vital national interests for our State Department.

"PAYAWAY" APOLOGISTS. But the Hay-Bunau Varilla Treaty of 1903 gave the U.S. all rights, powers, and authority "as if it (the U.S.) were the sovereign of the territory." The words "as if" indicate that it is Panama, and not the United States, which holds either "titular" or "residual" sovereignty.

V.F.W. RESPONSE. Those who so happily produce the "as if" clause conveniently forget to add what follows in this "in perpetuity" treaty; i.e., "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The bulk of scholarship on the sovereignty issue supports the V.F.W. view. A family of treaties (a) with "New Granada" in 1846; (b) with Britain in 1901; and, (c) with Colombia in 1922, all undergird and extend the sovereign pre-eminence of the U.S. as clearly recognized in the 1903 treaty with Panama; a treaty, incidentally, deliberately ratified after the signing of the Panamanian Senate.

"PAYAWAY" APOLOGISTS. Secretary of State John Hay advised President Theodore Roosevelt that the 1903 Treaty was advantageous to the United States and disadvantageous to Panama.

V.F.W. RESPONSE. Is there some natural order that mandates that most or all of the treaties entered into by the U.S. must be disadvantageous to America; the Paris Accords of 1973 bringing "peace" to Southeast Asia comes readily to mind?

Hay's view notwithstanding, as earlier indicated, the 1903 Treaty has been a success story for all concerned, most specifically including Panama.

"PAYAWAY" APOLOGISTS. How would you like to see America divided in two by the Mississippi River as the Canal divides Panama?

V.F.W. RESPONSE. Unlike the example of the Mississippi, the construction of the Canal and the birth and continued existence of a Panama, independent from Colombia, are inextricably linked. So while the U.S. Canal and the U.S. Zone, given human nature, may never be objects of popular admiration in Panama, nonetheless, the clear linkage between the U.S. presence and their national existence is there and, we suspect, most Panamanians understand this unalterable fact of their nationhood.

"PAYAWAY" APOLOGISTS. Who wants to fight another "Vietnam" over the Canal?

V.F.W. RESPONSE. No non-institutionalized person ever wants (a) any war, or (b) most especially a Vietnam-type encounter in which we will win the battle, but not the victory.

The war-like language about the Canal and the zone arises from occasional flights of oratory by General Torrijos ("We will walk the Ho Chi Minh Trail. It is long and exerts a heavy toll in blood."), from various Panamanian student groups, from supportive revolutionary rhetoric from Castro, and most disturbingly, by U.S. officials who, I would judge, believed that even an allusion to our defeat in Vietnam would suffice to unnerve the American people in their natural desire to retain our preeminence in the Canal. This latter tactic has backfired badly, and, if anything, has produced an opposite effect.

The real question is: apart from the 1964 student disorders, we've had 74 years of peace, stability and progress in the Canal. Can this record be sustained or improved upon by the transparent "partnership" with Panama being advocated by the State Department? Remember, once America is meeting her responsibility as a matter of Panamanian sufferance and not unequivocal U.S. rights, we can be asked to pull out overnight.

"PAYAWAY" APOLOGISTS. But the Canal is especially vulnerable to sabotage.

V.F.W. RESPONSE. It always has been, but it has only been in the last three years that this long standing vulnerability has been pointed out to us, often by our own negotiators. Again, how would the pullout of the U.S. garrison enhance the security of the Canal from any group or faction seeking to make some irrational Third World "point" by blowing a lock or draining Gatun Lake?

If the Panamanian Government's reply is that they are unable to control their own citizens' actions in the face of a continued U.S. presence in the Canal, the question then looms: how reliable a "partner" would the Government of Panama be in any "partnership" with the United States in confronting any non-Panamanian; ie, Cuban pressure?

"PAYAWAY" APOLOGISTS. But the Canal and the Canal Zone are Panama's most important "natural resource."

V.F.W. RESPONSE. The Canal is not a "natural resource." It was built over a 10-year period by the Corps of Engineers. It is a quintessentially "artificial" or man-made enterprise. Secondly, the weight of history, law, and logic demonstrates that it is "ours" not "theirs."

"PAYAWAY" APOLOGISTS. But whatever the merits of the case might have been in the past, aren't we "painted into a corner" by the February, 1974 "Statement of Principles" agreed to by Secretary Kissinger and Foreign Minister Tack and the recent Treaty signing extravaganza?

V.F.W. RESPONSE. When you're "painted into a corner," you have two basic choices: (a) keep on painting; or, (b) use whatever turpentine is on hand to "unpaint" and get out.

In 1967, Panama rejected an initialed draft of a new treaty. Our State Department can well use this earlier Panamanian rebuff as a valid precedent for a re-examining the validity of the 1974 "Statement of Principles" and the resultant proposed treaties.

"PAYAWAY" APOLOGISTS. Have you ever seen the stark contrast between the "manicured" lawns of the U.S. Canal Zone and the poverty and squalor of Panama over the fence?

V.F.W. RESPONSE. Yes. A ridiculous bit of imagery insulting to both the Zonians and the Panamanians, who are placed in the nonsensical position of favoring litter and uncut grass.

The Canal Zone is not Grosse Point, Beverly Hills, Tuxedo Park or Chevy Chase. It is—and it should be—a typical American community adjusted for life in the tropics.

The best way to assure Americans in the Zone have a spokesman is to have the Canal Zone send a delegate to the U.S. Congress as does Guam, Puerto Rico, the Virgin Islands, and the District of Columbia.

"PAYAWAY" APOLOGISTS. But the U.S. pays an annual "rent" to Panama. Doesn't this mean that Panama owns the Canal?

V.F.W. RESPONSE. It is not "rent" for land or the Canal (we bought the property four times; from Panama, from the individual land owners, from the failed French enterprise and from Colombia). It is an annuity paid to Panama (as it was earlier to Colombia) for displacing the old trans-Isthmus railroad. Not even the U.S. government is so soft in the head that it pays "rent" on land that it owns four times over.

"PAYWAY" APOLOGISTS. What is the matter with the proposed Treaties' goals on this issue; ie, "to assure that the Canal is operational, secure, efficient and open, on a nondiscriminatory basis to world shipping."

V.F.W. RESPONSE. The "goals" cited above are a precisely accurate description of the arrangement. In short, why seek "goals" that have already been achieved?

"PAYAWAY" APOLOGISTS. Do you mean break off negotiations and thereby incur the wrath of all of Latin America, bring an abuse of America in the UN, and incur, perhaps, the public opposition of even our NATO allies?

V.F.W. RESPONSE. If we retreat when we're clearly right, we will have surrended, in advance, all our influence on other and more ambiguous international disagreements.

Three or four (of 20) Latin American countries, not, of course, including Panama, enjoy a significant degree of democratic freedoms. Democratic or authoritarian, many need the Canal operation even more than we do. I have neither seen nor heard of any hard intelligence that even suggests an international army drawn from Latin American states would either march on the Canal or seek to infiltrate the Zone in an international Vietnam-type operation. (Cuba, of course, having tasted a "revolutionary victory" in Angola is a separate matter.)

As for NATO, as the Arab-Israeli "Yom Kippur War of 1973" so clearly underscored, our allies do not have concerted policies apart from the defense of the NATO treaty area. I would expect a resolute U.S. stand on the Canal would gain the understanding and support of our major European friends.

As to the UN, we are in a classic "no win" posture with the General Assembly and its Third World plus communist majority. Former Ambassador "Pat" Moynihan's perception that many Third World countries in wanting to rip off the wealth of others are really calling for "duly sanctioned looting." His view has relevance here.

To sum up our total opposition to the proposed treaties:

If we wrongfully "cave in" on the sovereignty issue, we are on the Isthmus at the sufferance of the volatile dictatorship of Brigadier General Torrijos. We could be asked to leave overnight. Do we then skulk out or do we stand our ground?

The Canal is much closer to Cuba than is Angola. Soviet-inspired Cuban involvement on the Isthmus could well wear a "Panamanian Cloak." We would undoubtedly agonize, but we would probably acquiesce.

The proposed "Neutrality Treaty," which, we are told, would permit U.S. military action to defend the Canal, is "waffling" brought to an art form. The Panamanians have agreed to no such thing in writing or in their rhetoric. The Administration may kid itself. It should not be allowed to kid the American people.

Panama's wretched record in "human rights," as attested to by the January 30, 1977 "Freedom House" study, needs no amplification here. The Administration seems unembarrassed by this manifest hypocrisy. Our President went so far as to embrace, literally, General Torrijos following the signing extravaganza.

I mean no disrespect to the Joint Chiefs of Staff, but until late 1975 they were silent upon the Treaty negotiations. I will not comment upon their recent shift in view, but the unfettered military advice of four former Chiefs of Naval Operation calling for continued U. S. pre-eminence makes the compelling military case.

In reviewing the Panamanian Student riots of 1964, I note the following prominent Americans were then quoted as follows:

Ambassador Ellsworth Bunker. The assault on the Canal Zone had been led by "persons trained in communist countries for political action of the kind that took place" and that "the Government of Panama instead of attempting to restore order, was, through a controlled press, television, and radio, inciting the people to attack and to violence."

Former President (then Minority Leader) GERALD R. FORD. "With Cuba under the control of the Soviets through its puppet, Castro, and with increased Communist Subversion in Latin America, a Communist threat to the Panama Canal is clearly a grave danger. The American people will be shocked by the terms of this (Johnson Administration) treaty."

JOSEPH A. CALIFANO, Jr. (Currently Secretary of HEW, then an Assistant to the Secretary of Defense). "We know that some of the leaders were known and identifiable Communists, members of the Communist Party of Panama, and people who belonged to the Vanguard of 'National Action,' which is openly and proudly the Castro Communist Party in Panama."

Now, I realize that 13 years have passed and that people often change their minds over time.

My question is: what hard evidence, available to all of us in 1977, caused these three distinguished Americans to change their minds over recent years about the nature of the communist threat in Panama? We would all profit if they would share this new information with us.

In conclusion:

What the proposed Treaties embody is a slow motion act of strategic self-mutilation.

Only 13 of our warships cannot transit the Canal today. As Navy ships get smaller, even this small number will decrease.

The Canal and the Zone (a) save 8,000 miles and 15–30 days; (b) have the only ship repair facilities within 1,600 miles on the Atlantic side and 2,500 miles on the Pacific side; (c) have, in Howard Air Force Base, the only high performance air base within 1,000 miles; and, (d) is the only U.S. logistical base south of the Rio Grande.

As to the possibility of violence should the Treaties not be ratified, no one in America, especially including the V.F.W., is threatening anybody. We are being threatened by a Panamanian strong man who, seemingly on alternate days, either threatens violence or abhors it. And this is the man with whom we seek a "partnership"?

What, then, does the V.F.W. propose?

(a) A revised U.S. position which would immediately disabuse Panama of any major territorial, defense, control or operational aspirations; i.e., America is not running the Canal on Panamanian sufferance.

(b) Generosity and imagination on real life human grievances (ranging from parking places to job opportunities) where a long term U.S. administration may have needlessly chafed Panamanian citizens; and

(c) A major modernization packet to ready the Canal for ships now too large for passage and other measures all of which would combine to give a major boost to Panama's diversifying, albeit debt-ridden, economy.

To conclude:

An opinion research poll indicated that Americans favor, by 76–16 percent, continued U.S. sovereignty over the Canal and the adjacent Zone.

Change is an imperative when a given status quo is unworkable.

Change does not equal progress when current arrangements not only do a job, but do it superbly.

The Panamanians want very badly to have their way and far too many in the State Department see it their way; i.e., reciting "Panamanian Perceptions" ad nauseam.

Our people can, should and must be brought unapologetically to defend a 74-year record America and the world maritime community have unarguably benefitted from

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RESOLUTION No. 402—U.S. SOVEREIGNTY OVER THE "UNITED STATES CANAL" LOCATED ON THE ISTHMUS OF PANAMA

Whereas, Article II of the 1903 Convention between Panama and the United States, modified in part by the 1936 Treaty between the two Governments, states:

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described shall not be included in this grant. . . .

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco; and

Whereas, the United States has more than fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated a large number of transits and amount of tonnage through the canal; and

Whereas, the United States has paid for the Canal and the Canal Zone four times (1) to Panama, (2) to the failed French consortium, (3) to private citizens of Panama, and, finally, (4) to Colombia; and

Whereas, the revolutionary government of Panama, a product of coup d' etat, has since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign of anti-American propaganda fueled in large part by Cuban and Soviet communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama, set to explode to the detriment of the United States and the world shipping community; and

Whereas, due largely to our unswerving V.F.W. support, patriots in the United States Senate, led by Senators Thurmond (S.C.), Helms (N.C.) and McClellan (Ark.), have gone on record in opposition to the unprincipled "Statement of Principles" signed by former Secretary of State Kissinger and the Panamanians, and a parallel effort is being similarly supported in the House of Representatives, led by Congressman Dan Flood (Pa.); now, therefore

Be it resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. operation, control and defense of the Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

(d) the foregoing position be again communicated to both the President (who in October 1976 asserted that he would "never give up complete or practical control" of the Canal) and the Congress;

(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress.

Adopted by the 78th National Convention of the Veterans of Foreign Wars of the United States, held in Minneapolis, Minnesota, August 19 through 26, 1977.

UNEMPLOYMENT REMAINS SERIOUS PROBLEM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CLAY. Mr. Speaker, unemployment remains one of the most serious problems facing America today. I think it is important to note that one of the country's leading newspapers, the St. Louis Post Dispatch, has reached a conclusion that very closely matches my own.

I would like to take this opportunity to share with my colleagues the editorial as it appeared on September 17, 1977:

BACK TO HUMPHREY-HAWKINS?

During last year's presidential campaign, no economic theme received more of a steady sounding from Candidate Carter than the need for full employment. In May, with joblessness standing at 6.9 per cent, Mr. Carter told Business Week, "I think the major priority of the next Administration has got to be employment. My own belief is that we can get the adult unemployment rate down to 3 per cent, or the overall rate down to 4.5 per cent, without any adverse effect on inflation.

To do so would require bold and decisive policies as Candidate Carter recognized. "Given the present state of the economy," he declared in a position paper, "we must pursue an expansionary fiscal and monetary program in the near future, with some budget deficits if necessary, to reduce unemployment more rapidly." As to the one specific piece of legislation then before Congress that would establish a federal policy to reduce unemployment, the Humphrey-Hawkins bill, Mr. Carter told a press conference after his nomination that he supported the measure's "overall purposes."

Candidate Carter's positions are worth recalling in light of last month's unemployment statistics that were released by the Labor Department. The overall joblessness rate now is 7.1 per cent. Among blacks, the percentage is 14.5, which equals its highest rate since World War II. Indeed, the unemployment rate for blacks is nearly two and one half times what it is for whites. Among black youths, the rate is more than 40 per cent.

Since he became President, the expansionary, employment-producing policies envisioned by Candidate Carter have given way to a cautious, hold the line against spending approach to the economy, the principal objective of which seems to be reassuring the business community that the Administration considers inflation its primary target. In essence, the philosophy of the preceding Republican Administration lives on the Democratic White House and Office of Management and Budget. The result, as the Labor Department figures so plainly show, is that Candidate Carter's promises have yet to be redeemed.

Given all of this, we find it encouraging that Mr. Carter again is turning his attention to full employment legislation. Recently, he met with members of the Congressional Black Caucus and promised within the month to try to work out an acceptable draft of the Humphrey-Hawkins bill. That legislation would mandate a national unemployment rate of less than 4 per cent within three years of its enactment, thus making work available to any American wanting it.

Mr. Carter apparently is concerned that the anti-inflation safeguards in Humphrey-Hawkins may be insufficient, which is a legitimate point. But fine-tuning and adjusting the legislation ought not to weaken its basic thrust. The important thing is that after so long a period of inattention to his major economic issue of the campaign, Mr. Carter now seems willing to give it the priority it deserves. Candidate Carter properly criticized President Ford for what appeared a callous indifference to the plight of the jobless. Unless he moves quickly, he will be justifiably subject to the same censure.

WIDESPREAD SUPPORT FOR IWY CONFERENCE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mrs. SCHROEDER. Mr. Speaker, I would like to share with my colleagues a letter from the Women's Conference Network supporting the International Women's Year (IWY) conference.

In November, for the first time in the 201-year history of the United States, women will come together and discuss issues which have an impact upon their lives and the lives of their daughters. The IWY conferences are indicative of a positive emerging cooperative spirit among women today. I think the support of the conference from a group with as broad a membership as the Women's Conference Network illustrates that spirit:

On behalf of the undersigned organizations, comprised of millions of members representing the widest cross section of American women, I convey to you their strong support for the International Women's Year Conference to be held in Houston in November of this year.

The recent state conferences, which will culminate in the Houston Conference, were a magnificent illustration of the freedoms we enjoy in the United States where all those who have a point of view are offered an opportunity to express it. This is particularly important with relation to the concerns of women who have been struggling to gain equality for many decades. The deliberations of the Houston Conference and the conclusions reached there will serve as a guide to the Congress and the Executive Branch of our Government in their efforts to promote and protect women's rights.

We strongly urge you to support the Conference and the concerns which will emerge from it. We believe that women's rights as human rights are a priority issue for this nation and deserve the consideration and support of everyone including Members of Congress.

Sincerely,

MARJORIE BELL CHAMBERS, Ph. D.,
President, American Association of University Women.

LIST OF ORGANIZATIONS

American Association of University Women.
American Jewish Committee.
Americans for Democratic Action.
B'nai B'rith Women.
Black Women Lawyer's Association.
ERAmerica.
Girl Scouts of the U.S.A.
League of United Latin American Citizens.
Mexican American Women's National Association.
National Abortion Rights Action League.
National Conference of Puerto Rican Women.
National Council of Jewish Women.
National Education Association.
National Federation of Business and Professional Women's Clubs, Inc.
National Gay Rights Task Force.
National Women's Democratic Club—Political Action Committee.
National Women's Political Caucus.
National Women's Party.
NETWORK (religious lobby).
Project on the Status and Education of Women, Association of American Colleges.
Religious Coalition for Abortion Rights.
Wider Opportunity for Women.
Women's Equity Action League.

AMERICAN SOCIETY IS GROWING OLDER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. BIAGGI. Mr. Speaker, in Sunday's Washington Post Outlook section a most interesting article appeared entitled "Aging America." The focus of the article was how this Nation is adapting to the simple societal fact that we as a people are growing older.

The House Select Committee on Aging on which I am privileged to serve is very much aware of this phenomenon of American life today. In addition to this Congress being cognizant and responsive to the growing numbers of elderly here now, we must begin to look ahead to the future when the numbers of elderly will soar dramatically.

In this regard, I am pleased to announce to my colleagues that the Subcommittee on Federal, State, and Community Services, which I chair, will conduct the first in a three part series of hearings on "Aging in the World of Tomorrow." Our first hearing will focus on the major demographic projections, including an expected growth in our elderly population to more than 50 million by the year 2025. The hearing will feature experts who will analyze this and other data and discuss their economic social and political implications for the future.

The hearing will be held at 9 a.m. on Tuesday, September 27 in room 2212. I believe the Post article serves as an effective introduction to the subject matter of the hearing and I recommend it for my colleagues' consideration:

[From the Washington Post, Sept. 18, 1977]

AGING AMERICA—ADAPTING OUR SOCIETY TO AN ERA OF LONG LIFE

(By Ken Ringle)

In Soviet Georgia, where people not uncommonly live more than a century, no one speaks of these people as "old" or "aged." The Russians refer to them as "long-living"—an emotionally neutral phrase from which Americans might profit.

For more and more we are a nation of relatively long livers ourselves—a culture from which medical technology has largely banished hunger and childhood disease and made possible the longest average life expectancy of any country in the world.

An American child born today can expect to live at least 71.3 years—24.3 years longer than a child born in 1900. Statistically, his chances of reaching age 94 are about the same—almost negligible. But what has changed dramatically is his chance of reaching 65—an age attained by only about 1 out of every 25 Americans at the turn of the century. Today 1 out of 10 Americans reach 65, and the average continues to inch upward.

By the year 2000, nearly 1 in every 5 people will be 65 or older. Their numbers will total close to 40 million people, more than twice the 1970 population of New York state or California.

Those numbers are about to wreak a profound change in our nation. What we are facing is what George L. Maddox, head of Duke University's Center for the Study of Aging and Human Development, calls "an emerging mismatch between our institutional arrangements in this country and that demographic fact—a mismatch we have not yet begun to come to terms with."

The ingredients and extent of the mismatch are staggering.

Born as a place of adventure, subdued by action rather than thought, the United States has always been a country of the young. In contrast to countries like China and Japan which showed great reverence for old people, even the native traditions here were less than supportive: Those too old to contribute to and follow the migrating Indian tribes were expected to wander off alone to starve.

Our medical philosophy has been geared toward keeping people alive (but not necessarily productive), our social institutions have been geared toward custodial rather than preventive care, our educational institutions have been geared toward vocational and professional training rather than lifetime learning, our transportation system has been geared to private vehicles rather than the public facilities on which the elderly must inevitably depend. Our suburban housing patterns have effectively shut the elderly out of our own lives and the lives of our children and our culture shuts them out of our minds by focusing on the immediate and the transient rather than that which endures.

Underlying our national life, in brief, has been the unstated assumption that old people weren't very important, they couldn't cope very well, and while we might owe them something in the way of social care, we didn't owe them much because there weren't very many of them and anyway they wouldn't be around too long.

The end of that assumption has been slow in coming. More than 10 years ago thoughtful economists were prophesying the impending bankrupcy of the social security system because of the growing number of old people. Most Americans who heard of the debate came away with the fuzzy notion that it somehow had to do with inflation. What it had to do with, of course, was the day when, thanks to the pill-born stabilization of our national birth rate, proportionately more people would be taking money out of the social security system than would be paying into it. Without major changes in the system, that day is not far off.

That threatened economic crunch, more than any other single factor, has been the moving force behind the current efforts to end mandatory retirement at 65.

It has also been the major force behind recent interest in the study of old age itself. For astonishing as it seems, though millions of man-hours have been devoted over the years to the study of how life begins, almost nothing had been done prior to 1950 on the study of how people change as it continues into the later years. What research was being done was almost entirely confined to the institutionalized aged—who, current studies show startlingly enough, amount to only about 6 per cent of all those over 65.

The reason for the lack was largely rooted in the notion that "life is a terminal disease" and that anyone past the age of about 60 was, in fact, in the process of dying.

Old people were stereotyped as feeble and sickly, senile and sexless—stereotypes that have become even sharper with many Americans in the age-segregated 1970s.

A year-long study of 180 school children by the University of Maryland's Center on Aging found that the children 3 to 11 typically viewed elderly people as "sick, sad, tired, dirty and ugly," and insisted that they themselves would never be old.

The stereotypes, the study found, were based on myths of aging centuries old, augmented in many cases by the treatment of old people in contemporary children's literature.

The most damaging thing about the aging myths is not, however, that they were believed by children but that in many cases they were and are believed by old people themselves.

"They are being told it's all downhill financially, it's all downhill sexually, it's all downhill intellectually," said Edward F. Ansello, associate director of the Maryland center, in making public the study last year. "They have this expectation of inevitable decline: If you live long enough you're going to be senile."

STRENGTH AND RESOURCEFULNESS

A growing body of research, however, continues to find no evidence that old age necessarily limits intellectual capacity, sexual activity or meaningful work.

The largest body of research has come from a longitudinal study of more than 200 elderly people performed over the past 20 years by the Duke University Center.

The study showed that far from meeting any depressing stereotype of decline, the vast majority of old people remained in good health, socially and sexually active, with reasonable financial security and good mental acuity until the final weeks of their life.

"The characteristics they seem to suffer most from," said Duke Center director Maddox, "is the tendency of society to treat them as though they are all alike."

Old people in fact are extraordinarily varied. The evidence suggests that rather than becoming more alike as they grow older, old people become, if anything, more varied. But basically, when studied over a long period, as they were in Duke's study, old people show remarkable continuity of character: If a person is a healthy, happy person at 50, he will probably be a relatively healthy, happy person at 80.

Many old people, of course, do undergo serious illness and other painful crises associated with old age, from forced retirement to the loss of a spouse.

But more significant than the crises, according to Maddox, is the extraordinary strength and resourcefulness they exhibit in meeting these challenges of later life. This is the true "wisdom of age"; the fruit of a lifetime of problem-solving and learning to deal with loss.

What negative changes are associated with age, the research shows, are primarily associated with speed and perception: Eyesight and hearing dim, and physical and mental reflexes slow down appreciably, making some tasks like driving unwise for the very old.

But most oldsters also demonstrate greater patience with tedious tasks, less tendency to boredom and an impressive ability to compensate for many of those qualities that have been diminished by age.

In contrast to a frequent stereotype, old people actually tend to be sick less frequently than younger people, possibly because of a lifetime accumulation of immunity to various illnesses.

When they are sick, however, the illness tends to be more serious and they take longer to recover.

As for senility, the Duke study indicates only about 15 per cent of all old people ever

become senile, and the larger portion of those due to an ailment called Alzheimer's disease which pebbles the brain with bits of hardened tissue and neurofibulatory tangles. Senility, the research shows, is not the result of age itself, but one symptom associated with several different diseases.

MEDICAL PESSIMISM

The portrait of old age that emerges from the Duke research and that of other gerontologists around the country is that of a huge portion of the American population composed of immensely varied individuals with an enormous store of unused potential for contributing to contemporary society.

It is this portrait that has provided much of the moral force behind current efforts to end mandatory retirement at age 65.

Beyond the retirement issue, however, lies an even more crying need—a need to rethink the very nature of our social institutions in the light of what we now know about the prospective numbers, the obvious needs and the demonstrated abilities of our growing population of old people.

Our national health care system, for example, is going to have to be radically changed, not because it would be a good idea, or because the traditional system hasn't worked, but because we can no longer afford to maintain even the inadequate system we have now.

In the process of concentrating our vast medical technology on conquering acute illnesses with dramatic impact, we have largely ignored the treatment of long-term, chronic illness and the concept of preventive care.

It makes a great deal more sense for the government to spend $5,000 on an individual over the course of his lifetime in preventing a chronic late-life illness than to spend $100,000 at the end of his life trying to pick up the pieces.

The Duke study and others demonstrate that much of the physical dysfunctioning usually associated with old age is actually the result of organic ailments which doctors won't take the time to diagnose and treat.

Gerontologist Robert N. Butler refers to this as "medical pessimism" toward the elderly—an inclination to treat any complaint as the inevitable concomitant of old age.

Part of this is due to physicians' natural facination with "quick return" medicine. Old people's ailments are often more difficult and time-consuming to diagnose, and oldsters respond to treatment less quickly than the young.

But part of it may also be due, some gerontologists believe, to inadequate knowledge by the average physician about the metabolism of old people and how it functions. Too little is known about what constitutes "normal" aging.

There is some indication, for example, that some high blood pressure in old people may actually be needed to force blood through the less elastic vessels of the aged. When physicians prescribe medication to lower blood pressure, they may actually be restricting the blood flow to the brain, thereby bringing on senility.

As for senility itself, many of the mental aberrations attributed to it may be reversible symptoms brought on by a wide range of factors ranging from infection to malnutrition.

CHANGING INSTITUTIONS

It is obvious that a wider body of knowledge on the physiology of aging is needed. But needed even more is a national program of health care designed to carry that knowledge and the medical care it inspires to the people who need it most. Most gerontologists believe this can be done with a program of preventive care that keeps old people out of institutions and active in the community.

Twenty-eight years ago New York's Montefiore Hospital launched a program of home care for the elderly which featured regular visits to the homebound by doctors, physical therapists and social workers. In the years since, some 100 other hospitals in the nation have set up similar programs. Two years ago, Montefiore helped set up a day hospital program offering custodial care to elderly patients who have no one at home to look after them during the day.

Such programs could be encouraged by state and federal legislation as a more human and more successful alternative to Medicare-subsidized nursing homes, at less than half the cost.

Similar imagination is needed in a program of income maintenance in the face of inflation that is eroding fixed social security incomes to close to the poverty level. Many experts recommend placing a floor under retirement incomes, pegged to the actual cost of living, financed either by increased social security taxes or other state and federal funds.

Housing is another area which helps make it hard to grow old. When America was an agrarian nation, houses were larger and designed for an extended family of three or more generations. Old people never really retired, but contributed to the family unit and received from it as their abilities and needs warranted. The advent of social security and the FHA brought with it more familial freedom and mobility but also spawned a proliferation of houses and a suburban lifestyle seldom conducive to home-based care of the elderly.

Many gerontologists, however, see a return to the extended family as an inevitable consequence of the aging of America. Some 80 per cent of the old people surveyed in Duke's 20-year study had at least one child living within a 30-minute driving time and most had significant interaction with their families.

Duke psychologist Daniel G. Blazer sees federal encouragement for programs of family care as a natural outgrowth of the determined emphasis on family life in the current Carter administration. Such a program might take many forms, including rent, mortgage or construction subsidies for families caring for older relatives and tax incentive programs for home-based care of the elderly.

Such a concept, he said, would help end the sense of social isolation felt by many institutionalized old people and permit a return to the fruitful contact between young children and older relatives which has become increasingly a casualty of our age-segregated society.

Other institutions will also have to change. Legislators wavering in their support of public mass transit systems might contemplate what life will be like when thousands of their constituents—and they themselves—are too old to drive.

The educational community will have to rethink its long-term emphasis on youth and provide more in the way of creative, unstructured lifetime learning programs for people of all ages. Britain's "open classroom" program, which utilizes television and community learning centers as well as home programs, has been a model in this regard.

SIGNS OF PROGRESS

Much, of course, is being done. Included in this year's Labor-HEW appropriations bill is an unprecedented $500 million for spending under the Older Americans Act, chief vehicle for research, community services and nutrition programs for the elderly.

In addition to the main HEW appropriation, up $75 million from last year, funds are flowing toward the elderly along other routes. Among them:

Jobs: Two measures of Carter's economic stimulus package, signed into law last spring, are designed to help older workers find jobs. The total federal outlay: $160.5 million.

Housing: $82.5 million will be spent by the Community Services Administration to weatherize homes belonging to the poor, elderly and handicapped. Some $200 million will go to help low-income people pay for last winter's fuel bills and $100 million for continuation of a loan authority program for housing for the elderly.

Education: Some $2.7 million is going toward further development of "Over Easy," a public television series designed to inform, educate and entertain the elderly.

Research: $2 million has been appropriated for the Center for Studies of Mental Health of the Aging. The National Institute on Aging will probably get $39 million, an increase of $5 million from last year's funding.

This is hardly a complete list of the various federal appropriations aimed at the elderly but it is indicative of government expenditures in the area. Add on the enormous cost of Medicaid and Medicare benefits, Supplemental Security Income, food stamps and the like and the true cost of old age to our society begins to become apparent.

Then there is the organizational attack: the President's Council on Aging, HEW's Administration on Aging, a Federal Council on Aging, a House Select Committee on Aging and a Senate Special Committee on Aging.

But more crucial than the dollars and the committees and the institutional changes to the future of aging in America, gerontologists believe, is an attitudinal change on the part of the American public: an awakening to the realization that "ageism," like racism and sexism, endures through the sort of dull, insensitive thinking that debases both young and old, and a challenge to make the increasing years of later life not only possible but enriching for every American.

It is the most brutal sort of self-interest for today's decision-makers to help do so. For the old people who will have to live with what we do or don't do today will include most of those reading this article.

COST ASSESSMENT ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. OBERSTAR. Mr. Speaker, today I am introducing the Cost Assessment Act which will enable the Government to perform its functions more efficiently by requiring that cost-benefit assessments be prepared for new regulations, some existing regulations, and proposals for legislation by Federal agencies or congressional committees. All regulations and legislation which would have a significant impact on costs to the public are subject to the bill's assessment requirements.

This measure will broaden, extend, and fix in law the economic impact statement program, which was established by an Executive order on December 31, 1974. Under that program, cost-benefit assessments must be drawn up for major new regulations from executive agencies. Under my bill, independent regulatory agencies and congressional committees will be added to the list of agencies which assess costs and benefits of their actions. The bill would extend the program beyond its present December 31, 1977 expiration date, and require guidelines for the preparation of assessments.

Information to be included in the assessments is specified in section 4(a) of the bill. An assessment must evaluate

the net public benefit of a proposal by comparing its direct and indirect costs with its direct and indirect benefits. In addition to an evaluation of quantifiable costs and benefits, an assessment must include a description of costs and benefits that are not readily quantifiable. Unlike previous cost-benefit legislation, this bill requires the evaluation of the "distributive" impact of costs and benefits; that is, how they are distributed among different income-level groups.

During their consideration of new regulations, agencies must prepare both draft and final cost-benefit assessments. A draft assessment must be published in the Federal Register along with the notice of proposed rulemaking. Federal agencies, committees, offices of Congress, and private groups and individuals will then have an opportunity to comment on the assessment. Following that process, the agency will have to prepare a final assessment and publish it in the Federal Register along with its notice of final action on the regulation.

The assessment process can be applied to an existing regulation when either the agency involved or any interested person so desires. If a review of an existing regulation is requested, the agency will first make a study to determine whether there is a substantial disparity between the costs and the benefits of the regulation. If the agency finds that substantial disparity exists, it must publish a notice to that effect in the Federal Register, outlining the reasons for its finding. If public comment on that notice convinces the agency that there is, indeed, a disparity, it will proceed with the assessment and amendment process.

Assessments are to be prepared for new legislation, also. Federal agencies are required to submit an assessment with each bill they propose to Congress that would have a significant cost impact. They must prepare a draft assessment, provide an opportunity for public comment on the draft, prepare a final assessment, and then submit both the draft and the final assessment to Congress. Congressional committees will have to include a cost-benefit assessment in the committee report on any bill that would have a significant impact on costs to the public.

The bill provides for a set of guidelines to be promulgated that will describe how the cost-benefit assessments should be prepared. The President is directed to prepare a set of guidelines, which will go into effect 120 days after enactment, unless vetoed by either House of Congress. The guidelines may go into effect earlier if both Houses approve them. The same procedure can be used to amend the guidelines. These guidelines are to be used by the executive branch agencies and congressional committees.

Unlike previous cost-benefit legislation, this bill applies to military and foreign affairs activities. In view of the bill's national security implications, it contains a provision to assure the privacy of classified materials in assessments of any such activities.

The assessment requirements are relaxed in cases where the preparation of an assessment would so delay the implementation of regulations or legislation as to risk impairment of personal health and safety, or of the national security. Under these circumstances, an agency can propose or promulgate a regulation without having prepared an assessment, provided that it publishes a draft assessment within 60 days, a final assessment 60 days after that, and reviews the regulation on the basis of the final assessment. Agencies can propose emergency legislation without an assessment, provided they submit to Congress all available information that would be helpful in drafting an assessment.

The aim of this assessment program is to improve the efficiency and competence of the Federal Government. Due to the volume of regulations and legislation that issue from the Federal Government, it is inevitable that some with costs outweighing their benefits will be enacted. This bill is designed to reduce that possibility, and to allow the Government to perform its functions more efficiently, by giving it objective criteria by which to judge proposed actions.

JUST ANOTHER POLITICIAN

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. BAUMAN. Mr. Speaker, the editorial writers for radio and television station WBOC–TV in Salisbury, Md., have expressed a view which I think is now generally shared by a great many Americans. It is an expression of disappointment at the deeper implications of President Carter's long defense of Bert Lance and his activities. Equally disappointing however, is the President's apparent tolerance of the indefensible smear job attempted by Jody Powell.

I include at this point a copy of WBOC's editorial of September 23, 1977.

[From WBOC–TV, Sept. 21, 1977]

CARTER'S WHITE HOUSE

With Jimmy Carter's credibility and prestige taking a nose dive with his handling of the Bert Lance affair, he certainly did not need another shaft from his own press secretary, Jody Powell. Jody, you may remember called some news reporters and encouraged them to confirm and publish a rumor involving the integrity of Senator Percy of Illinois.

Unfortunately, the allegations not only were untrue, but Jody Powell knew they could not be substantiated when he leaked the rumors. At the very best, the action was intolerably stupid . . . and if you think we are being too harsh with the Georgia whiz kid, Jody himself characterized his actions as "inappropriate, regrettable and dumb." So we don't think our use of the word stupid is out of order.

The tragedy for Jimmy Carter of course is Jody Powell represents the White House . . . his job is to speak for the President . . . and his voice represents Mr. Carter's.

Senator Percy is one of those so-called moderate Republicans and frankly he has never captured our imagination . . . but there is something vitally wrong when a White House spokesman accuses an American citizen—be he a Senator or just plain Joe—of any crime when he knows he doesn't have one shred of evidence to back it up.

To quote an editorial in the Philadelphia Inquirer—"the performance of the Administration in the Lance affair was defensive to the point of insensitivity. With Mr. Powell's actions, it became defensive to the point of vicious slander."

We're still looking for the visionary, highly moral Jimmy Carter the candidate to emerge and lead us to the holy grail. So far, we get only another politician in the Oval Office . . . surrounded by a staff of mid-thirtyish brain trusters who obviously still have lots to learn. Jimmy Carter though has been thru the mill. He should know better . . . and demand better from his staff.

PULASKI DAY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CARNEY. Mr. Speaker, on October 11 of each year, we celebrate Pulaski Day, in honor of that great Polish-American patriot, Casimir Pulaski. One hundred and ninety-eight years ago, Casimir Pulaski, a brigadier general in the Continental Army died of wounds suffered in America's Revolutionary War. What kind of man was Casimir Pulaski?

Casimir Pulaski, a Polish nobleman, was born in Podolia, Poland, on March 4, 1748. Early in his life, he became interested in military affairs. At the age of 20, he joined his father and brother in forming the Confederation of Bar. By so doing, Count Casimir Pulaski pledged his time, fortunes, and life to the independence of his country. Pulaski led the Polish insurrection against the domination of Poland by Russia, Austria, and Prussia. He performed heroic feats against overwhelming odds, and his fame as a cavalry leader spread throughout Europe.

Almost at the outset, the Confederation of Bar was plagued by both a lack of funds and a lack of harmony. In desperation, the Confederation engaged in a plot to kidnap the king. This plot was not Pulaski's idea, but he agreed to it so long as the king was not harmed. The plot failed, Pulaski's property was seized, and he was condemned to death.

Pulaski escaped to Turkey and then to France, where he met Benjamin Franklin. As a result of his conversations with Franklin, Pulaski became greatly impressed with the principles of the American Revolution. He saw the opportunity to fight for the ideal that dominated his life: the love of liberty. Franklin saw Pulaski as a valuable ally in the struggle against the British. Accordingly he wrote a letter recommending Pulaski to Gen. George Washington. Pulaski sailed to America and reported to General Washington. Impressed with Pulaski's credentials, Washington recommended that Congress commission Pulaski as a brigadier general so that he could command the cavalry.

Rather than waiting for his commission to be approved by Congress, Pulaski enlisted in the Army as a volunteer and was given the rank of captain.

He fought with Washington at Brandywine, and he is credited with saving Washington's army by means of a bold cavalry charge. Pulaski also fought in the battle at Germantown. His commission as a brigadier general finally came through, and he took command of the cavalry at Trenton, N.J.

During the winter of 1777–78, General Pulaski joined forces with Gen. Anthony Wayne and helped to defeat a British division at Haddonfield, N.J. Generals Pulaski and Wayne again fought side by side in skirmishes at Cooper's Ferry. In reporting on these battles, General Wayne declared that Pulaski had showed "his usual bravery."

In March 1778, Congress authorized the formation of a Legion of Lancers and Light Infantry, as recommended by General Pulaski. Pulaski worked tirelessly to recruit and organize the Legion and, by September, the Legion was trained and ready for battle. During the winter of 1779, Pulaski was ordered south to join forces with General Lincoln. Pulaski's Legion arrived in Charleston, S.C., while the city was under heavy siege and on the verge of surrender. He succeeded in lifting the morale and the resolve of the defenders until reinforcements under General Lincoln could lift the siege itself.

General Lincoln, General Pulaski, and French Admiral D'Estaing then combined forces against the British troops who were occupying Savannah. When it became apparent that the American and Pulaski charged into the midst of the, fighting in an effort to turn the tide. He was severely wounded and died 2 days later aboard the brig *Wasp* on the way to Charleston. Although he was buried at sea, funeral services were held afterward in the city of Charleston, and the citizens of Savannah, Ga., erected a monument to the memory of Count Casimir Pulaski.

Casimir Pulaski began life as a member of the Polish nobility. With his inherited wealth and high social position, he could have settled down to a life of ease and comfort. Instead, he chose a life of hardships and sacrifices. A hero of two continents, Pulaski shall always be recommended as a proud and courageous soldier, the founder of the American cavalry, and a man who gave his life for the cause of American liberty. When we celebrate Pulaski Day in honor of this great American of Polish descent, let us also remember the ideals for which he fought and died.

PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. DOWNEY. Mr. Speaker, on September 19, I was unavoidably absent for the consideration of H.R. 4544, the Black Lung Benefits Reform Act of 1977, and H.R. 8655, a bill to increase the temporary debt limit. I would like to take this opportunity to list my positions on the votes related to these two measures:

H.R. 4544

Rollcall No. 561, "no."
Rollcall No. 562, "no."
Rollcall No. 563, "no."
Rollcall No. 564, "yea."

H.R. 8655

Rollcall No. 565, "yea."
Rollcall No. 566, "yea."

DRUG PROBLEM RISING IN EUROPE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. WOLFF. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I would like to call my colleagues' attention to three items bearing on the heroin problem, both here in the United States and abroad. In the United States, according to Peter Bensinger, Administrator of the Drug Enforcement Administration, the availability of heroin "is at its lowest point in 4 years." In Western Europe, however, both usage and addiction to heroin is increasing at an unprecedented rate. While we have been successful in securing the continued cooperation of a number of governments, as evidenced by both the success of the poppy eradication program in Mexico and the destruction of heroin and other drugs in Thailand, it is clear that the heroin problem is rapidly becoming a matter of world significance. Mr. Speaker, I would now like to insert into the RECORD three items further expanding on these themes. The first is a July 17, 1977, release from the Drug Enforcement Administration on the question of heroin availability in the United States; the second is an article appearing in the Washington Post, September 19, 1977, which discusses the increasing usage of heroin in Western Europe; and the third is an item appearing in the China Post, August 23, 1977, with respect to the destruction of drugs in Thailand:

HEROIN AVAILABILITY IN UNITED STATES

Heroin availability in the United States, as measured by heroin price/purity data and overdose fatalities, is at its lowest point in four years, it was announced today by Drug Enforcement Administration (DEA) head Peter B. Bensinger on ABC–TV's "Issues and Answers".

Retail heroin purity is 5.1 percent as of June 30, 1977, one percentage point lower than the recent record low of 5.2 percent during the 1973 heroin shortage following the Turkish poppy ban. Corresponding to this reduction in purity is a dramatic increase in the price of retail heroin to an all time high of $1.65 per milligram.

Bensinger noted that the figures for heroin related deaths and injuries are also encouraging. Heroin fatalities nationally decreased 21 percent from the first to the second half of 1976. This represented the first such decline since 1973.

A similar, and even more dramatic, decline occurred in heroin-related injuries. During the first quarter of last year, 4,336 heroin-related injuries were reported. The figure for the first quarter of this year was 3,021—a 30 percent drop.

"These signs of success," Bensinger said, "I attribute to three factors: (1) the effectiveness of the Mexican opium eradication program; (2) our close cooperation and sharing of intelligence with Mexican officials; and (3) the redirected enforcement effort DEA has taken to disrupt major trafficking organizations.

"The Mexican government in 1976 destroyed 28,230 poppy fields which could have produced 78 metric tons of six percent-pure heroin. In 1977, 26,720 poppy fields capable of producing 74 metric tons have been destroyed already.

"We have refocused our enforcement efforts through the expansion of Central Tactical Units (CENTACs), which aim at criminal kingpins who are generally immune to normal investigative techniques. These teams of special agents have been responsible for disrupting major trafficking organizations involving over 500 major violators."

Bensinger also announced the results of a new DEA study on bail and sentencing reform. "This study was undertaken," Bensinger said, "to provide statistical documentation of the fact that there is no meaningful deterrent to crime by our courts today.

The study indicates that over one-third of DEA defendants convicted of narcotics or more dangerous drugs violations received probation (24 per cent) or were sentenced under the Youth Corrections Act (YCA) (11 per cent). Of the total number of convicted narcotics and more dangerous drugs violators, excluding YCA, 61 per cent received sentences of three years or less.

The study also shows that prisoners in general are serving on an average of 46.7 per cent of their sentence, while narcotics offenders as a class are serving 43 2 per cent. "This means," Bensinger said, "that 50 per cent of the convicted narcotics violators actually serve less than one year in prison."

The study further noted that of the total number of convicted or more dangerous drugs violators, 81 per cent received sentences of six years or less, which according to present parole standards, means that four out of five serious drug violators could have served less than three years.

In the bail area, the study noted that one-half of DEA's serious defendants were released awaiting trial on bond (45 per cent) or personal recognizance (5 per cent); 71 per cent were released for $10,000 bond or less; and more than one-third were free on bond (37 per cent) for seven months to over a year.

"The bottom line," Bensinger said, "is that our courts are not providing a surety of punishment for drug traffickers. Drug law enforcement sees a decline in heroin availability in this country, but the courts must do their part in shoring up our leaky criminal justice system."

DRUG PROBLEM RISING IN EUROPE—AUTHORITIES JOIN U.S. ATTEMPT TO STOP TRAFFIC FROM ASIA

(By Murray Seeger)

THE HAGUE.—For years Europeans thought of drug addiction as an American problem. No longer. For example:

Three men—two Thais from Bangkok and a Dutchman—met recently in Copenhagen. The Asians handed over a package containing nearly 12 pounds of heroin. All three were arrested.

The First Secretary of the Liberian embassy in Sierra Leone flew from Hong Kong to Amsterdam. A suitcase he checked on the flight was opened by customs officers and 55 pounds of heroin were discovered.

There have been a number of similar incidents.

"Almost every city of Western Europe is becoming a center of heroin addiction," an American narcotics agent based in Europe said in a recent interview.

The number of European users is still thought to be far below that of the United States, but it is rising sharply. In West Germany alone, the number of registered addicts increased from 2,000 in 1972 to 25,000 last year. Drug related deaths in West Germany, one of Europe's major drug markets, rose from 104 in 1973 to 325 last year.

Persuaded by clear evidence that addiction is spreading, most European governments are cooperating with the U.S. Drug Enforcement Agency to try to break the chain that leads back to the poppy fields of Asia.

The European campaign is focused on Amsterdam, which police agencies agree is the home of the drug trade's biggest wholesalers, bankers and killer-enforcers, nearly all of them Chinese.

"We can never win this battle, but we believe we can channelize it," Jan van Straten, chief of the Dutch National Police drug unit, said in an interview. "We can't break it completely. There is too much money involved."

Proud of their reputation for having a liberal, charitable, open society, Dutch officials admit that the drug problem got out of hand before they began a serious counterattack last year.

Amsterdam Police Commissioner Gerard Toorenaar, a colorful officer with a reputation for personal bravery, was a lonely voice calling for tougher enforcement tools to help his understaffed force crack the organized international racket.

"We didn't like every colleague in Europe pointing their fingers at us," he said. "We can't root out the heroin trade entirely, but we can cut it down."

Now nearly a year after a series of tough new laws went into effect, Dutch authorities are optimistic that they can make some progress. One statute provides for longer jail sentences, up to 12 years for international traffickers in place of the previous four-year maximum, and up to eight years instead of two for domestic violators.

Moreover, simple possession of small quantities of heroin now means a short jail term or a fine, instead of the previous potential of a two-year term that was rarely imposed.

The national police intelligence unit has assigned several of its 165 agents exclusively to drug enforcement activities, and the squad is to be enlarged to 28. One officer has been stationed in Bangkok, a prime shipping center for drugs.

The U.S. Drug Enforcement Agency has three agents at the American embassy here and a fourth is being added to help train the Dutch officers. U.S. military police have assigned a unit to work with Dutch customs inspectors watching for drug traffic involving American troops.

In addition, since November, Amsterdam police have arrested and deported 700 Chinese as illegal aliens.

"We think most of these people were engaged in trafficking," Van Straten said.

Nowadays, Asians arriving in Euope are examined especially closely for drugs. The agents cite the case of 19 couriers from Kuala Lumpur, Malaysia, apparently sent with the idea that at least some of them could get through.

In Vienna, Austrian police found 40 pounds of heroin on nine of the couriers. In Brussels, Belgian agents recovered 30 pounds from the other 10.

Two barometers suggest that the Dutch police have made inroads into the illegal traffic. The street price of Chinese heroin in Amsterdam rose from about $30 a gram to more than $160 over the past year. The volume of drug seizures has risen dramatically, from 50 grams (1½ ounce) in 1971, to 376 pounds last year. So far in 1977, the Dutch have seized 352 pounds, 277 of which came from a single Rotterdam incident.

Still the Dutch police do not underestimate the difficulty in breaking into the core of the Chinese drug trade.

Amsterdam, one of the world's favorite tourist cities, is now plagued by petty crimes committed by addicts trying to support their habits. Overdose deaths occur at a rate of one a week among the city's 10,000 addicts. About half of the users are foreigners attracted by the city's easygoing atmosphere, the availability of drugs and the generous welfare benefits.

Amsterdam has always had Chinese users of hashish and opium, and the more recently arrived Turkish migrant workers brought in soft drugs.

The end of the Vietnam war accelerated heroin sales. Police experts believe that the Chinese who were supplying heroin to the American troops in Vietnam started looking elsewhere for markets as the war wound down and the troops were withdrawn.

The drugs now coming to Amsterdam originate in the "Golden Triangle," where Burma, Thailand and Laos meet. This was the source of heroin for Vietnam.

Given the Netherlands' history as an international trading center, its strongly rooted Chinese community and its lax drug laws, Amsterdam was an ideal point to relocate the business.

In France and Italy, the problem is less serious, but the trend is the same toward more use, especially among youths.

Stockholm, Sweden, is another major drug center. In a huge underground arcade in the center of the city, addicts meet their dealers openly and addicted prostitutes solicit customers.

Britain, which had an enlightened program of treating addicts with heroin substitutes, has now found that addiction to the real thing is on the rise.

ANTINARCOTICS EFFORTS—TONS OF DRUGS BURNED

Bangkok, Aug. 22 (AP) Thai Prime Minister Tanin Kraivixien personally put the torch to more than three tons of heroin and other illicit narcotics Monday and said the bonfire marked his country's determination to stamp out trafficking.

Tanin, cautioning eager news photographers to stand back, lit a smoky gunpowder fuss which raced 50 yards to tons of drugs previously doused with kerosene.

Diplomats, American antinarcotics officials and Thai officials witnessed the fire, which took place under strict security conditions at a military camp near Bangkok. One official said the loot, seized in 1973, and 1974, included 660 pounds of heroin and nearly three tons of marijuana and other drugs worth 1.5 million U.S. dollars in Thailand.

Troops armed with rifles kept observers well away from a barbed wire enclosure where the bonfire was held. A spokesman for the Public Health Ministry said the government was eager to avoid an incident similar to one in June, 1975, when hundreds of kilograms of seized heroin and morphine under the supervision of the ministry disappeared without a trace. Results of an investigation of the loss were not made public.

Before the bonfire Monday officials chemically tested samples of the heroin. The packages were tossed in a 10-meter long hole and soaked with kerosene. Troops wearing gas masks stood by in case of a wind shift and a flame thrower crew was held "in reserve."

Tanin, whose government has stressed its antinarcotics efforts, said authorities might hold another bonfire in several months with narcotics now stored as evidence in pending legal cases.

INSULATION SHORTAGE—PRICE INCREASE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. STEIGER. Mr. Speaker, the Senate Finance Committee is now considering the tax aspects of the proposed National Energy Act. During its deliberations the Finance Committee tentatively agreed to adopt a residential insulation tax credit along the lines proposed by President Carter. The credit is intended to encourage homeowners to insulate their homes.

I opposed the home insulation credit in both the Committee on Ways and Means and the Ad Hoc Energy Committee, in part, because I felt the credit would create or intensify a shortage of insulating materials.

The credit has not yet been enacted, but its prospects have helped to spur inflation and intensify the shortage. Materials are in short supply; prices are increasing. But I am fearful that Congress will ignore the facts and continue on its foolish course.

I recognize that it is probably too late to do anything about the insulation credit disaster, but those willing to weigh the proposal on its merits, and disregard its political glitter, may be interested in the following article which appeared in the Journal of the National Association of Home Builders on September 12:

SERIOUS INSULATION SHORTAGE CONFIRMED BY BUILDER SURVEY

The current shortage of insulation for new home construction appears to be much more serious and widespread than first reports indicated.

More than one-half of the builders and insulation subcontractors who responded to a recent survey of NAHB (Journal-Scope, Aug. 22) say insulation shortages are holding up the completion of housing under construction in their areas.

More than four in 10 of those responding to the survey describe the local supply situation as being either "serious" or "acute." Only one in 10 say it is "adequate" or "no shortage" exists in their area. The rest of the respondents—about 45 percent of the total—say "some shortage" exists but that available supplies are being allocated by distributors and manufacturers.

OTHER FINDINGS

Preliminary results of the survey, which is being conducted by NAHB's Economics division, were announced last week.

This additional information on the price/supply situation was disclosed:

Eighty percent of those responding have been told by their suppliers to expect possible curtailment of insulation supplies in the future.

Sixty-seven percent of those responding say they have been told to expect future price increases.

Those responding say insulation prices have increased about 25 percent during the last six months and that about half of the increase (13 percent) occurred during the last two months.

Of the builders who install their own insulation, the large majority—some 78 per-

cent—say they buy insulation from local distributors; 16 percent buy it from lumber yards; and the remaining 6 percent look to insulation manufacturers for their supply.

NAHB President Robert Arquilla and other association leaders are keeping a close watch on the situation.

Arquilla and the other senior national officers met recently in Washington with insulation manufacturers, suppliers, and federal officials in an effort to focus national attention on the problem.

Following the emergency meeting on Aug. 29, HUD Secretary Patricia Harris, after being briefed by Arquilla, assured NAHB of the Carter Administration's interest in seeking a quick and fair solution to the problem.

Arquilla later brought the problem to the attention of Congress in a personal letter to each member of the House and Senate.

He pointed out that the sudden shortage has been brought on largely by the diversion of supplies to the retrofitting of existing dwellings.

"There is not enough insulation material to meet the needs of new home construction and simultaneously carry out a massive nationwide program of retrofitting," he wrote.

Arquilla warned the lawmakers that the shortage, if allowed to persist, would have "dire effects" on the home building industry.

CEREMONY MARKS KOSCIUSZKO ROLE AT THE BATTLE OF SARATOGA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. NOWAK. Mr. Speaker, last weekend, the Polish-American Congress of the Central and Northern District of New York sponsored a ceremony commemorating the role of Gen. Thaddeus Kosciuszko at the Battle of Saratoga during the Revolutionary War.

Appointed a colonel of engineers by the Continental Congress, Kosciuszko built the fortifications at Saratoga and this played a key role in defeating the British at this significant battle 200 years ago. Later, this Polish patriot was assigned the task of preparing American defenses along the Hudson River and constructed the fortifications at West Point.

Last Sunday's ceremony was held at the Saratoga National Historical Park, Saratoga, N.Y., where a monument to Kosciuszko is located. A delegation of approximately 50 persons from the Buffalo, N.Y., area participated. Those attending included Bronislaw Durewicz, president, Western New York Division, Polish-American Congress; vice presidents Krzysztof Wloch and Jean Kowalski, and secretary Richard Solecki.

Mr. Durewicz has provided me with this list of other western New York residents who participated in the observance:

Agnes Brzoskowski, Zofia Bystron, Adela Bystryk, Dr. Aleksander Chaberski, Zofia Dabrowski, Casimer Dabrowski, Zofia Durewicz, Janina Durewicz, Mieczyslaw Durewicz, Andrew Durewicz, Magdalena Ert, Ludwik Ert, Emily Fyderek, Mary Galas, Feliks Galas, Marek Golebiowski, Tadeusz Jasinski, Helena Jurecki, Dr. Joseph Kij, Henryk Lipok, Stanely Lesniak, Walter Kusmierski, Maria Letyta, Anna Lotarski, Antonina Markut, Stanley Markut, Jan Nagler, Bronislaw Nikonowicz, Ludwik Oles, Karolina Ptak, John Ptak, Krysia Slowikowski, Piotr Smolen, Boleslaw Stepien, Mary Stepien, Roman Szajta, Mary Sztama, Lilien Szwajda, Stefania Szymczak, Bohdan Wisniewski Maria Chruszcz, Bronislaw Brzoskowski, and Janusz Brzoskowski.

Aloysius A. Mazewski national president of the Polish-American Congress and of the Polish National Alliance, Chicago, was principal speaker. The program featured a wreath laying ceremony and a series of choral and musical offerings.

THE JOHNSTOWN FLOOD OF 1977—PART II

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. MURTHA. Mr. Speaker, I would like to insert for the information of the Members the second part of the article by Dave Leherr and Stuart Brown of the Pittsburgh Post-Gazette which tells the story of the Johnstown flood. Today's part tells the story of the weather forecasting problem surrounding the area and how it affected the loss of lives:

THE JOHNSTOWN FLOOD

At noon on Tuesday, July 19, Don Wilson climbed to the roof of the public safety building in downtown Johnstown for a routine check on the rain gauge there. He emptied the water from the gauge, made a routine examination of the relatively simple equipment and replaced the automatic chart that would take hourly rainfall readings.

He was not thinking of rain or even of a disaster. He was thinking about the next day, Wednesday, when he would begin three days' leave from his weather job to attend the Pennsylvania American Legion convention in Pittsburgh as a delegate.

The drive to Moraine State Park was a side trip, but it was then that he spotted the black clouds, the thunder and lightning, and thought of the coming Boy Scouts' meeting at the park. It was then he decided to check in with Dave Sisk, a meteorologist at the weather service office in Pittsburgh.

Sisk told Wilson the storm pattern was moving southeastward, but with no particular hint of special fury. As the summer afternoon played itself out, the two men and other weather experts tracked the passage of the summer storm, and took note of a separate storm that pummeled Downtown Pittsburgh with one-third of an inch of rain between 5:15 and 5:45 p.m.

"The Pittsburgh rain was a local thunderstorm," Sisk recalled. "It was a thundershower caused by afternoon heat. It moved through the district and broke up.

"The one up north was related, but it was more of an upper-level disturbance in an unstable atmosphere and it didn't break up.

But the showers that threatened Moraine State Park had moved southeastward across Mercer, Clarion and Venango counties. By 7 p.m., Parker, in Armstrong County, had an inch of rain, and so did Mercer.

On the basis of these and other observations, the Pittsburgh weather office put out advisories that night.

7:30 p.m.: ". . . a line of moderate to heavy thundershowers in Mercer, Venango, Clarion, Armstrong, Jefferson, Clearfield and Cambria. No severe weather has yet been reported . . . but brief heavy rain and minor urban flooding has occurred.".

11:40 p.m.: "Mud slides and basement flooding in Jefferson County. At 11:10 p.m., a Skywarn observer reported that heavy rain tonight in Jefferson County has caused parts of Sandy Lick Creek to overflow its bank on Route 9 between Falls Creek and Reynoldsville . . . As of 11:30, there was still light rain over the area. Residents should watch for further rises over the next several hours."

2:40 a.m., Wednesday, July 20: "A flash flood warning is in effect until 4 a.m. for persons in Indiana and Cambria counties. Heavy rain and some flooding have been reported in this area . . . Persons should move to higher ground immediately if near flood streams. Do not attempt to drive on flooded highways. Listen for later statements."

By then, parts of Johnstown were under five feet of water. People already were dead from the rain clouds that had started as a trickle at Moraine State Park.

Don Wilson got to his American Legion meeting at the Hilton Hotel at 10 a.m. Wednesday. An urgent message was waiting for him: the Johnstown area was flooded. Within hours he was back in Johnstown, rescuing the records from the rain gauge he had checked the day before. They would go into the official archives at the National Climatic Center in Asheville, N.C. Stunned as he removed the records, Wilson said: "I couldn't believe what I saw around me."

"Our people were hungry for reports that night; they never got them," said Charles H. Ryland, acting chief of the Pittsburgh National Weather Service office.

He explained that while the service has three offices touching on Western Pennsylvania weather—Pittsburgh, Erie and Harrisburg—forecasts for valley areas like Johnstown have to rely less on radar and other technology and more on volunteer observers, some of whom are paid a minimal fee for reporting.

"Any reports we could have gotten to supplement our own reports—any reports—would have helped," Ryland said. "But we weren't getting any at all. We could have had more definitive stuff put out well before midnight.

"Obviously it's too expensive to set up new weather stations everywhere, but we needed somebody in that area.

"We heard reports later that some people were trying to call different agencies but never got through. We heard the airport (near Johnstown) closed at 11 p.m. Somebody called the Conemaugh Dam but there was no answer there. We had one really good observer in Indiana County we never heard from. He might have reported a heavier rainfall then we knew. It turned out to be one of the missing links."

Meteorologist Sisk looked at his map showing up to 12 inches of rain that had hit points in the Johnstown area. He broke out the hour-by-hour figures for Johnstown itself. They began with half an inch of rain between 6:30 and 7 p.m. on July 19, and continued:

8:50 to 10 p.m.: 2.30 inches.
10 to 11 p.m.: 1.60 inches.
11 p.m. to 2:50 a.m.: 2.00 inches.
2:50 to 3:30 a.m.: 2.20 inches.
3:30 to 4 a.m.: 0.20 inches.

Total: 8.80 inches. Noting the next-to-last rainfall figure, Sisk commented: "This was the backbreaker."

Bill France came on duty at midnight at the Pittsburgh weather office on the 23rd floor of the Federal Building here. He remembered later he received "good briefings" from the outgoing crew concerning the heavy rains and warnings that had been issued. Later he made notes on what he saw and heard:

"Prior to about 1:30 a.m., there was no indication of additional problems on heavy rain or flooding.

"Shortly after 1:30, received call from police concerning situation in Indiana (County) . . . saying things are pretty bad in Indiana . . . 'when will it stop raining?'

"I mentioned rain should be diminishing within a couple hours and asked what was ment by 'pretty bad.' He (caller) said there were reports of basement flooding and water on roads. We agreed to exchange any additional information.

"I tried to figure movement of radar pattern and saw that (radar) cells were timed at more than 20 m.p.h. by radar operator. It looked as if Indiana County should be out of this heavy rain by 4 a.m."

About 2 a.m., France's notes showed, two calls came into Pittsburgh "relaying rumors of power and communications outages along with seemingly unbelievable reports of cars floating down streets in Johnstown area.

"I attempted to locate any possible observing point that could give idea of heavy rain, but there were no appropriate locations that could be used. The radar pattern showed strong cells moving toward Johnstown vicinity.

"D-Radex (an experimental radar warning system) was called, but 'busy signal' resulted. However, it had automatically printed critical amounts (of rain) about 57 miles east (of Pittsburgh), Cambria County.

"I decided to issue a flash flood warning which was placed on NAWAS (a statewide weather warning system) at 2:33 a.m. and then on VHF (very high frequency) radio with warning alarm . . . warning was for Indiana and Cambria counties until 4 a.m."

Sometime after 3 a.m., France said, he went on a KDKA radio talk show with warning information. Other time-consuming calls went out, but France concluded grimly:

"Real reports did not begin to trickle in until 'after the fact'—6 a.m.—later."

UNEMPLOYMENT STATISTICS MAY NOT REFLECT REALITY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. SIMON. Mr. Speaker, many of the programs that Congress passes to help the impoverished areas are geared to the unemployment percentage.

Unfortunately, some of the most impoverished areas in the Nation do not list high unemployment simply because there are no jobs available and people know that and they do not look for jobs.

I am inserting in the RECORD a letter I have sent to Mr. Sar A. Levitan of the National Commission on Employment and Unemployment Statistics.

If there are other Members of the House and the Senate who face similar situations, I hope that they will contact this Commission so that we can, eventually, get this matter straightened out and have national policies that are more responsive to genuine poverty.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 21, 1977.

Mr. SAR A. LEVITAN,
National Commission on Employment and Unemployment Statistics, Washington, D.C.

DEAR MR. LEVITAN: It was good talking to you on the phone about Pulaski County, Illinois and the inaccuracy of the statistics that emerge under the present definition of unemployment.

Just to reiterate the statistics for Pulaski County: Approximately 29% of the population of that small, impoverished area is on public welfare. They have the lowest per capita assessed valuation of any county in the state of Illinois. By income gauges, by any gauge, Pulaski County is an extremely poor county.

Yet, when the unemployment statistics come out, Pulaski County emerges around 6.4% unemployment, a figure that simply does not reflect the situation. There is a much higher percentage of people who, in fact, are unemployed, but they no longer seek employment because there just aren't any jobs available in Pulaski County.

I hope that as you move to determine what the gauge of unemployment will be, you'll take into consideration a situation like the people in Pulaski County face.

Obviously, this is important because many of the programs (for example, the Public Works Program) are gauged to the unemployment figure that is received from the Bureau of Labor Statistics.

Cordially,

PAUL SIMON,
U.S. Congressman.

MURDER OF A GENTLE LAND—PART I

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. DORNAN. Mr. Speaker, the reports emanating from Cambodia in the last year have painted a picture of genocide on a scale not seen in the world for a generation. In fact, when based on percentage of population killed, the slaughter in Cambodia makes the atrocities of Nazi Germany small by comparison.

The most shocking and poignant report to come out of Cambodia since the Communist takeover is in the book by John Barron and Anthony Paul, "Murder of a Gentle Land." This book was condensed and reprinted in the February 1977 edition of Reader's Digest.

For those of my colleagues who want to know the facts associated with Communist subjugation, I recommend that they read this story. I call to their particular attention to the closing remarks of the condensation:

. . . the world largely has remained silent. No outraged students protest on campuses. There is no great outcry in Congress.

After reading this account, I hope that my colleagues will ask themselves why there is no outcry in Congress. Why! Why! Why!

Since this condensation is very long, I shall ask that only half of it be printed today. The second half will appear tomorrow:

MURDER OF A GENTLE LAND—I

Peace came to Cambodia on the morning of April 17, 1975. After five years of civil war, the government under Gen. Lon Nol had collapsed, the army disintegrated, the last American diplomats fled. The beseiged capital of Phnom Penh and its three million people lay prostrate and defenseless before encircling communist forces.

The first communist squads of 10 to 12 soldiers, dressed in black pajama-like uniforms, were spotted infiltrating the capital at about 7 a.m. Clusters of people along the streets clapped and cheered, and children darted among the soldiers yelling, "The war is over!" Adults shouted, "Peace! Peace!" Women threw garlands of yellow alamanda blossoms; couples danced and sang in the streets.

In their rejoicing, the people were not necessarily celebrating the victory of communism. The harsh regimen the insurgents had imposed in conquered territories in the countryside alienated the peasantry, and more and more families had fled to the cities. At the beginning of the war in 1970, only about 13 percent of the nation's seven million citizens lived in urban areas. By spring 1975, it was 50 percent.

But the Lon Nol government did not command widespread allegiance either. It was notoriously incompetent and corrupt. The fratricidal war had caused perhaps 600,000 deaths, and a majority of the dead were civilians. Prior to 1970, Cambodian farmers annually produced bountiful surpluses of rice. Timber, cattle, poultry were also plentiful. But the war had disrupted the economy, ravaged the countryside.

Of course, the communists might punish, perhaps even kill, the leaders of the Lon Nol government. But toward the general populace they would surely be reasonable and just. They were, after all, fellow Khmers and fellow adherents of Buddhism, which teaches tolerance, respect and kindness toward others.*

"That morning we were shouting, 'Victory! Victory!'" recalls a 23-year-old economics student, Ung Sok Choeu. "It wasn't that we loved the Khmer Rouge so much, but seeing Lon Nol go was worth an outburst of joy. What use was it that Khmers should kill each other?"

Nonetheless, there were troublesome early portents. For, although Khmer Rouge authorities stopped looting by civilians and government soldiers, warning that transgressors would be summarily shot or hanged, they did nothing to deter wholesale looting by their own troops. Soon, communist soldiers rampaged through commercial districts, shooting open the bolted doors of shops or ripping them off with ropes attached to Jeeps. By 8:30, communist troops were halting traffic to confiscate cars, motorcycles and bicycles. During these thefts, the soldiers habitually invoked the strange term *Angka Loeu*. The phrase can be translated into English as "Organization on High." With a politeness which belied the pointed rifles or pistols, they would say, "*Angka Loeu* proposes that you lend me your motorcycle. *Angka Loeu* proposes that you drive me."

Most people in Phnom Penh had heard little of *Angka Loeu*, and its connotation of mysterious facelessness was compounded by the unquestioning obedience it commanded among the communist troops.

Soon the killing began. An 18-year-old high-school student, Sar Sam, saw it start. "At 8:45 that morning, a Khmer Rouge killed Mr. Kim, our neighbor. Mr. Kim was about 42. He joined the army in 1971 as a private second class, and he had only one leg."

About the same time, 10 to 20 civil servants and soldiers walked out of a government building. Waiting communist troops, without warning or explanation, cut them down with machine-gun fire. Later, in front of the Ministry of Information, communist soldiers surrounded a man who, by some word or gesture, had given offense, and kicked and stabbed him. The crowd watched as he slowly died.

Still through the centuries, other armies

*The Khmer Empire, dating from the early ninth century A.D., at one time encompassed most of modern Cambodia, Laos, Thailand and southern Vietnam: The communists in Cambodia were known as the Khmer Rouge; i.e., "red Khmers."

in other places doubtless had done the same as the communists did during their first two hours in Phnom Penh. It was possible that the initial killing and looting represented not the policies of *Angka Loeu* but the aberrations of individual soldiers.

However, there can be no argument about what began between 9 and 10 a.m. It was clearly and coldly premeditated by the Organization on High. And modern history fails to show anything quite like it.

CARAVAN OF MISERY

At about 9 a.m., in his private clinic across the street from the military hospital, Dr. Vann Hay was attending a colonel wounded in the last hours of the bombardment. "I was still in the operating room when I was told that Khmer Rouge soldiers were at the door of the clinic, asking that everybody leave immediately. I went to talk to them. There were maybe 20, all very young, and they repeated their order.

" 'These people here are sick,' I told them. 'They cannot get up and leave.'

" 'No exceptions,' said the Khmer Rouge. 'The town has to be cleared. Everybody get out.' "

Shooting in the air, broadcasting through loudspeakers, banging on doors, sometimes shouting harshly, sometimes speaking with saccharine courtesy, troops in the name of *Angka Loeu* now repeated the same stunning order all over Phnom Penh, a city of three million. Every man, woman and child, regardless of occupation, age or physical condition, must get out of the city.

To those who asked why, communist soldiers offered differing explanations: "The Americans are going to bomb." "It's an order from Angka." But the reply which events proved most valid was given to a group of foreign Catholic priests by an Angka commissar: "From now on, if people want to eat, they should go out and work in the rice paddies. Cities are evil. There are money and trade in cities, and both have a corrupting influence. That is why we shall do away with cities."

With a terrible efficiency, the communists concentrated initially upon expelling the sick and wounded from hospitals jammed with fresh casualties. Troops stormed into the Preah Ket Melea Hospital, Phnom Penh's largest and oldest, and shouted to patients, physicians and nurses alike, "Out! Everybody get out!" They made no distinction between bedridden and ambulatory patients, between the convalescing and the dying.

Hundreds of men, women and children in pajamas limped, hobbled, struggled out into the streets, where the midday sun had raised the temperature to well over 100 degrees. Relatives or friends pushed the beds of patients too enfeebled to walk, some holding aloft infusion bottles dripping plasma into the bodies of loved ones. One man carried his son, whose legs had just been amputated. The bandages on both stumps were red with blood, and the son, who appeared to be about 22, was screaming, "You can't take me like this! Kill me! Please kill me!"

Such processions were seen by countless thousands. One trained observer who watched them from the French embassy compound was Jon Swain, a young British journalist. Recording the scenes in his diary, he wrote that the communists were "tipping out patients like garbage into the streets. Bandaged men and women hobble by the embassy. Wives push wounded soldier husbands on hospital beds on wheels. In five years of war, this is the greatest caravan of human misery I have seen. The Khmer Rouge must know that few of the city's 20,000 wounded will survive. One can only conclude that they have no humanitarian instincts."

From noon onward, the masses in the streets multiplied as communist troops uprooted more and more families. In the ever-thickening congestion, along some boulevards, families advanced no more than 200 yards an hour. Driving became impossible. People pushed cars, motorcycles, bicycles and a motley assortment of carts loaded with whatever they had been able to assemble in haste—rice, canned food, pots, pans, clothes, blankets. People without vehicles carried bundles of belongings, or human cargoes—fearful children, aged or sick relatives too weak to walk.

That same afternoon the communists began to purge the capital of all printed matter. Rare and ancient manuscripts from temples and museums; the records of government and business; the contents of libraries; dictionaries, medical textbooks; even personal-identity cards—all were targets.

Tens of thousands, perhaps hundreds of thousands of books were thrown into the Mekong River or burned on its banks. Untold others were burned at a dump, and the libraries of Phnom Penh and Buddhist universities went up in flames.

"IT WAS A NIGHTMARE"

The soldiers came after Ang Sok and her family in midafternoon. Ang was a pretty girl of 22 with a quick, natural smile. Though her parents were poor farmers in the provincial town of Siem Reap, they helped all their children acquire an education, and Ang was in her third year of pharmacy studies at Phnom Penh University. Like most young people, she had cheered the communist troops entering the city. But when they began shooting and looting, she retreated into the house of her cousin, where three families—31 people, all related—had assembled. Among them were Ang's sister, Anna, 19, and two brothers, Tam, 25, and Kim, 23.

Ang asked the group of soldiers who ordered them out of the city where they should go. "As far away as possible." How long would they have to stay away? "For a period of time."

The three families departed at 5 p.m. "We took money, but the Khmer Rouge made us throw it away," Ang recalls. "We brought some blankets, mosquito nets and cookies for the children.

"On the road, there was a huge crowd of every age and condition, young, old and sick. Some could barely walk. Some dragged others. I remember a double-decker bed being pushed by a family."

The streams of benumbered and bewildered unfortunates trudging out of the city swelled steadily through the afternoon, and that evening several hundred thousand people slept by the streets or roads. The next day, in the name of *Angka*, parties of four to six soldiers systematically went from door to door repeating the initial order, and by midmorning the streets teemed with more hundreds of thousands of people.

A new realization soon spread: each soldier-servant of *Angka Loeu* held death at his or her fingertips. Given the alternative of leaving or being shot, Dost Mohammed, an electronics salesman, departed on the 18th with his wife, six children and mother. Some traffic was still moving, and a pedicab rolled past them. "Don't go on that side of the road!" a soldier shouted. The pedicab did not alter course, so the soldier killed the driver with machine-gun fire.

Another soldier riddled the driver of a Datsun who failed to hear an order to halt. A man, racing to find his family before leaving the city, pedaled his bicycle into a street the communists had closed. "I'm going to pick up my family," he yelled to guards. Without warning, a soldier sprayed him with machine-gun bullets, and he fell to the street, dead.

Near the French embassy, a French schoolteacher observed a communist patrol march through a line of refugees and, by happenstance, part a mother and father from their children. The frantic parents protested and sought to reclaim their children, now on the other side of the communist column. The patrol leaders fired a volley of rifle shots, killing both parents.

Not everybody personally witnessed such summary executions, but virtually everybody saw the consequences of them in the form of corpses rapidly bloating and rotting in the sun. The bodies, sometimes grotesquely contorted in the positions of final agonies, emitted a pervasive stench.

Then the water supply ceased throughout the city. People were reduced to drinking from ponds in parks and gardens, even from stagnant puddles. This brought on dysentery a killer that was to treat the people as mercilessly as Angka itself throughout the great exodus. Deaths during childbirth also were frequent.

Ly Bun Heng, one of Phnom Penh's leading architects, had cut short a stay in Paris and flown back to welcome the communists. He remembers: "On Boulevard Monivong I saw two women giving birth amid a crowd of camping refugees. One was on the sidewalk under a tamarind tree, maybe 15 yards from my house, lying on a piece of cloth and shouting, 'Help! Help me!' It was a pitiful sight."

Ly went to his house, where a contingent of Khmer Rouge were camped. "I have three bedrooms next to my garage,' I said. 'Please let us use one so this lady can have her baby in decent conditions.'

"They got furious. 'Go away. Don't bother us.'

"I went back to the woman. Hordes of curious children tried to get a look, and I chased them away. Hearing the racket, the Khmer Rouge chief came out and yelled, "Gatherings are forbidden! Disperse! Disperse!' But in all the noise the people didn't hear, so the soldier whipped out a pistol and began shooting into the tamarind tree. A shower of leaves fell upon the woman and the newborn baby. It was a nightmare."

A LIFELESS CITY

The boulevards leading to the principal highways out of Phnom Penh were so thronged that it took Thach Bun Rath, an 18-year-old business-school student, three days to walk 2½ miles. "The heat was intense, and people were dying in the streets. I saw the bodies of a number of old people by the wayside, and others in agony. A young woman carrying a dead baby in her arms was crying silently; she did not want to leave the tiny body on the street. Some of the bodies were people who had been shot—not just military, but women and children as well."

Ea Than, a 27-year-old librarian, left his home on the 18th in a family party of about a dozen people. "All of Phnom Penh seemed to be leaving toward the south. We were packed like sardines, and progress was unbelievably slow. It took us three days and three nights to cover the two miles between our house and Monivong Bridge. All along the way the Khmer Rouge were shooting into the air and at houses. 'Go on! Move on!' they shouted."

Because of the crush, Rosa Tevi, a beautiful 14-year-old niece of Ly Bun Heng, the Phnom Penh architect, did not reach the outskirts of the city until April 24. She recalls, "Just as we left Phnom Penh, we passed a dozen or more bodies lying by the roadside, already swollen. I'm sure they had been shot, for they were all crumpled up. In normal times I would have cried, but now no tears would come. Even Mummy, who cries for the smallest little things, was unable to cry. She just kept saying, 'Poor people! Poor people!' "

Phnom Penh had been transformed into a wasteland occupied only by corpses, stray dogs, pigs, ducks and chickens, and Angka patrols standing guard to ensure that human life did not return. By April 23, the communists had begun to empty the other principal cities of Cambodia. Because the populations were much smaller, troops were apparently able to evacuate most of the provincial cities in less than 24 hours. But the scenes and agonies of Phnom Penh were duplicated on a lesser scale.

On the highways, roads and trails, the 3.5 million people driven from the cities wandered toward an unknown future. They had become a spiritually paralyzed mass of prisoners who understood only that if they did not go on, they swiftly would be "reeducated" by their new master, Angka Loeu.

A young philosophy professor, Phal Oudam, was one who had greeted the soldiers of Angka Loeu as harbingers of peace. "Now, only seeing them walk past, we were all much afraid. We trembled like half-drowned baby mice."

THE ORGANIZATION ON HIGH

Having emptied and vandalized the cities, Angka Loeu proclaimed the birth of a new Democratic Cambodia and proudly declared, "More than 2000 years of Cambodian history have been virtually stamped out." It is difficult to dispute that claim. Within a few days, the Organization on High had advanced faster and further than any other revolutionaries of modern times toward the obliteration of an entire society.

Probably fewer than two dozen persons controlled Angka Loeu at the time, and dominant among them were eight people with remarkably similar backgrounds. All were in their mid-40s; they had studied in France during the 1950s, and all ardently embraced communism. They were educated as economists, lawyers or teachers, and in the context of their values and beliefs, all apparently were principled, honest and courageous.

One of the dominant masters and leading theorists of Angka Loeu was Khieu Samphan, now chief of state in Democratic Cambodia. His life and personality may help to explain some of the Angka Loeu policies and deeds that seem most inexplicable. Khieu was born July 27, 1931. A small, frail child, beset by some respiratory ailment that caused his nose to run perpetually, he often was seriously ill. A classmate of his in both Cambodia and France remembers: "Khieu was a mediocre, quiet student whose most remarkable characteristics were passivity and total lack of aggressiveness. He was victimized by the whole class. We'd kick him, hit him, push him around, and he'd never once fight for himself. He had no defense, not even a verbal one."

He was never interested in girls, and reportedly confided to an old friend that he was impotent. In Paris, he may have sought medical counsel regarding this problem, for he said that the condition had been diagnosed as permanent and incurable. Transient impotence can result from any of several mundane causes, but chronic impotence that is not based on organic factors is considered by many psychiatrists to be the product of profound hostility. Certainly, Khieu Samphan, the meek, tormented young man, had cause to be hostile. In any event, as if to compensate for the void in his life, Khieu flung himself furiously into his books, then into communism.

Back in Cambodia, though penniless, Khieu obtained enough money to found a small biweekly newspaper that published communist propaganda.

In 1962, Prince Norodom Sihanouk, who had been currying favor with the communists, invited 34 prominent radicals to participate in the government. Among them was Khieu Samphan, who had been elected to the National Assembly. However, in a fit of exasperation with the communists, Sihanouk in 1967 publicly singled out Khieu and two other leftist assemblymen as subversives. Anticipating execution, they fled to join communist guerrillas in the jungle.

At the time, these insurgents numbered probably no more than 2000 men: a motley assortment of intellectuals from the cities, bandits and disaffected ethnic minorities. They might have languished indefinitely in the jungles but for a series of fortuitous events.

Secretly, Sihanouk was allowing North Vietnamese and Vietcong to ship quantities of supplies across Cambodia into South Vietnam, and permitting them to establish sanctuaries. But collusion with the Vietnamese, against whom Cambodians harbor an ancient, almost venomous animosity, caused problems at home. While the Prince was visiting France on March 11, 1970, thousands of students and workers sacked the North Vietnamese and Vietcong embassies in Phnom Penh, and on March 18 the parliament voted, 92-0, to depose Sihanouk. The premier, Gen. Lon Nol, continued in power as chief of state. The Prince, who had gone on to Moscow, immediately flew to Peking and, five days after his ouster, joined the communists in a coalition to fight the Lon Nol government.

Thus, the Cambodian insurgents almost overnight achieved a textbook objective of communists everywhere—a coalition that cloaked them with respectability and put at their disposal the resources of others. In the name of the Prince, North Vietnamese troops sprang from their sanctuaries, attacked Lon Nol's forces and began occupying as much of the western and northwestern provinces of Cambodia as they could.

Meanwhile, on April 30, American and South Vietnamese divisions invaded Cambodia in a massive surprise attack on the communist sanctuaries. This 60-day "limited incursion" succeeded militarily. However, it served to push the retreating North Vietnamese and Vietcong even farther into Cambodia, where—once the invaders pulled out—the communists were left in effective control. The insurgents, led by Khieu Samphan, moved into these areas protected by Vietnamese communists, who initially did virtually all the fighting. They were reinforced by the arrival of Cambodian communists, perhaps as many as 6000, whom Hanoi over the years secretly had recruited, trained and kept in reserve in North Vietnam.

On paper, control of the coalition rested with Prince Sihanouk and his ministers in Peking. In reality, it had shifted completely to Khieu Samphan and his cohorts in the jungles.

By early 1973, this tiny coterie of French-educated Cambodian communists had multiplied to at least 35,000 troops, by invoking the magic name of Sihanouk and by mass conscription in the occupied villages. Now they were ready to begin the final military assault.

In retrospect, it is evident that by this date they had also completed the grand design of the new Cambodia they proposed to construct. Kenneth M. Quinn, then a U.S. State Department specialist, in early 1974 made a remarkably prescient analysis of communist actions in the occupied territories—their attack on religion, the destruction of vestiges of the Sihanouk regime, attacks on parental and monastical authority, prohibition of traditional songs and dances, and use of terror.

The communists, Quinn perceived, had committed themselves to "total social revolution," and had determined that anything belonging to the past "was anathema and must be destroyed." To accomplish total revolution, they were attempting "to psychologically reconstruct individual members of society." He wrote: "This process entails stripping away, through terror and other means, the traditional bases, structures and forces which have shaped and guided an individual's life, until he is left as an atomized, isolated unit; and then rebuilding him according to party doctrine by substituting a series of new values, organizations and ethical norms."

The process was not an invention of Angka Loeu. Variants of it can be found in Aristotle's analyses of tyranny, in communist literature, in the history of the Soviet Union, Nazi Germany and other totalitarian states. But Angka Loeu was prepared to apply the process with a distinctive brand of brutality.

SENATOR GEORGE McGOVERN'S MEMO TO THE WHITE HOUSE: THE QUESTION OF LEADERSHIP

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CONYERS. Mr. Speaker, at any given time a great many issues trouble citizens, beg for official attention, and justify public action. The quality of leadership, whether on the part of a President or of Congress, is shown by the type of agenda that is shaped and whether or not that agenda gives priority to resolving the big issues first. In the fall of 1977 the issue that continues to take precedence over all others—the solution of which is the key to accomplishing most other vital goals—is the failure of current economic policy and of leadership to eliminate the crippling unemployment in the country.

Last Saturday evening, September 17, Senator GEORGE MCGOVERN and President Doug Fraser of the United Auto Workers hosted a dinner in Detroit for Americans for Democratic Action. Senator MCGOVERN presented an exceptionally clear-sighted analysis of the failure of economic policy and of leadership, and offered a set of perspectives and proposals we would do well to consider to correct the present course.

As one of those rare public figures who has consistently demonstrated the courage of his convictions—and been more often right than wrong—I expected an enlightening discussion, and I was not disappointed. I learned a great deal from the Senator's remarks and I want to share them with my colleagues.

His remarks follow:

MEMO TO THE WHITE HOUSE

(By Senator GEORGE MCGOVERN)

"This Budget presents a definite program . . . involving three ends—first, a material reduction in the anticipated deficit for the current fiscal year; second, a relation between receipts and expenditures for fiscal year 1933 which will avoid a further increase in the public debt . . . third, a balanced Budget for 1934."—Herbert Hoover, December 7, 1931.

Last April, in a Washington speech, I suggested that the Carter Administration was trying to balance the budget on the backs of the poor and the jobless; that our great cities were deteriorating while the Administration held back on public investment and the reform of our tax, welfare, health and railway systems. The President replied that it was too early to make a judgment and that I was the

only prominent Democrat who felt that way. (Meanwhile, a considerable number of my Senate and House colleagues were confiding privately that they shared my concerns.) Late in July, Urban League Director Vernon Jordan charged that the Administration was betraying its promises to the residents of our cities—especially the Blacks. Again the President answered that it was too soon, adding the warning that such criticism would "damage the hopes and aspirations of those poor people. . . ."

His reactions echo two of the most disturbing traits of presidential conduct in the last decade. Lyndon Johnson and Richard Nixon used to rebuke critics of their war policy for hurting the chances of a negotiated peace in Vietnam. In March, 1969, two months after Richard Nixon's inauguration, when I called on the new President to carry out his "secret plan" to end the war, this demand was said to be "premature." Yet, fundamental decisions were even then being made which committed the nation to four more years of needless war. And though only eight months of the Carter Administration have passed, the President has already set the priorities that will determine policies for the next four years.

He has placed one goal above all others—balancing the federal budget by 1981. Mr. Carter told the United Auto Workers in May that he had "to make some hard choices." No one can deny that claim. But with the Carter military budget rising, who will pay the cost of balancing the budget? I think it might be both possible and desirable to achieve a balanced budget if it could be accomplished on a foundation of full employment, a prosperous urban and rural economy, basic tax reform and substantially reduced military spending. But the Carter formula for a "balanced budget" seems to fall on 10 million unemployed and underemployed Americans, on the minorities trapped in decaying central cities, and on the majority of Americans who need health insurance, decent housing and efficient transportation.

The President's response to the New York blackout expressed both the spirit and the substance of his policies. It took three days for the White House to speak a compassionate word. New York was not entitled to disaster relief, the Administration announced, even though federal law would have permitted it. The $11 million finally proffered was equal to 1 percent of the damage. The *Daily News* could have headlined the story: "Carter to City—Keep Hurting." I would like to believe that the President wanted to do more; but determined to balance the budget in his own way, he can hardly assist the small shopkeepers of New York who were crippled in the disastrous breakdown of order, let alone finance a genuine program to restore the economy and neighborhoods of all the great cities of the Northeast and the Midwest that gave him his margin of victory last November. The voters there thought they were electing a President who at last would have "a comprehensive urban program," as Mr. Carter promised the Conference of Mayors during the campaign.

The President's method of seeking a balancing budget reflects either obsolete economics or a misreading of present economics conditions—or both. Fifteen years ago in a speech at Yale, President Kennedy repudiated "the old and automatic cliche that budget deficits automatically bring inflation." A balanced budget is no inherently sound or competent; its utility is a function of specific economic conditions. Yet the Carter Administration is acting as though investing in jobs and domestic initiatives will inevitably fuel inflation. Under Mr. Carter, continued unemployment, postponed public investment, and budgetary cutbacks have become the formula for price stability—the exact formula of the Nixon and Ford years.

That formula failed then and it will fail now—either to balance the budget or to balance the scales of economic injustice, or even to stop inflation.

The consumer price index rose 60 percent between 1969 and 1975 and the budget deficits increased even while the brakes were being applied to investment in the cities and throughout our society. Through the last three decades, there has been no relation between the size of the federal deficit and the rate of inflation. In fact, sometimes larger deficits have been followed by lower price increases, greater economic prosperity and greater subsequent federal revenues. President Carter is absolutely right in his concern about inflation. Nothing weighs more heavily on working people, farmers, the poor and the pensioners. The Democratic Party should stand clearly and firmly for the stabilization of prices.

Federal spending for social needs is not the root of the recent inflation. Budget increases add to the demand for goods and services, but the problem of 1977 is not one of excess demand pushing up prices for a scarce supply of commodities. A large portion of our industrial plant lies idle; with 7 percent unemployment nationally and 20 to 40 percent of the work force idled in the central cities. The principal source of inflation now is the economic dominance of oligopolies such as the oil and steel cartels which can raise prices regardless of demand or supply. In 1972, the Federal Trade Commission estimated that monopolistic industries were overcharging consumers by 6 percent of the gross national product. In 1977, that overcharge exceeds $100 billion.

During the campaign, Mr. Carter pledged antitrust action to break up concentrations of economic power, especially in the energy industry. But his energy message kept that pledge merely by a brief indication that he would monitor the situation to see if and when he should do what he had previously said he would. The energy plan itself actually relies on higher prices to achieve conservation, leaving poor and average income Americans with both ends of a bad bargain. They will have to pay more—and given the Administration's assumption that the resulting price increases can and must be offset by budgetary restraint, they will have fewer jobs, poorer housing, less secure neighborhoods, lower farm income and worse health care.

Ironically, tight budgeting in today's economy may actually spur inflation. As federal restraint slows demand, oligopolies engage in "anticipatory pricing." They raise their prices to assure the same return on fewer sales.

Perhaps the President's brand of budget balancing reflects the political risks of other, more effective policies for price stability. First, antitrust action would threaten "business confidence"—another Carter priority and another economic myth that John Kennedy denounced 15 years ago as "a false confidence in the Administration in power issue . . . Business," he pointed out, "had full in 1929" (just before the Stock Market collapsed and the nation entered its worst depression). In early August this year the Dow-Jones Industrial Average fell sharply; the stock market was reflecting the objective reality of massive trade deficits. Mr. Carter's reassurances to business were beside the economic point. Second, after labor's experience with the inequities of the Nixon wage and price controls, the unions have joined management in fiercely resisting federal initiatives to restrain inflation by selective controls. In July the steel industry hiked prices despite a cautious slap on the wrist from the White House; the industry knew, as Mr. Carter has conceded publicly, that his policy is confined to very gentle persuasion, that inside the velvet glove there was only a velvet hand. Can he long ignore the obvious need for standby controls in sections of the economy where prices are not set by market forces but by administrative decisions?

Government doesn't have to stint on public investment as sharply as this Administration has in order to achieve fiscal restraint. Within a prudent budget ceiling, a President can allocate more or less to different purposes. This President, despite his campaign promise to trim Pentagon appropriations 5 to 7 billion dollars (at one point, the promise was a heftier $15 billion), has ratified the priorities of the past. The military received in $11 billion increase in Mr. Carter's first budget, with another raise slated in the budget this fall.

I was delighted when Mr. Carter canceled the B-1 bomber in July; several of us in the Senate had opposed it for 8 long losing years. But the initial euphoria following the President's decision tended to obscure the fine print. The basis of my longtime B-1 opposition was that the $100 billion for the bomber should be shifted to constructive domestic investment; instead the Carter Administration has designated the savings for other weapons projects—and yes, with single-minded consistency, to budget cuts in urgently needed public services. Shortly afterwards, the President also opted to spend more billions for the enhanced radiation bomb. Next the Administration announced that in compensation for the withdrawal of some of our forces from South Korea we would offer several billion dollars worth of extra aid to strengthen the security of the Seoul regime—much more than has been offered to secure New York or St. Louis or Detroit against the dry rot from within.

Potentially worst of all, the SALT talks have been endangered. If they fail and the arms race intensifies, weapons spending will further escalate. The most obvious and terrible danger is a greater risk of that final war. But we don't have to have a nuclear war to have wartime devastation in the South Bronx or along Detroit's burned-out 12th Street. Our cities are being "bombed" now and a SALT breakdown would mean more of it, and for a longer period, as further resources are diverted to the arms game madness.

A human rights policy properly conceived and applied would not threaten detente. But the Administration's policy seems to have no clear criteria. The repressive regimes of Iran and South Korea will get more American arms. Understandably the President's plea that he is supporting human rights for their own sake, not as an anti-Soviet device, falls on skeptical ears in the Kremlin. From Moscow's perspective, the Carter policy looks like a reincarnation of John Foster Dulles' attempt to bring Communism down by encouraging dissent and revolt in eastern Europe. The Administration has edged away from the early, more strident line on human rights American style in the Soviet Union. But in the meantime, SALT has been delayed at best and the Carter rhetoric has revived a cold war psychology among Americans. The resulting bellicosity, the sense that the country must stand rigidly, will not only make it more difficult to ratify a SALT agreement if the President does negotiate one, but may complicate the settlement of other issues, such as the Panama Canal treaty in which the United States will have to yield most of the ground in order to avert sabotage against the canal and the spread of terrorism in Latin America.

Even without military cutbacks and within a balanced budget, there could still be additional revenues for social needs through tax reform. But the Carter tax proposal apparently will not yield substantial additional revenues and may result in an actual

revenue reduction. The President has told his economic advisers that he does not want the federal government to take a higher percentage of the gross national product by closing tax loopholes.

Thus the tight circle around needed public investment closes: budget balancing, military spending and tax cutting leave only a trickle of dollars for the programs the President promised the Urban League. It is not "too early" to decide that there is no secret plan for social justice.

Real tax reform, of course, would offend big business and the wealthy; whereas tax cuts for the comfortable may be politically clever. In any case there is little popular clamor to aid the cities, the poor and the unemployed. To the contrary, many Americans are skeptical of government's capacity to solve social problems.

A President could lead in a different direction. He could educate the country that the Great Society (which did not include welfare reform, tax reform, national health insurance or a coherent urban strategy) fell short of its rhetoric because the Johnson Administration tried less than it talked about—and even that was slashed to pay for Vietnam. Instead Mr. Carter largely rides with the popular tide. His domestic programs are pinched. He favors detente with Cuba and Vietnam—quietly and with qualifications; he has not spoken strongly in public against congressional amendments that might wreck the World Bank for the sake of denying international loans to Vietnam. A majority of Americans oppose medicaid for poor women facing abortions—although they are now both legal and easy for the comfortable. Mr. Carter has endorsed this prevailing injustice, adding that "lots of things are unfair" and that government has no obligation to correct unfairness—especially if "moral" issues are involved. It seemed a far distance from the Jimmy Carter of 1976 who called for a government that was both competent and compassionate.

At his press conference after Vernon Jordan's criticism of the Administration, the President took special exception to the charge that the Administration did not care about the poor. But caring in the abstract will not provide paychecks, rebuild neighborhoods or meet a family's higher medical bills. To say that Mr. Carter is better than the Nixon-Ford era is to praise him—faintly. But amesty, vocalizing human rights, and a proposed measure of tax relief for the middle class don't excuse the lack of "leadership for a change." Jimmy Carter's slogan last year. It sounded as though he meant to change more than the name of the leader, to do more than amend the *status quo* or to reorganize some of the federal agencies.

Last year I urged Democrats to unite behind Jimmy Carter, urging that if we "have disagreements with Governor Carter, let us save them for President Carter." It isn't pleasant to express those disagreements even now. Democrats like Vernon Jordan, the members of the congressional Black Caucus, and the private dissenters in the House and Senate cloakrooms would like to be loyal to a Democratic President. But there is also the higher obligation of the President and the Congress to the dispossessed, the unemployed, the victims of urban danger, of rural insecurity, of social and economic injustice. If we do not help them, who will?

Recently I spent a Saturday with Bronx Borough President Robert Abrams surveying the spreading decay of that once vital urban center where one and a half million Americans are precariously holding on to life. As I traveled through the rubble amidst vast areas of burned-out, crime and drug-ridden abandoned neighborhoods, I thought of an earlier visit to the gleaming Strategic Air Command Center in Omaha. For thirty years SAC and other defense efforts have consumed the major portion of our federal budget as we have stood on 24-hour alert against the Russians. Is it possible that we have so concentrated our resources on the enemy abroad that we are now in danger of being destroyed by the silent enemy within? I pray that the well-intentioned occupants of the White House are pondering that question.

AGAINST NEW CANAL TREATIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony by an opponent to the new Panama Canal Treaties. At the time of his testimony, on September 15, 1977, the media apparently decided it was not of sufficient merit for their coverage, despite the fact that they gave full coverage to statements by advocates of the treaties during committee hearings.

This statement was made by Frank D. Ruggiero, national commander of AMVETS before the International Relations Committee, September 15, 1977:

STATEMENT OF COMMANDER FRANK D. RUGGIERO

Mr. Chairman and Honorable Members of the Committee: AMVETS is grateful for this opportunity to present the views of our organization on such a vital issue as the much publicized and highly controversial Panama Canal Treaties. It is our opinion that few matters in recent history have held the importance or portentousness of this fateful issue.

In concert with our great brother organizations, AMVETS speaks to this matter in the sense that we, the veterans of our Nation's wars, are of a right and necessity deeply concerned with the future of the U.S. defense posture in general and in the Western Hemisphere specifically. As do other concerned Americans, we address ourselves also to those issues which affect international and hemispheric commerce and embrace our national economy. Therefore, the issues involved here are directly germane to our concerns and activities, for what segment of our society has more right to oppose that which we believe threatens the United States' defense and economic position on the "American land mass."

The Administration and some Members of Congress have challenged the term "sovereignty" as that term pertains to the Hay-Bunau Varilla Treaty of 1903. They claim that the United States was never granted sovereignty over the Canal Zone in the legal sense. We do not argue that point. The dictionary definition of the term "sovereignty" is of little importance in this issue as we see it. The fact remains that any reduction in American military forces on the Isthmus of Panama and the loss of United States control over the Canal Zone could be disastrous. The U.S. defense posture, south of the Rio Grande would be virtually non-existent. The Canal, regardless of its inability at present, to accommodate the super-carriers and super-cargo vessels remains as the single most important waterway on the western half of the globe. The Isthmus itself, the Canal notwithstanding, serves as the roadway between all of the Americas and is, in our opinion, the "crossroads" of the hemisphere. This demands American presence and control to ensure that Communistic or otherwise adverse influences will not "choke off" North America from South America. The President's concern over "human rights" can best be served by maintaining our strong position in Panama and preventing the influence of Castro Cuba and other elements from establishing a toehold.

Furthermore, we are not convinced that the people of Panama, and we refer to the common people, not the pseudo-intellectuals, are desirous of having the United States pull out of the Canal Zone. Indeed, we have reason to believe that is the last thing they want to see happen. In this regard we quote from an article which appeared in the Chicago Tribune of March 25th by Mr. Ronald Yates:

"Incredibly and in spite of an almost daily diet of government inspired anti-American rhetoric in the Panamanian press, the poor and the unemployed of this Nation of 1.7 million say they are not ready to run Americans out of Panama but rather are prepared to fight to keep the Canal in United States hands."

And Mr. Yates found this to be a typical remarks of a Panamanian-on-the-street: "'You see, the only people in Panama who have ever given the United States trouble are Communists, rich university students, and parasitic intellectuals who live off the blood and sweat of people like us,' he continued. 'We have nothing against America or the Canal Zone because we know as long as America has control of the Canal, there will be jobs for Panamanians. But as soon as you (America) give it back to Panama, it's going to go all to hell and nobody will have jobs.'"

We fully appreciate that the passage of seven decades would necessitate adjustments in monetary considerations commensurate with today's values. We do not oppose any reasonable arrangements in this connection. Our sole opposition is to any Treaty which would dilute or compromise U.S. control of the Canal Zone now, or in the future.

General Torrijos was reported to have said "in the event that peaceful negotiations for a phasing out of United States control were closed, a campaign of violence against the 15,000 Americans in the Zone would be inevitable." "Two options would be open to me," he continued. "To smash it or to lead it—and I am not going to smash it." If we give in to this "threat," how could we guard against "sabotage" by subversive elements of Panamanian military forces? This prompts other questions:

1. If we (the United States) grant the desired concessions to Panama, what guarantee will we have that Panama will live up to its end of the bargain?

2. If Communistic influences prevail, such as those we suspect exist currently in the Caribbean area, how will we defend the Canal Zone should Panama succumb to these influences?

A strong stand must be made if we are ever to regain the "image" we once projected abroad. Some would say that by granting the Panamanian demands the United States would gain the respect of the "Third World nations." We think not. We believe that the opposite reaction would take place and that we would be looked upon as a "pushover." Respect is given to the strong, the assertive, the fair. Again, we do not oppose a fair financial arrangement, but not in the form of tribute.

We are asked if we were in the position to make the decision: "Would we be willing to go to war in order to retain United States control of the Canal Zone?" We ask, in turn: war with whom? Are we to believe that Panama by herself or all of the Latin American nations collectively would wage war against the United States over this or any other issue? Or, do we believe that the Third World and or the Communist nations, including Red China and the Soviet Union,

would join forces in such an adventure? We believe the possibilities of such an occurrence are too remote to merit consideration.

It has been further suggested that should the Treaties not be ratified the veterans' organizations and other anti-Treaty groups would share collectively the blame for whatever "reprisals" are taken against American personnel in the Canal Zone. That, in effect, "their blood would be on our hands."

It is, and would be, the responsibility and solemn obligation of the Commander-in-Chief of the U.S. Army, Navy and Air Force to take whatever measures necessary, including armed force, to ensure the defense of the Canal Zone and the safety of its inhabitants.

In conclusion, Mr. Chairman and Members, we offer no alternatives to the current status of the United States on the Isthmus of Panama except in the area of more financial equity, and, indeed, recognize no need to enter into any further negotiations with the Republic of Panama which would attempt to eliminate or phase out United States control thereof.

Again, and finally, Mr. Chairman, we thank the Committee for this opportunity and will attempt to answer any questions the Members may wish to ask at this time or we will be happy to respond in writing, for the record.

STEPHAN HOVNANIAN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. FLORIO. Mr. Speaker, I feel that it is proper to take the time to pay tribute to a man who has served both his fellow Armenians and the United States well. The story of Stephan Kevork Hovnanian is a classic case of the traditional American dream. Through his intelligence, foresight, and just plain hard work, Stephan Hovnanian was an inspiration. His kindness and generosity are legend. His family, his fellow Armenians, truly all of us are better to have known him or known of him. His passing leaves an unfillable void.

To my colleagues, I commend the following article about the legacy of Stephan Kevork Hovnanian:

STEPHAN KEVORK HOVNANIAN: THE PASSING OF A FATHER, A FRIEND, A FOUNDER

(By Irene Voshikian)

The one man responsible for the famous and fascinating Hovnanian family has left them and his legacy behind. Stephan K. Hovnanian of Toms River, N.J., passed away on August 2, 1977, leaving a void that can never be filled again. It is only in his memory, and the great family he fathered, that his great life will have been fulfilled and his loss will be somehow less painful.

Stephan K. Hovnanian was born in Malatya on Christmas Day, 1900. He was one of the few to have survived the 1915 Turkish massacre and settled in Iraq with his two sisters and a brother. During the journey to Iraq, Stephan remembered in agony, the sight of his mother, fallen by the wayside, waving her children on as she remained behind to die. She did not know then that she waved her beloved family onward to a journey of grandeur.

Stephan married Yester Almajian in 1921 and the two were blessed with four sons and two daughters. Prematurely, Yester died in 1949. The family went on growing in prosperity and strength. Stephan then married the former Margaret Antonian and stayed in Baghdad while he sent his children one by one to the promised land called America.

Jirair was the first to arrive in 1948. He was followed by Hirair, Vahak, Dirouhi and Anahid and her family.

His oldest son Kevork, who was involved in their huge family construction business, arrived in America with his family in 1959 following the revolution where all of their properties and business was confiscated by the government. Finally Stephan, who was loved and admired as a great community leader and well respected businessman, arrived in America with his wife and sister in 1960 and was greeted at the airport by a bus-full of children, grandchildren, and relatives, many of whom he had never seen.

In America it was his sons who slowly began to rebuild that great business; and today Hovnanian brothers are known nationwide for the great building empire they have created. Stephan's daughters as well have proved to be outgoing and keen businesswomen. Indeed the great drive was part of their father's legacy. But he taught them much more.

Stephan Hovnanian will also be remembered as a man who instilled love, one against whom no angry word was ever spoken. Through his encouragement, his children have contributed over $100,000 to the Armenian Sisters Academy. They have supported the Academy from its infancy to its success today.

It was only last year that Stephan Hovnanian stood before a massive audience as a benefactor in the "Thank You America" Bicentennial celebration in New York. His speech was one of the most memorable and spontaneous. He had saved up a lifetime for that moment to tell his fellow Armenians how blessed he and his family were to be in America, safe in her embrace, flourishing in her generosity. He must have known it was to be his last hurrah. And the Waldorf Astoria walks resounded in his glory.

In one final deed to his memory, Stephan Hovnanian wrote an autobiography, published in Armenian, that tells the story of the horror of his life during the massacres. He needn't have written a book about the joy and blessings of his life for they speak for themselves for all the world to see.

During his recent trip to Yerevan, Armenia, he donated a rare and valuable collection of stones and coins to the Yerevan Museum and brought back with him some sand from Lake Sevan which he requested to be buried with him as his last wish.

By his family, by the Armenian community, and by the world he will be sorely missed. Not just for all he did, but more for all that he was a wonderful, kind and loving Hairig.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. MAZZOLI. Mr. Speaker, yesterday, during consideration of H.R. 4544, the black lung benefits bill, I was unavoidably detained and missed vote No. 562 on an amendment that sought to delete language providing an offset only against workmen's compensation benefits being received because of black lung disease. Had I been present, I would have voted "no."

COMPREHENSIVE WELFARE REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, September 21, 1977, into the RECORD:

COMPREHENSIVE WELFARE REFORM

President Carter has put forward a sweeping blueprint for rebuilding the nation's welfare system. It would scrap the existing system in favor of an entirely new one. Like previous major proposals to revise the welfare system, it is certain to generate a protracted legislative struggle.

The defects of the present system are clear. It treats people differently who have similar needs. It allows large variances in benefits in different regions of the country. It encourages the break-up of families. It discourages work. Finally, the complexity of the system makes for waste, error, red tape, and fraud.

Welfare reform proposals can be divided into two parts: those proposals that involve piecemeal changes and build upon the programs of the present system, and those that call for comprehensive restructuring of the system. Stating that the current welfare system was too hopeless to be cured by minor modifications, President Carter opted for a complete and clean break with the present welfare system. In choosing among several options for comprehensive reform, he rejected a cash-assistance strategy and chose instead a work-welfare strategy that distinguishes between those who can be expected to work and those who cannot.

The highlights of his plan include:

1. *Job Opportunities:* The federal government would help workers from low-income families to find jobs. When such employment could not be found in the private sector, public service jobs would be created, paying the minimum wage.

2. *Work Benefits and Income Support:* Aid for families with dependent children, supplementary security income, and food stamp programs would be replaced by a new work benefit and income support system. Income support would be provided for those persons who were aged, blind, disabled, or for single parents of children under 14. Under the plan two-parent families, single people, childless couples and single parents with no children under 14 would be expected to work full-time and would be required to accept available work. Cash supplements would be given to those whose incomes were low. Income support would be reduced 50¢ for each dollar of earnings and would be phased out entirely when a family earned $8,400 in outside income.

3. *Earned Income Tax Credit:* The current earned income tax credit would be expanded to provide more tax relief to the working poor. It would apply to private and nonsubsidized public employment. The current 10% credit on earnings up to $4000 a year would be continued and a 5% credit on additional earnings up to about $9,000 for a family of four would be provided.

4. *State and Fiscal Relief:* Each state would be guaranteed at least a 10% reduction in its current welfare expenses in the first year of the program and more fiscal relief would be provided later.

5. *Cost:* The overall cost would be $30.7 billion which is $2.8 billion above the total cost for current welfare programs. In addition, the expanded earned income tax credit program would cost $3.3 billion.

President Carter's proposal has some obvious benefits. It would reduce the number of persons on welfare primarily by increasing the number who are supported by work. It would insure that work was always more beneficial than welfare and that a private job brought in more income than a job created with federal funds. Those who could work would be required to work, but increased benefits would be available to those in need. Consolidation of current programs would provide simplicity for administration and would reduce fraud and waste. The President's proposal would also give substantial financial relief to state and local taxpayers.

There is no perfect solution to welfare problems, of course, and the President's program will be open to attack from many sides. Fiscal conservatives will note that it costs more. Some critics will not like the enlargement of the federal role in welfare, and others will not like further expansion of public employment. Welfare rights advocates will not approve of the requirement that welfare mothers either go to work or lose part of their assistance. Some governors may be disappointed that the federal government is not taking over all welfare expenses and other governors will object to the fact that over half of the fiscal relief for states will go to California and New York.

I have no trouble in principle with the program the President has put forward. I am not prepared to say that I can support all the particulars of the program, but I do approve of its general concepts: a rejection of the present welfare system, an effort to prevent the break-up of families, a requirement that able-bodied people should work, an effort to get people off welfare rolls and on to payrolls, and the division of poor people into two categories: those who are able to work and those who are not. I do have questions about higher costs, about the impact of the President's proposals on present job and health care programs, and about the ultimate chances for success of the President's program as a whole.

FUNDING MUNICIPAL PENSIONS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. McKINNEY. Mr. Speaker, I would like to call my colleagues' attention to two recent articles on the dangers of allowing municipal employee pension funds to go unfunded. These articles, the first by Nobel Prize-winning economist Paul Samuelson, Newsweek, April 4, 1977, and the second by Rebecca Leet, Washington Star, March 20, 1977, are particularly pertinent to the House's consideration of H.R. 6536, the District of Columbia Retirement Reform Act.

H.R. 6536 addresses the problem of "staggering" liabilities in the pension funds of the District's police, firemen, teachers, and judges reported by Ms. Leet by providing for the funding of $2.03 billion in unfunded liabilities built up over the years. Additionally, H.R. 6536 includes prohibitions against the investment of District of Columbia employee pension funds in the type of local investments warned against by Mr. Samuelson.

The two articles follow:

[From Newsweek, Apr. 4, 1977]

FINANCING PENSIONS

(By Paul A. Samuelson)

It is, sadly, an old story that union pension funds are not always handled wisely and honestly. Frank Fitzsimmons of the Teamsters union is being criticized today for many of the same things that his predecessors, Jimmy Hoffa and Dave Beck, had to be criticized for in their time.

It is, sadly, also an old story that many corporate pension funds have not always been handled optimally. Quite aside from outright fraud and breach of faith, companies used to go out of business leaving behind them unhonored commitments to workers who face a tough period of retirement with no pension income other than their bare minimum of social security.

When I hear complaints about the new regulations under ERISA (Employee Retirement Income Security Act), I remember abuses in the old system. And, now that the first hysteria had died down, we no longer hear of many cases where employers have been persuaded to omit pension plans for fear of the red tape involved.

There is no excuse in this age for scandalous mishandling of pension funds. Good and prudent management—they are the same thing in an uncertain world where no one can *guarantee* lucky investment results but where intelligent procedures can be agreed on—are available to organizations that want them. Just last week, for example, several New York City pension funds reformed their portfolio practices by converting a portion of their assets to "index" funds.

OLD WAYS

Pension management was not always so easy. Historically, trade unions came to grief in this area for reasons quite beyond their control.

Craft unions often began in the nineteenth century as beneficial cooperatives. Living workers were assessed to pay burial expenses and minimal survivors' benefits for workers who died or reached retirement. Actuarial funding of this obligation seemed out of the question; yet it did not matter so long as the trade and the union continued to grow. But when the time came that industry did not need new glass blowers, or when new workers deserted the old beneficial associations precisely to avoid their accrued obligations, these voluntary systems broke down in bankruptcy.

When lecturing at a small Roman Catholic college, I found that many of the monastic orders are facing a similar crisis today. A nun who is a Ph.D. in economics told me that her old-age support is in doubt now that her order cannot recruit new members. "Why not go under social security?" I asked naively. Her reply was sad: "That would require a million dollars in catch-up; and we just don't have the money."

MODERN PITFALLS

I ought to add that our social-security system is also *an actuarially unfunded* system. It would be disastrous to let people opt to go in and out of the system at will. Fortunately, there is no danger of that. Still, there is no obligation for this generation to have children at the same rate as did previous generations. Therefore, when those born during the baby-boom period of the '50s reach retirement age in the next century, their stipends will be felt as more of a burden by the thinner ranks of the then working population.

Two other perils dog union pension funds. First, there is always someone—an employer, a beleaguered city treasurer, your friendly congressman dreaming of "worker capitalism" or the local bargaining agent concerned that a factory not go out of business—who is advocating that the pension moneys be invested in the workers' own industry, firm or city. Sometimes, it works out fine. Not rarely, this violation of the principle of sound diversification of risk proved costly to older workers. ERISA properly set limits on such practices.

Second, union leaders of goodwill are tempted to put the money entrusted to them into good causes: ghetto housing projects, capital-development banks, environmental protection. The motives are good. But it is hard enough to preserve and enhance capital when you are single-mindedly pursuing that end. It is doubly hard to serve both God and Mammon.

What are the precepts of good management? Practical experience and theoretical economics agree on a few simple fundamentals.

Diversification of ownership of both stocks and bonds, with minimal turnover rates and loan-expense ratios—these are the golden rules.

Anyone can do it. So why not insist that it be done?

[From the Washington Star, Mar. 20, 1977]

DISTRICT OF COLUMBIA FACING STAGGERING PENSION DEBT

(By Rebecca Leet)

Like a raincloud hovering over flooded land, a $2 billion liability is hanging over the heads of District taxpayers. Unless something is done to reduce it in the near future, the impact on the city government could be staggering.

The liability has built up over the years because the city has paid the pensions of its police, firemen, teachers and judges mostly on a pay-as-you-go basis—from general operating revenues of the city rather than from pension funds built up by yearly contributions.

According to Treasury Department projections, by the end of the century, city taxpayers could be paying more each year to support former city workers than to meet the salaries of those teaching their children and protecting their homes.

Financial experts predict that point will be reached in 2012 when city taxpayers, assuming cost-of-living and other pension adjustments in the intervening years, will pay out a half-billion dollars in pensions.

And every year after that the amount would get bigger.

The city has known of this growing problem for years. So has Congress, which approved the pay-as-you-go pension system for police and firemen and approved converting the teachers' funded system to an unfunded system—at the city's request—in 1970. The pension system for the judges is underfunded and must be augmented by city operating revenues.

Lots of other American cities have used the same pay-as-you-go system. And many, like the District, are now moving to deal with their large pension liabilities—in no small part because of New York City's financial woes.

New York City discovered to its regret that investors who buy municipal bonds are reluctant or refuse to buy the bonds of a city which has a huge pension debt. The District is expected in the next few years to begin selling municipal bonds.

Aside from the difficulty of selling bonds, if the District does not begin whittling away at the pension liability it will become an almost impossible financial burden for a city which is watching its tax base shrink yearly.

Beginning tomorrow, the Fiscal and Government Affairs subcommittee of the House District Committee will hold three days of hearings on the pay-as-you-go system. Also to be considered will be a proposal, introduced by Rep. Romano L. Mazzoli, D-Ky., for converting to adequately funded sys-

tems for the three groups, which currently comprise 38 percent of the city work force. The remainder are covered by the federal civil service retirement system.

A proposal similar to Mazzoli's died in the House during the last Congress, in large part because the White House's Office of Management and Budget stated that it did not believe the federal government should be a financial participant in resolving the liability.

Whether the OMB position will change with the new Carter administration is unknown. President Carter asked recently for a task force to review various District financial problems and prepare a comprehensive plan for meeting them. He indicated that he expects a representative of OMB to be on the task force.

Even under Mazzoli's proposal, the District would pay 80 percent of the cost. The federal share would be an estimated $766 million through the year 2012 with about $48 million being appropriated in fiscal year 1978.

A glance at that year 2012, when the District begins to go-it-alone on pensions, provides a graphic picture of why the city needs to transfer to a funded system.

In that year, under the pay-as-you-go system, the city would take $522 million from its operating budget to pay retirees.

But if it begins converting next year to a funded system, it will in the year 2012 take only $465 million out of its operating budget, and that will go into the pension fund.

And, if the city not only begins to convert to a funded system, but also adopts the benefit changes proposed by Mazzoli, in the year 2012 it would take only $381 million out if its operating budget—a savings of $140 million in one year alone.

Few of the benefit changes being proposed by Mazzoli would affect current police, firemen, teachers or judges. The one which would most affect them is a tightening of requirements for disability retirement, a generally acknowledged area of abuse.

Those who retire after 20 years service, not on disability, receive 50 percent of their highest year's salary, and it is taxable. Those who retire on disability receive 66⅔ percent of their highest year's salary and it is taxfree.

Although the rate has improved since, in 1969 the District had a worse disability retirement record than New York. Ninety-nine percent of the firemen retiring and 98 percent of the policemen retiring did so on disability.

And a survey by The Star in 1975 showed that city teachers were retiring on disability at a rate double or triple that of teachers in the suburbs.

The bill would also eliminate the controversial clause which allows an officer to retire on full disability for aggravating—while on duty—an off-duty injury. Currently, officers who aggravate off-duty injuries, like old football injuries, can retire on full disability pay.

Also a board of surgeons would determine the percentage of impairment caused by an injury. After that determination, the retirement board would determine the percentage of disability a retiree should be awarded, based on the impairment, age, the prior position held, the nature of the injury, and factors affecting future capacity to earn a living.

THE IMPORTANCE OF AN INDEPENDENT CENTRAL BANK

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. KELLY. Mr. Speaker, for the benefit of my colleagues I include for the RECORD an address by the Honorable Arthur F. Burns, Chairman of the Federal Reserve Board, at the Jacksonville University commencement exercises on August 13. This address focuses upon the importance of an independent Federal Reserve Bank in conducting our Nation's monetary policies, especially in light of the inflationary pressures in our economy:

THE IMPORTANCE OF AN INDEPENDENT CENTRAL BANK

(By Arthur F. Burns)

It is a pleasure for me to be here on the campus of Jacksonville University to join in honoring this graduating class. I say that most sincerely. Having spent the greater part of my life as a university teacher, I always take satisfaction in the scholastic achievement of young men and women. This is rightfully a proud moment for you, and I very much appreciate being able to share it.

Today, I would like to talk to you about an issue that has been important throughout much of recorded history and which is certain to influence your lives—for better or worse. I refer to government's management of money—a function that in our country is lodged by statute with the Federal Reserve System.

No nation whose history I am familiar with has succeeded in managing the stock of money perfectly. Few, indeed, have even managed it well. And those societies that have been least successful have paid dearly for their ineptitude. Debasement of the currency had a great deal to do with the destruction of the Roman Empire. In our own times, excessive creation of money has released powerful inflationary forces in many countries around the globe. And once a nation's money is debauched, economic stagnation and social and political troubles usually follow.

Each of you in this assemblage, whatever your age, has experienced at first hand some of the consequences of monetary stress. For a dozen years now, our Nation has been subjected to a relentless siege of inflation that has conferred undeserved windfall gains on some and undeserved hardships on others. In terms of social well-being, these capricious pluses and minuses by no means cancel out. Young people wanting to buy a home these days know that the price of decent shelter has soared almost out of reach. Parents across the country know the shocking extent to which tuition costs have ballooned. And woe to anyone who has major medical expenses and is not adequately insured.

Those, moreover, are merely among the most readily visible consequences of inflation. There are other less apparent effects that are even more pernicious. Once a nation's economy has been gripped by inflation, it becomes virtually impossible to maintain an environment in which jobs are plentiful and secure. The economic recession of 1974–75, in the course of which unemployment climbed to a level above 8 million persons, would not have been nearly so severe—and indeed might not have occurred at all—had it not been for the inflationary distortions of the preceding several years.

That is clear, I think, from the sequence of events. Double-digit inflation severely drained many family pocketbooks, reduced consumer confidence, and led to more cautious consumer spending. Businessmen, however, were slow in responding to the weakening of consumer markets. They seem to have been blinded by the dizzying advance of prices and by the effect of that advance on their nominal profits. They thus continued aggressive programs of inventory expansion and capital-goods expansion longer than was prudent, thereby causing economic imbalances to cumulate to major proportions. By the time the weakening of consumer markets was fully recognized by businessmen, the need to scale back had become enormous. The worst recession in a generation ensued.

The only positive aspect of that traumatic episode is that it finally opened the eyes of many economists and public officials to the fact that inflation and unemployment are not alternatives for our economy. The message is now clear that inflation in time causes serious unemployment. Understanding of that relationship is gradually tending, I believe, to make public policies more sensible.

Some of you in this audience may be wondering, I suspect, whether the Federal Reserve may not have something to do with the inflation we have been experiencing. It may fairly be asked: Has not the Federal Reserve been creating too much money? And may not this be one of the causes of our inflation?

The question is, indeed, often put to me, and I welcome it because of the opportunity it affords to clarify the nature of the dilemma our country faces. Neither I nor, I believe, any of my associates would quarrel with the proposition that money creation and inflation are closely linked and that serious inflation could not long proceed without monetary nourishment. We well know—as do many others—that if the Federal Reserve stopped creating new money, or if this activity were slowed drastically, inflation would soon either come to an end or be substantially checked.

Unfortunately, knowing that truth is not as helpful as one might suppose. The catch is that nowadays there are tremendous nonmonetary pressures in our economy that are tending to drive costs and prices higher. This, I should note, applies not only to our country, nor is it anymore just a phenomenon of wars and their aftermath as tended once to be the case. Rather, powerful upward pressures on costs and prices have become worldwide, and they persist tenaciously through peace-time periods as well as wars.

This inflationary bias reflects a wide range of developments that have been evolving over a span of decades in both governmental and private affairs. Foremost among these developments is the commitment of modern governments to full employment, to rapid economic growth, to better housing, improved health, and other dimensions of welfare. These are certainly laudable objectives, but they have too often caused governmental spending to outrun revenues.

Other developments—such as the escalator arrangements that various economic groups have achieved through their efforts to escape the rigors of inflation—have speeded the transmission of inflationary impulses across the economy. What we as a people, along with other nations, have been tending to do is to subject available resources to increasingly intensive demands; but we at the same time have sought to insure that incomes do not get eroded when excessive pressures on resources generate inflation. This amounts, unfortunately, to creating upward pressures on costs and prices, and then arranging to perpetuate them. That is the awesome combination that fighters against inflation have to try to counter.

Theoretically, the Federal Reserve could thwart the nonmonetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government.

The fact that such actions may in combination be wholly incompatible with moderate rates of monetary expansion is seldom considered by those who initiate them. If the Federal Reserve then sought to create a monetary environment that seriously fell short of accommodating the nonmonetary pressures that have become characteristic of our times, severe stresses could be quickly produced in our economy. The inflation rate would probably fall in the process but so, too, would production, jobs, and profits.

The tactics and strategy of the Federal Reserve System—as of any central bank—must be attuned to these realities. With sufficient courage and determination, it is nevertheless within our capacity to affect the inflation rate significantly. We may not, as a practical matter, be able to slow monetary growth drastically within any given short time span, but we do have considerable discretion in accommodating the pressures of the marketplace less than fully.

We are, indeed, often engaged in probing and testing our capacity to do just that. And, while we must be cautious about moving abruptly, my colleagues and I in the Federal Reserve System are firmly committed to a longer-term effort of gradual reduction in the rate of growth of money—something that is reflected in the progression of steps we have been taking to lower permissible growth-ranges for the money supply. Slowly undernourishing inflation and thus weakening it seems the most realistic strategy open to us. We believe that such an effort—especially if Congress becomes less tolerant of budget deficits—will ultimately create a much healthier environment for the determination of wages and prices.

The capacity of the Federal Reserve to maintain a meaningful anti-inflationary posture is made possible by the considerable degree of independence it enjoys within our government. In most countries around the world, central banks are in effect instrumentalities of the executive branch of government—carrying out monetary policy according to the wishes of the head of government or the finance ministry. That is not the case in this country because the Congress across the decades has deliberately sought to insulate the Federal Reserve from the kind of political control that is typical abroad. The reason for this insulation is a very practical one, namely, recognition by the Congress that governments throughout history have had a tendency to engage in activities that outstrip the taxes they are willing or able to collect. That tendency has generally led to currency depreciation, achieved by stratagems ranging from clipping of gold or silver coins in earlier times to excessive printing of paper money or to coercing central banks to expand credit unduly in more modern times.

With a view to insuring that the power of money creation would not be similarly abused in our country, the Congress has given our central bank major scope for the independent exercise of its best judgment as to what monetary policy should be. In fact, Congress has not only protected the Federal Reserve System from the influence of the Executive Branch; it also has seen fit to give the System a good deal of protection from transitory political pressures emanating from Congress itself.

Probably the two most important elements making for Federal Reserve independence are the following: First, the seven members of the Federal Reserve Board serve long and staggered terms and can only be removed for "cause." This arrangement severely limits possibilities for any "packing" of the Board and enables members of the Board to act without special concern about falling out of grace politically. Second, the Federal Reserve System finances its activities with internally generated funds and therefore is not subject to the customary appropriations process. This arrangement is intended to assure that the Congressional "power of the purse" will not be used in an effort to induce System officials to pursue policies that they otherwise might consider poorly suited to the Nation's needs.

The Federal Reserve has thus been able to fashion monetary policy in an impartial and objective manner—free from any sort of partisan or parochial influence. While the long history of the Federal Reserve is not faultless, its policies have consistently been managed by conscientious individuals seeking the Nation's permanent welfare—rather than today's fleeting benefit. Significantly, this country's record in dealing with inflation—albeit woefully insufficient—has been much better generally than the record of countries with weak central banks. Indeed, I would judge it no accident that West Germany and Switzerland, which in recent years also have managed their economy better than most others, happen to have strong and independent monetary authorities like ours.

The degree of independence which Congress has conferred upon the Federal Reserve has been a source of frustration to some government officials since the Federal Reserve Act first became law. Certainly, from the standpoint of the Executive Branch, it would at times—perhaps often—be more convenient to instruct the central bank what to do than to reckon with the System's independence. In the end, however, the country would not be as well served. The Federal Reserve, it needs to be emphasized, seeks earnestly to support or to reinforce governmental policies to the maximum extent permitted by its responsibilities.

When the System's actions depart, as they occasionally have, from the way in which the Executive Branch would wish it to act, that is generally because the System tends to take a longer-range view of the Nation's welfare. Actually, most of the time, monetary and fiscal policies are well coordinated and mutually reinforcing; in other words, they are the product of continuing and fruitful discussions between members of the Administration and Federal Reserve officials.

Not only is dialogue continuous with the Executive Branch of government, but Federal Reserve officials appear frequently before Congressional Committees—something that works, on the one hand, to keep Congress informed as to System activities and which, on the other, affords Senators and Congressmen an effective means of registering approval or disapproval of Federal Reserve policy. In practical terms, the economic policy dialogue that is always in process within our government produces a thorough exploration of options. It may fairly be said, I believe, that the System's independence results in a more thorough discussion and thrashing out of public issues than would otherwise occur.

Despite the salutary influence that the Federal Reserve's independence has had on our Nation's economy, legislative proposals that would place the System under tighter rein keep being introduced in Congress. The proposals that have been put forth over the years cover a wide range—for example, to enlarge the size of the Board, to shorten the terms of its members, to enable the President to remove Board Members at will, to diminish or eliminate the role of Federal Reserve bank directors, and to subject the System to the Congressional appropriations process or to audit by the Government Accounting Office. In recent years, there have also been proposals calling for numerical forecasts of interest rates or other sensitive magnitudes, which if ever undertaken by the Federal Reserve, could unsettle financial markets, besides misleading individuals who lack spohistication in financial matters.

The shortcomings of these individual proposals matter less, however, than what appears to be their common objective, namely, to reduce the Federal Reserve's independence and to restrict its scope for discretionary action. That, I believe, is the real thrust of the diverse efforts to "reform" the Federal Reserve System. It is perhaps of some significance that such proposals not infrequently come from individuals who are basically dissatisfied with what they regard as excessive Federal Reserve concern with battling inflation.

The element of populism in all this is strong—particularly the preoccupation with maintaining low interest rates. It makes no difference how often Federal Reserve officials repeat that the System's continuing objective is the lowest level of interest rates compatible with sound economic conditions. That is not enough. What is desired is assurance that interest rates will be kept permanently down, or at least not be allowed to rise significantly.

The Federal Reserve cannot, of course, give that kind of assurance. In a period of rising demands for funds, a determined effort by the System to keep interest rates down could quickly turn the Federal Reserve into something akin to the engine of inflation that it was during the early Korean War period when the System unwisely tried to keep interest rates down so that the cost of financing the Federal debt would not escalate. Actually, the consequences now would almost certainly be far worse than they were a quarter century ago because the public has become far more sensitive to inflation.

Long-term interest rates, in particular, tend to respond quickly nowadays to changing inflationary expectations. Once the financial community perceived that the Federal Reserve was pumping massive reserves into commercial banks with a view to creating monetary ease, fears of a new wave of inflation would quickly spread. Potential suppliers of long-term funds would then be inclined to demand higher interest rates as protection against the expected higher rate of inflation. Borrowers, on the other hand, would be more eager to acquire additional funds, since they would expect to repay their loans in still cheaper dollars.

In short, heightened inflationary expectations would soon overwhelm markets in today's inflation-conscious environment by actually causing long-term interest rates—which are generally more important to the economy than short-term rates—to rise. The policy of seeking lower interest rates by flooding banks with reserves would thus be frustrated. And I need hardly add that adverse effects on production, employment, and the dollar's purchasing power would follow.

The Federal Reserve System, I assure you, will not be deterred by the drumbeat of dubious propositions concerning money and interest rates. We are determined to continue on a path of further gradual unwinding of the inflationary tendencies that have become so deeply embedded in our economic life. We are determined to continue promoting the expansion of our economy and yet control the supply of money so as to prevent a new wave of inflation. Such a policy, I firmly believe, is the only responsible option open to us.

I hope that I have succeeded today in conveying some sense of the importance to you as individuals and to the Nation generally of the Federal Reserve's role in our government. Fortunately, despite the criticism that is not infrequently voiced by some members of Congress, the Congress as a whole has kept the Federal Reserve's role in a clear perspective and has fully protected the essentials of Federal Reserve independence. That will continue to be the case only if you who are graduating today and other citizens develop a full understanding of what is at stake.

GENOCIDE THE HANOI WAY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. McDONALD. Mr. Speaker, Mr. P. J. Honey, of the University of London, is one of the world's real experts on Vietnamese communism. He recently described how the "people's paradise" is taking shape in South Vietnam. Press reports have already described the new resistance movements that are forming against Communist rule. Professor Honey describes the changes in everyday life of the South Vietnamese. He points out that the "bloodbath" was not as extensive as predicted, but that it is taking place in a more subtle way wherein persons deemed "undesirable" from Hanoi's view languish in "reeducation" camps where life is hard and many die from malnutrition and various illnesses. The most interesting point he makes is that graft, corruption, and all those bad things that supposedly took place only under Diem continue to thrive. The item follows:

[From the London Daily Telegraph, Aug. 30, 1977]

GENOCIDE THE HANOI WAY

(By P. J. Honey)

When on Sept. 2, 1945, the Viet Minh proclaimed the "independence of the Democratic Republic of Vietnam" prominent points in its programme were:

1. Freedom of belief and of assembly
2. Freedom of commerce
3. Every peasant will own his own land

South Vietnam was "liberated" with the entry of Vietnamese Communist troops into Saigon on April 30, 1975. The war was over, with its shelling, air raids, pitched battles, and dreaded daily toll of casualties. That was unreservedly welcomed by every Vietnamese whether northern or southern, but what of the other consequences of Communist victory?

The gaiety, vitality, well stocked shops and markets, seething traffic, irreverent and contentious Press, rebellious students—indeed, all the things that made Saigon Saigon—would inevitably disappear. In the countryside the thriving farms, modern agricultural machinery, motorised transport on road, river, and canal, the newly acquired televisions, radios, and record players, everything which had removed the drudgery from farming during the preceding decade, would disappear too. Drab, colourless collectivised uniformity would be imposed, administered by a stifling State bureaucracy appointed on grounds of political acceptability rather than efficiency, flair, or ability.

Such changes would surely come, and were accepted by the South Vietnamese because of their inevitability; the worry was how they would be introduced. Would agricultural collectivisation be brutally enforced as it had been in the North, with the terror of the people's courts, the false accusations, public executions, and "isolation" of political undesirables until they either committed suicide or died from starvation?

That campaign had driven the northern peasantry into revolt and rocked the Communist regime. Would it be repeated in the South? Businessmen, traders, and manufacturers were scarcely less apprehensive about the possibility of another "census" such as the one which had led people of these occupations in North Vietnam to take their own lives.

COMPLETE TAKEOVER BY THE NORTH

The past two and a half years have proved both better and worse than had been feared—and there were not a few surprises. Vietnam was formally reunified, the restoration of the Hanoi-Saigon railway link receiving top priority so that its completion might symbolise national unity.

The Fourth Congress of the Communst party last December publicly asserted the party's supremacy in all matters, thereby removing any misapprehensions about the secondary role of the National Assembly and the Government, and a new national constitution is being drafted. These things were predictable, but less so the monopoly of power in South Vietnam exercised by the North Vietnamese to the virtual exclusion of all southerners, even those who had loyally fought for or supported the Communist side during the war. The military victory revealed that the historical regional antagonisms in Vietnam are as alive today as they ever were.

Despite their menacing talk of "blood debts," the Communists did not carry out mass executions. Some well known figures were killed immediately, but most of those prominent in South Vietnamese political life, together with military officers, policemen, and civil servants, were imprisoned in euphemistically termed "re-education camps." Life in these is extremely harsh, with the inmates obliged to carry out hard labour, to exist on a near starvation diet, and to confess their past "sins," while living in the most primitive conditions without medical attention or even medicines.

Many died of malnutrition or untreated sickness and others, unable to support such an existence, resorted to suicide. No terminal date was put on detention and almost all those arrested are still being held, but the few who have secured release must report daily to the police on their own activities, whom they met, what was said, and so on, and to "volunteer" for every manual labour appeal the Communist authorities may make under pain of being branded backsliders and returned to the dreaded camps. The most important detainees were moved from South Vietnam to the inhospitable and insalubrious region of the Chinese frontier.

Schools, colleges, and universities were taken over by the Communist authorities, who obliged every teacher to undergo political re-education and satisfy his instructor before he could continue to exercise his profession. Students, too, had to be politically indoctrinated and admission to higher education is now granted on the basis of social class and past political affiliation, not academic achievement.

The new rulers immediately seized the television and radio stations, newspapers, and publishing houses, establishing a State monopoly over the media. This was followed by the mass destruction of books in shops, libraries, or private bookshelves, and the banning by name of all South Vietnamese authors. Hundreds of tons of "approved" books were sent down from the North, all of them published under the Communist regime there, though one of the ironies of Saigon is the sight of northern cadres avidly reading banned books they have illegally saved from destruction and recommending them to their colleagues.

The systematic stripping of South Vietnam, not only of luxury goods but of factory and agricultural machinery, the closure of commercial enterprises, and the cessation of foreign trade caused much unemployment, particularly in the cities. After they had sold the last of their possessions in the flourishing black market, desperate southerners found themselves without jobs, or any means of supporting their families.

Some families committed suicide together, some took to robbery, and some sought to live by their wits. The Communist authorities offered only one let-out, re-settlement in "New Economic Zones." People were offered a few sticks to build a shelter, seed, and subsistence for three or four months, if they would settle in one of the zones and grow their own food. Huge numbers went—over three quarters of a million have already gone from Saigon alone—but the reality is appalling. Conditions proved impossibly difficult; land was often unsuitable or unirrigated; there were no tools; soap, medicines, utensils, and other essentials were unobtainable; corrupt officials pocketed much of the maintenance funds. The mortality rate among the very young and the very old exceeded 90 per cent in some zones, and most of those re-settled cannot do more than keep starvation at bay.

CITIES LEFT TO THE CIVIL SERVANTS

Like Cambodian Khmers Rouges, the Vietnamese Communists believe cities to be evil, so they plan to shift most of the population to agricultural work in the countryside. Only civil servants and industrial workers will be permitted to remain in the cities. Already the dead hand of Communism is visible in Saigon, where every street is deserted by 9 p.m. and the only lights to be seen after that hour are the street lamps. Doubtless the behaviour of the northern Communists since the capture of Saigon has confirmed the regime in this belief.

The scale of official corruption in South Vietnam is vast, and it extends downwards from the highest cadres to the humble bodoi, or foot soldier. Corruption was rife under previous regimes, and rightly criticised, but it was the kind which offered favours or good in return for money.

Today the welter of regulations, decrees, ordinances, and so on, introduced by the Communists is so comprehensive and oppressive that nobody can live without breaking at least some of the regulations. This renders everyone vulnerable, and the northern Communist officials can extort money, goods, or services from the hard pressed southerners merely by offering to turn a blind eye towards some transgression. In addition, almost everything is for sale to those who can raise enough money, exit visas, "illegal" escape by boat, immunity from prosecution for black marketeering, prostitution, drug peddling, and so on, but payment must be in gold or hard currency. Whatever their ideology, today's Communist rulers have proved themselves very hard-headed businessmen in their personal affairs.

Meanwhile Vietnam's proletarian paradise progressively takes shape.

POLITICS AS USUAL

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. ABDNOR. Mr. Speaker, there is an old saying to the effect that the more things change the more they remain the same. Politics is no exception, unfortunately, as we have been seeing in recent weeks. The following editorial from the Sioux Falls Argus Leader pretty well sums up the thoughts of many South Dakotans concerning these happenings.

PRESIDENT CARTER'S STYLE: POLITICS AT THE SAME OLD STAND

Recent events surrounding the Bert Lance affair have left many Americans wondering what happened to the man who was supposed to bring a new version of politics to the White House—Jimmy Carter.

Carter marketed himself during the last election as a down-home, folksy peanut farmer with vision, honesty and integrity. He was a man opposed to political payoffs, a man galled by ward politics, a refreshing breath of fresh air, a man who would surround himself with people of the same stripe.

Carter's conduct during the last several weeks—and that of his White House press secretary Jody Powell—might tell us we have just another batch of hack politicians.

It has come out that Carter made pre-election promises to his cronies, like Budget Director Bert Lance. Carter is reeling at the strong opposition to the Panama Canal Treaty.

As a result, the Carter popularity of the last several weeks has sunk to an all-time low, polls say. His judgment and integrity are in question. And, his holier-than-thou self-righteousnes is impairing the smooth progress of government, critics argue.

Take the Lance incident, for example. Carter continues to support this fast-shuffle banker from Georgia whose personal money management is questionable, at best. Testimony has substantiated that he was going to receive appointment to high political office—before the election.

In most parts of the country, this is called political patronage, pure and simple. Carter told us during the campaign that he was part of a new breed.

Carter is nothing new. It's politics at the same old stand. In fact, Carter is showing a remarkable lack of political savvy in his support of Lance.

The polls will probably show a continuing decline in Carter popularity after the Jody Powell incident last week.

Sen. Charles Percy of Illinois is a member of the Senate Governmental Affairs Committee and a critic of Budget Director Lance.

Powell tipped the Chicago Sun-Times that Percy was improperly using an airplane belonging to Bell & Howell, a firm the Illinois Republican once headed.

It turns out the firm doesn't own an airplane. Powell follows up with a public apology and Percy accepts that apology with a crass statement of his own.

To many people, the Powell-Percy incident was reminiscent of Watergate, dirty tricks and the Nixon thugs.

Looking at the broader perspective, the string of events during the last several weeks is the first real crisis for the Carter administration. So far, there has been bungling at every turn.

Americans are beginning to wonder. They're beginning to ask tougher questions. In some cases, they're becoming disgusted. Some are saying Carter is more style than substance. Some say Carter has allowed his own prejudices to stand in the way of good government. No matter how you slice it, public support is slipping badly.

President Carter has got to do a better job. Otherwise, his credibility to lead this country is compromised.

PANAMA: WHY THE RUSH?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial:

[From The Ventura County (Calif.) Star-Free Press, Sept. 11, 1977]

PANAMA: WHY THE RUSH?

Some comment about the Panama Canal Treaties seems called for—in fact, some of our readers have insisted that we "take a stand" on this issue, which is a bit surprising. It's not the sort of issue that has much impact on our readers personally, but many of them seem quite concerned.

Our comments aren't likely to satisfy those who are most concerned, which is to say, those who are vigorously opposing the treaties. The treaty supporters seem unable to work up equal enthusiasm.

What concerns us most about the treaties is timing: Why the rush?

President Carter had valid reasons to let the canal negotiations simmer on the stove a bit longer, since he's been in office for less than eight months, and he has a long list of items awaiting his attention that should have taken priority over a canal agreement. After 14 years of negotiations on a treaty that transfers the canal in 22 years, why the rush?

The timing of the signing ceremonies is even harder to accept. The treaties mean nothing unless they are ratified by two-thirds of the U.S. Senate, and the Senate probably won't get around to voting on the canal treaties until January or February—perhaps five months after the show-biz signing of the treaties by President Carter and Panama's chief, Gen. Omar Torrijos. The formal signing is an obvious ploy to pressure the Senate into ratification, making the ceremony both cynical and premature.

One provision of the treaties requires their ratification by the people of Panama in an election there, which raises the inevitable question: Why not an election here?

One reason might be that Gen. Torrijos has more control over election results in Panama than President Carter has over elections here. Another explanation is the terms of the treaty: Instead of being paid for the canal by Panama, the U.S. is, in effect, paying Panama to take the canal, so the voters in Panama have more incentive to approve the treaties than the voters in the U.S. would have.

The canal is no longer militarily important, according to the Joint Chiefs of Staff, who can hardly be classified as "giveaway" artists when it comes to strategic installations. But the treaties call for the U.S. and Panama to guarantee the neutrality of the canal Does that mean we must send troops into Panama and save Gen. Torrijos in a civil war, in order to save the canal? That's how we got into Vietnam.

As these remarks attest, our feelings about the canal treaties are somewhat ambivalent, but since both California senators are already publicly committed to approving the treaties—one of those rare items on which they agree—our opinion seems almost irrelevant in terms of influencing the outcome of the Senate vote, and so do the opinions of Californians whose opposition to the treaties is undiluted by ambivalence.

UNITED STATES SHOULD BOYCOTT THE ARABS TOO

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. KOSTMAYER. Mr. Speaker, I enter into the RECORD today the following letter written to the editor of Today's Spirit in Hatboro, Pa. It was written by a constituent of mine, Mr. Bob Fishback of Huntington Valley, Pa.:

U.S. SHOULD BOYCOTT THE ARABS TOO

If Golda Meir could set up a branch capitol in Cairo, you wouldn't go cold this winter, pay more for gas than you ever dreamed possible, go to work in the dark or worse yet, find your job affected.

We feel the results of the oil shortage while the politicians are bombarding the media with tales of economies in their travel plans. The central issue is that some Arab nations and their Soviet friends are blackmailing us.

Curiously it was American pressure that has twice saved Egypt (1956 and 1973) from being conquered by the Israeli army.

Boycotts are a two-way street. The United States should immediately cut off all supplies to those oil-rich countries trying to shut us out. We should end economic ties with any other country that helps the Arab nations who boycott us.

This might, for example, mean ending our Russian wheat deal and all other trade with the USSR.

Such a strong step would require Congress and the White House to find some courage and put the American public ahead of the Arabs. It requires a higher priority for the people of this great country than for the big oil companies who aid the Arab cause.

Arab shieks may be rich, but they can't eat sand and drink oil.—Bob Fishback, Huntington Valley.

ROSENTHAL RESPONDS TO RHODES ABOUT FEDERAL BANKING AGENCY AUDIT ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. ROSENTHAL. Mr. Speaker, the Federal Banking Agency Audit Act (H.R. 2176) provides the GAO with authority to audit the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the nonmonetary policy activities of the Federal Reserve System. House Minority Leader JOHN RHODES recently asked me to describe the activities of the Federal Reserve which would be subject to review by the GAO under this legislation. Because my office has received a large number of similar inquiries, I would like to make my response to Minority Leader RHODES available to other Members of the House:

SEPTEMBER 20, 1977.

Hon. JOHN J. RHODES,
Minority Leader, House of Representatives, Capitol Building, Washington, D.C.

DEAR MR. RHODES: During debate on the Federal Banking Agency Audit Act (H.R. 2176) on September 4, 1977, you asked me to provide a general statement about what Federal Reserve operations the GAO would be authorized to audit under this legislation. I am pleased to provide the information contained in this letter and trust it will prove useful in your consideration of the Federal Banking Agency Audit Act.

At the outset I want to assure you that my intent and the intent of the Committee on Government Operations is that this legislation shall in no way diminish or impair the independent conduct of monetary policy by the Federal Reserve. It is for this reason

that monetary policymaking entities such as the Federal Open Market Committee and the Federal Advisory Council of the Federal Reserve are not included in this legislation.

The monetary policy exclusion in H.R. 2176 now reads:

"An audit made under paragraph (1)(a) shall not include transactions conducted on behalf of foreign central banks and foreign governments, transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account, or monetary policy deliberations and decisions or the economic effects of such decisions."

This language strictly prohibits the GAO from investigating or commenting in any way on the conduct of monetary policy. It is my belief there is no way the GAO can influence monetary policy under this legislation, and no basis for the concern that the independence of the Federal Reserve will be impaired.

From the standpoint of national economic well-being, monetary policy is clearly the most important of all Federal Reserve activities. However, it accounts for less than 5 percent of Federal Reserve expenditures. As shown in the table attached to this letter, which was derived from Table 10 on page 466 of the "Annual Report of the Board of Governors of the Federal Reserve System, 1976," the district banks of the Federal Reserve System spent $658 million on all their operations in 1976. District bank expenses relating to monetary policy deliberations, decisions, and implementation are included in the "Other Operations" expense category. Even under the assumption that the entire $29.9 million spent for "Other Operations" relates to monetary policy and therefore is not subject to GAO review, there remains $628 million or 95 percent of total expenses unrelated to monetary policy and subject to GAO audit.

A review of the expenditures categories presented in the attached table indicate the GAO would be responsible for reviewing the effectiveness and propriety of Federal Reserve check clearing, currency handling, fiscal agency, bank supervision, and general administrative activities.

If the monetary policy exclusion were broadened to prohibit GAO review of Federal Reserve check clearing and other payments mechanism operations, as some Members would like, the GAO would be barred from auditing important activities which accounted for expenditures amounting to $297.4 million in 1976 and which have nothing to do with monetary policy. For example, the GAO would be barred from evaluating the economy and efficiency of Federal Reserve payments mechanism operations. Moreover, it would be prevented from assisting Congress in making the very tough decisions that must be made in the coming years about private versus public ownership of electronic funds transfer systems.

In general terms, the Federal Banking Agency Audit Act would allow the GAO to audit all the operations of the Federal bank regulatory agencies with the exception of the monetary policy activities of the Federal Reserve. This general audit authority is consistent with the authority granted the GAO in its audits of the Federal Home Loan Bank Board and the National Credit Union Administration and is needed to facilitate congressional oversight of these important agencies.

Sincerely,

BENJAMIN S. ROSENTHAL,
Chairman.

Attachment.

Principal operations of Federal Reserve Banks, including total expenses, average number of employees, and ratio of total expense for each operation to total expenses—1976

[Expenses and number of employees in thousands; ratios in percent]

Operation	
Check clearing operations: [1]	
Total expense	$135,209
Ratio to total expenses	20.5
Average number of employees	6.3
Currency function:	
Total expense	$114,036
Ratio to total expenses	17.3
Average number of employees	2.3
Fiscal agency operations:	
Total expense	$48,158
Ratio to total expenses	7.3
Average number of employees	2.3
Bank supervision:	
Total expense	$23,322
Ratio to total expenses	3.5
Average number of employees	1.1
Other operations: [2]	
Total expense	$29,919
Ratio to total expenses	4.6
Average number of employees	1.4
General administration and support:	
Total expense	$307,806
Ratio to total expenses	46.8
Average number of employees	11.1
Accounting	$23,298
Auditing	$8,050
Bank administration	$38,519
Data processing [3]	$39,814
Occupancy	$64,292
Personnel	$27,219
Protection	$24,501
Other	$82,113
Total expenses [4]	$658,450
Less reimbursements	$51,502
Net expenses	$606,948

[1] Includes automated clearing house and noncash collections.

[2] Includes automated clearinghouse and statistics, foreign operations, and lending and credit.

[3] Does not include that part of data processing distributed to other areas.

[4] Does not include $41.8 million assessment for expenditures of the Board of Governors of the Federal Reserve System.

STATE DEPARTMENT NEGOTIATED PANAMA CANAL TREATIES IN FLAGRANT VIOLATION OF NATIONAL ENVIRONMENTAL POLICY ACT

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. SNYDER. Mr. Speaker, during the August recess I issued a press release concerning an exchange of correspondence I had with the State Department which proved that that agency, in its negotiations with Panama for a new canal treaty, utterly failed to take into consideration the requirements of the National Environmental Policy Act and its own guidelines on conforming with the law.

Then, on August 17, in open hearings of the Committee on Merchant Marine and Fisheries, I put several questions on this matter to the State Department treaty negotiators.

Their answers gave further proof of the flagrant violation of NEPA by that department. Some 10 days after that hearing the Department of State attempted to cover itself and issued a draft environmental impact statement of sorts. I was glad to see my colleague from California, Mr. LEGGETT, speak on that draft EIS on September 15, and point out that the department "flunks" NEPA.

Mr. Speaker, I urge every Member of both Houses of Congress to familiarize himself or herself with this utter contempt for the law of the land by the State Department, and to take the position that nothing further should be done regarding the proposed treaties until this whole matter is given a full airing.

The following is the text of the abovementioned August 17 hearings insofar as my questions and the State Department's answers are concerned.

Following that is my August 9 press release, which includes the full texts of the correspondence I had with the Department of State:

Mr. SNYDER. Mr. Ambassador, please spell out for us precisely how you used the State Department finding as to the environmental aspect and impact of the new treaty proposals as a guide to your decisions as you proceeded throughout the negotiations with Panama?

Ambassador LINOWITZ. Mr. Wyrough may be able to answer that.

Mr. WYROUGH. We have a review of the environmental impact of the proposed treaty underway. It is not yet completed. I think we can say that among the articles we expect to have in the treaty will be one concerning the environment which both countries move to protect.

Mr. SNYDER. Sir, if the environmental study is underway, how did it serve as guidelines for the treaty as required by the National Environmental Policy Act of 1969?

Mr. WYROUGH. I can only say to you that we have a review of the environmental questions underway. That review is not yet completed.

Mr. SNYDER. So you didn't follow your own State Department guidelines or the Environmental Policy Act of 1969? Is that inappropriate at this time?

Mr. WYROUGH. I have no further comment other than what I have made.

PRESS RELEASE

Congressman Gene Snyder today made public an exchange of correspondence which he declared, "demonstrates that the Department of State has utterly failed to comply with the National Environmental Policy Act (42 USC 4321), the directives of the White House Council on Environmental Quality, and, in fact, with the Department's own 'Procedures for Compliance with Federal Environmental Statutes' in the decision-making process of negotiating a new treaty with Panama by which it proposes to divest the U.S. taxpayers of their $7 billion investment in territory and installations in the Canal Zone and Panama Canal."

The Kentucky Republican wrote the State Department on June 9 requesting any environmental impact statement on the treaty; data concerning its investigation to determine if the treaty would significantly affect the human environment; requests of other agencies or non-governmental groups for information helpful in evaluating the environmental impact of the proposed action and any answers received; and details of all other actions taken in the matter.

Snyder said, "I am quite certain that until my letter stirred up the Department, no one

there had made any serious effort even to get started in complying with the law although they were going like gangbusters to get Ambassador Sol Linowitz's signature on a new treaty before his temporary six-month appointment as co-negotiator runs out this Wednesday. Before my June 9 letter, I had ascertained that neither the Council on Environmental Quality nor any other government agency had received any State Department environmental statement on the treaty, or requests for comment or information on the matter.

"I didn't even get a reply until July 26th, after my Panama Canal Subcommittee staff prodded State Department personnel working on the negotiations. That answer, dated July 22nd, states, 'The Department has not as yet made a determination as to whether the action in question will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, and consequently we have not yet prepared an Environmental Impact Statement.'

"This clearly shows that the Department, since it has not yet assessed the treaty's environmental implications, has utterly failed to consider those implications in the decision-making process.

"Both the White House and the State Department for months have furnished the media with official and leaked stories about the rapidity with which the negotiations are coming to a successful close. But it seems they overlooked completely, until I called attention to it, the requirements to take those implications into consideration in the treaty negotiations process itself.

"The September 24, 1976, memorandum of the President's Council on Environmental Quality quotes House Report 92–316 of the House Committee on Merchant Marine and Fisheries:

"'The history of the act (NEPA) makes it quite clear that the global effects of environmental decisions are inevitably a part of the decision-making process and must be considered in that context.'

"The CEQ memo concludes:

"'Accordingly, agency officials responsible for analyzing the potential environmental effects of proposed actions should fully assess the potential impacts outside the United States as well as those within it; if any of these potential impacts are likely to be significant, an impact statement should be prepared.'

"The State Department's own guidelines on Environmental Impact Statements published in the Federal Register September 19, 1972, states:

"'The process of deciding on the need for an environmental impact statement on any Department action will itself require an analysis of the effects that the proposed action will have on the human environment. The inquiry into environmental effects is mandated, independent of the requirement to file environmental impact statements, by section 102(2)(B) of the act, which requires procedures to insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic, technical and other considerations. CEQ Guideline No. 1 underscores this by recognizing that the purpose of section 102(2)(C) is to build into the agency decision-making process an appropriate and careful consideration of the environmental aspects of proposed actions, and to assist agencies in implementing not only the letter, but the spirt, of the act."

"'Even where it is clear from the start that a proposed action will not require an environmental impact statement, the consideration of possible environmental effects will still be made, and, as required by the act, the results of that investigation will be an integral part of the decisionmaking process.'".

"I wonder if the State Department has even contacted environmentalist groups on the Isthmus of Panama. That there will be environmental fallout from this treaty is certain. Panama says it wants to expand Panama City into the present Canal Zone. Does that mean industry, light, medium or heavy, will expand there? How about installations to fuel the new industries? Will industry bring erosion to the banks of the Canal?

"The Zone presently, because of its cleanliness, is known to be a barrier to the spread northward of hoof and mouth disease, always a worry to cattle ranchers in Mexico and the U.S. Will this remain true under Panamanian jurisdiction?

"What about considerations for a new sea level canal in this treaty? On April 14, 1975, Friends of the Earth and nine other national and international environmentalist groups vigorously protested any consideration of such a canal in treaty talks, citing 'grave potential dangers that could result from the project as a consequence of the intermixture of now-separate biological systems in the tropical Caribbean Sea and Pacific Ocean. There is no intermixing at present because marine organisms cannot survive in the existing lock-type Panama Canal, which contains only freshwater.'"

"What will happen to the Madden Forest Preserve and the abundant mammal and plant life of the Zone?

"What will be the fate of the myriad species of birds in the Zone, in the vicinity of the Gamboa Pipeline Road and elsewhere?

"The White House and the State Department seem to have made treaty decisions with little or no heed to environmental questions the law requires our policymakers and negotiators to be cognizant of."

DEPARTMENT OF STATE,
Washington, D.C., July 22, 1977.

Hon. GENE SNYDER,
House of Representatives.

DEAR MR. SNYDER: This is in response to your letter of June 9 to the Office of Environmental Affairs requesting certain information with respect to any environmental assessment being prepared in connection with the proposed treaty between the United States and the Republic of Panama.

The Department has not as yet made a determination as to whether the action in question will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, and consequently we have not yet prepared an Environmental Impact Statement. We are, however, preparing an assessment of the environmental implications of a treaty and when it becomes available, we would be happy to provide you with a copy.

We appreciate your interest and concern in this matter.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C., June 9, 1977.

OFFICE OF ENVIRONMENTAL AFFAIRS,
Department of State,
Washington, D.C.

GENTLEMEN: In accordance with the Department of State's Public Notice 364 published in the Federal Register, September 19, 1972, "Environmental Impact Statements," this is to request

1. Any draft environmental impact statement issued by the Department in connection with the proposed treaty with Panama.

2. A copy of the Department memorandum indicating the extent of the investigation conducted to determine if the proposed treaty will be a "major Federal action significantly affecting the quality of the human environment".

3. Copies of all requests made by the Department to other government agencies or non-governmental groups for information helpful in supplementing the Department's own work in evaluating the environmental impact of the proposed action, and copies of any response received.

4. Details of all other actions taken by the Department in regard to this matter.

I would appreciate an immediate response to this request.

Sincerely,

GENE SNYDER,
Ranking Minority Member,
Panama Canal Subcommittee.

IS THE ELECTORAL SYSTEM REALLY OBSOLETE?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. McDONALD. Mr. Speaker, every so often in the past few years, serious drives have been mounted to abolish our electoral system. The main argument appears to be that it is archaic and that only by a popular vote can we determine who really should be President. Very seldom is the constitutional history and justification presented for keeping the electoral system. It is really one of the unique features of the checks and balances our forefathers worked into the Constitution to prevent one section or several States from dominating the rest of the United States just by superior numbers of residents. Human Events printed an excellent commentary on this issue in its April 16, 1977 issue. The author was Dr. John Grady, a man who stands foursquare for the Constitution and whom I consider to be that kind of fearless American we need more of. The article follows:

IS THE ELECTORAL SYSTEM REALLY OBSOLETE?

(By John Grady)

(NOTE.—John Grady, M.D., is a family physician, former U.S. Navy jet pilot and three-term mayor of Belle Glade, Fla. He has been widely recognized for his efforts on behalf of constitutional government and Americanist principles. In 1976 Dr. Grady received more than one million votes in Florida as the Republican candidate for the U.S. Senate.)

Every four years, following the presidential election, there is a cry to "reform" our election process by replacing the electoral system.

This enlightened advice is dispensed nationwide through the editorial writers of the major, liberal, daily newspapers, spiced here and there with a supporting opinion by some erudite "constitutional expert" from the department of political science at one of our tax-supported, liberal centers of higher learning.

The principal argument for constitutional change is that the popular vote, nationwide, should be the sole criteria for the election of the President and Vice President. That argument against the electoral system is

pertinent and valid—if we have a national federal government, rather than a government of the United States; if we have now become a democracy, rather than a Republic; and if a national majority should always rule, regardless of reason, justice, law or constitutional assurances of liberty and individual rights.

If, however, we are a Union, one nation of many states, a true Republic and not a democracy (which our founding fathers historically recognized as a self-destroying form of government), then we should look again at the electoral system—what it means and what it assures.

The Constitution, Article II, Section 1, provides that "Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress . . ." (and shall meet in their respective states and cast that state's vote for President and Vice President).

However, to evaluate the electoral system we must understand the Constitution by which it was established. So let us briefly lay a simple foundation of fact.

The framers of the Constitution were wise men, and that great document is filled with wisdom. It required and assured that the Congress would be so composed that it would provide total representation—for the people and for the states.

The United States Senate is composed of two senators from each state, thus giving equal representation for all states. Remember, the states formed and created the federal government, not the reverse.

The Constitution, Article I, Section 3, originally provided for senators to be elected by the legislatures of each state. Thus while the senators helped comprise the federal government, they really represented their respective states, not only the people but the people's state government. Moreover, their smaller number and their longer term of office (six years) was designed to establish stability and continuity.

The 17th Amendment, adopted in 1913, changed the method of election of senators to direct election by the citizens rather than by those citizens' representatives in the state legislature. Nevertheless, in the rationale of our founding fathers, the Senate, composed of an equal number of senators (two) from each state, was to represent the states.

By contrast, the House of Representatives was designed to represent the people, directly and proportionately. The House is composed of 435 congressmen elected every two years by the citizens of their respective states. That shorter term of office means closer contact and more prompt response of the congressman to the citizen. What is perhaps even more important, when the citizens want to replace their representative, they can do it quickly. This permits the people to maintain continuing control over the federal government by control of Congress.

The total number of representatives in the United States Congress (435) always remains constant, but the number allocated to each state is directly determined by the population of each state in relation to all other states of the Union. Again, this assures equal and proportional representation for both the states and the citizens thereof.

Moreover, the number of congressional seats is reapportioned among the states every 10 years, based on their current population, to be sure that equal representation continues.

Why have we reviewed our Constitution and the makeup of Congress in this essay on the electoral system and the method of electing our Presidents? Simple, the electoral vote for each state equals the combined number of its senators and its representatives, which have been equally, proportionately, fairly and constitutionally determined. And that electoral vote is cast for the candidate who by popular vote carried that state.

The electoral system demands in effect that the presidential and vice presidential candidates heed the people of every state, independently and regardless of size, because of the desirability of carrying each respective state and receiving its electoral vote. This political reality also aids in maintaining recognition of each state and a responsibility to it by this nation's highest office holders. Most importantly, the electoral system maintains the concept of a President of the United States rather than a National or Federal President.

Americans should note that in newspaper articles and television commentaries which question or condemn the electoral system, the liberal critic uses subtle ridicule to imply that the system (or the Constitution) is archaic, out of date, and somehow unfair.

These media moguls never explain what the electoral system is. They rarely take the time to inform—they're too busy molding public opinion! This is supported by a recent study which showed that only a small percentage of citizens, even regular voters, understood how the electoral vote is determined.

And herein lies the reason for many of our nation's problems today—a willingness to change, to modify our government, to forsake tried and true policies and traditions, to abandon successful economic systems and military concepts—without understanding our proven system and the errors and tragedies of history, or even knowing what the change will bring us.

But getting back to the matter of who goes to the White House, is it possible to elect a President by electoral vote even though he gets less than a majority of the total national vote? Yes, it's not only possible, but it has happened many times before, even though many of our political leaders don't seem to realize it.

Recent news reports, such as a UPI article of Jan. 28, 1977, have carried comments by both Republican and Democratic members of the U.S. Senate warning of the potential disaster of the electoral system. Sen. Birch Bayh (D.-Ind.), chief sponsor of a constitutional amendment to replace the electoral system with the popular vote, was quoted as saying, "Only by sheer luck last November did we survive another round of electoral roulette."

Sen. Hubert Humphrey (D.-Minn.), referring to his own 1968 presidential race, said that had a President been elected who was not the popular vote winner, "The loss of public confidence would have been staggering." Apparently Sen. Humphrey does not wish to admit that the loss of confidence in our government, and especially the Congress, is at an all-time low, and it isn't because of the electoral system, but rather the failure of congressmen to uphold their oath of office and protect and defend the Constitution of the United States.

Senate Minority Leader Howard Baker (R.-Tenn.), appearing before Sen. Bayh's subcommittee, also advocated a constitutional amendment. He stressed that if a President were elected who did not have a popular majority, it would somehow destroy our system of government.

One would expect unfounded statements from such Senate radicals as Bayh and Humphrey. But Sen. Baker and other more stable congressmen were apparently seeking favor with the liberal media rather than expressing any historical accuracy.

Since the popular vote was first recorded (in the election of 1824), 15 of 39 elections have given us Presidents who were elected with less than 50% of the popular vote: In 1824, Andrew Jackson received 42.2% of the vote, John Quincy Adams 31.9%, Henry Clay 13% and William Crawford 12.9%. None received a majority of the electoral vote, and the House of Representatives chose Adams as President.

The 14 others elected without majority popular vote were: James Polk (1844) 49.6%, Zachary Taylor (1848) 47.3%, James Buchanan (1856) 45.6%, Abraham Lincoln (1860) 39.8%, Rutherford Hayes (1876) 47.9%, James Garfield (1880) 48.3%, Grover Cleveland (1884) 48.5%, Benjamin Harrison (1838) 47.8%, Grover Cleveland (1892) 46.0%, Woodrow Wilson (1912) 41.8%, Woodrow Wilson (1916) 49.3%, Harry Truman (1948) 49.5%, John Kennedy (1960) 49.7%, and Richard Nixon (1968) 43.4%.

Several others barely made it over the 50% mark: Martin Van Buren (1836) 50.9%, Franklin Pierce (1852) 50.8%, and Jimmy Carter (1976) 50.1%.

In every case since the first Adams-Jackson contest, the electoral vote was important because it clearly identified the winning candidate and prevented the necessity of a runoff or the selection of the President by the House of Representatives.

In 1912 Wilson received 41.8% of the vote against 27.4% for Theodore Roosevelt and 23.1% for William Howard Taft. However, Wilson carried 435 electoral votes to 88 for Roosevelt and eight for Taft.

In 1948 Truman carried only 49.5% of the popular vote but 303 electoral votes. Thomas E. Dewey received 45.1% and 189 electoral votes. Strom Thurmond (States Rights Democrat) received 2.4% and 39 electoral votes, and Henry Wallace received 2.38% but no electoral votes.

In 1960 the vote was extremely close. John Kennedy polled 34,221,349 votes or 49.71% to Richard Nixon's 34,108,647 votes or 49.55%. A slate of "unpledged" (Democratic) electors carried Mississippi, and cast that state's eight electoral votes for Sen. Harry Byrd. They were joined by six unpledged (Democratic) electors from Alabama and one (Republican) elector from Oklahoma who also voted for Byrd—a total of 15. Nevertheless, Kennedy's electoral vote margin of 303 to Nixon's 219 was substantial.

Another aspect of the election process which has been distorted is the effect of independent or third-party candidates in presidential elections. Contrary to popular belief, minority party and independent candidates have been the rule throughout most of America's political history—not the exception.

As previously noted, 15 of the last 39 Presidents were elected with less than a majority of the popular vote. Consider the confusion and the cost of a presidential run-off nationwide if the popular majority vote concept were instituted. Moreover, what of the effect of newly occurring national and international events in the intervening time?

The following example demonstrates the stabilizing effect of the electoral system in such a multi-candidate election: In 1968 Nixon received 31,785,148 votes or 43.42%; Humphrey 31,274,503 votes or 42.72%; and George Wallace, running on the American Independent party, polled 9,901,151 or 13.53%. That year 16 other presidential candidates tallied 242,568 votes. Yet Nixon received 301 electoral votes to Humphrey's 191 and Wallace's 46. Again the electoral system saved much confusion and turmoil!

Finally, to be totally objective, let us examine a most remote possibility. If there were only two major party candidates, could it be possible for the candidate with the higher popular vote to lose the election? Yes, it could happen, and it might even be the best protection against mobocracy—the demands of mob rule which destroyed the Greek and Roman Republics when they permitted themselves, as we are permitting ourselves today, to move from a republic to a democracy.

Let us give one clear hypothetical example:

Suppose that the incumbent, President Blue, is running for re-election against the challenger, Governor Pink. And let us assume that President Blue is a fiscal conservative and constitutionalist, and he knows that it should be unlawful, and certainly is immoral, to confiscate by government force the money honestly earned by responsible citizens, and give that money to those who are irresponsible, wasteful, dishonest and unwise.

During the election year, President Blue would not help a liberal Congress take billions of dollars of earnings from people in 49 states and give it to New York City, which was in dire financial difficulty. When the liberal Congress passed the bill anyway, President Blue courageously vetoed it.

By way of explanation, let us suppose that New York City provided high municipal salaries, lucrative city pensions, free college education for New Yorkers and generous welfare handouts (some welfare recipients could collect the equivalent of a $19,000 per year income).

In addition to its tax-and-spend philosophy and poor fiscal management, New York got into more trouble by lying about its debts and assets so that the city could keep selling municipal bonds while it borrowed itself into imminent bankruptcy.

Now comes the November election—a close one in which President Blue carries 49 states by relatively small margins of 10,000 to 100,000 votes, resulting in a 1.5-million-vote lead in those 49 states. (This is not at all an impossibility, as already demonstrated by the close vote in many past elections.)

But in New York, the voters who are seething because of the denial of their demands for free money, bread and circuses gives a two-million-vote margin for Governor Pink, who promises them a raid on the federal treasury. Result: Governor Pink receives a half-million-vote margin nationwide.

In this case, the electoral system would give President Blue a wide margin of victory for carrying 49 of 50 states; but the national popular vote method would elect Governor Pink—denying 49 states and the people therein their choice.

Moreover, this would destroy forever the concept of a union of states because one large state, or even one big city, or pehaps even one racial or ethnic group voting on a single issue for personal gain, could force their will upon the nation as a whole.

Back to those "naughty" electors again. Much is made of the possibility or "fact" that they do the "electing" rather than the people.

Admittedly, in 200 years of American history, on rare occasions an elector has cast a ballot for someone other than the candidate chosen by the vote of his or her respective state.

Unfortunately, the best of individuals turns maverick occasionally, and "goofballs" are sometimes placed in a position of public trust. However, the record of sanity and responsibility among electors is nearly perfect, and far better than that of other elected officials and such paragons of wisdom and virtue as "progressive" federal judges, university professors, and newspaper analysts who question the electoral system.

Furthermore, as I read the Constitution, I see nothing that says electors shall vote for *their* choice rather than cast ballots on behalf of the *state's* choice, but I readily admit that the wording in the Constitution is not sufficiently clear on that point.

As a result, some states have easily and wisely taken proper action to clarify that point by requiring, by state law, that electors cast their ballots according to the vote of their state. That simple solution could and should be effected in every state. Or, perhaps, the United States Congress could so legislate (without a constitutional amendment) expressing the "sense of the Congress" as to this particular point.

We could even go so far as to eliminate the electors who cast their state's electoral vote and make the recording of each state's electoral vote automatic. In this day of instant communication, the electors themselves are not really necessary.

Finally, as a practical matter, if the pressures in Congress are sufficiently strong that alteration of the present electoral system is inevitable, we should strive to influence and limit the changes to those which do the least violence to the system.

This could be achieved by the proposed "district plan" whereby each candidate receives one electoral vote for each congressional district he carries and two votes for each state he carries. This would retain the essential concept of the electoral system while quieting those who complain that a candidate can receive all of a state's electoral vote by winning that state by only one (popular) vote.

But any such changes would require a constitutional amendment, and any tampering with the Constitution in this regard could result in the replacement of the entire electoral system by a popular vote method. A prolonged, intense, public-opinion-molding effort by the liberal media could well bring that about.

There is great danger in making constitutional amendments too common. I might add, there is even a greater danger of a Constitutional Convention, which might result in the destruction of that great document—the greatest instrument of government in all history, and the greatest single factor in the preservation of this nation and the freedom of her people.

We have shown in this brief analysis that the electoral system is not only constitutional, it is reasonable and fair. It is another check and balance which our practical and intelligent founding fathers provided for our protection. We should keep it!

The attack on the electoral system is simply a small part of the current, general assault on the Constitution, American tradition, states' rights, and the Republic.

I certainly agree with Abraham Lincoln, who stands with Washington as one of our two greatest Presidents, and who incidentally was elected with only 39.8% of the vote but with 180 electoral votes to a combined total of 123 for his three opponents.

Lincoln said, "I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis."

In this crucial time when our continued freedom and prosperity are in jeopardy, and our republican form of government is on trial, the people of the United States must be told the truth. In addition, all of us, young and old, must be given a better foundation in the principles which made America the greatest of all nations.

As a beginning, we should not only understand the electoral system and our own form of government; we would do well to comprehend why certain elements of the media and other "political pundits" are so intense in their attack on it.

THE PANAMA CANAL TREATY

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. DAN DANIEL. Mr. Speaker, no issue in all the years I have been in public office has generated as much interest among the citizens of this country as the transfer of the Panama Canal and the Canal Zone to the Republic of Panama. While specific figures vary, every poll that I have seen indicates disapproval by American citizens of this transfer.

The American Legion held its 59th convention in Denver, Colo., August 23–25. That group passed a resolution in opposition to the treaties of transfer and I believe it is important that the Members of this body be aware of the resolution which passed setting forth the reasons for this opposition.

Additionally, the Honorable Meldrim Thomson, Jr., Governor of the State of New Hampshire, made a statement at that same convention. I, therefore, insert both the resolution and statement in the RECORD:

59TH NATIONAL CONVENTION OF THE AMERICAN LEGION—RESOLUTION NO. 445

Committee: Foreign Relations.
Subject: Panama Canal.

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owner; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignity, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Sec-

tion 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

DAWN OR DUSK

(By Gov. Meldrim Thomson, Jr.*)

Commander Rodgers, Honorable Delegates to the 59th Annual convention of the American Legion:

Twenty-nine hundred miles southeast of us the sun rose this morning, as it does every day, on the American Canal in Panama before it was seen on the east coast of Florida.

Did its rising portend the dawn of a new era for this land or ours?

Or will the setting of the sun beyond the Rockies a few hours hence herald the fading dusk of an America once great and strong.

There is no group of citizens to whom I would rather entrust the answers to those two questions than to you, the working guardians of American liberty!

Behind us lies the rich history of two successful centuries of growth from a fledgling costal nation of 13 states to a great world power.

As we cross history's threshold into our third century, what kind of a future do we and our posterity face?

Will we stand brave and firm for freedom in the real world of spreading communism or crawl into historical obscurity before the hysterical howling of world opinion?

The answer to these vital questions will be found in our response to the demand of the communist affiliated dictator, General Omar Torrijos, that we give to the Republic of Panama the Canal, its locks and appurtenances—plus a yet unspecified indemnity for 62 years of use of that which by treaty we have held "to the entire exclusion of Panama" and "in perpetuity."

Under the misguided leadership of a craven Department of State we have seen the sacrifices made and the victories won in World War II frittered away in the Treaties of Teheran, Yalta, Potsdam and Helsinki.

Since the war to end all wars we have witnessed the lights of liberty extinguised in 31 countries around the world.

We have fought two ghastly no-win wars with hands and feet tethered while leaving more than a hundred thousand young Americans in the silent death of battle.

In recent years we have raised and supported new communist nations.

At the same time we have coerced and harassed old and loyal allies such as the Republic of China, Israel, Rhodesia and South Africa.

Now comes Omar Torrijos and his National Guard strongarm goons and says to Americans, either give us back that which we ceded to you forever or we shall take it from you by guerilla warfare and with the support of Latin America and third world opinion.

Thus, today the testing issue of America's future has become the Canal.

Will America continue her flight from greatness or will we, in the spirit of our Founding Fathers, draw the line of reckoning at the Big Ditch and there stand firm against the rising tide of communism in the Caribbean.

Have we become so spineless, so cowardly that we jump when any tiny foreign power, bent upon blackmail, snaps its corrupt fingers?

If so, then former Undersecretary of State, George Ball, was right when in 1962 at the dedication ceremony on the opening of the $20 million Thatcher Ferry Bridge that crosses the Canal at Balboa, he said in effect:

"Here, in this place destiny changes horses."

If Ball's analogy to destiny changing horses proves correct, and the proposed Treaty becomes a reality, then I suggest that America will have dismounted from a Seattle Slew and climbed atop a Panama burro!

EMOTIONAL ISSUE

We are told by our give-away boys in the State Department that the Canal issue has become needlessly entwined with emotionalism.

Treaty negotiator Sol Linowitz was recently quoted as saying that the opposition to the treaty is one of emotionalism; it is one of great ignorance on the part of the American public.

He sounds much like the group of American businessmen with whom I talked in Panama City early last June.

About the many government instigated instances of Panamanian youth tearing down and desecrating Old Glory these money-hungry merchants said, "They are just kids blowing off steam!"

Back in 1964 when the Panamanian public descrations of the American Flag began our public officials should have issued an order similar to the one given by John Dix, the New Hampshire born custom official in New Orleans at the outbreak of our Civil War.

Dix said: "If any one attempts to haul down the American Flag, shoot him on the spot."

The Canal has been a proud part of our heritage for three-quarters of a century.

It is important to our economy; vital to our national security!

It has been as much a part of the national sovereignty as Florida, Alaska, and all of the central and western states acquired under the Louisiana and Gadsden purchases.

Recently Henry Kissinger, the architect of American compromise, accommodation and surrender, described the proposed give-away of the Canal as a response not only to wisdom of statesmanship but also of "patriotism".

Imagine it! Patriotic to relinquish the Canal!

Why that is like winning the Nobel Prize for Peace by the simple technique of surrendering all in Vietnam.

Contrast the unAmerican words of former Secretary of State Kissinger with that truly great American statesman Charles Evans Hughes who in 1923, in speaking on America's right to the Canal, suggested that it was unthinkable that any American President or Secretary of State would ever surrender any part of the rights which the United States had acquired under the Treaty of 1903".

Yes, Linowitz is right.

This brazen attempt to rip out a vital organ of our body politic is as fraught with emotion to any true patriot as the defilement of the American Flag.

Let us pray that the emotion that prompted John Paul Jones defiantly to cry from his sinking ship, "I have not yet begun to fight;" or that grand sentiment that inspired Stephen Decatur to toast, "Our country: in her intercourse with foreign nations may she always be right; but our country right or wrong", lead our United States Senators to respond to the Treaty proponents with the same eloquent defiance to the Germans' demand for surrender used by General Anthony C. McAuliffe at the Battle of the Bulge—"NUTS!"

WHY A TREATY

Why the great haste to cede our sovereignty in the Canal Zone to the Republic of Panama?

While we are told by Ambassadors Bunker and Linowitz that world public opinion demands a new treaty, and while we have been incessantly proded by Panama government instigated riots, I believe that the true reason is that our government is once again surrendering to the relentless pressure of world communism.

By the 1903 Hay-Bunau Varilla Treaty the Canal and its Zone were given to America "in perpetuity".

We presided as mid-wife at the birth of Panama. Part of the consideration for this service was the Canal Treaty. Now the grown child would renege on its birth service but shows no inclination to return as part of Colombia.

Article III of the 1903 Treaty declares that "the Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

That language clearly cedes sovereignty over the Canal Zone to the United States forever.

In 1907 our United States Supreme Court confirmed our title to the Canal Zone in the case of Wilson v. Shaw.

"It is hypocritical", the court said, "to contend that the title of the United States is imperfect, and that the territory described (the Canal Zone) does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate".

It was not until 1974 that United States officials, led by Kissinger in his eight point outline for a treaty, agreed upon with foreign minister Juan Tack, suggested that the United States did not have sovereignty over the Canal Zone.

Linowitz contends by the magic of legal sophistry that the United States in the 1936 Treaty relinquished the sovereignty created by the 1903 Treaty by the use of the words "territory of the United States under the jurisdiction of Panama".

A careful reading of the entire treaty will convince any reasonable mind that this language was an inaccurate description of our sovereignty and, more important, was never intended to change it.

A FEW BASIC FACTS

For almost four centuries men schemed and dreamed of building a canal to carry ships between the Atlantic and Pacific Oceans rather than follow the 7,000 mile route around Cape Horn.

As long ago as 1524 Charles V of Spain ordered the first survey for a proposed canal route over the Isthmus of Panama.

One of the first of many American presidents to become involved with the Canal was Ulysses S. Grant who sent a naval expedition to survey the Isthmus at Darien in 1870.

The French for two decades under Ferdinand De Lesseps, the builder of the Suez Canal, tried to construct a sea level canal across the Isthmus.

When they failed Theodore Roosevelt led Americans in an engineering and managerial feat that was the moon shot of the beginning of the century.

To Panama we paid $10 million to obtain the Canal in perpetuity.

From the bankrupt French Canal Company we bought its rights and properties to the Canal for $40 million.

And to Colombia we paid $25 million in 1922, to the disgust of Teddy Roosevelt.

We built a 51 mile Canal with three sets of locks at each end capable of raising and lowering ships 85 feet.

The chamber of each lock is 110 feet wide and 1,000 feet long. The gates to each lock are 7 feet thick and 10 stories high.

Each filling of a lock requires 52 million gallons of water and takes 8 minutes to fill by gravity.

In the building of the Canal enough earth was moved to fill a ditch 10 feet deep and 50 feet wide, stretching from New York to Los Angeles.

After an expenditure of almost $400 million, the building of the world's largest earth dam and the creation of the largest man made lake, the Canal was ready to transit the first ship, the S.S. Ancon, on August 15, 1914.

Since building the Canal the United States has spent about $7 billion in improvements, maintenance and investments.

Under our sovereign operation of the Canal it has always been available to all nations except our enemies in times of war.

The tolls have been reasonable and uniform. Only twice in 63 years of operation have we raised the tolls: once in 1973 from 90 cents per ton to $1.08 and again in 1975 from $1.08 to $1.29.

Since we have lost $27 million on the operation of the Canal from 1973 through 1976, we must wonder what would happen to the tolls if Torrijos were to gain control of the Canal and raise them drastically to produce much needed revenue.

Two months ago I partially transited the Canal on a Danish container vessel carrying a payload of 13,000 tons. She was 690 feet long and 100 feet wide. Her toll charge was $26,000. She saved a quarter of a million dollars by avoiding the extra 10 day journey around the Horn.

WE NEED THE CANAL

The Canal is important to America's economic growth and vital to our national security.

Last year about 13,000 ships transited the Canal. This is almost twice the number that used the Canal the year after World War II.

The Canal can handle 96 percent of the World's shipping.

The Canal has been of great economic value to the consumers of America. For example, 42 percent of all cargo going through the Canal originates in the United States and 21 percent of all cargoes are destined for our nation.

Approximately 30 percent of all physical commodities transiting the Canal are energy related, such as petroleum, coal and coke.

Next month it is anticipated that three large tankers a day will transit the Canal bearing Alaskan oil from Prudhoe Bay to the energy hungry eastern seaboard.

Dare we leave such an important transportation link in our economy to a dictatorial communist leaning regime that has so poorly managed its internal affairs that it now must pay 40% of its annual budget to debt services?

We do not have a two-ocean navy. Former Secretary of the Navy William Middendorf and other naval experts have made that clear. Hence, the Canal is vital to our national security for the movement of naval vessels from one ocean to the other.

The Canal can handle 98 percent of all of our naval vessels, including our nuclear submarines. Only our large aircraft carriers cannot make the transit.

After the Singlaub incident we all know that the President keeps a headlock on the military. Active commissioned officers will either say what the administration desires or remain silent.

Therefore, we must look to our retired officers for the most accurate and honest appraisal of the importance of the Canal to our security.

Earlier this month four retired admirals each of whom had served as chief of naval operations; namely Arleigh Burke, Thomas H. Moorer, Robert B. Carney, and George W. Anderson wrote to the President as follows:

"We note that the present Panamanian Government has close ties with the present Cuban Government which in turn is closely tied to the Soviet Union.

"Loss of the Panama Canal which would be a serious setback in war would contribute to the encirclement of the United States by hostile naval forces and threaten our ability to survive."

I don't know about you, but I find the testimony of those four respected Admirals far more convincing on the question of the importance of the Canal to America's future safety than anything that might be said by Linowitz, Kissinger, Ford, or Carter.

INTERNATIONAL EXPLOITERS

Ambassadors Linowitz and Bunker say that the American public is ignorant about the Panama Canal issue.

They are right if they are speaking about the details of the proposed treaty. These two representatives of our international clique of bankers have refused to answer many vital questions put to them by our Congressmen.

But if they are speaking about the importance of the Canal to the United States they are dead wrong.

The great majority of Americans know that we paid more for the real estate of the Zone than we did for either Florida or Alaska and that America alone built the Canal and has successfully operated it as a great international waterway ever since.

Yes, and these hard working, taxpaying Americans recognize the value of the Canal to the future of our nation.

I tell you, sir, that regardless of the secretive and cowardly plans of the give-away boys, the average American means to hang on to the Panama Canal forever!

And if that means driving from the seats of power those public officials who would place the welfare of the Republic of Panama above that of the United States, then we shall be about that great task at once.

For practical purposes Panama is bankrupt.

When Torrijos grabbed the reins of power in 1968 without benefit of an election the public debt was $160 million. Now it stands at $1.4 billion.

The current budget for Panama is $607 million. Estimated revenues of $346 million fall far short of the budget. Current debt service is $221 million.

The list of banking creditors of the Panama Government reads like an International Bankers Who's Who.

It includes the Narodv Bank of Moscow, the London Branch of the Chase Manhattan Bank, Citicorp International Bank of London, International American Development Bank, Continental Bank of Chicago, the Export Import Bank of Washington, the Marine Midland Bank, and the Agency for International Development.

All of these banks are vitally interested in the success of the proposed treaty. They see the American taxpayer as eventually picking up the tab for bailing Torrijos out of hock.

But I believe the taxpayers of this land are plain sick and tired of dancing to the tune fiddled by our errant diplomats.

I was told recently by American businessmen in Panama that they had a good dictatorship and that a new treaty would help their business.

Some of these businessmen were like representatives of those American multinational corporations who supplied Russia with the technology and machinery that made it possible to supply Vietnam with the materials of war used against our American soldiers.

Too often, and with disastrous results for this country, businessmen follow the dollar instead of the flag!

Some of the businessmen with whom I talked suggested that their American companies would lobby for a new treaty with Panama.

I hope that if they do the American taxpayers and working people of this nation will mount the biggest boycott in the history of America against all companies that place price above principle.

CONCLUSION

Gentlemen, we have accommodated ourselves to or retreated before communism since World War II. Now communism is on our southern doorstep.

The time is here when we must forget about world opinion, which incidentally has never contributed one depreciated dime to the tax bill of America.

Let us think America for Americans.

Let us stop worrying about corrupt, blackmailing dictatorships throughout the world, and instead charge our public officials with the welfare of our own citizens.

Whether we admit it or not communism is at war with what remains of the free world.

In his great address before the Congress General Douglas MacArthur recognized this elementary fact of modern life.

He warned, "The Communist threat is a global one. You cannot appease or otherwise surrender to communism in Asia without simultaneously undermining our efforts to halt its advance in Europe".

If we mean to remain a land of the free then we must immediately regain the initiative from the communist forces of the world.

We can do this best by making our stand at the Big Ditch.

Instead of a public debate over a proposed give away treaty of the canal we should demand of our public officials an immediate severance of diplomatic relations with the Republic of Panama as long as it tolerates the flagrant disregard of human rights by its dictatorial regime.

Gentleman, I respectfully challenge you to join me in sending to the Halls of Congress an emphatic and reverberative "NO" to the give-away of our Panama Canal.

*Luncheon talk given before delegates of the 59th American Legion Convention, Denver, Colo. August 24, 1977

WE ARE BEING BLACKMAILED BY A TWO-BIT DICTATOR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial.

[From The Camarillo, Calif., Daily News, Sept. 9, 1977]

PAY TO BE KICKED?

President Carter is out to sell the Panama Canal treaty and we must say that so far his Madison Avenue approach is interesting.

He has enlisted one former President, a number of top Republicans and the military. The pitch is the canal is no longer really necessary because warships and oil tankers are too big to use it.

Also, the top military men tell us that this country can't defend the canal against unfriendly revolutionaries in Panama. The Marxist-leaning dictator is also siding with Carter, promising civil disorders threaten-

ing the canal if the Senate fails to ratify the treaty.

The Senate should reject the proposed treaty if for no other reason than it makes us look like a bunch of suckers. First, we are being blackmailed by a two-bit dictator. Second, why should we pay $50 or $60 million a year until the year 2000 for the privilege of being kicked out?

NATIONAL ENERGY POLICY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. ABDNOR. Mr. Speaker, there seems to be a growing recognition among the citizens of this country that, our Nation has an energy problem, but there is a good deal of confusion and uncertainty in their perception of the gravity of the situation. The leadership of the Federal Government in proposing policies and solutions has only compounded the existing perplexity.

One of my constitutents, Mr. Chuck Shroyer of Mitchell, has recently written me of his concern. He forwarded his thoughts together with the comments of a leader of a segment of America's free enterprise system which is playing a large role in the development of South Dakota. As legislative leaders, we should pay close heed to the thoughts of both:

MEMO

AUGUST 29, 1977.

To: Congressman James Abdnor.
From: Chuck Shroyer.
Subject: National Energy Policy.

Attached is an outstanding energy position statement by Mr. Ray Herzog, chairman of the board and chief executive officer of the 3M Company. You should know that 3M did not ask me to write this. In fact, I've been struggling with putting my thoughts down and I have frankly found the task to be a tough one (which I'm sure is no surprise to you). In effect, the 3M energy message "galvanized" me into action. So—here are my thoughts which I hope you will consider.

President Carter is correct when he says we are in an energy war and it truly deserves our attention now. Unfortunately, President Carter's suggested course of action places far too much emphasis on taxes being increased to discourage consumption (and certainly consumers) and far too little on increasing production. I'm not any more anxious to pay higher fuel bills than anyone else is—but when faced with a choice of higher taxes or higher fuel bills because of gradual decontrol of energy price restrictions, I'll choose the latter.

My reasons for this are simple:

First. Our government has been tampering with supply and demand on petroleum and natural gas for far too long already. By attempting ot look like heroes to consumers, they've discouraged producers from going after all but the easiest to reach energy sources. In effect they have indirectly and certainly inadvertently created the very crisis they are now attempting to solve.

Second. I realize that there is distrust of big business in the Congress generally and specifically in response to the energy industries. Since I don't work for the energy industry, I feel free to speak in a candid and unbiased manner. It appears to me that most of the fears are unwarranted, and quite possibly a natural backlash from earlier years when energy industries enjoyed too much favor (tax wise—concessions) and were too cozy with Congress.

Now, with reformist fervor, many in Congress are attacking—in effect a 180° turn from earlier times.

So, if our government simply can't bring themselves to trust the energy industry with decontrol, then I suggest a middle ground of gradual decontrol and legislation guaranteeing all profits generated from that action are reinvested in energy production.

Third. The alternative to gradual decontrol and guaranteed profit reinvestment in energy production is an elaborate series of taxes designed to raise the price of U.S. energy equal to the world price, as far as the consumer is concerned.

But what's the cost of all this new government regulation and intervention? Do you really think this extra money collected will be redistributed to the consumers fairly? And most important, how do all these "discourage the consumer from using" taxes help the petroleum and natural gas industries increase their production to the needed levels?

To conclude, I'm for conservation, and to some extent, higher fuel prices will force greater conservation. But, I would far rather pay the higher bills directly to the energy industries than as taxes to the government. I'm convinced that the U.S. energy industry, with far greater inherent efficiency than the U.S. Government, will make much better use of the dollars, and in the end, will provide lower energy prices for the consumers than if we go the Carter proposed tax route.

Thanks.

CHUCK SHROYER.

COMMENTS

To Our Stockholders:

There is a growing, though still inadequate, recognition in this country of a serious energy problem. There may be different levels of concern, depending on where people live, what they do for a living or how well they can cope with higher energy prices. But there is recognition and, it seems a consensus which closely parallels our own position on the energy problem.

We believe action must be taken to conserve energy in industry, home and transportation and, just as importantly, to develop new oil and natural gas reserves. We also favor greater use of coal, development of safe, efficient nuclear power, tax credits for capital projects which conserve energy and continuing research on new technologies which are unfamiliar today but which almost certainly will become commonplace in the years ahead.

I believe President Carter did the country a service in his energy message by calling attention to the energy problem in such a way that it can no longer be denied or wished away. And certainly, I agree with the objectives of his energy program. But in my view, he erred in making what seems to be the characteristic assumption of our times: that government should dictate the solution to our problems.

The energy problem defies simple explanation. It is enormously complicated. But I think it can be said with justification that government, far from being the only institution which can solve our energy problem, is in many ways the cause of it. And I think it is fair for us to consider, as we debate the merits of the President's program and Congressional alternatives, the extent to which government should control the use of energy in this country.

Government control of natural gas prices, is cited frequently by critics of government intervention, and with good reason. It is a classic example of what happens when market forces are disrupted.

Natural gas is a clean, efficient and desirable fuel whose price has been kept artificially low for almost 25 years. As a result, the demand for natural gas has grown enormously while production has declined. On the one hand, natural gas has been too cheap in comparison with other fuels, and on the other, it has not been profitable enough to encourage producers to go out and look for more.

This is, in fact, the crux of our energy problem. We have simply been using more than we should, while at the same time, discouraging the production necessary to meet future demand.

Regulating natural gas prices may have seemed like a service to the public at the time it was begun, and it may seem so to many consumers today. But I see no public service in shortages, in an abrupt transition to higher prices or in a growing dependence on other countries for an increasing proportion of our energy needs.

I mention this not because I am looking for an opportunity to criticize government, but because I think it bears on the dialogue which is now taking place about this country's energy policy, the form it should take and the degree to which government should control this country's response to the energy problem.

Distasteful as it may be, I think we should recognize that higher energy prices are inevitable. 3M does, and it seems clear that the government does, too.

The President, for example, proposed a tax on oil which would raise its cost to consumers and thus help promote conservation. The revenues generated by this and other taxes presumably would be used to fund a variety of government programs, or perhaps even be rebated to consumers. I see little merit in this approach. Not only does it have questionable value as a means of encouraging conservation, but it does nothing to stimulate the development of new energy supplies.

3M favors, instead, the gradual decontrol of oil and natural gas prices which would allow them, over time, to rise to their free market levels, generating profits which would be reinvested in the exploration and development of new energy reserves.

Nobody likes higher prices. But I think we have to ask ourselves which is preferable: artificially low prices which promote waste and inefficiency and lead to shortages and an increasing dependence on foreign supplies, or the higher prics which encourage domestic production and help insure the energy supplies we need.

3M, obviously, has little to gain over the short term from gradual decontrol of oil and gas prices. Our costs, for the fuel we use and the energy used in the production of the things we buy, would certainly rise. We favor gradual decontrol because we expect to be in business for a long time to come and because our future depends on adequate energy supplies.

Please note that I am not suggesting government does not have a responsibility and a role to play in the solution of the energy problem. Government will and must be involved. What I am saying is that the United States should rely primarily on market forces, because I believe they will prove more effective.

I am optimistic about our ability to solve our energy problem, and I believe industry, in its own interests and those of the country, will do at least its share and, very likely, more. But if we are to be successful in our attack on the problem, we also will need understanding and support from government and the public.

One of the most difficult problems facing industry is the lack of coordination among government agencies and departments as well as the multitude of government regulations which stifle progress by creating uncertainty.

Let me give you an example. 3M favors the conversion to coal from oil and natural gas in industrial facilities, and so does the federal government. We also are prepared, if necessary, to make substantial investments in coal-fired boilers and the pollution-control equipment they would require to meet environmental regulations. But current pollution regulations require that we employ the "best available" technology, not just now but in the future. This means we could make multi-million-dollar investments in systems which could suddenly become obsolete and require still another substantial investment. Would you make the investment?

I also believe business deserves to be treated fairly. We are major users of energy, and we want to make major contributions to the solution of the energy problem. But I do not believe we should be asked to bear a disproportionate share of the burden. There is an unfortunate tendency in this context to view the interests of business and consumers as different when they really are complementary. There is a tendency to say, "Let business bear the cost," an attitude which is not only inequitable but which ultimately is self-defeating, since business, if it is to survive, must pass these added costs along to consumers.

What we need today from my point of view is sensible, consistent and coordinated policies and regulations on the part of governmental units; a reasonable balance between government and the free market; and a recognition that the national interest should prevail over narrow personal or corporate interests or political expediency. If we can approach the energy problem in this way, then I have no doubt we will be equal to the challenge.

R. H. HERZOG,
Chairman of the Board
and Chief Executive Officer.

CARTER'S SELECTIVE HUMAN RIGHTS POLICY

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. BAUMAN. Mr. Speaker, the Carter administration continues its warfare against the American people's right to know. An administration which claims to have a high regard for human rights has determined to close down the Rhodesian Information Office here in Washington on the basis of a United Nations resolution which is not worth the U.S.-paid-for paper on which it is written.

Columnist William F. Buckley, Jr., has pointed up the inherent hypocrisy of the Carter stand on this issue and I share his views with my colleagues:

BLOOD-WAR AGAINST RHODESIA

(By William F. Buckley, Jr.)

Those who believe that the United Nations is entirely irrelevant are correct up to a point. It is true that moral declarations issuing from the U.N. and bearing its moral pedigree are suspect, in the same sense that professions of virtue from political candidates are suspect. Mostly, U.N. declarations are filed away until the time comes to celebrate the anniversary of their passage, at which point they are trotted out. But every now and then the U.N. does very concrete harm. Rhodesia being a case in point.

Lord Home, when he returned to Her Majesty's government as secretary for foreign affairs in 1973, admitted that if the Conservative party had been in power, it would not have gone along when sanctions were voted by the Security Council against Rhodesia in 1965. Why? Because, he said, he does not believe in sanctions except in extreme circumstances, and the Rhodesian situation was not an extreme circumstance. At the time, Dean Acheson fiercely denounced the imposition of sanctions as clearly in violation of the U.N. Charter inasmuch as the government of Rhodesia, having declared its independence of Great Britain, was on its own as regards internal arrangements.

Just the same, Great Britain, in a fit of pique that would have great resonance, asked for, and got, sanctions.

Years went by and last spring, seeking to tighten these sanctions, the Security Council voted to freeze all Rhodesian funds everywhere in the world (except when used to pay pensions). The idea was to immobilize the two or three Rhodesian Information Offices extant. Why? One would think that the mighty powers represented at the Security Council would have very little to fear from the tiny office in Washington whose annual budget is $200,000 and whose principal executive, Kenneth Towsey, has duly registered as an agent of a foreign power. What harm can he do?

Certainly Mr. Towsey has been in a position to be useful to newspapermen who desire information about Rhodesia that isn't easy to get elsewhere. Needless to say, the Rhodesian Information Office makes the case for the Rhodesian government—that is its job. But in doing so it handles a great deal of material—stories, statistics, photographs, field accounts, notices of negotiations—which do not come in automatically from the world's press.

When terrorists from Zambia descend on a Christian mission in Rhodesia and murder a few nuns, that information is not likely to reach us courtesy of the Zambian Information Service, and one cannot count on AP's being on the spot.

So when the resolution to freeze Rhodesian funds was offered, and U.S. representative Andrew Young voted in favor of it, a group of journalists addressed a letter to President Carter asking whether he intended to interpret that resolution as requiring him to freeze funds payable for the maintenance of the Rhodesian Information Office. Among the signers were Patrick Buchanan, John Chamberlain, Stanton Evans, James Jackson Kilpatrick, and Nick Thimmesch. President Carter has, to this day, not answered their patient inquiry.

However, Hodding Carter III, assistant secretary for public affairs and department spokesman, has now replied to an inquiry from someone in Corvallis, Oregon with the news that yes indeed, the State Department intends to freeze the Rhodesian currency, upon recommendation from the Treasury Department. "Although the resolution was not specifically directed against informational activities," he writes, "the Rhodesian Information Office . . . clearly falls within the categories of offices referred to in the resolution."

On the question whether this deprives U.S. citizens of their First Amendment rights to find out what's going on, Mr. Carter is absolutely chirpy with optimism. "American citizens will still be able to obtain information about Rhodesia from other sources, including directly from the regime in Salisbury." American citizens may, in fact, prove better able to obtain information about Rhodesia from Salisbury than from the White House, given the President's long silence in response to the inquiring correspondents.

One would hope there would be some limit—somewhere—to the indignities the United States is willing to undertake in behalf of our blood-war against Rhodesia.

CONSERVATIVES AND THE CLINCH RIVER BREEDER REACTOR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. HYDE. Mr. Speaker, it is a cliché to many in the media and the groves of academe that we conservatives are naysayers and obstructionists and chronic defenders of the status quo. How paradoxical then, to find so many of us who call ourselves conservatives strongly supporting the proposed funding of the Clinch River breeder reactor and so many liberals saying "no, thou shalt not pass."

It is we, Mr. Speaker, who are the optimists, the true progressives who want to move forward to meet the challenges of the next decades, and those of a more liberal persuasion who want to return too much of our society to the wilderness that abounded 100 or so years ago.

I have the uneasy feeling that, for various reasons, the urgent nature of this Nation's energy situation is given little thought by most Americans. So long as gasoline is readily available at the gas stations, and we are not in the middle of a bitterly cold winter, other more pleasant topics successfully compete for our attention. But it takes no special insight to see that our country is just beginning to feel the inevitable energy shortages that, when fully realized, will disrupt our economy and standard of living to unacceptable dimensions.

We remember that, following World War II, nuclear energy was like the genie in a bottle—a tremendous force for good or evil—and once we had mastered its dimensions it would be harnessed for the good of all mankind. Somehow we got sidetracked in this endeavor because other less exotic forms of energy were available at a very cheap price. Now "the party is over" and we must take a long and intense look at our options. It is time to reconsider nuclear energy and the part it must play in our future.

Nuclear energy has, as its natural enemies, certain professional environmentalists and their adherents. In a larger sense, technology is their enemy—anything that involves the pristine wilderness that smacks of development and growth and expansion and that uses energy is to be resisted. Nuclear energy is an obvious area for their opposition because it conjures up the horrors of Hiroshima and Nagaski—mushroom clouds and radiation and vast numbers of dead.

Those who supported nuclear development have been gradually disappearing from government. The Atomic Energy Commission was replaced by the Energy Research and Development Administration, which in turn is being absorbed by the new super-agency under Dr. Schlesinger, the Department of Energy. The same is true of the Nuclear Regulatory Commission. Even in Congress, the Joint Committee on Atomic Energy has been deprived of its vitality if not its life. The result has been a loss of adequate forums for knowledgeable discussions on these issues, and now highly complex scientific topics are the subject matter of Sunday supplement articles and TV specials, where three sentence explanations on every issue, no matter how technical, are the only acceptable form.

All this underscores the difficulties which beset those of us in Congress who, lacking the training and expertise, must render judgments on this issue—judgments which could well determine the sort of society we and our grandchildren will be living in down the line.

There are two main problems with nuclear energy: the danger to our health and the danger of nuclear weapons proliferation. Neither of these has presented an insurmountable obstacle to many responsible scientists, and their views, plus what I hope is a liberal dose of commonsense, compel me to support the committee bill authorizing $150 million to keep the research and development project going at Clinch River for the next year at least. This sum should provide the project with enough opportunity to go forward in the search for scientific knowledge so that we will be better able to make informed intelligent decisions in the future.

The anticipated requirements for energy in the next 25 years will be at least double our present consumption. Even this is a wild guess because we cannot imagine at this time what discoveries lay just ahead from an inquiring and vital scientific community.

But surely no one maintains that our Nation can meet our present much less our future requirements with our present resources. Even without the OPEC cartel complicating our present situation, as responsible Members of Congress we must look far ahead to the fulfillment of our Nation's long-term interests even when these might, here and there, oppose our short-term desires.

All of the so-called exotic energy sources must be researched and, where feasible, developed. But surely nuclear energy in the form of the Clinch River breeder reactor is one of the most promising areas of exploration. The expectation is entirely reasonable that this project can lead us to plentiful, safe and economically feasible energy in amounts to meet our country's needs into the year 2000 and beyond.

We must consider whether the dangers described by opponents justify scrapping the fast breeder reactor program as the President proposes.

Upon analysis, the proliferation argument lacks substance. Other countries have had little difficulty building their own fast breeders. France has the Phenix; Britain has the PFR supplying electricity to northern Scotland, the Soviet Union is prepared to turn on its second large plant and is planning construction of another more than twice its size; West Germany, Belgium, and Japan are all pushing ahead on developing breeder reactors. While other countries are moving along with their breeder program, the United States is dragging its feet, and reducing the most effective weapon in our arsenal—our ability to create our own energy source.

The health and environment issue, while worthy of close attention, is far from the decisive factor the professional antinuclear lobby would have us believe. We have been producing and handling plutonium for over 30 years. Ten thousand pounds of it have been vaporized in the Earth's atmosphere in bomb tests, 10 million times the total releases expected annually if all our electricity were generated from plutonium. Plutonium is used as an energy source in our space program and in medicine—cardiac pacemakers, for example. With all of this, I know of no evidence that any human being, anywhere in the world, has ever been injured by plutonium toxicity.

The General Accounting Office has said the United States should not give up on fast breeder research and development and concludes, "there has been premature concern and emphasis on commercializing" the breeder reactor, and environmental, health, and weapons proliferation considerations. The GAO argues that the most prudent path to follow is to pursue the Clinch River breeder reactor as a research and development effort, particularly because "a decision on commercialization does not need to be made for perhaps 7 to 10 years."

In the past, the Congress has authorized work on the Clinch River breeder reactor—nearly 60 percent of the design work has been completed. The ERDA bill before us today continues our commitment to a tremendous national asset that must be thoroughly researched by the Government to see if it can be used safely and economically.

In closing, I want to share with my colleagues the final paragraph of a September 16 Chicago Tribune editorial, "Keep The Fast Breeder Alive";

The House should vote the full ERDA authorization. That will not commit us to a "plutonium economy" in the future, but it will enable us to see if adequate proliferation and health safeguards can be developed—while also assuring that energy from nuclear fission will remain available to us if it should turn out to be as safe and as vitally needed as its advocates predict.

OPPONENT OF THE PANAMA CANAL TREATIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony by an opponent to the new Panama Canal Treaties. At the time of his testimony, on September 15, 1977, the media apparently decided it was not of sufficient merit for their coverage, despite the fact that they gave full coverage to statements by advocates of the treaties during committee hearings.

This statement was made by William J. Rogers, past national commander of the American Legion before the International Relations Committee September 15.

STATEMENT BY WILLIAM J. ROGERS

Mr. Chairman, Members of the Committee on International Relations: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you today is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention and my observations in traveling during 12 months throughout the United States and Panama. Secondly, I will spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

During these past 12 months, it has been my honor and privilege to visit all of the Departments of The American Legion. We have a department in every state and territory making up the United States. At each meeting without exception, our members were concerned about the possibility that the United States Government would relinquish sovereignty of the U.S. Canal Zone and Canal. Furthermore, we would give it to a dictatorship in Panama which runs contrary to our natural instincts as American citizens.

Today, I have come to speak for our four million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . although we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post was the same, deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

I don't think it will come as a surprise to the members of this committee, but I think it may come as a surprise to certain of our leaders in the Executive Branch and to certain of our national cartoonists in recent weeks, but the typical Legionnaire, who also happens to be the typical American, understands the Panama Canal situation. The average Legionnaire understands the facts and the realities of standing straight for what is right, and objecting to something which is wrong and not in the American interest.

Though we have opposed any treaty which would surrender U.S. control and ownership since 1960, Legionnaires throughout the country have been given both sides of the picture. In The American Legion Magazine, which goes to every member, we invited the top spokesman for the Republic of Panama, Ambassador Gonzalez Revilla, to state the case for the Panamanian government. The Ambassador's position to transfer ownership of the Zone and Canal to Panama was printed in full in the October 1976 issue of our magazine. Congressman Daniel Flood was invited to state the case for U.S. sovereignty in the same issue.

At our National Convention recently completed in Denver, we invited Ambassador Sol Linowitz to come and to take as long as he liked to state the case for giving the U.S. Zone and Canal to Panama. As you know, Ambassador Linowitz is articulate and knowledgeable on all the issues as the U.S. negotiator, and presented the Administration's viewpoint to our Foreign Relations Commission for well over an hour.

Since this was the major issue to be decided by our National Convention in 1977, we decided to set the Panama resolution aside from other foreign policy considerations and vote on it separately, by roll call, department by department if necessary, so we could be sure that the National Convention did not trespass on the will of our members, so we would know the real vote.

After the Chairman of the Foreign Relations Commission, Dr. Robert P. Foster, seated here beside me, read the resolution, convention members in a voice of one, called out for a vote. The vote to oppose giving the U.S. Zone and Canal away was unanimous. Although there were over 3,000 delegates representing the 2.7 million members of our organization, there was not one dissenting vote! The silence of the "nays" was as persuasive as vocal shouts of the "yeas." The truth is that The American Legion has expressed its collective judgments. The full text of that resolution is appended to my statement today.

I will now discuss the reservations and objections which we have to this proposed treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can traverse the Canal, making the Canal even more important in a military sense in the years ahead.

Harrison Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the Navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak USMC (Ret.), writing in the summer 1975 issue of *Strategic Review*, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy.'

"During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total approximately 33 percent were loaded in East and Gulf Coasts ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the historic letter of four distinguished Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the give away of the Zone and the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired, agree on that point.

From an economic perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45 percent originated in the United States and 23 percent were bound for the United States. No other nation even approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96 percent of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pipeline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

Moreover, at the present time, the United States has an over-all investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $70 million per year, plus about $350.0 million in economic and military aid to have the Torrijos group take over the territory and property.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50 percent of the capital investment in Panama. And U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy"—in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos government which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union, and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no political party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As you are probably aware, the Panamanian constitution requires a plebiscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39 percent of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Panama's Omar Torrijos has allined himself with the most repressive pro-Communist regimes in this hemisphere—those of Cuba's Fidel Castro, Jamaica's Michael Manley, and Guiana's Forbes Burnham. According to U.S. Information Agency, Torrijos issued a communique last April with pro-Arab terrorist dictator Col. Moammar Qaddafi of Libya denouncing what they called "Zionist aggression by Israel." The communique was issued at the end of a week-long visit by Torrijos to Libya, for the purpose of creating close economic and political ties between the two countries.

Jack Anderson and Les Whitten stated in their nationally syndicated column on June 16 that they had evidence that this Torrijos-Qaddafi meeting had also resulted in a secret deal between Libya and Panama to give Arab extremists a foothold in the Americas and to cooperate with the Arab boycott against Jewish manufacturers.

Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America, as well as a series of other multi-million-dollar-trade and construction projects with Panama.

Whether it was a Treaty of intent or as pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America."

Of deepest concern is Torrijos' close ties with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Just this past week-end, the New York Times reported that 4000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the Sea Wolf, which was operating inside Canal Zone waters and burning and desecrating our United States flag.

Our Ambassador has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behavior will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50 miles long and 10 miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one exercises it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following last Wednesday's signing acknowledged United States sovereignty and I quote: "What nourishes the hopes of Panamanians for the recapture of their sovereignty was their feeling that the North American people fundamentally harbored no colonial aspirations."

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to this layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal Zone is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to recent analysis of the Treaty, should Panama abrogate the Treaty the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be an usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the rights to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canal Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article IX, Section 3, recognizes the right of ownership of improvements to realty but does not recognize the right to own real estate. While we do not know how many Americans own property in the Canal Zone, if any, it would appear that this Article condones or perhaps authorizes exappropriation of property by the Panama government.

(7) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23 year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservations and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Moreover, Article VI, Section 1, of the Neutrality Treaty appears to be in direct conflict with the protocol accompanying the treaty which states that vessels of all nations will be insured permanent access to the canal "on the basis of entire equality."

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977—a bad day for the United States.

United States military and national security losses are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the United States taxpayer is in the billions. Moreover, someone will pay the billions of dollars owed international bankers by the Torrijos government. It will not be Panama. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The recent Treaty signing festivities were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people—with people like our members.

I will close with one question—if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the House who return to your districts every two years, know what the people back home are thinking. You know the Legion Posts and grass roots opinion runs about 80 percent against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

LANCE FINANCIAL MANEUVERING OUT OF TUNE WITH AVERAGE AMERICAN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. FINDLEY. Mr. Speaker, appearing in the Jacksonville, Ill., Journal-Courier on September 15, was an editorial con-

taining one of the best statements to date as to why Bert Lance, Director of the Office of Management and Budget, should step down. Mr. Lance's financial maneuverings are simply too far out of tune with the way the average American must handle his own personal business affairs.

The typical American citizen cannot be expected to have confidence in Mr. Lance's stewardship of financial planning in the executive branch. The editorial deserves careful consideration, and I place it in the RECORD at this point:

LANCE SHOULD STEP DOWN

Bert Lance should quit. Everybody who is nobody knows that.

The reason he should go back to Georgia is not the way he handles federal money as director of the Office of Management and Budget but because of the way he handles his own personal budget and the way we have to handle ours.

We are a nation of debtors. The total private debt in the United States, not counting corporations, hovers around a trillion dollars.

When we're young, we face the start-up costs—scraping together enough to buy a car, furniture and a house (with the mortgage running 9 to 9.5 percent if we're lucky).

Hospitalization pays only part of the bill for having children. The $14 baby shoes come later. A family of four is lucky to get away with $40 or $50 a week for groceries alone.

Then the family hits the middle years. That's the time after we've peddled our souls to the local orthodontist so the kids can bite apples and equipped them with $200 contact lenses and $13 jeans. In the middle years, we hope they'll be able to go to college—and that we'll be able to pay $2,300 a year at a state university.

During these middle years, aging relatives come to live with us, usually because they aren't making it on Social Security.

At the same time, inflation pinches in so that savings are gobbled up. We are barraged with "quick and friendly" offers from every kind of legitimate loan shark who, now that state usury laws have generally been repealed, can and do charge huge amounts of interest. It used to be a crime in some states to charge 7 per cent interest.

The best rate is from credit unions, perhaps 9 per cent on a new car or on a 10-year second mortgage on the house. Banks charge 10, 11, 12, 13 and more in interest on many of their loans. Credit buying at stores or through credit cards can cost 18 per cent a year.

So it's pinch and budget, borrow and scrape, watch the bank balance and hope that the check we floated Wednesday doesn't clear the bank before the paychecks goes in on Friday. And when it does bounce, set up a line of credit (18 per cent on those automatic loans on overdrawn checks) or cough up $6 or so for each bounced check, with a black mark on our credit rating.

This is why Bert Lance should step down. Maybe he hasn't broken any law but he has scandalized Americans by bending laws and ethics in banking.

He and his family have been able to overdraw their bank accounts again and again—sometimes by hundreds of thousands of dollars—without a peep, much less a bounced check.

And on top of that, Lance has used the same collateral for two different loans from two different New York banks. Try doing that yourself sometime and see if you can get even a nickel.

This conduct is an affront to all of us who scramble through the system, putting up with what we must. It is an affront to all Americans who have the courage and honesty to pay their bills on time, to borrow money legitimately and to pay the going rate so that we can fulfill obligations to our own families.

None of the laws of the ordinary people seem to apply to Bert Lance when it comes to money matters. And that hurts.

He is sloppy and careless in his personal financial affairs. Getting it done is more important to him than how he gets it done.

And wasn't that just what we were angry about in Watergate? Didn't we hear on the White House tapes the voices of our former leaders saying they didn't care how it was done—just get it done? Yes, we did.

The stinging truth remains from those days: The means are as important as the ends.

If this is the way bankers deal with one another, then it is time to reform the banking system.

And if this is the way Bert Lance operates, then he should get out.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 22, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 23

8:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of John F. O'Leary, to be Deputy Secretary; Dale D. Myers, to be Under Secretary; Alvin L. Alm, to be Assistant Secretary for Policy and Evaluation; and Harry E. Bergold, Jr., to be Assistant Secretary for International Affairs; all of the Department of Energy.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Select Nutrition and Human Needs
To hold hearings on the role that nutrition plays in the needs of the elderly.
Until 12:30 p.m. 457 Russell Building

Select Intelligence
To hold a closed business meeting.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on the proposed supplemental appropriations for fiscal year 1978 for the Department of the Interior.
1114 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.
5110 Dirksen Building

*Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1791, to establish the Chattahooche River National Recreation Area; S. 1156, to establish the San Antonio Mission National Historical Park; and S. 1671, to designate the Absaroka-Beartooth as a wilderness area.
3110 Dirksen Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on the IMF and the international debt.
4221 Dirksen Building

11:00 a.m.
Appropriations
Agriculture Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Department of Agriculture.
1224 Dirksen Building

2:30 p.m.
Appropriations
Labor-HEW Subcommittee
To mark up proposed supplemental appropriations for fiscal year 1978 for the Department of Labor and the Office of Education.
S-128, Capitol

SEPTEMBER 26

8:00 a.m.
Energy and Natural Resources
To hold hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2016, to establish fees for services performed by U.S. marshals; S. 2049, to allow per diem and mileage expenses for witnesses who appear before U.S. courts; and S. 2072, 2074, and 2075, to amend the Jury Selection and Service Act of 1968.
2228 Dirksen Building

9:30 a.m.
Foreign Relations
To hear testimony on the proposed Panama Canal treaties from Secretary of State Vance, Ambassadors Ellsworth Bunker and Sol Linowitz, and Ambassador to Panama William Jorden.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1833 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Charles D. Ferris, of Massachusetts, to be a Member of the Federal Communications Commission.
5110 Dirksen Building

3:00 p.m.
Conference
On S. 717, to promote safety and health in the mining industry.
Until 7:00 p.m. S-207, Capitol

SEPTEMBER 27

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on S. 533, Human Resources Development Act of 1977.
Until 1:00 p.m. 1224 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Foreign Relations
To hear Secretary of Defense Harold Brown and Chairman of the Joint Chiefs of Staff General George S. Brown on the proposed Panama Canal treaties.
318 Russell Building

Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's Report on OMB Director Lance.
5302 Dirksen Building

Governmental Affairs
Reports, Accounting, and Management Subcommittee
To hold hearings on S. 1847, 1838, 1329, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building

Human Resources
To hold hearings on the nominations of George C. Pimentel, of California, to be Deputy Director of the National Science Foundation; Floyd J. Rutherford, of New York, and Jonh B. Slaughter, of Washington, each to be an Assistant Director of the National Science Foundation; and Bertram R. Cottine, of the District of Columbia, to be a Member of the Occupational Safety and Health Review Commission.
Until noon 4232 Dirksen Building

Judiciary
To hold hearings on the nominations of Thomas Tang, of Arizona, to be U.S. Circuit Judge for the Ninth Circuit, and Edward H. Johnstone, of Kentucky, to be U.S. District Judge for the Western District of Kentucky.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 1633, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and S. 661, to restore Federal recognition of certain Indian tribes.
357 Russell Building

3:00 p.m.
Conference
On S. 717, to promote safety and health in the mining industry.
Until 7:00 p.m. S-146, Capitol

SEPTEMBER 28

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Commerce, Science, and Transportation, and Environment and Public Works
To hold hearings jointly on the nomination of Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances, Environmental Protection Agency.
4200 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

Rules and Administration
To hold hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs.
301 Russell Building

Select Nutrition and Human Needs
To hold oversight hearings on food quality in the Federal food program.
Until Noon 6202 Dirksen Building

9:30 a.m.
Human Resources
To mark up S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers; S. 2108, to amend the Indochina Migration and Refugee Assistance Act of 1975; and S. 1328, to encourage the implementation of career education programs.
4232 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
224 Russell Building

Judiciary
Juvenile Delinquency Subcommittee
To continue hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
318 Russell Building

1:00 p.m.
*Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
154 Russell Building

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal treaties.
318 Russell Building

10:00 a.m.
Governmental Affairs
Reports, Accounting, and Management Subcommittees
To resume hearings on S. 1847, 1838, 1329, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2046, to enable Alaska Natives to maintain and consolidate tribal governing bodies, and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
1202 Dirksen Building

Joint Defense Production
To receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

2:00 p.m.
Select Ethics
To hold an open followed by a closed business meeting.
S-216, Capitol

SEPTEMBER 30

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1:00 p.m. 6202 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from executive branch officials on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1183 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Veterans' Affairs
To hold hearings on a study by the National Academy of Science on health care for American veterans.
Until 12:15 p.m. 4221 Dirksen Building

10:00 a.m.
Joint Defense Production
To continue to receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Aging Subcommittee
To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.
1224 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
6202 Dirksen Building

OCTOBER 5

9:30 a.m.
Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

9:30 a.m.
Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
357 Russell Building

Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

OCTOBER 10

9:30 a.m.
*Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

OCTOBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 18

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

OCTOBER 19

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 23

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 1460 and 2096 protecting the privacy of public financial records.
5302 Dirksen Building
Finance
To resume markup of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

SEPTEMBER 27

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

SEPTEMBER 28

9:30 p.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

SEPTEMBER 29

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Conference
On S. 1019, authorizing funds for fiscal years 1978 and 1979 for certain maritime programs of the Department of Commerce.
S-128, Capitol

OCTOBER 4

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

OCTOBER 11

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, September 22, 1977*

The House met at 10 o'clock a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 22, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Dr. Clifton W. King, minister, Greater Los Angeles Church of Divine Science, Los Angeles, Calif., offered the following prayer:

O, Spirit, who is the Mother-Father of all the human family, grant wisdom to those we have chosen to govern our land. May their decisions be toward the goal of peace for all. We have the principles of trust and honor to God, country, and family. Let all our decisions be based on this premise that our fairness leads to justice for all. Then we know the world will see the source of our strength and wisdom. Help us to reflect on looking for a way to lay aside our misunderstandings and know, with Your guidance, man can live with man in a world of peace and caring. One where children find joy in growing to be adults. Knowing wherever man exists there is oneness, for You are the Mother-Father of all, the Omnipresence, now and forevermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last

day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. MICHEL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 6, answered "present" 1, not voting 144, as follows:

[Roll No. 577]

YEAS—283

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Cederberg
Clausen, Don H.
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Cornell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Devine
Dickinson
Dicks
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Calif.
Emery
English
Erlenborn
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Ford, Tenn.
Fraser
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Grassley
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hubbard
Huckaby
Hyde
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McClory
McCormack
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Markey
Marlenee
Marriott
Martin
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Neal
Nedzi
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Rooney
Rostenkowski
Rousselot
Roybal
Rudd
Ryan
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Nebr.
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Wampler
Watkins
Weaver
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yatron
Young, Mo.
Zablocki

NAYS—6

Aspin
Broomfield
Brown, Mich.
Forsythe
Jacobs
Mattox

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—144

Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashley
Badillo
Bellenson
Blanchard
Blouin
Boggs
Boland
Boiling
Bonior
Bowen
Brooks
Butler
Byron
Carter
Chappell
Chisholm
Clawson, Del
Cleveland
Coleman
Conte
Conyers
Cornwell
Cotter
Crane
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Eilberg
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fish
Flowers
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frey
Gammage
Gilman
Glickman
Goldwater
Goodling
Gradison
Gudger
Harrington
Harris
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hughes
Ichord
Johnson, Calif.
Kasten
Kelly
Koch
Krueger
Le Fante
Lehman
Lent
Levitas
Long, Md.
Lundine
McCloskey
McDade
McKinney
Mann
Marks
Mathis
Mikva
Milford
Mitchell, Md.
Mollohan
Moss
Mottl
Myers, Michael
Nichols
Nix
Nolan
Pattison
Pepper
Pettis
Quayle
Rahall
Railsback
Rangel
Richmond
Robinson
Roncalio
Rose
Rosenthal
Runnels
Ruppe
Russo
Sarasin
Scheuer
Shuster
Slack
Smith, Iowa
Solarz
Spellman
Stark
Steiger
Stokes
Teague
Thornton
Traxler
Treen
Trible
Tucker
Walker
Walsh
Waxman
Weiss
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wolff
Wydler
Yates
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the Senate amendments to bills of the Senate of the following titles:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes; and

H.R. 5262. An act to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes, and that the Senate receded from its amendment to the title to the bill H.R. 5262.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1904. An act to suspend until July 1, 1980, the duty on intravenous fat emulsion; and

H.R. 2849. An act to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex.

The message also announced that the Senate disagrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for the other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1005. An act for the relief of Young Shin Joo;

S. 1654. An act for the relief of Thuy Bach Kanter; and

S. 2056. An act to amend the Council on Wage and Price Stability Act.

PERMISSION FOR SUBCOMMITTEE ON AVIATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT FOR PURPOSE OF MARKING UP H.R. 8729 ON FRIDAY, SEPTEMBER 23, 1977

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Public Works and Transportation may be permitted to sit on Friday, September 23, 1977, for 1 day, for the purpose of marking up H.R. 8729, the Airport and Aircraft Noise Reduction Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman assure us that it is for 1 day only?

Mr. ANDERSON of California. If the gentleman will yield, yes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

OBJECTION TO VOTES ON JEWISH HOLY DAY

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I take strong umbrage at the actions of the Republican leadership in calling for a vote on today, Yom Kippur, the highest of the high holy days of the Jewish religion. It was my understanding that there was an agreement that there would be no votes today so that those who wished to observe this holiday would not have the effect of having missed a vote upon their records. It seems to me that there should be no more votes and that calling this vote was thoroughly reprehensible.

THE VOLKSWAGEN HYBRID ELECTRIC VEHICLE

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, under the sponsorship of the Committee on Science and Technology, there will be a demonstration today of a Volkswagen hybrid electric vehicle. It will be in the Rayburn Horseshoe from 10:30 until noon. The Members are welcome to visit the hybrid electric vehicle and have a ride and learn why this technology is so important in helping to solve our energy crisis.

To repeat, the demonstration will be from 10:30 until noon today in the Rayburn Horseshoe.

THE AMERICAN DOUBLE STANDARD ON MORALITY IN GOVERNMENT

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, it becomes clearer day by day that the liberal media has established a double standard on morality in government in our country. Conservatives in government are subjected to minute scrutiny on every detail of their lives, public or private. Favorable comment on any contribution to government is usually ruled out. Any action or incident which may be twisted to provide an adverse reaction is capitalized. A different standard is applied to liberals in government. The Bert Lance affair is just another example.

Bert Lance is one of the ablest of the Carter appointments. He is obviously highly qualified for the important position of Director of the Office of Management and Budget. He was a successful businessman. He followed business practices which did not originate with him nor did they apply only to him. No one established that he broke any laws. His banking practices were not commendable. On those practices, a carefully manipulated case against him was built.

Mr. Lance is a conservative. Government is now predominately liberal and there is a need for conservative voices. A conservative influence is particularly needed in budget affairs. For the sin of being conservative as much as for loose banking practices, Mr. Lance was forced to go. Had he been an avid liberal, the chances are there would have been no further inquiries into his affairs after he was approved by the Senate.

There is another aspect. Disclosure and all the rest have as one effect to drive successful businessmen out of office. They simply will not put up with the harassment of having to explain every business transaction they or their families engage in. When the advocates of free enterprise are no longer willing to make the sacrifices so often required during public service, free enterprise in the American system will definitely be on skids, if indeed it is not already on skids.

HEARINGS TO BE HELD BY SUBCOMMITTEE ON RULES AND ORGANIZATION OF THE HOUSE

(Mr. LONG of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Speaker, the House has a very demanding legislative schedule to conclude before the prospective adjournment in October. One of the most important measures to come before us is House Resolution 766, which embodies the recommendations of the Commission on Administrative Review to reform our administrative structure and improve the use of Members' time because of the limited time available, the resolution was referred to the Rules Committee with a reporting requirement of October 5, 1977.

As chairman of the Subcommittee on Rules and Organization of the House, I must make maximum use of the time that is available to give all interested Members an opportunity to present their views to the subcommittee. Therefore, I am planning to hold hearings on Monday, September 26, subject to the approval of the subcommittee. The hearings would begin at 10 a.m. in the Rules Committee hearing room, H-313 in the Capitol. It is my intention to continue these hearings all day and into the night, if necessary, in order to conclude them and have subcommittee markup on Wednesday, September 28, 1977, to enable us to meet our October 5 deadline. The record will remain open through the close of business Tuesday, September 27. I make this announcement prior to having the opportunity to take up the schedule with the subcommittee members, to give as much notice as possible.

Members testifying are requested to submit written statements and to summarize their views in a 5-minute oral statement. In questioning by the subcommittee members, the 5-minute rule will be strictly applied.

We are striving to be impartial and open in our subcommittee consideration. These guidelines are intended to assure fairness to all members of the subcommittee and the full committee who wish to participate in the Monday hearings. They will also assure fairness to all Members of Congress who wish to present their views to the Subcommittee on Rules and Organization.

Further details will be forthcoming in a "Dear Colleague" letter.

DR. CLIFTON W. KING

(Mr. LLOYD of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD of California. Mr. Speaker, I am very pleased to sponsor today's visiting chaplain, Dr. Clifton W. King, and would like to thank Dr. Latch and the Speaker for their assistance.

Clifton King is ordained as a minister in the International Federation of Divine Science Churches, Denver, Colo., where he received his charter to establish the Greater Los Angeles Church of Divine Science.

Dr. King, who was associate minister of the Santa Anita Church of Arcadia, is founder and director of the Santa Anita Personal Development Center. He lectures extensively, holds private consultations, and conducts workshops on motivation and techniques for successful achievement. With his wife, Dr. Loriene Chase, he coauthored the recently published book, "The Human Miracle." Soon to be published are "Two-Way Prayer Can Change Your Life" and "Happiness Through the Beatitudes."

Dr. King is a member of the International New Thought Alliance, International Order of St. Luke the Physician, International Platform Association, National Association of Church Business Administrators, and is on the staff of the University of Southern California Stress Safety Center.

It is a pleasure to welcome Dr. King and his wife, Dr. Loriene Chase, to Washington.

BERT LANCE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, history will record that in 8 months President Carter went from asking "Why not the best?" to "Why not Bert?" The President has had to adjust his thinking from moralistic and holier-than-thou statements to pragmatic judgments and hard choices. In short, the Lance affair, in bringing the President out of the clouds and back to reality may have been the best thing to come out of the affair.

What does the Lance affair mean? I do not know. I do not think anyone knows. History will sort out the facts and make a judgment. But I think the President, standing before the press, his face showing his obvious grief and, yes, anger, at what he had to do, gained some sympathy from the American people.

Who can tell? Perhaps we may have seen the kind of human reaction from the President the people have sensed was missing because of his rigid self-discipline and high-sounding moralistic rhetoric. Whatever the outcome, the fall of Bert Lance has at least brought home to the President, in unforgettable form, the fact that human beings both in and out of Government are, after all, only human—a fact he never seemed to acknowledge during the Presidential campaign of 1976. I suspect, also, that the Carter White House will never quite look at the media in the same way.

REPLY TO MR. OTTINGER ON VOTES DURING JEWISH HOLIDAY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I think the remarks of the gentleman from New York (Mr. OTTINGER) were totally out of place and unfortunate. The gentleman from Illinois (Mr. MICHEL) who objected and obtained the vote on the Journal is one of the most distinguished Members of this House. The total basis of what the gentleman from New York said, as I understood it, was that in some way the action of the gentleman from Illinois (Mr. MICHEL) was aimed at the Jewish Members who are not here today because of the high holy day. That, I can assure you, is totally untrue. Such a base motive would be out of character with any action the gentleman from Illinois has ever taken.

Unfortunately, the majority leadership has seen fit to change the rules in this House so that quorums can no longer be obtained by a point of order of no quorum.

Further than that, it was the majority leadership that scheduled business today, despite the fact that it is a Jewish holiday. In the past over the years the practice was that the House adjourned on days like this and no business was considered. When the House is in session, the Constitution requires us to have some record of the presence of a quorum. I think it is highly unfortunate that this slur on the honor of one of the great Members of this House was made by anyone, and I protest it, for one.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes; the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 30 minutes; the gentleman from Florida (Mr. ROGERS) will be recognized for 30 minutes; and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Ways and Means (Mr. ULLMAN).

Mr. ULLMAN. First, let me commend Chairmen ROSTENKOWSKI and ROGERS for their diligence in bringing this legislation to the floor. It is very much needed.

Mr. Chairman, the legislation we consider today is designed to strengthen the ability of the Government to detect and eliminate fraud and abuse in the medicare and medicaid programs. It deserves the wholehearted support of Members of this body.

I have personally felt offended upon realizing the degree to which certain operators have found ways to profit from these programs that were designed to benefit the elderly and the poor—ways to distort the intended operations of these programs in order to line their pockets at the expense of the beneficiaries, and the contributors and taxpayers who support the programs financially. There is need to strengthen the Government's hand in combating fraud and abuse, and that is what this legislation would do.

Two points need to be made. First, we do not mean to blacken the names of the many thousands of honorable physicians, hospitals, and other providers of health care services paid for through medicare and medicaid. Although fraud and abuse are more widespread than we can tolerate, it is the minority who are engaging in the reprehensible activities we aim to stop. Second, the bill will help in the fight against fraud and abuse, but it cannot put a complete stop to it. Administrators of the programs, and all who are associated with the programs, need to be vigilant to guard against fraud and abuse. The bill we consider today will help, but it can by no means be viewed as the complete solution.

Medicare and medicaid are major and complex programs, and the bill is complex also. It reflects a tremendous amount of careful and detailed work by the Ways and Means Subcommittee on Health which devoted many days to public hearings and intensive markup sessions. Similar efforts were expended by the Interstate and Foreign Commerce Subcommittee on Health and the Environment which has responsibility for the medicaid program. I want to commend the chairmen of these two subcommittees, who are co-floor managers for the bill, as well as the members of their subcommittees for their diligence and for the cooperative spirit they displayed, which has enabled this complex bill to come to the floor with only one substantive disagreement of consequence between committees that needs to be resolved.

This legislation represents an important step toward getting our health financing programs under control. We should take this first step now, before we are called upon to consider major changes in the Nation's health care financing policy. This is important and carefully prepared legislation. I urge my colleagues to support H.R. 3, the medicare-medicaid antifraud and abuse amendments.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation before the House at this time, H.R. 3, the medicare-medicaid antifraud and abuse amendments, is the product of many months of extremely close consultation and coordination between several committees of the Congress.

At the outset, I would like to particularly commend my colleague from Florida (Mr. ROGERS) for the cooperation of his subcommittee in the development of H.R. 3.

Our committees worked effectively together on this issue and I am confident that this cooperation will continue in our ongoing work on hospital cost containment and other Federal health activities of mutual concern.

Numerous hearings, studies, and investigations undertaken by our committee, other committees of the Congress, the General Accounting Office, and other agencies have demonstrated that there exist, to a disturbing degree, fraudulent and abusive practices associated with the provision of health services financed by the medicare and medicaid programs. The disclosures to date have focused on a broad range of improper activities which are not restricted to one particular class of providers or treatment setting. In whatever form it is found, however, fraud in these health care financing programs adversely impacts on all Americans. It cheats taxpayers who must ultimately bear the financial burden of misuse of funds in any Government-sponsored program. It diverts from those most in need, the Nation's elderly and poor, scarce program dollars that were intended to provide vitally needed quality health services. The wasting of program funds through fraud also further erodes the financial stability of those State and local governments whose budgets are already overextended and who must commit an ever-increasing portion of their financial resources to fulfill the obligations of their medical

assistance programs. In addition to these adverse financial consequences, the activities of those who seek to defraud these programs unfairly call into question the honesty and integrity of the vast majority of practitioners and health care institutions.

I personally find the disclosures of fraud and abuse and waste in medicare and medicaid particularly alarming in view of the considerable discussion of expansion of the Federal role in the provision of health insurance for additional groups of Americans. Both the fraud question and the rising cost question in our Federal health financing programs must be addressed prior to congressional consideration of the further expansion of the Federal role in financing through any national health insurance proposal.

Finally, Mr. Chairman, before detailed review of the provisions of H.R. 3 as reported, I would like to take this opportunity to acknowledge the fine work of one particular prosecutor in this field. Although, certainly not the only individual at either the Federal or State level pursuing this complex type of crime, he has distinguished himself through his aggressiveness and his effectiveness in his prosecution of those who seek to misuse programs designed to aid our elderly and our poor. Samuel K. Skinner, until recently the U.S. attorney for the northern district of Illinois, had led a dedicated young staff into the complex legal world of medicare and medicaid fraud—an area often relegated to stepchild status in U.S. attorneys' offices plagued with a significant case backlog of more traditional crimes. Although there has been a recent change in leadership in this particular U.S. attorney's office, I hope that the office itself will continue to demonstrate the national leadership they have shown in this area. Their efforts have stimulated others and their acquired expertise has been invaluable to other law enforcement teams for the first time stepping into Social Security Act program enforcement in earnest.

I will first summarize the major provisions of H.R. 3 on which the two committees are in agreement, highlighting, where appropriate, those provisions that relate to the medicare program. After that, the differences that remain in the bills will be noted.

The provisions of H.R. 3 are focused on five major areas: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and technical revision. Touching briefly on the major provisions that fall under each of these headings:

PROGRAM PENALTY SANCTIONS

First. H.R. 3 modifies the penalty provisions in existing medicare law. Most fraudulent acts now classified as misdemeanors are to become felonies. The types of financial arrangements and conduct to be classified as illegal have been clarified. (Section 4.)

In broadening these criminal provisions, your committee sought to make clear that kickbacks are wrong no matter how a transaction might be constructed to obscure the true purpose of a payment. In exempting reimbursement by employers to employees "for employment in the provision of covered services," the committee intended to exempt only those payments that represented payments for legitimate employment. For example, if a distributor of equipment or supplies pays a retailer on a commission basis for the use of his store to sell a product, such payment would represent a legitimate payment to a legitimate agent employed in a traditional manner to sell a product. That is a simple extension of the conventional chain of sale. On the other hand, the payment by a laboratory of the salary of an employee of a physician or of a clinic as an inducement to the physician or the clinic to refer business to the laboratory uses the employment relationship simply as a guise to pay a kickback. We are in a complex area where right and wrong are often clouded with shades of gray. In such situations, the committee stresses the need to recognize that the substance rather than simply the form of a transaction should be controlling.

Second. The bill also requires the Secretary of HEW to suspend from participation under medicare and medicaid a practitioner who has been convicted of a criminal offense related to his involvement in medicare or medicaid. (Section 7.)

DISCLOSURE OF INFORMATION

First. In an effort to disclose conflict of interest situations or situations ripe for abuse, the bill requires the annual disclosure by medicare and medicaid institutional providers of the identity of any person who has a 5 percent or more ownership interest in the entity. (Section 3)

Such disclosure shall clearly indicate the names of owners or other principal employees who have been convicted of fraud against the medicare, medicaid, or State social service grant program. Where an application contains the name of an individual with such a conviction record, the Secretary can refuse to contract with the applicant. (Section 8)

Second. H.R. 3 also authorizes the Comptroller General of the United States to sign and issue subpenas in order to obtain necessary information and facilitate review of Social Security Act health programs. (Section 6.)

Third. And finally, from the standpoint of disclosure, the bill requires any provider of services participating in medicare to promptly notify the Secretary of its employment of an individual who was recently in a managerial or similar capacity by a medicare fiscal intermediary or carrier that services the provider. (Section 15.)

PROFESSIONAL STANDARDS REVIEW

In our review of the operation of the medicare program, the Ways and Means Committee has not been satisfied with the rate of development of the nationwide peer review system mandated by the Social Security Amendments of 1972.

Moreover, since issues of medical necessity and quality of care may be present in cases of possible program abuse—as distinct from criminal fraud—PSRO's can be a valuable resource for the exercise of the professional medical judgment that may need to be made in certain of such cases. To achieve this end, H.R. 3 includes several provisions making modifications in the administrative structure of the program to enhance the capacity of individual PSRO's to effectively review matters of quality and necessity. (Section 5.)

ADMINISTRATIVE REFORM

First. In the area of administrative reform, H.R. 3 authorizes the Secretary to assign and reassign institutional providers to available medicare intermediaries within certain limitations. Under present law, choice of program intermediaries or auditors is left to each provider. (Section 14.)

Second. The bill also requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets, and bill data to allow for better comparison and review of provider performance. (Section 19.)

Third. Finally, the bill directs the Comptroller General to conduct a comprehensive review of the present administrative structure for the processing of medicare claims—section 12—and requires the Secretary of HEW to report to the Congress with an anlysis and recommendations relating to all aspects of the delivery of home health services under medicare. (Section 18.)

TECHNICAL REVOLUTION

First. On the more technical side, H.R. 3 clarifies existing law to insure that a power of attorney cannot be used to circumvent the prohibition of existing law against the use of "factoring" arrangements in connection with the payment of provider claims by the medicare and medicaid programs. (Section 2.)

Second. Also it modifies the provisions of existing law related to the rental or purchase of durable medical equipment to require the purchase of such equipment where purchase will be less costly than extended rental payment. (Section 16.)

The purpose of this provision is to avoid unreasonable expenses to the medicare program and to beneficiaries resulting from prolonged rentals of equipment. Since total rental payments often considerably exceed the reasonable purchase price of equipment in cases where the equipment is required over a long period of time, it is desirable to authorize the Secretary in such cases to make lump-sum payment for the purchase of the equipment. In view of the fact that beneficiaries are liable for the 20-percent coinsurance amount whether they rent or purchase, a provision authorizing lump-sum payment, rather than payment on a monthly basis, as under present law, for the purchase of equipment in appropriate cases will be helpful to the interests of beneficiaries.

Moreover, it is worth noting that the bill authorizes the Secretary to continue to approve rentals where purchase would be more costly or would produce a financial hardship for the beneficiary. Such provisions do not deprive beneficiaries of any rights to benefits; on the contrary, they merely define—as is the case with all other medicare benefits—the methods and circumstances under which payment will be made by the program for medically necessary equipment obtained by beneficiaries.

ISSUES IN CONFLICT

At present there are three remaining differences in the versions of H.R. 3 that have been reported by the two committees. As I noted, only one of these differences represents a substantive policy disagreement.

Of a controversial nature is a difference in section 17 and an additional section—number 20—added by the Interstate and Foreign Commerce Committee. The Commerce Committee change in section 17 pertains to a technical problem which would have precluded a few States from receiving Federal matching money to establish a separate medicaid fraud and abuse unit.

Section 20 of the bill was added by the Commerce Committee to address a pressing problem in the medicaid program related to State penalties for failure to have a fully effective program of utilization review of long-term care.

At the appropriate point during the consideration of the committee amendments, I would recommend that the Commerce Committee version of these amendments be accepted. Had not our committee already reported H.R. 3 when these two medicaid provisions were added by the Commerce Committee, we would have added them to our version of H.R. 3 as well. I know of no Ways and Means objection to the adoption of the Commerce version of these provisions.

The final difference between the two versions of H.R. 3 is a more substantive one. It relates to the different posture taken by the two committees in section 5(1) on the issue of the confidentiality of medical records.

As reported from the respective subcommittees, section 5(1) was identical. However, an amendment was adopted in the full Committee on Ways and Means—reversing its subcommittee's decision—significantly restricting Federal access to medical records of individuals.

The version of 5(1) adopted by the Interstate and Foreign Commerce Committee—and the Ways and Means Subcommittee on Health—would have required the Secretary of HEW to submit to the Congress his legislative recommendations in this area, 90 days after the report of the Privacy Protection Study Commission has been received. The version adopted in the full Ways and Means Committee, however, would upon enactment prohibit any Federal official or professional standards review organization from inspecting any individually identifiable medical record without prior patient consent except for medicare or medicaid related patient records where the inspection is for fraud and abuse detection or PSRO review.

The confidentiality issue was a controversial one throughout the development of H.R. 3 as is evident from the failure of the committees to agree. We sought on the one hand to limit Federal access to records that are personal in nature while on the other hand we sought to preserve access where public policy necessitated it.

Members of the Ways and Means Committee were not satisfied to defer further action until the Privacy Commission report had been evaluated. However, I would be remiss not to point out that since the Ways and Means action, much concern has been expressed from both within and outside Government about the unintended implications of the approach taken by our committee. It is my understanding that such concern about the sweeping nature of our approach led the Interstate and Foreign Commerce Committee to retain the joint subcommittee position on this matter.

It is an issue on which I personally disagree with the position adopted in my full committee. In fact, at the appropriate time I myself will support the version originally adopted by my subcommittee that is embodied in the Commerce Committee bill.

Finally, in strongly endorsing H.R. 3, I must add one caution. It should be clearly understood that this legislation will not eliminate fraud and abuse. Legislation alone cannot do that. Improved program management, with the institution of efforts specifically directed to combating fraud and abuse, and more widespread and effective peer review activity will be necessary. H.R. 3 is only a step toward the achievement of that goal. It is designed to eliminate weaknesses in existing law that might encourage fraudulent or abusive practices, to provide the appropriate governmental agencies with additional tools to combat these problems and to address certain policies and practices in the administration of medicare and medicaid that have led to an inefficient use of program moneys.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I want to congratulate the gentleman from Illinois (Mr. ROSTENKOWSKI) for his usual excellent leadership on this very important issue.

Mr. Chairman, in light of the dramatic changes that have taken place in the area of medicaid payments for abortion, notably the June 20, 1977, U.S. Supreme Court decisions on the States' continuing power to limit such payments, and our own congressional initiatives on the Labor/HEW appropriations bill, I would like to ask the chairman a few questions:

Q. Is it a federal crime for a doctor, or other Medicaid provider to falsify a statement for payment for an abortion which does not fit within the new guidelines established by Congress restricting payments for abortions under Medicaid?

Mr. ROSTENKOWSKI. It is a Federal crime to knowingly and willfully make a false statement in connection with medicare or medicaid payments, either under the Social Security Act or under the Federal Criminal Code.

Mr. HYDE. Is it true that under Federal law such a false certificate with regard to abortion is punishable, and if so, what Federal laws would the violator be prosecuted under?

Mr. ROSTENKOWSKI. Under section 1001 of title 18 of the Criminal Code, each false statement is punishable as a crime subject to a fine of up to $10,000 and imprisonment for up to 5 years. Section 4 of H.R. 3 upgrades the Social Security Act penalties for the same offenses. H.R. 3 modifies sections 1877 and 1909 of the Social Security Act to increase the crime to a felony punishable by fine of up to $25,000 and imprisonment of up to 5 years for each offense.

I trust that that answers the gentleman's question.

Mr. HYDE. It does, Mr. Chairman, and I thank the gentleman for his response.

Mr. Chairman, in light of these latest developments I have referred to, restricting medicaid abortion payments, we urge a careful and close monitoring of such payments by the Department of Health, Education, and Welfare and other Federal agencies charged with preventing medicaid fraud, because of the overriding public interest and concern in this area.

Again I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I want to compliment the gentleman from Illinois (Mr. ROSTENKOWSKI) on the usual good work that he always does. I know that this area is one of concern. I am troubled by the recent release of information concerning abuse and frauds that presumably had been perpetrated by some physicians in excess of their usual fees, and which subsequently had to be reissued because of a number of errors. I am particularly concerned about one part of this bill on page 83 that provides for the issuance of subpenas by the Comptroller General.

I understand that not too long ago in another bill we provided for the same power in the Inspector General's office in HEW. Will the gentleman please tell me if we have to have this subpena power vested in the Comptroller General also?

I say this, because mistakes were made recently in information released on physicians participating in the medicare program and their images were damaged. A physician in my own district was incorrectly identified as one who had abused the program when in fact he had not. By granting subpena power to GAO are we not opening the door to yet more confusion and possible error?

Mr. ROSTENKOWSKI. The doctors that were listed were not members of the medical profession necessarily found cheating; indeed, it was just a listing of people that were earning in excess of $100,000 from medicare.

On the other issue raised by the gentleman, this legislation gives an arm of the Congress, the GAO, the authority to

subpena information for the purpose of program review on behalf of the Congress.

Mr. GONZALEZ. What troubles me is the fact that even though it is true that these particular doctors were not specifically charged with fraud in that list, there were doctors who were and have been indicted and convicted, as I know, in my own area.

As a result this type of listing has done irreparable damage, because that doctor's name was associated in a very questionable way as one who profited illegally in this particular program.

Mr. ROSTENKOWSKI. As I understand it, what happened in this situation is that in some cases, HEW gave the wrong figures. In some of their listings, they attributed to individual doctors revenues from clinics that were in the aggragate, receiving large amounts of medicare money. That was also an error.

Mr. GONZALEZ. Yes; that is true. I want to thank the distinguished gentleman.

Mr. ROSTENKOWSKI. I would also like to point out to the gentleman from Texas, who raises a very valid point, that this information was made available, not under any fraud and abuse review, but under the Freedom of Information Act.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. HALL. I thank the gentleman for yielding.

I stand very strongly behind H.R. 3, however there is one provision about which I would like to ask for clarification. The professional standards review organizations, or PSRO's, as we call them, have referred suspicious matters on any evidence of fraud to the State licensing authority of the particular State involved. It has been up to that authority to take action if deemed necessary. I notice that H.R. 3 will require these professional standards review organizations, rather than disclosing any suspicious data or evidence of fraud to the State licensing authorities, to disclose that information, to designated Federal and State law-enforcement agencies.

My question is this: By requiring this procedure are we not placing the professional standards review organizations in the policing business rather than in assuring quality care for the people as Congress previously intended? Should the PSRO's not continue in the capacity that they have practiced in the past by referring all findings, or evidence to the medical authority of its State for the authority to take action, if the authority sees fit to do so.

Mr. ROSTENKOWSKI. I believe the legislation is intended to permit the PSRO, if it uncovers abuses, to turn them over to a prosecutorial arm of the Government rather than being forced to conceal evidence of a possible crime.

Mr. HALL. At the present time the PSRO's turn over to State agencies for those agencies to decide whether or not any prosecution, should be demanded. It appears that we are putting the PSRO in a policing position by having them turn over any evidence of fraud to the Federal or State authorities, rather than State licensing authorities of that particular State for them to determine whether or not it should be given to the prosecutive authorities.

Mr. ROSTENKOWSKI. As I understand it, it is a very limited authority—it is only where the PSRO believes there is clear evidence of fraud that this subject matter is turned over.

Mr. HALL. Under H.R. 3, the PSRO would not turn any evidence over to the State medical authority, but would go directly to the Federal or State authorities. Is that not correct?

Mr. ROSTENKOWSKI. Where there is evidence of fraud; yes.

Mr. HALL. Could the gentleman give me the reason why they have changed from the way they are doing it now and requiring that these PSRO's turn this information over to the Federal or State authorities? What do we gain by that?

Mr. ROSTENKOWSKI. Fraud is a criminal act, and the reason that we have changed it is because we want prosecution in this area.

Mr. HALL. But do we want the PSRO's to make that determination?

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from New York.

Mr. PIKE. I thank the gentleman for yielding.

I would like to say to the chairman of the Subcommittee on Health of the Committee on Ways and Means—as he knows and as I guess a lot of the Members of the body know—have never made any secret about the fact that I was in the health care business before I was ever in the Congress business. I think that this legislation has been carefully and meticulously drawn. There is nothing in it which is going to make it impossible for any health care provider to operate legitimately. There is nothing in it that is going to create a deluge of paperwork. I think that the increase in the penal provisions are appropriate. It was too easy for people to pay minimal fines in the past and go right on abusing the system. I think that the legislation is a healthy attempt to protect us from outrageous acts.

I commend the gentleman, and I support the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 3, as amended and reported by the Ways and Means Committee.

This legislation will provide strong, necessary measures to deal with the troublesome problem of fraud and abuse in the medicare and medicaid programs. It will do so in the following ways:

First, by providing authority for the Secretary of HEW to require the disclosure of identities, and information about certain business transactions of those who receive Federal and State funds under these programs. Moreover, H.R. 3 provides incentives to encourage thorough investigation of potentially fraudulent conduct, assists Federal and State efforts to prosecute suspected violations, and insures that strong penalties and sanctions await those who are convicted of medicare- and medicaid-related crimes.

Second, the proposed legislation contains a number of important provisions that undoubtedly would strengthen the administration of the medicare and medicaid programs. For example, the General Accounting Office would be required to undertake a comprehensive review of the administrative structure for processing medicare claims, and the Secretary of Health, Education, and Welfare would be required to report to Congress with regard to improving quality standards and efficiency for home health and other in-home services.

Finally, the bill contains various provisions of a technical nature that are intended to make the medicare and medicaid programs more efficient. One such provision, for example, would eliminate a loophole by prohibiting the use of a power of attorney as a device to circumvent the existing prohibition against factoring payments of provider claims by medicare and medicaid.

Mr. Chairman, the testimony provided by numerous witnesses to the Ways and Means Committee and the Committee on Interstate and Foreign Commerce was most revealing and compelling. It strongly supported the kinds of changes that H.R. 3 seeks to achieve.

Such changes are necessary if the integrity of our health care programs is to be maintained and improved. And, unless this occurs, it will become increasingly difficult for Congress to ask the American people to finance valuable, but ever-more-costly, expansion of health care programs.

Mr. Chairman, I am well aware that no bill can be entirely successful in eliminating abuse, or even fraud, in virtually any Government program. But these two committees, and their Health Subcommittees, have worked extremely hard to bring to this floor a bill that will be cost-effective, and that will help to lay the groundwork for building a more rational and equitable health care delivery system.

The fact that H.R. 3 was reported out of the Ways and Means Committee by a vote of 37–0 undoubtedly reflects a belief by Members on both sides of the aisle that H.R. 3 will help to achieve such important goals. I, for one, share that belief, and therefore strongly urge my colleagues to support this important legislation.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to commend the gentleman from Illinois, our distinguished subcommittee chairman, Mr. DAN ROSTENKOWSKI, and the ranking minority member of the subcommittee, the gentleman from Tennessee (Mr. DUNCAN) for developing this very important piece of legislation which deals with the issue of medicare and medicaid fraud and abuse.

I think that this legislation when it is finally implemented with its appropriate regulations will probably serve to help restrain and contain some of the excessive costs of these programs.

I would have preferred stronger language in section 15 to restrict the hiring of former employees of fiscal intermediaries, because in our oversight work last year we detected this as one of the critical causes of abuse that is now going on. I am going to be watching this section very carefully. The present section of the law provides for disclosure. I am very hopeful that this will get to the root of the problem and prevent that kind of action, which would compromise employees into a relationship because of employment.

I commend again the gentleman for his very vigorous work on this bill, and I certainly am very happy to support it.

Mr. DUNCAN of Tennessee. If I might proffer a question to the chairman of the subcommittee, there is some question that we will not vote on the amendments on this bill today.

Mr. ROSTENKOWSKI. As I understand the schedule, there is a good possibility that because of the time frame and the committee amendment adopted by the Commerce Committee, we are going to try to get to this tomorrow. But, this is not an official position, but one which I and the chairman of the Subcommittee on Health and Environment are trying to persuade the leadership to put on the agenda for tomorrow.

As I understand it, however, it is tentatively scheduled for Wednesday of next week, which does not fall within the time frame providing for passage by the 30th, which is the date we plan that this legislation must be passed.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, the consideration by the House of H.R. 3, the medicare-medicaid antifraud and abuse amendments, is the culmination of a long process of cooperation and joint activity between the Health Subcommittees of the Interstate and Foreign Commerce Committee and the Ways and Means Committee. Our joint effort began last fall when my colleague, the Honorable DAN ROSTENKOWSKI, joined with me in a pledge to the Members that we would work jointly to produce legislation which would provide the necessary framework for more aggressive investigation, discovery, and prosecution of fraudulent activities in our public medical care financing programs. During the intervening period, we have worked together to perfect the legislation we are recommending to the Members today. We are confident that H.R. 3 will contribute significantly to the ability of Federal and State governments, of program administrators and concerned providers, to remove the stigma of fraud from medicaid and medicare.

I would like to take a moment to return my colleague's kind words about the cooperative attitudes and productive working relationship which allowed our two subcommittees to perform their tasks in bringing a jointly reported bill to the floor. DAN ROSTENKOWSKI's and JOHN DUNCAN's contribution was significant.

I believe I speak for both of us in assuring Members that H.R. 3 is a stronger piece of legislation because of our joint subcommittee work. We have established a strong precedent for cooperative work on hospital cost containment legislation, improvements in our current health financing programs, and national health insurance.

Chairman ROSTENKOWSKI has already summarized many of the provisions of H.R. 3, which are joint provisions of the medicare and medicaid program. I would particularly note the importance of two of those provisions:

First, the bill upgrades the penalty for provider fraud of medicare and medicaid to a felony carrying a maximum fine of $25,000 and up to 5 years in prison. This removes the anomoly of current law which terms even the most outrageous activities of providers who bilk the programs of millions of dollars as no more than misdemeanors. We received many indications during our work on the legislation that the relatively minor penalties of current law often served as a deterrent to the investment of the time and energy by prosecutors to bring persons defrauding the programs to trial;

Second, the bill provides States and the Federal Government for the first time with the tools to keep providers out of our publicly-financed medical care programs once they have been convicted of fraud or abuse. Too often today, these providers simply buy new facilities or move to another State and continue to collect the public dollar. H.R. 3 would assure that these practices will not continue.

Additionally, H.R. 3 contains several provisions relating solely or primarily to the medicaid program. First, the bill provides financial assistance to States to build their capacity to combat fraud and abuse by providing 90 percent Federal funding for the development and operation of State units to investigate and prosecute. The higher Federal matching payments are authorized for fiscal years 1978 through 1980 to encourage the development of these units. To date, State efforts to uncover fraud in their medicaid programs have been spotty at best. Often, even when patterns of fraudulent activity were uncovered, there was little interest in carrying on with the difficult work of bringing the cases to prosecution. However, during hearings on the legislation, the committees found that there were exceptions. Where a separate investigative entity was established, the rate of prosecutions and convictions substantially increased. There was testimony that in the period from 1970 to January 1975, in New York State, for example, there was not a single prosecution for medicaid fraud arising out of the operation of a nursing home. After the establishment of a special prosecutors office, investigations, indictments, and convictions rapidly increased; several million dollars in criminal restitution have been recovered. We believe this experience can be duplicated in other States. The availability of higher Federal matching funds can assist in meeting the initial investment required to establish working units. We believe that the tie-in to a prosecuting unit is a vital one. For States that have constitutional prohibitions against statewide prosecuting authorities—like Arkansas—we have made provision for secretarial approval of arrangements which assure that prosecutions will be carried out.

Second, H.R. 3 provides assistance to States to help them administer their programs efficiently so that opportunities for fraud are reduced. The bill requires States to establish timely payment procedures and provides funds for programs of technical assistance to speed the payment process. Slow payments by State medicaid programs have often resulted in duplicate billings and overpayments, use of factoring firms, and other activities which create a climate in which fraud and abuse flourish. Additionally, the bill amends the requirements of the current law to make it less difficult for States to receive the higher matching rate which is available for development and operation of medicaid management information systems. States will be allowed to send notices of benefits received on a sample basis. Finally, the bill penalizes States if they allow private insurors to write contracts which refuse payment for medical services if the person is covered by medicaid.

Third, the bill requires the establishment of uniform cost reporting systems for medicare and medicaid programs. This should increase our ability not only to implement effective cost control programs, but also to facilitate audit and identification of fraud and abuse in accounting practices and payment claims.

Finally, H.R. 3 contains several provisions to strengthen the PSRO program. While fraud is an extremely serious problem in medicare and medicaid, a more insidious problem is abuse—through overuse and inappropriate use of medical care services, and through provision of care of low quality. PSRO's were established to deal with precisely these issues. I believe they can be effective partners in reducing abuse in medicaid and medicare. But in the past, partly because of the suspiciousness of some States, partly because of a failure by HEW to involve State personnel, and partly because of the inexperience of the PSRO's—the relationship between State medicaid programs and PSRO's has not always been a cooperative one. The committee was convinced that PSRO's have significant promise and that the concept of a single review mechanism for qual-

ity and appropriateness of care for both medicare and medicaid patients is a good one. We were also convinced that State participation in the selection of the PSRO, the establishment of review priorities, and in the monitoring of PSRO effectiveness is important. After extensive discussions with representatives of the Governors and State medicaid directors, as well as HEW, we have developed procedures which spell out the State role, provide for memorandums of understanding between the PSRO and the State, give States an opportunity to influence review priorities, and require the Secretary to suspend PSRO review if the State develops reasonable documentation that the PSRO is not effective.

My colleague has noted the differences in the approaches adopted by the two committees relating to access to medical records. The Commerce Committee examined the approach recommended by the Crane amendment in the Ways and Means Committee closely. We shared their strong concern for the right of a patient to privacy. We were also concerned, however, that vital activities of the Government to protect the health and safety of the public should not be unnecessarily impaired. We took additional testimony from witnesses on the impact that the Ways and Means provisions would have on existing programs of pub'ic health, cancer and other epidemiologic research, environmental and occupational disease control, drug testing, and similar activities. Additionally, we reviewed the numerous communications we received from respected medical care professionals, from the Mayo Clinic, from various schools of public health, from cancer research centers, and from persons who are active in the field of environmental and occupational health, and from many Departments and agencies of the executive branch. Our reviews convinced the committee that balancing concerns of privacy versus concerns for protection of the public health were exceedingly complex, and required extensive and detailed examination to assure that damaging effects would not unintentionally be the result of any language adopted.

The Commerce Committee reluctantly reached the conclusion that the Crane amendment adopted by the Ways and Means Committee would seriously undermine existing critical public health, cancer research and environmental and occupational safety programs, and, in some instances could even preclude necessary action in life threatening situations.

It would impede efforts to assure drug efficacy and safety. It would seriously undermine efforts to assure that Federal programs are paying for medically necessary services and for covered services that are reasonably priced—and in that way work in direct contradiction to the purposes of H.R. 3.

Any language such as the Crane amendment in the Ways and Means bill that would seriously hamper or profoundly delay access to medical records during epidemic field investigations would essentially prevent CDC from determining the cause of epidemics and promptly implementing appropriate control.

As with any medical emergency, time is of the essence in epidemic investigations. A requirement for prior written approval—or for the elimination of patient/case names for medical record review—would effectively prevent any meaningful data gathering and seriously impede efforts to control the speed of epidemic disease. The burdensome tasks of removing or otherwise obliterating names from medical records, and particularly hospital charts, not only would make followup investigations of family or contact studies impossible, but would add a logistic burden to chart reviews that in most instances would prevent effective, timely control and prevention of disease. Patients' names appear on medical records many times on a single page of hospital charts; hospital charts are often 50 to 100 or more pages long; and the staggering impracticability of duplicating and removing names from hundreds to thousands of pages of hospital records prior to review would effectively stop meaningful investigation and identification of causes of diseases and ultimate prevention and control. Moreover, the necessary painstaking cross checking and confirmation of extensive laboratory results without patient name confirmation would lead to chaotic data retrieval and inevitable error.

Consider the effect on the investigation of Legionnaires' disease, for example, if we had required written approval or elimination of patients' names from medical records before they could be reviewed. During this investigation hundreds of records from five city hospitals had to be reviewed to determine if the disease had spread beyond the index hotel to the rest of the city. Obliterating patient identities could have seriously impeded the investigation by imposing a requirement which would have resulted in inordinate delay; delay which could have translated to additional cases and unnecessary death. If public health control measures had been determined as necessary to stopping the disease, delay would have been costly, indeed, to those at risk of being affected.

Other cases could be cited—the link of angiosarcoma of the liver to vinyl chloride; the relationship between X-irradiation of the head and face of children and the development of cancer of the thyroid in young adults; the link of mothers who received DES to daughters who now are at a high risk of cervical cancer; these kind of studies with long latency periods between exposure to a harmful substance and onset of illness could be carried forward only with great difficulty if specific, time-limited authorization by the patient was required. Risks to patient health and safety would be nearly impossible to assess—especially where two generations of a family are involved.

The Commerce Committee has recommended an amendment which would allow 3 months to turn the recently issued Privacy Commission recommendations into legislative language; the administration is at work on that, and expects to have recommendations by mid-October. Translating this report into legislation requires careful deliberation and time-consuming work. I believe the Members of the Congress and the general public should have the assurance that the legislation that is developed has been offered for review and comment by the public and to know that when we pass it we have reasonable assurance that we are aware of its full effect.

In closing, I might note that the Commerce Committee has reported H.R. 3 with a provision which provides to the States an additional 6 months to meet the requirements of the law regarding review of long-term institutional care. If they can meet the law's standards at that time, they will receive a permanent waiver of all back assessments against them. This provision was added to H.R. 3 because of the need to provide timely relief to the States from some $250 million in reductions recently assessed against 20 States. The committee felt that enforcement of the law at this point, after years of inaction by HEW, with a somewhat rigid and literal interpretation of the requirements of the act, and without adequate notice, was a source of justifiable complaint by the States. This provision puts them on notice that the law will be enforced, and they must achieve compliance by the end of the year.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. HALL. Mr. Chairman, with reference to the discussion we had just a moment ago concerning the PSRO's and their requirement, as set out on the fact-sheet of the Democratic study group, I believe that the distinguished gentleman in the well indicated that that would be a discretionary act on behalf of PSRO, whether they had to give their information that they had to the Federal or State authorities or to their State licensing boards.

Mr. ROGERS. This is correct. It is discretionary. I think the confusion came about because the provision says, in the beginning, that PSRO's shall provide this information; but it says later on in the language that this provision is at the discretion of the PSRO.

Mr. HALL. I thank the gentleman.

Mr. ROGERS. It is a discretionary matter. But as the distinguished chairman of the Subcommittee on Health of the Committee on Ways and Means stated, where it is obvious that it is fraud, we would expect the PSRO to take action, although that kind of activity is certainly not the central purpose of PSRO. We want them to do peer review on the quality, necessity, and appropriateness of care, but, if fraud is obvious, certainly something should be done.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I would like to compliment the distinguished chairman of the subcommittee for taking this action in connection with fraud and abuse in medicare and medicaid.

Mr. Chairman, the principle that communications between patient and physician are entitled to the highest confidentiality is one of the few aspects of the practice of medicine that has not changed since the time of Hippocrates. The need for this principle has always been self-evident. It is essential to proper diagnosis that the patient be willing to reveal intimate details concerning his physical condition and habits to the physician, and such disclosure will not be forthcoming unless the patient assumes that the information provided will be treated as confidential. It is a right which citizens accept and upon which they rely. Unfortunately, the basis for this assumption has been eroded in the past few years, and it is my fear that if the present trend goes much further incalculable damage will be done to health care in this country.

I am not alone in my alarm at these developments. Both the Westin report, sponsored by the Department of Commerce, and the more recent report of the Privacy Protection Study Commission have documented changes in the character of the medical record in terms of its becoming more comprehensive as a result of centralization and computerization. Consequently, major portions of medical records and even complete medical records, have been duplicated and are now in the custody of more than one person or institution whether or not the patient has consented. These changes, coupled with a rapidly growing demand for access to medical records, especially by Federal agencies who are eager to exploit what they perceive as a gold mine of useful information, endanger the rights of patients involved. The potential dangers have been exacerbated by the absence of effective third party security over records and related information in their possession. For example, a recently released Department of HEW audit agency report revealed that the records of the Social Security Administration, containing highly personal medical information about millions of Americans, are available to all sorts of people who have no reason to see them.

I fully recognize that some uses of medical records by third parties are legitimate, even without the patient's knowledge or consent. But I am convinced that such invasions of privacy require justification, and should be permitted only upon clearly defined conditions. I am particularly disturbed by the extent to which Federal agencies presently have access to private medical records and by the unwillingness of the Federal health care establishment to have their use of such records either approved or reviewed by someone other than themselves.

It is a fact that officials, employees and agents of the United States are and have been engaged in the practice of examining individually identifiable medical records of private citizens, even those who are not involved in medicare-medicaid or any other federally subsidized medical care delivery, without the knowledge or consent of the patient involved.

These unauthorized disclosures have come from medical records in possession of medical facilities, insurance companies, PSRO's and other businesses and institutions which have obtained personal medical records during the course of business. For the most part inspection and disclosure of them has originated with Federal agents and employees who have perceived a multitude of reasons for their actions. Considered in the aggregate, it becomes clear that there is no effective Federal limitation which applies to inspection and disclosure by Federal agents and employees.

I regret that the provision adopted by the Interstate and Foreign Commerce Committee, purporting to deal with the issue, fails to provide any real semblance of protection for the confidentiality in question. That provision is defective because it addresses only the confidentiality of medical records available to a PSRO while ignoring the question with regard to the vast majority of such records which are not available to PSRO's. In that limited sense confidentiality would be preserved by that amendment only with regard to such records where the medical care of the patient is not paid for or otherwise subsidized by the United States, or where such care is not connected with a program funded by the United States. Nothing in this amendment prohibits any Federal officer, employee or agent from seeking and obtaining other medical records without the patient's consent. Moreover, under this provision a penalty of 6 months in jail and $1,000 fine would be imposed only upon employees of a PSRO and not upon Government employees otherwise guilty of violations.

At the appropriate time I will offer an amendment which I believe will reasonably and effectively deal with this issue. It will protect the medical records of all citizens, not just those whose medical records happen to be available to a PSRO.

While providing desirable safeguards it will also provide procedures for legitimate inspection of medical records for clearly defined purposes involving an overriding public interest which transcends the individuals right to confidentiality. It would apply only to officers, employees, and agents of the Federal Government, including PSRO's in those instances where a medical record clearly identifies the patient.

Simply stated, my amendment would prohibit Federal officers, employees, or agents from inspecting or requiring the disclosure of individually identifiable medical records without the permission of the patient, unless the inspection is made upon the request or with the permission of: First, the chief public health official of the State in which the record is located, unless he is specifically prohibited from doing so by State law; or second, a State health official who has the authority to perform such inspections himself; or the inspection is made necessary by a medical emergency presenting an immediate threat to human life.

Furthermore the prohibition would not apply to: First, inspection of medical records pertaining to care paid for or provided by the United States when such inspection is by medical personnel for the purpose of providing care; second, inspection by PSRO's and other qualified personnel for the purpose of performing medicaid and medicare utilization review; third, inspection for the purpose of verifying or auditing payments for medical care; and fourth, inspection for the purpose of investigating or prosecuting medicare or medicaid fraud and abuse.

My amendment permits an exception in an emergency which threatens human life and leaves unaltered existing law pertaining to employees of the Defense Department and Veterans as specifically set out in title 10 and title 38, respectively, of the United States Code.

It might be argued that this is not the proper vehicle for legislation dealing with confidentiality of medical records. However, that argument is now moot. The issue is before us and the facts which were developed during consideration of this provision accentuate the need for action now and not at some later date.

The Westin report has been available for 10 months. The Privacy Commission delivered its report on July 12. Meanwhile, the computerization of medical records and the use of those records by third parties increases. There can be no justification for postponing positive action now.

The question presented is a simple one. Should the right of confidentiality of a patient in his personal medical record be protected by this Congress, especially when his medical care is not paid for by the Government under medicare and medicaid? My answer to that is, yes, and my amendment offers an opportunity to act in a reasonable and effective manner to provide that protection.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the distinguished gentleman from North Carolina, who has been a most constructive and helpful member, and who has taken a very active part in the writing of this legislation.

Mr. PREYER. Mr. Chairman, the debate that is going on today on the issue of privacy of medical records reflects the substantial progress that this Nation has made in two areas of importance. In recent years, there have been tremendous improvements in all aspects of medical care. The quality of treatment available today is vastly improved over that which was available only a decade ago. We have witnessed consistent advances everywhere in the health field: Better and more effective drugs; new diagnostic and surgical techniques; more highly trained health professionals. Not only is better treatment a commonplace, but that treatment has been made available to an increasing percentage of the population.

Many of these improvements are the result of actions taken by the Congress. Federally funded medical research and programs such as medicare and medicaid have all contributed to today's high quality medicine.

The second area in which there has been notable growth recently is protection of personal privacy. It is only within the last few years that we have become fully aware of personal privacy as a fundamental right. Congress has led the way by enacting protections for privacy in a number of laws: The Privacy Act of 1974, the Fair Credit Reporting Act, the Crime Control Act of 1973, and the Family Educational Rights and Privacy Act of 1974. The importance of privacy is reflected in the creation by Congress in 1974 of the Privacy Protection Study Commission, charged with the responsibility of researching, investigating, and analyzing privacy issues in a wide number of areas in both the public and private sectors.

The bill we are now debating arises at the intersection of the medical and privacy issues. Few people live their lives without leaving a trail of medical records containing a wide variety of personal information. When considering this legislation, it is important for us to remember the lessons that we have learned from our past experiences in both of these areas.

Within my generation, the patterns of medicine have changed considerably. Medical care is no longer characterized solely by a doctor and a patient. That relationship still exists, but it has been augmented by medical insurance, by drug regulation, by medicare and medicaid, by publicly funded research, by disease control efforts, by professional standard review organizations, and by other programs started or controlled by the Federal Government for the benefit of society. While all may not agree that every program is necessary or desirable, the legislation of the last few decades clearly demonstrates the importance of governmental action in medical care matters. Society has a strong, although not unlimited, interest in the way medical care is delivered. Our job here is to focus that interest by regulating use of medical records in an appropriate manner.

While the history of privacy regulation is shorter, there are still lessons to be derived from our experience. Privacy has rarely been approached in legislation as an absolute right. It is important and necessary in modern society, but like many other rights, privacy must be balanced against other conflicting values.

This principle is clearly demonstrated in recent privacy legislation. The Privacy Act of 1974 established a broad protection for information about individuals, but the protection is not absolute. There are 11 categories of permissible disclosures and uses specified in the law. Congress found it necessary and appropriate to strike a balance between privacy and other interests, and specifically permitted the use of personal information by the Bureau of the Census, by the National Archives, by law enforcement agencies, and by others. In the Freedom of Information Act, a balancing test was included in the law. Disclosures of personal information were not required if disclosure would constitute a clearly unwarranted invasion of personal privacy.

The same balance must be found for uses and disclosures of medical records. We should enact limitations that preserve the important privacy rights of patients without unduly sacrificing other important interests. In attempting this balance, we can be guided in part by the identification of interests in medical matters already made by Congress in previous legislation. Such legislation reflects a judgment by Congress that there is a significant societal goal to be accomplished by control and regulation of medical affairs. It is now our duty to consider whether any of these goals conflicts with the patient's right of privacy and to decide how to accommodate any conflicts that exist.

Mr. ROGERS. Mr. Chairman, I reserve the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3 as reported by the Commerce Committee except for the Commerce Committee's provision regarding the confidentiality controversy. In that regard I prefer the Ways and Means bill.

H.R. 3 is designed to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

This legislation is the product of extensive hearings and meetings which began in the last Congress. Moreover—it is a product of close consultation throughout its development by the Commerce Committee with the Committee on Ways and Means. In addition to the joint hearings which we held—the two appropriate subcommittees each held sequential executive sessions to consider the bill in light of the actions taken by the other subcommittee. As a result, both committees are recommending very similar proposals in reporting the bill to the House.

Mr. Chairman, I believe this legislation is needed to address the very real problems of fraud and abuse in the medicare and medicaid programs which our committees and others have investigated. This year we will spend over $32 billion on these programs—over 80 percent of our Federal health costs—and I believe it is incumbent upon us to do what is possible to prevent wasteful and fraudulent use of taxpayers dollars.

This bill as reported by the Commerce Committee requires the Secretary of HEW to submit to Congress legislation based on recommendations of the Privacy Commission regarding confidentiality of medical records. This report will be due within 3 months of the issuance of the Commission's recommendation. A better and more immediate solution is contained in the Ways and Means bill.

Mr. Chairman, estimates of the cost of fraud and abuse under medicare and medicaid range upwards to over a billion dollars. The loss of these funds means that some program beneficiaries are not receiving the services which they very much need.

I support the provisions of this legislation which are designed to eliminate the weaknesses in existing law that lead to fraudulent activities as well as the provisions which will insure a better operation of both the medicare and medicaid programs.

Mr. Chairman, in conclusion I want to add my congratulations to the diligent members of the Subcommittee on Health of the Committee on Ways and Means, and, most particularly, I want to single out for compliment the gentleman from Florida (Mr. ROGERS), the distinguished chairman of the Health Subcommittee of the Committee on Interstate and Foreign Commerce.

In addition to the 2 days of joint hearings held by the two subcommittees, we conducted numerous markup sessions.

Mr. Chairman, the gentleman from Florida (Mr ROGERS) has been a most diligent and most patient chairman and deserves the congratulations of the entire House.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I simply want to respond to the very kind remarks of the gentleman from Illinois (Mr. MADIGAN), who has been such a constructive member of our committee. His remarks were most generous, and all the members of the committee appreciate the contribution he is making to our efforts.

Mr. ANNUNZIO. Mr. Chairman, as a cosponsor, I rise in strong support for H.R. 3, the medicare-medicaid antifraud and abuse amendments. This bill will affect a great many of our medical personnel and facilities and the way millions of our citizens are medically treated.

Passage of this legislation is urgently needed, because the longer we wait, the more taxpayers' money is wasted. There is no excuse for blatant waste and fraud to exist in our Federal programs.

H.R. 3 is primarily focused on five major areas of crucial concern to all of us: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and technical revision.

The bill strengthens the penalty provisions in the existing law. Most fraudulent acts now classified as misdemeanors are to become felonies. A further provision clarifies the prohibition against assigning medicare and medicaid claims to third parties, and it also applies to situations where a hospital or doctor tries to bypass the prohibition by using power of attorney. The medicaid mills of New York City highlighted this problem, and I was appalled to find the extent of these activities in the Chicago area.

H.R. 3 would also require disclosure by providers and suppliers of services under medicare and medicaid to the Secretary of HEW and the Comptroller General of full and complete information about the owners of the facilities, those sharing in the proceeds of fees, and business dealings among them. Too often during the course of recent hearings we have heard of unnecessary services and drugs dispensed, as well as providers directing a patient to fill his or her prescription at certain pharmacies.

In Illinois, for example, a professor of dentistry, asked in 1975 to evaluate the billings submitted to the Illinois Department of Public Aid by a high-volume medicaid dentist, concluded that there was obvious fraud in approximately 20 percent of all bills.

A report issued by the Subcommittee on Health and Long-term Care of the Senate Special Committee on Aging summarized the findings of an intensive 6-month investigation involving 21 medical laboratories, and 50 medical clinics in Illinois, as well as assessing independent evidence in other States. It concluded, "that clinical laboratory services under medicare and medicaid are fraught with fraud and rampant abuse."

Mr. Chairman, I am not picking on Illinois; other studies have found flagrant abuse in many other areas of the country.

These practices are a disservice to the people we represent and are demoralizing to the taxpayer and outrageous to the honest citizen. These amendments will strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicaid programs and put a stop to the estimated 10 percent of payments that have been fraudulent. We have to cut the waste and protect our honest citizens, and do it as soon as possible. The passage of H.R. 3 is a good start, and I strongly urge the approval of this legislation.

Mrs. KEYS. Mr. Chairman, I rise in support of H.R. 3, the medicare-medicaid antifraud and abuse amendments. The Health Subcommittees of both Ways and Means and Interstate and Foreign Commerce have labored together to strengthen the antifraud provisions of our medical payment programs.

At joint hearings held by the subcommittees, prosecutors from around the country praised this attempt to tighten the medicare-medicaid law. The legislation before us requires disclosure of additional information by medicare-medicaid providers and gives the Comptroller General the authority to secure further information where necessary. These are important tools to assist Federal and State law enforcement officials in assuring the integrity of our health programs.

I am pleased that the subcommittee chose to adopt a money-saving provision to alter the payment system for durable medical equipment under the medicare program. Under present law, reimbursement to medicare beneficiaries for equipment such as wheelchairs and beds is made in monthly installments. Because beneficiaries find it difficult to pay for such equipment in a lump sum, they chose to rent the equipment even though rental may be much more costly in the long run than outright purchase.

A General Accounting Office study found that significant savings would result for both the beneficiary and the Government if equipment were purchased. In one case cited by the GAO, a bed was rented for $1,654 when it could have been purchased for $342. Under H.R. 3, the Secretary of Health, Education, and Welfare will be given new flexibility in establishing reimbursement procedures which will reduce costs for both the recipient and the Government.

Finally, I would like to express my support for the provision of H.R. 3 which would permit the States additional time to meet the requirements for review of long-term care facilities. Kansas was among those States that found themselves subject to a one-third reduction in their medicaid funds for failure to adhere to the strict requirements of the law. Medicaid funds to beneficiaries in Kansas were jeopardized by the mere failure of the State to review one or two institutions. This is an unusually harsh penalty, and I am pleased that a more reasonable rule has been proposed. I urge my colleagues to give it their support.

Mr. MARTIN. Mr. Chairman, there has been, and in spite of H.R. 3 there will be, fraud in the medicare and medicaid programs; there has been, and will be, abuse. This bill will not cure all the ills of these programs, but I support it and urge our colleagues to do the same. If we wait for the bill repealing avarice, we will have a long wait.

H.R. 3 is a timely response to a few very unseemly ripoffs of Federal funds by health care providers, mainly in the area of home health care. By and large, home health care is cost-effective and I believe it should be noted that the malefactors in the abuses noted by the committee have been small, independent operators. There is no indication that the types of abuses and the frauds brought to our committee's attention have been particularly widespread.

I feel the report on this bill pretty well deals with the technical features of it. This opportunity should be taken to mention some few remaining problems.

When we mention fraud or abuse we mean to say inadequate enforcement. What we lack—and it is a lack this bill does not cure—is enforcement personnel. In committee, a few of us sought to create a body within the Justice Department to police medicare and medicaid and enforce this and related legislation. That move failed and I am under no illusions about its marketability today. But, we will eventually have to do it because the investigation and prosecution of these cases is drudgery, and worse, is unlikely to garner the headlines so often prized by prosecutors. So, in a world of overworked personnel, we can expect prosecution of these fraud and abuse cases getting less attention than we might want. Eventually, we will vote the special units we are unwilling, it appears, to vote now.

The other problem I would like to mention is a problem of enforcement emphasis. We have concentrated, rightly, on providers. Certainly there is fraud and abuse to be found among providers and it ought to be rooted out. Additionally, however, it is within the realm of possibility that there are cases of patient fraud and patient abuse. The Secretary of Health, Education, and Welfare has just revealed there are some 1,400 Federal employees receiving welfare in the Washington area. I am sure some of them are in conformity with the standards. But, about a third of them are earning over $10,000 a year.

I would offer the opinion that this revelation points to the distinct possibility that a rather substantial number of Federal employees with no need of welfare are getting it and that the odds are that cases of medicaid fraud and abuse will be found. It is essential to the success of the medicaid program that such efforts as HEW has conducted here be expanded nationally. Public assistance programs depends on the public's uncertain willingness to support them. The public deserves assurance that programs such as medicaid are free of abuse by both providers and patients. I hope we will be as diligent with the latter as with the former.

Mr. THONE. Mr. Chairman, as numerous studies have confirmed, fraudulent and abusive practices associated with health care services financed by the medicare and medicaid programs have become more and more pervasive and serious. What concerns me greatly is that those who so desperately need the medical services provided by these programs, the poor and elderly, are not receiving these services when abuse and fraud in the system divert program moneys. In addition, it is the American taxpayer who pays the price for the misuse of funds in such federally financed programs.

Fraudulent and abusive activities weaken the financial stability of local and State governments where already stretched budgets must be readjusted to meet commitments for medical assistance programs. And, perhaps most alarming, such abuses unjustly call into question the honesty and integrity of all practitioners and health care institutions.

The time has come for Congress to take action to curtail these destructive activities and H.R. 3 would serve this purpose. It would strengthen the ability of Government to discover, prosecute and punish fraudulent activities under the medicare and medicaid programs.

This would be achieved because the bill clarifies the existing prohibition of "factoring" arrangements in connection with the payment of claims, so that a power of attorney cannot be used to sidestep the law. It would do this by increasing the criminal penalties for defrauding these programs. It would do this by preventing participation in these programs by per-

sons who have been convicted of fraudulent activities. The list goes on and on.

In an area where recently there has been confusion, H.R. 3 would provide an additional 6 months for States to meet the requirements of medicaid law concerning reviews of long-term care institutions without being subject to penalty and waiver of past penalties if States are in compliance at the end of the 6-month period. This provision would remedy the situation of many States, like Nebraska, which were severely penalized for minor violation of present review requirements.

Mr. Chairman, I urge Members to support H.R. 3 and the curtailment of abuse and fraud in our medicare and medicaid programs.

Mr. MICHEL. Mr. Chairman, in legislating as well as in many other fields, the old adage "better late than never" certainly applies. Nowhere is this more evident than in the proposed legislation dealing with medicare and medicaid fraud.

I would like to point out, because memories are short, that steps taken by our House Appropriations Committee and the Ford administration addressed the problems we are dealing with today.

In 1975, our committee through my insistence initiated a fivefold increase in staffing for the Office of Investigations and Security, which at the time was the primary investigative arm of HEW. We also urged the consolidation of all investigative functions under that office, a step that was shortly thereafter undertaken. This spring our committee provided 110 positions for the new Office of Inspector General, which was created by Congress to coordinate all investigative activities, and an additional 50 positions to continue and expand medicaid fraud and abuse investigations.

The Ford administration initiated the medicaid quality control program, which includes the medicaid management information system. During the Ford administration, 45 States were brought into the system and of those, 15 States had achieved operating systems. It is estimated that such systems result in savings of up to 14 percent. In addition, several medicaid fraud and abuse teams were initiated, which go into the States in a concerted effort to weed out fraud and abuse, and have resulted in a number of prosecutions and considerable savings.

The bill before us would delay until December 31 the imposition of penalties for the failure of States to implement utilization control provisions. I believe this is a fair way of dealing with the problems faced by the States in this area.

At the same time, however, we should not reduce the pressure to come up with effective quality control systems by delaying the penalties. Previous experience in the medicaid-AFDC field indicates that the use of penalties is effective in inducing the States to get moving as far as quality control is concerned.

Let me conclude by saying that in the case of medicare and medicaid we have discovered through painfully expensive experience that good intentions are not always enough. The good intentions behind these programs did not take into account the fact that the programs were open to abuse. I believe that what we have here, in the form of penalties and State authority to suspend eligibility of medicaid recipients convicted of defrauding the programs, is necessary, both for the taxpayer and those who truly need and deserve help.

Mr. McKINNEY. Mr. Chairman, I rise in support of H.R. 3, medicare-medicaid antifraud and abuse amendments, for this legislation not only represents a strengthening of our Government's ability to detect and eliminate fraud and abuse in these two programs, but also constitutes a significant step toward getting our health financing programs under control.

Numerous studies and investigations have disclosed abuse in the medicare and medicaid programs, 10 percent of payments estimated to be fraudulent. While only a distinct minority of health providers are guilty of such reprehensible activities, still the headlines cast taint upon the honest and integrity of all practitioners and health care institutions. Moreover, such fraud adversely affects all Americans: penalizing the Nation's elderly and poor by diverting scarce program dollars from these health services; cheating taxpayers who ultimately bear the financial burden of misuse of funds for Government-sponsored programs; and eroding the financial stability of State and local governments whose already overextended budgets must be readjusted to fulfill the obligations of their medical assistance programs. Further, and perhaps as important, such abuse, demoralizing to the taxpayer and outrageous to the honest citizen, serves to undermine citizen support for these two vital programs.

While none of us anticipate that this measure before us today will completely stop the abuse—legislation alone cannot do the job—H.R. 3 will strengthen the ability of Government to discover, prosecute, and punish fraudulent activities under the medicare and medicaid programs. The provisions of the bill are focused on five major areas: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and technical revision. Of particular importance in terms of administration are the provisions requiring the General Accounting Office to undertake a comprehensive review of the administrative structure for processing medicare claims, and requiring the Secretary of Health, Education, and Welfare to report to Congress with regard to improve quality standards and efficiency for home health and other in-home services.

Disclosures of fraud, abuse, and waste are particularly alarming in view of the considerable discussion of expansion of the Federal role in the provision of health insurance for additional groups of Americans. This year we will spend over $32 billion on medicare and medicaid—over 80 percent of our Federal health costs. It is incumbent upon us to do everything possible to prevent wasteful and fraudulent use of taxpayers dollars. The American people will understandably be reluctant to finance any expansion of health care programs unless the fraud is curtailed and the excessive costs of these programs are contained. It is to this end that we are directing our efforts today.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 3. The medicare-medicaid antifraud and abuse amendments bill which would strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

There is no doubt that the medicare and medicaid programs have been a godsend to the poor, particularly the aged poor whose average medical bills total six times that for younger people. However, fraud in these two programs adversely affects all Americans including taxpayers, who must ultimately bear the financial burden of a misuse of funds in any Government-sponsored program and most importantly the elderly and poor sick people who are most in need of the programs. Additionally, loss of funds through fraud places an unnecessary burden on State and local governments whose budgets are already overextended and who must commit their financial resources to fulfill the obligations of their medical assistance programs.

Mr. Chairman, my major concern is that the medicare and medicaid services be available to those who need them. Such practices as:

First. Referring patients to another practitioner in the same facility even though there is no medically necessary reason;

Second. Billing patients for additional services that are not actually provided;

Third. Billing patients for services not rendered;

Fourth. Selecting certain laboratories which will offer kickbacks to the physicians;

Fifth. Intentional misrepresentation by nursing homes of costs involved in service to patients; and

Sixth. Intentional billing more than once for same service, makes it is impossible for these medical programs to reach all the citizens who could benefit from the services, and diminishes the overall effectiveness of these programs.

Numerous hearings, studies, and investigations have documented the prevalence of these fraudulent practices in health services financed by medicare and medicaid. This bill would give the Federal and State governments new powers and sanctions in monitoring and controlling abuses in these areas.

Mr. Chairman, I believe passage of this bill would assure the delivery of necessary medical services under the medicare and medicaid programs to all needy recipients. I therefore urge my colleagues to join me in supporting H.R. 3.

Mr. ROGERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

WHY PROMPT PASSAGE OF H.R. 3 IS IMPORTANT

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, I just want to emphasize to the Members the importance of passing the bill, H.R. 3, in this body tomorrow, if that is possible.

The consideration of the bill was originally scheduled with that in mind, but there seems to be some slippage in the schedule. The chairman of the Subcommittee on Health of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI), and I are trying to urge the leadership to reschedule the further consideration of H.R. 3 tomorrow morning.

The reason it is so important is because of the penalties that will be levied against States under the medicaid law on October 1 if section 20 of H.R. 3 has not been enacted by that date. Those penalties would amount to some $250 million, imposed on 20 States, for past failure to meet the review requirements in the law.

The States, under the provision in the bill, would be given relief until January 1, 1978, in order to come into compliance with the provision for inspection required under the original law. It is of extreme importance to the affected States that this be done.

Mr. Speaker, I hope that we can get this bill scheduled tomorrow. I am sure, now that all of the facts have been brought to the attention of the leadership, that this bill can be brought up and passed tomorrow.

Therefore, Mr. Speaker, I join with the gentleman from Illinois (Mr. ROSTENKOWSKI), the chairman of the subcommittee, in urging that we take such action tomorrow.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to impose on the time of the gentleman from Florida (Mr. ROGERS) to comment on the cooperation that exists between the Subcommittee on Health of the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means.

I think, as is the case with most mergers, in the beginning people are Doubting Thomases, and they throw obstacles into our path. However, through the efforts of the staff of both of our subcommittees and through the outstanding leadership of the gentleman from Oregon (Mr. ULLMAN), our chairman of the Committee on Ways and Means, and of the gentleman from West Virginia (Mr. STAGGERS), the gentleman from Florida (Mr. ROGERS) and I have come to several agreements which I think are in the best interests of the health community and in the best interests of the efficient functioning of the various committees of the Congress.

Mr. Speaker, I know that there have been many, many observations about jurisdictional jealousies. However, I am hoping that tomorrow, with the passage of this legislation, we will put to rest a lot of those Doubting Thomases.

I hope, too, that I can continue to work with the gentleman from Florida (Mr. ROGERS). I had the privilege when I first came to Congress to sit at the elbow of the gentleman from Florida (Mr. ROGERS) on the Committee on Interstate and Foreign Commerce. I know how diligently and how often he committed himself to the job at hand, and I know of the many hours of midnight oil he burned in committing himself to the welfare of the health community.

Mr. Speaker, he is certainly a leader in that area, and I would like at this point to commend him and to encourage him to continue his work for the improvement of the health of the people of the United States.

It has been a pleasure to have had the privilege of working with him on this particular piece of legislation, and I am looking forward to working with him on many other pieces of legislation.

Mr. ROGERS. Mr. Speaker, I thank the gentleman.

As he knows, I not only reciprocate those remarks without question, but I think this instance is an excellent example of how committees which have some joint jurisdiction can work together if an effort is made.

PERMISSION FOR THE SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF THE COMMITTEE ON JUDICIARY TO SIT TOMORROW WHILE HOUSE IS IN SESSION

Mr. EDWARDS of California. Mr. Speaker, on behalf of the gentleman from Pennsylvania (Mr. EILBERG), I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit and hold hearings tomorrow on H.R. 9133 and H.R. 9110, the Indochinese Migration and Assistance Act, while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, so that we may have some record of the attendance of the House, as the Constitution requires, in order to do business, I demand a division.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) demands a division.

Those in favor of the motion will rise and remain standing until counted. The Chair will count all Members standing.

The ayes will be seated and the noes will rise.

On this vote, there are 18 ayes and no noes.

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman object to the vote on the ground that a quorum is not present?

Mr. BAUMAN. No, Mr. Speaker.

The SPEAKER pro tempore. Will the gentleman allow the Chair, then, to announce the vote?

Mr. BAUMAN. Mr. Speaker, the gentleman insists on his point of order, and hopes that the point will be entertained by the Chair.

The SPEAKER pro tempore. Does the gentleman from Maryland (Mr. BAUMAN) desire an automatic rollcall?

Mr. BAUMAN. No, Mr. Speaker, the gentleman from Maryland simply makes the point of order that a quorum is not present and the Constitution does require a quorum to do business in the House.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DE LA GARZA. Mr. Speaker, is the gentleman from Maryland (Mr. BAUMAN) objecting to a quorum not being present or to the vote as announced by the Chair?

The SPEAKER pro tempore. The Chair will state that the Chair was in the process of announcing the vote and that the Chair did not count for a quorum. The Chair was simply taking count of the Members who were standing. It was the Chair's understanding that the gentleman from

Maryland (Mr. BAUMAN) in making his point of order that a quorum was not present, was doing so in order that a quorum be called in order to establish the presence of a quorum.

Will the gentleman from Texas, Mr. DE LA GARZA, withdraw his motion and move a call of the House?

Mr. DE LA GARZA. Mr. Speaker, if it is permissible to withdraw my motion without asking unanimous consent then I will do so, and if it is not, then I will ask unanimous consent to withdraw my motion.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, has the Chair entertained my point of order of no quorum?

The SPEAKER pro tempore. The Chair is in the process of entertaining the gentleman's point of order.

Mr. BAUMAN. I object to the withdrawal of the motion.

The SPEAKER pro tempore. While the motion may be withdrawn if the gentleman from Texas asks, the House having taken no final action on the motion, the gentleman from Maryland (Mr. BAUMAN) must in the meantime decide within his own mind—and the Chair will protect the gentleman's rights, and is so doing—whether the gentleman from Maryland wants to object to the vote on the ground that a quorum is not present or the Chair would recognize someone for a motion for a call of the House. If the Chair sustains the point of order, the gentleman from Maryland may have one but he may not have both.

Mr. BAUMAN. The only point of order that the gentleman from Maryland has made is that a quorum is not present, and there is pending a motion at this time regarding resolving into the Committee of the Whole House on the State of the Union.

The SPEAKER pro tempore. Under the rules of the House, if a quorum is not present, the motion on a call of the House would still take precedence over the pending motion to resolve into Committee.

The gentleman from Maryland makes the point of order that a quorum is not present and evidently a quorum is not present.

Mr. ROSTENKOWSKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 578]

Ambro	Butler	Dent
Andrews, N.C.	Byron	Derrick
Archer	Carter	Derwinski
Armstrong	Chappell	Devine
Ashley	Clausen, Don H.	Diggs
Aspin	Clawson, Del	Dingell
Badham	Cleveland	Dodd
Badillo	Collins, Ill.	Drinan
Beard, Tenn.	Conte	Early
Bellenson	Conyers	Edwards, Ala.
Bolling	Cornwell	Eilberg
Bonior	Cotter	Ertel
Bowen	Coughlin	Evans, Colo.
Brooks	Daniel, Dan	Evans, Del.
Broyhill	Davis	Evans, Ind.
Burton, John	Florio	Fish
Flowers	Lent	Russo
Fowler	Levitas	Sarasin
Frenzel	Long, Md.	Scheuer
Frey	McDade	Sebelius
Gammage	McDonald	Seiberling
Giaimo	McKinney	Shuster
Gilman	Mann	Slack
Goldwater	Marks	Smith, Iowa
Goodling	Mathis	Solarz
Gradison	Meeds	Spellman
Harrington	Mikva	Staggers
Harsha	Mitchell, Md.	Stokes
Heckler	Moorhead, Pa.	Teague
Hefner	Motl	Thornton
Holland	Murphy, N.Y.	Traxler
Hollenbeck	Myers, Michael	Treen
Holt	Nichols	Trible
Holtzman	Nolan	Udall
Horton	Obey	Ullman
Howard	Pattison	Walker
Huckaby	Pettis	Walsh
Hughes	Pursell	Waxman
Jeffords	Quayle	Weiss
Johnson, Calif.	Rahall	Whalen
Johnson, Colo.	Railsback	Whitehurst
Jones, Okla.	Rangel	Whitley
Kasten	Richmond	Wiggins
Kelly	Robinson	Wilson, Bob
Koch	Roncalio	Wolff
Krueger	Rose	Wydler
Le Fante	Rosenthal	Yates
Leggett	Rudd	Young, Fla.
Lehman	Runnels	Zeferetti
	Ruppe	

The SPEAKER pro tempore (Mr. WRIGHT). On this rollcall 286 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION

The SPEAKER pro tempore. The pending business is the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7073, on which the Chair will again put the question.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7073, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. THONE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are beginning general debate only on H.R. 7073, legislation reported by the Committee on Agriculture earlier this year to extend funding authority through fiscal 1978 for pesticide programs established by the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

Mr. Chairman, it was the committee's original intention to report this bill and other amendments to the FIFRA as part of the comprehensive farm bill. To this end, 3 days of oversight hearings were conducted by our full committee on March 7, 8, and 9. Testimony was received from 31 witnesses, including administration spokesmen, Members of Congress, basic manufacturers of technical grade material for pesticides, formulators, farm and specialty user groups, the State Departments of Agriculture and the Association of Pesticide Control Officials, the State extension services, and witnesses from conservation and environmental groups.

In addition to these 3 days of oversight hearings, the Subcommittee on Department Investigations, Oversight, and Research, which I chair, held additional hearings on April 26 and 27. A number of major problem areas were identified during the March and April hearings, and they are listed for the Members' consideration beginning on page 2 of House Report 95–343, part 1, which accompanies H.R. 7073.

Because of the numerous complex issues identified during these extensive hearings and because of our committee's involvement with the issues surrounding the general farm bill and amendments to the Food Stamp Act, we chose to report H.R. 7073 in its present form so that we might be in compliance with the Congressional Budget and Impoundment Control Act. H.R. 7073 was ordered reported by voice vote on May 11, and the committee report was filed on May 16.

I would like to call the Members' attention to page 23 of the committee report where we indicated that "substantive changes in the act will be considered later in this session."

Pursuant to this public commitment to consider major changes in the act addressing the problem areas identified in the earlier hearings, our subcommittee held additional hearings on June 8 and 9 to receive testimony suggesting specific changes in the act.

As the House is aware, however, we were involved in floor debate and conference committee meetings on the farm bill up to the beginning of the August district work period. As such, our subcommittee was unable to return to consideration of amendments to FIFRA until the House returned earlier this month.

The Subcommittee on Department Investigations, Oversight, and Research met in a series of open business meetings beginning on September 7 and running through September 15. We moved to develop our own bill from a comparative print containing the text of S. 1678, which passed the Senate on July 29, H.R. 8681 by Mr. FITHIAN, H.R. 8954 by Mr. THONE, and the text of the administration proposal. The Members may wish to refer to pages 6–15 of House Report 95–343 to review the text of the original proposal from the Environmental Protection Agency.

Mr. Chairman, the procedure adopted by the subcommittee and the cooperation and interest of our Members assured that all points of view were afforded full consideration. I want to express my personal appreciation to the ranking minority member, Mr. THONE, and to all of the members of the subcommittee for their cooperation and diligence in this effort.

I would also like to commend the new

Administrator of the Environmental Protection Agency for his willingness to work with us in an open and fair manner as we moved through each of the highly complex issues involved in this act.

Mr. Chairman, our subcommittee agreed by unanimous rollcall vote of 14 yeas to 0 nays to report H.R. 8681, as amended by the subcommittee amendment in the nature of a substitute, to the full committee with a recommendation for its approval.

H.R. 8681, as amended by the subcommittee, is a compromise between clearly delineated points of view. It does address the major areas of concern identified in the earlier hearings, and it appears to be recognized by a wide spectrum of groups as basically a good and fair bill which will go a long way toward making the pesticide programs work while maintaining an appropriate balance between competing interests. I do not wish to imply, however, that any group is totally satisfied with all of the provisions of the bill or that all of the members of any particular group are entirely satisfied with a position endorsed by that group.

Mr. Chairman, H.R. 8681, as amended by the subcommittee, is now before the full Committee on Agriculture. Our chairman, the gentleman from Washington (Mr. FOLEY) has indicated that each of our Members will be afforded every opportunity to review the subcommittee's recommendation and offer amendments.

We expect to complete general debate only on H.R. 7073 today, and we have asked the leadership to postpone further action on this measure until such time as our committee completes consideration of H.R. 8681, as amended. Mr. FOLEY has stated that he will seek committee approval to offer the text of H.R. 8681 as finally agreed to by the committee as an amendment to H.R. 7073.

It is my understanding, Mr. Chairman, that we do expect to file a report to accompany H.R. 8681 after we have completed action so that the Members of the House will have a full explanation of the proposed committee amendment to H.R. 7073.

Mr. Chairman, because we are still working on H.R. 8681 and it is not in final form, I am hesitant to discuss its provisions in detail. I am prepared, however, to respond to any specific concerns which the Members might have.

Mr. Chairman, I reserve the balance of my time.

Mr. THONE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the gentleman from Texas (Mr. DE LA GARZA), chairman of the subcommittee has so well explained, this extension of, H.R. 7073, is an extension of the bill popularily known as FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act. This is a simple extension. I will just let my remarks go on that, until my concluding remarks here. The House should be much more interested in the major amendments to FIFRA which are included in H.R. 8681, which is currently still being processed in the full Committee on Agriculture.

As the subcommittee chairman indicated, this Committee bill will be offered as an amendment to H.R. 7073 when floor amendments are offered. I assume that will be tomorrow or the first part of next week. But before I speak on H.R. 8681, let me most briefly review for the Members of the House the problems facing our country in dealing with pesticides.

The basic FIFRA legislation was passed in 1947, and it was an attempt to protect the environment and human health while making chemicals available for use in pesticides. It is particularly necessary to have these pesticides to combat the pests which would severely reduce the production of food and fiber. Consumers, as well as farmers, are well served by this legislation.

In 1972 amendments were passed by Public Law 92–516 and in 1975 by Public Law 94–140, but EPA has continued to be bogged down with the implementation of these laws for a variety of reasons. EPA would be the first to admit that it may take under current conditions 10 to 15 years before the logjam would be broken and all the pesticides would be reregistered.

To address the problems, the Subcommittee on Department, Investigations, Oversight, and Research of the Committee on Agriculture, so ably chaired by the gentleman from Texas (Mr. DE LA GARZA), has held a series of hearings and markup sessions on major amendments to this pesticide legislation which deals with a most difficult and complex set of issues that are much intertwined with widespread ramifications. The product of this effort, H.R. 8681—and much credit must be given to the gentleman from Indiana (Mr. FITHIAN, for his dedication and contribution to the final work product—encompasses these major amendments, and the major problems addressed include registration and reregistration which involve proprietary rights and trade secret data, availability of pesticides for minor uses, waiver of data requirements pertaining to efficacy, classification of pesticides, export of pesticides, the role the States should play in certifying applicators for application of restricted-use pesticides and enforcement for pesticide use violations and the State registration of pesticides. Numerous other problems are addressed, but I will not take time to delineate all of those here at this time.

The subcommittee had some hard choices to make and came up with a compromise bill that we feel will serve all segments of our society. The subcommittee chairman, the gentleman from Texas (Mr. DE LA GARZA), put it well when he stated that no one got what they wanted. In my opinion a majority should be able to support this compromise legislation, as it goes a long way in meeting the needs of each competing interest and the public.

The subcommittee approved the legislation with a vote of 14 affirmative votes and no negative votes. H.R. 8681 is now being finalized by the Committee on Agriculture so we have a rather unique situation here. The bill should be completed early this afternoon, and we do not expect any major changes before it is offered on the floor.

Let me state again that in my opinion this legislation will help greatly in resolving the difficulties now faced by the Environmental Protection Agency in its registration processes and, more importantly, will assure that pesticides are available for farmers' use in meeting the challenge of producing more and more food and fiber to this Nation and to the world.

Finally, I wish to address what I consider to be a most important feature of this bill, as it now reads and as I understand it will read when the committee amendment is added during the amending process. That is the fact that authorized funding will be implemented only through fiscal year 1978, that is, through September 30, 1978.

In my opinion, the committee amendment will make substantial changes in the administration and operations of the Environmental Protection Agency as they relate to pesticides. It will change procedures for examination and compensation of data, and it will, hopefully, cut the backlogs that currently exist at EPA for new registrations and reregistrations—which, I might add parenthetically, are somewhere between a 4- to 15-year backlog and to which I alluded earlier.

The simple 1-year authorization will permit our committee and the Congress to review next year how EPA is implementing the substantial changes which undoubtedly will be made in the existing law by the committee amendment bill which will be offered by my colleagues on the other side of the aisle.

I cannot emphasize too strongly the interest on our side of the aisle in limiting this funding authorization for FIFRA to 1 year, not only in this body but also during the conference with the other body which will follow. I believe that the chairman of the subcommittee, the gentleman from Texas (Mr. DE LA GARZA) feels likewise on this most fundamental issue because of the rather unique situation presented by this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time.

Mr. THONE. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Virginia (Mr. WAMPLER), the ranking member of the full committee.

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 7073 to extend the authorization for funding of pesticide programs under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, through September 30, 1978. This bill authorizes funding for pesticide programs by the Environmental Protection Agency at the level of $49,300,000 during fiscal year 1978. Additionally, the bill as reported also provides authorization for a funding level in the current fiscal year at $46,636,000.

Mr. Chairman, American farmers and consumers have a vital stake in the administration of the pesticide program. As pointed out in a June 20 Report to the President, "World Food and Nutrition Study," the National Academy of Science stated:

The magnitude of crop losses from pests is not known precisely, but worldwide it is estimated to average about a third of potential food production. The world's most important crop, rice, suffers the most loss from pests—perhaps 40 to 50 percent. Pest losses vary widely over time and space, so that average loss figures obscure regional outbreaks that can devastate the food economy of an area. Some losses have been so consistently large that certain crops of great nutritional potential are not grown in particular areas. Preemptive losses of this kind are not included in estimates of pest losses, but should be considered in the planning for research on pest problems.

Our current technology has not been able to stabilize levels of pest control because the effectiveness of some pest control practices diminishes over time.

When losses in agricultural production are added to pest losses during storage, processing and transportation, the magnitude of the problem of controlling pests in terms of the cost and quality of the end food product on the family dinner table, boggles the mind.

It is therefore essential that we have an adequate and economical pest management program. At this point in time agriculturalists have mainly relied on chemical pesticides to control pests that attack our food systems.

However, Mr. Chairman, this is one side of the coin. On the other side of the coin, there is the necessity to also assure our people that in controlling these pests we do not put harmful pesticides on the market that will cause an unreasonable risk to man or his environment. This is the crux of the FIFRA Act.

I make these points, Mr. Chairman, to put the debate in proper perspective.

As Members of the House are aware, the Administrator of the Environmental Protection Agency has requested that we extend this act over a longer timeframe than this bill authorizes. The other body's bill, S. 1678, differs from the bill before us in that the other body's bill authorizes an additional year extension.

I would be amiss if I did not state categorically that I have not been happy with the administration of this act by the Environmental Protection Agency. This is perhaps the basic reason why the House has been reluctant to grant EPA authorizations for a period of greater than 1 year. These problems still exist. Amendments to this bill, in the form of a committee bill are currently being finalized in the Committee on Agriculture which should correct many of these deficiencies of administration of this act by the agency. I also hasten to add that EPA is not entirely to blame for the administrative deficiencies that exist. Some of the blame for this situation falls in the lap of the Congress. I believe some of the amendments that will be offered later by the Committee will correct these deficiencies.

I shall speak to these amendments when they are offered.

For the moment, I do want to make it clear that in supporting this bill, I strongly believe it is essential to only extend this bill through fiscal year 1978, so that the Committee on Agriculture can continue to exercise the maximum amount of oversight on this program, thus assuring that we balance the absolute need to prevent losses of agricultural products from pests as against the risks to man and his environment by the use of pesticides in controlling these pests.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I am delighted to yield to my distinguished colleague, the gentleman from Illinois (Mr. FINDLEY), a member of the Committee on Agriculture.

Mr. FINDLEY. Mr. Chairman, I know from personal experience that dealing with the FIFRA legislation is not a pleasant task. It is very difficult to define the narrow paths of public interests. There are so many conflicting issues involved.

Mr. Chairman, I want to salute our colleagues, the gentleman from Nebraska (Mr. THONE) and the gentleman from Texas (Mr. DE LA GARZA) and the committee leadership, for doing an exceptional job in staying with what has to be regarded as one of the most thankless tasks in the House of Representatives.

Mr. WAMPLER. I thank the gentleman.

Mr. THONE. Mr. Chairman, all I would have to offer at this juncture is to say I concur in the profound remarks made by the gentleman from Illinois.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Texas have further requests for time?

Mr. DE LA GARZA. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, had come to no resolution thereon.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during the general debate on the bill H.R. 7073 which has just been concluded.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8638, with Mr. PREYER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. BINGHAM), will be recognized for 30 minutes, and the gentleman from Illinois (Mr. FINDLEY), will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, today it is my privilege to present for consideration H.R. 8638, the Nuclear Antiproliferation Act of 1977. This legislation will establish for the first time since the inception of the atoms for peace program in 1954 consistent and effective criteria to be applied to the negotiation of agreements for cooperation in the exchange of nuclear technology and in the granting by the Nuclear Regulatory Commission of license pursuant to such agreements.

This bill is the result of some 3 years' work by the International Relations Committee, beginning with hearings on the proliferation problem and the extension of the Export Administration Act in 1975 and continuing last year in the adoption by the House of the Zablocki-Findley amendment of which H.R. 8638 is an outgrowth. Earlier this year, I joined with a number of colleagues to introduce comprehensive antiproliferation legislation H.R. 4409 which, along with H.R. 6910, the administration's subsequent proposal, was the subject of a number of hearings before two subcommittees of the International Relations Committee this spring and summer. The legislation we bring before the House today is the result of extensive consultations with the administration. As the exchange of letters which will be appended to my statement will show, H.R. 8638, with certain amendments, has the full support of the administration, except for those sections providing for a congressional veto of certain executive branch actions by concurrent resolution. Indeed, this legislation is on the top priority list of legislation which the administration hopes to see enacted at this session.

This legislation is the result of a bipartisan effort. I wish especially to pay tribute to the leadership of the chairman of the full committee, Mr. ZABLOCKI, and to take note of the hard work put into the drafting of this legislation by my colleagues on the opposite side of the aisle, Mr. FINDLEY of Illinois and Mr. WHALEN of Ohio. As the committee report indicates, the bill was reported out of committee without dissent.

Mr. Speaker, the purpose of this bill is

quite simple: It seeks to address the peril of nuclear proliferation in a responsible, comprehensive, and effective fashion. I need not lecture my colleagues on the gravity of the problem posed by the uncontrolled spread of the capability to detonate nuclear weapons to nations and terrorist groups. The specter that more nations might employ nuclear weapons in what might otherwise be relatively confined local conflicts is very real indeed. The fact that such volatile areas as the Middle East, Africa, South America, and Southern Asia might see the introduction of nuclear weapons capability attained from the diversion of ostensibly peaceful nuclear technology points to the very great need for reassessment of our nuclear export policies.

There is no simple answer to the problem of nuclear proliferation. It helps little to embargo all exports of nuclear materials, as some would have us do. Neither is it a responsible position to say "The genie is out of the bottle; so we mustn't do anything in an effort to curb proliferation that might put U.S. industry at a commercial disadvantage."

The bill seeks to provide a clear and understandable set of standards and export criteria to replace the loose and inconsistent policies of the past—policies which, for instance, did not explicitly rule out the manufacture by nonnuclear weapon states of nuclear explosives labeled artificially as "peaceful." The ambiguity of past agreements and policies has not only led to genuine confusion, but has provided a pretext for distortion as well. The codification of consistent standards accomplished by this legislation will help to eliminate such possibilities in the future.

The legislation also seeks to clarify the responsibilities of the various executive branch agencies responsible for the coordination and implementation of U.S. antiproliferation policies. This is an important step designed to replace the ad hoc approach which has too often characterized past executive branch actions in the antiproliferation area.

This bill seeks to maximize the executive branch's flexibility in seeking agreement with all nations on antiproliferation goals. It is particularly sensitive to the need for continued cooperation with our European allies, even as they reassess their commitment to the use of plutonium as a reactor fuel. Thus, the bill permits reprocessing in certain Euratom facilities for cases in which a compelling need for such reprocessing exists.

This legislation seeks to implement policies for international cooperation in using peaceful nuclear technology. It does not affect our domestic nuclear power programs. The bill incurs no direct financial costs, though it does mandate several studies and training programs aimed at promoting greater safety and security.

The policies and standards promulgated in this act do not arise out of narrow commercial considerations, nor even out of security interests that are exclusively the concern of the United States. Rather, these policies, by helping to prevent scores of countries from coming to within a hair's breadth of nuclear weapons, serve the cause of international security generally. For as one country strives to come closer to a weapons option, its neighbors will surely follow. And the closer individual countries are allowed to come, the easier it is for their leaders, perhaps at a moment of high crisis, to make the final decision to acquire weapons themselves.

These policies do not constrain the development of legitimate nuclear power production activities; rather by assuring that nuclear power is more safe, the bill contributes as well to its being more acceptable. Nothing should be more important to the industries responsible for promoting nuclear power.

In working on this legislation we have received encouragement from some in the nuclear industry. There are others in the industry who believe this legislation might unnecessarily put them at a disadvantage with foreign competitors in the nuclear marketplace. I believe such a view is shortsighted because as it now stands there is a de facto moratorium on sales of U.S. nuclear technology overseas. Indeed, there have been no sales of reactors for more than 2 years in large measure because of uncertainty as to what the U.S. nuclear export standards are or will be. It is this uncertainty which this legislation seeks to address; it is surely in the industry's interests to see the confusion clarified.

This legislation will, in addition, provide mechanisms for frequent congressional review of executive branch implementation of policies designed to combat proliferation.

The question has been raised as to what impact this legislation will have on our ongoing negotiations abroad designed to improve cooperation with other nations in combating proliferation. I can assure my colleagues that this legislation will be completely complementary to these efforts.

Earlier this week U.S. Ambassador Gerard Smith met with other nuclear supplier and consumer nations in London to continue vital discussions aimed at curbing nuclear proliferation. We have been in contact with the Ambassador and his staff consistently in recent days and weeks and I can testify to the fact that he sees passage of this legislation as vital to his work. It is my understanding that he shared these views as recently as Tuesday in a cable he forwarded to our distinguished colleague from Illinois (Mr. ANDERSON).

The fact is that other nations are looking to us for leadership in setting standards which will allow nuclear commerce to continue but which are designed to prevent more nations from achieving the capability to mass produce nuclear weapons.

It is important to note that the United States has received strong encouragement and cooperation abroad in our antiproliferation efforts.

Both the French and West German Governments have agreed not to export any more reprocessing facilities and the United States has been successful in averting the proposed sale by France of a reprocessing plant to South Korea. The Indian Government has retreated significantly from its position of 1974; the new Desai government is now saying that it foresees no need for any additional nuclear tests, "peaceful" or otherwise.

Japan has agreed not to build a commercial reprocessing facility; they also will not recycle the plutonium recovered from their experimental Tokai facility and will convert that test facility to more safeguardable alternative processing techniques as soon as feasible.

Two nations with very large reserves of raw uranium, Canada and Australia, have taken antiproliferation positions which are even more strict than our own; Canada has refused to export to nations which have not signed the NPT or which do not recognize her right to approve retransfers or reprocessing of its materials; Australia has pledged to open her vast uranium reserves for export to nations which share strong antiproliferation policies and which seek to avoid premature commitment to commercial use of plutonium fuels.

It is also noteworthy that significant progress has been made at the London Conference of Nuclear Supplier and Consumer Nations; this gathering is in itself unprecedented in that it represents a global awareness of the proliferation danger and an unparalleled commitment to attempt to resolve a pressing global concern. Most of these same nations are working together with the United States in our international fuel cycle evaluation program designed to explore and demonstrate more safeguardable technologies for the use of the peaceful atom. No effort could be more important; this legislation seeks therefore to promote and not in any way hinder such progress by complimenting the diplomatic efforts which have already met with significant success abroad.

This very morning we have news of great progress at the London Conference of Nuclear Supplier and Consumer Nations. Apparently, the U.S. negotiators have successfully reached agreement with the key supplier nations on guidelines for nuclear exports. These guidelines are designed to prohibit the spread of nuclear weapons capability; they are, as such, entirely consistent with the purposes and provisions of this act. I believe this is an extremely encouraging development which makes swift adoption of H.R. 8638 even more appropriate than before. The London agreements may well prove to be the basis for unprecedented international cooperation in combating an overriding peril of our time: nuclear prolifertion.

I can summarize the scope of the various titles of the bill, as follows:

Title I would spell out initiatives for international nuclear cooperation which the United States will pursue, including cooperation on safeguards, sharing of safeguardable nuclear technology as well as nonnuclear and alternative energy technologies, and the negotiation of multilateral antiproliferation agreements among nuclear supplier nations.

Title II would spell out U.S. initiatives to strengthen the International Atomic Energy Agency, which is equipped to implement safeguards on the peaceful uses of nuclear energy.

Title III would pledge the best efforts of the United States to insure its reli-

ability as a supplier of enriching services for light water reactor fuel to nations which adhere to our antiproliferation guidelines.

Title IV would establish guidelines for the negotiation of new agreements for cooperation and revise procedures for congressional consideration of these agreements.

Title V would establish consistent and effective criteria for the licensing of all U.S. nuclear exports and arrangements subsequent to agreements. This title also closes loopholes in existing law to apply these criteria to all exports which are to be used in nuclear facilities. In addition, procedures for prompt consideration of export applications would be provided to enhance our position as a reliable supplier of nuclear fuel to nations which share our antiproliferation policies.

Title VI would establish requirements for executive branch reports to the Congress on the status of antiproliferation negotiations and programs.

Title VII contains definitions and a savings provision.

Mr. Chairman, several questions have been raised regarding the intent of this legislation as represented by the committee's report. I wish at this time to lay to rest any doubts which may be had regarding the interpretation of this report.

First, the reference to "certain initially exempted Euratom facilities" found on page 7 of the committee report is intended to mean nothing more than that these facilities shall remain outside the compass of the timely warning standard until such time as, through mutual agreement between the United States and Euratom, they might be subjected to technical or institutional changes that would permit them to satisfy the "timely warning" criterion. The committee confirms the administration's understanding that diplomatic efforts to achieve this upgrading are not subject to any particular time limitation.

Second, with regard to the words "must find" contained in the committee report's discussion of "timely warning" on page 18, the committee wishes to confirm the administration's understanding that the intent of the bill is not to have the administrator make a formal finding, but rather, as stated in the act itself, to give his view that the reprocessing and retransfer arrangements in question meet the standards set forth in this act.

Third, the committee report language on page 19 discussing alternative reprocessing technologies was not intended to prejudge the extent to which coprocessing, of which there are several variants, might or might not satisfy the requirement for timely warning.

Fourth, regarding public participation in the export licensing process, the language found on pages 17 and 22 of the report was not in any way intended to expand upon the provisions of the legislation designed to provide careful but prompt consideration of all export licensing applications.

Finally, the language of the committee report regarding the requirement for NRC licenses for components, items, and substances to be used abroad in nuclear facilities is not intended in any way to expand upon the provisions of the legislation. It is the purpose of the legislation here simply to require NRC licenses for any export especially relevant because of its significance for nuclear explosive purposes which could be used in a nuclear facility.

The exchange of correspondence with Secretary of State Vance, previously referred to, follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 16, 1977.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: In response to executive branch concerns, the five attached amendments to H.R. 8336, the Nuclear Antiproliferation Act of 1977 will be offered on the Floor and supported by the undersigned. Mr. Bingham, the floor manager of the legislation, will offer for the Record the attached statement which will clarify the questions raised by the executive branch with respect to possible misinterpretations of House Report 95–587.

It is our understanding that with the inclusion of these amendments and this statement, the executive branch is able to give its unqualified support to swift passage of this legislation by the House.

We would appreciate your confirmation of the understanding as soon as possible.

With best wishes,
Sincerely,

CLEMENT J. ZABLOCKI,
Chairman, International Relations Committee.

JONATHAN B. BINGHAM,
Chairman, Subcommittee on Economic Policy and Trade.

PAUL FINDLEY

AMENDMENT OFFERED BY MR. BINGHAM

On page 15, line 10 strike everything following the semicolon down through the semicolon in line 22 of the same page and insert in lieu the following: "(8) except in the case of agreements for cooperation arranged purusant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be processed, or (in the case of plutonium, U–233, uranium enriched to greater than 20 percent in the isotope 235, or in the case of other nuclear materials after irradiation) otherwise altered in form of content without the prior approval of the United States;

(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, no U-233, and no uranium enriched to greater than 20 percent in the isotope 235 transferred pursuant to the agreement for cooperation, or recovered from any source of special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States;"

On page 15, line 22 strike the numeral "9" and insert in lieu thereof the numeral "10".

On page 16, line 15 strike the numeral "10" and insert in lieu thereof the numeral "11".

On page 24, strike everything from lines 7–21, inclusive, and insert in lieu thereof the following: "(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of this act or for subsequent retransfer to a nonnuclear weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among the factors in making this judgment, the Secretary of Energy will give foremost consideration to whether or not timely warning of any diversion will be provided to the United States well in advance of the time at which the nonnuclear weapon state could transform the diverted material into a nuclear explosive device; and".

On page 26, line 8 insert the following immediately after the comma: "the Secretary of Defense,".

Page 28, line 6 insert after the semicolon and before the word 'and' the following: "*Provided further*, That if the President determines that failure to continue cooperation with any such group of nations after the expiration of such eighteen-month period because the provisions of paragraph 4 or 5 of subsection 127 a. have not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes the above determination;".

On page 39, line 3, strike the word "of" and insert in lieu thereof the following: "in the isotope U–235 contained in".

THE SECRETARY OF STATE,
Washington, D.C., September 17, 1977.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, House of Representatives

DEAR MR. CHAIRMAN: Thank you for your letter of September 16, 1977. As you know, the President attaches the highest priority to enactment of anti-proliferation legislation during this session of Congress.

We have carefully reviewed the five amendments to H.R. 8638 that were enclosed in your letter, as well as the proposed clarification which Chairman Bingham would offer. These amendments and clarifications (attached) meet all of our concerns except for our continuing concern about the use of the concurrent resolution Congressional review procedure. Aside from this exception, we are able to confirm that the Administration strongly supports the bill and wishes to see its prompt passage by the House without further amendment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report.

Sincerely,

CYRUS VANCE.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield such time as he may consume to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, at the very outset I want to commend our colleague from New York, Mr. BINGHAM, the able Chairman of the Subcommittee on International Economic Policy and Trade and the members of that subcommittee, including the gentleman from Illinois (Mr. FINDLEY), for their efforts on this bill. They, along with the members of the Subcommittee on International Security and Scientific Affairs, have worked diligently and have produced a responsible piece of legislation which deserves the support of the House.

Mr. Chairman, H.R. 8368, the Anti-Proliferation Act of 1977, helps to strengthen, clarify, and reorder U.S. nuclear antiproliferation policy, thereby making it less likely that other nations will acquire nuclear weapons through the diversion or exploitation of U.S.-supplied materials and technology.

The bill sets forth a careful blend of flexibility and firmness, of inducements for cooperation and measures of restraint. While tightening export criteria that have previously been ambiguous, loose, and sometimes inconsistent, it also promotes policies that help to assure that the United States remains an effective and reliable supplier of nuclear technology to those countries that commit themselves to peaceful use guarantees. The bill also improves procedures for interagency review and lays the basis, through more timely and meaningful reporting requirements, for continuing congressional oversight of this sensitive area.

Moreover, this bill is compatible with and supportive of the code of principles adopted in London at the Nuclear Suppliers Conference.

Like the Zablocki-Findley legislation of last year, of which this bill is an outgrowth, the legislation sets forth an important standard for judging whether nuclear reprocessing operations are effectively safeguarded. I speak here of our requirement for an assurance that safeguards can provide timely warning of nuclear diversion.

Our committee has found that nuclear safeguards are more like warning bells than locks. If they are to be of use, it follows that they must ring early, and well before a diverting nation has had time to convert its stolen material into bombs. It can be seen in the case of South Africa how important such warning time can be. This legislation helps to assure that warning alarms over the material we export will ring clearly, reliably, and in time for action by the international community still to be possible.

The bill we bring before you today has been jointly reviewed by two subcommittees, the Subcommittee on International Economic Policy and Trade and the Subcommittee on International Security and Scientific Affairs. By proceeding in this manner, the committee was able to bring two important sets of expertise to bear upon the problems raised by U.S. commerce in the nuclear field. The bill, moreover, is the product of nearly 2 years of hearings, consultation, and research. We are proud of its contents and comforted by the protection it provides.

I urge the adoption of the bill H.R. 8368.

Mr. FINDLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation is truly the product of the Congress and more particularly of the House of Representatives. Over the years I am sure many of us have heard the question raised: Just what is the role of the Congress in foreign policy? And many people I suspect would respond that the role of the Congress is exclusively to respond to initiatives from the executive branch.

Under the leadership of the gentleman from Wisconsin, the chairman (Mr. ZABLOCKI), the committee has set a new tone, a new course, and a new record of accomplishment and has initiated some very significant legislation. Most notable in this series has been the war powers resolution. Properly in the same series is the bill which is now before us today.

It is the product of the House of Representatives and the product of bipartisan cooperation. I think it is a great tribute to the leadership of the committee on both sides of the aisle and to the staff of the committee on both sides of the aisle.

I am very proud to have had a role in it. I am glad to recognize the significant contribution of the gentleman from New York (Mr. BINGHAM), who has very diligently stayed with this complicated matter and seen it through.

The final product finds itself in the notable position of being endorsed strongly by the administration with only one reservation, that dealing with the longstanding concern of the administration with concurrent resolutions.

But aside from that, the administration endorses the legislation without amendment, which in my view is the highest praise it could possibly receive from the other end of the avenue. This legislation is crucial because it creates a framework to stem nuclear spread.

The spread of atomic weapons to a multitude of nations around the globe is an intolerable prospect. Nuclear proliferation threatens to undermine international stability and to tax beyond endurance our national security requirements. Moreover, our effectiveness in achieving our foreign policy objectives would diminish as states increasingly menace each other with nuclear conflagration and possible extinction.

Such a scenario, though grim, is not inevitable. But determination rather than indifference must fashion our approach to stemming nuclear spread. Through carefully devised and thoughtful policy, we can discriminate between the vast majority of nuclear technologies which are beneficial and safe and those which are unnecessary and dangerous. By regulating our exports accordingly, we can prevent or at least postpone that time when scores of nations are on the verge of atomic weapons capability. Even a delay would afford us the opportunity to develop new, proliferation-resistent technologies. And, indeed, as one sage commented—one could do a lot of living in the 10, 20, or 30 years we could prolong a world free of proliferation. Thus, resolve must substitute for complacency in directing U.S. nuclear export policy.

Unfortunately, in the past, U.S. policy has often been indifferent and incomplete. Its many inconsistencies have perplexed other nations. The application of our safeguard standards has been confused and indecisive. For example,

We have refused to export nuclear reprocessing facilities. On the other hand, we have contemplated permitting other nations to reprocess U.S. supplied fuel.

South Korea, an ally, met harsher American opposition to its nuclear aspirations than did nonallied India. Although we blocked Korea's acquisition of a reprocessing facility, we continued supplying India with nuclear materials even after her illegal 1974 detonation of a bomb.

Such muddled policy antagonized both friend and trading partner. Charges of unevenness and discrimination have greeted our export decisions.

We very much need, therefore, the clear, deliberate, and uniform regulation of our nuclear commerce H.R. 8638 provides. Through a thoughtful blend of unilateral initiative and multilateral cooperation, this legislation creates a comprehensive framework for implementing our nonproliferation objects. Incentives and rewards balance sanctions to deter misuse of our nuclear materials. Flexibility juxtaposes with rigor of export criteria to forge a policy that is neither arbitrary nor peremptory. Moreover, the definition of an effective safeguard standard—timely warning—will insure that recipient nations cannot manufacture, undetected and overnight, bombs from materials we provide for peaceful purposes.

By requiring safeguards to provide reliable, timely warning of diversion we are not committing to a new standard but are returning to an old truth. U.S. policy statements have long reiterated the importance of timely warning. In a May 1975 report to Congress, President Ford stated:

> The international safeguards system deters diversion by the threat of early detection of diversions should they occur at the national level and by the political consequences resulting from reporting of diversions to the international community.

To be effective, safeguards must detect diversion of plutonium from peaceful to nonpeaceful uses. This detection must come well in advance of the plutonium's insertion into an explosive device. Otherwise, the likelihood that the diversion will be discovered is minimal. And the opportunity for the international community to take action against the offending nation is slight.

Now a nation that possesses nuclear reactors and spent fuel cannot immediately transform diverted material into a bomb. To manufacture an explosive device will require many difficult steps and long months. Existing safeguards, when applied to reactors do provide reliable, timely warning.

Such safeguards are basically sophisticated monitoring and accounting systems. Periodic inspections keep track of how much nuclear material a nation should have on hand and how much it does have. Discrepancies indicate the possibility of clandestine diversion of nuclear materials from peaceful to military ends. A report of a discrepancy to the international community, therefore, comes in timely fashion. Months remain in which to take action against a nation that violates its peaceful uses assur-

ances. Warning time heightens the risk involved for the violator, making that nation more suspectible to exposure, criticism, and sanctions. Time translates into deterrence.

The current safeguards system, however, does not prevent a nation from renouncing its peaceful uses assurances and diverting its nuclear stockpiles to nonpeaceful uses. The danger is not so much secret diversion but a determined and open national expropriation of nuclear stockpiles.

Therein lies the danger of reprocessing, which separates plutonium from used reactor fuel, enables a nation to have continuously on hand weapons-usable material. Since a nation, without violating the Non-Proliferation Treaty, may have quietly conducted atomic weapons research, it need only have access to reprocessed plutonium in order to assemble a weapon within a matter of days. In a crisis situation, the temptation to explode a bomb will be great for a nation with the near-weapons capability reprocessing provides.

Present safeguards, when applied to reprocessing, do not, therefore, permit timely warning. Knowing that our nuclear exports have brought a nation only to the verge of atomic weapons capability is not enough. As a responsible supplier we need sufficient warning time to deter the manufacture of a bomb.

Therefore, we must devise safeguards that, when applied to reprocessing, will provide reliable, timely warning. Promising technologies exist which, if pursued, may satisfy this standard. Diluting or mixing plutonium to make it inaccessible are two possibilities. This bill, by defining the standard that safeguards must meet intends to stimulate development of these new technologies. Until that time, we must defer the export of reprocessing facilities.

The International Relations Committee has worked closely with the administration to fashion this safeguard standard. Indeed, the President and the Secretary of State have urged that this legislation pass Congress during this session—in its present form—without amendment. The collaboration between the two branches of Government has paralleled the cooperation between Republican and Democrat in designing this bill. The Nuclear Anti-Proliferation Act of 1977 retains the bipartisan character that shaped the Findley-Zablocki nuclear amendment to the 1976 Export Administration Act. This amendment last year won the overwhelming support of this House. Our unity of purpose is born of the shared conviction that proliferation threatens us all. I urge my colleagues in the House to join in this effort and to support H.R. 8638.

Here is the text of Secretary Vance's letter to me:

THE SECRETARY OF STATE,
Washington, D.C., September 17, 1977.

Hon. PAUL FINDLEY,
House of Representatives.

DEAR MR. FINDLEY: Thank you for your letter of September 16, 1977. As you know, the President attaches the highest priority to enactment of anti-proliferation legislation during this session of Congress.

We have carefully reviewed the five amendments to H.R. 8638 that were enclosed in your letter, as well as the proposed clarifications which Chairman Bingham would offer. These amendments and clarifications (attached) meet all of our concerns except for our continuing concern about the use of the concurrent resolution Congressional review procedure. Aside from this exception, we are able to confirm that the Administration strongly supports the bill and wishes to see its prompt passage by the House without further amendment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report.

Sincerely,

CYRUS VANCE.

Mr. BINGHAM. Mr. Chairman, I yield 10 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman from New York, the chairman of the subcommittee, for recognizing me for this time to comment on this legislation.

I wish to compliment the gentleman from New York (Mr. BINGHAM), and the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on International Relations and their colleagues on both sides of the aisle for the initiative they have taken in addressing this important issue of nuclear proliferation.

Mr. Chairman, I am in full support of the nonproliferation principles embodied in this bill—principles virtually identical to those recommended by the President in H.R. 6910, which he submitted earlier in the session and which I cosponsored. It appears there is a consensus between the President and the Congress and it is appropriate that these principles be embodied in legislation at this time.

However, with the administration, I share a concern that certain features of H.R. 8638, as it was originally reported, are not conducive to achieving the nonproliferation objectives laid out therein.

Let me bring to your attention the concern of the administration, and my concern with several important features of this legislation as it was reported by the Committee on International Relations on August 5.

These include what I would call an unrealistic description of the meaning of the requirement associated with the term "timely warning," as it appears in the committee report.

Second, there would be an adverse impact on Euratom treaty nations if the legislation, as reported, were to become law.

Third, there would be a disruptive interference in other nations' management of their own fuel cycles, unless the legislation is modified to make it sufficiently flexible. We must not attempt to dictate unreasonably and arbitrarily what their domestic commercial activities will be.

Fourth, the bill, as reported, could cause burdensome congressional review procedures in some instances.

These and other concerns were brought to the attention of the Committee on International Relations in hearings and in communications with chief sponsors of the bill after it was reported by the committee.

There are further substantial concerns which the administration has expressed with respect to this legislation and which I understand are now to be corrected with amendments which the committee chairman has worked out with the administration and which I certainly support.

First among these has to do with the timely warning language in section 501(b) of the bill, as further elaborated on in the report accompanying the bill (Rept. No. 95-587). As it is written, that report implies that the bill is to be construed as prohibiting foreign reprocessing of U.S. spent fuel under any conditions for an indefinite period. It is critically important that the legislation, as it is amended, also establish in the legislative history whatever corrections are necessary in the report, so that there is no ambiguity at all on this particular issue. If this is not done, it would appear to other nations that the United States has prejudged the outcome of the ongoing international nuclear fuel cycle evaluation upon which the administration is so heavily depending to achieve worldwide unanimity on how to assure an appropriately safeguarded nuclear fuel cycle.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I welcome this opportunity to salute the chairman for his very constructive input upon this legislation. The gentleman has elaborated on the concerns that the gentleman had with the legislation and which was reported by the committee and it was substantially due to the gentleman's own influence that amendments were agreed to on a bipartisan basis, after consultation with the administration, which I think improved the legislation substantially and the gentleman is entitled to great credit for that achievement.

I want to add also, for my part, that the language as amended by these agreed-to amendments is changed, and therefore the committee report which dealt with the original language has to be reexamined in light of the new amendments. I am sure the gentleman recognizes that, and I certainly do myself.

I thank the gentleman.

Mr. McCORMACK. I thank the gentleman for his remarks. May I ask, would the gentleman care to elaborate on the word "reexamine" with respect to the report? Will we have some legislative history which will clarify that matter so that there is no potential ambiguity?

Mr. FINDLEY. It is my understanding that these amendments will be offered during the amendment period. This would provide an ample opportunity for all of us to participate in the legislative history, and the committee report will have to be read in light of the legislative history that accompanies these amendments at that time.

Mr. McCORMACK. I thank the gentleman.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding to me. I would just like to agree with the statements made by the gentleman from Illinois. It seems obvious to me that where the provisions of the bill are subject to amendment, that any interpretation of the bill as originally reported out, contained in the committee report, would not be applicable to the amendment.

Mr. McCORMACK. I thank the gentleman. I appreciate his making that point.

There are several other matters which I will mention briefly. I will not take the time of the committee to go into great detail. One of them has to do with the time required for renegotiating treaties with Euratom. The legislation provides for an 18-month deadline. I understand that will be increased. Would the gentleman inform me if he intends to support an amendment to extend this time limit?

Mr. BINGHAM. The provisions of the amendment which will be offered, and which were contained in the exchange of correspondence with the Secretary of State, would provide that at the end of 18 months the administration could extend the time for an additional 12 months, and beyond that for an ensuing 12 months if necessary. In other words, in that process some light pressure is maintained for a conclusion of negotiations. The administration has total flexibility in terms of extending the time required to conclude those negotiations.

Mr. McCORMACK. I thank the gentleman. If I may make some general observations with respect to this legislation, it seems to me that the problem I have had with the committee version as it was originally reported, was that it was too rigid and too arbitrary. The amendments which have been worked out between the administration and the committee, I believe, substantially treat the concerns which I have.

I am deeply concerned that this Nation, while using all of its influence to minimize the potential for nuclear weapons proliferation, also have the flexibility to negotiate, and not unnecessarily restrict our friends overseas who have already signed a nuclear nonproliferation treaty.

There are several factors to consider here which are important. The first is that it makes no sense for us to put restraints upon weapons states as defined in the nuclear nonproliferation treaty, as if we are trying to restrain them from developing weapons. They already have them. Furthermore, it is an insult for us to attempt to put new restraints upon nations who have signed the nuclear nonproliferation treaty at our request, and are subject to inspection by the International Atomic Energy Agency. We must remember that we pressured them into signing the nuclear nonproliferation treaty, in which they gave up their right to make nuclear weapons in exchange for our assistance in their developing peaceful nuclear energy. To have us say to them, "Now, you must come to us for permission for almost everything you do," would virtually constitute a unilateral attempt on our part to abrogate that treaty.

Accordingly we should carefully consider where we should be exerting pressure, and where we should not; where we should be rigid and where we should be flexible.

The law must make that allowance. The committee bill, as reported, did not.

This is where the fine tuning of this bill becomes important. I am sure all of us who are interested in this subject are aware of the story which appeared in the Washington Post this morning relating to the fact that the nuclear supplier nations have reached tentative agreement on the sale or transfer of nuclear materials in the world. I think this is an outstanding and most important accomplishment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

Mr. BINGHAM. Mr. Chairman, I yield 2 additional minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I would like to call the attention of the members of the Committee on International Relations to the fact that this agreement, which is so important, was worked out by our administration, with great flexibility, negotiating on an even 1-to-1 basis with the other nuclear suppliers around the world. It was not with any arbitrary pressure upon them, but on a negotiation basis. This is important. We are presently undertaking negotiations on nuclear fuel reprocessing. This legislation which we have before us, must be so tuned that it does not interfere with these negotiations. If we arbitrarily say to the other nations of the world, with whom we are attempting to negotiate mechanisms for the international control of reprocessing, that we will exercise a veto on what they may do, even after they have signed the nuclear nonproliferation treaty, we are going to effectively cut off any meaningful negotiations. The world will be the losers, and we will have lost an opportunity to reduce the potential for nuclear weapons proliferation by being too rigid and too arbitrary.

Mr. Chairman, I am pleased with what we have accomplished. However, I have amendments which I am considering for submission and I will be looking forward to studying them with the leaders of the committee between now and the time the bill comes to the floor.

Mr. FINDLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to make a very brief comment. First of all, I would hate to have anyone left with the impression that this legislation does not encourage Euratom to be in compliance with the criteria set forth in section 127. I view this as a sense of Congress expression that export licensing to Euratom comply with these criteria within 18 months. Nevertheless it recognizes the difficulty that may be entailed by encouraging the administration down the path with that goal in mind but giving the administration increments of 1 year beyond that 18 months if such difficulties are incurred.

Second, I appreciate the comments of the gentleman from Washington (Mr. McCORMACK) in regard to the flexibility the administration must have as it deals with nations which have signed in good faith the NPT. And yet we ought to view those comments in the light of the expression by Mr. Gerard Smith, our Special Ambassador at Large for nuclear issues, when he telephoned a Member of this body a strong endorsement of this legislation and his expression of hope that it would be enacted at a very early date. Obviously, as the Ambassador charged with the task of renegotiating our international nuclear agreements, he does not see it as being too inflexible upon the administration.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, H.R. 8638, the Antiproliferation Act of 1977, marks a great step forward in the battle to curb nuclear spread.

Specifically, it requires that the reprocessing of U.S.-supplied fuel must occur under conditions that provide timely warning of illicit diversion of bombs-usable material. Without such timely warning, the nuclear safeguard system becomes meaningless: We would discover that the plutonium has been diverted after the bombs have been built. Delayed warning or no warning at all would render deterrence impossible.

That is an explanation of an amendment which is the result of mutual consultation and compromise between the administration and the committee. I understand it will be offered on the floor by the gentleman from New York (Mr. BINGHAM).

Mr. Chairman, the timely warning amendment will require the Administrator of ERDA to determine before entering into a subsequent arrangement for the reprocessing of U.S.-spent nuclear fuel that the reprocessing will not result in a significant increase in the risk of proliferation. In making this judgment, the amendment will further require the Administrator to give foremost consideration to the question of whether the reprocessing facility and the reprocessed product can be safeguarded so as to provide timely warning to the United States of any diversion well before the time at which a violating country could transform weapons-usable material into a nuclear explosive device. Such warning time is essential if the international community or the community of supplier states is to have the opportunity for action. And it is only when such an opportunity for action exists, that safeguards can reliably be considered to deter.

The compromise formulation of this amendment takes account both of the indispensable character of timely warning and of the need for a certain flexibility in its interpretation and application.

Mr. Chairman, through this legislation we are, in effect, closing a major loophole that has existed in our nuclear export policy. No longer will we tolerate a nation doing well-nigh what it pleases with our nuclear materials. We also define our responsibility as a nuclear supplier. We will assure recipient States of a reliable and economic supply of nuclear reactors and low enriched uranium fuel. In return, nuclear recipient States have

the obligation to adhere to nonproliferation objectives. This is a fair exchange and one which enhances our national security and international stability.

In designing this bill, Congress and the Carter administration continue the fight against proliferation initiated by President Ford. The policy statement of the Ford administration on stemming nuclear spread recognized that "the accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk." On the whole, in fact, the tone, procedure, and substance of H.R. 8638 are remarkably similar to those set forth in President Ford's policies. This bill, therefore, deserves the support of us all. It proposes a responsible and effective approach to limiting nuclear proliferation.

Mr. Chairman, as the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI) pointed out, this legislation in fact is very similar to legislation passed last year by this House as a part of the Export Administration Act.

Mr. WINN. Mr. Chairman, a world in which many states possess a nuclear arsenal is a chilling prospect. The spread of atomic weapons threatens international stability and enormously increases U.S. security requirements.

Our international focus is wide. No dispute, no conflict does not somehow touch U.S. interests. We are called upon to mediate differences and to propose solutions in every region, no matter how remote. Our counsel is one of restraint and our aim is conciliation. The introduction of nuclear weapons into regions of tension would render these foreign policy objectives immeasurably more difficult to achieve.

Escalation of hostility into conflagration is more likely when nuclear states confront each other. New nuclear states will be unlikely to deter one another, since their respective forces are sure to be uneven in quality, ragged, perhaps even primitive. They may be prone to go off accidentally or so vulnerable as to be continuously inviting targets for preemptive destruction. Such a disturbing and volatile situation would overtax our limited sources for national defense.

Thus we must move surely and resolutely to stem the spread of nuclear weapons. I believe this legislation directs us to that end through a blend of unilateral initiative and multi-lateral cooperation. It combines flexibility with an urgently needed definition of U.S. nuclear export policy. I urge my colleagues to support H.R. 8638.

Mr. WHALEN. Mr. Chairman, few measures which pass this House have been as carefully chiseled over a period of years as has H.R. 8638, a bill to provide for more efficient and effective control over the proliferation of nuclear explosive capability. As a cosponsor of this bill, known as "the Nuclear Nonproliferation Act of 1977," I strongly urge its passage without substantial amendment.

As the Nation which stimulated today's broad distribution of nuclear material and technology, we have a special obligation to provide leadership in this area.

This legislation defines not only our responsibility as nuclear supplier, but the reciprocal responsibility of the nuclear recipient. Through an interplay of incentive and disincentive, unilateral initiative and multilateral collaboration, this legislation renews U.S. leadership in stemming nuclear spread.

We pledge our reliability as a supplier of low enriched uranium fuel and we ban the manufacture of nuclear explosive devices from U.S. material and equipment. We set a standard for effective safeguards and we offer training programs in nuclear safety. We offer to beef up the IAEA and to work with other nuclear supplier states in resolving waste management problems and in evaluating alternative fuel cycles. We provide for flexibility in applying our export criteria which does not, however, vitiate the core of our intent or leave us open to charges of unevenness and discrimination. In effect, we clarify what was once vague and define what was misunderstood.

Without a clearly established U.S. nuclear export policy, it has been impossible to convince other states of the direction their policies should take. The United States, as the preponderant nuclear supplier in the world market, too readily arouses commercial suspicion with its counsel of restraint. As long as we do not clarify our own intentions regarding the export of reprocessing plants or the reprocessing of U.S. supplied fuel, we will not be able to convince either France or Germany of their need to restrict the export of these unnecessary and dangerous facilities.

To argue that self-imposed restraint will cut the United States out of the international nuclear market is too narrowly commercial an argument. Moreover, it does not recognize that the economic gains from reprocessing sales are nonexistent. It fails to understand that other nuclear states—most of whom are our military allies—share our desire to avoid a proliferated plane. It also refuses to acknowledge that leadership by persuasion and example is possible and effective. This legislation renews and defines U.S. leadership.

It is vital that we pass H.R. 8638 promptly and without any crippling amendments in order that U.S. determination in this area be made clear. I therefore urge my colleagues to support this bill.

Mr. DERWINSKI. Mr. Chairman, I am pleased to participate in the debate on this important legislation, which the House is taking up today. There are some points which I think need to be emphasized and given careful consideration by all Members.

I am sure that everyone here recognizes that the use of nuclear energy to meet world energy needs is not a future option facing mankind, it is a present and continuing reality. Today, nearly twice as many civilian power reactors are operating outside of the United States as are operating within our Nation. The misuse of civilian nuclear equipment or material has been possible since the dawn of the atomic age—over 30 years ago. This concern continues, and may be heightened, as the world now must increasingly turn to the use of nuclear energy as the age of fossil fuels is ending. Thus to establish new nonproliferation measures is appropriate. But these measures must be appropriate to today's realities which beyond all others includes the fact that the United States must enlist the support of other nations if an effective regime is to come about.

These other nations are as concerned as we that proliferation is avoided and are now even more involved in world nuclear trade than are we. The President, in May of this year, initiated an international approach—the international fuel cycle evaluation, in recognition of such realities. This legislation unilaterally concludes this evaluation by congressional fiat.

All of us here know that looming as complicated and delicate international issues are, for example, the disposal and treatment of spent reactor fuel, alternatives to reprocessing and alternative nuclear technology that may be more proliferation resistant. These issues and others involve basic energy and economic issues vital to the survival and well-being of almost all the nations of the world. International negotiations of such subjects will be complicated and possibly difficult and if the basic U.S. position is to prevail, compromise may be necessary, incentives proposed, and sharing of responsibility acknowledged.

But H.R. 8638 without waiting for such negotiations would implement solutions—not proposals but solutions—which can only be seen as prejudging, predetermining, and attempting to unilaterally impose the U.S. position on all others.

Moreover, Mr. Chairman, to obtain adherence to the U.S. position, the weakest of incentives are offered. Indeed, one incentive that the NRC promptly issue export licenses once statutory requirements are fully met is not only an exercise in circuitous logic but not even important enough for the authors of the bill to set any time limits beyond which the NRC must at least report to Congress why further delay is required.

The argument can be made that the reliability of the United States as a partner in nuclear trade has been seriously eroded. Today, there is an effective world moratorium on procuring further nuclear power facilities from the United States. The proposed legislation does nothing to seriously reestablish the United States as a reliable trading partner and thus ignores the need for active U.S. participation in world nuclear trade as a vital concomitant of our nonproliferation strategy.

A tortuous procedure of licensing steps ranging from possible court review of decisions by the NRC whether or not to allow wide ranging public participation in export licensing procedures, to a host of possible executive orders all subject to congressional veto, are created which must be viewed by any potential trading partner as so ripe with the possibility for frustration and delay as to preclude, unless no other alternative is available any further nuclear trade with the United States. And today not only are alternatives to trading with the United States possible, but more nations are entering such trade across the full spectrum of the nuclear fuel cycle.

U.S. agreements for cooperation do not presently give the United States the right to demand renegotiation. The proposed bill requires their renegotiatons which at a minimum is not likely to be compatible with the constitutional and parliamentary process of other nations affected by the renegotiations provision.

Although the subject of proliferation has been under intensive study by some Members of Congress for some time, the world community is just beginning to respond to the issue. These Members may take pride in their alerting both our own government and foreign governments to this concern. But now that the world is attempting to evolve a workable international solution, it is not appropriate for the United States to unilaterally dictate the shape and substance of it. If solutions are to work, their creation must be shared, not imposed. To legislate on so complicated a matter now, with legislation that itself has not been subject to widespread scrutiny so that its impacts are clearly perceived and understood by all affected participants—here and abroad—will not further nonproliferation objectives. It is more likely to frustrate and perhaps even abort the international process vital for success.

In conclusion, Mr. Chairman, it is my belief that the cause of antiproliferation will be strengthened by setting aside H.R. 8638 and taking the time to draft legislation based on sounder assumptions. Congress should build upon the solid foundation of international cooperation that has so well served the United States and its global neighbors during this atomic age.

Mr. BUCHANAN. Mr. Chairman, I rise in support of H.R. 8638, the Nuclear Antiproliferation Act.

It is particularly appropriate for us to be considering this legislation at this time—a time when radioactive debris from a Chinese nuclear explosion is making its way across the United States.

The legislation we are considering here today can go a long way toward curbing the potential for similar explosions by those countries not now possessing nuclear capabilities.

In the past, U.S. nuclear export policy has been vague and ill-defined. It has lacked the comprehensive framework that would permit a coherent approach to curbing nuclear proliferation.

Replete with loopholes, our policy has aroused the commercial suspicions of other supplier states while it has provoked charges by recipients of unevenness and discrimination.

Inconsistency of policy has not served us well. It has enhanced neither our general foreign policy objectives, our security, nor our nonproliferation goals.

Indeed, the Indian explosion of a nuclear device in 1974 serves as a poignant example of the detrimental impact of an indifferent and indefinite U.S. nuclear export policy. Stunned by the 1974 explosion, the United States imposed no sanctions on India because our bilateral agreement for cooperation did not rule out so-called "peaceful" nuclear explosions, although U.S. nuclear experts later testified there is no such thing as a "peaceful" nuclear explosion.

Publicly, we had denied for years that a legitimate distinction existed between peaceful and nonpeaceful devices. Yet we had failed to obtain from India explicit assurances that U.S.-supplied material would not be diverted from its energy program to the manufacture of a nuclear device of any kind.

As we uttered protests, India was thus able to assert that she was under no legal obligation to forgo making bombs from U.S.-supplied materials.

Notwithstanding the events of 1974, our reluctance to stand by our alleged nonproliferation standards remained. Although Canada, whose materials had also been used in the Indian explosion, suspended nuclear shipments to India, we did not. Our supply of low-enriched uranium fuel to India continued without interruption. Such an unfortunate message from the United States was not lost upon other states with nuclear aspirations.

Little wonder then that nuclear ambitions in the Republic of Korea and China heightened after the Indian episode. However, in the case of these two nations, the United States took action to dissuade China and Korea from acquiring the reprocessing facilities that would shorten their steps to manufacturing a bomb. Threats of sanctions brought positive results. Both nations abandoned projects that were potentially damaging to regional and international stability.

The bill we have before us is long overdue. It is designed to provide the guidelines for implementing deliberate and uniform policies to control the spread of atomic weapons. New and rigorous criteria will govern the export of nuclear material and technology by the United States. For example, it bans the use of U.S. materials to manufacture explosive devices of any kind.

At the same time, it does recognize that incentives can be as effective as prohibitions in curbing nuclear spread.

In this legislation, we provide assurances of U.S. reliability as a supplier of low-enriched uranium fuel to nations that adhere to nonproliferation objectives. We also commit the United States to offer national safeguards and safety programs to other states and to strengthen the IAEA.

I, therefore, urge adoption of this legislation.

Mr. FINDLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FOWLER. Mr. Chairman, "We are here to make a choice between the quick and the dead. That is our business. Behind the black portent of the new atomic age lies a hope which, seized upon with faith, can work our salvation. If we fail, then we have damned every man to be the slave of fear. Let us not deceive ourselves: We must elect world peace or world destruction."

These are not my words. They were spoken by Bernard Baruch in 1946, back at the beginning of an attempt to control dangerous nuclear activities by providing for international supervision of those actvities. The so-called Baruch plan fell victim to the cold war and the question of nuclear proliferation faded from serious international discussion.

In the years since 1946, the basic issues have not changed but the problem has become far more dangerous. In 1946 the United States stood alone in possession of nuclear capability. In 1976, five other nations, U.S.S.R., Great Britain, France, China, and India, were classified as nuclear weapons states while 15 others had nuclear reactors capable of producing enough plutonium to construct several bombs each year. By the mid-1980's the number of countries having such nuclear capability may double.

Today the House is considering H.R. 8638, a bill which represents another attempt to control the spread of nuclear weapons. This legislation would establish for the first time a comprehensive nuclear export policy for the United States. It would also set forth specific commitments by the United States in pursuing increased international cooperation in antiproliferation efforts.

This legislation is realistic in its acknowledgement of a legitimate role for nuclear power in meeting a nation's nonmilitary needs. Therefore it provides guarantees of nuclear fuel enrichment services and assistance in spent fuel storage for those countries that share our antiproliferation objectives. But the bill is also realistic in recognizing the critical importance of halting the proliferation of nuclear explosive capability. Thus, it applies standards to all U.S. nuclear exports and requires termination of these supplies if the recipient detonates a nuclear device or violates a safeguards agreement.

In voting on this bill we can have no illusions that the United States acting alone can solve the proliferation problem. Indeed the bill itself places great emphasis on international efforts especially in the area of strengthening the International Atomic Energy Agency. But we cannot lose sight of our leadership responsibilities. Just last week the news told of encouraging developments at the London Nuclear Suppliers Conference. Today the House has the opportunity to demonstrate to the world a strong commitment by the United States to nuclear nonproliferation. Let us continue to press for international agreement but let us not be afraid to set an example for others to follow.

H.R. 8638 is not a final solution, but I am reminded of the Chinese proverb cited by President Kennedy upon conclusion of the first nuclear test ban treaty: "A journey of a thousand miles begins with but a single step." Let us take another step on that long road away from nuclear catastrophe.

I would like to conclude by again quoting from the 1946 speech of Bernard Baruch:

> Science has taught us how to put the atom to work. But to make it work for good instead of for evil lies in the domain dealing with the principles of human duty. We are now facing a problem more of ethics than physics.
>
> The solution will require apparent sacrifice in pride and in position, but better pain

as the price of peace than death as the price of war.

Mr. Chairman, I urge adoption of H.R. 8638.

Mr. BINGHAM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. PREYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability, had come to no resolution thereon.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the general debate on H.R. 8638 just concluded, and that I may be permitted to include extraneous matter with the statement I made in general debate on H.R. 8638.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE 70TH ANNIVERSARY OF A GREAT AMERICAN ENTERPRISE

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, last Sunday I had the happy privilege of attending an open house in Syracuse. It was held by United Parcel Service in observance of the company's 70th anniversary.

On display were package delivery vehicles that dated all the way back to 1913, and a collection of historical photographs that recorded the company's history.

As I scanned the pictures and captions I suddenly realized that I was in the presence of one of the best examples of the creative productivity of our free enterprise system.

Here was a company that started out as a messenger service in 1907 with $100 of borrowed capital and a will to succeed through good service. One of the founders used to sleep on the counter near the phone overnight so that no customer who wanted service would be denied it simply because it happened to be after business hours.

Jim Casey was the individual who showed such high dedication to service. This venerable gentleman, who still puts in a full day at the UPS office, helped found the company and the policies that have been responsible for its success. He was forced to drop out of school to help support his brothers and sisters, and in the best Horatio Alger tradition made a substantial contribution to this Nation despite his handicapped beginnings.

The teenage founders rented office space under a Seattle sidewalk, unheated and lit by a lightbulb hanging from the concrete overhead. And they performed with diligence the dog-walking, errand-running services that messenger companies provided in that day.

Eventually the little operation came to concentrate exclusively on package delivery service. The 1913 Model T Ford that I saw at the open house was a replica of the company's first package delivery vehicle. When the company could afford to buy that first vehicle, it acquired the capability to give Seattle citizens a regularly scheduled delivery service all over the city.

The company began delivering packages for small retail shops, and did such a good job that the major department stores eventually abandoned their own delivery fleet and gave the little firm responsibility for getting merchandise to customers.

During this era of service from retail stores to customers, United Parcel Service expanded its business to more than a dozen metropolitan areas, all the while gaining experience in the specialized task of handling small parcels.

Finally in the early 1950's the company began acquiring rights to serve broad areas of the Nation. The knowledge distilled from the years of service to retail stores was now applied to a common carrier business that had as its objective package pickup and delivery to any address, no matter how remote it might be.

Today, except for some minor restrictions, all 50 States are benefited by the economical and dependable delivery provided through United Parcel Service.

It is an exceptional success story that was made possible through the determination of the company's managers and a free enterprise climate that provided economic rewards to those meeting the transportation needs of Americans.

As a consequence, our economic system—which depends heavily on the movement of merchandise in small packages—can function more efficiently because of the existence of this fine delivery service.

United Parcel Service is 70 years young. It is in its prime as a service organization and as a responsible citizen of this Nation.

I am proud to take this moment to wish the company well on its birthday and I know I speak for many of my colleagues who have discussed UPS with me when I say, "It's great to have you around."

STATEMENT ON UGANDA TRADE BAN LEGISLATION

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I am today introducing legislation in the House that will establish a trade ban with Uganda. My legislative package has three parts. The first is a bill to prohibit the importation of any Ugandan products into the United States. The second is a bill to amend the Export Administration Act of 1969 to prohibit the exporting of American goods to Uganda. The third is a bill to amend the International Coffee Agreement Act of 1968 to establish a ban on Ugandan coffee imports into the United States.

Each of these bills deals with a different aspect of United States-Ugandan commercial trade. Together, they represent the full range of policy options that the Congress can exercise to effectively reduce or eliminate commercial trade with Uganda. Once I have introduced these bills, I will vigorously pursue their enactment. I am hopeful that hearings can be held yet this year.

Few Americans are aware that much of Idi Amin's foreign exchange comes from the United States. We are helping Amin stay in power in a very real sense.

U.S. coffee companies are now buying one-third of Uganda's green coffee and providing approximately one-third of Uganda's total export earnings. It is Uganda's hard currency balance of trade surplus, much of it from U.S. coffee imports, that Amin is using to pay his mercenaries, to buy military hardware, to import luxury goods, and to enrich himself.

Last year, the United States imported from Uganda 62,235 tons of green coffee valued at $176,747,400, International Coffee Organization figures. This represents 4.76 percent of total U.S. green coffee imports in 1976, but it constitutes 33.6 percent of Uganda's total green coffee exports in 1976. The importance of U.S. coffee imports to the ramshackle Ugandan economy is further illustrated by the fact that 86 percent of Uganda's total export earnings came from coffee exports.

Over the past 7 years, the following trends have developed in United States-Uganda trade: One, coffee exports have become a larger percentage of total Ugandan exports; two, U.S. imports as a percentage of total Ugandan exports have been growing, probably because of an increase in U.S. imports of Ugandan coffee. Finally, Uganda's balance of trade improved significantly last year over previous years, due largely to an increase in U.S. coffee imports and a sharp rise in coffee prices the world over.

Clearly, Amin's hold on power is becoming more vulnerable to U.S. economic pressure. The United States has experienced a 33-percent increase in Ugandan coffee imports for the first half of this year over the same period of time last year. The situation is getting worse, not better. I offer this package of bills today in the belief that it provides our country with a responsible course of action to deal with Amin.

First, taking action to disassociate ourselves from Amin's rule is consistent with our Nation's commitment to justice, liberty, and respect for human rights. Genocide has become a matter of policy in Uganda and we cannot ignore that fact. Amin's premeditated atrocities are crimes against humanity. Amin is no more an internal matter for Uganda than was Hitler an internal matter for Germany. President Carter recognizes that the character of our Nation is modified by our acts in foreign policy. His

global commitment to human rights bears this out. However, our human rights policy is so much empty rhetoric if we fail to act against wholesale slaughter in Uganda.

Second, conditions in Uganda could not get much worse. Any semblance of a working economy has disintegrated. Standards of civil conduct have disappeared. Earlier this month, Mr. Godfrey Lule, Uganda's former Minister of Justice, informed the U.N. that for the people of Uganda there was now "no known behavior or code of conduct that can guarantee personal safety from unwarranted arrest, torture, and murder—fear engulfs everyone, high and low."

Third, U.S. commercial trade is very important to Amin and a trade ban would pose real problems for his government. Generally, I am not an advocate of economic boycotts as tools for conducting our foreign policy. However, Amin's Uganda should be viewed as an exceptional case. The United States must not in any way help Amin remain in power. The brutality of Amin's rule demands that we take a stand and refuse to trade with him.

Fourth, a U.S. trade ban could serve as a catalyst for international action to hasten Amin's downfall. Since the United States buys the lion's share of Uganda's green coffee, it is up to us to take the first step to bring economic pressure to bear upon conditions in Uganda. There is evidence that a coordinated boycott organized with a few of our allies could have a dramatic economic impact upon Amin's government.

The United Nations and the Organization of African Unity stand silent in the face of continuing accounts of atrocities and mass murder in Uganda. Resolutions have been passed, embassies have been closed, and ambassadors have been recalled in protest, while the slaughter has been allowed to continue. The absence of effective action from anywhere in the world reveals the need for some country to demonstrate that it has the means and the will to stand up against Amin's practice of internal genocide. The United States must demonstrate a willingness to help Ugandans in their plight by putting into place a trade ban with Idi Amin's government. At the very least, a trade ban will serve to put distance between our Nation and Amin's reign of terror. At best, a trade ban will hasten Amin's downfall and raise the prospects of a better day in the country once known as "The Pearl of Africa."

TRIBUTE TO THE LATE HON. WILLIAM R. HULL, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. COLEMAN) is recognized for 60 minutes.

Mr. COLEMAN. Mr. Speaker, the people of north Missouri and Members of Congress were saddened to hear of the death of a former colleague, William R. "Bill" Hull, Jr., on Monday, August 15, 1977.

For 18 years, Mr. Hull represented Missouri's Sixth District in an exemplary fashion.

Born the son of a tobacco farmer in Weston, Mo., Bill Hull and his brothers built a prosperous business which still continues as a major operation in the Missouri river town. Through the 1940's, Bill Hull contributed significantly to the well-being of Weston, serving as its mayor; a member of the school board; an honorary trustee of the Weston Museum; a supporter of scouting and the Shrine; and a member of the Weston Christian Church.

In 1952, Bill Hull met former House Speaker Sam Rayburn at the Democratic National Convention in Chicago. With Rayburn's urging, Mr. Hull entered the 1954 congressional campaign in north Missouri and won the first of nine consecutive terms to the House of Representatives.

His 18 years in Washington were marked by his conservative voting record and a strong emphasis on programs for the farmer. Dedicating himself to flood control, watersheds and rural development projects, Mr. Hull remained close to the agricultural interests in the Sixth Congressional District of Missouri. He served on the House Appropriations Committee.

In recognition of his many contributions to his district and State, he received honorary degrees from William Jewell and Park Colleges. He later donated his congressional papers to libraries at the two colleges.

Bill Hull's years in Congress were momentous ones for our country. His honesty, dedication to duty and forthrightness contributed significantly to the tough decisions this country had to make in the 1950's and 1960's.

The people of Missouri were fortunate to have been served by such a decent man. The Members of Congress were fortunate to have known and worked with such an outstanding public servant.

I extend my personal condolences and those of my colleagues to the family and friends of William R. "Bill" Hull, Jr.

Mr. DIGGS. Mr. Speaker, I rise with sorrow today to join my colleagues in saluting our late friend and distinguished Member of this body, Representative William R. Hull, Jr. of Missouri.

Bill Hull and I first came to Congress with the "Class of '55", and, during the next 18 years of his service, he continually made his commitment to the people of Missouri and to the betterment of peoples throughout the country. He served with distinction on three committees, including the Public Works, Interstate and Foreign Commerce, and Appropriations Committees. He championed legislation that would improve the lives of all Americans. He was a compassionate man who concerned himself with the plight of all peoples, and who devoted his energies to finding solutions.

Like his fellow Missourian, Harry Truman, Bill Hull never passed the buck on any of the tough issues. He was a good friend and an honorable man and he will be missed.

Mr. WINN. Mr. Speaker, I was indeed saddened to learn of the death of our former colleague William R. Hull.

As a freshman in the 91st Congress, I became acquainted for the first time with this warm, friendly, genuine son of Missouri. He was a man with great love for his country and great respect for his fellow citizens.

For 18 years Bill Hull served his country and his constituents in an outstanding manner. He was respected by all his colleagues on both sides of the aisle. The opportunity to know and serve with Bill Hull during my years in Congress will long be remembered.

My deepest sympathy goes to his family in their loss.

Mr. DERWINSKI. Mr. Speaker, it is a privilege for me to join in paying a special tribute to our late colleague and good friend, the Hon. William R. Hull, Jr.

During his 18 years in Congress, Bill Hull was a respected and dedicated colleague, one who acquired many friends by always being a man of integrity. He was wholeheartedly responsive to the needs of our Nation and of his district, which he served so well. His hard work and conscientious representation were well appreciated by his constituents who first elected him in 1954, and saw fit to return him to Congress with perfect consistency. I know that he will be sorely missed by them and all of us who respected him immensely.

Bill was a solid and responsible legislator, and a devoted public servant who truly reflected the grassroots consensus of America. His emphasis on the interests of the farmers did much to revitalize governmental programs in rural areas.

Serving on the Appropriations Committee, he earned respect for his ability and effectiveness. He handled the demanding responsibilities of his congressional assignments with intelligence and insight.

Not only was he an objective man, especially in analyzing the great issues before our country, Bill was a man of compassion, good will, and foresight. His knowledge and vast experience in Government contributed to his effective legislative leadership.

I salute Bill as a fine American, who not only believed but practiced the greatness he saw in our country.

Mrs. Derwinski joins me in extending our heartfelt condolences to the family and friends of Bill Hull.

Mr. McKAY. Mr. Speaker, I am pleased to join with other Members of the House in paying tribute to Representative William Hull.

Although I served with him only a short time, I have fond memories of the brief friendship we developed and hope that his family will take heart in the knowledge that some of us care that people like him were willing to put their life and future in the hands of our system of politics. He performed a valuable service for his community and Nation.

I extend to his family my sympathies in their time of bereavement.

Mr. GIBBONS. Mr. Speaker, I rise to salute our departed colleague, William R. Hull, Jr.

Bill Hull was a fine Congressman. He loved his country, and he served it well.

He was a gregarious, friendly person, whose quiet ways and thoughtful manner made him an easy person to listen to and a pleasure to work with.

Bill will be missed by all of those who knew him, especially his family—to whom I extend my gratitude for sharing him with us.

Mr. PERKINS. Mr. Speaker, William R. Hull was an outstanding gentleman. It was my privilege to serve in this House with him for 18 years, and I am greatly saddened by his recent death.

Although our districts were widely separated, we had many common interests, particularly in the field of agriculture.

Mr. Hull was a tobacco man, having operated Hull's Tobacco Warehouse in his hometown of Weston, Mo., before coming to Congress. He knew the concerns of the Nation's small tobacco farmers, and he was a stalwart champion of their welfare in the Congress.

He had the abiding respect of his colleagues in the House who regretted his decision to retire a few years ago. I shall always remember him as an honest, able, and decent man whose many sterling qualities enriched this House and reflected great credit upon the people he served so well.

Mr. BROYHILL. Mr. Speaker, it was with a great deal of sadness that I learned of the passing of my friend, Bill Hull. During our service together in this body, I worked with him on numerous occasions for legislative goals that we both had in common. His wisdom, commonsense, and plain speaking were great attributes that made him an effective legislator and spokesman for his district. We need more like him today. Mrs. Broyhill joins me in extending our sincere condolences to his family.

Mr. PICKLE. Mr. Speaker, I would like to join with my colleague, the gentleman from Missouri (Mr. COLEMAN), in paying tribute to our former colleague, William R. Hull, Jr.

It was my privilege to serve in the House of Representatives with Bill Hull for some 8 years. I had the further privilege of visiting with him about legislation and the matters which affect our Nation.

In many respects you might say that we were side-kicks on the same committee, the Committee on Interstate and Foreign Commerce. Many was the time we would lean on the rail in the back of the House Chamber to discuss the merits of the various pieces of legislation and amendments that were under consideration on the floor. We were kindred spirits and more often than not when the time came to vote on the issues we had discussed we would be on the same side.

I had the highest regard for Bill Hull. He did not go to the well to comment on every bill that was before the House, but he had a good balanced approach to legislation that reflected his integrity and his commitment to his constituents.

Bill Hull was a public servant of the highest order. I missed him when he left the Congress and we will all miss him now.

Mr. GIAIMO. Mr. Speaker, it is my privilege to join in offering condolences in behalf of my former colleague and friend on the Committee on Appropriations, William R. Hull, Jr. Hearing of Bill Hull's death saddened me, as I am sure it did all of the many friends of Bill's around the country and in this House.

A native Missourian, Bill Hull lived most of his life prior to serving in the House of Representatives in Weston, Platte County, where he engaged in farming and was the owner of a large tobacco warehouse business. Always active in civic affairs, Bill first was elected to Congress in 1954, and served successively in the 85th through the 92d Congresses. While in the House, Bill was an able member of the Committees on Public Works, Interstate and Foreign Commerce, and Appropriations. While we did not share subcommittee assignments on appropriations, Bill and I became good friends, and I regarded him as an adept spokesman for the interests of his constituents and the Nation. I know all of my colleagues who served with Bill Hull regret the passing of this fine American, whose dedication to our constitutional form of government marked his career in the House of Representatives as one of unwavering principles.

Mr. BURLESON of Texas. Mr. Speaker, it was with much sadness that I heard the news of the passing of my former colleague, the Honorable William R. Hull, Jr., of Missouri. I knew Bill Hull well, having served with him during his 18 years in Congress. He was a distinguished and able gentleman whom I respected and whom I was proud to call my friend.

Soon after our acquaintance, it only took a short time to measure him as a man to be depended upon and one who responded with a warm friendship. He was respected by his colleagues who recognized his ability and dedication.

I join with my friends and colleagues in expressing deepest sympathy to his family and wish for them God's comfort in their great loss.

Mr. DUNCAN of Oregon. Mr. Speaker, we pause today to express our sadness at the passing of our former colleague, Bill Hull, of Missouri. I knew and respected him both as a friend and as a colleague.

Bill and I served together on the Appropriations Committee when I came from Oregon in the 1960's. He worked hard and served well. His example as a legislator made my work a little easier. I shall always be grateful to him.

My deepest sympathy goes to his children and family. Their sense of loss is shared. Their sense of loss should equal their pride in knowing he served his family, State, and Nation well.

Mr. CARTER. Mr. Speaker, I join in this tribute today to a fine man with whom I was proud to have served.

When I came to Congress in 1965, Bill Hull had been serving the people of the Sixth Congressional District of Missouri well for 10 years. I consider myself fortunate to have had the privilege of being counted among his colleagues for 8 years.

Bill Hull was a gentleman in the most fundamental meaning of that term.

He was modest and little given to trumpeting his own achievements. Yet it is the truest mark of the man that Bill is remembered best by those of us who knew him for his personal qualities.

Bill Hull was a fine fellow and friend. I sincerely regret the loss to this country of his example as a human being who served always honorably and to the best of his ability.

Kathleen and I extend our deepest sympathy to his son and daughter and to the rest of his family in their loss.

Mr. UDALL. Mr. Speaker, I was saddened to learn of the death last month of my good friend and former colleague, Bill Hull of Missouri.

Bill Hull had been here 6 years when I came to Congress and we served together for 12 more until his retirement in 1973. He seemed so much a part of this institution, the part that is right and good, it is hard to realize that almost half of our number did not have the opportunity to work with him. They would have learned, as I did, that Bill was one of the most reliable, congenial, and open people one could meet .

The people of the Sixth District of Missouri were his people and he served them well over a difficult era for our Nation and for those of us in public life.

And when he retired, Bill Hull did so when the time was right for him, with the honor and respect of his colleagues and his constituents.

I am proud to join his successor, TOM COLEMAN, in paying tribute to an outstanding Congressman and expressing our sympathy to his family.

Mr. McCLORY. Mr. Speaker, it is a privilege to join in this special order paying final tribute to our late colleague, William R. Hull, Jr., of the Sixth Congressional District of Missouri.

Congressman Hull, who served here for 18 years—including the first 8 years of my service in this House—truly personified the description of a statesman.

Bill Hull was attentive to his job here and was most conscientious in serving the needs and problems of his constituents in Missouri.

Congressman Hull brought pride and honor to this body and set an example for others to follow.

Mr. Speaker, I feel privileged to offer these few words of respect and tribute and wish to add to the surviving members of his family my deepest sympathy.

Mr. SKELTON. Mr. Speaker, I am sure there are many Members of Congress who join with me today in an expression of deep sorrow at the recent death of former Missouri Congressman William R. Hull, Jr. Bill Hull served in the U.S. Congress from 1954 to 1972. During that time, he was a staunch supporter of the interests of his constituents, particularly the Missouri farm family. Bill Hull was instrumental in the passage of important bills concerning rural development, flood control, and watersheds.

Any time the people of a congressional district honor a Representative by returning him to office, you can be sure that that Representative has served his constituents well. Bill Hull served a total of nine terms in the House of Representatives. Clearly, he was a man who understood the needs of his constituents and defended their interests.

I had occasion to meet with Bill Hull several times on matters of governmental interest. He impressed me at all times as being a gentleman and a dedicated

public servant. Above all, I was struck by his great love for the State of Missouri and her people. He was a man who maintained close ties in the community and drew strength from them. He will be greatly missed by the people whom he represented for so long and by all of us who had the privilege of knowing him.

Mr. HORTON. Mr. Speaker, I would like to take a moment to talk about an old friend and former colleague, Bill Hull from Missouri. Bill died last month at the age of 71.

Although Bill's first primary was extremely close, he won by only 27 votes, succeeding primaries and general elections were handily won, often by 2-to-1 margins. His prior experience in tobacco raising coupled with his years of service to the people of Weston, Mo., where he was born and raised, combined to make him ideally suited to represent Missouri's Sixth Congressional District.

During his 18 years in Congress, Bill Hull served on the Interstate and Foreign Commerce Committee and on Public Works. He succeeded a fellow Missourian, former Congressman Clarence Cannon, on the Appropriations Committee. It was on this committee that Hull brought his interest in flood control, watersheds, and rural development projects to bear.

Bill Hull was a good friend and colleague to many of us here today. I had the privilege and pleasure of serving with him in the 88th through 92d Congress. His contribution both to the Congresses in which he served and to the district which he so loyally and skillfully represented will be remembered.

Mr. BOLLING. Mr. Speaker, I join the gentleman in expressing my sorrow on the death of Bill Hull.

Over the years he and I served together we became good friends. He was a fine public servant and wholly decent and honorable man. It was always a pleasure to be in his company. He was friendly, humorous and utterly sincere. He loved his fine children and shared his pride in them with his friends.

He was an asset to the Congress, his congressional district and the life in Washington as well as Weston.

Mr. ICHORD. Mr. Speaker, at the outset, I want to take this opportunity to commend my friend and colleague TOM COLEMAN from Missouri for taking this special order to pay tribute to one of our most respected former colleagues, Representative William R. Hull, Jr., of Missouri.

After coming to Congress in 1955, Bill Hull was assigned to the Committee on Public Works, where he served until 1963 when he went on the Interstate and Foreign Commerce Committee. In 1964 our fellow Missourian Clarence Cannon died, leaving a vacancy on the Appropriations Committee for which a member of the Missouri House delegation was eligible. The honor went to Bill Hull and he served that committee for 8 years.

Bill Hull was a personal friend of mine and a great friend to the people of the State of Missouri. In his 18-year tenure in the Congress, he achieved a fine record of outstanding service. Bill was a dedicated and stalwart legislator. His service as a member of the Public Works, Interstate and Foreign Commerce and Appropriations Committees has been of significant importance to the Congress and the Nation. Bill was deeply concerned about economy in Government and he contributed significantly to various reductions in appropriations during his tenure in Congress. He was a quiet, gently-spoken, effective representative who worked hard on legislation through the committee process.

When I was first elected to this body in 1960, Bill Hull was one of the Members of Congress who was most helpful in giving me good advice and direction on how to become an effective Congressman. He was one of our most admired and respected colleagues.

Mr. Speaker, I want to extend my deepest sympathy to his family.

Mr. BURLISON of Missouri. Mr. Speaker, friends and colleagues of Bill Hull were grieved on hearing of his death on August 15, 1977. I join my colleagues in offering condolences to our former colleague's family.

Bill Hull was one of the most esteemed and respected Members of this body during his nine terms of service. He was a humble man with compassion and understanding. But he was more than that. He was able and dedicated. He was dedicated to the best interests of his State and Nation while at the same time holding in high regard the interests, concerns, and aspirations of his constituents in Missouri's great Sixth Congressional District. His loss weighs heavily on his many friends and admirers.

GENERAL LEAVE

Mr. COLEMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order.

TO ESTABLISH A PATIENT'S BILL OF RIGHTS UNDER MEDICARE-MEDICAID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 20 minutes.

Mr. COHEN. Mr. Speaker, I intend to offer an amendment to H.R. 3, the medicare and medicaid antifraud and abuse amendments, to establish in law a patient's bill of rights and to create a grievance procedure for patients whose rights are abridged during treatment in medical facilities. The amendment is a modification of legislation I introduced earlier this year with Congressman PEPPER, chairman of the House Select Committe on Aging.

Patients' rights have been under the purview of the Federal Government since the Secretary of Housing, Education, and Welfare implemented patients' rights regulations for skilled nursing facilities in October of 1974. Since that time regulations have been implemented for intermediate care facilities, and HEW is expected to publish specifications for patients' rights in hospitals. These regulations will assure institutionalized patients a wide range of personal and civil liberties.

Unfortunately, enforcement of these rights has been inadequate. At present, the only remedy is a total cutoff of Federal reimbursement. The Federal Government has been reluctant to withdraw its share of dollars from a facility since such action would frequently force the facility to close down. The inadequacy of existing patients' rights guarantees was pointed out recently in a report prepared by the AFL-CIO, entitled "America's Nursing Homes: Profit in Human Misery." Among its many recommendations was a call for a strictly enforced bill of rights for nursing home patients.

My amendment accomplishes two important tasks. First, it sets forth in law the rights of institutionalized patients. These important guarantees include such rights as—

The right to participate in planning total care and medical treatment, and to refuse certain treatment or to participate in research projects.

The right to present grievances without fear of recrimination.

The right to be free from chemical or physical restraints, except in emergencies or under a doctor's orders.

The right to full information in writing concerning services and charges by all health care facilities.

Second, the amendment establishes graduated penalties for institutions which are found to violate patients' rights and sets up a procedure by which patient complaints can be processed fairly and quickly. Under this new grievance procedure, patients who believe their rights have been abridged, or persons acting in their behalf, can file a complaint with the appropriate State agency. This agency would investigate the complaint and file a report within 10 days. After the investigative report is filed, the facility would have the opportunity for a hearing. Proven violations of the bill of rights could lead to the imposition of penalties of no greater than $500 per instance—except in the case of retaliation against a dissatisfied patient by an offending facility, in which case, the fine could reach $1,000. Any decision by the State agency could be appealed to the U.S. district court by either party involved in the complaint. In addition, special precautions would be included to protect the patient and the facility from harassment by the other party.

The rights of all patients should be assured, irrespective of where that care is received. This amendment begins that process by covering providers of inpatient medical care participating in the medicare and medicaid programs.

The amendment was drafted in consultation with the National Senior Citizens Law Center, and the American Association of Homes for the Aging. The principles embodied in this amendment have been widely discussed and have the support of the National Council of Senior Citizens, the Gray Panthers, the National Association of Retired Federal Employees, the National Retired Teachers Association/American Association of Retired Persons, the National Citizens Coa-

lition for Nursing Home Reform, and several State ombudsmen programs.

I believe these guarantees of the patient's full civil rights are essential to insure that the patient receives quality health care.

The amendment follows:

AMENDMENT TO H.R. 3, AS REPORTED

Offered by Mr. Cohen

Page 116, add after line 23 the following new section:

Patients' Rights in Certain Medical Facilities

SEC. 21. (a) Title XI of the Social Security Act is amended by adding after section 1126 (added by section 8) the following new section:

"DEVELOPMENT AND ENFORCEMENT OF STANDARDS RELATING TO THE RIGHTS OF PATIENTS OF CERTAIN MEDICAL FACILITIES

"SEC. 1127. (a) The Secretary, in prescribing standards under section 1861(e)(9) for hospitals, under section 1861(j)(15) for skilled nursing facilities, and under section 1905(c)(2) for intermediate care facilities, shall require that all such hospitals and facilities to which such sections apply (hereinafter in this section referred to as 'facilities') adopt and make public a statement of the rights and responsibilities of the patients who are receiving inpatient treatment or care in such facilities (hereinafter in this section referred to as 'patients') and deal with such patients in accordance with the provisions of such public statement.

"(b) The Secretary shall require that the statement referred to in subsection (a) include the following:

"(1) A guarantee that the patient's civil and religious liberties (including the right to independent personal decisions and knowledge of available choices) will not be infringed and that the facility will encourage and assist in the fullest possible exercise of these rights.

"(2) A guarantee of the patient's right to have private and unrestricted communications with his physician, his attorney, and any other person.

"(3) A guarantee of a married patient's right to privacy for visits by the patient's spouse, and, if spouses are inpatients of the same facility (other than a hospital) a guarantee of the right of the spouses to share the same room in the facility.

"(4) A guarantee of the right of each patient (and of a staff member of a facility on behalf of any patient) to present grievances for the patient or other patients to the facility's staff or administrator, to governmental officials, or to any other patients or individuals within or outside of the facility to work for improvements in patient care.

"(5) A guarantee of the patient's right to manage his own financial affairs, or to have a periodic accounting of any financial transactions in his behalf should the patient delegate such responsibility to the facility for any period of time.

"(6) A guarantee of the patient's right to receive adequate and appropriate medical, nursing, and supportive care as reimbursed, to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions.

"(7) A guarantee of the patient's right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records (in accordance with the provisions of this Act), and security in storing and using personal possessions.

"(8) A guarantee of the patient's right to receive fair and equal treatment and services and a written statement of the services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under titles XVIII or XIX of this Act.

"(9) A guarantee of the patient's right to be free from mental and physical abuse and from physical and chemical restraints.

"(10) A guarantee that the patient will not be transferred or discharged from the facility, or transferred from one room to another within the facility except for medical reasons, for the patient's health and safety or for the health and safety of the other patients; must be accomplished with adequate procedures to protect the physical, psychological, and social well-being of the patient involved, and shall be subject to the remedies and enforcement procedures established by or under subsection (d).

"(11) A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients.

"(12) A guarantee that, should the patient be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities shall devolve upon a sponsor or guardian who shall see that the patient is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he is capable of exercising.

"(13) A guarantee of any other patient's rights the Secretary determines to be appropriate.

"(14) The guarantees specified in paragraphs (6) and (9) may be temporarily suspended by a facility with respect to a patient if—

"(A) the physician attending the patient determines that the suspension of such a guarantee for a specified and limited period of time is medically necessary and the physician records such determination (and the reasons therefor) in the patient's permanent medical record; and

"(B) the facility promptly notifies any sponsor or guardian of the patient of such suspension, its duration, and the reasons therefor.

"(c) The Secretary shall also require—

"(1) that each facility make available a copy of the statement, including a description of the remedies and enforcement procedures established by or under subsection (d), to each patient (or to the patient's guardian), as evidenced by the patient's written acknowledgement, at or prior to the time of admission to the facility or at the time of the initiation of the medical relationship between the facility and the patient, and to each member of the facility's staff, and post a copy of such statement in a public place within the facility; and

"(2) that each facility prepare a written plan and provide appropriate staff training to implement each patient's right included in the statement.

"(d) The procedure for enforcing a patient's rights guaranteed under subsection (a) shall be as follows:

"(1) The Secretary shall establish a procedure under which any patient, or any person acting on behalf of a patient, who believes that such patient has been denied any right so guaranteed may submit a complaint, written or oral, with an appropriate State agency in the State in which the patient is situated (hereinafter in this subsection referred to as the 'State agency') which shall investigate the complaint, keeping confidential insofar as possible the identity of the complainant (and the name of the patient or patients involved if the complainant is not such a patient), and shall render a written report thereon to the complainant within twenty working days. A copy of the State agency report, including the complaint (with identities of the complainant and any patients deleted), shall be made a permanent part of the file maintained on the facility by the State agency and shall be available to the public.

"(2)(A) If as a result of a State agency investigation conducted under paragraph (1), there is sufficient evidence of a violation, the State agency shall assess against the facility a civil penalty as determined by the Secretary in subparagraph (C)(i) by an order made after notice (provided in accordance with subparagraph (B)) and after opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(B) The written notice referred to in subparagraph (A) shall include notice of the State agency's proposed order and notice of the facility's opportunity to request, within 15 days of the date the notice is received by the facility, a hearing on the proposed order.

"(D) Not later than 60 days after an order of assessment of a penalty against a facility becomes final under this paragraph the facility must either—

"(i) file suit contesting such assessment in an appropriate court of competent jurisdiction and pay the amount of the penalty assessed into an escrow account established by the State agency; or

"(ii) pay the amount of such penalty to the patient whose rights were violated.

"(3) Not later than 60 days after a final decision on such complaint has been made or if the State agency has failed to act within twenty days, the complainant may bring an original action in the appropriate United States District Court or any state court of competent jurisdiction to enforce the guaranteed rights involved under this section. Such court shall have jurisdiction in any such action without regard to the amount in controversy. The complainant may join any additional causes of action which he (or the patient or patients involved), may have against the facility for enforcement or damages arising out of rights guaranteed under this subsection or otherwise. A complainant who prevails in court shall be awarded legal fees and costs, including reasonable attorney's fees, and shall be entitled to immediate release and payment of the statutory damages awarded from any escrow account established under paragraph (2)(D) by the State agency with respect to such complainant and, to the extent not so provided, from the facility.

"(4) If any facility fails to pay, to a patient or into an escrow account, a civil penalty assessed under this subsection within 60 days of the final order of the State agency or the final judgment of a court imposing such assessment (as the case may be), the Attorney General of such State or of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the last date of such 60-day period) in an action brought in any appropriate district court of the United States or any State court of competent jurisdiction. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(5) In any case where the patient or facility brings an action under this subsection following a decision of a State agency which is not in favor of the patient or the facility, respectively, and the action is determined to constitute harassment of the facility or patient, respectively, such patient or facility must pay all legal fees and costs (including reasonable attorney's fees) incurred by the State agency in connection with its decision.

"(6) In implementing the procedures established by or under this subsection for the enforcement of the patient's rights, the Secretary (utilizing existing procedures and instrumentalities whenever feasible) shall actively encourage, insofar as is possible depending on local circumstances, the involvement of nursing home patient advocates and ombudsmen (at the option of the patients or complainants involved) as representatives of individual patients.

"(7) The Secretary shall insure that individuals who invoke the enforcement procedures under this subsection, and patients for whom such procedures are initiated by third parties, are protected against retaliation in any form by the facility involved or by any of its employees, agents, or representatives. For this purpose the Secretary shall specifically provide that any act of such retaliation shall be subject to a civil penalty not to exceed $1,000 for each act of retaliation.

"(8) In order to determine whether a facility is adequately protecting its patients' rights, each routine certification survey of the facility shall include a private meeting between patients and survey personnel to discuss patients' experiences within the facility as regards rights under this section and compliance with standards generally.

"(9) The Secretary shall first publish proposed regulations for carrying out this subsection within 6 months after the date of the enactment of this section, and such regulations shall first become final and fully effective no later than nine months after such date.

"(10) Costs incurred by a State agency in carrying out its functions and responsibilities under this subsection shall be considered administrative costs incurred in carrying out functions and responsibilities under title XVIII or under the State's plan approved under title XIX or both (as determined by the Secretary) for purposes of Federal reimbursement.

"(11) Notwithstanding any other provision of law, civil penalties paid to any individual in accordance with this subsection shall not constitute income or resources or otherwise be taken into account (A) for purposes of determining the eligibility of such individual or his or her family or household for assistance under a State plan approved under title XIX, or for aid, assistance, or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household, or (B) for purposes of determining the amount or extent of such aid, assistance, or benefits.".

(b) Sections 1861(e)(9) and 1861(j)(15) of the Social Security Act are each amended by striking out "health and safety" and inserting in lieu thereof "health, safety, and rights".

"(C)(i) Any facility which violates any right of a patient guaranteed by the facility under this section shall be liable to individual patients (or their heirs) for a civil penalty determined by the Secretary in an amount not to exceed $500 for each such violation unless that is not possible in which case such penalty shall be paid to the State in which the facility involved is located. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

"(ii) The imposition of a civil penalty under this subsection shall not preclude, and shall be in addition to, any other monetary damages recoverable by patients as a result of the violation.

H.R. 3

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the following is the amendment I plan to offer to H.R. 3, medicare-medicaid antifraud abuse amendments:

Page 82, strike out line 22 and all that follows through line 18 on page 85.

SEXUAL EXPLOITATION OF CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I wish to announce that the Subcommittee on Crime will meet on Monday, September 26, to mark up legislation that addresses the problem of sexual exploitation of children. The markup session will be held in room 2237, Rayburn House Office Building, commencing at 11 a.m.

ALL SECTORS OF AMERICA OBSERVE CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in the spirit of Public Law 86-90, which calls for the annual observance of Captive Nations Week in the third week of July, reports on the recent 19th observance conclusively show that all sectors of America observe this important week. There has been a myth that the week is of interest only to so-called ethnic groups, at that with an ancestral heritage in Eastern Europe. Nothing could be further from the truth. Public Law 86-90 applies to all Americans, and the nationwide reports on the 19th observance clearly show this.

Under the prudent rule of selectivity I submit additional items for the RECORD, including the proclamation of Gov. Michael S. Dukakis of Massachusetts and editorials, reports and articles in the Richmond Times-Dispatch, the Miami News, the Chicago Tribune, the Manchester Union-Leader, the Spokane Chronicle, Columbus Citizen Journal, Scranton Tribune, Miami Herald, Chattanooga News-Free Press, and the Muncie, Ind. Star:

A PROCLAMATION OF GOV. MICHAEL S. DUKAKIS, 1977

Whereas: The week of July 17-23, 1977, is observed nationally as "Captive Nations Week" in accordance with Public Law 86-90; and

Whereas: The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief; and

Whereas: Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples; and

Whereas: The 1977 Captive Nations Week serves as an appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights;

Now, therefore, I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 17-23, 1977, as "Captive Nations Week" and urge the citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

ANOTHER INCONSISTENCY

In every July for the past 19 years, the United States has observed Captive Nations Week to show its sympathy for people enslaved by communism. Objects of our concern have been not only such unfortunate nations as Estonia, Latvia and Lithuania, which have been annexed by the Soviet Union, but also such satellite countries as Hungary, Czechoslovakia and Bulgaria, which are leashed tightly to Moscow and are independent in name only.

This year, however, a strange and deeply disturbing thing happened when the National Captive Nations Committee got in touch with the White House to make arrangements for the traditional presidential proclamation that would officially designate Captive Nations Week. Every president in the past 19 years has issued such a proclamation, and the committee assumed that President Carter, an ardent champion of human rights, would do so with enthusiasm.

Captive Nations Week was scheduled to begin July 17. When the committee had received no word from the President by late in the afternoon of July 15, an official of the organization called the White House to inquire about it. A presidential aide casually informed him there would be no presidential proclamation.

Incredulous, the committee official wanted to know why. Well, explained an aide, since the President's position on human rights is so well known, there was no need for a proclamation. That the failure of an American president to designate Captive Nations Week might be intepreted as a sign that the United States no longer cared very much about people who live under communism against their wills either did not occur to the White House or did not bother it. To many of those people and their friends and relatives in the United States, the designation of Captive Nations Week, through a presidential proclamation, has come to symbolize the continuation of hope for eventual freedom.

The White House's decision prompted an immediate letter of complaint from Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee. It also evoked protests from ethnic groups throughout the country and from some members of Congress. Finally, on July 20, four days after Captive Nations Week had begun, the White House saw its error and the President issued a Proclamation of sorts. While it reiterated the United States' belief in liberty and human rights, the proclamation contained not one condemnatory word about Communist tyranny over the captive nations.

Said a disappointed Dr. Dobriansky of Mr. Carter's performance:

"His near disastrous inaction on Captive Nations Week suggests that his commitment to his human rights crusade is growing lukewarm if not cold. If so, that is tragic news for the hundreds of millions living under communism who look to the United States and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

President Carter's reluctance to make a forceful gesture of sympathy for the millions of people who are oppressed by the Soviet Union is another illustration of the inconsistencies that mar his human rights campaign. Our feeling all along has been that there is great danger in waging such a campaign with unreserved candor and without careful regard for the United States' legitimate international interests. But we also have felt, and have said, that if the President is determined to criticize those nations that restrict human rights he should criticize impartially, denouncing the Soviet Union and Communist China with the same fervor that he denounces South Africa. That his administration has not done.

[From the Miami (Fla.) News, July 28, 1977]

NOTE CAPTIVE NATIONS DAY

(By Anita Karns)

On Saturday, July 23, by Public Law 86-90, the 18th annual community (also national) observance of Captive Nations took place in which 28 ethnic groups participated in the New World Park with outstanding senators, congressmen and clergy—and what appeared in The Miami News? Not a single word, not a single picture. Why?

It seems like the disgusting and insidious needs of a dollar diplomacy demand the obvious gag of the vital, albeit peaceful, manifestations of this courageous and dedicated, patriotic organization which is here to stay in America.

Let's see some real spirit and meritorious news before, during and after this observance next year and from now on equal to the efforts of Captive Nations' leader, Rev. John Paul Nagy.

[From the Chicago (Ill.) Tribune, July 29, 1977]

REMEMBER CAPTIVE NATIONS WEEK? MR. CARTER DID—BARELY

(By Robert H. Michel)

[Rep. Michel, Republican of Florida, is minority whip of the U.S. House.]

WASHINGTON.—On Wednesday, July 20, President Jimmy Carter proclaimed Captive Nations Week. If you are not aware that he did so, don't feel ashamed. There were no headlines, no five-minute spots on the television evening news. Perhaps a small piece in the back pages of most newspapers—that's all there was to it.

The next day the President delivered a major address on Soviet-American relations. The words "captive nations" appear nowhere in the text.

It is a sad commentary on both the administration and the media that such a proclamation could have been issued so casually and so late, and reported so little. "Human rights" is a nice-sounding abstraction; "captive nations" makes us look a bit closer at the fate which has befallen a specific group of millions of human beings for over 30 years.

I thought of this as I read a recent article in Time magazine: "G.I. Watch on Deadly Border." The story told of what Time calls "the hideous fence system" set up by East Germany [needless to say, at the direction and with the approval of the Soviet Union], to keep Germans from fleeing to the West. "A deep concrete-lined ditch . . . a minefield . . . a close-meshed wire fence that begins three feet underground . . . and rises ten feet above the earth . . . antipersonnel mines . . . automatic firing machine guns that are triggered by an electronic eye and set up to hit, variously, at knee, head, or chest level . . . hungry police dogs . . ." That is what denial of human rights means in specific terms.

And it is precisely a lack of specificity that troubles me when the President speaks of human rights. Earlier in his administration, he wrote a letter to Soviet dissident Andrei Sakharov, assuring him of the administration's commitment to human rights. It was a human—and humane—gesture, one that focused attention on one human being rather than on some abstraction.

How wonderful it would have been if the President had used Captive Nations Week to send a letter to just one person suffering deprivation of human rights. Has Mr. Brezhnev's blustering brought an end to something far more important than "personal diplomacy"—i.e., personal concern on the part of the President?

Some say that the President, to be consistent in his human rights stance, must condemn denial of rights in friendly nations with the same force and frequency as denial of rights in Communist nations. The idea is absurd. Take all the violations of freedom in all the Latin American countries, South Korea, and any other non-communist nation you might care to name, put them all together and they don't add up to an infinitesimal portion of what has been and is being done to victims of communism in Eastern Europe, Cambodia, and South Viet Nam.

This doesn't mean we ignore violations of human rights in friendly nations. It means we concentrate most of our energy on the one ideology which, whenever it gains power, always engages in wholesale violations of human rights: communism.

This is not Cold War rhetoric. It is common sense. It is also the experience of this cruel and bloody century.

[From the Manchester (N.H.) Union Leader, July 27, 1977]

CAPTIVE NATIONS CHAIRMAN RAPS PRESIDENT

CLAREMONT.—Mrs. Howard T. Ball, chairman of the recently commemorated Captive Nations Week in the Granite State, sent a wire to President James Carter this week demanding that he apologize for neglecting to proclaim the celebration nationally and "speak for Christianity and not for the anti-Christ that is ruling the world today."

Mrs. Ball said she was dismayed at the failure of the nation's President to recognize the Captive Nations and told President Carter in her wire that New Hampshire has honored and remembered all through the years these "precious, crucified, enslaved people."

Mrs Ball's wire stated: "For the second time at Captive Nations Day Memorial since 1962 when every New Hampshire governor proclaimed this third week of July as such—Law 86-90, U.S. Congress and passed in 1959—no Presidential proclamation was read. President Kennedy's was released too late and then naturally was considered 'old news.' To this date no copy of your proclamation has been known. As chairman in this state for honoring and remembering all through the years these precious, crucified, enslaved people, my heart is heavier than ever. For if America should fall then where do people go. The blood of America is on every land. These countries, and Cambodia, South Vietnam, Laos and the tiny island of Timor, so recently. We have failed them in breaking our promises and words. What does the Bible say to this?

Mr. President, you and America owe the Captive Nations an apology. I demand that you speak for Christianity and not for the anti-Christ that is ruling the world today."

[From the Spokane (Wash.) Chronicle, July 27, 1977]

DELAY BRINGS COMPLAINT

For those who take much stock in proclamations by mayors, governors and presidents, the delay by President Carter in giving official recognition to the observance of "Captive Nations Week" was a bitter pill to swallow.

It seems that the President was four days late in calling attention to the general public that "Captive Nations Week" was to have been observed in this country starting on Sunday, July 17.

There was no excuse for such an error—if indeed, an error occurred—according to Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee. He said such a thing never happened before in the 19 years of such observances.

Claiming that the efforts of the committee and the President's human rights stand are a sort of hand-in-glove combination, Dobriansky said their request to the White House was expected to result in a prompt and strongly worded proclamation from President Carter.

Instead, the White House first informed the committee there would be no proclamation, but later a presidential statement was issued, but even it was a disappointment because no mention was made of the 27 nations under communist control.

Says Dobriansky: "We feel compelled to ask which is more important to this administration, human rights or relations with the Soviet Union? This deplorable misreading of the cause of captive nations follows closely formation of the interagency committee on U.S.-U.S.S.R. relations, the first such governmental agency of its kind."

Just how effective in bringing about international understanding a Captive Nations proclamation would be is somewhat questionable. But the national organization sees the President's response as the beginning of a retreat from Carter's stand on human rights. That, too, is questionable.

[From the Columbus (Ohio) Citizen Journal, July 25, 1977]

CARTER CHANGES VIEWS ON ETHNIC PROCLAMATION

(By Ted Knap)

WASHINGTON.—President Jimmy Carter changed his mind and issued a Captive Nations Proclamation because the Kremlin hath no fury like American ethnic voters scorned.

Every year since 1959 U.S. presidents have proclaimed the third week of July as Captive Nations Week. Last week, Carter decided to break with tradition.

A National Security Council official said Carter decided not to issue the proclamation because it would be "superfluous and unnecessary" and was concerned it might further offend the Soviet Union.

The National Captive Nations Committee chairman, Lev E. Dobriansky, wrote Carter: "Your indifference to this concrete issue reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

Rep. Edward J. Derwinski (R-Ill.) prepared a statement saying Carter's silence on Captive Nations Week was a "contradiction to his human rights crusade." Several Democratic congressmen warned the White House that Carter's refusal to issue the proclamation would be seen by American ethnic voters as a sign of weakness and abandonment of their cause.

Carter changed his mind and issued a hurriedly drafted proclamation Wednesday declaring Captive Nations Week retroactively back to Sunday.

[From the Scranton (Pa.) Tribune, July 25, 1977]

BETTER LATE THAN NEVER

President Carter was in Yazoo, Miss., last week when, as some followers of current news were saying, he would have been more productive had he been in New York City, where looters, crime, social ills and other problems combined in a blackout-triggered explosion to deal the city's economy a crushing blow.

Earlier, the President had gone week-ending at Camp David, forgetting, it seems, to proclaim Captive Nations Week, an annual expression of official concern for nations under the heel of Communist oppressors.

By way of recompense, however, the President did belatedly designate last week as Captive Nations Week. It took a reminder from the National Captive Nations Committee that the seven days had arrived for the annual commemoration of the nations of Eastern Europe "annexed" by the Soviet after World War II.

In his proclamation, the president said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

The President spoke well. Late, but well.

[From the Chattanooga (Tenn.) News-Free Press, July 24, 1977]

FORGETTING

It has been the custom to proclaim the week of July 17 each year as "Captive Nations Week," to call attention to the Soviet captivity and oppression of the satellite countries of Eastern Europe—Latvia, Lithuania, Estonia, Poland, East Germany, Czechoslovakia, Hungary, Romania and Bulgaria. But this year, Mr. Carter almost forgot till he was reminded. That's understandable. It's easy to forget dates and certain occasions.

The bad part, though, is that we seem to have forgotten the captive nations. We have acquiesced to Soviet enslavement, and do business with the enslavers.

[From the Miami (Fla.) Herald, July 24, 1977]

CAPTIVE NATIONS

About 200 South Floridians from the Ukraine, Hungary and other Communist-bloc nations braved Saturday's thunderstorms to protest treatment of citizens in their homelands. The occasion was the 23rd annual "Captive Nations Day," in Bicentennial-New World Center Park. It was celebrated by prayers, songs and speeches.

[From the Muncie (Ind.) Star, July 24, 1977]

MILLIONS WITHOUT FREEDOM

In the first week of July, Americans celebrate the birth of their independence as a nation founded on the principle that governments derive their just powers from the consent of the governed.

In the third week of July, they observe Captive Nations Week, which they have been doing since 1959 as a sobering reminder that not all nations are free.

In fact more than a billion people live under communism. They do not have freedom of speech, press, assembly, worship and movement, or the right to dissent or petition the government for redress of grievances.

Their rulers do not believe what Thomas Jefferson wrote in the Declaration of Independence, that all men "are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

Rather, these rulers believe in the unlimited power of the state, whose machinery is in their hands, and in this cold-blooded and often brutal process the consent of the governed has no part at all.

Since 1971 a relatively small number of Communists using subversion and armed force have extended their rule over 40 nations. In some other cases—for example, Malaysia, Indonesia, Greece, Spain, the Dominican Republic, Mexico and Portugal—Communist conspiracies have been foiled.

In some nations where the people have tried to loosen the bonds of totalitarian government, including Hungary, Czechoslovakia and Poland, Communist military might has crushed the popular uprisings and restored the dictatorship full force.

Communist imperialism and expansionism thrive on conquest. Leonid Brezhnev has said that the struggle "will be waged right up to the complete and final victory of Communism on a world scale."

In Asia, having polished off South Vietnam, Laos and Cambodia, the Communists are hungrily eyeing South Korea and Taiwan. In Africa, having seized Angola and established Marxist dictatorships there and in eight other states, they are gazing at the Transkei, Rhodesia and South Africa and licking their chops.

They are busy hatching their schemes and fishing for converts in Europe and in North and South America.

During this week it is appropriate to consider now the captive nations became captive and what to do to turn the tide in favor of freedom here and elsewhere.

THE ARKANSAS STRUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, in the September 17, 1977, issue of the Waterways Journal, there is an editorial which comments on the attitude of certain officials and representatives of the waterways industry who attended last week's convention in Kansas City. The editor calls this "The Arkansas Strut." Since my colleagues may be interested to learn how successful and worthwhile the Arkansas River Navigation System is in returning the Federal investment and particularly how much is saved in shipping costs, I commend it to the attention of the Members:

THE ARKANSAS STRUT

There's a new dance step just waiting to be introduced formally in Arkansas and Oklahoma these days—the Arkansas Strut. Strangely enough, it appeals to rivermen.

Like other popular ideas waiting for their debut, it has been difficult to keep it under wraps, although there are no "patents pending."

They say if you want to know what is new and fashionable in the world, you must travel to the big city. And so it was this week in Kansas City, Mo., where the first signs of popularity began to emerge for this new and important step. The symptoms, if we may call them that, were noticed by Journal staff members attending the annual meeting of the National Waterways Conference, Inc., along with other related waterway organizations. The only delegates indicating genuine knowledge of the new step, however, were those from Oklahoma and Arkansas.

"What is the Arkansas Strut?" you ask.

The Arkansas Strut is that haughty step one takes on after being informed that his navigation system has turned out to be much more, much earlier than had been anticipated. It is that air of confidence and "I-told-you-so" attitude one exhibits after learning from the U.S. Engineers that industrial investments along the Arkansas Waterway total almost twice the cost of the system. Preliminary estimates, the Corps reported recently, show that industrial investment has reached more than $2.4 billion as compared with project costs of $1.3 billion. A two-state job survey indicated that 20,000 new jobs have been attributed to the river system, increasing payrolls to their highest level in history and strengthening the barge and towing industry's claim of the waterway's importance to the national economy.

The importance of the report by Col. Ernest Edgar, Little Rock District engineer, is that it points out how the river system far surpassed the tonnage that had been projected for its first 10 years of service. And state officials have pointed out—obviously with much pride—that total amortization of the project could come years earlier than projected.

There are always skeptics, of course, but there are none among the officials at the Tulsa Port of Catoosa. In February, 1975, in the inland waterways terminal section of our Water Resources Congress annual meeting issue, they reported that the port had been operating at a profit as early as the middle of 1974. More than four million bushels of wheat had moved through the port in 1974.

The impact of the Arkansas Waterway on agriculture, as just one example, could appear no more significant at any time than it can today when farmers are facing record crops and low prices. Port officials have emphasized that the use of barges in transporting grain east and fertilizer west on the river system saved farmers as much as $5 a ton in shipping costs.

The kind of dreams that were made possible by the construction of the Arkansas Waterway are the same kind of dreams running through the minds of those who support the Tennessee-Tombigbee Waterway. It is the feeling of the Carter Administration, after applying its new criteria, that the Tenn-Tom project should be killed.

The Arkansas Waterway report only verifies the words of Harry Cook, executive vice-president of the NWC, who said recently: "Navigable channels alone do not make usable waterways." When the books are balanced finally, history usually reveals that nonfederal contributions far outstrip federal investment as far as water resource development is concerned, and the benefits are far reaching. Already fantastic amounts of money have been invested by nonfederal entities for Tenn-Tom developments.

History has shown that believers in the Arkansas project were right. They have earned the right to strut.

ANNOUNCEMENT OF CHANGE OF HEARING DATE RE H.R. 8359

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that the hearing on H.R. 8359 originally scheduled to be held on September 28, 1977, has been rescheduled for September 30, 1977, in room 2141, Rayburn House Office Building beginning at 9 a.m.

At that time the Subcommittee on Monopolies and Commercial Law will hear testimony from lawyers and economists on the technical aspects of H.R. 8359, a bill to restore effective enforcement of the antitrust laws. A further hearing is scheduled for October 6, 1977, in room 2141, Rayburn House Office Building, beginning at 9 a.m.

PERSONAL STATEMENT

Mr. BRECKINRIDGE. Mr. Speaker, I rise for the purpose of making a personal statement.

Mr. Speaker, I was unable to make two recorded calls on Monday, September 19, because I was testifying at the field hearings conducted by the Subcommittee on Consumer Protection in Cincinnati, Ohio, on the tragic fire that occurred on May 28 at the Beverly Hills Supper Club in Southgate, Ky., taking 164 lives.

I failed to respond to rollcall No. 560, a quorum call.

On rollcall No. 561, a recorded vote on Representative ERLENBORN's amendment in the nature of a substitute to Representative THOMPSON's amendment in the nature of a substitute to H.R. 4544, the Black Lung Benefits Reform Act of 1977, had I been present I would have voted "nay."

MEMORIAL SERVICES FOR NATIONAL SOJOURNERS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am privileged to offer for reprinting in the

CONGRESSIONAL RECORD a presentation of the National Sojourners for their memorial services held in New Orleans during their 57th national convention in June. The proceedings were prepared and presented by the national chaplain, Col. Leighton E. Harrell, AUS, retired. They were taped and transcribed by Capt. J. M. Hirst, president, Seminole Chapter No. 373, National Sojourners, Orlando, Fla.

At the beginning of the service eight Heroes of '76 *, in full uniform, entered the room bearing three unlighted candles, three colored flowers, and a circlet of flowers. They stood, facing the audience, on each side of the altar, and Brother William F. Koeckert assisted in the lighting of the candles and placing of flowers.

The following statement was presented:

This morning we come to pay tribute to those of our members who have left us during the past year. We have been told by our National Secretary that there were 171 who have left us to enter into their eternal reward. In addition, since we have been here at this meeting, we have received word that Brother William E. Persons, Immediate Past Commander of Col. George F. Unmacht Camp, Heroes of '76 *, passed away this past Monday evening, the 20th of June 1977 because of cancer. He left his office as Camp Commander the 16th of June, just four days before his death. In paying tribute to those who have left us, we include him this morning. Brother Koeckert, will you place this scroll upon the Bible? This scroll contains the names of those who have left us.

We are proud of our National Colors—red, white and blue. We would like to place upon the altar a red candle which will be lighted.

The red candle is symbolic of the sacrifice of shedding blood which our forefathers gave during the inception of our Nation, and in the forming of this Country of ours. It is also symbolic of the sacrifices that have been made by those who have served since then, and we pay tribute to them as we light the candle of red.

The candle of white. When our constitution was written by our Masonic forebears there were those who said it was the greatest article that had ever been composed by mankind. That was the result of a purity of interest and honesty of purpose. And so was founded a Nation like no other Nation on the face of the earth. Other Nations since that time have undertaken to formulate their constitutions and write into them the purity of purpose which was written into ours.

The candle of blue. Above us is the blue sky of heaven, and the blue in our flag which reminds us not only of those who have been sincere in their work, but that over us there is a Deity whose loving arms protect us day after day. He provides us with the blue sky above, and protects and surrounds us wherever we are. These three colors have been woven as the colors of our flag, and we pay tribute to our flag and to our Country as we come to pay tribute to these, our Companions who have left us.

Upon our Holy Scriptures, upon which rests the scroll which contains the names of those who have left us, we will place flowers First of all, we will place a flower of red.

Red has always been symbolic not only of personal sacrifice, but also of the zeal and sincerity of purpose which a person applies as he conducts his daily duties. Thus, as we come to pay tribute to those who have left us, we pay tribute to their sincerity of purpose and the faithfulness of their work.

The Flower of white. White has always been symbolic of that purity of life, that rectitude of conduct, which is so essentially necessary to our gaining admission to that Supreme Lodge above. Though not one of us is perfect, He knows our imperfections and loves us. We believe that in the lives of those who have gone before us there has been that integrity of purpose and purity of life which has made us feel that we should pay tribute to them as they leave us.

The Flower of blue. Blue, once again, not only pays tribute to the basic laws upon which our Masonic membership is based, but also the friendship and sincerity of purpose which those who have left us have built into their lives.

You will notice that as these flowers have been placed upon the Bible, they have been placed in a triangular form. Almost from the beginning of time the triangle has been a symbol of Diety. And we place them in triangular form to show that those who have left us have believed in this Deity; this overriding Providence; the great God of Love whose arms are ever around us, and whose hands have guided and directed us in all of our operations. We could not, as we live day after day, walk with confidence in this world of ours if we did not believe that there is a great God above us filled with compassion; filled with love; filled with understanding; who has sought us far more than we have sought Him, and who has made great sacrifices that you and I may enjoy this world which He has created for us. Today, we will take one step further; we will place around this triangle a symbol of Deity, which is the circle.

We are taught in our Masonic ritual that at the center of the circle stands each individual, and that the rim of the circle represents the Deity that is equally close and equally distant from every one of us. No matter which way we turn we are surrounded by His love and by His care. It is in that belief that, as we come to the end of this year, we can commit these, our beloved ones, into the care of our Heavenly Father who has always reigned above us and loved us, and who, every day gives evidence of His kindness, of His consideration, and of His thoughtfulness.

We have come to place these symbols upon our altar in tribute to those who have gone before us, and we need to remember that the finest tribute that we pay to those whom we love is not the flowers that we place in this place or that; not the stone monuments that we erect in their memory; not the tributes paid to them verbally. The finest tribute we can pay to those whom we love and respect is to bring to full fruition the ideals and dreams and hopes which they had. These, our Brothers, dreamed great dreams for us, and we, as we pay tribute to them, can make those dreams come true; that our Country will continue to be the greatest Country on the face of the earth; that our organization, National Sojourners, will continue to hold up examples of patriotism and teach to the citizens of our Country, that wherever we go we will teach the lessons of loyal citizenship so that the world will understand that we, who proudly call ourselves Americans, have a dedication to a purpose which is not based upon selfishness or hope of personal gain, but which is based upon service, love, understanding and fellowship. In this spirit we pay tribute to those who have gone before us.

We would not close this service without saying also that we extend to the families which have been left behind, our sympathy. We quite understand that words of sympathy can never ease the pain, but we also understand that the great God above us, in His infinite kindness, will clear away the clouds, and that the sun will shine again, and that He will take away the ache and pain from our hearts until we can walk with head erect and shoulders back, proud that we have a God who loves us and takes pain from our hearts, and fills our hearts again with love and understanding.

And thus it is that we pay tribute to these 172 persons who left us during the year. Thus it is that we extend our sympathy to their families. Thus it is that we face tomorrow assured of the fact that if we follow the leadership of our Supreme Commander, there is no such thing as defeat—eternal victory shall be ours.

May we stand.

Our gracious Heavenly Father, we are grateful for those who have gone before us; for the examples they have set; for the lives they have lived; for the service they have given; and for all that they have done to make this a better Country and to build friendship among our group. And now, as we come to the end of this service, we not only commit them to They care, but we also bear up to Thee on the arms of love those who have suffered the loss: May they understand that the Heavenly Father understands and loves them, and though, like David of old, they may not bring back those who have gone, yet they can live so that in the world to come they shall be united with those whom they loved.

We do not know what tomorrow holds for us, but may each of us walk in the assurance that, if we put our hands in Thine, there is no obstacle too great; there is no trouble which shall overcome us; there is nothing that can cause us to falter so long as we walk with our hand in the hand of the Heavenly Father. Our Father, dismiss this service with Thy love.

May we stand with bowed heads as these soldiers who have come and brought our flowers and candles to us—as they retire from the room, and then may we unite voices and say together: Glory to God in the highest and on earth, peace and good will among men.

Brother Soldiers, will you retire.

Now we will say together: Glory to God in the highest and on earth, peace among men of good will.

Mr. Speaker, as my colleagues in the Congress know, the National Sojourners are members of the armed services who also are members of the Masonic order. They are strong advocates of patriotism, an adequate national defense, and belief in the God of our fathers.

THEY SAY "NO" TO A CONSUMER PROTECTION AGENCY

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, there are times when a simple list of names can do more to clarify a complex issue than any number of sophisticated arguments. We have been told by President Carter and many other advocates of a Consumer Protection Agency that there is no widespread opposition against such an agency. Only the Washington lobbyists are against it—or so we are told. There are many arguments that can be made against such a claim, but the one I want to present to you today consists of the names of over 140 Illinois firms who have informed the chamber of commerce that they are opposed to this proposed bureaucratic monstrosity.

This, Mr. Speaker, is the voice of the people. It is the voice that is attempting to make itself heard over the barrage of the administration propaganda. I hope that someone in the administration bothers to read this list and to let the fact sink in that these are only 260 out of 15,000 such firms, large and small,

throughout the Nation, that are against the idea of a Consumer Protection Agency.

The names of these Illinois firms are:

L. Jack Mendel, RPT, Freeport Rehabilitation Center, 1045 W. Stephenson Street, Freeport, Illinois 61032

Lloyd G. Smith, Lloyd G. Smith Co., 1791 So. West Ave., Freeport, Illinois 61032

Floyd J. Bienfang, Flagg Twp. Trustee, 1205 Sixth Ave., Rochelle, Illinois 61068

Walt Busky, Busky Catalog Sales, May Mart Shopping Center, Rochelle, Illinois 61068

Leonard D. Carmichael, Maplehurst Farms, RR # 1, Rochelle, Illinois 61068

Tex Dickenson, Rochelle Printing Co., Inc., 600 S. 7th St., Rochelle, Illinois 61068

Jim Feather, General Manager, WRHL Radio (Rochelle Broadcasting Co., Inc.) 400 May Mart Drive, Rochelle, Illinois 61068

Donald E. Gillis, Kahler, Gillis Agency, Inc., 421 N. 6th St., Rochelle, Illinois 61068

John J. Nink Jr., President, Nink Enterprises Co., May Mart Center, Rochelle, Illinois 61068

L. D. Purhis, Carow International Inc., 509 So. 2nd St., Rochelle, Illinois 61068

Gale Thornton, Thornton's Body Shop, U.S. # 51 South, Rochelle, Illinois 61068

John Tompkins, Rochelle Newspapers, Inc., 401 N. Main St., Rochelle, Illinois 61068

Rex Wood, Caron International, 509 So. 2nd Street, Rochelle, Illinois 61068

James L. King, President, Sauk Valley Equipment Co., 200 E. 3rd Street, Rock Falls, Illinois 61071

T. T. Hill, President, Regal-Beloit Corporation, P.O. Box 38, So. Beloit, Illinois 61080

W. W. Keefer, Warner Electric Brake & Clutch Co., 449 Gardner Street, South Beloit, Illinois 61080

Thomas L. Rosenow, Chairman, Frantz Mfg. Co., 301 W. Third St., Sterling, Illinois 61081

Ronald J. Hartz, Wentsel, Wilkins, Lowe & Wheeler, Inc., 315 First Ave., P.O. Box 655, Sterling, Illinois 61081

John F. Wahl, Wahl Clipper Corp., 2902 N. Locust St., Sterling, Illinois 61081

E. R. Hollingsworth, Chairman, E. R. Hollingsworth & Associates, 1004 Talcott Building, Rockford, Illinois 61101

Bruce M. Livingston, Woodward Governor Company, 5001 N. Second St., Rockford, Illinois 61101.

R. E. Palmer, President, J. L. Clark Manufacturing Co., 2300 Sixth St., Rockford, Illinois 61101.

Wm. F. Schmeling, E. W. Schmeling & Sons, Inc., 1031 School St., Rockford, Illinois 61101.

John Carbangh, Beaky's Inc., 2430 Auburn St., Rockford, Illinois 61103.

L. J. Schmidt, Secretary, Civic League, Inc. (Executive Committee), 303 N. Main Street, Room 616, Rockford, Illinois 61103.

Fred J. Kile, Johnson, Kile, Seehausen & Assoc., Inc., 501 7th St., Rockford, Illinois 61104.

Thomas F. Brown, Land-Mark Printing Co., 327 S. Winnebago, Rockford, Illinois 61105.

Mott Bros. Company, 907 S. Main St., Rockford, Illinois 61105.

Michael J. Chiodini, President, Rockford-Milwaukee Dispatch, Inc., P.O. Box 3037, Rockford, Illinois 61106.

Ray Nihan, Nihan & Martin Pharmacy, Highcrest & Alpine, Rockford, Illinois 61107.

Richard Fratesi, Metal Cutting Tools, Inc., 21 Airport Drive, Rockford, Illinois 61109.

Milo J. Hackman, Rockford Universal & Drive Shaft Ser., 1206 Milford Ave., Rockford, Illinois 61109.

R. R. Gilbert, Waddell White Truck Sales, Inc., 3814 11th St., Rockford, Illinois 61110.

Roland D. Miles, V.P. & Cashier, City National Bank & Trust Co., 1100 Broadway, Rockford, Illinois 61110.

Fred W. Clarke, Rogers & Clarke Mfg., Co., 901 River Lane, Rockford, Illinois 61111.

J. Mark Amacher, Black Hawk Federal Savings & Loan Assoc., 1800 5th Ave., Rock Island, Illinois 61201.

T. W. Brown, Reynolds Engineering Co., 501 38th Street, Rock Island, Illinois 61201.

Fred Cook, Bituminous Insurance Companies, 320 18th Street, Rock Island, Illinois 61201.

Robert H. Evans, Illinois Iowa Blacktop, 220 34th Ave., Box 697, Rock Island, Illinois 61201.

John G. Gibbs, Black Hawk Federal Savings & Loan Assoc., 1800 5th Ave., Rock Island, Illinois 61201.

Lloyd R. Larson, Dohrn Transfer Co., 4016 Ninth Street, Rock Island, Illinois 61201

Clifford E. Missman, Missman, Stanley & Associates, 1011 27th Avenue, Rock Island, Illinois 61201

W. J. Reese, President, W. J. Reese & Assoc. Inc., 2108 5th Street, Rock Island, Illinois 61201

Wm. T. Schneider, President, Bill's Moving & Storage Inc., 2640 Blackhawk Rd., Rock Island, Illinois 61201

Duane E. Anderson, National Bank of Aledo, 201 West Main, Aledo, Illinois 61231

Lois I. Cagle, Cagle's Clothing Center, 125 E. Main St., Aledo, Illinois 61231

W. J. Thede, The Thede Co., 217 E. Main St., Aledo, Illinois 61231

Ray Adams, Adams-Cramm Insurance, 1180 42 Ave., East Moline, Illinois 61244

Federated, East Moline Department Stores, Inc., 806–808 15th Ave., East Moline, Illinois 61244

Hadley Kurtz, Kurtz Realty & Co., 367 42nd Ave., E. Moline, Illinois 61244

Richard J. Puffer, College Administrator, 2705 4th Street Court, East Moline, Illinois 61244

Clarence H. Vyncke, City of East Moline Illinois, 915 16th Avenue, East Moline, Illinois 61244

Roy M. Conrad, Beling Engineering Consultants, Beling Building, 16th St. at 10th Ave., Moline, Illinois 61265

Don Herrman, V.P., Public Relations, Elliott Flying Service, Inc., P.O. Box 100 (Quad City Airport), Moline, Illinois 61265

Charles D. Horton, President, Moline Paint Mfg. Co., 5400 23rd Ave., Moline, Illinois 61265

Robert E. Manhard, Blackhawk Realty Co., 3440 38th Avenue, Moline, Illinois 61265

Joseph Miller, Taylor Insulation Co., 1609 2nd Ave., Moline, Illinois 61265

Kenneth Nipp, Nipp's Machine Shop, 5402 3rd Avenue, Moline, Illinois 61265

Gene A. Oppenheimer, Harrington Signal Co., 406 7th St., Moline, Illinois 61265

Rufus H. Roys, Western Structural Company, 3201 Fourth Avenue, Moline, Illinois 61265

James P. Sandstrom, President, Sandstrom Products Co., Main St., Port Byron, Illinois 61265.

C. A. Siegfried, Jr., CAE, American Rental Association, 2920 23rd Avenue, Moline, Illinois 61265.

Lloyd H. Eees, Whiteside FS, Inc., 100 E. Knox St., Morrison, Illinois 61270.

R. Wayne Soliday, Soliday Farm Equip., Rt. 3, Box 9, Prophetstown, Illinois 61277.

Mr. Edward H. Boll, Carus Corporation, 1500 Eighth Street, La Salle, Illinois 61301.

Robert Spenader, Lee FS, Inc., 35 East Ave., Amboy, Illinois 61310.

Keith Hunter, President, Marseilles Telephone Co., 455 Main St., Marseilles, Illinois 61341.

Michael D. O'Connor, The Mendota Reporter, 702 Illinois Ave., Mendota, Illinois 61342.

Richard O. Brooke, Oakwood Memorial Park Inc., RR No. 1, Ottawa, Illinois 61350.

Robert N. Ettelbrick, K. J. Brown & Co., 107 W. Main St., Ottawa, Illinois 61350.

Paul A. Gerding, President, Bellrose Silica Company, Box 460, Ottawa, Illinois 61350.

Douglas O. Biederstedt, Doug Biederstedt Realtors, P.O. Box 465, Peru, Illinois 61354

James J. Giordano, Chamlin & Assoc., Inc., 3017 Fifth St., Peru, Illinois 61354.

Florence Kramkowski, Partner, Paul Cohard, 415 5th Street, Peru, Illinois 61354.

A. S. Reiss, G & O Mfg., Co., 820 Brunner St., Peru, Illinois 61354.

Enid Snyder, The Snyder Ins. Agency, 1711 4th St., Peru, Illinois 61354.

K. A. Stachowiak, Monarch Industrial Inc., 1101 Center St., Peru, Illinois 61354.

H. Dean Reynolds, Reynolds-West & Assoc., Inc., 127 So. Bloomington St., Streator, Illinois 61354.

Raymond E. Ringenberg, Tiskilwa State Bank, Tiskilwa, Illinois 61368.

T. N. Kenney, Tonica State Bank, Tonica, Illinois 61370.

Robert L. Gess, United Facilities, Inc., Box 1443, 1557 S. Henderson St., Galesburg, Illinois 61401

L. A. Linman, L. A. Linman Agency, 1380 No. Henderson St., Galesburg, Illinois 61401

Carroll Watts, President, Galesburg Auto Supply Inc., 883 West Dayton St., Galesburg, Illinois 61401

Richard M. Bishop, President, First Galesburg National Bank & Trust Co., 200 E. Main St., Galesburg, Illinois 61401

William H. Buens, Gustafsons Paint & Wallpaper, 224 W. 2nd St., Kewanee, Illinois 61443

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Don Searles, Waterless Dredging Co., 124 N. 15th St., Mattoon, Illinois 61938

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M. C. Shutt, Girard Elevator Co., 210 East Center St., Girard, Illinois 62640

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E. L. Spellman, Sec., Logan Landfill, Inc., 111 Park Pl., Lincoln, Illinois 62656

E. L. Spellman, Sec., Lincoln Industrial Park, Inc., 111 Park Pl., Lincoln, Illinois 62656

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George W. Dodds, WGGH Radio, Box 340, Marion, Illinois 62959

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. WHALEN, for 5 minutes, today.

Mr. O'BRIEN, for 30 minutes, September 23, 1977.

Mr. KEMP, for 10 minutes, today.

Mr. COHEN, for 20 minutes, today.

(The following Members (at the request of Mr. DANIELSON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. ALEXANDER, for 15 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr BOWEN, for 10 minutes, on September 23, 1977.

Mr. RODINO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $724.50.

(The following Members (at the request of Mr. LEACH) and to revise and extend their remarks and include extraneous matter:)

Mr. PRESSLER.

Mr. DORNAN in three instances.

Mr. DERWINSKI.

Mr. WHALEN.

Mr. LAGOMARSINO.

Mr. MARRIOTT.

Mr. ABDNOR.

Mr. HYDE.

Mr. VANDER JAGT.

Mr. CRANE.

Mr. BAUMAN.

Mr. ROUSSELOT.

(The following Members (at the request of Mr. DANIELSON) and to include extraneous material:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. MCFALL.

Mr. BINGHAM in five instances.

Mr. REUSS in two instances.

Mr. CARNEY.

Mr. RYAN.

Mr. ROSENTHAL.

Mr. MURTHA in two instances.

Mr. LLOYD of California.

Mr. VAN DEERLIN.

Mr. ROYBAL in two instances.

Mr. NATCHER.

Mr. RICHMOND.

Mr. ROGERS in five instances.

Mr. MINETA.

Mr. WRIGHT.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1005. An act for the relief of Young Shin Joo; to the Committee on the Judiciary; and

S. 1654. An act for the relief of Thuy Bach Kanter; to the Committee on the Judiciary.

ADJOURNMENT

Mr. DANIELSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Friday, September 23, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2427. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting his certification that downward fluctuations in foreign currency exchange rates have made it necessary to provide additional funds to maintain in fiscal year 1977 the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., pursuant to section 8 of the Board for International Broadcasting Act of 1973, as amended (90 Stat. 832); to the Committee on International Relations.

2428. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of Saudi Arabia for permission to transfer certain U.S.-origin military equipment to the Yemen Arab Republic, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

2429. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Arthur J. Goldberg and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations

2430. A letter from the Assistant Secretary of the Treasury, transmitting project performance audit reports prepared by the International Bank for Reconstruction and Development and post-evaluation reports from the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (87 Stat. 718); to the Committee on International Relations.

2431. A letter from the Administrator, Federal Energy Administration, transmitting the monthly report for June 1977, on changes in the aggregate market shares of motor gasoline retailers, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2432. A letter from the Administrator, Federal Energy Administration, transmitting the monthly report for June 1977, on changes in the refiner sales distribution and the retail market shares of selected refined petroleum products, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2433. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's third report on the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act of 1975; to the Committee on Interstate and Foreign Commerce.

2434. A letter from the chairman, board of directors, Future Farmers of America, transmitting a report on the audit of the organization for the year ended June 30, 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2435. A letter from Secretary of Transportation, transmitting a report on the applicability of Federal motor vehicle safety standards and regulations to electric and hybrid vehicles, pursuant to section 13(d) of Public Law 94-413; to the Committee on Science and Technology.

2436. A letter from the Secretary of Health, Education, and Welfare; transmitting a draft of proposed legislation to amend the Social Security Act to expand the availability of emergency assistance under title IV in the case of natural disaster or other occurrence of regional or national significance beyond a State's control; to the Committee on Ways and Means.

2437. A letter from the Comptroller General of the United States, transmitting a report on the Office of Education's basic educational opportunity grant program (HRD-77-91, September 21, 1977); jointly, to the Committees on Government Operations, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5723. A bill to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges; with amendment (Rept. No. 95-617, Pt. I). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8490. A bill to amend chapter 21 of the Internal Revenue Code of 1954 to clarify, extend, and facilitate compliance with the recently enacted provisions relating to social security coverage for employees of nonprofit organizations which failed to file certificates providing coverage for such employees but which nevertheless treated such employees as having such coverage; with amendment (Rept. No. 95-618). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (for himself, Mr. BONIOR, Mrs. COLLINS of Illinois, Mr. DAN DANIEL, Mr. EILBERG, Mr. HARRINGTON, Mr. KINDNESS, Mrs. LLOYD of Tennessee, Mr. LAFALCE, Mr. MURPHY of Pennsylvania, and Mr. ROE):

H.R. 9247. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 9248. A bill to amend the U.S. Housing Act of 1937 for the purpose of making mobile home parks for the elderly and handicapped eligible for assistance under such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEDERER:

H.R. 9249. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes; to the Committee on Agriculture.

By Mr. LEDERER (for himself and Mr. BRODHEAD):

H.R. 9250. A bill to encourage financial institutions to help meet the credit needs of the communities in which they are chartered, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JONES of Oklahoma (for himself, Mr. ULLMAN, Mr. WAGGONNER, Mr. BRODHEAD, Mr. DUNCAN of Tennessee, Mr. ARCHER, Mr. CRANE, and Mr. MARTIN):

H.R. 9251. A bill providing that until July 1, 1978, the tax treatment of certain transportation expenses between a taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76-453 or any similar ruling; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 9252. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

H.R. 9253. A bill to amend the International Coffee Agreement Act of 1968 to prohibit the importation into the United States of coffee which is the product of Uganda; to the Committee on Ways and Means.

H.R. 9254. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 9255. A bill to amend title 10 of the United States Code to increase the minimum grade held by the Chief of the National Guard Bureau from major general to lieutenant general; to the Committee on Armed Services.

By Mr. RUPPE (for himself, Mr. LAGOMARSINO, Mr. KINDNESS, Mr. KETCHUM, Mr. CEDERBERG, Mr. HORTON, Mr. MCCLOSKEY, Mr. BONIOR, Mr. D'AMOURS, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. RICHMOND, Mr. PURSELL, Mr. WHITEHURST, Mr. BLANCHARD, Mr. HARRINGTON, Mrs. SPELLMAN, and Mr. GOODLING):

H.R. 9256. A bill to amend the Federal Meat Inspection Act to permit States to impose inspection, marking, labeling, packaging, and ingredient requirements that are more stringent than Federal standards; to the Committee on Agriculture.

By Mr. RUPPE (for himself, Mr. PURSELL, Mr. CEDERBERG, Mr. FRENZEL, Mr. STEERS, Mr. MCCLORY, Mr. HILLIS, Mr. HANLEY, Mr. ANDERSON of Illinois, Mr. CLEVELAND, Mr. CORCORAN of Illinois, Mr. STOCKMAN, Mr. WON PAT, Mr. KINDNESS, Mr. MURPHY of of Pennsylvania, Mr. EILBERG, and Mr. VENTO):

H.R. 9257. A bill to authorize the Secretary of the Interior to review means of transmitting Alaskan crude oil to Midwestern and inland States; jointly, to the Committee on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. SISK:

H.R. 9258. A bill to amend the acts authorizing the Central Valley project, California, and to assure its operation and maintenance, to authorize the Secretary of the Interior to enter into certain agreements with the State of California and local agencies, to study the feasibility of certain additions to the Central Valley project and to construct and operate the Peripheral Canal, the Mid-Valley Canal, the Los Vaqueros Unit, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SISK (for himself and Mr. MURPHY of Illinois):

H.R. 9259. A bill to require that specific alien and citizenship status information be provided prior to the issuance of a social security card, to require that social security cards which cannot be duplicated be issued, to require that these cards be presented to employers by prospective employees before obtaining employment, to provide penalties against employers for violating the provisions of this act, and for other purposes; to the Committee on Ways and Means.

By Mr. TEAGUE:

H.R. 9260. A bill to prohibit a finding of death with respect to any member of the uniformed services in a missing status unless the next of kin of the member agrees to the finding; to the Committee on Armed Services.

By Mr. ROE:

H.J. Res. 598. Joint resolution providing for the designation of a week in May of each year as National Burglary and Theft Prevention Week; to the Committee on Post Office and Civil Service.

H.J. Res. 599. Joint resolution requesting the President to proclaim the second week of May as Municipal Clerks' Week; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. FRENZEL, Mr. LENT, Mr. KELLY, Mr. MCEWEN, Mr. BOB WILSON of California, Mr. MOORE, Mr. MADIGAN, Mr. STANGELAND, Mr. TRIBLE, Mr. SPENCE, Mr. GAYDOS, Mr. CARTER, Mr. BAFALIS, Mr. WALSH, Mr. WYLIE, Mr. WHITEHURST, Mr. BROWN of Michigan, Mr. REGULA, Mr. BEARD of Tennessee, Mr. WIGGINS, Mr. HARSHA, Mr. MOLLOHAN, Mr. STRATTON, and Mr. FISH):

H. Con. Res. 360. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. APPLEGATE (for himself, Mr. BENJAMIN, Mr. BEVILL, Mr. BUCHANAN, Mr. COUGHLIN, Mr. CUNNINGHAM, Mr. DENT, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EILBERG, Mr. FITHIAN, Mr. GAYDOS, Mr. HARSHA, Mr. KINDNESS, Mr. LAFALCE, Mr. MCCLORY, Mr. MURPHY of Pennsylvania, Mr. MURPHY of Illinois, Mr. NOWAK, Ms. OAKAR, Mr. PERKINS, Mr. ROE, Mr. SHARP, Mr. THOMPSON and Mr. WALKER):

H. Res. 772. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

By Mr. O'BRIEN (for himself, Mr. BURGENER, and Mr. GILMAN):

H. Res. 773. Resolution to amend the Rules of the House of Representatives to establish a permanent Select Committee on Handicapped Individuals; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STANTON introduced a bill (H.R. 9261) for the relief of John D. Robertson, which was referred to the Commitee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

The SPEAKER presented a petition of the council of the city of New York, N.Y., relative to full employment; to the Committee on Education and Labor.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. ROUSSELOT:

On page 41 lines 2-3 and lines 23-24, on page 42 lines 15-16, on page 43 line 7, on page 44 lines 15-16, on page 45 lines 23-24, on page 46 lines 15-16, and on page 47 lines 7-8, strike "$25,000" and "five years" and substitute "$50,000" and "ten years".

On page 41 lines 5-7, and on page 44 lines 19-20, strike "misdemeanor," "$10,000," and "one year," and substitute "felony," "$25,000," and "five years".

On page 65, line 1, strike "ANNUAL REPORTS" and substitute "SEMI-ANNUAL REPORTS"

On page 65, strike lines 2-7, and substitute:

SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and September 1, 1978, and not later than April 1 and September 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding year, including data and information on—

H.R. 6566

By Mr. WEISS:

Page 18, after line 3, insert the following new section:

SEC. 104. None of the funds authorized to be appropriated under this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation weapon or for research, development, test, or evaluation with respect to any such weapon.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 4, 1977 (page 27164).

H.R. 3401. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3402. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to designate $1 of their income tax liability to be used for purposes of reducing the public debt of the United States.

H.R. 3403. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 3404. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 3405. February 9, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to postpone until model year 1982 the imposition of certain motor vehicle emission standards. Deletes the requirement of a 90-percent reduction in emissions of nitrogen oxides from light-duty motor vehicles.

Directs the Administrator of the Environmental Protection Agency to study emissions of sulfur-bearing compounds from motor vehicles and aircraft. Directs the Administrator to establish railroad locomotive emission standards.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 3406. February 9, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to postpone until model year 1982 the imposition of certain motor vehicle emission standards. Deletes the requirement of a 90-percent reduction in emissions of nitrogen oxides from light-duty motor vehicles.

Directs the Administrator of the Environmental Protection Agency to study emissions of sulfur-bearing compounds from motor vehicles and aircraft. Directs the Administrator to establish railroad locomotive emission standards.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 3407. February 9, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 3408. February 9, 1977. Public Works and Transportation; Interior and Insular Affairs. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 3409. February 9, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 3410. February 9, 1977. House Administration. Requires all States within each of designated regions which hold Presidential primaries to do so on a single date chosen by the Federal Election Commission.

Restricts voters registered with a party affiliation to those candidates seeking such party's nomination. Allows independent voters to vote for any candidate.

Requires ballots in an election for delegates to a national nominating convention to indicate the Presidential candidate, if any, to which each candidate for delegate is committed.

Conditions Federal matching payments on a Presidential candidate's entering at least one primary in each region.

H.R. 3411. February 9, 1977. Government Operations; Rules Terminates the Civil Aeronautics Board, the Federal Aviation Administration, and the Occupational Safety and Health Administration of the Department of Labor on October 1, 1980. Terminates the Federal Energy Administration, the Interstate Commerce Commission, and the Federal Marine Commission on October 1, 1981. States that such agencies may be continued for an additional period of time if such extension is authorized by specific legislation after public hearings are held on the appropriateness of such extension and after receipt of reports from the General Accounting Office, the Congressional Budget Office, and the Office of Management and Budget fully evaluating each such agency separately.

H.R. 3412. February 9, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the Current Population Survey so as to provide monthly to each State statistics on the number of unemployed persons within it.

H.R. 3413. February 9, 1977. Judiciary. Amends the Rules Enabling Acts to empower the Judicial Conference of the United States rather than the Supreme Court to prescribe, contingent upon Congressional approval, rules of pleading, practice, and procedure for Federal courts.

H.R. 3414. February 9, 1977. Public Works and Transportation. States that no person performing work under a contract in connection with a civil works project entered into by the Army Corps of Engineers shall be immune from any State or local laws, ordinances, or taxes on the ground that such performance took place in whole or in part on property of the United States. Permits

any State or political subdivision thereof to tax real property transferred to any individual for a profitmaking activity and receive payment for such individual even though the United States retains an interest of any kind in such property.

H.R. 3415. February 9, 1977. Interstate and Foreign Commerce. Establishes a Commission on Natural Gas Resources to study the production, distribution, and consumption of natural gas in the United States.

H.R. 3416. February 9, 1977. Agriculture. Provides under the Agricultural Adjustment Act of 1938 that leasing of flue-cured tobacco acreage-poundage marketing quotas after June 15 of any year be permitted only between farms on which at least 80 percent of the farm acreage allotment (currently 50 percent) was planted for such year.

H.R. 3417. February 9, 1977. Agriculture. Directs the Secretary of Agriculture to enter into cooperative fencing agreements with private landowners whose lands are adjacent to National Forest System lands. Authorizes the Secretary to enter into cooperative agreements with such landowners for the purpose of controlling noxious weeds.

H.R. 3418. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation; and (5) reduce the maximum corporate normal tax rate.

H.R. 3419. February 9, 1977. Judiciary. Amends the Voting Rights Act of 1965 to repeal the prohibitions against voting qualifications, prerequisites, tests, or devices which abridge the right of a citizen to vote who is a member of a language minority.

Repeals the requirement that States and other political subdivisions make available registration and voting materials and voting assistance in languages other than English.

H.R. 3420. February 9, 1977. Interior and Insular Affairs. Imposes additional restrictions on sales and resales of excess lands sold to qualify for water rights under the Federal reclamation laws.

H.R. 3421. February 9, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to authorize the possession and use of gambling devices aboard passenger vessels documented under the Laws of the United States while such a vessel is within the territorial seas of the United States or the special maritime and territorial jurisdiction of the United States if the vessel is engaging in foreign trade, offshore domestic trade, or a cruise approved by the Secretary of Commerce.

H.R. 3422. February 9, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3423. February 9, 1977. Veterans' Affairs. Establishes a mortgage protection life insurance program for certain veterans unable to acquire commercial life insurance because of service-connected disabilities.

H.R. 3424. February 9, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 3425. February 9, 1977. Veterans' Affairs. Provides that educational loans made by the Veterans' Administration to eligible veterans and other persons shall not bear interest in excess of three percent, and that no interest shall accrue before the beginning date of repayment.

H.R. 3426. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from gross income the gain from the sale or exchange of taxpayer's principal residence provided that he has used and owned it as such for five out of the previous eight years.

H.R. 3427. February 9, 1977. Interstate and Foreign Commerce. Establishes procedures for declaration of energy emergencies and energy disasters situations by the President, upon request by Governors of affected States. Authorizes the President to provide relief in such emergencies and crisis situations by ordering delivery of energy supplies to the affected area, imposing energy conservation measures, and furnishing financial and other assistance.

Authorizes suspension of stationary source fuel or emission limitations imposed under the Clean Air Act during energy emergency situations.

H.R. 3428. February 9, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to make recommendations for rates of pay for Members of Congress and the Resident Commissioner from Puerto Rico, transmitted by the President to Congress, subject to Congressional approval by specific resolution passed by each House. Sets forth the rules and procedure to be followed with respect to consideration of such resolution.

Amends the Legislature Reorganization Act of 1946 to establish annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and House and Senate leadership at the rates in effect on September 30, 1976.

H.R. 3429. February 9, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3430. February 9, 1977. Education and Labor; Banking, Finance and Urban Affairs. Amends the Fair Labor Standards Act of 1938 to authorize the Secretary of Labor to investigate any proposed business closing or relocation and to provide assistance to certain employees and local governments affected by such action.

Denies specified tax benefits to a business closing or transferring an operation upon certain findings by the Secretary.

Establishes a National Employment Relocation Administration within the Department of Labor and a National Employment Relocation Advisory Council.

H.R. 3431 February 9, 1977. Post Office and Civil Service. Designates the anniversary of Martin Luther King, Junior's, birth, January 15, a legal public holiday.

H.R. 3432. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3433. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Set forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3434. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3435. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3436. February 9, 1977. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement systems which allow retirement credit to teachers for out-of-State teaching service.

H.R. 3437. February 9, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration cost for vocational education programs.

H.R. 3438. February 9, 1977. Education and Labor. Directs the Secretary of Labor to (1) contract with Opportunities Industrialization Centers, Incorporated, for the provision of skills training to certain types of unemployed persons through such Centers, and (2) contract with other national community based organizations, for the provision of comprehensive employment services, including counseling, job creation and development, remedial education, and followup. Directs the head of each agency having administrative authority with respect to specified Federal grant and construction programs to take steps to assure that special consideration be given national community based organizations in providing employment services and job opportunities for unemployed individuals pursuant to such authority.

H.R. 3439. February 9, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such Act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 3440. February 9, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself. Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 3441. February 9, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself. Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 3442. February 9, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 3443. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act to postpone the effective date for recommended adjustments in pay made by the Commission on Executive, Legislative, and Judicial Salaries until the first pay period after the first period of 30 calendar days of continuous congressional session. Provides rules for considering legislation to disapprove such salary adjustments within such 30-day period including procedures to limit debate on such measures and to force such a measure out of committee ten days after its introduction.

H.R. 3444. February 9, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to stipulate that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved.

H.R. 3445. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to keep from becoming effective any salary adjustment recommended by the President under such Act unless specifically approved by both Houses of Congress within 30 days after such adjustments is submitted to Congress.

H.R. 3446. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3447. February 9, 1977. Post Office and Civil Service. Grants to a Federal annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity. Eliminates the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant. Requires the Civil Service Commission to inform each annuitant of each annuitant's rights of election under this Act.

H.R. 3448. February 9, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946, as amended by the Executive Salary Cost-of-Living Adjustment Act, to establish the rate of pay for Members of Congress at the rate in effect on September 30, 1977.

Amends the Federal Salary Act of 1967, as amended by the Executive Salary Cost-of-Living Ajustment Act, to exempt from review by the Commission on Executive, Legislative, and Judicial Salaries the rates of pay for the Vice President and for Members of Congress.

Establishes the rate of salary of the Vice President at the rate in effect for such office on September 30, 1977.

H.R. 3449. February 9, 1977. Judiciary. Amends the Civil Rights Act of 1968 to allow the Secretary of the Department of Housing and Urban Development to initiate civil actions to enforce the provisions of such Act. Extends from 30 to 60 days the period during which no civil suits may be initiated and the Secretary must make efforts to obtain voluntary compliance with such Act.

Permits courts to award attorneys' fees to prevailing plaintiffs without regard to financial ability to assume such fees.

H.R. 3450. February 9, 1977. Ways and Means. Establishes the National Commission on the Social Security Program to study and evaluate the Old-Age, Survivors, and Disability Insurance program of the Social Security Act to determine the effectiveness of the program in meeting the needs for which it was established. Requires the study of alternative structures to meet such needs.

H.R. 3451. February 9, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 3452. February 9, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 3453. February 9, 1977. Merchant Marine and Fisheries. Amends the Coastal Zone Management Act of 1972 to further define those energy activities subject to the provisions of the Act. Deletes various conditions imposed upon States in utilizing Federal grant monies available under such Act.

H.R. 3454. February 9, 1977. Interior and Insular Affairs. Designates specified lands in certain national forests as components of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 3455. February 9, 1977. Interior and Insular Affairs. Authorizes appropriations for fiscal years 1978 and 1979 to the Nuclear Regulatory Commission for salaries and expenses.

H.R. 3456. February 9, 1977. Small Business. Amends the Small Business Act to empower the Small Business Administration to make loans to assist any small business to continue or reestablish its business at its existing location or at a new location, or to establish a new business at a new location as the Administration deems necessary if such concern has been adversely affected by the decision of a contiguous foreign nation to float that nation's specific currency.

H.R. 3457. February 9, 1977. Judiciary. Authorizes the President to set aside for as long as he deems necessary any Federal agency rule or regulation which he determines: (1) may be harmful to human life; (2) may restrict the Nation's supplies of fuel or energy resources; (3) may threaten the Nation's supplies of food and fiber; (4) may interfere with military maneuvers or national security; or (5) may have an adverse effect on the Nation's economy disproportionate to the ecological benefits of such rule or regulation. Permits Congress to disapprove such presidential action within 30 days after it is taken.

H.R. 3458. February 9, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3459. February 9, 1977. Judiciary. Declares that a certain individual be deemed to have died from injuries sustained after the enactment of the Public Safety Officers' Benefit Act of 1976.

H.R. 3460. February 9, 1977. Judiciary. Relieves certain individuals of all liability to the United States for overpayment of travel expenses.

H.R. 3461. February 9, 1977. Judiciary. Authorizes classification of a certain individual as an immediate relative for purposes of the Immigration and Nationality Act.

Provides that a certain individual be conditionally admitted to the United States for permanent residence.

H.R. 3462. February 9, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3463. February 9, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3464. Feburary 9, 1977. Judiciary. Permits a certain individual to file a claim for the return of certain property acquired by the United States under the Trading With the Enemy Act.

H.R. 3465. February 9, 1977. Judiciary. Provides that a certain individual be deemed to have served 20 years for purposes of military retirement compensation. Directs the Secretary of the Treasury to pay such individual a lump sum commensurate with such service.

H.R. 3466. February 9, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3467. February 16, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to include flight attendants within the definition of "airman" under such Act.

H.R. 3468. February 16, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to conduct a study of the feasibility and desirability of establishing the Santa Margarita National Recreation Area, in the area which is now Camp Pendleton, California.

H.R. 3469. February 16, 1977. Judiciary. Requires specified minimum prison sentences for any individual who uses or carries a firearm during the commission of a Federal felony and for whoever is convicted by a State court of a crime punishable by a term of imprisonment exceeding one year and used or carried a firearm transported in, or affecting, interstate or foreign commerce during the commission of such crime.

H.R. 3470. February 16, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis for persons 60 years of age or older and retired, or 65 years of age or older, and for handicapped individuals and their attendants. Directs the Civil Aeronautics Board to conduct a study and to report to Congress regarding the feasibility of such reduced air transportation rates for persons 21 years of age or younger. Authorizes specified types of air carriers in California to enter into agreements with other air carriers to establish joint fares, rates and services.

H.R. 3471. February 16, 1977. Interior and Insular Affairs. Increases the amount authorized to be appropriated for land acquisition and development of Fort Union Trading Post National Historic Site, North Dakota and Montana.

H.R. 3472. February 16, 1977. Ways and

Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to require that every hospital and clinic or other station of the Public Health Service, every hospital and outpatient dispensary facility of the Veterans' Administration, and every hospital for which a grant, loan, or loan guarantee is made under the Public Health Service Act furnish noncovered prescription drugs, eyeglasses, and hearing aids, at prices not exceeding the actual cost thereof to any individual entitled to hospital insurance benefits under the Medicare program.

H.R. 3473. February 16, 1977. House Administration; Rules. Establishes in the House of Representatives a foreign travel account to defray expenses of Members, officers, or employees.

Prohibits the payment of such expenses to Members of Congress who have not been reelected.

Requires any House Member, officer, or employee to submit a report to the Committee on Standards of Official Conduct if such person's foreign travel expenses will be defrayed by funds other than public or personal funds.

H.R. 3474. February 16, 1977. Banking, Finance and Urban Affairs. Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3475. February 16, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to extend the duration of the Federal riot reinsurance program and the Federal crime insurance program.

H.R. 3476. February 16, 1977. Agriculture. Directs the Secretary of Agriculture, through the Agricultural Stabilization and Conservation Service and the Extension Service, to establish and maintain a program whereunder county committees will lease plots of land to individuals or groups to produce organic crops for their personal use.

H.R. 3477. February 16, 1977. Ways and Means; Appropriations. Amends the Internal Revenue Code to provide an income tax refund from 1976 taxes. Provides for the reimbursement of tax revenues lost to the governments of American Samoa, Guam and the Virgin Islands. Directs the Secretary of the Treasury to make a $50 payment to each individual paid benefits for March, 1977 under the Railroad Retirement Act or the Old-Age, Survivors, and Disability Insurance program of the Social Security Act. Extends the temporary reduction in the corporate tax rate.

H.R. 3478. February 16, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely canceling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and display requirements for such ratings.

H.R. 3479. February 16, 1977. Education and Labor. Amends the Age Discrimination Act of 1967 to make its provisions applicable to individuals over age 65. Prohibits denying an individual an office in a labor organization because of such individual's age.

H.R. 3480. February 16, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to pay benefits to any textile worker who has been totally disabled by byssinosis and to the surviving dependents of any such worker whose death was due to byssinosis.

Sets forth the conditions under which there shall be a rebuttable presumption that a worker's byssinosis arose out of employment in a textile plant.

H.R. 3481. February 16, 1977. Post Office and Civil Service. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this Act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 3482. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 3483. February 16, 1977 Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3484. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 3485. February 16, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to repeal provisions allowing an employer and a labor organization to enter into an agreement to require membership in such organization as a condition of employment.

H.R. 3486 February 16, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to prohibit an employer from discriminating against an employee who is enrolled in a full-time program of secondary, vocational, or higher education for nonmembership in or failure to provide financial support to a labor organization.

H.R. 3487 February 16, 1977. Post Office and Civil Service. Declares that all Federal employees have the right to form, join, and assist a labor organization or to refrain from any such activity without fear of penalty or reprisal.

H.R. 3488. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited exclusion from gross income of interest on savings deposits paid or accrued by an individual taxpayer.

H.R. 3489. February 16, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to nominate two individuals each for appointments to the Merchant Marine Academy.

H.R. 3490 February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 3491. February 16, 1977. Education and Labor. Directs the Secretary of Labor to (1) contract with Opportunities Industrialization Centers, Incorporated, for the provision of skills training to certain types of unemployed persons through such Centers, and (2) contract with other national community based organizations, for the provision of comprehensive employment services, including counseling, job creation and development, remedial education, and followup.

Directs the head of each agency having administrative authority with respect to specified Federal grant and construction programs to take steps to assure that special consideration be given national community based organizations in providing employment services and job opportunities for unemployed individuals pursuant to such authority.

H.R. 3492. February 16, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to make it an unlawful employment practice for an employer to either: (1) request any employee or applicant for employment to provide copies of military discharge papers or other services records; or (2) make inquiries relative to the military discharge of any employee or applicant for employment.

H.R. 3493. February 16, 1977. Education and Labor. Amends the Older Americans Act of 1965 to authorize the disbursal of funds to recipients of grants or contracts who agree to establish a project which provides at least one home-delivered meal, five days a week to persons covered under the Act. Creates an information and referral service for homebound individuals receiving meals under the Act.

Requires a demonstration project to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administrations for the elderly.

H.R. 3494. February 16, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation of failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by franchisor.

H.R. 3495. February 16, 1977. Post Office and Civil Service. States that for purposes of civil service retirement the cost-of-living adjustments allowed to officers and employees of the Postal Service and the Postal Rate Commission shall be considered to be part of the basic pay of such officers and employees.

H.R. 3496. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to exclude from gross income the net profits derived from hobbies and other activities not engaged in for profit, where the profits for the taxable year do not exceed $500.

H.R. 3497. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3498. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt from the earnings test, widows with minor children who are entitled to mother's insurance benefits.

H.R. 3499. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling under the supplementary medical insurance program.

H.R. 3500. February 16, 1977. Education and Labor. Amends the National Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to engage in, or induce any individual employed by any person to engage in, a strike, refusal to perform services, or threat thereof: (1) at the site of the construction, alteration, painting, or repair of any structure; and (2) directed at any of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of such construction, alteration, painting or repair.

H.R. 3501. February 16, 1977. Education and Labor. Amends the National Labor Relations Act to require an employer which assumes the ownership or operation of a business to honor any applicable collective-bargaining contract in its entirety.

Amends the Labor Management Relations Act to permit a labor organization to bring suit against a new employer which refuses to honor an existing agreement in United States district court regardless of the citizenship of the parties or amount in controversy.

H.R. 3502. February 16, 1977. Interstate and Foreign Commerce. Amends the Emergency Natural Gas Act of 1977 to stipulate the provisions of contracts entered into or renegotiated after the date of enactment of such Act but before August 1, 1977, shall not affect the amounts or prices of natural gas purchases under any other contractual provisions based on previous transactions.

H.R. 3503. February 16, 1977. Merchant Marine and Fisheries. Revises the boundaries of the Tinicum National Environmental Center, Pennsylvania. Increases the amount authorized to be appropriated for land acquisition for, and development of, such center.

H.R. 3504. February 16, 1977. Education and Labor; Judiciary. Amends enforcement procedures and authority under the equal employment opportunity provisions of the Civil Rights Act of 1964.

Render such provisions applicable to employment of aliens outside the United States.

Prohibits employment discrimination against the handicapped and aliens with permanent residence status.

Broadens the applicability of anti-discrimination provisions to the Federal government.

Transfers specified authority of certain departments and agencies to the Equal Employment Opportunity Commission.

Revises the anti-discrimination provisions of Title VIII of the Civil Rights Act of 1968 relating to unfair and discriminatory housing practices.

H.R. 3505. February 16, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to require the downward adjustment of the annual rate of pay for Members of Congress if the level of inflation for any calendar year exceeds the acceptable level of inflation established by Congress for such year.

H.R. 3506. February 16, 1977. Government Operations. Requires all rules proposed by any Federal agency to be submitted to Congress together with an estimate of the costs to be incurred by the Federal Government, State and local governments, nongovernmental entities, and individuals affected by such proposed rule. States that such rule shall become effective not sooner than 60 days after submission to Congress unless, within such period, either House disapproved such rule.

H.R. 3507. February 16, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend for six months the emergency unemployment program thereunder.

H.R. 3508. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the increment by which an individual's old-age benefits shall be increased because of delayed retirement beyond age 65.

H.R. 3509. February 16, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 3510. February 16, 1977. Veterans' Affairs. Authorizes a presumption of service connection for cause of death for the purposes of payment of dependency and indemnity compensation in the case of a blinded veteran who had a service-connected disability rated permanent and total for at least 1 year immediately preceding death, if death was due to causes not the result of misconduct on the part of such veteran.

H.R. 3511. February 16, 1977. Veterans' Affairs. Provides, for purposes of awarding veterans' wartime disability compensation, that progressive muscular atrophy developing a 10 percent or more degree of disability within 7 years after separation from active service during a period of war shall be presumed to be service connected.

H.R. 3512. February 16, 1977. Education and Labor. Congressional Award Program Act.—Establishes the Congressional Award program in the United States and its territories to recognize and promote youth leadership and excellence in the areas of expedition fitness, personal creative development, and public service.

Creates a Congressional Ward Board with a Director to supervise such program.

H.R. 3513. February 16, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to study the effects of sewage sludge disposal in marine waters. Requires modification of ocean dumping permit requirements following completion of such study. Authorizes financial assistance to States and localities to meet additional costs of compliance with such modifications.

H.R. 3514. February 16, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administration to make loans if such Administration has determined that there is a disaster resulting from any sewage or sludge deposit, any fish kill, or any oil spill.

H.R. 3515. February 16, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 3516. February 16, 1977. Interstate and Foreign Commerce. Prohibits the shipment in interstate or foreign commerce of any fur or leather, raw or in finished form, from animals trapped in any State or foreign country which has not banned the manufacture, sale, or use of leg-hold or steel jaw traps.

Directs the Secretary of Commerce to publish a list of such States and foreign countries.

H.R. 3517. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3518. February 16, 1977. Interstate and Foreign Commerce; Public Works and Transportation; Agriculture; Banking, Finance and Urban Affairs; Merchant Marine and Fisheries; Interior and Insular Affairs. Establishes the Federal Regulatory Agency Nominating Board to compile a list of persons qualified to serve as a Commission, board member, or commission member of specified regulatory agencies. States that when a vacancy occurs in such a position which the President is required to appoint a successor by and with the advice and consent of the Senate, the Board shall submit a list of three names of persons qualified to fill such vacancy from which the President shall make his selection.

H.R. 3519. February 16, 1977. Banking, Finance and Urban Affairs. Sets national standards for the sale of condominum units and for the conversion of existing rental units into condominiums. Requires developers to disclose specified information concerning their condominium projects. Makes provisions for the enforcement of this Act by individual owners of dwelling units and by those who face eviction due to condominium conversions which do not adhere to the requirements of this Act.

H.R. 3520. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare, to carry out a program to develop information and educational materials relating to the skin disease known as vitiligo. Authorizes the Secretary to make grants and enter into contracts with public and nonprofit private entities for projects for research and training in the diagnosis, treatment and control of vitiligo.

H.R. 3521. February 16, 1977. Veterans' Affairs. Provides that representatives of the Polish Legion of American Veterans are recognized as claims agents for claims arising under laws administered by the Veterans' Administration.

H.R. 3522. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses incurred in providing special education for a dependent handicapped child.

H.R. 3523. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide for the computation of benefits thereunder on the basis of the worker's three years of highest earnings.

H.R. 3524. February 16, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroli any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 3525. February 16, 1977. Government Operations. Terminates all Federal regulatory agencies three years after they are created unless extended by an Act of Congress.

H.R. 3526. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3527. February 16, 1977. Veterans' Affairs. Provides that any portion of any public or private retirement, annuity or endowment payment made to any person (including monthly social security insurance benefits), attributable to any dependent of such person, shall not be included in computing annual income for the purpose of determining eligibility for a service pension or a nonservice-connected disability pension paid by the Veterans' Administration.

H.R. 3528. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to extend the earned income tax credit to handicapped persons who maintain households, whether or not they have children residing there.

H.R. 3529. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow physicians, dentists and optometrists annual tax exclusions, decreasing from $20,000 to $5,000 over their first five years of medical practice in areas certified by the Secretary of Health, Education, and Welfare as having an insufficient number of practicing physicians.

H.R. 3530. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the amount to be used by the individual's years of coverage in excess of ten in determining the minimum primary insurance amount to which an individual shall be entitled. Directs that the increase shall coincide with the 1975 and 1976 cost-of-living in benefits computed under the regular formula.

H.R. 3531. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of registered professional nurses.

H.R. 3532. February 16, 1977. Armed Services. Deletes the name "American Ephemeris and Nautical Almanac" from the publication put out by the Naval Observatory under the direction of the Secretary of the Navy which provides data to navigators and astronomers.

H.R. 3533. February 16, 1977. Rules. Amends the Congressional Budget Act of 1974 to require Congress to review each Federal program at least every six years as though it were being proposed to be enacted for the first time. Prohibits the extension of budget authority for any such program beyond such six-year period until the Congressional committees with jurisdiction over such programs conduct such reviews.

H.R. 3534. February 16, 1977. Government Operations. Establishes the Commission on the Reorganization of the Executive Branch of the Government to study all instrumentalities of the Government except those of the Legislative or Judicial Branches to determine what changes are necessary to eliminate duplication and improve efficiency. Requires the Commission to submit to the President and Congress a final report by December 31, 1978, at which time the Commission shall cease to exist. Permits the President to submit to Congress reorganization plans to implement any recommendation of the Commission until January 1, 1980.

H.R. 3535. February 16, 1977. Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 3536. February 16, 1977. Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 3537. February 16, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946, as amended by the Executive Salary Cost-of-Living Adjustment Act, to establish the rate of pay for Members of Congress at the rate in effect on September 30, 1975.

Amends the Federal Salary Act of 1967, as amended by the Executive Salary Cost-of-Living Adjustment Act, to exempt from review by the Commission on Executive, Legislative, and Judicial Salaries the rates of pay for the Vice President and for Members of Congress.

Establishes the rate of salary of the Vice President at the rate in effect for such office on September 30, 1975.

H.R. 3538. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for health planning and related programs.

H.R. 3539. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for biomedical research and related programs.

H.R. 3540. February 16, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Regulates the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 3541. February 16, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3542. February 16, 1977. Education and Labor. Amends the Higher Education Act of 1965 to require recipients of Federal aid to higher education to give senior citizens access, on a space available basis, to scheduled courses and programs.

H.R. 3543. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title IV (Aid to Families with Dependent Children), Title XVIII (Medicare), and Title XIX (Medicaid) of the Social Security Act to provide that the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance shall be set at 75 percent. Requires that the non-Federal share of such aid be paid from State (rather than local) funds.

H.R. 3544. February 16, 1977. Judiciary. Prohibits former Federal employees who participated in a contract formulation the value of which exceeded $10,000 from being employed, for a period of two years, by anyone who has a direct interest in that contract.

H.R. 3545. February 16, 1977. Post Office and Civil Service. Requires the retirement of any Federal employee reappointed after a break in service of more than three days who has attained age 70 years and has completed five years of creditable service. Permits Federal retirees with five years of creditable service to retain their life and health insurance benefits and receive Federal annuities.

H.R. 3546. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise electric and natural gas utility services. Disallows any rate increases to cover additional utility taxes caused by this Act.

H.R. 3547. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to disallow the deduction of oil company advertising expenses incurred for purposes other than the sale of products or services.

H.R. 3548. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to disallow business income tax deductions for expenses incurred for lobbying before Congress or other legislative bodies.

H.R. 3549. February 16, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3550. February 16, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3551. February 16, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 3552. February 16, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 3553. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to implement certain tax counseling services for the elderly.

H.R. 3554. February 16, 1977. Judiciary. Authorizes the President to nullify and cancel for as long as he deems necessary any Federal agency rule or regulation which he determines: (1) may be harmful to human life; (2) may restrict the Nation's supplies of fuel or energy resources; (3) may threaten the Nation's supplies of food and fiber; (4) may interfere with military maneuvers or national security; or (5) may have an adverse effect on the Nation's economy disproportionate to the ecological benefits of such rule or regulation. Permits Congress to disapprove such presidential action within 30 days after it is taken.

H.R. 3555. February 16, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 3556. February 16, 1977. Interstate and Foreign Commerce. Deems any food containing more than .02 parts per million of polybrominated byshenyl adulterated for purposes of the Federal Food, Drug, and Cosmetic Act.

Prohibits any State from establishing or enforcing a standard less stringent than the standard established by this Act.

H.R. 3557. February 16, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to repeal provisions allowing an employer and a labor

organization to enter into an agreement to require membership in such organization as a condition of employment.

H.R. 3558. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farm trucks and soil and water conservation trucks from the Highway Use Tax.

H.R. 3559. February 16, 1977. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to pay a pension to a veteran of World War I or his widow without regard to his or her annual income derived solely from payments of social security benefits, railroad retirement benefits, or pensions.

H.R. 3560. February 16, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis for persons 60 years of age or older and for handicapped individuals and their attendants. Directs the Civil Aeronautics Board to conduct a study and to report to Congress regarding the feasibility of such reduced air transportation rates for persons 21 years of age or younger. Authorizes specified types of air carriers in California to enter into agreements with other air carriers to establish joint fares, rates and services.

H.R. 3561. February 16, 1977. Judiciary. Authorizes each Federal agency to establish one or more agency appeal boards for review of decisions of presiding employees. Permits agencies to compel the attendance of persons or the production of documents and other tangible items by subpena.

H.R. 3562. February 16, 1977. Judiciary. States that in the event that an agency employee who presides at the reception of evidence becomes unavailable before rendering a decision, such decision shall be made by an employee qualified to preside at hearings. Prohibits employees from participating on an appeals board of an agency if he or she participated in the decision by the agency except as a witness or counsel before such appeals board except that an employee shall not be considered a participant in such decision solely by virtue of his or her general organizational or supervisory responsibility for such functions.

H.R. 3563. February 16, 1977. Judiciary. Permits Federal agencies to conduct abbreviated administrative proceedings in specified circumstances. Authorizes the Administrative Conference of the United States to establish a committee to draft uniform procedural rules which would be binding on all agencies.

Prohibits the publication of information by Federal agencies which is prejudicial to or may otherwise cause damage to an individual's business or reputation.

H.R. 3564. February 16, 1977. Judiciary. Exempts ratemaking proceedings from certain procedural requirements which previously pertained to both rulemaking and ratemaking.

States that matter pertaining to military or foreign affairs function of the United States shall not be exempt from public rulemaking requirements unless the matter is specifically authorized to be kept secret in the interest of national defense or foreign policy and is in fact so properly classified. Makes rulemaking proceedings concerning matters of public property, loans, grants, benefits or contracts subject to public participation requirements of other rulemaking proceedings.

H.R. 3565. February 16, 1977. Judiciary. Provides that in the event that an agency employee who presides at the reception of evidence becomes unavailable before rendering a decision, such decision shall be made by an employee qualified to preside at hearings. Prohibits the participation of an employee on an appeals board of an agency if he or she participated in the decision by the agency except as a witness or counsel on the record before such appeals board.

H.R. 3566. February 16, 1977. Judiciary. Amends the organic acts of the Virgin Islands and Guam and the Canal Zone Code to change the terms of the judges of the district courts for such territories to good behavior.

H.R. 3567. February 16, 1977. Post Office and Civil Service. States that the rate of postage for sealed letters of private individuals shall not exceed 10 cents per ounce per letter. Sets civil penalties for use of such rate on mail sent by corporations, associations, or other entities other than private individuals.

H.R. 3568. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to include within the meaning of the term "outpatient physical therapy services" any provider, clinic or agency which provides only speech pathology services.

H.R. 3569. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to extend the coverage for dental services to include any services performed by a properly licensed dentist and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization.

H.R. 3570. February 16, 1977. Ways and Means; Interstate and Foreign Commerce; Amends title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3571. February 16, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 3572. February 16, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensations will not have the amount of such pension of compensation reduced because of increases in social security benefits.

H.R. 3573. February 16, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3574. February 16, 1977. Agriculture; Ways and Means. Extends, under the Agricultural Act of 1970, specified commodity programs and the Food for Peace (Public Law 480) and Food Stamp programs from 1978 through 1982. Establishes new acreage allotment and set aside programs for wheat, feed grains, cotton and soybeans. Puts meat import quotas on a quarterly basis, includes processed meats, and grants the Secretary of Agriculture power to reduce quotas during specified periods. Establishes a temporary advisory committee on Federal Crop Insurance. Provides financial assistance to agricultural producers based on approved conservation plans.

H.R. 3575. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited income tax credit for wages paid individuals certified by the Secretary of Labor as hard-core unemployed. Directs the Secretary of Labor to establish a program, with administrative procedures to guard against duplicity and fraud, for the certification, by local agencies of the hard-core unemployed eligible for tax-supported hiring under this Act.

H.R. 3576. February 16, 1977. Public Works and Transportation; Interior and Insular Affairs. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey, and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 3577. February 16, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to allow the granting of variances from clean air standards to powerplants which emit sulfur dioxide. Requires that such variances be granted where (1) the unemployment rate in the affected State exceeds four percent and where (2) the variance does not allow for continuous sulfur dioxide emissions which may pose a serious threat to public health.

H.R. 3578. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare, to carry out a program to develop information and educational materials relating to the skin disease known as vitiligo. Authorizes the Secretary to make grants and enter into contracts with public and nonprofit private entities for projects for research and training in the diagnosis, treatment, and control of vitiligo.

H.R. 3579. February 16, 1977. Agriculture. Establishes the price support of milk, under the Agricultural Act of 1949, at 100 percent of parity, and declares that such support shall be provided through purchases of milk and the products of milk.

H.R. 3580. February 16, 1977. Education and Labor. Amends the Internal Revenue Code to exempt farming vehicles from the highway motor vehicle excise tax, excepting vehicles owned by corporations with gross annual receipts exceeding $950,000, or which derive more than 50 percent of their gross receipts from nonfarming activities.

H.R. 3581. February 16, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that divorced and surviving divorced spouses of individuals eligible for annuities under such Act shall be entitled to receive benefits under such Act in the same amount as they would have received under the Social Security Act if all the employment of the individual was subject to such Act.

H.R. 3582. February 16, 1977. Judiciary. Empowers the Federal Trade Commission, after a patent on a drug is more than one year old, to review complaints made to it by a qualified applicant for a license under a drug patent, and, upon a finding that the price of the patented drug charged to druggists by the patentee is more than 500 percent of the cost of production, to order such patentee to grant an unrestricted patent license to any qualified applicant to make, use, and sell such drug.

H.R. 3583. February 16, 1977. Public Works and Transportation. Designates the new Poe lock on the Saint Marys River at Sault Sainte Marie, Michigan, as the "John A. Blatnik lock."

H.R. 3584. February 16, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to approve user charge systems based upon ad valorem taxation if specified requirements are satisfied.

H.R. 3585. February 16, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 3586. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles from the highway

motor vehicle excise tax, excepting vehicles owned by corporations with gross annual receipts exceeding $950,000, or which derive more than 50 percent of their gross receipts from nonfarming activities.

H.R. 3587. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt highway vehicles from the highway use tax where 80 percent of their use is involved in the initial transportation of unprocessed farm and forest products.

H.R. 3588. February 16, 1977. Government Operations; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to make grants to States and units of local government to assist in the execution of consumer protection plans.

H.R. 3589. February 16, 1977. Government Operations; Rules. Establishes the Department of Peace: (1) to develop policies and programs to foster peace; (2) to coordinate activities in the United States Government affecting peace; (3) to cooperate with other governments in related research and planning; (4) to encourage cultural exchange programs; and (5) to encourage private institutions and groups to work for the peaceful resolution of international conflict.

Establishes the George Washington Peace Academy to prepare citizens for positions promoting international peace and understanding.

Establishes a Joint Committee on Peace and International Cooperation to make a continuing study of matters relating to the Department of Peace.

H.R. 3590. February 16, 1977. Interior and Insular Affairs. Dedicates the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas.

H.R. 3591. February 16, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 3592. February 16, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 3593. February 16, 1977. Education and Labor. Makes States and their political subdivisions subject to the Age Discrimination in Employment Act of 1967. Prohibits discrimination on the basis of age among employees in or applicants for positions in the Executive Branch of the Federal Government or the Library of Congress.

H.R. 3594. February 16, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to exempt from review by the Commission on Executive, Legislative, and Judicial Salaries the rate of pay for Members of Congress.

H.R. 3595. February 16, 1977. International Relations. Urges the President to negotiate a treaty for an international system of enforcement standards and penalties for illegal opium producers and traffickers. Directs the United States representative to the International Criminal Police Organization to propose the establishment of a special opium control staff within the organization. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish foreign opium control assistance. Directs the President to terminate all foreign assistance to any country which permits the production of opium which illegally enters the United States. Establishes an Executive Committee on International Opium Control to review all national and international control measures.

H.R. 3596. February 16, 1977, Judiciary. Establishes a United States Court of Labor Management Relations to have jurisdiction over labor disputes in industries substantially affecting interstate commerce that have resulted or threaten to result, in a concerted work stoppage which adversely affects or potentially adversely affects the general welfare of the nation.

H.R. 3597. February 16, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration. Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 3598. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act, the Community Mental Health Centers Act, and the Social Security Act, to authorize appropriations for health services programs for fiscal year 1978.

H.R. 3599. February 16, 1977. Judiciary. Permits the postage-free deposit of newspapers in letterboxes.

H.R. 3600. February 16, 1977. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of territorial market allocation agreements made as part of a licensing agreement: (1) for the manufacture, distribution and sale of a trademarked soft drink product; or (2) for the distribution or sale of a trademarked private label food product.

H.R. 3601. February 16, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the establishment of courses to train paraprofessionals in the anesthetising and spaying and neutering of dogs and cats.

H.R. 3602. February 16, 1977. Interior and Insular Affairs. Renames the Advisory Council on Historic Preservation as the Council on Historic Preservation. States that such Council is to administer specified Acts which relate to the historic preservation responsibilities of the Secretary of the Interior and to promote nominations to the National Register of Historic Places properties proposed for sale, transfer demolition or substantial alteration as a result of action by any Federal agency.

H.R. 3603. February 16, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to require the Overseas Private Investment Corporation to terminate insurance or reinsurance issued to any investor, upon a Corporation determination that such investor has offered or paid, directly or indirectly, any significant amount of money (or anything of significant value) to a foreign official to influence any decision of a foreign government.

H.R. 3604. February 16, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to require the Overseas Private Investment Corporation to terminate insurance or reinsurance issued to any investor, upon a Corporation determination that such investor has offered or paid, directly or indirectly, any significant amount of money (or anything of significant value) to a foreign official to influence any decision of a foreign government.

H.R. 3605. February 16, 1977. Agriculture; Interstate and Foreign Commerce; Ways and Means. Amends the Social Security Act in order to replace all existing Federal public assistance and welfare programs with a guaranteed annual income program.

H.R. 3606. February 16, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to enter into a contract or contracts with COMSAT General Corporation for experimental aeronautical satellite communications services without regard to restrictions prohibiting the making of Government contracts in excess of authorized or appropriated sums.

H.R. 3607. February 16, 1977. Science and Technology. Authorizes appropriations for specified programs of the National Science Foundation for fiscal year 1978. Limits the transfer of funds from one program to another.

H.R. 3608. February 16, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 3609. February 16, 1977. Judiciary. Prohibits the use of appropriated funds or funds made available to a wholly owned Government Corporation to pay for any communication to influence any member of any State electorate to favor or oppose, by vote or otherwise, any legislation or legislative issue in the ballot in such State unless expressly authorized by Congress.

H.R. 3610. February 16, 1977, Judiciary. Prohibits the use of Federal funds for specified activities designated to support or defeat any legislation or legislative issue on the ballot in any State.

H.R. 3611. February 16, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3612. February 16, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3613. February 16, 1977. Judiciary. Provides that a certain individual be classified as a child under the Immigration and Nationality Act.

H.R. 3614. February 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 3615. February 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3616. February 16, 1977. Judiciary. Provides that a certain individual be considered a national of the United States for the purposes of the Immigration and Nationality Act.

H.R. 3617. February 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3618. February 16, 1977. Judiciary. Provides that a certain individual be classified as a child under the Immigration and Nationality Act.

H.R. 3619. February 16, 1977. Judiciary. Specifies the tax treatment of a certain individual under the Internal Revenue Code.

H.R. 3620. February 16, 1977. Judiciary. Relieves a certain individual of all liability to the United States for certain over payments of compensation while employed in the National Park Service.

H.R. 3621. February 16, 1977. Judiciary. Directs the Comptroller General to settle the claim of a certain individual against the United States. Limits the amount of such settlement to $225.

H.R. 3622. February 16, 1977. Judiciary. Directs the Comptroller General to settle the claim of a certain individual against the United States. Limits the amount of such settlement to $446.45.

H.R. 3623. February 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claim against the United States.

H.R. 3624. February 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3625. February 16, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3626. February 16, 1977. Judiciary. Deems a certain individual to have died on a certain date, for the purposes of determining the entitlement of his beneficiary to benefits under a Veterans' Administration life insurance policy.

H.R. 3627. February 16, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3628. February 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 3629. February 16, 1977. Judiciary. Provides that a certain corporation may appeal a ruling of the Federal Communications Commission, notwithstanding other provisions of law.

H.R. 3630. February 17, 1977. Ways and Means.

Amends the Internal Revenue Code to provide that income received from nonmember telephone companies shall not be used in determining whether mutual and cooperative telephone companies qualify as tax exempt organizations.

H.R. 3631. February 17, 1977. Appropriations. Appropriates specified amounts to the Secretary of the Interior for construction of the Natchez Trace Parkway.

H.R. 3632. February 17, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3633. February 17, 1977. Merchant Marine and Fisheries. Amends the Federal Aid in Wildlife Restoration Act to enable any State to use funds apportioned to it for any fiscal year for hunter education and public target range programs, which remain unexpended at the close of such year for such programs during the succeeding fiscal year.

Amends the Internal Revenue Code of 1954 to impose a tax on component parts of ammunition for firearms.

H.R. 3634. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the excise tax on trucks, buses, and tractors, and parts and accessories for such vehicles.

H.R. 3635. February 17, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services.

H.R. 3636. February 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3637. February 17, 1977. Judiciary. Grants the consent of Congress to the Mississippi-Louisiana Bridge Construction Compact.

H.R. 3638. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to limit the mileage rate applicable to the business deduction for the use of automobiles to the same rate used to reimburse Federal employees for such use.

H.R. 3639. February 17, 1977. Public Works and Transportation. Directs the Secretary of Transportation to compile information on motor vehicle safety devices and to make such information available to the States. Authorizes the Secretary to make incentive grants to any State which uses such information as part of its procedure for issuing motor vehicle operating permits.

H.R. 3640. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3641. February 17, 1977. Ways and Means; Interstate and Foreign Commerce Amends Title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 3642. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 3643. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 3644. February 17, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 3645. February 17, 1977. Post Office and Civil Service. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 3646. February 17, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3647. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax credit for the rent paid for their principal residence.

H.R. 3648. February 17, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3649. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 3650. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 3651. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 3652. February 17, 1977. Interior and Insular Affairs; International Relations; Merchant Marine and Fisheries. Establishes a program of Federal insurance against losses incurred by eligible ocean mining prototype operations. Directs the Administration of the National Oceanic and Atmospheric Administration to develop criteria designed to protect the marine environment from such operations.

Stipulates that this Act shall be transitional in nature pending the outcome of the United Nations Conference on the Law of the Sea.

H.R. 3653. February 17, 1977. Ways and Means: Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 3654. February 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3655. February 17, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 3656. February 17, 1977. Post Office

and Civil Service. Amends the legislative Reorganization Act of 1946 to establish the rates of pay for Members of Congress, Delegates to the House of Representatives, the Resident Commissioner from Puerto Rico, the House and Senate leadership, and the Vice President at the rates in effect for such positions on September 30, 1976.

Stipulates that basic pay rates for certain executive, legislative, and judicial positions may not be increased until the President determines that there are in effect codes of conduct applicable to every individual in such a position.

H.R. 3657. February 17, 1977. Education and Labor. Amends the Employment Act of 1946 to set forth full employment and balance economic growth policies to be achieved through identification of social and economic goals and the preparation and implementation of a Full Employment and Balanced Economic Growth Plan. Establishes countercyclical, structural, regional, and growth employment programs and a State and local stabilization grant program to supplement the policies included in the plan.

Provides for congressional review of the Full Employment and Balanced Economic Growth Plan.

H.R. 3658. February 17, 1977. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when his remains have not been recovered or identified, or have been buried at sea.

H.R. 3659. February 17, 1977. Veterans' Affairs. Requires submission to Congress to notice of the proposed acquisition of land by the Veterans' Administration for a national cemetery, together with a prospectus containing a description of the land, a description of the cemetery facilities to be built on it, and an estimate of the maximum cost of the project. Allows the acquisition of such land to go forward if Congress does not disapprove within a specified period of time following receipt of notice.

H.R. 3660. February 17, 1977. Public Works and Transportation; Small Business; Banking, Finance and Urban Affairs. Authorizes the President to provide disaster relief under the Disaster Relief Acts of 1970 and 1974 and the Small Business Act, without declaring a disaster, in the event that severe weather conditions followed by severe economic loss or a shortage of natural gas, oil or other energy supplies caused the closing or curtailing of a business and a substantial increase in unemployment in a State.

H.R. 3661. February 17, 1977. Judiciary. Repeals the Gun Control Act of 1968.

H.R. 3662. February 17, 1977. Judiciary. Grants the consent of Congress to the Mississippi-Louisiana Bridge Construction Compact.

H.R. 3663. February 17, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make family-owned corporations and partnerships eligible for real estate and operating loans.

H.R. 3664. February 17, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 3665. February 17, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 3666. February 17, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 3667. February 17, 1977. Interstate and Foreign Commerce; Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such title.

H.R. 3668. February 17, 1977. Government Operations. Authorizes the Administrator of General Services to make payments to local governments based on the amount of tax-exempt public and foreign lands within the boundaries of such governmental units.

H.R. 3669. February 17, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 3670. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to increase the percentage of its total outstanding loans which a Federal savings and loan association may secure by first liens on single-family dwellings.

H.R. 3671. February 17, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal aliens to that of alien lawfully admitted for permanent residence.

H.R. 3672. February 17, 1977. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act to increase the Federal share for rail assistance programs under the Department of Transportation Act, rail service continuation projects under the Regional Rail Reorganization Act of 1973, and the costs of providing mandatory rail passenger service under the Railroad Revitalization and Regulatory Reform Act.

H.R. 3673. February 17, 1977. Agriculture. Prohibits the importation of palm oil unless the Secretary of Agriculture has certified that such imports originate from pure and wholesome supplies and that such imports were processed in plants meeting minimum sanitation standards. Directs the Secretary to establish standards which are comparable to domestic standards for purity, wholesomeness, and sanitation. Directs the Secretary to inspect such imports. Subjects such imports to the Federal Food, Drug, and Cosmetic Act after entry. Requires that such imports be labeled. Imposes penalties for violation of such labeling requirements.

H.R. 3674. February 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to impose a customs duty on palm oil which is not imported for use in the manufacture of iron or steel products, tinplate, or terneplate.

H.R. 3675. February 17, 1977. Public Works and Transportation. Requires each airport authority of specified airports to file a Noise Exposure Study with each political subdivision within the "impact area" of such an airport. Stipulates that each such airport shall be regulated, by a Community Noise Impact Board with respect to: (1) the times during which takeoffs and landings may occur; (2) takeoff and landing procedures; (3) jet and propellor use not necessary to flight; (4) allocation of runway use; and (5) the types and numbers of aircraft permitted to use the airport.

H.R. 3676. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individual's income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayer's initial deferral, whichever is earlier.

H.R. 3677. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to require localities to provide as part of their housing assistance plans a plan to identify and reclaim deteriorated housing stock where feasible.

Amends the Housing Act of 1964 to require the designation of concentrated revitalization areas in which 90 percent of rehabilitation loan funds must be allocated.

H.R. 3678. February 17, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging his responsibilities under certain compliance deadlines contained in the act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 3679. February 17, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that whenever a retired employee who is receiving a larger annuity under such act than would be payable to the spouse of such employee, the amount payable to the surviving spouse of such an individual shall be the same amount which would have been payable to the retired employee but for his or her death.

H.R. 3680. February 17, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this act.

H.R. 3681. February 17, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this Act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this Act.

H.R. 3682. February 17, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorization for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration for vocational education programs.

H.R. 3683. February 17, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one physical checkup a year under the supplementary medical insurance program.

H.R. 3684. February 17, 1977. Veterans' Affairs. Provides that all decisions of the Administrator of Veterans' Affairs be subject to judicial review and that all rules, regulations, orders and determinations of the Administrator be subject to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 3685. February 17, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Court to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 3686. February 17, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program, and to the compensation of victims of crime.

H.R. 3687. February 17, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 3688. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the Tax Reform Act's increased tax exclusion of gain on sales of residences of the aged shall apply to sales during, as well as after, 1976.

H.R. 3689. February 17, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated under such Act.

H.R. 3690. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited exclusion from gross income of interest on savings deposits paid or accrued by an individual taxpayer.

H.R. 3691. February 17, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits. Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3692. February 17, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 3693. February 17, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 3694. February 17, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 3695. February 17, 1977. Veterans' Affairs. Expands the existing program of grants to States for the construction, remodeling or renovation of State veterans' care facilities to include hospital and domiciliary as well as nursing home care facilities.

H.R. 3696. February 17, 1977. Veterans' Affairs. Repeals the requirement that medical services be furnished only within the limits of Veterans' Administration facilities to eligible veterans receiving an allowance for regular care and attendance or veterans who are permanently housebound.

H.R. 3697. February 17, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make payment to a medical facility which provides treatment to any alien unlawfully in the United States for the costs of such treatment when the medical facility cannot recover such costs under any other program.

H.R. 3698. February 17, 1977. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to provide that a teacher's entitlement to any allowance or other benefit under such Act shall be made without regard to whether the teacher was recruited outside or inside the United States.

H.R. 3699. February 17, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants to health agencies of States or their political subdivisions, or to any qualified nonprofit agency for programs of prenatal health care for adolescents, health care for infants or adolescent mothers, family planning services, social services and funds to purchase adoption services for adolescent mothers.

H.R. 3700. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Consumer Credit Protection Act to prohibit specified practices in the case of second mortgages which secure residential real property.

H.R. 3701. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Flood Disaster Protection Act of 1973 to: (1) abolish prohibitions against the granting of Federal financial assistance and secured loans for aquisition or construction in a flood hazard area, unless the community in which such area is located is participating in the national flood insurance program; and (2) repeals the requirement that a community tentatively identified as having special flood hazards apply for participation in the program.

H.R. 3702. February 17, 1977. Armed Services. Makes specified pay and eligibility adjustments in the Retired Servicemen's Family Protection Plan and the Survivor Benefit Plan of the Armed Forces.

H.R. 3703. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3704. February 17, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 3705. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals who elect the standard deduction to take a separate deduction for charitable contributions. Allows taxpayers with incomes of less than $29,000 to take a charitable deduction in excess of the actual amount of charitable contributions made, based on a specified adjustment factor.

H.R. 3706. February 17, 1977. Judiciary. Directs that orders of a State court relative to the custody of children of divorced or separated parents be given full faith and credit by every other State until such issuing court no longer has under the law of the State in which it is located, or declines to exercise, jurisdiction over modifications of such orders.

H.R. 3707. February 17, 1977. Judiciary. Establishes two divisions within the eastern judicial district of New York.

H.R. 3708. February 17, 1977. Judiciary. Provides that a certain corporation may appeal a ruling of the Federal Communications Commission, notwithstanding other provisions of law.

H.R. 3709. February 17, 1977. Judiciary. Directs the Secretary of the Treasury to extend the expiration date of a certain temporary importation bond, notwithstanding the provisions of the Tariff Schedules.

H.R. 3710. February 17, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3711. February 21, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution certain vessels to maintain evidence of financial responsibility in an amount equal to source. Requires petroleum facilities and applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3712. February 21, 1977. Education and Labor. Amends the Library Services and Construction Act to authorize the appropriation of funds through fiscal year 1981 for the purpose of making grants to States for: (1) library services; (2) the construction of public libraries; (3) the carrying out of interlibrary cooperation programs; and (4) the carrying out of library programs for older persons.

Requires any State expending Federal funds received under such Act for the administrative costs of such programs to match the amounts expended with non-Federal funds.

H.R. 3713. February 21, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 3714. February 21, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Court to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 3715. February 21, 1977. Agriculture. Directs the Secretary of Agriculture, in the event of an export embargo on grain sales to any country or area with which the United States continues commercial trade, to set the loan level for such commodity (wheat, feed grain, soybeans, rice or flaxseed) at 100 percent of the parity price for such commodity as determined the day such embargo is initiated. Requires such loan level to remain in effect for the duration of such embargo.

H.R. 3716. February 21, 1977. Post Office and Civil Service. Requires that any increase in rates of pay for Members of Congress occurring through administrative action be specifically approved in a resolution adopted

by each House of Congress before such increase may take effect.

Prohibits any such increase from taking effect before the first day of the Congress beginning after the Congress during which such resolution is adopted.

H.R. 3717. February 21, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3718. February 21, 1977. Education and Labor. Amends the Employment Act of 1946 to set forth full employment and balanced economic growth policies to be achieved through identification of social and economic goals and the preparation and implementation of a full employment and balanced economic growth plan. Establishes countercyclical, structural, regional, and growth employment programs and a State and local stabilization grant program to supplement the policies included in the plan.

Provides for congressional review of the full employment and balanced economic growth plan.

H.R. 3719. February 21, 1977. Judiciary. Amends the Legal Services Corporation Act to: (1) require client organization representation on the Legal Service Corporation Board of Directors and recipient organization boards of directors; (2) subject the Corporation and State advisory councils to Government in the Sunshine Act requirements; (3) revise restrictions on political activities with respect to staff attorneys; (4) revise limitations on the use of funds made available by the Corporation; and (5) require independent hearing examiners.

H.R. 3720. February 21, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize free or reduced transportation rates for persons over 65 and handicapped individuals and their attendants. Amends the Urban Mass Transportation Act of 1964 to give funding priority under such act to public bodies which offer reduced rates to such individuals. Authorizes the Secretary of Transportation to prescribe standards for facilities funded under such act to insure ready access to such facilities by these individuals. Amends the Older Americans Act of 1965 to authorize a grant program for special transportation research and demonstration projects for such individuals.

H.R. 3721. February 21, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to increase the amount authorized to be appropriated for fiscal year 1977 for the Securities and Exchange Commission.

H.R. 3722. February 21, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to authorize specified amounts to be appropriated for the Securities and Exchange Commission for fiscal years 1978–1980.

H.R. 3723. February 22, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to: (1) extend the emergency unemployment compensation program thereunder; (2) set the amount of compensation payable to individuals for weeks of unemployment during the extension period; (3) set forth sanctions with respect to obtaining benefits through fraud; (4) authorize States to recover overpayments in accordance with specified procedures; and (5) direct the Secretary of Labor to arrange for modification of State emergency compensation agreements in order that they conform with the revisions made by the Act.

H.R. 3724. February 22, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 by extending the limitation on aggregate annual contractural contributions for low-income housing projects and for the operation of such projects.

Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3725. February 22, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 3726. February 22, 1977. Agriculture. Extends the provisions of the Rice Production Act of 1975 through the 1978 crop.

H.R. 3727. February 22, 1977. Judiciary. Permits the furnishing of accommodations to judges of the courts of appeals, upon approval by the appropriate judicial council, at any place where Federal facilities are available regardless of whether court terms are authorized to be held at such locations.

H.R. 3728. February 22, 1977. Judiciary. Directs the President, by and with the advice and consent of the Senate, to appoint a specified number of additional judges to the United States District Court for the Eastern District of Kentucky and to the United States District Court for the Western District of Kentucky.

H.R. 3729. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow firefighters a limited business tax deduction for meal expenses incurred at their post on overnight duty.

H.R. 3730. February 22, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to require the authorization for appropriations to maintain State and local services by: (1) altering the formula for determining the amount of such authorization for each calendar quarter; (2) extending such authorization five years; and (3) setting forth certain maximum aggregate amounts which may be appropriated during specified periods.

Revises the period for determining the allocation of funds appropriated pursuant to such authorization.

Directs that principles used by the Bureau of the Census be used in determining whether a government qualifies as a "local government" for purposes of such assistance.

H.R. 3731. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to limit the mileage rate applicable to the business deduction for the use of automobiles to the same rate used to reimburse Federal employees for such use.

H.R. 3732. February 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize and direct the Secretary of Health, Education, and Welfare to make grants to designated agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children.

H.R. 3733. February 22, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 3734. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under Title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 3735. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicaire), Title XIV (Medicaid), and Title XX (Grants to States for services) of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization control in such care.

H.R. 3736. February 22, 1977. Judiciary. Entitles, absent certain findings, persons to be investigated and indicted by a Federal grand jury to notice and a right to appear.

Grants certain rights, including the right to counsel, to Federal grand jury witnesses.

Revises procedures for, and sets forth defense relative to, finding recalcitrant grand jury witnesses in contempt.

Entitles witnesses compelled to testify before a Federal Grand jury, Congress, or executive agency to transactional immunity.

Specifies guidelines regarding the rights and authority of a Federal grand jury, including the power to initiate independent inquiries.

H.R. 3737. February 22, 1977. Post Office and Civil Service. Designates the anniversary of Martin Luther King Junior's birth, January 15, as a legal public holiday.

H.R. 3738. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to entitle an individual otherwise eligible, to widower's or widow's benefits at age 50. Eliminates the special dependency requirements for entitlement to widower's insurance benefits. Directs that individuals eligible for widow's or widower's benefits shall no longer be required to accept rehabilitation services.

H.R. 3739. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3740. February 22, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to the start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 3741. February 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with commission actions authorizing specialized carriers.

H.R. 3742. February 22, 1977. Post Office and Civil Service. Permits National Guard technicians who served before 1969, and were separated after 1968 but before the date of enactment of this Act, to be credited with such service for purposes of civil service retirement, and computing leave, health insurance, severance pay, tenure, and status.

H.R. 3743. February 22, 1977. Agriculture. Establishes the Federal Farm Assistance Corporation, within the Department of Agriculture, and authorizes the Corporation to negotiate for and purchase farmland or units which may come on the market.

Allows lease of such farm units to eligible applicants, and directs the Corporation's Board of Directors to approve the sale to the lessee of such farm units upon a determination that the lessee can successfully manage and operate such farm unit.

H.R. 3744. February 22, 1977. Education and Labor. Amends the Fair Labor Standards Act to: (1) set the non-agricultural worker minimum wage at not less than 60 percent of the average wage of production workers; (2) equalize the minimum wage of agricultural and certain other workers with that of non-agricultural workers; and (3) repeal the provisions authorizing the taking into account of tips in determining wages for the purpose of minimum wage requirements.

H.R. 3745. Feoruary 22, 1977. Judiciary. Sets forth procedures for the settlement of contract claims disputes between executive agencies and Government contractors. Authorizes executive agencies to establish contract boards of appeals to which agency decisions may be appealed.

H.R. 3746. February 22, 1977. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase to 70 percent the limitation on Federal assistance to an Appalachian highway construction project, unless a State uses between 45 and 60 percent of such funds for a development highway project to increase Federal assistance to 90 percent.

H.R. 3747. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3748. February 22, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt specified textile, leather, rubber, and plastic products and wearing apparel from the duty imposed on articles assembled abroad from components produced in the United States.

H.R. 3749. February 22, 1977. Post Office and Civil Service. Establishes a Commission on Natural Gas Resources to study the production, distribution, and consumption of natural gas in the United States.

H.R. 3750. February 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require that the Administrator of the Environmental Protection Agency make grants for special studies and demonstration projects designed to assist in providing a safe supply of drinking water to the public.

H.R. 3751. February 22, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to accept certification by State water pollution control facilities of responsibility for treatment projects within such State.

Authorizes financial assistance to State programs so certified in an amount not to exceed two percent of the Federal allotment for waste treatment works projects.

H.R. 3752. February 22, 1977. House Administration. Excludes from "expenditure" for purposes of the Federal Election Campaign Act of 1971, and from "contribution" for purposes of the Presidential Election Campaign Fund Act and criminal provisions relative to campaign finance, payments made or obligations incurred by a candidate or his principal campaign committee for campaign buttons, bumper stickers, or subject to specified limits, other campaign advertisement materials which advocate the election of both such candidate and any other individual who is a candidate for Federal office.

H.R. 3753. February 22, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation Zone Transition Act to approve as governing international fishery agreements for purposes of the Fishery Conservation and Management Act of 1976, agreements concerning fisheries off the United States coast with: (1) the European Economic Community; (2) Japan; (3) Korea; and (4) Spain.

H.R. 3754. February 22, 1977. Ways and Means. Provides a two year extension of time for the payment of so much of any income tax as is attributable to the application to 1976 of the change made by the Tax Reform Act in the exclusion for sick pay.

H.R. 3755. February 22, 1977. Post Office and Civil Service. Reinstates Civil Service retirement survivors annuities for surviving spouses of employees whose annuities were terminated due to remarriage before July 18, 1966, and surviving spouses of Members of Congress who died before January 8, 1971, whose annuities were terminated due to remarriage.

H.R. 3756. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis for persons 60 years of age or older and for handicapped individuals and their attendants. Directs the Civil Aeronautics Board to conduct a study and to report to Congress regarding the feasibility of such reduced air transportation rates for persons 21 years of age or younger. Authorizes specified types of air carriers in California and Florida to enter into agreements with other air carriers to establish joint fares, rates and services.

H.R. 3757. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax exclusion for the interest on governmental bonds the proceeds of which are used for facilities to furnish hydroelectric energy.

H.R. 3758. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) to decrease from 20 to 10 the number of years a divorced woman must have been married to an insured individual in order for her to qualify for wife's widow's benefits on his wage record.

H.R. 3759. February 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress regarding the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce.

Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 3760. February 22, 1977. Judiciary. Prohibits the importation, manufacture, sale, purchase, transfer, receipt or transportation of handguns except as authorized by the Secretary of the Treasury. Creates exceptions for handguns utilized by Federal, State, or local governmental law enforcement officials or intended for use as a curio, museum piece, or collector's item.

H.R. 3761. February 22,. 1977. Government Operations; Rules. Abolishes specified Federal regulatory agencies on September 30, 1977, unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 3762. February 22, 1977. Ways and Means. Allows individuals a limited income tax credit for amounts expended for installation of solar heating and cooling equipment in the taxpayer's principal residence, and for that portion of the real property taxes attributable to such installation.

H.R. 3763. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3764. February 22, 1977. Veterans' Affairs. Eliminates the provision in the Veterans' Assistance and Employment Act of 1976 which prohibits colleges and universities from receiving Veterans Administration educational benefits for classes in which more than 85 percent of the enrollment is composed of students having their fees paid either by the Federal Government or the institutions themselves.

H.R. 3765. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 3766. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3767. February 22, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior, through the Director of the Bureau of Outdoor Recreation, to make grants to States, local governments, and private nonprofit institutions to defray 75 per cent of the cost of renovating structures for use as youth hostels.

Requires that a public hearing be held with respect to each application for a renovation grant under this Act.

H.R. 3768. February 22, 1977. Judiciary. Renders applicable to first convictions for using a firearm to commit a Federal felony or for unlawfully carrying a firearm during the commission of such a crime the prohibition against suspended or probationary sentences presently mandatory with respect to second or subsequent convictions.

H.R. 3769. February 22, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to extend the applicability of such Act to mines other than coal mines. Transfers mine health and safety functions from the Secretary of the Interior to the Secretary of Labor.

Revises procedures for establishment and enforcement of mine health and safety standards. Authorizes the payment of compensation to miners idled by mine closures resulting from orders issued pursuant to this Act.

Repeals the Federal Metal and Nonmetallic Mine Safety Act of 1966.

H.R. 3770. February 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that in the labeling and advertising of drugs sold by prescription the established name of such drug must appear each time the drug's proprietary name is used.

Permits a pharmacist to fill or refill a prescription for a drug, identified by its proprietary name, with any lower cost and suitable substitute drug under specified circumstances.

H.R. 3771. February 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act to require full disclosure of pertinent data on labels of foods and food products. Prohibits misleading brand names under the Federal Trade Commission Act.

H.R. 3772. February 22, 1977. Interstate and Foreign Commerce. Requires manufacturers to label products as to month and year of manufacture for those goods whose design and performance features change at such a frequency as to make its date of manufacture part of its relevant description.

Empowers the Federal Trade Commission to enforce this Act.

H.R. 3773. February 22, 1977. Interstate and Foreign Commerce. Requires manufacturers to display on a conspicuous label on each item of durable goods sold to consumers the performance life of such product. Declares the National Bureau of Standards to have final authority over the designation

required by this Act, and requires the Federal Trade Commission to enforce the provisions of this Act.

H.R. 3774. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to terminate the Airlines Mutual Aid Agreement.

H.R. 3775. February 22, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to study and undertake prevention or mitigation measures for shore damage attributable to high water levels in one or more of the Great Lakes.

H.R. 3776. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to require the Secretary of the Treasury to establish specific criteria and procedures to audit returns and to report certain information regarding audits completed in the previous 12 months to the Joint Committee on Taxation.

H.R. 3777. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement of property used by the taxpayer as his principal residence. Permits an owner of rental property to amortize expenditures for the restoration of rental housing.

H.R. 3778. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters or to their dependents, widows or other survivors to the extent that such benefits are based on full-time service for a governmental entity.

H.R. 3779. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 3780. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Requires automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid, and Veterans' Administration programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans and grants to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 3781. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares for persons 60 years of age or older.

H.R. 3782. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3783. February 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 3784. February 22, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to repeal the increase in salaries of Members of Congress authorized by the Act of August 9, 1975.

H.R. 3785. February 22, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3786. February 22, 1977. Ways and Means. Redefines the "on" and "off" indicators used in determining emergency benefit periods under the Emergency Unemployment Compensation Act of 1974.

Stipulates that amounts appropriated to the Extended Unemployment Compensation Account shall not be repayable advances.

Extends the period for which emergency compensation is payable to encompass weeks ending on or before March 31, 1978, and in the case of any individual who had a compensable week on or before March 31, 1978, June 30, 1978.

Provides compensation to individuals in approved training programs after exhaustion of the maximum amount of emergency compensation otherwise payable.

H.R. 3787. February 22, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to acquire certain lands in the State of New Mexico upon which the Zuni Salt Lake is located, and to hold the title to such lands in trust in the name of the United States for the benefit of the Zuni Indian Tribe of New Mexico. Allows any claim of the tribe to be adjudicated in the United States Court of Claims without first exhausting any available administrative remedies.

H.R. 3788. February 22, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such Act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging the Administrator's responsibilities under certain compliance deadlines contained in the Act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 3789. February 22, 1977. Post Office and Civil Service. Requires the Secretary of Commerce to furnish population census statistics relating to municipalities or subdivisions of municipalities to such areas upon request for such information. Stipulates that such statistics may not be furnished if such information was obtained in a census which occurred more than 22 years before the date of such a request.

H.R. 3790. February 22, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on concentrate of poppy straw for production of codeine or morphine until June 30, 1979.

H.R. 3791. February 22, 1977. Armed Services. Directs the Secretary of the Interior to convey without consideration designated lands in Eglin Air Force Base to the city of Niceville, Fla., for use as a nonprofit cemetery.

H.R. 3792. February 22, 1977. Agriculture. Amends the Agricultural Fair Practices Act of 1967 with respect to the administrative procedures to be followed by the Secretary of Agriculture in enforcing the provisions of the act.

H.R. 3793. February 22, 1977. Post Office and Civil Service. Gives employees of the executive branch the right to have a representative present during questioning which is a part of an investigation which could lead to adverse personnel action being taken by an agency against such employee. Gives such employees the right to appeal any action taken in violation of this Act to the Civil Service Commission. Makes specified changes to such rights if such employee is employed by the Central Intelligence Agency, the National Security Agency, or the Federal Bureau of Investigation.

H.R. 3794. February 22, 1977. Post Office and Civil Service. Increases the Federal Government's contribution to Federal employee group life insurance premiums from one-third to one-half of the cost of such premiums.

H.R. 3795. February 22, 1977. Post Office and Civil Service. Provides that the Federal contribution for Federal employee health benefits coverage shall be determined on the basis of the average of the two health benefits plans having the highest subscription charges.

H.R. 3796. February 22, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200 mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 3797. February 22, 1977. Education and Labor. Amends the National Labor Relations Act to permit to be certified as collective bargaining representative of a bargaining unit of guards a labor organization which admits, or is affiliated directly or indirectly with a labor organization which admits employees other than guards.

H.R. 3798. February 22, 1977. Judiciary. Amends provisions setting forth additional penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to name such activity "armed criminal action."

Specifies penalties for armed criminal action. Stipulates that offenders shall not be disposed of under the Federal Youth Corrections Act or juvenile delinquency provisions and denies them parole eligibility.

H.R. 3799. February 22, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for members of Congress proposed during any Congress shall take effect.

H.R. 3800. February 22, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 3801. February 22, 1977. Merchant Marine and Fisheries. Requires the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, to promulgate regulations which must be complied with before any large scale killing of birds or mammals shall be permitted. Prohibits any such killing until an environmental impact statement has been approved.

Prohibits the eradication or suppression of certain animals injurious to agriculture or to other animals until an environmental impact statement has been approved by the Administrator and the Secretary.

H.R. 3802. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to establish a program to supplement air carrier revenues for the full financing of the modification or the partial financing of the replacement of subsonic turbojet-powered aircraft in order to reduce aircraft noise in accordance with standards specified in such Act.

Amends the Airport and Airway Development Act to authorize the Secretary of Transportation to make grants for the modification of specified types of aircraft in order to enable such aircraft to comply with noise standards under such Act.

H.R. 3803. February 22, 1977. Interstate and Foreign Commerce. Amends the Railroad Unemployment Insurance Act and the Internal Revenue Code of 1954 to stipulate that unemployment benefits for railroad workers shall not be reduced by amounts

received as military retirement benefits by such individuals.

H.R. 3804. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3805. February 22, 1977. Armed Services. Stipulates that no veteran may be denied care or treatment under the CHAMPUS program for any service-connected disability solely because care or treatment for such disability is available at Veterans' Administration medical facilities.

H.R. 3806. February 22, 1977. Judiciary. Makes it a Federal crime for any person to assault or kill any firefighter or law enforcement officer on account of such firefighter's or officer's performance of duty. Stipulates that any person: (1) conspiring to commit an offense in violation of this Act; or (2) transporting or aiding in transporting, or receiving or aiding in receiving, in interstate commerce any dangerous weapon knowing or intending that it will be used to commit an act in violation of this Act shall be punished the same as a person committing such an Act.

H.R. 3807. February 22, 1977. Judiciary. Prohibits disclosure of information identifying or tending to identify a person as a present or former participant in the United States foreign intelligence operations if (1) the information has been designated by statute or Executive order as requiring some degree of protection or (2) the person disclosing the information knows or has reason to believe that such disclosure may prejudice the safety or well-being of the person identified.

H.R. 3808. February 22, 1977. Judiciary. Increases from 30 to 60 days the time period between the publication of a Federal rule and the effective date of such rule. Increases from 15 to 30 days the time period between the publication of a notice of a hearing and the beginning of such hearing.

H.R. 3809. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited exclusion from gross income of interest on savings deposits paid or accrued by an individual taxpayer.

H.R. 3810. February 22, 1977. Banking, Finance and Urban Affairs; Government Operations. Amends the Council on Wage and Price Stability Act to require each Federal agency to prepare an economic impact statement for each rule it proposes that will have a significant impact on prices and employment. Requires such statement to be published in the Federal Register along with comments thereon made by the Director of the Council of Wage and Price Stability.

H.R. 3811. February 22, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to acquire by donation, purchase or otherwise, the Rhode Island Veterans' Cemetery, and such additional lands as may be necessary, and to establish such as a national cemetery within the National Cemetery System.

H.R. 3812. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the amount of the deduction State legislators may take for living expenses while conducting legislative business to the daily dollar limitations to be established by the Secretary of the Treasury for each State legislature.

H.R. 3813. February 22, 1977. Interior and Insular Affairs; Appropriations. Makes changes in the management program of Redwood National Park including authorizing the Secretary of Agriculture to alter the boundaries of the Park Protection Zone. Authorizes the Secretary to acquire specified lands and sets forth procedures for such takings.

H.R. 3814. February 22, 1977. Judiciary. Requires formal public rulemaking with respect to procedures and policies concerning public property, loans, grants or benefits. Requires agencies to reimburse specified individuals participating in agency rulemaking proceedings. Waives the sovereign immunity of the United States in suits where relief other than money damages is sought. Requires the establishment of enforcement procedures for grant-in-aid programs.

H.R. 3815. February 22, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to make it unlawful for an issuer of registered securities or an issuer required to file certain reports, under such Act, to make payments to foreign officials to influence an official act of such official or to influence an act or decision by a foreign government. Imposes a fine for such unlawful act.

Makes it unlawful for a domestic concern to use the mails or interstate commerce to make payments to such foreign officials. Imposes a fine upon any agent of such domestic concern for such unlawful act.

H.R. 3816. February 22, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to permit any United States district court to define an unfair or deceptive practice when the Federal Trade Commission, having been petitioned to so define a specified practice, has failed to do so within 120 days.

Imposes a civil penalty upon any person who refuses to provide reports, evidence, or testimony to the Commission when required to do so.

Directs the Commission to determine if the advertising of distilled alcoholic beverages constitutes unfair or deceptive trade practices.

Sets forth the applicability of such Act to banks, common carriers, and air carriers.

H.R. 3817. February 22, 1977. Veterans' Affairs. Extends from ten to fifteen years the delimiting period in which a veteran's educational assistance may be used.

H.R. 3818. February 22, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3819. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance) and Title XVIII (Medicare) of the Social Security Act to provide full benefits at age 60 when based upon the attainment of retirement age. Allows reduced benefits at age 57. Sets the minimum primary benefit rate for old-age, survivors, and disability benefits at $150 a month.

H.R. 3820. February 22, 1977. Interior and Insular Affairs; Public Works and Transportation. Requires the Secretary of the Interior to: (1) develop and implement a mass transportation program for each urban national park and recreation area involving modes of transport other than personal motor vehicles; and (2) conduct a comprehensive study of transportation problems and opportunities throughout the National Park System.

H.R. 3821. February 22, 1977. Post Office and Civil Service. Authorizes the postage free mailing of absentee ballots and other absentee voting material.

H.R. 3822. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3823. February 22, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of Congress based on any adjustment of the General Schedule which takes effect before October 1, 1978.

H.R. 3824. February 22, 1977. Armed Services; Merchant Marine and Fisheries; Ways and Means. Authorizes the President to transfer commissioned officers of the Coast and Geodetic Survey and the National Oceanic and Atmospheric Administration to an armed force with the individual's consent. Includes commissioned officers of the National Oceanic and Atmospheric Administration within the definition of "Federal service" for purposes of unemployment compensation as it relates to members and ex-members of the armed forces.

H.R. 3825. February 22, 1977. Judiciary. Grants a Federal charter to the National Opportunity Camps.

H.R. 3826. February 22, 1977. Interstate and Foreign Commerce. Prohibits the manufacturing in the United States for introduction into interstate commerce, or the importation into the United States, of any reproduction, antique glass article which is not legibly and permanently marked to indicate the calendar year in which such article was manufactured.

Empowers the Federal Trade Commission to enforce this Act.

H.R. 3827. February 22, 1977. Education and Labor. Authorizes $10,500,000 to be appropriated for each of the fiscal years 1978–1982, for the construction of the Navajo Community College.

H.R. 3828. February 22, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 3829. February 22, 1977. Post Office and Civil Service; Armed Services; Standards of Official Conduct. Sets standards of conduct for employees and officers of the Federal Government. Requires specified Federal officers and employees to file financial disclosure statements which are to be made available to the public. Establishes a Commission on Ethics and Financial Disclosure to investigate and report violations of this Act to the Attorney General for enforcement.

H.R. 3830. February 22, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 3831. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to increase the amounts excludable from gross income as income earned abroad by repealing the provisions respecting such exclusions enacted in the Tax Reform Act and restoring former law.

H.R. 3832. February 22, 1977. Judiciary. Declares that the name and symbol "Tree City USA" is the property of the United States to be used in conjunction with the Arbor Day Foundation and its cooperators.

Authorizes the Secretary of Agriculture to establish and collect use and royalty fees with respect to such symbol.

Authorizes injunctive relief and specifies criminal penalties for unauthorized use of such symbol.

H.R. 3833. February 22, 1977. Post Office and Civil Service. Provides third-class mailing privileges to Gold Star Wives of America, Inc.

H.R. 3834. February 22, 1977. Judiciary. Directs the Secretary of the Treasury to pay a sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3835. February 22, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3836. February 22, 1977. Judiciary.

Relieves a certain corporation of all liability to the United States for a loan made to it by the Economic Development Administration.

H.R. 3837. February 22, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3838. February 22, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3839. February 23, 1977. Appropriations. Rescinds budget authority proposed in the message of the President of January 17, 1977. (H.Doc. 95–48), with respect to military personnel pay, Air Force procurement, foreign military credit sales, and international organizations and conferences contributions for international peacekeeping.

H.R. 3840. February 23, 1977. Education and Labor. Amends the Vocational Education Act to establish maximum and minimum percentage requirements for particular uses of sums allotted to each State for vocational education programs under such Act.

H.R. 3841. February 23, 1977. International Relations. Restricts diplomatic immunity, with respect to the personnel of a permanent foreign diplomatic mission, to (1) the head of the mission and the head's immediate family, and (2) two staff members of the mission with diplomatic rank and their immediate families after the names of such staff members have been transmitted to the Secretary of State.

H.R. 3842. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3843. February 23, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 by extending the limitation on aggregate annual contractual contributions for low-income housing projects and for the operation of such projects.

Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3844. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the income limitation for the income tax credit for the elderly.

H.R. 3845. February 23, 1977. Ways and Means. Extends through fiscal year 1978 an eight percent increase in social services funding for child care under Title XX (Grants to States for Services) of the Social Security Act. Directs that such funding after 1978 increase according to rises in the cost of living.

H.R. 3846. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3847. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3848. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3849. February 23, 1977. Merchant Marine and Fisheries. Establishes eligibility requirements for membership on the National Advisory Committee on the Oceans and Atmosphere. Authorizes appropriations for expenses of the Committee for fiscal year 1978.

H.R. 3850. February 23, 1977. Education and Labor. Repeals the Occupational Safety and Health Act of 1970.

H.R. 3851. February 23, 1977. Agriculture. Terminates all price-support programs for tobacco beginning with the 1978 crop. Prohibits the payment of any export subsidy to any person under the Agriculture Trade Development and Assistance Act of 1954 (Public Law 480—Food for Peace) for the export of tobacco to any foreign country after December 31, 1978.

H.R. 3852. February 23, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3853. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to permit a deduction by a taxpayer for depreciation of his principal residence property.

H.R. 3854. February 23, 1977. Ways and Means. Amends the Internal Revenue Code by entitling persons owning a homestead, having low income, and being 65 years of age and over to be reimbursed for property taxes accrued for the taxable year.

H.R. 3855. February 23, 1977. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to require the Secretary of Transportation to promulgate regulations requiring that the glass in all exposed windows in the locomotives and rear cars of all passenger and freight trains be bulletproof.

H.R. 3856. February 23, 1977. Veterans' Affairs. Removes the time limit within which programs of education for veterans must be completed.

H.R. 3857. February 23, 1977. Public Works and Transportation. Requests the Board of Engineers for rivers and harbors to determine whether modifications to the Whitewater River Basin, California, are advisable at the present time.

H.R. 3858. February 23, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3859. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3860. February 23, 1977. Post Office and Civil Service. Permits postage-free mailing of answers to congressional questionnaires and personal income tax returns.

H.R. 3861. February 23, 1977. Veterans' Affairs. Provides for a burial allowance of $150 to be paid by the Veterans' Administration: (1) to any State or political subdivision thereof for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 3862. February 23, 1977. Veterans' Affairs. Provides that, where the death of a qualified veteran occurs in a State home, the Administrator of Veterans' Affairs shall pay the actual cost (not to exceed $250) of the burial and funeral, and shall transport the body to the place of burial in the same or any other State.

H.R. 3863. February 23, 1977. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when his remains have not been recovered or identified, or have been buried at sea.

H.R. 3864. February 23, 1977. Government Operations. Amends the State and Local Fiscal Assistance Act of 1972 to increase by 10 percent the amounts allocated to State and local governments if such governments fund public education from sources other than property taxes.

H.R. 3865. February 23, 1977. House Administration. Requires Federal agencies to publicly report to Congress all expenditures made for or on the behalf of a Member of Congress or a congressional employee with respect to the travel of such person and requires the committee of Congress which approved such travel to reimburse such agency for such expenditure.

H.R. 3866. February 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commisssion to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 3867. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide that payments for State and local sewer services shall be treated as deductible real property taxes where they are billed independently from property taxes.

H.R. 3868. February 23, 1977. Armed Services; Merchant Marine and Fisheries. Terminates the authority of Members of Congress and Delegates to Congress from the various territories to make appointments to the service academies. Amends the Merchant Marine Act, 1936, to accomplish such purpose with respect to the Merchant Marine Academy.

H.R. 3869. February 23, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R. 3870. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to require an automatic cost-of-living adjustment in the income tax rates, the amount of the standard deduction, personal exemption, and depreciation deduction, and the rate of interest payable on certain obligations of the United States.

H.R. 3871. February 23, 1977. Interstate and Foreign Commerce; Ways and Means. Amends the Social Security Act to extend Federal assistance to Puerto Rico, the Virgin Islands, and Guam under the Aid to Families with Department Children, Child Welfare, Medicaid, and Social Services programs on the same basis as in the case of other States. Amends Title II (Old-Age, Survivors, and Disability Insurance Benefits) to extend to such territories the program of special benefits at age 72 for certain uninsured individuals.

H.R. 3872. February 23, 1977. Judiciary. Prohibits the State income taxation of nonresident commuters who work in Federal areas but do not reside in the area or in the State.

H.R. 3873. February 23, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing or renew motor fuel franchises unless written notification is provided and the franchisee

has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 3874. February 23, 1977, Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

Prohibits specified unfair practices in the marketing of automotive gasoline.

H.R. 3875. February 23, 1977. Banking, Finance and Urban Affairs. Revises the Fair Credit Reporting Act with repect to the release of obsolete credit information and disclosure of consumer reports to third parties and to consumers.

H.R. 3876. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3877. February 23, 1977. Education and Labor. Amends the Older Americans Act of 1965 to direct the Secretary of Health, Education, and Welfare to reimburse the States for real property tax relief programs aimed at elderly households.

H.R. 3878. February 23, 1977. Interstate and Foreign Commerce. Revises the warning label on cigarette packages and requires the inclusion on such packages of a label bearing a statement of the tar and nicotine content.

H.R. 3879. February 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to include tobacco products within the definition of food as contained in such Act, thereby subjecting tobacco products to the same regulation as food under such Act.

H.R. 3880. February 23, 1977. Judiciary. States that no sentence of death shall be imposed upon any person convicted under Federal, territorial, or State law and that no unexecuted death sentence shall be carried out after the enactment of this Act. Directs that each provision authorizing or requiring the imposition of capital punishment shall be deemed to authorize or require the imposition of life imprisonment and that death sentences remaining unexecuted on the date of the enactment of this Act shall be deemed sentences of life imprisonment.

H.R. 3881. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to substitute a health protection tax on cigarettes manufactured in or imported into the United States for the present tax. Sets forth graduated tax rates based on the tar and nicotine content of each cigarette. Directs the Federal Trade Commission to determine the tar and nicotine content of each brand of cigarettes manufactured in or imported into the United States.

H.R. 3882. February 23, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Prohibits smoking in specified areas of Federal facilities and in interstate passenger carrier facilities. Requires the separation of smokers from nonsmokers in certain areas of such facilities.

H.R. 3883. February 23, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 by adding a new Title X: Elementary and Secondary Drug Abuse Eradication Act of 1977. Directs the Commissioner of Education to carry out a grant program to local educational agencies for their use in programs designed to eliminate the use of drugs by elementary and secondary school students.

H.R. 3884. February 23, 1977. Judiciary. Applies penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to unlawful use or carrying of an explosive or other destructive device and to unlawful use or carrying of a firearm or destructive device during the commission of a State felony.

H.R. 3885. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3886. February 23, 1977. Judiciary. Grants a Federal charter to the National Opportunity Camps.

H.R. 3887. February 23, 1977. Education and Labor; Banking, Finance and Urban Affairs. Amends the Fair Labor Standards Act of 1938 to authorize the Secretary of Labor to investigate any proposed business closing or relocation and to provide assistance to certain employees and local governments affected by such action.

Denies specified tax benefits to a business closing or transferring an operation upon certain findings by the Secretary.

Establishes a National Employment Relocation Administration within the Department of Labor and a National Employment Relocation Advisory Council.

H.R. 3888. February 23, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 3889. February 23, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 3890. February 23, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 3891. February 23, 1977. Agriculture. Amends the Food Stamp Act of 1964 by revising the eligibility requirements for participation in the program.

Requires each State to develop and submit to the Secretary of Agriculture for approval a State quality control plan specifying what actions will be taken to meet error tolerance goals established by the Secretary for administration and control of the food stamp program.

H.R. 3892. February 23, 1977. Armed Services. Prohibits the change in status of any member of the uniformed services currently in a missing status due to service in Southeast Asia until certain conditions have been met.

H.R. 3893. February 23, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scale in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 3894. February 23, 1977. Armed Services. Establishes Optometry Corps within the Army and the Navy and establishes a separate optometric service within the Air Force.

H.R. 3895. February 23, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to prohibit the assessment of penalties against an employer where such employer has corrected the violations with which he is charged within a prescribed abatement period.

H.R. 3896. February 23, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3897. February 23, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 3898. February 23, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act of 1977 to set forth penalties for (1) breaking and entering a pharmacy with intent to unlawfully obtain a controlled substance and (2) obtaining, or attempting to obtain, a controlled substance from a pharmacy by force or violence.

H.R. 3899. February 23, 1977. Post Office and Civil Service. Applies to the United States Postal Service provisions requiring that buildings built, leased, or financed by the United States be designed and constructed to insure ready access to and use of such buildings by the physically handicapped.

H.R. 3900. February 23, 1977. Post Office and Civil Service. Requires the United States Postal Service to consider specified factors in determining the need for an existing third or fourth-class post office. Sets guidelines relating to such determinations.

H.R. 3901. February 23, 1977. Ways and Means. Amends the Second Liberty Bond Act to require that each annual budget submitted to Congress by the President include one item specifically providing for the retirement of the public debt.

H.R. 3902. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 3903. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and

their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 3904. February 23, 1977. Ways and Means: Interstate and Foreign Commerce. Amends title XVIII (medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3905. February 23, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 3906. February 23, 1977. Post Office and Civil Service. Makes Inauguration Day, January 20 of each fourth year after 1977, a legal public holiday.

H.R. 3907. February 23, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 3908. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3909. February 23, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to investigate the feasibility of the Colorado-Big Thompson Project Hydroelectric Power Study, Pick Sloan Missouri Basin Project, Colorado.

H.R. 3910. February 23, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 3911. February 23, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 3912. February 23, 1977. Judiciary. Grants a Federal charter to the National Ski Patrol System.

H.R. 3913. February 23, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 3914. February 23, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 3915. February 23, 1977. Ways and Means. Amends Title IV (Child Welfare Services) of the Social Security Act to authorize States to provide day treatment and in-home services to any child or family experiencing problems which such services would assist in solving, and to any other child or family where parental difficulties may jeopardize the physical, emotional, or psychological condition of the child.

H.R. 3916. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 3917. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 3918. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such act.

H.R. 3919. February 23, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to construct a hydroelectric plant at Monticello Dam, California.

H.R. 3920. February 23, 1977. Interior and Insular Affairs. Enlarges the service unit of the Sacramento, California, canals unit of the Central Valley project to include the Will S. Green Canal, and Yolo and Solano Counties.

H.R. 3921. February 23, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who is a Japanese American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 3922. February 23, 1977. Merchant Marine and Fisheries; Armed Services. Amends the Maritime Academy Act of 1958 to authorize the Secretary of the Navy to appoint students at maritime academies or colleges assisted under such Act as Reserve midshipmen in the Navy and to commission such individuals as Reserve ensigns upon graduation.

H.R. 3923. February 23, 1977. Government Operations; Rules. Abolishes within three years of the enactment of this Act, or three years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 3924. February 23, 1977. Interior and Insular Affairs. Declares that the United States holds certain lands in New Mexico in trust for the Pueblo Indians of Santa Ana. Authorizes the Secretary of the Interior to acquire, by purchase or exchange, all State school lands in a certain area of New Mexico.

H.R. 3925. February 23, 1977. Post Office and Civil Service. Designates the apple blossom as the national flower of the United States.

H.R. 3926. February 23, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3927. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay. Applies this repeal retroactively.

H.R. 3928. February 23, 1977. Post Office and Civil Service; Judiciary. Requires Federal employees, grade GS-13 and above, who have been employed by the Government for less than three years to file an annual statement describing present and former positions and recent or pending agency actions over which such employee has any influence and in which such employee's former employer has an interest. Requires persons who have terminated their Federal employment at a grade of GS-13 or higher during the past three years to file a statement with regard to actions in which such person's present employer was interested.

H.R. 3929. February 23, 1977. Ways and Means: Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of depositories and obligations of the United States and agencies of the United States.

H.R. 3930. February 23, 1977. Ways and Means: Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 3931. February 23, 1977. Ways and Means: Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 3932. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to exclude the income of trusts established solely for the care of mentally incompetent beneficiaries from taxation. Excludes distributions to non-family members for the care of such beneficiaries from the beneficiaries' gross income.

H.R. 3933. February 23, 1977. Ways and Means. Amends the Social Security Act to exclude from the classification of unearned income with respect to the Supplemental Security Income program, the support and maintenance provided to a mentally retarded individual by the family of such an individual. Specifies the treatment of other forms of income to mentally retarded individuals.

Requires action on applications for supplemental security income benefits within a maximum of 60 days.

H.R. 3934. February 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to exclude from the income of an individual applying for such benefits, specified income earned from employment in a sheltered work setting.

H.R. 3935. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide an additional income tax exemption for each of the taxpayer's dependents who is mentally retarded.

H.R. 3936. February 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that payments of tuition, fees, or other training costs by any person for a mentally retarded adult individual attending a school for the retarded shall not be treated as income of such individual in determining eligibility for benefits under such Title.

H.R. 3937. February 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that 1974 Social Security benefit increases shall be disregarded in determining an individual's eligibility for supplemental security income benefits. Eliminates support and maintenance furnished a mentally retarded individual living in another person's household from that individual's unearned income for supplemental security income benefit purposes.

H.R. 3938. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to physician services furnished by physician extenders and clinical staff of community mental health centers.

H.R. 3939. February 23, 1977. Interstate and Foreign Commerce. Authorizes the Federal Energy Administrator to establish an energy stamp program to assist low-income households in meeting monthly fuel costs.

H.R. 3940. February 23, 1977. Ways and Means. Amends the Aid to Families with Dependent Children program of the Social Security Act: (1) to lower to 16 the age at which individuals may participate in community work and training programs; (2) to provide for the payment of transportation costs and work-related expenses to trainees; (3) to establish a criminal penalty for fraud related to the Aid to Families with Dependent Children program; (4) to authorize the Federal payment of a portion of the cost of investigating and prosecuting fraud; (5) to prohibit the payment of benefits to illegal aliens; and (6) to authorize the deposit of benefits directly in a recipient's bank.

H.R. 3941. February 23, 1977. Armed Services. Establishes the Defense Civil Preparedness Agency within the Department of Defense to prepare and conduct national programs for civil defense. Establishes a National Emergency Service Advisory Committee to consult with the Agency and the Federal Disaster Assistance Administration regarding civil defense policies.

Authorizes the President or the head of the Defense Civil Preparedness Agency to exercise certain powers during a state of civil defense emergency. Makes the Federal Government immune from civil liability for actions during such emergency. Waives the provisions of the Administrative Procedure Act during such an emergency.

H.R. 3942. February 23, 1977. Agriculture. Authorizes the Secretary of Agriculture to make grants to cities to pay up to 100 percent of the cost of trees and shrubs to be planted under the cities' forestry programs, including programs of cities which provide for the planting of trees on private land.

H.R. 3943. February 23, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3944. February 23, 1977. Ways and Means. Amends title II (Old-Age, survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3945. February 23, 1977. Interior and Insular Affairs; Ways and Means. Authorizes Indian tribes to adopt, by majority vote, constitution and by laws and provides that, upon adoption of such constitution and by-laws, a tribe shall be a corporate body, with certain powers designed to encourage the location of new private industry on tribal lands. States that any person who establishes new private industry on a reservation shall qualify for certain tax incentives if he employs a work force one-half of which are Indians.

H.R. 3946. February 23, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on wool not finer than 46s through September 30, 1981.

H.R. 3947. February 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 3948. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3949. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to continue an individual's entitlement to benefits thereunder through the month of his or her death, without affecting any other person's entitlement to benefits for that month.

H.R. 3950. February 23, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to collect, analyze, and publish current world population statistics at least anually.

H.R. 3951. February 23, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 3952. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 3953. February 23, 1977. Veterans' Affairs. Revises the procedures relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities.

H.R. 3954. February 23, 1977. Judiciary. Stipulates that no Federal court shall have jurisdiction to hear or decide cases or controversies involving public schools. Vests such jurisdiction in the courts of the several States, with appellate jurisdiction by writ of certiorari in the Supreme Court.

H.R. 3955. February 23, 1977. Judiciary. Amends the Civil Rights Act of 1964 to prohibit any department, agency, officer or employee of the United States from using the withholding of Federal funds to coerce changes in the racial distribution of teachers or students within a school system when a freedom of choice system, as defined by this Act, is used for the assignment of students.

Prohibits Federal courts from requiring school boards to make changes in the racial distribution of teachers or students when students are assigned in conformity with such a system.

H.R. 3956. February 23, 1977. Judiciary; Education and Labor. Removes the authority of any United States court to make any decision, enter any judgment, or issue any order whose effect would be to require pupils to be transported to or from school on the basis of their race, color, religion or national origin.

Forbids any Federal department, agency, officer, or employee empowered to extend financial assistance to any program or activity to withhold or threaten to withhold such funds in order to induce implementing or continuing a plan or program whose effect would be to require pupils to be transported to or from school on the basis of their race, color, religion or national origin.

H.R. 3957. February 23, 1977. Post Office and Civil Service. Requires each Federal agency to establish a flexible scheduling or compressed work schedule program on an experimental basis.

H.R. 3958. February 23, 1977. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to establish a national cemetery in the State of South Carolina, at or near the city of Columbia if desirable and practical. Authorizes the transfer of surplus federally-owned lands for a site for such cemetery, or in the alternative the acquisition of such lands as the Administrator judges to be suitable.

H.R. 3959. February 23, 1977. Education and Labor. Limits, to those elementary and secondary school facilities destroyed or damaged after January 2, 1968 and prior to October 1, 1978, the distribution of disaster relief to local educational agencies.

H.R. 3960. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such act.

H.R. 3961. February 23, 1977. Interstate and Foreign Commerce. Amends the Consumer Product Safety Act to revise the rulemaking procedures of the Consumer Product Safety Commission.

Directs the Commission to pay participants in rules making proceedings without regarding Federal prohibitions against advancing public moneys.

Provides civil penalties for violations of programs implemented by the Commission.

H.R. 3962. February 23, 1977. Agriculture. Amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system from 50 to 80 percent of the estimated total cost of the Federal-State cooperative program.

H.R. 3963. February 23, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 3964. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3965. February 23, 1977. Science and Technology. Authorizes appropriations in specified amounts out of the Airport and Airway Trust Fund to the Secretary of Transportation for fiscal year 1978 for specified aviation-related research, demonstration, and development projects under the Federal

Aviation Act of 1958 and the Airports and Airway Development Act of 1970.

H.R. 3966. February 23, 1977. Interstate and Foreign Commerce. Declares that States and localities shall have primary jurisdiction over the formulation and implementation of natural gas conservation programs. Stipulates that the Federal Power Commission shall have no authority to alter such State-regulated programs.

H.R. 3967. February 23, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 3968. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable tax credits for the installation of solar energy equipment in residences and businesses, and for insulation installed in residences, over ten and four year periods respectively.

Allows the accelerated amortization of businesses which install solar energy equipment.

H.R. 3969. February 23, 1977. Judiciary. Establishes a National Court of Appeals to be composed of a chief judge and six associate judges.

Grants the court jurisdiction over (1) cases referred to it by the Supreme Court and (2) cases transferred to it by a court of appeals, the Court of Claims, or the Court of Customs and Patent Appeals. Permits the court to decline to decide any case referred to it by the Supreme Court, unless directed other wise by the Supreme Court, or any case transferred to it.

H.R. 3970. February 23, 1977. Judiciary. Declares all forged, altered, or counterfeit coins or currency and all illegally possessed dangerous drugs contraband and subject to seizure and summary for forfeiture to the United States.

Directs that all such contraband in the possession of the United States be immediately destroyed except where essential for purposes of law enforcement or criminal proceedings.

H.R. 3971. February 23, 1977. Judiciary. Limits to seven years the amount of time which a circuit judge may serve as chief circuit judge.

Sets priorities for selection of circuit judges for en banc hearings.

Revises eligibility criteria for retirement from regular active service of Federal judges.

Authorizes the appointment of legal assistants for courts of appeals.

Directs that copies of briefs, decisions, and related documents filed in certain appellate courts be deposited in the Library of Congress.

Establishes a Commission on the Federal Judicial System to study the structure and procedures of the Federal judicial system on a continuing basis.

H.R. 3972. February 23, 1977. Judiciary. Establishes an additional United States district court for the State of California.

H.R. 3973. February 23, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam-era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 3974. February 23, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 3975. February 23, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting periods. Provides for a conditional extension of the delimiting period for certain Vietnam-era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 3976. February 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to limit military assistance to Portugal for fiscal year 1977.

H.R. 3977. February 23, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 3978. February 23, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 3979. February 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 3980. February 23, 1977. Science and Technology; International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 3981. February 23, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small businesses for the purchase of solar renewable source, or other energy conserving measures and equipment.

H.R. 3982. February 23, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 3983. February 23, 1977. Public Works and Transportation. Directs the Administrator of General Services to establish a solar hot water and space heating program designed to place solar hot water and space heating devices in 15,000 federally owned buildings within six fiscal years following enactment of this Act.

Establishes a Federal Photovoltaic Utilization Program for the annual acquisition and use of photovoltaic solar electric systems, primarily for use by the Department of Defense and administered by the Administrator of General Services and the Secretary of Defense.

H.R. 3984. February 23, 1977. Small Business; Science and Technology. Amends the Small Business Act and the Federal Nonnuclear Energy Research and Development Act of 1974 to provide assistance to individuals and small business concerns for the acquisition, development and maintenance of solar energy equipment and energy-related inventions.

H.R. 3985. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and businesses.

H.R. 3986. February 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3987. February 23, 1977 Post Office and Civil Service. Directs the Civil Service Commission to permit a certain individual to reenroll in a health benefits plan of his choice which is offered to Federal employees.

H.R. 3988. February 23, 1977. Judiciary. Relieves a certain military officer of all liability to the United States for overpayments of basic pay.

H.R. 3989. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3990. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3991. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3992. February 23, 1977. Judiciary. Declares a certain individual conditionally eligible for naturalization under the Immigration and Nationality Act.

H.R. 3993. February 23, 1977. Judiciary. Directs that the provisions of the Internal Revenue Code of 1954 relating to nonrecognition of gain on sale or exchange of a residence be applied to the sale of the residence of a certain individual.

H.R. 3994. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3995. February 23, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3996. February 23, 1977. Judiciary. Declares that certain individuals have a certain priority date on the fifth preference foreign state limitation for Korea.

H.R. 3997. February 23, 1977. Judiciary. Specifies the tax treatment of a certain corporation and certain individuals under the Internal Revenue Code.

H.R. 3998. February 24, 1977. Ways and Means. Requires that specified Federal or federally assisted programs disregard a general increase in monthly social security benefits in determining the income or resources of any individual who is the recipient of such benefits.

H.R. 3999. February 24, 1977. Armed Services. Amends the Uniform Code of Military Justice to establish an independent Courts-Martial Command within the Office of the Judge Advocate General of each armed force. Revises the classification and jurisdiction of courts-martial. Establishes procedures with respect to pre-court-martial proceedings. Sets forth specified rights of the accused during investigations and courts-marital. Increases the number of judges on the Court of Military Appeals from three to nine. Authorizes the court to divide itself into three separate panels of three judges each when necessary to expedite the business of the court.

H.R. 4000. February 24, 1977. Armed Services. Sets forth regulations regarding the discharge of members from the Armed Forces. Sets forth procedures and regulations regarding separation with a discharge of service.

H.R. 4001. February 24, 1977. Judiciary. Makes it unlawful for a parent to kidnap his minor child.

H.R. 4002. February 24, 1977. Judiciary. Makes it unlawful for a parent to kidnap his minor child

H.R. 4003. February 24, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed or the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R. 4004. February 24, 1977. Education and Labor. Requires each State receiving financial assistance under the Elementary and Secondary Education Act of 1965 which is operating a program designed to insure reading readiness for educationally deprived preschool children or children in grades 1, 2, or 3 to continue such programs at their present level.

Prohibits the exclusion of children enrolled in such program from further participation on the ground that such child has achieved a reading aptitude equal to or greater than the normal reading aptitude for the grade in which the child is enrolled.

H.R. 4005. February 24, 1977. Education and Labor. Requires each State receiving financial assistance under the Elementary and Secondary Education Act of 1965 which is operating a program designed to insure reading readiness for educationally deprived preschool children or children in grades 1, 2, or 3 to continue such programs at their present level.

Prohibits the exclusion of children enrolled in such program from further participation on the ground that such child has achieved a reading aptitude equal to or greater than the normal reading aptitude for the grade in which the child is enrolled.

H.R. 4006. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 4007. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow State legislators to take a business deduction for living expenses incurred away from the legislative districts they represent and to revise the method for computing the deduction for Members of Congress. Limits the deduction to dollar amounts to be established by the Secretary of Labor for each legislature. Limits the deduction by State legislators to expenses incurred for days actually spent conducting legislative business.

H.R. 4008. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 4009. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 4010. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4011. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.R. 4012. February 24, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks under Titles II and XVI falls on a Saturday, Sunday or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 4013. February 24, 1977. Interior and Insular Affairs. Authorizes appropriations for fiscal year 1978 for the advanced coal extraction technology program of the Bureau of Mines in the Department of the Interior.

H.R. 4014. February 24, 1977. Interior and Insular Affairs. Authorizes the Bureau of Mines in the Department of the Interior to make grants to States for coal reclamation research and demonstration projects.

H.R. 4015. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare program of the Social Security Act to include speech pathology and audiology services among the items covered under Medicare.

H.R. 4016. February 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits.

H.R. 4017. February 24, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to give funding priority to any local government which applied for funds prior to enactment of this Act, and which did not receive a grant because of utilization of an incorrect unemployment rate in its application.

H.R. 4018. February 24, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of certain doxorubicin hydrochloride antibiotics until after June 30, 1979.

H.R. 4019. February 24, 1977. House administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 4020. February 24, 1977. Armed Services. Entitles specified reserve members of the uniformed services and members of the National Guard to the same medical and dental benefits enjoyed by members of the uniformed services on active duty.

Entitles the dependents of such individuals to the same medical and dental benefits presently available to the dependents of members on active duty under specified circumstances.

H.R. 4021. February 24, 1977. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to require the inspection of certain towing vessels before such vessels are put into operation and at least every two years thereafter.

Authorizes the Secretary to issue regulations regarding: (1) the design, construction, alteration, or repair of towing vessels; (2) the operation of towing vessels; and (3) the staffing of such vessels.

H.R. 4022. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 4023. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4024. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4025. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4026. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4027. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate or origin with the Secretary of the

Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4028. February 24, 1977. Veterans' Affairs. Provides for the payment of pensions to cetrain veterans of World War I and their widows.

H.R. 4029. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited income tax credits for the installation of solar heating and cooling, equipment in residences. Provides for an investment tax credit for the installation of insulation and solar energy equipment in structures used in a trade or business, or held for the production of income, including lodging facilities. Allows the accelerated amortization of depreciable geothermal, solar, shale oil and waste-energy equipment.

H.R. 4030. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to increase, from 50 to 51 percent, the maximum amount of voting stock certain private foundations may own in certain public utilities without being subject to the excise tax on excess business holdings.

H.R. 4031. February 24, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 4032. February 24, 1977. Post Office and Civil Service. Requires the heads of Federal agencies to notify Congress 180 days in advance of taking planned organizational or other changes which will cause the transfer of a substantial number of Federal employees or eliminate the possibility of further employment of such employees without reduction in grade.

H.R. 4033. February 24, 1977. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to require that any housing which is surplus government property must first be offered for sale to the occupants thereof when such property is being disposed of.

H.R. 4034. February 24, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to investigate the feasibility Powerplants, Central Valley project, California.

H.R. 4035. February 24, 1977. Banking, Finance and Urban Affairs. Authorizes the Administrator of General Services to establish design standards for certain buildings financed with Federal funds to insure that windows in such buildings can be opened and closed manually in order to conserve energy.

H.R. 4036. February 24, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 4037. February 24, 1977. Post Office and Civil Service. Excludes from the definition of "letter," telegrams, letters sent in bulk, and other items not generally considered to be letters. Limits such definition as narrowed by this Act to postal law provisions dealing with private carriage of letters, illegal carriage of letters, and prompt delivery of mail from a vessel. Permits the carriage of mail by private carrier not otherwise permitted if such mail is addressed to such carrier of if the Postal Service determines that such private carriage is in the public interest.

H.R. 4038. February 24, 1977. House Administration. Restricts use of excess campaign contributions to (1) exoenses incurred in connection with official duties of Federal office, (2) expenses of future campaigns for Federal office, and (3) charitable contributions.

H.R. 4039. February 24, 1977. Interior and Insular Affairs; Science and Technology. Establishes a National Energy and Conservation Corporation to undertake programs of exploration, development, and production of public land and tideland oil, natural gas, oil shale, and coal resources. Directs the Corporation to administer programs consistent with objectives of land use planning, conservation, and environmental protection.

H.R. 4040. February 24, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the Armed Forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join any labor organization. Sets forth penalties for violation of this act.

H.R. 4041. February 24, 1977. Judiciary. Sets forth penalties for the robbery or attempted robbery of any narcotic drug from any pharmacy.

H.R. 4042. February 24, 1977. Judiciary. Grants an exemption from antitrust liability to professional retail pharmacists who negotiate collectively for reimbursement for dispensing prescription drugs under a government or private prepaid prescription program.

H.R. 4043. February 24, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to permit a veteran, who is being supplied with drugs but who is not a patient in a Veterans' Administration facility, to determine whether the drugs will be supplied directly by the Administrator or from a source approved by the Administrator and whether the Administrator shall pay such source directly or reimburse the veteran who will pay for the drugs.

H.R. 4044. February 24, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 4045. February 24, 1977. Post Office and Civil Service. Classifies all deputy United States marshals holding non-supervisory or non-specialist positions at GS-5 through GS-11. Classifies such marshals in supervising or specialist positions at GS-12 through GS-14. States that all law enforcement personnel performing the duties of a marshal shall be classified as a marshal. Sets the salary level of the Director of the United States Marshals Service at level V of the Executive Schedule. States that the Director shall set the salary levels of non-law enforcement employees of the Service.

H.R. 4046. February 24, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and implement youth camp safety standards, including standards for day camps, resident camps, and travel camps. Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 4047. February 24, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4048. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 4049. February 24, 1977. Interstate and Foreign Commerce. Amends the Rezional Rail Reorganization Act of 1973 to authorize appropriations to the United States Railway Association for fiscal year 1978.

H.R. 4050. February 24, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to make payments from any revenues received by the United States from visitors to the Grand Canyon National Park to the appropriate school district serving that Park as reimbursement for educational facilities furnished by such district to pupils who are dependents of persons emoloyed in connection with such Park and living at or near the Park upon real property of the United States not subject to taxation by the State or local agencies.

H.R. 4051. February 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 4052. February 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4053. February 24, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Authorizes the study of bulk commodity freight requirements on the Upper Mississippi and Illinois waterway.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 4054. February 24, 1977. Education and Labor. Establishes a career education program to assist States and local educational agencies in increasing the emphasis they place in elementary and secondary school education on job awareness, exploration, decisionmaking, and planning.

H.R. 4055. February 24, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the Act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 4056. February 24, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 4057. February 24, 1977. Post Office and Civil Service. Increase the maximum permissible size and weight of mail other than letter mail.

H.R. 4058. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4059. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4060. February 24, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend until September 30, 1978, the period of time during which funds allotted to States for the construction of treatment works shall remain available.

H.R. 4061. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individuals' income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year

following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayers' initial deferral, whichever is earlier.

H.R. 4062. February 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such title.

H.R. 4063. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the excise tax on trucks, buses, and tractors, and parts and accessories for such vehicles.

H.R. 4064. February 24, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to extend the eligibility of mortgages for insurance and to increase the maximum allowable mortgage amounts.

Permits the Secretary of Housing and Urban Development to insure, on a permanent basis, mortgages and loans with provisions of varying rates of amortization.

H.R. 4065. February 24, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4066. February 24, 1977. Veterans' Affairs; Armed Services. Provides to veterans with a total service-connected disability the right to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command.

H.R. 4067 February 24, 1977. Education and Labor. Amends the Wagner-Peyser Act to direct the Secretary of Labor to provide technical and management assistance to State public employment offices, establish a national clearing house for employment service information in the United States Employment Service, and implement an assistance program for certain State employment office job placement projects.

Directs the Secretary to study the merits of a nationwide job bank system and of replacing the State employment office system with a Federal office system.

H.R. 4068. February 24, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior through the Director of the Bureau of Land Management to amend the legal description of the land in Colorado granted by the United States in a patent issued to Albert F. Garbareno.

H.R. 4069. February 24, 1977. Science and Technology Requires any person engaged in weather modification activities to comply with a comprehensive State and Federal licensing and reporting system.

Directs the Secretary of Commerce to establish a weather modification system within the National Oceanic and Atmospheric Administration

H.R. 4070. February 24, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to study and alleviate the siltation problems on the Mississippi River upstream of Mile 300, particularly at the Quincy Bay, Broad Lake, and Triangle Lake areas in Illinois.

H.R. 4071. February 24, 1977. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir, Wabash River, Indiana.

H.R. 4072. February 24, 1977. International Relations. Establishes a Deputy Secretary for the Americas in the Department of State.

H.R. 4073. February 24, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 4074. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the withholding tax requirements with respect to gambling winnings.

H.R. 4075. February 24, 1977. Ways and Means. Increases the tax benefits accorded income earned abroad by United States citizens by: (1) increasing the limitation on the exclusion of such income for certain individuals who have lived in foreign countries; (2) allowing these individuals to claim tax credits for certain foreign taxes paid; (3) allowing the taxpayers to claim the exclusion when they receive certain income outside of the country; (4) removing the income from the taxpayers' tax computation. Repeals the election to forego the exclusion of such income. Prohibits taking foreign credits if the taxpayer takes the standard deduction.

H.R. 4076. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to provide that taxpayers shall not be required to pay the principal or interest for underpayments of taxes for any period prior to April 16, 1977 (March 16, 1977 in the case of a corporation), nor penalized for any failure to withhold and deduct taxes on remuneration paid before 1977, to the extent that such failures or underpayment are attributable to new or increased tax liabilities imposed by the Tax Reform Act.

H.R. 4077. February 24, 1977. Judiciary. Extends the design patent for the insignia of the United Daughters of the Confederacy for an additional 14 years.

H.R. 4078. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care including eyeglasses under the supplementary medical insurance program.

H.R. 4079. February 24, 1977. Banking, Finance and Urban Affairs; Education and Labor; Small Business. Provides emergency assistance necessitated by critical energy shortages or unusually severe weather to certain totally or partially laid off workers, businesses, and local governments.

Directs that the following executive departments and agencies participate in the administration and implementation of such assistance program: (1) Federal Disaster Assistance Administration, (2) Small Business Administration, (3) Department of Labor, and (4) Department of Commerce.

H.R. 4080. February 24, 1977. Public Works and Transportation. Stipulates that no Federal loan guarantees shall be made for turbojet-powered aircraft purchase loans for specified air carriers unless the aircraft to be purchased comply with specified noise standards for new subsonic aircraft.

H.R. 4081. February 24, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to prohibit the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates a noise level in excess of the level in effect for new subsonic aircraft.

H.R. 4082. February 24, 1977. Banking, Finance and Urban Affairs. Amends the Renegotiation Act of 1951 to limit the terms of members of the Renegotiation Board to five years, set rates of compensation for such members, and declare the Chairman of the Board its chief executive officer and confer upon him the duty to direct the executive functions of the Board.

Increases the minimum money value of contracts and subcontracts to which the Act is applicable. Sets other requirements with respect to exemptions under the Act and audits of reports submitted pursuant to the Act.

H.R. 4083. February 24, 1977. Merchant Marine and Fisheries. Establishes the Bicentennial Land Heritage Program for the acquisition, improvement, rehabilitation, and maintenance of units of the National Wildlife Refuge System, and for the improvement of community recreation facilities.

H.R. 4084. February 24, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 4085. February 24, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 4086. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4087. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to authorize payment of funds in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by the order of a court.

Increases the penalties for defrauding the Medicare and Medicaid programs.

Requires the Secretary of Health, Education, and Welfare to suspend any physician or practitioner from participation in the Medicare or Medicaid programs whenever such individual is convicted of a criminal offense related to their involvement in such programs.

H.R. 4088. February 24, 1977. Science and Technology. Authorizes the appropriation of designated sums to the National Aeronautics and Space Administration for research and development programs, construction of facilities including land acquistion, and research and program management.

Sets forth guidelines with respect to the use and availability of funds appropriated pursuant to this Act.

H.R. 4089. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to provide that recognized Indian tribes shall be treated as State governments in determining the tax treatment of: (1) charitable donations to the tribes; (2) excise tax liability on special fuels, manufacturing, communications and highway motor vehicles use; (3) tribal fellowships, colleges scholarships, and universities; (4) tribal taxes; (5) tribal retirement systems and donations to employee systems; (6) contributions to candidates for tribal bonds and other obligations.

H.R. 4090. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to limit the parimutual gambling winnings on horse and dog races and jai alai which are subject to tax withholding to one-half of the proceeds exceeding $1,000 where the winnings are at least 300 times the size of the wager.

H.R. 4091. February 24, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4092. February 24, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as house-

hold income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons

H.R. 4093. February 24, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4094. February 24, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any costs of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4095. February 24, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any costs of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4096. February 24, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4097. February 24, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4098. February 24, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4099. February 24, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4100. February 24, 1977. Post Office and Civil Service. Amends the Federal Aviation Act of 1958 to prohibit the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates a noise level in excess of the level in effect for new subsonic aircraft.

Amends the Clean Air Act to prohibit use of tolls or other charges for the use of New York City bridges as part of any clean air implementation plan.

Voids all such tolls and charges previously so included. Authorizes the Administrator of the Environmental Protection Agency to revise implementation plans through public hearing procedures should such a prohibition result in a failure to achieve air quality standards.

Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4101. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4102. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4103. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4104. February 24, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4105. February 24, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4106. February 24, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4107. February 24, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain organization in full settlement of such organization's claims against the United States.

H.R. 4108. February 24, 1977. Interior and Insular Affairs. Directs the Secretary of Agriculture to convey all rights in a certain parcel of land to a certain individual.

H.R. 4109. February 24, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4110. February 24, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4111. February 24, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4112. February 24, 1977. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4113. February 28, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 4114. February 28, 1977. Merchant Marine and Fisheries. Amends the National Sea Grant Program Act to authorize appropriations for the national sea grant program for fiscal year 1978.

H.R. 4115. February 28, 1977. Agriculture. Amends the Federal Meat Inspection Act to direct the Secretary of Agriculture to appoint inspectors to examine and inspect the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in slaughtering establishments inspected under the Act.

Directs the condemnation and destruction for food purposes of all carcasses and parts thereof which are not slaughtered in accordance with the prescribed methods of humane slaughter.

Prohibits the importation of any carcasses and parts thereof not slaughtered in accordance with such humane methods.

H.R. 4116. February 28, 1977. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to require as part of the private pension plan termination insurance program that the Pension Benefit Guarantee Corporation insure during periods when a beneficiary is unemployed and not eligible for benefits under the Social Security Act benefits which: (1) are forfeitable, have been in effect for less than 60 months, or are for other reasons deemed nonbasic; and (2) are payable before normal retirement age.

H.R. 4117. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to disallow business income tax deductions for expenses incurred for lobbying before Congress or other legislative bodies.

H.R. 4118. February 28, 1977. House Administration. Requires Federal agencies to publicly report to Congress all expenditures made for or on the behalf of a Member of Congress or a congressional employee with respect to the travel of such person and requires the committee of Congress which approved such travel to reimburse such agency for such expenditure.

H.R. 4119. February 28, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are available.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that paper ballots be made unavailable to persons unable to operate voting machines.

H.R. 4120. February 28, 1977. Education and Labor. Amends the Older Americans Act to 1965 to direct area and State agencies which administer or supervise State and community programs on aging pursuant to such Act to employ personnel adequately trained in the field of aging to deliver specified services to the aged. Authorizes grants to institutions of higher education to assist such institutions in planning, developing, and carrying out programs designed to apply the resources of higher education to the problems of the elderly.

H.R. 4121. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 4122. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 4123. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4124. February 28, 1977. Government Operations. Establishes the Commission on American Government to study the organization and operation of Federal agencies and to recommend improvements therein. Requires the Commission to make such interim reports as it deems necessary and final report not later than 30 months after the appointment of all Commission members. Terminates the Commission 90 days after the submission of its final report.

H.R. 4125. February 28, 1977. Education and Labor. Amends the National Labor Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to engage in, or induce any individual employed by any person to engage in, a strike, refusal to perform services, or threat thereof: (1) at the site of the construction, alteration, painting, or repair of any structure; and (2) directed at any of several persons in the construction industry who are either joint veterans or in the relationship of contractor and subcontractor in the performance of such construction, alteration, painting or repair.

H.R. 4126. February 28, 1977. Merchant Marine and Fisheries. Revises the boundaries of the Tinicum National Environmental Center, Pennsylvania. Increases the amount authorized to be appropriated for land acquisition for, and development of, such center.

H.R. 4127. February 28, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 4128. February 28, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

Prohibits specified unfair practices in the marketing of automotive gasoline.

H.R. 4129. February 28, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any organization plan to state the improvements expected to be gained by such reorganization.

H.R. 4130. February 28, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any organization plan to state the improvements expected to be gained by such reorganization.

H.R. 4131. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a nonrefundable income tax credit for a portion of their contributions to neighborhood corporations providing them with municipal services.

Provides for payments to these corporations by the Secretary of the Treasury of a portion of the non-Federal taxes paid by corporation members.

H.R. 4132. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 4133. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) to decrease from 20 to 10 the number of years a divorced woman must have been married to an insured individual in order for her to qualify for wife's or widow's benefits on his wage record.

Allows for the payment of reduced benefits in the case of a marriage of less than 20 years.

H.R. 4134. February 28, 1977. Interior and Insular Affairs. Revises the boundaries of the Manassas National Battlefield Park in Virginia. Authorizes the Secretary of the Interior to acquire additional lands for the battlefield and to make minor revisions in the boundary. Establishes procedures to allow owners of property within the boundaries of the battlefield to retain a right of use and occupancy.

H.R. 4135. February 28, 1977. Interstate and Foreign Commerce. Amends the Federal Aviation Act of 1958 to prohibit the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates a noise level in excess of the level in effect for new subsonic aircraft.

Amends the Clean Air Act to prohibit use of tolls or other charges for the use of New York City bridges as part of any clean air implementation plan.

Voids all such tolls and charges previously so included. Authorizes the Administrator of the Environmental Protection Agency to revise implementation plans through public hearing procedures should such a prohibition result in a failure to achieve air quality standards.

H.R. 4136. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under such Title may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned.

H.R. 4137. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to prohibit the inclusion of increases in monthly benefits under such Title as annual income for the purpose of determining eligibility for benefits, or the amount of benefits payable, under specified Veterans' benefits programs.

H.R. 4138. February 28, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable only to individuals who are both citizens and residents of the United States.

H.R. 4139. February 28, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 4140. February 28, 1977. Merchant Marine and Fisheries. Amends the Fishermen's Protective Act of 1967 to extend the period during which reimbursement under the Act is available to commercial fishermen seized by foreign nations.

H.R. 4141. February 28, 1977. Merchant Marine and Fisheries. Extends until October 1, 1980, the appropriation authorizations for the Seal Beach and San Francisco Bay National Wildlife Refuges, California, and for the Great Dismal Swamp National Wildlife Refuge in North Carolina.

H.R. 4142. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4143. February 28, 1977. Education and Labor. Amends the Act which established the Youth Conservation Corps to direct the Secretaries of Agriculture and Interior to jointly extend the Youth Conservation Corps so as to make possible the year-round employment of young adults.

H.R. 4144. February 28, 1977. International Relations. Extends the Export Administration Act of 1969 to September 30, 1978. Increases the fines (1) for violation of regulations issued under such Act, (2) for certain exportation to Communist-dominated nations, and (3) for certain other violations. Permits conditional deferral of such fines. Prohibits appropriations to carry out such Act after October 1, 1977, unless authorized by specific legislation. Authorizes appropriations for the Department of Commerce for fiscal year 1978 to carry out such Act.

H.R. 4145. February 28, 1977. Ways and Means. Directs the Secretary of Labor to reimburse States for unemployment compensation paid to a member of a group of employees certified by the Secretary as having a significant number or proportion of members totally or partially unemployed, or threatened with such unemployment, primarily due to the inability of an employer to obtain an adequate supply of natural gas.

H.R. 4146. February 28, 1977. Government Operations. Establishes an executive department to be known as the Department of Education, Training, and Careers to be administered by a Secretary of Education, Training, and Careers.

Transfers to such Department the Educational Division of the Department of Health, Education, and Welfare; other specified educational functions of the Secretary of Health, Education, and Welfare; and other specified educational functions of certain Federal departments and instrumentalities.

Redesignates the Department of Health, Education, and Welfare and the Secretary of such Department as the Department of Health and Welfare, and the Secretary of Health and Welfare.

H.R. 4147. February 28, 1977. Ways and Means. Amends the Internal Revene Code to

provide an additional income tax exemption for taxpayers, spouses, or dependents with serious mental or physical disabilities which result in death, or which can be expected to result in death or be of long-continued or indefinite duration.

H.R. 4148. February 28, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of crude petroleum and crude shale oil from Canada, when an equivalent amount of the same kind and quality of duty-paid foreign crude petroleum and crude shale oil has been exported to Canada within 30 days prior to entry.

H.R. 4149. February 28, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make financial assistance available to States to rehabilitate unsafe highway bridges. Establishes the Federal share of a bridge replacement of rehabilitation project. Amends the Highway Safety Act of 1976 to authorize appropriations from the Highway Trust Fund for bridge replacement and rehabilitation projects.

H.R. 4150. February 28, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education and Welfare to formulate and administer a utility stamp program under which, at the request of any State chief executive, any eligible household within such State shall have the opportunity to offset a portion of its utility bill with coupons amounting to an allotment of $25 monthly.

H.R. 4151. February 28, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to require studies of additional air pollution problems. Requires increased study of economic impact and cost-effective controls. Authorizes variances and extensions from standards applicable to stationary and mobile sources.

Establishes procedures for the prevention of significant deterioration of air quality. Imposes limitations on the use of indirect source controls. Prohibits conflicts of interest in State regulatory authorities.

Authorizes appropriations to carry out the Act for the next three fiscal years.

H.R. 4152. February 28, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study Como Bluff site, Wyoming, for possible inclusion into the National Park System.

H.R. 4153. February 28, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 4154. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow homeowners and renters who pay their gas bills an income tax credit for up to $25 of the expenses incurred in the conversion of pilot lights on gas cooking stoves, ranges and ovens to a system of manual ignition. Allows a $25 income tax deduction to other individuals and corporations for the same expenses.

H.R. 4155. February 28, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such Act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging his responsibilities under certain compliance deadlines contained in the Act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 4156. February 28, 1977. Interior and Insular Affairs. Requires that electric power in the southwestern power area be sold at agreed points or delivery and at uniform, nondiscriminatory rates.

Stipulates that agreed points of delivery shall not be changed unilaterally by the Secretary of the Interior.

H.R. 4157. February 28, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to assist in the establishment of water research and technology institutes to study water resources related problems. Authorizes appropriations to fund such institutes and related water research activities. Repeals the Water Resources Research Act of 1964.

Directs the Secretary to study the feasibility of converting saline or other contaminated water into usable water. Repeals the Saline Water Conversion Act of 1971.

H.R. 4158. February 28, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce; International Relations.

Amends the Mineral Leasing Act of 1920 to prohibit exports of domestically produced and pipeline-transported natural gas to foreign nations, with the exception of exchanges or temporary exports for convenience or increased efficiency of transportation.

H.R. 4159. February 28, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4160. February 28, 1977. Judiciary. Permits a certain corporation to appeal from an order issued by the Federal Communications Commision.

H.R. 4161. February 28, 1977. Judiciary. Declares a certain refined Postal Service employee totally disabled, and deems his injuries to have been employment related. Declares such individual eligible for disability benefits.

H.R. 4162. March 1, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 4163. March 1, 1977. Judiciary. Amends provisions imposing additional sentences for using or unlawfully carrying a firearm during a Federal felony to (1) increase the minimum sentence for a second or subsequent offense, (2) include the unlawful use of carrying of a destructive device or other dangerous weapon, and (3) prohibit a suspended or probationary sentence and deny parole with respect to any conviction under such section.

H.R. 4164. March 1, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for the relief of victims of the May 6, 1976, earthquake in Italy.

H.R. 4165. March 1, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to redefine "vessel of the United States," and to require the Secretary of Commerce to submit to Congress an annual report regarding foreign investment in the United States fishing industry.

H.R. 4166. March 1, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to redefine "vessel of the United States," and to require the Secretary of Commerce to submit to Congress an annual report regarding foreign investment in the United States fishing industry.

H.R. 4167. March 1, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction of modification of their habitats.

H.R. 4168. March 1, 1977. Interstate and Foreign Commerce. Deems any food containing more than 0.2 parts per million of polybrominated byphenyl adulterated for purposes of the Federal Food, Drug, and Cosmetic Act.

Prohibits any State from establishing or enforcing a standard less stringent than the standard established by this Act.

H.R. 4169. March 1, 1977. Interior and Insular Affairs. Recognizes the prior conveyances of title and interests in lands and waters now comprising the State of Maine made by the Passamaquoddy and Penobscot Indian Tribes as valid and binding. Limits the relief which may be granted as a result of claims arising out of the allegedly wrongful loss of aboriginal title rights in Maine by these tribes to monetary damages. Transfers all cases involving this Act to the United States District Court for the District of Maine.

H.R. 4170. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Prohibits any federally assisted continuing care institutions from requiring any cash payment in addition to or in lieu of its regular periodic charges for care and services unless such payment is made in accordance with a written contract or agreement which sets forth the rights and obligations of the parties involved.

H.R. 4171. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4172. March 1, 1977. Post Office and Civil Service. Entitles retired Federal law enforcement and firefighter personnel who were rehired and serving as law enforcement officers or firefighters on July 12, 1974 to have their annuities recomputed in accordance with the annuity benefits provided for retired firefighter and law enforcement personnel by the Act of Congress on such date.

H.R. 4173. March 1, 1977. Armed Services; Judiciary; Government Operations; Ways and Means. Reorganizes the intelligence agencies of the United States. Restricts the collection of information on any American. Limits the use of specified persons and specified methods to collect foreign intelligence. Creates civil remedies for persons whose rights have been abridged by a Federal officer acting under color of law.

H.R. 4174. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 4175. March 1, 1977. Banking, Finance and Urban Affairs. Requires the developers of all federally assisted condominium projects to disclose specific information on proposed new condominimum construction or conversion to condominium units of existing structures.

Establishes regulations to protect tenants in a leased-unit structure which is to be converted to condominium use.

Authorizes the Secretary of Housing and Urban Development to make grants to State and local governments to establish similar programs.

H.R. 4176. March 1, 1977. Interstate and Foreign Commerce. Prescribes criteria for Federal, State, and local agencies regulating electric utilities which would require that rate schedules accurately reflect long-run incremental costs of service and that price differentials for different customer

classes reflect actual documented differentials in costs of service.

Prohibits any allowance for recoupment of any advertising costs except if such advertising is designed to discourage energy consumption during peak load periods or to encourage conservation of electricity in general.

Establishes standards for the treatment of fuel adjustment clauses and for the determination of effective dates for proposed changes in rates and schedules.

H.R. 4177. March 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4178. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the accelerated amortization of coal conversion facilities over a 12 month period. Authorizes the President to enter into price guarantee contracts with any person operating or proposing to construct or operate such facilities in order to make them economically feasible and competitive with alternative fuels.

H.R. 4179. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide that podiatrists shall be treated the same as doctors of medicine for certification, claims payment, and related purposes.

Includes the cutting and removal of warts when done as routine foot care in the coverage provided under the Medicare supplementary medical insurance program.

H.R. 4180. March 1, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 4181. March 1, 1977. Judiciary. Amends the Bankruptcy Act to include among debts which have priority specified debts to consumers based on deposits of money made in connection with the purchase, lease, or rental of goods or services for personal or household use not delivered on the date of bankruptcy or on account of a cause of action based on the breach of an implied or express warranty in connection with such goods or services.

H.R. 4182. March 1, 1977. Public Works and Transportation; Interior and Insular Affairs. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey, and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 4183. March 1, 1977. Judiciary. Requires candidates for Federal office, Members of Congress, and specified officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4184. March 1, 1977. Government Operations. Establishes an Office of Inspector General within each of the Departments of Agriculture, Commerce, Housing and Urban Development, Interior, Labor, and Transportation, the Environmental Protection Agency, and the Energy Research and Development Association, General Services, National Aeronautics and Space and Veterans' Administration. Makes it the duty of such offices to direct the auditing investigation of the programs of the agency in which each such office is established and to recommend policies to each respective agency to promote the efficiency and economy of and to prevent and detect fraud and abuse in the programs administered by each agency.

H.R. 4185. March 1, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 4186. March 1, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions of the law allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 4187. March 1, 1977. Public Works and Transportation. Directs the Secretary of the Army to convey to the trustees of the Salem Wesleyan Church all rights, title, and interest of the United States in specified lands at the Jim Woodruff Dam and Reservoir, Florida.

H.R. 4188. March 1, 1977. Judiciary; Rules. Requires public notice of, and allows public participation in, rulemaking proceedings conducted by executive agencies. Requires all regulations promulgated by such agencies containing criminal penalties to be submitted to Congress for approval.

H.R. 4189. March 1, 1977. Education and Labor. Amends the Occupational Safety and Health Act to prohibit the assessment of a civil penalty for the initial citation of any employer for a violation of any standard or regulation imposed by such Act unless such employer fails to abate such violation within a specified time determined by the Secretary of Labor.

Permits the Secretary of Labor to inspect such employer and issue a citation, if necessary, to insure the abatement of any initial violation.

H.R. 4190. March 1, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 4191. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise tobacco products.

H.R. 4192. March 1, 1977. Banking, Finance and Urban Affairs. Establishes a Solar Energy Loan Administration to provide financial assistance for the purchase and installation of solar hardware. Requires that such solar equipment meet minimum standards prescribed under the Solar Heating and Cooling Demonstration Act.

H.R. 4193. March 1, 1977. Interior and Insular Affairs. Grants the consent of Congress to the California-Nevada interstate compact, designed to provide for the equitable apportionment of water within the Lake Tahoe, Truckee River, Carson River, and Walker River Basins.

H.R. 4194. March 1, 1977. Agriculture. Increases the amount of the capital stock of the Federal Crop Insurance Corporation subscribed by the United States of America.

H.R. 4195. March 1, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4196. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to decrease the floor on allowable medical deductions to 2 percent of adjusted gross income. Eliminates the 1 percent floor on deductions for drugs and medicine. Includes deductible amounts for medical insurance with other medical care expenses for which the 2 percent floor is applicable.

H.R. 4197. March 1, 1977. Post Office and Civil Service. Limits the number of civil service employees in grades above GS-13 after September 30, 1980.

H.R. 4198. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 4199. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such title.

H.R. 4200. March 1, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administrator to offer reinsurance against excess losses resulting for products liability claims or completed operations claims against small business concerns.

H.R. 4201. March 1, 1977. Post Office and Civil Service. Counts as creditable service for purposes of the Civil Service Retirement System Service by individuals creditable under the Railroad Retirement Act of 1974 performed before such person is employed by the Panama Canal Company or the Panama Railroad Company if such person is so employed before January 1, 1978.

H.R. 4202. March 1, 1977. Government Operations; Rules. Abolishes within 3 years of the enactment of this act, or 3 years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 4203. March 1, 1977. Armed Services. Grants an annuity to dependents of deceased members of the armed forces who performed the service required under the Retired Serviceman's Family Protection Plan which made them eligible for retired pay but who died before the effective date of such Plan.

H.R. 4204. March 1, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of Congress before October 1, 1978.

H.R. 4205. March 1, 1977. Education and Labor. Exempts musical and social programs and activities designed for parents and students from the prohibition against sex discrimination imposed by the Education Amendments of 1922.

H.R. 4206. March 1, 1977. Education and Labor. Amends the Education Amendments of 1972 to except from the sex discrimination prohibition of such Amendments gym-

nastics classes participation in which is limited to students of one sex only.

H.R. 4207. March 1, 1977. Agriculture. Amends the Commodity Exchange Act for the purpose of authorizing the President to remove a Commissioner of the Commodity Futures Trading Commission for cause.

H.R. 4208. March 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4209. March 1, 1977. Veterans' Affairs. Authorizes a presumption of service connection for cause of death for the purposes of payment of dependency and indemnity compensation in the case of a blinded veteran who had a service-connected disability rated permanent and total for at least one year immediately preceding death, if death was due to causes not the result of misconduct on the part of such veteran.

H.R. 4210. March 1, 1977. Education and Labor. Amends the Higher Education Act of 1965 and the National Defense Education Act of 1958 to defer payment of student loans for a period of not more than three years while the student is a participant in an accredited medical internship or residency program.

H.R. 4211. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish by regulation a uniform functional accounting system and statistical system for the purpose of calculating the reasonable cost of services provided by health services institutions.

Amends Titles XVIII (Medicare) and XIX (Medicare) of the Social Security Act to require providers of services to use such uniform accounting and statistical systems in determining the cost of service provided under the provisions of such Titles.

H.R. 4212. March 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4213. March 1, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration costs for vocational education programs.

Makes technical amendments to such Act.

H.R. 4214. March 1, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to reduce the age at which railroad employees and their spouses become eligible for annuities under such Act.

H.R. 4215. March 1, 1977. Education and Labor. Grants an annuity to dependents of deceased members of the armed forces who performed the service required under the Retired Serviceman's Family Protection Plan which made them eligible for retired pay but who died before the effective date of such plan.

Amends the Occupational Safety and Health Act of 1970 to provide that the requirements of such Act shall apply to the Congress, Federal agencies, and the courts of the United States.

Assigns to the Secretary of Health, Education, and Welfare, the case of any workplace under the authority or jurisdiction of the Secretary of Labor and, the Occupational Safety and Health Review Commission, the powers otherwise assigned to the Secretary of Labor or to such Commission, including the authority to (1) conduct investigations and inspections; (2) issue citations; and (3) conduct hearings and issue orders.

H.R. 4216. March 1, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 4217. March 1, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4218. March 1, 1977. Agriculture. Directs the Secretary of Agriculture to conduct a study and institute a pilot project regarding an aerobic digesters and to issue reports relating to such study and project. Authorizes the Secretary to make grants to specified small farmers for the construction of digesters which have been proven to be safe and efficient.

H.R. 4219. March 1, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to establish a guaranteed loan program for the acquisition and installation of solar energy heating and cooling systems in dwelling units.

H.R. 4220. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to authorize any taxpayer to elect to have any portion of any overpayment of tax or any contribution in money which the taxpayer forwards with the return for such taxable year be available, as the taxpayer may designate on such return, for the National Endowment for the Arts or the National Endowment for the Humanities.

H.R. 4221. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow an amortization deduction for qualified solar heating and cooling equipment placed in service for nonresidential structures. Makes qualified solar heating and cooling equipment eligible for the investment credit.

H.R. 4222. March 1, 1977. Science and Technology; Agriculture. Amends the Solar Heating and Cooling Demonstration Act of 1974 to establish a program of solar thermal conversion technology demonstration in nonresidential agricultural structures. Directs the Administrator of the Energy Research and Development Administration to administer such program, with the assistance of studies conducted by the Secretary of Agriculture.

H.R. 4223. March 1, 1977, Science and Technology; Agriculture. Amends the Solar Heating and Cooling Demonstration Act of 1974 to establish a program of solar thermal conversion technology demonstration in nonresidential agricultural structures. Directs the Administrator of the Energy Research and Development Administration to administer such program, with the assistance of studies conducted by the Secretary of Agriculture.

H.R. 4224. March 1, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4225 March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for a portion of the expenses incurred for the installation of qualified solar energy equipment in any residence.

H.R. 4226 March 1, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to extend medical assistance under such Title to all persons in need of mental health services regardless of age.

H.R. 4227. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 65 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with the taxpayer.

H.R. 4228. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 65 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with a taxpayer.

H.R. 4229. March 1, 1977. Agriculture. Increases the amount of the capital stock of the Federal Crop Insurance Corporation subscribed by the United States of America.

H.R. 4230. March 1, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or in part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 4231. March 1, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to revise the scope of Federal permit authority with respect to discharges of dredged or fill material in navigable waters. Requires permits for such discharges into wetlands adjacent to navigable waters.

Exempts farming, ranching, construction, and releted activities from such permit requirements.

H.R. 4232. March 1, 1977. Interstate and Foreign Commerce. Establishes a Commission on Genetic Research and Engineering to study and evaluate present laws and regulations concerning genetic research and engineering.

Requires the Commission to review and make recommendations with respect to genetic research and engineering conducted by Federal agencies.

H.R. 4233. March 1, 1977. International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to revise the formula for allocation of food and commodities to prohibit more than 25 percent of such aid from being allocated to countries which do not meet the poverty criteria of the International Development Association, with certain exceptions.

H.R. 4234. March 1, 1977. Interior and Insular Affairs. Designates specified lands in certain national forests as components of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 4235. January 1, 1977. Education and Labor. Amends the Wagner-Peyser Act to direct the Secretary of Labor to provide technical and management assistance to State public employment offices, establish a national clearing house for employment service information in the United States Employment Service, and implement an assistance program for certain State employment office job placement projects.

Directs the Secretary to study the merits of a nationwide job bank system and of replacing the State employment office system with a Federal office system.

H.R. 4236. March 1, 1977. Interior and Insular Affairs. Regulates surface and mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environment protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 4237. March 1, 1977. Veterans' Affairs. Designates the Veterans' Administration hospital in Saint Albans, New York, as the "Henry Schuman Veterans' Hospital."

H.R. 4238. March 1, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to sell reserved mineral interests of the United States in specified land in Florida to the recordowner of the surface thereof.

H.R. 4239. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4240. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4241. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individuals' estate in full settlement of such individual's claims against the United States.

H.R. 4242. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual's estate in full settlement of such individual's claims against the United States.

H.R. 4243. March 1, 1977. Interior and Insular Affairs. Authorizes and directs the Secretary of the Interior to convey a certain tract of land in California to a certain person, provided that the individual makes application and pays the fair market value for that land.

H.R. 4244. March 1, 1977. Judiciary. Directs the Secretary of the Interior to pay a specified sum to a certain individual to rectify a land transaction.

H.R. 4245. March 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4246. March 1, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4247. March 1, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4248. March 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4249. March 2, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 4250. March 2, 1977. Education and Labor. Amends the National Labor Relations Act to permit, subject to specified provisions, a labor organization to engage in, and induce others to engage in, a strike, refusal to perform services, or threat thereof (1) at a construction site; and (2) directed at anyone of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of work at such site.

Establishes a Construction Industry Collective Bargaining Committee in Department of Labor with jurisdiction over collective bargaining agreement disputes.

H.R. 4251. March 2, 1977. Post Office and Civil Service; Judiciary. Amends the Legislative Reorganization Act of 1946 to repeal automatic cost-of-living adjustments for Members of Congress. Abolishes such adjustments for: (1) certain executive and judicial employees and officials; (2) the Vice President; and (3) referees in bankruptcy.

H.R. 4252. March 2, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompass State crimes, (3) prohibit a suspended or probationary with respect to a first conviction, and (4) forbid a defendant to plead guilty to a lesser charge.

H.R. 4253. March 2, 1977. Government Operations; Rules. Requires the President to submit to Congress plans to reform once every ten years the regulatory activities of specified Federal agencies according to a staggered schedule set forth in this Act once every ten years. States that if Congress fails to enact comprehensive regulatory reform legislation dealing with such plan within a specified period the applicable agency shall cease to exist.

H.R. 4254. March 2, 1977. Government Operations: Rules. Requires the President to submit to Congress plans to reform once every ten years the regulatory activities of specified Federal agencies according to a staggered schedule set forth in this Act. States that if Congress fails to enact comprehensive regulatory reform legislation dealing with such plan within a specified period the applicable agency shall cease to exist.

H.R. 4255. March 2, 1977. Government Operations; Rules. Requires the President to submit to Congress plans to reform once every ten years the regulatory activities of specified Federal agencies according to a staggered schedule set forth in this Act. States that if Congress fails to enact comprehensive regulatory reform legislation dealing with such plan within a specified period the applicable agency shall cease to exist.

H.R. 4256. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance), of the Social Security Act to (1) remove the limitation on the amount of outside income which an individual may earn while receiving benefits under such Title; (2) revise certain eligibility requirements for such benefits; and (3) authorize direct payment to the provider of services to Medicare supplementary medical insurance beneficiaries under certain circumstances.

Amends the Social Security Act and the Internal Revenue Code to allow individuals 65 years of age or older to elect to exemot wages and self-employment income from social security taxation.

H.R. 4257. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance), of the Social Security Act to (1) remove the limitation on the amount of outside income which an individual may earn while receiving benefits under such Title; (2) revise certain eligibility requirements for such benefits; and (3) authorize direct payment to the provider of services to Medicare supplementary medical insurance beneficiaries under certain circumstances.

Amends the Social Security Act and the Internal Revenue Code to allow individuals 65 years of age or older to elect to exempt wages and self-employment income from social security taxation.

H.R. 4258. March 2, 1977. Armed Services. Authorizes appropriations in specified amounts for fiscal year 1978 for the procurement of naval vessels for the armed forces. Prohibits the obligation of funds authorized under this Act for a certain guided missile destroyer program for material or components which are not suitable for use in a nuclear powered strike cruiser until the President has made certain determinations and has reported them to Congress.

H.R. 4259. March 2, 1977. International Relations. Authorizes appropriations for the relief of victims of the May 6, 1976, earthquake in Italy.

H.R. 4260. March 2, 1977. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of each Federal agency every ten years and to recommend to the President and Congress reorganization or abolition of each such agency as may be necessary to improve such efficiency and effectiveness. Abolishes each such agency upon the due date of such report unless during the ten-year period since the last report Congress has passed legislation continuing such agency.

H.R. 4261. March 2, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a program of information and assistance to States and localities in order to control mosquitoes. Authorizes studies, investigations, and grants to qualified State plans to effectuate the purposes of this Act.

H.R. 4262. March 2, 1977. Post Office and Civil Service. Includes civilian security police of the Department of Defense within the civil service retirement provisions applicable to law enforcement officers and firefighters.

H.R. 4263. March 2, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4264. March 2, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) permit Federal courts to impose an additional term of imprisonment upon anyone using or carrying a firearm during the commission of a felony which may be prosecuted in a Federal court, (2) require Federal courts to impose such a sentence for a second or subsequent such conviction, and (3) classify felons using or carrying firearms as dangerous special offenders.

H.R. 4265. March 2, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4266. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons jobs, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing disolaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4267. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons job, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4268. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons job, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4269. March 2, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to raise the limitations on the amount of insurance on residential, business, and church properties which may be obtained under the Act.

H.R. 4270. March 2, 1977. Public Works and Transportation. Designates the Federal building and United States Courthouse in Hato Rey, Puerto Rico, the "Federico Degateau Federal Building."

H.R. 4271. March 2, 1977. Interstate and Foreign Commerce. Imposes a minimum and increases the maximum sentence for distribution of narcotic drugs and hallucinogens other than marihuana, peyote, and mescaline. Prohibits the granting of a probationary or suspended sentence with respect to such a crime.

Eliminates the additional sentence for distribution of such a substance to a person under 21 years old.

H.R. 4272. March 2, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) increase the penalty for using or carrying a firearm during the commission of a Federal felony and (2) prohibit suspended or probationary sentences for anyone convicted under provisions of the Act.

H.R. 4273. March 2, 1977. Judiciary. Revises the jurisdiction of the Supreme Court and United States district courts to prohibit the consideration of any case arising out of a State law relative to abortion.

H.R. 4274. March 2, 1977. Judiciary. Removes the jurisdiction of the United States Supreme Court and the Federal district courts over any case arising out of State statute, ordinance, rule, or regulation which relates to the assignment of public school students to particular schools because of race, creed, color, or sex.

H.R. 4275. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and implement youth camp safety standards, including standards for day camps, resident camps, and travel camps.

Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 4276. March 2, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 4277. March 2, 1977. Judiciary. Permits the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries conducted by a nonprofit organization and authorized by State law.

Defines "nonprofit organization" as any religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organization or association not organized for profit and none of the net income of which inures to the benefit of any private individual.

H.R. 4278. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title IV (Aid to Families with Dependent Children), Title XVIII (Medicare), and Title XIX (Medicaid) of the Social Security Act to provide that the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance shall be set at 75 percent.

H.R. 4279. March 2, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 4280. March 2, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 4281. March 2, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 4282. March 2, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4283. March 2, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4284. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 4285. March 2, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions of the law allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 4286. March 2, 1977. Education and Labor. Establishes, within the Department of Health, Education, and Welfare, an Office of Youth Camp Safety to develop, with the approval of the Secretary, youth camp safety standards, including standards for day camps, resident camps, and travel camps.

Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 4287. March 2, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to extend the applicability of such Act to mines other than coal mines. Transfers mine health and safety functions from the Secretary of the Interior to the Secretary of Labor.

Revises procedures for establishment and enforcement of mine health and safety standards. Authorizes the payment of compensation to miners idled by mine closures resulting from orders issued pursuant to this Act.

Repeals the Federal Metal and Nonmetallic Mine Safety Act of 1966.

H.R. 4288. March 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 4289. March 2, 1977. Agriculture. Requires the Federal Crop Insurance Corporation, under the Federal Crop Insurance Act, to reopen for 30 days the period during which insurance or reinsurance applications may be made by persons in counties in which the Secretary of Agriculture determines a state of emergency exists with respect to insurable crops.

H.R. 4290. March 2, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 4291. March 2, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to entitle surviving spouses of deceased railroad employees who have remarried but whose remarriage has terminated to an annuity. Stipulates that, in the case of an individual who has been widowed with respect to two or more deceased employees, such person shall be entitled to only one annuity. Stipulates that such an individual shall be considered the surviving spouse of the employee by which such consideration will result in the higher annuity.

H.R. 4292. March 2, 1977. Judiciary. Provides for appointment of a special prosecutor to investigate alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 4293. March 3, 1977. Agriculture. Provides under the Agricultural Adjustment Act of 1938 that leasing of flue-cured tobacco acreage-poundage marketing quotas after June 15 of any year be permitted only between farms on which at least 80 percent of the farm acreage allotment (currently 50 percent) was planted for such year.

H.R. 4294. March 2, 1977. Education and Labor. Civil Rights Amendments—Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of marital status in (1) public accommodations, (2) public facilities, (3) public education, and (4) federally assisted opportunities. Prohibits such discrimination in housing. Amends the Education Amendments of 1972 to prohibit such discrimination in federally assisted education.

H.R. 4295. March 2, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 4296. March 2, 1977. Agriculture. Provides, under the Consolidated Farm and Rural Development Act, that emergency loans shall be made available in any area of the United States, Puerto Rico, or the Virgin Islands which the Secretary of Agriculture has designated an emergency area due to a labor dispute, in which farmers are not participants, but which has prevented the production, processing or sale of products produced by farming, ranching or aquaculture operations.

H.R. 4297. March 2, 1977. Science and Technology; Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to extend through fiscal year 1978 the authorization of appropriations necessary to carry out the purposes of the Act with respect to: (1) the regulation of and research pertaining to ocean dumping; and (2) the acquisition, development, and operation of the marine sanctuaries.

H.R. 4298. March 2, 1977. Ways and Means. Revises Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to: (1) eliminate the five-month waiting period for disability benefits; (2) permit adopted children to qualify for benefits without regard to time of adoption; (3) eliminate the reconsideration stage in benefit determinations; (4) provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed; and (5) provide for expedited benefit payments to disability beneficiaries.

Increases the amount of outside earnings which an individual may earn without a deduction in benefits under Title II of the Social Security Act.

H.R. 4299. March 2, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to make recommendations for rates of pay for Members of Congress and the Resident Commissioner from Puerto Rico, transmitted by the President to Congress, subject to congressional approval by specific resolution passed by each House. Sets forth the rules and procedure to be followed with respect to consideration of such resolution.

Amends the Legislative Reorganization Act of 1946 to establish the annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and House and Senate leadership at the rates in effect on September 30, 1976.

H.R. 4300. March 2, 1977. Judiciary. Revises provisions imposing penalties for the commission of rape, including carnal knowledge of a female under age 16, within the special maritime and territorial jurisdiction of the United States to (1) set forth penalties for any unconsented sexual contact or penetration; (2) proscribe sexual contact or penetration with any person under age 18; (3) detail sentencing guidelines; and (4) prohibit introduction of evidence regarding a victim's prior sexual conduct absent a ruling by the court after an in camera hearing.

H.R. 4301. March 2, 1977. Merchant Marine and Fisheries. Amends the National Sea Grant Program Act to authorize appropriations for fiscal year 1978 to continue the national projects program, and to carry out the purposes of the Act.

H.R. 4302. March 2, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that an individual who has completed 30 years of service shall be deemed to have a "current connection with the railroad industry" for purposes of such Act.

H.R. 4303. March 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to revise certain eligibility requirements. Authorizes (1) payment of full benefits to disabled wives, husbands, widows and widowers without regard to age; (2) benefits for essential spouses of disability beneficiaries without regard to age or children in care; (3) payment of child's insurance benefits based on the wage record of a supporting relative in certain cases; and (4) computation of a married couple's benefits based on their combined earnings record. Repeals specified earnings tests used in reducing benefits.

H.R. 4304. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act to authorize medicare coverage for disabled individuals under age 65 from the first month of their entitlement to benefits based on disability, in cases where the individuals involved become reentitled to such coverage after a previous coverage period which ended within the previous 60 months.

Amends the Railroad Retirement Act of 1937 to extend the same provisions to individuals previously covered by such Act who are now under Title II of the Social Security Act.

H.R. 4305. March 2, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 4306. March 2, 1977. Government Operations. Amends the Budget and Accounting Act, 1921, to require that all departmental budget requests made to the Office of Management and Budget with respect to any fiscal year be submitted to the Congress along with the President's budget for such year. Requires officials requested by the appropriate committees of the Congress to testify before such committees on the President's budget and on such departmental budget requests.

H.R. 4307. March 2, 1977. House Administration. Amends the Federal Election Campaign Act to limit the purposes for which contributions made to a Federal officeholder to support his official activities may be used for (1) ordinary and necessary expenses incurred in official duties and (2) charitable contributions. Prohibits use of such funds to defray campaign costs.

Limits the purposes for which a candidate for Federal office may use excess campaign contributions to (1) reimbursement of contributors, (2) deposits in the Presidential Election Campaign Fund, (3) expenses in future elections, and (4) in the case of successful candidates, expenses incurred in official duties.

H.R. 4308. March 2, 1977. Judiciary. Amends the Immigration and Nationality Act to: (1) increase limitations for immigrants born in foreign states in the western hemisphere and the Canal Zone; (2) increases the number of visas and conditional entries for natives of foreign contiguous territories; and (3) waive the labor certification requirement for specified contiguous-territory relatives of U.S. residents.

H.R. 4309. March 2, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4310. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide that taxpayers shall not be required to pay the principal or interest for underpayments of taxes for any period prior to April 16, 1977 (March 16, 1977 in the case of a corporation), nor penalized for any failure to withhold and deduct taxes on remuneration paid before 1977, to the extent that such failures or underpayment are attributable to new or increased tax liabilities imposed by the Tax Reform Act.

H.R. 4311. March 2, 1977. Judiciary; District of Columbia. Empowers a judicial officer of a Federal or District of Columbia court to deny pretrial release to a person charged with a violent crime upon finding that no conditions of release can reasonably assure that such person will not flee or pose a danger to any other person or to the community.

H.R. 4312. March 2, 1977. Education and Labor. Directs the Secreetary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4313. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4314. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4315. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4316. March 2, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself.

Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 4317. March 2, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Regulates the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 4318. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such title.

H.R. 4319. March 2, 1977. Post Office and Civil Service. Requires the retirement of any

Federal employee reappointed after a break in service of more than three days who has attained age 70 years and has completed five years of creditable service. Permits Federal retirees with five years of creditable service to retain their life and health insurance benefits and receive Federal annuities.

H.R. 4320. March 2, 1977. Post Office and Civil Service. Discontinues civil service pension annuities during the period an annuitant is serving as a judge or justice of the United States. Permits such person, upon termination of judicial service, to elect to continue receiving an annuity or to receive a lump-sum payment.

Permits retirees entitled to elect a reduced annuity with a survivor annuity by reason of marriage which occurred after retirement but before January 8, 1971, who failed to make such election within the maximum time allowable because of a failure to notify such person of such right, to make such election within one year after the effective date of this Act.

H.R. 4321. March 2, 1977. Judiciary. Directs the Attorney General to establish Special Drug Forces in the Department of Justice composed of law enforcement personnel and special United States attorneys.

Declares the duty of the drug forces to be to assist States and local governments in which there is an unusually large amount of drug trafficking and whose law enforcement and criminal justice system is unable to effectively prosecute violations of the Controlled Substances Act.

H.R. 4322. March 2, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4323. March 2, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4324. March 2, 1977 Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4325. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for a taxpayer or his spouse who is deaf.

H.R. 4326. March 2, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to formulate and administer a fuel stamp program under which, at the request of any State chief executive, an eligible household within such State shall have the opportunity to offset a portion of its fuel bill with coupons amounting to an allotment of $25 monthly.

H.R. 4327. March 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semi-annual basis (rather than only on an annual basis as at present).

H.R. 4328. March 2, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 4329. March 2, 1977. House Administration. Sets forth requirements for State Presidential primary elections with respect to (1) dates of such elections, (2) eligibility of a political party for a separate ballot, (3) eligibility of voters, (4) scope of voter choice, (5) allocation of delegates at nominating conventions, and (6) selection of convention delegates.

Specifies alternative procedures for obtaining placement on primary ballots.

H.R. 4330. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) and title XIX (medicaid) of the Social Security Act to provide payment for services performed by professional clinical social workers. Includes outpatient services, community mental health centers, and neighborhood health centers among "qualified providers" under titles XVIII and XIX. Removes specified limitations which are imposed on coverage of psychiatric and mental health services under such titles.

H.R. 4331. March 2, 1977. Judiciary. Declares any law, regulation, or contract requiring an employee to assign to his employer all patent rights to any invention of the employee void unless the invention (1) was made by an employee while performing compensated services, (2) specifically relates or grew out of work performed by the employee for the employer, or (3) was made with the use of the employer's materials or facilities.

H.R. 4332. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 4333. March 2, 1977. Armed Services. Authorizes the Secretary of Defense to transfer to the Secretary of the Interior a specified part of Fort Story Military Reservation, Cape Henry, Va., for inclusion in the Colonial National Historical Park.

H.R. 4334. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 4335. March 2, 1977, Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 4336. March 2, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend for one year the emergency compensation program thereunder so as to permit benefits to be paid with respect to weeks ending before March 31, 1978.

H.R. 4337. March 2, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 4338. March 2, 1977. Judiciary. Directs the Attorney General to make a record of lawful admission for permanent residence for illegal aliens who meet specified conditions who were in the United States prior to July 4, 1976 and for certain aliens with nonimmigrant or parolee status.

Amends the Immigration and Nationality Act to subject employers who bring into the United States or harbor illegal aliens to a fine or imprisonment.

H.R. 4339. March 2, 1977. Public Works and Transportation; Ways and Means. Directs the Secretary of the Army to promulgate regulations establishing a user charge for shallow-draft cargo vessels for the use by such vessels of any navigation project on any inland waterway of the United States.

Amends the Federal-Aid Highway Act of 1976 to extend the time during which the National Transportation Policy Study Commission has to submit its final report to Congress regarding its study of the transportation needs of the United States.

Amends the Internal Revenue Code to impose a tax on the sale of fuels used by shallow-draft vessels used in commercial inland waterway transportation.

H.R. 4340. March 2, 1977. Education and Labor. Amends the administration and enforcement procedures of the Employee Retirement Income Security Act of 1974 to direct the President to establish an Employee Benefit Administration.

Empowers such Administration to perform, among other duties, (1) the functions of the Secretary of Labor under the Employee Retirement Income Security Act and the Welfare and Pension Plans Disclosure Act and (2) such functions of the Secretary of the Treasury under the Internal Revenue Code regarding employee benefit plans and under the Employee Retirement Income Security Act as the President may designate.

Establishes the Pension Benefit Guarantee Corporation within the Administration.

H.R. 4341. March 2, 1977. Veterans' Affairs. Eliminates the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs in connection with the granting of loans to veterans for the purchase of such homes.

H.R. 4342. March 2, 1977. Agriculture. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate with up to $2,500 forgiveness on the loan; or (2) a one percent interest rate with no forgiveness clause.

H.R. 4343. March 2, 1977. Post Office and Civil Service. Sets forth a plan for the conduct of labor-management relations in the Federal service. Establishes the Federal Labor Relations Authority, responsible for carrying out the purposes of this Act.

H.R. 4344. March 2, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4345. March 2, 1977. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 4346. March 2, 1977. Banking, Finance and Urban Affairs. Establishes a Federal Bank Commission to administer all Federal laws regulating the banking business, foreign and domestic.

Transfers to such Commission all bank examining and supervisory functions of the Board of Directors of the Federal Deposit Insurance Corporation, and specified functions of the Comptroller of the Currency.

Transfers to such Commission all functions of the Federal Reserve System under the Bank Holding Company Act, the Consumer Credit Protection Act, the Edge Act, the Clayton Act, the Banking Act of 1933, and the Securities Acts with certain exceptions.

H.R. 4347. March 2, 1977. Judiciary. Relieves the Milton Public Library, Milton, Pennsylvania, and the Himmelreich Library, Lewisburg, Pennsylvania, of all liability to the United States for allegedly wrongful payments by the Federal Disaster Assistance Administration.

H.R. 4348. March 2, 1977. Public Works and Transportation. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey, and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 4349. March 2, 1977. Judiciary. Relieves certain Pennsylvania libraries of liability for allegedly wrongful payments by the Federal Disaster Assistance Administration.

H.R. 4350. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a non-refundable income tax credit for the first $300 in expenses incurred with respect to each dependent for primary or secondary education in a private nonprofit school.

H.R. 4351. March 2, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 4352. March 2, 1977. International Relations. Amends the Export Administration Act of 1969 to direct the Secretary of Commerce to prohibit participation of domestic concerns in foreign restrictive trade practices or boycotts. Imposes a penalty for violation of such prohibitions. Authorizes civil actions for treble damages by persons aggrieved by violations of this Act. Repeals the authority of the President to allocate a portion of export licenses on factors other than exportation history.

H.R. 4353. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 4354. March 2, 1977. Interior and Insular Affairs. Enlarges the boundaries of Sequoia National Park, Calif., by including Mineral King Valley.

H.R. 4355. March 2, 1977. Post Office and Civil Service. Prohibits cost-of-living salary adjustments for Members of Congress pursuant to the Legislative Reorganization Act of 1946 on or after October 1, 1977, and before October 1, 1978.

H.R. 4356. March 2, 1977. Banking, Finance and Urban Affairs. Requires appropriate Federal financial supervisory agencies to develop programs and procedures which will encourage financial institutions to help meet the credit needs of the local communities in which they are chartered.

H.R. 4357. March 2, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

H.R. 4358. March 2, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency. Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4359. March 2, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4360. March 2, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4361. March 2, 1977. Merchant Marine and Fisheries; Ways and Means. Prohibits the importation of fish or fish products produced by any foreign nation which (1) is engaged in the killing or capturing of whales, (2) is not a member of the International Whaling Commission, (3) violates certain Commission regulations, and (4) transfers equipment for the killing or capturing of whales to any other enterprise which engages in certain activities concerning the killing or capturing of whales within ten years of such transfer.

Sets forth procedures for implementation of such prohibitions by the Secretary of Commerce and the Secretary of the Treasury.

H.R. 4362. March 2, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 4363. March 2, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority contracts. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 4364. March 2, 1977. Judiciary. Amends provisions of Federal law setting forth penalties for interstate or foreign commerce in stolen cattle to include stolen swine, sheep, fowl, insects, horses, mules, or carcasses thereof.

H.R. 4365. March 2, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 4366. March 2, 1977. Judiciary. Grants a Federal charter to the National Opportunity Camps.

H.R. 4367. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4368. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4369. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4370. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4371. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formula Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4372. March 2, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals

H.R. 4373. March 2, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 4374. March 2, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 4375. March 2, 1977. Judiciary. Includes investigation, inspection, and law enforcement personnel of the Department of the Interior in the list of Federal officials whose homicide shall be subject to Federal criminal laws.

H.R. 4376. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to limit application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4377. March 2, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior and the Cherokee, Choctaw, and Chickasaw Indian Nations to enter lease or purchase agreements transferring the Nation's rights and interests in the Arkansas Riverbed to the United States, subject to the approval of both Houses of Congress.

H.R. 4378. March 2, 1977. Interior and Insular Affairs. Provides for the quadrennial election of officers and a tribal council of the Osage Indian Tribe of Oklahoma. Outlines the procedure for the election, filling of vacancies, and removal of such officials.

H.R. 4379. March 2, 1977. Interior and Insular Affairs. Amends the Act reserving certain mineral rights to the Osage Tribe of Oklahoma to make those rights perpetual.

H.R. 4380. March 2, 1977. Interior and Insular Affairs. Amends the Act placing certain property of the Osage Tribe of Oklahoma in the trusteeship of the United States, to continue such trusteeship indefinitely.

H.R. 4381. March 2, 1977. Interior and Insular Affairs. Provides that the Department of the Interior may determine the heirs of legatees of any deceased owner of mineral rights, unrestricted real estate, or funds on deposit of the Osage Tribe of Oklahoma.

H.R. 4382. March 2, 1977. Interior and Insular Affairs. Amends certain provisions of law to permit any adult member of the Osage Indian Tribe of Oklahoma to dispose of his estate by will and establish an intervivos trust. Places the property of deceased and incompetent members of that tribe under the jurisdiction of the District Court of Oklahoma. Restricts the inheritance rights of persons not of Osage or Indian blood in certain interests.

H.R. 4383. March 2, 1977. Interior and Insular Affairs. Repeals the Act requiring the Secretary of the Interior to issue a certificate of competency to members of the Osage Tribe of Oklahoma of less than one-half In-

dian blood. Requires the Secretary to revoke, upon application, certificates of competency issued to members of the Osage Tribe under certain provisions of law. Removes certain distinctions between full-blooded Osage Indians and half-blooded members of that tribe.

H.R. 4384. March 2, 1977. Ways and Means; Interior and Insular Affairs. Exempts the Osage Indians of Oklahoma and their estates from the payment of estate, inheritance and income taxes on any Osage headright or mineral interest and the income derived from that interest.

H.R. 4385. March 2, 1977. Interior and Insular Affairs. Provides for the use of certain funds related to the Osage Indian Tribe of Oklahoma.

H.R. 4386. March 2, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to establish rules and regulations pertaining to leases on oil and gas within the Osage Indian Tribes mineral estate so that oil and gas leases producing from a common source of supply may be unitized.

H.R. 4387. March 2, 1977. Judiciary. Relieves certain Pennsylvania libraries of liability for allegedly wrongful payments by the Federal Disaster Assistance Administration.

H.R. 4388. March 2, 1977. Education and Labor; Ways and Means. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria with respect to the black lung benefits program established under such Act.

Creates the Black Lung Disability Insurance Fund for the payment of claims, to be financed by the imposition of an excise tax on coal mine operators.

H.R. 4389. March 2, 1977. Education and Labor; Ways and Means. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria with respect to the black lung benefits program established under such Act.

Creates the Black Lung Disability Insurance Fund for the payment of claims, to be financed by the imposition of an excise tax on coal mine operators.

H.R. 4390. March 2, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to construct interceptor and collector drains as part of the San Luis Unit, Central Valley Project, California.

H.R. 4391. March 2, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to authorize the Secretary of Housing and Urban Development to make contributions to enable public housing agencies to enter into security arrangements designed to prevent crimes and insure the safety and well-being of tenants.

H.R. 4392. March 2, 1977. Ways and Means. Amends the Social Security Act in order to replace all existing Federal public assistance and welfare programs with a guaranteed annual income program.

H.R. 4393. March 2, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 4394. March 2, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all research, extension, and teaching activity in the food and agricultural sciences conducted or financed by the Department of Agriculture and other agencies of the executive branch of the Federal Government. Authorizes the Secretary to cooperate with and assist the States in carrying out programs of animal disease research. Establishes competitive grants and teaching assistantship programs to help carry out the purposes of this Act.

H.R. 4395. March 2, 1977. Veterans' Affairs. Provides that all decisions of the Administrator of Veterans' Affairs be subject to judicial review and that all rules, regulations, orders and determinations of the Administrator be subject to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 4396. March 2, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to include within the definitions of "air commerce" and "air transportation" intrastate air commerce and transportation.

H.R. 4397. March 2, 1977. Agriculture; International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to extend authority to finance agricultural commodity sales and to enter into commodity assistance programs to 1981.

H.R. 4398. March 3, 1977. Education and Labor. Amends requirements of the Comprehensive Employment and Training Act of 1973 for prime sponsor comprehensive manpower plans under the comprehensive manpower services program and for applications for assistance under the public service employment programs.

Revises eligibility for designation as prime sponsors and composition guidelines for prime sponsor planning councils.

Imposes restrictions relative to the operation of public service employment programs.

Revises conditions applicable to all programs under the Comprehensive Employment and Training Act of 1973.

H.R. 4399. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals treat amounts for certain improvements to property for medical care purposes as deductible medical care expenses without reducing the deduction for any increase in the value of the property.

H.R. 4400. March 2, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commission.

H.R. 4401. March 3, 1977. Judiciary. Authorizes the conditional admission of a certain person to the United States for permanent residence.

H.R. 4402. March 2, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4403. March 2, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4404. March 2, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4405. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to include chronic renal disease requiring hemodialysis or renal transplantation within the definition of the term "disability" for purposes of determining an individual's eligibility for disability insurance benefits without regard to such individual's ability or inability to engage in substantial gainful activity.

H.R. 4406. March 3, 1977. Government Operations. Amends the Intergovernmental Cooperation Act of 1968 to require the Federal Government to coordinate any sale, purchase, or change of use of Federal real estate with State and local authorities. Requires as a condition for Federal areawide development assistance that State and local governments and areawide agencies prepare coordinated areawide development plans.

H.R. 4407. March 3, 1977. Judiciary. Amends provisions imposing additional sentences for commission of a Federal felony with the use of, or while unlawfully carrying, a firearm to (1) increase the minimum authorized sentence, (2) remove maximum limits for such sentences, and (3) prohibit suspended and probationary sentences with respect to first, as well as to subsequent, convictions.

H.R. 4408. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit, and for all persons receiving retirement benefits under a public retirement system.

H.R. 4409. March 3, 1977. International Relations. Sets forth United States nuclear nonproliferation policy. Directs that the United States initiate negotiations to establish criteria and safeguards for nuclear materials and equipment. Directs that the United States assure an international nuclear fuel supply. Revises the procedures for approval of proposed international agreements for cooperation.

Grants the Nuclear Regulatory Commission authority to approve retransfers under such agreements. Sets forth the licensing criteria for nuclear exports. Restricts the authority of ERDA to distribute special nuclear material. Permits the President to suspend nuclear export licensing to prevent proliferation.

H.R. 4410. March 3, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Regulates the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 4411. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4412. March 3, 1977. Ways and Means; Interstate and Foreign Commerce. Presents a national health care plan. Establishes a program of grants and loans for the construction and modernization of comprehensive ambulatory health care centers. Sets forth a health care insurance program.

Amends the Internal Revenue Code to provide an unlimited personal deduction for amounts paid for health care plans providing specified minimum benefits. Limits the deductions employers may take for contributions to employee health care plans. Limits the damages available in malpractice suits arising from the furnishing of services under such a health care plan, or under the Social Security Act.

H.R. 4413. March 3, 1977. Post Office and Civil Service. Requires agency heads to notify each employee of any administrative procedure through which adverse agency action, taken or proposed, may be challenged.

H.R. 4414. March 3, 1977. Ways and Means. Revises the Internal Revenue Code by amending and repealing portions of the Code with respect to capital gains and losses, income derived from the extraction of minerals, individual and corporate income, the estate and gift tax and State and local obligations.

H.R. 4415. March 3, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks

under Titles II and XVI falls on a Saturday, Sunday, or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday, or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 4416. March 3, 1977. Education and Labor. Repeals the Occupational Safety and Health Act of 1970.

H.R. 4417. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 4418. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for the amounts paid to meet the educational expenses at a higher education institution or a trade or vocational school for the taxpayer, his spouse or any individual for which the taxpayer is entitled to a personal exemption.

H.R. 4419. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4420. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4421. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4422. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4423. March 3, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title I (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4424. March 3, 1977. Ways and Means, Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 4425. March 3, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 4426. March 3, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria for the black lung benefits program established under such Act. Requires a re-evaluation of prior claims in light of changes made by this Act.

H.R. 4427. March 3, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, currently applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 4428. March 3, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 4429. March 3, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 4430. March 3, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 4431. March 3, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 4432. March 3, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 4433. March 3, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to exempt from the antitrust laws certain market allocation agreements made as part of a licensing contract for the manufacture, distribution or sale of trademarked soft drink products.

H.R. 4434. March 3, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4435. March 3, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the current Population Survey to provide each State, Puerto Rico, Guam, Virgin Islands, and District of Columbia monthly statistics of the number of unemployed persons within its jurisdiction.

H.R. 4436. March 3, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the current Population Survey to provide each State, Puerto Rico, Guam, Virgin Islands, and District of Columbia monthly statistics of the number of unemployed persons within its jurisdiction.

H.R. 4437. March 3, 1977. Agriculture. Amends the Agricultural Act of 1949 to establish the support price of milk at not less than 85 percent of parity, adjusted quarterly.

H.R. 4438. March 3, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that prescription drugs manufactured in final dosage form and distributed or packed by a different person be labeled to show the identity of both the manufacturer and the distributor or packer.

H.R. 4439. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 4440. March 3, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the procedures for voluntary departure of illegal aliens and to set minimum penalties for entering the United States illegally and for bringing in or harboring an illegal alien.

Sets the border patrol force at a minimum of 3,800 officers. Requires the Attorney General to study the feasibility of requiring aliens to carry machine readable identification cards and of providing the border patrol with electronic sensing devices.

H.R. 4441. March 3, 1977. Government Operations; Rules. Terminates the Civil Aeronautics Board, the Federal Aviation Administration, and the Occupational Safety and Health Administration of the Department of Labor on October 1, 1980. Terminates the Federal Energy Administration, the Interstate Commerce Commission, and the Federal Marine Commission on October 1, 1981. States that such agencies may be continued for an additional period of time if such extension is authorized by specific legislation after public hearings are held on the appropriateness of such extension and after receipt of reports from the General Accounting Office, the Congressional Budget Office, and the Office of Management and Budget fully evaluating each such agency separately.

H.R. 4442. March 3, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Directs the Secretary of the Treasury to make payments to each State of the Nation during each of the five fiscal years following enactment of this Act for the purpose of financing a program which is established and maintained by each State to assist in meeting the nutritional needs of its citizens.

H.R. 4443. March 3, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 4444. March 3, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revision or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 4445. March 3, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4446. March 3, 1977. Armed Services. Entitles members of the armed forces reserves who were on active duty after August 13, 1961, and before May 31, 1963, or after August 5, 1964, to retired pay.

H.R. 4447. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Department of Health, Education, and Welfare to convey specified lands in the State of California to D-Q University.

H.R. 4448. March 3, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 4449. March 3, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal aliens to that of alien lawfully admitted for permanent residence.

H.R. 4450. March 3, 1977. Judiciary. Amends the Bail Reform Act of 1966 to require consideration of the safety of others and the community at large in setting conditions for pretrial release.

Permits the Government to appeal conditions of release in certain circumstances. Directs that a convicted person who has filed an appeal be detained unless it is shown by clear and convincing evidence that the appeal raises a substantial question of law or fact.

Sets forth sanctions for violating release conditions, threatening witnesses or jurors while on release, and committing serious offenses while on release.

H.R. 4451. March 3, 1977. Interior and Insular Affairs; International Relations. Amends the Mineral Leasing Act of 1920 to prohibit exports of domestically-produced and pipeline-transported crude oil to foreign nations, with the limited exception of exchanges or temporary exports for convenience or increased efficiency of transportation.

H.R. 4452. March 3, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit national television networks from: (1) supplying licensees with more than one-half of programming hours broadcast; (2) being the licensee of more than one television broadcasting station; and (3) having a beneficial or financial interest in any television broadcasting station of which it is not the licensee. Requires plans of divestiture to be filed with the Federal Communications Commission.

Directs the Commission to study the effects of this Act and report annually to Congress.

H.R. 4453. March 3, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4454. March 3, 1977. Judiciary; Post Office and Civil Service; Armed Services; Standards of Official Conduct. Sets standards of conduct for employees and officers of the Federal Government. Requires specified Federal officers and employees to file financial disclosure statements which are to be made available to the public. Establishes a Commission on Ethics and Financial Disclosure to investigate and report violations of this Act to the Attorney General for enforcement.

H.R. 4455. March 3, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 4456. March 3, 1977. Banking, Finance and Urban Affairs. Amends the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to voluntary fire departments to enable them to purchase firefighting equipment which they cannot afford due to post-1972 inflation.

H.R. 4457. March 3, 1977. Government Operations. Amends the Reorganization Act of 1949 to extend the President's authority to submit Executive branch reorganization plans to Congress to December 31, 1980. Requires the approval of both Houses of Congress within 60 days after the date on which such plan is transmitted to Congress to give such plan effect. Gives the Senate and Government Operations 45 days to consider such plan at which time such Committees must report their recommendations of such plan or be discharged from further consideration thereof.

H.R. 4458. March 3, 1977. Ways and Means. Amends the Internal Revenue Code with respect to distilled spirits and wines hereafter called liquors to allow, under regulations prescribed by the Secretary of the Treasury: (1) labeling gin or vodka with a trademark without conspicuously displaying the names of the distiller or producer; (2) the drawback of taxes paid on imported liquors, packaged or bottled in the United States, which are to be exported; and (3) the tax free return of liquors to bonded premises for bonded storage pending export.

H.R. 4459. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for up to $100 of the expenses incurred for the higher education of the taxpayer, his spouse or a dependent.

H.R. 4460. March 3, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 4461. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of Agriculture and the Secretary of the Interior to permit the conduct of weather modification activities and environmental research which are within or may affect areas which are a part of the national wilderness preservation system or other Federal lands.

H.R. 4462. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study the feasibility of establishing a national park, recreation area, or wilderness area at appropriate segments of the Ridgelands east of San Francisco Bay, California.

H.R. 4463. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study the feasibility of establishing a national park, recreation area, or wilderness area at appropriate segments of the Ridgelands east of San Francisco Bay, California.

H.R. 4464. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters, or to their dependents, widows or other survivors, to the extent that such benefits are based on full-time service for a governmental entity.

H.R. 4465. March 3, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 4466. March 3, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4467. March 3, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for the relief of victims of the May 6, 1976, earthquake in Italy.

H.R. 4468. March 3, 1977. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of human activities on climatic dynamics. Empowers the Secretary, in order to carry out the purposes of this Act, to: (1) establish advisory committees composed of experts in climatology and related fields and of representatives of interested Federal departments; and (2) transfer funds and make grants to governmental bodies and to nonprofit and educational institutions.

H.R. 4469. March 3, 1977. Government Operations. Amends the Accounting and Auditing Act to direct the Comptroller General to make audits of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency. Sets forth procedures for making such audits.

Requires the General Accounting Office to prepare a report to Congress with its conclusions.

H.R. 4470. March 3, 1977. Post Office and Civil Service. Provides third-class mailing privileges to Gold Star Wives of America, Inc.

H.R. 4471. March 3, 1977. Interstate and Foreign Commerce. Prohibits the use of any means or instrumentality of transportation or communication in or affecting interstate or foreign commerce to engage in an unfair consumer practice in connection with the sale or distribution of services, or other property.

H.R. 4472. March 3, 1977. Judiciary. Requires lobbyists to: (1) register with the Federal Election Commission; (2) make and retain specified records; and (3) file reports with the Commission regarding their activities.

H.R. 4473. March 3, 1977. Post Office and Civil Service. Increases civil service retirement and survivors' annuities (other than an annuity of a surviving child) by the lesser of $26 per month or the amount necessary, if any, to increase such annuity to $260 per month. Increases the annuity of a surviving child by the lesser of $26 per month or $78 per month divided by the number of children.

H.R. 4474. March 3, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to delete the requirement that industrial users pay a proportionate share of the costs of federally-assisted waste treatment works. Removes restrictions on user charge systems utilized by applicants for waste treatment construction grants provided that such applicants demonstrate that operation and maintenance costs will be recovered.

H.R. 4475. March 3, 1977. Public Works and Transportation. Authorizes Federal grants to assist the States in developing and implementing comprehensive and continuing plans for services to the blind.

H.R. 4476. March 3, 1977. Public Works and Transportation. Amends the Public Works and Economic Development Act of 1965 to authorize the Secretary of Commerce to make grants to, and enter into contracts with, State and local governments, Indian tribes, and Alaska Native organizations to pay the costs of community improvements projects carried out by youths.

H.R. 4477. March 3, 1977. Ways and Means. Amends the Supplemental Security Income program of the Social Security Act to increase the guaranteed annual income under such Act, to exclude certain assets and forms of income from consideration in the determination of eligibility and benefit amounts under such program, and to require the establishment of an outreach program to inform all individuals who may become eligible for such benefits of the availability of such benefits and the steps to be taken in obtaining them.

H.R. 4478. March 3, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Reqquires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal to that of alien lawfully admitted for permanent residence.

H.R. 4479. March 3, 1977. Judiciary. Removes Federal court jurisdiction over school assignment.

H.R. 4480. March 3, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4481. March 3, 1977. Agriculture. Directs the Secretary of Agriculture to make payments to farmers and ranchers who operate a beef or dairy production business in an area designated as an emergency area or major disaster area and who are forced to sell their livestock foundation herd in order to avoid excessive financial losses.

H.R. 4482. March 3, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Court to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4483. March 3, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to require skilled nursing facilities participating in the Medicare program to comply with relevant provisions of the 1976 edition of the Life Safety Code of the National Fire Protection Association.

H.R. 4484. March 3, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Servie and Labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing and adverse actions which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 4485. March 3, 1977. Judiciary. Authorizes a certain individual to enroll in the self and family option of the Foreign Service Benefit Plan.

H.R. 4486. March 3, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commisison.

H.R. 4487. March 3, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commission.

H.R. 4488. March 3, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4489. March 3, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 4490. March 3, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4491. March 4, 1977. Public Works and Transportation. Authorizes modification of the navigation project for Port Everglades Harbor, Florida.

H.R. 4492. March 4, 1977. Interstate and Foreign Commerce. Amends the Uniform Time Act to establish the starting date of daylight savings time as Memorial Day, and the ending date as Labor Day.

H.R. 4493. March 4, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompass State crimes, (3) prohibit a suspended or probationary with respect to a first conviction, and (4) forbid a defendant to plead guilty to a lesser charge.

H.R. 4494. March 4, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to exempt from the motor vehicle provisions of such act motor vehicles used exclusively for the transportation of members of religious organizations.

H.R. 4495. March 4, 1977. Veterans' Affairs. Removes the 10-year delimiting period during which eligible veterans must complete their programs of education, and terminates all educational assistance to any eligible veteran as of December 31, 1989.

H.R. 4496. March 4, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide benefits for widowed fathers with minor children on the same basis as benefits for widowed mothers with minor children.

H.R. 4497. March 4, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to amortize coal mining equipment over a period of 12 months.

H.R. 4498. March 4, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to establish and administer a program to assist States in providing energy stamps to certain low-income households in order to enable such households to meet residential energy costs.

H.R. 4499. March 4, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for occupational therapy services under the supplementary medical insurance program.

H.R. 4500. March 4, 1977. House Administration. States that the third Tuesday in June of each election year shall be the last possible day on which a State may hold a primary election for Federal office.

H.R. 4501. March 4, 1977. Armed Services. Excludes industrially funded personnel from the computation of the end strength for civilian personnel within the Department of Defense for any fiscal year.

H.R. 4502. March 4, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commisison to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 4503. March 4, 1977. Veterans' Affairs. Provides that representatives of the Polish Legion of American Veterans are recognized as claims agents for claims arising under laws administered by the Veterans' Administration.

H.R. 4504. March 4, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President regarding the salaries of Members of Congress, the Resident Commissioner from Puerto Rico, and the Senate and House leadership advisory only.

Amends the Legislative Reorganization Act of 1946 to establish the annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and the Senate and House leadership at the rates in effect for such positions on March 1, 1977, unless otherwise revised by law.

H.R. 4505. March 4, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to extend coverage under the supplemental medical insurance program of such Title to aliens who are, and were on January 1, 1975, permanently residing in the United States under color of law although they are not lawfully admitted for permanent residence.

H.R. 4506. March 4, 1977. Veterans' Affairs. Removes the requirement that a member of the Women's Army Auxiliary Corps must have served for at least 90 days before October 1, 1943, and been honorably discharged for a service-connected disability rendering her unfit for further service, in order for such service to be deemed active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 4507. March 4, 1977. Judiciary. Makes it a Federal crime to fire a firearm or in any manner propel any object at or upon any railroad car engine used by any common carrier engaged in interstate or foreign commerce.

Expands the Federal prohibition against entering a train in any Territory, District, or other place within exclusive Federal jurisdiction with an intent to commit robbery, murder, or other violent crime to encompass entry upon any railroad car used by any common carrier engaged in interstate or foreign commerce.

H.R. 4508. March 4, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to increase the inpatient hospital deductible from $40 to $104 in the case of any spell of illness beginning before 1978.

Amends the Internal Revenue Code to roll back the time period considered for the purpose of determining the rate of hospital insurance tax on employees, employers, and the self-employed.

H.R. 4509. March 4, 1977. Banking, Finance and Urban Affairs; Education and Labor. Di-

rects the President, through the Secretary of Labor, to cary out a progam of projects, by means of contacts with public and private employers and institutions of higher education, to: (1) increase employee participation in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 4510. March 4, 1977. Interstate and Foreign Commerce; Ways and Means. Revises the criteria and methods for designating Professional Standards Review areas and organizations under the Social Security Act. Extends review to institutions operated by the Public Health Service and Veterans' Administration. Revises the reporting duties of local organizations and the functions of Statewide and National Professional Standards Review Councils. Circumscribes the use which may be made of data acquired by any Professional Standards Review Organization.

H.R. 4511. March 4, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 4512. March 4, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to authorize the appointment of the daughters of Canal Zone residents and the daughters of personnel of the United States Government and the Panama Canal Company residing in the Republic of Panama to the Merchant Marine Academy.

H.R. 4513. March 4, 1977. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950: (1) to pay the expenses of the Joint Committee on Defense Production from the contingent fund of the House of Representatives; and (2) to extend the provisions of such Act through September 30, 1979.

H.R. 4514. March 4, 1977. Judiciary. Sets forth guidelines relative to State and local government liability and Federal court abstention in civil actions for the deprivation of a constitutional or Federal statutory right, including the right to enjoy ones reputation, by persons acting under color of law.

Renders a prosecuting officer of a State, municipality, or other unit of local government liable for damages or subject to an injunction for failure to disclose material evidence.

H.R. 4515. March 4, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing any adverse actions which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 4516. March 4, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing any adverse actions which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 4517. March 4, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to dredge portions of the Yazoo River, Mississippi.

H.R. 4518. March 4, 1977. Interstate and Foreign Commerce. Amends the Health Programs Extension Act of 1973 to prohibit any entity receiving Federal funds from discriminating against any applicant for study because of the views of the applicant regarding abortion or sterilization.

H.R. 4519. March 4, 1977. House Administration. Directs that five regional primaries be held each Presidential election year. Sets forth guidelines for such primaries relative to (1) date, (2) content of ballots, (3) qualifying for placement on ballots, (4) eligibility for voting, and (5) scope of voter choice.

Requires allocation of State convention delegates on the basis of percentage of votes received within the State.

Requires each delegate to vote for the candidate for whom he was appointed until (1) two ballots have been taken, (2) such candidate receives less than 20 percent of votes cast, or (3) such candidate releases him.

H.R. 4520. March 4, 1977. Education and Labor. Establishes (1) a national youth service program designed to provide assistance to States, local governments, and private nonprofit organizations for the employment of youths, (2) an opportunity in private enterprise programs designed to provide assistance to business concerns for the employment of youths, and (3) an Office of Youth Initiatives in the Executive Office of the President.

H.R. 4521. March 4, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 4522. March 4, 1977. Veterans' Affairs. Stipulates that the recalling to duty and assignment on a full-time basis of any retired member of the armed forces to the American Battle Monuments Commission shall not be chargeable against the authorized end strengths and grade limitations of the Department of Defense or the military departments concerned.

H.R. 4523. March 4, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers in the United States who sustain losses incurred on or after January 1, 1973, as a direct result of contamination of their food crops, animal feedcrops, livestock (including poultry), or livestock products by toxic chemicals at levels dangerous to the public health or at such levels that the Secretary determines that the contamination has adversely affected the economic viability of the farming operation.

H.R. 4524. March 4, 1977. Interstate and Foreign Commerce. Amends the Toxic Substance Control Act to authorize the Administrator of the Environmental Protection Agency to make grants to assist States, individuals, and businesses in compensation and prevention of injuries caused by injurious chemical substances. Stipulates that priority shall be given to cases involving polybrominated biphenyls.

H.R. 4525. March 4, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to rescind the authority of any air carrier to provide nonstop service between two points if such authority is not exercised for any continuous 1-year period. Authorizes the Board to grant such authority to another carrier with or without a hearing.

H.R. 4526. March 4, 1977. Public works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to adopt time limitations for decisions regarding applications for certificates of public convenience and necessity to engage in interstate air transportation. Requires the Board, if it does not act within such period, to issue the certificate as requested unless it, by order entered within the specified time period, finds that the public interest or extraordinary circumstances justify delay for a period of time specified in the order.

H.R. 4527. March 4, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 4528. March 4, 1977. Ways and Means. Provides that health maintenance organizations extending basic health services under the Health Maintenance Organization Act shall be tax exempt under the Internal Revenue Code.

H.R. 4529. March 4, 1977. Judiciary. Authorizes a certain corporation to appeal a certain decision of the Federal Communications Commission.

H.R. 4530. March 4, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 4531. March 4, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for perment residence, under the Immigration and Nationality Act.

H.R. 4532. March 4, 1977. Judiciary. Directs the Attorney General to cancel any outstanding orders and warrants of deportation warrants of arrest, and bond which may have been issued in the name of a certain individual.

H.R. 4533. March 4, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals for the period of their imprisonment in Southeast Asia.

H.R. 4534. March 4, 1977. International Relations. Authorizes a certain retired Public Health Service official to accept employment in the Canadian Department of Agriculture without loss of retirement benefits.

H.R. 4535. March 4, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4536. March 4, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4537. March 7, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the pur- [illegible] of water supplies and redistribution of such [illegible] to such projects.

H.R. 4538. March 7, 1977. Veterans' Affairs. Allows a deceased veteran's estate to receive in cash, for the purchase of an appropriate non-Government furnished headstone or marker, the amount it would cost the United States Government to provide such a headstone or marker.

H.R. 4539. March 7, 1977. Public Works and Transportation. Directs the Secretary of Transportation to establish a single system of measuring noise and the impact of noise at airports and areas surrounding airports and to prescribe land uses for such areas which are compatible with such noise levels.

Amends the Airport and Airway Development Act of 1970 to make grants available under such Act for noise compatibility programs with respect to land situated near airports.

Requires the retrofitting or replacement of subsonic aircraft which do not meet existing noise standards. Prohibits the operation of foreign aircraft over the United States which do not meet such standards after 1985.

H.R. 4540. March 7, 1977. Armed Services. Directs the Secretary of the Air Force to appoint a Chief of the Biomedical Sciences Corps at the rank of brigadier general.

H.R. 4541. March 7, 1977. Education and Labor. Limits, to those elementary and secondary school facilities destroyed or damaged after January 2, 1968 and prior to October 1, 1978, the distribution of disaster relief to local educational agencies.

H.R. 4542. March 7, 1977. Judiciary. Repeals the requirement that persons, including attorneys, prosecuting claims before any United States Government department or bureau take an oath of allegiance and support the Constitution of the United States.

H.R. 4543. March 7, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4544. March 7, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to authorize disability payments to miners employed in specified mines for a certain number of years without regard to actual evidence of disability. Requires the acceptance of medical evidence submitted in support of a disability claim except where clearly erroneous.

H.R. 4545. March 7, 1977. District of Columbia. Authorizes the District of Columbia parole board to credit the time a prisoner was on parole before parole was revoked, for purposes of diminishing the time for which he was originally sentenced.

H.R. 4546. March 7, 1977. District of Columbia. States that whoever, in the District of Columbia, and with intent to appropriate merchandise to his own use, (1) removes merchandise from its place of display or storage, (2) obtains merchandise by charging it to another person without that other person's consent, or by charging it to a fictitious person, (3) alters or removes a label or pricetag, or (4) transfer merchandise from its container to another container, shall be guilty of shoplifting. Sets forth penalties for violation of this Act.

H.R. 4547. March 7, 1977. District of Columbia. Prohibits the fraudulent use or possession of credit cards in the District of Columbia. Prohibits possession of flash paper or water soluble paper. Prohibits the possession of any knife with an unlawful intent. Grants authority to the District of Columbia to seize motor vehicles used in narcotics violations. Provides for the forfeiture of such vehicles for the District of Columbia.

Prohibits the service or execution or process on a Sunday. Makes it unlawful to obtain or attempt to obtain communications services with the intent to avoid lawful payment for such services.

H.R. 4548. March 7, 1977. District of Columbia. Authorizes the D.C. Armory Board to use the amount of money not needed for the operation of R.F.K. Stadium ("sinking fund") to repurchase stadium bonds before maturity, provided such repurchase is financially advantageous to the Board. Authorizes the District of Columbia to borrow, from the Secretary of the Treasury, such amount as may be necessary, to make its contribution to the sinking fund. Forbids the repayment of that loan from such sinking fund.

Vests all rights, title and interest to the Stadium in the District of Columbia, after the stadium bonds have been paid off.

H.R. 4549. March 7, 1977. District of Columbia. Permits any State, territory, or possession to sue in the Superior Court of the District of Columbia to recover taxes due to it if the reciprocal right is accorded to the District by such State, territory, or possession.

Authorizes the Corporation Counsel or his assistants to bring such a suit in the name of the District.

Authorizes the Commissioner of the District to procure any necessary services in other jurisdictions in prosecuting any suit under this Act.

H.R. 4550. March 7, 1977. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to extend the time in which the Secretary of the Treasury may make and the Mayor of the District of Columbia can accept loans for the completion of capital projects.

Permits such loans to be made to the extent they are provided for in appropriation Acts for any fiscal year.

Extends the time in which the Mayor must submit a complete financial report to the Council in each fiscal year.

Stipulates that payments due on bonds, notes, or other obligations shall be made without further approval of authorization.

H.R. 4551. March 7, 1977. Armed Services. Repeals the Military Selective Service Act.

H.R. 4552. March 7, 1977. International Relations. Amends the Export Administration Act of 1969 to prohibit the export of any agricultural commodity pursuant to an agricultural commodity export agreement unless the exporter has obtained an agricultural export license from the Secretary of Commerce. Prohibits approval of such license unless the Secretary of Commerce determines that: (1) there will be a sufficient domestic supply of the commodity for a 12-month period; (2) the proposed transaction will not increase consumer prices; and (3) the proposed transaction will not increase domestic unemployment. Exempts from this Act exports in a quantity for which the price is less than $10,000,000.

H.R. 4553. March 7, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to include military service performed between December 1, 1941, and December 31, 1976, as "years of service" for purposes of eligibility for benefits under such Act.

H.R. 4554. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for each of the taxpayer's dependents who is mentally retarded.

H.R. 4555. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to increase from $1,000,000 to $45,000,000 the maximum size of small issues of industrial development bonds on which the interest qualifies for a tax exclusion.

H.R. 4556. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the treatment processer considered as mining for purposes of the percentage depletion deduction shall include any treatment process necessary to convert coal to low-sulfur synthetic fuel.

H.R. 4557. March 7, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt from the prohibition of the Act the harassment, harming, killing, or wounding of any endangered or threatened species attributable to the construction or operation of the Tellico Dam and Reservoir Project in Tennessee.

H.R. 4558. March 7, 1977. Agriculture. Provides, under the Consolidated Farm and Rural Development Act, that aliens legally admitted to the United States for permanent residence are eligible for emergency loans if they are established farmers, ranchers or persons engaged in aquaculture. Makes eligible for such loans domestic corporations or partnerships primarily engaged in farming, ranching or aquaculture which have stockholders or partners who are aliens legally admitted for permanent residence.

H.R. 4559. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative 12 months of their employment.

H.R. 4560. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time, handicapped employees over the first cumulative 12 months of their employment.

H.R. 4561. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day-care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 4562. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day-care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 4563. March 7, 1977. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of, or substitute for, regular nutrition projects assisted such Act.

H.R. 4564. March 7, 1977. Public Works and Transportation. Entities States having any portion of a free or toll highway, bridge, or tunnel which is part of the Interstate Highway System to receive additional Federal funds if such States make such highways toll free. Reduces Federal-aid highway apportionments for States not electing to eliminate such tolls.

H.R. 4565. March 7, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4566. March 7, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4567. March 7, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4568. March 7, 1977. Government Operations. Amends the Reorganization Act of 1949 to extend the President's authority to submit Executive branch reorganization plans to Congress to December 31, 1980. Requires the approval of both Houses of Congress within 60 days after effect. Gives the Senate and House of Representatives Committees on Government Operations 45 days to consider such plan at which time such Committees must report their recommendations of such plan or be discharged from further consideration thereof.

H.R. 4569. March 7, 1977. Agriculture. Declares that it is the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Estab-

lishes the Agricultural Land Review Commission to study, issue research grants, reports and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 4570. March 7, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each oil pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Amends the Ports and Waterways Safety Act to grant additional authority to the Secretary of Transportation with respect to vessel design and safety. Establishes a 200-mile maritime safety zone over which the United States shall exercise control.

H.R. 4571. March 7, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograh depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4572. March 7, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4573. March 7, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require the Secretary of Health, Education, and Welfare to establish criteria and minimum standards for the training and licensure of radiologic technologists. Directs that State and local governments be encouraged to minimize exposure of the public to ionizing from all sources. Authorizes the Secretary to make grants to States to carry out such purposes. Requires promulgation of performance standards and inspection programs for X-ray systems.

H.R. 4574. March 7, 1977. Education and Labor. Permits an individual receiving civil service disability compensation to also receive pay from the armed forces for disabling injury other than the one for which civil service compensation is being paid.

H.R. 4575. March 7, 1977. Veterans' Affairs. Removes existing limitations and permits any person entitled to war orphans' assistance and who uses any or all of such assistance before entering upon active duty to receive veterans' educational assistance as he may be entitled to by reason of such duty.

H.R. 4576. March 7, 1977. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to authorize appropriations to the Secretary of Commerce for fiscal years 1978, 1979, and 1980 to carry out the purposes of the Act.

H.R. 4577. March 7, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of the Congress before October 1, 1978.

H.R. 4578. March 7, 1977. Public Works and Transportation. Requires each airport authority of specified airports to file a Noise Exposure Study with each political subdivision within the "impact area" of such an airport. Stipulates that each such airport shall be regulated, by a Community Noise Impact Board with respect to: (1) the times during which takeoffs and landings may occur; (2) takeoff and landing procedures; (3) jet and propeller use not necessary to flight; (4) allocation of runway use; and (5) the types and numbers of aircraft permitted to use the airport.

H.R. 4579. March 7, 1977. Government Operations; Rules. Abolishes specified Federal regulatory agencies on September 30, 1977, unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 4580. March 7, 1977. Interstate and Foreign Commerce; Public Works and Transportation; Agriculture; Banking, Finance and Urban Affairs; Merchant Marine and Fisheries; Interior and Insular Affairs. Establishes the Federal Regulatory Agency Nominating Board to compile a list of persons qualified to serve as a commissioner, board member, or commission member of specified regulatory agencies. States that when a vacancy occurs in such a position which the President is required to appoint a successor by and with the advice and consent of the Senate, the Board shall submit a list of three names of persons qualified to fill such vacancy from which the President shall make his selection.

H.R. 4581. March 7, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of work as certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred before the date specified in the certification as the day on which total partial separation began or threatened to begin among the adversely affected group.

H.R. 4582. March 7, 1977. Merchant Marine and Fisheries; Interior and Insular Affairs. Prohibits the development of hard mineral resources of the deep seabed except under international conventions or pursuant to a license issued by the Secretary of Commerce. Prescribes requirements and imposes limitations on the granting of such licenses by the Secretary.

H.R. 4583. March 7, 1977. Government Operations. Prohibits the purchase or operation by the Federal Government of any motor vehicle not of a type generally available in Government motor pools on the date of the enactment of this Act. Prohibits the use of Government motor vehicles by Government officials between such official's home and place of employment. Prohibits the issuance of any motor vehicle for the exclusive use of any Government official or employee not designated in this Act.

H.R. 4584. March 7, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to revise the method of computing annuities for certain retired employees and their surviving spouses.

H.R. 4585. March 7, 1977. Interior and Insular Affairs; Judiciary. Authorizes appropriations for the Indian Claims Commission for fiscal year 1978.

Directs the Court of Claims to determine the proper amount of attorney fees for attorneys representing Indian tribes in cases transferred from the Commission to the Court of Claims. Authorizes that Court to exercise the powers of the Commission relating to information from government departments and official records as evidence.

Authorizes additional commissioners, for the Court of Claims in order to facilitate determination of cases transferred from the Commission. Authorizes Supreme Court review by certiorari of such cases.

H.R. 4586. March 7, 1977. Banking, Finance and Urban Affairs. Requires the developers of all condominium projects to disclose specific information on proposed new construction or conversion of existing structures to any federally regulated financial institution and any prospective purchaser as a prerequisite for the granting of a construction or purchase loan.

Establishes the Office of Assistant Secretary for Condominiums in the Department of Housing and Urban Development.

Sets forth regulations to protect the rights of tenants of multifamily rental housing which is to be converted to condominiums.

Authorizes the Secretary of Housing and Urban Development to make grants to State and local governments to establish similar programs.

H.R. 4587. March 7, 1977. Interior and Insular Affairs. Requires the Secretary of the Interior to undertake a study of the site of the 1964–1965 Worlds Fair in New York and includes appropriate parts of such area in the Gateway National Recreation Area.

H.R. 4588. March 7, 1977. Interstate and Foreign Commerce. Requires manufacturers to display on a conspicuous label on each item of durable goods sold to consumers the performance of life of such product. Declares the National Bureau of Standards to have final authority over the designation required by this Act, and requires the Federal Trade Commission to enforce the provisions of this Act.

H.R. 4589. March 7, 1977. Interstate and Foreign Commerce. Requires manufacturers to label products as to month and year of manufacture for those goods whose design and performance features change at such a frequency as to make its date of manufacture part of its relevant description.

Empowers the Federal Trade Commission to enforce this Act.

H.R. 4590. March 7, 1977. Interstate and Foreign Commerce. Requires posting of the selling price and unit price on or near consumer products displayed for retail sales.

Transfers authority to promulgate rules under the Fair Packaging and Labeling Act to the Federal Trade Commission from the Department of Health, Education, and Welfare.

H.R. 4591. March 7, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs for the general public.

Empowers the Secretary of Health, Education, and Welfare to enforce the provisions of this Act.

H.R. 4592. March 7, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that in the labeling and advertising of drugs sold by prescription the established name of such drug must appear each time the drug's proprietary name is used.

Permits a pharmacist to fill or refill a prescription for a drug, identified by its proprietary name, with any lower cost and suitable substitute drug under specified circumstances.

H.R. 4593. March 7, 1977. Interstate and Foreign Commerce. Requires the prominent labeling of prescription and over-the-counter drugs and pharmaceuticals whose effectiveness or potency become diminished after storage as to the date beyond which the product shall not be used.

Authorizes the Food and Drug Administration to establish the "beyond use" dates for all applicable products, and the manner in which they shall be labeled.

H.R. 4594. March 7, 1977. Judiciary. Empowers the Federal Trade Commission, after a patent on a drug is more than one year

old, to review complaints made to it by a qualified applicant for a license under a drug patent, and, upon a finding that the price of the patented drug charged to druggists by the patentee is more than five hundred percent of the cost of production, to order such patentee to grant an unrestricted patent license to any qualified applicant to make, use, and sell such drug.

H.R. 4595. March 7, 1977. Post Office and Civil Service. Requires the Civil Service Commission to establish a Special Cost-of-Living Pay Schedule for Federal employees located in any city or metropolitan area having a population of 500,000 or more, such schedule to contain special rates of basic pay representing increases in comparable rates provided by the General Schedule, for the purpose of setting the increased cost-of-living of such employees.

H.R. 4596. March 7, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize free or reduced transportation rates for persons over 65 and handicapped individuals and their attendants. Amends the Urban Mass Transportation Act of 1964 to give funding priority under such Act to public bodies which offer reduced rates to such individuals. Authorizes the Secretary of Transportation to prescribe standards for facilities funded under such Act to insure ready access to such facilities by these individuals. Amends the Older Americans Act of 1965 to authorize a grant program for special transportation research and demonstration projects for such individuals.

H.R. 4597. March 7, 1977. Public Works and Transportation. Establishes the Airport Noise Curfew Commission to study and make recommendations to the Congress regarding the establishment of curfews on nonmilitary aircraft operations over populated areas of the United States during normal sleeping hours.

H.R. 4598. March 7, 1977. Ways and Means. Amends the Social Security Act to assure a minimum annual income to all elderly residents of the United States.

H.R. 4599. March 7, 1977. Government Operations; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to make grants to States and units of local government to assist in the execution of consumer protection plans.

H.R. 4600. March 7, 1977. Post Office and Civil Service. Requires uniformed Federal firefighters to be provided with a uniform allowance of $300 upon appointment and an annual uniform allowance of $200, unless such firefighter is provided with a uniform or uniform allowance under any other provision of law. Makes the Civil Service Commission responsible for promulgating regulations respecting Federal allowances.

H.R. 4601. March 7, 1977. Post Office and Civil Service. Requires uniformed Federal firefighters to be provided with a uniform allowance of $300 upon appointment and an annual uniform allowance of $200 in lieu of comparable benefits under any other provision of law.

H.R. 4602. March 7, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 4603. March 7, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4604. March 7, 1977. Science and Technology. Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices. Establishes a program of financial assistance to State institutes conducting energy conservation research and development projects.

Directs the Administrator of the Energy Research and Development Administration to develop performance standards for energy efficiency equipment and processes.

Amends the Energy Policy and Conservation Act to direct the Federal Energy Administrator to establish a voluntary standards and certification program for energy-conserving products.

H.R. 4605. March 7, 1977. Judiciary. Prohibits the use of Federal funds for specified activities designed to support or defeat any legislation or legislative issue on the ballot in any State.

H.R. 4606. March 7, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4607. March 7, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4608. March 7, 1977. Judiciary. Authorizes classification of certain individuals as citizens of the United States as of their birthdates, for purposes of the Immigration and Nationality Act.

H.R. 4609. March 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 4610. March 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 4611. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the amount of the deduction State legislators may take for living expenses while conducting legislative business to the daily dollar limitations to be established by the Secretary of Labor for each State legislature.

H.R. 4612. March 8, 1977. Agriculture. Amends the Agricultural Act of 1949 by establishing the support price of milk at not less than 90 percent of the parity price on the date of enactment, and by providing for quarterly adjustments.

H.R. 4613. March 8, 1977. Post Office and Civil Service. Repeals the Postal Reorganization Act. Re-enacts provisions relating to the postal service which were in effect immediately prior to the enactment of such Act.

H.R. 4614. March 8, 1977. Ways and Means. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 4615. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited deduction for amounts paid by or on behalf of an individual for an individual retirement account, a trust, or an annuity contract.

H.R. 4616. March 8, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to direct the Secretary of Commerce to make payments to Puerto Rico, Guam, and the Virgin Islands to coordinate budget-related actions of such governments with Federal efforts to stimulate economic recovery.

H.R. 4617. March 8, 1977. Interstate and Foreign Commerce. Prohibits refiners and distributors of motor fuels from terminating, cancelling, or failing to renew motor fuel franchises without prior written notification in accordance with specified criteria and procedures.

H.R. 4618. March 8, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Requires the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 4619. March 8, 1977. International Relations. Amends the Foreign Relations Authorization Act, Fiscal Year 1977, to authorize increased appropriations to the Department of State for fiscal year 1977 for (1) international organizations and conferences (2) migration and refugee assistance, and (3) assistance to Americans incarcerated abroad.

Amends the Foreign Service Buildings Act to revise appropriations authorized for foreign service buildings.

Requires that a Member of the House of Representatives Committee on International Relations be the chair of the House delegation to the Canada-United States Interparliamentary Group, the Mexico-United States Interparliamentary Group, and the North Atlantic Treaty Parliamentary Conference.

H.R. 4620. March 8, 1977. Post Office and Civil Service. Entitles physicians employed by the Federal Government to a professional allowance in addition to basic pay.

Authorizes Federal agencies to enter into service agreements with prospective government physicians whereby the physician is paid a bonus of up to $5,800 per annum in return for agreeing to work a specified number of years in such agency.

H.R. 4621. March 8, 1977. Veterans' Affairs. Entitles all veterans of the Mexican border period and of World War I, and their widows and children, to pensions on the same basis as veterans of the Spanish-American War and their widows and children, regardless of whether a veteran was disabled or receiving disability compensation, and regardless of income level.

H.R. 4622. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the requirement that certain corporations engaged in farming use the accrual method of accounting.

H.R. 4623. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain corporations substantially owned by members of two or three families from the requirement that corporations engaged in farming use the accrual method of accounting.

H.R. 4624. March 8, 1977. Judiciary. Makes it unlawful for any Federal employee or official or for any person engaged in any business or other activity in or affecting interstate commerce to: (1) permit, require, request, or attempt to require or request any employee or persons applying for employment to take any polygraph test; or (2) discharge, discipline, or deny promotion to any employee or deny employment to any individual for refusing to submit to any requirement or request that such person take a polygraph test.

Permits any person aggrieved by a violation of this Act, or any employee organization authorized by such person, to obtain compensatory and injunctive relief in appropriate United States district courts.

H.R. 4625. March 8, 1977. Government Operations. Directs the Secretary of the Treasury to make payments to each State and local governmental unit, upon application, to compensate it for the loss of real property tax revenues resulting from the location of exempt real property (owned or occupied by representatives of a foreign

country or international organization) within such State or local governmental unit. Sets forth eligibility requirements for such payments.

H.R. 4626. March 8, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who was a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 4627. March 8, 1977. Merchant Marine and Fisheries. Authorizes appropriations for the jellyfish control program for fiscal years 1978, 1979, and 1980.

H.R. 4628. March 8, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 4629. March 8, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran who served in the active military, naval or air service for 90 days or more during World War I and was discharged or released for a service-connected disability; or who served for a period of 90 consecutive days and such period began or ended during World War I.

H.R. 4630. March 8, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4631. March 8, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4632. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 4633. March 8, 1977. Agriculture. Amends the Agricultural Act of 1949, as amended, to set loan levels for the 1977 crops of wheat, corn, and upland cotton, and to set the 1977 price supports of milk and wool.

H.R. 4634. March 8, 1977. Government Operations. Permits the head of a Federal agency administering any Federal assistance program under which assistance is apportioned on the basis of a standard metropolitan statistical area (SMSA) to modify the geographic boundaries of such area in order to include within the area only (but all) areas which are essentially metropolitan upon request of the Governor of the State(s) in which such area is located and in concurrence with the Executive Office of the President.

H.R. 4635. March 8, 1977. Interstate and Foreign Commerce. Prohibits unfair consumer practice. Establishes procedures to govern the maintenance of class action suits by persons suffering damage as a result of an unfair consumer practice.

H.R. 4636. March 8, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 4637. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct an amount equal to the sum of the amounts paid to an adoption agency for the medical care of a child adopted by the individual. States that if the amounts paid for such medical expenses cannot be ascertained an amount equal to the lower of 75 percent of the adoption agency charges or $500 may be deducted.

H.R. 4638. March 8, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration costs for vocational education programs.

Makes various technical amendments to such Act.

H.R. 4639. March 8, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this Act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this Act.

H.R. 4640. March 8, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4641. March 8, 1977. Judiciary. Removes the limitation on dues for United States membership in the International Criminal Police Organization.

Authorizes the Secretary of the Treasury to pay to the International Criminal Police Organization the unpaid balance of the dues for calendar years 1975 and 1976.

H.R. 4642. March 8, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act to require full disclosure of pertinent data on labels of foods and food products. Prohibits misleading brand names under the Federal Trade Commission Act.

H.R. 4643. March 8, 1977. Banking, Finance and Urban Affairs. Prohibits any officer or agency of the United States or any financial institution whose deposits are insured by an agency of the Federal Government from providing financial or other assistance to aid in the purchase of construction of real property which is not insured against catastrophic losses.

Establishes a Disaster Insurance Corporation to reinsure private insurance companies which provide insurance against catastrophic losses. Directs the corporation to provide catastrophic insurance when such insurance is not available from private insurance companies.

H.R. 4644. March 8, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4645. March 8, 1977. Ways and Means. Amends the Social Security Act to allow Federal officers and employees to elect coverage under Old-Age, Survivors and Disability Insurance.

H.R. 4646. March 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require the issuance of non-alterable social security cards. Requires that cards issued to resident aliens who are not permitted to be employed in the United States be marked to indicate such restriction.

Establishes criminal penalties for employers who knowingly hire alien holders of cards which indicate that they may not lawfully engage in employment in the United States.

H.R. 4647. March 8, 1977. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers and brokers and to raise the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

Allows the Secretary of Agriculture, under specified circumstances, to withhold from public disclosure the name, address and other identifying information about any person who has filed an unfair conduct complaint against any commission merchant, dealer, or broker.

Directs the Secretary to inspect the records and require surety bonds of any commission merchant, dealer or broker who has violated the provision of such Act requiring prompt full payment in respect of any transaction in any perishable agricultural commodity.

H.R. 4648. March 8, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 4649. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 4650. March 8, 1977. Agriculture. Establishes within the Department of Agriculture an Advisory Committee on Timber Sales Procedures to study the methods by which the Forest Service sells timber and to make independent recommendations with respect to establishing procedures for such sales.

H.R. 4651. March 8, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 4652. March 8, 1977. Interior and Insular Affairs. Amends the Alaska Native Claims Settlement Act to authorize the Secretary of the Interior to recognize assignments made by Alaska Native Regional Corporations to receive payments from the Alaska Native Fund, provided that any such assignment reserves the right of the United States to assert any setoff and counterclaim against the assignees that it could assert against the assignor.

H.R. 4653. March 8, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make its provisions, currently applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 4654. March 8, 1977. Ways and Means. Amends the Tariff Schedules of the United States to reduce the customs duty on unmounted underwater lenses.

H.R. 4655. March 8, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study the feasibility of the powerplant enlargement and reregulating reservoir, Hungry Horse project, Montana.

H.R. 4656. March 8, 1977. Judiciary. Makes theft of any radio communications device licensed by the Federal Communications Commission a Federal crime.

H.R. 4657. March 8, 1977. Judiciary. Makes interstate or foreign commerce in stolen Federal Communications Commission licensed radio communications devices a Federal crime.

H.R. 4658. March 8, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to permit the importation of articles composed of endangered or threatened species if such articles are eligible for

classification as antique under the Tariff Schedules.

H.R. 4659. March 8, 1977. Education and Labor. Amends the Library Services and Construction Act to authorize the appropriation of funds through fiscal year 1981 for the purpose of making grants to States for: (1) library services; (2) the construction of public libraries; (3) the carrying out of interlibrary cooperation programs; and (4) the carrying out of library programs for older persons.

Requires any State expending Federal funds received under such Act for the administrative costs of such programs to match the amounts expended with non-Federal funds.

H.R. 4660. March 8, 1977. Ways and Means. Declares all income tax returns to be confidential and prohibits the disclosure or inspection of such returns unless specifically authorized by this Act.

Increases the criminal penalties for unauthorized disclosing the information contained in tax returns.

Makes it a felony to knowingly receive any such information or material which is criminally disclosed.

H.R. 4661. March 8, 1977. Veteran's Affairs Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself.

H.R. 4662. March 8, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 4663. March 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under Title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 4664. March 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4665. March 8, 1977. Armed Services. Revises the special pay structure for active duty medical officers of the uniformed services to direct the Secretaries of Defense and Health, Education, and Welfare to promulgate regulations through which variable incentive pay may be adjusted to reflect (1) amounts that the Federal Government has paid to, or (2) benefits received by, medical officers prior to the commencement of active duty.

H.R. 4666. March 8, 1977. Science and Technology. Directs the Administrator of the Environmental Protection Agency to establish an Oil Spill Removal Research, Development, and Demonstration Project. Requires the transfers of similar programs from other Federal agencies to the project. Directs the Administrator to assist educational institutions and small businesses in participating in oil spill removal research programs.

H.R. 4667. March 8, 1977. Science and Technology. Directs the Administrator of the Environmental Protection Agency to establish an Oil Spill Removal Research, Development, and Demonstration Project. Requires the transfer of similar programs from other Federal agencies to the project. Directs the Administrator to assist educational institutions and small businesses in participating in oil spill removal research programs.

H.R. 4668. March 8, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of territorial market allocations agreements made as part of a licensing agreement: (1) for the manufacture, distribution and sale of a trademarked soft drink product; or (2) for the distribution or sale of a trademarked private label food product.

H.R. 4669. March 8, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 4670. March 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4671. March 8, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4672. March 8, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed of the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R. 4673. March 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4674. March 8, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 4675. March 8, 1977. Ways and Means. Prohibits any business deduction, under the Internal Revenue Code, relating to expenses paid or incurred for the transportation of any person by commercial airplane in excess of any amount which is equal to the retail price of a coach class fare ticket on such airline.

H.R. 4676. March 8, 1977. International Relations; Agriculture. Extends through 1981 the authority of the President, under the Agricultural Trade Development and Assistance Act of 1954, to enter into agreements to finance sales of agricultural commodities for foreign currencies and to engage in famine relief and other foreign agricultural and food assistance programs.

Requires that the Commodity Credit Corporation be reimbursed at the export price for commodities made available for famine relief and other assistance programs from price support inventories. Authorizes reimbursement of the Corporation for their expenditures incurred under the foreign sales program.

H.R. 4677. March 8, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study methods of preserving critical scenic, environmental, and outdoor recreational values of the Lake Tahoe Basin in California and Nevada. Authorizes the Secretary of Agriculture to acquire, by purchase, specified National Forest lands in order to further such preservation.

H.R. 4678. March 8, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 4679. March 8, 1977. Ways and Means. Amends Title IV (Aid to Families with Dependent Children) of the Social Security Act: (1) to revise eligibility requirements for grants; (2) to revise the procedure for adjusting the amount of grants; (3) to authorize Federal financial participation in the investigation and prosecution of fraud conducted by State agencies; (4) to require States to provide evidentiary hearings; and (5) to impose criminal sanctions for misuse of grants by recipients.

H.R. 4680. March 8, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to authorize the Secretary of Housing and Urban Development to make supplemental grants to metropolitan cities, urban counties, and nonurban counties with high unemployment rates to finance community development and similar activities, the total amount of such assistance to be dependent upon the national unemployment rate.

Sets forth guidelines for allocating funds appropriated for grants under this Act.

H.R. 4681. March 8, 1977. Post Office and Civil Service; Judiciary. Amends the Federal Salary Act of 1967 to keep from becoming effective any salary adjustment recommended by the President under such Act unless specifically approved by both Houses of Congress within 30 days after such adjustment is submitted to Congress.

Amends the Legislative Reorganization Act of 1946 to repeal automatic cost-of-living adjustments for Members of Congress. Abolishes such adjustments for (1) certain executive and judicial employees and officials, (2) the vice President, and (3) referees in bankruptcy.

H.R. 4682. March 8, 1977. Banking, Finance and Urban Affairs. Requires appropriate Federal financial supervisory agencies to develop programs and procedures which will encourage financial institutions to help meet the credit needs of the local communities in which they are chartered.

H.R. 4683. March 8, 1977. Post Office and Civil Service. Reinstates civil service retirement survivors annuities for surviving spouses of employees whose annuities were terminated due to remarriage before July 18, 1966, and surviving spouses of Members of Congress who died before January 8, 1971, whose annuities were terminated due to remarriage.

H.R. 4684. March 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to establish a catastrophic health insurance benefits program under which residents of the United States shall receive benefits in case of catastrophic illness. Replaces the Medicaid program with an medicaid assistance plan for low-income people. Establishes a system of Federal certification of basic health insurance provided by private insurance carriers which meet certain specifications. Requires the Secretary to offer basic Federal health insurance to individuals residing in States in which no private health insurance program has received Federal certification.

H.R. 4685. March 8, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability

Insurance) of the Social Security Act to authorize a 15-percent increase in social security benefits.

Permits the payment of full social security benefits and medicare benefits to eligible persons at age 60.

H.R. 4686. March 8, 1977. Education and Labor. Amends the Headstart Follow Through Act to extend the followthrough program for 1 year.

H.R. 4687. March 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4688. March 8, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to increase the amount of coverage available to reflect any increases in the cost of building materials and labor. Extends the national flood insurance program to June 30, 1979.

H.R. 4689. March 8, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 4690. March 8, 1977. Veterans' Affairs. Requires active duty for 180 days or more for eligibility for veterans' job counseling, training, and placement.

H.R. 4691. March 8, 1977. Interior and Insular Affairs. Authorizes the State of Oklahoma to convey oil and gas mineral leases to specified lands in Carter County, Okla., and directs the United States to issue a new deed providing for oil and gas exploration and developments on such lands.

H.R. 4692. March 8, 1977. Judiciary. Makes it unlawful to manufacture or transfer any handgun not meeting certain specifications or to modify any handgun if such modification results in the handgun no longer meeting such specifications.

Imposes certain mandatory prison terms for using, offering to use, carrying, or displaying a handgun during the commission of a Federal felony.

Revises certain exceptions to prohibitions against commerce in firearms by repealing the "generally suitable for sporting purposes" test and permitting commerce in circumstances otherwise complying with such exceptions so long as the firearms involved are not concealable handguns or handguns not meeting specifications.

H.R. 4693. March 8, 1977. Veterans' Affairs. Removes the time limit within which programs of education for veterans must be completed.

H.R. 4694. March 8, 1977. Post Office and Civil Service. Requires substitute postal employees be given credit for retirement purposes for services performed in excess of 40 hours per week before the effective date of the Federal Employees Salary Act of 1965, provided that the employing agency deducted, for purposes of retirement, amounts from the compensation paid for such service.

H.R. 4695. March 8, 1977. Small Business; Agriculture. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate with up to $2,500 forgiveness on the loan; or (2) a one percent interest rate with no forgiveness clause.

H.R. 4696. March 8, 1977. Interior and Insular Affairs. Authorizes the State of Oklahoma to convey oil and gas mineral leases to specified lands in Carter County, Oklahoma, and directs the United States to issue a new deed providing for oil and gas exploration and developments on such lands.

H.R. 4697. March 8, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4698. March 8, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4699. March 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4700. March 8, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4701. March 8, 1977. Veterans' Affairs. Designates the Veterans' Administration hospital in Saint Albans, New York, as the "Henry Schuman Veterans' Hospital."

H.R. 4702. March 8, 1977. Merchant Marine and Fisheries. Authorizes the use of a certain corporation's ship for the purpose of transporting passengers.

H.R. 4703. March 9, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to set forth a formula which the Secretary of Housing and Urban Development must follow in order to determine the amount to be allocated to each city and urban county under the supplemental block-grant program. Authorizes the Secretary to make urban development action grants to severely distressed cities.

Amends the Housing Act of 1937 to increase the limit on funds that are authorized to be appropriated for contracts for annual contributions to low-income housing projects in 1977.

Amends the National Housing Act to extend specified Federal Housing Administration insurance programs.

H.R. 4704. March 9, 1977. Agriculture. Amends the Rural Development Act of 1972 to declare that small farm extension programs shall consist of extension programs with respect to improving operations of small farmers using paraprofessional personnel to work with small farmers on an intensive basis.

Authorizes appropriations for small farm research and extension programs for each of fiscal years 1978 and 1979.

H.R. 4705. March 9, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 4706. March 9, 1977. Interstate and Foreign Commerce. Increases from three to five years the term for which a license to operate a radio broadcasting station may be issued, and for which such licenses may be renewed under the Communications Act of 1934.

H.R. 4707. March 9, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 4708. March 9, 1977. Education and Labor. Amends the National Labor Relations Act to require an employer which assumes the ownership or operation of a business to honor any applicable collective-bargaining contract in its entirety.

Amends the Labor Management Relations Act to permit a labor organization to bring suit against a new employer which refuses to honor an existing agreement in United States district court regardless of the citizenship of the parties or amount in controversy.

H.R. 4709. March 9, 1977. Ways and Means. Amends the Railroad Retirement Act and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt individuals suffering from multiple sclerosis from the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 4710. March 9, 1977. Ways and Means. Amends the Railroad Retirement Act and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt individuals suffering from multiple sclerosis from the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 4711. March 9, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy conserving technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 4712. March 9, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 4713. March 9, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 4714. March 9, 1977. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to provide that a teacher's entitlement to any allowance or other benefit under such Act shall be made without regard to whether the teacher was recruited outside or inside the United States.

H.R. 4715. March 9, 1977. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize the issuance of interim ocean dumping permits through 1981, in accordance with specified conditions and limitations. Requires additional studies of ocean dumping of biological, chemical, and radiological materials.

H.R. 4716. March 9, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4717. March 9, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any Executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such Executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4718. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for food and lodging expenses incurred while receiving medical care away from home.

H.R. 4719. March 9, 1977. Ways and Means. Repeals the tax exclusion of income earned by residents of Puerto Rico within the Commonwealth.

H.R. 4720. March 9, 1977. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to make a complete study of the use of grain, grain products, or their derivatives in the development and use of fuels.

H.R. 4721. March 9, 1977. Veterans' Affairs. Increases the rates of: (1) pensions for war veterans with a nonservice-connected disability, their surviving spouses and children; (2) dependency and indemnity compensation for parents of veterans who died in active military service; and (3) the monthly rate of death compensation payable to a widow or dependent parent if the payee is a patient in a nursing home of helpless or blind.

H.R. 4722 March 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the requirement that certain corporations engaged in farming use the accrual method of accounting.

H.R. 4723. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain corporations substantially owned by members of two or three families from the requirement that corporations engaged in farming use the accrual method of accounting.

H.R. 4724. March 3, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living pay adjustments for Members of Congress.

Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to salaries of Members of Congress effective only upon a resolution by the Congress approving such recommendations.

H.R. 4725. March 3, 1977. Ways and Means. Amends Title II (Old-age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4726. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4727. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4728. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4729. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4730. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4731. March 9, 1977. Agriculture. Directs the Secretary of Agriculture to enter into cooperative fencing agreements with private landowners whose lands are adjacent to National Forest System lands. Authorizes the Secrtary to enter into cooperative agreements with such landowners for the purpose of controlling noxious weeds.

H.R. 4732. March 9, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress that the complete authority to regulate terminal and station equipment used for telephone exchange service shall rest with the States even though such terminal and station equipment also may be used in connection with interstate services.

H.R. 4733. March 9, 1977. Government Operations. Amends the Antirecession provisions of the Public Works Employment Act of 1976 to revise the nondiscrimination section thereunder by specifically applying to projects receiving assistance under such provisions prohibitions contained in certain Acts, including the Rehabilitation Act of 1973 and the Age Discrimination in Employment Act of 1975.

Directs that such nondiscrimination provisions shall be enforced in the same manner as are specified sections of the State and Local Fiscal Assistance Act of 1972.

H.R. 4734. March 9, 1977. Education and Labor. Amends requirements of the Comprehensive Employment and Training Act of 1973 for prime sponsor comprehensive manpower plans under the comprehensive manpower services program and for applications for assistance under the public service employment programs.

Revises eligibility for designation as prime sponsors and composition guidelines for prime sponsor planning councils.

Imposes restrictions relative to the operation of public service employment programs.

Revises conditions applicable to all programs under the Comprehensive Employment and Training Act of 1973.

H.R. 4735. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation; and (5) reduce the maximum corporate normal tax rate.

H.R. 4736. March 9, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act to provide that the possession of specified amounts of marihuana for private use, or the transfer of not more than such amounts without profit for private use shall no longer be a crime against the United States.

Provides for a civil penalty of not more than $100 for such possession and transfer.

H.R. 4737. March 9, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act to provide that the possession of specified amounts of marihuana for private use, or the transfer of not more than such amounts without profit for private use shall no longer be a crime against the Unitted States.

Provides for a civil penalty of not more than $100 for such possession and transfer.

H.R. 4738. March 9, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make grants to States and municipalities for the construction of bikeway projects.

H.R. 4739. March 9, 1977. Merchant Marine and Fisheries. Directs the Secretary of Commerce to establish a National Aquaculture Development Plan which identifies each aquatic species which can be commercially cultured and contains a program of aquacultural development for such species.

Establishes the Interagency Committee on Aquaculture to coordinate aquacultural programs and projects.

Establishes within the Treasury a Federal Aquaculture Assistance Fund to guarantee loans for the financing of aquacultural facilities and to make disaster loans available to recipients of such guaranteed loans. Authorizes a program of grants for aquacultural projects.

H.R. 4740. March 9, 197. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to: (1) authorize appropriations for marine mammal research grants for fiscal year 1978; (2) increase the appropriations authorized for fiscal year 1977 and authorize appropriations for fiscal year 1978 to enable the Department of Commerce to carry out its functions under the Act; (3) authorize appropriations for fiscal year 1978 to enable the Department of the Interior to carry out its functions under the Act; and (4) authorize appropriations for fiscal year 1978 for the operation of the Marine Mammal Commission.

H.R. 4741. March 9, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to authorize appropriations for fiscal years 1978, 1979, and 1980 for State cooperative programs.

H.R. 4742. March 9, 1977. Merchant Marine and Fisheries. Amends the Atlantic Tunas Convention Act of 1975 to authorize appropriations to carry out the purposes of the Act for fiscal years 1978, 1979, and 1980.

H.R. 4743. March 9, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Interstate Commerce Act to establish time limitations during which common carriers by railroad, specified transportation companies, motor carriers, and freight forwarders are required to acknowledge receipt of, and dispose of, claims alleging loss or damage to property.

H.R. 4744. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the income limitation for the income tax credit for the elderly.

H.R. 4745. March 9, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey to the city of Provo, Utah, without consideration, all interest of the United States in specified lands.

H.R. 4746. March 9, 1977. Interior and Insular Affairs. Amends the Water Resources Research Act and the Saline Water Conversion Act to extend the authority of the Secretary of the Interior with respect to specified water resources programs.

H.R. 4747. March 9, 1977. Education and Labor. Amends the Education Amendments of 1972 to exempt from the prohibition against sex discrimination of such Amendments physical education classes and gym classes participation in which is limited to students of one sex only.

H.R. 4748. March 9, 1977. House Administration. Provides for the designation of any nationally accredited law school as a depository library upon request of such law school.

H.R. 4749. March 9, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4750. March 9, 1977. Science and Technology. Authorizes the Administrator of the Energy Research and Development Administration to construct and operate a National Coal Conversion Demonstration Facility to

test new coal conversions and mining technologies.

H.R. 4751. March 9, 1977. House Administration. Permits each Member of Congress to designate one nationally accredited law school located in the geographic area he or she represents as a depository library.

H.R. 4752. March 9, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 4753. March 9, 1977. Education and Labor. Authorizes the Secretary of Agriculture to formulate and carry out a program, through a system of grants to State educational agencies, providing for: (1) the nutritional training of food service and educational personnel; and (2) the conduct of nutrition education activities in schools and child care institutions eligible under the School Lunch and Child Nutrition Act.

Establishes within the National Agricultural Library of the Department of Agriculture a Food and Nutrition Information and Education Resources Center to assemble and collect food and nutrition education materials and to disseminate such information.

H.R. 4754. Marrh 9, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 4755. March 9, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 4756. March 9, 1977. Interstate and Foreign Commerce. Amends the National Traffic and Motor Vehicle Safety Act of 1966 to stipulate that no motor vehicle safety standard may require shoulder belts. Directs the Secretary of Transportation to amend the Federal motor safety standard numbered 208 to bring such standard into conformity with this Act.

H.R. 4757. March 9, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to make loans to administrative authorities for purpose of enabling such authorities to carry out energy conservation investment programs. Directs such authorities to use funds from such loans to provide loans to any owner of a dwelling which does not comply with specified insulation standards in order to bring such dwelling into compliance.

H.R. 4758. March 9, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to require studies of additional air pollution problems. Requires increased study of economic impact and cost-effective controls. Authorizes variances and extensions from standards applicable to stationary and mobile sources.

Establishes procedures for the prevention of significant deterioration of air quality. Imposes limitations on the use of indirect source controls. Prohibits conflicts of interest in State regulatory authorities.

Authorizes appropriations to carry out the Act for the next three fiscal years.

H.R. 4759. March 9, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to regulate research projects involving recombinant DNA. Establishes the recombinant DNA Research Advisory Committee to make recommendations to the Secretary of Health, Education, and Welfare.

H.R. 4760. March 9, 1977. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to require any lease or rental agreement entered into or renewed by a person aged 62 or over with respect to a dwelling unit assisted by a Federal housing program shall contain provisions entitling such person to terminate, without penalty, the lease or rental agreement if such person or his or her spouse dies or incurs any mental or physical disability during the period of the lease or rental agreement.

H.R. 4761. March 9, 1977. Education and Labor. Directs the Secretary of Labor, through the Bureau of Labor Statistics, to publish a monthly price index reflecting the retail prices of items purchased generally by individuals 62 years of age and older, such index to be known as the Consumer Price Index for the Elderly.

Directs the Secretaries and Administrator of certain Federal agencies and departments to utilize such index in administering specified retirement systems.

H.R. 4762. March 9, 1977. Education and Labor. Amends the Older Americans Act of 1965 to authorize the disbursal of funds to recipients of grants or contracts who agree to establish a project which provides at least one home-delivered meal, five days a week to persons covered under the Act. Creates an information and referral service for homebound individuals receiving meals under the Act. Requires a demonstration project to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly.

H.R. 4763. March 9, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4764. March 9, 1977. Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 4765. March 9, 1977. Judiciary. Amends the Legal Services Corporation Act to direct the Corporation to provide financial assistance to qualified programs designed to furnish legal assistance to eligible older persons in connection with any determination relating to eligibility or payment for home health services or specified health-related hearings under the Social Security Act.

H.R. 4766. March 9, 1977. Ways and Means. Authorizes a taxpayer, under the Internal Revenue Code, to elect to treat qualified architectural and transportational barrier removal expenses which are paid for incurred during the taxable year as expenses which are not chargeable to capital account. Deems such expenses so treated as allowable tax deductible expenditures.

H.R. 4767. March 9, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing inappropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 4768. March 9, 1977. Agriculture; Ways and Means. Amends the Social Security Act by authorizing the Secretary of Health, Education, and Welfare to formulate and administer a food allowance program for the elderly.

H.R. 4769. March 9, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Mid-career Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 4770. March 9, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and dentures under the supplementary medical insurance program.

H.R. 4771. March 9, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to pay a specified percent of each State's costs attributable to the establishment and operation of a State medicare fraud and abuse control and prevention unit.

H.R. 4772. March 9, 1977. Judiciary. Prohibits use or supply of false documentation, false information of birth or immigration documents of another for purposes of obtaining a Federal document containing an element of identification.

Forbids commerce in such information, documentation, or official documents for purposes of securing a State or local government document containing an element of identification.

Prescribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document with intent to secure false official identification.

H.R. 4773. March 9, 1977. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers and brokers and to raise the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

Allows the Secretary of Agriculture, under specified circumstances, to withhold from public disclosure the name, address and other identifying information about any person who has filed an unfair conduct complaint against any commission merchant, dealer, or broker.

Directs the Secretary to inspect the records and require surety bonds of any commission merchant, dealer or broker who has violated the provision of such Act requiring prompt full payment in respect of any transaction in any perishable agricultural commodity.

H.R. 4774. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 4775. March 9, 1977. Education and Labor; Interstate and Foreign Commerce. Authorizes grants to assist the States in developing and implementing comprehensive and continuing plans for services to the blind; for the evaluation of visual loss and of the services needed at the onset of blindness; for provision of services to the blind; and for developing or demonstrating new or improved techniques for the provision of services to the blind.

Directs the Secretary to establish within the Department of Health, Education, and Welfare, or other agency charged with administration of the Vocational Rehabilitation Act a Division for the Blind.

H.R. 4776. March 9, 1977. Ways and Means. Amends the General Provisions of the Social Security Act to prohibit any payment to any State under specified programs unless the State prohibits any public utility from disconnecting or terminating the heat, light or power unless the State or local agencies responsible for the administration of the State's social security programs has been notified by such utility of its intention to disconnect or terminate and has been given at least 30 days to investigate and take steps to protect the occupants of such residence from any suffering or hardship which might result.

H.R. 4777. March 9, 1977. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers, and brokers, the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

H.R. 4778. March 9, 1977. Science and Technology. Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices.

Establishes criteria for the development of State energy conservation implementation plans. Directs the Administrator of Energy Research and Development to develop energy conservation plans for Federal programs.

H.R. 4779. March 9, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock or products contain quantities of toxic chemicals dangerous to the public health.

H.R. 4780. March 9, 1977. Judiciary. Excludes from the criminal proscriptions and licensing requirements of the Gun Control Act of 1968 any device which (1) is intended only to fire a defensive gas, a pyrotechnic signal, or both, and (2) does not have a separated chambered barrel capable of firing a fixed round of ammunition.

H.R. 4781. March 9, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4782. March 9, 1977. Education and Labor. Establishes a career education program to assist States and local educational agencies in increasing the emphasis they place in elementary and secondary school education on job awareness, exploration, decisionmaking, and planning.

H.R. 4783. March 9, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the Act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 4784. March 9, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 4785. March 9, 1977. Post Office and Civil Service. Increases the maximum permissible size and weight of mail other than letter mail.

H.R. 4786. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for State and local taxes paid or incurred for the furnishing of public utility services.

H.R. 4787. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct up to $500 of the expenses paid or incurred for transportation between their residence and place of business or employment.

H.R. 4788. March 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of Tricot and Raschel warp knitting machines until June 31, 1980.

H.R. 4789. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to deny tax-exempt status to certain organizations if such organizations hold farm real property purchased after the date of enactment of this Act and the holding of such property is not substantially related to the charitable or educational purpose which would otherwise make the organizations tax-exempt

H.R. 4790. March 9, 1977. Judiciary. Amends the Immigration and Nationality Act to require that any alien who has been: (1) detained for further inquiry pending entry; (2) temporarily excluded; or (3) arrested before deportation shall have the right to be represented by counsel from the time of such detention or exclusion.

Authorizes the Attorney General to withhold the deportation of any alien to any country in which the alien would be subject to persecution on account of race, religion, or political opinion.

H.R. 4791. March 9, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 4792. March 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such title.

H.R. 4793. March 9, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 4794. March 9, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 4795. March 9, 1977. Armed Services. Removes the present restrictions which prohibit enlisted members of the armed forces on active duty from engaging in a civilian pursuit or business or prohibit members of the Army, Navy, Air Force, or Marine bands from remuneration for furnishing music outside of a military base where such activities are in competition with local civilians.

H.R. 4796. March 9, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4797. March 9, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commission.

H.R. 4798. March 9, 1977. Judiciary. Authorizes the conditional admission of a certain person to the United States for permanent residence.

H.R. 4799. March 10, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $5,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title, and to provide that earnings in excess of that figure will reduce benefits by only one-third of the excess.

H.R. 4800. March 10, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend the emergency benefit program thereunder for one year and to direct a determination of whether an emergency benefit period exists for each area of a State rather than only on a Statewide basis.

Sets forth sanctions for persons failing to seek or take employment and for persons fraudulently obtaining emergency benefits.

Amends the Internal Revenue Code with respect to maximium credits against unemployment tax and eligibility of aliens for unemployment compensation.

Amends the Unemployment Compensation Amendments of 1976 to extend the report deadline of the National Commission on Unemployment Compensation.

H.R. 4801. March 10, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to review the standards promulgated under that Act to insure that such standards are effective and capable of being implemented; to authorize the Attorney General to enforce such standards, and to permit consultative inspections of work sites by the Secretary.

H.R. 4802. March 10, 1977. Judiciary. Requires that any rule proposed by any Federal agency be submitted to Congress for approval along with a cost-benefit analysis of such rule.

Permits holding employees, rather than their employers, responsible for violations of agency rules if such employee violated such rule.

H.R. 4803. March 10, 1977. Rules. Amends the Legislative Reorganization Act of 1970 to require that each report accompanying a public bill or joint resolution contain a "Paperwork Impact Statement" estimating the amount of paperwork which would be required of private businesses in carrying out such bill or resolution.

H.R. 4804. March 10, 1977. Interior and Insular Affairs; Public Works and Transportation. Authorizes the Secretary of the Interior to implement specified measures which will encourage the use of transportation modes other than personal motor vehicles for travel to and in national parks.

H.R. 4805. March 10, 1977. Interior and Insular Affairs; Public Works and Transportation. Authorizes the Secretary of the Interior to implement specified measures which will encourage the use of transportation modes other than personal motor vehicles for travel to and in national parks.

H.R. 4806. March 10, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4807. March 10, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administra-

tion, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4808. March 10, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4809. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such title.

H.R. 4810. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4811. March 10, 1977. Government Operations. Authorizes the Administrator of General Services under the Federal Property and Administrative Services Act of 1949 to sell or lease at 50 percent of fair market value specified surplus real property which became available due to the closing or reducing of activities at a Federal facility to any State or political subdivision of a State which requires such property to conduct an economic development program. Gives the United States the right to reclaim such property in the event it is no longer used for economic development purposes.

H.R. 4812. March 10, 1977. Education and Labor; Interstate and Foreign Commerce; Banking, Finance and Urban Affairs. Amends the Clean Air Act to require investigation and reporting of employment loss resulting from such act's requirements by the Administrator of the Environmental Protection Agency. Authorizes the Secretary of Labor to provide financial and other assistance to qualified unemployed individuals. Authorizes the acquisition and disposition of property near firms closed as a result of the act's requirements.

H.R. 4813. March 10, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 4814. March 10, 1977. Judiciary. Directs the United States to pay reasonable litigation costs, including attorney fees, to prevailing defendants in civil actions in which the United States is a plaintiff.

H.R. 4815. March 10, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4816. March 10, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to direct the Secretary of Commerce to make payments to the governments of Guam, the Virgin Islands and American Samoa to coordinate actions by such governments with Federal Government efforts to stimulate economic recovery.

H.R. 4817. March 10, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 4818. March 10, 1977. Ways and Means. Amends the Trade Act of 1974 to require the International Trade Commission, upon a finding that an increase in customs duties is necessary to provide relief from import competition, to examine the impact of such increase on domestic retail prices.

H.R. 4819. March 10, 1977. Judiciary. Prohibits the Department of Justice and the Federal Bureau of Investigation from compensating any person for furnishing information unless such compensation is expressly authorized by law.

Repeals authorization for appropriations to the Federal Bureau of Investigation for expenses of unforeseen emergencies of a confidential character the purpose for the spending of which need not be specified.

H.R. 4820. March 10, 1977. Judiciary. Repeals the provision excepting all positions in the Federal Bureau of Investigation from Federal competitive service.

H.R. 4821. March 10, 1977. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to authorize appropriations for urban mass transportation programs under such Act through fiscal year 1982. Sets forth measures and requirements for funding under such Act designed to insure that elderly and handicapped persons have access to mass transportation systems. Authorizes the conversion of specified loans made under such Act and the Housing Amendments, 1955, into grants.

H.R. 4822. March 10, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Courts to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4823. March 10, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Courts to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4824. March 10, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Courts to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4825. March 10, 1977. Post Office and Civil Service. Amends the Postal Revenue and Federal Salary Act of 1967 to abolish the Commission on Executive, Legislative, and Judicial Salaries.

H.R. 4826. March 10, 1977. Agriculture. Establishes the Federal Farm Assistance Corporation, within the Department of Agriculture, and authorizes the Corporation to negotiate for and purchase farmland or units which may come on the market.

Allows lease of such farm units to eligible applicants, and directs the Corporation's Board of Directors to approve the sale to the lessee of such farm units upon a determination that the lessee can successfully manage and operate such farm unit.

H.R. 4827. March 10, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Civil Aeronautics Board to grant exemptions from the requirements of such Act for all-cargo operations in interstate air transportation pending consideration of an application for initial certification under such Act if such exemption is in the public interest.

H.R. 4828. March 10, 1977. Ways and Means. Amends the Tariff Schedules of the United States to increase the value limit for personal articles which may be imported duty-free by residents returning from American Samoa, Guam, or the Virgin Islands.

H.R. 4829. March 10, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4830. March 10, 1977. House Administration. Provides for the designation of any nationally accredited law school as a depository library upon request of such law school.

H.R. 4831. March 10, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to make Federal ship mortgage insurance available for obligations for fishing vessels which do not exceed 87½ percent of the actual or depreciated cost of such vessels.

H.R. 4832. March 10, 1977. Education and Labor. Directs the Commissioner of Education not to terminate or defer assistance under the Elementary and Secondary Education Act of 1965 to a local agency for alleged noncompliance with Title VI of the Civil Rights Act of 1964 if within five years preceeding the date of any such imposed action the Commissioner of Education has determined that such agency was in compliance with Title VI, unless a Federal court, subsequent to the Commissioner's determination, has determined that such agency is not in compliance with Title VI, and has not yet complied such court's final order or judgment.

H.R. 4833. March 10, 1977. Judiciary. Authorizes the Secretary of Commerce to make grants to States which submit and have approved by the Secretary a plan for providing a benefit to the spouse or dependents of rescue squad workers who die as a direct result of an injury sustained in the performance of duty.

H.R. 4834. March 10, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4835. March 10, 1977. Judiciary. Provides for appointment of a special prosecutor relative to alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 4836. March 10, 1977. Judiciary. Directs the National Commission on New Technological Uses of Copyrighted Works to submit its final report to the President and Congress by July 31, 1978.

H.R. 4837. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4838. March 10, 1977. Public Works and Transportation. Terminates the authorization of Salt Creek Dam and Reservoir project, Ohio.

H.R. 4839. March 10, 1977. Education and Labor. Permits the Commissioner of Education to provide financial assistance to local educational agencies determined to be within an area in which an emergency has occurred prior to July 1, 1978, or which has had public elementary or secondary school facilities destroyed or seriously damaged prior to July 1, 1978.

H.R. 4840. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4841. March 10, 1977. Armed Services. Authorizes supplemental appropriations for fiscal year 1977 for use by the various military departments for research, development, test, and evaluation and for use by the Secretary of Defense for military family housing, operating expenses, and maintenance of real property in support of military family housing.

H.R. 4842. March 10, 1977. Banking, Finance and Urban Affairs. Authorizes increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund.

H.R. 4843. March 10, 1977. Post Office and Civil Service; Judiciary. Prohibits the first salary adjustment which would be made under the Federal Salary Act of 1967 after the date of enactment of this Act from taking effect for the Vice President, Members of Congress, judges, commissioners, and referees, and positions in the Executive Schedule.

H.R. 4844. March 10, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Replaces the existing program with a new program substantially similar, but: (1) eliminates charges for coupon allotments and makes coupons redeemable for cash; (2) requires national income standards of eligibility to be income guidelines for the nonfarm United States prescribed by the Office of Management and Budget; (3) directs that food stamp applications be included on application forms for other public assistance programs; (4) directs the Secretary to make contracts or grants for research that will help improve the administration and effectiveness of the food stamp program.

H.R. 4845. March 10, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to repeal the provisions of such laws which grant adjustments of pay rates for Members of Congress and the Vice President simultaneously with adjustment of the pay of Federal civil servants.

H.R. 4846. March 10, 1977. Public Works and Transportation. Directs the Secretary of the Army to convey the Fort Gibson Reservoir project to the State of Oklahoma.

H.R. 4847. March 10, 1977. Public Works and Transportation. Directs the Secretary of the Army to convey the Tenkiller Reservoir project to the State of Oklahoma.

H.R. 4848. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4849. March 10, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to regulate research projects involving recombinant DNA. Establishes the recombinant DNA Research Advisory Committee to make recommendations to the Secretary of Health, Education, and Welfare.

H.R. 4850. March 10, 1977. Agriculture. Requires payments by the Secretary of Agriculture to farmowners or operators storing certain agricultural commodities whenever the export sales of such grains are suspended.

H.R. 4851. March 10, 1977. Agriculture. Establishes a temporary advisory committee to advise the Administrator of the Federal Grain Inspection Service. Amends the United States Grain Standards Act of 1976 to repeal the requirement that the State and other official agencies designated to perform inspection or weighing functions pay fees to the Administrator to cover certain supervisory costs. Directs the Secretary of Agriculture to establish a single system of recordkeeping by grain storage or handling facilities which will meet the requirements of Federal law and the regulations of the Community Credit Corporation.

H.R. 4852. March 10, 1977. Post Office and Civil Service. Requires appointments to the position of postmaster at post offices serving a delivery area with a resident population of 5,000 or less to be made from a list of qualified applicants who have resided in the area for at least one year unless no such individual has applied for the position.

H.R. 4853. March 10, 1977. Post Office and Civil Service. Requires appointments to the position of postmaster at post offices serving a delivery area with a resident population of 5,000 or less to be made from a list of qualified applicants who have resided in the area for at least one year unless no such individual has applied for the position.

H.R. 4854. March 10, 1977 Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish and carry out a medical malpractice insurance program which will enable qualified hospitals with one hundred beds or fewer to purchase insurance against the portion of losses arising from medical malpractice claims which exceed $1,000,000.

H.R. 4855. March 10, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to provide reimbursement to public district hospitals which provide care to indigent patients in counties which do not have a county hospital for indigent care.

H.R. 4856. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include within the meaning of the term "hospital" under such Title, rural health facilities of 50 beds or less.

Sets forth exceptions to staffing, health, and safety requirements set forth for hospitals in the definition of such term.

H.R. 4857. March 10, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to increase the ceiling on the total principal indebtedness which may be outstanding at any one time for operating loans.

H.R. 4858. March 10, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria for the black lung benefits program established under such Act. Requires a reevaluation of prior claims in light of changes made by this Act.

H.R. 4859. March 10, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4860. March 10, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200-mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 4861. March 10, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200-mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 4862. March 10, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 4863. March 10, 1977. Agriculture. Designates the Department of Agriculture as the lead agency of the Federal Government to coordinate all agricultural research activities in other Federal departments and agencies, the land grant colleges, the State agricultural experiment stations, and research in the private sector.

Establishes, to assist the Secretary of Agriculture in the administration of research and grant programs, the: (1) Agricultural Research and Education Policy Advisory Committee; (2) Agricultural Research Policy Analysis Institute; (3) Committee on Agricultural Research Facilities; and (4) the Animal Health Science Research Advisory Board. Establishes grants and fellowships for specified purposes, including a National Agricultural Research Award.

H.R. 4864. March 10, 1977. Agriculture. Designates the Department of Agriculture as the lead agency of the Federal Government to coordinate all agricultural research activities in other Federal departments and agencies, the land grant colleges, the State agricultural experiment stations, and research in the private sector.

Establishes, to assist the Secretary of Agriculture in the administration of research and grant programs, the (1) Agricultural Research and Education Policy Advisory Committee; (2) Agricultural Research Policy Analysis Institute; (3) Committee on Agricultural Research Facilities; and (4) the Animal Health Science Research Advisory Board. Establishes grants and fellowships for various purposes, including a National Agricultural Research Award.

H.R. 4865. March 10, 1977. Education and Labor. Amends the section of the Comprehensive Employment and Training Act of 1973 which authorizes assistance for youth and other special programs to establish a Youth Employment Office within the Department of Labor to administer the youth programs under such section.

Directs the United States Employment Service to provide employment counseling and placement services for youth. Requires that the State plans submitted in order to receive assistance for public employment services be amended to include provision for the development and promotion of employment opportunities, job counseling, and job placement for youth.

H.R. 4866. March 10, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities must be approved by affected States prior to application for approval by the Nuclear Regulatory Commission.

Authorizes States to adopt safety standards which are more stringent than Federal requirements.

H.R. 4867. March 10, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities shall be subject to State disapproval for a 90-day period following notification of the affected State.

H.R. 4868. March 10, 1977. Judiciary. Authorizes individuals to whom the proceeds of a child support order are payable to register such order in any court in any State in

which the individual responsible for making such payments resides.

Allows courts in which such an order is registered to entertain contempt proceedings against an individual who fails to comply with the support order in the same manner as if such court originally issued the order.

H.R. 4869. March 10, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish, within the National Institutes of Health, the Center for the Evaluation of Medical Practice. Directs the Secretary of Health, Education, and Welfare to use the Center to conduct and support research on the evaluation of the effectiveness of medical practice.

H.R. 4870. March 10, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the method of computing OSADI benefits by requiring that the primary insurance amount be based on an individual's ten or fewer years of highest earnings.

Requires the recomputation in accordance with this Act of the primary insurance amount of an individual entitled to OASDI benefits who has wages or self-employment income after 1978.

H.R. 4871. March 10, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4872. March 10, 1977. Agriculture. Amends the National Forest Management Act of 1976 to require the use of oral instead of sealed bidding in the disposition of timber and timber products derived from the National Forest System lands unless the Secretary of Agriculture determines otherwise by regulation.

H.R. 4873. March 10, 1973. Armed Services; Government Operations. Amends the Federal Property and Administrative Act to prohibit the award of contracts for technical support services under rebid or recompetition procedures for substantially the same services on the basis of lower salaries than those paid by the predecessor contractor. Prohibits a procuring agency from awarding a contract unless it has determined that the salary levels for professional employees proposed under such contract are keeping with the professional contribution and reflect the professional status, responsibility, and value of the education and experience of such professional employees.

H.R. 4874. March 10, 1977. Education and Labor. Amends the National Labor Relations Act to permit, subject to specified provisions a labor organization to engage in, and induce others to engage in, a strike, refusal to perform services, or threat thereof: (1) at a construction site; and (2) directed at any one of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of work at such site.

Establishes a Construction Industry Collective Bargaining Committee in Department of Labor with jurisdiction over collective bargaining agreement disputes.

H.R. 4875. March 10, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4876. March 10, 1977. Appropriations. Makes economic stimulus appropriations for fiscal year 1977 to the Department of the Treasury; the National Aeronautics and Space Administration; the Department of Labor; the Department of Commerce; and the Department of Transportation.

H.R. 4877. March 11, 1977. Appropriations. Makes supplemental appropriations for fiscal year 1977 to the Department of Agriculture, the Department of Defense, the District of Columbia, specified international organizations, the Department of Housing and Urban Development, the Department of the Interior, the Department of Health, Education, and Welfare, the Department of Labor, the Legislative, Judicial, and Executive Branches, the Department of State, the Department of Justice, the Department of Commerce, and the Department of Transportation.

Increases the amount to be appropriated for increased pay costs authorized by law for fiscal year 1977.

H.R. 4878. March 14, 1977. Education and Labor. Includes Native Hawaiians in the Indian manpower programs of the Comprehensive Employment and Training Act of 1973.

Increases the minimum amount of funds to be reserved for such programs.

H.R. 4879. March 14, 1977. Education and Labor. Amends the Indian Education Act and certain other related education assistance programs to provide Federal financial assistance to individuals, any of whose ancestors were natives of the Hawaiian Islands prior to 1778.

H.R. 4880. March 14, 1977. Interior and Insular Affairs. Amends the Indian Financing Act of 1974 to include within its coverage individuals, any of whose ancestors were natives of the Hawaiian Islands prior to 1778.

H.R. 4881. March 14, 1977. Interior and Insular Affairs; Education and Labor. Amends the Indian Self-Determination and Education Assistance Act to include within its coverage individuals, any of whose ancestors were natives of the Hawaiian Islands before 1778.

H.R. 4882. March 14, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of a firearm to (1) increase the penalties thereunder, (2) encompass State crimes and (3) prohibit a suspended, probationary or concurrent sentence with respect to a first conviction.

H.R. 4883. March 14, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 4884. March 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4885. March 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4886. March 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4887. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installations of solar energy equipment.

H.R. 4888. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installations of solar energy equipment.

H.R. 4889. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installations of solar energy equipment.

H.R. 4890. March 14, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation, of solar heating and or cooling in a dwelling which such veteran owns and occupies.

H.R. 4891. March 14, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation, of solar heating and/or cooling in a dwelling which such veteran owns and occupies.

H.R. 4892. March 14, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation, of solar heating and or cooling in a dwelling which such veteran owns and occupies.

H.R. 4893. March 14, 1977. Armed Services. Abolishes the National Security Council and establishes the Central Intelligence Agency directly under the President.

H.R. 4894. March 14, 1977. Armed Services; Post Office and Civil Service. Stipulates that beginning with fiscal year 1979 military retired pay shall be made by the Civil Service Commission and that appropriations for such payments shall be made to the Commission. Directs the Secretary of Defense and the Chairman of the Civil Service Commission to jointly issue such regulations as may be required to effectuate the provisions of this Act.

H.R. 4895. March 14, 1977. Armed Services. Amend the Strategic and Critical Materials Stock Piling Act to direct the Secretaries of the Army, Air Force, and Navy to require the Administrator of General Services to establish a program (1) to provide for the acquisition of strategic and critical materials from foreign countries through the barter of goods owned by the United States; and (2) to insure the active cooperation and participation of each appropriate department and agency having custody of goods suitable for barter.

H.R. 4896. March 14, 1977. Post Office and Civil Service. Entitles Federal customs and immigration inspectors to the same retirement benefits as Federal law enforcement officers and firefighters. Permits the appropriate agency to set minimum and maximum ages for such inspectors.

H.R. 4897. March 14, 1977. Ways and Means Amends the Internal Revenue Code to create the World Peace Tax Fund and a Board of Trustees to administer the Fund and to make grants for research and other projects aimed at achieving world peace.

Permits persons conscientiously opposed to participation in war to designate his or her income, gift, or estate taxes to be paid into the Fund.

H.R. 4898. March 14, 1977. Veterans' Affairs. Provides that the decisions of the Administrator of Veterans' Affairs on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be subject to judicial judicial review.

Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 4899. March 14, 1977. Veterans' Affairs. Provides that the decisions of the Administrator of Veterans' Affairs on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be subject to judicial review.

Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 4900. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.J. Res. 351. March 24, 1977. Appropriations. Makes further continuing appropriations for specified departments, agencies and other organizational units of the U.S. Government for fiscal year 1977 for specified programs and activities.

H.J. Res. 352. March 24, 1977. Judiciary. Constitutional Amendment—Provides for the direct popular election of the President and Vice President of the United States.

H.J. Res. 353. March 24, 1977. Judiciary. Constitutional Amendment—Amends the Constitution to require Congress to assure that the total expenditures of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year. Permits an exception to such requirement in time of declared national emergency, but states that expenditures shall never exceed receipts by more than ten percent. Provides a schedule for the institution of such requirement.

Sets forth a schedule for the elimination of the Federal indebtedness.

H.J. Res. 354. March 24, 1977. Judiciary. Constitutional Amendment—Forbids the assignment of any student to a particular school on account of race, color or creed. Forbids the assignment of any Federal, State, or local employee to a particular job or locations because of race, color or creed.

H.J. Res. 355. March 28, 1977. Post Office and Civil Service. Authorizes and requests the President to annually designate September 8 as "National Cancer Prevention Day."

H.J. Res. 356. March 28, 1977. Post Office and Civil Service. Changes the dates of observance of Washington's Birthday, Memorial Day and Columbus Day.

H.J. Res. 357. March 28, 1977. International Relations. Calls for the President to seek a treaty or international agreement establishing a wildlife preserve for humpback whales in the West Indies.

H.J. Res. 358. March 28, 1977. International Relations. Requires the President to seek a treaty or other arrangement with Canada calling for an immediate moratorium on the killing of the eastern timber wolf.

H.J. Res. 359. March 28, 1977. Judiciary. Constitutional Amendment—Permits any State to allow, prohibit, or regulate abortion.

H.J. Res. 360. March 29, 1977. Judiciary. Constitutional Amendment—Limits the consecutive terms of office of Senators to two terms, and of Representatives to six terms.

H.J. Res. 361. March 29, 1977. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 362. March 29, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 363. March 29, 1977. Post Office and Civil Service. Designates the week beginning June 19, 1977, as "National Food Service Employees Week."

H.J. Res. 364. March 29, 1977. Post Office and Civil Service. Authorizes and requests the President of the United States to proclaim April 9 as "Bataan-Corregidor Day."

H.J. Res. 365. March 29, 1977. Post Office and Civil Service. Authorizes the President of the United States to proclaim the second week in April of each year as "National Medical Laboratory Week."

H.J. Res. 366. March 29, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 367. March 30, 1977. Interior and Insular Affairs. Relinquishes all powers and authority of the United States over the territory of Puerto Rico unconditionally and without reservations.

H.J. Res. 368. March 30, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to conduct a study of the effects of saccharin within one year of the enactment of this resolution.

Directs the Secretary to submit a report on the findings of such study to the President and Congress.

Prohibits the banning of saccharin until such report has been submitted to the President and Congress.

H.J. Res. 369. March 31, 1977. Post Office and Civil Service. Authorizes and requests the President to designate the year 1977 as the "Year of Education" in honor of the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson.

H.J. Res. 370. March 31, 1977. Post Office and Civil Service. Designates the week starting with the third Monday in February of each year as "National Patriotism Week."

H.J. Res. 371. April 4, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 18 through September 24, 1977, as "National Lupus Week."

H.J. Res. 372. April 4, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the Sunday preceding the fourth Thursday in November of each year as "National Family Week."

H.J. Res. 373. April 4, 1977. Judiciary. Constitutional Amendment—Provides for the direct election of the President and Vice President of the United States.

H.J. Res. 374. April 4, 1977. House Administration. Directs the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain, with private funds, a monument to General Draza Mihailovich.

H.J. Res. 375. April 4, 1977. Post Office and Civil Service. Designates April 14, 1977, as "National Free Enterprise Day."

H.J. Res. 376. April 4, 1977. Interstate and Foreign Commerce. Declares that the Federal Power Commission and other Federal agencies with authority over the allocation of natural gas shall give the highest priority to specified agricultural users.

H.J. Res. 377. April 4, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 378. April 4, 1977. Judiciary. Constitutional Amendment—Prohibits compelling a student to attend a public school other than the one nearest his residence.

Grants Congress the power to enforce by appropriate legislation the provisions of this amendment, and to insure equal educational opportunities for all students wherever located.

H.J. Res. 379. April 5, 1977. Post Office and Civil Service. Requests the President of the United States to designate July 18, 1978 as "Small Business Day."

H.J. Res. 380. April 5, 1977. Post Office and Civil Service. Establishes the Patriots' Pledge.

H.J. Res. 381. April 5, 1977. Judiciary. Prohibits assignment of public school students to a particular school based upon their race, creed, or color.

H.J. Res. 382. April 5, 1977. Post Office and Civil Service. Designates the first week in May of each year as "Be Kind to Animals Week."

H.J. Res. 383. April 6, 1977. International Relations. Gives Congressional endorsement to the efforts of the United States Delegation to the Third United States Nations Conference on the Law of the Sea to achieve a multilateral treaty which articulates the principle that deep seabed resources are the common heritage of all people and should be utilized with a view to distributing revenues to all countries. Endorses particularly the establishment of an International Seabed Authority to regulate such a system.

H.J. Res. 384. April 6, 1977. Judiciary. Constitutional Amendment—Provides for the direct election of the President and Vice President of the United States.

H.J. Res. 385. April 6, 1977. International Relations. Directs the United States to work within the third United Nations Conference on the Law of the Sea to establish an international organization for the conservation and protection of whales.

Directs the Department of State to undertake a series of bilateral and multilateral initiatives with nations having an interest in whales in order to achieve whale conservation as soon as possible.

H.J. Res. 386. April 6, 1977. Banking, Finance and Urban Affairs. Provides for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789. States that one such medal shall honor President James Madison and shall be issued to coincide with the dedication of the new James Madison Building of the Library of Congress.

H.J. Res. 387. April 6, 1977. International Relations. Directs the United States to work toward the establishment of an international organization to insure the conservation and protection of whales.

Requires the Secretary of State to undertake a series of bilateral initiatives with appropriate foreign nations to develop proposals with respect to such organization, and to enter into bilateral negotiations to conserve and protect whales prior to the establishment of such organization.

Requires the President to establish an interagency Task Force on whale conservation and protection.

H.J. Res. 388. April 6, 1977. Merchant Marine and Fisheries. Amends the Fishermen's Protective Act of 1967 to patrially reimburse vessel owners for fees paid to any foreign nation for the privilege of fishing in such nation's fishery zone.

H.J. Res. 389. April 6, 1977. Post Office and Civil Service. Designates the pine tree as the national arboreal emblem of the United States.

H.J. Res. 390. April 6, 1977. Interstate and

Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to conduct a study of the effects of saccharin within one year from the enactment of this resolution.

Directs the Secretary to submit a report on the findings of such study to the President and Congress.

Prohibits the banning of saccharin until such report has been submitted to the President and Congress.

H. Con. Res. 191. April 6, 1977. Directs the Clerk of the House of Representatives to make specified changes in the bill H.R. 3365.

H. Con. Res. 192. April 6, 1977. Agriculture; Interior and Insular Affairs; Public Works and Transportation. Expresses the sense of Congress that all agencies with responsibility for rural water supply and waste disposal facilities should coordinate their activities to provide assistance in the research, planning, financing and construction necessary to provide rural America with adequate environmentally sound and economic water supplies and waste disposal facilities.

H. Con. Res. 193. April 6, 1977. International Relations. Pledges the support of the Congress to advance human rights. Urges the President to inform other nations that the United States will consider human rights protection in evaluating its relations with other nations.

H. Con. Res. 194. April 6, 1977. International Relations. Declares that Congress (1) would support a Presidential declaration of policy against the United States manufacture of lethal chemical weapons, and (2) urges a treaty banning the manufacture and possession of such weapons by any nation.

H. Con. Res. 195. April 6, 1977. Sets forth the congressional budget for the United States Government for fiscal year 1977. Specifies the appropriate level of new budget authorities and the estimated budget outlays for each major functional category.

H. Res. 401. March 14, 1977. Interstate and Foreign Commerce. Calls for the consideration of the relationship between the violence depicted on television and violence in society by those persons responsible for television programing and broadcasting in the United States.

H. Res. 402. March 14, 1977. sets forth the rule for the consideration of H.R. 4876 (economic stimulus appropriations).

H. Res. 403. March 14, 1977. Waives all points of order against specified provisions in H.R. 4877 (supplemental appropriations) for failure to comply with certain requirements of rule XXI of the Rules of the House of Representatives, during the consideration of such bill.

H. Res. 404. March 15, 1977. Authorizes and directs the Committee on Rules of the House of Representatives to investigate and evaluate the scope and impact of the House broadcast tests as it affects the proceedings of the House and the conduct of Members.

H. Res. 405. March 15, 1977. Sets forth the rule for the consideration of H.R. 4088 (NASA appropriations).

H. Res. 406. March 15, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 407. March 16, 1977. Elects a certain individual to the Committee on Agriculture of the House of Representatives.

H. Res. 408. March 16, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 409. March 16, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 410. March 16, 1977. Rules. Requires that the Congressional Record for the House of Representatives contain an accurate and verbatim account of remarks actually delivered on the floor of the House, together with permitted supporting data.

Limits revisions of verbatim remarks in the Record to the correction of grammatical and typographical errors which do not change the meaning, context, or substance of those remarks.

Entitles Members to insert in the Record remarks not actually delivered on the floor. Requires that such insertions always be clearly distinguished from verbatim remarks.

H. Res. 411. March 16, 1977. Sets forth the rule for the consideration of H.R. 4800 (Emergency Unemployment Compensation).

H. Res. 412. March 17, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 413. March 17, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 414. March 17, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 415. March 17, 1977. International Relations. Declares that the House of Representatives applauds the efforts of the Women's Peace Movement to end violence in Northern Ireland.

H. Res. 416. March 17, 1977. International Relations. Declares that the House of Representatives applauds the efforts of the Women's Peace Movement to end violence in Northern Ireland.

H. Res. 417. March 17, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 418. March 17, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 419. March 17, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 420. March 21, 1977. Rules. Establishes the Select Committee on Congressional Operations in the House of Representatives to continue the functions of the Joint Committee on Congressional Operations for the House. Requires the committee to: (1) make a continuing study of the operation of Congress; (2) identify any court proceeding of interest to Congress or the House; (3) conduct a continuing study of the standing committee structure of the House; and (4) supervise and control the functions of the Office of Placement and Office Management as they relate to the House.

H. Res. 421. March 21, 1977. House Administration. Disapproves a specified regulation proposed by the Federal Election Commission pertaining to voluntary contributions to a separate segregated fund and transmitted to the House of Representatives January 12, 1977.

H. Res. 422. March 21, 1977. Interstate and Foreign Commerce. States that this Congress should expeditiously determine the future telecommunications policy of this Nation. Request the Federal Communications Commission to defer implementation of any further new telecommunications policies until Congress has completed its study on the matter and determined what such future policy should be.

H. Res. 423. March 22, 1977. Sets forth the rule for the consideration of H.R. 4250 (Labor in construction industry).

H. Res. 424. March 22, 1977. Sets forth the rule for the consideration of H.R. 5040 (Department of State authorizations).

H. Res. 425. March 22, 1977. Small Business. Requests the President of the United States to convene a White House Conference on Small Business with the help of the Senate Small Business Committee to develop recommendations, including suggestions for joint legislative and executive action, for revitalizing and maintaining economic viability of the small business infrastructure.

H. Res. 426. March 22, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 427. March 22, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 428. March 22, 1977. House Administration. Declares that the expense of investigations and studies by the House Select Committee on Ethics shall be paid out of the contingent fund of the House.

H. Res. 429. March 22, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 430. March 23, 1977. Sets forth the rule for the consideration of H.R. 3965 (Aviation research projects).

H. Res. 431. March 23, 1977. Sets forth the rule for the consideration of H.R. 4991 (National Science Foundation authorizations).

H. Res. 432. March 23, 1977. Interstate and Foreign Commerce. Declares that the House of Representatives does not favor Energy Action No. 11, relating to the price incentive factor for crude oil production.

H. Res. 433. March 23, 1977. Rules. Declares that the House Select Committee on Assassinations shall continue in operation for the duration of the 95th Congress.

H. Res. 434. March 23, 1977. House Administration. Declares that there shall be paid out of the contingent fund of the House such sums as may be necessary to enable the Committee on International Relations to facilitate the interchange and reception in the United States of members of foreign legislative bodies and officials of foreign governments.

Amends the Legislative Branch Appropriations Act, 1963, to increase the amount of funds available for such purposes.

H. Res. 435. March 24, 1977. House Administration. Extends the time period during which payments may be made from the contingent fund of the House of Representatives to certain standing or select committees.

H. Res. 436. March 24, 1977. House Administration. Declares that certain administrative expenses of the former House Select Committee on Professional Sports shall be paid out of the contingent fund of the House.

H. Res. 437. March 24, 1977. Interstate and Foreign Commerce. Directs that hearings be commenced as soon as possible by the committee with appropriate jurisdiction to consider and determine what should be the Nation's future telecommunications policy.

H. Res. 438. March 24, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 439. March 24, 1977. Rules. Directs the House Committee on International Relations to conduct hearings to determine the nature and extent of any United States involvement in the hostilities in Northern Ireland.

H. Res. 440. March 24, 1977. Interstate and Foreign Commerce. Sets forth guidelines for the development of pay television.

H. Res. 441. March 24, 1977. Sets forth the rule of the consideration of H.R. 5045 (Reorganization of executive agencies).

H. Res. 442. March 28, 1977. House Administration. Authorizes the Committee on House Administration to incur further expenses to enable House Information Systems to develop, operate, maintain, and improve computer services for the House of Representatives, and to give computer support directly to committees, Members, and administrative offices of the House.

H. Res. 443. March 28, 1977 International Relations. Declares that the House of Representatives condemns the action of Uganda, and that Uganda deserves the condemnation of the world community.

H. Res. 444. March 28, 1977. International Relations. Declares that the House of Representatives condemns the actions of Uganda, and that Uganda deserves the condemnation of the world community.

H. Res. 445. March 29, 1977. Sets forth the rule for the consideration of H. Res. 433 (Continuation of Select Committee on Assassinations).

H. Res. 446. March 29, 1977. Interstate and Foreign Commerce. Expressing the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 447. March 29, 1977. Interstate and Foreign Commerce. Sets forth guidelines for the development of pay television.

H. Res. 448. March 30, 1977. Sets forth the rule for the consideration of H.R. 4976 (Authorizations for health services programs).

H. Res. 449. March 30, 1977. Sets forth the rule for the consideration of H.R. 4975 (Authorizations for biomedical research).

H. Res. 450. March 30, 1977. Sets forth the rule for the consideration of H.R. 4974 (Authorizations for health planning programs).

H. Res. 451. March 30, 1977. Sets forth the rule for the consideration of H.R. 4895 (Stock piling of critical materials).

H. Res. 452. March 30, 1977. Standards of Official Conduct. Amends rule XLIII of the Rules of the House of Representatives to prohibit any Member from soliciting or accepting a gift of money for personal use.

H. Res. 453. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 454. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the Intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 455. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 456. March 31, 1977. Rules. Amends the Rules of the House of Representatives to make specified changes in the operations of committees, subcommittees, and the Congress as a whole in considering proposed legislation.

H. Res. 457. March 31, 1977. Interstate and Foreign Commerce. States that this Congress should expeditiously determine the future telecommunications policy of this Nation.

Calls for a moratorium on any further implementation of new telecommunications policies by the Federal Communications Commission until the 95th Congress has completed its study on the matter and determined the appropriate national telecommunications regulatory policy or adjourned sine die.

H. Res. 458. March 31, 1977. Rules. Amends the Rules of the House of Representatives to provide for and to regulate television and radio coverage of the House of Representatives.

H. Res. 459. March 31, 1977. Interstate and Foreign Commerce. States that a review of the national telecommunication policy should be completed expeditiously.

H. Res. 460. March 31, 1977. Rules. Creates a House select committee to conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committee or its members or employees.

H. Res. 461. March 31, 1977. Public Works and Transportation. Directs the Architect of the Capitol to study the feasibility of using solar energy in connection with the operation of House Office Buildings and related structures.

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H. Res. 464. March 31, 1977. Rules. Creates a House select committee to conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committee or its members or employees.

H. Res. 465. March 31, 1977. House Administration. Directs the payment of expenses out of the contingent fund of the House for investigations and studies to be conducted by the Select Committee on Assassinations.

H. Res. 466. March 31, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 467. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 468. March 3, 1977. Sets forth the rule for the consideration of H.R. 3199 (Water pollution control authorizations).

H. Res. 469. March 31, 1977. Sets forth the rule for the consideration of H.R. 5294 (Debt collection practices).

H. Res. 470. April 4, 1977. Directs the printing of additional copies of "The 1977 Joint Economic Report for the use of the Joint Economic Committee.

H. Res. 471. April 4, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 472. April 4, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 473. April 5, 1977. Sets forth the rule for the consideration of H.R. 5262 (United States participation in international finance programs).

H. Res. 474. April 5, 1977. Rules. Amends rule XI of the Rules of the House of Representatives to require committee approval of travel proposals.

Prohibits any Member or employee from accepting any gift of travel from any foreign national without the consent of the House of Representatives.

H. Res. 475. April 5, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of World population growth, its effects, and methods to reduce such growth.

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H. Res. 478. April 5, 1977. Interstate and Foreign Commerce. Calls for the consideration of the relationship between the violence depicted on television and violence in society by those persons responsible for television programming and broadcasting in the United States.

H. Res. 479. April 5, 1977. Rules. Requires that the CONGRESSIONAL RECORD for the House of Representatives contain an accurate and verbatim account of remarks actually delivered on the floor of the House, together with permitted supporting data.

Limits revisions of verbatim remarks in the RECORD to the correction of grammatical and typographical errors which do not change the meaning, context, or substance of those remarks.

Entitles Members to insert in the RECORD remarks not actually delivered on the floor. Requires that such insertions always be clearly distinguished from verbatim remarks.

H. Res. 480. April 5, 1977. Judiciary. Refers a certain bill, together with all accompanying papers, to the Chief Commissioner of the Court of Claims for appropriate review.

H. Res. 481. April 6, 1977. Sets forth the rule for the consideration of H.R. 5101 (Environmental Protection Agency appropriations authorization).

SENATE—*Thursday, September 22, 1977*

The Senate met at 2 p.m. and was called to order by Hon. PAUL S. SARBANES, a Senator from the State of Maryland.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, eternal and unchangeable in Thy holiness, justice, and love, as our forefathers lifted up their hearts in prayer so in our time we appeal to "the Supreme Judge of the world for the rectitude of our intentions." Make us mindful day by day that all of us, human and imperfect as we are, labor under Thy transcendent judgment. We need Thee every hour, and humbly ask Thy guidance, grace, and guardianship now and evermore. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 22, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL S. SARBANES, a Senator from the State of Maryland, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SARBANES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, September 21, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider four nominations on the Executive Calendar, which I understand have been cleared on the minority side of the aisle also.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the majority leader is correct. The nominations on the Executive Calendar for the National Credit Union Administration, Securities and Exchange Commission, and Farm Credit Administration are cleared for confirmation by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL CREDIT UNION ADMINISTRATION

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

The second assistant legislative clerk read the nomination of Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECURITIES AND EXCHANGE COMMISSION

The ACTING PRESIDENT pro tempore. The clerk will state the next nomination.

The second assistant legislative clerk read the nomination of Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT ADMINISTRATION

The ACTING PRESIDENT pro tempore. The Clerk will state the next nomination.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the next two nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The second assistant legislative clerk read the nominations of Lawrence Owen Cooper, Sr., of Mississippi, and Edgar C. Rutherford, of California, to be members of the Federal Farm Credit Board, Farm Credit Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which Mr. Lawrence Owen Cooper, Sr., was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which Mr. Edgar C. Rutherford was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BAKER. Mr. President, I have no need for my time under the standing order, and I yield back the time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is now recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, no doubt the Senate is aware by now of my very deep conviction that the proposed Panama Canal treaties are directly contrary to the national interest of the United States and the free world.

This is the seventh speech I have given in the Senate since the Panama Canal Treaties were signed by the President and the Panamanian dictator. I intend to make other speeches from time to time while this matter is before the Senate and before the country, I might say, Mr. President.

But, Mr. President, the more I study this matter, the more I am convinced that these proposed treaties are not even in the interest of the people of Panama. Stating the matter bluntly, these treaties seem chiefly to benefit the large multinational banks and the elitist dictatorial regime now in power in Panama, a regime which has repressed and subjugated the people of Panama since its inception in 1968.

Let us face it—dictator Torrijos and the clique surrounding him see these treaties not as a program for uplifting and improving the lot of the people of Panama, but rather as a means for perpetuating their own privileged position as a ruling class.

Dictator Torrijos in 1968 was an undistinguished left-leaning major in the Panamanian National Guard. Now, after a career based more on gangsterism than on military ability, he professes to hold the rank of brigadier general and is without argument titular head of one of the world's worst dictatorships.

Mr. President, Freedom House, which is recognized internationally as an impartial monitor of the status of human freedom—and, I might add, counts Dr. Henry Kissinger as a member of its advisory council—rates Panama as one of the ever-growing number of nations in the world whose people are counted among the "not free." As a matter of interest, according to Freedom House, 67 nations are "not free," 48 are "partly free," and 42 are "free." So, Panama is in bad company, but certainly not alone.

But, Mr. President, in addition to these three major categories, Freedom House further breaks down and characterizes the governments of the world by rating political rights under those governments on a scale of 1 to 7, with 7 being least free. Panama is rated 7.

That is right at the bottom in the degree of freedom which the citizens of Panama enjoy or fail to enjoy under the dictator regime in Panama.

Civil rights—or, if you prefer, human rights—are rated on a similar scale, and Panama receives a 6.

A 7 is the worst they can possibly receive under this rating system.

The sad case of the late Leopoldo Aragon is typical of the consistent pattern of gross violation of human rights by the military dictatorship in Panama. Aragon was a working journalist, an idealist, and politically a Social Democrat. Strongly anti-Communist, he had been forced to leave Czechoslovakia because of his opinions and was barred from virtually all socialist-Communist dominated countries. In Panama, rather than being expelled for his political activities, he was jailed summarily without trial for 15 months in Panama's infamous penal colony, Coiba—pronounced CO-E-BA. Amnesty International, the International Commission of Jurists, and the Human Rights Commission of the United Nations finally prevailed on Dictator Torrijos to release this journalist-idealist, who had had the audacity to suggest that Panamanians should be permitted to enjoy basic human rights on the same footing as people of this country or of other free nations.

Of course, Mr. President, Senators know the sad end to correspondent Aragon's life, but I question whether many Members of the Senate are aware that our own Department of State refused Aragon's application for a visa to enter the United States, presumably because the Department of State, like dictator Torrijos, did not wish any dissent or opinion conflicting with its own view of what is best for Latn America and the Republic of Panama. I sometimes wonder where our own country would rate on the scales at Freedom House if the Department of State could impose its programs here as they are imposed abroad.

To be sure, Mr. President, the Panamanian dictatorship, in the present glare of international publicity, will pay lip-service to the forms of democracy. We will be treated to the spectacle of a plebiscite by the Panamanian people allegedly in ratification of these proposed treaties, we will see demonstrations of support and even expressions of patriotic affection for this guileful gangster dictator, and some of us will be reminded of similar plebiscites and expressions of support from another era and on another continent.

Yes, we will see the forms of democracy observed, but I trust that our own media, our own free press, will report substance and not sham. I trust, Mr. President, that our press, being free, will recognize the hollowness, indeed the perversity, of a plebiscite conducted in a country with a censored and controlled news media and with a legislature hand-picked and installed by a military dictator.

Perhaps Senators wonder why the Panamanian dictator is even bothering to go through the motions of conducting a plebiscite. Some hint can be found in remarks made on August 19 in the dictator-controlled Panamanian National Assembly. So-called Representative Luis Castillo posed the following revealing question:

> Mr. President, distinguished negotiators, dear comrade: I would like to ask the negotiators about the plebiscite. Since this is the means by which the Panamanian people will ratify the treaty and is related to the ratification by the U.S. Congress, I would like to ask whether a date has been set for the plebiscite and whether it has considered that it is important for the plebiscite to be held before the U.S. Congress ratifies the treaty. The idea is that once the results of the plebiscite are known—and we feel sure the Panamanian people will approve the treaty by a majority—this would have an impact on the U.S. Congress.

So, Mr. President, the real purpose of this plebiscite is going to be to add fuel to the propaganda fires here in the United States. The Panamanian plebiscite will have nothing whatsoever to do with the desires or interests of the Panamanian people. It will be conducted only for its impact on the U.S. Congress. Panama is a small country but the dictator and his henchmen understand our politics much better, apparently, than we understand the facts of political life in Panama. As chief negotiator, Romulo Escobar Bethancourt put the matter:

> As for the U.S. Congress, there is a big problem, to be frank with you. They (the U.S. negotiators) have a big problem, worse than you can imagine . . . Why? Because the U.S. Congressman, as a good politician, acts as an instrument of those electing him. He is always aware of how the voter of the district or state that elects him feels.

I might say parenthetically, Mr. President, if the Members of the Senate act according to the wishes of their constituents, in my judgment, there is no doubt whatsoever that the two treaties will be rejected by the U.S. Senate. Of course, I think that would be a most fortunate result of the treaty vote in the U.S. Senate.

You see, Mr. President, this matter of elections is something of a novelty down there in Panama. Of course, Torrijos did not get there by an election. He took over in a coup.

Negotiator Bethancourt had to go to some trouble to explain the whole process to the "representatives" in the National Assembly. I can almost imagine their amusement at the thought of having to take account of the views of the people.

But they do have to ratify it, and that is the form that they are going through. It is absolutely meaningless. It will be 999 to 1, I dare say, in favor of the ratification of the treaty unless it would serve their best interests to show a closer vote, indicating that the treaties are not stacked in favor of Panama, which, of course, they are.

But, Mr. President, one representative in this appointed National Assembly of over 400 members did voice a little opposition to the dictator's treaties. Let us see what happened to him. This is Representative Luis Emilio Veces:

> I wish to clear up a point of order. . . .

This fellow seems to have the same problems with the Chair that a number of us have experienced from time to time—not the present occupant of the Chair, I hasten to add.

This Representative continues:

> I wish to clear up a point of order, because the Secretary has declared that the vote was unanimous for the resolution approving the accomplishments of the Panamanian negotiators regarding the treaty.

One can almost imagine the situation. Over 400 dictator-appointed assembly members shouting approval of the actions of the dictator's negotiators, yet one brave voice insisting to be recorded as an abstention. Apparently, a direct vote against might have been viewed as treason. Representative Veces bravely continues:

> I wish to explain my abstention from voting. With the indulgence of those at the presidential table, the vice president, the cabinet ministers and fellow representatives, I wish to explain that I am incapable of bregrudging the merits with which the resolution credits

those abroad who have expressed their solidarity with our country. However, there is a basic issue which has caused me to abstain from voting for that resolution. It is the fact that I cannot share the pleasure of those at this meeting or the pleasure expressed by the government team today for a treaty which I have not yet seen.

Apparently, they had the same problems in Panama, in this dictator-run national assembly, that we had here in the U.S. Congress—the same problems in discovering actually what had been negotiated on behalf of our respective Governments. But Representative Veces had an additional concern which caused him to abstain:

According to the national press and the government team, we have ample guarantees permitting a debate on the new treaty draft. Nevertheless, the same government team has made a series of threats of a political nature against persons who oppose the treaty.

We have not had any such situation as that in this country, and I do not anticipate that we will have any, although, of course, the President and the Department of State are conducting what they call an educational campaign. I believe the more people are educated, though, on this question, the more against the treaty they are going to be. If there is any retaliation, it will not be on the part of the executive department, I am sure. If there is any at all against those who vote for the treaty, it will be by the voters back home, in my judgment. Says Representative Veces:

I wish to state clearly that in such a situation it would appear that we are left only to take it or leave it.

We shall not have that situation here. We shall have an opportunity to amend the treaty. If we amend it successfully in a basic and fundamental way, that will have the effect of killing the treaty, because it would then have to be renegotiated. I am hopeful that we will be able to amend it.

For instance, one section, aside from the major question of whether we ought to give the canal away, one article says that, during the 23-year period of the treaty, the United States will not negotiate with any other nation regarding another Isthmian Canal. There has been suggested a route through Nicaragua. The House, at one time, back around 1903, favored and passed a resolution to that effect, for the Nicaraguan route. But under the treaty, we will not be able even to negotiate with another nation for another sea-level canal without the permission of Panama. Of course, they are not going to give their permission, because the Panama Canal would be a great asset.

Certainly, that ought to be knocked out of the treaty, and many other provisions, as well, should be knocked out, assuming that the treaty is going to be ratified in some form, which I oppose. The similarities between this Panamanian Assembly and our own Congress are sometimes startling. Veces continues:

I am also worried about a number of ideas being expressed, such as that those who oppose the government or the treaty are traitors to the fatherland.

That was stated down in Panama, not here, because no one goes that far.

These are ideas which given the pretense that there is a democratic atmosphere, constitute a threat for anyone in this country who has the power to reason.

Certainly, that same situation would apply here. Those of us who have the power to reason and who can point out the defects in this treaty and the inadvisability of going ahead with it certainly are held up to some degree of—vilification possibly is too strong a word, but some degree of ridicule in the media.

Representative Veces seems to be seeking to discover the limits of permissible dissent, and negotiator Bethancourt advises him in this fashion.

Here is the propaganda line they are handing out in Panama—

Any person who during the debate objects to the approval of the treaties because Torrijos is a dictator will receive our reply explaining why we do not consider Torrijos a dictator, and in addition we will reprimand that person.

So they do not have much freedom of speech down there in Panama.

That will be the debate, at whatever level people choose to engage in it, but whoever decides to enter the debate should know that he will get a reply.

The reply that they are suggesting is not too favorable to any dissenters' life and health.

Veces got his answer, and I am sure he got with it the clear message it carried.

The following facts certainly portend great danger to our use of the Panama Canal.

Mr. President, on July 19, a Soviet delegation in Panama negotiated an agreement with Panama which included the following points—construction of a major heavy equipment repair facility in Panama for use by the Soviet Union; permission for the Soviet Union to take advantage of the tariff "free zone" at Colon for Soviet merchandise; establishment of Soviet installations at France Field, formerly a U.S. Air Force base; and informally, a commitment to allow construction of a Soviet hydroelectric plant and oil storage facilities. Moving in very rapidly, Mr. President. Against that background, I question seriously the judgment of those who would urge the Congress to support treaties which will prop up and perpetuate a military regime whose leader oppresses his own countrymen and seems bent on forging an alliance with the world's bloodiest and most tyrannical imperial power.

These treaties are clearly not in the best interest of the United States or the free world. Since they will tend to darken and prolong the night of tyranny and oppression in Panama, neither are they in the best interest of the Panamanian people.

Mr. SPARKMAN. Will the Senator yield?

Mr. ALLEN. I am delighted to yield to my colleague.

Mr. SPARKMAN. Speaking of those early discussions and particularly the proposal for a sea-level route through Nicaragua, I want to call to the Senator's attention that his predecessor and mine many years ago, Senator John T. Morgan, was one of the great advocates of the sea-level route through Nicaragua.

I have often thought it would have been a great blessing had that gone through.

Mr. ALLEN. Yes.

The ACTING PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. ALLEN. Mr. President, I ask unanimous consent for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. The Senator already has been called, as the distinguished Senator knows, the father of the Panama Canal.

Mr. SPARKMAN. Correct.

Mr. ALLEN. He had advocated the Nicaragua route.

The House of Representatives passed the resolution calling for the Nicaraguan route in working out a treaty with them and in the Senate.

They only changed in the resolution substituting Panama for Nicaragua.

Senator Morgan, though he for decades advocated the Nicaragua route, was so interested in the Isthmian Canal, he urged his friends in the House not to make any effort to go back to Nicaragua, not to have a conference, and they accepted the Senate amendment.

Certainly, it is a great tribute to Senator John T. Morgan that he was willing to sacrifice his own notions of where it ought to go in order to achieve the objective of getting the Isthmian Canal.

Mr. SPARKMAN. While we are reminiscing, I would like to recall that one of the great men in Panama during those days was an Alabaman, Gen. Killiam C. Gorgas, who cleared it of yellow fever.

Mr. ALLEN. That is correct. Also, Gen. William L. Sibert of Alabama.

Mr. SPARKMAN. A corps engineer.

Mr. ALLEN. He did not get the credit, but he was actually the engineer in charge of the construction.

Mr. SPARKMAN. The Senator is correct.

Mr. President, may I be recognized in my own right since the time is up?

The ACTING PRESIDENT pro tempore. Does the Senator make a unanimous-consent request to be recognized?

Mr. SPARKMAN. I ask unanimous consent that my colleague's time be extended.

Mr. ALLEN. Three minutes.

Mr. SPARKMAN. For 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The time of the Senator is extended for 3 minutes.

Mr. ALLEN. I yield to the Senator.

Mr. SPARKMAN. Mr. President, of course, my colleague realizes that these treaties are coming before us.

Mr. ALLEN. Yes.

Mr. SPARKMAN. I had printed in the RECORD sometime back a rather detailed announcement on the hearings. The Senator recognizes that I am chairman of that committee.

Mr. ALLEN. The very distinguished chairman, I might say.

Mr. SPARKMAN. I shall do my best to preside, shall I say, on a nonpartisan basis.

Mr. ALLEN. I know that the Senator will.

Mr. SPARKMAN. I believe we do have

a wonderful parade of witnesses that are coming before us.

Mr. ALLEN. I might say, while the Senator is looking for his paper, that I have requested time before the committee and the distinguished Senator has certainly graciously stated I would have that time to speak or testify in opposition to the treaties.

Mr. SPARKMAN. Mr. President, I would like to refer to the notice that I put in the RECORD.

First, we are going to open these hearings on the 26th. I will be presiding and not supporting either side.

Mr. ALLEN. I understand.

Mr. SPARKMAN. I am going to be presiding officer. We do have a very fine schedule of witnesses. It will probably run about 2 weeks, I should think, and maybe longer than that.

We do not look forward to presenting the treaties—there are two treaties—to the Senate until we are back here the first of the year. I believe that is what Senator ROBERT C. BYRD has scheduled.

Mr. ALLEN. That is correct.

Mr. SPARKMAN. But we are going to start off with our negotiators, Ambassador Bunker and Ambassador Linowitz.

I have tremendous respect for both of them. I believe they did yeoman work down there. We expect to hear from them first.

Then we are going to hear from the Defense people because they are vitally concerned in this matter.

Then we will hear from some of our former Secretaries of State, Secretary Kissinger and Secretary Rusk are particularly mentioned.

I think we have a very fine selection.

Furthermore, we are not going to try to rush these hearings. We are going to give an opportunity to as many as we possibly can—that will include Members of both Houses of Congress, it will include the military, it will include interested citizens and others.

We plan to give as broad a hearing as we possibly can.

Mr. ALLEN. I know that.

Mr. SPARKMAN. I want to assure the Senator of that.

Mr. ALLEN. I know he will be eminently fair and give all sides an opportunity to be heard. I do not know any Member that I would rather see chair these hearings than my distinguished senior colleague from Alabama (Mr. SPARKMAN).

I know it will be a fair hearing. He has outlined those who will testify on behalf of the treaty. I am sure he will be just as fair in giving an opportunity to those of us who oppose the treaty to be heard.

I have full confidence in the Senator's handling of the hearing.

HEARINGS TO BEGIN SEPTEMBER 26 ON PANAMA CANAL AGREEMENTS

Mr. SPARKMAN. Mr. President, as I announced on behalf of the Foreign Relations Committee, hearings on the proposed Panama Canal agreements will begin the week of September 26. During that week, the committee will hear from an array of executive branch witnesses. The following week, on October 4 and 5, we will hear from Members of Congress.

Now turning to the week of October 10, I wish to announce that the committee has rearranged its schedule so that all 5 days during the morning can be devoted to testimony on the proposed canal agreements. During that time, the committee will hear from a variety of public witnesses and outside experts. Among others—

We will ask President Ford and Governor Reagan to appear.

We will ask former Secretaries of State Dean Rusk, William Rogers and Henry Kissinger to appear.

We will ask military and defense specialists to appear.

We will ask a panel of Canal Zone residents to appear.

We will ask veterans' organizations to appear.

We will ask scholars on United States-Latin American relations to appear.

We will ask business, labor, and church leaders to appear.

In short, during the week of October 10, we will hear from as many organizations and individuals as we can.

But this will not complete the committee's hearings on the Panama Canal treaties. Once again, I want to state that the committee will endeavor to compile a full and complete hearing record. We will honor as many requests as we possibly can—and then some.

There will arrive, however, a cut-off point somewhere down the road, and for that reason I want to encourage individuals who wish to express themselves on this issue to do so in writing. They can send their views to the Senate Foreign Relations Committee and as chairman I want to assure them that their written statements will be retained in the committee's files for use by the members of the committee and the Senate as a whole. I hope that many individuals interested in the canal issue will avail themselves of this opportunity.

Mr. ALLEN. I appreciate this information. The distinguished chairman could not possibly have been fairer than he has outlined the policy of the committee will be. Of course, I never had any doubt that that was the case.

Mr. SPARKMAN. I thank my colleague.

The ACTING PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENT NO. 889, AS MODIFIED

The ACTING PRESIDENT pro tempore. The pending question before the Senate is the amendment offered by the Senator from South Dakota, No. 889.

Mr. McGOVERN. Mr. President, after further reading overnight of the amendment I submitted earlier this week, there are two or three clarifying language changes that I desire to make to modify the amendment. I have sent the language to the desk.

On page 1 of the amendment, on the final line, I would strike the word "all."

On page 2 of the amendment, a comma should have been inserted after the word "lands" on line 1.

On line 3, following "prices" the following language should be added: "to serve as an independent source of data by which to measure costs of production, prices, and the extent of reserves and other factors related to the performance of private oil and gas companies."

On page 7, beginning on line 22, after the word "Federal," everything from there to the bottom of the page should be stricken and the word "lands" added, with a semicolon.

Mr. President, the purpose of these modifications is not to change the direction of the amendment in any way, which is basically a yardstick by which to measure the factors under which we determine what the costs are of exploring, developing, producing, and marketing oil and gas, but simply to make the intent of the amendment clearer and to refine it more definitely so that it accomplishes what the amendment is intended to do.

I do not intend to discuss the amendment any more at this time. It is my understanding that no vote can occur on this or any other amendment until 6 o'clock, and that such a vote would not occur until action had been taken on the so-called Bentsen amendment, in the form of a tabling motion. I anticipate that my amendment will be the next order of business after the rollcall vote which has been slated for 6:30 tonight on the Bentsen amendment.

The ACTING PRESIDENT pro tempore. The amendment offered by the Senator from South Dakota will be modified as he has indicated.

The modified amendment is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act'.

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop natural gas and oil resources on Federal lands, to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices, to serve as an independent source of data by which to measure costs of production, prices, extent of reserves, and other factors related to the performance of private gas and oil companies, and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the Federal Oil and Gas Corporation which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

"(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

"(e) Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

"(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

"(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation, or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

"(h) The Board shall direct the exercise of all the powers of the Corporation.

"(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

"(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

"(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

"OFFICERS AND EMPLOYEES OF CORPORATION

"SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

"(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

"(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employees and employers.

"(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title:

"(d) In the appointment of officials and the selection of employees for the Corporation, and the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be used in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal lands;

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal status relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101 (b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

"(13) shall have the power to sell commercially valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

"(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

"(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

"(c) The Corporation shall maintain its principal office at a place determined by it.

"(d) Section 101 of the Government Corporation Control Act is amended by inserting 'Federal Oil and Gas Corporation;' after 'Tennessee Valley Authority;'.

"(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

"TRANSMISSION PIPELINES

"SEC. 206. In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

"OBLIGATIONS

"SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*, That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate or yield no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(e) The Board may—

"(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to obligations guaranteed under this section.

"(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

"(h) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"MISCELLANEOUS PROVISIONS

"SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(d) The provisions of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limitations of the Corporation under section 203 of this title.

"LEASES

"SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"SALES OF NATURAL GAS

"SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other suppliers.

"(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

"TAXATION

"SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount of such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"ROYALTY

"SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

"(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in sum-

mary, shall be made available to any interested person upon receipt of a specific and identifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwaranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"STATE AND LOCAL STATUTES

"SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

"ENVIRONMENTAL IMPACTS

"SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinty and the region.

"(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

"(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

"(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

"(1) public interest and environmental groups having a regional or national scope; and

"(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

"(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall, provide the committee with an adequate staff.

"(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

"ANNUAL REPORT

"SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

"(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report. Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

"OFFENSES; FINES AND PUNISHMENT

"SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or empolyee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"CONDEMNATION PROCEEDINGS

"SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and section 2 and 4 of the Act entitled 'An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain', approved February 26, 1931 (46 Stat. 1421).

"SEVERABILITY

"SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

"AUTHORIZATION OF APPROPRIATION

"SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

"(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

"REVIEW

"SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title.".

The ACTING PRESIDENT pro tempore. The Chair informs the Senator that the order provides that there will be no rollcall votes prior to 6 p.m. today. There could be other votes, voice or division, if requested in the regular order of business.

Mr. McGOVERN. At the appropirate time, I shall ask that this amendment be voted on by rollcall vote. I am aware of the unanimous-consent formula under which we are operating. It is my understanding that that vote by rollcall would be the next one following the vote on the Bentsen amendment at 6:30.

The ACTING PRESIDENT pro tempore. If the amendment of the Senator from South Dakota has not been acted upon by that time, then following that vote, it will be the pending question before the Senate.

Mr. McGOVERN. I thank the Chair.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll..

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, once again the Senate finds itself in the midst of a debate as to what policy will best address our Nation's natural gas supply situation.

This is a critical issue. The severe shortage of natural gas experienced last winter, which resulted in factory shutdowns, job layoffs, school closings, increased reliance on important foreign crude oil, human suffering, and economic dislocation, is only a review of what may happen if we fail to adopt a comprehensive and workable natural gas policy.

The need for extensive reform of the Natural Gas Act, which has been interpreted by the Supreme Court as requiring regulation of interstate producer sales of natural gas, is well documented. The supply situation facing many of our interstate pipelines, that have been experiencing accelerating curtailments for 7 years, remains dismal. The most recent Federal Power Commission estimate indicates that natural gas curtailments will be 3.8 trillion cubic feet for the year April 1977 through March 1978 compared to actual curtailments of 3.38 trillion cubic feet for the previous 12-month period. Pipelines will be able to deliver only 73 percent of the natural gas they are committed to deliver to customers this year.

Proved recoverable reserves of domestic natural gas were estimated at 290 trillion cubic feet in 1970. By the end of 1976, the same reserves had diminished to 215 trillion cubic feet, a decline of 26 percent over 6 years. In the period of 1970 to 1975, natural gas reserves dedicated to interstate pipelines declined from 174 trillion cubic feet to 107 trillion cubic feet—a difference of 38 percent.

Since 1967, U.S. consumption of natural gas has annually outstripped additions to reserves with the exception of 1970 when Prudhoe Bay gas was added to our reserve inventory. Annual domestic natural gas production peaked in 1973 at 22.6 trillion cubic feet. In 1976, producer sales had dropped to 19 trillion cubic feet. At the same time, domestic producer sales to major interstate pipelines decreased from a high of 12 trillion cubic feet in 1973 to approximately 10 trillion cubic feet in 1976.

The Senate is well aware of the need to reverse this deepening and pervasive natural gas supply situation being experienced in the interstate marketplace. In October of 1975, the Senate passed by an overwhelming margin of 58 to 32 the so-called "Pearson-Bentsen" natural gas deregulation bill. In January of this year, the Senate passed the Emergency Natural Gas Act of 1977 which authorized temporary purchases of natural gas by interstate pipelines from the unregulated intrastate market. But still, we have failed to come forward with a permanent solution to overcome our spiralling natural gas shortages.

Mr. President, once again the Senate has pending before it a proposal offered by Senator BENTSEN and myself for mitigating and ultimately resolving this critical situation. Our proposal would deregulate the wellhead price of new natural gas produced from onshore reserves, phase out the wellhead price regulation of new natural gas produced from the Outer Continental Shelf lands, provide a statutory priority for essential uses of natural gas in agricultural and industrial processes, extend certain provisions of the Emergency Natural Gas Act to assure that in the near term consumers who are dependent on gas-starved interstate pipelines will be adequately served, and would prohibit arbitrary and inflationary indefinite price escalation clauses from being triggered due to deregulation.

Our proposal is premised on the fact that a competitive marketplace is required to elicit necessary new supplies of natural gas from untapped frontier areas. One need only look to the unregulated intrastate marketplace, which has not suffered from severe natural gas shortages, to realize the benefits of allowing competitive pricing for an available commodity. Investors are attracted to a free marketplace not hampered by Federal regulation and price controls. It is time to rectify the disparity between regulated and unregulated markets and to return certainty to the Nation's natural gas supply situation.

In order to alleviate the natural gas shortage over the long term, the wellhead price of new natural gas sales in interstate commerce would be decontrolled under our proposal. The impact on the consumer will be minimum by regulating immediately only new natural gas sold from onshore lands and phasing in the decontrol of new sales from the Outer Continental Shelf. It is important to emphasize that if no new gas is found then no price higher than current FPC rates for regulated interstate sales will occur.

New natural gas is given a restrictive definition under the Pearson-Bentsen amendment. Only natural gas sold from new reservoirs and new extensions of reservoirs will be deregulated. The economic incentives of nonregulated pricing should only be applicable to truly new gas discoveries.

Old, flowing natural gas would remain under Federal rate regulation. There is no attempt to provide a windfall to producers of old natural gas.

The Pearson-Bentsen proposal contains other provisions which will assure an adequate supply of natural gas for appropriate uses. The Emergency Natural Gas Act is extended for 2 years which will continue to facilitate immediate and substantial deliveries of surplus intrastate natural gas without jeopardizing the nonregulated status of the sellers. Provisions are contained in the amendment which will prevent a shifting of the interstate shortage to the producing States.

Our proposal establishes priority of service categories for essential natural gas users in times of curtailment including high priorities for agricultural and essential industrial end users. This provision will provide certainty for those end use categories which rely upon an adequate supply of natural gas and which cannot shift to alternative fuel such as coal.

Mr. President, certain modifications have been made to the Pearson-Bentsen proposal between the time we introduced our bill, S. 256, in January of this year and introduction of the current Pearson-Bentsen amendment.

We have deleted "infill" drilling from the definition of new natural gas. The effect of this action will prohibit deregulation treatment for sales of new natural gas produced from new wells drilled in existing reservoirs. Thus, under our proposal we are deregulating only new natural gas.

The boiler fuel prohibition and termination provision of the Pearson-Bentsen bill has been deleted. The Senate recently passed S. 977, the Jackson coal conversion legislation, which effectively addressed this issue.

The section in our earlier bill dealing with the certification of coal gasification facilities by the Federal Power Commission has been removed. The deletion of this provision was based on our determination that coal gasification issues are better considered in the overall context of synthetic fuels legislation rather than natural gas policy legislation.

Limitations have been placed on FPC certification authority with respect to curtailment in order to effectuate the orderly implementation of the forthcoming coal conversion program. Existing certificates of public convenience and necessity may not be altered by the FPC in lieu of the Congressional intent expressed within the Jackson coal conversion bill. However, the ability of the FPC to implement curtailment programs, with the exception of the above mentioned statutory priorities, is not altered.

Limitations have been placed on indefinite price redetermination clauses. "Most favored nation" clauses and other price redetermination devices written into contracts formulated after September 1, 1977 will not be allowed to operate with respect to sales of either interstate or intrastate natural gas. This antiinflationary device will prevent unwarranted price escalations due to deregulation of new natural gas.

S. 256 as introduced contained a 180-day emergency sales provision for purchases of unregulated gas by interstate pipelines. The Pearson-Bentsen amendment instead of introducing a new 180-day emergency sales concept would amend the Emergency Natural Gas Act by extending the sales and allocation provisions up to April 20, 1979. This will provide interstate pipelines with adequate access to surplus intrastate gas.

Mr. President, under our restricted definition of new natural gas we an-

ticipate increases in deregulated sales of between 7 and 10 percent annually. This very gradual rise in the volumes of new natural gas being commingled with large volumes of flowing natural gas will dampen possible price escalations. In addition, the price for unregulated sales of new natural gas in the intrastate market has averaged $1.83 for the previous two quarters. It is inconceivable that the price for new natural gas will accelerate to the alleged level of $4 to $5. The benefits of adding substantial new supplies of natural gas to our domestic reserve inventory far outweighs the "cost" of deregulation.

Another factor which makes the $4 to $5 price escalation estimate totally unacceptable is that elasticity exists between price and demand. That is, users of natural gas with the ability to convert to other fuels such as crude oil and coal will do so when such a conversion becomes economic. If foreign crude oil is available at the Btu equivalent of $2.50 per Mcf and new natural gas for whatever reason moves beyond this price, the end user will obviously convert to foreign crude oil rather than waiting for the price of new natural gas to rise to the market equivalent of LNG or SNG.

Supporters of the administration's natural gas program, which I will discuss shortly, have listed free market cost impacts as a result of deregulation ranging from $45 to $120 billion through 1985 as a tactic to justify the retention of Federal price controls. In reality, these charges are unsupported by any sound economic logic and, in fact, have been thoroughly discredited by the Nation's leading economists.

The administration's supporters have consistently disregarded the fact that the wellhead price averages only about 25 percent of the burner-tip price to the consumer, the remainder being fixed and regulated pipeline and distribution charges. However, since pipelines are not operating at capacity because of regulatory-induced shortages, a greater proportion of fixed charges must be absorbed in the unit cost of gas. In other words, consumer costs increase when pipelines are not full. Deregulation is a device for refilling these gas-starved interstate pipelines.

A more realistic tally of the cost of deregulation must take into consideration the enormous costs that consumers would otherwise pay for substitute fuels, increased oil imports, capital costs to convert to coal, and increased air quality maintenance charges, as well as less quantifiable effects of income and employment loss that would be caused by spot and chronic energy shortages.

I would note that two recent studies have discredited the biased and unsupported cost figures alleged by the administration. A recent study put forward by Congressmen STOCKMAN and BROWN indicates that the President's bill will cost consumers an additional $48 billion over the Pearson-Bentsen proposal if allowed to go into effect. A study released on September 16, 1977, by Professor Erikson of North Carolina State University, comes to the same general conclusion and shows that the ultimate cost to the consumer of continued regulation will approximate $100 billion between 1978 and 1990. Even deliberately choosing assumptions unfavorable to deregulation reduces this benefit only to about $50 billion.

The administration's argument that there is little if any new natural gas to be found is ridiculous. I am convinced that deregulation of new natural gas will result in increased supplies of this essential commodity for domestic consumption. Most industry and Government experts indicate that there are between 600 and 900 trillion cubic feet of conventional remaining recoverable reserves—volumes of gas which at present rates of consumption will carry us well into the next century. Furthermore, we are told that nonconventional gas resources, such as Devonian shale and geopressurized brine, if and when they become technologically and economically recoverable, would significantly expand the known natural gas supply base.

Continuation of current policy concerning the pricing of natural gas production will not result in these reserves being developed. Unrealistically low Federal price controls over natural gas production have prevented the capital investment necessary to make an adequate supply of natural gas available to the interstate marketplace through expanded exploration and development efforts. Uncertainty as to future Federal policy has restrained the most costly production of natural gas from remaining reserves.

In contrast to the Pearson-Bentsen proposal, the administration's natural gas proposal will do little to reverse the critical natural gas supply situation. The administration's proposal—instead of deregulating the wellhead price of new natural gas—would expand Federal control to the previously unregulated intrastate market. If 23 years of Federal regulation over interstate natural gas production have demonstrated anything, it is the simple economic fact that price controls will impede supply and accelerate demand for cheap but nonexistent energy commodities. Adequate economic incentives will encourage development of more costly natural gas resources located deeper in the Earth and further offshore than presently producing fields, and in frontier areas such as Alaska.

Other facets of the President's natural gas program are also counterproductive. Tying the price allowed for new natural gas to the weighted average price of all domestic crude oil would continue the policy of unrealistically low prices for our Nation's most efficient and desirable energy resource.

The definition of new gas is overly restrictive and when coupled with an unrealistically low price ceiling, will provide no incentive for developing new resources. Furthermore, restrictions placed on end-users of natural gas are overburdensome and impossible to administer. Finally, extensive mandatory interconnection and allocation authority would only further exacerbate the situation.

Mr. President, in summary, the natural gas proposals put forward by the administration:

Ignore the potential for finding, developing, and delivering new supplies of natural gas;

Extend to the entire national market permanent ceiling prices below the cost of finding and developing new supplies;

Write off our domestic natural gas reserves and increase our already critical dependence on foreign energy supplies; and

Refuse to recognize that full development of domestic supplies will have the advantage of using existing pipelines and distribution systems, fostering consumer investments, increasing domestic employment, improving the Nation's balance of payments, and enhancing air and water quality.

Mr. President, we are at a critical juncture in the formulation of a workable national energy policy. The Pearson-Bentsen proposal pending before the Senate provides the incentives necessary to elicit sufficient supplies of new natural gas to fuel our economy and heat our homes and schools. Implementation of a national energy policy that ignores the need for stimulation of domestic energy production would be a critical mistake. This is a lesson which we were taught last winter and which we will be taught time and time again unless we take positive and decisive action.

I urge that all Members of the Senate once again join Senator BENTSEN and myself in approving the Pearson-Bentsen amendment as the correct means for remedying an extremely critical natural gas supply situation.

Mr. STEVENS. Will the Senator from Kansas yield for a question?

Mr. PEARSON. I yield to the Senator from Alaska for a question.

Mr. STEVENS. I would like to ask my colleague what would be the effect of his amendment on natural gas from the Alaskan North Slope. My interpretation is that "new natural gas," as defined in this amendment, includes North Slope gas, since no North Slope gas was sold or delivered in interstate commerce before January 1, 1977.

Mr. PEARSON. That is correct, unless North Slope gas was sold or delivered in intrastate commerce prior to January 1, 1977.

Mr. STEVENS. A small amount of Prudhoe Bay gas has been produced and is being used for operations on the North Slope related directly to development and production of the field. Does this constitute sale or delivery in intrastate commerce?

Mr. PEARSON. No. The quantities of natural gas used in oil field operations cannot, by any stretch of the imagination, be considered as intrastate commerce.

Mr. STEVENS. Then, since North Slope gas is new natural gas, under your amendment it is not subject to wellhead price regulation. Is this correct?

Mr. PEARSON. Yes. The Senator from Alaska has interpreted this correctly.

Mr. STEVENS. I thank the Senator from Kansas for his response.

Mr. SCHMITT. Mr. President, as we approach an extremely critical vote later today on the issue of the regulation or deregulation of the price of new natural gas, I think it is once again important, as I and others have tried to do on other occasions, to discuss the basic resource question. If we take the step of deregulation of the price of new natural gas, is there a resource base available to be tapped?

Mr. President, as a geologist with a number of years of close contact with the geology of petroleum and natural gas and with the geology of other mineral deposits, I believe it is safe to say that we have already begun to tap the resources of natural gas that are yet to be defined by drilling.

By way of introduction, I think it is important to rebut at the onset one of the basic philosophical concepts that seems to underlie the administration's natural gas program. That concept is that there is a limited, finite, and known amount of gas yet to be discovered and produced.

Mr. President, that is just blatantly untrue. It does not apply to natural gas and it does not apply to any other mineral resource that we use in large or small quantities on this planet called Earth. Some day hundreds or possibly thousands of years from now we might find some resources that have literally disappeared, have run out, and that our current technology is unable to make available to us. But until that distant time, the basic principles of mineral economics and the search for and discovery of ore deposits will still apply.

The size of any resource base is limited by the size of the Earth—the size and the percentage of that resource in accessible portions of the Earth. The size of the reserve, that is, the known producible amounts of a resource, for example natural gas, is dependent on four major parameters or variables.

First, there is the price. What will be the return on investment to the stockholders within a free enterprise entity for the exploration, development, and production of the particular resource?

Second, what is the technology at any given time available for producing that resource at a particular price? And as technology improves, of course, that means that you can produce either at a lower price or at grades or amounts per unit of volume that are progressively higher.

Third, there is science, geoscience, geology if you will. What is the status of our fundamental, basic knowledge that allows us to search for, to identify, and to define the limits of particular reservoirs, if you will, of the resource in question, such as natural gas?

And fourth, there is the overall availability of risk capital. That is, is money available that can be invested in producing a particular resource?

Of course, the availability of capital is dependent on many factors, some of which fundamentally relate to the overall health and status of the national economy.

Mr. President, any one of these four variables—price, technology, science, and risk capital—can affect the size of the reserves that would be available for production. In the specific case of natural gas, the proved reserves, that is, the gas we know is available for production at the present average price—let us say, such as the $1.45 on the interstate market—that reserve base is about 220 trillion cubic feet of natural gas. There are a variety of estimates, but they are very close to that number.

(Mr. HATHAWAY assumed the chair.)

Mr. SCHMITT. That resource base has been steadily decreasing in recent years, largely—in fact, almost entirely—because of a fixed price structure, a structure fixed arbitrarily by the Federal Government.

If we are to expand that resource base, then either the price must go up, technology for production must decrease the cost, science must find new sources of supply, or very large amounts of risk capital at low interest rates must be found.

The question which is facing the Senate today is a question of, one, which of these variables can we effect immediately so that, as rapidly as possible, the crises of supply which our consuming States faced last winter, and which they will continue to face in future winters, will be ameliorated; and, two, what is the best means for improving the incentives or decreasing the cost of the production of natural gas?

It appears obvious to me, and I believe it is appearing obvious more and more to the country, to people as well as public officials, that an immediate deregulation of new natural gas is the first step this country must take in order to increase the size of our reserves. Therefore, hopefully within the next 2 or 3 years, we can relieve the crisis of supply faced by consumers, both private and industrial, in the consuming States of the Union.

With an increase in price, there is the potential return to stockholders of various small, medium, and large companies. That return can be used for increased exploration, that is, the increased amount of activity to go out and look for, drill for, and eventually find, new natural gas supplies.

Such an increase in price also attracts investment capital. It also stimulates the advancement of technology, decreasing the overall costs. It also encourages the scientific portion of the oil and gas industry to search for new supplies in what are commonly called frontier areas, areas in which we have not looked for gas but in which there is great potential for future production.

The estimates of the potential reserves which could be found by deregulation of new natural gas vary. However, it is almost universally agreed in every major study by reputable and knowledgeable groups—universities, the National Academy of Sciences, various industry groups, the Institute of Gas Technology, the U.S. Geological Survey, independent groups of professional geologists—that the resource base is from 1½ to 2 times the size of the quantity of gas that has been produced and is known as available today. That resource base, compared to the 220 trillion cubic feet of presently known gas, is generally estimated to be at least 700 trillion cubic feet, and for a variety of logical and geological reasons it is almost certainly as large as 1,500 trillion cubic feet of gas. That is at prices which are reasonably expected to occur as a consequence of the deregulation of new natural gas.

At this point I should say that the naysayers who are opposed to increasing the supply of natural gas will tell us that the price is going to jump to extremely high numbers, $4 or $5 per thousand cubic feet. But that is just not so. It was not so in Texas where the intrastate market has been unregulated for some years. The price went up recently to about $2.40, as I recall the number, or close to that figure, but very quickly dropped until today, as their supply has increased, outstripping demand, the most recent contracts have a wellhead price for natural gas very close to $1.60.

A similar experience has taken place in Oklahoma.

If we allow the interstate price of new natural gas to seek its own level, there is clear evidence, clear certainty, that the price will stabilize for the next few years somewhere between $2 and $2.50 per thousand cubic feet.

I should also add here that that is about 20 percent of the cost of gas that the consumer finally pays when they turn on their burner or heat their house. The actual price at the wellhead is only one-fifth, approximately, of the price that we as consumers must pay to use natural gas.

It is also important to remember that as new natural gas comes onto the market, it will come on very slowly for the first few years because it has to be found, drilled and produced, and it will be mixed with much lower priced gas which will remain regulated in price. So the actual impact on the consumer will be very small. In fact, as the supply increases, we may begin to see the same "problem" develop which has occurred in Texas. That is, the price will start to drop. The supply will outstrip demand.

The problem of estimating the available resources of natural gas to get an accurate estimate of the potential supply, of course, is a very great problem. It requires a great deal of effort by geologists and their associates. The economic incentive for that effort has been almost nonexistent for 25 years. But we can make some general geological arguments that, I believe, are not only simple but accurate.

If we look at the volume of rock from which we have produced the gas found to date, we can estimate that at least that much volume of rock has yet to be drilled, has yet to be even looked at, for the production of natural gas. There are volumes of unexplored rock which have equal potential for production as that from which we have already produced, or even greater potential for production because they are younger rocks and, therefore, the gas has not had as much time to escape from the formation.

Our primary concern with this Pearson-Bentsen amendment is a concern about the gas that would be available to us in the contiguous United States. This gas is also potentially in very great abundance. As a matter of fact, the Pitt's energy group, which has, for a number of

years, been looking at the various sedimentary rock basins where gas can be expected to accumulate throughout the United States, has estimated that we have 98 percent of the land area over those basins yet to explore for natural gas. I find that a staggering number, but, based on their studies, it is what they assert as correct. I would personally reduce that figure by a considerable amount, estimating that there is at least twice that volume of rock yet to be explored.

Mr. President, it is also extremely important to recognize that there is another source of natural gas, other than that which we find in reservoirs of porous and permeable rock. That is the gas that is dissolved in water, in brines, the so-called geopressured brines of the gulf coast of the United States. It has been estimated that within these geopressured brines, there are 60,000 to 80,000 trillion cubic feet of natural gas yet to be produced. Remember, that is in comparison to the 1,500 trillion cubic feet that I mentioned earlier that we feel can be found in normal rock settings, and in comparison to only 220 trillion cubic feet that we presently know are available for production.

So, if anybody tells you that there is not natural gas to be found, then you can laugh at them, as I have—discreetly, I hope—in the past. There is abundant gas yet to be found.

To be fair, the geopressured gas resources still require the development of some new technology in order to produce them. By geopressure, I mean that these brine solutions are at very high pressure and high temperatures, and we just have to push our drilling technology and our trapping technology, if you will, a little bit further before those resources will be available. But again, as I said earlier, technology is one of the variables that increases the availability of any mineral resource, including natural gas.

So, Mr. President, I hope that this discussion, this summary, once again, of some of the arguments about our resource base and about its very large size will serve to help in this debate. I hope it will serve to at least keep public awareness of the very fundamental fact that there is natural gas to be found and produced that will alleviate future crises of supply, such as we experienced last winter. Unfortunately, our supply inadequacy has been growing for so long that I would be remiss if I did not say that, for the next two or three winters, even with deregulation of natural gas, many portions of this country will suffer from shortages, with even normally cold winters.

Unfortunately, when we have shortages of natural gas and when we continue to regulate the price so these shortages will continue and get worse, we increase the overall cost of energy to the consumer, because they must switch to electricity, which, on a Btu basis, costs more than five times the cost of natural gas. Or they must switch to expensive imported natural gas, which costs from two to three times more than domestic natural gas.

So, Mr. President, I find no persuasive argument whatsoever from the consumers' point of view that would lead me to conclude that deregulation is bad for the consumer. Not only will it provide a supply of gas, which is absolutely necessary to their well-being and to the economy, but within a few years, all previous experience in mineral economics indicates, the actual price of that extremely valuable and environmentally sound fuel, pure natural gas, will be decreased. What could be considered more consumer-oriented legislation than the Pearson-Bentsen amendment, that would provide for the deregulation of the wellhead price of new natural gas?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I send to the desk an amendment to amendment No. 862 and ask unanimous consent that it be stated.

Mr. DURKIN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. An amendment to amendment No. 862 would not be in order except by unanimous consent, since there is a perfecting amendment pending to the language of the bill proposed to be stricken by the Pearson-Bentsen substitute. It would take precedence over any amendment to Pearson-Bentsen.

Mr. WEICKER. I asked unanimous consent.

Mr. DURKIN. I object.

Mr. BURDICK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from South Dakota (Mr. MCGOVERN).

Mr. DOMENICI. Are there any time limits on Senators speaking at this point?

The PRESIDING OFFICER. No time limits.

Mr. DOMENICI. Mr. President, I want to spend a few moments today talking about natural gas. In particular, about the Pearson-Bentsen amendment substitute which we will vote on this evening, at least we will vote on whether or not we should table it this evening.

I thought it might be important that some of us who have worked on this problem and have lived with it share our views with our fellow Senators here today before this very critical vote.

I say first, Mr. President, to my fellow Senators, that I do not think there can be a viable national energy policy that does not address the issue of the adequacy of the natural gas supply in the United States.

I do not think I have to trace the history of this valuable energy source, the abuse, the misuse, the misunderstanding, the regulation, and the more current history of shortages, because I am quite sure that in numerous committees and here on the floor others have done it on a number of occasions, and in the last week or so many have gone through that history over and over again.

But I would like to express in my own way how I view this issue and share a few of my feelings nonetheless.

Mr. President, if any of my fellow Senators could have been with me, the Senator from New Mexico, about 5 years ago, 5½ years ago, if they would have walked with me in two counties of my State, the counties of Valencia and McKinley, where about 80 percent of the uranium for the United States was then produced and is still produced, if they could have been with me and viewed the activity in those counties, and the price of yellow cake, the first processing of the raw ore uranium, if they could have seen the activity in those counties they would have been amazed, that little or nothing was happening.

America found its first uranium when a wonderful Indian gentleman in my State who traveled all over that part of the country on horseback happened to be shown by a geologist a little piece of rock and was told, "Do you know this is valuable? It is uranium."

He had been over by one of our major Indian pueblos and had seen some of this ore. He walked into a mercantile store with this rock and said, "This looks like something the Government geologist told me about, can you get it assayed?"

The history of what happened is rather irrelevant, other than that particular little Indian man found the Jackpot uranium mine and the United States just dug uranium off the surface with big steam shovels.

Then we looked around and we found some more of it close to the surface and we dug a little more.

So if they were with me in New Mexico 5 years ago when that yellow cake was not worth very much, they would have seen us digging that yellow cake, that uranium, right off the surface of the earth.

They would have read, in geological periodicals and Atomic Energy Commission estimates of America's uranium reserves, that they would estimate them at that point based upon two things, the price and where we found it.

If that same Senator or anyone interested in whether the marketplace works in this country would have been with me about 1½ months ago and visited that same area, they would have been amazed, for we are no longer just

digging with a steam shovel off the top of the earth to get this uranium, but, quite to the contrary, we are 2,500 feet underground in cement shafts. One mine cost $350 million. We go down in Mother Earth and dig that same uranium we were scraping off the top, off little foothills and mountains.

If we would have gone up the road a little further, we would have found three more of those mines. Then if we would have returned from that trip in time to read the Mitre report on uranium adequacy in America and its supply, commissioned by the Ford Foundation, we would not have been surprised to find that there are now people saying we have an awful lot more uranium than we thought 5 years ago.

All you would have to do would be to go out there and see that activity with the private sector literally turned loose, with all their vitality and energy, and you would find mines that cost $350 million, and no one even thought a few years ago of investing money in or digging a hole in Mother Earth to get that uranium out. You would begin to say, "Well, maybe there is something to the notion that there is a little more uranium than we thought 5 or 10 years ago."

The point is that in that particular aspect of energy supply in our country, something happened in the last 4 or 5 years that is very relevant to what we are asking Congress to let happen with natural gas in the bill before us.

I wish that Senators and public servants who travel this country singing the praises of the private sector, appearing before groups and talking about the fact that it truly is what makes America great—when we need something in this country, turn them loose and they will supply it—would understand that that applies in energy development and in energy production, also. I wish they would eliminate the side issues of whether energy companies are too big, whether energy companies are making too much money, and address those somewhere else—change the tax laws, if they wish.

Maybe their position is right. I do not know. From everything I read, I do not know whether they are making too much money. But if they are, we have ample opportunity, on a regular basis, to revise our tax codes. If we think they are too big—and I do not know if they are or not; if we think there is a monopoly—I do not know if there is or not, although I have read everything I could on the subject, and I do not believe there is; but if that is so, why do we not address that issue somewhere else? Why do we not turn the private sector loose to find natural gas in this country and see whether or not what many contend to be the case is true?

As one concerned not only about New Mexico but about the entire United States as well, if that question were asked of me—"Why don't you and why won't you?"—I would like to know some other facts. These are the kinds of facts I would like to know:

I would say to one who asked about the private sector, "Is there any real chance that $1.75 as the price of new natural gas and regulation of the interstate and intrastate markets under that price for new natural gas will produce more new natural gas for the United States or not?" I would start with that, because if it will work, then I might be likely to go along, even though my instincts tell me that the last 30 years of regulating have done nothing other than produce aberrations and insignificant conclusions or conclusions that no one can understand.

I would ask, "If it is going to do that, why don't we go along with the President?" In answering that question, it seems to me that we are presented with a living model that it will not work. Our economists work with models all the time, and they are usually hypothetical. You start with some assumptions, and either you believe the conclusions or you do not.

However, there is a living model that denies the validity of regulating new natural gas at $1.75 and imposing that on the interstate and intrastate markets. What is that model?

That model is found in the fact that we have had and have today two markets in America. We have an interstate market and an intrastate market. One is regulated and one is unregulated.

If different marketplaces exist in the same country for the same product and one is regulated and one is unregulated, it seems to me that we should look at those two markets and see what they reveal in terms of the adequacy of continued regulation at $1.75 per thousand cubic feet for new natural gas. You do not have to look at it very long to arrive at three or four conclusions.

First of all, in the last 10 years, substantially more than half of all new natural gas found in this country went into the intrastate market. There were two markets competing for it—one governed and regulated by the Federal Power Commission and one a free market system. Why would 80 percent of the new production go to the intrastate instead of the interstate, as it does today? Simply because people do not like to be regulated by the Federal Government? Absolutely not. Because in one case they were paid the market value and in the other they were paid what the Federal Power Commission, with all its rules and regulations and hearings, determined it was worth.

One might say, "Has that changed in the last couple of years?" There are many who say, "There is plenty of incentive now; we just want to kind of push it a little." It has not changed very much. In fact, even with the huge demand in the United States, after interstate versus intrastate, the latest figures for April, May, and June of this year indicate that most new gas produced went into the intrastate market because there was no control over it and that free market governed. Then, in that free market, contracts were renegotiated. They ran out. We amended them and changed them. More than 60 percent of those renegotiations yielded a price in excess of $1.75, the price recommended as the ceiling. In fact, for that kind, the average was $1.94. For new natural gas contracts for the same 3 months, the average price was $1.83.

While I mention those figures of $1.83 and $1.94, I remind everyone that it is not $4 and it is not $5, which are the figures some have bandied about. That free and open marketplace yielded those averages.

So I make the point for two reasons: Because it has not gone inordinately high and, second, it is more than the price the President suggests as the ceiling.

How can anyone honestly say that that set of facts, $1.75 for new gas, is a new incentive to go out and produce more, while, as a matter of fact, some of it will have to be rolled back under the President's approach because the open market has already brought more than he has suggested?

Mr. President, one would have to look at those two living models for some kind of answer. One would have to conclude that we have had, for some substantial period of time, living proof that the marketplace indeed will bring on new natural gas and, second, that the existing marketplace is not going to respond effectively to a price lower than the price it has been bringing in the last 3, 4, or 6 months.

One would have to conclude at that point that you should look for something else, some other policy for this country, and then attempt to analyze those options and see what bearing they will have on supply and what bearing they will have on the consumers of this country. I am going to take those next.

First of all, anyone who proposes that we do not need to deregulate new natural gas had better be ready to say that the policy they suggest will bring on board more new natural gas without deregulation. What I mean is that if they are not ready to say that, they had better be ready to answer to the American people as to where we are going to get the natural gas this winter, the winter after that, and the winter after that, because everyone will understand the importance of supply when the factories in this country close down. Everybody will understand when a thriving city says: "You can thrive no more; there is no more natural gas. You cannot add any more houses here. You cannot grow."

Everybody is going to understand when the schools close, and then they will run that through a computer and they will tell us how many billions of dollars that cost us and, if that is not bad enough, when people freeze because there is not enough natural gas people will begin to ask why.

So anyone suggesting that we ought not deregulate, better have a policy that will produce more natural gas than we have or say that is impossible, in which event we will have to go some other direction.

Let me talk about whether it is possible or impossible to produce more natural gas by 1985 than we are using today or than the President predicts under his plan.

Mr. President, there is another myth around, and that is that there is not very much natural gas available for the fu-

ture, and I could spend an hour with report after report indicating that that is indeed a myth. But I am not going to do that. Suffice it to say that I do not believe any credible geologist believes that there is not a tremendous amount of natural gas locked in the inlands of America and offshore that this generation and a few generations down the line can use and should use. The question is, "When do we get it out of the ground and how?"

Mr. President, I am going to suggest that if there is another myth about, it is that the Pearson-Bentsen deregulation statute is going to turn loose on the American consumers almost instantly—I mean people banter this around like as soon as it is passed all the gas in this country is going to double, triple, and quadruple in price.

Let us talk about the reality and give a realistic assessment to this gradual deregulation proposal. First of all, this substitute does not require, or even suggest, that old natural gas that already is coming out of the ground is going to be deregulated. It is going to remain under the regulatory control of the Federal Power Commission. Mr. President, under the most optimistic assumptions of production of new natural gas, 90 percent of the natural gas used by Americans in a full year after this bill is passed will be old natural gas. And this amendment or substitute is not going to have anything to do with the price of that old gas.

In fact, we are given a rare opportunity to buttress the future price because much of our gas for the next 10 years will be old natural gas. New will merely mix new gas in with it each year incrementally. So all we have to assess is the impact on the American economy of somewhere between 6 and 10 percent new natural gas deregulated bringing market value, and I am prepared to do that now and say, first, it will yield by 1985 for use by Americans at least 3 trillion cubic feet more than we will have if we do not deregulate. And this is per year.

One might ask how relevant is that. Mr. President, not only is that relevant, but that is the whole issue. If we believe we will get 3 trillion cubic feet more of natural gas per year this way than under the President's plan, then it is very simple. It is very simple to tell the American people what that means. First of all, it means that if you do not have that 3 trillion cubic feet each year you are going to use something else or you are going to be on curtailment or you are going to be shut down.

Let us assume that we are not going to have the drastic results but rather we are going to substitute for that 3 trillion cubic feet some other kind of energy. For that is the issue. What will take its place?

Now, let me give you some random figures. If electricity takes its place at today's prices of electricity—that is a simple one—the consumer will pay between 8 and 18 times as much per unit of energy that way as if some of that new natural gas I just described was available for them to use it. And I am figuring in that ratio new natural gas at about $2.25 a thousand.

If it is not electricity, it might be natural gas that we convert from coal, although we have not even been innovative enough to have one of those on board yet for comparison purposes. Let us say we had one, that would only cost $4.50 to $5 per thousand to take the place of the natural gas and more realistically we might be importing either from Canada or foreign countries in the form of liquefied natural gas something we will use in its place.

I need not tell the people of this country or my fellow Senators that in neither case are we going to get either of those for less than what they think the American market will bear. We would do much better to give it to Americans who produce it and keep the money here and have no economic impact worse than the price the substitute would bring. So how can we honestly conclude that the American consumer is hurt by this when any analysis you can make will clearly indicate that the risk is worth taking? I would remind my fellow Senators that if the risk proves wrong we are still here to take a look at it, but I urge that they consider seriously turning loose the activity, the growth, the potential, that I witnessed in the uranium fields of New Mexico, turn that loose by letting the small and large American energy companies take their risks, explore new fields, go where the risk is high but the chance of making money is attractive, and let us see if they do not respond by producing that 3 trillion cubic feet per year in excess of the President's estimates under his plan.

If they do, we are better off, our people are better off, and most certainly if we do not have to send those billions of dollars that they might get if they produce it to foreign countries, the overall international posture of America will be better.

The opportunity is a unique one, in my opinion. Misunderstandings are abundant. Myths are floating around, and have for years.

In my opinion, the risk to the consumer is far greater under continued regulation; and I would remind those who are for it that someone will have to take the blame next year, the year after, or the year after that, when we are short, when we have another real tough winter, when our balance of payments continues to be so unhealthy because of energy that it threatens our total international financial system.

When you add up all those risks, compared to the risk of turning the private sector in America loose, governing them under general monopoly laws and tax laws rather than strangling their productive capacity with regulations, their production of energy through cost controls and regulatory processes, in my opinion where we want to place the risk, and which risk we want to take, are easy choices. I believe if we do that, our country will be better off, there will be a great deal more hope, and the consistency of the desire to invest, plan, and produce that will flow from it may have far larger ripples than any of the models we can come up with in our econometric back rooms.

POTENTIAL DOMESTIC GAS SUPPLY

The national energy plan, particularly that portion which continues unrealistically low prices for domestically produced natural gas, is founded on a notion that is unsupported by facts and is untrue. That notion is that there is no more natural gas to be found in the continental United States and that a higher price would not generate greater natural gas production of any significant quantity.

A thorough review of many studies of the potential supply of domestic natural gas conducted by the potential gas agency of the Colorado School of Mines reveals that the concensus of the studies is a potential gas supply of between 700 to 1,200 trillion cubic feet. This is more than equal to the cumulative production of natural gas to this point in time plus proved reserves, a total of 731 trillion cubic feet.

Another report by this committee estimated an undiscovered potential supply of 923 to 973 Tcf remaining to be found. This is more than four times the present proved reserves and almost two times the total amount of gas produced in the United States throughout the more than 100 year history of the industry. The range of all the estimates, 700 to 1,200 Tcf, represents a 35 to 60 year supply at present consumption levels.

Only those who feel an overriding need to oppose deregulation or phased decontrol of natural gas will try to maintain, and even they cannot produce proof, that the amount of remaining natural gas is so small as to be inconsequential to future energy requirements.

RELATION OF PRICE TO SUPPLY

Some proponents of continued price control argue that even if there is more gas to be found and produced, higher prices will not cause that gas to be found and produced. History repudiates that theory, a repudiation clearly written in the comparison between gas reserves committed to the intrastate systems and the interstate system in recent years. In the interstate market, where prices have been artificially low, new gas reserves have fallen each year while in the intrastate market, where prices have been free to respond to demand, new gas reserves have increased each year. There is, as the history of these two markets vividly demonstrates, a direct relationship between the price for new gas and the amount of gas committed to each market.

Relevant facts which serve as proof of this relationship are easy to find for those who look. For example, most new gas now goes to intrastate markets. FPC statistics show that over 80 percent of the new gas coming into production is committed to the intrastate market. This increase in intrastate commitment in recent years, combined with closing out of interstate, fixed-price contracts, has resulted in over half of total production being devoted to the intrastate market during 6 of the last 7 months the conclusion is obvious—there is more gas to be found and it will be found if prices control the situation rather than the Government controlling prices.

THE PRICE OF $1.75 PER MCF IS NOT AN INCENTIVE

The price of $1.75 per Mcf is less than producers of new gas are receiving now. Accordingly, it is not even an "incentive" price as its supporters contend and it is certainly not a "ripoff" as opponents of decontrol claim.

These figures are very revealing in that regard: During the 3-month period of April, May, June of this year, 56.4 percent of new contract volumes was for prices exceeding $1.75/Mcf. During that same period, 81.7 percent of renegotiated or amended contract volumes was at prices exceeding $1.75/Mcf. During this same 3-month period, the average price paid was $1.83 per Mcf for new contracts and $1.94 for renegotiated or amended contracts.

So, it should be clear to all who have an open mind, that far from being an additional incentive as supporters of $1.75 per Mcf claim, this price represents a reduction below that now being received from most new gas production. Why will producers produce more when they will receive less? The answer is obvious—they will not.

The price of $1.75 per Mcf is not even an adequate replacement cost. The NEP had as one of its fundamental principles, the major premise that natural gas should be at least priced at its replacement cost. FPC filings show that a ceiling price of $1.75 per Mcf violates that premise since the industry-wide average cost of finding and producing new gas now ranges up to $2.60. It is clear, then, that $1.75 per Mcf will not support new gas exploration and production in todays' economy and that the objective of replacement-cost-pricing is not really a serious objective of those who propose price controls at this level.

TRUE COST OF FAILING TO DECONTROL

Proponents of price controls and extension of controls to the intrastate system have indulged in a highly popular game known as the "big cost scare." They claim that any form of price decontrol will result in staggering costs to the American public in a gigantic ripoff for the oil and gas industry. Some of these cries of anguish are based on estimates of costs reaching as high as $120 billion. These exaggerated claims and phony estimates are unsupported by any sound economic logic, and, in fact, have been thoroughly discredited by many of the Nation's leading economists and by various independent organizations and individuals.

Some of the common errors in calculating huge costs are:

First. Only new gas would be decontrolled, but some of the estimators conveniently figure on the basis of all gas being decontrolled.

Second. Big-cost calculators fail to recognize the gradual nature of price increases under any decontrol plan since most gas consumed would continue to be price-regulated old gas which is estimated to average about 48 cents per Mcf.

Third. Most of those who project huge consumer price increases fail to consider the fact that the wellhead price averages only about 25 percent of the price to the consumer. The remaining 75 percent is attributable to fixed and regulated pipeline and distribution charges.

Opponents of new gas decontrol also avoid the fact that alternatives undoubtedly cost more than decontrolling new gas. People who make a big case of the high cost of deregulation of new natural gas do not carry the issue far enough—they do not compare their projecting with the costs that continued controls will cause—the costs of alternate or substitute fuels.

They also forget the misery, suffering and economic costs associated with curtailments. The memory of last winter's bitter lesson is soon forgotten, but it should be remembered that fixed prices have led to severe curtailments in the interstate system. A study in 1975, even before the bad winter, shows curtailments cost the consumer, nationwide, more than $4 billion.

Even if we forget about curtailments, we cannot forget that for gas not produced and made available, an equivalent amount of some other form of energy must be obtained and substituted for that undeveloped gas. There is an alternate action, or course, and that is simply to do without. And that seems to be the NEP's real objective: To force people and business to do without after the shortage has been spread around. And if price were the true determinant in that decision, many activities would cease, many homes would go without heat, many plants would close down because the natural gas that is not there would have been cheap in comparison to alternate or substitute fuels. For example, fuel oil, used to heat a typical home may cost the homeowner as much as 80 percent more than natural gas. Costs of electricity for denied users may cost up to 18 times as much as natural gas. Imported liquefied natural gas is certainly no bargain at as high as $5 per Mcf, and synthetic natural gas is still about 15 times as expensive as natural gas.

Do we do consumers a favor when we insist on price controls which guarantee shortages that must be filled by much more expensive substitutes? The answer, again, is obvious. It is the sheerest of folly to suggest that by so doing we are serving their interests.

So, to those who say that the consumer cannot stand the cost of deregulation of new natural gas, I say, consumers cannot stand the financial drain imposed by continued regulation. Of course, my opponents on this point would simply subsidize the consumer from public funds when their policies cause people to be unable to pay for alternate fuels, as is the case with home heating oil in the Northeast. In the bargain, they will blame the gas producers for having failed to produce enough gas to meet interstate system needs. Clearly, the stage then is set for a self-righteous and indignant self-fulfilling prophecy.

DISASTROUS EFFECT ON OUR BALANCE OF TRADE

Essentially what we will do if we refuse to allow a gradual return of domestic energy to a free market pricing system is to pay our balance of trade deficit twice. We would pay it first directly to the OPEC countries in inflated imported oil prices and then again through the various taxes that are a part of the so-called national energy plan. In that total plan, there are taxes related to natural gas, primarily to force industry and utilities to convert from natural gas to coal or something else. Those taxes are concrete evidence that a principal part of our national energy policy would be to subsidize foreign oil purchases through the taxes collected on domestic oil and natural gas. How else can you explain the rebate for home heating oil costs when these costs are directly attributable to heavy reliance on foreign oil?

The issue here today is natural gas pricing, but we should not lose sight of the fact that our ever-increasing dependence on foreign oil has come about not because we have no domestic reserves of oil and natural gas, but because we made a conscious decision to retard the development and production of those fossil fuel resources. In other words, we have preferred, and we continue to prefer, to pay foreign nations, often unfriendly and unreliable foreign nations, high prices for their oil while we refuse to pay even replacement costs to our own producers.

Is it any wonder we are in the sad and pitiful energy posture that is a disgrace for an intelligent people who pride themselves on having achieved greatness through reliance on the free market system?

Secretary of the Treasury Blumenthal has warned this country of the imminent danger of continued reliance on foreign oil and the disastrous effect it has on our balance of trade. It May Secretary Blumenthal said:

> The rising cost and volume of our oil imports is swamping our basically strong position on other parts of our trade picture . . . As a result, our trade balance, including fuel imports, has moved from a $9 billion surplus in 1975 to a $9 billion deficit in 1976 to a projected deficit this year likely to total over $20 billion. Roughly half of this deterioration is the result of the increase in our bill for imported fuel.

Statistics compiled since this statement was issued present an even more ominous picture of our current and future trade situation under a policy that discourages domestic oil and gas production. Trade deficits, primarily because of the importation of expensive foreign oil, reached $12.6 billion for the first half of this year. That will mean, at the best, a trade deficit of about $25 billion for calendar year 1977, as opposed to the 1976 trade deficit of $9 billion. These figures vividly demonstrate the magnitude of our slide down the path of total dependence and financial strain, a slide greased by energy policies which the NEP would make even more detrimental to our national interests.

RESULTS OF INDEPENDENT STUDIES

Independent studies support my argument that the NEP would produce less gas than is now being produced. A 1977 publication of the Brookings Institution,

"Setting National Priorities," contains the following excerpts:

If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now: Almost certainly they would produce less than if prices were decontrolled. (P. 325)

In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled. In addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes. (P. 326)

The thrust of the Carter proposals on energy prices is to raise them gradually to most consumers through taxes and special measures, while controlling the price of most oil and gas produced domestically. This policy mix is intended to lower oil imports by reducing oil consumption; it does not provide much incentive to increase domestic oil and gas supply. (P. 327)

To the extent that prices charged by energy producers are allowed to rise, they can afford to produce more while still meeting environmental requirements. President Carter's goal of maintaining or improving environmental quality and safety is thus inconsistent with holding energy prices to producers down; the two can be reconciled only through other policies that lower consumption even more, or else by relaxation of the import target. (P. 332)

The major policy issue concerning crude oil price controls is whether to have them at all, and at what levels prices should be set. Ignoring for the moment the additional domestic energy supply that would come forward if controls were eliminated, abolition of crude oil price controls would remove the substantial enforcement and compliance costs of the program. In addition, it would remove losses in potential petroleum output due to uncertainty about future regulatory decisions and climate and to the distortions created by the controls themselves. The present multiple price system leads to the use of more real resources in producing a given amount of oil than need be used. (P. 328)

Preference for the use of mandatory conservation measures instead of using a price and tax instrument to reduce demand implies that Government should redistribute well-being through the use of energy measures, or else that, given some level of energy consumption, private decisions about the way it is used are inferior to those of Government. (P. 334)

The Office of Technology Assessment of the U.S. Congress in its publication, "Analysis of the Proposed National Energy Plan," has these critical statements regarding the NEP:

(From executive summary) the actions proposed in the plan may not be strong enough to prevent oil imports from reaching levels that could threaten national security and economic stability. The plan's domestic oil, natural gas, and coal production targets represent the upper limits of capacity and are not likely to be achieved.

Although the plan proposes moving energy prices toward "the true replacement cost of energy", its proposals would continue to hold the price of natural gas below the Btu-equivalent of other energy resources. This could prolong a distortion of energy consumption patterns by continuing to make gas—a clean-burning premium fuel—more attractive than alternative fuels. (P. 6)

Delays in leasing schedules and exploration of frontier areas will probably cause production of oil to fall short of the plan's goal by between 1 million and 1.5 million barrels of oil equivalent . . . (P. 43)

The GAO has also been rather critical of the concept and mechanics of the NEP and is highly skeptical of its ability to achieve its objectives. Here are some excerpts from the GAO publication entitled "An Evaluation of the National Energy Plan," released on July 25, 1977:

Portions of the plan dealing with domestic supply are not likely to achieve the results that have been projected. Unless energy demand is reduced, the level of imported oil is likely to be about 4.3 MMB/D more than the administration's goal of 6.0 MMB/D.

We have serious doubt whether the production levels forecast in the plan for coal, nuclear, and natural gas can be achieved. (P. 2.5)

While we agree with the concept of pricing energy at its replacement value and share the administration's concern for windfall profits, the specific actions proposed have several problems. These include: Producers' revenues are expected to actually be lower than they would be with continuation of current policy, which may affect the availability of capital for exploration and development; virtually no increase in production is expected . . . (P. 2.15)

No category of oil will command a higher price under the plan than under existing policy. Hence, there is no additional financial motive for producers to increase their exploration and development activities. Moreover, according to the administration estimate, lower prices for most of the oil to be produced between now and 1985 will cut producers' revenues by 1985 by almost $13 billion (in 1977 dollars), relative to a continuation of existing policy . . . This, in turn, will presumably reduce their profits and ability to attract new capital to finance additional exploration. Therefore, the plan not only keeps incentives for new production at current levels, but potentially reduces producers' financial ability to increase their efforts to produce more oil. (P. 4.5)

The plan will reduce revenues to producers for most oil already discovered and may adversely affect oil companies' financial ability to support additional exploration. By not increasing the financial incentives for additional exploration and by reducing companies' financial strength, the plan fails to come to grips with the problem of increasing domestic crude oil production (P. 4.15)

MISINFORMATION GIVEN TO THE PRESIDENT

President Carter has not had the advantage of the best available information relating to the relationship between the potential gas supply and the effect of higher prices on developing that potential. In several meetings with the President, it was obvious to me that he had been given erroneous information and faulty forecasts from various studies designed to support an argument against decontrol of natural gas prices. The President was genuinely interested and deeply concerned when other Senators and I presented the actual facts and more reliable forecasts of the amount of gas and the consumer cost that would result from decontrol of new natural gas. In the course of these meetings, I sent the President a letter addressing these issues and enclosing an analysis by the minority staff of the Energy and Natural Resources Committee of the various studies of the cost of deregulation. Mr. President, I ask unanimous consent that a copy of the letter and the staff analysis be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

SUMMARY

Mr. DOMENICI. Mr. President, just let me summarize my statement by these rather simple and direct points:

There is enough natural gas remaining in the ground to warrant trying to find and produce it.

No system of continued price controls will lead to the discovery and production of significant quantities of potential supply of gas.

The price at which substantial quantities of natural gas can be produced will not cause near the disruptions or dislocations in our economy nor the financial hardships that will be generated by either substitution of higher priced alternatives or shortages in pipeline systems across the Nation.

Domestic natural gas production will not increase significantly, leaving in the ground huge amounts of this most precious fuel, while we bankrupt ourselves paying the OPEC countries for the Btu's we failed to produce from our own natural gas resources.

So, I urgently recommend that my fellow Senators vote against the motion to lay on the table, and that in due course they vote for the Pearson-Bentsen substitute to discontinue regulation at prices that are unreasonably low, which in my opinion will lead to more shortages and far worse problems than we have seen in the past 2 years.

EXHIBIT 1

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., September 19, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am enclosing a brief staff analysis of the several studies that have been published purporting to prove that deregulation would be enormously costly to American consumers. I believe it conclusively refutes the accuracy of those studies as they apply to the Pearson-Bentsen amendment that I support.

Each study referred to contains one or more of three basic errors: Assuming that large amounts of "old" gas will go to the deregulated market price; Assuming that very little or no new gas will be produced under deregulation and; Assuming that the market price under deregulation will rise excessively and that substitute fuels are cheaply available.

I would like to note specifically that under Pearson-Bentsen, only wells that actually add to our nation's gas reserves will receive the new gas price. The proportion of all gas which is new would increase by less than 10% each year, so that even by 1985, only 50–70% of all gas would be new gas. Pearson-Bentsen provides for the same "phase-in" of higher prices, and the same cushioning of consumer impact that you seek. And higher prices would come only at the same pace that the supplies themselves are received.

I trust that this information will be useful to you, and may lead us to be able to work cooperatively toward a natural gas policy that will insure adequate gas supplies for all Americans.

Sincerely yours,

PETE V. DOMENICI,
U.S. Senator.

STAFF ANALYSIS OF STUDIES OF THE COST OF DEREGULATION

All studies of the overall effect of deregulation must take account of the following factors:

1. The amounts of gas that will be deregulated.

2. The average price of deregulated gas.

3. The amount of gas produced under deregulation that would not be found under the type of regulation being compared.

4. The alternative costs imposed by the absence of the additional gas produced under deregulation.

Three groups have recently issued studies showing large costs to consumers under deregulation: The Executive Office, Energy Policy and Planning, the Congressional Budget Office and the Joint Economic Committee.

The EPP study of June 9, 1977, presents several different cases, but Case 2 was the source of the charge that deregulation would be a "$71 billion rip-off." That case assumes that "one-half of the gas covered by existing contracts would be at the market price by 1985," and also assumes deregulation of "all gas over and above today's proved reserves both onshore and offshore." Neither of these assumptions is correct with regard to Pearson-Bentsen. "Rollover" contracts are not deregulated, and offshore gas remains under some control until 1982.

Further, the study assumes that absolutely no additional gas will be found under decontrol. The general question of supply elasticity will be discussed further below, but no analyst seriously believes that no additional gas can be found that is economical only at a price above $1.75. Use of this false assumption, however, means that there is no alternative fuel cost to consider.

The EPP study assumed a deregulated price of $2.35 in 1978, rising to $2.50 in 1985 (both in 1975 dollars). This is derived from the Btu-equivalent of industrial distillate at the marketplace, netted back to the wellhead. This is a fairly reasonable figure, and is consistent with figures furnished to the Committee by FEA and with other studies. The argument alluded to in this report that the price might actually go to much higher figures is discussed in connection with the CBO study.

In summary, the EPP study is fatally flawed by its incorrect assumption of major deregulation of "rollovers" and by its assumption of absolutely no new supply.

The CBO study also assumes that rollovers would be deregulated (p. 2, n. 1). A comparison of Table 1, p. 16, with the chart on p. xiii shows that the cost figures could not be derived if only the 3.5 TCF of production from new reserves were included as "new" gas. Thus, a large portion of rollovers must be included as new gas, although the amount cannot be calculated from the data given.

Second, the study assumes that deregulated gas will initially go to a $4 price, although it admits that this would soon fall. This is based on the policy of averaging new purchases in with old gas, and selling the mixture at the average price. If new gas does begin to rise rapidly, there is no reason that the FERC and state commissions should allow the continuation of this practice of "rolling-in" of new supplies. Further, our experience with intrastate sales and FPC emergency sales does not suggest that unregulated gas will sell at astronomical prices.

In the unregulated intrastate market, "rolling-in" has not driven prices above their current levels of $1.30-$2.39, even though some pipelines have average gas costs lower than some interstate pipelines. Under FPC practice and the Emergency Natural Gas Act, certain emergency sales were permitted at essentially unlimited prices. Nevertheless, prices did not go to outrageous levels. Even during the worst part of the winter crisis, two sales that were permitted at $2.76 and $3.04/Mcf continued for only a very few days until other sources were found and conservation measures taken to eliminate the need for gas at that high a price. Similar factors would be at work under the Pearson-Bentsen plan to prevent a skyrocketing price.

The third problem with the CBO study is that it argues that less than one TCF of additional gas can be produced by 1985 through the workings of deregulation. This is derived from a complicated model which is driven by the assumption that drilling will accelerate by only 9 percent per year, as opposed to 5.5 percent under the national energy plan. This assumption seems questionable.

The study's own figures show that successful gas exploratory footage has already been growing at 16 percent per year, compounded for the last six years. (Compare the 9 million feet on page 9 with the 3.67 million feet at p. 11, n. 10). FPC figures show developmental footage of gas wells growing at over 15 percent from 1971 to 1976. These and similar figures showing increased rigs in use, and industry capacity to manufacture rigs, indicate that it is unrealistic to assume arbitrary limits to the drilling effort that can be mounted.

A series of studies made both by academics and those involved in the gas business generally agree on a production increase of about 3 TCF by 1985 under deregulation. These figures can be listed briefly as follows:

	AGA	Pindyck-MIT	1976 FEA	MIT-WAES	IGT	Erickson	Stockman-Brown
Deregulation	20.0	24.0	20.6	19.1	21.6	20	18.8
Regulation	16.1	20.4	16.3	16.1	16.2	15	16.4

The final flaw in the CBO study is its unrealistic assumption as to substitute fuels. In its discussion at pp. 21–22, it assumes that substitutes will generally be less costly than gas, a consequence of its unrealistic assumption for the price of gas. Even so, it fails to recognize that for residential and some other uses, the substitute will be electricity, which will cost in the range of $8–$12 per Mcf equivalent. Even worse, the figures in Table 3, the basic source for the "$10–$15 billion per year" cost figures, have a basic conceptual error. That table shows "gas supply costs" based on the total amount sold, which is 18.9 TCF under Mr. Carter's plan, but 19.8 under deregulation. (See Table 6, where production and average price figures are given, which tally with the total costs in Table 3). Nonetheless, the "substitute fuels" cost charged to regulation, is only .5 billion, which would be only 56¢/Mcf for the .9 TCF that must be replaced. The study is obviously only counting here the extra cost of substitute fuels (and underestimating it), when logically, the total cost of such fuels must be considered.

Although the CBO study is probably the best done of the three here considered, its errors with regard to rollovers, the new gas price, the rate of drilling increase, and the cost of substitute fuels mean that little credence can be given to its ultimate conclusion.

The "Joint Economic Committee" study is in fact, as noted on p. vii, the work of one person, Mr. Lawrence Kumins. Mr. Kumins has made similar studies in the past, under the aegis of the Library of Congress, and these have been extensively criticized.

This study contains an initial 62 pages of restating of many of the long-standing and controverted arguments against deregulation. At pages 62–70, he then produces annual deregulation costs of $20–35 billion annually. This is based on very dubious assumptions, including no increased supply at all from higher prices. The cost figures, as summarized in the chart on page 70, are based on the increase of virtually all gas to the assumed deregulated price of $3.00 per Mcf. His study assumes, contrary to the language of Pearson-Bentsen, that rollover will be deregulated and that existing contracts would be broken to allow higher prices. In fact, only $1.5 billion of increased costs in 1978 and $3.0 billion in 1979 are listed as due to new gas, which is more in line with Administration figures.

One additional fallacy of Kumins' analysis is illustrated by his estimate on page 75, that the President's plan would cost $62.1 billion above existing law through 1985. The Administration's estimate, which has not been thought excessive by anyone, was only $15 billion.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to speak to this matter having listened with great care and considerable profit to the remarks of my distinguished friend the Senator from New Mexico, who has concerned himself with this question much more closely than I, and who has far closer command of the facts and the experience of this industry; and only with some hesitation do I address myself to the matter.

It seems to me that the pricing of natural gas presents a most difficult choice to this body, for our decision will inevitably have large effects on the Nation's economy immediately and in the coming years. In view of the seriousness of this decision, I should like to state my view of the situation before us.

As a principle, I am opposed to the control of prices by the Federal Government. It is our experience, and it is the fact, that this is a most inefficient way to allocate resources. Those of us committed to the free market must, however, recognize the extraordinary distance between the free market arrangements we idealize, and the historical structure of the natural gas market—and, indeed, more broadly, the entire energy market. At present, natural gas is greatly underpriced, and petroleum is even more greatly overpriced. Neither condition could obtain in even an imperfectly free market. One need note that while, since 1973, the world market price of petroleum has been sextupled by a cartel of governments, the response of the United States has been to double imports of this commodity, for which there has been a six-fold increase in price.

Reference to market theory will not explain this phenomenon. For generations, the major international oil companies kept petroleum prices at a level which most of the world would now consider to have been very low.

Within the last decade, gasoline has sold by volume in the United States at a

price cheaper than bottled water. Today, the major oil producers keep it at a level which most of the world considers to be very high. The fact is that we have never, in recent memory—not, surely, since the end of the Second World War—had anything which could be described as an energy market in which producers did not affect prices, and will not—whatever bill we pass here—have one now or in the future to come. This is a singularly inappropriate occasion on which to lapse into repetitions of free market doctrine, much as that might be my own inclination, and we would much better serve our constituents to look pragmatically at the facts as they now exist.

The history of the Federal Government in the regulation of natural gas prices is one of failure; indeed, it is one of debasement of the regulatory process. For whatever reason—presumably the fear of reaction among consumers—the Federal Power Commission greatly underpriced natural gas. This was done in the face of warnings that such a course could only lead to misuse and waste of this fuel, and to shortages of it. This is precisely what has happened. It is not any working of the energy market, but rather poor and unintelligent regulation, which has led to the natural gas shortage we faced last winter, and will face—again, no matter what bill we pass today—for several winters to come.

The pricing of natural gas is a matter of enormous importance not only to the producing States, but to the consumer States, not least my own State of New York which produces some gas, but is a large importer. A shortage of natural gas in New York results not only in inconvenience for many and grave difficulty for some individual consumers, but in addition threatens our already diminishing industrial base. Quite simply, if industries need gas, cannot get enough in New York, and can get enough elsewhere, they will soon go elsewhere. We in New York therefore look at this problem with the greatest seriousness.

I offer one principle which I believe to be a good guide to public policy here: Across the entire range of fuels, Btu equivalent pricing should be prevalent. We are failing in this now, for natural gas is priced significantly under its Btu equivalent in oil. As a result, natural gas is wasted; one can state as a general proposition that any fuel which is significantly underpriced will be wasted. Thus do we misuse one of the greatest bounties nature has provided to our country, its supply of natural gas. From this underpricing by the Federal Government, what can we conclude but that the Federal regulatory process is undependable at best, and extravagantly wasteful at worst?

The administration proposal before us continues to rely on that flawed and fallible process, but with the difference, and I believe an important difference, that Secretary Schlesinger and those around him know this history, and are determined not to repeat it. In fairness, there has been a vast increase in demand for natural gas in this decade.

First, the environmental legislation of the period placed a special premium on this miraculously clean and convenient fuel. Second, the OPEC price increases of 1973 placed further demand on this strikingly cheap fuel. To this day almost half the gas sold in interstate commerce is priced in the neighborhood of 32 cents per thousand cubic feet, or so I understand. No regulatory process is likely to keep up very well with such changes in the market. And again, in fairness, we should be clear that the Federal Power Commission did provide a huge increase in the interstate price of gas less than 2 years ago.

The proposal placed before us by the distinguished Senators from Kansas and Texas would rely on the free market. As I have noted, however, our action here may render that market unregulated, but will not render it free. It is in fact a market clearly under heavy internal pressures, and one whose price determinations are not greatly less "administered" than are those of the regulatory process.

It is difficult to formulate a position, still less a legislative proposal, on this issue, not least because one finds widely disparate estimates of every single variable. What are reserves? How much will supply increase if price is increased a certain amount? What will price be in an unregulated market? Each participant in the discussion provides his own estimates, and each provides colored charts and detailed maps to support his claims.

I emerge with a view that seems to me to take into account both the failures of Federal regulation on the one hand and of market forces on the other in setting reasonable prices for natural gas. I cannot endorse immediate deregulation, for the immediate doubling or tripling of prices which would ensue would be unduly disruptive of our already troubled economy, and highly inflationary.

I would prefer to allow prices for new natural gas, as defined in the administration's proposal, to rise in steps over a 4-year period to a price roughly the Btu equivalent of new oil, which is to say about $2.50 per thousand cubic feet. After 1981, controls should be relaxed further, but in view of the potential for economic disruption and in view of the fact that prices are, as I have said, not at all free of producer influence, I believe that some form of price ceiling should remain in effect.

As the choice before us now is to vote for or against the proposal of Senators PEARSON and BENTSEN to deregulate natural gas prices at once, I shall vote against the proposal. Should the Pearson-Bentsen proposal fail, however, I shall keep an open mind toward new proposals which appear to me to be reasonable efforts to deal with the pricing of natural gas.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I value and respect the remarks of the distinguished Senator from New York. I know his feelings for letting the free market system work. He made one statement which I am sure he did not mean to make. That is that the Pearson-Bentsen amendment brought about immediate deregulation. Surely, the Senator meant on new gas.

Mr. MOYNIHAN. If the Senator will yield, I stand corrected. I do, in fact, stand corrected.

(Mr. KENNEDY assumed the chair.)

Mr. BENTSEN. I thank the Senator.

I share the concern of the Senator from New York and some of the other Senators about what will happen to the price, how far it will go, on new gas with deregulation. No one can really say. I have heard some rather wild figures quoted. But I can say what happened in Texas. In Texas, the price got up to about $2.25, and then more gas was brought onstream. The supply was increased. Today, they are letting contracts as low as $1.60. The price has gone down.

I would like to add something to try to help in this debate, to satisfy some of the concerns, such as expressed by the distinguished Senator from New York, the concerns for the homeowner who cannot switch from natural gas. He is not going to build a coal chute into his cellar, and he may not even have a cellar these days. So I am going to offer an amendment at the appropriate time requiring incremental pricing for natural gas used as boiler fuel, if the Pearson-Bentsen amendment is not tabled.

We have heard a great deal about impending curtailments of natural gas this winter. We have heard some very legitimate concerns from our constituents about the prospects of higher fuel bills. We have a clear obligation to help assure that available natural gas in this country is put to its most efficient possible use. We have a clear obligation to try to keep down the cost to that homeowner who is already paying too much on his utility bills.

How do we balance these things? How do we encourage the drilling for natural gas, the bringing on of greater production, the drilling in the expensive formations in the deep wells, and the marginal wells, and the high risk wells? How do we do that and still take care of that homeowner?

The way we do it is with incremental pricing.

My proposal is that we have incremental pricing for the large boiler fuel user, those who consume over 1,500 mcf. That will help meet both of these concerns.

Under the terms of my amendment, large boiler fuel users will be required to pay the average cost of new and artificial gas supplies until that cost reaches the level of 120 percent of the cost of No. 6 residual oil, if it should have to go that high.

Large boiler fuel users, in other words, will be called upon to absorb the impact of higher priced, new gas before homeowners or small businesses pay anything at all in that regard.

I think there is general agreement in this Chamber that the use of natural gas as a boiler fuel is wasteful in times of

shortage. In 1976, over 2 trillion cubic feet of natural gas was burned by industrial boilers.

It is important to understand, Mr. President, that most utility and industrial boilers can also be fired by coal or oil. Most of them are capable of the option. And what is the President trying to do but get these people to convert? So there they are looking at the economics of it.

We have had, in effect, incremental pricing in Texas. We have seen the effect in the marketplace and what is happening to the utilization of natural gas for boiler fuel. Practically all of our boiler fuel was natural gas until the price was increased. Now we are seeing major conversions over to coal.

Mr. President, most utility and industrial boilers continue to burn desperately needed natural gas, because it is cheaper than the alternative sources of energy in other parts of the country. Incremental pricing will encourage conversion. It will also make more gas available to the homes, schools, and hospitals in this country.

I recognize that incremental pricing for boiler fuel users is a complex subject. It might be best explained by an example.

Many pipelines in this country have two categories of customers: Residential and industrial utilities. With deregulation, new supplies of natural gas will become available on the markets; the best estimate is an increase of 4 to 10 percent in the first year of deregulation. New gas will cost more than old, regulated gas.

Under the terms of my amendment, if the pipeline in question purchases new gas to meet its combined industrial and residential demand, it would be required to sell the new, more expensive product to the industrial consumer who uses gas as a boiler fuel and has the ready option of conversion.

The new gas would not go to the residential consumer, who would continue to benefit from the old, regulated prices. Industrial users, in effect, would be penalized for their wasteful patterns of consumption and be forced to pay more for the privilege of using natural gas when it is at a premium throughout the country.

This arrangement would remain in effect until the average cost of gas used as a boiler fuel reaches 120 percent of the cost of No. 6 residual fuel oil. If this level is attained, the FPC would be free to allocate all or part of the excess of other customers.

Why do that? Why say it can go to 120 percent above residual fuel oil? Because what we are trying to do is get them to convert, get them to convert to coal, to make it more expensive for them to maintain natural gas.

Simply stated, my amendment would provide a strong economic incentive for industrial gas users to shift to alternative sources of energy; it will free up additional supplies for residential users; and it will insulate the homeowner from higher fuel costs.

If there are no large boiler fuel users on a pipeline, the incremental pricing provision would not be needed and, under my amendment, would not be applicable.

In summary, Mr. President, incremental pricing of new natural gas to large boilers will mitigate the economic impact on homeowners and high priority users, while discouraging pipelines with boiler fuel loads from acquiring new supplies for wasteful purposes. It will encourage and enable pipelines with large residential fuel loads to acquire new gas supplies that might otherwise be dumped under boilers at cheap prices but at a high cost to our economy.

Mr. President, this amendment makes eminent good sense; it should be an integral part of any comprehensive national energy plan.

I propose to offer it. We are under a limitation now on such amendments and they cannot be voted on, but I ask of the Senate the opportunity to make that kind of amendment on Pearson-Bentsen. I say to my friends, if we table it at 6:30 tonight, that opportunity has been foreclosed.

Mr. President, let me say that I also want to state my support for an amendment by Senator STONE and Senator CHILES. That amendment would allow interstate producers to bid freely for any intrastate natural gas not previously sold in the interstate market. Technically, the amendment would remove the $1.46 price limitation on any gas which interstate pipelines wish to purchase after the expiration of intrastate contracts. With that amendment, interstate and intrastate pipelines could freely compete for this gas. Since this gas has already been found, it can quickly be brought on stream to meet any expected curtailments.

Let me show some of the figures that the Federal Power Commission is talking about. This is from their September 1977, projections of expected curtailment for this coming winter. The following States will have the same or even less amounts of gas than last winter, to name a few: For the State of New York, they are predicting a curtailment of 16 percent of the supply that they actually need. This amendment of Senator STONE's and Senator CHILES' would help make some of that gas available to take care of that.

North Carolina is expecting a curtailment of 56 percent. Think of the jobs that are involved in a situation like that.

Ohio, 22 percent; Nebraska, 20 percent; Kentucky, 20 percent; Arizona, 44 percent; Georgia, 20 percent; Florida, 30 percent; Wisconsin, 10 percent.

That is part of the problem that we see facing us this winter. What I have discussed is something that will protect the homeowner and let the industrial user determine whether it is the proper decision to continue to use natural gas or to convert and, in turn, to open up the intrastate market on the rollover contracts to the interstate market, to try to assist in the shortages that we are concerned about this winter.

WELLHEAD PRICING OF NATURAL GAS

Mr. TOWER. Mr. President, I shall avoid lecturing my colleagues on how markets work in a free enterprise economy. Those points have been made on numerous occasions in the past, particularly in connection with my own natural gas deregulation proposals in the 91st and 93d Congress, and in connection with similar legislation introduced by my colleagues.

In my view, Mr. President, the issue before the Senate is whether we shall provide natural gas producers with the capability of increasing the domestic supply of natural gas. The administration claims that its proposal—reflected in the House-passed bill, the bill before the Senate, and amendment No. 868 to the bill provided by the Senator from Washington—will provide adequate incentives. That proposal would increase the price of "new gas," as defined, to the "Btu-related price," as defined. New gas would be that produced from a new lease, from a new well drilled 1½ miles from an old well, or from a new well within ½ of an old well but 1,000 feet deeper than the deepest well within 2½ miles. The Senator from Washington adds the requirement that the well also be completed in a new reservoir. The Btu-related price means the average crude oil acquisition cost per barrel for refineries in the United States, divided by 5.8. Thus, the expected price under this proposal for so-called new gas would be about $1.75 sometime in 1978.

Mr. President, it is my opinion that the proposal is grossly inadequate to accomplish its purpose. The proposed gas pricing provisions have their policy foundation—like the rest of the Carter energy plan—in President Carter's prophecy of doom. He has sent us an overall energy plan that effectively writes off the oil and gas industry. Specifically, it assumes that the gas industry has no potential for growth, and is, in fact, unable to maintain its present level of service to American consumers. It also assumes that, because gas reserves are finite, efforts to stimulate exploration for additional supplies are unnecessary and unproductive. Thus he has fashioned a plan that in its totality will gradually phase the gas industry out of existence.

Mr. President, my specific objections to the Carter pricing policy are as follows. First and foremost, the price is inadequate, and the administration is fully aware of the fact. The administration assumes that supply will significantly respond to price up to $1.75, but will not respond beyond that point until the price reaches about $4. However, officials of the Energy Research and Development Administration demonstrated that such is not the case, and Dr. McKelvey at the U.S. Geological Survey has also provided evidence contrary to the Carter prophecy of doom. For their efforts the ERDA study was suppressed, then revised. Dr. McKelvey's fate was more dramatic—he was fired. But there are experts, Mr. President, whom the administration has been unable to gag. Stanford Research Institute, the Federal Energy Administration, and Professors Macavoy and Pindyck of Yale and MIT, respectively, among others, demonstrate an increase in gas supply of 15 percent by 1980 and over 26 percent by 1985 with deregulation of new natural gas, meaningfully defined.

Second, the definition of "new natural gas" is arbitrary in that it has no rational, geological basis, and so restrictive as to be useless. Why do the administration and the Senator from Washington so cavalierly disregard that many new gas reserviors in great likelihood exist within $2\frac{1}{2}$ miles and 1,000 feet of depth from currently producing wells? The incentive not to attempt to find such reservoirs is assured by the paltry reward the proposal provides for the attempt.

Third, the establishment of the new natural gas price at the Btu-related level creates an incentive not to drill for gas. Since the price would be related to the average cost of crude—that is, the mix of prices of old, new, new-new, and stripper and tertiary recovery oil, the price of new natural gas is guaranteed to be below the price of new oil. Thus, great incentive exists for producers to concentrate their efforts on high, oil-potential areas. High, gas-potential areas would be relatively disregarded. Since by 1980 the new gas equivalent of new oil ought to be close to $3 per thousand cubic feet, and since the price under the administration's bill would be about $2.30, the relative disincentive to drill for gas will be quite significant.

Finally, since the controls would be extended to the intrastate market, with a price of $1.75, or less, applicable to intrastate gas sales, the administration accomplishes a prospective roll-back of those prices. This action is indefensible. Exploration and development programs have been budgeted and other investment decisions made on the basis of the current or anticipated stream of revenues available to producers under intrastate sales contracts. In such situations the administration assures a cutback in drilling activity.

Worse yet, the provision has an absolutely unconscionable effect on that category of producer which has committed to high cost drilling onshore in anticipation of cost recovery through intrastate sales contracts. I have been visited by one producer who will lose a considerable sum of money as his reward for successful pioneer drilling efforts, because the administration changed the rules of the game. He is, incidentally, a small, independent entrepreneur.

The horrible consequences of the administration proposal need not occur. It is clear that we have, as a nation, an opportunity to be self-sufficient in natural gas, satisfying all residential and essential business requirements for the commodity. On the basis of the analysis presented, Mr. President, I conclude that the Senate now has before it a clear policy objectives in a forthright, efficient way by passing amendment No. 862 introduced by my distinguished colleagues from Texas and Kansas. Or we can make President Carter's prophecy of doom self-fulfilling by passing his proposed Natural Gas Policy Act.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Ron Smith and Mike Butler of my staff be granted privilege of the floor during the consideration and debate and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I call attention to my printed amendment No. 890 to S. 2104, the Natural Gas Policy Act. My amendment provides for an independent producers exemption to the price control provisions of that bill.

The purpose of the independent producers exemption is to maximize supplies of natural gas with minimum consumer impact.

There is consensus among parties to the natural gas debate that higher prices are necessary to encourage drilling for higher cost reserves. This is essential if we expect to increase our production of this vital energy resource. The challenge before us is to devise the mechanism which will increase the supply of natural gas without substantially increasing costs to consumers.

The independent producers exemption would, I believe, achieve this objective. By deregulating the price of new gas for independent producers only, natural gas supplies can be substantially expanded at the lowest possible cost to consumers.

Most important, this amendment would also lead to greater competition within the now concentrated natural gas marketplace. It would provide a way for rigorously competitive independents to attract investment capital, expand their exploration and production, and gain a stronger position in the natural gas market.

Before exploring the rationale and data supporting my amendment. I might note that my efforts 2 years ago in the natural gas debate focused primarily on the issue of concentration. Today's amendment, which focuses on the issues of supply and price, will also have dramatic effects in reducing concentration in the natural gas marketplace.

Perhaps a recent history would be in order at this point.

Almost 2 years ago to the day, this body wrestled with two difficult issues: Short-term natural gas shortages and long-term natural gas deregulation. As I noted at that time, gas and petroleum deregulation raise questions beyond simply the price at which gas or oil should be sold and who should determine such prices.

There is much merit in eliminating Government regulation of petroleum and natural gas prices. It is more consistent with our economic system to have free market mechanisms, rather than Federal agencies, determining price and allocation of product.

Unfortunately, the question is not that simple. The debate over deregulation cannot take place without reference to the reasons why the Government has found it necessary to regulate portions of the petroleum and gas marketplace in the first place.

The answer is straightforward: Large segments of the petroleum and natural gas marketplace are not genuinely competitive. To begin with, the world price of petroleum and other fuels is presently fixed by the OPEC cartel. This is an "administered" or monopoly price, not a "free market" price as some have claimed.

Domestically, the major oil companies direct the course of petroluem development through an intricate web of intercorporate ties, cooperative arrangements, joint ventures, and farm out arrangements. The 20 largest oil companies accounted for 76. 3 percent of the crude oil produced in the United States in 1973, and the same 20 companies controlled about 93.5 percent of the country's reserves in 1970. The 16 largest firms controlled 92 percent of all crude oil transported through pipelines in the United States in 1973, and the 20 largest companies maintained 82.9 percent of the total U.S. refining capacity. And in marketing the top 20 companies controlled 77.2 percent of gasoline sales in 1973.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. HART. I yield to the Senator from Texas for a question.

Mr. TOWER. Will the Senator repeat those figures? He said 20 companies controlled how much?

Mr. HART. The 20 largest oil companies accounted for 77.2 percent of the crude oil produced in the United States in 1973.

Mr. TOWER. Is it not a fact that four automobile manufacturing companies manufacture all domestically produced automobiles in the country?

Mr. HART. The Senate happens at the present time to be debating natural gas and petroleum pricing and regulation and it is not debating automobile manufacturing. At a time when we get to Government regulation of automobile prices, which some might advocate. I think the question which the Senator raises might be appropriate, but not in the context of the bill before us.

Mr. TOWER. I stand properly chastised.

Mr. HART. Mr. President, the economic and political implications of such concentrated power in an industry so vital to our economy are massive. Overall control of crude oil by a handful of companies—coupled with cooperative business arrangements and vertical integration—has resulted in a largely noncompetitive petroleum industry.

That is what prompted the deconcentration amendment which I, and a number of my colleagues, offered to the 1975 natural gas deregulation bill, which by the way, I voted for. That amendment

sought to create a genuine free market in which price mechanisms could effectively function through the restructuring of major elements of the petroleum industry. That effort lost by only five votes 54 to 45 on the only occasion to that date the Senate had addressed itself to this question.

Concentration in the petroleum and natural gas industry is illustrative of the present trend toward increased concentration of corporate power regulated by Government bureaucracy. We must take the necessary legislative action to move this country away from the twin spirals of "bigness" in the public and private sectors.

Now we are once again confronting the issue of natural gas deregulation, and once again we must remind ourselves that the question of natural gas price regulation cannot be resolved apart from the broader question of the structure of the petroleum industry.

My amendment to the Natural Gas Policy Act is the only one which addresses the dual problem of deregulation and deconcentration. It differs from the effort of 2 years ago in that it proposes to use economic incentives, rather than legislated divestiture, to provide greater competition in the natural gas industry. Specifically, it seeks to remove Government regulation over the price of new natural gas produced by the more than 9,000 independent producers. It leaves the administration's proposed price levels intact with regard to the larger 18 petroleum and natural gas companies.

These 18 companies, in 1976, controlled in excess of 55 percent of all gas produced in the United States and approximately 70 percent of all new gas produced in the United States. My proposal would change the market shares. The selective decontrol plan that this amendment advocates would use market mechanisms to encourage the influx of new and additional capital to the independent segments of the natural gas marketplace while checking any potential anticompetitive practices among the major 18 companies.

Adoption of this amendment would benefit independent producers through increased access to capital and increased market shares. It would benefit consumers by increasing supply without substantially increasing prices. It would benefit our economy by increasing genuine competition in a dangerously concentrated keystone industry.

BRIEF SUMMARY OF IPE PROVISIONS

Mr. President, at this point let me briefly summarize the highlights of this amendment.

First of all with regard to exempted sales:

Independent producers are exempt from price controls on new gas sales, and all producers are exempt from sales of new gas produced from high-cost areas.

How are those high-cost areas defined?

Another provision in my bill pertains to geologically determined high-cost areas. The administration plan provides for the Secretary of Energy to allow higher prices for gas in high-cost formations such as very deep reserves, geopressurized basins, or tight sands. The problem with the administration proposal is that the producers must show, on a case-by-case basis after drilling, that such areas are, in fact, high cost. This poses a problem for the investors, since they are not guaranteed in advance that they will receive a reasonable return for high-cost reserves. As a result, investors are less willing to take the higher risk associated with these reserves.

In the proposal which I have offered, there is a provision for price exemption, in advance, for geologically known high-cost areas for all producers. With this exemption, both independents and majors can risk capital in seeking to produce from costly reserves.

How are independent producers defined in this amendment?

Independent producers are defined as either small producers—less than 1 percent of U.S. gas production—or nonintegrated producers—vertically or horizontally. Small integrated producers are exempt; large, nonintegrated are exempt. All but the 18 largest gas and oil companies could qualify under this definition.

This amendment attempts to define new gas.

New gas is natural gas, under this amendment, produced from a well drilled after April 20, 1977. The new well must be in a newly discovered reservoir, or it must be $2\frac{1}{2}$ miles horizontal distance or 1,000 feet vertical distance from an old well or existing well. This provision is identical to the House-passed definition.

The independent producers exemption is also extended to new Outer Continental Shelf—OCS—sales in order to give independents a further incentive to acquire leases on the outer continental shelf.

Emergency Cap: Under this amendment, the President has the standby authority during periods of extreme shortage to place a ceiling price on "exempted sales." Any such ceiling price could be no lower than 100 percent of the U.S. average Btu equivalent price of No. 2 home heating oil, and that price today is approximately $3 per Mcf of natural gas.

The oil and gas model developed by the House Energy and Power Subcommittee predicts that deregulated prices for independent producers could approach $5 to $6 per Mcf this winter. These prices are far in excess of prices required to promote rapid expansion of supplies. Hence, they should not be allowed. Under the amendment which I am offering, the President could prevent excessive prices.

This amendment also deals with the issue of farm outs.

Independents will not be eligible for the unregulated price on natural gas sales from farm out arrangements made after April 20, 1977. To maintain a high volume of drilling in the short run, however, independents will be eligible for the unregulated price on new gas from previously existing farm-outs. The proposal is designed to provide maximum incentives for independents to purchase leases—from majors or from landowners as the majors' leases expire—and thus acquire all rights for production from new wells.

Under current farm-out practices, an independent producer contracts to drill on land on which a nonindependent—major—producer holds the gas lease. Under usual arrangements, the independent has rights to sell only 40 to 50 percent of the gas flow and the major retains rights to sell the remainder.

THE HART PROPOSAL WILL INCREASE PRODUCTION OF NEW NATURAL GAS

The chief purpose of deregulation is to increase the exploration for and production of new gas, and the independent producers exemption would increase supplies of new gas substantially. I have been asked by my colleagues how different the supply of new natural gas would be under my proposal and under the Pearson-Bentsen proposal. My proposal would provide roughly the same amount of new supplies as Pearson-Bentsen, which provides deregulation of broadly defined new gas for all producers.

Either form of deregulation will encourage the discovery and production of all new gas which is commercially feasible to produce at a deregulated price. The reason is that it will no longer be price which constrains production but rather such factors as rig availability which would be the same under both proposals.

Today, the search for new natural gas supplies is constrained by price controls on new gas, which limit the expected profitability of new wells. Investors in the U.S. capital markets in Chicago and New York, and in the world capital markets in Europe are waiting for the profitability of gas exploration to improve. The independent producers exemption (IPE) will improve the profitability of every potential reserve of natural gas, just as would the Pearson-Bentsen proposal.

Under my amendment, however, the independents will become better able to compete with the majors for investment capital and a fair share of the market. Neither the administration plan nor the Pearson-Bentsen proposal address the current non-competitive structure of the industry. The independent producers, furthermore, since 1955 have plowed back 100 percent of their revenues into exploration and production. With deregulated prices for independents, these investments can be accelerated and increased. The top 18 companies, by contrast, plow back approximately 60 percent of their revenues for new exploration and production. The rest of the revenues go toward bidding for nonenergy corporations like Marcor, or to subsidize downstream operations.

Estimates of the amount of additional natural gas which would result from deregulation vary. According to the natural gas supply model used by administration analysts, a deregulated price under either my proposal or Pearson-Bentsen will encourage the discovery of about 0.7 trillion cubic feet (Tcf) of new gas by 1985.

However, according to the models used by the oil and gas industry, deregulated prices will bring a substantially greater

amount of new natural gas to the market. The industry estimates that additional supplies due to deregulation will be increased by 4.7 Tcf by 1985.

Without deregulation, the administration predicts a total of 4.2 Tcf of new gas will be sold by 1985. Thus, my deregulation plan could double the amount of gas produced in 1985, when compared to the administration plan.

The additional natural gas produced as a result of the independent producers exemption can be used for a number of purposes. First, it can help prevent the closing of schools and factories in the event of severe shortages. Second, it can reduce the sales of imported liquified gas, which is almost twice as expensive as this new American gas will be. Third, it can reduce imports of OPEC oil which would otherwise be burned as distillate oil in homes and businesses. As a result, our balance of payments will be improved, and our domestic, economic security will be enhanced.

UNDER THE INDEPENDENT PRODUCERS EXEMPTION WHAT WILL THE NEW GAS PRODUCED COST CONSUMERS

A key question is what it will cost the American consumer to obtain amounts of natural gas over and above what would be produced under the administration's bill. As I have mentioned, my amendment will deregulate the sales of all new gas produced by independent producers.

The question of cost to consumers should be viewed in terms of not only what the higher priced gas will cost but also to what extent this gas can replace even more expensive alternative sources of energy. To begin with, the amendment will result in the production of an amount of gas which would not have been produced under the administration's plan. When the price is allowed to go above $1.42—the current ceiling price—or $1.75—the administration's proposed ceiling price—additional gas will be produced.

Whether or not consumers get their money's worth from this gas depends on two issues: how much additional new gas is produced as a result of the deregulated price, and to what extent consumers will end up paying a deregulated price for gas that would have been produced anyway under the administration plan.

To answer these questions, we should examine the worst case under the Hart proposal—that prices rise as high as they can. The IPE provides authority for the President to place a cap on the dollar price of deregulated sales. Today this cap would approach $3. Thus, for purposes of this analysis, one question to be answered is how much gas would be produced between the $1.75 and $3 levels which would not otherwise be produced? The short answer is approximately $8 billion worth of new gas in 1985.

Next, if one assumes that all new gas is sold at the highest permissible price, $3, how much of it also would have been produced at $1.75? In other words, to what extent will consumers have to pay $3 for gas which would have cost no more than $1.75 but for IPE? Again, a short answer is probably less than $2 billion worth by 1985.

There is one vital point to remember. Any gas produced between the $1.75 and $3 levels will be tremendously beneficial to consumers because it not only will provide much needed additional supplies, but it will do so at a price much lower than alternative sources of supply such as liquified natural gas or synthetic natural gas which sell today for between $3.50 to $4 and $3.50 to $5.50, respectively—FEA estimates.

Mr. President, I ask unanimous consent that a chart showing illustrative costs of SNG and LNG be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

TABLE 11.—SOME ILLUSTRATIVE COSTS OF SNG AND LNG

Option	Btu/scf	Costs 10¢/Btu	Date costs estimated	Lead time
SNG from biomass (FPC certification of CRAP, Inc. Hooker, Okla.)	980	$1.33 plus up to $0.22 for transport	May 1976	2 yr (for 3,500 Mcf day).
Low Btu gas (from eastern coal at $2/ton, small scale)	125–165	$2 plus cleanup	January 1977	1–2 yr.
Intermediate Btu gas (from eastern coal at $2/ton, large scale)	260–310	$1.90 plus cleanup	do	2–4 yr.
New LNG from Algeria to Northeast United States (Tenneco)	1,018	$4.20	December 1976 (projected for 1983).	8 yr.
SNG from propane, butane, and natural gasoline	980	$4.25–$4.50	January 1977	2 yr.
SNG from naphtha	980	$4–$5	do	2 yr.
SNG from western coal (El Paso)	954	$3.10	March 1975	3 yr.
SNG from western coal (WESCO)	954	$3.50	February 1977	5 yr.
Gas entrained in eastern coal beds	980	$1.44	January 1977	5 yr (for 150,000 Mcf day).
Gas from Alaska (assuming wellhead price of $1.70–$1.75)	1,018	$3.30–$3.90 depending on	January 1977 (projected for 1982–83).	5 yr.

Note: Sources are FPC, Bureau of Mines, or private industry. Costs are set forth in dollars prospective for the year in which the project is to be completed. For purposes of comparison to alternative technologies, all capital subsidies (e.g., accelerated depreciation, investment tax credits) must be set forth explicitly.

Source: FPC, National Gas Survey, Draft Final Report of the Transmission, Distribution and Storage Technical Advisory Task Force, rate design, May 1977, ch. 6, p. 4.

Mr. HART. The administration has run its proposed program through computer models. According to its models, about 0.3 Tcf of new gas in 1978 and about 4.2 Tcf of new gas in 1985 would be produced under its plan. Since independents produce roughly one-third to one-half of new gas each year, about one-third to one-half of 0.3 Tcf will qualify for the deregulated price in 1978. This would constitute an increase in consumer expenditures on natural gas by $100 to $150 million—an increase of 0.2 percent to the cost of natural gas.

This analysis assumes the worst case for the Hart proposal. Namely, it assumes that all new gas deregulated under the Hart proposal, which would have been produced at the $1.75 level, will now cost consumers $3.

In 1985, the administration computer run predicts that under the Hart proposal roughly half of the new gas will still not be deregulated since majors will still be doing most of the offshore new production at that time. However, if again we assume the most dramatic case on the cost side against consumers, independents may increase their share of new onshore production from 33 percent of the market in 1977 to almost 100 percent in 1985. Under this scenario, roughly half of the new gas produced in 1985, which would otherwise be sold at $1.75—in today's prices—would be sold at up to $3. This would increase costs to consumers by roughly $2 billion in today's prices—or an approximate 10 percent increase. Where then is the consumer benefit?

As I have just indicated under the worst possible scenario, the IPE could increase consumer prices by about $2 billion in 1985. However, the computer models also illustrate the additional amount of new gas which will be produced between the $1.75 and $3 level. The administration's computer models are very conservative in their estimation of the ability of industry to produce more drilling rigs in the next few years. The industry's computer models, such as the Institute of Gas Technology or the Natural Gas Supply Committee, show a much faster industry response. The additional supply which will be generated will be worth in excess of $2 billion and upwards of $14 billion depending on how much new gas is found. For simplicity of argument, we have averaged the upper and lower estimates of new production to arrive at $8 billion worth of new production in 1985. In other words, there will be $8 billion worth of new gas produced by the independents at a price between $1.75 and $3 which would not have been produced at the $1.75 level. Were the consumer to not have this additional supply of new natural gas, he would have to go out and purchase alternative sources of energy whose Btu equivalent price in all likelihood would be well in excess of $3 per Mcf. As I have already mentioned, LNG sells for $3.50 to $4.00 per Mcf, and SNG sells for $3.50 to $5.50 per Mcf. Roughly $8 billion worth of additional gas in 1985 can replace roughly $12 billion or more of high-cost substitutes.

Moreover, there will be a marked increase in the share of new production held by the independent producers. According to the administration's own estimates, at a $3 level, the independents' share of the new gas market will expand from 33 percent to upward of 60 percent.

EVOLVING INDUSTRY STRUCTURE

The important question to ask now is whether long-term natural gas pricing problems can be solved separately from the overall problem of the structure of the industry. The answer is no.

In 1976, the majors sold about 55 percent of all the natural gas sold in the United States and about 66 percent of all the new gas. If the administration plan, the Pearson-Bentsen plan, or the Johnston compromise is adopted, there will be no change in this market domination by the majors.

With the Hart proposal, most onshore gas will be produced by deregulated independents, and more new gas will be produced. As a result, independents will increase their market share from 33 percent in 1976 to approximately 50 percent in 1985, according to administration estimates. According to industry estimates, which show a greater increase in production, the independents' share of the market could increase to almost 60 percent by 1985.

By the end of the 1980's, if the independents take a greater role in offshore gas, they could be producing 75 percent of the Nation's gas.

SUMMARY

To summarize, I invite support for an amendment which will provide the maximum new supplies at the minimum cost to the consumer. The amendment recognizes that a reduction of Government interference in the marketplace, through a selective elimination of price controls, can be achieved without threat to consumers if the noncompetitive structure of the industry is changed. According to supply estimates from both the administration's and the industry's computer models, this proposal will enable the independent producers to gain their fair share of the gas industry and to create genuine competition at the same time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I rise in support of the Pearson-Bentsen substitute amendment. As Senators know, this amendment calls for the deregulation of new natural gas onshore. In addition, it deregulates offshore gas gradually over a 5-year period.

I find this proposal for pricing natural gas far superior to the President's proposal which would establish a price ceiling for certain new natural gas supplies at the Btu-equivalent of the refiner acquisition cost of domestic crude oil, or no less than $1.75 per thousand cubic feet, Mcf.

Mr. President, I am far from an expert on this subject but it seems to me that the basic argument is whether or not deregulation will increase production of natural gas. The President has made the assumption that there is not a great deal of gas left. Thus deregulation of prices would not increase production. However, a study completed recently by the Potential Gas Committee, comprising representatives of industry, State and Federal agencies, and universities, estimates a potential of between 923 to 973 trillion cubic feet (Tcf), of new natural gas remaining to be discovered in the United States. That figure, coupled with the 216 Tcf of proved reserves estimated to exist as of the end of last year, could provide about 60 years of gas at current consumption rates. That supply base could increase immensely if prices were allowed to rise to a level competitive with other energy sources.

The Congressional Budget Office, in a report entitled "Natural Gas Pricing Proposals" stated that outright deregulation of new gas would result in less than 1 Tcf/year more production by 1985. But, a number of estimates including those by MIT, the Institute of Gas Technology, Stanford Research Institute, and even the Federal Energy Administration, estimate that the amount of additional gas that could result from new gas deregulation is in the range of 3 to 5 Tcf/year by 1985.

Now let me say a few words as a newcomer to this subject. When they would say that the natural gas in such and such a well is exhausted, or when they would say the oil is exhausted, I always thought they were referring to a physical fact, that there is no more oil left, or no more gas left.

I discovered that there are these variations in estimates as to how much there is left because what is left does not convert to a physical fact; it converts to an economical fact. In other words, at a point in the extraction of natural gas from a given well, it is very cheap to get out and can be sold at a profit. The further down, the more expensive it gets. If it gets so expensive to extract the gas that it is no longer economic to get it up and sell it at the prevailing prices, then they stop extracting. The gas is still there but for all practical purposes it is exhausted since it is economically unprofitable to extract it. That is what they mean when they say there is no more gas left. It means only that there is no more gas left at the prevailing prices. Once we raise the prices there is a lot more gas. If we lift the lid altogether, there is no telling how much gas there would be.

Certainly it is true that there has been a decline in productivity over the past few years. But this is easily explained. Over 90 percent of all the gas wells completed in the United States in 1975 were in less expensive shallow onshore areas where only 30 percent of the estimated potential gas resource base exists—we have already used up the cheapest and most easily accessible gas. Less than 10 percent of the gas wells were completed in more expensive development areas, deep onshore and offshore, where 70 percent of the remaining U.S. gas resources are estimated. Currently it does not pay to drill in these areas.

There is a very, very important distinction between what is regarded as the exhaustion of gas as a physical fact, which we would never achieve, and the exhaustion of gas as an economic fact, which we achieve very easily if we have the price low enough.

I am convinced, however, that unregulated prices will provide the incentive to increase production by exploring these expensive development areas. Certainly, no good businessman will explore for gas in expensive areas if he does not have a chance of making a profit. But for some reason, profit has become a dirty word in Congress and to many people outside the Congress.

Mr. President, what baffles me more than anything else is the fact that the President and some Members of this Senate would have the Federal Government force regulation on the intrastate market which has never been regulated.

If we study the facts, based on FEA and FPC figures, we will learn that for the past 12 months, in the intrastate market, production has been consistently higher than the previous 12 months.

Conversely, production in the interstate market, which is regulated, has been consistently lower over the same period of time.

Why, then, do we want to start regulating a healthy market which continues to increase production? Surely my colleagues can see the illogic of such action.

Mr. President, we have regulated interstate gas for the past 20 years. Prices have been unrealistically low, encouraging waste. Continued regulation can only result in the same disastrous shortages we experienced last winter. I shudder in anticipation of a cold winter.

A study by the Brookings Institute reached basically the same conclusion.

> (The Carter proposal) in some ways makes the situation worse than it is at present. If the Carter proposal is enacted producers would probably explore for and produce less gas than they do now; almost certainly they would produce less than if prices were decontrolled.
>
> In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled.

Mr. President, I urge my colleagues to let the law of supply and demand take over. Certainly it has proven more effective than the Federal Government "law of regulation." I hope my colleagues will join me in supporting the Pearson/Bentsen substitute amendment by voting against the motion to table it.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NATIONAL DAY OF THANKSGIVING, PRAYER, AND PRAISE

Mr. ALLEN. Mr. President, the third Thursday in December of this year will mark the 200th anniversary of the first congressionally proclaimed Day of Thanksgiving by the Continental Congress on December 18, 1977.

The observance of this particular day as a day of Thanksgiving is intricately interwoven into the fabric and history of our Nation. In fact, Mr. President, this time of thanksgiving, prayer, and praise to God resulted in the survival of George Washington's incapacitated army through its long and hungry winter days at Valley Forge. It was the prelude to victory and a new nation.

Our fledgling country had just experienced a great victory over the British at Saratoga, when General Burgoyne surrendered his army of 5,728 officers and men to American Gen. Horatio Gates. This event has been called the turning point of the Revolution.

On Friday, October 31, 1777, a committee of three, headed by Samuel Adams, was appointed by the Continental Congress, in session at York, to prepare a recommendation to the several States to set apart a Day of Thanksgiving for the victory at Saratoga. On November 1, 1777, the committee brought forth its report, recommending that Thursday, December 18, 1777, be set apart as a day of "solemn thanksgiving and praise, that with one heart and one voice the good people may express the grateful feelings of their hearts and consecrate themselves to the service of their divine benefactor. * * *"

On the same day, Henry Laurens, President of the Congress, wrote a letter to each of the Governors of the 13 States, enclosing the Thanksgiving Proclamation.

So it was for the first time that a congressionally sponsored thanksgiving was kept in the United States.

I intend, in a moment, to call up and ask for immediate consideration of a resolution urging the President of the United States to proclaim the third Thursday of December as our National Day of Prayer, 1977. The President is authorized, under Public Law 77–379, to proclaim a National Day of Thanksgiving on the fourth Thursday in November. Public Law 82–324 authorized the President to proclaim a National Day of Prayer on some day other than a Sunday. So this would be the resolution under that statute.

What better day is there than the day of America's first Thanksgiving to be proclaimed as our 1977 National Day of Prayer? The date is already historic, patriotic, and sacred in the life our our country.

It should be noted, also, that this resolution has the support of the heads of 12 major religious bodies in the United States. I ask unanimous consent that their names be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

The Rev. Jimmy R. Allen, President, Southern Baptist Convention.

The Most Rev. Joseph L. Bernardin, President, National Conference of Catholic Bishops.

The Rt. Rev. John M. Allin, Presiding Bishop, The Protestant Episcopal Church.

The Rev. Dr. Kenneth L. Teegarden, General Minister and President, The Christian Church (Disciples of Christ).

Bishop Kenneth Goodson, Chairman, Council of Bishops, United Methodist Church.

The Rev. Dr. John T. Conner, Moderator, The United Presbyterian Church in the U.S.A.

The Rev. Robert J. Marshall, President, Lutheran Church in America.

Elder L. Tom Perry of the Council of the Twelve, Church of Jesus Christ of the Latter Day Saints.

Rabbi Henry Siegman, Executive Vice President, Synagogue Council of America (action of Council pending).

Dr. Muhammad Abdul-Rauf, Director, The Islamic Center of Washington.

Bishop Kenryu T. Tsuji, Buddhist Churches of America.

Sri Chinmoy, Director, United National Medication Group.

SENATE JOINT RESOLUTION 81

Mr. ALLEN. Mr. President, the cosponsors of this resolution trust that the Senate will see fit to adopt it. On behalf of myself, Mr. BARTLETT, Mr. STENNIS, Mr. RANDOLPH, Mr. SCHMITT, Mr. DOMENICI, Mr. CHILES, Mr. HANSEN, and Mr. THURMOND, I call up the resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 81) to express the sense of the Congress that, in the light of history, the third Thursday in December, 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82–324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ALLEN. Mr. President, the submission of this resolution was suggested by our beloved Chaplain, Dr. Elson, and I think it is entirely appropriate. I hope other Members of the Senate will join the President in this proclamation.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 81

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Thanksgiving on the fourth Thursday of November (Public Law 77–379), and

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Prayer on a day other than a Sunday (Public Law 82–324), and

Whereas the third Thursday of December in the year 1977 marks the 200th anniversary of the first proclaimed Day of Thanksgiving by the Continental Congress, and

Whereas such a proclamation on this date has the support of the leaders and presidents of twelve national religious bodies in the United States, and

Whereas such date is already historic, patriotic, and sacred in the life of our country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that, in the light of history, December 15, 1977 (such date being the third Thursday in December, 1977) would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and the President is hereby respectfully requested, under Public Law 82–324, to issue a proclamation designating such date as a "National Day of Prayer for the Year 1977", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Alabama ask unanimous consent that my name be added as a cosponsor?

Mr. ALLEN. Mr. President, I ask unanimous consent that any Senator who desires to be named as a cosponsor ab initio be allowed to have his name added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD, Mr. BAKER, Mr. TALMADGE, and Mr. CURTIS requested that their names be added as cosponsors of the resolution.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. PERCY. Mr. President, I am sorry that I was unable to speak earlier on the Pearson-Bentsen amendment. I do so now with the earnest hope that this amendment will not be tabled and we will be able to vote up or own on this amendment on its merits alone.

I support the amendment and cosponsor the amendment, and I should like to indicate now why I feel that the Pearson-Bentsen proposal to deregulate new natural gas is in the national interest.

I supported deregulation in this Chamber 2 years ago, and in light of the gas shortages of the past two winters, the case for phased deregulation is even more compelling today.

Supporting deregulation is not a matter I take lightly. Natural gas supplies one-quarter of our total energy needs. Decontrol could mean far higher prices for gas consumers. On the other hand, continuing regulation could lead to serious shortages.

Let me emphasize three fundamental points in this debate. First, the Nation has run on cheap natural gas for 20 years. Now it is running out. Domestic production peaked in 1973 at around $22\frac{1}{2}$ trillion cubic feet per year. Today we consume natural gas faster than we find it. Even deregulation will not return us to the years of geometrically increasing supplies. It will at best slow or stop the decline in production.

Second, in order to significantly alleviate the problems we must not only encourage supply, but also increase our end-use efficiency. Insulation in homes, modifications to heating systems in buildings, and waste heat recovery in industrial processes, all save gas at prices far below those of new supplies. This "conservation gas" is a cleaner fuel environmentally than gas itself. Allowing gas prices to rise will not only encourage production but also make economic a whole new range of conservation opportunities.

Lastly, the administration's ceiling price of $1.75 per thousand cubic feet (Mcf) is below the replacement value of gas. Were the administration to adhere to its own stated goal of pricing energy at its replacement value, the ceiling price for natural gas would be more like $2.50 per Mcf rather than $1.75. The extension of a $1.75 ceiling price into intrastate markets will actually lower intrastate gas prices. This provides exactly the wrong signal to consumers, and will hurt many producers, especially those independents whose production is concentrated in the intrastate market. Basic economics tells us that resources will be inefficiently distributed until consumers receive price signals that reflect the true worth of the gas they consume. Without a true market price for natural gas, significant conservation will not take place because it will be cheaper to consume than to conserve.

Having said all that, Mr. President, let me add that I am sensitive to the fact that the Pearson-Bentsen proposal is vulnerable to criticism. Deregulation could result, not in free-market pricing of gas, but rather in OPEC cartel pricing. Natural gas prices could conceivably rise above the price of heating oil on a Btu-equivalency, although the evidence from the uncontrolled intrastate markets does not support this.

Another possible weakness of the Pearson-Bentsen proposal is that there is no consensus on the amount of additional gas which deregulation would produce. Estimates differ by an order of magnitude, from one-half trillion cubic feet additional gas in 1985 according to the House Committee on Interstate and Foreign Commerce, to 5 trillion cubic feet in 1985 according to the industry-sponsored report of Dr. Edward Erickson from North Carolina State University. It is hard to reach a final judgment on the merits of deregulation when the size of additional supply is far from certain.

Mr. President, despite these points, I believe that Senate adoption of the Pearson-Bentsen proposal is in the best national interest.

My reasons are as follows:

First, to produce gas costs more today than in the past. The huge gas surpluses of the 1950's resulted from production of so-called "associated" gas, or gas found during oil production. That gas was cheap to produce. Today, new gas finds rely more on "nonassociated" deposits, tighter formations, and offshore finds. Higher incentive prices are needed.

The administration believes its price of $1.75 is sufficient incentive. It argues that the elasticity of gas supply is relatively high at prices below $1.75, but is low above that level. I question why the supply curve should bend so sharply at the $1.75 level. Empirical work by the Massachusetts Institute of Technology finds that a 3-percent rise in gas prices will produce a 1-percent supply increase with no change at $1.75. The Federal Energy Administration found a similar price response.

Second, I believe that impact of new gas deregulation on consumers will be small. New gas has recently provided only a 10-percent supply increment each year. It will therefore take a number of years before the full impact of higher prices is felt. The General Accounting Office last year concluded there would be "no real difference in macroeconomic activity," from higher prices. That includes GNP, inflation, and unemployment.

A repetition of last winter's shortages would, however, have a significant consumer impact. National Journal reporter Robert Samuelson warns:

> If energy scarcities result, the consumer impact would be felt through lower economic growth and higher joblessness.

Fortunately, last year's crisis had only a temporary impact We may not be so fortunate in the future. We cannot afford to subject the economy to a mini-recession every winter.

We should not delude ourselves into thinking natural gas price controls help the poor. Residential consumers, rich and poor alike, account for only one-third of gas consumption. Controls help only those who were lucky enough to get hooked up to the gas lines before the shortages hit. Other businesses and families pay the full cost of imported oil or expensive electricity.

Gas controls also produce regional distortions which hurt consumers. Two-thirds of the energy used in the gas-producing States comes from gas at prices cheaper than oil even though it is not controlled. One-third of the energy in my part of the Midwest is gas. In the New England area the fraction is one-tenth. The majority of energy consumers in areas outside the producing States are limited to oil and electricity. Our present gas pricing system gives unfair advantages to certain regions of the country.

This leads me to a third important point, Mr. President, in support of the Pearson-Bentsen proposal. Natural gas at even the present uncontrolled price of $2.25 is one of the least costly new energy sources.

For example, Prudhoe Bay gas from Alaska will cost from $2\frac{1}{2}$ to $3. Imported liquefied natural gas costs up to $4 and synthetic gas from coal costs $4 to $5. Heating oil at OPEC prices is $2.60 for the heating equivalent of a thousand cubic feet of gas. Electricity cost the equivalent of $13 per Mcf. I believe consumers will benefit more from larger supplies of more costly domestic gas than from having to switch fuels or pay for even more costly substitute gas.

My fourth point is this: Like the rest of my colleagues here, I am a believer in free enterprise and in reduction of unnecessary Government regulation. To decontrol new gas will slowly move us toward a free market for gas. Private firms and not Department of Energy regulators will be responsible for gas allocation.

Finally, Mr. President, we must face squarely the national security implications of continued deregulation. It is not in our best interests to import liquefied natural gas in large volumes from the same OPEC countries which we are dependent upon for oil. We also cannot expect to rely upon Canadian or Mexican supplies forever. Although our relations with those countries are good, it is likely that their domestic needs will someday outstrip their production.

Mr. President, for these reasons, I am compelled to support the deregulation of new natural gas and the phased deregulation of gas from the Outer Continental Shelf. I hope my distinguished colleagues will join with me in supporting the Pearson-Bentsen amendment, and certainly vote against the tabling motion that is expected to be offered at 6:30 this evening.

Mr. President, none of us is unaware of the fact that winter is approaching. Each morning when we go out there is a little more chill in the air. In fact, it is earlier this year than expected.

Another cold winter is anticipated. When it gets cold and when we run out of gas in some of our States, as we did this last winter, and when we again have a shortage of supplies and increasing demand, we are going to recognize the laws of supply and demand cannot be repealed on the floor of the Senate.

We tried it with meat. We tried to do it for 90 days. I can remember one night at 11 o'clock saying: "Those who are now saying they are for the consumer by voting for artificial price controls on meat are going to rue the day they have ever done it."

What happened? The free market was destroyed. Mayor Daley had to hire 250 meat inspectors to go out and chase meat around the black market. Sure, the counter price said meat was at a frozen level. What did you have to do? As in the war, you bought a case of rum if you wanted a case of Scotch. You had to buy a leg of lamb or something like that in order to get a steak. And even if the price was right you could not get the supply. It was under the counter some place.

We had a demonstration of how we cannot rig and control prices. We have tried in the Department of Agriculture for 40 years. We took six crops and tried to control them. And which were the sickest crops always? You never heard about the 114 crops in the free market. But it was always those we tried to rig, regulate, and control that caused the most problems.

We are just not smart enough to do it. They tried to do it over in the Soviet Union. They cannot do it over there. They have lines of people waiting to get tomatoes, eggs and bacon, or whatever it may be. We should not try to run our energy, our energy supply and our energy market in that kind of way. That is not the American way to do it. We are not trying to run these markets with bureaucrats. If we are fearful that prices are fixed then double the size of the Jus-

tic Department. Get after the price fixers. Put them in jail if they are conspiring together to keep prices up. But in all the investigations we made in the Permanent Investigations Subcommittee of the Senate last year and the year before we could find no evidence whatsoever of price fixing of that kind. We have a good Justice Department. We have a good Antitrust Division, and we ought to back it up and support it, and have faith in the free market.

How ridiculous it is for me to live in Georgetown and have gas heat and know that my heat costs me less than half that of anyone who has oil, but I know I can sit there in my comfort at half the cost to anyone else who is comfortable, knowing that no one else can get gas.

If you want to open a restaurant that takes a gas furnace, you cannot open it in Virginia or Maryland or Washington, D.C.

Artificially controlled prices keep down supply. You cannot repeal the law of supply and demand. We do not have that kind of wisdom.

Let us work toward what we said we were going to work toward, a phased deregulation of resources over a period of 40 months. Now we are lagging behind. We are fearful. We are afraid someone is going to complain. But the people are going to be bitter in West Virginia, they are going to be bitter in Illinois, and they are going to be bitter all over this country if they cannot get adequate fuel resources this coming winter if it is as cold as we anticipate it is going to be. Every time we go out and it gets a little cooler in the morning, let us think about that cold winter coming along with shortages of supply and let us move toward market pricing and put the price at what it is worth. Only then do we begin the conservation program that we desperately need to stop our growing dependence upon oil imports.

When the oil exporting countries tell us, "So long as you waste and squander our depleting resources we are going to keep raising our prices," they are telling us something that we should be listening to and reckoning with in our own domestic sources of supply.

We have to have adequate incentive and we have to price it at what it is really worth, and that is the replacement cost.

For those reasons, I hope that we will work toward approval of the principle embodied in the Pearson-Bentsen amendment, and I congratulate both of the authors of that amendment as being realistic and fair, even though they are going to be misunderstood by many consumer groups. I think in the end what the consumer will want is fair and honest pricing—pricing that will bring adequate supplies and will give us the message that this is a valuable depleting resource that we are using up, wasting and squandering, and only through market pricing will we ever be able to reconcile these contradictions.

Mr. HANSEN. Mr. President, first of all, I commend most highly the distinguished senior Senator from Illinois for the compelling logic in the statement he has just made. The only regret I have is that there were not more Members of the Senate in the Chamber to hear his very persuasive arguments and to recognize the inevitability of the scenario that he has painted for us.

I want to comment on a discussion yesterday between the Senator from Alaska and the Senator from South Dakota. In it, the Senator from South Dakota was urging that there is not much of a free market when you have a limited supply of something and a limited number of people producing. Now I was always taught that every commodity that is marketable exists under exactly those conditions. It used to be said that only air and water were free, and we are now learning that even that is not true. The essence of a free market is not that a commodity is not limited, because every commodity is limited, whether it be labor, land, aluminum, lawyers or whatever. Those limits can frequently be expanded, but there are always limits.

The essence of a free market is the opportunity to compete. And there is certainly that in the oil and gas business. Certainly there are large companies, but by any measure you choose, it is less concentrated than most other businesses. The top producer has less than 10 percent of gas production. The top 10 have less than 50 percent. And there are thousands of small producers, who every day are leasing land, putting together deals and exploring and producing. It is true that there are a lot less than there used to be, but that decline is a direct result of the price ceilings that have said one cannot take a risk and try to make a profit.

This leads to my second comment. The Senator from South Dakota states that if he were in the gas business he would be "assured under the present law I would get my cost of production plus an adequate profit. Do they want something more than an adequate profit?"

The Senator is mistaken in thinking that a gas producer is guaranteed anything under existing regulation or under any ceiling price. Even assuming the correctness of every number the FPC used in arriving at its "cost-based" price of $1.45, it is axiomatic that half of the production must be bringing a return below the 15 percent rate of return allowed.

If the average cost is $1.45, half of it must be above that, at $1.50, $2, or whatever. And no one will willingly spend $2 to return $1.45. When a person goes to drill, the FPC or any regulator cannot guarantee that he will find anything, or if he does find it, how much he will find, or how much he had to spend to find it.

All the regulator can guarantee is that no one will try to drill where he thinks gas can be found if he thinks the costs will exceed the ceiling price.

When the price of farm products rose because of several famines and large foreign purchases, our farmers planted fence to fence, and the shortage evaporated in short order. Should we chastise them for "withholding production" because they did not do all that additional planting at the earlier price? Of course not.

It all comes down to the question, do we want to let Americans try to solve America's energy problems? Or do we want to guarantee that we will have to put ourselves on the mercy of the world market to meet the shortages that will surely continue. Economists and bureaucrats may not know much, but they do know one thing with certainty, and that is how to create a shortage. It has been proven throughout history that you can produce a shortage in very short order by putting a ceiling on prices. Whether it is rent control, wage control, fixed-price theater tickets, or natural gas regulation, the result is the same. Shortage, stifling of production, and the necessity of substitutes.

Mr. President, I say let us put an end to this vicious cycle, and turn our productive genius loose. It will work. It has already worked in the intrastate market.

We should join together, in less than another hour, and vote to prove, once again, that the experience that America and, indeed, all of the world has had throughout history will prove to be workable and will hold true in the case of natural gas deregulation. I urge my colleagues to let the free market demonstrate what it can do to solve this shortage also.

Mr. President, I ask unanimous consent that Bill Pursley of Senator STONE's staff may have the privilege of the floor during the debate and any votes upon the bill before us.

The PRESIDING OFICER. Without objection, it is so ordered.

Mr. DURKIN. I make the same request for Reid Ashinoff of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, the same request for Rick Sloan of Senator METZENBAUM's staff.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I, as usual, listened with great interest to the remarks of the Senator from Wyoming. I think, in support of his remarks and his great interest in this issue of deregulation of natural gas, it is worth some summary remarks as to the elasticity of supply, that is, the increase of supply as a function of various changes in the market.

As I said earlier, there are really four basic changes in the energy economy that can affect supply price, available technology, available science—that is, understanding of a resource base—and the availability of capital, risk capital in particular. But I think it is worth looking once again at the question of what is the reaction of a market to an increase in price.

Mr. President, I yield briefly to the Senator from Minnesota.

Mr. ANDERSON. Mr. President, I ask unanimous consent that Susan Martell of my staff be accorded floor privileges during the debate on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, it has been argued, clearly incorrectly, I believe, but nonetheless argued on this floor that there is no elasticity of supply, that is, that the supply of natural gas will not increase with an increase, albeit a brief increase, in the price of new natural gas.

I think it is worth our while to look at the experience of Texas, which is that in 1971 there were 1,000 new gas wells drilled, and at that time the price was about 75 cents per thousand cubic feet at the wellhead for new natural gas.

In 1975, we saw 2,275 new gas wells drilled in Texas, when the price was $2.20 per thousand cubic feet, a substantial increase from 75 cents.

In 1976, we could see the beginnings of a drop in price as the new supply produced by these wells became available, and the price in 1976 was about $1.75. More recently, in 1977, we have seen new contracts for new natural gas in Texas, in intrastate market, begin to go for about $1.60. So the price continues to drop in response to an increase in supply.

In Oklahoma—and I see that the Senator from Oklahoma is in the Chamber; he has talked previously about this subject—we had a similar reaction between 1972 and 1976 to an intrastate uncontrolled natural gas supply. In 1972, the intrastate price in Oklahoma was about 30 cents per thousand cubic feet, according to my information. There were 103 active rigs, and during that year 393 billion cubic feet of gas was added to the reserve.

In 1976 with the price of $1.70 per thousand cubic feet, there were 192 active rigs in contrast to 103, and during that year, 878 million cubic feet of gas was added to the reserve. There is no question, from these assurances and from general market economics, that with just a brief increase in the market price for natural gas we will see a rapid increase in the availability of reserves for production, and soon after that rapid increase we will see a drop in price because the available supply will outstrip the demand.

All of the predictions of very high increases in natural gas prices for long periods of time are just false. They will not occur.

Mr. President, I think it is also worth noting that various studies have indicated approximately what the increase in annual production of natural gas would be at various price levels.

In order to set the perspective, we should note at this time that the present production of natural gas is about 20 trillion cubic feet, on an annual basis. The Massachusetts Institute of Technology, an institution in the home State of the Senator from Massachusetts who spoke yesterday, has predicted in their study that at a price of $1.98 per thousand cubic feet there will be an addition of 3 trillion cubic feet of gas added to the 20 trillion cubic feet as a consequence of that price increase, on an annual basis.

Mr. President, that increase of 3 trillion cubic feet will occur by 1985.

The American Gas Association, in taking a price of $2.90 per thousand cubic feet predicts 3.9 trillion cubic feet additional gas to be available by 1985. The Institute of Gas Technology, at a price of $2.50, predicts 5.4 trillion cubic feet added gas supplies on an annual basis.

The Federal Energy Administration, taking a price of $2.40 per thousand cubic feet, predicts 4.3 trillion cubic feet added to the gas supply.

All of these empirical models are subject to debate, and subject to variations in the assumptions they may have used. But it is interesting to note that in these four cases the conclusion was roughly the same: that a great increase in the supply of natural gas will result from a relatively modest initial increase in the price of interstate natural gas, new natural gas.

Mr. GOLDWATER. Will the Senator yield at that point for a question?

Mr. SCHMITT. I will be happy to yield to the Senator from Arizona for a question.

Mr. GOLDWATER. The question I think we have to address ourselves to on behalf of the American people is the resulting price increase of gas to the user. I would like to ask the Senator from New Mexico if my estimate is correct or nearly correct. A 15-percent increase—I think that is about what the Senator has been talking about—at the wellhead will result in about a 3-to-5-percent increase to the user of gas in the home; is that correct?

Mr. SCHMITT. The estimates vary. One thing we know is that the price that the consumer sees at his home is composed of many additions of price starting from the wellhead. The wellhead price constitutes about 20 percent of the price that the Senator would pay for gas in his home. That is a national average. The increase will vary nationally from 3 to 5 percent.

Mr. GOLDWATER. I have seen the figure. In fact, my State is probably more dependent upon gas than most States. Seventy-nine percent is our dependency upon gas. Our figures show that a 15-percent wellhead increase will result in a low of 3 percent and a high of 5 percent to the average user. This would not apply, of course, to the smelters, to those people who use tremendous amounts of gas. But for the homeowner, the one that we have seen so many tears shed for in this body, the increase would not be prohibitive, in my opinion.

Mr. SCHMITT. The Senator is correct. The initial increase, of course, would be very small, because any new gas entering into the interstate market would be mixed with old gas that had a regulated low price. So the average would remain quite low. It would be an insignificant increase in the first few years as a consequence of new production or new gas at the higher price. As we accelerate production there may be a brief period of time where we might see the 3- to 5-percent increase the Senator refers to.

Experience in the intrastate market, and in other commodities that have comparable economics, will show us very quickly that the supply will be such that it will begin to hold the price down and actually drive it down. That is characteristic of the copper market in Arizona and New Mexico with which the Senator and I are so familiar. Right now, because of the oversupply, the price of copper has been driven down. It will be down for a while and the consumer will benefit because of the low price. Gradually, though, production will decrease because of the lower price and it will cycle back up.

Natural gas does not follow these normal cycles because we have artificially regulated the price. What the consumer has had for about 25 years is an artificially low price which has driven people from the exploration for new gas and our reserves have dropped. It is no longer a problem of price but it is a problem of supply. We are going to have to relieve the restrictions of price on the exploration for natural gas in order to increase supply.

Fortunately, in one sense—and I never would have voted for regulation—regulation has given us a chance to increase supply with a very small impact on the consumer because of the old gas at a low price being mixed with a limited amount of new gas coming on at the higher price. The consumer will see from the wellhead price a relatively small increase.

I think it is important to look at the other side of the coin, if the Senator will indulge me, of what happens if we do not increase the supply. What happens? The consumer is forced to other alternative energy sources which are much more expensive. The cost of electricity in equivalent Btu units is five or more times what it is for natural gas even under a deregulated price. The cost of foreign imported oil, which is where we will have to get it, is two or three times more than the cost of natural gas.

On top of all of that is the environmental question. Whether we switch to oil or coal or what have you, any reasonably available alternative source right now is tremendously more damaging to the environment than is pure and clean natural gas. I believe that is obvious.

I cannot understand why we do not see more of our friends, who, like myself, are very interested in the environmental causes, coming here and talking to the opponents of the Pearson-Bentsen amendment for deregulation of natural gas, with this very important consideration of the environmental impact.

Mr. GOLDWATER. This is one area that some seem to forget, the environmental problems. I want to thank the Senator for bringing out this very valuable information on the impact on increased production of gas, which we have to have—and this has to apply, too, I might say, to oil—and that we are not directing our energies in this energy bill to that end. We are talking about conservation. The American people will not conserve. We are not talking about the need for more fuel or more natural gas in 1985 or 1990 or the year 2000.

It would be just a natural thing. I have talked to the producers of some of the gas wells in Texas and Oklahoma. They just turn that valve down, and

when they cannot sell gas outside their State at a profit, they are going to sell it in their State at a profit. That is something I cannot understand, why our colleagues from the populous Eastern States that depend on interstate pipelines cannot understand that we probably will go through another very cold winter this year. The people who operate the valves are liable to push them in the other direction and we will have just as bad a situation.

I thank the Senator from New Mexico for bringing these points out. They are points that I think we should talk more about than the political kind of chatter we have been hearing about energy.

Mr. SCHMITT. I thank the Senator. I think that, by his questions, he has, once again, pointed out the idea that the amendment that will deregulate the price of natural gas is a consumer-oriented piece of legislation; particularly for the consumers in the large Eastern and Midwestern populated States that are going to have another hard winter.

There is nothing we can do about that. There is going to be another winter of shortage of supply unless there is a miracle of an extremely warm winter. An average winter will mean a shortage of the supply of gas. It means that if we continue to regulate gas at artificially low prices, winter after winter, it will be the same thing and the consumer will be forced to convert to much higher-cost foreign oil or electricity. That is not, in my mind, a consumer-oriented philosophy. The philosophy is, for the short term, intermediate term, to use what is abundant, which is to say natural gas, and to use it in sound ways which it is obviously suited to, to make that gas available while we develop these other energy sources through our use of technology, other energy sources that will provide, sometime early in the next century, inexhaustible sources of clean energy and electrical power.

The Senator is absolutely correct, it is a consumer bill. If the consumers were voting on this measure and had the facts before them, I am sure they would vote, first of all, not to table the Pearson-Bentsen amendment and, then, vote in favor of the deregulated price of natural gas.

Mr. GOLDWATER. The Senator is right.

Mr. SCHMITT. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that a member of my staff, William Donovan, be granted privilege of the floor during the debate on this particular bill throughout the rest of the day and the weekend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that Gordon Jones of my staff be granted privilege of the floor during all votes and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If the Senator will withhold, the Senate is not in order.

The Senator may proceed.

Mr. JACKSON. Mr. President, the pending amendment has been debated at length, not only this year, but in previous years. I think the significant thing to point out is that since that time the price of natural gas has been going up steadily.

The current new natural gas price of $1.46 represents a fourfold increase over the past 4 years. The administration's proposal would allow $1.76 beginning this year and it goes on up in the years ahead, recognizing the inflationary factors that exist in our economy.

Mr. President, I think there are adequate incentives in the administration's bill. I believe that we can get the natural gas that we need.

We have a responsibility, Mr. President, to look at the other side of the picture, and that is the all pervasive impact that the cost of energy has on our economy.

We are still suffering from the sudden increase in the price of oil caused by the OPEC price fixing back in 1973. Mr. President, specifically, 80 percent of the oil produced in the free world.

Therefore, they have effective control over the price of oil which, in turn, if we deregulate, as the Pearson-Bentsen amendment would do, Mr. President, then we are letting it go to the OPEC price.

I believe this is the issue. It is the issue not just of natural gas per se, but it is the issue of our economy.

I hope that the Senate will respond effectively by supporting my motion to table, which I shall make at 6:30.

ADDITIONAL STATEMENTS SUBMITTED

Mr. STEVENS. Mr. President, natural gas has become an increasingly important source of energy in the United States over the last 30 years. Between 1945 and 1970 natural gas production and consumption increased by 450 percent, from 4 trillion cubic feet (Tcf) per year to 22 Tcf per year, and as a share of total energy consumption, natural gas rose from 12 percent to about 33 percent. Natural gas is the main fuel for home heating; for the United States as a whole, it now accounts for over 40 percent of residential energy consumption. Because gas prices have been maintained at low levels, this fuel has increasingly become the choice of electric utilities and large industrial consumers. This, of course, is not surprising; gas has been clean, convenient, and most of all, cheap.

Today, however, America is faced with an acute shortage of natural gas. Beginning in 1971, demand for natural gas began to exceed its supply, and since that time natural gas shortages have been steadily growing. By 1973 it was no longer possible to have gas lines installed in new homes built in many regions of the country, and a large number of industrial consumers found their supplies curtailed. In the severe winter of 1976–77 the shortage reached 23 percent of "firm"—noninterruptable—requirements, and aside from the direct cost of unfulfilled demand, this resulted in additional unemployment of about 1 million people during the month of January and more than $4 billion of lost GNP.

The explanation for the natural gas shortage is simple. Separated from all the political rhetoric, the cause of the shortage can be simply stated: The Federal Power Commission, under the congressional mandate of the Natural Gas Act and the judicial decision of Phillips Petroleum Co. against Wisconsin, has pegged the price of natural gas at the wellhead at an artificially low level and, as a result, demand for natural gas at this low price has far outstripped the supply.

The establishment of the low wellhead price has produced two significant effects. First, the incentive was removed for the exploration and discovery of new natural gas reserves, and as a result total U.S. reserves of gas fell by about a third between 1967 and 1976. Second, low prices removed the incentive to produce gas out of existing higher cost reserves, so that production fell even with respect to a particular level of reserves.

To mitigate the problem, President Carter has proposed in his national energy plan to increase new contract wellhead prices of "new" gas. The plan assumes that there is not enough undiscovered gas remaining to justify any price higher than $1.75 per Mcf. While the Carter proposals will help to reduce projected shortages they will not eliminate them and significant shortages will continue.

As compared with the alternative offered by the President, deregulating the field price of new natural gas is the single, most effective way to increase supplies and avoid the economic dislocations attending supply curtailments. Deregulation would allow the free market price to fulfill its economic role as allocator of this scarce resource. In addition, deregulating the field price of new natural gas would generate the funds essential to finance exploration and development of frontier areas and provide

adequate incentives to make the potential rewards of the petroleum search worth the enormous costs and risks.

Nowhere in the United States is the cost of exploration and development of our natural gas reserves as high as in the frontier areas of Alaska. Exploration and development in Alaska requires large amounts of capital to meet the environmental, labor, management, and transportation costs. Alaska, however, holds great promise for sizable new deposits of natural gas. Estimates differ, but a moderate and reasonable estimate published by the Potential Gas Committee in 1976 places total Alaskan potential gas reserves at 225 trillion cubic feet and proven Alaskan reserves at 32 Tcf. This additional petroleum can be found and successfully marketed if the industry is provided with the necessary economic incentive and profit. Deregulation of the field price of new natural gas not only provides the right economic climate to develop Alaska's vast gas potential but also establishes the necessary economic stability that industry needs.

The administration's assumption that there is not enough domestic natural gas left to make it worthwhile to encourage and provide the means for a maximum exploratory and development effort is not valid. It is difficult to know just how much natural gas exists. Indeed, no unanimity exists on the availability of gas. The Potential Gas Committee estimates that potential U.S. reserves total 927 to 977 Tcf while the USGS places the total at 523.6 to 856.6 Tcf, a significantly lower estimate.

The disparity in estimated potential U.S. reserves between the Potential Gas Committee and the USGS is not surprising. The actual record in prediction in energy resources does not inspire high confidence in resource forecasts. Wildly wrong predictions of resources are legion. In 1891 the U.S. Geological Survey estimated that there was no oil in Texas; in 1914 the Bureau of Mines estimated total future U.S. production at 6 billion barrels. A consensus of 11 U.S. oil companies' forecasts for 1980 made in 1962 was already exceeded in 1972 Perhaps, the best example of the difficulty of energy prediction was exhibited in the report of the Cabinet task force on oil import control in 1970—Cabinet task force 1970. It concluded:

> The world market seems likely to be more competitive in the future than in the past because the growing number and diversity of producing countries and companies makes it more difficult to organize and enforce a cartel. . . . These reasons support the conclusion that the landed price of foreign crude by 1980 may well decline and will in any event not experience a substantial increase.

The best way to determine how much gas is economically recoverable is not by expanding the Government's use of regulation measures to deal with the energy problem but by providing the industry with the economic incentive to explore for additional gas reserves. Otherwise, the mistaken assertions of the proposed national energy plan that domestic production cannot be increased substantially will become a self-fulfilling prophecy.

If present policy is continued, shortages can only grow worse as demand continues to increase and supplies dwindle. The costs of the policy—in lost consumer surplus, induced expenditures on oil and coal, and lost GNP—are enormous, and they are growing.

Deregulating the field price of new natural gas is the most effective way to promote the development of Alaska's vast gas potential. The development of Alaskan gas will ease the energy shortage, help correct the balance of payments and employ the American worker.

Mr. HATCH. Mr. President, since 1954 the Federal Government has set the price for interstate natural gas sales. Now, nearly two decades later, persistent and serious gas scarcities developed as artificially low prices, held down by the Federal Power Commission, stimulated demand and dampened production. Economist Milton Friedman summarized the problem very well when he observed that if you wanted to create a shortage of any commodity, simply have Government fix and enforce a maximum price on the product which is less than the price which would otherwise prevail. This, my dear colleagues, is precisely what we have done since 1954, and precisely what we would do on even an expanded basis by passing this bill.

In April of this year we were warned by the administration that the world would run out of gas one day near the turn of the century. For this reason the law of supply and demand was repealed, and we were told we needed a new Department of Energy and a lot of new taxes to promote conservation. It develops now that the administration no longer feels that way. Energy Director Schlesinger concedes that in the United States we now have 30 years supply of ordinary natural gas, and some 100 years of geopressured methane. Indeed, an impressive preponderance of opinion among the leading experts assess our supplies as being much greater than Director Schlesinger's estimates. The truth seems to be that this country has natural gas in great abundance. One respectable estimate sets our reserves at 920 trillion cubic feet. Other reputable sources estimate our reserves and remaining resources to exceed 1,600 Tcf. Russian scientists are convinced that the world supply is 350 billion Tcf, enough gas to last this planet for 20 million years. Whatever rationale you adopt, it is highly probable that our country is simply awash in natural gas. With this evidence, it mystifies me and millions of Americans like me, why we would contrive a national energy policy which would deny us the benefits of this marvelous resource. The answer, my distinguished colleagues is simple, straightforward, and quite obvious. The price of gas, as set by the Federal Power Commission is not high enough to enable producers to develop additional supplies.

It has been stated in this debate that deregulating the price of gas would not increase the supply. However, our own Energy Research and Development Administration advises otherwise. Dr. Christian Knudsen of ERDA states that if the price of gas were deregulated, the country would be awash in natural gas. In detail Dr. Knudsen estimates:

At a cost of $2.60 per Mcf we could expect our gas reserves to rise to 923 Tcf, a fourfold increase over the present reserve of 216 Tcf;

At a price of $3 another 1,000 Tcf of hitherto uneconomic new sources would be tapped including 300 Tcf Devonian shale in Appalachia, 300 Tcf of coal seam methane, and 300 to 400 Tcf of western tight sands;

This means that a price range of from $2.50 and $3.50 this Nation's total immediate gas reserves could be multiplied 8 to 10 times, and 60 to 80 years added to the expected life of our reserves. In addition, Dr. Knudsen suggests that at a price of $3 the Nation could begin to tap the 20,000 to 50,000 Tcf known to exist in the form of geopressured methane in the gulf coast region. This source alone is a 1,000-year supply.

In sum, Dr. Knudsen's committee concludes that this country's natural gas potential is immense and would last from 100 to 2,000 years. But again, and I emphasize this, the realization of this potential is dependent upon increasing the price. It is incomprehensible that we should willingly be enduring shortages when we can eliminate shortages by allowing a market-clearing price, at prices that are still cheaper than alternatives.

We could have all the natural gas we could use.

The distinguished Senator from Washington concludes, I think too simplistically, that little additional natural gas would be produced even if the price were increased, citing the static state of intrastate reserves in recent years. The Senator fails to point out, however, that field price controls on gas have confined recent drilling to unproductive, shallow, inexpensive onshore areas. He also neglected to point out that less than 10 percent of recent gas-well completions have been in the more expensive, deeper onshore areas where 70 percent of U.S. gas resources are located. Furthermore, it is significant that current exploratory drilling levels are drastically below the levels of the 1950's. I would also point out that formerly the opponents of deregulation argued that natural gas producers were holding back output in order to get a higher price. Now they argue that a deregulated price would only increase supply by 5 percent. Obviously, they can not have it both ways. Which way do they want to argue? Another certain consequence of this strange business of holding down domestic prices means more imports of high-priced foreign fuels. It transfers American income and wealth to foreigners. It decreases American income and increases foreign income. We penalize American producers to aid foreign producers. Energy companies now look increasingly abroad for natural gas supplies. Foreign supplies could easily account for 20 percent of our total use by 1985. There is nothing inherently evil about importing energy, and our experience with OPEC oil has taught us that foreign oil is better than no oil at all. But there is great evil in support-

ing the energy industries of foreign countries at the expense of our own, and the OPEC experience has graphically demonstrated the need for restraints on foreign pricing power.

Most foreign gas is higher priced than deregulated domestic gas. Mexican gas, it is estimated, will cost $3.10 per Mcf compared to about $2.25 for deregulated domestic gas. In order to reduce foreign gas imports, Congress must assure maximum production of U.S. reserves by deregulating the price, and thus far, it has refused to do so.

Carter administration officials cannot deny that, under their proposed controls, natural gas production is expected to decline from almost 20 Tcf per year to about 15 Tcf. This means that passage of this bill will cost us one-quarter of our natural gas output over the next few years. The Government's own scientists predict that deregulation can prevent this fall. Simply stated, if we do not deregulate, we will lose this gas. Gas is almost 40 percent of our total national energy output. By losing one-quarter of it we will be literally throwing away 10 percent of our domestic energy supplies. This lost gas, which between now and 1990 will reach 25 Tcf will have to be replaced. And how will it be replaced? It will be replaced by foreign oil purchased at a rate of $4 per million Btu's for industrial distillate, after the Carter tax is imposed, and by electricity at a cost of $11 per million Btu's. It is easy to see that this will cost consumers far more than deregulated gas. Not only will consumers pay more, but they will also be paying more for imports.

Under this bill, U.S. consumers will be spending an extra $26 to $40 billion on imported OPEC oil between now and 1990 just to replace the supplies we lose because of our gas price controls. Our rising oil imports will absorb much of Saudi Arabia's excess productive capacity making it much easier for OPEC to push for higher prices. Suppose this leads to price increases of even as little as $1 per barrel, an increase less than the increase OPEC is already calling for. this added $1 will cost the United States an additional $2.55 billion per year and $23 billion between now and 1990. And this increase would apply to all oil, not merely oil imported to supplement our natural gas production shortfall.

Contrary to what those who advance this bill would have us believe deregulation is not a consumer atrocity. Consumer gas bills would not double or triple. For example, in 1976, the average home gas bill was about $249, though in some areas the average went as high as $460. Significantly, however only about one-third of this bill represents the wellhead price of gas which is the only element of the price that would be affected by deregulation. The other two-thirds represents pipeline and transmission expenses. Finally, most gas is sold under long-term contracts, and only "new" gas—about 5 percent to 10 percent per year—would be affected by deregulation. These factors would cushion the price increases. While no one can accurately say just where prices might go under deregulation, it would surely not be to the levels the bill's proponents are contending. We must face the reality that great pressure exists for higher energy costs everywhere and for all fuels, and neither the administration nor Congress can artificially shield consumers from the consequences. The price increases cannot be confined to businesses. They will be passed on in the price of products and contribute to general inflation and will result in production of less at home and more imports from abroad, increasing our already dangerous balance-of-payments problem.

It is interesting to review the experience of Canada with respect to deregulation. American gas buyers, with FPC permission, are now making contracts with Canadian producers to buy gas at $2.25 Mcf, fully three times the average well-head price now being paid to U.S. producers. As a result, Canadian gas production is booming, while in the U.S. gas production continues to decline. The significance of this is that merely 3 years ago, Canada was so worried over its gas reserves that she embargoed shipments to the United States. But the combination of higher prices offered to the Canadian producers and rising U.S. demand, has sent them into an exploration spree, exploiting areas formerly thought to be too costly to yield. The result is that Canada is piling up to 1 to 2 trillion cubic foot surplus of natural gas each 12 months, which it is happy to sell to the United States at nearly 85 cents above the present regulated price of new gas in this country.

This coming winter, we will probably again be short of natural gas. And we will probably again be forced into purchasing $2.25 gas from Canada, $4 LNG from Algeria, $5 SNG, and $6 to $9 propane from domestic producers, all because we insist on limiting our domestic producers to a price so low compared to what these foreign sources are charging, that they cannot go out and get the enormous reserves that ERDA and USGS tell us are there.

I submit, my distinguished colleagues, that this entire gas price situation is ridiculous and is becoming an outrage. It has lead me to the conclusion that the energy program of this administration most probably has nothing to do with energy conservation or production. It has everything to do with increasing Government power and with raising the taxes of Americans. The bureaucrats and the U.S. Congress are now putting themselves in the position of running the entire U.S. energy industry, and that really means the entire U.S. economy.

Remember, bureaucracy creates crisis in order to create more bureaucracy in order to exercise more control over our lives, usually always to the detriment of all.

It is vitally necessary that we adopt a policy for our national energy needs that will work. It is clear and unequivocal by the weight of all credible evidence that has come before me, that the price control features of S. 2104 will not work and are therefore not in the national interest. Therefore this measure must be defeated, and we must pass the deregulation bill introduced by the distinguished Senators from Kansas and Texas.

Thank you.

NATURAL GAS PRICING

Mr. McCLURE. Mr. President, On January 31, 1977, I addressed this body on the need for deregulation of this Nation's new natural gas supplies. At that time we were witness to the devastating effects created by shortages of natural gas: millions of Americans out of work, thousands of cold homes, schools closed by the score, and losses to the economy totalling million of dollars. As I said then, it is not my intention to weigh down this body with the thousands of figures—but corresponding few facts—created by this issue. We have heard the debate and seen the relentless rain of statistics beginning with the 1954 Phillips decision empowering the Federal Power Commission to regulate the wellhead price of natural gas dedicated to interstate commerce. We have read the hundreds of hours of hearings and debates, seen thousands of entries in the CONGRESSIONAL RECORD and have been asked to consider hundreds of bills and resolutions relating to natural gas. We have seen the potential supply figures, the differing economic scenarios depicting a regulated and deregulated market, the conclusions of the experts and editorial comment from newspapers across the Nation. All attest to the fact that for 23 years this Nation has failed to deal with the fundamental problem of shortages of supply of natural gas and acknowledge the fact that current ceiling price formulas constitute a powerful disincentive to increase production and conserve existing supplies. I am firmly convinced that the most effective response to deal with the problem is to turn our backs to the discredited advocates of control and work toward increasing supplies of natural gas. This Nation should not again face the possibility of misery and economic dislocation caused by induced shortages.

We are now in the midst of a battle over the pricing of new natural gas—at a time when reserves are dwindling, production is declining and resources are estimated by reputable sources to be sufficient to meet our needs for more than 50 years. We must now act on the question of whether we will give producers the incentive to explore, develop and bring new gas to the marketplace. The issue is as simple as that. It presents a challenge which cannot be met by further delay and political sidestepping.

There is a strong record of the relationship between the volume of reserves developed and resources discovered to the amount of drilling conducted. In addition, there is a strong relationship between increased prices for natural gas and corresponding increases in domestic drilling. More simply, there is a direct relationship between prices and production. This is the most important fact, for no good argument can be made that future supplies of gas would not be responsive to price.

The case for providing such incentives is strong. But the strongest argument lies in the fact that the consumer, either because of the high cost of alternate fuels which companies serving them must utilize if they cannot obtain sufficient supplies of natural gas, or because of the equally high costs to commercial users, will end up paying higher costs. That is the most unacceptable cost of a shortage policy such as that which the administration advocates.

Under existing price controls, producers cannot meet all consumer demand for natural gas. The experience of the interstate market earlier this year proves this. Net curtailment of natural gas by 27 major interstate pipeline companies totalled 936.4 Bcf. As a result of curtailments, residential consumers paid an average of 20 cents per Mcf more for gas and commercial customers paid 15 cents more. One and one-tenth billion dollars more was paid for the same amount of gas by residential users. More was paid by industrial users. We must remember that these costs affect you and me. We need to keep in mind that commercial and industrial costs are passed on to consumers in the form of higher prices for goods and services. This is for the same amount of natural gas and not for an increase in supply or the cost of production incentives.

The cost of substitute fuels to replace shortages of natural gas is another high cost the consumer must absorb. When companies serving consumers cannot get adequate supplies of natural gas, then they must purchase oil, electricity, liquified gas, synthetic gas and other alternate fuels to make up the differences. These substitute fuels are expensive, and their cost may be the single most expensive factor in the administration's shortage policy.

Empty natural gas pipelines contribute more costs to the consumer natural gas bill. In testimony before the Senate Committee on Energy and Natural Resources, Dr. L. Philip Gramm testified that the wellhead cost of natural gas represents only about 20 percent of the homeowner's monthly bill. In the Northeast, 81 percent of the residential gas bill is for pipeline and discrimination costs.

Pipeline and gas distribution companies costs are fixed, whether they operate at full or reduced volumes. The greater the natural gas shortage, the less gas flows down the pipeline. Any fall-off in natural gas production and sales means that the consumer pays more to recover these fixed costs. Thus, it is important to have full pipelines or consumers will pay more per unit of gas to make up the differences. The consumer is adversely affected by an energy policy that ignores production incentives. The effects of curtailments, alternate fuels, and empty pipelines could cost American consumers more than $123 billion through 1990 if Federal controls are retained.

The administration's argument for a $1.75 price ceiling for new natural gas is flawed by a major misconception—that at prices above $1.75, only 0.4 Tcf more gas in 1985 would be produced. It is just not so. There is an abundance of conventional gas in marginal fields alone that can be produced if prices are raised to a level high enough to justify the production cost.

Opponents of decontrol make an even weaker argument that true competition does not exist in the natural gas industry. The Texas experience, where higher prices have not brought on more production as yet, suggests that this is not so. In early 1970 a sharp demand for natural gas developed while supply was relatively low. Low prices had curtailed exploration, and a major producer suddenly found it could not meet a long-term contract. Prices rose, and the number of wells drilled increased. By 1975, total supply had fallen, but not to the level anticipated had prices not risen and produced incentive. Interestingly enough, demand had fallen, due to the higher prices, and a surplus resulted. After several years, some gas has sold as low as $1.30 Mcf with most prices leveling off at $2 Mcf.

Gov. Dolph Briscoe of Texas presented the Senate Energy and Natural Resources Committee with an accurate summary of the problem facing the Congress and the Nation, when he stated:

> Let me emphasize a central fact not widely recognized. The energy development requirements, given in the President's National Energy Plan, are unprecedented, compared to any nine-year period of our history. More than half of the 1985 domestic production must come from newly found and newly developed sources. To achieve his requirements in oil and gas in the face of recent and present declines, reserves must be found to provide 11 million barrels of oil equivalent per day of new production. Simply put, that will require the discovery of about 60 billion barrels of oil or oil equivalent over the next nine years, more than we have ever found in any nine years of our history.
>
> We have wasted more than three and a half years since OPEC quadrupled the oil price. Time is getting very short because the lead times involved in both conserving energy and expanding energy production are quite long. We are already in a precarious economic and strategic situation because of rising oil imports. If we do not radically modify President Carter's energy plan along the lines I have indicated, our import requirements in the 1980's could break the back of the world economy and endanger the peace. There is no need for that. The fate of the United States and the other OECD nations must not be permitted to depend on whether or not Saudi Arabia is prepared to expand its oil production capacity. We are blessed with large energy reserves. Now is the time to bring them into production. We shall not win this moral equivalent of war with one hand tied behind our back. I came here today to urge you to untie the hand of production.

There is much debate as to what the cost of deregulation will be. We do not know exactly, but I am confident that it will be below the cost imposed on this Nation by a controlled natural gas market.

We need to be truthful and face the fact that in either case consumer costs will increase. But under deregulation, more benefits will reult from these increased costs. I am confident that if we vote for deregulation, we will increase domestic supplies, lessen our dependency on foreign imports, promote conservation, and save the consumer money over the next 10 to 15 years.

Mr. JAVITS. Mr. President, we have been debating natural gas pricing policy in this Chamber for almost 4 years, and we have yet to reach a consensus among ourselves, with the House, or with the President. The results of this continuing debate, and consequent failure to resolve this critical issue of energy policy, is a haphazard course that has been detrimental to all concerned parties—producers large and small, consumers, industrial, commercial or residential, and workers, especially in the Northeast. It is time to resolve this issue.

The very fact of the Congress continuing debate on natural gas deregulation has been, in my view, one of the principal reasons for the steady decline in natural gas production and in addition to proved reserves. No matter what price a producer is getting, whether it be too low to pay for fixed costs or high enough to make a steady profit, producers cannot be expected to make massive investments when there is a good chance prices will not be under any control at all next year. And that is precisely the situation that U.S. gas producers have been facing these past several years.

When the price at the wellhead just 3 years ago was 24 cents/Mcf, producers contended that much more was needed. The Federal Power Commission responded under the existing standard of "just and reasonable" by increasing the regulated price to 52 cents, but production continued to fall. Producers again argued that greater costs had necessitated still greater increases in the price of natural gas. The Federal Power Commission, under an administration that favored deregulation of natural gas prices, nearly tripled the price at which contracts could be signed, up to $1.45 for new natural gas. Thus, in the space of a few short years, the allowable price for natural gas has already skyrocketed—as much as the OPEC imposed price for imported oil—from 24 cents to $1.45, a sixfold increase.

It has become abundantly clear to me that the answer to increasing our domestic production of natural gas is not to increase the price. This method has been tried and failed. It has failed for a single obvious reason: Each time the price has been increased there was the continuing likelihood that Congress would permit much greater price increases by deregulation. It takes no great imagination or understanding of business practice and investment decision-making to understand that when greater profits are likely to be available next year, business will wait until next year before making major investments.

The argument for total deregulation is all the more flawed by the assertions of producers themselves. Three years ago, a price of $1.75/Mcf would have been more than even the producers would have said was necessary for maximized production. Even in the debate in the last Congress, a price of $1.75 was more than it was contended would be the rise in a deregulated market. But now, when the choice is between a new high price of $1.75 and the possibility of any price demanded, the natural gas industry contends that $1.75 is not a price high enough to elicit the investment

needed to bring out maximum domestic production.

On this point, it may be possible that a still higher price will bring out additional supplies. I would listen very carefully to any argument why it is desirable to place a special premium on the use of natural gas over the Btu equivalent price for oil. If $2 is actually the price needed to guarantee that all possible domestic natural gas sources are exploited as quickly as possible, then at least we will know the economic consequences of our actions. To allow the price to go still higher—higher even than the equivalent OPEC price for oil—strikes me as an economic and political disaster. It strikes a blow to the U.S. consumer of gas equal to the blow struck by OPEC 4 years ago when those countries quadrupled the price of crude oil.

Moreover, once the price is deregulated, it is absolutely impossible to determine how high that price may go. Given the industrial need for the natural gas, and industry's built-in investment for using that fuel, its price could rise well above the replacement cost.

One reason the price is likely to rise well above the real costs of production is that there are many variable costs, that rise or fall directly with the possible sale price of the gas. Principal among these costs is the royalty payment to the landowner. The producer is willing to pay the landowner whatever is necessary, as long as he can still produce below the price at which he can sell. If that price is not regulated at all, the landowner can hold out for exhorbitant rates, and the producer will meet them. In other words, the variable costs will rise to fill up whatever price is available. The result is that there will be a further increase in the already huge flow of dollars from the consuming States to the producing States. And that means that residential consumers, who have absolutely no choice in their use of fuels, and have only limited opportunities for conservation, will have to pay that price as well. This is a harsh burden to bear, especially given the fact that there is no assurance, or even likelihood, that these enormous price increases will bring out considerably more domestic gas than the certainty of a reasonable price level for the future. Whether the increased consumer cost be $10 billion/year (CBO) or up to $35 billion/year (JEC), as has been estimated, these costs, and the inflationary effects that they produce, are not the answer to our need for increased gas production.

Additionally, although I believe that a certain price of $1.75, with an adjustment for inflation as provided, will bring out sufficient natural gas to supply our needs for several decades, what will we do when the supply begins to get tight; what will our industry do when the reservoirs supplying their pipelines begin to decline significantly in production. The pressure on the price when a physical supply shortage exists will be tremendous, and yet the Federal Government will have absolutely no control over the price if we dereguate today.

The producing States can tie up the Congress for years before allowing price controls placed back on natural gas, even in the face of a supply shortage and enormous price increases.

Finally, it is time that the disparity in both price and availability of gas be reduced between the producing regions and the consuming regions of the country. It is a remarkable state of affairs when one section of the Nation, with a natural monopoly on a critical commodity, can keep almost all new production of that commodity even for inefficient uses while factories may close and lay off workers in other regions. We may have seen no factories close in the Northeast if the current anomaly between interstate and intrastate gas did not exist. I commend the President for taking on this issue directly and forcefully.

Mr. President, for all these reasons I have determined that it is in the best interests of the Nation for the Congress to adopt the President's proposal on natural gas pricing. While I have serious doubts about some of the other elements of the President's recommendations, this aspect will achieve our goals of increasing production without unduly burdening U.S. consumers; in the long run, which this policy is designed to serve, it will provide adequate incentives for production that will help us to cut down on our huge demand for imported oil, which to me should remain the central and overriding goal of our national energy policy.

NATURAL GAS DEREGULATION—A POLICY TO KEEP AMERICA STRONG

Mr. STONE. Mr. President, on April 20 of this year, the President of the United States called upon this country, and especially the Congress, to adopt an effective and comprehensive national energy policy. He emphasized the seriousness of America's energy crisis and the urgency of finding solutions.

Like most other Americans, I applaud the President's call for action. I agree with him that, while there are no lines at the gas pump today, America faces one of its most serious national challanges. Our ever-increasing dependence on unreliable, foreign sources of energy threatens our verv survival as a strong and independent Nation.

After months of national debate, in Congress and throughout the country—including countless newspaper editorials, television specials, citizen conferences, and unparalleled lobbying from almost every organized group of American citizens—the Congress of the United States is moving toward decision time. And, although the Senate will ultimately take action on many important energy policy matters over the next several weeks, I believe that the matter presently before the Senate is the single most important energy policy decision we are likely to make.

I believe this for two basic reasons. First, the availability of adequate, reliable, and reasonably priced natural gas supplies—from conventional and nonconventional sources—will continue to be a critical energy resource for America for many years to come. Second, our determination, or lack thereof, to move ahead in securing adequate, reliable, and reasonably priced natural gas supplies for America will truly be a measure of our wisdom and courage in trying to solve the Nation's energy crisis.

Mr. President, as the Senate proceeds to debate the important question of natural gas pricing policy, it is important that we not lose sight of our ultimate objectives. It occurs to this Senator that often—amidst the blizzard of statistics, charts, and estimates—we run the risk of becoming confused about these objectives. Of course, we need to study statistics, charts, and estimates if our policy decisions are to be wise and effective. Like other Senators over the past several months, I have suddenly acquired a geologist's vocabulary and an economist's vision. Nevertheless, Mr. President, computer projections and economic models by themselves will not provide the country with a sensible and effective natural gas pricing policy. Our ultimate policv goals must guide our ultimate policy choices.

What are these ultimate policy goals as they bear upon natural gas pricing policy? I hope that among others, all Senators can agree on the necessity of securing for America adequate, reliable, and reasonably priced energy resources. Adequate, to spur economic growth and maintain our standard of living. Reliable, to assure our national economic and political independence. Reasonably priced, both to prevent personal hardship and to encourage energy development.

To me, Mr. President, this national goal is more important than anv other single consideration. I confess that I am more interested in moving toward its realization than I am in being certain that gas producers have far too little, just enough, or far too much incentive to explore for and develop natural gas resources.

The Senate should not and will not adopt a policy which countenances windfall profits for producers at the expense of millions of hardpressed American consumers. But neither, Mr. President, should the Senate adopt a pricing policy that fails to insure that America will have the maximum, feasible supply of domestic natural gas to heat our homes and run our business.

Mr. President, my State of Florida has a special concern about the availability of natural gas supplies. Largely because of its peninsula nature, Florida is far more dependent on oil—and on foreign oil—than is the Nation as a whole. Therefore, to the extent that adequate supplies of natural gas are not available for my State, my State has no alternative but to increase its dependence on foreign oil.

Approximately 1.5 million Florida consumers depend on natural gas for satisfying many of their energy needs. The problem in Florida—as in the remainder of the country—is that adequate supplies of natural gas have not been available for these consumers in recent years. Over the past 10 years, Florida Gas Transmission Co., which is the largest supplier to Florida, has produced and delivered approximately 2½ times as much natural gas as it has been able to purchase. As a

result, large industrial customers were unable to receive gas more than 90 percent of the days last year—and many commercial and smaller industrial customers were forced to do without gas for about 20 percent of the time.

Every serious natural gas pricing proposal before the Congress contemplates an increase in the price of natural gas. The differences between the proposals are the extent to which prices will increase and, more importantly, what the country gets in return for the price increase.

As to the two principal proposals before the Senate—the President's national price ceiling and the phased-in deregulation of "new" natural gas prices in S. 256—there is considerable difference of opinion among the experts as to the difference in natural gas prices which would result. Almost every day a new natural gas pricing study, comparing the President's proposal with the phased-in deregulation proposal, is publicly presented. And, almost every other day, a second study is presented which challenges the assumptions and accuracy of the previous day's study.

It is certain that both proposals will increase natural gas prices over present Federal Power Commission pricing policy. It is certain that the phased-in deregulation proposal provides for greater price increases for "new" natural gas production than the President's proposal which establishes a national ceiling beginning at $1.75 per mcf. However, in considering the impact on prices of phased-in deregulation as proposed in S. 256, several important facts must be remembered. First, the wellhead price of natural gas constitutes only about 20 percent of the delivered cost of natural gas to the ultimate natural gas user. Generally, transmission and distribution costs—unaffected by wellhead prices—represent well over half of the delivered cost of natural gas. Therefore, even a substantial rise in the wellhead price of natural gas will only moderately affect consumer prices. Second, under the provisions of S. 256, immediate deregulation of wellhead natural gas prices is proposed only for "new" onshore natural gas. "Old" natural gas would continue to be regulated at much lower wellhead prices and offshore natural gas production would remain under Federal price controls for 5 years. An analysis of the definition of "new," onshore natural gas in S. 256 demonstrates that for several years after enactment of S. 256, the natural gas user will be paying a weighted price based on a mix of "old" and "new" gas, with "new" gas constituting only a small portion of the total mix.

How great the price difference between these two proposals and its significance for the economy and the consumer appear to remain very debatable and uncertain questions.

What is more certain, Mr. President, is what the country gets in return for the price increase under phased-in deregulation as compared with the President's national price ceiling proposal.

According to most studies I have reviewed, the President's proposed national price ceiling for natural gas will do little if anything to affect the continuing decline in domestic natural gas production. Indeed, the President's proposal assumes that domestic natural gas resources are near exhaustion and that we can expect little if any supply response from higher wellhead prices.

The administration's natural gas policy is based on a very pessimistic evaluation of this Nation's remaining undeveloped natural gas potential. I have two very serious problems with this evaluation. First, it ignores virtually all professional estimates of our undeveloped natural gas resources which indicate there is from 35 to 60 years of undeveloped conventional supplies remaining in the ground. Other estimates indicate there may be hundreds of years of nonconventional supplies to be developed.

While I personally do not accept this assumption, I fear that should the Congress decline to continue and expand present Federal price controls on natural gas, as the President proposes, there will indeed be no new supplies and domestic production will do exactly what the President assumes—decline.

Mr. President, I fear such a consequence because of the well-known historical impact on exploration and production on Federal price controls on natural gas. The President's own bill, S. 1469, part D, section 401, subsection (6), states that as a result of these Federal price controls. The incentives to find new natural gas have declined along with the proven reserves of natural gas, while demand for this premium and relatively inexpensive fuel has increased. Although the President's proposal would provide for some price incentive over the present price for "new" natural gas production, from $1.45 per Mcf to approximately $1.75 per Mcf—beginning in January 1978—it extends Federal price controls to the heretofore unregulated intrastate natural gas market where wellhead prices are already averaging the proposed $1.75 per Mcf level. In other words, the President proposes to extend to the intrastate market the same bankrupt price control system which nearly everyone concedes has created the present natural gas shortage in the United States.

By contrast, the proposal for phased-in deregulation holds out the realistic prospect of reversing the recent pattern of decline in natural gas production and providing America with the natural gas we need to heat our homes and run our businesses. It is important that the Senate understand that S. 256 immediately deregulates the wellhead price for only "new", onshore natural gas production. Price controls of offshore production would be phased-out over a 5-year period. This means that higher prices will be offered for new supplies—supplies which may not otherwise be forthcoming. It means that the marketplace will offer rewards for new exploration and production. It does not mean windfall profits for producers who do not invest in this new exploration and production, which our country so urgently needs.

Mr. President, it is false consumer protection to discourage the development of new supplies of domestic natural gas and force our consumers to more expensive—and less secure—alternatives. Florida's major supplier has been forced to turn to the Republic of Mexico for new supplies and is pleased it has been selected to participate in this project. But at the same time, these new supplies are estimated to cost about $2.50 to $2.75 per million Btu at the border and will be controlled and curtailed according to the needs of another sovereign nation. Other supplemental supplies are even more expensive and many are less reliable.

In evaluating the impact of these price increases of deregulation of "new" gas we need to consider price increases which will result if we do not deregulate new gas prices and encourage the development of new supplies. In Florida the average residential consumer pays about $3 to $3.20 per million Btu for natural gas—and more than three-fourths of this amount is for the pipeline and distribution costs which will remain regulated. By comparison No. 2 heating oil costs about $3.60 to $4 per million Btu, propane costs approximately $5.45–$6.55 per million Btu and electricity costs about $11.50 per million Btu. So when consumers cannot obtain natural gas, they are forced to much more expensive alternative fuels and I might add environmentally less desirable fuels. This does not protect the consumer.

Most importantly, Mr. President, deregulation of "new" natural gas prices provides the opportunity for U.S. production to supply U.S. demand. Any energy pricing policy which does not move us away from increasing dependence on unreliable foreign sources of energy is not a policy America can afford.

The danger of not providing incentives for greater domestic natural gas production is illustrated by increasing American imports of liquefied natural gas from abroad. To me it is instructive that the Federal Power Commission on April 29, 1977, issued an order approving a proposal to import approximately 168.4 billion cubic feet per year of liquefied natural gas to the United States from Algeria over a 20-year period at a delivered cost of $3.37 per Mcf, beginning in 1980. This liquefied natural gas would be delivered to the Louisiana gulf coast. It will require the construction of an LNG plant at Lake Charles, La., at an estimated cost of $164,340,000 and an extension of existing pipeline at an estimated cost of $28,830,000.

The importation of this LNG is a direct result of serious curtailments in gas deliveries caused by declining domestic natural gas production. Even with the importation of this large volume of LNG, Trunkline Gas Co. will continue to experience a pipeline supply deficiency.

Mr. President, I do not fault the Federal Power Commission for this decision. I do fault our present national policies for bringing this about. I refuse to accept the idea that America must take serious national security and environmental risks to supply its natural gas needs. Certainly a comparison of what the consumer will pay to import liquefied natural gas from abroad as opposed to providing incentives for greater domestic production indicate that the American consumer has as much, if not greater,

interest in energy independence as any oil or gas producer.

With imports of oil already constituting nearly one-half of our national consumption and with no end in sight for OPEC, it is imperative that we take every reasonable and effective step toward greater energy self-sufficiency. After carefully reviewing all of the charts, the curves, the models, and the projections, I respectfully urge my colleagues not to overlook this fundamental imperative. Our national survival may well depend on it.

THE PEARSON-BENTSEN COMPROMISE

Mr. DOLE. Mr. President, the arguments relating to the Pearson-Bentsen proposal—both pro and con—have been thoroughly gone over. The Senator from Kansas does not wish to occupy a great deal of time in the Senate going over the same arguments.

But as we vote on this legislation this afternoon, a major point we should keep in mind is that it is a compromise. When we passed this legislation on October 22, 1975, it was the product of the work and the ideas of a great many Senators. It is a middle-of-the-road approach.

It probably is not a bill that will satisfy everybody or perhaps even anybody entirely. It is a compromise that embodies the best approach to addressing the conflicting interests and the controversies that surround this issue.

When I voted for this bill 2 years ago, I expressed my own reservations about it. It is far from the straightforward deregulation that might have avoided this entire problem had it been adopted many years ago. It is phased-in deregulation. It would provide an incentive for the small producers who do the vast bulk of exploration and drilling in this country to get out and make the maximum effort to expand our supply of natural gas. At the same time, it would increase prices only gradually and in a predictable manner.

As stated in the summary of the Pearson-Bentsen amendment that appeared in the RECORD—

> Over the short term, due to a restrictive definition for new natural gas, the supply response of new production to deregulation will be slow as it requires three to five years to develop a new reserve once it is discovered.

The amendment is tightly drawn to insure that we receive the maximum amount of natural gas from existing reserves. It would deny any windfall profits that exist where gas is already flowing and would insure that the higher prices only apply where the new resources we so greatly need would be developed. In the same vein, offshore deregulation is phase-in only over a period of 5 years, rather than the deregulation of new natural gas immediately for on-shore development.

In spite of my reservations about the slow rate of development, and probably the reservations of many others, this is the best compromise and most effective solution we can achieve. That is why we adopted it in 1975, and that is why it should be adopted now.

CONFERENCE COMPROMISE

The Senator from Kansas would assume that if we approve this substitute amendment, and it goes to the conference committee, there will be a further compromise with the House of Representatives. The House bill is far more restrictive on price regulation. It even takes the regressive step of expanding the regulatory structure we now have.

But I would assume that for any Senator who is concerned about the consumer price increase being too rapid under this bill would recognize that a compromise between the Pearson-Bentsen substitute and the House bill would have an even slower increase in the price of natural gas. The other side of that coin is an even slower development in our supply of natural gas.

If we are ever going to get out of our predicament of a shortage of natural gas, we must take some action to increase the drilling incentive. This amendment is the minimum first step we must take.

CONFLICTING ESTIMATES

Mr. President, earlier this week the Senator from Massachusetts (Mr. KENNEDY) conveniently released a study by the Joint Economic Committee showing that gas deregulation would cost consumers $25 billion more in the next few years. Just as conveniently, the Natural Gas Supply Committee last week released a study by Prof. Edward Erickson of North Carolina State University showing that consumers will be saved over $123 billion if we do decontrol natural gas prices.

Without making any assumptions about the accuracy of either of these studies, it seems to me that both could be correct. If we deregulate the price of natural gas, the cost to consumers most certainly will rise, although it would be gradually and perhaps not as much as $25 billion. At the same time, there will be an increase in the supply of natural gas that is absolutely essential to consumers.

If we do not deregulate, there will be no increase in the supply of gas—or at least not as rapid an increase. Then we will have the situation where natural gas needs are going unfilled. When natural gas requirements are unfilled, they must be met with some other kind of fuel, such as imported oil or even imported gas. Dr. Erickson estimates that the cost of alternate fuels needed to replace the shortage of natural gas would be $271 billion between now and 1990. The cost of pure deregulation in the same time he estimates at $147.7 billion. The difference or the cost savings is $123.3 billion. While the specific figures could probably be challenged, the concept is certainly valid that we will pay a higher price to replace the natural gas supplies we will not have unless this deregulation bill is passed.

CADILLAC AT VW PRICES

Mr. President, we might properly describe natural gas as the "Cadillac of fuels." It is absolutely essential as a feedstock and as a process gas in the production of fertilizer, plastic, and the many chemicals that are vitally essential to the high standard of living we enjoy. It is a clean, nonpolluting fuel. It is efficient and usable for a great many purposes.

If we term natural gas as the "Cadillac of fuels," we might say that it has been going for Volkswagen prices. Given the superiority of natural gas over oil and coal and other fuels, we might even expect the price would bring a premium. On the contrary, it has been held far below the comparable prices for other fuels.

As we might predict, when we force people to sell Cadillacs at VW prices, we see a drop in the production and sale of Cadillacs. In short, the price of natural gas must cover the basic replacement cost for the product. The replacement cost includes that expense of exploring and developing new natural gas resources. It should also take into consideration the cost of replacing natural gas with other fuels. For, if we must use coal or oil or some other fuel than natural gas to produce plastics, fertilizers, and chemicals, the cost of those materials and all the end products they go into will go up as well.

The price of natural gas should give the maximum incentive to get out and develop the additional gas reserves we so greatly need at this time. The price should also encourage the maximum exploitation of existing reserves to insure that we get the maximum benefit of the marginal reserves in each field, which are the hardest to get out of the ground. For a fuel as valuable as natural gas, that effort is very much in the public interest.

I would point out that we are talking about reliable estimates of between 700 and 1,200 trillion cubic feet of natural gas that remain in this country. That is a supply that will last 35 to 60 years at current rates of consumption. It is a substantial amount that will help us greatly in future years as we develop new energy resources.

CONSUMER INTEREST PROMOTED

The main argument I have heard in opposition to deregulation is the increase in consumer prices. That is a proper argument, as long as it is not used to exclude the equally important consumer interest in an adequate supply.

When we talk about deregulation, we are talking about the deregulation of new natural gas, not existing supplies. The higher cost of new natural gas will be phased in with the lower cost of existing gas production that will continue to go to consumers under long-term contracts subject to Federal price controls. In the optimistic estimates, new gas will account for about 15 to 20 percent of domestic consumption by 1985. The remainder of gas consumers get will continue to be under price controls. The total price consumers will pay will be a combination of the old and new gas prices.

It is also important to understand that not more than one-third of the American consumer's gas bill is due to the wellhead price of gas. The other two-thirds of the consumer cost of gas is due to pipeline and retail transmission expenses, distribution, and taxes.

When we work through these ratios, we find that the maximum increase in the price of natural gas for consumers is about 5 percent by 1985. I would say that for a fuel as important as this, it is worth a 5-percent increase in the price to have a far greater certainty of supplies.

It is also worth pointing out that some

opponents of this proposal have stated that natural gas has a very inelastic demand. In other words, the facilities for using natural gas are in place already, and could only be replaced to accommodate another fuel at great expense. Therefore, present natural gas users are in a situation where they would have to pay a very high price for natural gas before they could afford to cut back or convert to another fuel.

To quote from the statement yesterday of the Senator from Massachusetts (Mr. KENNEDY)—

> These projected price elasticities of demand imply that increases in gas prices should not be imposed in large near-term jumps. Instead, they should be programed in advance but stretched over several years so as to put consumers on notice to emphasize conservation when replacing their gas-using equipment without burdening the national economy in the initial years when little can be done to conserve.

That is exactly what we propose to do in this compromise amendment. It would phase in price increases over a period of several years at a very gradual rate. I might add that it would be at a very predictable rate which would facilitate conversion where necessary. The rate of increase would undoubtedly be much more predictable than it would be if we leave the rate of increase to the discretion of the Federal Government.

AGRICULTURE AND OTHER PRIORITIES

Another proper concern of consumers is that the priorities on natural gas should be carefully set and protected. The Pearson-Bentsen substitute includes a section clearly stating the appropriate priorities, and I am pleased to have had some part in developing this provision. The central change from previous Federal Power Commission priorities that is set forth in this provision is to give a far higher priority to agriculture. The structure of priorities would go essentially as follows:

First, residential users, small commercial users of less than 50 Mcf, and purposes that protect health, life, and property all fall within the highest priority. This has been the basis of FPC policy all along, and in my view we clearly must keep it this way.

Second, is the priority for agriculture. The agriculture priority includes irrigation pumping, crop drying, the use of natural gas as a raw material feedstock or process fuel in producing fertilizer and farm chemicals, food processing and food packaging as well as other farm uses that the Secretary of Agriculture may identify. The purpose of this priority, which the Senator from Kansas had a role in developing, is to insure that the American people and the millions of people throughout the world who depend on U.S. farmers for food will not be in short supply due to inadequate natural gas available for farmers and farming activities.

Third and just behind agriculture is the priority for uses where no substitute for natural gas exists. Those are the feedstock and process gas uses necessary in the production of plastic, chemicals, and many other essential materials. Behind this priority comes the rest of natural gas uses including boiler fuel uses.

I believe this structuring of priorities will protect the interests of the consuming public. It is a very important reason why we should adopt the Pearson-Bentsen substitute.

Mr. President, my view is that we will not find a better solution to the natural gas problem that protects the consumer interest as well as this compromise proposal. It will insure a strong incentive for the development of new natural gas supplies while insuring that consumers will not receive a sharp and steep price increase in the cost of natural gas. It is essential to maintaining the high standard of living that we presently enjoy. I urge my colleagues to vote against tabling this amendment in order that we can adopt it in a subsequent vote.

The VICE PRESIDENT. The hour of 6:30 having arrived, the Chair recognizes the Senator from Washington.

Mr. JACKSON. Mr. President, I move to table amendment No. 862, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Washington. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STENNIS (when his name was called). On this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) is necessarily absent.

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—46

Abourezk	Glenn	Morgan
Anderson	Haskell	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Huddleston	Nunn
Bumpers	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Ribicoff
Cannon	Kennedy	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Sasser
Clark	Matsunaga	Stevenson
Cranston	McGovern	Talmadge
Culver	McIntyre	Williams
Durkin	Metcalf	
Eagleton	Metzenbaum	

NAYS—52

Allen	Gravel	Pearson
Baker	Griffin	Percy
Bartlett	Hansen	Randolph
Bellmon	Hart	Roth
Bentsen	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Sparkman
Curtis	Helms	Stafford
Danforth	Johnston	Stevens
DeConcini	Laxalt	Stone
Dole	Long	Thurmond
Domenici	Lugar	Tower
Eastland	Mathias	Wallop
Ford	McClellan	Weicker
Garn	McClure	Young
Goldwater	Melcher	Zorinsky
	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, against.

NOT VOTING—1

Humphrey

So the motion to lay the Pearson-Bentsen amendment on the table was rejected.

Several Senators addressed the Chair.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The Senator from South Dakota.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Presiding Officer has recognized the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that the minority leader was seeking recognition and the Senator from Texas was seeking recognition. I presumed they were going to move to reconsider.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Presiding Officer under the rules, is required to recognize the person he believes first sought recognition. It is the judgment of the Presiding Officer that it was the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I am very sorry that this situation has taken this turn of events.

Mr. McGOVERN. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McGOVERN. Mr. President, I will be happy to yield for a motion to reconsider if it is understood that I will then be recognized.

Mr. BENTSEN. I thank the Senator from South Dakota. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I ask unanimous consent that Martin Zeller, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. CANNON. Mr. President, I ask unanimous consent that Aubrey Sarvis of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senate will be in order.

Mr. GLENN. Mr. President, I ask unanimous consent that Ann Wray, of Senator CRANSTON's staff, Lyle Morris, of my staff, and Stuart Brahs, of Senator RIBICOFF's staff, be granted the privileges of the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The VICE PRESIDENT. The Chair

has recognized the Senator from South Dakota.

Mr. ROBERT C. BYRD. Will the Senator yield to me, Mr. President?

Mr. McGOVERN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask for order.

The VICE PRESIDENT. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, under the rules and customs of the Senate, the Presiding Officer is supposed to recognize the Senator who first seeks recognition. When several Senators seek recognition, of course, it is the prerogative of the Presiding Officer to recognize the person whom he thinks first sought recognition.

The power of recognition by the Chair cannot be challenged, but I also want to call attention to another custom of the Senate. That is that when several Senators seek recognition, the leadership will be accorded that recognition. If the majority leader seeks recognition, it has been the custom that he will be recognized. If the majority leader does not seek recognition and the minority leader is seeking recognition, it is the custom that he will be recognized.

If this Senate is to operate and operate effectively, it must operate on the basis of comity, understanding, cooperation, and courtesies extended mutually between the two sides. I hope my remarks will not be taken by the Presiding Officer as being anything other than in the spirit of attempting to further that comity that always has existed in this body and must continue to exist.

That is the only way this Senate can operate, because once that custom begins to deteriorate, in this instance it is the minority leader—once that system begins to deteriorate it will ultimately become the majority leader, perhaps. I must defend that custom, whether it be the minority leader or the majority leader, because that is the only way that I know by which this Senate can continue to effectively perform its duties.

I want to say to the Presiding Officer, the Vice President of the United States, he is my friend and I am his friend. He has been a great Senator, and he is proving to be a great Vice President. Nothing will ever happen to impair my respect for him and my friendship for him. But I respectfully say to the Chair the leadership, by custom, must be recognized first. In this instance, the minority party leadership was not recognized. I thank the Chair, the Senate for its indulgence and the Senator from South Dakota for yielding.

Mr. McGOVERN. Mr. President, I just want to mention the fact that in view of the majority leader's remarks I wish to remind him of the fact that I expected to yield to him.

Mr. BAKER. Mr. President, will the Senator yield for a moment?

Mr. McGOVERN. I yield to the minority leader.

Mr. BAKER. Mr. President, I wish to thank the Senator from South Dakota, the majority leader, and the Chair for permitting us to proceed as we have.

Several Senators addressed the chair.

The VICE PRESIDENT. The question recurs on the amendment offered by the Senator from South Dakota.

The Presiding Officer wishes to state that he agrees with the precedents expressed by the distinguished majority leader, but it was the judgment of the presiding officer that the Senator from South Dakota had sought recognition first.

(Subsequently the following proceedings occurred:)

Mr. ROBERT C. BYRD. Mr. President, I just wish to make a very brief statement about the situation which arose in the Senate earlier this evening.

The distinguished Vice President had recognized the distinguished Senator from South Dakota before the Vice President was aware of the fact that the distinguished minority leader was seeking recognition, and the Vice President, having recognized Mr. McGOVERN, found himself in a situation in which it was difficult for him to derecognize the distinguished Senator from South Dakota and recognize the minority leader.

It was an embarrassing moment for the Vice President. He did what he thought was the only thing that he could do at that time, having recognized the Senator from South Dakota. He came to my office later and discussed the matter, and was very regretful that the situation had developed as it did. He indicated that he in no way intended to be arbitrary in the matter, but, having taking the action, at that very moment he felt that there was no recourse for him except to stand by his earlier recognition of the Senator from South Dakota.

I want to say that the Vice President also is not in a position to address the Senate unless, by unanimous consent, he is given that right. I am embarrassed by the whole situation as it developed. I am sorry that the Vice President was put in that position. I am sorry that the minority leader was not recognized. But I am sure that the Vice President did what he thought he had to do under those circumstances.

I did explain to the Vice President that, in a situation of that kind, the Senate would understand if he, having recognized another Senator, and not having noticed an attempt by the majority leader or minority leader to get recognition, would nevertheless have recognized the majority leader if the majority leader had sought recognition; or in the event the majority leader did not seek recognition, the minority leader if he had sought recognition. I would be the first to defend the Vice President in so doing.

So I think we have a good understanding all around. There was no intention on the part of the Vice President to be arbitrary in the matter. He did what he thought was his duty as he understood the situation at that time. I am sure that the minority leader harbors no ill feeling in the matter and that the situation will not occur again.

Mr. BAKER. Mr. President, I thank my friend, the majority leader, for further advising the Senate of the remarks of the Vice President in his office, privately and out of this Chamber. In the same vein, I might add for the record that, tonight, immediately after the matters that the majority leader referred to had concluded, I went to the Chair and advised the Vice President, whom I have known for many years and served with in this body for more than 10 years, and whom I count as my friend, that there were not only no hard feelings, but I understand how, in the tumult of the moment, that sort of thing can occur.

I have known the Vice President of the United States in his role as a Senator, I have known him personally and socially, for too long to doubt for 1 minute the sincerity of his actions and the necessity for any further elaboration of that point now.

So, I say, Mr. President, since it is not possible, except under extraordinary circumstances, to communicate directly with the President of the Senate for purposes of this record, I say that I fully understand that. I believe that there is no harm done; that there is no impairment of the friendship and affection I feel for the Vice President, the President of this body. I think the precedent and the traditions of the Senate have been amply protected and explained by the distinguished majority leader, and I am simply happy that the matter was resolved so fully and completely and without any rancor on anybody's part.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader, and I know the Vice President will appreciate the minority leader's very generous and sincere comment. As I say, the Vice President had no opportunity to explain to the Senate his position except by unanimous consent and I feel that I owe him the courtesy to state for the record my understanding of the difficult situation that he was in. I have only the highest regard and respect for the Vice President and I regret that he could not convey to all of the Senators at that point the sentiments that he privately expressed to me and, as I understand it, the sentiments that he privately expressed to the minority leader.

Mr. President, I yield the floor.

(This concludes proceedings which occurred subsequently.)

PRIVILEGES OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. DECONCINI: Jim Magner, Gene Karp, and Romano Romani; Mr. RIEGLE: Jim Humphreys and Mike Romo; Mr. DANFORTH: Charles Wood; Mr. THURMOND: Emory Sneeden and Peter Chumbris, Antitrust Subcommittee; and Robert Lyon, Jr.; Mr. MCCLURE: Mike Hathaway; Mr. HATCH: Andrew Gray Nokes; Mr. CRANSTON: Ann Wroy; Mr. GLENN: Lyle Morris; Mr. BROOKE: Meg Power; Mr. STONE: Bill Pursley; Mr. RIBICOFF: Stuart Brahs; Mr. HASKELL: Martin Zeller; Mr. FORD: Kenneth Godfrey, and Jim Fleming; Mr. HELMS: Richard J. Bryan; Mr. CANNON: Aubrey Sarvis; Mr. MUSKIE: David Johnson.

AMENDMENT NO. 889

The VICE PRESIDENT. The amendment of the Senator from South Dakota will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an amendment.

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act.'

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop natural gas and oil resources on Federal lands, to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices to serve as an independent source of data by which to measure costs of production, prices, extent of reserves and other factors related to the performance of private gas and oil companies, and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation' which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal lands.

AUTHORITY TO PRINT REPORT

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. Yes, I yield.

Mr. JAVITS. I yield to Senator MOYNIHAN.

Mr. MOYNIHAN. Mr. President, this request has been cleared by the leadership on both sides, as well as by the chairman and the ranking minority member of the Rules Committee. I ask unanimous consent that the Committee on Rules be discharged from further consideration of House Concurrent Resolution 263, and that the Senate proceed to its immediate consideration.

The VICE PRESIDENT. Is there objection?

Mr. JAVITS. Mr. President, I join in that request.

The VICE PRESIDENT. Without objection, it is so ordered.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 263) providing for the printing of three thousand additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture, entitled "The Role of the Federal Government in Nutrition Education".

The VICE PRESIDENT. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the motion by which the resolution was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with consideration of S. 2104.

AMENDMENT 889

The VICE PRESIDENT. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Mr. Paul Servelle of my staff may have the privilege of the floor during vote and discussion of this measure.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, the amendment that I have offered to the bill before the Senate, S. 2104, I have referred to as a yardstick amendment. Under the terms of the basic bill now before us, the President is called upon to calculate a variety of prices for new natural gas. In a sense, this bill is a pricing bill. To accurately calculate such prices, as I think all the Senators know, requires very intimate knowledge and a collection of underlying economic data, data which is in addition to but independent of that provided by the energy companies themselves. It is to generate that reliable, independent data, including such matters as cost, the extent of our reserves, and other factors that enter into pricing that has led me to offer this yardstick amendment.

Mr. President, this amendment would establish a public corporation with limited authority to explore and develop natural gas and oil only on Federal lands. Even that authority would be limited to 10 percent of the oil and gas offered for development.

I want to stress, as I did in my remarks yesterday, that the amendment is not the first step to nationalize the energy industry. It is more closely the opposite of that. It is to provide a competitive spur to the industry and to develop a dependable measuring system by which the performance of the industry can be judged. If there is any one pervasive attitude among the American people toward the major oil producers in this country, it is the feeling that, somehow, the prices are being set in other than a truly competitive way; that, indeed, the public is being exploited by prices that are excessive and do not reflect the Nation's reserves of oil and gas or our capacity to produce them at reasonable rates.

I am not in a position, frankly, and I do not think other Senators are, to say whether or not that view is accurate. We do not have, at the present time, a dependable, independent data bank on which to base judgments as to what is a fair price for oil and gas, to say nothing of other sources of energy in this country. So the purpose of this limited public corporation—limited to the development and marketing of not more than 10 percent of the available gas and oil on the public domain—is to provide us with that yardstick by which we can measure the performance of our private oil and gas companies.

Mr. President, as was brought out here very briefly in a colloquy on yesterday afternoon among the senior Senator from Alabama (Mr. SPARKMAN) and the junior Senator from Alabama (Mr. ALLEN) and myself, this measure, in effect, borrows on the principle of the Tennessee Valley Authority. I would say to any Senator who honestly believes that the Tennessee Valley Authority was bad for the economy of the United States and against the interest of the people of this country, he should probably vote against this amendment that I am offering here this evening.

If, on the other hand, over the years, he has come to the view that the Tennessee Valley Authority has not been destructive of free enterprise, that it has not been against the interests of the American people but, in fact, has brought about a more reasonable rate structure in hydroelectric power and other electricity rates, that it, in fact, has been a spur to the economy of the United States, including our electric utility industry, then I would invite him to give serious and sympathetic consideration to the same principle when applied on a care-

fully prescribed scale to this Federal gas and oil corporation.

I am very much aware that any time language of that kind is used, it frightens a great many of our people who think in terms of everything being handled under strict free enterprise or private enterprise rules. But we have discovered, I think, in this country and in other societies, that it can be helpful to the proper functioning of private enterprise if there is some public measure that is reliable by which we judge the performance of those industries.

I might say that in testimony on a similar measure that was offered some 3 years ago by the Senator from Illinois (Mr. STEVENSON), although this amendment I offer today is different in some respects from the Stevenson proposal, a professor of economics at the University of Oklahoma for some 25 years, Prof. W. N. Peach, very well summarized the parallel between the principal of a limited Government oil and gas corporation and our experience with the Tennessee Valley Authority.

That is what he had to say in testimony offered in April of 1974 before the Commerce Committee, and I quote:

The arguments advanced in opposition to the proposed Federal Oil and Gas Corporation are almost identical with those advanced four decades ago against the TVA. It would ruin the private electrical industry, lower the profits of private electric companies, would lead to socialism, would be subsidized with tax dollars, would be inefficient, would have overwhelming advantages over private firms, would be exempt from taxes, would be a loser for the taxpaying public, would lose money for the Treasury, would fail in its objectives, would undermine systematically every private electric utility, would discourage investment in the private electric industry, and would have serious negative implications.

Now, there is the summary by Professor Peach of the University of Oklahoma of the charges and the fears and anxieties that were leveled 40 years ago at the Tennessee Valley Authority.

But then he goes on to say, and I quote:

What were the effects of TVA? Despite all the dire predictions, the TVA had the effect of lowering electric rates throughout the Nation and vastly increases the profits of private companies. It has not led to socialism or the electric power industry. It has not discouraged investment. Nor has it had any of the other dire effects that were predicted.

I think, Mr. President, the testimony of this long-time, distinguished professor of economics at the University of Oklahoma, which is one of our major oil-producing States, ought to weigh very heavily on Senators. He is obviously a man who has studied the industry over the years and who is presenting what seems to me on the surface to be common sense.

He goes on to point out that there is a long list of other countries that already have some Government involvement in the production of oil and gas, not the least of which is Royal Dutch Shell and British Petroleum.

There are some 56 countries—as a matter of fact, that is, non-Communist countries. I make no reference to the Communist countries. But 56 non-Communist countries which have at least partially owned energy corporations, and one of the reasons for those in many cases is to provide some measure on the reserves that are available and of the cost of developing those reserves.

Mr. President, I ask unanimous consent that the testimony I referred to by Professor Peach, together with a Library of Congress analysis prepared by Mr. John Jimison, relative to the experience of other countries in oil and gas corporations, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF W. N. PEACH, PROFESSOR OF ECONOMICS, UNIVERSITY OF OKLAHOMA

Dr. PEACH. Mr. Chairman, and members of the committee: My name is W. N. Peach. For the past 25 years I have been a professor of economics at the University of Oklahoma. Prior to that I taught at Syracuse University and the University of Texas at Austin.

I am pleased to appear here in support of the proposal to establish a Federal Oil and Gas Corporation. It seems to me to be a modest and reasonable proposal and long overdue.

The recent lifting of the Middle East embargo has not solved our energy crisis although many irresponsible statements either state that it has or imply as much. At best, the Middle East will continue to be an unreliable and expensive source of supply for the United States.

We must continue our conservation efforts and greatly expand them. A reasonable and well thought out conservation program can do much to alleviate our present energy shortage.

But after making due allowance for conservation efforts, most people agree that we must substantially increase our supply of energy. Some estimate that we must approximately double our supply by 1985. There are many other estimates. Accepting this as a reasonable estimate, the cost has been put at $300 billion to $1 trillion.

In recent years, governments throughout the world have been playing a more important role than formerly in the energy field. This has been true of producing countries and consuming countries, left wing and right wing, or if you prefer, capitalist and socialist countries.

Only in the United States is increased Government activity opposed as religious heresy. Elsewhere in the world, an increasing role for government in this basic industry seems to be accepted as desirable and necessary. To many groups in the United States—some of them powerful—the prospect of having their Government participate directly on a modest scale in the production and other aspects of the energy industry seems to provide an excuse for another round of the crusades.

As I understand it, the Federal Oil and Gas Corporation is not scheduled to take over a single oil well now owned by a private company, nor a single gas well, nor a single geothermal well, nor any oil shale deposit owned by a private company. But the proposed Federal Corporation is designed to develop a fraction of the new wells. Most of these new wells are located on land owned by the Federal Government.

The arguments advanced in opposition to the proposed Federal Oil and Gas Corporation are almost identical with those advanced four decades ago against the TVA. It would ruin the private electrical industry, lower the profits of private electric companies, would lead to socialism, would be subsidized with tax dollars, would be inefficient, would have overwhelming advantages over private firms, would be exempt from taxes, would be a loser for the tax-paying public, would lose money for the Treasury, would fail in its objectives, would undermine systematically every private electric utility, would discourage investment in the private electric industry, and would have serious negative implications.

What were the effects of TVA? Despite all the dire predictions, the TVA had the effect of lowering electric rates throughout the Nation and vastly increased the profits of private companies. It has not led to socialism of the electric power industry. It has not discouraged investment. Nor has it had any of the other dire effects that were predicted.

Every responsible person agrees that the United States is abundantly endowed with energy resources. What we need is to develop and use them. One of the most important things the proposed Federal Oil and Gas Corporation could do is to assure that we never again find ourselves in the position of an "energy crisis." That is intolerable in the face of our abundant supplies.

We have abundant supplies in the offshore areas of the gulf coast, the east coast and the west coast, in the oil shale deposits in the Green River area of Colorado, Utah, and Wyoming where there are trillions of barrels of high quality oil, compared with the 100 or so billion barrels produced in the past century in the United States.

Although production of oil from shale is not specifically included in the operations of the proposed Federal Oil and Gas Corporation, it seems to me this would be an appropriate activity. The Federal Government owns most of this land and has been operating prototype plants there for many years.

We have enough coal to last for hundreds—even thousands—of years, which can be gasified and liquefied. It is not necessary to wait for another century while additional experiements are conducted. Other countries, including Germany, England, the U.S.S.R., Japan, and other countries have the technology now. They are willing to share it with us.

We have untold amounts of geothermal energy in the West There are recent developments which suggest that geothermal heat may be made available in other parts of the Nation.

There is an unlimited amount of solar energy available. The technology for heating and cooling is already available, although further development is needed to make electricity for large cities available.

Helium is available wherever there is water, and can be used for many purposes now.

Then there are the so-called exotic sources of energy which will require decades of further experimental work. But there is no need to wait until the year 2000 to develop all the energy America needs, as a flood of self-serving propaganda would have us believe. We have the energy resources now. All we need do is develop them. And the proposed Federal Oil and Gas Corporation is a promising way of doing just what is needed.

As has been pointed out elsewhere in these hearings, the Federal Government now owns most of the land from which our future energy resources will come—offshore, oil shale, geothermal, et cetera. The Federal Government, plus State and local governments, are large consumers of energy both in times of peace and war. The Federal Government spends most of the money on research and development of energy resources.

The proposed Federal Oil and Gas Corporation can perform a useful service in such areas as oil shale, geothermal and other energy resources. Over the next decade it can increase the supply of energy.

Second, it can introduce an element of competition in an industry that is not known

around the world as one characterized by vigorous competition. It can give preference to cities, States and the Federal Government, and the independent.

Third, in some areas, such as oil shale, it can do some experimenting and set environmental standards and determine their costs. Once the standards and their costs are settled, private industry can take over with the knowledge of these important costs.

Thank you.

Senator STEVENSON. Thank you, Professor Peach. I think you are the first proponent from the State of Oklahoma. I hope you get back safely.

Dr. PEACH. I hope so.

Senator STEVENSON. I was glad to hear you place emphasis on conservation. I am afraid the statements of some who say the energy crisis is behind us are doing the public a real disservice and certainly are undermining the efforts to conserve oil and gas in the country.

You mentioned, also, that other countries have such corporations.

Dr. PEACH. Yes.

Senator STEVENSON. There is nothing really remarkable about this proposal. What is really remarkable, I think, is that unlike all the other developed countries of the world and many of the underdeveloped countries of the world, this is the only country that hasn't already created a Government Oil and Gas Corporation.

Are you familiar with the experience of the foreign corporations? Can you tell us anything about how effective they are?

Dr. PEACH. Some of them, for example, Canada has set up an oil and gas corporation within the last 3 or 4 months. It has been in process for a long time. England certainly has been operating. They own most of British Petroleum, and I didn't hear anybody say anything about British Petroleum being inefficient, and Royal Dutch Shell.

Senator STEVENSON. It is going to be too efficient and therefore unfair competition, or inefficient. That is argued both ways.

Dr. PEACH. My feeling is, Senator, that we have plenty of energy in this country, and that what we ought to do is get on and develop it, and then continue with experiments and continue reesarch and development.

But it doesn't make any difference what anybody says about the degree of competition. The fact is that we have an energy crisis now and it can be resolved, and you don't have to wait until the year 2000 to do it.

I have seen a lot of propaganda to the effect that nothing significant can be done till the year 2000 or 2020, and that just isn't true.

I think we ought to save a lot of that testimony, because it will make good reading as a substitute for the comics.

Senator STEVENSON. You would go further than we have gone to authorize this corporation to develop alternative sources of energy. It is our attention, and judging from what you have said, it is not clear in the bill to authorize the corporation to produce oil from shale.

Dr. PEACH. Yes.

Senator STEVENSON. But we have not gone beyond that to authorize the corporation to produce coal or oil from coal.

Dr. PEACH. Occidental Petroleum announced a few months ago that they have an in situ process where they can do that and bring it up to the level of ground for, say, $1.25 a barrel. If you add $1.50 for transplanting that, that is still pretty cheap compared to today's prices.

I would remind you that this is the biggest source of fossil fuel available—trillions of barrels. We have only produced in this country 100 million barrels since 1859, about that.

Senator STEVENSON. That is from shale.

Dr. PEACH. And coal will last us for thousands of years, and also the oil shale. They are producing—let me remind you that Germany ran her war machine in World War II on gas produced from coal. This technology is not new, except in this country. Well, it is not new in this country, either.

But the British have announced that they have a simple process where the capital investment is fairly low, and that we can have that to produce gas and liquefy coal any time we want it.

Senator STEVENSON. How do you answer the accusation that this corporation, simply because it is a Government corporation, would be bound to be inefficient?

Dr. PEACH. It can be inefficient if you appoint the wrong kind of people to it. If you appoint people who have a philosophy that is hostile to a Government corporation, of course, it is going to be inefficient, and then you hire not only inefficient top level people, but all the way down the middle ranks. It need not be.

Senator STEVENSON. Like any public business, the quality of the service depends on the quality of the business.

Dr. PEACH. That is right.

Senator STEVENSON. I expect a great deal of general cynicism is reflected toward Government in that statement.

Dr. PEACH. Right. Look at Dun and Bradstreet's record of business failures.

Senator STEVENSON. You always have the same cynicism that is directed at business, too, and it is tragic, because it leaves many people in a dilemma, by asking themselves whom to distrust least.

Senator Tunney?

Senator TUNNEY. Thank you, Mr. Chairman.

I just point out that I wouldn't say that the British economy is a model of efficiency, and I think that the analogs which show what we are prepared to do in this country in coal and in steel, where they have Government control over production, are really terribly valuable.

Dr. PEACH. No, but the coal industry in Britain had been running much longer than ours, and they hadn't built the right kind of pillars in them, so the British coal industry collapsed, and that is why the central government took it over. It had already collapsed under private enterprise, too.

I am not saying that private enterprise is inefficient, either, but either one of them could be.

The reason for the takeover by the British Government was that they were already so inefficient. A coal miner in the United States goes down to dig out coal and on the average, which is in a sense meaningless, he will turn out 20 to 21 tons of coal a day, a short day, too.

In Britain, he will turn out two or three.

Senator TUNNEY. I think that the reason we have a more efficient coal industry in this country is because of the fact that the private-enterprise system worked, and it took, I think, foresight on the part of the unions, John L. Lewis at the time, who was the major factor in that, to allow these technological changes that took place even though it meant men would be shifted from the coal industry into some other walk of life.

But I must confess that I think the free-enterprise system as we have known it, with all its imperfections, is best, becaue I think there is a greater degree of flexibility in the free-enterprise system to accommodate to changing conditions. Particularly, we have a management and a union leadership that are prepared to attempt to reach those kinds of accommodations which are so necessary with changing technology.

But I think in the case of Federal control over an industry, there are built-in points of resistance which are not there with the free-enterprise system, and I have to be amused to a degree, because we stop and laugh at the inefficiencies in the Soviet system and in other state-controlled and state-planned economies; yet when we get into trouble in this country, we seem to have a desire to immediately make necessary changes in existing structures, to go and adopt systems which have proved so inefficient in other areas.

I recognize this is not exactly the same as a Federal takeover of the entire oil and gas industry, but for the life of me I don't see how it is going to be more successful than creating the kind of incentives for free enterprise so that there is truly free enterprise, by eliminating monopolistic and cartel control over the industry through the use of the antitrust laws and programs and in the case of future oil and gas development, of perhaps assuring that the independents get an opportunity to participate in the exploration and development of those new areas.

I know off the coast of Louisiana recently there were bonus bids that produced something like $2.6 billion with no independent involved.

Dr. PEACH. That is right.

Senator TUNNEY. Therefore, I strongly would eliminate the bonus bidding system as it presently exists and replace it with royalties.

Just one last area. You mentioned, as Senator Stevenson has brought up, that this corporation could provide service by getting involved in oil shale, geothermal, on other energy sources.

The thing that is of very great concern to me——

Dr. PEACH. To a small extent perhaps 10 or 15 percent. I want to leave it 85- to 90-percent private.

Senator TUNNEY. We had some bidding recently in California on geothermal steam leases, and of course all of the leases went to the major oil companies, because of the bidding system.

Dr. PEACH. That is right.

Senator TUNNEY. I dare say the same thing is true with shale.

Dr. PEACH. That is right.

Senator TUNNEY. So, we are perpetuating a system guaranteed to protect the majors and doing great damage to the independent.

I am not saying that the majors ought not to be allowed to participate in the development of these Federal oil-producing and gas-producing lands, too. What I am saying is that there has to be a great degree of competition, and if we can get at the problem by using antitrust laws and by eliminating bonus bidding, that would be better than setting up a special creature of the legislature which is a national oil and gas corporation.

Dr. PEACH. Well, the antitrust laws that we have on the books are 84 years old this year. They have had antitrust cases against the whole Standard Oil trust. They presumably broke them up in 1911. So, we had Standard Oil of New Jersey, Standard Oil of New York, which is now Mobil, Standard Oil of California, and Standard Oil of California, you see we didn't do anything.

I don't think the antitrust legislation or the enforcement of it has been at all effective, and that is why I prefer this bill which sets up a corporation, where you will get some competition, and then I think if you have competition, you would get lower prices from the Middle East.

Senator TUNNEY. You are saying that you don't think it is going to be possible to enforce the antitrust laws in this country as it applies to big oil?

Dr. PEACH. Not that it isn't possible, but 84 years is a pretty long time, and I don't know of any major industry where competition has disappeared because of a trust, and then been reopened because of the legislation. I just don't know of any.

Senator TUNNEY. Thank you, very much.

Thank you, Mr. Chairman.

Senator STEVENSON. Even when they are enforced, as in the case of the FTC which has filed a complaint, it takes many, many years. It has a complaint against the eight largest

oil companies. I don't know what the outcome will be, or whether there ever will be an outcome of that case, or what the result would be.

Dr. PEACH. Not only at the Federal level, but also at the State level. I understand there are about 20 State cases pending, and none of them is going to get anywhere. What difference does it make if you fine Exxon or Texaco $100,000.

Senator STEVENSON. Did you have something more you wanted to add?

Dr. PEACH. No; that is all.

Senator STEVENSON. Thank you, sir.

The next witness is Mr. John Miller, president of the Independent Petroleum Association of America.

NATIONAL OIL AND GAS CORPORATIONS

The following list represents an attempt to identify corporate entities engaged in petroleum or natural gas activities throughout the world which are wholly or partially owned by national governments. Due to the time limitations, this list may not be complete or completely up to date. For example, the Japanese government has an interest in numerous different corporations engaged in oil and gas activities, only one of which is listed. This list includes no oil or gas entities from Communist-bloc nations, which are of course government-owned and operated.

1. Abu Dhabi—Abu Dhabi National Oil Corporation.
2. Algeria—Sonatrach.
3. Argentina—Gas del Estadado, Y.P.F.
4. Australia—National Pipeline Authority.
5. Austria—Osterreichishe Mineral Oel Vervaltung, A.G.
6. Bolivia—Yacimintos Petriferos Fiscales Bolivianos.
7. Brasil—Petrobras.
8. Burma—Myanma.
9. Cameroons—Société Nationale de Raffinage.
10. Canada—Panarctic, Petrocanada.
11. Chile—Emprisa Nacional del Pétróleo.
12. Columbia—Ecopetrol.
13. Denmark—Dansk Olie Naturgas.
14. Dubai—Oil Corporation.
15. Ecuador—Corporación Estatal de Petroleo Ecuatoriano.
16. Egypt—Egyptian General Petroleum Company.
17. Finland—Neste Oy.
18. France—CFP, ERAP-ELF, SOUAP.
19. Germany (West)—Deminex, Veba, Gelsenberg.
20. Great Britain—British National Oil Corporation, British Gas Corporation.
21. Greece—Aspropyrgos Oil Corporation.
22. India—State Oil and Natural Gas Commission, Indian Oil Corporation.
23. Indonesia—Pertamina.
24. Israel—Netivein Neft, Israel National Oil Corporation.
25. Iran—Iranian National Oil Corporation.
26. Iraq—Iraq Petroleum.
27. Italy—ENI, Agip.
28. Japan—Japan Oil Development Company.
29. Kuwait—Kuwait Oil Company.
30. Libya—National Oil Company.
31. Mexico—Petroleos Mexicanos (Pemex).
32. Netherlands—Dutch State Mines, Nederlandse Gasunie, Royal Dutch (Shell).
33. New Zealand—National Gas Corporation.
34. Nigeria—Nigerian National Oil Corporation.
35. North Yemen—North Yemen National Oil Company.
36. Norway—Statoil, Norsk Hydro.
37. Oman—Government Oil Corporation.
38. Pakistan—Oil and Gas Development Corporation.
39. Peru—Petroleos de Peru (Petroperu).
40. Philippines—Philippine National Oil Company.
41. Qatar—Government Oil Corporation.
42. Saudi Arabia—Petromin.
43. Somalia—Somali Oil Corporation.
44. South Africa—Southern Oil Exploration Corporation (SOEKER).
45. Spain—Hispanoil, CAMPSA.
46. Sri Lanka—Ceylon Petroleum Corporation.
47. Sweden—OPAB, Petroswede, Svenska Petroleum, AB.
48. Switzerland—Zurich Group.
49. Syria—General Petroleum Company.
50. Taiwan—Chinese Petroleum Corporation.
51. Thailand—Oil Fuel Organization.
52. Trinidad—Tesoro Petroleum Company.
53. Tunisia—CFTP, SITEP.
54. Turkey—TPAO.
55. Uraguay—Ancap.
56. Venezuela—Corporación Venezolana del Petroleo (CVP).

(Mr. MATSUNAGA assumed the chair.)

Mr. BARTLETT. Will the Senator yield.

Mr. McGOVERN. I will yield to the Senator for a question.

Mr. BARTLETT. Does the Senator feel that the operations are similar? Does the Senator believe that the operations of the TVA are similar to the exploration and production operations of an oil company?

Mr. McGOVERN. I say to the Senator that there are some obvious differences. It would be rather easy, I think, to distinguish some of the differences.

For one thing, the Tennessee Valley Authority is not limited simply to the marketing of hydroelectric power. It is involved in a number of different enterprises, as the Senator knows.

The similarity I would stress is that over the years the TVA has provided what I regard as one of the major purposes of this amendment, and that is a dependable yardstick that the public has confidence in as to what it does cost to produce and market at reasonable rates hydroelectric power.

The books of that authority are open. They are available to all of us. Over the years I think the operating experience of the TVA has been such as to suggest, at least, that there is a useful concept here that we might very well explore with regard to the gathering of data that could be helpful to us in determining what the cost and marketing factors are with regard to oil and gas.

I say to the Senator, I do not impugn the integrity of the private oil corporations. The Senator has vastly more knowledge about the actual operation of those corporations than I do. I only reflect what I think is the view of a great many Americans of a deep doubt about whether we have all of the data that we need to make a judgment about what the cost factors are.

It is my hope that perhaps citing the Tennessee Valley Authority experience might strengthen the case for my amendment.

Mr. BARTLETT. Will the Senator yield further?

Mr. McGOVERN. Yes; I yield for a further question.

Mr. BARTLETT. If the Senator permits, I will make a very short statement which I would like to ask him to make a comment on.

Mr. McGOVERN. I am very happy to do that.

Mr. BARTLETT. It has been my understanding that those national corporations, from a great majority of nations which have them, have not produced nearly as efficiently or as well as have the private enterprise companies which oftentimes have been invited into the same nation to provide competition.

The American companies have been the ones mainly invited because of their know-how and their experience in risk-taking.

The big difference I see with the TVA, and with a national company compared with a private enterprise company, it is very difficult in the political arena to take risks after unsuccessful ventures.

In other words, if there is a series of dry holes on a supposedly foolproof seismic high, it is very difficult to say, "Let's dig one more well."

Private enterprise can do that quite well because they have had lots of experience and know that if it is not here, maybe it is over there, and there may be additional information. Does the Senator have any concern that the national companies really have not done well compared with private enterprise in their own country?

Mr. McGOVERN. I say to the Senator that I imagine that this is an uneven record, that in some cases they have done quite well. One thinks of Royal Dutch Shell, of British Petroleum. There doubtless are others that have done very well, and I am sure it would not be difficult to find some Government corporations that have done very badly.

So I do not present this as a utopian notion, with any thought in mind that the Government should take over the oil and gas industry in this country.

It may very well be that after a limited period of time in the testing of such a Government oil and gas corporation, the anxiety the Senator feels about it may well be borne out. I do not know. I suspect that it depends a great deal on the quality of the people who are recruited and selected to run that corporation.

I say to the Senator that I do not think that a Government oil and gas corporation would be involved in more than 10 percent of the offerings on the Federal domain. I do not think one could argue that it would be less efficient or more efficient than the private companies that are given access to the 90 percent of the offerings on the Federal domain.

However, let us test it out. Let us utilize this public body as a source for the gathering of data that may or may not be available to us in reliable form by the private corporations.

We are talking in this bill—not in the amendment, but in the bill—about decisions that are going to involve tens of billions of dollars, as the Senator knows. I believe that with a modest investment, the kind of startup capital that would be involved in creating this corporation, we could get some valuable experience, that possibly we could develop a yardstick here that would have public confidence and that would be useful to us, either in verifying the cost estimates that we are now given by the private companies or in

presenting sharper focus on the information we need to arrive at more dependable judgments on cost factors, reserves, and the other things that enter into fair price.

Mr. BARTLETT. The Senator has mentioned British Petroleum and Royal Dutch Shell. This brings to mind that I believe both of those companies have a very sizable percentage of their ownership in the hands of private corporations.

Mr. McGOVERN. That is correct.

Mr. BARTLETT. Undoubtedly, they have provided some leadership. Also, I believe that in the North Sea, where they have had some really good success, the private corporations, such as Phillips Petroleum and others, led the way in a very difficult kind of drilling.

Mr. McGOVERN. I would not dispute that for a moment. I hope that if this amendment is adopted, and under the authority it gives to the President to nominate a board of directors—whose nominations would have to be confirmed by the Senate—and with the authority the corporation would have to recruit personnel, we would borrow very heavily from the most experienced people they could find in the private enterprise sector.

The only caveat I would add is that they would have to be people who are separated, in terms of conflict-of-interest guidelines, from private industry. But there is no reason why they could not be people with a lifetime of experience in the oil industry.

I hope, as I said, that a sizable portion of them would be people with experience in the exploration and development of oil.

Mr. BARTLETT. I thank the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, while we have sufficient Senators in the Chamber, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I will continue my explanation of the purposes of this amendment.

One of the most compelling statements that has come to my attention in support of the basic principle behind this amendment was offered by Mr. S. David Freeman in January of 1974, when he testified in support of a similar proposal. Mr. Freeman, as Senators know, was responsible for a considerable portion of the administration's energy package. He is one of the Nation's most renowned authorities in the energy field and recently was chosen to head the Tennessee Valley Authority.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. McGOVERN. I yield to the Senator from New Hampshire.

Mr. DURKIN. This is a very important debate, and I am concerned that the full membership of the Senate is not here to hear this very important debate on a profound subject. I am wondering whether the distinguished Senator from South Dakota would mind suggesting a quorum call, so that at least a majority of the membership could hear this very important debate.

Mr. McGOVERN. The Senator from New Hampshire has the right to suggest the absence of a quorum. It would be fine with me.

Mr. DURKIN. If I have the floor, Mr. President, I should like to suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota has the floor. Does he yield the floor for that purpose?

Mr. McGOVERN. Mr. President, I yield for the purpose of a quorum call, with the understanding that upon the completion of the quorum call, I will reserve my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENSON. Mr. President, I object.

Mr. DURKIN. Mr. President, a point of order.

No objection lies. The pending business is the amendment of the Senator from South Dakota. After a quorum call, there is no way he may lose the floor, because he has it by virtue of the unanimous-consent agreement which was entered into yesterday afternoon.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. McGOVERN. If the Senator will withhold for one moment, I will yield to him.

The PRESIDING OFFICER. The request requires unanimous consent, for the reason that upon the completion of a quorum call, the Chair would recognize the first Senator who is on his feet to be recognized.

Mr. DURKIN. Mr. President, a point of order.

By virtue of the unanimous-consent agreement entered into yesterday evening, the pending business, once the Pearson-Bentsen tabling motion was resolved, is the amendment of the Senator from South Dakota, and that cannot be changed by a ruling of the Chair.

The PRESIDING OFFICER. According to the RECORD of yesterday, no assurance has been granted that the Senator from South Dakota would once more be recognized upon the completion of a quorum call.

Mr. McGOVERN. Mr. President, as I understand it, the Senator from New Hampshire is right in stating that this amendment will remain the pending business. As I understand the ruling of the Chair, if another Senator obtains recognition before I do, following the quorum call, he could move to table or do whatever he wished, within the confines of the rule.

The PRESIDING OFFICER. The Senator is correct.

Mr. McGOVERN. That is why I am reluctant to yield for a quorum call, although I appreciate the desire of the Senator from New Hampshire to have an audience.

I believe that if we had all Senators in the Chamber, we would get a much stronger vote. Perhaps, before a vote takes place, arrangements can be made to get Senators here

I do appreciate the Senator's comments.

Mr. DURKIN. I thank the Senator.

Mr. McGOVERN. Mr. President, I yield to the distinguished Senator from Illinois for any questions he may have.

Mr. STEVENSON. I thank the Senator for yielding. I am sympathetic to his objective and to that which I understand to be the objective of the Senator from New Hampshire.

Did I correctly understand the Senator from South Dakota to say earlier that this amendment is similar to a proposal the Senator from Illinois once made?

Mr. McGOVERN. Yes. As a matter of fact, the amendment represents about a third of a major piece of legislation that the Senator from Illinois offered in 1974. The Senator will recall that I discussed with him on the floor my desire to bring up a proposal similar to his.

If the Senator will permit me, one of the differences is that his bill, as I understand it, would have permitted this gas and oil corporation to operate not only on Federal lands but also on State and private lands in some cases.

Also, he permitted up to 20 percent the offerings to be developed by the Federal Gas and Oil Corporation. This amendment would limit that to not more than 10 percent.

I may not be entirely right about the initial statement saying that the Senator's bill opened the way for development by the Oil and Gas Corporation on other than Federal land but his bill was so modified in the House of Representatives and it was basically that amendment that developed in the House of Representatives that I used as a working model here with the change that I have just mentioned.

Mr. STEVENSON. Mr. President, the Senator from South Dakota did mention his intention to offer an amendment similar to the proposal which I made, and I appreciate that. Of course, I have no objection to his doing so.

Mr. McGOVERN. If the Senator will yield to me, the reason I wanted to discuss it with the Senator is because I recognize him as the leader in this field. For several years when we talked about Federal gas and oil corporations, I referred to it as the Stevenson proposal. I did not want to identify the Senator any closer than he wanted to be identified with this particular amendment at this time. But there is no question that he has been the pioneer in the Senate in this concept of bringing the Government into the development of oil and gas on a limited basis. I want to fully recognize that.

Mr. STEVENSON. Mr. President, it is not for any pride of authorship or parentage, perhaps I should say, that I ask that question. Indeed after some of my experiences with this proposal I am more than happy to share the parentage with such volunteers as the distinguished Senator from South Dakota.

I have not had a chance to examine this proposal, and it is for that reason and also because of some reservations about the time and the place for its consideration that my own vote on this amendment is at the moment undecided.

But with the Senator's leave, I shall, if I might, make just a few observations

about the purpose of such a corporation as I see it.

Mr. McGOVERN. I am more than happy to give the Senator an opportunity to be heard on this whole question.

Mr. STEVENSON. I thank the Senator once more.

I introduced a similar proposal, Mr. President, because of a firm conviction that it was foolish, at best, for the United States, or that matter for any country, to leave itself literally at the mercy of a handful of corporations, many of which are subject to the control of foreign governments. These are large producers, multinational corporations, and as was demonstrated during the Arab boycott they are not by any means beyond the control of certain foreign countries.

Energy is as vital to the life of a highly developed industrialized country such as ours as air and water are to our bodies. And yet the United States has left the control of the largest part of the supply of that energy to a few corporations, and to the best of my knowledge it alone in the world has done so. Every country in the world with oil and gas supplies to explore and to develop already has such a corporation. It is only this one and this one alone that has failed to see the folly of leaving itself to the whims and to the mercy of a few corporations for the supply of that most vital commodity of all, energy.

So, unlike the proposal of the Senator from South Dakota, my purpose in the beginning was not to offer the country a yardstick. It was to offer the country the assurance of energy, creating a corporation that would produce energy supplies from the public domain for the benefit of the public.

My proposal, as that of the Senator, was confined to the public domain.

It has been said that such corporations are not efficient. That is not true. The Senator from South Dakota has wisely and quite rightly pointed to the experience of other corporations which are subject to the control of their governments. Royal Dutch is one. British Petroleum is another. And there are many other examples.

The Canadian experience is one of the most telling and significant.

We can share parentage with the Canadians. They have taken this proposal as it was originally introduced and, I understand, have approved it. It is now law. The corporation is called Petrocan and it often operates, as would corporations we have proposed, in joint ventures with private corporations, so that they can take advantage of all of the skills and resources available within the private domain as well as the energy supplies available in the public domain.

This corporation was strenuously opposed by conservative elements in Canada. Now it is strenuously supported by those very same elements within Canada, because it is working. It is working to explore in the public domain and high risk areas, the Arctic islands, for example, in cooperation with private industry, opening up new supplies and relieving that country of its dependence not only on undependable foreign sources of energy but also on multinational corporations that are not entirely under the control of that country any more than they are within the control of this country. That was one of the purposes.

The main purpose is simply to assure a supply of this most vital commodity regardless of the actions of other countries.

Second, to do so from the public domain for the benefit of the public which owns those oil and gas resources.

Third, to do so in experimental ways and in ways that are environmentally sound; to begin developing new techniques for offshore development, for example, that could supply us further oil.

One of its purposes, as the Senator from South Dakota has indicated, was also to supply reliable figures on the cost of exploration and production so that for the first time we would have the yardstick which he has mentioned. That purpose was incidental to the main purpose of simply producing a supply of energy that could save us against the day when supplies are depleted, or cut off by hostile powers.

There were other purposes far from nationalization. One purpose was to maintain competition in the industry, to do it not through price controls but through a competitive corporation. The purpose was to head off the day when the public might demand that the Government move into this area in order to develop the public domain and take over other corporations to assure a supply of energy in ways that are far more ambitious than anything that I have proposed or that the Senator is proposing in this measure.

I might add also that one of the other purposes, as I recall, was to assure a supply of crude oil for independent refineries. That was one of the ways in which we contemplated that competition might be maintained in this industry.

Independent refineries are vulnerable. They, too, can be cut off from production, which is controlled increasingly by a handful of very large corporations.

Mr. President, my question at the moment is not so much one of substance, since I have not had a chance to read this amendment, but one of tactics and timing.

Senators are not here; we have not had hearings on this particular proposal. However obvious it is to every other country in the world, I am afraid that the need to take this single most elementary step toward national survival is not very obvious, as yet, in the United States, and probably not in the Senate.

Therefore, Mr. President, I ask the Senator, would it not be wise to save this amendment, which, as I understand it, has far more purposes than the yardstick purpose, for another time—after hearings, after these pricing measures have been disposed of, hopefully after we have had a better opportunity to inform the public of all of its purposes, and hopefully, Mr. President, after we have the support of the administration? I do not think that such support is altogether unlikely, and certainly it is not impossible.

I have no counts. I still bear some bruises. But I ask the Senator, would it not be better to save this proposal for another day, and, in the meantime, to afford ourselves and others an opportunity to refine it, to hold those hearings, and to generate more public support and support from within the Congress than I fear is available on this day?

Mr. McGOVERN. Mr. President, I think the Senator has certainly raised a reasonable question, and obviously has given us an excellent summary of the original purposes of the legislation that he introduced some 3 years ago.

I would just say that the reason why I have taken the course that I have on this bill is at least two-fold: First of all, because of the experience that the Senator referred to on the legislation offered earlier. I was a cosponsor of that measure. It did not seem useful to me, at this time, to press exactly that same proposal; that is why we cut in half the percentage of Federal and gas reserves that would be available to this Government corporation; and we have strictly limited it to the Federal domain.

But the other reason for pressing it now is that we do need to look very closely at the pricing aspects of the amendment before us. We are talking about a natural gas pricing bill—that is the basic legislation before the Senate, and one of the problems in trying to arrive at a fair system of pricing is that we do not have reliable data. The Senator has brought that out himself, on numerous occasions.

As a matter of fact, in testifying on the proposal that the Senator from Illinois offered in 1974, I was just starting to read a few comments from Mr. David Freeman, which I would like to read now, and I think the Senator will find them familiar.

He said, in his testimony before the Commerce Committee:

> A major need at the moment is to find out what it costs to develop oil and gas in the United States. One of the major issues facing the Congress and the public is how much oil and gas should sell for, what should be the price that is allowed.

Then he goes on to say:

> We don't really know for sure what the size of the windfall profits are, because the country is devoid of any information as to what the cost is.

He makes this statement:

> A major need at the moment is to develop a Federal entity that can provide that cost-information.

I will say to the Senator from Illinois, and so that my colleagues understand it, that it is that aspect of this legislation that seems to me to be especially pertinent now, at a time when we have an important pricing bill before us.

I realize that is only one of the purposes of this amendment. It will do all of the things that the Senator mentioned; it will give us a more assured supply of crude oil, gas and oil of all kinds. It will permit us to adhere to higher environmental standards. It will enable us to experiment with other forms of exploration and development.

But beyond all of these things, it does

provide a dependable yardstick by which to measure cost.

Let me just continue with a couple of other observations by Mr. Freeman. He said:

> Now, all of these problems, these jobs to be done, combine in my mind to suggest the need for a Government corporation, limited to operate on the Federal domain.

Which is exactly what this amendment does.

> It could perform the exploration of the Federal domain by contract or otherwise to find out what the people own.

And then, if the Senator will note this point, because here is where I got the idea for the name of this amendment:

> Its main function would be to supplement and not supplant private enterprise, and to act as a yardstick and a spur, and to provide, in essence, a supplier of last resort.

Then he repeats this yardstick phrase, and in this context, on the next page, he says:

> One of the major reasons for creating a Federal entity would be to provide an environmental yardstick . . . an entity that will be pioneering in environmental protection.

So what we have in this amendment, as we did in the Senator's original bill, is a yardstick that will give us a means of measuring whether or not these cost data that we are being supplied by a handful of major corporations are accurate or not, and then, second, a yardstick by which we can measure their environmental performance.

So, just as I joined the Senator in support of his original proposal, I am hoping that after pondering this matter, and before we vote on this all important question of how we are going to price natural gas, a decision involving tens of billions of dollars of the consumers' money, he will join me in strong support of this amendment.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. McGOVERN. Mr. President, I ask unanimous consent that the full text of Mr. Freeman's testimony be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF S. DAVID FREEMAN, DIRECTOR, THE ENERGY POLICY PROJECT, WASHINGTON, D.C.

Mr. FREEMAN. I regret, Mr. Chairman, I did not have time to prepare a detailed written statement and I will be testifying from notes.

My testimony this morning, Mr. Chairman, is based upon my experience in Government over a number of years, dealing with these matters and my personal studies of the questions before the committee since I left Government.

I am not speaking on behalf of the Ford Foundation's energy policy project, because our report will be forthcoming in the coming months. I am addressing myself to title VI of your bill dealing with the Federal Oil and Gas Corporation.

It seems useful to examine the problems that the country faces in the area of oil and gas supply before I address myself specifically as to what corporate mechanism or other Government entity one might want to create to solve those problems. First and foremost, in my opinion, is the fact that most of the economically recoverable oil and gas that the Nation has available for the next decade is on the Federal domain and we don't know, precisely where it is, how much we have got or what it will cost to produce it.

That is a very sobering and unhappy fact, but as far as I can find out, it is true. In a sense, considering that our energy supply situation is at best tight and at worst in a crisis situation, nothing could be more urgent as a matter of public policy than to find out what we have in the storehouse.

The Government is failing in its role as a proprietor, not to mention its role as the sovereign, and the two roles are virtually indistinguishable in this particular area. We must not forget, however, that the Federal domain is also a recreation asset. What we do on the Federal domain is in a sense an action that we take with a multipurpose resource.

We are about as ignorant of the environmental impacts of development as we are of the resources that are to be developed. The Department of the Interior has custody over the Federal domain. I think it is just a cold, hard fact that it is an old agency which does not seem to show the administrative capability or the initiative to mount the kind of programs that are needed in the public interest in the 1970's.

To the extent that they are trying to mount a development effort, it seems to me single-minded and oblivious to the multipurpose aspects of the Federal domain; and in the sense, somewhat self-defeating. But in any event, finding out the oil and gas resources that the Nation owns requires a capability that the Department of the Interior just does not possess. It means an effort in exploratory drilling that isn't being done. That is one job facing the country.

A second big job, it seems to me, is to develop some strategic oil reserves. If we have learned nothing else from the experience of the last 3 or 4 months, it should be that this Nation needs to have some ready reserves that would be available, in shape to be produced by turning a few valves, whenever some emergency situation develops.

We don't have that capability. We have learned that the Nation's economy can almost go into a tailspin if there is an interruption, or the fear of an interruption, of energy supplies. Our stockpiles are inadequate, and I think it is unrealistic in the extreme to expect the oil industry to invest the billions of dollars required to develop some sort of a stockpile of oil that they wouldn't be selling.

This is an investment for the national welfare, national security, if you please, that requires a public investment. The oil resources located in the Federal domain provides our best hope of developing such strategic reserves. The oil and gas that we think exists off the Atlantic and Pacific coasts and the oil and gas resources in the naval petroleum reserves provide an excellent and, as far as we can find out, sizable opportunity for development and then shutting the fields in so that we have strategic reserves on tap and available.

This is another big job, a big job that is not being done, and a big job with no public agency that I know of with an action-oriented program to get the job done.

A third major need at the moment is to find out what it costs to develop oil and gas in the United States. One of the major issues facing the Congress and the public is how much oil and gas should sell for, what should be the price that is allowed.

We are now in a situation where the producing nations throughout the world with a near monopoly power, certainly supremacy in the marketplace, are fixing the world price of oil at levels that seem very high compared to just a few weeks ago.

The price of oil in the United States is rushing up to those levels. We have a very, very serious question before the country of the size of the windfall profits. Yet, when one analyses this question, we don't really know for sure what the size of the windfall profits are, because the country is devoid of any information as to what the cost is.

Certainly, this becomes maddening when you realize that a large fraction of the oil and gas is being produced on the Federal domain, and our administrators did not have the foresight to even require cost information as a condition of leasing the public's own resources. So, it seems to me that a major need at the moment is to develop a Federal entity that can provide that cost information.

A fourth need, and in my view a major one, was identified and discussed by Senator Hart just a few moments ago. If the crude oil shortage disappears, the refinery shortage will rear its ugly head, because it is being hidden by the fact that we are short of crude oil.

This country is in a position where we have to hope and pray that the oil refineries will be built. There is no legal compulsion on the oil companies to build the refineries, and there is a very real question as to whether they will do so.

It is my view that an oil refinery is at least as important to the American people as an electric powerplant, and indeed, the electric powerplants are not going to be able to run if they don't have fuel to burn in them. I have been associated with the FPC in public regulation, and I would not lightly suggest that we move to public utility regulation over the oil industry.

I think it is much preferable that we try to encourage greater competition and to get the job done. Yet the question of the construction of oil refineries cannot be left to hope or guess or prayer. The buck has got to stop somewhere.

There needs to be an action program that will assure that the refineries are built. It seems to me that Senator Hart's amendment addresses that point in a very constructive way.

Now, all of these problems, these jobs to be done, combine in my mind to suggest the need for a Government corporation, limited to operate on the Federal domain. It could perform the exploration of the Federal domain by contract or otherwise to find out what the people own.

It could take custody of the existing naval petroleum reserves and do the exploration and development work to bring them up to the status of a ready reserve.

It could develop strategic oil reserves which the Nation needs as a backup to avoiding shortages in an emergency.

It could build the refineries if the petroleum industry doesn't do so, and then turn those refineries over to new independent companies.

In a sense, Mr. Chairman, this corporation would become the supplier of last resort. It would provide the Nation with the capability to fill the gap if for reasons of its own private enterprise does not develop the resources. And perhaps just as important, this corporation could and must become a model for environmental protection.

Your bill builds this mandate into its corporate charter, but it would be my suggestion, Mr. Chairman, that you go further than that. I would think that any activity of this Corporation—any program of drilling or construction—should be made sub-

ject to prior approval by the Environmental Protection Agency.

It seems to me there are other opportunities which this Corporation might serve in the future. We are living in an era where some of our Western Hemisphere friends have oil resources where for political reasons of their own, they are not particularly anxious for private enterprise development.

Venezuela is one such nation, where the enormous tar belt lies awaiting development. It might very well be that the most effective way for that development to take place would be through some joint venture between this Federal Oil and Gas Corporation and the Federal Oil and Gas Corporation of Venezuela. It is quite possible there will be many activities in the international field where this Corporation could play a role that private enterprise could not play.

But its main function would be to supplement and not supplant private enterprise, and to act as a yardstick and a spur, and to provide, in essence, a supplier of last resort.

I would like to end my testimony with one note of caution. I grew up in the Tennessee Valley, worked for the Tennessee Valley Authority, and believe the TVA proved without doubt that "efficiency is where you find it." It doesn't rest exclusively in Government or private companies. It is just a creature—a function of the people who are attracted to the organization and the leadership.

But my word of caution is that a Government corporation, or a Government agency, can have a charter when it is enacted, can fulfill that charter magnificently as TVA has, but 25 years later, the times may call for a new direction and a different entity.

I think you should seriously consider building a death sentence into this corporation, perhaps at 15 years. If it is doing a good job, the Congress will renew its charter. It would provide an excellent occasion to review its activities, perhaps change its mandate.

I offer that suggestion based on my own experience that TVA could do well to have its mandate reexamined at this stage in its history, even though it has done an excellent job of carrying out the mandate that Congress gave it of promoting low cost electricity.

I also feel that the provision requiring the EPA to review and pass on the Corporation's activities is very important and raise a somewhat broader caution. We are moving into a new era, I think, an era of scarcity. As important as the enactment of this Corporation is, we should not do it and give the country a false signal.

The answer to the energy problem lies as much, perhaps more, in adopting a policy of conservation of resources. Making investments in mass transit, in new cities, and a different growth pattern for our Nation; people moving back to town and all sorts of activities are going to require, I believe, action by not only the Federal Government, but all levels of government.

For that reason, I think we should recognize that this Federal Corporation is not a signal that we are going to supply all the energy that we have been wasting in the past. It is an entity to fulfill some jobs that need doing. But it should be put in the context of an overall energy policy that in my view must recognize the finite nature of existing resource base and a need for emphasizing conservation.

Thank you.

Senator STEVENSON. I would certainly echo that point you have made. It was never really suggested as a solution to the energy crisis nor intended to suggest that the Nation still doesn't need to operate a new energy ethic, a new energy life style.

There are increasingly limited sources of many materials but in this case oil and gas.

It was our intention, Mr. Freeman, to subject the activities of the Corporation to the Environmental Protection Act. I think you are saying more than that, that the activities of this Corporation should go beyond the mere requirements of the law, to innovate and develop new ways of really respecting the fragility of the environment.

It is not just a question of compliance with whatever the existing standards are; you are suggesting more than that, aren't you?

Mr FREEMAN. Yes, sir. One of the major reasons for creating a Federal entity, I believe, would be to provide an environmental yardstick, if you please, an entity that will be pioneering in environmental protection. It seems to me that it should be working hand-in-hand with the EPA to show the way in this area.

Senator STEVENSON. You have made another very interesting point, I thought. It is difficult, if not impossible, to determine what in fact are windfall profits because the Government has now no way of determining what actual costs are.

That problem has come up in other contexts. It has come up in the question of regulating natural gas, for example. The industry claims that cost-based regulation is impossible because the FPC can't make determinations of actual cost.

I don't know which way the Government will go, but if it takes the regulatory route, at least in some cases, this Corporation, its formation about actual costs might have that advantage, too, might supply costs in another context, maybe cost-based regulation to help determine the regulation of rates.

Mr. FREEMAN. Yes, sir. I think it would, and I think there is another side benefit that perhaps should be mentioned. In the electric power industry, the Government benefits from the executives in the Tennessee Valley Authority and in Bonneville and in the other publicly owned entities who are available for participation in Government to deliberate about electric power matters.

I don't think it would hurt this country to have a corporation with public servants who have had actual experience in the oil and gas industry to participate in the councils of Government, combining experience in oil and gas with no conflict of interest.

Senator STEVENSON. It has been charged that the competition from such a corporation would be unfair and also that the yardstick would be unrealistic and unfair because the Corporation would receive some cost benefits, particularly leases at no cost to itself.

How do you answer that criticism?

Mr. FREEMAN. Well, it seems to me that any pricing mechanism should include a component that would reflect that element of cost. It is simply a matter of identifying that factor and including it.

I know that the argument about the TVA yardstick is as old as TVA. The yardstick concept is a broader one than simply an accounting proposition. To the extent that this Corporation prices oil, all the elements of costs should be included. But I don't know that its major purpose, or even a primary purpose, would be selling oil and gas.

I think its very creation will perhaps make it less likely that the Government would ever become involved in the actual marketing of oil.

Senator STEVENSON. It is also claimed, somewhat inconsistently, that the Corporation would be inefficient. The claim is made that it would not have access to the necessary resources of technology, to the managerial skills in the industry.

Is that a fair complaint or problem that we have to address ourselves to?

Mr. FREEMAN. It seems to me that that argument, simply made in the abstract, has very little support. If you look at the history of one major Government Corporation we have had in the energy field, TVA, most observers will agree that TVA is perhaps the most resourceful or one of the most resourceful and most efficient of our electric utilities.

I would also think that this Corporation would carry out its activities through contract with people in private enterprise, and I am not certain exactly how it should or would operate.

But it would be entirely consistent with the charter in your bill for it to draw upon the existing resources in the oil industry through the device of contracts.

Senator STEVENSON. It was certainly contemplated that it would operate as other corporations do and through joint ventures, for example, with especially in the early stages major oil companies serving as the operator of leasing blocks in the public domain.

I offhand don't see why its role as the participant in such a joint venture would require any great magnitude of skill and technology or at least any that couldn't be acquired by contract, as you suggest.

Mr. FREEMAN. Mr. Chairman, I think its success will depend, just as any other organization, on the caliber of people appointed to manage it.

Senator STEVENSON. You mentioned, Mr. Freeman, at the outset of your statement, I think the word was "most," that most of our oil and gas resources are in the public domain.

Do you have any way of estimating what the Nation's oil and gas resources are?

Mr. FREEMAN. As I said, Mr. Chairman, most of the resources that we believe are economically recoverable in the next 10 or 15 years are on the Federal domain. We are attempting to make an assessment of this question in the course of a study we have underway.

I make that statement on the basis of what we know strictly from the Geological Survey information and what data is available which suggest that the Outer Continental Shelf, the naval petroleum reserve in Alaska, and other Federal lands probably contain more than half of the oil and gas that we expect to be discovered in the next 10 to 15 years. I think the industry's own studies tend to confirm that.

That raises, I think, a major reason for this Corporation that will assist those in private enterprise, to the extent this Corporation will get out and explore and identify the resources on the Federal domain, they can be offered for lease that much sooner.

One of the bottlenecks that we have is the pace at which we are acquiring knowledge to intelligently lease.

If this Corporation can be a trailblazer, in a sense, it can be an entity that can get out there and identify with more particularity what we own so it then could be leased; it could turn out to have its major benefit simply expanding the pace at which private enterprise can have access to the Federal domain.

Senator STEVENSON. I think your comments have assumed that the activities of this Corporation would be confined to the development of oil and gas resources in the public domain. Those, of course, are not the only sources of energy in the public domain.

Should it be confined to oil and gas or, for example, should it also have the authority to develop oil shale in the public domain?

Mr. FREEMAN. I wouldn't necessarily limit its authority, but I would assume that its major activity would be in oil and gas. Quite frankly, I hadn't thought about the other resources.

Surely, oil shale is a resource that can be at least demonstrated. There appears to be interest by private enterprise; at least huge sums of money were bid for a lease. Perhaps we will get some movement in that area.

I think there should be authority.

In a sense, I would make this corporation a supplier of last resort, and I think I would be inclined to have a test that if private

enterprise is not moving ahead that it would have the authority to do so in these other areas, but I would not give it a mandate and a direction to move out in all directions.

Senator STEVENSON. Wouldn't your comments about the lack of information in the Government about the dimensions of its resources of oil and gas apply with equal effect to oil shale? Can't the exploratory purpose be fulfilled by such a corporation in relation to oil shale as well as oil and gas?

Mr. FREEMAN. I think that there is a big job to be done in identifying with more particularity not only the Government's shale resources, but surprisingly we don't know enough or nearly enough about the coal resource in the West.

And then the geothermal resource in a sense cries out for the kind of inventory based upon drilling some holes in the ground that has not been accomplished.

So I think that your point is a very important one. When it comes to finding out what the Government owns, as distinguished from going beyond that, this corporation has got a big job to do across the board.

Senator STEVENSON. The Geological Survey apparently has authority to conduct resource explorations in the public domain.

Why hasn't it done so?

Mr. FREEMAN. I think it is a combination of inertia and budgetary constraints and policy not to do it. In other words, there are not the people in the Department pushing to do the job. There are budgetary restraints, and I think there has just been a policy over the years of not finding out.

Senator STEVENSON. Has that been a policy by negligence, or is it a deliberate policy? If so, why? Why has that been the policy?

Mr. FREEMAN. Based on my experience in the Executive Office Building as I observed it, it was a problem primarily of insufficient attention to the energy problem, insufficient agitation for getting it done, and a generally negative attitude by the Bureau over the years for providing the funds, and the Interior Department at the very top over the years just didn't make a fight for these programs.

I think this goes back over many, many years, and it continues on almost to the present.

Senator STEVENSON. Would you be concerned that to whatever extent this Corporation displaced private investment in the public domain it would give the private oil and gas industry an incentive to develop oil and gas production abroad?

Mr. FREEMAN. I would not picture that the net effect of the Corporation would be to displace private enterprise in the Federal domain.

As I mentioned earlier, I would think the net effect of its activities to be very much the other way, that its primary function is going to be to find out what is out there and develop in some areas strategic reserves.

But in the process of doing that it could open up more leasing more quickly to private enterprise. So I would not see the Corporation's activity as resulting in a net negative impact on the opportunities for private enterprise in the Federal domain.

On the contrary, I would see it having a positive impact.

Senator STEVENSON. Assuming that its development of resources in the public domain were incremental, would it through competition and the yardstock make the opportunities for profit relatively more attractive abroad and in that way provide the incentive for the development abroad instead of within the United States?

Mr. FREEMAN. It is difficult to foresee how the pricing patterns and profitability will develop, but it seems to me at the moment the profitability picture looks very attractive in the United States with the prices at the levels which they are, unless the costs in the Outer Continental Shelf are a whole lot higher than what the prices were just a few years ago.

I do not really see that we have a problem of lack of profitability for the oil industry in developing the Federal domain. If they are offering hundreds of millions of dollars just for the privilege of going out and exploring the leases, it seems to me that their judgment is that this activity is potentially profitable. I frankly don't see the squeezing of the industry out on a profit basis as a clear and present danger.

Senator STEVENSON. Thank you, Mr. Freeman.

Senator Hart?

Senator HART. Mr. Freeman, thank you very much. Along with the chairman, I appreciate the good note on which you concluded your informal prepared statement, to caution us never to suggest in these days where priority is so high in the effort to meet our energy crisis that we are committing ourselves to generating enough energy to permit us to resume the wasteful practices and lifestyle that brought us to this point.

One very tiny question that I ask simply because you are here and knowledgeable and not of Government. Many people have been struck by the size of the bonuses that were paid in the recent offshore lease sale, on the Gulf offshore. Does that suggest to you that the costs are probably very low in the Gulf offshore?

Mr. FREEMAN. Yes, sir. It suggests to me that they must be low in relationship to the prices that are now the market prices for crude oil.

It also suggests to me that the oil industry knew an awful lot more about the resource than the Government that was offering the land. It is suggestive of a situation where the Federal domain is an extremely attractive area to explore. It has also suggested to me that the Government should be putting some of that $200 million, or whatever was bid, in the finding out what else we own out there and getting it into the marketplace so we can try to become as self-sufficient as we can, consistent with regard for the impact on the coastal zone of such development.

Senator HART. I wish to thank you for the explicit endorsement of the amendment that would establish seven or more of those refineries.

Thank you, Mr. Chairman.

Senator STEVENSON. Mr. Freemen, you pointed out that the Department of the Interior now has the custody of the oil and gas resources in the public domain and indicated that it had over the years acquired a rather conservative approach toward the development of these resources.

I am not trying to paraphrase what you said, but this Corporation would not really solve that problem, would it? It wouldn't take over custody of these resources from the Department of Interior. As a matter of fact, the way the bill is now drawn, its exploration and development activities would be limited to a maximum of 20 percent of the leases within the public domain.

I am—I guess I am leading up to two questions. One, should the Corporation be limited, and, if so, at what point should its exploration and development activities be limited, and beyond that and beyond perhaps this proposal for incorporation, do you have any suggestions to make as to what agency should take custody of these resources or how can custody of the Interior Department be reformed?

Mr. FREEMAN. Mr. Chairman, in a way it is ironical. The Deparement of the Interior's objectives, at least in the last couple of years, and its great desire to speed the development of the resource offshore.

The President has spoken about tripling the leasing program. It has in a sense a single-minded desire to develop in my view at the cost of the environmental impact, which I don't believe is given the same kind of serious attention.

But it is failing even in its single-minded devotion to development for lack of capability, for lack of knowledge of the resource, apparently unable to develop the staff resources, the knowhow and the leasing programs with its staff or expansion of staff.

I view this Corporation's activities in the Federal domain as being supportive, and perhaps providing a flow of information that would permit the Department of the Interior to accelerate its leasing program.

I would view its first two jobs, as being this task of finding out what the people own and developing the strategic reserves.

Those are two very big problems.

I realize that title VI gives it the privilege of identifying up to 20 percent of ongoing lease sales. I would certainly want to keep that limit and perhaps make it even more limited, because I don't see that the major function of the Corporation being to develop leases that private enterprise is ready, willing, and able to develop.

I would see its major function as being to find out what we own, to develop strategic reserves, and to be able to fill the gap if private enterprise doesn't.

I think having that capability would be a tremendous spur to the development, the capability that would provide the knowledge, and the capability of a supplier of last resort.

My opinion would be to place even sharper limits on its direct competition role and emphasize the other.

As far as transferring the Interior Department's custody of the Federal lands, quite candidly, Mr. Chairman, I have not thought about that question sufficiently to give you an answer.

I was assuming that this Corporation would provide the Interior Department with increased knowledge. If that Department is converted into a Department of Natural Resources, as has been proposed, and in the process of conversion it can take on a new life, that that would be the logical place for our resources to lie.

Senator STEVENSON. As you visualize it, this Corporation ought to have access for exploratory purposes in the public domain before it acquires a lease?

Mr. FREEMAN. Oh, yes, it seems to me it should have a charter to roam broadly and widely throughout the entire Federal domain, and its major activity would be to provide the knowledge that would enable the Government as a storekeeper, as a lessor, to proceed with the leasing program more vigorously and more intelligently.

We run the great risk of a gigantic giveaway, a giveaway of our resources, a giveaway of our environment, if we go ahead with a leasing program without knowing what we are doing.

Senator STEVENSON. I think it is a very helpful point. We had better check in the bill to make sure that it would have that authority and duty.

One final question, Mr. Freeman. The President in his radio message of December 19 said that "Rising U.S. oil prices are caused by steeply increasing world oil prices."

Are domestic price increases justified by higher producing-nation prices?

Mr. FREEMAN. Excuse me, Mr. Chairman. You meant January 19?

Senator STEVENSON. You are right.

Mr. FREEMAN. The Saturday radio speech.

Yes; I was struck by the President's statement which, as I heard it, and I haven't read the text, but as I heard the speech he at least implied that the price increases were directly and totally the result of the increase of oil prices by the producing nations.

But we import only 30 percent of our oil. So 70 percent of the price increase is a result of actions of his administration.

I think it is still quite questionable whether it will serve the public interest to permit the $1-a-barrel increase in fuel prices

on December 19—perhaps that is the date that stuck in your mind—when the Cost of Living Council permitted the price of flowing crude oil to go up $1 a barrel.

I think it is arguable about new oil. We have to get cost information before we can determine what level of price will be in the public interest.

One has to assume that oil was discovered years ago and selling at $3 and $4 a barrel was earning a profit for the companies.

I think that one has to take a hard look and come up with some justification that I haven't heard before you could countenance the kind of increases that have been sanctioned recently.

It is my personal view that we need to roll back the price of oil, certainly roll back the dollar-a-barrel increase on flowing crude which amounts to $3 billion a year for the American consumer.

Senator STEVENSON. Thank you very much, Mr. Freeman. It is very constructive and helpful statement and, like Senator Hart, I thank you too, for your explicit support of the proposal for the Oil and Gas Corporation

Mr. FREEMAN. Thank you, Mr. Chairman.

Senator STEVENSON. The next and final witness is Comdr. Kirby Brant, the Deputy Director of the Naval Petroleum and Oil Shale Reserves.

Commander Brant, I understand a funny thing happened to you on your way to our meeting this morning. I am glad you could make it.

I believe we have a statement. You are welcome, of course, to read the full statement, or to condense it, however you choose.

If you want to summarize it, I would of course, enter it into the record.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from Montana for the purposes of a question.

Mr. MELCHER. I wonder if the Senator will yield for a pertinent observation to follow up his colloquy.

Mr. McGOVERN. Yes, I yield for that.

Mr. MELCHER. I thank the Senator.

Since 1974, since the remarks were made by Mr. Freeman, and since the time when the Senate and the House of Representatives had an opportunity to consider a similar proposal, H.R. 49 was passed last year, and became Public Law 94-258.

It does provide much of the yardstick data that the question revolves on in this amendment, and then, like the previous proposal, it deals with public lands, the naval petroleum reserves, one of which is a proven reserve of great magnitude at Elk Hills in California. It also deals with Naval Petroleum Reserve No. 4 in Alaska, which is an unknown quantity.

In the case of a proven reserve at Elk Hills, the act called for production by the Navy at the maximum efficiency rate and with sound engineering principles; it called for the sale of the oil with a set-aside for small refineries; it called for the necessary pipeline construction that would be required in the case of production of that oil; and it turns over the money to the Treasury. To that extent, for this 6-year period that is called for for production in Elk Hills, that kind of data is being collected. It will serve as a yardstick.

As to the question of exploration on public lands, where the quantity or the location of oil and gas are unknown, it also calls for that in Naval Petroleum Reserve No. 4. For 6 years after enactment last year of the bill, there will be data coming in, a measure of the yardstick type of operation that is sought.

I also mention that, in this regard, the act also goes into the quesion of how to protect the environment in a fragile area, Naval Petroleum Reserve No. 4 in Alaska. So I think we have some information gathering for the very purpose that the Senator now offers his amendment. It may not be as comprehensive; it will only be in limited areas; but it does serve a purpose.

Mr. McGOVERN. If the Senator will yield on that point, actually, as I understand Naval Petroleum Reserve No. 4, it is more comprehensive and goes far beyond what I am proposing here. It provides that all that oil will be developed under Government auspices; does it not?

Mr. MELCHER. It only provides, in the case of Naval Petroleum Reserve No. 4, that there be exploration at this time until Congress further directs that there will be development.

Mr. McGOVERN. I appreciate the point the Senator is making. Obviously, there have been some steps taken since this idea was first broached in 1974. But it is limited to a few parts of the country. It does not give us the kind of measuring rod that we need, in my judgment, to determine the exploration and production costs over a wide variety of circumstances. That is the reason why I think we need this amendment.

Mr. President, the General Accounting Office, earlier this year, released a study that I think points up further the need for this amendment. I quote from the United Press International Report of March 9, 1977, with regard to this report:

WASHINGTON.—The Interior Department approves the sale of offshore oil leases based on inaccurate and unreliable geological data, often with little competitive bidding, according to a study by the General Accounting Office.

The study recommends the Secretary of Interior be authorized to "conduct a systematic exploration program, on a selective basis," to develop better data for "more informed resource development decision making."

GAO found the department's revenue estimating process for OCS sales was based on inadequate data, often including overly optimistic estimates which were never achieved

In the California sale, it was also said.

The study said OCS tracts "were selected for leasing without obtaining adequate information to assess their resource potential and to meet the department's then existing goal of 10 million acres each year."

Mr. President, there has been a whole variety of findings along this line that. I think, have demonstrated the need for more reliable and independent data to determine, first of all, what these reserves are on the Federal domain, where most of our oil and gas reserves are believed to be located; and, secondly, to give us some more effective measure of what the cost factors are.

It seems to me, Mr. President, that if I were the head of a major oil corporation in this country or a member of the board of directors of such a corporation, faced with that widespread public suspicion that exists about the fairness of our present oil prices in this country and about the method by which they are arrived at, and I had confidence that my corporation was accurately estimating those costs, accurately reporting the reserves, and accurately determining what a fair price is, I would welcome an amendment of this kind by which public confidence could be gained.

What better way to do that than through a carefully structured, limited, modest effort of this kind that would permit an agency, owned and operated by the American people, operating on oil and gas owned by the American people, to determine what those reserves are, to determine what kind of environmental standards are practical and workable, and to determine what the cost factors are so that we have some means of gauging price? It is for these reasons, Mr. President, that I am very hopeful that this amendment will be sympathetically considered by Congress.

I ask unanimous consent that the news article that I referred to on the GAO study be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAO STUDY BLASTS OCS SALES

WASHINGTON.—The Interior Department approves the sale of offshore oil leases based on inaccurate and unreliable geological data, often with little competitive bidding, according to a study by the General Accounting Office.

The study recommends the Secretary of Interior be authorized to "conduct a systematic exploration program, on a selective basis," to develop better data for "more informed resource development decision making."

Oil and gas companies currently conduct exploratory drilling.

Leases to drill on the ocean floor are sold without the GAO, Congress' investigative arm.

"Consequently, decisions to lease tracts . . . could not reasonably assure that the public received a fair market value return for the resources," the GAO said Monday in a 67-page report.

The report, presented to the Select Committee on the Outer Continental Shelf, said the Interior Department's process of selecting offshore tracts was frequently unreliable and was frequently non-competitive.

The report was based on a study of an OCS lease sale in 1975 by the Interior Department off the California coast.

GAO found the department's revenue estimating process for OCS sales was based on inadequate data, often including overly optimistic estimates which were never achieved.

In the California sale, it said, the government received $417 million in revenues while the Office of Management and Budget had estimated expected revenue at $2 billion and included that figure in its budget.

"We found that the Department of the Interior's tract selection and evaluation process was not reliable and that bidding was not generally competitive," the GAO said.

The study said OCS tracts "were selected for leasing without obtaining adequate information to assess their resource potential and to meet the department's then existing goal of 10 million acres each year."

"Tracts believed to have little or no resource potential were added to the sale just to meet this former acreage goal," the GAO said.

The report also found that while the department estimated two-thirds of the tracts

would be leased, oil and gas companies submitted bids on only 70 of the 231 offered for sale. And of the 70 tracts, only 56 or about 24 per cent eventually were leased.

"The lack of competition and interest is further evidenced by the fact that 49 of the tracts bid on received only one or two bids," GAO said.

Mr. McGOVERN. Mr. President, out of deference to my colleague (Mr. ABOUREZK) who was called to the majority leader's office and who asked me to give him a brief period to speak on this amendment, I wonder if the Members of the Senate will agree to a unanimous-consent request that, following a brief quorum call, I be continued in my right to the floor. I do not intend to detain the Senate over a long period of time, but I did tell my junior colleague that I would reserve a brief period of time for him. I ask unanimous consent that, following the quorum call, I retain the right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, and I do not intend to object, does the Senator have any idea how long that quorum call might extend?

Mr. McGOVERN. I would think, at the most, 7 or 8 minutes. We just have to get the Senator here from the majority leader's office.

Mr. McCLURE. I understand that. With that understanding, I expect that the Senator would either limit the quorum call himself or would understand that someone else may call it off.

Mr. McGOVERN. I accept that understanding.

Mr. McCLURE. With that, I have no objection.

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum, without losing my right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from South Dakota was to be recognized.

Mr. McGOVERN. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Dakota.

LEGISLATIVE SCHEDULE

Mr. President, the amendment of the distinguished Senator from South Dakota is the pending question. I had hoped the Senate would be able to reach a vote on that amendment tonight. It is my impression after talking with several Senators that that will not be possible.

I would suggest, therefore, that we adjourn or recess soon and go over until the morning at 10:30 and resume action on the pending measure shortly after the two leaders have been recognized and any orders that may have been entered prior thereto are consummated.

Hopefully, in the meantime, Members will have an opportunity to give serious thought to finding a way to resolve the matter that is before the Senate.

Tomorrow will likely be a long day. The Senate will be in session Saturday unless a time agreement can be reached tomorrow which would provide for a date and time when we might be able to see a conclusion of action on the bill.

I would urge all Senators to plan their schedule accordingly, and I urge all Senators to devote their best talents toward finding our way out of the bramble bush in which we now find ourselves.

Mr. BAKER. Will the Senator from South Dakota yield to me so that I can have a brief colloquy with the majority leader?

Mr. McGOVERN. Yes.

Mr. BAKER. I thank the Senator.

Mr. President, I am particularly interested in the majority leader's remarks about his hopes that we could get an agreement for a time to vote on the several amendments that are pending. I am told there are now 140 amendments pending at the desk, or thereabouts.

I am also especially interested in his remarks about the prospects of a Saturday session. This is Thursday and it is now almost 8:30 in the evening. I know Senators on this side are anxious to complete their plans for tomorrow and, indeed, for Saturday.

I wonder if the majority leader would agree with me that it is now extremely likely we will have a session on Saturday, and that there will be votes on Saturday?

Mr. ROBERT C. BYRD. Yes. At this time, I can see no alternative.

Mr. BAKER. And that Senators would be well advised, at least on this side of the aisle, to plan for a Saturday session?

Mr. ROBERT C. BYRD. On both sides of the aisle, yes.

Mr. BAKER. Mr. President, I thank the majority leader.

I understand then that we are coming in tomorrow at 10:30 and will return to the consideration of this amendment, the McGovern amendment, at 11 o'clock.

I say to the majority leader that I, too, hope we can arrive at some orderly arrangement for the consideration of the several amendments, and time agreements on them, possibly, and I would be more than happy to meet on tomorrow to see if we could facilities that.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes, if the Senator will yield.

Mr. METZENBAUM. I just want to be clear.

Did I understand that we would come in at 10:30 and take up the bill at 11 o'clock?

Mr. ROBERT C. BYRD. Yes, I said that, but there will be—may I ask the Chair, have any orders been entered for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. No orders have been entered.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, in further response to the distinguished Senator from Ohio, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. DANFORTH, Mr. DOLE, Mr. CHAFEE, and Mr. CLARK be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean that the Senate would need to come in at no later than 10 o'clock, in order to resume consideration of the pending question at 11 o'clock.

Mr. METZENBAUM. There is an understanding that not before 11 o'clock do we take up S. 2104.

Mr. ROBERT C. BYRD. In the neighborhood of 11 o'clock, yes.

Mr. METZENBAUM. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me further?

Mr. McGOVERN. I yield.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

Mr. METZENBAUM. Mr. President, I object. I do not want to object, but, for the purpose of an inquiry, is the majority leader suggesting that we stand in recess rather than in adjournment by reason of the limitation of speeches made by any Member?

Mr. ROBERT C. BYRD. No, that is not the case. If the Senator is alerting the Senate to the possibility that a filibuster is now underway, I would like to know.

Mr. METZENBAUM. I am not saying that at all. I was merely inquiring about the reason for the recess instead of adjournment.

Mr. ROBERT C. BYRD. My reasons are simply these: By recessing, no morning business is automatic, no resolutions would come over under the rule. I was going to follow the request with respect to recessing over with another request, that immediately after the orders entered into for tomorrow are consummated, there be a brief period for the transaction of routine morning business, for certain purposes only, and that the Senate then proceed to its resumption of consideration of the pending business.

Those are my reasons.

Mr. METZENBAUM. The Senator from Ohio was merely making inquiry. I had not spoken during the day, and I was not certain whether there was any indication by reason of the motion to recess. I have no objection.

Mr. ABOUREZK. Mr. President, reserving the right to object, may I address a question to the majority leader?

Mr. ROBERT C. BYRD. If the Senator from South Dakota will yield.

Mr. McGOVERN. I yield.

Mr. ABOUREZK. Is the reason for the recess that if we are in adjournment tonight, we would have the reading of the Journal take place tomorrow?

Mr. ROBERT C. BYRD. That is also true, unless waived by unanimous consent.

Mr. ABOUREZK. With the exception that it would not be read on a unanimous-consent request.

Mr. ROBERT C. BYRD. The Senator is correct. By virtue of a recess, the read-

ing of the Journal is not required on the following day.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders which have been entered into for the recognition of Senators, and just prior to the resumption of the consideration of the pending business, there be a brief period, not to exceed 5 minutes, for morning business, with no resolutions coming over under the rule, and for the purpose only of submission of reports by committees, statements by Senators, not to extend beyond 1 minute each, and for the introduction of bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. STONE. Mr. President, will the Senator from South Dakota yield to me for a minute in order to discuss the possibility of lining up an amendment which I will propose, to succeed his?

Mr. McGOVERN. I yield for that purpose.

Mr. STONE. The majority leader thinks well of this idea. The Senator from Florida, joined by the Senator from Ohio (Mr. GLENN) and the senior Senator from Florida (Mr. CHILES), has a printed amendment, No. 959, the effect of which would be to allow interstate pipelines to bid on intrastate gas.

I think the managers of the Pearson-Bentsen substitute will take the amendment.

I ask whether we can obtain unanimous consent to follow the McGovern amendment with the Stone-Glenn-Chiles amendment, 959, briefly, without the anticipation of a rollcall vote.

Mr. BAKER. Mr. President, will the Senator from South Dakota yield so that I may respond to the Senator from Florida?

Mr. McGOVERN. I yield.

Mr. BAKER. Mr. President, I do not know precisely what the proposal of the Senator from Florida deals with. I certainly do not object to that procedure, except that at this hour, with some Senators on this side having departed—and there will be no more votes tonight—I am not in a position to agree to a unanimous-consent request that this next follow the McGovern amendment. I am sorry, but I cannot do that.

Mr. STONE. Will the minority leader accept the suggestion to discuss it? It has been cleared with Senator Pearson.

Mr. BAKER. I will be pleased to do that. I think the odds are good that we can do this.

Mr. McGOVERN. Mr. President, will the majority leader modify his earlier unanimous-consent request with the understanding that I have no desire to unduly delay this amendment and that I be recognized after the completion of morning business and the special orders that have been entered into.

Mr. ROBERT C. BYRD. Certainly.

ORDER FOR RECOGNITION OF SENATOR M'GOVERN TOMORROW

Mr. President, I ask unanimous consent that when the Senate resumes its consideration of the unfinished business tomorrow Mr. McGOVERN be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguised Senator for yielding.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that during the day tomorrow during all consideration and votes on energy legislation during the day Judy Heffner, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I thank the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I take the liberty of announcing that there will be no more rollcall votes tonight and I take it that all Senators are in accord.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I have completed my remarks for tonight. I yield the floor.

Mr. ABOUREZK. Mr. President, may I ask the majority leader how long we intend to stay in tonight?

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from South Dakota I am perfectly willing to stay all night, if any Senator wishes to stay. I have already indicated there will be no rollcall votes tonight. The pending question is on the adoption of the amendment by Mr. McGOVERN. Mr. McGOVERN has indicated that he does not anticipate a vote tonight on that amendment. He will be recognized.

Mr. MATSUNAGA. He has given up the floor.

Mr. ROBERT C. BYRD. He has given up the floor.

He will be recognized tomorrow morning when the Senate resumes its consideration of the unfinished business. So I am ready to go. I am ready to go home or I am ready to stay, whatever any Senator wishes.

Mr. ABOUREZK. If the majority leader is asking me, I say let us go home.

Mr. ROBERT C. BYRD. Very well.

I appreciate the Senator's willingness to go home.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand there has been no morning business.

The PRESIDING OFFICER. The Senator is correct.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent tha the RECORD show a place for routine morning business and that committee reports, statements by Senators, bills, resolutions, petitions, and memorials may be shown as having been introduced thereby and reported thereby.

The PRESIDING OFFICER. Without objection, the RECORD and the Journal will so indicate.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on September 20, 1977, he approved and signed the bill (S. 1153) to abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes.

ALASKA-CANADA NATURAL GAS PIPELINE—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

Natural gas has become the Nation's scarcest and most desired fuel. It is in our interest to bring the reserves in Alaska to market at the lowest possible price. Consequently, I am today sending the Congress my decision and report on an Alaska Natural Gas Transportation System.

The selection of the Alcan project was made after an exhaustive review required by the Alaska Natural Gas Transportation Act of 1976 determined that the Alcan Pipeline System will deliver more natural gas at less cost to a greater number of Americans than any other proposed transportation system.

The Alcan proposal, taken together with the recently signed Agreement on Principles with Canada, demonstrates that our two countries working together can transport more energy more efficiently than either of us could transport alone.

Unnecessary delay would greatly increase the total cost of the pipeline system. I urge the Congress to act expeditiously to approve this important project.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1977.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-2040. A letter from the Assistant Secretary and Chairman of the National Advisory Council on Child Nutrition transmitting, pursuant to law, the annual report of the Council (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2041. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to repeal certain requirements relating to notice of animal and plant quarantines (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2042. A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report of the final determination of the Commission in the case of the Lower Sioux Indian Community in Minnesota, et al v. United States (with an accompanying report); to the Committee on Appropriations.

EC-2043. A letter from the Assistant Secretary of State transmitting a draft of proposed legislation authorizing a contribution of tin metal by the United States to the buffer stock established under the Fifth International Tin Agreement (with accompanying papers); to the Committee on Armed Services.

EC-2044. A letter from the Acting Deputy General Counsel transmitting, pursuant to law, a notice of meetings related to the International Energy Program (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-2045. A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the Missouri River in the State of Montana (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2046. A letter from the Assistant Legal Adviser for Treaty Affairs transmitting, pursuant to law, copies of international agreements other than treaties (with accompanying papers); to the Committee on Foreign Relations.

EC-2047. A letter from the Secretary of the Treasury transmitting proposed legislation to authorize United States participation in the Supplementary Financing Facility of the International Monetary Fund (with accompanying papers); to the Committee on Foreign Relations.

EC-2048. A letter from the Chairman of the National Advisory Council on International Monetary and Financial Policies transmitting, pursuant to law, a special report on United States participation in the Supplementary Financing Facility of the International Monetary Fund (with accompanying papers); to the Committee on Foreign Relations.

EC-2049. A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, notification of an increase in the funding level of the fiscal year 1977 program for Jamaica (with accompanying papers); to the Committee on Foreign Relations.

EC-2050. A letter from the Director of the ACTION Agency transmitting a report on the Agency's system of records entitled "Outplacement Counseling Talent Bank" (with accompanying papers); to the Committee on Governmental Affairs.

EC-2051. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, three proposed new record systems reports submitted by the Department of the Air Force (with accompanying papers); to the Committee on Governmental Affairs.

EC-2052. A letter from the Deputy Director of the Administrative Office of the United States Courts transmitting, pursuant to law, the second report of the Director of the Administrative Office of the United States Courts on the operation of the speedy trial plans (with an accompanying report); to the Committee on the Judiciary.

EC-2053. A letter from the President of the National Railroad Passenger Corporation transmitting a comparison between the Corporation's 1977 and 1978 fiscal year budgets (with accompanying papers); to the Committee on Appropriations.

EC-2054. A letter from the Chairman of the Securities and Exchange Commission transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC-2055. A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, notification of an increase in the funding level of proposed 1977 program in Costa Rica (with accompanying papers); to the Committee on Foreign Relations.

EC-2056. A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, justification of an increase in the funding level of proposed program in Guyana (with accompanying papers); to the Committee on Foreign Relations.

EC-2057. A letter from the Assistant Secretary of the Treasury transmitting, pursuant to law, project performance audit reports prepared by the International Bank of Reconstruction and Development, and Post-Evaluation Reports from the Asian Development Bank (with accompanying reports); to the Committee on Foreign Relations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

Senate Joint Memorial 18 adopted by the Legislature of the State of Oregon; to the Committee on the Judiciary:

"SENATE JOINT MEMORIAL 18

"Whereas the State of Oregon has an outstanding claim for substantial expenses incurred in furnishing troops and aiding the United States in maintaining the common defense during the Civil War period; and

"Whereas other states received reimbursement for similar claims, totaling $44,725,072.-38 by March 15, 1892; and

"Whereas the State of Oregon repeatedly submitted appropriate claims for reimbursement pursuant to several Acts of Congress each accompanied by supporting vouchers and affidavits; and

"Whereas the claims of the State of Oregon were approved by Robert Lincoln during his tenure of office as the Secretary of War and by the board of war claims examiners; and

"Whereas the United States Senate passed legislation three times before 1933 to enable the payment of the claims of the State of Oregon; and

"Whereas the claims of the State of Oregon have never been paid and are now long owing; and

"Whereas the State of Oregon desires only that an appropriate forum for the adjudication of its claims be made available; and

"Whereas the United States Court of Claims has refused to exercise jurisdiction over the claims of the State of Oregon for these long-standing debts; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress of the United States is memorialized to enact legislation necessary to ensure that the State of Oregon is permitted to adjudicate its claims against the United States before the United States Court of Claims for debts owing since the Civil War period.

"(2) If the United States Court of Claims denies jurisdiction or refuses to exercise jurisdiction over the claims of the State of Oregon arising from the services of this state to the United States during the Civil War period, the President of the Senate and the Speaker of the House of Representatives of the Oregon Legislative Assembly shall cause a copy of this memorial to be sent to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States Congress and to each member of the Oregon Congressional Delegation."

Senate Joint Memorial No. 15 adopted by the Legislature of the State of Oregon; to the Committee on Appropriations:

"SENATE JOINT MEMORIAL 15

"Whereas the requirements for student consumer information to be imposed upon higher education institutions pursuant to section 131 of the Education Amendments of 1976 will greatly increase the cost of providing educational information; and

"Whereas the federal legislation P.L. 94-482 included appropriation authorizations for implementation of these standards at the institutional level; and

"Whereas the 1977 Supplemental Appropriations for higher education programs include no funding as authorized in the above sections of the Education Amendments of 1976; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) That the Congress of the United States is urged to pass legislation that will provide adequate funding for student consumer information to meet the standards imposed pursuant to the federal legislation.

"(2) A copy of this memorial shall be sent to the presiding officer of each house of the Congress and to each member of the Oregon Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Select Committee on Ethics:

Without amendment:

S. Res. 265. An original resolution amending Senate Resolution 110, 95th Congress, to establish January 1, 1978 as the effective date for public financial disclosure by Senate Members, candidates, officers and certain employees, and for other purposes (Rept. No. 95-448).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 266. An original resolution to pay a gratuity to the First National Bank of Nevada, Las Vegas, Nevada, as guardian of the Estate of Patricia A. Morton.

S. Res. 267. An original resolution to pay a gratuity to Ernest G. Catucci; Enrico G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci; Kenneth N. Catucci; Geralyn Humphries; Christine Reeves, and Tinalynn Catucci.

By Mr. CHILES, from the Committee on Governmental Affairs:

With amendments:

S. 431. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes (Rept. No. 95-449).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH:

S. 2126. A bill to amend the Consolidated Farm and Rural Development Act, to make the Emergency Livestock Credit Act of 1974 permanent, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLELLAN:

S. 2127. A bill to amend the Canal Zone Code with respect to the appointment and service of probation officers, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2128. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Finance.

By Mr. HEINZ:

S. 2129. A bill for the relief of Steve Wing-On Yan; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. HATFIELD, Mr. HASKELL, Mr. JAVITS, Mr. STEVENS, and Mr. GRAVEL):

S. 2130. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2131. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing and Urban Affairs.

By Mr. ALLEN (for himself, Mr. BARTLETT, Mr. STENNIS, Mr. RANDOLPH, Mr. SCHMITT, Mr. DOMENICI, Mr. CHILES, Mr. HANSEN, Mr. THURMOND, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. TALMADGE, Mr. CURTIS, and Mr. DECONCINI):

S.J. Res. 81. A joint resolution to express the sense of the Congress that, in the light of history, the third Thursday in December, 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977"; and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977". Considered and passed.

By Mr. JACKSON:

S.J. Res. 82. A joint resolution to approve the presidential decision on an Alaska Natural Gas Transportation System; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH:

S. 2126. A bill to amend the Consolidated Farm and Rural Development Act, to make the Emergency Livestock Credit Act of 1974 permanent, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FAMILY FARM CREDIT ACT OF 1977

Mr. CHURCH. Mr. President, I am pleased to introduce legislation today that addresses a critical problem facing our Nation's family farm: credit, or more accurately, the lack of it.

Farmers are caught in an economic vise. Prices of most farm commodities are low in dollar terms and particularly so in terms of purchasing power. Yet the cost of things farmers buy or use to produce have as much as doubled in the last 4 years. Prices paid by farmers for commodities and services, interest, taxes, and wage rates are up by one-third since August 1973. The costs of many individual items are up considerably more than average.

The interest payable per acre on farm real estate debt has more than doubled.

Farm wage rates have advanced by an average of 43 percent.

Fertilizer prices paid by farmers have risen about 50 percent.

Farm machinery prices are up almost 80 percent on the average.

Farm and motor supplies have about doubled in price.

Mr. President, I ask unanimous consent that a list of item-by-item comparisons for today's prices and those of 4 years ago be printed in the RECORD immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Historically, the main purpose of the Farmers Home Administration has been to help young and beginning farmers get established in agriculture. Unless FmHA loan levels are realistic, fewer and fewer farmers will be coming into the business, and those already in the business will be forced into bankruptcy. The end result will be a continuing increase in the average age of farmers and the size of farms.

We have made it a national policy to provide special assistance to those wishing to enter agriculture. Unfortunately, our admirable declaration of intent has not been carried out. The solution to this problem lies not in making the Farmers Home Administration another rural bank, but to strengthen its ability to assist in promoting new entries into farming and family farms.

We have saddled Farmers Home with a host of rural development programs that have interfered with its primary mission: to help farmers. We authorize FmHA to make 1-percent loans on housing projects, but charge young farmers with 5-percent loans to purchase farms.

Yes, many have forgotten that Farmers Home was never intended to be just a bank. It is much more than that. FmHA should be the place where farmers can turn when their financial backs are against the wall. Many of our family farms, especially those just starting out, cannot weather the booms and busts of the agricultural economy without help now and then. FmHA should be the place to which farmers turn when no one else will help. FmHA has the flexibility. The Agency can offer technical assistance and personal attention. And FmHA is set up to involve farmers in helping their fellow farmers.

I understand that the Agriculture Committee expects to review the issues raised by this legislation in the near future. It is my hope that the committee will reemphasize and strengthen the mission of Farmers Home: to assist and maintain the family farm tradition of this country. A tradition that has made the American agricultural system second to none.

I ask unanimous consent that the text of the bill be printed in the RECORD preceded by a summary of its provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Item	1973	Now
Pick-up truck, ¾-ton	$3,300.00	$5,650.00
Anhydrous ammonia, ton	92.50	188.00
Grain drill, 24-tube	2,860.00	5,210.00
Disk tiller, 12-ft	1,570.00	2,520.00
Wheel tractor, 90-99 h.p.	10,800.00	18,800.00
Tandem disk harrow, 16-ft	2,050.00	4,520.00
Combine, large, self-prop	22,200.00	42,300.00
Corn planter, 4-row	1,830.00	4,450.00
Gasoline, farm del., gal	.328	.572
Diesel fuel, gal	.209	.451
Baler twine, 40-lb. bale	8.96	15.20

SUMMARY OF PROPOSED LEGISLATION

Section 1 allows the act to be cited as the Family Farm Credit Act of 1977.

Section 2 makes corporations and partnerships eligible for farm ownership loans as long as the entity does not become the operator of a larger than family-size farm. The members of the partnership or corporations would have to be members of a family. The credit elsewhere test would apply to both the entity and the stockholders or partners.

Section 3 authorizes farm ownership loans up to $225,000, instead of the present $100,000, and up to $300,000 for guaranteed loans. It eliminates the $225,000 total indebtedness restriction that may exist against a farm and replaces it with a more realistic figure of $450,000.

Section 4 deletes the requirement that the Secretary hold all required escrow funds in a segregated account.

Section 5 eliminates the maximum dollar limitation on the amount of new loans that may be held in the Ag. Credit Ins. Fund, as other funds administered by FmHA.

Section 6 adds a new section which would authorize the Secretary to purchase the guaranteed portion of any outstanding guaranteed loan from the holder and to use the assets of the Ag. Credit Ins. Fund and the Rural Development Ins. Fund for such purposes.

Section 7 eliminates the transfer of employment and overproduction determinations required by section 310B of the Consolidated Farm and Rural Development Act, as well as deleting the Dept. of Labor certification, where the FmHA financial assistance does not exceed $500,000 or where employment will not be increased by more than 20 employees.

Section 8 does for operating loans what section 2 does for farm ownership loans.

Section 9 allows operating loans to be used for farm facility improvements and authorizes farm operating loans up to $100,000, instead of the present $50,000, and up to $225,000 for guaranteed loans. Like section 2, it eliminates the requirement that the county committee certify as the maximum amount of such a loan.

Section 10 provides that the interest rate for guaranteed operating loans will be one negotiated between the borrower and lender.

Section 11 authorizes the consolidation of operating loans.

Section 12 specifies that an eligible partnership for an emergency loan must be a U.S. partnership. A similar requirement is already imposed on corporations.

Section 13 empowers the Secretary to establish an appeal procedure from determinations made by the county committees.

Section 14 exempts guaranteed loans from the credit graduation requirements.

Section 15 empowers other Fed. agencies to become jointly involved with the financing of any program FmHA can finance.

Section 16 authorizes the Secretary to withhold foreclosure action and permit a borrower to lease his farm or ranch to a third person for up to three years if the borrower is unable to meet the mortgage payments due to illness, disability, or other cause beyond his control and will likely be able to meet the required payments if permitted to lease his farm or ranch.

Section 17 makes the Emergency Livestock Credit Act permanent and raises the permissible guarantee to $500,000.

Section 18 authorizes the Secretary to make such rules and regulations necessary to carry out the provisions of this Act.

S. 2126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Farm Credit Act of 1977".

SEC. 2. Section 302 of the Consolidated Farm and Rural Development Act is amended by—

(a) deleting the language through the first comma and inserting the following: "The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers, and to private domestic corporations, partnerships, and other business entities engaged primarily and directly in farming or ranching, in the United States who individually or, in the case of a partnership, each member of the partnership is a member of the family and in the case of a corporation or other business entity, each person who owns any share or interest in the business entity is a member of the family, (1) are citizens of the United States,"; and

(b) inserting at the end thereof the following; "In the case of corporations, partnerships, and other business entities the family farm requirement of item (3) shall apply to the farm or farms in which the entity and each person who owns any share or interest in the business entity or partners, as applicable, have an ownership and operator interest and the requirement of item (4) shall apply both to the entity and each person who owns any share or interest in the business entity or partners. As used in this subsection, the term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.".

SEC. 3. Section 305 is amended by deleting the first sentence and inserting in lieu thereof the following: "The Secretary shall make or insure no loan under sections 302, 303, and 304 of this title which would cause (a) the unpaid indebtedness under these sections to any one borrower to exceed $450,000 of the value of the farm or other security, or (b) the loans under such sections to exceed $225,000, or in the case of a guaranteed loan to exceed $300,000.".

SEC. 4. Section 307(a) is amended by deleting in the unnumbered paragraph following subsection (a)(2) the words "as escrow agent".

SEC. 5. Section 309(f)(1) is amended by changing the period at the end of the first sentence to a semicolon and by deleting the second sentence which reads "The aggregate of the principal of such loans made and not disposed of shall not exceed $500,000,000 at any one time.".

SEC. 6. After section 309A add a new section 309B to read as follows:

"SEC. 309B. The Secretary in his discretion is authorized to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan guaranteed pursuant to this title and may use for such purchases funds from the Rural Development Insurance Fund in respect of rural development loans as defined in section 309A (a) and funds from the Agricultural Credit Insurance Fund in respect of all other loans under this title.".

SEC. 7. The language of restrictions appearing in section 310B is amended by adding in each of subsections (1), (2), and (3) after "312(b)" the following: ", except for cases where such assistance does not exceed $500,000 or for cases where direct employment will be increased by not more than twenty employees,".

SEC. 8. Section 311(a) is amended by—

(a) deleting the language through the first comma and inserting the following: "The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers, and to private domestic corporations, partnerships, and other business entities engaged primarily and directly in farming or ranching, in the United States who individually or, in the case of a partnership, each member of the partnership is a member of the family and in the case of a corporation or other business entity, each person who owns any share or interest in the business entity is a member of the family, (1) are citizens of the United States,"; and

(b) inserting at the end thereof the following; "In the case of corporations, partnerships, and other business entities the family farm requirement of item (3) shall apply to the farm or farms in which the entity or partners, as applicable, have an ownership and operator interest and the requirement of item (4) shall apply both to the entity and each person who owns any share or interest in the business entity or partners. As used in this subsection, the term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.".

SEC. 9. (a) Section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)) is amended by striking out the word "and" at the end of clause (9); striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "and (11) repairing, improving, or constructing any farm facility or building.".

(b) Section 313 of such Act (7 U.S.C. 1943) is amended by deleting at the end of clause (1) "$50,000," and inserting in lieu thereof "$100,000 or, in the case of a guaranteed loan, to exceed $225,000, or", by changing the comma following the word "program" to a period, and by deleting the balance of the sentence.

SEC. 10. Section 316 is amended by—

(a) inserting in the third sentence after the word "Loans" the phrase ", other than guaranteed loans,"; and

(b) adding a new sentence at the end of such section as follows: "Guaranteed loans made under this subtitle shall bear interest at such rate as may be agreed upon by the borrower and the lender.".

SEC. 11. (a) Section 317 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1947) is amended by striking out "except" in the parenthetical matter and inserting in lieu thereof "including consolidated loans made under section 318 of this Act, but not including loans made under".

(b) Subtitle B of such Act is amended by adding at the end thereof a new section as follows:

"SEC. 318. (a) Notwithstanding the provisions of sections 312 and 316 of this Act, and any other provision of law, two or more operating loans may be refinanced and consolidated under this subtitle at the request of the borrower, subject to the approval of the Secretary, without regard to whether such loans have been previously renewed.

"(b) In any case in which operating loans are refinanced and consolidated under this section, the Secretary may, in his discretion, release any or all of the security for the prior loans and require such new security as he deems necessary.

"(c) Consolidated loans made under this section shall bear interest at a rate computed in accordance with the provisions of section 316 and shall be payable in not more than ten years, but in no event may any such loan be made for a period longer than the useful life of the security therefor. The interest and maturity period of any such loan shall be computed from the date of consolidation thereof.".

SEC. 12. Section 321 of such Act is amended by adding to section 321(b)(2) after "partnership" the words "of the United States".

SEC. 13. Section 333(b) is amended by deleting the semicolon at the end thereof and inserting the following: ": *Provided, however*, That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee under this title, and for reversal or modification thereof should the facts warrant such action.".

SEC. 14. Section 333(c) is amended by inserting at the beginning thereof the following: "except for guaranteed loans,".

SEC. 15. At the end of such Act, after section 345, add a new section 346 to read as follows:

"SEC. 346. Notwithstanding any other provision of law, departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation with the Secretary by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or establishment, except that any limitation on joint participation is superseded by this Act.".

SEC. 16. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized, in any case in which he is required to satisfy the terms of any loan insured or guaranteed by the Farmers' Home Administration or in any case in which he is required to foreclose on a loan made by the Farmers' Home Administration and such action would result in the borrower of such loan losing his farm or ranch, the Secretary may withhold any foreclosure action and permit the borrower to rent or lease the farm or ranch to a third person for a temporary period of time, not to exceed 36 months, if the Secretary finds that the borrower—

(1) is unable to meet the mortgage pay-

ments on the farm or ranch because of illness, physical disability, or other cause beyond the control of the borrower, and

(2) will likely be able to meet the mortgage payments if permitted to rent or lease the farm or ranch.

SEC. 17. (a) Clause (3) of section 3(a) of the Emergency Livestock Credit Act of 1974 is amended to read as follows:

"(3) the loan is for the purpose of maintaining the operation of the loan applicant, and the total loans made to the loan applicant do not exceed the amount necessary to permit the continuation of his livestock operations at a level equal to its highest level during (A) the eighteen months immediately preceding the date of enactment of this Act in the case of loans made prior to the date of enactment of the Family Farm Credit Act of 1977, or (B) the five-year period immediately preceding the date of the loan application in the case of loans made after the date of enactment of the Family Farm Credit Act of 1977, but in no event may the total loans guaranteed under this Act for any loan applicant exceed $500,000 outstanding."

(b) Section 8 of such Act is amended to read as follows:

"SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

SEC. 18. The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions and purpose of this Act.

By Mr. McCLELLAN:

S. 2127. A bill to amend the Canal Zone Code with respect to the appointment and service of probation officers, and for other purposes; to the Committee on the Judiciary.

CANAL ZONE PROBATION OFFICER TRANSFER

Mr. McCLELLAN. Mr. President, I am introducing today a bill to provide for the transfer of the probation personnel from the Canal Zone Government to the Federal probation system. This legislation was proposed by the Judicial Conference of the United States and has the approval of the Governor of the Canal Zone.

With the revision of the Canal Zone Code in 1963, a probation parole unit was established in the Canal Zone under the administration of the Civil Affairs Director. The unit's duties are largely patterned upon section 3655, title 18, United States Code, which provides probation service to the U.S. district courts under the administration of the Director of Administrative Office of the U.S. Courts.

Mr. President, I am informed that the Canal Zone probation office is the only one under the American flag that is not part of the Federal system. The Probations offices of Guam, the Virgin Islands, and Puerto Rico are all under the Federal probation system. It is believed that a transfer would permit the Canal Zone probation officers to participate more fully in training programs and other considerations which might not otherwise be available to them.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point some pertinent documents on this measure.

There being no objection, the material was ordered to be printed in the RECORD as follows:

Hon. WALTER F. MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Judicial Conference of the United States I am transmitting herewith a draft bill, approved by the Conference at its March 10–11, 1977, meeting, to amend chapter 15 of title 3 of the Canal Zone Code (Act of October 18, 1962, 72A Stat. 70), to provide for the transfer of the probation personnel from the Canal Zone Government to the Federal Probation System.

Probation personnel serving the court for the District of the Canal Zone currently work under the direction of the Civil Affairs Director of the Canal Zone Government. The proposed transfer would ally them more closely with the United States District Court, permit them to be fully integrated into the Federal Probation System, and afford them the benefits of the training programs and administrative support that other personnel of the Federal Probation System currently enjoy.

Should the Congress wish any further information or testimony in regard to this proposed amendment, representatives of this office will be pleased to comply.

Respectfully submitted,

ROWLAND F. KIRKS,
Director.

REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES—MARCH 10–11, 1977, WASHINGTON, D.C.

PROBATION SYSTEM FOR THE CANAL ZONE

The Conference approved and authorized the Director of the Administrative Office to transmit to the Congress proposed legislation which would transfer the probation personnel of the United States District Court for the District of the Canal Zone from the Canal Zone Government to the federal probation system. Judge Wollenberg pointed out that such transfer would save the Canal Zone Government the expense of administering the office and would ally the probation personnel more closely with the United States District Court. It would have the further effect of permitting the Canal Zone office to be fully integrated into the federal probation system and would afford its personnel the benefits of training programs and administrative support that other personnel of the federal probation system currently enjoy.

CANAL ZONE GOVERNMENT,
Balboa Heights, Canal Zone, Apr. 27, 1977.

Hon. GUTHRIE F. CROWE,
U.S. District Judge for the District of the Canal Zone, Balboa Heights, Canal Zone

DEAR JUDGE CROWE: This is in response to your letter of January 27, 1977 concerning a proposal to transfer the probation office of the district and magistrates' courts in the Canal Zone to the Administrative Office of U.S. Courts.

Our General Counsel has now completed his study of the proposal and advises that the same is legally unobjectionable as long as it causes no diminution of this office's authority with respect to parole. As I understand it, the Administrative Office is in accord with my retention of control over the parole function of the probation officers and, accordingly, I have no objection to the introduction of legislation necessary to effect the transfer.

With regard to the draft bill which accompanied your letter, our review indicates that there may be some need for revision. I am enclosing for your consideration a legislative proposal prepared by our legal staff which I believe would, if enacted, make the appropriate changes to the Canal Zone and United States codes.

Sincerely yours,

H. R. PARFIT,
Governor.

By Mr. INOUYE:

S. 2128. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise today to introduce a bill which I believe will have an important effect on the tax relief this country provides for elderly persons with little or no social security.

For many of our citizens, old age is not a time of peace but of impoverishment. Elderly people find themselves on a fixed income, the value of which is constantly being gnawed away by inflation. At the same time, they are finding themselves more and more in need of expensive medical services. Recognizing their predicament, the Federal Government has long had a policy of according them some form of tax relief.

The Government achieves this objective for the overwhelming majority of the elderly population by granting tax-free status to income received from the social security system. For those not covered by social security, we attempt to achieve this objective through the tax credit for the elderly enacted last year as part of the Tax Reform Act of 1976. However, I regret to say that experience with the tax credit for the elderly seems to indicate that it has structural deficiencies and inadequate credit levels which make its intended relief grossly inadequate. Ironically, enactment of the tax credit for the elderly has also contributed significantly to an ever-widening gap between the tax treatment of these two groups of older Americans, those who receive social security and those who do not.

The purpose of this legislation is to rectify the deficiencies in the tax credit for the elderly by providing permanent and slightly more substantial relief for those not covered by social security. This legislation attempts to do this by raising the maximum base figures used in computing the credit and by abolishing the present phaseout provisions. Additionally, the bill contains an escalator clause which is designed to keep the credit it provides at a meaningful level as the cost of living increases. I urge early and favorable action on this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 37 of the Internal Revenue Code of 1954 (relating to limitations on credit for the elderly) is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year."

(b) Paragraph (2) of section 37(b) of such Code (defining initial amount) is amended—

(1) by striking out "$2,500" each place it appears and inserting in lieu thereof "$3,000",

(2) by striking out "$3,750" and inserting in lieu thereof "4,500", and

(3) by striking out "$1,875" and inserting in lieu thereof "$2,250".

(c) Subsection (b) of section 37 of such Code (relating to section 37 amount) is amended by adding at the end thereof the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1977, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of such dollar amount (without regard to this paragraph) multiplied by the percentage (if any) by which the Consumer Price Index prepared by the Department of Labor for July of such calendar year exceeds such index for July of 1977. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be increased to the next higher multiple of $10."

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

By Mr. PACKWOOD (for himself, Mr. HATFIELD, Mr. HASKELL, Mr. JAVITS, Mr. STEVENS, and Mr. GRAVEL):

S. 2130. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units; to the Committee on Finance.

Mr. PACKWOOD. Mr. President, Senators HATFIELD, HASKELL, JAVITS, STEVENS, GRAVEL and I are today introducing the Indian Tribal Government Tax Status Act.

This bill is virtually identical to H.R. 4089, which was introduced in the House of Representatives by Congressman ULLMAN on February 24, 1977. Hearings were held before the House Ways and Means Committee on September 7, 1977, and the Subcommittee on Miscellaneous Revenue Measures met yesterday to mark up the bill. We are hopeful that favorable action can be taken by both Houses in the near future.

The basic purpose of this bill is to provide recognized Indian tribes and Alaskan Native villages with generally the same tax treatment as is presently available to other governmental units. Indian tribes and Alaskan Native villages already perform many substantial government functions, such as law enforcement, land use planning, water, sewer and garbage services, housing, and social and health programs. The government role provided by Indian tribes is recognized in the revenue sharing program, which provides funds for Federal or State-recognized Indian tribes and Alaskan Native villages which perform substantial government functions. Yet under our present tax laws, tribes which perform these government functions do so without the tax status enjoyed by local governments providing the same service.

The Indian Tribal Government Tax Status Act would remedy this inequitable situation. This bill would extend to Indian tribal governments exemption from several Federal excise taxes, allows contributions to Indian tribal governments to be tax deductible, allows Indian tribal governments to issue tax-exempt bonds, allows citizens paying taxes to Indian tribal governments to deduct them for Federal income tax purposes, and provides that Indian tribal governments will be taxed like local governments in several other respects.

The Indian Tribal Government Tax Status Act would reaffirm the goal of self-determination for Indians and Alaskan Natives.

I ask unanimous consent that the Indian Tribal Government Tax Status Act be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as "The Indian Tribal Government Tax Status Act".

(b) Whenever in this Act an amendment is made to a section or other provision, the amendment is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

The Congress finds that—

(a) the governmental status and powers of Indian tribes have been repeatedly recognized and affirmed by the Congress, the executive branch, and the courts from the earliest days of the Republic, and

(b) notwithstanding such recognition, Indian tribes are subject to certain Federal taxes from which States and subdivisions of States are exempt, and

(c) the exemption of Indian tribal governments from such taxes would be consistent with the Federal laws and treaties recognizing the governmental status of Indian tribes and with the role of Indian tribes in providing public service to Indians.

SEC. 3. RECOGNIZED INDIAN TRIBES TREATED AS STATES FOR CERTAIN PURPOSES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Provisions Affecting More Than One Subtitle

"Sec. 7871. Recognized Indian tribes treated as States for certain purposes.

"SEC. 7871. RECOGNIZED INDIAN TRIBES TREATED AS STATES FOR CERTAIN PURPOSES.

"A recognized Indian tribe shall be treated as a State—

"(1) for purposes of determining whether contributions or transfers to or for the use of such a tribe are deductible under—

"(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

"(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers for public, charitable, and religious uses), or

"(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

"(2) for purposes of any exemption from, or refund of, an excise tax imposed by—

"(A) chapter 31 (relating to tax on special fuels),

"(B) chapter 32 (relating to manufacturers excise taxes),

"(C) subchapter B of chapter 33 (relating to communications excise tax), or

"(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

"(3) for purposes of section 164 (relating to deduction for taxes);

"(4) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions); and

"(5) for purposes of—

"(A) section 37(e)(8)(A) (relating to certain public retirement systems),

"(B) section 41(c)(4) (defining State for purposes of credit for contributions to candidates for public offices),

"(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants), and

"(D) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities).

For the purposes specified in the preceding sentence and for purposes of section 103, a subdivision of a recognized Indian tribe shall be treated as a political subdivision of a State only if such subdivision is recognized by the Secretary, after consultation with the Secretary of the Interior, as performing one or more substantial governmental functions."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER C. Provisions affecting more than one subtitle".

SEC. 4. INTEREST ON GOVERNMENTAL OBLIGATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 103(a) (relating to interest on certain governmental obligations) is amended by striking out "or a possession of the United States" and inserting in lieu thereof "a possession of the United States, or a recognized Indian tribe,".

(2) Subsection (a) of section 103 is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any obligation (other than an industrial development bond) issued by a recognized Indian tribe all or a major portion of the proceeds of which are to be used directly or indirectly in any commercial or industrial activity.".

(b) INDUSTRIAL DEVELOPMENT BONDS.—

(1) Subparagraph (A) of section 103(b)(3) is amended by inserting "(including a recognized Indian tribe)" after "a governmental unit".

(2) Section 103(b) is amended by adding at the end thereof the following new paragraph:

"(8) OBLIGATIONS ISSUED BY RECOGNIZED INDIAN TRIBES.—An industrial development bond issued by a recognized Indian tribe may be treated as described in subsection (a)(1) only if—

"(A) the principal activities of the trade or business are to be carried on in the area reserved—

"(i) by Federal statute, Executive order, or treaty to the Indian tribe issuing the obligation, or

"(ii) by order of the Secretary of Interior to such tribe prior to the date of the enactment of this paragraph, except that lands added to existing reservations by action of the Secretary of the Interior through consolidation or land exchange programs will be considered parts of the original reservation for purposes of this paragraph.

"(B) substantially all of the activities of the trade or business to be carried on outside of such area are purchasing, marketing, or similar activities directly related to the activities described in subparagraph (A)."

(3) Section 103(b)(6)(E) is amended by adding at the end thereof the following new sentence: "Where there is an issuer which is a recognized Indian tribe and another issuer, this subparagraph shall be

applied separately with respect to each such issuer."

SEC. 5. DEFINITION OF RECOGNIZED INDIAN TRIBE.

Subsection (a) of section 7701 (relating to definitions is amended by adding at the end thereof the following new paragraph:

"(37) RECOGNIZED INDIAN TRIBE.—The term 'recognized Indian tribe' means any tribe, band, community, village, or group of Indians or Alaska Natives which is recognized by the Secretary, after consultation with the Secretary of the Interior, as performing substantial governmental functions."

SEC. 6. EFFECTIVE DATES.

The amendments made by sections 3, 4, and 5—

(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1954, shall apply to taxable years beginning after September 30, 1977,

(2) insofar as they relate to chapter 11 of such Code, shall apply to the estates of decedents dying after September 30, 1977,

(3) insofar as they relate to Chapter 12 of such Code, shall apply to gifts made after September 30, 1977, and

(4) insofar as they relate to taxes imposed by subtitle D of such Code, shall take effect on October 1, 1977.

Mr. JAVITS. Mr. President, I am pleased to join my distinguished colleague from Oregon as a cosponsor of this legislation. Senator PACKWOOD has set forth the case most thoroughly. I wish to note that Indian tribes in my own State of New York support this measure as a further step in the important goal of fostering Indian tribal self-government. I ask unanimous consent that the resolution supporting this bill, unanimously adopted by one of these tribes, the Seneca Nation of Indians, be inserted in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION—H.R. 4089

Motion by Floyd Bucktooth, Seconded by Francis George, to adopt the following Resolution:

Whereas the effective exercise of sovereignty by the Seneca Nation of Indians of New York and the provision of adequate services to members of the Seneca Nation depend on the existence of a sound and independent revenue base; and

Whereas the ability of the Seneca Nation of Indians to establish a sound and independent revenue base is severely impaired by the present failure of the Internal Revenue Code of 1954 to accord to Indian tribal governments the benefits bestowed upon other units of government, including the deductibility of taxes and contributions paid to them, their exemption from various federal excise taxes and the exempt status of interest paid by them to holders of their obligations; and

Whereas the Indian Tribal Government Tax Status bill (H.R. 4089) now pending in the United States House of Representatives would equalize the federal tax treatment of Indian tribal governments' revenue measures with that now enjoyed by other units of government; and

Whereas such equalized federal tax treatment conforms to the federal policy of fostering Indian tribal self-government embodied, *inter alia*, in the Indian Self-Determination and Education Assistance Act, P.L. 93-638;

Now, therefore, be it resolved that the Seneca Nation of Indians, acting through the Seneca Council, hereby endorses the federal tax policies embodied in the Indian Tribal Government Tax Status bill (H.R. 4089), and

Be it further resolved that the Seneca Nation of Indians hereby respectfully requests that Senators Jacob K. Javits and Daniel Patrick Moynihan of New York act as co-sponsors of the Senate companion bill to H.R. 4089 to further Indian self-determination and to strengthen Indian tribal government.

By Mr. WILLIAMS:

S. 2131. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WILLIAMS. Mr. President, today, I am introducing a bill to amend the Securities Exchange Act of 1934 to require the Federal bank regulatory agencies to adopt rules and regulations to govern banks effecting transactions in securities for their customers. The bill is designed to subject banks which offer services which are the functional equivalent of those provided by broker-dealers to the investor protection safeguards which have been embodied in the Securities Exchange Act since 1934. The bill would eliminate regulatory disparities which hold significant potential for injury to investors while at the same time avoid excessive regulation or duplication by maintaining the current pattern of regulation of bank activities by the Federal banking agencies.

This bill is the result of a study of bank securities activities which the Congress directed the Securities and Exchange to conduct in 1975. Specifically, the SEC was directed to study the extent to which banks maintain accounts on behalf of public customers for buying and selling publicly traded securities and determine whether the exclusions of banks from the statutory definitions of "broker" and "dealer" are consistent with the protection of investors and the other purposes of the Exchange Act. In addition, the Congress directed the Commission to study the adequacy of the regulation of banks insofar as they engage in securities activities.

The Commission submitted its report to the Congress in three installments. The final report was transmitted on June 30, 1977. I should note that the Committee on Banking, Housing and Urban Affairs has printed this study as a committee print in order to disseminate the important information it contains as broadly as possible. Together with the two earlier installments, the final report represents a significant step toward understanding the expanding and rapidly changing nature of the financial services industry. I believe the Commission's work deserves careful consideration and prompt attention by the Congress and by the Federal banking agencies that regulate and supervise commercial banks.

While the Commission's contribution is significant, it is only part of much larger reexamination of the public policies, laws, and regulations that form the cornerstones of our highly successful financial system. As my colleagues are aware, the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs is conducting a broader inquiry into the Federal banking and securities laws. The subcommittee's report is scheduled for completion during the current Congress, and will result in legislation designed to clarify, modify, or reaffirm the public policies and laws developed in the 1930's.

At the present time, however, the investigatory work of the Securities and Exchange Commission has established that some bank brokerage and investment management activities are not subject to an entirely adequate regulatory structure. It reinforces a number of concerns raised in the subcommittee's earlier hearings on bank securities activities. The Commission's final report identifies specific inadequacies and recommends a combination of both administrative and legislative efforts designed to enhance those basic investor safeguards currently available to bank customers. In addition, the Commission has identified regulatory disparities which, unless corrected, may result in undetected securities law violations resulting from bank securities activities.

Accordingly in view of both the Commission's willingness to submit legislation to effectuate its recommendations and its expertise in the regulation of securities activities for the protection of investors, I asked the Commission to prepare and submit legislation to implement the recommendations of the final report. It is this legislation which I am introducing today so that necessary and desirable improvements in the basic system of investor protection can be made without further delay. The SEC's legislation can then be considered in connection with the subcommittee's interim report scheduled to be completed in the next several months.

Mr. President, I want to stress that this bill, as well as the underlying report on which it is based, is only the beginning of a long and comprehensive reexamination of the changing nature of key financial institutions and the adequacy of existing regulation. For example, there are many aspects of bank securities activities that the Commission's study and legislative recommendations do not and were not intended to address. However, this bill will allow the commencement of legislative consideration to assure the application of basic investor safeguards on behalf of public customers in connection with bank securities services.

Comprehensive financial reform has been the subject of intensive study and legislative effort by Congress and the executive branch over the last 10 years. Attention has been given to both the competitive and regulatory problems of the securities industries and various depository institutions; such as commercial banks, savings and loans, mutual savings banks and credit unions, the needs of customers and the national interest in an efficient financial system. The study completed by the Commission, and the one now in process by the Subcommittee on Securities, will contribute to the Congress ability to chart, through additional legislation, the course for comprehensive financial reform.

Mr. President, the securities markets play a pivotal role in the vitality of our economy. I believe a reexamination of

the provisions of both the banking and securities laws that set the pattern of regulation, and so directly affect the functioning of the marketplace, must be undertaken if our financial services industry is to be attuned to the needs of the 1980's and beyond. The bill which I am introducing today will begin the analysis of necessary improvements in the statutory and regulatory framework the financial services industry is presently operating under while continued attention can be focused on long-term reforms.

Mr. President, I ask unanimous consent that the transmittal letter from Chairman Harold M. Williams of the Securities and Exchange Commission, the accompanying materials, and the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bank Securities Services Reform Act of 1977".

SEC. 2. The Securities Exchange Act of 1934 is amended by inserting after section 15B the following new section:

"TRANSACTIONS IN SECURITIES BY BANKS FOR CUSTOMERS

"SEC. 15C. (a)(1) Each appropriate regulatory agency shall adopt rules and regulations as necessary or appropriate in the public interest and for the protection of investors with respect to effecting transactions in securities for customers by banks for which it is the appropriate regulatory agency. The rules and regulations of each appropriate regulatory agency with respect to such transactions, at a minimum, shall—

"(A) prescribe standards of competence and supervision for persons associated with a bank. In connection with such standards, the appropriate regulatory agency may require such persons to pass specified examinations with respect to Federal securities laws, the operation of the securities markets and other relevant matters;

"(B) prescribe records to be made and kept and the periods for which such records shall be preserved; and

"(C) prescribe transactional or periodic reports to customers concerning such transactions.

"(2) Each appropriate regulatory agency shall adopt specific procedures to monitor and enforce compliance with this section and rules and regulations thereunder and other provisions of the Federal securities laws. In this connection, the appropriate regulatory agency shall ensure that bank examiners receive training regarding the Federal securities laws and the operation of the securities markets and other relevant matters.

"(3) In acting pursuant to this subsection, each appropriate regulatory agency may classify persons, securities, transactions, reports, procedures and other matters, and prescribe greater, lesser, or different requirements for different classes thereof.

"(4) In acting pursuant to this subsection, each appropriate regulatory agency regularly shall consult and request the views of the Commission, and shall coordinate with the other appropriate regulatory agencies to ensure insofar as practicable the uniformity of rules, regulations, examination procedures and bank examiner training programs.

"(b)(1) Each appropriate regulatory agency shall advise the Commission by quarterly reports of the identity of those banks for which examination reports have been completed (and received by the appropriate regulatory agency, in the case of an examination by State authorities) during such period and which effected transactions in securities for customers. Such information shall be furnished to the Commission not later than 60 days after the end of each quarterly period.

"(2) Upon the request of the Commission, each appropriate regulatory agency shall furnish the Commission with those portions of an examination report, and any data supplied to it in connection with an examination, regarding a bank's effecting transactions in securities.

"(3) Upon having reasonable cause to believe that there may exist a violation of Federal securities laws by a bank or a person associated with a bank, the appropriate regulatory agency for such bank shall notify the Commission of its belief and the grounds therefor.

"(c) In administering and enforcing compliance with this section and rules and regulations thereunder, the appropriate regulatory agency shall consider and act in the public interest and for the protection of investors.

"(d)(1) No bank shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in contravention of any rule or regulation of its appropriate regulatory agency with respect to banks' effecting transactions in securities for customers.

"(2) The appropriate regulatory agency for a bank may, in accordance with section 8 of the Federal Deposit Insurance Act, enforce compliance by such bank or a person associated with such bank with the provisions of this section and the rules and regulations thereunder. For purposes of the preceding sentence, any violation of any such provision shall constitute adequate basis for the issuance of an order under section 8 (b) or 8(c) of the Federal Deposit Insurance Act, and the customers for whom the bank effects transactions in securities shall be deemed to be 'depositors' as that term is used in section 8(c) of that Act.

"(3) Nothing in this section shall be construed to impair or limit the power of the Commission or the appropriate regulatory agency to initiate any other action pursuant to this title or any other provision of law.

"(e) For purposes of this section—

"(1) the term 'customer' includes, among other persons, a person for whom a bank acts as agent or trustee;

"(2) The term 'Federal securities laws' means this title, the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940, and any rules and regulations under such Acts;

"(3) the term 'person associated with a bank' means any person directly engaged in the management, direction, supervision or performance of a bank's effecting transactions in securities for customers, and any person directly or indirectly controlling such activities or controlled by a bank in connection with such activities; and

"(4) the term 'security' means any security as defined in section 3(a)(10) of this title other than (A) a security which is issued or guaranteed as to principal or interest by the United States, or (B) a municipal security as defined in section 3(a)(29) of this title.".

SEC. 3. Section 3 (a) (34) of the Securities Exchange Act of 1934 is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) When used in section 15C of this title—

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or, in cases other than a bank specified in clause (i) or (iii) of this subparagraph, a bank which is a bank holding company or subsidiary thereof; and

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System).".

WASHINGTON, D.C.,
September 15, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Please find enclosed, pursuant to your request of July 13, 1977, legislation prepared by the Commission which would implement the recommendations contained in our Final Report on Bank Securities Activities ("Final Report").

The proposed legislation would amend the Securities Exchange Act of 1934 in order, among other things, to mandate the appropriate Federal bank regulatory agencies to adopt rules and regulations to govern banks effecting transactions in securities for their customers, as recommended in the Final Report. The amendments take the form of two suggested additions to the Exchange Act, a new Section 15C and an amendment to a definitional provision in Section 3(a)(34). We are also enclosing a legislative comment on the proposals, including a section-by-section analysis. Should you or your staff have any questions with respect to these materials, we would be pleased to be of assistance.

The proposed legislation strictly adheres to the scope of the Commission's study and the recommendations therein made. As pointed out in the attached legislative analysis, there are areas (such as bank transactions in municipal and governmental securities for customers, which the Commission was not authorized to study, and which therefore are not included in the proposed legislation) which are similar to the areas covered by the study and which may well be appropriate for further legislative attention.

The views herein are those of the Commission and do not necessarily reflect the views of the President. Our views are being submitted simultaneously to the Office of Management and Budget, and we will inform you of any advice we receive from that office concerning the relationship of our views to the program of the Administration.

As is our usual practice with legislative recommendations prepared by us, we are also submitting copies of these proposals to the Speaker of the House, the President of the Senate and the Chairman of the House Subcommittee on Consumer Protection and Finance. In addition, we are sending a copy of the legislative recommendations to the Chairman of the House Subcommittee on Oversight and Investigations.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

PROPOSED LEGISLATIVE COMMENT

I. INTRODUCTION

Pursuant to a Congressional direction in the Securities Acts Amendments of 1975, the Securities and Exchange Commission (the "Commission") conducted a study of the extent to which banks maintain accounts on behalf of public customers for buying and selling publicly traded securities and whether the exclusions of banks from the definitions of "broker" and "dealer" in the Securities Exchange Act of 1934 (the "Exchange Act") are consistent with the protection of investors and other purposes of that Act. In this regard, the Congress directed the Commission to study the adequacy of the regulation of banks insofar as they engage in secu-

rities activities and to report to the Congress the results of its study together with such recommendations for legislation as it deemed advisable.

In the course of the study, the Commission submitted to the Congress three Reports on Bank Securities Activities. The Initial Report presented detailed factual and statistical analyses of four bank-sponsored brokerage-type services which are similar to services offered by broker-dealers. The Second Report set forth the comparative regulatory framework relating to banks and broker-dealers in offering and operating each of the four services from the point of view of investor protection. The Final Report examined the corporate financing services and trust department securities trading activities of banks. The Final Report also included the Commission's conclusions and recommendations for legislation regarding all of these bank securities activities.

Although the Commission concluded that eliminating the exclusions of banks from the definitions of "broker" and "dealer" in some respects would result in duplicative and unduly burdensome regulation, the Commission established that some bank brokerage and investment management activities are not subject to an entirely adequate regulatory structure. Such documentation reinforced a number of concerns raised by earlier Congressional hearings on bank securities activities. In addition, the Commission's study identified regulatory disparities which, unless corrected, may result in undetected securities law violations resulting from bank securities activities.

The Commission in its Final Report submitted to the Congress specific recommendations, which are incorporated in this legislation, to enhance those basic investor safeguards currently unavailable to bank customers and to prevent regulatory disparities from recurring with the passage of time. This legislation would amend the Exchange Act by adding a new Section 15C.

II. SECTION-BY-SECTION ANALYSIS

Section 15C(a)(1)—Appropriate Regulatory Agency Rules and Regulations:

The Commission's study established that the federal banking agencies in many cases have not adopted specific requirements relating to important areas of investor protection regarding securities transactions effected for customers. Such areas include the competency and supervision of personnel, record-keeping requirements and transactional and periodic reports to customers. Consequently, actual bank practices in these areas have varied and have not always adequately ensured investor protection.

Therefore, Section 15C(a)(1) would provide a clear statutory basis and a Congressional mandate for the federal banking agencies to adopt rules and regulations to govern banks' effecting transactions in securities for customers, specifically including the areas of bank practices discussed above. It further would establish a statutory framework which would provide through Section 15C(a)(3) for coordinating among the federal banking agencies to ensure the uniformity of their regulating securities transactions for customers, for consulting the Commission to take advantage of that agency's expertise in securities matters, and, through other provisions of law, for providing the public an opportunity to comment upon proposed rules and regulations.

Section 15C(a)(2)—Compliance Procedures:

Bank examinations have focused principally upon matters which affect bank solvency. However, the significant role of banks in effecting securities transactions for customers require that investor protection and compliance with the federal securities laws also should be primary factors in examining these activities. Furthermore, the federal banking agencies do not have uniform standards in this area regarding the conduct of such examinations and in training bank examiners. Therefore, Section 15C(a)(2) would direct each appropriate regulatory agency to adopt specific examination and enforcement procedures regarding such securities transactions. Additionally, each agency would be required to specifically train its bank examiners in the requirements of the federal securities laws, in the operation of the securities markets, and other relevant matters.

Section 15C(a)(3)—Classification:

The appropriate regulatory agency may determine that under limited circumstances it is consistent with the public interest and the protection of investors to adopt different requirements or procedures regarding certain banks, persons associated therewith, transactions or classes of securities or other matters under this Section. For example, banks which effect only small transactions and which are wholly dependent upon the broker-dealer to obtain best executive might be excluded from competency requirements regarding trading skills. In this connection, Section 15C(a)(3) would provide in part that the appropirate regulatory authorities may classify persons, securities, transactions, reports, procedures and other matters, and prescribe greater, lesser, or different requirements for different classes thereof.

Section 15C(a)(4)—Consultation and Cooperation:

In order to take advantage of the Commission's expertise in such matters and to reduce the likelihood of disparities in the regulation of functionally similar activities as between securities regulation and banking regulation, each appropriate regulatory agency in acting pursuant to Section 15C(a) would be directed to consult regularly with the Commission. This consultation would include the need for revisions or additions to such agency's rules and regulations. This procedure would increase the cooperation between the Commission and the federal banking agencies presently mandated by the Exchange Act under Section 17A(d)(3)(A)(i), which directs prior consultation among the Commission and the appropriate regulatory agency regarding rules and regulations that concern a clearing agency or transfer agent, and under Section 13(f)(4), which directs the Commission to consult the federal banking agencies and others in exercising its authority regarding reports by institutional investment managers.

Furthermore, each federal banking agency would be required to coordinate with the other such agencies to ensure insofar as practicable the uniformity of rules, regulations, examination procedures and bank examiner training programs regarding banks' effecting securities activities for customers.

Section 15C(b)—Notice to the Commission of Examinations, Request of the Commission for Examination Reports, and Notice to the Commission of Possible Securities Law Violations:

Paragraph (1) of Section 15C(b) would require each appropriate regulatory agency to report quarterly (not later than 60 days after the end of each quarterly period) to the Commission the identity of those banks for which examination reports have been prepared during such period and which affected transactions in securities for customers. Paragraph (2) of Section 15C(b) would direct each such agency to furnish upon request of the Commission any portion of an examination report, and any data supplied to such agency in connection with an examination regarding a bank's effecting such transactions. This procedure, which is similar to the procedure mandated by Exchange Act Section 17(c)(3) for examination of bank transfer agents, would contribute to the uniformity of such examination and would provide the Commission with an ongoing awareness of the manner in which these bank securities activities are conducted.

Paragraph (3) of Section 15C(b) would require the appropriate regulatory agency to notify the Commission in the event that it has reasonable cause to believe that there may exist a violation of federal securities laws by a bank or a person associated with a bank. Notification of such belief and the grounds therefor would assist the Commission in performing its responsibilities under the federal securities laws and permit uniform enforcement of those laws.

Although it would not be specifically required by this legislation, it is understood that the Commission would continue its practice of cooperating with the appropriate regulatory agency in connection with entering formal orders of investigation or commencing proceedings against banks or persons associated with banks.

Section 15C(c)—Public Interest and Protection of Investors:

In administering and enforcing compliance with Section 15C and rules and regulations thereunder, the appropriate regulatory agency would be required to consider and act in the public interest and for the protection of investors.

Section 15C(d)—Enforcement:

Paragraph (1)—This paragraph would provide that no bank shall effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security in contravention of any rule or regulation of an appropriate regulatory agency with respect to banks' effecting transactions in securities for customers.

Paragraph (2)—This paragraph would provide that the appropriate regulatory agency may enforce compliance by such bank or a person associated with such bank in accordance with Section 8 of the Federal Deposit Insurance Act. Any violation of this section or any rule or regulation thereunder would constitute a violation of the Federal Deposit Insurance Act.

Paragraph (3)—Nothing in Section 15C would be construed to impair or limit the power of the Commission or the appropriate regulatory agency to initiate any other action pursuant to the Exchange Act or any other provision of law.

Section 15C(e)—Definitions:

Section 15C(e) defines certain terms for purposes of Section 15C.

Paragraph (1)—The term "customer" would include, among other persons, a person for whom a bank acts as agent or trustee.

Paragraph (2)—The term "federal securities laws" would mean the Exchange Act, the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940, and any rules and regulations under such acts.

Paragraph (3)—The term "person associated with a bank" would mean any person directly engaged in the management, direction, supervision or performance of a bank's effecting transactions in securities for customers, and any person directly or indirectly controlling such activities or controlled by a bank in connection with such activities.

Paragraph (4)—The term "security" would mean any security as defined in Section 3(a)(10) of the Exchange Act other than (A) a security which is issued or guaranteed as to principal or interest by the United States or (B) a municipal security as defined in Section 3(a)(29) of the Exchange Act.

The Commission was not authorized to examine banks' transacting for customers in those securities which are exempted from the definition of securities in this paragraph. However, to the extent that such transactions are similar to transactions in those securities included in that definition, bank customers may be in need of the investor safeguards which would be provided by this legislation. Whether to provide this protection may be an appropriate subject for further legislative inquiry.

Section 3(a)(34)(G)—Appropriate Regulatory Agency:

Section 3(a)(34)(G) would define the term "appropriate regulatory agency" for purposes of Section 15C to mean (i) the Comptroller, in the case of a national or District of Columbia bank, (ii) the Federal Reserve Board in the case of a state member bank, or, in cases other than a bank specified in clause (i) or (iii) of this subparagraph, a bank which is a bank holding company or subsidiary thereof; and (iii) the Federal Deposit Insurance Corporation in the case of any other bank whose deposits are insured by that Corporation (other than a member of the Federal Reserve System). This definition would be similar to the other definition of that term in Section 3(a)(34).

To be within this subparagraph, bank holding companies and their subsidiaries must be themselves "banks", as that term is defined in the Exchange Act.

This subparagraph would not include non-deposit trust companies or banks whose deposits are not insured by the Federal Deposit Insurance Corporation, when they are is not a bank holding company or a subsidiary thereof. Federal regulation of such banks, which are relatively few in number, may be an appropriate matter for further legislative inquiry.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. GOLDWATER, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 247, to provide recognition to the Women's Air Forces Service Pilots.

S. 1178

At the request of Mr. THURMOND, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 1178, to amend the Communications Act of 1934.

S. 1726

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1726, a bill to amend the Small Business Act to declare a national small business economic policy.

S. 1810

At the request of Mr. MCCLURE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1810, relating to strategic stockpile goals.

S. 1838

At the request of Mr. NELSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1838, a bill to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees.

S. 1974

At the request of Mr. NELSON, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 1974, the Regulatory Flexibility Act.

S. 2124

At the request of Mr. DECONCINI, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2124, to increase the tariff on imported copper.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Nebraska (Mr. CURTIS) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from Maine (Mr. MUSKIE) and the Senator from Alabama (Mr. ALLEN) were added as cosponsors of Senate Concurrent Resolution 26.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Concurrent Resolution 44, recognizing the contributions of Gen. Thaddeus Kosciuszko.

SENATE JOINT RESOLUTION 35

At the request of Mr. INOUYE, the Senators from North Carolina (Mr. HELMS and Mr. MORGAN) were added as cosponsors of Senate Joint Resolution 35, designating Municipal Clerks' Week.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 69, requiring each executive department and agency to designate a small business advocate.

SENATE JOINT RESOLUTION 80

At the request of Mr. MATHIAS, the Senator from Arizona (Mr. DECONCINI), the Senator from Indiana (Mr. BAYH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Joint Resolution 80, relating to National Law Student Recognition Day.

AMENDMENT NO. 876

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. PELL) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 876, intended to be proposed to S. 2108, to amend the Indochina Migration and Refugee Assistance Act.

AMENDMENT NO. 980

At the request of Mr. WEICKER, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of amendment No. 980, to be proposed to the bill (H.R. 9005) making appropriations for the District of Columbia for 1978.

SENATE RESOLUTION 266 AND SENATE RESOLUTION 267—TWO ORIGINAL RESOLUTIONS REPORTED TO PAY GRATUITIES

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolutions:

S. RES. 266

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to the First National Bank of Nevada, Las Vegas, Nevada, as Guardian of the Estate of Patricia A. Morton, daughter of Jean N. Morton, an employee of the Senate at the time of her death, a sum equal to 5 months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. RES. 267

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ernest G. Catucci; Enrico G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci and Kenneth N. Catucci, sons of Pietro G. Catucci and Geralyn Humphries; Christine Reeves and Tinalynn Catucci, daughters of Pietro G. Catucci, an employee of the Senate at the time of his death, a sum to each equal to one tenth of nine and one half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 990

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENT NO. 991

(Ordered to be printed and to lie on the table.)

Mr. HASKELL. Mr. President, a problem which continues to persist throughout several drafts of the natural gas bill is the proper definition of what constitutes new onshore gas. The definition contained in the Jackson amendment to S. 2104 is based on arbitrary distances—2.5 miles—from an old well and arbitrary depths—1,000 feet—below an old well. Arbitrary parameters, though easy to administer, are obviously inappropriate. New reservoirs are found without regard to these parameters.

As stated in a publication of the West Texas Geological Society:

> The proposed 2½ miles and 1000 feet deeper limits are not in keeping with reality in West Texas and South East New Mexico.

Distance and depth should not be the determining factors. Rather, new gas should be defined as gas derived from a newly discovered reservoir, as certified by a qualified geologist. I think we can all agree that a geologist is the person most capable of identifying whether the character of the gas and geological structure indicate that the gas indeed emanates from a new reservoir.

The definition I propose places the determination in the hands of qualified geologists. The Federal Energy Regulatory Commission would be required to review the Secretary's findings within 90

days and render its decision on whether the gas is "new" or not. This provision is designed to provide realism in the determination of what is "new" gas.

AMENDMENT NO. 992

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 993

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 994

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 995, 996, AND 997

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 998 THROUGH 1004

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted seven amendments intended to be proposed by him to the bill (S. 2104), supra.

NOTICES OF HEARINGS

SENATE SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business has rescheduled a hearing on the Small Business Venture Capital Act of 1977 (S. 1815) and also on the minority enterprise small business investment companies (MESBIC) legislation.

The hearing which was scheduled to be held on Tuesday, September 27 will now be held on Monday, October 3 in room 424 of the Russell Senate Office Building at 10 a.m.

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government will be holding oversight hearings on the Government in the Sunshine Act on Wednesday, September 28, 1977.

The hearing will be held in room 1224, Dirksen Senate Office Building at 10 a.m. Please direct any question to Mr. Ronald A. Chiodo, subcommittee chief counsel and staff director (224-0211).

ADDITIONAL STATEMENTS

MESSAGE FOR RED CHINA

Mr. GOLDWATER. Mr. President, an unusual thing happened in Washington the other day. It was unusual in that it should have occurred many, many months ago. Our Secretary of State visited with Ambassador James Shen who represents the Republic of China on Taiwan. Those are the free Chinese, not those living in slavery on the mainland. A meeting like this would not usually cause much attention, but when Ambassador Shen has been purposely ignored even insulted by my government, I long ago took offense of this and wrote my President my feelings about it. I am grateful now that our Secretary of State has finally allowed Ambassador Shen to visit because the Republic of China has a far better message to convey to our Secretary of State than the Communists who control Red China. In the Arizona Republic following this meeting was an editorial on the subject and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MESSAGE FOR RED CHINA

Ambassador James Shen, who represents the Republic of China (Taiwan) in Washington called on Secretary of State Cyrus Vance the other day.

Ordinarily such a meeting would attract little attention. When a new administration comes to power, all of the 150 or so foreign ambassadors in Washington want to pay their respects to the new secretary of state.

But Vance had been putting Shen off, not wanting such talk to recognition of National China to hinder his efforts to "normalize" relations with Communist China.

A few days ago Shen got in to see Vance. This was after Vice Premier Teng Hsiao-peng of Communist China said Secretary Vance had accomplished nothing on his recent trip to Peking. That made a liar out of Vance, who said the trip had been useful.

At all events, by receiving Ambassador Shen in Washington, Vance was sending a message (in the parlance of diplomacy) to Peking. He was saying, in effect, "Two can play at the game of snubbing each other."

It also is quite likely that the Carter administration has learned exactly how dangerous the "normalization" game may be to American interests.

The Chinese Nationalists, it is interesting to note, are recovering from the understandable depression orated by recent American advances toward the Chinese Communists. Premier Chiang Ching-kuo recently told a group of American women journalists the government on Taiwan didn't want a war with the mainland, but if the Communists should attack, "We have the confidence and the ability to hold off the attack."

The Chinese premier also said something that apparently is beginning to make an impression on the Carter administration.

"The United States is a Pacific power," he said, "and the Republic of China is its most faithful ally in this area."

At the same time, the ministry of foreign affairs in the Taiwan government was making the Republic of China's stand crystal clear.

"The Peking regime now occupying the Chinese mainland is a rebel group, having absolutely no right to represent the Chinese people," the statement said.

"Any agreement or understanding involving the rights and interests of the Republic of China and its people, which might have been reached between the United States and the Chinese Communist regime as a result of Mr. Vance's visit, shall be considered null and void by the Government of the Republic of China."

It is becoming more and more clear that the United States will hurt itself more than it will hurt Taiwan if it chooses to denounce its mutual defense pact between the two countries and recalls its ambassador from Taipei as the price of being graciously permitted, by Red China, to send an ambassador to Peking.

RHODESIAN INFORMATION OFFICE

Mr. ALLEN. Mr. President, yesterday I read an article by William F. Buckley, Jr., entitled "Blood War Against Rhodesia." Mr. Buckley's column appeared in the Washington Star, and in it Buckley objects to a proposal of the Department of State that the President, by Executive order, freeze Rhodesian funds going to the Rhodesian information service here in Washington.

Frankly, Mr. President, I thought this matter of closing the Rhodesian Information Office had been laid to rest by enactment of section 504 of Public Law 95-501, the Foreign Relations Authorization Act of 1978—but apparently not. Section 504 states:

It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law.

Congress is, therefore, quite clearly on record in opposition to harassment or shutting down of foreign information services by unilateral executive fiat. Of course, on the other hand, as indicated in the language of section 504, Congress would not oppose appropriate action taken against a foreign information service which violates the requirements of the Foreign Agents Registration Act. No such allegations have been made against the Rhodesian Information Office, and one might assume therefore that the Rhodesian Office would be permitted to stay in business.

But, Mr. President, if William Buckley's article is correct, obviously at least some members of the executive department are in fact recommending to the President that he circumvent the law and the clearly expressed will of the Congress by means of the back-door method of blocking operating funds.

You know, Mr. President, this subterfuge of shutting off operating funds reminds me of an expression which was often heard in wardrooms of Navy ships during World War II: Gentlemen, there will be liberty but no boats." In other words, the Rhodesian Information Office will be allowed to keep its doors open but will be denied the money for rent.

We are on very dangerous ground indeed when any of us in Government seek to use Government to suppress the free expression of opinions or the free dissemination of information. Our body politic thrives on open debate; and our citizens must have available information from all sides of all issues in order to make informed judgments in fulfillment of their responsibilities as voters and participants in a democratic system. We should each deplore, therefore, any effort directed at stifling the flow of information to the people of the United States, and I am confident that Senators do agree with me that—Congress having already spoken directly to this topic—any adverse action by the President

would be highly inappropriate and damaging.

Mr. President, I have previously written to the Attorney General on this subject, and I ask unanimous consent that my letter to the Attorney General, together with Mr. Buckley's column, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 7, 1977.

Hon. GRIFFIN BELL,
Attorney General, Department of Justice, Constitution Avenue, Washington, D.C.

DEAR ATTORNEY GENERAL BELL: As you know, I have written on several occasions with respect to the Department of Justice investigation of the offices of the Rhodesian information service here in Washington, D.C. After an initial misunderstanding of applicable department regulations, Benjamin Civiletti, Assistant Attorney General, supplied to me certain information I had sought bearing on my concern that the inspection was politically motivated and represented an abuse of the powers of the Department of Justice. Although the information supplied was inconclusive in that respect, I of course trust greatly your own judgment in this matter, and therefore I am certain that the peculiar timing and lengthy duration of the inspection will not lead to inappropriate action in the efforts of your department to administer impartially the Foreign Agents Registration Act.

I have a further concern which I have also in the past mentioned to you and which has, in fact, become a concern of the Congress expressed in public law. I refer to the recent resolution of the United Nations Security Council which calls for a ban on Rhodesian financial support for any information office of the Rhodesian Government. U.N. resolutions may be implemented by the President in his discretion by executive order in accordance with the terms of the United Nations Participation Act; however, as I have previously pointed out, serious Constitutional issues arise if a prior restraint on speech is imposed by executive fiat, even if done pursuant to Congressional authorization. In any event, all questions on this subject should have been put completely to rest by the enactment of Public Law 95-501, the Foreign Relations Authorization Act of 1978, which expressly provides at section 504: "It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law."

Obviously, the provision is designed to indicate Congressional disapproval of any backdoor attempt to shut down an information office such as the one maintained by the Rhodesians so long as that information office is operating legally in accordance with the terms of the Foreign Agents Registration Act or other applicable statute. Specifically, the provision was meant to convey to the President in the strongest possible terms complete disapproval of any executive order purporting to implement the United Nations Security Council resolution.

The inhabitants of most other nations of the world do not enjoy Constitutional protections similar to those available within the United States under the provisions of our Constitution. Therefore, implementation of a Security Council resolution designed to hamper free speech might not be clearly reprehensible to residents of countries already accustomed to autocratic rule. Such is not the case, thankfully, within the United States, and I was therefore astonished to learn that the executive department still has under consideration a plan for choking off funds for the Rhodesian information office.

In my judgment the Congress of the United States—and particularly the Senate—will take great exception to any suppression of information by the executive department accomplished by an underhanded denial of operating funds to any legally operated information service of any foreign government. Certainly, vigorous exception would be taken to a conscious and total disregard of the express will of the Congress set forth in statute.

Regardless of approval or disapproval of the policies of the Government of Rhodesia in Salisbury, few—if any—members of Congress would allow personal political opinion to outweigh the overriding benefits of open discussion in a free society. I do not see how that sentiment could have been made more explicit than was done in Public Law 95-105, and I accordingly strongly urge you to take an active role in advising against any unwise or precipitous action calculated to appease Third World dictators by a callous and arbitrary abridgment of the right of our own people to free access to information from whatever source. I know that the demands of your office are great, but this matter is of sufficient gravity to merit your personal intervention.

With kindest personal regards, I am

Sincerely,

JAMES B. ALLEN.

BLOOD-WAR AGAINST RHODESIA

(By William F. Buckley, Jr.)

Those who believe that the United Nations is entirely irrelevant are correct up to a point. It is true that moral declarations issuing from the U.N. and bearing its moral pedigree are suspect, in the same sense that professions of virtue from political candidates are suspect. Mostly, U.N. declarations are filed away until the time comes to celebrate the anniversary of their passage, at which point they are trotted out. But every now and then the U.N. does very concrete harm, Rhodesia being a case in point.

Lord Home, when he returned to Her Majesty's government as secretary for foreign affairs in 1973, admitted that if the Conservative party had been in power, it would not have gone along when sanctions were voted by the Security Council against Rhodesia in 1965. Why? Because, he said, he does not believe in sanctions except in extreme circumstances, and the Rhodesian situation was not an extreme circumstance. At the time, Dean Acheson fiercely denounced by imposition of sanctions as clearly in violation of the U.N. Charter inasmuch as the government of Rhodesia, having declared its independence of Great Britain, was on its own as regards internal arrangements.

Just the same, Great Britain, in a fit of pique that would have great resonance, asked for, and got, sanctions.

Years went by and last spring, seeking to tighten these sanctions, the Security Council voted to freeze all Rhodesian funds everywhere in the world (except when used to pay pensions). The idea was to immobilize the two or three Rhodesian Information Offices extant. Why? One would think that the mighty powers represented at the Security Council would have very little to fear from the tiny office in Washington whose annual budget is $200,000 and whose principal executive, Kenneth Towsey, has duly registered as an agent of a foreign power. What harm can he do?

Certainly Mr. Towsey has been in a position to be useful to newspapermen who desire information about Rhodesia that isn't easy to get elsewhere. Needless to say, the Rhodesian Information Office makes the case for the Rhodesian government—that is its job. But in doing so it handles a great deal of material—stories, statistics, photographs, field accounts, notices of negotiations—which do not come in automatically from the world's press.

When terrorists from Zambia descend on a Christian mission in Rhodesia and murder a few nuns, that information is not likely to reach us courtesy of the Zambian Information Service, and one cannot count on AP's being on the spot.

So when the resolution to freeze Rhodesian funds was offered, and U.S. representative Andrew Young voted in favor of it, a group of journalists addressed a letter to President Carter asking whether he intended to interpret that resolution as requiring him to freeze funds payable for the maintenance of the Rhodesian Information Office. Among the signers were Patrick Buchanan, John Chamberlain, Stanton Evans, James Jackson Kilpatrick, and Nick Thimmesch. President Carter has, to this day, not answered their patient inquiry.

However, Hodding Carter III, assistant secretary for public affairs and department spokesman, has now replied to an inquiry from someone in Corvallis, Oregon with the news that yes indeed, the State Department intends to freeze the Rhodesian currency, upon recommendation from the Treasury Department. "Although the resolution was not specifically directed against informational activities," he writes, "the Rhodesian Information Office . . . clearly falls within the category of offices referred to in the resolution."

On the question whether this deprives U.S. citizens of their First Amendment rights to find out what's going on, Mr. Carter is absolutely chirpy with optimism. "American citizens will still be able to obtain information about Rhodesia from other sources, including directly from the regime in Salisbury." American citizens may, in fact, prove better able to obtain information about Rhodesia from Salisbury than from the White House, given the President's long silence in response to the inquiring correspondents.

One would hope there would be some limit—somewhere—to the indignities the United States is willing to undertake in behalf of our blood-war against Rhodesia.

THE GREAT ALASKAN LAND GRAB

Mr. STEVENS. Mr. President, the most important issue facing Alaska in this Congress is the so-called "d-2 lands" issue. As you know, a number of pieces of legislation have been introduced dealing with the potential designation of millions of acres of public lands in Alaska as potential national parks, wildlife refuges, wild and scenic rivers, and national forests. Additionally, the unique program of cooperative management of State, Federal, and private lands has been proposed in legislation I have introduced in behalf of Alaska Governor Jay Hammond, Congressman Don Young, and myself. Our legislation seeks the flexibility and balance necessary to make a reasonable and responsible decision on the "d-2 lands" issue.

One of America's finest newspapers, the Washington Post, has recognized the need for a balanced decision on this issue. An editorial appearing in the Sunday, September 11, issue of the Post articulately explains the need for a bal-

anced and rational approach to land-use planning in Alaska and the d-2 issue. I commend this editorial to your attention and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE GREAT ALASKAN LAND GRAB

You are likely to hear a good deal about good guys and bad guys this winter when Congress settles down to carve up—again—the State of Alaska. The issue now is how much of that beautiful land should be tucked away into federal wilderness areas, national parks and so on. It is a controversial topic, not only in Alaska but among conservationists throughout the rest of the nation as well. Those who want to limit the amount of land the federal government protects from development are often described as rapacious exploiters who want to plunder our children's inheritance. Those who want to expand the federal set-aside are usually described as fuzzy-minded conservationists who would destroy the economy of Alaska, deprive its residents of basic rights and restore the colonial rule that statehood eliminated, all for the benefit of a few birds and animals.

The truth is that there are no bad guys in this argument. The preservationists are not wrong in trying to save a large part of Alaska; future generations do have a right to know what the earth looked like and contained before man began to make a mess of it. Their Alaskan opponents are not wrong in seeking to develop the land, a right that their forerunners in the lower 48 states made the most of. Although the two groups are in bitter confrontation before Congress, each should concede that there is some merit in the other's arguments. The question is one of degree—of just how much of Alaska's enormous acreage should be used for what purpose.

Finding a proper balance between these interests is a task Congress needs to accomplish by the end of next year, when time will run out on a period of protection from mining and other uses that Congress approved in 1971 for 80 million acres. There is nothing magical about that 80 million figure, but it is central to the debate, being either too much or too little, depending on which side is talking. That is, of course, a lot of land. It is the equivalent of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York and New Jersey. But the conservationists are supporting a bill introduced by Rep. Morris Udall (D-Ariz.) that would put 145 million acres into various categories of federally protected land. This would add to the 80-million-acre area the equivalent of Pennsylvania, Maryland, Delaware, Virginia and West Virginia.

Many, but by no means all, Alaskans are outraged by both the size of the Udall proposal and the restrictions it would place on the use that could be made of this vast acreage. It is in usage, as well as in the total amount of land the federal government decides to preserve, that compromises can be reached. Federal rules and standards that are appropriate for wilderness areas and national parks in the continental United States may not necessarily be appropriate in Alaska. The territory is so vast and so cold, for example, that the general rule against motorized transport and the existence of man-made structures in a wilderness area might lock up the land as no wilderness area elsewhere is locked up. Congress needs to think about this problem in Alaskan terms, adapting the techniques developed for preserving wilderness and parks elsewhere to Alaska's peculiarities.

No doubt there has been a certain amount of grabbing on both sides in this argument. The conservationists are trying to seal off too much of Alaska from any use. Their opponents are also reaching for too much, trying to win the right to mine and timber and exploit too large a part of America's last frontier. Somewhere in between, Congress must find a balance, protecting large areas from any major human disruption and opening other parts of the federal lands for Alaskans to use in some ways, ways that may or may not be comparable to the multi-use standards now in existence. The obligation is twofold: to save much of Alaska for future generations and to leave its present residents sufficient opportunity for developing some of the frontier they have worked hard to open up.

THREE BUDGETS FOR A RETIRED COUPLE AND PREPARING FOR RETIREMENT

Mr. CHURCH. Mr. President, the Department of Labor recently updated its three hypothetical budgets for a retired couple living in an urban area.

These budgets are designed to portray three relative standards of living—defined as lower, intermediate, and higher—for a retired couple.

As of autumn 1976, these levels were $4,695 for the lower budget; $6,738 for the intermediate budget; and $10,048 for the higher budget.

Four items account for the bulk of the elderly's expenditures: Housing, food, transportation, and medical care. These expenditures typically account for about $4 out of every $5 in an aged couple's budget.

Mr. President, I ask unanimous consent that a Department of Labor news release on the three budgets for a retired couple be printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, Senate Committee on Aging hearings make it clear that the intermediate and lower budgets are well beyond the means of many older Americans.

In 1975, for example, an estimated 2.9 million aged families—or 44 percent of all two-person families with an aged head—had annual incomes below the intermediate budget. Of this total, 1.4 million elderly families lived on less than the lower budget.

These facts underscore the importance of programs, such as social security, to enable older Americans to live in dignity and self respect.

They also provide compelling reasons for prompt enactment of my social security Cost-Of-Living Improvement Act, S. 1243. This bill would authorize semi-annual cost-of-living adjustments during periods of rapid inflation, instead of only one a year as under present law. In addition, S. 1243 would establish a special index to measure more accurately the impact of inflation upon the elderly for purposes of computing benefit increases.

Finally, these facts make it clear that adequate and timely preparation for retirement is essential. Sylvia Porter made this point emphatically last month in her first article of a six-part series on preparing for retirement.

Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Aug. 14, 1977]

YOUR MONEY'S WORTH: ECONOMIC NIGHTMARES LOOM IN RETIREMENT UNLESS YOU ACT

(By Sylvia Porter)

The cost of living for a retired couple jumped another 7 percent in 1976, and in some sections of the United States annual living expenses of the average retired couple are now as high as $11,000—excluding personal income taxes.

Even though in some areas a retired couple can live on an annual income as low as $4,373, one out of every four elderly Americans now lives in poverty. And for those who live to be 75, the proportion living in poverty is a startling 50 percent.

Despite all threats, it would be far too pessimistic to expect a return to double-digit inflation in the United States for any prolonged period, if at all. That would imply an unreasonable repetition of a disastrous combination of adverse forces. But it is reasonable to anticipate an ever-rising cost of living, perhaps at an annual rate of 5 to 6 percent for years to come. Even 6 percent compounded annually would mean that the dollar which bought you 100 cents of goods and services in 1974 would buy you only a bit more than 50 cents worth in 1984, only about 30 cents worth in 1994.

Inflation of that magnitude not only pinches the working family. It fiercely erodes the buying value of your Social Security dollars, your private pension benefits, any other savings you have in fixed-income investments (insurance, cash savings).

Instead of the relaxed, comfortable years pictured in the unreal-life ads, you may find your retirement years an economic nightmare. And this may be piled on top of the "shock" of retirement—which ranks in a high ninth place in a list of 40 leading "stress" producers, not far behind "death of a spouse."

What, then, should you do now?

If you are in your 20s or 30s, now is the right time to begin to think and prepare for independence in your 60s–70s.

If you are in your 50s, now is the time you must plan in earnest for your financial security. You are very late but not yet too late to manage your older years properly.

If you are in your 60s, you are almost surely too late to prepare for your maximum benefit. You've drifted into a position where you are fighting from weakness, not strength.

You must ask yourself at least these 10 key questions.

1. When will you retire?

At 65 or sooner? Even today, a man retiring at 65 can look forward to a life expectancy of another 13 years, and his slightly younger wife can expect to live an average of nearly 20 more years. So the sooner you start the better your chance to lay the groundwork for the comfortable life you'll want.

2. Will you lead a life of leisure or continue to work?

If you are in sufficient physical and mental health, you'll begin another career—and the odds are if you are young today, you'll have two or more careers in your lifetime. If you want just to play, that, too, you must plan for now.

3. How much are you worth today?

Your worth is the total you have after you subtract all your liabilities from all your conservatively estimated assets. It should be an unexpectedly pleasant computation to figure out.

4. Where will you retire?

That will be a significant factor in your expenses for heat, clothes, other basics.

5. What can you save by retiring?

Here you weigh Medicare benefits, work-connected expenses, lower or no life insurance premiums, etc.

6. How much money do you need in retirement?

Many costs you have today will decline or cease to be at all important. Your home mortgage should have been paid off, your over-all housing expenses should be lower. The expenses of rearing and educating your children will be behind you. The list is long.

7. When can you start drawing Social Security and your other pension benefits?

8. What precisely is your benefit deal under your corporation's pension plan?

For the first time ever, you should be able to get exact, easy-to-understand details from your corporation.

9. Will you have enough health insurance?

10. And what kind of investments can help you obtain additional retirement income?

In tomorrow's column, one typical real-life couple's retirement program will be tailored to your own benefit.

EXHIBIT 1

BUREAU OF LABOR STATISTICS,
Washington, D.C., August 4, 1977.

THREE BUDGETS FOR A RETIRED COUPLE, AUTUMN 1976

The Bureau of Labor Statistics of the U.S. Department of Labor has updated to autumn 1976 its three hypothetical annual budgets for a retired couple and related area cost indexes that can be used to compare the cost of these budgets in selected urban areas. This updating reflects changes in prices between autumn (September, October, November) 1975 and autumn 1976.

In the autumn of 1976, the estimated U.S. average annual cost of the lower level budget for an urban retired couple, excluding personal income taxes, amounted to $4,695. At the intermediate and higher levels, the budget costs amounted to $6,738 and $10,048, respectively, as is shown in table A. Costs for all the budgets are about 4.5 percent greater than the estimated budget costs for the autumn of 1975. Costs for 39 metropolitan areas, four nonmetropolitan regions, and Anchorage, Alaska, are shown in tables 1–3, and comparative indexes are shown in tables 4–6.

The updated budget costs represent the costs at autumn 1976 prices of three hypothetical lists of goods and services that were specified in the mid-1960's to portray three relative levels of living—simply termed lower, intermediate, and higher—for a retired couple. The cost of the lower budget is not intended to represent the income necessary for subsistence at the poverty level, but simply represents a level relatively lower than the intermediate budget.

TABLE A.—SUMMARY OF ANNUAL BUDGETS FOR A RETIRED COUPLE AT THREE LEVELS OF LIVING, URBAN UNITED STATES, AUTUMN 1976

Component	Lower budget	Intermediate budget	Higher budget
Total budget [1]	$4,695	$6,738	$10,048
Total family consumption	4,493	6,333	9,281
Food	1,443	1,914	2,402
Housing	1,613	2,334	3,653
Transportation	322	629	1,161
Clothing	206	347	535
Personal care	138	202	296
Medical care	[2] 571	[2] 574	[2] 579
Other family consumption	200	332	657
Other items	202	405	767

[1] Beginning with the autumn 1973 updating of the budgets for a retired couple, the total budget is defined as the sum of "total family consumption" and "other items." Income taxes are not included in the total budgets.
[2] Preliminary estimate.

Note.—Because of rounding, sums of individual items may not equal totals.

Method of updating

Consumption costs were updated to 1976 by applying the change in the Consumer Price Index between autumn 1975 and autumn 1976 for individual areas to the autumn 1975 budget costs for each main class of goods and services. This method of updating is approximate because the Consumer Price Index (CPI) reflects spending patterns and prices paid for commodities and services purchased by urban wage earners and clerical workers in general, without regard to their family type or level of living. The hypothetical spending behavior of the retired couple differs from the pattern of the CPI family. The last direct pricing of the budgets was in spring 1969.

Changes in consumption costs reflect only changes in prices. The market baskets are based to a large extent on analysis of expenditure and consumption patterns of the early 1960's when these budgets were developed; the baskets have been held constant since then.

TABLE B.—PERCENTAGE CHANGES IN THE BUDGETS FOR A RETIRED COUPLE, AUTUMN 1975 TO AUTUMN 1976

Component	Budget level		
	Lower	Intermediate	Higher
Total budget	4.3	4.2	4.7
Total family consumption	4.3	4.2	4.7
Food	1.1	.1	.2
Housing	6.5	6.5	6.5
Transportation	8.4	9.0	9.6
Clothing	4.0	3.9	4.1
Personal care	7.8	7.4	7.6
Medical care [1]	3.4	3.4	3.6
Other family consumption	4.7	4.7	4.6
Other items	4.1	4.1	4.2

[1] The autumn 1976 cost estimates for medical care contain a preliminary estimate for out-of-pocket costs for medicare.

Changes in budgets, 1975–76

Between autumn 1975 and 1976, the total cost of the lower budget rose by 4.3 percent, and the intermediate and higher budgets rose 4.2 and 4.7 percent, respectively—all smaller changes than in the previous years. The percentage increases from autumn 1975 to autumn 1976 for all the components in the three budgets are shown in table B.

The increase in food prices from autumn 1975 to autumn 1976 was approximately 1 percent at the lower level and less than 1 percent at both the intermediate and higher levels, compared with increases of 7 and 8 percent a year earlier.

Transportation costs rose the most—approximately 9 percent for each budget level—as a result of large cost increases for both public and private transportation.

Housing costs rose at approximately the same rate—6.5 percent—for all three budget levels but had a greater impact at the higher level because the proportion of the total cost of consumption accounted for by housing is larger at that level.

The budget costs are updated annually and reflect autumn price levels. During the period from October 1976 to June 1977, the All Items Consumer Price Index for the U.S. rose 4.9 percent. The change in the total budget cost for a retired couple, however, differs from the change in the U.S. All Items CPI for at least two important reasons: (1) The expenditure weights used in the CPI are different from the hypothetical weights used in the budgets, and (2) treatment of homeownership costs is different.

Description of the three budgets

The retired couple is defined as a husband, age 65 or over, and his wife. They are assumed to be self-supporting and living in an urban area; they are in reasonably good health and able to take care of themselves. Different qualities and quantities of goods and services are provided for each level due to variation in consumption patterns, differences in climate, and differences in types of transportation facilities.

Food-at-home costs in the budgets are based on quantities in the 1964 low-, moderate-, and liberal-cost food plans developed by the U.S. Department of Agriculture in accordance with nutritional standards formulated by the National Research Council of the National Academy of Sciences. Also included in the food total is a specified number of meals away from home and an allowance for guest meals, which vary at each budget level.

Shelter allowances for all three budget levels are based on average costs for rented and owned dwellings. Rental costs include contract rent, estimated costs of fuel and utilities where these are not part of the rent, and insurance on household contents. Homeowner costs are based on the assumption that retired couples own their homes and have no payments for mortgage principal and interest.

The medical care component provides for "out-of-pocket" costs for Medicare and allows for items not covered by Medicare—dental care, eye glasses, most out-of-hospital prescription and nonprescription drugs, and a checkup visit to a physician by Medicare enrollees who do not use any Medicare services within 1 calendar year. Medical costs not covered by Medicare are the same for all three budget levels except for very minor differences in the cost of eyeglass frames.

The sources of data, methods of calculation, and quantities of goods and services for all the components in the three budgets are described in detail in BLS Bulletin 1570–6, "Three Budgets for a Retired Couple in Urban Areas of the United States, 1967–68." Copies may be obtained under accession numbered PB 227521/AS at a cost of $4.75 from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Supplements with budgets for spring 1969–70, autumn 1971, 1972, 1973, 1974, and 1975 are available free of charge from BLS Regional Offices.

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THE WASPS SEEK VETERANS STATUS

Mr. GOLDWATER. Mr. President, in connection with the visit to Washington, D.C., this week of a large delegation of WASPs, the women pilots of World War II, I would like to bring to the attention of my colleagues a cogent summary of reasons why these ladies believe they have earned the right to be called veterans.

The WASPs arrived in town to testify at the hearing scheduled Tuesday before a select subcommittee of the House Veterans' Affairs Committee on legislation granting veterans' status to them.

The article explaining their services and military-type organization during World War II was written by a well-known Arizona columnist, Paul Dean, of the Arizona Republic in Phoenix.

Mr. Dean describes the numerous instances in which the women pilots were identical to male military pilots—identical in all but one important technicality, that is. For the women were barred by law from being commissioned as flight officers and had to remain civilians.

For all practical purposes, however, the girls were in the military service.

They received officer's training.

They were subject to military discipline.

They flew the same aircraft as male pilots.

They passed the same physical standards and flight qualification tests as male officers.

And so on, and so on.

Mr. President, the WASP legislation has strong support in Congress among Members who wish to see that these ladies receive the official recognition as veterans that they are due.

Already there are over 150 Members of the House of Representatives who have either sponsored, cosponsored, or publicly announced their support of legislation granting veterans' status to the WASP.

And, I am pleased to report that 26 Senators are cosponsoring a similar bill, S. 247, that I have introduced for the WASP in this chamber.

Mr. President, so that those of my colleagues who will be hearing from these ladies will know more about their cause, I ask unanimous consent that the article about them by Paul Dean be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIG WAR'S FLYING FEMALES STIFLE YAWNS OVER NEW CROP

(By Paul Dean)

Ten women will become U.S. Air Force pilots next month and newspapers and network television are crowing of this feminine progress from hither to blue yonder.

Mrs. Gerry Nyman of Casa Grande, wife, mother of four adult boys, has smiles for the graduates but feels indignation.

Mrs. Brownie Kindig of Scottsdale, retired from a career as a legal secretary, is having trouble swallowing yawns.

Mrs. Betty Blake, mother and Phoenix real estate lady, frowns in frustration. Mrs. Margaret Tamblin another mother, another businesswoman, is another woman "humphing" at the hullabaloo.

For these ladies, edging into comfy years now, were driving combat aircraft, from the clumping Super Fortress to the spunky Mustang, before the tenderfoot 10 at Williams Air Force Base had been born.

They were WASPs, the appropriate and buzzing acronym for Women's Air Force Service Pilots. Nationwide, more than 800 live with their memories from scrapbooks and logbooks. Three dozen of them survived World War II and the years since, and live in Arizona.

And if hell hath no fury like a woman scorned, try plotting the anger of female pilots denied.

One WASP, Ann Baumgartner, had checked out in jets before aviation was into the 50s.

Two WASPs, Dorothea Moorman and Dora Strother, were qualified as B29 pilots and flew the bombers to bases around the country in staged defiance of male fliers who said this bomber was a tad dodgy.

And all WASPs flew all 77 types of military aircraft manufactured for World War II to all fields in all weather and for all purposes.

If statistics impress, the WASPs logged 12,800 ferry missions, covering 9,200,000 miles, while other operations brought that total to 60,000,000 miles, the equal of 240 trips to the moon.

If deeds excite, WASPs flew as instrument instructors, towed troop-carrying gliders, sweated out test flights, were the only pilots allowed to ferry the chunky P47 Thunderbolt from the Republic plant, and performed military airlifts by the thousands.

They went through boot camp, wore uniform, were subjected to military courtesies and discipline, received government pay, attended Officer Training School and, on a less sophisticated level, ate military chow.

More than 25,000 women applied for World War II flight and 1,000 served this country, many sitting on pillows to reach the pedals of macho Warhawks and Lightnings.

Yet 38 died on active service, with one shot down and killed by a student gunner while towing a target sleeve for ground-to-air firing.

Penny Houghton, now a Superior Court reporter in Washington, D.C., remembers one of the deaths:

"The other girls had to pass the hat to collect enough money to ship her body home."

And there's the painful abrasion between women pilots then and now.

The ten who graduate from Williams AFB are eligible, as they have been since signature at a recruiting office, for college on the GI bill, disability benefits lifetime pensions and space—available air travel anywhere in the world once retired and full fringes from free treatment at veterans' hospitals to the macabre moment of subsidized burial with a free flag on the casket.

But the WASPs of World War II?

They received nothing beyond backpats when their service was disbanded in 1945. They have been given no benefits since. They are not considered veterans.

They don't have the authority to buy a BX aspirin to cure headaches earned at their occasional reunions at military airfields.

Bills to bring veteran's benefits to the WASPs have been aborted by Congress since 1944. A new, stronger, unified, tighter organized drive, with Sen. Barry Goldwater, R-Ariz., as pilot-in-command, continues to be jostled by Senate and House and their committees.

So the Mmes. Nyman, Kindig, Blake and Tamblin do not downgrade the efforts, proficiency, dedication and deserved status of the flying ladies of Williams.

Nor are they seeking retroactive liberation.

But they would like equality with today's military women.

HUMANITARIAN PROBLEMS IN INDOCHINA AND REFUGEE RESETTLEMENT

Mr. KENNEDY. Mr. President, this morning the Committee on Human Resources conducted a hearing on the continuing need for Federal assistance to Indochina refugees, and on the humanitarian problems that remain in Southeast Asia in the aftermath of the Indochina war.

I was pleased to receive the testimony of the Hon. Philip Habib, Under Secretary of State for Political Affairs, and Chairman of the President's Task Forces on Indochina Refugees, regarding U.S. policy toward this serious and growing humanitarian problem.

During the hearing, testimony was received on the growing food shortages in Laos and Vietnam, which have become a significant contributing factor to the flow of refugees from Indochina. To date, the United States has responded generously to the humanitarian problems confronting the refugees, but we have failed to address serious problems contributing to the refugee movement and to the needs of war victims who remain in their native lands.

In this connection, I was pleased to learn from Secretary Habib that the administration is seriously considering an American contribution to international relief and food programs now underway in Laos. We have diplomatic relations with Laos, and there is no legislative prohibition on the use of Public Law 480, title II, food-for-peace funds or Laos. I hope the administration will urgently use this authority for humanitarian purposes in Laos, and also seek ways to meet our humanitarian responsibilities in Vietnam.

Mr. President, I ask unanimous consent that the text of my opening remarks at the hearing be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR KENNEDY'S OPENING STATEMENT AT HEARINGS ON LAOS, VIETNAM, AND RESETTLEMENT OF INDOCHINA REFUGEES

The Committee meets this morning to review the continuing movement of Indochinese refugees to the United States—and to consider legislation for extending the Indochina Refugee Assistance Program established by Congress in 1975. This program assists local communities and voluntary agencies in helping the refugees to become productive and contributing members of our society.

Pending before the Committee are the Administration's proposal to extend this program—and a substitute, which Senator Cranston and I introduced earlier this week in behalf of Senator Humphrey.

The current program expires September 30. And given this fact, action on the pending legislation is needed urgently.

The legislation before us recognizes a continuing federal responsibility to help the refugees help themselves. And I know that I speak for other members of this Committee and the Senate, in pledging our best efforts to enact a responsible bill within the shortest time possible.

A sudden cut-off of the program at this time would undo much of the resettlement progress already achieved—and this would be wasteful of public funds. A sudden cut-off would bring undue hardship to many refugee families who are adjusting to a new life in a new land—and it would deny needed assistance to new arrivals under President Carter's parole program. And finally, a sudden cut-off would bring heavy burdens to the local communities and the voluntary agencies, who are helping the refugees.

The agenda for action is clear, and so is the need to act.

Although our primary focus this morning is on the continuing movement of refugees to the United States and the Indochina Refugee Assistance Program, we cannot ignore the many other immediate and longer term humanitarian problems remaining in Southeast Asia. And the time is past due to develop a comprehensive national policy towards these people problems—not only because of our traditional humanitarian concern for people in need, but also because these problems play such an important role in our relations with the countries of the area.

The number of displaced persons from the Indochina peninsula in Thailand continues to grow. So does the number of "boat people" from Vietnam, who are scattered in nearly a dozen countries of Asia.

In a sensitive way, we must work closely with the many host governments involved with these difficult problems. And we must strengthen our support of the United Nations High Commissioner for Refugees (UNHCR) and others, who are making every effort to provide adequate care and protection for the homeless. We must also support the UNHCR's international efforts to promote lasting solutions—including local integration in receiving areas, resettlement overseas, and voluntary repatriation, if conditions permit it.

Finally, even as our country joins with others in pledging more help to the displaced persons from the Indochina Peninsula, we must not further neglect the vast human needs that continue in Vietnam and Laos. Many humanitarian problems—including food shortages and the rehabilitation of war victims—continue. We must be mindful of such problems—not only because they contribute to the displaced persons problem in all of Southeast Asia, but also because of our responsibilities as a nation in helping the people of these countries to rebuild their homes and normalize their lives.

Of special concern today are the growing food shortages in the Indochina Peninsula, caused by drought and the dislocations of war. Tens of thousands of people are hungry. And recent reports suggest the threat of severe malnutrition and starvation in many areas in the weeks and months ahead.

As I wrote to the President in July, it would be in the finest humanitarian tradition of the American people, if our country could join with others in providing food assistance to the people of Vietnam and Laos under international auspices. And I share the hope of many, that ways can be found to accomplish this end.

The people problems of Southeast Asia—especially the movement of refugees to the United States—touch the lives and concerns of many Americans. We hope to learn more about these problems today, and alternatives open for action.

SALT I INTERIM AGREEMENT

Mr. SPARKMAN. Mr. President, a number of my fellow Senators are aware that the SALT I Interim Agreement limiting strategic offensive arms will expire on October 3, 1977. The Committee on Foreign Relations has been discussing this situation over the past several months with representatives of the Department of State and the Arms Control and Disarmament Agency.

This morning, I received a letter from the Secretary of State stating that it is the intention of the executive branch to issue a unilateral policy declaration to the effect that, while the current SALT negotiations are being completed, the United States intends not to take any action that would be inconsistent with the Interim Agreement's provisions, or with the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint.

Any decision related to the Interim Agreement is one of critical importance. Accordingly, I have called a meeting of the Committee on Foreign Relations for Monday afternoon to discuss this matter.

Mr. President, I ask unanimous consent that the letter to me from the Secretary of State be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., September 21, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: As you know, we have been exploring for some time ways in which we can facilitate an early and successful conclusion of the SALT II negotiations. One aspect of this subject which State and ACDA staffs have discussed with you is the situation that will exist after the present Interim SALT Agreement expires on October 3. In this regard, we have been considering a policy declaration expressing our intention, while the negotiations are being completed, not to take any action that would be inconsistent with the Interim Agreement's provisions, or with the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint. Under this proposal, although the Soviets may also issue a statement of their policy in this regard, along the same lines, there would be no agreement limiting strategic offensive arms in force between the United States and the Soviet Union after October 3 and pending the conclusion of a new SALT Agreement.

Our objective is to maintain the status quo while the SALT II negotiations are being completed, and to complete the work on a SALT II Agreement within the near future. We do not seek to enter into a new agreement extending SALT I during this period, by an "exchange" of statements or otherwise. Accordingly, we have informed the Soviets that we intend to issue a unilateral policy declaration along the following lines:

In order to maintain the status quo while [SALT II] negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms which expires October 3, 1977, and with the goals of these on-going negotiations, provided that the Soviet Union exercises similar restraint.

In considering how to proceed in this matter, we considered and rejected the possibility of a joint U.S.-Soviet statement which might have raised the question of whether an international agreement was intended. We do not intend to enter into an agreement and believe that our proposal is consistent with this intent, in substance as well as in form.

As indicated in our discussions with you and with the Committee staff, it is our desire to proceed in this matter in close consultation with the Congress. We fully recognize your committee's responsibilities with regard to international agreements generally and SALT II in particular. We hope you share our assessment that our discussions of this subject have been most helpful and constructive.

Sincerely,

CYRUS VANCE.

OPPRESSOR ISRAEL?

Mr. ABOUREZK. Mr. President, I ask unanimous consent to have the following article by T. D. Allman printed in the RECORD.

It is an amazing statement published in a small circulation magazine, New Times, of what is happening under the "humane" occupation of the West Bank by Israel.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From New Times magazine, Aug. 19, 1977]

OPPRESSOR ISRAEL?

(By T. D. Allman)

(Since 1967, Israel has consolidated her grip on the Arab lands she conquered during the Six-Day War. But ten years of military rule over a subject people have hardly enhanced her reputation as an outpost of human rights in the Mideast. Where Palestinian fields once blossomed, the Israelis have created a desert. Now, with a new hard-line government in Tel Aviv, Israel's approach to the Palestinian problem is apt to disturb even her most steadfast supporters.)

When Israel's tough new Prime Minister, Menahem Begin, paid an official visit to Washington a few weeks ago, he and Jimmy Carter formed an instant mutual admiration society. "Never in my 30 years in public life," said Begin, "have I been as impressed by a political leader." Declared Carter in turn: "I don't think the meeting with him could have been any better."

Administration officials were specially pleased by the Israeli leader's apparent flexibility: all Mideast issues, he indicated, were negotiable, including, presumably, the status of the Arab territories that Israel conquered and seized 10 years ago this summer during the Six-Day War. At the conclusion of their talks, both Begin and Carter spoke optimistically of establishing, in Begin's words, "real peace" in the Middle East after "the delay of almost a generation."

To those who know Begin as an unbending hard-liner who considers the occupied Arab lands "liberated Israel"—and who hopes to annex them permanently—it all seemed too good to be true.

It was.

Less than a week after he left Washington, Prime Minister Begin reversed the policy of the preceding Rabin administration and gave legal status to three previously unauthorized Israeli settlements on occupied lands of the West Bank of the Jordan River. By officially establishing the three communities (Kaddum, Ofra, Maale Adumim) as a permanent part of Israel, the Begin government undercut both the prospects for a successful Geneva Conference this October and Jimmy Carter's hopes for eventually establishing a Palestinian homeland in the occupied territories. During their talks, in fact, Carter had specifically requested Begin to defer any further settlements at least until after Geneva.

After Begin's surprise move, Secretary of State Vance publicly criticized Israel for acting "contrary to international law" and creating "an obstacle toward peace"; privately, the unexpected decision was said to have infuriated Carter. The Washington Post called it "reckless, provocative and indefensible . . . a frontal assault on the American effort to arrange a settlement." But, really, Begin's actions should have come as no surprise. For a decade now, Israel has ruled the West Bank, the Gaza Strip and the Golan Heights with an iron fist, all the while digging in—and shoving out the areas' Arab inhabitants.

It is not a pretty picture, and in the U.S. press, traditionally sympathetic to the Israeli cause, it has remained one of the untold stories of the long, tortuous Middle East conflict. But the latest Israeli move to permanently solidify her hold on the occupied territories now confronts Israel's long-time American supporters with questions that most would prefer not to ask:

Is Israel really a threatened outpost of human rights? Or is it a country that has used a generation of U.S. arms and money, and above all a generation of U.S. good will

and emotional support, to quadruple its size and dispossess millions of people?

The statesmen on all sides speak of regional security, demilitarized zones and international law, but in the two small West Bank villages of Bardala and Tel el Beida, where a thousand or so farmers try to scratch a living from the rocky soil, there exists a perspective that is found nowhere on the detailed 1:500 negotiating maps.

In Tel el Beida and Bardala, the long Arab-Israeli conflict is a daily problem afflicting human lives. The situation there is one that few Israelis will even admit exists. It is also a human dilemma that the Arabs, preoccupied with ideology and rhetoric, have largely ignored.

Only a few years ago, the most significant thing about both villages, with their mud brick houses, some of them sprouting television aerials, was not that they lay atop the fault line of one of modern history's most perplexing problems. It was that in spite of four Arab-Israeli wars, the villagers had made some progress. At Tel el Beida, a modern irrigation system had doubled crop yields. At Bardala, the villagers had constructed a municipal water system that piped drinking water to each household.

Today, the two villages are much changed. The irrigation system is now a ruin of dusty culverts. The pipes are also dry, and the village women, as in the day of Turkish rule, must fetch water from a distant well; the round-trip, down and up a rocky hillside, is nearly a mile.

Not that either village has suffered a drought. Rather, the inhabitants are afflicted by something which for them has assumed all the characteristics of a *permanent* natural calamity. The source of their misfortune is the nearby Medah cooperative farm, a new Jewish settlement. One of nearly one hundred such settlements Israel has established in the occupied territories, Medah is a cluster of modern buildings surrounded by high fences where 30 Jewish families now live.

A year after Israeli forces originally swept through the area, just west of the Jordan river and south of the Israeli town of Beit She'an, Israeli engineers surveyed the two Palestinian villages. Then, in violation of Jordanian water law—which even official Israeli publications say that Israel is obliged to respect—the Israelis drilled a new and deeper well only a few yards from the Palestinian well.

Since then, the Palestinian water supply has steadily diminished. But the Israelis not only have forbidden the villagers to drill an artesian well, they also refuse to sell them water. The thousand Palestinians of Bardala and Tel el Beida formely consumed 270 cubic meters of water an hour. But the 30 Jewish families at Medah now consume 1,500 cubic meters of water an hour, and the two Palestinian villages are slowly dying of thirst.

The Israeli cooperative has become an island of Jewish affluence, which has created around itself a sea of Palestinian desolation. When, as planned, Medah doubles in size, the nearby Arab villages may be left with no water at all.

Such takeovers were far from rare in the occupied territories even before the Begin government's decision to legalize Kadum, Ofra and Maale Adumim, but if Israel's new leaders have their way, they may multiply many times over. Under the Israeli occupation, the Arab population of the Syrian Golan Heights has been reduced from 77,000 to 13,000. Some 200,000 Palestinians—about a quarter of the remaining population on the West Bank—have been forced to emigrate. Even in the tiny Gaza Strip, where more than 450,000 Palestinians, mostly refugees, are packed into a largely desert area of only 120 square miles, the Israelis have confiscated nearly 100,000 acres of the best land, and there established four barricaded Jewish settlements.

In the highlands above the Jordan valley, all signs of Palestinian life are being systematically eradicated. Palestinian cisterns have been sealed. Panamanian farmers have been forcibly removed, and their lands turned over to Jewish settlers. When there are no Israelis available to cultivate the land, the fields are chemically defoliated. Palestinian shepherds working their traditional grazing lands are tracked down by Israelis in Jeeps, and chased away by rifle fire. And most significant of all, the Israelis have confiscated some 80 percent of all arable land abutting the west bank of the Jordan river—the area which would be the bread basket of any new Palestinian mini-state. High Israeli fences bar the original owners from their lands, and one passes dozens of dismantled Arab irrigation stations.

Beyond the rusting machinery, one sees the other side of Israel's proudest national claim. For here, where Palestinians' fields once blossomed, the Israelis have created a desert. Israel's defeated Labor government, fearful of international censure, kept most of the confiscated lands vacant. Now Menahem Begin wants to open them to intensive Jewish settlement, and many observers fear the Israelis will not stop there.

"I have seen the Israelis watch a Palestinian farmer double his output," an American agricultural development expert told me before last May's elections, "and then seize half his land." In the Jordan valley village of El Makruk, an Arab farmer pointed to the Israeli barbed wire. "They have taken three-quarters of what my father left me," he said. "There is no land for my sons to till. One of them is now a day laborer for the Israelis. The other two have had to leave the country to find work."

The residents of the occupied territories always have suspected that the real, if unadmitted, Israeli policy was to dispossess them of their homeland. With Begin's election, this now has become explicit Israeli policy, and the Palestinians know that even if they try to resist, the Israelis will be the chief beneficiaries. "We could dismantle the Israeli well some night," a farmer at Bardala told me, as he walked in his parched fields, "but then the Israelis would take all our land, and the American newspapers would report that the terrorists had struck again."

Palestinians are not the only ones embittered by Israeli policy and the arrogance with which it is often administered. "Last winter," a U.S. official stationed in the Gaza Strip reports, "the Israelis erected an immense set of Chanukah candles on the highest rise above the refugee camps. It was like rubbing people's noses in the dirt." He adds: "Periodically, just to show that not even Americans can protect anyone, they pick up one of my Arab employees and torture him. The last one was a sixteen-year-old office boy. They tried stuffing his own boot down his throat."

"Economically and socially," a United Nations official says, "Gaza is becoming a Soweto." Israelis can settle and work in Gaza, but Palestinians who work across the border in Israel are forbidden to reside in their old villages, even when they work in Israeli fields that once belonged to them.

In Gaza, local Palestinian capital has built one of the largest orange packing plants in the Mideast, and in spite of its aridity and dense population, the strip produces a quarter as many oranges for export as does the whole of Israel. But while Israeli products have free entry everywhere in the occupied territories, Palestinian-grown oranges are not permitted to compete in Israel, nor may they be exported to countries where Israeli oranges are sold.

Gaza, like the rest of the occupied territories is also becoming a Soweto politically. The youth have been radicalized by ten years of hard Israeli rule. Even Israeli officials agree that if free elections with political parties were permitted, Yasser Arafat and the PLO would win an overwhelming majority. Yet the Israeli government continues to denounce the Palestine Liberation Organization as totally unrepresentative.

Throughout the occupied territories, one confronts a pervasive reality: After ten years, the Israelis have no empathy for the peoples Begin's Likud government now wishes to rule forever. Rather, the chief concern of the Jewish settlers is to avoid at all cost the emergence of an integrated society in which both peoples might live together as equals.

"The Palestinians complain all the time," says Hillel Wiseberg, a member of the Medah cooperative, when asked about the water shortages in the two villages a five-minute walk from his house. "They forget all their progress is due to us." Should Israel, in return for peace, relinquish settlements like Medah, which have been built on Arab territory "This is Jewish land," replies Wiseberg, who emigrated from Britain 11 years ago. "Why should we turn it over to aggressors?" He adds that in eight years at Medah, he has never entered either nearby Palestinian village, never taken a meal with any of his non-Jewish neighbors, never had a serious discussion with any of them. "You surprise me with all this talk of a water shortage," he says. "We have no shortage here." Should the Israelis share the water with their neighbors? "If they were industrious like us," Wiseberg says, "they wouldn't have these problems."

"The Arabs have no right either to Gaza or the Sinai peninsula," an Israeli escort officer informed me during an official briefing at Gaza. Maps published in Israel show no international borders for Israel. "Wherever Jews settle," says an Israeli businessman, "that is Israeli. That is all there is to it."

In Jerusalem, Israeli spokesmen used to say that such statements were totally unrepresentative of Israeli opinion. They quoted official statements saying that "Israel considers this a temporary occupation." They emphasized that Israel, as a democracy, is deeply concerned with all human rights, and has no desire to deprive other peoples of their lands.

But that was all before the May election. And even before the victory of the conservative Likud party, Jews attempting merely to open a dialogue with Arabs discovered that it was a perilous enterprise. When a group of Jewish American women, all Zionist activists, visited several Arab countries late last year, they were attacked by Israeli officials for meeting with Jihan Sadat, Egypt's first lady, and for visiting a Jewish school in Damascus. When Charlotte Jacobson, the group's leader, said "The Arabs are tired of war," then Foreign Minister Yigal Allon accused her of abetting "the Arab propaganda war." Some Likud supporters, indeed, now believe the real Zionist struggle is not with the Arabs, who present no immediate military threat, but with "unreliable" Jews—Soviet Jews who emigrate, but do not come to Israel; Americans who support Carter's evenhanded approach to the Mideast rather than follow Israeli policy; Israeli citizens who attempt a dialogue with the Palestinians.

When Israeli members of the Council for Israel-Palestine Peace met with PLO officials in Paris last year, Allon denounced the action, saying there was "no hope and no chance" of mutual understanding, and that the only place Israelis should meet Palestinians was on the battlefield. The Council's leader, General Mattityahu Peled, a hero of the Six Day War, disagrees. He says Israel should depend for its security not on keeping Arab lands, but by relying on the Israel Defense Forces, which he points out have never failed the homeland in battle. (Supporters of Menahem Begin in Parliament have denounced General Peled as an anti-Zionist traitor.)

In most ways, the defeated Labor government was as adamantly opposed to an equal relationship with the Palestinians as the Likud block. But it at least had a policy for dealing with the occupied territories and their embittered population that bore some relationship to reality.

The so-called Allon Plan was a clever strategy for retaining Israel's military gains, while getting rid of the political liabilities of policing a hostile population; it would have done so by keeping Israel's military outposts on Arab land while transferring the local population to King Hussein (whose forces killed thousands of Palestinians in Black September 1970). The Plan also sought to excise the threat to Israel's Jewish identity involved in incorporating a large Moslem and Christian Palestinian community. As Allon himself put it, "Both to preserve its Jewish character and to contribute to a solution of the Palestinian issue, Israel should not annex an additional Arab population."

The Allon Plan was presented to the world as an act of Israeli generosity. But the prospect of returning any lands at all to the Arabs alarmed many Israelis, including Menahem Begin. In a crucial television debate just before the election, Begin accused his hawkish opposition, Shimon Peres, of willfully endangering the very survival of Judaism by supporting the plan, and this seems to have decided the election. For, contrary to the initial analyses, which indicated that domestic difficulties caused the Labor defeat, a study by Professor Uri Ra'anan of the Fletcher School of Law and Diplomacy reveals that Israeli popular opposition to withdrawal from Arab lands cost Labor more votes than anything else.

So now, at a time when those Jews leaving Israel have begun to outnumber those immigrating *to* Israel, Begin talks of waves of Israeli youth Judaizing a land that already is densely populated by Mideast standards. And should the waves of settlers actually materialize in the West Bank and Gaza, what is to happen to the Palestinians who are already there? And what of the 2 million Palestinians abroad, who dream of returning home?

The fact is that any annexation of the occupied territories is bound to threaten Israeli democracy *and* Israel's Jewish character far more effectively than Arab armies ever have been able to do. That is why Arab extremists—who, unlike Hussein, Assad, Sadat and Arafat, really do want to drive the Israelis into the sea—were almost as jubilant about the May election results as the Likud winners.

For if Begin has his way and Israel actually does annex the occupied territories, it will be obliged under its own constitution to give the Palestinians of Gaza and the West Bank the same rights nearly half a million Palestinians already have as Israeli citizens. Overnight, Israel would become a nation about 35 percent Arab.

Even now, Israel is becoming relatively less Jewish within its own original borders. Since 1948, the Palestinian population of the country has tripled, and now it is growing at a rate of 5.9 percent annually, versus a Jewish growth rate of only 1.5 percent a year. In Jerusalem, which Mayor Teddy Kollack has vowed to transform into a "Jewish city," Jews last year declined as a proportion of the city's total population, in spite of a continuing program to uproot Palestinians from the old city. And Galilee, an area shielded from both Arab armies and PLO *fedayeen* by the intensive Israeli fortifications on the Golan Heights, demographically has all but slipped out of Jewish hands without a single battle being fought. In western Galilee and the fertile Jezreel Valley, the Jewish population in one recent year increased by only 759 persons, the Palestinian population by 9,035.

Palestinians may soon comprise the majority in the entire crucial area of northern Israel lying between the West Bank and Lebanon, and between the Golan Heights and the sea. By the end of the century, it is conceivable that all of Israel might have an Arab majority. Long before that, however, Palestinians could hold the balance of power, thanks to an electoral system that consistently produces weak coalition governments.

Building on their demographic gains, Palestinian citizens of Israel already have won growing power by peaceful, constitutional, democratic means. They have built a record of honest local government that even some Jews envy at a time when one Israeli cabinet minister has committed suicide following corruption charges, and a prime minister has resigned for the same reason, Nazareth especially, with Tewfiq Zayyad, its communist Palestinian mayor, has earned the reputation of being the Bologna of Israel.

The Israeli reaction to the Palestinians' exercise of their democratic rights under the Israeli constitution has been deeply disturbing to those who hope Israel will remain an outpost of human rights in the Mideast. Last year, peacefully demonstrating Galilee Arabs, all of them Israeli citizens, were shot dead by Israeli troops when the government confiscated their land, for no other discernible reason than that they were non-Jewish.

And only a few months after supporters of Israel angrily denounced a UN resolution accusing Israel of racism, Israel Koenig, the governor of the country's northern region, officially described the non-Jewish Israeli citizens under his jurisdiction as people inferior to Jews, and possessed of a "Levantine, superficial Arab character" in which "imagination plays a more important role than reason."

Especially alarming to Koenig was that non-Jewish Israel citizens were using the same "methods that were followed by the Jewish settlers before the creation of the state." "Organized operations for the purchase by Arabs of real estate in the northern areas," Koenig warned, were threatening Jewish control. The governor also lamented the Palestinians' proclivity for higher education.

Koenig has several recommendations for preventing non-Jews from exercising the same political rights as Jews in Israel. Higher education, he argues, should be discouraged among non-Jews. Government agents should infiltrate legal political parties supported by non-Jews and destabilize them. Non-Jewish leaders who threaten Jewish interests, even by peaceful, legal means, should be removed from office and replaced by those willing to serve Jewish interests. Taxes on non-Jews should be raised to prevent them from purchasing land. Businesses and factories should be required to give employment preference to Jews over non-Jews. Non-Jewish Israeli citizens should be encouraged to leave the country and then "obstacles placed in the way of their return and obtaining work in Israel." Social benefits should be made available "exclusively to Jewish families."

Like the practice of random arrest and torture in Gaza, like depriving West Bank villages of water, Koenig's proposals are indicative of how ten years of military rule over a subject people has led Israel toward deliberate, ethnic discrimination, even within its own pre-'67 borders. As Koenig himself concedes, "One of the most disturbing phenomena is the lack of tolerance shown by the middle-class Jew toward the Arab citizen; in certain cases this can amount to real hatred."

Ten years ago, General Dayan declared: "Soldiers of the Israel Defense Forces, we do not aim at conquest." But today, Israel is caught up in its conquests—and the consequences of conquest: the economic costs of prolonged military occupation; the social costs for a people who never can let their guard down; the international costs of increasing ostracism. Above all, if it keeps the occupied territories, Israel will go on paying the moral costs of unequal and coercive relations with a conquered people, a relationship that is degrading, corrupting and embittering to victor and vanquished alike. The growing truth is that while Arab armies never have penetrated Israel's frontiers, and the PLO never has developed an effective resistance inside Israel, Israeli democracy and the egalitarian ideals of Zionism already are seriously threatened by the search for a military solution to problems that are chiefly social and political.

One sees the price Israel has paid for its victories in the Arab menials sweeping the streets; in the de facto segregation of the school systems; in a national syndrome of fear, arrogance and exclusivity. Less than 5 percent of all Israelis now live on kibbutzim yet even they are increasingly dependent on landless Palestine labor. "My students have contempt for manual jobs," a Jewish teacher says. "They say it's 'Arab work.'"

"What is the Israeli policy?" a Palestinian farmer in Bardala asks, as he showed me his dying fields. He was a Christian, and to summon up the fate that now haunts not only the Arabs, but Israeli as well, he quoted the twenty-third chapter of Exodus: "I will not drive them out from before thee in one year; lest the land become desolate and the beasts of the fields multiply against thee. By little and little I will drive them out before thee, until thou be increased, and inherit the land."

As Prime Minister Begin now has served notice on the world at Kadoum, Ofra and Maale Adumim, this remains his policy too—whatever overtures toward "real peace" he makes when he comes to Washington seeking support, money and guns. After 30 years, America does have a commitment to Israel, and with Menahem Begin as Prime Minister, Israel needs that commitment now more than ever. But as Jimmy Carter should fully understand by now kind words in Washington are no substitute for steps toward genuine peace in the Mideast. From now on, we may have to honor our commitment to Israel not by praising the Lord and passing the ammunition, but, as George Ball once put it, by finding ways to save Israel in spite of herself.

ALTERNATIVE REPORT OF THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Mr. CHURCH. Mr. President, the independent spirit of handicapped Americans is one of the most encouraging phenomena of our times. It should have been evident at the White House Conference on Handicapped Individuals held in Washington last May, and it was.

Many of the handicapped at the White House Conference were strongly dissatisfied with its proceedings, and their views are embodied in an alternative report that deserves the thoughful consideration of the Congress. I ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, thankfully, the shameful days of pity and ignorance of the handicapped are past. The White House Conference alternative report details their aspirations, foremost of which is to be independent members of society, respected for their individual capacities. That is a goal we must share and assist, but their own self-reliance, as

emphasized in the alternative report, represents the new spirit in full expression.

EXHIBIT 1

REPRESENTATIVES OF THE HANDICAPPED AT THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS FOR AN ALTERNATIVE CONFERENCE REPORT

The White House Conference on Handicapped Individuals, mandated by title III of Public Law 93-516, was convened on Monday, May 23, 1977, at the Sheraton-Park Hotel in Washington, D.C. The Conference was widely publicized as the first major polling of the entire field of the handicapped, with the purpose of creating a broad consensus of needs and priorities to guide the government for years to come. Perhaps it was the ancient misconceptions regarding the incompetence of the handicapped which caused the planners to organize the Conference into a rigid, computerized structure, or perhaps they just lacked faith in the basic ability of handicapped Americans to think and speak for themselves. Whatever it may have been, many felt that the traditional custodial approach predominated, leaving little room for freedom of thought or expression by delegates, alternates, and observers. There was also the feeling that the Conference report to be presented to the President and Congress was already written and the exercise of checking boxes on computer forms was a hollow gesture.

By Wednesday, a group of about 400 of the 2500 in attendance at the Conference were enough dissatisfied with the structure of the Conference to withdraw from participation and hold a meeting to discuss their dissatisfaction. This group was made up primarily of the handicapped themselves, as opposed to the group gathered for the general White House Conference, which was dominated by professional providers of services. The dissatisfied group decided to write an alternative conference report, one which would reflect the direct and pressing needs of the handicapped themselves.

The group—which called itself Representatives of the Handicapped for an Alternative Conference Report—elected a chairman. This was Kenneth Jernigan, president of the National Federation of the Blind and a delegate to the Conference from the state of Iowa. The group then appointed members for a writing committee to produce an alternative report, choosing one or two persons from each handicap category present. The committee numbered 19, from 11 states. Its members were: William Adrian, Leroy Baugus, James Brooks, Shirley Burghard, Howard Felix, Michael Fuehrer, Don Galloway, Mervin Garretson, James Gashel, Paul Gassert, Mary Sloan Jones, Leonard Meyer, Louis Michaux, Rami Rabby, Les Sinclair, Dan Sorenson, Isaiah Uliss, and Kathy Weger. The committee members comprised the following handicaps: three are blind, two are deaf, three are in wheelchairs, three are former mental patients, two are epileptics, two have cerebral palsy, one is an amputee, one has a learning disability, one is a parent of a handicapped child. In addition, two committee members represented the non-white caucus, and two are veterans.

During the 24 hours after the Wednesday meeting, the writing committee produced a document which was debated and amended at another general meeting held Thursday, May 26. At this meeting resolutions were introduced from the floor and these, along with the document produced by the writing committee, were adopted by the whole group as the Alternative Conference Report. This is the report reproduced below.

In statements to the press, Jack Smith, executive director of the Conference, indicated that he felt the handicapped of the nation are in general not sophisticated enough about the issues confronting them to determine their own needs and priorities. As a result he viewed the Conference as an educational experience for the handicapped, a chance for them to meet each other and the "experts." Contradicting this, the handicapped persons at the alternative conference easily reached a consensus on the issues of importance to them, and they considered that the major division in the field is between the handicapped themselves and the professionals with a vested interest in programs as they now exist.

More copies of this report may be obtained from the White House Conference on Handicapped Individuals, 1832 M Street, NW., Suite 801, Washington, D.C. 20036, or from the National Federation of the Blind, 1346 Connecticut Avenue, NW., Suite 212, Washington, D.C. 20036.

ALTERNATIVE REPORT OF THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

I. PREAMBLE

Believing in the goals, purposes, and potential value of the White House Conference on Handicapped Individuals authorized by title III of Public Law 93-516, we, the representatives of the handicapped for an alternative Conference report, have assembled to express views which have come from our own experience as handicapped individuals and as representatives of broader constituencies. It is our intent that this report stand on its own and also add to any positive recommendations from the White House Conference which would benefit the millions of handicapped Americans. Since the structure and planning of the Conference did not allow for creative expression and original thought by the delegates and other participants, a broadly based group of handicapped individuals and other interested persons has come together to more truly reflect the needs and aspirations of handicapped Americans. We feel that the issues presented in the workbooks of the White House Conference were not formulated at a grassroots level meaningfully involving the handicapped.

The recommendations in the present report have been carefully developed and worded. They reflect the best ideas expressed in workshops as well as by individuals. We hope that there will be a number of White House conferences on the needs of handicapped individuals. Furthermore, we hope that the spirit of the alternative report will establish the tone of subsequent conferences, that they will be truly written and created by the handicapped and those who are vitally interested in the welfare of handicapped individuals, and that there will be full implementation of measures which would be of maximum benefit to such individuals, moving them into the mainstream of American life.

II. BACKGROUND

As the participants in the national White House Conference on Handicapped Individuals arrived in Washington, D.C., and learned in more detail the structure and operation of the Conference, a growing wave of dissatisfaction spread. By Wednesday, May 25, a sizable number of delegates and other participants determined that something had to be done for the benefit of the Conference and of all handicapped individuals. A large group (approximately 400) assembled, and its members were generally labeled "those dissatisfied with the Conference." In large part the reasons for the dissatisfaction were these:

State White House Conferences. We felt that state conferences selecting delegates to the national Conference were not structured to allow a truly representative consensus of the needs and wishes of the handicapped. There seemed to be an overrepresentation of professional service providers. In many (if not most) instances, the delegates were not actually elected at all, but rather they were chosen by select committees or by individuals. This was seen as an undemocratic process.

Issues/Recommendations Structure. We felt that the approach to developing issues and recommendations was similarly undemocratic. It seemed as though the White House Conference staff had no faith in the basic capacities of handicapped persons to come together to hammer out their own agenda of national priorities. That this should be done by checking boxes and "prioritizing" 3,500 separate recommendations (many of which duplicated one another and others of which were unclear in meaning or impact) speaks to this lack of faith. The White House Conference staff claimed that the issues grew out of the state conferences, but even at that level, we were presented with "awareness papers" stating "what we already know," accompanied by long lists of issues which formed the basis of the polling to be done at the state and national conferences. The overly structured reporting forms for the state conferences, the delegate workbooks, and the computerized voting system for the national Conference inhibited the freedom of choice of the delegates and their ability to exercise their best judgment.

Custodial Care of Handicapped Delegates and Participants. There were several elements in the grand logistics plan for the national White House Conference which were reminiscent of a kind of custodialism that the Conference itself should have been designed to bring to an end. For example, participants in the Conference were pressured into staying in a single hotel, where they were assigned roommates, and into eating all of their meals in the hotel under a meal ticket system. Normally, delegates to federal conferences are given a per diem amount and allowed to arrange their own food and lodging. It was only after massive protest (including letters from the Governors of several states) that delegates were permitted to make their own arrangements. Other participants still were required to eat and sleep at the Conference hotel. Even so, those delegates eating away from the hotel were given $16 per day, while the hotel received $28 per day per delegate for meals. Delegates were asked to fill out detailed medical forms, and dossiers containing this information were sent to the airlines carrying them to the Conference. Along with their airline tickets, some delegates received "speciman tickets" showing them what a real ticket was like. This speciman ticket was made out to "John P. Doe," and this was further labeled "your name." We as representatives of the handicapped feel that such treatment was in most cases unnecessary and undesirable and will further damage our image with the general public, and in doing so, will impede the goals of the White House Conference itself.

III. TERMINOLOGY

This report uses the term "handicapped" throughout. Yet, consistent with the concept of allowing the people we represent flexibility and self-determination, we recognize the following generic labels as options currently used in various parts of the country: (1) handicapped; (2) individuals who are handicapped; (3) individuals with a handicap; (4) disabled; (5) individuals who are disabled; (6) individuals with a disability; (7) handicapper; (8) individuals who are handicappers; (9) able-bodied.

IV. RECOGNITION OF UNIQUE NEEDS

Whereas handicapped consumers of this country believe that blanket legislation, recommendations, and approaches toward concerns and issues affecting all handicapped groups tend to generate confusion and to be lacking in specific definition; and

Whereas some of the issues inherent in

each category of the handicapped reflect diametrically opposite problems; and

Whereas sighted persons do not always know what is best for blind people, and orthopedically handicapped persons rightfully resent unwarranted determinations of their needs from able-bodied people, and deaf persons do not always agree with hearing people regarding what is best for deaf children and adults:

Be it resolved that the issues and concerns at this Conference be analyzed and grouped according to each specific handicap in order to more fully and properly meet the needs of each handicapped group; and

Be it further resolved that all delegates and alternates, state directors, the Conference implementation committee, and report editors give full and careful consideration to position papers and recommendations from specific groups of the handicapped and particularly from established consumer organizations represented by and under the leadership of handicapped individuals themselves.

V. CONSUMER PARTICIPATION

Whereas the White House Conference on Handicapped Individuals was brought about for the purpose of providing avenues through which handicapped persons could secure full independence and freedom of expression; and

Whereas traditionally the decision-making structures the policy-making boards and governing bodies of agencies and programs serving the handicapped have largely excluded representatives chosen by the handicapped themselves; and

Whereas that approach is no longer acceptable in the new age of independence for the handicapped:

Be it resolved that all programs and services must in the future adopt policies which provide for meaningful consumer representation in their basic policy-making processes; and

Be it further resolved that meaningful consumer participation requires that at least fifty percent of those serving on policy-making bodies be bonafide consumer representatives, plus, where this is appropriate, an additional number of parents of consumers. We define the terms "consumer" and "consumer representative" as follows:

A "consumer" is defined as an individual who by reason of his handicap is eligible for, may require, has received, or is a recipient of some kind of human service including medical, mental, rehabilitation, housing, transportation, etc., as provided by an agency.

A "consumer group" is defined as a group of consumers who have joined together for the general welfare of their membership.

A "consumer representative" is an individual who represents a constituency, is elected by them, and is accountable to them.

VI. CIVIL RIGHTS

Preface 1. All of the succeeding resolutions, when dealing with the term "handicapped," adopt the definition of that term found in the Rehabilitation Act of 1973.

Preface 2. All of the succeeding resolutions include handicapped persons who are black, Asian-Americans, and Hispanic-Americans.

Be it resolved that to secure adequate enforcement of federal civil rights laws for the handicapped, we support the following:

(1) The establishment of an adequate enforcement staff in the Department of Labor and the Department of Health, Education, and Welfare, and in other federal departments as they issue regulations under section 504 of the Rehabilitation Act of 1973, as amended. There must be regional distribution of staff. There must be adequate staff, at the least 1,000 positions, designated to work exclusively on section 504 in the Department of HEW.

(2) Such staff must be substantially integrated by including handicapped persons, parents of handicapped children, or other advocates for the handicapped, and these staff members must be specifically trained.

(3) Legislatively or by amending the regulations, we must require regular compliance reviews of facilities and recipients.

(4) Legislatively, an individual's right to take legal action under sections 503 and 504 must be ensured.

(5) Legislatively, the right to recover legal fees for actions brought under sections 503 and 504 must be ensured.

(6) Section 504 must be amended to clearly require affirmative action plans, including employment goals and timetables and including provisions to prevent discrimination against the more "severely" handicapped.

(7) Sections 503 and 504 or their regulations must be amended to provide a specific time limit for the resolution of complaints brought to the Department of Labor or Department of HEW. The limit should be 120 days from the date the complaint is filed, and complainants must be allowed to go directly to court if the Departments fail to issue a finding by the time deadline.

(8) Title V of the Rehabilitation Act of 1973, as amended, must be further amended to require an annual report on governmental efforts to enforce sections 501, 503, and 504, and this report must be prepared by a non-Executive Branch agency.

(9) The government must provide technical assistance to recipients of federal funds to aid their compliance with title V.

(10) The Justice Department must be allowed to bring civil suits to enforce title V.

We also recommend the following actions:

(1) Amend all titles of the Civil Rights Act of 1964 to include discrimination against the handicapped; remove the requirement that all administrative remedies be exhausted before lawsuits can be brought; and add a title dealing with discrimination against the institutionalized handicapped.

(2) Establish and fund a legal advocacy network to enforce the civil rights of the handicapped.

(3) Demand that the federal government hire people with substantial handicaps by rigorously carrying out section 501 of the Rehabilitation Act of 1973. The Administration should assign responsibility (and introduce legislation to assign responsibility) for monitoring federal compliance with section 501 to an agency outside the Civil Service Commission, and this agency should be staffed by a majority of handicapped employees. Such an agency must be given authority to apply sanctions against federal departments that do not respond.

(4) Require all federal agencies to establish employment goals and timetables for the handicapped.

(5) Request that President Carter accomplish these recommendations by July 4, 1977, or publicly proclaim a timetable for their accomplishment.

(6) Handicapped persons who are faced with additional discrimination because of sex or lifestyle should receive particular consideration in the enforcement of civil rights provisions.

(7) In any law requiring that reasonable accommodation be made for the hiring of the handicapped as a part of affirmative action, the providing of assistants (readers interpreters, manual writers, etc.) shall be considered reasonable accommodation.

(8) As our fight for civil rights grows, we endorse as a tool in obtaining our rights the possible future use of economic boycotts of industries that discriminate the handicapped.

VII. REMOVAL OF ATTITUDINAL BARRIERS

Be it resolved that there must be a strong emphasis on assertiveness training groups (or the handicapped, to be conducted, if possible, by qualified handicapped persons. One of the basic problems faced by handicapped persons is the struggle to be assertive. Their failure to be assertive results from the institutional oppression they face. The handicapped need to form consciousness-raising groups to confront and overcome their fears.

Be it further resolved that there must be an emphasis on the forming of alternative identities for the handicapped which are more positive than those imposed on them by institutions.

Whereas inherent in attitudinal barriers faced by the handicapped is the assumption of intrinsic inferiority, reinforced by continual association with the medical, psychological, rehabilitation, and special education industry institutions; and by continual representation of and segregation of such individuals in sterile, stereotyped social contexts; and

Whereas social-psychological research indicates that actual behavioral commitments and actual exposure to discrepancies between perceived events and established stereotypes and the most conducive to attitude change; and

Whereas our immediate purpose is not to get society to "like" all handicapped individuals, but rather to provide such individuals the opportunity to be liked or disliked on their own:

Be it resolved that the following be made priorities:

(1) Legislative bodies shall mandate inclusion of the handicapped in the Civil Rights Act of 1964, as amended, and provide for funded implementation and enforcement that includes significant input from the handicapped. This will also include mandating and funding affirmative action in transportation, environmental access, education, recreation, cultural participation, and all levels of employment. The result of this will be (a) behavioral commitments to affirmative action; (b) increased numbers of handicapped persons providing positive role models; (c) increased opportunities for social contact between the handicapped and the general public; and (d) decreased association between the handicapped and "helping" professions and institutions.

(2) Legislative and executive bodies at all levels must maintain a commitment to the concept of total integration in its broadest sense. This would include: total integration in the educational curriculum at all levels (i.e., integration of the handicapped as people in children's books, films, etc.; integration of common tools used by the handicapped; and integration of the handicapped in educational faculties, staffs, and administrations). This would also include total integration of the handicapped in the media at all levels (i.e., integration of the handicapped as people in movies, plays, commercials, magazines, billboards, etc., as well as integration of the handicapped in media review boards, administrations, staffs, etc.).

(3) Legislative and executive bodies at all levels must place a funding priority on services and programs relating to the handicapped that are primarily administered and staffed and/or otherwise monitored by them, so that the handicapped may be competent about the business of helping themselves. Examples would be: funding outreach, peer counseling, and assertiveness training programs designed, administered, and staffed with maximum input from the handicapped.

VIII. ARCHITECTURAL ACCESSIBILITY

Be it resolved that all citizens, including those with characteristics labeled handicaps, have the right of access to and usage of the constructed environment.

To facilitate this right, we should evolve beyond the present practice of "barrier-free design" to the more comprehensive approach of "total environmental design." Barrier-free design stresses minimum standards and removal of barriers—access rather than total use. Total environmental design stresses optimum design standards and design for use by everyone—usability rather than just ac-

cess, and the avoidance of special features where feasible. To accomplish this goal, we make the following recommendations:

(1) Each state should enact legislation and building codes that encompass the total environmental design concept. Such laws and codes should meet the following criteria:

(a) Promote usability by the widest range of individuals with differing physical characteristics.

(b) Increase safety in use.

(c) Decrease maintenance and operating expenses.

(d) Enhance aesthetics.

(e) Provide flexibility of standards according to geographic region or climate.

(f) Provide optimum design standards for new construction.

(g) Provide design flexibility for reconstruction.

(h) Avoid "special" or "separate" features unless this is technologically impossible.

(i) Establish a state-level total environmental design board as the sole authority for rules, interpretations, exceptions, variances, standards, etc., such a board to include handicapped members, including handicapped women (in order to gauge the meeting of their specific needs).

(2) A new graphic symbol should be created to replace the present accessibility symbol. The new symbol should more meaningfully represent the concept of total environmental design, rather than simply accessibility to wheelchairs.

(3) The federal Architectural and Transportation Barriers Compliance Board should be upgraded as follows:

(a) An independent board shall be located in the appropriate federal service agency for the handicapped.

(b) The board shall have sole authority and jurisdiction regarding the resolution of any conflicts under the federal statute and shall have sole enforcement responsibility for buildings and properties under its jurisdiction, and all other relevant areas.

(c) The board shall have accessibility standard-making authority with regard to all federal programs. Where federal and state jurisdictions overlap, the board shall determine equivalency of standards and the higher standards shall prevail.

(d) The board shall be the sole waiver authority within the federal system under its jurisdiction. Waivers shall not be granted to new construction.

(e) Enabling legislation shall also mandate a regional board network under the authority of the federal board.

(f) An annual line item budget shall be provided for the board which fully funds all activities of the board commensurate with its duties.

(4) Each state shall create consumer monitoring bodies to assist in the barrier-free design total environmental design enforcement effort, and these bodies shall include women.

(5) All design and building-related professionals shall be required to undergo barrier-free design/total environmental design training and refresher programs.

[Note: Information on total environmental design can be obtained by contacting: Environmental Design Section, Office of Programs for Handicappers, Michigan State University, East Lansing, Michigan 48824. Two prototype barrier-free design documents—Act 177 of the Michigan Public Acts of 1975, and the State Building Code of Michigan—can be obtained from: State Representative Jelt Sietsema, Room 4, State Capitol, Lansing, Michigan 48909.]

IX. TRANSPORTATION ACCESSIBILITY

Be it resolved that all citizens have the right of access to and use of all public transit services, vehicles, equipment, and fixed facilities; and that therefore:

(1) Bus transit services shall consist of line haul vehicles all of which are accessible, complemented by an appropriate number of accessible demand-response vehicles that provide point-to-point service and feeder service to the line haul vehicles.

(2) The U.S. Department of Transportation, and in particular, the Urban Mass Transit Administration, and other federal agencies providing money for transportation shall be authorized (by amending legislation and administrative rule changes) to prescribe vehicle standards which will result in total vehicle accessibility for vehicles ordered on or after January 1, 1978. Total accessibility standards should also be developed and mandated for other modes of transportation where accessibility technology has not yet been brought to bear (intercity buses, rail services, air carriers, etc.) These standards shall be effective July 1, 1979, and shall include visual and auditory travel information mechanisms.

(3) Each state or territory shall enact legislation requiring that all vehicles purchased with federal, state, or local funds, or other government-funded transportation, be accessible and usable by handicapped persons and have at least two wheelchair tiedown areas, commencing January 1, 1978.

(4) The federal government agencies funding transportation shall mandate the establishment of consumer advisory groups composed of at least 75 percent handicapped consumers. The groups will work with transit agencies, authorities, and planning organizations

(5) Federal agencies funding transportation projects shall mandate coordination of such services to improve efficiency and effectiveness.

X. REMOVAL OF COMMUNICATION BARRIERS

Whereas communciation is the major means by which human beings are distinguished from animals; and

Whereas the problems of communication provide almost insurmountable barriers for deaf people and others who have handicaps that break down the means by which most people normally communicate; and

Whereas since these barriers are readily overcome by consideration of the communication needs of such people; for instance, telephone installations usable by people confined to wheelchairs and who cannot reach normal telephone installations in public buildings, or the hearing impaired who are able to use telephones if volume controls are provided, or the deaf whose ability to use telephone communications is limited to devices known as TTY's (teletypewriters)—all of which should be required installations in public and private buildings.

Be it resolved that we take note of the differences in the modes of communication needed and supported by various categories of the handicapped, and urge that consideration be given to special needs as the means of eliminating communication barriers which effectively and needlessly separate people. Included herein are the efforts to suppress sign language. It is our consensus that deaf people shall have the right to communicate in any manner which is convenient and effective for them, and that the right to visual communication shall be guaranteed at all levels of society including the educational system. We condemn all attempts to deprive deaf persons of their right to choose the manner in which they prefer to communicate.

Be it further resolved that visual communication is an unusual mode of communication but one that should be encouraged to overcome the barriers that currently exist in many situations, including such areas as transportation, courts of law, administrative and other service agencies, television, and interpersonal relationships such as doctor-patient relations, and the like. Such means of overcoming communication barriers shall include, but not be limited to, the use of interpreters (both oral and manual), the development of alternative indicia to complement normal audible signals (such as flashing lights for fire alarms and other emergency warnings), the use of pre-recorded or other means of communication in elevators, on highways, etc., for persons who, for reasons of health or other problems, cannot communicate verbally; the requirement that all public announcements and emergency broadcasts on open-circuit public or commercial television be both audible and visual; the refutation of the claim that visible captions on television are objectionable or offensive to people who hear; the development of devices such as teletypewriters for the deaf and mechanical "voices" for persons whose speech impediments are so great as to preclude their being understood without such assistance.

Be it further resolved that there is a need to develop means to insure that audible announcements such as are generally provided in train stations, bus stations, and airports (as well as on planes and buses) are also provided in visible form; there is also a need to increase awareness of visual communication modes and to encourage the use of visual communication among all people by endorsing the concept that sign language be taught in schools at all grade levels, and taught as a foreign language at the high school and college level. This will be done not so much as a means of communication with deaf people (although it is acknowledged that this would be one result) but as an international language which is desperately needed in a rapidly shrinking world where the need for communication among nations as well as among individuals grows greater by the hour.

For the blind we support the continued viability of the Braille system and feel that it is essential that both Braille reading and writing be taught effectively to blind children and newly blinded adults. We strongly support wider availability of Braille books and we strongly support all efforts to expand the Braille production capacity in America and throughout the world. The use of tape recordings and reading devices (while having a valuable place) must not be promoted to the extent that the importance of Braille is at all diminished.

We recommend that every effort be made to place communication barriers as one of the highest priority problems so far identified, and that it be given great consideration in implementation strategies so that the communicatively handicapped, be they individuals or nations, are truly members of one world.

Whereas millions of disabled Americans with hearing, speech, and other communicational impairments encounter serious employment, social, information, and service discrimination because of (a) the non-availability of low-cost or rental telecommunication devices for the deaf (TTY's); (b) the present inequitable long-distance and message-unit telephonic rate structures that penalize utilization of this slower, printed communication mode; and (c) the failure of all telephone companies to provide equal services at equal rates to communicationally impaired consumers:

Be it resolved that we call upon and urge the President, the Federal Communications Commission, the Congress, appropriate state regulatory commissions, and individual telephone companies to take all necessary and appropriate action to mandate the availability of such telecommunication devices for the deaf on a low-cost or rental basis, and to modify and reduce telephonic long-distance and message-unit structures for users of telecommunication devices.

Whereas telephone companies are currently seeking to make an identifiable charge for directory assistance in ascertaining telephone numbers; and

Whereas in many parts of the country service has been limited so that addresses and other public information are no longer provided on request; and

Whereas this would impose increased costs on and reduce services to the blind and others who are unable to use the print directory;

Be it resolved that telephone companies be urged to exempt the blind and all others who are unable to use the print directory from such a charge, and that this exemption be done by means of a credit card system; and

Be it further resolved that telephone companies be urged to provide to persons unable to use the print directory any information printed in the directory, upon request.

XI. EDUCATIONAL ISSUES

Whereas Public Law 94-142, the Education for All Handicapped Children Act of 1975, however necessary and however well-intentioned in spirit, tends to stereotype or generalize across the entire gamut of diverse handicaps and to create surface assumptions and misunderstandings among the naive and frequently uninformed educational community about the unique needs of differing handicapping conditions:

Be it resolved that although mainstreaming (or placing of handicapped children in regular public classrooms) with full support services is the right of every handicapped child, it shall also be the right of any handicapped child to be educated in a fully supported alternative setting when this is judged desirable by school administrators solely for their own convenience). Separate residential schools for the education of deaf children are one instance of this need, since when such children have no chance to communicate at home or, on a steady basis, in public school, a residential school for the deaf offers the constant communication necessary to proper educational and mental development. Thus Public Law 94-142 should be amended to provide that while mainstreaming remains an unquestioned right for every handicapped child, alternatives shall also be available and a right for those children who desire them; and

Be it further resolved that the law be extended to include the 0-5 age group of children; and

Be it further resolved that emphasis be placed on the right to select an appropriate educational setting, maintaining a wide selectivity of options, including special classes within public schools, special day schools, residential schools, or adult activity centers, depending on the handicap and the individual education plan for each child or adult; and

Be it further resolved that implementation procedures be strengthened in the area of assessment, support services, due process, the individualized education plan, including native language and mode of communication; and

Be it further resolved that clear distinctions be made among the educational needs of each category of the handicapped, such as the blind, orthopedically handicapped, deaf, etc.

Be it resolved that strong support be extended to early diagnosis and intervention; and

Be it further resolved that programs be developed to increase public awareness to the special educational needs and problems of each handicapped group, including the need for readers for the blind and sign language programs for the deaf; and

Be it further resolved that television captioning be required on all public and commercial programs since this greatly delimits out-of-school learning opportunities for the hearing-impaired; and

Be it further resolved that intermediate educational units such as state and regional schools for the handicapped be maintained with increased and direct support from the state educational agency as a necessary option for some handicapped persons, depending on individualized assessment and programming; and

Be it further resolved that no program or law be developed that limits freedom of choice of the handicapped with respect to the type of educational setting which is most appropriate to their needs.

Be it resolved that to assure handicapped children appropriate education services, the federal government shall immediately mandate the availability of comprehensive developmental education services to all handicapped children from birth through five years of age.

Whereas the passage of title V of the Rehabilitation Act of 1973, as amended, mandates affirmative action in employment and non-discrimination in employment of the handicapped; and

Whereas a large percentage of handicapped persons previously discriminated against will become eligible for such employment and, consequently, may require employment preparation; and

Whereas title V carries no mandate for funding to provide for the vocational assessment, vocational counseling, and vocational training of the handicapped, nor for individualized developmental or prevocational training; and

Whereas the Vocational Education Act of 1973 (Public Law 94-482) mandates that only ten percent of those funds appropriated under the act be set aside for the training of such handicapped persons:

Be it resolved that the mandated funds set aside under the Vocational Education Act be increased from ten percent to 25 percent.

Whereas all children have a right to an education which meets their needs and which allows them full equality of opportunity; and

Whereas many children with handicaps are denied these rights because of discriminatory practices, including denial of appropriate services, segregation, and exclusion; and

Whereas Congress passed and the President signed Public Law 94-142, the Education for All Handicapped Children Act, to assure handicapped children the right to a free and appropriate public education, to provide full procedural safeguards for these children and their parents, and to assist the state and local educational agencies to carry out their constitutional responsibilities to these children; and

Whereas Public Law 94-142 requires each State to provide all its handicapped children with a free appropriate public education by September 1, 1978, or become ineligible for federal funding, and sets forth minimal requirements necessary for the federal government to assure that children with handicaps are, in fact, protected; and

Whereas various organizations and individuals have recommended amendments to Public Law 94-142 that will undermine its effectiveness in protecting handicapped children and weaken its provisions; and

Whereas we support this federal law which mandates that national, state, and local government must finally take effective action to assure that each handicapped child is assured equal educational opportunity,

Be it resolved that every national, state, and local government agency responsible for implementing this law and for providing an education to handicapped children do so immediately; and

Be it further resolved that we oppose any attempt to weaken the long-needed protection provided in Public Law 94-142, and that therefore, other than the amendments proposed herein, we oppose amendment to this legislation.

Whereas many handicapped people, especially those belonging to minority groups, often go through and leave the educational system not knowing how to read or write, and are thus prevented from gaining employment or achieving full participation in society:

Be it resolved that programs be established to identify individuals with reading problems and that these people be integrated into the Right-To-Read program, and that all means (including federal programs and media campaigns) be used to accomplish this result; and

Be it further resolved that there be increased research into and expansion of teaching techniques such as the consonant-vowel-consonant principle and auditory senses; and

Be it further resolved that community colleges be encouraged to establish programs for the reading handicapped, including increased funding for such programs, and for programs set up for non-English-speaking Americans; and

Be it further resolved that there be established programs coordinated with private industry to allow continuing schooling in conjunction with part-time employment, with full-time employment in the private industry being the goal at the end of the program; and

Be it further resolved that community-based tutorial programs be established and expanded to provide corrective programs free to those with reading disabilities.

Be it resolved that for all handicapped children in public or separate school programs, there be provided arts education and recreation experience.

XII. MENTAL HEALTH

Whereas the long-overdue de-institutionalization of mental hospital patients has thrust thousands of exceptional persons into communities unprepared to receive them; and

Whereas psycho-social rehabilitation facilities are much too few in number and are woefully under-financed; and

Whereas community mental health residences are rare and inadequate and vocational training and employment of such aforementioned persons in the sheltered, public, and private sectors are shamefully unavailable:

Be it resolved that adequate federal funding be provided directly to non-profit mental health facilities with a proven record of service delivery (as judged from the point of view of their clients) and to small community-based, client-controlled mental health alternatives; and

Be it further resolved that ombudsperson offices be established at all levels to ensure that the aforesaid is carried out with integrity and dispatch.

Be it resolved that, with regard to persons termed mentally ill, we support the following:

(1) Government support for all those confined to mental institutions.

(2) Compiling of directories and media dissemination of information about services available to those termed mentally ill.

(3) Free access at all times of persons to their own medical records.

(4) Elimination of questions such as, "Have you ever been in a mental institution?" on job applications or government forms, since this results in a labeling which is a barrier to employment.

(5) Elimination of consideration of a history of so-called mental illness in granting drivers licenses or automobile insurance.

(6) Recognition of the contributions to society of those labeled mentally ill.

(7) De-institutionalization of those labeled

mentally ill, through the use of halfway houses, communes, etc.

(8) Emphasis by health agencies on practical preparation for living and self-healthful life-styles.

(9) Expansion of new forms of therapy, such as self-help therapy.

(10) Realization that so-called mental illness is often a biochemical physical illness or nutritional deficiency that has mental overtones.

(11) Use of volunteers in work with the so-called mentally ill.

(12) Withholding of funds from programs which ignore federal mandates for deinstitutionalization.

(13) Encouragement for consumer groups of the so-called mentally ill to coordinate their efforts and ally themselves with each other.

(14) More homelike facilities for those who must be institutionalized.

(15) Periodic follow-up and time limits on involuntary institutionalization.

(16) Payment of the minimum competitive wage for all patients working in mental institutions.

(17) Establishment of patient advocacy programs in institutions and the dissemination of the "Mental Patient's Bill of Rights."

(18) Awareness of the overuse and the dangers of heavy tranquilizing drugs as mental treatment.

(19) Banning of electric convulsive shock therapy and psychosurgery.

(20) Elimination of custodial warehousing of patients in institutions due to the lack of proper mental treatment.

(21) Elimination of central registers of those labeled mentally ill and a ban on the publishing of such registers.

(22) Elimination of degrading terminology for the so-called mentally ill.

(23) Participation of former mental patients in national meetings of the American Psychiatric Association.

(24) Moratorium on construction of new state mental institutions, and the establishment instead of small community-based, client-controlled social rehabilitation units.

(25) Use of daycare centers as an alternative to institutionalization.

(26) Free involvement of those termed mentally ill and of the physically handicapped in programs of the church and encouragement for the church to speak out against the injustice done to those termed mentally ill.

(27) Recruitment of law students to the area of patient advocacy.

(28) Elimination of the discriminatory policies of departments of vocational rehabilitation regarding those termed mentally ill.

(29) Inclusion of the so-called mentally ill in the definition of "seriously disabled" and their inclusion in Fair Employment Practices Acts.

(30) Elimination of the title and connotation of "lunacy" or "sanity" hearings.

(31) An increase from 20 to 25 in the number of members of the White House Special Commission on Mental Health, the five new members to be former mental patients.

(32) The appointment of former mental health patients to the task forces to be formed by the White House Special Commission on Mental Health.

XIII. MEDICAL AND FINANCIAL ASSISTANCE

Whereas Social Security and public assistance programs allow very limited earnings, above which benefits are either reduced sharply or terminated altogether; and

Whereas these principles which originated as part of the Elizabethan poor law are not compatible with present-day concepts of encouraging people to work to their maximum potential and to contribute to society as a whole:

Be it resolved that Social Security and public assistance laws and regulations be amended to remove all disincentives to employment for recipients.

Whereas handicapped individuals who benefit from the medicare and medicaid programs are often not able to obtain equal medical insurance or assistance once they become ineligible for medicare or medicaid benefits; and

Whereas this reduction of available medical assistance benefits constitutes a substantial disincentive to employment for handicapped individuals:

Be it resolved that medicare and medicaid benefits be extended to handicapped individuals who are employed but who have no other equally effective or comprehensive medical assistance plan available.

Whereas a five-month waiting period is presently a prerequisite of eligibility for disability insurance benefits or the disability freeze under Social Security; and

Whereas this waiting period imposes a substantial financial hardship on handicapped persons who are otherwise entitled to receive benefits which they have earned; and

Whereas the purpose of the Social Security disability insurance program is to insure against the economic loss which occurs as a result of a disability; and

Whereas the true economic adversities usually begin at the onset of a disabling condition, not five months later:

Be it resolved that we urge the elimination of the five-month waiting period in the Social Security disability insurance program.

Whereas there is presently a requirement that an individual must have been entitled to disability benefits for at least 24 consecutive months in order to qualify for medicare on the basis of disability; and

Whereas this arrangement results in many disability insurance beneficiaries not having any financial assistance to meet the costs of medical care, costs which are steadily increasing and already far beyond the means of those who must rely on Social Security benefits for their basic subsistence:

Be it resolved that we urge elimination of the 24-month waiting period for medicare eligibility in the Social Security disability insurance program.

Whereas since the Supplemental Security Income (SSI) program became effective on January 1, 1974, the several states and the District of Columbia have been relieved of from 50 percent to 83 percent of the costs of aid payments to their needy aged, blind, and handicapped citizens; and

Whereas, with today's high cost of living and inflation, the basic SSI grants are insufficient to purchase the necessities of life by our neediest citizens:

Be it resolved that the Congress should require the state and the District of Columbia to supplement the SSI grants by not less than 50 percent of such grants.

Whereas the condition of epilepsy necessitates medical control and requires the constant purchase of expensive medication; and

Whereas because of negative social attitudes, many persons with epilepsy find it difficult to obtain suitable employment even though they have the ability to compete on equal terms; and

Whereas this social and economic discrimination places an almost impossible financial burden upon such persons:

Be it resolved that the extra financial burden borne by epileptics should be recognized in providing financial and medical assistance to such individuals and that benefits should be made available to cover the cost of medication designed to control epileptic seizures, so that such individuals will be able to participate fully in remunerative employment.

Whereas the condition of epilepsy is a handicap which is not visible; and

Whereas it is desirable for other persons to be aware of this medical condition so that appropriate treatment can be provided in the event of seizures:

Be it resolved that medical alert bracelets shall be made available to all epileptics through appropriate medical institutions, and that such bracelets shall be made available free of charge.

Whereas because utility resources, especially telephones, are necessities for the health and safety of handicapped persons, among the many economic oppressions suffered by the handicapped, the unreasonable conditions imposed by utility companies are some of the heaviest burdens:

Be it resolved that pressure be brought to bear on all major utilities to revise their repressive policies concerning security deposits, excessive installation fees, etc.

XIV. REHABILITATION SERVICE DELIVERY

Structure

Be it resolved that umbrella agencies for the handicapped as suggested by President Carter in his keynote address before the White House Conference on Handicapped Individuals tend to have a negative impact on the level and quality of services to handicapped Americans. Experience and studies have demonstrated that human services to categories of the handicapped, each of which have unique and specialized needs and characteristics, deteriorate when scrambled together by government technocrats who work on the principles of economies of scale and administrative convenience.

While coordination of services to the handicapped is acceptable and desirable, the separate needs and specialized character of each handicap must be recognized, and this separation and individual identity reflected in the organizational structure of such services. For example, rehabilitation services to the physically handicapped, the deaf, and the blind must be given the highest possible visibility, each having its own budget and appropriation and its own professional staff.

In addition, within each handicap category, services (vocational rehabilitation, independent living skills training, education, and social services) must be consolidated to the greatest extent possible in order to maintain continuity of service and to focus on the total needs of the client.

Quality of services and accreditation

Traditionally the rehabilitation system has focused on an individual's disabilities and not on his abilities. Such a focus has resulted in the following phenomena: consideration of all clients as psychological wrecks who require endless diagnosis and evaluative treatment; frequent channeling of clients into a narrow set of stereotyped occupations; sponsorship of clients in bachelors, masters, and doctoral programs as a means of avoiding the unpleasant task of actually having to place them in employment situations; etc.

In order to alter this focus, and in order to improve the attitudes of rehabilitation counselors, we propose (a) that a majority of the governing boards of rehabilitation agencies and facilities be composed of elected representatives of handicapped consumer organizations; (b) that persons appointed to executive level and senior professional staff positions in rehabilitation agencies and facilities be handicapped, all other qualifications being equal; (c) that standards of quality service be established, and decisions on the accreditation of specific rehabilitation agencies be made, by statewide standard-setting and accreditation boards a majority of the members of which shall be composed of elected representatives of handicapped consumer groups; and (d) that funding of graduate degree programs in rehabilitation

and related subjects be made conditional upon including in the curricula a heavy emphasis on the basic normality, productivity, and competence of the handicapped.

In addition, we propose that private placement specialists be used by rehabilitation agencies in their attempts to place the handicapped in employment.

We also note that there must be a continuum between the processes of education, special education, and vocational training, ending in employment. These areas of preparation and training must be coordinated to produce the best results for the client.

Be it resolved that the position of Commissioner of the Rehabilitation Services Administration in the Department of Health, Education, and Welfare should be filled by a handicapped person sensitive to the needs of the handicapped.

Be it resolved that there be affirmative enforcement of the requirement in the Rehabilitation Act of 1973 that rehabilitation clients be notified of their right to appeal decisions made on their cases.

XV. OMBUDSPERSON FOR THE HANDICAPPED

Whereas the handicapped of the United States must insure that their civil and other rights are protected at the national, state, and local levels, without regard to race, color, creed, national origin, sex, or age; and

Whereas ombudsperson functions include those of watchdog or investigative oversight operations; complaint officer; disseminator of information; public service producer of specialized programs for all media; citizen and agency advocate; promoter of maximum people's awareness; recommendor of needed legislation to avoid complaints; independent critic of the bureaucratic establishment—all of these and more, with clout, able to get to the top levels of decision-making:

Be it resolved that paid ombudsperson offices be established at all levels for all concerns of the handicapped, with specialized training provided to ensure that the handicapped can themselves be employed in these offices for all community concerns, in a new career ladder; and

Be it further resolved that these offices will be staffed sufficiently that there will be available expertise to deal with the various responsibilities delegated to the offices; and

Be it further resolved that the President of the United States immediately appoint a paid President's Ombudsperson Council comprised of and on behalf of the handicapped so as to establish a direct channel for all handicapped concerns to the highest office.

XVI. ADDITIONAL RESOLUTIONS

Recreation discrimination

Whereas the leisure needs of handicapped children, youths, adults, and aged persons are largely ignored by medical, educational, vocational, social, recreational, arts, and cultural services; and

Whereas more than 35 million handicapped persons daily accumulate 170+ million empty, debilitating, and demeaning hours of enforced leisure per day, this in denial of leisure fulfillment, denial of recreation, parks, cultural, and arts opportunities, and denial of a normal American lifestyle:

Be it resolved that measures should be taken immediately by the President and the Congress to ensure that all federal agencies and programs respond to this massive disenfranchisement of more than 35 million Americans.

Sexism

Be it resolved that this alternative conference deplores the neglect of the subject of sexism which is an added oppression for all handicapped women, as well as non-handicapped women, and is also a discrimination that injures both women and men in their relationships.

It is urged that future conferences address this area of oppression through speakers and workshops, run by women but open to all. Also, it is urged that support, both moral and financial, be given to the Disabled Women's Caucus, open only to women, and that this group be an integral part of all future conference planning.

Prevention of prenatal and birth trauma and injury

Whereas the identification and ultimate prevention of those prenatal insults and labor and birth trauma which contribute to congenital and birth injury can only be done if the mother's prenatal, labor, and birth records are preserved and made available to the individuals concerned and to authorized epidemiologists, until the offspring reach adulthood:

Be it resolved that federal funds shall be made available to only those hospitals providing obstetric services which direct that a photocopy of the monther's complete prenatal, labor, and birth records be attached to the records of her newborn infant and preserved until the child reaches adulthood. The "complete records" shall include medical progress notes, nurses notes, x-rays, laboratory reports, etc.

Minimum wage in sheltered workshops

Whereas our society, as expressed through an act of Congress, has determined that there should be a minimum wage paid to all workers; and

Whereas the current Fair Labor Standards Act provides that handicapped workers in sheltered workshops can be paid as little as 25 percent of the congressionally established statutory minimum wage; and

Whereas the minimum wage was established so that workers would have economic stability above the subsistence level; and

Whereas it costs at least as much and generally more for handicapped persons to maintain economic stability above the subsistence level as it costs for non-handicapped persons; and

Whereas sheltered workshop managements use the subminimum wage provisions to support poor business management paid for by the sweat, the tears, the labor, and the frustrations of the handicapped workers:

Be it resolved that we call upon Congress to amend the Fair Labor Standards Act to extend the benefits of the federal statutory minimum wage to handicapped workers in sheltered workshops.

Publishing the risks of prescription drugs

Be it resolved that the U.S. Food and Drug Administration require that all drugs be accompanied by a Patient Package Insert (an information sheet) which advises the consumer, in clearly understandable language, the risks as well as the benefits of the respective drug.

Distribution of the alternative conference report

Whereas the White House Conference on Handicapped Individuals was mandated by the Congress to "stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps"; and

Whereas the structure of the White House Conference was so undemocratic and its conclusions so predetermined by the Conference staff that the representatives of handicapped individuals in attendance felt forced to hold an alternative conference in order freely to express their true concerns; and

Whereas those concerns and suggested solutions are contained in the report—known as the Alternative Conference Report—of which this resolution is a part; and

Whereas this Alternative Conference Report is more representative of the needs of handicapped citizens of America and closer to the "national assessment" of those needs called for by Congress than is any report likely to be prepared by the staff of the White House Conference:

Be it resolved that this Alternative Conference Report should be distributed as an official document of the White House Conference on Handicapped Individuals, and that it should receive the same distribution as the final report of the White House Conference; and

Be it further resolved that if this cannot be accomplished with the cooperation of the White House Conference staff, the report be distributed without such cooperation, to the President, the Congress, and the press.

JUSTICE BRANDEIS HUMANITARIAN AWARD PRESENTED TO MRS. WILLIAMS

Mr. JACKSON. Mr. President, I ask unanimous consent that the proceedings of the ceremony held in New Jersey on June 23, 1977 for the presentation of the Justice Brandeis Humanitarian Award to Mrs. Jeanette Williams as the Woman of the Year be printed in the RECORD.

There being no objection, the proceedings were ordered to be printed in the RECORD, as follows:

"WOMAN OF THE YEAR AWARD" TO MRS. HARRISON WILLIAMS, JR.

Jeanette Williams received the first "Woman of the Year Award" presented by the New Jersey Region of the Zionist Organization of America at the Justice Louis D. Brandeis Humanitarian Awards Dinner on June 23, 1977.

Mrs. Williams, the wife of Senator Harrison A. Williams, Jr. of New Jersey, is a committed supporter of the State of Israel. She is a strong believer in the concepts of human rights, human dignity, and democracy. Senator Henry M. Jackson said of her, "Jeanette Williams has been an important force in bringing justice to all people in the tradition of Justice Brandeis. She has . . . led in the battle to raise the level of hope for poor people throughout our country."

Mrs. Williams has worked in the United States Congress for 20 years. She is currently the Senior Professional Staff Member on the Senate Committee on Human Resources. She has an enviable record and remarkable background. Jeanette has worked first as personal secretary to Senator Hubert Humphrey and then as press and legislative assistant to a Representative. For the past 14 years she has worked for the Senate Committee on Labor and Public Welfare now the Committee on Human Resources, and has received the Senate Recognition Award for her distinguished service. Mrs. Williams is listed in Who's Who of Women. She has received the Hadassah Myrtle Wreath Award for humanitarianism. Currently, Mrs. Williams is the 1977 Chairman of the National Advisory Committee on Mental Health Services and Women. Among Jeanette Williams other activities: She organized the New Jersey Task Force on Women and Alcohol, a member of the American Red Cross, and the National Society of Literature and the Arts. She is a participant of the Aspen Institute for Humanistic Studies, the Advisory Board of the New Jersey Humane Society, and the National Board of the Medical College of Pennsylvania. Jeanette was the keynote speaker at Harvard University in August 1976 and has spoken with many groups in New Jersey.

In presenting the award, Judge Joseph H. Lerner, National Vice President of The Zionist Organization of America, described Mrs. Williams, "as long time Zionist and committed supporter of the State of Israel and a person of great charm, warmth, and

inner strength. She is possessed of true beauty, and extrovertial personality, and a love of life."

"She has with fierce loyalty, stood with her husband, the able Senator Harrison A. Williams, Jr., Chairman of the Senate Committee on Human Resources in his activities on behalf of human rights, human dignity, and the fight for universal democracy." In conclusion Judge Lerner said, "You have been a great inspiration to us in our work in Zionism and for the State of Israel. It is, therefore, my great honor to present to you this plaque containing the eternal flame of Israel as our tribute to you as the Woman of the Year.

The plaque's inscription reads: "The Eternal Light to 'Woman of the Year'. . . .

"She lights the way with her sensibility for the needs of others. A woman of valor, whose devotion and support is lengendary. An outstanding American, a dear friend of Israel, she has been a source of strength and comfort to all whose lives she touched.

"Zionist Organization of America"

In accepting this award, Mrs. Williams said:

"This is a life moment—for me!

"Some life moments are experienced at the time, and some are relished in retrospect.

"This moment is happening to me now.

"It is an emotional experience for me to be honored by you as the first Woman of the Year and if I might, at the outset, strike a personal note, I am proud to be married to The Man of the Century.

"In preparing myself not only to receive this honor, and to attempt to deserve it, I re-read about some of the outstanding women in Jewish History who have demonstrated the greatest capacity of self-sacrifice, whether in ancient times as Esther and Deborah, or in more modern, Golda Meir.

"They have demonstrated that the only way one can gather strength is from commitment, and tonight we all reinforce our commitment to the survival of the State of Israel.

"Earlier this week a new Prime Minister was sworn in in Israel. Many in this country have expressed concern about the future, Jew and Non-Jew alike.

"It would appear that they want Israel itself to be more evenhanded. But how can you compromise with the threat of extinction? Although Israel must and will make every effort to reach an accommodation with her neighbors, Israel must learn from the great women in her history to gather strength from its own commitment to survive, and Israel will.

"We know the history of Ruth whose story was so recently read in synagogues throughout the world. Everyone, of course, is familiar with the story of the Moabite woman who chose to follow her husband's mother, Naomi. The legacy which Ruth leaves behind has been a guide to many of us in our relations with others. And, as Ruth said, I am proud to say: 'Thy people shall be my people.'

"In receiving this award I can only say ha-da-var shenti-ta-tem mee-toeh-ha-lev, gar bi-lee-bee. What comes from the heart, goes to the heart. This award which I feel comes from your heart, goes to my heart where I shall treasure it forever."

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 19, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

I ask unanimous consent that the notification be printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 19, 1977.

In reply refer to: I-8548/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

THE CULTURE OF APPEASEMENT

Mr. HAYAKAWA. Mr. President, in the years following our withdrawal from Southeast Asia, there has been an ongoing discussion both in this country and on the international scene, over the legacy of Vietnam. The debate as to whether the United States has completely recovered from the war in Vietnam has centered around such topics as the willingness of this country both to honor commitments to her allies and to effectively counter an expanding Soviet military capability.

Mr. Norman Podhoretz, in a recent issue of Harper's magazine, has addressed these questions in a most interesting fashion. He has drawn a parallel between the trends in this country since the war in Vietnam and the situation in Great Britain between the two World Wars. His most alarming conclusion is that these periods have been characterized by what he refers to as a "naive pacifism" in the face of a growing threat. Vietnam altered our whole attitude toward war and as a consequence, we have refused to correctly assess Soviet intentions, just as Britain failed to perceive Hitler's real motives.

In the interests of insuring a wider audience, I ask unanimous consent that Norman Podhoretz' article entitled "The Culture of Appeasement" which appears in the October issue of Harper's magazine, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Harper's, October 1977]

THE CULTURE OF APPEASEMENT

(By Norman Podhoretz)

Has the United States recovered from Vietnam? The general feeling seems to be that it has. Just this past Independence Day, for example, Tom Wicker of the New York Times delivered himself of the view that it was "a familiar sort of Fourth"—the kind, he said, "that was commonplace, even predictable, before the long, successive traumas of Vietnam and Watergate brought Americans a decade of self-doubt, self-criticism, self-loathing, on the one hand, and responding denials, anger, and chauvinism on the other." Of course, Wicker's rhetoric loads the case; it is in fact so reminiscent of the fevered atmosphere of the Vietnam era that in itself it casts doubt on the return to normalcy he then goes on to celebrate. But such subtleties aside, many people would agree that we have recovered from Vietnam and that we are back to normal again. I am not one of those people. I think that, far from having put Vietnam behind us, we are still living with it in a thousand different ways. It is there everywhere, a ubiquitous if often eerily invisible presence in our political culture. And it has left us a legacy of influence which threatens to have an even more destructive effect on our future than it has already had on our past.

Perhaps the most obvious evidence of this influence is in the new American attitude toward war. The idea of war has never been as natural or as glamorous to Americans as it used to be to the English or the Germans or the French. We have always tended in this country to think of war as at best a hideous necessity, not as a "continuation of politics by other means" or, alternatively, as an opportunity for heroism, glory, and honor. War to Americans is a calamity when it happens, it is a dirty business while it lasts, and the sooner it can be gotten over with the better. But negative as this attitude may be, it is still a far cry from the undifferentiated fear, loathing, and revulsion that the prospect of war now seems to inspire in the American mind.

No doubt a rise in pacifist sentiment is inevitable in the wake of any war, especially a war that ends, as Vietnam did, in humiliation and defeat. No doubt, also, the way the war in Vietnam was reported as well as the way it was opposed (a distinction more easily made in theory than it was ever observed in practice) helped to stimulate a vaguely pacifist response. All one heard about and saw was the horrors of war—unredeemed, as it appeared, by any noble purpose. No heroes emerged, only villains and victims, and nothing good was accomplished by American troops and American arms, only evil: only destruction, misery, murder, and guilt.

This is how pacifist ideologues look upon war in general, and the prominent position of pacifist organizations in the protest movement against American military involvement in Vietnam probably influenced the way the the war came to be conceived and described. (It is worth noting, however, that the pacifist world was split between those who, in the traditional pacifist spirit, regarded all wars as equally evil and those who, in a newer spirit, were willing to justify and even celebrate "wars of national liberation" and to condemn only "wars of imperialist aggression," such as they imagined the United States was waging in Vietnam.)

But be all that as it may, so powerful did the pacifist tide become that it even reached backward to engulf World War II, probably the most popular war in which the United States had ever participated. To this "Vietnamization" of World War II, as we may call it, two immensely successful novels of the Sixties, Joseph Heller's Catch-22 and Kurt Vonnegut's Slaughterhouse-Five, made perhaps the largest contribution. Although written without reference to Vietnam and published in 1961, just before American troops began to be sent there, Catch-22 achieved full cultic status only later in the decade, when it could be seized upon to discredit the one war from which something good had almost universally been thought to have come. Not even World War II, the war against Hitler, was worth fighting, said Catch-22, to the acclaim of millions; nor, added Vonnegut in his story of the bombing of Dresden, had we acted any less criminally in that war than we were acting in Vietnam.

As the past was thus Vietnamized, so is the future now being subjected to the same treatment. We have, that is, reached a point at which any American military action, anywhere in the world, in support of any objective whatever, has become difficult to imagine. Officially, of course, the President and those who speak in his name continue to declare that we will "honor our commitments." But does anyone take it for granted any longer—as everyone did before our defeat in Vietnam—that we would do so if it meant going to war?

And even short of actually going to war, there is the matter of our willingness to maintain the military forces necessary to deter the Soviet Union from moving any further ahead. Here, too, just as we officially remain committed to the defense of Western Europe, Japan, Israel, South Korea, and perhaps one or two other countries, we are also officially determined to prevent the Soviet Union from achieving the kind and degree of military superiority which would make a mockery of that commitment. But again appearances are misleading. Every year, it seems, the struggle against military spending grows more intense. While the Soviet Union engages in the most massive military buildup in the history of the world, we haggle over every weapon. We treat our own military leaders as though they were wearing the uniforms of a foreign power. Everything they tell us about our military needs is greeted with hostility and suspicion, and when, in response to sentiment of this nature, the President decides to scrap the B-1 bomber, one would think from the answering cheer that our mortal enemies had suffered a grievous defeat.

Now it may be that the decision to develop an updated B-52 fleet armed with cruise missiles instead of the B-1 was sound from a strictly military point of view, as well as from an economic one. But it would be naive to suppose that the campaign against the B-1 was fueled by a desire for the most effective possible weapons system at the lowest possible cost. No doubt this was what the President and some others had in mind, but cost-effectiveness was hardly the factor which made for the tremendous passion over the B-1. The real goal of the campaign against it, according to a spokesman for Clergy and Laity Concerned (a group which is itself a legacy of Vietnam, having been spawned in opposition to that war and having survived to fight another day), "was to raise fundamental questions about the meaning of national security and the militarization of American foreign policy, using the B-1 as symbol *par excellence*." We can, therefore, expect that the next stage of the campaign will be an effort to prevent development of the cruise missile. For "to the extent that the Administration is allowed to replace an obsolescent technology (the manned bomber) with a new and even more dangerous technology (the cruise missile), it can be assumed that the public, the press, and the Congress have failed to learn the most crucial lessons of the B-1 campaign." Those lessons being presumably that we ought to have no weapons at all.

In addition to pacifism, Vietnam has left us with a legacy of native anti-Americanism. Obviously, the explicit anti-Americanism which surfaced on the radical Left in the late Sixties has receded into virtual invisibility. No longer do we see the name of a country spelled with a *k* to suggest an association with Nazi Germany. Nor do vilifications of American society fill the papers and the airwaves to the exclusion of any other idea as they did only a few years ago. Eldridge Cleaver has become a born-again Christian and a patriot. Rennie Davis has become an insurance salesman. Tom Hayden has joined the Democratic Party. Jerry Rubin is off the streets and "into" the pursuit of maturity. Abbie Hoffman has disappeared. But this does not mean that the anti-American attitudes they and others like them did so much to propagate have also disappeared. These attitudes are still here and, in subtler forms they now assume, are perhaps even more widespread, and certainly more respectable, than they ever were before.

They are present, for example, in the notion that the main obstacle to nuclear disarmament is the American military establishment. From this it is concluded that unilateral "restraint" in the development of weapons by the United States is all that is needed to make the Russians follow suit, as though the only reason they have constructed so awesome an arsenal is that we have set them a bad example which they have been forced to imitate. Anti-Americanism is also present in the idea that Americans consume more than their "fair share" of resources. From this it is concluded that a voluntary reduction in the American standard of living (a kind of unilateral economic disarmament) is all that is needed to facilitate a more equitable distribution of wealth throughout the world, as though prosperity were a zero-sum game and as though we did not in any case produce more wealth than we consume. And anti-Americanism is present in the view that the main threat to the liberties of the American people is the American government itself. From this it is argued that preventing the FBI and the CIA from using questionable methods of surveillance in the attempt to catch spies and terrorists is a more urgent order of business than doing anything when the KGB employs the same methods against American citizens in America on a vastly larger scale.

Indeed, immediately after the news broke this past summer that the Soviet Union had been monitoring an untold number of phone conversations in this country, that this had been known to the authorities for at least the past four years, and that nothing had been done about it for fear of endangering detente, Tom Wicker rushed into print to express his outrage at electronic eavesdropping—by American law-enforcement agencies. The next day, while the President was denying that there was anything "aggressive" about the Soviet activity, the *New York Times* reported on another page that civil suits had been filed against agents of the FBI associated with a former colleague named John Kearney who had "headed an internal security unit known as Squad 47 [and who] has been charged with five felony counts stemming from allegedly illegal mail-openings and wiretaps that his men conducted in a search for fugitive members of the Weather Underground, a terrorist group."

The third major legacy of Vietnam with which we are still living is the altered American attitude toward Communism. Before Vietnam the spread of Communism was regarded as the single greatest danger to American security and American values. Today no less an authority than the President of the United States stigmatizes this old attitude as an "inordinate fear of Communism" and congratulates himself and his fellow Americans on having overcome it.

One may wonder how the fear of a totalitarian system armed, as Solzhenitsyn puts it, "to the teeth," aggressively on the move, and sworn to destroy the political system to which we ourselves are presumably committed, could ever be inordinate. But Mr. Carter is almost certainly right in observing that no such fear is widespread in America today. A few individuals like Henry Jackson, Paul Nitze, and Elmo Zumwalt, and a few small groups like the Committee on the Present Danger and the Coalition for a Democratic Majority keep trying to alert American public opinion to the unprecedented dimensions of the Soviet military buildup, but they are rewarded for their pains with accusations of hysteria, paranoia, servility toward the Pentagon, and worse. While the number of strategic nuclear missiles in the Soviet arsenal increases, while Soviet warships now appear for the first time in distant waters which no Russian navy ever thought necessary or desirable to patrol, while Soviet conventional forces are strengthened and multiplied on the Western front, while Soviet probes are made into Africa through Cuban surrogates with the evident intention of enabling the Russians to control sealanes vital to the commerce of the entire West, and while Communist parties move closer and closer to power in Italy and France—while all this goes on, elaborate exercises in statistical manipulation and sophistical rationalization are undertaken to explain it all away as unreal or as insignificant or as understandable or as unthreatening.

Nor are such exercises confined to articles in the liberal press. They even come out of the CIA and the Department of Defense, whose reassuring estimates of the Soviet-American military balance are obversely reminiscent of intelligence reports which also told a series of Presidents what they wanted to hear about the progress of the war in Vietnam. What Presidents Kennedy, Johnson, and Nixon wanted to hear was that the war could be won and that it was going well; what President Carter wants to hear is that defense spending can be cut without endangering the security of the United States.

Kennedy, Johnson, and Nixon were given wishful intelligence analyses and inflated body counts; Carter is given the CIA Team A and the Department of Defense Presidential Review Memorandum 10, whose contents, in William Safire's description, "feed the hopes for a smooth road to peace, with reduced American military expenditures leading to easily balanced budgets."

But denying the realities of the Soviet military buildup is only one of the forms our new freedom from the old "inordinate fear of Communism" has been taking. Another variant acknowledges that this buildup is real but regards it as a development to be welcomed by the United States rather than feared. The reasoning behind this bizarre notion is that only when the United States and the Soviet Union are equal in strength—when, in the jargon of arms control, "parity" has been achieved—will both sides feel secure enough to put a halt to the arms race and even to begin cutting back. In accord with these assumptions, Richard Pipes, the former director of the Russian Research Center at Harvard (who also headed a team of nongovernmental experts appointed during the Ford Administration to review the

CIA's estimate of Soviet military capability), writes, "The United States in the mid-1960's unilaterally froze its force of ICBM's at 1,054 and dismantled nearly all its defenses against enemy bombers. . . . The Russians were watched benignly as they moved toward parity with the United States in the number of intercontinental launchers, and then proceeded to attain numerical superiority."

A similarly benign attitude has been developing toward the progress of Communism in Western Europe. In this case, government officials, under Nixon and Ford and now under Carter, have lagged behind the "advanced" sectors of public opinion and the foreign-policy establishment in continuing to see the entry of Communist parties into the governments of Italy and France as a danger to NATO (not to mention to democracy). But the indications are that the gap is being closed. Already Secretary of State Cyrus Vance has spoken in much milder terms about Eurocommunism than his predecessor did; echoing the latest conventional wisdom on the subject, he has suggested that Eurocommunism may be more of a threat to the Soviet Union than it is to the West. By this logic, the spread of Communism into non-Communist countries ought to be encouraged by the United States rather than resisted, and American power used not to make the world safe for democracy but to make it safe for Communist regimes which declare their independence of Soviet control. Yet no Communist regime outside the Soviet orbit, not even one in Yugoslavia, countenances any political liberty at all within its own borders, while some independent Communist regimes, notably the one in China are more totalitarian than the Soviet Union itself. Jean-Francois Revel, the distinguished French political commentator, puts it with characteristic sharpness when he says in his recent book The Totalitarian Temptation that "de-Russification does not mean democratization"; to which one may add that it does not mean any lessening of hostility to the cause of liberty in international affairs either. But, clearly, Revel's view is on the defensive nowadays in the United States, where we seem to be moving beyond our new freedom from the "inordinate" fear of Communism to an even headier freedom from any fear of Communism at all.

Or is it perhaps the opposite which is true? Have we, that is, been plunged by Vietnam into so great a fear of Communism that we can no longer summon the will to resist it?

In speculating on this possibility, I have been struck very forcibly by certain resemblances between the United States today and Great Britain in the years after the first world war. The British, of course, were on the winning side in that war, whereas we were the losers in Vietnam. But World War I took so great a toll of lives and ideals that for all practical purposes it was experienced by the British as a defeat. Especially among the upper-class young—as Martin Green shows in his brilliant "Narrative of 'Decadence' in England After 1918," Children of the Sun—there developed many of the same tendencies we see all around us in America today. Thus, for example, words such as soldier and fighting, which had previously carried a positive charge, now became so distasteful that the Iliad, with its celebration of the martial virtues, could no longer be comfortably read. Nothing good could be said about war: it was wanton carnage pure and simple. Nor was it ever justified: the things that matter, Aldous Huxley declared, can be neither defended nor imposed by force of arms. When war comes, wrote Brian Howard in verse more typical in its sentiments than gifted in its language, it is "because a parcel of damned old men Want some fun or some power or something." It was in an atmosphere suffused with such ideas and attitudes that the Oxford Pledge never to fight "for King and country" was taken by so many thousands of British undergraduates in the early 1930s.

For England itself had been discredited by the first world war in the eyes of an entire generation of the privileged young. It was a wicked country because it had senselessly sent the flower of its youth to the slaughter, and it was doomed because it rested on obsolescent social and political foundations (by which some meant that there was too much inequality and others meant there was not enough). Worst of all from the point of view of not a few of these "bright young things" of the postwar period, England was dull and philistine. The arts were more exciting in France and life was more interesting in Germany. England was in fact so stodgy in its tastes, so puritanical in its morals, and so drearily middle-class in its culture that almost any alternative society was to be preferred.

Politically this hostility to England could find expression equally well on the Left and the Right. Perhaps the most striking example was the Mitford sisters, daughters of the country's highest aristocracy, one of whom, Unity, became a Nazi and another, Jessica, became a Communist. In his recent book on Unity, David Pryce-Jones tells the story of a British diplomat who was set upon by the two sisters during a visit to their country estate in the early Thirties. Are you, they demanded of him, "'a Fascist or a Communist?' and I said, 'Neither, I'm a democrat.' Whereupon they answered, 'How wet.'"

There were a good many others in the upper reaches of British society who also thought that being a democrat was "wet" (or, as I suppose we would say today, square). Some, like Sir Oswald Mosley and his followers in the British Union of Fascists, as well as prominent writers like D. H. Lawrence and Wyndham Lewis, sympathized with or actually supported Hitler and Mussolini (Osbert Sitwell, anticipating a similar fantasy of today about Italian Communism, once argued that Italian Fascism offered an escape from the equally horrible alternatives of Russian Bolshevism and American, capitalism); others, like W. H. Auden, Stephen Spender, John Strachey, and Philip Toynbee, were attracted to Stalin and to Communism. And there were even some for whom being a democrat was so wet that they were willing to commit treason against the democratic country in which they lived. About treason, at least, there was nothing wet. Whereas "to many English people," Rebecca West later wrote, patriotism had "something dowdy about it," treason had "a certain style, a sort of elegance." Moreover, it was understandable that treason should be committed against England. Thus when Guy Burgess, who had been a Soviet agent while pretending to work for British Intelligence, fled to Moscow in the Fifties just as he was about to be caught, Auden said that his old friend had become a Russian citizen for the same reason that he himself had become an American citizen—"it was the only way completely and finally to rebel against England."

That Auden and Burgess were both homosexuals clearly had something, perhaps everything, to do with their need "completely and finally to rebel against England." And indeed, it is impossible to read books like *"Children of the Sun* or Paul Fussell's *"The Great War and Modern Memory"* without being struck by the central role homosexuality played in the entire rebellious ethos of the interwar period in England. Much of the literature of the first world war itself, says Fussell, who has made a very thorough study of it, was "replete" with homosexual passion. Soldiers had been a common object of fantasy and desire for Victorian homosexuals because of "their youth, their athleticism, their relative cleanliness, their uniforms, and their heroic readiness, like Adonis or St. Sebastian, for 'sacrifice.'" It is therefore not surprising that young officers fresh out of schools where, according to Robert Graves, they were "trained up to become 'pseudo-homosexuals" (Graves' name, by the way, was stricken from the rolls of his own school, Charterhouse, for revealing this in his great memoir of the war, *"Goodbye to All That"*) regularly fell in love with each other or, more frequently, with the lower-class "lads" under their command.

But if homosexual feeling was aroused by the war, homosexual feeling also accounted for a good deal of the pacifism which rose out of the trenches and into the upper reaches of the culture after the war was over. In war poem after war poem and in memoir after memoir, the emphasis was on the youthful, masculine beauty so wantonly wasted by the war, the bodies meant for embrace by their own kind that were consigned so early to the grave. Fussell writes of Wilfred Owen, possibly the best of the English war poets and himself a homosexual and a casualty of the war: "What he encountered at the front was worse than even a poet's imagination could have conceived. From then on, in the less than two years left to him, the emotions that dominated were horror, outrage, and pity: horror at what he saw at the front; outrage at the inability of the civilian world . . . to understand what was going on; pity for the poor, dumb, helpless, good-looking boys victimized by it all." And the way "the sight and touch of beautiful lads ending with their frightful death in a wanton slaughter" gave rise to the new postwar surge of hostility to British society is altogether explicit in the case of one Capt. Ralph Nicholas Chubb, who, in the words of his biographer, "watched the slaughter of a boy, a creature, such as those he had always mentally, and once physically loved. He was the curly-haired, seventeen-year-old son of a blacksmith. . . . His death symbolized for Chubb all the horrors and taboos of society. The boy, a beloved object, was not only forbidden by law to be loved by an adult male but was legally sacrificed by the same laws in the service of his country."

No wonder, then, that so many of those who resented their own country to the point of pledging never to fight for it and even, in a few instances, to the point of joining forces with its enemies, should have been, or should have chosen to become, homosexuals. For whatever else homosexuality may be or may be caused by, to these young men of the English upper class it represented—as Martin Green so convincingly demonstrates—the refusal of fatherhood and all that fatherhood entailed: responsibility for a family and therefore an inescapable implication in the destiny of society as a whole. And that so many of the privileged young of England "no longer wanted to grow up to become fathers themselves" also meant that they were repudiating their birthright as successors to their own fathers in assuming a direct responsibility for the fate of the country.

The list of these young men is almost endless, ranging from dandies and aesthetes of the Twenties like Brian Howard and Harold Acton, to expatriate writers of the Thirties like Auden and Isherwood, to Soviet agents like Burgess and MacLean. It was through their writings, their political activities, and the way of life they followed that an indispensable element was added to the anti-democratic pacifism of the interwar ethos: a generalized contempt for middle-class or indeed any kind of heterosexual adult life. To be heterosexual was to be "an utterly dreary middleclass bore." At Oxford, said John Betjeman, it was only "state-subsidized undergraduates [who were] generally heterosexual." The best people looked to other men for sex and romance.

Anyone familiar with homosexual apologetics in America today will recognize these attitudes. Suitably updated and altered to fit contemporary American realities, they are purveyed by such openly homosexual writers as Allen Ginsberg, James Baldwin, and Gore Vidal—not to mention a host of less distinguished publicists—in whose work we find the same combination of pacifism (with Vietnam naturally standing in for World War I), hostility to one's own country and its putatively dreary middle-class way of life, and derision of the idea that it stands for anything worth defending or that it is threatened by anything but its own stupidity and wickedness. Vidal in particular often reminds one in his tone and style of the homosexual apologists described by Fussell and Green, even when he is being most up to date. For example, reviewing a recent book by Christopher Isherwood (who figured centrally in the culture of England during the interwar period before he emigrated to America, and who is thus a living link between that culture and our own), Vidal praises homosexuality for serving the alleged ecological need to control population growth. But even this trendy rationalization echoes one of his English forebears, John Addington Symonds, who once wrote: "It would not be easy to maintain that a curate begetting his fourteenth baby on the body of a worn-out wife is a more elevating object of mental contemplation than Harmodius in the embrace of Aristogiton."

The great influence of this complex of attitudes in the mid-1930s provoked George Orwell to an outburst against "so-called artists who spend on sodomy what they have gained by sponging." Even to wish to write about such people, as Cyril Connolly had just done in his novel The Rock Pool, was to "betray a kind of spiritual inadequacy" and a "distaste for normal life and common decency." Thinking no doubt of the contribution this "sluttish antinomianism" was making to the paralysis of British will in the face of an ever-growing Nazi threat, Orwell added, in a sentence which after forty years retains every last bit of its original force and relevance: "The fact to which we have got to cling, as to a life-belt, is that it is possible to be a normal decent person and yet to be fully alive."

One wonders: to what extent did the policy of appeasing Hitler which the British government followed in the Thirties derive from the fear that a generation raised on pacifism and contempt for the life of its own society would refuse or be unable to resist so powerful and self-confident an enemy as Nazi Germany? It would be very hard to say, although we know that at least one prominent Englishman of the day, the press magnate Lord Rothermere, believed that "a moribund people such as ours is not equipped to deal with a totalitarian state." We know, too, that Hitler himself thought the British would never fight. As he went from strength to strength they seemed to grow more and more fearful. Except for a few lonely figures like Winston Churchill who were generally dismissed by their own countrymen as hysterical warmongers, they blinded themselves to his intentions, rationalizing away his every aggressive move, and proclaiming that every advance he made was bringing the world closer and closer to peace. What else could this mean but that they had already given up?

It is of the greatest interest to note that Brezhnev today has expressed similar sentiments about the United States. Not so long ago, in a speech to Communist party leaders in Prague—to which as little attention has been paid in this country as was paid in England to equally revealing speeches by Hitler in the 1930s—Brezhnev bragged of the advances the Soviet Union had been making under cover of détente and predicted that they would lead to an irreversible shift in the balance of power by the 1980s. One imagines that he was led to this conclusion by the response of the United States to the Soviet military buildup, a response which has uncannily followed the pattern of British response to the German buildup of the Thirties.

The historian Walter Laqueur divides the British response into four distinct stages. In stage one, it was claimed that the report of German rearmament were grossly exaggerated; in stage two, the reports were acknowledged as true, but it was alleged that Germany was so far behind that it could never catch up; in stage three, it was admitted that Germany had achieved parity with or even surpassed Britain, but it was also said that this did not constitute a military threat since the Germans had to defend themselves against potential enemies in the East as well as in the West; and in stage four, when the full extent of German superiority was finally faced, it was said that survival now had to be the overriding consideration, and the counsels of appeasement prevailed. Compare this to Richard Pipe's description of the American response to the Soviet military buildup of the past few years:

"The frenetic pace of the Soviet nuclear buildup was explained first on the ground that the Russians had a lot of catching up to do, then that they had to consider the Chinese threat, and finally on the grounds that they are inherently a very insecure people and should be allowed an edge in deterrent capability."

We have, then, reached stage three. Are we about to move into stage four?

The Russians, at any rate, evidently think we already did move into it during the heyday of détente. In fact, according to a highly placed source within the Carter Administration recently quoted by the New York Times, the reason the Russians are so furious with the new Administration's human-rights initiative is that it seems to spell a reversal of what they previously saw as the inexorable decline of American will and American power. One can only hope that they are right; and yet the doubts grow with every new assertion by the President or the Secretary of State that this policy is not intended to "single the Soviet Union out," and with every new article in the press warning against the use of human rights as a political weapon in the service of a "mindless anti-Communism."

The Soviet Union, after all, has nothing to fear from a policy directed no more against them than against some of our own allies, or against right-wing military dictatorships which, however viciously they treat their own citizens, pose no threat to the United States, whether military or ideological. For, as Daniel P. Moynihan has pointed out, with the passing of Nazi Germany and the disappearance of Fascism as a plausible political creed, it is only Communism—or, if one prefers, Marxist-Leninism—which challenges liberal democracy in the world of ideas, values, ideologies. Small Communist or Marxist-Leninist countries attack us as viciously as, and often more effectively than, big ones.

Of these countries one may say what St. Augustine said of children: their virtue resides not in their wills but in the weakness of their limbs. (Where they are not weak, as in their systems of internal control, they are fully capable of rivaling the Russians and the Chinese in political barbarism and cruelty, and sometimes, as in Cambodia, even of surpassing them.) But no such virtue attaches to the Soviet Union. As the most powerful of all the Communist states, it is by that very fact the most dangerous enemy of liberty, democracy, and human rights on the face of the earth.

There was a time when all this was well understood in the United States, but that was before Vietnam. The defeat of our effort to halt the spread of Communism in Southeast Asia has left many who supported and even supervised that effort with the feeling that there is nothing we can do to stem the tide of Communism anywhere, not even in Western Europe. They have thus ironically become the de facto allies of those who are so little opposed to Marxist-Leninism and so much opposed to the United States that they think nothing should be done by America to stem the Communist tide. In short, these repentant hawks (so many of whom have found a perch in the upper levels of the Carter Administration), having been wrong on the one side are now making up for it by being wrong on the other. They were wrong in their hawkishness toward Vietnam—not because they wanted to hold the line against an advancing Communist tide but because they failed to see that the costs of holding such a line in Vietnam would inevitably turn out to be too high. And now, once again, they are wrong, this time in their dovishness toward the Soviet Union—not because they want to reach an accommodation with the Russians, but because they fail to see that the Russians are after something larger and more ambitious than an accommodation with us.

To be sure, how we can prudently and effectively deter the Soviet Union and resist the advance of Communism generally without unleashing a nuclear war is a serious and difficult question—the most serious and the most difficult question of the age. But even to begin answering it requires the realization that the democratic world is under siege, the conviction that it is worth defending, and the understanding that American power is indispensable to its defense. Until this realization, this conviction, and this understanding become as widespread in the United States as once upon a time they used to be, I for one will regard all talk of recovery from Vietnam as a delusion and a deceit. Meanwhile, the parallels with England in 1937 are here, and this revival of the culture of appeasement ought to be troubling our sleep.

EFFECTIVE RESETTLEMENT OF INDOCHINESE REFUGEES

Mr. ANDERSON. Mr. President, the United States took a necessary and commendable action in welcoming 150,000 Indochinese refugees to this country over the last $2\frac{1}{2}$ years. Our commitment to welcome these people as respected members of our society requires an effort on our part to assist these refugees to learn English, to find adequate housing, and to obtain work which will hopefully fully utilize their talents.

Resettlement programs have been started in 30 States and have proven to be quite effective. In the first 6 months of this year the unemployment rate among Indochinese fell from 13 to 7.9 percent. Today it is below the national average. It is a very active and committed group of Americans assisting these refugees which has made the current success possible.

The chairman of the Coalition for the Effective Resettlement of Indochinese Refugees is a very dedicated and hard working Minnesotan, Stanley Breen. The coalition is a group of more than 130 representatives of State, local, and volunteer organizations. All of the major volunteer agencies responsible for resettlement in the 28 States, where 90 percent of the Indochinese reside, are represented.

Mr. Breen testified before the Senate

Human Resources Committee today on an urgent matter. The Indochinese refugee assistance program will expire September 30, 1977, unless Congress acts to extend this program. Mr. Breen was here to urge Congress to act quickly before these self-help programs expire.

Our commitment to these displaced people must not end now before the job of assimilating these refugees is complete. The administration has proposed extending the medical and cash assistance programs for refugees not eligible for AFDC and medicaid and providing for temporary additional assistance to refugees who arrive after August 31, 1977. Senators KENNEDY, HUMPHREY, and I have introduced a separate bill which would extend the integrated benefit program for 3 years. Without job counseling and employment training as well as medical and cash assistance we would be shortsighted in our aid to these Indochinese and would be creating a perpetrating welfare dependence. Our proposal realistically provides for a phaseout of assistance on a graduated basis over 3 years to allow State agencies to phase in their increased involvement.

We must act quickly and we must authorize an integrated program.

In order that my colleagues might have the benefit of Stanley Breen's statement to the Senate Human Resources Committee, I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE CHAIRMAN OF THE COALITION FOR THE EFFECTIVE RESETTLEMENT OF INDOCHINESE REFUGEES

(By Stanley B. Breen)

As Chairman of the Coalition for the Effective Resettlement of Indochinese Refugees, I would like to express to the members of the Senate Human Resources Committee the Coalition's view on legislation extending the Indochina Migration and Refugee Assistance Act. The Coalition for the Effective Resettlement of Indochinese Refugees consists of more than 130 representatives of state, local and voluntary organizations throughout the United States. It represents all the major voluntary agencies responsible for resettlement, the 28 states in which 90 percent of the Indochinese reside, as well as county and private agencies who are closely involved in resettlement activities.

Over the last several months, members of the Coalition have worked closely with representatives of the Department of Health, Education, and Welfare, the State Department, the White House, and members of Congress to insure effective implementation of policies and legislation affecting the Indochinese refugees. We are, therefore, pleased that the Administration has recently requested legislation which would extend funding for certain portions of the Indochina Refugee Assistance Program (IRAP). This displays much needed attention to a problem which will not go away if we were to simply ignore it.

However, we have some very strong reservations about the content of the Administration bill. In its present form, the Administration proposal represents both bad policy—in that it perpetuates the welfare syndrome—and unequal administration—since only a minority of states could participate in the program.

The current refugee assistance program provides a comprehensive set of services, including social services, bilingual mental health counseling, employment and training programs, cash assistance, and medical assistance, which are designed to provide economic support to the refugees while they help the refugees acquire the tools for self-sufficiency.

The essential features which can aid the Indochinese in obtaining and upgrading employment, such as supportive social services, counseling, and training projects, would be eliminated under the Administration proposal. The Administration's bill provides only for cash and medical assistance for those refugees not eligible for AFDC and Medicaid, with temporary additional assistance to Indochinese refugees who arrived after August 31, 1977. Only a portion of these limited cash and medical services would be federally funded: 75 percent in FY 1978; 50 percent in FY 1979; and 25 percent in FY 1980. Because no supportive services or employment and mental health projects would be funded, the Administration proposal breeds dependency by handing out a welfare check without providing an incentive and a mechanism for breaking the welfare cycle.

Unfortunately, the ongoing programs designed to reduce dependency among the general population cannot adequately provide the needed services. The Work Incentive program, which provides jobs and training to AFDC recipients, is not available to those receiving Indochina Refugee Assistance. The CETA program is of little use in the resettlement effort, since the Indochinese were not an identified service group when most prime sponsors were establishing their priorities in using limited funds. Nearly all Title XX service agencies are currently spending all of the available funds and therefore cannot provide comprehensive services to refugees without reducing vital services elsewhere (even if they had the bilingual capacity to deal with this group). English language instruction provided in Adult Education programs will aid in the long-range assimilation of the refugee population but cannot have the immediate impact upon employment which comprehensive placement and training programs can have.

Programs which have proven themselves to be effective would be abandoned under the Administration proposal just at the time when they are beginning to produce substantial results. In 1976 HEW realized that existing resources were not adequate to reduce the high rate of welfare dependency among the Indochinese. Employment and training and mental health projects were therefore funded to meet the special needs of the refugees. Most of these began functioning in January of 1977 when the unemployment rate among the Indochinese was 13 percent. Six months later, a survey revealed an Indochinese unemployment rate of only 7.9 percent. While not all of the improvement can be attributed to the success of the special projects, it is clear that the concentrated efforts of the state and local governments and the voluntary agencies is having a substantial impact. The experience and resources of these projects will be lost without the supportive services and project funds necessary to maintain the programs to their successful completion.

The bill which the Sub-committee is currently considering is further hampered by administrative problems. The greatest of these is that most states do not have state statewide general assistance programs which meet the needs of unemployed refugees who are not eligible for AFDC. The Administration bill calls for a partial reimbursement for costs incurred. However, only 17 states have statewide general assistance programs which would authorize them to expend funds for this purpose. Some of these programs provide benefit levels as low as $30 per month. Since the reduction in federal funds would begin immediately, the states would have no opportunity to pass legislation to provide matching funds and would therefore be excluded from the program. The local taxpayers and the refugees would then bear the full weight of a cessation of federal funds for refugee relief. Those states which were able to continue to provide adequate services would find themselves inundated by an influx of new refugees. Internal migration is already hampering resettlement efforts as the Indochinese congregate in a few heavily impacted areas and this trend would be accelerated. The more gradual reduction of funding and the block grant approach of the Humphrey-Kennedy-Cranston-Stark measure would give the states considerable flexibility in their efforts to aid refugees within reasonable fiscal limits.

The reduction in services contained in the Administration bill would create substantial problems for affected refugees, voluntary agencies, and state and local governments. And while it would appear to reduce federal spending for this project, it would substantially increase the real burden upon the taxpayers who would have to fund long-term support for those who remain economically dependent.

The Coalition, therefore, recommends that several essential features, similar to those contained in bills introduced by Congressman Stark and Senators Humphrey and Kennedy, be incorporated into the Administration bill. These minimum requirements would include:

Continued funding for social services and special employment and mental health projects;

Uniformity of treatment among the states. This would be accomplished by providing 100 percent funding for current programs during the first year so that states would have time to seek supplemental funds through their legislatures, and by allowing the states flexibility in their efforts to cope with reduced federal funds during the phase-out period;

A planned phase-out of funding so that federal planned participation will be terminated at the end of three years.

These features would create the framework for a phase-out of special services so that neither the refugees nor the state and local taxpayers are unfairly burdened. It also provides a clear termination date so that the program is not continued indefinitely.

As I indicated at the beginning of this presentation, the Coalition has been seeking continued help for the Indochinese refugees for many months. However, the deficiencies in the current Administration proposal are so great that most of the Coalition members would actually oppose pasage of the bill in its present form. This bill does not represent a reasonable compromise between those who would like to continue full federal funding indefinitely and those who seek to reduce federal spending. It is a palliative which does not meet any of the real needs of the Indochinese or the American taxpayers.

THE CASE FOR U.S. INTELLIGENCE FORCES

Mr. GOLDWATER. Mr. President, recently a very important speech was given by Mr. Gordon B. McLendon of the Association of Former Intelligence Officers.

This speech reveals in plain words the practical reasons why the Nation needs an intelligence service.

It pinpoints several vivid examples of American intelligence successes which have played important roles in preserving American liberties.

It demonstrates the reasons why the public media must show responsibility to the common good by voluntarily refraining from abusive attacks on our intelligence community which damage necessary intelligence missions by revealing sources, secrets, and methods that took enormous time and money to build.

It also discloses several major areas in which the military capabilities of the Soviet Union may be perceived by the rest of the world, even if our own Government may dismiss the conclusion, as being superior to the U.S. power position in the world.

In other words, Mr. President, this is a speech that every Member of the Congress should read because it directly involves the survival of our people, our freedoms and the American experiment in self-government.

Therefore, Mr. President, I ask unanimous consent that the text of Mr. McLendon's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

U.S. INTELLIGENCE—AMERICA'S FIRST LINE OF DEFENSE

(By Gordon McLendon)

Before I conclude this speech thirty minutes from now, a missile could be launched from the Soviet Union, strike into this city and blow us all to kingdom come. I begin this way not because I believe such is going to happen—heaven forbid—but to point out to you that what we are going to discuss here is not in any sense some idle theory.

Take a look at your watch—it should say P.M.—twenty-nine minutes from now, your life and that of your family could be over.

If you believe me, we can get on with this speech.

To quote that gifted pseudonym, Adam Smith, "we are all at a wonderful party, and by the rules of the game we know that at some point in time the Black Horsemen will burst through the great terrace doors to cut down the revelers; those who leave early may be saved, but the music and wines are so seductive that we do not want to leave, but we do ask, 'What time is it? What time is it?' Only none of the clocks have any hands."

It is my hope to talk to those of you who are not frozen at the party and then sliced apart by the Black Horsemen of greed at the end. I am sure I speak to most of you.

While it is not this speaker's purpose to argue the case for or against increased military spending, it is my function today to make the strongest case for the importance of U.S. intelligence forces. In order to do that, there are certain basic facts concerning our defense forces that must be known:

Vast numbers of Americans today cynically close their ears to all comparisons of U.S. vs. Russian military strength on the ground that both sides possess enormous overkill. Enough, they argue, becomes much, and much has long since become far too much. Mutual destruction can be accomplished but once, they argue, and both sides have long had that potential.

However understandable, such a point of view has blind spots. In the first place, massive new Soviet nuclear rockets (ICBM's), such as the SS-9, can easily destroy U.S. missiles in their silos—because present U.S. policy is to fire only after an enemy attack.

Furthermore, the Russians do not regard a nuclear war as either impossible, unthinkable or unsurvivable. They do not believe that the United States can destroy the Soviet Union either by first strike or retaliation. Over the last twenty years, the Russians have devoted great effort to enormous civil defense projects. They believe that their present civil defense capability may well keep Soviet losses in any nuclear war below 20 million people—fewer than Russian losses in World War II. They believe that the bulk of Russia's industry could also survive. But the Russians believe that the United States, which has no nuclear civil defense program, may lose as many as 100 million people and by far the greater part of our industry. Dr. Eugene Wigner, America's Nobel Prize winning nuclear physicist from Princeton, confirms the Russian view. "The total explosive power in Russian missiles," says Dr. Wigner, "is now about 6 times greater than the explosive power in our missiles. The maximum damage that we could inflict on them would be less than 4% of the Russian population; they could destroy or threaten to destroy 45% of our population."

If the Russians are indeed thinking this way, U.S. nuclear capability is not the deterrent to the Russians that most Americans believe.

Besides the Russian nuclear civil defense system, the Soviets count upon weapons to secure them against U.S. nuclear rocket attack. We refer to Russia's moving, and mobile, missile launchers. We cannot aim at these launchers on the ground because they are easily concealed from our satellites and can be rapidly moved. They are not restricted by the SALT I agreement. Yet the United States has no mobile missile launchers. These moving Russian launchers, such as the SS-16 and the SS-20 can head off across a field, set up and fire in minutes at targets anywhere in the world.

The United States Navy is down to only 438 ships, compared to Russia's 1,440 active combat ships, including the new carrier *Kiev*.

The decay in readiness of our fleet was dramatically demonstrated during the *Mayaguez* incident. The U.S. carrier *Hancock*, 31 years old, which has been operating without one of its four shafts, limped weakly out of Subic Bay toward the Gulf of Thailand, making only 23 knots—and never reached the *Mayaguez*. Our helicopter carrier *Okinawa* was on its way to the flash point but part of *Okinawa's* boiler plant was off the line. Struggling along at thirteen or fourteen knots, it also never got there. The escort ship *Holt* was the first U.S. ship at the scene, but it had power-supply problems and so *Holt's* main battery was down the night before the engagement.

The former U.S. Secretary of Defense, James Schlesinger, said, "clearly, this nation cannot long tolerate the present readiness condition of the U.S. Navy."

In submarines, the Russians have a 3 to 1 advantage over the United States and are turning out a new sub every 5½ weeks. The newest Russian Delta class submarine has the new SSN-8 ballistic missile, with a range of over 4,000 nautical miles, capable of reaching any target in the United States from protected Russian waters. The United States won't have a comparable submarine missile until the first Trident submarine is ready in 1979.

In the air, the Soviets have the largest bomber force in the world—825 medium and heavy bombers—almost double the number of U.S. bombers. The United States may still enjoy a slight qualitative advantage in tactical air, but the Russians have now begun to deploy newer capable aircraft in great numbers—the Flogger, Foxbat, Fencer and Backfire. Ninety percent or more of these Soviet Backfire bombers are already in combat squadrons. The Soviet Backfire is far superior to any American bomber. It was the Backfire that we were building the B-1 to counter, and now we have cancelled the B-1. Soviet deep penetration capability in the air continues to grow rapidly.

The Soviet have 2,600 fighter-interceptors. The United States has 315, a margin of over 8 to 1. In 1975, the United States Air Force produced only 181 aircraft of all sizes.

Perhaps the best summary of air comparison came at the end of 1976 when the authoritative *Jane's All the World's Aircraft* reported that Soviet airpower is outstripping the U.S. so swiftly that now the United States might have to use major nuclear weapons just to counter a conventional Communist air attack.

Russia outproduces the U.S. in all military hardware except helicopters. Russia's Warsaw Pact forces in Europe outnumber our NATO forces 3 to 1 in combat formations. The Soviets now have a force of over 12,000 surface-to-air missiles (SAMS) ready and on launchers. The United States has dismantled all its strategic SAM defenses. Russia is now deploying its most advanced new intercontinental nuclear rocket, the SS-18 with a warhead of around 50 millions tons of TNT—more than 2500 times as large as the bomb dropped on Hiroshima. Russia has a 3-to-5 to 1 advantage in missile explosive power.

As late as the early 1960's, the Russian navy was simply a small coastal defense force. Now, it is a formidable blue-water navy whose total active combat ships, large and small, outnumber the U.S. six to one!

Soviet fleets now roam the Indian Ocean, have begun to edge out the United States in the seas off Japan, and in the Mediterranean they now challenge the U.S. sixth fleet. The u reme . ATO C mmander Atlantic, Admiral Kidd, said recently of the Mediterranean, "What used to be an Atlantic lake in the minds of the Alliance and the United States is now . . . an Atlantic moat, filled with predatory steel sharks, conceived and constructed in the Soviet Union."

On the ground, the Russians have nearly 4.5 million men under arms, well more than twice the U.S. military force. Russian combat ground forces outnumber us 3½ to 1. The Soviets—and no one who has just come from Russia, Siberia and Outer Mongolia, as I have, can miss this—devote at least 20% of their national product to defense. The United States devotes 5 percent. But the most distressing fact of all is this: of the total U.S. defense budget, costs at the Pentagon for wages and pensions take up 55 percent of our total military budget. Secretary of Defense Harold Brown says, "the whole pay structure needs to be looked at."

The point also should be made here that however we or our administration view our military capability, the rest of the world may view it quite differently. Regardless of what we feel to be our military strength, if certain of our marginal allies feel that we are vulnerable to Soviet power, the Russians may more easily intimidate them by their very mass of arms and thus extract political, economic and military concessions from them. For instance, Russia's nearer neighbors, along the vital Persian Gulf, may interpret the very volume of Soviet weaponry and men as superiority *per se* and be far more willing to acquiesce in demands and offer concessions.

Then, of course, there is China. The most important of all factors in today's world balance of power is the continued tension between Russia and China. Were those two to patch up their differences, the U.S. power position in the world would be frightfully damaged. At this moment, the United States would seem far nearer to a reconciliation with China than the Soviet Union. But suppose that China—particularly after our oriental loss of face in Viet Nam—decides that the margin of Russian military superiority over the United States is increasing so rapidly that the United States can no longer be counted upon as a reliable counterweight to the Soviet Union? Fearing U.S. weakness, a Chinese rapprochment with Russia is easy to conceive. And thus, even if we Americans interpret our preparedness one

way and see no shift in military balance with the Soviet Union, that does not mean that other countries, whose friendship we consider important, see our position to be the same versus that of the Soviets. As Alice might say to the Red Queen in Wonderland, "what's important is not, it's what seems to be that is."

You have to talk tough, and from strength, if you expect the Russians to listen.

As the Soviet historian Andrei Amalrik says, "The Russians despise you, consider you an idiot and they do exactly what they want if you talk to them with courtesy and tact."

Too many of our State Department theorists must know, but somehow forget, that when you deal with the Russian leaders, you are not dealing with the products of American Ivy League colleges or even public schools, men bred in the manners and traditions of Western civilization. Rather, in Russian leaders, you are talking to men whose heritage and views go back to the brutality of the czars and savage peasant bandits and Genghis Khan and the Tartars and ruthless conquerors of the past. You must talk to them hard and from strength.

Again, the purpose of this talk is to refocus attention on the importance of our intelligence forces. We make no excuses for past intelligence transgressions in domestic areas. There were FBI and CIA excesses and wrongs—abuses that were thoughtfully committed, and not by mistake. Such attacks on our domestic freedoms demand the most outraged resistance. But we have had that resistance, and hopefully the public and the Congress have made their point. It is important to note that our own intelligence revealed its own past mistakes—they did not have to be unearthed. Such candor by U.S intelligence deserved nationwide applause. At any rate, explicit new legislation and tough congressional oversight committees have now been set up to protect our rights under the 1st and 4th Amendments. We must not continue what has at times since late 1974 become a destructive orgy within our intelligence community, for the attacks that have been made have not only revealed the questionable activities, but also have revealed intelligence sources, secrets and methods that took enormous time and money to build. These continued random attacks by publicity-seeking committees have damaged our first line of defense—U.S. Intelligence. To quote Secretary Schlesinger again, "It has caused delight and derision among our potential foes, concern among our friends, and wonderment on the part of all."

If you are a football coach and you find yourself operating with eight players to the opposition's eleven, you must change your game plan. You must operate far more strategically with your eight men—with far greater intelligence. And so just as the United States devotes less and less to defense relative to the Soviets, there is greatly increased need for accurate intelligence concerning potential enemies. With the volume of our defense going down, what we keep must be employed with maximum intelligence.

And even now, the United States has the best intelligence in the world. You get a lot for your intelligence dollar. The brilliant Lt. Gen. Sam Wilson, head of intelligence at the Defense Department, has pointed out vivid examples of American intelligence successes:

One—American intelligence spotted the Soviet nuclear missiles on their way to Cuba in 1962 and supported the President as he worked through 13 nightmarish days to force the Russians to remove them . . .

Two—U.S. intelligence gave seven years warning on the development of Moscow's anti-ballistic missile system . . .

Three—American intelligence pinpointed eight new Soviet intercontinental ballistic missiles and evaluated the development of each missile three or more years before it became operational . . .

Four—U.S. intelligence anticipated two major new Soviet submarine programs well before the first boats slid down the ways . . .

Five—U.S. intelligence revealed the status and design of two Soviet aircraft carriers well before the front one went into sea trials . . .

Six—U.S. intelligence successfully monitors and predicts trends in oil prices and tracks the flow of petro dollars—vital to your pocketbook and everyday life . . .

Seven—American intelligence performs the vital task of assessing yearly world crop prospects—a key to strategic planning of all sorts.

Eight—U.S. intelligence monitors compliance with strategic arms limitation agreements. Our intelligence does not have to estimate, does not have to guess . . . our intelligence knows whether our possible opponents are keeping their agreements. And that's a new job for intelligence—keeping the peace and restraining the arms race.

Nine—U.S. intelligence experts are more than craftsmen, more than scientists, they are dedicated, talented artists. They are also brave people on perilous duty in strange lands, they are gifted analysts puzzling out mysterious actions by alien peoples in remote, closed and secretive societies. You do not want these courageous men and women who risk their lives for this country exposed and destroyed.

Ten—in 1942, the United States Navy cracked the most secret of Japanese codes, and we were thus able to crush the Japanese fleet at Midway, avenging Pearl Harbor and also turning the entire Pacific war around.

Eleven—for nearly ten years before he was betrayed and executed in 1963, the famous Colonel Oleg Penkovsky, one of Russia's foremost intelligence officers, was also—to the bitter dismay of the Soviets—also a double agent for the CIA, and, as such, played a key role for us in the Cuban missile crisis.

Twelve—had it not been for the joint effort of our intelligence with the celebrated British special intelligence service (MI-6) in 1953 Iran would likely have joined the Soviet Union. The demagogic premier of Iran, Mohammed Mossadegh, was on the very verge of overthrowing the Shah and making Iran part of Russia. However, the CIA, with British intelligence, toppled Mossadegh, restored the Shah to power, and saved that vital country and its great oil resources for the free world.

I hope that these examples illustrate the crucial place which U.S. intelligence occupies in the preservation of the American dream.

But that was yesterday. What about today? Take Africa—from which we import important minerals. Suppose our intelligence told you that the Russians—using Cuba as their cover—have not only reversed their promised withdrawal of troops in Angola but also increased them to between 14 and 15 thousand? This strong Soviet-Cuban force is intimidating to Southwest Africa—Namibia—which is scheduled for independence on 1 December.

Through our intelligence, we know where these Cuban troops are: 6,000 are infantry, there is a Cuban arsenal including an armored regiment with 120 T-54 and T-34 Soviet tanks and 1900 men, an armored car regiment with 70 Soviet-made vehicles and 1600 men, five regiments equipped with mobile rocket launchers. We know that the Cubans have at least a dozen MIG-4 fighters, helicopters and Antavos-2 light transport planes, and we know that Angolan airfields at Huando, Mocamedes and Cabo Linda are rapidly being modernized. The names of these cities may mean little to the average man until it is pointed out they are part of a potential Soviet staging area for a major offensive against Southwest Africa. Going northward into Central Africa, U.S. Intelligence knows that Cuban and Soviet forces are using Brazzaville as the first stop for most Communist expeditionary forces before they fan out across the southern rim of Africa.

All too close to strategic areas of the Middle East, there are about 500 Cuban advisers in Somalia and they would like to take over Djibouti, the important Red Sea port long controlled by the French. We know that in Aden, which is already fully communist, there are 1000 Cuban advisers and more than twice that number of what the Russians like to call technicians—which means pilots, guerrilla trainers, doctors, economic experts and agricultural and educational teams.

All of this information is most important to us, particularly in a day when there are talks about re-establishing diplomatic and trade relations with Communist Cuba. And this information can only be supplied to Washington by a very able U.S. intelligence force. Whether Washington uses the information intelligently is beyond the scope of this address.

As the director of Central Intelligence advocates, Congress should change our security laws so that the charter of the CIA specifically refers to and limits the CIA to "foreign" intelligence.

The fact is that the service rendered this nation by our intelligence service during the past 30 years makes the few improprieties look small. Not that they should be ignored, but rather viewed in proper perspective. Spy stories in the morning paper make such juicy reading that they are publicized out of all proportion. In the process, enormously complex and expensive technical intelligence may be exposed and countered.

Again, abuses of our intelligence services did not have to be "discovered;" they were identified, revealed and made public by the intelligence community itself. Intelligence itself told the public about them. They have been ended.

When you approach the CIA headquarters building on the green lawns at Langley, Virginia, you will see a statue of Nathan Hale. That will probably call to memory his words, "I regret that I have but one life to give for my country." But there is something else significant about that statue of Nathan Hale at Langley. A close look will show you that Nathan Hale's hands are tied behind him and his legs are bound with a rope. He was bound just that way before the Redcoats hanged him for American espionage.

That is not the way Americans want their intelligence agents, like Nathan Hale. The American people must rally round our vital intelligence forces and insist on keeping the ropes off Nathan Hale.

If we do, the time tomorrow can be 0001 and not 2359. There need be no words from the old years as evocative as Quisling, blitzkrieg, Sig Heil, Stuka, panzer, Messerschmidt, or Coral Sea. The words of tomorrow can be as dazzling as the morning sun.

DR. OLIN ROBISON ON THE SOVIET UNION

Mr. MUSKIE. Mr. President, a recent issue of the Christian Science Monitor contains an interview with Dr. Olin Robison, president of Middlebury College in Vermont and former provost of Bowdoin College in Maine. Dr. Robison was interviewed after his return from the Soviet Union, where as a guest of the Soviet Academy of Sciences, he spoke on the policies of the Carter administration.

Dr. Robison's 20-year interest in Soviet affairs, demonstrated by involvement in exchange programs between young American and Soviet leaders and yearly American-Soviet conferences, has

led to the formation of personal friendships with Soviet educators, researchers, and officials in the Soviet Foreign Ministry. In Dr. Robison's view, these exchanges provide a valuable channel of understanding between the United States and the Soviet Union, outside the context of formal diplomacy.

In the interview with the Christian Science Monitor, Dr. Robison discusses the personal insights he has gained into the causes and cures of misunderstandings between the two countries.

It is a most informative interview, and to share it with my colleagues I ask unanimous consent that the interview published in the newspaper's August 25 edition be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

DÉTENTE OVER DINNER—COLLEGE PRESIDENT SHARES UNOFFICIAL DIALOGUES WITH SOVIETS

(By Richard M. Harley)

MIDDLEBURY, VERMONT.—When Middlebury College President Olin Robison recently spoke in Moscow as a guest of the Soviet Academy of Sciences, he discovered that he had become something of a minor prophet.

Back in 1975, with the American election looming on the horizon, he had predicted on a similar visit to Moscow that any Southerner who could beat George Wallace in the South would be the next President of the United States.

"They remembered that," laughed Dr. Robison on his return from Moscow several weeks ago. "Never mind the fact that at the time I was thinking of Terry Sanford, not Jimmy Carter. Terry had just had the good wisdom to invite me to be his foreign policy adviser in the campaign, and of course, I was thinking that that showed him to be a man of great sagacity!"

In July, just six months into the Carter administration, Dr. Robison again found himself before an Academy of Sciences audience. This time he spoke on the new administration's policies. But in the discussion that followed, he soon found that the winds had shifted since his last talk.

Although the Soviets were still curious about the new American policies, they also wanted to know about President Carter's much-publicized religious faith, a curiosity that kept Dr. Robison fielding questions for another two hours from some 50 America-watchers and researchers at the Academy.

Such dialogues may seem out of the ordinary to most Americans, but they are actually nothing new. Unofficial dialogues and exchanges between Soviets and Americans began to blossom in the early 1960s and increased through the Nixon-Kissinger-Ford détente era.

Even though détente presently seems to have stalled, the exchanges still manage to roll on. In the next year alone, for example, Dr. Robison expects to host a half-dozen ranking Russian officials at his rural Vermont home, alongside a lazy, meandering "Otter Creek" that seems about as far removed from Moscow and Soviet affairs as one could imagine.

U.S.-Soviet exchanges most often are arranged not at the top levels of government but by middle-level officials, educators, scientists, artists, or private citizens, who seek to gauge which way the winds are blowing, and how relations between the two superpowers might be improved.

Dr. Robison's contacts with the Russians go back to a trip to the Soviet Union in the late 1950s while he was still a student at Baylor University in Waco, Texas. His interest in Soviet affairs continued after his ordination as a Baptist minister and through his subsequent work with the Peace Corps and the State Department. But most contacts developed in recent years while he held administrative posts at Wesleyan University, Bowdoin College, and Middlebury College.

Helping to head a government-funded program of exchanges in the late 1960s between young American political leaders and the Soviet Committee on Youth Organizations, Dr. Robison led many Americans to conferences all over the U.S.S.R. He has further taken part in a program of yearly American-Soviet conferences launched in the early 1970s by the United Nations Association.

For Dr. Robison, the exchange provide a valuable channel of understanding between the superpowers—even at times when U.S.-Soviet relations have been fraught with friction. And over the years he has developed personal friendships with Soviet educators, researchers, and officials in the Soviet Foreign Ministry.

In July Dr. Robison was again the guest of the Institute of United States and Canadian Studies, a part of the Soviet Academy of Sciences. The insights he has gained into current U.S. Soviet misunderstandings were the subject of the following interview with the Monitor:

Most of us do not often find ourselves in conversations with the Soviets. How would you characterize your relationships with your Soviet friends?

The sessions are always cordial. Everyone wants very badly to treat people with gracious hospitality, and at the same time good conversations take place.

What kinds of conversations?

I remember one evening last year in which a very distinguished Russian was a guest here at Middlebury. We had a superb discussion on whether the cold war had been necessary. I had taken the position that it probably was, that any time you have great competing powers—especially from different cultural backgrounds—something like the cold war is probably necessary to get things sorted out.

How did the Russian respond to that?

Well, he wasn't having any of it. He said it was our fault. They didn't have anything to do with it. Finally, after this went on for nearly four hours, one of the guests said to my Russian friend, "Let me be straight about this. Are you saying that the cold war was exclusively the fault of the Americans?" And he said, "Oh, no. I didn't mean to say that. It was partly Churchill's fault!"

Did he laugh at that?

Yes, he did have the grace to laugh at that.

We read a lot about reactions around the world to the American stance on human rights. Did you find in your most recent trip to Moscow that President Carter's open statements on human rights are as serious a concern for the Russians as the Western press leads one to think?

Yes, and I'm reasonably sure that the human rights posture of the new government has had more to do with changing the overall atmosphere of U.S.-Soviet relations than have, say, the armaments discussions. One senses in talking with the Soviets that they are angry, frustrated, and intensely indignant over President Carter's statements on human rights.

Why indignant? How can we understand that reaction?

Many Russians feel that President Carter does not view them as equals and that the President has singled them out for special censure. They believe that he has taken the high moral ground from which he can talk down to them. More than anything else, the Soviets want the leadership of the United States to treat them as equals. I think it would be difficult to overstate how important that is.

Did the Russians themselves actually say this?

One ranking Soviet official said to me, "The relationship [between the U.S. and the Soviet Union] cannot go forward unless the President is prepared to deal with us as equals." He claimed that Presidents Nixon and Ford had been prepared to do this, or at least were moving in that direction. Then he added, "I don't see that readiness now. There's no preparedness to deal with us on an equal footing, either in SALT [strategic arms limitation talks] or other matters."

So the very rights policy that many Americans hope will promote equality and respect for the individual comes across to the Russians as a statement of U.S. superiority?

Russian friends repeatedly said to me that they felt we were trying very hard to put them in the worst possible light internationally. One ranking official said, "We view President Carter's statements on human rights as a well thought out, well-planned campaign of psychological warfare. It is a special instrument to be employed in the struggle against the socialist countries."

How did you respond to that?

I said, "That's a strong statement; that's a terribly strong statement. I'm going to read it back to you. Did you really mean to say what I have written down?" He said, "That's exactly what I mean."

What about the administration's statements that the U.S. human rights policy is a general one, with no particular country single out as a target?

They either do not hear or choose not to believe these statements. I asked many of my Russian friends, "Can you conceive of circumstances in which the President would speak out on human rights and it would not be seen by them as anti-Soviet?" The consistent answer was, "No, it's aimed at us."

I understand that your recent talk at the Soviet Academy of Sciences drew questions about Jimmy Carter's religion?

Yes, indeed. They are intensely curious. They've read a great deal about the fact that he is serious about his religious commitment, that he's a regular churchgoer.

Where do they get their information?

From many of the same sources we do—primarily our own press. The professional people in the Institute of U.S. and Canadian Studies read most major U.S. newspapers and periodicals. They are fascinated with the religious side of the President's life, but they feel a bit uneasy about it. They're quick to admit that they do not understand it, and want to know more.

Why the curiosity? Presumably they don't want to be converted?

Oh, no. Intellectual curiosity. Academician Georgi Arbatov, my host and the director of the Institute, asked me to talk to him and his colleagues about the fact that Mr. Carter is perceived to be a religious man. Knowing, as he does, my own Baptist background, he wondered if I would comment on what it means to be a Baptist, and how this might affect the way the President makes decisions. Still others, when asking about the President's human rights stance, would say, "Is he doing this because of a missionary zeal that comes from his religion?"

How did you reply?

I said that Jimmy Carter's stance on human rights is consistent with his Baptist religion, but not exclusively the product of it. And I suggested that distinctiveness of the President's approach to human rights may reflect the way evangelical Christianity—such as President Carter's Baptist faith—differs from more liturgical forms of Christianity—such as the Russian Orthodox Church with which the Russians would be familiar. Participation is the clearest statement of faith in the liturgical churches. But the Evangelical shows his commitment by proclamation, by talking about it. So perhaps with the Baptist and human rights, a commitment to the cause is not enough:

you've got to be prepared, in religious terms, to bear witness to your commitment.

One would expect the Russians to know something about such aspects of Western Religion, but perhaps we should not take that for granted?

In the Institute of U.S. and Canadian Studies, not a single one of the 300 researchers specializes in the religion of the United States. No young Russian is going to make it up the professional ladder by studying religion.

Two years ago, my wife Sylvia lectured at the Institute on the history of religion in American political life. She stressed to the Russians that any understanding of American life had to include an appreciation of the role religion has played in the formation of American values. My Russian friends accept this on an intellectual level, but have not been prepared to commit any resources to such studies.

Apart from religion and human rights, what exactly did the Soviets expect when Jimmy Carter was elected?

Shortly after last November's election, I was invited, along with other American members of a United Nations Association working group, to meet with our counterparts in Moscow. At that time they were, of course, curious about the implications of the election. Those of us then in Moscow described President-Elect Carter as a man in the mainstream of the Democratic Party. The Russians, however, convinced themselves from our statements plus their own analysis of the American scene, that there would be no changes of consequence under the new administration.

So given such expectations, the shifts in President Carter's policies from his predecessors must have come as a bit of a shock to the Soviets?

I think that any change in style or substance in U.S. foreign policy would have made them anxious. After all, they had dealt with Secretary Kissinger for eight years. In that length of time they had at least become comfortable with their ability to predict where the U.S.-Soviet relationship was going.

Why has it been so hard for the Soviets to adjust to the new American approach?

I find no appreciation in Moscow of the fact that the new President had to put some distance between himself and the previous administration, if not in substance, then at least in style. And in both of these I think President Carter has done just that.

But also, I don't think my Russian friends have a very accurate understanding of the relation between American public opinion and presidential behavior. They are reluctant to accept the idea that public opinion forms the boundaries within which a president can operate. They are equally reluctant to admit that Soviet behavior in the last three or four years has not been conducive to a favorable political climate for détente in this country.

Reluctant in what way?

They don't want to hear that Americans think the Soviets behaved badly in Angola and Portugal, and that this was not in the spirit of détente. "What do you mean?" they would say. I pointed out that during détente, most Americans thought we had all agreed to curb our competitive instincts for a while—sort of like the Indianapolis 500, which they all know about, in which a yellow flag means that although the race is on, nobody can pass anyone else. But the Soviets were seen to be racing ahead despite the yellow flag, and no new American president could come into office and fail to address this perception.

Are there aspects of U.S.-Soviet differences that need to be better understood by Americans?

I would say yes. The most basic is not to lose sight of the profound value differences in our two societies. Their history is so different from ours. They are a people who did not participate in the Renaissance, the Reformation, the Enlightenment or the 20th-century discussions of Wilsonian democracy, of restructuring the world into a more harmonious order.

Where our society has placed a higher value on personal freedom and liberty, they have given greater emphasis to social structure and public services. Thus the Soviets—from the time of their revolution—have defined the most important "human rights" as food, housing, employment, and domestic order. The fact that we do not agree with this order of priorities should not obscure our understanding that it is a different value system. Acknowledging the differences must surely be the first step toward finding common ground on which to build understanding.

What, in your view, does the existence of such cultural differences mean for the future of the American stance on human rights?

It means that if we're going to go forward in the human rights policy, I think we're going to have to be progressively more skillful, sophisticated, and discerning—perhaps more pointed, and less general. And the Soviet Union is going to have to become perhaps a little less edgy in all this, or else the atmospherics within which the relationship between our two countries is progressing are going to become very bad indeed. The atmospherics matter. They count. And the overall posture that we have toward each other does form the context in which concrete relations are formed.

What future do you see for American-Soviet dialogues like the one in which you have participated?

One result of détente was that many levels of communication were established between the U.S. and the Soviet Union. We now have about 200 agreements of one sort or another with the Soviets, ranging from joint space efforts, joint research in science and technology, and cultural exchanges of artists, dance troupes, young political leaders, and so forth.

And lest we think that, in the present period of strain, we're slipping into a cold war situation, a significant number of Americans and Russians continue to move back and forth between the two countries with some ease. We know it's been useful for them. It's equally useful for us. And that, it seems to me, serves the cause of peace.

REPORT BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, the Committee on Banking, Housing, and Urban Affairs reports the following allocation of spending responsibility as set forth in the second concurrent resolution on the budget for fiscal year 1978.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS—REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

	Function	Fiscal year 1978			
		Direct spending jurisdiction		Entitlements requiring appropriations action	
		Budget authority	Outlays	Budget authority	Outlays
050	Defense production guarantees		(1)		
400	Rural housing insurance fund	106	(1)		
	FHA fund	853	785		
	FDIC		−379		
	FSLIC fund		−402		
	Other	5	−99		
450	New communities fund	83	83		
	Other	1	42		
500	GNMA participation sales fund		4		
550	GNMA participation sales fund		(1)		
600	Housing assistance programs	34	−9		
700	VA direct loan revolving fund		−81		
	GNMA participation sales fund		−7		
800	Coinage profit fund	3	3		
	Liquidation of Reconstruction Finance Corporation		(1)		
900	Interest on uninvested funds (not controllable)	8	8		
	Refunds under the Renegotiation Act (not controllable)				(1)
	Committee total	1,092	−53		(1)

[1] Less than $500,000.

HERBERT STEIN PRESENTS: STEINCOMICS

Mr. WILLIAMS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Minnesota (Mr. HUMPHREY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HUMPHREY

On September 14, Herbert Stein, Chairman of the Council of Economic Advisors during the Nixon-Ford Administration, advised the readers of the Wall Street Journal's op-ed page to consider the possibility that the nation has achieved a full employment economy.

Once we are properly intrigued by this implausible possibility, he then implies that aggregate tax, spending and credit policies aimed at stimulating the economy to improve employment be re-evaluated with the intention of reducing efforts in these areas.

With this mind-set, it goes without saying that development of new, comprehensive policies and programs to marshal economic forces to attain better overall performance is totally out of the question. Apparently, we may be, in Professor Stein's view, in the best of all possible worlds at present.

His unabashed assessment was made less than two weeks after the Labor Department announced an official unemployment rate of 7.1 percent for August—nearly 7 million jobless men and women. It is generally accepted that the official figures translate into real unemployment and underemployment of more than 10 percent—nearly 10 million who are either out of work and seeking jobs, have been forced into part time employment for want of full time opportunities, or are so discouraged that they are no longer looking for work and have dropped out of the labor force.

Notwithstanding prevailing conditions in the real world, Professor Stein asserts that unmet demands for workers in the quasi-slave migrant labor market, uncooperative clerks in department stores, and unidentified people who are inadequately performing unidentified jobs, provide evidence that we are close to a full employment economy, if indeed we have not already arrived.

As further proof that a full employment economy, to everyone else's surprise, may have unobtrusively overtaken the nation, Professor Stein points to another series of factors. This list is comprised of a lowering rate of productivity, rising wages (for those who are working), and a nearly record level of employment among those 16 years and older.

Professor Stein concedes that minority unemployment is at a record high level of 14.5 percent, but he omitted mentioning the 17.5 percent jobless rate of teenagers or the appalling record high unemployment rate of 40.4 percent for minority teenagers. In fact, the rate of teenage unemployment is not given in his essay.

According to Professor Stein, totally unacceptable minority unemployment, a constant problem for decades, should not deter us from entertaining the thought that we nevertheless have a full employment economy. Minority unemployment problems, he says, require new, and for him, admittedly unknown approaches. Besides he says, because our society has changed its collective attitude toward marriage and child bearing in the past two decades, it would be "entirely consistent" to assume that it has loosened its grasp on the work ethic to the point where improvements in welfare, unemployment insurance and related programs have actually made joblessness attractive to many. Thus, there is no need to even consider the despair, death, illness, and crime that stem from the inability of men and women to be self supporting, useful and fulfilled citizens.

Professor Stein went on to note that white unemployment has dropped from 8.5 percent in May 1975 to 6.1 percent in August of this year while black unemployment has risen from 14.3 percent to 14.5 percent during the same period. He then asserted that the core of the nation's unemployment program is centered on minority workers and that is where remedial efforts should be largely if not entirely focused.

It is certainly true that unemployment among minority workers is at an alarming level requiring immediate and effective action. But Professor Stein has conveniently ignored the fact that other labor force categories also have intolerable unemployment rates. Joblessness among women who are heads of households stands at 10.5 percent. Joblessness among nonfarm laborers is 12.6 percent. The unemployment rate for construction workers is 11.5 percent. For the wholesale and retail trades it is 8.3 percent, it is 9.3 percent for agricultural workers, and 14.7 percent for white teenagers

He points out that unemployment among minorities remains high despite massive and expensive efforts to eliminate racial discrimination and provide blacks and others with equal educational and job opportunities. The professor admits he has no answers for this dilemma, other than to say we should not repeat unsuccessful efforts of the past. To this he adds the pessimistic comment that an increased national obligation to provide education "had as its corollary a lowered sense of private responsibility to learn." And he says, "The heightened sense of national obligation to provide jobs—or at least a paycheck—had as its corollary a lowered sense of private responsibility to work." His final remark in this vein asserts that "Programs which intensify the responsibility of the employer—as a last resort the government—and simultaneously dilute the responsibility of the employee are unlikely to add to the total of productive work."

What a marvelous exercise in doublethink regarding minorities. The more educational opportunities provided, the less incentive to learn. The more job opportunities created, the less incentive there is for individual workers to seek and find employment. If government becomes the employer of last resort the result will be nonproductive activity. What complete and total nonsense—Dr. Stein should know better.

There is no question that minority unemployment—and for that matter all structural unemployment—constitutes a major economic problem in our society. It is by no means the only major problem. The goal of a full employment economy should be the reduction of adult joblessness to a level of 3 percent, as set forth in the Full Employment and Balanced Growth Act, a goal that was exceeded during the 1960's. Under this standard, joblessness would be reduced to a level reflecting unemployment that occurs due to seasonal fluctuations, changes caused by new production techniques, products and service methods, and job terminations due to the normal search for new employment opportunities.

But even a sustained full employment economy defined at the completely unacceptable level suggested by Professor Stein will continue to escape us absent a concerted effort to coordinate fiscal and monetary policies and programs to shape a comprehensive guide by which to manage the economy. We have never attempted this before. As a consequence, we find ourselves stumbling from one recession to another, posting tragic rates of unemployment and simultaneously soaring levels of inflation. Can we expect otherwise? How can we reach and hold a full employment economy while following a course that has us reacting to economic problems on a fragmented, emergency, too little and too late basis? In effect, we are walking backwards into the future, seeing only where we've been and not where we are going.

We can't solve minority and other structural economic problems while the economy as a whole is ailing. What is needed is a comprehensive approach to economic management by government, one which establishes the framework and the procedures by which the Administration and Congress can develop and implement the fiscal and monetary policies and programs, both on an aggregate and targeted basis, to reach stated production, employment and real income goals.

Only in this way can an economic climate promoting maximum activity by business and maximum job opportunities in the private sector be reached and sustained. This is not an argument for mandatory economic planning and programming aimed at control of business activity. Rather, it is an effort to establish a rational system to help guide the economy, without interferring with private sector activity, toward stable growth and full employment. Anyone who says this cannot be done denies that government can utilize many of the same successful techniques and management devices constantly employed by business to analyze market trends, foresee problems and make and follow the decisions necessary to survive and grow.

This is the essential thrust of the Full Employment and Balanced Growth Act which Representative Augustus Hawkins and I have introduced in the House and Senate. The legislation recognizes that the vast majority of job opportunities necessary to achieve a full employment economy must be provided in the private sector. It also recognizes that all of the jobs necessary to reach and hold adult unemployment at or below 3 percent cannot always be supplied by business. To fill the gap between need and private sector performance, the legislation calls for the temporary implementation of public works and facilities, job training and public service employment programs.

Professor Stein's remarks to the contrary, there is plenty of useful, productive work to be done in the public sector to meet the social priorities of State and local governments. Unemployed people should be given jobs to meet these needs. There is no point in paying people to do nothing while priority requirements go unanswered. President Carter, in his welfare reform proposals, recognizes this, as do many Republican as well as Democratic Members of Congress who support his program.

Anything less than a comprehensive, coordinated, ongoing, voluntary economic policy development effort by government to help guide the economy keeps us right where we are, behind an economic eightball.

THE SOUTH PACIFIC AND U.S. POLICY

Mr. GLENN. Mr. President, today the South Pacific Commission is meeting in Pago Pago and I should like to take this opportunity to discuss South Pacific developments and possible U.S. roles in the region with my colleagues.

All too often we neglect the South Pacific, but, on occasion, we become too zealous. Independent nations such as Fiji, Tonga, and Western Samoa are ignored, just as are the problems of American Samoa.

Although we have often talked about building an East-West bridge, we have been preoccupied with the Vietnam war, the Middle East crucible, and SALT. Now, with the advent of peace in the Pacific, we have an opportunity to turn our attention to economic development. Australia, the principal supporter of the South Pacific Commission, should not bear these leadership responsibilities alone. Nor is it in our own economic or political interests to remain inactive. We are not, however, members of the Pacific Forum. Yet it is this very organization that is the principal vehicle for regional economic development. The South Pacific Bureau for Economic Cooperation (SPEC), the Secretariat of the Forum, provides specific technical and educational services to the member states of Australia, Cook Island, Fiji, Nauru, New Zealand, Nive, Papua, New Guinea, Western Samoa, and Tonga.

It is my conviction that we must foster this type of economic development by the Pacific nations and territories. I do not propose increased grant aid, rather our emphasis should be on trade and investment. By encouraging private eco-

nomic activity in this region, we can assist our Pacific neighbors in achieving their development goals.

Concessional funds can be channeled through multilateral flows from the Asian Development Bank. The U.S. contribution should emphasize private sector involvement and technical cooperation in identifying resource potential. Among the possibilities are: assistance tied to purchases of goods and services from the United States; loan funds generated from private capital markets to finance mineral and resource development; and, where justified, joint ventures that offer a mutually beneficial partnership. For example, before tourism can rapidly expand, a more adequate telecommunications infrastructure must be built. Regional shipping and aviation trunk carriers are additional needs given the distances of the Pacific Ocean. The advantage of tourist oriented industries as a base is that they are dollar producing, labor intensive industries, that can provide the funds for other development projects.

There are, of course, problems. The South Pacific Commission is struggling to agree on a priority list of projects. Obviously the integration of previously separate, but often similar, economic systems will not be easy. But the unity necessary to achieve that task is a precondition to successful regional development. Moreover, the Commission is an ideal organization to build greater cooperation between public and private sectors. Conversely, if the press accounts of bureaucratic bungling by the State Department regarding the shipment of two used cars from Honolulu to Western Samoa and the resentment it created are accurate, we obviously need to improve our representation efforts.

There is then obviously a need to strengthen our diplomatic presence in the South Pacific. Now is an opportune time to seek mutually constructive means of assuring these states of our good intentions while strengthening our own economic and political ties. Presently the U.S. Ambassador to New Zealand is also responsible for our contacts with Western Samoa, Tonga and the Consulate in Suva. Clearly an experienced and knowledgeable ambassador-at-large or an ambassador to these separate states is more desirable. Given the surplus of senior Foreign Service Officers in the Department, I would hope a qualified career officer to assume these duties could be found.

We need a coherent regional policy for East Asia and the Pacific region. Indeed, a regional policy emphasis can easily supplement our global policies. Our own welfare and economic interests are intertwined with the Pacific Basin. Compared with the Atlantic world, the Pacific Basin offers great potential given its economic growth potentials. By displaying an awareness of the aspirations of these people, by helping them to achieve economic development goals, we will be buiding a peaceful and prosperous Pacific that benefits us all.

IN SUPPORT OF AIRBAGS

Mr. ABOUREZK. Mr. President, there has been a lot of discussion in recent weeks concerning the relative merits of Secretary of Transportation Brock Adam's decision which would require the installation of airbags and passive protection devices on all new-model cars. Congress has the authority to overrule this decision by passing a concurrent resolution within 60 calendar days of the decision.

The current debate has been useful, I think, in that it has served to air both sides of the issue thoroughly. While most of the opponents of the airbag ruling do not deny that lives could be saved, they have cited the additional costs of such a program and, perhaps more importantly to them, they have charged that such a requirement is an unwarranted intrusion by the Federal Government into what should be a purely personal decision.

I would like to express my own personal support for Secretary Adam's decision and briefly list the reasons why I think that Congress should allow it to stand.

First, I am amazed that there is opposition to something that promises to save 9,000 lives per year. Studies indicate that the annual toll of front seat fatalities could be cut by 40 percent. Thousands of injuries could be prevented each year. I think that all of my colleagues would agree, it is hard, if not impossible, to put a price tag on a human life.

Second, even if one does try to argue that the economic cost of requiring airbags would be prohibitive, I think that he leaves himself open to debate. While initial installation of an airbag could cost up to $120 and a passive protection device $25, such expenditure could easily be viewed as a very cost-effective investment. The most obvious direct savings would be on insurance premiums. There are some insurance companies that already give substantial discounts to those policyholders who drive cars equipped with airbags. It has been estimated that potential insurance savings could reach $2.5 billion per year. Americans would also benefit from a reduction of support payments in various forms for those who have been seriously hurt in auto accidents and might otherwise have been protected had they been in a car equipped with the protection devices.

Third, I find the charge that airbags would infringe on individual rights lacking in several respects. The fact that every taxpayer ultimately pays for the incredible cost of automobile accidents seems to refute the claim that it should only be up to the individual to decide whether or not he should use the airbag protection system. It also seems to me that there may be many front seat passengers, who either due to age, unawareness, or other reasons, would not be able to effectively exercise their freedom of choice and ride in a car equipped with airbags. One expert has likened the airbag to a vaccination—it is a preventative. Seen in this light, I fail to see how the government can be accused of excessive interference.

I hope, Mr. President, that the Senate will support Secretary Adam's airbag decision. I am confident that, in the final analysis, the benefits will far outweigh the cost.

THE PANAMA CANAL

Mr. CRANSTON. Mr. President, I urge all within and without the Senate to read the remarkable statement on Panama just made public by our esteemed colleague from South Carolina (Mr. HOLLINGS).

Senator HOLLINGS was one of the numerous Senators who in the last Congress cosponsored the resolution that warned the State Department against negotiating a treaty with Panama.

He was one of the numerous Senators who cosponsored the resolution in the last Congress who has refrained from cosponsoring the resolution in this Congress.

And now, after reading, thinking, listening, asking, studying, and traveling to Panama to make a penetrating examination of all the factors at close hand, Senator HOLLINGS has come out for ratification of the Panama Treaty.

He set forth a careful, detailed, and thoughtful dissertation of all the steps and stages he went through as he came to his decision, and the reasons and thought processes that led him to his conclusions, in his September newsletter to his constituents.

I ask unanimous consent that Senator HOLLINGS' statement be printed in the RECORD, and I urge that it be read with care equalling the care with which it was written.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL

Do you want to give the Panama Canal away? NO! I don't either. Nor does President Carter. If President Carter's treaty is not giving it away, what is it doing? Keeping it to use! Given the present circumstances, the two new treaties are the only reliable and fair way for the United States to keep the Canal to use.

We all start by agreeing that the Panama Canal is important to the United States, both from a commercial standpoint and from a strategic standpoint. We all start by agreeing that the Canal should be continuously open and continuously in use. The debate centers on how best to keep it open and operating, so that our commerce can flow and our Naval fleets can remain mobile.

After looking at this question from every angle, listening to both sides over the years, and visiting Panama for another first-hand look, I join all our recent Presidents the Joint Chiefs of Staff, and a bipartisan group of political leaders in supporting Senate ratification of the treaties. They are the best safeguards for an open Canal, and they guarantee America's continued access and continued freedom of transit permanently.

If this treaty prevented our ability to use or defend the Canal, it would be different. But it does no such thing. On the contrary, the United States continues to operate and defend the Canal until the year 2000. After 2000, we retain the right to intervene to guarantee the Canal's accessibility to U.S. shipping.

Let's be practical. The Canal is like an airplane—it is no good unless it can be used. We can go out and squat in the airplane, but unless we can fly it, the plane is of no use.

So title to the Canal is not the issue. The problem is the unimpeded right to use it. Does the treaty give the United States the permament, unimpeded right to use the Canal? Are we guaranteed freedom of transit even after 2000? A few days ago in Panama when President Demetrio Lakas was asked these questions, he answered "Yes" to both. Returning home and checking, Article IV of the treaty provides it, and Dictator Torrijos states in Washington, "we are agreeing to a treaty of neutrality which places us under the protective umbrella of the Pentagon."

Why, then, all the hubub? Two main reasons. First, we have not yet fully learned the lesson of Vietnam. A decade there should have convinced us that people do not like foreigners in their country. The Vietnamese did not like it. The Panamanians do not like it. But failing to recognize this, the treaty opponents see no problem. They think the whole thing is a scheme of the State Department, and all we need to do is prove title or sovereignty and the treaty will be defeated. Secondly, we feel frustrated. The cry is, "We lost in Vietnam; we lost in Angola; we are pulling out of Korea; we talk about abandoning Taiwan. We have given away too much and 'detented' too much, and just once we should stand up and say—'NO!'" This was exactly my reaction ten years ago when former Secretary of the Navy Robert Anderson came before our Commerce Committee to testify on a proposed new treaty for the Canal. "We bought the Zone, we built the Canal, we paid for it all. Why should we want a new treaty?" Secretary Anderson said quietly, "We made a bad treaty. The people of Panama have never accepted it, and now they are ready to lay down their lives for their country." "Baloney" was the reaction. America's sovereignty must be protected at all costs. In 1967 in Vietnam, it was becoming difficult to explain to next-of-kin how their sons were being sacrificed for U.S. sovereignty. But in Panama—it could be explained easily. This feeling permeated a glowing newsletter about U.S. "sovereignty" five years ago. But the legal opinions to support sovereignty were not forthcoming.

President Lyndon Johnson had conferred with former Presidents Eisenhower and Truman and the three Presidents agreed we needed a new treaty. When President Nixon and President Ford also endorsed the idea, everyone began to wonder. Nixon had ignored the State Department and Ford would like to have ignored State if his conscience would allow him. Ronald Reagan was giving him a fit and it would have been a lot easier for Ford if he could just stand up and say "No" on the Panama Canal. My conscience hurt—and in another newsletter last year, it was pointed out that we did not have sovereignty, and the need was emphasized to rid ourselves of the vestiges of the "Ugly American" in the Canal Zone by relinquishing separate courts, the commissaries, special stores, etc. But, the newsletter concluded, the United States should make sure ". . . that we will be in charge of the Canal both five years and 50 years from now." Previously, I had joined in the Panama Canal resolution putting Henry Kissinger on notice. We never knew what he was up to and it was thought healthy to let him know that some of us in the Senate were watching. In January of this year, with Henry gone, there was no need to co-sponsor the resolution.

Today I am better informed—reading "The Path Between the Seas" by David McCullough—a 698 page historical account of how we created the Republic of Panama after Colombia, the sovereign, refused to ratify our treaty. Talking and listening at length to Ambassador Bunker and Ambassador Linowitz, who was President Johnson's Ambassador to the Organization of American States—hearing the joint Chiefs of Staff, including General Brown, the Chairman, and General Jones, head of the Air Force—talking more recently with Army Secretary Alexander after his return from a trip to the Canal Zone—traveling to Colombia, Argentina, Peru and the Canal Zone, meeting with their Presidents—talking in Brazil to the Foreign Minister and the President of the Brazilian Senate and with many other officials—talking with the Economic Minister and Secretary of Commerce in the Republic of Panama—meeting with a group of Zonians, people living in the Canal Zone—lunching with American business leaders who had lived from two to twelve years in Panama City—outside the Zone—traveling with the U.S. Governor of Panama over the entire Canal—being briefed all along by Lt. General Dennis P. McAuliffe, the U.S. Commander of the Canal Zone—spending an evening with the U.S. Ambassador to Panama Jorden, meeting with a former prisoner of the Bay of Pigs in Cuba. With the exception of some of the Zonians, they agree to a man that the Senate should ratify the treaty. Even the Zonians emphasize that the treaty ought to be "modernized."

There must be good reason for all of these leaders plus six American Presidents to favor a new treaty. The good reason, of course, is an appreciation of the true character of America. Some think our strength lies in our military might alone. But America's power lies in its solid stand on the principle of self-determination. Having lost 56,000 for this principle in Vietnam, it is appalling that some would suggest we now lose Americans to deny the principle in Panama.

Much is proclaimed about building the Canal—but so little said about building the Republic of Panama. If ever a country should be stamped, "Made in the USA," Panama is the country. We created it 70 years ago—and today it is a stronghold of American free enterprise. Seventy major U.S. banks operate in Panama City—those which refuse to operate in Communist countries. Recently, when Panama needed increased revenues, she took the Chamber of Commerce approach—a value-added tax rather than an increase in income tax. Dictator Torrijos' economic team are all U.S. trained and educated. President Lakas—six years in the United States, a graduate of Texas Tech. Planning Minister Nicolas Barletta, a classmate of Governor Hunt of North Carolina—both graduates of N. C. State. The Guardia Nacional, or army—U.S. trained. Like many other heads of state in Latin America, Torrijos has visited with Castro. But Panama does not recognize the Soviet Union and Panama refuses to recognize Red China—she recognizes Taiwan instead. In a population of 1,700,000—there are reportedly 600 Communists—but none in the government. The government is patterned after the United States' with three branches—legislative, executive and judicial. And they have an American system of education. Now the important point of all this is that we have taught them one American trait—patriotism. The Republic of Panama has developed a nationalism of its own. The people are proud, they are patriotic. They have learned the cardinal principle of government—the right of the people to determine their own destiny. The ten-mile strip of foreign occupation in the heart of their country is viewed the same way as if the French had retained a five-mile zone on either side of the Mississippi. Every Panamanian schoolchild is taught the wrong that the United States did in obtaining the treaty in 1903. Everyone in the city and countryside of Panama feels it and as they showed in 1964, they are willing to die for it. But most importantly, in this section of the world where the United States lacks strong friends, the Panamanians are friends of the United States. Everything they feel or know comes from the United States. Pointing out to President Lakas the feeling that existed in the United States, that the people were tired of being pushed around, that somewhere, sometime we had to stand up and say "No"—the President responded quietly, "But why do it to a friend."

Let me touch briefly on the certain aspects of the Panama Canal controversy:

1. SOVEREIGNTY

1. Legally, we don't have sovereignty;
2. Morally, we don't have sovereignty;
3. Realistically, we don't need, we don't want sovereignty.

Legally—Article III of the 1903 treaty grants to the United States certain rights as ". . . if it were the sovereign of the territory." This retained sovereignty in Panama. President Roosevelt's Secretary of War William Howard Taft, later to become President, said in a 1905 report: "The truth is that while we have all the attributes of sovereignty, the very form in which the attributes are conferred in the treaty seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama." The Supreme Court decisions cited by treaty opponents are like the 1896 Plessy v. Ferguson segregation decision—totally untenable in this day and age. The real test is how the Government of the United States or Congress treats the Canal Zone—and it has not been as sovereign. If the Panamanian couple gives birth to a child in South Caroline or Louisiana or Alaska, under the Constitution that child is a U.S. citizen. If the same couple gives birth to a child in Guam or the Virgin Islands, then the child becomes a citizen, because Congress has treated these two areas as under our sovereignty. But if the same Panamanian couple gives birth to a child in the U.S. Canal Zone, that child does not become a citizen. So while the treaty said we could act as if sovereign, we were not and we did not.

Morally—No question, the United States rooked Panama back in 1903. We actively supported the revolution against Colombia by its Isthmus section after Colombia refused to ratify the treaty we wanted. We sent ships and troops and this guaranteed the outcome. Then we signed the treaty hurriedly before the official delegation objecting from Panama could even arrive in Washington. Signing for Panama was—not a Panamanian—but a French citizen who had not been in Panama for 17 years, and who returned to France immediately after the ratification. Further, it was made known that our military might would be withdrawn from the fledgling revolution in Panama unless ratification was promptly forthcoming. Such withdrawal would have left Panama at the mercy of a far stronger Colombia. This congeals hundreds of items, but it is interesting to note that the majority of the U.S. payment was retained by a New York bank and invested in real estate in the City of New York. At the time, Teddy Roosevelt's Secretary of State commented. "You and I know too well how many points there are in this treaty to which a Panamanian patriot could object." Said Woodrow Wilson, who would soon be President, "Our acquisition of the Panama Canal Zone has been a scandal since the day of the fake "revolution" of November 3, 1903. . . . In every country to the south of us we are distrusted, feared, hated." Today this diplomacy is characterized by conservative columnist James Kilpatrick as a "national shame."

Don't want sovereignty—After spending our history destroying colonialism from the beginning in 1776 thru to the Philippines, Cuba, World War II, Korea and Vietnam,

let's not insist on colonialism in Panama. If there is one thing that President Carter and the United States have going for us in the world today, it is our stand on human rights—the right of people to determine their own destiny. We finally are getting the Soviets and others on the defensive about their denial of human rights, and things are beginning to move our way. Are we now going to say, "Yes, human rights for everyone—except the people of Panama.

2. DEFENSE

Flying up and down the length of the Canal in a helicopter. Lt. General McAuliffe was pointing out the strategic points to be defended—the lakes, the power facilities, the bridge and most important, the dam at Gatun Lake filling from the Charges River. This lake is 25 miles across, the largest man-made lake in the world. The locks are filled by gravity flow taking 52 million gallons of water for each ship that goes through. If the dam was blown at any point emptying the lake, it would take two years to refill. "It would take 80,000 to 100,000 men to defend key points," said General McAuliffe. "This does not mean wall-to-wall coverage of the entire length, only the key places. And this would not include the hundreds of inspectors necessary to examine each ship going through—an almost impossible task." Guantanamo Bay in Cuba is a tip of land—easily defended. But the Panama Canal is open to ships from Cuba, Russia—all nations—and a lunch box of explosives could put it out of commission.

3. COMPETENCE

Can the Panamanians learn to operate the Canal efficiently? Presently there are 12,000 Panamanians helping to operate the Canal efficiently. Can they take over the jobs of pilots, engineers, etc? Yes. This could be done in short order. The Pan-American Airlines manager in Panama City, having operated in seventeen countries, said the best management and operating team of the seventeen was right now in Panama. Another friend, the Latin American manager of Intercomsa handling 85% of the communications from Latin America, came two years ago with an operating team of twenty-two U.S. experts. Already, he has sent back all but three to the United States—the Panamanians are doing the job. Let's remember the Egyptians readily learned to operate the Suez Canal.

4. TOLLS AND PAYMENTS

Can the Canal operate without further appropriations from the Congress? This year the Canal will operate at a $7 million profit. But for the past several years, the Canal has been subsidized by the American taxpayer. The first ship with Alaskan oil went through the Canal on August 30. This increase in traffic will permit the Canal Company to pay the added 30c per ton plus the $10 million required annually under the treaty. Tolls will have to be increased from $1.29 a ton to approximately $1.70. But if a pipeline connection for Alaskan oil is made from the West to the East Coast, then further increases in tolls could be counterproductive. This plus the loan guarantees may require us to subsidize again.

Treaty opponents cry, *"It's bad enough to give it back, but why do we have to pay them to take it?"*

Spain: $685 million for base rights for five years.

Greece: $700 million for base rights for four years.

Turkey Demanding $1 Billion for base rights for four years.

Philippines Demanding $1 billion for base rights for five years.

We have had a free ride in Panama for 74 years. Now Panama, like other allies, wants compensation for the military installations in her country—Fort Kobbe, Fort Amador, Howard Air Force Base, Fort Clayton, Albrook Air Station, Fort Davis, Fort Gulick, Fort Sherman, the Jungle Warfare Range, etc. We are not paying to take the Canal back—we're paying for these installations. And most of the payments will be coming from toll revenues.

5. NEW CANAL

A new sea-level canal will probably be built by Panama and the United States before the year 2000. An estimate in 1970 reported the cost at $2.7 billion. With inflation today that cost would be $5.7 billion. With hindsight now we realize that rather than working for thirteen years to renegotiate the old treaty, we should have insisted on a new sea-level canal. This would have been wide enough for all our warships as well as the largest oil tankers. Then the sovereignty, sabotage and other problems would have been moot. What is unexplainable is the provision that forbids us to negotiate a new canal anywhere but Panama.

6. IMPORTANCE OF THE CANAL

The Panama Canal is important to the commerce and defense of the United States. It is especially important to South American countries such as Columbia, Peru, Chile, Ecuador and Nicaragua. Colombia, for example, drills its oil on the Pacific side and refines it on the Atlantic side. The Canal is Colombia's lifeline. Over ¾ of Nicaragua's trade passes through the Canal. The list goes on. I recently heard the statement that all Latin American nations wanted Panama to control the Canal. False. They feel that Panama should have sovereignty over its own territory, but time and again different leaders in South America told me that the United States is the only power in the Western Hemisphere strong enough to protect the Canal. They are worried about toll increases. They are worried about freedom of transit for their countries. They feel that the neutrality treaty is ideal in that Panama regains sovereignty and they all have freedom of transit—with a U.S. guarantee. Finally, they are worried about communism. More so than are treaty opponents, because attempts have been made on these leaders' lives. They all oppose any communist takeover of the Canal.

7. COMMUNISTS IN THE CANAL

Treaty opponents feel that once the treaty is ratified then in a couple of years the Canal will be turned over to the communists. No one knows or can guarantee what will happen in the years to come. All studied opinion holds firm that communism will have no issue upon which to take root if the treaty is ratified. However, they all feel that if the Senate turns the treaty down, then the communists will have a controlling issue not only in Panama but all over South America. Right now the communists in Panama are in the streets agitating against this treaty which they know will deprive them of their big issue. The best way to keep it from the communists in the future is to validate the neutrality treaty. And the best way to keep it from the communists today is to ratify the new treaty.

8. TORRIJOS

No question about it—he is a dictator. But not "tin horn" like opponents contend. Every head of state emphasized this fact—Torrijos is a man supported by his people. Previously, rulers of Panama were from the city, educated in Europe. But as President Lopez-Michelsen of Colombia said, "Torrijos is not a patrician. He is first and foremost a man of his people." Torrijos is from the countryside. He was educated in Panama and trained at Fort Sherman and the U.S. Army School of the Americas. He came to power after the uprising in 1964. At the time he was a major in the National Guard—and had the bitter task of subduing his own people. After the riots, he took over pledging to rid the Canal Zone of foreigners. When asked if the Senate's failure to ratify the treaty would weaken or strengthen Torrijos, all national leaders in South America plus the American business leadership in Panama City said it would strengthen him. Several immediately replied: "It would make him a hero."

What happens if the Senate ratifies the treaty—There is no guarantee that this would solve all of our problems in Panama or in Latin America. Brazil particularly has a chip on her shoulder. They favor the treaty but the Brazilians want the United States to know that this would not solve all the problems in Latin America.

During the twenty year transition period, the Panamanians will have a chance to prove themselves. No doubt ratification will be followed with free elections next year as promised. There is every reason to believe that with the United States and Panama working together under the new treaty, Panama could become a showcase of American free enterprise. Ratification could prove a dramatic turning point in U.S.-Latin American relations. For ten years now, we have ignored South America. Each President has promised a new policy—only to be followed with neglect. During this period, the countries down under have developed a nationalism. No longer are they client states of the United States. And the disregard for this development has resulted in a "Bad Neighbor" policy. With the new Panama treaty, the United States could once again start acting as a "Good Neighbor."

What happens if the Senate fails to ratify—The one group in Panama solidly opposed to the treaty are the communists. They realize that their principal arguing point will vanish with ratification. But they become an important movement if the treaty is rejected. Talking recently to a senior U.S. official in Panama, one who had served in combat at the DMZ in Vietnam—a man with guts and a lot of sense—"Just remember," he said, "There's lots of jungle out here and the use and control of this Canal depends upon a friendly people. If the treaty is not confirmed, you will have another Vietnam on your hands." Maybe not a Vietnam, but at least an Ireland. The top CIA man in one South American country said, "Turn that treaty down and within hours, cars will be overturned and this embassy will be firebombed." When asked how long this would last, he answered, "Just as long as the President of this country permits it—and, politically, he would probably have to let it go on for some time." I wondered who would be with us. Surely not the British and French after the way we treated them in the Suez Canal. The Free World and the Communist World would both be arrayed against us. We would have learned nothing from experience. Separatism cannot sustain. It held us back in the South; it is the trouble today in Africa; and that ten-mile wide strip of separatism in Panama is an embarrassment.

Listening and studying as carefully and thoroughly as one can, I am convinced that our future in the Canal, our credibility on human rights, our being true to ourselves, and the respect for the United States will all be advanced by ratification. By every count, the new Panama Canal treaties are in the best interests of every American. In short, ratification is in our national interest.

EQUAL RIGHTS AT WORK

Mr. NELSON. Mr. President, in the Washington Post this week there appeared an editorial praising the Senate's recent action on the pregnancy disability amendments as a major step toward giving working women equal rights. This legislation is a tribute to my good friend

and able colleague from New Jersey, Senator HARRISON A. WILLIAMS, JR., who introduced this legislation and carefully guided it through consideration in committee and on the floor of the Senate. The margin of the vote on this measure, 75 to 11, reflects the capable and distinguished leadership of Senator WILLIAMS in working towards passage of this important legislation.

I have long been an admirer of Senator WILLIAMS who has consistently demonstrated his sensitivity and compassion for the needs of working people. His tireless efforts to relieve unnecessary burdens and unfair treatment of the American worker merit the recognition and praise of us all.

I ask unanimous consent that the text of the Washington Post editorial of September 20, 1977, entitled "Equal Rights at Work," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EQUAL RIGHTS AT WORK

The Senate took a needed step toward providing women with on-the-job equality last week By a vote of 75 to 11, it passed an amendment to the Civil Rights Act of 1964 requiring that pregnancy be included in any workers' disability program offered by employers. The immediate effect of the legislation, if it becomes law, will be to overturn a Supreme Court decision holding that the exclusion of pregnancy from such programs is not discrimination based upon sex. That decision seemed to be a strained interpretation of the 1964 act when it was announced last December, and we urge the House to join the Senate promptly in undoing it.

The way in which many employers look upon pregnancy has long been a problem for many working women. A male employee unable to work because he has broken a leg, say, playing touch football usually was able to use sick leave or receive disability pay until he recovers. But a female employee who has been unable to work because she was having a baby has often been denied sick leave as well as disability pay and sometimes summarily was dismissed. This attitude began to change a decade or so ago; but it is still sufficiently widespread to put a hardship on many women who either must work before, during and after pregnancy, or who want to. The amendment passed by the Senate says employers must not treat women who can't work because of pregnancy differently, from the way they treat men (or women) who can't work because of some other physical condition. About half of the states already have similar laws.

In a country in which 36 million women work and some 80 per cent become pregnant during their working lives, this change is not insignificant. Yet it is overdue. Two-thirds of those 36 million are in the work force because of pressing economic needs at home About 40 per cent of all pregnant women now work during pregnancy, and many of them return to work as quickly as they can after the baby is born. Common sense requires that for these women, at least, pregnancy be treated as no more a disruption of their working lives than a broken leg. When continuity at work has as large a role in determining pay scales, promotions and pension rights as it now does in many industries, treating pregnancy as such a temporary disruption rather than a termination of employment is a major step toward giving working women equal rights.

OUR TROUBLED WORLD

Mr. GOLDWATER. Mr. President, this is not going to be easy for the average reader to believe or even to understand, but I would like to make a specific report today on what we might call, Our Troubled World. I will relate incidents that have occurred since January the 1st through the 31st of July of this year. Now keep in mind a troubled world is not new. We have had about two wars a year throughout the 7,000 years of semi-recorded history of the world, and during that time we have had fewer than 250 days of total peace. But let us group these troubles into three different categories. First, coups; second, conflicts; and third, terrorism.

There have been, during this time, three coups, the Congo, Seychelles, and Pakistan. During the same period the number of conflicts are a good deal more. Continuous conflicts have been going on in Angola, Burma, Ethiopia, Iraq, Laos, Lebanon, Malaysia, Namibia, North Ireland, Pakistan, Rhodesia, Thailand, Timor, and Zaire. Sporadic conflicts have been going on in Botswana, Cambodia, Chad, Korea, Mauritania, Morocco, Mozambique, Philippines, Egypt, Libya, and Somalia.

Now for something new to most modern inhabitants of this globe but, indeed, not new to history, the subject of terrorism. During this period we are discussing there has been continuous terrorism practiced in Italy, North Ireland, and Turkey. At the same time sporadic terrorism has been practiced in Argentina, Botswana, Cambodia, Colombia, Egypt, El Salvador, Ethiopia, Federal Republic of Germany, Guatemala, India, Iraq, Israel, Kuwait, Lebanon, Mexico, the Netherlands, Peoples Republic of China, Rhodesia, South Africa, Spain, Syria, Thailand, Uganda, United Kingdom, U.S.S.R., Venezuela, Vietnam, Greece, Nicaragua, and Peru. This compilation has been gathered from the publication, The Army, in September 1977 issue and represents a world chart on which these records are kept by the Office of the U.S. Army's Assistant Chief of Staff for Intelligence. These incidents interest me, because of the number of them and the growing spread of them. I think that the United States must consider them as we discuss our own foreign policy and discuss our own means of living with our foreign policy and enforcing it.

In the world of yesterday our foreign policy was directed only at those problems which directly affected our own interests. For example, we were not even up to speed when World War I came, and the thought that Hitler might try to dominate the world could not be accepted by most Americans in or out of government. My purpose in bringing these startling statistics to my colleagues is to point out that our world of today involves literally every square mile of land and water on this globe and we must adjust our thinking, not just in foreign policy, but in armed services, communications, and so forth, to this fact.

INTERNATIONAL WOMEN'S YEAR OBSERVATION

Mr. BAYH. Mr. President, I know that many of my colleagues are receiving a great deal of mail on the State IWY conferences conducted this past summer pursuant to Public Law 94–167. Due to the controversy engendered recently concerning these conferences, the Presiding Officer of the National Commission on the Observation of International Women's Year and our former colleague from the House of Representatives, Bella Abzug, has asked that her statement on behalf of the national commission be inserted in the CONGRESSIONAL RECORD. Mr. President, I ask unanimous consent her remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DEAR FRIENDS AND FORMER COLLEAGUES: I would like to clarify the nature of the state meetings for women which have been held under Public Law 94–167 pursuant to the direction of the Congress, throughout this country this summer. Indeed, the process of these state meetings, which have been designed to elicit individual participation from a broad spectrum of Americans on issues of concern to women, is almost complete. More than 100,000 women have participated in these meetings, and the participants have reflected every age, racial, ethnic, and religious group; women from the cities, the suburbs and rural America; homemakers, blue collar women, clericals and professionals; and, as the media coverage has made clear, women with every possible political point of view. This is something which should be commended because this is what we intended.

However, I would like to set the record straight about some of the events which have occurred at the state meetings which I do not believe were anticipated by this legislation. As I understand the legislation, the Congress planned meetings which were open to the public with the maximum amount of participation of low income women and members of diverse racial, ethnic, and religious groups and women of all ages.

The objective of the state meetings is to celebrate the contributions of women to the development of our country, to assess the present role of women in our society, to identify barriers preventing women from participating fully and equally in all aspects of national life, and to develop recommendations by which such barriers can be removed. To a large extent, these objectives have been achieved. These meetings have seen Indian women come and portray their particular plight to other concerned Americans. In New York, Chinese grandmothers took buses with their daughters and granddaughters to participate in the New York State Meeting for women in Albany, New York, many of them voting in an election for the first time. In Minnesota, at the end of the state meetings, women who held diametrically opposing views on the issue of abortion, adopted the following resolution, which was overwhelmingly supported: "Recognizing that we will never all agree on every issue, we pledge to bind ourselves together in love, to continue to work on the concerns of universal importance—the need for our personal dignity, the relief of our suffering, the achievement of our aspirations—so that we can go on to that great victory—equality for women, not only in Minnesota, but around the world." In Vermont, women came out in February in a blinding snow storm to go to their meeting.

And these were not, as some would say, an elitist radical feminist cadre. More than 42% of the women who attended the Vermont meeting stated that they had never belonged to a women's organization and had never attended a meeting addressed to the concerns of women before. I submit that this is exactly what was intended by this legislation—broad-based, diverse, individual participation at these historic meetings.

The National Commission on the Observance of International Women's Year has taken seriously its mandate to implement this public law. The Commission has published regulations and workshop guidelines which insure the maximum in fairness and contain valuable factual information on a broad range of substantive issues, including the legal status of the homemaker, employment, education, abused women, child care, rape, social security, female offenders, older women, and women's health needs. The Commission, in designating state coordinating committees within each state to plan and conduct the state meetings for women, did everything in its power to draw into the process women with all kinds of backgrounds and organizational affiliations. It did not, as some would have you believe, attempt to stack the coordinating committees with pro-ERA supporters and persons who favored choice in the matter of abortion. In fact, the Commission did not ask of one individual who was being considered for appointment to the coordinating committee what her view was on any issue, including abortion and the equal rights amendment. The Commission, in its regulations, ensured that there would be opportunity for nominations from the floor prior to the election of delegates to the National Conference and that recommendations which were voted on in workshops would have an opportunity to be considered in the plenary sessions to the extent possible given the time constraints of the meeting. The Commission has employed professional staff to assist it in carrying out this congressional mandate under P.L. 94–167, and the staff is equally accessible to all members of the public to respond to their questions and to assist them in participating fully in the state meeting and national conference process.

Despite the Commission's careful implementation of the law and the gratifying response of the overwhelming number of women who have participated at the state meetings there has been, on the part of a militant and well-organized group, a deliberate attempt to disrupt, to spread misinformation to infuse the state meeting process with distrust and to polarize the participants.

The Commission has witnessed the same tactics in meeting after meeting. Prior to the meeting there are allegations that the meeting and the election results are prepackaged and rigged; during the meeting the same rhetoric, unsupported by the facts, continues; and after the meeting, even though the entire slate of the protesting group or a substantial number of its members are elected as delegates. Is this good faith participation, or a deliberately orchestrated attempt to discredit a fair process? For example, a Commission staff member went to the "Pro America" booth the night before the state meeting began and was told by the persons handing out literature that the election was rigged, that conference participants would not be allowed to vote on recommendations, and that they must be sure to sign affidavits that they voted for the entire "Pro America" slate or their ballots would not be counted. When asked by the IWY Commission staff member who told them that they would not be allowed to vote for whomever they pleased as a delegate to the National Conference and that they would not be allowed to vote on recommendations, the response was "our leaders". In fact, nothing of the sort occurred or ever could occur under the Commission's democratic procedures. Almost all of the persons elected as delegates at that meeting were endorsed by the "Pro America" slate: the ballots were counted and the electorate spoke. But some persons tainted the process with deliberate and calculated misinformation.

Phyllis Schlafly's May newsletter for the Eagle Forum instructed her followers to protest the state meetings for women from start to finish. She also ordered them to report on "the crooked way the votes are taken: the many violations of fair elections rules and parliamentary procedure." I believe that there is a difference between organizing persons of your political persuasion to participate in the meetings and to be vigilant to ensure that correct procedures are complied with. But that is a different thing from Mrs. Schlafly's preordained results. Any responsible and fairminded person or organization would demand proof of wrongdoing before such serious and defamatory charges are levelled.

In this same newsletter, Mrs. Schlafly also instructed her followers that they should remind their legislators that "all the pressure they are getting for ERA is due solely to this Federally-financed propaganda campaign." This brings us to another issue of harassment and deliberate misinformation engaged in by persons who are determined to impede the process of these state meetings. No doubt many of my former colleagues are being deluged with mail demanding that the Commission be investigated and that its appropriation be withdrawn because it is engaging in illegal lobbying activities. This, of course, is a legal matter. Duplicative lawsuits have been filed against the Commission by Stop-ERA members on this issue. The Seventh Circuit Court of Appeals in Chicago has ordered the complaint dismissed. The issue is now again before the Federal district court in the Southern District of Illinois. On the motion of Stop-ERA members in Illinois seeking to enjoin the Illinois State Meeting for women, a preliminary hearing was held on April 28, 1977. In denying plaintiff's motion, the court stated, "the evidence also shows that the Commission is conscious of the proscriptions against lobbying in its appropriation statutes. . . . There is no indication in this record of imminent danger of direct lobbying activities by Commission members or staff personnel in the Illinois or other state legislatures." Yet, the false allegations and deliberate misinformation continue. We are witnessing a harassment campaign of unparalleled proportions.

Some of the critics of the Commission go so far as to claim that every time I speak somewhere as the Presiding Officer of the Commission, or other Commission members speak their views on some controversial issue, that constitutes a violation of the lobbying restriction in the public law. I know that the members of the U.S. Congress know something of constitutional law and freedom of speech, and I am confident that they would accord the individuals who serve as members or staff to the National IWY Commission the same First Amendment freedom of speech rights as Mrs. Schlafly. It is one thing to use federally appropriated monies for lobbying activities; this the Commission cannot and will not do. It is another to attempt to parlay a lobbying restriction in a federal law into a mechanism for muzzling people and inhibiting their freedom of speech under the First Amendment.

Let us examine the nature of some of the participation that has occurred at the state meetings. A man who identifies himself as an active Mormon, missionary and former member of the Sunday School Board of the Church of Latter Day Saints wrote despairingly to the Salt Lake Tribune of some of the events he witnessed at the Utah State Meeting for Women, a meeting where the Nineteenth Amendment giving women the right to vote was seriously debated. Mr. Vernon decried the booing and hissing of minority viewpoints by "conservative fanatics and the mindless sheep who followed them", and he characterized the refusal of the majority to allow the more liberal minority participants to present their views as "the height of intolerance and bigotry". Mr. Vernon also stated in his anguished letter, "So, congratulations to you my fellow Mormons. You won the battle, but you lost the war. You won your points against the ERA, . . . even to the extent of voting down teaching little girls in public schools how to recognize potential rapists."

This monolithic anti-change voting, whatever the issue, has occurred at a minority of the meetings. Regrettably there have been instances, which I think the Congress did not anticipate in its hope for unprecedented individual and diverse participation at these meetings, of male leaders, often lawyers or clergymen, coming to the meetings "in charge" of a group of women. These leaders then instructed their followers on when to speak, handed them slips of paper telling them what to say, chastised them when they did not do a good job and told them not to speak again, and even told them when, and how often, they were excused to go to the ladies room.

In fact, some of the State meetings for women have seen the participation of members of male organizations which I am certain that the Congress never envisioned participating under this Public Law. Leaders of the Ku Klux Klan have boasted of their success in controlling certain State meetings, and have stated that their informants and infiltrators have participated at the State meetings and will participate in the National Conference. Mr. Robert Shelton, imperial wizard of the United Klans of America, Inc., has stated that he and other members of the Klan will be in Houston for the National Conference for Women to "protect our women," since, according to Mr. Shelton, "it's not safe for a decent woman to be there." I am quite certain that the women who are coming together in Houston to discuss their problems and attempt to identify the barriers that inhibit their full participation in the life of this country do not want or need the involvement of an institution such as the Ku Klux Klan to assist them in this endeavor.

Other male leaders at the State meetings have told their flock to vote "no" on any recommendation, not just on the controversial issues of the Equal Rights Amendment and abortion, but for equal funding for educational opportunity for our daughters as well as our sons, a vote "no" against the reform of rape laws so that more rapists can be apprehended and convicted; a vote "no" against the provision of shelters for chronically beaten women so they can escape their cycle of abuse and despair; a vote "no" against social security law reform so that the value and dignity and self-worth of the homemaker—surely one of the most valued members of our society—can be recognized in monetary terms; a vote "no" against improving the status of women's health facilities in our country. I must ask, are these people "pro-family"? Do they have any legitimacy to the claim of being "Pro-America"? Can they convince any of us that they are, in any meaningful sense, "Pro-Life"? I fear that this monolithic negativism shows only more clearly the need for further dissemination of information and more public education as to the facts.

The most recent attack on this Commission and its activities has occurred in an ad hoc congressional forum. No attempt was made to insure timely notice, due process, a fair cross-section of opinion, or an opportunity to respond to charges at this forum. Indeed, the Commission itself was never even formally notified of the proceeding. The Commission was told a few days prior to the hearing that it would be accorded 30 minutes at the end of the hearing to refute charges made during a two day period. Despite these repeated attacks and attempts to impede its functions, this Commission will fulfill its obligation to convene a National Conference for Women as mandated by law, in Houston, Texas this November.

I thank you for this opportunity to assist my former colleagues in understanding the nature of the responsibilities of the National IWY Commission and some of the events which have occurred at the State meetings. The Commission looks forward to the continued support of the Congress as it plans the National Conference for Women in Houston, Texas, to fulfill the mandate that has been entrusted to the Commission under the law.

APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

Mr. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics has approved the following staff acceptance of foreign travel.

A Senator requested approval for the acceptance of foreign travel by a person under his supervision pursuant to the invitation of the American Council of Young Political Leaders, 1616 H Street NW., Washington, D.C., and the requirements of rule 43, paragraph 4(a) on gifts.

The program in which the Senate staff member is invited to participate is to be held from Tuesday, September 20 to October 1, 1977, and deals with security and cooperation in Europe. The itinerary begins and ends in Washington, D.C., with travel to London, Berlin, East Berlin, Bonn, and Brussels. The Department of State has determined that food and lodging to be furnished by the Government of the Federal Republic of Germany will be of minimal value and can be fully accepted. Similar accommodations to be furnished in Brussels with North Atlantic Treaty Organization funds may be lawfully accepted under an exchange of notes between the Department and NATO dated March 31, 1977. All other expenses will be paid by the sponsoring organization, a U.S. group.

In accord with rule 43, paragraph 4(a): First, officials of the Department of State informed the committee that this program's principal purpose is educational, it is funded by a U.S. organization except for minor travel expenses which may be lawfully accepted, and participation in it is not in violation of any law; and second, the committee, therefore, finds that participation by the following Senate employee is in the interest of the Senate and the United States:

Mr. Gerald Grant, office of Senator JIM SASSER.

APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

MR. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics approved the following staff acceptance of foreign travel.

Several Senators requested approval for the acceptance of foreign travel by persons under their supervision pursuant to the invitation of the Van Leer Jerusalem Foundation, Jerusalem, Israel, and the requirements of rule 43, paragraph 4(a) on gifts. Due to the recess and innocent oversight the required CONGRESSIONAL RECORD announcement could not be made before the program commenced on August 24. However, the committee had approved the program and participation for several Senate employees at its meeting on August 4, 1977.

The program in which the Senate staff members were invited to participate was held from August 24 to September 2 1977, and dealt with political and social problems of the Middle East. The foundation paid the necessary expenses of travel to and from Israel and incidental food and lodging while there. The Department determined in advance that some minor travel furnished by the Government of Israel was of minimal value and could be lawfully accepted. The employee for whom approval was requested assists the supervising Senator on international affairs.

Notice is hereby given in accordance with rule 43, paragraph 4(b) that the select committee approved participation by the following Senate employees in the program:

Mr. Ron Ober, office of Senator DENNIS DECONCINI.

Mr. Mahlon S. Priest, office of Senator BOB PACKWOOD.

Mr. Allyn Kreps, office of Senator ALAN CRANSTON.

ETHICS COMMITTEE NOTICE: QUARTERLY REPORT DUE SEPTEMBER 30 ON INDIVIDUALS WHO PROVIDE OFFICE SERVICES AND ARE COMPENSATED BY OTHERS THAN THE SENATE

Mr. STEVENSON. Mr. President, for the Select Committee on Ethics I give notice that rule 49, paragraph 6 requires a Senate Member or officer who is the supervisor of an individual who performs services for any Member, committee, or office of the Senate for a period in excess of 4 weeks and who receives compensation therefor from any source other than the U.S. Government to report the utilization of such services to the Ethics Committee.

Supervisors must file such report within 1 week of the day such an individual completes 4 weeks of services; on June 30, September 30, December 31, March 31, or the closest weekday of each year; and within 1 week of the day such an individual ceases to perform Senate service.

The next quarterly report is due next Friday, September 30.

Forms may be obtained from the Select Committee on Ethics, 1417 Dirksen Senate Office Building.

TESTIMONY OF WILLIAM ROGERS, PAST COMMANDER OF THE AMERICAN LEGION, BEFORE THE HOUSE INTERNATIONAL RELATIONS COMMITTEE

Mr. THURMOND. Mr. President, during the past few months much has been written and said about the new and controversial Panama Canal Treaty. However, last Thursday, the testimony given by the past commander of the American Legion, William Rogers, before the House International Relations Committee is one of the most rational statements I have heard on this diverse subject.

In his testimony, Past Commander Rogers accurately expresses the views of the membership of the American Legion as adopted at their National Convention in Denver, Colo., on August 23–25. He also spells out—objectively and dispassionately—what the concerns of the American Legion are and why they object to this specific treaty with Panama.

Since the American Legion and the American Legion Auxiliary are composed of approximately 4 million Americans from all sections of the country, I am sure that my distinguished colleagues in the Senate would be interested in more closely examining this excellent statement. Therefore, I ask unanimous consent that the testimony of Past Commander Rogers, before the House International Relations Committee, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY WILLIAM J. ROGERS

Mr. Chairman, members of the Committee on International Relations: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you today is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention and my observations in traveling during 12 months throughout the United States and Panama. Secondly, I will spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

During these past 12 months, it has been my honor and privilege to visit all of the Departments of The American Legion. We have a department in every state and territory making up the United States. At each meeting, without exception, our members were concerned about the possibility that the United States Government would relinquish sovereignty of the U.S. Canal Zone and Canal. Furthermore, we would give it to a dictatorship in Panama which runs contrary to our natural instincts as American citizens.

Today, I have come to speak for our four

million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . altogether we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post was the same, deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

I don't think it will come as a surprise to the members of this committee, but I think it may come as a surprise to certain of our leaders in the Executive Branch and to certain of our national cartoonists in recent weeks, but the typical Legionnaire, who also happens to be the typical American, understands the Panama Canal situation. The average Legionnaire understands the facts and the realities of standing straight for what is right, and objecting to something which is wrong and not in the American interest.

Though we have opposed any treaty which would surrender U.S. control and ownership since 1960, Legionnaires throughout the country have been given both sides of the picture. In The American Legion Magazine, which goes to every member, we invited the top spokesman for the Republic of Panama, Ambassador Gonzalez Revilla, to state the case for the Panamanian government. The Ambassador's position to transfer ownership of the Zone and Canal to Panama was printed in full in the October 1976 issue of our magazine. Congressman Daniel Flood was invited to state the case for U.S. sovereignty in the same issue.

At our National Convention recently completed in Denver, we invited Ambassador Sol Linowitz to come and to take as long as he liked to state the case for giving the U.S. Zone and Canal to Panama. As you know, Ambassador Linowitz is articulate and knowledgeable on all the issues as the U.S. negotiator, and presented the Administration's viewpoint to our Foreign Relations Commission for well over an hour.

Since this was the major issue to be decided by our National Convention in 1977, we decided to set the Panama resolution aside from other foreign policy considerations and vote on it separately, by roll call department by department if necessary, so we could be sure that the National Convention did not trespass on the will of our members, so we would know the real vote.

After the Chairman of the Foreign Relations Commission, Dr. Robert P. Foster, seated here beside me, read the resolution, the convention members in a voice of one, called out for a vote. The vote to oppose giving the U.S. Zone and Canal away was unanimous. Although there were over 3,000 delegates representing the 2.7 million members of our organization, there was not one dissenting vote! The silence of the "nays" was as persuasive as vocal shouts of the "yeas." The truth is that The American Legion has expressed its collective judgment. The full text of that resolution is appended to my statement today.

I will now discuss the reservations and objections which we have to this proposed treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3-5 years, I have been assured by the Navy that they can tranverse the Canal, making the Canal even more important in a military sense in the years ahead.

Hanson Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the Navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak, USMC (Ret.), writing in the summer 1975 issue of Strategic Review, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy.'

"During the Vietnam War about 98% of all supplies for our forces were shipped by sea; of this total, approximately 33% were loaded in East and Gulf Coast ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640% and for petroluem products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the historic letter of four distinguished Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the giveaway of the Zone and the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired, agree on that point.

From an economic perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45% originated in the United States and 23% were bound for the United States. No other nation ever approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96% of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pipeline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

Moreover, at the present time, the United States has an overall investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $50.0 million per year, plus about $350.0 million in economic and military aid to have the Torrijos goup take over the territory and property.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50% of the capital investment in Panama. And U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy"—in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos govenment which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union, and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no political party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore, the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As you are probably aware, the Panamanian constitution requires a plebiscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39% of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Panama's Omar Torrijos has alined himself with the most repressive pro-Communist regimes in this hemisphere—those of Cuba's Fidel Castro, Jamaica's Michael Manley, and Guiana's Forbes Burnham. According to U.S. Information Agency, Torrijos issued a communique last April with pro-Arab terrorist dictator Col. Muammar Qaddafi of Libya denouncing what they called "Zionist aggression by Israel." The communique was issued at the end of a week-long visit by Torrijos to Libya, for the

purpose of creating close economic and political ties between the two countries.

Jack Anderson and Les Whitten started in their nationally syndicated column on June 16 that they had evidence that this Torrijos-Qaddafi meeting had also resulted in a secret deal between Libya and Panama to give Arab extremists a foothold in the Americas and to cooperate with the Arab boycott against Jewish manufacturers.

Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America, as well as a series of other multi-million-dollar trade and construction projects with Panama.

Whether it was a Treaty of intent or as pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America."

Of deepest concern is Torrijos' close ties with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Just this past week-end, the New York Times reported that 4,000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4,000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the *Sea Wolf*, which was operating inside Canal Zone waters and burning and desecrating our United States flag.

Our Ambassador has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behaviour will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50-miles long and 10 miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one exercises it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following last Wednesday's signing acknowledged United States sovereignty and I quote: "What nourished the hopes of Panamanians for the recapture of their sovereignty was their feeling that the North American people fundamentally harbored no colonial aspirations," (emphasis added).

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to this layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to recent analysis of the Treaty, should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be a usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canal Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article IX, Section 3, recognizes the right of ownership of improvements to realty but does not recognize the right to own real estate. While we do not know how many Americans own property in the Canal Zone, if any, it would appear that this Article condones or perhaps authorizes exappropriation of property by the Panama government.

(7) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23 year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservations and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Moreover, Article VI, Section 1, of the Neutrality Treaty appears to be in direct conflict with the protocol accompanying the treaty which states that vessels of all nations will be insured permanent access to the canal "on the basis of entire equality."

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977—a bad day for the United States.

United States military and national security losses are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the United States taxpayer is in the billions. Moreover, someone will pay the billions of dollars owned international bankers by the Torrijos government. It will not be Panama. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The recent

Treaty signing festivities were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people—with people like our members.

I will close with one question—if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the House who return to your districts every two years, know what the people back home are thinking. You know the Legion Posts and grass roots opinion runs about 80 percent against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

RESOLUTION No. 445

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

WOMEN PARTICIPATE IN REFORGER EXERCISE

Mr. PROXMIRE. Mr. President, the Army is currently conducting an experiment in which women are taking part in NATO war games in West Germany. Project Reforger provides a look at female participation in deployment, operations in an extended field environment and redeployment.

Women have traditionally been kept from combat duty, although they have served in support units. This is due in part to a deep-seated bias against women in uniform.

Gen. Bernard Rogers, Army Chief of Staff, has expressed serious reservations about having women in a combat role:

What we're talking about is a young woman soldier with a rifle and a bayonet, out there in a fighting position, exposed to the possibility, the probability, of hand-to-hand combat with an enemy soldier. Or in a tank that's been hit, destroyed, and she's crawling out of the escape hatch. I'm not sure that society's ready to accept that yet.

I disagree. I recently polled my Wisconsin constituents to see how they felt. Out of a sample of 10,000 the results were overwhelming. To the question "Should women be allowed to volunteer for combat jobs?" 70 percent of constituents replied yes, 30 percent said no. That is more than 2-to-1 margin.

Three points need to be made here. First, women in combat support units are already exposed to great danger. In previous wars women have given their lives for this country. Second, if a qualified woman wants to volunteer for dangerous duty, she should be free to do so. It is her decision to make. Third, there is very little of the old-fashioned hand-to-hand combat left in the modern battle plans.

General Rogers, for all his misgivings, is to be commended for following through on the Reforger test. Gen. DeWitt Smith, Army Deputy Chief of Staff for Personnel, has promised to push through this and other Army studies on the use of women and then to translate the results into Army policy as soon as possible.

As a result of an experiment uder General Kingston at Fort McClellan and Fort Jackson the Army has already decided that women and men will receive exactly the same basic training in the first 7 weeks of training. This is an important step forward, and I hope that the Army will continue to move quickly along this path.

Gen. William Westmoreland has said:

The pendulum has gone too far. We are asking women to do impossible things. I don't believe women can carry a pack, live in a foxhole, or go for a week without taking a bath.

I know that the Reforger experiment, among others, will prove him wrong.

Mr. President, I ask unanimous consent that the September 19, 1977, New York Times article by Jonathan Kandell entitled "Women in Uniform Face Combat Role" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

(By Jonathan Kandell)

BUCHLOE, WEST GERMANY.—Jet fighter-bombers screamed through the hazy late summer skies, while helicopters skimmed above onion-shaped church domes and turreted castles.

Tanks and armored personnel carriers slowed civilian traffic to a crawl as they rumbled along the highways that cut across the Bavarian farm fields and forests.

This year's maneuvers by Allied troops stationed in West Germany involved a simulated attack by an enemy force, presumably Russian, that initially outnumbered the defending troops by three to one.

Before the aggressors are thrown back—some time this week, according to the wargame schedule—the hypothetical casualties will be heavy. Inevitably, the "dead" and "wounded" will include American women soldiers.

MUCH REMAINS UNCLEAR

Legislation forbids women from being assigned to combat roles. But the United States armed forces are still struggling to determine just what constitutes a combat role and how well women soldiers react in situations that will expose them to battle.

About 110,000 women are in the United States military, accounting for more than 5 percent of total personnel. This is considerably higher than in any other major armed force in the world.

The Russians, for all the fanfare they gave to female troops and individual exploits during World War II, now have a mere 10,000 women in their military ranks. The Israelis have only 8,000 women on active duty.

American women serve not only in administrative, clerical and medical posts, but they also drive jeeps and trucks, handle field communications and supplies, fly helicopters and gather intelligence. There is even a military policewoman at Checkpoint Charlie, the gateway between the Allied and Soviet-controlled sectors of Berlin.

7 PERCENT LIMIT FORESEEN

But according to the Pentagon's estimates, women in uniform will not surpass 7 percent of the total, or about 147,000 members, by 1982. Unless their numbers increase at a faster pace, officers say, the military may find that the pool of available male volunteers will not be enough to meet the two million troop level that the Pentagon says it must maintain.

The alternatives would be a return to the draft, or more likely, even further raises in an already high pay scale for enlisted men.

As a result, restrictions on women in the military services appear to be loosening. The Navy has asked that laws be amended to permit women to serve aboard ships. The Senate has asked the Pentagon to make it easier for women to serve on Air Force planes.

A recent study by the Brookings Institution of Washington contends that as many as 400,000 women could fill noncombat roles and attributes the slow growth in their numbers to "sexual stereotypes" in the military.

Gen. Bernard Rogers, the Army Chief of Staff, who came here to review American troops during the maneuvers, maintains that combat restrictions are the ultimate issue preventing an expansion of women recruits.

"What we're talking about is a young woman soldier with a rifle and a bayonet, out there in a fighting position, exposed to the possibility, the probability of hand-to-hand combat with an enemy soldier," he said. "Or in a tank that's been hit, destroyed, and she's crawling out of the escape hatch. I'm not sure that society's ready to accept that yet."

But other military officials and experts contend that women have already breached the line between combat and noncombat roles because modern-day warfare is likely to cause battle casualties among rear-guard and support units.

"If you have an irregular, shifting front as you would expect in a war in Europe women will be fighting the enemy and they are going to get killed," said Cecil Johnson, a civilian who heads the career development and soldier productivity section of the Army Research Institute, which is evaluating the performance of women soldiers in this year's maneuvers in West Germany.

CRISIS COULD BE DIFFERENT

"I'm not talking about women in assault roles," Mr. Johnson said. "They are support troops, but in a crisis like an ambush, there is nothing that says a commander can't use them any way he wants. On these maneuvers, you'll see them doing guard duty, carrying machine guns, setting up foxholes."

According to Col. William Beckwith, who heads the Army Research Institute team here, "basic training for women is being upgraded for contingency operations" meaning, combat situations.

"The women coming out of basic training in the future will be trained the same as the men—weapons handling, grenade throwing, the works," Colonel Beckwith said.

The only difference, he added, would be in bayonet training, which will be confined to men while women receive rape-prevention training.

ENERGY PROGRAM COMMENTARIES

Mr. GARN. Mr. President, it is a basic part of my political philosophy that if government would not act, things would get better. The field of energy is a perfect example of that principle. President Carter has proposed a detailed and strict energy plan for the Nation, and it turns out that most of what he is asking for would be accomplished quite naturally by the workings of the free market. Of course, Government will not leave well enough alone, and we will probably pass the President's program, thus interfering with the attainment of the goals. Our economy is probably healthy enough to meet some of them anyway, and President Carter will be able to take credit for something that was going to happen anyway. That is the best example of political savvy I have ever seen.

As evidence, I would like to insert into the RECORD an editorial which recently appeared in the National Enterprise, a business and financial weekly published in Salt Lake City, and a copy of a speech by Richard F. Messing, vice president of Arthur D. Little, a consulting firm which examined the energy program and the present trends in energy use and production. Both the editorial and the speech comment on the study, pointing out that the price increases brought about by Arab actions are having predictable effects: People are conserving, using less, looking for alternative sources. All the things, in short, that President Carter wants them to do. They may not be doing as fast as he would like, but a good share of the blame for that must rest with his proposals, which would continue the bureaucratic and regulatory structure now growing in the Federal establishment, and on the continued price controls that inhibit conservation and alternatives. I am convinced that if we were to defeat, the President's program, its goals would in fact be met better than they will be if we pass it. I intend to vote that way during consideration of the energy bills, Mr. President, and hope that enough of my colleagues will join me to defeat the program.

Mr. President, I ask unanimous consent that the editorial and speech referred to be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

ENERGY AND THE POLITICAL MASTER

The House of Representatives has labored mightily, and brought forth H.R. 8444, its version of the Carter energy package. The Senate, less tidy in its procedures, has now begun to work on the package in small pieces. How they will all be put together in the end, no one knows.

Before the Senate completes its work, perhaps we should take a moment to assess the energy situation, and forecast what might happen should the Congress, as has happened before, be unable to come to agreement.

Conveniently to our purposes, consultant Arthur D. Little has just completed a study of the energy picture. The study was undertaken at the behest of industry, but there is no reason to think ADL has sold its soul. Heaven knows industry is as willing to pay for bad news as for good.

In this case the news, if neither good nor bad, is very interesting. ADL concludes that, should the energy program not be enacted, Carter's energy goals would be achieved anyway. To be slightly more accurate, it is everyone's consensus that Carter's goals are not attainable under his own proposals, but ADL concludes that no legislation at all will come as close to achieving them as complete enactment.

How can such a thing be? It is inconceivable, in this day and age, that anything can be done by any agency other than the federal government. What strange and powerful force is at work here? As usual, it is the market, the old invisible hand. Energy prices have been increasing in recent years and, as economists used to be able to tell you, when prices go up, demand drops. Where the demand is inelastic, more efficient use of resources results. And that is what the ADL study found. Here are a few specific findings from the study:

1. New buildings can be built 30–50 percent more energy efficient, without first cost penalties, and are now being built that way;

2. Some retrofitting is taking place, though that is more difficult and more costly than new construction;

3. Voluntary appliance efficiency standards are being produced by the market, resulting in energy savings of 5–30 percent.

4. Three-fourths of the industrial energy is consumed by only about 12 industries. These have already taken the most obvious steps to conserve energy, and are now forecasting energy savings in the 15–20 percent range;

5. Automobile manufacturers are already ahead of presently mandated auto efficiency standards, and will be unaffected by the Carter proposals, as he well knew when he proposed them;

6. Even without the proposed incentives to coal production, 1.1 billion tons of coal will be produced (federal environmental impact statements permitting) in 1985. Carter had called for 1.2 billion tons;

7. What transitions to coal can take place already have, or will, without passage of Federal legislation. Coal will become more competitive as a boiler fuel as prices of oil and gas continue to rise;

8. That rise will take place very nicely without the Carter tax proposals. It will be helped along by OPEC pricing policies, thus providing a powerful incentive to develop alternative (and cleaner) energy sources.

What can we conclude from even this brief study? We can conclude that Carter is a political mastermind. He has enunciated an intricate series of energy proposals, and called out the troops to fight the moral equivalent of war for them. And all along, he knew he was going to achieve the victory, because the victory does not depend on the battle. The only thing which could rob him of his unearned triumph would be the failure of Congress to act. Maybe we should encourage a Senate filibuster.

THE NATIONAL ENERGY PLAN AND BUSINESS STRATEGIES

(By Richard F. Messing)

[NOTE.—Figures 1 through 4 not printed in the RECORD.]

During the three months since President Carter submitted his National Energy Plan to Congress, there has been much discussion concerning its impact on various sectors of our society. Questions and controversies have arisen concerning (1) its relative effect on producers and consumers of energy, (2) its regional impact, (3) the degree of fairness to special groups such as farmers and poor people, and (4) the likely impact on inflation, on the rate of economic growth, and on the vitality of individual industries.

Many of you have followed the Congressional hearings on the specific provisions of the plan, and may have participated in formulating industry reactions. Generally the plan seems to have survived in the House of Representatives, with the exception of the auto tax rebate and the standby gasoline tax, although a 5¢/gallon gasoline tax has been substituted. My purpose today is to step back a bit and consider the overall implications to the strategies of business management.

A major conclusion which I would like to highlight is this: the Administration plan capitalizes on trends which are already well established in our society, and in many respects understates the momentum effects of these trends. Let me develop this thesis by considering three areas, namely energy conservation, the transition to coal as an industrial and utility fuel, and the pace of energy price increases.

Much of the Congressional and industry criticism of the Carter Energy Plan has focused on its emphasis on conservation in contrast to resource development. Press coverage relating to the gas-guzzler tax and the standby gasoline tax might lead one to conclude that only conservation was addressed, but in terms of emphasis, the plan might better be described as a fuel-switching plan rather than a conservation plan. Table 1 compares the prospective 1985 energy savings as calculated by the Administration. Note that the bottom line saving is in oil imports, and that the proposed reduction in energy usage is less significant than the growth in use of other fuels. The expected saving of 4.5 MBOE would be reduced to about 3 MBOE if the bill now under consideration in the House of Representatives is adopted.

Let us examine the ways in which the proposed 1.9 MBOE reduction in use will be achieved. Table 2 shows the proposed demand by end use sector, expressed so that net electrical usage is included in each sector. While all sectors share in the expected savings, the total savings of 1.9 MBOE are still relatively small (17%) compared to the projected growth of 11.3 MBOE in total energy usage. Most of the proposed savings are in the industrial and utility sectors, which also account for most of the projected growth.

The relative growth rates reflected in these projections are summarized in Table 3. While the Administration proposes little or no growth in the residential/commercial and transportation sectors (whether or not the plan is adopted), sizeable growth is projected

for industry and utilities. One key underpinning of the analysis is use of a forecast rate of growth in real GNP of 5% per year between now and 1985. Many in the Energy Office now question the realism of this estimate, and are beginning to backtrack on the projections. Partly in response to criticisms by Dr. Barry Commoner and the Office of Technology Assessment, Mr. David Freeman recently stated that the numbers should not be taken too literally and are subject to change.

What conservation trends are already evident, and what growth may be considered likely in each sector?

Figure 1 shows that the space heating component of the residential/commercial market is dominant (65–70% of demand). While air conditioning poses peak-requirements problems to utilities, it is not a large factor in overall energy use. The easiest way to affect the energy requirements in these markets is to change the standards employed in new construction, although the effect will be only gradual because the existing building inventory is about 40 times larger than the annual new additions.

Our studies show that new buildings can be constructed with today's technology to use 30–50% less energy than traditional designs, and at little or no first-cost penalty. If the standards prepared by ASHRAE are adopted, energy savings in different classes of buildings are substantial (Table 4), and in many cases there are actual cost savings. The ASHRAE standard calls for double glazing, more insulation, better sun shielding, and better orientation, but without going to extremes such as 6" studs which are in the diminishing return part of the cost curve. Cost savings are achieved through a 40% reduction in furnace size and a 30% reduction in air conditioning tonnage.

The retrofit problem may be more difficult but still can yield handsome savings. Figure 2 shows prospective savings for a series of energy-saving investments in a university building. As more costly steps are undertaken, the incremental savings become less. One problem is that building owners are often presented with only a total package and cannot evaluate when the point of diminishing returns is reached. Many companies are reporting energy savings in buildings of 30% or more by modest adjustments, and are now moving to the second stage of more capital-intensive improvements.

The other principal component of the residential/commercial market is appliances. Voluntary standards of appliance efficiency are being established, although the President's program calls for mandatory standards. Our work shows potential energy savings in the range of 5–30%, and even up to 50% for gas ranges, with only a 10–20% increase in first cost (Table 5). While this industry is first-cost sensitive, energy efficiency has been shown to be an increasingly important marketing tool.

Thus I think we can conclude that the momentum effects for energy saving in the residential/commercial sector are well established.

In the industrial sector, principal attention is focused on about a dozen industries which account for three-quarters of total use. Most of these industries have already taken the obvious housekeeping steps to save energy, such as adjusting steam traps and furnace combustion conditions, but now face the more expensive steps such as installation of heat recuperators or use of oxygen enrichment. We have surveyed energy-saving processes for the EPA; each industry is reporting on its progress to FEA, and forecasting future savings which are generally in the range of 15–20% per unit of output over the next five years. Energy savings of this magnitude should come close to balancing expected increases in production for many industries. Paybacks are such that the equivalent cost of fuel saved is only $3–5/barrel of oil, whereas the cost of purchased oil is $15/barrel.

In transportation, the major change already under way is the move by the major auto companies to reach the mandated efficiency of 20 mpg in 1980 and 27.5 mpg in 1985. Detroit is now ahead of schedule in realizing these goals, and it is impressive to see how well the American public has accepted the GM line of cars which showed the greatest shrinkage in weight and horsepower. Even the Olds Delta 88 and Buick Riviera are now sufficiently fuel efficient to qualify for a rebate if the gas-guzzler tax were to be enacted.

Many are concerned whether the energy savings can be achieved without an adverse effect on economic growth. Recent experience shows that they have been closely related (Figure 3), but a longer-term analysis prepared by ERDA (Figure 4) gives a somewhat different impression. While denial of energy supplies could have important dislocation effects, savings derived through higher efficiency would not have as adverse an economic effect.

The second area concerns the transition to coal as a utility/industrial fuel. Projections for fuel supplies contained in the Administration's energy plan are shown in Table 6. It is evident that the plan places considerable emphasis on increased coal production. The indicated coal supply without the incentives provided in the plan amounts to 1.1 billion tons by 1985, a level which probably can be realized if some uncertainties affecting new investment can be removed. This represents an increase of 435 million tons or 65% over 1976 tonnage. With the incentives provided in the plan, the projected supply is increased to 1.25 billion tons, which may be a more formidable challenge.

Estimates of new coal mining capacity are somewhat elusive since plans change, and are considered more reliable for the near term (1976–80) than for the longer range. Data compiled by the National Coal Association (Table 7) shows that near-term expansions are substantial, but that longer-range plans are still not crystallized nor reflected in the projected capacity. If expansions continue at the pace corresponding to the near term, however, a production level of 1.1–1.2 billion tons should be possible. Our analyses show that there are over 50 major new competitors in the coal industry who are anxious to play a role in its expansion. The companies included in this list are well financed and technologically sophisticated, and should be better able to contend with environmental and regulatory problems than the smaller independents who have previously dominated the industry.

Growth in coal capacity in the Western region is especially striking (Table 8). If the industry in that area can realize a 90% operating rate, local requirements can be readily met and still leave a substantial volume of coal for shipment out of the region, especially to the Middlewest and Southwest. Companies operating in this area are finding the major constraint to be the lack of contracts with consumers, rather than their inability to produce.

Many utility and industrial companies burning oil or gas under boilers are awaiting a clarification of availability and pricing of these fuels before making commitments for conversion to coal. Even though curtailments of gas supply have limited supplies for low-priority applications, there is still a substantial consumption of gas under boilers, primarily supplies from intra-state sources (Table 9). If interstate pipelines are given greater opportunity to bid for these gas supplies, the resultant higher gas prices would facilitate the transition to coal. While there is a general reluctance to take on the added burdens of coal handling and environmental management, many large companies are making plans for boiler conversion or replacement in order to reserve their available supplies of gas for higher form-value uses.

One key issue which will affect the transition to coal is the pace of price increases for various energy forms. The Administration proposes both a crude oil equalization tax and a user tax on oil and gas, with the dual objectives of energy conservation and fuel switching. Even without these measures, however, we believe that energy prices are on a fast up-track, and that coal is becoming relatively a more competitive fuel (Table 10). These values are projected for an industrial user in the Eastern U.S. and are expressed in current dollars. Reasons for the increases in oil and gas at a rate double that of projected inflation include the following:

1. Continued OPEC pricing aggressiveness, especially as resource limitations become more apparent in the mid-1980s. Also, the downstream functions of shipping and refining may become more constrained because of under-investment during the intervening period, and the transition from old to new domestic oil will be effective. Note that the proposed $3 per barrel user tax (equivalent to about 50¢ per MMBTU) is relatively small compared to the expected price increases.

2. Roll-in of premium-price gas supplements, such as Alaskan gas, LNG, and SNG, plus the prospective increases in the price of "new" gas.

Coal prices, on the other hand, are generally based on mining economics with escalations to reflect prospective cost increases. Costs are expected to increase because of higher labor rates, but hopefully there will be a turn-around in the productivity trend as new workers become more experienced and as the provisions of the Mine Health and Safety Act are stabilized. Note that even with the burden of scrubber costs, coal becomes an increasingly attractive alternative; the difference is believed sufficiently large to justify new boiler investment for many locations where logistics of coal delivery and storage are favorable.

Electric energy cost increases are moderated by the stabilizing effect of lower-cost embedded capacity and the likelihood that long-term fuel purchase contracts will likely be negotiated as new generating units are committed. These values assume that all users will share equally in rate increases, although pressure for rate reform may lead to wider application of marginal cost pricing to large users, hence the rate of increase could be somewhat higher than the indicated 6% per year.

In summary, there are already established trends towards energy conservation, towards greater availability and use of coal, and towards higher energy prices which may outpace the goals specified in the Carter energy program. Momentum effects may therefore be more controlling than application of the specific provisions of the program.

TABLE 1.—CARTER ENERGY PLAN PROJECTED 1985 IMPACT

	MBOE/day	Percent
Reduced energy demand	1.9	42
Increased coal output	2.3	51
Increased nuclear and other	.3	7
Oil import saving	4.5	100

TABLE 2.—CARTER ENERGY PLAN PROJECTED ENERGY DEMAND

[MBOE/day]

	1976	1985 Without plan	1985 With plan	1985 Difference
Residential/commercial	9.6	10.0	9.6	−0.4
Industrial	10.9	16.6	15.9	−.7
Transportation	9.5	10.8	10.5	−.3
Electric generation loss	7.0	10.9	10.3	−.5
Total	37.0	48.3	46.4	−1.9

TABLE 3.—CARTER ENERGY PLAN ANNUAL DEMAND GROWTH (1976–85)

[Percent per year]

	Without plan	With plan
Residential/commercial	0.5	0
Industrial	4.8	4.3
Transportation	1.4	1.1
Electricity generation	5.0	4.4
Total	3.0	2.5

TABLE 4.—IMPACT OF CONSERVATION DESIGN ON ENERGY USE AND CONSTRUCTION COSTS

[In percent]

Building type	Reduction in energy consumption with conservation design: Northeast	South	Change in construction cost with conservation design
Single family	30	6	+1
Single family	15	8	+0
Low-rise apartment	51	42	−2
Office building	62	59	−2
Retail store	42	38	−1
School building	46	52	−2

TABLE 5.—APPLIANCE INDUSTRY

[In percent]

	Percent energy saved	Percent added cost
Refrigerator	30	10
Dishwasher	20	10
Dryer:		
Electric	7	3
Gas	15	3
Water heater:		
Electric	15	15
Gas	20	12
Room air-conditioner	25	20
Range:		
Electric	5	2
Gas	50	15
Clothes washer	30	1

TABLE 6.—CARTER ENERGY PLAN PROJECTED ENERGY SUPPLIES

[MBOE/day]

	1976	1985 Without plan	1985 With plan	1985 Difference
Oil and gas	27.4	32.2	27.6	−4.6
Coal	7.1	11.0	13.3	+2.3
Nuclear	1.0	3.7	3.8	+.1
Other	1.5	1.7	1.7	
Total	37.0	48.5	46.4	−2.1

TABLE 7.—COAL CAPACITY EXPANSIONS

[Millions of tons]

	West	East	Total
1976–80	154	178	332
1981–85	83	85	168
Total	237	263	500
Percent of total	47	53	100

Source: National Coal Association, August 1976.

TABLE 8.—WESTERN COAL MARKETS

[Millions to tons]

	1975	1980	1985
Western utilities	36	65	95
Other Western use	9	18	27
Subtotal	45	83	122
Eastern and export	36	135	171
Total	81	218	293
Western capacity	88	242	325

Source: Bureau of Mines and ADL estimates.

TABLE 9.—INDUSTRIAL GAS CONSUMPTION (TCF—1976)

	Total	Boiler use
Chemicals	1.93	0.92
Paper	.45	.41
Food	.47	.41
Petroleum	1.35	.35
Metals	1.16	.09
Others	2.85	.54
Total	8.21	2.72

TABLE 10.—FORECAST OF ENERGY PRICES FOR INDUSTRY

	1,000,000 Btu: 1976	1985	Percent per year increase
Oil (No. 6, 0.5 percent S)	$2.00	$5.97	12
Gas	1.73	4.10	10
Coal (without scrubber)	.95	1.72	7
Coal (with scrubber)	1.40	2.47	7
Electricity	8.29	14.36	6
Electricity (cents per kilowatt-hour)	2.83	4.90	6

RECOMBINANT DNA LEGISLATION

Mr. STEVENSON. Mr. President, one of the more important issues on the congressional science and technology agenda has been consideration of legislation to regulate the conduct of scientific research involving DNA recombinant molecules. The Recombinant DNA Safety Regulation Act (S. 1217), introduced by Senator KENNEDY and reported by the Human Resources Committee, is now on the Senate calendar. Senator NELSON and Senator MOYNIHAN have also introduced a comprehensive amendment in the nature of a substitute.

Research involving DNA recombinant molecules could well unlock the mysteries of heredity and life itself. Industrial technologies based on recombinant DNA techniques could bring previously unimagined benefits to mankind in such diverse fields as medicine, agriculture, and energy. Recognition of these potential benefits has been accompanied by an equally strong fear of the possibility of creating new forms of life that could threaten humanity. The heart of our legislative task has been to devise a way to reap the benefits of recombinant DNA research while protecting mankind against some biological catastrophe.

As we consider our present course of action, three considerations must be kept in perspective.

INITIAL CONCERNS OF SCIENTISTS

First, we should bear in mind how this issue first came to public attention. More specifically, what were the initial concerns of the scientific community? What dangers did these scientists seek to avoid? What actions did they recommend and were these actions taken?

Answers to these questions provide an important backdrop to whatever decisions Congress makes regarding the regulation of recombinant DNA research. It is clear that scientists were the ones who first spoke out. It is also clear that they were primarily concerned about potential, not verified, risks associated with recombinant DNA molecule experimentation. For instance, Dr. Maxine Singer of the National Institutes of Health, in the statement prepared at the 1973 Gordon Conference on Nucleic Acids, said:

> Certain such hybrid models may prove hazardous to laboratory workers and to the public. Although no hazard has yet been established prudence suggests the potential hazard be seriously considered.

The Gordon Conference statement further recommended to the President of the National Academy of Sciences and to the president of the National Institute of Medicine that—

> The Academies establish a study committee to consider this problem and to recommend specific actions or guidelines, should that seem appropriate.

Such a committee was created and in July 1974 its report was published in Science magazine. The report noted:

> Our concern is based on judgments of potential rather than demonstrated risk since there are few available experimental data on the hazards of such DNA molecules.

The committee went on to urge all scientists working with recombinant DNA molecules to avoid such experiments until further attempts had been made to evaluate the actual hazards that might be involved.

These early initiatives by the scientific community reflected a well-defined sense of public responsibility. The plea of these scientists was clear and straightforward: exercise great caution in this new area of experimentation until the potential risks can be evaluated further. There was no claim, at any time, that such experiments should be banned permanently; nor was there any prejudgment as to the level of risk that inevitably would be involved in recombinant DNA research.

These initial expressions of caution were coupled with recommendations to devise experimental procedures that would protect the health and safety of recombinant DNA researchers, the general public, and the environment. Again, the scientific community responded. In February 1975, the Asilomar Conference, sponsored by the National Academy of Sciences, proposed physical and biological containment standards for recombinant DNA research. The report of the Asilomar Conference noted:

> The evaluation of potential biohazards has proved to be extremely difficult. It is this ignorance that has compelled us to conclude that it would be wise to exercise considerable caution in performing this research . . . the standards of protection should be greater at the beginning and modified as

improvements in the methodology occur and assessments of the risks change . . . future research and experience may show that many of the potential biohazards are less serious and/or less probable than we now suspect . . . This document represents our first assessment of the potential biohazards . . . little is known [about survival of laboratory strains of bacteria, enhancement effects, depression of survival, etc.] . . . answers are essential to assessment of biohazards.

The dominant theme of caution, the need for further experimentation, and an overriding concern for safety were again very clear. But the possibility of modifying these standards to reflect new research findings and experience was explicitly acknowledged.

ACCUMULATION OF SCIENTIFIC EVIDENCE

The second consideration to keep in perspective is the scientific evidence that has accumulated since 1973. In the process of formulating the research guidelines published by NIH in July 1976, the NIH DNA Advisory Committee conducted a series of technical meetings throughout 1975 and 1976. These sessions have continued in 1977 to consider possible revisions of the guidelines. During these deliberations, careful attention was paid to learning more about the survivability of special "biological containment" systems, such as E.-coli, as well as to refining the proper levels of physical containment for different types of recombinant DNA experiments.

As these efforts continued, it became increasingly clear that many of the hazards associated with recombinant DNA research were less severe than initially feared. In time, scientists began to report these changes, revising downward their perception of risk and suggesting the feasibility of adjusting the NIH guidelines accordingly. Moreover, scientists were also discovering that many of the so-called novel DNA recombinations were nothing more than laboratory-controlled duplications of events which could occur in nature. These latter discoveries raised questions about the proper definition of recombinant DNA that should be used as a basis for any Federal regulatory effort.

These new perceptions were summarized by Dr. Roy Curtiss III, University of Alabama, in a letter of April 12, 1971, to Dr. Donald Frederickson, Director of NIH. Dr. Curtiss described his experiments which had been conducted to determine whether a DNA recombinant molecule in an E.-coli host could be transferred to other microorganisms if accidentally released from the laboratory environment. He also reported similar experiments conducted by other NDA researchers. On the basis of this new evidence, Dr. Curtiss concluded that he could no longer perceive any danger to human beings or the environment, assuming that normal experimental safeguards were followed. Curtiss wrote:

The arrival at this conclusion has been somewhat painful and with reluctance since it is contrary to my past "feelings" about the biohazards of recombinant DNA research . . . In no instance—in his and other experiments—have I found evidence that the necessary genetic information could be cloned in one step, would permit E.-coli K-12 to colonize the intestinal tract, and to lead to the production of the product(s) in the intestinal environment that would be harmful to the mammalian host.

The substance of these findings and the rapidity with which they were being made raised new doubts about the various regulatory approaches being considered by Congress. For example, many of the initial assumptions concerning the scope of the regulations were open to question. Some scientists viewed the physical and biological containment standards adopted by NIH in its July 1976 guidelines as excessively stringent. Revisions of the guidelines were contemplated by NIH. Concern was also expressed about legislative approaches that would subject recombinant DNA researchers to the redtape and complicated procedures of a Washington-based regulatory commission. University-based scientists were particularly concerned about the threat of criminal liability, as provided for in some legislation, on the research process. Although it was important that regulatory controls be extended to privately supported research, these controls should be administered in a way that did not place an unequal burden on smaller private research firms. Other issues, such as the protection of proprietary information and scientific discoveries, remained a source of contention.

In these circumstances, Congress has every reason to proceed cautiously in writing permanent legislation. There is a clear need to take account of the rapidly changing perceptions of the likely risks of recombinant DNA research. This view is supported by a new substantive evaluation of the problem being conducted by the Carter administration. I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD at this point an exchange of letters between myself and Dr. Frank Press, Director of the Office of Science and Technology Policy, regarding the administration's current views on the regulation of recombinant DNA research.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *September 7, 1977.*

Dr. FRANK PRESS,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C.

DEAR DR. PRESS: I am writing to inquire of the Administration's position regarding passage in this session of Congress of legislation to regulate activities involving recombinant DNA.

In exercise of this Committee's jurisdiction for comprehensive policy oversight of science and technology, the Subcommittee on Science, Technology and Space has been monitoring the development of the various legislatve proposals to extend Federal regulatory control over all recombinant DNA research. Over the course of the past several months, Subcommittee staff members and I have met with a number of scientists and other experts familiar with the conduct of recombinant DNA research. Their reports of the reassessment of the risks involved in recombinant DNA activities and their descriptions of the research procedures that would be subject to Federal regulation have been particularly useful.

On the basis of these discussions and a careful review of recent literature, I have become increasingly concerned that much of the legislation drafted to deal with this problem is ill-designed to achieve the objective we all seek: namely, protection of the public from the potential risks of recombinant DNA activities, whether funded by public or private sources, without impeding unnecessarily the beneficial use of these techniques.

I have also become more sensitive to the potential effect of this legislation on the regulation of basic research by the Federal Government. It is essential that we balance carefully the duty to protect the freedom of scientific inquiry and the government's obligation to protect the health and safety of citizens. The balance will be achieved only if we have an accurate and timely reading of the dangers which must be avoided by government action. If the reports which I have received are at all accurate, I fear the regulatory procedures proposed in some of the pending legislation intrude excessively and needlessly on scientific freedom.

The Subcommittee is giving serious consideration to scheduling oversight hearings on the effect of proposed recombinant DNA legislation on the conduct of basic research. These hearings would provide a forum for receiving up-to-date assessments of the risks associated with recombinant DNA experimentation and suggestions as to the proper governmental role in light of these new assessments. I am also interested in exploring further whether effective regulation of recombinant DNA research might be achieved under existing statutes.

For these several reasons, I have come to the view that the arguments advanced initially for swift passage of recombinant DNA legislation are no longer persuasive. Indeed, I believe a period of thoughtful deliberation by both the Senate and House would be a major factor in devising a regulatory solution that is effective, sensible, and fair to all concerned.

Your comments on whether the Administration shares these concerns would be extremely helpful to me and my Senate colleagues in considering this issue in the closing days of the first session.

Sincerely,

ADLAI E. STEVENSON,
Chairman, Subcommittee on Science, Technology, and Space.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY,
Washington, D.C., September 16, 1977.

Hon. ADLAI E. STEVENSON,
Chairman, Subcommittee on Science Technology and Space, U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENSON: Thank you for your letter of September 7 inquiring about our current views on the regulation of research involving recombinant DNA.

The key elements of the Administration position are reflected in the Administration bill submitted several months ago. Many of the bills under consideration, of course, were cast at a time before recent experimental evidence became available. The Administration bill and certain of the other bills introduced in the Congress provide the Secretary of the Department of HEW sufficient flexibility to tighten or relax the guidelines under which biohazards committees must function. I believe that such flexibility is important to the implementation of any regulation in this rapidly changing field of research.

Your inquiry about the many ramifications of the proposed legislation is timely. We are consulting with the various agencies of the government to review the situation.

Yours sincerely,

FRANK PRESS,
Director.

Mr. STEVENSON. A close reading of Dr. Press' letter confirms two important points. First, the advent of new experimental data on recombinant DNA research has underscored the importance of approaching the entire question of Federal regulation in a pragmatic and careful manner. Second, the Administration itself is reviewing the situation internally. Congress would be well advised to await whatever new recommendations or conclusions are produced by this Executive review.

My hope is simply that Congress can be as responsive and as concerned with scientific evidence as were the scientists who initially spoke out about the potential risks of recombinant DNA research.

Mr. President, much of this analysis has been drawn from an excellent summary of actions affecting the perception of risks in DNA recombinant molecule research prepared by the Congressional Research Service. I ask unanimous consent that the full text of this summary be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

A BRIEF SUMMARY OF ACTIONS AFFECTING THE PERCEPTION OF RISK IN DNA RECOMBINANT MOLECULE RESEARCH

Developments in molecular biology which were discussed during the June 11–15, 1973 Gordon Conference on Nucleic Acids (New Hampton, New Hampshire) led to the issuance of a statement by some of the conference participants concerning DNA recombinant research. In this statement, signed by Dr. Maxine Singer of the National Institutes of Health and Dieter Soll of Yale University, on behalf of a number of scientists at this conference, the technique of DNA recombinant research was identified and a comment included that:

"Certain such hybrid models may prove hazardous to laboratory workers and to the public. Although no hazard has yet been established, prudence suggests the potential hazard be seriously considered."

This concern was communicated in this Gordon conference letter to the President of the National Academy of Sciences and to the President of the National Institute of Medicine. The suggestion was made that:

". . . the Academies establish a study committee to consider this problem and to recommend specific actions or guidelines, should that seem appropriate."

A committee (known as the "Berg Committee" since it was chaired by Paul Berg of Stanford University), appointed by the National Academy of Sciences to investigate the concerns expressed in the "Gordon Conference" letter, conducted a preliminary study of the problem and made its report to the Academy and the public. In their report, (published in Science in July 1974) the committee noted, among other points, that:

". . . our concern is based on judgments of potential rather than demonstrated risk since there are few available experimental data on the hazards of such DNA molecules and (ii) that adherence to our major recommendations will entail postponement or possibly abandonment of certain types of scientifically worthwhile experiments . . .

"Nonetheless, our concern for the possible unfortunate consequences of indiscriminate application of these techniques [DNA recombinant research] motivates us to urge all scientists working in this area to join us in agreeing not to initiate experiments . . . [of certain types] . . . until attempts have been made to evaluate the hazards and some resolution of the outstanding questions has been achieved . . ."

Then, in February 1975, an International Conference on Recombinant DNA molecules was held at the Asilomar conference center (California). This conference was sponsored by the Assembly of Life Sciences, National Research Council, National Academy of Sciences and a summary report of the conference was published in the *Proceedings of the National Academy of Science* in June 1975. The meeting was limited to invited participants including a select few lawyers and press representatives. In their summary report, the committee provided recommendations with regard to the physical and biological containment which should be utilized to insure safety. Categories of containment were described which are now further refined and identified with the P1–P4 codes established in the NIH guidelines and the concept of biological containment, now known as Ek-1, Ek-2, etc. In the NIH Guidelines was anticipated by the committee. In the introduction to their recommendations, the conference committee indicated that the meeting:

". . . was organized to review scientific progress in research on recombinant DNA and to discuss appropriate ways to deal with the potential biohazards of this work."

The committee report also noted that:

". . . the evaluation of potential biohazards has proved to be extremely difficult. It is this ignorance that has compelled us to conclude that it would be wise to exercise considerable caution in performing this research . . . the standards of protection should be greater at the beginning and modified as improvements in the methodology occur and assessments of the risks change . . . future research and experience may show that many of the potential biohazards are less * * *

* * * * *

represents our first assessment of the potential biohazards . . . little is known [about survival of laboratory strains of bacteria, enhancement effects, depression of survival, etc.] . . . answers are essential to assessment of biohazard."

Following the Asilomar conference, the NIH DNA Advisory Committee began its series of intensely technical meetings to construct detailed guidelines. This committee was chartered by the Director of the National Institutes of Health in October 1974. In their charter, it was noted that:

". . . the use of this technology [DNA recombinant molecule research] has various possible hazards because new types of organisms, some potentially pathogenic, can be introduced into the environment if there are no effective controls . . . The goal of the Committee is to . . . recommend programs of research to assess the possibility of spread of specific DNA recombinant molecules . . . and to recommend guidelines on the basis of the research results."

The first meeting of the DNA Advisory Committee was held in February 1975, the second in May 12–13, 1975, the third in July 1975, several intervening meetings of working groups, a critical meeting in January 1977 when a "final" draft for consideration by the Director was constructed. Other meetings were held in the late spring and early summer of 1977. Throughout these meetings, there was communication with a number of investigators, numerous special working groups with consultants and a flow of information about the characteristics of various cloning cell systems and proposed vectors of transfer of DNA fragments. Emphasis was placed upon ascertaining survivability probabilities of special "biological containment" systems as well as refining the desired levels of physical containment.

At the same time, as information became available, there was an obvious increase in awareness, with emphasis upon the variants of *Escherichia coli* which were being constructed as cloning systems, that many of the hazards originally postulated for such systems were highly improbable. This emphasis evolved in association with the conduct of specific types of experiments not prohibited by the guidelines. From these many exchanges among professionals during the development of the current NIH guidelines, as well as in the work directed toward the revision and updating of the guidelines, changes in the perception of risk became evident.

It also became obvious that the definitions of the types of DNA recombinant research covered by the NIH guidelines required more specific language since many of the experiments being conducted were not really "novel" recombinations but were laboratory controlled duplications [although accelerated] of events which were possible and probably occurred in nature. Some investigators, including Stanley Cohen at Stanford, became more certain as they continued their evaluations of the biochemistry of DNA recombination that there was indeed a high degree of recombination going on in nature by the same biochemical mechanisms as the experiments being conducted in the laboratory. This concept of non-novel recombination and the increasing certainty about the virtual absence of risk when using *E. coli* variants and non-prohibited types of experiments became further strengthened by other evaluations.

An analytical paper which had a major impact within the scientific community was a letter submitted to the Director of NIH by Dr. Roy Curtiss III of the University of Alabama. In his letter of April 12, 1977, Dr. Curtiss described the many experiments conducted in his laboratory to evaluate the potential risk if a DNA recombinant molecule in an *E. coli* variant was accidentally released or whether the recombined molecule could be transferred to another microorganisms as a result of an accident. In his letter, Dr. Curtiss also summarized a number of other risk assessment experiments which had been conducted around the country and pointed out that these data consistently supported his own opinion that he could no longer perceive any danger whatsoever to any human being with the exception of the risk to a careless laboratory worker, as always exists in any work with microorganisms. In his own words:

"The arrival at this conclusion has been somewhat painful and with reluctance since it is contrary to my past 'feelings' about the biohazards of recombinant DNA research . . . In no instance [in his and other experiments] have I found evidence that the necessary genetic information could be closed in one step, would permit *E. coli* K-12 to colonize the intestinal tract, and lead to the production of the product(s) in the intestinal environment that would be harmful to the mammalian host."

The initial view that experiments with DNA recombinant molecules might pose some unknown risk was a reaction primarily by molecular biologists and biochemists who were not familiar with the detailed epidemiology or ecology of the "model" systems with which they were working. As a part of the continuing evaluation of the risk, an effort has been made in the past several years to involve those scientists who do have the experience in working with infectious organisms to estimate the dangers which might be produced by research with recombinant DNA molecules. These groups have been publishing their views very recently, and their views also have had an impact on the DNA recombinant research scientists' perception of risk. For example, at their annual meeting in New Orleans in May 1977, the Council of the Amer-

ican Society for Microbiology adopted a resolution which included a recommendation that experiments requiring proposed P-1 containment should be exempt from the regulations for DNA recombinant research. In a letter to *Science* from the President of ASM [Harlyn O. Halvorson, Brandeis University], it was noted that:

". . . there has been surprisingly little input from individuals accustomed to dealing with hazardous microorganisms . . . There is at present no demonstrable evidence that microorganisms containing recombinant DNA molecules are hazardous."

Following the 1977 Gordon conference, an open letter to Congress was submitted from a group of scientists which was presented as a consensus of opinion. This letter, published in *Science* on July 15, 1977, was signed by 137 members of the conference (86 percent of the members of the meeting). Comments included in the letter indicated that:

"We are concerned that the benefits of recombinant DNA research will be denied to society by unnecessarily restrictive legislation . . . We feel that much of the stimulus for this legislative activity [legislation to regulate DNA recombinant research] derives from exaggerations of the hypothetical hazards of recombinant DNA research that go far beyond any reasoned assessment . . . the experience of the last four years has not given any indication of actual hazard . . ."

Still later (July 14, 1977), Sherwood L. Gorbach [New England Medical Center Hospital and Professor of Medicine and Microbiology, Tufts University School of Medicine] provided a letter to the Director of the National Institutes of Health in which he reported what he called a "consensus of opinion" following a Workshop of Studies for Assessment of Potential Risks Associated with Recombinant DNA Experimentation [now referred to as the Gorbach Falmouth Report.] The Workshop [held at Falmouth, Massachusetts] was sponsored as a part of the NIH program to secure risk assessment data for input to the restructuring of the DNA recombinant molecule research guidelines. His concluding statement was:

"It was the consensus of the group that the possibility of transfer of a non-mobilizable plasmid from *E. coli* K12 to a wild-type strain *in vivo* is extremely unlikely. However, it was recommended that animal and human feeding experiments should be performed, to confirm the previous observations in man and to provide further assurance that *in vivo* transfer of these plasmids should not occur."

In evaluating these trends in risk assessment, it should be kept in mind that primary attention has been given to the *E. coli* experiments and not to other host cell systems. Since the vast majority of DNA research molecule experiments are with *E. coli* variants, the experimenters actually are saying that these DNA recombinant experiments pose little, if any, risk and therefore there is no need for strict regulation. This is not to say, however, that these investigators are suggesting at this time that all of the prohibited experiments of the NIH guidelines now should be permitted although, in some instances, evidence is being cited, as with the transfer of toxins through *E. coli* variants, that there may be little risk even with certain types of these experiments. The efforts at reconstructing definitions of the types of DNA recombinant research to be covered by the NIH guidelines which have been occurring within the NIH DNA Advisory Committee also would reflect these new perceptions of risk and exclude those experiments which are not novel, that is, experiments where it is known that exchanges occur in nature.

FREEDOM OF SCIENTIFIC INQUIRY

Mr. STEVENSON. Mr. President, the third consideration to keep in perspective is our responsibility to safeguard the conduct of scientific research from unnecessary and unreasonable governmental intervention.

Freedom of scientific inquiry is rooted in the first amendment to the U.S. Constitution as a fundamental element of freedom of speech—Sweezy against New Hampshire; Keyishian against Board of Regents; Epperson against Arkansas. Of course, such freedom is not absolute. The Atomic Energy Act imposes stringent regulatory controls over the scientific use of radioactive substances. Controls are enforced in the use of human subjects in scientific experimentation. Dangerous drugs and chemicals must be used according to governmental standards. There is, however, a strong commitment under the Constitution to the principles of free inquiry. There is, or at least there should be, a heavy presumption against governmental interference. This is particularly true in relation to regulation of recombinant DNA research; this is the first time that government is proposing to regulate actual research procedures, as distinct from materials or equipment used in research.

The constitutional protections afforded scientific research require that governmental regulation be justified by a compelling need to protect the community's health and welfare and that governmental regulations be drawn as narrowly as possible to achieve the necessary protection. Dr. Thomas I. Emerson, lines professor of law emeritus, Yale Law School, recently addressed this issue in testimony before the Subcommittee on Scientific Research of the House Committee on Science and Technology. Professor Emerson said:

The degree of risk that would be needed to justify governmental regulations could only be determined in the light of concrete information and presumably the more serious the risk, the less degree of certainty that would be demanded.

The recent evidence of the decreased risks associated with recombinant DNA research using E.-coli K-12 as the host vector requires us to weigh carefully the benefits of the proposed regulations against their likely impact on the freedom of scientific inquiry. At this juncture, one can easily rule out extreme remedies: Few persons would argue in favor of eliminating all regulatory controls. Likewise, a total ban on recombinant DNA research, or even highly stringent regulations, no longer appears either necessary or reasonable. The most apparent solution would seem to be the extension of the NIH guidelines, as revised, to cover both federally supported research and the private sector. In striking this balance, Congress must take fully into account the protection which scientific inquiry is afforded under the Constitution.

Mr. President, the Subcommittee on Science, Technology, and Space, which I chair, of the Committee on Commerce, Science, and Transportation, will hold 2 days of public hearings on November 2 and 3, 1977, to develop further the relationship between proposed regulation of recombinant DNA research and the constitutional protection of scientific research from unwarranted governmental intervention. The subcommittee will do its best to develop more fully this important dimension of the recombinant DNA question.

For the reasons I have already discussed, this is clearly a time for deliberation and care in disposing of recombinant DNA legislation. I would urge my colleagues to consider seriously the option of acting on this legislation next session. By then:

The Carter administration will have completed its review of the current situation, including a new look at whether adequate regulatory controls could be achieved under existing statutes;

The NIH Recombinant DNA Advisory Committee will have considered and hopefully acted on revisions to the existing guidelines;

Additional scientific information will be available to use in evaluating the nature and scope of proposed regulations;

The Subcommittee on Science, Technology, and Space will have completed its November hearings; and

All interested Senators will have had additional time to consider their positions in this rapidly changing scientific area.

This period will also provide an opportunity to examine further the degree to which national standards should preempt State and local regulations. We should also weigh carefully how the lay public can most constructively participate in decisions that regulate this area of scientific experimentation. In my view, the resolution of these issues is neither self-evident nor easy. Fundamental questions about the relationship of governmental action to scientific freedom are involved.

It is my understanding that the House of Representatives has no plans to consider recombinant DNA legislation during this session.

However, if a majority of the Senate decides to pursue the matter this year, I will urge that we enact legislation which is essentially interim in character and which permits great flexibility in accommodating to the scientific evidence as it is developed. I have several amendments in preparation that would insure such an approach.

I commend the Senators who have taken the lead in the Senate's efforts to deal with this important and complicated scientific question, principally Senators KENNEDY, NELSON, WILLIAMS, MOYNIHAN, BUMPERS, METZENBAUM, CRANSTON, JAVITS, SCHWEIKER, and SCHMITT, among others. And I ask for their support of this suggestion to pursue a course of deliberation for the balance of the first session. I believe such a course will unquestionably result in better legislation next year.

GENOCIDE CONVENTION AND THE U.S. POSITION

Mr. PROXMIRE. Mr. President, on September 14, 1977, the New York Law Journal published an article which does a fine job of summarizing the specifics of the Genocide Treaty, and relates the past history of its attempted ratification.

Raymond E. Lisle, the author, presents in a succinct manner the objections and rebuttals most commonly voiced in relation to each article of the treaty.

The outdated and easily refutable arguments presented in this article are all too familiar to the Members of this body who have supported efforts to secure ratification of this treaty. I urge the Members of the Senate to give this article the attention it deserves.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GENOCIDE CONVENTION AND THE U.S. POSITION

(By Raymond E. Lisle)

On Dec. 9, 1948, the General Assembly, with the horrors of Hitler's wanton persecution of the Jews and other minority groups still fresh in mind, unanimously approved the International Convention on the Prevention and Punishment of the Crime of Genocide (hereafter the Convention).[1] Eighty-three nations have ratified it.[2] It has been in force since 1951.[3] The United States had taken a leading part in its drafting. President Truman transmitted it to the Senate for advice and consent in 1949.[4] It has been before the Senate for twenty-eight years.

The Senate held extensive public hearings in 1950 and shorter hearings in 1960, 1971 and 1977. It has been reported favorably five times.[5] After twenty-five years, it came to the Senate floor for full debate on Jan. 28, 1975. After five days of debate, the Senate refused, by votes on Feb. 5 and 6 falling narrowly short of the two-thirds majority required, to cut off a filibuster and impose cloture.[6]

The priority given by the present administration to human rights,[7] a strong message of support from President Carter,[8] the reversal by the House of Delegates of the American Bar Association on Feb. 17, 1976, of its previous opposition to the Convention,[9] the blocking of the logjam on Senate ratification of human rights conventions by Senate approval in 1976 of two conventions on the political rights of women,[10] explicit endorsement of the Convention by the Defense Department,[11] continued aggressive support by the Ad Hoc Committee on Human Rights and Genocide Treaties,[12] all suggest the greatly improved chances of Senate ratification in the present session of Congress.

THE UNDERSTANDINGS

The legal issues presented by the Convention appear most clearly in the context of the fears as to possible dangers to the interest of the U.S. and its nationals which might result if this country should become a party. Some of the objections, developed in the course of the twenty-eight years during which the Convention has been before the Senate, seem curiously dated. In the effort to reassure those American critics who have felt that certain articles were vague and ambiguous to the point that unfriendly powers could use them, albeit unjustifiably, to distort the policies of the United States and to jeopardize its nationals, the Senate Committee on Foreign Relations has developed three "understandings" which would be part of the instrument of ratification. Certain additional reassuring clarifications would be included in the implementing legislation.

These declarations are to be distinguished from reservations. A reservation to a treaty or convention is a "statement made in or accompanying the ratification of a treaty" which "would exclude or vary the legal effect of one or more of the provisions of the treaty in their acceding to the reserving state." When a state makes a reservation to a treaty, each of the other signatory and acceding states has the right to consider whether in view of the reservation it will "consider itself in treaty relations with the reserving State." Failure to object within a reasonable time after deposit of the instrument of ratification may be regarded as acceptance of the reservation. The Legal Adviser of the Department of State takes the position that all three of the proposed statements merely explain or clarify the meaning of the provisions of the Convention rather than vary or exclude their legal effect and therefore constitute understandings not reservations.

The Legal Adviser believes that a condition entered by the Senate and included by the President in the instrument of ratification, whether it is a reservation or an understanding, takes effect in domestic law with the treaty itself. This position follows from the shared role of President and Senate in the treaty process. He opines that the Supreme Court can be expected to give full weight to the understandings if any matter relating to the Convention should come before it.[13]

DEFINITION

The Convention[14] defines genocide as any of five acts if "committed with intent to destroy in whole or in part, a national, ethical, racial or religious group, as such; . . ." namely, killing, or causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.

Charges have been made that lynchings, school busings, birth control clinics, police repression of the Black Panthers and the My Lai incident might be considered to constitute genocide under the language of the Convention.[15]

For example, Senator Goldwater, on the floor of the Senate on Jan. 30, 1974, charged that there was no assurance that under the Convention "simple birth control measures offered to relieve the burden of over-population or given as advice in the administration of an outgoing welfare program will not be treated as an instrument of genocide." An American visiting India could theoretically be brought to trial, he thought, because U.S. aid money had been used to supply birth control service to a group in India. A U.S. official going to Japan might find himself tried for genocide because of a role played in the dropping of the atomic bomb there. A person could be charged for "mere words or personal habits which can be construed by someone else to cause 'mental harm' to members of some race, religion or other group."[16] Senator Ervin asked in a "Summary of Objections to Genocide Treaty" whether "the duty and power to prosecute . . . criminal homicides, assaults and batteries . . . would be forthwith transferred from the states . . . to the Federal government;" whether a county official who refused to give a member of a group the amount of welfare benefits deemed desirable could be punished for genocide and whether the World Court would have power "to judge the adequacy of welfare benefits awarded by Congerss or a State Legislature."[17]

None of these fears is well-founded. None of the five acts in the definition is genocide unless "committed with intent to destroy in whole or in part" one of the named groups as such.

ARTICLE II—CLARIFICATIONS

To avoid, however, any misconceptions, the Foreign Relations Committee, with administration approval, has recommended that our ratification be accompanied by an understanding that the intent required by the Article be the intent to destroy one of the named groups "in such a manner as to affect a substantial part of the group concerned." This distinguishes genocide from homicide.[18]

A second understanding would record the U.S. view that the words "mental harm" mean "permanent impairment of mental faculties" thus excluding emotional stress of a passing character.[19]

The legislation which has been drafted to implement the Convention further clarifies Article II in providing that the intent is a separate element of the offense of genocide not to be presumed solely from the commission of the act charged. A substantial part is defined to require such numerical significance that the destruction of that part would cause the destruction of the group as a viable entity. It spells out in detail the meaning of mental harm as "permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members." All these clarifications have been drafted in such manner as to be consistent with the negotiating history.[20]

AN INTERNATIONAL CRIME

The Convention "confirms" that genocide, "whether committed in time of peace or in time of war," is a crime under international law, which the contracting parties undertake to prevent and to punish.[21] Use of the word "confirms" signifies that genocide was criminal even before the Convention went into force just as were the wartime offenses against humanity which were a basis of the Nuremberg trials. This concept is consistent with the 1951 Advisory Opinion in which the International Court of Justice declared that genocide, whether in peace or in war, had come to be universally recognized as an international crime under customary international law.[22]

In the early phases of the struggle for ratification, its opponents contended that the Convention would change the constitutional structure of the United States, that the United States lacked constitutional power to make treaties in the human rights field in that the treatment by a state of its own nationals is a matter of domestic jurisdiction and not of international concern warranting the use of the treaty power.[23] The contention seemed hardly apposite on a matter evoking such great international concern that eighty-three nations have already ratified the Convention which declares genocide a crime.

A number of international agreements, to which the U.S. is a party, have made international activities crimes which nations have agreed to punish—oil pollutions,[24] slave trading,[25] trade in narcotics,[26] destruction of submarine cables[27] and pelagic sealing.[28] The Foreign Relations Committee commented that it "finds some merit in the argument that if the U.S. Government is conceded the power to make treaties governing the killing of seals, it is capable of acceding to a treaty on the killing of people.[29]

The special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year 1968 concluded after a survey of the constitutional issues involved and of the past treaty making practice of the U.S. that "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty-making power of the United States . . . It may seem almost anachronistic that this question continues to be raised. It is nearly a quarter of a century since this country used the treaty power to become a party to the U.N. Charter, one of whose basic purposes is the promotion of human rights for all . . . In each of the last two years the U.S. Senate has approved a human rights treaty without a single dissenting vote. In

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Footnotes at end of article.

December, 1968, the Chief Justice of the United States noted that 'We as a nation should have been the first to ratify the Genocide Convention and the Race Discrimination Convention.' And yet the suggestion persists that this Nation is constitutionally impotent to do what we and the rest of the world have, in fact, been doing."

In his letter of transmittal, former Supreme Court Justice Tom C. Clark, who was Chairman of the group of distinguished lawyers making up the Committee, reiterated their finding that ". . . after a thorough review of judicial, Congressional and diplomatic precedents, that human rights are matters of international concerns; and that the President with the United States Senate concurring, may, on behalf of the United States, under the treaty power of the Constitution, ratify or adhere to any international human rights convention that does not contravene a specific Constitutional prohibition." [20]

PUNISHABLE ACTS

Discussion of Article III of the Convention, making not only genocide but conspiracy, direct and public incitement, attempt to commit, and complicity in, genocide punishable, has over the course of years raised the question as to the relationship of the inclusion of "direct and public incitement to commit genocide" with the freedom of speech guaranty of the First Amendment. The Foreign Relations Committee found the language of the Convention entirely consistent with *Brandenburg* v. *Ohio*,[21] the most recent case in which the Supreme Court has drawn the line between protected speech and prohibited direct and immediate incitement to action. *Brandenburg* prohibits a state "to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

Justice Rehnquist, then Assistant Attorney General, when asked by Senator Church in 1970 whether he was satisfied "that such constitutional protection, as presently exists in the field of free speech, would not be adversely affected in any way by the terms of this convention" replied, "I am satisfied, first, that they would not be and, second, that they could not be." [22] The American Civil Liberties Union saw no First Amendment problem.[23]

PUNISHMENT OF PERSONS

Those subject to punishment under the Convention are persons, whether "constitutionally responsible rulers, public officials or private individuals." [24] The Committee Report expresses the view that the Convention would have been stronger if it had been directed against governments as well as individuals but recognizes that "there exists no present means in international law to punish a government in power.[25] The obligation of a contracting party to punish "constitutionally responsible rulers" would be most likely to be invoked by a successor government.[26]

IMPLEMENTING LEGISLATION

Article V obligates the contracting parties "to enact, in accordance with their respective Constitutions," the necessary implementing legislation. It thus makes clear that the Convention is not self-executing. In the United States, it is the recommendation of the State Department, concurred in by the Foreign Relations Committee, that there be a declaration included in the resolution of ratification that the instrument of ratification not be deposited until after the implementing legislation has been enacted. The draft of such legislation was introduced in the 92nd and 94th Congresses (in the latter as S. 3155) and texts were sent to the chairmen of the Judiciary Committees of the two houses in the 95th Congress at the end of May, 1977.[27]

TRIAL OF OFFENDERS

Article VI providing that persons charged with offenses under the Convention "shall be tried by a competent tribunal of the State in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction" was the subject of considerable discussion. The negotiating history of the first part of the Article made clear it was intended to impose an obligation on the State in whose territory acts of genocide had been committed and did not bar another State from trying before its own tribunals its nationals who had committed such acts outside the State.[28]

This legislative history would be recorded in a third understanding, which like the other two understandings discussed above, would be incorporated in the instrument of ratification. As recommended by the Foreign Relations Committee the understanding would state that the U.S. Government "understands and construes Article VI . . . in accordance with the agreed language of the report of the Legal Committee of the . . . General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State." [29]

While the United States does not generally exert jurisdiction over its nationals who have committed offenses outside its territorial jurisdiction, there is no constitutional or other bar to Congress asserting such jurisdiction based on the nationality principle of jurisdiction.[30]

As to the alternative provided by Article VI, no international penal tribunal exists at present.[31] The jurisdiction of the International Court of Justice extends only to States.[32] If such a tribunal were established, it would have jurisdiction over United States nationals under the terms of the Article itself only if the U.S. agreed to such jurisdiction by treaty or by statute expressing its consent.

EXTRADITION

Article VII provides that genocide shall not be considered a political crime for the purpose of extradition and that the parties pledge themselves to grant extradition in such cases "in accordance with their laws and treaties in force."

The Article is not itself an extradition treaty. Neither U.S. law nor any of the U.S. extradition treaties at present cover genocide.[33] The Convention would obligate the U.S. to include genocide as a covered offense in negotiating new, or revising existing, extradition treaties.[34] The U.S. would not be required to enter into new treaties or to modify existing ones but only to include genocide among the covered offenses when new treaties are made or existing ones modified.[35]

Considerable sensitivity was shown in the hearings to the possibility that American citizens might be extradited and subjected to trial for genocide before unsympathetic foreign tribunals which might not accord them the constitutional benefits and protections available to them in the U.S. The Committee Report quite correctly points out that the ratification of the Convention would merely open the way to adding one more crime—genocide—to the many crimes for which American citizens may already be extradited under existing extradition treaties.[36] However, in 1971 the Foreign Relations Committee rejected by only one vote a proposal that the Convention be ratified subject to a reservation prohibiting the extradition of a U.S. citizen accused of an offense under the Convention "unless the Secretary of State determines such person is guaranteed all the constitutional rights of an accused under our Federal laws." [37]

The sensitivity on this issue seems to have been met by including in the implementing legislation, which must be enacted before the President deposits the instrument of ratification, a provision that it is the sense of the Congress that the Secretary of State in negotiating extradition treaties reserve for the U.S. the right to refuse extradition of a United States national charged with genocide when the offense was committed outside the U.S. and "(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense." [38]

The legal capacity for meeting these requirements would be provided by another section of the implementing legislation, which would give the U.S. jurisdiction to try its nationals allegedly committing offenses under the Convention "within or without the United States." [39] and by the understanding with reference to Article VI, supra.

U.N. ROLE

Article VIII which empowers a contracting party to call upon the competent organs of the United Nations "to take such action under the Charter . . . as they consider appropriate for the prevention and suppression of acts of genocide . . ." seems to do little to increase the powers of the U.N. Genocide, involving mass murder on a broad scale, presumably not only violates the human rights provisions of the Charter but would normally involve a threat to the peace. As the Committee report points out, spurious propaganda charges alleging genocide in the United States can be made by our enemies whether or not the U.S. is a party to the Convention. Our failure to ratify in fact weakens the effectiveness of our replies. Any enforcement powers of the U.N. are in any case vested in the Security Council and thus subject to our veto.[40]

SETTLEMENT OF DISPUTES

Article IX provides that any contracting power may submit disputes with other parties "relating to the interpretation, application or fulfillment" of the Convention, including those relating to the responsibility of a State for genocide, to the International Court of Justice.

Concern was expressed by some witnesses as to the effect of this provision of the Connally Amendment by which the U.S. in purporting to accept the so-called optional clause providing for the compulsory jurisdiction of the Court stipulated its acceptance did not apply to "disputes with regard to matters which are essentially within the jurisdiction of the United States of America as determined by the United States of America." [41]

The Conally Amendment relates to action taken by the U.S. under Article 36(2) of the Court's Statute setting forth a procedure by which States may recognize as "compulsory *ipso facto* and without special agreement" the jurisdiction of the Court. The Convention's provision relates to Article 36(1) which defines the jurisdiction of the Court as comprising all cases which the parties refer to it and "all matters specially provided for in the Charter . . . or in treaties and conventions in force."

The provision in the Convention is not a new one in U.S. practice. The U.S. has become a party to many conventions providing for the reference to the World Court of disputes arising under such conventions, including the Japanese Peace Treaty, the Antarctic Treaty and the Statute of the International Atomic Energy Agency.[42]

A number of countries, notably the communist countries, have entered reservations to their ratifications stating that they do not consider themselves bound by Article IX. The U.S. in ratifying would probably reject such reservations and would not itself be bound to accept the jurisdiction of the Court in cases brought under the Convention by countries which have made such a reservation.[43]

Only States may bring cases before the Court, not individuals or groups. If a State should bring charges against the U.S. under the Convention and the U.S. should be found in default of its obligations, it should be noted the Court has no enforcement powers. The jurisdiction of the Court under Article IX is limited to determination whether a government, as an entity, has complied with its obligations under the Convention and not whether individuals have done so. There is no possibility of trials of individuals before the Court or of findings of individual responsibility. In the more than twenty-five years that it has been in force, no disputes under the Convention have been referred to the Court.[44]

CONCLUSION

Review of the legal issues presented by the important substantive articles of the Convention and of the experience of the more than twenty-five years during which the Convention has been in force demonstrates that the opposition has been motivated by legal misunderstandings, unfounded suspicion of the world outside the United States and an unrealistic fear of spurious but damaging legal attacks on American policies. Ratification of the Convention by the United States would have great symbolic value. Continued failure of this country, alone of the democratic powers, to ratify, at a time when its President is putting great emphasis on the protection of human rights everywhere, must inevitable weaken whatever influence in this area it might otherwise exert.

As this article was prepared, there were reports that there has been a tentative administration decision to put off action on the Convention so as not to give anti-Panama Treaty elements another issue with which to rally forces against the Administration.[45] At the same time it is reported that former Justice Arthur J. Goldberg will go to next month's East-West conference in Belgrade as chairman of the American delegation.[46] It is said his designation was meant to dramatize the Administration's commitment to human rights. It would be regrettable if the impact of this admirable appointment would be lost by failure to press ahead with ratification of the Genocide Convention, of which he has been one of the mightiest supporters.

FOOTNOTES

[1] Res. 260(III), 3 U.N. GAOR Part I (A/816), p. 174 (1949), 78 U.N.T.S. 277.

[2] The list of ratifications is conveniently accessible in Hearings on Ex. O., 81st Cong. 1st Sess. Before Senate Comm. on Foreign Relations, 95th Cong., 1st Sess. 96 (1977) (hereafter Hearings). The list includes all major nations except the People's Republic of China.

[3] Id. at 95.

[4] Statement by Senator Proxmire, id. at 5.

[5] Hearings on the Genocide Convention Before a Subcomm. of the Senate Comm. on Foreign Relations, 81st Cong., 2nd Sess. (1950); 91st Cong., 2d Sess. (1970); 92d Cong., 1st Sess. (1971); 95th Cong., 1st Sess. (1977).

[6] S. Exec. Rep. No. 94–23, 94th Cong., 2d. Sess. 4 (1976) (hereafter Report). This Report summarizes the congressional history of the Convention, 2–7.

[7] In his address to the U.N. on Mar. 17, 1977, President Carter in emphasizing his support of human rights stated "To demonstrate this commitment . . . I will work closely with our own Congress in seeking to support the ratification . . . of the United Nations Genocide Convention. Supra, n. 2 at 50.

[8] Message to the Senate Recommending Advice and Consent to Ratification of the Genocide Convention, May 23, 1977, 13 Pres. Docs. 802–3 (1977).

[9] See 1977 Hearings, supra n. 2, for text of resolution.

[10] Inter-American Convention on the Granting of Political Rights to Women, TIAS 8365 and Convention on the Political Rights of Women, TIAS 8289; 193 U.N.T.S., 135.

[11] Senator Proxmire stressed the importance of these positive developments in supra, n.9 at 7.

[12] The Committee comprises fifty-two national organizations "whose total membership is in the millions." Former Justice Arthur J. Goldberg who heads the Committee testified on its behalf at the 1977 Hearings. Id. at 61. Justice Goldberg stressed the desirability of prompt action to strengthen the position of the United States at the pending Belgrade Conference of the thirty-five signatories of the Helsinki Accord to review the implementation of the Accord by these signatories.

[13] Memorandum Concerning Reservations and Understandings to Treaties, Office of the Legal Adviser, Department of State, Mar. 22, 1971 in Report, supra n. 6 at 15–16. For the effect of various reservations both as to the States which object to such reservations and those which accept them, see Advisory Opinion on Reservations to the Convention on Genocide (1951) I.C.J. 15, the Vienna Convention on the Law of Treaties, opened for signature, May 23, 1969, Art. 2(1)(d) (signed but not ratified by the U.S.) and the discussion with specific reference to the problems which would arise if the U.S. understandings were considered to be reservations in Comment: The United States and the 1948 Genocide Convention, 16 Harvard Int'l. L.J. 683 et seq. (1975).

[14] Text of Convention in Report, supra. n. 6, Art. II.

[15] Report supra n. 6 at 6. The N.Y. Times, June 17, 1977, p. 11, col. 4, reported that American Indian militants belonging to the International Indian Treaty Council Intend to accuse the U.S. of violating the Convention. Such propagandistic use of the term "genocide" is not warranted by the Article II definition but can be expected to occur whether or not the U.S. ratifies.

[16] 120 Cong. Rec. 1259–60 (1974).

[17] 1977 Hearings, 93.

[18] Report, supra n. 6 at 6–7.

[19] Id.

[20] 1977 Hearings, 19–20.

[21] Art. I.

[22] Advisory Opinion on Reservations to the Convention on Genocide, (1951) I.C.J. at 23. Genocide had been declared "a crime under international law which the civilized world condemns" by a General Assembly resolution in 1946. U.N. GAOR Res. 96(I), U.N. Doc. A/231 (1946).

[23] See Phillips and Deutsch, Pitfalls of the Genocide Convention, 56 A.B.A.J. 641–46 (1970); Raymond, "Genocide: An Unconstitutional Human Rights Convention?" 12 Santa Clara Lawyer 294–318 (1972); Schmidhauser and Berg, The American Bar Association and the Human Rights Conventions: The Political Significance of Private Professional Associations, 38 Social Research 362–410 (1968); and materials collected in Sohn and Buergenthal, International Protection of Human Rights (1973) 913 et seq.

[24] U.S.T. 2989; TIAS 4900; 327 U.N.T.S. 3.

[25] TS 778; 2 Bevans 607; U.N.T.S. 253.

[26] 18 U.S.T. 1407; TIAS 6298; 520 U.N.T.S 204.

[27] 1 Bevans 89, 112, 114.

[28] TIAS, 3948, 5558, 6774, 8368; 314 U.N.T.S. 105, 494 U.N.T.S. 303, 719 U.N.T.S. 313.

[29] Report, supra n. 6 at 5.

[30] President's Commission for the Observance of Human Rights Year 1968. A Report in Support of the Treaty-making Power of the United States in Human Rights Matters (1969) printed in full in 1977 Hearings, 139–154. See Also Henkin, Foreign Affairs and the Constitution 129–71 (1972). Goldberg and Gardner, 58 A.B.A.J. 141 (1972) reprinted in 1977 Hearings, 67–73. The Committee's conclusion seems fully in accord with Reid v. Covert, 354 U.S. 1 (1957).

[31] 395 U.S. 444 (1969).

[32] Report, supra, N. 6, at 7–8.

[33] Id. at 8.

[34] Art. IV.

[35] Report, supra, n. 6 at 8.

[36] Id.

[37] Introduced as H7986 by Representatives Rodino and Zablocki. The text, which would add Chapter 50A—Genocide to title 18 of the United States Code, appears, with a sectional analysis, in 1977 Hearings, 19–22.

[38] Report of the Sixth Committee—U.N. Doc. A/760 and Corr. 2 (3 December 1948) quoted in Report, supra n.6 at 10.

[39] Report, supra n.6 at 9.

[40] United States v. Bowman, 260 U.S. 94, 96102 (1922); Restatement (Second), Foreign Relations of the United States, sec. 30.

[41] For discussion of various proposals for an international criminal court, see Dautricourt, The International Criminal Court, in Bassiouni and Nanda, 1 International Criminal Law 636 et seq. (1973).

[42] I.C.J. Stat. art. 35, para. 1.

[43] Report, supra n.6 at 41. Statement by Herbert J. Hansel, Legal Adviser of the State Department in 1977 Hearings, 40.

[44] Statement by Legal Adviser, 1977 Hearings, 40.

[45] Id.

[46] Report, supra, n.6 at 11.

[47] Id., 11–12.

[48] Sec. 3 of draft act in 1977 Hearings, 20. The analysis points out that sec. 3(b) is as a matter of policy at present included in all extradition treaties. Id at 22.

[49] Sec. 1092(a), 1977 Hearings, 20.

[50] Report, supra n.6 at 12.

[51] Id. at 13. All administrations beginning with that of President Truman have called for repeal of the Connally Amendment. See this writer's A New Role for the World Court, N.Y.L.J., June 8, 1977, p. 1, col. 1.

[52] A list is provided in 1970 Hearings, supra n. 5, at 215.

[53] Supra, n. 51. 1977 Hearings, 37–38.

[54] Id.

[55] N.Y. Times, Sept. 7, 1977, p. A17, col. 4.

[56] Id., Sept. 8, 1977, p. A7, col. 1.

Footnotes at end of article.

TRIBUTE TO SENATOR HAYAKAWA'S MOTHER

Mr. GARN. Mr. President, in a recent newspaper column, our distinguished colleague from the State of California, Senator HAYAKAWA, paid tribute to his mother on her 93d birthday. His article is a loving vignette, touching in its insights and moving in its simple affection.

I am sure that the entire Senate joins Senator HAYAKAWA in wishing a happy 93d birthday to his mother. After all, we have a special reason to acknowledge her; for we have her to thank for the presence among us of one of our most inventive, articulate, and refreshing Members.

I ask unanimous consent, Mr. President, that Senator HAYAKAWA's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

HAPPY BIRTHDAY TO A GREAT LADY

(By U.S. Senator S. I. HAYAKAWA)

This past month, my mother celebrated her 93rd birthday in Yamanashi City, Japan. She is a tiny, impressive, dignified lady of a previous era.

Mother's health is good and her mind is sound. She enjoys tending the garden, going

to flower shows and practicing the Christian faith she embraced as a high school girl (at a time when few girls in Japan or in the United States went to high school at all). She reads, and watches a good deal of television—happily, Japanese television draws much from history and national culture, and these Mother has always appreciated. She understands some English, especially when spoken to her by her non-Japanese-speaking children like me. But she has never learned to speak more than a few words.

In a sense, the years that have brought Mother to this age have also brought her back to the kind of life which would have seemed to have been in store for her.

She was born in 1884, the daughter of a physician. Her father was a pioneer in introducing Western medicine to Japan, and was held in high respect by all.

My father was the son of a rural landowner and not in any way the social equal of Mother's family. But education counts a great deal in Japan, and Father had excelled in high school and had learned English and had been to the United States to study and work. So, my maternal grandfather consented to unite his daughter with what seemed to be a promising young man indeed. The marriage was to last 71 years (Father died last year at 91).

Father took his bride to Vancouver, British Columbia, and the following year, 1906, I was born, the eldest of a family of two sons and two daughters.

It wasn't easy for Mother in Canada. Accustomed to a house filled with servants, she had to adjust to a much humbler life, first in a rooming-house, then on a small farm in British Columbia. She had to learn housekeeping and the British-Canadian ways of keeping house and providing a table. I remember during my childhood that Father always regarded Mother's cooking as good enough for weekdays but he'd take over on Sundays because he had had experience as a houseboy in San Francisco.

There were few other Japanese families in Vancouver then, and none at all in the other places where we lived in those years—Cranbrook, Raymond, Calgary, ultimately Winnipeg. Unable to speak English and with Father beginning to travel as he ventured during the First World War into an import-export business, Mother spent most of her time at home with the children. She used to tell us stories about the Russo-Japanese War. She read us Japanese fairy tales.

But she was often lonely. She read a lot of magazines. I didn't know until long afterward that they were rather highbrow magazines—the Japanese equivalents of Harper's and Atlantic Monthly. One day her parents sent to her from Japan a koto, a stringed musical instrument. Playing a koto is a ladylike accomplishment in Japan. I remember when it arrived it reminded her of all that she had left behind. She tried it out, and wept. Ultimately my brother and I played with the thing as a big toy.

But I remember also very vividly that Mother always asked and always listened with great interest to what we were learning in school. We worked out between us a mixture of English and Japanese. As I grew older and tried to explain abstract ideas, communication became more complicated, but we managed, using our peculair language.

It occurred to me long after I had become a writer to ask myself: Why is it that I don't feel I have understood a difficult theory until I can write it in a way that everyone can understand; I suddenly knew. In a very real way, I'm still explaining things to my mother.

As the children grew up, Mother got out more and made friends, especially in Methodist Church circles in Winnipeg. She was such a lady that she seems to have made a deep impression on people despite her halting English.

Father and Mother returned to Japan when I was still in college, and over the years there have been long separations between us. But we have never forgotten how to talk to each other. Mother is, in fact, the only person with whom I can speak Japanese without self-consciousness.

Mother never doubted for a moment that I would go to college and pursue scholarly interests. When I became a writer, Father and Mother were equally delighted. To Father, who had wanted to be a poet at one time, I realized some of his unfulfilled dreams. To Mother, the fact that I had become a writer and professor was a fulfillment of the dream she had on the farm in the old days in Canada, when she quizzed me about my studies.

It was a dream she carried confidently during the long separations when our only communications were by mail—and during the Second World War, when there was no communication at all. It was a dream as natural to Mother as the fact that, once back in Japan, she went back to her cultural pursuits—art and calligraphy and tea ceremony. And during the decades when Japanese women were taking to Western dress, she went back to the Kimono—for keeps.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years vice Ira De Ment, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, September 29, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshall for the northern district of Illinois for the term of 4 years vice John J. Twomey, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, September 29, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

TIME-LIMITATION AGREEMENT—S. 1585

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 398, S. 1585, the child pornography bill, is called up and made the pending business before the Senate, there be a time agreement on that bill of 2 hours to be equally divided between Mr. EASTLAND and Mr. THURMOND, or their designees, that there be a time limitation on any amendment of 30 minutes, that there be a time limitation on an amendment by Mr. ROTH of 1 hour, that there be a time limitation on any amendment in the second degree, debatable motion, appeal, or point of order, if such is submitted to the Senate, of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, may I ask the majority leader, did he say Calendar No. 398?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished minority whip and the distinguished Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 5 minutes on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' BENEFITS REVIEW

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1307.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 12, 1977).

Mr. CRANSTON. Mr. President, last night the Senate passed a compromise version of S. 1307, an act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes, in which the other body has today concurred, sending the bill to the President.

I would like to speak today in further explanation of the compromise measure worked out with the House Committee on Veterans' Affairs.

BACKGROUND

On June 23, 1977, the Committee on Veterans' Affairs unanimously voted to

report favorably, and on June 28, I reported, S. 1307 with a committee amendment and a title amendment.

On September 9, 1977, the Senate, by a vote of 87 to 2, passed S. 1307 with a committee modification which reflected changes made primarily to try to take into account certain objections which the White House had to the reported bill. On September 12, 1977, the House of Representatives passed S. 1307 with a substitute amendment, embodying the text of H.R. 8698 as reported by the House committee.

Mr. President, over the past 2 weeks we have engaged in extensive negotiations with the Committee on Veterans' Affairs of the other body and reached a compromise agreement which I believe fairly balances the concerns of the two Houses in areas where there were differences.

MODIFICATIONS TO HOUSE AMENDMENTS

Mr. President, there were two provisions in the House amendment which, although they have been substantially modified in the compromise measure, I would have preferred not to be included in this legislation. The first such provision would have defined the term "deserter," as it is used in the bar-to-benefits section 3103 of title 38, United States Code, to include any person who was absent without authority for a continuous period of at least 180 days. The second provision would have had the effect of rendering Discharge Review Board upgrading decisions ineffective for purposes of removing a bar to benefits.

In negotiations regarding this legislation, we were able to make the following major changes in the proposed new bar to benefits. First, this provision no longer artificially defines as a "deserter" a person who has been absent without authority for 180 or more days continuously. Rather, the compromise language includes no characterization of such person as a deserter with regard to this provision. Second, instead of an absolute bar, under which the individual would have had no opportunity to assert that there were mitigating factors, such as the overall quality of his or her entire military record, the reasons which caused him or her to be absent without authority, or subsequent laudatory behavior—the compromise provides for a conditional bar. Thus, an individual discharged on the basis of such prolonged absence is afforded the opportunity to demonstrate, to the satisfaction of the Administrator that there are sufficient mitigating circumstances for the granting of veterans' benefits. Third, whereas the House amendment would have made the bar applicable to veterans who were at the time of discharge, awarded discharges under honorable conditions, that is, with honorable or general discharges, the compromise provision makes the conditional bar applicable only to those who were discharged under other than honorable conditions.

The compromise measure thus preserves the right of the military to determine, at least initially, the character of the individual's service for purposes of veterans' benefits, and will spare those issued honorable and general discharges the delay, expense, effort, and anxiety involved in applying for a determination from the Administrator that the new conditional bar should not be applied to them in situations where the discharging military authority had already deemed their service honorable.

Mr. President, the compromise agreement modifies in one further important respect the new conditional bar provision and the provision eliminating the effect of Discharge Review Board upgradings in cases where the individual was initially given a discharge under circumstances constituting a bar to benefits. The House amendments called for the retroactive application of both these provisions. Broad retroactive application of these provisions, however, would have been extremely disruptive and difficult to implement. It would have meant that all those who had previously obtained upgradings of discharges which, as originally issued, would have come within one of the bars would have lost their existing entitlement to benefits. It would also have meant a similar loss of existing entitlement and a need to seek a further favorable administrative action for all those who had previously received upgrading from military boards or favorable character-of-discharge determinations from the VA with respect to discharges within the scope of the new conditional bar—for prolonged absence. Retroactive application of these provisions would thus have overturned the reasonable, justified expectations, based on often long-settled determinations, of the great numbers of veterans in those categories who have, over the years, obtained general eligibility for benefits, such as compensation for service-connected disabilities and health care.

Moreover, Mr. President, retroactivity would have imposed upon the VA the virtually impossible task of reviewing all its current benefit-recipient files to try to find all those who—despite the fact that the circumstances under which their discharges were initially issued brings them within one of the statutory bars—have become entitled to benefits through subsequent administrative action. Without an exhaustive, legally sophisticated, manual search of literally millions of files and the immediate termination of benefits in all cases in which a section 3103 bar, including the proposed bar for discharges for prolonged absences, would have applied, the VA would have been making illegal benefit payments to many veterans. Such a process would have been an administrative "nightmare" and would have been enormously costly.

Under the compromise agreement, the provision eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and the provision creating a conditional bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character-of-discharge determinations.

Thus, by applying these bar provisions prospectively only, major unfairness to veterans with established entitlement to benefits and massive administrative burdens will be avoided.

"SECOND" DETERMINATIONS

Mr. President, in addition, the bill as passed by the Senate had required the Discharge Review Boards to make the "second" determinations, which persons who received upgraded discharges under other than honorable conditions through the Carter and Ford special programs must obtain as a precondition to entitlement to benefits, in only a limited number of cases—those cases in which the individual has received or applied for benefits or has made a request that such a determination be made. The House amendment included a provision which would have required Discharge Review Boards to make such second determinations immediately after the date of enactment in all cases. An identical provision had been included in the bill reported from committee in the Senate. The administration strongly objects to the requirement of mandatory review in all such cases; and we attempted to retain the discretionary aspect of the Senate-passed bill in this regard—which we had negotiated with the White House between the time of reporting and the time of passage—or, in the alternative, to allow the boards 3 years to make these determinations. However, the House committee felt very strongly, in the interest of fairness to these individuals and of making these determinations on "fresh" records, that the determinations should be made promptly in all cases. Thus, the compromise agreement requires that all second determinations be made no later than 1 year after the date of enactment in all cases. This was the last issue to be resolved in our negotiations.

SENATE PROVISIONS RETAINED

PRESERVING ELIGIBILITY FOR PRESENT VA BENEFICIARIES

Mr. President, in addition to obtaining agreement that the provisions regarding statutory bars-to-benefits generally have prospective application, we have retained the provision giving persons receiving benefits on the date of enactment the benefit of the doubt by providing that such benefits shall continue until such time as a final determination is made that the person would not have been upgraded under discharge review standards for general applicability. Such determinations must, however, be finalized within 90 days after a preliminary adverse determination is made, and the whole "second" determination process must be completed within 180 days of enactment.

HEALTH CARE ENTITLEMENT FOR SERVICE-CONNECTED DISABILITIES OF THOSE WITH UNDESIRABLE DISCHARGES

Mr. President, I am especially pleased that the provision granting entitlement to health care for service-connected disabilities to persons with undesirable discharges contains the Senate language regarding the scope of this provision. The House amendment would have greatly restricted the types of injuries and illnesses covered by limiting them to those incurred or aggravated during the performance of military duty, that is,

apparently, those that occurred during official duty hours. One change was made in the health care provision; whereas, the Senate-passed version would have made the furnishing of health care under this provision discretionary with the Administrator of Veterans' Affairs, the compromise measure includes the House approach making this benefit a nondiscretionary entitlement. I think this was a definite improvement.

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

Finally, the compromise measure requires, as did the Senate-passed version, the establishment of a discharge review program employing the newly required uniform standards and requires that, for at least 1 year, the program be open to all former military personnel from all service periods regardless of the requirement in current law—section 1553(a) of title 10, United States Code—that limits discharge-review proceedings to discharges granted no more than 15 years prior to a request or motion for review.

SUMMARY OF PROVISIONS OF S. 1307 COMPROMISE AGREEMENT

Mr. President, I would now like to outline in greater detail for my colleagues the provisions of the compromise agreement reached with the other body.

Mr. President, the provisions of the compromise agreement on S. 1307 may be summarized as follows:

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

The measure would establish certain requirements for the granting of veterans' benefits as a result of the upgrading of administrative discharges under other than honorable conditions. Under these requirements, a discharge upgraded by a service Discharge Review Board would cerate an entitlement to benefits only if the upgrading was based on a case-by-case review of all the evidence and factors in the case, under published uniform standards and procedures generally applicable to all persons administratively discharged from active duty service. In addition, discharge review standards must, for purposes of veterans' benefits, be historically consistent with criteria of determining honorable service and may not, as did the Carter special discharge review program, include any criterion for automatically granting or denying an upgrading. These new requirements would be applicable to all future upgradings by Discharge Review Boards of administrative discharges under other than honorable conditions in order for such upgradings to carry with them entitlement to benefits.

Under current law, Discharge Review Boards can consider for upgrading only those discharges issued within 15 years of an application or motion for review. This measure waives that limitation, for a period of at least 1 year after the publication of the new discharge review standards and procedures, to permit former military personnel with administrative discharges under other than honorable conditions to apply for upgrading under the new standards despite the fact that they were issued their discharges more than 15 years earlier.

EFFECT ON SPECIAL DISCHARGE REVIEW PROGRAMS

Mr. President, the measure would also preclude the granting of veterans' benefits on the basis of discharge upgradings awarded under, first, President Ford's January 19, 1977, program for certain persons who had applied under his earlier clemency program, second, the Defense Department's April 5, 1977, special discharge review program, and third, any subsequent program employing these kinds of revised standards not generally applicable to all persons with administrative discharges under other than honorable conditions. While allowing veterans to keep whatever upgraded discharge paper they receive or have received under any such special program, the compromise legislation would provide for the granting of veterans' benefits in any such case only upon a second determination by the Discharge Review Board concerned, a determination that the individual would have been granted an upgrading under standards meeting the new discharge review requirements discussed above.

SECOND DETERMINATIONS

In the case of a person whose administrative discharge under other than honorable conditions—undesirable or clemency discharge—has been upgraded under a special program and who is receiving benefits on the date of enactment, the legislation provides that the appropriate Discharge Review Board must make a determination on its own initiative and on an expedited basis as to whether the individual would have been granted an upgrading under the new standards applicable to all persons with administrative discharges under other than honorable conditions, and if the board's preliminary determination is unfavorable—that is, if the board, upon reviewing the case record, determines that it would not have granted an upgrading under the new, generally applicable standards—the individual is to be so notified in writing and given the right to personal appearance prior to the making of a final determination. In such cases of persons receiving benefits on the date of enactment, the provision of benefits is not to be terminated during the pendency of a final second determination unless 90 days have expired since the making of a preliminary determination or 180 days have expired since the enactment date, whichever is the earlier. If a favorable determination is made, the individual's right to benefits is established and he or she, of course, keeps the benefits received prior to that determination. Even when the final determination, after personal appearance, is not favorable to the individual, the individual would not be required to repay the value of benefits received prior to the making of the unfavorable determination, or the expiration of 90 days after an unfavorable preliminary determination or 180 days after enactment, whichever is the earliest.

These second determinations would also be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination.

To facilitate the making of second determinations on an expedited basis when the individual has received or applied for benefits, the VA is required to notify the appropriate board of review, as soon as administratively feasible, of any such application for or receipt of benefits.

In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within 1 year from the date of enactment.

In the event of any upgrading of administrative discharges under other than honorable conditions under a special program after the date of enactment—occasioned by any delay in the administrative establishment of a new uniform program meeting the new requirements—the second determination as to whether the discharge would be upgraded under the new requirements must be made at the time the upgraded discharge is awarded.

NOTICE AND HEARING PROCEDURES

The legislation would also require the Secretary of Defense to fully inform each person administratively discharged under conditions other than honorable whose discharge is upgraded under a special program of his or her right to obtain an expedited second determination and of the implications of the provisions of this legislation for him or her.

BAR TO BENEFITS

REVIEW BOARD ACTION NOT EFFECTIVE TO REMOVE BARS

Mr. President, this measure also provides that, when an individual has been discharged or released from active duty on grounds which constitute a bar to veterans' benefits under current law; for example, discharge by order of a general court martial and discharge as a deserter, no subsequent action of a Discharge Review Board will have the effect of avoiding the bar to benefits. Thus, an upgrading of a discharge by a Discharge Review Board would not remove the bar. This provision reverses the present VA interpretation of current law. Recourse to a Board for Correction of Military Records, however, would continue to be available to remove such a bar.

PROLONGED ABSENCES

In addition, this legislation would create a new conditional statutory bar to benefits—applicable to persons who were absent without authority from active duty for a continuous period of 180 days or more if the individual was discharged under conditions other than honorable. Individuals as to whom this bar might apply, however, are to be afforded the opportunity to demonstrate to the Administrator that there are compelling reasons to warrant such prolonged unauthorized absence. If the Administrator is satisfied that such compelling reasons exist, the bar does not apply.

LIMITED RETROACTIVE APPLICATION

The provisions eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and creating a new bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character of discharge determinations. Thus, for example, when a person was administratively discharged under conditions other than honorable on the grounds of a continuous unauthorized absence of 180 days or more and his or her discharge was upgraded under generally applicable standards—that is, outside a special program—before the date of enactment, he or she would be entitled to veterans' benefits without regard to these provisions. The new conditional bar would apply, however, in connection with the required second determination to a person discharged under identical circumstances whose discharge was upgraded under a special program. This bar provision would also apply to a person so discharged, before or after the date of enactment, who, after the date of enactment, receives from a Discharge Review Board an upgrading of a discharge under other than honorable conditions.

NOTIFICATION OF ALTERNATIVE REMEDIES

To insure that persons affected by the new conditional bar, as well as anyone who might be affected by any existing bar to benefits under section 3103(a) of title 38, who apply to a Discharge Review Board for an upgrading of their discharges are made aware of the effects of the new provisions, the legislation requires the Secretary of Defense to advise such persons that they might possibly be administratively found to be entitled to veterans' benefits only through the action of a Board for Correction of Military Records or the action of the Administrator of Veterans' Affairs. The Secretary must also advise such persons of the procedures for making application to a Board for Correction of Military Records and the Administrator for such purposes and of their right concurrently to pursue their remedies before a Discharge Review Board, for discharge upgrading, a Board for Correction of Military Records, and the Administrator.

SPECIAL VA CHARACTER-OF-DISCHARGE STANDARDS PRECLUDED

Mr. President, this measure would also preclude the Administrator of Veterans' Affairs, in replacing, revising, or amending regulations governing the standards and procedures by which the Veterans' Administration determines whether an individual with a less than honorable discharge was discharged "under conditions other than dishonorable"—which decision, if favorable, entitles the individual to veterans' benefits—from giving any special advantages, through character of discharge regulations, to veterans who may have received upgraded discharges under a special program.

HEALTH CARE ENTITLEMENT FOR PERSONS WITH UNDESIRABLE DISCHARGES

Mr. President, a further provision would grant an entitlement, for certain persons with discharges under other than honorable conditions, to health care and related benefits—of the type generally authorized for persons with discharges under honorable conditions—for any disability incurred or aggravated during active-duty service in line of duty. The beneficiaries of the new entitlement would be persons administratively discharged under conditions other than honorable who have disabilities incurred or aggravated during active duty service in line of duty, but not including persons barred from receiving benefits by section 3103(a) of title 38. Disabilities incurred or aggravated during a period of service from which the individual was discharged by reason of a bad conduct discharge are also excluded from this entitlement.

BENEFITS ELIGIBILITY AFTER RE-UPPING

Finally, a provision identical to section 302(a) of H.R. 5027 as passed by the Senate on September 9, 1977, regarding "re-upping," eliminates a clear inequity in the law regarding eligibility for veterans' benefits under certain circumstances when an individual, before completing a period of service, agrees to extend his or her period of service. This provision expands the definition of the term "discharge or release"' in section 101(18) of title 38, United States Code, in order to assure eligibility for veterans' benefits to one who has satisfactorily completed a period of service when he or she has not received a discharge or release at the completion of that period because of having agreed to extended active-duty service.

CONCLUSION

Mr. President, while the compromise legislation is not exactly the same as that passed by the Senate, I believe that it is substantially faithful to the policy and approach reflected in the Senate-passed version.

Before closing, I want to call special attention to the fact that the bill requires the establishment of new uniform discharge review standards and procedures and the entertaining of discharge applications from those discharged more than 15 years ago. It is extremely important that the Administration prepare the new uniform standards and procedures and implement them shortly after the enactment of this measure. Otherwise, there would be a most unfortunate hiatus in the activities of the discharge review boards that would seriously prejudice those whose applications for review are pending or who wish to apply for upgrading in the future in order to obtain benefits eligibility, and those who, having received upgraded discharges under the Ford and Carter special programs, must now have their cases reviewed again to determine their eligibility for benefits.

Mr. President, in conclusion, I wish to pay special tribute to the outstanding cooperative efforts through this long process of the Senator from South Carolina (Mr. THURMOND) and the Senator from Vermont (Mr. STAFFORD), the ranking minority member of the committee. Senator THURMOND originally introduced this measure and has been the principal driving force behind it. His cooperation, courtesy, and openmindedness have been indispensable to the ultimate resolution of this legislation. I have greatly enjoyed the experience of working so closely with the able Senator from South Carolina and his able counsel, Gary Crawford, as well as with our distinguished ranking minority member, the Senator from Vermont and the minority counsel of the committee, Garner Shriver.

In addition, I wish to compliment the chief counsel of the House Committee on Veterans' Affairs, Mack Fleming, and the minority counsel, John Holden, and the assistant minority counsel, James Webb, and thank them for their excellent work and cooperation in resolving the matters of disagreement between the Senate-passed bill and the House amendment.

Mr. THURMOND. Mr. President, final passage of this measure, which I introduced on April 19, has been long in coming.

The number of meetings, conferences, hearings, and debates, in both the House and Senate, on this difficult and controversial issue has been numerous. However, the product which is now before the Senate is refined and complete and is one which bears witness to the validity and viability of our legislative process.

Much credit for the fashioning and final passage of this legislation belongs to the distinguished chairman of the Senate Veterans' Affairs Committee, Senator CRANSTON and his capable staff. In particular, I should like to recognize and commend the contributions of Jonathan Steinberg and Ed Scott, chief counsel and general counsel to the full committee. On the minority side, Garner Shriver, the minority counsel, and Gary Crawford, the assistant minority counsel, also played important roles in the common effort to formulate a meaningful legislative response to the problem of veterans' entitlements within the context of the special discharge review program of the administration.

Mr. President, S. 1307 is evenhanded and fair. It defends the dignity and honor of those who have served their country honorably and offers an equitable procedure for determining eligibility for veterans' entitlements to those who have served in any of the wars in which our country has been involved. This legislation reaffirms the principle that veterans' benefits should be awarded to those who faithfully served their country, and not to deserters. I urge that this measure receive the full support of my colleagues.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the amendment of the House to the text of the bill (S. 1307) to require a case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes, with an amendment.

UP AMENDMENT NO. 843

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 843:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) section 3103 of title 38, United States Code, is amended by—

(1) inserting "or on the basis of an absence without authority from active duty for a continuous period of at least 180 days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence," after "deserter," in subsection (a), and by inserting a comma and "notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10" before the period at the end of such subsection; and

(2) adding at the end of such section the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

"(2) Notwithstanding any other provision of law—

"(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

"(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person for such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, so soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.".

(b)(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act for each such person.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans' Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of the procedures for making application to such section 1552 board for such purposes and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552, and 1553).

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 4. In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharge under revised standards for the review of discharges described in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.

SEC. 5. This Act shall become effective on the date of its enactment, except that—

(1) section 2 shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

(2) the amendments made by section 1(a) shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

(A) with respect to any person, who, on such enactment date is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of 90 days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of 180 days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A) (i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date, the United States shall not make any claim to recover the value of any benefits so provided; and

(C) the amendments made by clause (1) of section 1(a) shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act, had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

S. 1307—SUMMARY OF COMPROMISE AGREEMENT PROVISIONS

The provisions of the compromise agreement on S. 1307 may be summarized as follows:

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

The measure would establish certain requirements for the granting of veterans' benefits as a result of the upgrading of administrative discharges under other than honorable conditions. Under these requirements, a discharge upgraded by a service Discharge Review Board would create an entitlement to benefits only if the upgrading was based on a case-by-case review of all the evidence and factors in the case, under published uniform standards and procedures generally applicable to all persons administratively discharged from active-duty service. In addition, discharge-review standards must, for purposes of veterans' benefits, be historically consistent with criteria for determining honorable service and may not (as did the Carter Special Discharge Review Program) include any criterion for automatically granting or denying an upgrading. These new requirements would be applicable to all future upgradings by Discharge Review Boards of administrative discharges under other than honorable conditions in order for such upgradings to carry with them entitlement to benefits.

EFFECT ON SPECIAL DISCHARGE REVIEW PROGRAMS

The measure would also preclude the granting of veterans' benefits on the basis of discharge upgradings awarded under (a) President Ford's January 19, 1977, program for certain persons who had applied under his earlier Clemency Program, (b) the Defense Department's April 5, 1977, Special Discharge Review Program, and (c) any subsequent program employing these kinds of revised standards not generally applicable to all persons with administrative discharges under other than honorable conditions. While allowing veterans to keep whatever upgraded discharge "paper" they receive or have received under any such 'special" program, the compromise legislation would provide for the granting of veterans' benefits in any such case only upon a "second" determination by the Discharge Review Board concerned—a determination that the individual would have been granted an upgrading under standards meeting the new discharge-review requirements discussed above.

"Second" determinations

In the case of a person whose administrative discharge under other than honorable conditions (Undesirable or Clemency Discharge) has been upgraded under a "Special" program and who is receiving benefits on the date of enactment, the legislation provides that the appropriate Discharge Review Board must make a determination on its own initiative and on an expedited basis as to whether the individual would have been granted an upgrading under the new standards applicable to all persons with administrative discharges under other than honorable conditions, and (b) if the board's preliminary determination is unfavorable (that is, if the board, upon reviewing the case record, determines that it would not have granted an upgrading under the new, generally applicable standards), the individual is to be so notified in writing and given the right to personal appearance prior to the making of a final determination. In such cases of persons receiving benefits on the date of enactment, the provision of benefits is not to be terminated during the pendency of a final "second" determination unless 90 days have expired since the making of a preliminary determination or 180 days have expired since the enactment date, whichever is the earlier. If a favorable determination is made, the individual's right to benefits is established and he or she, of course, keeps the benefits received prior to that determination. Even when the final determination (after personal appearance) is not favorable to the individual, the individual would not be required to repay the value of benefits received prior to the making of the unfavorable determination, or the expiration of 90 days after an unfavorable preliminary determination or 180 days after enactment, which ever is the earliest.

These "second" determinations would also be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination.

To facilitate the making of "second" determinations on an expedited basis when the individual has received or applied for benefits, the VA is required to notify the appropriate board of review, as soon as administratively feasible, of any such application for or receipt of benefits.

In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within one year from the date of enactment.

In the event of any upgrading of administrative discharges under other than honorable conditions under a special program after the date of enactment (occasioned by any delay in the administrative establishment of a new uniform program meeting the new requirements), the "second" determination (as to whether the discharge would be upgraded under the new requirements) must be made at the time the upgraded discharge is awarded.

Notice and hearing procedures

The legislation would also require the Secretary of Defense to fully inform each person administratively discharged under conditions other than honorable whose discharge is upgraded under a special program of his or her right to obtain an expedited "second" determination and of the implications of the provisions of this legislation for him or her.

BAR TO BENEFITS

Review Board action not effective to remove bars

This measure also provides that, when an individual has been discharged or released from active duty on grounds which constitute a bar to veterans' benefits under current law (for example, discharge by order of a general court-martial and discharge as a deserter), no subsequent action of a Discharge Review Board will have the effect of avoiding the bar to benefits. Thus, an upgrading of a discharge by a Discharge Review Board would not remove the bar. This provision reverses the present VA interpretation of current law. Recourse to a Board for Correction of Military Records, however, would continue to be available to remove such a bar.

Prolonged absences

In addition, this legislation would create a new conditional statutory bar to benefits—applicable to persons who were absent without authority from active duty for a continuous period of 180 days or more if the individual was discharged under conditions other than honorable. Individuals as to whom this bar might apply, however, are to be afforded the opportunity to demonstrate to the Administrator that there are compelling reasons to warrant such prolonged unauthorized absence. If the Administrator is satisfied that such compelling reasons exist, the bar does not apply.

Limited retroactive application

The provisions eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and creating a new bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character-of-discharge determinations. Thus, for example, when a person was administratively discharged under conditions other than honorable on the grounds of a continuous unauthorized absence of 180 days or more and his or her discharge was upgraded under generally applicable standards (that is, outside a special program) before the date of enactment, he or she would be entitled to veterans' benefits without regard to these provisions. The new conditional bar would apply, however, in connection with the required "second" determination, to a person discharged under identical circumstances whose discharge was upgraded under a special program. This bar provision would also apply to a person so discharged—before or after the date of enactment—who, after the date of enactment, receives from a Discharge Review Board an upgrading of a discharge under other than honorable conditions.

Notification of alternative remedies

To ensure that persons affected by the new conditional bar (as well as anyone who might be affected by any existing bar to benefits under section 3103(a) of title 38) who apply to a Discharge Review Board for an upgrading of their discharges are made aware of the effects of the new provisions, the legislation requires the Secretary of Defense to advise such persons that they might possibly be administratively found to be entitled to veterans' benefits only through the action of a Board for the Correction of Military Records or the action of the Administrator of Veterans' Affairs. The Secretary must also advise such persons of the procedures for making application to a Board for Correction of Military Records and the Administrator for such purposes and of their right concurrently to pursue their remedies before a Discharge Review Board (for discharge upgrading), a Board for Correction of Military Records, and the Administrator.

SPECIAL VA CHARACTER-OF-DISCHARGE STANDARDS PRECLUDED

This measure would also preclude the Administrator of Veterans' Affairs, in replacing, revising, or amending regulations governing the standards and procedures by which the Veterans' Administration determines whether an individual with a less than honorable discharge was discharged "under conditions other than dishonorable"—which decision, if favorable, entitles the individual to veterans' benefits—from giving any special advantages, through "character-of-discharge" regulations, to veterans who may have received upgraded discharges under a special program.

HEALTH CARE ENTITLEMENT FOR PERSONS WITH UNDESIRABLE DISCHARGES

A further provision would grant an entitlement, for certain persons with discharges under other than honorable conditions, to health care and related benefits (of the type generally authorized for persons with discharges under honorable conditions) for any disability incurred or aggravated during active-duty service in line of duty. The beneficiaries of the new entitlement would be persons administratively discharged under conditions other than honorable who have disabilities incurred or aggravated during active-duty service in line of duty, but not including persons barred from receiving benefits by section 3103(a) of title 38. Disabilities incurred or aggravated during a period of service from which the individual was discharged by reason of a bad conduct discharge are also excluded from this entitlement.

BENEFITS ELIGIBILITY AFTER RE-UPPING

Finally, a provision identical to section 302 (a) of H.R. 5027 as passed by the Senate on September 9, 1977, regarding "re-upping", eliminates a clear inequity in the law regarding eligibility for veterans' benefits under certain circumstances when an individual, before completing a period of service, agrees to extend his or her period of service. This provision expands the definition of the term "discharge or release" in section 101(18) of title 38 in order to assure eligibility for veterans' benefits to one who has satisfactorily completed a period of service when he or she has not received a discharge or release at the completion of that period because of having agreed to extended active-duty service.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment, with an amendment.

Mr. THURMOND. Mr. President, the distinguished Senator from California and I have worked on this bill for several months. We finally got the bill passed through the Senate, and it went to the House of Representatives. They adopted an amendment, which we can accept with an amendment—and I think it is acceptable, now—for the purpose of preventing deserters from receiving veterans' benefits. I think it would be unconscionable for a man who deserted his country in time of war to receive veterans' benefits, and this bill in its present form is intended to prevent that from happening.

I am in favor of the bill as amended, and I hope it will be adopted by the Senate.

Mr. CRANSTON. Mr. President, I thank the distinguished Senator from South Carolina for his wonderful cooperation in this matter.

Mr. THURMOND. I thank the Senator very much.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the amendment of the House to the title of the bill with an amendment.

UP AMENDMENT NO. 844

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted title amendment numbered 844.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The amendment was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, four Senators whose names already have been mentioned will be recognized, each for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond 5 minutes.

Immediately upon the conclusion of the period for the transaction of routine morning business, the Senate will resume the consideration of the unfinished business, and the pending question at that time will be on the adoption of the amendment by Mr. MCGOVERN.

I assume that there will be several rollcall votes tomorrow, and the Senate may be in late.

Mr. MCGOVERN. Mr. President, I have no desire to drag out the discussion of this matter over a long period of time. Three or four Senators spoke to me about the amendment and stated they want to be heard at least briefly. I anticipate that when we meet tomorrow morning, we probably can work out some agreement to come to a vote in a reasonable time.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. He has been very considerate of the leadership and of the Senate. I have no doubt that this is his estimation of what will happen as he has stated. I thank him for yielding.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. If there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and, at 8:55 p.m., the Senate recessed until tomorrow, September 23, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1977:

DEPARTMENT OF JUSTICE

Benjamin J. Malcolm, of New York, to be a Commissioner of the United States Parole Commission for the term of 6 years, vice Curtis C. Crawford, term expired.

Cecil M. McCall, of Georgia, to be a Commissioner of the United States Parole Commission for the term of 6 years, vice Maurice H. Sigler.

Robert D. Vincent, of Oklahoma, to be a Commissioner of the United States Parole Commission for the term of 6 years, vice Lawrence A. Carpenter, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1977:

NATIONAL CREDIT UNION ADMINISTRATION

Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.

SECURITIES AND EXCHANGE COMMISSION

Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1981.

FARM CREDIT ADMINISTRATION

The following-named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1983:

Lawrence Owen Cooper, Sr., of Mississippi.
Edgar C. Rutherford, of California.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

RISING SUN LODGE NO. 90, PRINCE HALL FREE AND ACCEPTED MASONS, YOUNGSTOWN, OHIO, SPONSORS RECOGNITION BANQUET

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. CARNEY. Mr. Speaker, on Saturday, October 8, 1977, Rising Sun Lodge No. 90, Prince Hall Free and Accepted Masons, will sponsor a recognition banquet honoring its 25-year and over members. The guest speaker for the occasion will be the Honorable Julian Bond, State Senator from Georgia. The event will be held at the Mahoning Country Club in Girard, Ohio.

Special recognition will be given to the Past Worshipful Master Raymond Lewis, who has been awarded the last and highest 33° granted on the basis of exemplary service to the organization and to the community.

On August 13, 1924, in an open Grand Lodge held in Cleveland, Ohio, the Most Worshipful Grandmaster Brother George W. Holland; Senior Grand Warden Brother E. J. Gatlitt; Junior Grand Warden Brother Harrison L. Adams; and Grand Secretary Brother Howard T. Greer, authorized and empowered Brother M. V. Penny as worshipful master; Wesley I. Dodson, senior warden; and John B. Lewis, junior warden, to open and hold a lodge designated as Rising Sun Lodge No. 90, under the register and jurisdiction of the Grand Lodge of Ohio, to be established in Youngstown, Ohio, or within 3 miles of same.

These brethren were further authorized and empowered to admit, enter, pass, and raise free masons according to the most ancient customs and usages of the craft in all ages and nations throughout the world.

From this humble beginning, Rising Sun Lodge No. 90 has steadily pressed forward and is now a very substantial lodge in free masonry. On April 19, 1965, Saint Paul Lodge No. 100 and Rising Sun Lodge No. 90 merged, which was approved by the Most Worshipful Prince Hall Grand Lodge in August of that year.

Rising Sun Lodge No. 90 has never striven for a large membership, but for loyal men with integrity and a compassion for brotherly love and friendship.

Mr. Speaker, at this time I would like to insert a list of the honorees, and to extend my sincere congratulations and best wishes to each of them.

Our honorees are as follow:

1. Leroy Benson, 59 S. Fruit St., Youngstown, Ohio 44506
2. Solomon Brooks, 473 Lansing Av., Youngstown, Ohio 44506
3. Nubron Brown, P.M., 2633 Stocker Ave., Youngstown, Ohio 44505
4. Thomas Campbell 617 North Avenue, Youngstown, Ohio 44502
5. Jasper Cherry, 220 N. Hine St., Youngstown, Ohio 44506
6. John Clayton, 1 Narcissa St., Struthers, Ohio 44471
7. James Danridge, 470 Glenwood Av., Youngstown, Ohio 44502
8. Raymond Dickerson, P.M., 626 Lexington Youngstown, Ohio 44504
9. Melvin Doxie, 920 Shehy Street, Youngstown, Ohio 44506
10. Thomas Hall, Sr., P.M., 2925 Karl Street, Youngstown, Ohio 44505
11. German Henry, 450 Garfield St., Youngtown, Ohio 44502
12. Ollie Hightower, 35 Sycamore St., Youngstown, Ohio 44505
13. Alfred Jackson, P.M., 346 W. Scott St., Youngstown, Ohio 44502
14. Raymond Lewis, 33° P.M., 442 W. Marion Av., Youngstown, Ohio 44507
15. Lee Maxwell, P.M., 172 W. Warren Av., Youngstown, Ohio 44507
16. James McCoy, 351 Kenmore Ave., Youngstown, Ohio 44507
17. Olin McKenzie, P.M., 145 S. Forest Av., Youngstown, Ohio 44506
18. Wallace Mitchell, 2705 McGuffey Rd., Youngstown, Ohio 44505
19. Arthelious Moore, 346 Cabot Street, Youngstown, Ohio 44509
20. Edwin Murphy, P.M., 27 W. Washington, Struthers, Ohio 44471
21. Isaac Nelson, 31 Narcissa St., Struthers, Ohio 44471
22. Richard Phillips, 421 Laclede Ave., Youngstown, Ohio 44507
23. Charles Pickard, P.M., 543 Burnett St., Youngstown, Ohio 44502
24. Willie Pride, 823 Rose Place, Youngstown, Ohio 44506
25. George Robinson, 348 Wallace St., Youngstown, Ohio 44502
26. Benjamin Smith, P.M., 411 St. Louis, Youngstown, Ohio 44507
27. Peter Starks, 202 N. Fruit St., Youngstown, Ohio 44506
28. Mizell Stewart, 724 Marshall St., Youngstown, Ohio 44502
29. John Williams, 3033 Orrin Avenue, Youngstown, Ohio 44505
30. Harold Wilson, 397 Plum Street, Youngstown, Ohio 44502
31. Henry Woods, P.M., 566 W. Delason, Youngstown, Ohio 44507

*"P.M." stands for "Past Master."

Submitted by,

ALBERT C. TATE,
Senior Warden and General Chairman of Banquet Committee.

EAA OSHKOSH 1977

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. LLOYD of California. Mr. Speaker, the Experimental Aircraft Association has just concluded the most successful fly-in convention and sport aviation exhibition in its history. This year marked the silver anniversary of this annual event which has grown to be the largest aviation gathering in the world. The convention was held in Oshkosh, Wis., on July 30 through August 6, 1977.

The Experimental Aircraft Association (EAA) is a worldwide organization with 119,400 memberships having been issued since inception in January 1953. Members reside in 65 countries. Its headquarters offices are located in Franklin, Wis., a Milwaukee suburb. While the Oshkosh event is primarily a convention of its members, it is also open to the public. Some 350,000 people took advantage of this opportunity and visited the fly-in grounds during the 8-day convention week. An estimated 3,000 itinerant aircraft attended in addition to the 1,389 display aircraft registered this year.

John Baker, president of the Aircraft Owners and Pilots Association, said that—

> The AOPA and EAA are allies in their dedication to the ideals of freedom for aviation . . . sport aviation is an integral part of general aviation and we will fight for it too.

Mr. Baker stressed the working relationship of the two aviation associations and termed EAA President Paul Poberezny a "visionary" for realizing the importance of sport pilots to the aviation industry.

Convention Chairman Tom Poberezny said:

> 1977—our Silver Anniversary Convention—was our best yet. The attendance exceeded last year's figures yet improvements to our Convention facilities enabled us to easily handle the growth. We look forward to 1978 as another growth year for EAA.

The silver anniversary EAA convention was highlighted by many special events which made it markedly different from conventions in years past. With record crowds of over 185,000 the first weekend, the Canadian Forces Air Demonstration Team—the "Snowbirds"—had the opportunity to fly their precise, breathtaking 28-minute display of formation areobatics before one of their largest audiences ever. The "Snowbirds" with their nine-plane formation show were making their second appearance in a row at Oshkosh.

Other convention special events and exhibitions took place including, speaking engagements by prominent flyers, presentations of achievement awards, a beauty contest, commemorative activities such as, "Lindbergh Day" with flights by the "Spirit of St. Louis," and demonstrations by the Warbirds of America. Special guest of the Warbirds for most of the week was Gregory "Pappy" Boyington, author of the book "Baa, Baa, Black Sheep" upon which the TV series by the same name is based.

For the second year in a row, the "History of Flight" pageant was featured as a part of the Thursday night airshow. Dozens of historic aircraft were flown to vividly demonstrate the advances made in aviation in the past 50 years. Fittingly, the airplane that flew first was Buck Hilbert's 1926 Swallow biplane. This type of aircraft flew the mail for United Airlines' predecessor company 50 years ago. Then came Beeches, Wacos, Travelairs, Bellancas, Luscombes, Pipers, Swifts, Stearmans, North Americans, and finally a United Airlines DC-8 flown by Capt. Jim Lacey with an all-EAA member crew.

FAA Administrator Langhorn Bond visited from Washington with Flight Standards Service Director Richard Skully. Administrator Bond announced the enactment of new regulations concerning nationality and registration marking for light aircraft, which climaxed a 12-year project on the part of EEA to change the requirement for billboard size markings on aircraft to those that would not interfere with the paint schemes of light aircraft.

From Capitol Hill, Congressman WILLIAM STEIGER of Oshkosh and JIM LLOYD of California both visited the convention. Both having been previous visitors to the fly-in, they pronounced it "great" and commenced to thoroughly enjoy themselves like other EAA'ers.

Oshkosh, which has it all, was successful for EAA in other respects as well. For example, during the course of the convention, 3,397 people joined as new members of the association. This was, by far, the highest number yet recruited at a fly-in. One thousand seven hundred and five renewed their memberships. Over 30,000 campers made Oshkosh their home for the week on the two campsites adjacent to the convention grounds. Many flying in took advantage of the expanded aircraft camping areas as well.

Above all, EAA's annual convention is an international affair. As in the past, an international visitors tent was in operation the full week to register and greet overseas guests. A total of 631 people from 43 countries checked in. The largest contingent was from Canada—227 in all—but a remarkable 147 also came from Australia. Visitors came from as far away as Indonesia, Kenya, Egypt, India, Israel, Hong Kong, the Philippines, and Poland.

In the general public area, the commercial exhibit building was filled to capacity. All 162 booths in the main building were sold out months in advance of the fly-in. Represented were such manufacturers as Champion Spark Plug, Mooney, Cessna, Narco, Bendix, Collins, Avco Lycoming, Pitts Aerobatics, and Christen Industries. Because of the overwhelming demand for exhibit space, an additional tent was erected where 48 display spaces were sold. The new "Foxjet" display took up about one-third of the tent. Exhibiting outdoors were Bellanca, Beech, Piper, Grumman American, Taylorcraft, Varga, Great Lakes, Aerostar, Meyers, Maule, Rallye, and others. A

total of 230 exhibitors displayed their wares during the 8-day period.

Last year, 64,839 flight operations were recorded making Oshkosh's Wittman Field the busiest airport in the world for that week. This year, it was a repeat performance except flight operation figures are not available since it was not possible for the tower personnel to keep count. However, the FAA estimates that over 60,000 flight operations took place. The slight decrease is due to the IFR weather that prevailed many mornings of the fly-in and the fact that the fly-by pattern was not as active this year, because of rain showers.

It is obvious that the EAA convention was another success, and also demonstrates American ability to "put it all together." The EAA board of directors have announced the dates for the 1978 EAA fly-in convention and sport aviation exhibition to be at Wittman Field. It will be July 29 through August 5, 1978.

A WELL-PROCESSED ANTIPROLIFERATION BILL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. WHALEN. Mr. Speaker, I would like to direct the attention of my colleagues to the lead editorial in Tuesday's New York Times which concerns the Nuclear Antiproliferation Act currently under consideration in the House.

This piece notes the careful construction of the bill over a 3-year period and the "sensible compromise" which was reached with the administration regarding the reprocessing of U.S.-supplied nuclear fuel by other countries. According to the Times, this bill achieves its goal of setting "reasonably strict standards governing American nuclear cooperation with other nations," and will go far toward preventing other nations from using American technology and fuels to produce nuclear weapons. It deserves to be passed by the House without any crippling amendments.

The editorial follows:

A WELL-PROCESSED ANTI-PROLIFERATION BILL

The House of Representatives is expected to vote tomorrow on a comprehensive bill designed to prevent other nations from using American nuclear technology or fuels for making nuclear weapons. Incredibly, although the United States has long been the world's major supplier of nuclear technologies, it has never spelled out the conditions of export or the circumstances that would cause it to break off nuclear cooperation with other nations. Instead, there has been a hodge-podge of inconsistent bilateral and multilateral agreements.

The new bill, whose chief sponsor is Representative Bingham of New York, is distilled from three years of Congressional inquiry and the Administration's own antiproliferation proposals. It would provide for the first time a set of reasonably strict standards governing American nuclear cooperation with other nations.

The measure would require the United States to retain control over the reuse or reexport of American nuclear fuels or fuels cycled through American-supplied reactors. It would end nuclear cooperation with nations (such as India and South Africa) that refuse to put all of their allegedly peaceful nuclear activities under international safeguards. It would provide sanctions and incentives to encourage other nations to accept antiproliferation policies. And it would spell out in more detail than ever before the procedures and criteria for nuclear cooperation.

The legislation was bottled up last week in the Rules Committee while the Administration and the bill's sponsors battled over the criteria to be used in deciding whether other nations may reprocess American-supplied fuel. A sensible compromise now provides that timely warning of possible diversion of the fuels is to be the "foremost consideration" before transfers are approved. No American fuel could be reprocessed if it would result in "a significant increase in the risk of proliferation."

The bill has aroused intense opposition from those who fear it would unduly restrict American nuclear exports. But it represents a sensible consensus of Congressional committees and Executive agencies that have given considerable thought to the problem of nuclear proliferation. We hope the House resists any effort to reprocess their package.

WHAT I SEE IN THE AMERICAN FLAG

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. YATRON. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues a truly inspiring expression of patriotism. This statement was not made by a President, a Secretary of State, or an officer in our Armed Forces. But like the words spoken by people in such high position throughout our Nation's history, these words come straight from the heart.

I call to the attention of my colleagues the essay written by Howard Pollman of Minersville, Pa. Sponsored by Amvets Post 211 in Llewellyn, Pa., this young man, a member of the sixth grade, won the local, State, and national Amvet essay contest with his outstanding composition entitled "What I See in the American Flag." I am genuinely proud to represent Howard and Amvets Post 211 in the Congress. His words are cause for faith that our heritage as a nation lives on in the hearts of generation after generation.

The material follows:

WHAT I SEE IN THE AMERICAN FLAG

(By Howard Pollman)

When I look at the blue field of the American Flag I see the men lying dead on the battlefield who gave their lives for our freedom. Freedom to do and talk as we please freedom of religion to preach and teach as we please. I see Betsy Ross sitting in her rocking chair making the first American flag. I see George Washington giving his freezing men orders at Valley Forge. I see the first shot of the Revolutionary War at Lexington and Concord, the shot heard 'round the world. I see the pioneers in covered wagons crossing the continent, expanding our country.

When I look at the stars in the blue field I see the fifty States that started from the thirteen original colonies. The fifty free states, not belonging to any other countries. Free from ruling dictators, free to make their own laws. I also see the stars our astronauts will reach in the future.

When I look at the red and white stripes I see the blood of President John Fitzgerald Kennedy and Abraham Lincoln who were tragically murdered. When I look at the white stripes I see the bandages that covered the wounds of the soldiers that fought in the Revolutionary War, World War I and World War II, and the Korean War. I also see the clothes of doctors and scientists developing new cures and working for a better future.

When I see the flag I feel that it should be treated with respect. When someone holds the flag they should be proud of it and should walk straight and tall. When I hold the flag I feel proud. I feel proud that it represents the greatest nation in the world, the United States.

FOOD AND NUTRITION IN THE UNITED STATES

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. RICHMOND. Mr. Speaker, I would like to share with my colleagues the third in a series of four Wall Street Journal articles on food and nutrition in the United States. The problem of food advertising blitzes aimed at youngsters is becoming a major contribution to poor nutrition, as the author of this article points out:

THE WAY WE EAT—FOOD MARKETERS SPEND BILLIONS PERSUADING US TO BUY THEIR PRODUCTS

(By John E. Cooney)

The nation's food merchants want your attention. Listen to New York advertising executive Jack Trout describe what they are doing to get it:

"It's food war out there and advertising is the weapon," says the president of Ries Cappiello Colwell Inc. "TV is the bombers that have mass impact, and print media and couponing are the infantry for the hand-to-hand stuff."

The battlefield analogy is apt. Selling food in America is not only a big business—our grocery bill last year totaled $153.1 billion—it's also a hotly competitive one. To persuade you to buy their products, food makers will spend about $4 billion on advertising alone this year, up 7% from the 1976 level. Billions of cents-off coupons will be offered as added inducement. And by the time the year is out, food marketing specialists will have designed, packaged, tested—and sometimes discarded—dozens of new edibles you never knew you were going to want.

Nutritionists wince at this approach. "Food is sold on the basis of what's for fun, amusement or sex appeal—not what's good for you," contends Joan Gussow, chairman of the nutrition program at Columbia University's Teachers College. But many in the food industry, where nutriiton is often used as a sales tool these days, don't see it that way. "Food companies are only trying to capture the taste buds of America," says one supermarket chain executive. "They sell what people buy."

It's in the aisles of the country's 183,700 grocery stores and supermarkets where consumers finally do decide what and how much to buy. They get plenty of help. Milk, always a big draw, is often placed at the rear of the store; shoppers must pass high-profit "impulse' items such as snack foods to get to it. And "non-nutritious products like orange drinks that are only 10% juice and 90% water are positioned near oranges so people will think they are better than they are," says Warner Isaac, a buyer for

Consumers Coop, a cooperative supermarket chain based in Berkeley, Calif.

But it's outside the grocery store where the selling of food begins. The medium is usually television—its visual impact persuaded food marketers to buy $2.58 billion worth of TV time last year—and the message is often directed at women, who do most grocery shopping, and children, who are the most susceptible. Though nearly every type of food is advertised, it's the packaged, processed items like cereals, snacks, specialty foods and soft drinks that are pushed the hardest.

SELLING SPAGHETTI SAUCE

Perhaps typical is the commercial for Hunt-Wesson Inc.'s spaghetti sauce. The theme of the ad is simple: It emphasizes how much members of Boston's Italian community happen to like the sauce. For if "people who eat the most spaghetti use it, it lends credibility" to the product, explains Daniel Ailloni, president of Stratmar Systems Inc., a market research concern.

Then there's the campaign devised by Marsteller Inc., a New York agency, to sell the yogurt made by Dannon Milk Products Co. Yugurt's reputation as a health food is an obvious selling point in this nutrition-conscious age, and Marsteller hasn't overlooked it with the slogan. "If you don't always eat right, Dannon is the right thing to eat."

But one television commercial, showing hoary octogenarians in Soviet Georgia lapping up Dannon Yogurt after a hard day in the field, seems to make light of the product. As it turns out, that's the idea: By combining dry humor with an exotic foreign setting, says Marsteller vice president Milton Sutton, the agency hopes to enhance Dannon's appeal among a presumably sophisticated "upscale population—the middle management types." Otherwise, he adds, "we might show somebody in a bowling alley."

MOTHER'S ROLE

Also subtle is the promotion of General Food Corp.'s Shake 'n Bake, a mixture of crumbs and spices that, when applied to raw chicken, enables the user to create a dish strongly resembling homemade fried chicken. Shake 'n Bake commercials, however, stress more than convenience. One depicts a mother serving up a chicken dinner while small children stand nearby. The object of this homey, rather winsome vignette, says Stratmar Systems' Mr. Ailloni, is to "reinforce the mother's role."

(Apparently, it can be risky to make a food product too easy to use. When cake mixes were first introduced some years ago, they flopped. Then the eggs were removed from the mixes "so women could add their own eggs, pretend they were doing some real work and get rid of the guilt," one marketing observer recalls. Soon after, cake-mix sales soared.)

A study of children's reactions to televised food advertising by the psychology department at Columbia's Teachers College found that youngsters who watch a lot of TV try hardest to influence what their mothers buy at the supermarket. Breakfast cereals—the most heavily advertised food products on television—were what these children asked for most often. Next came cookies, candies and ice cream, all highly advertised items. And the study showed that mothers often gave in to their youngsters' demands.

"It's pretty hard to turn down a child who is reaching out of the shopping basket and begging for certain products," says Mary Alice White, one of the professors who conducted the study.

Food companies are under increasing pressure from consumer groups and government agencies alike to abandon some of their merchandising tactics. For instance, Action for Children's Television, a Newtonville, Mass., group critical of food commercials aimed at children, is asking the Federal Trade Commission to halt commercials that say Milky Way candy bars should be eaten "wherever you are . . . at work, rest or play." The ACT complaint contends that a "child could very likely make the erroneous assumption that eating a Milky Way at rest and play, every day, will lead only to enjoyment, not cavities."

The television industry is responding to this criticism. A trade group, the National Association of Broadcasters, has voted to trim the number of all daytime commercials; it has also ruled that cereal commercials must depict a "complete breakfast" including milk and fruit.

The food industry is responding too. Kellogg Co., the big cereal maker, has begun advertising the fact that it answers all letters that ask nutrition questions. And General Foods is conducting a campaign in newspapers and magazines that seeks to explain the need for processed foods. A typical ad begins this way: "Dear General Foods: Nothing you do to a pea is going to make it a better pea. So why do anything?" Part of the answer: ". . . what if it's February, and you live in North Dakota, and the only part of Nature still making peas is a thousand miles away? What we do to foods to solve problems like this is called food processing. . . ."

Nonetheless, nutrition is "not a direct concern" of most marketers, says Ronald G. Nelson, executive vice president of Consumer Response Corp., a test-marketing company. How the product looks—how it's packaged—is.

A package, of course, protects a food product during transportation. It is also an important marketing tool because it both promotes and describes what's inside. But sometimes this description is less than informative. "Packagers can put a great big apple with a drop of condensate on an apple drink that has very little apple juice in it," observes Ruth McMurry, a New York graphics designer.

Clever packaging and expensive promotion don't guarantee success, though. "It's not simply a matter of who comes up with the biggest ad budget is who dominates the market place," says an executive at J. Walter Thompson Co., the big advertising agency. "You have to sell your product better or people won't buy it."

Take Maxim, the freeze-dried coffee from General Foods. Although it was the first of its kind, introduced in 1964, it has been outsold in each of the past six years by Taster's Choice, a Nestle Co. competitor brought to market just a decade ago. One of Maxim's problems, marketers say, is that it didn't attempt at the outset to capture sales from an obvious market, regular-coffee drinkers. The apparent reason: fear that Maxim would compete with Maxwell House coffee, also a General Foods product. At Nestle, however, "one of our lines of attack has been that one jar of Taster's Choice makes 120 cups of coffee, or about the amount that two pounds of ground coffee makes," a spokesman says.

Pringle's Potato Chips, a Procter & Gamble Co. product that comes packed in a tube resembling a tennis-ball container, is another example of how difficult selling food can be. Last year, Snack Food, a trade publication, estimated that Pringle's had garnered 10% to 15% of the $1 billion potato chip market. Today, industry sources believe, Pringle's market share is only 6% or 7%.

Some believe the sales slip is due to the fact that Pringle's costly container has forced the retail price of the product 10% above that charged by competing chips. A Snack Food article also suggests that at a time when "natural" foods are becoming increasingly popular, "many consumers perceive Pringle's as a 'make-believe' product of an era forever gone. . . ." But Mr. Trout, the Ries Cappiello Colwell president, suspects that Procter & Gamble "got so hung up on making something that didn't break, they forgot to make it taste good."

To minimize product failure, food makers rely on test markets, or areas of the country where the local populace's reaction to a new item is sought as a barometer of national opinion. "Virtually none of the major companies go into roll out (national marketing) of a product until they have test marketed it," says Emmanuai Demby, chairman of Motivational Programming Inc., a testing and research concern.

This isn't an exact science, but it's close. People in coastal cities, marketers have found, tend to accept nearly all new products quickly. Those who live in the Middle West, however, seem to reject most of them. Thus it is that Syracuse, N.Y., which is neither coastal nor Midwestern, is considered to be an ideal test market, researchers say.

Statistics aren't available on the number of new foods that don't pass muster in these outings. But it's doubtful, for instance, that shoppers will ever see "Ice Flow," a slush-like drink, or "Kool and Creamy," a pudding, on supermarket shelves; both recently flunked their tests. And the results aren't in yet on the Gerber Products Co. sampling of the college market's receptiveness to its baby foods, which occurred after the company discovered some students were eating these foods as snacks. (One Gerber test advertisement read, "Baby yourself during exams.")

Once the food manufacturer has packaged, tested and promoted a product, its fate is in the grocer's hands. And the first thing the retailer does is to determine whether his customers will buy the item. Gourmet foods, for instance, are seldom found in stores catering to blue-collar neighborhoods. "And don't try and sell black-eyed peas in North Dakota," adds a spokesman for Pathmark supermarkets.

Pricing is an important factor, too. The average supermarket carries 10,000 items, and about 20% of them are sold either at a loss or at no profit, industry analysts say. But these foods, usually staples, are priced low to entice customers into the store and expose them to foods and other goods that do bring a profit. It's worth the effort: By one estimate, nearly half the items bought on a weekly shopping trip are purchased on impulse. "Most people don't plan menus or food purchases," explains Earle Wendel, professor of marketing at Cornell University.

Atmosphere and store design, however, may be the most effective ploys grocers have. Good lighting, for instance, can easily boost sales, says William Pierson, manager of Studio 70, a supermarket-design firm. "We use incandescent lighting that makes meat look red—the wrong color on meat can make it look unappetizing."

Today, some supermarket chains are experimenting with an idea borrowed from discount outlets, the "warehouse store." Spartan in appearance—the aisles are often crowded with food items still in shipping boxes—these stores are meant to attract budget-minded shoppers. But outside of the Pacific Northwest, results "have been uneven," says Thomas Wilson, senior partner in the consulting firm of McKinsey & Co. "It depends on whether people think they're getting a bargain and if they want to get one in stores like those."

At the other extreme are the luxury stores. Byerly Markets, a three-supermarket chain in Minneapolis, offers carpeted floors, low ceilings, chandeliers, a bakery, a well-staffed meat department and plenty of check-out counters. Yet Byerly keeps its food prices competitive by lowering another cost: It advertises only once or twice a year. Volume is high, a Byerly spokesman says, and the company makes money.

The Byerly approach could be the wave of the future. Analyzing speech patterns in shoppers' replies to marketing questions, Consumer Response Corp. determined that while people complain a lot about high food prices, what most really want are short check-out lines and pleasant surroundings.

THE BAKKE CASE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. HYDE. Mr. Speaker, there are certainly times when the Supreme Court Justices must individually possess the wisdom of King Solomon to rule wisely and fairly on a case. One such case, I am sure, will be The Regents of the University of California against Allan Bakke, which concerns the equal protection clause of the 14th amendment and the controversial subjects of reverse discrimination, quotas and affirmative action. According to this week's Newsweek magazine, the greatest number of amicus curiae briefs in Supreme Court history have been filed in the Bakke case. This is hardly surprising when one considers that regardless of the Court's decision, this will be a landmark decision which will affect millions of Americans now and in the years to come.

Ms. Joan Beck, a columnist for the Chicago Tribune, has written a very interesting piece on some of the issues that will have to be resolved if the Court rules against Allan Bakke. I believe many of the questions she raises in her column deserve attention and thoughtful deliberation, and I insert this article at this point in the RECORD.

CAN SCHOOLS DISCRIMINATE FOR, YET NOT BE AGAINST?

(By Joan Beck)

If the Supreme Court rules against Allan Bakke in his challenge to the minority admissions quota system used by the medical school at the University of California-Davis the decision will raise many more issues than it settles. For example:

Isn't an admission quota system based on race a violation of Constitutional guarantees in the 14th Amendment of equal protection under the law? Can the Supreme Court permit discrimination based on race even if the purpose is benign and the intent to compensate for past wrongs?

If reverse discrimination is justified and legal, to what groups should it be extended? Are blacks, American Indians, Asian-Americans, and Mexican-Americans who received special admissions considerations at U.C.-Davis equally disadvantaged? Are all blacks by definition more disadvantaged than all whites? Should any other group get special treatment?

Should women, who have also been the victims of discrimination in the past, be given preferential treatment? More or less than racial minorities? Should women get this preferential treatment even if they don't need extra consideration to compete successfully with men when competition is sex-blind? Should a black woman get even more of a break than a black man?

If a preferential quota system for minorities is valid and legal for medical school, should it be extended to other areas where such minorities are not now as successful as whites? Like high level government jobs? Symphony orchestras? Corporate boards of directors? The United States Congress?

What about areas like many professional sports where blacks are overrepresented? Do whites need a provram of reverse discrimination in pro basketball, baseball, football, and boxing to compensate for whatever cultural, environmental, or genetic disadvantage keep them from winning such highly paid opportunities on merit alone?

Is it desirable for every racial and ethnic group to be represented in medical, law, and other professional and selective schools in the same proportion as in the general population? If so, should there be quotas for Jews, who are often greatly over-represented in schools which choose most of their students by individual merit? Do non-Jewish whites need quotas themselves to assure they will get their proportionate number of places in such competition?

If reverse discrimination is legal and desirable, how long should it continue? A decade? A generation? A century? Forever?

Can more discrimination ever be a remedy for discrimination itself, regardless of how well intended?

Is it a patronizing racial slur in itself to argue that minorities are still incapable of making it on their own merit without special consideration? Are minority individuals who do succeed in professional fields likely to be smeared with the suspicion that they are "quota doctors" or "quota lawyers" who don't measure up to the usual standards?

Would racial tensions and divisiveness grow worse in this nation if the Supreme Court did open the floodgates to all these ugly questions by approving the practice of minority quotas in the case of Bakke vs. the Regents of the University of California?

Rather than dividing people up according to skin color and ethnic background—as this nation has unconscionably done so often in the past—wouldn't it be better to move now toward ending all such ugly and divisive kinds of discrimination and working toward a society that is less, not more, built on color?

Can't greater efforts be made to overcome all kinds of disadvantages and to provide optimum learning stimulation for all children very early in their lives, when such help is most effective? Wouldn't minority students then reach college and graduate school age fully able to compete on their own for professional opportunities? Shouldn't the challenge of finding ways to increase the number of minority professionals be solved long before the graduate school level?

Hasn't this nation suffered enough from racial discrimination?

YOM KIPPUR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ANDERSON of California. Mr. Speaker, at sunset yesterday members of the Jewish faith throughout the world began observance of Yom Kippur, the most solemn of Jewish holy days. This also marks the conclusion of the High Holy Days, which began on September 13 with Rosh Hashana, the first day of the year 5738 in the Hebrew calendar.

Yom Kippur—the Day of Atonement—is a time for fasting and prayer, for introspection and penance. Perhaps its meaning and significance should be felt by all of us. Jews and non-Jews alike, during this most holy period of religious observance. As we recall the suffering endured throughout history by the Jewish people, as well as the many obstacles which have been placed in the path of their religious freedom, we can certainly appreciate and join with their prayers for guidance.

Prejudice and persecution have been the unfortunate companions of the Jewish people through much of their history. Certainly, we have only to view the plight of Soviet Jews, or the constant struggle for existence of the State of Israel, to see that this truth still exists today. Despite this tradition of sorrow, no people have dedicated themselves so strongly or effectively to the concept of social justice in our Nation today as our citizens of Jewish descent.

We can all identify with the prayers for universal brotherhood, world peace, individual freedom, and spiritual and moral growth which mark observance of the High Holy Days. We can all appreciate the Jewish teachings of the sanctity and dignity of human life, and their dedication to human justice.

Yom Kippur is the time for personal communications with God, a time to ask forgiveness for the transgressions one has committed in the past. It is also a time to forgive others for the wrongs they may have committed.

Mr. Speaker, it is this spirit of forgiveness and atonement that is the most vital aspect of the Yom Kippur observance. This theme is one which we would all do well to emulate, as we resolve to follow this universal human sentiment in our own official and personal lives.

COMMODITY CREDIT CORPORATION AND PUBLIC LAW 480

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. BOWEN. Mr. Speaker, I would like to direct to the attention of my colleagues section 1201 of the Food and Agriculture Act of 1977, which authorizes the Commodity Credit Corporation, upon request of a Public Law 480 recipient country, to act as its shipping or purchasing agent, or both, in the case of title I commodities.

Although the legislation itself establishes no guidelines or standards, it is not the intent of the Congress to encourage the Department of Agriculture to get into the business of acting as purchasing or shipping agent for Public Law 480 recipients. The honest private American shipping agent in this trade serves an extremely worthwhile purpose. He helps build wider commercial markets for U.S. farm commodities by assisting title I recipients to stick with our agricultural products.

Thus, although allegations of improprieties in recent years have created an atmosphere which required the creation of a safety valve such as that provided in section 1201, the Department should exercise restraint in responding to casual requests that it move into the private sector by undertaking shipping agent or purchasing agent responsibilities for foreign countries.

In discussing this matter with the appropriate authorities of the Department of Agriculture, I have been told that they will proceed with the greatest care and only in instances where the recipient country's request is based on thorough documentation and solid evidence that abusive improprieties have been used to exert undue pressure to favor an agent whom they do not wish to use. I am pleased to know of this attitude on the part of departmental officials, and such an approach is entirely consistent with the intent of the Congress.

RETIREMENT SYSTEM AND THE CONCEPTS OF TOWNSEND PLAN

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. McFALL. Mr. Speaker, with the Congress now giving active consideration to changes in the social security laws and the welfare system, the concepts of the Pay-as-You-Go Social Security and Prosperity Insurance Act offer unique alternatives to the policy positions most often discussed.

Again I have introduced legislation, H.R. 3063, embodying the basic principles of the original Townsend plan in order that these alternatives may be before the Congress when it considers revisions in these important social programs.

At this time I would like to include in these remarks an assessment of the overall picture of providing adequately for retirees, disabled persons, and many others who have been forced to live in extreme poverty because of circumstances beyond their control. It reflects the views of Mr. John Doyle Elliott, the Washington representative of the Townsend organization, and I believe the Members will appreciate the analysis he has prepared:

PROSPERITY-SHARING RETIREMENT FOR ALL

(By John Doyle Elliott)

Our guideline's always been that public policy, functions, projects and administration ought faithfully to reflect, in their construction and execution, both equality of sacrifice in their support (taxes, etc.) and progressive benefits in their effects on the interests and welfare of our people. Failure so to reflect measures their injustice, their moral and economic flaws. If taxes are wrong, what's really right?

We hold it self-evident that all dishonesty, injustice, wrongs—no matter who may fancy profit thereby—will, in History's balance of the books, be recorded as injuries, destructions and losses, not profits. They foster catastrophy—not glory!

Part 1. Split the budget—or never "reform" taxation. Tax "reform" seems an endless exercise by Congress. Furor over unjust taxes constantly re-arises, with "reformed" taxes no better than those before them. "Deformed" might better type them.

We discern a ruinous fallacy in this dilemma—the prevailing assumption that taxes are, ipso facto, a loss, cost, burden to our Society and citizens. We herewith undertake its clarification. In truth, were it not for what we buy with taxes—if any of us, indeed, survived—we'd be living in trees and caves! That overruling reality in no way justifies corruption—rather, it abolishes the last excuses for it!

We have two basic classes of taxes, revenue. First are those to finance public works, projects and services which are essential to honest life and happiness, inherently requiring consumption of manpower, resources and money—thereby denying them to the support of life, prosperity, freedom and happiness. Those taxes ARE burdens, limitations, costs—however valuable and essential. Society's overhead.

Second, however, we also have public projects and services—Social Security and health insurance, for example—to remedy flaws in our honest prosperity, upon which depends our ability best to afford all other things. These are benefits, not burdens.

The same tax-impact can't be right for both burdens and benefits—an obviously self-evident truth. Social Security benefits, for example, are of progressively greater value to the financially misfortuned than to the well-fortuned. To the affluent, they are insignificant. Burdens and benefits require opposite tax-impacts.

The real answer. All public budgets—federal, state, local—must be as cleanly split as possible between burdens and benefits. For burdens, there must be progressively-rated taxes honoring equality of sacrifice, on the net incomes of all persons and companies, without distinctions and clearly known to all.

For benefits—in themselves clearly progressive—there must be flat-rate taxes proportionately the same for all, on the gross income (gross receipts) of all persons and companies, as specified in Sections 214 and 229 of the second section and in the fourth section of H.R. 3063, the "Pay-As-You-Go Social Security, Health and Prosperity Insurance Act"—the up-to-date embodiment of the Townsend Plan.

Only these principles, identical for all throughout our economy, based on clean division of burdens and benefits, can establish permanently just taxation. Their lack measures our prosperity's flaws—their presence measures our ability to meet and afford the future as we should.

Part 2. We must perfect social security—or perpetuate the losses of recessions. Those losess are irrecoverable. Unemployed time is lost forever.

Argument-crushing reality. Without Social Security and related benefits—thin shadow though they are for what they ought to be—this recession would be vastly more severe. Equally clear: If even such poor benefits had existed in the late 20's and early 30's, they would mightily have eased the Great Depression and beneficially have altered history. There's the truth.

Self-evident, now, for all to see, we have recessions not because of too much social security, but because of too little. The cure's perfected social security.

To end recessions, prosperity-sharing, not impoverishing retirement for all aged and disabled is essential—for our country to be the fine house of freedom-with-justice it should be. There are only bad reasons for contemporary living standards in retirement being inferior to those of any other time of life.

The alternative is continued destruction of life, liberty and successful pursuit of happiness—with economic failure and dependency persisting as life's final reward for multitudes—with persisting recessions, damaging to all—excuselessly dictating on-going failure by our country to achieve its deserved, full glory in the world-wide eyes of mankind.

Spectacle! Our Tricentennial launched with responsible leaderships decreeing that "social expenditures" must be sacrificed in favor of defense etc.—that "we can't have both butter and guns". The truth is that on our honest, just human-prosperity depends our ability, together, best to afford all other things. See to our butter—or we're on the swiftest road to gunless! The Pentagon ought to be Social Security's foremost champion!

Plainly, it's the problem that we can't afford—not the cure!

Regardless of our success in all other things, economic failure and dependency as the punishing, final reward in life for our people bitterly mocks all other glories. Always, that's been this Lobby's keystone conviction.

In this light, we are proud again to have presented the ways and means for the establishment of perfected social security and national health-insurance—embodied in H.R. 3063, the "Pay-As-You-Go Social Security, Health and Prosperity Insurance Act" (the up-dated application of the principles of the Townsend Plan to the problems of social security and unjust poverty).

The best time left to perfect Social Security and Medicare is now—to reinforce recovery and future recession-prevention.

Let us cease mistakenly fearing public programs essential to remedy of admitted flaws in our honest prosperity—like Social Security and health-insurance.

Only they can strengthen us as we mightily need strengthening.

Their lack is our real weakness, rendering the losses of recessions inevitable.

Part 3. Mounting confusion reigns between honest realities and prevailing debates in Congress on funding Social Security. "Fewer workers supporting more retirees"—"Ballooning budgets"—"Skyrocketing taxes"—etc. Some ignorantly, some calculatingly so join to perpetuate social injustice in deference to greed-blinded interests.

The truth: If prosperity-sharing—not impoverishing—retirement and disability benefits, with complete health-insurance, were living facts of life for all our people (whether by public, or private policies, or by both) the economic impacts of such benefits would be essentially the same. The only variants would be simple and uniform versus complex and differing administration and management. The one real question is:

"Is social security good, or bad?" It is to remedy admitted flaws in our honest prosperity. On that depends our ability best to afford all other things. The problem is because of our misfortuned, not because of the well-fortuned. The problem's not too much social security—the problem's too little!

What we can't afford is the problem—it's not the cure!

Present social security (like the Public Assistance titles after 38 years of defenseless injustice) should be inherently reconstructed—repudiated as a brutal failure progressively compounded by continuance. Two courses are open:

First, replacement by the prosperity-sharing retirement and disability insurance of H.R. 3063, the up-dated Townsend Plan Bill, providing al beneficiaries (even those caught with no other resource) up-to-date participation in prevailing standards of income and living and full health-insurance.

Second, amend the present system by vesting in ALL individuals a "presumed wage in covered employment", initially providing benefits sufficient to bar eligibility for Supplementary Security Income benefits. Quarterly, raise this "presumed wage" to provide, in two year's operation, prosperity-sharing participation in prevailing standards of income and living as the minimum Social Security benefit.

Thus, in either case, we'll have all our people insured EQUALLY by the SAME nondiscriminating system. No less can spell justice. Only so can we reduce administrative costs to full value for money spent.

Since SSI federally provides its benefits for all persons who, through Social Security or some other means, do not have it equivalent—such a minimum Social Security benefit would be a vastly simpler way of doing the same thing for all with but one administrative operation. Why go on with two systems discriminatingly segregating millions of people and tremendously amplifying and complicating administrative costs? Why do the same work twice via TWC systems?

Medicare should automatically cover all beneficiaries, thus virtually eliminating Medicaid. It should immediately include all prescribable treatment, care, supply-including health-maintenance. No bills to patients. Thus, in total, experienced operation, it should expand to cover ALL our people throughout their lives.

Finance the "presumed wage", all Social Security benefits, completed Medicare and total, national health-insurance by the general revenue tax defined and provided in H. H. 3063 (Sections 214 and 229 of the second section and in the fourth section), to render the financial impact of the whole system justly progressive, not punishingly regressive as it now is.

The foregoing reforms are, in our long-constant judgment, 35 years overdue.

Mr. Speaker, since, during the last year very particularly, it has been officially, accepted that social security—however masked and complicated—is in reality a pay-as-you-go funding operation, it seems most timely to take an up-to-date look at this basic, from-the-beginning principle of the Townsend Plan.

MAYOR WHEELER REPORTS ON CRIME

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. SKELTON. Mr. Speaker, for the past few months, a subcommittee of the House Small Business Committee has been conducting hearings on the serious problem of "Crime and Its Impact on Small Business." In July, the subcommittee held a hearing in Kansas City, Mo., where we were privileged to hear from numerous well-informed individuals, including FBI Director Clarence Kelley. Among the witnesses who testified was Kansas City Mayor Charles B. Wheeler, Jr. Mayor Wheeler presented a thought-provoking report on crime in the Kansas City area and measures adopted by local police to combat the problem. I think that his remarks merit the attention of the Members of the House and I offer them now for consideration:

REMARKS OF CHARLES B. WHEELER

Mr. Chairman, distinguished members of the committee, Director Kelley, other important guests and participants: On behalf of the City Council and the people of Kansas City, Missouri, I welcome you to the greatest city in the heartland of America.

The subject of this hearing is a sober one. I have read that crime itself is no small business and that crime against business nets more money each year than Sears, Wards and Penny's combined. It's a problem when crime is more profitable than the nation's largest retail businesses.

In thinking about this issue in the last few days, I've decided that the most meaningful distinction to be made between crimes-against-business and crimes-against-individuals is that businesses have the unique ability to pass their losses on to their customers. Whether business overhead rises as a result of shoplifting, commercial burglary or increasing insurance rates, the one who is ultimately hurt in the pocketbook is the individual customer. This fact emphasizes the importance of the topic before the Committee to the general public.

A January, 1976 report of the Dept. of Commerce estimated that businesses lost over 23 billion dollars in 1975 due to crime. That was a 50% increase over crime-related losses in 1971. Total 1975 losses equalled $112 for every man, woman and child in the country.

Of course, businesses in the urban centers are more heavily victimized than those in suburban and rural areas. Small businesses, having annual receipts of less than $100,000, are more than three times as severely affected by crime losses as the average business, and are 35 times as severely affected as very large firms. Unfortunately, small firms are the least able to absorb these losses, nor can they afford the overhead required for extensive protective measures.

In talking to my friends at the Missouri Council on Criminal Justice, I was told that an estimated 26% of all businesses in the United States were the victims of burglary or robbery in 1974. Hardest hit were retail establishments—39% were victimized—followed by transportation, manufacturing and wholesale operations. The types of retail businesses which suffered the most from crime in 1974 were drugstores (66% robbed or burglarized), gas stations (53% victimized) and liquor stores (an even 50% were affected). These are precisely the types of businesses with which the committee is concerned. And these statistics do not even include shoplifting, employee pilferage, and the rest.

To say that crime has a depressing effect on small businesses is a rather mild statement when put to a liquor store owner who must face a 50–50 chance of being robbed or burglarized!

My researchers have made a few calls around the city in order to obtain a reasonably close estimate of the cost of crimes against small businesses in Kansas City. It was a difficult assignment. For lack of a clear definition of "small" businesses, police departments are unable to accurately assess the extent of the crime problem as it relates to them. The Kansas City Police Department, in its 1976 annual report, provided information about the number and cost of crimes against businesses in general. Given my earlier statement about the comparative impact of crime on businesses of varying sizes, you can draw your own conclusions as to the impact of crime on small businesses in Kansas City.

3,471 instances of commercial burglary were reported in Kansas City last year, costing businesses a total of $1,829,080.

588 robberies of commercial establishments resulted in an additional loss of $81,173.

3,121 cases of shoplifting were reported. The total value of property lifted was $139,464.

Losses for all offenses totaled $2,049,717.

So it can easily be seen that crime is a problem to Kansas City businessmen and to the customers who eventually pick up the tab for it. But it is not a problem which we in city government are ignoring. The Kansas City Police Department has traditionally offered numerous crime prevention services to businessmen and other individuals. On request, Kansas City police officers will conduct security surveys of business establishments, train employees in crime prevention techniques and suggest new procedures for the prevention of robbery and shoplifting. A new pamphlet designed specifically to help the small businessman deal with the threat of robbery has just come out of the print shop and is being distributed by Kansas City police officers. I brought a few copies of the pamphlet for review by members of the committee. TAC II alarms are used by Support Unit personnel mainly to assist the small businessman by alerting the police at the first sign of a burglary. Use of these alarms is seen as a good preventive measure both by the police and the business community.

And we are trying out some new measures in crime prevention.

In 1976 the City received a substantial grant from LEAA to institute a project designed to strengthen the community's ability to protect itself against the crimes of robbery and burglary. The project, called Direct Patrol, permits police supervisors to reorganize patrol time to enable officers to spend more time explaining effective crime prevention techniques to the operators of small businesses in Kansas City's high crime area. The concept is being tested in a 37 square mile area east of Prospect and from Sni-a-bar road on the south to the river on the north. So far the experiment has demonstrated significant potential for a reduction in these two crimes which most seriously affect small businesses. 162 businesses are participating by installing in their establishments devices to help in the accurate identification of suspects. In businesses which we expect to be victimized, because of location and past history of victimizations, a new crime-eye camera is being installed to photograph robberies in progress. 32 cameras have been installed under the project, and 30 more are being installed right now. A number of robbers have been caught on these candid cameras, but none have been willing to stand trial. In light of the strength of the evidence against them, they have all pleaded guilty. If the project is as successful as it appears to be, the new techniques will be utilized throughout the city.

We are doing something, but we are a long way from solving the problem. Extensive losses due to crime against businesses cannot be tolerated. The business community must establish aggressive policies that anticipate and fight crime problems common to its industry. It is also important to recognize that we do not expect the business community, alone, to solve a problem which transcends the marketplace.

I trust that these hearings will be successful in providing a better understanding of the impact of crime against small businesses and in identifying the first steps which can be taken, by businesses and by government, to reduce the impact.

Again, thank you gentlemen for being here.

PRESSLER DEFENDS SOUTH DAKOTA

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. PRESSLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

WASHINGTON, D.C., *September 21, 1977.*

Hon. KURT WALDHEIM,
Secretary General, The United Nations, New York, N.Y.

DEAR SECRETARY GENERAL: I am writing today on behalf of many South Dakotans—Indians and non-Indians alike—who were justly disturbed by an Associated Press story which characterized South Dakota as "similar or worse" than South Africa in racism.

These widely reported comments are unfair to the hard working people of South Dakota. They were attributed to Russell Means, the former leader of the American Indian Movement (AIM), in an AP interview. Means was in Geneva, Switzerland, to address a United Nations conference on indigenous populations.

Means was quoted as saying that South Dakota Indians are "in a similar or worse situation than anyone in South Africa . . . They still hunt Indians in South Dakota."

I respect the Associated Press for its responsible reporting. If these comments are accurate, I consider them a gross exaggeration which cannot promote harmony among our people.

While there is no doubt that American Indians have been historically mistreated in the United States, and that inequities persist, I firmly believe that Means' reported statements misrepresent the situation which exists. In fact, most Indians and non-Indians in America are striving for better understanding and cooperation in this area.

In South Africa, Blacks are permitted neither to vote nor to voice opposition to the status quo. In America, Indians and other minorities are free both to vote and to express vocal protest to inequities they perceive. In South Dakota, the mayor of the second largest city is an Indian, and so is one of our former Congressmen.

It is obvious that there is still room for improvement in Indian-non-Indian relations in America, as there is need for better treatment of native groups throughout the world. I sincerely hope that the U.N. conference on indigenous populations will further this goal. But I also hope that you will view the situation in South Dakota and the United States in a truer light.

Sincerely,

LARRY PRESSLER,
Member of Congress.

THE CLINCH RIVER BREEDER REACTOR VOTE WAS NOT FINAL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. BROWN of California. Mr. Speaker, the reaction to the House vote on my amendment to terminate the Clinch River breeder reactor project is still coming in, but one thing is already obvious. This will not be the last time the House must deal with this particular project, and the many complex issues surrounding it. It is my fervent hope that the weeks and months of debate have awakened Members and the country to the importance of our decisions, and have begun changing the perceptions of those whose initial reaction is to proceed with a plutonium economy.

The vote on my amendment, while appearing decisive, was not nearly as overwhelming as some have claimed. It is significant that on the amendment by Mr. COUGHLIN on the same project the House was evenly divided. It is also significant that many Members decided to vote for the amendment by Mr. DODD on the assumption that this was a compromise position between the pro and anti administration forces.

It is also significant that the proponents of the Clinch River breeder project vehemently denied there was any connection between this project and the commercialization of the plutonium breeder reactors. If this were true, and I believe many of the supporters of Clinch River believe there is no connection, the vote would be relatively harmless—although extremely wasteful of taxpayers' money. But because Clinch River is a symbol of the plutonium economy, this vote was more than an expensive waste of money.

Mr. Speaker, I cannot speak for the President and his intentions with this bill. However, I would not be surprised if the President decides to veto this bill, if the Clinch River project remains in it. The vote for my amendment was clearly enough to sustain a veto, which should encourage the President and make his decision easier for him. I know he is receiving advice to veto the bill, as the following editorial from the September 22, 1977, Los Angeles Times demonstrates:

[From the Los Angeles Times, Sept. 22, 1977]

CLINCH RIVER AND THE WORLD

It was shockingly irresponsible of the House of Representatives to vote to proceed with construction of a plutonium-fueled breeder reactor at Clinch River, Tenn. Should the Senate concur, President Carter should veto the bill and wage an all-out fight to sustain the veto against any attempt to override, and any subsequent appropriation. For, should the view of the House prevail, the President's campaign to prevent the spread of nuclear weapons in the world will be hopelessly undermined.

Authorization for the reactor, voted by 246 to 162, is part of the $6.7 billion bill for energy research and development in the fiscal year beginning Oct. 1. The legislation would authorize $150 million to begin construction of the reactor; the total cost of the project is estimated at $1.9 billion.

As Energy Secretary James R. Schlesinger has often said, there are many better ways to spend that kind of money to meet the nation's energy needs. If plutonium-burning reactors are ever needed at all—and there is good reason to doubt that they will be—it won't be until late in this century. The final decision can be made later.

More important, a decision to go ahead with the Clinch River project would end all hopes of persuading other nations to forgo the use of plutonium as reactor fuel. That is a most chilling prospect.

The attraction of the plutonium-burning breeder reactor is that it would in theory breed more fuel than it would consume; it would be a sort of nuclear perpetual-motion machine, making uranium reserves last longer.

But there are other reactor technologies in prospect that would do much the same thing without multiplying the perils of nuclear weapon proliferation.

Plutonium that is ostensibly produced for reactor fuel can be easily diverted and used to make nuclear weapons. No known system of international safeguards or inspections can prevent this from happening. So, if more and more plutonium-burning reactors are built around the world, more and more countries will be able to build their own A-bombs.

The Administration has proposed an indefinite moratorium on any U.S. use of plutonium in power-generating reactors, and has urged other countries to do the same.

Nuclear experts say breeder reactors can be designed to operate on materials other than plutonium. Other nations are being pressed to delay their own separation and use of plutonium until a serious look can be taken at these alternative technologies.

So far, the Carter campaign has met with only partial success. The French and West Germans promise not to export any more plutonium-separation plants, but are not inclined to abandon their own plans for breeder reactors.

Given a little time, though, this picture could change. European breeder programs are running into increasingly strong environmental objections. And, as the economic and technological risks of rushing into plutonium-burning reactors are better understood, governments themselves may have second thoughts.

The House legislation goes next to conference with the Senate, which earlier gave the President half a victory by voting to keep Clinch River in limbo for at least another year. It is imperative that the Senate stick by its guns and not be persuaded to accept the dangerous and irrational provision in the House bill.

To bring about that result, Carter must mount a much more determined and effective lobbying operation than was apparent in the House this week. He has much riding on this reactor on a little river in eastern Tennessee, and so does the world.

FEC COMMISSIONER CONCEDES FRAUD POTENTIAL IN UNIVERSAL VOTER REGISTRATION BILL

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. MARRIOTT. Mr. Speaker, earlier this summer I sought the opinion of a current Federal Election Commissioner, Thomas E. Harris, regarding the fraud safeguard adequacy of H.R. 5400, the same-day voter registration bill. I brought to Commissioner Harris' attention the July 13, 1977, Washington Star account of how Members of Congress had readily obtained phony identification cards from a California mail order house and raised the possibility that local polling officials, recruited for the election day duty, and lacking fraud detection expertise, might well approve registration efforts and subsequent vote casting by individuals bearing such bogus IDs.

In his letter of response, Commissioner Harris took issue with this contention. He expressed doubt that either States or the FEC would approve IDs obtained from mail order houses but would "reserve its approval for more traditional types of identification such as driver's licenses, State-issued identification cards, passports, and the like."

That is precisely the point, and Commissioner Harris has missed it. Mail order houses such as that described in the Star article specialize in the production of just the sort of documents that the Commissioner, in his letter of September 7, cites as being the subject of likely approval by the States and the FEC.

The catalogs of these mail order houses indicate their willingness to prepare and provide a wide variety of IDs and documentation to whoever has the appropriate fee. The propensity for the production of fraudulent documents is vast and an inexperienced, short-time poll or registration worker would likely be unable to distinguish the legitimate from a clever bogus.

And that brings us back to square one. H.R. 5400 is a dangerous, unwise, fraud-prone piece of tomfoolery that will badly distort the electoral process and will guarantee future generations of voters that dishonesty will become an essential ingredient of the American political campaign.

I bring my exchange of correspondence with Commissioner Harris to the attention of my colleagues.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 4, 1977.

Commissioner THOMAS E. HARRIS,
Federal Election Commission,
Washington, D.C.

DEAR COMMISSIONER HARRIS: As you know, the Congress is currently considering a bill to provide for voter registration on election day, HR 5400.

Substantial opposition to this proposed legislation has centered on the presumed propensity for voter fraud. I expect that you saw recent news accounts in the Washington Star (July 13, 1977) of Members of Congress who had easily obtained phony identification cards, which presumably could be used as acceptable identification under the proposed law.

I would like to know the opinion of the Federal Election Commission as to whether or not you feel this bill would provide adequate safeguards to protect the integrity of our electoral process.

Specifically, do you feel that local polling officials who are typically hired for a single day's service, as compared to being full time professionals, would be qualified to ascertain valid versus phony identification documents? Further, would these polling officials be reasonably expected to determine the authenticity of residency claims.

In short, are you convinced this proposed legislation would be good for the country.

Sincerely,

DAN MARRIOTT,
Member of Congress.

FEDERAL ELECTION COMMISSION,
Washington, D.C., September 7, 1977.

Hon. DAN MARRIOTT,
Longworth Office Building,
Washington, D.C.

DEAR MR. MARRIOTT: This letter is in response to your letter of August 4, 1977, in which you ask the Commission's opinion on H.R. 5400, a bill to provide for voter registration on election day. Specifically, you ask whether the proposed legislation would be good for the country.

The Commission has a policy of not commenting on the substantive merits of proposed legislation. I have enclosed for your information a copy of the Commission's testimony on H.R. 5400. This testimony, which was given by Commissioner Tiernan before the House Administration Committee and the Senate Committee on Rules and Administration, comments on H.R. 5400 and S. 1072 as they were referred to the Committees. As you will note, the Commission offered a number of comments and suggestions many of which were adopted by the respective committees in the bills they reported.

In your letter you also express concern as to the use of phony identification cards such as those reported in the Washington Post as having been obtained by Members of Congress. (July 13, 1977.) Specifically, you presume that identification of this type would be acceptable identification under the bill. I do not agree with this presumption.

Although the bill does allow a state to require an identification, the Commission must approve the form or forms of identification which may be required. See Section 6. I do not think any state would propose nor do I think the Commission would approve forms of identification which are obtained from mail order houses. Rather, I think the Commission would reserve its approval for the more traditional types of identification such as driver's licenses, state-issued identification cards, passports, and the like.

I hope that the Commission's testimony will be of assistance to you. If you have any further questions about this bill or the Federal Election Campaign Act, please do not hesitate to contact the Commission.

Sincerely yours,

THOMAS E. HARRIS,
Chairman.

STATEMENT ON UNRECORDED VOTE

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. RYAN. Mr. Speaker, on Rollcall No. 555, I was recorded as not voting. This vote, taken on September 15, was on final passage of H.R. 3744, the bill to increase the minimum wage rate. I was present on the floor when the vote was taken and did go through the usual procedure of voting with my voting card. Unfortunately, the computer failed to record my vote for final passage.

In accordance with my other votes on amendments to the legislation, I voted "yes." I ask that the RECORD be corrected to indicate how my vote was cast. I would also hope that the problems we seem to be having with Members' votes being recorded be studied and rectified as soon as possible, so this type of situation will not continue to arise.

UNNEEDED REGULATION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ABDNOR. Mr. Speaker, we have been flooded in recent months with appeals from the White House and consumer groups to support the proposed Consumer Protection Agency. We have all heard the arguments for and against the establishment of such an agency, and my colleagues are well aware of my opposition to the proposal. However, there is one aspect of this continuing debate which I would like to emphasize.

In an effort to make it appear as though the Consumer Protection Agency concept is receiving widespread support, the White House has tried to convince us that many members of the business community support the concept. Early this summer President Carter reported 100 business firms supported the consumer agency bill and these firms reflected growing support on the grassroots level.

I would like to take this opportunity to point out the fact that, contrary to what the administration would like us to believe, business firms in this country are overwhelmingly opposed to the establishment of a Consumer Protection Agency.

The U.S. Chamber of Commerce has conducted a survey of its membership which encompasses a wide spectrum of American firms, both small and large. The chamber has received letters from over 15,000 of them who are strongly opposed to this legislation.

Among the individuals and firms who have expressed such opposition are 114 from my home State of South Dakota. In addition to those who have contacted the Chamber of Commerce, I have received hundreds of letters from individuals who have contacted me directly and they virtually all have been opposed to the Consumer Protection Agency.

The names of those individuals who have contacted the chamber are:

SOUTH DAKOTA

Donald R. Fountain, Fountains Inc., W. Hwy. 46, Beresford, South Dakota 57004

Sid A. Bostic, V. P. and Mgr., Northwestern National Bank, P.O. Box 197, 527 Main Ave., Brookings, South Dakota 57006

Orrin P. Juel, Juels Shoes, 413 Main, Brookings, South Dakota 57006

Merle Dean, Chr. of the Board, Farmers State Bank, Canton, South Dakota 57013

James Deinema, Deinema Ford Co., 5th and Cedar, Canton, South Dakota 57013

Milton L. Wass, Wass Funeral Home, 301 N. 3rd, Beresford, South Dakota 57014

John P. Rasmusson, Sioux Valley Telephone Co., 525 4th St., Dell Rapids, South Dakota 57022

G. F. Schmid, Gambles, 108–N. Wind, Flandreau, South Dakota 57028

C. M. Galloway, Galloway's, 117 N. Egan, Madison, South Dakota 57402

Robert Hickt, Farmers & Merchants Corp., 124 E. Center, Madison, South Dakota 57042

Jerome B. Lammers, Lammers, Lammers & Kleibacker, Box 284, Madison, South Dakota 57042

J. H. Lammers, Lammers, & Lammers & Kleibacker, Box 284, Madison, South Dakota 57042

Lyle R. Weismantel, National Bank of South Dakota, Madison, South Dakota 57042

Dorn Van Cleave, Sioux Alfalfa Meal Co., Box 398, Vermillion, South Dakota 57069

Mr. and Mrs. John H. Litzelman, Weoperatea Ranch & Farms, Box 394, 224 Court St., Vermillion, South Dakota 57069

Lynn W. Palmer, self-employed; Life Insurance Sales, Fidelity Union Life, 120 E. Main, Vermillion, South Dakota 57069

Don Buehrer, Mount Marty College, Yankton, South Dakota 57078

Jim Cope, Morgen Manufacturing Co., P.O. Box 160, Yankton, South Dakota 57078

Warren Hatch, Hatch Furniture, 109 E. 3rd St., Yankton, South Dakota 57078

Lawrence Hintgen, Globe Clothiers, Inc., 119 W. 3rd., Yankton, South Dakota 57078

Jay Miller, Yankton Area Chamber of Commerce, Box 588, Yankton, South Dakota 57078

Colin D. Monfore, Pres., Yankton Printing Co., 319 Walnut, Yankton, South Dakota 57078

Robert C. Bliefernich, Cr. Mgr., Sioux Falls Paint & Glass Co., Box 1064, 3803 N. 4th Ave., Sioux Falls, South Dakota 57101

Lee E. Engen, Pres., Home Federal Savings & Loan Ass'n., Main & Dakota at 11th, P.O. Box 1487, Sioux Falls, South Dakota 57101

Mr. G. S. "Wendol" Holcomb, Holcomb White Trucks, Inc., I–29 and 38A, P.O. Box 1747, Sioux Falls, South Dakota 57101

Charles A. Kearns, Kearns Machinery Co., Box 1307, Sioux Falls, South Dakota 57101

Marlo H. Mahlstedt, Electric Construction Co., P.O. Box 1835, Souix Falls, South Dakota 57101

C. P. Moore, Northwestern National Bank of Sioux Falls, Box 1028, Sioux Falls, South Dakota 57101

Jerry Simmons, Jerry Simmons & Associates, P.O. Box 1423, Sioux Falls, South Dakota 57101

Howard F. Ness, Ness Realty Co., 515 S. Dakota Ave., Sioux Falls, South Dakota 57102

Si Spisak, Si Spisak Realtors, 401 S. Phillips Ave., Sioux Falls, South Dakota 57102

Edgar A. Engle, Sutherland Lumber Co., 1111 N. Cliff Ave., Sioux Falls, South Dakota 57103.

Bill Hegg, Hegg Realtors, 1212 E. 10th St., Sioux Falls, South Dakota 57103

Doug Metcalf, ReComm Realtors, 203 S. Bahnson, Sioux Falls, South Dakota 57103

R. W. Best, Best Business Products, Inc., 621 W. Russell St., Sioux Falls, South Dakota 57104

D. Pat Fines, Vandel Fines Realty, Inc., 518 W. 11th St., Sioux Falls, South Dakota 57104

Garry Jacobson, Malloy Electric, Bearing & Supply, 809 W. Russell, Sioux Falls, South Dakota 57104

Jack G. Renschler, Renschler Standard Truck Plaza, 5303 N. Cliff Ave., Sioux Falls, South Dakota 57104

David V. Anderson, Realty Center, 405 W. 34th St., Sioux Falls, South Dakota 57105

Paul Batcheller, Zip Feed Mills, Inc., 304 E. 8th St., Sioux Falls, South Dakota 57105

Lyle Gall, Lyle Gall Realtors, 910 W. 41st, Sioux Falls, South Dakota 57105

E. J. Gerloff, Administrator, Central Plains Clinic, LTD, 2727 S. Kiwanis Ave., Sioux Falls, South Dakota 57105

Arnold J. Josten, Josten Concrete Products Co., 1201 S. Van Eps, Sioux Falls, South Dakota 57105

LeRoy K. Kruse, GKR Realtors, Inc., 1020 E. 41st St., Sioux Falls, South Dakota 57105

Lloyd A. Myhre, Myhre Inc., Realtors, 1107 S. Minnesota Ave., Sioux Falls, South Dakota 57105

Orville C. Nelson, Brydell-Nelson Realtors, 501 W. 27th, Sioux Falls, South Dakota 57105

Henry T. Quinn, 4101 S. Cliff, Sioux Falls, South Dakota 57105

H. N. Robinson, Independent Lumber Co., 3500 S. Minnesota Ave., Sioux Falls, South Dakota 57105

H. A. Billion, Billion Chry. Plym. Datsun, 3401 W. 41 St., Sioux Falls, South Dakota 57106

Ed Larson, Sioux International Inc., 6401 W. 12th, Sioux Falls, South Dakota 57106

Bob Pfeifer, Pfeifer Implements Co., 5301 W. 12th St., Sioux Falls, South Dakota 57106

C. A. Palen, Sioux International, Inc., 6401 W. 12th, Sioux Falls, South Dakota 57106

Don Randolph, Gallery of Homes, 3404 S. Marion Rd., Sioux Falls, South Dakota 57106

Delores E. Ferrerstein, Dorothy's 108 E. Kemp, Watertown, South Dakota 57201

L. Lewis Ferrerstein, Dorothy's, 108 E. Kemp, Watertown, South Dakota 57201

Arlan R. Koehn, Koehn Mfg. Inc., 202 1st Ave. N.W., Watertown, South Dakota 57201

Hal J. Babbe, Milbank Mutual Ins. Co., E. Hwy. 12, Milbank, South Dakota 57252

Welsey Finstad, Finstad's Red Owl, 203 S. 3rd, Milbank, South Dakota 57252

Charles J. Tobin, Midland Atlas Co., Inc., 101 N. Main—Box 283, Milbank, South Dakota 57252

James Rasmussen, Gen. Mgr., Thompson Bros., Inc., P.O. Box 457, Toronto, South Dakota 57268

Wilmot State Bank, Wilmot, South Dakota 57279

Lyle W. Swenson, Davidson County Sheriff, P.O. Box 819, Mitchell, South Dakota 57301

Ron Trautman, Methodist Hospital, 909 S. Miller, Mitchell, South Dakota 57301

R. F. Weller, Mgr., Holiday Inn of Mitchell, 1525 W. Havens St., Mitchell, South Dakota 57301

Gary J. Enright, Northwestern Public Service Co., Huron, South Dakota 57350

Dick Fadgen, County Agent, Box 36, Huron, South Dakota 57350

William L. Fullerton, Fullerton Furniture Inc., 1585 Dakota South, Huron, South Dakota 57350

Alan W. Hawks, Pres., DesLauries & Hawks Chevrolet, Inc., 2nd & Wise S. W., Huron, South Dakota 57350

C. J. McEnelly, Mick's Milling Inc., Utah & Marker Rd., Huron, South Dakota 57350

W. H. "Whio" Meyer, Meyer Modernizing Co., Inc., 52-19th S. W., Huron, South Dakota 57350

Bruce J. Patten, Director-Huron Area Chamber of Commerce, 1080 Dakota Ave. S., Huron, South Dakota 57350

Wesley Peppers, The Music Center, 46-4th St. S. W., Huron, South Dakota 57350

C. John McEnelly, Mick's Milling Inc., 305 Market Road, S.E., Huron, S.D. 573°0

Ken J. Meyer, Meyer Modernizing, 52-19 S.W., Huron, S.D. 57350

Stan Ward, Ward Agency, Inc., 304 Kansas S.E., Huron, South Dakota 57350

Dennis Mennenger, Miller T.V. Sales & Service, 221 N. Broadway, Miller, South Dakota 57362

Clarence Kuiper, Home Implement Co., Inc., Box 517, Platte, South Dakota 57369

K. G. Klatt, Pres., Dakota State Bank, Box 400, Tripp, South Dakota 57379

Huebl Funeral Chapel, 15 S.E. 4th Ave., Aberdeen, South Dakota 57401

Steve Crawford, V.P., Crawford Freight Line, Inc., 315 S. Roosevelt, P.O. Box 1554, Aberdeen, South Dakota 57401

Peter O. Schmitt, V.P., Aberdeen News Co., 124 S. 2nd St., Aberdeen, South Dakota 57401

M. F. Smith, Smith Truck Sales, Inc., 102 S. 3rd St., Aberdeen, South Dakota 57401

Myron F. Walth, Brown County Co-op Ass'n, Box 1473, Aberdeen, South Dakota 57401

R. R. Deibert, Deibert's Inc., 805 7th, Eureka, South Dakota 57437

Ivor H. Ochsner, First National Bank, P. O. Box 576, Frederick, South Dakota 57441

Robert T. Wuttke, First Potter County Bank, 104 N. Exene, P. O. Box F, Gettysburg, South Dakota 57442

Royce L. Hackl, Bank of Hoven, P. O. Box 7, Hoven, South Dakota 57450

Dale Borchard, Dakota Hatchery & Mill, Box 311, Redfield, South Dakota 57469

Ted Schanzenbach, First National Bank of Selby, Box 344, Selby, South Dakota 57472

Ken Balgeman, Pres., South Dakota Retailers Association, 216 E. Capitol (P. O. Box 1026), Pierre, South Dakota 57501

Ken Beck, Beck Motors, Inc., Chevrolet-Pontiac-Cadillac, Hwy. 34 E. Box 729, Pierre, South Dakota 57501

R. H. Lucas, Lucas & Theim, Inc., 347 Pierre St., Pierre, South Dakota 57501

James H. Hunt, Mgr., Associated General Contractors of S. D., Box 488, Pierre, South Dakota 57501

Robert D. Parsons, Edward D. Jones Co., Box 609, Pierre, South Dakota 57501

Dorothy Poulos, Poulos & Hanson Real Estate, 320 E. Capitol, Pierre, South Dakota 57501

Leroy T. Hunt, Mgr., Midland Coop Mktg. Ass'n., P.O. Box 207, Midland, South Dakota 57552

Leon Miller, Miller Bros. Auto Co., Box 609, Winner, South Dakota 57580.

J. V. O'Donnell, Pres., First National Bank, Lemmon, South Dakota 57638

Dennis Olson, V. P., Wheeler Manufacturing Co., Inc., 107 Main, Lemmon, South Dakota 57638

James E. Anderson, Anderson & Call, Inc., "The Hut Party Store", 913 Mt. Rushmore Rd., Rapid City, South Dakota 57701

Robert D. Antior, Johnson Machine, Inc., 814 E. Omaha, Rapid City, South Dakota 57701

Bruce Livermore, Black Hills Electronic Supply, Inc., 1018 Jackson Blvd., Rapid City, South Dakota 57701

Milo Rypkema, Dodge Town, Inc., 1120 E Omaha, Rapid City, South Dakota 57701

Richard F. Weller, Owner, Pyreness II Restaurant, 1st Federal Plaza-Suite 900, Rapid City, South Dakota 57701

Paul E. Case, Delux Homes, Inc., Box 1405, Rapid City, South Dakota 57709

Greg Cummings, 1st American Systems, Inc., Box 3130, Rapid City, South Dakota 57709

Dr. William Duhamel, Duhamel Broadcasting Ent., P.O. Box 1760, Rapid City, South Dakota 57709

Ed Glassgow, Pres., Ed Glassgow & Associates, P.O. Box 1692, Rapid City, South Dakota 57709

Tom E. Nelson, Western Mutual Life & Casualty Co., 602 Mount Rushmore Rd., Rapid City, South Dakota 57709

Clifford Bruggeman, Owner, Cliff's Electric, 502 Roundup St., Belle Fourche, South Dakota 57717

T. E. McColley, McColley's Chapel of the Hills & Inn by the River, 401 N. Garden St. & 602 W. River St., Hot Springs, South Dakota 57747

Jack Riordan, Mountain Co., Inc., Mt. Rushmore Concession, Keystone, South Dakota 57751

William D. Cook, Pres., Brady Consultants, Inc., S. Hwy. 14, P.O. Box A, Spearfish, South Dakota 57783

Bob Behrens, Lushbough Hardware Hank, 1123 Main, Sturgis, South Dakota 57785

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. NATCHER. Mr. Speaker, October 2–8, 1977 is National 4–H Week. Currently 6 million youths and more than a half million volunteer leaders of all ages in 84 countries are looking toward a new year of involvement under the theme, "4–H—Freedom To Be."

Mr. Speaker, "Freedom To Be" is indeed an appropriate goal for our youth. The flexibility of the 4–H program, offering many and varied kinds of learning, different in scope and latitude, allows young people to have the freedom to learn, the freedom to explore—the elbow-room and the opportunity to reach toward self-determination, the basis of our democracy.

Our Founding Fathers, as we clearly remembered during our Bicentennial celebration, sought personal freedom. The 4–H's original pioneers were men and women working toward the concept of personal liberty. Their seeds have been carefully nurtured and the 4–H program has grown into a vast and significant informal youth education program.

Many accolades and tributes have been awarded the 4–H Clubs of America, as their development over the years has responded to the changing world, and contributions have been demonstrated in hundreds of areas including fire fighting, environmental improvements, energy conservation, juvenile deliquency, drugs, community programs, senior citizen activities and consumer product information along with the more traditional programs of food-nutrition, clothing, home improvement, health, safety, leadership, livestock, crops, poultry, forestry, and marketing. These accomplishments are indeed commendable and of great benefit. No program has come further or has been more adaptable in meeting needs of these times.

However, Mr. Speaker, I wish today to emphasize the value of the personal involvement of our youth in 4–H.

Stress is not placed on quantity but on quality. While offering these diversified programs, 4–H Clubs are not merely exposures to experiences, but are instead, vivid learning experiences themselves. Youths work within the clubs and learning is a complete interaction between the members, the volunteers and the task to be accomplished. It encompasses all levels. This is an ideal opportunity, a medium, for youth to share their ideas and translate their concerns into positive action.

It is this individual freedom, this ability to explore under the informal learning-by-doing programs that builds real-life goals and helps individuals become competent, productive citizens. Often the knowledge and skills 4–H'ers develop through the wide scope and range of their work opens the door to a lifetime of personal growth. This freedom challenges 4–H members to participate, to broaden, to innovate, to express themselves, to reach out, to accomplish, and to accelerate their interest and concern for others.

Mr. Speaker, 4–H enables members, rural and urban, from all racial, cultural, economic, and social backgrounds to better realize personal self-fulfillment and self-awareness; 4–H provides inexhaustible resources. The 4–H activities stress the mental, physical, and spiritual growth through total involvement of their members. It encourages, through the dedication of the volunteer leaders and the hard work of the members,

humanism, empathy, understanding, patience, and feelings of belonging and high-expectation.

In our State of Kentucky, membership in 4-H totals 170,000. The young citizens are reaching previously set goals, they are contributing to our society and are setting even higher standards and challenges. I am proud of all the 4-H Clubs in the Second Congressional District of Kentucky.

Freedom is a right as well as a privilege. I wholeheartedly commend 4-H as the provider of enriching freedom of thought and exploration. Mr. Speaker, 4-H'ers are actively working within their own motto: "To Make the Best Better," and I want to extend to them my every good wish to continue toward their own individual goals with their abundance of energy, boldness of conception, and creative spirit as demonstrated over the past 63 years.

SCHOOLS, FIRE DEPARTMENT, HIGHWAYS, WATERPLANT, ALL DEPEND ON H.R. 6530, BORROWING AUTHORITY FOR THE DISTRICT OF COLUMBIA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. FRASER. Mr. Speaker, on Monday, the House will consider H.R. 6530, to continue for another year the authority of the District of Columbia to borrow from the U.S. Treasury for its capital outlay program, rather than go to the municipal bond market with its own bonds.

The table below, from Senate report 95-439 on the District of Columbia appropriation bill, H.R. 9005, shows the great variety of local capital projects that will be without authorization if H.R. 6530 does not pass. I urge my colleagues to support H.R. 6530:

SUMMARY OF CAPITAL OUTLAY RECOMMENDATIONS

The following tabulation sets forth the capital improvements program requested in the budget and the Committee's recommendations by project:

SUMMARY OF CAPITAL OUTLAY RECOMMENDATIONS

Project title	Estimate	House allowance	Committee recommendation
DISTRICT OF COLUMBIA OBLIGATIONS			
Washington Hospital Center	$312,700	$312,700	$312,700
Childrens Hospital, grant No. 1	6,600	6,600	6,600
Childrens Hospital, grant No. 2	3,500	3,500	3,500
Providence Hospital	61,500	61,500	61,500
Casualty Hospital	19,500	19,500	19,500
Columbia Hospital	18,000	18,000	18,000
Georgetown Hospital	29,800	29,800	29,800
Sibley Hospital	65,600	65,600	65,600
Cafritz Memorial Hospital	30,400	30,400	30,400
Saint Elizabeths Hospital	3,345,900	3,345,900	3,345,900
Total, District of Columbia obligations	3,893,500	3,893,500	3,893,500
PUBLIC BUILDING CONSTRUCTION			
Public Schools			
Perry-Simmons Elementary School Replacement	7,709,000		
Bell Career Center Modernization	4,835,000	4,835,000	4,835,000
Phelps Career Center Modernization	5,475,000	5,475,000	5,475,000
Hendley Elementary School Playground	451,500	451,500	451,500
Total, Public Schools	18,470,500	10,761,500	10,761,500
University of the District of Columbia			
Downtown Permanent Campus, Phase I	56,696,400	56,696,400	56,696,400
Public Library			
Lamond-Riggs Branch Library	1,659,000	1,659,000	1,659,000
Department of Recreation			
Fairfax Recreation Center Ground Development	301,500	301,500	301,500
Fire Department			
Fire Apparatus Replacement	500,000	740,000	740,000
Engine Company No. 11, Replacement	1,808,500	1,808,500	1,808,500
Total, Fire Department	2,308,500	2,548,500	2,548,500
Department of General Services			
Permanent Improvements, Various District Buildings	5,925,000	5,625,000	[1] 1,240,500
Conversion of Juvenile Court Building Judiciary Square	880,000	880,000	880,000
Municipal Office Building	35,000,000	35,000,000	(1)
Total, Department of General Services	41,805,000	41,505,000	2,120,500
Municipal Planning Office			
Washington Civic Center	27,700,000	27,000,000	
Total, public building construction	148,940,900	140,471,900	74,087,400
Washington Metropolitan Area Transit Authority			
Metro Rapid Rail Contribution	$8,353,500	$8,353,500	$8,353,500
Department of Transportation			
Highway Fund			
Bridge Replacement/Rehabilitation	4,861,000	4,861,000	4,861,000
Street Improvements and Extensions	3,000,000	3,000,000	3,000,000
Safety Improvements and Realignment of Intersections	80,000	80,000	80,000
Minnesota Avenue, NE	108,000	108,000	108,000
Bicycle Network	50,000	50,000	50,000
Total, Department of Transportation, Highway Fund	8,099,000	8,099,000	8,099,000
Department of Environmental Services			
General Fund			
Relief of Flooding and Drainage Complaints	500,000	500,000	500,000
I-95 Site Development	600,000	600,000	400,000
Capitol Hill Relief Sewer	1,300,000	1,300,000	1,300,000
Total, Department of Environmental Services, General Fund	2,400,000	2,400,000	2,200,000
Sanitary Sewage Works Fund			
Service Sewer Extensions	400,000	400,000	400,000
Advance of Paving and Miscellaneous	400,000	400,000	400,000
Oxon Run Sanitary Relief Sewer	250,000		
Total, Department of Environmental Services, Sanitary Sewage Works	1,050,000	800,000	800,000
Water Fund			
Water Service Extensions and Fire Hydrants	1,000,000	1,000,000	1,000,000
Replacement of Undersized and Defective Watermains	350,000	350,000	350,000
Trunk and Secondary Watermains	200,000	200,000	200,000
Elevated Storage Tank	1,400,000	1,400,000	1,400,000
Total, Department of Environmental Services, Water Fund	2,950,000	2,950,000	2,950,000
Total, Department of Environmental Services	6,400,000	6,150,000	5,950,000
Washington Aqueduct			
Replacement of McMillan Filtration Plant	750,000	750,000	750,000
Major Plant Replacement and Rehabilitation	190,000	190,000	190,000
Washwater and Basin Sludge Disposal, Dalecarlia and Georgetown	850,000	850,000	850,000
Total, Washington Aqueduct	1,790,000	1,790,000	1,790,000
Total, capital improvements program	177,476,900	168,757,900	102,173,400

[1] Recommendation of $5,625,000 for Permanent Improvements to Various District Buildings to be funded by appropriation of $1,240,500 and remaining $4,384,500 by reprograming balance of funds available from the Lorton Improvement Program. Request of $35,000,000 for a Municipal Office Building to be funded by reprograming balance of funds available from the Lorton Improvement Program.

ENDORSEMENTS FOR MEDICAL RECORDS CONFIDENTIALITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. CRANE. Mr. Speaker, tomorrow, the House is expected to vote on H.R. 3, the medicare/medicaid anti-fraud and abuse bill and amendments thereto. The Ways and Means Committee adopted the Crane-Stark amendment, prohibiting the acquisition, disclosure, or inspection of individually identifiable medical records by Government agencies and their employees, without the consent of the patients. This amendment is contained in the bill as reported in section 5( ), beginning on page 66, line 22 and ending on page 70, line 5.

At this time I would like to point out that my amendment has received endorsements from the American Osteopathic Association, the National Association of Chain Drug Stores, Inc., and the National Association of Retail Druggists. I am enclosing copies of these endorsements for the record.

Both physicians and other medical personnel, such as pharmacists, are concerned over the increased inspection of medical records by various Government agencies, in violation of the patients' rights to confidentiality in seeking medical treatment. Although I have cited numerous examples of Government use of medical records in previous statements before this body, it has recently been brought to my attention that HEW is now seeking access to prescription records of private patients, in addition to those of medicare and medicaid patients. These prescription records are just as much a part of the patient's medical records as the records kept in his physician's office, and I want to make it clear that the definition of medical records as stated in the Crane-Stark amendment is intended to include prescription drug files. I also intend to ask HEW for a full explanation of its practices regarding these drug files, which would seem to run counter to its repeated assurances that it supports the concept of medical records privacy.

The material follows:

SEPTEMBER 6, 1977.

Hon. PHILIP M. CRANE,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CRANE: On behalf of the American Osteopathic Association, I wish to commend you for your leadership in attempting to protect the confidentiality of patients records particularly with regards to the "Medicare/Medicaid" Anti-Fraud and Abuse Bill.

I have enclosed a copy of a resolution recently approved by our House of Delegates expressing the Association's support of your efforts.

Thank you for your involvement and I wish you continued success in this endeavor.

Sincerely,

JOHN S. PERRIN,
Director.

RESOLUTION

In July, 1977, the House of Delegates adopted the following resolution:

Whereas, there is increasing federal involvement in the health care system, via PSRO, HEW, Medicare and Medicaid; and

Whereas, there has been greater invasion of medical records by insurance companies and various news media; and

Whereas, the protection of privacy of patient records is a tenet of the Hippocratic and Osteopathic oaths; and

Whereas, it is essential for complete patient care to have freedom of expression, without fear of revelation; therefore, be it

Resolved, that the American Osteopathic Association constantly endeavor to obtain legislation to protect the confidentiality of patient records.

AUGUST 25, 1977.

Hon. PHILIP M. CRANE,
Longworth House Office Building,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CRANE: The National Association of Chain Drug Stores, Inc., (NACDS) wishes to express interest and strong support for your amendment which would prohibit Federal agencies from having access to the medical records of private patients.

It is our firm belief that this provision regarding safeguards to protect the medical records of private patients should be incorporated in the Medicare-Medicaid Anti-Fraud and Abuse Amendments (H.R. 3) when the House votes on this legislation.

Of particular concern to our membership is that the Department of Health, Education and Welfare (HEW) and state Medicaid agencies are attempting to gain access to the prescription drug files of private patients. In brief, we believe that this sort of activity is an unwarranted intrusion into the practice of pharmacy and a blatant invasion into the privacy of patients who are having their prescriptions filled in our stores. Thus, NACDS on behalf of our entire membership, which consists of more than 200 corporations that are operating in excess of 100,000 drug stores and 1,500 leased pharmacy departments throughout the United States, registers support for your amendment. It is our hope that the language contained in this amendment will include prescription drug files under the definition of medical records.

Sincerely,

TY KELLEY,
Vice President, Government Affairs.

SEPTEMBER 9, 1977.

Hon. PHILIP M. CRANE,
Longworth House Office Building,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CRANE: The National Association of Retail Druggists is gratified that you have succeeded in having H.R. 3 amended in committee in order to protect the medical records of private patients from the scrutiny of federal agencies. We want to assure you of NARD's support for your amendment and we will also ask our members to contact their representatives in Congress to gain their support when the measure comes to the House floor.

We trust that "medical records" includes the prescription drug files of the private patients of the 30,000 independent pharmacies that NARD represents. We are increasingly concerned that the Department of Health, Education and Welfare, as well as state Medicaid bureaus, are attempting to gain access to the Rx drug records of the stores we represent, which we feel is a glaring intrusion into the privacy of these patients.

May we recommend that the language of your amendment be clarified to specifically include the protection of the prescription drug files of private patients.

Sincerely,

WILLIAM E. WOODS,
Executive Vice President.

THE ROLE OF CHURCHES IN THE JOHNSTOWN FLOOD

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. MURTHA. Mr. Speaker, before the advent of instant communications and our hectic life pace, the communities of our Nation revolved around area churches and the services and friendship they provided.

During the devastating floods that hit Johnstown on July 19-20, some of that past returned. The area was largely isolated from outside communications. More important, the tremendous job done by church officials and congregations became a key in helping citizens and restoring community life.

The churches provided a range of many vital services. Most important among them were: Collecting food and clothing; providing shelter; distributing supplies; feeding homeless citizens; and, of course, providing the spiritual leadership essential to restoring faith in a community that has been so devastated by the forces of nature.

In reviewing those hectic days, the special efforts of a number of churches come to my attention, and would like to list them for a special place in this journal of American history:

Park Avenue United Methodist Church, Rev. William Huson, Park Avenue, Johnstown, Pa. 15902.

St. Benedict's Catholic Church, Rev. Joseph R. Kiniry, 2310 Bedford Street, Johnstown, Pa. 15904

St. Mary's Greek Orthodox Church, Rev. Anthony Mortessis, 435 Somerset Street, Johnstown, Pa. 15901

St. Anne's Catholic Church, Rev. Hubert Konieczny, P.O. Box 400, Holsopple, Pa. 15953

Bethel United Methodist Church, Rev. Robert Callihan, Box G, Holsopple, Pa. 15953

Laurel-Trinity Lutheran Church, Rev. Jesse E. Wolfe, Box 185, Jennerstown, Pa. 15547

Benscreek Lutheran Church, Rev. Arthur L. Mentzer, R.D. No. 2, Holsopple, Pa. 15953

Maple Spring Church of the Brethren, Rev. Carroll S. Ringgold, R.D. No. 1, Holsopple, Pa. 15953

St. David's Lutheran Church, Rev. Lurther A. Gotwald, 100 S. Main Street, Davidsville, Pa. 15928

St. Gregory's Church, Rev. Richard Conti, 120 Boltz Street, Daisytown, Pa. 15902

Salix United Methodist Church, Rev. John F. Olexa, Box 106, Salix, Pa. 15952

St. Johns The Baptist Church (Woodvale), Rev. Andrew Ulicky, 606 Maple Avenue, Johnstown, Pa. 15902

St. Patrick's Church, Msgr. Rodney F. Hemler, 609 Park Avenue, Johnstown, Pa. 15902

The Seventh Day Adventist Church, Reverend Michael Miller, 1035 Goucher Street, Johnstown, Pa. 15905

Recognition should also go to the Greater Johnstown Council of Churches which coordinated much of the community activity. This effort included:

Rev. Hieromonk Nicholas, President and Coordinator.

Reverend John Kraus, Assistant Coordinator.

W. D. Dibrell, Domestic Disaster Coordinator for Church World Services.

District Coordinators were:

Rev. Fitzhugh Lyons, East Conemaugh.

Rev. Robert Vhisler, Morrelville.

Rev. David Dodson, Cambria City.

Rev. A. E. Surrett, Hornrstown.

Rev. William B. Husor, Moxham.

Rabbi Rav A. Soloff, Beth Sholam Congregation.

Very Rev. Msgr. John Yurcism, Dean of Christ the Savior Cathedral in Morrelville.

ORGANIZED LABOR'S POLITICAL CONTRIBUTIONS IN 1976

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. VANDER JAGT. In recent days, Mr. Speaker, I received a copy of a report by the Public Policy Research Corp., of Washington, D.C., entitled "Organized Labor's Influence on House Committees." In discussing this very revealing document with other Members, it was suggested that because of its wide interest and impact on all Members of the House that it should be inserted in the RECORD. This I am doing although excluding the listing of contributions by organized labor to individual Members. Instead, the following listing focuses solely on labor's contributions to committee members by political party. I would report, however, that as a member of the House Committee on Ways and Means I am listed as receiving $600 from organized labor. The entire listing of organized labor's political contributions in 1976 is as follows:

House committee	Contributions to— Democrat members	Republican members	Total
Agriculture	$499,151.06	$6,700.00	$505,851.06
Appropriations	393,572.11	23,622.98	417,195.09
Armed Services	293,728.11	8,550.00	302,278.11
Banking, Finance and Urban Affairs	779,844.29	4,000.00	783,844.29
Budget	365,422.84	1,750.00	367,172.84
District of Columbia	184,081.86	8,008.00	192,089.86
Education and Labor	502,096.40	17,467.20	519,563.60
Government Operations	474,608.72	10,673.97	485,282.69
House Administration	308,683.52	700.00	309,383.52
Interior and Insular Affairs	575,910.72	20,700.00	596,610.72
International Relations	261,431.23	14,749.40	276,180.63
Interstate and Foreign Commerce	680,710.49	24,907.48	705,617.97
Judiciary	$229,799.11	$6,000.00	$235,799.11
Merchant Marine and Fisheries	481,115.30	19,623.97	500,739.27
Post Office and Civil Service	371,898.30	10,841.40	382,739.70
Public Works and Transportation	483,600.89	15,150.00	498,750.89
Rules	203,730.85	3,550.00	207,280.85
Science and Technology	509,749.25	4,425.00	514,174.25
Small Business	413,183.71	24,002.98	437,186.69
Standards of Official Conduct	10,250.00	5,150.00	15,400.00
Veterans Affairs	294,948.52	10,150.00	305,098.52
Ways and Means	345,336.10	2,850.00	348,186.10
Grand total	8,662,853.38	243,572.38	8,906,425.76

THE PLIGHT OF THE BRAZINSKASES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. DORNAN. Mr. Speaker, there are presently residing in the United States a father and a son who exemplify the love of liberty and dedication to human rights which have made our Nation great. Pranas Brazinskas and his son, Algirdas, fled the brutality of the Communist occupation of their Lithuanian homeland and have sought asylum in the United States. Their story is a story of bravery and long suffering and is deserving of our attention. I do not believe that anyone who knows of their trials will support efforts now underway by the Justice Department to return them to their Soviet captors.

Their story follows:

The Brazinskas family has a long history of fighting for the freedom of Lithuania. Stasys Brazinskas, the father of Pranas and grandfather of Algirdas, died while fighting the Soviet occupation of his homeland. His son, Pranas, shared his father's love of freedom and engaged in guerrilla warfare against the Soviet occupying forces. Throughout the years, Pranas has been incarcerated in many concentration camps and prisons in the Soviet Union for his action in defense of Lithuania. Algirdas chose to join his father in his struggle for freedom as soon as he reached puberty.

Despite their many imprisonments, the Brazinskases continue to oppose the Soviet occupation of Lithuania. In 1969, a Soviet dragnet began to close around the two freedom fighters for their political activities. Having been alerted to their danger, Pranas and Algirdas planned an escape by diverting a Soviet plane. They eluded the Soviet agents and made their way to the town of Batuai on the eastern edge of the Black Sea.

On October 15, 1970, the father and son boarded an Aeroflot civilian plane and—without violence—ordered the pilot to divert the flight to Turkey. Unbeknown to them, a Soviet agent, a "chekist," was also on board the flight. When the agent learned of the Brazinskas' demand, he opened fire on them. A Russian stewardess was caught in the crossfire and was killed. A Russian radio engineer was also wounded. Despite this struggle on board the plane, the flight landed in Trabzon, Turkey.

Although the Brazinskases were taken to jail upon their arrival, an Istanbul court ruled 2 days later that they had had political motives for diverting the flight and were entitled to go free.

For the following 4 months, the Soviet Union brought pressure to bear on the Turkish Government to overrule the decision of the Istanbul court and on March 8, 1971, a special commission was established to handle the Brazinskas case. This special, extra-judicial commission, under extreme pressure from the Soviet authorities, overturned the previous court decision and voted to return the man and the boy to Russia and certain death.

But as fate would have it, the Turkish Government itself was overthrown 4 days later and the new regime recognized the justice of the Brazinskas case. They were allowed to remain in Turkey as free men.

But only for a short time. Since they were indigent, they were forced to surrender themselves for voluntary incarceration. This was the only means by which they could receive aid from the Turkish Government and stay alive.

After nearly 3 years in a Turkish jail, a general amnesty is declared on May 21, 1974, and the Brazinskases were once again free. Since they had no place to go, they were sent to a refugee camp in Turkey where they spent the next 2 years under guard.

Then in the early part of June 1976, a Turkish friend was able to warn them that the Turkish Government had struck a secret deal with the Soviets and they would soon be turned over to the Soviet Union. In fear for their lives again, the Lithuanians escaped the camp through a trapdoor.

Six weeks later, after negotiations with the American Embassy in Ankara and the Turkish police, the two were allowed to leave Turkey. For the next 6 weeks, the father and son were shunted from Turkey to Rome to Lisbon. When in Lisbon, they received word that they could emigrate to Canada.

On their way to Canada, they stopped in New York. Once in New York they made their way directly to the General Consul of Free Lithuania.

Since that time, they have pursued every avenue of relief to enable them to remain in America. They have been supported in their efforts by the Lithuanian community in America and by the Lithuanian government-in-exile.

In spite of the justice of their case, our Justice Department has decided to send them back to Communist imprisonment and certain death.

All Americans who believe in liberty must certainly be amazed to learn that our Justice Department would consider deporting Pranas and Algirdas. This father and son who have suffered the worst of Soviet brutality and oppression should be heroically welcomed into our country. I, for one, am appalled that an agency called "Justice" does not recognize its true role in this case: To defend the Brazinskases.

This Nation has long been the sole hope of millions of enslaved people around the world. For our Government to surrender the Brazinskases to their oppressors would extinguish that flame of hope.

BRITAIN IN TRANSITION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the politically-rooted economic problems of Great Britain.

BRITAIN IN TRANSITION

(By Henry Huglin)

LONDON.—More than in most advanced countries, Britain is in transition—from the political, economic, and social structure, built up over the centuries, to something somewhat different—but just what is not now discernable.

For us Americans, there may be important lessons in Britain's plight and future. Peter Jay, the new British ambassador to the U.S., wrote recently: "We in Britain are a confused and unhappy people . . . So, too, are our many friends in the U.S. who rightly see in the anguish of the United Kingdom the advanced stages of a disease that has already taken hold throughout Western Europe, and that is beginning to show its unmistakable symptoms in the U.S.

But, just now, during Queen Elizabeth's jubilee celebration, the pride and pomp and circumstance—and apparent affluence and bustling activity—mask the economic, social, and political problems gnawing away at Britain.

For many years now, Britain has been plagued by mounting internal political troubles. Most serious is the tragedy of the interminable internecine terrorist warfare of Northern Ireland. Also, there is the move for Scotch and Welsh regional authority, and consequent eroding of central government power.

Then, their residual class system has become a major British handicap. Although opportunity and upward mobility have improved, there are still remarkably strong feelings of class distinction and identification, which lead to polarized class attitudes of "us against them." Further, the two major political parties, Conservative and Labor, are strongly class linked.

But Britain's most serious problems derive from politics—in weak political leadership and growing, self-centered clout of the labor unions. Yet, the major effects are now economic.

The Economist magazine has described Britain's plight: ". . . these Elizabethan years of great worldwide advance have been years of relative national decline. In 1952 Britain's GNP per head was 1½ times West Germany's and 4½ times Japan's. Though a Briton today is 69 percent better off than he was in 1952, he is only between one-half and three-fourths as prosperous as a Japanese or German."

In Britain, the rewards for hard work and initiative, and for return on capital investment have been greatly eroded. Hence, much of Britain's industry is stagnating.

Unemployment is at a record 40-year high. And there was a drop in real purchasing power last year of 3.5 percent.

Productivity is only about half that of other Western European countries.

Living standards are slipping, due to high inflation, which has been 25 percent and is still 17 percent. The government's hope is to reduce it to 10 percent, which will still be twice ours.

There has recently been some good economic news, but it is not long-term.

The labor union leaders, with their great political leverage and selfish irresponsibility, are getting the government to bow to their will.

The present Labor Government's "social contract," in which the unions agreed to restrain their wage demands, has recently collapsed. The unions are demanding from 15 percent to 30 percent in raises, in contrast to the 10 percent set by the government to hold down inflation and to try to stabilize and rejuvenate the economy.

From all this, Haseler, in a recent book, "The Death of British Democracy," sees a process underway of weakening British institutions and an "increasingly ungovernable and dangerous plurality of starkly conflicting ideologies and interests."

Some commentators even believe that the struggle in Britain is part of a general struggle in the world between totalitarianism and freedom.

What are the lessons in this for us?

Well, Britain is a sobering example of too much emphasis on economic equality and security at the expense of rewards for initiative, skill, and hard work; too much redistribution of what wealth there is at the expense of creating new wealth; and too much welfare, at the expense of economic incentives for society's development and economic expansion. Thus, an inexorable downward economic spiral has been created.

Then, the bad consequences are clear of one sector of society—in this case, the labor unions—getting too much political power.

Of course, the British are basically a talented, sensible, experienced people. They have risen effectively to other great challenges, but those were external. They may pull through their present crisis and rejuvenate their system, but it is not at all certain that they will do this and remain democratic.

We Americans can fervently hope the British will pull through in good shape; and we need to draw useful lessons from their experience for ourselves.

THE JOHNSTOWN FLOOD OF 1977—PART III

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. MURTHA. Mr. Speaker, in the third part of this series on the Johnstown Flood of 1977 as outlined in an investigative reporting piece by Dave Leherr and Stuart Brown of the Pittsburgh Post-Gazette, they discuss two problems that could affect many other communities—warning devices against a natural disaster and the safety of dams.

In Rockville, Md., late last week, Edward S. Epstein of the National Oceanic and Atmospheric Administration got a call to make a hurry-up visit to the Johnstown area.

NOAA—known conversationally as "Noah"—is part of the same federal department as the weather service, the Commerce Department. As NOAA's associate administrator, Epstein headed a seven-member federal team that surveyed the devastation and looked for recommendations.

He spent two and a half days in the flood region. His team's report will be long and probably won't be ready for six weeks. But, Epstein said this week, he is appalled by what he saw and heard. One of his first conclusions is likely to be, he said, that the flood warning systems were inadequate.

"It's as simple as this. The message didn't get in or out," Epstein said in a telephone interview. "The rain that really topped it all off began nearer to 1 a.m. (July 20) and by that time it was too late for many people.

"Could lives have been saved? The answer has to be yes, if—and this is a big if—there were flood warning programs in effect and if people had responded to them.

"For example, there were people who lost their lives in trailers at Seward (Westmoreland County). That happened fairly late, say, after 3 a.m. With a total system of warning, communications and preparedness, lives there would have been saved."

Epstein recalled last April's flood disaster in the Tug River Valley of Southern West Virginia and Kentucky.

"There were similarities with Johnstown but it wasn't a single, intense storm like this; it lasted several days and it was bad but lives were saved."

One reason, he said, was an automatic early warning system.

By contrast, Epstein mentioned a disaster at Big Thompson Canyon in Colorado almost a year ago, where a flash flood killed more than 125 persons, mostly campers.

That tragedy, he said, led to a system that includes waterborne flood alarms resembling toilet floats, placed in streams and ringing alarms after a certain level is reached. An alarm might sound in a sheriff's office, he said.

"Fifty or 60 communities around the country already have things like this, some of them in Pennsylvania," Epstein said.

And there are other techniques, he added—better links between observers and weather offices, more extensive use of radar, a more thorough listing of the whereabouts of rain gauges, where they are and who's responsible for checking them.

"One thing that occurs to us here (in the Johnstown situation) is that the first reports of a flood should perhaps go to local authorities, someone with responsibility to deal with such things as evacuation.

"One thing we've learned in all our disaster work is you cannot rely on any single method of dissemination of information because no one method is going to do the job.

"So you have to ask this question: How would people in Johnstown have reacted a month ago if someone had come in and said, 'You need contingency plans for a flash flood'? Would they have accepted that notion?"

"This was a once in 500-year type of flood," says U.S. Rep. John Murtha of Johnstown who represents most of the flood-ravaged district.

Johnstown Mayor Herbert Pfuhl describes it more dramatically.

"This flood came from the top down," he says. "It was not a flood of river water, it was a flood of rain water. It was run-off. It was like walking to the top of a mountain and coming face to face with a 15-foot high wall of rampaging water that was going to wash you back down."

The runoff, spawned by as much as 12 inches of rain in six hours at some points, contributed almost totally to the breakdown of the dams, says the U.S. Corps of Army Engineers.

Laurel Run, owned by the Johnstown Water Authority and critical to the Johnstown area in maintaining city water pressure, was by far the most disastrous break.

The break unleashed 110 million gallons of water on the village of Tannervville and other homes downstream and is believed responsible for a large number of the deaths, although at this point there's no accurate barometer.

"Forty-five of the dead victims have Johnstown addresses: who knows how many of them were in Tanneryville or along the path of that water?" state police say.

Weather Service rain measurements in that area hit the 12-inch mark.

"That's one helluva lot of water to be going over a dam," says George Cingle, Jr., chief of planning for the Pittsburgh district of the Corps of Engineers and director of its flood emergency operations center here.

"The gush of water totally overflowed the structure and eroded the downstream section of the dam until it could take no more and crumbled. With that kind of volume and intensity of water pouring over the dam, you couldn't expect anything else."

Cingle says the story was apparently the same at five other dams that broke on Otto Run and Sandy Run in Adams Township, Peggy's Run, and two unnamed streams near Ebensburg and St. Michael, all in Cambria County.

None of the dams was a corps dam or a state dam. The only corps dam in the area is the Conemaugh, built in 1952 at a cost of $46 million. It held and did its job.

"It worked beautifully," says Cingle. "Without it, there's no telling the additional destruction the flood would have caused."

It might have even hit parts of Pittsburgh as it rampaged down the Allegheny River.

Although not state dams, state law requires periodic inspections of them by the Pennsylvania Department of Environmental Resources.

Joseph Ellam, head of the dams section in DER's division of dams and encroachment, says the Laurel Run Dam was last inspected in May of 1976.

"The dam was in satisfactory condition, there was nothing wrong with it," says Ellam. He, like Cingle, says the reason it broke was because "it just got too much water in such a short period of time."

But for others, like U.S. Sen. H. John Heinz, R-Fox Chapel, who toured the flood stricken area twice, that explanation was not enough.

"The Laurel Run Dam was built in 1918 or 1919, it was 60 years old," says Heinz. "The minimum standards for safety have changed drastically since then. What we desperately need is a dam safety and upgrading program at the federal level.

A report being circulated in Washington, D.C., by Dan Cook, chief investigator for a subcommittee of the House Government Operations Committee, also cities an inadequate warning system as one of the major problems in the flood.

"Inadequate Civil Defense warning system procedures coupled with the late hour during which most residents were asleep probably contributed to the loss of life," says Cook.

"It seems ridiculous to me that the Army Corps of Engineers is responsible for protecting the water quality of virtually every stream and rivulet but we don't give the same attention to saving people's lives on the same water courses."

Confusion, contradiction and controversy still surround the breakup of the Laurel Run Dam. Officials says the report that the dam was still intact 24 hours after it broke was probably because those giving the reports actually thought it still stood.

But when it did break, apparently it was sudden and inescapable.

Ellam quotes the caretaker assigned to the dam by the Johnstown Water Authority as saying he saw water flowing over the top of the dam early Wednesday morning while flashes of lightning lit up the sky.

Moments later, about 3 a.m., the caretaker says he heard a loud noise, a rushing of water and what sounded like the dam breaking up. Other officials say the caretaker had no time to issue a warning or call anybody. It all happened too quickly.

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Would a network of Corps dams along the tributaries and streams where the flood hit have made a difference?

It's another one of those questions that the Corps of Engineers says it can't answer. Hindsight never resolves anything.

But more significantly, the Corps says it's a matter of economics.

"I seriously doubt if economically we could justify all the things that would have to be done to stop this kind of flood," says William Salesky, hydrologic engineer for the Corps.

"The cost of any such projects would far exceed the benefits, especially in light of the freakish nature of what happened."

Salesky and Cingle both make the point that now—in the wake of the ravage and desolation—people will say the dams should be built along all the runs and tributaries that flooded the Conemaugh basin.

But before the flood, the story would have been different.

"There's a new era today," says Cingle. "I don't suspect that today we could even build the Conemaugh Dam or the Kinzua Dam (a $110-million structure completed in 1969 near Warren)."

When there are no floods or threats of floods, people don't want flood control projects built in or near their home towns, says Cingle.

"They don't like the idea of spoiling the natural setting, because that's why they move to areas around water in the first place," Cingle says.

"They don't want the environment destroyed by protective devices. They don't like the idea of relocation that accompanies major projects like dams. And in this particular area we also have the problem of worked out coal mines to contend with in building dams."

And even if new dams are built, Cingle goes on, until something hits, their value is totally theoretical.

"You can look at a dam six ways from center while it is being planned and built, but it's all still theoretic: This is where you start chasing your own tail."

Meanwhile, the Corps and the state DER are working around the clock to make sure the 60 to 70 other dams in the Johnstown area are secure.

The word so far is that there is no danger of any giving way.

Some are giants like the 42-foot-high Willmore Dam owned by Bethlehem Steel Co. with a capacity of 1.25 billion gallons of water; or the 84-foot-high Hinkston Dam, also owned by Bethlehem with a capacity of 1.125 billion gallons of water.

"We're keeping a daily watch," says the Corps. "We have to."

Whether the six destroyed dams will be rebuilt or what it will cost if they are is still uncertain.

Laurel Run would seem a must because of its crucial role in Johnstown's water supply.

GENERAL JONES' SPEECH TO THE AIR FORCE ASSOCIATION

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. WRIGHT. Mr. Speaker, on Tuesday, September 20, 1977, Gen. David C. Jones, Chief of Staff, U.S. Air Force, delivered an outstanding address to an Air Force Association convention luncheon in his honor in Washington, D.C.

Because of the significant content of this speech, particularly as it relates to this Nation's defense posture as well as other topics of such vital interest to all of us in the Free World, I am pleased to call to the attention of my colleagues the text of General Jones' remarks:

ADDRESS BY GEN. DAVID C. JONES

Mr. Secretary, members of the Air Force Association, ladies and gentlemen.

One of the highlights for the Chief of Staff of the Air Force each year is the annual convention of the Air Force Association. I always welcome this opportunity to get together with many friends and to say thanks to the great supporters of the Air Force and of a strong national posture.

As you know, this year's convention, marking the Air Force's 30th birthday, will be my last as Air Force Chief. I would like to use this opportunity to share with you a few summary observations about how far we have come and some judgments about where we should be going.

As I look back at events over the 30 years of our history, the phenomenon that strikes me most is the tremendous explosion of technology. The progress has been revolutionary and new opportunities are emerging almost daily.

The same year AFA was formed, scientists at the University of Pennsylvania unveiled the first practical digital computer. It contained 19,000 vacuum tubes, sprawled over 15,000 square feet, weighed 30 tons. That same computing power is available today in an integrated circuit the size of a sugar cube.

Technological changes have permeated our entire society, and because ours is such a highly technical Service, the impact on the Air Force has been continuous and dramatic. Moreover, the rate of technological breakthrough in the days ahead will increase almost exponentially.

One of the key challenges of the future—for the Air Force and for the nation—is to continue to act responsibly and wisely as we soar up the technological curve.

For, when I see man's giant strides in technology in only a few years—from being totally earthbound to walking on the moon—and compare this to the lack of progress man has made in dealing with men, I am struck by the stark contrast. The ideals of human dignity, charity, brotherhood and justice have been recognized for thousands of years. Yet we are little closer to achieving them on a global scale than when Christ preached the Sermon on the Mount. To this day, man abuses man. There is hostility, false pride, inability to work with each other. This was brought home to me very clearly two weeks ago when I was in Korea. At Panmunjom, I looked at the hostility in the eyes of the North Korean soldiers, then went by the stump of the tree where the two American Army officers were so tragically and brutally murdered just a year ago. The experience caused me to reflect once again that we live in a world with far too many fences and not enough bridges.

Thirty years ago, there were barely 50 nation states on the earth, and now there are more than three times that many. This growth in the family of nations has many good aspects, for it is a consequence of eliminating many of the vestiges of colonialism. But there are many old and some new frictions. Many of these states are not economically viable and face great difficulty in the days ahead. We have finite resources on this beautiful planet. Appetites are growing and the resources are diminishing. A rise in terrorism and the threat of nuclear proliferation pose continuing problems for man in his dealings with man—competition, hostility, continuing tension—even if we did not have differences between the Soviet Union and the United States.

The key consideration for us, and perhaps for this planet, is the relationship between our two countries. There are very fundamental differences—differences that will continue regardless of cooperation and negotiations. We are an open society; they are a closed society. When we try to exercise influence, it is to maintain access, to work on a cooperative basis; their influence is typically used to gain control. We generally want stability in the world so we can encourage international progress and improvements in an evolutionary way. The Soviets often promote instability, except in their own sphere of influence—instability where vacuums could be created allowing them to gain a foothold. Cooperation between our societies has seldom been unequivocal.

So, unfortunately, we must anticipate continuing differences—different ideals, different goals and means, different priorities. It is important that we understand the Soviets, that we not mirror image, and not assume that they think as we do.

In order to prevent this in the Air Force, we formed a group in the Pentagon called CHECKMATE. We have a "Red" team and a "Blue" team. The "Red" team has been told to "think Soviet"—study the history, read everything available in classified and open literature, get inside the Soviet mind. We try to get the Red team thinking from the Soviet perspective, examining what they might do, what options are feasible and appealing. Then the Blue team, faced with this simulated confrontation, reacts to see how we and the West should respond.

I would like to put on the 'Red" hat for just a few moments and invite you to imagine yourself in the Kremlin to see how the world might look from that perspective. The view is mixed—some minuses and pluses.

On the one hand, we face some serious problems. Our GNP growth is slowing and there are many who predict that it will be almost stagnant in the 1980s. We face chronic problems in our agriculture—some good crop years but in general a need to use hard currency to import foodstuffs. There is reason to believe we could have an energy problem and move from being a net exporter to net importer of petroleum.

We have a vast oil reservoir in Siberia, but it is imprisoned in permafrost and to exploit this resource will demand tremendous capital investment. Tapping that oil and transporting it West of the Urals will be a very difficult and expensive undertaking.

There is some restlessness in our Soviet republics and in our East European nations. We have a lid on it now, but we have long memories; our experiences in Poland, East Germany, Hungary, and Czechoslovakia have taught us that, if we do have problems in the economy or with our agriculture, or if we relax our vigilance and controls, there are seeds of great dissension ready to sprout overnight.

We look beyond our borders and see the pressure of a billion Chinese at our back door. In the Middle East, we took two steps forward and three back, with scant political return on decades of military investment. In Africa, it is a mixed bag. We see opportunities, involvement, footholds—but with Soviet arms clashing with Soviet arms in Ethiopia and mistrust elsewhere, we face difficulties and uncertainty as to where we will stand in the long run. Overall in our diplomacy, we find some bargain hunters, some hangers on, but few friends.

As we look across the ocean at our principal adversary, the United States, we see a very resilient society. It has bounced back from the body blows dealt by Watergate, Vietnam, and riots in the streets. It has climbed out of the depth of recession and the economy is on the upturn, though at an uncertain pace. After 60 years we are still compelled, in so many ways, to look up to America—and things are looking up in America.

Despite all these minuses, there are some pluses in our Kremlin tally sheet. I won't try to enumerate all, but will touch on some key ones. First, America's dynamic chain of economic and social vitality has some fragile links. One is a self-inflicted dependence on foreign sources of oil—sources not far from my borders. Another is an excessive social and economic intricacy, in which a power failure in her largest city spawned virtually a shutdown of the city and widespread looting. A third is a uniquely American ingenuousness, sometimes bordering on the naive: a tendency to become complacent, to expect the best from others because they wish it so, to be caught off guard and less than ready if attacked. They always respond when the signals are unmistakable or the first blow has been received, but the response often takes a long time. Finally, I see a nation never completely at ease with the power—especially the military might—it has so patiently built.

Meanwhile, the biggest plus that I see from the Kremlin is my own military capability. For the first time in our history, there is no serious threat of invasion of Mother Russia. We have now matched the United States in the strategic field. (Even the Americans admit this, and there are some who say we have surpassed the Americans in this all-important area of strategic power.) We have the largest ICBM force in the world—the most megatonnage, the most destructive capability. We have the largest army in the world, well equipped, mobile, and heavily armored. We have a new navy—not long ago a coastal force and now a true blue water fleet—modern, well equipped, with range almost worldwide. And we have a new air force. Formerly, our aircraft were limited by very short range, small payload and not much sophistication in their avionics. All that has changed and our equipment is modern and highly capable. In sum, we're strong at home and in our neighborhood, but we have also achieved a substantial land growing capability to project that strength to many parts of the world.

Despite the great production capacity in the United States, we in the Soviet Union outproduce our opponent in military hardware in almost every respect. And during a crisis or buildup, we could continue to outproduce them in hardware for many months and in some cases for years.

From the Kremlin, I see a mixture—constraints and options and opportunities. And I may hear voices—voices on the one hand saying, "We face problems in our economy, in tapping the oil in Siberia, many challenges, a need for Western capital and technology. It would be best if we cut back on our investment in military hardware and expanded cooperation with the West—that course would provide the greatest opportunity for the Soviet Union in the days ahead."

On the other hand, I may hear other voices, likely to be louder, saying, "That is not the path. It is only our military power that gives us influence abroad. We are not a superpower from an economic standpoint; we are not a superpower from a technological standpoint. Our political influence in the world stems from our military capability, and our opportunities may come externally. There will be vacuums and confusion in the world—there will be opportunities, and we must continue to expand this military might."

Which voices will prevail is hard to predict, but as we step out of the Kremlin, we have to ask ourselves what all this means in terms of U.S. security interests.

The mix of technological power and unpredictable mankind puts a premium on military vision and readiness. Today we have an uneasy balance of forces. Tomorrow's challenges will be greater.

We need vision not only in the sense of military hardware and skills, but also in the impact our initiatives have on the broader dynamics of international relations. We must follow the avenues of stability in SALT and other arms negotiations. We must always keep an eye cocked to margins, to restraint, to weapons and programs that stabilize the chemistry of strategic deterrence.

It is essential for the future of our country that we continue to pursue negotiation rather than confrontation, with strategic negotiations as a first priority.

But in these negotiations, we must assure that the equal sign in the deterrent equation does not become blurred. I am in wholehearted agreement with the position of the current administration—reiterated by Secretary Brown last week—that essential equivalence is the policy of this nation—that we will maintain a strategic balance with the Soviet Union. We should support negotiations and reductions on both sides, with an eye to sustained parity. This presents a special challenge to us in the United States Air Force, for we are the keepers of the majority of the nation's strategic weapons and the country looks to us for innovative strategic concepts and well-managed strategic programs.

We were naturally disappointed with the decision on the B-1. However, no single weapon system spells the difference between success or failure of strategic deterrence. The key is in the aggregate TRIAD capability and we are working on alternatives to the B-1—cruise missiles as well as other initiatives—to keep the TRIAD modern and impregnable.

We believe it is important that this country continue to have a manned penetrating aircraft. The B-52 can continue in this role for many years, and we advocate an option for an FB-111H—a much improved version of the current FB-111 using B-1 engines and other B-1 technology features.

We are not faced with "all or nothing" issues in our programs. We have a menu of options for the years ahead. I am confident that national wisdom will maintain a rough strategic balance and an overall military balance. To that end, the Secretary of Defense has said that, "we plan to raise the level of U.S. defense spending by approximately three percent a year in real terms."

In international affairs, one aspect of the vision we need is the pursuit of reasonable policies which reflect our high standards of statesmanship and cooperative spirit. Panama is a case in point.

Our security interests depend on access, not perpetual ownership of the Canal. Our influence in the Western Hemisphere for many years may depend on a just and responsible solution—the kind of solution embodied in the treaties being debated today. Cooperative management with a friendly Panama will serve our interests—and protect access to the Canal—far better than a vain struggle with a hostile Panama over issues of a bygone era. Moreover, such a position would cost us respect and influence all through Central and South America.

The Joint Chiefs of Staff are unanimous in this outlook, and I can assure you that our support is not based on just loyalty to the Administration. Our deliberations have been open and candid and our position is heartfelt. The security risks are far greater without the treaties than with them.

We need vision, and in the face of technology's indifferent power we also need readiness—for today's forces and tomorrow's. If someone years from now writes a history of the Air Force, I hope when he comes to my name he'll say, "He helped to make readiness our watchword."

What we have lost in military matters in this generation is time. Time has been our solvent, our teacher and our friend in all the wars of our history. It's no longer there and, in its place, we must substitute a readiness composed of several ingredients.

First, contemporary readiness requires modern weapons—new systems like the F-15, new kinds of systems like the AWACS. It also takes parts and supplies on hand, a taut posture, realistic training—the kind we have at Red Flag, where our crews go to mock war day after day against the kind of forces and tactics they are most likely to face.

We must be able to respond any place in the world quickly, in some places with stationed forces, in others with autonomous mobility.

However, we must recognize that, except in the realm of strategic warfare, we do not have a go-it-alone capability for major conflict. This applies particularly in Europe, but

the point is valid for most other areas in the world where our national interests are at risk.

Therefore, readiness requires coalition—a concept we have not always emphasized in our thinking and planning. We could have done better in Southeast Asia, for example, as we shaped a coalition fighting force. We left the South Vietnamese excessively dependent upon our "calling the shots" and did not do enough to develop their own capability and confidence. We have a chance now to do it right in Korea—to share our arms and training in a way that will assure a strong and confident deterrent and defense.

We have to think hard in this area—about interoperability, rationalization, standardization. It has to take on renewed meaning and be translated into real initiatives. There is great emphasis here in the Pentagon. Ambassador Bob Komer, Advisor to the Secretary and Deputy Secretary of Defense for NATO Affairs, with Assistant Secretary of Defense rank, has been charged to zero in on the NATO issues. He is working with the Services to ensure that all our programs take into account the need to cooperate with our NATO allies across the whole spectrum of R&D, procurement, and employment. The Department of Defense and the Services are seeking new ideas, new incentives, new techniques to foster a fresh climate of cooperation and mutual benefit within the Alliance, and to make NATO standardization a two way street. To you in industry, that poses a special challenge: to fit corporate and technical priorities into this broader framework.

Finally, and perhaps most important of all, readiness takes strong professionalism—from the top down. People are the key. Today, we have the best in our history—the best commanders, the best discipline, the best esprit, the cream of our country's youth and talent. Deputy Secretary of Defense Duncan visited one of our bases not long ago and came back delighted with the Air Force men and women he saw. "Give me half a dozen of those young people for any business," he said, "and I'll guarantee success before the start."

That's a spirit and advantage we must preserve. The Soviets do not have it—their discipline, in general, is based on fear and locked into rote patterns, their initiative is the kind that wears blinders and collapses with disruption, their morale is low. The people contrasts are startling.

We have a good thing going—a great nation moving down an open road, and a great Air Force helping to defend it. You in this audience have helped to make that true.

We'll have changes ahead—shifts and challenges far greater than you and I have seen in 30 years—new weapons, new tensions, new questions.

Somewhere out in the Air Force this afternoon there are young people who will be our senior leaders 30 years from now—somewhere the officer who will stand where I'm standing and look back with a feeling of gratitude and awe over our future and his past. He'll talk of change and concern, and I'm confident that he'll talk with pride.

In conclusion, I'd like to borrow something Bill McBride, our Vice Chief, said last night: "The U.S. Air Force of today is second only to one—the U.S. Air Force of tomorrow."

MEXICAN INDEPENDENCE DAY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ROYBAL. Mr. Speaker, the date of September 16 is one of special significance to many citizens of the United States, for on this day in the year 1821, the people of Mexico proclaimed their independence from Spanish colonial rule, ending forever the reign of foreign tyranny in the Western Hemisphere. Thus, this Independence Day symbolizes not only the emergence of Mexico as a free nation, but also represents a cultural and historical landmark.

In recognition of the importance of this date, I take great pride in paying sincere tribute to all of the Nation's Hispanic citizens.

As we celebrate this occasion, let us be reminded that while we must seek to renew cultural and historical ties, we must also collectively reassess the status of our people in this country—our contributions, goals and accomplishments, as well as the obstacles which still confront us. Finally, this is a day for all Hispanic-Americans to take a hard look at the role which they will play in shaping the future of this Nation.

This is a time of critical importance to all Hispanics. Due to increasing numbers, as well as ever-growing political strength, citizens of Hispanic origin can no longer be ignored. Of all minority groups in the United States, the Hispanic population is currently experiencing the greatest rate of growth. It is anticipated that by the year 1990, Hispanics will constitute the largest ethnic minority group in the Nation.

But numbers alone are not enough to reach the goals of the Hispanic community. Now, to obtain the equality of opportunity previously denied them, Hispanic-Americans throughout the Nation are working to transform their numerical strength into true political power.

The current political strength of the Hispanic population can be exemplified by results of the last Presidential election, where, in California, some 1.4 million Hispanic voters were registered. Similarly, that same year, 900,000 were recorded in Texas, 800,000 in New York, and in Arizona, 177,800. Thus, it seems inevitable that Hispanic voters will play a major role in the political future of this Nation.

Nevertheless, despite our increased numbers and political awareness, many obstacles must still be overcome. To this day, many Hispanic people still face the serious burdens of poverty, illiteracy, and discrimination. Such facts can be illustrated by a staggering unemployment rate of 9.8 percent for Hispanic workers in the second quarter of 1977—compared to an average 7 percent for the general population. In addition, unemployment figures for Hispanic youth hit a high of 22.3 percent during the same period.

Similarly, important areas of employment still remain closed to citizens of Hispanic origin. One such obvious area of underrepresentation exists within the Federal Government itself. Here, Hispanics make up only 2.5 percent of the Federal workforce, while comprising 7 percent of the general population.

Although some increase in opportunities has been experienced under the present administration, many areas of need yet remain, and numerous obstacles are still to be dealt with. Yet, I grow ever more confident in our ability to overcome such difficulties, as the Hispanic people reach goals and make contributions previously thought impossible.

September 16 is not just a date of importance to Mexican-Americans alone. Indeed, it is of great significance to all those sharing in the proud heritage of the Hispanic culture. Today, we must all recognize, and seek to strengthen, the common culture and heritage comprising a most important segment of this Nation—the Hispanic community. Together, through a united Hispanic people, bound by our commonality and pride, we will at last attain the political and economic equality so long denied us.

RIVER BARGE TRAFFIC

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. VAN DEERLIN. Mr. Speaker, perhaps as early as next week we will be asked to consider measures which could seriously affect the future of a transportation industry with an unusually low profile, that of our shallow draft river barges.

Although I do not personally subscribe to all of the contentions presented in a recent speech by Mr. John Creedy, president of the Water Transportation Association, I nevertheless found it particularly enlightening with respect to the importance of the river barges role in intercity commerce, and the remarkable efficiency and energy conservation of river barge transport.

Accordingly, I recommend highly Mr. Creedy's remarks to my colleagues, for their consideration prior to next week's votes on H.R. 8309.

THE WATERWAY FUEL TAX COMPROMISE: SOME BASIC QUESTIONS

(Remarks of John A. Creedy)

It is difficult to praise any increase in taxation or the imposition of new taxes anywhere, but it is possible to praise the art of compromise.

There is today a lineup of the major waterway organizations in support of a bill designed as a compromise of two major issues, the much-needed reconstruction of Lock and Dam 26 on the Mississippi and the imposition of a tax on the inland waterways. The bill would impose a 4 cents a gallon fuel tax on commercial traffic, rising to 6 cents in 1981 and would require a very thorough study of impact. The 4 cents is the same as other federal taxes on fuel used in transportation.

In the same measure is a commitment to go ahead with the reconstruction of Lock and Dam 26, a notorious obsolete bottleneck on the Mississippi at Alton, Illinois which is long overdue for replacement.

The present deadlock over this facility would be broken. A compromise would be accomplished.

It may have seemed logical to separate the issue of taxation and a badly needed lock. It may have seemed desirable to get a handle on the answers to some of the basic questions raised by this change of policy before the change is made and not afterwards as is now proposed.

But that is not the present course and, whatever the misgivings, and the logical anomalies, for example, why water transport and not railroads, why shallow draft and not deep draft, the spirit of compromise in support of the recommendation of the House Public Works and Ways and Means Committees' joint bill, H.R. 8309, is prevailing.

But the questions remain.

The first basic question is one of objective.

There are two over-riding goals of current national policy. The first is the conservation of energy. The second is control of inflation. And barging makes a major constructive contribution to both national problems and the objective of a new tax program should be to keep that contribution unimpaired.

Barging produces transportation at less expenditure of energy than any overland mode by quite a wide margin. At the same time it produces about 17 per cent of the inter-city ton-miles and receives in revenues less than 2 per cent of the total expended, a substantial contribution in the fight against inflation, if there ever was one.

But in addition to the savings directly achieved by those who ship by barge, the barges have a remarkable effect on rates competing modes charge the public. The railroads themselves have testified that their rates on water competitive commodities are "less than they would otherwise be" by $500,000,000 to $750,000,000 a year because of water competition. So, in only 10 years, water competition saves the public in rates paid to the railroads, by their own testimony, the entire $5 billion that the government has spent on the shallow draft navigation since 1824.

And these profitable water-competitive rates, which do so much good in the fight against inflation, help promote improved rail efficiency—the introduction of unit trains, multiple car and other more efficient services—a classic case of lower rates leading to higher volume and higher profits.

The railroads try to persuade everyone that the vast 25,000 mile inland navigation system was constructed solely for the profit of a few barge lines. But everyone knows better than that. Low cost transport of coal for utilities is reflected in the consumers' light bill. Low cost transport of fuel oil contributes to holding down the price of fuel. Low cost transport of raw materials going into the manufacture of aluminum or steel spreads its benefit throughout the whole country. Low cost transport of grain and farm supplies such as fertilizers directly benefits the farmers.

The present system of financing waterways requires a cost-benefit analysis. If the analysis shows the public benefits are in excess of the costs, the project is approved. Navigation projects return $6 or $7 for every dollar expended and the Gulf Intracoastal Canal returns $27 for every $1 spent. The multi-purpose hydro-navigation project on the Columbia, in addition to its favorable cost-benefit, has one extra dimension. It relieves the Pacific Northwest of dependence on fossil fuels, a benefit certainly not foreseen in the 1930's when the projects were first authorized.

The multi-purpose projects have been highly successful in returning their costs to the public through savings. The justification for the use of public funds in these projects is that benefits to the public exceed the cost to the public. To state it differently, when the benefit to the public clearly exceeds the cost to the public, it is appropriate that the project be financed from general tax revenues provided by the public.

Now both Senator Pete V. Domenici of New Mexico and the Department of Transportation, disregarding the basic fact that the benefits accrue to the public generally and not to some special group, want a system of special taxation that could make some waterways, where the benefit to cost ratio is favorable, uneconomic to use. This could radically alter many long-established regional relationships and lead us far into the unknown as to the effect of the tax level they propose on the over-riding goals of fuel conservation and the fight against inflation.

Proponents of these radical measures have tried to sell the proposition that the major fuel conservation and anti-inflation effects of barging will not be impaired. They argue that there will be little diversion of barge traffic, that all waterways will continue as before, that regional competitive relationships will not be impaired, that multi-purpose federal water management programs of which navigation is an integral part will not be affected, that local inland port bond issues dependent on the revenues from waterway traffic will be paid off on schedule, that the farm community will not be disadvantaged, that the railroads will not raise their rates and that, indeed, nothing much will change at all.

The fervor with which the railroads have been promoting the DOT program on the waterways suggests that a great deal will change and that the DOT is either misleading itself when it argues that there will be little change, or that it knows better, and is attempting to mislead the Congress.

This was clearly demonstrated when Brock Adams, Secretary of Transportation, tried to explain to the Congressman from Oklahoma, Mr. James R. Jones, in House Ways and Means hearings, that the Administration did not intend to close down navigation on the Arkansas River when, in fact, the DOT proposal for 100 per cent cost recovery of operations and maintenance on a segment-by-segment basis would clearly do just that to the Arkansas. The Secretary had no satisfactory answer on that basic question and this is typical of the floundering of the proponents on all questions relating to taxation of the waterways. Whatever their rhetoric, their proposal is to raise $300,000,000 or more a year in revenues from an industry whose total gross revenues are no more than $900,000,000. This would obviously have a major not a minor effect on inland navigation. The effect, if not the intention, would certainly be to stifle inland navigation and protect the railroads from inconvenient, but in terms of the struggle against inflation, publicly desirable competition.

Proponents of the cost recovery approach parade a couple of very phony arguments.

The first is the increasingly threadbare claim of the railroads that there is inequity in the use of public funds.

Despite all the tax benefits amounting to billions, the $6 billion programs of loans, grants and loan guarantees in the 4R Act, the $7 billion—soon to go to $9 billion—rescue of the railroad retirement fund, the expenditures for railroad grade crossings, the federal harbor investments facilitating railroad import and export traffic, the current income and current value of land grants, the F.R.A. research and other similar programs, all of which dwarf the $5 billion on shallow draft waterways spent since 1824, they still seriously maintain there is inequity between the water and rail modes in the use of public funds.

To make this argument, they are forced to limit the comparison to only those federal monies which go into rights of way, rail versus water. They blithely ignore all the other subsidy programs under which the railroads receive vast federal funds.

Here the analogy of the blind man and the elephant comes to mind.

Insisting that the only thing to look at is the rail right-of-way is like the blind man insisting that the elephant's trunk is the only thing to look at. In fact, the obviously sound approach is to look at the whole animal, to take into account the trunk, the tusks, the body, the legs, the tail, and everything else. Similarly railroad aids should be looked at as a comprehensive whole.

It is highly instructive that there has never been a comprehensive study of all direct and indirect aids on both sides. Even when the Congress specifically requested the DOT to make such a study, DOT omitted most of the subsidy programs on the railroad side. All this suggests that everyone knows very well where such a study would come out; the rail subsidy programs are at least equal to the waterway programs if not greatly in excess of them.

We've seen another misleading statistic from the Congressional Budget Office which shows barge subsidies at 40 per cent of revenues compared to 3 per cent for railroads. This is not only incorrect, but turns on its head the public benefit of low cost water transport.

This remarkable statistic is accomplished by two feats of sleight of hand: first, leaving out most of the subsidy programs on the rail side and exaggerating federal investment on the water side—including port development and offshore costs involving the merchant marine for example.

Second, using a misleading relationship between federal aid and gross revenues. That this is the wrong approach is demonstrated by the following example. If each mode receives $1 in subsidy, the mode charging $10 a ton will show a subsidy of 10 per cent, the mode charging $1 a ton will show a subsidy of 100 per cent. The fact that the average barge rate is one fifth of the average rail rate shows how the barge industry's major strength—its efficiency—is used against it improperly in such a comparison. In fact, the use of public funds on the rail side is far greater than on the water side.

The second question of policy is whether the tax should be related to recoupment of cost. Under the proposed bill it is not and a study is to be made as to whether it should be. Proponents of recoupment try to persuade us that there is a uniform federal policy of recoupment of cost. In fact, the policy they refer to applies primarily to fees on services such as recovery of the cost of obtaining copies of government reports. There is no consistent cost recovery policy on major government investment programs.

Where benefits—as in the case of barging—permeate the entire economy, the reverse is the case. There is a consistent "no recovery" policy which applies to dozens of programs totaling many billions, some of which nevertheless benefit special groups and regions of the nation. The benefits of all these programs, of course, return their costs many times over through enhanced efficiency of the economy and improved social well-being.

The government gets little or no recovery from such programs as research in improving the quality of agricultural products. The research programs of the National Institutes of Health result in medical research of valuable products which are used by drug companies without any recoupment of the research expenditures by the government. Cost recovery is not expected from billions spent on such programs as atomic energy and other energy programs, on the development costs of satellite communications, on vocational education, on mass transit, on soil conservation, rural telephones, college libraries, housing and mineral exploration. The rationale for "no recovery" is that these programs benefit the entire society.

In a time of high inflation and of energy shortages, the low cost of barge transportation and the fact that it is the most energy-efficient method of transporting goods provides powerful reasons for a "no recovery" policy for waterway investment, more powerful than for most of the other government programs named above.

And of course when, in addition, the forthcoming studies show the railroads benefit from government programs at a rate far in excess of that of waterways, fairness and

logic would require any policy to recover cost through taxation to apply to railroads as well.

No case has been made for taxing the inland water carriers; certainly no case has been made for singling out the inland operators and not including railroads. There can be no case for protecting the railroads from competition of a more efficient service. There can be no case for closing down essential waterways already built. There can be no case for delaying essential replacement of obsolete facilities. There can be no case for disadvantaging one region against another or stifling regional economic development.

There is a considerable case for getting the facts right and then taking another look in 1981 not only on the level of the tax but as to whether any tax at all can be justified.

MURDER OF A GENTLE LAND—PART II

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. DORNAN. Mr. Speaker, yesterday I read into the CONGRESSIONAL RECORD the first half of the Reader's Digest condensation of the John Barron/Anthony Paul book, "Murder of a Gentle Land."

Today the second half of this work follows:

MURDER OF A GENTLE LAND—PART II

A RECEPTION FOR SIHANOUK

Having "cleansed" the cities, Angka Loeu commenced to "purify" the population by eliminating "corrupt" elements. At Battambang, Cambodia's second-largest city, the communists directed the government troops back to their barracks, allowed them to pack their belongings and marched them to the high-school building in the center of town. By next day, more than 1000 officers, 2000 noncoms and 1000 soldiers were milling about. Politely, the communists told them to separate by rank. Then they distributed rice to the ordinary soldiers and authorized them to buy whatever else they wanted at a nearby market. Among the defeated soldiers a feeling of relief grew: they were being treated fairly; no longer would Cambodians have to kill Cambodians.

The following morning a dramatic announcement was made. Prince Sihanouk was returning to Phnom Penh! To welcome the Prince, officers would travel to the capital for the celebration.

Kom Kiry, a 52-year-old infantry major, was one of those who left in the convoy. In the lead were a Jeep and Land Rover holding about 20 armed communists; then came a bus carrying some 30 government army officers and 10 guards; five open trucks with more officers; and, bringing up the rear, a truck holding about 60 communists.

In Kom's truck there was a festive air. A communist official had passed the word that after the welcoming ceremonies, all the officers would be given a certificate absolving them of blame for having served in Lon Nol's army. All would then go free.

For about three hours the convoy drove along Highway 5 toward Phnom Penh, and then abruptly turned off onto a secondary road leading toward the Battambang-Phnom Penh railroad tracks. The officers, who had been joking and laughing, suddenly were hushed. They could see, waiting on the right side of the road 200 yards from the main highway, a long line of about 60 armed communist soldiers.

The vehicles halted and the officers were ordered to disembark. Kom studied the terrain. On the right-hand side of the road were soldiers; on the other was a field and, in the distance, forest.

Perhaps ten minutes after the vehicles had driven off, a burst of machine-gun fire—about 20 rounds—came from the highway. A signal, thought Kom. A minute later, the soldiers along the road began shooting into the officers. Kom slipped away in a low crouch, then broke into a desperate run.

For three hours the Khmer Rouge fired into the piles of dead and dying officers. Hiding in the forest, Kom could hear the sounds of gunfire. Of the 315 officers in that convoy, only four—Kom and three others—appear to have escaped.

This was only one of many organized massacres perpetrated throughout Cambodia during the first days after surrender. For, despite their pledges of reconciliation, the communists immediately set out to exterminate the entire government officer corps and management echelon of the civil service. The massacres were committed on such a large scale and with such a basic sameness of methods as to remove any doubts that Angka Loeu had planned them well before the war ended.

By refusing to bury the slain, the communists advertised their deeds. It was as if Angka Loeu deliberately had chosen to turn the entire countryside into a ghastly corpse-strewn charnel house to intimidate the populace.

A TERRIBLE STILLNESS

The communists frequently bragged that they had eliminated all prostitution in Cambodia, and they may have been right. Less than a mile outside Sisophon in late April, a truck driver stumbled upon one example. He saw the crumpled bodies of about 20 young women. Each had been bludgeoned to death with blows on the back of the head. The truck driver knew some of the women as prostitutes and concluded that the rest were, too.

The communists also killed some students, teachers and other "intellectuals" for no apparent reason other than the fact that they were educated. Approximately 2000 schoolteachers were incarcerated at Wat Ek monastery northwest of Battambang, another 1000 or so at a camp northeast of the city. A driver for the communists who later escaped to Thailand claimed that in May he saw soldiers kill 17 teachers from the Wat Ek camp with axes.

In the first months, the pogrom against intellectuals was not carried out as rigorously as that against military officers and other "impure" elements. But it was sufficiently widespread so that educated people began to hide their education.

Angka Loeu, rightly or wrongly, identified many inhabitants of Phum Kauk Lon as former officers, customs officials and police agents. On or about April 20, troops marched the whole village out of their huts and into the nearby Arak Bak Kar forest. As the people walked among the trees, machinegun squads lying in ambush cut them all down—approximately 360 men, women and children.

One evening in May, a squad of communist soldiers appeared at Khal Kabei in the Thmar Puok district. "Stay close to home tonight," they said. And a tractor drove past, towing a trailer carrying a group of women aged 18 to 25.

As dawn came, the villagers discovered why the Khmer Rouge had wanted the night to themselves. About 500 yards along a cart track east of Khal Kabei, where all could see, were the remains of the young women. "They had been buried up to the necks," said a villager. "You could see only their heads." Each had been stabbed in the throat.

For more than a week, as the heads became swollen with putrefaction and the smell of death permeated the village, the Khmer Rouge refused to let Khal Kabei arrange a proper burial. *"Kael American kael Lon Nol"* ("The dandruff of the Americans and Lon Nol"), the soldiers called the corpses. From the young women's appearance, especially their carefully groomed long hair, the villagers guessed they were the wives and daughters of officers and senior civil servants.

On April 27, at Mongkol Borei, *Angka Loeu* further "purified" the population. Led by an officer called Taan, a squad of communist soldiers rounded up ten civil servants along with their families, about 60 people in all. They bound the hands of each behind the back, forced them aboard a truck, and drove them two miles out of town to a banana plantation adjoining Banteay Neang village.

Weeping, sobbing, pleading for their lives, the prisoners were formed into a ragged line, the terrified wives and children clustering around each head of the family. One at a time, each official was thrust forward and forced to kneel between two soldiers armed with bayonet-tipped AK-47 rifles. The soldiers then stabbed the victim simultaneously, one through the chest and the other through the back. Family by family, the communists proceeded methodically down the line. As each man lay dying, his wife and children were dragged up to his body. The women, forced to kneel, also received the simultaneous bayonet thrusts, then the children and babies.

An eyewitness, 35-year-old Ith Thaim, whom the Khmer Rouge had drafted to drive the truck, remembers that a terrible stillness settled over the plantation, the Khmer Rouge saying nothing, "the blood like water on the grass."

EXODUS

On the five national highways leading out of Phnom Penh, the midday temperature those last days of April rose above 100 degrees. The dry season now ending had parched the flatlands and evaporated the rice paddies, leaving stagnant, fetid pools and ponds increasingly fouled by excrement and bodies.

No stores of potable water, no stocks of food, no shelter had been prepared for the millions of outcasts. They slept wherever they could, frequently in the open fields and ditches. Along some stretches of the highways, trucks did haphazardly distribute small quantities of American rice brought from Phnom Penh. But most families received none at all.

The very young and the very old were first to die. Adults and children alike slaked their thirst in roadside ditches. Consequently, acute dysentery racked and sapped life from bodies already weakened by hunger and fatigue.

Dr. Vann Hay, thrown out of his Phnom Penh clinic on April 17, had started northward on Highway 5, and spent a month on various roads and trails. Of all the agonies he saw, the most difficult for him to bear was the ordeal of the children.

"We must have passed the body of a child every 200 yards. Most of them died of gastrointestinal afflictions which cause complete dehydration. I had some medication with me, but most children brought to me required massive dosages, and lengthy rest afterward. Neither was available."

Generally, on the main highways, the march was guarded by troops stationed at checkpoints every few miles, and by soldiers posted along the way. These troops usually demanded that the people walk throughout the day at as brisk a pace as the congestion allowed.

The discipline imposed by *Angka Loeu* was Draconian. During the first days of his trek Dr. Vann Hay saw soldiers cut down five or six people who failed to keep pace. "They would give a first warning, then a second warning, then they would shoot. Most of the ones I saw being killed were elderly."

A former intelligence officer, Thiounn Kamel, was swept up in the throngs pushed

out of Phnom Penh on National Highway 1. "Once, when I couldn't move because of the crowd, I stopped on the side of the road. There was a truck loaded with armed Khmer Rouge. When their truck also couldn't move, they just shot at the people to clear the way. It was savage."

Among tens of thousands of families marching south on National Highway 2 was a slender, pretty Khmer Airlines stewardess named Lon. She and her husband took turns carrying their four-month-old daughter, Vathana. The infant was accustomed to canned milk because Lon, needing to return to work after childbirth, and not breast-fed her. Now the canned milk brought from Phnom Penh was gone, and the mother's body was incapable of producing milk. Though Lon herself was suffering the effects of malnutrition and dehydration, she struggled to match the pace required by the soldiers, hoping somewhere to find sustenance for the baby.

Finally, however, she knew she was going to collapse and, in tears, she begged her husband to forsake her, to try to save their daughter and himself. The husband hesitated, then reached for the baby. As he cradled her in his arms, the child smiled and laughed at him. He turned back and, through his own tears, said to his wife, "We stay together."

Friends who observed this scene and who themselves had to quickly move on understood, as probably did the husband, that he really was saving, "We die together."

Chaos increased as the communists also began emptying villages, jerking peasants from their homes of a lifetime and throwing them into the milling masses of urban exiles. Uncertainty and fear compounded the agonies of the march. People could not be sure of where they were going or what awaited them. Thousands of Pailin residents were driven northward along a narrow dirt road pocked with holes. After they had walked half a day, they were halted by soldiers who ordered them to march back in the direction whence they came. The next day soldiers ordered them north again.

However, sooner or later, at some barricade or village, the exiles encountered an *Angka Loeu* commander who, as if casting a net into a sea of fish, arbitrarily hauled people off the road and ordered them to begin building a new settlement.

By early June, the first great exodus was over. Some 3.5 million people from the cities and probably another 500,000 from villages had been uprooted and scattered throughout the land. The highways out of Phnom Penh were barren and quiet. The corpses were deteriorating into skeletons, the hospital beds and cars rusting.

Dr. Vann Hay had escaped to Vietnam, but he will never forget his trek from Phnom Penh northwest toward Oudong, then south again along the Mekong, and southeast on Highway 1 to the South Vietnamese border. "Thinking of all the bodies I saw, plus the sick who came to see me—between 20 and 30 every day—half of whom were not going to live, I figure that between 20,000 and 30,000 people must have died the first month, just in the area described."

In all of Cambodia, a minimum of 300,000 human beings perished during the exodus. And for the survivors, the worst was yet to come.

THE NEW VILLAGES

Ngy Duch was a tall, lean, muscular youth of 22 with a narrow face, dark eyes and straight black hair. Buddhism had taught him never to inflict pain on another human being, and to abhor the war. When news of peace reached him in the town of Pailin, he had celebrated, playing his bamboo flute late into the night. But soon he and his ailing mother and several other relatives were driven from their homes.

For 23 days Ngy shepherded his relatives eastward through the forests, finally reaching the village of Ampil Pram Daum. There, an Angka Loeu boss, a Comrade Mon, declared that the family would stay.

Ampil Pram Daum, about 45 miles northeast of Battambang, once was a large village in the midst of fertile rice fields. The original residents had vanished, and 2000 refugees were consigned to the locale. However, consistent with its determination to wipe away the past, Angka Loeu prohibited anyone from living in the vacant houses. All had to build their own huts and create a "New Village."

Sooner or later, Angka Loeu drove virtually everybody from the cities into one of the thousands of New Villages. While conditions varied according to the availability of water and the fertility of land, the regimen of work, life and death dictated by Angka Loeu was largely uniform.

Each arriving family was allotted a space, about five yards square, on which to build a hut. Normally, neither materials nor tools were provided, so the family had to forage for bamboo, branches, straw, grass or whatever the land might yield.

The hut completed, everybody joined the common labor force to clear trees and underbrush, plow for the planting of rice, and erect irrigation dikes. They labored from about 6 to 11 a.m., and from 1 to 5 p.m., seven days a week—and, in some settlements, three hours at night if the moon was out. Men, women and children were segregated into separate work parties and kept apart in the fields. Except during the midday break, Angka guards allowed neither rest nor conversation.

Ngy Duch convinced Comrade Mon that his mother was too ill to work. But he was assigned to a group of 215 people and for a month pulled a plow as if he were an ox.

In the evenings, all New Villagers were compelled to attend ideological lectures and, frequently, to witness a Kosang, the Khmer word for "construction." A Kosang was a ritualistic warning to someone who had displeased Angka Loeu. He was expected to confess and repent, and thus "construct" himself into a good and pure person. The ceremony evoked silence and fear, for everyone quickly learned that no one ever received more than two Kosangs.

About mid-June, while working in the field, Ngy stepped on a sharp piece of bamboo which penetrated almost all the way through his foot. His whole leg swelled, he developed a high fever, and pains shot up to his waist, so he hobbled to Comrade Mon and requested a few days' respite from work. "Such a tiny wound is not enough reason for staying home," Comrade Mon said.

That night Ngy received his first *Kosang*, as village committee members took turns berating him: "You must learn to live with pain. You must not be soft. You must not be lazy, trying to get out of work." There followed a litany: Ngy was free; Ngy was equal; Ngy was happy.

Humbly, Ngy admitted he had been a lazy malingerer. He pledged to work honorably for *Angka Loeu*.

STARVATION DIET

The Wheel of History, *Angka Loeu's* missionaries habitually warned, would grind down anyone who disobeyed or flagged. References to the mystical Wheel of History were endlessly repeated. A student recalls: "The words induced us to think of a huge roller with unimaginable weight behind us all the time, and ready to crush any one of us into powder should we happen to slow down for any reason."

There were strictures against all things foreign, against music and dance, against sex, against traditional family relationships. Parents might "request" a certain form of behavior, but their children were free to disregard the request. And children were singled out for the most intensive brainwashing. In the village of Khna Sar, university student Ung Sok Choeu observed: "The only subjects being taught were revolutionary thinking and the aims of the Khmer Rouge struggle, and how to detect the enemies of both. As a result, all the children turned into little spies, reporting everything that was said at home."

In Ampil Pram Daum, the children's reports led to numerous *Kosangs*. Some children derived a heady sense of power from the knowledge that they could place the life of any elder in jeopardy. In time, the mere sight of them made Ngy afraid.

During the first six to eight weeks after evacuation of the cities, *Angka Loeu* generally succeeded in distributing a ration of about nine ounces of rice daily to each person. But by midsummer many villagers were receiving only half a milk can of rice, insufficient to sustain life. Epidemics of malaria, cholera and typhoid spread. Approximately 1000 people inhabited the New Village of Ta Orng; about 200 died in June. Sambok Ork contained 540 people when organized in late April; in July and August, two to five died daily, according to philosophy professor Phal Oudam, who was drafted to file biweekly reports of deaths to *Angka Loeu*. Out of roughly 800 inhabitants in Phum Svay Sar, about 150 died in the summer.

By September, Ngy and the people of Ampil Pram Daum had stripped the jungles of crabs, snails, bamboo shoots, bindweed and all else edible. People looked like skeletons draped with a thin, sickly cover of skin. Of the original 215 in Ngy's group, about 15 percent had died and only ten were strong enough to do their jobs. Ten men had been executed. Three were former soldiers who upon arrival had naively told Comrade Mon the truth about their past. One morning, a communist squad appeared in the field and escorted them into the forest, where Ngy later saw their bullet-punctured bodies. Children spies overheard two police inspectors discussing their former work. Both men were clubbed to death with hoes.

On September 14, the village committee ordered Ngy to patrol the area in the evening after the workday ended. He pleaded that he was so weak he could barely work during the day. A few hours later, *Angka Loeu* gave him his second *Kosang*. Comrade Mon shouted, "Stop going against the Wheel of History. Stop refusing orders given by *Angka Loeu*. There is no reason why you cannot do night duty."

Before Ngy's work group departed for the fields the next morning, a committee member casually mentioned that soldiers would accompany them. Ngy instantly knew what their presence meant. He sneaked back to his hut, put some valuables in his money belt and slipped his flute into his trousers. Then, kneeling before his mother and putting her feet on his head for the traditional Khmer benediction, he stole into the forest.

Through the deathly summer of 1975, the serfs of the New Villages looked to the fall harvest for some relief from their misery. But in the autumn, *Angka Loeu* once more convulsed the population by instituting another great migration. More than half a million people suddenly were lifted out of settlements they had built in the south, and scattered anew to start all over again in the north and northwest.

Among those swept away were Ang, the winsome pharmaceutical student from Phnom Penh, her sister Anna, and their two brothers, Kim and Tam. After 30 hellish hours first in Chinese trucks, then in suffocating freight cars, they staggered off a train in Sisophon. Seeing that the two brothers were so sick they scarcely could stand, an *Angka* functionary unexpectedly took pity on them and all four wound up in Zone 5 Hospital.

The hospital, established in an old brick schoolbuilding, was filthy. Serum was stored in open soft-drink bottles and a liquid potion

was kept in used penicillin bottles and given to all patients, no matter what their malady. Most of the "doctors" and other personnel were illiterate. They made no effort to diagnose the ills of individual patients, treating all with the same mishmash of pills, herb medicine and serum.

Kim knew he was dying. Toward the end, he could only stare vacantly at his sisters and faintly squeeze their hands. When he died, his body was dumped into a cart along with the other dead of the day and, as Ang and Anna watched, trundled away toward a communal burial pit.

Three days later, the sisters left the hospital hoping to catch a fish for Tam in the river. They returned to find his bed empty. "Oh, he's dead," said an attendant. "We've already buried him."

In November, the sisters attempted to escape to Thailand in the company of a bandit. Her foot cut by barbed thorns, her reserves gone, Ang repeatedly fell and, upon ascending a barren mountain, could walk no farther. "If I stay with you, we must all die," the bandit said.

Forcing her tearful sister to go on with the bandit, Ang lapsed into deep sleep. When she awoke she felt stronger, and began wandering westward, satisfying her thirst by licking dew from the foliage. On the ninth morning, she awoke by a cow trail near a village and, when two men passed, decided to take a chance.

She ran out, grabbed the older man by the hand and said, "I've just escaped from Cambodia!" Both men were startled by the bedraggled forlorn figure standing before them. "Is she human?" the younger man asked. He spoke in Thai. She was free.

In a refugee camp, Ang heard that the bandit escorting Anna had stepped on a mine near the border. Badly hurt, he managed to crawl into Thailand. Behind he left the body of a young woman dismembered by the explosion.

THE HUNTED

Nothing so provoked the wrath and cruelty of *Angka Loeu* as an escape attempt. Escapees seldom received any quarter.

Once triumphant, *Angka Loeu* began sealing off the entire border with Thailand—a 449-mile frontier that curves through mountains and jungles, across rivers. Villages and settlements were evacuated to create a no-man's-land about three miles wide all along the border. The crossings, their approaches and jungle trails were seeded with mines and boobytraps.

Phal Oudam, the philosophy professor, slipped out of the disease-ridden village of Sambok Ork on the evening of September 4, 1975. With five other men, he headed into the jungle toward Thailand. They had walked along a trail perhaps an hour when a boobytrap exploded underfoot, injuring four of them.

Phal climbed a tree. At dawn he looked down on a grisly scene. "I could see countless groups of bodies, five, ten yards apart, the corpses piled on top of each other. Later, as I picked my way along the track, I saw more; some swollen bodies; some only skeletons. Groups of 5, 20, 3, 2. The Khmer Rouge would put two sticks in the ground, then tie a string between them to the grenades' firing pins. If you walked carefully, you could see the traps, but at night it was impossible."

Throughout the border region, *Angka Loeu* patrols roamed the jungles and mountains hunting escapees. Keo Kim Taun, a former government soldier, was one of 37 people who tried to escape from the village of Soeur. A patrol spotted them cooking rice in a jungle clearing and opened fire with AK-47 machine guns, killing 21, the youngest of whom was five years old. Keo and the other 15 survivors reached Thailand 12 days later. En route, they saw innumerable corpses of people slaughtered by such patrols.

Abdul Hadji Mohammad, who was one of the few to escape the persecution of Muslims, remembers: "We walked for ten nights, moving only when it was dark. All along the way, the jungle smelled of rotting corpses; we could not get away from that smell."

Ouk Phon, who escaped from Phum To Tea in the Samring district, reports: "In one spot I saw about 50 corpses tied together with rope, and elsewhere, under a tree, the skeleton of a child, its hands still tied. On the way to the border, I suppose I passed 5000 bodies. Some paths were so thick with skeletons the bones could cut my feet."

Yet despite all the dangers, the will to be free of *Angka Loeu* was so inextinguishable that each month thousands tried to escape. Although the first waves contained a disproportionate number of students, intellectuals, formerly prosperous tradesmen, civil servants and military personnel, by autumn of 1975, as British journalist Jon Swan put it, the overwhelming proportion was made up of "humble country folk, recognizable by the heavy tattooing of their bodies, dark skins and coarse hands and feet—the people one would think best suited for the rigors of peasant revolution."

NGY DUCH, who, back in Pailin—long ago, it now seemed—had welcomed the peace with melodies from his flute, made it, too, and was taken to a refugee camp in Thailand. "At the camp, the only thing I had left was my flute," he remembers. "I played it every day, and all the unfortunate Khmers listened and dreamed of the country they had lost."

A NEW DARK AGE

By 1976, *Angka Loeu's* domination of Cambodia was beyond challenge. The population, socially atomized and physically enfeebled, was utterly at the mercy of its new masters. And the New Villages, hewn from the wilderness, were, in their fashion, functioning. The December rice crop, described by the communists as "not a bumper one but sufficient for self-supply," had been harvested. Now *Angka Loeu* seemingly could afford to stabilize the country and ameliorate the deathly rigors. But that was not to be.

In October 1975, monitors abroad listened as the communist commander in Sisophon received radio orders to prepare for the extermination, after the harvest, of all former government soldiers and civil servants, regardless of rank, and their families. Soon word spread among the communist soldiers that teachers, village chiefs and students were to be included in the toll.

The killing began during early 1976. Before, the organized slaughter largely had been confined to officers and senior civil servants. Now the lowliest private, the most humble civil servant, the most innocent teacher, even foresters and public-health officials, became prey.

Father Francois Ponchaud, a French authority on Cambodia, reports that on January 26, a communist official in the Mongkol Borei district declared: "Prisoners of war [people expelled from the cities and villages controlled by the Lon Nol government on April 17] are no longer needed, and local chiefs are free to dispose of them as they please." And after that, the killing rose steadily as *Angka Loeu* strove to obliterate every human trace of the old government by the first anniversary of its victory. .

Ponchaud lived in Cambodia from 1965 to 1975, studying Buddhism and Cambodia, and becoming one of the foremost religious writers in the Khmer language. His calculations are unlikely to be biased by political considerations. After interviewing Cambodian refugees given asylum in France and studying the daily broadcasts of Radio Phnom Penh, Ponchaud concluded that between April 1975, and February 1976, at least 800,000 Cambodians died as a consequence of famine, disease and execution. Last summer, after one month in Thailand eliciting fresh data from refugees, he concluded that his earlier evaluation was now "far below reality."

The authors, on the basis of their interviews, estimate that, at minimum, 1.2 million men, women and children died in Cambodia between April 17, 1975, and December 1976 as a consequence of the actions of *Angka Loeu*.

If any question remains, listen to *Angka Loeu* leader Khieu Samphan. As Cambodian chief of state, Khieu attended the Colombo conference of non-aligned nations last August and, while there, was interviewed by the Italian weekly magazine *Famiglia Cristiana*: "In five years of warfare more than one million Cambodians died. The current population of Cambodia is five million. Before the war the population numbered seven million."

The interviewer asked: "What happened to the remaining one million?"

"It's incredible," Khieu replied, "how concerned you Westerners are about war criminals."

After the desolation of the cities, the early massacres and in the midst of the first famine, one of the *Angka Loeu* bosses, Ieng Sary flew to a special session of the United Nations General Assembly. He left behind a country without universities, commerce, art, music, literature, science or hope. As one young refugee said, "There is no love anywhere."

Upon landing in New York, Ieng Sary boasted, "The towns have been cleaned." And when he appeared at the United Nations, delegates from around the world warmly applauded.

Otherwise, the world largely has remained silent. No outraged students protest on campuses. There is no great outcry in Congress. No one demonstrates on Pennsylvania Avenue, the Champs Elysées or Trafalgar Square about what "peace" has brought to Cambodia.

And in the jungles, in the thousands of New Villages, under the guns of *Angka Loeu*, the Cambodians each evening try to sleep, knowing that the next day will be as dark as the night that has enveloped them.

MICHIGAN NO-FAULT HEARINGS

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ECKHARDT. Mr. Speaker, on June 13, 1977, the Subcommittee on Consumer Protection and Finance of the Interstate and Foreign Commerce Committee held its fourth and final hearing to consider various State experiences with no-fault automobile insurance.

Throughout these sessions, the subcommittee has examined the different no-fault laws to see whether they provide more equitable, efficient and expeditious compensation to the victims of motor vehicle accidents than the predecessor liability insurance system and whether they achieve these objectives at reasonable costs. In addition, the data presented at these hearings has vastly enhanced the ability of the Members to valuate the need for Federal no-fault standards.

In Massachusetts, the subcommittee found that a no-fault law with modest benefits and a low $500 threshold—the amount of medical expenses a person must incur in order to sue for general damages, commonly referred to as "pain and suffering"—was working well to provide prompt payment of benefits to

all auto accident victims at significantly reduced rates. It was noted, however, that the $2,000 benefit package in the State is adequate to provide compensation for seriously injured victims, and it is highly unlikely that Massachusetts' dollar threshold could support a higher benefit package. A detailed summary of the Massachusetts no-fault experience appears at pages 20680–20684 of the CONGRESSIONAL RECORD of June 23, 1977.

In Florida, we learned that a $1,000 threshold had become a target for the unscrupulous and the State responded by adopting a "verbal" or descriptive threshold, one which permits suits for general damages for certain types of injuries. The verdict is still out on that particular threshold. Subsequent to our hearing, the subcommittee learned that the Florida Legislature again addressed the subject of no-fault, at first voting to repeal the law and then, at the last minute, voting to retain it with certain relatively minor modifications. A detailed discussion of the subcommittee's findings appears at pages 29559–29562 of the CONGRESSIONAL RECORD of September 15, 1977.

In New York, the subcommittee examined a law which offered a high level of benefits but did not restrict the right to sue for general damages to any great extent. The subcommittee found that the law was providing fast, certain and equitable payment to almost all victims, as well as utilizing a much greater percentage of the premium dollar to compensate accident victims than was the case under the preexisting liability insurance system. However, the hearing also revealed that New York's dollar threshold was being abused and that the law lacked an adequate mechanism to prevent doctors and hospitals from overcharging the victims of automobile accidents.

Subsequent to our hearings, the New York Legislature revised its law to adopt a verbal threshold and to limit payment to the providers of medical services to reasonable amounts. It is, of course, too early to evaluate whether these changes will achieve their objectives. A detailed summary of the New York hearing appears at pages 29766–29768 of the CONGRESSIONAL RECORD of September 16, 1977.

Finally, the subcommittee reviewed a no-fault law in Michigan which offers unlimited medical and rehabilitation benefits and high work loss and survivors benefits while limiting suits in tort for general damages with a verbal threshold. While some concerns exist—and they will be discussed later in this report—Michigan officials testified that the law is working well in fulfilling the promises of no-fault by providing prompt, sure and adequate compensation for losses suffered by automobile accident victims at reasonable rates.

During the 1-day hearing in which the Michigan experience was reviewed, the subcommittee heard from a number of knowledgeable witnesses on no-fault automobile insurance, including the Honorable Richard A. Austin, the Michigan secretary of state. In addition, the subcommittee heard the testimony of Thomas Jones, the Michigan commissioner of insurance; Tom Downs, chairman, Committee on Uniform Motor Vehicle Accident Reparations Act, National Conference of Commissioners on Uniform State Laws; Sam Fishman, director, Michigan United Auto Workers; William Gaines and John McCarron, investigative reporters for the Chicago Tribune, who have written a number of articles on automobile insurance compensation; Rosemary Pryor, a seriously injured accident victim compensated under the Michigan no-fault system; Tom Tuzzolino, a seriously injured accident victim compensated under the Illinois fault system who was accompanied by his mother, Karen Tuzzolino; Ivan E. Barris, Esq., speaking on behalf of the Michigan Bar Association; Elmer P. Simon, vice president and general counsel, Frankenmuth Mutual Insurance Co., speaking on behalf of the Michigan Association of Insurance Companies; Sheldon L. Miller, Esq., speaking on behalf of the Michigan Trial Lawyers Association; Robert Rowe, senior vice president, League Insurance Group; and Philip Loving, cochairman, Concerned Citizens Task Force of Detroit.

HISTORY OF THE MICHIGAN NO-FAULT STATUTE

The embryo of Michigan no-fault automobile insurance can be traced to September 1965, when the Michigan Credit Union League and the Law School of the University of Michigan cosponsored the Ann Arbor Conference on Auto Insurance. This conference, which brought together legal scholars, insurance industry leaders and government officials, examined both the legal theory and business practices involved in compensating individuals injured in car accidents. It was during this conference that particular interest was first shown toward the new theory of no-fault compensation, developed by Profs. Robert Keeton of the Harvard Law School and Jeffrey O'Connell of the University of Illinois Law School.

During the succeeding 7 years, a number of events transpired which eventually led to no-fault legislation. By the early 1970's, several States including Massachusetts, Florida, New Jersey, and Connecticut had enacted no-fault laws. Moreover, several in-depth studies, extremely critical of the existing tort system, were published. The 2-year, 26-volume study conducted by the U.S. Department of Transportation, a report to New York Governor Rockefeller by the superintendent of insurance, Richard Stewart, entitled, "Automobile Insurance—For Whose Benefit?" as well as certain Michigan studies, substantiated the inadequacies and unfairness of the fault system.

Secretary Austin articulated the State interest that prompted the Michigan legislature to enact its no-fault bill as follows:

> There existed a social problem resulting from automobile crash bodily injuries which was inadequately alleviated by a patchwork compensatory system comprised of an archaic tort system to which had been grafted inadequate uninsured motorist and financial responsibility statutes.

He summed up the inherent weaknesses of the tort system in this way:

> 1. Payment of damages was not timely and did not occur until after determination of liability.
>
> 2. If payment was realized, it usually was tendered in a lump sum—inaccurate for future losses and late for accurate past losses.
>
> 3. Many injured parties were not protected by tort and consequently not covered with respect to their losses, e.g., cases involving contributory negligence and single vehicle crashes, among others.
>
> 4. Savings through "wrap-arounds" or coordinated benefits was prevented because the tortfeasor was liable for the other person.
>
> 5. A major portion of the premium dollar was expended for administration of the tort system.
>
> 6. The tort system was characterized by inequities such as the over-compensation of small injuries, under-compensation of large injuries, and discrimination against the poor and uneducated.

Secretary Austin testified that one pre-1972 study of approximately 20,000 Michigan automobile crash cases involving serious injuries showed that roughly 57 percent of those injured received no compensation at all; 11 percent received less than 50 percent of their economic loss; 11 percent received 50 to 100 percent of economic loss; and, the remaining 20 percent—those least seriously injured—received anywhere from 100 to 400 percent of economic loss. Less than 3 percent received any compensation within 30 days, and it took from 1 year to 4 years for approximately 46 percent to receive any compensation.

Other studies documented the fact that people with higher incomes and more education did far better than people with lower incomes and lesser educations. For example, those with a family income under $5,000 recovered 38 percent of their economic loss. Those with family incomes of $5,000 to $9,999 recovered 52 percent of their economic loss, and those with income over $10,000 recovered 61 percent of their economic loss. By the same token, those who had only a grade school education recovered 24 percent of their economic loss, and those who had some college training recovered 70 percent of their economic loss.

Secretary Austin testified that even more revealing was a 1972 study by the Michigan Department of State of certain 1970 auto crash victims. He described the findings of this study as follows:

> Now all of these cases were already two years in process under the tort system when the study was made. The results of the examination were disconcerting. Two years after the crashes, legal settlements with insurance companies or the driver alleged to be at fault were nowhere near completion, in most cases. In certain instances, lawsuits which had been threatened still had not been instituted. Of the few that were filed, some offered little hope of obtaining a decent settlement, and on top of that, the lawyer would get his share, to which he was entitled, usually a third of the total amount, plus expenses, off the top, often leaving an inadequate amount for the victims.
>
> Other findings included victims and families with unpaid and continuing medical bills, debts, despondency, suspicion of the system, families torn apart were not uncommon. It could be stated some of the survivors or families of survivors of the crashes might be considered worse off. Under the tort system, there were found families of victims with loved ones injured or dead often with mounting unpaid bills, facing an insurance system which held the upper hand,

which could afford to stall them into a forced settlement.

People were found trying to cope with a legal system which because of the need to establish fault too often worked to the disadvantage of those needing quick and adequate compensation.

In short, actual case studies showed the tort system to be inhumane, unfair, and unresponsive to the needs of the crash victims.

On the basis of the deficiencies disclosed in these studies, Michigan's then-Insurance Commissioner Russell E. Van Hooser testified before a joint legislative committee, and outlined the following criteria as goals which an optional system of automobile insurance should meet:

1. Compensation of injured persons adequately, promptly, and without regard to fault for medical expenses, wage loss and rehabilitation loss.
2. Reduction or elimination of the nuisance value of small claims.
3. Reduction of the duplication and overlapping of benefits within the automobile insurance system and between the automobile insurance system and other systems.
4. Reductions or elimination of some of the other frictions and inefficiencies of the present system, such as the adversary relationship between insurer and injured party, court congestion, litigation expenses, and overhead expense.

In October 1972, the Michigan Legislature enacted and Governor Milliken signed into law no-fault legislation patterned after the model State law drafted by the National Conference of Commissioners on Uniform State Laws. The law was implemented on October 1, 1973.

PROVISIONS OF THE MICHIGAN LAW

The Michigan no-fault law requires the owners of all motor vehicles in the State to purchase personal injury protection—PIP—and property protection insurance—PPI.

Personal injury protection.—PIP coverage provides unlimited medical and rehabilitation benefits; work loss benefits of up to $1,285 per month for a maximum period of 3 years; dependent survivor loss benefits of up to $1,000 a month for a maximum period of 3 years; replacement service benefits of up to $20 per day for a maximum period of 3 years for disabled accident victims and dependent survivors of death victims; and, funeral and burial expenses of $1,000.

The statute contains a cost-of-living provision which has increased income loss benefits from the original $1,000 per month to a current level of $1,285. Thus, potential aggregate income loss benefits per person have increased from $36,000 to $46,260, an increase of 29 percent in 3 years.

Eligibility for PIP benefits is broad. The limited number of persons who are not covered by such benefits include the owner of a vehicle who does not purchase the mandatory coverage and who is injured in his own vehicle—the family is covered, however—a person injured in an automobile that he has stolen, or a nonresident who does not have coverage that has been certified by his insurer. Nonresidents are covered if their insurer is licensed in Michigan or has certified coverage. Nonresidents are also covered if hurt in a Michigan car or as a pedestrian in the State.

Under the provisions of the Michigan law, persons remain subject to tort liability for noneconomic losses due to injuries resulting in death, serious impairment of a bodily function, or permanent serious disfigurement.

Property protection insurance.—PPI benefits are payable without regard to fault to third parties for damage to tangible property. The statutory policy limit for damage from any one accident is $1 million.

Tort liability with respect to automobile property damage has been abolished for insured car owners. Thus, drivers are liable for the damages to their own cars, regardless of fault, and drivers are not liable for damages that may result to other cars. Collision insurance is not mandatory; however, several options of first party collision coverage are available, depending upon such variable factors as fault and deductibles.

PERFORMANCE OF BODILY INJURY NO-FAULT

On October 6, 1976, Commissioner Jones submitted a report to the Governor evaluating the performance of the Michigan no-fault law. This report, which is part of the record, concluded that the State's insurance system is fulfilling its main objective of guaranteeing prompt, sure, and more adequate compensation for losses suffered by automobile accident victims.

As Secretary Austin testified:

No-fault in Michigan has lived up to most of its promise. Today the injured in auto accidents are far better off than they were under the old tort system. In the great majority of cases, injury victims' medical bills are paid and they are paid promptly. Almost everyone is protected and we no longer have the incentive for insurance companies to stall and delay to try to beat down an injured person who is a potential legal adversary. Instead, today we have insurance companies faced with the prospect of long-term payouts for medical care, replacement services and wage loss, (who) have an economic incentive to rehabilitate accident victims to get them back on the job. . . . Let there be no confusion, the heart and soul of Michigan's no-fault law, those provisions dealing with the compensation of personal injuries, are working and they are working well. . . .

Mr. Barris, representing the State Bar of Michigan, testified as follows as to the success of Michigan's law in providing prompt payment of no-fault benefits for economic losses to all victims while also preserving the right of the most seriously injured to sue for their noneconomic losses as well:

Now Michigan's no-fault automobile insurance system has accomplished both of these goals. At the same time it has succeeded in reducing litigation and shifting insurance premium dollars from adjustment and legal cost to benefits paid to the accident victims.

By its very nature, first-party coverage for medical and rehabilitation expense, income loss, and dependent survivor benefits, Michigan's no-fault system has met the first goal . . .

The second goal, which really boils down to a matter of elemental fairness to the victim of another person's negligence, has been met by the design of Michigan's tort liability threshold . . .

Thus, Michigan has preserved the right of adequate recovery for truly serious injuries, while at the same time reducing the number of tort liability claims and auto accident lawsuits filed.

In support of the proposition that PIP coverage provides enough benefits to compensate victims for their actual economic loss, without regard to fault, Commissioner Jones detailed two case histories of seriously injured victims who had received well over $30,000 worth of no-fault benefits and who ultimately could be anticipated to receive between $170,000 and $300,000 in benefits. Commissioner Jones pointed out that under the preexisting fault and liability insurance system, one of the victims would have received only $1,000—from her "medical payments" coverage, a minimal no-fault coverage carried by most people in fault States—while the other victim would either still be waiting for a judgment 4 years later or would have had to take an inadequate out-of-court settlement just so her family could survive. Commissioner Jones added that—

The end result could have been two financially ruined families and, equally important inadequate medical treatment for the injured girl(s).

In addition, the subcommittee heard testimony from Ms. Rosemary Pryor, who was paralyzed from the waist down when the driver of the pick-up truck in which Ms. Pryor was riding lost control and hit a tree. Ms. Pryor was in a medical hospital for 1 month and in rehabilitation for the better part of 6 months thereafter. Her insurance company paid close to $9,000 for her medical bills, $7,000 for lost wages and $36,000 for her rehabilitation. Her insurance company has paid for a new car with hand controls, for the construction of a bedroom and bathroom that was accesible to her, for the purchase of wheelchairs and other devices to aid her mobility, and for special counseling and training.

Their main concern is for me to become as independent and healthy as anybody else, to be able to take care of myself and do for myself without dependence on other people, friends and family, nurses, whatever.

This assistance enabled Ms. Pryor to return and complete college and to enter the work force.

Had Ms. Pryor been injured in Michigan prior to enactment of its no-fault law, she would have been denied any recovery because the preexisting tort law prohibited a passenger from suing the driver of the car in which the passenger was riding.

The Michigan no-fault system, with its full and prompt compensation, was sharply contrasted with the Illinois fault system, when the subcommittee heard the testimony of Mrs. Karen Tuzzolino. She was accompanied by her son, Tom, who was seriously injured when he was hit by a car at the age of 5. Under the Illinois fault system, compensation was both delayed and inadequate. Mrs. Tuzzolino testified that it took 6 years to recover through a lawsuit and that the recovery, $40,000, less one-third for her attorney, was not nearly enough to pay for her son's operations and care. The Tuzzolino family was forced to incur large debts to pay Tom's bills and Mrs. Tuzzolino, with seven children to care for, was forced to learn a trade and go to work to help pay the bills.

The contrast was further highlighted through the testimony of two investigative reporters for the Chicago Tribune, William Gaines and John McCarron. They compared cases handled under the no-fault system of Michigan. In so doing, they documented the compensation gaps of the fault system and its slowness. They found that more than half of all Illinois auto accidents victims receive nothing from the fault and liability insurance system and they found that there was a 3-year backlog of cases in the courts which delayed compensation to those who could successfully maintain a tort suit. Both reporters commended the adequacy and speed of compensation under Michigan's no-fault law.

Information presented by Commissioner Jones also disclosed that under no-fault almost all claims are settled within 30 days rather than the months and years consumed under the tort system.

Moreover, data referred to by the Commissioner revealed that many more accident victims are compensated under the no-fault system than under the tort system. According to these data, over 30 percent of catastrophic claims—in excess of $25,000—now being paid under no-fault involved victims of single car accidents, people who generally would not have been compensated under the fault system.

Furthermore, Commissioner Jones testified that the performance of no-fault indicates more insurance premium dollars are being directed from legal costs to benefits for accident victims. While Michigan has not conducted a closed claims study, which would be the means of developing precise data comparing the flow of benefits under the tort and no-fault systems, Commissioner Jones testified that one large insurer has found that since no-fault has been in effect in Michigan the proportion of premium dollars going toward benefits has increased by 58 percent. The Commissioner estimated that approximately 75 cents of the no-fault portion of the premium dollar is returned to insureds as benefits under no-fault. He was uncertain, however, how much of this return would go for attorney's fees. The 1971 DOT study, referred to above, found that insureds received 64 cents of the premium dollar in benefits under the fault system. Of this amount, 20 cents is estimated to represent costs for attorney's fees.

Other evidence presented during the hearing would tend to confirm the availability of more dollars to compensate victims. During a 1-year period encompassing portions of 1975 and 1976, auto negligence cases filed with the Michigan Circuit Court declined by 20 percent and the trend appears to be continuing in 1977. The reduction in cases filed not only reduces the expense of litigation but court congestion as well.

Finally, Commissioner Jones testified that premium dollars are used more efficiently through coordination of different insurance coverages and elimination of duplication. It has been estimated by the Michigan Insurance Bureau that up to 40 percent of the policyholders of some companies are taking advantage of coordination of benefits with an average annual premium savings of $30 each.

MICHIGAN'S "VERBAL" THRESHOLD

The Michigan no-fault law, like all other no-fault laws, permits victims to maintain lawsuits for any economic losses not compensated by no-fault benefits—although the high benefits in Michigan probably preclude almost all such suits. However, Michigan's law also maintains a "verbal" threshold which permits a person to sue in tort for noneconomic losses in cases of "death," "serious impairment of a bodily function," or "permanent serious disfigurement." Michigan is the only State whose verbal threshold has been in effect long enough to assess—the verbal thresholds of Florida and New York were not enacted until 1976 and 1977, respectively.

It is clear from our hearings that a fiscally sound no-fault plan—particularly one that provides adequate benefits to the seriously injured—must have a threshold that eliminates nuisance lawsuits and is not subject to abuse. While some witnesses expressed concerns about possible future erosion of Michigan's threshold, present data demonstrates that the Michigan threshold is accomplishing these objectives.

Mr. Barris of the Michigan State Bar testified that the verbal threshold has eliminated the "fudging, padding, and outright fraud encountered in States which have adopted a dollar medical expense threshold for tort liability." Moreover, he testified that the verbal threshold has also "eliminated the garden variety type of nuisance lawsuit which are so expensive to defend against from the standpoint of the insurance companies."

But, Mr. Barris appreciates that the elimination of lawsuits is not an end in itself. Rather, it is the means by which one can afford a fairer system of compensation:

We suggest to you that reduction in auto accident litigation should be regarded not as end in itself but as a means to an end. The end, we should remember, is a reduction in the time and cost required to provide fair compensation to auto accident victims. Indeed, litigation in itself is a means, not an end, a means to obtaining fair compensation.

To the extent that fair compensation can be obtained by faster and less expensive means, it should be replaced by those means.

With respect to the reduction in lawsuits being filed, the previously cited figures of auto negligence cases filed in the Michigan circuit court confirm that there was a significant 20-percent reduction between June 1975 and June 1976. Further, data collected by the Michigan Association of Insurance Companies (MAIC) and by the National Association of Independent Insurers and the insurance services office reveal an 87 percent reduction in bodily injury liability claims in Michigan. The MAIC data also discloses the shift to first-party claims, finding an increase of 161 percent in the filing of such claims between 1973 and 1975.

The success of Michigan's verbal threshold in holding down the costs of litigation to the automobile insurance system is borne out by data produced by the fast track monitoring system devised by the National Association of Insurance Commissioners. This data shows that for the year ending in the fourth quarter of 1976, the pure premium for PIP was $23.67 while residual bodily injury liability coverage cost $18.53. In contrast, data for New York for the same period, during which New York had lower benefits and a $500 medical threshold, reveal that the pure premium for PIP was $23.43 while residual bodily injury coverage was $48.05. Thus, while New York "no-fault" system was spending two-thirds of its bodily injury premium litigating fault, the Michigan no-fault system was spending proportionally far less.

Commissioner Jones noted that while the threshold is currently working well, some concerns have been raised about its future efficacy. He said that certain decisions in lower courts may permit more lawsuits than was the intention of the drafters of the threshold. He also said that some insurance companies believe the number of suits will soon rise and have substantially increased their reserves in anticipation.

Most of the concern seems to arise from a Michigan appellate court decision that held that the question of what constitutes a "serious impairment of bodily function" is not a matter of law for the judge; instead, it is a question of fact for the jury to decide.

But Commissioner Jones affirmed that the threshold is presently working and that court filings to do not support the fears expressed by insurance companies:

We are not saying, and I hope I have not given the impression that we are saying, the threshold is not now working. We are saying, and felt it was important to point out, that there may be potential problems vis-a-vis the manner in which the judicial system is interpreting the legislative language, and we believe the legislative intent with respect to no-fault.

The concern is widespread in the industry, in the insurance industry, but it has not shown up in the number of suits filed in the local circuit courts. There is concern about this . . . (but) the facts do not at this time justify the industry concern on the threshold.

PERFORMANCE OF PROPERTY DAMAGE NO-FAULT

According to Secretary Austin and other witnesses, the major criticisms leveled at Michigan's no-fault system are directed at the property damage portion of the law. It should be noted that none of the Federal standards no-fault bills provide for no-fault property damage coverage.

The aforementioned report to the Governor of Michigan attributes most consumer discontent with respect to property damage coverage to the inability to hold negligent drivers "responsible" for collision damages, particularly in cases in which the "innocent" driver has to pay the deductible. However, the report points out that the insurance bureau also received numerous complaints under the previous tort liability system, under which only about one-third of the automobile collisions resulted in payment under the property damage liability provisions.

While an analysis of the overall cost efficiency of the Michigan no-fault

property damage system has not been undertaken, the insurance department believes that first-party no-fault has resulted in a salutary redistribution of the premium burden for auto collision damages. Since first party collision insurance is priced in relation to the value of the vehicle, owners of older, lower priced vehicles pay relatively lower premiums than the owners of higher priced cars. The "ability to pay" principle is absent in the pricing of liability insurance.

COST EXPERIENCE

Commissioner Jones testified that rate increases under no-fault in Michigan have been lower than those experienced by most other States during the inflationary 1970's.

There were no rate increases from 1971 to 1974, followed by increases of approximately 40 percent from 1975 to 1977. Commissioner Jones pointed out that these increases have been no higher than those in tort States of similar demography such as California, Illinois, and Ohio, despite the far greater benefits that are paid to victims under Michigan's no-fault system.

He pointed out, further, that Michigan's rate increases have been less than those in no-fault States that did not effectively limit the right to sue for general damages, such as Florida and New York.

Finally, the Commissioner pointed out that Michigan's auto insurance rates have been running far behind the national inflation rate for the goods and services which insurance buys. During this same time period, for example, the cost of medical care rose by about 60 percent.

Chicago Tribune reporter Bill Gaines further documented the Commissioner's testimony during the course of his investigation into the fault system of Illinois and the no-fault system of Michigan. He found that the rates were 15 percent higher in Illinois for individuals of comparable backgrounds in comparable locations.

CONCLUSION

Michigan's no-fault law is a demonstrable success. It delivers the promised benefits of a good no-fault law—prompt and adequate compensation for almost all auto accident victims, including the seriously injured, for a premium that does not exceed the premium of the preexisting fault system, except to reflect inflation.

Of the four laws that the subcommittee examined—those of Massachusetts, Florida, New York, and Michigan—Michigan's is far and away the best. The others all suffered from built-in defects, either inadequate benefits or an inadequate threshold, that have predictably prevented those laws from achieving the success of a properly drawn no-fault law.

The subcommittee has held five additional hearings after the Michigan one on H.R. 6601, the Standards for No-Fault Motor Vehicle Accident Benefits Act, and related bills. Testimony was received from representatives of the legal profession, consumer groups, unions, State officials, medical and vocational rehabilitation experts, and the insurance industry. In addition, Transportation Secretary Brock Adams presented the administration's position in strong support of H.R. 6601.

HOUSE OF REPRESENTATIVES—*Friday, September 23, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep thy heart with all diligence; for out of it are the issues of life.—Proverbs 4: 23.

O God of grace and truth, we pause before Thee, ere the day continues, to pray for a clear sense of Thy presence that we may feel anew that we are not alone in our labors but that Thou art with us. As we seek to solve our perplexing problems and endeavor to meet the needs of our people, help us to tap the spiritual resources which are available which give us courage, strength, and wisdom.

Help us to know that which is worth knowing, to love that which is worth loving, and to do that which is worth doing. Give us clear insight to discern between good and evil, truth and falsehood, and the creative faith to do the good and to live the truth for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 14, not voting 88, as follows:

[Roll No. 579]

YEAS—332

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Butler
Byron
Caputo
Carr
Carter
Cederberg
Clay
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Grassley
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holt
Holtzman
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pursell
Quie
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
Rudd
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shipley
Shuster
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steed
Steers
Stockman
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—14

Aspin
AuCoin
Broomfield
Brown, Mich.
Coughlin
Glickman
Gooding
Hollenbeck
Jacobs
Lloyd, Calif.
Mattox
Quayle
Sarasin
Walker

NOT VOTING—88

Ambro
Andrews, N. Dak.
Armstrong
Ashley
Badillo
Bellenson
Bolling
Brooks
Burlison, Mo.
Burton, John
Carney
Cavanaugh
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Ill.
Conyers
Cornwell
Cotter
Dent
Derwinski
Diggs
Dingell
Dodd
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Evans, Colo.
Evans, Ga.
Evans, Ind.
Forsythe
Fountain
Frenzel
Frey
Gammage
Giaimo
Goldwater
Gudger
Holland
Horton
Howard
Jenrette
Johnson, Calif.
Kasten
Kelly
Koch
Lent
Lott
McDade
McDonald
Mann
Mazzoli
Mitchell, Md.
Murphy, N.Y.
Nichols
Pettis
Poage
Pritchard
Quillen
Rhodes
Richmond
Roncalio
Rose
Rousselot
Runnels
Ruppe
Sikes
Smith, Iowa
Stangeland
Steiger
Stokes
Thornton
Traxler
Treen
Vander Jagt
Walsh
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wolff
Wright
Young, Alaska
Young, Tex.

Mr. BENNETT changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 20, 1977:

H.R. 5294. An act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors.

On September 21, 1977:

H.R. 7933. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 263. Concurrent resolution providing for the printing of 3,000 additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education."

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1307. An act to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON H.R. 5503, ARMED FORCES, DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on H.R. 5503, a bill relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON H.R. 9019, THIRD BUDGET RESCISSION BILL FOR 1977

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on H.R. 9019, the third budget rescission bill for 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON H.R. 3813, EXPANSION OF REDWOOD NATIONAL PARK, CALIF.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on H.R. 3813, a bill to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. ROSTENKOWSKI) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.
September 22, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:20 p.m. on Thursday, September 22, 1977, and said to contain a message from the President in which he transmits his decision and report on an Alaska Natural Gas Transportation System.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

DECISION AND REPORT ON AN ALASKA NATURAL GAS TRANSPORTATION SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–225)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and ordered to be printed with illustrations:

To the Congress of the United States:

Natural gas has become the Nation's scarcest and most desired fuel. It is in our interest to bring the reserves in Alaska to market at the lowest possible price. Consequently, I am today sending the Congress my decision and report on an Alaska Natural Gas Transportation System.

The selection of the Alcan project was made after an exhaustive review required by the Alaska Natural Gas Transportation Act of 1976 determined that the Alcan Pipeline System will deliver more natural gas at less cost to a greater number of Americans than any other proposed transportation system.

The Alcan proposal, taken together with the recently signed Agreement on Principles with Canada, demonstrates that our two countries working together can transport more energy more efficiently than either of us could transport alone.

Unnecessary delay would greatly increase the total cost of the pipeline system. I urge the Congress to act expeditiously to approve this important project.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1977.*

PROPOSED RESCISSION IN GENERAL CRIMINAL JUSTICE AND CORRECTIONS GRANT FUNDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–226)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose

rescission of $2.7 million in general criminal justice and corrections grant funds appropriated to the Department of Justice.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 23, 1977.*

ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6796, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 21, 1977, pending was the amendment offered by the gentleman from Washington (Mr. MCCORMACK) adding a new title VII, on which, by a division, the ayes were 38, the noes were 0, and pending was the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. LUJAN. Madam Chairman, before the House concludes its consideration of H.R. 6796, I would like to commend my colleague, Chairman TEAGUE, for his management of this bill on the floor. Also, I would like to thank the Chairman for his clarifying statement with respect to section 210 of this bill which amends the Federal Nonnuclear Energy Research and Development Act of 1974. I am, of course, addressing myself to the loan guarantee authority afforded ERDA when this act becomes law.

On Wednesday, during discussion of this bill, Mr. OTTINGER of New York quoted from the committee report on H.R. 6796 concerning an apparent prohibition against the use of loan guarantees for the construction of full-size commercial facilities such as a high Btu coal gasification plant. In response to Mr. OTTINGER, Chairman TEAGUE made it clear that the language of this amendment is strictly procedural in that it only creates a new tool for ERDA to use in expanding the Nation's energy supply. It is neither designed to be restrictive in nature with respect to the size of proposed projects nor is it aimed at limiting the kind and types of technologies that may be eligible for loan guarantees.

In his statement, Chairman TEAGUE cited section 8 of the Nonnuclear Act which under the discussion of "Demonstrations," authorizes the demonstration of selected technologies "on a prototype or full-scale basis." I would like to reinforce what the chairman has said by noting that section 8 also stipulates that the Administrator shall specify information to be contained in proposals, one of which is "plans for continued use of the plant if the demonstration is successful." Clearly, continued operation of a plant of less than commercial scale would not be justified.

Additionally, it is clear in section 7 of the act that it was the intent of Congress that commercial-scale facilities qualify for assistance. For example in section 7(b)(1), joint Federal-industry corporations are subject to a number of guidelines, the first of which is that "each such corporation may design, construct, operate, and maintain one or more experimental, demonstration, or commercial-size facilities, or other operation which will ascertain the technical, environmental, and economic feasibility of a particular energy technology."

I think it is obvious from the excerpts above, that the intent of the Congress when it passed the Nonnuclear Act was to permit a limited number of full scale or commercial size projects. Any amendment to the Nonnuclear Act which would expand section 7, thereby adding additional forms of Federal assistance such as loan guarantees, would thus be subject to, unless otherwise explicitly stated, the original intent of the Nonnuclear Act.

Mr. GIBBONS. Madam Chairman, I move to strike the last word.

Madam Chairman, I realize it is Friday, and I realize that we are in a hurry. I want to be brief, but this, I think is significant.

First of all, I want to commend the committee for the bill that they brought out and say I intend to support it. My remarks are not intended to criticize them in any way but to point up what is happening. This bill contains a lot of guaranteed loans. Perhaps that is the only way we can get going in some of these synthetic fuel projects that need to go on and some of the other projects that need to go on in the energy area, but let me point up to the House, and particularly to those very conscientious Members who are here today, what is happening in all of this.

A few years ago we set up something called the Federal Financing Bank. The Federal Financing Bank is nothing more than a door to the Treasury. It has one employee, and he operates a $48 billion industry. When we go to the Federal Financing Bank, as we often do, it is just like going to the Treasury. There is only one difference, and that is that when we go to the Federal Financing Bank, we usually do not put that item on the budget. So we often see here where the Congress is running a deficit of $40 billion, $50 billion, or $60 billion a year, but we have to raise the national debt ceiling by $70 billion or $80 billion a year. In other words, we are taking money directly out of the Treasury without counting it in the budget. This bill that we have here today will continue that process.

If we look at the portfolio of debt that is held by the Federal Financing Bank, we find, shockingly, that some of it is just a rollover of existing bad debt. In other words, it is an appropriation. And I would imagine that some bad loans will be made in this program. Some of the FFB debts are quite large bad debts. I do not know whether they will ever be paid back, or how they will be paid back.

What I am pointing out, Madam Chairman, is that we are approaching the point where we cannot control spending, because, frankly, sometimes some of the Members do not understand when we are spending. That is very regrettable.

When we set up the Federal Financing Bank, it had a balance of zero. At the end of the fiscal year that is now starting, that Federal Financing Bank will have a balance, a current balance, of $48 billion worth of paper, some of it current, some of it rolled over, some of it that will never be paid, and some of it that will be paid. It is something that we need to examine. As I say, I am not criticizing the Committee on Science and Technology here today for what they have done, but, rather, something that this Congress must put the brakes on.

We must begin to put these things back in the budget where they are subject to the budget process. We must be aware of this in the authorization and the appropriation processes and the budget committees. If we do not do it, we will certainly be guilty of the charges that are sometimes made—that the Congress does not know how to control its spending.

Mr. KEMP. Madam Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. KEMP. Madam Chairman, I congratulate the gentleman from Florida for his statement. I heartily endorse his remarks and I associate myself with his remarks.

I cannot think of anything more important to bring to the attention of this body as well as to the country than the need to put into the budget all of these off-budget items that are growing by leaps and bounds year after year. The gentleman is making an important contribution not only to this debate but also as to what is wrong with the whole budget process.

I thank the gentleman for yielding.

Mr. GIBBONS. I appreciate the remarks of the gentleman from New York.

Mr. WALKER. Madam Chairman, I rise in support of H.R. 6796, the authorization for the Energy Research and Development Administration for fiscal year 1978. This bill provides the real basis for progress in meeting national energy demands in both the near and long term. Far more than the ill-conceived National Energy Act which the House passed last month, H.R. 6796 will form the genuine program to insure that multiple energy

technologies are developed for America's future.

Although there are many important energy initiatives in this bill, I would like to address myself to the environment and safety area of the bill. The committee has authorized slightly over $275 million for fiscal year 1978 for environment and safety activities. The Environment and Safety Office has the responsibility for insuring that the many energy technologies which are being promoted and developed are also safe, clear, and environmentally acceptable. This can be a very difficult job.

There is a very fine line between insuring the safety and environmental acceptability of an energy technology and choking off the development of that technology by imposing unreasonable standards. I think that the Congress learned a great deal from the overreaction which took place in response to the increased environmental awareness of the early 1970's. Industry found it impossible to operate under some of the most stringent restrictions and Government began to realize that the scales had been tipped too far toward environmental concerns.

The Science and Technology Committee has not reacted in this way when considering the environment and safety programs of ERDA. Instead, we have fashioned a well-balanced program that both responds to safety and environmental concerns while permitting the rapid development of needed energy technologies. In this regard, I want to compliment Chairman TEAGUE, our ranking minority member, JACK WYDLER, and the distinguished chairman of our Environment and Atmosphere Subcommittee, GEORGE BROWN, for their outstanding work in guiding this entire bill through committee.

Madam Chairman, the authorization request for the environment and safety portion of the bill came through committee basically unchanged. However, we did add a total of $11.9 million among several areas.

In the overview and assessment area $8.9 million was added. Of this total, $3.6 million will go to the national coal utilization assessment program. This is an extremely important program. Recently there has been a great deal of media attention given to the implications of the so-called greenhouse effect on the atmosphere caused by the burning of fossil fuels. While the effects of increased coal burning on the atmosphere will be long range, it is important to have a full assessment as quickly as possible to enable us to shape future coal utilization plans in the most environmentally acceptable manner.

In addition, the increased funding for the national coal utilization assessment program will enable more detailed studies to be made on the regional and local level of the environmental and socioeconomic impacts of increased coal production and use. The committee has also provided an additional $1 million for a separate assessment of the effects of the addition of carbon dioxide to the atmosphere. This study goes beyond the coal survey which I have already mentioned. Included in this assessment will be initial surveys of forest biomass changes, studies of the interaction of atmospheric carbon dioxide with the ocean and accelerated deployment of 20 atmospheric CO_2 measurement stations.

In the decontamination and decommissioning area the committee has provided $1 million for a study of the options available with regard to the disposal of radioactive waste at the closed western New York Nuclear Service Center. It is important to note that the options to be considered are not intended to relieve the State of New York or any private parties from any existing legal responsibilities without the concurrence of the Congress. However, the thousands of gallons of nuclear waste now stored on the plantsite are a serious problem. This study can provide the basis for allocating future responsibilities and for reaching an environmentally safe solution.

Madam Chairman, from these brief descriptions of some of the actions taken by our Environment and Atmosphere Subcommittee I think that my colleagues can see that H.R. 6796 is a piece of legislation that not only enhances the development of our many energy options but protects our environment as well. I ask all of my colleagues to give the bill their full support.

Mr. DORNAN. Madam Chairman, much has been said about the fact that the United States has enough coal to supply its energy needs for at least the next 100 years and, with improved mining techniques, probably for much longer. Whether it is practical, however, to utilize this resource is still another question. Certainly in its original state, coal cannot be used to supply all of the energy needs of this country.

Also, the thought has been advanced that as more coal is mined, the lower Btu content of western coal may not lend itself to continued development of this very abundant resource because of unit material handling and transportation costs. But the conversion of coal as a gaseous or liquid product could result in its use to a much greater degree than is presently possible. And conversion of the low Btu, low sulfur western coals into a high Btu synthetic gas which can be commingled with natural gas in existing pipelines with idle capacity is possible today with present technology.

Yet, there are no commercial scale high Btu coal gasification plants operating in this country and if coal is to contribute to our sagging energy base, it is essential that at least one such plant, and preferably more than one, be constructed to obtain firsthand knowledge of coal gasification technology, its environmental effects, its commercial scale economics, and the institutional and socioeconomic impacts. The knowledge gained will not only be applicable to the development of first generation technology but will also speed the commercialization of second generation technology when it becomes available.

The Lurgi process is a commercially viable technology—available now—which can be utilized to supplement domestic supplies of natural gas through early commercial production of synthetic gas from coal.

The argument has been made that Lurgi is an antiquated process and that development of the industry should wait upon the availability of second generation technology. But this argument ignores the fact that Lurgi technology has advanced through several stages of development since it first emerged in the early 1930's. The first commercial plant producing town gas from lignite was constructed in 1936. During World War II, several plants were built to produce synthesis gas for the production of liquid hydrocarbon fuels. More current models are now installed worldwide in Germany, England, South Africa, Korea, Pakistan, and Australia. Based upon the experience gained in South Africa, a new generation of gasifiers are planned in expansion of the existing Sasol plant, construction of the new Sasol II complex and in the proposed U.S. SNG plants currently waiting for approvals.

There are some distinct differences which can be drawn between the Lurgi process and second generation technology such as Hygas, Bi-Gas, and CO_2 acceptor processes. First of all, Lurgi technology is available now and can be in commercial operation in the United States in 1983, some 7 to 9 years ahead of any commercial second generation process. In addition, Lurgi process and equipment costs and efficiencies are well established. Similar second generation costs and efficiencies are generally based on factored or computer model estimates from limited pilot plant data and are yet to be proven in commercial installations. A fair comparison of investment and operating cost cannot be made between a proven commercially available process and a computer model of a process that is still in the pilot phase.

Reliability is also a factor which must be considered in weighing the two approaches. Lurgi gasifier reliability has been proven and the conservative design of these plants incorporates the use of multiple gasifiers. In a full sized plant, this would be between 20 and 30 gasifier units. Second generation gasification processes contemplate using two or three scaled up gasifiers which have yet to be proven in operation. This design approach, unlike that of Lurgi, does not include spare units in the gasification section and is thus subject to lower onstream reliability.

A C. F. Braun report for ERDA indicates that the present cost difference between Lurgi and the other second generation processes amounts to $80 million. But it is predicated on the absence of spare gasifiers and very short interruption for maintenance. It is possible, therefore, that if the commercially untried second generation processes suffer greater down time for maintenance than anticipated, it will be difficult for such plants to equal the present WESCO

Lurgi reliability onstream factor of 91 percent.

Conversely, if it is deemed necessary that greater reliability must be built into these newer technologies by adding spare gasifiers, the cost of second generation plants will rise accordingly. In fact, the capital cost advantage of second generation plants is soon offset by anticipated cost escalation if the time differential between the two systems is greater than 2 years.

It is unrealistic to expect a fair comparison of investment and operating cost data between a commercially proven process like Lurgi which is now available for use and processes which are still in the early stages of testing and which cannot be in commercial operation until the early 1990's.

If it is determined that consumers must wait 9 years for the startup of a second generation plant beyond the 1983 startup date possible for a Lurgi-based plant, the cost of gas differences based on data developed in the C. F. Braun report would be $9 billion more for an 8 percent escalation rate or $1.5 billion for a 4-percent rate over a 20-year plant life. And the expected second generation commercialization date of 1992 is even optimistic. Based on past history of major technological innovations and the present status of the new processes, some 15 to 17 years may be required to reach full commercialization which will increase cost to the consumer that much more.

Use of our Nation's coal reserves for the production of synthetic pipeline quality gas should be an early major energy objective and Lurgi technology is the only way commercial production can be accomplished in the next 5 to 6 years. In addition, Lurgi coal gas is environmentally sound and economically advantageous when compared with electricity. It can supply the needs of millions of homeowners and businesses at least a full 9 years ahead of presently contemplated second generation technologies. There is no way that plants constructed some 9 years after startup of commercial production from a first generation plant can be cost competitive with that plant. To delay the implementation of known technology for that which may prove to be 15 percent more efficient in another decade does not serve the social and economic needs of energy dependent Americans. That risk is too great.

Two leading proponents of second generation technology, Dr. Henry Linden, a leader in the development of the Institute of Gas Technology's Hygas program and Mr. Erick Reichl, president of the Conoco Coal Development Co., have gone on record as stating that there is no better way to push forward with second generation technology than to establish a benchmark with first generation technology against which to work. Both of these men agree that if development of coal gasification is to go forward in this country, it is essential that it be supported with Federal loan guarantees.

Mr. JENRETTE. Madam Chairman, as the House considers the fiscal year 1978 authorization bill for the Energy Research and Development Administration, I want to call special attention to the Barnwell nuclear fuel plant in my State of South Carolina.

The Barnwell plant today stands partially completed after the Federal Government encouraged the owners of Barnwell and other private investors to enter the nuclear fuel cycle business beginning in the 1950's. This policy of encouragement abruptly changed direction on April 7, when President Carter indefinitely deferred commercial reprocessing and recycling of spent fuel produced in U.S. civilian nuclear powerplants and stated that the Barnwell facility "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility." This policy was put forward by the President in good faith as a deterrent to further nuclear proliferation. I wrote to the President on March 31 and offered my support for a constructive pause in the development of commercial reprocessing in the United States. While supporting the pause, I did urge the President to use this pause to institute an international safeguards system and to perfect techniques for handling highly radioactive wastes and plutonium. An obvious place to undertake evaluations such as these is at the Barnwell plant.

While the President's April 7 policy statement effectively rules out any near term prospect for the operation of Barnwell as a commercial reprocessing venture, it should not preclude the utilization of existing facilities and staff at Barnwell to further the administration's programs in nonproliferation, safeguards and nuclear waste management.

Administration support for utilization of Barnwell for noncommercial reprocessing programs is expressed in a July 19 letter to me from Assistant to the President for Congressional Liaison, Frank Moore. In that letter, Mr. Moore states that "the administration supports" the appropriation of up to $14 million in fiscal year 1978 to undertake fuel cycle research and development at Barnwell as well as a study to evaluate long-term uses of the facility. The definition of the programs to be undertaken in fiscal year 1978 are described in an amendment by Senator HOLLINGS of South Carolina to the Senate version of the fiscal year 1978 Public Works-ERDA appropriations bill. The House accepted this amendment in conference and on August 8, President Carter signed the fiscal year 1978 Public Works-ERDA appropriations bill into law.

On July 12, the Senate approved a fiscal year 1978 ERDA authorization bill which includes $1 million for ERDA to study the long-term optional uses for Barnwell, including how the facility might be used under multinational or international auspices to assist efforts to control the spread of nuclear proliferation.

The bill also includes $13 million for research and development at Barnwell related to nuclear safeguards and alternative fuel cycle development. Utilization of the plant and staff on useful R. & D. programs will allow Congress and the administration time to explore long-range options for using Barnwell.

Consistent with the Senate action, the House Science and Technology Committee has directed ERDA to explore the options for using Barnwell in fiscal year 1978 and to "prepare a full report during this fiscal year on the possible uses of the Barnwell facility." The committee also asked that the evaluation include "how the facility could be incorporated into the operations at Savannah River," which is the ERDA reservation adjacent to Barnwell.

The Science and Technology Committee version of the authorization bill does not include, at this time, funding for the research and development programs included in both the fiscal year 1978 Public Works—ERDA appropriations bill and the Senate approved version of the fiscal year 1978 ERDA authorization bill. I urge the House conferees on the fiscal year 1978 ERDA authorization bill to support research and development programs for Barnwell.

There are several very compelling reasons to keep the reprocessing option open and at the same time utilize the Barnwell facility. We may have to reprocess for natural resource and waste management reasons. Reprocessing reduces the volumes of high level radioactive wastes and reprocessing and recycle can provide up to 60 percent more energy from every pound of uranium.

Another very compelling reason to move quickly on the Barnwell matter is that the Federal Government, including previous administrations and Congress, actively encouraged the owners of Barnwell to enter the reprocessing business through policy statements and technology access programs. To suddenly reverse this trend and leave the owners of Barnwell unable to proceed after an investment of some $250 million will have serious repercussions throughout the private sector and will make efforts by the administration and Congress to encourage future private investment in high risk energy technologies difficult, if not impossible. I pointed this out to President Carter in an April 28 telegram to him.

Finally, reprocessing offers the best means to dispose of spent fuel from nuclear powerplants.

South Carolina is now more than 30-percent dependent on nuclear power for its electricity energy needs and this will grow to nearly 50 percent by the turn of the century. The utilities in South Carolina and indeed most of the United States believe that nuclear fuel reprocessing and recycle of the unused uranium and plutonium is the best way to dispose of spent fuel. I believe that too, and I believe that reprocessing can be undertaken without unduly harming the environment or accelerating nuclear proliferation. The best place to demonstrate how to achieve these goals is to use the Barnwell plant.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. COUGHLIN. I am, Mr. Speaker.

The SPEAKER pro tempore. The clerk will report the motion to recommit.

The clerk read as follows:

Mr. COUGHLIN moves to recommit the bill H.R. 6796 to the Committee on Science and Technology.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 47, answered "present" 2, not voting 68, as follows:

[Roll No. 580]

YEAS—317

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Badham
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Caputo
Carter
Cavanaugh
Cederberg
Chappell
Clay
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Krueger
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Railsback
Rangel
Regula
Reuss
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Rudd
Russo
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shuster
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steed
Steers
Stokes
Stratton
Stump
Symms
Taylor
Teague
Thone
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
White
Whitley
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—47

AuCoin
Bedell
Bingham
Bonior
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cornell
Coughlin
Crane
Dellums
Dodd
Downey
Early
Edwards, Calif.
Fenwick
Fraser
Harrington
Holtzman
Kastenmeier
Kostmayer
Krebs
LaFalce
Lehman
Long, Md.
Maguire
Markey
Mikva
Miller, Calif.
Mitchell, Md.
Moffett
Neal
Nolan
Ottinger
Rahall
Rosenthal
Roybal
Ryan
Seiberling
Studds
Thompson
Waxman
Weaver
Weiss
Yates

ANSWERED "PRESENT"—2

Bafalis
Gonzalez

NOT VOTING—68

Andrews, N. Dak.
Armstrong
Ashley
Badillo
Bellenson
Biaggi
Bolling
Breaux
Brooks
Burlison, Mo.
Carney
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Conyers
Cornwell
Cotter
Dent
Derwinski
Eckhardt
Edgar
Edwards, Ala.
Evans, Colo.
Evans, Ga.
Forsythe
Frenzel
Frey
Goldwater
Holland
Horton
Howard
Jenrette
Johnson, Calif.
Kasten
Kelly
Koch
Lent
McDade
McDonald
Mann
Mazzoli
Murphy, N.Y.
Nichols
Pettis
Poage
Quillen
Rhodes
Richmond
Rose
Rousselot
Runnels
Ruppe
Sikes
Smith, Iowa
Stangeland
Steiger
Stockman
Thornton
Traxler
Treen
Vander Jagt
Walsh
Whalen
Whitehurst
Whitten
Wilson, Bob
Wright

The Clerk announced the following pairs:

Mr. Biaggi with Mr. McDonald.
Mr. Brooks with Mr. Badillo.
Mr. Murphy of New York with Mr. Conyers.
Mr. Ashley with Mrs. Chisholm.
Mr. Carney with Mr. Edgar.
Mr. Mazzoli with Mr. Richmond.
Mr. Whitten with Mr. Koch.
Mr. Dent with Mr. Frey.
Mr. Evans of Colorado with Mr. Del Clawson.
Mr. Mann with Mr. Whalen.
Mr. Wright with Mr. Stockman.
Mr. Nichols with Mr. Eckhardt.
Mr. Horton with Mr. Jenrette.
Mr. Treen with Mr. Traxler.
Mr. Cotter with Mr. Bellenson.
Mr. Kelly with Mr. Sikes.
Mr. Stangeland with Mr. Cornwell.
Mr. Runnels with Mr. Andrews of North Dakota.
Mr. Howard with Mr. Edwards of Alabama.
Mr. Forsythe with Mr. Breaux.
Mr. Whitehurst with Mr. Quillen.
Mr. Burlison of Missouri with Mr. Rousselot.
Mr. Goldwater with Mr. Derwinski.
Mr. Don H. Clausen with Mr. Cleveland.
Mr. Thornton with Mr. Frenzel.
Mr. Steiger with Mr. Evans of Georgia.
Mr. Smith of Iowa with Mr. Holland.
Mr. Johnson of Colorado with Mr. Kasten.
Mr. Rose with Mr. Bob Wilson.
Mr. Walsh with Mr. Lent.

Mr. KREBS and Mr. SEIBERLING changed their vote from "yea" to "nay."

Mr. BLOUIN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications".

SEC. 2. In accordance with section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration subject to titles I, VI, and VII of this Act, the following:

TITLE I—FOR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For operating expenses, for the following programs, a sum equal to the total of the following amounts:

(1) Magnetic fusion, $199,900,000.

(2) Fuel cycle research and development, $357,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 105 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(3) Liquid metal fast breeder reactor, $408,300,000: *Provided*, That an amount not to exceed $5,000,000 shall be applied for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted: *Provided*, That none of the funds made available by any appropriations Act pursuant to this Act, or any other authorization Act, including funds from the General Treasury, revenues received, changes in selected resources, transferred funds, or funds from any other source, shall be used in fiscal year 1978, in any way, directly or indirectly, to terminate or cancel the Clinch River Breeder Reactor Project, or to plan such termination or cancellation; and any such funds shall only be used for the purposes of continuing the project in accordance with section 106 of Public Law 91-273, as amended by Public Law 94-187 and as further amended by section 103(f) of this Act.

(4) Nuclear research and applications, $181,929,000.

(5) Light water reactor safety facilities, $24,000,000.

(6) High energy physics, nuclear physics, and basic energy sciences, $409,454,000.

(7) Nuclear materials security and safeguards, $40,106,000.

(8) Uranium enrichment, $990,585,000.

(9) Program management and support, $152,165,000.

(10) Enrichment and other revenues, —$946,540,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. For "Plant and capital equipment", including construction, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts.

(a) Magnetic Fusion:

Project 78-3-a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(b) Fuel Cycle Research and Development:

Project 78-5-a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement), $10,000,000.

Project 78-5-b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A-E and long-lead procurement only), $3,000,000.

(c) Liquid Metal Fast Breeder:

Project 78-6-a, modifications to reactors, $8,700,000.

Project 78-6-b, safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Illinois, $4,935,000.

Project 78-6-c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E, long-lead procurement and limited construction only), $20,100,000.

Project 78-6-d, experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only), $3,100,000.

Project 78-6-e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A-E only), $4,000,000.

Project 78-6-f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

Project 78-7-a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

Project 78-7-b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(d) Light Water Reactor Safety Facilities:

Project 78-8-a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,000,000.

(e) High Energy Physics:

Project 78-10-a, accelerator improvements and modifications, various locations, $4,500,000.

Project 78-11-a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.

(f) Nuclear Physics:

Project 78-12-a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

Project 78-12-b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(g) Basic Energy Sciences:

Project 78-13-a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.

Project 78-13-b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(h) Uranium Enrichment:

Project 78-14-a, centrifuge facilities modifications, various locations, $30,000,000.

Project 78-14-b, process control modifications, gaseous diffusion plants, various locations, $17,400,000.

Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(i) Project 78-21, General Plant Projects, $44,265,000.

(j) Capital Equipment Not Related to Construction:

(1) Magnetic fusion, $27,600,000.

(2) Fuel cycle research and development, $25,300,000.

(3) Liquid metal fast breeder reactor, $35,650,000.

(4) Nuclear research and applications, $15,195,000.

(5) Light water reactor safety facilities, $800,000.

(6) High energy physics, nuclear physics, and basic energy sciences, $60,800,000.

(7) Nuclear materials security and safeguards, $2,794,000.

(8) Uranium enrichment, $19,000,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 103. (a) Public Law 91-273, as amended, is further amended by striking from subsection 101(b)(1), project 71-1-f, process equipment modifications, gaseous diffusion plants, the figure "$820,000,000", and substituting therefor the figure "$920,000,000", which is an increase of $100,000,000 over the amount authorized by Public Law 95-39.

(b) Section 101 of Public Law 93-60, as amended, is further amended by striking from subsection (b)(1), project 74-1-g, cascade uprating program, gaseous diffusion plants, the figure "$417,300,000" and substituting therefor the figure "$460,000,000", which is an increase of $42,700,000 over the amount authorized by Public Law 95-39.

(c) Public Law 94-187, as amended, is further amended by:

(1) striking from subsection 101(b)(5), project 76-5-a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, the figure "$214,600,000" and substituting therefor the figure "$238,600,000", which is an increase of $24,000,000 over the amount authorized by Public Law 95-39;

(2) striking from subsection 101(b)(5), project 76-5-b, 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico, the figure "$22,100,000" and substituting therefor the figure "$25,300,000", which is an increase of $3,200,000 over the amount authorized by Public Law 94-187;

(3) striking from subsection 101(b)(8), project 76-8-e, conversion of existing steam-plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio, the figure "$13,500,000" and substituting therefor the figure "$15,250,000", which is an increase of $1,750,000 over the amount authorized by Public Law 95-39;

(4) striking from subsection 101(b)(8), the words "project 76-8-g, enriched uranium production facility, Portsmouth, Ohio, $255,000,000" and substituting therefor the words "project 76-8-g, gaseous centrifuge, enriched uranium, production facilities, Portsmouth, Ohio, $362,630,000", which is an increase of $107,630,000 over the amount authorized by Public Law 95-39.

(d) Project 77-4-e, high performance fuel laboratory, Richland, Washington (A-E only), authorized by Public Law 95-39, is increased by $5,000,000 for a total authorization of $6,500,000.

(e) Project 77-4-d, fuel storage facility, Richland, Washington, authorized by Public Law 95-39, is increased by $23,000,000 for a total authorization of $30,000,000.

(f) CLINCH RIVER BREEDER REACTOR PROJECT—

(1) The new section 106 contained in section 103(d) of Public Law 94-187, as amended, is amended as follows:

(A) in subsection (a) of section 106, strike "September 30, 1976" and insert in lieu thereof, "September 30, 1978",

(B) at the end of subsection (b) of section 106, insert the following new sentences: "Nothing contained in this section shall be construed as authorizing the Administrator to use the procedures of this section to propose and proceed with a cancellation or termination, of the Clinch River Breeder Reactor Project and the cooperative arrangements associated therewith. No funds appropriated pursuant to the authorization contained in this section shall be used in any way, directly or indirectly, to cancel or terminate the project, or to plan such cancellation or termination. The Congress hereby endorses the opinion of the Comptroller General of the United States contained in the June 23, 1977, letter to Vice Chairman Jackson and Senator Baker of the Joint Committee on Atomic Energy from Comptroller General Staats, insofar as the opinion interprets the authorities under this section. The Congress hereby declares that this restatement of the authorities under this section is now and always has been the intention of the Congress for the interpretation of these authorities. Consequently, the Congress further declares that the proposal of the Administrator to modify the cooperative arrangements under this section to terminate the project, with the exception of a 'final design', contained in the May 18, 1977, letter to Vice Chairman Jackson of the Joint Committee on Atomic Energy from ERDA Acting Administrator Fri shall be deemed to be unauthorized by this section, and no funds appropriated for any fiscal year pursuant to the authorization of this section shall be used to implement in any way, directly or indirectly, the proposal. The Congress also declares that, insofar as the Comptroller General's opinion contained in the June 23, 1977, letter interprets the Impoundment Control Act of 1974, the intent of Congress is that funds appropriated pursuant to an authorization to design, construct and operate a project, or conduct a specified program, shall only be used for the continued design, construction, and operation of the project, or continued conduct of the program, and shall not be used in any way, directly or indirectly, to cancel or terminate the project or program, or for planning thereof, unless expressly authorized in an authorization Act by Congress. Funds made available for such continued design, construction and operation on a project, or continued conduct of a program shall therefore be deemed to be deferred or rescinded, as appropriate, for purposes of the procedures of the Impoundment Control Act of 1974, when such funds are used for such cancellation or termination, or for planning thereof, rather than for the continuation of the authorized project or program. Consequently, a disapproval resolution under the Impoundment Control Act shall have the effect of requiring as a matter of law that such funds shall be used for such continuation activities, and shall not be used for such termination or cancellation activities. Furthermore, when such funds are being withheld, or are proposed to be withheld, approval of a disapproval resolution or failure to approve a rescission resolution, as appropriate, shall not be considered to be satisfied under the Impoundment Control Act by releasing such funds for such termination or cancellation activities, but shall be considered to be satisfied only by the release of such funds for such continuation activities.

(2) Section 309 of Public Law 95-39, which authorizes funds for the ERDA nuclear programs in fiscal year 1977, is amended by inserting the following sentence at the end of the section: *"Provided*, That none of the funds made available by Public Law 94-355, or any other appropriations Act, including funds from the General Treasury, revenues received, changes in selected resources, transferred funds, or funds from any other source, shall be used in fiscal year 1977 in any way, directly or indirectly, to cancel or terminate the Clinch River Breeder Reactor Project, or to plan such termination or cancellation.".

RESCISSIONS

SEC. 104. (a) Public Law 93-276, as amended, is further amended by rescinding therefrom authorization for project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 105. The Energy Research and Development Administration is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress, with other nations or groups of nations, for proivding appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(2) of this Act authorization of appropriations in the amount of $20,000,000: *Provided*, That none of the funds appropriated pursuant to this Act or any other funds made available to the Administrator, or upon establishment of a Department of Energy by an Act of Congress, to the Secretary of Energy, under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear research or power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor), unless expressly authorized by annual authorization legislation hereafter enacted for the Energy Research and Development Administration, or, upon establishment by Act of Congress, the Department of Energy: *Provided further*, That nothing contained in this section shall be construed in any executive branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, reverse, or cancel the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977, for the issuance of license numbered XSNM-845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station, or any Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

SEC. 106. (a) The Energy Research and Development Administration shall conduct a study of the Barnwell Nuclear Fuels Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the means by which the facility could be used in demonstrating improved safeguards equipment and procedures;

(2) include methods of reducing nuclear weapons proliferation resulting from the use of fuel reprocessing facilities;

(3) include an evaluation of the practicality of demonstrating new institutional arrangements for managing and operating fuel processing facilities, which may minimize the potential for these facilities to be used for nonpeaceful purposes;

(4) include an evaluation of the multinational and international management options available; and

(5) include an evaluation of technological controls and other safeguard devices by which a facility could be externally monitored and disabled to prevent the use of the facility for nonpeaceful purposes.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources, and the independence of resource supply can have in assuring our national security objectives.

(d) The study required under subsection (a) shall be completed and a report submitted to the Congress not later than 6 months after the date that funds are appropriated for carrying out the purposes of this section. In addition to the items required under subsection (b), the report required by the preceding sentence, shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(2) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 107. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of

the study to the Congress the Administrator shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(2) of this Act authorization of appropriations in the amount of $1,000,000.

TITLE II—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 201. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under sections 53, 63, 103, or 104 for such periods of time as the Administrator of Energy Research and Development may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on such a basis as will recover not less than the Government's cost over a reasonable period of time and, in the opinion of the Administrator of Energy Research and Development, will not discourage the development of domestic sources of supply independent of the Energy Research and Development Administration: *And provided further*, That the Administrator of Energy Research and Development, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator of Energy Research and Development shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That any change in enrichment services prices in the first provision above shall not be implemented for a period of sixty days, during which the Congress is in continuous session, after the transmission of the proposed price to the President of the Senate, the Speaker of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology. Such prices shall be considered authorized by the Congress unless either House of Congress approves a resolution of disapproval of such prices prior to the expiration of the aforementioned sixty-day period. The Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology shall have single jurisdiction over any such resolution of disapproval introduced pursuant to this section. If such a resolution of disapproval has been introduced, but has not been reported by the committee on or before the fortieth day after transmission of the message, a privileged motion shall be in order in the respective body to discharge the committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407).".

TITLE III—GENERAL PROVISIONS

SEC. 301. Funds appropriated pursuant to titles I, VI, and VII of this Act may be used for the construction or acquisition of any facilities or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development and demonstration activities. Title to all such facilities and items of equipment shall remain in the United States, unless the Administrator or his designee determines in writing that the research, development and demonstration authorized by this Act shall best be implemented by permitting title or other such property interests to be in an entity other than the United States.

SEC. 302. Except as otherwise provided in this Act—

(a) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act,

(b) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 303. The Administration is authorized to start any project set forth in title I, subsections 102 (a) through (h), only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project. Further, the total cost of any project undertaken under these subsections shall not exceed the estimated cost set forth for that project by more than 25 per centum unless and until additional appropriations are authorized: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

SEC. 304. Subject to the applicable requirements and limitations of this Act, when so specified in appropriations Acts amounts appropriated for the Administration pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" may be merged with any other amounts appropriated for like purposes to any other Act authorizing appropriations for the Administration.

SEC. 305. When so specified in appropriations Acts, amounts appropriated pursuant this this Act for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 306. Amounts appropriated pursuant to this Act for activities under subsections 101(9) and 103(i) are available for use, when necessary, in connection with all Administration programs.

SEC. 307. The Administrator is authorized to perform construction design services for any Administration construction project whenever (a) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (b) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 308. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 309. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred, may be merged with the appropriations to which transferred.

SEC. 310. TRANSFER PROVISIONS.—In the event that any of the programs authorized by this Act are transferred to a Department of Energy established by Act of Congress, the following procedures shall apply to such transfer.

(a) The Secretary shall designate one or more officers in a position of seniority in the Department, of not less seniority than Assistant Secretary, to serve as the administrator and manager of the research, development and demonstration programs authorized by this Act. The responsibilities of the designated officials shall include all functions associated with the program administration and management of all programs and projects authorized in titles I, VI, and VII and all additional responsibilities included under titles II, IV, and V of this Act. Such responsibilities shall specifically include, but not be limited to, the dissemination of technical information and all authority for agency determinations for all nonregulatory functions for such programs in titles I, II, IV, V, VI, and VII under the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Solar Heating and Cooling Demonstration Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Energy Research, Development and Demonstration Act, and responsibilities of the Administration under the Energy Reorganization Act and any additional functions, such as contract appeals, associated with the research, development, demonstration and other nuclear and nonnuclear programs authorized by this Act. Such authority for agency determinations for nonregulatory functions shall not be vested in any regulatory board or commission which is or may be established in the department.

(b) All laws governing the conduct of the research, development, demonstration and other programs authorized by this Act including, but not limited to, the statutes specified in subsection (a), and all procedures for congressional notification and review, specifically including the requirements to keep the Congress "fully and currently informed", shall be continued in the department.

(c) There shall be no change in the structure of any program authorized by this Act including, but not limited to, Government-owned and contractor-operated facilities, headquarters components, the so-called national laboratories, energy research centers and the operations offices managing such laboratories, weapons programs and other research, development, demonstration and related program activities, unless any such changes are expressly authorized in a subsequent authorization Act for the department, notwithstanding any other provision of law.

SEC. 311. No nuclear fuel shall be exported to supply a nuclear power reactor under an Agreement for Cooperation which has not been reviewed by the Congress of the United States under the procedures in section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by Public Law 93-485, directly or indirectly to a nonnuclear weapons state (within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons) which has not ratified the Treaty on the Non-Proliferation of Nuclear Weapons unless the first proposed license under such agreement authorizing the export of either such reactor or such fuel after the date of this Act is first submitted to the Congress for review under the congressional review procedures provided for Agreements for Cooperation in the above-referenced section 123 d. of the Atomic Energy Act of 1954, as amended.

SEC. 312. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after a successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under the subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of

the designated period of time, if the borrower has been unable to secure alternative financing, the Administration is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706 (2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed.

In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation.

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of

this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by section (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture joint stock company or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

SEC. 313. In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damaged farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

Part I. As used in this Act, the term:

(a) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(b) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, of range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(c) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(d) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

Part II. For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with part V of this Act by the Secretary of the Interior.

Part III. Energy Research and Development Administration land as described in part I(b) of this Act shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

Part IV. Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

Part V. Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this Act.

Part VI. Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976, Public Law 94-400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94-438, 90 Stat. 1415.

Part VII. Actions taken pursuant to this Act are in response to emergency conditions and depend for their effectiveness upon their prompt completion and, therefore, are deemed not only to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended, 42 U.S.C. 4321).

Part VIII. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this Act.

TITLE IV—ASSISTANCE PAYMENTS TO THE LOS ALAMOS SCHOOL BOARD AND THE COUNTY OF LOS ALAMOS

SEC. 401. (a) Section 91 a. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391) is amended to read as follows:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the Cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the County of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations.".

(b) Section 91 d. of such Act is amended to read as follows:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County, and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the County Los Alamos, New Mexico), the Administrator shall present to the Joint Committee on Atomic Energy recommendations as to the need for any further assistance payments to such entity.".

SEC. 402. Section 94 of the Atomic Energy Community Act of 1955 is amended to read as follows:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however*, That the term of such contracts, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the County of Los Alamos, New Mexico, shall not extend beyond June 30, 1987."

TITLE V—LAWRENCE LIVERMORE LABORATORY EMPLOYEE GRIEVANCE PROCEDURE

SEC. 501. The Administrator shall not use any funds appropriated pursuant to this Act under any contract in effect on or after October 1, 1977, for research services or material contract or supplies by the Lawrence Livermore Laboratory unless that contract specifically provides that the employees of the Laboratory will be protected by an impartial grievance procedure which includes binding arbitration as the final step covering all "rights disputes" in accordance with the rules of the American Arbitration Association. The contract shall further guarantee the employees the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing. If a question arises concerning representation of employees, the services of the Federal Mediation and Conciliation Service may be invoked to provide appropriate procedures for the determination of employee representaitves. The employer shall bargain in good faith with the representatives of its employees on all matters dealing with wages, hours, and other terms and conditions of employment. If the parties fail to reach an agreement, the services of the Atomic Energy Labor-Management Relations Panel shall be invoked for mediation purposes. All unresolved issues shall then be referred to such panel for final and binding arbitration. Nothing contained herein should be construed to permit any employee representative or person to engage in a work stoppage or to permit the employer to lock out its employees: *Provided, however*, That no employee rights or activities shall be guaranteed in such contract which would be in violation of the law of the State of California.

TITLE VI—FOR NONNUCLEAR ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 601. For operating expenses, for the following programs, a sum equal to the total of the following amounts:

(1) Conservation research and development;

Electric energy systems and energy storage:

(a) Electric energy systems, $36,700,000.

(b) Energy storage systems, $49,900,000.

End use conservation and technologies to improve efficiency:

(a) Industrial energy conservation, $40,000,000.

(b) Buildings and community systems, $56,000,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas furnaces.

(c) Transportation energy conservation, $88,000,000, of which $2,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized, funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol: *Provided, further*, That no more than two hundred electric vehicles may be purchased within the provisions of Public Law 94–413 utilizing funds made available in this section.

(d) Improved conversion efficiency, $78,200,000.

(e) Small grants for appropriate technology, $6,000,000.

Energy extension service:

(a) Energy extension service, $8,000,000.

(2) Fossil energy development:

Coal:

(a) Liquefaction, $107,000,000.

(b) High Btu gasification, $51,200,000.

(c) Low Btu gasification, $73,900,000: *Provided*, That the sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76–1–a (clean boiler fuel demonstration plant (A–E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

(d) Advanced power systems, $25,500,000.

(e) Direct combustion, $65,200,000.

(f) Advanced research and supporting technology, $45,000,000: *Provided*, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose:

(1) The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of fine-grinding of coal and dry vegetable residues to four micron-size particles for the purpose of preparing these substances as clean burning fuels.

(2) In carrying out the feasibility study, the Administrator may provide for adequate participation by individuals, corporations and private and public research facilities, colleges and universities.

(3) A report of the findings together with recommendations for advancing the technology, if deemed appropriate by the Administrator, shall be submitted to the Congress as soon as possible but not later than January 1, 1978.

(g) Demonstration plants, $50,900,000.

(h) Magnetohydrodynamics, $80,000,000.

Petroleum and natural gas:

(a) Enhanced oil recovery, $46,100,000.

(b) Enhanced gas recovery, $30,000,000.

(c) Drilling, exploration and offshore technology, $1,600,000.

(d) Processing and utilization, $1,400,000.

Oil shale and in situ technology:

(a) Oil shale, $28,000,000.

(b) In situ coal gasification, $11,000,000: *Provided*, That, of those funds authorized for fossil energy development, and funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct a study to determine the extent of the Nation's coal reserves, the general geographic location of such reserves and the cost of extracting said reserves.

(3) Solar energy development:

(a) Thermal applications, $107,700,000.

(b) Technology support and utilization, $12,000,000.

(c) Solar electric application, $178,900,000: *Provided*, That $7,500,000 of such sum are hereby authorized for design work for small community applications.

(d) Solar Energy Research Institute and Regional Centers. There is hereby authorized from funds made available under subsections (a), (b), and (c) of this section an amount no less than $10,000,000 for the operation of the Solar Energy Research Institute and its associated regional centers.

(e) Fuels from biomass, $19,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(4) Geothermal energy development:

(a) Engineering research and development, $17,100,000.

(b) Resource exploration and assessment, $17,600,000.

(c) Hydrothermal technology applications, $32,000,000.

(d) Advanced technology applications, $23,500,000.

(e) Utilization experiments, $16,000,000.

(f) Environmental control and institutional studies, $8,100,000.

(g) Low head hydroelectric demonstration, $15,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 602. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (A–E and long-lead procurement only), $6,000,000.

Project 78–2–d, solvent refined coal demonstration plant, site undetermined (A–E and long-lead procurement only), $2,000,000.

(3) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $6,170,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 603. (a) Public Law 94–187 is amended by:

(1) Striking from subsection 101(b)(1), project 76–1–b, high Btu synthetic pipeline gas demonstration plant, the words "(A–E and long-lead procurement)" and the figure, "$20,000,000", and striking from subsection 201(b)(1) "project 76–1–b, high Btu synthetic pipeline gas demonstration plant (A–E and long-lead procurement) $5,000,000", which authorized appropriations for this project totaling $25,000,000, and substituting therefor in subsection 101(b)(1), project 76–1–b, high Btu synthetic pipeline gas demonstration plant, the figure "$220,000,000".

(2) Striking from subsection 101(b)(1), project 76–7–c, low Btu fuel gas demonstration plant, the words "(A–E and long-lead procurement)" and the figure "$15,000,000", and striking from subsection 201(b)(1) the words and figures, "project 76–1–c, low Btu fuel gas demonstration plant (A–E and long-lead procurement), $3,750,000," which authorized appropriations for this project totaling $18,750,000, and substituting therefor in subsection 101(b)(1), project 76–1–c, low Btu fuel gas demonsration plant, he figure "$15,000,000".

(3) Striking from subsecion 101(b)(2), project 76–2–a, five megawat solar thermal test facility, the figure "$5,000,000", and striking from subsection 201(b)(2) the words and figures "pro'ect 76–2–a, five megawatt solar thermal test facility, $1,250,000", which authorized appropriations for this project totaling $6,250,000, and substituting therefor in subsection 101(b)(2) the figure "$21,250,000", which is an increase of $3,000,000 over the amount authorized by Public Law 94–355, as amended.

(4) Striking from subsection 101(b)(2), project 76–2–h, ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), the words "(A–E and long-lead procurement)" and the figure "$5,000,000", and striking from subsection 201(b)(2) the words and figures "project 76–2–b, ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), $1,250,000" which authorized appropriations for this project totaling $6,250,000, and substituting therefor in subsection 101(b)(2), the words "Barstow, California," and the figure "$61,250,000": *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(b) Project 77–1–d, MHD component development and integration facility, authorized by Public Law 94–373, is increased by $8,200,000 for a total authorization of $13,200,000.

TITLE VII—FOR NONNUCLEAR ENVIRONMENTAL RESEARCH AND DEVELOPMENT, PROGRAM MANAGEMENT AND SUPPORT, AND RELATED PROGRAMS

OPERATING EXPENSES

SEC. 701. For operating expenses for the following programs, a sum equal to the total of the following amounts:

(1) Environmental research and development:

(a) Overview and assessment, $43,010,000.

(b) Biomedical and environmental research, $143,970,000, of which $1,000,000 shall be made available to the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912), as amended.

(2) Life sciences research and biomedical applications, $38,113,000.

(3) Program management and support:

(a) Program direction, $257,100,000.

(b) Institutional relations, $30,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended; and $1,800,000 is authorized to be appropriated pursuant to this paragraph (3) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $54,460,000.

(d) International cooperation, $5,000,000.

(4) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910) in the amount of $500,000 for the Council on Environmental Quality.

PLANT AND CAPITAL EQUIPMENT

SEC. 702. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Environmental Research and Development:

Project 78–9a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(2) Program Management and Support:

Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and long-lead procurement only), $5,000,000.

(3) Project 78–22, Construction Planning and Design, $10,000,000.

(4) Capital Equipment Not Related to Construction:

(A) Environmental research and development, $18,825,000.

(B) Program management and support, $5,155,000.

SEC. 703. The Administrator of the Energy Research and Development Administration, or its successor agency, is hereby authorized, to the extent and in such amounts as are provided in appropriation Acts, to enter into a cooperative arrangement with an interstate pipeline organization for participation in the construction and operation of a high Btu pipeline gas demonstration plant, utilizing the HYGAS steam-oxygen process and Illinois Basin type coal.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TEAGUE moves to strike out all after the enacting clause of the Senate bill S. 1811 and to insert in lieu thereof the provisions of H.R. 6796, as passed, as follows:

That, in accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration for the fiscal year 1978, for energy research, development, and demonstration, and related activities, the sum of $6,740,889,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) Coal:

(A) Coal liquefaction, $109,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,500,000.

(E) Direct combustion (coal), $59,200,000.

(F) Advanced research and supporting technology, $59,000,000.

(G) Demonstration plants and major test facilities (coal), $70,900,000.

(H) Magnetohydrodynamics, $63,400,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Natural gas and oil extraction, $88,100,000.

(3) In-situ technology:

(A) Oil shale, $28,000,000.

(B) Coal gasification, $27,600,000.

SOLAR ENERGY DEVELOPMENT

(4) Solar Heating and Cooling, $91,900,000.

(5) Other Solar Energy Programs, $238,500,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $191,200,000 for other solar electric applications.

GEOTHERMAL ENERGY DEVELOPMENT

(6) Geothermal Energy, $123,900,000.

CONSERVATION RESEARCH AND DEVELOPMENT

(7) Conservation Research and Development:

(A) Electric Energy Systems and Energy Storage, $85,300,000.

(B) End-Use Conservation and Improved Conversion Efficiency, $254,000,000.

(C) Energy Extension Service, $8,000,000.

(D) Small Grant Program for Appropriate Technologies, $10,000,000.

ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT

(8) Environment and Safety Research and Development:

(A) Overview and Assessments, $51,910,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

NUCLEAR RESEARCH AND DEVELOPMENT

(9) Nuclear Research and Development:

(A) Light Water Reactors, $313,600,000.

(B) Waste Management, $185,000,000.

(C) Liquid Metal Fast Breeder Reactor, $483,300,000: *Provided*, That at least $10,400,000 of the amount authorized for the Liquid Metal Fast Breeder program shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development.

(D) Other Advanced Reactor Concepts, $84,170,000.

(E) Advanced Fuel Cycle Concepts, $92,400,000.

(F) Nuclear Energy Assessments, $23,300,000.

(G) Uranium Enrichment, $913,985,000.

(H) Magnetic Fusion, $207,900,000.

ALL OTHER PROGRAMS, $874,807,000, including—

(1) not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913);

(iii) funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iv) funds for administrative program support in the amount of $305,053,000.

SEC. 102. Prior to the obligation of any funds authorized pursuant to this Act for research, development, assessment, evaluation and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, a program plan be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate for their approvals. The Administrator is authorized to solicit proposals for any of the aforementioned activities. However, before any of these activities are undertaken, the Administrator is required to transmit the plan containing a description of such activities together with all pertinent data to such Committees and wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objections to the proposed action.

PLANT AND CAPITAL EQUIPMENT

SEC. 103. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (AE– and long-lead procurement only), $6,000,000,

(D) Project 78–2–d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(E) Project 78–2–e, high Btu coal gasification test facility, site undetermined (total estimated cost is $1,200,000,000, including the Federal share thereof), (A–E and long-lead procurement only), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78–3–a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78–5–a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A–E and long-lead procurement), $10,000,000.

(B) Project 78–5–b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A–E and long-lead procurement only), $3,000,000.

(C) Project 78–5–c, advanced isotope separation facility, site undetermined (A–E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78–6–a, modifications to reactors, $8,700,000.

(B) Project 78–6–b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement and limited construction only), $20,-100,000.

(D) Project 78–6–d, experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only), $3,100,000.

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (to include A–E effort, Long Lead Procurement and Limited Construction), $9,000,000.

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,-800,000.

(G) Project 78–7a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,-000.

(H) Project 78–7–b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78–8–a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,000,000.

(7) Environmental Research and Development:

(A) Project 78–9–a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78–10–a, accelerator improvements and modifications, various locations, $4,500,000.

(B) Project 78–10–b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78–11–a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78–12–a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78–12–b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(10) Basic Energy Sciences:

(A) Project 78–13–a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78–13–b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78–14–a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78–14–b, process control modifications, plants, various locations, $17,400,-000.

(C) Project 78–15–a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $1,700,000.

(C) Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and longlead procurement only), $5,000,000.

(13) Project 78–21, General Plant Projects, $44,265,000.

(14) Project 78–22, Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $9,170,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,-500,000.

(E) All other programs, $214,019,000.

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71–1–f), authorized by section 101(b)(1) of Public Law 91–273.

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74–1–g), authorized by section 101(b)(1) of Public Law 93–60.

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76–1–b) authorized by section 101(b)(1) of Public Law 94–187.

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 76–1–c) authorized by section 101(b)(1) of Public Law 94–187.

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76–2–b), authorized by section 101(b)(2) of Public Law 94–187.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (project 76–5–a), authorized by section 101(b)(5) of Public Law 94–187.

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76–8–e), authorized by section 101(b)(8) of Public Law 94–187.

(8) There is authorized an additional sum of $180,000,000 for the enriched uranium production facilities, gas centrifuge (project 76–8–g), authorized by section 101(b)(8) of Public Law 94–187.

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77–1–d) authorized by Public Law 94–373.

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington, (A–E only) (project 77–4–c).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77–4–d).

SEC. 104. Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for project 75–5–g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 105. The sum of $40,000,000, which represents the portion of the appropriations heretofore made in the total amount of $56,-000,000 for project 76–1–a (clean boiler fuel demonstration plan (A–E and long-lead procurement)) which remains unobligated and is no longer needed, is hereby authorized to be made available instead, in addition to any amounts appropriated for the purpose involved pursuant to this Act, for project 78–2–f (gasifiers in industry, various sites).

SEC. 106. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a plan which considers the following options:

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other puropses.

(b) Preparation of such plan shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the plan. The plan shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the plan to the Congress the Administrator shall release the proposed plan for comment by interested parties, and such comments as are received shall be submitted as attachments to the final plan submitted to the Congress.

(d) Nothing in this section shall be construed as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subjects to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Acts providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants in any organization for purchase or construction of research facilities. No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Each grant under paragraph (1)(A) shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant.

"(3) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objecion to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), enviromental and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting cost incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

"(j) Nothing in this section shall apply with respect to authorization or appropriation of funds for nuclear weapons purposes.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 103(a)(1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 103(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 (except that the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy); and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. Any funds appropriated for magnetohydrodynamics pursuant to section 101(a)(1) or 103(b)(9) of this Act or pursuant to authorizations contained in any other law, to the extent provided for use at or in connection with facilities other than the Component Development and Integration Facility currently under construction, shall hereafter be expected for or in connection with facilities at such sites as may be selected by the Administrator.

SEC. 204. The Administrator, in cooperation with the Secretary of State, shall report to Congress within six months after the date of the enactment of this Act on the effects of the April 27, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy" on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to Congress on each subsequent major related initiative.

SEC. 205. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report

on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 206. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in it operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations."; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided*, however, That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 207. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts,".

SEC. 208. The last item in section 101(b)(8) of Public Law 94-187, relating to project 76-8-g, is amended by inserting "gas centrifuge," after "production,".

SEC. 209. The Energy Research and Development Administration is directed to encourage and promote participation of State governments in the development of the Administration's plans and programs. The Administration may also provide, where consistent with its plans and programs, matching funds to States which are expending State funds for complementary energy activities.

SEC. 210. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consulation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of

such facility is determined not to be warranted b ythe Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706 (2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no gaurantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other

property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, of the demonstration facility if the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall, in case of default, be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of ths subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section, shall in case of default, be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and dis-

closure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).".

SEC. 211. (a) The Administrator of the Energy Research and Development Administration, under the Administration's energy traineeship program, is authorized during the fiscal year 1978 to make awards in amounts not exceeding $7,000 per student to finance the education of a total of 500 graduate students in engineering, science, and socio-economic sciences related to energy, particularly in the areas of alternative energy sources (including wind, solar heating and cooling, photovoltaics, ocean thermal energy, biomass, and geothermal energy), energy conversion and utilization, and energy conservation. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $3,425,000.

(b) The Administrator is authorized to establish vocational training courses in solar heating and cooling and in energy conservation at approximately 100 community colleges, vocational schools, and other educational institutions in all parts of the country, and to provide assistance to any such institution in the conduct of such courses during the fiscal year 1978 in an amount not exceeding the sum of $5,000 per teacher for equipment and teaching facilities, $5,000 per teacher for the operation of the courses, and $1,000 per teacher for teacher training and instruction. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $1,150,000.

SEC. 212. (a) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at varying levels of subsidy (for example, at 20, 40, 60, 80, and 100 percent levels).

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense

(ii) the Department of Transportation (including the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration)

(iii) the Department of Commerce

(iv) the Department of Agriculture

(v) the Department of the Interior

(C) provide a preliminary report to Congress within six months following the enactment of this Act.

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act.

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry—to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act.

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act.

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $28,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, under the mechanisms provided in the National Energy Act.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $10,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

SEC. 213. Effective January 1, 1978, title V of Public Law 94–187 is amended to read as follows:

"TITLE V—AIR TRANSPORTATION OF PLUTONIUM

"SEC. 501. Subject to section 502, the Energy Research and Development Administration shall not ship plutonium in any form by aircraft (whether exports, imports, or domestic shipment) except in safe containers which (as determined by the Administration on the basis of appropriate tests) will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. If it is determined pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration that a particular shipment of plutonium by aircraft must be made for purposes of national security, but such shipment cannot be made in a safe container or containers in accordance with the requirement imposed by section 501, the shipment may be made notwithstanding such requirement but only if—

"(1) express written authorization for the shipment is given by the Administrator personally; and

"(2) the Administrator transmits to the Committees on Science and Technology and Armed Services of the House of Representatives and the Committees on Energy and Natural Resources and Armed Services of the Senate, at the time of the shipment or within 10 days thereafter, a written notification and description of the shipment together with a detailed explanation of the reasons why it was necessary to make the shipment by aircraft and why it was not possible to make the shipment in a safe container or containers as required by section 501.".

SEC. 214. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906), as amended by section 210 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) Federal loan guarantees under section 20: *Provided*, That all of the other provisions of this Act shall apply to such guarantees in the same manner and to the same extent as they apply to demonstrations under this Act.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is amended by adding at the end thereof (after the new section added by section 210 of this Act) the following new section:

"LOAN GUARANTEES FOR COMMERCIAL BIOMASS DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy from biomass;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels and other forms of energy; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is authorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels; and (B) financing the construction and startup costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from bioconversion. The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), and (B), of this paragraph shall at no time exceed $300,000,000.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others;

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(d) At least sixty days prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, and start-up costs.

"(f) Except in accordance with reasonable terms an conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to cover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patent and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accord-

ance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility, in case of default, shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation, for and on behalf of the borrower, from the fund established by this section, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of default.

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (s) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5 of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) and (B), of subsection (b)(1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annuually for the duration of that program under this section.

"(l) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of such commercial demonstration facility exceeds $50,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(m)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), and (B), of subsection (b)(1) and subsections (g) and (h) of this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A) and (B) of section (b)(1) and subsections (g) and (h) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Road Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(n) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(o) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(p) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environment Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreemnt, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (2) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency will retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(q) Inventions made or conceived in the course of or under a guarantee authorized by this section shall, in case of default, be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(r) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which biomass or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall

"(A) act within ninety days after the date of enacment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occuping such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secetary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (m) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

SEC. 215. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended).

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;,

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion, system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advance automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the case of diagnosis and repair of an automobile, its systems, and parts in

the event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporaton, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administrator shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive propulsion system research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c), in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title. (b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environmental Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(c) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9, of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purpose of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977,".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 210 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $200,000,000.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary, pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for these energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under section 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; (iii) any prices established under this subsection shall be on such a basis as will recover not less than the Government's costs over a reasonable period of time, and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and the normal and ordinary business expenses which would otherwise be incurred by a private operator providing similar services and so certified by the Comptroller General of the United States: *And provided further*, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic-uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Administrator

establishes such criteria, or any price for uranium enrichment services the Administrator shall transmit such criteria or price, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and wait a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.".

TITLE VI—TECHNICAL AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs:

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Subsection 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof "$100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planing which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section, shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstration specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid

vehicles which satisfy the performance standards set forth under subsection (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurement will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transaction of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payment (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6796) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6796, ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1811 to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and, without objection, appoints the following conferees: Messrs. TEAGUE, FUQUA, FLOWERS, MCCORMACK, BROWN of California, THORTON, OTTINGER, HARKIN, and AMBRO, Mrs. LLOYD of Tennessee, and Messrs. WATKINS, WYDLER, WINN, FREY, GOLDWATER, and GARY A. MYERS.

AUTHORIZING ENROLLING CLERK TO CONFORM AMENDMENTS AND MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6796, ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the Enrolling

Clerk may be given permission to conform all amendments to the bill and to correct section numbering, cross-references, punctuation, and spelling, in the enrollment of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE A REPORT

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5101, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5101) authorizing appropriations for activities of the Environmental Protection Agency for fiscal year 1978, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and without objection, appoints the following conferees: Messrs. BROWN of California, WIRTH, WATKINS, AMBRO, WALKER, and WINN.

CHANGE IN LEGISLATIVE PROGRAM

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, it was the intention of the leadership that House Resolution 70 be brought up this morning. That resolution deals with the Select Committee on Population.

However, because of the urgency of early consideration of H.R. 3, the medicare-medicaid antifraud and abuse amendments, and of H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977, we are postponing the consideration of the Select Committee on Population resolution until early next week.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER pro tempore (Mr. ROBERTS). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 3, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Thursday, September 23, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the bill is considered as having been read for amendment. No amendments to the bill or to the amendments made in order by House Resolution 743 shall be in order except germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration thereof, except that it shall be in order to debate said bill and amendments by the offering of pro forma amendments.

The Clerk will report the first committee amendment jointly recommended by the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment jointly recommended by the Committee on Ways and Means, and the Committee on Interstate and Foreign Commerce.

The Clerk read as follows:

Committee amendment jointly recommended by the committees: On page 1, strike out line 5 and all that follows through line 7 on page 27 and insert in lieu thereof the following:

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES; CLAIMS PAYMENT PROCEDURES FOR MEDICAID PROGRAM

SEC. 2. (a)(1) Section 1842(b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(2) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(3) Section 1902(a)(32) of such Act is amended to read as follows:

"(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

"(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee, for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contract arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

"(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such paypment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any payment;".

(4) The amendments made by this subsection shall apply with respect to care and services furnished on or after the date of the enactment of this Act.

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (35);

(B) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and";

(C) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 60 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program,"; and

(D) by inserting at the end thereof the following paragraph:

"The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.".

(2) Section 1903 of such Act is amended—

(A) by redesignating paragraph (6) of subsection (a) as paragraph (7);

(B) by inserting after paragraph (5) of subsection (a) the following new paragraph:

"(6) subject to subsection (1), an amount equal to 90 per centum of so much of the sums expended during such quarter as are attributable to the arranging and providing of such programs of education and technical assistance (provided through such means, including outreach offices, the media, and telephone hotlines, as the Secretary determines to be appropriate) to health care practitioners who furnish, through individual or group practices or through shared health facilities, services covered under the plan, as the Secretary determines are likely to expedite the filing and payment of claims for payment for such services provided by such practitioners; plus"; and

(C) by inserting after subsection (k) the following new subsection:

"(l)(1) Payment shall not be made under subsection (a)(6) for a quarter ending after September 30, 1980.

"(2) If the aggregate of the amounts of payments to be made in accordance with subsection (a)(6) for any calendar quarter to States exceeds $1,250,000, the amount of the payment to be made under such subsection for the quarter to each such State shall be an amount which bears the same ratio to the amount determined for the quarter under the subsection to the State as $1,250,000 bears to the amount required to make payments for the quarter in accordance with such subsection to all of the States.".

(3)(A) The amendments made by paragraph (1) shall apply to calendar quarters beginning on and after January 1, 1978, with respect to State plans approved under title XIX of the Social Security Act.

(B) The amendments made by paragraph (2) shall apply, with respect to expenditures made, under a State plan approved under title XIX of the Social Security Act, in calendar quarters beginning on and after January 1, 1978.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 3. (a)(1) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1123 the following new section:

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

"SEC. 1124. (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

"(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, and XIX, or

"(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII and XIX,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity.

"(2) As used in this section, the term 'disclosing entity' means an entity which is—

"(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, or a renal disease facility;

"(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX; or

"(C) a carrier or the other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX.

"(3) As used in this section, the term 'person with an ownership or control interest' means, with respect to an entity, a person who—

"(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

"(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

"(B) is an officer or director of the entity, if the entity is organized as a corporation; or

"(C) is a partner in the entity, if the entity is organized as a partnership.

"(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.

"(c) A provider of services (as defined in section 1861(u), other than a fund) shall also include in the information supplied under subsection (a)(1) full and complete information as to the identity of each person with an ownership or control interest in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 per centum or more ownership interest.".

(2) Section 1861(j)(11) of such Act is amended to read as follows:

"(11) complies with the requirements of section 1124;".

(b) Clause (C) of section 1866(b)(2) of such Act is amended by inserting "(i)" after "failed", and by adding after "to verify such information," the following: "or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such provider and any subcontractor,".

(c)(1) Section 1902(a) of such Act (as amended by section 2(b)(1) of this Act) is amended—

(A) by amending paragraph (35) to read as follows:

"(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1124;";

(B) by striking out "and" at the end of paragraph (36);

(C) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (37) the following new paragraph:

"(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishings of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 1903(i)(2) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38)".

(d) The amendment made by subsection (a)(1) shall apply with respect to certifications and recertifications made (and participation in the programs established by title V, XVIII, and XIX of the Social Security Act pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act. The remaining amendments made by this section shall take effect on the date of the enactment of this Act; except that the amendments made by paragraphs (1) and (2) of subsection (c) shall become effective October 1, 1977.

PENALTIES FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 4. (a) Section 1877 of the Social Security Act is amended to read as follows:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates, but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including kickback, bribes, or rebates but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to a discount or other reduction in price obtained by a provider of services or other entity reimbursed under this title on a cost basis, if the reduction in price is properly disclosed and reflected in the costs claimed by the provider or entity as reimbursable under this title.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(b) Section 1909 of such Act is amended to read as follows:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person.

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this title is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this title or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates, but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) whoever offers or pays any remuneration (including kickbacks, bribes, or rebates, but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to a discount or other reduction in price obtained by an entity reimbursed under this title on a cost basis if the reduction in price is properly disclosed and reflected in the costs claimed by the entity as reimbursable under this title.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(c) Section 204(a) of Public Law 94-505 (42 U.S.C. 3524) (relating to annual reports of the Inspector General of the Department of Health, Education, and Welfare) is amended by adding at the end thereof the following sentence: "Such report shall also include an evaluation of the performance of the Attorney General in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII and XIX of the Social Security Act, and shall include any recommendations with respect to improving the performance of such activities.".

(d) The amendments made by subsections (a) and (b) shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act.

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such

Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied.".

(b)(1) Section 1154(b) of such Act is amended—

(A) by striking out "(which may not exceed 24 months)" in the first sentence and inserting in lieu thereof "(which may not exceed 48 months except as provided in subsection (c))";

(B) by inserting ", in addition to review of health care services provided by or in institutions," after "perform" in the first sentence; and

(C) by striking out "or ordered by physicians" and all that follows through "and organizations" in the second sentence and inserting in lieu thereof "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require".

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.".

(c)(1) Section 1155 of such Act is amended—

(A) by striking out "directly or indirectly involved in" in subsection (a)(6)(A) and inserting in lieu thereof "directly responsible for";

(B) by striking out "any financial" in subsection (a)(6)(B) and inserting in lieu thereof "a significant financial";

(C) by inserting after "to such organization" in subsection (f)(2) the following: ", in a manner similar to that provided for under section 1816(c),"; and

(D) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g)(1) Not later than two years after the date of the enactment of the Medicare-Medicaid Anti-Fraud and Abuse Amendments, the Secretary, through the conduct of demonstration projects or otherwise, shall develop effective ambulatory care review methodologies for use by Professional Standards Review Organizations in performing review responsibility with respect to ambulatory care services.

"(2) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

"(3) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not later than two years after the date the organization has been designated as a Professional Standards Review Organization (other than under section 1154).".

(2) Section 111(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

"(9) The term 'shared health facility' means any arrangement whereby—

"(A) two or more health care practitioners practice their professions at a common physical location;

"(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

"(C) such practitioners have a person (who may himself be a practitioner)—

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners; and

who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding $5,000 for any one month during the preceding 12 months, or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301 of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.".

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX.".

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)".

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) During the development and preparation by an organization of its formal plan under subsection (b)(2) or of any modification of such plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency, responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b)(2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

"(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings become effective.".

(C) Section 1154 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding after subsection (d) the following new subsection:

"(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governors of the State in which the organization is located).".

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS GENERALLY

"SEC. 1171. (a)(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review

goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum if the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

"(1) the State agency formally requests the performance of such additional responsibilities, and

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accordance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact either on total State expenditures under title XIX or on the quality of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, temporarily suspend such organization's authority in whole or in part under section 1158(c) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) pending a reevaluation of such organization's performance of the responsibilities involved and any appropriate action the Secretary may take as a result of such reevaluation.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e)(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connecting with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.".

(3)(A) Section 1155(e)(1) of such Act is amended by inserting "(other than a skilled nursing facility, as defined in section 1861(j))" after "the review committees of a hospital or other operating health care facility or organization".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1) only if the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective reviews of the quality and necessity of health care services provided in such facilities and institutions.".

(e) Section 1160(b)(1) of such Act is amended by striking out "practitioner or provider" each time is appears therein and inserting in lieu thereof "health care practitioner or hospital, or other health care facility, agency, or organization".

(f) Section 1163(a)(2) of such Act is amended to read as follows:

"(2) Members of the Council shall be appointed for a term of three years, except that of the members appointed in 1979, four shall be appointed for a term of only two years, and three for a term of only one year. Members of the Council shall be eligible for reappointment.".

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

(1) by striking out "or (2)" in subsection (a) and inserting in lieu thereof ", (2)";

(2) by inserting the following immediately before the period at the end of subsection (a): ", or (3) in accordance with subsection (b)";

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a):

"(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such Organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse;

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization. The penalty provided in subsection (c) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information."; and

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

"(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.".

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member or employee related to the performance of any duty or function of such organization, member or employee (as described in section 1155).".

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the

performance of duties by such Organizations.".

(k) Part B of title XI of such Act (as amended by subsection (d)(2)(D) of this section) is further amended by adding after section 1171 the following new section:

"ANNUAL REPORTS

"SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) services determined, in accordance with the provisions of this part, to have been (A) medically unnecessary, (B) furnished in an inappropriate setting, or (C) deficient in quality;

"(4) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(5) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(6) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(7) the progress being made among Professional Standards Review Organizations in adopting and implementing the ambulatory care review methodologies developed under section 1155(g)(1);

"(8) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(9) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(10) recommendations for legislative changes.".

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment jointly recommended by the Committee on Ways and Means and by the Committee on Interstate and Foreign Commerce be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. ROSTENKOWSKI TO THE AMENDMENT JOINTLY RECOMMENDED BY THE COMMITTEES

Mr. ROSTENKOWSKI. Mr. Chairman, I offer an amendment to the amendment jointly recommended by the committees.

The Clerk read as follows:

Amendment offered by Mr. ROSTENKOWSKI to the amendment jointly recommended by the committees: Page 41, line 9, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 11.

Page 42, line 1, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 3.

Page 42, strike out lines 17 through 22 and insert in lieu thereof the following:

"(3) Paragraphs (1) and (2) shall not apply to —

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee for employment in the provision of covered items or services.

Page 45, line 9, strike out ", but excluding" and all that follows through "provision of covered items or services on line 11.

Page 46, line 1, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 3.

Page 46, strike out lines 17 through 21 and insert in lieu thereof the following:

"(3) Paragraphs (1) and (2) shall not apply to —

"(A) a discount or other reduction in price obtained by an entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the entity under this title; and

"(B) any amount paid by an employer to an employee for employment in the provision of covered items or services.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair will inquire of the gentleman from Illinois (Mr. ROSTENKOWSKI) whether his amendment is made in order under the rule.

Mr. ROSTENKOWSKI. Yes, it is, Mr. Chairman.

Mr. Chairman, this amendment is a simple, technical clarification of section 4 of the committee bill so as to clarify that lawful discounts received by providers which are passed on under the program in the form of lower costs are to be encouraged.

In addition, this amendment makes a structural drafting change in section 4.

Mr. Chairman, I know of no objection to this amendment. It has been cleared through my colleagues on the other side of the aisle, the gentleman from Tennessee (Mr. DUNCAN) in particular.

Mr. ROGERS. Mr. Chairman, will the gentleman from Illinois yield?

Mr. ROSTENKOWSKI. I am happy to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I support the amendment offered by my colleague. It is technical in nature, and merely clarifies that legitimate discount arrangements are not prohibited under the act or considered as kickbacks or bribes, if they are properly disclosed and appropriately reflected in charges or costs claimed.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Chairman, I too support the amendment offered by the gentleman from Illinois (Mr. ROSTENKOWSKI). The amendment had been cleared with me prior to this time. I believe it is a good amendment.

Mr. ROSTENKOWSKI. I thank the gentleman from Tennessee.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I am happy to yield to the distinguished gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI) for yielding to me, and I rise merely to state that I certainly support this amendment. I think it is very helpful.

Mr. ROSTENKOWSKI. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois to the amendment offered jointly by the committees.

The amendment to the committee's amendment was agreed to.

AMENDMENT OFFERED BY MR. PEPPER TO THE AMENDMENT JOINTLY RECOMMENDED BY THE COMMITTEES

Mr. PEPPER. Mr. Chairman, I offer an amendment to the amendment jointly recommended by the committees.

The Clerk read as follows:

Amendment offered by Mr. PEPPER to the amendment jointly recommended by the committees: Page 47, line 8, strike out the quotation marks and the period that follows them.

Page 47, insert after line 8 the following new subsection: "(d) Whoever knowingly and willfully—

"(1) charges, for any services provided to a patient under a State plan approved under this title, money or other consideration at a rate in excess of the rates established by the State, or

"(2) charges, solicits, accepts or receives, in addition to any amount otherwise required to be paid under a State plan approved under this title, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)—

"(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

"(B) as a requirement for the patient's continued stay in such a facility, when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five year or both.".

The CHAIRMAN. The Chair would inquire whether the gentleman's amendment qualifies under the rule?

Mr. PEPPER. It does, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized in support of his amendment.

Mr. PEPPER. Mr. Chairman, as chairman of the House Select Committee on Aging, I am very pleased to see that the House will be voting on H.R. 3, the medicare-medicaid antifraud and abuse

amendments. This legislation is a major step in restoring integrity and fiscal soundness to the medicare and medicaid programs, and I am hopeful that it will be enacted.

I commend my distinguished colleagues, Representative PAUL ROGERS, chairman of the Subcommittee on Health and the Environment, and Representative DAN ROSTENKOWSKI, chairman of the Ways and Means Subcommittee on Health, for their outstanding work on this matter.

Today I propose an amendment to define as a felony instances where contributions are required as a condition of entry or as a condition of continued stay at a hospital, skilled nursing facility, or intermediate care facility for medicaid-covered services. I am hopeful that my colleagues will share my view that its enactment would end an important area of abuse and they will support it. Violators would be subject to strict penalties—a fine of up to $25,000 and/or a jail sentence of up to 5 years.

This amendment was brought to my attention by a recent General Accounting Office report concerning Federal and State laws and policies relating to the solicitation of contributions by nursing homes from families of medicaid patients. It concluded that there was a "lack of Federal laws or regulations" in this area and that as a result, many nursing homes had exerted various forms of pressure on families of patients to obtain contributions.

As noted in a letter from the Deputy Comptroller General of the United States, that I would like to include in the RECORD following my remarks, GAO has recommended as an amendment to H.R. 3, enactment of a modified version of section 17 of H.R. 92, a bill I introduced with 68 cosponsors. This legislation would amend the Social Security Act to provide a clear statutory basis for criminal prosecution when contributions are solicited as a precondition for admittance of a medicaid patient or as a requirement for the patient's continued stay.

Furthermore, GAO advises that "it is not clear" that the provisions of H.R. 3 which strengthen the penalties for defrauding the medicare and medicaid programs and enlarge the kinds of activities constituting crimes in relation to such programs address this problem of forced contributions. It adds that "Inasmuch as criminal statutes are strictly construed by the courts, we believe clarification is desirable if Congress wishes to make the described behavior a criminal offense."

Unfortunately, examples of these kinds of forced contributions in various investigations related to the medicaid program have been numerous. One need only look at various investigations by the Moreland Commission, the Senate Special Committee on Aging, and the Senate Government Operations Committee to see how widespread this abuse is. My staff has been told of a number of nursing homes which routinely require patients' relatives to make large gifts or donations before the patient can be admitted.

By accepting this amendment the House will be taking steps to punish these individuals who require what they camouflage as gifts. Where the gifts are required, they are in truth not gifts at all but blackmail.

My amendment would not in any way bar patients' families from making purely voluntary good faith contributions. It would also not prohibit relatives from purchasing additional services not provided under the medicaid State plan, a category that might include eyeglasses, hearing aids, dentures, and other items depending on the State plan's provisions. It would not restrict free-will donations by community, religious and/or philanthropic sources. Finally, it would apply only to medicaid-eligible patients.

I would like to add that I am hopeful that the Department of Health, Education, and Welfare will take speedy action on a related matter: The implementation of the section 249 requirement for cost-related reimbursement for these facilities. As the GAO report notes, coerced solicitations have often been condoned by States because of inadequate medicaid reimbursement rates.

I am hopeful that in the Senate's consideration of parallel legislation, an amendment similar to this one will be included. Senate interest in this issue of forced contributions has long been a fact. Two of the persons most involved in this struggle have been former Senator Frank Moss, who introduced the Senate equivalent to H.R. 92 in the 94th Congress, and Mr. Val Halamandaris, Associate Counsel of the Senate Special Committee on Aging, who has provided invaluable assistance on this matter from the time of the original bill's introduction to the present.

As the House begins the important process of eliminating fraud and abuse from Federal health care programs, we must not allow the practice of forced contributions to continue. We owe it to medicaid beneficiaries and their families to take steps to eliminate this type of abuse by enacting this amendment.

The letter from the Comptroller General of the United States is as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 27, 1977.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging.

DEAR MR. CHAIRMAN: As requested by your Committee, we reviewed H.R. 3, 95th Congress, which, if enacted, would be cited as the "Medicare-Medicaid Anti-Fraud and Abuse Amendments," to determine whether it contains provisions serving the same purposes as section 17 of H.R. 92, 95th Congress, which, if enacted, would be cited as the "Nursing Home Reform Act of 1977."

Section 17 of H.R. 92 would amend section 1909 of the Social Security Act, 42 U.S.C. § 1396h (Supp. V, 1975), to specifically authorize criminal prosecution for (1) charging, soliciting, accepting or receiving any money, gift, or consideration over and above the rates established by the State for Medicaid or (2) charging, soliciting, accepting or receiving any gift, money, donation or consideration as a precondition of admitting a Medicaid patient to a long-term care facility. H.R. 3 does not specifically address these matters, although section 4 thereof does strengthen the penalties for defrauding the Medicare and Medicaid programs and does enlarge the kinds of activities constituting crimes in relation to such programs. Although arguably certain portions of subsection 4(b) might be construed as covering the prohibited acts set forth in section 17 of H.R. 92, it is not clear that they do so. Inasmuch as criminal statutes are strictly construed by the courts, we believe that clarification is desirable if Congress wishes to make the described behavior a criminal offense.

We had recommended in a May 26, 1977, letter to the Chairman of the Senate Special Committee on Aging (HRD-77-90, B-164031 (3)), that the Social Security Act be amended to provide a clearer statutory basis for criminal prosecution where contributions are solicited by nursing homes as a precondition for admittance of a Medicaid patient or as a requirement for the patient's continued stay. We also suggested that in one respect H.R. 92 may be too restrictive, because it would not allow the acceptance of good faith donations, such as Christmas gifts and voluntary contributions. We believe a modified version of section 17 of H.R. 92 could be added to section 1909 of the Social Security Act, as it would be amended by section 4 of H.R. 3. It would clearly establish as felonious acts, or under existing law, as misdemeanors, those instances where anyone "knowingly and wilfully charges any money or other consideration over and above the rates established by the State or charges, solicits, accepts, or receives any gift, money, donation, or other consideration as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility or as a requirement for continued stay therein."

The foregoing language was recommended as an amendment to section 1909 of the Social Security Act, affecting Medicaid only, because the review providing the basis for our May 26, 1977, letter to the Chairman of the Senate Special Committee on Aging was limited to long-term care facilities participating in the Medicaid program. We note, however, that subsection 4(a) of H.R. 3 amends section 1877 of the Social Security Act (Medicare), 42 U.S.C. § 1395nn (Supp. V, 1975), while section 4(b) would amend section 1909 (Medicaid), using very similar language for each. Accordingly, if our above recommended language is included in any proposed amendment to subsection 4(b) of H.R. 3, we suggest that your Committee also consider the need for including comparable amendatory language to subsection 4(a) covering Medicare. We caution that we have not reviewed these issues with reference to the Medicare program.

We hope this information is useful to your Committee.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I merely want to commend the distinguished gentleman from Florida (Mr. PEPPER) upon his continuing vigilance of the proper operation of the medicare-medicaid program.

Mr. Chairman, I know of no objection within the Committee on Ways and Means to the adoption of this amendment and I urge its adoption.

Mr. PEPPER. Mr. Chairman, I thank the gentleman.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the distinguished gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I, too, want to commend the gentleman from Florida (Mr. PEPPER) for the leadership he has rendered in looking after those who are receiving the benefits of medicare-medicaid, and to state that I have no objection to the amendment offered by my colleague from Florida.

The current law requires that a provider who receives medicaid reimbursement for services must agree to accept that payment as payment in full, except for the nominal copayments allowed in medicaid. Additionally, soliciting money to admit or keep a patient is soliciting a bribe. So essentially the current law prohibits these arrangements. His amendment clarifies that prohibition so that there can be no question about the illegality of the actions.

Again, Mr. Chairman, I commend the gentleman from Florida (Mr. PEPPER) and urge support of the gentleman's amendment.

Mr. PEPPER. Mr. Chairman, I thank the gentleman from Florida.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the distinguished gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Chairman, I too wish to commend the gentleman from Florida (Mr. PEPPER) for offering his excellent amendment. I believe we certainly should have brought this matter up in the committee. It is a good amendment and I support it wholeheartedly.

Mr. PEPPER. Mr. Chairman, I thank the distinguished gentleman from Tennessee (Mr. DUNCAN) very much for his comments.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to my distinguished friend, the able gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Florida, (Mr. PEPPER) for yielding to me. I wish to commend the gentleman for offering this particular amendment. I would add that, of course, medicaid beneficiaries by virtue of being covered under the medicaid program have no money or at least very little money because they are already at the poverty level. I believe the institution should accept the normal payments which are made to them, and certainly not charge these individuals or their families any more.

I agree with the amendment and I support the amendment.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the able gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

Mr. Chairman, I wish to commend the gentleman from Florida (Mr. PEPPER) for his continued efforts to improve the medicare and medicaid programs to meet the needs of older Americans. I have had the distinct pleasure of working with my colleague on the Select Committee on Aging, and, I am pleased that the chairman has set the example of excellence in making the oversight functions of the Select Committee on Aging viable components of the legislative process. I would like to ask three clarifying questions concerning the gentleman's amendment. Under the amendment, does the chairman restrict the right of family members to offer freewill contributions to a facility or to purchase additional services not covered under the medicaid State plan?

Mr. PEPPER. It is certainly not my intent to restrict truly freewill contributions or to limit the right of families to purchase additional services not covered under the medicaid State plan. The amendment text should be read in its entirety as a prohibition against forced contributions as a condition of entry or of continued stay.

Mr. COHEN. Could the chairman please specify whether the amendment is intended to interfere with the use of community raised purely voluntary contributions, including contributions from the United Way, religious and/or philanthropic sources, to underwrite supplemental services to medicaid patients?

Mr. PEPPER. Please allow me to allay any concerns that this amendment would interfere with bona fide voluntary donations by community, religious, and/or philanthropic organizations.

Mr. COHEN. Of particular concern to me is whether this amendment infringes upon the practices of life care or continuing care agreements. As the distinguished chairman knows, I have introduced legislation to establish minimum requirements for such contractual arrangements. It is my understanding that nothing in this amendment should be construed as prohibiting such practices.

Mr. PEPPER. The gentleman from Maine is correct in his assumption. I too have introduced legislation to establish Federal minimum standards for such contractual arrangements. However, it is not the intent of this amendment to affect life care agreements.

Mr. COHEN. I rise in support of the amendment offered by the chairman of the House Select Committee on Aging and urge my colleagues to accept this important amendment to restrict coercive solicitations. At the same time, I urge my friend and colleague from Florida to use our Subcommittee on Health and Long-Term Care of the Select Committee on Aging as a forum for considering how this amendment is being implemented if it is passed by the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER) to the amendment jointly recommended by the committees.

The amendment to the committees' amendment was agreed to.

The CHAIRMAN. The question is on the committees' amendment, as amended.

The committees' amendment, as amended, was agreed to.

COMMITTEE AMENDMENT OFFERED BY COMMITTEE ON WAYS AND MEANS

The CHAIRMAN. The clerk will report the second amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by the Committee on Ways and Means: Page 66, strike out line 22 down through and including line 5 on page 70 and insert in lieu thereof:

(1) (1) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE MEDICAL RECORDS

"SEC. 1125. (a) (1) Notwithstanding any other provision of this Act except paragraph (2) of this subsection, no officer, employee, or agent of the United States, or any office, agency, or department thereof, or any Professional Standards Review Organization or any person acting or purporting to act on behalf of such Organization, may inspect, acquire, or require the disclosure of, for any reason whatever, any individually identifiable medical record of a patient, unless the patient has authorized such inspection, acquisition, or disclosure in accordance with subsection (b).

"(2) The prohibition of paragraph (1) shall not apply to the inspection, acquisition, or disclosure of an individually identifiable medical record relating to medical care which is or was paid for (in whole or in part) under title V, XVIII, or XIX of this Act, if such inspection, acquisition, or disclosure (A) is by a Professional Standards Review Organization, or any person acting or purporting to act on behalf of such Organization, for the purpose of performing utilization review under part B of this title with respect to such medical care, or (B) is for the purpose of auditing for, investigating, or prosecuting fraud and abuse in the provision of, or payment for, such medical care.

"(b) A patient authorizes an inspection, acquisition, or disclosure of an individually identifiable medical record for purposes of subsection (a) only if, in a signed and dated statement, he—

"(1) authorizes the inspection, acquisition, or disclosure for a specific period of time;

"(2) identifies the medical records authorized to be inspected, acquired, or disclosed;

"(3) specifies the purposes for which the record may be inspected, acquired, or disclosed; and

"(4) specifies the agencies which may inspect or acquire the record or to which the record may be disclosed.

"(c) Any person who violates subsection (a), upon conviction, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(d) In addition to any other remedy contained in this Act or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

"(e) The provisions of subsection (a) supersede any other law or regulation of the United States which grants, or appears to grant, power or authority to any person to violate subsection (a), except those statutes which are enacted after the date of enactment of this section and which specifically refer to this section.

"(f) For the purposes of this section, the term 'individually identifiable medical record' means data or information that relates to the medical, dental, or mental condition or treatment of an individual and that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public;

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment recommended by the Committee on Ways and Means be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

POINT OF ORDER

Mr. PREYER. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. PREYER. Mr. Chairman, this amendment in its scope would apply far beyond the purpose of the bill and the jurisdiction of the committee. The jurisdiction of the committee and the purpose of the bill is to deal with the Department of Health, Education, and Welfare and increase the Department's ability to investigate and prosecute medicare and medicaid fraud and abuse.

However, the amendment covers not only the Department of Health, Education, and Welfare but all the officers, employees, and agents of the United States. The committee report specifically states, "Under the bill PSRO's and employees or agents of the Federal Government may not inspect, acquire or require the disclosure of individually identifiable medical records." The Ways and Means Committee does not have jurisdiction, for example, over the employees of the Department of Defense, the Veterans' Administration, or the Federal courts:

In addition this amendment clearly conflicts with the Deschler precedent in chapter 28, section 8.1, which states that—

To a bill limited in its application to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane.

Finally, Mr. Chairman, I note the amendment attempts to supersede all other laws and regulations of the United States in conflict with this amendment. This violates the principle of the Deschler precedent in chapter 28, section 29.4, which states that—

To a bill referring to certain provisions of existing law, an amendment repealing a portion of that law was held not germane.

In summary, Mr. Chairman, this amendment should be considered not germane.

The CHAIRMAN. Does the gentleman from Illinois wish to be heard on the point of order?

Mr. ROSTENKOWSKI. Mr. Chairman, this is an amendment which was strongly advocated within the Committee on Ways and Means by its proponents. I yield now to one of those sponsors, the gentleman from Illinois (Mr. CRANE), who I understand wants to be heard in opposition to the point of order.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the point of order. The Ways and Means amendment, set forth as section 5(1) of H.R. 3 as reported by that committee, is clearly germane to the original bill and the bill in its current form.

In the first place, Mr. Chairman, H.R. 3 ostensibly has as its purpose the prevention of fraud and abuse in the medicare and medicaid programs. To achieve that objective, a very complex set of provisions were put into the original bill, including provisions in section 5 that greatly strengthen the investigatory and enforcement roles of professional standards review organizations (PSRO's).

These organizations do not simply acquire and inspect records only of medicare and medicaid patients, or of doctors and other health professionals who treat only those patients. Quite the contrary is true. PSRO's are required to compile statistically valid "profiles" of patients and providers, in order to identify, among other things, patterns of suspected unnecessary services and treatment that does not conform to "appropriate" medical standards. In so doing, they not only may—they must—inspect, acquire, and require the disclosure of the records of private patients and their doctors.

Section 5(h)(4) of the bill under consideration in this committee today was in the bill as originally introduced in substantially the exact form. It was intended to allow PSRO's to assist any other agencies of the Federal Government and State governments to identify and investigate cases and patterns of fraud and abuse, with respect to all patients, not just patients in the medicare and medicaid programs. The original bill was not limited to any particular Federal program, and disclosure could be made to agencies throughout the Federal Government.

If only the medicare and medicaid programs were contemplated, disclosure only to the Secretary of HEW would have been necessary under H.R. 3. But that was not the case.

In other words, the original bill required the PSRD's to provide their acquired data to any agencies that the Secretary may recognize—now or in the future—for such purposes, and other purposes. No limiting standards, or conditions, are imposed on the Secretary, and recent testimony before our committees indicated that an incredibly broad range of agencies claim to have a "need" for such data.

Therefore, the fundamental purpose of the so-called Crane-Stark amendment was to contain the potentially unlimited circulation of patient records, that contain intimate details of their lives, and their doctors' judgments and advice; unless the patient gave his consent. How could such a safeguard provision possibly not be germane to the fundamental purpose of H.R. 3?

Mr. Chairman, I am well aware of the precedents of this body—and I am certain that my colleagues on the Ways and Means Committee are as well—that would not allow section 5(1) of H.R. 3 to be broader in scope than the original bill. The fact is, however, that section 5(h) of the bill now before us clearly extends the specter of unauthorized violations of patients' rights to confidentiality to all patients, by all Federal agencies and departments. There is no way for Congress to know, in advance, precisely who will seek to inspect, acquire or require the disclosure of the data and records gathered by a PSRO and mandated to be shared with others by the original language of H.R. 3. Furthermore, a private patient's medical record can be transformed into a medicare or medicaid patient's record simply by a change in the status of the patient—his becoming eligible, for example, through disability, age, or poverty. The medicare and medicaid programs have much to fear if the kinds of safeguards provided for in the Crane-Stark amendment are not extended to all records of patients and all Federal officials.

The Crane-Stark amendment most certainly relates to the fundamental purpose of H.R. 3, and applies only to those individuals, agencies and departments that are within the scope of the original bill. To decide otherwise would, I respectfully submit, significantly and adversely affect the very patients who are the intended beneficiaries of this important legislation. It would create potential barriers between patient and doctor by inhibiting free communication, since there would be no guarantees that their jobs would be secure or their friends and families would be free from interrogation and investigation by the Federal Government.

Clearly, Mr. Chairman, these were the kinds of considerations the Ways and Means Committee weighed when it adopted the Crane-Stark amendment as a committee amendment to H.R. 3. I therefore respectfully request that the gentleman's point of order not be sustained.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ROSTENKOWSKI) care to be heard on the point of order?

Mr. ROSTENKOWSKI. No, Mr. Chairman.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from North Carolina makes the point of order against the amendment recommended by the Committee on Ways and Means printed on page 66, line 22, through page 70, line 5, on the grounds that it is not germane to the bill H.R. 3.

The bill amends several titles of the Social Security Act to correct fraudulent activities under the medicare and medicaid programs by strengthening penalty sanctions, increasing disclosure of information requirements, improving the professional standards review program, and by proposing certain administrative reforms.

The amendment recommended by the Committee on Ways and Means, while addressing the role of professional standards review organizations in permitting disclosure of confidential medical records of patients under medicare and medicaid programs, goes beyond that issue and encompasses a prohibition against any officer or employee of the Federal Government from disclosing any identifiable medical record absent specific authorization from the patient. As drafted, the amendment would supersede any other provision of law which would otherwise permit Federal officials to disclose medical records, and would appear to affect health programs which are not medicare or medicaid related which do not involve PSRO participation and which are not established under the Social Security Act.

For this reason, the Chair holds that the amendment recommended by the Committee on Ways and Means is not germane to H.R. 3 and sustains the point of order.

The Clerk will report the amendment recommended by the Committee on Interstate and Foreign Commerce now printed on page 70, line 6, through page 72, line 16, of the reported bill.

The Clerk read as follows:

Amendment offered by the Committee on Interstate and Foreign Commerce: Page 66, line 22, strike out all down to and including Page 70, line 5, and insert:

(1)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal finanical assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specified period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records.

Mr. ROGERS. Mr. Chairman, since the Ways and Means Committee amendment has been disposed of on a point of order, I have discussed this with Dr. CARTER, and I ask unanimous consent that the substitute amendment by the Committee on Commerce be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. STARK. Mr. Chairman, I reserve the right to object.

Mr. Chairman, the recent history of the privacy provisions of this bill are rather unique, and I am disappointed that there will be no statutory protections contained in the final version of H.R. 3. During the Ways and Means consideration of this bill, I joined with my colleague, Mr. CRANE, in offering an amendment that would restrict access to individually identifiable medical records. The amendment passed in the committee by a vote of 7 to 14, and I felt that we had taken a giant step toward restoring that essential confidentiality of the patient-doctor relationship, which everyones assumes, but which is not the case in practice.

In a subsequent hearing before the health subcommittee, chaired by my friend, the gentleman from Florida (Mr. ROGERS) we learned that our amendment as drafted might pose severe problems for biomedical research disease control, and the study of the relationship of environmental factors to the general health of the population. In short, it was claimed that we had gone too far.

It is hard for me to accept the fact that we can go too far in the area of personal privacy protection, but I am happy to accept the assurances of the committee chairman with jurisdiction over health care programs, and the Department of HEW, that they would move expeditiously to conduct hearings, and enact legislation to impose some basic guidelines for confidentiality.

I have received such commitments from Mr. ROGERS, Mr. Califano, and Mr. ROSTENKOWSKI. I include the text of the letters that I received from HEW, and from Mr. ROGERS. The Privacy Protection Study Commission has published the conclusions and recommendations that were the result of their 2-year assignment. The three main conclusions that the Commissions reached concerning privacy in research, which is the major focus of the issues at hand, point to the need to take action very soon:

First. Research and statistical activities are becoming more dependent on information collected for administrative purposes, a dependence that attenuates the relationship between researcher and subject and weakens the individual's ability to control the way that information about him is collected and used.

Second. While an expectation of confidentiality is, and has been, an integral part of research activities, their growing number raises serious questions about the validity of that expectation.

Third. The use of individually identifiable research records for administrative, regulatory, or law enforcement purposes encourages abuse of the expectation that information will be kept confidential.

In conjunction with these recommendations, Congressman KOCH introduced an omnibus medical records bill, H.R. 8283, which addressed the problems we encountered with our original amendment.

I find solace in the fact that, though we were not successful in enacting protections in this legislation, we have moved HEW, to quick action, and I commend the Secretary for his interest and direction in getting his agency to develop their recommendations in the agreed time period.

The material follows:

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 31, 1977.

Hon. FORTNEY H. STARK,
House of Representatives,
Washington, D.C.

DEAR PETE: Thank you for your letter of July 12 on the need to draft legislation on the confidentiality of medical records.

As you point out, this is a vitally important matter. For this reason I have established a Departmental task force to review in detail the pertinent recommendations of the Privacy Protection Study Commission and to provide me with legislative proposals to address this complex issue.

We are committed to finding a proper balance between the need for personal privacy and the exchange of information necessary for the effective administration of Departmental programs. We will have legislative recommendations for the Congress within the time period specified in H.R. 3.

I appreciate your concern with this important subject and I will continue to give it my personal attention.

Sincerely,

JOSEPH A. CALIFANO, Jr.

WASHINGTON, D.C., *June 20, 1977.*

Hon. FORTNEY H. STARK,
U.S. House of Representatives,
Washington, D.C.

DEAR PETE: I appreciated your joining with members of the Subcommittee on Health and the Environment to hear testimony from various members of the Administration concerning the impact of the amendment to H.R. 3, adopted by the Ways and Means Committee, banning Federal employee access to medical records without specific consent.

I share your deep concern that the privacy of an individual's medical record should be maintained. But I am also concerned that we do not place untenable barriers to the legitimate activities of the Government—to protect the health and safety, to trace epidemics, to research the causes of cancer, to uncover occupational health hazards, to name just a few.

I am convinced that the proper legislative course is to await the Privacy Commission's report on all aspects of this issue, to allow the Administration time to formulate legislation to carry out the Commission's recommendations, and then to hold full legislative hearings before we enact law. It is my intention to invite Chairman Rostenkowski and the Ways and Committee on Health to join members of the Commerce Subcommittee in hearings on this subject before the current legislative year is out. I am committed to proceeding with these hearings within 100 days of the issuance of the Privacy Commission report.

In view of your own interest in protection of privacy of medical records, I look forward to your advice and participation in those deliberations.

Sincerely yours,

PAUL G. ROGERS,
Chairman, Subcommittee
on Health and the Environment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SATTERFIELD. Mr. Chairman, reserving the right to object, I would like to ask the chairman a question.

The CHAIRMAN. Does the gentleman from California wish to be heard?

Mr. STARK. Mr. Chairman, I would be glad to yield to the gentleman from Virginia.

Mr. SATTERFIELD. Mr. Chairman, I thank the gentleman for yielding.

I would like to direct a question to the chairman of the subcommittee on Health and the Environment, in light of the ruling that has just been made on a point of order.

Would it be the intention of the chairman of the subcommittee to exert every effort to seek referral to his subcommittee of that portion of legislation dealing with medical records which might result from the Privacy Commission report?

Mr. ROGERS. Yes; anything that refers to medical records, I would certainly do that.

Mr. STARK. Mr. Chairman, I want to say that while I am disappointed that we were unable to deal with the privacy matters in this legislation today, we have received letters and commitments from the Secretary of HEW, from Chairman ROGERS, Chairman ROSTENKOWSKI, and Chairman PREYER that we will proceed expeditiously. The Privacy Commission has now reported out guidelines. It is my understanding that these guidelines are basically acceptable to HEW.

This is an area where the American public is increasingly concerned. I am very pleased that we could have agreed here that we will begin hearings and move toward seeing that the excellent work of the Privacy Commission and the various chairmen, who have been concerned about privacy, be enacted into legislation. I feel that this legislation will permit medical research and will also give the American public some feeling that they can come forward and freely give their medical histories, knowing that their privacy will be protected in the best interests of both research and their individual rights.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. STARK. I will be glad to yield to the gentleman from Florida.

Mr. ROGERS. I know of the great interest of the gentleman in this subject, and appreciate his interest. The committee, as he said, will try to address this problem expeditiously. We do expect—and I think it is the intent of the Congress—that HEW should submit its report on time, which should be about October 15, on the Privacy Commission recommendations. We would take that as a basis to move into this whole subject matter.

Mr. STARK. I thank the gentleman.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from North Carolina.

Mr. PREYER. I want to assure the gentleman in the well that the Government Information and Individual Rights Subcommittee is going to proceed with hearings and study of the Privacy Commission report immediately. To receive that report, we had a joint meeting of the Senate committee and the House committee to emphasize the importance we attach to it. As the gentleman is aware, Mr. KOCH and Mr. GOLDWATER of the House were members of that committee, and introduced legislation on that score. We intend to follow up on that with all deliberate speed.

Mr. STARK. I thank the distinguished gentleman.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. CRANE. I thank my colleague for yielding to me. I too share his sentiments and the feeling of appreciation that the gentleman from North Carolina, the gentleman from Florida, and my good friend and colleague from Illinois will jointly look into this vital question. I think we have generally recognized the importance of preserving the lawyer-client relationship, the priest-penitent relationship, and to do any abuse to the doctor-patient relationship may put in jeopardy some very fundamental freedoms.

Mr. STARK. I thank the gentleman from Illinois for his cooperation, effort and work in the whole area of privacy.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I certainly agree with everything that has been said here. I will work as closely as possible with the gentleman from Tennessee, my good friend, JOHN DUNCAN, and my colleague from Illinois (Mr. CRANE), and at the earliest possible scheduling date we will try to have hearings and write some law in this area.

Mr. STARK. I want to thank the gentleman from Illinois, the distinguished chairman of the Health Subcommittee of the Committee on Ways and Means. I know that if he is as tenacious in protecting privacy as he is during procedural matters, we will have a good bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida that the Interstate and Foreign Commerce Committee amendment be withdrawn?

There was no objection.

The CHAIRMAN. The Clerk will report the third amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Committee amendment recommended by the Committee on Ways and Means: Page 72, strike the matter beginning on line 17 down through and including line 24, page 80, and insert:

(m)(1) Title X–I of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101 (a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(n) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(o) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b)(1) after "Review Organizations"; and

(6) by inserting " AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDING REVIEW ORGANIZATIONS".

(p)(1) Section 1162(b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding suoparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 5(1)(1) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1126. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, titles V, XVIII, or XIX or part B of this title of this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found, or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General may be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c)(1) Except as provided in paragraph (2), any employee or officer of the General Accounting Office who discloses a personal medical record (defined in paragraph (3)) to any person, other than an employee or officer of such Office whose official duties require disclosure of such information, shall be fined not more than $1,000 or imprisoned for not more than six months, or both, and charged the costs of prosecution.

"(2) An employee or officer of the General Accounting Office who discloses a personal medical record to a Federal or State agency recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse shall not be subject to the penalties of paragraph (1) if the Comptroller General has determined before the disclosure of such record that the record reveals evidence of fraud or abuse.

"(3) For the purposes of this section, the term 'personal medical record' means data or information—

"(A) relating to the medical or mental condition or treatment of any individual;

"(B) acquired by any employee or officer of the General Accounting Office in the course of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, title V, XVIII, or XIX, or part B of this title of this Act; and

"(C) in a form which can be associated with, or otherwise identify, directly or indirectly, the individual described in subparagraph (A).

"(d) No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by sections 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of a State plan approved under title XIX is notified by the Secretary under section 1862 (e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in its plan under this title for not less than the period specified in such notice, and no payment may be made under its plan with respect to any items or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for items or services furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of a State plan approved under title XIX such plan submits a request to the Secretary for such waiver and if the Secretary approves such request.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) (as added by section 407 of the Health Professions Educational Assistance Act of 1976) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendments made by this section shall apply with respect to determinations and designations made on and after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on October 1, 1977.

DISCLOSURE OF PROVIDERS OF OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1126 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1127. (a) As a condition of participation in or certification or recertification under the programs established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1127(b)) of such provider, is a person described in section 1127(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1127(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1127(b)) of such institution, organization, or agency, is a person described in section 1127(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (j) of this section); and notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1127(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1127(b)) of such provider, is a person described in section 1127(a), and may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1127(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION OF FEDERAL MEDICAID PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsection:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.".

(b) The amendment made by subsection (a) shall apply with respect to medical assistance provided under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the third amendment recommended by the Committee on Ways and Means be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, the third Ways and Means Committee amendment embodies the provisions contained in section 5(m) through section 19 of the bill as reported by the Ways and Means Committee. The Interstate and Commerce Committee will, I understand, have a substitute amendment relating to these provisions. The substitute amendment differs in one technical respect from our version of the bill.

Had not our committee already reported H.R. 3 when the Interstate and Commerce Committee added this technical improvement in section 17, we would have added it to our version as well.

The CHAIRMAN. The Clerk will report the third amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means: Page 80, line 25, insert:

(m)(1) Title XI of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101 (a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(n) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(o) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b)(1) after "Review Organizations" and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDING REVIEW ORGANIZATIONS".

(p)(1) Section 1152 (b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act as amended by inserting after section 1124 (added by section 3(a) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1125. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, titles V, XVIII, or XIX or part B of this title of this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to sub-

section (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found, or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General may be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c)(1) Except as provided in paragraph (2), any employee or officer of the General Accounting Office who discloses a personal medical record (defined in paragraph (3)) to any person, other than an employee or officer of such Office whose official duties require disclosure of such information, shall be fined not more than $1,000 or imprisoned for not more than six months, or both, and charged the costs of prosecution.

"(2) An employee or officer of the General Accounting Office who discloses a personal medical record to a Federal or State agency recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse shall not be subject to the penalties of paragraph (1) if the Comptroller General has determined before the disclosure of such record that the record reveals evidence of fraud or abuse.

"(3) For the purposes of this section, the term 'personal medical record' means data or information—

"(A) relating to the medical or mental condition or treatment of any individual;

"(B) acquired by any employee or officer of the General Accounting Office in the course of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, title V, XVIII, or XIX, or part B of this title of this Act; and

"(C) in a form which can be associated with, or otherwise identify, directly or indirectly, the individual described in subparagraph (A).

"(d) No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by sections 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of a State plan approved under title XIX is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in its plan under this title for not less than the period specified in such notice, and no payment may be made under its plan with respect to any items or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for items or services furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of a State plan approved under title XIX such plan submits a request to the Secretary for such waiver and if the Secretary approves such request.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) (as added by section 407 of the Health Professions Educational Assistance Act of 1976) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendments made by this section shall apply with respect to determinations and designations made on and after the date of enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on October 1, 1977.

DISCLOSURE OF PROVIDERS OF OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1126. (a) As a condition of participation in or certification or recertification under the programs established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1126(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such institution, organization, or agency, is

a person described in section 1126(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (j) of this section); and notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1126(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a), and may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1126(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION OF FEDERAL MEDICAID PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsection:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.".

(b) The amendment made by subsection (a) shall apply with respect to medical assistance provided under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

STUDY AND REVIEW OF MEDICARE CLAIMS PROCESSING

SEC. 12. The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act, for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

(1) by reducing the number of participating intermediaries and carriers;

(2) by making a single organization responsible for the processing of claims, under both part A and part B of such title, in a particular geographic area;

(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

(4) by providing incentive payments for the most efficient organizations; or

(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto.

ABOLITION OF PROGRAM REVIEW TEAMS UNDER MEDICARE

SEC. 13. (a) Section 1862(d) of the Social Security Act is amended by striking out paragraph (4).

(b)(1) Section 1862(d)(1)(B) of such Act is amended by striking out ", with the concurrence of the appropriate program review team appointed pursuant to paragraph (4),".

(2) Section 1862(d)(1)(C) of such Act is amended to read as follows:

"(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(3) Clause (F) of section 1866(b)(2) of such Act is amended to read as follows: "(F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care".

(4) Section 1157 of such Act is amended by striking out the last sentence.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

AMENDMENTS RELATING TO FISCAL INTERMEDIARIES

SEC. 14. (a) Section 1816 of the Social Security Act is amended—

(1) by inserting "(and to providers assigned to such agency or organization under subsection (e))" in the first sentence of subsection (a) after "to such providers" the second and third times it appears;

(2) by amending subsection (b) to read as follows:

"(b) The Secretary shall not enter into or renew an agreement with any agency or organization under this section unless—

"(1) he finds—

"(A) after applying the standards, criteria, and procedures developed under subsection (f), that to do so is consistent with the effective and efficient administration of this part, and

"(B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 226, and the agreement provides for such assistance; and

"(2) such agency or organization agrees—

"(A) to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section, and

"(B) to provide the Secretary with access to all such data, information, and claims processing operations,

as the Secretary may find necessary in performing his functions under this part.";

(3) by inserting "after applying the standards, criteria, and procedures developed under subsection (f) and" in subsection (e)(2) before "after reasonable notice";

(4) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively; and

(5) by inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) and (d), the Secretary after taking into consideration any preferences of providers of services, may assign or reassign any provider of services to any agency or organization which has entered into an agreement with him under this section, if he determines, after applying the standards, criteria, and procedures developed under subsection (f), that such assignment or reassignment would result in the more effective and efficient administration of this part.

"(2) Notwithstanding subsections (a) and (d), the Secretary may designate a national or regional agency or organization which has entered into an agreement with him under this section to perform functions under the agreement with respect to a class of providers of services in the Nation or region (as the case may be), if he determines, after applying the standards, criteria, and procedures developed under subsection (f), that such designation would result in more effective and efficient administration of this part.

"(3)(A) Before the Secretary makes an assignment or reassignment under paragraph (1) of a provider or services to other than the agency or organization nominated by the provider, he shall furnish (i) the provider and such agency or organization with a full explanation of the reasons for his determination as to the efficiency and effectiveness of the agency or organization to perform the functions required under this part with respect to the provider, and (ii) such agency or organization with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(B) Before the Secretary makes a designation under paragraph (2) with respect to a class of providers of services, he shall furnish (i) such providers and the agencies and organizations adversely affected by such designation with a full explanation of the reasons for his determination as to the efficiency and effectiveness of such agencies and organizations to perform the functions required under this part with respect to such providers, and (ii) the agencies and organizations adversely affected by such designation with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(f) In order to determine whether the Secretary should enter into, renew, or terminate an agreement under this section with an agency or organization, whether the Secretary should assign or reassign a provider of services to an agency or organization, and whether the Secretary should designate an agency or organization to perform services with respect to a class of providers of services, the Secretary shall develop standards, criteria, and procedures to evaluate such

agency's or organization's (1) overall performance of claims processing and other related functions required to be performed by such an agency or organization under an agreement entered into under this section, and (2) performance of such functions with respect to specific providers of services.".

(b) The Secretary of Health, Education, and Welfare shall develop the standards, criteria, and procedures described in subsection (f) of section 1816 of the Social Security Act (as added by subsection (a)(5) not later than October 1, 1978).

(c) The amendment made by paragraphs (2) and (3) of subsection (a) to the extent that they require application of standards, criteria, and procedures developed under section 1816(f) of the Social Security Act shall apply to the entering into, renewal, or termination of agreements on and after October 1, 1978.

(d) Except as provided in subsection (c), the amendment made by subsection (a)(2) shall apply to agreements entered into or renewed on or after the date of enactment of this Act.

DISCLOSURE BY PROVIDERS OF THE HIRING OF CERTAIN FORMER EMPLOYEES OF FISCAL INTERMEDIARIES

SEC. 15. (a) Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A and B, or both, of this title) with respect to the provider.".

(b) The amendments made by subsection (a) shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 16. (a) Section 1833(f) of the Social Security Act is amended to read as follows:

"(f)(1) In the case of durable medical equipment to be furnished an individual as described in section 1861(s)(6), the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need), whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this title or would create an undue financial hardship on the individual who will use it.

"(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of the used equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

"(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

"(4) The Secretary shall encourage suppliers of durable medical equipment to make their equipment available to individuals entitled to benefits under this title on a lease-purchase basis whenever possible.".

(b) The amendment made by subsection (a) shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977.

FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 17. (a) Section 1903(a) of the Social Security Act (as amended by section 2(b)(2) of this Act) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) subject to subsection (b)(3), an amount equal to 90 per centum of the sums expended during each quarter beginning on or after October 1, 1977, and ending before October 1, 1980, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (p)); plus".

(b) Section 1903(b) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(7) may not exceed the higher of—

"(A) $125,000, or

"(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title.".

(c) Section 1903 of such Act is further amended by inserting after subsection (o), (added by section 11(a) of this Act) the following new subsection:

"(p) For the purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

"(1) The entity either (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, or (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, which (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions.

"(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

"(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

"(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments made under the State plan to health care facilities and discovered by the entity in carrying out its activities.

"(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.".

(d)(1) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1977.

(2) The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act, as are necessary to carry out the amendments made by this section.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

SEC. 18. (a) Not later than one year after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act.

(b) Such report shall include an evaluation of the coordination of such services provided under different titles, and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

(2) the requirements for an individual to be eligible to receive such services under such titles;

(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certification of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by providers of such services in order to determine the reasonableness of such costs, and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act; and

(6) the prevention of fraud and abuse in the delivery of such services under such titles,

the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services.

ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS FOR DIFFERENT TYPES OF HEALTH SERVICES FACILITIES AND ORGANIZATIONS; MAKING OF REPORTS UNDER MEDICARE AND MEDICAID PROGRAMS IN ACCORDANCE WITH SUCH SYSTEMS

SEC. 19. (a) Part A of title XI of this Social Security Act is amended by inserting after section 1120 the following new section:

"UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

"SEC. 1121. (a) For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this Act, the Secretary shall establish by regulation, for each such type of health services facility or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

"(1) The aggregate cost of operation and the aggregate volume of services.

"(2) The costs and volume of services for various functional accounts and subaccounts.

"(3) Rates, by category of patient and class of purchaser.

"(4) Capital assets, as defined by the Secretary, including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

"(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative system for producing comparable and uniform health information and statistics described in section 306(e)(1) of the Public Health Service Act.

"(b) The Secretary shall—

"(1) monitor the operation of the systems established under subsection (a);

"(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

"(3) periodically revise such systems to improve their effectiveness and diminish their cost.

"(c) The Secretary shall provide information obtained through use of the uniform reporting system described in subsection (a) in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 1515 of the Public Health Service Act) and State health planning and development agencies (designated under section 1521 of such Act), as may be necessary to carry out such agencies' and organizations' functions.".

(b)(1) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.".

(2) Section 1902(a) of such Act (as amended by sections 2(b), 3(c), and 7(b) of this Act) is amended—

(A) by striking out "and" at the end of paragraph (38);

(B) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (39) the following new paragraph:

"(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.".

(c)(1) The Secretary of Health, Education, and Welfare shall establish the system described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) only after consultation with interested parties and—

(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

(B) for other types of health services facilities and organizations, not later than the end of the two-year period, beginning on the date of enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply, with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) for that type of health services facility.

(B) The amendments made by subsection (b) shall apply, with respect to the operation of a health services facility or organization which is neither a hospital, a skilled nursing facility, nor an intermediate care facility, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization.

(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) shall apply, with respect to State plans approved under title XIX of the Social Security Act, on and after October 1, 1977.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, this really is simply a technical amendment which would allow the three States which have a constitutional amendment prohibiting statewide prosecuting authority to receive the 90-percent Federal incentive payment if they have arrangements satisfactory to the Secretary for referral of medicaid fraud cases for prosecution.

As I say, it is simply technical, and I know of no objection to the amendment.

The CHAIRMAN. The question is on the amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means.

The committe amendment offered as a substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is on the third amendment recommended by the Committee on Ways and Means, as amended.

The third committee amendment, as amended, was agreed to.

COMMITTEE AMENDMENT RECOMMENDED BY COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

The CHAIRMAN. The Clerk will read the fourth amendment recommended by the Committee on Interstate and Foreign Commerce.

The Clerk read as follows:

Committee amendment recommended by the Committee on Interstate and Foreign Commerce: Page 113, line 13, insert:

DELAY IN, AND WAIVER OF, IMPOSITION OF REDUCTION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE DUE TO A STATE'S FAILURE TO HAVE AN EFFECTIVE MEDICAID UTILIZATION CONTROL PROGRAM

SEC. 20. (a) Section 1903(g) of the Social Security Act is amended—

(1) by striking out "With respect to" in the first sentence of paragraph (1) and inserting in lieu thereof "Subject to paragraph (3), with respect to";

(2) by inserting "timely" in paragraph (2) before "sample onsite surveys"; and

(3) by adding after paragraph (2) the following new paragraphs:

"(3)(A) No decrease in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) shall take effect—

"(i) before January 1, 1978;

"(ii) unless a notice of such decrease has been provided to the State at least 30 days before the date such decrease takes effect; and

"(iii) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such decrease has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

"(B) The Secretary shall waive application of all or part (as is appropriate) of any decrease in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending before October 1, 1977, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to the calendar quarter ending on December 31, 1977, is satisfactory under such paragraph and is valid under paragraph (2).

"(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

"(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraph (26) and (31) of section 1902(a), if the showing demonstrates that the State has conducted such an onsite

inspection during the 12-month period ending on the last date of the calendar quarter—

"(i) in each of not less than 98 per centum of the number of such hospitals and facilities requiring such inspection, and

"(ii) in every such hospital or facility which has 200 or more beds.

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due diligence in attempting to conduct such inspections.

"(5) The Secretary shall submit to Congress, not later than 60 days after the end of each calendar quarter, a report on—

"(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

"(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

"(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under paragraph (1) of an unsatisfactory or invalid showing.".

(b) The amendments made by subsection (a) shall become effective on June 30, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Security Act to reflect the changes made by such amendments.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the fourth amendment recommended by the Committee on Interstate and Foreign Commerce be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, this amendment is to provide relief to States from the $250 million in penalties assessed by the Secretary of HEW against 20 States. This will provide those States until the end of the year to meet the requirements of the law. If they do so at that time—and now that they know the law will be enforced, I am sure they will be in compliance—all previous penalties are waived.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, this medicaid amendment is an important one which must be enacted by October 1 to preclude the withholding of funds from the medicaid program. I know of no Ways and Means Committee objection, and I urge my colleagues to support it.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the amendment offered by the chairman of the subcommittee. We feel that in the previous amendment the matter referred to something a little different. As I understand the third amendment, there is a technical change in respect to fraud and abuse where the State's constitution prohibits setting up an independent fraud unit in such States as the unit would be set up. Am I correct on that?

Mr. ROGERS. The amendment which we passed is the Commerce Committee amendment.

Mr. CARTER. Yes, sir. No unit would be set if in contravention of a State's constitution.

Mr. ROGERS. It did provide that 90 percent funding could go to a State, even though there might have been a constitutional prohibition of statewide prosecuting authority in the State's constitution.

Mr. CARTER. We were talking about trust territories at that time. Actually, this amendment deals with what we have said, what I mentioned to the gentleman.

Mr. ROGERS. For prosecuting. Yes, for prosecuting.

Mr. CARTER. I thank the gentleman.

The CHAIRMAN. The question is on the fourth amendment recommended by the Committee on Interstate and Foreign Commerce.

The fourth committee amendment was agreed to.

AMENDMENT OFFERED BY MR. COHEN

Mr. COHEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COHEN: Page 116, add after line 23 the following new section:

Patients' Rights in Certain Medical Facilities

SEC. 21. (a) Title XI of the Social Security Act is amended by adding after section 1126 (added by section 8) the following new section:

"DEVELOPMENT AND ENFORCEMENT OF STANDARDS RELATING TO THE RIGHTS OF PATIENTS OF CERTAIN MEDICAL FACILITIES

"SEC. 1127. (a) The Secretary, in prescribing standards under section 1861(c)(9) for hospitals, under section 1861(j)(15) for skilled nursing facilities, and under section 1905(c)(2) for intermediate care facilities, shall require that all such hospitals and facilities to which such sections apply (hereinafter in this section referred to as 'facilities') adopt and make public a statement of the rights and responsibilities of the patients who are receiving inpatient treatment or care in such facilities (hereinafter in this section referred to as 'patients') and deal with such patients in accordance with the provisions of such public statement.

"(b) The Secretary shall require that the statement referred to in subsection (a) include the following:

"(1) A guarantee that the patient's civil and religious liberties (including the right to independent personal decisions and knowledge of available choices) will not be infringed and that the facility will encourage and assist in the fullest possible exercise of these rights.

"(2) A guarantee of the patient's right to have private and unrestricted communications with his physician, his attorney, and any other person.

"(3) A guarantee of a married patient's right to privacy for visits by the patient's spouse, and, if spouses are inpatients of the same facility (other than a hospital) a guarantee of the right of the spouses to share the same room in the facility.

"(4) A guarantee of the right of each patient (and of a staff member of a facility on behalf of any patient) to present grievances for the patient or other patients to the facility's staff or administrator, to governmental officials, or to any other patients or individuals within or outside of the facility to work for improvements in patient care.

"(5) A guarantee of the patient's right to manage his own financial affairs, or to have a periodic accounting of any financial transactions in his behalf should the patient delegate such responsibility to the facility for any period of time.

"(6) A guarantee of the patient's right to receive adequate and appropriate medical, nursing, and supportive care as reimbursed, to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions.

"(7) A guarantee of the patient's right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records (in accordance with the provisions of this Act), and security in storing and using personal possessions.

"(8) A guarantee of the patient's right to receive fair and equal treatment and services and a written statement of the services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under titles XVIII or XIX of this Act.

"(9) A guarantee of the patient's right to be free from mental and physical abuse and from physical and chemical restraints.

"(10) A guarantee that the patient will not be transferred or discharged from the facility, or transferred from one room to another within the facility, except for medical reasons, for the patient's health and safety or for the health and safety of the other patients; must be accomplished with adequate procedures to protect the physical, psychological, and social well-being of the patient involved, and shall be subject to the remedies and enforcement procedures established by or under subsection (d).

"(11) A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients.

"(12) A guarantee that, should the patient be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities shall devolve upon a sponsor or guardian who shall see that the patient is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he is capable of exercising.

"(13) A guarantee of any other patient's rights the Secretary determines to be appropriate.

"(14) The guarantees specified in paragraphs (6) and (9) may be temporarily suspended by a facility with respect to a patient if—

"(A) the physician attending the patient determines that the suspension of such a guarantee for a specified and limited period of time is medically necessary and the physician records such determination (and the reasons therefor) in the patient's permanent medical record; and

"(B) the facility promptly notifies any sponsor or guardian of the patient of such suspension, its duration, and the reasons therefor.

"(c) The Secretary shall also require—

"(1) that each facility make available a copy of the statement, including a description of the remedies and enforcement procedures established by or under subsection (d), to each patient (or to the patient's guardian), as evidenced by the patient's written acknowledgement, at or prior to the time of admission to the facility or at the time of the initiation of the medical relationship between the facility and the patient, and to each member of the facility's staff, and post a copy of such statement in a public place within the facility; and

"(2) that each facility prepare a written plan and provide appropriate staff training to implement each patient's right included in the statement.

"(d) The procedure for enforcing a patient's rights guaranteed under subsection (a) shall be as follows:

"(1) The Secretary shall establish a procedure under which any patient, or any person acting on behalf of a patient, who believes that such patient has been denied any right so guaranteed may submit a complaint, written or oral, with an appropriate State agency in the State in which the patient is situated (hereinafter in this subsection referred to as the 'State agency') which shall investigate the complaint, keeping confidential insofar as possible the identity of the complainant and the name of the patient or patients involved if the complainant is not such a patient), and shall render a written report thereon to the complainant within twenty working days. A copy of the State agency report, including the complaint (with identities of the complainant and any patients deleted), shall be made a permanent part of the file maintained on the facility by the State agency and shall be available to the public.

"(2)(A) If as a result of a State agency investigation conducted under paragraph (1), there is sufficient evidence of a violation, the State agency shall assess against the facility a civil penalty as determined by the Secretary in subparagraph (C)(i) by an order made after notice (provided in accordance with subparagraph (B)) and after opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(B) The written notice referred to in subparagraph (A) shall include notice of the State agency's proposed order and notice of the facility's opportunity to request, within 15 days of the date the notice is received by the facility, a hearing on the proposed order.

"(C)(i) Any facility which violates any right of a patient guaranteed by the facility under this section shall be liable to individual patients (or their heirs) for a civil penalty determined by the Secretary in an amount not to exceed $500 for each such violation unless that is not possible in which case such penalty shall be paid to the State in which the facility involved is located. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

"(ii) The imposition of a civil penalty under this subsection shall not preclude, and shall be in addition to, any other monetary damages recoverable by patients as a result of the violation.

"(D) Not later than 60 days after an order of assessment of a penalty against a facility becomes final under this paragraph, the facility must either—

"(i) file suit contesting such assessment in an appropriate court of competent jurisdiction and pay the amount of the penalty assessed into an escrow account established by the State agency; or

"(ii) pay the amount of such penalty to the patient whose rights were violated.

"(3) Not later than 60 days after a final decision on such complaint has been made or if the State agency has failed to act within twenty days, the complainant may bring an original action in the appropriate United States District Court or any State court of competent jurisdiction to enforce the guaranteed rights involved under this section. Such court shall have jurisdiction in any such action without regard to the amount in controversy. The complainant may join any additional causes of action which he (or the patient or patients involved) may have against the facility for enforcement or damages arising out of rights guaranteed under this subsection or otherwise. A complainant who prevails in court shall be awarded legal fees and costs, including reasonable attorney's fees, and shall be entitled to immediate release and payment of the statutory damages awarded from any escrow account established under paragraph (2)(D)(3) by the State agency with respect to such complainant and, to the extent not so provided, from the facility.

"(4) If any facility fails to pay, to a patient or into an escrow account, a civil penalty assessed under this subsection within 60 days of the final order of the State agency or the final judgment of a court imposing such assessment (as the case may be), the Attorney General of such State or of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the last day of such 60-day period) in an action brought in any appropriate district court of the United States or any State court of competent jurisdiction. In such an action, the validity, amount, and appropriations of such penalty shall not be subject to review.

"(5) In any case where the patient or facility brings an action under this subsection following a decision of a State agency which is not in favor of the patient or the facility, respectively, and the action is determined to constitute harassment of the facility or patient, respectively, such patient or facility must pay all legal fees and costs (including reasonable attorney's fees) incurred by the State agency in connection with its decision.

"(6) In implementing the procedures established by or under this subsection for the enforcement of the patient's rights, the Secretary (utilizing existing procedures and instrumentalities whenever feasible) shall actively encourage, insofar as is possible depending on local circumstances, the involvement of nursing home patient advocates and ombudsmen (at the option of the patients or complainants involved) as representatives of individual patients.

"(7) The Secretary shall insure that individuals who invoke the enforcement procedures under this subsection, and patients for whom such procedures are initiated by third parties, are protected against retaliation in any form by the facility involved or by any of its employees, agents, or representatives. For this purpose the Secretary shall specifically provide that any act of such retaliation shall be subject to a civil penalty not to exceed $1,000 for each act of retaliation.

"(8) In order to determine whether a facility is adequately protecting its patients' rights, each routine certification survey of the facility shall include a private meeting between patients and survey personnel to discuss patients' experiences within the facility as regards rights under this section and compliance with standards generally.

"(9) The Secretary shall first publish proposed regulations for carrying out this subsection within 6 months after the date of the enactment of this section, and such regulations shall first become final and fully effective no later than nine months after such date.

"(10) Costs incurred by a State agency in carrying out its functions and responsibilities under this subsection shall be considered administrative costs incurred in carrying out functions and responsibilities under title XVIII or under the State's plan approved under title XIX or both (as determined by the Secretary) for purposes of Federal reimbursement.

"(11) Notwithstanding any other provision of law, civil penalties paid to any individual in accordance with this subsection shall not constitute income or resources or otherwise be taken into account (A) for purposes of determining the eligibility of such individual or his or her family or household for assistance under a State plan approved under title XIX, or for aid, assistance, or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household, or (B) for purposes of determining the amount or extent of such aid, assistance, or benefits.".

(b) Sections 1861(e)(9) and 1861(j)(15) of the Social Security Act are each amended by striking out "health and safety" and inserting in lieu thereof "health, safety, and rights".

Mr. COHEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. ROGERS. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) reserves a point of order on the amendment.

The Chair recognizes the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Chairman, I rise to offer an amendment to establish in law a patient's bill of rights and to create a grievance procedure for patients whose rights are abridged during treatment in medical facilities. The medicare and medicaid antifraud and abuse amendments before us today contain provisions for stricter enforcement of current medicare and medicaid regulations, as well as measures which seek to promote active provider participation in producing better care. I have cosponsored and actively supported H.R. 3. This amendment is a modification of legislation I introduced earlier this year with Congressman PEPPER, chairman of the House Select Committee on Aging, which is complimentary to the purposes of H.R. 3. I am convinced that fraud and abuse control must not only originate from administrative bodies such as the Inspector General's office, health practitioners, and/or facilities, but also from the recipients of care themselves.

The enforcement mechanisms in this bill, like our system of Government, are a system of checks and balances. When we underemphasize the role of one component or vest too much authority in another, we run the risk of producing either centralized control and arbitrary regulation, or uninhibited individual action. Both have the potential to produce abuses of our system of rules and waste of our resources. My amendment recognizes that to fully utilize our advantage to control fraud and abuse we must capitalize on the vested interest the patient has in being an active participant in his own care. Together, these amendments we are considering today have the potential to reduce inappropriate medical treatment, control costs, and to guarantee care will be provided when it is needed.

My amendment accomplishes two important tasks. First, it sets forth in law the rights of institutionalized patients. Patients' rights has been under the purview of the Federal Government since the Secretary of HEW implemented pa-

tients' rights regulations for skilled nursing facilities in October of 1974. Since that time regulations have been implemented for intermediate care facilities, and HEW is expected to publish specifications for patients' rights in hospitals. These regulations offer institutionalized patients a wide range of personal and civil liberties. Briefly these important guarantees include:

The right to the fullest possible exercise of civil and religious liberties;

The right to receive appropriate health care as reimbursed, to participate in planning total care and medical treatment unless medically contraindicated by a physician in writing;

The right to refuse medication and treatment and know the consequences of such actions;

The right to be free from chemical or physical restraints, except under a doctor's orders;

The right of privacy for personal needs and records, and security in storing and using personal possessions;

The right to full information in writing concerning services and charges including any charges for services not covered by the facility's basic per diem rate or not covered under the medicare and medicaid programs;

The right to private and unrestricted communications with others;

The right to present grievances without fear of recrimination;

The right to manage one's own financial affairs;

The right that a patient will not be transferred or discharged from a facility solely because he lacks the ability to pay;

And, in the case of nursing homes, the right to privacy with one's spouse.

In return the patient accepts the responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients. If the patient should be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities devolve upon a sponsor or guardian. These rights are in large part a reaffirmation of those patient guarantees set forth in regulations.

Unfortunately enforcement of these rights has been inadequate. At present, the only remedy is a total cutoff of Federal reimbursement. The Federal Government has been reluctant to withdraw its share of dollars from a facility since such action would frequently force the facility to close down. The inadequacy of existing patients' rights guarantees was pointed out recently in a report prepared by the AFL–CIO, entitled "America's Nursing Homes: Profit in Human Misery." Among its many recommendations was a call for a strictly enforced bill of rights for nursing home patients.

As a consequence, the second objective of my amendment is to establish a system of graduated penalties for institutions which are found to violate patients' rights and set up a procedure by which patient complaints can be processed fairly and quickly. Under this new grievance procedure, patients who believe their rights have been abridged, or persons acting in their behalf, can file a complaint with the appropriate State agency. This agency would investigate the complaint and file a report within 20 days. After the investigative report is filed, the facility would have the opportunity for a hearing if requested within 15 days. Proven violations of the bill of rights could lead to the imposition of penalties as determined by the Secretary of HEW of no greater than $500 per instance, except in the case of retaliation against the complainant by the offending facility, in which case the fine could reach $1,000. After these administrative remedies are exhausted, any decision by the State agency could be appealed to the U.S. District Court or a State court of competent jurisdiction within 60 days by either party involved in the complaint. At the time of the request for the hearing, the amount of the fine would be held in escrow until the court reached a verdict.

Final judgment on a violation would result in the release of the penalty to the aggrieved party. Should this reward go to the patient, it would not be counted as income or resources for purposes of determining the eligibility of such individual or his or her family for assistance under the medicaid program, or for aid, assistance or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds when such income or resources are a condition for eligibility in the respective programs. Furthermore, costs incurred by a State agency in carrying out its functions and responsibilities under this subsection would be considered administrative costs under the medicare and medicaid programs and be approved for purposes of Federal reimbursement.

I have been especially careful to build in administrative and enforcement procedures which provide explicit checks on unwarranted or inappropriate use of the rights guaranteed by either the patient or the provider. In any case where the patient or facility brings an action which is determined to constitute harassment, such patient or facility must pay all legal fees and costs, including reasonable attorney's fees incurred by the State agency in connection with its decision.

Patients are not required to avail themselves of the protections outlined in my amendment when they have a grievance. I believe that these provisions will only be used when there are clear and repeated instances of violation of basic patients' rights recognized in our definition of good care. For it is only when persons are treated anonymously and inhumanely that they feel compelled to take action against those in whom they have entrusted their health and lives. This amendment will in many instances, except those of gross medical malpractice, provide a viable alternative to most costly measures such as malpractice suits. It has been demonstrated that when patients are ill-informed as to their condition and frustrated in their attempts to participate in decisions affecting their lives they are likely to resort to law suits as a last resort to protect their rights. These provisions are designed to provide an alternative to the discovery procedures normally conducted pursuant to law suits and malpractice suits.

The rights of all patients should be assured, irrespective of where that care is received. This amendment begins that process by covering providers of patient medical care participating in the medicare and medicaid programs.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have discussed this matter with the gentleman from Maine (Mr. COHEN). We are aware of the gentleman's interest and also of the interest of my distinguished colleague, the gentleman from Florida (Mr. PEPPER) in this field. I might say that the committee will try to hold hearings on this subject next year and treat the matter expeditiously.

We do think this should go through a hearing process. That is one of the reasons I raised a point of order on the amendment.

With those assurances, I would hope that the gentleman will agree to withdraw his amendment and allow us to address this matter in hearings.

Mr. COHEN. Mr. Chairman, may I inquire of my good friend, the gentleman from Florida (Mr. ROGERS), whether the hearings might be confined to that matter? I ask that because of the interest of the AFL–CIO and of many of the citizens' groups interested in this matter.

Mr. ROGERS. I would hope that we would confine the hearings to that subject matter, or closely related subject areas.

Mr. COHEN. Mr. Chairman, I thank the gentleman.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I concur with the remarks made by the gentleman from Florida (Mr. PEPPER). Mr. Chairman, I commend the gentleman from Maine for his work in this area and I certainly support the goal of his amendment.

This amendment, however, is complex and has far-reaching effects that can be evaluated only with careful examination.

In addition, given the substantial impact this amendment would have on medicare beneficiaries, the program, providers of health care services and others, I believe that it would be more appropriate to afford an opportunity for all those affected to comment on the proposal. I certainly think that the Subcommittee on Health of the Committee on Ways and Means would be willing to consider the problem of assuring patients' rights at the first appropriate opportunity.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I want to commend my distinguished colleague, the gentleman from Maine (Mr. COHEN), who is a distinguished member of the Committee on Aging, for the thoughtful consideration he has given and for his constructive contribution in offering this amendment. I am very pleased to see that the gentleman from Florida (Mr. ROGERS), our distinguished colleague, is going to give consideration to this matter at an appropriate hearing.

Mr. COHEN. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Maine (Mr. COHEN) is accordingly withdrawn.

AMENDMENT OFFERED BY MR. VOLKMER TO THE COMMITTEE AMENDMENT

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the third amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the third amendment recommended by the Committee on Ways and Means: Page 105, strike out lines 12 through 14, and redesignate succeeding paragraphs accordingly.

Mr. ROGERS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) reserves a point of order against the amendment.

Mr. VOLKMER. Mr. Chairman, this amendment goes to the funding of State medicaid fraud control units. Basically it goes to subsection (2) on page 105.

The provisions therein provide under subpart (A) of section (1) beginning on page 104, at the bottom, that either the attorney general or another department has statewide authority to prosecute individuals for criminal violations or (B) the entity is in a State the constitution of which does not provide for criminal prosecution.

Mr. Chairman, the State of Missouri and several other States do not qualify under (B) if they have a State constitution which does not so provide for statewide criminal prosecution in one department, and the State of Missouri is in that category.

Also, Mr. Chairman, under the following provisions, they do not qualify for the 90-percent amount of money.

The problem is with respect to subsection (2), and I would like to relate to the members of the committee that the problem arises not only in the State of Missouri, but we have heard the same thing from other States.

However, Mr. Chairman, it can be cured by the States; and I will explain why and how it can be done, by a very simple procedure. That is going to make this legislation look awfully silly.

In subparagraph (2) it says, "The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title."

Mr. Chairman, in the State of Missouri, the department of social services has been designated as that single State agency to administer the medicaid program. In the State of Missouri we have a fraud unit that was set up several years ago basically or originally for food stamp fraud. As a member of the general assembly at the time, I was one of those helping in setting up the unit. The unit is separate and distinct from the division of family services, which is in the department of social services. The department of social services is the umbrella over both of these divisions and units.

Mr. Chairman, the division of family services administers the medicaid program. It is separate and distinct from the investigative fraud unit; but under this language, since the department under the department director is also the single State agency, they would not qualify for the 90 percent money. Therefore, Mr. Chairman, if this amendment is adopted, they would qualify.

Furthermore, I am prepared to offer a substitute which I would be willing to give to the gentlemen from Florida (Messrs. PEPPER and ROGERS), to either one or both, which I think would even add a little better language, if they wish to do so, in conference, but before that, I would like to finish my statement.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I would like to conclude my statement before I yield.

Mr. Chairman, how do they correct this if this legislation should be passed and signed into law? It would be very simple. The State of Missouri, operating under the reorganization plans that I was also instrumental in formulating, can transfer this investigative unit over—believe it or not—to the Department of Agriculture, to the Department of Mental Health, or to the Division of Vehicle Registration that has nothing to do with social services at all, but they would qualify for 90 percent because they are not under the single State agency administering the medicaid program. Those are not under the Department of Social Services.

That would be asinine. That would be just a complete and silly operation, but that is what this law would require.

Our attorney general cannot prosecute statewide because that office does not have such authority for that in the State of Missouri. So if we take this investigative unit and transfer it over to a nongermane department that has nothing to do with it, nothing at all, then we get 90 percent. But if we leave it where it makes sense, as an independent unit in the same department, operating independently of the medicaid program itself, then we do not get the 90 percent.

That is the purpose of the amendment to correct this so our present independent unit would qualify.

I would also like to tell the members of the committee that I had prepared a substitute amendment for my own amendment that would put in this language, so that we could have some assurances that they are independent units:

Strike out paragraph (2) (that is, lines 12 through 14 on page 105) of proposed subsection (p) of section 1903 of the Social Security Act, and insert in lieu thereof the following: (2) The entity can demonstrate to the satisfaction of the Secretary sufficient independence of operation.

This would mean that the Secretary would then make a determination whether this unit, this investigative fraud unit, was sufficiently independent in order to qualify.

The CHAIRMAN. The time of the gentleman has expired.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I must press my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROGERS. First, Mr. Chairman, that the amendment comes too late, we have already passed this section of the bill. Second, the third committee amendment addresses the subject matter and has been adopted, and we cannot now amend the amendment that the committee has already agreed to. Therefore, I make a point of order against the amendment and insist upon the point of order.

The CHAIRMAN. Does the gentleman from Missouri (Mr. VOLKMER) desire to be heard on the point of order?

Mr. VOLKMER. No, I do not, Mr. Chairman.

The CHAIRMAN (Mr. STUDDS). The Chair is ready to rule.

The amendment offered by the gentleman from Missouri (Mr. VOLKMER) is an amendment to the third committee amendment from the Committee on Interstate and Foreign Commerce. That amendment has already been adopted by the committee and is therefore not subject to further amendment and the Chair sustains the point of order.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that I may be permitted to offer the same amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. ROGERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MOSS. Mr. Chairman, I rise to commend Congressmen DAN ROSTENKOWSKI and PAUL ROGERS for the excellent demonstration of cooperation displayed by their two subcommittees in working out the medicare and medicaid antifraud and abuse amendments (H.R. 3) before us now. I think this was a good example of an effective, creative partnership between two committees with jurisdiction over related programs. With this bill, we are seeing critical reforms directed at routing out abuse of our most significant Federal health programs and an important precedent for future health care legislation under medicare and medicaid.

We have before us today H.R. 3, the medicare/medicaid antifraud and abuse amendments. This important initiative

will strengthen the Government's ability to detect and take enforcement action against fraudulent and abusive activities by program providers, suppliers, and practitioners. As such, it deserves our strong support.

As chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, I can report that we have held a series of oversight hearings on matters covered in this bill. I am pleased to note that these investigative hearings have contributed to important provisions of this legislation.

Section 5 of H.R. 3 deals with the confidentiality of medical records. It is exceptionally important that, subject to controls on the undue disclosure of individual medical records, the Federal Government and other organizations engaged in public health studies dependent on population data or medical records not be impeded. The ability to protect the public health would be severely restricted if limitations are placed on access to necessary information.

For example, the evaluation of high toxic or carcinogenic rates in industrial plants would be impossible if restrictions are placed upon legitimate access to medical data. Similarly, both the Center for Disease Control (CDC) and the National Cancer Institute (NCI) would be severely hampered in their study to study diseases such as polio or bladder cancer. Recognizably such research is essential if we are to more effectively treat these diseases in the future.

Though we must take the greatest care not to infringe upon individual rights through unnecessary disclosure of medical records, our concern for the public health—the health of each of us—requires that we protect the ability of government to do necessary evaluations and studies of chronic and acute illnesses. I urge you to support the Commerce Committee substitute to the second committee amendment and oppose all other amendments to this section.

Section 17 encourages States to establish fraud units, separate from the State medicaid agencies. Independent of such agencies, fraud units will be able to more effectively prepare and prosecute cases of suspected fraud in the medicaid program. There is no question that fraud and abuse have reached such major proportions that something must be done to curb the problem. As evidenced by the work of the special prosecutor's office in New York, these units cost far less than they save.

Section 19 will require uniform reporting of cost and other information by hospitals, long-term care facilities, and other health care institutions. The Oversight and Investigations Subcommittee received ample evidence at hearings held in New York, in February of 1976, and again in Washington, in March of this year of the amount of fraud and abuse to be found in this country. Nothing was more descriptive than the testimony of Mr. Charles J. Haynes, special prosecutor for the State of New York on the grossly inflated or totally fake billings found by his office—payments which the taxpayer subsidizes and which take funds away from much needed care. Uniform reporting will aid auditors and State and Federal fraud units to collect accurate data from health care institutions and to evaluate the variance between these institutions. This is an essential first step in providing needed tools for the effective management of the medicaid and medicare programs.

My feeling remains strong that we also need a mandatory system of uniform cost accounting in order to have a firm basis for identifying abusive practices such as over charging. Although this provision is absent from H.R. 3. I am pleased that Chairmen ROGERS and ROSTENKOWSKI will consider such an initiative during the consideration of the hospital cost containment legislation now before their subcommittees.

Section 20 amends the utilization review requirements of section 2903(g). The Subcommittee on Oversight and Investigations needed to request the Comptroller General to begin to take action under the Budget Accounting Act to move former Secretary F. David Mathews to begin to implement the utilization review requirements of existing law. The new provision will remedy the timing problem—the principal difficulty associated with this program. It calls for the timely synchronization of HEW's validations of the States' utilization review activities. This will preclude the situation that arose when the previous administration fell 3 years behind in validating quality of care programs in hospitals and nursing homes. Under section 20, the Secretary of HEW is required to complete validations for 1977 by the end of 1977 and to make his determination of compliance by September 1978.

I strongly urge you to vote for the passage of these provisions. They represent a major step toward curbing fraud and abuse and should aid in achieving the overall goals of maintaining high quality health care without overutilization of services and containing costs.

Mr. COTTER. Mr. Chairman, I wish to take this time to congratulate my two colleagues Representatives DAN ROSTENKOWSKI and PAUL ROGERS, for the closeness with which they worked on the medicare-medicaid antifraud and abuse amendments. The spirit of cooperation with which they and their subcommittees worked throughout the development of this bill exemplifies the finest example of cooperation in the pursuit of effective legislation. I am hopeful it will continue in the future.

Several recent studies have amply demonstrated the prevalence of fradulent and abusive practices in the medicare and medicaid health delivery systems. The practices of so-called medicaid mills are one of the most often cited example of these activities. Medicaid mills are typically unlicensed establishments dedicated primarily to extracting maximum profits by catering to medicaid patients and utilizing illegal or unethical practices when billing the Government.

The most commonly used practices of medicaid mills is to refer one patient from one practitioner to another within the same facility in order to charge multiple fees although no medical reason exists for these referrals. Then the Government is charged for services which were not provided to the patient. Patients are also directed to particular pharmacies with which the practitioner has a kickback scheme, which may charge the patient for medicine not provided, or for medicine which is of no real benefit to the patient.

It has also been demonstrated that these practitioners decide which laboratories will do their test work on the basis of the amount of kickbacks or rebates they will receive. Some nursing homes misrepresent the cost of care to medicare patients in order to bilk the Government.

This bill goes a long way toward reducing the ability of these establishments to defraud the Government. It assails such practices by eliminating some weaknesses in the existing law, and it provides new tools for Government agencies to combat these problems.

H.R. 3 requires all institutions as a condition for providing services under the medicare and medicaid systems to disclose the names of all owners of 5 percent or more of the institution or any of its subcontractors, or any significant transaction between them. It stiffens penalties for defrauding the Government in order to increase the risk of such practices and hopefully deter these activities. The bill classifies more distinctly which types of activities are illegal in order to reduce confusion about the law's provisions. Finally, it permits the States to suspend the eligibility of medicaid recipients convicted of defrauding the program, and makes additional administrative changes for investigators to detect fraud and disclose it to Federal and State law enforcement agencies.

Mr. Chairman, I am concerned with one other issue in this bill. It is an extremely complex and sensitive issue, that of maintaining the confidentiality of medical records. The patient's right to privacy is fundamental, yet this must be balanced with the need for the Government to be able to fully investigate instances of alleged fraud and abuse. A careful line must be drawn between unwarranted invasion of privacy, and investigations of specific allegations of fraud.

This legislation will not end abuse in the medicare and medicaid programs. Only proper program management coupled with increased activity designed to uncover these abuses will significantly reduce abuse and fraud. But this legislation does eliminate whatever legislative encouragement to these activities which may have unintentially been included in the current law.

I am proud to have been a member of the Health Subcommittee of the Ways and Means Committee which drafted portions of this essential legislation. I urge all of my colleagues to join me in supporting this bill.

Mr. DODD. Mr. Chairman, I rise in support of H.R. 3, medicare-medicaid antifraud and abuse amendments, which is currently under consideration of this body.

During recent months the Congress, Federal and State agencies, have devoted

a great deal of time and effort to exposing abuse in the medicaid and medicare programs. The Department of Health, Education, and Welfare estimates that between 5 to 10 percent or $0.9 to $1.8 million of our current medicaid expenditures is lost to fraudulent and abusive practices. I am appalled at the high incidence of abuse occurring in the medicaid and medicare programs.

At the same time, I am concerned that our Federal expenditures for the medicaid and medicare programs have been increasing to the point where in fiscal year 1978 it is estimated that approximately 68 percent of the Federal health budget will be spent on these programs. As representatives of the American people, we have the responsibility of insuring that our medicaid and medicare programs are sound ones. We have the responsibility of seeing that the needs of the poor and the elderly are being met, and that no one is being shortchanged because of fraud or abuse occurring in these programs.

Much has been said about medicaid and medicare abuse. Federal action to curtail these abuses was initiated in the 94th Congress with the creation of the Office of Inspector General within the Department of Health, Education, and Welfare. However, a strong national directive is needed to correct many of the underlying problems which have allowed medicare and medicaid abuse to persist. I feel that H.R. 3 is this directive which will help to alleviate medicare and medicaid abuse. By stiffening the penalties for providers of services who are convicted of defrauding the medicaid and medicare program; by requiring the Comptroller General to conduct a comprehensive review of the administrative structure of the processing of medicare claims; by requiring the Secretary of the Department of Health, Education, and Welfare to establish for each different type of health service institution a uniform system for the reporting of cost of operation, volume of services, rates, capital assets bill data; by providing incentives for the States to establish an office to prepare and prosecute cases of suspected fraud and abuse in the program; and by strengthening and clarifying the role of the PSRO program, I feel that this legislation will go a long way toward achieving this end.

For example, the medicaid program in my home State of Connecticut is one of our Nation's largest. According to a report issued last summer by the Special Committee on Aging of the U.S. Senate, Connecticut ranked 12th in the Nation for medicaid expenditures per inhabitant. The Connecticut General Assembly last fall conducted an investigation on containing medicaid costs in Connecticut, and concluded that medicaid expenditures in Connecticut have risen 575 percent since 1967 to $187.6 million in 1976. Meanwhile, the number of medicaid recipients has grown from less than 90,000 in 1967 to over 180,000 in 1976.

Connecticut has established a fraud and investigations unit within the department of social services, receiving 50 percent Federal administrative matching funds. However, this program is just getting underway, and additional Federal support is needed.

H.R. 3 will make this technical and monetary support available to Connecticut, as well as other States seeking Federal assistance. The committees in formulating this legislation recognized the problems many States have had in establishing a medicaid fraud control unit and in prosecuting medicaid fraud cases, and have authorized 90 percent Federal matching payments for fiscal year 1978–80 for the establishment of State medicaid fraud control units. To be eligible for this increased Federal assistance, the State medicaid fraud control unit must be an entity separate from the agency administering the medicaid program.

I am very hopeful that H.R. 3 will allow the States to establish effective medicaid fraud control units.

Therefore, I urge my colleagues to join me in supporting the medicare-medicaid antifraud and abuse amendments.

Mr. HARKIN. Mr. Chairman, my own State of Iowa presently stands to lose $3 million and possibly $6 million for failure to comply with Federal review regulations for medicaid-medicare long-term care facilities. This is grossly unfair.

Section four of H.R. 3 would give States sufficient time to carry out reviews of long-term care facilities. I support H.R. 3 for several reasons.

Until now, these regulations were never strictly enforced. To require immediate and 100-percent compliance without giving adequate notice is unfair and certainly unrealistic.

Almost all of the long-term care facilities in my State were inspected by the required date. But under this system we will be penalized as if none had been inspected. Clearly, the penalty does not fit the crime.

Denying Iowa these funds will seriously affect the quality of care medicare-medicaid recipients receive in Iowa. Needy persons should not be penalized for our bureaucratic failures. Administrators of the program in Iowa are now acutely aware that this law will be enforced. But it is not the administrators who will suffer. I am confident that my State will comply with this law—to the letter—in the future.

Mr. CARTER. Mr. Chairman, I support this legislation which is designed to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

We have worked closely with the Ways and Means Health Subcommittee and full committee on this bill—and have developed a workable and reasonable proposal.

In brief—this bill addresses five major areas:

Strengthened program penalty sanctions;

Increased disclosure of information;

Improvements in the PSRO program;

Administrative reform of medicare and medicaid; and

Some medicaid amendments.

Mr. Chairman, I believe this legislation is needed. In recent years we have learned from numerous hearings, studies, and investigations that there exists fraudulent and abusive practices associated with the provision of health services financed by the medicare and medicaid programs. In fact estimates of the cost of these practices have been as high as several billion dollars.

I deeply regret this situation—because it means that already scarce program dollars are being wasted—and that health care for many beneficiaries of these programs has been compromised. We must do all that we can to remedy this problem.

This legislation includes a number of provisions designed to address the fraud and abuse problem.

For example H.R. 3 modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid. Most fraudulent acts which are now classified as misdemeanors are to become felonies under H.R. 3. In addition—penalties are to be increased to a maximum $25,000 fine—or up to 5 years imprisonment or both.

This legislation also requires increased disclosure of certain ownership interests as a condition of participation in programs under titles 5, 18, and 19. However, Mr. Chairman, these provisions have been substantially modified from earlier bills—and I believe they now reflect a more reasonable approach.

These requirements would apply only to those entities—other than individual practitioners or groups of practitioners—providing services under medicare, medicaid, or the maternal and child health programs—as well as medicare intermediaries and carriers and medicaid fiscal agents. The intent of these disclosure provisions is to prevent the kind of "cozy" relationships and conflict-of-interest situations which have been found to exist in some cases between certain participants in these Federal programs.

There are other provisions in H.R. 3 which are designed to strengthen the Government's ability to detect and prosecute fraudulent practices. However, the committee recognizes that this legislation alone cannot eliminate fraud and abuse.

In addition to the need for improved legislative authority the committee recognizes that improved program management is also necessary to address these problems properly. Specific attention needs to be focused on the fraud and abuse problem as part of the day to day administration of medicare and medicaid. To that end—the newly created Office of Inspector General—established under legislation enacted last year—should play an important role in developing a comprehensive administrative approach to solving these problems.

And now Mr. Chairman, I would like to state my views regarding the important issue of access to—and privacy of—medical records.

At the outset let me assure you that as a physician I am well aware of the

necessity for confidentiality in the relationship between doctor and patient. One of the main reasons for that kind of relationship is to allow the physician to gain access to all possible information about the individual which may be relevant to determining and treating his illness.

On the other hand—I am equally aware of the medical necessity for certain kinds of research which depend on access to individually identifiable medical records. The kind of research which I am referring to can also help save lives and moderate the course of disease. It is essential that it be allowed to continue. Some of these important public health and research activities include:

First. Epidemic investigation—frequently numerous medical records must be reviewed rapidly to help control epidemics and protect the community at large.

Second. Epidemiological research—which includes the studies linking the use of DES in pregnant women to vaginal cancer in their daughters.

Third. Communicable disease control trol—which includes the need to review medical records to identify individuals exposed to venereal disease in order to help prevent its spread.

Fourth. Other important health activities including the monitoring of new-drug research by the Food and drug administration, and certain reimbursement procedures under medicare and medicaid.

Mr. Chairman, in each of these areas I believe there can be legitimate grounds for access to identifiable medical records, and I would not want to see such authority precluded.

In light of these important public health activities I am supporting the Commerce Committee's bill as reported with respect to the issue of confidentiality of medical records.

Basically—our committee decided—after careful consideration of the matter and consultation with various experts—not to mandate any major change in statutory authority requirements on access to medical records at this time. However—our bill does require the Department of HEW to present to Congress within 90 days of the release of the Privacy Commission report—draft legislation to implement the Commission's recommendations relating to medical records. All legislative proposals on this important issue would then receive the benefit of full public discussion and hearing.

Mr. Chairman, I am convinced that the Commerce Committee's approach is the best and most sensible one before the House today.

I hope my colleagues will join me in support of the Commerce Committee's version of H.R. 3.

SUMMARY OF MAJOR PROVISIONS

The following is a summary of the major provisions of H.R. 3 which are aimed at eliminating the opportunities for fraudulent activities and strengthening the ability of the Government to detect and prosecute such activities under the medicare and medicaid programs. Specifically the bill:

First, prohibits "factoring" arrangements in the programs where providers sell collectibles for a percent of value to factoring firms;

Second, requires information on ownership of health care facilities participating in the program, and certain business dealings and financial arrangements with other providers;

Third, increases the criminal penalties for defrauding the programs in most cases to a maximum of $25,000 or up to 5 years imprisonment—or both;

Fourth, clarifies and strengthens the role of Professional Standards Review Organizations in review of activities designed to prevent abuse, and defines the State role in relation to PSRO review of medicaid services;

Fifth, provides the Comptroller General with subpena power;

Sixth, provides for suspension of practitioners under all public health financing programs if convicted of defrauding anyone;

Seventh, requires institutional providers to report any owners who have been convicted of medicare-medicaid related crimes;

Eighth, provides for studies of claims processing arrangements under medicare, and standards for medicare intermediaries, and for reassignment of providers to intermediaries;

Ninth, establishes higher Federal matching to provide incentives for establishment and operation of State medicaid fraud units;

Tenth, requires a special study by the Secretary of HEW on how to assure quality and appropriate utilization of home health care services, and to prevent fraud;

Eleventh, establishes a uniform reporting system for institutional providers in medicare and medicaid; and

Twelfth, provides an additional 6 months for States to meet the requirements of medicaid law concerning review of long-term care institutions without being subject to penalty, and a waiver of past penalties if States are in compliance at the end of the 6-month period.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes pursuant to House Resolution 620, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 5, not voting 67, as follows:

[Roll No. 581]

YEAS—362

Abdnor	D'Amours	Hefner
Addabbo	Daniel, Dan	Heftel
Akaka	Daniel, R. W.	Hightower
Allen	Danielson	Hillis
Ambro	Davis	Hollenbeck
Ammerman	de la Garza	Holt
Anderson, Calif.	Delaney	Holtzman
	Dellums	Hubbard
Anderson, Ill.	Derrick	Huckaby
Andrews, N.C.	Devine	Hughes
Annunzio	Dickinson	Hyde
Applegate	Dicks	Ichord
Archer	Diggs	Ireland
Ashbrook	Dingell	Jeffords
Aspin	Dodd	Jenkins
AuCoin	Dornan	Johnson, Colo.
Badham	Downey	Jones, N.C.
Bafalis	Drinan	Jones, Okla.
Baldus	Duncan, Oreg.	Jones, Tenn.
Barnard	Duncan, Tenn.	Jordan
Baucus	Early	Kasten
Bauman	Edwards, Calif.	Kastenmeier
Beard, R.I.	Edwards, Okla.	Kazen
Beard, Tenn.	Eilberg	Kelly
Bedell	Emery	Kemp
Beilenson	English	Ketchum
Benjamin	Erlenborn	Keys
Bennett	Ertel	Kildee
Bevill	Evans, Del.	Kindness
Biaggi	Evans, Ind.	Kostmayer
Bingham	Fary	Krebs
Blanchard	Fascell	Krueger
Blouin	Fenwick	LaFalce
Boggs	Findley	Lagomarsino
Boland	Fish	Latta
Bonior	Fisher	Le Fante
Bonker	Fithian	Leach
Bowen	Flippo	Leggett
Brademas	Flood	Lehman
Breaux	Florio	Levitas
Breckinridge	Flowers	Livingston
Brinkley	Flynt	Lloyd, Calif.
Brodhead	Foley	Lloyd, Tenn.
Broomfield	Ford, Mich.	Long, La.
Brown, Calif.	Ford, Tenn.	Long, Md.
Brown, Mich.	Fountain	Lott
Brown, Ohio	Fowler	Lujan
Broyhill	Fraser	Luken
Buchanan	Fuqua	Lundine
Burgener	Gammage	McClory
Burke, Calif.	Gaydos	McCloskey
Burke, Fla.	Gephardt	McCormack
Burke, Mass.	Giaimo	McEwen
Burleson, Tex.	Gibbons	McFall
Burton, John	Gilman	McHugh
Burton, Phillip	Ginn	McKay
Butler	Glickman	McKinney
Byron	Goodling	Madigan
Caputo	Gore	Maguire
Carr	Gradison	Mahon
Carter	Grassley	Markey
Cavanaugh	Gudger	Marks
Cederberg	Guyer	Marlenee
Chappell	Hagedorn	Marriott
Chisholm	Hall	Martin
Clay	Hamilton	Mathis
Cochran	Hammer-schmidt	Mattox
Cohen		Meeds
Coleman	Hanley	Metcalfe
Collins, Tex.	Hannaford	Meyner
Conable	Hansen	Michel
Conte	Harkin	Mikulski
Corcoran	Harrington	Mikva
Corman	Harris	Milford
Cornell	Harsha	Miller, Calif.
Coughlin	Hawkins	Miller, Ohio
Cunningham	Heckler	Mineta
Minish	Quie	Steed
Mitchell, Md.	Rahall	Steers
Mitchell, N.Y.	Railsback	Stokes
Moakley	Rangel	Stratton
Moffett	Regula	Studds
Mollohan	Reuss	Stump
Montgomery	Rinaldo	Taylor
Moore	Risenhoover	Thompson
Moorhead, Calif.	Roberts	Thone
	Robinson	Trible
Moorhead, Pa.	Rodino	Tsongas
Moss	Roe	Tucker
Motti	Rogers	Udall
Murphy, Ill.	Roncalio	Ullman
Murphy, Pa.	Rooney	Van Deerlin
Murtha	Rosenthal	Vander Jagt
Myers, Gary	Rostenkowski	Vanik
Myers, John	Roybal	Vento
Myers, Michael	Rudd	Waggonner
Natcher	Russo	Walgren
Neal	Ryan	Walker
Nedzi	Santini	Wampler
Nix	Sarasin	Watkins
Nolan	Satterfield	Waxman
Nowak	Sawyer	Weaver
O'Brien	Schroeder	Weiss
Oakar	Schulze	White
Oberstar	Sebelius	Whitley
Obey	Seiberling	Wiggins
Ottinger	Sharp	Wilson, C. H.
Panetta	Shipley	Wilson, Tex.
Patten	Shuster	Winn
Patterson	Simon	Wirth
Pattison	Sisk	Wolff
Pease	Skelton	Wydler
Pepper	Slack	Wylie
Perkins	Smith, Nebr.	Yates
Pickle	Snyder	Yatron
Pike	Solarz	Young, Alaska
Pressler	Spellman	Young, Fla.
Preyer	Spence	Young, Mo.
Price	St Germain	Young, Tex.
Pritchard	Staggers	Zablocki
Pursell	Stanton	Zeferetti
Quayle	Stark	

NAYS—5

Crane	McDonald	Volkmer
Gonzalez	Symms	

NOT VOTING—67

Alexander	Evans, Colo.	Rhodes
Andrews, N. Dak.	Evans, Ga.	Richmond
	Forsythe	Rose
Armstrong	Frenzel	Rousselot
Ashley	Frey	Runnels
Badillo	Goldwater	Ruppe
Bolling	Holland	Scheuer
Brooks	Horton	Sikes
Burlison, Mo.	Howard	Skubitz
Carney	Jacobs	Smith, Iowa
Clausen, Don H.	Jenrette	Stangeland
	Johnson, Calif.	Steiger
Clawson, Del	Koch	Stockman
Cleveland	Lederer	Teague
Collins, Ill.	Lent	Thornton
Conyers	McDade	Traxler
Cornwell	Mann	Treen
Cotter	Mazzoli	Walsh
Dent	Murphy, N.Y.	Whalen
Derwinski	Nichols	Whitehurst
Eckhardt	Pettis	Whitten
Edgar	Poage	Wilson, Bob
Edwards, Ala.	Quillen	Wright

The Clerk announced the following pairs:

Mr. Wright with Mr. Teague.
Mr. Brooks with Mr. Koch.
Mr. Richmond with Mr. Johnson of California.
Mr. Alexander with Mr. Eckhardt.
Mr. Ashley with Mr. Skubitz.
Mr. Murphy of New York with Mr. Del Clawson.
Mr. Evans of Colorado with Mr. Frey.
Mr. Andrews of North Dakota with Mr. Evans of Georgia.
Mr. Conyers with Mr. Howard.
Mr. Rhodes with Mr. Whalen.
Mr. Scheuer with Mr. Edgar.
Mr. Mazzoli with Mr. Cornwell.
Mr. Treen with Mr. Frenzel.
Mr. Badillo with Mr. Derwinski.
Mr. Nichols with Mr. Don H. Clausen.
Mr. Cleveland with Mr. Goldwater.
Mr. Lent with Mr. Mann.
Mr. Carney with Mr. Edwards of Alabama.
Mr. Cotter with Mr. Rousselot.
Mr. Forsythe with Mr. Lederer.

Mr. Stangeland with Mr. Sikes.
Mr. McDade with Mr. Whitten.
Mr. Jenrette with Mrs. Collins of Illinois.
Mr. Smith of Iowa with Mr. Whitehurst.
Mr. Steiger with Mr. Stockman.
Mr. Dent with Mr. Burlison of Missouri.
Mr. Jacobs with Mr. Rose.
Mr. Walsh with Mr. Ruppe.
Mr. Traxler with Mr. Holland.
Mr. Horton with Mr. Quillen.
Mr. Runnels with Mr. Thornton.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 3, the Clerk be authorized to correct section numbers, punctuation, and cross-references to reflect the actions of the House in amending the bill H.R. 3.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois.

There was no objection.

REVIEW OF AWARD OF VETERANS' BENEFITS

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

That (a) section 3103 of title 38, United States Code, is amended by—

(1) inserting "or on the basis of an absence without authority from active duty for a continuous period of at least 180 days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence," after "deserter," in subsection (a), and by inserting a comma and "notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10" before the period at the end of such subsection; and

(2) adding at the end of such section the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

"(2) Notwithtanding any other provision of law—

"(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

"(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person for such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board

of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.".

(b)(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A)(i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act for each such person.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans' Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of the procedures for making application to such section 1552 board for such purpose and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552, and 1553).

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 4. In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharges under revised standards for the review of discharges described in section 3103(e)(2)(A)(i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.

SEC. 5. This Act shall become effective on the date of its enactment, except that—

(1) section 2 shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

(2) the amendments made by section 1(a) shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

(A) with respect to any person who, on such enactment date is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of 90 days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of 180 days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A)(i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date, the United States shall not make any claim to recover the value of any benefits so provided; and

(C) the amendments made by clause (1) of section 1(a) shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act, had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.

Amend the amendment of the House to the title so as to read: "An Act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.".

Mr. ROBERTS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas to concur in the Senate amendment?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not intend to object, I wonder if the chairman would please explain the new provisions of the bill. I yield to the chairman for that purpose.

Mr. ROBERTS. Mr. Speaker, during the past several months there has been considerable discussion and debate in reference to the payment of veterans' benefits to individuals whose discharges were upgraded under special discharge review standards implemented by former President Ford and President Carter.

Earlier this month, the Senate passed S. 1307 and on September 12, the House passed H.R. 8698. Since that time we have had several discussions with the Senate to iron out the differences between the two bills. We realized we had to give to some degree on at least two major provisions of the House bill and there is no question in my mind that the Senate amendment reflects a sincere desire on both sides to see that no individual is prohibited from getting veterans' benefits if such individual's service warrants such benefits.

The House-passed bill would have barred the payment of veterans' benefits to individuals whose discharge or release from service was for prolonged unauthorized absence from active duty for a continuous period of at least 180 days. During debate on the House bill, there was considerable discussion on the floor with respect to the fact that that provision was an absolute mandate and some of my colleagues questioned the advisability of it being absolute. In responding to the concern expressed by the gentleman from New York (Mr. DOWNEY), I assured the gentleman that in working out an agreement with the other body we would exert every effort to arrive at some way of dealing with cases in which there are sufficient mitigating circumstances to warrant the provision of benefits. I think we have done that.

This legislation would create a "conditional bar as previously passed by the House. Individuals absent without authority from active duty for a continuous period of 180 days or more, discharged under conditions other than honorable, would not be entitled to veterans' benefits unless there are compelling mitigating circumstances to warrant such absence. Individuals as to whom this bar might apply would be afforded the opportunity to demonstrate to the satisfaction of the Administrator of Veterans' Affairs that there are unusual circumstances involved in his or her particular case. If the Administrator is satisfied, the bar does not apply and the individual will be eligible for benefits. In other words, every single individual will have an opportunity to have his or her case reviewed on the whole record.

The second major difference involves the review procedure on upgraded discharges under the special programs prior to the enactment date of the legislation. The House bill required that the discharge review boards make immediate "second" determinations on some 12,000 cases already upgraded under the special programs. The proposed amendment would allow more time for the reviews to take place. If the individual is receiving benefits on the date of enactment, the appropriate discharge review board must make a determination on its own initiative and on an expedited basis

as to whether the individual would have been granted an upgrading under standards applicable to all persons with administrative discharges under other than honorable conditions. If the board, upon a case review of the record, determines that it would not have granted an upgrading except for the special criteria, the individual is to be given the right to personal appearance prior to making any final determination.

The "second" determinations would be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination. In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within 1 year from the date of enactment. In other words, rather than requiring the discharge review boards to conduct an immediate "second" review of all those upgraded prior to the date of enactment, they will now have 1 year in which to make the "second" determinations.

Mr. Speaker, the only other major substantive change calls for published, uniform standards to be applied uniformly in the future for the upgrading of administrative discharges under other than honorable conditions. This provision takes the place of our "sense of the Congress" provision that others who served prior to the Vietnam period be considered under similar revised criteria. We felt that as a matter of equity other wartime veterans should be judged, if you will, under similar criteria as that proposed by the President for veterans who served in Vietnam. Our bill would have allowed the President and the Secretary of Defense maximum flexibility in initiating any new or similar program for such individuals. Nonetheless, it was determined that S. 1307, as originally passed by the Senate, was more acceptable. That measure would have required the establishment of a new discharge review program, open to all former active-duty personnel who served at any time prior to March 29, 1973, and would have required at least a full year for individuals to apply for upgrading under the new program.

The only changes made in the proposed amendment to that provision are:

First. It would eliminate the cutoff date of March 28, 1973. We felt it unwise to have one set of standards for those who served prior to that date and another possible standard for those with service subsequent to such date.

Second. It would require that the uniform standards be published.

In providing for uniform standards to be promulgated for consideration of all discharge upgradings, it is understood that some leadtime may be required by the Department of Defense. It is not the intention of this proposal to disadvantage any veteran whose character of discharge is reconsidered under standards in effect for all veterans prior to the armed services' full implementation of this provision. We would expect the Veterans' Administration to honor such upgradings that were not issued solely pursuant to a special program. On the other hand, we urge the Department of Defense to proceed to publish new uniform standards at the earliest possible time so that there will be no delay in the process.

Mr. Speaker, there follows a more detailed explanation of the Senate amendment:

S. 1307—SUMMARY OF COMPROMISE AGREEMENT PROVISIONS

The provisions of the compromise agreement on S. 1307 may be sumarized as follows:

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

The measure would establish certain requirements for the granting of veterans' benefits as a result of the upgrading of administrative discharges under other than honorable conditions. Under these requirements, a discharge upgraded by a service Discharge Review Board would create an entitlement to benefits only if the upgrading was based on a case-by-case review of all the evidence and factors in the case, under published uniform standards and procedures generally applicable to all persons administratively discharged from active-duty service. In addition, discharge-review standards must, for purposes of veterans' benefits, be historically consistent with criteria for determining honorable service and may not (as did the Ford and Carter special discharge review programs) include any criterion for automatically granting or denying an upgrading. These new requirements would be applicable to all future upgradings by Discharge Review Boards of administrative discharges under other than honorable conditions in order for such upgradings to carry with them entitlement to benefits.

EFFECT ON SPECIAL DISCHARGE REVIEW PROGRAMS

The measure would also preclude the granting of veterans' benefits on the basis of discharge upgradings awarded under (a) President Ford's January 19, 1977, program for certain persons who had applied under his earlier Clemency Program, (b) the Defense Department's April 5, 1977, Special Discharge Review Program, and (c) any subsequent program employing these kinds of revised standards not generally applicable to all persons with administrative discharges under other than honorable conditions. While allowing veterans to keep whatever upgraded discharge "paper" they receive or have received under any such "special" program, the compromise legislation would provide for the granting of veterans' benefits in any such case only upon a "second" determination by the Discharge Review Board concerned—a determination that the individual would have been granted an upgrading under standards meeting the new discharge-review requirements discussed above.

"Second" determinations

In the case of a person whose administrative discharge under other than honorable conditions (Undesirable or Clemency Discharge) has been upgraded under a "special" program and who is receiving benefits on the date of enactment, the legislation provides that the appropriate Discharge Review Board must make a determination on its own initiative and on an expedited basis as to whether the individual would have been granted an upgrading under the new standards applicable to all persons with administrative discharges under other than honorable conditions, and (b) if the board's preliminary determination is unfavorable (that is, if the board, upon reviewing the case record, determines that it would not have granted an upgrading under the new, generally applicable standards), the individual is to be so notified in writing and given the right to personal appearance prior to the making of any final determination. In such cases of persons receiving benefits on the date of enactment, the provision of benefits is not to be terminated during the pendency of a final "second" determination unless 90 days have expired since the making of a preliminary determination or 180 days have expired since the enactment date, whichever is the earlier. If a favorable determination is made, the individual's right to benefits is established and he or she, of course, keeps the benefits received prior to that determination. Even when the final determination (after personal appearance) is not favorable to the individual, the individual would not be required to repay the value of benefits received prior to the making of the unfavorable determination, or the expiration of 90 days after an unfavorable preliminary determination or 180 days after enactment, which ever is the earliest.

These "second" determinations would also be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination.

To facilitate the making of "second" determinations on an expedited basis when the individual has received or applied for benefits, the VA is required to notify the appropriate board of review, as soon as administratively feasible, of any such application for or receipt of benefits.

In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within one year from the date of enactment.

In the event of any upgrading of administrative discharges under other than honorable conditions under a special program after the date of enactment (occasioned by any delay in the administrative establishment of a new uniform program meeting the new requirements), the "second" determination (as to whether the discharge would be upgraded under the new requirements) must be made at the time the upgraded discharge is awarded.

Notice and hearing procedures

The legislation would also require the Secretary of Defense to fully inform each person administratively discharged under conditions other than honorable whose discharge is upgraded under a special program of his or her right to obtain an expedited "second" determination and of the implications of the provisions of this legislation for him or her.

BAR TO BENEFITS

Review board action not effective to remove bars

This measure also provides that, when an individual has been discharged or released from active duty on grounds which constitute a bar to veterans' benefits under current law (for example, discharge by order of a general court-martial and discharge as a deserter), no subsequent action of a Discharge Review Board will have the effect of avoiding the bar to benefits. Thus, an upgrading of a discharge by a Discharge Review Board would not remove the bar. This provision reverses the present VA interpretation of current law. Recourse to a Board for Correction of Military Records, however, would continue to be available to remove such a bar.

Prolonged absences

In addition, this legislation would create a new conditional statutory bar to benefits—applicable to persons who were absent without authority from active duty for a continuous period of 180 days or more if the individual was discharged under conditions other than honorable. Individuals as to whom this bar might apply, however, are to be afforded the opportunity to demonstrate to the Administrator that there are compelling reasons to warrant such prolonged unauthorized absence. If the administrator is satisfied that such compelling reasons exist, the bar does not apply.

Limited retroactive application

The provisions eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and creating a new bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character-of-discharge determinations. Thus, for example, when a person was administratively discharged under conditions other than honorable on the grounds of a continuous unauthorized absence of 180 days or more and his or her discharge was upgraded under generally applicable standards (that is, outside a special program) before the date of enactment, he or she would be entitled to veterans' benefits without regard to these provisions. The new conditional bar would apply, however, in connection with the required "second" determination, to a person discharged under identical circumstances whose discharge was upgraded under a special program. This bar provision would also apply to a person so discharged—before or after the date of enactment—who, after the date of enactment, receives from a Discharge Review Board an upgrading of a discharge under other than honorable conditions.

Notification of alternative remedies

To ensure that persons affected by the new conditional bar (as well as anyone who might be affected by any existing bar to benefits under section 3103(a) of title 38) who apply to a Discharge Review Board for an upgrading of their discharges are made aware of the effects of the new provisions, the legislation requires the Secretary of Defense to advise such persons that they might possibly be administratively found to be entitled to veterans' benefits only through the action of a Board for Correction of Military Records or the action of the Administrator of Veterans' Affairs. The Secretary must also advise such persons of the procedures for making application to a Board for Correction of Military Records and the Administrator for such purposes and of their right concurrently to pusue their remedies before a Discharge Review Board (for discharge upgrading), a Board for Correction of Military Records, and the Administrator.

SPECIAL VA CHARACTER-OF-DISCHARGE STANDARDS PRECLUDED

This measure would also preclude the Administrator of Veterans' Affairs, in replacing, revising, or amending regulations governing the standards and procedures by which the Veterans' Administration determines whether an individual with a less than honorable discharge was discharged "under conditions other than dishonorable"—which decision, if favorable, entitles the individual to veterans' benefits—from giving any special advantages, through "character-of-discharge" regulations, to veterans who may have received upgraded discharges under a special program.

HEALTH CARE ENTITLEMENT FOR PERSONS WITH UNDESIRABLE DISCHARGES

A further provision would grant an entitlement, for certain persons with discharges under other than honorable conditions, to health care and related benefits (of the type generally authorized for persons with discharges under honorable conditions) for any disability incurred or aggravated during active-duty service in line of duty. The beneficiaries of the new entitlement would be persons administratively discharged under conditions other than honorable who have disabilities incurred or aggravated during active-duty service in line of duty, but not including persons barred from receiving benefits by section 3103(a) of title 38. Disabilities incurred or aggravated during a period of service from which the individual was discharged by reason of a bad conduct discharge are also excluded from this entitlement.

BENEFITS ELIGIBILITY AFTER RE-UPPING

Finally, a provision identical to section 302 (a) of H.R. 5027 as passed by the Senate on September 9, 1977, regarding "re-upping", eliminates a clear inequity in the law regarding eligibility for veterans' benefits under certain circumstances when an individual, before completing a period of service, agrees to extend his or her period of service. This provision expands the definition of the term "discharge or release" in section 101(18) of title 38, United States Code, in order to assure eligibility for veterans' benefits to one who has satisfactorily completed a period of service when he or she has not received a discharge or release at the completion of that period because of having agreed to extended active-duty service.

Mr. Speaker, the proposed compromise will not please everyone. It has been very, very difficult to reach agreement, because of the strong feelings on the issue. I think the proposal is fair and will assure that everyone who served in the Armed Forces will be considered for upgrading under the same criteria and standard. I want to thank the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member of the committee, for his tremendous cooperation and effort in bringing about this compromise. He and his staff made a major contribution. I am grateful for the help I have received from every member of our committee.

Mr. Speaker, I think we have an equitable agreement and I urge the adoption of the Senate amendment to the House amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation, and I would like to add my concurrence to the chairman's support of the Senate amendments to the bill. I believe it is the strongest legislation we could possibly have obtained, and is equitable to all interests. We have preserved the notion that uniform standards should apply to all veterans who seek to have discharges upgraded, and have called for an expansion of the program that will allow others to come forward. We have asked, for the first time in history, that such standards be published, for the scrutiny of the Congress and the public. We have developed a procedure to deal with discharges upgraded under standards not applicable to all veterans, now or in the future.

With reference to the Carter program itself, we have worked out a method of dealing with those whose discharges have already been upgraded, without penalizing those who originally came forward. A second determination, under traditional standards, must be made in every case where an upgrade was granted under reduced standards. This process must be completed within 1 year. Persons in receipt of benefits will not have them terminated without the opportunity for this second review, and a personal hearing.

Finally, Mr. Speaker, I believe the provision of our legislation that precludes veterans' benefits for those discharged pursuant to an unauthorized absense of more than 180 days is fair and necessary. This legislative "bar" will insure that, no person, now or in the future, will receive veterans' benefits if he or she was discharged following an unauthorized absence of more than 180 days, unless that person can demonstrate to the satisfaction of the Administrator of Veterans' Affairs that there were compelling reasons to justify the period of unauthorized absence. As such, the unfortunate individual with the father dying of cancer, who has been so frequently discussed in our many debates on this subject, would not be precluded from his veterans' entitlement, while the great majority who acted purely out of self-interest will be precluded.

As the chairman himself as indicated, there are no items in this amended legislation that detract from, or weaken, the original bill that was passed by the House. In fact, the new sections would appear to strengthen our intended purposes. As such, I wish to extend my full support to the amended language:

CHANGES IN THE HOUSE VERSION OF S. 1307, THE BILL TO DENY VETERANS BENEFITS TO VETERANS WITH UPGRADED DISCHARGES, AS PROPOSED BY THE SENATE COMMITTEE

1. 180-day "Bar" retained, but muted with a "savings clause" that allows the person to demonstrate to the satisfaction of the Veterans Administrator "compelling circumstances" that justified the unauthorized absence.

2. Calls for published, uniform standards to be applied uniformly in the future (not addressed in our bill). Also eliminates our "sense of Congress" provision regarding the extension of the program, and instead, requires the President to open up the program to all veterans for a period of at least one year.

3. Hospital care extended to bad discharges who suffered *Line* of duty disabilities (rather than *Performance* of duty).

4. Retroactivity of provisions limited—

(a) in its application to the 35 persons now in receipt of benefits—they have up to 180 days to "make their cases" before losing benefits.

(b) in reference to the "180-day deserters," it includes only those in the Ford, Carter, or future programs.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Ohio.

Mr. WYLE. Mr. Speaker, I thank the distinguished gentleman from Arkansas for yielding. I rise in support of the position of the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Texas. As we are all aware the question of the discharge upgrade was in itself a very emotional issue. It caused a great clamor throughout the land. There were cries of anguish from the major service organizations as well as words of protest from those who felt that President Carter's program did not go far enough. I can say that I was, and am still, standing on the side of those who feel that the Carter automatic upgrade of less than honorable discharges is not fair to those young men and women who served honorably during the Vietnam conflict. Unfortunately, there was little I could do, but protest the upgrade. I do not object to upgraded discharges, but I do object to the blanket program. We have long had a system which looks at discharges and makes the appropriate correction if the individual case warrants it. I feel strongly that it is necessary to protect the integrity of those who have so faithfully and honorably served this Nation in its time of need. That is what this bill does. I think that you will agree with me that veterans' benefits should be provided to those men and women who have honorably served in this Nation's Armed Forces in its times of need. To dilute that significance by awarding those hard-earned benefits to those few who neglected their duty in the spirit of compassion and forgiveness is blasphemous. I think of myself as a compassionate and forgiving man, but I also have principles. That is why I coauthored the bill which would deny veterans' benefits to those who were given automatic upgrades. I sat on the special subcommittee convened to hear the testimony concerning this question. We heard very emotional testimony from men and women who had strong feelings on both sides of the issue. The subcommittee as an entity anguished over the question. Our concerns rested most clearly upon the distinction between honorable and less than honorable discharges. Under the President's program we were being asked to provide the identical benefits awarded to those who did serve honorably to those who did not. We were told it is a matter of equity; this is ludicrous. There is no equity between those who served honorably and those who did not. The veterans' benefit should properly go only to those who served honorably. I believe that this bill with its amendments, which we have before us today, is a good bill. It provides that each individual eligible for an upgraded discharge will receive a case-by-case review of eligibility for veterans' benefits. The bill mandates that all evidence and factors pertaining to the case must be historically consistent and be handled as expeditiously as possible.

When H.R. 8698 first came to the floor of the House, considerable debate ensued concerning section 1(f) and its definition of the term "deserter." Our original bill read as:

2(f). For the purposes of subsection (a), the term "deserter" includes any individual who as a member of the Armed Forces was absent without authority from active duty for a continuous period of at least one hundred eighty days.

As you will recall, several Members objected to this language, because they felt it was discriminatory, because of the arbitrary figure of 180 days, and that the bill did not allow for compelling circumstances. The original language of S. 1307 did not have a similar provision. After discussion, it was agreed that (a) section 3103 of title 38, United States Code, should be amended by inserting language which authorizes the Administrator to take "compelling reasons for prolonged unauthorized absence" into account in individual cases. I believe that this language will alleviate the problems that were raised by the questions of several Members during the original debate on this bill. This will guarantee that benefits are awarded under uniform criteria. If the determination is unfavorable, the applicant has the right of appeal and personal appearance before the Board of Review.

Section 2 of this bill deals in a compassionate manner with a very important issue of the individual who suffered disability before his discharge while in the line of duty. I believe that this individual is in a special category requiring special attention. The bill provides that he will receive the same type of medical benefits that is available to honorably discharged veterans for the treatment of his service connected disability. I feel that section 4 of this bill is very important and truly promotes the feeling of compassion and forgiveness. The administration's program was pointed to only veterans of the Vietnam conflict with less than honorable discharges. We heard many witnesses say that Vietnam was a bad war and those called to fight were faced with very different circumstances. Thus, they received "bad paper" more readily. The findings of our hearings failed to prove the latter contention. All of the figures presented to us showed that in both World War II and Korea there were higher percentages of less than honorable discharges. The proposed amendment says there shall be no special distinction between the veterans of the different eras. I also feel that a couple of other points covered by this legislation are significant and should be mentioned. First, it states that if the Federal Government makes a mistake and pays a veteran's benefit to which he is not entitled the Government has no recourse to collect benefit payments from those who have already received benefits, despite the fact that the veteran was not eligible for the benefits. This provision is designed to protect both the Government and the recipient. Mr. Speaker, I believe that this bill is a good one. It addresses a most emotional situation in a reasonable way. It definitely gives those individuals with "bad paper" discharges the opportunity to request an upgrade. It gives the Veterans' Administration the vehicle to provide veterans' benefits where the facts warrant them, and more importantly, it maintains the concept that veterans' benefits are awarded for service rendered under honorable conditions. I might also add in closing, this bill is not an overnight solution. Much work and long hours from many people went into drafting this legislation which is fair and equitable. I would urge my colleagues to join me in support of Mr. ROBERT's motion.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, I also rise in support of this legislation.

Mr. Speaker, I concur in the remarks made by the distinguished chairman of the full committee and I want to commend the chairman for his leadership in bringing this legislation about. He and I discussed hearings on this matter immediately upon learning of the President's plan to upgrade bad discharges and I am glad we are today considering passage of this bill.

I am equally pleased to learn that the White House has informed our distinguished chairman that the President will allow this bill to become law. I certainly think it is in the best interest of the country that he do so. During 4 days of hearings in which I participated, it was confirmed that thousands of individuals who would not have qualified to receive veterans' benefits were now eligible to receive such benefits simply because they met one of the automatic criteria for the upgrading of discharges under the President's program. It was disclosed at these same hearings that hundreds of deserters exiled in Sweden and other foreign countries were returning to the United States at the expense of the Federal Government and having their discharges upgraded under the special program. Some of them are now receiving veterans' benefits, because of this. Mr. Speaker, it makes no sense to me to have a double standard and the measure we are passing today will assure that veterans' benefits will not be paid to any individual unless his discharge is upgraded under uniform standards of criteria that are made applicable to any individual who served.

In addition, the bar provision which we insisted on will prohibit the payment of benefits to any individual who was discharged for prolonged unauthorized absence of a continuous period of 180 days or more. This provision is designed to prohibit the payment of benefits to deserters. Under our compromise agreement, unless such individual can satisfy the Administrator of Veterans' Affairs that compelling reasons warranted such unauthorized absence, he is not going to be given veterans' benefits.

Mr. Speaker, you will recall that the bill we originally passed in the House expressed the sense of the Congress that the President should, as a matter of equity, allow veterans of World War II and Korea and those serving during other wartime periods, the opportunity to have their discharges upgraded under similar standards as those proposed for the Vietnam veteran. We did not mandate that he do so, thus allowing the President and the Secretary of Defense maximum flexibility in implementing such a new program; however, administration officials decided that S. 1307, as

originally passed the Senate, is more acceptable, which led us to agree to that provision of the Senate bill which requires the publishing of new uniform standards to be made applicable to all individuals.

Mr. Speaker, the compromise obviously will not be acceptable to everyone. Many people feel that nothing should be done to prohibit the payment of benefits to individuals whose discharges were upgraded under the Ford and Carter special programs. On the other hand, there are many who say that no benefits should be provided to individuals who cannot meet the standard existing prior to the announcement of the new programs. The proposed amendment is offered as a compromise somewhere in between and I intend to support it.

Mr. HAMMERSCHMIDT. Further under my reservation of objection, I would like to ask one more question of the distinguished chairman.

Does the gentleman have any knowledge of what the President's intention is, so far as signing this legislation we are going to send down to the White House?

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, I have had no direct statement to the effect, but I have been told by the people in the White House that the President would sign the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for his response, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1307, and that I may be permitted to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SERVICE AS EMPLOYEE OF CONGRESSIONAL CAMPAIGN COMMITTEE CREDITED FOR CIVIL SERVICE RETIREMENT PURPOSES

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9262) to amend title 5 of the United States Code to provide that an employee may credit service as an employee of a congressional campaign committee for civil service retirement purposes, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill as follows:

H.R. 9262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Upon application to the Civil Service Commission, any individual—

"(A) who is an employee on the date of the enactment of this subsection, and

"(B) who has on such date or thereafter acquires 5 years or more of creditable civilian service under this section (exclusive of service for which credit is allowed under this subsection),

shall be allowed credit as Congressional employee service for service before the date of the enactment of this subsection while employed by the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee, if such employee makes a deposit to the Fund in an amount equal to the amount which would be required under section 8334 (c) of this title if such service were Congressional employee service. The aggregate amount of service for which credit may be allowed to an employee under this subsection may not exceed ten years.

"(2) The Civil Service Commission shall accept the certification of the President of the Senate (or his designee) or the Speaker of the House (or his designee), as the case may be, concerning the service of, and the amount of compensation received by, an employee with respect to which credit is to be sought under this subsection.

"(3) An individual receiving credit for service for any period under this subsection shall not be granted credit for such service under the provisions of the Social Security Act.".

SEC. 2. (a) For purposes of computing the annuity under section 8339 of title 5, United States Code, of any Member resigning on or after October 1, 1978 and before January 3, 1979, the term "final basic pay" shall be substituted for the term "average pay".

(b) Terms used in subsection (a) which are used in subchapter III of chapter 83 of title 5, United States Code, shall have the same meanings as given them under such subchapter.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1977

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 5383, with Mr. BINGHAM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, September 13, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Age Discrimination in Employment Act Amendments of 1977".

RESTRICTIONS ON SENIORITY SYSTEMS AND EMPLOYEE BENEFIT PLANS

SEC. 2. (a) Paragraph (2) of section 4(f) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" the following: "and except that the involuntary retirement of any employee shall not be required or permitted by any such seniority system or any such employee benefit plan because of the age of such employee".

(b) The amendment made by subsection (a) shall take effect immediately upon the date of enactment: *Provided,* That in the case of employees covered by a bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act, entered into by a labor organization (as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938, as amended), the amendment made by subsection (a) shall take effect in such a case where the provisions of such collectively bargained agreement would otherwise be prohibited as a result of the amendment to section 12(a)(2) of the Age Discrimination in Employment Act of 1967 made by section 4(b) of this Act upon the termination of such agreement or upon the expiration of two years from the date of the enactment of this Act, whichever shall first occur.

REPORT BY SECRETARY OF LABOR

SEC. 3. (a) Section 5 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 624) is amended by inserting "(a)" after "SEC. 5." and by adding at the end thereof the following new sentence: "Such study shall include a determination of the feasibility of eliminating the upper age limitation established in section 12(a) of this Act, and an examination of the effect of any such elimination upon employees and an investigation of actions which employers would be required to undertake in order to comply with the provisions of this Act as a result of any such elimination.".

(b) Section 5 of the Age Discrimination in Employment Act of 1967, as amended in subsection (a), is further amended by adding at the end thereof the following new subsection:

"(b) The report required in subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report no later than one year after the effective date of the Age Discrimination in Employment Act Amendments of 1977 and in final form no later than two years after such effective date.".

APPLICATION OF LIMITATIONS TO FEDERAL EMPLOYEES

SEC. 4. (a) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by striking out "The" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, the".

(b) Section 12(a) of the Age Discrimination in Employment Act of 1967, as so redesignated in subsection (a), is amended by striking out "but less than sixty-five years of age." and inserting in lieu thereof the following: "but less than—

"(1) sixty-five years of age, for the 180-day period following the date of the enactment of the Age Discrimination in Employment Act Amendments of 1977; and

"(2) seventy years of age, after the close of the period specified in paragraph (1) of this subsection.".

(c) Section 12 of the Age Discrimination in Employment Act of 1967, as amended in subsection (a), is further amended by adding at the end thereof the following new subsection:

"(b) In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 15 of this Act, the prohibitions established in section 15 of this Act shall be limited to individuals who are at least forty years of age.".

FEDERAL GOVERNMENT EMPLOYMENT

SEC. 5. (a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended—

(1) by striking out "All" and inserting in lieu thereof "Notwithstanding any other provision of Federal law relating to mandatory retirement requirements or relating to the hiring, discharging, or promoting of employees or applicants for employment, and notwithstanding any other provision of law, all"; and

(2) by inserting "who are at least forty years of age" after "applicants for employment".

(b) The fifth sentence of section 15(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(b)) is amended by inserting before the period at the end thereof the following: ", except that the Commission may not establish any exemption which permits any department, agency, or other entity referred to in subsection (a) of this section to observe the terms of any seniority system or any employee benefit plan such as a retirement, pension, or insurance plan, if such system or plan includes any provisions which require the retirement of any employee because of the age of such employee".

(c) Section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a) is amended by adding at the end thereof the following new subsections:

"(f) Any personnel action of any department, agency, or other entity referred to in subsection (a) of this section shall not be subject to, or affected by, any provision of this Act, other than the provisions of section 12(b) of this Act and the provisions of this section.

"(g)(1) The Civil Service Commission shall undertake a study relating to the effects of the amendments made to section 12 of this Act and to this section by the Age Discrimination in Employment Act Amendments of 1977.

"(2) The Civil Service Commission shall transmit a report to the President and to the Congress containing the findings of the Commission resulting from the study of the Commission under paragraph (1) of this subsection. Such report shall be transmitted no later than January 1, 1979.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Section 17 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 635) is amended by striking out ", not in excess of $5,000,000 for any fiscal year,".

Mr. HAWKINS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 5383, legislation which would prohibit mandatory retirement for all Federal employees and private workers below age 70.

There is no sound economic, sociological, or biological evidence to support a policy of mandatory retirement at age 65. The policy impairs the health of many individuals whose jobs represent a major source of status, creative satisfaction, social relationships, or societal respect. The AMA notes that enforced idleness deprives persons of opportunities for physical and mental activity and encourages atrophy and decay.

This form of age discrimination has a devastating impact upon the retiree's finances by forcing them to survive on public and private retirement benefits which have failed to keep pace with the soaring cost of living. Retirement cuts an individual's income in half, yet the cost of medical care, food, clothing, and transportation continues to climb.

Ability and knowledge do not automatically end at age 65. If a worker is able to fulfill his duties competently, the difference of 1 day or 1 year should matter very little. At a time when the United States must, as the President has so forcefully warned, conserve all of its natural resources, we continue to neglect one of our most precious human resources—our senior citizens. Their experience and knowledge often make them more, not less, qualified for their jobs.

Moreover, those still employed indirectly shoulder financial burdens caused by forcible retirement. The Labor Department estimates that compulsory retirement costs our Nation over a million labor years annually, and this figure is rising rapidly. This loss in labor reduces our potential output of national goods and services by as much as $10 billion annually, according to Prof. Jerome Pollack.

In addition, the social security payroll tax expenses of the employed increase as more of their older peers are compelled to retire. In 1955 seven workers financed the benefits for every one pension recipient. Within 50 years, experts predict that an individual's benefits will be financed by fewer than two workers. Also, social security taxes might rise to as high as 25 percent of the average income if the retired population continues to grow at its present rate.

Some employers favor mandatory retirement because it provides job opportunities for younger workers and insures a firm base on which to fix or negotiate retirement benefits. But elimination of the procedure would not preclude labor agreements which facilitate or even encourage early retirement to preserve the jobs of younger workers. It would merely prevent the forced retiring of those workers who continue to have the capacity to work and choose to do so.

Businesses also claim that the impersonality of forced retirement relieves the older worker of the final unpleasantness and embarrassment of being told that he, personally, is no longer desired.

Mandatory retirement does not protect anyone from disgrace. Rather, it institutionalizes this inhumane policy and forces many healthy and able-bodied persons to suffer unnecessarily. Further, studies have shown that seniors are willing to take their chances to remain in the labor force, to be judged according to merit as they have in the past.

Employers frequently suggest that mandatory retirement opens up opportunities for promoting younger employees to more responsible positions—usually at a lower salary with fewer benefits. Older workers have skills, knowledge, and experience that their younger counterparts do not have and it is proper that they receive financial compensation for their years of hard work.

I believe the injustice and harmfulness of mandatory retirement compel this Congress to outlaw this practice for all American workers. H.R. 5383 takes us one step closer to this goal.

AMENDMENT OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAWKINS: Page 4, strike out line 9, and insert in lieu thereof the following new section heading:

APPLICATION OF LIMITATIONS

Mr. HAWKINS. Mr. Chairman, this amendment is purely technical in nature. It merely designates the section heading in a more correct way.

This was called to the attention of the committee by the chairman who is now presiding, and for that reason I am offering the amendment. We have the support of the minority to make this technical correction.

Mr. Chairman, I ask that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HAWKINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SPELLMAN: On page 5, strike out subsections (a) and (b) of section 5 of the amendment in the nature of a substitute recommended by the Committee on Education and Labor and insert in lieu thereof the following:

(a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting "who are at least forty years of age" after "applicants

for employment" and by inserting "personnel actions" after "except".

(b)(1) Section 3322 of title 5, United States Code, relating to limitations on appointments after age 70, is hereby repealed.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3322.

(c) Section 8335 of title 5, United States Code, is amended—

(1) by striking out subsections (a), (b), (c), (d), and (e) thereof;

(2) by redesignating subsections (f) and (g) as subsections (a) and (b), respectively; and

(3) by adding after subsection (b), as redesignated, the following:

"(c) An employee of the Alaska Railroad in Alaska and an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes age 62 or completes 15 years of service in Alaska or on the Isthmus of Panama if then over that age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

"(d) The President, by Executive order, may exempt an employee from automatic separation under this section when in his judgment the public interest so requires."

(d) Section 8339(d) of title 5, United States Code, is amended by striking out "section 8335(g)" and inserting in lieu thereof "section 8335(b)".

Redesignate subsection (c) of section 5 of the committee amendment as subsection (e).

Mrs. SPELLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. SPELLMAN. Mr. Chairman, this amendment, which I am offering on behalf of the Post Office and Civil Service Committee, results from agreements reached between Chairman NIX of the Post Office and Civil Service Committee, Chairman ZABLOCKI of the International Relations Committee, and Chairmen PERKINS, HAWKINS, and PEPPER.

The primary purpose of this amendment is to continue in effect those mandatory retirement provisions which are applicable to specific civil service occupations such as air traffic controller, law enforcement officer and firefighter.

Also, this amendment will leave intact the existing retirement provisions applicable to Foreign Service personnal and employees of the Central Intelligence Agency.

However, this amendment will permit repeal of the age 70 mandatory retirement provision which applies to approximately 95 percent of the Federal civilian workforce.

I hasten to point out that this amendment does not indicate opposition perse to elimination of mandatory retirement for air traffic controllers, firefighters, and other specific occupations.

However, since most of these mandatory retirement provisions are part of liberalized retirement programs, our committee believes that such provisions should not be repealed until the individual retirement programs have been reexamined.

The amendment will provide the opportunity for review of these retirement programs and their mandatory retirement provisions.

The Subcommittee on Compensation and Employee Benefits, which I chair, already has scheduled hearings for September 27 on this subject.

Mr. Chairman, to avoid the possibility of wholesale error in dealing with erasing mandatory age requirements, I urge the adoption of this amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield.

Mrs. SPELLMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentlelady from Maryland.

I would like to take this opportunity to thank the distinguished chairman of the Committee on Education and Labor, the chairman of the Subcommittee on Employment Opportunities, and the chairman of the Select Committee on Aging for their cooperation and acceptance of this amendment.

As the gentlelady from Maryland explained, the amendment, in part, exempts Foreign Service personnel from the effect of the bill. The amendment will provide the Committee on International Relations, which has primary jurisdiction over the Foreign Service, an opportunity to review statutory retirement provisions currently applicable to Foreign Service personnel.

As I assured the chairman of the Committee on Education and Labor and the chairman of the subcommittee in our earlier correspondence, the Committtee on International Relations will review the retirement provisions affecting the Foreign Service at the earliest possible date in the second session of this Congress.

I urge the adoption of the amendment.

Mr. PEPPER. Mr. Chairman, I rise in support of the amendment.

As one of the sponsors of this bill, H.R. 5383, I want to say that I believe it is appropriate to adopt the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN) on behalf of the Committee on Post Office and Civil Service, and also by the distinguished chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. Chairman, I take this position with the understanding that the Committee on Post Office and Civil Service will hold hearings this year to determine whether those exemptions should be continued in the future or not, and also that the Committee on International Relations will hold hearings to determine whether the exemption accorded to the Foreign Service by this amendment shall be extended into the future.

For the record, Mr. Chairman, I should state what might appear to be obvious: That we in the House, in debating and passing this amendment, are making no judgment whatever on the desirability of retaining the ages now established by the various statutes affected for forced retirement. That judgment, I am sure, will be rendered when the committees involved bring subsequent legislation to the floor. In any event, Mr. Chairman, with those understandings and under those conditions, we think that this amendment is appropriate and I hope it will be agreed to.

Mr. Chairman, I see that my distinguished cosponsor is seeking recognition.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I thank the gentleman for yielding.

As a cosponsor of the bill, I want to express my support for this amendment.

I think it is necessary in order to expedite consideration of this major step forward in eliminating age discrimination.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered as a committee amendment to H.R. 5383 by Representative SPELLMAN of the Post Office and Civil Service Committee.

Mr. Chairman, subsequent to the Committee on Education and Labor reporting H.R. 5383, the Post Office and Civil Service Committee requested sequential referral of the legislation inasmuch as it has primary jurisdiction over all matters relating to Federal employees. In an effort to expedite consideration of this bill, Congressmen PERKINS, PEPPER, and I agreed with Chairman NIX of the Post Office and Civil Service Committee and Chairman ZABLOCKI of the International Relations Committee to accept substitute language to be offered by our colleague, Representative SPELLMAN, on the mandatory retirement provision applicable to certain specific Federal occupations. The proposed amendment would exempt those mandatory retirement provisions that are applicable to specific civil service positions such as air traffic controllers, law enforcement officials and firefighters. The amendment also exempts Foreign Service personnel and employees of the Isthmus of Panama and Alaskan Railroad.

By this action we are not reaffirming the mandatory retirement ages in the statutes applicable to these positions. The sole purpose of this agreement is to afford the committees the opportunity to review these statutes.

It is my understanding that the Post Office and Civil Service Committee is in the process of developing plans at the present time to review the statute which requires mandatory retirement for certain Federal occupations. I know that the International Relations Committee will also review the exemption for Foreign Service personnel which fall under

its jurisdiction at the earliest opportunity during the 95th Congress.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The amendment was agreed to.

Mr. HILLIS. I move to strike the last word.

Mr. Chairman, I am strongly opposed to the mandatory retirement of individuals who are fully capable of continuing productive employment. Retirement policies which remove the choice from the employee are unfair.

Let me go further to say, that I am just as strongly opposed to compelling the older worker to continue on the job when he or she would prefer to retire. Financial reasons often necessitate that an individual must continue working longer. Others may simply enjoy their work and wish to continue working beyond 65.

We have no right to "put out to pasture" an individual who is fully capable of continuing productive work. Department of Labor and National Council on Aging studies indicate that elderly individuals are able to produce work with the same high quality and quantity levels as those of younger people.

Continued activity helps to stimulate the mind and bring about longer life spans. This is evident when many retirees become disenchanted when faced with reduced income, loss of old friends and the loss of an occupation in which they felt secure.

In conducting the congressional senior citizen intern program for the past 5 years, I have learned that older Americans want to have the choice of retirement left up to them. I concur.

The September issue of the "AARP Newsletter" answers some of the common mandatory retirement myths. I insert this article:

MANDATORY RETIREMENT MYTHS

Our long struggle to end the practice of mandatory retirement in the United States appears near success. When Congress returns from its summer recess, it is expected to vote on legislation which may mark the beginning of the end of age discrimination in employment in the same manner that racial and sexual discrimination is now barred.

Let it be understood that our leadership in this effort in no way implies that we are opposed to retirement. Retirement, we believe, can be one of the most rewarding, satisfying periods of life, for those who want it, can afford it—and freely choose it.

But to deny work to those who want it, need it—and are fully capable of doing it—solely on the basis of age is a denial of a fundamental human right.

While growing public and Congressional support for our position indicates positive action soon, some elements of business and labor remain opposed, using in their campaign of resistance a number of myths and misconceptions about the labor force and the abilities and attitudes of older workers. To set the record straight, here are their key arguments and our responses.

Myth: Mandatory retirement is necessary to open up job opportunities for younger people.

Reality: Forcing 100 skilled, experienced older workers to retire at age 65 does not guarantee 100 jobs for less-skilled younger workers, particularly the unskilled young people who are the greatest victims of unemployment. Nor does an end to mandatory retirement mean that many job opportunities for the young would be lost. Most older people, given a free choice, will still retire at around 65. Rather than accepting this persistent and pernicious myth and playing one age group off against another, we believe our nation should be striving to create enough jobs so that all Americans can continue to be productive for as long as they are able and want to be.

Myth: Mandatory retirement is the easiest, most "humane" way to weed out incompetent older workers.

Reality: It may be easy for personnel managers, since it helps them avoid having to make difficult, case-by-case personnel decisions. But it is certainly not "humane" to force people to give up their livelihoods—with the resultant implied stigma of incompetence and the very real loss of income—merely because they have reached an arbitrary age which has nothing to do with ability or attitude. Managers daily evaluate their employes on the basis of job ability, performance, attitude and attendance. Why is it perfectly proper to judge workers on that basis at age 25, 35, 45, 55, and even 64, but suddenly wrong when they reach their 65th birthday? Older Americans are willing to be evaluated on the same basis as younger employes and are willing to let their performance be a guide as to when they should retire. And that's the way it should be.

Myth: Ending mandatory retirement would create havoc with the nation's private pension plans.

Reality: Since some people would choose not to retire at age 65 if mandatory retirement were ended, there would be less demand on pension funds and continued contributions. This would benefit, rather than damage, the pension plans by making them more solvent. And since a number of major companies without mandatory retirement provisions still manage to maintain good pension plans it is obvious that the stability and solvency of a pension plan does not require a mandatory retirement age.

Myth: Unions should have the right to use a mandatory retirement age as a "bargaining chip" in collective bargaining with management.

Reality: Unions are prohibited from discriminating on the basis of race, religion or sex in collective bargaining. Why should they be allowed to practice age discrimination by bargaining away a person's opportunity to earn a livelihood merely because of age? In recent months several unions—including the United Steelworkers of America—have made important strides toward flexible retirement policies for their members. We hope that their colleagues in organized labor will see the wisdom of this approach.

Beyond the unfair burden mandatory retirement places on those who want and need to work, we believe the practice is a primary source of other forms of "ageism" in our society. Since Congress will be considering several bills on this issue amid continuing efforts by some to sell the myths as realities, it is important for you to express your views now. A brief note to your Congressional representatives can help liberate not only those facing forced retirement in the future, but also all older Americans from the stigma that an arbitrary age defines an end to productivity.

When we in this country strive to end discrimination of all people, it is only natural that we eliminate mandatory retirement. It is criminal that older people are told that they can no longer work when they want to work—and can. Our democracy fails when we deny an individual to make a choice. For those who are healthy and want to work—I say, let us in this Congress give them that opportunity.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to express my support for this legislation as I did during the general debate. There have been several arguments that have been presented to me since that time. One argument is to the effect that this lesigslation is going to deprive minorities, younger people, and women of job opportunities because under the existing law we can summarily force people out of their jobs at age 65 and make room for others.

I think that this existing form of discrimination which deprives people of opportunities to work when they are in good health and want to continue to work, is a kind of discrimination which we should not tolerate. While I am against discriminating against the young, women, or any individual on the basis of race, color, or creed, it does not seem to me that we should perpetuate one form of discrimination while we try to end other forms of discrimination.

Also it is my understanding that opportunities for minorities, women and younger people are not limited because of any such change in the law such as we are considering here, and that they can have those job opportunities without the existing mandatory retirement provision.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

The gentleman is making a very, very good point here in this matter, and I think it points up one of the myths that is being used against this legislation. The idea is that if an older person stays in a job, a younger person is denied that slot. The truth is, I think, that when we retire mandatorily, say, an engineer at 65, this does not mean that some unskilled person down the line gets the engineer's job. It does not mean that if 100 skilled workers retire at 65, then 100 unskilled people get those slots. Many times those jobs are lost, or they are not readily replaced. The manufacturer finds a way to automate them, and that sort of thing. I think there is no relationship between the situation that the gentleman is describing to the House and the role of the unemployed youth in this country.

Mr. McCLORY. I thank the gentleman. This clarification further fortifies the position which I am maintaining in support of this legislation.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the distinguished chairman of the committee and the principal author of this legislation, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. I thank the gentleman for yielding.

I want to thank and commend my distinguished friend, the gentleman from

Illinois, for his excellent statement in support of this legislation. In view of his reference to blacks and women, I have before me now communications from the National Caucus on the Black Aged and the National Organization for Women, both, like the distinguished gentleman, supporting this bill. I ask that these communications be included in the RECORD at this point:

NATIONAL ORGANIZATION FOR WOMEN,
September 14, 1977.

STATEMENT ON MANDATORY RETIREMENT

The National Organization for Women (NOW) supports passage of H.R. 5383 (Pepper) as an important step toward elimination of age-related mandatory retirement. H.R. 5383, as reported unanimously by the House Committee on Education and Labor to the House floor on July 14, would ban age-based mandatory retirement in Federal Service, in the private sector to the age of 70, and would assure, with a few exceptions, that those between the ages of 40 and 70 will not be forced to retire because of a retirement age written into a pension plan or seniority system. Chronological age, like sex, is a poor indicator of ability to perform a job.

Women have a special stake in elimination of age-based retirement practices. A majority of women try to return to the labor market after their children are raised. They often have a difficult time finding work, in part because they are too close to the retirement age. If they do find employment, forced retirement limits the years which they can work to build up pension benefits or social security credits.

In addition, one-third of women in their middle years are no longer married. Of persons over 65, less than one-quarter of the men but well over half of the women are without spouses. In this age bracket, there are five times as many widows as widowers. Women alone seek work for economic as well as psychological reasons, and many would continue working if not forced into idleness and loneliness by mandatory retirement rules.

Women have a greater need than men to have the option to continue working, because of their lower economic status and more limited resources on retirement. Eighty percent of female retirees (as compared with 68.6 percent of male) have no pension to supplement social security. In the 55 to 64 age bracket, the median woman's income is about one-third of her male counterpart. But on top of this, earnings replacement rates of retirement income are lower for women than for men. Because more men than women receive pensions in addition to social security, the median income replacement ratio for women is 38 percent as compared with 43 percent for men. According to the Task Force on Social Security Paper prepared for the Senate Special Committee on Aging, "A retirement income crisis now affects millions of aged and aging women and threatens to engulf many more." ("Women and Social Security: Adapting to a New Era"—Special Committee on Aging, U.S. Senate, October 1975) More than two out of every three poor persons 65 or over are women. The average benefit for an aged widow falls $78 below the $2,574 (official) poverty threshold for an elderly single woman, and this $200 a month is too low to live on in decency. Almost three times as many women receive SSI welfare as men.

In part because of mandatory retirement, women tend to retire earlier than men, which aggravates their economic situation. Over 70 percent of eligible women apply for social security before age 65, and by so doing receive lower benefits for life through actuarial reduction. In many cases there is pressure upon women, who tend to be younger than their husbands, to retire early when their spouses reach mandatory retirement age.

Women also have a special stake in the elimination of mandatory retirement because of their greater longevity. Because most women outlive their husbands, and the compounding impact of inflation systematically reduces the value of fixed incomes, more and more women desperately need the opportunity for employment in their middle and late years. Coping with combined age and sex discrimination in employment is bad enough without legally sanctioned restrictions.

While the argument is sometimes made that mandatory retirement opens up more jobs for women, evidence suggests that such jobs are more often phased out or filled by men. Furthermore, in industries where mandatory retirement has been eliminated, the large majority of persons with adequate income choose to retire at 65 or earlier.

NOW supports equal opportunity for all people, and our organization considers discrimination based on age to be as odious as discrimination based on sex or race. By sanctioning mandatory retirement, this nation reinforces the myth that to be old is to be feebleminded and worthless, which then becomes a self-fulfilling prophecy to the detriment of our whole society.

For these reasons, and because we believe that a full employment program to provide jobs for all those willing and able to work is the only solution to a contracting labor market, we urge support of H.R. 5383, and will work for its passage.

THE NATIONAL CAUCUS ON THE BLACK AGED OPPOSES MANDATORY RETIREMENT

The National Caucus on the Black Aged advocates elimination of the several policies in government, industry and business, which force a physically active and productive individual into retirement merely because he or she has reached an arbitarily set chronological age.

Compulsory retirement denies society the benefit of the skills and abilities of the older worker which have been accumulated through years of experience. It strikes especially hard at the Black elderly in their particularly paradoxical situation. Having worked extremely hard at menial physical labor for low pay, all of their lives, over sixty percent of the Black elderly are most deserving of a rest in their senior years, yet they are least able to afford it. So, unlike most of their white counterparts, to whom retirement means feelings of rejection and worthlessness but economic well being, for the Black elderly, retirement too often means abject, grinding poverty, with no respite from pain, loneliness and isolation.

After having attained the age for full Social Security benefits, retirement should be a matter of personal choice. At that point, an individual should be allowed to work until he or she is no longer able to produce at full capacity.

The National Caucus on the Black Aged does not accept the contention that this country, with its trillion dollar gross national product and the multi-billion dollar aggregate income of its industries, cannot maintain productive older workers on their jobs, as well as provide them a decent income in retirement. Social decency demands that we do this. Public opinion will accept nothing less.

Mr. McCLORY. I thank the gentleman.

I might add, Mr. Chairman, that during the general debate I did bring out, and there was legislative history made, that with respect to the removal or dismissal of persons for cause because of physical or mental or psychological or other disability, the law in that respect will not be changed or affected in any way by enactment of this legislation.

Furthermore, I think it is important for us to point out that we are not requiring under this legislation any person to continue working after age 65, but we are making it entirely voluntary whether the person wishes to continue on the job or not.

There is a substantial fallout benefit from this legislation, however. I understand, reliably, that existing private pension programs will be strengthened as a result of this bill. I believe that the Social Security Trust Fund likewise will be strengthened as a result of this legislation, because a number of persons will continue to work voluntarily after age 65, which will reduce the demands on the pension funds and on the social security funds.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, from time to time we in the Congress are confronted with issues in which compelling arguments can be made for both sides. When it comes to such issues each of us has to examine the evidence, weigh it very carefully and then make a decision, realizing that many of our colleagues may look at the same evidence and reach a different conclusion from our own. On such issues the slogans of partisanship and the wisdom of experience offer no sure guidelines.

Such an issue is mandatory retirement. I believe it is wrong for Americans to have to retire at age 65. I believe that Government should play no role in determining for employers and workers just when retirement should come. The power of the Federal Government is out of place in such an area, dealing as it does with the complexities and the subtleties of individual human behavior and performance. It is apparent to me, at least, that the basic question is whether or not the Government has a proper place in determining when retirement should come. Each human being is, by his very individuality, entitled to make such a decision in conjunction with his employer. Government lacks the human touch and that is what is wanted here.

An age of 65 was generally considered a reasonable retirement age when the social security program was established in 1935. In that year, the life expectancy in this country was an average of 61.7 years. The life expectancy in 1976 was 72.5 years, an increase of more than 10 years. Is it unreasonable to raise the mandatory retirement age 5 years to 70.

A Harris poll in 1974 found that 31 percent of those who retire in that year did so because they had to and would have kept working if they had had the opportunity. Another survey in 1976 cited the figure at more than 50 percent, while a poll in the early 1950's indicated that only 11 percent retired unwillingly.

In the best of all possible worlds, I would want such decisions to be left to the individual. But I am willing to see the age limit for mandatory retirement be raised to the age of 70, given the realities of the situation. In areas where union pension plans are already in effect

I believe a two year grace period should apply before the 70 year-old limit becomes mandatory. Insofar as Federal workers are concerned I believe that there should be no age limit. Quite often there are men and women in the Federal Government who contribute unique and all but irreplaceable skills to our national security and the efficient working of our Government. I believe we should allow them to work as long as they want to contribute and the best way to do this is to simply have no mandatory limit. This is a compromise I am willing to make although, as I said, I would like to see Government get out of the controversy altogether.

Now I know there are many who feel we should keep the 65-year-old limit. They say that if you don't keep mandatory retirement at age 65, older Americans will cling to jobs thereby depriving others of a chance to move up. They say pension plans will have to be made more attractive—and therefore more expensive—in order to get older Americans to retire at an earlier age. They say there will be a burden on health plans as older Americans stay on the payroll.

We could go on. There are many fears of what might happen if we stop making Americans retire at age 65. But let us not talk of fears. Let us talk of facts. Let us talk of what is right about letting Americans work past age 65.

It is right to give every American the chance to work to the limit of his or her capabilities. It is wrong to set this arbitrary date of 65, fixed by Government decree, and say, beyond this date you lose your human right to judge your own economic future.

It is right for any society to act toward its older aged citizens in such a way that not only those citizens but the society itself benefits from the way in which the old are treated. In other words, how we look upon the aged says as much about our society as it does about the aged. What kind of a society are we? I hope we are one in which expediency and momentary economic problems do not take precedent over the commonsense wisdom that tells us that, in the words of the popular saying, many people do not get older—they just get better.

A recent article in the Wall Street Journal, September 13, 1977, discussed the question of mandatory retirement. It raised many of the questions that are asked by those who feel retirement at age 65 should be mandatory. But it also pointed out some of the ideas that are being put forth by those of us who are convinced that if we allow the question of retirement at this age to be freely made, many benefits will accrue to the entire Nation. Here is a part of what the Wall Street Journal article reported:

> Yet for those who want to keep working, forced retirement is an outrage. "I think the ultimate insult is to be told you are a different person because you are 65," says Ruth Ellen Lindenberg, a 64 year-old professor in the social services department at Cleveland State University. "It's an indignity to be told that as of April 7, 1978 you're of less use to society than you are now."
>
> Some personnel men sympathize. "I've felt for some time that mandatory retirement is sometimes a terrible waste of our human resources," says George Sherman, vice president of industrial relations and personnel at Midland-Ross Corp., Cleveland. "Some of our best, most experienced people are forced out."

I have heard the arguments of organized labor and big business supporting mandatory retirement at 65. Many of them are quite interesting and persuasive. But others seem to me to be insensitive. The Wall Street Journal reports: "Businessmen see messy personnel situations developing as older workers cling to their jobs." Let me say I do not believe that businessmen in general look upon this question as one in which the legitimate need of an individual to remain economically independent by continuing to work is weighed against some "situation" that might just develop in the personnel office. If there are such businessmen, I only hope that they think this thing through and realize that while there might be—and probably will be—personnel problems, the benefits that will accrue to business by having the talents of older workers available will far outweigh any difficulties involved.

The question really is not one concerning millions of Americans working past age 65. The question is one of freedom: Should they have the opportunity to do so if they so choose? That is the real question. As so often happens, when you get to the bottom of a complicated economic or political problem, the real issue is freedom. And it is here. Yes, removing this mandatory retirement age will cause problems. But to me, living in a free democratic society means always expanding freedom, not necessarily minimizing problems for business and organized labor. We can face these problems. What none of us should want to face is telling our children that this Nation we love determines the fate of its older citizens by some kind of crude bureaucratic tool. No, that is not the right way. Let us try the freedom route. Once we do that, we can in my opinion work out the other problems.

As I said, we cannot always get the perfect solution to a complicated problem. So I am willing to go along with raising the mandatory retirement age to 70, allowing a 2-year grace period for unions with pension plans and allowing Federal workers to go on working as long as they can contribute to our Nation's needs.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. As a member of the House Aging Committee, time and time again, I have heard the testimony of gerontologists, experts in the field of aging and the people past the age of 65 who feel the effects of ageism in the employment field. Without question, the one recurring theme in each statement was that people should be allowed to work and even encouraged to stay active and productive at their jobs if they are ready and able to do so.

The House Aging Committee and its able chairman, Mr. PEPPER should be commended for working so closely with the Education and Labor Committee to bring forth this bill which goes a long way toward making equality more than a catch phrase. Far too many people are phased out for no good reason other than they have reached some magical birthday which is interpreted as robbing them of their energy, ability and grasp of subject matter. And, unfortunately, with everyone telling them to leave that they no longer can perform adequately in their jobs, many believe these fairytales and what they heard becomes a self-fulfilling prophecy.

Ability, not age should be the byword. As our life expectancy grows longer, the education level is on the rise for the whole population, and new technologies come closer to finding cures for diseases which cut life short, we have an obligation to allow all our citizens the right to life's greatest privilege—a long, and productive existence. In the words of Thornton Wilder, "there is nothing more dignified than earning a living." Surely, we owe this opportunity to all who wish to use it. With the passage of this legislation, we have acted in the most sensible fashion to make work more than just another four-letter word.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 7, after line 5, add the following new section:

EFFECT ON STATE LAW

SEC. 7. The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended by adding at the end thereof the following new section:

"EFFECT ON STATE LAW

"SEC. 18. The provisions of this Act supersede and preempt any provision of State law which is inconsistent with the provisions of this Act. No State may enact any law or carry out any program or policy relating to age discrimination in employment which makes any variation or other change, or which would result in any variation or other change, in the application of the provisions of this Act.".

Mr. ERLENBORN. Mr. Chairman, this amendment is a preemption of State law amendment. It has been pointed out by some companies that maintain pension plans and other employee benefit plans or seniority plans, and operate in two or more States, that since this subject matter of eliminating age discrimination has become popular, the States are beginning to adopt their own separate nondiscrimination provisions, and they vary in their terms and application.

Since we are now addressing this in a manner that I think is going to be supported by the vast majority of the Members of the House, we ought to preempt State law so that it is not necessary to conform to two or three or five or a dozen or more different State nondiscriminatory provisions that would be conflicting and difficult to comply wtih.

I would hope that the amendment would be agreed to.

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment.

The pending bill, good as it is, is still only a partial step in eliminating age discrimination in employment. It is al-

ready apparent that one or more States will very quickly outlaw age discrimination in employment regardless of what the Federal Government does. The effect of the Erlenborn amendment would be to set aside this broader protection in the States which have the spirit and the drive to banish this form of discrimination on a universal basis more swiftly than the Federal Government does. So for those people the enactment of the Erlenborn amendment would be justice delayed and therefore justice denied.

It would make just as little sense really to adopt the Erlenborn amendment to this bill as it would have been for the Federal Government some years ago to have prohibited the right of women in the State of Montana to vote simply because women throughout the country could not vote. In that case it would have been justice delayed and justice denied. And so it would be in this case too.

I would further add that employers already are accustomed to dealing with differing situations in different States. The large corporations often have union contracts with which to deal in one State and nonunion arrangements in other States. They have differing pension provisions because of that. So employers are accustomed to dealing with differing situations so far as personnel practices go.

So I cannot see any justification to the amendment, but to the contrary I believe it would inflict a great deal of injustice upon many people.

So I urge my colleagues to oppose the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I concur with the remarks of the gentleman from Illinois. My own State of California just passed a stronger law in this regard than we are proposing for the country. It seems to me there is no reason at all why we should be prohibiting States from enacting their own particular ways of dealing with this which may be different from the Federal way.

I think it would be unacceptable to most of the Members of the House for us to say the States cannot pass civil rights legislation which is stronger than the Federal statutes. It seems inappropriate today for us to say to the States they cannot decide this as they see fit.

There are nine States in addition to Alaska, California, and Montana that have stricter laws than we are proposing, and I see no reason to wipe out their legislation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding.

I join with the gentleman in opposing this amendment.

The reason we are setting 70 years of age for non-Federal employment is because we are uncertain of the full implication of going beyond that. Some States will go beyond that and remove all age discrimination. From that information we can make a judgment whether we will later amend this act to remove even age 70 as a mandatory retirement age as we have done for most Federal employees in this bill. For that reason I think the amendment would be unwise and we should permit States to continue to have the authority to go even further as they have now.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Kentucky, the chairman of the Education and Labor Committee.

Mr. PERKINS. Mr. Chairman, the gentleman from Illinois (Mr. FINDLEY) has fully explained why this amendment should be defeated. He set forth these reasons eloquently.

Mr. Chairman, I would hope that this amendment would be soundly defeated.

Mr. FINDLEY. Mr. Chairman, I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, let me just make this point. At the present time, say if the State of California should choose age 75 and you have a company that does business in all 50 States and they have a seniority system, they will have to amend their seniority system applicable to all 50 States to conform to the highest age, which in this case would be 75 in California.

In other words, you are going to have to have the company conform in every State in which they do business with the age that is the highest in any one State in which they do business. That is why I do not believe that application is reasonable. Therefore, we ought to have one set of rules to follow in the entire country.

Mr. FINDLEY. Mr. Chairman, I will say to the gentleman that I do not question that this bill will cause some inconvenience to personnel management. Undoubtedly, they will have to make some changes; but the inconvenience that it may cause in a few select cases is a minor issue, a minor concern, contrasted with the injustice which the absence of this legislation inflicts upon so many people.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

I just want to associate myself with all of the statements that have been made by my disinguished colleagues here in opposition to this amendment.

The city of Seattle, for instance, a little bit ago through an executive order by its mayor, eliminated age discrimination for employees of that city.

Reference has been made to the State of California. A while ago they had a referendum in the city of Los Angeles and 58 percent of the people in that city opposed mandatory retirement in the city of Los Angeles. Let us not take away from the cities, the counties, and the States, the opportunity if they desire to do so to improve upon this legislation. We ought to allow protection to those who have the opportunity of protection on a local level.

Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 2, line 16, strike out "(a)".

Page 2, strike out line 23 and all that follows down through page 3, line 12.

Page 4, strike out line 16 and all that follows down through line 23, and insert in lieu thereof the following: amended by striking out "sixty-five" and inserting in lieu thereof "seventy".

Page 6, strike out line 22, and insert in lieu thereof the following: "report shall be transmitted no later than two years after the effective date of the Age Discrimination in Employment Act Amendments of 1977.".

Page 7, after line 5, add the following new section:

EFFECTIVE DATE

SEC. 7. The amendments made by the provisions of this Act shall take effect two years after the date of enactment of this Act.

(Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERENBORN. Mr. Chairman, if the House will note, the bill before us has a title that says it is to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such Act regardless of their age.

This title refers only to Federal employees. We will note the matter stricken out from the bill all the language in the original bill relates to Federal employees.

I am not a member of the subcommittee that had hearings on this bill in the Committee on Education and Labor, but I have been advised there was only 1 day of public hearings. The committee did report the bill, which affects not only Federal employees, by removing the age for mandatory retirement altogether, but it moves into a new area; that is, the application of this bill to the private sector. That was not included in the bill that was originally introduced. In the private sector now under this bill, the age is 65, which is in the Age Discrimination Act, below which there cannot be an application of involuntary retirement; that is raised to age 70 by this bill.

I believe there was rather short notice to the private sector, that the bill I introduced apparently affected only the public sector. In addition, I do not believe there was sufficient hearing to find out what the impact of this legislation might be on the private sector.

I think it is quite obvious that the bill is going to pass. It came out of our committee without a dissenting vote. I voted present, and everyone else there voted for it. The unions, the AFL–CIO, put up some weak argument opposed to the bill—not publicly, but privately. Now, I am advised that their posture is that when you see a steamroller coming down the street, the only smart thing to do is

get out of the way. So, they are not longer engaged in either private or public opposition.

We do not hear much opposition at all, so I think it is quite obvious that the bill is going to pass. But, I think we ought to give some consideration to those who will be affected by the act.

Some of the provisions will take effect immediately upon the signing by the President. Other provisions will take effect within 6 months. Under an amendment adopted in full committee, if one happens to have a union representing his employees he might have as much as 2 years in which to adjust his collectively bargained agreement and seniority system or his employee benefit plan to conform. If one happens not to be so fortunate as to have his employees represented by a union, he has only 6 months to make those changes. I think we need more time to let the private sector anticipate and make those changes necessary to conform to the application of this bill.

I would call the attention of the Members to several letters I received, and that I think other Members have as well. The Association of American Universities has written to me:

In view of widespread concern within the higher education community about the far-reaching implications of changes in mandatory retirement legislation, we strongly urge adoption of the Erlenborn amendment to H.R. 5383. A two year delay would provide needed time to work out difficult problems of implementation. We are particularly concerned about the implications for able younger people, including women and minorities, especially in light of reduced enrollments in the coming decade.

I have similar letters from Loyola University of Chicago, from Stanford University of California, and from the University of Chicago. The university community in particular is concerned about the application of the age 70 rather than 65 to their tenure system for their professors. Other employees in the private sector also support the concept of having this 2-year leadtime to make the necessary changes.

One thing that concerns me is that this House passed just a few years ago the Employee Retirement Income Security Act of 1974.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr ERLENBORN. Hundreds of thousands of employees' benefit plans, have since then been making the changes necessary in employee benefit plans to conform to ERISA. These plans, many of them, provide for mandatory retirement required at age 70. They will now have to be amended again. I know that the Internal Revenue Service has informed my colleague from Illinois (Mr. FINDLEY) that they will handle these expeditiously, but anybody with any familiarity with the way IRS and DOL have implemented ERISA so far knows that there is no such thing as "expeditious" handling of ERISA problems in the Internal Revenue Service and the Department of Labor.

So, it does concern me that we are going to force additional changes on those plans that have just now, in recent months, been able to have their plans approved by the Internal Revenue Service. I would hope that we would have support for this amendment, to allow the bill to become law, but give time, lead time, to those who will be affected to make the conforming changes.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. CONABLE. I would like to associate myself with the remarks of the gentleman from Illinois. When we legislate in great haste and pass this kind of measure, it seems to me that we frequently make mistakes.

Mr. Chairman, I must say that I do not have a great deal of sympathy for universities that have hidden behind the automatic retirement rule to protect themselves from any possible change in their tenure procedures, nor do I have much sympathy for corporations who do not want to tell the boss that he has outlived his usefulness because he happens to be a tyrant.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. CONABLE and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. CONABLE. Mr. Chairman, if the gentleman will yield further, for the reasons I have mentioned, I think this law is appropriate and proper. But when we legislate as quickly as we are here, we are going to cause a great deal of disruption, further reducing confidence in Government procedures. People need time to adjust to major changes of this sort, particularly when we are impairing the right to contract and long established procedures in the private sector.

Mr. Chairman, the Erlenborn amendment seems like a reasonable alternative, to me.

Mr. ERLENBORN. I thank the gentleman for his contribution.

Mr. Chairman, I would point out that I also have a letter from the American Hospital Association, part of which reads as follows:

We believe that a 2-year interval is essential for proper implementation of a new mandatory retirement limit, and the American Hospital Association urges your support of such an amendment to H.R. 5383.

Mr. Chairman, I urge the adoption of the amendment.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am sorry that our distinguished friend, the gentleman from Illinois, would ask this House to delay for another 2 years protection against the sort of discrimination of which the elderly people of this country have long past been the victims.

Mr. Chairman, this bill was reported out of the Committee on Education and Labor 33 to 0, and the amendment which was already adopted was cleared by the leadership of the Committee on International Relations and of the Committee on Post Office and Civil Service. It was voted out by the Committee on Rules unanimously.

I have here a letter to me, dated September 13, from 19 senior citizens organizations approving and supporting this bill.

I also have a communication here from the Federal Council on the Aging, which is headed by the gentleman who was the President's Counselor on the Aging, Mr. Nelson Cruikshank, whom we have all known and admired as a leader in this field. I ask that these communications be included in the RECORD at this point:

SEPTEMBER 12, 1977.

Hon. CLAUDE PEPPER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PEPPER: The undersigned organizations, representing the nation's elderly and those who work in their behalf, urge your support for H.R. 5383, the Age Discrimination in Employment Act (ADEA) Amendments of 1977, as reported by the Committee on Education and Labor on July 14. In 1967 the Congress, recognizing the critical employment problems facing older workers, enacted the ADEA "to promote employment of older persons based on their ability rather than age" and "to prohibit arbitrary age discrimination in employment." Ten years later, you have the opportunity to pass legislation that will greatly strengthen enforcement of the act, and also expand its protections, now granted only to persons age 40 to 65, by removing the upper age limit for Federal workers and raising the age ceiling to age 70 for other covered employees.

H.R. 5383, which was passed unanimously by the committee, is an important step toward ensuring employment opportunities for older citizens by ending mandatory retirement based solely on age. Mandatory retirement represents one of the last vestiges of legally-condoned employment discrimination in our country and must be abolished if the elderly are to enjoy the full civil rights accorded other citizens. Although H.R. 5383 does not eliminate all forms of involuntary retirement at once, it does protect greater numbers of older people from this unjust discrimination and also strengthens enforcement of the ADEA by closing an unintended loophole caused by Section 4(f)(2) of the present law.

Section 4(f)(2) was originally written to encourage the hiring of older workers by permitting employers to exclude them from full coverage under pension and benefit plans. Unfortunately, broad judicial interpretations of this section have permitted employers to forcibly retire workers before age 65 if that condition is a part of an existing pension or employee benefit plan—a situation which Congress clearly did not intend to occur and which you can now remedy.

Some have questioned the need for Federal intervention in this employment issue, but we feel strongly that national leadership is the key to opening employment opportunities to all Americans. As shown by a 1974 Louis Harris survey on public attitudes toward aging, the American public no longer supports the concept of forced retirement: 86 percent of the respondents felt that "nobody should be forced to retire because of age if he wants to continue working and is still able to do a good job." We hope you will follow this mandate and approve HR 5383 so that

older Americans are no longer barred from full participation in our society.

Sincerely,

American Association of Homes for the Aging; American Association of Retired Persons; Association for Gerontology in Higher Education; International Center for Social Gerontology; National Association for Spanish-Speaking Elderly; National Association of Area Agencies on Aging; National Association of Counties; National Association of State Units on Aging; Gerontological Society.

National Association of Retired Federal Employees; National Center on Black Aged; National Council of Senior Citizens; National Council on the Aging, Inc.; National Indian Council on Aging, Inc.; National Retired Teachers Association; Urban Elderly Coalition; The Task Force on Aging of the U.S. Conference of Mayors; Western Gerontological Society.

FEDERAL COUNCIL ON THE AGING,
Washington, D.C.

FEDERAL COUNCIL ON THE AGING POSITION ON PROPOSED RAISING OF THE AGE LIMIT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT

The Federal Council on the Aging recommends increasing the age limit under the Age Discrimination in Employment Act in order to protect the rights of older workers who have the desire and capability of continuing to work after age 65.

Passage of this legislation is a beginning in implementing Section III of the Charter for Older Americans issued by the Council in January 1976—The Right to an Opportunity for Employment Free from Discriminatory Practices Because of Age. Proposed legislation is a start to implementation since it would expand protected employment rights of older workers. However, it does not meet the goal of the Charter since it does not increase employment opportunities for unemployed or under employed older workers or begin to establish a national policy on the right of older workers to employment opportunities.

The Federal Council on the Aging recommends national policies be pursued that will result in an expanding economy and that a part of these policies include comprehensive and flexible programs designed to promote employment opportunities. The Administration's stimulus package and the recently enacted Youth Employment and Demonstration Projects Act of 1977 represent appropriate ways to address unemployment problems without necessitating the exclusion of any one group to make room for another.

Adopted by vote of 10-1—Sept. 16, 1977.

I hold in my hand 14 different volumes of hearings and reports which have been issued on the subject of this bill by the Committee on Aging and the Committee on Education and Labor. This bill has been debated and discussed in the press and by the broadcast media and by people all over this country. It has been gratifying to see the momentum that this bill has acquired from the people of this country.

Mr. Chairman, sometime ago there was a poll on this bill, and I believe it was 68 percent of the people in that poll said they favored this bill.

I had a letter the other day from a man who said, "I am 65 years of age. I have just been mandatorily retired from my job. I cannot get another job on account of my age. I am not getting enough social security for my wife and me to live on."

And he asked me, "What am I going to do?"

He is just one of millions of people in this country in this situation.

The American Medical Association has said that forced retirement is detrimental to the health, it is conducive to the mortality of the people who are mandatorily retired, because obviously their incentive is diminished, their objective in life is largely taken away, they do not have anything else to do.

And just yesterday a man in my office, from the Federal agency on alcohol abuse, who said that, among the elderly, their addiction to alcoholism in so many instances can be attributed to the fact that they did not have anything else to live for, they did not have anything else to do.

Mr. Chairman, I want to take this opportunity to express my deep appreciation to the distinguished gentleman from New York (Mr. SCHEUER), through whose gracious forebearance we were able to bring this important legislation to the floor today. Although his own very vital measure, to create a select committee to study population problems, was scheduled to be considered before H.R. 5383, he volunteered to permit this bill to be brought to the floor before his own measure. I strongly support the gentleman's resolution, and on behalf of all of America's older persons, I reiterate my thanks to him for making this debate possible today.

I also wish to commend the distinguished gentleman from Virginia (Mr. WAMPLER) whose leadership on this bill in his role as ranking minority member of the Select Committee on Aging has been most gratifying. In addition commendations are due to other members of the Aging Committee who are present for this debate—the gentleman from New York (Mr. BIAGGI), the gentleman from California (Mr. BURTON), the gentleman from New York (Mr. DOWNEY), the gentleman from Tennessee (Mr. FORD), the gentleman from New Jersey (Mr. HUGHES), the gentlewoman from Tennessee (Mrs. LLOYD), the gentleman from Indiana (Mr. EVANS), the gentlewoman from New Jersey (Mrs. MEYNER), the gentleman from Maine (Mr. COHEN), the gentleman from Iowa (Mr. GRASSLEY), and of course, the distinguished gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

Mr. Chairman, we are today taking a significant step in recognition of the rights of older workers to continue their employment past the expected or customary age of retirement and hopefully signaling the end of all mandatory retirement practices. H.R. 5383 eliminates forced retirement in most all Federal civilian employment and protects older workers in private employment from being mandatorily retired before age 70.

I am proud to serve on the House Select Committee on Aging which has made this issue a top priority in this 95th Congress. I know that with the continued leadership of our esteemed colleague, Congressman CLAUDE PEPPER, the chairman of the Select Committee on Aging, we will push further until the full right of choice in the highly personal decision of when to retire is secured for all workers.

In May of this year I was joined by Congressman PEPPER for a day of hearings on the issue of mandatory retirement in Massachusetts. All of the State legislators who appeared before us asserted the view that enactment of legislation to protect Federal employees from forced retirement would serve as a model and catalyst for the States to enact similar laws of their own. Although there has been some heartening activity on the State and local level the course of change has been slow and spotty at best. Enactment of H.R. 5383 will fuel the movement underway throughout this Nation for elimination of forced retirement in State and local government employment.

Besides providing protection from forced retirement prior to age 70 in private employment this legislation calls for a report from the Secretary of Labor on the feasibility of completely eliminating an upper age limit for protection under the Age Discrimination in Employment Act. Compulsory retirement has become lodged in our way of doing things and many fear that we do not yet have sufficient information on which to judge the impact of eliminating mandatory retirement. The report of the Secretary of Labor will, I hope, augment the growing body of studies and other reports which show that most of the arguments for continued compulsory retirement are more myth than fact.

A significant feature of H.R. 5383 is the clarification of an exemption to compliance with the Age Discrimination in Employment Act "to observe the terms of a bona fide employee benefit plan." In order to avoid placing undue hardship on employers due to the cost of enrolling older workers in pension or group health insurance plans, it was the intent of Congress to permit the hiring of older workers without requiring full inclusion in company employee benefit plans. It is obvious from court decisions on the issue of the exemption that congressional intent was not clear and as a result this exemption has been used as a vehicle to terminate employment prior to age 65 if done pursuant to a bona fide retirement or pension program.

The Supreme Court is scheduled to hear arguments on the question of this exemption this fall. Enactment of H.R. 5383 will make it clear that involuntary retirement at less than the statutory age is prohibited.

Older workers of this Nation are engaged in a struggle for their civil rights and it is our responsibility to provide the protection of law so that discrimination in employment based on age will not be tolerated. We must also keep in mind the

fact that compulsory retirement has brought with it an increase in poverty among the aged and an inequality of income between age groups which continues to widen. A 1972 report on a social security survey noted that even social security, private pensions and savings combined did not match the preretirement income of the average worker. It is cruel to deny older workers who wish to and need to continue their employment the right to do so.

The choice to continue working past age 65 has for the most part been limited to the powerful—corporate executives, labor leaders, celebrated artists, and those in the advantageous position of being self-employed. But for most of the rank and file of American workers there has been no choice. H.R. 5383 will help fulfill a long overdue obligation to older workers of this Nation and I urge its enactment.

Mr. PEPPER. I thank the distinguished gentleman for his remarks.

Mr. Chairman, I want to correct a statement I made. I am informed that the polls not only on this bill, but on the very subject of mandatory retirement, showed 86 percent of the people favored the elimination of mandatory retirement.

We are on the verge of a great step toward accomplishing that for the elderly people of this country by enacting this bill by a big majority in this House today. The other body, I think, will take it up in a few days. I have the assurance that it will be approved by the President.

At long last we will have eliminated age-ism as we have previously eliminated sexism and racism as a basis for discrimination in this country, and we will now be putting a new emphasis on human rights.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have asked Prof. Dan M. McGill, chairman of the Pension Research Council of the Wharton School, for an opinion on this question. Professor McGill concludes that—

If mandatory retirement ages were to be eliminated, the task of projecting future retirements would obviously be made more difficult. Nevertheless, funding practices and actuarial techniques are flexible enough to adjust to this added complexity. In practice, estimates of retirement ages would probably be made with such a degree of conservation (notwithstanding the mandate of ERISA that assumptions reflect most probable experience) that retirements beyond ages formerly regarded as "normal" would create actuarial gains.

The Department of Labor states that "financial pressure on private pension plans could be alleviated" as a result of this bill.

The minor actuarial adjustments to pension plans required by this legislation should be more than paid for by the savings to pension plans this bill will bring.

Actually, ERISA does not require that pension plan changes be approved. All that is required is that copies of changes in pension plans be sent to the Department of Labor for their records. The law also requires that all employee members of the plan be notified in writing of changes, which certainly seems to be a step conscientious managers would naturally want to take.

Changes in pension plans are important for the income tax status of the plan, of course. But even here changes simply to comply with this bill will not have to be submitted to the Internal Revenue Service. A. D. Field, Chief of Employee Plans at the IRS, has assured me that—

Plan amendments made solely to comply with this proposed legislation (i.e., to delete any plan reference to a mandatory age below 70) will not affect the tax qualification of a plan.

The IRS also told me that—

If the proposed legislation is enacted, we would probably inform the public that such amendments would be administratively allowed without submission to the Service.

IRS further stated:

In general, we feel that the proposed legislation allows adequate time for employers to make the necessary conforming plan amendments.

We have gone over all the available data again and again and can see no reason to delay. The impact will be minimal upon employment, and will actually benefit businessmen by increasing the financial soundness of their pension plans as older workers continue contributing to the plan rather than withdrawing from it.

To delay will only result in the denial to countless millions of Americans who will turn 65 in the next 2 years the basic right to be judged upon their ability, not upon an arbitrarily chosen age. No one suggested delaying implementation of other civil rights legislation for 2 years. No one would suggest postponing for 2 years the right of blacks or women to equal job opportunities to see how it would affect the economy. Nor should anyone suggest postponing the right of capable older Americans to stay on the job.

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Illinois (Mr. ERLENBORN).

The purpose of the legislation before us today is to promote the employment of older persons based on their ability to perform in the job rather than on age and to clarify the exemption for bona fide retirement and pension plans in the current law.

The amendment offered by Mr. ERLENBORN seeks to delete the amendment adopted in committee to defer the effective date prohibiting mandatory retirement policies at ages 65 through 69 in employee benefit plans contained in collectively bargained agreements in effect 30 days prior to enactment; to change the requirement for transmitting to the Congress and the President the report on the effects of the amendments from January 1, 1979, until 2 years after the effective date of the act, and to delay the effect of the entire act until 2 years after the date of enactment.

Mr. Chairman, I am opposed to Mr. ERLENBORN's amendments for the following reason: There is no justification for delaying the bill's effective date for 2 years. The bill allows for a 180-day delay in raising the upper age limit from 65 years of age to 70 years of age. It was the committee's position that 180 days would prove adequate leadtime to allow companies to bring their policies and employee benefit plans into compliance with the law. Mr. Chairman, may I point out that in implementing the original act of 1967 the delay in the effective date was only 180 days after enactment. Therefore, it is my belief that such an extended delay for an act already in operation is completely unwarranted and unnecessary. Moreover, the committee has received correspondence from the IRS indicating that 180 days is sufficient time for employers to bring pension and retirement plans into compliance.

The purpose of the bill is to reduce the incidence of mandatory retirement for workers in Federal, private, State, and local employment rather than to prolong it. More importantly, the clarification for section 4(f)(2) of the act which prohibits involuntary retirement of an employee before age 65 under a bona fide retirement plan would go into effect immediately upon enactment. Mr. ERLENBORN's amendment would have the effect of delaying this clarification for 2 years. The legislative history in the ADEA shows that the exception served to facilitate the hiring of older workers by permitting their employment without necessarily including such workers in employee benefit plans. The fate of 11 million workers affected by such plans hangs in the balance. Clearly, congressional action appears to be warranted and necessary to clarify this issue without further delay.

With respect to deleting the amendment to delay the effective date for collectively bargained employee benefit plans, the precedent for such a delay was established in the Equal Pay Act of 1963. I would like to quote from the May 23, 1963, CONGRESSIONAL RECORD in which then-Congressman Robert Griffin states:

. . . it should be the policy of Congress, I think, not to open up collective bargaining agreements in effect if that is not absolutely necessary. We want to encourage industrial peace and stability, and we do not wish unnecessarily to stir up strikes or labor strife.

The committee accepted this amendment in order to provide the maximum deference to contracts negotiated between labor and management. The committee recognized that these contracts were negotiated in good faith with reciprocal agreements and concessions made. All other plans not the result of collectively bargained agreements would be prohibited after 180 days from requiring the retirement of individuals aged 65 through 69.

Mr. Chairman, I urged my colleagues to oppose the amendment as offered by Mr. ERLENBORN.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., September 8, 1977.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Subcommittee on Employment Opportunities, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's analysis as to whether there are any potential conflicts between the Employment Retirement Income Security Act of 1974 (ERISA) and the proposed amendments to the Age Discrimination in Employment Act of 1967 (ADEA).

Raising the upper age limit of the ADEA would not create any conflict with ERISA. Those responsible for administering ERISA in the Department of Labor are in complete agreement that the proposed amendments would not interfere with any of the provisions of ERISA.

The following represents the Department's answers to your specific questions:

1. Would an employer be required to credit years of service for purposes of benefit accrual after normal retirement age?

It is our view that nothing in the ADEA or in the proposed amendments would require an employer to credit, for purposes of benefit accrual, those years of service which occur after an employee's normal retirement age. ERISA likewise does not require such accrual. There is a section in ERISA which limits the extent to which a plan may provide for the accrual of benefits at a higher rate during later and presumably higher paid years of service. This provision, Section 204, sets forth three alternative tests, one of which a plan must meet in order to demonstrate that benefits are being accrued properly (29 USC 1054). Two of these tests (the 33⅓% test and the fractional test) explicitly permit a plan to provide that no benefits will accrue after normal retirement age (26 CFR 1.411(b)-1). The third test requires the accrual of benefits after normal retirement age. It should be noted, however, that no employer is required to select the third test, provided that he satisfies one of the two other tests.

2. Would an employer be required to pay the actuarial equivalent of normal retirement benefits to an employee who continues to work beyond the normal retirement age?

No. There will not have to be any adjustment in the size of the periodic payments at the time of actual retirement. This is also the case under ERISA. See the final regulations issued by the Internal Revenue Service under Section 411 of the Code and Section 204 of ERISA which provide that no adjustment to an accrued benefit is required on account of employment after normal retirement age [(26 CFR, Section 1.411(c)-1(f)(2)].

3. If the upper age limit is raised, some employees who choose to work beyond age 65 will be participants in plans which provide for the commencement of retirement benefits at age 65. Could such plans be amended to provide that retirement benefits would commence at the actual date of retirement without violating the ADEA or ERISA?

Generally, pension plans condition the payment of benefits on actual retirement. Thus, it would not be necessary to amend these plans since neither they nor the ADEA nor ERISA require the payment of retirement benefits to employees who continue to work beyond normal retirement age. The requirement in ERISA (Section 206(a)) is that benefits must commence at normal retirement age or on the actual date of retirement, whichever is later (29 USC 1056). Of course, if there are some plans which provide for the payment of pension benefits at a specified age, regardless of actual retirement, such plans could be amended without violating either the ADEA or ERISA.

4. Would an increase in the upper age limit of the ADEA increase the funding costs for private pension plans?

An increase in the upper age limit of the ADEA would not increase the funding costs for private pension plans. As a matter of fact, financial pressure on private pension plans could be alleviated. Requiring an employer to permit a qualified employee to work until the Act's upper age limit, regardless of the pension plan's normal retirement age, would result in cost savings to plans rather than increases. As an actuarial matter, the longer an employee works, the shorter the period retirement payments will have to be made, thus lowering the funding assumptions of the plan. Savings would of course come from the added years of accumulated interest on the fund. Savings would also stem from the fact, as indicated above, a plan need not provide for further accrual of benefits after the participant has reached the plan's normal retirement age, and thus the added years of service do not increase the ultimate retirement benefit or the cost of providing it.

It is possible that certain plans, such as those which provide for the accrual of benefits after normal retirement age, will not experience these savings. However, there will be no significant cost increase to these plans. Any increases in benefits due to such factors as salary increases after employees have attained normal retirement age would generally be offset by factors such as the shorter life expectancy of employees upon retirement after normal retirement age, interest earned on plan assets during the period between normal retirement age and the age at which employees actually retire, and increases in pre-retirement mortality.

5. Assuming that under ERISA a plan need not provide for benefit accruals for an employee who continues to work after the normal retirement age, would an employer's failure to provide for the accrual of benefits for such an employee constitute age discrimination under the ADEA?

In our opinion, a bona fide pension plan that provides that no benefits accrue to a participant who continues service with the employer after attainment of normal retirement age would not violate the ADEA. Under Section 4(f)(2) of the ADEA, it is not unlawful to observe the terms of a bona fide pension plan that is not a subterfuge to evade the purposes of the ADEA. As I noted in my testimony, the legislative history of the ADEA indicates that Section 4(f)(2) was intended to allow age to be considered in funding a plan and in determining the level of benefits to be paid. We believe that it will run counter to the intent of the Act to require a plan to provide for benefit accrual after the plan's normal retirement age.

I might also note that the proposed amendments to the upper age limit in Section 12 of the ADEA would in no manner affect the definition of the term "normal retirement age" in Section 3(24) of ERISA.

I hope these responses to your questions will be helpful to the Subcommittee.

Sincerely,

DONALD ELISBURG,
Assistant Secretary.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, let me compliment the distinguished chairman of the subcommittee.

I agree wholeheartedly that there is no earthly reason for approving an amendment of this type, delaying the effective date for 2 years.

Mr. Chairman, there are many different effective dates in the bill. We have taken into consideration any hardship cases that may arise. For that reason, we have let the effective date vary in order to take care of our hardship case.

Mr. Chairman, it would be a mistake to approve this amendment. This amendment should be defeated, Mr. Chairman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr Chairman, I thank the gentleman for yielding.

I worked very closely with the gentleman from California (Mr. HAWKINS) in the subcommittee and in the full committee in developing this legislation. We did consider at that time the concept of delay and whether we could handle this matter in the period of time provided in the bill.

Mr. Chairman, I would think that we could handle it in this period of time, and I therefore join with the gentlemen who have spoken in opposition to the amendment and I urge that we adopt the bill without further amendment.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to pose a question to the gentleman from California (Mr. HAWKINS), or to the gentleman from Florida (Mr. PEPPER), because, as I understand this bill, it provides a 2-year exemption if there is a collective bargaining agreement which has been in effect for 30 days or more. Therefore, while we are urging that this legislation become effective immediately—and I am inclined to support that position—why are we exempting for 2 years those involved in a collective bargaining agreement so that discrimination against such persons may continue for 2 years? Why are we giving preferential treatment to persons who are not covered by a collective bargaining agreement. Under the bill before us we are permitting discrimination to continue for 2 years with respect to those who are covered by a collective bergaining agreement and then giving immediate advantages under the law to all the rest of the population?

Mr. Chairman, that is the part of the legislation which bothers me. It seems to me that some person representing organized labor has come in and importuned the committee to deny the rights under this legislation to our older Americans who want to be released from age discrimination. We are just adhering to or agreeing with that concept, thereby permitting such discrimination to continue.

Mr. Chairman, could either of the gentleman explain that to me?

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, may I say that the precedent for such an exemption was established in the Equal Pay Act.

I do not count it as actually a special privilege, it is a limitation. We did not want to affect existing contracts adversely. We just agreed that this is merely applicable to a contract between management and labor. That is the true justification. There is precedent in the law to establish such an exemption.

Mr. McCLORY. Would the gentleman not agree, though, that we should provide the same benefits in this law to those who are covered by a collective bargaining agreement as we do to the rest of the people, so that we would not be discriminating against them as we eliminate this last vestige of discrimination against our older Americans?

Mr. HAWKINS. We would be getting into a lot of unilateral agreements that may have been reached between employees and employers and to try to cover all of those would be just too cumbersome and unworkable. We are reaching only those that we felt could be covered.

Mr. McCLORY. I thank the gentleman from California for his explanation. I, however, feel that what we have done here is to distinguish between Americans, all of whom I regard equally, with equal rights, and we are denying rights under this legislation to a segment of our society who are covered by collective bargaining agreements. I think that that part of the discrimination should be eliminated also. I am hopeful that in the other body or in conference, or in some way we will take care of that so that we treat everybody alike if we are going to make this measure effective at the time of its enactment and approval.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to my colleague, the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, the gentleman has pointed out the fact that this is a limited step and is not as far as many of us would like to have the legislation go. It is true that it sets apart a certain group of employees under collective bargaining agreements but it also sets apart certain Federal employees and people who are over 70 in the non-Federal sector. So there are other steps that need to be taken in the future to end mandatory retirement and I pledge to get on with those changes next year.

Mr. McCLORY. There are no physical, psychiatric or psychological differences, are there, between those who are covered by collective bargaining agreements and those who are not?

Mr. FINDLEY. Not that I know of.

I regret the fact that this group is not covered by this legislation, but we deal with practicalities, we make whatever progress we can. I think this is a major step forward in which we all should rejoice.

Mr. McCLORY. I thank the gentleman. I think he has pointed out a defect in this legislation.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. HANNAFORD. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. HANNAFORD. Mr. Chairman, I rise in strong support of the Age Discrimination in Employment Act amendments. This bill will be seen as one of the most progressive, enlightened accomplishments of the 95th Congress. Not only will it eventually do wonders to preserve the viability of our retirement and social security programs, but it will recapture the vitality and wisdom of a growing number of Americans who before faced only premature obsolescence.

I have long shared Lemuel Gulliver's incredulity about society's attitude towards our older citizens. Just as he was shocked that the Struldbruggs—a tribe of people who never died but just grew old—were ostracized rather than respected and sought for advice, so too am I distressed that we should force our older citizens into unproductivity. If life is a learning experience, why should the educational value of 65 years be less than that of 25 years?

There is no good reason to believe that our older workers are not or could not be just as innovative as our younger workers—if society would not be geared to youth and prejudice against the elderly. Numerous studies have in fact demonstrated that the older worker's talent and productivity is often a match for that of their younger counterparts.

Census figures illustrate the fact that Americans are living longer lives, and it is encouraging to see early congressional action to make the law reflect this reality. The House is to be commended for its expeditious reform of our mandatory retirement laws, and our older Americans are to be thanked for their patience and understanding.

Mr. WEISS. Mr. Chairman, as the distinguished chairman of the subcommittee indicated, this legislation is really a combination of three separate bills that were introduced, one by the distinguished gentleman from Florida (Mr. PEPPER), one by the gentleman from Illinois (Mr. FINDLEY), and one by the gentleman from California (Mr. WAXMAN) and myself.

The bill which the gentleman from California (Mr. WAXMAN) and I introduced is the subject matter of the specific discussion at this moment. What we did was to attempt to correct a distortion that had crept into the Age Discrimination in Employment Act that was passed in 1967. That bill, as originally passed, provided for three exceptions. One of them applied to the area of hazardous occupations; the second exception applied to those areas where there was good cause for discharging an employee regardless of age; and the third exception provided that where you have older employees who are looking for employment, so that there would be an inducement to hire them, the employer would not have to provide full seniority and pensions benefit programs for them. It was intended to encourage employment of older workers rather than to authorize their early forced retirement. Instead, what happened was that that particular exception was utilized by management and labor, in many instances to enter into collective bargaining agreements which forced employees to be retired at earlier than the legally permissible mandatory retirement age of 65.

What we have sought to do in the legislation before us was to guarantee that a person's rights could not be bargained away collectively nor imposed upon them unilaterally.

What we did at the same time, in order to meet some of the objections that came in from both management and labor, was to provide that as to those over the age of 65, between 65 and 70, who were covered by existing collective bargaining agreements, this particular exception would not be wiped out until the life of the contract was terminated or 2 years from the date of enactment of this bill, whichever first occurred. The bill further provides that as to those instances where there was a unilateral plan, those would not be wiped out for a period of 6 months from the date of enactment. I think the solution that was arrived at in committee was a perfectly fair and just one.

It should be pointed out that the distinguished gentleman from Illinois (Mr. ERLENBORN) said earlier that we had not given sufficient thought to this matter and that business was not aware of it. The fact of the matter is that when the bills first were introduced this year they provided that there would be no mandatory retirement age at all, even in the private sector. It was at the urging of witnesses representing the business community that ultimately we set the 70-year limit. They argued that before we removed all limits there ought to be some experience with the higher age level as well as with the effect and operation of state legislation and the provisions of this bill regarding federal employees. However we did mandate a Department of Labor study with an interim report in 1 year and a final report in 2 years on total elimination of age as a basis for mandatory retirement.

I think, Mr. Chairman, that we have arrived at a piece of legislation that is fair and responsible. I think that it sets the groundwork for removing every vestige of discrimination on the basis of age.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I will be delighted to yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding. I have just one additional comment that I would make to the gentleman's excellent summary. At issue, as I understand the theory in adopting the exception with regard to collectively negotiated contracts, was that in a collective bargaining agreement there are a number of different issues. The question of retirement is only one of the issues. The theory was to allow those contracts to expire and have all those issues renegotiated. When we have a question of unilateral plans, it is not so complicated. It is a very clear-cut dis-

crimination, which the committee rightfully found to be in violation of the public policy which we wished to state in this act. Therefore, I want to point that out, because it is a reason for the exception. It is not one that I would like to have seen, but it is a rationale that justifies the exception which the committee adopted.

Mr. WEISS. The gentleman is absolutely correct.

Mr. Chairman, in further opposition to the amendment, let me state the following.

I, too, am concerned about the time considerations concerning the enactment of this legislation. As you know, since 1967, the employment opportunities of Americans age 40 to 65 have been protected by the Age Discrimination in Employment Act. Currently, there are three exceptions to the act: First, section 4 (f)(1) exempts workers in hazardous occupations from the protections of the act. Second, section 4(f)(3) states that a worker, although covered by the act, can be discharged for good cause. No one can dispute the intent of these two exceptions.

For 10 years, however, the third exception, section 4(f)(2), has been the subject of much discussion. In its current form it reads as follows:

It shall not be unlawful for an employer, employment agency, or labor organization—

To observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual;

This provision was designed as an incentive for employers to hire older workers; under section 4(f)(2), employers could hire older workers and benefit from their employment experience without having to incorporate them fully into the terms of employee benefit plans or seniority systems. Since 1967, however, some employers have interpreted this provision as permitting mandated early retirement—prior to age 65—as long as such a provision in incorporated into the terms of a benefit plan and seniority system.

The stated intent of this provision has not changed in 10 years.

In the Senate hearings on this issue held on March 15, 1967, Senator JACOB JAVITS, one of the original authors of the legislation, stated his intention "that a fairly broad exception be provided for bona fide retirement and seniority systems that will facilitate hiring rather than deter it and make it possible for older workers to be employed without the necessity of disrupting those (benefit) systems."

During the Senate debate on this issue, in 1967, Senator Ralph Yarborough, the floor manager of the bill, made the following observation about section 4 (f)(2):

. . . This will not deny any individual employment or prospective employment but will limit his rights to obtain full consideration in the pension, retirement, or insurance plan.

During that same debate, Senator JAVITS further spelled out the meaning of this provision:

. . . An employer will not be compelled under this section to afford to older workers exactly, the same pension, retirement, or insurance benefits which he affords to young workers.

Additionally, both the House and Senate reports which accompanied the original ADEA legislation contained identical language explaining the exception found in section 4 (f)(2):

This exception serves to emphasize the primary purpose of the bill—the hiring of older workers—by permitting employment without necessarily including such workers in employee benefits plans.

The meaning of this exception could not be made any more clear: it was to provide an incentive to create employment opportunities for older Americans.

Yet, we find ourselves, in 1977—10 years later—clarifying section 4 (f)(2); the problem is that while the intent seems clear, this provision has been cited as the vehicle for forced early retirement.

According to the Bureau of Labor Statistics, September 1974 study of "forced retirement provision in basic defined pension plans" some 2 million Americans—10 years after the enactment of the ADEA—are covered by pension or retirement plans which permit employers to retire workers before age 65. Thus, the potential for abuse and misapplication of section 4(F)(2) cannot be ignored any longer.

Mr. Speaker, I would like to remind the Members that the purpose of the bill before us is not only to expand coverage under the ADEA and therefore raise the age of mandatory retirement, but also to protect those under 65. Mr. WAXMAN and I have sought to insure that section 4 (F)(2) which was designed with all workers over 40 in mind cannot be used to force them into early retirement by adding the following language at the end of the provision:

. . . And except that the involuntary retirement of any employee shall not be required or permitted by any such seniority system or any such employee benefit plan because of the age of such employee.

I am pleased that the Committee saw fit to include this clarification language in H.R. 5383; it is 10 years overdue.

One of the arguments cited by the gentleman from Illinois (Mr. ERLENBORN), in favor of his amendment to delay the effective date concerns the difficulty which the gentlemen believes employers will face in complying with the clarification of section 4(F)(2). During the general debate of H.R. 5383, the gentleman made the following statement:

The impact will be precipitous for those who have pension plans and other employee benefit plans, that are not the result of collective bargaining, when the President signs the bill. At that moment, it will become illegal for them to have in those plans a provision calling for retirement prior to age 65. It has the immediate effect of no lead time to prepare to get ready for its effect.

Mr. Chairman, I would suggest to my friend, the gentleman from Illinois, that the lead time on section 4(f)(2) for persons under 65 has been the last 10 years. Provisions in pension plans or retirement systems which call for retirement prior to age 65 are a misapplication of the law; they should not require lead time to correct.

Mr. Chairman, delaying this legislation not only affects those Americans who wish to work beyond age 65, it threatens all Americans age 40 and over who are covered by pension plans which mandate forced retirement prior to age 65. The committee's actions have not been precipitous: it is our responsibility to move without delay when the rights of older workers are jeopardized by a misapplication of the law.

Older Americans have waited 10 years for a clarification of the protections which the original ADEA offers them. Clearly, they have waited long enough.

I urge the defeat of the amendment.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have long felt that mandatory retirement is as arbitrary and capricious as discrimination on account of race or sex. It, too, has the tragic result of wasting the talents and abilities, the skills and expertise, and the potential of millions of citizens—in this case, older persons who are willing and able to continue working.

That people are ready to retire at age 65 is in itself a faulty assumption. While many may look forward to retirement, equal numbers do not. Retirement, particularly in these inflationary times, frequently produces unbearable economic hardships, for pensions and annuities typically replace less than one-half the retiree's previous salary. But it is not just the money that is missed. As important as the income are the social relationships, the creative satisfaction, the self-respect that comes from being useful and productive members of society. The legacy of forced retirement is well known: ego damage, psychological malaise, physical impairment, financial deprivation. As a report of the American Medical Association concludes:

. . . enforced idleness robs many of those affected of the will to live full, well-rounded lives, deprives them of opportunities for compelling physical and mental activity, and encourages atrophy and decay.

Sixty-five has been the normally accepted retirement age largely because that is the eligibility age for social security retirement benefits. But it was an historical accident—the economic situation and the manpower needs of the country in the 1930s—that set 65 as the age of eligibility. Age 65 otherwise has no reality as a turning point in the life of the individual. Many workers can continue to work effectively well beyond age 65 and often prove better employees than younger workers because of experience and job commitment. Indeed, chronological age alone is a poor indicator of ability to perform a job. Functional capability—not chronological age—should be the determining factor.

I should be noted that mandatory retirement causes increased expense to Government income-maintenance programs such as social security, as well as to social service programs, while causing loss of skills and experience from the work force, thus injuring the national economy. Forcing skilled workers to resign reduces our gross national product by an estimated $10 billion. Mandatory retirement also accelerates the likelihood that a proportionately smaller labor force will be supporting a larger retiree group by 1999.

On the other hand, eliminating mandatory retirement would strengthen the social security and private pension systems, for workers would continue to contribute beyond age 65 instead of drawing benefits. Moreover, the economy would be stimulated as those working past age 65 continue to use their full purchasing power, while adding billions to the GNP through their skills and expertise.

Those who support mandatory retirement at 65 argue that it "makes room for the young" in the employment market. What with our high unemployment, this could constitute an overwhelming argument except that the assertion is dubious. Studies demonstrate that only 30–40 percent of forced retirees have both the ability and desire to continue working; of the total sum of voluntarily retiring male workers, only 7 percent of all retired male workers would be competing on the job market. Moreover, it may not be necessary to "make room for the young" in the coming years since the percentage of young people in the country will continue to decrease. As gerontologists have noted, in the period from the midsixties through the midseventies, some 40–50 percent more jobs for young entrants into the labor market each year had to be found than in any year between 1950 and 1965. The cause was the "baby boom" between 1948 and 1959. However, it is anticipated that from 1978 on there will be 30 percent fewer entrants into the working population each year than in the years between 1967 and 1977. The inescapable conclusion is that the elimination of mandatory retirement will only minimally affect the prospects of younger job seekers.

Under existing law, the so-called Age Discrimination in Employment Act, only workers between 40 and 64 are protected from mandatory retirement, making this law, as Representative CLAUDE PEPPER, the chief sponsor of H.R. 5383, put it, "its own worst offender." The legislation before us today raises from 65 to 70 the minimum age at which workers in private business can be required to retire and would completely eliminate mandatory retirement for Federal workers, thus establishing the Federal Government in the forefront for ending this particular aspect of agism.

The measure also knocks out an exception in the law that allows labor unions and management to negotiate contracts forcing workers to retire before age 65. Moreover, the bill directs the Secretary of Labor to prepare a study within 2 years on the feasibility of eliminating mandatory retirement for workers in the private sector.

As a sponsor of legislation to eliminate mandatory retirement in both the public and private sectors, I support this legislation for I firmly believe we cannot continue our disastrous shortsighted policy whereby a birth certificate determines a person's ability. No nation can ever hope to achieve its full potential if some of its most experienced and talented citizens are not allowed to participate. Older citizens are a valuable resource for the labor market. They are not asking for a handout; they simply want an opportunity to be judged on the basis of their merits. And their desire has widespread support, for a 1975 survey for the National Council on Aging shows that 86 percent of Americans, young and old, believe that "nobody should be forced to retire because of age if he wants to continue working and is still able to do a good job." It is this attitude that must be incorporated into practice, so that our older workers can plan their lives without being chained to inflexible deadlines.

There should be ample opportunity for retirement by older Americans but such retirement should be with dignity. The individual who wants to keep working past 65 and who has the ability should have the option. It is time for the 65-and-out rule to be abolished. Fundamental equity demands we protect every American from any type of employment discrimination.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN), there were—ayes 5, noes 51.

So the amendment was rejected.

Mr. WAMPLER. Mr. Chairman, I am pleased to express my support for H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. I wish to commend the Chairman of the Select Committee on Aging, the distinguished gentleman from Florida (Mr. PEPPER); the Chairman of the Subcommittee on Employment Opportunities, the distinguished gentleman from California (Mr. HAWKINS); and the distinguished gentleman from Illinois (Mr. FINDLEY) for their dedicated efforts in bringing this bill forth. I was pleased to associate myself with their remarks on H.R. 5383 in general debate on September 13 and I congratulate each of these gentlemen for their outstanding statements on behalf of this legislation.

Mr. Chairman, the incidence of mandatory retirement and age discrimination in non-Federal employment will certainly be reduced by the provisions in H.R. 5383 which extend the age of protection for non-Federal employees from 40 to 65 to 40 to 70. This amendment to section 12 of the act will become effective 180 days after enactment.

The intent of extending protection to workers up to age 70 is clarified in H.R. 5383 by preventing bona fide pension plans and seniority systems from containing mandatory retirement ages under section (4)(f)(2) of the act. This provision will be effective immediately upon enactment for those plans which mandate retirement under age 65. Collectively bargained employee benefit plans in effect 30 days prior to enactment, mandating retirement at ages 65 through 69, will be granted an extension of 2 years or the termination of the agreement, whichever occurs first, in order to comply with the upper age limit change of the act. Nonunion employee benefit plans must comply with the provisions on the 181st day of enactment and are not granted this exemption for compliance with the amendment to section 4(f)(2).

With regard to employment in the Federal sector, H.R. 5383 would eliminate mandatory retirement and other incidences of age discrimination by amending section 15(a) of the act, notwithstanding other provisions of the law.

The assumptions which, at one time, lent their support for arbitrary retirement of persons solely on the basis of age are no longer morally justifiable nor economically pragmatic. The limited number of persons subject to mandatory retirement policies, coupled with an increasing trend within this group for early retirement, suggest that the elimination of mandatory retirement policies would have a negligible adverse impact upon present labor and management practices. According to the Social Security Administration, only 30 percent of newly entitled beneficiaries aged 62 to 65 during 1968 and 1969 were subject to compulsory retirement at their present or last place of employment. Moreover, a Bureau of Labor Statistics study of private pension plan coverage in 1974 revealed that only 41 percent of the 21 million persons surveyed were subject to mandatory retirement policies. During fiscal year 1976, only 1,509 employees of the civil service system were mandatorily retired.

Projected changes in demographic factors also warrant revision of our age-related economic policies. Life expectancy at birth has risen from 47 years in 1900 to over 71 years today. As a result, there has been a marked increase in the proportion of persons aged 65 and over in our population. In 1900, those 65 and over accounted for only 4 percent of the population, 5.4 percent in 1930, and, in 1975, the proportion rose to 10.5 percent. These figures represent a rate of increase nearly three times that of the general population, since 1900.

Studies indicate that the age-composition of our population will continue to shift toward a growing segment of elderly persons. The future changes in the age composition of the population will further reduce the ability of the labor force to maintain the fiscal integrity of the social security system. A few years ago, the ratio of workers to social security beneficiaries was 4 to 1. Today, the ratio is 3.2 to 1, and, by the year 2030, the ratio is expected to approach 2 to 1. The long range potential actuarial deficit in social security could be replenished if older persons were extended the opportunity to remain in the work force. It should also be noted that the loss to

the economy as a result of mandatory retirement in 1972 was estimated to be $3.4 billion, or 0.3 percent of the total GNP. In 1976, this figure would translate to approximately $4.5 billion.

I wish to note that the provisions of H.R. 5383 do not attempt to alter, in any manner, the social security system as it presently exists. Unfortunately, some have deduced that proposals to defer benefits to age 68 are coupled with the effort to reduce the incidences of mandatory retirement. During general debate on September 13, cosponsors of H.R. 5383 clarified this issue by emphasizing that it is not the intent of the legislation to alter the date at which full social security benefits are payable. H.R. 5383 was designed to allow older workers the opportunity to remain employed beyond established retirement ages, only if they so choose. Deferring the age of entitlement for full social security benefits is certainly antithetical to the intent of this legislation.

It is most unfortunate that few of the persons forced to retire on fixed incomes are able to enjoy the rewards of financial security during their later years. Retirement income, among those retirees who receive social security benefits, private pension coverage and savings, does not begin to match the preretirement income of the average worker. According to the National Council on Aging, 43 percent of persons 65 and over with incomes below $3,000 who are unemployed desire to continue working. Transcending the economic tragedy of mandatory retirement, the human and social adversities are immeasurable. The Committee on Aging has found that the mortality rate of workers who were in good health when mandatorily retired at age 65 increased 30 percent higher than expected during the third and fourth years following retirement. In addition, the American Medical Association reports that here is ample clinical evidence that physical and emotional problems can be precipitated and exacerbated by denial of employment opportunities. Compulsory retirement impairs the health of many individuals whose job represents a major source of status, creative satisfaction, social relationships or self-respect. Mandatory retirement is a euphemism for the social injustice of ageism and the arbitrary severance of productive persons from the mainstream of American life.

I urge enactment of H.R. 5383 as a step toward equality of opportunity and freedom of choice for those who have built this great Nation through their diligence and utility.

Mr. HAMMERSCHMIDT. Mr. Chairman, as a member of the Select Committee on Aging, I appreciate the opportunity to express my views on the abolition of mandatory retirement.

We are meeting here today to vote on H.R. 5383—a bill to end mandatory retirement in the Federal sector and add 5 years to the working life of an employee in the private sector. I believe, however, that our vote today goes far beyond the specific mandates contained in the legislation. In a broader sense we are reevaluating a national policy that does violence to our sense of dignity, the rejection of capable men and women from the work force based on an arbitrary factor—age. Our own personal experiences force us to reject the thought that a person's judgment, intelligence, and productivity decline on some date on a calendar. Research confirms this viewpoint. Studies undertaken by the Department of Labor and the National Council on Aging demonstrate that older workers can produce "a quality and quantity of work equal or superior to younger workers." Studies also reveal that older workers have as good, and frequently better, attendance records than younger employees.

We live in a society in which work defines not only access to income but also self-esteem, status, and social participation. It would be very hard to exaggerate the importance of work in this country. It has been said that "the shape of American society can be understood through understanding work" and that "every other social problem may have some connection to work and its discontents." By forcing people to retire prematurely, we relegate them to additional, unnecessary years of reduced income. At present, retirement is almost always accompanied by a 50-percent reduction in income. When this reduced income is coupled with increased longevity; that is, more people living 10, 20, and more years beyond their retirement date, we can begin to see the critical problem experienced by many older people. Many who have saved money for their retirement years cannot make these funds stretch over this protracted period of time—particularly with their high rate of inflation. Many older persons have minimal savings and no retirement benefits other than social security. These people, who are prematurely retired, are forced to live on a reduced fixed income long before it is necessary.

There is one argument for forced retirement being put forth which I feel must be addressed. Proponents contend that it is necessary as a means for making room for the influex of young job seekers into the labor force. Before we continue to accept this fact as given, it would be wise to assess the extent to which mandatory retirement does, in fact, make room for the young and to what extent there is an ongoing need for this. First, a number of studies have shown that only about 30 to 40 percent of mandatory retirees have either the physical ability or the desire to continue working beyond the age of 65. Further, there is a distinct trend toward elderly workers retiring before they reach this age. Statistics for Federal employees show that last year only 1,509 elderly employees chose to remain in Government service until the mandatory retirement age. It must also be remembered that should those over retirement age be allowed to continue working, in each successive year there would be some percentage of attrition of the remaining elderly workers. In view of all this, mandatory retirement would not serve to create the number of openings in the job market which its proponents assume.

The premise that there is a pervasive need to make room for young entrants into the ranks of the employed was a product of the inevitable maturation of all those born during the "Baby Boom" years between 1949 and 1959. Since 1960, however, the birth rate has followed a sharp decline. Thus, by the end of the 1970's there will be 30 percent fewer entrants into the working population annually. If we allow mandatory retirement to continue, there will not only be a reduced labor force, but the burden of social security and pension funds will weigh more heavily on the diminished number of younger workers. A few years ago the ratio of workers to beneficiaries of social security was 4 to 1. Today the ratio is 3.2 to 1. Approaching the middle of the next century the ratio will be 2 to 1. I believe this data derived from the Social Security Administration clearly illustrates the dimensions of this problem.

Today's legislation provides us with an opportunity to alter an unjust, injurious social policy that is incompatible with the fundamental beliefs of this Nation—justice and equity of opportunity. We must reaffirm and actualize that belief by making sure that our policies and institutions exist to serve human needs and that no person is treated as superfluous.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 5383 which would abolish mandatory retirement, based on age, in the Federal Government and would extend the Age Discrimination in Employment Act to protect workers up to age 70. It would also eliminate a provision of the Age Discrimination and Employment Act that allows labor unions and management to negotiate contracts forcing workers to retire before age 65. As a member of the Select Committee on Aging, I have carefully reviewed the issue of mandatory retirement and have concluded that there is no social, financial, nor scientific basis to support retiring a person at age 65.

Retirement often means severe financial hardship for the senior citizen. A 1972 report by the Social Security Administration noted that even social security, private pensions, and savings combined, did not match the preretirement income of the average worker. Typically the retiree dropped to less than half of his/her median pre-retirement income. The current economic situation has caused an especial hardship for senior citizens—living on fixed incomes and trying to cope with spiraling food prices, rents, utility costs, and medical expenses.

Research has shown that age is not an accurate measure of a person's ability to be a productive worker. In addition, there is no evidence that a person's skills suddenly decline, nor can it be proven that people age at the same rate. We all know people—some of them distinguished members of this body—who have remained in excellent physical and mental condition well beyond the legal retirement age. The loss of these persons' expertise and vast experience, had they been subject to mandatory retirement, would not only have been detrimental to them, but would have created a substantial loss to the rest of society.

Those in favor of mandatory retirement claim that old age brings frailty, increased sickness, thus accident proneness, increased absenteeism, and actual reduced vigor in job performance. A number of studies have contradicted these assertions by finding that older workers can produce a quality and quantity of work equal or superior to younger workers, that they have as good, and usually better, attendance records as younger workers, that they are as capable of learning new skills and that they are generally more satisfied with their jobs than younger workers.

Mandatory retirement accelerates the aging process and brings on or makes physical and emotional problems worse. Compulsory retirement will impair the health of many individuals whose job represents a major source of status, creative satisfaction, social relationships, or self-respect. The American Medical Association has stated that "arbitrary retirement and denial of opportunity to work is a prime factor in the health deterioration of retired persons". In a study conducted by Dr. Susan Haynes, it was found that the mortality rate of workers who were in good health when mandatorily retired at age 65 was 30 percent higher than expected in the third and fourth years following retirement.

Supporters of mandatory retirement argue that it is necessary in order to give younger workers an opportunity for employment and upward mobility. This argument is based upon the attitude that given a choice between the old and the young, the elderly should bear the burden. However, we may overlook the fact that banning mandatory retirement would not abolish voluntary retirement. Indications are that the actual number of employees who would opt to continue working past age 65 would probably be quite small. Few jobs are actually freed by mandatory retirement. Therefore, the elimination of mandatory retirement would have little impact on the labor supply and the unemployment rate. Further, with the decline of the baby boom in the next few years, there will be fewer young people coming into the labor market to push out older workers.

Finally, there is the question of how long our Nation can endure early mandatory retirement. As the retired elderly population grows in size, the balance between workers and retirees is tilting precariously. While there were seven workers paying social security taxes for every person collecting benefits in 1955, there were only four in 1960, and less than threee in 1975. Within 50 years, there will be less than two Americans working for each social security beneficiary. As older workers are forced or induced to retire, they place an even greater strain on the already overburdened social security system.

In closing, I would like to state that the citizens of Los Angeles on April 5, 1977, approved Charter Amendment No. 1 which abolished the mandatory retirement age of 70 for Los Angeles city employees. This amendment will allow city employees, upon reaching the age of 70 years the option of continuing to work or retire.

As a representative from Los Angeles, I am proud to claim that my city was the first, by voter referendum, to abolish mandatory retirement for city employees. I believe that this is an indication of the way the public feels about this issue. I am hopeful that Congress will follow Los Angeles' lead by enacting H.R. 5383.

Mr. GRASSLEY. Mr. Chairman, I join with my colleagues from the Select Committee on Aging in support of H.R. 5383—legislation to amend the Age Discrimination in Employment Act of 1967 to further protect older Americans from discrimination in employment.

This legislation, designed to prohibit age discribination in employment, presently provides protection for workers aged 40–65. H.R. 5383, in recognition of conspicuous demographic changes; increased economic strains and a growing concern for civil liberties, would expand the current provisions of the Age Discrimination in Employment Act to extend coverage for workers in the non-Federal sector to age 70. This provision is effective 180 days after enactment. In compliance with its intention to provide equal protection for all non-Federal workers to age 70, H.R. 5383 includes a provision to clarify section 4(f)(2) of the Age Discrimination in Employment Act. Presently, this section allows for an exemption from the protections of the Act where bona fide pension plans and seniority systems are existent. H.R. 5383 will correct this injustice by prohibiting the compulsory retirement of persons covered by the Age Discrimination in Employment Act. In recognition of labor and management concerns, collectively bargained agreements, affecting those persons aged 65 through 70, will be permitted to defer mandatory retirement provisions for 2 years or the termination of the agreement, whichever occurs first. In order to qualify for the delay, collectively bargained agreements must be in effect at least 30 days prior to enactment of the legislation. Nonunion employee benefit plans will not, however, be extended a grace period for compliance with amendments to section 4(f)(2).

In addition, H.R. 5385 eliminates mandatory retirement and other age discrimination in Federal employment, including job advancement and hiring. Such provision must be adhered to, not withstanding any other provision of the law.

The forced retirement of an individual based solely on age is a discriminatory policy as prejudicial as discrimination on the basis of race, religion, sex or national origin. Arbitrary retirement policies, based solely on age, deny individual freedom of choice and are in conflict with the objectives of the Bill of Rights. There are almost 23 million persons aged 65 and over in our Nation today. The elderly population is growing at a rate nearly three times that of the general population. If this trend continues, as is expected, the year 2000 will find our Nation with a population of 31 million elderly persons. Several studies and testimony before the Select Committee on Aging indicate that many persons look forward to the day they are able to retire. The Civil Service Commission reports, for instance, that the numbers and percentage of persons retiring before reaching the age 70 limit have risen substantially in recent years. In 1976, the retirement age for such employees was 58.2. Testimony received from large corporations also confirmed the trend towards early retirement. In light of these observations we must be certain to consider the rights of those persons who desire to remain employed beyond the current retirement ages. For many, a job represents a source of self-fulfillment, status, contact with others and mental activity. Indeed, the American Medical Association's Committee on Aging argues that the health of an individual is seriously threatened when retirement is mandated on the basis of age. Enforced idleness, according to the association, robs those affected of the will to live full, well-rounded lives and encourages atrophy and decay.

Financial difficulties for an individual may certainly arise as a result of compulsory retirement. Surveys by the Department of Labor and the Social Security Administration reveal, in fact, that financial benefits provided by the social security system do not begin to approach the income earned by workers prior to retirement. It is estimated that the medium replacement rate for workers with a private pension to supplement their social security benefits was about 50 percent of their total earnings in the three highest paid years. The replacement rate for those receiving social security only would, of course, be substantially lower. The erosive effects of inflation on senior citizens living on fixed incomes is especially strident. In 1976, nearly 16 percent of those aged 65 and over, 3.3 million persons, lived on incomes below the poverty level. Rapidly spiraling costs for medicine and food—for which the elderly spend a greater portion of their income than does the general public—will probably cause an increase in these figures in the future.

In closing, I wish to emphasize that older Americans who continue to contribute their talents to society have demonstrated the potential for this under utilized resource. Let us strive to guarantee them a life of security and independence through equitable employment policies.

Ms. OAKAR. Mr. Chairman, as a member of the Select Committee on Aging, I have had the privilege of attending the extensive hearings that this committee held on age-based mandatory retirement. The physical and social costs of this insidous form of discrimination were well documented in these hearings. We heard testimony from many witnesses about the personal tragedies both their own and those of others, which were directly attributable to mandatory retirement because of age.

One particular witness who testified at the committee's field hearings in Cleveland was most poignant in describing his efforts to fight the mandatory retirement policies of his place of employment. A vigorous, healthy man, fully capable of carrying on his work, was forced to retire. He protested and is still protesting. It is difficult for him to understand why and as we heard his testimony, it was difficult for us to understand why he was forced to retire.

We on the committee view this legislation as a pioneer effort to, not only assist those who want to remain "on the job," but to change the general attitude towards the older worker. We want to eliminate the stereotype of the older worker as someone less than capable of performing his or her job; as someone who is feebleminded and worthless. Most often the older American on the job is creative, industrious and trustworthy.

Another point I would like to emphasize, Mr. Chairman, is that this legislation will not, and I repeat will not, limit an individual's rights to choose an early retirement, if he or she so wishes. The right of an older worker, who is willing and able to work, to continue working regardless of age, is not one that can or must be traded for the right to retire voluntarily. It is very important that everyone understand that this bill gives people the option to remain on the job.

I urge my colleagues to vote for this bill. It is a major step toward ending one of the current forms of discrimination in this country—ageism.

Mr. OTTINGER. Mr. Chairman, I welcome the opportunity to rise in strong support of H.R. 5383, which would go far to eliminate age discrimination and mandatory retirement in the Federal Government and raise the minimum age at which workers in private business can be forced to retire from 65 to 70.

As an original sponsor of earlier and more far-reaching legislation, H.R. 65, I believe we should end mandatory retirement entirely and have supported wholeheartedly this kind of legislation since it was first introduced 3 years ago. The bill before us today is a compromise, but it is an important first step.

The unfortunate consequences of mandatory retirement can be seen everywhere. Forced retirement leads to great financial hardship among many senior citizens. The American Medical Association has said forced retirement is detrimental to the health and life expectancy of those who want to keep working.

Furthermore, forced retirement based on age is inequitable. While some workers are forced to retire, others—including those who make the laws—are not.

About 60,000 workers lose their jobs each year because of policies requiring retirement at age 65. Most of these would voluntarily choose to stop working anyway. But a significant portion would prefer to go on working. Passage of this bill will not force people to continue working at 65, but will give older workers the choice. Instead of forced retirement, Americans will be able to continue to earn a living and hold on to, what for many is, their primary satisfaction in life.

Mr. Chairman, I would just like to reiterate that passage of H.R. 5383 is a first step toward eliminating barriers to employment for older people. I hope other steps will follow, including eliminating mandatory retirement altogether, removing the earnings limitation for social security recipients, and increasing employment opportunities for older workers.

In conclusion, I would like to share with my colleagues and others a recent editorial from the News bulletin of the American Association of Retired Persons which represents more than 10 million Americans over age 55. I believe this article effectively refutes some of the most common arguments offered by those opposing eliminating mandatory retirement.

MANDATORY RETIREMENT MYTHS

Our long struggle to end the practice of mandatory retirement in the United States appears near success. When Congress returns from its summer recess, it is expected to vote on legislation which may mark the beginning of the end of age discrimination in employment in the same manner that racial and sexual discrimination is now barred.

Let it be understood that our leadership in this effort in no way implies that we are opposed to retirement. Retirement, we believe, can be one of the most rewarding, satisfying periods of life, for those who want it, can afford it—and freely choose it.

But to deny work to those who want it, need it—and are fully capable of doing it—solely on the basis of age is a denial of a fundamental human right.

While growing public and Congressional support for our position indicates positive action soon, some elements of business and labor remain opposed, using in their campaign of resistance a number of myths and misconceptions about the labor force and the abilities and attitudes of older workers To set the record straight, here are their key arguments and our responses.

Myth: Mandatory retirement is necessary to open up job opportunities for younger people.

Reality: Forcing 100 skilled, experienced older workers to retire at age 65 does not guarantee 100 jobs for less-skilled younger workers, particularly the unskilled young people who are the greatest victims of unemployment. Nor does an end to mandatory retirement mean that many job opportunities for the young would be lost. Most older people, given a free choice, would still retire at around 65. Rather than accepting this persistent and pernicious myth and playing one age group off against another, we believe our nation should be striving to create enough jobs so that all Americans can continue to be productive for as long as they are able and want to be.

Myth: Mandatory retirement is the easiest, most "humane" way to weed out incompetent older workers.

Reality: It may be easy for personnel managers, since it helps them avoid having to make difficult, case-by-case personnel decisions. But it is certainly not "humane" to force people to give up their livelihoods—with the resultant implied stigma of incompetence and the very real loss of income—merely because they have reached an arbitrary age which has nothing to do with ability or attitude. Managers daily evaluate their employes on the basis of job ability, performance, attitude and attendance. Why is it perfectly proper to judge workers on that basis at age 25, 35, 45, 55, and even 64, but suddenly wrong when they reach their 65th birthday? Older Americans are willing to be evaluated on the same basis as younger employes and are willing to let their performance be a guide as to when they should retire. And that's the way it should be.

Myth: Ending mandatory retirement would create havoc with the nation's private pension plans.

Reality: Since some people would choose not to retire at age 65 if mandatory retirement were ended, there would be less demand on pension funds and continued contributions. This would benefit, rather than damage, the pension plans by making them more solvent. And since a number of major companies without mandatory retirement provisions still manage to maintain good pension plans it is obvious that the stability and solvency of a pension plan does not require a mandatory retirement age.

Myth: Unions should have the right to use a mandatory retirement age as a "bargaining chip" in collective bargaining with management.

Reality: Unions are prohibited from discriminating on the basis of race, religion or sex in collective bargaining. Why should they be allowed to practice age discrimination by bargaining away a person's opportunity to earn a livelihood merely because of age? In recent months several unions—including the United Steelworkers of America—have made important strides toward flexible retirement policies for their members. We hope that their colleagues in organized labor will see the wisdom of this approach.

Beyond the unfair burden mandatory retirement places on those who want and need to work, we believe the practice is a primary source of other forms of "ageism" in our society. Since Congress will be considering several bills on this issue amid continuing efforts by some to sell the myths as realities, it is important for you to express your views now. A brief note to your Congressional representatives can help liberate not only those facing forced retirement in the future, but also all older Americans from the stigma that an arbitrary age defines an end to productivity.

Mr. FRENZEL. Mr. Chairman, H.R. 5383 has been described as a bill to remove mandatory retirement in the public sector and to increase the age limit of mandatory retirement in the private sector. As drafted, the bill was an attempt to reduce age discrimination in both sectors, and certainly none of us is against that.

Unfortunately, whenever we make an abrupt change in the law in the name of economic equity for one group, we frequently cause disruptions in other areas of the economy. In the case of this particular bill, I do not believe the committee has investigated sufficiently the economic disruptions that will occur. This does not mean that the bill should not be passed, but it does mean that it should have been passed with greater care, and probably the effects of this bill should have been phased in over a longer period of time so as to create the very least economic disruption.

Certainly it is a good idea to encourage productive work beyond the age of 65. It is also true that those who still wish to retire at 65 will be able to do so, and perhaps this will be a majority of persons reaching age 65. Our public and private pensions allow most Americans to retire with some dignity. Those who want to work past the age of 65 and are able to do so should, of course, have the opportunity.

However, the affect of mandatory retirement at age 65 has been to give to younger and middle-aged employees, particularly women and minority workers, better chances for better jobs and has allowed them an opportunity to upgrade their positions. The importance of turnover in employment, if we are to provide equal opportunity, cannot be overemphasized.

Invariably when any President suggests a reorganization which will cause a reduction in the total Federal force he says that the reduction will be accomplished through attrition rather than through lay offs. While some attrition is caused by people moving from job to job, the lion's share comes from retirements. With the retirement age being absolute in Federal employment, attrition is likely to be slowed markedly.

Federal employment may be mentally onerous, but very little of it is physically debilitating, and many of our Federal employees will be able to work past age 65 and will want to work past age 65. Without attrition, not only will reductions be impossible, but new hiring will be very difficult. The same is true in our private sector. Again, many employees will want to retire at 65, but where the work is not physically strenuous, the 65-year-old retirees will be less numerous. Where there are rules of tenure or seniority, and firings for cause are very difficult, and where the industry is not a growth industry, it will be extremely difficult to work new employees into the system, simply because there will be no vacancies.

I suppose the case of higher education is the most dramatic example. I believe there will be very little faculty turnover without mandatory retirement. This means that younger members of the faculty, who are already having difficulties in becoming tenured because of the declining population, will have another obstacle placed in their path. Those who have worked hard to prepare themselves for a career in education are going to find particular difficulties.

Because of the need to furnish employment opportunities on an equal basis, both to the young and to the old, I would have been happier if this bill could have provided for a phase-in of the raising of the retirement age so that our economy would be able to adapt to the changes over a period of years rather than to suffer the immediate dislocation of the full effect of this law.

For example, one company, Sears and Roebuck, basing its assumptions that only one-third of their employees would choose to continue working after age 65, predicts that at the end of the first 5-year period, 20,000 job change opportunities would be lost and the company's new hiring rate would be reduced by 7 percent. They also predict that national job opportunities would be reduced proportionately.

Because I am so concerned about the immediate disruptive effects of this law, I will support Mr. ERLENBORN's amendment to delay its effect for 2 years. In this time period I would hope that Congress could look into this matter more closely and perhaps make important adjustments in the law before its effective date.

Finally, I do support the change of the present mandatory retirement system, because I believe that it is a form of age discrimination. Although I will vote for the bill, I am extremely worried about the abrupt change and the severe economic dislocation it will cause in the first 5 years.

I wish the committee had looked into this problem in greater detail so that we would not be creating a whole new set of problems as we are solving an old set.

Mr. SANTINI. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination Act Amendments of 1977.

This bill makes long-overdue changes in the Age Discrimination in Employment Act of 1967, rightfully prohibiting age discrimination in such matters as hiring, job retention, compensation, and privileges of employment.

I am especially supportive of the provision dealing with mandatory retirement.

It has always been my conviction that performance, not age, should be the only criteria for assessing a person's qualifications for continued employment.

Growing old, after all, is a fact of life—something we must all face sooner or later.

Yet, because someone reaches their 65th birthday does not mean they suddenly lose all skills, knowledge, and ambition in their chosen profession. On the contrary, the old pros of many professions are often the most valuable and knowledgeable.

Forcing them to retire is a needless waste of both manpower and brainpower. It robs able-bodied workers of the freedom to pursue their livelihoods and remain as productive members of our society. Worst of all, it does irreparable damage to their dignity and self-esteem.

The fact is we would be doing an economic as well as personal injustice to millions of Americans if we allow mandatory retirement to continue.

Instead of putting down our senior citizens, let us tell them they are appreciated and needed.

Instead of limiting and discouraging our seniors, let us provide them with incentives and encouragement to lead active and productive lives.

And, instead of forcing them to retire, let us give them the chance to prove they can do the job.

Mr. Chairman, H.R. 5383 accomplishes all of this and more. I urge prompt passage of this much-needed legislation.

Mr. DERWINSKI. Mr. Chairman, the amendment offered by my committee colleague who chairs the Subcommittee on Compensation and Employee Benefits cleanly and effectively eliminates mandatory retirement of Federal employees.

While this is the apparent intent of H.R. 5383 as it came from the Committee on Education and Labor, questions were raised about the broad implication of its general language. It is my understanding an agreement has been reached between our two committees on the part of the bill relating to Federal employment which comes under our jurisdiction.

This amendment simply repeals the law which requires the forced retirement of a Federal employee who has reached age 70 with 15 years of Federal service. This is in keeping with the purpose of H.R. 5383.

Mr. Chairman, I have felt for some time that forced retirement based solely on chronological age is an arbitrary and impractical condition of Federal employment. Ability and competency ought to be the controlling criteria for continued employment. Federal managers should be urged to apply these standards to employees at all age levels, and they should not take this legislation as a signal that Congress condones hangers-on and deadwood.

The Civil Service Commission supports this amendment. Testifying before our subcommittee on this subject, Commission Chairman Alan K. Campbell said: "One of the basic principles of the civil service is that employment should be based on merit and be free of discrimination because of race, color, creed, sex, national origin, or age. Repeal of the mandatory age 70 retirement provision would certainly be more in keeping with principles of true merit and equal employment opportunity."

I agree, and will go a step further by cautioning Federal managers against using age as a discriminating factor for entrance into Federal service. It is no secret that agencies often find subtle ways to avoid hiring persons in their 50's or 60's despite their outstanding qualifications. I recommend that Federal hiring practices be closely monitored to insure that type of discrimination does not flourish.

Mr. ROONEY. Mr. Chairman, I rise in strong support of H.R. 5383 and want to associate myself with the remarks of the distinguished chairman of the Select Committee on Aging, the gentleman from Florida, Congressman PEPPER.

As I understand this bill, mandatory retirement on account of age would be eliminated in Federal employment and the upper age limit in the Age Discrimination in Employment Act would be raised from 65 to 70 for all non-Federal employees covered by that act.

We recognize and respect the desire of many Americans to retire at age 65 or to choose retirement at much earlier ages. This bill does not interfere with that option in any way. But I think we must also recognize the psychological, social, and economic importance of work for many older people. It seems incredible to me that while the national costs of maintaining incomes and health care for the retired are rapidly moving upward and the financial strain on the social security system is steadily increasing, many older individuals willing and able to work are subjected to mandatory retirement or are arbitrarily excluded from job opportunities solely on the basis of their chronological age. While many older Americans look forward happily to the day when they may enjoy leisure activities, it is senseless and unfair, in my opinion, to deny work to those older individuals who desire to remain in the active American work force.

While some of the arguments against eliminating mandatory retirement may have merit, particularly in an economy with an unemployment rate of 7.1 percent, I am still convinced that it is grossly unfair either to deny or terminate a person's employment soley on the basis of age, and that this consideration should outweigh all arguments to the contrary. Performance, not age or any other arbitrary classification, must be the sole criterion of a person's ability to do a job.

The Chairman of the Civil Service Commission has testified that repeal of the mandatory retirement age of 70 would have no serious adverse effect on the management of the Federal Government and would certainly be more in keeping with the fundamental principles of merit and equal employment opportunity espoused by the Civil Service

Commission. As far as non-Federal employees are concerned, this bill offers a reasonable compromise between the views of those who believe the upper age limit in the Age Discrimination in Employment Act should be removed completely and those who feel too uncertain of the consequences of change in the present limit of 65.

In today's competitive job market, I believe the Congress has an obligation to insure that all Americans, regardless of age, are on an equal footing. H.R. 5383 is a step in that direction. I strongly support this bill and urge its prompt passage.

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 5383, legislation that will end mandatory retirement based solely on age for most Federal employees and raise the minimum age at which workers in the private sector can be forced to retire from 65 to 70.

As a sponsor of this legislation, I believe the bill will correct an injustice that has long been inflicted on those senior Americans who want to continue working past the age of 65. It is my feeling that competence—not age—should be the criterion when it comes to holding a job.

Specifically, this legislation will end mandatory retirement in most Federal employment, currently at age 70, as well as age discrimination in hiring and advancement. The bill raises from 65 to 70 the upper age limit for retirement in the private sector, thus giving an additional 5 years of protection against mandatory retirement.

The bill further prohibits the use of pension plans for seniority systems to force the retirement of workers in the protected age group. Benefit plans, via collective bargaining, with forced retirement ages between 65 and 70 are given a grace period of up to 2 years to comply. H.R. 5383 also mandates a study, to be presented to the Congress within 2 years, on the impact of involuntary retirement and on the feasibility of eliminating totally the upper age limit for non-Federal workers.

Mandatory retirement not only robs productive Americans of their livelihood, but often drives many elderly persons into poverty and depression. Mandatory retirement deprives us of the talents of our senior citizens. It equates the age of 65 with senility. Mandatory retirement is pure discrimination, discrimination on the basis of age.

I urge my colleagues to support this long overdue legislation.

Mr. LEGGETT. Mr. Chairman, I rise to voice my support for H.R. 5383, legislation to amend the Age Discrimination in Employment Act. This long needed measure would abolish the upper age limit for most Federal employees and extend the upper age limit of protection of the act to non-Federal employees from the current level of age 65 to age 70, as well as accomplish other purposes.

Let me first commend both the Committee on Education and Labor and the Select Committee on Aging for their thorough studies of this issue and the way they have skillfully focused national attention on the evils of our current laws, customs and policies concerning mandatory retirement.

Mandatory retirement represents one of the last vestiges of legally condoned employment discrimination in our country and must be abolished if the elderly are to enjoy the full civil rights accorded other citizens. Mr. Chairman, this discrimination takes place because we force otherwise productive workers to retire at an arbitrarily established age limit. When the Social Security Act was passed in 1935, 65 was established as the age at which pension would become payable. This determination was based in part on the then average life expectancy of 61.7 years. When the Congress enacted the Age Discrimination in Employment Act in 1967, we set the upper limit for protection by the act at 65. The age of 65 was chosen for no better reason than that it was the customary retirement age.

Today, average life expectancy is 72.5 years and many qualified workers want to work beyond 65 but are forced into a life of idleness. For too many older citizens, forced retirement is a traumatic experience. Medical experts tell us that retirement, especially forced retirement, can impair the health of many individuals whose jobs represent a major source of status, creative satisfaction, social relationships, and self-respect. Retirement at too early an age can cause isolation and loneliness, often resulting in depression and many believe can accelerate the aging process. Mr. Chairman, Government policies which lead to such mental, physical, and I believe, spiritual deterioration, cannot be justified and ought clearly to be ended forthwith.

In addition to humanitarian reasons for doing away with forced retirement at an arbitrarily defined age, there are forceful economic reasons for doing so. Many of our older citizens need the income from full- or part-time employment to support themselves and their families. To force them to retire, often is equivalent to forcing them into poverty. Frankly, for many of our older citizens, the right to work is basic to the right to survive.

Mr. Chairman, our social security system is in dire straights and too many privately financed retirement systems are experiencing similar pressures. With declining birth rates, coupled with increasing retirement rates, as well as earlier retirement, fewer workers are supporting more and more retirees. A few years ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by 2030 the ratio will approach 2 to 1. The abolishment of mandatory retirement would help alleviate this lopsided ratio and help provide a more sound retirement system. Ideally, those persons we now force into idleness should be permitted to continue in the work force, if they wish to do so, paying social security taxes and contributing to retirement plans, rather than being forced to join the retirement ranks collecting cash benefits. Surely, we would all be better off.

There is one other economic factor which the Congress must be cognizant of as we debate this bill, and that is productivity. Needless to say, over the years many private and public employers have conducted studies of the productivity of older employees. Many of these research studies indicate that older workers are as good or better than their younger coworkers with regard to dependability, judgment, work quality, work volume, human relations, and absenteeism; and older workers often have fewer accidents on the job. Many of these studies clearly demonstrate that there is more variation in work ability within the same age group than between age groups, a finding which clearly justifies judging workers on competency, not age. We must, of course, recognize that the capabilities of some workers declines with age, and this varies with the requirements of each job. Nevertheless, it is important that we all recognize that even as the capability of a worker declines with age, this decline in some respects of the individual's ability may be more than compensated for by attributes that often increase with age, for example, experience and judgment. Surely, in a city where George Allen's Washington Redskins are adored, my colleagues will recognize the essential truth of this statement, despite the opening day loss to the New York Giants.

In conclusion, Mr. Chairman, I believe we should allow our older citizens to choose when they wish to stop working. We have no good reason to put an otherwise productive person on the shelf. The time has come for the Congress to end the waste of the valuable national resource our older workers represent.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination in Employment Act amendments bill which would abolish any mandatory retirement age for Federal employees. In the 95th Congress, a total of 167 Members have sponsored legislation which eliminates or restricts mandatory retirement and I believe that the actions of the Congress on this issue reflect the mood of the people of America, who, according to a recent opinion poll, are generally opposed to mandatory retirement.

Mandatory retirement may be defined as the involuntary separation of a person from a particular job because of age. Such separation is discriminatory against older workers and is contrary to equal employment opportunity.

Mr. Chairman, I can see no reason why an active, competent adult should be forced into retirement at the arbitrary age of 65. Chronological age is a poor indicator of ability to perform a job. Age also has little to do with variations in individual capabilities. Our older workers bring years of experience and expertise to their professions. I feel that is a human and economic waste to lay off an older worker merely because an employer's pension plan arbitrarily designates 65 as the retirement age. Not only does mandatory retirement often result in a loss of role and income for individuals, but since employment represents a major source of status, creative satisfaction, social relationships, and self-respect for many people, mandatory retirement can deprive or discourage an individual's physical and mental activity.

Mr. Chairman, additionally I would like to discuss the mandatory retirement issue from a black perspective. I represent a district in Cleveland that is largely poor and black. For this reason I am especially concerned about the impact of mandatory retirement on the black elderly. I assure you that many black seniors are not in the position to contemplate the "luxury" of retirement, especially during this period of skyrocketing inflation. For example, the elderly low income in my district have been devastated by the rapidly rising cost of utilities.

Therefore, mandatory retirement to the black elderly becomes a useless phase when faced with years of idle poverty. Moreover, many black elderly are not in pension and retirement programs. Mr. Speaker, let me emphasize that black senior citizens are primarily concerned about income and survival and will most always choose to continue to work for a full salary, unless poor health or family considerations intervene.

In conclusion, Mr. Chairman, I feel that the mandatory retirement age should be abolished to allow those active senior citizens, who out of necessity or desire, wish to continue employment, the right to do so. I urge my colleagues to join me in supporting this important piece of legislation.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BINGHAM, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age, pursuant to House Resolution 738, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. FINDLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 359, nays 4, answered "present" 1, not voting 70, as follows:

[Roll No. 582]

YEAS—359

Abdnor
Addabbo
Akaka
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clay
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gammage
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
Rudd
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton
Steed
Steers
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Trible
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Bedell
Gephardt
Patterson
Pattison

ANSWERED "PRESENT"—1

Erlenborn

NOT VOTING—70

Alexander
Andrews, N. Dak.
Armstrong
Ashley
Baucus
Bolling
Bonior
Brooks
Burlison, Mo.
Carney
Clausen, Don H.
Clawson, Del
Cleveland
Conyers
Cornwell
Cotter
Dent
Derwinski
Eckhardt
Edgar
Edwards, Ala.
Evans, Colo.
Evans, Ga.
Forsythe
Frenzel
Frey
Goldwater
Hightower
Holland
Horton
Howard
Jacobs
Johnson, Calif.
Jones, Tenn.
Lederer
Lent
McDade
Mann
Mazzoli
Murphy N. Y.
Nichols
Pettis
Poage
Quillen
Rhodes
Richmond
Roncalio
Rose
Rousselot
Runnels
Sikes
Smith, Iowa
St Germain
Stangeland
Stark
Steiger
Stockman
Teague
Thornton
Traxler
Treen
Tucker
Ullman
Walsh
Whalen
Whitehurst
Whitten
Wilson, Bob
Wolff
Wright

The Clerk announced the following pairs:

Mr. Alexander with Mr. Roncalio.
Mr. Teague with Mr. Sikes.
Mr. Richmond with Mr. Hightower.
Mr. Nichols with Mr. Cornwell.
Mr. Ullman with Mr. Del Clawson.
Mr. Brooks with Mr. Rousselot.
Mr. Dent with Mr. Johnson of California.
Mr. St Germain with Mr. Whitten.
Mr. Wolff with Mr. Frenzel.
Mr. Rhodes with Mr. Jones of Tennessee.
Mr. Wright with Mr. Frey.
Mr. Ashley with Mr. Smith of Iowa.
Mr. Conyers with Mr. Edgar.
Mr. Mazzoli with Mr. Whalen.
Mr. Treen with Mr. Goldwater.
Mr. Carney with Mr. Lent.
Mr. Bob Wilson with Mr. Baucus.
Mr. Stangeland with Mr. Derwinski.
Mr. Traxler with Mr. Edwards of Alabama.
Mr. Stockman with Mr. Quillen.
Mr. McDade with Mr. Cleveland.
Mr. Murphy of New York with Mr. Tucker.
Mr. Forsythe with Mr. Don H. Clausen.
Mr. Cotter with Mr. Holland.
Mr. Horton with Mr. Runnels.
Mr. Walsh with Mr. Whitehurst.
Mr. Steiger with Mr. Thornton.
Mr. Andrews of North Dakota with Mr. Mann.
Mr. Lederer with Mr. Bonior.
Mr. Howard with Mr. Burlison of Missouri.
Mr. Jacobs with Mr. Evans of Georgia.
Mr. Eckhardt with Mr. Rose.
Mr. Traxler with Mr. Evans of Colorado.

Mr. BEDELL changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

TITLE AMENDMENT

The SPEAKER pro tempore (Mr. NOLAN). The Clerk will report, the title amendment to the bill.

The Clerk read as follows:

Title amendment: Amend the title so as to read: "A bill to amend the Age Discrimination in Employment Act of 1967 to provide that Federal employees who are 40 years of age or older shall be protected by the provisions of section 15 of such Act, and for other purposes.".

AMENDMENT OFFERED BY MR HAWKINS TO THE TITLE AMENDMENT

Mr. HAWKINS. Mr. Speaker, I offer an amendment to the title amendment.

The Clerk read as follows:

Amendment offered by Mr. HAWKINS to the title amendment: Page 7, strike out the matter following line 5 and insert in lieu thereof the following:

Amend the title so as to read as follows: "A bill to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes.".

The amendment to the title amendment was agreed to.

The title amendment, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5383, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time to inquire of the distinguished majority whip if he will give us the program for the balance of the day and the program for next week.

Mr. BRADEMAS. Mr. Speaker, I shall be happy to do so, if the distinguished minority whip will yield.

Mr. MICHEL. I yield to the majority whip.

Mr. BRADEMAS. Mr. Speaker, on Monday of next week the House will meet at noon for the consideration of six bills on the District Calendar, as follows:

H.R. 6536, D.C. Retirement Act;

S. 1060, George Washington University Charter Restatement Act;

H.R. 5813, a bill to revise the annual Federal payment for District water and sewer service;

H.R. 7747, pretrial detention bill;

H.R. 7766, a bill to permit the District of Columbia to agree to joint airspace with the Postal Service; and

H.R. 6530, a bill to provide authority to borrow from the U.S. Treasury.

Following consideration of those bills, on Monday we will take up six bills under suspension of the rules. Votes on suspensions will be postponed until the end of all suspensions. The bills under suspension of the rules are as follows:

H.R. 6693, child abuse amendments;

H.R. 6214, Library of Congress Center for the Book;

H. Con. Res. 60, Martin Luther King bust in Capitol;

S. Con. Res. 25, Ernest Gruening statue in Statuary Hall;

H.R. 7132, establishment of U.S. Postal Service Arbitration Board; and

H. Con. Res. 277, Saturday mail delivery.

Following the votes on the suspensions, the House will consider House Resolution 760, to authorize Assassinations Committee to apply to courts.

On Tuesday, the House will also meet at noon, and 12 bills will be considered under suspension of the rules. Votes on suspensions will be postponed until the end of all suspensions. Those bills considered under suspension of the rules are as follows:

H.R. 5645, Civil Rights Commission Authorization Act of 1977, as amended;

H.R. 7769, authorize admission records for Indochinese refugees;

H. Res. 724, concern for disregard of human rights in Cambodia;

H.J. Res. 386, Bicentennial commemorative medals;

H.R. 2664, Indian Claims Act amendments;

S. 693, Montana Wilderness Act;

H.R. 7744, river and harbor improvements;

H.R. 7691, Federal Grant and Cooperative Agreement Act;

S. 213, to amend Accounting and Auditing Act;

H.R. 6257, Federal Program Information Act;

H.R. 8588, establish Statutory Offices of Inspector General; and

H.R. 4140, extend Fishermen's Protective Act.

Then the House will consider H.R. 8638, Nuclear Antiproliferation Act of 1977, with votes on amendments and the bill.

On Wednesday the House will meet at noon and will take up the following legislation:

House Resolution 70, to establish a Select Committee on Population;

A bill to provide for a temporary increase in the debt limit, subject to a rule being granted; and

H.R. 6566, ERDA authorizations for national security programs for fiscal year 1978, with votes on amendments and the bill.

On Thursday the House will meet at 10 o'clock a.m. and will consider the following bills:

H.R. 7010, compensation for victims of crime, with votes on amendments and the bill; and

H.R. 3816, FTC Amendments of 1977, under an open rule, with 1 hour of debate.

On Friday the House will also meet at 10 a.m. for the consideration of the following bills:

H.R. 2176, Federal Banking Agency Audit Act, with votes on amendments and the bill; and

H.R. 6951, Council on Wage and Price Stability, under an open rule, with 1 hour of debate.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. Speaker, I thank my colleague, the distinguished minority whip.

Mr. MICHEL. Mr. Speaker, may I make this further inquiry: For the balance of the day, I understand there are two conference reports that will be brought up?

Mr. BRADEMAS. The gentleman is correct. One is on the Library Services and Construction Act and the other one is on juvenile justice.

Mr. MICHEL. And that will conclude our business for today; is that correct?

Mr. BRADEMAS. The gentleman is correct.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 26, 1977

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON S. 602, LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1977

Mr. BRADEMAS. Mr. Speaker, I call up the conference report of the Senate bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 19, 1977.)

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that after negotiations between the Committee on Human Resources of the other body and the Committee on Education and Labor on S. 602, the Library Services and Construction Act Amendments of 1977, we have reached an agreement which is embodied in the conference report now under consideration.

Mr. Speaker, I want first to express appreciation for the efforts of the members of the committee who have worked and cooperated in bringing this matter to a successful resolution.

In particular, Mr. Speaker, I would like to thank the distinguished chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS) and the distinguished ranking minority member of the Education and Labor Committee (Mr. QUIE) for their important contributions to this bill. Let me also thank the other members of the conference, Mr. BEARD of Rhode Island and Mr. JEFFORDS of Vermont for their important efforts.

Mr. Speaker, I would be remiss if I did not also thank the Members from the other body for their contributions, in particular the major sponsor of the bill there, the distinguished senior Senator from Rhode Island (Mr. PELL) and the distinguished senior Senator from New York (Mr. JAVITS).

Mr. Speaker, let me make these brief observations. The conference report is similar in many respects to the bill passed by the House on March 21, 1977, by a vote of 368 to 1. The House bill was ordered reported by the Subcommittee on Select Education, which I have the honor to chair, by a unanimous bipartisan vote. Further, the bill was reported from the Education and Labor Committee, again by a unanimous vote.

AUTHORIZATIONS

The conference report extends for 5 more years—1 year more than the House bill—the authorizations for the Library Services and Construction Act and provides special assistance for urban libraries.

The total authorization for fiscal year 1978 is $125 million, the same total authorized in the House bill.

Mr. Speaker, let me describe briefly the amounts authorized by the conference agreement for each of the titles under the Library Services and Construction Act.

The authorization of appropriations for title I of the act agreed to by the conferees for fiscal year 1978 is $110 million, the same total authorized by the House bill and, I might add, a figure of $27,150,000 below the amount authorized for the current fiscal year. Slight increases in authorizations during the succeeding fiscal years are provided by the conference agreement, as did the measure passed by the House. The conference report provides $140 million for the 1979 fiscal year with $150 million for each of the fiscal years 1980 through 1982. The House, in its bill, included $130 million for fiscal 1979 and such sums as may be necessary for the remaining fiscal years.

These funds will go for the acquisition of books, materials, and equipment as well as for paying salaries and operating expenses. Under title I, States also receive funds to extend library services to those whose access to them is limited, such as the poor, the handicapped, and people who live in remote areas. In addition, the title strengthens the capacity of State library agencies to provide library services.

Mr. Speaker, title II of the Library Services and Construction Act authorizes grants for public library construction and alteration and remodeling of library buildings. The conference report provides such sums as may be necessary for each of the next 4 fiscal years for this title of the act, as did the bill passed by the House, and $97 million for the 1982 fiscal year.

Mr. Speaker, title II of the act has not been funded in recent years but I would note that a substantial backlog of public library construction projects has developed and that continuation of this provision of the act is needed.

I shall now say a word about the authorizations for title III of the act, which encourages cooperation and coordination among libraries of all types. The authorizations for this title agreed to in conference are $15 million for the 1978 fiscal year, again, the same amount provided in the House bill, as is the authorization set for fiscal year 1979 at $20 million. Twenty million dollars are also authorized for each of fiscal years 1980 through 1982. The House bill set authorizations at "such sums" for the fiscal years after 1979.

Finally, Mr. Speaker, the conference agreement authorizes, as did the House bill, such sums as Congress may deem necessary for title IV of the Library Services and Construction Act, under which grants are authorized for the provision of library services to the elderly. Title IV has not yet been funded but, as pointed out in the report of the committee on this measure, there is a genuine need for a program that is targeted on providing library services to older Americans.

ADMINISTRATIVE COSTS

Mr. Speaker, the House bill extending the Library Services and Construction Act made a particular modification in existing law which has been retained in the conference agreement. I refer to language requiring that the administrative moneys expended by the States in carrying out programs under the act be matched by the States from other than Federal funds.

The provision is intended to encourage greater use of State funds for administrative expenses rather than diverting Federal funds meant for library programs and services.

URBAN LIBRARIES

The conference agreement contains, Mr. Speaker, an amendment to title I of the Library Services and Construction Act, which is not contained in the House bill, an amendment which creates a method for assisting urban libraries. The new section provides that once appropriations for title I of the act exceed $60 million, a portion of the moneys beyond that figure will be reserved for urban libraries.

I would refer at this point, Mr. Speaker, to testimony given earlier this year before the Subcommittee on Select Education in which witnesses spoke of the severe financial straits facing many urban public libraries forcing them to close branches, curtail book purchases and hours of operation and discharge employees.

The conference agreement addresses this situation by providing that, in States with cities of populations of 100,000 or more individuals, where the aggregate population of such cities does not exceed 50 percent of the State's population, the amount reserved from appropriations in excess of $60 million for urban resource library purposes shall bear the same percentage as such urban population bears to the total population of the State. Where such urban population exceeds 50 percent of a State's population, 50 percent of the appropriations in excess of $60 million shall be reserved for urban resource library purposes. If a State has no city with a population of 100,000 or more individuals, it shall not be subject to the provisions of this subsection, and may use its share of the excess funds for the activities authorized by title I.

I would add here, Mr. Speaker, that the conferees on the Library Services and Construction Act Amendments of 1977 urge that the White House Conference on Library and Information Services, to be held in 1979, consider the unique needs of libraries in densely populated areas and isolated rural areas.

LIBRARY CONSTRUCTION

The conference agreement modifies title II of the Library Services and Construction Act for public library construction, by providing two new uses of funds for remodeling. These uses would be: First, to remove architectural barriers to the handicapped, and second, to make library structures more energy efficient. I would point out, Mr. Speaker, in view of the recent promulgation by the Department of Health, Education and Welfare of regulations implementing section 504 of the Rehabilitation Act of 1973 to prohibit discrimination against handicapped individuals in federally assisted programs, and in view of the national interest in conserving energy, the timeliness of these additions, which were not part of the bill passed by the House.

SERVICES TO THE HANDICAPPED

The conferees agreed also to revise the hold harmless base year date regarding library services to the handicapped from the 1971 fiscal year to the second preceding fiscal year for which a determination is made. This modification was accepted by the conferees from the Senate bill.

CONCLUSION

Mr. Speaker, I urge Members of the House to give their strong support to this measure to aid our Nation's public libraries.

Few programs of Federal assistance have won such widespread support as has the Library Services and Construction Act. Let me once more remind Members that the measure before us has enjoyed overwhelming bipartisan support during

consideration of the legislation earlier this year. I trust that there will be equally strong support on both sides of the aisle for the conference report before us.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am happy to yield to the distinguished chairman of the full Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I rise in strong support of the conference report on S. 602, providing for the needed extension of programs carried on under the Library Services and Construction Act.

Through the years, Mr. Speaker, the Committee on Education and Labor has brought many library bills to the floor, and these have consistently enjoyed widespread and bipartisan support. Certainly this is the case with regard to the Conference Report before us today.

I would like at this point to compliment the subcommittee chairman, JOHN BRADEMAS, who has worked diligently to bring to the House effective and expanded programs of assistance for public libraries. At the same time, I wish to commend the ranking minority member of the committee, AL QUIE, and all members of the committee on both sides of the aisle for their work on this legislation.

Mr. Speaker, the Library Services and Construction Act expires in just a few days on September 30. The conference report on S. 602 provides for a 5-year extension of the act, 1 additional year over what was proposed in the House bill. Specific dollar authorizations in the conference report total $892,000,000 over 5-year period.

An important provision in the conference report which was contained in the original House bill provides that States match the Federal funds spent for administrative costs with a like amount of non-Federal funds. This will insure optimum use of Federal moneys for direct library services.

Mr. Speaker, there were a number of provisions in the Senate version of this legislation which would have redirected library moneys in greater proportions to urban areas. Quite frankly, I did not believe there was sufficient evidence that measures as drastic as those proposed in the Senate version were necessary.

It also seemed to me that with the White House Conference on Library and Information Sciences coming up in the near future, it was unwise to make any major revisions in the act at this time.

Accordingly, we as House managers rejected most of the Senate amendments in this regard. The conference report however does contain an amendment to title I which will provide greater emphasis on the utilization of certain title I moneys for urban resource libraries.

Other provisions in the bill as approved in conference revise the hold harmless base year for library services to the handicapped and add additional uses for library construction moneys to include removal of architectural barriers to the handicapped and to make existing library structures more energy efficient.

Mr. Speaker, this is an excellent bill, and builds on the tradition established here in the Congress with respect to library legislation. Some of my colleagues will recall that the original Library Services Act was limited to rural areas of the Nation and it did not authorize assistance for library facilities.

The Committee on Education and Labor has been most attentive to this legislation through the years and to the needs to which it is addressed. Accordingly, a series of amendments have been enacted to broaden, improve and extend the original act.

The act was expanded to reach all areas of the country and funds were authorized to provide desperately needed assistance for the construction of public library facilities. In 1966 we expanded the act to authorize services for the physically handicapped, to enable the States to provide library services in State institutions, and to foster many forms of cooperation among libraries. The act was last amended in 1970.

We now have a 21-year record of limited Federal assistance to libraries under this act with a solid record of benefits derived from the stimulation of Federal grants matched in State and local tax effort. And this occurred without a hint of Federal control or stifling of intellectual freedom. There has been no compulsion or coercion of the Nation's 30,000 libraries. Indeed, this act has expanded freedom, not curtailed it. Some 17 million Americans have gained access to library services for the first time, and another 90,000,000 men, women, and children have benefited from better public libraries.

Mr. Speaker, there have been many accomplishments which have occurred under this act in Kentucky. Much of this success has been due to the admirable and untiring efforts of State and local librarians. For so many years our State was guided in library matters by a good friend and very able individual—Margaret Willis. Her influence is still being felt.

Now the libraries are under the able direction of Mrs. Barbara Williams, a former constituent of mine. I want to compliment all librarians in my home State, including those in public libraries, and in college and school libraries.

Despite our accomplishments, however, we are still far from meeting the needs identified in the existing Library Services Act and in fulfilling the promises of that act. This bill will help in achieving those goals and I urge its approval.

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1977 (S. 602)

	Fiscal years				
	1978	1979	1980	1981	1982
Title I—Grants for library services	$110,000,000	$140,000,000	$150,000,000	$150,000,000	$150,000,000
Title II—Grants for public library construction	Such sums	Such sums	Such sums	Such sums	97,000,000
Title III—Grants for interlibrary cooperation	15,000,000	20,000,000	20,000,000	20,000,000	20,000,000
Title IV—Older readers services	Such sums	Such sums	Such sums	Such sums	Such sums
Total	125,000,000	160,000,000	170,000,000	170,000,000	267,000,000
Grand total	892,000,000				

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am happy to yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I rise to support the conference report on S. 602, a bill to extend the Library Services and Construction Act through fiscal 1982. The Library Services and Construction Act is the only Federal program providing aid to the thousands of public libraries across the country. Since LSCA was enacted into law in the 84th Congress, there have been dramatic improvements in both the quality and availability of library services in this country. Originally LSCA was directed toward the problems of library services in rural areas and in more recent years, particularly in the 1970 extension of the act, the emphasis has been shifted to include assisting libraries in urban areas and those meeting the special needs of certain clienteles, including the handicapped, the low income, and those with limited English-speaking abilities.

The base of the act rests in title I which provides grants to States for allocation to local libraries for the establishment, extension, and operation of library programs.

Title II of the act, which has not been funded for several years supports public library construction. The demands for this title have become fewer as library services have been expanded and funds have become available through other sources, including revenue sharing and public works construction funds.

Title III provides grants for interlibrary cooperation. Although a small amount of money is allocated for this purpose, it may be the most important title of the bill because of its emphasis on cooperative efforts and the sharing of resources.

Title IV, added in 1973 in Public Law 93-29, provides grants to States for services to older readers. Regrettably, this title has never been funded.

The conference report before us today takes a further step toward recognizing the financial pressures which face major urban resource libraries. These are libraries which provide services to users throughout a major area, sometimes

even an entire State. Most are located in large cities. As the chairman has stated, the agreement adopted by the conferees provides that one-half of the appropriation in excess of $60 million shall be allocated within States for the exclusive use of libraries in those major urban areas. This is a fair compromise and one that does not destroy the interstate formula in the bill.

However, let me emphasize that there is still a great deal of concern on my part as well as by the other conferees with respect to the lack of service in rural areas across the country. For example, during deliberations on this legislation the U.S. Office of Education informed us that there were some 297 counties in the United States which have no library service of any sort. The greatest number of those counties are in the State of South Dakota, 44; however, the States of Indiana, Iowa, Minnesota, Missouri, North Dakota, Texas, and Virginia all have in excess of 20 counties in each State which lack public library services. It would be my expectation that State officials in those States should use funds under the Library Services Act to be certain that services are provided in those unserved areas as well as to assure that attention is given to the needs of major urban resource libraries as defined in S. 602.

States with counties lacking access to Public Library Services in Fiscal Year 1976

States:	*No. of Counties*
Alaska	1
Arkansas	3
Florida	5
Georgia	1
Indiana	42
Iowa	22
Kentucky	14
Minnesota	24
Missouri	36
Montana	1
Nevada	5
North Dakota	30
Oregon	13
South Dakota	44
Texas	21
Utah	2
Virginia	20
Washington	12
Wisconsin	1
Total	297

I would like also to call the attention of my colleagues to the inclusion in this bill of a new section 8 to LSCA which requires that States match on a dollar for dollar basis the amount of funds which are withheld for the purposes of State administration. This provision was in reaction to a recommendation made in an audit by the General Accounting Office and has been suggested as a positive way to assure that funds reach the local level, that State legislatures are adequately informed on the use of Federal funds, and that there is a State commitment to programs like LSCA. The provision in this act is very similar to provisions which have been included in other Federal education laws in recent years, including the Vocational Education Act and the Education of the Handicapped Act.

As Members will note, neither the Education and Labor Committee nor the Senate Human Resources Committee recommended any other major modifications in the Library Services Act other than the two already cited. This is a reflection of the feeling by the committee that the program has been doing a good job and, for the most part, has been administered quite well. I feel that the amendments which have been incorporated in this conference report do meet the major concerns which have been identified and brought to our attention, and will make the program even more effective during the next 5-year period.

I am also helpful that the forthcoming White House Conference on Libraries will further address the unique problems of service in rural and urban areas as well as those related to the information explosion which threatens to envelope us all and bring back to the Congress thoughtful recommendations in all of these areas.

I urge my colleagues to join in support of this conference report.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding. I want to rise in support of this particular conference report. I do have some questions on the next conference report, but I do want to indicate that I believe the conferees did an excellent job on this particular legislation.

Mr. BRADEMAS. I thank my colleague, the gentleman from Ohio (Mr. ASHBROOK).

Mr. JEFFORDS. Mr. Speaker, passage of S. 602, the Library Services and Construction Act Amendments of 1977, will mean the continuation of an essential program which has been helping to provide millions of Americans with informational and educational services through public libraries for over 20 years.

As many of you know, the purpose of the Library Services and Construction Act is to assist the States in the extension and the improvement of public library services, in the improvement of library services for certain groups such as the physically handicapped, in the construction of public libraries, and in promoting interlibrary cooperation among all types of libraries.

Title II of the Library Services and Construction Act authorizes funds for public library construction and renovation, but no funds have been appropriated since fiscal year 1973. S. 602 authorizes such sums as necessary for fiscal year 1978 through fiscal year 1981 and $97 million for fiscal year 1982. I am pleased that the conferees retained an amendment providing for two new uses of title II funds. These are to remove architectural barriers to the handicapped and to make library structures more energy efficient.

The new regulations implementing section 504 of the Rehabilitation Act of 1973 require that all activities and programs be made accessible to the handicapped. Many libraries in older buildings do not have even a single accessible entrance. In Vermont it is estimated that 202 public libraries are inaccessible to the handicapped, and that over $3 million would be required to make them accessible. I have introduced separate legislation to fund implementation of the 504 regulations. I also believe that existing authorities should be utilized to open up public buildings to our handicapped citizens. It is my fervent hope that Congress will fund LSCA title II. The inclusion of an amendment specifically stating that renovations for handicapped accessibility are eligible will make them a high priority under this program.

LSCA has been an unusually successful program. The passage of S. 602 is needed in order to extend LSCA past its present expiration date of September 30, 1977. I urge Congress to approve this bill quickly so that essential library service can continue to be provided to the American people.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

Mr. GOODLING. I have no requests for time.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 6111, JUVENILE JUSTICE AMENDMENTS OF 1977

Mr. ANDREWS of North Carolina. Mr. Speaker, I call up the conference report on the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of July 27, 1977.)

Mr. ANDREWS of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. ANDREWS) and the gentleman from Pennsylvania (Mr. GOODLING) are recognized for 30 minutes each.

The Chair recognizes the gentleman from North Carolina (Mr. ANDREWS).

Mr. ANDREWS of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we consider the conference report to extend and amend the Juvenile Justice and Delinquency Prevention Act of 1974. We have received the complete cooperation of the gentleman from Minnesota (Mr. QUIE), the ranking minority member of the Committee on Education and Labor, and the gentleman from Pennsylvania (Mr. GOODLING), the ranking minority member of the Subcommittee on Economic Opportunity, and I thank them for their wise and thoughtful consideration. I also extend special appreciation to the gentleman from Kentucky (Mr. PERKINS), chairman of the Committee on Education and Labor, for his guidance and support.

Mr. Speaker, H.R. 6111 would authorize the Juvenile Justice and Delinquency Prevention Act of 1974 for an additional 3 years and make certain amendments to improve the implementation of the 1974 act. It is the belief of all conferees that the measure as presented today will strengthen and revitalize this program designed to address the national priority of juvenile crime and its prevention as underscored by President Jimmy Carter and Attorney General Griffin Bell.

One of the singular strengths of this legislation is that it calls for Federal-State-local action and public-private partnerships in confronting the problem of juvenile crime. H.R. 6111 maintains the governmental and private sector relationships established in the 1974 act. These relationships are premised on the identification of crime as primarily a State and local issue and a belief that is at that level that decisions for its prevention can best be made. At the same time, there is a recognition of the need for strong leadership through the coordination of Federal programs and policies at the national level.

The authority for administering the program is lodged within the Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration. H.R. 6111 incorporates provisions which reaffirm the position of the office and provides for additional delegation of functions to the head of the office, now known as the Associate Administrator, to implement the act. It further enhances the scope of activities performed by the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention and the National Advisory Committee. The former brings together Federal agency heads for the purpose of coordinating national policy in the area; the latter provides citizen expertise and advice from the private sector to the Office of Juvenile Justice.

Important provisions of H.R. 6111 are aimed at assuring more efficient and productive expenditures of assistance to States and localities. The current act allows a State to use up to 15 percent of its formula grant allotment "off the top" to cover the costs of planning and administration. Beginning in fiscal year 1979, expenditures of Federal formula grant money for such purposes will be limited to 7½ percent and will require a dollar for dollar match by State and local governments. In return, no match will be required for action-oriented programs which actually deliver services. It is the hope and belief of conferees that these provisions, when taken together, will result in several advantages. More funds should be available for action programs serving children while support is still provided for needed planning and administration. Effective oversight of programing by State and local governments is strengthened while the exclusion of private nonprofit groups or local governments for lack of cash match for service programs is prevented. With more good potential programs to choose from, the overall quality of programs funded by the act should be raised.

Furthermore, the debate over the advisability of cash versus the so-called in-kind match can be ended. Administrative costs incurred documenting this match will no longer be necessary. In short, more energy, both financial and human, can be directed toward the act's goal of preventing delinquency rather than on its attendant paperwork.

H.R. 6111 also amends provisions of the current law dealing with special emphasis prevention and treatment program. Under the 1974 act, as much as half of the total appropriations for State and local assistance could be spent at the discretion of the Administrator of LEAA. Several public interest groups including the National League of Cities and the U.S. Conference of Mayors, the National Conference of State Criminal Justice Planning Agency Directors, and the National Conference of State Legislatures suggested that, in light of the local and State nature of the problem, allowing as much as half of the funding decisions to be made in Washington provided perhaps too much flexibility. This belief was borne out by the fact that LEAA allows only a flat 15 percent for discretionary Safe Streets Act funding. H.R. 6111 calls for a flat 25 percent discretionary authority. Since this was the percentage spent in fiscal year 1977 for special emphasis programs, the current funding level will not be adversely affected.

The authorized funding level agreed upon by conferees continues to emphasize congressional commitment to the approach of preventing juvenile delinquency. H.R. 6111 calls for a 3-year extension of the program at levels of $150 million, $175 million, and $200 million for fiscal years 1978, 1979, and 1980 respectively. The conferees believe strongly that the most cost-effective way to deal with the problem of crime in this country is to prevent its occurrence in the first place. To do this, we must focus more of our resources on young offenders. With 43 percent of the serious crime in this country committed by youth 18 and under, the investment seems well advised.

Title III of the 1974 act, the Runaway Youth Act, is extended for 3 years at an authorized funding level of $25 million per year. Authority is provided for the President to submit to Congress after April 30, 1978, a plan to transfer the program to either the ACTION Agency or the Office of Juvenile Justice and Delinquency Prevention. This should help maximize congressional oversight of this program and permit assurance that the needs of runaways are retained as a high priority subsequent to proposed interagency reorganization at the Department of Health, Education, and Welfare.

Mr. Speaker, H.R. 6111 is a good bill worthy of the support of my colleagues.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Carolina. I would be most pleased to yield to my illustrious chairman.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, I want to take this opportunity to compliment the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. ANDREWS), for one of the most thorough jobs in handling the Juvenile Justice Amendments of 1977 that I have ever witnessed since I have been in the Congress.

Mr. Speaker, I rise in support of the conference report on H.R. 6111—the Juvenile Justice Amendments of 1977.

The bill before us has received virtually unanimous support in committee, and during floor consideration in both the House and the Senate. All of the conferees from both bodies have signed the conference report.

In large part, the overwhelming support for H.R. 6111 is due to the outstanding work of the distinguished chairman of the Subcommittee on Economic Opportunity and my good friend, IKE ANDREWS.

Not only does H.R. 6111 provide for the needed extension of the Juvenile Justice and Delinquency Act, but—more importantly—it makes many improvements in the statute to provide for the more effective and efficient programing at all levels.

Chairman ANDREWS is to be commended for his excellent bill. I would be remiss, however, if I did not also commend the minority for the many contributions they have made. This has been very much a bipartisan effort.

I want to also acknowledge the fine work of our colleague, GEORGE MILLER. Through his efforts this bill focuses attention on a very worthwhile objective. While the conference report does not retain the full and original Miller amendment, it contains a major step in the right direction, and toward the objectives sought by Mr. MILLER.

May I review very briefly the principal provisions in the report. As I have indicated, the Juvenile Justice and Delinquency Prevention Act is extended for an additional 3 years—that is, through fiscal year 1980; $150 million is authorized for fiscal year 1978, $25 million more than proposed in the House bill. For fiscal year 1979 and fiscal year 1980 the House proposed such sums as are necessary. The conference report before us follows the Senate bill which

places a ceiling on the amount which may be appropriated.

Rather than having an open ended authorization, the conference report provides a ceiling of $150 million for fiscal year 1979, and $200 million for fiscal year 1980.

This legislation also extends the Runaway Youth Act for 3 additional years and with a $25 million authorization for each year.

The conference report also—

Reduces the amount of Federal money States may use for planning and administration.

Extends the deadline for complying with statutory prohibitions against placing juveniles who have committed minor offenses in detention or correctional facilities.

Broadens membership eligibility for advisory groups.

Allows for the optional transfer of the runaway youth program from the Department of Health, Education, and Welfare to either ACTION or the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice.

Mr. Speaker, I repeat this is an excellent measure and I urge adoption of the conference report.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1977 (H.R. 6111)

	Fiscal years		
	1978	1979	1980
House version:			
Law Enforcement Assistance Administration	$125,000,000	Such sums	Such sums
Runaway youth program	25,000,000	Such sums	Such sums
Total	150,000,000		

	Fiscal years		
	1978	1979	1980
Senate version:			
Law Enforcement Assistance Administration	$150,000,000	$175,000,000	$200,000,000
Runaway youth program	25,000,000	25,000,000	25,000,000
Total	175,000,000	175,000,000	225,000,000
Grand total	575,000,000		

Conference agreement: The conference agreed to the Senate authorization levels.

Mr. ANDREWS of North Carolina. I thank the chairman very sincerely for those words of support.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this conference report.

This bill represents a truly bipartisan effort, and I, as ranking member of the subcommittee, take this opportunity to commend the gentleman from North Carolina (Mr. ANDREWS) for the bill and the manner in which he worked with me in helping to guide it along the legislative trail.

Since the juvenile delinquency prevention program has been in LEAA, it has been working well. Through this bill we strengthen the role of the office that administers it so that it may run even better.

Although there are many features of this bill which will improve the existing program, the outstanding thing we did was to eliminate the "in kind" provision of the matching requirement and require a cash match. Our action in this bill is what I hope the Congress is going to do as it considers other existing laws which contain matching provisions. We must begin to require States and/or locals to match Federal dollars with cash.

Under the existing Juvenile Justice and Delinquency Prevention Act, States may provide buildings, services, or anything else that they care to charge off against a project, and place value on these items which are questionable at best, and outright lies at worst. "In kind" simply does not make any sense and it forces those who receive Federal funds to be less than honest.

Through the requirement of the cash match, we have also simplified the grant-making process by eliminating an awful lot of paperwork. Furthermore, we have put the States in a more responsible role as they administer programs under the act. My feeling is that when a State puts up actual dollars, it will provide much more direction and guidance.

This conference report reflects the basic House bill as the House conferees held firm on all of the major issues. It is a good bill and I ask all of you to support it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to my distinguished colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague from Pennsylvania for yielding.

I admit that, having some questions and qualms about this legislation, I would like to direct a question or two to my friend, the chairman of the subcommittee, the able gentleman from North Carolina (Mr. ANDREWS).

This Member is very concerned about the youth advocacy portion of this bill, and I know that with the highest of motives this is included, but I sometimes feel that youth advocacy can go overboard. We start with encouraging a bill of rights in the high schools and on down the line. Does the leader of the conference committee have any assurance he can give me in this particular area that it will be circumscribed and kept reasonably close to the rules that have been outlined?

Mr. ANDREWS of North Carolina. Mr. Speaker, if the gentleman will yield, yes, I would say that the bill before us backs up rather than goes forward in that regard. This bill eliminates any reference whatever to legal services for those years covered by the bill. The only thing that remains in that bill has to do with youth services but not legal or advocacy services.

Mr. ASHBROOK. I thank my friend for that assurance.

Page 21 of the report says:

> The Senate amendment provided special emphasis authority for youth advocacy programs for and protecting the rights of youth impacted by the juvenile justice system.

I suppose "impacted" would mean either incarcerated or under the control or counseling in one way or another of the various juvenile courts in our country.

Can my colleague assure me that youth advocacy will be limited to that very narrow purpose I stated?

Mr. ANDREWS of North Carolina. That is very definitely my understanding with the language, to the effect that the provision of legal services presently in the act is in fact stricken.

Mr. ASHBROOK. I thank my colleague for that assurance.

I would say I still admit to some trepidation on this, because I have sat through the hearings and I know how many in the bureaucracy—and I am talking about the former bureaucracy, not necessarily those at the present time—continually point to the family and say we have to zoom in on the family. We have seen child development bills, and to this Member it looks like one backdoor way of getting into the area for the assessing of the family and assessing the degree to which the family is successful or not successful. I hope my colleague is right. I appreciate the fact that the youth advocacy was limited and I only hope in the implementation of this bill it does not go beyond the stated purposes.

I thank the gentleman for yielding.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. ANDREWS of North Carolina. Mr. Speaker, I yield back the balance of my time.

I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6111, JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Mr. ANDREWS of North Carolina. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 361) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 361

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, the

Clerk of the House of Representatives shall make the following corrections:

(1) Insert "and" before "section 250" in section 3(a)(3)(B) of the bill.

(2) Strike out ", and any other place it appears therein" in section 3(a)(3)(B) of the bill.

Mr. ANDREWS of North Carolina. Mr. Speaker, this concurrent resolution is simply to make technical corrections in the enrollment of the bill H.R. 6111.

This has been cleared with the minority. I know of no opposition to the resolution and ask for its approval.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF CONFERENCE OF INTERPARLIAMENTARY UNION IN SOFIA, BULGARIA

The SPEAKER. Pursuant to the provisions of section 204(b), Public Law 94-141, as amended, the Chair appoints as members of the delegation to attend the conference of the Interparliamentary Union held in Sofia, Bulgaria, from September 21-30, 1977, the following Members on the part of the House: Messrs. HAMILTON, PEPPER, DANIELSON, BOWEN, LEHMAN, CAVANAUGH, DERWINSKI, BOB WILSON, MCCLORY, DEL CLAWSON, and CUNNINGHAM.

ESTABLISHMENT OF HOUSE SELECT COMMITTEE ON PROBLEMS OF HANDICAPPED INDIVIDUALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. O'BRIEN) is recognized for 30 minutes.

Mr. O'BRIEN. Mr. Speaker, today there are some 26 million Americans with some type of handicap; their type and extent of these handicapped Americans cover a wide spectrum from those that are just minimally handicapped to those individuals who are more extensively handicapped.

My distinguished colleagues, Mr. BURGENER of California and Mr. GILMAN of New York and myself introduced this week legislation that would set up a permanent Select Committee on Problems of Handicapped Individuals.

The select committee would not have legislative jurisdiction but shall have jurisdiction:

First, to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist handicapped individuals in taking a full part in American life and which will encourage the utilization of the knowledge, skills, and special talents of handicapped Americans;

Second, to develop policies that would encourage the coordination of both governmental and private programs designed to deal with problems of the handicapped; and

Third, to review any recommendations made by the President or by the White House Conference on Handicapped Individuals relating to programs or policies affecting handicapped individuals.

The need for this committee has been accentuated in the last few years by the explosion of legislation and regulations regarding the handicapped, including legislation concerning education, transportation, and almost every phase of daily living. Recently HEW issued the regulation to implement section 504, which will hopefully open more doors to handicapped Americans.

It is my hope that this select committee could experience the same type of success in helping to coordinate programs to assist handicapped individuals as another select committee has had in dealing with the problem of aging.

I am sure that every one of my colleagues wants to see the greatest participation of handicapped Americans in the mainstream of the Nation's life, and I believe that this committee would be an important step toward achieving this goal.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I will be happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Sepaker, I commend the gentleman from Illinois for his remarks and leadership. I rise in support of the resolution introduced today by my colleagues, the gentleman from Illinois, Mr. O'BRIEN, and the gentleman from California, Mr. BURGENER, and myself calling for the establishment of a House Select Committee on the Handicapped.

In the past, House Select Committees have met with a great deal of success in coordinating and bringing to public attention the needs and recommendations of a specific group and in helping to solve the problems which plague our Nation. The House Select Committee on Aging and the House Select Committee on Narcotics Abuse and Control are recent examples which come to mind. The work that those committees have done in the short time of their existence merits praise. We feel that the establishment of a Select Committee on the Handicapped would produce the same positive results and would generate the same interest and support as these committees have already done.

Hopefully, the need for a Select Committee on the Handicapped will be as evident to the House as it is to the American public. Particularly with the implementation of section 504, Americans are becoming increasingly aware of the needs and special problems of our handicapped population. Accordingly, it is fitting that we in the Congress attempt to coordinate and centralize the different agencies and committees which have jurisdiction over programs for the handicapped and attempt to provide our colleagues with specific recommendations as to how our handicapped constituents can best be served.

There are approximately 26 million handicapped people in our Nation today. An article appearing earlier this year in "Newsweek" magazine has labeled them as the "new minority." In May of this year, the White House sponsored the White House Conference on Handicapped Individuals, at which time the handicapped from all States traveled to Washington to make their needs known to the President and the Congress.

What is particularly needed at this time is a group of Representatives who will be accountable to the handicapped and who will work with them to insure that their needs are met. Hopefully, with the establishment of a select committee this goal can be accomplished.

Indeed, the handicapped are employing means which have been used successfully in the past by other minorities to make their needs known to their Representatives. Intense lobbying efforts, mass mailings to the Congress and to the Federal agencies administering handicapped programs, public appearances and organized protests indicate to us that the time is ripe for the Congress to show its receptivity and responsiveness to the needs of the handicapped population in America.

Accordingly, I urge my colleagues to support this legislation and to join with us in efforts to provide a coordinating body in the Congress to deal with the fragmentation evident in programs for handicapped individuals.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for his comments, and I value his efforts and support for this high-purpose legislation.

GENERAL LEAVE

Mr. O'BRIEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous matter on the subject of my special order for today.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

UNFAIR IMPORT COMPETITION: A THREAT TO SURVIVAL OF WORK GLOVE INDUSTRY

The SPEAKER pro tempore (Mr. FISHER). Under a previous order of the House, the gentleman from Mississippi (Mr. BOWEN) is recognized for 10 minutes.

Mr. BOWEN. Mr. Speaker, a colloquy is planned next week in the House on the work glove import problem and the relationship this import situation has to the multifiber agreement and the multilateral trade negotiations.

I would like very much to participate in this colloquy, but since I will be a member of the House delegation to the Interparliamentary Union Convention, I will be away from the Chamber next week on this official congressional business.

Therefore, I would like to take this opportunity to discuss the import competition which is a threat to the survival of the work glove industry in this country, including those plants located in my own State of Mississippi.

I would like to raise a few points which I believe merit consideration and are

often overlooked in the debate over free trade versus protectionist philosophies.

The United States has long been committed to the view that its national interests can be served best through policies which promote an open world. Basic to this is the philosophy that an expansion of world trade enables the use of resources more efficiently, which helps to stimulate economic growth.

I believe in that philosophy. Expanded trade in agricultural commodities—so vital to the people of my State and to my constituency—rests fundamentally on the concept of open, unfettered world markets.

We in Mississippi have a deep and abiding faith in the benefits of free, private enterprise and in the benefits, as well, of two-way foreign trade. Obviously if nations buy from us, they must also sell to us; but such trade must always be based on principles of equity and respect for the ethical conduct of business on which the American private enterprise system rests. Fair trade means that nations, like businesses, must refrain from predatory pricing practices aimed at the capture of markets. Fair trade means nations will not adopt beggar-thy-neighbor trade policies to export their unemployment to the world and especially to the United States.

It needs to be kept in mind that the United States is relatively unique as one of the few open markets in the world and the mainetnance by other countries of tariff and nontariff restrictions inevitably means that more and more trade is funneled into the U.S. market.

For products that are labor-intensive and come from developing countries, where suppliers have benefits of extremely low wages and low production costs which are often enhanced by outright subsidies bestowed on them under the home government's export incentive programs, the U.S. open market is as much a magnet as is pollen to a bee. In the absence of measures to safeguard domestic industry against such unfair import competition, there can be only one outcome: Plant shutdowns, job losses, and the eventual demise of the domestic industry.

I want to draw attention to one industry, the work glove industry, which has been cruelly buffeted for years by such unfair imports. I do so because this industry has several manufacturing establishments and hundreds of jobs in my home district and which are important to the economies of entire local communities there. Rising imports cloud the future for these firms and workers as they do for firms and workers elsewhere in this embattled industry, which despite its relatively small size is of national importance.

Work gloves provide basic hand protection or product protection in industrial, commercial, or domestic activity. Work gloves of one type or another—that is, fabric, leather or part leather, rubber or plastic coated—are utilized in every domestic industry and, indeed, under the provisions of the Occupational Safety and Health Act (OSHA), the manufacture and utilization of specially designed protective gloves may be subject to regulation and specific requirements. In a real sense, work gloves are a vital, consumable ingredient of the U.S. industrial process. Continuing access to supplies of work gloves is, therefore, essential to the national economy, and it follows that a healthy domestic work glove industry is, thus, directly in the national interest. Aside from its importance in maintaining thousands of jobs for lesser skilled persons, the work glove industry also takes on significance as a consumer of domestic raw materials. For example, the National Cotton Council reports that 123,000 bales of raw cotton went into the production of work gloves during 1975. Unfortunately, this consumption figure is considerably less today as a result of lower output due to imports.

For years this industry has seen a steadily increased share of the domestic market captured by low-wage/cost imports. Between 1970 and 1976, total imports increased by 348 percent, while domestic manufacture decreased by 12 percent. In this period, the overall import penetration rate has more than quadrupled and for certain categories of work gloves, the current rate of import penetration has already exceeded the point where domestic production cannot be sustained for very long. In 1976, foreign gloves of part leather, for example, captured no less than 54 percent of the domestic market.

That the industry is shrinking under the impact of imports is clearly indicated in employment and output data. The 1972 "Census of Manufacturers" showed the glove industry—both dress and work gloves—employed 16,800 persons of whom 15,200 were production workers. In 1975, according to the latest annual "Survey of Manufactures," employment had dropped to 15,800, of which 14,200 were production workers.

Since about 85 percent of all gloves produced in the United States are work gloves, it can be estimated that total work glove employment dropped from 14,300 persons in 1972 to 13,400 persons in 1975 or a drop of 6.7 percent. There is no indication that this bleak employment picture has improved. It should be pointed out that about 80 percent of the work force is female and that a large share of racial and ethnic minorities as well as a high average age also characterize the work glove labor force. These are not people who can easily transfer to other industries.

Similarly, there has been a sharp decrease in the number and output of plants manufacturing work gloves. Domestic work glove production typically is carried on by small-sized firms with plants located throughout the United States, but principally in the Midwestern and Southern States.

The competition from imports at the expense of domestic production and employment is not a response to quality or durability, but primarily is due to price competition, which is based on the advantages of low foreign labor costs and the maintenance by foreign supplying governments of exports incentive programs which already convey great competitive advantages to foreign exports to the U.S. market. Recent import data in respect to fabric gloves are particularly alarming in that they indicate the emergence as a heavy supplier to the U.S. market of the Peoples Republic of China. For such a centrally planned economy, production costs have absolutely no bearing in final export selling prices. These prices, in fact, have been set by mainland China at such low levels that they more than offset the applicable maximum non-MFN rate of duty.

The significance of heavy labor intensiveness and reliance on domestic raw materials is that domestic work glove production costs are substantially above foreign production costs in the major supplying countries. These are overwhelmingly the developing countries where wage rates are maintained at exceedingly low levels and where overall production costs for export markets may benefit from direct or indirect governmental subsidy programs—as has been well substantiated by U.S. Treasury Department affirmative countervailing duty findings for cotton yarn, handbags, shoes, and leather wearing apparel from such countries as Taiwan, Korea, Argentina, Brazil, Colombia, and Uruguay.

A striking feature of the work glove market has been the steady penetration of imports at the expense of domestic output. The fact is that in past years imports have largely captured any growth experienced in the total market. Moreover, in years when domestic output has shown a precipitous decline, imports either held firm or continued to make impressive gains. For example, in 1974, domestic shipments of all work gloves accounted for 33.2 million dozen pairs, while imports amounted to 5.2 million dozen pairs. In 1976, domestic shipments dropped 20 percent in quantity to 26.5 million dozen pairs, while imports increased by 33.5 percent in quantity to 6.8 million dozen pairs. Just during this 3-year period, the import penetration by quantity increased from 13.9 percent to 21.2 percent, an increase of 52.5 percent.

In terms of the total market, consumption has decreased by 12.4 percent since 1974, while imports increased by 33.5 percent. Going back over a longer period of time, from 1970 to 1976, the gap is even more pronounced with domestic consumption increasing by 3.4 percent, while imports rose in this period by 348 percent.

The relentless gains made by imports at the expense of domestic output have been accounted for largely by Far East suppliers in Hong Kong, Taiwan, and Korea, which together rank in that order as major suppliers of work gloves to the U.S. market. In 1976, these three countries accounted for 60 percent by quantity and no less than 77 percent by value of all work gloves.

With the average unit value of imports in 1976—$3.06 per dozen pairs—than one-third that for domestic output—$10.14 per dozen pairs—low-wage Far Eastern suppliers clearly have a great competitive advantage in selling to the

U.S. market. This, however, has not necessarily benefitted the consumer, but mainly resulted in importers taking a high profit mark-up.

Clearly, the work glove industry in America is fighting an uphill battle against injurious imports and its long-term prospects are increasingly clouded without the sympathetic attention of administration officials to means of putting in place effective safeguards against further adverse import impact. Immediately, one small but helpful gesture on the part of the administration would be to recognize the work glove industry's import sensitivity by exempting the products of this industry from the multilateral tariff reduction negotiations being undertaken in Geneva. Work gloves have already been excluded from zero-tariff reductions under the U.S. generalized system of preferences and there can be no justification for any reduction in present U.S. duty rates on work gloves. To do so would be only to enhance the very considerable competitive edge already enjoyed by foreign suppliers in the U.S. market.

But such, negative action will not resolve the work glove import problem. What is needed is direct and positive action by the administration which would place a ceiling against the influx of imports. The 4-year multilateral multifiber arrangement (MFA), which is due to expire at the end of this year and is now being renegotiated, has not been as effective as had been hoped for in preventing market disruption in various textile products, including cotton work gloves. The MFA should be continued; it should be improved; it should be administered more effectively than in the past; and the bilateral agreements negotiated by the United States under the MFA should establish strict ceilings for cotton work gloves from major suppliers. This action is long overdue.

AN EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 20 minutes.

Mr. McKINNEY. Mr. Speaker, during my absence, the House cast a number of important votes on subjects of vital importance to the Fourth District and the Nation. While I was unable to vote on these issues, I have been following the work of the House and ask permission to explain how I would have voted. (This voting record is the second of two parts, the first inserted in the CONGRESSIONAL RECORD of September 8, 1977 (28155–28159).)

Recorded vote number, description, and McKinney vote

403. H.J. Res. 24, National Lupus Week. Motion to suspend the rules and pass the joint resolution to designate the week of September 18–24 as National Lupus Week. Passed 333–54.

Yes. Although 500,000 Americans are afflicted with Lupus, the public is generally unaware of this dread tissue disorder. Passage of this measure will help attract national attention and hopefully spur greater contributions to the research efforts in this field.

404. Motion to suspend the rules and pass H.R. 2960 authorizing the Interior Secretary to establish a memorial in Constitution Gardens on the Mall in Washington, D.C. to honor the 56 signers of the Declaration of Independence. Passed 302–3.

Yes. This memorial, honoring the signers of the Declaration of Independence, represents a fine way to spend the remaining $500,000 from last year's American Revolution Bicentennial Administration budget.

406. A motion to suspend the rules and pass H.R. 7658, to provide assistance to veterans with service connected disabilities to acquire specially adapted housing. Passed 403–0.

Yes. While we can adequately compensate those who suffered disability in defense of our country, we can eliminate, wherever possible, obstacles to a normal lifestyle for these individuals.

407. A motion to suspend the rules and pass H.R. 7345, to provide a 7 percent cost-of-living increase in benefits for veterans and their survivors and to provide for an additional 25 percent increase to eligible widows, age 78 and over, of non-service connected disabled veterans, effective Jan. 1, 1978. Passed 403–0.

Yes. Again consistent with my votes on veterans related issues, I support the much deserved compensation for the sacrifices of veterans and their families in defense of this country.

408. Passage of H.R. 5023, to extend for two years the statute of limitations under which the federal government could litigate on behalf of Indian tribes and individuals' claims for money damages that accrued before July 18, 1966. Passed 331–69.

Yes. Passage of this extension will allow time for the negotiation of potential lawsuits, thus preventing a great influx of cases into the judicial process prior to the July 18 deadline. Such an extension could help relieve the tension between the Indian community and their neighbors.

409. Adoption of the conference report on H.R. 5970, to authorize $36 billion for the Defense Department for weapons procurement, military research and development and civil defense in FY 1978. Adopted 350–40.

Yes. Although the amount of the authorization is high, the conference report represents a reasonable compromise between the two greatly differing bills on many important weapons and personnel decisions.

410. H.R. 4963. Maritime Programs Authorization. McCloskey (R-Calif.) amendment to prohibit use of federal maritime operating subsidies for shipment of U.S. grain to Russia. Rejected 143–251.

No. While I am sympathetic to the legitimate concerns of my colleague, concerning the present state of affairs within the maritime industry, this amendment is not a constructive solution. It would severely restrict U.S. operators from participating in valuable grain trades with the Soviet Union, replacing American ships with Soviet vessels.

411. Final passage of H.R. 4963, to authorize $553,597,000 for fiscal year 1978 maritime programs. Passed 355–40.

Yes. While I recognize very significant deficiencies in the operation of the U.S. maritime fleet, these monies enable our fleet to compete with foreign subsidized vessels.

414. H.R. 2777. National Consumer Cooperative Bank Act. LaFalce (D-N.Y.) amendment in the nature of a substitute establishing an interagency task force to study consumer cooperative banking and providing $20 million for an experimental consumer cooperative loan program. Rejected 170–228.

No.—Consumer cooperative banking is an idea whose time has come. As a member of the Banking Committee, I am convinced that sufficient evidence already exists, without yet another study, to justify extending this innotive lending mechanism.

415. H.R. 2777. National Consumer Cooperative Bank Act. Rousselot (D-Calif.) amendment to terminate the consumer cooperative bank after 1982. Adopted 203–196.

No.—For the same reason that we need no further government studies of the consumer cooperative banking concept, I do not support keeping the cooperative bank on such a "short leash." The concept is needed to expand credit availability and must be given ample time to establish market acceptance. Current bank regulatory agencies should provide the oversight necessary without this legislated death knell.

416. Final passage of H.R. 2777, to authorize $500 million in federal seed money for a bank to make loans to consumer cooperatives and $250 for a Self-Help Development fund to help inner-city residents start cooperatives. Passed 199–198.

Yes.—As I said in my Dear Colleague letter urging passage of the legislation, this bill poses no threat to existing financing institutions but rather meets the needs of urban residents in fighting discriminatory redlining practices and provides another competitive alternative in the urban money market.

417. Passage of H. Res. 658, establishing a permanent House Select Committee on Intelligence. Passed 227–171.

Yes.—Despite a previous announced position against this resolution, I support the establishment of this select committee with legislative and budget authority over the CIA and with shared jurisdiction over the intelligence related activities of other government agencies including the FBI. I originally paired against the resolution to create the House committee in hopes that a proposal would be offered to create a joint committee with the existing Senate Intelligence panel. In that way, the oversight of U.S. intelligence could be coordinated and the security risks minimized. Failing that, this is a necessary first step toward responsible Congressional monitoring of our intelligence community.

420. H.R. 4287. Mine Safety. Amendment by Mr. Gudger (D-N.C.) to the Sarasin substitute amendment to delete provisions transferring authority over mine health and safety standards from the Interior Department to the Labor Department. Rejected 112–227.

No.—The transfer of these regulatory powers from Interior to Labor, which now have conflicting jurisdictions, is necessary in the interest of mine-worker safety.

421. H.R. 4287. Mine Safety. Sarasin (R-Conn.) substitute amendment, for the committee bill, to strengthen health and safety standards for metal and non-metal mines while retaining separate regulatory authority and procedures for coal and non-coal mines. Rejected 151–188.

Yes. I agree with Mr. Sarasin's (R-Conn.) assessment of the effect of administratively "lumping" coal and non-coal mines together. Multiplying the problems associated with mine safety (as documented in House oversight hearing on the (Coal Act) by including the problems of workers in non-coal mines, will only hinder the progress in resolving the inadequacies of mine safety programs.

422. H.R. 4287. Mine Safety. Amendment by Mr. Andrews (D-N.C.) to continue federal/state arrangements that let states develop and enforce their own mine health and safety standards. Rejected 165–169.

No. While I recognize the potential for reducing some of the bureaucratic malaise in mining regulation, the more important goal is to establish minimum uniform standards for mine safety.

423. Final passage of H.R. 4287, to toughen mine health and safety standards and enforcement procedures by applying the same set of regulatory processes to both coal and non-coal mines and transferring administrative authority from the Department of Interior to the Department of Labor. Passed 244–88.

Yes. Although I would have preferred to see the Sarasin (R-Conn.) proposals enacted, I am generally pleased with the provisions contained within this legislation. I am particularly pleased with the transfer of administrative and regulatory jurisdiction from the Interior Department to the Department of Labor.

424. Motion by Mr. Thompson (D-N.J.) to suspend the rules and pass H.R. 6936, to authorize $8.1 million for the FY 1978 operations of the Federal Elections Commission. Passed 383–22.

Yes. The Federal Election Commission performs an invaluable service in the administration of our complex election statutes. The $2 million increase over the fiscal 77 authorization is justified by the Commission's increased workload.

425. A motion by Mr. Lehman (D-Fla.) to suspend the rules and adopt H.J. Res. 372, authorizing the President to proclaim Thanksgiving week as National Family Week. Passed 400–3.

Yes. I wholeheartedly endorse this resolution because it sets a most appropriate time of year, Thanksgiving, to commemorate the family unit, which has provided so much strength to our country.

426. A motion by Mr. Lehman (D-Fla.) to suspend the rules and pass H.R. 7012, to amend the procedures proposed for the Agriculture Census of 1979 by reducing the number of questions by 40 per cent, redefining the term "farm" for census purposes and setting a firm date of publication of census findings. Passed 401–9.

Yes. Appropriations Committee hearings clearly indicated the need for changes in the agricultural census. This measure, while not addressing all of the problems, is a step in the right direction, expanding participation and streamlining the questionnaire to make it realistic in length.

427. A motion to suspend the rules and pass H.R. 2387, to upgrade the positions and salaries of the director and deputy director of the OMB to Cabinet and deputy-secretary level. Rejected 253–158.

Yes. This bill raises the salary of the OMB's two top posts to Cabinet level ($57,500 to $66,000 and $52,500 to $57,500) to reflect their clearly Cabinet level responsibilities. I think the pay should reflect the job, especially in view of the ethical restrictions against outside earnings contained in the executive ethics code.

428. A motion by Mrs. Schroeder (D-Colo.) to suspend the rules and pass H.R. 6974, to increase by 15 the number of GS–16, GS–17, and GS–18 positions in the Administrative Offices of the U.S. Courts. Rejected 189–224.

Yes. This legislation provides a reasonable and responsible approach to the current executive manpower dilemma at the Administrative Office of the U.S. Courts. The 15 supergrade positions created by H.R. 6974 amount to a net increase of 8 positions which are critically needed if the Administrative Courts are to meet their increased duties resulting from Congressional enactment of the Speedy Trial Act of 1974, the Federal Magistrates Act of 1968 and the 1975 Judiciary Appropriations Act.

429. A motion by Mrs. Schroeder (D-Colo.) to suspend the rules and pass H.R. 6975, increasing the number of Civil Services hearing examiners at the GS–16 level to 340, from 240, and to redesignate them as administrative law judges. Passed 284–131.

Yes. This increase will allow the Civil Service Commission to meet the growing demands for hearings requested under the Administrative Procedures Act. Such an increase is needed in part because there has been a net increase of 9 agencies which are now required to hold hearings under this Act since the 240 slots were authorized in 1964.

430. A motion by Mrs. Spellman (D-Md.) to suspend the rules and pass H.R. 4319, to reduce from 12 to five the length of service required of a federal employee to be eligible to retain health and life insurance benefits during retirement. Passed 373–37.

Yes. This bill is identical to one passed in the last Congress and is pursuant to recommendations of the Civil Service Commission made during the 93rd Congress.

431. Adoption of the conference report on H.R. 7557, to appropriate $14 billion dollars—including $6 billion in new budget authority—for the operations of the Transportation Department and related agencies. Passed 397–14.

Yes. I am pleased that the conferees agreed to several important funding provisions contained in the House version, which were significantly lower than both the Senates and the Presidents requests.

432. Adoption of the conference report on H.R. 7556, the State, Justice, Commerce, Judiciary Appropriations. Passed 326–85.

Yes. Overall, I am pleased with the changes made by the conference committee. While the increase for LEAA of $47 million over the House figures is not as large as I would have liked, the extra funds will help in continuing the success of some LEAA-financed programs. I am disappointed, however, in the $12 million reduction for the Legal Services Corporation, which may make difficult the goal of making justice accessible to the disadvantaged.

433. Passage of the conference report on H.R. 7554, to appropriate $69,352,854,000 for FY 1978 operations and programs of the Department of Housing and Urban Development and independent agencies, including the Veterans Administration. Passed 379–30.

Yes. This appropriation is very close to what President Carter requested for housing programs and for operation of the independent agencies. Monies will fund our ongoing housing effort pursuant to the Community Development Act as well as veterans benefit programs.

434. H.R. 7554. HUD, Independent Agencies Appropriations. Motion by Mr. Boland (D-Mass.) to retain the original House position which excluded from the bill funds for a Jupiter Orbiter Probe. Rejected 131–280.

No. The Jupiter Probe is a worthwhile expenditure as part of our ambitious and already-proven NASA exploration program. The House subsequently saw the wisdom in this position and receded in its opposition in favor of the Senate funding level.

435. H.R. 7554. HUD, Independent Agencies Appropriations. Motion by Mr. Boland (D-Mass.) to retain the House position to withhold veterans' benefits to Vietnam-era servicemen who received upgraded discharges under President Carter's review program. Passed 251–160.

No. I am against this type of purse-string legislation whereby we deny the full effort of the Carter pardon to those whose discharges have been upgraded by the review program. Benefits should be made available to all upgraded discharges as part of the healing process begun by the pardon.

436. Adoption of the conference report to H.R. 4088, to authorize $4 billion for the operations and programs of NASA. Passed 370–29.

Yes. The conferees have made practical compromises on the NASA budget, facilitating NASA's continuance of programs such as the Jupiter Orbiter Probe, a space telescope program, and the Space Shuttle program.

437. Adoption of the conference report on S. 1474, to authorize $3.7 billion for new military construction projects of the Defense Department for FY 1978. Passed 370–34.

Yes. Although the amount is significantly more than the House-passed version, this larger figure includes the authorization for the FY 1977 Supplemental Military Construction Authorization Act as well as funding to finance energy conservation and pollution control projects. I am pleased that the legislation provides for a permanent procedure for Congressional review of decisions to close military bases, a provision of particular importance to the Northeast.

438. Adoption of the conference report to H.R. 6138, to authorize a series of new youth employment and training projects. Passed 356–58.

Yes. Youth unemployment, now approximately 18 percent, is a severe and persistent problem. Along with establishing a number of pilot programs, this bill establishes a year-round program to employ young adults (about 35,000) in conservation-related jobs on public lands. These programs should provide the information we need to enact a truly comprehensive approach to the youth unemployment problem.

441. Adoption of the conference report on H.R. 4746, to authorize $21 million for research on national water supply needs and on saline water conversion, and $40 million for four demonstration plants. Passed 401–1.

Yes. As the last few months have made painfully clear, our nation faces the prospect of a severe water crisis. The bill recognizes that we need to better manage the water we have and that our future may depend upon the use of saline water conversion technology.

442. Adoption of the conferees report on H.R. 4975, to extend for one year, through FY 1978, the federal health services, biomedical research and health planning and resource development programs at an authorization level of $3.4 billion. Passed 401–6.

Yes. I fully support the continuation of improvements of health services administration and research into disabling diseases.

444. H.R. 7171. 1977 Farm-Food Bill. Amendment by Mr. Findley (R-Ill.) to limit producers of wheat, feed grains, rice and upland cotton to $20,000 a year in federal farm subsidy payments. Rejected 183–230.

Yes. Payment limitations insure that family farms are provided with the support they need during periods of low commodity prices. To expand the program beyond the $20,000 limit would unjustifiably burden the taxpayer.

445. H.R. 7171. 1977 Farm-Food Bill. Amendment by Mr. Nolan (D-Minn.) to prohibit payment of federal farm subsidy payments to corporations or partnerships in which those holding majority interest were not engaged in farming operations as a sole proprietorship. Rejected 199–207.

No. While I agree that certain types of organizations and entities should be eliminated from the farm subsidy program, this amendment would also affect a number of small farms. We need a solution that will not exclude the small farm operator, and the Agriculture Committee must resolve this complicated problem through further work and a more precisely drafted amendment.

446. H.R. 7933. Defense Department Appropriations, FY 1978. Motion by Mr. Mahon (D-Texas) to close to the public the House-Senate conference committee on the differing versions of the FY 1978 Defense Department appropriations bill at such times as classified national security information was under consideration, pursuant to House Rule 28, but to allow any member of Congress to attend any of the closed sessions. Passed 376–0.

Yes. Although this vote represents a change from open conference meetings which I support, the necessity of closing to the public discussion of classified national security information cannot be denied. I am pleased that the chairman plans to conduct the conference in a segmented fashion, having classified material discussed at one particular time, thereby not requiring closure of the entire conference sessions.

447. Adoption of the conference report on H.R. 6714, to authorize $1.6 billion for FY 1978 for U.S. bilateral development assistance and to make changes in the Food for Peace program. Passed 254–158.

Yes. This authorization provides U.S. assistance programs to the neediest countries in the areas of food and nutrition, population planning, health, education, and human resources and technical assistance. These are worthy programs, reflecting our concern for the world community, and the authorization is both reasonable and appropriate.

448. Adoption of the conference report on H.R. 6884, authorizing $3 billion for fiscal year 1978 for U.S. foreign security and military assistance programs. Passed 262–147.

Yes. The conference report maintains many of the provisions of the security assistance legislation which I supported in late May. Overall, the programs will contribute to the security of the United States and to international peace and economic well-being.

449. H.R. 7171. 1977 Farm-Food Bill. Findley (R-Ill.) substitute amendment, to the Fithian amendment, to set a new limit on annual subsidy payments to sugar producers of $50,000. Rejected 167–241.

Yes. This proposal, once clarified by Rep. Findley's substitute, is far more acceptable than the administration's sugar subsidy proposal. This subsidy ceiling would insure that Federal subsidies go to those truly harmed by adverse conditions while not allowing major producers and processors to unnecessarily finance their operations out of the U.S. Treasury.

450. Adoption of the conference report on H.R. 2 to set environmental performance standards for surface mining of coal, provide for regulation and enforcement, establish an abandoned mine reclamation fund and establish mining and mineral research institutes. Passed 325–68.

Yes. I am generally pleased with the outcome of the conference. The reclamation fund which will pay for the reparation of inadequately restored mines, and the protection provided to surface owners, will insure that resource extraction does not result in irreparable damage to both public and private lands. I was somewhat disappointed by the inclusion of the Senate amendment allowing for a "limited variance" in restoring mined lands to their original contours, but on balance the conferees have retained the most essential provisions of a badly needed piece of legislation.

452. H.R. 7171. 1977 Farm-Food Bill. Amendment by Mr. Rose (D-N.C.) to require a standard of quality for ice cream covering the weight and amount of milk solids and milk fat that must be included before the ice cream could be designated with the Department of Agriculture's seal of approval. Passed 363–11.

Yes. The quality of ice cream has declined in recent years. Either too much air is whipped into it, or casein, a constituant of milk is used as a substitute, much to the financial detriment of our dairy producers. This amendment will mandate better quality food for Americans along with helping our dairy farmers.

453. H.R. 7171. Farm-Food Bill. Harkin (D-Iowa) amendment to the Foley substitute amendment to the Weaver amendment, to require the Agriculture Secretary to establish a grain reserve of up to 35 million tons, dependent upon voluntary farmer participation. Rejected 141–223.

Yes. This year's extreme grain surplus is driving farm prices to a very low level. It is an excellent time for the establishment of a grain reserve, not only to serve as a price mechanism but also to provide a buffer against future food shortages.

454. Adoption of the conference report on H.R. 7553, the Public Works-ERDA Appropriations. Passed 318–61.

Yes. The conference report strikes a reasonable balance between the House and Senate bills, the total appropriation's budget request. I am particularly pleased that funds for 13 water development projects have been deleted or reduced.

456. Passage of the conference report on H.R. 7932, to appropriate $990,067,800 in new budget authority in FY 1978 for the operation of the legislative branch and its related agencies. Passed 252–152.

Yes. The appropriation is less than requested by the President but ample to fund the operations of the Congress, the Library of Congress, the General Accounting Office, the Botanical Garden, the Page School and the Copyright Office.

457. H.R. 7932. Fiscal 1978 Legislative Branch Appropriations. Motion by Mr. Mitchell (D-Md.) that the House recede and concur with the Senate amendment to appropriate $225,000 for the activities of the Joint Committee on Defense Production. Rejected 160–250.

No. The committee in question has had only limited activity in past years and I am convinced that its valuable oversight functions can and will be adequately performed by the standing committees of each house of Congress.

458. H.R. 7171. Farm-Food Bill. Heckler (R-Mass.) amendment to reduce the price support for peanuts grown within a national quota based on weight to $390 per ton for the 1978 crop, $375 per ton for 1979, $460 per ton for 1980 and $345 per ton for 1981 and subsequent years, from the $420 per ton each year recommended in the committee bill. Rejected 207–210.

Yes. The peanut subsidy is one of the most wasteful and expensive government programs. While H.R. 7171 does cut the support program, this amendment further reduces the price support, saving the taxpayer millions of dollars and reducing consumer costs.

459. H.R. 7171. Farm-Food Bill. Whitley (D-N.C.) substitute amendment, to the Johnson (R-Colo.) amendment, to give priority to financing the sale of food and fiber commodities under Title I of the Food for Peace. Passed 260–151.

Yes. This amendment is consistent with the original purpose of PL 480, guaranteeing that nonfood commodities, such as tobacco, will not be exported under Title I of the Food for Peace program at the expense of nations in need of food commodities.

460. Adoption of the conference report on H.R. 7558, to appropriate a total of $13 billion for fiscal 1978 for the operations and programs for the Agriculture Department and related agencies. Passed 377–33.

Yes. While the conference committee has retained several undesirable programs in this appropriations, such as the subsidy payments to sugar producers, the bill strikes a reasonable balance between the need to reduce the federal budget and to help resolve the uncertain future of American agriculture.

462. H.R. 7171. Farm-Food Bill. Amendment by Mr. Symms (R-Idaho) to prohibit use of food stamps to purchase non-nutritional foods as determined by the Food and Nutrition Board of the National Academy of Sciences. Rejected 185–227.

No. While I do not object to the idea of preventing the purchase of "junk foods" with food stamps, such a provision would be virtually impossible to enforce given the wide variations of food products available throughout the United States.

463. H.R. 7171. Farm-Food Bill. Amendment by Mr. Mathis (D-Ga.) to place a ceiling of $5.6 billion on food stamp program expenditures for FY 1978. Rejected 168–248.

No. I oppose the imposition of an authorization ceiling on a statutory program specifically designed to be flexible enough to both expand and contract to meet current—if temporary—needs. This ceiling would require additional authorizing legislation if emergency relief added to program costs—a process that could so delay that relief as to make it useless.

464. H.R. 7171. Farm-Food Bill. Amendments by Mr. Mathis (D-Ga.) to limit food stamp program expenditures in each fiscal year, 1978 through 1981. Passed 242–173.

No. Again, while the proposal to put a ceiling on program costs sounds fiscally responsible, in the context of the food stamp program, such a cap is unrealistic. Unemployment and inflation, two factors which determine food stamp enrollment, are not susceptible to such targets or ceilings. Nor should our major nutritional program, designed to respond to the devastating impacts of those economic trends, be subject to arbitrary limits.

465. H.R. 7171. Farm-Food Bill. Amendmend by Ms. Fenwick (R-N.J.) to the Kelly (R-Fla.) amendment to allow families of strikers with children under 16 to be eligible for food stamps. Rejected 152–266.

Yes. While I oppose any restrictions on food stamp eligibility based solely on union status, I support this amendment as insurance that the children of strikers will be eligible for nutritional assistance if the Kelly amendment passes.

466. H.R. 7171. Farm-Food Bill. Amendment by Ms. Fenwick (R-N.J.) to the Kelly (R-Fla.) amendment to allow families of strikers with children under 16, elderly or disabled dependents, to be eligible for food stamps. Rejected 190–227.

Yes. Again, my vote in support of this amendment is prompted by the thought that "something is far better than nothing".

467. H.R. 7171. Farm-Food Bill. Amendment by Mr. Kelly (R-Fla.) to eliminate from the food stamp program eligibility of any household in which a member is on strike unless the household was eligible before the strike. Rejected 170–249.

No. I am not in favor of this, or any other, categorical denial of food stamp eligibility. The statute was written to be flexible, and strikers represent a small, temporary but necessary part of the food stamp rolls.

468. H.R. 7171. Farm-Food Bill. Amendment by Mr. Symms (R-Idaho) to the committee amendment to require food stamp program participants to pay cash for a portion of their stamp entitlement. Rejected 102–317.

No. The elimination of the purchase requirement is one of the major reforms implemented by this Title in order to reduce fraud and administrative waste in the operation of the food stamp program.

469. H.R. 7171. Farm-Food Bill. Amendment by Mr. Jeffords (R-Vt.) to require that food stamp households with adjusted gross incomes in excess of twice the poverty level return the excess payment, up to the amount of their food stamp allotment, to the government in cash. Rejected 149–262.

No. Sufficient anti-fraud and tightened eligibility provisions are contained in the Committee bill. In addition, the administrative expense and mere appearance of government collectors extracting food stamp overpayments from poor families (twice the official poverty income approximately $10,000 seems hardly worth the effort.

472. H.R. 7171. Farm-Food Bill. Amendment by Mr. Findley (R-Ill.) to permit the Secretary of Agriculture to implement an unlimited number of pilot projects in which work would have to be performed in return for food stamps. Rejected 159–255.

No. The committee amendment provides for a limited number of such "work-fare" pilots. These pilots, if limited and properly distributed throughout the country, can provide invaluable tests as to the administrative feasibility of work-fare.

473. H.R. 7171. Farm-Food Bill. Amendment of the Agriculture Committee offered by Chairman Foley (D-Wash.) substituting the amended text of H.R. 7940 for Title XXI of the bill regarding food stamps. Passed 320–91.

Yes. The bill significantly reforms and improves the food stamp program by tightening and simplifying eligibility criteria, tightening work requirements and preventing fraud and abuse of program benefits.

474. H.R. 7171. Farm-Food Bill. Wolff (D-N.Y.) amendment to delete the provision in the bill to establish a wheat research and education program to be supported by an assessment on wheat processors. Passed 330–109.

Yes. At a time when inflation and excessive governmental intervention are in the minds of all, this program, to be financed by an assessment bread tax, is unwise.

475. H.R. 7171. Farm-Food Bill. De la Garza (D-Texas) amendment to establish a price support program for sugar beet and can producers at a price support level between 55 and 65 per cent of parity. Passed 246–165.

No. The Agriculture Committee, after considering the impact of such a program on the federal treasury, the consumer, and the taxpayer, rejected such an amendment. I concur with their findings and recommendation.

476. H.R. 7171. Farm-Food Bill. Nolan (D-Minn.) amendment to provide support payments of up to 13.5 cents a pound for sugar crops not covered by the sugar subsidy plan approved in the Rep. de la Garza amendment. Rejected 173–238.

No. Since I do not support the creation of this price support program, I certainly do not support a more expanded program.

478. Final passage of H.R. 7171, the 1977 Farm-Food bill. Passed 294–114.

Yes. Considered solely on the basis of its agricultural programs, this measure would not warrant my support for it represents a distinct and very expensive retreat from the progress made over the last eight years. However, the final product contains a responsible reform of the food stamp program, thus assuring my support

481. Adoption of H. Res. 661, to create two positions on the Capitol Police force: a general counsel to the chief of the Capitol Police and a deputy chief of the Capitol Police, and to increase the salary of the House chaplain. Passed 383–2.

Yes. With the role of the Capitol Police becoming increasingly complex, its legal needs and problems need to be handled by a counsel within the force, directly responsible to the Chief and to the Police Board. The establishment of a position of Deputy Chief fills a vacancy and reduces the number of Metropolitan Police officers assigned to Capitol Police. The creation of both police positions will not necessitate additional funding since vacancies in the force due to retirement are not being refilled. The salary of the House chaplain is increased to equalize it with the annual salary of the Senate counterpart.

482. Passage of S.J. Res. 77, to extend until September 30, 1977 the authority of the Secretary of HUD to insure mortgages and set interest rates under certain Federal Housing Administration programs, and for other purposes. Passed 383–2.

Yes. This is a necessary extension of current insurance programs to maintain the continuity of our federal housing and mortgage support efforts until the House-Senate differences over the new Community Development Act are settled and a new authorizing statute for these programs is signed into law.

490. Adoption of the conference report to S. 826, to create a cabinet level Department of Energy by consolidating the functions of the Federal Power Commission, the Federal Energy Administration, the Energy Research and Development Administration and other energy functions scattered throughout the federal government. Passed 353–57.

Yes. The value of consolidating the energy related regulatory authority is obvious. The improved monitoring and management of energy production in this country is especially necessary in light of our ambitious goals for alternate energy development.

491. H.R. 8444. National Energy Policy. Ad hoc amendment to part 1 of Title I of the bill to establish an energy conservation program by requiring states or the Federal Energy Administration to supply residential customers information on qualified home insulation installers and financing arrangements and to allow public utility companies to provide home insulation services. Passed. 217–205.

No. While the concept of providing information, installation and financing of home conservation measures is sound and necessary, the administration of such a program could well dictate its ultimate value. Rather than the Ad Hoc proposal, I support the proposal to prohibit or at least make optional the participation of utility companies in providing financing of the measures. There are many insulation and financing institutions who are better equipped to provide these services. It makes little sense to place undue burdens on local utilities at the expense of existing suppliers.

492. H.R. 8444. National Energy Policy. Ad hoc committee amendment to require a one year study by the Department of Transportation of the energy conservation potential of off-highway recreational vehicles, including airplanes and motorboats used for pleasure riding. Passed 212–210.

No. The very purpose for creating the Department of Energy is to consolidate regulation and research in the energy fields. Projects like this will only perpetuate the duplication of efforts in these matters.

493. H.R. 8444. National Energy Policy. Ad hoc amendment to require a one-year study by the Department of Transportation of the energy conservation potential of bicycle use. Passed 252–166.

Yes. The bicycle, as a non-fuel consuming means of transportation, should be utilized to its fullest extent and any plans or opportunity to make bicycle travel more attractive to the American public should be discovered and implemented:

494. H.R. 8444. National Energy Policy. Amendment by Mr. Ford (D-Mich.) to apply the Davis-Bacon Act to certain provisions so that workers employed in the programs authorized by the bill to insulate schools, hospitals and public buildings be paid no less than wage rates prevailing in their area. Passed 265–161.

Yes. The assurance to workers of a fair wage as determined by the Davis-Bacon Act, should apply to instances involving government ordered projects for insulation of public buildings.

495. H.R. 8444. National Energy Policy. Ad hoc amendment to authorize $65 million through 1979 in federal grants to state and local governments to cover up to half the costs of identifying and installing energy conservation controls in local government buildings. Passed 317–105.

Yes. We cannot expect the states and local communities to assume the full cost of government mandated conservation projects. To insure a timely and successful program of increasing the energy efficiency of government buildings, these funds must be provided.

496. Adoption of the conference report to H.R. 7555, to appropriate a total of $60,168,561,000 for fiscal 1978 for the operations and programs of the Labor Department and the Department of Health, Education, and Welfare and related agencies. Passed 337–82.

Yes. While in a bill of this magnitude it is impossible to meet the needs of all who are assisted by the programs funded—such as the poor, the minorities, the handicapped and the aged—H.R. 7555 nonetheless represents a viable compromise. I think my colleague, Chairman Flood, summarized my position well when he said the conference report is "a reasonable response to the social needs that exist in this country but at the same time is an attempt to exercise some fiscal restraint in meeting those needs."

497. H.R. 7555. Labor-HEW Appropriations, FY 1978. Motion by Mr. Daniel Flood (D-Pa.) to concur in a Senate-passed amendment relating to abortion with an amendment to bar the use of any funds appropriated in the bill for abortions, except where the life of the mother would be endangered by continuing the pregnancy. Passed 238–182.

No. As I have previously stated, the strength of my personal opposition to the practice of abortion is equalled only by my total opposition to the involvement of the State in the personal moral decisions of individuals throughout the country. To deny women in this country readily available and legal medical service merely because they cannot afford it constitutes an invidious discrimination against the poor—denying them equal protection of the law.

499. H.R. 8444. National Energy Policy. Brown (R-Ohio) amendment to end federal controls on the price of new onshore natural gas retroactive to April 20, 1977, and on new offshore natural gas beginning April 20, 1982, and to extend the emergency Natural Gas Act for three years. Rejected 199–227.

No. I feel the President's proposal allowing the price of newly discovered gas to rise to 1.75/mfc and adjusting that price annually to reflect the higher costs of production provides sufficient incentive to produce the remaining supplies of natural gas in this country. Furthermore, government studies indicate that any additional gas that may be extracted as a result of complete decontrol would be insufficient to justify the increase in price.

500. H.R. 8444. National Energy Policy. Flowers (D-Ala.) amendment to delete provisions in the bill that would have extended anti-trust review to utilities building new facilities. Passed 257–160.

Yes. The utility rate reform provisions of the energy plan and the mandated cooperation between utilities via wheeling and pooling provide adequate protection against any new and unusual market developments in the utility field. Furthermore, present anti-trust statutes will be effective in dealing with claims of anti-competitive practices. Also, the delay in new construction resulting from this provision would hamper the goals of N.E.P.

501. H.R. 8444. National Energy Policy. Horton (R-N.Y.) amendment to delete provisions in the bill authorizing $75 million for purchase of 6,000 vans for a van-pooling program for federal workers. Passed 232–184.

Yes. The funds authorized for this project would not provide adequate energy savings to justify the expenditure. A more worthwhile expenditure of the $75 million would be to develop more conventional mass transit programs which would benefit the entire general public.

503. H.R. 8444. National Energy Policy. Howard (D-N.J.) substitute amendment to the ad hoc committee amendment to increase federal gasoline tax by five cents, effective Jan. 1, 1979, with half the revenues going to support mass transit programs and half toward repair of the nation's bridges and highways. Rejected 82–339.

No. First, it has been adequately proven since 1973 that price increases (almost 100% over three years) serve as no significant deterrent to gasoline use. Therefore, this proposal is simply a veiled revenue raising device coupled with a hastily drafted alloca-

tion plan. Mass transportation as part of our national energy strategy deserves a more thorough and workable approach than this.

504. H.R. 8444. National Energy Policy. Ad hoc committee amendment to increase the federal gasoline tax by four cents, with revenues to support programs for research, mass transit and state highways. Rejected 52–370.

No. Again I am opposed to a gasoline tax for its unfair burden on the poor and on larger families. In addition, these burdens are nowhere matched in this proposal by the benefits of such a tax. Mass transit funding, it has been painfully learned, is a more complex matter than a few cents of additional gas tax.

505. H.R. 8444. National Energy Policy. Amendment by Mr. Jones (D-Okla.) to return oil and gas producers money derived from the proposed crude oil equalization tax in order to provide an incentive for increased energy production. Rejected 198–223.

No. I believe that the tax rebate program of the oil equalization tax should be implemented as proposed, at least for the first year. If the rebate, scheduled for reexamination after one year, proves less than effective in meeting its intended goal, a plowback program may again be considered. Furthermore, with every available drilling rig presently in use, the moneys "plowed back" for additional exploration could not be used until additional rigs were constructed—perhaps a year's time.

506. H.R. 8444. National Energy Policy. Amendment by Mr. Waggonner (D-La.) to use 1978 revenues from the crude oil equalization tax to supplement the Social Security trust fund system rather than for debates to individual taxpayers. Rejected 190–226.

No. In addition to my desire to examine the efficacy of the tax rebate program after its first year, the result of this amendment would misplace the program's benefits. The rebate program is designed to offset the burden to energy consumers created by the increase in the wellhead price of oil. With the revenues going to the Soc. Sec. program, the protection from higher fuel costs would be virtually eliminated for the energy consumer.

507. Passage of H. Res. 729, providing $302,499 for the operations and investigations of the House Permanent Select Intelligence Committee for the remainder of calendar 1977. (Creation of the committee passed on July 14, see RC417.) Passed 342–10.

Yes. This funding will allow the committee to begin its important work this year, rather than waiting for fiscal 1978 funds.

508. H.R. 8444. National Energy Policy. Amendment by Mr. Conable (R-N.Y.) to cut the general income taxes in proportion to 1978 revenue received from the proposed crude oil equalization tax. Rejected 175–232.

No. Again, the rebate program should be allowed to function for its first year.

509. H.R. 8444. National Energy Policy. Ad hoc committee amendment to delete from the bill a provision that automatically exempted new plants from having to pay the proposed oil and gas users tax if such plants were exempted from regulatory orders prohibiting use of those fuels. Passed 221–198.

Yes. Rather than automatic exemptions, I favor the retention of the three categories (mandatory conversion to coal, full payment of users tax by oil and gas burners and partial payment of users tax by oil and gas users with federal authority to reassign a plant from one category to another) as outlined by the bill.

510. H.R. 8444. National Energy Policy. Amendment by Mr. Anderson (R–Ill.) to substitute for the bill a series of energy proposals agreed upon by the Republican members of the Ad Hoc committee on energy. Rejected 147–273.

No. I don't believe that the "Republican substitute" addresses the needs of the country's energy problems as adequately as the package proposed by the Administration.

511. H.R. 8444. National Energy Policy. Amendment by Mr. Horton (R–N.Y.) to reaffirm an earlier vote deleting provisions in the bill authorizing $75 million for the purchase of 6,000 vans for van-pooling for federal workers. Passed 239–180.

Yes. As I stated in the original vote, I support the deletion of these funds for van-pooling.

513. Final passage of H.R. 8444, to establish a comprehensive national energy policy. Passed 244–177.

Yes. Although I am not entirely pleased with some provisions of the bill, it does provide an adequate resolution to many of the energy problems confronting this nation.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 16, 1977, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 557: S. 275: Agriculture. The House agreed to the conference report on the measure, "no";

Rollcall No. 558: H.R. 5262: International Financial Institutions. The House rejected the conference report on the measure to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, "yes"; and

Rollcall No. 559: H.R. 9005: District of Columbia appropriations. The House passed the measure making appropriations for the District of Columbia for the fiscal year ending September 30, 1978, "yes."

PLIGHT OF OUR SCHOOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

Mr. MILLER of Ohio. Mr. Speaker, across the country, school districts are facing bare bones budgets, teacher cutbacks, and school closings. The following letter from Mrs. Mary Carson of New Matamoras, Ohio, illustrates the serious situation in Ohio as a result of State and Federal regulations on the local school systems:

State and federal mandates are killing our schools and reducing quality education.

State and federal agencies and the courts are making most of the decisions about financing, personnel and curriculum which is easily borne out in nationwide studies. There is little room for superintendents, boards of education, principals and teachers to use their qualified judgments as to where best to utilize the tax dollars allocated to them because these decisions are already dictated by remote decision makers.

To qualify for many of the various state and federal funds, school boards must spend spiraling amounts of their share of matching funds thus reducing their immediate control over local tax dollars.

Increased spending in education and a lowering in quality of education are among the adverse results in the increasing trend toward the control of our schools by centralized government.

Between 1952 and 1972 enrollment in public schools and colleges almost doubled with the various staffs tripling and funds increasing eight times according to a study by Dr. Roger Freeman.

It is a well-established fact that for the past 10 years college board test scores have been declining sharply.

The Rev. Jesse Jackson recently stated in strong language, "Education is the biggest fraud going on in America today. Many students are being graduated from high school and getting a diploma, but they have no information and they can't read well. When that happens, you better know that you have been robbed."

According to Jerry Gumbert, OSBA management information director, there are 70 school districts in the state of Ohio which face closing this year because of financial difficulties. Frontier Local District is one of these unfortunate districts. Frontier is a victim of state mandates.

The state issues the mandates, the district complies, the state then says it has not the means to provide the promised funding. The Federal Constitution provides that a state cannot be sued without its consent.

Low tax returns because of lack of industry and loss of taxable land taken by the Wayne National Forest, inflation and the aforementioned federally and state mandated programs have eroded Frontier's budget and its board's control over that budget.

To combat the present situation and reverse the trend toward centralized dictates to our schools, the citizens of all school districts should let their voices raised in protest be heard by their representatives in Columbus and Washington. It is they, not the boards of education, who should be the targets of protest: for they are the ones who are calling the shots. They are the ones making promises and providing no means for keeping those promises. They are responsible for the present plight of 70 school districts in Ohio.

MARY A. CARSON,
Board Member,
Frontier Local School District.
NEW MATAMORAS, OHIO.

PEPPER CALLS SEARS' "STUDY" MISLEADING ON MANDATORY RETIREMENT ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, I wish to call my colleagues' attention to what I consider to be questionable tactics and a last-ditch effort by Sears, Roebuck, Inc., to forestall passage of H.R. 5383, a bill I introduced to extend protections from mandatory retirement in both the public and private sectors.

Recently, Sears, Roebuck, Inc., released a "study" predicting a 0.6-percent increase in unemployment if H.R. 5383 is enacted. An examination of the study, however, reveals that this prediction is based on a large number of false assumptions and misleadingly high statistics.

The Cassandras prophesying doom if this bill is passed remind me of a conversation Chief Justice Holmes, then 90, had

with his wife in the heart of the depression. His wife Annie observed:

We can't possibly employ all these people.

To which Holmes replied:

We've lived to a remarkable age, Annie. We've had many troubles, most of which never happened.

Searching through the assertions to locate the verifiable data in the Sears' study reveals that what at first appears to be a formidable elephant snare is in fact a hastily spun net of cobwebs. The numbers pulled randomly from a tumbler in a game of bingo have as much relation to the impact of H.R. 5383 as do the figures in this Sears' study. If Sears' tools were as carefully constructed as the data in this study, Sears, Roebuck, Inc., would not be a corporate giant today but rather a footnote in the history of the frontier, indexed under, "Use of Sears Catalogs as Fire Fuel."

This legislation will not die of wounds inflicted by groundless assertions. Congress will not be gulled into accepting the argument that we must not change the law until we know what we can only know if we change the law. Congress is not composed of clairvoyants or soothsayers, but of prudent persons who have weighed the evidence of large and small corporations, corporations with and without mandatory retirement, scholars, economists, representatives of labor, and older Americans themselves before commending this legislation, without a single negative vote in any committee, to the House.

This legislation will pass overwhelmingly in both the House and the Senate and the President will sign it because competence, not such extraneous factors as age, race, sex, or religion, ought to determine whether a person is hired, promoted, or retained in a job.

In an effort to dispell any unnecessary concerns or fears which might have been raised by the Sears, Roebuck, Inc., "study," I would like to share with my colleagues an item by item analysis of the Sears' report. This analysis follows:

SEARS' "IMPACT STATEMENT" ON H.R. 5383

Pepper's response to Sears, Roebuck and to "Employment Impact Statement: Increasing the mandatory retirement age to 70" submitted to House Subcommittee on Equal Opportunities, September 8, 1977.

Sears' study statements:

". . . there are 4,158,000 employed workers in age range 60–64."

". . . roughly 2,040,000 normally would be expected to retire by age 65".

Extending mandatory retirement to age 70 would mean a "certain portion" would be expected "to retain their jobs".

If "one-third" remained, "680,000 job openings" would be eliminated.

ASSUMPTIONS

The assertion that 680,000 would be eliminated is based on the assumption:

1. That all 2,040,000 would wait until age 65 to retire.

2. The "one-third" presumed to remain would have to remain alive, be able to do the job and actually work for five full years after 65.

3. All 4,158,000 are assumed to be subject to age based mandatory retirement below the age of 70.

Assumptions not based on facts:

1. Social Security figures and studies indicate that last year almost 90 percent of new retirement benefits were reduced almost exclusively because of retirement before age 65 with 62 the most common age of voluntary retirement. Since the majority of persons retire before 65, even though they can continue until 65 under the present law, it is unlikely that an increase in the age of protection from age-based mandatory retirement from 65 to 70 will cause early retirees to continue working until 70.

2. Absolutely no justification given in Sears' statement for "one-third" figure. Social Security data indicate that mandatory retirement results in as few as 7 percent of retired males who were willing and able to continue working, but were unable to find a job. *If* these chose (and some would not) to stay on their previous job between the ages of 65 and 70, then the figure would be nearly 5 times smaller than that used by Sears, and even that figure is exaggerated because the number and percent of females subject to mandatory retirement are less than the number of men.

Studies by Cordelia Reimers, Professor of Economics at Princeton, indicate that current annual retirement rate for those still employed at 65–70 is 8 percent. This rate, together with the 4 percent mortality rate for that age group, would substantially reduce the impact of H.R. 5383, if any, on the unemployment rate.

3. Social Security studies indicate that 30 percent of newly entitled beneficiaries age 62–65 had a mandatory retirement age in their last or present job. Of these, more than 60 percent retired before the mandatory age. Thus, the impact of H.R. 5383 on the workforce is grossly overstated in the Sears' paper.

Sears' study statement:

". . . of the 24,000,000 people over 60 who are non-participants in the labor force, roughly 8,000,000 are retirees".

". . . if only 5 percent decide to seek jobs" would add 400,000 per year to labor force and thereby increase unemployment rate.

ASSUMPTIONS

1. All 8 million retirees were subjected to mandatory retirement at age 65–69.

2. All 8 million retirees are now between the ages of 65 to 70 (since H.R. 5383 only extends existing protection from 65 to 70).

FACTS

1. As noted earlier most persons are not subject to mandatory retirement.

2. It is improbable that 8 million retirees are 65–69 since the overwhelming majority of Social Security retirees each year are under 65.

Sears' study statement:

Annual average: 3100 full-time nonexempt employees retire from Sears.

⅓ would choose to continue working.

5,100 fewer full-time job openings for new entrants.

Each retirement triggers four promotional opportunities.

ASSUMPTIONS

1. All retirees from Sears are 65.

2. The ⅓ that would presumably choose to continue would live and continue to work for 5 years.

3. That there is no attrition in Sears' work force; all positions are opened by retirement and are then presumably filled.

FACTS

1. Actual retirement age in general population is well below 65; why would Sears be so radically different?

A. The statement undermines its own assumption by stating, on page 5, that the average retirement age for non-exempt employees is "62". It is therefore likely that over one half of the 3,100 retired well before 65.

2. The data do not include adjustment for retirement before 70 or for mortality.

3. The data do not allow that reorganization or consolidation may eliminate the job opened by mandatory retirement.

4. It is difficult to believe that each time a clerk in the toy section or tool section retires, four promotional opportunities arise.

Additionally, I would like to share with my colleagues further information on this matter as contained in a report recently released by the Select Committee on Aging, entitled "Mandatory Retirement: The Social and Human Cost of Enforced Idleness." This material follows:

IMPACT ON LABOR FORCE

To say that ending forced retirement will turn hundreds of thousands of new jobseekers onto the marketplace is grossly misleading.

Only a very small percentage of those who turn 65 in a given year are new potential jobseekers.

Economist James Schultz constructed a chart illustrating this, a chart that appears on page 7 of the Aging Committee's report on mandatory retirement. Here is what the chart depicts so well.

Suppose you have 100 male workers who have "retired" from their jobs.

Of the 100, only 54 of them were subject to any mandatory retirement. Obviously, H.R. 5383 affects only those subject to such rules.

Of the 54, 30 of them retired before reaching the mandatory retirement age. These people would obviously not be affected by a bill raising the mandatory retirement age. That leaves 24.

Of the 24 who retired at the mandatory retirement age, only 14 were "unwilling" to retire.

Of those 14, four were "unable" to work, leaving only ten.

Of those 10 able to work, three were able to find jobs in the existing job market.

Only seven of the original 100 retired male workers who were able to work and seeking it, were unable to find a job and therefore could conceivably be part of the job-seeking force.

Even if all of the 500,000 men and women who reach age 65 in any year were in the work force, that would mean only 35,000 persons. To place that in perspective, the part-time employment program under title IX of the Older Americans Act will provide 45,000 jobs in FY 1978.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS TO HOLD HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, on October 3 and 4, the Government Operations Subcommittee on Government Information and Individual Rights, which I chair, will hold hearings on the fourth exemption of the Freedom of Information Act. That exemption permits the withholding by Government agencies of trade secrets and other commercial or financial information obtained from businesses and individuals which is privileged or confidential. It is the purpose of the hearings to identify any problems presented by this exemption and to explore possible alternatives. We also intend to consider problems resulting from

so-called reverse FOIA lawsuits, which are actions to prevent the release of information by the Government.

These issues should be of great interest to businesses that submit information to the Government and to those who request documents and contractual data under the Freedom of Information Act. Appearing on Monday, October 3 at 10 a.m. will be representatives of the Department of Labor and the Environmental Protection Agency. On Tuesday, October 4, the hearing will start at 9:30 a.m. and witnesses will include representatives from the Food and Drug Administration, the Freedom of Information Clearinghouse, and the Machinery and Allied Products Institute, and Burt Braverman, a Washington attorney. Both hearings will be held in room 2203 of the Rayburn Building.

Written testimony will be accepted for the record from other interested parties. Field hearings outside of Washington are also contemplated during the months of November and December, following adjournment this session. For further information, interested parties are invited to contact Robert Gellman of the subcommittee staff, B-349C Rayburn Building, (202) 225-3741.

EFFECT OF H.R. 3816 ON THE FTC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes.

Mr. ECKHARDT. Mr. Speaker, in the last few weeks I have received a number of form letters expressing objections to section 7, the consumer action provision, of H.R. 3816. These letters have been from organizations whose members are apparently afraid that section 7 may require them to refund money they have ripped off consumers in violation of the law. Of course, they don't say this. Instead, they express lofty and altruistic concerns about the effectiveness of the Federal Trade Commission and about the burden that section 7 might place on the FTC. For example, they say that they are afraid enactment of section 7 might lead to inconsistent judicial interpretation of FTC rules and orders, that FTC resources will be drained because it will have to intervene in all private actions, and that section 7 will jeopardize the FTC's ability to obtain consent orders.

While I am sure the FTC appreciates this unselfish concern for its welfare by the unscrupulous business operators, I thought it would be advisable to check with the FTC to see if it shares these concerns. Not surprisingly, I found that the FTC does not. Instead, the FTC believes that the consumer action provisions of section 7 will be of significant benefit both to the consumer and the Commission.

Mr. Speaker, I think it would be useful to the other members of the House if they have an opportunity to see the FTC's responses to the objections raised by opponents of section 7. Therefore, I would like to insert in today's RECORD a copy of FTC Chairman Michael Pertschuk's letter to me commenting on the objections to section 7:

FEDERAL TRADE COMMISSION,
Washington, D.C., July 29, 1977.

Hon. BOB ECKHARDT,
Chairman, Subcommittee on Consumer Protection and Finance, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of July 12, 1977, requesting my comments regarding concerns expressed by opponents of Section 7 of H.R. 3816. As stated in my testimony of May 4, 1977, on S. 1288 before the Senate Commerce Committee, the Commission strongly supports the creation of a private right of action as an essential complement to the Commission's efforts to protect consumers from fraud and deception.

We will deal individually with the concerns which have been expressed:

1. Possibility of Inconsistent Judicial Interpretations of Commission Rules and Orders.

According to your letter, some opponents of Section 7 have expressed concern that to authorize a private right of action could result in inconsistent judicial interpretations of Commission rules and orders, thereby undermining Commission enforcement efforts. It is important to point out in this regard that Section 7 would permit a private redress action only if the Commission has previously found conduct to be in violation of Section 5 of the FTC Act (15 U.S.C. § 45(a)) and has issued a cease-and-desist order or a rule prohibiting such conduct. Thus, the Commission will have had the opportunity to spell out what Section 5 means in the context of a particular act or practice. Only violations of these final cease-and-desist orders and rules would give rise to a private action.

That courts initially may render somewhat inconsistent opinions in determining whether there has been a violation of a Commission rule or order is a potential problem which already exists under current law and one that is simply a consequence of the very nature of the judicial system. Thus, the Commission currently faces this possibility in exercising its authority to bring an action in district court to collect a civil penalty (15 U.S.C. § 45a) or to obtain redress on behalf of injured consumers (15 U.S.C. § 57b). However, I do not believe that the situation presents an intolerable problem under present law and have no reason to believe that inconsistent judicial interpretations of Commission rules and orders would be more likely to increase if consumers were permitted to seek relief on their own behalf.

I should also point out that the class action mechanism contemplated by Section 7 would minimize the risk of conflicting judicial interpretations concerning the same matter by encouraging consumers with similar claims to join together in a single action in a single court.

2. Possibility That Commission Will Be Forced To Intervene in All Private Actions.

You have also referred to a concern expressed by opponents of Section 7 that its enactment would strain Commission resources by forcing it to intervene in all private redress actions in order to safeguard its own enforcement policies.

Section 7 would enable the Commission to intervene in a private redress action when necessary to make known its views and to clarify various questions which might arise with respect to its rules and orders. In most instances, the Commission's position will be clear from the face of the cease-and-desist order or rule which is before the court in the private action, so that the Commission will be able to focus its intervention efforts on cases involving significant issues of first impression. Thus, there is no reason to believe that the Commission would be forced to intervene in every private suit in order to safeguard its enforcement policies.

3. Possibility of Jeopardy To Consent Order Procedure.

Lastly, your letter points out the concern expressed by opponents of Section 7 that its enactment could jeopardize the Commission's ability to obtain consent orders.

As there are a wide variety of factors which bear upon the desirability of entering into a consent order agreement, we are unable to say whether any one factor—such as the existence of a private right of action—would render such an agreement any more or less desirable. While the existence of a private right of action for violation of a Commission cease-and-desist order might dissuade some respondents from entering consent agreements, it is at least as likely that it would encourage other respondents to enter consent negotiations in order to have a voice in preparing and agreeing to the precise language of a Commission order.

Furthermore, Section 7 is subject to a limitation which would restrict the availability of a private right of action to those Commission orders which expressly authorize such a right. This would permit the Commission, in negotiating consent order agreements, to exempt an order—either in whole or in part—from private suits, when desirable. In sum, it is unlikely that the enactment of Section 7 would jeopardize the Commission's ability to obtain consent orders.

As stated in my testimony of May 4, 1977, the Commission believes that the creation of a private right of action for violations of Commission rules and orders would be of significant benefit both to the consumer and the Commission. While the Commission currently has statutory authority, pursuant to Section 19 of the Federal Trade Commission Act (15 U.S.C. § 57b), to bring a redress action on behalf of injured consumers, limits on Commission resources make it difficult to justify such an action for every violation of a rule or order. This problem could become particularly acute with regard to Commission enforcement of both its existing and contemplated trade regulation rules, given their industry-wide character and the Commission's increased activity in this area as a result of the authority recently granted in the Magnuson-Moss Act. The existence of a private enforcement mechanism would substantially reduced the Commission's enforcement burden, thus enabling it to focus its resources on other problem areas where individual injury may not provide an adequate incentive to seek relief.

In addition, Section 7 would give individual citizens a direct right to seek redress of injuries without dependence upon the action of a federal agency. I favor techniques such as Section 7 which decentralize enforcement efforts by augmenting the legal remedies available to individual citizens.

The Commission has endorsed the class action provisions of Section 7 because these provisions are vital if the private right of action is to serve the dual purpose of redress and deterrence. Unfair or deceptive practices prescribed by the Commission typically victimize large numbers of persons, but individual damages are seldom large enough to justify the heavy costs of litigation. The class action mechanism contemplated in Section 7 would provide an effective means whereby similarly aggrieved consumers could join together and seek relief collectively.

Sincerely,

MICHAEL PERTSCHUK,
Chairman.

LEGISLATION TO AMEND CREDIT ELSEWHERE TEST UNDER FARMERS HOME ADMINISTRATION LOAN PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, I am introducing legislation today which will amend the credit elsewhere test under the Farmers Home Administration (FmHA) housing loan program by exempting a veteran from the provision in current law which requires that he or she first apply to the Veterans' Administration housing program, with its far less favorable interest and repayment terms, before being eligible for consideration under the FmHA loan program. This measure would preserve the FmHA credit elsewhere test requirement for veterans, except for the VA program, and it would maintain the FmHA's mandate as the lender of last resort.

In my view, the possibility of denying an individual consideration for an FmHA housing loan solely because he has served his country and may therefore be eligible for a less desirable VA loan, is ironic and discriminatory, and it should be eliminated. My proposal would do just that.

It is significant to point out that the problem of possible discrimination against veterans in the FmHA housing program was brought to my attention by one of my constituents who was concerned that an individual who happened to be a veteran could not apply directly to the FmHA for a loan. While it is important for the Congress and the administration to address the larger policy issues of our day, I believe that it is equally important that we endeavor to address those issues as they translate in the daily lives of our people and to then respond fairly and with alacrity. I feel that this bill goes far in meeting the latter criterion.

The text of the bill follows:

H.R. —

A bill to provide that housing benefits available to a veteran, under title 38 of the United States Code, shall not be considered in determining, under title 5 of the Housing Act of 1949, whether such veteran is able to obtain credit for housing from sources other than the Farmers Home Administration

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501(c) of the Housing Act of 1949 is amended by adding the following new sentence at the end thereof: "In addition, if the applicant is eligible for housing assistance under title 38, United States Code, such assistance shall not be taken into consideration in applying clause (3) with respect to such applicant."

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JACOB ARVEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the death of Jacob Arvey leaves a tremendous void in our community.

I knew Jacob Arvey all of my life. As a youngster of 10, I met him at the American Boys' Club in the 24th ward which he so ably represented in the city council of the city of Chicago. He kept in touch with me throughout all of the ensuing years.

In 1948, while I was serving as secretary-treasurer of the Illinois State CIO Political Action Committee, we endorsed the candidacy of Paul Douglas for U.S. Senator and Adlai E. Stevenson for Governor of Illinois. The endorsement by the Congress of Industrial Organizations carried tremendous weight in helping to select these two men who won in 1948 when the political pundits said they could not win. As all of us know, that was the year Harry Truman stumped the experts, and that was the election when Jacob Arvey served as the county chairman of the Cook County Central Committee.

Jacob Arvey's leadership and his dedication to the principles of the Democratic Party inspired our entire Democratic Party, not only in Cook County but throughout the entire State, and we elected Stevenson and Douglas, and carried the State for Harry Truman. The credit for this victory must go to Jacob Arvey, a dedicated, humble, and compassionate man who had a genius for working with people.

Mr. Speaker, at this point in the RECORD I am inserting an article written by Roger Simon about Jacob Arvey which appeared in the Chicago Sun-Times on August 28, 1977. The article follows:

JACOB ARVEY'S MACHINE WAS FUELED BY LOYALTY

(By Roger Simon)

He was a small man who made giants. A common man who made kings.

I met him only once. I had tried to interview him for years and one day he agreed. He sat at the far corner table in a huge dining room, facing a sea of white tablecloths.

I had studied him in college. He was the stuff of lectures. Jacob Arvey, the man who built the greatest political machine in the history of the nation. The man who launched the careers of Adlai Stevenson and Paul Douglas. The man to whom Richard Daley used to say, "Please" and "Thank you."

It was last summer and Jacob Arvey was 81 and ill. The only thing he wanted in life was to be slated as a delegate to the Democratic National Convention. Daley refused. Arvey was hurt, bewildered.

"The organization, a political organization, is built on loyalty," he said. "I have served the Democratic Party since 1914. Naming me a delegate would have been a recognition of that. But I was not slated. Daley would not slate me.

"How can I feel good about this? I'm old, I'm retired. I wouldn't have even gone. My health wouldn't let me. It would have been a gesture."

But the machine that he built did not feel like gesturing. Only after Daley's death was the machine able to reward Arvey by giving him the honorary post of party chairman emeritus.

When Arvey built the machine it was a different world. In an era of American history when public service agencies didn't exist or were just beginning, a political organization was food and clothing and jobs and coal.

"Every night from 7:30 to 10:30, I would have an open house in my office," Arvey said, speaking of the Depression years when he was an alderman.

"They would stand in line to see me. They couldn't pay the light bills, the rent. Sometimes I could do little. But that they could talk to somebody in authority gave them faith.

"Faith. Now they criticize the organization. They say how awful it is. I will tell you something. There was a boy named Phil. A graduate of law school. He came to me. He said there were no legal jobs. He said he would sweep the streets. He said he had no food for his children.

"I got him a job as a laborer. He would check the alleys to see if the garbage was removed. He fed his family. Today he is a lawyer.

"People didn't want unemployment money then. They felt if they could work one hour, they had their self-respect.

"My ward, the 24th Ward, helped a lot of people. It was a family. You moved into my ward and I knew your name. I got others to help. We would hold parties to raise money for those who did not have it. If Smith knew that Jones got the help when Jones needed it, then Smith knew it would be there for him, too."

In return for the jobs, the food, the coal, the machine asked for one thing: loyalty. It did more than ask. It demanded it. Arvey controlled 40,000 patronage jobs. And the holders of those jobs were expected to pay the party back in time and work.

He never apologized for that. He was never ashamed of it. It was the basic tenet of American politics. It was his life.

"A machine is discipline," he said. "A machine is uniformity. A machine is regularity. A precinct captain came to me and said he could not support the party's man. I said, fine, Harry. You're no longer part of the organization.

"And then I went into his precinct personally and I campaigned. And I beat him. That was a lesson. A lesson to all the others."

In 1936, Arvey delivered his ward for the Democratic Party by a vote of 29,000 to 700. Franklin Roosevelt came to Chicago to shake his hand. Loyalty.

"It's a funny thing," Arvey said. "I got into all this by working for an independent. It was 1914 and I was working for a guy named William J. Lindsay and he was an independent. Can you imagine that?

"Did he win? I just told you he ran against the machine. Of course he didn't win. But when I got in, when I advanced in the organization, this man was taken care of.

"This man died a judge." Loyalty.

Marshall Korshak, himself a machine stalwart for 43 years, himself in control once of thousands of patronage jobs, knew, loved and understood Jacob Arvey. "What can I tell you?" said Korshak. "Can I tell you he never even felt the kind of power he had? Can I tell you that nobody in the history of the Democratic Party did what Arvey did? Can I tell you that the party was his life? His life. He lived and breathed it. And no one left it with more friends, no one left it loved by more people."

Arvey left his formal ties with party control in 1972. He continued in private law

practice after that but spent most of his time raising money for various charities.

"I lost a friend once," he told me. "We were at a fund raiser. This man was a big man, a golf partner of mine. He pledged a thousand dollars. He looked around for praise.

"I told him: 'See that waiter. He pledged $50. That fifty means more, is greater than your thousand.' That man never spoke to me again. So I lost a friend."

Arvey shook his head. The interview was over. But Arvey wanted to say one more thing. One more thing to sum up what politics and the organization meant to him.

"I will tell you something," he said. "I am not a strictly religious man, this I know. But my life has been guided by what I learned at a Yom Kippur service.

"No, no. You cannot print it. This is too corny. Not while I'm alive. Wait. Wait until I am gone," he said with a smile.

"You tell them what I learned from Isaiah. That you do not please the Lord by wearing sackcloth and ashes and by showing grief.

"You please the Lord by feeding the hungry and clothing the naked and doing justice to your fellow man. When I am gone, you tell them that this quote explains Jacob Arvey."

Jacob Arvey was buried Friday.

PANAMA CANAL TREATY AND COMMUNIST INFLUENCE IN PANAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in an address in the CONGRESSIONAL RECORD of September 7, 1977, page 28046, I quoted an article by Allan C. Brownfeld, a well informed and perceptive Washington columnist, on the timely subject, "Canal Should Not Be Given away."

Columnist Brownfeld has now followed with another timely article on the growth of Communist influence in Panama and its relation to the proposed new Panama Canal Treaties, citing the chief Panamanian negotiator, Dr. Romulo Escobar Bethancourt. The effect of the article is to warn of the utmost necessity for retention by the United States of its undiluted sovereignty over the Canal Zone.

Because the latest article by Mr. Brownfeld provides useful documentation in the current canal discussions, I quote it as part of my remarks:

THE CANAL TREATY AND THE GROWTH OF COMMUNIST INFLUENCE IN PANAMA

(By Allan C. Brownfeld)

One argument presented by President Carter for ratification of the treaties which would transfer control of the Panama Canal and the Canal Zone to the government of Panama is that if this is not done rioting and guerrilla warfare will ensue—that if it is not done, the Canal will cease to be secure.

The implication, of course, is that if the Senate does ratify the treaties, the Canal will be secure. This, however, is not an obvious by-product of such an action. The unfortunate fact is that the Panamanian government is not only a dictatorship but is, in addition, one in which Communist influence is widespread. This aspect of the debate has thus far been muted. It is time that it took center stage.

A lengthy document prepared by responsible attorneys in the Canal Zone has been submitted to U.S. congressional staff members. This document declares that, "The Panamanian Communist Party . . . is firmly in control of Panama. Transformation to a socialist state is still incomplete. The final steps in the process must await a treaty. The Communists are a little incredulous of their own success. In order to make the revolution truly irreversible, they have to stop up some of the leaks in their control of the news, mails, radio and television, phone calls, meetings of people, etc. This requires that they obtain effective sovereignty over the Canal Zone and that they attempt to eliminate U.S. bases. As long as the Zone bases remain, it is like a sword which threatens their permanency."

According to this document, the chief Panamanian negotiator, of the Canal treaties, Romulo Escobar Bethancourt, is "an avowed Communist . . . Che Guevara was his house guest during a Panama visit. Bethancourt is a personal adviser to Torrijos."

Much of Bethancourt's pro-Communist record is presented in the document submitted to Congress. Included is a newspaper report that Escobar is a great admirer of North Korea's Kim Il Sung. Indeed, when liberal columnist Charles Bartlett traveled to Panama in late February, he returned to write that, "Too many of the regime's key figures, including some principal negotiators, are committed to the hard left. . . . Torrijos' chief adviser, Escobar Bethancourt, turns up in such curious roles as head of the Panama-North Korea Association."

On August 9, the Star and Herald, an English language newspaper in Panama, quoted a newspaper reporter asking General Torrijos whether or not he was a Communist. At that point, Escobar cut off Torrijos and answered for the general. "Look here," said Escobar, "we could answer negatively, but what happens is that we do not like to say no because we do not accept someone to self-appoint himself into an inquisitor into one's personality. . . . Each individual has the right to choose the political ideology he likes and to act in politics as he chooses."

Interestingly, in July, at the very moment when U.S. and Panamanian negotiators were conferring, the Soviet Union—which does not even have diplomatic relations with Panama—was in the process of negotiating a potentially major trade and economic agreement with the Panamanian government. This deal, which involves the Soviet purchase of Panama's surplus crude sugar at a price higher than the world market price, could significantly enhance the Soviet presence not only in Panama but in other Latin American countries as well.

While the Canal treaties give the U.S. the right to maintain its military installations in the Canal Zone until December 31, 1999, there is evidence that once the treaties are ratified, the Panamanians would then begin to move toward immediate expulsion of any U.S. presence. In a speech on August 12 to Panamanian students, Escobar strongly suggested that the Torrijos government would not oppose violent actions by the students to correct what he said were some of the "ugly" features of the new treaties, including the stationing of U.S. military forces in Panama. "There are still theories," Escobar stated, "that we can get more, much more through confrontation. . . . In the past, when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked for permission. . . . When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation. . . . If one triumphs, one wins, and if ones does not triumph, one dies."

Prior to Escobar's speech, Robert Gomez, secretary general of the Federation of Panamanian Students, told his audience that while the treaties "resolve part of the problem . . . much remains to be done to totally eliminate the last symbol of the overwhelming presence of U.S. imperialism . . . Contrary to what many think, the new agreement will not, and cannot, signal the end of the process or of the struggle for national liberation . . ."

Thus, while President Carter tells us the treaties will make the Canal secure, Panamanian voices repeatedly tell us that the treaties are only the beginning. Roger Fontaine, director of Latin American Studies at the Center for Strategic and International Affairs at Georgetown University, expressed the view that when the Panamanian police control the Canal Zone—which will occur within three years of ratification—the Panamanians "will encourage us to leave the Zone as soon as possible."

Communist influence and stated Panamanian desire for the U.S. to leave immediately should cause the Senate to carefully consider the merits of President Carter's arguments in favor of ratification. These arguments, by any objective standard, seem wanting.

OPPOSITION TO KILDEE AMENDMENT TO H.R. 6693

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I wish to state my reasons for opposing Mr. KILDEE's amendment to H.R. 6693.

Three days ago, the Subcommittee on Crime, which I chair, of the Committee on the Judiciary, completed hearings on a number of bills that would amend title 18 of the United States Code, the Criminal Code, to provide punishments for the use of children in the production of photos, films, and other materials depicting explicit sexual conduct. The subcommittee has scheduled markup on these bills for September 26, and Judiciary Committee action is expected on September 29.

One of the bills we have been considering, H.R. 3913, by Mr. KILDEE, is identical to H.R. 4571, also by Mr. KILDEE, which has been considered by the Select Education Subcommittee of the Education and Labor Committee, except that rather than amending the Criminal Code, that bill would amend the Child Abuse Prevention and Treatment Act by adding criminal sanctions identical to those provided in H.R. 3913.

A modified version of H.R. 4571 is expected to reach the floor of the House next week, possibly as early as Monday, in the form of an amendment by Mr. KILDEE to H.R. 6693, which extends the authorization of the Child Abuse Prevention and Treatment Act, H.R. 6693, which was reported by the Education and Labor Committee on September 19, will probably be considered under a suspension of the rules.

My concerns are twofold. Mr. KILDEE's amendment to H.R. 6693, like H.R. 3913 which my subcommittee has been considering, is, in its entirety, a proposed criminal statute. In the interest of integrity and consistence of our system of codification of our laws, it properly belongs in title 18, the Criminal Code, rather than in the Child Abuse Prevention and Treatment Act. Furthermore, it is my view that such an amendment of our criminal laws should not be approved by the House until the Judiciary Committee has had an opportunity to complete its consideration of the matter. This is particularly true when, as now, Judiciary Committee action is imminent. I have discussed this matter with Chairman RODINO, and he shares my view in this regard.

Second, our consideration of H.R. 3913, which, as noted above, is virtually identical to the amendment that Mr. KILDEE has offered to H.R. 6693, raised critical questions concerning the constitutionality of some of the major provisions of the proposal. The legal experts who raised these questions, which included witnesses from the Department of Justice, had serious reservations about the constitutionality of provisions which authorize the prosecution of distributors and sellers of printed materials depicting actual or simulated sexual conduct involving children without a requirement that the materials be proven to be obscene. I might add that it was precisely because of these constitutional questions that the Senate Judiciary Committee decided to delete such provisions from the bill they reported on this subject recently, S. 1585.

Final action on this matter by the Subcommittee on Crime and the Committee on the Judiciary, the appropriate bodies to report to the House on the matter, will be complete in a few days. I urge you to oppose the Kildee amendment to H.R. 6693, so that we may complete our work on this important matter; and, if the House and the Senate approve their respective Judiciary Committee bills, represent the House in conference with the Senate.

INLAND WATERWAY TOLLS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, in the near future, this House will have the opportunity to consider the Navigation Development Act, H.R. 8309. This legislation will have a tremendous impact on the transportation of water-borne commerce of this Nation. For the first time in our history, the Federal Government would be authorized to assess and collect a fuel tax on inland waterway users.

Because I have the privilege of representing the second largest port in the Nation which serves as the crossroads of America's inland waterway system, I am keenly aware of the economic impacts which will accompany the imposition of this tax.

The port of New Orleans, due to its geographical location near the mouth of the Mississippi River and astride the Gulf Intercoastal Waterway, services the great midcontinent region of North America. Historically, it has gathered the products of mid-America and shipped them overseas in deep draft bottoms and in return, distributed the products from overseas to the industries and cities of the midcontinent.

At the very least, we can all agree that the Mississippi River—with its tributaries—is the jugular vein of American commerce. In order to put the Mississippi River system into perspective, let us look at some statistics. The U.S. port industry experienced "gross return on total lion tons of commerce annually. The total tonnage of commerce moved on inland waterways is approximately 600 million tons annually. The net inland traffic on the main channels and all tributaries of the Mississippi, Illinois, Missouri, and Ohio Rivers is 300 million tons annually. Any action that could possibly imperil this vital artery must be approached with the greatest caution.

Last August, the Department of Transportation circulated to congressional offices a "Fact Sheet on Waterway Users Fees." After reviewing this paper, I became concerned that it contained considerable misinformation and omitted several important facts. I asked the National Waterways Conference for an analysis of the DOT statement. The conference is composed of some 500 waterway-related businesses, industries, and related organizations such as waterway carriers, river valley associations, labor unions, port authorities, and various governmental entities. The businesses represented include those involved in the shipping and receiving of agricultural products, coal, fertilizers, chemicals, petroleum, building materials, iron and steel, and other commodities, as well as manufacturers of equipment and consumer goods.

Mr. Speaker, the evaluation prepared by the conference is quite enlightening. So that I may share its contents with my colleagues, I ask unanimous consent to insert it in the RECORD at this point:

AN EVALUATION AND REBUTTAL OF THE DEPARTMENT OF TRANSPORTATION'S "FACT SHEET ON WATERWAY USER FEES"

At the outset, the "fact sheet" asserts that "every Administration since Franklin Roosevelt's has favored imposition of waterway user fees." According to the Congressional Research Service, President Roosevelt's interest in waterway user fees was expressed in statements suggesting user fees not on inland rivers, but on pleasure craft and coastal shipping. Presidents Truman, Eisenhower and Kennedy alluded to the revenue potential of user fees in budget messages, but it was not until the mid-1960s that any President formally recommended waterway user charge legislation—and in that instance it was proposed to levy a 2¢-a-gallon tax on diesel fuel. Not until this year has any Administration contemplated user charges at or near cost-recovery levels.

Numerous other assertions by D.O.T. which should have been based on more objective analysis merit a closer look.

WATERWAY SYSTEM'S USERS "SHOULD PAY THEIR FAIR SHARE OF ITS COST."—D.O.T.

To D.O.T., "fair share" must mean recovery of 100 percent of Federal expenditures for operation and maintenance of the shallow-draft inland waterways system and 50 percent of new construction costs—the equivalent, according to Transportation Secy. Brock Adams, of a 42¢-a-gallon tax on diesel fuel. These waterways were improved for navigation (and other purposes) only after elaborate economic and social well being analyses determined that public benefits would far exceed the cost to the government. Now the long-accepted benent-cost comparisons would be cast aside. Widespread benefits notwithstanding, institution of cost-recovery user charges would shift waterway costs almost entirely to the industrial and agricultural users of the system. One cannot help but ask how the public benefits so carefully analyzed in pre-construction studies would suddenly become "private gains" to be recouped through user charges.

Nor should it be forgotten that the Federal government provided exclusive rights-of-way and land grants to U.S. railroads totalling 209,849 square miles—and then, years later, accepted the railroads' contention that the grants had been repaid through reduced rates for Government freight. Contrasted with the monopolistic nature of the rail industry, barge and towing operators compete fiercely on the inland waterways. As recently as 1972, barge rates were lower than during World War II. If D.O.T. accepts the railroads' claim that rights-of-way subsidies were repaid, then the case can be made that the Federal investment in waterways rights-of-way has been repaid through reduced rates to everybody.

WATERWAY EXPENDITURES TOTAL "NEARLY $1 BILLION PER YEAR," D.O.T. CLAIMS

In its handout, D.O.T. states that the "Federal government spends nearly $1 billion per year in Corps of Engineers and Coast Guard inland and coastal waterway expenses." This is probably true. But D.O.T. fails to mention that more than one-half of the total Federal waterway expenditures are for the Great Lakes, ocean harbors and deep-draft connecting channels—all of which are exempted from both the pending House and Senate user charge bills—or for the U.S. Coast Guard. And neither bill attempts to recover Coast Guard expenditures.

In fiscal year 1976, the Army Corps of Engineers reported total shallow-draft inland waterway costs of approximately $380 million. Senate-passed H.R. 5885 would recover an estimated $260 million annually when fully implemented. The actual figures pale D.O.T.'s dramatic (but unjustified) use of the $1 billion inland waterway "price tag."

EFFECT OF USER FEES ON COMMODITY PRICES

When cost-recovery user fees are shown as a portion of the total cost per gallon, per bushel, per ton, etc., it appears small. But in the aggregate, it is substantial. D.O.T. has resorted to a kind of it'll-cost-only-pennies-a-day salesmanship that is misleading in import and is inappropriate as economic analysis. Since inland waterways freight is typically bulk or raw materials subject to mutliple manufacturing and distribution stages before consumption, according to an Ernst and Ernst study completed for the U.S. Maritime Administration in January 1977, "total cost to final consumers from the imposition of user charges may exceed the total amount collected by the government because of several pass-through effects."

A significant exception is export grain, which is set at a world price exclusive of farm-to-coast transportation costs borne by the producer and not, as D.O.T. suggests as an example, the Soviet Union.

Overall, agricultural and agriculture-related products account for approximately 11 percent of inland waterway shipments. The importance of inland waterway transportation to the farm economy is especially revealing on the Mississippi River. Approximately 80 percent of all grain moving down the Mississippi is bound for export. And in 1974, soybeans, grain and fertilizer accounted for 48 percent of all traffic moving through Locks and Dam 26. The U.S. Department of Agriculture reports the average length of a grain haul is 1,129.8 miles per ton, compared with 731.9 miles for iron and steel, and 293.7 miles for coal. So the share of user charges apportioned to agriculture, which is probably the most heavily subsidized segment of the American economy, would be substantial.

HOW WOULD USER FEES AFFECT WATERWAY OPERATORS?

D.O.T. asserts that for the years 1973–1975 the inland waterways transportation industry handles approximately 1.8 bil-

capitalization" averaging 15.2 percent. This figure appears arbitrary and is not substantiated in the D.O.T. paper. The only documented earnings reports available are filed with the Interstate Commerce Commission which regulates carriers moving only about 10 percent of inland waterway commerce. The remaining 90 percent of commerce is highly competitive, as reflected by a significant number of bankruptcies annually by smaller operators.

A Congressional Budget Office report of April 14, 1977, confirmed that most bargelines are relatively small. "In 1970, for example, 76 percent of the 1,850 firms had fewer than nine vessels." C.B.O. said it was therefore "likely that the industry is characterized by a workable level of competition" and that this intense competition resulted in "rates reasonably close to costs so that profits would not be excessive."

In a Maritime Administration-sponsored study, A. T. Kearney Management Consultants attempted to show a financial profile of the barge industry. The profile—based on a sample survey of only 16 carriers—showed net earnings of 6.6 percent. Interestingly, a Congressional Research Service report on energy transportation in May 1977 (Publication No. 95–15) recognized that Eastern railroad bankruptcies have distorted rail earnings figures. "Without the Penn Central," the report noted, "the other 14 major coal-carrying railroads would have earned a weighted average net income of 7.6 percent" in 1975.

While railroads continually plead financial distress in their representations to the Congress, that is not the story on Wall Street. Railroads out-performed Standard & Poor's index of 400 industrial stocks in the first half of 1977. And, rail stock has increased 40 percent during the 18-month period in which industrials gained only 10 percent.

EFFECT OF USER FEES ON CONSUMERS

The ripple effect of transportation costs into final consumer prices has already been noted. However, D.O.T. brings in another factor when it describes cost-recovery inland waterway user fees as a panacea for "serious economic dislocations, primarily for other transportation modes." Presumably, D.O.T. refers to the Association of American Railroads' contention that railroads could realize between $500 million and $750 million in additional revenue annually if they could increase rates without the threat of shippers turning to more cost-efficient inland waterway transportation.

D.O.T.'s suggestion that imposition of cost-recovery user fees and the resulting windfall for railroads would lead to lower transportation costs is, to be charitable, too fatuous an assertion to merit rebuttal. Worse yet, to associate imposition of cost-recovery user fees with a corresponding "reduction in the Federal tax burden on taxpayers" (i.e., a tax cut), is a misstatement which reflects no honor on the part of an Administration which professes to be guided by openness and candor.

WHAT DOES THE WATERWAY SYSTEM COST TAXPAYERS?

D.O.T. contends that the cost of "new inland projects finished in the last decade, those under construction, and those authorized and awaiting initiation totals $9.8 billion." This is totally unrealistic, and apparently includes project authorizations dating back to the World War II era, hundreds of which have been halted or deauthorized in recent months. According to the Corps of Engineers, Federal expenditures for operation, maintenance and construction on shallow-draft waterways totals approximately $5 billion—and that's since 1824.

Furthermore, Federal outlays on the shallow-draft waterways have been declining, both as a portion of the Federal budget and in terms of uninflated dollars. For each $10 of Federal expenditure in 1960, 2¼ cents was expended on shallow-draft waterways, whereas in 1975, only 1¼ cents was so expended. Stated in dollars in 1961 purchasing power, the Federal government spent $220 million on the shallow-draft waterways in 1961, but only $183 million in 1975. Meanwhile, reflecting economic expansion, the ton-miles of freight carried on the system more than doubled during the same period.

HOW DO FEDERAL WATERWAY SUBSIDIES COMPARE TO THOSE OF OTHER MODES?

D.O.T. refers to a Congressional Budget Office comparison of Federal subsidies to various transportation modes in which Federal expenditures are shown as a percentage of freight revenues for those modes. Thus, the C.B.O. methodology determined that the inland waterway subsidy is almost 14 times greater than the railroad freight subsidy. Not only did the C.B.O. report exclude vast amounts of direct and indirect aid (tax subsidies, incentives and subsidy-effect programs) to railroads, but the methodology is misleading because it invariably reflects a lower relative subsidy for the more profitable means of transportation and the one that generates the most revenue.

The inadequacy of such reasoning was demonstrated by Sen. John Danforth during Senate debate on H.R. 5885 on June 22, 1977. Sen. Danforth said, "Supposing I have $1 in my pocket and Sen. Stevenson has $20 in his pocket, and the Senator from New Mexico (Sen. Domenici) gives each of us $1. The Senator from New Mexico has given me 100 percent of what I had but is giving Sen. Stevenson 5 percent of what he had."

ENERGY EFFICIENCY

D.O.T.'s fact sheet claims that estimates of barge fuel consumption range from 500 to 700 BTU's per ton-mile while estimates for railroads run from 400 to 700 BTU's per ton-mile. To say the least, D.O.T. has been selective in utilizing available estimates. D.O.T. even overlooked its own study, compiled for the agency by Peat Marwick Mitchell Company in July 1976, showing water transportation requires 272 BTU's per ton-mile while rails consume 687 BTU's. The most recent study, completed by the Aerospace Corporation for the U.S. Energy Research and Development Administration in March 1977, puts the figure at 379 BTU's per ton-mile for inland waterways vs. 687 BTU's rail.

Appropriately enough, D.O.T. notes that rivers don't run in straight lines. But there are no hills or mountains on waterways—and there are a lot of bends in rail lines, too.

BENEFITS OF USER FEES FOR TAXPAYERS

D.O.T. gloats over "waterway overbuilding and gold-plating" without any attempt to substantiate the allegation. What do they know? D.O.T. is a Federal agency concerned almost exclusively with mass transit, highway and rail transportation. Enactment of cost-recovery inland waterway user charges as proposed by Senate-passed H.R. 5885 would give D.O.T. unprecedented authority to arbitrarily assess user charges on a mode which would still have no administrative, promotional, or policy-making representation within the agency. D.O.T., of course, strongly backs the Senate bill.

As a matter of fact, the inland waterway transportation industry does not oppose a low-level tax on diesel fuel used commercially on the shallow-draft waterways. Industry spokesmen have repeatedly voiced concern over attempts, such as the one espoused by D.O.T., to commit future taxation levels to full cost recovery. No other major Federal programs are subjected to such conditions. Waterways spokesmen say they are not only concerned about the impact of cost-recovery user fees or taxes on their own transportation mode, but on national policy considerations of the highest priority as well. These include adequacy and security of energy supply, the solvency and competitive position of U.S. industry and farming in world markets, stability and magnitude of job opportunity, economical access of growing urban populations to the products of distant farms and mines, relief of regional stagnation, and restraint of inflation.

HOW THOROUGHLY HAVE USER FEES BEEN STUDIED?

D.O.T. claims that 15 or more studies of user fees since 1939 have resulted in "practically all" favoring imposition of user fees. Therefore, the reasoning goes, new studies are not needed. However, most of those studies were perfunctory or theoretical—and at least half concluded that any inland waterway user charges imposition should be accompanied by railroad rate reform to prevent selective and predatory rate cutting. Among them was the National Water Commission report of 1973. It stated: "Any legislation requiring the payment of waterway user charges should also authorize and direct the Federal transportation regulatory agencies to regulate rates for all competing modes of transportation in such a way as to encourage the use of the waterways for any traffic that can move by that mode at the least economic cost to the Nation."

A more recent report, prepared by CACI, Incorporated, for the Office of the Chief of Engineers entitled "Potential Impacts of Selected Inland Waterway User Charges," warned of the uncertain impacts of cost-recovery legislation. The report concluded, "Before any user charges is implemented, a comprehensive impact study should examine the complete array of user charges mechanisms, implementation options, and economic impacts. Especially important are sensitivity analyses and estimates of cumulative impacts through time."

In considering H.R. 8309, we must bear in mind that it will impact on both the industrialized and the agricultural regions of America, and that our national economy depends on the continued viability of our basic shipping activity. As a matter of fact, our international trade posture, as well as our domestic economy, is directly affected by our water transportation system. Need I remind anyone that every additional billion dollars realized from export sales generates 50,000 additional jobs here at home?

The future of the Mississippi Valley looks very bright. In mid-America we have the finest river system in the world. We must continue to modernize our waterways and keep our low costs of transportation working to our advantage in order to keep this system viable.

CRUDE OIL PRICING AMENDMENTS OF 1977 (H.R. 9272)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, now that the National Energy Act (H.R. 8444) has been passed by the House, it is appropriate for the House to commence reexamination of U.S. crude oil pricing policy. Experience indicates that this may be a long and difficult process because of the inherently controversial nature of the issue.

For example, development of the Nation's present crude oil pricing system consumed nearly the entirety of the 1st

session of the 94th Congress. I believe it would be advantageous for the House to begin, at an early time, consideration of alternative crude oil pricing policies to replace the present composite price system. Hopefully, modification of the composite price system may then proceed in an atmosphere not clouded by the pressures of imminent expiration of existing controls.

For these reasons, I have today introduced legislation addressing the central issues of crude oil pricing policy. It is my hope that this legislation will help focus the debate regarding crude oil pricing policy. Although at this time no hearings are scheduled on this issue, the early introduction of this legislation should permit interested parties to develop views and recommendations regarding the proposals contained in the legislation prior to commencement of any future hearings in the House on this subject.

The Energy Policy and Conservation Act established a compromise crude oil pricing policy based upon a "composite" price system. The purpose of this compromise was to balance economic and energy concerns—moderating price increases so that economic recovery was not threatened by further energy price shocks after those experienced following the Arab oil embargo of 1973, while providing price certainty and price stability as an incentive to encourage expanded domestic crude oil production. Implementation of the composite price mechanism, however, has been characterized by a series of price freezes and rollbacks. As a result, the composite price system has failed to achieve the energy policy objectives of the Energy Policy and Conservation Act—EPCA. Indeed, neither the expectations of oil producers, nor the intention of the EPCA conferees, have been realized by the composite price system as administered by the Federal Energy Administration.

The legislation I have introduced seeks to bring to crude oil pricing policy the certainty and stability sought by the EPCA conferees while fulfilling the reasonable price expectations of crude oil producers regarding the level of crude oil prices following enactment of EPCA.

There follows a summary section-by-section analysis of the provisions of the bill; and an analysis of price effects of the legislation.

SUMMARY SECTION-BY-SECTION ANALYSIS OF CRUDE OIL PRICING AMENDMENTS OF 1977

Section 2 of the bill reviews the history of crude oil pricing policy since 1975, focusing on implementation of the composite price system established in EPCA. These findings point out the need for legislation to achieve the objectives of EPCA.

Section 3 amends section 8 of the Emergency Petroleum Allocation Act of 1973, the crude oil pricing policy section. The new section 8 sets forth mandatory statutory ceiling prices for "old oil", "new oil", and "newly discovered oil" as a substitute for the composite price system.

Subsection (a) of the new EPAA section 8 requires amendment of EPAA crude oil pricing rules effective the beginning of the second full calendar month following enactment of the legislation.

Subsection (b) sets forth the statutory price ceilings for old oil. The ceiling price is based upon $5.25 per barrel adjusted to reflect inflation, as measured by the GNP deflator, experienced between February 1976 and date of enactment.

Similarly, subsection (c) sets forth the statutory price ceilings for new crude oil. The ceiling price is based upon $11.28 per barrel adjusted to reflect inflation, as measured by the GNP deflator, experienced between February 1976 and date of enactment.

The purposes of these ceiling prices are to implement the reasonable expectations of the Congress when it adopted the composite price system of EPCA.

Subsection (d) assures that these initial ceiling prices will be prospectively adjusted upward at the general rate of inflation, again as measured by the GNP deflator, or at a rate of 6 percent per year, whichever is greater. This mechanism is not subject to the uncertainties presented by the composite price system. The guarantee of a 6 percent minimum annual increase in ceiling prices reflects the policy set forth in ECPA, i.e., real dollar growth is permitted during times of reduced inflation but only real dollar parity is maintained during sensitive periods of increased inflation.

Subsecton (e) sets forth the ceiling prices for "newly discovered oil". These ceilings commence at the initial level of upper tier oil and increase to the world market level over a 36 month period. Thereafter, the price ceilings would not present a constraint on newly discovered oil prices since the ceiling would be at the world market level.

Subsection (f) exempts stripper well production from Federal price ceilings.

Subsection (g) sets forth the definitions of terms used in the section. The terms "old crude oil," "new crude oil", and "stripper well property" are defined by reference to FEA price regulations. The definition of the term "newly discovered crude oil" parallels the definition of the term "new natural gas" in the National Energy Act (H.R. 8444) as passed by the House. The reference to the FEA definition of "old oil" incorporates FEA's crude oil production decline rate. This will result in a gradual phaseout of old oil ceiling prices as the remaining old oil is converted to upper tier production. This result is identical to existing law under FEA regulations.

Section 4 of the legislation amends section 18 of the EPAA. Section 18, as amended, provides for conversion of the mandatory aspects of the EPAA, respecting residual fuel oil and refined petroleum products, to discretionary authority after May 1979. It should be noted that the crude oil pricing requirements of section 8 of the EPAA are not affected by this conversion section. As a result, the pricing policies of section 8 of the EPAA are made permanent law.

Section 5 of the legislation adds a new section to the EPAA. This section sets forth discretionary authority to grant special price relief for high risk and high cost production, including that produced through application of tertiary enhanced recovery techniques. This section permits the establishment of ceiling prices higher than those required by section 8 of the EPAA for old oil, new oil, and newly discovered oil. These higher prices must be necessary to create reasonable incentives for investment in these high cost and high risk categories of crude oil production. In addition, a finding must be made that the higher prices will not significantly add to inflation, create significant additional unemployment, or significantly retard real GNP growth. These findings, supported by detailed analysis, must be transmitted to Congress before the higher prices may become effective. Importantly, this authority is not limited by a composite price limitation. However, the higher prices may not be applied to more than 5 percent of aggregate domestic crude oil production.

Because of the breadth of this special pricing authority, including the absence of any composite price limitation, some political check against abuse is necessary. Therefore, this authority is vested in the Federal Energy Regulatory Commission and the findings are judicially reviewable under a substantial evidence test.

ANALYSIS OF PRICE EFFECTS OF CRUDE OIL PRICING AMENDMENTS OF 1977

BACKGROUND

The Crude Oil Pricing Amendments of 1977 would set the price of upper and lower tier crude oil at levels that would have been realized if FEA had initially established ceiling prices for lower tier and upper tier oil at $5.25/bbl and $11.28/bbl in February 1976, and then escalated those prices at the rate of inflation as measured by increases in the GNP deflator. Lower tier prices have been frozen at $5.17/bbl since July 1976. Upper tier prices were also frozen in July 1976 at $11.60/bbl, and were subsequently rolled back in March 1977 to $10.97/bbl. FEA has, by rule, permitted resumption of crude price increases after determining that excess producer receipts have been fully recovered as of August 1977. Prices are scheduled to increase at the current rate of inflation (7.1% as published on August 20, 1977) during September, October, and November. The starting point for escalation is the price in June 1976, the last month before the period of price freezes and downward adjustments. Prices in June 1976 were $5.17 and $11.60 for lower tier and upper tier crude oil, respectively. To avoid a sudden jump in upper tier prices from $10.99 to $11.60 in September, the adjustment will be phased according to the following schedule: September—$11.23; October—$11.49; November—$11.75.

After November 1977, the upper tier price will increase with inflation.

The attached chart provides year-end prices and estimated volumes of lower tier and upper tier crude oil assuming a continuation of current Administration policy. Prices are in nominal dollars assuming a 6% annual inflation rate.

PROPOSED AMENDMENT

The proposed amendment would result in higher prices for lower tier and upper tier crude oil. Whereas, under the Administration's policy, producers would forego experienced inflation adjustments for the period July 1976 through August 1977, these adjustments would be restored under the proposed amendment. Year-end prices for lower tier and upper tier crude oil are also given in the attached chart, along with average prices. The difference between the two policies is $.52/bbl at year-end 1977. This grows to $.56/bbl at year-end 1978. During calendar year 1978, the increase in producer revenues is approximately $1.35 billion. Increased producer revenues would rise to $1.76 billion in calendar year 1981.

The proposed amendment would raise producer revenues, which are presently approximately $25 billion per year, by 5–7 per cent. Total consumer costs of petroleum products would increase by 1.5% from the current level of about $100 billion per year. The cost of the proposed amendment would be .7 to .8 cents per gallon increase in the price of refined products.

These figures contrast with the cost of decontrol in 1981 of between $12 and $14 billion, which is the estimated level of annual receipts under the Crude Oil Equalization Tax. Hence, the proposed Crude Oil Pricing Amendments of 1977 would increase producer revenues by the equivalent of a 10–11 per cent plowback in the Crude Oil Equalization Tax.

Date	Current administration policy					Proposed pricing policy						
	Lower tier price (per barrel)	Upper tier price	Lower tier fraction	Daily volume[1] (MMBD)	Average price	Lower tier price	Upper tier price	Lower tier fraction	Daily volume[1]	Average price	Per barrel difference	Annual consumer cost (billions)
Jan. 1, 1978	$5.26	$11.81	0.55	6.72	$8.21	$5.75	$12.38	0.55	6.72	$8.73	$0.52	
Dec. 31, 1978	5.58	12.52	.49	6.95	9.12	6.10	13.12	.49	6.95	9.68	.56	$1.35
Dec. 31, 1979	5.91	13.27	.43	7.05	10.11	6.46	13.91	.43	7.05	10.71	.60	1.48
Dec. 31, 1980	6.26	14.07	.37	7.15	11.18	6.85	14.74	.37	7.15	11.82	.64	1.61
Dec. 31, 1981	6.64	14.91	.31	7.25	12.35	7.26	15.63	.31	7.25	13.04	.69	1.76

[1] Upper and lower tier volumes only; excludes stripper, tertiary, Alaskan North Slope, and "new new" oil.

PROBLEMS WITH OFF-BOARD SECURITIES TRADING RULES BEING PROPOSED BY THE SEC

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I have followed with interest the Securities and Exchange Commission's recently concluded hearings on off-board trading restrictions and am concerned that precipitous action by the SEC on this front might cause irreparable harm to our securities market. I am particularly concerned about the possible impact on the small investor if off-board trading rules are rescinded before a national market system is in place.

The individual is still the backbone of the American capital system. Yet, the SEC's contemplated action would devastate public confidence in our capital markets. The New York Times recently expressed its distress with this situation. So that my colleagues may have the benefit of their comments, I insert the September 19 editorial in its entirety at this point:

PLAYING CHICKEN AMONG THE BULLS AND BEARS

The Securities and Exchange Commission wants to foster a freely competitive national marketplace. It has decreed, therefore, that as of Jan. 1, 1978, members of the New York Stock Exchange do not have to take stock sale and purchase orders to the exchange floor. They can trade stocks in their own offices, on street corners, or anywhere else. The commission hoped, by this action, to induce the various stock exchanges and securities associations to create a national electronic system which would display instantly every offer to buy and sell. The stock exchanges say their progress in setting up such a system is slow because there has been no leadership from the S.E.C. to design the system it wants.

So it is now dawning on all parties that on Jan. 2 the trading of securities is likely to fragment into minimarkets, with some loss of continuity and flexibility. The large, well-capitalized brokerage firms will use their resources to build inventories of stocks, so that they can match buy and sell orders in their offices. The 25 largest New York Stock Exchange firms already possess almost two-thirds of the capital and handle two-thirds of the gross revenues of the 378 member firms. The trend toward merger and concentration would be accelerated by the dispersal of trading, since the larger firms would pick up most of the business that leaves the floor of the exchange. The S.E.C. heard testimony that half of the New York Stock Exchange volume might leave in the first year, 90 percent in the second year, and within three years the exchange might be out of business. Even Merrill Lynch, the largest firm and likely to be the biggest beneficiary of the change, warns that the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace.

Historically, the securities industry has resisted change, and greeted each reform proposal as a threat to capitalism. But the reformers, in their zeal for pure competition, seem sometimes to forget that the existing system does function efficiently. In its current effort to force greater competition, the S.E.C. has whetted the appetites of the large firms, frightened the small ones, and confused the interested public.

All parties agree that a national electronic marketplace, open to brokers everywhere, is a plausible and workable idea. And Wall Street, by and large, has accepted the end of the quasi-monopoly of its exchanges. But the electronic market does not now exist and is not likely to come into being in the next 90 days. The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "chicken" to persist between the securities industry and its regulators. It is time to get on with the transition to an electronic market system that is both open and orderly.

OUR NONSOLUTION FOR NUCLEAR WASTE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, Saturday's edition of the Washington Star carried an exceptional article on nuclear waste, written by Richard Strout for the TRB column in the New Republic. The focus of the article is nuclear waste, with the material drawn in large measure from hearings held recently by our colleague, the gentleman from California, LEO RYAN.

As the article aptly points out. our creation of nuclear waste by continued reliance on nuclear power—not to mention the wastes from our atomic weapons program—involves the most cavalier disregard of future generations. Hundreds of thousands of years is required before nature will render our nuclear wastes harmless.

The cost of trying to do something about our existing nuclear waste dumps now has been estimated as likely to cost up to $60 billion, with individual facilities, such as that at West Valley, N.Y., likely to cost more than $600 million to decommission. The latter figure, as the gentleman from California pointed out, means a cost of $1 per gallon of high level nuclear waste.

The answer is not increased reliance on nuclear energy, nor is it breeder reactors, whose promoters are wont to claim that breeders will decrease the amount of waste because of their breeding. They, of course, also create plutonium, that most toxic substance of all.

The answer, instead, lies in a future with serious energy conservation and production of energy from renewable—and benign—resources.

I commend the TRB article to all of my colleagues.

OUR NON-SOLUTION FOR NUCLEAR WASTE

At Grand Junction, Colo., they innocently used the tailings from the uranium mill to build homes, schools and public structures. All right, if you don't mind gamma rays. The federal and state governments are helping out with the costs of cleaning it up.

At West Valley, N.Y., the Atomic Energy Commission in 1963 licensed erection of a nice new nuclear reprocessing plant upon condition that the state assume responsibility for perpetual maintenance of wastes. A year ago the contractor company, a subsidiary of Getty Oil, announced that it was tired of it all, abandoning the plant as uneconomical and wishing to turn 600,000 gallons of toxic liquid wastes over to the state. The General Accounting Office says that disposing of the wastes will cost maybe $560 million. Who pays?

At Clinton, Tenn., the operator of a small nuclear facility just walked away from it in 1971. The federal and state governments are sharing the decontamination cost—around $110,000.

Public authorities have been, and are, incredibly careless about their promotion of the immature nuclear power industry. A disbelieving House subcommittee under Rep. Leo J. Ryan, D-Calif., heard testimony on it while everyone else was watching the Lance affair. It was a good show, too, if you kept your indignation under control.

For example, what's the use of worrying about radioactive nuclear wastes? Experts explained that nature would take care of all that toxicity. All you have to do is wait about 500,000 million years. Solemn-faced partisans of the new industry (and we all are partisans—aren't we?—in the energy crisis) said this was a grossly unfair way to approach the matter.

Yes, plutonium 239 takes a long while to decay, but that isn't what's used in the ordinary water-cooled uranium reactor (of which 64 are now operating in the U.S.); for them the time is vastly shorter.

Such a plant has a useful life of around 40 years. Dr. Clifford V. Smith, executive of the Nuclear Regulatory Commission, explained. Then, of course, when it gives out you have to do something with all those radioactive structures, components and systems.

There are several methods of doing this, with different names: mothballing, decontamination, decommissioning. "The most feasible approach," explained Monte Canfield Jr. of the General Accounting Office, "seems to be a combination wherein the reactor is permitted to 'cool down' for 70 to 110 years and is then dismantled."

That's more manageable! One hundred and ten years; that means if the reactor had been decommissioned at the close of the Civil War it would just about "cooled off" by the Carter administration, experts explain. It would have been padlocked and the public protected against its toxicity by "perpetual surveillance" with occasional radiological surveys. (Does it occur to you, gentle reader, that we live in a queer world?) The costs would have been pretty high.

It's only in the last two years that much thought was given to the problem of disposing of nuclear wastes. When you burn coal you throw the clinkers and ashes down a hole, but the stuff left over from a nuclear plant is radioactive. Our casual attitude toward the problem for 30 years might seem incredibly naive in another country, but to a nation that has ravaged a continent it is just American.

Millions of gallons of wastes are in temporary storage facilities, in tanks and cylinders, waiting. More are stockpiled every day. We don't know what to do with the damn stuff.

The government hasn't even kept track of the places where it had nuclear activities. A worried General Accounting Office got out a report in June, "Cleaning up the remains of nuclear facilities—a multibillion dollar problem."

It suddenly occurred to somebody that the spots might still be dangerous. Thus far about 80 sites have been identified; of these the Energy Research and Development Administration guesses that around 40 may require radiation surveys, "and 10 to 15 sites may require remedial action."

The ERDA doesn't think it will cost much but Canfield, director of the energy division of GAO, told the Ryan subcommittee, "It seems probable that the cost to decommission federally owned nuclear facilities will run into billions of dollars." The unresolved waste disposal problem is, in fact, the single greatest threat to the future of nuclear power as Mr. Carter lays his energy plans.

Here are some statistics, prepared by the Comptroller General in a 70-page report on "Nuclear Energy's Dilemma." The government has 21 million gallons of toxic waste "temporarily" stored at Aiken, S.C., and 50 million more in steel tanks at the Hanford facility at Richland, Wash. There's another 3 million at Idaho Fall, Idaho. Then there's 600,000 gallons of high level waste generated from commercial reprocessing activities (that's the stuff at West Valley, N.Y.). And 13 million cubic feet of radioactive solidified waste buried around in five principal spots. More of it is accumulated every day from commercial plants. If these plants increase, as seems likely, 152 million more gallons will be generated by AD 2000, it's estimated. The United States is a-slosh in toxic waste.

I think congressmen were astonished by some of the things they learned. I admit I was. For example, ERDA is supposed to handle waste disposal but has only just started to get up a "report" on storage facilities and doesn't seem likely to have firm recommendations for a year or so. Meanwhile the Carter administration is preparing to export relatively innocent enriched uranium and to receive back spent fuel, making the United States a kind of garbage dump for our friends.

How can anybody know the true cost of nuclear-generated power until the cost of waste disposal is factored in? Congressmen kept asking that.

The ERDA doesn't have the public's confidence, it says, and it's not likely to. Unless it shows it has solutions for problems like storage, and drops "overly optimistic" claims.

SECTION-BY-SECTION ANALYSIS OF AIR SERVICE IMPROVEMENT ACT OF 1977

(Mr. ANDERSON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, on August 5, 1977, I and five cosponsors, Mr. JOHNSON of California, Mr. RONCALIO, Mr. ERTEL, Mr. FARY, and Mr. MINETA introduced H.R. 8813, the Air Service Improvement Act of 1977.

To assist interested persons in understanding the rather complicated provisions of this bill and their rationale, I am inserting in the RECORD at this time a section-by-section analysis of the bill.

SECTION-BY-SECTION ANALYSIS OF AIR SERVICE IMPROVEMENT ACT OF 1977

SECTION 1. SHORT TITLE

SECTION 2. DECLARATION OF POLICY (DOMESTIC)

I. Existing law

Section 102 of the Federal Aviation Act sets forth the general policy criteria which guide the Board in all its actions. Several of the criteria emphasize the promotion of the industry, and these criteria have been interpreted by the Board to require it to limit competition in order to protect established carriers and promote industry stability.

II. Need for change

The Declaration of Policy should be modified because it underlies many CAB actions which have inhibited additional competition which could have resulted in lower fares or better service to the public.

A number of specific examples of anticompetitive policies are discussed in the text below.

Recently, the Board has been moving in more of a pro-competitive direction. But unless the Declaration of Policy is changed, there is no assurance that the Board will not revert to anti-competitive policies in the future.

The CAB agrees that the Declaration of Policy needs change. At our hearings on regulatory reform in the last Congress the Board testified as follows:

"The existing declaration of policy, conceived and promulgated in 1938, is a reflection of the times in which it was born. Its orientation is toward the development and protection of an infant industry through public utility-type regulation over entry, exit and pricing.

". . . the Board believes that the time has come for the Congress to change the orientation of the Federal Aviation Act . . . by gradually removing the governmental controls over such fundamental management decisions as where carriers can operate (entry, exit) and at what prices . . .

"If Congress agrees, the Board must be given an unambiguous mandate by the Congress. We recommend that this be in the form of a change in the declaration of policy directing the Board to regulate in a manner which will place primary reliance on competition."

III. Changes made by Air Service Improvement Act

a. The Act eliminates or modifies the major anticompetitive criteria of the Federal Aviation Act and adds the following new pro-competitive criteria:

"(2) The availability of a variety of adequate, economic, efficient and low-cost services by air carriers without unjust discriminations, undue preferences or advantages or unfair or deceptive practices; and the need to improve relations among and coordinate transportation by air carriers;

"(3) The placement of maximum reliance on competitive market forces and on actual and potential competition to provide the needed air transportation system and to encourage efficient and well-managed carriers to earn adequate profits and attract capital"

"(4) The encouragement of new air carriers;"

SECTION 2. DECLARATION OF POLICY (INTERNATIONAL)

I. Existing law

Section 102 of the Federal Aviation Act contains no explicit recognition of distinctions between domestic and international transportation.

II. Need for change

With the domestic policy criteria being revised in a more competitive direction, there is a need for statutory recognition of the special features of international air transportation which may make it necessary to follow different policies.

III. Changes made by Air Service Improvement Act

The revised Declaration of Policy requires the Board to consider special factors or circumstances affecting an international market, such as the ownership or support of foreign air carriers by their governments, practices followed by foreign governments which restrict the efficiency of U.S. air carriers, and the role which foreign governments play in determining capacity and fares.

SECTION 3. FEDERAL PREEMPTION

I. Existing law

The existing law contains no explicit recognition of Federal preemption of interstate air transportation which prevents the States from regulating interstate air service and fares. However, preemption is implicit in the present Act, and has been recognized by the courts.

Under existing law as interpreted by the courts, it is reasonably clear that the states have no authority to regulate interstate service and fares. However, some states have asserted jurisdiction to regulate intrastate fares charged by interstate carriers. This has led to difficulties. The interstate carriers frequently provide service between two points in a state (e.g., Philadelphia-Pittsburgh, San Francisco-Los Angeles) as part of longer interstate routes. This means that an interstate carrier may be carrying two types of passengers between points in a single state; intrastate passengers whose entire journey is between these points, and interstate passengers who are traveling between two points in the same state and then stopping over or connecting and continuing their journey. In some cases the CAB and the state have reached different results in regulating the fares charged between a pair of points, and as a result, passengers on the same flight traveling between the same points have been charged different fares. The CAB has asserted jurisdiction to remedy this discriminatory practice, but the Board's decision has been appealed to the courts and the outcome is uncertain.

II. Changes made by Air Service Improvement Act

With the passage of legislation such as the Air Service Improvement Act, loosening Federal regulation of airline service and fares, it is possible that some states will enact their own regulatory legislation, imposing restrictive utility-type regulation on interstate airline service and fares. The Air Service Improvement Act includes a specific statutory provision precluding state interference with interstate service and fares. This is not in-

tended to preempt the exercise of normal proprietary functions by airport operators, such as the establishing of curfews and landing fees which are consistent with other requirements in Federal law and do not unduly burden interstate commerce.

It is also desirable to remove the discrimination which arises from conflicting Federal and state regulations governing interstate and intrastate passengers on the same flight. The Air Service Improvement Act accomplishes this by providing that the states may not regulate the intrastate service or fares of interstate carriers. There is one situation in which state authority over intrastate service and fares is preserved. There are now several large intrastate air carriers in Texas, California, and Florida which have pioneered in providing low fare service. Under the Air Service Improvement Act these carriers will be eligible to enter at least one interstate market per year. For a period of time after the carriers begin entering interstate markets they may remain primarily intrastate carriers and it seems appropriate to preserve the states' authority to regulate their intrastate service and fares. The Act provides that so long as carriers which were exclusively intrastate in August 1977 continue to derive more than 50% of their revenues from intrastate operations, the states will continue to regulate their intrastate service and fares.

SECTIONS 4 AND 28.—PROCEDURAL REFORM

I. Existing law

Section 401(c) of the Act requires the Board to dispose of certificate applications as speedily as possible. This would appear to contemplate that the CAB hold a hearing and issue a decision on all applications. However, the Board has administered its docket so that most applications are never even set down for hearing. The Board selects a limited number of applications for a "priority hearing;" the remaining applications generally do not receive any hearing and are eventually dismissed as "stale".

II. Need for change

Under present law, the Board has abused its discretionary power to decide which applications to set for priority hearing. In the early 1970s the Board imposed a "route moratorium" in which it refused to hold hearings on any new route applications. Because there was never a decision on the merits of these applications, the moratorium policy could not be reviewed in the courts. To prevent a route moratorium in the future, it would be desirable to amend the law to require the Board to issue some sort of decision on all applications.

Another difficulty with CAB procedures is the substantial time taken to decide route cases; most proceedings now take 18 months or more to complete.

III. Changes made by Air Service Improvement Act

The Act would require the Board to decide within three months from the date a route application is filed whether to set the application for hearing or dismiss it on the merits. An order of dismissal could be reviewed by the courts. This provision would insure that the Board would not be able to impose another "route moratorium" which would not be subject to judicial review.

In those route cases which are set for hearing, the Act requires the Administrative Law Judge to issue his decision in 180 days, and the Board to issue its decision 90 days thereafter. These provisions mean that the Board will decide all route cases within one year from the filing of an application. As a sanction to insure that the Board complies with this deadline, the Act provides if the Board fails to decide a case in a year, the ALJ's decision will become final. The Act also provides for deadlines to be extended if applicants fail to meet procedural schedules established by the Board, and provides for a 90-day extension of the decisional deadlines in extraordinary cases.

The Act also establishes procedural deadlines for other types of cases, such as mergers, agreements and exemptions. In these cases the Board is required to issue a final decision in six months if there is no evidentiary hearing, and in one year if a hearing is held.

SECTION 5. PUBLIC CONVENIENCE AND NECESSITY TEST

Under present law before the CAB can authorize new air service it must find that the service "is required by" the public convenience and necessity. To require the Board to follow less protectionist and more competitive policies, the Air Service Improvement Act changes the test to whether proposed new interstate or overseas service "is consistent with" the public convenience and necessity.

SECTION 6. UNUSED AUTHORITY

I. Existing law

Under existing law there is no requirement that certificated carriers provide nonstop service in every market in which they are authorized. The certificates issued by the CAB consist of a series of route segments each of which includes a number of cities; from as few as two to fifty or more. The carriers have authority to provide nonstop service between any two cities on a route segment unless there is a specific restriction prohibiting this service. However, there is no legal requirement that the carriers provide nonstop service between every authorized combination of cities and in many cases it would not be economically practical to do so.[1]

A study conducted by DOT indicated that the domestic carriers are authorized to provide nonstop service in approximately 28,000 markets and that they actually provide nonstop service in 4500 of these markets or about 16 percent. Some of this unused authority is for relatively large markets. There are 13 markets in the top 75 domestic markets in which there is unused nonstop authority. In the top 500 markets, 124 have unused nonstop authority.

II. Need for change

Under existing law there is no means by which the CAB can quickly authorize a new carrier to replace a carrier which holds nonstop authority but is not using it.

If a new carrier wishes to provide service in a market in which there is unused nonstop authority it must obtain a certificate authorizing the new service. Before issuing a certificate, the Board must find that the carrier is "fit" to provide the proposed service and that the service is "required by the public convenience and necessity" (section 401(d)(1) of the Federal Aviation Act). If the carrier holding unused authority or another carrier object to a grant of new authority, the Board has to hold full-scale evidentiary hearings.

III. Changes made by Air Service Improvement Act

The Act provides that if there is nonstop authority in a market which is not used for at least 180 days during a calendar year, the Board must issue a certificate to any applicant that is "fit" to provide the service. The Board is not required to find that the service is required by the public convenience and necessity.

The number of new authorizations under this section may not exceed the number of unused certificates. If the Board receives more applications than there are unused certificates, the Board must select between applicants, using the Section 102 criteria.

The Act also imposes procedural deadlines upon the Board. If the applicant already holds a certificate and if there is no need to select between competing applicants, the Board need not hold evidentiary hearings and the Board must issue its decision in 30 days. If the applicant does not have a certificate or if the Board is required to select between applicants, the Board must issue its decision in 180 days.

If the Board has issued a new certificate under this section, the Board must institute a proceeding to determine whether to revoke unused authority in the market.

This section is applicable to interstate air transportation and to overseas air transportation involving Puerto Rico or the Virgin Islands. Puerto Rico and the Virgin Islands are similarly included in the provisions of the bill on discretionary entry, subsidy for commuters, and cargo deregulation and fare flexibility.

Puerto Rico and the Virgin Islands need and deserve the same benefits of regulatory reform as the mainland. Puerto Rico and the Virgin Islands are vacation destinations which stand to benefit substantially from increased competition associated with eased entry and fare flexibility. Moreover, Puerto Rico and the Virgin Islands will be at a competitive disadvantage if they are not accorded the same benefits as competing vacation destinations, such as Las Vegas and Miami.

Puerto Rico and the Virgin Islands differ from our Pacific Territories. The latter are less competitive with continental United States resorts, and are either a part or closely related to international air routes.

SECTIONS 7 AND 8.—DISCRETIONARY AUTHORITY AND CERTIFICATION OF NEW APPLICANTS

I. Existing law

Under existing law the Board must go through lengthy proceedings before it can authorize any significant new air service. The Board is required to hold full scale evidentiary hearings at which all interested persons have a right to present evidence and to cross-examine the experts from all other parties. In these proceedings, which may take years to complete, the Board considers whether proposed new service is required by the public convenience and necessity. This requires the Board to consider such questions as the adequacy of existing service in the market, the effect of new service on existing carriers and whether new service would be profitable.

II. Need for change

In recent years, a number of carriers not holding scheduled certificates have shown an interest in entering the interstate system and competing with the established carriers by offering low fare-high load factor service. Examples of these proposals are World Airways proposed transcontinental service at a one-way fare of $99 (compared to the existing coach fare of $196), the proposals of new entrants wishing to serve Midway Airport at substantially reduced fares, and PSA's proposal for low fare service between California and Nevada cities. In the past the CAB has not been receptive to proposals of this nature. More recently the CAB has set down several investigations in which low fare proposals will be considered. But even if we assume that CAB will grant these proposals, the process will be time-consuming and piecemeal. There is a need for a legislative directive requiring systematic and expeditious new entry.

Legislation permitting new entry on a controlled basis will also permit the existing certificated carriers to enter new markets. This should result in improved air service for the public and a revitalization of the existing carriers' route systems. Some of

[1] The only legal requirements governing the service the carriers provide is that they must seek Board permission before total abandonment of a city and that they must provide "adequate" service to a city. However, the latter requirement has not been enforced by the CAB.

these carriers have route systems which contain extreme seasonal variation in traffic. Others have route systems in which the average stage length between markets is too short. Some carriers are too oriented toward business traffic and need opportunities to obtain access to vacation and other pleasure traffic. Adjusting the route systems through the normal CAB procedures would be time consuming, if it could be accomplished at all.

A special problem is posed by the U.S. international carriers who, in many cases, authorized to serve several U.S. cities on an international flight, but, in many cases, are not authorized to carry passengers between those U.S. cities. There is considerable economic inefficiency in allowing those carriers to fly between U.S. cities, with empty seats attributable to their lack of authority to carry local traffic. On the other hand, any grant of "fill-up" authority to the U.S. international carriers must be phased and gradual to avoid an undue impact on the domestic carriers.

III. Changes made by Air Service Improvement Act

The Act gives CAB certificated scheduled and supplemental carriers, operating in excess of 125 million available seat miles for passengers, and intrastate carriers operating in excess of one hundred million available seat miles,[2] the right to enter new markets under the following restrictions:

a. A carrier may select one pair of points in the first year. Thereafter, the number of markets may be increased or decreased by CAB, but the number of markets must always be at least one per carrier per year.

b. If more than one applicant chose a pair of points, the Board is required to select between them (applicants may specify alternate choices).

c. In any three year period the Board may not authorize a new carrier under this section if the Board has previously authorized a new carrier in the market under this provision or other certification provisions.

The Act allows U.S. international carriers to substitute "fill-up" rights (the right to carry traffic between U.S. coterminals on international flights) for basic discretionary authority. In the first year after enactment three fill-up markets may be substituted and in succeeding years two fill-up markets may be substituted. "Fill-up" authority is limited to one combination and one cargo flight a day.

The Act further provides that if the CAB has failed to award a certificate to any new entrants[3] during a year, the Board must award at least one certificate to a fit new entrant during the next year, allowing the new carrier to serve one market of its choice, as set forth above.

This section also includes a "sunset" provision providing that the Section expires in five years. This will permit reexamination of the program at an early date. Such expiration does not impair the effectiveness of any authority granted while the section was in effect.

SECTION 9 REBUTTABLE PRESUMPTION

The act imposes a rebuttable presumption for grant of a route application by a carrier that the CAB finds is fit. The need for such a presumption was set forth by President Carter in his recent letter to members of the Aviation Subcommittee.

"The presumption should be that competition is consistent with the public interest. Anyone who is against new competition should have to show that it would be harmful to the public—not the other way around."

[2] This would include PSA, Southwest, and Air California.

[3] i.e. to persons not holding scheduled or supplemental certificates from the CAB.

SECTION 10. CERTIFICATE TRANSFERS

I. Existing law

Under Section 401(b) of the Federal Aviation Act, the Board may approve a certificate transfer in which a certificate holder receives financial consideration for the certificate.

II. Changes made by Air Service Improvement Act

Certificates are franchises awarded by the public and should not be bought and sold for private gain. There is no necessity to allow the sale of certificates since the CAB can always grant a new certificate when a carrier no longer wishes to exercise its authority.

III. The Air Service Improvement Act

The Air Service Improvement Act limits the Board's power to approve certificate transfers to cases in which such transfers are incidental to the approval of a merger or consolidation of two companies.

SECTIONS 11 AND 19.—SUSPENSION OF SERVICE AND COMMUTER SUBSIDY

I. Existing law

Under Section 401(j) of the Federal Aviation Act, the Board may permit a carrier to suspend service temporarily at a community. This action may be taken without a hearing. The Board also has authority to permit a carrier to terminate its services permanently, but this action requires a hearing if there is objection.

Historically the Board has been liberal in allowing airlines to leave small communities, particularly if the termination of service is conditional upon a commuter airline providing service. Since 1960 the Board has allowed certificated airlines to terminate service at 179 communities.

Under present law, there is no basis for the CAB to subsidize a commuter airline who is willing to replace a certificated carrier at a small community. Section 406 of the Federal Aviation Act, as interpreted by the courts, limits subsidy to airlines holding certificates. Subsidies may not be awarded to a commuter carrier, either directly or indirectly by a "flow-through" agreement with a certificated carrier.

II. Need for change

The Air Service Improvement Act contemplates a more competitive environment in which airline management will have greater freedom to make basic management decisions, such as which communities will be served. As a practical matter airlines have generally had freedom to terminate their services under existing law, although they have sometimes been required to go through time-consuming procedures as a prerequisite to abandonment.

However, if the Act is amended to explicitly recognize the certificated airlines' freedom to terminate their services at small communities, there must be a mechanism to insure continuation of needed air service, particularly at isolated small communities. The best means of achieving this end is through reliance on commuter airlines to serve those communities where certificated carriers choose to terminate their services. Commuters operate small aircraft well suited to the limited traffic at small communities. As a consequence, commuters now serve many small communities without subsidy and if subsidy would be required for commuter service, it would probably be less than would be required for service by a certificated airline.

A Department of Transportation study shows that commuter service at small communities has been quite stable. DOT studied communities receiving service by commuter airlines in 1973 and 1976; more than 90% of the communities which enplaned more than six passengers a day retained commuter air service over this three-year period. DOT estimates that replacement of certificated carriers by commuters at small communities would reduce the annual subsidy bill from the present level of more than $60 million a year to a level of not more than $13.5 million a year.

In authorizing subsidy for commuter airlines, it is desirable that we not impose on commuters the regulatory and economic burdens of certification. The subsidy agreement itself can be used to insure that adequate service will be provided.

III. Changes made by Air Service Improvement Act

Under the Act certificated carriers may terminate air service at a community by giving 90 days notice. The Board may delay termination of service for an additional 270 days to allow arrangements to be made for substitute service. The Act further provides for subsidies to be paid to commuter air carriers in cases in which the Board finds that adequate air service is not likely to be provided without federal financial assistance. The Board is given flexibility in establishing the method of paying subsidy. In deciding whether to award subsidy to a commuter the Board must consider the subsidy cost, the number of persons to be benefitted by the service, and the alternative surface and air transportation available.

To ensure that no communities will lose all air service as a result of regulatory reform, the Act requires CAB to continue air service for 10 years on a subsidized basis if necessary, at all communities presently listed on air carrier certificates.

SECTION 12. SIMPLIFIED PROCEDURES

I. Existing law

Section 401(b) of the Federal Aviation Act requires the Board to set route applications for "a public hearing." The Board has interpreted this provision as requiring full evidentiary hearings. A similar requirement is imposed by Section 402(d) establishing procedures for the grant of permits to foreign air carriers.

II. Need for change

In testimony before the Aviation Subcommittee, the Board described the difficulties of the hearing process as follows:

"The hearing process itself, while undoubtedly appropriate for major competitive route awards having a potentially significant impact on the overall air transportation system, imposes a heavy burden of expense and delay on applicants for new or improved route authority. A typical route case involves the extensive services of lawyers and expert witnesses, consumes anywhere from six months (in an unusually simple case) to two or more years, and costs an applicant many thousands of dollars. Moreover, a typical hearing case consumes so much time of the Board's limited staff resources that the Board has found it necessary to ration strictly the number of route cases which can be set for hearing, giving priority to those which appear to promise the greatest and most urgently needed service improvements for the greatest number of travelers."

In many cases it is doubtful that the oral hearings process produces fairer procedures or better decisions than could be reached through "rulemaking" type procedures in which evidence is submitted in writing and the parties are given opportunities to submit written rebuttal evidence. Under existing law the Board uses procedures of this nature to dispose of many complex and controversial matters, such as the scope of charter authority. Oral cross-examination is frequently unnecessary in airline route cases, since the main issues are not the credibility or the veracity of a witness' sensory perceptions, but the validity of economic and statistical data.

It should be noted that the time consumed by oral evidentiary hearings is not limited to the hearing days before the Administrative Law Judge. These hearing days produce

an extensive record which must be analyzed by all parties and discussed in the briefs of the parties and the decisions of the Law Judge and the Board. All these procedural steps are delayed by oral evidentiary hearings.

The requirement of hearings on applications by foreign air carriers also poses a problem. In most of these cases there are no substantial issues since the foreign carrier has been designated by its government pursuant to a bilateral agreement, and there is a virtually unrebuttable presumption that grant of the application is in the public interest. In these cases, the requirement of a hearing adds to the Board's workload with no corresponding public benefit.

III. Changes made by Air Service Improvement Act

The Act permits the Board to promulgate rules establishing simplified procedures for processing route applications by U.S. and foreign air carriers. The procedures must provide for notice and an opportunity for interested persons to file evidence and argument; however the procedures need not provide for oral evidentiary hearings. The Act also provides criteria for the Board to determine whether to apply for simplified procedures in particular cases.

SECTION 14—MERGERS AND ACQUISITION OF CONTROL

I. Existing law

Under existing law (section 408 of the Federal Aviation Act) prior approval of the Civil Aeronautics Board is required for mergers, acquisition of control and other transactions affecting air carriers, including unregulated carriers such as commuter carriers and air freight forwarders.

Section 408 also contains a provision (the second proviso to section 408(b)) which limits the Board's ability to approve control relationships involving surface carriers and air carriers.

II. Need for change

Under existing law the Board is required to devote significant resources to reviewing transactions involving carriers which are basically unregulated, such as commuters and air freight forwarders. Although in many cases the Board is not required to hold a hearing, it still seems unnecessary for the Board to pass on these transactions if it is not regulating the basic operations of the carriers.

The second proviso to section 408 was adopted at a time when it was feared that large surface transportation companies would dominate the infant air transportation industry. The air transportation industry has now grown to a point where this need not be a strong concern. On the other hand the second proviso now limits the Board's ability to approve acquisitions of control which would permit the efficient integration of air and surface transportation.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act adopts a prior-notification procedure for transactions involving uncertificated carriers.[4] If the Board takes no action on a notice within 45 days, the transaction may be consummated without further Board action. Any such transaction is subject to prosecution if it violates the antitrust laws.

The Air Service Improvement Act also eliminates the second proviso to section 408(b), and imposes new requirements for Board approval of mergers which are inconsistent with antitrust principles. (For a fuller explanation, see Section 14, below.)

[4] Including all-cargo carriers who, after enactment of this bill, will be virtually unregulated domestically, but may hold certificates for international service.

SECTION 15—AGREEMENTS BETWEEN AIR CARRIERS

I. Existing law

Under Section 412 of the Federal Aviation Act, the Board has jurisdiction to approve or disapprove certain agreements between air carriers. In interpreting the scope of its authority to approve agreements which are inconsistent with antitrust principles, the Board follows the test referred to as the "Local Cartage test", i.e.,

"Where an agreement has among its significant aspects elements which are plainly repugnant to established antitrust principles, approval should not be granted unless there is a clear showing that the agreement is required by a serious transportation need, or in order to secure important public benefits."

II. Need for change

The Local Cartage test has not proven sufficient to prevent the Board from approving anti-competitive agreements which would seriously disadvantage the traveling public. In the early 1970's the Board approved agreements in which major airlines mutually agreed to restrict their service in large markets. There was no accompanying reduction in fares. After a full study of these agreements Senator Kennedy's Subcommittee concluded:

On the basis of the evidence submitted to the subcommittee, it is difficult to find justifications for capacity-restricting agreements sufficiently strong to outweigh their undoubted harm. They have injured local communities, travelers and airline employees; they have led to cuts in the level of service on many routes without allowing passengers on those routes a corresponding reduction in fares. Of course, price competition, too, might mean a reduction in service. But, price competition brings with it the increase in demand that flows from lower prices. Thus, to increase competition seems a sounder method than controlling schedules to achieve the objective of lower fares and fuller planes.

III. Changes made by Air Service Improvement Act

To limit and control the Board's authority to approve anticompetitive agreements in the future, the Act requires the Board to make certain findings, based on tests imposed by the Bank Merger Act, as construed by the Courts, before approving agreements which are inconsistent with the antitrust laws. Under the standards imposed in the Air Service Improvement Act, the Board cannot approve an agreement which is inconsistent with antitrust principles unless the Board finds

(1) after considering reasonably available alternative means which would have a materially less anticompetitive effect, the anticompetitive effects of such approval are outweighed by significant and demonstrable benefits to the general public in accordance with section 102 of the Act; and

(2) with respect to determinations made after January 1, 1983, the foregoing benefits cannot be accomplished by reasonable available alternative means having materially less anticompetitive effects.

The test in subparagraph two is delayed until 1983 to give the airlines and the Board a full opportunity to consider alternative approaches which are not inconsistent with antitrust principles.

SECTION 16—ANTITRUST IMMUNITY

I. Existing law

Section 414 of the Federal Aviation Act grants immunity from the antitrust laws and other laws for transactions or relationships that have received Board approval pursuant to other provisions of the Act.

II. Need for change

Existing section 414 has been interpreted to give antitrust immunity far beyond the scope intended by the Board. For example, in Hughes Tool Company v. Trans World Airlines (409 U.S. 363) (1973), the Supreme Court held, despite CAB disclaimers, that a broad course of conduct allegedly violating the antitrust laws had been immunized as a result of CAB orders approving certain limited transactions.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act limits Section 414 immunity in several respects. First, the Act clarifies that Section 414 immunity is limited to the antitrust laws. Second, the Act provides that immunity is granted only insofar as is necessary to permit completion of transactions specifically approved by the Board or transactions necessarily contemplated by a Board order. Third, the Act makes it clear that the Board may define and limit the scope of the immunity granted.

SECTION 17—BOARD'S EXEMPTION POWER

I. Existing law

Section 416(b) of the Federal Aviation Act permits the Board to exempt U.S. air carriers from other provisions of the Act if the Board finds that enforcement of these requirements would be "an undue burden on such air carrier . . . by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier . . . and is not in the public interest."

II. Need for change

As it presently reads section 416(b) is too narrow and cannot be used by the Board in many situations in which it would be desirable for the Board to grant an exemption. Exemptions can be granted without evidentiary hearings, and thus the exemption is a useful means for the Board to authorize minor variations in route authority, which would otherwise require a hearing under section 401, minor acquisitions of control, which would otherwise require a hearing under section 408, etc.

Under the existing section 416(b), the Board may only grant exemptions to "air carriers." The Board is not permitted to grant exemptions to persons controlling air carriers or to foreign air carriers. Because of these limitations the Board is sometimes required to hold hearings on very minor matters.

Under existing law it is not clear whether the Board may grant an exemption when the operation to be exempted is of "limited extent" or whether it is necessary that the carrier's entire operations be limited in extent. The meaning of "undue burden" in existing law is also unclear.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act amends section 416(b) to allow the Board to grant exemptions to any persons, including foreign air carriers and persons controlling air carriers. It removes the "undue burden" requirement and allows the Board to grant an exemption in cases in which the activity to be exempted is of limited extent.

SECTION 18—COMMUTER EXEMPTION

I. Existing law

Under section 416(b) of the Federal Aviation Act, the Board has granted an exemption to air taxi operators[5] (part 298 of the Board's Economic Regulations), permitting them to operate aircraft with a capacity of up to 30 seats or 7500 pounds capacity. Such operations may be carried out without a certificate of public convenience and necessity and the commuters are free to enter and exit from markets and to set their fares without CAB authorization.

[5] Commuter carriers are air taxi operators who provide scheduled service.

II. Need for change

In recognition of their important role in the air transport system, the commuters need access to larger equipment. In recent years, the commuters have been replacing the regional carriers at small communities. Between 1970 and 1975, the number of small communities (under 100,000 population) served by regional carriers decreased 13 percent while the number of such communities served by commuters increased 21 percent. The commuters have also been playing an increasingly important role in the all-cargo field.

Aircraft of 40–55 seat capacity, such as the F–27 and Convair 580, may be the most efficient aircraft for some of the markets now served by the commuters.[6] Moreover, some of the regional carriers, which now use F–27's and Convair 580's to serve small and medium-sized communities, may convert to all-jet fleets of 90 seat or greater capacity. If this occurs, the commuters will be called upon to serve additional markets for which 40–50 seat aircraft would be most efficient. An extended exemption would permit commuters to operate 50 seat aircraft now available, and encourage manufacturers to develop new aircraft of this capacity.

III. Changes made by Air Service Improvement Act

The Act grants air taxis an exemption to operate aircraft with a capacity of 56 passengers or 18,000 pounds of property with freedom of entry, exit, and freedom to set fares. The Act further provides that the Board may increase these limits when it finds that the public interest so requires.

The exemption granted by the Act would permit the commuters to operate large non-jet equipment such as the Convair 580 and the F–27. The provision is not intended to authorize operation of jet equipment such as the DC–9–10.

SECTION 2 AND 20—ALL-CARGO AIR SERVICE

I. Existing law

Under existing law service with all-cargo aircraft is regulated in essentially the same manner as is passenger service.

II. Need for change

The regulation of domestic all-cargo service has not produced good results for the industry or for the shipping public. With few exceptions domestic all-cargo service has been unprofitable since 1967. Between 1965 and 1975 freighter operators accumulated $210 million in pre-tax losses.

In the past few years all cargo service has been reduced substantially and cargo has moved on combination aircraft. The schedules of combination aircraft are geared to the needs of passengers who generally want to travel during daylight hours. By contrast shippers of cargo frequently desire overnight service with late evening departures and early morning arrivals.

The failure of regulated service to meet the needs of shippers has been demonstrated by the recent growth in unregulated operations. A commuter carrier, Federal Express, began operating in 1973 and has quickly grown to a $100 million a year operation. A leading air freight forwarder, Emory Air Freight Service, has found scheduled air freight service to be deficient and has contracted for charter service in major markets.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act removes most regulatory restrictions from all-cargo service. Any fit applicant would be issued a license for all-cargo service. The license could not restrict the cities to be served. The level of rates for all-cargo service (and for cargo service on combination flights) would be unregulated, unless the Board found the rates were discriminatory, preferential, prejudicial, or predatory.

The deregulation of all-cargo transportation is phased to give existing operators, who have invested in reliance upon the existing system, an opportunity to adjust their fares and marketing approach to an unregulated system. 105 days after enactment of the Act, the Board is required to issue all-cargo licenses to applicants who have operated all-cargo service as a certificated airline or as a commuter carrying more than 20 million interstate freight revenue ton miles during the past year.

One year after enactment the Board would begin considering applications by applicants who have not been operating all-cargo air service. The Board would be required to issue a decision on these applications in 180 days.

The Act also establishes policy criteria to be applied by the Board in considering applications involving all-cargo air carriers under Section 408 and related sections of the Federal Aviation Act. Under these criteria the Board would be required to encourage the development of expedited cargo service and an integrated transportation system.

[6] Commuters now serve 104 markets where traffic exceeds 40 passengers a day.

SECTIONS 21 AND 22—CIVIL PENALTIES

I. Existing law

Under Section 901 of the Federal Aviation Act, violations of the Act and the requirements imposed thereunder are subject to civil penalties of up to $1,000 for each violation. The procedures for enforcing these penalties involves a two-step process. The Board has authority to hold an administrative proceeding to determine whether there has been unlawful activity. Following a finding of a violation the Board may enter into a compromise agreement with the violator, establishing an agreed-upon civil penalty. However, if no agreement can be reached, it is necessary for the Board to institute a proceeding in the Federal Courts. After a second trial the Federal judge has authority to impose a civil penalty.

II. Need for change

The two-step process for imposing civil penalties is inefficient and appears to be unnecessary. Under the two-stage process, the matter must be fully litigated in two hearings if no agreement can be reached on civil penalties. In the Federal court proceeding, the case is litigated by attorneys for the Department of Justice and the United States Attorney's Office who are frequently unfamiliar with the Federal Aviation Act and the aviation industry.

The two-stage procedure is not necessary to insure due process. In the administrative proceedings violators are given a full hearing before an administrative law judge with review by the Civil Aeronautics Board.

The Administrative Conference of the United States has recommended that administrative agencies be given authority to impose civil penalties. By Recommendation 72–6, adopted on December 14, 1972, the Conference characterized the increased use of civil money penalties as "an important and salutary trend" and urged administrative agencies to consider asking Congress for authority to impose civil money penalties. The Conference observed that this authority would help alleviate the already critical overburdening of the Federal courts by removing controversies which involved little precedential significance and only small sums of money.

III. Changes made by Air Service Improvement Act

The Act gives the CAB power to impose civil penalties after notice and hearing. The Act further provides that the Board's order imposing a penalty is subject to review by the United States Court of Appeals, as provided in Section 1006 of the Act. If the Board is unable to collect a civil penalty which it has imposed, it will be necessary for the Board to institute a collection proceeding in the District Court. However, in this proceeding the violator would not be entitled to a trial de novo.

SECTION 23—PASSENGER FARES

I. Existing law

Under existing law passenger fares are prescribed by the CAB. The Board determines coach fares by a formula which uses the average costs of all carriers and the assumption that a certain percentage of seats will be filled. The formula is designed to provide equal fares for equal distances. The Board gives the carriers some degree of latitude to establish discount and promotional fares which offer reductions from the basic fare.

II. Need for change

The Board's regulatory control of fares under existing law has left carrier management with insufficient flexibility to experiment with fare increases and reductions.

The certificated carriers and some public witnesses who appeared at the hearings believe that the Board hasn't permitted passenger fares to rise quickly enough in response to rising costs. The carriers are particularly disturbed with the Board's adjustments of their costs, such as assuming a load factor which is higher than the actual load factor and assuming that discount fare passengers are paying full fares. As a result of these adjustments, the Board's formula may indicate that a proposed fare increase should be disallowed because it would yield an excessive return of 13 or 14 percent, when, if there were no adjustments in costs, the actual rate of return would be 5 or six percent.[7]

The Administration and other witnesses argued that the CAB's fare setting policies discourage reduction in fares. It is argued that reductions are discouraged because hearings may be demanded by carriers opposing reductions. It is also argued that the CAB's use of a formula requiring that fares be uniformly related to mileage throughout a carrier's system tends to discourage experiments with reduced fares in individual markets.[8]

Recently, the Board has allowed substantial discount fares; Texas International's "peanut" fare offering discounts of about 50 percent for certain under-utilized flights, and American Airlines' "super-saver" fare offering 45 percent discounts on transcontinental flights. The Board has also instituted the World Airways and Midway Airport cases which may result in other low fare service. But there is no assurance that the Board will continue in this direction in the future.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act would leave the carriers free to adjust their fares, without CAB regulation, within a zone of reasonableness. On the increased side, fares could be increased 10 percent a year without CAB approval. For decreases fares could be reduced 25 percent in the first year, and thereafter to the lesser of 50 percent of the fares in effect on date of enactment or 110 percent of the direct costs of providing the service. Direct costs are the costs which are directly incurred in operating a service and do not include such fixed costs as depreciation, interest, and other overhead expenses.

[7] The CAB defends the adjustments on the grounds they are needed to force the industry to operate efficiently.

[8] The CAB generally disagrees with these contentions and argues that because the carriers have never tried to reduce their basic fares, there has never been a test of whether CAB policy discourages fare reductions.

The CAB would have discretion to approve or disapprove fares outside of the zone of reasonableness.

SECTIONS 13 AND 23—JOINT FARES FOR COMMUTERS

I. Existing law

Under section 404 of the Federal Aviation Act air carriers are required to establish through service and joint fares with other air carriers. Section 1002 of the Act allows the Board to establish joint fares and the division of joint fare revenues between participating air carriers. Acting under these provisions the Board has required certificated carriers to introduce joint fares complying with a Board formula for determining the joint fare and for dividing the revenues between participating carriers. The Board has extended these requirements to commuter carriers who replace certificated carriers at suspended points, but the Board has not established general requirements for joint fares between certificated carriers and commuters.

II. Need for change

Exclusion of commuters from the Board's joint fare program injures both the commuters and the traveling public. Under the CAB's formula, joint fares are lower than the sum of the local fares charged by two carriers involved in providing connecting transportation. The Commuter Airline Association of America estimates that a requirement that the CAB's joint fare program be extended to commuter airlines would save the public $5 to $34 million a year in air fares. The Board's failure to require that certificated airlines establish joint fares with commuters may place the commuters at a competitive disadvantage in markets where they compete with certificated carriers. Moreover, the commuters lose revenues by not participating in the joint fare program. The Commuter Airline Association estimates the CAB's formula for division of revenues would increase commuter airline revenues by approximately $10.5 million. The Commuter Association also estimates that a mandatory joint fare program with reduced fares would generate additional traffic resulting in revenue gains to both certificated and commuter airlines.

On August 26, 1976, the Commuter Airlines Association petitioned the CAB asking them to act under present law to extend the joint fare program to commuters. Thus far, the CAB has not acted on this petition. However, as indicated above, CAB has extended joint fares to commuters involved in substitute service arrangements, and to commuters which have obtained certificates, such as Air New England and Air Midwest.

III. Changes made for Airline Service Improvement Act

The Act amends section 404 to make it clear that certificated carriers have a duty to enter into through service arrangements with commuters. The Act also requires that commuters be included in the CAB's orders establishing a uniform formula generally applicable to establishing joint fares and division of revenues between certificated carriers.

SECTION 24—CIVIL AERONAUTICS BOARD COURT REPRESENTATION

I. Existing law

Section 1007(b) of the Federal Aviation Act prescribes procedures for the institution of Federal court actions for enforcement of the Act, and the Board's Orders, and regulations thereunder. The section provides that such judicial proceedings are to be instituted by the appropriate U.S. Attorney, "under the direction of the Attorney General." Thus, litigation for the enforcement of the Board's regulations is directed by the Department of Justice.

II. Need for change

Very real problems have arisen because of the inability of the Board to direct its own litigation.

Direction of the Board's litigation by the Justice Department is inefficient. The laws and regulations which CAB administers are extremely complex, and, however intelligent and well motivated an assistant U.S. Attorney handling one of the Board's cases may be, a time consuming, learning process must take place when the Board refers a case for prosecution.

Another difficulty is that the Department of Justice on occasion has changed the Board's interpretation of applicable aviation case law or the Board's own regulation. It is troubling that under the current statutes the Executive Branch of the Government views itself as having the ultimate authority to decide the meaning, applicability, and importance of orders, rules and requirements of an independent agency serving as an arm of the Congress.

A final difficulty is that under the present scheme CAB cases get priority in accordance with the needs and work load of the U.S. Attorney's office rather than the needs and work load of the Board. This has led to delays in important CAB cases when the Board's attorneys are ready, willing, and able to represent the Board in court.

III. Changes made by the Airline Service Improvement Act

The Airline Service Improvement Act will permit the Board to represent itself, through its own attorneys, in the Federal courts when the Attorney General fails, within 45 days after written notification from the Board, to institute an enforcement action. This procedure would normally apply to such cases as a civil action to collect monetary penalties under sections 901 and 903 of the Act; or an injunction action under section 1007 of the Act. Where the civil action seeks entry of a temporary restraining order or preliminary injunction, the Board could proceed during the 45 day period.

The Board needs this authority to carry out its legislative mandate, particularly after deregulation. With fewer barriers to entry or exit, with greater price flexibility, and with more competition, the Board will require the tools to move quickly in the federal courts to terminate unlawful activity threatening the public interest. It should be able to do so through its own attorneys who are specialized in this area.

This bill is identical to a segment of the Interim Regulatory Reform Act of 1976 (S. 3308). It embodies authority presently exercised by the Federal Trade Commission, the Securities and Exchange Commission, and the Consumer Products Safety Commission.

SECTION 26—EXTENSION OF LOAN GUARANTEE LEGISLATION

Section 26 of the Act extends and modifies the Aircraft Loan Guarantee Program (Act of September 7, 1957, as amended, 49 U.S.C. 1324) which expires on September 7, 1977. The loan guarantee program is designed to promote the development of local, feeder, and short haul air transportation through government guarantees of aircraft purchase loans by private lenders.

During the 20 years it has been in effect the loan guarantee program has been highly successful. Under the program 40 loans totalling $270 million have been guaranteed for 19 airlines. The loans have permitted financing at reduced interest rates, in some cases as much as 4.75% below the rates ordinarily charged. There have been no defaults of the loans guaranteed and the loan guarantee fees of ¼ of 1 percent of the outstanding balance per year have generated $1.1 million in revenues compared to the estimated administrative expenses of $574,000.

The Air Service Improvement Act extends the loan guarantee program for five years and makes several modifications designed to further the effectiveness of the program.

First the program is extended to commuter airlines. Commuters are now providing a substantial volume of small community air service and inclusion of commuters will help further the objectives of the program. Commuters now serve over 600 communities. Over 70 of these communities have populations of less than 5000, while 193 have populations of less than 25,000. Commuters are the fastest growing segment of the air transportation system, with passengers growing at a rate of 10%, cargo 31% and mail 25% over the last six years. Inclusion of commuters in the guaranteed loan program will enable commuters to improve their service to small communities.

Because commuters are not subject to economic regulation, several safeguards have been written into the legislation. For a commuter carrier to receive the benefits of the program, the Secretary of transportation must be reasonably assured that the applicant is financially sound and will continue operations as a commuter carrier over the routes being operated at the time of the guaranteed loan.

Other changes in the law are designed to take account of changes in aircraft and aircraft financing which have occurred in the 20 years since the legislation was first enacted.

First the term of loans which may be guaranteed has been extended from 10 to 15 years. When the law was first enacted most of the aircraft to be acquired were used with no more than a 10 year life for financing purposes. Modern jet aircraft which are now being acquired have a useful life of 15 years or more and can be financed over this period.

A second change is to extend the amount of loans which may be guaranteed for each carrier from $30 million to $75 million. This is necessary because of the increases in the cost of aircraft. In 1968, a DC-9-30 cost about 3.6 million dollars. Quite apart from inflation modern aircraft have become more expensive as they have become more sophisticated, particularly in terms of electronic equipment. As a practical matter, the increase to $75 million would permit little or no increase in the number of aircraft a company could acquire compared with that envisioned in the original loan guarantee legislation.

SECTION 27. AIRLINE EMPLOYEES PROTECTION

Airline employees may be adversely affected by the new entry authorized under the dormant authority and discretionary entry provisions of the Act. Accordingly, the Act provides that the Secretary of Transportation shall prescribe regulations furnishing protective benefits to such employees. Initial payment of such protective benefits shall be made by the employer of the affected employees who will then be reimbursed from a special account established in the United States Treasury.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. FORSYTHE (at the request of Mr. RHODES), for today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 5 minutes, today.
Mr. MCKINNEY, for 20 minutes, today.
Mr. SARASIN, for 5 minutes, today.
Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and to include extraneous material:)

Mr. PEPPER, for 15 minutes, today.
Mr. LE FANTE, for 5 minutes, today.
Mr. PREYER, for 5 minutes today.
Mr. ECKHARDT, for 5 minutes, today.
Mr. BEDELL, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. BAUCUS, for 5 minutes, today.
Mrs. BOGGS, for 5 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
Mr. PICKLE, for 60 minutes, on September 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OTTINGER, and to include extraneous matter in the debate on the ERDA bill today.

Mr. LUJAN, to revise and extend his remarks immediately following the vote on the McCormack amendment in the Committee of the Whole today.

Mr. MCCORMACK, to revise and extend his remarks preceding the vote on the electric vehicle.

Mr. HILLIS, and to include extraneous material in the remarks he made in the Committee of the Whole today on H.R. 5383.

Mr. ANDERSON of California, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,173.50.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. ASHBROOK in two instances.
Mr. RINALDO.
Mr. MARTIN in two instances.
Mr. RUDD.
Mr. LUJAN.
Mr. MCCLORY.
Mr. LAGOMARSINO in two instances.
Mr. BURGENER.
Mr. EMERY.
Mr. SNYDER in four instances.
Mr. MCKINNEY.
Mr. CARTER.
Mr. GILMAN.
Mr. SYMMS in three instances.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter):

Mr. THOMPSON.
Mr. HARKIN.
Mr. D'AMOURS.
Mr. KASTENMEIER.
Mr. VANIK in three instances.
Mr. PERKINS.
Mr. WIRTH in 10 instances.
Mr. DRINAN.
Mr. LEHMAN.
Mr. SIMON.
Mr. COTTER in three instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. CARNEY.
Mr. BAUCUS.
Mr. LLOYD of California.
Mr. RISENHOOVER.
Mr. ROSENTHAL.
Mr. ZEFERETTI in two instances.
Mr. MCDONALD in three instances.
Mr. MILFORD.
Mr. PICKLE in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5262. An act to provide for continued participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes; and

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, September 26, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2438. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1978 for the Department of Health, Education, and Welfare (refugee assistance) (H. Doc. No. 95-227); to the Committee on Appropriations and ordered to be printed.

2439. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new system of records for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2440. A letter from the Secretary of the Interior, transmitting a report on the study for inclusion of the Missouri River, Mont., in the Wild and Scenic Rivers System, pursuant to section 5(b) of Public Law 90-542 (H. Doc. No. 95-228); to the Committee on Interior and Insular Affairs and ordered to be printed.

2441. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase of more than 10 percent in the funding level for the Agency's program in Panama, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2442. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to Section 112 (b) of Public Law 92-403; to the Committee on International Relations.

2443. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to make technical and perfecting amendments to the Federal program of insured loans to graduate students in health professions schools; to the Committee on Interstate and Foreign Commerce.

2444. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the period October 1, 1976 through June 30, 1977, pursuant to section 203(f) of the act; to the Committee on the Judiciary.

2445. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend the Speedy Trial Act of 1974; to the Committee on the Judiciary.

2446. A letter from the Comptroller General of the United States, transmitting a report on the Veterans' Administration's domiciliary program (HRD-77-69, September 21, 1977); jointly to the Committees on Government Operations and Veterans' Affairs.

2447. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; jointly to the Committees on International Relations, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 5503. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes; with amendment (Rept. No. 95-566, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 3813. A bill to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes; with amendment (Rept. No. 95-581, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6348. A bill to convey

to the Ely Indian Colony the beneficial interest in certain Federal lands; with amendment (Rept. No. 95–619). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes (Rept. No. 95–620). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8149. A bill to provide customs procedural reform, and for other purposes; with amendment (Rept. No. 95–621). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7074. A bill to provide improved authority for the administration of certain National Forest System lands in Oregon; with amendment (Rept. No. 95–622). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7259. A bill to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes; with amendment (Rept. No. 95–623). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 667. An act to declare certain federally owned land held in trust by the United States for the TeMoak Bands of Western Shoshone Indians (Rept. No. 95–624). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 9019. A bill to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974 (Rept. No. 95–625). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Michigan:

H.R. 9262. A bill to amend title 5 of the United States Code to provide that an employee may credit service as an employee of a congressional campaign committee for civil service retirement purposes, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ALLEN:

H.R. 9263. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber and for other purposes; to the Committee on the Judiciary.

By Mr. BLANCHARD:

H.R. 9264. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

By Mr. BROYHILL (for himself, Mr. MARTIN, Mr. JONES of North Carolina, Mr. FOUNTAIN, Mr. WHITLEY, Mr. NEAL, Mr. PREYER, Mr. QUILLEN, Mr. DUNCAN of Tennessee, Mr. DAVIS, Mr. MANN, Mr. HOLLAND, Mr. BUTLER, Mr. WAMPLER, and Mr. SPENCE):

H.R. 9265. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Overmountain Men Victory Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mrs. BOGGS (for herself, Mr. CARR, Mr. CORRADA, Mr. ICHORD, Mr. MILFORD, Mr. MURPHY of New York, Mr. NEDZI, Mr. YOUNG of Missouri, Mr. ROGERS, and Mr. WEAVER):

H.R. 9266. A bill to provide recognition to the Women's Air Forces Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the United States for purposes of laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mrs. BOGGS (for herself, Mr. ALLEN, Mr. KASTEN, and Mr. MOAKLEY):

H.R. 9267. A bill to authorize the Secretary of Health, Education, and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mr. BURGENER (for himself, Mr. TREEN, Mr. KETCHUM, Mr. MOORHEAD of California, Mr. LOTT, Mr. RHODES, Mr. HYDE, Mr. ROUSSELOT, Mr. DERWINSKI, Mr. THONE, Mr. RUDD, Mr. LAGOMARSINO, Mr. MONTGOMERY, Mr. BAFALIS, Mr. WINN, Mr. KINDNESS, Mr. WHITEHURST, Mr. DORNAN, Mr. BURKE of Florida, Mr. GUDGER, Mr. EDWARDS of Oklahoma, Mr. BADHAM, Mr. SKELTON, Mrs. HOLT, and Mr. FOUNTAIN):

H.R. 9268. A bill to amend the Immigration and Nationality Act to prevent the illegal entry and employment of aliens in the United States, to facilitate the admission of aliens for temporary employment, to regulate the issuance and use of social security account cards, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, and Ways and Means.

By Mr. BUTLER (for himself, Mr. ABDNOR, Mr. BALDUS, Mr. BRECKINRIDGE, Mr. CEDERBERG, Mr. COHEN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. EVANS of Delaware, Mrs. FENWICK, Mr. GEPHARDT, Mr. GILMAN, Mr. GUDGER, Mr. HAGEDORN, Mr. LOTT, Mr. LUKEN, Mr. MOORHEAD of California, Mr. NEAL, Mr. O'BRIEN, Mr. PEPPER, Mr. QUAYLE, Mr. RAHALL, Mr. ROBINSON, and Mr. SARASIN):

H.R. 9269. A bill to require the preparation of small business impact statements in connection with Federal agency rules, and for other purposes; to the Committee on Small Business.

By Mr. CARTER (for himself, Mr. MILFORD, Mr. LOTT, Mr. BIAGGI, Mr. YATRON, Mr. BOB WILSON, Mr. BAUCUS, Mr. MILLER of Ohio, and Mr. TAYLOR):

H.R. 9270. A bill to establish a program of comprehensive medical, hospital, and dental care as protection against the cost of ordinary and catastrophic illness by requiring employers to make insurance available to each employee and his family, by Federal financing of insurance for persons of low income, in whole or in part according to ability to pay, and by assuring the availability of insurance to all persons regardless of medical history, and on a guaranteed renewable basis; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN:

H.R. 9271. A bill to amend title XVIII of the Social Security Act to enable certain individuals to enroll in the insurance program established by such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DINGELL:

H.R. 9272. A bill to amend the crude oil pricing provisions of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H.R. 9273. A bill to provide for orderly trade in iron and steel products; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 9274. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in higher education; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 9275. A bill to amend section 111 of title 23, United States Code, relating to agreements for the use of and access to the rights-of-way of the Interstate System; to the Committee on Public Works and Transportation.

By Mr. MOTTL (for himself, Mr. VANIK, Mr. STOKES, Ms. OAKAR, Mr. STANTON, Mr. MURPHY of Pennsylvania, Mr. REUSS, Mr. STANGELAND, Mr. KEMP, Mr. ASHLEY, Mr. CARNEY, Mr. EILBERG, Mr. HORTON, Mr. NOWAK, Mr. HARSHA, Mr. MILLER of Ohio, Mr. LUKEN, and Mr. PEASE):

H.R. 9276. A bill expressing the sense of the Congress that the proposed toll increases on the St. Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

Mr. NIX (by request):

H.R. 9277. A bill to amend title 5, United States Code, to provide for retention of grade and pay for certain employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. NIX (for himself, Mr. UDALL, and Mr. DERWINSKI):

H.R. 9278. A bill to amend the act of August 25, 1958, with respect to staff allowances for former Presidents; to the Committee on Post Office and Civil Service.

By Mr. NIX (for himself and Mrs. SPELLMAN):

H.R. 9279. A bill to amend title 5, United States Code, to provide for retention of grade and pay for certain employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MARKEY, Mr. CARTER, and Mr. MADIGAN):

H.R. 9280. A bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical school's receiving capitation grants under such act; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 9281. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of expenses in attending foreign conventions; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself, Mr. FORD of Michigan, Mr. WHALEN, Mr. UDALL, Mr. CHARLES H. WILSON of California, Mr. CLAY, Mr. PEASE, Mr. PATTISON of New York, and Mr. STEERS):

H.R. 9282. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved, and for other purposes; Post Office and Civil Service, and Rules.

By Mr. THOMPSON:

H.R. 9283. A bill to amend the Tariff Schedules of the United States by repealing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. THONE:

H.R. 9284. A bill to encourage farmers to establish shelterbelts for the purpose of reducing soil erosion, protecting crops and livestock, and establishing wildlife habitat areas; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 9285. A bill entitled the "National Domestic Development Bank Act"; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WALKER (for himself, Mr. BAUMAN, Mr. COLEMAN, Mr. COLLINS of Texas, Mr. CORCORAN of Illinois, Mr. DORNAN, Mr. GOODLING, Mr. GRADISON, Mr. GUYER, Mr. HYDE, Mr. KELLY, Mr. KINDNESS, Mr. BADHAM, Mr. LEVITAS, Mr. MICHEL, Mr. MILLER of Ohio, Mr. MYERS of Indiana, Mr. QUAYLE, Mr. STANGELAND, Mr. STOCKMAN, Mr. WAXMAN, and Mr. WYDLER):

H.R. 9286. A bill to prevent Federal enforcement of racial quotas; jointly, to the Committees on the Judiciary, and Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANSEN:

H.R. 9287. A bill for the relief of Kenjie Okuma; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.R. 9288. A bill for the relief of Dr. Victor T. Cruz; to the Committee on the Judiciary.

By Mr. WALKER:

H. R. 9289. A bill for the relief of Arthur J. Grauf; to the Committee on the Judiciary.

SENATE—*Friday, September 23, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Reverend Edgar J. Mundinger, pastor, Christ Lutheran Church of Washington, Washington, D.C., offered the following prayer:

In the name of the Father and of the Son and of the Holy Spirit, amen, Romans 13: 1b: *"There is no authority except from God, and all authority that exists is established by God."*

O eternal God, Father of the Lord Jesus Christ and our Father, we thank You for the gift of life—our own and our Nation's life. Teach us to treasure, today and always, our dearly won American liberties, especially liberty of conscience and freedom to worship You and give You glory.

Help us to lead in the legislative process and to win and keep the respect of our constituents. Give them a willingness to understand and share in the process and, with us, to show respect for our country's laws and to work with us to preserve the good institutions of our land.

Protect us from subversive forces, but keep us equally alert to those suspicions which blind people to the good intentions and good purposes of those with whom we may not at first agree. Keep our Government from falling prey to selfish interests.

Teach us as a people that You rule the destinies of men and of nations and that the future is in Your good counsel.

Above all, give us that faith in You that leads to our being a salt and a leaven to uphold righteousness, good order, and peace. Help us to stand tall, because we have first knelt and confessed our total dependence upon Your mercies to us and to our country. In the name of Jesus Christ, we ask it. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 23, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, September 22, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

The ACTING PRESIDENT pro tempore. The Senator from California.

VETERANS' BENEFITS REVIEW

Mr. CRANSTON. Mr. President, I move to reconsider the action taken last night in agreeing to the motion to concur in the House amendments, with amendments of the Senate, to S. 1307.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such portion of my time as he may require to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the distinguished majority leader.

HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 7554, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 12, 1977.)

Mr. PROXMIRE. Mr. President, the report we have before us at this time was originally taken up on July 22 and subsequently laid aside. The contents of the report are discussed in detail on pages 24512 through 24519 of the July 22 CONGRESSIONAL RECORD.

However, I would like at this point to briefly summarize the conference results.

The pending conference report recommends that the Congress provide a total of $69,370,554,000 in new budget authority in fiscal 1978 for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the National Science Foundation, the Environmental Protection Agency, the Consumer Product Safety Commission, and a number of other, smaller agencies. The recommended amount is $2,270,790,000 more than the Congress provided in fiscal 1977, due entirely to an increase of $3,500,758,000 over last year for HUD's assisted housing programs. More importantly, the conferees have agreed on a figure that is $1,403,858,000 below the administration's budget request although the recommendations contained in the conference report would add $1,722,063,000 to the funding contained in H.R. 7554 as it passed the Senate.

The conferees could not agree on language cutting off veterans benefits for those whose discharges have been upgraded under a new Presidential program. There will be a vote following adoption of the conference report on a motion to, in effect, insist on striking language denying these benefits and to request a further conference on the issue.

Mr. MATHIAS. Mr. President, our chairman, the able Senator PROXMIRE, has more than adequately explained the items contained in this conference report. I will, therefore, just mention a few that are of particular importance. When we went to conference our bill had the funding for housing for the elderly or handicapped as an "off budget" appropriation as in past years. The House insisted, however, on including these funds in the budget and I can just hope that this change will do no harm to this very valuable and very needed program. Arguments can be made on either side as how to present the $750 million funding for housing for the elderly or handicapped in the budget; my feeling was that these funds do not represent final expenditures of appropriated dollars but rather funds that will be returned to the Treasury with interest and, therefore, they should not be included as a regular "on budget" appropriations item. Be that as it may, I hope that we can be secure that the very value of this program will result in its continuing to be funded at the highest possible level.

I was pleased that the conference committee retained all of the additional personnel that the Senate bill provided for additional staff at EPA research facilities. Senator BELLMON had proposed this increase and I commend him for doing so.

As we know, after going out in disagreement on funding for the Jupiter orbitor probe the House, by a very strong vote, supported the Senate position. I believe this augers well for space exploration and even more importantly it shows support for the many kinds of applied and basic research that NASA conducts, the importance of which we cannot even guess today. I was also pleased that the Senate succeeded in maintaining a high level of funding for research conducted under the direction of the National Science Foundation. Again, we cannot know today all the benefits that will accrue to us from this research, particularly the basic research, conducted by the Foundation.

We were not able to maintain funding in this bill for a replacement hospital facility at Portland/Vancouver, but I believe we will have another opportunity to vote funds for this very necessary replacement hospital. I will just quote the language from the conference report:

The Committee of Conference agrees that when the House Committee has received and reviewed the recommendations of its investigative staff pertaining to the replacement hospital facility at Portland/Vancouver, consideration will be given to providing construction funds in a supplemental appropriation.

Finally, Mr. President, let me once again say what a pleasure it is to work with our chairman, Senator PROXMIRE, who has extended his usual courtesy and helpfulness to me and the other members of the subcommitee. We stand in admiration of the tremendous job that he does in conducting the lengthy hearings on this bill and guiding us through the markups, floor action and committee on conference.

USE OF GOVERNMENT LIMOUSINES

Mr. BAYH. Mr. President, the chairman of the Subcommittee on Housing and Urban Development and Independent Agencies appropriations, Mr. PROXMIRE, has done the Nation a great service in stopping high Government officials from abusing the privilege of using Government-financed limousines and I support his efforts to prevent the use of Government limousines for personal business.

However, it is my understanding that the intent of the language in H.R. 7554 on this issue is to prevent abuse by Government officials. It does not prevent the Government from providing transportation to employees in special situations. The specific type of instance that I have in mind is that where a secretary is required to work in the late evening hours. Present Government travel regulations permit an agency to pay for the taxi fare home of the secretary in this situation.

There was some discussion on the floor of the Senate on this same issue last year when similar language was part of the Senate HUD appropriations bill for fiscal year 1977. At that time, in a colloquy between the Senator from Maryland (Mr. MATHIAS) and the Senator from Wisconsin (Mr. PROXMIRE), it was agreed that the language covering limousine use in the bill was not intended to apply to cab fare for secretaries or for similar emergency type situations that might arise.

It is my understanding that it is the committee's intention to have the same principle apply to the language in section 410 of H.R. 7554.

Mr. PROXMIRE. That is a correct interpretation of the provision.

Mr. BAYH. I also understand that Government travel regulations allow an employee to use Federal dollars to pay for a cab between home and office on days that he or she is going to take an official trip and leave directly from the office or goes directly to the office after arriving from an official trip. The trips have to involve at least one night's lodging for the cab expenses to be reimbursable. Is it the Senator's understanding that these trips would continue to be allowable and that the language in the bill as agreed upon by the conferees would not apply?

Mr. PROXMIRE. That is my understanding.

Mr. BAYH. Finally I am told by NASA that seven employees at five tracking stations currently use Government cars to get from home to work and back again, although this type of transportation is not provided at eight other tracking stations. Apparently NASA provides this service, because the employees live far from the tracking stations, no public transportation is available, and the laws of the country allow only one car per family to enter the country duty free. As a consequence of this last restriction it costs a great deal of money to own a second car in those countries.

Is it fair to say that the bill language in question is not meant to apply in these highly unusual circumstances?

Mr. PROXMIRE. I would agree that the prohibition in the bill would not apply to travel in the field of this sort, but I would expect that no exceptions would be made at the other eight NASA tracking stations.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the clerk report amendments 28, 45, and 46 en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"That not more than $63,000,000 shall be available for Research Applied to National Needs: *Provided further*,"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

"SEC. 409. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

"SEC. 410. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitations.

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 28, 45, and 46.

Mr. ABOUREZK. Mr. President, I should like to ask a question of the manager of the conference report. Is one of those amendments the so-called Beard amendment?

Mr. PROXMIRE. No. That amendment is not included. I am going to take up the Beard amendment after we act on these amendments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. PROXMIRE. Mr. President, the next amendment we will consider today outside the conference concerns an issue that the conferees could not agree on. It is the so-called Beard amendment, first attached to H.R. 7554 on the floor of the House by Congressman BEARD. In essence the amendment would deny veterans benefits to those who have received an upgraded discharge under a special discharge review program implemented by President Carter. The amendment would result in certain inequities because it would deny benefits to those veterans who might have had their discharges upgraded under programs existing prior to the implementation of the new Carter program and thus have been eligible for benefits but have had the misfortune to receive discharge upgradings under the new program. For this reason, and because the Senate has passed compromise legislation which would accomplish the objectives of the Beard amendment yet retain the rights of servicemen as they existed before the special discharge review program was implemented, I am going to make a motion that would request a further conference on this one amendment. I am hopeful that the House will recede to the Senate decision to delete the Beard amendment, in view of the action that has taken place on substitute legislation, and that a new conference will not be necessary.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"No part of the foregoing appropriations shall be used for the adjudication of claims or the payment of benefits for any individual who was discharged from the military under less than honorable conditions, and who received an honorable or general discharge as the result of revised standards for review of discharges as implemented April 5, 1977, by the Department of Defense's special discharge review program."

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the amendment of the House to the amendment of the Senate numbered 40, request a further conference with the House thereon, and that the Chair be authorized to appoint conferees.

Mr. DOLE. Mr. President, I have one comment. As I understand, this matter has been agreed upon. The measure, S. 1307, was passed last evening by the Senate, and I understand the President has agreed to sign it. It has been passed by the House today. That ends the controversy over the so-called Beard amendment. I think that satisfies the distinguished Senator from South Dakota, and those of us on the other side have been satisfied, I believe, with the passage of S. 1307.

Mr. PROXMIRE. That is my understanding. For that reason, so far as this amendment is concerned, we are holding fast to the original Senate position, and we would expect the House to recede. In fact, if they do not recede, we will have to have a further conference and then come back to the Senate for final action.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to; and the Acting President pro tempore appointed Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. MCCLELLAN, Mr. MATHIAS, Mr. CASE, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG, conferees on the part of the Senate.

Mr. MATHIAS. Mr. President, I thank the distinguished chairman of the subcommittee, the manager of this bill, for all his courtesies in the long legislative process we have just completed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. ROBERT C. BYRD. I yield back whatever time I have.

Mr. MATHIAS. I yield back my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized for not to exceed 15 minutes.

THE SPIRIT OF KANSAS CITY

Mr. DANFORTH. Mr. President, on Monday, September 12, 1977, Kansas City, Mo., was devastated by a savage flood. The cause of the floor was a catastrophic 24-hour rainfall which exceeded 16 inches in one small area of eastern Jackson County and exceeded 10 inches in major portions of the greater metropolitan area. The National Weather Service has estimated that such intense rainfall is not like to occur in Kansas City more than once in 1,000 years.

The enormity of what occurred is difficult to comprehend. Twenty-five area residents lost their lives. It is miraculous that many more were not killed. Approximately 1,500 are homeless, and even more thousands are out of work. The most recent estimates of property damage are $100 million in Kansas City, Mo., and $40 million for the surrounding suburban areas. These figures are increasing every day. The human suffering is incalculable; and the total scope of the tragedy is just beginning to reveal itself. There is no escape from the pain and the loss that have been inflicted.

Today I would like to speak not about the tragedy, but about the great spirit of the people of Kansas City. During the darkest hours of the flood the entire metropolitan area mobilized against the common threat. Within hours of the onslaught more than 900 city employees from the departments of public works, parks, and water pollution control were mobilized.

Between 600 and 700 police officers and firefighters were immediately on the scene and remained at their posts around the clock. Deputy fire chief, Louis Hansen, has estimated that more than 140 small privately owned boats were put into rescue service by an army of citizen volunteers numbering more than anyone could count. Heavy contractors provided men and equipment without charge to help with the removal of more than 10,000 tons of debris. Acts of heroism by citizens risking their own lives to save imperiled strangers were frequent. Police Department Col. James Keiter, disaster flood coordinator, told my office:

It was a total community commitment. There was total response and effort. The Police Department was overwhelmed by the public outpouring of assistance. Everybody did what needed to be done.

All of the officials who were charged with the responsibility for conducting the disaster relief operations agree that the spirit of Kansas City prevented additional loss of life and propery. During the long nightmare only two arrests were made for looting. Hundreds of people were saved from injury or even death because the entire community responded.

Periodically we read of emergencies occurring in other communities when some feel they have a license to take advantage of the situation—to steal and to burn. The very opposite was the case in Kansas City. Disaster was not a license to steal. It was a challenge to the people of a great city to show one another and to show the country just how good human nature can be. At a time in history when fundamental values are constantly questioned, Kansas City has been an example to all of us of our highest values—of the best America has to offer.

I am tremendously proud of the people of Kansas City. I am proud to represent them in the U.S. Senate. They have demonstrated to this country what can be accomplished when people act together with courage, selflessness, and compassion. The tragedy remains, but so does the triumph.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes.

Mr. DOLE. Mr. President, first, I concur in the statements just made by the distinguished Senator from Missouri with reference to the tragedy that occurred in the Kansas City area, including parts of eastern Kansas; and, secondly, to indicate, as he has so well, that despite the tragedy the people in that area are looking ahead, and with the spirit they have, I think there is no doubt about their future and the future of that great area.

THE PANAMA CANAL TREATIES

Mr. DOLE. Mr. President, I have asked for this time today to discuss what will be, perhaps next year, perhaps later, a very important issue in the Congress of the United States, and that is the discussion and debate and consideration of the Panama Canal Treaties.

I would like to take this time to define the defects, as the Senator from Kansas sees the defects, in the treaties presented to Congress, and suggest some amendments and some reservations to the treaties so that, perhaps next week, when the Senate Committee on Foreign Relations starts its deliberations these amendments—and certainly there will be others submitted by other Members of the Senate—can be properly considered.

There will be formal consideration starting on Monday, and then the proposals will be considered, although it is my understanding there will be no vote on ratification until early in 1978.

The Panama Canal Treaty issue is certainly one that will demand much of our attention in the weeks ahead. The American people look for and hope for an exchange of views and responsible consideration of our Nation's future security at every stage of debate on the matter.

Now that the pomp and ceremony associated with the treaties is over, and the foreign dignitaries have left, we in the Senate shall consider the proposed treaties in a thoughtful and responsible manner.

An issue such as this which bears so heavily on our national security and economic well-being cannot be passed on casually. I know that each of my colleagues will carefully examine all of the treaty provisions, and reflect carefully on them. The Senate Foreign Relations Committee hearings will contribute in a valuable way to this process. Administration spokesmen, defense establishment leaders, Members of Congress, and a variety of public witnesses will all have an opportunity to testify on the merits of the treaty proposals. I know that the committee will make a genuine effort to listen to all interested parties and make every effort to obtain all points of view on this highly controversial issue. The committee will, in turn, be expected to pass on its own recommendations to the full Senate for final consideration and judgment.

SEEK OUT INFORMATION

All of us have a responsibility to become as well-educated as possible on all aspects of the Panama Canal issue. Now that the treaty drafts are available for inspection, we should actively seek additional information and advice from a variety of sources. A well-informed public can provide guidance during our deliberations, as well as support for our decision once it is made. Because I believe the American people deserve the opportunity to hear the full range of arguments for themselves, I have already suggested to the majority leader that Senate debate on the Panama Canal treaties be televised. Television coverage would place the treaty issues before a far greater number of our citizens, and enable them to better understand and participate in the decisionmaking process.

At all times during the weeks ahead, we, in the Senate, must be attentive to any new developments which may bear upon the treaty issue. I am thinking at this moment of reports last week that surveillance activity may have taken place during the treaty negotiations. The Senate Intelligence Committee, after conducting hearings on the matter, concluded that our treaty negotiators had not been compromised in any way by the disclosures. But I raise this matter to make a point: No matter what our predisposition toward the treaties may be, all of us should remain receptive to updated information on the treaty matter as it becomes available.

During the past several weeks, I have made an active effort to familiarize myself with all points of view on the matter. I have discussed the treaties with President Carter, former President Ford, and Governor Reagan, and I received a detailed briefing on both treaties by the State Department. I have deliberated upon the provisions of both treaties and consulted with respected members of the academic and professional community. Having now had the opportunity to carefully consider the background, the context, and the details of the treaty proposals, I have arrived at certain conclusions. In order to express my observations and concerns about the treaties, I will today introduce several proposals for their modification.

TREATIES UNACCEPTABLE

I cannot support the two Panama Canal Treaties in their present form. Both the basic treaty, and the treaty concerning permanent neutrality contain omissions and defects which make them unacceptable, in my opinion. In order to focus attention upon these weaknesses, particularly for the benefit of forthcoming Senate hearings, I am proposing two reservations and six amendments to the treaty language at this time.

The U.S. Constitution gives this body the power of "advice and consent" over international treaties concluded by the President with foreign heads of government. As such, we have the constitutional obligation to scrutinize these treaties for their impact on our national interest, and to identify the defects or omissions. On 16 occasions in our Nation's history, the U.S. Senate has directly rejected treaty proposals submitted by the President. In 38 other instances, the Senate has attached reservations or amendments which ultimately led to the demise of proposed treaties.

The modifications I propose would, in my opinion, better protect the Nation's vital interests and substantially improve upon these documents. Hopefully, the Senate Foreign Relations Committee will solicit testimony on each of these points, and the full Senate will later have an opportunity to consider them.

NO RESTRICTIONS ON LOCATION OF NEW CANAL

My first amendment will insure that the United States is not committed in advance to refrain from constructing a new sea-level canal, at some point in the future, in a country other than Panama. Article XII of the basic Panama Canal Treaty would, in fact, bind the United States to construct such a canal in Panama if it should be determined that a modernized canal is desirable in Central America. Yet, there is no commitment on the part of Panama to agree to permit construction of the canal; we are only prevented from constructing one elsewhere.

I do not suggest that we rush right down and build a new canal in Central America. That project may or may not be vital to U.S. defense and economic interests at some point in the distant future. The President has been talking a good deal lately about a new sea-level canal, but I suspect that the vast majority of American people will want to know first why we are giving up one canal in order to build another, which I understand may cost as much as $7 billion. This very logical question acquires all the more significance when we talk about building a new canal in the same country that is now demanding possession of the old one.

Whether or not Panama is the best location for construction of a sea-level canal is really not the immediate issue. The central question is whether the United States should bind itself, by this treaty, to foreclose all options with respect to a new canal. We have no idea at this point how cooperative the Panamanian Government will be in observing the provisions of the present treaty. We have no idea what the nature of a future Panamanian Government may be.

Because this is a question that could bear directly on American defense and economic interests, it is vital that it be given careful attention. My amendment will strike that section of article XII which would foreclose our options, and substitute in its place a clause specifically rejecting any restrictions on U.S. negotiations with other countries for the right to construct a new canal somewhere in the Western Hemisphere. In my opinion, it is absolutely necessary that this freedom of choice is maintained.

REDUCE PAYMENTS

Probably no other aspect of these treaties causes as much concern among so many Americans as the payment provisions outlined in article XIII of the basic treaty. This "pay-away" plan is an enigma—are we providing rent, ransom, or "conscience" money?

The United States currently pays the Panamanian Government an annuity of $2.3 million. Article XIII would raise those payments to between $70 and $80 million per year—a windfall by any standard, particularly when we consider the value of real estate and equipment that will be transferred without charge to the Panamanian Government under the treaty terms. In addition, our Government agrees to negotiate an economic loan package amounting to as much as $345 million.

According to calculations by Panama's own economic policy minister, the total amount of anticipated U.S. financial aid may reach as high as $2.26 billion over the next 23 years, amounting yearly to more than 20 percent of Panama's annual national budget.

CUT PAYMENT IN HALF

The amendment I am proposing would reduce the payments provided in article XIII by more than one-half. First, it would reduce Panama's share of the canal's annual operating revenues from 30 cents per net ton to 15 cents per net ton for each vessel transiting the canal. Second, it will eliminate altogether the biennial adjustment of this rate according to changes in the U.S. wholesale price index, which, frankly, I have never totally understood why that was a provision in any event, but it is mandated in the treaty.

Finally, my amendment will strike that provision supplying Panama with "up to" $10 million per year depending upon revenues. Although this provision is billed as contingent upon the profitability of the canal in any given year, it in fact guarantees payment of the full annuity "from operating surpluses in future years" whenever annual revenues are insufficient.

With implementation of this amendment, the Panamanians are still provided a fixed annual annuity of $10 million, plus an equitable share of canal revenues, plus eventual receipt of U.S. loans and zonal property. No one can seriously dispute the generosity of this arrangement. Yet, it is far more rational and equitable in terms of compensation for our continuing primary role in using and operating the canal until the year 2000.

NO PAYMENT IF CANAL IS CLOSED

In addition, my amendment provides that the fixed annual annuity shall cease during any period in which the canal is inoperable. It would be unfair and irresponsible to continue that payment during a time in which the canal is closed, whether due to natural catastrophe, functional breakdown, or intentional sabotage. We almost certainly would be expected to bear the major economic burden of reopening the canal in any such instance, and it simply does not make sense for us to continue paying Panama for a passage route that is temporarily nonexistent. The present treaty makes no provision for such a contingency, and the United States must be protected on this point.

EXTENSION OF TRANSITION PERIOD FOR JURISDICTIONAL ARRANGEMENTS

In accordance with the intent of article XI of the basic Panama Canal Treaty, to provide for an "orderly transition" of jurisdiction over the Canal Zone, my amendment would extend the period for transfer of certain jurisdictional arrangements.

This treaty is being marketed by the administration as a "23-year" transition document, with the superficial implication the United States will maintain principal control over the Canal Zone and canal until the year 2000. In fact, a careful reading of the treaty provisions suggests that this concept is largely fictional. In effect, this is not a 23-year transition treaty: It is a 30-month transfer of title.

Article XI provides that the Republic of Panama shall regain full jurisdiction over the Canal Zone as soon as the treaty enters into force, and a complete transfer of U.S. judicial, administrative, and regulatory authority will be accomplished within 30 months. After that, U.S. citizens will be subject to Panamanian law, and subject to Panamanian civil and criminal justice as well.

I believe that a transfer of this magnitude in such a short period of time will not constitute "orderly transition." In effect, the provision will tend to drive Americans out of Panama. We may see a mass exodus of U.S. engineers and other canal personnel within the next 2½ years.

In order to provide for a more gradual phaseout of U.S. authority over Americans employed in the area, my amendment would permit the Panama Canal consultative committee to study the issue after the treaty takes effect and, with the benefit of actual experience, make a recommendation as to when the period of transition should formally end. However, in no case will this be prior to January 1, 1990. This date coincides with transfer of the administration of the Panama Canal Commission from United States to Panamanian leadership. It is only logical that primary U.S. authority over both the canal and the Canal Zone should expire at approximately the same time. By the same token, we will allow for a more orderly and gradual phase-out of American employees in the area, and of judicial and administrative control over them.

The amendment would not alter the theoretical return of "sovereignty" over the Canal Zone to Panama on the date the treaty comes into force. However, it would provide for the more practical arrangement of gradually phasing out U.S. jurisdiction over its own citizens in the former Canal Zone area.

HUMAN RIGHTS

For an administration which has made the subject of human rights a basic element of its foreign policy, particularly toward Latin America, the White House has been remarkably silent on the issue with respect to the Panama Canal negotiations. Yet, I believe this is an issue that should not be ignored. In the interest of moral principle, as well as consistent policy, it is important that we address the subject of human rights observance within Panama for both Panamanian and United States citizens.

There are several very important reasons why we have the obligation as a nation to pursue this point. First, U.S. employees will remain for a time in what was formerly the Panama Canal Zone. Under the terms of the treaty proposed by this administration, American citizens will become subject to both civil and criminal jurisdiction of the Panamanian Government at the end of a 30-month transition period. We have a responsibility to see that their basic rights are at all times strictly observed and fully protected. Second, we are effectively expanding the territory under the direct control of Gen. Omar Torrijos and his regime. In ratifying this treaty, we are strengthening the political and economic power of the Torrijos government. As such, I think we have both a responsibility and a right to insist upon a better observance of the basic human rights of Panamanian citizens, as a condition of this treaty. The Carter administration has not hesitated to exercise this condition with regard to aid proposals for Brazil, Argentina, Uruguay, and other Latin American nations to the point of straining diplomatic relations.

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes have expired.

Mr. DOLE. May I have 2 additional minutes?

Mr. ROBERT C. BYRD. Mr. President, who is the next Senator to be recognized under the special order?

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island (Mr. CHAFEE).

Mr. CHAFEE. Mr. President, the Senator from Kansas is certainly entitled to have 2 minutes of my time.

The ACTING PRESIDENT pro tempore. The Senator may proceed for 2 minutes.

Mr. DOLE. I thank the Senator from Rhode Island.

Interestingly enough, the State Department itself has refused to give the Panamanian regime a clean bill of health with regard to the observance of human rights. In a report prepared by the Department and submitted to the Senate Subcommittee on Foreign Assistance in March of this year, the State Department shed light on the repressive conditions in the country. The report notes that "Political opposition is not tolerated. The media are monitored by the Government." We are told Panamanians "generally" are assured of judicial redress where criminal charges are concerned, but "the guarantee of a fair trial might not be observed in a case with important political considerations."

A human rights survey conducted by "Freedom House" in New York is consistent with these observations. On a scale of 1 to 7, with 7 representing the lowest level of observance, the Government of Panama ranks 7 in extent of political rights, and 6 in extent of civil rights. In its comparative survey of freedom issued in January of this year, Freedom House characterizes the nation of Panama as "not free" and indicates the outlook for a change in these repressive conditions is unlikely.

Why, then, have we ignored the human rights issue altogether while confronting the persistent demands of General Torrijos? The Latin American correspondent for the Chicago Daily News recently reported that the response she received to this question by a high ranking State Department official was—

> Of course, we are not going to challenge human rights in Panama because we want the treaty.

I am concerned about these authoritative reports of political repression within Panama, as I know many of my colleagues are. I am concerned as well about additional allegations of torture, murder, and severe punishment communicated by concerned groups of Panamanians. My amendment would insist upon Panamanian protection for the human rights of all those living and working in the former Canal Zone.

My reservation would condition treaty ratification on the understanding that the Panamanian Government will make "significant progress" toward observing the human rights of all its citizens during the basic treaty period. Both modifications will also encourage onsite investigations of alleged repression by respected international organizations.

TRANSFER OF CANAL ZONE PROPERTY

My second reservation would reaffirm the constitutional responsibility of the House of Representatives to participate in transfer of ownership of the Canal Zone territory. Article IV, section 3,

paragraph 2 of the U.S. Constitution reads:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or any particular State.

U.S. title to the Canal Zone property has been affirmed on several occasions by the highest courts in our land. In 1907, the Supreme Court, by unanimous decision, confirmed our clear title to the Canal Zone property:

It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate. (Wilson v. Shaw 204 U.S. 24).

That unanimous Supreme Court decision affirming U.S. sovereignty over the Panama Canal Zone still stands as a law of our land, and was reaffirmed by the U.S. Court of Appeals decision in 1971 *United States* v. *Husband R. Roach*, 453 F. 2d 1054, 1057), where the court said:

The Canal Zone is an unincorporated territory of the United States.

Both of these cases clearly reaffirm the fact that the Canal Zone is "territory" of the United States. Consequently, not only two-thirds of the U.S. Senate but a majority of the U.S. House of Representatives must approve the proposed treaties as well.

As a footnote to the issue of whether or not the United States can clearly claim title to the Canal Zone territory, it should be pointed out that our Government actually made payment to individual property owners at the time the original treaty was promulgated. Besides the initial payment of $10 million to the Panamanian Government, the United States paid approximately $4 million for acquisition of property from ownerships that existed in the Canal Zone area. We paid over $300,000 to the French for land rights they already possessed in that region.

So I think there is little question that we currently have clear title to this territory. As such, both Houses of Congress must participate in its transfer, and my second reservation will make this a precondition to enforcement of this treaty.

UNILATERAL U.S. MILITARY INTERVENTION

I propose to amend article IV of the treaty concerning the permanent neutrality and operation of the Panama Canal, by adding a provision specifically guaranteeing our authority to intervene militarily on behalf of the canal whenever we determine its neutrality to be threatened. In my opinion, this amendment is absolutely necessary to the protection of our national security interests. We cannot count on Panamanian concurrence in every instance where we may perceive the operation of the canal to be in jeopardy. For all we know, the Panamanian Government itself may be consciously or unconsciously a part of that threat at some point.

The administration has sought to reassure the American people that this treaty, by implication, assures that the United States can unilaterally intervene in the defense of the canal whenever necessary. I see nothing in article IV or in any other section of the treaty which specifically guarantees that prerogative.

In fact, in a Panamanian radio broadcast on August 24, Panamanian negotiator Escobar Bethancourt maintained just the opposite:

The pact does not establish that the United States has the right to intervene in Panama. This word has discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. What is the meaning of "will maintain?" In practice, the meaning of "will maintain" is that, if neutrality is ever violated, Panama on one hand and the United States on the other, or the two countries jointly, will determine how they will guard the canal against such a violation. . . . the neutrality pact does not provide that the United States will say when neutrality is violated.

If this is, in fact, what the article says—and I would say that Panamanian interpretation is at least 50 percent of the definition—then this is an unacceptable accord and should be either modified or rejected by the U.S. Senate. Regardless of how the State Department may choose to interpret this or that clause in the treaty, the point is that U.S. authority to intervene should be made crystal clear to the Panamanians within the treaty itself. My amendment would provide the necesary modification.

GUARANTEE U.S. WARSHIPS PRIORITY PASSAGE

This amendment relates to article VI of the treaty concerning the permanent neutrality and operation of the Panama Canal. The article guarantees that United States and Panamanian vessels of war will be entitled to transit the Panama Canal "expeditiously" at all times. At face value, this is a reassuring provision, given the importance of the canal to our national security interests. We can assume that the term was included because our negotiators recognized the vital security implications of the canal and felt it important to imply a special right of passage.

Now, some proponents of the Panama Canal treaty have tried to convince us that the canal is no longer vital to our national security interests. I do not agree with that point of view, and we have certainly seen some persuasive comments from those most knowledgeable about our naval operations that support the canal's continuing importance. It just seems to me that, by including the term "expeditious passage," the treaty drafters admit to an immediate defense interest by our Government. But, it is imperative to get a precise interpretation for that term.

To be more specific, I have to wonder why the treaty negotiators did not use the term "priority" or "privileged" passage for United States and Panamanian warships, if that is in fact what the concept is supposed to be. My skepticism on this point was heightened recently when I became aware of a Panamanian radio broadcast on August 24, in which the Panamanian Minister of Information and chief negotiator, Escobar Bethancourt, gave the Panamanian Government's interpretation of the term. Senor Escobar explained that:

Expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage was rejected . . . if after examining the provision the gringos with their warships say, "I want to go through first," then that is their problem with the other ships waiting there. We cannot go that far."

It is readily apparent, then, that the Panamanians do not understand expeditious passage to mean that U.S. warships would receive priority, even during a period of crisis. In effect, the Panamanians intend to interpret the concept in this way: If there is a line of ships waiting to pass through the canal, the U.S. warships must get in line with the others and wait their turn. I do not believe that America's security can, or should, depend on traffic circumstances on any given day. Our naval defense could be thwarted by a bottleneck.

My amendment would specifically amend article VI to stipulate that, during a period of crisis, American vessels of war and their auxiliary vessels will be entitled to privileged passage through the canal. I believe this is an equitable arrangement, and certainly the only one that our country can accept in consideration of national defense, Latin American defense, and defense of the free world.

POINTS OF CONCERN

The foregoing represents some of my principal concerns about these treaties. Specialists on the subject have identified these aspects as among the greatest weaknesses in the treaty proposals, although there are a number of other deficiencies that can and should be addressed. The forthcoming Senate committee hearings are intended to shed some light on all of these problems. There is no question in my mind but what a number of modifications will eventually be proposed by various members of the Senate, and I may offer additional amendments or reservations myself after further analysis of the treaties has been conducted. Furthermore, the specific concerns expressed by our constituents should be fully represented at every stage of deliberation on the treaties.

NO APOLOGIES

In closing, I want to say that the people of the United States owe Panama no apologies for our involvement with the canal. The generosity of our Government in building the canal, in operating and maintaining it for 65 years, and in thereby enhancing the standard of living for Panamanians, requires no remorse on our part. Free of any implications of guilt, we should proceed to analyze these treaties in an objective and responsible manner.

But the Panamanian Government officials must know that we will never relinquish our presence in the Canal Zone because of veiled threats or direct pressures. They must know that we reserve all rights to intervene when the security of the canal is threatened, and that we expect priority passage for our ships during periods of crisis. And they must be told that we expect to see substantial progress in the area of human rights in which they rate so poorly. Above all, we do not intend to pay exorbitant amounts of money for the purpose of turning over

control of the canal and Canal Zone. My amendments and reservation will effectively communicate these messages, at the same time that we consider the basic merits of the treaties themselves. We should settle for nothing less.

Mr. President, I ask unanimous consent that the texts of my amendments and reservations be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. DOLE. As I say, Mr. President, we have no apologies to make. The United States does not owe Panama or anyone else any apologies for our involvement with the canal. We have been generous; we have operated and maintained the canal for 65 years; and we have enhanced the standard of living of the Panamanians.

Certainly there are areas of agreement and disagreement, and it may be modifications should be made. I just suggest that the amendments and reservations offered by the Senator from Kansas be carefully considered. As indicated, there will be others, but I hope I have responsibly addressed some of the major defects in the treaty submitted to Congress.

I yield back the remainder of my time.

EXHIBIT 1

AMENDMENT No. 1. (EXEC.) 95–1

Paragraph 2(b) of article XII is amended to read as follows:

(b) During the duration of this Treaty, the United States of America may negotiate with any third State for the right to construct an interoceanic canal through such third State on any other route in the Western Hemisphere.

AMENDMENT No. 2 (EXEC.) 95–1

In article XIII, paragraph 4, strike out subparagraphs (a), (b), and (c), and insert in lieu thereof the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of fifteen hundredths of a United States dollar ($0.15) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal, after the entry into force of this Treaty, for which tolls are charged.

(b) An annuity of ten million United States dollars ($10,000,000) to be paid out of Canal operating revenues and as an expense of the Panama Canal Commission, except that such sum shall be reduced by the proportion which the number of days during the calendar year the Canal is not navigable bears to the calandar year.

AMENDMENT No. 3 (EXEC.) 95–1

In the second sentence of the first paragraph of article XI, strike out "for thirty calendar months" and insert in lieu thereof "until such date as is agreed upon by the members of the Panama Canal Consultative Committee, but not before January 1, 1990".

In paragraph 2 of article XI, amend subparagraph (a) to read as follows:

(a) The authorities of the United States of America shall have the primary right to exercise criminal and civil jurisdiction over employees of the Panama Canal Commission who are citizens of the United States and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

In paragraph 2(a)(i) of article XI, strike out "offense committed" and insert in lieu thereof "act or omission".

In paragraph 2(a)(ii) of article XI, strike out "offense committed" and insert in lieu thereof "act or omission".

In the text following clause (ii) of paragraph 2(a) of article XI, strike out "offenses committed" and insert in lieu thereof "acts or omissions".

In the annex entitled "Procedures for the Cessation or Transfer of Activities Carried out by the Panama Canal Company and the Canal Zone Government and Illustrative List of the Functions that may be Performed by the Panama Canal Commission", strike out paragraph 4(b) and insert in lieu thereof the following:

"(b) Upon termination of the transition period provided for under article XI of this Treaty, governmental services such as:

"(i) Police;

"(ii) Courts; and

"(iii) Prison system.".

AMENDMENT No. 4 (EXEC.) 95–1

At the end thereof, add the following:

ARTICLE XV

HUMAN RIGHTS

1. The United States of America and the Republic of Panama agree on the importance of maintaining and properly observing internationally recognized human rights, including civil and political rights, in the former Canal Zone and commit themselves to maintaining, observing, and protecting such rights during the duration of this Treaty.

2. The Panama Canal Consultative Committee shall report annually to the national legislatures of the two Parties on the maintaining, observing, and protecting of such rights.

3. The two Parties agree to permit unimpeded investigations of alleged violations of internationally recognized human rights, including civil and political rights, by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

In article V, strike out the second sentence.

AMENDMENT No. 5 (EXEC.) 95–1

At the end of article IV, add the following: "Nothing in this Treaty may be construed to prevent the United States of America, in accordance with its constitutional processes, from intervening militarily to maintain such regime of neutrality when determined to be seriously threatened by the President of the United States of America or, through the adoption of a concurrent resolution, by the Congress of the United States of America.".

AMENDMENT No. 6 (EXEC.) 95–1

Before the period at the end of the first paragraph of article VI, insert a comma and the following: "except that the Republic of Panama shall, upon request, afford privileged passage through the Canal to such vessels of the United States of America during any period in which the United States of America is at war".

RESERVATION No. 1 (EXEC.) 95–1

Before the period at the end of the resolution of ratification, insert a comma and the following: "and subject to the following reservations:

"(1) that the Republic of Panama demonstrate, during the duration of this Treaty, significant progress toward observing the internationally recognized human rights of its citizens, including the right of free speech and the right to a fair trial; and

"(2) that the Republic of Panama permit unimpeded investigations of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commisison of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States".

RESERVATION No. 2 (EXEC.) 95–1

Before the period at the end of the resolution of ratification, insert a comma and the following: "and subject to the reservation that before the date of entry into force of this Treaty, the Congress has adopted appropriate legislation to transfer the Canal Zone to the Republic of Panama, in exercise of the power of Congress under article IV, section 3, clause 2 of the Constitution, relating to the disposal of territory or other property belonging to the United States".

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. CHAFEE) is recognized for not to exceed 13 minutes.

OIL CARGO PREFERENCE

Mr. CHAFEE. Mr. President, at a time when Congress and the administration are agonizing over important economic decisions, such as how to hold down inflation, how to lower unemployment, how to meet energy demands, and how to give the middle-class citizen of this country of ours a tax break, I must say it astounds me to see the President and some in this Congress going all out to push through a bill which would increase inflation, would increase unemployment, would increase energy costs, and would be a burden on every single consumer.

What is the bill to which I am referring? I am talking about the so-called oil cargo preference bill.

Let us take a look at this consumer-gouging travesty, deceptively titled the "Energy Transportation Security Act."

By 1982, it would require that at least 9.5 percent of all the oil imported to the United States be transported on privately owned U.S.-flag tankers. Currently, only 3.5 percent is carried on U.S. ships because it costs twice as much to build and operate tankers in this country than anywhere else.

Let us look at the overall cost of enacting the Carter oil cargo preference bill. When the price of 9.5 percent of our imported oil rises, it is likely that the average price of all imported oil will increase. And when that happens, it is probable that the cost of domestically produced oil will rise as well. Thus, because of the economics of the oil market, a cargo preference requirement will not just boost the price of 9.5 percent of our imported petroleum.

The cost increase is estimated to be about two-tenths of a cent per gallon. Now multiply that by 55 gallons in a barrel; and multiply that by 18 million barrels we consume each day; and multiply that by 365 days in a year. It is a lot of money.

What will all of this add up to?

There have been two studies. In the past couple of weeks, both the General Accounting Office and the Federal Trade

Commission have come up with rather startling cost figures. Although the results have been well publicized allow me to repeat them for the RECORD—and for the shock value.

In the FTC report prepared for our colleague from Michigan, Senator GRIFFIN, it is estimated that a 9.5-percent oil cargo preference will cost American consumers $240 million per year in higher energy costs. This does not count the probable increase in the price of domestic oil which is included by GAO.

The GAO study, released September 9, concludes that a 9.5-percent cargo preference would cost consumers a minimum of $240 million a year. In fact, if we are importing 10.3 million barrels a day and domestically producing 10.5 million barrels a day as expected by the mid-1980's, a cargo preference requirement is more likely to cost from $550 to $610 million annually. That, my friends is more than five times the President's cost estimate when he announced his support for this legislation.

Who will pay the increased cost?

Not the oil companies. Not the Government. Your $610 million will not be rebated. The truth is that every consumer in the country will pay. It is simple inflation. And I might add that it is of no small consequence that the people of Rhode Island and the citizens of the other overtaxed, underemployed New England States will pay a lion's share of that bill.

Extrapolating from figures in the GAO study, the New England Fuel Institute has estimated that New Englanders will pay $85 to $100 million a year in higher fuel and electric bills. New England's traditional, but unfortunate, dependence on imported residual oil, heating oil, and gasoline already causes us to pay 31 percent more than any other region of the country for energy. We cannot withstand this kind of inflation without suffering significantly higher unemployment and deeper business recession.

Where will these hundreds of millions of dollars go should President Carter's cargo preference bill be enacted?

Not to the U.S. Treasury. Not back into the ground to produce more oil. They will go primarily to the benefit of a relatively small group of U.S. shipbuilders, shipowners, and seamen.

Of course, there are reasons for maintaining a national maritime industry. In no way am I suggesting that we pull the rug out from under them. It's important that we preserve a domestic shipbuilding capacity, and a pool of jobs, skills and technologies that are essential to our ocean-going transportation.

But let us look at the facts. It's not as if American taxpayers are not doing anything for the maritime industry or our Merchant Marine. The U.S. maritime is already subsidized by the Federal Government more than any other industry in the country. This year, we have promised them payments of $233 million to subsidize the construction of ships in the United States. In addition to that, they will receive $352 million in operating subsidies to help them be competitive in world markets.

They already have, as we know, the Jones Act, which requires that all U.S. coastal shipping be moved on U.S.-flag vessels. That is shipping from one U.S. port to another must be done with American ships. With the flow of new Alaskan oil which comes down from Prudhoe to southern Alaska and which has to be shipped by U.S. flagships to U.S. ports, the maritime industry has an added bonus.

Yet, despite this very generous taxpayer assistance, they want more. It is the old story. "You give something, but give us more; what did you do for us yesterday?" So the maritime lobby is running a million dollar ad campaign claiming "Foreign oil tankers threaten our environment, weaken our national defense, and take away U.S. jobs". It is all dressed up in a patriotic suit.

Lets look at these claims point by point.

Foreign oil tankers "threaten our environment." Foreign flag vessels, whether they are actually owned by Americans or not—and many of them are—are subject to the same Federal inspections and can be, and should be, denied entry to U.S. ports if they do not meet safety standards.

Foreign oil tankers "weaken our national defense." Neither the Defense Department nor the State Department believe that use of foreign vessels pose national security risks. They consider our access to foreign oil, rather than the availability of transportation, as the crucial security factor. They cannot foresee any situation in which we could not depend on Panamanian or Liberian or Greek tankers to deliver our oil. In fact, both the Departments of State and Defense oppose oil cargo preference legislation.

Foreign oil tankers "take away U.S. jobs." Would any new tankers be built? Possibly some new tankers would be built—at more than twice the cost of purchasing the same abroad. But even more significant, the current worldwide surplus of oil tankers throws into doubt any long-term job increases in the shipbuilding industry. And what about crew? As we know, automation on big tankers is so far advanced that even the industry estimates an increase of only 2,500 to 3,600 seafaring jobs under cargo preference legislation.

You take these 2,500 or 3,600 jobs and divide them into the cost of this bill and, listen to this: It comes out that it would cost more than $150,000 per job per year under this legislation.

Secretary Blumenthal, of the Treasury Department, submitted, in July, a memorandum to the President. Secretary Blumenthal is also chairman of the White House Economic Policy Group. This is what he said about the legislation:

> . . . the net impact on the economy as a whole would be a decrease in total employment and GNP, would be contrary to the London Summit pledge to reject protectionism, would reverse U.S. policy favoring free competition, could trigger emulation by others, and would violate U.S. treaties with more than 30 countries.

So why are the American people about to be forced into contributing more millions to the U.S. maritime?

I would say the answer is very simple: politics. It is straight politics. It is a way of saying "thank you" for hundreds of thousands of dollars that maritime interests have contributed to the campaign coffers of President Carter and dozens of Congressmen and Senators.

How weak is this industry? Not so weak that they could not still afford to:

Make $996,000 worth of congressional campaign contributions in 1976;

Contribute over $150,000 to the Carter election effort;

Raise nearly $10,000 in off-year campaign contributions for a House committee chairman in the midst of holding hearings on oil cargo preference; and

Wage a million dollar media blitz on behalf of its own special interest legislation.

We have never seen anything like it.

The oil cargo preference proposal has no more merit today than it did when President Ford had the courage to veto a similar bill in 1974. It is not supported by the Departments of Defense, State, or Treasury, the Office of Management and Budget, the Council of Economic Advisers, the National Security Council, or the President's special adviser on energy.

I think this is a scandalous bill.

We have had our "Watergate." We have a "Koreagate." Are we also going to have a "Cargogate?"

Are we going to bill the American consumer more than half a billion dollars a year simply because, as Ambassador Strauss advised the President:

> Politically, something in the way of a cargo preference is going to be very hard to resist?

Are we going to have this bill even though most of the President's advisers recognize it as a "flawed concept?"

I certainly hope not. The bill deserves to be consigned to oblivion. It merits the same description that John Randolph, I believe of Virginia, gave of a colleague on the floor of the House in 1806.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

The PRESIDING OFFICER. I advise the Senator from Rhode Island that his time has expired.

Mr. ROBERT C. BYRD. Mr. President, does either Senator wish time? Did a Senator earlier not utilize all of his time?

The PRESIDING OFFICER. The Senator from Missouri had 8 minutes when he yielded back all his time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of the 8 minutes that were yielded back by Mr. DANFORTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Kansas such time as he desires from the 8 minutes.

Mr. DOLE. I thank the majority leader.

First, Mr. President, I commend the distinguished Senator from Rhode Island. I think he has pointed up, sort of told it like it is, that there is a great deal of suspicion about not only the contributions but the investigation of President Ford that happened in the same time frame, about July 19 of last year, and there was not any decision made by the Special Prosecutor until October 14 of last year. It all got into certain donations that may or may not have been made, or contributions, to President Ford's campaign, years and years ago, when he was a Member of Congress. There has been at least some suspicion that this may have been generated by some who now see such great merit in the Cargo Preference Act. I am wondering, based on the excellent statement made by the distinguished Senator from Rhode Island, what he sees as a next step. He has indicated the bill should be consigned to oblivion. Does he have any other recommendations?

Mr. CHAFEE. I thank very much the distinguished Senator from Kansas. It is my hope, Mr. President, that, one, this legislation will be defeated in the House, where it is soon coming, as I understand it; second, that it will not emerge from committee in this body; and third, that if it does emerge from the committee and come to the floor of the Senate, it be soundly defeated.

I very strongly believe that that is in the best interests of the Nation and what should happen to this legislation.

Mr. DOLE. Will the Senator explain to this Senator, I am not totally familiar with what is meant by the quote by Mr. Randolph. I may have missed the full import of that.

Mr. CHAFEE. I will have to ask the distinguished majority leader, who is a historian, about John Randolph.

I believe he came from Virginia, is that not true?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. Yes, he did.

Mr. ROBERT C. BYRD. JENNINGS RANDOLPH is from West Virginia.

Mr. CHAFEE. But John Randolph, I believe, was a representative, a Congressman.

Mr. ROBERT C. BYRD. That is correct.

Mr. CHAFEE. He came from an era when the language used in this body was a little harsher than now. He described a compatriot, a colleague, in the following terms, and it seems to me this very language should apply to this bill.

In referring to another Congressman, he said:

> He shines and stinks like rotten mackerel by moonlight.

That was language of 170 years ago and that is very harsh, but this current legislation——

The ACTING PRESIDENT pro tempore. The Chair observes that he was a Member of this body and his term started in 1825.

Mr. CHAFEE. He must have been in the House, Mr. President, at this time. This was delivered in 1806.

Did the Chair say 1845?

The ACTING PRESIDENT pro tempore. 1825. December 9, to be exact.

Mr. CHAFEE. Well, he polished things up, Mr. President, by the time he got to the Senate.

I thank the Chair very much.

The ACTING PRESIDENT pro tempore. That just proves something.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for not to exceed 15 minutes.

Mr. CLARK. Mr. President, I suggest the absence of a quorum, taken from my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

Mr. CLARK. Mr. President, how much time remains on my order?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. CLARK. I thank the Chair.

THE DEATH OF STEVE BIKO AND POLITICAL DETENTIONS IN SOUTH AFRICA

Mr. CLARK. Mr. President, on September 13, I made some remarks in this Chamber which reflected my deep shock and sorrow over the death of Steve Biko, one of South Africa's most gifted black leaders whom I met during my trip to Africa last year. The South African Minister of Justice, Mr. Jimmy Kruger, initially announced that Biko had died as a result of a hunger strike which had not been reported to Biko's family, to his lawyer, or to the public prior to his death. When I first heard Kruger's account, I said that this explanation was highly unsatisfactory, as so many of the explanations of previous South African deaths in detention have been. Subsequent events seem to confirm my conclusion.

The first source from which new grounds for suspicion over the cause of Biko's death arose is the Minister of Justice himself. Despite his formal announcement and a further cruel and tasteless comment at a meeting of a party Congress shortly afterward that Biko had the "democratic right" to starve himself to death, Kruger retracted his original explanation and denied that he had ever attributed Biko's death to a hunger strike. The cause of death, he said, had to await the results of the inquest.

At various times over the last few days, Kruger also made other seemingly contradictory remarks: That Biko had been examined five different times by official doctors during the 6 days prior to his death and no physical problem had been found; that Biko had been "medically treated by a district surgeon in Pretoria" on the day of his death for what is still an undisclosed illness, and that Biko had been given intravenous feeding on the day before his death, a treatment which, if true, surely should have saved his life if he were dying from lack of food.

Observers within and without South Africa have been raising other vital questions:

Could a healthy, well-built man of 30 die after only 7 days on a hunger strike? History is full of instances of people of less physical stature surviving much longer fasts.

Why was Biko brought from Port Elizabeth where he was being held since his arrest on August 18 to Pretoria only hours before his death? If it was for medical reasons, why was his family not told and why was he driven to Pretoria, a distance of 750 miles, rather than flown there if he was in need of urgent specialist attention?

Why are there conflicting stories of his death, with the prison authorities reporting that Biko was found dead in his cell—presumably in Port Elizabeth—and the Justice Ministry claiming that Biko died in Pretoria after having been treated for an undisclosed illness?

Well-placed sources have indicated that the preliminary postmortem report establishes that Biko had suffered brain and body injuries, but this is not confirmed. Biko's widow and his close friend, Donald Woods, editor of the English-language Daily Dispatch, reported after seeing the body on September 17 that they saw "quite a bit of swelling around the head" which may have been caused by a beating or by the autopsy.

Presumably, some of the facts will be established during the inquest when the reports of all three pathologists in attendance at the autopsy will submit their findings. But the specific objective of the inquest will be to determine the immediate cause of Biko's death. It will not necessarily determine the responsibility of the authorities who held Biko during the period of his detention; it will not establish the full circumstances surrounding the treatment of Biko prior to his death; and it will not resolve some of the discrepancies and contradictions which have already surfaced.

The statement by Jimmy Kruger admitting the possibility of some police irregularities in this matter and his threat that some "heads may roll" as a consequence introduces more doubts; it certainly provides some assurance that the full facts will be revealed. An internal investigation is not a sufficiently credible examination of the matter. In fact, it may be a means of evading the real issue.

The real issue here is not simply the death of one man—important and outstanding as he was. The real issue here is the South African system of political detention which permits arbitrary arrest and indefinite confinement of any person without the ordinary protection of the law which all freedom-loving nations uphold.

Security legislation over the past 14 years has increasingly restricted individ-

ual liberties and basic civil rights in South Africa. The most significant facts about this legislation are the following:

First. The laws have given more and more extensive arbitrary powers to the executive, beginning in 1963 with the provision of a 90-day detention without trial and ending in 1976 with the Internal Security Amendment Act which gives one-man—the Minister of Justice—the sole discretionary power of ordering indefinite detention.

Second. The laws have taken away more and more rights of the detainee, including denying him the right to see members of his family, the right to an attorney to defend his interests, the right to appeal to any court, and the right to be charged with an offense. Under the Internal Security Amendment Act of 1976, the minister may detain incommunicado and place in solitary confinement any person who in his judgment may "endanger the security of the state or the maintenance of public order." There is no recourse to public, parliamentary or judicial scrutiny. Under the Terrorism Act of 1967, which was used to arrest Steve Biko, the detainee may be held for an unlimited period until he has "replied satisfactorily to all questions at the * * * interrogation." Only the Minister or policemen "shall be entitled to any official information relating to or obtained from any detainee."

Third. This pernicious security legislation has usually been justified in the parliament on the grounds of external threats. Yet the powers inherent in the legislation have been used invariably for internal purposes, most notably during the Soweto disturbances last year and against anti-government groups or persons. As of March 1977, when the latest data are available, the South African Institute of Race Relations reported that 471 persons were believed to be held in detention in South Africa in terms of security legislation.

Fourth. The record of deaths in detention is deplorable. According to the Christian Institute of South Africa, there have been at least 35 known political detainees who have died while in custody from 1963 until February of this year. Other sources report 45 or 50. The Minister of Police said in 1976 that 28 persons died in captivity in 1975 alone, due to suicide or self-inflicted injuries. In the last 18 months, according to the South African Institute of Race Relations, 20 have died in detention including Biko. The numbers vary because of the secrecy surrounding the detentions, and because different sources variously classify those arrested. Minister Kruger, for example, told Parliament in February 1977 that 117 people died in detention last year (1976), but these were "ordinary" detainees confined under laws other than security legislation.

Fifth. All of the political detainees who have died in custody have been black. Often their deaths are attributed to "natural" causes or to "suicide." Not a single member of the security police, or the prisons department has been convicted of an offense related to the death of a political detainee, although some post-mortem reports have confirmed evidence of assault and maltreatment. The government's explanation often includes the assertion that the "suicides" are a result of the black detainees acting on instructions from the Communists who are out to embarrass the authorities.

It is instructive to review some of the official police records, particularly as to the description of the causes of death. Suicide by hanging is the most frequent cause of death cited and this has included, despite police precautions, hanging by scarves, vests, dungarees, belts, shirts, and strips torn from blankets. Others are said to have sustained multiple injuries caused by slipping on soap in a shower, stumbling over a chair, leaping out the window of the police station or falling down the stairs. One prisoner, Wellington Tshazebane, an Oxford graduate arrested December 9, 1976, was reported dead on December 11 and was said to have left a note in which he cleared the police of all blame and admitted suicide.

Others who are reputed to die of "natural causes" are usually said to have had a heart attack or a stroke. One was reported to have died from suffocation due to an epileptic fit. Mr. Samuel Malinga, detained on January 31, 1977, was said to have died on February 22 due to a heart condition. His widow denied that her husband suffered from any heart ailment. The chief government pathologist who conducted the autopsy said after the postmortem:

> Mr. Malinga died of natural causes as a result of a disease process of the heart of fairly longstanding, complemented by the development of changes in his lungs. Pneumonia was a final cause of death. We see a large number of these cases in Africa. His death would not have been hastened by detention. If anything, detention could have prolonged life.

If the Government officials are to be believed, they can be accused, at best, of sloppy or unsophisticated police methods, an accusation that few people who know about South Africa find incredible. At worst, they stand accused of systematic and legalized political assassination. Inasmuch as there has been a steady pattern of deaths in detention whose disclosed causes are not widely believed by the public, there is an overriding need to add credibility to the Government's explanations, particularly in the case of Biko's death. There is no substitute for an independent, impartial board of inquiry not only to get to the bottom of the Biko matter but to examine the entire justification for and application of the country's security legislation which is as authoritarian as any existing in the world today.

I have not gone into the allegations of torture described by released detainees, nor the political trials and banning orders that also emanate from the security legislation that gives the South African Government absolute power to restrict the freedom of South Africans. These too should be examined and exposed.

If the South Africans continue to argue as they do that they are defenders of the Western way of life and allies of the free world, they must uphold some of the fundamental universal principles of human rights shared by the members of that community, the most basic being the right to life and liberty. If the South Africans choose to do otherwise, then they will surely face the consequences of that folly alone, without the United States or other Western nations drawn into the civil conflict that will inevitably result from their intransigence. It is not for us to dictate to anyone how to order their society; our responsibility is merely to point out the realities of the situation as we see it, and the implications those realities have for our foreign policy. South Africa must make up its own mind as to what direction it will now go—in the direction which will enable members of the free world to assist it in transforming itself, or in the direction which will prevent the members of the free world from helping to avert a catastrophe whose consequences are, in the immortal words of the Prime Minister, "too ghastly to contemplate." The restrictive security legislation which, whatever the immediate cause of death, contributed to the martyrdom of Steve Biko, is as good a place as any to start to avoid that catastrophe.

We should—all of us—take note of the words of Biko when he wrote about those who misunderstood or underestimated the march of events in southern Africa:

> There is a role for all of us in the struggle for emancipation. Each one of us has an obligation to be as much a part of the struggle as the situation demands. For those of us who shall have too much to lose when others gain what is rightfully theirs, then let us accept the fact that we constitute part of the problem; a part which will have to be dealt with efficiently, painfully, seemingly cruelly and yet so basically logically.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 5 minutes, with statements therein limited to 1 minute each.

(Routine morning business transacted and additional statements submitted will be printed later in the RECORD.)

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If there is no further morning business, morning business is closed.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which the clerk will now report.

The assistant legislative clerk read as follows:

> Calendar No. 395, S. 2104, a bill to establish a comprehensive natural gas policy.
>
> AMENDMENT NO. 889

The PRESIDING OFFICER. The pending question is on amendment No. 889. Under the previous order, the Senator from South Dakota (Mr. MCGOVERN) is recognized.

Mr. McGOVERN. Mr. President, just a few brief words on this pending amendment. I think most Members of the Senate are familiar now with the purposes of this amendment which I have referred to as the yardstick amendment. That phrase embodies the meaning of the amendment.

It is designed primarily to provide us an independent source of data concerning what it costs to produce oil and gas in this country. It will also provide us an independent source of information on what quality of reserves we have.

It could also be considered a yardstick in the sense that the Federal Gas and Oil Corp. which would be created by this amendment could conduct experiments in environmental standards which might prove useful for the entire industry.

But, in any event, it should be clear, as I stated previously, this is not an attempt to nationalize the gas and oil industry in this country. Quite the contrary, it is an effort to make the industry perform more efficiently and more effectively.

I see the Federal Gas and Oil Corp. as serving much the same function in the field as the Tennessee Valley Authority has served in the field of electrical rates. No one (despite some original fears about TVA) any longer suggests it has been an unwise investment or that it has damaged the free enterprise system or that it has hurt the American consumer.

TVA has been an enormous success. It has won the admiration not only of our own people but has also been an object of admiration, study and evaluation by experts all over the world.

We are the only country with sizable reserves of oil and gas which has nothing similar to the Federal Oil and Gas Corp. called for in this amendment. I believe the amendment speaks for itself. It is in the public interest. It should become an important part of the natural gas pricing bill now before the Senate. The natural gas pricing bill will involve hundreds of billions of dollars of consumers' income over the next decade. This bill badly needs the yardstick authority which would be created by my amendment.

Mr. President, the junior Senator from South Dakota, my colleague, has asked me to yield to him for some observations. I would be happy to yield to him at this time.

Mr. ABOUREZK. Mr. President, first of all, I ask for a division of the McGovern amendment into the sections in which it is written.

The PRESIDING OFFICER. Will the Senator put that in the form of a unanimous-consent request?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The Senator has the right to make such a request and it will be so divided into 20 divisions.

Mr. ABOUREZK. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Did the Chair say it was divided into the 20 separate sections?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. Mr. President, I wonder if I might just address a few questions about this particular amendment to the sponsor, my colleague from South Dakota.

Is this oil and gas corporation intended to be similar to the rural electric systems we are familiar with out in our State? Will it be a semi-public or entirely public corporation that would explore for oil and gas, and provide a measurement by which both private and public gas exploration and development could be compared?

Mr. McGOVERN. It does resemble the REA system to some extent. There would be some obvious difference, however. In the same sense in which the rural electrification system has provided a yardstick to determine the costs of delivering electric power to rural areas, this Federal Gas and Oil Corp. would perform a similar function with regard to the exploration, development, delivery, and marketing of gas and oil.

Mr. ABOUREZK. Is there any limitation on this corporation as to where they can develop, explore, and market and where they cannot do so?

Mr. McGOVERN. Yes. This corporation would be very definitely limited. It would explore available gas and oil reserves on Federal lands only. This gas and oil corporation, under the terms of my amendment—and in this way it is somewhat different from similar legislation considered in the House—would not have the right to engage in exploration and production of oil and gas on State lands, private lands, or in foreign countries.

The corporation's activity would be entirely confined to energy reserves in the Federal domain either on shore or off.

Mr. ABOUREZK. I imagine, speaking in terms of simple logic, there ought not to be any opposition to the concept of developing on Federal lands alone, since those resources happen to belong to the public. There is nothing wrong with the public understanding and knowing what its own resources are and how they can be developed. But if I am correct in my understanding of the opposition, they are totally opposed to that. My guess would be they are opposed to the yardstick concept because they do not want a comparison by the Government of how cheaply oil can be drilled for, developed, produced, and so on.

Mr. McGOVERN. As the Senator is aware, this amendment would limit the Federal Oil and Gas Corp. to not more than 10 percent of the offerings at any given time. In other words, even if this amendment were adopted, 90 percent of the oil and gas reserves on Federal lands would still be available to private developers. It is, therefore, a true yardstick measure.

I do not believe anyone could seriously argue that a public corporation limited to not more than 10 percent of the reserves available only on Federal lands could represent nationalization of the oil industry. Nationalization is an entirely different issue and ought to be debated on its own merits.

A somewhat similar measure introduced several years ago by the Senator from Illinois (Mr. STEVENSON) would have permitted the Federal entity to develop as much as 20 percent of the oil and gas reserves on Federal land. This measure, unlike that one, would limit the corporation to not more than 10 percent. Mine is a modest measure. I would even say it is a conservative measure. It is not designed to replace the private development of oil and gas. It is intended instead to get a more independent source of data by which we can measure the performance of private industry.

Those corporations who can demonstrate they are pricing their product reasonably and are giving accurate estimates on the extent of reserves and on the cost of developing those reserves should welcome this amendment because it is a means of underscoring what they have claimed, that they are not only establishing fair prices for their product, but (if their claims are right) that they might even be justified in increasing the price. One way to answer these questions is to establish an independent publicly authorized body to secure the data we need.

I think everyone in the Senate who has explored this energy question at all knows that one of the major problems is that we simply do not have enough data on what the extent of our reserves are. We do not have enough data on what it costs to develop and market those reserves. We have not explored the various environmental technologies which could be applied to the energy industry. This public corporation is one way, on a limited and modest scale, at very little cost to the American people, to accomplish this. Of course, there would be some initial cost in starting up a corporation of this kind, but in my best judgment the cost would be more than recovered through the sale of the gas and oil this corporation would make available. It is understood that the prices would be set to provide a reasonable profit to the Government corporation. Otherwise, it would not serve as an effective yardstick measure.

Mr. ABOUREZK. I wish to ask my colleague from South Dakota if he is familiar enough with the British Petroleum Co., which is partially owned by the government, to be able to compare that particular structure with the proposal that he has here today.

Mr. McGOVERN. It is my understanding that the British Petroleum Co. goes considerably beyond what is envisioned in this bill. It is not under a similar 10-percent limitation as provided for in this amendment. However, the comparison is close enough so that, if one were trying to get some evidence as to whether it is possible to operate an oil corporation efficiently under public ownership and public direction, I think you could argue that the British Petroleum Co. is one of the most efficiently organized oil enterprises in the world. It has a reputation for efficiency of operation. It further

supports the claim of those who argue that a Federal gas and oil corporation of this kind can be structured in an efficient manner.

Mr. ABOUREZK. I might also say that, with regard to obtaining information on costs of exploration and production, it is virtually impossible to obtain that information from the oil companies themselves. As I understand it, the Federal Power Commission or other energy agencies, have the authority to request information from the oil companies, but I do not know that such information is in a reliable or usable form. I have never seen a compilation of oil reserve information and cost information adequate for us to make policy here in Congress.

But I recall that 2 years ago, the Vice President of Continental Oil Co. testified before the Antitrust Subcommittee which I was chairing at the time. During my questioning of that particular oil company executive I asked him if he would tell the committee exactly what it cost to produce a barrel of oil. The response was that he did not know but he would get the information and send it to me. Over the past 2 years that information has never come through. They said, "It is going to take us a little more time to dig it out and compute it and so on." Finally, their final response to my office was that, "There was just no way we can compute what it costs to produce a barrel of oil."

To be honest, I do not believe that. I believe the oil companies are engaged in the same kind of games that they have played for years. They say anything that they think their listener will tolerate in order to frustrate criticism so as to pursue their own purposes.

For example, on one hand the oil companies say that they have no money, they have no financial reserves which is why they are demanding that we take the cap off gas and oil prices so that they can attract investment capital. Then at a different time, perhaps even minutes later, another oil company or perhaps even the same one will say, "We can't be prohibited from buying coal mines, we can't be prohibted from developing uranium, because the oil companies are the only groups with the investment capital available to develop those other energy reserves."

I think by now most of us should realize that those companies are in business to maximize their profits. There is nothing wrong with any company in the country making a profit, but we should realize that there is something wrong with people who represent the public, Members of Congress, the administration, if we allow them to profit unduly from the fact that they control an essential resource which is in short supply and which the people we represent cannot live without.

I think that brings us to the question we have before us now, that is, the deregulation of natural gas. The argument is made time and again by supporters of deregulation that there will be no new gas produced, that reserves are going to go down, that we are not going to be able to find gas to satisfy the Nation's needs unless we take the lid off of gas prices.

I submit that that is nothing more than an expression on the part of the oil companies and their supporters that they are voluntarily withholding supplies of natural gas until they can get the price that they want.

To me that is an outrageous statement, one that should not be concurred in by the Senate, the House of Representatives, or the administration. It seems to me that either the people, through their representatives in Congress, are going to run the country or we are going to let the oil and gas companies run the country. I think it is time that we realize this fact, and it is time we made a final decision on that matter. If we want to be controlled and run by the oil industry and the gas industry, that is fine, but I think we should do it openly; we should not make these, what I consider frivolous excuses that, "We need more money in order to develop more gas wells." the gas is there. It is conceded by experts that the gas is there and the companies admit that they are obtaining an adequate profit under regulated prices. They get their cost of production, plus a return of 15 percent. If they wanted to drill for gas, they could produce enough gas to satisfy the efficient needs of the Nation without additional price increases.

However, the issue that we have before us, which is very closely contested in the Senate, as we found out last night on the motion to table, is one that would allow the oil and gas industry to reap the windfall that they have set the scene for over the past 8 years. I have to say to my colleague from South Dakota, and others here, that there was no real problem with regulation of natural gas up until 1969 when the newly constituted Nixon Federal Power Commission began promising, the gas industry as did the Nixon administration, that they would deregulate natural gas prices. Suddenly we found that our reserves, were decreasing, and so was production of natural gas.

It is only natural for a private corporation that sells gas which hears the Government saying such things as "We think you need higher prices to produce gas," to start withholding reserves until the prices go up. And they have done so.

I think what is important now is that the Government make a definite statement to the companies that they will get an adequate profit over and above their cost of production and that is final. I think once the Government makes that statement, we will at least see an end to the withholding of gas from production and an end to the delaying of exploration and nonperformance on contracts until such time as they think they are going to get an increase.

Mr. McGOVERN. Would the Senator agree that there is really no way the Government can make those cost estimates with any certainty without benefit of some kind of Federal yardstick?

Otherwise, we must largely depend upon the cooperation of the private oil companies. These companies have an interest in reflecting as high a cost as possible when they provide us estimates on what their costs are. Beyond that, do we really know we have accurate information on the quantity of our reserves? We have repeatedly heard testimony during the last few years, from some of the top authorities in this field. They indicate we not only know very little about the various cost factors involved, including exploration, production, transportation, and marketing of oil and gas, but that we do not even know the amount of our reserves.

Under the terms of this amendment, the corporation not only serves as a yardstick in giving us some information on what the cost factors are, but it would also have the authority to explore for gas and oil in the Federal domain both on and off-shore and provide us a more accurate picture of our reserves.

We are never going to know down to the last barrel what our reserves are, but certainly a publicly authorized corporation of this kind, which has no other function than to serve the public interest, would provide——

Mr. ABOUREZK. Yes, I would agree.

Mr. McGOVERN. Would it not provide the kind of data that we need, not only with reference to cost factors but also with reference to supply?

Mr. HART. Mr. President, will the Senator from South Dakota yield for a question?

Mr. McGOVERN. I yield to the Senator from Colorado.

Mr. HART. I thank the Senator.

I have been concerned about the structure of the petroleum industry and other concentrated industries, as has the junior Senator from South Dakota. What concerns me about this amendment is that—well, to put it in the nature of a question, would this amendment, in the sponsor's judgment, affect, long term or short term, the structure of the petroleum industry?

What I am concerned about, as far as the Pearson-Bentsen amendment, the administration position, and almost all the other proposals are concerned, is that they affect a concentrated industry, and the Senator's proposal does not seem to affect the concentrated industry where, in the first place, the market mechanisms cannot be trusted to properly value the product involved.

It seems to me that what the advocates of a Federal energy company are doing is also acknowledging the existence of a concentrated industry, and saying the only way to deal with that is not only to continue regulation, but to add another factor in the equation of a Federal energy company.

I am interested as to what the Senator's judgment is of the effect of that on the structure of the industry, if his amendment were adopted.

Mr. McGOVERN. Mr. President, I think the Senator's question is well taken, and the only honest answer I can give him is to say that this amendment is not a cure-all for the overconcentrated nature of the oil industry.

I am aware of the Senator's efforts, not only in regard to the oil industry but throughout the economy, in attempting

to restore a greater measure of competition. I do think it is not only an important way to deal with the pricing problem in gas and oil and in the energy industry generally, but it also goes to the heart of the poorly structured nature of that industry. The industry is too concentrated and places too much power in the hands of too few people.

If we really believe in the concept of democracy, we have to expand the concept sooner or later to the economic field in addition to securing greater and broader participation in the political rights of the country.

I would say that over the years I have become increasingly discouraged about the prospect of antitrust action really succeeding. Sixty or 70 years ago, we broke up the Standard Oil Trust, and that was supposed to introduce the kind of competitive circumstance which would protect the American people.

Actually what has happened is that we no longer have just the Standard Oil Trust, we have about four of them, and they are all so huge that any one of them still leaves us with all the structural problems the Senator is referring to. It is still possible for a handful of people to make decisions on the amount of oil that is going to be developed and the price we are going to be charged for it. They can even decide how much information they are going to give us about what their reserves are, or how they determine pricing.

What this amendment represents to me is a kind of confession on my part. I really do not believe we are going to do very much about the concentration of economic power in this country in terms of antitrust actions. The truth is that these corporations are more powerful than the Department of Justice; they are more powerful than the Antitrust Division; and they are more powerful, at least at this point, than the commitment of the Congress of the United States to changing the antitrust powers of the Government.

I believe this amendment might be one way, not necessarily of yielding to the permanence of the present structure in the oil industry, but at least of recognizing that we are not likely going to be able to break up those major corporations in the near future. Until that time comes, we need to have more information in order to determine what a fair price is. As long as we have some measure of regulatory authority on the books, we should not be issuing regulations in the dark. We should at least know what the supply and cost factors are.

Mr. HART. If the Senator will yield further, I think his latter few sentences get to the heart of my question. I greatly respect the wisdom and experience of the Senator from South Dakota on this issue, and, having just been at it a couple of years, I am beginning to understand the frustrations of trying to guarantee free enterprise, when those who should be most concerned about it really do not seem to be concerned.

I am one of the few Senators, and maybe the only Senator at the present time, who favor both deregulation and divestiture, because I harbor a kind of old-fashioned Jeffersonian notion that we have to fear not only the power of big corporations economically and politically but we also have to fear the power of large Government agencies which have been designed to control them.

I do not necessarily feel that the Government company the Senator is proposing suggests that kind of fear, but it is a kind of adjustment to an inevitable set of circumstances which, as I stated in my earlier appearance here, I am not quite yet willing to accept. I would like to continue to try to see whether there cannot be reasonable restructuring of these concentrated industries.

I know the votes have been running against us. The people who most loudly claim their devotion to free enterprise seem most committed to big enterprise. The concentrated industries which have gotten comfortable with regulation strongly oppose deregulation in many cases, due to the fact that regulating entities and agencies of the Federal Government can be and have been cooperative, in the past, with the people involved in them.

I think it is the concern with bigness that is frustrating a lot of the American people. They think big government is not responsive to their concerns. They know that the big corporations are not responsive. A lot of the frustration the Senator from South Dakota is familiar with flows from this domination of giant industries in our society. I would hate to take any step that reconfirms or confirms the existence of a state of affairs I would like to see Congress grapple with directly.

The Senator will recall that almost exactly 2 years ago this date when Congress first faced up to the issue of restructuring this gas and oil industry, there were 45 votes to do it. There may not be 45 votes today. Because of the power of this industry to propagandize and to influence legislation, there may be those who voted for it then who today would not vote in favor of it.

I think we can acknowledge the weakness of our antitrust laws and still face up to the fact that the Congress of the United States can legislate restructuring. We have in the past. The breaking up of the Standard Oil Trust was a judicial action which was not followed through and perfected by the antitrust elements of our Government. But I know the Congress of the United States has restructured industries in this century on at least four occasions, and I think we can face up to the problem which is the central problem to all this dispute, and that is the structure of the petroleum industry in this country.

I thank the Senator for yielding.

Mr. McGOVERN. I appreciate the Senator's observation. I certainly would not want, in any way, to diminish his efforts on the antitrust front. As the Senator knows, I shall continue to support him in that effort.

By the same token I do not think anyone ought to assume that passage of this amendment will delay that process. This amendment is in that tradition. It introduces another oil-producing corporation to join those already in the field. To be sure, it would be limited to 10 percent of the available oil and gas on Federal lands, but that, in itself, should encourage a greater measure of competition. We would have a public body, publicly disclosing its reserves and its cost factors, with its books wide open for inspection by the Congress or anyone else. It would move us one step closer to a greater measure of competition, even at a time when, and in this I fully agree with the Senator, we need to go even beyond that in terms of antitrust action.

I would also draw attention to our historical experience with the Tennessee Valley Authority. Those who are most frightened of bigness, either in the private sector or in the Government sector, would agree that we have very little to fear from the Tennessee Valley Authority, simply because it has introduced another element of competition. It has introduced an additional element of democracy in the electrical industry in this country. It has actually stimulated both free and private enterprise. I should like to think this oil and gas corporation, operating under the strictures of my amendment, would also become a solid contribution in strengthening our free enterprise system.

Mr. HART. I thank the Senator.

Mr. McGOVERN. Mr. President, did my colleague from South Dakota wish me to yield to him further on this matter?

Mr. ABOUREZK. I have a short statement that I should like to make.

Mr. McGOVERN. I yield to the Senator for the purpose of making a statement on the amendment.

Mr. ABOUREZK. Mr. President, in any issue as complex and controversial as the energy matter we are now considering, the problem of obtaining reliable data stands highlighted. Whether we turn to pricing questions, to supply questions, to anti-trust considerations, to environmental matters, or, really, to any aspect of the energy debate, we face the same problem. We find that data we need is either nonexistent, not available, or is available in such confusing forms and such meaningless breakdowns that every side in the debate uses irrelevant data as if it were the real thing.

Nowhere is this problem more severe than in assessing the various claims of our oil and natural gas industry. Do we have a shortage or do we not? Is there a monopoly or is there not? What does it cost to explore for natural gas? What does it cost to find new oil? How about old oil? What should it cost?

The questions go on and on, yet the data we have to help us decide these crucial questions is not adequate.

The proposal of my colleague from South Dakota (Mr. McGOVERN) to establish a yardstick public corporation with authority to find and develop natural gas and oil on Federal lands would go a very long way toward helping us develop reliable data to make sensitive energy decisions in the 1980's and beyond. It would establish a carefully limited public sector against whose performance the claims of the private sector could be weighed. At little or no cost to the taxpayers, it would permit us to measure the heavily advertised energy company

arguments that they are doing the best possible job in every possible area. If the oil and gas companies believe that the Government is inefficient, let us put that claim to the test. The Government is not represented among the enterprises of our economy only by the post office. It also runs an efficient and safe agency for controlling air traffic, for example.

Personally, I believe that the energy companies are not operating according to the needs of the larger public interest. But whatever one believes on this issue, it seems to me that any responsible government ought to have more than the word of Bob Hope that Texaco does it best.

What we need, and what the McGovern amendment would create, is a yardstick that would permit us to say, "All right, here is what the public corporation has been able to do. Let's see how Texaco and the other oil companies measure up against this standard."

The idea of a public yardstick corporation is neither new nor radical. Respected Senators have proposed this idea and more Senators have voted for it. It has been studied and found feasible by Congressional Research Service; a model exists in the Tennessee Valley Authority.

It will no doubt be opposed, in what has come to be a reliably predictable response, by those raising the bogey of nationalization. These are arguments that are not only fraudulent; they are not worthy of members of this governing body.

The McGovern amendment specifically limits the public corporation to purchase of only 10 percent of any rights offered for sale or lease to other qualified persons.

If private industry is correct in its loud claims that Government is ineffective in such endeavors as this amendment proposes, then they surely have nothing to fear. If they are wrong and this public yardstick corporation proves successful, we shall then have an invaluable tool with which to measure private performance and to help improve it in the future.

To my mind, the idea that nationalization of the American oil industry is a clear and present danger is simply ludicrous. We all know it is not going to happen. What we are talking about here today is whether we are going to meet our responsibility to the American people to insure that our Nation's energy policy brings them the fuel they need at the lowest possible cost with the maximum possible safeguarding of our national security. The McGovern yardstick amendment would provide us with the information we need to do that job. The defeat of that amendment would keep us in the dark and provide yet another demonstration that this Congress and this Government are not willing to stand up to the power of the oil industry, or to attempt new and democratic approaches to problems that the old structures seem unable to solve.

I thank the Senator for yielding for that statement.

Mr. METZENBAUM. Mr. President, will the Senator yield to me?

Mr. McGOVERN. Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to offer my support to the McGovern amendment, which I think is a major step in the right direction. I think there has been, over the years, an effort to obtain adequate information on the entire question of gas availability and gas pricing, but there has been an inability to obtain that information.

Some months ago, Mr. O'Leary testified before our committee that it would take 3 to 4 years before they could obtain the necessary information to advise Congress and the American people with respect to the price impact on gas availability. This morning, Mr. O'Leary again appeared before our committee. Again today, he indicated that the time aspects were of such a nature that it could not be assumed that we would have the necessary information in any immediate future. During the course of that hearing, I pointed out to Mr. O'Leary—whom I consider to be a very capable public official—that if it takes 3 to 4 years until we obtain the necessary information, it is entirely likely that not alone the horse, but all of the barn animals will be out of the barn before we ever get around to determining a national policy.

It is for that reason that I think the McGovern yardstick amendment is such a valuable move in the right direction.

There are those who have talked about nationalization. I do not support the concept of nationalization because I happen to be a free enterprise product and a free enterprise devotee. But I have also felt that the industry itself is its own worst enemy and that, while they have fought back as far as obtaining the necessary information, they have kept the American people wondering as to their credibility. I believe it is fair to say that the oil and natural gas industry, at this point, have totally lost their credibility with the American people. When, in the Exxon case, which was brought by the Federal Trade Commission, Exxon takes 4 years in a delaying procedure to quash the subpenas, the American people say, why are they not willing to make the information available?

Here we are talking about a proposal that would not do anything more than make it possible to determine what are the facts with respect to cost, or what are the facts with respect to the operation of these facilities that are productive of the Nation's energy resources.

The real question is, what we are talking about under this proposal has to do with the entire question of property that belongs to the American people.

There is no proposal in this that would say that the American Government would go in and take away from the energy companies or the oil companies of this country that which already belongs to them.

We are talking about the lands that belong to the American people, and the proposal would say that it would make it possible to obtain a realistic yardstick based upon actual facts so that the people of this country might understand what the true economic data is over a period of time.

Various committees of this Congress, various agencies of our Government, and various Members of the Congress as individuals in their official capacities, have attempted to obtain the information so needed to establish an appropriate policy.

I remember sitting in a committee hearing one day and saw stretched across the entire wall of that committee hearing room charts indicating how information is made available by oil and natural gas producers to various governmental agencies. But the bottom line with respect to the figures on that chart was that there was no way to assemble all the data and to actually find out how much is available, under what circumstances it can be obtained, and at what price.

Therefore, I cannot understand how anyone could be opposed to this amendment, which is a step in the right direction, making it possible to obtain the needed economic data so that this Nation's policies in the field of energy may be more realistic than they are now, so that they might be based upon actual facts rather than fiction, so that they might be based upon the figures that relate to that which has occurred rather than to the figment of the imagination of the American Gas Association or the American Petroleum Institute.

Those figures have come from somebody's pie in the sky kind of dreams. These figures would be based upon facts.

Although I think it will be difficult to get a majority of the Members of the Senate to vote affirmatively with respect to this amendment, I believe that if the Members of the Senate seriously recognize and realize what the amendment would, indeed, do, that it would gain not only a majority, but almost unanimity.

Mr. President, I urge the Members of the Senate to support this very realistic and very appropriate and very much needed amendment.

Mr. McGOVERN. Mr. President, I have nothing further to say on this amendment at this time. If other Senators want to be heard, they should speak now.

Mr. HANSEN addressed the Chair.

Mr. McGOVERN. Mr. President, I am willing to yield the floor.

Mr. HANSEN. Mr. President, it is not my intention to ask the distinguished Senator from South Dakota to yield the floor. I would like to make an inquiry of him, if he were disposed to grant me that opportunity with the clear understanding that he would not lose his right to the floor.

Mr. McGOVERN. I am happy to.

Mr. HANSEN. Mr. President, I think it has been fairly clearly pointed out what the thrust of the Senator's amendment is.

I think it might not be presumptuous of me to say that I believe most Senators have a fairly clear idea of what the distinguished Senator from South Dakota hopes to accomplish with the amendment.

My question is, would he propose that we might express our feelings individually by voting on it?

Mr. McGOVERN. That would be my first inclination, but I have been advised that there are Senators who want to be heard on it. Therefore I would like to see it discussed further.

The Senator understood me perfectly in what I want. I would like to see a vote.

I think this amendment is a good amendment. I think its purposes are clearly understood.

I realize there is a difference in the Senate as to whether or not it is a wise measure. It seems to me to be a very simple concept. Either we are going to have some kind of a Federal yardstick by which to measure the extent of our reserves and the cost of producing oil or gas, or we are not.

I am prepared to vote any time my distinguished colleagues desire.

Mr. HANSEN. I say to my friend from South Dakota that I applaud him for the expression of his feelings and his sentiments.

I, too, share his conviction. I would be happy to do anything I could, as the floor manager of the bill for the minority, to help him achieve his purpose.

Mr. McGOVERN. Does that include helping me pass the amendment?

Mr. HANSEN. In getting a vote on it.

I am certain the Senator from South Dakota, believing strongly in its merits, would not have any misgivings about favorable action from the Senate.

Would that be presumptuous of me to say that?

Mr. McGOVERN. That is a fair presumption.

I would be even more certain if I had the Senator's support for my amendment.

I am perfectly willing to put it to a test any time the Senate is ready.

Mr. HANSEN. Mr. President, I remind the Senator from South Dakota that almost invariably I am on the losing side and he might be well-advised not to seek my support.

Mr. McGOVERN. Nonetheless, I have noticed on matters pertaining to oil and gas, the Senator usually wins more than I do.

The PRESIDING OFFICER (Mr. GRAVEL). The question recurs on division 1 of the amendment of the Senator from South Dakota. The yeas and nays have been ordered. This will be the first of 20 votes on the Senator's amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

The result was announced—yeas 19, nays 78, as follows:

[Rollcall Vote No. 391]

YEAS—19

Abourezk	Kennedy	Percy
Anderson	Leahy	Riegle
Case	McGovern	Sarbanes
Clark	McIntyre	Sparkman
Cranston	Metzenbaum	Williams
Durkin	Muskie	
Hathaway	Nelson	

NAYS—78

Allen	Glenn	Moynihan
Baker	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bayh	Griffin	Pearson
Bellmon	Hansen	Pell
Bentsen	Hart	Proxmire
Biden	Haskell	Randolph
Brooke	Hatch	Ribicoff
Bumpers	Hatfield	Roth
Burdick	Hayakawa	Sasser
Byrd, Harry F., Jr.	Heinz	Schmitt
Byrd, Robert C.	Helms	Schweiker
Cannon	Hollings	Scott
Chafee	Huddleston	Stafford
Chiles	Inouye	Stennis
Church	Jackson	Stevens
Culver	Javits	Stevenson
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	Mathias	Wallop
Eagleton	Matsunaga	Weicker
Eastland	McClure	Young
Ford	McIntyre	Zorinsky
Garn	Metcalf	
	Morgan	

NOT VOTING—3

Humphrey	Johnston	McClellan

So division 1 of Mr. MCGOVERN's amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to division 2. The yeas and nays were ordered, and the clerk will call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that at the conclusion of all the rollcalls on the pending McGovern amendment I be recognized to offer a substitute.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, would the Senator withhold his request for just a moment so that we can consider this matter and, in the meantime, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I move to lay on the table division 2 of the McGovern amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 2 of the McGovern amendment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 2 of the McGovern amendment.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—79

Allen	Glenn	Packwood
Baker	Gravel	Pearson
Bartlett	Griffin	Pell
Bayh	Hansen	Percy
Bellmon	Hart	Proxmire
Bentsen	Haskell	Randolph
Biden	Hatch	Ribicoff
Brooke	Hatfield	Roth
Bumpers	Hayakawa	Sasser
Burdick	Heinz	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
Byrd, Robert C.	Hollings	Scott
Cannon	Huddleston	Sparkman
Chafee	Inouye	Stafford
Chiles	Jackson	Stennis
Church	Javits	Stevens
Culver	Laxalt	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	Young
Garn	Moynihan	Zorinsky
	Nunn	

NAYS—16

Abourezk	Hathaway	Muskie
Anderson	Kennedy	Nelson
Case	Leahy	Riegle
Clark	McGovern	Sarbanes
Cranston	Metzenbaum	
Durkin	Morgan	

NOT VOTING—5

Goldwater	Johnston	Metcalf
Humphrey	McClellan	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining divisible portions of the McGovern amendment be considered en bloc.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, could the distinguished Senator from South Dakota inform the Senate as to whether or not he intends to force the Senate to vote on each of the remaining portions singly? Will he, at any time, be

willing to give his consent to a vote en bloc on the remaining portions?

Mr. ABOUREZK. I shall try to answer the majority leader's question. I do not know if I can do it adequately or not.

There are a couple of reasons why it would be difficult to vote this amendment en bloc. One is, as I told my colleague from South Dakota, that if we vote each section separately, we might have a chance of passing, perhaps, the title or some other section that would not offend too many of the Members with regard to his amendment.

The other is that one of my colleagues on the Republican side said he was gone all week last week and missed some 23 votes, and he was interested in building up his average. So I want to be helpful to him, even though he is on the other side of the aisle.

Mr. ROBERT C. BYRD. Would the Senator be willing to have 10-minute rollcalls on each vote?

Mr. ABOUREZK. No.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that each rollcall vote be limited to 10 minutes.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, how many divisions remain?

The PRESIDING OFFICER. Eighteen remain to go.

Mr. ROBERT C. BYRD. This would mean that a total of 270 minutes would be required?

The PRESIDING OFFICER. Four and a half hours, approximately, the Chair would determine.

Mr. ROBERT C. BYRD. Let us have another vote and see if the Senator will change his mind about voting en bloc. I hope that he will reconsider his position and not be concerned about a Member on either side who wishes to build up his voting record, and exclude that from his two reasons. Then let him be considerate of the Senate and let us vote en bloc on the divisions of the amendment, which would allow the Senate to register its will on the amendment.

I think, frankly, that the procedure that the distinguished Senator from South Dakota is taking is probably insuring the defeat of Mr. MCGOVERN'S amendment. Some of us might wish to vote for that amendment. But I doubt that, by voting on it piecemeal, there being 20 pieces, he is going to insure the adoption of the amendment. I hope the Senator will reconsider.

Mr. President, does any Senator wish me to yield to him for the purpose of moving to table the third division of the 20 portions?

Mr. PEARSON. Yes, if the leader will yield and if the Senator from South Dakota is through with his discussion.

Mr. ROBERT C. BYRD. I yield for that purpose only.

Mr. PEARSON. I wish to inquire of the Senator whether he has completed his discussion of the third section?

Mr. ROBERT C. BYRD. I am not yielding for that purpose.

Mr. PEARSON. I am prepared, at the end of the majority leader's inquiry, to move to table at any time.

Mr. ROBERT C. BYRD. If the Senator wishes to do that now, I am yielding to him.

Mr. PEARSON. I think as a matter of courtesy, I wish to know whether the Senator has completed his discussion.

Mr. ROBERT C. BYRD. He has not started his discussion.

Mr. PEARSON. I shall move to table at that time.

Mr. RANDOLPH. Mr. President, I shall move to table.

Mr. ROBERT C. BYRD. My distinguished colleague wishes to move to table.

I ask of the Senator from South Dakota, does he wish to discuss the amendment?

Mr. ABOUREZK. Yes, and I think that, at a little later time during the day, there are other Senators who indicated that they want to come back, sometime later this afternoon, and continue discussion of this.

Mr. ROBERT C. BYRD. Of this third division?

Mr. ABOUREZK. Yes—well, that and related matters.

Mr. ROBERT C. BYRD. Then, what the Senator is saying is that it will be some time this afternoon before the senior Senator from West Virginia could move to table the third section of the amendment?

Mr. ABOUREZK. If the majority leader gave him the floor, he could do it now.

Mr. ROBERT C. BYRD. What I want to do is accord to the Senator from South Dakota the courtesy of his discussing the amendment before that motion is made, if I can get a time limit on such discussion. I should be glad to ask that the Senator have 10 minutes to discuss the amendment and then that the Senator from West Virginia (Mr. RANDOLPH) be recognized to move to table that section of the amendment.

(Mr. HUDDLESTON assumed the chair.)

Mr. ABOUREZK. I would prefer not to agree to a time limit for myself. I cannot speak for anybody else.

Mr. ROBERT C. BYRD. Yes. The Senator understands that I am leaning over backwards in my effort to accord every courtesy to him. As I understand him, he is not willing to agree to a time limit for his discussion on the amendment and then that Mr. RANDOLPH could be recognized to move to table it. Am I correct in that?

Mr. ABOUREZK. Yes.

Mr. ROBERT C. BYRD. Mr. President, I yield to my colleague who has indicated that he will move to table. I will yield to him for that purpose.

Mr. RANDOLPH. Mr. President, I move to table division 3 of the McGovern amendment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 3 of the McGovern amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

The result was announced—yeas 77, nays 18, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—77

Allen	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Percy
Bellmon	Hansen	Proxmire
Bentsen	Hart	Randolph
Brooke	Haskell	Ribicoff
Bumpers	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
Byrd, Robert C.	Heinz	Schweiker
Cannon	Helms	Scott
Chafee	Hollings	Sparkman
Chiles	Huddleston	Stafford
Church	Jackson	Stennis
Culver	Javits	Stevens
Curtis	Laxalt	Stevenson
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Magnuson	Thurmond
Domenici	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Garn	Morgan	Young
	Moynihan	Zorinsky

NAYS—18

Abourezk	Durkin	Metcalf
Anderson	Hathaway	Metzenbaum
Biden	Inouye	Muskie
Case	Leahy	Nelson
Clark	Mathias	Riegle
Cranston	McGovern	Sarbanes

NOT VOTING—5

Humphrey	Kennedy	Pell
Johnston	McClellan	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I should like to inquire of my jovial friend from South Dakota if he would be willing to enter into a time agreement on the pending division 4—say, 10 minutes before the motion to table is made.

Mr. ABOUREZK. I respond to the leader by saying that I, personally, do not want to enter into a time agreement. I would welcome the chance to debate the issue of deregulation of natural gas, without a time restriction.

Mr. ROBERT C. BYRD. I certainly do not want to deprive, by a tabling motion, the Senator's having an opportunity to speak a few words on the pending division 4—say, if he wishes to talk 5 minutes

on it or 10 minutes, I would be willing to await moving to table until that time.

Mr. President, I ask unanimous consent that the Senator from South Dakota be recognized for not to exceed 10 minutes, for a discussion only of the pending division 4; that no amendment thereto be offered during that time; and that I then be recognized for the purpose of moving to table or allowing another Senator to move to table.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield only for the purpose of moving to table division 4?

Mr. BAKER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I wonder if there is some possibility that we could expedite these matters further by consolidating the remaining divisions? I know it is a matter of sensitivity, but we have what, 17 more divisions in the McGovern amendment? I wonder if we could have one or two votes of the 17 more, if we could consolidate the vote to count as one vote?

Mr. ROBERT C. BYRD. I like the suggestion. I propounded that suggestion to the distinguished Senator just before the vote occurred. At that time for two reasons he did not feel we ought to vote en bloc on those. But during the vote he may have had a change of mind, keeping in mind his sunny disposition and his desire always to accommodate the Senate.

So the distinguished minority leader and I join in asking unanimous consent that the remaining 17 parts be voted on en bloc.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I would like to, as I have done privately with the distinguished majority leader, say I believe the way out of this impasse would be to offer the provisions of the Bentsen-Pearson amendment as a substitute for division 4, and that would get us back on track where we would be considering the main question and not some ancillary question. So that is the suggestion I would make to get out of this impasse and get back on the main question.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alabama and I did discuss that approach, but for reasons which I think are substantial enough and, as I indicated to him, I would not want to take that approach at the moment and, therefore, with deference to the Senator and understanding that we will remain friends hereafter——

Mr. ALLEN. I merely offer the suggestion.

Mr. ROBERT C. BYRD. In future——

Mr. ALLEN. If we want to get out of this present situation and get back on the main question—but if we are enjoying what we are doing [Laughter]——

Mr. ROBERT C. BYRD. No, we are not enjoying what we are doing. But I may as well state my reasons.

It may be that a certain Senator will want to offer an amendment to one of the parts, any one of the parts, because that is open to an amendment in the second degree, and it may be that there will be an opportunity at some point for a Senator to offer a certain second degree amendment to one of those parts.

So I would like to either vote on the remaining parts en bloc or we have no recourse but to continue to vote on them separately.

Mr. BARTLETT. Mr. President, will the Senator yield to me so that I might make a motion to table?

Mr. ROBERT C. BYRD. I shall yield gladly to the Senator for that purpose.

Mr. BARTLETT. Mr. President, I move to table the pending division.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays because there is not a quorum——

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. There is not a quorum in the Chamber, and I suggest we cannot conduct any business unless a quorum is present.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

Abourezk	Garn	Muskie
Allen	Hart	Pearson
Baker	Hatch	Ribicoff
Bartlett	Huddleston	Schmitt
Brooke	Laxalt	Scott
Byrd, Robert C.	McClure	Weicker
Cannon	Metcalf	Williams
Durkin	Metzenbaum	Young

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ROBERT C. BYRD. Mr. President, that is impossible now because the Chair has already announced the absence of a quorum.

The PRESIDING OFFICER. The Chair has announced that. It is too late. The absence has been announced.

The clerk will call the roll of the absentees.

The second assistant legislative clerk resumed and concluded the call of the roll and the following Senators entered the Chamber and answered to their names:

Anderson	Chiles	Eastland
Bayh	Church	Ford
Bellmon	Clark	Glenn
Bentsen	Cranston	Goldwater
Biden	Culver	Gravel
Bumpers	Curtis	Hansen
Burdick	Danforth	Haskell
Byrd, Harry F., Jr.	DeConcini	Hatfield
	Dole	Hathaway
Case	Domenici	Hayakawa
Chafee	Eagleton	Heinz
Helms	Melcher	Schweiker
Hollings	Morgan	Sparkman
Inouye	Moynihan	Stafford
Jackson	Nelson	Stennis
Javits	Nunn	Stevens
Kennedy	Packwood	Stevenson
Leahy	Pell	Stone
Long	Percy	Talmadge
Lugar	Proxmire	Thurmond
Magnuson	Randolph	Tower
Mathias	Riegle	Wallop
Matsunaga	Roth	Zorinsky
McGovern	Sarbanes	
McIntyre	Sasser	

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 4 of the amendment of the Senator from South Dakota (Mr. MCGOVERN). The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered on the motion to table?

The PRESIDING OFFICER. That is correct.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—81

Abourezk	Glenn	Packwood
Allen	Goldwater	Pearson
Baker	Gravel	Pell
Bartlett	Hansen	Percy
Bayh	Hart	Proxmire
Bellmon	Haskell	Randolph
Bentsen	Hatch	Ribicoff
Biden	Hatfield	Roth
Brooke	Hayakawa	Sasser
Bumpers	Heinz	Schmitt
Burdick	Helms	Schweiker
Byrd, Harry F., Jr.	Hollings	Scott
	Huddleston	Sparkman
Byrd, Robert C.	Inouye	Stafford
Cannon	Jackson	Stennis
Chafee	Javits	Stevens
Chiles	Laxalt	Stevenson
Church	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Moynihan	
Garn	Nunn	

NAYS—15

Anderson	Hathaway	Morgan
Case	Kennedy	Muskie
Clark	McGovern	Nelson
Cranston	Metcalf	Riegle
Durkin	Metzenbaum	Sarbanes

NOT VOTING—4

Griffin	Johnston	McClellan
Humphrey		

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which

the motion to lay on the table was rejected.

The PRESIDING OFFICER. The Senator from West Virginia was recognized.

Mr. ROBERT C. BYRD. Mr. President, my lovable, affable, congenial friend from South Dakota knows full well, as the Senate knows, that the purpose of moving to reconsider, in this particular instance, is but to delay the Senate in reaching a final decision on the bill, as well as on the McGovern amendment. My delightful friend from South Dakota also knows of my great personal affection for him and, if the circumstances were otherwise, I should yield to him for the purpose of moving to reconsider the vote. But he also knows that a motion to reconsider the vote would be tabled and that this would merely mean an additional 15 minutes of the Senate's time.

In addition thereto, he knows that I would defend his rights to the floor against an array of angels, if necessary, under circumstances in which I thought there was a real possibility of reconsideration of this vote. Consequently, Mr. President, I merely would like to ask the distinguished Senator if he will allow the Senate now to vote en bloc on the remaining parts of the McGovern amendment.

Mr. ABOUREZK. If the distinguished majority leader, my good friend from West Virginia, would yield, I would be happy to respond.

Mr. ROBERT C. BYRD. I yield for the Senator to respond to my question only, yes.

Mr. ABOUREZK. Speaking for myself, I would not be able to agree to voting en bloc, for the reasons previously stated. I should like to ask a question of the distinguished majority leader, if I may.

Mr. ROBERT C. BYRD. The distinguished Senator knows I cannot yield for anything other than a question, so I am glad to yield for a question.

Mr. ABOUREZK. Does the majority leader intend to allow me or anybody else to speak for a while on some of the issues that are presented to us today?

Mr. ROBERT C. BYRD. Oh, certainly, I should be glad at this point to ask unanimous consent for the distinguished Senator from South Dakota to address his remarks to the next division—is it 4 or 5?

The PRESIDING OFFICER. Division 5.

Mr. ROBERT C. BYRD. I am prepared to ask unanimous consent that he be permitted to speak for 10 minutes on that division, or 5 minutes or, knowing that his eloquence is such that he could perhaps persuade the Senate to his point of view in 15 minutes, I should be glad to make that request, with the understanding that I then be recognized to move to table the division.

Mr. ABOUREZK. I do not want to sound as though I am demeaning the generosity of the distinguished majority leader. However, that particular offer, which carries with it a time limitation, I must respectfully decline because I think, as the rules of the Senate provide, there is an opportunity for unlimited debate on any issue unless a time limitation is agreed to. I certainly do not want to restrict either myself or my colleagues from that particular kind of debate.

As the majority leader knows, this is an extremely important issue to the Nation. The natural gas bill to the consuming public would increase by some $160 billion were the Pearson-Bentsen amendment passed. I think we would be abrogating our responsibilities as Members of the U.S. Senate to let that go through without any kind of protest.

I have nothing but the greatest respect for the distinguished majority leader, and he knows that, except I do find it somewhat startling that he would attempt, by seeking recognition and holding the floor, to prevent my right to speak, or the right of any other Senator to speak, without time restrictions.

So, Mr. President, I ask for the floor at this time, if the Chair would recognize me.

I move to reconsider the vote by which the tabling motion——

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, part 3 of the amendment by the distinguished Senator from South Dakota (Mr. McGOVERN) was the linchpin of the entire amendment and that part has already been laid quietly to rest.

In view of the fact that the most important and basic portion of the amendment has already been tabled, I do not think that the Senate is served any purpose in continuing to vote on the remaining parts.

It reminds me of an old story about the various parts of the body and how they sought to state their importance. The eyes said the body would not be able to do thus-and-so if it were not for the part they played. The feet did the same thing. Finally, it came down to the belly.

When the belly sought to explain the important function that it performed, all of the remaining parts of the body laughed, laughed, laughed it out of court.

So the belly just went on strike. It was not long until all of the other parts began to weaken and to learn, at last, that without that particular important part of the body, the rest of the body really could not function very long.

Now, with part 3 gone and buried quite unceremoniously, the remainder of the bill is really meaningless.

So I would hope that the distinguished Senator would allow the Senate to vote en bloc on the remaining parts of the amendment.

If he would do that, I would be glad to yield the floor, or I would ask unanimous consent that the Senate vote en bloc and happily have him make the request if I yield the floor for that purpose, provided we vote it immediately.

Does the Senator wish to respond?

Mr. ABOUREZK. No.

Mr. ROBERT C. BYRD. Then, Mr. President, I move to table the next part.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, there is not a quorum present in the Chamber and I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted since the last rollcall vote showed there was a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. For a rollcall vote?

The PRESIDING OFFICER. Yes.

The legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, a point of order. Mr. President, there is not a quorum.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted.

Mr. ABOUREZK. The yeas and nays were asked for, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been asked for and the question now occurs on the motion to table.

Mr. ABOUREZK. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The point of order is——

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order. There has been no business transacted since the last rollcall vote showed the presence of a quorum and I insist on the regular order.

Mr. ABOUREZK. Mr. President, a point of order.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I insist on the regular order.

Mr. ABOUREZK. Mr. President, the yeas and nays have been ordered and that is routine business.

Mr. ROBERT C. BYRD. I insist——

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend. The Senator from South Dakota will state his point of order.

Mr. ABOUREZK. My point of order is that there is not a quorum present in the Chamber. The Senate cannot conduct business while there is not a quorum present and there was business transacted since the last quorum was established. That business was the request for the yeas and nays.

QUORUM CALL

The PRESIDING OFFICER. The Senator's point of order is well taken. The clerk will call the roll to establish a quorum.

Mr. ABOUREZK. Is that a quorum call?

The PRESIDING OFFICER. To establish a quorum.

The second assistant legislative clerk proceeded to call the roll and the following Senators answered to their names:

[Quorum No. 25 Leg.]

Abourezk	Danforth	McGovern
Allen	Dole	Melcher
Baker	Domenici	Metcalf
Bartlett	Durkin	Pearson
Bayh	Ford	Randolph
Byrd, Harry F., Jr.	Hansen	Roth
Byrd, Robert C.	Jackson	Sasser
Case	Laxalt	Scott
Cranston	Leahy	Weicker
Curtis	Magnuson	Young
	Matsunaga	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Such a request is not in order at this point. The quorum must be established.

The second assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

Anderson	Hatch	Nunn
Bellmon	Hatfield	Packwood
Bentsen	Hathaway	Pell
Biden	Hayakawa	Percy
Brooke	Heinz	Proxmire
Bumpers	Helms	Ribicoff
Burdick	Hollings	Riegle
Cannon	Huddleston	Sarbanes
Chafee	Inouye	Schmitt
Chiles	Javits	Schweiker
Church	Kennedy	Sparkman
Clark	Long	Stafford
Culver	Lugar	Stennis
DeConcini	Mathias	Stevens
Eagleton	McClellan	Stevenson
Eastland	McClure	Stone
Garn	McIntyre	Talmadge
Glenn	Metzenbaum	Thurmond
Goldwater	Morgan	Tower
Gravel	Moynihan	Wallop
Hart	Muskie	Williams
Haskell	Nelson	Zorinsky

The PRESIDING OFFICER. A quorum is present.

The question now occurs on the motion to table Division 5 of the McGovern amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

The result was announced—yeas 83, nays 14, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—83

Allen	Curtis	Helms
Baker	Danforth	Hollings
Bartlett	DeConcini	Huddleston
Bayh	Dole	Inouye
Bellmon	Domenici	Jackson
Bentsen	Eagleton	Javits
Biden	Eastland	Laxalt
Brooke	Ford	Leahy
Bumpers	Garn	Long
Burdick	Glenn	Lugar
Byrd, Harry F., Jr.	Goldwater	Magnuson
	Gravel	Mathias
Byrd, Robert C.	Hansen	Matsunaga
Cannon	Hart	McClellan
Case	Haskell	McClure
Chafee	Hatch	McIntyre
Chiles	Hatfield	Melcher
Church	Hayakawa	Morgan
Culver	Heinz	Moynihan
Nunn	Sasser	Stone
Packwood	Schmitt	Talmadge
Pearson	Schweiker	Thurmond
Pell	Scott	Tower
Percy	Sparkman	Wallop
Proxmire	Stafford	Weicker
Randolph	Stennis	Williams
Ribicoff	Stevens	Young
Roth	Stevenson	Zorinsky

NAYS—14

Abourezk	Hathaway	Muskie
Anderson	Kennedy	Nelson
Clark	McGovern	Riegle
Cranston	Metcalf	Sarbanes
Durkin	Metzenbaum	

NOT VOTING—3

Griffin	Humphrey	Johnston

So Mr. ROBERT C. BYRD's motion to lay on the table division 5 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the Senate is now about to vote on part 6 of the McGovern amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I want Senators to know that I do not now nor do I ever want to abuse the prerogatives of the majority leader in seeking recognition. I think it has been amply indicated, and I say this not to cast any reflection on any Senator, because all Senators have all rights under the rules, and I will be the first to ask that those rights be respected, but last night the amendment by Mr. McGOVERN was the pending question. There was ample time at that time for the distinguished Senator from South Dakota to debate the amendment. As a matter of fact, I indicated to him that I would be willing to stay as long as he desired and to listen to his discussion of that amendment. He indicated that he would be very willing to go over until today and being a rather tired individual at that point I was happy that he was willing to go over until today. But there has been ample time to discuss the amendment.

The Senator has asked for a division of the amendment. It is divisible into 20 parts. There is no way now to have a vote on the remaining 15 parts except by unanimous consent.

I have asked repeatedly if the distinguished Senator from South Dakota (Mr. ABOUREZK) would be willing to vote en bloc on the remaining portions. In each instance he has indicated that he would not be willing to do that.

I hope every Senator realizes, some Senators not having been on the floor perhaps at the time that I have been seeking recognition after each vote in order to move the Senate along and complete action on the 20 parts, I have frequently sought to get consent to vote en bloc. I have frequently indicated my willingness to get consent for the distinguished Senator from South Dakota to address himself and his remarks to the immediate division. In each instance he has indicated he does not want to be confined to 5 minutes, 10 minutes, or 15 minutes which means that he would like to speak longer, and in my judgment it should be obvious to everyone that the purpose is merely to delay final action on the amendment and beyond that perhaps final action on the bill.

I do not believe that the Senate should be under any illusions as to what the purpose of the distinguished Senator from South Dakota is. I say that most respectfully.

But I wanted to explain for the record why I have sought recognition, and it has only been so that it might expedite further action on this amendment which even at best, the way it is going, is going to take quite a long time.

Were the circumstances otherwise I would, of course, not seek recognition.

Mr. BAKER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I followed with great interest the development of the situation on the floor today, especially the comments of the majority leader at this point. Based on that it seems to me that we are probably in for a very long day, indeed, and possibly for tomorrow, if we cannot finish the disposition of the McGovern amendment as it is now divided and presented to us.

Could I inquire of the majority leader if he now has a present judgment on how late we are likely to be today and what the outlook and prospects are for tomorrow?

Mr. ROBERT C. BYRD. I can only say at the rate we were going we are going to be in very late today and very late tomorrow.

Mr. BAKER. I thank the majority leader.

Mr. McGOVERN. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

May I say this, too, that the distinguished Senator from South Dakota (Mr. McGOVERN) has at all times indicated a willingness and even a desire to get an up and down vote on his amendment.

I know that he does not enjoy this piece-by-piece excruciating surgery of his amendment which piece-by-piece buries the entire amendment without the Senate reaching a considered judgment on the amendment.

I am delighted to yield.

Mr. McGOVERN. Mr. President, I wanted to ask the majority leader and also my colleague from South Dakota, Senator ABOUREZK, if it is practical to think we can obtain an arrangement under which we can get to a vote on the amendment itself. I feel very deeply about the substance of this amendment, without regard to the procedures being used here today. A number of Senators have indicated to me they could support the amendment. There are not enough to agree to it, but a number have indicated that they support its substance. They do not want to engage in 20 separate votes. None of these titles mean anything standing by themselves. I am wondering if we cannot get an agreement to vote on the amendment itself; not simply the remaining 15 sections. I am wondering if this kind of agreement can be worked out.

Mr. ROBERT C. BYRD. Mr. President, I would be perfectly agreeable to presenting a unanimous-consent request that the McGovern amendment be dealt with ab initio and that we proceed to an immediate vote on it or to a vote on it after a reasonable time for debate, say 30 minutes to be equally divided. That

can be done but only by unanimous consent at this point.

I would be happy to present some sort of a request to that end.

Mr. McGOVERN. I wish the majority leader would explore that because a considerable amount of work has gone into this amendment. The concept is not original with me. It is an idea which has been around for some time. The Senator from Illinois, Senator STEVENSON, has been working on a similar concept over a long period of time. I believe the amendment is clearly understood as a yardstick by which we can get a better measure of what the cost factors are in producing oil and gas which is an important part of the overall pricing effort which we are debating here in the bill itself. I hate to see us vote on it section by section like this. It destroys any real meaning. What we are really voting on is a question of tactics rather than the substance of the amendment. I would hope the majority leader would explore whether it is possible to have a unanimous-consent agreement so we can get to a vote on the merits of the amendment itself.

I do not want to simply vote on the remaining 15 sections.

Mr. ROBERT C. BYRD. Surely.

Mr. McGOVERN. On the entire amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that the Senate consider the amendment by the Senator from South Dakota (Mr. McGOVERN) ab initio; and that the Senate proceed to a vote in relation to that amendment within 20 minutes, to be equally divided between Mr. McGOVERN and Mr. HANSEN.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. Would the majority leader also include in his request that on the disposition of the McGovern amendment ab initio, as he has already requested, the Senator from Indiana (Mr. BAYH) be recognized; that the divestiture amendment be laid before the Senate now, and that it become the pending business immediately upon the disposition of the McGovern amendment, and Senator BAYH be recognized to begin debate on the divestiture amendment at that time?

Mr. HANSEN. Mr. President, if the majority leader will yield to me——

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. I would have to object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, what the Senate is being asked to do, through my request, is that we simply move, after 20 minutes equally divided for debate, to a decision on the McGovern amendment. What happens after that is up to Senators, with no preconditions laid down.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. I take it there would not be agreement to do that, due to an objection by the Senator from Wyoming (Mr. HANSEN)?

Mr. ROBERT C. BYRD. That is my understanding. The Senator from Wyoming does not object to my request, as I understand.

Mr. HANSEN. That is right.

Mr. ROBERT C. BYRD. He merely objects, at this point, to ordering, as a part of the request, that any particular Senator would be recognized to call up an amendment immediately thereafter.

Mr. ABOUREZK. Mr. President, will the majority leader yield so that I might ask a question of the Senator from Wyoming?

Mr. ROBERT C. BYRD. Yes, I yield for that purpose.

Mr. ABOUREZK. Obviously the divestiture amendment would be brought up at some point, just by virtue of the processes of the Senate. May I ask the Senator from Wyoming why he would object to bringing up the divestiture amendment immediately following the disposition of the McGovern amendment?

Mr. HANSEN. Mr. President, if I may respond to the inquiry of the distinguished Senator from South Dakota——

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Let me say I think we should proceed in an orderly fashion, and it seems to me that the request of the Senator from South Dakota would twist or change things around so as to deny us the opportunity to proceed in what I consider to be an orderly fashion.

The Pearson-Bentsen amendment has been before us. Last night we voted not to table that amendment, and I see no purpose in deviating from what I consider to be a normal procedure—though I do not necessarily imply that this will happen—it is my feeling that it could include an opportunity to get into further questions of aspects or irrelevant issues that I think ought best to be resolved after we conclude with the full resolution of whatever we are going to do on the Pearson-Bentsen substitute.

Those are at least some of my reasons.

Mr. ABOUREZK. Mr. President, if the Senator will yield further——

Mr. ROBERT C. BYRD. If I may, I yield further to the Senator from South Dakota.

Mr. ABOUREZK. I am sure the Senator from Wyoming realizes that no matter what, whether or not the Pearson-Bentsen amendment is still being considered, the divestiture amendment could also be considered; in fact, it would have priority in consideration over the Pearson-Bentsen amendment. I am sure the Senator from Wyoming realizes that.

If we are speaking about orderly procedure, there is nothing more orderly than getting agreement on which amendments can be brought up in which order.

Mr. ROBERT C. BYRD. Mr. President, on that point, would the Senator be willing to enter into an agreement that would not only deal with a divestiture amendment, but with other amendments that are going to be called up, and also on the bill itself, setting a final time for a vote on the bill?

The Senator has mentioned his desire to enter into a time agreement; would he be willing to enter into a full-time agreement that would cover all amendments and the bill itself?

Mr. ABOUREZK. Mr. President, I think the majority leader misunderstood me. I have never expressed an interest in entering into a time agreement at all. I am merely stating that I have an interest in seeing the divestiture amendment brought up in an orderly fashion.

Mr. ROBERT C. BYRD. Would the Senator enter into an agreement on that amendment alone?

Mr. ABOUREZK. No.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. It would occur to me that this is an ideal procedure to try to establish a regular and desirable order for considering all these amendments. As sensitive as this question is, we on this side would be willing to agree to a sequence if we can get an order on all of the amendments and on the bill itself. If there is prospect of reaching an agreement on all the aspects of the bill, I think the Senator would find a high degree of cooperation on this side.

Mr. LONG. Mr. President, will the Senator yield on that point?

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana.

Mr. LONG. I hope the Senator realizes, and in order to make this a question I ask him if he does not realize, that in the previous Congress, and even before that, some of us on this side of the aisle could very well afford to participate in what amounted to just a complete effort in futility, and we could afford to see nothing of any consequence happen in the energy area, from the political point of view, because usually the people tend to blame the man in the White House and his administration, even though it be a Democratic Congress that kills his program.

But in this Congress, we really do not have that magnificent political possibility available to us. We have a Democrat in the White House and a Democratic Senate, and nothing is going to happen. We can organize a very successful filibuster against one bill because there is something in there someone does not like, and then organize a very successful filibuster against another bill because there is something in it someone does not like, but then nothing happens and we get a cold winter, and we Democrats are not going to be able to explain that we have a Republican in the White House this time.

Mr. ROBERT C. BYRD. Not only will we not have that excuse, but these Senators will be here during that cold winter.

Mr. LONG. We had better be here, and not back home trying to explain it.

Mr. HANSEN. Mr. President, if I may make an observation, I understand the people down at the White House are more inured to colder temperatures than we here. They have had their thermostats down since last winter. We have not had any opportunity to become that used to cold weather. So I think there is great virtue in the suggestion of my friend from Louisiana. It is colder here than it is down there.

Mr. ROBERT C. BYRD. It may get hotter, in some respects.

Mr. ABOUREZK. Mr. President, I certainly hope that nobody who may be listening to this debate actually believes we will be cold this winter by virtue of either the passage or the nonpassage of the Bentsen-Pearson amendment. If anyone is going to be cold because of that, it will be because they are going to be out of money. They are not going to be able to afford the price of gas, once the Pearson-Bentsen amendment is passed, if it is passed.

I do not believe it has been brought out sufficiently, Mr. President, that the Bentsen-Pearson amendment is the greatest travesty to be worked on the American people for a long time. It is an extremely expensive proposition that will provide no more natural gas to the American people. All it will do is transfer billions of dollars out of the pockets of the consumers and into the pockets of the oil companies. How can anybody say we are going to be cold if that does not occur? If you are cold when you are deprived of your money, that is one thing; but to say that passing this amendment will prevent people from actually being cold is simply untrue.

For my distinguished colleague from Louisiana to say that we are doing nothing and letting the energy program go to pot is to say that we have to pass a bill he agrees with or something terrible is going to happen. I suggest that if we do pass a bill that he agrees with, something terrible will happen. That something is the transfer of billions of dollars from the pockets of the consuming public into the pockets of people who already have too much and who want still more. These people run energy corporations and they have no interest, no concern, with the consuming public—only with their own treasuries.

Mr. ROBERT C. BYRD. Mr. President, I think the Senate has a responsibility to work its will on this bill. I hope that no Senator will seek to impose his own personal will on the Senate to keep it from acting. The bottom line is what comes out of the conference over there. So, if some reasonable middle ground can be found here so that the Senate can act and send the bill to conference, there will have to be further discussions there and undoubtedly, further compromises there. The House has taken a rather strong position on this part of the bill and has so recorded itself.

I hope Senators will not discommode the Senate unduly. We are reaching the point where I think, Mr. President, that that is being done. Let the Senate work its will. Obviously, it is a futile effort on the part of any Senator at this point, even counterproductive, I should think, to insist that Senators run to the floor every 15 minutes to cast a vote which is obviously, with all due respect to my friend, a dilatory tactic. At some point, if we continue, I am going to ask the Chair to rule that it is dilatory and if the Chair does not rule, we shall let the Senate decide.

There is obviously a time coming when Senators, I hope, will agree with me that, regardless of how the vote goes—whether it goes to please me or whether it goes some other way—that the Senate must vote on this bill. We have behind this bill the utility rate reform bill. Behind that bill, we have other important measures. We have the extension of the debt limit, we have to act on the District of Columbia appropriations bill. We have a DOD authorization bill, we have a DOD supplemental appropriations bill, we have various other measures. We have the energy tax bill.

Not only that, we have, right now, in conference several foreign aid issues. Then these five energy bills that will then, hopefully, have been passed and sent over to the House will all have to be gone over in conference and there, again, each House will have to act on the conference report.

Nothing is being served by this delay, this dilatory tactic of dividing a question into 20 parts. If anything were to be served, Mr. President, by that, if the Senate, by doing that, were reaching a final decision on the bill, it would be a different thing. But, obviously, that is not the case. So I hope all Senators will understand what is going on here and the efforts that have been made by the leadership to patiently try to bring sides together and to get final action.

Mr. ABOUREZK. Will the leader yield?

Mr. McGOVERN. Will the Senator yield?

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished majority leader. As the leader knows, I am not in sympathy with these tactics, but I would like to suggest to the distinguished majority leader that I hope he will not seek to have the Senate declare that these tactics are dilatory, because the distinguished Senator knows better than I that there is nothing in the rules to prevent dilatory tactics unless cloture is invoked. I hope we shall not amend the rules here on the Senate floor by trying that effort, unless cloture has been invoked.

Mr. ROBERT C. BYRD. Mr. President, I share the feeling of the Senator from Alabama about that matter. But let me say that when the Senate feels that it is being arbitrarily prevented from acting, I have seen the Senate react to that in a way which it might later regret. I do not want to see that happen, either.

I think all Senators know that I have steadfastly been opposed to cloture by majority vote. I have steadfastly been opposed to amending the rules at the beginning of a new Congress by a majority vote. But here is a real danger, a real danger.

Mr. ALLEN. Could not cloture be invoked, then, and that effort be made more profitably?

Mr. ROBERT C. BYRD. Oh, surely. The Senator is exactly right. I think I should hesitate before I would proceed in the manner that I have suggested.

Mr. ALLEN. I thank the distinguished Senator, because the Senator from Alabama thinks that, possibly, there might be occasions when he might want to resort to the same thing the Senator from South Dakota is doing.

Mr. ABOUREZK. Will the leader yield?

Mr. ROBERT C. BYRD. Mr. President, I hope that enough has been said.

Mr. McGOVERN. Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. McGOVERN. I want to make an inquiry of my colleague (Mr. ABOUREZK).

If the Pearson-Bentsen formula is as bad as the Senator says it is, and it may very well be, that is all the more reason why we need to get to a vote on this yardstick amendment. We need some independent measure of the price performance. We do not know whether the Pearson-Bentsen amendment is going to be adopted or not. But, no matter what we do in terms of natural gas pricing, I think it would be helpful to have a reliable measuring stick in regard to pricing.

I repeat the request I made a while ago, that we vote on this. At that time, we can talk about divestiture or whatever the Senator wishes to debate. We have been on this matter for a couple of days now. Why can we not permit the unanimous consent request the majority leader has proposed to go through? Let us have a vote on this one matter and then proceed with the other issues relating to the bill itself?

Mr. ABOUREZK. If I may, I happen to agree with the amendment offered by my colleague from South Dakota. I think it is an excellent proposition, to have a Federal Oil and Gas Corporation that would provide a yardstick to measure exploration and development of oil and gas with respect to the performance by private companies. But whether or not that proposal passes today, I think, is subordinate to the issue of whether or not the Bentsen-Pearson measure might be enacted into law.

The majority leader made a number of comments with regard to dilatory tactics and the fact that we are engaged in a futile gesture. He suggested that he would hate to see one Senator try to impose his will on the entire Senate. First of all, I would say that there were 46 Senators who, just last night, voted in favor of tabling the Pearson-Bentsen amendment.

Mr. ROBERT C. BYRD. Including the majority leader.

Mr. ABOUREZK. Including the distinguished majority leader. We appreciate that vote.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ABOUREZK. Second, I know the leader, as I told him yesterday, does not intend any of those statements—the talk about the necessity of passing the entire energy package—I know he does not intend that to be any kind of pressure, whether it is subtle or direct, on someone who might want to extend the debate a little longer than some Members feel it ought to be extended. But it could be

interpreted as pressure. I know the majority leader does not mean it that way, and I would like to repeat what I told the majority leader yesterday, for the benefit of the Republican Members who were not present.

There are a number of options and alternatives for the majority leader to follow in an effort to move this legislation along. I know that is his interest. One of the options is to use the same approach he did on the Consumer Protection Act, which we tried to bring up earlier this year. We were advised by the majority leader that we did not have enough votes for cloture; therefore, it could not be brought up.

Or he could use a second alternative available to him, which he has used before, on the question of public financing of campaigns. After a week or so of debate and filibuster, if you will, the majority leader decided that was enough for the Senate, so he pulled the bill down.

The third option is available, and which I think the majority leader could offer to the membership of the Senate, is that we vote to table the Pearson-Bentsen amendment and go home.

Those are some of the options that I think the Senate ought to be aware of.

I know the majority leader has talked about discommoding the Senate. But is it not better to discommode those of us here, than it is to discommode 220 million people who are going to have to pay an excessive, extreme, and unnecessary price for their natural gas?

Where are our priorities? Where do they lie? With our personal comfort or with the public interest which we are to discharge and which we are supposed to have the stewardship of?

That is the question we have to answer.

Mr. ALLEN. Will the Senator yield?

Mr. ABOUREZK. I do not have the time.

Mr. ALLEN. Will the Senator let me straighten out one statement?

Mr. ROBERT C. BYRD. Yes. I yield for that purpose.

Mr. ALLEN. The Senator stated the distinguished majority leader called down the public financing bill. Of course, that is not exactly accurate because the bill before the Senate was in two parts and after three cloture votes the Senator from Alabama offered an amendment striking the public financing provision, and the Senate is the body that pulled that amendment down.

I might say, I offered that amendment without any consultation with the distinguished majority leader, or anyone else, for that matter.

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER (Mr. METZENBAUM). Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I move to table the next division.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ROBERT C. BYRD. Vote! Vote!

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 26 Leg.]

Abourezk	Burdick	Hart
Allen	Byrd, Robert C.	Lugar
Baker	Durkin	McClure
Bartlett	Garn	Metzenbaum

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Anderson	Hansen	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatch	Pearson
Bentsen	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
Cannon	Hollings	Riegle
Case	Huddleston	Roth
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schmitt
Clark	Kennedy	Schweiker
Cranston	Laxalt	Scott
Culver	Leahy	Sparkman
Curtis	Long	Stafford
Danforth	Magnuson	Stennis
DeConcini	Mathias	Stevens
Dole	Matsunaga	Stevenson
Domenici	McClellan	Stone
Eagleton	McGovern	Thurmond
Eastland	McIntyre	Tower
Ford	Metcalf	Wallop
Garn	Morgan	Weicker
Glenn	Moynihan	Williams
Goldwater	Muskie	Young
Gravel	Nelson	Zorinsky
Griffin		

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, it has been——

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The Chair is in error. A motion to table is pending, and it is not debatable.

The question is on agreeing to the motion to table.

Mr. ABOUREZK. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table division 6 of the McGovern amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The result was announced—yeas 83, nays 14, as follows:

[Rollcall Vote No. 396 Leg.]

YEAS—83

Allen	Glenn	Moynihan
Baker	Goldwater	Muskie
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Percy
Brooke	Hatch	Proxmire
Bumpers	Hatfield	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Roth
Byrd, Robert C.	Helms	Sasser
Cannon	Hollings	Schmitt
Case	Huddleston	Schweiker
Chafee	Inouye	Scott
Chiles	Jackson	Sparkman
Church	Javits	Stafford
Culver	Laxalt	Stennis
Curtis	Leahy	Stevens
Danforth	Long	Stevenson
DeConcini	Lugar	Stone
Dole	Magnuson	Thurmond
Domenici	Mathias	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClellan	Weicker
Ford	McClure	Williams
Garn	McIntyre	Young
	Melcher	Zorinsky

NAYS—14

Abourezk	Hathaway	Morgan
Anderson	Kennedy	Nelson
Clark	McGovern	Riegle
Cranston	Metcalf	Sarbanes
Durkin	Metzenbaum	

NOT VOTING—3

Humphrey	Johnston	Talmadge

So the motion to lay on the table division 6 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to table division 7 of Mr. McGOVERN's amendment.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

Mr. ABOUREZK. Mr. President, a quorum is not present. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 27 Leg.]

Abourezk	Byrd, Robert C.	Ford
Anderson	Cannon	Garn
Bentsen	Case	Hollings
Brooke	Clark	Kennedy
Burdick	Cranston	Lugar
Byrd, Harry F., Jr.	Curtis	Matsunaga
	Domenici	McGovern

Melcher	Randolph	Young
Muskie	Sasser	Zorinsky
Pearson	Scott	
Pell	Stafford	

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

Allen	Hart	Morgan
Baker	Haskell	Moynihan
Bartlett	Hatch	Nelson
Bayh	Hatfield	Nunn
Bellmon	Hathaway	Packwood
Biden	Hayakawa	Percy
Bumpers	Heinz	Proxmire
Chafee	Helms	Ribicoff
Chiles	Huddleston	Riegle
Church	Inouye	Roth
Culver	Jackson	Sarbanes
Danforth	Javits	Schmitt
DeConcini	Laxalt	Schweiker
Dole	Leahy	Sparkman
Durkin	Long	Stevens
Eagleton	Magnuson	Stevenson
Eastland	Mathias	Stone
Glenn	McClellan	Thurmond
Goldwater	McClure	Tower
Gravel	McIntyre	Wallop
Griffin	Metcalf	Weicker
Hansen	Metzenbaum	Williams

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion to lay on the table division 7 of the McGovern amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The result was announced—yeas 83, nays 12, as follows:

[Rollcall Vote No. 397 Leg.]

YEAS—83

Allen	Garn	Morgan
Baker	Glenn	Moynihan
Bartlett	Goldwater	Muskie
Bayh	Gravel	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Biden	Hart	Pell
Brooke	Haskell	Percy
Bumpers	Hatch	Proxmire
Burdick	Hatfield	Randolph
Byrd, Harry F., Jr.	Hayakawa	Ribicoff
Byrd, Robert C.	Heinz	Roth
Cannon	Helms	Sasser
Case	Hollings	Schmitt
Chafee	Huddleston	Schweiker
Chiles	Inouye	Scott
Church	Jackson	Sparkman
Cranston	Javits	Stafford
Culver	Laxalt	Stevens
Curtis	Leahy	Stevenson
Danforth	Long	Stone
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	Mathias	Wallop
Eagleton	Matsunaga	Weicker
Eastland	McClure	Williams
Ford	McIntyre	Young
	Melcher	Zorinsky

NAYS—12

Abourezk	Hathaway	Metzenbaum
Anderson	Kennedy	Nelson
Clark	McGovern	Riegle
Durkin	Metcalf	Sarbanes

NOT VOTING—5

Humphrey	McClellan	Talmadge
Johnston	Stennis	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes for debate on the McGovern amendment as originally proposed, to be equally divided between Mr. MCGOVERN and Mr. HANSEN; and that, at the conclusion of the 10 minutes, a vote occur. We are speaking of the McGovern amendment as originally submitted.

The PRESIDING OFFICER. Is there objection?

Mr. MCGOVERN. Mr. President, this, then, is a vote on the substance of the entire amendment, all 20 sections?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The amendment as introduced and modified.

Is there objection?

Mr. ABOUREZK. Reserving the right to object, may I ask, would this vote be up or down or will someone attempt to table it?

Mr. ROBERT C. BYRD. I do not know. This request would preserve the rights of all Senators under the rules.

Mr. ABOUREZK. All I can say is that I hope it will be an up-and-down vote.

Mr. ROBERT C. BYRD. It might very well be. But it does not vitiate any Senator's right——

Mr. ABOUREZK. I understand.

Mr. ROBERT C. BYRD. To move to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. HANSEN. Mr. President, I ask unanimous consent, without time being charged to either side, that Tom Palmerie and Jack Nutter of Senator DOLE's staff be granted privilege of the floor during any votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCGOVERN. Mr. President, I yield myself 3 minutes time.

I do not think it is necessary to take more than 2 or 3 minutes to summarize.

The PRESIDING OFFICER. Would the Senator from South Dakota suspend until there is order in the Senate?

Will Members of the Senate retire to their seats, please, so that the Senator from South Dakota may be heard?

The Senator may proceed.

Mr. MCGOVERN. Mr. President, I do not think it will take more than a couple of minutes to summarize the issue that is before the Senate.

I want to say, first of all, that I am very grateful we are going to be given an opportunity to vote, for the first time, on the real substance of my amendment.

I appreciate the fact that in the procedure we were following here earlier today there may have been some Senators who were making a judgment on tactics rather than on the merits of my amendment.

Now, for the first time, we have an opportunity to vote this amendment up or down based on the total substance of the amendment rather than a single piece of it.

I think the Federal gas and oil corporation authorized by this amendment is desperately needed. It is needed to explore the Federal domain on which most of the gas and oil reserves of the country exist. It is needed to provide information on the extent of those reserves—both onshore and offshore.

Beyond that, we need an operating public corporation responsible only to the public in order to determine what cost factors amount to in the production of oil and gas.

We need, in short, a reliable, independent yardstick by which we can gage the performance of the private oil and gas industry.

As pointed out so many times, the precedent for this which most clearly suggests itself is the Tennessee Valley Authority. We also have precedents for this corporation in every other country having significant amounts of oil and gas. These nations have some kind of a government entity through which exploration and production can be carried out.

In no way should this amendment be seen as a threat to free enterprise. I believe it will strengthen our free, competitive system of oil and gas exploration and production in this Nation in the same manner the TVA has added to the vitality and strength of our free enterprise system in the production and marketing of electric power.

I hope when the time comes to vote on this amendment that the Senators will put aside the tactical considerations which have guided the votes heretofore and will ask themselves one question: Will this amendment be in the public interest?

I think it will be, and I urge passage of my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, let me say that the oil and gas industry is far more competitive than are many industries in the United States at the present time. There is not any one company that controls as much as 10 percent of the natural gas supply in the United States.

When we recognize that much of the exploration that is yet to be undertaken will be on Federal lands, we must understand that the Federal corporation would have a definite advantage over private industry in that it would have guaranteed access, as it does now under the law, to at least 10 percent of those Federal leases.

Given that, plus the fact that such a corporation would not pay taxes, would escape many of the problems that private industry has to face, it seems to me that this would not provide the yardstick that the Senator from South Dakota, my good friend, would hope it might offer to the American public.

There is ample evidence, as we compare the oil industry in the United States

with every other governmentally run operation around the rest of the world, that we far and away outstrip them in any part of the operation of the oil business to which we want to make a comparison.

Soviet Russia right now is admitting it lacks the expertise and incentive that has accounted for the fact that Americans have far and away cheaper oil and gas than does any other country in the world today.

I think that this amendment ought to be rejected. I think it is a first step to get the Federal Government in the business that should be restricted to private industry.

If we want to see how well a governmentally run and owned corporation goes, we do not have to go very far, just hop on a trans-Atlantic liner and go over and look at it in England.

I was there a few years ago and someone said as we flew into London at night that it looked for all the world as it did in World War II days when the lights were out.

England knows quite well how unsuccessful is the operation of this kind of an industry or, for that matter, any other industry, when it is run by government.

I hope this amendment will be rejected.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I want to make one observation concerning the Senator's remarks about England.

I am not here to defend England. That nation can speak for itself. This example is cited so many times that I think somebody ought to point out that the major industries in trouble in England are ones that got into that trouble when they were in private industry. The failure of industries to modernize their plants—one thing more notable in the coal industry—is one of the reasons why they were ready to surrender those bankrupt institutions to the government and let it attempt to salvage what it could. Those enterprises had been run into the ground by their management.

I am not suggesting with this amendment that the oil industry is poorly operated in the United States. I am not suggesting there is anything wrong with free enterprise.

I have repeatedly stressed here over the last 2 days that this amendment is not designed to nationalize the oil and gas industry in this country. That is why the corporation created by this amendment is limited to exploration on the Federal domain and is limited to 10 percent of the oil offerings of that domain. The other 90 percent, even though it is all owned by the American people, will remain available for private development and sale under the terms of my amendment.

Precisely the same arguments my good friend from Wyoming has leveled against this amendment were heard in Congress 40 years ago. At that time the Tennessee Valley Authority was proposed. Opponents suggested it would prove to be inefficient, that it could not possibly maintain the standards of privately operated utilities in the marketing of hydroelectric power. All those fears have been proven groundless. The Tennessee Valley Authority is efficient. It has been good for private enterprise. It has stimulated competition in the marketing of power and in general has given us a better power industry. The same thing will happen, in my judgment, with passage of this amendment.

Mr. GRAVEL. Mr. President, will the Senator from Wyoming yield me 3 or 4 minutes?

The PRESIDING OFFICER. The Senator from Wyoming has 2 minutes remaining.

Mr. HANSEN. I will try to yield time to the Senator.

Mr. President, if someone likes the Postal Service, he will love the proposed arrangement. It will work just as well as the Postal Service does.

Furthermore, I heard the chairman or the president of TVA, in Dallas, Tex., a few years ago say that unless these coal companies stopped jacking up the price of coal, the Tennessee Valley Authority was going to have to go into the mining business.

So let us not fool ourselves into thinking that this is a little, innocent operation, that we are not going to get into it more.

I recall well what the chairman or the President of TVA said down there. I suggested to him that before they go into the mining business, they take their board on a trip to England and see how well that operation works.

I yield to the Senator from Alaska whatever time I have remaining.

Mr. GRAVEL. Mr. President, I ask unanimous consent that I may have 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. What is the request?

Mr. GRAVEL. Just 3 minutes, to make some comments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRAVEL. I thank my colleagues.

Mr. President, I had occasion to discuss this amendment with the Senator from South Dakota. I understand his motivation, and I think it is proper in that regard. However, we do have two instances in the United States today where we have the Government operating what would be the equivalent of 10 percent of the leases—certainly in Alaska—and that would be Petroleum Reserve No. 4, which the Navy had. They are already in this. They have been in business for nigh on 10 years, and we have appropriated a large amount of money to them.

Why not have a study to examine what they have done? I assume it has been a mess, what little I can see, because it involves sole-source contracts, uncompetitive, bottle feeding by the Government.

I think my colleague might be surprised that we might seek Government operation and produce costs way up here, to which industry might rise, like an economic umbrella, and that would be disastrous, because we do have elements of competition in industry where we have Government move in and we lack competition. That may be good.

I would be prepared to vote for a million dollars for a special study, to take Elk Hills and to take Petroleum Reserve No. 4. We could get a comparison.

Prudhoe Bay has been developed, and a couple of hundred miles away the Government has been working for years, diddling around with Petroleum Reserve No. 4. We should get a cost analysis, see how efficient it is, get something, and come forward with this study.

I think the Senator would have the best argument or a dead argument—one of the two. I am prepared to put my money where my mouth is and vote for an authorization to do that.

I hope the Senator will change his amendment so that we can have a study of Elk Hills, comparing it with the old people on the west, right next door. There are a lot of places to compare it with in California, and there is a place in Alaska. Let the GAO, or whoever, come back and tell Congress who has been doing the best job; so that if industry has been doing a poor job in comparison, then we should turn the leases over to the Government and let the Government do it.

Mr. McGOVERN. I think the Senator has answered his question. If the Elk Hills reserve and petroleum reserve No. 4 are a mess, as the Senator says——

Mr. GRAVEL. That is my judgment. I could be wrong.

Mr. McGOVERN. If I accept the Senator's analysis, I do not want to use them as a yardstick by which to measure the performance of industry. He would certainly misunderstand me, if he believed I thought everything the Government does is universally good.

I agree with the Senator from Wyoming that the Postal Service is badly managed. I think one of the reasons is that we brought in castoffs from Continental Can—people Continental Can did not know what to do with—to run the Postal Service. They were misfits in private enterprise, and they are misfits in the Government.

If I thought we were going to staff the Federal gas and oil company with people private industry does not want——

Mr. GRAVEL. That is exactly what happened.

Mr. McGOVERN. It does not have to be that way, and this amendment is structured in such a way——

The PRESIDING OFFICER (Mr. DECONCINI). The time of the Senator has expired.

Mr. STEVENSON. Mr. President, someday the Nation will understand that a national oil and gas corporation is vital. Every other nation with oil and gas resources to develop and produce already has one. I support the creation of such a corporation to assure supplies of energy and that they are produced from the public domain, for the benefit of the public. But I must reluctantly vote against this amendment. I commend the Senator from South Dakota and welcome him as a strong

ally in an effort begun several years ago. But we have not had a chance to examine this amendment. And the bill to which he proposes the amendment is not, in my judgment, a suitable vehicle. The idea is sound. The particulars of his proposal may be. I do not know. But this is not the moment to act.

Mr. HANSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Mr. President, a quorum is not present in the Chamber.

Mr. STENNIS. Regular order, Mr. President.

Mr. ABOUREZK. Mr. President, a quorum is not present in the Chamber. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SCOTT. Mr. President, reserving the right to object, why is the distinguished Senator taking this action?

Mr. HANSEN. I will be happy to explain.

Mr. President, it is my purpose, if the quorum call is called off, to ask unanimous consent that my motion to table this amendment may be withdrawn and that we may have an up and down vote on the McGovern amendment.

Mr. SCOTT. Mr. President, further reserving the right to object, would that be without further discussion?

Mr. HANSEN. Yes.

Mr. SCOTT. Mr. President, I withdraw my reservation.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that my motion to table the McGovern amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. McGOVERN. Mr. President, what is the pending vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "Yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is necessarily absent.

The result was announced—yeas 22, nays 72, as follows:

[Rollcall Vote No. 398 Leg.]

YEAS—22

Abourezk	Jackson	Nelson
Anderson	Kennedy	Ribicoff
Byrd, Robert C.	Leahy	Riegle
Case	McGovern	Sarbanes
Cranston	McIntyre	Sparkman
Durkin	Metzenbaum	Williams
Hathaway	Moynihan	
Inouye	Muskie	

NAYS—72

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bayh	Goldwater	Pearson
Bellmon	Griffin	Pell
Bentsen	Hansen	Percy
Biden	Hart	Proxmire
Brooke	Haskell	Randolph
Bumpers	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
Cannon	Heinz	Schweiker
Chafee	Helms	Scott
Chiles	Hollings	Stafford
Church	Huddleston	Stennis
Clark	Javits	Stevens
Culver	Laxalt	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Eagleton	McClure	Young
Eastland	Melcher	Zorinsky
Ford	Metcalf	
	Morgan	

NOT VOTING—6

Bartlett	Humphrey	McClellan
Gravel	Johnston	Talmadge

So Mr. McGOVERN's amendment (No. 889), as modified, was rejected.

Mr. ROBERT C. BYRD addressed the Chair

The PRESIDING OFFICER. The question recurs on amendment No. 862 in the nature of a substitute.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXIII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Bentsen-Pearson substitute, No. 862, to S. 2104, to establish a comprehensive natural gas policy.

Robert C. Byrd, Henry M. Jackson, Daniel P. Moynihan, Warren G. Magnuson, Patrick J. Leahy, Wendell H. Ford, Alan Cranston, Claiborne Pell, Abraham Ribicoff, Charles McC. Mathias

Howard H. Baker, Jr., John Tower, Richard S. Schweiker, Paul Laxalt, S. I. Hayakawa, Daniel K. Inouye, Ted Stevens, Henry Bellmon, Harrison A. Williams, Dennis DeConcini

Mr. BUMPERS. Mr. President, will the Senator yield for a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. JACKSON addressed the Chair.

Mr. ROBERT C. BYRD. I yield for that purpose only.

Mr. BUMPERS. Mr. President, a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, in listening to the language of the cloture motion I wish to ask this question.

If a substitute to the Pearson-Bentsen amendment should be adopted by this body at any time subsequent to today would this cloture motion cover such substitute?

Mr. ROBERT C. BYRD. Yes. It will cover anything that is below the Pearson-Bentsen substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. For example, I am now yielding to the Senator from Washington (Mr. JACKSON). He will offer a perfecting amendment to the bill. If cloture is invoked on the Pearson-Bentsen substitute it will include the amendment that he is now offering. In other words, there has to be a vote on his amendment before we get to the Pearson-Bentsen amendment.

I yield to the Senator from Washington.

UP AMENDMENT NO. 845

Purpose: Perfecting amendment to S. 2104.

Mr. JACKSON. Mr. President, I send to the desk a perfecting amendment to S. 2104 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes unprinted amendment No. 845.

Mr. JACKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

UP AMENDMENT NO. 845

Beginning on page 4, line 9, strike all through page 19, line 18 and insert in lieu:

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(1) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2) (A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. (a) Within 30 days after the date of enactment of this Act and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price.

(b) Such Btu related price shall be computed by dividing—

(1) the upper tier price for domestic crude oil currently in effect and established pursuant to the provisions of Sec. 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. Sec. 757), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(c) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. Sec. 757), the Btu related price shall be computed by multiplying the current Btu related price then in effect by the inflation adjustment.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

DEREGULATION OF HIGH COST NATURAL GAS

SEC. 10. (a) Not later than 180 days after the date of enactment of this Act, the Secretary shall by rule exempt the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States, from the price ceiling that otherwise would be applicable to any first sale of new natural gas.

(b)(1) Any person who wishes to sell any high cost natural gas produced in the United States or synthetic gas manufactured in the United States shall file an application with the Secretary requesting certification that the property from which the gas will be produced qualifies for the exemption from the maximum lawful price that would otherwise be applicable.

(2) The Secretary shall review the certificate application and shall grant or deny the request within 180 days after it is completed. Should the application be deficient in any respect, the Secretary shall have the authority to request additional information from the applicant in order to make a final determination. The application shall not be deemed to be complete until all requests for information have been fulfilled.

(c) For purposes of this section the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine;

(4) from Devonian shale; or

(5) occluded gas produced from coal seams.

(d) The Secretary shall have the authority to further define the terms used in this section in a manner consistent with its purpose.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company, until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rules or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30 day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance, would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any

sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provision of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15(a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provision of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions; *Provided, however*, That any price for any first sale of natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions; *Provided, however*, That any price for any first sale or natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

Mr. JACKSON. Mr. President, I yield for a unanimous-consent request to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Joseph DeGenova, of my staff, be accorded the privilege of the floor during debate on this measure and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mr. NELSON. Mr. President, may we have order so we may hear the Senator?

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Washington.

Mr. JACKSON. Mr. President, after 25 years in the U.S. Senate, I have learned that at some of the most difficult times in the legislative process it is necessary to be pragmatic.

I have spent hours—even days—over the last few weeks talking with my colleagues about the natural gas price issue. They, like the American people, are troubled by this issue.

The memory of last winter's shortage is still fresh in all our minds. The freak winter weather prompted unprecedented curtailments of low priority users of natural gas. In some areas of the country the situation was so bad that factories and schools were closed, causing millions of dollars of damage and loss of hundreds of hours of production so that the most basic needs of people could be met. The prospects for this winter are equally bleak unless Mother Nature is more generous.

We all know that something must be done to improve the long-term supply picture. However, no Member of the Senate wants to cast a vote that will result in his being blamed for causing natural gas shortages. Nor does any Member want to cast a vote that will result in his being blamed for fueling the fires of inflation and the attendant unemployment that would result. It is a classic Catch-22 situation.

Though I would have preferred lower prices, I have supported the President's proposal to establish a comprehensive natural gas policy. But it is obvious to me that a clear majority of my colleagues do not support the President's proposal as presently written and pending before the Senate in S. 2104—even though that vote is very close.

Therefore, after much thought and reflection, I am submitting a compromise amendment which proposes some significant changes in the President's proposal.

The proposed amendment increases the price that will be allowed for new natural gas. The new price is tied to the upper tier price of domestic crude oil. The upper tier price of domestic crude oil will be $11.78 per barrel at the end of the year so the new gas price will start at $2.03 per thousand cubic feet. If inflation continues at 6 percent, the new gas price will be $3.24 for 1985. That is a very generous price. The average intrastate price that we have heard so much about was $1.86 last quarter. This proposal starts at a price above $1.86. It clearly would not roll back intrastate prices so that argument against the President's program can be laid to rest.

The new proposal also deregulates the price of high cost or exotic sources of natural gas. The definition of what constitutes high cost natural gas has been expanded to include gas from Devonian shale and gas from coal seams.

I believe that these two changes constitute very real concessions to those who believe that the President's proposal would not provide sufficient incentives for increased gas production. The new proposal will be expensive. If it were not for the extraordinary circumstances facing us today, I would not be willing to make these concessions.

It is obvious to me the natural gas pricing issue is about to disrupt the Senate's schedule and jeopardize the entire energy package.

Two years ago the Senate passed deregulation by a nine-vote margin. The only available alternative at that time was continued regulation at substantially lower prices than even the President proposed. We were talking then of prices capped at 40 to 60 cents per thousand cubic feet. Today we are talking in the $1.75 to $2.00 range. That is a huge difference. After weeks of deliberation, the House and Senate conferees were unable to resolve the differences between the Senate position and the House position in favor of low prices with a limited exemption for independent producers.

In my view, the prospects for a stalemate in conference would be even greater this year if the Senate passes deregulation in any form. The Speaker of the House of Representatives, Mr. O'NEILL, has made it very clear within the hour that we may not have any kind of a bill if we have deregulation. I believe that even the most casual observer of the dilemma before us will concur in my view that a compromise among parties with strongly held beliefs is the only realistic option available to us. I believe that my proposal is a reasonable compromise. I urge my colleagues to support it.

I ask unanimous consent to have printed in the RECORD at this point a summary of the amendment, and a table showing the new gas price trajectory.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JACKSON SUBSTITUTE AMENDMENT FOR S. 2104

I. The basic text is the Jackson Amendment No. 868 in the nature of a substitute for S. 2104.

A. No. 868 is substantially a technical revision of the President's proposal. It is explained in detail in the CONGRESSIONAL RECORD, Friday, September 16, 1977 on Page 15099.

B. Substantive changes included in No. 868 make it compatible with the new Department of Energy structure, improve the incremental pricing provision, authorize the use of intrastate pipelines for transportation of interstate gas if deemed necessary to do so by the FERC, and deletion of the proposal to put synthetic natural gas plants under the jurisdiction of the FERC.

II. Changes included in the substitute.

A. The new gas price is tied to the upper tier price for crude oil.

The new natural gas price in Amendment No. 868 was derived by dividing the average refiner acquisition cost of domestic crude oil (excluding Alaska crude, excluding entitlements, and excluding the proposed crude oil equalization tax) by 5.8. That new price was projected to be $1.77/mcf in 1978, increasing to $2.11/mcf in 1985 (constant dollars) or $3.23/mcf (current dollars).

The new substitute ties the new gas price to the upper tier crude oil price. That price is projected to be $11.78 per barrel at the end of this year resulting in a gas price of $2.03/mcf instead of $1.77/mcf. If we assume inflation will be 6% annually, the upper tier crude oil price is projected to be $18.78 per barrel in 1985. The new natural gas price would therefore be $3.24/mcf (current dollars).

By starting higher, the substitute exceeds the current instrastate market's average price for new gas, thus eliminating the rollback of intrastate prices. The new gas price would then increase at the rate of inflation. This escalation rate avoids the incentive to withhold supplies that would result from escalating the new gas price faster than 5–8% per year.

B. High cost or exotic gas prices are deregulated. Amendment No. 868 gave the Secretary of Energy authority to establish special prices for high cost natural gas or synthetic gas manufactured in the United States. The new proposal would deregulate those prices altogether and add Devonian shale and gas produced from coal seams.

This change would not have a significant economic effect in the near term, but it will provide the maximum possible economic incentive to produce gas from exotic sources in future years. Even the most optimistic projections of future supplies of natural gas from traditional sources show declining production from those sources over time. Our long-term supply picture is wholly dependent upon successful production from areas that now present extraordinary risks and require substantial capital investments. These sources include gas produced from deeply submerged offshore acreage, very deep wells onshore, and geopressurized brine.

Current Btu related price trajectories

[Current dollars—Assumes 6 percent inflation]

Amendment No. 868:		Substitute
1977	$1.77	$2.03
1978	1.86	2.15
1979	2.02	2.22
1980	2.20	2.42
1981	2.39	2.56
1982	2.58	2.72
1983	2.78	2.88
1984	3.01	3.05
1985	3.23	3.24

JACKSON SUBSTITUTE AMENDMENT FOR S. 2104, NATURAL GAS POLICY ACT

SECTION-BY-SECTION SUMMARY

(This section-by-section summary summarizes the provisions of the Jackson Amendment in the nature of a substitute for the Natural Gas Policy Act.)

Sec. 1. The Act is titled the Natural Gas Policy Act.

Sec. 2. Findings and Purposes.

The Congress finds that the history of natural gas development and regulation have led to the need for a new system of natural gas pricing to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

The purposes of the Act are to balance natural gas supply and demand, to provide fair and equitable revenues to producers, to protect consumers, to deal with short-term natural gas shortage through extension of the allocation provisions of the Emergency Natural Gas Act of 1977, and to provide for natural gas conservation through the price policy mechanism.

Sec. 3. Definitions.

(b) Commission—Federal Energy Regulatory Commission.

(d) Current Btu related price—the most recently published Btu related price calculated pursuant to sec. 4.

(e) Existing contract—any natural gas sale contract entered into on or before April 20, 1977.

(j) New contract—any natural gas sale contract entered into after April 20, 1977 for the sale of natural gas that was not previously subject to contract.

(l) New natural gas—natural gas (1) produced from a new lease on the Outer Continental Shelf; or (2) produced (A) from a new well in a new reservoir which is 2.5 miles or more from any old well or (B) from a new well in a new reservoir which is 1,000 or more feet deeper than any old well which is within 2.5 miles.

(t) Rollover contract—any natural gas sale contract entered into after April 20, 1977, for the sale for natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by that contract.

Sec. 4. Calculation of the Current Btu Related Price.

This section requires the Commission to calculate and publish monthly the current Btu related price. It is to be computed by dividing the average per barrel domestic refiner cost of acquiring crude oil for the most recent calendar quarter (exclusive of entitlement obligation or crude oil equalization tax) by a conversion factor of 5.8.

Sec. 5. Sales of New Natural Gas.

This section limits the maximum lawful price for new natural gas sales to the cur-

rent Btu related price at the time of delivery.

Sec. 6. Sales of Old Natural Gas Under Existing Contracts.

This section limits the maximum lawful price for old natural gas sold under an existing contract. The limit is the product of multiplying (a) the inflation adjustment by (b) the lesser of (1) the FPC's currently applicable price ceiling; or (2) the greater of (A) $0.18 per million Btu's or (B) the contract price.

Sec. 7. Sales of Old Natural Gas From New Wells Under New Contracts.

This section limits the maximum lawful price for old natural gas sold under a new contract to $1.45 per million Btu's times the inflation adjustment.

Sec. 8. Sales of Old Natural Gas Under Rollover Contracts.

This section requires the Commission to prescribe the maximum lawful price for old natural gas sold under a rollover contract. The limit is to be set as follows:

(a) For old natural gas previously committed or dedicated to interstate commerce—May exceed the previous contract price solely to the extent that a higher price is necessary to permit the recovery of increased costs in order to maintain production. In no event may the price exceed $1.45 per million Btu's times the inflation adjustment.

(b) For old natural gas not previously committed or dedicated to interstate commerce—May exceed the previous contract price solely to the extent that a higher price is necessary to permit the recovery of increased costs in order to maintain production. In no event may the price exceed

(1) The inflation adjustment times $1.45 per million Btu's if the contract price was less than or equal to $1.45 per million Btu's; or

(2) The current Btu related price if the contract price was greater than $1.45 per million Btu's.

The date of reference for determining the contract price in each instance is April 20, 1977.

Sec. 9. Effective Dates of Rules With Respect to Maximum Lawful Prices.

The Commission is directed to proscribe rules for Sec. 8 within 60 days after the date of enactment.

Sec. 10. Special Pricing Provisions.

The Commission is authorized to prescribe a maximum lawful special price for the sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. High cost natural gas is defined as that produced from submerged acreage located beneath more than 500 feet of water; from a completion location more than 15,000 feet below the surface location of the well; from geopressurized brine; or under such other conditions as present extraordinary risks or costs.

Sec. 11. Incremental Pricing of Natural Gas.

The Commission is directed to implement a rule within 180 days after the date of enactment to provide for incremental pricing of natural gas. The rule shall provide for allocation to the low priority users of any pipeline company (who thus must pay the increased cost of that gas) that gas whose average cost exceeds the average cost for the year prior to enactment. The allocation will continue until the rates or charges applicable to those low priority users equal their reasonable cost of substitute fuels. Local distribution companies who receive gas for resale to low priority users are to follow the same allocation scheme.

Low priority users are defined as any users other than high priority users. High priority users are defined as any person who uses natural gas in a residence, or who uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day. The section provides a 60 day period for Congressional review of the incremental pricing rule before it can be put into effect.

Sec. 12. Administrative Procedure, Enforcement, and Judicial Review.

This section requires publication of rules of general applicability in the Federal Register; provides for standard periods for comment and public hearings; provides for aggrieved persons to seek redress first from the Commission, then from the United States Court of Appeals for the District of Columbia; makes violations of the Act or rules prescribed pursuant to the Act unlawful; establishes civil penalties and criminal penalties for willful violation; gives the Commission subpoena power and authority to secure information from other Federal agencies unless the disclosure of the information is expressly prohibited by law; gives United States district courts authority to issue orders requiring compliance with subpoenas and Commission orders; gives the Commission authority to issue rules and to further define terms used in the Act.

Sec. 13. Intrastate Contracts and Transactions.

This section prohibits the use of prices determined under the Act for purposes of contract redetermination, renegotiations, or termination clauses. It also voids contract provisions prohibiting commingling of contract gas with gas subject to Natural Gas Act jurisdiction (therefore allowing gas previously sold in intrastate commerce to be moved to the interstate market).

Comment: This subsection will also facilitate use of existing intrastate pipelines for transportation of gas in the interstate market as existing boiler fuel and other industrial uses of natural gas are phased out. It will also enable use of existing intrastate pipelines for delivery of natural gas from Mexico to the interstate market. The decision to allow use of an interstate pipeline for such purposes will be made by the Commission on a case-by-case basis.

Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.

This section makes it clear that nothing in sections 5, 6, 7, 8, or 10 shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

Sec. 15. Jurisdiction of the Commission Under the Natural Gas Act.

This section amends the Natural Gas Act. It makes it clear that the Natural Gas Act will not apply to sales of natural gas to which the provisions of section 5, 7, 8, or 10 of this Act apply.

Sec. 16. Conforming Amendments to the Natural Gas Act.

This section includes technical amendments to the Natural Gas Act. It specifies that any price for any first sale of natural gas, to which the provisions of this Act apply, shall be deemed just and reasonable for purposes of the Natural Gas Act.

Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

This section extends the inter-pipeline allocation authority (Sec. 4) of the Emergency Natural Gas Act of 1977 to April 30, 1979 (a two year extension). It also expands that authority to include allocations from and to intrastate pipelines.

Mr. HANSEN. Mr. President, has the Senator from Washington completed his statement?

Mr. JACKSON. I have completed my statement.

Mr. HANSEN. Mr. President, first let me express my appreciation to the distinguished chairman and my good friend the Senator from Washington for his efforts to bring about a resolution of the problem that faces the Senate. I have listened closely and carefully to what he has said, and though I have not had time to study his proposal, as certainly I shall be doing, I wish to ask him if the figures I have here are in error.

In Senator JACKSON's prepared statement he says:

> The average intrastate price that we have heard so much about was $1.86 last quarter. This proposal starts at a price above $1.86. It clearly would not roll back intrastate prices so that argument against the President's program can be laid to rest.

That is from Senator JACKSON's press release, and I think that was the statement from which he read.

I have in my hand a Federal Power Commission news release dated August 25, 1977, No. 23–359. On page 4 of that Federal Power Commission news release, I see a summary for the months of April to June, by month, of new contracts that have been entered into in the intrastate market; and according to the information I have, the percentage of new volume for new contracts wherein 1,000 cubic feet sold for between $2.01 and $2.50 indicates 30.1 percent of that total volume was within that price bracket.

I note further, on the same page of the report of the Federal Power Commission, for renegotiated or amended contracts, the volume sold between $2.01 a thousand and—Mr. President, may we have order?

The PRESIDING OFFICER. The Senwill come to order. Senators will please retire to their seats and refrain from discussion on the floor.

The Senator from Wyoming may proceed.

Mr. HANSEN. On renegotiated or amended contracts, the volume of gas sold in a price range between $2.01 a thousand and $2.50 a thousand indicated that 63.8 percent of the total volume in these renegotiated or amended contracts went for those prices.

So my question to my good friend from Washington is: Are the figures of the Federal Power Commission correct, or is his statement correct, when he says:

> It clearly would not roll back intrastate prices so that argument against the President's program can be laid to rest.

Mr. JACKSON. I will say to my good friend, and I appreciate his kind comments, that the figures that I recited were average prices.

Mr. HANSEN. That is right.

Mr. JACKSON. At $1.86 for the intrastate price situation. I think the prices the Senator was referring to were not average prices for the total sales. You know, we had spot prices last winter that hit $2.39, it runs in my mind, some places. It got up to $2.70.

Mr. HANSEN. Yes. My point is, and I think it is an important point, it is my contention and the contention of the Pearson-Bentsen amendment that while the amount of new reserves that have been added to the intrastate gas supply for the last 5 years as compared to the 5 years immediately preceding the last 5 indicates an increase of 60 percent, I contend and submit that increase has come about because the intrastate gas price far exceeded the interstate price;

and while we can talk about averages, and averages are important and I do not mean to depreciate their importance, the point is that when you talk about an average price, if you contend the average price, let us say, would be one that would just be a break-even price, those persons, the 50 percent who are above average would be hurt, if you brought all the prices down to the average.

Those whose sales were below average and, as a consequence of the imposition of an average list, would experience a price increase, would like that. But my contention is and I submit that, when we talk about putting a lid on, as I understand Senator JACKSON's proposal to imply, 63.8 percent of all of the renegotiated or amended contracts have been above that average. They have been between $2.01 and $2.50. That is not going to be any bonanza for them; it is going to mean a price rollback.

As I pointed out earlier, on the new contracts—those contracts that were signed when new gas was discovered and when the gas producer went into the marketplace and found out who was willing to buy that gas—we find that over 30 percent of the new contracts written in the intrastate market exceeded the figure that Senator JACKSON is talking about. So I do not think it is accurate to say that there would not be any price rollbacks. There would be very significant price rollbacks.

Furthermore, the point is that because of the better prices offered in the intrastate market, we have seen this surge of drilling activity that has brought into being a 60-percent increasc in either production or reserves—and I have to check my figures on that—in the last 5 years as compared to the 5 years earlier.

That makes me say to Senators, let us study very carefully, as I am certain Senator JACKSON would admonish us also to do, the proposal he has before us so as to make certain that the amendment he offers does not, indeed, add disincentive to those very market forces that have resulted in the greatest surge in drilling activity we have seen in the last 5 years insofar as the search for natural gas goes.

I wonder if Senator JACKSON would care to comment on what I have just said.

Mr. JACKSON. I say to my friend, we can play with these numbers many different ways. I gave the average price for the first quarter of this year, the average price of intrastate gas. I think those figures stand up. The staff has checked them out carefully.

One of the big arguments that has been made, of course, is that where you have total decontrol, you get more reserves. For example, when you look at the intrastate reserves, they had 121.4 trillion in reserves in 1975. In 1976, it went down to 117.7 trillion. As a matter of fact, that is not any better than it was, just slightly better than it was in 1970, when the reserves were 117.1 trillion. So the argument can be properly made that, at a certain point, price was not a factor in the improvement in reserves.

The figures that I gave to the Senate, I think, are accurate figures, basically that the average price in the first quarter of this year for intrastate gas was $1.86. That is the average price. Those are the figures that they gave us and I think they are pretty clear.

Mr. HANSEN. Mr. President, I do not argue at all with my good friend from Washington (Mr. JACKSON) about the average price. I am interested, as well, in his calling attention to the fact that natural gas reserves have declined. Indeed, they have declined. We have been predicting that, with continued governmental control over gas prices, they would keep on declining.

Mr. JACKSON. But I say to my friend, the point is that in intrastate, there are no controls and they have declined.

Mr. HANSEN. No, that is not right.

Mr. JACKSON. Maybe Texas controls or Louisiana controls.

Mr. HANSEN. No, I entered in the RECORD a couple of days ago some breakdowns on those figures. Intrastate reserves have increased. They have gone up about 60 percent, as I recall the figures. Overall, as Senator JACKSON points out, we have not done as well this year as I think he said we had done the year before. That is precisely why we are trying to get the Congress of the United States to decontrol natural gas, as has been called for and would be effected by the Pearson-Bentsen bill. Where there have been no controls, no price controls, there has been a surge in drilling activity, there have been increases. I hope to have those figures very shortly, showing exactly how the intrastate market has responded.

Overall, there has not been a favorable response for the entire United States—the interstate market. That is why we are concerned. But let me call attention to what the situation is. There has also been an absolute supply response to higher prices in the intrastate market. For the 5 years from 1966 through 1971, average annual new supplies in the intrastate markets were 4.9 trillion cubic feet. For the 5 years from 1971 through 1975, the average new supply discovered and developed in the intrastate markets was 7.8 trillion cubic feet per year, or a nearly 60-percent increase in new supplies.

That is the very point I am making. That is the very point that Senators BENTSEN and PEARSON have been making. We have not had price controls on this part of the market.

That statement is simply a summary of the detailed breakdown, year by year, that appears on page 21 of the Natural Gas Supply Committee's report for September 1977.

It is not good enough to talk about what the average prices are, because we lump together the experience that we have had in the marketplace in the intrastate market, on the one hand, with what goes on in the interstate market on the other. To assume that, if you have your head in the refrigerator and your feet in the oven, on the average, you are fairly comfortable, belies the fact that neither end of you feels any too good.

That is why we are here. We can talk about averages and those persons whose costs are below average are going to like it. But the other 50 percent who have entered into contracts, and I have just cited what the figures are here, who have sold gas above that average price are not going to like it. If anyone thinks that we are going to encourage the kind of drilling activity that America needs today on that premise, all they have to do is look at any other part of the market.

I said yesterday, Mr. President, that Government cannot do very much about supply. It can do one thing about it. We have demonstrated, time after time, not only in this country but throughout the world, throughout history, that Government can guarantee shortages. All it has to do to guarantee shortages is put on price controls or put on other restrictions and it can guarantee that there will be a shortage. We have done that, time after time.

We did do something, back in World War II days, to guarantee greater production. Do you know what we did? When we thought there might not be enough wheat to supply the needs of those nations around the world, our allies, who were fighting the war, the Government of the United States put a guaranteed price on wheat.

The farmers of this country had little or no help. Gasoline was high priced, it was hard to get tires, they could not buy new machinery. But the farmers of America, assured that they were guaranteed a profit—this is one of the few times we have done it, but they were assured that they were guaranteed a profit—plowed and planted and harvested wheat like we had never done before. The outpouring of America's farms truly was the marvel of that whole war effort insofar as agriculture goes.

We are not talking about doing that here, we are talking about an average price. I say again, without having had an opportunity to look at the details of Senator JACKSON's plan, let us not delude ourselves that the average price about which he speaks will cause everybody to become more interested in putting money into a drilling effort, because I am afraid that precisely is the opposite of what it will do.

Mr. SCHMITT. Will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. SCHMITT. Mr. President, I think the Senator's remarks are extremely well taken and I hope will be heard and understood by all the Members of this body.

Average pricing of any commodity is foolish as we move toward a deregulated price of new natural gas. As the price increases, it brings on increasingly higher cost gas which, basically and simply, increases supply.

I just very briefly wanted to be sure that the Senator knew I agreed with his remarks, and I commend him for making them.

Mr. HANSEN. Mr. President, I thank my good friend from New Mexico, our in-house geologist, a person of whom I am particularly proud because he has a great background in geology.

He knows perhaps better than most anyone in this Senate of whom I am aware, what the facts are about the po-

tential for gas and oil development throughout the country.

I must consider his kind comments as very high praise, and I thank him.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS

Mr. MOYNIHAN. Mr. President, I rise to make a statement on a situation of great concern to the city of New York, the people of my State, and possibly to the Nation.

Mr. President, I rise in pain and disillusion to address this distinguished body on the debasement of the principle of civil rights at the hands of the Federal bureaucracy. I should like to preface my remarks with a quotation from the front page of this morning's New York Times.

As 3,500 laid-off New York City schoolteachers were rehired in recent weeks, they dipped into boxes and pulled out their school assignments. Black and Hispanic teachers chose from one box, white teachers from another.

For the first time in the history of the city school system, teachers were officially assigned on the basis of race. Those from minority groups were sent to districts where the proportion of blacks and Hispanics on the teaching staff was less than 10 percent, and white teachers were sent to districts where the proportion of minority teachers was more than 20 percent.

The procedure was set up in an effort to comply with an order from the Federal Office of Civil Rights to equalize the number of minority teachers in the city's 32 school districts and, ultimately, in each of the city's nearly 1,000 schools. . . .

In the name of "civil rights", Mr. President, the Office for Civil Rights of DHEW is mandating practices which would have shocked and appalled us a decade ago, practices which mindlessly violate the most fundamental principles of this Nation as set down in the Constitution.

In the name of "equality," Mr. President, the Federal bureaucracy has required the largest public school system in the Nation to classify its teachers by race, to assign them to schools according to their race, and to be subjected to separate administrative procedures according to their race.

Mankind is all too familiar with such practices. They are commonplace in southern Africa today. They were commonplace in much of Europe between 1935 and 1945. And they were commonplace in large portions of the United States prior to 1964. It is more than ironic that they are being visited upon us again today. It is ominous. For this time their source is the National Government and in particular that portion of it entrusted with the defense of civil rights.

We have been here before. I for one have been here before. In 1965, at a time of all but careless rapture over our national progress in the field of civil rights, at a time when many believed we were finally on the verge of achieving a genuinely color blind society, I put to President Johnson the proposition that black Americans would seek to move beyond equality of opportunity to equality of attainment. I explained that this was a natural and unsurprising development, entirely consistent with the historic pattern of other groups striving for full membership in American society. I suggested in the strongest terms that the National Government should undertake to support and sustain black Americans in this quest, as it had succored and encouraged so many other groups in decades past.

It fell to me to turn these ideas into President Johnson's epic commencement address at Howard University on June 4, 1965, which in the last years of his life he described as the finest civil rights speech he ever made. Entitled "To Fulfill These Rights," it forthrightly stated that:

Freedom is not enough. You do not wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please.

You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, 'you are free to compete with all the others', and still justly believe that you have been completely fair.

Thus it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates.

This is the next and the more profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result.

President Johnson's words echoed the noble theme of the American civil rights movement, as stated most clearly and eloquently by Dr. Martin Luther King: the vision of a society where people would be judged not by the color of their skins but by the content of their characters. Every American would share equally with all other Americans the rights of unqualified citizenship and the benefits of unlimited opportunity.

Mr. President, in the 12 years that have passed since that day, the Federal bureaucracy has brought moral carnage to the civil rights movement in the United States. The events in New York City this month are but the latest and clearest evidence of this.

I attended the public schools of East Harlem and I know them well. Better, I submit, than do the bureaucrats in HEW who now seek to make them over. If the Office for Civil Rights does not know it, Mr. President, I know what it means in the public schools of New York City to order black and Hispanic teachers to stand in one line and "others" in a second line. I know that the others will be Italians, Polish, Irish, and other Catholics, Anglo-Saxons, Scandinavians and other Protestants and particularly—given the demography of New York City—Jews.

Overwhelmingly they are persons whose parents fled persecution elsewhere in the world and came to the United States in search of a society where one's race or religion or parentage did not "categorize" one in the eyes of the Government. For the Jews, the memories are especially vivid. They know only too well what it means to be told to stand in one line, while others stand in a separate queue. I know, and other Members of the Senate know, that such practices evoke one image in our lifetimes above all others: the sorting out of human beings for the death camps of Hitler's Germany. The executive branch may not remember, Mr. President, but we remember.

A better prescription for division and hostility among Americans could not be devised, yet this is precisely what HEW appears to have in mind. And all this is done in the name of assistance to blacks, when it is in fact likely to deliver a mortal blow to the fight for equality. Nothing could more surely impede that struggle, or damage the cause of brotherhood among men, than the establishment by the Government of strict and lasting legal divisions among the races. It took two centuries to eliminate such laws in the South, and it is simply incredible that HEW is now intent on establishing them throughout the land. How much perception does it require, how much knowledge of American history, to see that practices which separate us one from another according to our ancestries are inescapably the source of strife and tragedy.

The events in New York City this autumn purport to carry out a "memorandum of understanding" between HEW's Office for Civil Rights and the New York Board of Education. It was an agreement reached through coercion and signed under duress. If the board of education and the teachers' federation had refused, the Federal Government would have cut off tens of millions of dollars of desperately needed aid to the school system, aid that the fiscally beleaguered city and its schools simply could not afford to sacrifice. It was an agreement that, if reached in the private sector, would never survive the scrutiny of Federal courts, or of public opinion.

In the name of moral sanity, I call upon President Carter to void this wretched contract. Although his signature is not affixed to the piece of paper, the man whose signature does appear there acted in his name. I say to him: Mr. President, you who stood so bravely and acted so boldly to obliterate the vestiges of racial discrimination and the practice of racial classification from your own State, are you prepared to have persons acting in your name now export such practices to my State? Can it be that your administration wants to tell black and Hispanic Americans to line up in one queue, Jewish Americans to line up in another? If this is the policy of your administration, Mr. President, you should so state. For it is now the practice.

In a brilliant column published on Independence Day, 1977, Meg Greenfield wrote in Newsweek of the "Nuremberg-like analysis" to which we are now subjecting individual citizens, and of the official sanction the National Government is now giving to Nuremberg-like practices in the name—incredibly—of civil rights and freedoms. Her words bear our close scrutiny, and I will submit her column for the RECORD.

Albert Shanker of the United Federation of Teachers knows better than most what the Federal Government has wrought in New York City this fall. In the New York Times of September 11, he wrote eloquently and passionately of the moral carnage that has beset the schools of that city in the aftermath of this despicable "agreement." He terms it a "nightmarish experience," and suggests that "there is reasonable doubt" as to whether the Office for Civil Rights "is fighting for civil rights or trampling on them." I would state it more strongly, Mr. President: it is explicitly clear that the Office for Civil Rights is abrogating civil rights. I will submit Mr. Shanker's column for the RECORD also.

I ask the Office for Civil Rights and its superiors in the Carter administration to be on notice: Congress has not enacted Nuremberg laws, and the executive branch had better think again before enforcing them.

Mr. President, I ask unanimous consent to have printed in the RECORD the articles to which I have referred.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, July 4, 1977]

TEACHING KIDS THE NEW DISCRIMINATION

(By Meg Greenfield)

Out of the mouths of babes come depth charges. It took about a week for a remark my 9-year-old niece made recently to sink into my consciousness . . . and then explode. I was visiting her family out West and, as we drove along one day, making the inevitable visiting-auntie inquiries about the children's schooling. At some point the subject of a popular special art class at a nearby school came up—either Robin or her 7-year-old brother, Adam, mentioned it—and she explained to me in the most matter-of-fact, rancorless way that they couldn't enroll because they were white. But Robin did have a piece of happy information for the group: the children's good friend and neighbor Bobby had just been accepted.

"But he's not black," a puzzled Adam observed.

She *knew* it, Robin said, in that voice in which all 9-year-old girls address their younger brothers. But Bobby *was* "part minority." Oh? Yes. "He can go," she explained "because he's half-Indian."

We all rejoiced at Bobby's good fortune and drifted on to some other topic.

He can go because he's half-Indian—the implication of the children's casual backseat racial chatter didn't strike me until I was back in Washington, listening once more to another kind of racial chatter: the tedious, specious, strained and generally irrelevant nonsense that the guardians of our public well-being have been speaking on the subject lately. U.N. Ambassador Andrew Young was redefining his notion of a racist, when I returned, to include just about everything that moves. On the so-called "reverse discrimination" front, Secretary Califano was caught up in a continuing controversy with the civil-rights establishment and others over what is a "quota" and what is a "goal" and how many goals can dance on the head of a quota.

BLOODLINES

But these were arguments for debating clubs. They seemed to me to have next to nothing to do with the weird and alarming side effect of our drive to achieve racial fairness—of which I had got such a chilling glimpse in the car that day.

That side effect is a preoccupation with bloodlines and race and an acceptance of the idea that these are proper standards for deciding who will be treated how by the state. My informal researches among my friends indicate that the kids in my family are far from unique.

Evidently in many parts of the country where desegregation efforts are under way, the young are now able to discuss the various blessings and penalties that flow from a school chum's racial make-up more or less in the manner of twelfth-century bishops discussing "consanguinity"—which royal cousin might marry which noble half brother without becoming an abomination in the eyes of the church. The school district in which my niece and nephew live in fact provides elaborate listings of different racial *fractions* and *mixtures* which qualify some children for certain programs and disqualify others from taking advantage of them. This too, as I understand it, is now fairly widespread practice.

REDEMPTIVE EFFORTS

Before you say it, I will: but these are benign, positive, downright redemptive efforts to eliminate the effect of years of discrimination against blacks and other racial and ethnic groups. In principle, you are right. As an example, it is worth noting that the purpose of the conditions governing what my own niece and nephew may do is to draw children of different races and backgrounds together. I will concede that I find this an unexceptionable aim. I think it is important, and I devoutly hope it works.

Nor do I think we have to be pure to the point of finickiness in trying not to deal in racial classifications as we work to overcome the injuries that earlier, malign racial classifications brought about. From the moment the cataclysmic civil-rights legislation of the middle 1960s was enacted, it was obvious that we were going to have to let the authorities traffic a bit in race in order to put an end to racially discriminatory practices. If you couldn't count who was in a school by race, you couldn't judge whether that school had desegregated in anything but theory. So there had to be some racial guidelines and bench marks and standards and the rest; informal methods of measuring whether any progress was in fact taking place. And in my judgment, the nation didn't lose anything by somewhat relaxing the rigid posture that had prevented people from realistically taking stock of what was going on within our institutions—and which had raised "color blindness" to the status of an absolute virtue, even when it had been used as a cover for perpetrating racial injustice.

I will make one more concession. It is that, at least in relation to those two children who are special to me, I am not particularly worried by the prospect of the pie's being sliced up in a different way. They will make it all right, reverse discrimination or no; and, stuffy old martinet of an aunt that I am, I calculate that a little challenge and disappointment along the way will only help them. I wouldn't promote that as a social theory applicable to all, since I expect that on a sustained and widespread basis reverse discrimination could lead to some pretty explosive political conditions. But I would say that so far as the children are concerned, who gets what is not the real issue.

The real issue is what we are doing to the values and perspectives of small children throughout the country. By our brazen, clinical insistence on a Nuremberg-like analysis of each child's racial and ethnic background—is he half this or only a quarter that?—we are giving the young to believe that these distinctions are the proper stuff of official decisions. We are distorting their understanding of the system in which we live—and we are doing so in a very fundamental, antidemocratic way.

EXPLAINING CIVIL RIGHTS

My niece and nephew haven't been around very long. They aren't 42 or 85 or 104 like the rest of us. They are post-civil-rights-revolution children who may one day fully understand the meaning of Selma, Ala., and Philadelphia, Miss., and the other bloody battlefields of the movement. But I think it is going to be harder than some people expect to explain to them precisely and profoundly what those battles were all about. And that is because they simply assume—how could they not?—that it is acceptable for the folks who run things to send one person here and another there strictly because of the color of his skin. They think the half-Indianness of their friend down the street is good and sufficient reason for the authorities to decree that he be treated differently.

Is all that so benign? Is it self-evidently something we should accept as the social price of righting old racial wrongs? Should we not be taking stock of how far we have wandered into a morass of new discriminations, which we are teaching the children of this country to view as the normal democratic landscape? I wish the big hitters of our racial politics would get off the platitudes and talk about that.

[From the New York Times, Sept. 11, 1977]

NIGHTMARISH NEGOTIATIONS WITH GOVERNMENT: HEW THREATENS TO MAKE CHILDREN PAY

(By Albert Shanker)

In recent weeks, the New York City public schools had a nightmarish experience with the Office for Civil Rights of the U.S. Department of Health, Education & Welfare—and it couldn't have happened at a worse time. The last two years were rough ones for our schools. Thousands lost their jobs. Class sizes were enlarged. Many services were taken away. The number of hours students spent getting instruction was reduced. Everyone was looking forward to the opening of school this September. Three thousand to 4,000 teachers were to be rehired, and many services were to be restored, along with the full school day. But the Office for Civil Rights came to New York and accused the schools of practicing discrimination. Unless corrective action was taken, federal funds would be cut off before school opened.

What were these charges about? First, OCR charged that minority group teachers were concentrated in schools which have mainly minority group students and, therefore, that such teachers were segregated within the school system. There is no question that this is true, but how did it come about? Was it a deliberate policy of the Board of Education? The de facto segregation of minority teachers is a direct result of the philosophy of community control and the decentralization of the school system. One of the very reasons the schools were decentralized was to allow predominantly minority school districts to employ large numbers of minority teachers. Not long ago both the federal government and private foundations peddled the idea that identification of students with their teachers was the key to improving pupil achievement among minority youth. Black children should have black teachers, they said.

Those who—like the United Federation of Teachers—opposed these ideas because they would lead to segregation were called all kinds of names and accused of being unsympathetic to minorities. Now, a decade later, OCR comes to New York and demands that the community school districts which

hired minority teachers push these teachers out of their districts so that all the city schools can have the same percentage of minority teachers. If this is not done quickly, the schools will lose millions of needed dollars. So the schools are to be punished unless they undo what the government encouraged them to do in the first place!

A second major charge was that by using an examination—a written test—and requiring teachers to demonstrate a minimum level of competency, the schools were discriminating. The charge was based on the fact that a larger percentage of minority applicants fail the examination than do "white" applicants, and there is no demonstrated proof that those who pass will be able to teach successfully while those who fail will not. Of course, in education it is hard to establish scientific proof for almost anything, but does that mean that we should stop using common sense? Shouldn't we find out if a prospective teacher knows the subject he or she is to teach? Is it wrong to give tests that weed out prospective teachers who are illiterate? Is it unreasonable—even though no one can prove its relationship to successful teaching—to demand of a prospective teacher who has been to college for four years the level of competency of the average high school junior in the country?

The New York City Board of Education was forced to negotiate with a gun at its head. Sure, the Board could have demanded an appeal of the OCR decisions through various governmental procedures. And, in the final analysis, the Board could have sued for the funds and gone all the way to the Supreme Court. But apparently the U.S. government is operating with a strange sense of due process—one which would have deprived New York City of millions of needed educational dollars while the appeals were taking place.

In other words, the Board of Education had to agree to do things it believed wrong, or the children of this city would suffer the consequences. It was forced to agree that: (1) by September 1979, the percentage of minority teachers in each district will reflect the "racial-ethnic composition of the system's teacher corps as a whole" within a range of five percent; (2) by September 1980, each school in the system will reflect the racial-ethnic composition of the teachers corps within the same range; (3) by September 1980, the percentage of minority teachers will approximately reflect the racial-ethnic composition of the "relevant qualified labor pool." The purpose of these changes is clearly to establish quotas, although the word is not used.

In addition, the Board and the UFT agreed to seek legislation which would mean that future teachers with higher scores on the teacher examinations would no longer necessarily get job appointments before those who scored much lower. And those who applied for, took and passed a test earlier would not necessarily be selected before those who passed much later. (Even the practice of giving any exams in the future is still under some cloud.)

There can be no doubt that the reason there are fewer minority teachers, doctors, lawyers and other professionals in our city and nation is because of poverty and discriminatory practices, a long, ugly past. Special help should be given to undo the damage. But lowering standards is not the right way. Nor is the imposition of quotas, which merely shifts the unconstitutional discrimination from an individual who is a member of one group to an individual who is a member of another. Nor is it right to force local school districts to do things the way OCR wants them done by taking millions of dollars from children *before* the school district has had its day in court.

We need government agencies to make sure there is an end to discrimination, but there is reasonable doubt as to whether OCR is fighting for civil rights or trampling on them. It's time for the Administration and the Congress to look into the procedures and practices of such agencies and provide protection against the abuse of their power.

Mr. MOYNIHAN. I thank the Chair.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

UP AMENDMENT NO. 846

Mr. ALLEN. Mr. President, I send an amendment to the Jackson amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 846 to the Jackson amendment No. 845.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted after the words "Sec. 3" on page 1, line 1, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

" (2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided*, That such natural gas was not sold or delivered in intrastate commerce for the first time prior to January 1, 1977: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for life of the reservoir from which it is produced if less than 15 years: *Provided, further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market, or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas: *Provided*, That old natural gas sold or delivered in instrastate commerce for the first time prior to January 1, 1977 shall, if sold or delivered in interstate commerce for the first time after January 1, 1977, be deemed by the Commission as having been sold or delivered from wells commenced on or after January 1, 1975.

"'(9) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Contential Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(1) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following four new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or before January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"'(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"'(b) The Commission shall monitor the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in subsection (a).

"'(c) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(d) Pending the establishment of a national ceiling pursuant to subsection (a) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States in effect on the date of enactment of the Natural Gas Act Amendments of 1977 as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to subsection (a) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(e) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(f) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(g) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under

subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certified but for section 1 (c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a) by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978, and January 1, 1979,' ".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington (Mr. JACKSON).

Mr. ABOUREZK. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is he yielding for more than a question? I make a point of order that he cannot yield for more than a question without losing his right to the floor.

The PRESIDING OFFICER. The Senator may yield only for a question.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

Mr. ABOUREZK. I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia had the floor.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson, I withdraw his pending amendment and offer, instead, on behalf of Mr. JACKSON and others, the amendment which I now send to the desk as an amendment to the Pearson-Bentsen substitute.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President. I want to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. ABOUREZK. Is it possible for one Senator to withdraw another Senator's amendment?

The PRESIDING OFFICER. That is why the Chair asked if there were objection. It takes unanimous consent.

Mr. ABOUREZK. Does it require unanimous consent?

The PRESIDING OFFICER. It does.

Mr. ABOUREZK. I object and I seek recognition.

Mr. JACKSON. I withdraw my amendment.

The yeas and nays have not been ordered. I withdraw my amendment.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from West Virginia has the floor. Does he yield and, if so, to whom?

Mr. ROBERT C. BYRD. Mr. President, has the Jackson amendment been withdrawn?

The PRESIDING OFFICER. It has not been withdrawn.

Mr. JACKSON and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. A point of order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, as I understand it, the Jackson amendment has not been withdrawn.

The PRESIDING OFFICER. That is correct.

Mr. JACKSON. I withdraw my amendment.

Mr. ABOUREZK. I object, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I have the floor, Mr. President.

I yield to Mr. JACKSON for the purpose only of withdrawing his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object. I seek recognition, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington.

Mr. ABOUREZK. I object, Mr. President, unless it is for the purpose of a question.

The PRESIDING OFFICER. There can be no objection until the Senator from Washington makes his wish known.

Mr. JACKSON. Mr. President, I withdraw my amendment.

Mr. ABOUREZK. I object and make a point of order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ABOUREZK. I renew my parliamentary inquiry—I make a point of order that the Senator from West Virginia cannot yield the floor for anything but a question.

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, am I recognized?

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I move to table the Allen amendment and the Jackson substitute, or whatever the parliamentary situation is. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The motion is not in order.

Mr. ABOUREZK. I move to table the Allen amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAND), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and

the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Rhode Island (Mr. CHAFEE) are necessarily absent.

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 399 Leg.]

YEAS—90

Abourezk	Goldwater	Muskie
Allen	Gravel	Nelson
Anderson	Griffin	Nunn
Baker	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Hatch	Pell
Bentsen	Hatfield	Percy
Biden	Hathaway	Proxmire
Brooke	Hayakawa	Randolph
Bumpers	Heinz	Ribicoff
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Kennedy	Scott
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stevens
Curtis	Lugar	Stevenson
Danforth	Magnuson	Stone
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Young
Garn	Metzenbaum	Zorinsky
Glenn	Morgan	
	Moynihan	

NAYS—0

NOT VOTING—10

Bartlett	Humphrey	Stennis
Chafee	Johnston	Talmadge
Eastland	McClellan	
Haskell	Metcalf	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the pending amendment by Mr. JACKSON.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 400 Leg.]

YEAS—88

Abourezk	Glenn	Morgan
Allen	Goldwater	Moynihan
Anderson	Gravel	Muskie
Baker	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Case	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schmitt
Clark	Kennedy	Schweiker
Cranston	Laxalt	Sparkman
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Ford	McIntyre	Young
Garn	Melcher	Zorinsky
	Metzenbaum	

NAYS—0

NOT VOTING—12

Bartlett	Humphrey	Scott
Chafee	Johnston	Stafford
Eastland	McClellan	Stennis
Haskell	Metcalf	Talmadge

So Mr. ROBERT C. BYRD's motion to lay on the table Mr. JACKSON's amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I am about to offer an amendment on Mr. JACKSON's behalf as a substitute to the amendment by Mr. PEARSON and Mr. BENTSEN.

The Jackson substitute is the same identical amendment which he earlier had pending as a perfecting amendment to the bill.

The amendment which I shall offer on Mr. JACKSON's behalf will be open to amendment.

UP AMENDMENT NO. 847

I send to the desk on behalf of Mr. JACKSON an amendment in the nature of a substitute to amendment No. 862 which is the Pearson-Bentsen amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Washington (Mr. JACKSON), proposes an unprinted amendment No. 847 in the nature of a substitute to amendment No. 862.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by amendment numbered 862 insert the following:

TABLE OF CONTENTS

Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4 Calculation of the current Btu related price.
Sec. 5. Sales of new natural gas.
Sec. 6. Sales of old natural gas under existing contracts.
Sec. 7. Sales of old natural gas from new wells under new contracts.
Sec. 8. Sales of old natural gas under roll-over contracts.
Sec. 9. Effective dates of rules with respect to maximum lawful prices.
Sec. 10. Deregulation of high cost natural gas.
Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedures, enforcement and judicial review.
Sec. 13. Intrastate contracts and transactions.
Sec. 14. Relationship to the Emergency Natural Gas of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 years the market for natural gas has changed considerably, principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and

incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers;

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2)(A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national produce as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservior which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATIONS OF THE CURRENT BTU RELATED PRICE

SEC. 4. (a) Within 30 days after the date of enactment of this Act and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price.

(b) Such Btu related price shall be computed by dividing—

(1) the upper tier price for domestic crude oil currently in effect and established pursuant to the provisions of section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(c) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), the Btu related price shall be computed by multiplying the current Btu related price then in effect by the inflation adjustment.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

DEREGULATION OF HIGH COST NATURAL GAS

SEC. 10. (a) Not later than 180 days after the date of enactment of this Act, the Secretary shall by rule exempt the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States, from the price ceiling that otherwise would be applicable to any first sale of new natural gas.

(b)(1) Any person who wishes to sell any high cost natural gas produced in the United States or synthetic gas manufactured in the United States shall file an application with the Secretary requesting certification that the property from which the gas will be produced qualifies for the exemption from

the maximum lawful price that would otherwise be applicable.

(2) The Secretary shall review the certificate application and shall grant or deny the request within 180 days after it is completed. Should the application be deficient in any respect, the Secretary shall have the authority to request additional information from the applicant in order to make a final determination. The application shall not be deemed to be complete until all requests for information have been fulfilled.

(c) For purposes of this section the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine;

(4) from Devonian shale; or

(5) occluded gas produced from coal seams.

(d) The Secretary shall have the authority to further define the terms used in this section in a manner consistent with its purpose.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggreved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than 10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other information) and such answers shall be made within such reasonable period,

and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the any person engaged in the transportation of Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10, of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions: *Provided, however*, That any price for any first sale of natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions: *Provided, however*, That any price for any first sale of natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979.".

Mr. ROBERT C. BYRD. Mr. President, I wonder if I could ascertain at this time whether any Senators wish to offer amendments tonight and have them voted on, either amendents to the Jackson substitute to the Pearson-Bentsen substitute, or perfecting amendments to the bill.

Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. If I could finish and then I will yield to my distinguished friend.

What we have now is we have cleared the way for amendments to the bill. If Senators wish to call up divestiture amendments to the bill, the Jackson amendment which was a perfecting amendment is not a roadblock to that. So, Senators who wish to call up amendments tomorrow and offer them as perfecting amendments to the bill may do so. If they are divestiture amendments, they can get votes on those amendments tomorrow or other perfecting amendments to the Jackson substitute.

If no one wishes to call up an amendment tonight and get it voted on, I am prepared to transact some morning business and recess over until tomorrow morning.

Mr. KENNEDY addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

Mr. KENNEDY. I was just going to offer a substitute.

Mr. ROBERT C. BYRD. I beg pardon.

Mr. KENNEDY. I wish to offer a substitute to the Jackson amendment.

Mr. ROBERT C. BYRD. Very well.

I yield the floor for that purpose.

Mr. BAKER. Mr. President, will the Senator yield to me first?

Mr. ROBERT C. BYRD. I yield to the distinguished minority leader first.

Mr. BAKER. I will take but just a moment. I have no desire to interfere with or delay the action by the distinguished Senator from Massachusetts.

I add to what the distinguished majority leader has said that I, too, hope that we can have a fruitful day tomorrow, with amendments either to the bill or to the Pearson-Bentsen amendment in the nature of a substitute or now the Jackson amendment to it.

I also say, as I have discussed with the majority leader, I think it is not likely that we are going to have a final vote on the Jackson proposal or the Pearson proposal on tomorrow.

There is no agreement, of course, in that respect, but I wanted to add to the remarks by the distinguished majority leader that I do not anticipate that test to come on Saturday but rather at some later date.

I would hope that we can get a time certain vote on a motion to table the Jackson amendment and, of course a vote on the Pearson-Bentsen amendment in due course.

Mr. KENNEDY addressed the Chair.

Mr. HART. Mr. President, will the leader yield for a question?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I assured the distinguished Senator from Massachusetts I will yield to him for the moment.

Mr. KENNEDY. Could I get this as a substitute and then I will be glad to yield.

Mr. ROBERT C. BYRD. Is this agreeable?

Mr. HART. Yes.

Mr. ROBERT C. BYRD. Yes, I yield.

UP AMENDMENT NO. 848

Mr. KENNEDY. Mr. President, I send to the desk a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 848 in the nature of a substitute.

Mr. KENNEDY. I am glad to explain it.

Mr. President, I ask unanimous consent to have reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

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Sec. 13. Intrastate contracts and transactions.
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Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a by-product of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 year the market for natural gas has changed considerably, principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers;

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2)(A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and premeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the minimum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRACTICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

SPECIAL PRICING PROVISIONS

SEC. 10. (a) The Secretary may, by rule, prescribe one or more maximum lawful special prices, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special prices may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special prices are necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extracrdinary risks or costs.

(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing, liquefaction, or transportation of such natural gas, the Secretary may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company, until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the equirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceeding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provisions for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other infomation) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

Mr. KENNEDY. I am glad to yield to the Senator.

Mr. HART. I wish to ask the majority leader a question.

Mr. ROBERT C. BYRD. Yes.

Mr. HART. With regard to the Jackson amendment; is there a time certain when there will be final disposition of the Jackson amendment? Has that been agreed to?

Mr. ROBERT C. BYRD. At the present time there is not any agreement on that point.

Mr. President, may I inquire of the Chair as to what is the nature of Mr. KENNEDY's amendment?

The PRESIDING OFFICER. This is a substitute for the substitute for the substitute.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is the amendment that has just been offered by Mr. KENNEDY the Pearson-Bentsen language?

Mr. KENNEDY. The answer to that question is no.

The PRESIDING OFFICER. No, it is not.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield for a parliamentary inquiry?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. So we will all know what we are doing here, first, is the amendment of the Senator from Washington in the nature of a substitute a substitute for Pearson-Bentsen?

Mr. JACKSON. The Senator is correct.

Mr. BUMPERS. Then the Pearson-Bentsen amendment was a substitute for the bill, the amendment of the Senator from Washington is a substitute for the Pearson-Bentsen amendment, and would it not then be the case that only perfecting amendments to the amendment of the Senator from Washington would be in order?

Mr. JACKSON. The Chair will have to answer that, but I would say the answer is no.

The PRESIDING OFFICER. At this point, the amendment of the Senator from Washington is amendable in one degree. The amendment of the Senator from Kansas and the Senator from Texas is amendable in two degrees, and the bill itself is amendable in two degrees.

It should have been stated in the reverse order from that in which the Chair just stated it.

Mr. BUMPERS. I certainly appreciate the clarification.

[Laughter.]

Mr. ROBERT C. BYRD. One further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. I believe I am correct in saying, in order that the whole picture may be complete, that the amendment by Mr. KENNEDY is not open to amendment.

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. As I understand it, the Pearson-Bentsen amendment is a substitute for the bill. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. The Jackson amendment is a substitute for Pearson-Bentsen?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. And the Kennedy amendment is a substitute for Jackson?

The PRESIDING OFFICER. That is also correct.

Mr. BUMPERS. And we are not down to a third-degree amendment?

The PRESIDING OFFICER. Under the precedents of the Senate, the first full substitute for the bill does not kill a degree. It is a freebie.

[Laughter.]

Mr. KENNEDY. Mr. President, as I understand, my amendment is the pending business; am I correct?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am prepared to vote on that.

Mr. ALLEN. Mr. President, will the Senator be kind enough to explain what his amendment is?

Mr. KENNEDY. It is basically the administration's proposal, that was initiated by the Senator from Washington. I think we could resolve all of our problems, Mr. Leader, by having a yea or nay vote on it. If we get a final vote, this will resolve the whole issue, and we can get on to some other business on Monday.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I wonder if we should vote this amendment at this moment, about which most of us know little or nothing.

Of course, a motion to table would be in order. I do not propose to make that, but if the Senator would take a little time to explain his amendment, that is certainly agreeable with me.

Mr. KENNEDY. We are prepared to move to a final conclusion of this whole issue, which the Senate has been debating a long time, in order to reach an early disposition of it.

Mr. BENTSEN. Mr. President, I will be prepared to discuss it at some length, so we will be sure to understand the whole issue.

[Laughter.]

Mr. KENNEDY. We will see you on Monday, then, Mr. Leader.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the proposed substitute.

The PRESIDING OFFICER. Is there a sufficient second. These is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this basically is the administration program that was going to be offered by the Senator from Washington. It is a program that has been thought out well, and considered within the committee. The issues have been well debated. It is really no new idea or new suggestion; the issues are well known, and it seems to me it is a reasonable resolution to the dilemma that we find ourselves in. There are a few details of it that I think the Senator from Washington and the members of the committee can comment on, or I will be glad to do so, but basically it is the previous Jackson proposal. We can spend whatever time is necessary, but I think it is important to know that we are prepared to get to an early vote on it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, simply stated, the amendment offered by the distinguished Senator from Massachusetts, is basically amendment No. 868, the amendment which I introduced to the bill (S. 2104), which was reported out of the committee after we had a tie vote on the basic subject of the Pearson-Bentsent amendment in the committee.

Mr. President, the amendment, in effect, takes the administration's recommendation to Congress, which was introduced as S. 2104. Certain changes were made in it to clean it up, so to speak, from a technical standpoint, but it is in fact the administration's position on natural gas pricing, with those perfecting amendments I have referred to.

I think that is a good summary. Everyone can get a copy of it; it is amendment No. 868.

Mr. ROBERT C. BYRD. Mr. President, I do not care to hold the floor any longer. Whatever the wishes of the Senate are.

SEVERAL SENATORS. Vote! Vote!

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes and for the purpose of transacting some business that has nothing to do with the pending matter. I assure all Senators that no unanimous-consent request will be entered into that will have any impact whatsoever on the pending bill or amendments thereto.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. After the morning business is ended, and I do not expect any rollcall votes in that period, we shall recess over until 9 a.m.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

ORDER OF BUSINESS TOMORROW

Mr. METZENBAUM. Is it reasonable for us to assume that we shall have an opportunity to vote on the Kennedy substitute tomorrow?

Mr. ROBERT C. BYRD. I do not know at this time how to answer that question, I say most respectfully. It may be that someone in the morning will want to move to table it.

Mr. METZENBAUM. I meant either a tabling motion or up or down.

Mr. ROBERT C. BYRD. It is perfectly reasonable to asume that that could happen. Every Senator will retain his rights. Nothing will be changed by virtue of our going into morning business now. A Senator could, at this time, if he got the floor, move to table it now and still have that right in the morning.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PROXMIRE and Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. BAKER. Will the Senator yield to me for a moment?

Mr. PROXMIRE. I ask unanimous consent that I may yield to the minority leader without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. May I have the attention of the majority leader?

I ask if we may consider one other possibility. We are coming in at 9 in the morning. I know of no special-order speeches.

Mr. HART. Mr. President, may we have order?

The PRESIDING OFFICER. The Senators will please refrain from their conversations.

Mr. BAKER. In order to accommodate some Senators on this side who have commitments, particularly travel arrangements and have to adjust their schedules to arrive here, I wonder if it would be possible to set a time before which we shall not have votes—say at 10 a.m.

Mr. ROBERT C. BYRD. I would agree to that.

ORDER FOR NO VOTES BEFORE 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no votes occur tomorrow morning before the hour of 10:30 a.m., except in the instance of a vote which might be necessary to establish a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the majority leader.

I thank the distinguished Senator from Wisconsin.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED RESCISSION—PM 115

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and the Judiciary:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $2.7 million in general criminal justice and corrections grant funds appropriated to the Department of Justice.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 23, 1977.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:45 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

H.R. 5262. An act to provide for continued participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes.

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

The enrolled bills were subsequently signed by the President pro tempore.

At 1:18 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BROWN of California, Mr. WIRTH, Mr. WATKINS, Mr. AMBRO, Mr. WALKER, and Mr. WINN were appointed managers of the conference on the part of the House.

The House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 9262. An act to amend title 5 of the United States Code to provide that an employee may credit service as an employee of a congressional campaign committee for civil service retirement purposes, and for other purposes.

At 3:10 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes.

The House agrees to the amendment of the Senate to the amendment of the House to the text of the bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes; and that the House agrees to the amendment of the Senate to the amendment of the House to the title of the bill.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

The Speaker has appointed as members of the delegation to attend the Conference of the Interparliamentary Union held in Sofia, Bulgaria, from September 21 to 30, 1977, the following Members on the part of the House: Mr. HAMILTON, chairman; Mr. PEPPER, vice chairman; Mr. DANIELSON, Mr. BOWEN, Mr. LEHMAN, Mr. CAVANAUGH, Mr. DERWINSKI, Mr. BOB WILSON, Mr. MCCLORY, Mr. DEL CLAWSON, and Mr. CUNNINGHAM.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs: With an amendment:

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes (Rept. No. 95-450).

ORDER FOR STAR PRINT OF S. 1630

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Senator HUMPHREY requesting a star print of a bill he introduced be printed in the RECORD along with the text of the bill. I further ask unanimous consent that his request for a star print be ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

NATIONAL RURAL DEVELOPMENT BANK

Mr. HUMPHREY. A number of errors were made in the printing of S. 1630, a bill that I introduced last June 7, which would establish a National Rural Development Bank. I ask that a star print of the correct text of this bill be made. I further ask that this bill text be printed in the RECORD.

The bill (S. 1630) reads as follows:

S. 1630

A bill to amend the Rural Development Act of 1972 (Public Law 92-419) and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Rural Development Act of 1972 (Public Law 92-419) is amended by adding at the end thereof the following:

"TITLE VII—RURAL DEVELOPMENT ACT AMENDMENTS OF 1977

"SUBTITLE A—FINDINGS, PURPOSES, AND DEFINITIONS

"SEC. 701. TITLE AND FINDINGS AND PURPOSE.—(a) This title may be cited as the "Rural Development Act Amendments of 1977."

"(b) The Congress hereby finds that—

"(1) farming and forestry form the backbone of the rural economy; yet the community services and facilities and the income earning opportunities needed by farm and forestry people to increase their incomes and raise their quality of life are shared with all other residents living in rural areas and rural communities who must also participate in their financial support.

"(2) adequately to raise farm family and forestry income and increase the accessibility to farm and rural residents of high-quality community facilities and services requires all the resources in local rural communities to be used at maximum effectiveness and efficiency;

"(3) the conduct of industry, business, and commerce, as well as farming and forestry, contributes to the jobs and income earning opportunities needed to provide the tax base to establish and maintain adequate rural facilities and services; the same circumstances are essential to expanding the service loads and hence the ability of rural electrification and telephone systems to pay overhead costs for service for farmers and other rural residents and repay indebtedness on Government and Government-insured and guaranteed loans;

"(4) prosperous, productive, and attractive rural communities are essential to the well-being of farm and other rural families and of a free nation because a more general, better balanced geographic distribution of the Nation's population is essential to the prosperity, general welfare, and domestic tranquillity of the urban as well as the rural communities of the United States;

"(5) to attain a more general, better balanced geographic distribution of the Nation's population requires a reversal of the long-term trend of migration from rural to urban areas;

"(6) to reverse the flow of population from rural to urban areas and achieve a more general, better balanced geographic distribution of the Nation's population, it is necessary to attain a more general, better balanced geographic distribution of profitable private economic enterprises, income earning opportunities, and high-quality public community facilities, services, and public works;

"(7) additional capital investment and financial resources in rural areas are essential to the establishment and operation of the private economic enterprises, public works, and community facilities and services necessary to achieve a more uniform geographic distribution of economic enterprises, jobs, and increased rural income;

"(8) much of the needed investment must come from outside of rural areas and communities;

"(9) much of the outside investment and credit needed by rural areas will be made available by the Nation's existing network of commercial and investment banks, the Farm Credit System, and other local rural financial institutions, and by other private enterprise and local and State governments buttressed and supplemented by the direct, insured, and guaranteed loans, technical assistance, and grants provided by the Consolidated Farm and Rural Development Act and other titles of the Rural Development Act of 1972;

"(10) however, because the size of investment or credit required by the sponsors of significant rural development project often exceeds the regulated lending limits and investment standards of existing local rural financial institutions and individuals even when a part of the loan is insured or guaranteed under the Consolidated Farm and Rural Development Act, existing arrangements do not fully provide to local rural investors and financial institutions the liquidity, flexibility, and usable financial resources they require to be fully responsive to expanding rural development investment and credit needs;

"(11) moreover, the individual potential investor, public or private, who wishes to construct and operate a significant rural development project does not have an independent access to investment funds and capital, if these are not currently available from existing credit and investment individuals and institutions.

"(c) It is the policy of Congress to meet this need by establishing a local-lender-and-borrower-owned facility that will provide equity-participation investment funds to sponsors of rural development projects and

financial assistance to local lenders and to those with whom loans extended by local lenders are refinanced, discounted, rediscounted, or to whom such loans are sold.

"(d) It is therefore the purpose of this Act to provide for a permanent rural development investment and financial institution that will organize and make available a stable, continuous, and dependable source of financial resources that will provide equity-participation investment, loans, and the discounting, rediscounting, refinancing, and purchase of loans extended by local rural financial institutions to the residents of rural areas, rural corporations, agricultural producer organizations and other cooperatives (except where able to obtain needed credit from the banks for cooperatives under the Farm Credit Act of 1971), rural industrial, and business enterprises, quasi-public bodies in rural areas, rural counties, and municipalities, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and other units of rural local general and special purpose government that will establish, construct, and operate private and public facilities, works, and services in rural areas and will provide remunerative employment to increasing numbers of rural residents.

"SEC. 702. DEFINITIONS.—As used in this title—

"(a) The term 'rural area' means all the territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam that (1) is not within the outer boundary of any standard metropolitan statistical area, as designated by the Office of Management and Budget and (2) in addition, all territory within any such standard metropolitan statistical area that is also within counties, towns, plantations (in Maine), and townships having a population density of less than two hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

"(b) The term 'rural development purpose' means any project undertaken by any private industrial or business enterprise or by any multistate region, State, multijurisdictional general purpose planning and development district, or local government or instrumentality thereof, that contributes or will contribute to giving highest priority to attainment of the objectives of the revitalization and development of rural areas as provided in section 901(a) of the Agricultural Act of 1970 (Public Law 91-524), or the enhancement of any rural community or rural area as a place to live and make a living. Such term specifically includes, but is not limited to, projects that provide increased employment or income for or directly benefit rural residents and that—

"(1) establish or improve public works or community services, or facilities;

"(2) encourage private investment in, or promote the establishment and expansion of, industrial or commercial enterprises, including but not limited to, investor-owned and cooperative marketing and other service associations and enterprises;

"(3) provide manpower development and training;

"(4) improve the quality and accessibility of rural community facilities and services;

"(5) promote the conservation, development and proper utilization of natural resources;

"(6) establish and improve public educational facilities, including but not limited to community and junior colleges, vocational and technical schools, and other institutions of higher education, and encourage the development of improved educational methods;

"(7) establish and improve land, water, and air transportation systems and services for goods and passengers;

"(8) assist in the solution of problems related to law enforcement activities;

"(9) establish decent, safe, sanitary, and comfortable housing;

"(10) establish and improve health care and preventative practice facilities and services, including but not limited to, facilities for vocational rehabilitation, and generally promote improved health and nutrition of residents of rural areas;

"(11) provide direct financial incentives to industry to create jobs in rural areas; and

"(12) establish and improve facilities and services that will enhance the quality of the environment and provide abatement and control of pollution.

"(c) The term 'rural development project' means an organized proposal or activity with an identifiable legal sponsor that will or does contribute to the attainment of one or more rural development purposes.

"(d) The term 'local general government' means the government of a municipality, county, town, or township as such terms are defined and used by the United States Bureau of the Census.

"(e) The term 'regional office', when used in connection with the Bank, means the office that serves the rural part of the geographical area located within a uniform region established by the President of the United States for coordination of Federal agencies.

"(f) The term 'Board' means the National Rural Development Bank Board established under subtitle B of this title.

"(g) The term 'Bank' means the National Rural Development Bank established under subtitle C of this title.

"(h) The term 'Participant' means any local rural bank or other local rural financial institution designated as a Participating Rural Development Financial Institution under subtitle D of this title.

"(i) The term 'Supporting financial institution' means any person or financial institution within the United States that has purchased, discounted, rediscounted, or refinanced all or part of a rural development loan extended to an eligible sponsor by a Participant.

"(j) The term 'rural development loan' means an identifiable unit of credit or other financial assistance extended to an eligible sponsor to construct and operate a rural development project.

"(k) The term 'Governor' means the executive officer of the Bank.

"(l) The term 'financial assistance' means (1) the purchase of legal obligations and the discount, rediscount, and refinancing of any note, draft, or other obligation and similar legal instruments evidencing and securing the repayment of a secured rural development loan advanced by a local rural financial institution for the establishment or operation of any project required to attain a rural development purpose, irrespective of whether such loan is insured or guaranteed in whole or in part by an instrumentality of the Federal Government; (2) the providing of funds for joint-venture equity investment in rural development projects; and (3) the extending of loans to sponsors of rural development projects who are unable to obtain needed credit from other existing financial institutions.

"(m) The term 'joint-venture equity investment' means the investment of funds jointly with another private or public rural development project sponsor to establish and operate a rural development project.

"(n) The term 'eligible sponsor' means—

"(1) any of the following who propose to or are engaged in establishing or operating a rural development project:

"(A) public and quasi-public bodies;

"(B) cooperative associations as defined in the Agricultural Marketing Act (42 Stat. 388; 12 U.S.C. 1141j(a), if such associations are unable to borrow from the banks for cooperatives;

"(C) other cooperatives;

"(D) corporations;

"(E) partnerships;

"(F) individual proprietors;

"(G) multijurisdictional general purpose areawide planning and development substate districts established by the legislature or Governor of a State;

"(H) persons and firms;

"(I) owners or potential owners of rural homes;

"(J) municipalities;

"(K) resource conservation and development project sponsors under title II of the Bankhead-Jones Farm Tenant Act;

"(L) sponsoring associations carrying out projects under the Watershed Protection and Flood Prevention Act;

"(M) corporate entities established by sponsors of concerted education and training service projects carried out jointly by the Department of Agriculture, the Department of Health, Education, and Welfare, and the Department of Labor;

"(N) cooperative associations furnishing to farmers and rural residents services and facilities for harvesting, storing, processing (including preservation or preparation of edible products for market), transporting or marketing agricultural commodities or products, consumer purchasing services, or the processing or marketing of other products of farmers or rural residents, or other cooperatives or self-help enterprises;

"(O) councils of government established under State law if rural areas are included within their jurisdiction;

"(P) private associations;

"(Q) local development districts organized under the Appalachian Development Act;

"(R) Economic Development Districts organized under the Economic Development Act of 1965;

"(S) technical vocational schools; and

"(T) Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups; and

"(2) whose proposed or operating project is declared eligible based upon—

"(A) review of the proposed project by the governing body of the multijurisdictional, areawide, general purpose planning and development district, if any, established by the legislature or Governor of the State concerned and a certification by such body that the proposed private or public facility, work or service is not inconsistent with the current areawide general purpose development plan, if any, for the multijurisdictional district;

"(B) determination that the private or public facility, work, or service provided by the project will be located in and operate primarily in a rural area to increase the employment of or for the benefit of rural residents and that the proposed project promises to make a net increase in the number of jobs, quality of life, or median family income in the rural area served;

"(C) determination that the proposed undertaking is not inconsistent with the Federal, State, or local laws or regulations relating to protecting the quality of the environment.

"(o) The term 'voting stockholders' means any Participant, any borrower, and any Joint-venture-cosponsor who has purchased and owns voting stock in the Bank.

"(p) The term 'Joint-venture-cosponsor' is an eligible sponsor who joins with the Bank in making a joint-venture equity investment in a rural development project under provision of Subtitle E.

"SUBTITLE B—NATIONAL RURAL DEVELOPMENT BANK BOARD

"SEC. 801. THE NATIONAL RURAL DEVELOPMENT BANK BOARD; NOMINATION AND APPOINTMENT OF MEMBERS; ORGANIZATION AND

COMPENSATION.—(a) There is hereby established a National Rural Development Bank Board (hereinafter referred to as the 'Board') composed of eleven appointed, three ex officio and ten elected members. The appointed members shall be appointed by the President, by and with the advice and consent of the Senate, not more than six of whom shall be from the same political party nor more than one of whom shall be from any State. In making appointments to the Board the President shall select persons who are especially qualified to serve on the Board because of their education, training, and experience, shall attempt to provide a fair representation on the Board of the different geographic regions of the United States and the several economic interests in rural development-farming, labor, business, banking, cooperatives, local government, and private economic enterprise both profit and not for profit. The representative of the Secretary of Agriculture on the Farm Credit Board, the Governor of the Farm Credit Administration and the Governor of the Bank shall be ex officio members of the Board and shall not be eligible to vote. One elected member shall be chosen by voting stockholders of the rural area served by each regional office of the Bank.

"(b) All members of the Board shall be citizens of the United States and not less than seventeen members, exclusive of ex officio members, shall be legal residents of rural areas in which the Bank is authorized by this Act to extend financial assistance for projects to carry out rural development purposes.

"(c) The Board shall elect a chairman and vice chairman from among its appointed and elected members. The Board shall elect a Secretary from among its members or from outside its membership. Such officers shall be elected for terms of one year and shall hold office until their successors have been elected.

"(d) No member of the Board, other than the ex officio members shall, while serving as a member of the Board, be an officer or employee of the United States or of the Bank or of the Farm Credit System.

"(e) Appointed and elected members of the Board shall serve for terms of six years, except that (1) a person appointed to fill an unexpired term shall serve only for the remainder of the term for which his predecessor was appointed, and (2) with respect to the first members appointed and elected to such Board, four shall be appointed and four elected for terms of six years, four shall be appointed and four elected for terms of four years, and three shall be appointed and two elected for terms of two years. A vacancy on the Board shall not affect the power of such Board to act and shall be filled in the same manner as originally filled. Members shall serve until their successors are duly appointed and qualified.

"(f) The Board is authorized to establish its own rules of procedure for conducting its business, except that a majority of all members of such Board shall constitute a quorum for the transaction of its business.

"(g) Each appointed and elected member of the Board shall receive $200 a day for not more than one hundred days of meetings each year and all members shall be reimbursed for travel and reasonable expenses incurred in attending meetings of such Board and in discharge of their official duties without regard to laws with respect to allowances which may be made on account of travel and subsistence expenses of officers and employed personnel of the United States. Nothing in the preceding sentence shall be construed to limit the number of days of meeting each year to one hundred days.

"(h) The Board shall hold at least six regularly scheduled meetings a year and such additional meetings at such times and places as it may determine. Special meetings shall be held at any time at the call of the chairman or by any three members of such Board.

"SEC. 802. POWERS OF THE BOARD.—The Board shall establish the general policy for the guidance of the Bank in carrying out this Act; may require such reports as it deems necessary from the Bank; and provide for the examination of the condition of and general supervision over the performance of the powers, functions, and duties vested in the Bank and in Participants, which, in the judgment of the Board, relate to matters of broad and general supervisory, advisory, or policy nature. The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by such Board. It shall not operate in an administrative capacity.

"SEC. 803. The Board shall make an annual report to the Congress on the condition of the Bank, including analytical program evaluation and cost effectiveness studies, and recommendations it deems necessary to improve the operation of the Bank in providing supplementary investment required to attain rural development purposes of this Act.

"SUBTITLE C—NATIONAL RURAL DEVELOPMENT BANK

"SEC. 901. ESTABLISHMENT; TITLE.—There is established a National Rural Development Bank (herein called Bank) as a federally chartered instrumentality of the United States subject to policies of the Board. Its charter may be modified from time to time by the Board in any manner not inconsistent with the provisions of this Act as may be necessary or expedient to implement this Act.

"SEC. 902. CORPORATE EXISTENCE; GENERAL CORPORATE POWERS.—The Bank shall be a body corporate, subject to the supervision of the Board and shall have power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Acts of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal, tangible and intangible property necessary or convenient for its business;

"(6) operate under the policy direction of the Board;

"(7) prepare and disseminate information to the general public on use, organization, and functions of the Bank and to investors on merits of its securities;

"(8) require appropriate bonds or other provision for protection of the assets of the Bank against losses occasioned by employees;

"(9) prescribe rules and regulations necessary or appropriate for carrying out the provisions of this Act;

"(10) prescribe its bylaws, subject to approval of the National Board, and provide in such bylaws for—

"(A) the classes of its stocks and the manner in which such stock shall be issued, transferred, and retired;

"(B) the election or appointment of its officers and executive employees;

"(C) property acquired, held, or transferred;

"(D) the conduct of its general business;

"(E) the exercise and enjoyment of the privileges granted to it by law;

"(11) deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, upon such regulations as may be prescribed by the Secretary; may be employed as fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under provisions of this subsection shall be invested in loans or bonds or other obligations of the bank;

"(12) buy and sell obligations of or insured or guaranteed by the United States or of any agency thereof, or securities backed by the full faith and credit of such agency, and make such other investments as may be authorized by the Board;

"(13) delegate to Participants and Joint-venture-cosponsors such functions vested in or delegated to the Bank, as it may determine appropriate;

"(14) exercise by its authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry out the business of the Bank;

"(15) purchase, refinance, or discount rural development loans and participations in such loans made by local rural financial institutions from such institutions and from other financial institutions that have purchased discounted, or refinanced such loans; and

"(16) make joint-venture equity investment in rural development projects.

"SEC. 903. APPOINTMENT OF GOVERNOR; SALARY AND EXPENSE ALLOWANCE.—(a) The Governor shall be appointed by, and serve at the pleasure of, the Board.

"(b) The compensation of the Governor shall be at the rate prescribed for positions in level IV of the Executive Schedule provided for under Section 5315 of title 5, United States Code. The Federal Board shall fix the allowance for his necessary travel and subsistence expenses or per diem in lieu thereof.

"SEC. 904. COMPLIANCE WITH BOARD ORDERS.—The Governor shall be responsible, subject to the supervision and control of the Board, for carrying out the functions of the Bank and the policies of such Board. He shall carry out all orders and directives received by him from the Board. All acts of the Governor shall be conclusively presumed to be in compliance with the orders and directives of such Board.

"SEC. 905. RURAL DEVELOPMENT BANK ORGANIZATION.—The Governor is authorized, in carrying out the powers and duties now or hereafter vested in him by this Act and Acts supplementary thereto, to establish and to fix the powers and duties of such officer to serve within regions, divisions, and instrumentalities as he may deem necessary to insure the proper and efficient administration of the functions of the Bank. The Governor shall have authority to appoint and employ such personnel as may be necessary to carry out the functions of the Bank, including the appointment with the approval of the Board of a Deputy Governor who shall receive compensation at the rate prescribed for positions in level V of the Executive Schedule provided for under Section 5316 of title 5, United States Code. The powers of the Governor may be exercised by him through such officers and employees of the Bank as he may designate. The Governor shall provide on a reimbursable basis such administrative management services, other than public information, for the Board as shall be mutually agreed upon.

"SEC. 906. ADMINISTRATIVE EXPENSES.—The Bank may, within the limits of funds available therefor, make necessary expenditures for personnel, services, and rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange of law books, books of reference, periodicals, and newspapers; expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of the provisions of this Act.

"SEC. 907. ENUMERATED POWERS.—The Bank shall, in addition to the corporate powers enumerated in section 902, have the following powers, functions, and responsibilities in connection with the provision of financial assistance to Participants, to Joint-venture-cosponsors, and to those who have purchased, discounted, or refinanced rural development loans extended by Participants:

"(a) Make studies of rural lending and investment needs, the need for better geographic distribution of population and economic opportunity, appraisal and credit standards, and credit requirements of rural industrial and commercial enterprise;

"(b) develop acceptable national and regional standards, procedures, and appraisal forms; and

"(c) prescribe price and cost levels to be used in such standards, joint venture investment, appraisals, and lending.

"SEC. 908. GOVERNANCE OF POLICIES, PROGRAMS, AND PROCEDURES OF THE BANK.—(a) The Board shall establish and promulgate policies and regulations, not inconsistent with provisions of this Act, to govern the policies, programs, and procedures of the Bank. The Bank and its Governor shall be conclusively presumed to be acting in accordance with such policies and regulations in all their actions and decisions.

"(b) The policies of the Bank, for so long as the Secretary of the Treasury holds stock in such Bank for the United States shall be subject to prior approval by the Secretary of the Treasury.

"SEC. 909. FINANCIAL AND OTHER SUPERVISION.—The Bank, Participants, and Joint-venture-cosponsors shall be subject to the supervision of the Farm Credit Administration with respect to all procedures relating to financial examinations, including audits. The Board shall arrange with the Federal Farm Credit Board to utilize the services of the Farm Credit Administration examiners for investigative, accounting, and administrative auditing of the work of the Bank in an orderly, efficient, and effective manner. The Farm Credit Administration is authorized to provide such services on a mutually agreeable reimbursable basis.

"SEC. 910. EXAMINATIONS AND REPORTS; AUDITS.—(a) Except as provided in this title, each office and division of the Bank, Participants, and Joint-venture-cosponsors, at such times as the Board may determine, shall be examined and audited by examiners of the Farm Credit Administration on a reimbursable basis but in no event shall any such institution be examined and audited less frequently than once a year. If the Board determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, in accordance with generally accepted auditing standards. Upon request of the Governor of the Bank, credit examiners shall also make examinations of any organization other than a national bank, to which, or with which, the Bank contemplates extending financial assistance or delegating authority under this title. For the purposes of this title, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, the Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law. A report of each audit of the Bank or other institution for any fiscal year shall be made by the Farm Credit Administration through the Board to the President of the United States and to the Congress not later than six months following the close of such fiscal year. The Farm Credit Administration shall be reimbursed by the Bank for the cost of performing such audits.

"(b) The Bank, Participants, and Joint-venture-cosponsors shall be subject to audit by the General Accounting Office at such times and to such extent as the Comptroller General shall determine.

"SEC. 911. CONDITIONS OF OTHER BANKS AND LENDING INSTITUTIONS.—The Comptroller of the Currency is authorized and directed, upon request of the Farm Credit Administration, to furnish for the exclusive and confidential use of the Board such reports, records, and other information as he may have available relating to the financial condition of national banks through, for, or with which the Bank has made or contemplates making discounts, loans, or delegations of power.

"SEC. 912. CONSENT TO THE AVAILABILITY OF REPORTS AND TO EXAMINATIONS.—Any organization other than State banks, trust companies, and savings associations shall, as condition precedent to security discount privileges or delegated powers with the Bank for the exclusive and confidential use of the Bank, file with such Bank its written consent to examination by Farm Credit Administration examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

"SEC. 913. REPORTS OF CONDITIONS OF INSTITUTIONS RECEIVING LOANS OR DEPOSITS OR REDELEGATED POWERS.—The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Farm Credit Administration, to make available to the Bank in confidence all reports, records, or other information relating to the condition of any Participant or Joint-venture-cosponsor to which the Bank has or is contemplating extending financial assistance or for which it has or contemplates using as a custodian of securities or other credit instruments, or which it is using as or contemplates using as a depository, or to which it has or contemplates delegating powers under this Act. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the Bank or book entries thereof are also authorized and directed, upon request of the Board to make available for audit all appropriate books, accounts, financial records, files, and other papers.

"SEC. 914. JURISDICTION.—The Bank, Participants, and Joint-venture-cosponsor shall for the purposes of jurisdiction be deemed to be a citizen of the State, commonwealth, or District of Columbia in which its principal office is located. No district court of the United States shall have jurisdiction of any action or suit by or against any private financial institution exercising delegated powers under this title, upon the ground that it was incorporated under this title or that the United States owns any stock thereof, nor shall any district court of the United States have jurisdiction, by removal or otherwise, of any suit by or against such institution except in cases by or against the United States or by or against any officer of the United States and except in cases by or against any receiver or conservator of any such institution appointed in accordance with the provisions of this Act.

"SEC. 915. STOCK ISSUANCE; RETIREMENT; FRANCHISE TAX.—(a) The Bank shall issue stock which shall be purchased by the Secretary of the Treasury on behalf of the United States as an initial investment in the stock of such Bank to help such Bank to inaugurate financial assistance operations. During the time such stock is outstanding, the pertinent provisions of the Government Corporation Control Act shall be applicable to the Bank. Notwithstanding the requirements for annual audits and annual reports to the Congress contained in sections 202 and 203 of the Government Corporation Control Act the operations of the Bank shall also be subject to audit by the General Accounting Office at such times and to such extent as the Comptroller General shall determine.

"(b) For any year or part thereof, in which the Secretary of the Treasury holds any stock in the Bank, such Bank, before declaring any dividends, shall pay to the United States as a franchise tax a sum equal to the lower of (1) 25 per centum of its net earnings for the year, or (2) a rate of return on such investment calculated at a rate determined by the Secretary of the Treasury equal to the average annual rate of interest on all public issues of debt obligations of the United States issued during the fiscal year ending next before such tax is due, multiplied by the percentage that the number of days such stock is outstanding is of three hundred and sixty-five days. Such payments shall be deposited in the miscellaneous receipts of the Treasury.

"SEC. 916. SUBSCRIPTION BY THE UNITED STATES OF CAPITAL.—The Secretary of the Treasury shall purchase stock of the Bank on behalf of the United States to the extent of appropriations made pursuant to section 1204.

"SEC. 917. CAPITALIZATION OF THE BANK.—Subject to the provisions of this Act, and approval of the Board, the Governor is authorized to issue from time to time and to have outstanding voting and nonvoting capital stock of an aggregate par value of not to exceed the par value of stock purchased by the Secretary of the Treasury plus not to exceed 2 per centum of the amount of outstanding financial assistance and joint-venture equity investment.

"SEC. 918. BANK STOCK; VALUE; SHARES; VOTING; DIVIDENDS.—(a) The capital stock of the Bank shall be divided into shares of par value of $5 each and may be of such classes as may be determined by the Board.

"(b) Voting stock of the Bank shall be held only by such Participants as obtain financial assistance from the Bank and Joint-venture-cosponsors, which stock shall not be transferred, pledged, or hypothecated except as authorized pursuant to this Act. Any Participant or Joint-venture-cosponsor may elect to receive nonvoting stock in lieu of voting stock.

"(c) Nonvoting stock may be issued to the Secretary of the Treasury and may also be issued to Participants. When a Participant reduces its total outstanding indebtedness to the Bank, or when a Joint-venture-cosponsor has retired the Bank's investment, its voting stock may be converted at par value, or such greater value as the Bank may from time to time determine, into nonvoting stock, or may be redeemed in cash or as a credit to extinguish final indebtedness at such value as the Bank may from time to time determine. Nonvoting stock or other evidences of indebtedness of the Bank held by the Secretary of the Treasury may be retired at any time, subject to approval of the Board, and shall be retired each year to the extent of the availability of earnings in accordance with the provisions of this Act.

"(d) The earnings of the Bank shall be determined in accordance with approved accounting principles and practices, as established by the Board subject to examination under policies of the General Accounting Office. Earnings shall be distributed as follows:

"First, not less than 10 per centum of net earnings for the year shall be paid into the reserve fund of the Bank until said reserve

fund shall equal 150 per centum of outstanding stock.

"Second, not less than 10 per centum of net earnings for the year shall be paid into the capital surplus fund of the Bank.

"Third, the franchise tax shall be paid as required by section 915(b) for any year in which any stock is held by the Secretary of the Treasury.

"Fourth, not less than 10 per centum of net earnings shall be used for retirement of nonvoting stock and other evidences of indebtedness of the Bank held by the Secretary of the Treasury.

"Fifth, dividends shall be paid on nonvoting stock held by investors other than the Secretary of the Treasury at a rate not exceeding the average cost to the Bank of funds obtained through issuance of bonds, debentures, and other evidences of indebtedness in its funding operations.

"Sixth, dividends shall be paid on voting stock of the Bank as determined by the Board.

"(e) Dividends shall not be payable on any stock held by the Secretary of the Treasury.

"SEC. 919. POWER TO BORROW, ISSUE NOTES, BONDS, DEBENTURES, AND OTHER OBLIGATIONS.—The Bank, subject to supervision of the Board, shall have power to issue its own notes, bonds, debentures, or other similar obligations, fully collateralized by the notes, mortgages, joint-venture equities and security instruments it holds in the performance of its functions under this Act in such sums, maturities, rate of interest, and terms and conditions of each issue as it may determine.

"SEC. 920. AGGREGATE OF OBLIGATIONS; SECURITY.—(a) No issues of long-term notes, bonds, debentures, or other obligations by the Bank shall be approved in an amount which, when added to the amount of other bonds debentures, long-term notes, or other similar obligations issued and outstanding exceeds twenty times the capital and surplus of the Bank, or such lesser amount as the Board shall establish by regulation.

"(b) The Bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations, and shall at all times thereafter maintain, free from any lien or other pledge, notes, and other obligations representing rural development loans made, refinanced, rediscounted, or purchased under the authority of this Act equities in joint-venture equity investments, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Board, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other similar obligations outstanding for which the Bank is primarily liable.

"SEC. 921. LIABILITY OF THE BANK.—(a) The Bank shall be fully liable on notes, bonds, debentures, or other obligations issued by it.

"(b) The United States shall not be liable or assume any liability directly or indirectly thereon.

"SEC. 922. BONDS AS INVESTMENTS.—The bonds and other similar obligations issued under the authority of this Act shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits. Any obligation issued by the Bank pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations guaranteed as to principal or interest by the United States.

"SEC. 923. PURCHASE AND SALE BY FEDERAL RESERVE SYSTEM.—Any member of the Federal Reserve System may buy and sell bonds, debentures, or other similar obligations issued under the authority of this Act, and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district and municipal bonds under section 14(b) of the Federal Reserve Act (12 U.S.C. 355).

"SEC. 924. PURCHASE AND SALE OF OBLIGATIONS.—The Bank may purchase its own obligations and may provide for the sale of obligations issued by it, through a fiscal agent or agents, by negotiation, offer, bid, or syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

"SEC. 925. INVESTMENTS AND GUARANTEES.—The Bank is authorized to—

"(1) buy and sell securities it has guaranteed or whose mortgages it has insured or in which it has invested;

"(2) invest funds not needed in its financing operations in such property and obligations as it may determine;

"(3) guarantee securities in which it has invested for the purpose of facilitating their sale; and

"(4) guarantee and insure rural development loans made by other lenders.

"SEC. 926. VOLUNTARY LIQUIDATION; INSOLVENCY; RECEIVERSHIPS; AND CONSERVATORS.—(a) The Bank shall not go into voluntary liquidation without the consent of the Board and with such consent may liquidate only in accordance with regulations prescribed by the Board.

"(b) Upon default of any obligation by the Bank such Bank may be declared insolvent and placed in the hands of a conservator or a receiver appointed by the Board and the proceedings thereon shall be in accordance with regulations of the Board regarding such insolvencies.

"SEC. 927. FINANCIAL ASSISTANCE PROVIDED.—(a) The Bank is authorized to extend financial assistance to eligible sponsors, Participants, and such financial institutions as have extended financial assistance to Participants in accordance with provisions of this Act.

"(b) The Bank is authorized to invest its funds in joint-venture equity investments in rural development projects.

"(c) The Bank shall develop criteria to assure that projects assisted by it are not inconsistent with the comprehensive planning, if any, for the development of the substate multijurisdictional general purpose planning and development districts in which such projects are proposed to be located, and to assure that such projects will not be disruptive of Federal programs which authorize assistance for the development of like or similar projects in the same rural area.

"(d) Financial assistance extended under this section may not exceed the total capital cost of the project to be financed.

"(e) In any case in which the Bank undertakes to provide assistance to a State or local government under subsection (a) for the construction of a project for which any other department or agency of the Federal Government (under another law of the United States) will also provide funds—

"(1) the assistance provided by the Bank under subsection (a) may be in the full amount needed by the State or local government to finance such project (including the amount of the funds which will be provided by such other department or agency), but the funds to be provided by such other department or agency with respect to such project shall become payable (notwithstanding any contrary provision in the law under which they are payable) to the Bank in lieu of being paid directly to such government; and

"(2) the Bank may accept in return (A) an obligation or obligations of such State or local government covering only the difference between such full amount and the amount of the funds which are payable with respect to such project by such other department or agency, plus (B) a commitment from such other department or agency to pay the funds which are to be provided by it and are payable to the Bank as described in paragraph (1), in order to insure that such State or local government will not have to include within its debt limit that portion of the indebtedness incurred for the financing of such construction which is attributable to funds provided by such other department or agency.

"SEC. 928. INTEREST RATES AND OTHER CHARGES.—Financial assistance provided by the Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the Board from time to time. In setting rates and charges, it shall be the objective to provide the types of financial assistance needed on a sound business basis at the lowest reasonable cost, taking into account the cost of money to the Bank, the necessary reserves, capital surplus, and expenses of the Bank, and the orderly retirement of the capital subscriptions of the United States. The security documents may provide for the interest rate or rates to vary from time to time during the period of the assistance in accordance with the rate or rates currently being charged by the Bank.

"SEC. 929. SECURITY.—Financial assistance extended by Regional Banks shall be secured by all of the best available security owned or to be acquired by the beneficiary as may be required adequately to secure the obligation.

"SEC. 930. DELEGATION OF DUTIES AND POWERS TO PARTICIPANTS AND JOINT-VENTURE-COSPONSORS.—The Bank is authorized, by order, rule, or regulation to delegate to any Participant, Joint-venture-cosponsor, or Supporting financial institutions who extend financial assistance to any Participant such of the duties, powers, and authority of the Bank with respect to such Participant or the officers and employees thereof, in the rural area wherein such Participant is located, as may be determined to be in the interest of effective administration. Any Participant, or other person to which any such duties, powers, or authority may be delegated, is authorized and empowered to accept, perform, and exercise such duties, powers, and authority as may be so delegated to it.

"SEC. 931. AGREEMENTS FOR SHARING LOSSES.—The Bank may enter into agreements with Participants, Joint-venture-cosponsors, and eligible sponsors for sharing the gains and losses on financial assistance extended and joint-venture equity investments made under this Act.

"SEC. 932. NATURE OF OBLIGATIONS.—(a) All obligations issued by the Bank shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or of any officer or employee thereof.

"SEC. 933. TAX STATUS.—The Bank shall be subject to Federal, State, and local taxes as provided in this section.

"(a) The real property and tangible personal property of such Bank shall be subject to Federal, State, and local taxation to the same extent, according to its value, as other similar property held by other persons is taxed.

"(b) The income of the Bank and from any obligations purchased by such Bank from any Federal, State, or local governmental or quasi-governmental body, and any obligation issued by such Bank shall be subject to Federal, State, and local taxation to the same extent as the income of obligations of private corporations are taxed.

"(c) The Bank shall be liable for the franchise tax as provided by section 915.

"(d) Notwithstanding the foregoing provisions of this section, the Bank shall not be subject to Federal, State, or local income taxes for any period in which capital stock in such Bank is held by the Secretary of the Treasury for the United States.

"SUBTITLE D—PARTICIPATING RURAL DEVELOPMENT FINANCIAL INSTITUTIONS

"SEC. 1001. DESIGNATION.—Any National or State bank, savings institution, credit union, or other financial institution making loans in rural areas for rural development purposes, shall, upon application, be considered for designation as a Participating Rural Development Financial Institution, referred to in this Act as a "Participant".

"SEC. 1002. FUNCTIONS OF PARTICIPANTS.—Any Participant and any Supporting financial institution, is authorized, subject to provisions of this Act, to obtain financial assistance from the Bank and to issue obligations for purchase by the Bank and to perform such other duties as the Bank may delegate and the Participant or Supporting financial institution agrees to undertake.

"SEC. 1003. PURCHASE OF CAPITAL STOCK.—(a) Any Participant may purchase voting capital stock in the National Bank in an amount (at par value) equal to not less than 1 per centum and not more than 10 per centum of the amount of the financial assistance received from the Bank.

"(b) Participants are authorized to purchase voting stock of the Bank.

"(c) Any of the institutions listed in section 1002 may purchase nonvoting stock in the Bank equal to at least 1 per centum and not more than 10 per centum of the financial assistance received.

"SEC. 1004. GOVERNANCE OF PARTICIPANTS.—With respect to all evidence of financial assistance and other obligations which a Participant shall present to the Bank the policies, rules, regulations, and procedures followed shall be in accordance with the rules and regulations established by the Board. The designation of any institution as a Participant may be canceled by the Bank. Any Participant whose designation has been canceled under this section may appeal the cancellation to the Board. The decision of the Board shall be final. The Board shall establish appropriate rules and regulations and review bodies to implement expeditious, orderly, and fair consideration of appeals filed by the Participants objecting to canceled designations or other matters related to their relationship to the Bank.

"SEC. 1005. TERMS AND CONDITIONS.—The terms and conditions under which financial assistance may be made available to Participants, directly or through other financial institutions, shall be established by the Board. Such terms and conditions may vary depending on the rural development purpose for which such assistance is to be used and the practices of the supporting regional financial institutions involved.

"SEC. 1006. A Participant, as a condition of eligibility for financial assistance with respect to any rural development loan it has extended, shall require the deposit by the borrower of such loan of 5 per centum of the amount of that part of the loan for which the financial assistance of the Bank is requested. Such amount shall be utilized by the Participant to purchase on behalf of the borrower voting capital stock of the Bank and shall transmit such stock to the borrower.

"SUBTITLE E—JOINT-VENTURE EQUITY INVESTMENT IN RURAL DEVELOPMENT PROJECTS

"SEC. 1101. JOINT-VENTURE-COSPONSORS; INVESTMENT IN JOINT-VENTURES WITH ELIGIBLE SPONSORS.—(a) The Bank is authorized, subject to regulations approved by the Board, to make investments in rural development projects proposed or established by Joint-venture-cosponsors directly, or through a Participant.

"(b) The Board shall establish standards and criteria to govern the making of investments in joint-ventures with Joint-venture-cosponsors.

"SEC. 1102. The Bank and the Joint-venture-cosponsor with whom the Bank has entered into a joint-equity investment in a rural development project shall share in the profits of the project in the same ratio as the amounts of their several investments.

"SEC. 1103. Such joint-venture rural development projects shall be subject to all Federal, State, and local taxes.

"SEC. 1104. No rural development project shall be eligible for joint-venture investment by the Bank if the project can otherwise obtain necessary credit or investment for the full amount of the investment from any other source on reasonable terms.

"SEC. 1105. The investment made by the Bank in joint-venture projects shall not exceed the extent to which the total cost of the project exceed the amount that can be obtained elsewhere on reasonable terms.

"SEC. 1106. The joint-venture agreement between a Joint-venture-cosponsor and the Bank shall provide—

"(1) that such Cosponsor will, as soon as financially able, purchase the investment of the Bank, and

"(2) the control over the joint-venture shall be apportioned between the Bank and the eligible sponsor in accordance with the relative amounts of investment of each in the project.

"SEC. 1107. A Joint-venture-cosponsor may purchase not less than 1 per centum and not more than 10 per centum of the Bank investment in a joint-venture of voting capital stock of the Bank.

"SUBTITLE F—GENERAL

"SEC. 1201. AMENDMENTS TO OTHER LAWS.—(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"'(95) Governor of the National Rural Development Bank.'

"(b) Section 5316 of title 5, United States Code is amended by adding at the end thereof the following:

"'(132) Deputy Governor of the National Rural Development Bank.'

"(c) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof a new sentence as follows: 'Notwithstanding any other provision in this paragraph, the association may purchase the stock, bonds, or other obligations of the National Rural Development Bank created pursuant to the authority of the Rural Development Act Amendments of 1977."

"SEC. 1202. SEPARABILITY.—If any provision of this Act, or the application thereof to any person or in any circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or in other circumstances shall not be affected thereby.

"SEC 1203. RESERVATION OF RIGHT TO AMEND OR REPEAL.—The right to alter, amend, or repeal any provision or all of this Act is expressly reserved.

"SEC. 1204. APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury not to exceed $200,000,000 annually for not to exceed ten years for the purchase of capital stock of the National Bank."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON (for himself and Mr. JAVITS):

S. 2132. A bill to amend title I of the Higher Education Act of 1965 to establish a system of grants for urban universities; to the Committee on Human Resources.

By Mr. METCALF (by request):

S. 2133. A bill to reform the mining law, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STAFFORD (for himself, Mr. LEAHY, and Mr. KENNEDY):

S. 2134. A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for the use of community action agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McINTYRE (for himself, Mr. BAYH, Mr. DURKIN, Mr. HATHAWAY, Mr. MUSKIE, and Mr. NELSON):

S. 2135. A bill to regulate commerce by providing franchisors and franchisees with certain remedies to assure fairness and to protect against overreaching, unjust enrichment, and unjustifiable termination, and for other purposes; sequentially, by unanimous consent, to the Select Committee on Small Business; and, if and when reported, to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 2136. A bill for the relief of Keiko Miyanaga; to the Committee on the Judiciary.

By Mr. PELL (for himself and Mr. JAVITS):

S.J. Res. 83. A joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for himself and Mr. JAVITS):

S. 2132. A bill to amend title I of the Higher Education Act of 1965 to establish a system of grants for urban universities; to the Committee on Human Resources.

URBAN GRANT UNIVERSITY ACT OF 1977

Mr. EAGLETON. Mr. President, in the early development of higher education in our country, campuses were located in small towns and rural areas, often existing in educational isolation. The one exception to this was establishment of the land grant institutions, first given Federal support in 1890. These institutions were specifically charged with developing instruction in agriculture. In my view, they would never have been of any measurable assistance to the residents of rural America if they had not developed the network of agricultural extension service units which still exists today.

It is only in relatively recent times that colleges and universities have become urban institutions, and have begun to devote their time and energies to the problems of the cities.

In 1973, the Carnegie Commission on Higher Education, in its report, "The University and the City," identified fundamental areas in which colleges could and should be involved with urban, community, and minority-group problems:

The college or university can become an educatior of different types of people—primarily those who in the past have not met the "normal standards" for admission. The open admissions program of the City University of New York is an example of this.

The college or university can provide a different and more relevant type of education to prepare people to live in cities and to deal with urban problems. This type of education may include student volunteer work in the community,

programs that send students out into the community for part of their educational experience, and black studies programs.

The college or university can provide education for public officials and technologists who will work in cities. Fels Institute at the University of Pennsylvania and the New School's Institute in New York City are in the forefront here.

The college or university can provide continuing or extension education.

The college or university can play a role in educating paraprofessionals, new careerists, and the hardcore unemployed.

Although some efforts have been made in these directions, traditionally colleges and universities have focused their efforts to deal with urban problems on research. The importance of research has not diminished, but it has become increasingly important in my view that urban institutions become more active as educators, and service providers.

They can and should profit from the experience of the agriculture extension program, and begin to translate it into programs to deal directly with the very real needs of our urban areas.

The bill which I am introducing today attempts to do just that by providing authority for the U.S. Commissioner of Education to make grants to urban universities to develop their capacity to help find answers to urban problems and to aid them in making their educational research and service capabilities more readily and effectively available to the urban communities in which they are located.

Although the Senate Education Subcommitte will not be contemplating extension of higher education legislation for over a year, I am hopeful that this bill will serve as a focal point from which we can build. I look forward to suggestions from educators, the Urban Coalition, the Urban Institute, the Urban Observatories throughout the country, and all interested parties which will improve this bill. It will not be an easy task to define what role the urban universities should play, but it is clear that they can and should respond to the urban dilemma.

Mr. JAVITS. Mr. President, today I join with my colleague, Senator EAGLETON, in introducing the Urban Grant University Act of 1977 to establish a system of grants for urban universities.

This measure would insure the continued vitality of our urban universities and give them a new opportunity to provide services to the communities in which they reside. Our purpose in introducing this bill is to give the education community the opportunity to comment on the best form for legislation to assist these urban universities. Urban universities throughout the Nation have joined together in an association to pursue common goals and to work cooperatively to solve common problems. I believe Congress must seriously consider their suggestions for a new program to assist them. While I am not committed to every provision of the bill being introduced today, I believe that the best thinking of the education community and other interested parties can shape this legislation.

Earlier this year I consulted with Dr. Robert E. Marshak, president of the City College of the City University of New York. Dr. Marshak has joined with over 20 university presidents from across the Nation to advocate this bill. In a recent publication discussing urban universities, Dr. Marshak made an eloquent statement regarding their unique role:

> The problems of urban America command sustained attention. Widespread poverty and unemployment, inadequate health and legal services, deteriorated housing, outmoded transportation systems, rising crime and violence, and hazardous air and water pollution threaten the well-being and survival of our great metropolitan centers. The crisis of New York City reflects a deepening crisis for cities everywhere.
>
> The urban public university cannot ignore these problems, for the fates of our cities and of the colleges located within them are inextricably entwined. In order for the urban public university to fulfill its responsibilities, it must respond to the urgent needs of a citizenry that looks to it for leadership and skills. It must provide a sound educational foundation and career opportunities to the thousands of students who come to it each year. And it must marshal its many assets—its scholarship and erudition, its heritage of humanistic values, and its capacity for creative research—and bring them to bear on the momentous problems of American society.

Mr. President, I believe these words of a leading educator summarize the necessity for the Congress to review this matter. I trust that my colleagues will give this proposal every consideration.

By Mr. METCALF (by request):

S. 2133. A bill to reform the mining law, and for other purposes; to the Committee on Energy and Natural Resources.

THE MINING LAW OF 1977

Mr. METCALF. Mr. President, on April 6, 1977, I introduced for myself and the chairman of the Energy and Natural Resources Committee (Mr. JACKSON) S. 1248, a bill to reform the mining law of 1872. At that time I expressed dismay that, despite the numerous statements over the years by prestigious and knowledgeable institutions and persons concerning the need for revisions in the mining law, the Government's response has been desultory. During the last few years, congressional committees have held a few days of hearings but have not marked up a single bill. I expressed the hope that, this Congress, mining law reform would receive the attention it deserves.

Accordingly I am happy to introduce today a proposal by the administration to revise the 1872 mining law. On May 23, 1977, the President announced in his message to the Congress on the environment that he would submit a legislative proposal concerning mining and set forth the following concepts which were to be embodied in the measure. Those concepts were:

First, a leasing system for publicly owned hardrock minerals;

Second, explicit Federal discretionary authority over mineral exploration and development on the public lands;

Third, strict standards for environmental protection and for reclamation of mined areas;

Fourth, a requirement for approval of operation and reclamation plans before mining can begin;

Fifth royalties for use of public lands and mineral resources; and

Sixth, the integration of mining into land use plans being developed for the public lands.

The bill I introduce today on behalf of the administration contains those concepts—concepts with which I concur.

At the request of the Secretary of the Interior, Cecil Andrus, I agreed to delay scheduling hearings until completion of the President's proposal. With the proposal's submission to the Congress, we can now begin with the hearing process. I hope to schedule hearings in my Subcommittee on Public Lands and Resources later this year between the two sessions.

Mr. President, I ask unanimous consent that the bill, Secretary Andrus' letter of transmittal, and a summary of the proposal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2133

DECLARATION OF POLICY

SEC. 1. It is hereby declared to be the policy of Congress—

(a) to regulate the exploration, development, and production of hardrock mineral resources in the leasable Federal lands in a manner compatible with the use of the same lands for other purposes;

(b) to promote and encourage the timely production of hardrock minerals to meet the Nation's needs;

(c) to prevent waste and promote the conservation of hardrock mineral resources;

(d) to require that the exploration, development and production of hardrock mineral resources in the leasable Federal lands be conducted in a manner which will minimize to the maximum extent feasible, taking into account environmental and economic costs, their adverse environmental effects;

(e) to assure the reclamation of all leasable Federal lands disturbed as a result of hardrock mineral exploration, development and production;

(f) to insure the public a fair return from the disposition of its hardrock mineral resources;

(g) to promote competition and discourage monopolies;

(h) to assure that the system for disposition of hardrock mineral resources in the leasable Federal lands operates in a practical, workable manner so that well-conducted mineral activities may go forward efficiently;

(i) to provide procedures to insure meaningful public participation in the promulgation of regulations governing exploration and production of hardrock mineral resources in the leasable Federal lands;

(j) to preserve to the fullest extent feasible the traditional role of the small miner in the exploration, development and production of hardrock mineral resources in the leasable Federal lands;

(k) to pre-empt the laws and regulations of the States and mining districts respecting the location and maintenance of mining claims affecting federally owned hardrock mineral resources.

SEC. 2. DEFINITIONS. As used in this Act the term—

(a) "Secretary" means the Secretary of the Interior or the Secretary of the Interior's designee;

(b) "Leasable Lands" means all lands owned by the United States, including mineral deposits owned by the United States in

lands the surface of which is in other ownership, except:

(1) Lands in the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System and the National Wilderness Preservation System, except to the extent those lands are open to mineral entry and location under the Mining Law of 1872, and related Acts, upon the effective date of passage of this Act;

(2) Lands held by the United States in trust or for the use of Indians or Indian tribes;

(3) Lands on the Outer Continental Shelf;

(4) Lands and mineral interests entrusted to or managed by the Tennessee Valley Authority; and

(5) Lands specifically excluded from mining pursuant to Acts of Congress.

(c) "hardrock" means a deposit of mineral of a kind which on January 1, 1977, was subject to location under the Mining Law of 1872 (Revised Statutes 2318–2352), as amended.

(d) "person" means a citizen of the United States, a corporation organized under the laws of the United States or of one of the States, or the District of Columbia, or an association or partnership of such citizens or corporations or of both, unless more than 10 percent of the stock of such corporation is held by citizens of or corporations incorporated in countries the laws, customs or regulations of which deny to United States citizens equivalent rights and privileges;

(e) "prospecting" means the preliminary search for and identification of hardrock mineral resources which causes only minimal disturbance to the environment;

(f) "prospecting permit" means a permit issued pursuant to this Act;

(g) "permittee" means a person who holds a prospecting permit issued by the Secretary under this Act;

(h) "explore" means to utilize methods and techniques which cause more than minimal disturbance to the environment for the determination of the characteristics of a potential hardrock mineral deposit;

(i) "license" means an exploration license issued pursuant to this Act;

(j) "licensee" means a person who holds an exploration license issued by the Secretary under this Act;

(k) "Licensed area" means the area encompassed within an exploration license;

(l) "exploration plan" means a plan for the exploration of mineral deposits in the leasable Federal lands and the associated reclamation of such lands, approved by the Secretary pursuant to this Act;

(m) "a lease" means a lease issued pursuant to this Act;

(n) "lessee" means a person who holds a lease issued by the Secretary under this Act;

(o) "leased area" means the area encompassed within a lease;

(p) "mining plan" means a plan for the development and production of mineral deposits in the leasable Federal lands and the reclamation of such lands, approved by the Secretary pursuant to this Act;

(q) "lands classified as suitable for competitive bidding" means any leasable land for which the Secretary determines that the geology, nearby discoveries, or other indications would engender the belief in persons who are experienced in the subject matter that the prospects for extraction of hardrock minerals warrant expenditure to explore and develop a deposit, or where there is competitive interest in the area;

(r) "logical mining unit" means an area of land in which mineral deposits can be explored for or developed in an efficient, economical, and orderly manner as a unit with due regard to conservation. A logical mining unit may consist of one or more licensed or leased areas or unpatented mining claims, and may include intervening or adjacent lands in which the United States does not own the mineral resources, but all the lands in a logical mining unit must be under the effective control of a single operator, and be able to be explored, developed and operated as a single operation

(s) "associated or related minerals" means any minerals, other than the mineral covered by a lease, which are (1) so intermingled with the deposits of the mineral for which the lease issued that separate development is, in the opinion of the Secretary, not warranted or (2) of such poor quality and in such small quantity thant separate development is, in the opinion of the Secretary, undesirable;

(t) "maximum recovery" means the greatest quantity of the hardrock mineral deposit or associated deposits which can be economically recovered in accordance with the best mineral conservation and sound environmental practices;

(u) "reclamation" means the process of restoring a licensed or leased area affected by an exploration or a mining operation to its pre-exploration or pre-mining or other similarly appropriate condition, considering past and possible future uses of the area and the surrounding topography and taking into account environmental, economic, and social conditions;

(v) "minimal disturbance to the environment" means those activities which do not cause more than minor, short-term alteration of the environment or the destruction of important recreational, scenic, or other values. Activities which cause more than minimal disturbance to the environment may include destruction of trees, drilling, trenching, bulldozing, blasting, roadbuilding, and similar activities.

DISPOSITION OF MINERAL DEPOSITS

SEC. 101. (a) The Secretary may authorize the prospecting, exploration and development of hardrock mineral deposits in leasable lands in accordance with this Act; Except, that no permit, license, or lease shall be issued on lands within the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System or the National Wilderness Preservation System, which are open to mineral entry and location under the Mining Law of 1872, and related Acts, upon the effective date of passage of this Act, unless the Secretary determines: (1) that exploration, development, and production may be conducted in a manner consistent with the purpose for which such system was established, and (2) that any surface disturbance can be restored to its original or other similarly appropriate condition consistent with the purpose for which such system was established.

(b) Lands withdrawn from mineral entry under the Mining Law of 1872, and related Acts, 30 U.S.C. 2, 12A, 16 and section 161–162, except as provided in section 102(d)(2) of this Act, shall not be subject to the application of this Act unless the Secretary revokes the withdrawal.

PROSPECTING

SEC. 102. (a) Except as provided in subsection (d) of this section, no permit shall be required for prospecting on leasable lands.

(b) All prospecting shall be conducted in accordance with regulations issued by the Secretary.

(c) Any person who conducts prospecting activities in violation of the Secretary's regulations: (1) shall be subject to the penalties in section 120 of this Act; (2) may be barred by the Secretary from obtaining an exploration license or lease for a period not to exceed five years; and, (3) shall be required to disclose to the Secretary, who may make publicly available, all mineral resource data obtained as a result of such prospecting.

(d) The Secretary shall require a person to obtain a permit for the ground prospecting for hardrock minerals on:

(1) leasable lands within the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System or the National Wilderness Preservation System, which are open to mineral entry and location under the Mining Law of 1872, and related Acts, upon the effective date of passage of this Act;

(2) lands withdrawn from mineral entry under the Mining Law of 1872, and related Acts, unless the Secretary revokes the withdrawal;

(3) leasable lands where the United States owns the mineral estate but not the surface estate and the surface owner has not given consent;

(4) leasable lands designated as "areas of critical environmental concern" pursuant to the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1217), or lands similarly designated in land management plans prepared pursuant to the Forest and Range Land Renewable Resources Planning Act of 1974, as amended (88 Stat. 476, 16 U.S.C. 1601–1610);

(5) urbanized areas and lands designated for military use;

(6) areas included in any license or lease issued under this Act, *Except*, that the Secretary shall not allow prospecting on such areas if prospecting would present a financial or serious physical impediment to the licensee or lessee; and

(7) acquired lands.

(e) A permittee shall furnish the Secretary with copies of all data obtained pursuant to permits issued under subsection 102(d) (1) and (2) of this section.

(f) Subject to the provisions of this section, on the ground prospecting is permitted on all leasable lands except those which have been closed to prospecting, as required by section 302(b) of the Federal Land Policy and Management Act, to prevent unnecessary or undue degradation.

ISSUANCE OF LICENSES

SEC. 103. (a) The Secretary may, under such regulations as may be prescribed issue to any qualified person an exclusive license to explore for one or more hardrock minerals in a designated area of leasable lands not otherwise withdrawn or excluded from exploration as provided in subsection (e) of this section. No person may conduct exploration for hardrock minerals in the leasable lands without such a license. For leasable lands classified as suitable for competitive bidding, the Secretary may issue licenses only after competitive bidding. For all other leasable lands, the Secretary may issue exploration licenses noncompetitively.

(b) The Secretary shall post notice of all license applications one month prior to issuance. The Secretary shall review all comments received pursuant to such posting prior to approval of an exploration plan.

(c) A licensee shall have a right of first refusal, as provided for in section 106(d) of this Act, to obtain a lease for those lands applied for.

(d) After appropriate notice and hearing, the Secretary may (1) revoke a license after determining that the licensee has violated the terms and conditions of the license or applicable laws or regulations, or (2) seek penalties as authorized by section 121 of this Act. The Secretary may suspend the term of the license pending completion of the appropriate hearing and adjudication procedures.

(e) Exploration is permitted on all leasable lands except those which have been: (1) withdrawn from mineral entry under the Mining Law of 1872, and related Acts, if the withdrawal remains in effect; or (2) included in any exploration license or lease issued under this Act if the exploration would conflict with such license or lease.

(f) No person shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, licenses on an aggregate of more than 5,120 acres in any one State.

LICENSE TERMS

SEC. 104(a) All licenses shall require that exploration and associated reclamation of hardrock mineral deposits be carried out in accordance with an approved exploration plan pursuant to Section 110 of this Act. The licensee shall submit the plan within one year from the effective date of the license issuance, and shall commence operations within three months after approval, Except, that the time to commence operations may be extended if weather or other conditions beyond the effective control of the licensee prevent operations. If the licensee fails to submit a plan within the specified time, the license shall automatically terminate on the day following the first anniversary date of the license.

(b) Each license shall be for a term of not more than five years.

(c) A license shall be conditioned upon advance payment each year of a rental of not less than five dollars per acre.

(d) Each license shall contain conditions to insure the protection of the environment, and shall establish, should the license mature into a lease, the royalty rate required until readjustment of the lease at the end of the first twenty years. The license may authorize the holder to conduct activities which cause more than minimal disturbance to the environment. The license may authorize the holder to remove a reasonable amount of the licensed minerals for analysis, study and testing, but the licensee may not remove any mineral for sale.

(e) The Secretary may require the licensee to furnish copies of data obtained during exploration. Notwithstanding the provisions of the Freedom of Information Act, 5 U.S.C. § 552, the Secretary shall not disclose data obtained under a license without the consent of the licensee; *Provided*, That the Secretary shall disclose all data obtained under a license upon expiration of the term of the license including any extension thereof.

EXTENSION OF EXPLORATION LICENSES

SEC. 105(a) The Secretary is authorized, under such regulations as may be prescribed, to extend a license for a period of not more than five years beyond the original five-year period.

(b) The holder of a license issued under Section 103 of this Act which has never been extended shall have the right to apply for an extension of that license at any time during the period the license is valid. The application for a license extension shall show why the licensee has been unable to gather the information required by section 106(b) of this Act. The Secretary shall grant the application for extension after determining:

(1) that the licensee has diligently conducted exploration in accordance with the exploration plan for that license; or, that due to circumstances beyond its control the licensee has been prevented from diligently conducting exploration in accordance with the exploration plan for that license; and

(2) that additional exploration is likely to develop the information required by Section 106(b) of this Act.

(c) Each extended license shall be conditioned upon advance payment each year of an annual rental of not less than $5 per acre.

(d) An extended license shall be canceled unless the licensee submits a revised exploration plan and commences operations within the times required by Section 104(a).

ISSUANCE OF LEASES

SEC. 106(a) The Secretary may, under such regulations as may be prescribed issue to the holder of a license a lease for any leasable lands included within such license for the development and production of one or more hardrock minerals. Except as provided in Section 130 of this Act, no person may develop or produce hardrock minerals in the leasable lands without such a lease.

(b) An application for a lease shall contain sufficient information and data to enable the Secretary to estimate the probable extent of the mineral deposit, the probable mining, milling and transportation methods, the probable environmental and socio-economic impacts of development of the mineral deposit and any other information required by regulations issued by the Secretary. An application shall be filed no later than sixty days after the expiration of the license. Failure to submit an application on or before such time shall terminate any right to the issuance of a lease. If an application does not contain information required by the Secretary, the applicant shall be given a reasonable opportunity to submit such information. If the information is not submitted within the time prescribed by the Secretary, the Secretary shall reject the application.

(c) The Secretary shall issue a lease, under the terms and conditions in section 109, to an applicant for all lands in the application that are likely to contribute to mineral development, if the Secretary determines that the proposed operation:

(i) is compatible with the land-use plan for the area, as provided in Section 108 of this Act;

(ii) will not violate any applicable laws and regulations; and

(iii) will have an overall value which, in the Secretary's judgment, exceeds its overall costs. In making this judgment, the Secretary shall take account of environmental costs, the value of mineral production expected, the value of foregone surface uses and other relevant considerations.

(d) If the Secretary rejects a lease application because the criteria in subsection (c) of this section have not been met, the Secretary shall inform the applicant of the reasons for the rejection. A licensee whose application has been rejected shall retain a right of first refusal to obtain a lease, in the event the Secretary determines that changed circumstances permit the lands to be leased, for ten years from the date of rejection. The licensee shall also have the right at any time during the ten years following the date of rejection, to submit a new application, if the licensee believes that due to revisions in the application or changed circumstances the new application will meet the criteria of subsection (c) of this section. Rejection by the Secretary of such a new application shall not extend the time period during which the licensee has a right of first refusal.

(e) No person shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, leases on an aggregate of more than 51,200 acres in the United States.

(f) No lease may be issued until the Secretary has given the public an opportunity for a public meeting on the proposed lease issuance; or, until data obtained during exploration under Section 104(e) of this Act has been publicly disclosed for a period of 30 days.

CONSENT OF OTHER FEDERAL AGENCIES

SEC. 107. Licenses and leases covering leasable lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior shall be issued only upon consent of the other Federal agency and upon those conditions it may prescribe with respect to the use and protection of the nonmineral interests in the leasable lands.

LAND USE PLANS

SEC. 108. (a) No licenses or leases shall be issued under this Act unless the lands contained in the licenses or lease shall have been included in Federal land-use plan prepared by the Secretary, or in the case of lands within the National Forest System, the Secretary of Agriculture, and license or lease issuance is compatible with the plan; *Provided*, that if such lands have not been included in a Federal land-use plan, or if a Federal land-use plan for those lands is incomplete, the Secretary may issue a license or lease after considering, or in the case or lands within the National Forest System after the Secretary of Agriculture considers, existing land uses and potential land uses.

LEASE TERMS

SEC. 109 (a) A lease shall require diligent development and continued operations. In addition, the Secretary may require advance royalties, production goals, financial expenditures, or any other appropriate requirements to encourage timely development of mineral deposits. In defining these terms, the Secretary shall consider the cyclical nature of hardrock mining operations.

(b) A lease shall be for a period of twenty years and as long thereafter as the lessee conducts continued operations on the leased area or on other lands subject to a lease embraced in the same logical mining unit, as approved by the Secretary; *Provided*, that if on the 10th anniversary date the issuance of the lease there is no production under the lease or any other lease in the same approved logical mining unit, the lease shall automatically terminate. All terms and conditions of a lease shall be subject to readjustment at the end of the first twenty years and at the end of each ten-year period thereafter.

(c) A lease shall be conditioned upon advance payment each year of an annual rental of not less than twenty-five dollars per acre and such royalty and other financial terms as the Secretary may prescribe. In no lease issued under this title shall the royalty required be less than two per centum of the gross value, as determined by the Secretary, of the output of the mine or a comparable sum under other systems of payment. Rentals paid for any one year shall be credited against royalties accruing for that year.

(d) The lease shall contain such other terms and conditions as the Secretary may require, and shall require the lessee to comply with all applicable terms, conditions and regulations issued pursuant to this Act and other applicable law.

PLANS

SEC. 110. (a) Prior to taking any action which causes or may cause more than minimal surface disturbance under an exploration license or a lease issued under this Act, the licensee or lessee shall submit, as appropriate, either an exploration plan or a mining plan to the Secretary for approval pursuant to this section. As promptly as possible thereafter, the Secretary shall review and either approve or disapprove such plan or require that it be modified. Where the surface management of the land involved is under the jurisdiction of another Federal agency, that agency must consent to the terms of such approval.

(b) An exploration or mining plan, as appropriate, may apply to more than one license or more than one lease, and shall set forth such information in such detail as required by regulations issued by the Secretary.

(c) The Secretary or his designee is authorized to review exploration and mining plans approved under this section. If this review indicates that the exploration or mining plan should be revised to meet the requirements of this Act or other applicable law, the Secretary shall require such revision; or, in the case where a revision of an approved exploration or mining plan is proposed by a licensee or lessee, the Secretary may approve such revision after determining that such revision is appropriate and consistent with the provisions of this Act and other applicable law.

(d) Except as provided in section 104(a) of this Act, whenever a licensee or lessee fails to submit a plan in accordance with regulations issued under this section or fails to comply with an approved plan, the license or lease may, after notice of such failure and after an opportunity for a hearing, be canceled without compensation, subject to the right of judicial review in accordance with the provisions of section 120 of this Act.

SMALL MINERS

SEC. 111. (a) A small miner is an individual engaged in mineral prospecting, exploration, or development operations alone or as part of a partnership composed of not more than three individuals, at the time rights are received under this Act. No corporation may qualify as a small miner or as a partner.

(b) No operation conducted on a licensed or leased area by a small miner shall involve the labor of more than three people at any time, except that up to seven people may be temporarily employed for drilling.

(c)(1) A small miner shall obtain prospecting permits, licenses, and leases as required by this Act before prospecting, exploration, or development and production may occur.

(2) Small miners shall meet all the requirements and responsibilities imposed on permittees, licensees, and lessees under this Act, except that, notwithstanding other provisions of this Act, a small miner need only submit to, and obtain approval from the Secretary of, an abbreviated exploration or mining plan before commencing exploration or development and production. Where the land involved is under the jurisdiction of another Federal agency, that agency must consent to the terms of such approval. These abbreviated plans shall briefly describe the type of operation planned, the period of operation, the equipment to be used, the amount and degree of surface disturbance involved, and the location of surface disturbing activities. Departmental personnel shall assist the small miner in every reasonable way in preparing this plan, and shall consult with and advise the small miner regarding how best to carry out mining activities in such a way as to comply with the regulations promulgated by the Secretary in accordance with subsection (e), below. The Secretary shall approve or reject the small miner's exploration or mining plan within 45 days of its submission to him.

(d) A person who initially qualifies as a small miner but subsequently ceases to remain qualified as a small miner, shall be required to comply in the same manner as any other person conducting operations under this Act, and shall be required to submit, within 30 days of the date upon which the person no longer qualifies, either an exploration or mining plan, as appropriate, required by section 110 of this Act, or cease operations thereafter until such plan is submitted. The Secretary shall either approve or disapprove the plan within 90 days of the date the plan is submitted.

(e) The Secretary is directed to develop regulations governing the issuance of permits, licenses, and leases to, and the exploration and development operations of, small miners. In formulating these regulations, the Secretary shall make such allowances, including adjustment of lease terms and royalty rates, as he deems necessary to prevent the small miner from being unfairly penalized or restricted: *Provided, however*, That the Secretary shall not relax any environmental protection, bonding requirements or penalty provisions applicable to all mining under this Act for the benefit of the small miner.

(f) Upon a determination that the small miner has violated any standard established in the subsection (e) of this section, the Secretary shall require the small miner to file and, after approval, to follow exploration and mining plans, as appropriate, and otherwise fully comply with the Act as if the person were not a small miner.

MULTIPLE LICENSES AND LEASES

SEC. 112. The issuance of a license or lease for a particular mineral shall not preclude the issuance of a license or lease covering other minerals under this or other Acts for the same lands, where the Secretary determines that such other minerals are separately mineable or extractable and that operations with respect to such other minerals will not unreasonably interfere with the licensee or leasee who has prior rights.

ASSOCIATED OR RELATED MINERAL DEPOSITS

SEC. 113. The Secretary is authorized to allow or, where the Secretary determines it is economically feasible to require that a person holding a lease issued pursuant to this Act or the Mineral Leasing Act of 1920, as amended, Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. § 181 et seq. extract and dispose of associated or related minerals other than the mineral deposit for which that person's lease has been issued upon such royalty as the Secretary may prescribe for each type of associated or related mineral: *Provided*, That those associated or related minerals are not already subject to another lease issued pursuant to this Act or the Mineral Leasing Act of 1920, as amended, to a different lessee. Failure to extract associated or related minerals under this section may result in penalties under section 121.

UNITIZATION

SEC. 114 (a) The Secretary, upon determining that economic recovery of the hardrock mineral deposits on the leasable lands will be served, may approve or require the consolidation of licenses or leases into a logical mining unit.

(b) After the Secretary has approved the establishment of a logical mining unit, any mining plan approved for that unit must require diligent exploration and development and continued operation of the reserves of the entire unit.

(c) In approving a logical mining unit, the Secretary may provide, among other things, that (i) diligent exploration development, continuous operation, and production on any Federal lease or non-Federal land in the logical mining unit shall be construed as occurring on all Federal leases in that logical mining unit, and (ii) the rentals and royalties for all Federal leases in a logical mining unit may be combined, and advance royalties paid for any lease within a logical mining unit may be credited against such combined royalties.

(d) If a logical mining unit is approved at the request of a licensee or leasee the Secretary may amend the provisions of any lease included in a logical mining unit so that mining under that license or lease will be consistent with the requirements imposed on that logical mining unit.

SURFACE USE

SEC. 115. (a) A lease shall provide for the use of so much of the surface of the leased area as may be reasonably required for the actual extraction, removal and processing of the mineral or minerals subject to the lease upon such terms and conditions as the Secretary, may require.

(b) The Secretary, pursuant to Federal Land Policy and Management Act, and the head of any Federal surface managing agency under other applicable law, may lease other lands not included in a lease issued under this Act which are required to extract or process the leased mineral or minerals, upon payment of fair market value and upon such terms and conditions as may be prescribed.

(c) This section shall not affect the authority to regulate source material contained in section 11(z) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2014(2), or the authority of the States to regulate source material under an agreement entered pursuant to section 274 of that Act, 42 U.S.C. § 2021. The Secretary shall consult with the Nuclear Regulatory Commission or the State agency with respect to any lease for a mill to process source material.

ENVIRONMENTAL PROTECTION AND CONSERVATION

SEC. 116. (a) The Secretary shall issue regulations to insure that all prospecting, exploration, development and production authorized by this Act are conducted in a manner that minimizes to the maximum extent feasible, taking into account environmental and economic costs, environmental damage. These regulations shall contain requirements designed to insure that operations conducted under this Act:

(1) will comply with standards promulgated under the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended, and other applicable Federal law. In promulgating regulations under this section, the Secretary shall consult with the Administrator of Environmental Protection Agency with respect to those regulations which relate to the authorities of the Administration.

(2) will minimize or prevent erosion, flooding, release of toxic substances, rock slides, and fires;

(3) will minimize damage to fish and wildlife or their habitat; and

(4) will not endanger public health or safety.

(b) The Secretary shall require that an appropriate reclamation plan be prepared and approved in advance of more than minimal disturbance to the surface; that all license and lease areas be reclaimed as contemporaneously as practicable; and, that reclamation work be completed in accordance with applicable performance standards within reasonably prescribed time limits.

(c) The Secretary shall require the filing, updating, and permanent retention of engineering maps of all active surface and underground operations for which engineering or other maps are available.

(d) The Secretary shall regularly review and, as necessary, revise regulations promulgated under this section after notice and opportunity for public comment.

(e) The Secretary shall by regulation adopt performance standards for the reclamation of areas affected by open pit or other surface mining, taking into consideration the unique nature of such operations. Those performance standards shall, to the maximum extent feasible, taking into account environmental and economic costs, insure, among other things: (i) that new mined areas shall be returned to approximately their original contour or to a contour similarly appropriate considering the surrounding topography and possible future uses of the area, (ii) that there will be no permanent deposition of spoil material on undisturbed or natural surfaces within or adjacent to the mined areas, (iii) that throughout the license or lease area, soil conditions will be stabilized, surface disturbance minimized and water management conducted, such that landslides and erosions will be prevented, and pollution of water, including that in water impoundments created by the mining operation, by siltation and by acid, highly mineralized and toxic material drainage will be prevented, and, (iv) that original type or similarly appropriate type vegetation will be re-established on the disturbed land areas.

(f) The Secretary shall by regulation adopt performance standards for reclamation of areas affected by underground mining operations in order to prevent to the maximum extent feasible, taking into account environmental and economic costs, environmental

harm, including subsidence and the continuing discharge of acid, mineralized and toxic material drainage.

(g) The Secretary shall by regulation adopt performance standards for the construction of dams by mining companies for the impoundment of tailings from the ore beneficiation process. Those performance standards shall to the maximum extent feasible, taking into account environmental and economic costs, insure, among other things: (i) the safety and durability of the structure for as long as it presents a threat to the ecosystem; (ii) the prevention of seepage or overflow from the tailings impoundment; (iii) the vegetation of the face of the impoundment dam, insofar as is practicable, is maintained during and after its active use; and (iv) for revegetation for the surface of the impounded area after use has been discontinued and the impoundment area has dried sufficiently for such purpose. The Secretary shall also make rules and provide standards for the diversion of any natural stream flows into the impoundment area away from the tailings pond after use of the pond has been discontinued; and standards for the construction of such facilities as may be necessary, including settling ponds, to insure that the water that is returned to the natural watershed from the impoundment dam does not significantly lower the quality of the water in that watershed.

(h) The Secretary shall regularly review and, as necessary, revise performance standards set under this section.

(i) In developing environmental regulations and performance standards, the Secretary shall solicit full paritcipation of all interested Federal Departments and agencies, State agencies, local governments, and other interested bodies and groups.

(j) The regulations issued or revised under this section shall be applicable to all licenses and leases issued under this Act.

(k) The Secretary may adopt State environmental regulations and standards which are as strict as or stricter than the applicable Federal environmental regulations or standards; and, may also enter into cooperative agreements with States to enforce environmental regulations and standards after determining that the State has the capability of carrying out such responsibilities.

(l) The Secretary may delegate to the land administering agency, the authority to enforce the regulations issued under this section; except that the Secretary of Agriculture is authorized to enforce regulations issued under this section on lands within the National Forest System.

SURFACE OWNER RIGHTS

SEC. 117. (a) When the surface of an area otherwise open for prospecting, exploration, or leasing under this Act is owned privately, the Secretary shall consult with the surface owner prior to issuing a permit, license or lease for those lands.

(b) If the Secretary issues a license or lease for lands the surface of which is privately owned, the Secretary shall require the licensee or lessee to compensate the surface owner for damages resulting from such license or lease activities. The compensation shall include:

(1) loss of income to the surface owner during the conduct of license or lease activities;

(2) cost to the surface owner for relocation during the license or lease activities;

(3) cost to the surface owner for loss of livestock, crops, water, or other improvements resulting from license or lease activities;

(4) any other damage reasonably incident to operations conducted on the license or lease.

CITIZENS SUITS

SEC. 118. (a) Except as provided in subsection (c) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf:

(1) against the Secretary or head of any other Federal agency which is alleged to be in violation of the provisions of this Act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, regulation, order or permit issued to this title; or

(2) against the Secretary or head of any other Federal agency where there is alleged failure of the Secretary or other Federal agency to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate Federal official.

(b) The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(c) No action may be commenced:

(1) under subsection (a)(1) of this section;

(A) prior to sixty days after the plaintiff has given notice in writing of the violation (i) to the Secretary, (ii) to the other Federal agency, and (iii) to any alleged violator; or

(B) if the Secretary or other Federal agency has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this Act, or any rule, regulation, order, or permit issued pursuant to this Act, but any person having an interest which is or may be adversely affected may intervene as a matter of right in that civil action; or

(2) Under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary and to any other agency head, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(d)(1) Any action respecting a violation of this Act or the regulations thereunder may be brought only in the judicial district in which the action complained of is located.

(2) In such action under this section, the Secretary, or other Federal agency, if not a party, may intervene as a matter of right.

(e) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) Nothing in this section shall restrict any right which any person (or class of persons) may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, except that this section shall be the sole basis or jurisdiction for suits under subsection (a)(2) of this section and failure to comply with the notice requirement of subsection (c)(2) shall require dismissal of the action.

ENFORCEMENT

SEC. 119. (a) Whenever, on the basis of available information including receipt of information from any person the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit, license or lease term or regulation, the Secretary shall immediately order inspection of the permit, license or lease area at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of permit, license or lease. When the Federal inspections results from information provided to the Secretary by any person, the Secretary may notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(b) When, on the basis of any inspection, the Secretary determines that any condition or practices exist, or any permittee, licensee or lessee is in violation of any requirement of this Act or any permit, license or lease term or regulation, which condition, prac ice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary shall immediately order a cessation of operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary determines that the condition, practice, or violation has been abated, or until the order has been modified, vacated, or terminated by the Secretary pursuant to paragraph (d) of this section. Where the ordered cessation of operations, or any portion thereof, will not completely abate the imminent danger to health and safety of the public or the significant environmental harm to land, air, or water resources, the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm.

(c) When, on the basis of inspection, the Secretary determines that any permittee, licensee or lessee is in violation, other than as described in paragraph (b) of this section, of any requirement of this Act or any permit, license or lease condition or regulation, the Secretary shall issue a notice to the permittee, licensee or lessee or his agent fixing a reasonable time for the abatement of the violation. If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon written findings that the violation has not been abated, the Secretary shall immediately order a cessation of operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary, pursuant to subsection (d) of this section.

(d) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the operation to which the notice order applies. Each notice or order issued under this section shall be given promptly to the permittee, licensee, or lessee or his agent, and all such notices and orders may be made orally and shall be confirmed in writing and shall be signed by such authorized representatives. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary. Any notice or order issued pursuant to this section which requires cessation of mining shall expire within twenty days unless the Secretary gives the affected person an opportunity for a hearing on the alledged violation.

JUDICIAL REVIEW

SEC. 120. (a)(1) Any action by the Secretary promulgating general standards under this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia. A petition for

review of such action shall be filed in the Court of Appeals within sixty days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such application may be made by any person who participated in the administrative proceedings and who is aggrieved by the action of the Secretary.

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States district court for the locality in which the lease, license or other action is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under the penalty section of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 118.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, for cessation of operations, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings; if:

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood of prevailing on the merits on final determination of the proceedings; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

REMEDIES AND PENALTIES

SEC. 121. (a) At the request of the Secretary, the Attorney General may institute a civil action in a district court of the United States for an injunction or other appropriate order (1) to prevent operations in violation of this Act, including violations of regulations, permits, licenses and leases or orders issued under this Act; (2) to prevent any licensee or lessee from placing in commerce the minerals produced in violation of such regulations or to enforce a cessation order; (3) to enforce a warrant; (4) to collect a penalty under this section; or (5) to insure compliance with this Act. The district court of the United States for the district in which such person resides or is doing business shall have jurisdiction to issue such injunction or order.

(b)(1) Any person who conducts exploration for hardrock mineral deposits in the leasable lands for commercial purposes without an exploration license or lease issued hereunder shall be subject to a fine of not more than $1,000 for each day of violation and may be barred from receiving a license or lease under this Act for up to 10 years. All data collected by said person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable.

(2) If any person fails to comply with any regulations issued under this Act the person shall be liable for a civil penalty of not more than $1,000 for each day of continuance of the violations.

(3) If any person willfully and knowingly violates any regulation issued pursuant to this Act, the person shall, upon conviction, be punished by a fine not exceeding $10,000 or by imprisonment not exceeding one year or both. The penalties prescribed in this section shall be in addition to any other remedies afforded by this Act or by any other law or regulation.

(4) In addition to other penalties provided under this Act the Secretary may suspend or revoke any license or lease granted under this Act for failure of the licensee or lessee to perform any duty under that license or lease or applicable regulations.

(5) No penalty under this section shall be assessed unless the Secretary gives the person notice and an opportunity for a hearing.

BONDS

SEC. 122. (a) The Secretary may require a surety bond to enforce any of the requirements of this Act or regulations issued hereunder.

(b) The Secretary shall require posting of performance bonds, based on estimated actual cost, in amounts at all times sufficient to insure reclamation in the event that the regulations or performance standards are not complied with or that reclamation is not completed in accordance with the appropriate exploration or mining plan.

ASSIGNMENTS OF LICENSES AND LEASES

SEC. 123. (a) Any license or lease issued under this Act may be assigned, subject to final approval of the Secretary, as to all or part of the acreage included therein and as to either a divided or undivided interest therein, to any person qualified to hold a license or lease under this Act.

(b) Any license or lease assigned in whole shall be taken subject to any approved plan, and any license or lease assigned in part shall be taken subject to all applicable portions of such plans.

(c) An assignment of part of the acreage subject to a license or lease shall segregate the assigned and retained portions into separate licenses or leases and such segregated licenses or leases shall continue for the term of the original license or lease.

SUSPENSION OF OPERATION OR PRODUCTION

SEC. 124. In the interest of conservation of natural resources, promoting development, or protecting the environmental or public health, or where operations are prevented by circumstances neither caused by nor attributable to the licensee or leasee, the Secretary may suspend operations or production, or both, on any license or lease.

SUSPENSION, WAIVER, OR REDUCTIONS OF RENTS OR ROYALTIES

SEC. 125. (a) The Secretary may suspend, waive, or reduce the rental or royalty on an entire license or lease area, or on any tract or portion thereof segregated for royalty purposes, whenever the Secretary determines it is either necessary to do so in order to promote development or that the licenses or leases cannot be successfully operated under the terms provided therein.

(b) In the event that the Secretary directs the suspension of operations or production, or both, under any license or lease issued under this Act, any payment of rental or royalty prescribed by that license or lease shall be likewise suspended during such period of suspension and the terms of such license or lease shall be extended by a period equal to the time of suspension.

SURRENDER, CANCELLATION, AND TERMINATION OF LICENSES AND LEASES

SEC. 126. (a) Any license or lease issued under this Act may be surrendered at any time, but such a surrender will neither relieve the licensee or lessee of any liability, including liability for reclamation which has accrued under the license or lease prior to the surrender nor entitle the licensee or lessee to the return of any rental or other moneys already paid.

(b) The Secretary is authorized to cancel any permit, license or lease or the regulations issued under this Act, immediately in the event of a breach of its terms or conditions. Such cancellation shall be without compensation.

(c) In addition to the authority granted to cancel leases in paragraph (b) of this section, the Secretary may cancel a lease at any time upon determining, after proper notice and hearing, that: (1) continued activity under the lease would cause serious harm or damage or endanger life, property, or other resources or the environment, or threaten national security; (2) application of available technology cannot eliminate the serious harm or damage or endangerment; (3) the threat of harm or damage or endangerment will not abate or decrease to an acceptable extent within a reasonable period of time and, (4) the advantages of cancelling the lease outweigh the advantages of continued development and production.

(d) Cancellations under subsection (c) of this section shall entitle the lessee to receive such compensation as the Secretary determines to be equal to the lesser of (1) the fair value of the lessee's rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (including interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (including interest on such consideration and such expenditures from date of payments to date of reimbursement).

TERMINATION OF A LICENSE OR LEASE FOR DEFAULT IN PAYMENT OF RENTAL: REINSTATEMENT

SEC. 127. (a) Upon failure of a licensee or lessee to pay the rental due on or before the anniversary date of a license or lease the license or lease shall terminate by operation of law.

(b) Where the rental is paid or is tendered within twenty days after the due date, the licensee or lessee may, within that period, file with the Secretary a petition for reinstatement of the lease. If it is shown to the satisfaction of the Secretary that the default in payment of the rental was not due to a lack of reasonable diligence on the licensee or lessee's part, and if no valid license or lease covering the same land has been issued prior to the filing of the petition, the Secretary may reinstate the license or lease upon such terms and condition as he may prescribe. Upon reinstatement of a license or lease, the Secretary may extend it for a period of time not in excess of that between the date of termination and the date of reinstatement, if the Secretary deems such an extension justifiable.

(c) If rental in a deficient amount was paid on time but was deficient in amount and the deficiency is nominal as determined by the Secretary in regulations, or if the rental was calculated in accordance with the acreage figure in the license or lease and that figure is found to be incorrect, the license or lease shall not be terminated automatically. The Secretary shall notify the licensee or lessee of the deficiency and require payment within the period prescribed by him. Upon failure of the licensee or lessee to pay the

deficiency within the time allowed, the license or lease shall terminate on the date specified by the Secretary in the notice, and shall not be subject to reinstatement.

DISPOSITION OF RECEIPTS

SEC. 128. All receipts derived from licenses and leases issued under this Act shall be paid into the Treasury of the United States. Fifty per centum of such receipts shall be paid by the Secretary of the Treasury as soon as practicable after September 30, and March 31 of each year to the State in which the leased lands are located. The balance of fifty per centum of such receipts shall be credited to miscellaneous receipts.

UNLAWFUL TRUSTS: FORFEITURE

SEC. 129. Except as otherwise provided in this Act, if any lands or deposits subject to the provisions of this Act shall be assigned, trusted, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in anyway controlled by any combination in the form of an unlawful trust, with the consent of the licensee or the lessee, or form the subject of any contract or conspiracy in restraint of trade in the exploration, mining or selling of any leasable mineral entered into by the licensee of lessee or any agreement or understanding written, verbal, or otherwise, to which such lessee or licensee shall be a party, or which its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this Act the lease or license shall be forfeited by appropriate court proceedings. This section shall not be construed as a defense to any actions arising under other laws regarding unlawful trust, restraints of trade or other antitrust matters.

EXISTING RIGHTS

SEC. 130. (a) After the effective date of this Act, no new mining claims may be located under the Mining Law of 1872, and related Acts (30 U.S.C. chapters 2, 12A, 16 and sections 161–162).

(b)(1) Within 2 years of the effective date of this Act, the holder of a mining claim recorded under section 314 of the Federal Land Policy and Management Act shall file an application for either a license (or in the case of a millsite, a surface lease pursuant to section 115) or a a patent; *Provided*, that upon a showing that a mineral survey cannot be completed within such period, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, shall be acceptable in place of the patent application required by this section, if the applicant prosecutes diligently such application for patent.

(2) The Secretary shall grant the patent applications for all valid claims, and shall declare void any claims for which the patent application is rejected.

(3) The Secretary shall grant a license or surface lease as appropriate, to the owner of a claim or millsite for which a timely license or surface lease application is filed. Conflicts between owners of mining claims shall be resolved under applicable laws governing possession of mining claims.

(c) Any mining claim for which an application is not timely filed under subsection (b) of this section shall be void.

(d) The holder of a mining claim for which an application is timely filed under subsection (b) of this section may continue to conduct operations on the claim until the Secretary takes final action on the application. All operations authorized by this subsection shall comply with environmental regulations and performance standards issued under this or other Acts.

EXISTING LAWS

SEC. 131. (a) On the effective date of this Act, no person may initiate a claim under the Mining Law of 1872, as amended and supplemented and related Act (30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162). Laws governing issuance of leases for hardrock minerals on acquired lands are repealed except as necessary to protect valid existing rights. Nothing in this Act shall affect the authority of the United States under any other statute, to sell, exchange, or withdraw lands or interests therein.

(b) Nothing in this Act shall be deemed to modify or amend the Territorial Submerged Lands Act of 1963 (48 U.S.C. 1701–1704), and nothing in this Act shall prohibit the disposal by the General Services Administration of minerals as part of a full fee title to property covered by the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471–535), or disposals by the Secretary pursuant to § 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1719).

REGULATIONS

SEC. 132. (a) The Secretary is authorized to issue and revise as appropriate any regulations necessary or desirable to carry out the provisions and purposes of this Act.

(b) The Secretary is authorized to make such inspections and investigations necessary or appropriate to develop or enforce Federal regulations, or otherwise to carry out the purposes of this Act, and for such purposes authorized representatives of the Secretary shall have the right of entry to any area covered by any lease. In order to enforce the right of entry into a specific area the Secretary may obtain a warrant from the appropriate district court to authorize such entry.

SEVERABILITY

SEC. 133. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 14, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To reform the mining law, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

For more than a century, the development of hardrock minerals on the public lands has been governed by the Mining Law of 1872. This law once served an important purpose: encouraging settlement of the West and rapid development of the mineral wealth there. But it is now outdated and inadequate.

Among the most serious and widely recognized deficiencies of the Mining Law are its:

Incompatibility with Congressional policy relating to the Federal lands as expressed in many Acts of Congress, particularly with respect to retention of Federal lands in public ownership, multiple use, sustained yield and other well established land management concepts;

Increasing legal uncertainties and confusion resulting from lack of specific Congressional guidance and significant social and economic change in the last 105 years;

Lack of any directions for insuring necessary environmental protection, including preservation or minimization of losses to the land or other resources or to rehabilitate damaged lands or other resources;

Creation of pressure to withdraw large areas of public land from mining as the only means of environmental protection;

Creation of uncertainty and confusion over the status of mining claims and mineral tenure generally, inhibiting exploration and other uses of public lands;

Lack of a fair return to the treasury for exploitation of publicly owned resources;

Lack of adequate diligence mechanisms. The public loses when access to mineral resources by willing and able enterprises is blocked by large holding of Federal lands with a minimum of activity;

Lack of mechanisms for fair, strict and uniform enforcement; and

Easy exploitability for fraud and abuse. The nondiscretionary procedures of the mining law have been used to acquire title to agricultural lands, timber lands, water services, and prime recreational areas for such nonmining purposes as social clubs, vacation homes, residential subdivisions and for real estate speculation.

These deficiencies and their resulting costs have created a broad consenus that revision of the law is needed. Over the last 100 years, a number of groups have recommended revisions, among them: the 1879 Public Lands Commission; the Commissioner of the General Land Office in 1942 and 1943; the Bureau of Land Management in 1965; Stuart Udall, former Secretary of the Interior, in 1969; the Natural Resources Council of America in 1969; the Public Land Law Review Commission in 1970; the American Mining Congress in 1971, 1975, and 1977; the Secretary of the Interior in 1971 and 1973; Members of Congress in 1975 and 1977; and the Federal-State Land Use Planning Commission for Alaska in 1975.

In May of this year the President directed me to prepare, for submission to the Congress, legislation to replace the Mining Law of 1872 with one more suited to contemporary needs. The President specified that its provisions should include: (1) a leasing system for publicly owned hardrock minerals; (2) exolicit Federal discretionary authority over mineral exploration and development on the public lands; (3) strict standards for environmental protection and for reclamation of mined areas; (4) a requirement for approval of operation and reclamation plans before mining can begin; (5) royalties for use of public lands and mineral resources; and (6) the integration of mining into land use plans being developed for the public lands.

The draft bill meets the President's requirements and provides a positive measure for correcting the deficiencies and for ameliorating the social, environmental and economic problems associated with the Mining Law of 1872.

We also recognize the need for and importance of a healthy and productive mining industry to this Nation's economic welfare. We believe that the draft bill provides the necessary incentives to induce people to take the risks inherent in the search for and ultimate production of these minerals. These include:

Noncompetitive as well as competitive procedures for acquiring mining rights;

Access to all lands subject to the bill's application;

The preferred right of holders of exploration licenses to development and production leases and a right of first refusal to such a lease for 10 years after exploration;

A right to produce on a lease as long as there are continuous operations;

Statutory recognition of the role and contribution of the small miner, along with the positive obligation of the Federal Government to provide direct technical assistance to the small miner in meeting the regulatory requirements and to minimize regulatory requirements for their operation;

Assurance through acreage limitations and diligence requirements, that larger companies with greater assets will not be able to monopolize the exploration of Federal lands;

Sufficient time to explore for and develop mineral deposits through guaranteed tenure and provisions that recognize the special circumstances of hardrock mining;

Procedures for acquiring the necessary land, both on and off lease, for processing facilities without need to resort to land exchange and acquisition processes.

Reform of the Mining Law is long overdue and needed. Evidence of the damages of earlier mining is in some cases dramatic. The days of serious impacts are not over. Unless there is a change, there is real potential for even greater disturbance and confusion. For these reasons, I urge serious and prompt consideration of the draft bill. As always, I look forward to working closely with the Congress in this effort.

We are preparing an environmental evaluation of this proposal which we will forward to Congress shortly.

The Office of Management and Budget has advised that the presentation of this legislative proposal is in accord with the President's program.

Sincerely,

CECIL D. ANDRUS,
Secretary.

SUMMARY

1. Scope:

All lands would be open to hardrock mineral prospecting exploration, and development, *except*: National Park System, National Wildlife Refuge System, Wild and Scenic Rivers and the National Wilderness Preservation System lands, except to the extent those lands are open to mineral entry and location under the Mining Law of 1872 on the effective date of passage of the Act; Indian lands; Outer Continental Shelf; lands entrusted to or managed by the Tennessee Valley Authority; lands specifically excluded from mining pursuant to any other acts of Congress; and lands, other than those listed above, which were previously withdrawn from entry and location under the Mining Law of 1872, unless the Secretary revokes the withdrawal.

2. Prospecting:

a. Could cause only minimal disturbance to the environment.

b. A permit would be required only:

In National Parks, Refuges, Wilderness Preserves, and Wild and Scenic Rivers open to entry and location under the Mining Law of 1872 on the effective date of passage of the Act;

On lands previously withdrawn from mineral entry and location under the Mining Law of 1872;

On lands where United States does not own surface;

On lands designated as areas of critical environmental concern;

In urbanized areas or lands designated for military use;

On already licensed or leased areas unless prospecting would cause a financial or serious physical impediment to the licensee or lessee; and

On acquired lands.

c. Permit issuance would be discretionary.

d. Violators, in accordance with regulations, would be subject to:

Penalties;

5 year bar from exploration or leasing;

Disclosure of information

3. Exploration licenses:

a. Could cause more than minimal disturbance pursuant to an approved exploration and reclamation plan.

b. No exploration without a license.

c. Would be issued under two procedures:

Competitively in areas classified as suitable for competitive bidding;

Noncompetitively in all other areas.

d. License issuance would be discretionary.

e. Licensees making application for a lease would get a 10 year qualified right to a development and production lease.

f. Could not remove any minerals for sale.

g. License term: 5 yrs./not less than $5 per acre/exploration plan/conditions.

h. Aggregate acreage limitation for licenses: 5,120 acres per State.

i. License extensions: 5 years. (upon a satisfactory showing of diligence)/not less than $5 per acre/exploration plan revision.

4. Leases:

a. Operations would be subject to approval of a mining plan.

b. No development or production without a lease.

c. Lease issuance would be discretionary, but if Secretary decided not to issue a lease the applying licensee would retain a qualified right to a lease for 10 years.

d. Secretary to issue leases for lands likely to contribute to mineral development where:

Compatible with land use plans or with a Secretarial determination of the values for the area;

Would not violate any applicable law or regulations;

Would have an overall value which exceeds its overall costs.

e. Would require diligence and continued operation, and may require advance royalties, production goals, financial expenditures, or other appropriate requirements to encourage timely development.

f. Lease term: 20 years initially, lease terms renegotiated every 10 years thereafter.

g. Production requirement: within 10 years.

h. Broad suspension authority for taking into account the special circumstances of hardrock mining.

i. Lease rentals for minerals and for surface use: not less than $25 per acre.

j. Lease minimum royalties: 2% of gross value of the output of the mine, or a comparable figure under another system of payment.

k. Lease size: limited to actual operations.

l. Aggregate acreage limitations for leases: 51,200 acres nationwide.

5. Small Miners:

a. Small miner: an individual or partnership of no more than three persons, no corporations.

b. Could involve the labor of no more than three persons, or the temporary employment of seven persons for drilling, on the licensed or leased area at any one time.

c. Would be obliged to obtain proper permits, licenses and leases before prospecting, exploration, development and production.

d. Need only submit an abbreviated exploration or mining plan before commencing work.

e. Would require a positive duty for the Federal Government to provide direct technical assistance in preparing plans and carrying out operations.

f. Loss of status of small miner would necessitate approval of a regularly required exploration or mining plans.

g. Secretary is directed to develop regulations establishing standards for small miners, except Secretary is not authorized to relax any environmental requirements.

6. Authority for multiple licenses and leases.

7. Authority for leasing associated and related deposits.

8. Authority for unitization.

9. Surface Use:

a. For the actual extraction, removal and processing of the mineral.

b. On lease not less than $25 per acre (see 4.l above).

c. Fair market value off lease.

10. Formal Public Participation: would be required before lease issuance.

11. Federal Surface Managing Agency Consent: would be required for license and lease issuance, and for approval of terms to exploration and mining plans.

12. Surface owner protection: would require the Secretary to consult with the surface owner, and would also require compensation for the surface owner, if the Government decided to lease, for damages associated with exploration and mining activities.

13. Environmental Protection:

a. Secretary would issue regulations designed to insure, to the maximum extent feasible, taking into account environmental and economic costs, against environmental damage; including provisions to insure against:

Violations of the Federal Water Pollution Control Act, the Clean Air Act or other applicable Federal law (and also requiring consultation with EPA);

Erosion, flooding, release of toxics, subsidence, and fires;

Damage to fish and wildlife and their habitats;

Public health or safety.

b. Would require reclamation plans and contemporaneous reclamation.

c. Would require filing, updating and retention of engineering maps.

d. Would require the Secretary specifically to adopt performance standards with regard to open pit and underground mining and dams constructed for the impoundment of tailings.

e. While this bill would preempt State hardrock mining law, it would permit adoption of State reclamation standards as Federal law where State law was as strict as the Federal standards; and, it would permit the Federal Government to make agreements with the State's allowing those States to enforce those standards.

f. Would require regular review and revision, as necessary of regulations, after notice and opportunity for public comment.

14. Would authorize citizen suits.

15. Would provide remedies and penalties.

16. Would specify forums for judicial review.

17. Would provide enforcement authority.

18. Would authorize the posting of bonds.

19. Would authorize the assignment of licenses and leases.

20. Would authorize the suspension, waiver, or reduction of rents or royalties.

21. Would authorize the surrender, cancellation, or termination of licenses and leases.

22. Would authorize termination of licenses and leases for default in payment of rentals and also authorize their reinstatement.

23. Would authorize 50% of the gross receipts derived be shared with the States.

24. Would provide general restriction against unlawful trusts.

25. Would provide general authority for regulations.

26. Existing Rights: would allow all persons with valid claims to apply for a patent within 2 years of the date of enactment and would allow all other claimants within the same 2 years to convert their claims into exploration licenses.

27. Would not provide statutory authority for extralateral rights.

28. Would disallow future location or patenting under Mining Law of 1872 and would repeal the laws governing the issuance leases for hardrock minerals on acquired lands.

29. Would provide for severability.

By Mr. STAFFORD (for himself, Mr. LEAHY, and Mr. KENNEDY):

S. 2134. A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for the use of community action agencies, and for other purposes;

to the Committee on Governmental Affairs.

Mr. STAFFORD. Mr. President, I am introducing along with Senators LEAHY and KENNEDY, a bill to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for the use of community action agencies. The purpose of this bill is to exempt the Community Services Administration from the harmful effects of Public Law 94–519.

Regardless of the intent of Public Law 94–519, it poses a direct threat to the work of community action agencies with the poor and will result in millions of dollars of additional administrative cost that will be taken away from programs that directly assist the poor. At a time when the Community Services Administration is just beginning to recover from the impact of inflation, it is unfortunate that this law is enacted in such a form that will take away an advance in CAA funding.

Mr. President, I ask unanimous consent that a series of letters relating to the impact of Public Law 94–519 be printed in the RECORD to illustrate the concern for the adverse impact that this law will have on our poverty programs.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 19, 1977.

Re: CSA Position on Public Law 94–519.

Honorable JAY SOLOMON,
Director, General Services Administration, Washington, D.C.

DEAR MR. SOLOMON: As you may recall, you indicated to me prior to our being sworn in at the Rose Garden of the White House, that if I ever need your assistance, I should not hesitate to contact you. It is for this reason that I am requesting your assistance in obtaining an exemption from P.L. 94–519 (effective October 17, 1977) for the programs funded by the Community Services Administration (CSA), formerly Office of Economic Opportunity.

CSA plays a unique role in this Administration as a smaller, more flexible agency whose task is to maximize the flow of government and private resources towards an effort to eliminate poverty. Most of the Agency's technical and financial assistance is provided to poor and low-income areas across the country. It is for this reason that I am greatly concerned about the possible adverse effect that P.L. 94–519 will have on CSA programs and ultimately the poor community.

In essence, P.L. 94–519 will minimize rather than maximize government resources, eliminating literally millions of dollars of property and service now available to low-income areas, directly threatening the success of our programs.

Please consider the attached position paper on the subject. I strongly urge that your office reconsider the consequences of P.L. 94–519 on CSA programs and assist this Agency in obtaining an exemption to its implementation.

Your help regarding this matter, would be greatly appreciated.

Sincerely,

GRACIELA (GRACE) OLIVAREZ,
Director.

PUBLIC LAW 94–519: THE EFFECT ON CSA AND ITS GRANTEES

Public Law 94–519 effective October 17, 1977, will bring about significant changes in the furnishing of excess and surplus Government personal property to grantees of the Community Services Administration (CSA), formerly the Office of Economic Opportunity. This new law amends the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property at the state and local organizations for public purposes.

BACKGROUND

In the past, CSA grantees have been permitted to acquire excess personal property for their use in the operation of CSA funded programs without cost other than for screening and transportation. Title has remained with the Federal Government. In other words, grantees have been treated as an extension of CSA and have had the same rights to excess property as the Agency. Additionally, property determined to be surplus to the Government's needs was made available to the DHEW Federal Property Assistance Program for donation to Health, Education, and Civil Defense Programs within the various states.

PROVISIONS OF PUBLIC LAW 94–519

Generally, under the provisions of the new law, CSA grantees will be permitted to acquire excess personal property for use in connection with their grants but CSA will be required to pay 25% of the original acquisition cost of the property. Title to the property will be vested in the grantee with requirements for accounting and disposal the same as those which apply to property purchased with grant funds. Also under the new law, GSA will have significant control over the surplus disposal organizations within each of the states.

Specifically, the provisions of the new law may be described as follows:

(1) That the Administrator of the General Services Administration (GSA) may transfer surplus personal property received from any executive agency to the respective State agency in order that such property may be fairly and equitably distributed through donation;

(2) That the Administrator shall allocate surplus property among the States in a fair and equitable basis and transfer to the State agency property selected by it for distribution through donation within the State to any public agency for use in carrying out or promoting public purposes (i.e., conservation, economic development, education, parks and recreation, etc.) and to nonprofit educational or public health institutions or organizations (i.e. medical institutions, hospitals, schools, etc.). Such provision does not specifically include community action agency type enterprises as eligible donees;

(3) That States shall adopt plans that provide for the fair and equitable distribution of property based on relative needs and resources of interested public agencies;

(4) That Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing said property to grantees of the respective agencies, except under such regulations as the Administrator of GSA may prescribe; however, any Federal agency may obtain such excess personal property and furnish it to any institution which is a public or nonprofit agency exempt from taxation under Section 501 of the IRS Code and which is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination. This provision is applicable provided that (a) such property is furnished for use in connection with the grant and (b) the sponsoring Federal agency pays an amount equal to 25 per centum of the original acquisition cost of the excess property furnished. Title to such excess property shall vest in the grantees; and

(5) That excess personal property acquired by a Federal agency and held by a grantee of such agency shall be regarded as surplus property. The Administrator shall transfer title of the property to the grantee or to an appropriate State agency for distribution.

ADVERSE EFFECT ON CSA

CSA's appropriations have decreased over the years thereby limiting the Agency's ability to provide the additional funding needed for worthwhile programs. Moreover, inflation has limited the spending powers of the monies received by our grantees as well as monies received by the Agency. In essence, CSA simply cannot afford to pay for acquisition costs and increase monies provided to our grantees for the operational costs for which they will be liable. Note the following:

(1) Since excess personal property is presently obtained at no cost, the implementation of this new law would mean additional expense to CSA which could only come out of funds appropriated for grants for our community action agencies and economic development enterprises.

(2) In order for CSA to furnish excess personal property to its grantees, CSA must now pay to the Treasury an amount equal to 25% of the original acquisition cost of the excess property furnished. This cost may amount to 100% of the property's present value.

(3) Since grantees will now obtain title to the excess property obtained, the grantees will be liable for additional costs, such as registration, license, inspection, certification, property replacement and maintenance costs.

(4) Although the new law provides that distribution of surplus property within each State will be governed by a State plan which fairly and equitably distributes property based on the needs and resources of the interested recipients, CSA has no assurances that its programs will receive a "fair and equitable" share of the property distributed. Moreover, equitable distribution to the states is not synonymous with equitable distribution to the poor.

(5) P.L. 94–519 does not specifically enumerate community action agencies as donees eligible to receive surplus property that will be transferred to the State Agencies. Moreover, the new law does not name many of the types of programs funded by this Agency (i.e. energy, housing, food and nutrition, etc.). This omission may raise questions as to the eligibility of certain CSA grantees to receive surplus property.

A rough survey based on estimates provided by the Agency's Property Administrator reveals that the implementation of P.L. 94–519 will cost our grantees approximately six million dollars annually. This figure is based upon the anticipated grantee expenditures for property replacement costs and vehicle registration, license, inspection, certification, and maintenance costs. A case in point is the Vermont Community Action Agency (CAA). This grantee has informed us that P.L. 94–519 will mean a budget drain of more than $91,000 for Vermont State registrations and an additional $22,000 for State inspection repairs and certification for a total of $113,000 for one year. Subsequent yearly requirements will increase with increases in repair costs to meet inspection requirements. The Vermont CAA predicts that a more accurate yearly amount to cover contingencies will be $125,000 and over a three year period such expenditures will total $375,000.

As the above clearly illustrates, federal excess personal property has played as important role in CSA's financial assistance to grant operations. It has allowed our grantees an additional opportunity to stretch their limited funds to carry out the anti-poverty mission of their programs. The elimination of this valuable source of assistance to CSA programs will be detrimental to the objectives of our Act, since funds which were otherwise utilized to support programs for the poor will have to be diverted to pay for property previously obtainable at no cost.

It is because of CSA's mission to combat poverty, in our view of the highest priority, that we desire an exemption from P.L. 94–519 for all CSA funded programs. Such an exemption would reaffirm this Administration's commitment to the eradication of poverty throughout the Nation.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C. August 9, 1977.

Honorable GRACIELA (GRACE) OLIVAREZ,
Director, Community Services Administration, Washington, D.C.

DEAR DR. OLIVAREZ: Thank you for your letter of July 19, 1977, requesting an exemption from the provisions of Public Law 94–519 which require all Federal agencies having Project Grant Programs to pay 25 percent of the original acquisition cost of excess personal property furnished to grantees as a requirement charge.

We have carefully reviewed Public Law 94–519 and the legislative history in light of your request. Although project grantees of Federal agencies may continue to receive excess personal property under the new law, Congress has made the requirement that the sponsoring agency pay the 25 percent reimbursement charge a pre-condition to the transfer of the property by the General Services Administration (GSA). Unfortunately, the law has not given me the authority to grant exemptions from this express statutory requirement, and unless the law is amended, I am unable to act favorably on your request.

However, Public Law 94–519 does provide for a greatly enlarged donation program through which Community Services Administration (CSA) grantees, who qualify, may be able to acquire Federal surplus personal property (as distinguished from excess personal property) without payment of the reimbursement charge which applies to excess property. Under current law, surplus personal property can only be donated to certain organizations specified by statute and only for education, public health, and civil defense purposes. The new legislation, on the other hand, expands the present categories of eligible donees to permit donations to any public agency for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety, and to non-profit educational or public health institutions. It is therefore possible that CSA grantees who previously could not obtain surplus property may now be eligible under the new donation program without having to pay the reimbursement charge.

I am enclosing a list of State Agencies for Surplus Property through which all property transferred to the States will be distributed to eligible donees under Public Law 94–519. Each State is preparing a plan of operation to provide for the fair and equitable distribution of property within the State. The requirement for a fair and equitable distribution of property applies not only to property allocated among the States by GSA, but the State agencies are similarly bound to make a fair and equitable distribution of property to eligible donees within their respective States. You may wish to inform CSA grantees to contact their respective State agencies to determine their eligibility so that these organizations may be given full consideration in acquiring surplus property.

I would also like to mention that the new law requires GSA to give consideration to special "expressions of need and interest" on the part of eligible donees and requests for specific items of property transmitted through the State agencies. For example, if an eligible donee has a special need or interest in a specific item of personal property, such donee would transmit its request to GSA through the appropriate State agency. We intend to give such requests full consideration in making distribution of property among the States so that, to the maximum extent feasible, property specifically needed or desired by a donee can be made available to it.

I hope that the new law does provide sufficient opportunity for a number of your own grantees to acquire property at the surplus level under the donation program. If you have further questions regarding the status of your various constituent organizations or would like more details on the administration of the donation program, I and members of my staff will be more than happy to meet with you to discuss these matters. I sincerely regret that the law precludes my acting favorably on your specific request, but trust that the foregoing review and explanation will be helpful to you.

Sincerely,

JOEL W. SOLOMON,
Administrator.

COMMUNITY SERVICES ADMINISTRATION,
Washington, D.C., April 1, 1977.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Thank you for your letter of March 11 on behalf of Mr. Benjamin Collins concerning the Community Services Administration's early implementation of P.L. 94–519 amending the Federal Property Act.

We are well aware of the hardship the implementation of this law will cause our grantees. Nevertheless, we must impose a moratorium on their acquisition of Federal excess property in order to be in a position to comply with the General Services Administration requirements for an inventory of all Federal excess property held by grantees. These requirements are stated in GSA Bulletin FPMR H–28 (copy enclosed); we have determined that it would be impossible to complete an accurate and up-to-date inventory if grantees were acquiring new Federal excess property during the progress of the inventory.

However, the moratorium provisions of the memorandum to which Mr. Collins refers have been withdrawn and a revised version has been published in the Federal Register (copy enclosed). This version has a new effective date, April 1, 1977—which may slightly mitigate our grantees' problems.

Nevertheless, CSA agrees with Mr. Collins that either liberalization or outright repeal of P.L. 94–519 is needed, since the law as presently written will have the effect of significantly reducing the resources available for CSA programs. Our grantees will have three vehicles and other items of excess property needed in their programs, purchasing them from commercial sources, or having CSA pay twenty-five percent of the original acquisition price to the Treasury (which may be more than the present value of such excess property). Both the second and third alternatives will require significant amounts of cash which, realistically, can only come out of CSA grant funds. The alternative of doing without will be entirely impracticable in many cases and very burdensome in most others.

If CSA can be of any further assistance to you in making suggestions for or commenting on proposed legislation to amend P.L. 94–519, or otherwise, please do not hesitate to contact us.

Sincerely,

ROBERT C. CHASE,
Acting Director.

Enclosures.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 17, 1976.

To: Heads of Federal agencies.

Subject: Reporting excess personal property in the possession of Federal agency grantees.

1. Purpose. This bulletin provides information regarding the statutory requirements for Federal agencies to report to the General Services Administration on personal property items acquired from excess sources in the possession of their grantees.

2. Expiration date. This bulletin expires on September 30, 1977.

3. General. Section 3 of Pub. L. 94–519, enacted on October 17, 1976, amended section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) by adding a new subsection (d) which limits the ability of Federal agencies to transfer excess personal property to grantees, effective as of October 17, 1977. Transitional requirements affecting excess personal property transferred to grantees prior to October 17, 1977, are stated in section 5 of Pub. L. 94–519, as follows:

"SEC. 5. Notwithstanding any other provision of law, and except as the Administrator of General Services may otherwise provide on recommendation of the head of an affected Federal agency, excess personal property acquired by a Federal agency pursuant to the authority of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and furnished to and held by a grantee of such agency prior to the effective date of this Act . . . under grants made pursuant to programs established by law shall be regarded as surplus property. The Administrator of General Services upon receipt of a certification by the head of an agency that the property is being used by the grantee for the purposes for which it was furnished shall transfer title to the property to the grantee. The grantor agency shall survey Federal property acquired from excess sources in the possession of its grantees and shall notify the Administrator of General Services, not later than two hundred and forty days from the date of enactment of this Act, of those items of property which are being used by each grantee for the purpose for which it was furnished, and those items which are not being used by each grantee. If the property is not being so used, the Administrator shall transfer such property to an appropriate State agency, upon its request, for distribution in accordance with subsection 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)). Property not so transferred shall be otherwise disposed of pursuant to the provisions of that Act."

4. Agency action. Under the provisions of Pub. L. 94–519, the notifications to the Administrator of General Services required by section 5 must be submitted prior to June 14, 1977 (240 days from the date of enactment). Those notifications should identify each grantee and provide a description of the items of property furnished to the grantee together with the original acquisition cost of each item. When an agency notifies GSA that items of excess property furnished to a grantee prior to June 14, 1977, are being used for the purposes for which they are furnished and the head of the granting agency so certifies, the Administrator upon receipt of the certification will take appropriate action to effect the vesting of title to the property in the grantee. When an agency notifies GSA that the items of excess property furnished to a grantee prior to June 14, 1977, are not being used for the purposes for which they were furnished, the Administrator will take appropriate action to donate or otherwise dispose of the property. Agencies are urged to initiate necessary procedures in order to be in compliance with the requirements set forth in the Act.

5. GSA assistance. Additional information pertaining to GSA implementation of Pub. L. 94–519 may be obtained from the General Services Administration (FW), Washington, DC 20406; or by calling the Office of Personal Property Disposal (FW), Federal Supply Service, telephone (703) 557–1756.

WALLACE H. ROBINSON, Jr.,
Commissioner, Federal Supply Service.

Mr. STAFFORD. The documents starting with Mr. Chase's letter of March 11, 1977 and followed by Ms. Olivarez's letter of July 19, 1977 demonstrate the concern of two administrators of the Community Services Administration about the negative impact this law is going to have on the community action program. Based on the August 9, 1977 response of Mr. Solomon to the concerns of the Community Services Administration, the only course of action left is the introduction of my bill. Because if we do not act, we will severely damage our efforts to regain the initiative in our fight to eliminate poverty in this country.

As an example of the negative impact of this law, Mr. President, if the Vermont Community Action Agencies are forced to pay 25 percent of the original acquisition price of vehicles and other equipment needed in the CSA weatherization program, they would be forced to severely limit this program. To further illustrate, the Central Vermont Community Action Council, located in rural northern New England, is deeply involved in an effective and expanding home weatherization conservation effort. Much of the equipment and most of the vehicles they are using in this project as well as in others is excess Federal property. This little agency, which has basic CSA administrative and outreach funding of $85,000, is operating more than 40 vehicles in carrying out its function. If it has to license these vehicles, it will cripple its weatherization program. Also, the central Vermont programs in rural transportation, and community food and nutrition will be similarly threatened if this law is allowed to go into effect on October 17, 1977.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(d)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)(2)) is amended by striking out the "or" at the end of clause (C), by redesignating clause (D) of such section as clause (E), and by inserting immediately after clause (C) the following new clause:

"(D) property furnished under section 602(f) of the Economic Opportunity Act of 1964 (42 U.S.C. 2942(f)); or"

By Mr. McINTYRE (for himself, Mr. BAYH, Mr. DURKIN, Mr. HATHAWAY, Mr. MUSKIE, and Mr. NELSON):

S. 2135. A bill to regulate commerce by providing franchisors and franchisees with certain remedies to assure fairness and to protect against overreaching, unjust enrichment, and unjustifiable termination, and for other purposes; sequentially, by unanimous consent, to the Select Committee on Small Business; and, if and when reported, to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF THE FRANCHISE PRACTICES ACT

Mr. McINTYRE. Mr. President, I am introducing, this evening with my colleagues—Senators BAYH, DURKIN, HATHAWAY, MUSKIE, and NELSON, a bill to establish and define the obligations and rights of both franchisors and franchisees in the areas of termination and nonrenewal of franchise relationships.

Mr. President, I would like to point out that this is a somewhat unique referral which I am requesting. The Select Committee on Small Business does not have legislative authority over the matters contained in the bill, however, we do have considerable oversight authority over these matters. The chairman of the Committee on Commerce, Science, and Transportation and the ranking minority member, have agreed to this sequential referral inasmuch as the select committee does have a significant interest. I would point out that this referral should not have any precedential significance, and if it were not for the unanimous-consent request, it would not go to the select committee at all. But the request has been cleared by the chairman and the ranking member of the Commerce Committee, with the understanding that the request be sequential, set to precedent, and have no time limitation.

During the past several years the franchise method of business has expanded into a major marketing and distribution operation providing hundreds of thousands of small businessmen with the opportunity to participate in this country's free enterprise system. Franchising opportunities span our entire economy.

The products and services offered to the public through a franchise relationship not only benefit consumers but provide small businessmen with needed training, technical assistance and often financing.

This tremendous growth in franchising, however, has also posed numerous problems which do not lend themselves readily to resolution by normal contract law or litigation. Franchising, as a business system, and its rapid expansion raise a number of questions regarding the rights and duties of both parties to the franchise relationship. Two areas which cause continuing friction between franchisors and franchisees are termination and failure to renew the franchise relationship. The purpose of the proposed Franchise Practices Act is to define the rights and obligations of both parties when either decides to conclude the relationship.

Congressional activity and Federal agency regulatory proceedings in the last few years indicate that franchisors as well as franchisees recognize that clearly defined ground rules on the limits and responsibilities of such agreements would be beneficial to both parties. While I do not claim that the bill I am proposing today will solve each and every problem posed by very complex business relationships, I do hope that the legislation will provide the opportunity for all parties concerned to develop the basic rules in franchise terminations. The purpose of the Franchise Practices Act is to provide an environment in which all parties to a franchise treat each other in a fair and equitable manner.

This bill would provide definitions to the franchise arrangement and would require franchisors to notify franchisees of any election to terminate or failure to renew a franchise relationship. Termination and failure to renew a franchise would be allowed only for those reasons specified in the legislation and the franchisor would be required to compensate a franchisee if a failure to renew is for other than good cause.

The bill, in addition to requiring reasonable notice to franchisees of possible cancellation or termination of the franchise relationship, would establish legal and equitable relief for arbitrary acts by franchisors. The legislation would also encourage the use of arbitration as a means of settling disputes. Most importantly, the bill would require franchisors to treat all franchisees equally and thus eliminate discrimination in charges for royalties, goods, services, and other business dealings on the part of franchisors.

Similar legislation was introduced in the Senate last Congress and hearings were held by the Commerce Committee April 7 and 8, 1976. I recognize that questions were raised during those hearings regarding the vagueness of some definitions in the bill. The Department of Justice commented that without clear standards a substantial burden could be placed on the courts to determine what constitutes "good cause."

I believe these problems can be resolved during the hearings, however, if both franchisors and franchisees are willing to aid Congress in establishing some fair ground rules. While expressing difficulty with some definitional terms it should be made clear that the Department of Justice stated sympathy with the primary purpose of this bill. The bill I am introducing today also contains significant definitional changes which conform substantially to terms used in franchise legislation passed by several State legislatures.

The Franchise Practices Act contains 13 sections.

Section 2 contains congressional finding and purposes. These are basically that franchising is beneficial to the economy, enhances commerce and competition, and is a recognized and useful business relationship. The findings also recognize that the franchise form of business is still relatively new and evolving.

Section 3 contains several definitional terms. The franchise relationship covered by the bill is defined in a manner that makes it clear that the legislation deals only with those franchises whose annual gross volume exceeds $25,000. The key definitional terms are "good cause" and "marketing area withdrawal." The term "good cause" is defined with respect to termination as failure by the franchisee to substantially comply with reasonable and essential requirements of the

franchise agreement or bad-faith conduct or failure to act by the franchisee. Marketing area withdrawal would be a termination of the franchise agreement by the franchisor for the purposes of discontinuing business in a multi-State region, a State or a SMSA for at least 5 years and requires the franchisor to either compensate the franchisee for the value of his business, including goodwill, or provide another franchise in a different marketing area.

Section 4 requires the franchisor to provide written notice 90 days prior to termination of the franchise except if the termination is to protect against an imminent danger to public health or safety, insolvency or bankruptcy by the franchisee, or abandonment of the business by the franchisee.

Section 5 states that a franchisor can terminate or cancel a franchise for good cause or market area withdrawal.

Section 6 states that a franchisor can fail to renew a prior existing franchise for good cause, or a market area withdrawal. Section 6 differs from section 5, however, by providing that the franchisor would be required to pay reasonable compensation to the franchisee for the value of his business, including goodwill, if the decision not to renew is made without good cause.

Section 7 of the bill establishes civil remedies in U.S. district courts for violations of this act, and provides that the burden of proof shall be on the franchisor in any suit brought by the franchisee. Both punitive damages and reasonable attorney's fees are possible if the suit is successful.

Section 8 provides that with the exception of certain agreements to seek binding arbitration, a franchisee may not be required to waive his rights under this act as a condition to obtaining a franchise.

Section 9 provides that a franchisor may not discriminate between franchisees in business dealings unless it can be shown to be reasonable.

Section 10 makes clear that this act does not affect or supersede the antitrust laws.

Section 11 provides that this act does not restrict any franchisee rights under State law.

Section 12 assures severability of the provisions of this act.

Section 13 provides an effective date as of date of enactment of this act.

Mr. President, as the declaration of policy states, the purpose of this legislation is to enhance franchising as a business activity by providing clear standards of the rights and obligations of franchisors and franchisees, to assure fair dealing, to protect against inequitable practices, and guarantee to consumers the benefit of franchising in general.

Mr. President, I ask unanimous consent that after my colleagues' statements in support of the legislation are completed that the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. And, Mr. President, I also ask unanimous consent that the bill be referred sequentially to the Select Committee on Small Business, and, if and when reported, to the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, we are introducing today the Franchise Practices Act which if enacted will assure the fair treatment of some 450,000 small businessmen in New Hampshire and throughout the country who have entered into franchise agreements.

The franchise relationship, where the franchisor agrees to grant the franchisee the right to sell goods or services, is relatively new in American commerce and the applicable law has not evolved sufficiently to protect the parties involved. Abuses in the franchisor-franchisee relationship have been well documented in court cases and congressional hearings over the last several years. The worst abuses arise from the power of the franchisor to terminate the agreement regardless of the efficiency or success of the franchise.

The company granting the franchise can end the agreement without notice and without compensating the franchisee for the time and money spent in building up his business. Unless the termination violates the antitrust laws, the small businessman has no legal recourse. Even in cases of antitrust violations, the small businessman, with minimal financial resources available to him, must prove that he was actually threatened with termination if he did not go along with the franchisor's suggested prices, products, et cetera.

Recently an automotive parts dealer, who had a terminate-at-will contract with his supplier, was asked to participate in two new buying programs. He refused and his contract was terminated immediately. Example after example of unjustified franchise terminations such as this have been cited, yet few reform measures have been taken. Only strong national standards can remedy the injustices in franchising and adequately protect the competent, successful small businessman.

The legislation we are proposing only covers terminations for other than good cause. It will not protect inefficient franchises, but it will protect small businessmen by giving them the right to make basic business decisions without fear of losing their businesses.

The purpose of the bill is to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, and to provide consumers with the benefits resulting from competition in franchised industries. The act prohibits the termination or nonrenewal of franchises unless the franchisee fails to substantially comply with reasonable and essential requirements of the franchise agreement. The franchisor could also terminate a franchise if he is withdrawing all of his business from a specific geographic area.

Written notice of intent to terminate would have to be given to the small businessman and, in the event of an illegal failure to renew an agreement, the franchisor would be required to pay reasonable compensation for the value of the business.

Prompt action on this legislation is necessary to assure that small businessmen are granted full protection of the law. It is necessary to equalize the bargaining positions of franchisees and franchisors. And most importantly, it is necessary to protect people who have spent lifetimes building up businesses against losing them without notice or compensation.

Mr. BAYH. Mr. President, it is a pleasure to join with Senator McINTYRE in introducing the Franchise Practices Act.

Mr. President, while all of us remember when franchising was a novel business technique, it has now become a dominant force in our economy. The franchising industry has now grown to $200 billion, and there are nearly 40,000 franchises in the United States.

There is no question, Mr. President, that franchising has brought many benefits to the American people. A large variety of quality goods and services have been provided in a reliable manner across the country. From fast foods to gas stations, from business services to real estate, franchised operations are in place servicing millions of our citizens.

Despite its benefits franchising does present some difficult public policy problems, however, and the growth of the industry makes it imperative that those problems be addressed. Particularly, we must examine the relative inequality between a franchisor and a franchisee once a franchise relationship has been established.

The franchisee, usually a small businessman who invests a sizable sum in purchasing a franchise, is constantly under the threat that his contract will be cancelled or not renewed. If such an event occurs his investment and the product of his efforts is irretrievably lost. His business simply ceases to exist.

The legislation we introduce today is directed to this problem. It will make certain that there will be fairness in the franchise relationship and that franchises are not arbitrarily cancelled. Specifically, the bill will:

First, define the franchise relationship;

Second, require notice to franchisees if a franchisor determines to terminate or not renew a franchise contract;

Third, set conditions for the termination or refusal to renew a franchise relationship;

Fourth, require a franchisor to compensate a franchisee if he fails to renew for other than good cause;

Fifth, establish civil remedies in U.S. district courts for violations of the bill;

Sixth, encourage arbitration of disputes regarding franchise relationships; and

Seventh, prohibit a franchisor from discriminating unreasonably between franchisees.

I believe that this bill would solve the most pressing problems facing the franchise system. I hope, Mr. President, that my colleagues will join with me in pressing for its prompt passage. We simply cannot permit over 400,000 small businesses to live in danger of arbitrary actions by their franchisors.

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Franchise Practices Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) A substantial amount of useful business activity in and affecting interstate commerce is today carried on and conducted pursuant to franchise agreements or relationships between franchisors and franchisees.

(2) Such agreements and relationships are beneficial to the economy, the enhancement of commerce, and the promotion of competition because they provide a means for combining centralized planning, direction, and standard-setting on the part of the franchisor with local decision making, initiative, and capital formation on the part of the francnisee, in a way that appears to be as effective or more effective than commercial arrangements based on principal and agent relationships.

(3) Because the franchise relationship in its present form is a relatively new one the law applicable thereto has not evolved sufficiently to protect adequately the parties thereto and to insure against overreaching, unjust enrichment, and unjustifiable termination. The law applicable to franchise agreements and relationships should not be traditional agency and contract law doctrines to the extent that such doctrines permit inequities to occur and fail to provide sufficient remedies for conduct that should, in this context, be characterized as wrongdoing.

(b) PURPOSES.—It is therefore declared to be the intent of Congress in this Act to provide certain remedies to franchisors and franchisees to assure fair dealing, to protect franchisees from inequitable practices, and to guarantee to consumers the greater benefits that would flow from more equitable franchise agreements and relationships.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "antitrust laws" means the Sherman Act (15 U.S.C. 1 et seq.); the Clayton Act (15 U.S.C. 12 et seq.); the Federal Trade Commission Act (15 U.S.C. 41 et seq.); the Wilson Tariff Act (15 U.S.C. 8 and 9); and the Act of June 19, 1936, ch. 592 (15 U.S.C. 13, 13a, and 212), as amended;

(2) "franchise" means a relationship in or affecting interstate commerce—

(A) that is established and maintained by contract, agreement, lease, or any other written or oral, express or implied, arrangement or understanding between the parties thereto;

(B) pursuant to which one party (the franchisor) grants, and a second party (the franchisee) receives, the right to, or permission, to sell, to offer to sell, to provide, or to distribute in commerce certain goods or services in return for the performance of certain obligations and on certain terms and conditions;

(C) that is characterized by such franchisee substantially associating its business with that of such franchisor through the use of the latter's trademarks, service marks, trade names, commercial symbols, standards, and/or advertising; or that involves a representation by such franchisor that it will extend more than nominal assistance to the franchisee with respect to such franchisee's business organization, management, promotional activities, marketing, operational plans and methods, and/or the resolution of other business problems; and

(D) in which the annual gross volume of the franchisee is equal to or more than $25,000.

Such term includes any such relationship pursuant to which the franchisee is granted the right, or permission, to sell or to negotiate, on behalf of or in the name of the franchisor, the sale of additional such franchises. The term does not include any commercial relationship under which a person is granted the right or is permitted to offer, sell, or distribute, on a commission or consignment basis, goods or commodities manufactured, processed, or distributed by another person and bearing the trademark, service mark, trade name, or other identifying symbol or name owned or controlled by such other person.

(3) "good cause", with respect to the termination, attempted termination, or failure to renew a franchise by a franchisor, means—

(A) a failure by the franchisee involved to substantially comply with those requirements imposed by a franchise which provisions are both essential and reasonable;

(B) bad-faith conduct or unjustified and unreasonable failure to act, by the franchisee involved with respect to the carrying out of the terms of such franchise;

(4) "market area" means the geographic zone or area within which a franchisee is granted exclusive or special rights to sell or distribute any goods or services covered by the applicable franchise;

(5) "marketing areas withdrawal" means a cancellation, failure to renew, or other termination of a franchise by a franchisor for the purpose of enabling such franchisor to withdraw entirely from the business of granting, organizing, supplying, or directing franchises within a multi-State region, a State or a standard metropolitan statistical area. There is good cause for such a withdrawal or termination if—

(A) it is not in violation of any of the antitrust laws;

(B) there is no subsequent commercial reentry by such franchisor into such region, State, or area within five years thereafter; and

(C) such franchisor pays such franchisee a reasonable compensation for the value of the latter's business (including, but not limited to, goodwill) or provides such franchisee, with the latter's consent, with a new and equivalent franchise for a different market area; and

(6) "State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

REQUIREMENT OF NOTICE

SEC. 4. (a) Except as otherwise provided in subsection (b) of this section, no franchisor who is doing business in or affecting interstate commerce, shall cancel, fail to renew, or otherwise terminate a franchise unless he furnished prior notice thereof to each franchisee affected thereby, pursuant to this subsection. Such notification shall be in writing and shall be sent to each such franchisee by certified mail not less than ninety days prior to the date on which such franchise will be so terminated. Such notice shall contain a statement of intent, together with the reason thereof; the date on which such action shall take effect; and a statement of the remedy or remedies available to such franchisee under this Act, including a summary of the applicable provisions of this Act.

(b) Notwithstanding the provisions of subsection (a) of this section, a franchisor may cancel, fail to renew, or otherwise terminate a franchise at any time—

(1) in order to protect against an imminent danger to public health or safety;

(2) in the event of insolvency, bankruptcy, or receivership proceedings involving such franchisee; or

(3) in the event of voluntary abandonment by the franchisee of the franchise business.

TERMINATION

SEC. 5. (a) A franchisor who is doing business in or affecting interstate commerce shall not terminate, cancel, or substantially change the competitive circumstances of a franchise relationship unless—

(1) such franchisor has good cause for such termination, cancellation or change; or

(2) such franchisor is affecting a marketing area withdrawal.

The provisions of this subsection are not applicable to a termination by failure to renew a franchise, in accordance with the terms thereof.

FAILURE TO RENEW

SEC. 6. (a) A franchisor who is doing business in or affecting interstate commerce shall not terminate a franchise by failure to renew unless—

(1) such franchisor has good cause for such failure to renew; or

(2) such franchisor is effecting a marketing area withdrawal upon the expiration of the terms of the franchises outstanding in the area involved.

(b) A franchisor who fails to renew without good cause shall pay to the franchisee involved a reasonable compensation for the value to the latter's business, including, but not limited to, goodwill.

JUDICIAL REMEDIES AND BURDEN OF PROOF

SEC. 7. (a) If a franchisor engages in conduct prohibited under this Act, a franchisee may maintain a civil action against such franchisor.

(b) The court shall grant such equitable relief as is necessary to remedy the effects of conduct which it finds to exist and which is prohibited under this Act, including declaratory judgment, mandatory or prohibitive injunctive relief, and interim equitable relief. The court may, unless required by this Act, award damages, including the value of goodwill. The court shall, if such suit is successful, direct that costs, including reasonable attorney and expert witness fees, be paid by the franchisor. The court shall, if it finds that the franchisor has acted in bad faith in invoking the termination provisions of section 4(b) of this Act, award actual and punitive damages, as well as costs, as provided in this subsection.

(c) A civil action under this section may be brought, without regard to the amount in controversy, in the district court of the United States for any judicial district in which the franchisor against whom such suit is maintained resides, is found, or is doing business. No such action shall be maintained unless commenced within two years after the cancellation, failure to renew, or other termination of the franchise, unless the franchisor has allegedy re-entered the marketing area after having effected a marketing area withdrawal, in which case no such suit shall be maintained unless commenced within two years of such alleged re-entry.

(d) In any civil action brought pursuant to section 4(b) or sections 5 or 6 of this Act, the burden of proof shall be upon the franchisor.

PROHIBITION ON WAIVER OF RIGHTS AND ARBITRATION

SEC. 8. (a) Except as provided in subsection (b) of this section, any condition, stipulation, provision, or term of any franchise agreement waiving any rights granted under this Act or relieving any person from liability imposed by this Act shall be void and unenforceable.

(b) Nothing contained in this Act shall limit the right of a franchisor and franchisee to agree to binding arbitration of disputes, if—

(1) the standards applied in such arbitration are no less than the requirements specified in this Act; and

(2) any arbitrator employed in such arbitration is chosen from a list of impartial

arbitrators supplied by the American Arbitration Association or other impartial third parties designated after the occurrence of the dispute.

RELATIONSHIP BETWEEN PARTIES

SEC. 9. A franchisor may not discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless, and then only to the extent that, any classification of, or discrimination between, franchisees is reasonable, is based on franchises granted at materially different times, and is reasonably related to such difference in time or is based on other proper and justifiable distinctions considering the purposes of this Act, and is not arbitrary.

ANTITRUST LAWS

SEC. 10. No provision of this Act shall repeal, modify, or supersede, directly or indirectly, any provision of the antitrust laws. This Act is and shall be deemed to be supplementary to, but not a part of, the antitrust laws.

EFFECT ON STATE LAW

SEC. 11. Nothing in this Act shall invalidate or restrict any right or remedy of any franchisee under the law of any State.

SEVERABILITY CLAUSE

SEC. 12. If any provision of this Act, or the application of any provision of this Act to any person or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons and circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 13. This Act shall apply to any cancellation of, failure to renew, or other termination of any franchise occurring after the date of enactment of this Act.

By Mr. PELL (for himself and Mr. JAVITS):

S.J. Res. 83. A joint resolution to authorize the President to call a White House conference on the arts; to the Committee on Human Resources.

Mr. PELL. Mr. President, I am pleased to introduce today a joint resolution calling for a White House conference on the Arts.

I am very pleased that Senator JAVITS is a cosponsor of this resolution. He and I have worked together for so many years to help develop our Nation's cultural well-being. I am also pleased that our distinguished colleague in the House of Representatives, the majority whip, JOHN BRADEMAS, has taken the initiative of introducing this legislation in the other body.

A particular feature of this resolution is that it envisions State conferences preliminary to the White House conference. I believe that through this resolution we can increase participation by all who are concerned with our cultural life and focus on major issues involved.

The purpose of the resolution involves the further development of a cultural climate in which the arts can flourish, and I look forward to the implementation of the resolution.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, as Senate sponsor of the original legislation which created the National Endowment for the Arts 12 years ago, and as one deeply concerned with the healthy and strong growth of the arts in our country, I believe this conference can have many beneficial results, as we seek to further develop the very highest quality in all the arts and in their great variety, and thus to enrich the quality of life for all of us.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 83

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that this Joint Resolution may be cited as the "1979 White House Conference on the Arts Act."

FINDINGS AND PURPOSES

SEC. 2. The Congress hereby finds and declares—

(1) that the development and encouragement of arts activity in the United States are of the utmost importance to the nation's life and heritage;

(2) that concern for the quality of life in the United States requires constant dedication, planning, and reflection on the state of the arts in the Nation;

(3) that the arts have an increasingly significant impact on the economic sector of our society;

(4) that it is appropriate to encourage maximum participation by artists, knowledgeable citizens, state and local government arts representatives, representatives of labor, industry, and business, arts educators, and experts in all fields of the arts in the process of insuring needed support for the arts among all parties concerned at Federal, state, and local levels; and

(5) that in order to implement these findings, it is desirable to call a White House Conference on the Arts.

WHITE HOUSE CONFERENCE ON THE ARTS

SEC. 3. (a) The President shall call a White House Conference on the Arts to be held no later than December 31, 1979. The purpose of the conference shall be to help develop a climate in which the arts can flourish, and recommendations to formulate an assessment of problems and issues relating to the arts, and to develop recommendations relating to the appropriate growth of the arts in all parts of the nation.

(b) The conference shall be planned and conducted under the direction of a Presidentially appointed National Conference Planning Council on the Arts headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council, including the assignment of personnel as may reasonably be required by the Council.

NATIONAL CONFERENCE PLANNING COUNCIL ON THE ARTS

SEC. 4. (a) There is hereby established a National Conference Planning Council on the Arts. The Council shall be composed of 15 members appointed by the President. The Council shall provide guidance and planning for the conference.

(b)(1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS-18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel). While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Council shall cease to exist 180 days, unless extended by the President, but in no event a period not to exceed one year, after the submission of the report required in section 4.

REPORT

SEC. 5. A report of the conference shall be submitted by the Council to the President and to the Congress no later than 180 days following the date on which the conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The Report shall immediately be made available to the public.

ADMINISTRATIVE PROVISIONS

SEC. 6. In carrying out the provisions of this joint resolution, the Council and the Chairman shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting the arts;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduce conferences on the arts before the conference;

(3) prepare and make available necessary background materials for the use of delegates to the conference;

(4) prepare and distribute such interim reports of the conference as may be appropriate; and

(5) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS-18 in section 5332 of such title.

GRANTS

SEC. 7. (a) From any sums appropriated under section 8, the Chairman with the approval of the Council, may make a grant to each state, upon application by the state arts agency of the state, provided that broad public participation is assured by such arts agency, in order to assist in defraying the costs of the state in participating in the conference program, including the conduct of at least one conference within the state.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

DEFINITIONS

SEC. 9. For purposes of this joint resolution—

(1) the term "Chairman" means the Chairman for the National Conference Planning Council on the Arts;

(2) the term "conference" means the White House Conference on the Arts;

(3) the term "Council" means the National Conference Planning Council on the Arts; and

(4) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(5) the term "arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, and the arts re-

lated to the presentation, performance, execution of such major art forms.

Mr. JAVITS. Mr. President, today I join with our distinguished colleague, Senator PELL, to introduce a joint resolution calling upon the President to carry out a White House Conference on the Arts.

We have all heard that arts in this country are in a state of financial crisis. It is certainly true that many artistic organizations have critical financial problems. However, I think it is important to distinguish that this financial crisis is, in simple economic terms, a matter of rapidly growing demand outstripping supply. Cultural activities in this country do not have trouble, because no one cares about them. On the contrary, artistic activities face financial problems, because rapidly growing numbers of people want more and still more. Our finest performing arts companies could solve their financial problems if they were able to perform 1,000 evenings in a single year. Special exhibitions like the Chinese exhibit and the Treasures of Tutankhamen found potential viewers literally waiting for hours for an opportunity at a brief viewing. Local artistic activity, folk art, and other popular art forms are experiencing similar explosions of interest. Thus there are serious problems in cultural policy in spite of a broad based and rapidly increasing interest of the public.

I believe a White House conference is a unique way thoroughly to examine the issues facing the arts in the last quarter of the century. By inducing participation by artists, State, and local governments, representatives of labor and business, experts in artistic fields, and the general public, a White House Conference on the Arts can advise the Congress and the President on important policy issues.

Our joint resolution also calls for preceding conferences in each State, under the direction of State art agencies. Thus the national conference can benefit from a State-by-State review of the resources and needs of the arts in each State. Cooperating arrangements with Federal agencies with interest in the arts is also mandated by our resolution. This will assure that all interested Federal agencies play a role in this White House conference.

Mr. President, I believe this joint resolution is worthy of the support of our colleagues. The Human Resources Committee will expect to hold hearings to give this matter full consideration. I am hopeful that following this consideration, the committee and the Senate will endorse this important opportunity for a national review of our policy in the arts.

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize a payment under the medicare program for certain services performed by chiropractors.

S. 201

At the request of Mr. BURDICK, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 201, to amend title 39 of the United States Code.

S. 1556

At the request of Mr. HANSEN, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1556, relating to the maintenance of veterans' cemeteries.

S. 1585

At the request of Mr. CULVER, the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Kansas (Mr. DOLE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1585, the Protection of Children Against Sexual Exploitation Act.

S. 1821

At the request of Mr. ROBERT C. BYRD (for Mr. HUMPHREY), the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1821, the Athletic Opportunities Assistance Act.

S. 1868

At the request of Mr. MELCHER, the Senators from Nevada (Mr. CANNON and Mr. LAXALT) and the Senators from Utah (Mr. GARN and Mr. HATCH) were added as cosponsors of S. 1868, to expedite issuance of Federal permits.

S. 1919

At the request of Mr. GRAVEL, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1919, to amend the Headstart-Follow Through Act.

S. 2009

At the request of Mr. DOMENICI, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2009, the home care services bill.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Utah (Mr. GARN), the Senator from North Carolina (Mr. HELMS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

AMENDMENT NO. 986

At the request of Mr. PERCY, the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. LUGAR), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 986, intended to be proposed to H.R. 8444, to establish a comprehensive energy policy.

AMENDMENT NO. 988

At the request of Mr. FORD, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 988, intended to be proposed to amendment No. 862 to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS SUBMITTED FOR PRINTING

DISTRICT OF COLUMBIA APPROPRIATIONS, 1978—H.R. 9005

AMENDMENT NO. 1005

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

AMENDMENT NO. 1024

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. MAGNUSON, Mr. NUNN, Mr. WEICKER, Mr. TALMADGE, Mr. STONE, Mr. SPARKMAN, Mr. EASTLAND, Mr. RANDOLPH, Mr. THURMOND, Mr. CHILES, and Mr. ALLEN) submitted an amendment intended to be proposed to the bill (H.R. 9005), supra.

INCREASED MINIMUM WAGE—S. 1871

AMENDMENT NO. 1018

(Ordered to be printed and to lie on the table.)

Purpose: To provide for an increased minimum wage at a fixed hourly rate.

Mr. WILLIAMS. Mr. President, the amendment which I am submitting today, on behalf of myself and Senator JAVITS would amend S. 1871, the proposed minimum wage bill. S. 1871 as reported includes an automatic "indexing" mechanism for adjusting the minimum wage in future years. This indexing mechanism is one which, I believe, offers our best hope of insuring our minimum wage workers some measure of security and fairness in the wages they receive for their labors.

Nevertheless, we have received numerous expressions of concern about this provision, because it would operate automatically and might make it more difficult to alter the course of minimum wage changes in the future. These are issues which deserve careful consideration—consideration which they have been given by the Human Resources Committee.

However, during the consideration of his proposed legislation by the House of Representatives, the indexing provision was deleted from the bill. It is also obvious that there is considerable sentiment in this body for the House approach. In recognition of this sentiment and of the concerns expressed by many reputable business leaders as well as by others, I am now proposing with this amendment to delete the indexing provisions from S. 1871.

The initial minimum wage increase is the same increase which would take effect under the bill as it now stands, that is $2.65 per hour effective January 1, 1978. Thereafter, the minimum wage would be increased to $2.90 per hour effective January 1, 1979; to $3.15 per hour effective January 1, 1980; and to $3.40 per hour effective January 1, 1981.

It is my strong conviction that these increases are the very least which we must do to provide fairness and security for our low-wage workers. They are modest increases, which may not bring full-time, year-round minimum wage workers up to the poverty level.

By Department of Labor estimates the poverty-level income for a nonfarm family of four in 1978 will be $6,417. The $2.65 minimum wage, however, will yield an income of only $5,512. Looking ahead to the benefits which will be provided by this bill, the cost of maintaining even a poverty-level standard of living might well outstrip the increases which we are proposing today. By 1981, when we propose to establish a minimum wage of $3.40, it is expected that the poverty-level income will be $7,429 per year. The $3.40 minimum wage will yield approximately $400 less than that amount.

Our great Nation should be able to provide a decent standard of living and decent wages for our full-time, year-round workers. We are striving to do just this with this legislation.

Mr. JAVITS. Mr. President, I am pleased that once again the chairman of the Human Resources Committee, Senator HARRISON A. WILLIAMS and I have been able to collaborate in our long-term effort to improve working conditions for all Americans. The amendment we have proposed today constitutes a fair and equitable increase over the next 4 years in the Federal wage floor established by the Fair Labor Standards Act. We have long shared this common objective and have only differed as to the means of achieving it—Senator WILLIAMS having been an advocate of indexing the minimum wage. I hope that the agreement we have reached as expressed in this amendment effectively will bring an end to the months of controversy over the indexing issue.

Although I am well aware of some risk to low-wage workers of legislative statutory increases, I concluded after careful study that indexing the minimum wage would be highly undesirable for U.S. workers and the U.S. economy as a whole.

Mr. President, I ask unanimous consent that the text of my individual views expressed in the report of the Human Resources Committee on S. 1871 be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATOR JAVITS

INDEXING THE MINIMUM WAGE

After careful consideration of the arguments put forth on both sides of the issue, I have concluded that it would be a serious mistake for the Congress to abandon periodic review of the statutory minimum wage rates in manufacturing. In my judgment the claimed benefits of indexing the minimum wage do not outweigh the serious risks to which our economy—and therefore all working Americans—would be exposed.

At the same time, I firmly believe that the minimum wage must be substantially increased. Unless the Congress promptly enacts a new series of increases to follow those enacted in the 1974 Amendments to the Fair Labor Standards Act, low wage workers will suffer a significant erosion of income and purchasing power in comparison to the present level of $2.30 per hour.

Accordingly, during consideration of S. 1871 in the Committee on Human Resources, I proposed, as an alternative to indexing, an increase in the minimum wage for all covered workers next year to $2.65 per hour, $3 an hour in 1979, and to $3.25 an hour in 1980. This schedule of annual increases is consistent with previous FLSA amendments and would provide even greater amounts than expected under indexing as proposed in the bill as reported by the committee: the same amount ($2.65 an hour) for the next year, but only $2.90 in 1979, and $3.15 in 1980.

In my judgment, the 40-year commitment of the Congress in the Fair Labor Standards Act to "the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers" compels us to regularly review the appropriate floor of wages in the U.S. economy, but by no means compels us to forgo this responsibility in favor of establishing a perpetually fixed relationship between the minimum wage and any particular indexing instrument. Indeed, even if indexing were sound conceptually, there is no cogent basis for selecting the average hourly wages of production workers in manufacturing as the sole basis for gauging future increases. Total reliance on this wage indicator ignores the relationship of the minimum wage to increases in the cost of living and the maintenance of purchasing power, the traditional argument for minimum wage increases. An effective solution clearly requires further study.

I believe our economy has entered upon a very sensitive and delicate stage in its recovery from the 1974–75 recession, during which inflationary expectations easily may be rekindled and a new wage-price spiral unleashed upon our country. If, indeed, our economy has entered a watershed in its evolutionary process, we will witness over the next two or three years either a return to stable, long-term noninflationary economic growth or a recurrence of erratic spasms of inflation and recession. There is ample evidence on hand to suggest that considerable inflationary potential is building up in the economy and that we must be vigilant in avoiding actions that might intensify these pressures.

In contrast with our experience in comparable postwar periods, this recovery has not yet become self-sustaining and has even shown recent signs of decelerating prematurely. The growth of employment this summer has slowed considerably relative to the earlier months of 1977; unemployment has remained around 7 percent and may increase in the coming months; the leading indicators have declined for three consecutive months, perhaps foretelling an upcoming pause; productivity in the private business sector actually declined in the second quarter, and at an annual rate of 1.4 percent; and unit labor costs—the principal indicator of the nation's underlying rate of inflation—rose to an annual growth rate of 7.7 percent in the second quarter.

Of all these dangers, the most serious threat, in my judgment, would come from the inflationary expectations that would be raised as a result of indexation. Recent Bureau of Labor Statistics data show that hourly compensation has begun to outpace productivity improvement by so wide a margin as to cause an unacceptable rate of increase in unit labor costs. The data show also that, for the first time since 1975, inflation has begun to erode gains in nominal dollar compensation.

PRODUCTIVITY AND COSTS: PERCENT CHANGE AT ANNUAL RATE (1ST QUARTER 1977 TO 2D QUARTER 1977)

Sector	Productivity	Hourly compensation	Unit labor cost	Real hour compensation
Private business	−1.4	6.2	7.7	−2.5
Nonfarm business	.4	7.4	6.9	−1.4
Manufacturing	3.0	6.7	3.6	−1.9

Clearly, unit labor costs are threatening once again to accelerate to a rate that could lead inexorably to rapid inflation, reduced purchasing power and recission.

In this context, I have concluded that indexation of the minimum wage could have serious adverse consequences for our economy. These effects would result directly from the rapidity with which gains in manufacturing wages and, implicitly, production costs, would be translated, in lock-step fashion, into increases in minimum wages and associated costs. While it is true that in some instances productivity gains might absorb manufacturing wage increases, the "spillover effect" of indexing in elevating unit labor costs in those industries characterized by lower productivity could be considerable.

Furthermore, the minimum wage is relied upon as a "floor" in some collective bargaining situations. In such circumstances, indexation of the minimum wage could create a mutually reinforcing cycle of interconnected wage increases unrelated to productivity improvements.

An equally important consideration is that the indexation of the minimum wage would be inconsistent with the firmly held position of the U.S. against indexing in international discussions. During the Paris Conference on International Economic Cooperation, the so-called North-South dialogue, to which I was a delegate, we took great risks in our relations with the developing countries when we successfully opposed the concept of indexation.

We opposed the demand of the developing countries for the indexation of the prices of the commodities and minerals they produce and export to the industrialized countries to those of the industrialized goods they import from the West. We particularly opposed the call of the OPEC countries for the indexation of the price of their oil exports to the price of the industrial goods they import.

Rather than preserving LDC purchasing power in real terms, indexation contributes to the continued inflationary spiral by institutionalizing price increases. The experience of many developing countries which have sought to link the various parts of their economies through indexation (e.g. wages and interest rates to prices, unrelated to productivity) has shown that it is almost always very difficult—if not impossible—to break these linkages when deflationary policies become necessary.

On the basis of these considerations, I am unable to support the provisions of this bill that would index the minimum wage to the average hourly wage in manufacturing. Congress needs to have the opportunity to examine from time to time the appropriateness of the Federal minimum wage level from the standpoints of equity and the economy. Where an increase is called for, as in the present situation, Congress can and should act accordingly.

AMENDMENT NO. 1019

Purpose: To eliminate lower gross volume of sales with regard to coverage of enterprises.

AMENDMENT NO. 1020

Purpose: To establish a fixed hourly minimum wage.

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to the bill (S. 1871), supra.

NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 1006

(Ordered to be printed and to lie on the table.)

Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants.

Mr. JOHNSTON. Mr. President, today I am submitting for printing, amendment No. 1006 to the Pearson-Bentsen natural gas substitute. This amendment is intended to serve three important functions: first, release much needed additional natural gas into commerce; second, provide a market for the heavy, high sulfur crudes which are becoming prevalent domestically; and, third, provide incentives for refiners to retrofit existing capacity and to build additional capacity for refining heavy fuel oil from heavy, high sulfur domestic crudes.

All of us are aware of the present shortage of natural gas. During the winter of 1977, we witnessed school and factory closings all across our Nation. Hardest hit were the consuming States of the Midwest which are dependent upon the interstate pipelines for supply. According to the American Gas Association, curtailments of 27 major interstate pipelines during the first quarter of 1977 totaled 936.4 billion cubic feet of natural gas. Previous levels of curtailments had been 833.7 billion cubic feet in the last quarter of 1976 and 695 billion cubic feet in the last quarter of 1975. A study by H. Zinder & Associates prepared for the Federal Power Commission concluded that 1975 curtailments alone cost the Nation's consumers $4 billion.

In August 1977, the first barrels of relatively heavy, high sulfur Alaskan crude oil arrived in the continental United States. Unfortunately, under present U.S. policy, over 500,000 barrels per day of that crude oil cannot be delivered, refined and consumed domestically. In addition, heavy, high sulfur crudes are being left in the ground in California due to the lack of a market for that quality crude. Heavy, sour crudes in West Texas are suffering a similar fate. The glut of heavy crude on the West coast and the fate of the California and west Texas crudes is indicative of an important phenomenon which has not been addressed in the President's energy package. Domestic supply of sweet, light crude is being rapidly depleted. In short the future domestic supply of crude oil will tend to be heavy, sour crude. Heavy, sour crudes are uniquely suited for the production of heavy fuel oils. Refinery experts indicate that a barrel of Alaskan crude will yield 55 percent heavy oils from the bottom of the crude fractionator, while west Texas Intermediate crude will yield 26.3 percent residual fuel oil from a barrel of Alaskan crude as compared to a yield of 6.7 percent residual fuel oil from south Louisiana crude and California light crude. Simply stated then, heavy, sour crudes are most efficiently used to produce heavy fuel oils.

Yet, in spite of the increasing availability of heavy, sour crudes, two-thirds of our domestic refinery capacity cannot refine such crudes. Although retrofitting refineries with desulfurization equipment is a costly proposition, the cost of desulfurizing crude oil to an environmentally safe level is much less than the present cost of scrubbers for desulfurizing coal emissions. Unless a market is created for heavy fuel oils, no refiners can be expected to install the equipment necessary to refine our Alaskan crude.

A potential market for heavy fuel oil exists in the Southwest—a market whose potential can be realized almost immediately. According to a recent survey, major electric utilities in Texas, Louisiana, New Mexico, and Oklahoma now have 12,663.9 MW of capacity that can continuously burn heavy fuel oils—No. 5 and No. 6 fuel. An additional 4,289.5 MW can utilize 50 percent gas and 50 percent No. 5 or No. 6 fuel oil. I should also point out that the total capacity of these utilities is only 60,000 MW. Thus, almost 20 percent of the generating capacity of these States can use heavy fuel oil in their existing facilities.

This amendment proposes a rather simple, straightforward approach to the problems of natural gas shortage and unused domestic crude oil. Electric powerplants and major fuel burning installations which presently have natural gas supplies under contract and which presently have the ability to use heavy fuel oils will be allowed to sell voluntarily their natural gas supplies for the replacement cost of such heavy fuel oils. A recent study indicates that as much as 1.3 trillion cubic feet of natural gas could be released yearly under this amendment—an amount which is more than sufficient to compensate for the 936.4 billion cubic feet of curtailments which were suffered in the winter of 1977. This proposal would be fair to the customers of these utilities, because the utility, if it chose to sell natural gas under this provision, would be allowed to recover the full replacement cost of its gas. This proposal would be fair to the person who chose to buy such natural gas, because the cost of the gas—estimated to be less than $4 per thousand cubic feet—would be less than the price of SNG or LNG, the two alternate fuels. It should be noted that a capital outlay of over $3 trillion would be needed to produce 1 trillion cubic feet of SNG and the operating expense of such facilities would approach $3 million per day.

This proposal will not impede the administration's goal of coal conversion. Only existing powerplants with the ability to use heavy fuel oils could participate and the entire program would cease in 1989, a year before the mandatory date for coal conversion under S. 977. The proposal will not take domestic residual fuel oil from the east coast market. Rather, refining capacity in the Southwest and Midwest would be used for the heavy fuel oil production—refiners who find it uneconomic to ship their heavy fuel oil to the east coast market.

Mr. President, I urge my colleagues to take a close look at this proposal. I believe it offers a real opportunity to move much needed natural gas into commerce and to create an efficient use for our presently unusable glut of heavy, sour crude oils. I ask unanimous consent that the text of the amendment and the attached section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 9, line 17, strike the word "four" and insert in lieu thereof the word "five".

On page 16, add the following new section:

"To encourage voluntary conversion from natural gas to heavy petroleum fuel oils in major fuel burning installations and electric powerplants.

"Section 28. (a) In order to assure that electric powerplants and major fuel burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than ninety (90) days after the date of enactment of this Act, promulgate regulations which:

(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

(2) provide, for a period of not to exceed five (5) years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to,

(A) the cost of heavy petroleum fuel oil substituted for natural gas,

(B) the cost of fuel transportation, handling and storage,

(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however*, That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further*, That, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service; and

(3) provide that—

(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline, or

(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

(b) the rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(c) In order to implement this section only, any contractural provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

(d) For purposes of this section—

(1) the term "heavy petroleum fuel oil" includes No. 4, 5, or 6 fuel oil, petroleum pitch and other similar heavy petroleum refined products.

(2) the term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(3) the term "pipeline company" means any person engaged in the transportation of natural gas in commerce.

SECTION-BY-SECTION ANALYSIS

Subsection (a) states that the purpose of the amendment is to encourage the voluntary substitution of heavy petroleum fuel oils for natural gas as boiler fuel in electric powerplants and major fuel burning installations by providing owners or operators thereof with a market and replacement price for their natural gas. The section designates a method of implementing the purpose by providing Federal Energy Regulation Commission regulations which:

Paragraph (1) encourage the utilization of domestic heavy petroleum fuel oils wherever practical;

Paragraph (2) provides, for a period not to exceed five years, for the purchase of such natural gas at a price providing just compensation to the seller. Just compensation is defined to include the cost of the substituted heavy petroleum fuel oil; the costs associated with storing, transporting and handling it; compensation for the increased operating and maintenance costs and the losses of efficiency resulting from the fuel oil substitution; and a pro rata charge to compensate the seller for the average gas system costs involved in making the natural gas available for purchase. All intrastate pipelines involved in transporting such natural gas would also receive just compensation, defined to be their current ordinary transportation charges.

In order to avoid delays by the utilities and major fuel burning installations in converting to coal and in order to prevent dual conversions (gas to oil to coal), the paragraph limits this provision to existing installations and provides that the capital costs associated with substituting fuel oil may not be included in the computation of just compensation.

Paragraph (3) requires that no Commission action pursuant to this amendment shall subject intrastate producers, suppliers, and pipelines as well as any seller from regulation under the Natural Gas Act or as a common carrier under any provision of state or federal law.

Paragraph (4) provides for incremental pricing of such natural gas to low priority users.

Subsection (c) provides protection to the sellers of the natural gas against contractual provisions which prohibit such natural gas from being sold into or used in interstate commerce or to be commingled with gas which is sold or used in interstate commerce.

Subsection (d) defines the terms "heavy petroleum fuel oil", "local distribution company" and "pipeline company".

The just compensation provisions in this amendment present no conflict with Section 307 of S. 977, the coal conversion bill recently adopted by the Senate. Section 307 of S. 977 provides methods for compensating persons whose contracts are legally invalidated and disrupted under coal conversion orders issued pursuant to S. 977, including those situations in which persons are required to undergo considerable capital expenses to achieve such conversion.

AMENDMENT NO. 1007

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 1008 THROUGH 1015

(Ordered to be printed and to lie on the table.)

Mr. PEARSON submitted eight amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1016 AND 1017

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1021

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGING, COMMITTEE ON HUMAN RESOURCES

Mr. EAGLETON. Mr. President, on Tuesday, October 4, 1977, beginning at 9:30 a.m. in room 1224, Dirksen Senate Office Building, the Senate Subcommittee on Aging will convene in order to receive public testimony on S. 1282—a bill to amend the Older American Act of 1965 to provide assistance for legal services projects for the elderly. Mr. President, the subcommittee wishes to inform those individuals and/or organizations interested in submitting written testimony to the subcommittee to contact Ms. Marcia McCord, (202-224-7653), staff director of the Subcommittee on Aging, no later than Monday, October 3, 1977.

REGULATORY FLEXIBILITY ACT

Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee will hold a hearing on Senate bill 1974, the Regulatory Flexibility Act on October 7, 9:30 a.m., in the Russell Building, room 424.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, October 4, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois, vice William J. Lynch, deceased.

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern District of Illinois, vice Richard W. McLaren, deceased.

Any person desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Wednesday, October 5 and Thursday, October 6, 1977, on the cost, management, and utilization of human resource program evaluation.

In the course of the hearing the committee will oversee Federal expenditures for evaluative research applied to human resources programs. Of special interest will be the scope and nature of such research and the return to Federal agencies and the Congress for investments made over the past several years. Special attention will be paid to the utilization made of such research efforts by program managers and policymakers.

Persons wishing to testify or submit statements, please contact: Franklin Zweig of the committee staff, 224-9285.

ADDITIONAL STATEMENTS

AGING AMERICA

Mr. EAGLETON. Mr. President, despite a substantially increased Federal commitment to improving the lives of older Americans, there remains a pervasive, sometimes subtle, discrimination against the elderly. It is a discrimination of attitude.

When I assumed the chairmanship of the Senate Subcommittee on Aging almost 7 years ago, the Older Americans Act consisted largely of a program of grants to States, under which about $15 million was distributed among all the States and territories. Divided 56 ways, $15 million was a woefully inadequate sum.

Since that time, the total funding for programs under the Older Americans Act has increased about 47 fold—to $700 million in the coming fiscal year. But funding alone is not the answer. We must also strive to erase the stereotype

of the unproductive, slightly senile older person.

Never has it been more important to address this problem. At the turn of the century there were 3 million Americans aged 65 or older, comprising 4 percent of the total population. That proportion has now more than doubled, and more than 10 of every 100 Americans are aged 65 or older. Although the proportion is not expected to rise significantly in the coming decades, the absolute numbers of the elderly will continue to increase, and the projection is for about 30 million persons aged 65 or older by the beginning of the next century.

We must be increasingly concerned about the population structure of our society, and the effects of extension of life in our country and around the world.

Only recently have we begun to systematically study just what is the biological process of aging and what are the implications of extending life. We must also ask, what will be the relationship of older people to the rest of society? Will they be isolated in a barren existence, or will they be integrated into society?

Important as answers to these questions are, they cannot insure a change of attitude in our youth-worshipping society. That requires a sustained educational program. As a first step in that process I commend to my colleagues an article appearing in yesterday's Washington Post, "Aging America."

I believe that we must and can take the lead in insuring that the country will echo the words of Robert Browning's Rabbi Ben Ezra, "Grow old along with me, the best is yet to be."

Mr. President, I ask unanimous consent that the Washington Post article, "Aging America" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGING AMERICA, ADAPTING OUR SOCIETY TO AN ERA OF LONG LIFE

(By Ken Ringle)

In Soviet Georgia, where people not uncommonly live more than a century, no one speaks of these people as "old" or "aged." The Russians refer to them as "long-living"—an emotionally neutral phrase from which Americans might profit.

For more and more we are a nation of relatively long livers ourselves—a culture from which medical technology has largely banished hunger and childhood disease and made possible the longest average life expectancy of any country in the world.

An American child born today can expect to live at least 71.3 years—24.3 years longer than a child born in 1900. Statistically, his chances of reaching age 94 are about the same—almost negligible. But what has changed dramatically is his chance of reaching 65—an age attained by only about 1 out of every 25 Americans at the turn of the century. Today 1 out of 10 Americans reach 65, and the average continues to inch upward.

By the year 2000, nearly 1 in every 5 people will be 65 or older. Their numbers will total close to 40 million people, more than twice the 1970 population of New York state or California.

Those numbers are about to wreak a profound change in our nation. What we are facing is what George L. Maddox, head of Duke University's Center for the Study of Aging and Human Development, calls "an emerging mismatch between our institutional arrangements in this country and that demographic fact—a mismatch we have not yet begun to come to terms with."

The ingredients and extent of the mismatch are staggering.

Born as a place of adventure, subdued by action rather than thought, the United States has always been a country of the young. In contrast to countries like China and Japan which showed great reverence for old people, even the native traditions here were less than supportive: Those too old to contribute to and follow the migrating Indian tribes were expected to wander off alone to starve.

Our medical philosophy has been geared toward keeping people alive (but not necessarily productive), our social institutions have been geared toward custodial rather than preventive care, our educational institutions have been geared toward vocational and professional training rather than lifetime learning, our transportation system has been geared to private vehicles rather than the public facilities on which the elderly must inevitably depend. Our suburban housing patterns have effectively shut the elderly out of our own lives and the lives of our children and our culture shuts them out of our minds by focusing on the immediate and the transient rather than that which endures.

Underlying our national life, in brief, has been the unstated assumption that old people weren't very important, they couldn't cope very well, and while we might owe them something in the way of social care, we didn't owe them much because there weren't very many of them and anyway they wouldn't be around too long.

The end of that assumption has been slow in coming. More than 10 years ago thoughtful economists were prophesying the impending bankruptcy of the social security system because of the growing number of old people. Most Americans who heard of the debate came away with the fuzzy notion that it somehow had to do with inflation. What it had to do with, of course, was the day when, thanks to the pill-born stabilization of our national birth rate, proportionately more people would be taking money out of the social security system than would be paying into it. Without major changes in the system, that day is not far off.

That threatened economic crunch, more than any other single factor, has been the moving force behind the current efforts to end mandatory retirement at 65.

It has also been the major force behind recent interest in the study of old age itself. For astonishing as it seems, though millions of man-hours have been devoted over the years to the study of how life begins, almost nothing had been done prior to 1950 on the study of how people change as it continues into the later years. What research was being done was almost entirely confined to the institutionalized aged—who, current studies show startlingly enough, amount to only about 6 per cent of all those over 65.

The reason for the lack was largely rooted in the notion that "life is a terminal disease" and that anyone past the age of about 60 was, in fact, in the process of dying.

Old people were stereotyped as feeble and sickly, senile and sexless—stereotypes that have become even sharper with many Americans in the age-segregated 1970s.

A year-long study of 180 school children by the University of Maryland's Center on Aging found that the children 3 to 11 typically viewed elderly people as "sick, sad, tired, dirty and ugly," and insisted that they themselves would never be old.

The stereotypes, the study found, were based on myths of aging centuries old, augmented in many cases by the treatment of old people in contemporary children's literature.

The most damaging thing about the aging myths is not, however, that they were believed by children but that in many cases they were and are believed by old people themselves.

"They are being told it's all downhill financially, it's all downhill sexually, it's all downhill intellectually," said Edward F. Ansello, associate director of the Maryland center, in making public the study last year. "They have this expectation of inevitable decline: If you live long enough you're going to be senile."

STRENGTH AND RESOURCEFULNESS

A growing body of research, however, continues to find no evidence that old age necessarily limits intellectual capacity, sexual activity or meaningful work.

The largest body of research has come from a longitudinal study of more than 200 elderly people performed over the past 20 years by the Duke University Center.

The study showed that far from meeting any depressing stereotype of decline, the vast majority of old people remained in good health, socially and sexually active, with reasonable financial security and good mental acuity until the final weeks of their life.

"The characteristics they seem to suffer most from," said Duke Center director Maddox, "is the tendency of society to treat them as though they are all alike."

Old people in fact are extraordinarily varied. The evidence suggests that rather than becoming more alike as they grow older, old people become, if anything, more varied. But basically, when studied over a long period, as they were in Duke's study, old people show remarkable continuity of character: If a person is a healthy, happy person at 50, he will probably be a relatively healthy, happy person at 80.

Many old people, of course, do undergo serious illness and other painful crises associated with old age, from forced retirement to the loss of a spouse.

But more significant than the crises, according to Maddox, is the extraordinary strength and resourcefulness they exhibit in meeting these challenges of later life. This is the true "wisdom of age"; the fruit of a lifetime of problem-solving and learning to deal with loss.

What negative changes are associated with age, the research shows, are primarily associated with speed and perception: Eyesight and hearing dim, and physical and mental reflexes slow down appreciably, making some tasks like driving unwise for the very old.

But most oldsters also demonstrate greater patience with tedious tasks, less tendency to boredom and an impressive ability to compensate for many of those qualities that have been diminished by age.

In contrast to a frequent stereotype, old people actually tend to be sick less frequently than younger people, possibly because of a lifetime accumulation of immunity to various illnesses.

When they are sick, however, the illness tends to be more serious and they take longer to recover.

As for senility, the Duke study indicates only about 15 per cent of all old people ever become senile, and the larger portion of those due to an ailment called Alzheimer's disease which pebbles the brain with bits of hardened tissue and neurofibulatory tangles. Senility, the research shows, is not the result of age itself, but one symptom associated with several different diseases.

"MEDICAL PESSIMISM"

The portrait of old age that emerges from the Duke research and that of other gerontologists around the country is that of a huge portion of the American population composed of immensely varied individuals with an enormous store of unused potential for contributing to contemporary society.

It is this portrait that has provided much of the moral force behind current efforts to end mandatory retirement at age 65.

Beyond the retirement issue, however, lies an even more crying need—a need to rethink the very nature of our social institutions in the light of what we now know about the prospective numbers, the obvious needs and the demonstrated abilities of our growing population of old people.

Our national health care system, for example, is going to have to be radically changed, not because it would be a good idea, or because the traditional system hasn't worked, but because we can no longer afford to maintain even the inadequate system we have now.

In the process of concentrating our vast medical technology on conquering acute illnesses with dramatic impact, we have largely ignored the treatment of long-term, chronic illnesses and the concept of preventive care.

It makes a great deal more sense for the government to spend $5,000 on an individual over the course of his lifetime in preventing a chronic late-life illness than to spend $100,000 at the end of his life trying to pick up the pieces.

The Duke study and others demonstrate that much of the physical dysfunctioning usually associated with old age is actually the result of organic ailments which doctors won't take the time to diagnose and treat.

Gerontologist Robert N. Butler refers to this as "medical pessimism" toward the elderly—an inclination to treat any complaint as the inevitable concomitant of old age.

Part of this is due to physicians' natural fascination with "quick return" medicine. Old people's ailments are often more difficult and time-consuming to diagnose, and oldsters respond to treatment less quickly than the young.

But part of it may also be due, some gerontologists believe, to inadequate knowledge by the average physician about the metabolism of old people and how it functions. Too little is known about what constitutes "normal" aging.

There is some indication, for example, that some high blood pressure in old people may actually be needed to force blood through the less elastic vessels of the aged. When physicians prescribe medication to lower blood pressure, they may actually be restricting the blood flow to the brain, thereby bringing on senility.

As for senility itself, many of the mental aberrations attributed to it may be reversible symptoms brought on by a wide range of factors ranging from infection to malnutrition.

CHANGING INSTITUTIONS

It is obvious that a wider body of knowledge on the physiology of aging is needed. But needed even more is a national program of health care designed to carry that knowledge and the medical care it inspires to the people who need it most. Most gerontologists believe this can be done with a program of preventive care that keeps old people out of institutions and active in the community.

Twenty-eight years ago New York's Montefiore Hospital launched a program of home care for the elderly which featured regular visits to the homebound by doctors, physical therapists and social workers. In the years since, some 100 other hospitals in the nation have set up similar programs. Two years ago, Montefiore helped set up a day hospital program offering custodial care to elderly patients who have no one at home to look after them during the day.

Such programs could be encouraged by state and federal legislation as a more human and more successful alternative to Medicare-subsidized nursing homes, at less than half the cost.

Similar imagination is needed in a program of income maintenance in the face of inflation that is eroding fixed social security incomes to close to the poverty level. Many experts recommend placing a floor under retirement incomes, pegged to the actual cost of living, financed either by increased social security taxes or other state and federal funds.

Housing is another area which helps make it hard to grow old. When America was an agrarian nation, houses were larger and designed for an extended family of three or more generations. Old people never really retired, but contributed to the family unit and received from it as their abilities and needs warranted. The advent of social security and the FHA brought with it more familiar freedom and mobility but also spawned a proliferation of houses and a suburban lifestyle seldom conducive to home-based care of the elderly.

Many gerontologists, however, see a return to the extended family as an inevitable consequence of the aging of America. Some 80 per cent of the old people surveyed in Duke's 20-year study had at least one child living within a 30-minute driving time and most had significant interaction with their families.

Duke psychologist Daniel G. Blazer sees federal encouragement for program of family care as a natural outgrowth of the determined emphasis on family life in the current Carter administration. Such a program might take many forms, including rent, mortgage or construction subsidies for families caring for older relatives and tax incentive programs for home-based care of the elderly.

Such a concept, he said, would help end the sense of social isolation felt by many institutionalized old people and permit a return to the fruitful contact between young children and older relatives which has become increasingly a casualty of our age-segregated society.

Other institutions will also have to change. Legislators wavering in their support of public mass transit systems might contemplate what life will be like when thousands of their constituents—and they themselves—are too old to drive.

The educational community will have to rethink its long-term emphasis on youth and provide more in the way of creative, unstructured lifetime learning programs for people of all ages. Britain's "open classroom" program, which utilizes television and community learning centers as well as home programs, has been a model in this regard.

SIGNS OF PROGRESS

Much, of course, is being done. Included in this year's Labor-HEW appropriations bill is an unprecedented $500 million for spending under the Older Americans Act, chief vehicle for research, community services and nutrition programs for the elderly.

In addition to the main HEW appropriation, up $75 million from last year, funds are flowing toward the elderly along other routes. Among them:

Jobs: Two measures of Carter's economic stimulus package, signed into law last spring, are designed to help older workers find jobs. The total federal outlay: $160.5 million.

Housing: $82.5 million will be spent by the Community Services Administration to weatherize homes belonging to the poor, elderly and handicapped. Some $200 million will go to help low-income people pay for last winter's fuel bills and $100 million for continuation of a loan authority program for housing for the elderly.

Education: Some $2.7 million is going toward further development of "Over Easy," a public television series designed to inform, educate and entertain the elderly.

Research: $2 million has been appropriated for the Center for Studies of Mental Health of the Aging. The National Institute on Aging will probably get $39 million, an increase of $5 million from last year's funding.

This is hardly a complete list of the various federal appropriations aimed at the elderly but it is indicative of government expenditures in the area. Add on the enormous cost of Medicaid and Medicare benefits, Supplemental Security Income, food stamps and the like and the true cost of old age to our society begins to become apparent.

Then there is the organizational attack: the President's Council on Aging, HEW's Administration on Aging, a Federal Council on Aging, a House Select Committee on Aging and a Senate Special Committee on Aging.

But more crucial than the dollars and the committees and the institutional changes to the future of aging in America, gerontologists believe, is an attitudinal change on the part of the American public: an awakening to the realization that "ageism," like racism and sexism, endures through the sort of dull, insensitive thinking that debases both youth and old, and a challenge to make the increasing years of later life not only possible but enriching for every American.

It is the most brutal sort of self-interest for today's decision-makers to help do so. For the old people who will have to live with what we do or don't do today will include most of those reading this article.

ECONOMIC INDICATORS POINT TO CRISIS IN CARTER ECONOMIC POLICIES AND ECONOMIC TEAM

Mr. DOLE. Mr. President, I read yesterday, that the U.S. balance of payments set a record $4.6 billion deficit in the second quarter—the fourth deficit in a row—that the U.S. dollar fell to an alltime low for the second time in 2 days against the Swiss franc, and that the dollar declined against all major West European currencies. The Washington Post reported:

The dollar is beset by what is regarded as America's disappointing economic performance lately.

The Dow Jones average of 30 industrials Wednesday fell 10.82 to 840.96 setting a 21-month low for the second time this week. Several other leading market indicators also reached their lowest levels in more than a year and a half.

CRISIS OF ECONOMIC LEADERSHIP

These events cause me serious concern and alarm. They come at a time when there is an apparent crisis of economic leadership in the administration's economic policies and economic team.

There is yet, after 8 months, little evidence or appearance of any long run economic policy or the creation of a stable economic team to develop such policies. President Carter's economic advisers are floundering through a patchwork of economic policies that are old, shopworn economic ideas tried and proven wrong in the 1960's.

Treasury Secretary W. Michael Blumenthal has been saying he is not concerned about the large deficit in the balance of payments. I wonder if Secretary Blumenthal still is not worried?

ECONOMY AT CROSSROADS

The U.S. economy is now at the crossroads. The correct actions now could lead us to a stable, noninflationary economy. Wrong policies now could lead us into trouble in the future and put our economy in rough shape by 1979 and 1980. How much longer must we wait before the President decides on an economic team and an economic policy?

LARGE TRADE DEFICITS

The large trade deficits and the floundering administration economic policies can only:

First, cause the American dollar to continue to fall in value against foreign currencies. Our dollar will weaken and depreciate in value, which is inflationary.

Second, cause an increase in the amount of American dollars held by foreign countries and foreign nationals through flooding the world with dollars.

Third, cause an increase in foreign investments in the United States.

Fourth, cause an immediate increase in the inflationary fires in the United States. As all our imports, including oil, cost American consumers more because of the declining value of the dollar.

Fifth, cause interest rates in the United States to go up in order to encourage foreign central banks, nationals and foreign central banks, nationals and foreign governments to hold dollars.

Sixth, cause eventually another serious round of worldwide inflation and instability. The entire world economy could be put in a precarious position.

The recent small increases in the Consumer Price Index I believe are only an illusion, the calm before the storm, created by a depressed farm economy.

The trade deficits could be reduced if the administration would adopt a more aggressive farm commodity export policy. I have urged Secretary Bergland on repeated occasions to implement programs at his disposal to increase agricultural exports through increased funding of Public Law 480, and a more aggressive export program under Commodity Credit Corporation credit.

The economic signals are pointing to a severe crisis in the American economy both at home and abroad.

The U.S. economy stands at the crossroads.

TRIBUTE TO LEO P. LEMIEUX

Mr. PELL. Mr. President, I am delighted today to bring to the attention of my colleagues the accomplishments of Mr. Leo P. Lemieux of Woonsocket, R.I., who was named "Humanitarian of the Year" by the Ancient and Mystical Order Rosae Crucis (AMORC) earlier this month.

Mr. Lemieux, founder and president of the Blackstone Valley Association for the Blind, was presented this international service organization's award because of his outstanding service and dedication to the handicapped and elderly of northern Rhode Island.

Mr. Lemieux began his organization, the Blackstone Valley Association for the Blind, in January 1975 as a special "self-help" group to integrate handicapped citizens into the life of their communities and inspire visually impaired persons to become active members of the community. All the officers, directors and trustees of BVAB were themselves blind.

He has also been the chief mover in bringing about a recreation center for the elderly and handicapped which opened in March of this year. The center was opened on a 1-day-a-week basis and served 10 residents of Woonsocket providing social activities, lunch, and door-to-door transportation. In August I was delighted to hear from Mr. Lemieux that the center is now open 4 days a week, soon to be 5, and is serving 400 persons per month from 6 different communities.

Mr. Lemieux is truly a remarkable man of unflagging spirit. Blind since 1969, he has been a leading voice in Rhode Island advocating ramps and safety devices to make public buildings accessible to handicapped people and street corners safe for blind pedestrians.

I can think of no one who has done more for or been more faithful to the handicapped and elderly of northern Rhode Island, and it gives me great pleasure to pay tribute to Leo Lemieux today.

I ask unanimous consent that an article appearing in the Woonsocket Call concerning Mr. Lemieux and his achievements be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEMIEUX NAMED HUMANITARIAN

A 42-year-old Woonsocket man, who has fought the image that handicapped people are "helpless," will be presented an humanitarian award tonight by a local representative of an international service organization.

Named "Humanitarian of the Year" by the Ancient and Mystical Order Rosae Crucis (AMORC) Leo P. Lemieux of 232 College Ave., will receive the citation at 7 p.m. at the Blackstone Valley Association of the Blind (BVAB) headquarters, 17 Federal St., in the basement of the First Methodist Church.

More than 100 people, including representatives of the BVAB and members of the Roger Williams Chapter, AMORC, the local branch of the California-based organization, are expected to be on hand for the ceremonies, according to Lawrence J. Keefe of 86 Arnold St., an AMORC member, who will present the award.

Lemieux, founder and president of the BVAB, was nominated for the award by the local chapter because of his work for handicapped and elderly people in the Blackstone Valley area, Keefe said.

Blind since 1969, Lemieux is an active local lobbyist for ramps and traffic safety devices to make public buildings accessible to handicapped people and street corners safe for blind pedestrians.

He calls many of the city's street corners "nightmares" and recently appeared before the city council asking that a ringing device be installed at the corners to signal safe walking times for people unable to read crosswalk signals. One of the most hazardous intersections in the city for handicapped people is located at Depot Square, which he refers to as "Nightmare Square."

Lemieux, the husband of the former Madeleine Richards of Woonsocket, has also been a principal mover in the renovation of the Federal Street headquarters into a recreation center for handicapped people. When the recreation center opened in March on a once-a-week basis only 10 people were being served by the center, Lemieux said. He estimated that with the recent expansion into Pawtucket, his hometown, and the Massachusetts area some 500 people will be reached through the center, which is now open five days a week.

"I have a happy, tired feeling at the end of the day," said Lemieux, who overcame his own visual handicap. A former career Army man, he lost vision in his left eye during the Korean War. The blindness then spread to his right eye through a disease, which eventually left him blind. He was discharged from the service in September of 1966 and has lived in Woonsocket since then.

WOONSOCKET SALE

Mr. and Mrs. Walter Nikolysen of Pawtucket have purchased from Mr. and Mrs. Antonio Rosario a six-room ranch home, and 11,136 square feet of land, at 106 Grandview Ave., through the Richard Palreiro Agency.

FORMER SECRETARY OF STATE HENRY A. KISSINGER SPEAKS ON CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Mr. GOLDWATER. Mr. President, on Monday, September 19, former U.S. Secretary of State Henry A. Kissinger delivered The Arthur K. Salomon Lecture at New York University. This was the occasion for a major address by Dr. Kissinger on the pertinent subject of "Continuity and Change in American Foreign Policy."

As Dr. Kissinger explained it, he did not attempt to appraise the current foreign policy of President Carter and Secretary of State Vance, but rather chose to speak "about some of the philosophical underpinnings from which tactical decisions derive." In his words, these include: "the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage."

On the issue of human rights, Dr. Kissinger stresses our defense of human rights is not simply a humanitarian program, but "has in itself a political and even strategic significance" because it is an essential component of our competition with totalitarian systems.

Dr. Kissinger further reminds us: "In the contemporary world, it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men."

From this, he recommends: "We must therefore maintain the moral distinction between agressive totalitarianism and other governments which, with all their imperfections, are trying to resist foreign pressures and which thereby help preserve the balance of power in behalf of all free peoples."

Mr. President, I know that many of my colleagues will be interested in the profound thoughts expressed by Dr. Kissinger and for this reason I ask unanimous consent that the entire text of his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Distinguished guests, ladies and gentlemen: Your request that I deliver a "major appraisal" of current American foreign policy presents me with a dilemma—a difficult choice between your interest in the subject on the one hand and the imperatives of responsibility on the other. Despite my notorious humility, it would be tempting for me to speculate with you about how I might have dealt with this or that tactical situation if I had been in office these past eight months. But those who have borne the responsibility of high office know too well the complexities, the ambiguities and the anguish of charting

our nation's course in a turbulent period. The new Administration deserves the opportunity to develop its policies without harassment or second-guessing. Eight months is after all but an instant in the life of nations.

President Carter and Secretary of State Vance are on the verge of several weeks of delicate and important negotiations—with the Soviet Union on strategic arms limitation, with the Middle East foreign ministers on peace in that crucial area, and with other leaders attending the United Nations General Assembly on a variety of complex issues. The hopes of all Americans go with them. The success of the Administration in promoting peace and progress will be a success for the nation. Any setbacks of the Administration would affect the lives and prosperity of all Americans. When a performer is taking careful and complicated steps on a high wire, it is profoundly inappropriate, not to say dangerous, for a spectator in a seat far below to shout at him that he is putting his toe in the wrong place.

So I would like to speak to you today about some of the philosophical underpinnings from which tactical decisions derive: the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage.

THE NATURE OF BIPARTISANSHIP

The world marvels at America's extraordinary rebound from the agony of Vietnam and the constitutional crisis of Watergate. We have emerged from these traumas with our democratic institutions flourishing, our public debates vigorous, our economy expanding, our pride in our country intact. Our friends around the world were heartened by this, for they know better perhaps even than we do how vital a stake they have in America's confident leadership.

That leadership is not—nor should it be—the esoteric concern of specialists; it is the means by which the nation serves its interests and pursues its highest goals and it affects all other nations. For thirty years the world balance of power, the cohesion of the democracies, the health of the world economy, the prospects for growth in Africa, Asia and Latin America, and the hopes for freedom everywhere have been sustained by the United States.

We have learned through many crises that upheavals thousands of miles away can threaten American lives or jeopardize American prosperity. The 1973 Middle East war ultimately forced us into a military alert. The oil embargo, lasting six months, cost half a million jobs and ten billion dollars in national output; it set the stage for a serious recession, in this country and worldwide. And the abrupt quadrupling of oil prices which followed added at least five percentage points to the price index, contributing to our worst inflation since World War II. We have not yet returned to the high growth rate and relatively low inflation which we enjoyed before 1973.

Now that the bitter passions of the foreign policy debate of the last ten years are hopefully behind us, it is time for thoughtful deliberation on what are, or should be, our basic premises about the world in which we find ourselves today.

Our foreign policy difficulties are often described as the legacy of Vietnam. But the Vietnam ordeal was not a cause but a symptom. The late 1960's, coinciding with Vietnam, marked the end of the period when America was overwhelmingly more powerful than any other nation, when we could assault problems alone and entirely with our own resources, when American initiatives were accepted without serious debate, when we could believe that our own domestic experiences, like the New Deal, were the automatic blueprint for economic development and political progress abroad. It marked above all the end of the era when we could imagine that any problem could be resolved once and for all and that solutions once achieved would permit us to end our international exertions.

Vietnam was a catharsis. It taught us that our power-while great is finite, that our influence though crucial can be effective only if we understand our priorities and the world in which we live.

For a century and a half geography and resources combined to give us the luxury of waiting until threats became almost overwhelming before we committed ourselves. We always had the opportunity to compensate for our tardy involvement by the massive deployment of physical power. We could largely leave to others the burden of the day-to-day decisions that over time spelled war or peace, security or fear, for the global system and even for ourselves. We were spared the continuing agony of inescapable decisions that other nations always faced to assure their survival and their values. More than any other nation in history, we could avoid the dilemma of reconciling the ideal with the practical, of accommodating to limited means and contingent ends.

The post-World War II era was a remarkably creative period of American foreign policy. But our initiatives were explicitly justified as temporary measures to restore an underlying equilibrium. The Marshall Plan, our alliance commitments overseas, our international economic programs were all conceived as dealing with temporary emergencies which once overcome would excuse us from permanent direct involvement abroad.

The world of today is not the world of a generation ago. Geography no longer assures security. The American nuclear monopoly has given way to nuclear balance and to proliferating weapons capabilities. The United States is now as vulnerable as any other nation; indeed nuclear weapons confront all peoples everywhere with a threat to their survival unknown to any previous generation.

The world economy has become interdependent; our prosperity is to some extent hostage to the decisions on raw materials, prices and investment in distant countries whose purposes are not necessarily compatible with ours.

And the structure of relations between nations has fundamentally altered. In 1945, fifty-one nations joined to create the United Nations; today it comprises nearly 150 nations—many ideologically hostile. Just as two world wars shattered the Europe-oriented order of the last two centuries, so the postwar system of Cold War bipolarity has come apart—and a new pattern of world order must be shaped to take its place.

An increasing responsibility has fallen upon the United States. Without our commitment to international security, there can be no stable peace; without our constructive participation in the world economy there can be no hope for economic progress; without our dedication to human liberty the prospect of freedom in the world is dim indeed.

For the first time in American history we can neither dominate the world nor escape from it. Henceforth this country will be engaged in world affairs by reality and not by choice. America must now learn to conduct foreign policy as other nations have had to conduct it—with patience, subtlety, imagination, and perseverance.

The most fundamental challenge is thus not to our physical resources but to our constancy of purpose and our philosophical perception. Precisely because we can no longer wait for dangers to become overwhelming, they will appear ambiguous when they are still manageable. The case for ratifying the Panama Canal Treaties, for example, is not an immediate present danger in Panama but the need to forestall a united front of all the countries of Latin America against what they consider an American attempt to maintain inequity by force. The issue in Angola two years ago was not a direct threat to our security, but the long-term danger of allowing Soviet surrogate forces to intervene globally to tip the scales in local conflicts. The argument for a forthcoming American attitude in the North-South Dialogue is not to yield to the admittedly limited strength of the less-developed nations but to prevent the polarization of the world into a small minority of the rich isolated in an ocean of poverty and resentment.

It is a paradox of the contemporary world that if we wait until these dangers become realities we will lose the chance to do anything about them. At the moment when we still have great scope for creativity the facts are likely to be unclear or ambiguous. When we know all the facts, it is often too late to act. This is the dilemma of statesmanship of a country that is irrevocably engaged in world affairs—and particularly of one that seeks to lead.

America, therefore, can no longer afford the luxury of oscillating as it once did between brooding isolation and crusading intervention. Our biggest foreign policy challenge is to shape a concept of our international role that the American people will support over the long term; we must avoid dramatic swings between exuberance and abdication. Our responsibility is unending; our accomplishments are likely to be ever-tenuous. We must change our approach to international affairs from the episodic to the permanent; from the belief in final answers to the realization that each "solution" is only an admission ticket to a new set of problems.

In such an environment the conduct of foreign policy requires a fine balance between continuity and change. This is not easy for our democracy. Our two-party system, our consititutionally mandated balancing and separation of powers, our open political process create temptations for the simplified answer, the nostalgic withdrawal, or the moralistic sense of superiority.

Yet this free and open political process is also our greatest source of strength. The alternation of parties in office by free elections guarantees constant renewal, the infusion of fresh ideas and new blood into our national life. It presents a striking contrast with the gerontocracies that run the Communist world. These systems have no lawful regular process for replacing leaders; it is no coincidence that the stagnation of their ageing leadership goes hand in hand with plodding bureaucracy and intellectual sterility, punctuated by periodic crises over succession.

The problem which our society faces is on the whole a far happier one. Insuring continuity amidst the constant process of renewal turns bipartisanship from a slogan into an imperative.

To be sure, all Administrations sooner or later appeal to the spirit of bipartisanship. This is partly because they come to share much the same perception of the nation's permanent interests as their predecessors and partly because bipartisanship can be a useful shield against excessive criticism. There is a natural tendency for the party in power to consider any criticism as excessive. I know these tendencies from experience, having indulged them myself. But the fact that there are also tactical benefits to the appeal to bipartisanship does not change the reality that to the world at large we are one nation which can have only one government.

And we are not just any nation. Our country cannot uproot its whole foreign policy every four or eight years—or imply that it is doing so—or else America will itself become a major factor of instability in the

world. We must understand that foreign leaders who design their programs around our policies are staking their domestic positions on our constancy. Radical shifts in our course inevitably affect the stability of especially friendly governments. If these changes are seen to occur largely for domestic effect, if our elections come to determine as well the stability of foreign governments, no nation that has a choice will readily cooperate with us.

Of course a foreign policy that stresses continuity above all else would be stultifying and would in time be overwhelmed by events. A new Administration is obviously not elected to carry out all the policies of its predecessor. But change in our policy should be seen as reflecting new circumstances and not change for its own sake. By the same token, critics have an obligation to see to it that our foreign policy debates reflect disagreements on major substance, not a quest for partisan advantage or tactical second-guessing.

If our foreign policy is well conceived, it must reflect fundamental national purposes and not personal idiosyncrasy. Neither the Administration nor the opposition should nurture differences to score debating points. Both have an obligation to make clear that our foreign policy is a shared national enterprise. I might add parenthetically that bipartisanship would come easier if each new Administration resisted the quadrennial temptation of implying that conceptual insight, creativity and moral awareness begin anew every four years on January 20. Nor should history be rewritten in ways more suitable to faculty debates than to serious national dialogue.

The Administration, when it pursues the national interest, is entitled to the full measure of support from all who cherish the future of the country. For its challenges are great. The new Administration assumed responsibility when hopeful progress was being made in most areas of foreign policy—the Middle East, SALT, relations with both the industrialized and the developing world. But it faces a tremendous task in each, and in continuing to shape the new international order. We are on a journey no single Administration can possibly complete, whose beginning is an understanding of reality and whose goal is a better and more peaceful life for future generations.

MORALITY AND PRAGMATISM IN AMERICAN FOREIGN POLICY

In this spirit, I would now like to turn to one of the basic challenges of foreign policy, the perennial tension between morality and pragmatism. Whenever it has been forced to wield its great power, America has also been driven to search its conscience: How does our foreign policy serve moral ends? How can America carry out its role as humane example and champion of justice in a world in which power is still often the final arbiter? How do we reconcile ends and means, principle and survival? How do we keep secure both our existence *and* our values? These have been the moral and intellectual dilemmas of the United States for 200 years.

From the time of the Declaration of our Independence, Americans have believed that this country has a moral significance for the world. The United States was created as a conscious act by men and women dedicated to a set of political and ethical principles they held to be of universal meaning. Small wonder, then, that Santayana declared that "being an American is, of itself, almost a moral condition."

At the same time, since Tocqueville, it has been observed that we are a pragmatic people, commonsensical, undogmatic, undoctrinaire—a nation with a permanent bent to the practical and an instinct for what works. We have defined our basic goals—justice, freedom, equally, and progress—in open and libertarian terms, seeking to enlarge opportunity and the human spirit rather than to coerce a uniform standard of behavior or a common code of doctrine and belief.

This duality of our nature is not at war with reality. For in international politics, our morality and power should not be antithetical. Any serious foreign policy must begin with the need for survival. And survival has its practical necessities. A nation does not willingly delegate control over its future. For a great power to remit its security to the mercy of others is an abdication of foreign policy. All serious foreign policy therefore begins with maintaining a balance of power—a scope for action, a capacity to affect events and conditions. Without that capacity a nation is reduced to striking empty poses.

But equally, our nation cannot rest its policy on power alone. Our tradition and the values of our people ensure that a policy that seeks only to manipulate force would lack all conviction, consistency, and public support.

This is why America has been most successful in our relations with the world when we combined our idealism and our pragmatism—from the days when our Founding Fathers manipulated the monarchical rivalries of Europe to secure our independence and launch the great democratic experiment to the creative American initiatives after the Second World War such as the Marshall Plan. Our modern efforts to achieve strategic arms limitation, peace in the Middle East and Southern Africa, the opening to China, recasting international economic relations based on the principle of interdependence—have also served both moral and practical ends and can be sustained only by a combination of moral conviction and practical wisdom.

THE ISSUE OF HUMAN RIGHTS

These considerations come to bear powerfully on the question of the relationship between human rights and foreign policy. The world needs to know what this country stands for. But we cannot rest on this; we must know how to implement our convictions and achieve an enhancement of human rights together with other national objectives.

Neither the issue nor the concern are new:

It was under the two previous Administrations that Jewish emigration from the Soviet Union was raised from 400 a year in 1968 to 35,000 by 1973. This resulted from a deliberate policy, as a concomitant to the process of improving U.S.-Soviet relations.

The release of the courageous Soviet dissident Bukovsky in exchange for the Chilean Communist leader imprisoned in Chile was arranged in 1976 through American intercession. It was but one of many such acts which were not publicized in order to be able to continue to assist hardship cases.

American diplomatic action in the same period brought about the release of hundreds of prisoners from jails all over the world.

American foreign policy of the past decade helped enshrine basic principles of human rights in the Final Act of the Helsinki Conference on Security and Cooperation in Europe—providing the indispensable political and legal basis for pursuing the issue of human rights in East-West relations.

We also worked to improve the efforts of the United Nations Human Rights Commission; to upgrade the Commission on Human Rights of the Organization of American States. Common human rights policies were forged with the other democracies, and steps were taken to improve the institutional response of the international system to the challenge of human rights.

The accomplishment of the new Administration is not that it originated the concern with human rights but that free of the legacy of Vietnam and Watergate it has seized the opportunity to endow the policy with a more explicit formulation. The aim of the Carter Administration has been to give the American people, after the traumas of Vietnam and Watergate, a renewed sense of the basic decency of this country, so that they may continue to have the pride and self-confidence to remain actively involved in the world.

Having had to conduct American foreign policy in a period of national division and self-flagellation, I applaud and support this objective. The President has tapped a wellspring of American patriotism, idealism, unity, and commitment which are vital to our country and to the world. He has focused public concern on one of the greatest blights of our time.

The modern age has brought undreamt-of-benefits to mankind—in medicine, in scientific and technological advance, and in communication. But the modern age has also spawned new tools of oppression and of civil strife. Terrorism and bitter ideological contention have weakened bonds of social cohesion; the yearning for order even at the expense of liberty has resulted all too often in the violation of fundamental standards of human decency.

The central moral problem of government has always been to strike a just and effective balance between freedom and authority. When freedom degenerates into anarchy, the human personality becomes subject to arbitrary, brutal, and capricious forces—witness aberrations of terrorism in even the most humane societies. Yet when the demand for order overrides all other considerations, man becomes a means and not an end, a tool of impersonal machinery. Human rights are the very essence of a meaningful life, and human dignity is the ultimate purpose of civil government. Respect for the rights of man is written into the founding documents of almost every nation of the world. It has long been part of the common speech and daily lives of our citizens.

The obscene and atrocious acts systematically employed to devalue, debase, and destroy man during World War II vividly and ineradicably impressed on the world the enormity of the challenge to human rights. It was to end such abuses and to provide moral authority in international affairs that new institutions and legal standards were forged after that war—globally in the United Nations and in this hemisphere in a strengthened inter-American system.

The fact remains that continuing practices of intimidation, terror, and brutality, fostered sometimes from outside national territories and sometimes from inside, mark the distance yet to be traveled before the community of nations can claim that it is truly civilized. This is why the distinguished junior Senator from New York, Senator Moynihan, is surely right in stressing that human rights should be not simply a humanitarian program but a political component of American foreign policy.

For the difference between freedom and totalitarianism is not transient or incidental; it is a moral conflict, of fundamental historical proportions, which gives the modern age its special meaning and peril. Our defense of human rights reminds us of the fundamental reason that our competition with totalitarian systems is vital to the cause of mankind. There is no reason for us to accept the hypocritical double standard increasingly prevalent in the United Nations where petty tyrannies berate us for our alleged moral shortcomings. On this issue we are not—and have no reason to be—on the defensive. "The cause of human liberty," the poet Archibald MacLeish has written, "is now the one great revolutionary cause . . ."

And yet, while human rights must be an essential component of our foreign policy, to

pursue it effectively over the long term we must take the measure of the dangers and dilemmas along the way.

First, any foreign policy must ultimately be judged by its operational results. "In foreign relations, " Walter Lippmann once wrote, "as in all other relations, a policy has been formed only when commitments and power have been brought into balance."

To be sure, the advocacy of human rights has in itself a political and even strategic significance. But in the final reckoning more than advocacy will be counted. If we universalize our human rights policy, applying it undiscriminatingly and literally to all countries, we run the risk of becoming the world's policeman—an objective the American people may not support. At a minimum we will have to answer what may be the question for several friendly governments: How and to what extent we will support them if they get into difficulties by following our maxims. And we will have to indicate what sanctions we will apply to less well-disposed governments which challenge the very precepts of our policy.

If, on the other hand, we confine ourselves to proclaiming objectives that are not translated into concrete actions and specific results, we run the risk of demonstrating that we are impotent and of evoking a sense of betrayal among those our human rights policy seeks to help. Such a course could tempt unfriendly governments to crack down all the harder on their dissidents, in order to demonstrate the futility of our proclamations this indeed has already happened to some extent in the Soviet Union.

Nor can we escape from the dilemma by asserting that there is no connection between human rights behavior and our attitude on other foreign policy problems—by "unlinking," as the technical phrase goes, human rights from other issues. For this implies that there is no cost or consequence to the violation of human rights, turning our proclamation of human rights into a liturgical theme—decoupled, unenforced, and compromised. Or else we will insist on our values only against weaker countries, in Latin America or Asia, many of which may even be conducting foreign policies supportive of our own. This would lead to the paradox that the weaker the nation and the less its importance on the international scene, the firmer and more uncompromising would be our human rights posture.

Second, precisely because human rights advocacy is a powerful political weapon we must be careful that in its application we do not erode all moral dividing lines. We must understand the difference between governments making universal ideological claims and countries which do not observe all democratic practices—either because of domestic turmoil, foreign danger, or national traditions—but which make no claim to historical permanence or universal relevance. In the contemporary world it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men.

In recent decades, no totalitarian regime has even evolved into a democracy. Several authoritarian regimes—such as Spain, Greece and Portugal—have done so. We must therefore maintain the moral distinction between aggressive totalitarianism and other governments which with all their imperfections are trying to resist foreign pressures or subversion and which thereby help preserve the balance of power in behalf of all free peoples. Our human rights policy owes special consideration to the particular international and domestic setting of governments important to our security and supportive of free world security interests. There are, of course, some transgressions of human rights which no necessity—real or imagined—can justify. But there are also realities in the threats nations face, either from terrorism at home such as in Argentina or aggression across borders such as Iran or Korea. And we must keep in mind that the alternative to some governments that resist totalitarianism with authoritarian methods may not be greater democracy and an enhancement of human rights but the advent of even more repression, more brutality, more suffering. The ultimate irony would be a posture of resignation towards totalitarian states and harassment of those who would be our friends and who have every prospect of evolving in a more humane direction.

We must take care, finally, that our affirmation of human rights is not manipulated by our political adversaries to isolate countries whose security is important for the future of freedom, even if their domestic practices fall short of our maxims. The membership of the UN Human Rights Commission, composed as it is of a number of nations with extremely dubious human rights practices, does not augur well for an objective approach to this issue in the United Nations. Cuba and other Communist governments as well as the more repressive regimes of the less developed world have no moral standing to bring other nations to international account. We should not hesitate to say so.

Third, there is the ominous prospect that the issue of human rights if not handled with great wisdom could unleash new forces of American isolationism. This could defeat the Administration's goal of using it to mobilize support for continued American involvement in world affairs. That the human rights issue could develop a life of its own, regardless of the Administration's prudent sense of its aims and limits, is already evident from some developments in the Congress.

A distorted or misunderstood human rights policy can become the basis and justification of a modern isolationism. What appeals to many as a useful impetus to resistance to the Communist challenge can be used by others to erase all the distinctions between totalitarians and those that resist them, to induce indifference to European Communist Parties' accession to power, or to disrupt security relationships which are essential to maintaining the geopolitical balance. Excuses can be found to deny help to almost any friendly country at the precise moment when it faces its most serious external challenge. If conservatives succeed in unravelling ties with nations on the left and liberals block relations with nations on the right, we could find ourselves with no constructive foreign relations at all, except with a handful of industrial democracies. The end result ironically could be the irrelevance of the United States to other nations of the world. A policy of moral advocacy that led to American abdication would surely condemn countless millions to greater suffering, danger or despair.

Fourth and most fundamentally, we should never forget that the key to successful foreign policy is a sense of proportion. Some of the most serious errors of our foreign policy, both of overcommitment and withdrawal, have occurred when we lost the sense of balance between our interests and our ideals. It was under the banners of moralistic slogans a decade and a half ago that we launched adventures that divided our country and undermined our international position. A few years later young people were parading in front of the White House carrying coffins and candles and accusing their government of loving war; the national leadership was denounced as excessively, indeed imperialistically, involved in the internal affairs of other nations. A few years later still, the government was attacked for sacrificing our ethical values on the altar of detente and being insufficiently concerned with the domestic behavior of other nations. Neither we nor the rest of the world can any longer afford such extreme fluctuations.

Human rights policy in this period of American responsibility must strengthen the steady purpose and responsible involvement of the American people. It can do so only if it is presented in the context of a realistic assessment of world affairs and not as the magic cure for the difficulties and shortcomings of mankind's contemporary experience.

The Administration is surely right in insisting that human rights is a legitimate and recognized subject of international discourse; it is an object of international legal standards—importantly as a result of American initiatives by Administrations of both parties. At the same time we must recognize that we serve the cause of freedom also by strengthening international security and maintaining ties with other countries defending their independence against external aggression and struggling to overcome poverty, even if their internal structures differ from ours.

We cannot afford to subordinate either concern to the other. Morality without security is ineffectual; security without morality is empty. To establish the relationship and proportion between these goals is perhaps the most profound challenge before our government and our nation.

There is every indication that within the Administration rhetoric and capacity for action are being brought increasingly into balance. In an important speech in Athens, Georgia on April 30, 1977, Secretary Vance has wisely pointed out that "a decision whether and how to act in the cause of human rights is a matter for informed and careful judgment. No mechanistic formula produces an automatic answer."

THE LINKAGE OF FOREIGN ISSUES

The inescapable relationship of our human rights objectives with other foreign policy goals is an example of a broader, virtually universal phenomenon of our contemporary world. Foreign policy issues are interrelated—"linked"—as never before. A consistent, coherent and moral foreign policy must be grounded in an understanding of the world in which we pursue our goals.

The concept of linkage—the suggestion that we should design and manage our policy with a clear understanding of how changes in one part of the international system affect other parts—was first put forth in 1969 in the context of US-Soviet affairs. We proceeded from the premise that to separate issues into distinct compartments would encourage the Soviet leaders to believe that they could reap the benefits of cooperation in one area, using it as a safety valve, while striving for unilateral advantages elsewhere. We considered this a formula for disaster.

So strong is the pragmatic tradition of American political thought that linkage was widely debated as if it were an idosyncracy of a particular group of policy makers who chose this approach by an act of will.

But linkage comes in two forms: first, when policymakers relate two separate objectives in negotiation, using one as pressure on the other; or by virtue of reality, because in an interdependent world the actions of a major power are inevitably interrelated and have consequences beyond the issue or region immediately concerned.

Of these two concepts of linkage, the latter is by far the more important. It says, in effect, that significant changes of policy or behavior in one region or on one issue inevitably affect other and wider concerns.

Our policy towards the Soviet Union cannot be treated in isolation from our relations with China; our relations with China, in turn, cannot be effective except to the extent that we maintain the geopolitical balance around the world, by which the People's Republic of China measures our ultimate relevance. Displays of American impotence in one

part of the world, such as Southeast Asia or Africa, have a direct effect on our credibility in other parts of the world, such as the Middle East. Our policy toward Rhodesia and Namibia will inevitably determine the prospects of a peaceful evolution in South Africa, and vice versa. Our posture toward Korea cannot be separated from our interests in Japan and China, and the measures we adopt for one inevitably affect the other. The decision on the B-1 bomber resulted from complex and painful budgetary and technical considerations. I am not here arguing the merits of these considerations, but in the context of the Strategic Arms Limitation talks, the B-1 bomber decision did represent a unilateral unreciprocated concession. Finally, either our human rights policy has relevance to other areas of national policy—or it has no meaning at all.

Perception of linkage is, in short, synonymous with an overall strategic view. We ignore it only at our peril. It is inherent in the real world. The interrelationship of our interests, across issues and boundaries, exists regardless of the accidents of time or personality; it is not a matter of decision or will but of reality. And it cannot be ended by an act of policy. If we are to have a permanent conception of American foreign policy there must be an appreciation of the fact that merits of individual actions can be judged only on a wider canvas.

As you know I strongly support President Carter in his fight for ratification of the Panama Canal Treaties. I do so on their merits but also because of the profound consequences of a failure to ratify far beyond Panama. A defeat of the treaties would weaken the President's international authority at the beginning of his term. It would suggest to friends and foes around the world that the United States could not deliver on an agreement negotiated by four Presidents of both political parties over a period of thirteen years, that it could not perceive its own interests in Western Hemisphere cooperation, and that shifting emotions and institutional stalemates produced erratic behavior in the most powerful country in the world.

Linkage is not a natural concept for Americans, who have traditionally perceived foreign policy as an episodic enterprise. Our bureaucratic organization, divided into regional and functional bureaus, and indeed our academic tradition of specialization, compound this tendency to compartmentalization. And American pragmatism produces a penchant for examining issues separately: to deal with issues individually as if they existed as abstractions without the patience, timing, or sense of political complexity which are so often vital to their achievement; to display our morality in the proclamation of objectives rather than in a commitment to the operational consequences of our actions in an inherently ambiguous environment.

A recognition of the importance of linkage—of the significance and role of the strategic vision to our future foreign policy—thus brings us back to where we began—to the need for patience, continuity, and, above all, for national unity in the conduct of international affairs. This responsibility must be shared by the Administration, the opposition, and the public. Modern foreign policy, by its very complexity, does not lend itself to instant successes. In domestic affairs the timeframe of new departures is defined by the legislative process; dramatic initiatives may be the only way to launch a new program. In foreign policy the most important initiatives require painstaking preparation; results may be months and years in becoming apparent.

Therefore, we should not demand of the new Administration instant results or an unbroken string of early successes; nor should the Administration seek such goals if it wishes to avoid a series of stalemates or worse. Foreign policy, if it is to be truly an architectural endeavor, is the art of building for the long term, the careful nurturing of relationships, the elaboration of policies that enhance our options and constrain those of potential opponents. It requires the coherence that can only come from national unity, a strong leadership and a political process that reflects the recognition that we are all—the Administration as well as its opponents—part of a permanent national endeavor.

This country has no greater contribution to make in the service of its ideals than to help the world find its way from an area of fear into a time of hope. With our old idealism and our new maturity, we have the opportunity to fulfill the hopes as well as the necessities of a peaceful world. A century ago, Abraham Lincoln proclaimed that no nation could long endure "half slave and half free" and stirred the conscience of the nation. With a combination of lofty idealism and tough pragmatism, he saved the freedom of this nation. With a similar dedication—in a world that is "half slave and half free"—we in this era can be the champion and defender of the cause of liberty.

HUMAN RIGHTS IN THAILAND

Mr. PELL. Mr. President, this past July and August, Mr. Philip Kunstadt of the American Friends Service Committee wrote a series of very perceptive articles for the Providence Journal and Evening Bulletin detailing how human rights violations in Thailand and the government's neglect of rural needs threaten to strengthen the appeal of Communist and other insurgents. While the human rights violations in Thailand have by no means reached the shocking proportions of those in neighboring Communist Cambodia, they are nevertheless serious.

Mr. Kunstadt draws a parallel with Ngo Dinh Diem's policies in Vietnam and those of Thailand's Prime Minister Thanin Kravixien who came to power in a military coup in October 1976. Mr. Kunstadt also warns that just as in Vietnam, where the United States kept pouring in military and economic aid to support an unpopular regime, there is a growing danger of increased American military involvment in Thailand.

So far, there has been little press attention given to the situation in Thailand, and Mr. Kunstadt's articles shed much valuable light on events in a country that bears careful watching and prudent actions by the United States.

Mr. President, I commend Mr. Kunstadt's articles to my colleagues and ask unanimous consent that they be printed in full in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Providence Journal, Aug. 1, 1977]

THE DISMAL STATE OF HUMAN RIGHTS IN THAILAND

(By P. Kunstadt)

BANGKOK.—"It is as if the President of the United States were a member of the John Birch Society and every member of his Cabinet were a member of the Ku Klux Klan." The speaker was a former college professor who served as governor of three separate provinces in Thailand between 1973 and 1976, the brief period of Thai democracy. He had taken his Ph.D. in the United States and clearly was familiar with the American political idiom.

His comments summed up neatly the present human rights situation in Thailand. "If Jimmy Carter were in Thailand today, he would be in jail," the former governor continued. "The government would surely have branded him as a Communist because of his concern with human rights."

Human rights in a wide range of areas have suffered badly since the military coup in October, 1976, which toppled the three-year-old democratic government and installed a right-wing dictatorship in its place. "The present government is morbidly anti-Communist," is how one college administrator—who is generally supportive of the government—described the situation. "It is not just a belief in human rights that will cause the government to brand someone as a Communist," said the ex-governor. "Talking about social justice or even a belief in parliamentary democracy is often enough to get people into serious trouble."

One abridgement of civil liberties which is immediately apparent to a visitor to Thailand is the freedom of the press. Radio Thailand is now run by the Prime Minister's office, and all 200 of the other radio stations in the country are operated by the military. Of the four television stations in Thailand, two are run by the Army and one is run by a civilian government department. Although the fourth is partly in private hands, the government owns a controlling share.

Thai newspapers are still in private hands but news dissemination is tightly controlled. All newspapers and reporters are required to register with the government, and there are strict penalties for violating censorship codes. Last week, the widely-read newspaper *Siam Rath* was closed down for the second time. Its offense was a relatively innocuous one by American standards: it had printed an editorial criticizing the Interior Minister who had taken an expensive and unnecessary junket abroad. Other newspapers that have had publication suspended for similarly innocuous transgressions include the *Daily News*, *Chao Thai*, *Dao Siam*, and *Siang Paungchan*.

Because of their key role during the brief period of democratic rule, university students, professors and other intellectuals are viewed by the present government with particular fear and distrust. Following the coup last year thousands of books, representing approximately 100 different titles were burned by the government. Bookstores were raided and objectionable books were confiscated. In one incident a soldier destroyed a large stock of poetry books that had a red cover on them. The book was by a right-wing poet but the soldier, who was not able to read, assumed that the volume must contain Communist literature because of the color of the cover.

In colleges and universities, course outlines were changed following the coup to suit the new government, and professors report that they have to be very careful about what they say in class. As one political science professor at Chulalongkorn University said, sadly, "I have become alienated from my work and students since Oct. 6; my teaching has become almost meaningless under the present constraints."

Probably the most serious breach of human rights in Thailand today is the existence of literally thousands of political prisoners. According to one Western missionary who has worked here for many years and has studied the situation in depth, there are six distinct categories of political prisoners in Thailand. The best known of these outside the country are the 111 students arrested at Thamasat University on Oct. 6, 1976, the day of the coup. Another important category is the approximately 8,000 people arrested on the broad charge of "endangering society."

About 20 percent of these are political prisoners, according to the missionary. Prisoners arrested for "endangering society" are generally not charged with any specific offense and are never brought to trial. They can be held indefinitely, and present indications are that the government intends to do just that with many of them.

The largest single category of political prisoners are those arrested not by the national government in Bangkok but by province or district military or police personnel on "suspicion of being a Communist" or "suspicion of being a Communist sympathizer." The missionary knows of several districts with as many as 50 or 60 such prisoners: since there are 600 districts in Thailand, he concludes that the total number of detainees in this category must be many thousands.

The government has been making increasing use in recent months of Article 21 of the Thai Constitution which empowers the Prime Minister to pass sentence summarily on anyone he chooses. Such prisoners are never charged or tried for any offense; they are merely sentenced. Six people have recently been executed under Article 21, including one suspected drug trafficker, who was shot when U.S. presidential envoy Peter Bourne was in Bangkok, as a demonstration to the United States of the seriousness of Thailand's efforts to stop the drug trade.

Following the execution, President Carter sent a special message to Thai Prime Minister Thanin saying, "I want to express my special thanks and admiration for the deep commitment you have made to deal with the narcotics problem . . . the entire world community joins in applauding your efforts." Meanwhile in Bangkok, widespread speculation that the executed man had in fact been innocent has been fueled by the lack of trial or due process.

One of the most discouraging aspects of the present human rights situation in Thailand is the targeting of political moderates, nonviolent activists, and non-Communist intellectuals as enemies of the state. The case of Dr. Puey Ungphakorn is a graphic illustration of the problems faced today by thousands of Thai moderates and intellectuals. Dr. Puey is one of Thailand's best-known economists and served as governor of the Bank of Thailand from 1959 to 1971. Because he was rector of Thamasat University last October, he had to flee the country after the coup. Interviewed recently in London, Dr. Puey said, "I believe in achieving parliamentary democracy through nonviolent means. If nonviolent tactics fail 100 times, it is then our responsibility to use nonviolence 101 times."

By undercutting the position of moderates and liberals, the Thai government is bringing about an increasingly polarized situation in which many non-Communists feel driven to join the insurgents. As insurgency and government repression both increase, many observers fear that the left and the right are on a collision course.

The human rights situation in Thailand should be of concern to Americans because of the considerable amounts of military and economic aid which we provide that country. Last year, the U.S. provided $541.1 million in direct and indirect military and economic aid to Thailand, of which over $80 million was in direct military assistance. We provide bombers and helicopters to the Thai Air Force and many top Thai police officers involved in the "suppression of Communism" received training at the International Police Academy in Washington, D.C.

Today, the U.S. provides more military aid to Thailand than to any other Southeast Asian country except South Korea. Thus, the concern for human rights in Thailand is one which should touch every American.

[From the Providence Bulletin, Aug. 10, 1977]

THAILAND—A SECOND VIETNAM?

(By P. Kunstadt)

BANGKOK.—Many striking parallels exist between events in Vietnam in the 1950's and 60's and the present situation in Thailand. Americans who were concerned about American actions in Vietnam would do well to consider these similarities.

The most obvious parallel is that Vietnam was and Thailand is ruled by anti-democratic dictators who came to power by dubious means, relying heavily on American military and economic support. In the case of Vietnam, the 1954 Geneva agreement provided for free elections in a unified Vietnam no later than 1956. The *Pentagon Papers* reveal, however, that the Eisenhower Administration feared a landslide victory for Ho Chi Minh if free elections were allowed. As a result, the U.S. prevented those elections from being held and established Ngo Dinh Diem—a Catholic who had been living in New Jersey at the time—as head of a separate government in Saigon. When Diem, and later his successors Nguyen Cao Ky and Nguyen Van Thieu, faced increasing opposition, the U.S. had to send more and more military "assistance" to its Saigon ally.

Thailand's Prime Minister Thanin Kravixien came to power in October, 1976, following a bloody military coup which many Thais believe may have been assisted by the CIA. As one long-time former CIA employee said in Bangkok, "I cannot prove that the CIA was involved in the events of last October, but based on my years of service with the agency I can say that this looks exactly like their handiwork." Some Thais even see parallels between the politics and personalities of Diem and Thanin. One Bangkok journalist said, "Both Diem and Thanin use anti-Communism as a ruse for getting more American aid. Like Diem, Thanin is given to blind, unthinking actions that turn many people against him. And like Diem, he is a rigid, inflexible man, a man of black or white, yes or no."

In Vietnam in the early 1960's, Diem faced increasing opposition, not primarily from North Vietnam but from the indigenous South Vietnamese National Liberation Front in rural areas and the non-Communist Third Force (largely Buddhist) in urban areas. Similarly, Thanin faces an ever-increasing insurgency in Thailand's rural northern provinces. As in Vietnam, much of the opposition is not philosophically committed to Communism. As the former governor of one province with an especially severe insurgency problem said, "Most of the so-called Communists have never read Marx or Lenin or Mao. But many have studied in the United States and have read Jefferson and Lincoln. These insurgents are not Communists but Jeffersonian democrats." Thanin does not yet face a strong urban opposition as Diem did—one of the important differences between the two situations—but he does have the additional problem of a strong Muslim insurgency in the southern part of the country, near the border with Muslim Malaysia.

In Vietnam, Diem and his successors were heavily dependent on American military and economic support in order to stay in power, just as Thanin is today. By the end of the war, the U.S. was paying 86.3 percent of the costs of the Saigon government; at its height, the war cost the U.S. upwards of $30 billion annually. American aid figures for Thailand today are not nearly as high as they were for Vietnam—we provide $541 million a year in aid of which $81 million is military aid. But American corporations have additional tens of millions of dollars invested in Thailand and view the country's growing urban sector as an increasingly important market for American commodities.

In Vietnam, the concept of strategic hamlets was at the center of the U.S.'s military strategy. This involved the forced relocation of villagers living in rural areas believed to be "insecure" into resettlement camps—often similar to prisons or concentration camps—where they would be "safe." Thailand has already adopted the strategic hamlet concept in its counter-insurgency war. In areas of suspected Communist activity, villagers are being forcibly removed to resettlement camps where they are kept safe behind barbed wire. Their former villages are declared "free-fire zones" where anything that moves is shot. Food is scarce in the resettlement camps and there is no land for farming. Last autumn, when several villages were cleared just prior to the harvest, several villagers attempted to sneak back to their fields to rescue some of their crop. They were killed by the Thai Air Force, flying missions in American helicopters.

In Vietnam, the question of the Saigon government's 200,000 political prisoners became an important issue after American journalist Don Luce revealed to the Western press in 1970 the existence of the "tiger cages" on Con Son island. Many people feared that by attempting to neutralize the non-Communist opposition by imprisonment, President Thieu was actually prolonging Vietnam's agony and reducing the possibility of a political rather than a military solution. Thailand does not yet have 200,000 political prisoners, but it does have many thousands. As in Vietnam, many of the prisoners are political moderates who could be crucial in facilitating a reconciliation between Thailand's polarized left and right. By attempting to silence such middle-of-the-roaders Thanin is creating an increasingly explosive situation.

During the Vietnam war, Americans grew accustomed to daily headlines describing bombing raids and giving body counts. The news of the fighting in Thailand has not yet become a staple of the American press, probably because Americans are not actually engaged in combat, but Thai news headlines are increasingly taken up with such news. The headlines here have a familiar ring to an American visitor: "Ten Communists Killed in Bombing Raid," or "100 Reds Trapped in Rubber Estate."

Following the end of the Vietnam war on April 30, 1975, many Americans resolved that the U.S. should never again become involved in a similar war. Responding to that sentiment, the U.S. Congress in February, 1976, quickly blocked President Ford and Secretary Kissinger from committing the United States to direct military intervention in the Angolan conflict. Like Angola, Thailand has the potential danger of a growing American military involvement.

[From the Providence Evening Bulletin, July 27, 1977]

BEYOND BRIGHT LIGHTS OF BANGKOK, THE REAL FACE OF THAILAND

(By P. Kunstadt)

BANGKOK, THAILAND.—If one judges an entire nation by its capital city, one could easily conclude that Thailand is a thoroughly Westernized country. Everywhere in Bangkok one sees neon lights, huge billboards for Coke and Pepsi, women in tight miniskirts and high-heeled shoes, juke boxes blaring American rock and roll, bars, nightclubs, discotheques, and brothels.

Bangkok's streets were designed for a city with fewer than one million people who primarily used oxcarts for transportation. But today Bangkok has over 4 million people and the streets are teeming with motorcycles, scooters, cars, and buses. The traffic jams are worse, it seems, than in any Amercian city—it can take a Thai businessman two hours

to drive 6 miles to work—and the air pollution index routinely soars to 40 times the level considered "unacceptable" in American cities.

These examples reflect the development choices which have been made, in large measure, by the Thai government. Yet one cannot grasp just how lopsided these choices are without spending time in rural Thailand, in the tiny, rice-growing villages where 85% of the population lives. The villages of Chainat Province, about 175 kilometers north of Bangkok, are just such villages.

Chainat Province is fortunate. It has a large dam and an extensive irrigation system which allow the double-cropping of rice. Rice, of course, is the mainstay of the diet of the rural population in Southeast Asia. Fish farmed from the irrigation canals add protein to the diet of the people of Chainat. A few wealthy families may raise one pig per year; the farmers have learned not to raise chickens for chickens cost far too much to feed.

Children in the villages of Chainat Province generally go to school for four years but the education they receive is largely irrelevant to their lives. Rather than learning about agriculture or simple home remedies for common diseases, the students learn reading and English. But there are no libraries in the villages and books, newspapers, and periodicals are simply unavailable. Once they leave school at the age of 10, the children quickly forget how to read. And those who continue to live in the village, as most do, may never use English in their entire lives.

Chainat had one doctor and one nurse until 1973. The doctor would travel from village to village, much like the circuit-riding judges in the early days of the United States. The doctor would try to spend part of one day each week in each village he covered. But the doctor was old and getting increasingly feeble. He retired four years ago and the nurse retired one year later. Since then, the people in the districts they had served have not seen a doctor or a nurse. Many rural farmers in Thailand never see a doctor during their entire lives.

Travelling north from Chainat one realizes how relatively wealthy even a poor province like Chainat is. Chainat has the benefit of an irrigation system, so rice-growing can continue even in times of drought. All across Southeast Asia this year the monsoon rains are extremely late; unless the rains come immediately, there is the likelihood of serious rice shortages and even famine in many countries. In the provinces surrounding Chainat, for example, one can already see the heart-breaking sight of the new rice shoots turning from green to yellow to brown and the fields which should now be flooded for rice transplanting lying parched and cracking in the sun.

The development needs of the Thai people are simple and obvious. They include medical care, relevant education, and dams and irrigation systems. In the face of such basic human needs, the government has chosen a very different path to development. According to a recent forecast, the present 5-Year Plan for Thailand's economic development stresses increased production and sales of such items as cosmetics (projected growth this year: 5.5%); carbonated soft drinks such as Coke, Pepsi, and 7-Up (projected growth this year: 7%); and rugs and wall-to-wall carpeting (projected growth this year: 30%).

The matter of medical care provides an interesting example of the irony which the government faces with regard to development and its other chief concern: the suppression of a growing Communist insurgency in the northern part of the country. Students are an important force in Thai politics and are watched very closely by the government. In 1973, student demonstrations succeeded in toppling the military dictatorship of Thanom Kittikachorn. This ushered in a three-year period of democracy unique in Thai history. And, in 1976, it was student demonstrations which gave the military the excuse to end the experiment in democracy in a bloody coup which they said was necessary to restore order.

Since the coup, students, writers, and other intellectuals have been viewed with deep suspicion by the new government. Many have fled the country and thousands of others are in jail without benefit of trials. Additional numbers—no one knows just how many—have fled to the jungles to join the insurgents. Approximately 1,000 doctors and medical students are believed to have fled to the jungle since the coup eight months ago. These doctors are not Communists but feel forced to join the insurgents by the increasingly repressive actions of the government. This has meant that many rural villagers, who have never in their lives seen a doctor, are now receiving medical care for the first time.

It is easy to imagine how the government's "search and destroy" missions aimed at the Communist insurgents must look to these villagers. The villagers may be largely apolitical, but they do see that for the first time in their lives they are receiving medical attention. And they see the government sending soldiers into the jungles and villages to find and kill the doctors. They see that the government, instead of providing doctors for the common people, encourages the production of cosmetics and soft drinks for the urban elite. Bearing this in mind, it is easy to understand the observation of one western, long-time observer of the scene in Thailand and Southeast Asia when he said recently, "The threat of Communism frequently looks very different to a rural Asian peasant than it does to a well-to-do American."

CARGO PREFERENCE

Mr. LUGAR. Mr. President, the public outcry against cargo preference legislation is beginning to be heard.

The proponents of this legislation have tried to foist it off on the public as a measure that will benefit all taxpayers. The naked truth, however, is that cargo preference is a blatant political payoff. And the taxpayer is being asked to foot the unnecessary bill.

Last year the maritime lobby made generous campaign contributions to more than two dozen members of the House Merchant Marine Committee. That same committee has now approved the cargo preference bill by an overwhelming majority. Skeptical observers have a right to ask some hard questions about a possible cause-effect relationship between those contributions and those votes.

President Carter, who also champions the cargo preference bill, is indebted to the maritime lobby, too. Last year he accepted campaign contributions from the industry estimated at up to $500,000. Now, against the advice of his own economic advisers, the President is promoting legislation that would benefit that very industry, at taxpayers' expense.

The Evansville Press, one of Indiana's finest newspapers, has contributed to the public debate on this crucial issue by publishing an editorial entitled "The Smell of Maritime Money." To call this excellent editorial to the attention of my colleagues in the House and Senate, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE SMELL OF MARITIME MONEY

The well-financed drive by maritime interests, their friendly congressmen and the Carter administration to boost the cost of imported oil is beginning to smell like a shipful of spoiled mackerel.

For readers who may have been watching football on TV and are not briefed on this latest attempt to pick their pockets, perhaps some instant replay will be useful:

Today only about 4 per cent of our oil imports come in tankers flying the American flag. The reason is that they have priced themselves out of the market, mostly because of high crew costs and featherbedding.

To get more business, the maritime industry thought up the idea of "cargo preference." This means a fixed percentage of imported oil must arrive in tankers of American registry, even though it makes no economic sense.

As they traditionally do, shipbuilders, ship operators and maritime unions greased the ways for cargo preference with large contributions to key congressmen. And they remembered to kick in $250,000 to Jimmy Carter's 1976 campaign.

Lo and behold, a bill to guarantee the industry 9.5 per cent of imported oil by 1982 began sliding through Congress. The White House backs it—despite warnings by its economic advisers that the measure would decrease employment and the gross national product.

The Commerce Department sent an official (who at the time was negotiating for a $100,000 a year shipping-industry job) to testify that the bill would boost the nation's fuel costs by "only" $100 million annually.

A few congressmen asked for a more disinterested witness. The White House refused. Meanwhile, the respected General Accounting Office, the investigative arm of Congress, calculated that cargo preference would cost $240 million a year and perhaps much more.

The accounting report went to Rep. John M. Murphy, D-N.Y., and did not become known until after his Merchant Marine and Fisheries Committee rubber-stamped the industry-White House measure. Funny.

Also funny is what Murphy did while his committee was considering the bill. He attended a cocktail party with maritime industry and union officials at which they gave him $9950. (Last fall they gave him $16,200.)

Now Murphy may view the $9950 and its timing as a normal campaign contribution. But those who do not believe in the tooth fairy, will have a less charitable interpretation.

At this stage President Carter would be well advised to withdraw his support from the sleazy bill—before the smell of maritime lobby money sticks to his White House, which was going to be oh so pure.

LIQUID NATURAL GAS AND PRUDENCE ISLAND, R.I.

Mr. PELL. Mr. President, earlier this month, the Federal Power Commission announced its preference for the southern tip of Prudence Island in Narragansett Bay, R.I., as the best of three sites for the location of a huge liquified natural gas tanker terminal facility—a site of approximately 640 acres on the island that would contain four huge storage tanks, each with a capacity of 600,000 barrels of LNG.

Prior to that determination, the Federal Power Commission had under consideration an application submitted by Tenneco, Inc., to build a LNG terminal in St. John, New Brunswick, Canada, with the intention of then installing 495 miles of pipeline from New Brunswick to carry the gas through Maine, New Hampshire, Massachusetts, and New York to Pennsylvania. Tenneco, at the time of application, had expressed no interest in Prudence Island as an alternative site. In fact, since the Federal Power Commission's decision, a high Tenneco official indicated this week before the Federal Power Commission that his firm would continue to press strongly for its original proposal in New Brunswick.

Mr. President, I am bringing this Federal Power Commission action to the attention of the Senate because it is a matter involving energy facility siting procedures which could have an impact upon every State in the Nation. What is involved is the right of citizens and State officials in each State to have some say in the determination of energy facility sites. I believe we should all be concerned at the possibility that a Federal agency could arbitrarily impose upon a State a major decision on energy siting without full consultation with appropriate State officials.

Mr. President, the State of Rhode Island is not opposed to energy development. Our State recognizes the national and regional need for new energy sources. The State of Rhode Island, under the vigorous leadership of former Gov. Philip W. Noel and Gov. J. Joseph Garrahy, has promoted the use of Rhode Island surplus Navy lands in Quonset and Davisville to support domestic oil and gas development in both the Georges Banks and Baltimore Canyon areas of the Atlantic.

When the Federal Power Commission announced its decision earlier this month, the Commission pointed out in its report that it found Prudence Island to be environmentally, economically, and climatically superior to either of the other potential sites on Sears Island, Maine; or St. Johns, New Brunswick. The agency further remarked that the Prudence Island site would pose the highest risk to the public among the three options, but maintained that the risk would apply to only a small number of people in the vicinity of Newport.

Most significantly, the Federal Power Commission, and only this past week, Mr. Allan Anderson, chief counsel for the Federal Power Commission staff, raised the claim that if the FPC ultimately decided that the LNG is needed and that it should reach consumers through a terminal on Prudence Island, there is little the State of Rhode Island could do to resist the proposal. Mr. Anderson said also that if the FPC gives Tenneco the authority, the company could simply take the southern end of Prudence Island by eminent domain. That, I believe, is a questionable claim since Prudence Island is still under Federal control, in which case, I am advised, the right of eminent domain does not apply.

This broad Federal Power Commission authority, if it exists, is most troubling, and I believe should be equally disturbing to my fellow colleagues in relation to energy siting in their States. The attitude expressed by the Federal Power Commission, coupled with the unwarranted and extremely limited time period of barely a week available for the State of Rhode Island to respond to the FPC report, shows an extreme and appalling insensitivity and disregard for the State's interests.

The concern of Rhode Island citizens and State officials regarding this decision is not unfounded, nor is it as mentioned earlier an attitude of obstructionism toward energy development. There is legitimate concern over the public risk factor which the Federal Power Commission acknowledges in its report. The LNG transit to Prudence Island would require passage through Narragansett Bay of as many as 140 LNG tankers a year—an average of one LNG tanker every 2 to 2.5 days through the east passage of Narragansett Bay. That area of east passage by Newport and Middletown, in addition to being subject to extensive fog conditions, is densely populated and has very limited emergency evacuation routes available in the event of a severe LNG accident. Furthermore, the presence of LNG tankers in this passage would also cause additional concern for public safety because the passage is extensively utilized by both recreational and oil tanker traffic to the Port of Providence. T e LNG traffic would not only have the potential for disrupting the approximately 1,800 tanker trips up and down Narragansett Bay every year, but could also have a devastating effect upon the recreational use of the bay as well as on tourism, which has been so vital to Rhode Island's economic recovery since the massive Navy pullouts in 1973–74.

Lastly, to address the possible Federal Power Commission's argument that the Prudence Island site is in the public interest in view of LNG requirements nationally, I would again emphasize the vigorous efforts by the State to encourage the use of the surplus Quonset/Davisville Navy lands for support activities in the exploration and development of oil and gas in the Georges Bank and Baltimore Canyon areas. In my view, any effort that would frustrate this urgently needed OCS development is unconscionable. Our national and public interest would be far better served through the domestic development of oil and gas on the outer continental shelf, than by the continued importation of Algerian LNG. I would readily acknowledge, however, that the imported LNG available to New England last year, and in years past, was of immense importance in keeping our industries open and consumers warm; but surely it is possible to site an LNG terminal where it will not pose potential conflict with off-shore oil and gas development.

Mr. President, in view of many legal questions associated with this LNG siting, especially the question of whether the LNG terminal can be constructed on Prudence Island over the opposition of State and local governments. I have requested the American Law Division of the Congressional Research Service to examine several of the key legal issues in an effort to assist the Governor and other State officials in their presentation to the Federal Power Commission. In addition, I am reviewing the adequacy of legislation relating to both LNG safety and siting to determine whether new legislation such as giving State governments the right of approval over LNG siting, is necessary to protect the public and States against arbitrary actions of Federal agencies such as that proposed by the Federal Power Commission. I hope my colleagues will examine this issue closely, as it may have far-reaching implications on energy siting in all States in the future.

DON'T RETREAT ON NOISE LEVELS

Mr. CASE. Mr. President, I would like to briefly comment on the decision made by the present administration concerning the British-French Concorde. For some time, I have been concerned with the introduction of the Concorde into commerical service in the United States. As my colleagues are well aware, the issue of the Concorde has caused serious debate concerning its environmental impact. Basically, this plane, as pointed out by GAO in its September 15 report, is "counter to the thrust of the national noise abatement effort." Those of us who are from highly populated areas are very familiar with the already existing high noise levels. To allow the Concorde to add to this already overwhelming noise burden would be inexcusable.

It is well documented that the Concorde is twice as noisy as our noisiest commercial jets—707's and DC-8's—and four times as noisy as our newer jumbo jets. The Federal Aviation Administration has deceptively disguised the noise impact of the Concorde by relating it to the expected levels presented in the environmental impact statement. Granted, the Concorde's performance is as noisy as expected in the environmental impact statement, however, these EIS estimates represent the unacceptable noise levels I have previously noted.

To date, at Dulles Airport over 1,300 citizen complaints about the Concorde have been reported. We should remember when discussing this issue that Dulles is in a sense a "rural" air facility. Trying to introduce this noisy plane at JFK or other urban airports will be a disaster.

I do not believe that it is appropriate for us to retreat from our commitment to reducing the noise level in our urban areas. The slight reduction in travel time for the few affluent travelers cannot justify degrading the environment for thousands of residents around metropolitan airports.

RURAL HEALTH CLINIC BILL

Mr. EAGLETON. Mr. President, as a cosponsor of S. 708, I was particularly pleased when H.R. 422—H.R. 422 was amended to include the provisions contained in S. 708—was approved by the Senate on Friday, September 16, 1977.

Mr. President, H.R. 422 effectively responds to a very serious problem that exists primarily in rual America—namely, the shortage of physicians. Many rural communities have responded to this crisis by establishing rural health clinics and staffing these clinics with specially trained nurse-practitioners and/or physician assistants. On many occasions, these health care professionals provide the only medical services available to residents living in a rural setting. Needless to say, these men and women—under the indirect supervision of a doctor—provide a very necessary service to their constituency. However, because of an inequity in the reimbursement policy of the medicare program many of these clinics were being forced to close their doors because of money problems.

The present medicare regulation requires a doctor to directly supervise the practice of a nonphysician health care professional in order for the nonphysician to be reimbursed by medicare. Mr. President, I submit that this is a "catch-22" situation. As I stated earlier, nonphysician assistants are utilized precisely because of the unavailability of physicians, but yet medicare does not reimburse services unless they are directly supervised by a physician. Residents in rural areas suffer doubly—they do not have access to doctors and they cannot receive medicare reimbursement at their local clinics which necessarily forces them to pay health insurance premiums even though they may be eligible to receive medicare benefits.

I am happy to say that H.R. 422 solves this problem by providing medicare and medicaid reimbursement for services provided by nurse-practitioners and physician assistants at rural health care clinics. I commend Senators CLARK and LEAHY for their leadership on this issue and I think all of my colleagues will agree that the passage of this legislation is a positive step in making sure that all Americans have access to and are able to receive quality health care no matter where a person might live.

UNITED NATIONS ISSUES

Mr. SPARKMAN. Mr. President, Kurt Waldheim, Secretary General of the United Nations, appeared on "Issues and Answers" on September 18 to discuss issues likely to come before the U.N. General Assembly this fall. I believe that his comments on these issues will be of interest to the public and readers of the RECORD, and I ask unanimous consent that a transcript of the program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[From Issues and Answers, Sept. 18, 1977]

INTERVIEW OF KURT WALDHEIM, SECRETARY GENERAL, THE UNITED NATIONS

(Interviewed by: Bob Clark, Issues and Answers Chief Correspondent and Lou Cioffi, ABC News United Nations Correspondent.)

Mr. CLARK. Mr. Secretary General, welcome back to Issues and Answers. As the General Assembly convenes this week, it will begin by facing troublesome problems in the Middle East. Arab countries want a formal debate over Israel's policy, establishing Jewish settlement on the West Bank of the Jordan, and they also want a resolution condemning that policy.

In your view, would such a resolution be helpful, or would it only aggravate the situation.

Secretary General WALDHEIM. You are right. This is one of the main issues which will come before the next General Assembly, and it is evident that it will create a rather heated debate. I think you cannot avoid it. The opinions are very divided. You know the Israeli position in this regard and the Arab positions. They are completely different, opposing each other and therefore I am afraid it will be a rather explosive debate. No doubt about this.

Mr. CLARK. I know you cannot take a position favoring either side on this, but can you say in a general way whether you feel such a resolution condemning the Jewish settlements will be helpful or only troublesome?

Secretary General WALDHEIM. I have said in the past, in fact, as it has been stated by Washington, that the legalization of the settlement are legal or illegal and it does not really help the negotiating process. We are trying very hard, the U.S. Government is trying very hard to move forward in the negotiating process to get us out of this actual stalemate, and therefore decisions of this kind are not helpful, but they have been made, and you can't avoid these things discussed in the United Nations, and I tell you quite frankly we should not be too afraid about this. It is sometimes better to discuss the matter, problems of this kind, in all frankness, and maybe we can find a solution.

Mr. CLARK. How do you get the two sides to Geneva to the Geneva talks?

Secretary General WALDHEIM. That is a good question. Until now we haven't been able to achieve this. The American efforts have not really produced a solution of this important procedural problem. The efforts are to be continued. We, too, do our best within the United Nations to help, to contribute to solving this problem. During the presence of the foreign ministers of the countries concerned, in New York we will have the opportunity to discuss that with them, and, as you know, President Carter will discuss the situation in the Middle East with them as well as Cyrus Vance, so I think this is another chance to overcome the difficulties. Whether it will work, I don't know. All in all, I am rather skeptical about the situation because the positions are still far apart.

Mr. CLARK. Mr. Waldheim, when you last appeared on this program last January, you felt it was critical to make progress this year toward a settlement in the Middle East. If I may quote what you said then, you said you feared there would be another Middle East war in two years if there weren't a breakthrough this year in negotiations. There has been no breakthrough, no appreciable progress toward the settlement. Do you remain as pessimistic about the future?

Secretary General WALDHEIM. I wish I were wrong with my statement, but I must say that nothing has really changed.

The situation has not improved and therefore I am still very much preoccupied with this development and I am indeed afraid if no breakthrough will be achieved this year that the situation next year will be deteriorating dramatically. That doesn't mean we will have immediately another military confrontation, but we must be aware that the situation will deteriorate and could lead to a very serious situation again.

Mr. CLARK. And the United States, the Carter administration has had very little success so far in regaining the momentum toward Middle East progress that Henry Kissinger appeared to have going for a time. Is the moment nearing where the United Nations should take a more active role instead of leaving it to the United States?

Secretary General WALDHEIM. Well, as far as the United Nations is concerned, we remain besieged with this problem, but we do appreciate the efforts made by individual member states or by groups of countries. We do appreciate, we highly appreciate the efforts undertaken by the United States in order to overcome the difficulties, but I wouldn't be surprised that if no progress were made that things will come back to the United Nations in a more practical way.

Mr. CLARK. Do you have specific thoughts about what more active role the United Nations might play?

Secretary General WALDHEIM. I think it is premature to give you a clearcut answer to this. You will remember some years ago we had Mr. Jaring as special representative for this question. We did not succeed, as many others—in fact nobody until now has really succeeded. Partial agreements were signed, but they didn't really solve the Middle East problem, so I wouldn't be surprised if one day the matter is coming back directly to the United Nations. Don't forget there was another chairman of the Geneva Conference, the Soviet Union, and they, too, of course, are interested in remaining in the picture in one way or the other I discussed this recently during my visit in Moscow.

Mr. CIOFFI. Could you tell us about your discussions with Mr. Brezhnev on this?

Secretary General WALDHEIM. Mr. Brezhnev told me clearly that they are supporting the Palestinians in their request for self-determination and for a homeland. They wish the full participation of the PLO in the Geneva Conference. In one way or the other, this has to be decided by the Arabs themselves, whether a Pan-Arab delegation or separate delegation, etc., but they insist very much that the PLO is participating.

Mr. CIOFFI. Do the Soviets share your fears that if there is no solution this year, the situation could gravely deteriorate?

Secretary General WALDHEIM. They consider the situation very serious, very dangerous, and they are of the opinion if nothing happens we have to be aware of the great danger of another confrontation.

Mr. CIOFFI. I started to ask you before, in spite of the fact that the United States and the Soviet Union are involved, they still come to you in this trouble. Recently the continued fighting in Southern Lebanon; I think the Palestine Liberation Organization complained to you the other day that this was Israeli aggression. Have you been following that?

Secretary General WALDHEIM. Oh, yes, very much so. There was this complaint. I, of course, tried immediately to verify the situation through our several posts we have there; we have our people in the area. What happened is there was indeed a very serious military confrontation again between the Christians in Lebanon, and the Christian military forces and the Palestinians.

I don't know how much the Israeli Air Force was involved. There are statements in this regard especially by the Palestinians. We have no proof of this but as far as land war is concerned in these last days, we have no indication, no proof of a direct Israeli involvement.

Mr. CLARK. We want to talk to you, Mr. Waldheim, about another trouble spot in the world and that is Rhodesia. The United States and Britain have proposed a plan for transferring the Rhodesian Government to black majority rule. That plan would include a United Nations peacekeeping force and it has been called the last hope for peace in

Rhodesia. Does the situation there look that grim to you?

Secretary General WALDHEIM. Yes. The situation is very grim, very dangerous, explosive. I have discussed the British plan, which is fully supported by the United States, with Prime Minister Callahan recently in London and with Foreign Secretary Dave Owen. I discussed it also with the Soviet Government recently in Moscow, because the plan foresees the appointment of a special representative of the Secretary General of the United Nations who should cooperate with the British Resident Commissioner, sort of cabinet general officer—still administered in power, which is Great Britain and, in addition, the signing of a peacekeeping force for the transition period to maintain law and order.

Now, this is something which has to be decided by the Security Council and, of course, it can only be done if the Council makes a positive decision in this regard. So the United Nations can only be involved directly in this matter if the Security Council decides in such a way.

Mr. CIOFFI. Mr. Secretary General, in just a couple of days now you will be addressing the 32d General Assembly from that podium right up here. What are you going to tell the delegates about your fears of the African situation and the fact that it might deteriorate unless something is happening? What are you going to tell them?

Secretary General WALDHEIM. Well, what I have to tell them is that the situation is very serious. I had already mentioned in my annual report to the General Assembly, and if no negotiated settlement can be found or worked out in regard to Rhodesia or Namibia, that we have to expect a further deterioration of the situation, a further continuation of the military confrontation between the forces of South Africa, on the one hand, and liberation movements on the other. As far as Namibia is concerned, and the forces of the Smith regime which is an illegal regime, as you know, and the patriotic front which is fighting that regime.

Mr. CIOFFI. Well, you obviously have been kept informed of what is going on. The British and the Americans, when they came back from Africa, said they were going to go to the Security Council quickly. They have not gone to the Security Council quickly to get authorization for your special representative and the peace-keeping forces. Why?

Secretary General WALDHEIM. Well, my impression is that they want first to get agreement from the parties concerned, and I consider this a very important approach. It is right. I even advised them to do so because you shouldn't go to the Security Council and then risk to get a rebuff by one or the other powers, especially those who have the veto in the Council. It seems to me very important to clarify the matter, to get agreement from the parties concerned, the front-line states in Africa and those of the liberation movements who are supported by one or the other side, as you are fully aware. Therefore, the reason for the delay is simply, in my opinion—I can't speak for them, but, in my opinion, on the basis of my information, that they rightly want first to clarify the situation, to get agreement from the parties concerned and then go to the Council.

Mr. CLARK. The proposed peace-keeping forces were to rely heavily on Nigerian soldiers. They would be sort of a mainstay of the U.N. force. Rhodesia's Prime Minister, Ian Smith, hasn't totally rejected the plan, but he has said, in effect, it doesn't make any sense. Would it make more sense to involve more countries in the peace-keeping force to give greater assurance to Rhodesian whites that their lives and their rights would be protected?

Secretary General WALDHEIM. Well, this is the idea. Quite frankly, there was never the idea that only one country should be involved as far as the peace-keeping aspect is concerned; we never do that. We always have several countries involved. It is true Nigeria—I discussed this with the head of state of Nigeria recently in Lagos. He is interested and is showing great interest in a solution of this problem and also interested in participating in such a force. But if we reach that point, it will be a force composed of several, mostly smaller, countries.

Mr. CLARK. And United Nations' sanctions against Rhodesia and chiefly restrictions on trading with Rhodesia have been in effect for 11 years, but they have had very little effect on Rhodesia except for weakening its economy to some degree. It is time for the United States to consider stronger action, stronger sanctions of some sort against Rhodesia?

Secretary General WALDHEIM. The United States has changed its attitude in this regard. The new administration has already supported the sanctions, but, of course, we are now hoping that progress will be made in the negotiating process, and if we reach a positive result, then the sanction aspect will lose its—

Mr. CLARK. But if you do not reach a positive result, is the United States prepared, or should it be prepared, to get tougher with Rhodesia?

Secretary General WALDHEIM. It should. There can be no doubt in my mind about this, and I think it is willing to do so.

Mr. CIOFFI. Mr. Secretary General, to get back to the Security Council, certainly getting permission for a U.N. peace-keeping force would have to have Security Council sanction. However, why can you not appoint a special representative on your own to simply investigate the possibilities of whether this plan is feasible or it is not feasible? Why do we have to wait for the Security Council action on that? Why can't you do it?

Secretary General WALDHEIM. It is not the question whether this plan—to find out through a special representative whether this plan is feasible or not. The question here is to cooperate with a British administrator of the country during the interim period. Now as far as Namibia is concerned, we have a clear mandate. There are numerous resolutions of the United Nations establishing clearly the responsibility of the United Nations in Namibia, whereas Rhodesia is a matter for the British Government because they are still the administrating power. You can call it the colonial power. And there is a illegal regime of Mr. Smith's who is opposing this British attitude. But it is evident that I cannot appoint a special representative to supervise the transition period and the actions of the British administrator without having a mandate from the Security Council, because if I were to do that, it would mean that I, too, already accept this approach, that I do involve directly the United Nations in this process which until now has not been the case. And rightly so, because it is a matter for the British Government to settle. They have to make sure, and they tried this, and we appreciate it; they tried to settle the matter through the appointment of such an administrator and free elections and then a new government based on majority rule.

Mr. CIOFFI. Also, the British are obviously anxious to have the Americans behind and the United Nations out front. Are you reluctant to be out front?

Secretary General WALDHEIM. I am not reluctant to help in this effort because I think it has made a very serious effort to solve the problem, but we have our rules in the United Nations, and the Secretary General cannot deviate from these rules. Therefore, I think the procedure envisaged is right, to clarify the situation with the parties directly concerned and then to go to the Security Council and get a mandate from the Council for the two actions which have to be taken.

Mr. CLARK. At the recent conference of Black African countries, Mr. Secretary General, you spoke out strongly against apartheid, the enforced legal separation of the races in South Africa. Would you favor some tough U.N. sanctions against South Africa?

Secretary General WALDHEIM. There can be no doubt the policy of apartheid is against the charter of the United Nations; it is against the human rights covenants; it is against everything we are standing for in the United Nations. Therefore, I consider it high time to respect these covenants on human rights, to get away with racial discrimination and I can tell you that if that is not done in the near future, we have to expect strong action by the General Assembly and the competent organs of the United Nations.

Mr. CLARK. You would favor something similar to the economic boycott of Rhodesia applied against South Africa?

Secretary General WALDHEIM. It is not for me to prejudge the actions of the General Assembly and the Security Council. These are the organs which have to decide on these matters and we have already seen serious signs in the General Assembly, you will remember, a few years ago, and that continues to take drastic action against this policy.

Mr. CLARK. So you think the moment is approaching where the General Assembly will be giving serious thought to applying economic sanctions against South Africa?

Secretary General WALDHEIM. I wouldn't exclude that but, again, I cannot speak for the sovereign member states of the United Nations.

Mr. CIOFFI. Well, also within the United Nations you have a Security Council that you have been critical of in the sense that you think it does not have enough power. You have made that remark several times. How do you think the Security Council should be changed in order to be a more powerful and more effective organization for solving all these problems in the world?

Secretary General WALDHEIM. May I tell you something in this connection? I think it is not so much the aspect of whether or not the Security Council is powerful. In general the Council tries very hard to make decisions and to contribute to solutions, but the real problem is that some of the governments are just not respecting the resolutions of the United Nations; they are ignoring them, and this then leads to a situation where you have a resolution of the United Nations legally adopted, but not implemented by those concerned, and this is the real problem we have. But, on the other hand, the Council has no power to force a government to respect its resolutions. This is the great problem for the future.

Mr. CIOFFI. Could I speak to you of one individual in this General Assembly who will be sitting here with you who is a highly controversial figure, Ambassador Andrew Young? When he first arrived, a lot of your people said he couldn't last because the spoken word here was dissected for all its meanings and Mr. Young sometimes speaks out. Has he been a help to this organization or a hindrance?

Secretary General WALDHEIM. Yes, he has been a great help to this organization. I know that there was great publicity about his completely new approach to the work of the United Nations and especially the attitude of the U.S. delegation, but I can tell you from my experience here at headquarters, as well as from my experience in the different parts of the world, that he is highly respected; especially in Africa. There is new confidence in the sincerity of the United States' efforts and I am happy to say that

Andrew Young has made a very important contribution to the United Nations.

Mr. CLARK. After your recent visit to Moscow, Mr. Secretary General, and your talks with Mr. Brezhnev and other Soviet leaders, you said you were more optimistic about Soviet-American relations and specifically about prospects for a new agreement limiting strategic arms. What makes you so optimistic?

Secretary General WALDHEIM. I think the press has perhaps over-emphasized my statement after the meeting with Mr. Brezhnev in this regard. It is indeed true I am more optimistic than I was before because Mr. Brezhnev has clearly expressed to me the wish, the sincere wish of the Soviet Government, to solve the problem of the SALT negotiations, to make every effort to overcome the difficulties and to come to a new agreement, although he said it does not depend on us alone, but also on the other side, the United States. But he, as well as Gromyko, repeatedly told me, "We want a new agreement based on Vladivostok. We know there are openings, but still we are ready to solve the problem."

Mr. CLARK. I am sorry to have to cut you off at this point. We are out of time.

Thank you very much for being with us on "Issues and Answers."

E. F. SCHUMACHER, AUTHOR OF "SMALL IS BEAUTIFUL"

Mr. PELL. Mr. President, I am saddened at the recent death of Dr. Ernest Frederick Schumacher, innovative and forward-thinking economist and author of "Small Is Beautiful." Dr. Schumacher's presence, impetus, and contributions will be sorely missed around the world. His intermediate technology development group has already made significant contributions in Third World countries by providing cheap, simple, and appropriate designs and technologies to aid the total development of the people of these nations. Dr. Schumacher's ideas are also influencing our own State and Federal Governments as seen in the development of "appropriate technology" programs across the country.

Dr. Schumacher proposed a technology scaled to the human needs of any given community, utilizing local resources to enhance the health, beauty, ecology, and well-being of the entire community and environment. He believed we must acquire a new lifestyle based on spiritual and more humane ideals, one which would require modes of production and consumption to obtain the maximum of well-being with the minimum of consumption. He was of the belief that we must develop a democratic technology in which labor could be freely chosen, nonexploitive, have creative value, and allow individuals to maintain a decent standard of living. His vehicle for this is an orientation toward the organic, nonviolent and nondestructive, cheap and accessible to virtually all, and simple science and technology with minimal demands on capital and nonrenewable environment and energy resources.

During a Washington visit during Dr. Schumacher's 1977 spring tour of the United States, he stressed three points which he believed we should concentrate on regarding new directions for our societies. His No. 1 priority was to funnel capital, research, and development into solar energy to be used in combination with organic farming on intermediate scales. Furthermore, he believed it necessary to get the point of production and the point of consumption closer together, creating more jobs, reducing product expense to the consumer, and by changing the pattern of settlement alleviating the problems of big city living. Third, he said we must strive for efficient, simple, small-scale equipment.

I think it would behoove us all to consider the four questions that Dr. Schumacher raised regarding any new technology being launched:

First. What is its relevance to the energy problem?

Second. What is its relevance to environmental quality?

Third. What is its relevance to poverty? Does it help or hinder?

Fourth. How does it relate to the spiritual and mental health of the people?

I urge my colleagues to keep in mind Dr. Schumacher's main message that small is not only beautiful, but it is usually cheaper, and more humanly satisfying.

Mr. President, I ask unanimous consent that the article on Dr. Schumacher's death from the Washington Post, September 7, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

E. F. SCHUMACHER, AUTHOR OF "SMALL IS BEAUTIFUL"

(By Martin Weil)

E. F. Schumacher, 66, a British economist and the author of "Small Is Beautiful," whose unorthodox advocacy of small scale technology has won a wide range of adherents, died Sunday at a hospital in Switzerland.

Dr. Schumacher, who had been visiting in Switzerland, was on his way to Zurich by train when he became ill and was taken to a hospital in Fribourg Canton, where he was pronounced dead on arrival. The cause of death was not immediately reported.

Dr. Schumacher's emphasis on the values of small-scale technology has become increasingly influential both in underdeveloped nations and among ecologists and advocates of decentralization in the more developed countries.

With the apparent decline in availability of the cheap fuel and labor upon which many great industrial enterprises were founded, and with the growing disillusionment with the effects of big technology, Dr. Schumacher's specific proposals for technology on a smaller and more human scale, once ridiculed, have found an expanding audience.

His book, first published in 1973, became a best-seller in paperback, and made him something of a folk hero. Its success has been ascribed to its similarity to Eastern philosophies. It is subtitled "A study of economics as if people mattered." The book, which has been translated into many languages, both urges human fulfillment and suggests means of reaching that goal.

Dr. Schumacher was born in Germany and studied at Oxford as a Rhodes scholar and at Columbia University in New York.

After coming to Britain he spent 20 years, from 1950 to 1970 as economic adviser to the National Coal Board. He also spent time as a consultant in Asia where he refined many of his own ideas for fostering economic progress in less developed areas.

His essential idea was to encourage the establishment of small production facilities in rural regions and to use local resources to meet local needs.

"All you need is simple materials," he said, adding in the aphoristic style for which he was known, "The Taj Mahal wasn't built with Portland cement."

In 1966 he established the Intermediate Technology Development Group in London. Intermediate technology, he once explained, is on a level between the hoe and the tractor. It was designed to meet the needs of developing countries by seeking out suitable technology, devising it when it did not exist and publishing instruction manuals for simple, low cost systems and industries.

His first wife died in 1960, and he remarried in 1962. He had eight children.

FEEDBACK EFFECTS OF FISCAL POLICY CHANGES

Mr. HATCH. Mr. President, on September 9 during debate over amendments to the second budget resolution fiscal year 1978 a dispute arose between myself and Senators MUSKIE and BELLMON. The dispute concerned whether the CBO's estimates of the effects on tax revenues of tax rate reductions take into account the supply-side feedback effects on the tax base of the increased incentives. I maintained that these feedback effects are not taken into account by the econometric models used by CBO, and Mr. MUSKIE maintained that they are taken into account.

Our dispute was noticed by Mr. ROUSSELOT, a member of the Budget Committee in the House of Representatives, who earlier this year addressed this question to CBO and to OMB. Mr. ROUSSELOT's remarks in the House on September 20 clearly indicate that CBO, OMB, and Chase Econometrics have all stated that the supply-side feedback effects are not taken into account. I ask unanimous consent to print Mr. ROUSSELOT's remarks in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

FEEDBACK EFFECTS OF FISCAL POLICY CHANGES

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, on September 9 a dispute arose on the floor of the Senate in the course of some tax reduction amendments to the second budget resolution, fiscal year 1978. The dispute concerned whether the Congressional Budget Office's estimates of the budgetary effects—that is, the effects on the deficit—of tax rate reductions include the feedback effects of the increased incentives on the tax base.

On February 25, 1977, I addressed this question to Dr. Alice Rivlin, the Director of CBO, and on March 3, 1977, I asked Bert Lance, the Director of the Office of Management and Budget if the econometric models upon which the Government relies for forecasts and economic policy stimulations take into account the feedback effects on tax revenues of the increased incentives that result from tax rate reduction.

The answer is: No, they do not. In her reply of March 11, 1977, Dr. Rivlin stated that—

"The models do tend to neglect the influence of tax rates and other incentives on aggregate supply and capital formation."

OMB's reply under cover of Mr. Lance's letter of March 22, 1977, stated that the Chase, DRI, and Wharton models—

"* * * do not include any relative price effects from an individual income tax rate reduction—no incentives to work longer, to work harder, to save more, to take greater risk, to be more innovative, etc. Disposable income is increased, which raises consumption, and that is the only direct effect."

The fact is that the supply side feedback effects of tax rate reductions or increases are not taken into account, and this fact is not in dispute. The only feedback effect of tax rate reductions on the tax base and on tax revenues that CBO estimates for changes in personal income tax rates is the effect on disposable income and spending—that is, on demand.

In June 1977 Chase Econometrics themselves stated that—

"These models, which are now used by virtually all economic policymakers are constructed in a way such that they are much better able to simulate the effects of tax policies on aggregate demand than on aggregate supply. Thus the use of these models may have directed policymakers toward those policies which had visible short-term effects on aggregate demand without considering their likely intermediate and long-term effects on productive capacity."

Mr. Speaker, those of us who have been complaining about the policy bias in the budget resolutions that the Congress has been passing do, after all, know what we are talking about. The country is more likely to prosper if all the members of the House and Senate Budget Committees and the committee staff also become aware of the defects in the tools that they are using to shape the economic policy aspects of the budget resolutions that they bring to the floor

Mr. HATCH. Mr. President, I do not take any pleasure in the fact that my distinguished colleagues, Mr. MUSKIE and Mr. BELLMON, were in error. To the contrary, it concerns me a great deal. We live in an economy that is based on incentives. Yet, we make economic policy without regard to the effects it has on incentives. That is like a doctor prescribing medicine without any regard to its effect on the patient. I do not believe it is safe to continue to make fiscal policy without regard to the effect on the economy's level of aggregate supply.

Therefore, I hope the distinguished chairman of the Senate Budget Committee and the distinguished ranking minority member of the committee will interpret my remarks here today as a good will plea that we learn to understand better the effects of policy alternatives on the economy. It is not our dispute that is important, but our cooperation in forging an economic policy that makes possible high levels of employment, a stable price level, adequate tax revenues for legitimate public expenditures, and prosperity for all Americans.

THE AMTRAK BUDGET CUTS

Mr. PELL. Mr. President, recently the National Railroad Passenger Corporation (Amtrak) announced cutbacks in service along with fare increases in order to meet the congressionally mandated reduction of $50 million in Amtrak's fiscal year 1978 budget. While I realize that cutbacks must be made throughout the system, there is clearly an inordinate number of cuts from one region of the country—the Northeast.

Cutting back the availability of rail passenger service in the Northeast is the kind of short-sighted action that has done such a disservice to rail passenger service in the past. At a time when Amtrak is trying to attract riders, particularly in areas with high potential such as the Northeast corridor, the Corporation should not be cutting back rail service except where clearly justified. Rather service should be enhanced.

I realize that because of executive and congressional budget cuts, Amtrak must find places to pare its operations. However, the Northeast corridor, where 59 percent of all Amtrak passengers ride—even though it comprises only 456 of Amtrak's 26,000 miles—is the most cost-efficient segment of Amtrak's routes, and should not be the place to absorb the lion's share of cutbacks.

Mr. President, in the Nation's most highly populated area, where train service has generated the most revenues for Amtrak and been the least costly to the taxpayers, Amtrak is going to cut 153 trains per week, at a time when the President is calling on all Americans to reduce fuel consumption drastically.

Likewise, in the heavily traveled Chicago-Milwaukee corridor, Amtrak is cutting back service by eliminating two trains daily and four on Sunday. I realize that the Amtrak board has voted to seek a supplemental appropriation to restore service, but the damage may already have been done.

Mr. President, in the highly populated corridors of this country lies the future of rail transportation. Although the Northeast corridor—Megalopolis—is this Nation's largest area of population concentration, there are high density corridors all over the country. For example, we have already seen dramatic passenger increases on San Diego-Los Angeles trains. Chicago-St. Louis, Dallas-Fort Worth, the east coast of Florida, upstate New York, Los Angeles-San Francisco, Seattle-San Francisco are where trains can provide an enormous service and be heavily traveled. By the end of this century we will see that happen in those areas and others.

Yet now, Amtrak is not looking to the future. It is chugging along in the present with an eye to the past. I know that part of the reason is that Congress only appropriated $488.5 million rather than the $534.7 million sought by Amtrak or the $500 million administration request.

But we must keep in mind that Amtrak's Federal subsidy has grown tremendously since its inception in 1971. Amtrak also has another source of money—passenger revenues, and the extent of these revenues will in large part determine its future. Amtrak will benefit from the $1.6 billion federally sponsored Northeast corridor project, improving the route over which Amtrak trains will ride in the corridor and serving as an impetus for increased train usage in the area.

But to put any less than the highest priority toward improving rail passenger service in this country, as the cool winds of autumn start to remind us of our ever-present energy crisis, is sheer folly.

While I agree that increasing the Amtrak budget will not by itself save the country from its energy crisis, I am positive that the policy of cutting back rail service can only lead to disaster. A recent column by Tom Wicker of the New York Times shows how important this battle over Amtrak funding is in the overall debate and public awareness of the seriousness of our energy crisis. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks which, incidentally, were intended for release yesterday.

Mr. President, I support the Amtrak request for a supplemental appropriation for fiscal year 1978 and I urge my colleagues to likewise support a move so clearly in the national interest.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGY OFF THE RAILS

(By Tom Wicker)

When the Senate gets back to work after its summer recess, it will take up an Administration energy program that the American people apparently do not believe is necessary. That's the sad conclusion to be drawn from a New York Times/CBS poll in which 57 percent of the respondents said they did not believe the energy situation was as bad as President Carter said it was, and 49 percent suggested that the "crisis" was only a plot to get higher prices for oil and gas companies.

So much wishful thinking suggests that neither Mr. Carter's leadership nor the program he has put forward has as yet made the kind of demands on the citizenry that would force them to realize the seriousness of the energy situation.

He did call the other day for enforcement of the 55-m.p.h. speed limit as a gasoline-saving measure. Combined with the gradual elimination of gas-guzzlers, that would make a considerable difference in the nation's profligate consumption of gasoline in private automobiles.

But the Carter energy program offers no incentives or penalties designed to get people out of automobiles altogether and into mass transit or longer-haul rail facilities. To top this failure, Amtrak—the quasi-governmental National Rail Passenger Corporation, which runs such intercity trains as there are—has announced extensive cuts in service and a rise in fares. Obviously, the left hand knoweth not what the right hand doeth.

Cutting service and raising fares is the classic pattern by which ridership on any transit system is inevitably reduced. Those were the steps the private railroad companies took when they were trying to kill off passenger service, an effort in which they mostly succeeded; so it's ironic in the extreme to see Amtrak, which Congress established to rescue passenger service, embarking on the same course.

It's even more ironic in the midst of the energy crisis—which so many erroneously believe is not a crisis at all—that this energy-saving mode of transportation is being cut back instead of extended. Why should anyone believe the crisis is real when such contradictions are permitted?

Worse, Amtrak has not been failing; in fact, it has been extending its passenger train network, improving its equipment and schedules, and attracting increased ridership (up from 16.6 to 18.6 million annually). But the revenues do not as yet cover expenses, making Federal subsidy necessary. And for fiscal 1978, beginning next month, Congress inexplicably reduced Amtrak's fund request from $534.1 to $488.5 million.

Since Amtrak had added major routes this year, the 1978 fiscal year appropriation is, in effect, a cut from the $482.6 million subsidy for 1977. How the deep thinkers in Congress reconcile that with the new taxes and re-

strictions that will be decreed in the energy program will be painful to watch.

The announced service cuts will affect 26 states but appear to be concentrated on the Boston-Washington line, along which to complete the absurdity, the Federal Government is spending hundreds of millions to rebuild the so-called Northeast Corridor roadbed. These cuts "may well destroy what's left" of Connecticut's passenger service, Gov. Ella Grasso said; they will also reduce weekend runs on one of Amtrak's most successful projects, the Metroliner between New York and Washington.

Even so, the announced cutbacks will account for only $28 million of the shortfall in subsidies and revenues that Amtrak faces for 1978. Other cuts may have to be made and Amtrak says a prime candidate is the Floridian, which now provides service—albeit not very good—between Chicago and Miami.

The Floridian loses about $9.5 million a year, illustrating another of Amtrak's problems—the private railroads. The train could pick up major additional ridership and revenue if it were routed through Atlanta, the traditional Southern transportation hub. But the Louisville & Nashville won't let Amtrak use its line from Chattanooga to Atlanta, owing to heavy freight traffic, and the Southern Railway would permit the use of tracks it controls only if Amtrak puts about $20 million into upgrading the line. Amtrak obviously doesn't have the money.

In the West, for another example, Amtrak may sue the Missouri Pacific Railroad to force decent service and schedules on the Inter-American, which Mo-Pac runs on much of the important route from Chicago through St. Louis and north-south across Texas to Laredo on the Mexican border. Mo-Pac operation has made the Inter-American legendary for lateness, slowness and surliness.

On top of such problems, the reduced Federal subsidy, forcing service cuts and fare increases, is nothing less than weird. How do Mr. Carter and Congress expect ever to convince the public that there's an energy crisis—much less that they know how to cope with it?

SUPPORT FOR THE GENOCIDE TREATY: THE ENDLESS LIST

Mr. PROXMIRE. Mr. President, there is no human rights treaty that has ever been subjected to more detailed scrutiny than the Genocide Convention. Every line, every phrase, every syllable has been studied over and over since it was first introduced over 28 years ago. As a result of this, the list of individuals, groups, and organizations who support the treaty has grown. I would like to recount this support for the benefit of my colleagues.

President Truman supported it in the strongest possible terms. Subsequent administrations, Republican and Democratic alike, have renewed that endorsement. The Genocide Convention is an important part of the human rights policy of the present administration. As President Carter said in a recent message to the Senate:

> The Convention protects the most fundamental of all human rights—the right to live . . .

Two important nongovernmental groups have scrutinized and subsequently endorsed this treaty. The American Civil Liberties Union is one. It has carefully reviewed allegations of threats to civil liberties posed by this treaty and concluded that these fears are unwarranted.

The American Bar Association is the other. The recent support of the ABA is of cardinal importance for it reflects the judgment of the leading professional association of attorneys in the United States.

The general counsel of the Department of Defense, the judge advocate general for the Army, Air Force, and Navy have all endorsed the treaty. They have recognized that the Genocide Convention posed absolutely no threat to the United States and that ratification would be a "positive step in the national interest of our country."

Virtually every major organization in the United States has expressed its support of the Genocide Convention. I sincerely hope that soon, through ratification of the treaty, the Senate can join the world community in its effort to combat genocide.

DISPLACED HOMEMAKER'S BILL

Mr. RIBICOFF. Mr. President, the Subcommittee on Employment, Poverty, and Migratory Labor of the Human Resources Committee has just completed hearings on S. 418, the Displaced Homemaker Equal Opportunity Act. As a cosponsor of this bill, I was pleased to see an excellent explanation of the problem by Ellen Goodman in the Washington Post this morning. I would like to share this column with my colleagues. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

DISPLACED, REPLACED, MISPLACED

(By Ellen Goodman)

BOSTON.—They were talking about Mrs. Adams in the Senate recently. They were talking about her and Mrs. Hill in the hearing room of the subcommittee on employment, poverty and migratory labor.

Now Mrs. Hill and Mrs. Adams were never the sort of women to be talked about in public. Years ago they made their decisions to have private careers. They had children and raised them; they made homes and acquired all the skills of that job.

If all had gone according to plan, according to their expectations, we might never have heard about them at all.

But, a few years ago, Sen. Birch Bayh explained to the subcommittee, both of these middle-aged women lost their only "employer." Mrs. Hill's husband died, and, at 53, she was without work experience or income. She had a mortgage to pay and seven years to survive until she was eligible for Social Security. Mrs. Adams was divorced by her husband after 19 years of marriage. She was among the minority—some 14 per cent—who are awarded any alimony at all. But like half of those women, she was never able to collect it on a regular basis.

In short, these two middle-class, middle-aged women with grown children became part of that vast subgroup that Susan Catania, a state legislator from Illinois, described as the "new poor." They were now in the category known in the Senate bill as "Displaced Homemakers."

Displaced, replaced or misplaced, there are somewhere between two million and seven million American women who were forced emigrants out of a lifestyle that was destroyed by death or divorce.

Women like Mrs. Adams and Mrs. Hill were perhaps the last generation to go into homemaking as a life-long career. When they were married 20 and 30 years ago, they believed that they had wed security.

Independence wasn't something they chose. It's something that happened to them and they called it insecurity. It came into their lives with empty nests and empty pocketbooks; it left them uncovered by social policies and triply discriminated against in the work field: by age, sex and inexperience.

It left them in need of some help. Of course, the expression "Displaced Homemaker" brings forth a vision of armies of middle-aged women camped on the banks of the Potomac behind barbed wire waiting for the soup line to open. But it is also a term of transition, and the bill that is winding its way slowly through Congress is really a Relocation Act.

It offers not a soup kitchen, but supports for a difficult time. The funds would set up what Laurie Shield, the head of the Alliance of Displaced Homemakers, likes to think of as "experimental laboratories"—one for each state—where women could be aided through the transition, where they could find legal, emotional and job counseling. They would be "recycle stations" to outfit the homemakers' skills to fit the work force and find new jobs to fill both the public needs and theirs.

Basically it would support middleaged women through the time zone from desertion to self-sufficiency. And from the expectations of one decade to the realities of another.

In some crucial ways, the Displaced Homemakers bill is a stopgap measure: stopping the gap between the generations.

Joanne Maxey, a state senator from Nebraska, told the Senate hearing: "We are not going to have the problem 10 or 15 years from now, because today's young women are preparing themselves." She is fundamentally right. The young homemaker now has had some tough "role models," and most of them plan their "second careers."

But women like Mrs. Adams and Mrs. Hill planned a lifetime of mothering and wifing, caring for others, making a home. They slipped on their commitments and fell into the cracks of society. They were misplaced, replaced, displaced.

And, at the very least they deserve a chance to relocate, with a small buffer zone of caring in return.

COFFEE SHOP FERTILE GROUND FOR DAKOTA MEALS PROGRAM SITE

Mr. BURDICK. Mr. President, the Administration on Aging magazine, Aging, recently included an article describing a successful meals program for the elderly that clears more than $200 in profit each month.

The program, located in Bismarck, N. Dak., is run by the Burleigh County senior adults program. Their profits have not only paid for decor in the new Senior Citizens Center in Bismarck, but it has also provided the local matching money for a title VII grant. It is a fine example of local initiative and cooperation making life better for our senior citizens.

I ask unanimous consent that the article describing the Burleigh County program be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COFFEE SHOP FERTILE GROUND FOR DAKOTA MEALS SITE

First, it was coffee and a place to rest.

Next, it was toast, rolls, donuts, and milk or tea for those who didn't want coffee.

Next, it was a whole meal.

DONUTS TO DOLLARS

"One thing sort of led to another," is the way Jack Minton, project coordinator of the Burleigh County, N.D. Senior Adults program, explains how a coffee shop became an 80-meal-a-day dinner site for the elderly.

And he, his secretary Dianne Blevens, and Burleigh County Housing Authority director Gene Sandwick whose agency sponsors the program, couldn't be happier.

With 40 or 50 snackers a day, coffee shop tills are yielding better than $200 a month, reports Ms. Blevens.

That $200, plus profits from day-old bread sales at Bismarck's three meal sites and a Bazaar, have provided funds for additions to a Senior Citizens Center opened in April.

These additions include wall and floor coverings, furniture for the arts and crafts room in the $650,000 structure, and other furnishings.

In April, 1976, the managers of Bismarck Super Valu stores offered their day-old bread to the county adults program. "Super Valu gives us the bread," says Mr. Minton. "We sell it to the senior citizens who come to our three meal sites for one-third of its retail value."

That venture has been bringing in $500 monthly and has provided the local portion toward a $30,000 Federal Title VII grant to supply the kitchen for the new center. The meal grants are administered by Aging Services of the Social Service Board of North Dakota.

ELDERLY ORIGINATED IDEA

The idea for the coffee shop originated last summer with the country's elderly bus riders. An average of 40 persons from smaller communities and farms come to Bismarck each week for doctor and beauty appointments or for shopping, on a bus operated by the program. Another 250 elderly persons from Bismarck ride the program's town buses.

"The rural riders in particular wanted a place to rest and have coffee after the bus came in," says Mr. Minton. Because the Patterson Hotel is centrally located, Mr. Minton asked Robert Therren, manager, about putting a coffee urn in the lobby for them. Mr. Therren suggested they use the coffee shop, which the hotel recently closed.

Mr. Minton continues, "There are a lot of people who have apartments in the hotel who want to have coffee. We decided to buy rolls, donuts and snacks to serve customers."

The coffee shop was opened last August. A month later, Mr. Minton and his staff began using it to serve noon meals to the elderly as well. "To give you an idea of the success of the centrally-located meal site, we usually serve 17 meals at the Hillside Park Center location," says Mr. Minton. "When we closed that and started serving at the hotel's coffee shop, we averaged 80 meals daily."

SEATING FOR 250

All the food for Bismarck's meals program is prepared at Crescent Manor, also a meal site. The other site is Senior Inn. "When the new Senior Citizens Center is finished," says Mr. Sandwick, "all the meals—an average of 250 each day—will be prepared there."

INADEQUATE TRUCKING SAFETY: A THREAT TO THE NATION'S HIGHWAYS

Mr. PERCY. Mr. President, the important area of trucking safety was recently the subject of an in-depth investigation and report by the Chicago Tribune. The Tribune Task Force consisted of William Gaines, Frederick Lowe, both veteran investigative and police reporters, and Howard A. Tyner, former UPI correspondent in Moscow. Their superb exposé found that "despite Federal and State laws on minimum safety requirements for commercial carriers, numerous trucks on the road are in shockingly bad repair and pose a threat to other motorists."

According to the report, the Department of Transportation's Bureau of Motor Carrier Safety found in 1974 and 1975 that more than a third of the 54,800 trucks it had inspected were unsafe and were ordered off the road until repaired. Since that time, the task force reports that the situation has worsened.

One flagrant area of abuse is the deliberate violation of the 55-mile-per-hour speed limit. The Bureau of Motor Carrier Safety presently requires (49 C.F.R. 392.6) that no trucking run shall take more than 10 hours to complete. But, because of the inadequate enforcement of speed limits, many motor carrier firms and independent truckers schedule runs which require truckers to far exceed the legal speed limit to complete their runs within this 10-hour limit. The Tribune investigation found that two out of every three trucks driven during its surveillance were exceeding 55 miles per hour—frequently going more than 70 miles per hour.

One result of such speeding is that truckers frequently tailgate automobiles. This has terrorized drivers and resulted in many accidents, some fatal. If we are to maintain safety on the Nation's roadways, then commercial carriers must be made to conform to the legal speed limit. The 55-mile-per-hour speed limit both conserves energy and saves lives. All Americans must be encouraged to obey it. Those who do obey the law should not be terrorized or hounded off the road by the actions of those who do not.

The Tribune reporters found that some truckers regulary evade State operated roadside truck scales, where they might be ticketed for driving a dangerously overloaded or mechanically unfit vehicle. During one recent test period near Chicago, the investigative staff witnessed an average of one out of every two trucks using an access road to bypass an official weight station.

The task force also discovered that truckers are often too tired to work safely. Long distance truckers told the Tribune that they regularly drive more than the 70 hours a week maximum permitted by Federal law. This often amounts to over 12 hours of driving each day.

Last, the task force report found that truck safety and health laws are simply inadequately enforced or not enforced at all. The Bureau of Motor Carrier Safety has only one inspector for every 32,500 vehicles. At this rate, it would take 15 to 20 years for the Bureau to check every truck in the country.

I am deeply concerned about these findings. The Nation's extensive highway system was constructed for the safe use and enjoyment of all Americans. The existence of 37-ton trucks tailgating motorists, operated by fatigued drivers, and in shabby condition is a threat to every motorist and conscientious driver. The situation must be corrected!

I have written Secretary of Transportation, Brock Adams, concerning one specific area of truck safety abuse—the willful violation of legal speed limits. In the very near future, I plan to introduce legislation aimed at increasing trucking safety.

In order to bring special attention to this important problem, I ask unanimous consent that the incisive and well-documented Tribune task force report, along with my letter to Secretary Brock Adams, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., Sept. 17, 1977.

Hon. BROCK ADAMS,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: I am disturbed to learn that the Department of Transportation's Bureau of Motor Carrier Safety (BMCS) is failing to adequately enforce a critical provision of the Motor Carrier Safety Regulations (49 C.F.R. 392.6). The regulation specifically provides that "No motor carrier shall schedule a run . . . between points in such period of time as would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated."

The Bureau has determined that no run may be scheduled which cannot be completed in ten hours without exceeding the legal 55 miles per hour speed limit. However, the BMCS has not effectively enforced that provision. As a result, many motor carrier firms and independent truckers are instituting runs that cannot possibly be completed at legal speeds within the ten hours. Drivers frequently have no choice but to speed in order to complete the excessively long and resultingly illegal runs which they have been assigned.

Inadequate enforcement of this regulation has created other unsafe conditions on our nation's highways. Excessive speed by truckers forces them to tailgate other vehicles. And the chance for tire and brake failures, and more serious accidents and injury, is also greater at such higher speeds.

At a time when the Congress and the Department of Transportation are making serious attempts to correct many of the maladies of our national transportation system, the alarming existence of unsafe and illegal trucking practices must be dealt with forthrightly. I strongly urge that you personally, and the Department, consider the following recommendations:

Criteria should be established to make D.O.T. test runs more realistic in ascertaining the time necessary to complete a specific trip. The truck should be of the same quality as that normally used on the run and should be loaded in the usual manner. Such conditions as routing, weather, terrain, and

urban driving congestion should be taken into consideration when assessing compliance with the ten-hour limit. Further, a company should be required to certify prior to a test that all test standards have been met; in this way, the BMCS would have less trouble meeting the legal requirements of proof of a company's knowing or willful violation of the law.

Runs greater than 450 or 475 miles should be prohibited. I am reliably informed that this is the maximum distance a trucker can safely and legally negotiate in under ten hours.

Companies should be required to post notice of the Bureau's findings after an investigation. Drivers would then be alerted to possible violations of the law and would be better able to protect themselves from possible employer intimidation.

A conference with representatives of trucking fleets and independents should be convened promptly in order to seek greater voluntary compliance with the law. As you know, the speeding problem is of such proportions that merely increasing enforcement against violators would be insufficient in effecting a remedy.

An exceptionally well-documented task force investigation and report (attached) on trucking safety, by the staff of the Chicago Tribune, just last week revealed frightening abuses of federal and state laws. These abuses have resulted in countless deaths and serious injuries. Motorists who obey such laws as the 55 mile per hour speed limit should not be hounded off the road or harassed simply because they are law-abiding citizens: nor should truckers be compelled to willfully break the law in order to avoid confrontations with company management, thereby risking their jobs. BMCS has within its power the authority to correct these violations. I urge that the law and related regulations be vigorously enforced.

I look forward to receiving from you a timely report on the specific measures that the Department of Transportation proposes to take in dealing with this issue.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

[From the Chicago Tribune, Sept. 11, 1977]

BIG TRUCKS: TAILGATING TERROR

Settled with 11 other students in the rear of an old farm pickup, Dennis Lay watched the road unfold behind them and thought about the day of field work ahead.

A lumbering semitrailer truck was following them, its blue and white markings clear in the morning air. Lay watched it come down the road, closing quickly as the pickup slowed to turn right.

The big truck was coming on fast. Too fast, it seemed.

As the rig loomed larger, Lay told himself it would swing out to pass. But it didn't swing out.

A girl in the pickup truck looked up and screamed. Lay threw himself sideways toward the ground. The pickup swerved, but too late. Dust, debris, the screech of metal on metal.

"All I could see was that big grille," Lay remembers of the crash. "I didn't even see the other driver."

One youth died, a second suffered critical injuries, and 10 others were hurt in that July 22 smashup near Bloomington, Ill. The driver of the semi escaped with no injuries.

An unusual highway tragedy? Not really.

A two-month investigation by The Tribune's Task Force found that such accidents frequently involve speeding, unsafe, or overweight trucks. Their drivers often are dangerously tired or unqualified. Among the findings:

Too many trucks are driven too fast. In 11 hours of speed tests on highways throughout the Chicago area, the Task Force found that two of every three trucks were exceeding the 55 mile-an-hour speed limit, frequently going more than 70 m.p.h.

Many trucks are too unsafe to be on the road. Task Force reporters working with police along two heavily traveled Chicago-area commercial routes inspected two dozen large trucks chosen at random and found a total of 54 safety-related violations such as bad tires, no lights, and no turn signals.

Truckers regularly evade state-manned roadside truck scales, where they might be ticketed for driving a dangerously overloaded or mechanically unfit vehicle. During one test period on Int. Hwy. 55 southwest of the city, reporters saw an average of one truck every two minutes use an access road to bypass an open scale.

Truck drivers often are too tired to work safely. Long-distance truckers told reporters they regularly drive more than the 70 hours a week permitted by federal law. The driver of a truck that killed two motorists in a fatigue-related accident said his weekly average was 85 to 90 hours behind the wheel.

Truck safety laws are often poorly enforced or not enforced at all. The Bureau of Motor Carrier Safety, charged with regulating interstate trucks, has one inspector for every 32,500 vehicles. It estimates it would need "15 or 20 years" for its staff to check every interstate truck in the country.

Reporters found trucks that were bristling with safety violations, yet bearing a State of Illinois safety sticker issued only a few weeks before by an authorized inspection station.

Last year, Illinois took in $126 million from truck license fees, but it assigns only 110 persons statewide to examine trucks for safety on the highway. These are civilian weight inspectors, empowered to issue citations for weight violations but without authority to make arrests when they find mechanical defects.

Chicago has no truck inspection program at all to show for the $3.2 million the city receives annually in truck fees.

"Companies have become very arrogant because the federal and state governments simply are not enforcing the laws," said Susan Zinsburg, a traffic expert for PROD, a Washington-based professional drivers organization concerned with truck safety.

The $6 billion-a-year trucking industry is one of the fastest-growing commercial fields in the nation. In 1970 there were 15.3 million trucks on the roads. By 1975 the figure had jumped 68 percent to 25.7 million. Trucks now haul more goods in the United States than all other types of transport combined.

With the growth has come increasing concern among highway safety experts about the industry's road record.

"I hate to sound like a zealot," said Richard Peet, president of Citizens for Highway Safety, a consumer lobbying group. "But there are just too many truck drivers not getting enough sleep, speeding, and pushing other motorists too far, increasing the risk factor."

According to the National Safety Council, there were 45,000 traffic fatalities in 1975; one-fifth of them involved truck or bus accidents.

Although heavy trucks comprised just 0.8 per cent of the Nation's total number of vehicles in 1974, they were involved in 2.6 percent of all accidents and 3 percent of all fatal accidents.

A steadily worsening record is reported in Chicago, which, according to the American Trucking Association, has the heaviest truck traffic of any city in the Nation.

Illinois Department of Transportation statistics shows smashups involving semitrailer rigs and other large trucks on Chicago-area expressways jumped 17.5 per cent from 1975 to 1976; passenger-car accidents in the same period went up only 6 per cent.

Experts say the introduction of the 55-m.p.h. speed limit three years ago has proved a prime factor in boosting awareness of the need for truck safety.

Previously, passenger cars were permitted to travel 65 or 70 m.p.h. and could pull safely away from slower commercial vehicles. Today they all run together, though not necessarily at less than the speed limit.

"It used to be that cars ran into the rear of slow-moving trucks," said Kenneth Pierson of the Federal Highway Administration. "Now it is the reverse."

Tailgating by heavy trucks at high speed has become terrifyingly commonplace. Few motorists escaped the chilling experience of having a huge semi sweep up to within a few feet behind them before pulling over to pass.

"It scares the hell out of me when I can't see anything but the radiator grille of a Kenworth [one of the largest makes of truck tractors] in my back window," said Dewey Campbell, a loss-control specialist for the American Mutual Insurance Alliance.

"If something upsets the equilibrium, somebody is going to get squashed—and it isn't going to be the truck."

According to William Johns, director of safety for the American Trucking Associations, ATA members have been asked to adhere to the 55 m.p.h. speed limit. The organization also asked Congress to boost the limit for cars to 60 to try to end dangerous tailgating.

Too often the result of tailgating is an accident such as that near Bloomington seven weeks ago.

The pickup truck was taking the students to nearby fields to do experimental work on corn pollination; the semi driver, Terrence C. Turner, 34, of Streator, was returning to his terminal after an early morning delivery.

Turner told police he was traveling at 45 to 50 m.p.h. at the time of the accident and was preparing to pass when he glanced down at the dashboard to check his tachometer.

When he looked up, he said, it was too late even to apply the brakes.

The impact sent the pickup hurtling more than 100 feet down the road, spewing its occupants out "like a load of gravel," according to State Trooper James H. Cooper.

One youth, 16-year-old Todd Skolek from nearby El Paso, suffered severe head injuries and died two days later in a Peoria hospital. A companion, Brian Bauer, 18, lay unconscious for more than a month. Others just have mental scars.

"I get real scared when I see one of those trucks now," said Katie McKay, 17.

Truck driver Turner, unhurt, was charged with failure to reduce speed to avoid an accident. If he pleads guilty when the case comes to court, the sentence is an automatic $25 fine, plus costs.

The chances of a fatality occurring when a truck is involved in an accident are 10 times greater than in a collision between cars only, according to the U.S. Federal Highway Administration.

But the trucker, in his cocoon of heavy metal, stands a better chance of survival than the motorist. Transportation Department statistics show that only one truck driver dies in traffic accidents for every 30 other persons.

And authorities seem unable to clear the highways of persistent violators of truck safety laws, as illustrated by a car-truck accident in August, 1976, in which two persons died and seven others were injured.

A semitrailer rig owned by a Virginia electrical firm slipped onto the right shoulder of U.S. Hwy. 20 near Lexington, Va., then lurched back onto the two-lane road and plowed into a small van and a car coming from the opposite direction.

The van driver and a passenger in the car were killed. The injured included the truck driver, Charles V. Allen, who told police his rig had been forced off the road by an oncoming car.

Witnesses said they had seen no such car. Police charged Allen with reckless driving, saying he had fallen asleep at the wheel.

Then investigators discovered that Allen had been convicted of speeding 12 times in the previous eight years. In the same period, he also had nine convictions for other offenses, three license revocations, and two other accidents.

At the time of the collision, an inquiry found, he had driven 75 hours in the previous seven days—in violation of the 70-hour limit—and twice in that week had driven 18½ hours in a single day, violations of the 10-hour maximum in a 24-hour period.

When the crash occurred, Allen already had put in 10½ hours for the day and had 60 miles more to drive to get back to his terminal.

In all, 11 violations of federal motor-carrier safety regulations by Allen and the trucking company were discovered.

In interstate trucking, however, ignorance apparently is a valid excuse. The Interstate Commerce Act requires prosecutors to prove in court that violators of regulations knew they were breaking the law.

The truck's owners told authorities they did not know the law governing operation of their trucks; their penalty was to receive a copy of the Federal Motor Carrier Safety Regulations. Nothing else.

"Some companies will take that book and read it," said Robert Mick, sole representative of the feledal Bureau of Motor Carrier Safety for the 36 counties around the Roanoke, Va., area—where 1,000 trucking firms are based.

"Others will lay it on a desk and watch it gather dust."

Mick told the Task Force he runs routine safety checks on local trucking companies "as time permits," but added that it might be years before he can return to a company for a second look.

Truck driver Allen, 40, is recuperating from a fractured leg suffered in the Virginia accident and is hoping to get back on the road. It looks as though he'll get his wish.

Charges against him were reduced from reckless to improper driving and then dropped altogether on appeal.

"The company has told me that once I get well I can go back on the job," he told The Tribune from his home.

"FREE-WHEELING" FOR SPEEDY TRUCKS

Traffic was heavy, and the speed readings blinked in rapid succession on the back of the radar gun . . . 68 . . . 72 . . . 69 . . . 69 . . . 67.

The site was the westbound lanes of the Northwest Tollway near Belvidere, and Task Force reporters were conducting one of a series of roadside tests around Chicago to monitor truck speeds.

In 11 hours of speed checks at nine locations, they found that two out of three trucks were exceeding the 55 m.p.h. speed limit.

They concluded that heavy trucks generally traveled as fast as the traffic would permit.

Equipped with CB radios and other electronic equipment used to foil speed traps, trucks weighing 30 tons or more regularly blistered the pavement at 70 m.p.h.

The ponderous vehicles often were able to cover 50-mile stretches of highway, buzzing with traffic, sometimes congested by construction, and patrolled by state troopers, at speeds that averaged 10 m.p.h. over the legal limit.

In its testing, the Task Force used two methods of speed detection. One employed a police-type, hand-held radar gun that gives instant speed readings on either approaching or departing vehicles up to half a mile away.

The other method was to station reporters at both ends of a stretch of highway where they recorded the passage of each truck, identified by various vehicle numbers.

Comparing the two lists later showed how long it took each truck to cover the distance, and from that information the average speed was calculated.

Reporters found the fastest-moving trucks were on the Indiana Toll Road between La Porte, Ind., and the tollgate near the Illinois state line. Rigs there were recorded hitting speeds in the high 60s and low 70s.

One, an empty chemical tanker operated by the Thiem Corp. of Milwaukee, streaked through the 36.5-mile test stretch in 31 minutes for an average speed of 70.7 m.p.h.

Two other trucks—one a cumbersome Cities Service rig hauling two trailers in tandem—averaged fractionally more than 67 m.ph. on the stretch even though an Indiana state trooper was patrolling the area and had stopped a car along the shoulder.

The most heavily traveled road in the test series was Int. Hwy. 94 from the Illinois-Wisconsin state line north to Milwaukee's southern city limits. Conditions appeared to be unfavorable, if not impossible for speeding on the day the Task Force was there.

Northbound traffic was particularly thick. Also, a police radar trap had been set up midway along the route and at least four police cars were seen patrolling the road. Furthermore, traffic should have been slowing for highway construction just south of Milwaukee.

Yet reporters found that 47 of the 55 Milwaukee-bound trucks they clocked were speeding over much of the 27-mile stretch. More than half the speeders averaged 60 m.p.h. or faster.

Tests on the Northwest Tollway, Int. Hwy. 57 and I-80 produced similar results. A tractor-trailer operated by Quad City Food Service of Rock Island, Ill., raced from Peru, Ill., along I-80 to the intersection with I-55 near Joliet at an average speed of 62.5 m.p.h.—on pavement that was slick from heavy morning rain.

Nor did darkness do much to restrain the hurrying truckers. Task Force radar clockings at 11 p.m. again showed that two of every three heavy rigs were speeding as they headed south on Edens Expressway at Dundee Road. And every other big truck leaving Chicago on the Calumet Expressway in late evening was exceeding the 55 m.p.h. speed limit at the 130th Street underpass.

During the checks, reporters listened on a CB monitor to conversations between truckers. It quickly became clear how drivers were able to elude police speed checks.

At frequent intervals, a driver would come onto the air with a drawled request for a "smokey report" on the road ahead. Fellow truckers traveling in the opposite direction would then sing out the precise location of stationary or cruising "smokeys"—the CB term for highway patrolmen.

"There's a smokey in a plain brown wrapper [unmarked car] takin' pictures [using radar] at the 47-mile marker," crackled a typical warning that went out to all receivers along the Northwest Tollway.

"Ten-four and thanks, good buddy," came a grateful reply. "I'll give him a nice big smile as I go by."

By the time he reached the patrol car, that driver—like others in the area—had cut his speed to the legal limit.

[From the Chicago Tribune, Sept. 12, 1977]

HOW TRUCKERS EVADE STATE WEIGHT AND SAFETY LAWS

"Two smokeys are going into that northbound chickencoop."

The alert crackled out on CB radio waves from truck to heavy truck, back and forth across the median strip of an interstate highway near Chicago.

"I'm passing him right now, he ain't gonna get me," came one trucker's reply moments later.

"You better quit while you're ahead," drawled the first man. "That be twice today you got away from that coop."

In CB radio vocabulary, a "smokey" is a state trooper and a "chickencoop" is a state-run roadside weigh station.

What concerned the two drivers was that the "smokeys" were about to open the "chickencoop" for business, requiring all large trucks to pull in for inspection.

This worried them because of the key role roadside weigh stations have in efforts to keep U.S. highways free of unsafe trucks and unsafe truckers.

It is there that rigs are weighed to determine whether they are dangerously overloaded.

It is there that federal and state inspectors have the opportunity to carry out spot checks for mechanical defects.

It is there that logbooks, required by law to be carried in every interstate truck, can be examined to determine whether long-distance drivers have exceeded the number of hours they are allowed to be behind the wheel in a week or a day.

The Tribune's Task Force found during a two-month investigation of truck safety that hulking commercial vehicles regularly and systematically evade Illinois weigh stations simply by driving around them—sometimes in full view of state employes manning the scales.

Reporters observed semitrailer trucks traveling even long distances out of their way to avoid stopping at a scale.

They monitored CB radio conversations in which truckers alerted one another as to whether a particular weigh station was open and discussed routes to get around it.

The most flagrant examples were found at the weigh station on the southbound lane of Int. Hwy. 55 near Bolingbrook, southwest of Chicago.

On a busy day there, Task Force reporters determined that an average of one truck every two minutes was leaving the highway to bypass the scale.

There could be no doubt about the truckers' intentions. Rigs turned right, off I-55 at Joliet Road, approximately half a mile before the station. They proceeded south along the frontage road, which, after approximately 400 yards, crosses beneath I-55.

The trucks then picked up the frontage road on the opposite side of the highway, following it south approximately two miles to the intersection with Ill. Hwy. 53, where they turned right to cross back under I-55.

Then a left turn off Ill. 53 put them onto an access ramp—and back to the southbound lanes of I-55.

The maneuver took only about five minutes, and trucks using the bypass could be seen easily by the staff operating the southbound scale.

This was not an isolated case. Drivers told the Task Force it is commonplace at truck terminals to speak of "scenic" or "B" or "C" alternate routes to get around a weigh station with an overweight or unsafe truck.

According to the drivers, Milwaukee-bound truckers leaving the Chicago area on U.S. Hwy. 41 easily bypass scales situated on both sides of the Illinois-Wisconsin state line by turning east to Green Bay Road, west of Zion.

At another weigh station, on Int. Hwy. 80 south of Chicago, a reporter followed an apparently overloaded tank truck as it pulled off the highway and drove along a parallel road to slip past undetected.

Moreover, not all major roads even have weigh stations. There are none on tollroads in Illinois and none on Chicago expressways.

The locations of the 31 weigh stations in Illinois supposedly are secret. A spokesman at state police headquarters in Springfield refused to give them to a reporter.

But several days later, at a truck stop on the Northwest Tollway, a reporter purchased a book called "U.S.A. Truckers Guide," which gives a state-by-state listing of every permanent road scale in the United States.

Police told reporters that they have found some safety-conscious drivers, most of them employed by large trucking firms, who actually wanted their vehicle weighed and inspected.

One of the drivers' main concerns is the amount of weight exerted on the front axle of a truck by the load the vehicle is carrying. Too much weight on this axle makes the truck dangerously difficult to steer and stop, they say.

Yet state law makes no distinctions regarding the amount of weight permitted on a truck's various axles. The maximum for any of them is 18,000 pounds.

So, drivers told the Task Force, although manufacturers' specifications usually call for no more than 10,000 or 12,000 pounds on the crucial front axle, trucks often are sent onto the road carrying considerably more.

"You just can't handle a rig with 12–13,000 pounds up front," said Robert McNail, a driver for Strickland Transportation.

"When you get such weight up there, the driver gets tossed all over," added Robert Klein, who drives for Yellow Freight Lines. "He can lose control."

Though there are drivers who want to work by the rules, however, the Task Force found that consistent enforcement of truck-safety laws was virtually nonexistent at the federal, state, and local levels.

Congress established the Bureau of Motor Carrier Safety in 1966 to enforce safety standards on trucks and buses that operate across state lines.

But a recent, highly critical report by the U.S. General Accounting Office charged that the bureau is undermanned, overworked and in many ways ineffective.

The bureau has fewer than 200 inspectors nationwide to check more than 4 million interstate vehicles. The Chicago metropolitan area is the busiest trucking center in the nation, yet only three federal inspectors are assigned here.

Some drivers told the Task Force they had gone five years without ever encountering a Bureau of Motor Carrier Safety inspection on the road. Others said they had never been checked.

When bureau inspectors are checking trucks on the road, they usually work out of weigh stations because they are not empowered to stop a moving vehicle. But Donald Whitlow, the state police sergeant in charge of Illinois scales, said he could not remember the last time a bureau representative was at a scale.

When bureau inspectors do find violations of federal safety laws, they cannot be sure the remedies they order will be carried out.

In one case, the bureau filed three suits against a trucking company in a year and fined the firm a total of $8,000 for safety-related violations.

Two years later, a Bureau survey found more than 200 safety infractions by the same company; a fourth suit had to be filed to try to bring it into compliance.

The GAO report issued last May, called for widespread changes in the bureau's operations to improve truck safety. The Department of Transportation conceded in reply that it "recognized the need to upgrade enforcement."

At the state level, the situation is only marginally better. Illinois state police leave the task of inspecting commercial vehicles and issuing safety stickers to authorized garages rather than state employes.

State troopers who stop a truck simply inspect it to see if it has a safety sticker, instead of checking to determine whether the vehicle is roadworthy.

"We have to assume that if a truck went through a safety lane that it is safe to drive," said Lt. Col. Robert H. Klemm, deputy superintendent of the Illinois State Police.

The problem is complicated by a shortage of state police manpower.

Klemm said the force has been 154 men short of its authorized strength of 1,600, with little hope of hiring additional troopers.

The Task Force also found that the state had too few weigh stations in relation to the amount of truck traffic and that the scales it does have don't to an adequate job.

All 31 of Illinois' weight stations are at permanent locations. Other states, with less traffic, have far more scales and make extensive use of portable scales, which can be hauled around for spot checks and are much more difficult to evade.

California, for example, operates 46 fixed stations and 292 portable scales. In one year authorities there checked four million trucks and issued 48,000 citations for weight violations.

In that same year, Illinois monitored five million trucks at its scales but gave out only 23,542 tickets.

Klemm said the manpower shortage prevents the operation of scales on weekends or at night, when many trucks take to the road.

The state is considering introducing portable scales to the enforcement program and police currently are testing four $10,000 models.

But at the same time, Illinois is building two more permanent weigh stations—one near Springfield, costing $1 million.

Evading weigh stations, according to Klemm, is "a game of trying to outsmart one another" between police and truckers. To help authorities, he said, CB radios are being installed in state police cars so officers can monitor truckers' conversation and counter "alert" messages.

Patrol cars also are under orders to do "flip-flops" at regular intervals on interstate highways by crossing the median strip and heading in the opposite direction to foil CB reports on their whereabouts.

Chicago has virtually no enforcement program at all.

Just four of the city's 15,000 policemen are assigned to a truck enforcement unit—one man each to the Dan Ryan, the Eisenhower, the Stevenson, and the combined Kennedy-Edens expressways.

Six other officers belong to a separate truck weight section.

According to Capt. James Riordan, deputy chief of traffic for the city, Chicago police are concerned primarily with moving violations rather than safety of vehicles.

"If we see obvious violations like no rear lights, we will write up the driver for that," he said. "But we don't have the equipment or authority to inspect trucks."

He acknowledged that the large number of tickets handed out by city police to truckers in a two-year crackdown against moving violations has not reduced the number of accidents involving commercial vehicles.

Statistics confirmed that the number of expressway accidents involving heavy trucks jumped 17.5 per cent from 1975 to 1976, a period in which car accidents went up just 6 per cent.

[From the Chicago Tribune, Sept. 13, 1977]

DESPITE SAFETY LAWS, BATTERED TRUCKS THREATEN OTHER DRIVERS

The battered old red semi was caked with mud. Its stack coughed greasy black smoke, and the trailer listed like a barge about to sink.

Patrolman John Below, of the Roselle Police Department sounded his siren and pulled the truck over. It had, he found, no brake lights, no signal lights, and no mud flaps at the back of the trailer.

Five of the rig's tires were worn smooth or pocked with grooves. A sixth, on the trailer's rear axle, was flat.

Only one thing on the truck was new: a shiny Illinois safety sticker on the windshield. It had been issued, the driver said, just three weeks earlier.

The truck was one of dozens inspected by Tribune reporters working with police in three Chicago suburbs as part of a two-month Task Force investigation into truck safety.

Reporters found that despite federal and state laws on minimum safety requirements for commercial carriers, numerous trucks on the road are in shockingly bad repair and pose a threat to other motorists.

During one day of inspecting trucks chosen at random on two Chicago-area commercial routes, only three of 24 vehicles were found to be without safety violations.

On average, there were two safety-related violations for every truck checked, ranging from faulty tires to improper lighting or overloads, which can make the huge, 18-wheel rigs difficult to control.

The results of the survey confirmed nationwide statistics compiled by the U.S. Department of Transportation.

In 1973, the department's Bureau of Motor Carrier Safety carried out roadside checks on 22,644 interstate trucks and their drivers and turned up more than 40,000 infractions of safety laws.

In the following two years, the bureau found that more than a third of the 54,800 trucks it inspected were unsafe and ordered them off the road until repaired.

"Companies will throw anything on the road, just as long as it rolls," said James Linane, a truck safety expert and policeman in Carol Stream.

Some companies budget funds to pay for violations by their trucks, he said, "so they don't get too upset about being stopped. They figure that for every so many trucks, one or two are going to be stopped."

A catastrophe can occur when a defective truck weighing 35 tons or more is turned loose on the highway. One such case resulted in the nation's worst traffic accident of 1976.

It took place in Valley View, Ohio, five miles south of Cleveland, at dusk on Aug. 20. An out-of-state semitrailer carrying a full load of 36,000 pounds of hairspray swept down a steep grade and plowed at full speed into the rear of a line of 10 cars waiting at a stop light.

Cars were knocked left and right like tenpins hit by a bowling ball. One was flipped diagonally across the intersection and into a water-filled canal. The truck trailer tipped over on another and squashed it. Other cars burst into flame, trapping their occupants inside.

Eight persons died.

The truck driver James W. Harris of Detroit, told police his brakes had failed. But a federal Department of Transportation memo on the disaster said investigators learned that the brake pads on the tractor apparently had been loosened—to save wear and the cost of buying new ones.

Experts found, in addition, that the trailer was so old its owners had designated it for the scrap heap. It had only one operative brake and "looked like an accident ready to happen," said Valley View City Atty. Jules Koach.

So the rig, in effect, had no brakes at all.

Slightly injured in the accident, driver Harris spent six months in jail on negligence charges. His employers were sued by survivors of the victims but escaped criminal charges because Ohio has no law that holds a company responsible for putting defective equipment on the road.

How difficult is it to find a truck in violation of safety laws?

"Not hard at all," says Policeman Below of Roselle. "Just stop any big truck. Any one. It's almost bound to have a violation."

Task Force reporters confirmed that when they inspected trucks on U.S. Highway 19 and 20 with Below, Linand and Patrolman Roger Mabbitt of Glendale Heights.

All experts on truck safety, the three policemen have spearheaded a drive during the last 15 months to bring commercial carriers operating in their communities into compliance with safety laws.

They have conducted instructional courses on truck law enforcement for local police from Cook and Du Page counties and twice have organized "enforcement days," on which hundreds of trucks in large sections of the two counties were stopped for inspection.

"Trucks run scared through here now" Mabbitt said.

Reporters found that 15 of the 24 heavy trucks they inspected with Below, Linane, and Mabbitt had faulty tires—in some cases as bad as those on the ancient red semi with the new safety sticker.

One semitrailer belonging to Mulvihill Bros., Inc., of Chicago was cruising down U.S. 20 with six bad tires. Two were worn down to the cords, three had large chunks of tread missing, and another was cut through the tread from side to side.

"They didn't have any other tires in the terminal," driver Edward Cizowski explained.

Bald, grooved, or out-of-balance tires can cause a driver to lose control of his vehicle even on dry pavement, according to the policemen. Blowouts can cause jackknifing. Pieces of recapped tires can break off and be hurled in all directions.

"Some of these recaps will just fly off," Linane said. "You see them all over the road. They come off and hit somebody else's windshield."

It was a blowout of the left front tire that caused a Tucker Freight Lines semi to cross the median strip on Int. Hwy. 55 west of Joliet last June 24 and slam into an oncoming car.

The truck driver and four members of a Chicago family riding in the car died in that accident.

According to the Bureau of Motor Carrier Safety, bad tires are the biggest single factor—accounting for 26 per cent of the cases—in interstate truck accidents in which defective equipment is identified as the cause.

Malfunctioning brakes are the second most common cause, the bureau said.

One of every three trucks checked by the Task Force had faulty brake lights, and one of five had improper turn signals. Others were without emergency flares or mudflaps.

Still others had no state safety inspection sticker, for what it is worth. At times that isn't much. Illinois leaves it up to certified garages to conduct truck inspections. John Burke of the Department of Transportation said the state must depend on the honesty of the owners of these garages in issuing safety stickers.

Detecting many of the most severe mechanical faults on a truck—such as loose steering, defective shock absorbers or springs, or improper coupling between tractor and trailer—requires an involved inspection by a trained mechanic.

But the Highway Safety Research Institute of the University of Michigan found that such detailed examinations are not necessary to detect the hazards that cause the most accidents.

Seventy per cent of all commercial truck accidents the institute monitored in a government-sponsored study involved brake, tire, and wheel failures—"all defects that can be seen easily from outside the vehicle," the study's author, Thomas McDole, told the Task Force.

McDole found that less than a third of trucking firms he checked had a policy of formally inspecting every truck before it goes on the road.

"Maintenance programs exist," he said, "but adequate detection of vehicle defects often is lacking."

Industry representatives defend their maintenance policies. They say statistics about safety violations are unfairly weighted.

"They are taking nothing but the rags," said Burny Melton, manager of the Illinois Truckers Association. "They spot the ones they think have defects and examine those.

"But the larger number of trucks that are in good repair are not stopped and thus not included in the studies."

As for routine governmental inspections, they're few and far between. The burden of enforcing compliance with truck safety laws in the huge interstate trucking industry falls to the Bureau of Motor Carrier Safety.

It has only about 200 inspectors nationwide making the ratio of inspectors to the number of trucks they are supposed to monitor one to 32,500.

"For that reason there are many, many violations," said Robert Purcell, manager of the National Safety Council. "Because with 200 inspectors, the chances of being caught are . . ."

Purcell formed a zero with his fingers and peered through the hole.

[From the Chicago Tribune, Sept. 14, 1977]

TRUCKERS: DRINK, FATIGUE MENACE

The two women in the smashed car were almost hysterical when East Alton, Ill., policeman Shannon Hobbs arrived in answer to a late night accident call.

A huge truck, they sobbed, had suddenly veered into their lane, slammed their compact car into a school playground, and then lurched on down the road. Hobbs looked around him in the darkness.

A hundred feet farther along was the rear of a truck trailer, protruding from the front of a small frame house. The truck's cab was entirely inside the building.

It had smashed through the room where Melissa Tolbert, 8, was sleeping and crushed her to death against a wall.

Also in the rubble of the house, still at the wheel of his truck, sat driver David Weber, 24. He was dazed but unhurt—and too drunk to know where he was, police said.

Investigators later learned that:

In the previous six years, Weber's driving license had been suspended twice; he had been arrested three times for speeding and six times for negligent driving.

In the four months since going to work for Thunderbird Freight Lines of South Roxana, Ill., he had not once prepared a mechanical report on his truck or kept a daily record of his hours behind the wheel, as required by federal law.

Weber's mandatory medical certificate was out of date and he had had, he said, no sleep in the 48 hours before the accident.

Melissa Tolbert was killed Aug. 11, 1976, the victim of an incompetent and negligent truck driver. A court subsequently sentenced Weber to one to three years in prison.

Truck drivers are blamed as the "principal factor" in 90 per cent of all accidents caused by trucks and investigated by the federal Bureau of Motor Carrier Safety.

Dozing at the wheel is the truckers' most common failing, the bureau found. Drinking before driving is second.

A more recent example occurred last week in Cairo, Ill., when a tank truck went out of control on a curve, rolled over, and dumped several hundred gallons of gasoline into the city's sewers.

The driver, Daniel True, 27, of Sikeston, Mo., was "so drunk he thought he was in California," according to Cairo Police Chief William Bowers.

Incidents like that have prompted some traffic experts, among them Dr. Robert K. Dusinberre of Physicians for Auto Safety, a lobby group of medical doctors, to label truck drivers "the most dangerous persons on the highway."

The Tribune Task Force found in a two-month investigation of truck safety that too many truck drivers speed, operate unsafe vehicles, and evade government-run weigh stations, where they could be ticketed for safety violations.

Task Force reporters also found that the structure of the trucking industry often encourages unsafe highway practices and that federal, state, and local law-enforcement bodies are unable to do anything about it.

Many truckers are given a financial incentive to speed. Independent drivers who own their rigs, for instance, are paid for loads delivered; the faster they can get rid of one, the sooner they can pick up the next.

"Independent drivers are forced into speeding to make money," said Mike Parkhurst, spokesman for the Independent Truckers Association. "The 55 m.p.h. speed limit is unrealistic."

Reporters found company-employed truckers speeding as well. They are paid by the mile; in many cases, the quicker they can complete a run, the sooner they can go home or be off on another run.

Company drivers told the Task Force of grueling work weeks, sometimes with only eight hours' rest between 15-hour days.

Fatigue is a critical factor. Bureau of Motor Carrier Safety statistics show the risk that an interstate truck driver will be involved in a fatal accident is greater if he has been on the road 10 hours or more.

Bureau figures also suggest that at any given minute, as many as 100,000 interstate commercial drivers may be on the road in violation of the federal laws limiting driving time to 10 hours in one day and 70 hours in one week.

Many interstate drivers, like David Weber, keep no log of their driving time at all. According to a U.S. General Accounting Office study of the Bureau of Motor Carrier Safety and its practices, many truckers believe they are better off without carrying a log.

The reason, according to the study, is that bureau inspectors apparently consider it a more serious offense to be in possession of a log showing excessive hours. In such cases, drivers are ordered off the road immediately for the mandatory eight hours or more of rest.

But drivers with an improperly kept log or none at all are simply warned and allowed to continue their journeys, the study said.

The Task Force found that many drivers are anxious to comply with federal laws aimed at keeping them well-rested. They complained about the strenuous hours demanded of them by some trucking firms.

Many companies require long-distance truckers to be on two-hour notice to go out at all times, day or night. Persistent failure to answer calls can mean warnings, then dismissal.

The system operates on the assumption that a driver is rested but doesn't permit him a routine that assures it. Driver Charles Pickrell of Chicago-based Spector Freight System explained:

"We get no regular dispatch orders. We might get called at 2 or 4 in the morning and have two hours to show up.

"But you also might get up after eight hours' sleep one day and not get a call. You might wait by the phone all day. By the time they finally call, you're ready to go to bed.

"Then, if you fall asleep and go into a ditch, you are charged with an accident. But if you're caught pulling off the road and sleeping so you won't have an accident, you

get a letter of warning for delaying the freight."

A company employed over-the-road driver under a Teamster contract receives 23 cents per mile and can have an income of $600 to $700 a week. That kind of money attracts younger drivers in particular, experts say.

"A young driver tries to run as much as he can to buy a home and get some of the better things," said John Sikorski, director of PROD, a safety-oriented drivers organization. "Then when he gets to be 30 or 35 years old and doesn't recognize his kids, he understands he can't keep it up."

Company drivers are under at least some supervision by their firms. Officials complain more about the independents.

It is the independents who are more likely to operate the most expensive rigs—such as giant Kenworths or Peterbilts, costing $40,000 or more. Again, economics may prompt a driver to go too fast for too long.

"That guy's got to pay maybe $1,000 a month on his truck and another $1,000 for the insurance, so he has got to roll," said Capt. Robert McGinnis of the Indiana State Police, that state's chief of truck inspection. "He'll take anything anywhere, anytime."

Industry officials admit that trucks speed, but they deny that the companies are responsible.

"I'd be a fool to tell you our drivers don't speed," said Spector President Robert L. Lalich, "I don't know why they do. It may be the herd instinct. But there is nothing in our operation that encourages speeding."

A driver who arrives early at a terminal with his load is paid no more than a driver who arrives on time, Lalich said. He displayed a letter sent by Spector last June to all its drivers, complaining about speeding.

"There is no way to make up lost time by speed," the letter told drivers. "When your meal-time stop or any other time break is up, don't just hang around playing the pinball machine, talking to your buddies, or otherwise killing time."

Burney Melton, manager of the Illinois Trucking Association, echoed some of McGinnis' statements, suggesting that the less-regulated independents are more likely than company drivers to drive dangerously long hours and fail to keep proper records.

"Who even knows where to go to find an independent to inspect his logs?" Melton asked. "But a company can be inspected easily because all of its logs and maintenance records are in one place—at the terminals."

John Ebeling, a vice president of Consolidated Freightways, said his firm's drivers can make good money without breaking the law.

"It is not unusual for our drivers to make over $25,000—some make over $30,000—by adhering to schedules and not speeding," he said.

Consolidated—in terms of gross revenue, the nation's third-largest trucking firm in 1976—has 27 supervisors patrolling the road. They use radar and "will pull a driver off the road and terminate (fire) him if he is caught speeding," Ebeling said.

He said he thinks speeding truckers are "guys trying to pick up time they lost in a coffee shop, or guys wanting to do something at the other end, or, maybe just guys who like to speed."

MORE ON POETS IN SCHOOLS

Mr. MATHIAS. Mr. President, on August 2, I put in the RECORD a tribute to Maryland's poets-in-the-schools program. In that tribute, I mentioned the names of the dedicated men and women who have participated in these poetry-writing workshops and I included some of their poems and some poems written by the children in the program.

Unfortunately, I find that two of the poets who participated in the program last year were not mentioned in my tribute. I would like to rectify that oversight now.

They are Alan Britt of Owings Mills, Md., who teaches at Eastern Shore Community College; and Gilbert Byron of Talbot County, Md., who noticed the error and called it to my attention.

Mr. Byron reports:

On October 6th, next, I will visit my first school as Poet in Residence for the schools of Talbot County for the 1977–1978 school year. I have been working on the program since it started on the Eastern Shore. This coming year will be my sixth year in the Talbot Schools as Poet in Residence.

I regret my earlier omission, but thanks to it, I am happy to be able now to salute the poets-in-the-schools participants who are about to embark on another year of the program. To give my colleagues a taste of the caliber of the poets in this program, I ask unanimous consent to have printed in the RECORD poems by Mr. Britt and Mr. Byron.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

POET IN THE SCHOOLS

(By Alan Britt)

Three starlings
gather bread crumbs
from the cold ground.
The black telephone wires
stretch across the frozen air,
they chatter and sing
their tiny beaks
filled with snow.

CRAB TALK

(By Gilbert Byron)

Mama sent me
To get the crabs
From old Benny,
Down on the creek
Where the shanty men seek
Happiness.
He was mending eel pots,
Tar and twine,
And deft seine needle;
Chewing tobacco,
Spitting fine,
Whistling softly.
He couldn't even see,
Little boys like me.
I heard them scratching
In a covered basket.
Shyly I whispered,
Scared almost to death,
"Are those the crabs, Captain Ben?"
Rolling an eye, he grunted,
"Them's them,"
That's all he said,
"Them's them."

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the able syndicate columnist, Henry J. Taylor, a former U. S. Ambassador to Switzerland, raised some serious charges concerning Cuban intervention into Panama and the possibility of guerrilla infiltration from Costa Rica and Colombia.

I have no way of knowing if these charges are accurate, but I believe that they should be thoroughly investigated during the Senate hearings which will soon be held on the matter of the proposed Panama Canal treaties.

I ask unanimous consent that excerpts from Mr. Taylor's column be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

COMMUNISTS WELCOME PANAMA CANAL TREATY

(By Henry J. Taylor)

President Carter has foolishly laid his prestige on the line for ratification of the new Panama Canal treaty. This blunder may not be as great as, say, Hitler attacking Russia, but it will do for openers.

The real question is not the surrender of U.S. control of the Canal versus Communist control. The real question is U.S. control versus Communist control.

It should be debated on that basis—for this is the stark reality.

The global strategic importance of the Panama Canal in U.S. hands is self-evident. Our Joint Chiefs of Staff, beholden to President Carter, have been corralled behind the proposed treaty. But six former Chiefs of Naval Operations [the No. 1 men in our Navy] publicly oppose this give-away.

As for Latin America, a full 80 percent of Peru's and Chile's imports and exports pass through it. The dependency is equivalent along the entire Pacific side of the South American continent . . .

The Latin American Communists welcome President Carter's new treaty with the forebearance of a hungry shark. Fidel Castro's guerrilla fleet is moving armed fighters into Panama from La Colma, Cuba. Air deliveries are from a heavily guarded air base at San Julian, 90 miles southeast of Havana. The progaganda support is sparked from Castro's powerful Russian-built radio station on Cuba's Kay peninsula.

Costa Rica borders on Panama. Castro has installed there Havana-based Costa Rican Communist Julio Sunol. And Castro's resident agent in Panama itself is Communist Thelma King.

She won her spurs in 1964 when four U.S. soldiers were killed in the riot in our Canal Zone. Thelma King herself led the rioters into the U.S. Canal Zone and boasts of killing these U.S. soldiers.

Nicaragua except for the U.S. 10-mile-wide Zone, is the only zone of stability in the entire area. President Anastasio Somoza Debalye told me that Castro has made 22 armed attempts to invade Nicaragua.

Moreover, the Republic of Panama is directly threatened on its two frontiers by Communist guerrillas.

How can President Carter ignore the fact that Panama borders on chaotic Costa Rica and Colombia? Is it news to President Carter that imported Red guerrillas are active in nearby El Salvador? Can he forget the Red-instigated insurrections in neighboring Guatemala and Honduras?

The Republic of Panama itself is a political jungle. Demagogues' tirades light a contrived fuse under Panamanian emotions and serve to distract the Panamanians from so much that should be done.

Panama is blessed with an amazing amount of rich, arable land—as rich as Iowa's best farmland. But less than half is under cultivation. Panama's true need is for better agriculture, animal husbandry and light industry.

It's easy for nearly any politician to roar against the United States, "Yankee Imperialism," "The Yankee Dollar," etc.—and bite the only hand that feeds Panama.

SMALL POWER PRODUCER AMENDMENT TO THE NATIONAL ENERGY PLAN

Mr. PERCY. Mr. President, on August 1 after extensive research including conferences with Dr. David Lillienthal—

former chairman of the Atomic Energy Commission and Mr. E. F. Schumacher—Small is Beautiful and Appropriate Technology—I introduced an amendment to the national energy plan to encourage small electric power producers. Senator HEINZ and Senator BIDEN have since joined me as cosponsors. I ask unanimous consent that testimony I submitted to the Subcommittee on Conservation and Regulation in support of my amendment be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, I was pleased to note that Senator DURKIN had an amendment similar to mine added to the electric rate legislation, S. 2114, this week. By his action, windmills, small hydroelectric facilities, and biomass generators will be free from the threat of antitrust prosecution under Federal utility laws. In addition, the Secretary of Energy will establish guidelines for rate structures for small producers.

Unfortunately, in order to be sure of winning Energy Committee acceptance. Senator DURKIN felt obliged to strike from my amendment the right of the Secretary to prescribe rules relating to rates charged to small producers.

However, I feel this is important. I, therefore, will offer a perfecting amendment to S. 2114 which will restore language similar to that in my original amendment concerning the rates charged small producers.

EXHIBIT 1

TESTIMONY OF SENATOR CHARLES H. PERCY BEFORE THE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON CONSERVATION AND REGULATION, CONCERNING THE SMALL POWER PRODUCER AMENDMENT TO THE NATIONAL ENERGY PLAN

Mr. Chairman, I thank the Energy Committee for this opportunity to testify. Members of this panel have contributed a great deal of time in the past few months to the evaluation of many energy issues. The Senate and the country owe you a great debt for your work and dedication.

The complexity of even the one part of the Administration's package now before the Energy Committee—electric utility rate reform—is evident from the number and diversity of those testifying before this Subcommittee. Mr. Chairman, I wish to speak on behalf of one problem area which S. 1469 does not address: small hydroelectric facilities and other small electric power producers.

The economics of electric power generation have changed dramatically in this decade. Electric rate reform would not be an important issue here today if not for the rapid rise in power costs. Technological innovation provides one of the few means of relief from ever-higher electric bills.

Fortunately, a new range of intermediate technologies holds promise of soon being cost-competitive. For example, the Federal Power Commission states that small hydroelectric facilities at 48,000 existing factories and abandoned dams could add several percent to our electric supplies. Demonstration projects for this technology are underway in New Jersey and Idaho, and feasibility studies are being conducted in several other states, including Vermont and New York. Several dozen wind generators are in operation. Photovolatic solar cells may soon be economical in some applications.

All of these systems are small compared to today's electric power plants. All would reverse the trend toward central generating stations. They would produce electricity at dispersed sites, primarily for on-site use.

Mr. Chairman, the attitude of electric companies is crucial to the success of small producers because almost all of these small-scale technologies can work economically only if they operate in conjunction with a central electric system. The cost of energy storage sufficient to allow operation without utility backup is prohibitive.

To date, the number of cases involving interaction of utilities and small producers is limited. Many electric companies have been willing to interconnect with small producers on an experimental basis. I commend these companies for their foresight.

There have, however, been some disturbing problems. The Public Service Commission in New York City had to order the local electric company to provide backup power and to purchase electricity from a small windmill. A utility in Montana denied any service to a home after the homeowner hooked up a six kilowatt hydroelectric service. A few total energy systems, which provide both heat and electricity to housing and commercial developments, now exist in New Jersey and New York. The local electric companies charged such costly rates for backup power that the New York systems had to buy their own inefficient backup generators, and operate independently of the utility.

Many electric companies have been willing to interconnect with small producers, but offer unfair rates. For example, one manufacturer of interconnect equipment reports seventy windmills, hydro systems, and photovoltaic arrays use its machinery to connect with electric utilities. The company reports that in two-thirds of these cases, the electric company will accept power from small producers but does not pay for it. Other companies have offered to pay only very low rates—less than the cost of fuel to their least costly generating plants. This is certainly less than the electricity is worth. An ERDA official reports that utilities whose industrial customers produce power generally refuse to purchase surplus power.

Mr. Chairman, I do not want possibly unfair actions of electric utility companies to stifle the blossoming of these frontier electric technologies. I have therefore introduced an amendment, co-sponsored by Senator Heinz, to protect the interests of small producers while also guaranteeing a fair deal for electric companies.

The legislation before this Committee, S. 1469, would provide certain protections for one type of small technology: cogeneration of industrial process steam and electricity. The Administration's bill would require electric companies to connect with cogenerators. Utilities would have to provide backup power, purchase surplus power, and transmit electricity for cogenerators. The Secretary of Energy could also prescribe regulations which give exemptions for cogenerators from Federal utility laws and from regulation as public utilities by states. These exemptions would remove the burden of unwarranted paperwork and the fear of antitrust prosecution.

My amendment expands these protections to include not only cogenerators but also all other small power producers—hydroelectric dams, solar, wind, municipal trash-to-electricity systems and others. It would make certain that reluctance on the part of electric companies to interconnect will not prevent the growth of these technologies.

The Secretary of Energy will issue regulations to determine which systems will qualify and what exemptions will pertain to each class and site. States could then continue to handle hookups of small producers on a case-by-case basis.

My amendment also guards electric company interests. It would be wrong to subsidize small producers at the expense of other customers. Therefore, all rates which utilities or state commissions set would be based upon the cost to the utility of providing service.

The technical reliability of small systems is a major consideration. Power sold to electric companies must be delivered at a prescribed voltage and frequency to prevent damage to utility systems. Today's technology appears fully adequate to this task: the coupling units have for years been used in many elevators to generate small amounts of electricity. The Office of Technology Assessment expects technical obstacles to be minimal. However, my amendment provides that the Secretary of Energy shall issue technical standards for producers to qualify for hookups with their local electric companies.

Mr. Chairman, I note that the House, as part of its Energy Plan legislation, H.R. 8444, has adopted a section which addresses part of the problem of small producers. It forbids discrimination against solar and wind systems. However, the House version does not cover other small systems, especially hydroelectric dams. It leaves unanswered whether electric companies may base rates on cost of service. Electric companies are worried that the House provision might allow rates unfair to them. I have discussed my amendment with Illinois Power Company officials, and they approve of it. The House version also fails to address the problems which state and Federal public utility regulation create. For these reasons, I urge adoption of this amendment as a substitute for the House amendment.

The problems which my amendment addresses may not appear significant to some critics today. But the problem could become acute in the next few years as cities, industry and individuals develop alternate sources of power. Let us not stifle the smaller producer. These individuals could contribute in a major way towards meeting our energy needs in the 1980's.

FINANCIAL STATEMENT OF SENATOR DOMENICI

Mr. DOMENICI. Mr. President, every year since my election to this distinguished body, I have released information through the RECORD concerning my personal financial holdings and my income taxes for the previous year.

I do so once again today, hoping that this voluntary step will aid in some small way in restoring faith in Government on the part of the public.

I would note, Mr. President, that I engaged in only one transaction last year, selling land in Albuquerque that my family has held for about a decade. I have not entered into any business ventures and, at the time of my election, severed my relationship with my old law firm in my home State entirely.

I ask unanimous consent, Mr. President, that my personal financial statement and income tax information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERSONAL NET WORTH STATEMENT

Gross assets: Cash on hand, $48,862.61; cash value of life insurance, $6,400; securities, $22,621 (Bank of America, $621; Edith Land Company, $22,000); household goods, $8,000; 1973 Plymouth and 1971 Oldsmobile, $3,500; real estate and family trust holdings, $214,990 (family home, Rockville, Maryland, $110,000; 1/10th interest in Kent Investment

Company, real estate and Rio Puerco, New Mexico, $35,000; D & V Partnership (a family holding), $24,423; Domenici, et al, holdings at Navajo Lake, New Mexico, $7,500; mausoleum crypt, $1,490; interest in the trust of the will of C. Domenici, my late father, $37,456).

Liabilities: Real estate mortgage on my Rockville, Maryland, home (through the District of Columbia National Bank) of $63,100; debt to Albuquerque National Bank, $22,500; approximate tax liability attributable to a cash capital asset sale, $16,000; for a total of $101,600.

Net Worth: $202,773.61.

Since entering the Senate, I have conducted six business transactions—sale of my home in Albuquerque, the sale of four lots in that city, sale of a parcel of land in that city, the purchase of my Rockville, Maryland, home, and sale of land at Montgomery and Pennsylvania in Albuquerque in 1975 and 1976.

PERSONAL FINANCIAL STATEMENT

Federal Income Tax Information for the year 1976.

Earned Income: $57,641.72 (Senate salary of $44,600; rental income of $1,418.82; Senate Campaign Committee account, $1,297.90; honoraria, $5,400; and Domenici Senate Associates, $4,925—an organization of small contributors established under Standing Rules of the Senate Rule No. 42, filed under Senate Procedures, 12-31-74, to help defray additional Senate expenses, including printing, mailing, and photographic expenses).

Proceeds from sale of property: Land at Pennsylvania and Montgomery, Albuquerque, $59,175.21.

Federal income taxes paid of $22,522.32. New Mexico income and property taxes of $8,264.49. Interest payments of $6,582.80.

Standard dependent deductions of $7,500 for Domenici, his wife, Nancy, and their eight children, all of whom live at home.

Payment of $30,786.81 in federal, state, and local taxes, income and property.

As has been the case since my election, I have completely disassociated myself from my previous law practice and all other business ventures requiring my active participation.

A RESOLUTION OF THE CITY COUNCIL OF YUMA, ARIZ., RELATIVE TO SOCIAL SECURITY FINANCING

Mr. GOLDWATER. Mr. President, I have just received a well-reasoned resolution by the city council of Yuma, Ariz., concerning alternative proposals for restoring fiscal stability to the social security system.

The Yuma City Council opposes the use of general revenues on a major scale as a method of financing the system since it would abandon the present contribution method by which the worker—and his employer—contribute to his benefits and he thereby obtains an earned right to those benefits.

The city council also opposes dropping the entire burden of additional payroll taxes on the employer as an inequitable approach.

Finally, the Yuma City Council endorses a proposal called for by the National Chamber of Commerce which calls for a moderate rise in payroll taxes equally on employee and employer, with a "decoulpling" of benefits from both wages and the Consumer Price Index to wage levels alone.

Mr. President, the city council of Yuma has addressed one of the most crucial of current issues. The plan endorsed by the city council deserves our careful attention along with others that have been presented.

It is even possible, in my opinion, that a restructuring of the system may be drafted that does not require any sizable tax increases at all.

Everyone would agree it is essential that Congress tackle this problem in a responsible and diligent manner, and in the interest of contributing to our consideration of the issue, I ask unanimous consent that the resolution adopted by the Yuma City Council may be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 2028

A resolution of the city council of the city of Yuma, Arizona, opposing U.S. Senate bill 1902 and House bill 8218 and Senator Russell Long's proposal relating to proposed legislation to increase social security tax revenues; and supporting the proposal of the National Chamber of Commerce

The City Council of the City of Yuma, Arizona, do resolve as follows:

Whereas, the Social Security System is facing a severe economic crisis as a result of benefit payments exceeding tax revenues received, and prospects of unfunded liabilities totalling over $5 trillion, and with the threat of bankruptcy which could occur within a very few years; and

Whereas, the City Council recognizes that the Congress of the United States must take some legislative action to solve the problems now facing the system; and

Whereas, two alternative proposals are before Congressional committees for consideration in solving the impending crisis, and which proposals the City Council opposes; and

Whereas, Senate Bill 1902 and House Bill No. 8218, a proposal put forth by the Carter Administration, proposes to:

a. Institute a "counter-cyclical" system of financing the Social Security system from general treasury revenues to make up for revenues lost as a result of unemployment over 6%.

b. Remove the taxable earnings base on the amount of wages on which the empolyer's tax is computed.

c. Raise the earings base for employees by $600 in 1979, 1981, 1983 and 1985 over and above scheduled automatic adjustments.

it is therefore the opinion of the City Council that Senate Bill 1902 and House Bill 8218 should be opposed for the reasons that:

a. General Treasury revenue funds should not be used to subsidize the Social Security system as this would abandon the equal employer-employee contribution formula and would place an undue burden on an employer.

b. With an unlimited empolyer wage base, employers would pay more taxes without gaining a corresponding increase in benefits for their employees.

c. Financially hard-pressed State and local governments will be further encouraged to opt out of the system.

; and

Whereas, the proposal set forth by Senator Russel Long proposes to:

a. Tax employers only on full salary beginning in January 1978, while keeping a taxable earnings limit on employees.

b. Provides for mandatory coverage for all local government employees

it is the opinion of the City Council that the Long proposal should be opposed for the reason that:

a. This proposal destroys the traditional concept of equal employer-employee sharing in the cost of Social Security.

b. The estimate of additional cost to the City of Yuma to provide 100% of taxable wage base of its employees is $67,512 for the calendar year 1978.

c. Local government employees who have chosen not to participate in the Social Security would be forced to participate.

and

Whereas, a proposal has been offered by the National Chamber of Commerce which is, in the opinion of the City Council, a fairer and more moderate approach to financing the Social Security system, which calls for:

a. An increase in payroll taxes of 3% in 1978.

b. Raising the tax rate on the self-employed, returning it to the traditional level of 1½ times that of the employee in 1978.

c. Modification of benefit formula to reduce the anticipated deficit.

it is therefore the opinion of the City Council that support should be given to the National Chamber of Commerce proposal for the reasons that:

a. While raising of payroll taxes is not desirable, it is necessary and the National Chamber of Commerce proposal is the most moderate, with approximately an increase of $1.00 per month for everyone.

b. A team approach to financing the system has been successful in underwriting the program for 40 years.

c. To solve the long-range deficit problem, something more than moderate increases in Social Security taxes must be done, and the National Chamber of Commerce's plan to modify the benefit formula by "decoupling" or tying future retirees' initial benefits to wage levels alone, rather than wages and Consumer Price Index will help in reducing the anticipated long-term deficit of the system.

Now therefore, the City Council of the City of Yuma goes on record as opposing Senate Bill 1902 and House Bill 8218 and the proposal of Senator Russel Long, and offers its support of the proposal as set forth by the National Chamber of Commerce and directs that members of the Senate Finance Committee and House Ways and Means Committee, Senator Dennis DeConcini, Senator Barry Goldwater and Representative Robert Stump be notified of this action, and urge their cooperation in opposition to the Senate Bill 1902 and House Bill 8218 and the Long Proposal, and ask for their support of the proposal of the National Chamber of Commerce.

GRASSROOTS ENERGY PLANNING

Mr. PERCY. Mr. President, highly innovative and effective efforts by State, municipal, and local governments are presently underway to develop and implement energy conservation programs of their own. Across the Nation, grassroots energy plans to encourage better home and office insulation, and to promote solar, wind, water, and wood power have been devised. These programs have successfully tapped local energy resources and have stimulated new concepts in energy conservation. In so doing, localities have assumed the lead in helping to solve the Nation's energy crisis. Grassroots energy planning is proving that, given adequate Federal support, local government can successfully develop and

implement energy conservation programs of a significant nature.

The Federal Government cannot succeed in its energy conservation goals without the cooperation of States and cities. Not only should the Federal Government continue to give its full support to grassroots energy planning, but, in many instances, should follow the lead of State and local governments in energy conservation. Each local community has the potential for developing energy resources and/or conservation measures that are uniquely suited to that area. No Federal energy plan could ever be sufficiently comprehensive to allow for the differing energy needs of each region.

Federal funding is the key to the success of local energy conservation programs. The major impetus thus far to these programs has come from the Energy Policy and Conservation Act of 1975 and the Energy Conservation and Production Act of 1976. Both acts provide grants to State governments to assist them in developing State conservation programs. State governments are encouraged to develop whatever energy saving programs they deem necessary to cut the projected 1980 energy use by 5 percent.

The Center for Science in the Public Interest has taken a national lead in the promotion of appropriate technology and local conservation initiatives. The Center recently published a summary of State and local energy programs, entitled, "Grassroots Energy Planning." It outlines some of the more important and innovative programs underway today, as well as various steps that the Center for Science in the Public Interest hopes to see taken in the near future to stimulate grassroots energy planning. Mr. President, I ask unanimous consent to have excerpts from "Grassroots Energy Planning," by Ken Bossong printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM "GRASSROOTS ENERGY PLANNING"

(By Ken Bossong)

The 1973 Arab Oil Embargo prompted most states to establish state energy offices. While initially concerned primarily with fuel allocation policies, these offices have broadened their programs to include a wide range of conservation and alternative energy projects. Assisted in many instances by citizen advisory committees, these offices have used office newsletters, workshops, public meetings, and classroom sessions to promote their energy awareness messages. Virtually all of these offices have sponsored broad consumer-education projects usually aimed at residential and transportation conservation measures. Many have launched energy audits in state schools, hospitals, penal institutions, and other public buildings. In cooperation with their education offices, the majority of the states have prepared curriculum guides for introducing energy studies in the classroom from kindergarten through college grades. Moreover, beyond these basic approaches, dozens of states have launched innovative projects to tap locally available energy resources and to stimulate new concepts in energy conservation.

For example, Colorado is planning to develop a state-wide bikeway construction program as well as to institute staggered work hours and possibly four-day work weeks in metropolitan areas. Maine's EPCA plan includes public education programs, energy audits for buildings, workshops for business and industry, revision of the state's motor vehicle inspection provisions to include an exhaust gas analysis program to identify improperly-tuned automobile engines, a local energy management program, and a proposal to institute a load management study with the state's public utility company. In New York, Governor Cary has called for a ban on pilot lights in gas furnaces and stoves and for a requirement that a seller furnish a homebuyer with both a copy of the previous year's fuel bills and an assessment of the building's energy efficiency. California contemplates a study of waste-heat recovery in industry with an emphasis on preheating and superheating of boilers.

Massachusetts will add strict energy conservation requirements to the state building code for all new construction after fall 1977. The new building code is one of many programs contained in the state's energy conservation plan aimed at saving a total of $400 million in fuel costs by 1980. A review of the code indicates an annual energy savings ranging from 9–15% in a single-family house and savings of 30–40% for commercial buildings without adding to the cost of construction or reducing the buildings' safety or comfort.

Similarly in California, the state's recently enacted Warren-Alquist Act requires that state-wide energy efficiency standards for new buildings be adopted by state government and implemented by local building departments. The state Energy Resource and Development Commission has adopted a code for new non-residential buildings designed to save 20–25% of the energy that would otherwise be used; savings of 18% are projected for new residential buildings.

California, Pennsylvania, Massachusetts and most other states are planning major expansions of energy audit services; in some states these services are administered by the local electric and gas utilities; in others they are sponsored by Project Conserve programs administered directly by the states' energy offices. Other states such as North Carolina are also proposing prohibitions on the use of master meters for electricity and natural gas useage in new multi-unit residential buildings.

Natural gas conservation is a primary target of many states; the Minnesota legislature, for example, enacted a bill last year which directs the state's utilities to terminate the use of decorative gas lamps and to provide their customers with information on how to convert such lamps to electricity. One of the optional measures proposed in the California state conservation plan is turning off gas pilot lights in furnaces in early summer and then on again in early winter; approximately 5–10% of California's residential gas usage would thereby be saved.

In addition to curbing fossil fuel consumption, many state plans envision utilizing indigenous energy resources. West Virginia's Fuel & Energy Office, for example, is sponsoring a program in which methane gas from gassy coal mines is tapped for home heating use in nearby communities. New Jersey is coordinating research efforts with Princeton University to assess the potential for heat co-generation in the state. Vermont has prepared a series of studies to evaluate the potential of its wood resources to meet energy needs; its wood-energy program has already prompted an increase in reliance on this resource: between 1970 and 1976, wood use for home heating has jumped from 1% to 6.7%.

Idaho is on the verge of what its energy office describes as a program that may become the largest geothermal space & water heating project in the Western Hemisphere. The city of Boise already serves some 200 customers with geothermal hot water but a recent study concludes that 38 large buildings or the equivalent of 4,000 average homes could be heated from a nearby geothermal field for a cost of $5 million. Plans are already underway to heat three state buildings from the geothermal wells for about half the price of a conventional natural gas system. California is another state moving to accelerate geothermal development. The State Bureau of Reclamation recently announced that it will study the Susanville & North Honey Lake Valley areas to determine the feasibility of developing geothermal sources there. The State Lands Commission is also seeking to acquire federally-owned geothermal sites within the state with an eye upon future development.

While solar legislation languishes in the Congress, the states are moving rapidly to implement measures that encourage rapid commercialization. To date, more than 23 states have enacted statutes which offer such incentives as tax credits & deductions, exemptions from property & sales taxes for solar units, and low-interest loans. Arkansas allows a home-owner to deduct the entire cost of solar & other energy saving equipment from gross income in the year of installation. In New Hampshire and Vermont, cities and towns may adopt property tax exemptions for solar systems. Massachusetts authorizes banks and credit unions to lend money with extended pay-back periods and has increased the maximum amount which may be lent for solar and other alternative energy systems. Hawaii currently offers a 10% tax credit to those installing solar collectors or other alternative energy devices; it further has a bill in its state legislature that would increase the credit to 50%; another bill would outlaw the heating of swimming pools by fossil fuels—thus compelling owners to go solar.

North Dakota's legislature this year passed a law that provides procedures for the creation of voluntary solar easements similar to Colorado legislation put into effect two years ago. In Oregon, a two-year old law adds solar energy considerations to comprehensive planning; it allows city and county planners to recommend ordinances governing building height for solar purposes.

Nebraska Governor J. James Exon has directed that all building plans for the state be reviewed so as to "plug in solar energy if at all possible. The new penal complexes, the state energy office building in Omaha, as well as all capital construction projects authorized by this legislative session should be planned for solar energy for space heating and hot water usage." Life cycle energy costing estimates (i.e. figuring the cost of a building in terms of what it will cost during its entire lifetime instead of simply its first-year capital cost) will be made for all public buildings to be constructed by state and municipal governments in Massachusetts under a bill signed last fall by Governor Michael Dukakis: "Further, the bill requires that solar and other alternative energy sources must be specifically considered in the bidding process."

Public buildings powered by solar energy are in the works all over New Mexico. And one of the major builders is state government—mandated by the 1975 legislature to consider alternative energy systems for all state construction. The state already has financed two solar buildings recently opened at New Mexico State University and expects to shortly solarize several other major complexes now under construction.

The Arizona Solar Energy Research Commission was created in May 1975 by the state's legislature to promote the development and use of solar energy within the

state and to provide solar energy information to Arizona's citizens. The legislature authorized a budget of $640,200 for the Commission for 1976–1977. Of this, nearly $500,000 was for solar projects conducted within the state to install demonstration solar units and carry out R&D programs.

The state of Florida is establishing a consumer clearinghouse that would provide information on the state's 100+ solar manufacturers and to serve as a center for registering consumer complaints. The state has produced a number of manuals on how to construct, install, and evaluate solar home heating units. In addition, at least 14 solar energy bills are being considered presently in the Florida legislature.

Illinois has promoted a solar development program earmarked by the creation of a series of solar design manuals and the sponsorship of solar courses at four of the state's universities. It has also published a Solar Manufacturers & Consultants Directory and a Homeowners Guide to Solar Energy.

A solar energy research and development expenditure of $1 billion was recently requested by the California State Energy Commission in its state budget application. The entire budget for fiscal year 1976–77 was only $12.8 million but the agency felt that solar's time has come and submitted its "shake-up" budget in a report in October 1976.

To further promote the commercialization of solar and other alternative energy technologies, four states have launched "mini-grant" programs to aid individual homeowners, small communities, and businesses. In Iowa, for example, the state's Energy Policy Council combined $150,000 from general revenues and an additional $80,000 from the Federal Energy Administration to provide a funding pool for small-scale energy projects; in its first round of grants, twenty projects requesting $250,000 were approved. Similarly, Minnesota has a fund of $200,000 for small-scale research; program guidelines indicate that hardware-oriented projects with the potential for creating new industry in the state in the near future are preferred.

The Maine Office of Energy Resources has awarded R&D grants to ten organizations and individuals; wood and wind had been earlier earmarked as priority areas along with energy conservation. The availability of approximately $30,000 in grant monies had been announced in October 1976; the guidelines for proposals required that they be (1) directly related to the needs of Maine consumers of industry, (2) expected to yield results within 18 months, (3) of practical rather than theoretical nature, and (4) of a dimension and complexity compatible with Maine research facilities.

Montana's Renewable Energy Alternative Program selected 31 projects out of 93 proposals to award grants totalling $500,000 too. The money for the program comes from a 2.5% levy on the state's 35% coal tax; by 1979, the fund hopes to have $1.5 million available. Of the first round of grants, twenty were for solar heat, three for wind and wood each, and one each year for water, geothermal and biomass. The two main criteria for the awards were that projects be aimed at developing small-scale technologies and at benefitting low-income persons; the advisory committee has resisted giving grants for research and monitoring projects. In its second round of grants, the Program awarded 48 grants totaling approximately $600,000; the largest grant was $50,000 for the Horizon Lodge in Conrad, MT to install solar hot water heaters for an 84-unit, low-income apartment complex. The smallest grant recommended was $500 for a wood project. Included in the approved grants were a wood-coal fireplace for domestic heating, solar heating for a mobile home, and $44,800 for the New Western Energy Show (a traveling show that promotes alternative energy technologies). There were a total of 126 applicants from which the 48 grantees were chosen.

In California, a program analogous to the mini-grant projects of Minnesota, Iowa, Maine and Montana is the Office of Appropriate Technology (OAT). California's OAT is a small operation housed in the Governor's Office of Planning and Research. Its purpose is to assist and advise the Governor and to encourage state agencies to develop and implement less costly and less energy intensive technologies and programs in the areas of recycling, waste disposal, agriculture, building design, and energy and water conservation. Its programs include broad distribution of literature on "appropriate technologies" (i.e. small-scale, low-cost, suited to local needs and resources), providing bicycles to state workers in Sacramento as an alternative to automobiles, training unemployed persons to design, build and install solar hot-water systems in state-owned houses and apartment buildings, and assisting in the design of new state buildings that use only one-fourth the energy of conventional buildings.

The long-range goals of these and other state energy planning programs are often quite ambitious. The New York State Assembly, for example, has endorsed an energy policy goal of meeting 50% of its energy needs from solar energy, wind power, and solid wastes from within the state; presently New York must import 90% of its energy. South Dakota is planning to reduce its historic per capita energy growth rate of 3.85% to at least .68% by 1980 and to 0% by 1985. A study is nearing completion in Montana to make the state energy self-sufficient. That report follows the thinking of Amory Lovins (i.e. reliance on conservation and decentralized, alternative energy technologies) and is probably the first serious effort by any state to explore energy independence through "soft technologies". A spate of bills to implement the reports anticipated recommendations is now being readied for the Montana legislature.

Regional and county energy planning efforts are supplementing those of the state governments. Many counties have developed energy programs utilizing the services of community organizations, energy offices, the National Guard, welfare departments, and Civil Defense. At least two Michigan counties, for example, (Alger and Ingham) have initiated energy programs to study the counties' energy consumption patterns to determine whether energy may be conserved and where renewable resources may be substituted for fossil fuels. The recently-approved Montgomery County (MD) Energy Conservation Plan directs the county government to become actively involved in providing homeowners with information on residential energy audits and retrofitting through its Home Energy Savers' Program; other key elements of the county plan include continuation of programs demanding energy efficiency in existing county facilities and pursuit of a solar energy demonstration project.

In King County (WA), as part of an energy conservation program first proposed in October 1976, a few hundred low-income residents received warmer homes and lower heating bills this past winter; there a $40,000 "winterization" program was designed to reduce energy consumption and the heating costs of low-income elderly; the savings were estimated to be 30%. The Corporation for Ohio Appalachian Development's Energy Crisis Program encompasses 27 predominantly Appalachian counties in southeastern Ohio and is operated by 16 Community Action Agencies. The program, which began operating in February 1975, has accomplished partial or complete weatherization services on approximately 2,500 homes and has granted crisis intervention assistance to 1,500 households (that entails giving one-time-only cash grants or fuel supplies to individuals who are having difficulty paying their utility bills).

Ocean County (NJ) is the first locality to form a Youth Energy Conservation Corps. Under the program being coordinated by the Ocean County Energy Council, local teachers are being trained in energy conservation strategies. Energy conservation clubs, in addition, are being formed for grammar school students; student coordinators are being appointed in high schools to monitor such areas as lighting, air conditioning usage. There are also solar demonstration projects in shop classes and other conservation projects in science classes.

On January 31, 1977, a new planning and zoning code went into effect in Los Alamos County (NM) which includes a solar rights ordinance. The homeowner's right to solar energy is clearly specified and protected; the location of vegetation or accessory structures on a lot is prohibited if these additions will block the access of an already-installed solar collection system to the sun. Coweta County (GA), the site of the huge new solar-heated Shenandoah Community Center, has established a local option that exempts solar systems and directly-related equipment from property taxes until July 1, 1986.

The Small Farm Project of Cedar County (NE) is currently planning various energy-saving programs for the Project's 25 cooperating farms. Design and costing of specific energy innovations are now in process with assistance from several consultants; they include solar heating of homes and farm buildings, wind generation of electricity, wind-water pumping, improved insulation, and use of methane fuels. Actual construction is slated to begin in fall 1977.

Many of the nation's regional councils have designed programs to address their own local energy needs. For example, the Comprehensive Planning Organization of San Diego began work in November 1976 on a regional energy plan that will promote energy conservation measures and the development of alternative energy sources feasible in the San Diego region. The Organization already publishes a monthly "shopping list" outlining steps local residents and businesses can take to get more efficient use from home appliances, cooling systems, etc.

The Toledo Metropolitan Area Council of Governments disseminates tips on weatherization of homes and offices to both elected officials and the public. The San Luis Valley Council of Governments (alamosa, CO) is conducting workshops emphasizing techniques for utilizing solar energy, energy conservation, and natural building design. The Southwest Georgia Area Planning and Development Commission is conducting energy audits of office buildings and schools and recommending steps that might be taken to eliminate problem areas.

Hundreds of towns and cities have undertaken energy planning efforts to promote energy conservation and to tap locally-available, renewable energy resources. These efforts have been very diverse ranging from broad comprehensive programs to small tentative ones. At one end of the spectrum are the many simple conservation programs initiated by local governments that call for very basic measures such as turning down the thermostat and reducing air conditioning in government buildings, reducing lighting, and tuning up the cars in the city fleet. On the other end are the highly ambitious efforts such as that underway in Winona (MN). With a plan devised by the University

of Minnesota Design Studio, Winona proposes to become energy self-sufficient by the year 2000 through a three-phase process: conservation, use of solar, wind and other alternative energy sources, and finally evolvement of new social patterns (e.g. labor-intensive rather than energy-intensive industries).

One of the best comprehensive energy conservation programs is being run by Davis, California, a small city 12 miles outside of Sacramento. Almost four years ago, Davis' City Council convened a committee of architects, meteorologists, planners, and citizens to survey energy use in the city and to make recommendations for reducing fuel consumed in space heating and cooling by 50%. The group drafted a new ordinance controlling building design elements such as window area and orientation (it requires that houses have limited window area on the north, west and east exposures), amount of insulation, building heat storage capacity, and building orientation so as to take maximum advantage of natural heating and cooling. The final ordinance was accepted by the city planning commission and ultimately approved by the City Council. The changes have already reduced the city's electrical consumption by 10% and conforming households are netting monthly savings of $10–15 on utility bills.

Davis' experience with its building ordinance prompted it to implement a broader energy conservation program; the city contracted a group called Living Systems to draft a comprehensive energy conservation plan. The Living Systems plan, completed in June 1976, touches on land use, solar energy utilization, city procurement policies, and transportation. Maximum use of bicycles and walking is encouraged. Zoning will be altered to make it possible for buildings to take best advantage of south-facing windows and thus optimize the effects of natural heating. The plan calls for extensive planting of trees along streets and parking lots to create a natural cooling effect in summer. The city itself will switch to small energy-saving vehicles for its fleet. The Davis plan will also guarantee "sun rights" in new residential developments so that owners of solar equipment need not fear that their systems will be shaded by neighboring buildings in the future. The city now expects to reach its goal of a 50% energy use reduction within ten years.

Other significant alternative energy development projects are underway elsewhere. Eight cities and a rural electric cooperative in northern California have joined forces to develop geothermal energy. The cities have already leased 1,525 acres of land in the "Geysers" region of Lake Council (CA) and are moving ahead with plans to build a geothermal powered electric plant. They ultimately hope to get 165,000 kilowatts of electricity out of the field—enough electricity for 165,000 people.

More recently, the city of Santa Clara (CA) was the high bidder in the first competitive lease sale ever held by the California State Lands Commission for development of state-owned geothermal energy resources. In the Mammoth Lakes Valley region of Mono County (CA), work has begun on a geothermal heating system that is projected to save up to 50,000 barrels of oil/year by 1980 and 120,000 barrels/year by 1990.

Springfield (VT), a small city of 10,000 people, is developing a local hydroelectric site to supply the bulk of its electricity and several other Vermont towns will likely follow suit. Likewise, the city of Idaho Falls, in cooperation with the Federal Energy Research & Development Administration, is jointly funding a "low-dam" hydro-electric study aimed at upgrading the city's hydroelectric system: the community owns three low-dam hydro plants on the Snake River which were once capable of generating up to 6,000 kilowatts. In Ithaca (NY), Cornell University is considering reactivating a power plant on Fall Creek Gorge that may eventually supply 500 kilowatts or 3% of the university's total electrical needs. There are over 3,000 such little used mill-town dams scattered throughout the country which could provide the energy needs of 40 million people at costs lower than other electricity generating sources.

On Block Island, off the coast of Rhode Island, a 15-kilowatt windmill was dedicated last September to provide power for the New England Telephone Company; it is expected to generate 22,000 kwh/year and excess electricity generated will be put into the grid of the Block Island Power Company. The community of Gosnoldoon the island of Cuttyhunk off the Massachusetts coast will soon have the world's largest commercial windpower system: a 200-kilowatt, three-blade windmill, each blade 40 feet long. The system should supply about half the island's electric needs—approximately 400,000 kilowatts of electricity per year; future plans include a storage system to provide complete independence from fossil fuels. Buffalo (NY) is investigating the use of wind to meet its energy needs, also. Daily wind speed for that city is about 12.3 miles an hour making it one of the three regions of the country with consistently high wind density (the other two being the New England coast and the Great Plains). Wind-power projects now under consideration in the Buffalo area include a six-mile light rail transit system through the city, a waterfront naval museum complex, and the replacement of gasoline and diesel power in the grape-cultivation & harvesting industries south of the city.

Communities are also investigating and implementing ways to recover the energy inherent in solid wastes. City officials in Pratt (KS) are hoping to burn wheat straw to generate electricity for the local citizenry at the municipal power plant: the plant would use 20% straw and 20% coal. A plant in Saugus (MA) collects and processes the garbage of ten surrounding towns and sells the by-product steam in bulk to a nearby industrial plant. New York City, San Francisco, and Colchester (VT), among other cities are drilling wells in sanitary landfills to extract methane. During its first year of operation, the Ames (IA) solid waste recovery system processed 40,936 tons of refuse and delivered only 7% of the city's mini-landfill. The balance was converted to useful & salable products. Trash & garbage were processed to produce a low-sulfur fuel for use in a municipally-owned electric generating plant to supplement coal; about 84% of the solid wastes were converted to this type of fuel.

In some communities, the impetus for local energy programs have come from private citizens. One of the most successful waste oil recycling programs in the nation was started by Sunnyvale-Cupertino's (CA) chapter of the American Association of University Women. The four women convinced the City Council to designate 14 service stations, four fire stations, and the Sunnyvale Recycling Center as collection points. They also arranged for a nearby re-refinery to pick up the used oil from the collection points. As a result of their efforts, numerous other communities have been awakened to the conservation potential of recycling the 1.1 billion gallons of used oil generated annually in the U.S.; similar waste oil recovery projects have been launched in Minneapolis-St. Paul & Duluth (MN), Cincinnati (OH), and Chittenden County (VT).

Solar efforts are perhaps finding their greatest supporters at the community level. Both Santa Clara (CA) and Ocala (FL) are purchasing solar water heaters and leasing them to homeowners. In April 1976, Los Angeles Mayor Tom Bradley announced the "Solar City" program—a broad-based effort by his administration to encourage the development of a solar industry in L.A. With the assistance of a Solar Energy Advisory Committee, more than 90 permits have been granted for solar installations in the city. "Solar energy ombudsmen" have been designated in a number of city agencies to serve as central contacts for people with solar problems. A number of demonstration projects have been launched including a solar hot water heating system to be installed in a new fire station and another in a new city government building. Discussions are also underway to use solar heating for the city's swimming pools.

Palm Springs (CA) recently published a study "Solar Ark Palm Springs"; it is in essence a game plan for the orderly transition of the entire community from a fossil fuel to a solar-energized future. They have appointed a Solar Energy Development Institute which will guide the city to its solar development. In Cleveland (OH), NASA's Lewis Research Center has begun supplying local news media with daily readings of the total solar energy available for use in the city. A 79-unit apartment complex in Minneapolis (MN) will soon be built with the solar energy providing one-third of the new building's energy needs. In southern California's San Luis Valley, an area where 40% of the people earn less than $5,000/year, several dozen families have used scrap materials and their own labor to build a working solar system. And in New York City, a group of tenants have installed a solar system to heat their water and a windmill to provide their electricity needs.

Other local energy projects have been instigated by the nation's Community Action Programs (CAP). About 700 CAPs across the country participate in some form of weatherization program, repairing and insulating the homes of low-income families. In Cranston (RI), the local CAP created a small business to construct and install solar water heating units in the homes of poor people. The SKV Community Action Program in Augusta (ME) scavenges 50-gallon oil drums and converts them into wood-burning stoves. Community Action of Laramie County (WY) is building solar greenhouses. Many of these small projects are being expanded and incorporated into more comprehensive local energy plans.

Other cities are also actively pursuing energy conservation projects. At the time of the 1973 Arab Oil Embargo, Los Angeles enacted an emergency energy curtailment ordinance; it achieved a 17% reduction in electricity within a few weeks without major adverse impacts upon employment of the economy. A similarly successful conservation project was launched at the same time in Burbank (CA); the efforts of the city's municipal utility, which included the elimination of promotional rate structures, cut power use by 20% in 1974.

The city of Tulsa (OK) currently provides a daily report, a monthly summary, and an annual evaluation of fuel consumption & conservation efforts as part of its overall conservation program. The town of Worchester (MA) launched a community-wide insulation co-op in which 25 families joined together and purchased 24,039 square feet of insulation at a discount of 25%—a

savings of approximately $52 per family. Minneapolis, Sioux City, Cleveland and Springfield (IL) are only a few of the communities which have used over-head thermographs; householders, businessmen, and others have thus been able to view these special aerial pictures of their homes, schools, stores, and factories to find out whether poor insulation is wasting energy and costing them money. The city of Hartford (CT) is establishing a program to winterize both public buildings and private homes through a non-profit city corporation using an assortment of federal funding programs. Property owners will be billed through the municipal water utility; the city's pension funds have been suggested as a funding source to provide the initial starting capital for the project. With CETA funds, poor people will be trained, first on the municipal buildings which do not require competitive bidding and then on the homes of the poor themselves.

The success of these and other community energy conservation programs prompted the Seattle City Council last July to vote against participating in the financing of two nuclear power plants on the Columbia River. Based on a year-long study, the city concluded that conservation made much better sense than nuclear power; based on insulation and other energy-saving measures, the city expects to save 160 megawatts by 1990. A special Seattle energy office now reviews city codes to encourage conservation, develops strategies to cope with shortages and works to get businesses and homeowners to think of conservation. Solar & wind energy alternatives are being studied as well.

This kind of intense city effort to deal with local energy problems is becoming the pattern and not the exception. Recognizing that trend, the Vermont legislature last year passed a law (Act 226) enabling towns to appoint town energy coordinators who "shall coordinate existing energy resources in the town and cooperate with the municipal planning commission and with those federal, state, and regional agencies of government which are responsible for energy matters." More than 40 towns have appointed energy coordinators so far with many of the coordinators being assisted by energy committees composed of a cross-section of the towns' residents. The coordinators and committees are examining insulation standards, exploring ways to exploit wood, water, wind, solar & organic energy sources; advising homeowners on purchasing solar units, wood stoves, and windmills; and investigating whether local sanitary landfills are suitable for methane production. For example, Burlington is conducting a feasibility study on a new electric generating plant to be powered by wood, wood waste, and municipal refuse.

Similarly, a program is now being jointly developed by the Idaho Office of Energy and the Association of Idaho Cities to assist city and town officials throughout the state to develop energy conservation plans. The city of Berkeley (CA) has set up an Alternative Energy Commission to develop a city-wide energy plan that includes soft-technology approaches. To raise funds to support and implement its own city energy policies, Long Beach (CA) has a surcharge on all oil refined within the city. In Lansing (MI), the Lansing Energy Affairs Network (LEAN) has been formed in conjunction with the town's Mayor's Committee on Energy Affairs to coordinate the efforts of town officials and citizen groups working on energy conservation, alternative energy resource development, and related energy projects. Working with local citizen groups, the city of Santa Barbara (CA) is developing a city-wide energy plan which, when fully implemented, will have among its accomplishments the reduction of energy costs to the city by up to 25%.

Elsewhere, new towns and communities within existing cities are being planned on the basis of conservation and renewable energy resources. Sixty solar energy homes are planned for a new subdivision—Sunglade—in Raleigh, (NC). The homes will use roof-mounted collectors to heat water for heating & domestic use. The builder has applied to Carolina Power & Light Company to have the homes participate in the peak-load pricing experiment in which electricity will be expensive in periods of high demand and cheap in periods of low demand. To hold down the electric bills, the homes will have automatic clocks to control devices such as hot water heaters so they will only come on during the low-cost periods. The solar collectors will supply 75% of the hot water needs.

In Grassy Brook Village, a subdivision of Brookline (VT), 216 solar panels have been installed to provide the first ten-unit development in this new community with about 4,500 square feet of collector surface. This marks the first time in the U.S. that an independent solar heating system will be used for cluster housing.

Twenty miles south of Eugene (OR) in Cottage Grove, there is a group of people who have been working for the past few years towards building the new town of Cerro Gordo. A maximum population of 2,500 has been planned for the community as well as a ban on automobiles. Transportation will rely on trolleys, bicycles, walking, and horseback. Sources of energy will be the sun, water, wind, and bio-fuel whenever possible. A detailed base-plan has been drawn up to lay out guidelines for incorporating these principles into the town's development.

In spite of the breadth and variety of local and state energy activities, major impediments to such planning efforts remain—primarily lack of information and a lack of money. Only a small number of cities are aware of the wide range of activities that can be conducted on the local level. Although some literature exists on local conservation programs, there is an acute shortage of information on the possibilities of local alternative energy development. This problem will be addressed in limited fashion when ERDA launches its Small Grants Program and its Energy Extension Service later this year to assist state & local governments to pinpoint the technical & financial resources they need. The problem is also being alleviated somewhat through the efforts of the recently opened National Center for Appropriate Technology in Butte (MT) which will be assisting in the promotional of local applications of appropriate energy technology systems. However, beyond a few scattered federal programs with limited funding, federal financial support for local/state energy planning remains largely non-existent. The Carter National Energy Plan makes little provision for aiding the state & municipal sectors even though the bulk of the responsibility for meeting the proposed federal solar, wind, & conservation goals are to be placed on the shoulders of local energy planners.

To address this oversight, the Center for Science in the Public Interest launched its local Energy Action Program (LEAP) a year ago. LEAP has endorsed the position that creation of a federally-supported local energy program offers the best hope for catalyzing the popularization of local energy planning. The federal program would have to accomplish several tasks. First, it would have to stimulate research & writing in the field of local energy planning in order to create a comprehensive literature. Emphasis would have to be placed on publication and dissemination of practical "how-to-do-it" manuals on all aspects of local energy planning and programs. Second, the federal program must issue planning grants to communities so they will be able to create and implement their local energy plans. This could be accomplished by enacting legislation modeled on the EPCA/ECPA statutes—that is, award the states grants to develop state & local energy plans relying upon renewable energy resources & conservation strategies; the federal government would establish broad goals for such plans (i.e. meeting a certain percentage of energy needs with renewable energy reosurces by a certain date) and the state/local governments could determine what mix of technologies are most appropriate to meet their particular needs & resources.

Ultimately, the success of national efforts to pull the U.S. out of its energy crisis will be determined within the communities across the country and not in Washington, D.C. Community energy programs could provide the vital service of not only making the technological information available but also of assisting in its implementation. Each community has the potential for developing energy resources and/or conservation measures that are uniquely suited to that area. No federal energy plan could ever be comprehensive enough to allow for the differing energy needs of each region of the country.

Nonetheless, the potential for local energy planning and development has hardly been scratched. Only a small fraction of the communities which should be involved in local energy activities have active programs. Dozens of new and innovative techniques, projects and programs will likely evolve as more communities engage in local energy planning. The paradox is that the future of local energy planning is tied tightly to the actions of the federal government. In order to reach greater energy self-reliance, many communities will need federal assistance, both technical & financial. If this kind of support is forthcoming in the near future, local energy planning could become standard practice in a very short time.

CONFERENCE REPORT—EXPORT-IMPORT BANK ACT AMENDMENTS

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 6415, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD.)

Mr. PROXMIRE. Mr. President, the House and the Senate were in agreement on the need to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978 to September 30, 1978. This 3-month extension would make the Bank's authority coincide with the fiscal year.

The House and Senate were in disagreement on House provisions concerning human rights, antinuclear proliferation policy, and international export credit competition. The conferees reached a compromise with respect to those provisions. The House language was clarified and improved in several respects. The agreed version of the bill would insure that Export-Import Bank loans and guarantees are consistent with U.S. policy on human rights and nuclear proliferation, and that the Bank increases its efforts to achieve reciprocal international reductions in Government-supported export financing.

Mr. President, I ask for immediate action on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. HEINZ. Mr. President, will the Senator yield.

Mr. PROXMIRE. Yes, I yield.

Mr. HEINZ. As a conferee on this matter and as a member of the committee and participant in the debate that worked its will, on behalf of our colleagues, I simply want to associate myself with the remarks of the Senator from Wisconsin, the chairman of our committee, who has worked very cooperatively with all members of the committee to bring this conference report to the Senate. I concur in the Senator's desire for immediate action on the conference report.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Pennsylvania. He is a ranking Republican member of the committee. It was through his work and the work of Senator STEVENSON that this compromise was reached.

Mr. STEVENSON. Mr. President, the conferees appointed by the Senate and the House with respect to H.R. 6415, a bill to extend and amend the Export-Import Bank Act of 1945, have submitted their report. The report includes an explanatory statement of the compromise reached between the two versions of the bill.

The main purpose of H.R. 6415 is to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978, to September 30, 1978, in order to bring the Bank's statutory operating authority into line with the fiscal year. When the Export-Import Bank Act was last extended, fiscal years ended on June 30. Fiscal years now end on September 30; the expiration date of the Export-Import Bank Act must be changed accordingly The House and the Senate were in agreement on the need for this 3-month extension of the Bank's authority.

The difference between the House and the Senate arose from the inclusion by the House in this extension bill of substantive amendments concerning human rights, international export financing competition and antinuclear proliferation policy. The Senate deleted those provisions from H.R. 6415 on the grounds that such amendments could more appropriately be considered when a bill to approve a multiyear extension of the Eximbank is before Congress. The House refused to give up its amendments and a conference was called.

The House conferees have agreed to modifications and clarifications of the House amendments which I believe render the bill acceptable as an interim measure pending a complete review of the Bank's activities and authority. That review will include thorough hearings in the Banking Committee within the next few months. Every provision of the Export-Import Bank Act will be reconsidered, including the changes made by H.R. 6415.

Specifically, the conferees agreed to the following changes: First, the House provision concerning human rights was altered to make clear that the Bank should rely upon the State Department for advice on whether proposed Bank credits are consistent with this country's human rights policy. The Bank has already begun to act in accordance with the intent of this amendment. The Department of State reviews proposed Bank credits from a U.S. foreign policy perspective, including human rights considerations. H.R. 6415 insures that Eximbank actions will continue to be consonant with U.S. human rights policy.

Second, the provision concerning international competition in export financing was revised to mandate the Bank to cooperate with other U.S. Government agencies in international negotiations directed toward reciprocal reduction of Government financing for exports. The Bank is already engaged in negotiations toward reducing international competition in export financing. The compromise provision in H.R. 6415 adds a directive to the Bank to strive for reduced levels of financing as well, that is, to reduce competition by rounding down the general level of Government support rather than reducing competition by raising financing support to a higher level. The conferees deleted language which could have been misconducted to imply a desire for unilateral reduction in U.S. export financing.

Third, the conferees accepted all but one of several provisions concerning nuclear exports and U.S. antiproliferation policy contained in the original House bill. The House bill would have required a complex, perhaps unworkable, consultative procedure between Congress, the Secretary of State and the Director of the Arms Control and Disarmament Agency to be followed in every proposed nuclear export financing by Eximbank. The conferees agreed that thorough consultations could be conducted without prescribing the procedures in the statute. The administration agreed to conduct such consultations upon request by the appropriate committees or subcommittees of the Congress. Letters to that effect are appended to the conference report. Accordingly the provision in the House bill which specified the nature and procedure for such consultation has been deleted from the bill.

The administration, including the Export-Import Bank, supports this bill. The Bank has already begun to act in accordance with the provisions concerning human rights, international export credit competition, and antiproliferation policy. There will be an opportunity to review the effectiveness of these provisions next year when Congress considers a multiyear authorization for the Eximbank. I urge the Senate to accept the conference report on H.R. 6415.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The conference report was agreed to.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 1585

Mr. ROBERT C. BYRD. Mr. President, there are some clerical errors, I understand, in the printed report on S. 1585, Protection Of Children Against Sexual Exploitation Act of 1977, and I ask unanimous consent that there be a star print of that committee report with such errors corrected therein, and that 500 copies of the report be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I assume that had been cleared on this side?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

EARTHQUAKE HAZARDS REDUCTION ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 126.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendment of the House of Representatives to the bill (S. 126) to reduce the hazards of earthquakes, and for other purposes.

(The amendment of the House is printed in the House proceedings of the RECORD of Sept. 9, 1977.)

Mr. STEVENSON. Mr. President, on September 9, the House of Representatives took up and approved S. 126, the Earthquake Hazards Reduction Act, by a vote of 229 to 125. Passages of S. 126 by the House now clears the way for action by the Senate. The Senate originally passed S. 126 on May 12.

After almost 5 years of effort by the Senate, it appears we now will have a program to reduce the risks to life and property from earthquakes. I commend particularly my colleague from the State of California, Senator CRANSTON, for his leadership in this endeavor.

The bill that the House transmitted to the Senate is almost identical to the bill the Senate approved unanimously. The first difference involves language in the House bill to provide for greater involvement by public members in the national earthquake hazards reduction program. Non-Federal members will participate in the review of the national program plan, and non-Federal members will assist in the effort to develop and evaluate an earthquake prediction and validation capability. The House language, though not actually calling for the establishment of an advisory committee, indicates a desire to have more widespread review of the national program.

The second difference deals with the general authorization section under S. 126. A general authorization section is provided in the bill for all agencies other than the U.S. Geological Survey and the National Science Foundation. The Senate provided an open general authorization, since authorization levels for other agencies could not be determined. The House placed limits of $1 million, $2 million, and $2 million for fiscal years 1978, 1979, and 1980, respectively.

Mr. CRANSTON. I wish to ask Senator STEVENSON a question regarding the House amendments. The House bill adopts a ceiling under the general authorization section while the Senate version provides for an open authorization. What was the understanding of the Committee on Commerce, Science and Transportation in reporting a bill with an open authorization section?

Mr. STEVENSON. It is my understanding that the open authorization section was included to enable agencies other than the U.S. Geological Survey and the National Science Foundation to participate in the national program. Specific authorization amounts were not provided since specific figures could not be determined and would be subject to the implementation plan to be produced under the act.

Mr. CRANSTON. I have reviewed the House amendments and believe their language is consistent with the Senate intent.

Mr. STEVENSON. Yes; I agree. While the House limits funds authorized in the general authorization to $1 million, $2 million, and $2 million for fiscal years 1978, 1979, and 1980, its language indicates that these funds are "in addition to any authorizations for similar purposes included in other acts." I interpret this to mean that the House does not wish to impose limitations on other agencies to be involved in the national earthquake hazards reduction program.

Mr. President, I have reviewed the House changes and believe that they do not conflict with the intent of the Senate. It is my understanding that the administration is anxious to receive this legislation and is ready to begin implementing the act. There is no reason to delay and go to conference over these differences. Therefore, I urge my colleagues to accept and support the House amendments so that we can forward this legislation to the President for signature.

Mr. CRANSTON. Mr. President, I am especially pleased that the Senate today is considering approval of the House-passed amendments to S. 126, the Earthquake Hazards Reduction Act of 1977.

S. 126 passed the Senate unanimously on May 12, 1977. Two House committees—the Science and Technology Committee, and the Interior and Insular Affairs Committee—worked to develop a final product that is very similar to the Senate bill. The House of Representatives approved this bill (H.R. 6683) by a record vote of 229 to 125 on September 9. If approved by the Senate today, as I fully expect it will be, we will send to the President a bill which is the culmination of 5 years of effort to improve and strengthen our Federal earthquake programs.

In 1972, during the 92d Congress, I introduced the first of my legislative proposals to expand the Federal earthquake program, particularly to focus on the question of whether a reliable earthquake prediction capability could be developed and implemented, as well as to study ways of constructing earthquake resistant structures. In every subsequent Congress I have advocated legislation for these purposes. In the 94th Congress, S. 1174, a bill similar to S. 126, was approved by the Senate but in the House failed to get the necessary two-thirds vote to waive the rule and pass by consent.

Today, I am delighted and pleased to participate in this final congressional approval of S. 126, the Earthquake Hazards Reduction Act of 1977.

This bill is designed to reduce the risks to life and property from future earthquakes in the United States through the establishment of an effective and coordinated Federal earthquake hazards reduction program. Presently, the Federal effort on earthquake-related problems is fractured among a number of Federal agencies. The bill directs the President to designate a lead agency to be the central coordinating body for all earthquake activities. The two Federal agencies now principally involved—the National Science Foundation and the U.S. Geological Survey—will retain their major responsibilities under S. 126.

The bill provides that within 30 days of enactment the President shall designate the Federal agency responsible for the development of an implementation plan. This plan is to establish year-by-year targets for implementing an effective earthquake hazards reduction program and shall specify the roles for Federal agencies, State and local units of government and for individuals and private entities. Within 210 days of enactment, the implementation plan must be submitted to the authorizing committees in Congress. It will become effective 30 days later.

The program has several specified objectives: First, the development of technologically and economically feasible design and construction methods to make new and existing structures earthquake resistant; second, the development and implementation of a system to predict earthquakes in areas of high or moderate seismic risk; third, the development of model codes and other means to make information about seismic risk available for consideration in local land-use and building decisions; fourth, the education of the public about how to best mitigate earthquake hazards for themselves and their communities; fifth, research for the development of improved application of scientific and engineering knowledge; sixth, improved understanding of the social, economic, legal, and political issues that could result from an earthquake prediction capability; seventh, a study of how to make earthquake insurance or some functional substitute available; and eighth, an investigation of the feasibility of methods of earthquake control.

Mr. President, it is important to recognize that, despite a considerable seismic history, the United States has been extraordinarily lucky. Less than 1,200 people have lost their lives in U.S. earthquakes so far. Compare this to the more than 650,000 who died on July 28, 1976, in the devastating Chinese earthquake in Tangshan Province. Throughout history somewhere in the neighborhood of 74 million people have died in earthquakes. Last year alone, 700,000 people lost their lives in major earthquakes in Guatemala, China, Turkey, and Italy.

Second, the threat of future destructive earthquakes is a national problem. Certainly, the Pacific Coast States—principally Alaska and California—are especially vulnerable to earthquakes and related disasters. Yet nearly every State in the Nation faces some degree of risk from future earthquakes, and some 70 million people live in the 39 States that are wholly or partly in areas facing a risk of moderate to major damage from future earthquakes. Earthquakes have occurred in our history all over the United States, with major earthquakes in Charleston, S. C. (1886), New Madrid, Mo. (1811–12), Cape Ann, Mass. (1775), Seattle, Wash. (1949), Hebgen Lake, Mont. (1959), and the terrible "Good Friday" earthquake in Alaska (1964).

Finally, the United States today faces the greatest potential danger from earthquakes that we have ever faced before. It is only in the last decade or so that our population has become concentrated in major cities and along our coastal regions, and major construction has occurred on land-fill and other unstable soils. Thus, it is only recently that the potential for great earthquake destruction in this country has existed. Indeed, if the San Andreas Fault were to give us an encore of the 1906 San Francisco earthquake, the deaths could number in the tens of thousands and the property damage could exceed $20 billion. On top of this, we must consider the incalculable losses resulting from the loss of economic and social functioning. Such an earthquake would have a major impact on our national economy and our national psyche.

In 1974, according to the Bureau of the Census, the value of new construction put in place in the United States totaled $134.8 billion. Approximately one-third of this new construction occurred in the high and moderate earthquake risk regions of the United States. Thus, new construction valued at approximately $45 billion in 1974 was put in place in areas with a high expectation of future earthquake damage. The annual expenditure authorized by this legislation is but a small price to pay to protect our massive annual expenditure on new construction.

Mr. President, I am delighted to take this final step in congressional approval of the Earthquake Hazards Reduction Act, and I urge my colleagues to join me in approving S. 126.

Mr. DOMENICI. Mr. President, I understand this has been cleared with our side and I have no objection.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I move that the Senate concur in the amendment.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

TIME LIMITATION AGREEMENT—S. 1871

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1871, a bill to amend the Fair Labor Standards Act of 1938, is made the pending business before the Senate—and this has been cleared with the minority leader—that there be a time agreement thereon of 4 hours on the bill, to be equally divided between Mr. WILLIAMS and Mr. JAVITS; that there be a time limitation on any amendment thereto of 2 hours; that there be a time limitation on any amendment in the second degree of 1 hour; that there be a time limitation on any debatable motion, or appeal, or point of order, if such is submitted to the Senate for discussion, of 30 minutes; that there be a time limitation of 2 hours on any amendment dealing with indexing; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The agreement reads as follows:

UNANIMOUS CONSENT AGREEMENT

Ordered, That when the Senate proceeds to the consideration of S. 1871 (Order No. 400), a bill to amend the Fair Labor Standards Act of 1938, debate on any amendment in the first degree shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, provided that any amendment dealing with indexing be limited to 2 hours, any amendment in the second degree be limited to 1 hour, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the aid bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 9262 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives on H.R. 9262 be held at the desk pending further action.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators that have been entered for tomorrow?

The PRESIDING OFFICER. No, there are not.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW; CONSIDERATION OF S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business, not to extend beyond the hour of 9:30 a.m., and that no resolutions come over under the rule, and that immediately following the routine morning business the Senate resume consideration of the natural gas pricing bill, and that there be a limitation on speeches by any Senators during that period for the transaction of routine morning business of 3 minutes each.

The PRESIDING OFFICER. Without objection—

Mr. ABOUREZK. Reserving the right to object, Mr. President, may I ask the majority leader the reason for including one provision, that no resolutions come over under the rule?

Would it be possible to permit that, or is that—

Mr. ROBERT C. BYRD. That is all right with me.

Mr. President, I ask unanimous consent that on tomorrow there be a period for the transaction of routine morning business, after the two leaders have been recognized, not to extend beyond 9:30 a.m., with statements therein limited to 3 minutes each; that immediately upon the conclusion of routine morning business, the Senate resume consideration of the natural gas pricing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I expect rollcall votes tomorrow. As we have seen from today's experience, anything can happen, and it can happen at any time. Tabling motions can be made, amendments may be voted upon up or down, live quorums can occur, points of order can be made. Appeals from the rulings of the Chair, of course, always can be a possibility.

So I urge all Senators to be prepared for rollcall votes tomorrow.

I hope we can conclude our work tomorrow, even though our work may not be completed on the bill. But I hope we can be out by 5:30 or 6 o'clock tomorrow.

That is about the best I can offer as a way of painting a broad-brush picture.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and at 7:11 p.m. the Senate recessed until tomorrow, Saturday, September 24, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate on September 23, 1977:

DEPARTMENT OF STATE

Diego C. Asencio, of New Jersey, a Foreign Service Officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

DEPARTMENT OF JUSTICE

Robert D. Kingsland, of Missouri, to be U.S. Attorney for the Eastern District of Missouri for the term of 4 years, vice Donald J. Stohr, resigned.

Edward G. Warin, of Nebraska, to be U.S. Attorney for the District of Nebraska for the term of 4 years, vice Daniel E. Wherry.

Willie D. Durham, Sr., of Tennessee, to be U.S. Marshal for the Western District of Tennessee for the term of 4 years, vice Richard N. Moore.

Richard D. Dutremble, of Maine, to be U.S. Marshal for the District of Maine for the term of 4 years, vice Charles J. Pooler.

REHABILITATION SERVICES ADMINISTRATION

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration (new position).

DEPARTMENT OF ENERGY

Phillip Samuel Hughes, of Maryland, to be an Assistant Secretary of Energy (Intergovernmental and Institutional Relations) (new position).

Lynn R. Coleman, of the District of Columbia, to be General Counsel of the Department of Energy, (new position).

Matthew Holden, Jr., of Wisconsin, to be a member of the Federal Energy Regulatory Commission for a term of 4 years (new position).

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1979, vice Neil P. Speirs, resigned.

EXTENSIONS OF REMARKS

MILWAUKEE: BE OF GOOD CHEER

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. REUSS. Mr. Speaker, on Monday, September 19, I participated in the conference on Milwaukee's economy, held at the Wingspread Conference Center in Racine, Wis., and jointly sponsored by the Urban Research Center of the University of Wisconsin-Milwaukee, the Johnson Foundation, and the Federal Reserve Bank of Chicago. The text of my comments follows:

MILWAUKEE: BE OF GOOD CHEER

I am happy to participate in this symposium on Milwaukee's economy. Since Milwaukee is my favorite city, and economics my favorite sort-of science, happiness is obviously what I should be feeling.

Much gratitude for their sponsorship goes to the University of Wisconsin-Milwaukee, the Federal Reserve Bank of Chicago, and the Johnson Foundation. I thank the Urban Research Center of the UW-M, a great urban university of which we are all justly proud, and its distinguished Chancellor, Dr. Werner Baum, who brings the learning of the depths of the sea to the deeper depths of the urban crisis.

I thank the Federal Reserve, which has brought its research to bear so perceptively on our regional problems. To those of my populist friends who may raise an eyebrow at this strange new alliance between me and the Fed, I reply with the old slogan: if you can't lick 'em, join 'em.

Finally, I thank the Johnson Foundation, which once again has magnificently brought together—if you'll pardon the expression—the whole ball of wax.

The challenge before us is that Milwaukee, like so many of our great cities, is becoming a loser: losing population to the suburbs, the exurbs and the Sunbelt, losing jobs, losing fiscal solvency, losing the experience of neighborhood and community, losing the convenience, safety, and attractiveness which are the reasons for a city's existence in the first place. In constitutional terms, we are being short-changed on justice, on tranquility, and on the general welfare.

As with so many other cities, as our affluent middle-class and skilled blue-collar workers have moved from the city, the population left behind is increasingly a dependent one, with little ability to finance the city's public service needs. The decline of public education, and the increased fear of crime, have reinforced and accelerated the movement outward.

On top of this, lower labor costs, cheap energy, and more attractive climates have drawn businesses toward the sunbelt states and away from the northeast and midwest, including Milwaukee.

Like other cities, Milwaukee has suffered from a shrinking revenue base while expenditures have risen substantially. The demand for city services has increased, reflecting both the greater needs of an increasingly dependent population, and the greater propensity of various segments of that population to articulate those needs.

Meanwhile, the cost to the city and its residents of providing public services has increased. Inflation has far outstripped increases in the city's tax base. And not all the overhead costs of city government have decreased with the decline in the city's population. Once our road, sewer and water network has been constructed, the costs of maintaining them do not decline as the population shrinks. The city's labor force, including police and fire services, tends to become a fixed overhead item, whose costs must be spread over fewer and fewer taxpayers.

Beset on right and left by decreasing revenues and increasing costs, what are we to do? Should we toss in the sponge, and demand that the federal government take over our problems in some vast and undefined new Marshall Plan? Or are we to embrace the inhuman doctrine of triage, which some heavy social thinkers are currently advocating, and nominate ourselves candidates to be tossed to the sharks?

No—let us rather demonstrate to the nation that Milwaukee, however old and cold, can find its way back to municipal health. It is not enough that Milwaukee be the economic center and cultural cornucopia that have always been the rationale for a city.

The Age of Scarcity may lie ahead, in some ways has already begun. I propose that Milwaukee become the Great Conservator of energy, of land, of neighborhoods, of existing homes and structures, and above all, of the human spirit. This is what I see as the new role for America's cities in the decades ahead.

How can Milwaukee be restored to health? Having ruled out a vast new federal Marshall Plan, there *are* some things that Milwaukee can justifiably ask of Uncle Sam.

* * * * *

A great deal of the help we ought to get from Washington is not having it start doing expensive new things for us, but simply stop doing expensive new things *for* us, but simply stop doing expensive old and wrong things *to* us.

In a sense, America has had an unconscious national urban policy that has led to our present plight.

If the federal government will stop helping to create the unemployment and the inflation which have dogged our cities; if it will forget about urban renewal programs and urban expressways which chew up neighborhoods without compensating gains; if it will revise its tax laws so as to terminate incentives for landlords to milk their properties, and for plants to move out of the central city; if it will think of job-hungry cities as the site for some of the decentralizable federal establishment; if it will stop rewarding know-nothing state governments for neglecting the waste of local land the decay of local fiscal capacity; if it will concentrate its aid programs on the needy, instead of scattering largess almost everywhere—Milwaukee and the rest of the nation could be off to a good start.

The four goals have to be jobs, restructured federal programs, neighborhoods, and a vitalized state government.

* * * * *

I. JOBS

There is one way, more than any other, whereby the federal government could help all our cities, including Milwaukee. The latest figures show unemployment rising again, most ferociously in the case of blacks and teenagers. Half of our 8 million unemployed now live near our city centers, and many are minorities and youths.

These millions are trapped in the central cities by poverty, race, or undereducation. The leading economic activities available to them are bootleg activities—drug-pushing, prostitution, gambling, robbery.

We should start tomorrow to move remorselessly against the structural unemployment which is the city's single most important problem:

1. Blue-collar jobs. For the first time in many years, vacant land is now once again available within the city, with sewer, water, streets and utilities already in place. Small, human-scale, in-city plants, preferably extensions of existing industries, are once again feasible. Employing 50 or 100 or 200 workers, these plants let you walk to work rather than take expensive and energy-wasting commutes.

Milwaukee, to its credit, is now assembling land into industrial parks, and the effort is beginning to bear fruit.

Federal tax policy could help by revising the present expensive tax-free municipal industrial revenue bonds, which encourage firms to build costly new plant and equipment in areas with no unemployment problems, rather than in central cities that may have a 30 percent jobless rate. Tax-free municipal industrial revenue bonds ought to be restricted to areas of high unemployment.

2. White-collar jobs. These, too, ought to be tied to the central city's unemployed. Many of these white-collar jobs—in education, government, finance, commerce, health, retail trade—will continue to be located downtown, within range of the high-unemployment area. Central city high schools and vocational schools ought to reorient their teaching, particularly of the three Rs, to prepare young people for these jobs.

More agencies of the federal government ought to decentralize out of the Washington area, and in so doing provide white-collar job opportunities in areas that need help. After many years of trying, we finally got a Federal Reserve Office opened in Milwaukee a couple of years ago. Today a large part of its check-clearing operations are conducted by people who live in the nearby city neighborhood. But this is a mere drop in the bucket, and there should be much, much more decentralization.

3. Mass transit. Providing jobs within walking distance of homes is surely the best way to conserve energy. But a good mass transit system is also needed. Subways, which are proving prohibitively expensive from San Francisco to Washington, are not for Milwaukee. But mass transit, whether by bus or "light rail" (you remember the old and delightful trolley?) can and must provide an adequate means of getting workers to and from their jobs in Milwaukee and its suburbs.

4. Housing. Many of the jobs have migrated to the suburbs and beyond in recent years, and they will not be coming back. It, therefore, becomes vital that suburbs not zone out housing for low-income workers, as so many under one pretext or another have done. HUD has plenty of muscle, in its community development block grants and similar programs, to make such exclusionary zoning unprofitable. Secretary Harris shows commendable signs of being willing to exercise this muscle.

5. Inter-regional moves. At present there is no national employment placement system worthy of the name. The U.S. Employment Service should develop an effective national computerized service, matching job openings with the skills and interests of available and interested workers. Beyond this, the federal government should provide personalized retraining and relocation programs, similar to those which many European countries are using with great success. When you look at the relocation efforts we have expended in recent years on refugees from Cuba and Vietnam, it would surely seem that we could do as much for our own citizens.

6. National service jobs. Until the disadvantaged have acquired skills and self-confidence sufficient to find private jobs, the federal government will have to provide national service jobs which combine a living wage, training, and imparting to young people a sense of cooperative purpose. These national service jobs could be out in the country, like FDR's Civilian Conservation Corps, or in the city itself—improving railroad roadbeds, rehabilitating and insulating homes, recycling waste, renewing neighborhoods, staffing day care centers and food programs. You'll note that many of these jobs require capital—tools and equipment—as well as labor; so let capital be provided. Milwaukee city and county are both ready to respond to such a federal initiative.

* * * * *

An exciting approach to jobs and redevelopment in Milwaukee is now beginning to emerge from City Hall, with the help of some private movers and shakers. Three related projects can materially ease our Milwaukee central city unemployment:

Downtown revitalization

A new federal office building, and a new hotel, can give the necessary spark to a turn-around in the presently deteriorating downtown area west of the Milwaukee River. These downtown white-collar jobs can be very helpful for close-in residential areas.

Park Freeway West

Turned down by two successive Secretaries of Transportation, Park Freeway West is now 3.2 miles and 150 acres of discouraging rubble. The Park West Task Force is proposing to use this wasteland for multi-income housing, for parks and open space, for revitalization of the North Avenue-Fond du Lac Avenue commercial strip, for an industrial park.

The City's Menomonee Valley restoration is now moving ahead. Already in place are new streets and access roads, and the sparkling new American Can Company trash and garbage disposal center.

With innovative new manpower training programs engrafted on these close-to-downtown programs, there can be a renewed demonstration that development, jobs, and energy-saving go together.

* * * * *

II. RESTRUCTURING FEDERAL PROGRAMS

Beyond jobs, the federal government could help localities like Milwaukee by restructuring its programs. Specifically,

1. Reform the welfare system, and thus reduce disparities in cash income between various parts of the country;

2. Adopt national health insurance, with special emphasis on prevention of illness, thus reducing the locality's health costs;

3. Equalize the real value of federal cash transfer payments, such as social security and veterans' benefits, so that recipients in the higher-cost older cities are not discriminated against;

4. Reexamine federal grant formulas, such as that for community development block grants, which will shortly reflect more attention to the needs of older and problem-prone cities;

5. Rethink city-oriented federal tax subsidies, so as to discourage unnecessary suburban sprawl and waste of land.

* * * * *

III. REJUVENATING NEIGHBORHOODS

A human-scale neighborhood is surely a basic unit in the revitalization of the American city. Fortunately, Milwaukee is out in front in its neighborhoods. To mention a few:

Sherman Park, where admirable experiments in cooperative rehabbing of homes, and easing the bumps of school integration, are going on;

Brady Street, where the first neighborhood credit union in the state is meeting the need of neighborhood consumers and businesses for a neighborhood-controlled financial institution;

Park Freeway West, where a task force has worked with a half dozen neighborhood groups to plan a new-town-in-town for that rubble-strewn area;

Upper East Side, where neighborhood organizations focus on everything from stopping highrise apartments to university parking problems to food cooperatives;

Upper Third Street, where despite tremendous problems the business and neighborhood community are determined to revitalize this strip area;

Milwaukee's Mayor Henry Maier, in grouping Park West and the Menomonee Valley with the downtown shopping area revitalization project, wisely avoids a mistake which I believe Detroit and Atlanta have recently made. There the city fathers have put huge amounts of capital into monumental building projects in their downtown, with the hope that a rebuilt downtown will automatically put the rest of the city back on its feet.

There are already indications that this approach won't work. Surrounding the Renaissance Center in Detroit and the Omni Center in Atlanta are blocks of rubble, commercial buildings with rentals too high for anything but "adult" book stores, and deteriorating residental neighborhoods.

Milwaukee's City Hall is rightly recognizing that if all the money and effort went into the downtown rehabilitation there would be none left over for nearby neighborhoods, where the people live. The resulting frustration and bitterness could isolate the new downtown.

This dual approach—downtown *plus* neighborhoods—is mutually reinforcing. Downtown revival can best occur if the surrounding neighborhoods are simultaneously upgraded: otherwise, the cancer of slums can stifle the renascent downtown. And the neighborhoods have much to gain from a revived downtown: jobs, culture, shopping, a contribution to the tax base.

* * * * *

Reshuffling affluent people, usually singles or older people, back from the suburbs to the central city, is becoming the "in" thing in Milwaukee as it is in Boston, Brooklyn, Philadelphia, Washington and many other cities. Run-down townhouses are modernized, streets become safer and quieter, living near the job saves energy and exasperation.

The trend is a worthy one, but the sharp edges of the new middle-class incursion into inner city neighborhoods must somehow be gentled. For one thing, the city must insure that decent alternative homes at affordable costs are made available to the displaced. Ideally, the metropolitan area or the state should assume this responsibility, since many of the displaced will want to live in the older and closer-in suburbs. Above all, these transitional neighborhoods, aided by state and local governments, must do some planning, so as to insure that the neighborhood stays multi-income, and that the transition is not so speedy as to overwhelm the neighborhood.

* * * * *

IV. ANIMATING STATE GOVERNMENT

In the end, whether Milwaukee can make it depends very much on the attitude displayed by its sovereign, the State of Wisconsin. There is so much the state could do, if it would.

Like Hawaii, Wisconsin could assume state responsibility for paying the cost of locally administered schools, and thus lift the burden off the back of the home owner.

Like Minnesota, Wisconsin could help solve the problem of metropolitan financial burden-sharing by providing that increases in local taxable values in the entire metropolitan region should be fairly shared, rather than siphoned off to the more prosperous communities.

Like Indiana, Florida and Tennessee, Wisconsin could encourage true metropolitan area governments, or city-county consolidations which have much the same effect.

Like Texas, Wisconsin could have helped Milwaukee to escape confinement behind the iron ring of suburbs by giving it in the beginning truly broad annexation powers.

Despite some progress in recent years, the State of Wisconsin has still confined metropolitan Milwaukee to fragmented, ineffective and not very democratic local government—too many jurisdictions and officials, hopeless disparities in revenues between richer and poorer areas, hybrid sewerage commissions and X-way commissions and planning commissions where responsibility is difficult to fix and the buck is easy to pass.

One of these days, in my judgment, the federal government may decide that the $2-plus billion every year which it pays the states through general revenue-sharing is not very cost-effective for the federal government. In fact, in the 1976 presidential campaign, candidate Jimmy Carter declared himself opposed to revenue-sharing with the states. It may well be, therefore, that future revenue-sharing with the states will be conditioned on their at last coming to grips with the problems of local finance, local governmental reorganization, local land use planning.

By turning its attention to these problems now, the State of Wisconsin could have itself from being caught asleep at the switch if this happens down the road a year or two.

* * * * *

So runs the scenario for Milwaukee's—and the American city's—role as the Great Conservator. Let energy be conserved by cogeneration, by advanced waste disposal and recovery, by neighborhood use of wind and sun for energy. Let land be conserved by joining living habitat with work, worship, and recreation places; by land-conserving forms for homes and work-places; by mass transit rather than endless expressways. Let neighborhoods be conserved by devolving some of the powers of government down to Thomas Jefferson's "ward republics". Let existing capital—homes and buildings—be conserved by substituting rehabilitation and renewal for the bulldozer of destruction. Let the human spirit be conserved by enabling all to be creative by working at a meaningful job.

Milwaukee's problem, and its opportunity, is conservation.

SPECIALTY STEEL

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Friday, September 23, 1977

Mr. EAGLETON. Mr. President, I would like to take this opportunity to draw the attention of my colleagues to the specialty steel industry.

As you know, in June 1976, President Ford imposed import quotas on five types of specialty steel as a result of an escape clause petition filed with the International Trade Commission. These controls do not expire until June 1979. In May of this year, President Carter asked the International Trade Commission to conduct an investigation of the effect on the domestic specialty steel industry of reducing or terminating import relief.

The fact that the President has asked for an inquiry does not mean that he will take any action at all; he may decide to allow the import controls to continue unchanged until they expire in 1979. However, I do feel strongly that under the Trade Act of 1974 the Senate has the responsibility of following these trade issues closely. Lloyd McBride, the new president of the United Steelworkers of America, is a native of St. Louis, and in the few months he has headed the Steelworkers National Union he has displayed the leadership qualities with which his fellow Missourians have been familiar for many years.

I ask that the following summary of Lloyd McBride's testimony at the U.S. International Trade Commission hearing on the review of the specialty steel quotas be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

STEELWORKERS' MCBRIDE URGES PRESIDENT TO KEEP SPECIALTY STEEL IMPORT QUOTAS

WASHINGTON, D.C., September 7.—Workers in the American Specialty Steel Industry "have been seriously injured by imports and continue to be seriously injured," President Lloyd McBride of the United Steelworkers of America (USWA) said today in urging the Carter Administration to keep restraints on specialty steel imports.

Mr. McBride made his plea for continued quotas on such imports in testimony before the U.S. International Trade Commission (ITC). The ITC, at President Carter's request, is reviewing the restraints imposed on June 14, 1976, for a three-year period by President Ford.

The USWA President urged the ITC to allow the import restraint program "to work, and thereby keep our members at work." There are some 65,000 workers employed in the Specialty Steel Industry.

"If the quotas are relaxed now, imports will once again flood the American market as foreign producers export their unemployment along with specialty steel," Mr. McBride stated. "Thousands of American jobs will be lost."

Through an intricate set of quotas and an orderly marketing agreement with Japan, the U.S. controls the rate of shipments of stainless and tool steel products from Japan, western Europe, Sweden and a number of other nations. The controls were imposed after the industry and the USWA had shown that they were being adversely affected by such imports. The Trade Act of 1974 provides for such safeguards to protect a domestic industry and its workers against injurious imports.

Mr. McBride recalled that unemployment in the Specialty Steel Industry in the Pittsburgh area ranged from 10 to 35 per cent during the first part of 1975 and that today, even with the restraints in effect, "this industry has not yet fully recuperated from the unremitting assault of imports."

He pointed out that "even if adjustments for productivity gains are taken into account, the employment statistics of this industry still reflect the serious erosion incurred as a result of imports."

He said proof that workers in the Specialty Steel Industry continue to be injured by imports is shown by the record of trade adjustment assistance since the ITC recommended the import restraints. He cited the fact that from January, 1976 through June, 1977, the Labor Department acted on petitions affecting 9,594 workers and that 76 per cent of them were certified as eligible for assistance because imports had contributed importantly to the loss of their jobs.

"The report you issue will determine whether there will be work performed and paychecks received," he noted. "Moreover, it will affect not only the men and women who work in specialty steel plants but perhaps equally significant the communities where they live. For without employment, there will be no one to spend money in the grocery and clothing stores which are dependent on their customers for their livelihood."

The USWA and the industry petitioned the ITC on July 16, 1975, for import relief as provided in the Trade Act of 1974. Subsequently, the ITC found that the industry was seriously injured because of increased imports and recommended restraints for a five-year period. The U.S. Government negotiated an orderly marketing agreement with Japan and President Ford imposed restrictions on the other foreign producers for a three-year period.

THE JOHNSTOWN FLOOD OF 1977—PART IV

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. MURTHA. Mr. Speaker, the rebuilding of Johnstown following the devastating floods of July has been a major job. At the center of that effort has been the spirit of Johnstown and the surrounding communities. That spirit is explored in part IV of this series on the Johnstown flood as outlined by Pittsburgh Post-Gazette reporters Dave Leherr and Stuart Brown:

THE JOHNSTOWN FLOOD

"We'll come back. We came back after 1889. We came back after 1936. And we'll come back again."

Virtually everyone you talk to in Johnstown today says the same thing. But to the outsider, listening and looking at the havoc that has been wrought, the words lean more towards hope than confidence.

Damage in Johnstown alone is reaching the $130 million estimate—well over $200 million in the entire seven-county area. Road and bridge damage is estimated at $35 million.

Some 50,000 people have had their homes affected, at least 7,000 have seen their homes completely wiped out.

"Thousands of public buildings—apartments, offices, schools and the like—will have to be inspected to determine whether they are safe," says Paul J. Smith, state labor and industry secretary.

Road and bridge damage has been estimated at $35 million. The Pennsylvania Department of Transportation has listed 131 bridges as being affected, including 23 that are still unuseable and 971 miles of road in various stages of damage.

Only now is telephone service being restored.

But for the young people of Johnstown, the key to whether they stay or go apparently lies with the future of the sprawling Bethlehem Steel Company plant—a plant that until Tuesday, July 19, employed close to 12,000 area residents.

Even as Johnstown digs out of the mud and debris, the rumors are that Bethlehem will not reopen at all, or will only reopen part of its mill and shut down other shops.

The rumor is unconfirmed. The firm says only that the reopening of some facilities will be held up pending determination of the full extent of the loss.

But the town fathers and town officials are nervous and concerned. Efforts are already under way in Washington by Congressman Murtha to release emergency aid funds and develop programs to keep Bethlehem Steel alive in Johnstown.

"I don't know whether I'll leave or not, I keep see-sawing back and forth, but it seems like a dead-end street here for me," says steelworker Ronald P. Weaver, 26, as he rides the Johnstown Incline up to Westmont to apply for unemployment compensation at one of the federal disaster centers.

"Maybe it all depends on whether the plant reopens, I don't know. Morale has been high over the last couple of days. We even find ourselves laughing and joking. But it's only beginning to hit us now. The people are going to be living in this mud for years."

Sandy Goldman, manager of Olbum's Furniture Store on Main Street, says the company will try to rebuild "but there's a lot of ifs."

John Mavrodis, a Greek imigrant who owns Johnnie's Restaurant and the Mission Inn next door, shrugs. He hopes to reopen Johnnie's. He says he will abandon the Mission Inn. Last Monday, Mavrodis received the first loss payment issued as a result of the flood. It is a $10,000 check from the National Flood Insurance Program in partial payment for damages sustained by the resturant. He says he needs $200,000 at least to get back on his feet.

Before the flood, the Johnstown economy was on the upswing. Unemployment was at a low 4.7 percent in June, well below the national average. The day before the flood, the state Bureau of Employment Security was reporting just 3,500 existing claims for unemployment compensation.

As of this week, that figure had more than tripled.

Seven area coal mines were also flooded and could remain closed for four to six months. The timing was lousy.

The disaster came as the federal government talked about a revival of the coal industry as one of the answers to the energy crisis.

TRIBUTE TO CONGRESSMAN BILL HULL

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ROYBAL. Mr. Speaker, as the House pauses today to honor the memory of a most distinguished former member, I would like to express the deep loss shared by all those who had the privilege to know William R. Hull, Jr. He was a dedicated and effective legislator who served the people of Missouri's Sixth Congressional District faithfully for 18 years preceding his retirement in 1972.

His capable representation earned him the great respect of his colleagues and the people of Missouri. Further, his service as a member of the Appropriations Committee has been of significant importance to the Congress and the Nation. I consider it my good fortune to have served with Bill both on the Appropriations Committee and in the House of Representatives.

It is, indeed, with great sadness that we now mark the passing of this fine legislator, colleague, and friend, who worked so hard to create a better life for all Americans. My sincerest sympathy is extended to his family.

NO CASE FOR THE NEUTRON BOMB

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. DRINAN. Mr. Speaker, a vote on the authorization of funds for the neutron bomb is imminent. When the ERDA authorizations for national security programs (H.R. 6566) comes before the House, I will join with nine of my colleagues in introducing an amendment to delete all funding for the neutron bomb.

The fact is that, to date, no persuasive case has been made in favor of the need to introduce at this time a nuclear warhead which could have serious negative effects. Among these are an increased likelihood that conventional war could cross over the nuclear threshold and a strong probability that the introduction of this weapon by the United States would be matched, at some point in the near future, by the Soviet Union.

Many of our allies in West Germany, whom the neutron bomb is designed to "protect," have voiced sharp opposition to the deployment of these weapons on their soil. They are justifiably skeptical about the argument that this weapon will increase the deterrent effect of our arsenal. Once the Soviets aquire this weapon, how significant will it be? Given our ability to totally destroy Soviet society, how necessary is this weapon? Given the official Soviet policy that any use of nuclear weapons, whether labeled "tactical" or "strategic," would inevitably bring about strategic nuclear war, will the neutron bomb add to our security or detract from it?

To date, these questions have not been answered. The neutron bomb technology has been around for many years. There is simply no persuasive reason to use this technology now.

Mr. Pat Holt, former chief of staff of the Senate Foreign Relations Committee, has addressed the basic issues underlying the debate on the neutron bomb in the Christian Science Monitor on September 21, 1977. Mr. Holt cogently summarizes the absence of any real need for the introduction of this type of weapon. I commend his essay, entitled "No Case for the Neutron Bomb," to my colleagues:

NO CASE FOR THE NEUTRON BOMB

(By Pat Holt)

More than most weapons, the neutron bomb has a curious Dr. Strangelove quality to it: it kills people without destroying property.

This would present an attractive temptation to a government with a Dr. Strangelove mentality. It could wipe out a defending army along with so much of the resident population as seemed necessary and then move in to take over the enemy's farms and factories intact.

One of the arguments made for the bomb, though not carried to this extreme, is precisely that because the bomb is more discriminatory, the inhibitions against using it in the heat of combat would be less, and therefore the credibility of the bomb would be greater. This argument is made with particular reference to Central Europe, but it would apply also in Korea, Taiwan, and the Middle East.

The argument is based on the premise that NATO is outmanned and outgunned in conventional weapons by the European forces of the Warsaw Pact. Therefore, the argument goes, the Soviet Union, if it were of a mind to do so, could overrun Western Europe unless NATO resorted to tactical weapons, of which there are about 7,000 in the area. But these are so destructive that the President of the United States (the only person who can legally give the order to fire them) would be reluctant to use them; or at least the Soviets are sufficiently dubious of his determination to use them that they lose their deterrent effect.

The people who make this argument go on to conclude that what is needed is a smaller, neater, less destructive weapon the potential use of which the Soviets would find credible—in a word, the neutron bomb.

This is the same argument that was made a number of years ago in favor of developing tactical nuclear weapons in the first place. It was said then that the big strategic bombs on intercontinental ballistic missiles were so destructive that they would be useless in a ground war in Central Europe. And so they would unless it were decided to use them to blow up the Soviet Union—an option which ought not to be ruled out and which must certainly give the Soviets pause.

Anyway, a great deal of effort went into developing smaller nuclear weapons, but even these are now found by proponents of the neutron bomb to be too destructive. One might take some perverse comfort in this apparent turning around of the arms race—instead of seeking bigger weapons we are seeking smaller ones (could we possibly be on the road back to bows and arrows?)—if it were not aimed at making small nuclear wars not only conceivable but credible. This is a highly dubious policy. Further, it overlooks two crucial facts:

1. Sooner or later, and usually sooner rather than later, the Soviets can build any weapon the U.S. can build. So what happens to the extra deterrent the neutron bomb is supposed to give NATO when the Warsaw Pact has it, too?

2. NATO does not now have, and never has had, a military doctrine for the use of nuclear weapons. The closest thing to such a doctrine is the unspoken assumption that NATO will fight with conventional weapons until it is losing and then it will fight with tactical nuclear weapons until it is losing and then it will blow up the world. One may be pardoned some skepticism—indeed, one should not be pardoned the naivete—that the introduction of a new kind of nuclear weapon would advance the thinking of NATO's military planners in this regard.

But, it is argued, the Soviets may develop the neutron bomb even if the U.S. doesn't, and then where will it be? Well, it will be right where it is now—with enough power to blow the Soviets (and everybody else) off the face of the earth. That ought to be enough.

None of this is to argue that the U.S. ought to close its mind to the neutron bomb for ever and ever. It is only to argue that a persuasive case for it has not yet been made. After all, the idea for such a bomb has been kicking around in some of the more esoteric scientific circles for a good 20 years. The need for it seems no more urgent now than it was then.

Although the new bomb is sometimes presented as a mere refinement of weapons already in the American inventory, it would in fact be a fairly radical departure. Before the U.S. absentmindedly backs into such a departure, its implications, particularly for U.S. nonproliferation policy, ought to be considered more fully than they have been thus far.

COMMENTS ON THE NEUTRON BOMB

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. WIRTH. Mr. Speaker, I have recently received a letter from one of my constituents, David Lamb, inclosing the following persuasive comments on the neutron bomb. I would hope that my colleagues would take the trouble to read them, and for that reason, I include them in the RECORD:

COMMENTS ON THE NEUTRON BOMB

(By Sir Rudolf Peierls, Emeritus Professor, University of Oxford, presently Professor of Physics, University of Washington)

1. The "neutron bomb" is claimed to be suitable for warfare on friendly territory, such as a war in Europe in which there might be fighting in NATO countries. In such a situation some destruction of property and some civilian casualties are unavoidable, the idea is to minimize them. The neutron bomb might cause less blast and fire damage than other tactical nuclear weapons of comparable military value (though the range of destruction is still considerable) but, speaking as a European, I would be more concerned with the people killed or injured than with property destroyed. The neutron bomb could minimize the number of civilian casualties and hurt mainly enemy soldiers—if enemy troops are concentrated and not widely dispersed amongst civilians, and if their location is accurately known, and if in the hectic conditions of local fighting, one could rely on precision in the targeting decisions and in the evaluation of the presence of civilians and friendly troops within the very large area of lethal or harmful neutron radiation. Those of us who remember the "precision bombing" in World War II, which, with highly sophisticated bomb sights, on occasions hit the wrong city, or friendly troops, will have doubts particularly about the last condition.

2. For any tactical nuclear weapon, including the neutron bomb, the possible use, or threat of use, depends on seeing a dividing line between tactical and strategic nuclear weapons, giving confidence that the use of one would not bring retaliation by the other. The Soviet Union has never accepted a fundamental distinction between the two, and this makes it very questionable whether tactical weapons would ever be used, and whether they could be a credible deterrent against non-nuclear adventures. At the very least they would invite retaliation by the enemy's tactical nuclear weapons, and if these are not neutron bombs, one would still end up with large areas of destruction.

3. Recent descriptions of the effects of neutrons have made such a weapon appear much more horrible than other weapons of war. One can understand this fear of its "insidious" invisible radiation, but in itself radiation is not more cruel or inhumane than other methods of killing people. If I was given a choice whether to be killed by blast, shell fragments, napalm, or other "conventional" killers, or by radiation, I would not care much either way. However, the descriptions suggest that, outside the central zone, in which neutrons would kill almost immediately, there is a large area in which the radiation dose will cause a very slow and lingering death, or lasting injury. If it is true that the neutron bomb causes substantially more protracted suffering than other weapons of war, it is indeed a cruel weapon. It is another question whether its use would violate

the 1925 Geneva Protocol which prohibits the use in war of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices". This is for the lawyers to argue about.

4. The decision to develop the neutron bomb will no doubt lead to further tests of this weapon, and this will have a very bad effect on the negotiations for a comprehensive test ban. Underground tests of a weapon with a yield as low as 1 kilaton (the stated yield of a neutron bomb) cannot be identified by the earth shocks they cause at large distance, and thus violations of a test ban treaty on this scale could not be detected. The hope of reaching agreement rested on the belief that tests of such low-yield weapons were of no great military significance. Once such a weapon acquires an important place in the United States arsenal, it is hard to see how one can reach agreement on a treaty.

To sum up, I regard all tactical nuclear weapons as overrated in importance (section 2 above). Amongst them the neutron bomb may be particularly inhumane, not because it relies on radiation, but because it may cause a much greater number of cases of protracted suffering (section 3). Its reputed advantages are very questionable (section 1). One specific disadvantage is its adverse effect on the chances of reaching agreement on a complete test ban, which would help to slow down the arms race.

THE "NEUTRON BOMB"

(By R. L. Prosterman, Professor of Law, University of Washington)

Every so often, a weapon comes along that is so horrifying to consider that it makes us wake up to the real implications, and the mutually-reinforced insanity, of the arms-race. The "neutron bomb" is such a weapon.

The neutron bomb is, of course, another in a long series of weapons-building initiatives taken by either the U.S. or the Soviets over the past twenty years, each inviting its response from the other, each, paradoxically, tending to strengthen the hand of the most distrustful "super-hawks" on the other side. It is, however, particularly dramatic in its avowed relegation of human life to "second place" and its bizarre rationalization that it will save buildings while "merely" killing people; it is horrifying, too, in the hours or days of agony that it would acceptingly inflict on the majority of those within its range, before their death; and it is extremely disquieting in its tendency to dismantle the psychological and political "firebreak" that has existed in the policy-makers' minds between nuclear and non-nuclear warfare. But there are other very negative aspects, as well, of the deployment of this weapon that have not been sufficiently aired in the current public debate, and that needs to be, before a fully-informed decision can be made.

First, its use may very well be contrary to existing international treaties to which the United States is a party—and the development of such an "illegal weapon" can then only serve to detract from the force of law in international relations and from the moral imperative that underlies the entire series of arms-control treaties which we have striven to negotiate. In particular, the 1925 Geneva Protocol prohibits both biological warfare and the use in war of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices". Unlike conventional nuclear weapons, the neutron bomb would not take its toll initially or principally as an explosive device, but chiefly as a kind of "death ray" uncomfortably analogous, indeed, to the horrifying poison gases used in World War I and successfully banned by the 1925 treaty (and, unlike our "nerve gas", which we have solemnly undertaken never to use first, the entire tactical idea underlying the "neutron bomb" is that we would avow our willingness to use it first, before the other side had used any similar device).

If the 1925 treaty did not raise enough problems, the 1907 Hague Convention on the rules of land warfare prohibits (in Article 23 of the Annex) the employment in war of "materials calculated to cause unnecessary suffering" and also of "poison or poisoned weapons."

The deployment of the neutron bomb, in a so-called "deterrent" role which depends on our avowed readiness to use it first, sails very close to the wind under both of these treaties. Many would, I believe, be likely to conclude on the basis of these long-accepted treaties, that the first use of such a weapon would be a war crime, and that no commander in the field could issue a lawful order to engage in such use.

Secondly, and closely related, is the fact that this weapon tends to undercut our position with the 145-odd other nations of the world that they should not develop biological weapons precisely because such weapons are repugnant, are inhumane, and are likely to cause great suffering. No doubt there are many Pentagon lawyers ready and willing to make the argument that a slow and horrible death from neutrons is different than a slow and horrible death from rabies, plague, or cholera: I suspect that many in other nations will regard such arguments as wholly unpersuasive and self-serving and that our willingness to deploy such an obnoxious device may trigger their willingness in several cases, to reconsider the biological weapons "option."

If our decision on the neutron bomb led only two or three small countries to develop a basic biological weapon capability, we would have lost a hundred times as much "security" on this planet as the neutron bomb could ever remotely have hoped to gain. What we must learn is that our weapons decisions do not occur in a vacuum—that they have consequences, including consequences for the deadly problem of weapons-proliferation, and that those consequences can often be far worse than anything "gained" by our initial decision to deploy.

Thirdly, is simply the fact that the neutron bomb comes as another escalatory initiative (immediately on the heels of our go-ahead with the cruise missile) at a moment when there is a desperate need for the new Administration to find the means to begin a de-escalation of the arms-race into which, despite SALT I, we are still mutually locked with the Soviet Union. What is needed, as an alternative means to increase our "security," is the articulation of a strategy of gradual, de-escalatory initiatives—each to be reciprocated by the Soviet Union before another was announced; for example, instead of the neutron bomb, a total nuclear test ban announced by us as a policy we would adhere to so long as the Soviets reciprocated with similar forebearance (a ban, incidentally, which would foreclose any additional testing of the neutron bomb); instead of the cruise missile, a sharp limit to the number of annual rocket tests announced by us as a policy we would adhere to until and unless the Soviets exceeded that number, putting a halt to the accuracy-upgrading which each side perceives as a threat to its land-based ICBM's.

What is needed is a little constructive imagination, not more horrors out of the testtube.

EXPLANATION OF MISSED VOTES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. CONYERS. Mr. Speaker, today I have been chairing the meeting of the congressional Black Caucus legislative workshop of criminal justice. People from all over the Nation interested in criminal justice matters have come to Washington to hear various experts including Justice Department officials discuss related legislation and issues, and as chairman of the workshop, I was forced to be absent from the floor.

Had I been present, I would have voted "yea" on the final passage votes on H.R. 6796, the ERDA civilian R. & D. authorization; H.R. 3, legislation to curb abuses of the medicaid and medicare programs; and H.R. 5383, Age Discrimination in Employment Act amendments. I would like the record to reflect my support of these important bills.

LATIN LEADERS REFUSE TO ENDORSE NEW PANAMA CANAL TREATIES

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SNYDER. Mr. Speaker, Virginia Prewett is one of our country's most astute and experienced reporters on Latin American affairs. She has top-level contacts throughout the Americas, and publishes Hemisphere Hotline Report.

Her report for the week of September 16, below, demolishes President Carter's claim that Latin America is gung-ho for the new Panama Canal Treaties:

[From the Hemisphere Hotline Report, Sept. 16, 1977]

LATIN LEADERS REFUSE TO ENDORSE TREATIES

WASHINGTON, D.C.—Amid the hoopla of the U.S. capital's "Week of Panama", the chief point Carter sought to make by inviting the hemisphere's heads of state to his Panama Canal treaty-signing was thoroughly killed by the visiting heads themselves.

The visitors flatly refused to sign his accompanying, "Declaration of Washington" until the text was watered down to uselessness for Carter's principal purpose—that of using the declaration to convince the Senate that it should ratify the new Canal pacts.

While much of the U.S. press was ooh-ing and aah-ing, as intended, over how many Presidents and dictators were coming, a tense diplomatic struggle behind the scenes was lost by Carter.

As first drafted, the Declaration of Washington implied the blessing of U.S. hemispere neighbors on points in the U.S.-Panama treaties themselves, including provisions that say the U.S. can intervene militarily at need to defend the Canal after Panama fully takes over. Carter needed, and thought he could get, a collateral signed statement to this effect from the chiefs of state and other representatives invited to the main treaty signing. For this purpose, the U.S. President invited some of these at great political cost to himself.

Getting such a written commitment from other governments was essential to Carter because many moderates in the Senate well may decide for or against the Canal treaties depending on whether Latin America mostly accedes to—or opposes—treaty provisions supposed to protect U.S. economic and military interests.

Because he saw this need as so great, Carter overrode his own New Left-McGovernite appointees when he invited to Washington seven hemisphere government heads that he

and the New Left have placed on the U.S. human-rights blacklist.

Early on, the White House dropped mention of the proposed Declaration of Washington, and the invitees were not told they would be asked to sign a paper—one that would have plucked Carter's treaty chestnuts out of the fire with at least some thoughtful Senators. Heads of state were asked, by the Organization of American States in the name of the U.S. and Panama, only "to be present" at the Sept. 7 treaty-signing.

The Declaration of Washington, a short statement, said in the first version that the signatories "endorsed" the treaties. While some visitors were actually enroute, like process-servers, White House messengers handed Latin American embassies in Washington the declaration text. "The action is without precedent in the history of diplomacy," said one irate hemisphere diplomat. The countries concerned were given the main treaty texts at about the same time.

Then Jimmy Carter began to learn something about Latin America. What ensued should have taught him something also about the unwisdom of the people who advised him to call the hemisphere summit—advisors whose knowledge of Latin Americans is apparently skin-deep. For the treaties Carter expected to get "endorsed" involve one of the touchiest issues, and one of the oldest, in Latin American relations versus the U.S. That issue is intervention.

Not surprisingly, the political kingpin of the four Latin American countries actively backing Panama's demand for the new treaties, Mexico, announced in advance that it would never sign such an endorsement. Even Canada balked.

OPERATION ARMTWIST

Carter aides began hasty re-writes of the Declaration of Washington, and at least three revised versions were debated behind the scenes right up through the day of the Canal treaty signing ceremony. Several Latin American Presidents told Virginia Prewett they hadn't had time to study either the treaties or the Declaration of Washington. Another said the English term "endorse" has no adequate Spanish equivalent. (This was a polite stall.)

What had to be done to get the chiefs of state to sign was a complete gutting of the Declaration of Washington. As finally watered down (and signed by all but little Barbados), the document merely required the visiting government heads to "record our profound satisfaction at the signature by the President of the U.S. and the Chief of Government of Panama" of the treaties, with no commitment whatsoever on the nature or content of the pacts.

In keeping with the scale of this defeat for Carter, it was arranged that the visitors quietly sign the gutted Declaration in an OAS anteroom as they arrived. And not one word was said about this in the televised festivities as Carter and Torrijos signed the Panama Canal agreements.

How much arm-twisting the U.S. had to do to get even with this watered-down declaration, which all the Latin Americans agreed among themselves means absolutely nothing, no doubt will leak out gradually. Indications are that the U.S. arm-twisting was harsh, especially with Mexico. If so, the U.S. will pay for it in future, and probably pay high.

The Canal treaty spectacular raises questions about Carter that only time can answer. Did he go all-out for the Panama treaties, far from a crisis issue in U.S. foreign policy, out of sheer ignorance of what he was getting into? Or out of sheer bullheadedness?

For Carter has stirred some hornet's nests that were quiescent. The Panama treaty issue had been lying around for at least 14 years. Carter could easily have said the U.S. refused to negotiate under threat, thus setting a healthy precedent for our times. He could as easily have refused to negotiate with Panama's Torrijos due to his human-rights abuses.

Instead, Carter has entirely vitiated his human-rights credibility. We have seen a U.S. President accuse, condemn, chide and penalize seven Latin American governments on "human rights" and then, when in political need of their supoprt, embrace them at the White House. No matter how Carterites may claim that the seven (all anti-Marxists) have "improved" on human rights in six months, this is bald expediency for all the world to see.

The world, if not the U.S. public, also knows that Panama's Torrijos, made a Third World hero by Carter's actions, grossly violates his people's human rights, that he tortures and murders political prisoners, has "family" ties with organized narcotics, and rules Panama with his jackbooted National Guard, a body with Castroite officers in top positions.

WHAT CARTER HATH WROUGHT

Virginia Prewett asked a left-to-right spectrum of Latin American Presidents whether (as the pro-treaty U.S. press insists) Latin Americans hemisphere-wide will attack U.S. property and U.S. nationals if the Canal treaties are not ratified. Responding with a resounding "No": Argentina's Videla, Bolivia's Banzer, Chile's Pinochet, Honduras's Melgar Castro, Guatemala's Laugerud, Colombia's López Michelsen, and Costa Rica's Oduber. An editor of Bolivia's El Diario added, "Not unless some pinkos and Communists rig the attacks."

BERT COLTER—ARIZONA PIONEER

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RUDD. Mr. Speaker, the major community newspaper in Apache County, Ariz., the White Mountain Independent, recently featured Bert Colter of Springerville as a unique personality.

I want to join in paying tribute to Bert Colter. This great 91-year-old Arizona pioneer still leads an active life in northeastern Arizona, where he has been a cowboy, rancher, land investment manager, deputy sheriff, county supervisor, State senator, and devoted family man.

Since his retirement from the Arizona State Senate in 1951, where he served five terms, Mr. Colter has mapped Apache and Navajo Counties for the State legislature, and has been involved in ranching and numerous private land transactions.

Bert Colter and his family have made a tremendous impact on Arizona's growth and development. Mr. Colter managed his brother Fred's large cattle operation at the Cross-Bar Ranch during the time that Fred Colter, also a State senator, was involved in the development of the State's vital reclamation efforts that brought water to Arizona. The Colters were instrumental in the construction of the five major dams on the Colorado River.

Bert Colter has seen Arizona grow from a wild territory of less than 35,000 people without a foot of railroad, to one of the fastest growing, most desirable States of the Union in which to live.

He is undoubtedly one of the most knowledgeable men in cattle, ranching, and land matters in the entire State of Arizona. And today, thanks in large part to the encouragement and companionship of his wife Phyllis, who teaches third grade at Springerville Elementary School, Bert Colter continues to be an active businessman and civic leader in Arizona's White Mountain country.

Mr. Speaker, it is a privilege and an honor to know great Americans like Bert Colter, and to represent them in the U.S. Congress.

NO-FAULT MESS JUST KEEPS ON GETTING DEEPER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RINALDO. Mr. Speaker, as a member of the Consumer Protection and Finance Subcommittee in the House, I have been working actively on the no-fault issue. The subcommittee has held numerous hearings on the subject, both in Washington and in no-fault States, and one State which has drawn particular attention is my own State of New Jersey.

This attention has largely come through a series of articles published in the Newark Star-Ledger by Mr. Herb Jaffe, one of the finest reporters in the State. If there is to be reform by the New Jersey State Legislature, much of the credit must go to the Star-Ledger and Mr. Jaffe.

Moreover, their work has continued and recently resulted in the recision of $82,000 in nonbid contracts that were to be issued by the State Insurance Commission.

I would like to insert one of the most recent articles into the RECORD so that my colleagues will be able to see first-hand the outstanding caliber of work of Mr. Jaffe and the Star-Ledger.

The article follows:

[From the Newark (N.J.) Star-Ledger, Aug. 2, 1977]

NO-FAULT MESS JUST KEEPS ON GETTING DEEPER

(By Herb Jaffe)

The insurance mess in New Jersey is a far cry from just being "the worst no-fault law in the nation," as it has been characterized by many in and out of the state. Nor is it confined to constantly rising rates, or the constricted availability market, or the outrageous cost of unregulated auto repairs.

Certainly there is a "mess" of sorts when the state insurance commissioner, James Sheeran, recommends that Blue Cross and Blue Shield—both of whom operate in the red—become the exclusive providers of no-fault auto insurance in New Jersey in an effort to bring down the cost of the coverage to the public.

And this proposal comes after the same commissioners, only a short time ago, utilized the most negative language publicly possible to characterize the capability and status of the two nonprofit organizations.

Certainly there is a "mess" when insurance rates are frozen by Sheeran, "in the public interest," and as a result companies refuse to make insurance available.

This has resulted in more drivers than ever being thrown into the assigned risk status at potentially higher rates—including a good percentage who never had an accident or driving summons.

And the "mess" is accelerated when the State Insurance Department, a high-caliber revenue producer for the state, does not have any semblance of a staff capable of examining insurance companies properly to determine objectively whether the rates they seek are adequate or prohibitive.

The "mess" is compounded when the Assembly Insurance Committee capitulates to a trial lawyer lobby, as it did last May, and removes no-fault reform bills from a possible floor vote.

But the "mess" continues. Gov. Brendan Byrne last summer appointed his own "personal insurance consultant," former Assemblyman Herbert Klein, to conduct an insurance investigation and report his findings directly to the Governor.

Eight months after Klein said the report was presented, everyone connected to its contents, including Byrne, says only "we're evaluating the report."

This is by no means the end of the "mess." The Legislature finally approved a resolution that was almost 1½ years old to establish a no-fault study commission. The commission has a legislative mandate "to go beyond just no-fault" and look into the controversial state rate regulatory system.

But the commission of eight members includes five lawyers, and without demeaning the integrity of the commission, lawyers—whether they be trial lawyers or not—generally are average to changes in a no-fault law that has the lowest threshold of any of the 16 no-fault states. The threshold is the level of medical bills above which accident victims can sue for "pain and suffering."

And the "mess" becomes more confusing when Gov. Byrne makes the statement, as he did publicly last March in Princeton, that he strongly favors a "verbal threshold," similar to one now being considered in Congress, to replace the $200 threshold in New Jersey's law, as a major no-fault reform.

Byrne said legislation would be submitted by the administration to provide such a reform. But the legislation was never submitted by the administration, and if Byrne agrees with his insurance commissioner, who has been publicly opposed to anything other than a dollar threshold, it never will be submitted.

Moreover, there is a terrible "mess" when everyone—including Byrne—agrees there should be a ceiling on the no-fault law, meaning that an industry-sponsored fund, rather than insurers individually, would be responsible for paying no-fault medical and hospital costs to individual claimants that are in excess of $75,000.

The bill cleared both houses of the Legislature unanimously on April 28, but Byrne has never signed it, nor will he even say whether he will sign the bill.

Perhaps the grand-daddy insurance "mess" is the most recent revelation by The Star-Ledger that the State Insurance Department, two weeks after the Legislature finally established its no-fault study commission, quietly contracted with a New York firm that operates out of one man's home for a $42,000 study of many of the same problems that are being studied by the commission.

Sen. Alexander J. Menza (D-Union), who is not running for reelection and has no political axes to grind, expressed surprise that the Insurance Department would have such a study made without making it public knowledge.

In addition, Menza was concerned over the Insurance Department's lack of cooperation with his commission, which is composed of two senators, two assemblymen and four lay persons.

During a commission hearing last Thursday, while Sheeran was testifying, Menza questioned whether the commission could expect full cooperation from the department, especially after the commission had failed on two occasions to obtain the testimony of the department's only property and casualty actuary, Philipp Stern.

Oddly, the New York firm retained for the study has no address or telephone listing. Its study was kept confidential for almost two months because no bids were advertised for such services under a waiver of bid practice that exists for certain types of specialty services that are not commonly available.

In this case, Public Affairs Research Organization (PARO) was given the contract because, according to the firm's president, Richard Morris, he has done other work in the past for Sheeran on a non-payment basis. Morris stated:

"New Jersey, under Commissioner Sheeran, has been taking a pioneering role in seeking alternate systems of rating. I have worked for about 2½ years on a nonpayment basis with Commissioner Sheeran, analyzing data and pioneering new systems."

In a five-page proposal submitted by the Insurance Department to obtain the non-bid contract for PARO, the purpose of the study involves highly technical research, dealing with analyses of rate-making and other insurance complexities.

By his own admission, neither Morris nor anyone else on the PARO staff of four has an educational background in insurance, nor has the firm been employed by any other governmental entity other than work Morris says the firm did several weeks ago for the New York Assembly, in its efforts to reform that state's no-fault law.

LETTER FROM ROTARIANS OF TAIWAN

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SYMMS. Mr. Speaker, when visiting my home Rotary Club in Idaho during the recent congressional recess, the following letter from our fellow Rotarians in Taiwan was brought to our attention. I would encourage all my colleagues to read it and consider seriously the fate facing Taiwan should the United States continue down the road of normalization of relations with Red China.

The many voluntary activities we take for granted in this country, such as the Rotary Club, are outlawed in Communist countries. I would hope that Rotarians in the United States will pay heed to what is happening with regard to our relations with Red China and what it will cost us in our efforts to foster freedom and humanitarianism in the world.

ROTARY CLUBS OF TAIPEI,
Taipei, Taiwan, August 10, 1977.

DEAR ROTARIAN: We have all witnessed at the last Rotary International Convention held in San Francisco in June 1977 a dramatic and emotional moment to welcome the return of the delegates from Rotary Club of Madrid after their absence of more than 40 years.

We, Rotarians in Taiwan, Republic of China, feel that the similar misfortune may fall upon us if President Carter should normalize the relationship between the United States and "People's Republic of China." As you are aware, Rotary activities are not permitted in totalitarian states. And we are sure that once Taiwan is to be ruled by Communists, we Rotarians will definitely face the similar destiny as experienced by our fellow Rotarians in Spain.

It is, therefore, our request that you should communicate with your President Carter and to impress upon him that his methods in normalizing diplomatic relations between the United States and "People's Republic of China" are not to the advantage of the majority of the mankind living in the democratic system. We urge you to use your influence on President Carter by sending him your views on the so-called normalization of diplomatic relations between the United States and "People's Republic of China."

The statements made by your Secretary of State Cyrus Vance before New York's Asia Society on June 29 and those by President Carter at the press conference the following day not only disappoint the 16 million free Chinese in Taiwan but also sadden the 800 million Chinese fighting for human rights under the Communist-ruled mainland China.

Fellow Rotarians, we are pleading our case to the leaders of US society and we sincerely hope that you will lend us your helping hands in the spirit of Rotary brotherhood.

Sincerely yours,

Thomas S. Chou, President, Rotary Club of Taipei; Chi-hwa Lu, President, Rotary Club of Taipei Northwest; Wilson T. H. Lin, President, Rotary Club of Taipei Shilin; Shu-san Hwu, President, Rotary Club of Taipei Yenping; Fu-yu Chen, President, Rotary Club of Taipei West; and Jackson J. S. Chen, President, Rotary Club of Taipei East.

C. W. Chang, President, Rotary Club of Taipei Yangming; Thomas Chien, President, Rotary Club of Taipei Southeast; C. G. Tsao, President, Rotary Club of Taipei North; Conway K. H. Hsu, President, Rotary Club of Taipei South; Yu-fu Lin, President, Rotary Club of Taipei Shihmen; and Paul Young, President, Rotary Club of Taipei Chingmei.

A BIRTHDAY TRIBUTE TO WILLIAM HOLMES McGUFFEY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ASHBROOK. Mr. Speaker, William Holmes McGuffey, author of "McGuffey's Readers," was born on September 23, 1800. While he was born in Pennsylvania and died in Virginia, he spent 20 years in Ohio, and the company which first published his "Readers" was Truman and Smith in Cincinnati. It is an association of which every Ohioan has reason to be proud.

During his 10 years—from 1826—on the faculty of Miami University, Oxford, Ohio, McGuffey took great interest in public education and assisted the teachers of the local elementary schools. In his own home he established a model school for neighborhood children.

McGuffey's name and work is synonymous with basic education and old-fashioned American values. His "Readers" taught children how to read but also contained lessons to be drawn, each of them aimed at teaching children not to lie, to work hard, and other values which were considered out of date in our recent period of disastrous educational experimentation.

A tribute to William McGuffey is particularly appropriate this year, because it is a time in which the tradition of education which "McGuffey's Readers" represent seems to be vindicated at last in all but the most intransigent circles. This year even the Washington Post and the New York Times, not to mention the Wirtz Panel, have admitted that the tragic failure of American education over the last decade and a half has been due primarily to educational experimentation and laxness of the kind McGuffey fought against.

We are now in the 15th consecutive year of decline in the scholastic aptitude tests (SAT) scores of students entering college. For our national well-being, it is crucial that we remember and rededicate ourselves to the educational principles of William Holmes McGuffey.

HUMAN RIGHTS IN PANAMA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the January-February 1977 publication of the journal "Freedom at Issue" and "Comparative Survey of Freedom" that it contains. The survey is published by Freedom House, a national organization whose board of trustees includes such persons as Zbigniew Brzezinski, National Security Advisor to President Carter, Gale McGee, the U.S. Representative to the Organization of American States, and the two distinguished Senators from New York, JACOB K. JAVITS and DANIEL P. MOYNIHAN.

Freedom House has conducted country-by-country comparative surveys of the status of freedom in the world since 1972 as a complement to its more generalized yearly surveys. I believe that the results of this survey are extremely important in light of the strong stand President Carter has taken on human rights and the possible ratification of the recently signed treaties with the Republic of Panama.

Judgment of countries was based on four categories: political rights, civil rights, status of freedom, and future outlook. Freedom, according to the survey's authors, is defined as "the extent to which the people of a country are able to play an active and critical role in choosing their leaders, and thus ultimately in determining the laws and means of enforcement under which they will live." Also, freedom refers to the "extent to which people openly express opinion without fear, and are protected against arbitrary actions by an independent judiciary." In the survey, a free state is designated by the symbol "F," A partly free state by "PF", and a not free state by "NF."

The levels of political and civil rights are judged on a scale of 1–7, with 1 being the highest and 7 the lowest. A plus or minus following a rating indicates an improvement or decline in the rating since the last survey. A rating marked with a period has been changed since the last survey due to a reevaluation by the author. This, however, does not imply any change in the country. Thus, to achieve a one (1) ranking in political rights, a country must have the critical rights provided by "a fully operative electoral procedure, generally including an electoral confrontation of multiple parties with a significant opposition vote, and those elected must receive the great preponderance of political power."

A state ranked one (1) will also be strong in subsidiary indicators, such as a recent change of government from one party to another, lack of foreign domination, decentralized power, or a broad informal consensus that allows all segments of society de facto power. On the other hand, in a state given a rating of seven (7), political competition is narrowly restricted to in-fighting within party hierarchies, and all other attempts to influence policy or personnel are considered illegitimate.

Similiar standards are applied to the area of civil rights where the following criteria were examined: Freedom from political censorship, open public discussion, the maintenance of a rule of law, freedom from government terror, economic independence of the media from government, and freedom of individuals to move about, choose among educational systems and occupations, obtain private property, operate in the market freely, or organize and join private organizations of choice.

Finally, the symbols in the "outlook" column should be interpreted as follows: "A positive outlook for freedom is indicated by a plus sign, and relative stability of ratings by a zero." "The outlook for freedom is based on the problems the country is facing, the way government and people are reacting to these problems, and the longer run political traditions of society. A judgment of outlook may also reflect imminent change, such as the expected adoption of a meaningful new Constitution."

Mr. Speaker, I am presenting this survey to my colleagues because it draws attention to the state of political rights, civil rights, and freedom in Panama. In fact, the seven, six, and not free (NF) ratings for the above-mentioned categories place Panama on the same level as the Soviet Union and Cuba. The question of human rights violations has been a leading plank in President Carter's foreign policy platform. It should not be abandoned as we examine the issue of Panama and the Canal Zone.

THE COMPARATIVE SURVEY OF FREEDOM

TABLE OF NATIONS

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Afghanistan	7	6	NF	0
Albania	7	7	NF	0
Algeria	*6	6	NF	0
Andorra	4	4	PF	0
Angola	6	6	NF	0
Argentina	6–	5–	NF–	+
Australia	1	1	F	0
Austria	1	1	F	0
Bahamas	1	2	F	0
Bahrain	6	4	PF	0
Bangladesh	7	4?	PF+	0
Barbados	1	1	F	0
Belgium	1	1	F	0
Benin [4]	7	7	NF	0
Bhutan	4	4	PF	0
Bolivia	6	*4	PF*	0
Botswana	2	3	F	0
Brazil	4	5	PF	0
Brunei	6	5	NF	0
Bulgaria	*7	7	NF	0
Burma	6	6	NF	0
Burundi	7	6	NF	0
Cambodia [4]	7	7	NF	0
Cameroon	*7	*5	NF*	0
Canada	1	1	F	0
Cape Verde Islands	*6	*6	NF*	0
Central African Republic	7	7	NF	+
Chad	7	6	NF	0
Chile	7	5	NF	+
China (Communist)	7	7	NF	0
China (Nationalist)	*5	5	PF*	0
Colombia	2	3	F	0
Comoro Islands	5	*3	PF	0
Congo Republic	5	6	PF	0
Costa Rica	1	1	F	0
Cuba	7	*6	NF	+
Cyprus	3+	4	PF	0
Czechoslovakia	7	6	NF	0
Denmark	1	1	F	0
Dominican Republic	4	*3	PF	0
Ecuador	*6	4	PF	0
Egypt	5+	4	PF	+
El Salvador	3–	3	PF–	0
Equatorial Guinea	6	7	NF	0
Ethiopia	7	6	NF	0
Fiji	2	2	F	0
Finland	2	2	F	0
France	1	*1	F	0
Gabon	6	6	NF	0
Gambia	2	2	F	0
Germany (East)	7	7	NF	+
Germany (West)	1	1	F	0
Ghana	7	5	NF	0
Greece	2	2	F	0
Grenada	2	4	PF	0
Guatemala	4	3	PF	0
Guinea	7	7	NF	0
Guinea-Bissau	6	6	NF	0
Guyana	3+	3	PF	0
Haiti	6	6	NF	0
Honduras	[illegible]	3	PF	0
Hungary	6	6	NF	0
Iceland	1	1	F	0
India	3	5	PF	0
Indonesia	5	5	PF	0
Iran	6	6	NF	0
Iraq	7	7	NF	0
Ireland	1	*1	F	0
Israel	2	3	F	0
Italy	*2	*1	F	0
Ivory Coast	6	5	NF	0
Jamaica	1	3–	F	0
Japan	2	1	F	0
Jordan	6	6	NF	0
Kenya	5	5	PF	0
Korea (North)	7	7	NF	0
Korea (South)	5	6–	PF?	0
Kuwait	6–	5–	NF–	0
Laos	7–	7–	NF–	0
Lebanon	4	4	PF	0
Lesotho	5	4	PF	0
Liberia	6	4	PF	0
Libya	7	6	NF	0
Liechtenstein	4	2	PF	0
Luxembourg	2	1	F	0
Malagasy Republic	6–	5	NF–	0
Malawi	7	6	NF	0
Malaysia	3	4	PF	0
Maldives	4	4	PF	0
Mali	7	7	NF	0
Malta	1	2–	F	0
Mauritania	6	6	NF	0
Mauritius	3	2	F	0
Mexico	4	4–	PF	0
Monaco	4	2	PF	0
Mongolia	7	7	NF	0
Morocco	5	5	PF	+
Mozambique	7–	7–	NF	0

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Nauru	2	2	F	0
Nepal	6	5	NF	0
Netherlands	1	1	F	0
New Zealand	1	1	F	0
Nicaragua	5	*5	PF	0
Niger	7	6	NF	0
Nigeria	6	*4	PF	+
Norway	1	1	F	0
Oman	*6	6	NF	0
Pakistan	*4	5	PF	0
Panama	7	6	NF	0
Papua-New Guinea	*2	2	F*	0
Paraguay	5	6−	NF−	0
Peru	6	4	PF	+
Philippines	5	5	PF	0
Poland	6	6	NF	+
Portugal	2+	2+	F+	0
Qatar	*5	5	PF*	0
Rhodesia	6	5	NF	0
Romania	7	6	NF	+
Rwanda	7	5	NF	0
San Marino	2	2	F	0
Sao Tome and Principe	5	5	PF?	0
Saudi Arabia	6	6	NF	0
Senegal	6	4	PF	+
Seychelles	1+	2	F	0
Sierra Leone	6	5	PF	0
Singapore	5	5	PF	0
Somalia	7	*7	NF	0
South Africa	4	5	PF	+
Spain	5	3+	PF	+
Sri Lanka	2	*3	F*	0
Sudan	6	6	NF	0
Surinam	2	2	F	0
Swaziland	6	4	PF	0
Sweden	1+	1	F	0
Switzerland	1	1	F	0
Syria	6	*6	NF	0
Tanzania	6	6	NF	0
Thailand	6−	6−	NF−	+
Togo	7	6	NF	0
Tonga	5	3	PF	0
Transkei	6	5	NF?	0
Trinidad and Tobago	2	2	F	+
Tunisia	6	5	NF	0
Turkey	2	3	F	0
Uganda	7	7	NF	0
U.S.S.R	7	6	NF	0
United Arab Emirates	*5	5	PF*	0
United Kingdom	1	1	F	0
United States	1	1	F	0
Upper Volta	5+	5−	PF	+
Uruguay	6−	*6−	NF−	+
Venezuela	*1	2	F	0
Vietnam	7	7	NF	0
Western Samoa	4	2	PF	+
Yemen (North)	6	5	NF	0
Yemen (South)	7	7	NF	0
Yugoslavia	6	6	NF	0
Zaire	7	6+	NF	0
Zambia	5	5	PF	0

[1] The scales use the numbers 1-7, with 1 comparatively offering the highest level of political or civil rights, and 7 the lowest. A plus or minus following a rating indicates an improvement or decline in the rating since the last survey. A rating marked with an asterisk (*) has been changed since the last survey due to reevaluation by the author. This does not imply any change in the country. For further information on the scale and survey see Freedom at Issue, January-February 1973, p. 2ff.

[2] A free state is designated by F, a partly free state by PF, and a not free state by NF.

[3] A positive outlook for freedom is indicated by a plus sign, a negative outlook, by a minus, and relative stability of ratings by a zero. The outlook for freedom is based on the problems the country is facing, the way the government and people are reacting to these problems, and the longer run political traditions of the society. A judgment of outlook may also reflect an imminent change, such as the expected adoption of a meaningful new constitution.

[4] The name of Dahomey has been changed to Benin. Cambodia is now officially Kampachea.

RANKING OF NATIONS BY POLITICAL RIGHTS

[NOTE: Ranked on scale of 1 (most free) to 7 (least free).]

1

Australia
Austria
Bahamas
Barbados
Belgium
Canada
Costa Rica
Denmark
France
Germany (W)
Iceland
Ireland
Jamaica
Malta
Netherlands
New Zealand
Norway
Seychelles
Sweden
Switzerland
United Kingdom
U.S.A.
Venezuela

2

Botswana
Colombia
Fiji
Finland
Gambia
Greece
Grenada
Israel
Italy
Japan
Luxembourg
Nauru
Papua-New Guinea
Portugal
San Marino
Sri Lanka
Surinam
Trinidad & Tobago
Turkey

3

Cyprus
El Salvador
Guyana
India
Malaysia
Mauritius

4

Andorra
Bhutan
Brazil
Dominican Rep.
Guatemala
Lebanon
Liechtenstein
Maldives
Mexico
Monaco
Pakistan
South Africa
W. Samoa

5

China (Nat.)
Comoro Is.
Congo Rep.
Egypt
Indonesia
Kenya
Korea (S)
Lesotho
Morocco
Nicaragua
Paraguay
Philippines
Qatar
Sao Tome & Principe
Singapore
Spain
Tonga
United Arab Emirates
Upper Volta
Zambia

6

Algeria
Angola
Argentina
Bahrain
Bangladesh
Bolivia
Burma
Cape Verde Is.
Ecuador
Equatorial Guinea
Gabon
Guinea-Bissau
Haiti
Honduras
Hungary
Iran
Ivory Coast
Jordan
Kuwait
Liberia
Malagasy Rep.
Mauritania
Nepal
Nigeria
Oman
Peru
Poland
Rhodesia
Saudi Arabia
Senegal
Sierra Leone
Sudan
Swaziland
Syria
Tanzania
Thailand
Transkei
Tunisia
Uruguay
Yemen (N)
Yugoslavia

7

Afghanistan
Albania
Benin
Brunei
Bulgaria
Burundi
Cambodia
Cameroon
Central Afr. Rep.
Chad
Chile
China (Com.)
Cuba
Czechoslovakia
Ethiopia
Germany (E)
Ghana
Guinea
Iraq
Korea (N)
Laos
Libya
Malawi
Mali
Mongolia
Mozambique
Niger
Panama
Rumania
Rwanda
Somalia
Togo
Uganda
USSR
Vietnam
Yemen (S)
Zaire

RANKING OF NATIONS BY CIVIL RIGHTS

[NOTE: Ranked on scale of 1 (most free) to 7 (least free).]

1

Australia
Austria
Barbados
Belgium
Canada
Costa Rica
Denmark
France
Germany (W)
Iceland
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Sweden
Switzerland
United Kingdom
U.S.A.

2

Bahamas
Fiji
Finland
Gambia
Greece
Liechtenstein
Malta
Mauritius
Monaco
Nauru
Papua-New Guinea
Portugal
San Marino
Seychelles
Surinam
Trinidad & Tobago
Venezuela
W. Samoa

3

Botswana
Colombia
Comoro Is.
Dominican Rep.
El Salvador
Guatemala
Guyana
Honduras
Israel
Jamaica
Spain
Sri Lanka
Tonga
Turkey

4

Andorra
Bahrain
Bangladesh
Bhutan
Bolivia
Cyprus
Ecuador
Egypt
Grenada
Lebanon
Lesotho
Liberia
Malaysia
Maldives
Mexico
Nigeria
Peru
Senegal
Swaziland

5

Argentina
Brazil
Brunei
Cameroon
Chile
China (Nat.)
Ghana
India
Indonesia
Ivory Coast
Kenya
Kuwait
Malagasy Rep.
Morocco
Nepal
Nicaragua
Pakistan
Philippines
Qatar
Rhodesia
Rwanda
Sao Tome & Principe
Sierra Leone
Singapore
South Africa
Transkei
Tunisia
United Arab Emirates
Upper Volta
Yemen (N)
Zambia

6

Afghanistan
Algeria
Angola
Burma
Burundi
Cape Verde Is.
Chad
Congo Rep.
Cuba
Czechoslovakia
Ethiopia
Gabon
Guinea-Bissau
Haiti
Hungary
Iran
Jordan
Korea (S)
Libya
Malawi
Mauritania
Niger
Oman
Panama
Paraguay
Poland
Rumania
Saudi Arabia
Sudan
Syria
Tanzania
Thailand
Togo
USSR
Uruguay
Yugoslavia

7

Albania
Benin
Bulgaria
Cambodia
Central Afr. Rep.
China (Com.)
Equatorial Guinea
Germany (E)
Guinea
Iraq
Korea (N)
Laos
Mali
Mongolia
Mozambique
Somalia
Uganda
Vietnam
Yemen (S)
Zaire

PANAMA STAR AND HERALD NOTES: ENVIRONMENT ISSUE RAISED BY SNYDER

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SNYDER. Mr. Speaker, I was pleased that a news item about my August 9 exposure of the failure of the State Department regarding the requirements of the National Environmental Policy Act, was published on the front page of the Panama Star and Herald for August 10. The news story was as follows:

ENVIRONMENT ISSUE RAISED BY SNYDER

WASHINGTON.—Mentioning the possible spread of foot-and-mouth disease among other things, Rep. Gene Snyder said Tuesday he has asked the State Department to issue a statement on the environmental impact among the possible consequence of a new Panama Canal treaty.

Snyder said such a statement is required by law but he is sure that no serious effort was made to put it into effect until he wrote to the State Department on June 9.

He said he received a reply dated July 22 saying the Department had not defined whether a statement is needed, but it was preparing an analysis of the environmental implications of a treaty.

Snyder said Panama wants to extend the City of Panama into the Canal Zone and he asked if that could result in the erosion of the banks of the canal.

He said the Madden forest reserves, vegetable and animal life and especially many species of birds in the area are matters of environmental concern.

Snyder also said the possibility of a sea level canal suggests possible grave dangers could occur . . . as a result of the mixing of the biological systems, now separated by the Caribbean Sea and the Pacific ocean.

PICKING AND CHOOSING HUMAN RIGHTS VIOLATORS

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. MARTIN. Mr. Speaker, as a people living in a free and humane society, we are justifiably shocked to hear of cases of torture, "disappearances," secret trials, and other violations of generally accepted human rights. Historically, we have been a haven for those who are forced by events to flee their own homes to avoid such abuses, and worse. We are even today welcoming to our shores more refugees from Southeast Asia, the "boat people" who fled the intellectual genocide of Vietnam—politically termed "re-education"—and have been seeking landing spots nearby to no avail. Amazingly, as we welcomed these newest victims of human rights abuse, our distinguished Ambassador to the United Nations effused an unnecessary welcome to their late oppressors as they took their new seats at the United Nations, rejoicing at the contribution of the 94th Congress in cutting off aid to South Vietnam so that North Vietnam could wreak its destiny.

As we survey the generally sorry state of human rights around the world, it may be appropriate to question just how even-handed we have been. We do not refrain from criticizing our allies' excesses. We should not. At least, with them we have some influence. We have begun criticizing the Soviet bloc, as is deserved. But, we have had a tendency to overlook abuses in the Third World in an almost patronizing way, either as if their victims count less than Europeans or as if their governmental immaturity is somehow expected, and is therefore tolerated. Neither notion is justifiable; now is the two-faced policy.

The freedom not to be dynamited is, I suggest, a rather basic human right, one that we can more or less agree upon, even for citizens of a socialistic country with no exceptions for students, please. This rather efficient method of disposing of people is being employed against groups who, on the surface, are guilty only of being educated. Our Government must find words to condemn its practitioners.

For further understanding, I commend to this body's attention the following article by Patrick Buchanan:

[From the Chicago Tribune, July 5, 1977]

SOME ATROCITIES GET LITTLE NOTICE

(By Patrick J. Buchanan)

WASHINGTON.—Working my way through the dense foliage of the Sunday New York

Times, my attention was riveted by a seemingly insignificant item, half-buried on page 36. A single-column, six-paragraph piece that ran thus:

Stockholm, June 23 [Reuters]—A Swedish aid official who recently returned from Addis Ababa said Ethiopia's military rulers were so short of ammunition earlier this year that they used dynamite for executions.

For the same reason, another common method of execution is cutting throats, said Stefan de Vylder, who had served as an economist at the Addis Ababa office of the Swedish International Development Authority.

"In mid-March some 120 students were collected in a field outside Addis Ababa and dynamited," Mr. de Vylder said.

"Most of the 655 youth officially admitted to having been executed in May were found with their throats cut. This is now a common method of execution."

The story's closing paragraphs said simply that Swedish aid was being diverted to military purposes, and that de Vylder had confirmed all the above in a telephone talk with the correspondent.

The thought occurred, where would the New York Times' editor have placed that story had those 120 students been dynamited to death outside Soweto Township?

Suppose those soldiers, short of ammunition, who cut, the throats of 655 people, had been white Afrikaners instead of black Ethiopians? Would the report have been given the same cursory, ho-hum treatment it everywhere received?

From experience we know better. South Africa, probably without dissent in the United Nations, would have been declared an outlaw regime, whose military overthrow must be the first order of business of the world community. Andy Young would have, by now, been strait jacket material.

Yet, here we have a premeditated atrocity, committed on a scale that dwarfs My Lai. While My Lai is burned forever in the memory of man, those massacred students are already forgotten.

How do you explain this common phenomenon? The late Gen. Franco orders a go-ahead on the execution of five convicted murderers, and all Europe is ablaze with the cry of "Franco, Assassin!" Yet, the monthly reports of fleeing refugees shot in the back by soldiers of the Soviet bloc do not merit the space of yesterday's box scores.

Last Thursday, the Department of State, by denying loans to Chilean farmers, tried to force feed the Pinochet government Carter's diet of "human rights." The same day, however, Andy Young led the Security Council in a unanimous vote for material assistance to Mozambique, an anti-American, racist, repressive Marxist regime whose guerrillas have performed magnificently against unarmed missionaries—but who have experienced some difficulty whenever they crossed paths with the Rhodesian special forces.

How do you understand all this?

Partial explanation lies in the altered character, more exactly, the corruption, of what we call "world opinion." A quarter century back, world opinion ruled in favor of military force to halt aggression in Korea, and responded with outrage to the Soviet rape of Hungary.

By 1977, however, that once fair young maiden, "world opinion," had matured into a nasty, racist, anti-Western hooker, in whose diseased mind any atrocity perpetrated against human rights can be condoned as long as it is carried out in the name of "revolutionary justice."

Unlike yesterday, the United States has no business courting this trollop, world opinion. And since she regularly works out of the UN complex on East 42d Street, Mayor Beame ought to order the place padlocked as a "public nuisance."

NATIONAL ENERGY ACT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. CARTER. Mr. Speaker, the findings and statement of purpose, section 2(a)(4), of the National Energy Act as passed by the House states that,

Consistent with all Federal, State, and local environmental requirements, the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare, and preserve national security.

In part VI, subpart A, section 601(a)—Conversion From Natural Gas And Petroleum To Coal And Other Fuel Resources, it states that,

The Congress finds that the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expanded use, with applicable environmental requirements, of coal and other fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations.

Mr. Speaker, these two statements of purpose from the text of the National Energy Act, along with the energy projections in the plan, that there will be an increase in annual coal production to at least 400 million tons of coal above 1976 production levels make it clear that our national effort will be directed to the increased use of coal.

Mr. Speaker, I heartily endorse this. I believe that "King Coal" is our energy future. But at the same time, I believe that we need to work on new ways to use that coal. The increased demand for the use of coal as directed by the act, make it vital for this Nation to investigate improved technology for the direct utilization of coal. It is imperative for us to find cleaner, more efficient methods of burning it.

At ERDA, there is promising work being done on a new process of burning coal which has good prospects for providing clean energy at lower costs. This process is known as the fluidized bed combustion system. I would like to insert into the RECORD some information on this promising technology that the Energy Research and Development Administration has supplied me with. Once again, Mr. Speaker, if we are going to burn coal we must learn a better way to do it.

CLEAN ENERGY FROM COAL

The Clean Air Act directs the Environmental Protection Agency (EPA) to set air quality standards at levels which will protect the health and welfare of the American people. Primary air quality standards are those designed to protect human health. Secondary standards—those relating to the public's welfare—are to be achieved in a reasonable period of time. In addition, there are uniform Federal emission regulations which apply to all new power plants.

Each state has submitted its plans to EPA for achieving these standards. These implementation plans have two extremely important characteristics. First, many states have decided that they should meet in a "reasonable time" the more stringent secondary standards. Secondly, numerous states have imposed uniform state-wide regulations that ignore any difference in air quality between regions within the state.

The states have responded fully to the spirit of the Act. Yet, ironically, their collective response creates a situation which imperils timely attainment of our highest goal—healthy air for all Americans.

As a result of this timely collective response, our gas and low-sulfur fuel oil utilization shifted to such an extent that some high priority areas will not be able to get low sulfur fuels or stack gas cleaning equipment needed to meet primary standards, because they are being siphoned off to meet secondary standards elsewhere.

A number of alternatives are available to meet objectives of the Clean Air Act.

One alternative is to burn low-sulfur coal. There are large supplies of relatively low sulfur, low Btu coal available in the western states, coal that could be burned without sulfur removal equipment in specially designed boilers. Mining these coal supplies, however, carries its own environmental price tag. This low sulfur coal must be strip mined, with its inherent pollution problems, and since over 80 percent of the coal presently burned is in plants east of the Mississippi River, this low Btu western coal carries a heavy freight cost disadvantage.

Other alternatives are offered through research programs which would use coal to produce clean energy. Among these processes are coal gasification, liquefaction, coal solvent refining and the direct burning of coal in a bed of fluidized limestone in atmospheric fluidized-bed boilers.

These are promising processes and merit expanded support from Government and the private sector. However, with the exception of the atmospheric fluidized bed burning of coal, none of the other technologies seem likely to be available for commercial application on an economical basis, in time to have any significant effect on this country's diminishing oil and gas reserves at least to the end of this decade. The only other technology which seems to be available during this first phase of the Clean Air Act is stack gas cleaning. However, stack gas cleaning systems add a very serious owning and operating cost disadvantage, and supplies of these systems on a large scale and with proven reliable performance will be limited through 1977–1980.

Unquestionably our vast coal reserves must be the lifeblood of America's energy production for the next century and, in conjunction with nuclear energy, the backbone of our electricity generation. While the recent oil embargo may result in the short term relaxation of sulfur oxide emission standards, in the long run, utility and industrial power plants will have to comply with the Clean Air Standards which presently limit sulfur content in coal to 0.7 percent. It is estimated that less than 10 percent of our vast coal reserves are suitable for present markets, because of Federal emission standards and production and transportation problems. With almost limitless supply of medium sulfur coal, this country must develop large and economical boilers that can burn medium sulfur coals (1–3.5% S) within acceptable Clean Air Standards.

Relying on the above alternative ways of solving our sulfur problem, the question remains: "Will there be sufficient supplies of clean fuels or sulfur removal equipment to meet state regulations after 1977?" And the answer is: "Without full utilization of the atmospheric fluidized-bed burning of coal, No." This position is not ours alone. Secretary of the Interior, Rogers C. B. Morton, in

a February 15, 1974 letter to President Nixon, said: "We believe the fluidized-bed combustion boilers offer the best prospects for providing large volumes of clean energy from coal at an early date. Current pollution controls allow only limited use of high-sulfur coal in conventional boilers. The early demonstration of a low-cost, pollution-free combustion technique would help alleviate this undesirable situation and stimulate the production and utilization of Eastern coals."

Replacement of the conventional boilers with atmospheric fluidized bed steam generators is a radical departure from the existing methods of fossil fuel firing and will require additional refinement.

FLUIDIZED BED BOILERS

Fluidized beds have been used for many years in the chemical industry to enhance reaction rates, but their use in steam generators is a relatively new concept. More recent is the development of the fluidized bed combustion technique to produce utility boilers at a fraction of their present size. Such boilers would burn almost any fuel, including low quality coals such as lignite. Two general approaches are being taken in development work and in construction and operation of such boilers. In France and Czechoslovakia, fluidized bed furnaces have been developed for steam generators in which there is no direct contact between the inert fluidized particles and the heat transfer surfaces (boiler tubes).

Work involving direct contact, heat exchange has been actively pursued in England and in the United States. In the boilers without direct contact, the hot off gases generate all the steam in conventional fashion, and no appreciable size or cost advantages are attained.

Basic design for direct contact heat transfer involves inert granular material supported by air from a distribution grid containing immersed heat exchange surface. Combustion within the fluidized bed is very intense.

Limestone or ash serves as the heat granular material, and very high volumetric heat release and heat transfer rates are obtained. As a result, there is no need for a large space wasting furnace, and the amount of surface required is reduced.

WHAT IS AN ATMOSPHERIC FLUIDIZED BED BOILER?

A fluidized bed is simply a mass of granular particles held in dense suspension by an upward current of air. The mixture of air and particles exhibit the properties of a fluid.

An atmospheric fluidized bed boiler consists of a water-cooled Monowall furnace enclosure containing horizontal boiler tubes immersed in the fluidized bed. The enclosure non-sifting tuyeres through which the combustion air is blown. The velocity of the upward air flow causes the solid bed particles to become suspended in the balanced draft (atmospheric) furnace, thus forming the fluidized bed. Coarsely crushed coal added to this bed burns very rapidly as the products of combustion are scrubbed away. The heat released by the burning coal is immediately transferred to the inert bed particles and in turn to the boiler tubes in contact with the turbulent bed.

PAST DEVELOPMENT

Although the basic principles of fluidized bed combustion of coal have been known for 50 years, little progress has been made on a commercial design. Active development work on atmospheric fluidized bed boilers began in 1965 by Pope, Evans and Robbins Incorporated (PER) using a unit capable of burning 100 pounds of coal per hour. In 1967, a small boiler (5,000 pounds of steam generation per hour at 300 psig) was built by PER under contract to the Office of Coal Research (OCR) for development of the startup technique, turndown method and pollution control. By the end of 1973, about 5,000 hours of test operation was performed by PER on this unit, using crushed limestone as bed material for sulfur capture. Combustion intensity of 1.2 million Btu per hr. per sq. ft. bed surface was achieved, equivalent to 480,000 Btu per hr. per cu. ft. within the oxidizing fluidized bed.

The atmospheric fluidized bed boiler compares favorably with other advanced concepts. It is potentially desirable that combustion of coal be carried out in a way that permits the subsequent recovery of minerals from flyash, alumina and iron for example. Fluidized bed combustion does not fuse the ash minerals together as a slag.

Pope, Evans and Robbins Incorporated has developed a basic design concept that uses repeating elements or cells to make up a large atmospheric fluidized bed boiler. It was the invention of the cell which makes a commercial boiler design possible. Currently, PER under a contract with the Office of Coal Research and with the cooperation of Monongahela Power Company is installing a 300,000 pounds per hour capacity unit in the utility's Rivesville, West Virginia power station. The boiler was designed and is being fabricated by Foster Wheeler Corporation, to operate at 1300 psig outlet pressure with 925°F steam temperature, to match existing turbine requirements at Rivesville.

The atmospheric fluidized bed boiler is seen as the necessary first step on a long path toward better use of coal, this country's only major fossil fuel resource. Based on the successful performance of this first 30 Megawatt$_e$ unit, scheduled to be operational by mid 1975, it is expected that several utilities will commit to the installation of atmospheric fluidized bed boilers in the 200 MW$_e$—800MW$_e$ capacity range. To further the activities in the combustion of solid fuels in fluidized bed boilers the Fluidized Bed Combustion Company (FBC) has been formed by Foster Wheeler Corporation and Pope, Evans and Robbins Incorporated.

OPERATION

Startup of an atmospheric fluidized bed boiler requires heating a portion of the bed to 800°F, hot enough to ignite bituminous coal. After coal ignition, the temperature of the bed rises rapidly until the system achieves thermal equilibrium (the energy released in the bed equals the energy absorbed by the boiler tubes, plus the energy contained in the hot gases leaving the bed). The desired bed temperature is obtained by setting the proper ratio of heat-transfer-surface to heat-release-volume. Operating characteristics of the bed dictate an optimum design temperature range of 1500°F–1600°F, with excess oxygen at about 3 percent. At these conditions, about 50 percent of the heat released by the burning coal is absorbed in the immersed tubes.

Turndown is achieved by reducing coal and air flow, as in any other boiler. However, in the atmospheric fluidized bed boiler, the burner is the bed itself, not a separate piece of equipment. Combustion and heat removal are so interrelated that the amount of contacted heat transfer surface must be reduced as the combustion rate is reduced, or the fire will go out. The amount of active heat transfer surface is naturally reduced because the bed depth decreases as the air flow is reduced. The bed acts like a pot of boiling water; cut down the heat, and the level drops. Also, the larger bed particles sink to the grate and build up against the boiler tubes, preventing the active particles from touching them. Thus the heat-transfer-surface to heat-release-volume ratio is kept constant as firing rate is reduced.

Coal burns rapidly in a fluidized bed, even at 1500°F. The rate is so high that at any point in time the bed is composed almost entirely of the inert particles that were added before combustion began. Typically, a sample of bed material would analyze at less than 1 percent carbon. Based on bed volume, the heat release is 300,000 to 400,000 Btu/hr. per cubic foot. Counting the open furnace space above the bed, the rate is 100,000 to 200,000 Btu/hr. per cubic foot. The wide range in this overall furnace release rate follows from the fact that the furnace volume is set by design considerations other than heat release, i.e., tube arrangement, access for maintenance, water circulation. Either way of calculating, the heat release rate is much higher, as much as a factor of 10, than the release rate in conventional coal fired furnaces.

The heat transfer coefficient is also higher, 50–60 Btu/hr/ft^2/F. But the important advantage is in the uniformity of the heat flux. The peak and average fluxes are equal and there is no danger of burnout as long as the feedwater treatment is intelligently handled. A typical riser has a heat flux of 50,000 Btu/hr/ft^2.

Tubing length is reduced because most of the steam is generated in tubes that are heated on both sides. Actually, Effective Projected Radiant Surface (EPRS); is a concept not used in designing an atmospheric fluidized bed boiler. Superheater surface requirements are also reduced because of the high heat transfer coefficient and the fact that fireside deposits do not form. Fireside corrosion is also avoided, apparently because the sodium, potassium and vanadium in the coal are not released, or if released, are picked up by the bed particles instead of the tubes. The ratio of bed particles-surface area to heat-transfer-surface area is about 15 to 1. Condensing vapors are thus more likely to deposit on a bed particle than a tube.

COAL TYPES ARE UNLIMITED

Unlike a pulverized coal fired boiler, ash properties are not significant to the design of an atmospheric fluidized bed boiler. The same basic design applies for all coals. The bed temperature is too low for the ash to soften or change chemically in any detrimental way. All fuels are burned at a heat release rate equivalent to 110,000 Btu/hr. per square foot of EPRS. In a pulverized coal fired unit, this value may be as low as 40,000 with a high alkali coal.

The boiler designed and developed to date could not be used if the coal were very fine and dry, since fine coal is difficult to feed uniformly and successful operation depends on even fuel distribution. With current mining and transport methods, a ¼ to ¾ inch top size is easy to get. If transport of coal as a slurry were desirable, the slurry would be fed as a wet filter cake without drying so as to delay combustion until the coal is mixed with the bed.

FLYASH CONTROL

Disposal of flyash, a major solid waste problem, can be economically handled where fluidized bed combustion is used. Flyash is reinjected to a specially designed boiler region (Carbon Burnup Cell), with a low heat-transfer-surface to heat-release-volume ratio, operating at 2050°F to 2250°F with more than 3 percent excess oxygen. At and above 2100°F, most of the ash sinters, and round pellets are produced. This material could be useful as fill or aggregate material.

POLLUTION CONTROL

The coal fed to a fluidized bed boiler is crushed to a ¼ inch or ¾ inch top size, not pulverized. A good fraction of the ash stays in the fluidized bed, or if carried out with the products of combustion, is separable in a low pressure drop cyclone dust collector. Little, if any, metal oxide or sulfate fume is formed, and the quantity of very fine particulate is relatively low. Sulfur trioxide has also not been detected when limestone is used as the bed material. Plume opacity and particulate emissions may be low from a fluidized bed boiler without a precipitator. However, due to current EPA regulations,

provisions for electrostatic precipitator are recommended.

Sulfur dioxide in the fluidized bed is actually controlled by the use of limestone as bed material. The limestone is kept reactive either by the addition of fresh limestone, in a once through system, by regeneration to recover sulfur dioxide in useful concentrations, or by adding a low-cost catalyst (common salt) with the coal. Current material balances indicate that for 2,000 pounds (1 ton) of 5.6 percent sulfur coal, 400 pounds of limestone is required to remove over 90 percent of the sulfur.

Studies are now being undertaken by EPA to develop alternate plans for calcium sulfate disposal. Since the temperature in the fluidized bed boiler is relatively low, NO_x emissions is considerably below the value that EPA's rules would allow.

A clear stack is readily achievable, since there are relatively few micron sized particles and virtually no sulfuric acid mist even at exhaust temperatures of 250°F.

Tests performed recently by the Bureau of mines, Department of the Interior, on the Pope, Evans and Robbins' unit in the Alexandria, Virginia laboratory established that both NO_x and SO_2 emissions were held below EPA emission standards for new coal fired plants. The conclusion reached by the Pittsburgh Energy Research Center of the Bureau of Mines indicates that "Test data obtained during the two 4 hour tests on the fluidized bed boiler showed emissions of 0.80 to 1.20 pounds SO_2 per 10^6 Btu and 0.11 to 0.17 pound NO_x (calculated as NO_2) per 10^6 Btu, compared with EPA Standards of 1.20 pound SO_2 per 10^6 Btu and 0.70 pound NO_2 per 10^6 Btu for new coal-fired plants", while burning coal with 4.5—4.8 percent sulfur content.

REGENERATION ALTERNATIVES

A variety of alternatives are available, depending on local conditions, to regenerate the sulfated lime. In one design arrangement, a separate small section of the boiler, called the regenerator, has a lower heat-transfer-surface to heat-release-volume ratio and a higher than average coal rate. With the bed material at 1850°F to 2000°F, and 0.5 percent oxygen in the off gas, calcium sulfate (formed in the bed) combines with carbon monoxide to form lime, sulfur dioxide and carbon dioxide. The SO_2 concentration is high enough for recovery of sulfur. The lime (CaO) released by this regenerator flows back into the main part of the boiler operating at 1500°F–1600°F and reacts again with sulfur dioxide to form calcium sulfate.

30 MWE BOILER TEST PROGRAM

The objective of the current Office of Coal Research 30 MWe program is to design, construct and test a 300,000 pounds per hour capacity "Multicell Fluidized Bed Boiler" (MFB), as a pollution-free method of burning high sulfur content or slagging coals without excessive maintenance problems, under practical electrical utility conditions. Steam pressure, temperature and circuitry of the boiler, therefore, were designed to meet requirements of the selected Monongahela Power Company (Allegheny Power Systems) Rivesville, West Virginia power station.

The multicell concept in the atmospheric fluidized bed boiler design involves building very large boilers as a set of relatively small repeating elements. The 300,000 pounds per hour capacity unit under this program represents such an element to boilers ranging from 60 to 800 Megawatte capacity.

For proper design development of the 300,000 pounds per hour unit, a concept for an 800 Megawatte fluidized bed steam generator was developed by Foster Wheeler Corporation, consisting of four (4) modules, each containing seven (7) vertically stacked fluidized beds, called cells, of the 30 Megawatte size developed for Rivesville.

During the latter part of 1973, the 300,000 pounds per hour capacity unit was released for fabrication, based on competitive price bidding, to the Foster Wheeler Corporation. Final dimensions of the boiler were selected to be 12 feet wide, 25 feet high and 38 feet long, in order to maximize factory assembly.

The following benefits are expected to be demonstrated by the fabrication and operation of this atmospheric MFB unit:

Because of low combustion temperature, low quality, high sulfur content coals can be burned without danger of slagging.

Air pollution regulations can be met without massive and expensive add-on flue gas cleaning equipment.

Less heat-transfer surfaces (boiler tubes) are needed because of the better heat transfer qualities of this type of boiler.

Increased steam generation efficiency by reducing low temperature air-heater corrosion thereby permitting lower stack gas temperatures.

Successful operation of the 30 MWe Rivesville, West Virginia demonstration unit will establish the design and construction features of large capacity utility boilers (200 MW_e–800MW_e).

BENEFITS TO ELECTRIC UTILITIES

Atmospheric fluidized bed combustion will make it possible to build electric utility boilers within the next several years that will produce the following benefits:

Coals of mid and high sulfur content can be efficiently and economically burned, meeting EPA clean air criteria, without the use of stack gas cleanup systems. Sulfur dioxide emissions are reduced by the limestone bed and NO_x emissions are reduced by low combustion temperatures.

Smaller in size and lower in cost than presently available boiler types capable of burning high sulfur coals within EPA standards. The technical factors that make this possible are the higher heat release rates and higher heat transfer rates.

Utility plant space and construction time savings, due to shop fabrication of the component cell sections with expected increase in fabrication quality.

Coals of higher ash content may be economically used, since crushing is limited to ¼ inch to ¾ inch top size.

Requirements for pulverizers are eliminated since it is not necessary to reduce the size of the coal below ¼ inch to ¾ inch top size.

Slagging problems are eliminated since the combustion temperature is maintained below the ash fusion temperature.

Independently controlled multiple modules will result in high operational availability and the ability to "stay-on-line" of a mechanical failure occurs in a module.

Modular boiler design minimizes capacity scale-up problems.

REINTRODUCTION OF H.R. 3321, TO GRANT VETERAN STATUS TO FORMER MEMBERS OF THE WOMEN AIR FORCES SERVICE PILOTS (WASP) OF WORLD WAR II

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mrs. BOGGS. Mr. Speaker, this week I was privileged to testify before the House Committee on Veterans' Affairs in behalf of my bill, H.R. 3321, to grant veteran status to former members of the Women Air Forces Service Pilots (WASP) of World War II.

The hearing was well attended by WASP's from all over the country—many of them wearing the uniforms they donned as women pilots for the Army Air Corps. Also present to testify was Col. William Bruce Arnold, USAF, retired, the son of Gen. H. R. "Hap" Arnold, who initiated the WASP program during the war.

Since the bill was originally introduced early this year, over 100 of our colleagues in the House have cosponsored the bill. I rise today to reintroduce H.R. 3321 with additional cosponsors. I appreciate the strong, bipartisan support the WASP bill has received and I am hopeful that the committee will approve the bill so that the measure will be eligible for floor action during the 95th Congress.

MODIFICATION OF THE TAX REFORM ACT OF 1976

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, my colleagues, today I am introducing legislation which modifies and refines provisions of the Tax Reform Act of 1976 dealing with tax treatment of expenses in attending foreign conventions.

In a attempt to deal with abuses under the prior law with respect to allowable deductions for individuals attending conventions, seminars or similar meetings, the Tax Reform Act of 1976 included strict but complex requirements. These requirements were made applicable to attendance at conventions outside the United States. The effect of the law thus far has been to greatly reduce the number of conventions planned by U.S. organizations in our neighbor countries to the north and south. I believe this was an unfortunate and largely unintended side-effect of the act and my measure seeks to reaffirm the friendliness and sense of mutuality which characterizes this Nation's true feeling toward our neighbors.

My bill redefines the area of coverage of subsection (h) of section 274 of the Internal Revenue Code of 1954 as amended by the Tax Reform Act of 1976 to exclude Canada, Mexico, and Bermuda.

In addition, my bill woud greatly simplify the complex reporting requirements affecting convention attendees in areas not exempted. It does this by substituting a "more reasonable than not" test to determine whether deductions for attendance will be allowed. The test would require that a showing be made by the taxpayer that attendance at the meeting is related to the active conduct of his trade or business, and that given the purpose of the meeting, the purpose and activities of the sponsoring organization or group, and the location or residences of its members it is more reasonable for

the meeting to be held outside the North American area than within the North American area.

I believe this measure will clarify and simplify the decisionmaking process on the part of individuals and organizations as to locating meetings, at least insofar as the applicable tax law is concerned. It removes onerous reporting requirements while at the same time providing a very effective and stringent test to avoid manipulation of the code by those who would claim deductions for what amount to vacation excursions.

I urge the adoption of this important legislation.

THREE HUNDREDTH ANNIVERSARY OF THE CONCESSIONS AND AGREEMENTS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. THOMPSON. Mr. Speaker, September 24, 1977, marks the 300th anniversary of one of the most remarkable documents in New Jersey and American history. The Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West Jersey formed the basis for the original government of South New Jersey. More significantly, the document represents a pioneering effort by the original Quaker settlers of New Jersey to insure democratic government and individual liberty.

Richard P. McCormick, university professor of history and dean at Rutgers College has written an excellent article on the concessions and agreements which I am inserting for the benefit of my colleagues. In addition, I would like to take this opportunity to insert a resolution by the New Jersey State Assembly designating September 24, 1977, for the commemoration of the 300th anniversay of the West Jersey Concessions and Agreements.

THE WEST JERSEY CONCESSIONS AND AGREEMENTS

The "Concessions and Agreements of the Proprietors, Freeholders, and Inhabitants of the Province of West New Jersey in America"—commonly known as the West Jersey Concessions—occupy a conspicuous, if not a unique place, in the history of political and civil liberty. No seventeenth century charter was more advanced in its provisions for democratic government and for guarantees of personal freedom. Indeed, the Concessions can be viewed as representing the culmination of a political tradition that stemmed from the Levellers and Republicans of earlier generations and from the centuries-long struggles for personal freedom in England. What gave them their special character, however, was the peculiar zeal of the Quakers for human rights, a zeal that was inspired both by their religious principles and by their own harsh experiences with persecution because of their beliefs. The idealistic aspirations of the Quaker colonizers were well expressed in their statement: ". . . there we lay a foundation for after ages that they may not be brought in bondage, but by their own consent, for we put the power in the people . . ."

The Concessions were drafted in England late in 1676 and were formally approved and signed by the chief participants in the colonizing enterprise on March 7, 1677. The principal author, it would appear, was Edward Byllynge, who was responsible for the purchase of what was to become West Jersey from John, Lord Berkeley, in March, 1674. But during the months that the document was in preparation, Byllynge no doubt shared the authorship with William Penn and other influential Quakers who were deeply involved in the project.

It should be noted that the Concessions represented an agreement among the "Proprietors, Freeholders and Inhabitants" of the colony, that it was consented to and affirmed by the scores of men who signed the document both in London and in West Jersey, and that it embodied the principle of "government by consent of the governed."

The frame of government outlined in the Concessions was democratic in the extreme. Almost unlimited power was vested in an assembly elected by the proprietors, freeholders, and inhabitants. Elections were to be held annually by secret ballot, and there were no property or religious requirements to restrict the suffrage. There were stringent safeguards against bribery or other corrupt influences in elections. When the province had been divided into tenths, there would be ten delegates from each subdivision, or a total of one hundred in the assembly. The inhabitants were guaranteed the right to present their grievances or requests to the assembly, and all official proceedings in courts and legislative bodies were to be open to the public. Public officials judged guilty of fraud were disqualified for life. There was no provision for an upper house, for a governor, nor for a veto power by the proprietors. In order that the people might understand their privileges, the Concessions were to be "writt in fair tables" in every court in the colony and be read "in a solemn manner" four times each year by one of the magistrates.

No less remarkable than the provisions for democratic participation in the government were the extensive and detailed guarantees of personal freedoms. Declaring that "no men nor number of Men upon Earth hath power or Authority to rule over men's consciences in religious matters," the Concessions assured full religious liberty to all. No person was to be deprived of life, liberty, or property without a trial before a jury of twelve good men of his neighborhood.

There could be no prosecutions without formal indictment, no proof of crime without the testimony of two honest and reputable witnesses. An accused person could serve as his own attorney. Trials were to be held in public, in order that nothing would be done "in a corner nor in any covert manner."

Debtors were liable only for their total estates; they were not to be imprisoned if their liabilities exceeded their assets. Thieves could make two-fold restitution out of their own property instead of being placed in jeopardy of life or limb. No taxes could be imposed except by the authority of the assembly. The estates of suicides were not to be forfeited but were to descend to the rightful heirs. In order to do justice to Indians accused of crimes, juries in such cases were to be composed of six Indians and six white men of the neighborhood. To insure that these fundamental rights laid down in the Concessions would not be violated by the assembly, it was specified that if any assemblyman, in the judgment of seven honest and reputable persons, acted contrary to the Concessions, he could be proceeded against as a traitor to the government.

It would be difficult to conceive of a freer, more democratic policy than that contemplated by the Concessions. In later years, even after New Jersey had been transformed into a royal colony, the spirit of the Concessions and the expectations that they had created of a government that deprived from and safeguarded the rights of the people, remained vivid and influential.

Because of the complex circumstances associated with the conferral of the government by James II on Edward Byllynge, rather than on the whole body of proprietors and inhabitants, in 1680, the Concessions did not become fully operative in every detail. Nevertheless, at the insistence of the residents and after lengthy disputes and negotiations, the substance of the Concessions, and particularly the guarantees of personal liberty, remained in effect.

Surely the West Jersey Concessions merit attention and admiration, along with Magna Carta, the Petition of Right, the Declaration of Independence, and the Bill of Rights as statements of the finest aspirations in our democratic tradition. Infused with Quaker idealism, based firmly on the historic quest for human freedom, they are even today a source of inspiration to those who cherish the cause of liberty and justice for all.

RICHARD P. MCCORMICK.

August 11, 1976.

ASSEMBLY RESOLUTION

Whereas, "The Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West-Jersey in America" was adopted as the constitution of the Western Division of New Jersey on March 3, 1676/77; and,

Whereas, The document based upon the principles of the English Society of Friends, ensured self-government through popularly elected assembly, established complete freedom of religious belief and practice, and limited the government's powers of taxation, imprisonment and trial; and,

Whereas, The Concessions and Agreements is imbued with the same principles of self-government by a free people as are found in the constitutions of the United States of America and the State of New Jersey; and,

Whereas, The Council of Proprietors of the Western Division of New Jersey, organized in 1688 to conduct the business of the proprietors, has continued in existence to this day, headquartered in the City of Burlington, New Jersey; and,

Whereas, The City of Burlington celebrates the Three-hundredth anniversary of its founding in 1977; and,

Whereas, The Three-hundredth anniversary of the Concessions and Agreements will be commemorated at Burlington on Saturday, September 24, 1977; now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

That this House hereby designates and sets aside Saturday, September 24, 1977 for the purposes of commemorating the Three-Hundredth Anniversary of the West Jersey Concessions and Agreements, and that the citizens of this State are hereby requested to take heed and make proper recognition of and participate in the events and purposes commemorated therein;

But it further resolved, That a duly authenticated copy of this resolution signed by the Speaker and attested by the Clerk, be transmitted to the Council of Proprietors of the Western Division of New Jersey.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LEHMAN. Mr. Speaker, this week, I was necessarily absent from the House

floor during three recorded votes and a recorded quorum call, and I would like to take a moment to state what my votes would have been.

On Wednesday morning, as chairman of the Subcommittee on Census and Population, I attended a meeting at the White House on the 1980 decennial census and missed two votes. Had I been present on the floor of the House, I would have voted for both resolutions, House Resolution 743, the rule for the medicare-medicaid antifraud and abuse amendments, and House Resolution 767, the rule for the Nuclear Antiproliferation Act.

On Thursday, in observance of Yom Kippur, I did not come to the House floor, and I missed a vote and a recorded quorum call. Had I been present, I would have voted to approve Wednesday's Journal.

FEDERAL AGENCIES INFRINGING UPON THE LIVES OF THE INDIVIDUAL

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LUJAN. Mr. Speaker, my opposition to the creation of the Consumer Protection Agency is well known. There are already too many giant Federal agencies infringing upon the lives of the individual and this will simply add to the list.

In opposing this bureaucratic monster and the continuing outrageous growth of the Federal Government, I am not only following my own best instincts, I am taking into account the desires of the people back home. They are telling me in no uncertain terms that do not want another "Big Brother" looking down on them.

So that my colleagues can understand the across-the-board opposition the business people of New Mexico have to the creation of such an agency, I am listing the names of some of the business people who have written me detailing their feelings on the matter. I can assure you that, to a man, everyone of these people, be they small business oriented or in major corporations, oopose the creation of a Consumer Protection Agency.

The list follows:

Robert R. Farrell, Mid-Valley Insurance Agency, Inc., Belen, New Mexico.

Howard Kercheual, Valencia County News-Bulletin, Belen, New Mexico.

C. A. Nicholson, Belen Butane Supply, Inc., Belen, New Mexico.

Birdye Abraham, Abraham Service, Grants, New Mexico.

Richard G. Baille, President, Grants, Milan, West Valencia County C of C, Grants, New Mexico.

James B. Barber, Grants Daily Beacon, Grants, New Mexico.

Frank B. Hackney, L & H Steel Products, Inc., Grants, New Mexico.

Maric Olson, Sports Shop, Grants, New Mexico.

Garland D. Taylor, Jr., Grants State Bank, Grants, New Mexico.

Larry Sparks, Village 7-11 & Liquor, Albuquerque, New Mexico.

J. B. Bell, Bell Company, Inc., Albuquerque, New Mexico.

E. W. Gray, President, Equipment Sales & Mfg. Co., Albuquerque, New Mexico.

George S. Jenks, Chairman & CEO, Albuquerque, New Mexico.

Jack R. Alexander, Albuquerque Gravel Products Co., Albuquerque, New Mexico.

Ben A. Lanford, Jr., State Distributors, Inc., Albuquerque, New Mexico.

Bates Lumber Co., Albuquerque, New Mexico.

George C. Banghart, Builders-Materials, Inc., Albuquerque, New Mexico.

Allen O. & Ruby M. Hughes, Huges Meat Company, Inc., Albuquerque, New Mexico.

William L. Beale, Control & Equip. Co., Albuquerque, New Mexico.

Raymond M. King, Gibson Products Co. of Farmington, Inc., Albuquerque, New Mexico.

Don W. McLeod, Albuquerque Phoenix Express, Inc., Albuquerque, New Mexico.

Peter T. Mocho, Onate Feed Company, Albuquerque, New Mexico.

Randy S. Self, Westside Distributors, Inc., Aubuquerque, New Mexico.

Jim Stafford, Prefection Truss Company, Albuquerque, New Mexico.

Stuart C. Hill, Stuart C. Hill, Gen. Contractor, Albuquerque, New Mexico.

Earl Crist, Plateau Supply, Inc., Albuquerque, New Mexico.

Robert J. Darrow, Creamland Dairies, Inc., Albuquerque, New Mexico.

Willis E. Garrett, Rust Tractor Co., Albuquerque, New Mexico.

Robert H. Allan, Jr., President, First State Bank At Gallup, Gallup, New Mexico.

Frank Burke, Real Estate, Insurance, Gallup, New Mexico.

Jack B. Cahpman, Gallup Broadcasting Co., Gallup, New Mexico.

Joe Di Gregorio, California Superama, Inc., Gallup, New Mexico.

Franc E. Rici, President, The Merchants Bank, Gallup, New Mexico.

Rodney Heath, Olman Heath Co., Farmington, New Mexico.

Martin Pierce, Citizens Bank, Farmington, New Mexico.

Elmo L. Poteet, Poteet Engineering Co., Farmington, New Mexico.

John H. Dendahl, President, Eberline Instrument Corp., Santa Fe, New Mexico.

T. H. McElvain, T. H. McElvain Oil & Gas Prop., Santa Fe, New Mexico.

Philip Naumburg, Colony Materials, Santa Fe, New Mexico.

David F. Polson, President, Polson-Mercer, Inc., Taos, New Mexico.

John A. Randall, Randall Lbr. Co., Inc., Taos, New Mexico.

Murray A. Kugler, Stephens-Irish Agency, Inc., Las Vegas, New Mexico.

Louis E. Lyster, Louis Lyster Gen. Contractor, Inc., Las Vegas, New Mexico.

R. L. Williams, New Mexico Mill & Lumber Co., Las Vegas, New Mexico.

Joe Anaya, Anaya's Auto Center, Las Cruces, New Mexico.

Casper U. Lutz, American Linen Supply of N.M., Inc., Las Cruces, New Mexico.

Robert L. Stryxer, Stryxer Realty, Inc., Las Cruces, New Mexico.

Claud Tharp, Rountree Cotton Co., Inc., Las Cruces, New Mexico.

James Hamilton, President, James Hamilton Construction Co., Silver City, New Mexico.

Harry E. Gray, Jr., Clovis Oil & Butane Co., Clovis, New Mexico.

C. E. Jordan, Cal. Jordan Imp., Co., Clovis, New Mexico.

Marcus Sellars, Pioneer Inn, Clovis, New Mexico.

R. W. Wilson, Electronic Parts Co., Clovis, New Mexico.

Rogers Aston, Self-Employed, Roswell, New Mexico.

Robert L. Chewning, Chewning Footwear, Roswell, New Mexico.

John Hall, John Hall Associates, Roswell, New Mexico.

Raymond Harris, Chr. of the Bd., Glover, Inc., Roswell, New Mexico.

Charles A. Joplin, Security National Bank, Roswell, New Mexico.

Harold R. Base, Artesia Chamber of Commerce, Artesia, New Mexico.

F. M. Houston, Owner, Bryan Printer & Stationers, Artesia, New Mexico.

Charles K. Johnson, President, First National Bank, Artesia, New Mexico.

Bert M. Jones, H & J Food Baskets & Minit Mart, Artesia, New Mexico.

J. S. Ward, J. S. Ward & Sor., Inc., Artesia, New Mexico.

S. P. Yates, Yates Petroleum Corp., Artesia, New Mexico

George W. Crump, The Cavern Supply Co., Inc., Carlsbad, New Mexico.

Kenneth M. Nelson, Ken Nelson, Realtor, Carlsbad, New Mexico.

Prentiss G. O'Neal, O'Neal Motors, Inc., Carlsbad, New Mexico.

Bill Queen, Queen Oil & Gas Co., Carlsbad, New Mexico.

Ben Alexander, D.A & S Oil Well Servicing, Inc., Hobbs, New Mexico.

A. W. Arnold, Al's Inc., Hobbs, New Mexico.

O. Belt, Badger Bit & Speciality Co. & Hobbs Ind., Inc., Hobbs, New Mexico.

Cecil L. Brown, President, United Chemical Corp. of N.M., Hobbs, New Mexico.

M. G. Burnam, Clarke Oil Well Servicing, Inc., Hobbs, New Mexico.

Rodger Gray, Permian Ford, Hobbs, New Mexico.

W. H. Kolins, Climax Chemical Company, Hobbs, New Mexico.

Ray D. Little, Jr., Superior Printing Service, Inc., Hobbs, New Mexico.

James R. Miller, Johnson, Miller & Co., Hobbs, New Mexico.

Bob Moran, Moranco, Hobbs, New Mexico.

James M. Murray, Jr., Me-Tex & Assoc. Co.'s, Hobbs, New Mexico.

August A. Peters, Jr., A.A. Oilfield Service, Inc., Hobbs, New Mexico.

William A. Slater, Southern Union Refining Co., Hobbs, New Mexico.

Wm. E. Thomson, Bill's Welding Supply Co., Inc., Hobbs, New Mexico.

Zearl Young, Western Auto Stores, Hobbs, New Mexico.

Jerry Clayton, Lovington, New Mexico.

Gooch Tank & Mfg. Co., Tatum, New Mexico.

Monte Vallejo Realty, Inc., Alamogordo, New Mexico.

BILL HULL

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. BEVILL. Mr. Speaker, I want to take this opportunity to join my colleagues in paying tribute to former Congressman William R. Hull, who died this past August 15.

A Member of Congress for 18 years, Bill will be remembered both by the people he served and by his colleagues in Washington as a person who represented the views of the people of Missouri's Sixth District in outstanding fashion.

Bill came to Washington from the northern Missouri community of Weston, where he was the owner of a large tobacco business. Before his election to Congress, he was active in numerous civic affairs in his hometown and also served as mayor of Weston.

Following his election to the 85th Congress in 1954, Bill served nine consecutive terms, retiring at the end of the 92d Congress in 1972.

During that time, he served on three House committees: Public Works and Transportation, Interstate and Foreign Commerce, and Appropriations.

I had the privilege to serve with Bill on the Appropriations Committee and my service with him will be remembered with the highest regard.

My sympathy goes out to his family with the thought that Bill Hull will be remembered both in Washington and in his native Missouri as an outstanding public servant in every sense of the word.

PANAMA AUDUBON SOCIETY CONCERNED ABOUT ENVIRONMENTAL IMPACT OF NEW TREATIES

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SNYDER. Mr. Speaker the following letter that Ms. Carolyn Lowe, vice president of the Panama Audubon Society, wrote to me August 15, speaks for itself.

I hope my colleagues take careful note of the concern she expresses as they consider the proposed new treaties with Panama.

The letter follows:

BALBOA, CANAL ZONE, *August 15, 1977.*

Hon. GENE SNYDER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SNYDER: It was very encouraging to read your statements, which appeared recently in the local press, regarding the environmental impact of a new Panama Canal treaty. This is a matter which has caused great concern on the part of many of us here in the Canal Zone as we have watched the treaty negotiations move toward conclusion. And our concern has been augmented by the fact that neither the U.S. nor the Panamian negotiators have appeared to give any consideration to the environmental implications of the proposed treaty.

As you are well aware, the ecological resources of the Canal Zone are of tremendous importance. The Zone's extensive tropical rain forests harbor one of the world's most valuable treasures of tropical bird, animal and plant species. The accessibility of these forested areas makes them a great outdoor laboratory for the scientists who come from all over the world to do research in every aspect of tropical biology. Their loss would be a loss to mankind.

We hope you will continue to put pressure on the State Department to prepare a complete and accurate Environmental Impact Statement on the effects of a new treaty on the Canal Zone's natural resources, and also to insist that strong provisions for environmental protection be included in such a treaty. Otherwise, the Canal Zone faces an ecological disaster. This would have grave consequences not only for the wildlife and biological resources, but for the viability of the Canal itself, the operation of which would be seriously undermined by the destruction of the forests protecting the watersheds. Considering the widespread destruction of forests throughout the Republic of Panama, the threat to Canal Zone forests is a real one.

Thank you for your concern and for your positive action on this vital matter.

Sincerely,

CAROLYN LOWE,
Vice-President,
Panama Audubon Society.

WHY WE MUST KEEP AMERICA'S CANAL IN AMERICAN HANDS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SYMMS. Mr. Speaker, Gov. Meldrim Thomson of New Hampshire, a prominent leader of the conservative movement in America, addressed a council dinner of the John Birch Society in New York City on September 10, 1977. Governor Thomson discussed the Panama Canal Treaty recently signed by President Carter and explained why it is imperative that the Senate reject the treaty.

I would like to point out, Mr. Speaker, that Governor Thomson has remained steadfast in his principles of limited government. New Hampshire is the only State that has neither an income tax nor a sales tax. Consequently, it has strong economy, a healthy business climate and very low unemployment rates. It should serve as a model to the rest of the States in this regard.

I would like at this time to submit Governor Thomson's remarks to my colleagues in Congress:

WHY WE MUST KEEP AMERICA'S CANAL IN AMERICAN HANDS

(By Meldrim Thomson, Jr.)

If our giveaway boys in the Department of State and the Carter Administration have their way, the American Canal in Panama might well become America's waterway to destruction. The result of the Roman Circus staged by the Administration in Washington this week to sign a Panama Canal Treaty might best be described by paraphrasing Rudyard Kipling's Recessional: "The tumult and the signing dies,/The leaders and the aides depart;/Still stands America's sacrifice,/A great Canal; our Flag a part!"

I find it abhorrent, in the twilight of a great Bicentennial celebration, to witness an American President rushing to surrender the sovereign territory of the United States; in this case to the Communist-trained Panamanian dictator, Omar Torrijos! It is certainly a shameful way to begin the third century of our once-glorious national history.

PREVENTING NATIONAL SUICIDE

Patriots wonder what has happened in this land of the brave and the home of the free. For almost two centuries, whenever American troops went forth to battle it was to win as quickly and decisively as possible. That zest for victory was captured in the inspiring words attributed to Colonel William Barret Travis at the battle for the Alamo in 1836—words written on the wall of the fortress either by candle or in blood, and found after Travis and his 187 men had all been killed in battle or massacred by the enemy.

"I am besieged by a thousand or more of the Mexicans under Santa Anna," Travis said. "The enemy have demanded a surrender at discretion: otherwise the garrison is to be put to the sword if the place is taken. I have answered the summons with a cannon shot, and our flag still waves proudly from the walls." Then Colonel Travis added: "I shall never surrender or retreat!"

How different was the cowardly appeasement of those politicians and diplomats who committed more than 100,000 young Americans to death unnecessarily in the no-win wars of Korea and Vietnam! And now the Carter Administration, by its proposed giveaway treaty, would commit America to an even lower level of disgrace by surrendering without a whimper a territory and facility essential to the very existence of our nation.

What is even worse is that for the first time in our history American taxpayers will be asked to pay millions in indemnity to make our surrender acceptable to Panama.

Oh, that we might have 34 courageous U.S. Senators who, in the fateful hour of ratification of this noxious giveaway treaty, will say with Colonel Travis in strong clear voices: "We shall never vote to surrender or retreat!" How wonderful it would be if those same 34 or more Senators would give answer to the President in the great words of Charles Cotesworth Pinckney, who in 1797 told a French Minister: "Millions for defense, but not a damned penny for tribute."

One must wonder whether in the haste to give away our American Canal, to make accommodation with Red Cuba, to harass and desert such loyal allies as the Republic of China and Israel . . . whether Carter is bent on national suicide. Take heed, my fellow Americans, to the sage warning of young Abe Lincoln to a lyceum audience at Springfield, Illinois, in January 1838:

"All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Bonaparte for a commander, could not by force take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide."

I tell you, friends, this giveaway treaty smells to high heaven of national suicide!

PATRIOTISM IS EMOTIONAL

Recently the U.S. treaty negotiator, Sol Linowitz, said that the opposition to the Canal giveaway treaty is one of emtionalism. Well I can tell you that, in my own case on this issue, I am glad that the reasoning of my head is fortified by the emotion of my heart.

As you may know, last Tuesday I issued a proclamation in New Hampshire, declaring September 7, 1977, to be America's Second Day of Infamy. To alert our citizens of the tragic charade being performed by the Presidents, dictators, and Generalissimos of 26 countries of the Western Hemisphere who participated in or witnessed the signing ceremony of the treaty in Washington on that day, I caused the national and state Flags to be flown at half-mast. Then, for doing what I considered a solemn and patriotic act, I was excoriated and condemned by the American Civil Liberties Union. When I was given an opportunity to reply to their challenge in a radio interview, I said:

"Why is it that the A.C.L.U. is not concerned about the mainstream of American citizens? Have you ever heard of this fuzzy-headed, fringe-oriented organization going to bat for our jobless, our burdened taxpayers, or for the Christian schools of our nation? No. You will find them working the social sewers of America, helping the fellow travelers of Communism, the Nazi hoodlums of Chicago, the homosexuals, the

pornographers, and the desecraters of Old Glory. I am not aware that the A.C.L.U. ever whispered so much as a tiny protest against the numerous desecrations of the American Flag by the Panamanians, or against the tearings, burnings, and spittings upon Old Glory that were all instigated by the Torrijos regime now being honored in Washington by a cowardly Carter Administration.

"On several occasions, as Governor, I have lowered our Flags to half-mast on state buildings when I felt that some solemn matter should be brought to the attention of New Hampshire citizens. For example, I lowered our Flags when the fine, innocent, and free athletes of the Republic of China were denied participation in the world Olympics by Canada because of her commercial ties to Red China, and again when President Carter declared amnesty for war evaders.

"As Governor I have the right to direct the official flying of the Flags in our state, and I shall continue to do so. As for the A.C.L.U., its leaders obviously know nothing about the great patriotic traditions of America. If they did, they would not be running around thumping their shallow breasts like a band of Benedict Arnolds."

Yes, Sol Linowitz is correct! The issue of the American Canal on the Isthmus of Panama is an emotional one if a person has so much as one red corpuscle of patriotism in his bloodstream!

That is probably why, when I received several days ago an invitation from General Omar Torrijos to attend a reception in honor of Vice President Walter Mondale, I fired back the following reply:

"It would be impossible for Governor Thomson 'to honor' a member of an Administration that gave amnesty to war evaders, that scuttled the B-1 bomber, and that would violate its campaign promise to the American people by surrendering the American Canal in Panama.

"When General Torrijos serves your people by reason of a free election, has restored basic rights and freedoms in Panama, has rejected Communism, and has demonstrated common decency for the Flag of the American taxpayers who provide his nation with the highest per capita foreign aid of any nation in the world, then Governor Thomson would be pleased to meet General Torrijos as the duly elected 'Chief of Government' of the free people of Panama."

SOME CANAL FACTS

Let us keep in mind a few basic facts about the ownership, construction, and use of our Canal. Consider:

Under the terms of the Hay-Bunau-Varilla Treaty of 1903, the 51-mile-long and roughly 10-mile-wide Canal, consisting of 553 square miles, was given "in perpetuity" to the United States by the Republic of Panama. Article III of the treaty granted to the United States all rights, powers, and authority within the Zone, "*to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.*"

By the decision of the United States Supreme Court in *Wilson* v. *Shaw*, our title to the Canal Zone was confirmed in the following language: "It is hypercritical to contend that the title of the United States is imperfect and that the (Canal Zone) does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

The fact is that our sovereign right to the Canal was never seriously questioned until 1974 when Henry Kissinger, that great designer of no-win diplomacy, in a brief airport stop, agreed with Panama Foreign Minister Juan Tack that the United States did not have sovereignty over the Canal Zone. Kissinger was wrong then, and Carter is wrong now.

For four centuries men dreamed and schemed of a canal across the isthmus that would in one short link eliminate the 7,000-mile voyage around the Horn. The French under Ferdinand de Lesseps, the builder of the Suez Canal, tried for two decades to build a sea-level canal. When the French failed, President Theodore Roosevelt led Americans in an engineering and managerial feat that was the moon shot of the beginning of this century.

To Panama we paid $10 million to obtain the U.S. Zone in perpetuity. That was more than we paid for either Florida or Alaska. To the bankrupt French Canal Company we paid $40 million for its rights and properties in the canal. And to Colombia we paid $25 million in 1922, much to the disgust of Teddy Roosevelt.

We built a 51-mile Canal with three sets of locks at each end capable of raising and lowering ships 85 feet. The chamber of each lock is 110 feet wide and 1,000 feet long. The gates to each lock are 7 feet thick and 10 stories high. Each filling of a lock requires 52 million gallons of water and takes 8 minutes to fill by gravity. In the building of the Canal, enough earth was moved to fill a ditch 10 feet deep and 50 feet wide, stretching from New York to Los Angeles. After an expenditure of almost $400 million, the building of the world's largest earth dam and the creation of the largest man-made lake, the Canal was ready to transit its first ship, the *S.S. Ancon*, on August 15, 1914.

Since building the Canal the United States has spent about $7 billion in improvements, maintenance, and investments. The tolls have been reasonable and uniform. Only twice in 63 years of operation have we raised them; once in 1973 from 90 cents per ton to $1.08, and again in 1975 from $1.08 to $1.29. Since we have lost about $27 million on the operation of the Canal from 1973 through 1976, we must consider what would happen to the tolls if Torrijos were to gain control and raise them drastically to produce the $40 to $70 million in annual payments out of Canal revenues called for by the proposed giveaway treaty.

Two months ago I partially transited the American Canal on a Danish container vessel carrying a payload of 13,000 tons. She was 690 feet long and 100 feet wide. Her toll charge was $26,000. But she saved a quarter of a million dollars by avoiding the extra 10-day journey around the Horn. You see the economic point. And the American Canal is important to our economic growth. Last year about 13,000 ships transited our Canal. This is almost twice the number that used it the year after World War II.

And do not forget that our Canal can handle 96 percent of the world's shipping. This has been of great economic value to the consumers of America. For example, 42 percent of all cargo going through the Canal originates in the United States and 21 percent of its cargoes are destined for our nation. Approximately 30 percent of all physical commodities transiting the American Canal are energy related, such as petroleum, coal, and coke. Next month it is anticipated that three large tankers a day will transit our Canal bearing Alaskan oil from Prudhoe Bay to the energy-hungry eastern seaboard. It is not only our Canal but we have never needed it more than we do right now.

CONSIDER HUMAN RIGHTS

President Carter has raised a hullabaloo in international circles about human rights. In his Inaugural Address last January, Carter said: "Our moral sense dictates a clearcut preference for those societies which share with us an abiding respect for individual human rights." In his address to the United Nations last March, Carter said: "The search for peace and justice means also respect for human dignity. * * * No member of the United Nations can claim that mistreatment of its citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation of freedom occurs in any part of the world."

These are beautiful, brave words which, based upon President Carter's action in embracing the Torrijos regime, make a mockery of the whole issue of human rights. Certainly there are no human rights in Panama today.

Omar Torrijos catapulted to absolute power in October 1968, when a military coup ousted the duly-elected President, Dr. Arnulfo Arias, after only 11 days in office. Since then, there have been no free elections in Panama. There is no free press and no right to habeas corpus. Torture, exile, and expropriation of property are common responses of the Torrijos Administration to those who oppose the dictator's regime.

Specific documentation of such occurrences are set forth in a three-volume work of the "Panamanian Committee for Human Rights," a work which has only provoked the scorn and ridicule of our State Department.

Consider the story of Anthony Keith Pooré, an Argentine-born British subject who was arrested by the Torrijos secret police in January 1976 at a rally held to protest the deportation of his employer. Pooré, an honorably discharged six-year veteran of the U.S. Army, said in an affidavit given in Miami last September:

"I was handcuffed and taken to the G-2 Section for questioning. I immediately requested the right to communicate with my attorney—this was denied. I was later to find out I had no rights at all. There were two heavily armed guards who kept making threats and referring to me as a 'Yankee Pig' and 'Imperialist.' I was also informed by them I was to be executed."

Mr. Pooré described how he was clubbed on the shoulders, back and head. While he was blindfolded a pistol was placed to his temple and he heard the hammer click into firing position. He was subjected to several such mock executions, each interspersed with beatings and screamed threats that he must recant and tell the truth, followed by further beatings on the head. He was held incommunicado and without food or water for hours awaiting deportation to Argentina. Then . . .

But let Anthony Pooré continue the tale of his torture. "I was to find out that my ordeal had just begun," he said. "I was to undergo electrical shock which was administered on several occasions. This consisted of a 12-volt car battery and two cables. I was prodded under the arms, on my nipples and in the groin and crotch area. Faces became blurred and I remembered little else."

After reading the Pooré affidavit in detail I called Mr. David Wagner on the Panamanian Desk in the State Department. Mr. Wagner confirmed that the Department had a file on Pooré, that he had been in Miami, and that they did not know where he was now.

I asked about the allegations of torture. These were dismissed by Mr. Wagner, who said the British Consul in Panama had seen Pooré after part of the beatings and had found no incriminating marks on his body. After much searching I located Anthony Pooré in a foreign country and talked with him last week. He recalled meeting the Consul, as he had indeed described in his affidavit, but explained that they had agreed not to ask for medical help lest it provoke further abuse. And Mr. Pooré told me the persecutions continued even after leaving Panama.

The bureaucrat, Mr. Wagner of the State Department, may not believe Anthony Pooré. I have good reason to do so.

The State Department, during this sensitive period of its attempt to frighten Senators into ratifying the Canal treaty, quite obviously plans to keep the lid on the gross

torturings and violations of human rights that go on almost daily in Panama. But, for further confirmation of the truth that they occur, I cite to you the case of David Mendelson of Mobile, Alabama, a 37-year-old American citizen who was beaten last April by the dictator's National Guard in Panama and deported to Miami.

Mendelson was held incommunicado for 12 hours. His credit cards and money were taken and a substantial bank account was closed without giving him credit. He has documentation to prove that his kidneys were injured shortly before he was deported to Miami. So here is an American citizen who was brutally beaten by officials of Panama, and whose property was taken by them. Mendelson has repeatedly asked bureaucrat Wagner for help. What has the State Department done for him thus far?

Nothing!

Absolutely nothing!

Remember, President Carter said in his U.N. talk on human rights that no member of the U.N.—and I take that to mean the United States also—"can avoid its responsibilities to review and to speak when torture or unwarranted deprivation of freedom occurs in any part of the world." Have you heard Wagner or his bosses Cyrus Vance and Jimmy Carter speak out about the tortures of Pooré and Mendelson? I have not heard a word and do not expect that I shall!

But in the weeks ahead I am confident that we shall hear the giveaway boys of the State Department, whose actions surely qualify that body as the most un-American institution in all of our government, plugging hard for a treaty that would throw ever more American citizens to the torture chambers of the Panamanian dictator Omar Torrijos.

THE TREATY ITSELF

We cannot possibly review the terms of the sellout treaty in less than a book. However, if you have not done so, I hope that you will get a copy of the treaty at once and study it carefully yourself.

This treaty indicates that police, fire protection, street maintenance, and garbage collection in the Zone will be done by Panama. The United States, through the new Panama Canal Commission, would pay Panama $10 million a year for this. It is a good bet these municipal services for which we are to pay by terms of the treaty are now being rendered by the Canal Zone government for a good deal less. But there is a much greater issue here. Consider: As an American citizen, what real protection do you think you could get from Panamanian police in view of the brutal beatings they gratuitiously administered to Pooré and Mendelson?

Also, under our sovereign operation of the Canal it has always been available for use by all nations of the world *except our enemies in time of war*. It is therefore important to note that under the terms of Article II of the proposed neutrality treaty: "Both in time of peace and in time of war (the Canal) shall remain secure and open to peaceful transit by the vessels of *all* nations on terms of entire equality." This means that in any future war in which we might be engaged our enemy would have the same access to the Canal that we would have—a right that did not exist in World Wars I and II.

I believe that one of the worst provisions in the proposed treaty is the requirement in Article IV, Section 3, for the creation of a board to be comprised of an equal number of senior military representatives of the two countries. This board is charged with the responsibility of preparing contingency plans for the protection and defense of the Canal, for the conduct of combined military exercises, and for the conduct of combined military operations with respect to the protection and defense of the Canal.

What a beautiful way to insure that Russia or any other potential enemy of the United States will know in advance of action what our plans might be! Only diplomatic nuts bent upon destroying America would agree to a provision so dangerous to our national security. It almost reads like America's own suicide note.

What are the prospects of dictator Torrijos violating the treaty if by some unfortunate quirk of fate the U.S. Senate should ratify it? The chances of a Panamanian violation are excellent. Since November of 1975 the Torrijos Government has violated its treaties or agreements with the United States 11 times. The latest violation was in June of this year. Thus, her rate of violations is better than one every two months.

Should there be any doubt in anyone's mind that the proposed treaty gives everything to Panama and does not even leave us the opportunity silently to steal away, I cite for them Article VII, Section 1, which states that all of the land now owned by the United States in Panama "shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor." Thus, we not only surrender our sovereign territory and agree to pay an indemnity which in 23 years will amount to about $2 billion, but we must suffer the humiliation and insult of having Old Glory take second place to the Flag of Panama!

The wonder is that there would be a single vote in the United States Senate to support such a treaty.

VITAL TO OUR SECURITY

The Canal is essential to our national security. Remember that we do not have a two-ocean Navy. In naval preparedness we are rapidly achieving second place to Russia. Thus the Canal is vital to America for the movement of naval vessels from one ocean to another—and the Canal can handle 98 percent of all of our naval vessels, including our nuclear submarines. Only our large aircraft carriers cannot make the transit.

How important is this? Several weeks ago four former Chiefs of Naval Operations, Admirals Burke, Moorer, Carney, and Anderson told the President that "loss of the Panama Canal which would be a serious setback in war would contribute to the encirclement of the United States by hostile naval forces and threaten our ability to survive."

I find the testimony of those four respected admirals far more convincing on the question of the importance of the Canal to America's future safety than anything that might be said by Linowitz, Kissinger, Ford, or Carter!

Last July, in a little fishing village on the coast of Panama, 8 Panamanians and 4 Russians carefully examined the terrain and surrounding waters to test its suitability as a future naval base for Russia. The four former Chiefs of Naval Operations know what that means, and so should every American. The proposed giveaway of the American Canal on the Isthmus of Panama marks the high point of success thus far achieved by Communism in the Caribbean.

Either we make the Big Ditch our last-ditch stand against the encroachments of Communism in this Hemisphere or prepare for an inundation by world Communism on our southern doorstep. I say the Canal surrender treaty must be rejected! I say, Live Free, Or Die fighting in the cause of freedom. But never, never, let us sink so low and forget so completely our great heritage as voluntarily to lower the Stars and Stripes in the U.S. Canal Zone.

THE CARGO SECURITY ACT

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RISENHOOVER. Mr. Speaker, thefts from cargo is a $5 billion deadweight on the Nation's economy which deserves strong congressional challenge.

Our respected colleague, Mr. PICKLE, has introduced the Cargo Security Act (H.R. 1157) and I am a cosponsor. We believe this is an important weapon against this form of crime in America.

The distinguished gentleman from Texas, on September 15, addressed the National Cargo Security Conference in Chicago. I am including his remarks in the RECORD:

SPEECH BY CONGRESSMAN J. J. PICKLE

In 1976, the Department of Transportation estimated $1 billion in direct cargo theft losses. The American Trucking Association said that direct costs should be multiplied 5 to 7 times to get the total costs to the consumer and industry—so the 1976 figure should be at least $5 billion in direct and indirect costs as compared to the $1 billion quoted.

There is new leadership at DOT, and the other agencies concerned with cargo security.

There is some evidence that the new Administration is willing to listen to those who work on the cargo security problem daily.

I cite three examples where lack of a strong program and forceful leadership by DOT is hurting our efforts.

First, the ICC has refused to require freight forwarders to report losses from theft. The main reason is the fact that DOT did not go to the ICC and argue for such reporting. . . .

Next, the CAB has lowered reporting requirements for the airlines. The new CAB rules call for a general form to be filed twice yearly instead of the more detailed statistics now being received four times a year.

Finally, I will report that the rumor out of the ICC is that the ICC will soon do for the trucks and railroads what the CAB did for the airlines.

These recent developments, which I lay at the feet of DOT as much as I do the regulatory agencies, will take us right back to the pre-1970 dark ages of knowledge about cargo losses.

My bill lays the ground work for a broad based program that will:

(1) Allow the Department of Transportation to set up limited regulations in the following areas:

(a) Packaging.

(b) Documentation and labelling.

(c) Cargo loss reporting.

(d) Personnel identification.

(2) Attack the jurisdictional dispute between DOT and the Department of the Treasury.

(3) Get the Federal Maritime Commission into action by making ships report losses.

(4) Establish legislatively the Office of Cargo Security, which exists now only by the grace of the Office of Management and Budget, and

(5) Create the Inter-Agency Council on Cargo Security.

My bill requires packaging, documentation and labelling, reporting, and personnel identification.

Three out of four sections do not put a burden on industry but rather on the manu-

facturer or shipper. Only reporting would cause you any inconvenience, and that would only be to report the truth. So, if you fall back on that old criticism that this bill is harmful to industry—that is a falsification.

I have read your analysis, "Cargo Security: A Record of Progress," put out by the Transportation Association of America and most of that analysis is pure baloney.

Four years ago nearly everyone in DOT was against any kind of legislation. Now, DOT is split down the middle—and many within DOT are waiting for a signal. Seven out of twelve of the governmental agencies who were asked their opinion of the pending bill said they favored some kind of legislation or approved of the principle of the bill. Those who know the problem best favor affirmative action.

My final message today to the industry and DOT is "don't be timid." A strong approach can mean many bucks in your shareholders' pockets, and can mean a government program that really helps our consumers.

A BIG DAY

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. EMERY. Mr. Speaker, on September 11, 1977, it was my privilege to speak in the town of Bristol, Maine, at the dedication ceremony of their new Teenage Memorial Association building.

Tragic events in 1967 indicated a clear need for viable recreational alternatives for the region's youth. In typical Yankee fashion, the Bristol area responded with human and economic resources from within the community, without requesting State or Federal assistance.

The project nearly faltered in 1970. A renewed effort, however, in the mid-seventies reemphasized Bristol's concern for its youth and saw completion of the association's dream. A small town of only 2,000 residents, Bristol stands as a proud example of the independence and resourcefulness of the people of Maine.

Below is a clipping from the Portland Press Herald published September 10, 1977. It clearly demonstrates the enthusiasm and effort which has gone into this worthwhile project:

A BIG DAY

Tomorrow will be a big day at Bristol.

It will be a big day not just because of the formal exercises attending the dedication of a new building, but because once again it is being demonstrated that a small town can do a big job when the people are determined and dedicated.

The Bristol people were all that because tomorrow's exercises climax a project that began in 1967, faltered, and then surged ahead again until the goal was reached. The goal is the new building of the Bristol Area Teenage Memorial Association.

In tomorrow's ceremonies, a few thousand well chosen words will be offered by a corps of speakers which will include a congressman, two state representatives, a state senator, a former director of the Maine Bureau of Corrections, and others.

But ringing louder than the most eloquent oratory will be the action of the people of Bristol and their neighbors.

When two auto accidents claimed the lives of five Bristol teenagers in 1967, the people decided it was time to stop talking about a recreation center and do something about it.

By 1970 their efforts had produced a foundation and frame built on 36 acres of donated land. But the project ran out of money and the fund raisers ran out of steam.

Three years later the Association was revived and the fund raising renewed. Now there is a fine new building with an estimated construction cost of $50,000.

Bristol is a small town in a small county. Its 1970 population was placed at 1,721. But it has accomplished a big thing.

So tomorrow will be a big day at Bristol. We hope teenagers of today and tomorrow will fully appreciate just how much love and labor the new recreation center represents.

THE CUBAN CONNECTION

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. BAUMAN. Mr. Speaker, despite the Carter administration's love affair with Fidel Castro, Cuba remains one of the most active Communist powers working to carve up Africa. Ambassador Andrew Young first described the Cuban military presence in Africa as "stabilizing," and other administration spokesmen have subsequently played down the connection between African revolutionary upheaval and the Cuban military adventurism on that continent.

A revealing and persuasive study has just been released by the Education and Research Institute of the American Conservative Union. ERI policy analysts, Fred Mann and Dan Humbert, describe the origins of the Communist campaign to win hegemony in Africa and what it all means to the United States. I bring it to the attention of my colleagues:

CUBA IN AFRICA

The success of the Cuban intervention in Angola is now a matter of historical fact. The Castro regime's massive shipment of both men and materiel to Agostinho Neto's MPLA has been well-documented. Not nearly so well-investigated and reported, however, is Cuba's effort—backed by the Soviet Union—to infiltrate virtually every other part of Africa. Only gradually is a more complete picture of Cuban military initiatives beginning to emerge.

Although it is certain large numbers of Cuban troops, "technicians," and "advisers" operate within many African countries, observers of the African situation find it difficult to determine the exact—or even approximate—number of Cubans within these countries. In the interest of objectivity, most observers list the lowest estimated figures for Cuban operatives in Africa.

Even though Cuba has brought about the ascendancy of the MPLA faction in Angola through massive military assistance, it appears Cuban involvement in that country will not end quickly. Bayard Rustin, national chairman of the Social Democrats, USA, writes that "there are 25,000 Cubans in Angola, which is close to 10 percent of the Cuban army and more than were present during the height of the civil war."[1] British journalist Robert Moss explains the reason for the continuing presence of the large number of Cuban forces in Angola. He notes that three anti-Cuban guerrilla movements—UNITA in the southern and central part of the country, the FNLA in the North, and the FLEC in the Cabinda enclave—have refused to concede control of Angola to the MPLA and are continuing the struggle.

The British newsman adds that "Angola today cannot be objectively described as an independent country. Control of its armed forces, its secret police, its economy, its civil administration, and its educational system is in the hands of Russians, Cubans and East Europeans. . . ."[2]

Castro's aggressive efforts in Angola have required the presence of Cubans in other African countries to support the intervention. Congo-Brazzaville is one of these countries. James Nelson Goodsell, Latin American correspondent for the *Christian Science Monitor*, notes that "ever since the Angola buildup began in October 1975, the Congo has been used as a staging area for Cubans and as a replacement depot for material."[3] Approximately 1,000 Cubans remain in Congo-Brazzaville, though their number may actually be closer to 1,500. An article in *Westwatch*, the quarterly publication of the Council for Inter-American Security, points out that Cubans stationed in Congo-Brazzaville serve an additional role: to prop up the fragile Marxist-Leninist regime in that country.[4]

In addition to Congo-Brazzaville, Guinea-Bissau and Equatorial Guinea have also served as transshipment points for Cuban supplies, equipment, and troops going to Angola. According to Goodsell, a force of approximately 300 Cubans remain in Guinea-Bissau. Senator Jake Garn of Utah contends there are 3,000–4,000 Cuban troops remaining in Equatorial Guinea. The Cubans are very active in this country, where President Macias presides over one of the most repressive regimes on the continent. Bayard Rustin notes that "Fifty thousand people have been killed without trial or charges, and Macias has reportedly introduced a system of slavery."[5]

Angola, in turn, is obviously viewed as a base for continued aggression. Thus two prisoners captured from the invading Katangan forces said that Cuban and Soviet military advisers had trained them in Angola and led them in the invasion of Zaire.[6] Columnists Rowland Evans and Robert Novak comment on the goal of the Cuban and Soviet-incited invasion: "The fall of the Shaba province to the Communist-backed Katangans would surround Zambia, the only Western-leaning black state in southern Africa, with black states that all lean heavily toward Moscow, away from Washington: Angola, Tanzania, and Mozambique."[7]

TWO, THREE, MANY ANGOLAS

The Cubans are substantially involved in areas of Africa not directly related to Angola. Other countries where Cubans are present in significant numbers and wield considerable influence include:

Uganda

The Washington *Post* reported in March, "for the past month, Cuban advisers and technicians have been trickling into Uganda to help train President Idi Amin's undisciplined army and to prop up his shattered economy. . . ." The *Post* said Amin made similar requests for assistance to several other nations (both Western and non-Western) and was adamantly refused by all, "on the basis that Ugandan weapons are being used exclusively for the purpose of killing other Ugandans."[8]

Mozambique

Robert Moss reports that there are as many as 1,000 Cuban "advisers" and "technicians" in Mozambique training Mozambican and Rhodesian terrorists for guerrilla operations

Footnotes at end of article.

in Rhodesia. South African sources indicate that the Cubans are manning tanks and piloting Soviet MiG–21 aircraft. The Cubans are also responsible for the personal protection of Marxist dictator Samora Machel.[9]

Tanzania

James Goodsell notes that this country is another site where Cuban civilians are training black Rhodesians for guerrilla operations in Rhodesia. The number of Cuban advisers in Tanzania is estimated at 200–600.[10]

Namibia

Westwatch indicates Cuban military instructors are providing both weapons and training to the Marxist organization SWAPO (Southwest African People's Organization) for the purpose of extending Soviet-Cuban influence to the Orange River.[11]

Somalia

Cuba's largest buildup of troops and advisers outside Angola is located in this country. Approximately 1,500 Cubans are stationed in Somalia. The regular Somalian army is trained and equipped mostly by the Soviets, but Cuban troops and instructors are training Somalian guerrillas operating in French Djibouti, the only remaining western-controlled port on the Red Sea. Philip Clarke in his study "Cuba: Island of Terror" estimates "at least 650 Cuban troops, pilots, and artillery technicians are busy helping enlarge a giant Soviet missile complex at Berbera, Somalia, where they work with 2,500 Russians."[12]

Ethiopia

200 Cuban commandos are training the Ethiopian army to fight against the secessionist Eritrean rebels.

Western Sahara

Cuban instructors are training guerrillas of the Polisario Front, who are fighting in the Western Sahara and Mauritania.

Ghana

A Cuban military force is now in Ghana, after having been expelled from that country eight years ago.

Libya

African observers suspect Cuban military involvement also in Libya, aimed at supporting the Qaddafi regime.

Sierra Leone

Cuban military advisers are assisting in the training of Sierra Leone's security force.

In sum, Cuban involvement in Africa is very substantial indeed. Cuba has stationed troops, "advisers," and "technicians" in at least 16 African countries, with a total force of probably well over 30,000 men involved.

THE MOSCOW CONNECTION

The effectiveness of the Cuban venture in Africa depends on financial and logistical support from the Soviet Union. It is apparent, indeed, that the Cubans are acting expressly as proxies for the Soviets.

Walter Hahn and Alvin Cottrell, specialists in foreign affairs at Tufts University and Georgetown University respectively, explain the Soviet-Cuban alliance and its role in the African imbroglio in their monograph Soviet Shadow Over Africa: "The fact is the Cuban intervention in Angola could not have been staged without the encouragement and more important, without the logistic and material support—of the Soviet Union. It is doubtful whether Castro paid for the expedition out of Cuba's hard-pressed treasury; chances are that the Cubans have been handsomely rewarded by the Soviets. . . ."[13]

Robert Moss reports that in addition to the Soviets' $1 million per day subsidy to bolster Cuba's domestic economy, the Soviets spent more than $500 million for the Angola campaign. Soviet subsidies are continuing to the MPLA to enable them to repel the attacks of the rival guerrilla factions which remain in the country.[14]

The extent of Soviet support of the Cuban mission in Angola is evidenced also by the diverse menu of weaponry that the Soviets have shipped to that country. James Dornan, Chairman of the Department of Politics at Catholic University, writes that "the weapons which the MPLA received included heavy and light machine guns, AK–47 rifles, 82mm mortars, 75mm recoilless rifles, large quantities of Katuyshin rockets, 107mm and 122mm ground-to-ground rockets, T–34, T–54 and PT–76 tanks, helicopter gunships, and SAM–7 anti-aircraft missiles. The 122mm rockets have been credited by some observers with initially halting the anti-Soviet offensive and ultimately turning the military tide."[15]

Other African regimes have also received sizeable quantities of Soviet military aid. The Soviets have increased their influence in Mozambique by aiding the FRELIMO regime in its efforts to undermine the government of Rhodesia. Mozambique has received "T–34 and T–54 Russian tanks, truck-mounted rocket launchers and SAM–7 shoulder-fired anti-aircraft missiles, as well as ground-to-ground rockets."[16] Soviet rifles are found in abundance in Mozambique's army. Russian AK–47 rifles were used to gun down seven Catholic missionaries in Rhodesia on February 6, 1977.

Dornan describes further the ever-increasing scope of Soviet military aid to support Cuban forces elsewhere in Africa: "The transfer of sophisticated military equipment to third world nations and revolutionary movements . . . has reached unprecedented levels since 1972. Impoverished indeed is the guerrilla group without an ample supply of SAM–7s; Uganda and Somalia have recently received MiG–21s; MiG–23s and possibly MiG–25s have operated from Syria, the former flown by Syrian pilots; and no less than a squadron of TU–22 bombers have been supplied to Iraq. During the past eighteen months Libya has received more than 200 T–62s, several squadrons of MiG–23s and a number of TU–23 Blinder supersonic medium bombers."[17]

THE STRATEGIC STAKES

The Soviets undoubtedly expect to achieve some of their most important foreign policy objectives through the expenditure of billions of dollars to support Cuba's military ventures in Africa. The willingness of the Soviets to invest these large sums is understandable considering that Africa—especially southern Africa—is a critically important source of essential materials.

The Soviet newspaper Pravda shows an acute understanding of the significance of these resources to the United States: "In U.S. imports, the share of strategic raw materials imported from Africa amounts to 100 per cent of industrial diamonds, 58 per cent of the uranium, 44 per cent of the manganese, which is used in the steel smelting industry, 36 per cent of the cobalt, essential for aircraft engines and high strength alloys, 33 per cent of its oil and 23 per cent of its chromium, used in the manufacture of armor, aircraft engines, and gun barrels."[18]

South Africa alone is rich in natural resources essential to the security of the West. This country holds the world's largest reserves of platinum group metals, manganese, vanadium, and chrome. South Africa's deposits of uranium, asbestos, high-grade iron ore, antimony, vermiculite, and fluorospar are among the largest in the world. Large reserves of copper and coal are also present. In all, over 50 different minerals are mined on a large scale in South Africa.[19]

African countries bordering on the Indian and Atlantic Oceans are also important geostrategically because of their proximity to vital sea lanes. Currently 2,300 vessels pass around the Cape of Good Hope every month. 600 of these vessels are oil tankers. Only a small percentage of oil tankers can pass through the Suez Canal because the canal is not deep enough to accommodate most of them. Maintaining open sea lanes around the Cape is thus imperative for the West to survive, if only for the energy supplies shipped by the Cape route: 20 per cent of U.S. oil requirements and 57 per cent of Europe's needs travel by this route.

According to the classical Leninist theory of imperialism, the capitalist industrial states will eventually come to be surrounded and strangled by being denied access to their markets and raw materials. It appears that the Soviet-Cuban intervention in Africa is an attempt to lay the groundwork for such a scenario.

To this end, the Soviets, with the assistance of Cuban manpower, have already progressed significantly towards securing under the Soviet yoke the strategic regions neighboring the Suez Canal and the Red Sea. Since a Marxist military coup overthrew the government of Haile Selassie, the United States has cut off its military assistance to Ethiopia, only to be replaced by Soviet aid. Senator Garn predicts that "as Ethiopia's ties to the West weaken, and are replaced by cooperation with the Soviet Union, the Soviets will use Cubans to orchestrate the switch, rather than doing it directly."[20] Exercising control over Ethiopia is particularly important to the Cubans and the Soviets because of the growing power of the secessionist Eritrean rebels. If the Soviets and Cuban communists gain firm control over Eritrea, in addition to South Yemen and Somalia—which are already linked to the Soviet Union—the Moscow-Havana axis would in fact control all access to the Red Sea and the Suez Canal.

THE ATTACK ON RHODESIA

The country in southern Africa that presently is carrying the brunt of Cuban and Soviet-sponsored aggression is Rhodesia. Extensive guerrilla operations in Rhodesia have been conducted by an uneasy alliance of Robert Mugabe's ZANU (Zimbabwe African National Union) and Joshua Nkomo's ZAPU (Zimbabwe African People's Union). These terrorist leaders launch their raids from the "front-line" countries, where their forces are trained and equipped by the Cubans and the Soviets. Mugabe and Nkomo promise to continue fighting until the government of Rhodesia is destroyed, and so-called "black majority rule" can be instituted.

The Soviets will, without doubt, continue support for these terrorist activities. An indication of this trend is that the Soviet Union signed a 20 year agreement with Mozambique in April 1977. In this pact, the two countries pledged to wage "the African struggle against the forces of imperialism for the final elimination of colonialism, neo-colonialism, racism, and apartheid on the continent."[21] The treaty also implies assistance to Mozambique in case of war with Rhodesia or South Africa.

The extent of Soviet and other Communist assistance for the terrorists waging warfare against Rhodesia has been spelled out by John J. Tierney, former head of the Department of Politics at Catholic University. "Without the weapons and training received from the Communists," Tierney observes, "neither of the Rhodesian terrorist groups would be able to operate for more than a short time. Communist involvement is not only decisive, it is massive. Terrorists have undergone paramilitary and sabotage training primarily in the Soviet Union, but also in North Korea and China. They have been housed in special compounds near the capital city of each country and have been trained by the respective uniformed officers of each army.

"In addition to training, the typical Communist ideological schooling also takes place.

Footnotes at end of article.

Many terrorists, for example, have been found with Mao Tse-tung's famous red book of quotations, printed and distributed in Peking, on their persons . . . . In addition, almost all of the equipment to sustain the war originates from Communist countries. The USSR and PRC individually supply weapons, ammunition, explosives, uniforms, money, and food . . . Direct aid is also shipped by other Communist states, principally East Germany, Poland, Bulgaria, Hungary, and North Korea." [22]

As for the outlook of the Rhodesian guerrilla forces themselves, the Washington weekly *Human Events* reports: "While the various Rhodesian 'liberation' groups who provide the cover for the terrorist raids are touted as African 'nationalists,' it is noteworthy that both the Zimbabwe African Nationalist Union (ZANU) and the Zimbabwe African People's Union (ZAPU) have declared themselves as Maxist-Leninists.

"A ZANU manifesto states, for example: 'ZANU is guided by the principles of Marxism-Leninism.' A ZAPU spokesman puts it: '. . . it is no secret that we base our work on the principles of Marxism-Leninism and that our ideological position is rooted in the masses. The struggle to create a new society such as we are striving for must be based on the principles of scientific socialism.'" [23]

That the Cubans and the Soviets have centered their attention on undermining the government of Rhodesia is understandable, considering that a victory for the radical factions would firmly entrench Soviet influence in eastern and southern Africa, and thus enable the Soviet-Cuban axis to isolate South Africa.

Clearly, the Cubans and the Soviets realize the crucial geopolitical significance of the African continent. The degree of Cuban commitment to dominating Africa is reflected in the boast of Gabriel Garcia Marquez, a Colombian communist writer, who claims that "there is not a single African 'liberation movement' that has not counted on the solidarity of Cuba, sometimes in the form of arms and materiel and other times in the form of training for military and civilian technicians and specialists." [24]

In short, it appears that Angola was merely the first of many dominoes to fall in the face of continuing aggression engineered by Moscow and adroitly carried out by its Cuban proxies.—By Dan Humbert, Policy Research Staff, and Fred Mann.

FOOTNOTES

[1] *New America*, June 1977.
[2] London *Sunday Telegraph*, February 20, 1977.
[3] *Christian Science Monitor*, February 23, 1977.
[4] *Westwatch*, May 1977.
[5] *Congressional Record*, May 20, 1977.
[6] New York *News World*, April 21, 1977.
[7] Washington *Post*, March 21, 1977.
[8] Washington *Post*, March 4, 1977.
[9] London *Sunday Telegraph*, February 20, 1977. *Westwatch*, May 1977.
[10] *Christian Science Monitor*, February 23, 1977.
[11] *Westwatch*, May 1977.
[12] "Cuba: Island of Terror," America's Future.
[13] *Soviet Shadow Over Africa*, Center for Advanced International Studies, University of Miami, 1976.
[14] London *Sunday Telegraph*, February 20, 1977.
[15] "Rhodesia and the Soviet Offensive in the Third World," *Rhodesia Alone*, Council on American Affairs, 1977.
[16] *Ibid.*
[17] *Ibid.*
[18] L. Valentinin, "Imperialism is the Enemy of the People," August 14, 1976.
[19] P. C. Roberts, *South Africa—The Vital Link*, Council on American Affairs.
[20] *Congressional Record*, May 20, 1977.
[21] *Rhodesia Alone, op. cit.*
[22] *Ibid.*
[23] *Human Events*, August 20, 1977.
[24] "Cuba: Island of Terror," *loc. cit.*

WASHINGTON POST ARTICLE PAYS TRIBUTE TO REPRESENTATIVE PARREN MITCHELL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SIMON. Mr. Speaker, today's Washington Post has a feature story about one of our finest Members, Representative PARREN MITCHELL.

It has been my privilege to see his righteous wrath in action on the Budget Committee, where he has eloquently spoken to the most fundamental need this Nation has—to guarantee jobs to all Americans.

PARREN MITCHELL is one of the finest Members of Congress by whatever standard you make the judgment, but most important is his humanitarian thrust. He recognizes that Government is here to serve the needs of people, and that those whose interests must be watched with the greatest care are not the rich and powerful but those who are politically inarticulate, who buy no $100-a-plate dinners for political gatherings, who may not even know that Congress is in session or who their representative in Congress is. To those people we must give hope, and that is what PARREN MITCHELL stands for.

History's test of whether we are a civilized society is not likely to be whether we made enough nuclear warheads, but whether we responded to the needs of the hungry, and PARREN MITCHELL understands that. In only one respect would I have a disagreement with the article. The article speaks about his shyness. I have not detected shyness, but I have not had the opportunity to know him as well as others. "Gentleness" would be a word I would use, rather than shyness. He is a gentleman, in every sense of that word, but he understands that courtesy and courage are not incompatible, that respect for others cannot be limited to morning greetings, but must also include giving all people an opportunity to enrich their lives, and the lives of their community and Nation. It is a pleasure to insert the Post article:

"ONE OF GOD'S ANGRY MEN"—HE IS PARREN MITCHELL, BLACK CAUCUS CHIEF

(By Jacqueline Trescott)

"Mr. President, when you are wrong I will criticize you," Parren Mitchell told Jimmy Carter one recent morning at the White House. The President looked around at the grim faces of the all-Democratic Congressional Black Caucus, nodded to Mitchell on his right, and replied, smiling, "I know."

Outside, the press corps seized Mitchell, chairman of the 16-member caucus, who has unhesitantly aimed his own verbal arrows of "neglect" at the White House. "Were you promised a domestic policy," they asked. "What about full employment, what about jobs?"

"No, we weren't," said Mitchell, looking past the notepads and news clippings of polls indicating a waning confidence of blacks in an administration they earlier had put great faith in.

"But we were promised a hard look," said Mitchell, adding, in a deliberately wry tone, "and we have to assume that the President wouldn't lie to the Black Caucus."

On occasion Parren Mitchell, a Maryland congressman since 1970, is the guarded politician, stepping gently but still jabbing. A more frequently heard Mitchell is the unhappy warrior, the man who for months has claimed that the nation is entering a "Second Reconstruction," as he sees the hard-won gains of the civil rights era chipping away.

"Well, black folks are going down the drain again," said Mitchell, whirling into his Capitol Hill office and thumping a Pall Mall on his desk. Though he spoke calmly, he looked worn, his pugged face smoldered with frustration. It's not only a political viewpoint, a subject for fiery rhetoric on the speaking circuit but a personal setback, because that century-long fight for social equality has motivated Mitchell, a member of a pre-eminent civil-rights family, from the cradle to Congress.

And, curiously, while many have seen a worsening national picture for minorities, the star of Parren Mitchell has steadily risen.

In other years, Mitchell grabbed the headlines only for interceding dramatically in prison disturbances, and last year, for running up an overdue phone bill. Now he's becoming increasingly influential as he leads discussions with Carter and Cabinet officers.

Today and Saturday the Black Caucus is holding its annual two-day summit of political and economic workshops and social events. Mitchell will be the host to Jimmy and Rosalynn Carter and 3,000 other guests at the group's fund-raiser Saturday evening. He will make his first appearance on "Meet The Press" the next morning.

Yet he's snarling. "Yes, I'm pessimistic. There's a new mood in America that's anti-black. It's painful," said Mitchell, his words bouncing off the photographs of those milestones in black progress, the signing of the civil-rights bills of the '60s.

Ironically, these warnings come as the new Democratic administration settles in. After his initial meeting (shortly after the Inauguration) with Carter, the first Democratic President the Black Caucus has had to talk to since its formation in 1970, Mitchell said, "We are not losing any ground." After a second meeting Aug. 31, he asked, "Has the status of black folks substantially changed since the President got into office, and answered himself, "No."

"Each of our meetings has been cordial and pleasant," said Mitchell. "He has responded to the criticism of his programs by blacks. I would like to believe that the President is a decent human being. The question is, is his game plan more important than the immediate issues? In a way I understand the long-range view. He's a technician, he's part scientist, and that's the way their minds work."

He turned to the telephone, excused himself, and placed a call to the White House. He's the practical politician, keeping the lines open, especially when you've had to use the back door for so long.

SHARING THE SPOTLIGHT

"All right, let's huddle," Mitchell ordered his caucus colleagues before a press conference. They huddled. And when Mitchell finished discussing the Bakke Case on reverse discrimination for the media, all the caucus members sat down. That's Parren Mitchell, 55 years old, a trim, 5 feet 5, who's nicknamed "The Little General" because he's quick on his feet, organizes his forces well and barks out of his own impatience with trivia.

He's not a limelight grabber, says Cardiss Collins, a caucus member from Chicago, explaining, "Parren works hard to make sure each person gets his share of spotlight. He's forging the caucus forward because now we are acting rather than reacting."

In looking at Parren Mitchell, a man who has not only been a participant but a test in Maryland civil rights activities, who has been criticized as a superficial renegade but now is generally respected as a bright and hard-working legislator, there are many sides, some paradoxes.

Well-known is the outspoken crusader, part of a leadership reserve—the Mitchell and Jackson families—active for generations in Baltimore. Parren's older brother, Clarence, chief lobbyist for the NAACP, is a respected force on Capitol Hill; one nephew is a Maryland state senator, another a member of the Baltimore City Council.

Also, there's Mitchell the recipient of a Purple Heart in World War II, who is now a pacifist and votes against all military aide, a position his Jewish constituency loathed in his early terms. Also, there is the sometimes-acid orator who lovingly cares for the roses and grapevines in his backyard. And there's the Episcopalian who's a lay reader in his church but receives "more of a religious experience," according to a friend, from hearing black kids sing spirituals or attending a senior citizens' play.

He's the liberal colleague who helped remove Rep. Robert Sikes (D-Fla.) from a powerful subcommittee chairmanship on a conflict of interest question and the liberal voice who called very early for Richard Nixon's resignation and who sued Nixon over the bombing in Cambodia—yet who admires John H. Rousselot (R-Calif.), former national publicity director of the John Birch Society, for his grasp of details. The staffs of their two mutual committees call Mitchell and Rousselot "The Bookends." Said Rousselot, "I certainly would call Mitchell a strong advocate of his view. He is more active than a lot of other members of the committee. We do differ but we get on fine."

Timidness? Not before presidents, but a former female staff member commented, "Parren is essentially very shy. He will walk up to you and say, 'Hey, baby doll,' or 'Devil,' that's his other pet name, but if you tease him like that, he gets embarrassed, stammers and walks away."

Only one group has drawn his rancor: the drug pushers. "Essentially I'm a liberal but I can't take a public stand on the de-criminalization of marijuana," he explained.

"As a probation officer I saw guys coming off drugs cold turkey. They would be moving in their own feces, their faces would be all bloody from banging their heads against the wall. Those people, the drug traffickers, cause me to be less than a liberal."

Over the last 18 years Walter Orlinsky, the president of the Baltimore City Council and a candidate for governor, has worked with and watched Parren Mitchell. Mitchell has changed, in Orlinsky's view, from an integrationist to a man who only saw the black side of issues to a bridge builder.

"I wouldn't go as far as to say a conciliator. But the Parren Mitchell who has less of a tendency to get involved on the black side of a black-and-white issue is a better person for the city. The only time he strays is when he gets too angry on a peripheral issue."

SEETHING ANGER

Yet, his anger, a stinging backhand to any form of injustice, keeps Parren Mitchell *keep on keepin' on.*

His anger can erupt. When then Gov. Spiro Agnew called together a group of black leaders after riots in several Maryland cities, and then berated them, Mitchell stormed out. Another time, he exchanged sharp words with then-Secretary of Housing and Urban Development George Romney at a 1971 meeting with Richard Nixon that the Black Caucus had waited 14 months to have.

His anger can seethe. After two nights watching "Roots," Mitchell turned off the series and said publicly, "If I had met any of my white friends I would have lashed out at them from a vortex of primeval anger." Said his sister-in-law, Juanita Mitchell, an activist attorney, "Parren's emotion is the emotion of a Patrick Henry. He didn't say give me liberty later. Parren is just one of God's angry men."

"I know I get emotional. But it's been more than 20 years from 1954 (the year of the Supreme Court decision on the school desegregation, the beginnings of the modern civil-rights movement). How many people have been jailed, lost, and now you see those gains unraveling," said Mitchell.

"When I get angry I take 30 minutes by myself to think, quietly, just thinking. I'm not ashamed of my anger. I had a very close friend, Walter Carter, who had taken his beatings, trying to change the laws. We were ready to work on the next level, forming the laws from inside the system. Then one night Walter died, just died at a public meeting. I have never gotten over it, that's why I'm angry, so lives like Walter's wouldn't be wasted."

FAMILY VOICES

So, in many ways, Parren Mitchell grew up enraged, hearing the fatigued but never hopeless voices of his family plan the next boycott. Elsie and Clarence Mitchell gave their sons time for the boyhood games of "King of the Mountain," but also gave them a picket sign.

With his older brother, Clarence, Parren Mitchell marched outside the department stores, the amusement-park gates, the theater box offices. Now many of those businessmen are Mitchell's constituents in a district that includes part of downtown Baltimore, Coppin State College, middle-income neighborhoods and housing projects.

As a youngster Mitchell worked as an elevator operator and delivery boy, graduated from Douglass High School in 1940, served in Italy during the war and then earned a degree in sociology from Morgan State College.

He had to sue to enroll at the University of Maryland graduate school in 1952. "You never did things because you were a Mitchell, there wasn't that kind of pressure, you did things because it was right," said Mitchell. For the next few years, Mitchell worked as a probation officer, then supervisor of the city's probation department, as executive director of the State Human Relations Commission, and then he headed the Baltimore anti-poverty program.

"The experience showed Parren's foresightedness," says the Rev. Vernon Dobson of Baltimore, a friend. "He knew the programs wouldn't last, so he insisted that upward mobility would be more than a sociological term. He made sure that the people not only get a job with the agency but also continue their education. He wanted the people to have something when the program was over."

In the late '60s Mitchell turned to teaching, at Morgan's Urban Studies Institute, and to elected politics. In 1968 he organized a primary drive in six weeks and lost by less than 5,000 votes to an 18-year incumbent. Mitchell won the next election, a pattern that hasn't been broken yet.

"One of P's biggest frustrations when he ran the anti-poverty agency," said Judge Joseph Howard, an associate judge on the Supreme Bench of Baltimore, "was that he knew what needed to be done but he would be hamstrung by others making the decisions, others designing the budgets. He wanted power, the power to change, and he has a little more now, but he still hasn't slowed down."

BACK IN BALTIMORE

Each evening, except in rare, emergency circumstances, Mitchell and a staff aide get in his 1976 Granada and drive back to Baltimore where he lives. Often the congressman hops out a few blocks away from his house, stopping in the grocery stores and the neighborhood bars, checking on happenings.

When he gets to his own modest three-story brick rowhouse, distinguished only be a spiral staircase in the dining room, Mitchell, who is a bachelor, cooks, tends to his house plants and talks to his constitutents on the phone. "He subjects himself to his constitutency in a manner that's almost unfair to him," said one staff member, Clarence Bishop.

One Saturday night, when Mitchell had several appearances scheduled, the phone rang and a young girl told him it was her mother's birthday. She said her mother idolized Mitchell and could the congressman stop by her birthday party. Mitchell said it was impossible, but he would talk to her mother on the phone. The girl hung up. A few minutes later her brother called, apologized for the request and told Mitchell he knew the congressman didn't have time for birthday parties. Before the evening was over, Mitchell surprised the family by showing up.

Once Mitchell toyed with the idea of running for mayor of Baltimore but now thinks Congress fits his game plan. "It is clear that this is where the damage is going to be," he says.

TRIBUTE TO JUDGE LLOYD R. HAYNES OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. CARNEY. Mr. Speaker, on October 9, 1977, a testimonial dinner will be held in honor of Judge Lloyd R. Haynes of Youngstown, Ohio.

Judge Haynes is one of the outstanding judges in the State of Ohio. He earned his B.A., L.L.B., and Juris Doctorate degrees from Youngstown State University. He also took law courses at Northwestern University School of Law and at the University of Miami.

Judge Haynes began his career as a member of the Youngstown Police Department. He served on the police force for 25 years—9 years as a patrolman, and 16 years as a detective. He left the police force to become assistant Mahoning County prosecutor, a post he held for 4 years. Later, he served as a special counsel in the office of the attorney general of Ohio. Presently, he is serving his fourth year as judge of the Youngstown Municipal Court.

A recognized expert in the field of law, Judge Haynes is licensed to practice before the State courts of Ohio, the U.S. district courts, and the Supreme Court of the United States.

Mr. Speaker, Judge Haynes has done an outstanding job in the performance of his duties. His balanced and fair interpretation of the laws is deserving of the highest praise. It is fitting and proper that the citizens of Youngstown express their appreciation of this good and decent man. I would like to take this opportunity to express my personal congratulations to Judge Haynes on his distinguished career. He has made a great contribution to our community. When his many friends join in honoring him, I hope to be there.

PANAMA CANAL TREATY ISSUE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the testimony of my distinguished colleague from New York, the Honorable SAMUEL S. STRATTON, on the Panama Canal Treaty issue before the House Committee on International Relations. I believe the Congressman's reservations about certain provisions in the recently signed treaties are certainly valid and deserve very close examination.

The testimony follows:

TESTIMONY OF CONGRESSMAN SAMUEL S. STRATTON ON THE PANAMA CANAL TREATY ISSUE BEFORE THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS

Mr. Chairman: I appear here this morning in opposition to the Panama Canal treaties—not to the treaties in toto, let me make clear, but, as we say here in the House, I am opposed to them "in their present form." Which means that if I were in the Senate or was to pass along any advice to the Members of the Senate, I would be supporting several major "reservations" or amendments to these treaties which I believe must be incorporated in them before they will properly reflect and protect the national interest and thus be suitable for ratification.

To this extent I believe you will find that my position differs to some extent from that of other treaty opponents who have previously testified before you. I am not opposed to some adjustment in the existing treaty that governs our position in the canal. I have been to Panama. I have seen the glaring economic disparities there between those who live in the Zone and those who live outside. I recognize the potentialities for civil disturbance and even guerrilla warfare that have all been heavily stressed by those who have negotiated these two new treaties. I would agree that we should take steps to eliminate many of these glaring inequities that are more appropriate to an earlier age. We ought to turn over more and more of the operation of the canal to the Panamanians, and we ought to make available to them a greater share of the financial benefits of the canal—if, indeed, at this point there are any net financial benefits still left for those who operate and manage the canal.

So I do not quarrel with this general thrust of the major treaty. What disturbs me, though, is that these treaties go much too far. They clearly throw out the baby with the bath.

The Panama Canal is a valuable American asset. It is important to our sea-borne commerce. That's why we built it, and why we have paid heavily to maintain it over the years. One might argue, as it has indeed been argued, that the canal is not quite as valuable to us today as it was 30 or 40 years ago. That may well be true. But it is still valuable and it will continue to be valuable into the future, especially, as now seems likely, we soon begin to ship our new oil supplies from the North Slope of Alaska around to the East Coast.

Therefore, whatever changes may be made in the operation or financing of the canal, it is absolutely essential that the canal remain available to us and that control of it be denied to our enemies into the indefinite future—which certainly means well beyond the next 22 years. That is why throughout all these negotiations the question of the defense of the canal has been a key issue in the minds of Congress and the American people. The main treaty specifically spells out, in Article IV, the right of the United States to defend the canal until the year 2000. In addition all of the press statements made by the negotiators themselves, and by Administration spokesmen, have asserted that the second treaty, the so-called neutrality treaty, also gives the United States the right to defend the canal after the year 2000.

Unfortunately, these assertions are simply not true. This alleged right is supposed to be implicit in the text of Article IV of the neutrality treaty. But the word "defense" does not even appear there! All that Article IV says is:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral . . ."

But this doesn't say a word about defense. It only mentions neutrality. And how do you get "defense" out of "neutrality"?

In his original press conference on the treaty, President Carter, commenting on this Article, said "we will have an assurance in perpetuity following the year 2000 that the Panama Canal will be neutral, that our ships will have unlimited access to the canal, along with the ships of other nations; we have no constraints on the action that we can take as a nation to guarantee that neutrality."

But, Mr. Chairman, there is a world of difference between a clearly defined "right" of defense, and "no constraints" placed on the action we can take to preserve neutrality!

Indeed the Panamanian Foreign Minster, Dr. Romulo Escobar Bethancourt, declared in a news conference in Panama City on August 24th that "The treaty does not establish that the United States has the right to intervene in Panama."

So how meaningful is this supposed right when one of the high contracting parties already denies that the treaty assures it?

If we leave this wording as it is we will have to go to the World Court for an interpretation, presumably, before we know whether we can legally resist an attack on the canal by aggressive forces.

So, Mr. Chairman, the only possible conclusion is that these treaties are in fact seriously deficient in protecting America's vital interests. They have been presented to the American people under false and misleading colors as containing what they do not in fact contain.

So here is my first reservation to these treaties: they must specifically spell out the right of the United States, after the year 2000, to defend the canal from any aggression or hostile action that might close off the waterway to United States ships or render the canal itself inoperable. In these critical days, with possible threats that might arise from Soviet or Cuban action in the Caribbean, we cannot possibly rest our national interest on some abstruse interpretation of vague and ambiguous language in the treaty that has already been repudiated by a leading official of the other signatory power even before the document is signed.

Secondly, Mr. Chairman, there must be no doubt that this defense right is expressly incorporated in the basic treaty itself. As long as there are two treaties, one before 2000 and the other after, there will always be disputes as to which is the real treaty and which ultimately prevails. On this crucial point of defense we can afford no such ambiguity. Therefore, I would propose as my second reservation that this U.S. defense right after the year 2000 be incorporated in the basic treaty. Only in this way can we make the treaty a legal binding contract which gives certain rights and privileges in consideration of other privileges given up on the other side. We must make it perfectly clear in this treaty that what we are agreeing to do up to the year 2000 is in direct return for the explicit rights that are being guaranteed to us in Panama after the year 2000. Otherwise, the treaty process becomes a mockery, just a one-sided give-away.

Finally, Mr. Chairman, I have one third reservation to propose. If this right of defense which I propose that Panama must concede to us after the year 2000 is to be meaningful—and not just mere rhetoric to assuage the American people—then it is absolutely essential that we also have on the spot in Panama itself the means to exercise that right.

In the present treaties as now drafted we not only have no such explicit right, but for all intents and purposes we are expressly barred from exercising it because Article V of the Neutrality Treaty forbids us to "maintain military forces, defense sites and military installations" within the Republic of Panama.

Clearly, if we are to deter or successfully oppose any effort to capture the canal and close it down we can only exercise that right effectively from a military base located in the vicinity of the canal. Without such a base our "defense" would be limited to trying to destroy or recapture the canal from Florida, Texas, or Guantanamo after an initial assault had already been made on the canal—perhaps by paratroopers or amphibious landing. Such an attack could well come from Cuba. If the Cubans can operate in force in Angola, then certainly they can mount a surprise assault on the Panama Canal. And once they take over physical possession of the canal, our defense "right" would have largely disappeared.

Once the Cubans were in possession of the canal, would America really be prepared to retake it in a contested amphibious landing? I wonder. But if our forces are already in place, if our defensive radar is working and our patrol planes are on station out of an American air base near Panama City, then we can almost certainly deter any possibility of such an attack well into the future, or, if it did come, wipe it out.

So I would propose, again in the main treaty, that we require that our right to defend the canal involve at least one United States military base in Panama, including an airfield. We have 13 or 14 in the Zone already. There is no reason under the sun, if the treaty really does give us the right of defense, why we should not retain at least one U.S. defense base. It would not be American soil, of course; it would be Panamanian soil. And we would be there under treaty to aid in the canal's defense. So the Panamanian flag could fly over the field, just as the Spanish flag now flies over our Torrejon base in Madrid. But anything less than that would make a sham and a mockery of the whole pretense of American defense rights.

I realize, Mr. Chairman, that these reservations would require reopening the negotiations. But let me point out that this would never have been necessary had the negotiators made a serious effort to listen to the American people and the Congress before they began their negotiations rather than after they had concluded them.

With these reservations the treaty is of course not quite as generous to the Panamanians as in its present form. But after all, we are promising to give them not only the canal, but to pay them generously, perhaps too generously, for taking it away. Surely in return for all these sweeping and expensive concessions, it is little enough to ask that we have a realistic and meaningful right to protect and defend something we built and have kept in operation. The American people were led to believe that that right

was actually contained in these treaties. But somehow it just never managed to get written in.

It is up to the Senate and the House to see that these serious omissions are corrected.

NEW WORLD LIBERATION FRONT: CALIFORNIA TERRORISTS EXPAND TO COLORADO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McDONALD. Mr. Speaker, with the explosion of a bomb at San Francisco's War Memorial Opera House shortly after midnight on September 9, 1977, the New World Liberation Front—NWLF—which is composed of fugitive members and supporters of the Symbionese Liberation Army—SLA—continued its "bomb-a-week" program of revolutionary terrorism in California.

Phone calls to television station KTVU and to the Associated Press in San Francisco shortly after the explosion directed news reporters to copies of yet another communique, this time from the NWLF Tom Hicks unit. Apparently unaware of the fact that cultural activities are enjoyed by people from a wide range of economic sectors or that opera houses and concert halls have large numbers of inexpensive seats, the communique was in the NWLF's broad ranging "popular struggle style" which attempts to link the terrorism to key radical causes in the area.

Directing the opera house bombing against "the ruling rich," the communique stated in part:

> As long as poor people are forced to live in unsafe, unhealthy housing, ruling class social sections will be threatened. * * * This country was built by our labor, yet the rich without a callous [sic] on their hands were and are the ones who reap the profits. We don't need these rich parasites controlling and stealing our labor. We know there won't be this mass suffering, this gross injustice when the rich are removed from power by force and the American people are in control; in control of production, control of all the lives.

The terrorist message continued:

> We must take steps to prepare to fight these rich vampires and get their greedy fangs from our throats. Basic human rights will not be given by these blood suckers but rather must be taken by force.

After more rhetoric in the archaic revolutionary style now used only by such Maoist groups as the Revolutionary Communist Party, the NWLF Central Command then threatened to "escalate" its terrorist actions unless its three broadly stated demands were met:

> 1. An end to the kicking out of all poor elderly people from their homes and communities to serve the interest of big business and their blood money.
>
> 2. Bring all sub-standard housing up to fire health and safety codes without an increase in rent.
>
> 3. Bring the International Hotel up to code—the tenants to return home without a rent increase.

As a note of explanation, the "International Hotel" is a decaying building in San Francisco whose owners, the Four Seas Corp. of Thailand, have evicted the former tenants. The eviction resistance, which took many months of court disputes, also included rent strikes, sit-ins and rowdy confrontations with police in which many San Francisco Bay area radical and revolutionary groups participated.

California leads the Nation in terrorist incidents, with 378 bombings during 1976. A large proportion of the terrorist bombings in California have been claimed or attributed to the NWLF which has generally made one major bombing attempt each week.

The New World Liberation Front of the Symbionese Liberation Army generally uses a high power plastic explosive called "Tovex." Some 2,000 pounds of Tovex explosive were stolen in 1975 from a quarry in Felton, Calif. More than three quarters of that amount is still unaccounted for.

The NWLF terrorists received national attention on September for its placement of a massive dynamite and Tovex bomb at the Pacific Union Club on Nob Hill in San Francisco across the street from the Fairmont Hotel. Had the device fully detonated, there would doubtlessly have been extensive structural damage to the club and hotel with a high probability of loss of life and personal injury. Also on September 1st, a small bomb exploded in a rest room at the private Olympic Club, but caused only minimal damage. The NWLF's Lucio Cabanes Unit, named after a Mexican Marxist-Leninist terrorist killed in 1974, stated in its communique that it had attacked hotels that "cater to the rich." The terrorist group then called on its supporters to also engage in acts of sabotage and disruption: none followed.

On August 29, the city of Sausalito was plunged into darkness when three NWLF pipe bombs destroyed the Pacific Gas & Electric substation serving that area. The explosions combined with a prolonged heat wave in northern California produced continuing brownouts. The NWLF's Eugene Kuhn Unit demanded in its communique that the PG&E utility "stop bleeding the poor."

Just before midnight on August 24, the NWLF partially detonated a large bomb in the driveway of the home of the former owner of the International Hotel, Walter Shorenstein. This explosion marked the NWLF's return to "community issues" such as the International Hotel, while the group's July and August bombings had generally been targeted against the Coors Beer Co.'s distributors in California. These bombings included the following:

August 23—a dynamite and plastic explosive bomb partially detonated on a boxcar on a siding at what the NWLF thought was the Coors distributor in Hollister. However, the distributor had moved a week earlier and the NWLF did not claim the explosion since the mistake showed the allegedly "infallible" terrorists had "bad intelligence."

August 17—a bomb thrown over a fence exploded at the Coors distributor in Auburn, Calif., with little damage; a second bomb placed by the Lucio Cabanes Unit of the NWLF at the Nevada City Coors distributor misfired.

August 7—a typical NWLF bomb exploded at the Coors distributor in Aurora, Colo. It is interesting that the communique concerned local Colorado issues and was dryly intellectual after the style of October League—Communist Party, Marxist-Leninist—pronouncements on labor disputes concerning the Coors brewery. The bombing was claimed by the NWLF's previously unknown Ludlow Unit, named after the 1914 Ludlow massacre that developed from a labor dispute between a Rockefeller-owned company and the United Mineworkers of America.

July 27—an attempted bombing of the Coors distributor in Susun City, north of San Francisco. This time the NWLF's primitive fuse failed.

July 14—the NWLF Lucio Cabanes Unit detonated a pipe bomb taped to a 350 gallon propane tank at the Coors distributor in San Jose, Calif. Blown off its cradle, the ruptured tank careened about the parking lot destroying parked cars and smashing tiles off the building's walls. Providentially none of the employees were injured.

The New World Liberation Front is an example of a U.S. revolutionary terrorist group whose members could have been apprehended had law enforcement intelligence units on the local and Federal level been able to develop the appropriate informants among the overtly revolutionary groups that preceeded the NWLF/SLA like the Venceremos Organization and the local Vietnam veterans against the war group, as well as among the groups recruiting violence-prone prison inmates to revolutionary causes.

NATIONAL LUPUS WEEK

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LLOYD of California. Mr. Speaker, we are concluding the first National Lupus Week today, and I would like to share the comments of Dr. Alfred Steinberg of the National Institutes of Health.

Dr. Steinberg is among the leading researchers into lupus. He recently stated:

> Advances in immunology allow us to better investigate the mechanism by which different factors interact so as to predispose persons to lupus. However, additional research efforts are necessary to better understand the disease so that we can prevent it and, in the meantime, develop a more comprehensive and effective approach to the care of patients.

Systemic lupus is a chronic, multisystem disease involving the kidney, lung, heart, or brain, which is disabling and often fatal.

Only $1 million of the $175 million budget of the Institute of Arthritis, Metabolism, and Digestive Diseases at NIH is allocated to lupus research. Additional moneys allocated to lupus at

other institutes raise Federal spending to $3 million in this field, or $6 per known lupus victim per year. Considering the prohibitive costs of lupus medications and the loss of productivity in persons suffering from lupus, this expenditure is insignificant.

The goals of Lupus Week are to focus attention on the problems and needs of lupus victims and to create an increased awareness of the disease.

UNICEF—CORRECTION PLEASE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McDONALD. Mr. Speaker, as the time for the approach of the Halloween goblins grows nearer, it is well once again to take critical notice of the defects of UNICEF as opposed to the propaganda that is given our schoolchildren each year. An item that appeared in the Review of the News on September 14, 1977, does this very well and I include it for the thoughtful consideration of my colleagues.

The article follows:

CORRECTION, PLEASE!

Knocking the United Nations is an effortless indoor sport. The jobbery, the inefficiency in which posts are filled on a ratio of national origin and the once-in-, impossible-to-fire, practice are all too evident in the U.N. But what this ignores, in the opinion of one observer, is the work of the U.N.'s related agencies. Some of these agencies have been bogged down in Third World politics. There is one, however, that has set a high and consistent goal and has become a shining light in all the dark places in the earth. It is the United Nations International Children's Emergency Fund (UNICEF).

Correction: Mr. Childs ignores a venal flaw in U.N.I.C.E.F. which more balanced observers have pointed out repeatedly.

Fifteen years ago a number of Roman Catholic leaders stopped supporting U.N.I.C.E.F. Their position was ably stated by Msgr. Edward J. Goebel of Milwaukee: "Our opposition to the UNICEF program was based on the protest of several of our former Catholic Army chaplains who maintain that UNICEF proceeds were not contributed to youth in need, but rather that they were taken up by the Communists in the [Communist-controlled] countries." What this means, as any refugee from a Communist dictatorship will tell you, is that food and aid are so controlled that one either submits to his Communist masters or he starves! The Reds use food and medicine as weapons.

A letter criticizing U.N.I.C.E.F., by an informed and irate woman named Harriet Rubin, appeared in the New York Times for November 27, 1975. Mrs. Rubin wrote: "India has been one of the chief beneficiaries of UNICEF funds. While the children of that country continue to starve in the streets of their cities and villages, India uses its meager resources to develop and build an atomic arsenal. Another nation receiving UNICEF funds, Cuba, prefers to use its resources to export revolution to Angola, where it has sent a 3,000-man force in support of a Soviet-backed army. This was reported in the Times of November 21. North Vietnam continues to be one of the chief beneficiaries of UNICEF funds. However, that nation has always put such restrictions on the monitoring of how the funds are spent that no one outside of that country really knows if the children there benefit at all . . . From the evidence it would seem that those who contribute to UNICEF actually allow many of the receiving states to divert their resources from helping their own children to military and aggressive ends."

The truth of Mrs. Rubin's criticisms have been confirmed by no less an authority than U.N. Secretary-General Kurt Waldheim. Here are excerpts from a story released by the Religious News Service in April 1975: "In a Rome interview with the New York Times, Waldheim appeared to confirm reports that the Communist administrators in Vietnam are interested in U.N. assistance, but that they would insist on controlling the distribution of food, medicine, shelter, and other assistance the United Nations is now gathering from available stockpiles for transport when arrangements are made. In all other situations, UNICEF, the refugee agency, and all other UN organizations have always insisted on controlling the situation on the ground.

"UNICEF officials in New York acknowledge that this has not been the case in their dealings with the Vietcong, North Vietnam, or the Khmer Rouge rebel forces in Cambodia. In these areas UNICEF merely arranges for the types of material requested by those authorities to be shipped to Hanoi. From there on, the goods go into the field without any further UNICEF control over it." Keep this in mind the next time you hear U.N.I.C.E.F. propagandists claim that it carefully monitors the use of its funds.

Reports continue to come out of the newly enslaved countries of Indochina describing the mass murders and atrocities by Communist overlords, yet U.N.I.C.E.F. callously supports the slavemasters. In fact, a 1976 U.N. report recommended giving millions more to "resettle" eight million persons, more than one-third the population of conquered South Vietnam. What this amounts to is the support of terrible atrocities. The whole world now knows that "resettlement" in Cambodia, for instance, involved forcing millions of persons, including all the hospital patients, from the capital city of Phnom Penh into the countryside to die of thirst and starvation while they were being worked to death.

Congressman Don Clausen (R.-California) expressed the total disgust felt by many Americans at U.N.I.C.E.F.'s schemes to finance the Communist butchers in Indochina. As he puts it: "Such gratuity on the part of the UN is absolutely ludicrous . . . . What we are witnessing, as I see it, is a world body rewarding aggression, rewarding the killing and torture of . . . civilians and prisoners of war, and rewarding the kind of UN lunacy in which the Communists rejoice."

Trick or treat for U.N.I.C.E.F.? Celebrate the birth of Christ by using U.N.I.C.E.F. greeting cards? No thanks, not me. I can imagine few actions that would be more immoral.—W.E.D.

OMAR AND FIDEL: FRIENDS TO THE END

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. DORNAN. Mr. Speaker, these days there is a lot of propaganda emanating from the State Department in regard to the Carter-Torrijos canal treaties. One of the more ludicrous assertions of the State Department is that Panamanian strongman, Omar Torrijos, is not really alined closely with Cuban dictator, Fidel Castro.

I quote from a State Department memorandum of September 19 which recently arrived in my office:

Panama's relations with Cuba and the communist countries are not close; neither the Soviet Union nor China maintains embassies in Panama.

I suppose that the State Department thinks that the Congress and the American people are not aware of the vast size of the Cuban diplomatic delegation in Panama City—larger by far than any other delegation. I suppose that the State Department thinks that the Congress and the American people are not aware of the recent signing of economic treaties between Panama and Cuba's patron and banker, the Soviet Union.

Be that as it may, the State Department will be hard put to warp its propaganda around the latest bit of information about Torrijos' true attitude toward Castro.

This information is not from some mere "reliable source" close to Torrijos—it comes straight from the man himself. And that is why I think the State Department will have a hard time explaining away this little embarrassment.

No sooner had Panama's military strongman, Omar Torrijos, left the United States after signing the treaties and hugging President Carter, than his thoughts turned to his friend and ally, Fidel Castro. While Torrijos' plane was enroute from Washington to Panama, he and Castro exchanged cordial telegrams. Diario Las Americas reported Torrijos' message to Castro as follows:

As I return to my homeland and am flying over the sky of Cuba I salute you with everlasting friendship. It is my desire that the Cuban people, under your certain direction, will continue their upward march toward progress.

In Latin America your name is associated with sentiments of dignity that have been channeled toward the termination of all vestiges of shameful colonialism.

OMAR TORRIJOS.

Within minutes, Torrijos is reported to have received a cordial reply from Castro, the text of which was not made public.

Now, I do not know how much this telegram lost in Library of Congress translation, but it must have been a heck of a lot if it reflects the State Department's opinion of what is not a "close relationship." I look forward to the next bout of State Department verbal contortions when it tries to explain away the two telegrams.

OUR GAME OF RUSSIAN ROULETTE

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. MILFORD. Mr. Speaker, I think everyone knows how to play the game of "Russian Roulette." One simply loads up the cylinder of a revolver with deadly bullets in all cartridge holes except one.

You then spin the cylinder and, without peeking, point the pistol to your own head and pull the trigger.

If you are lucky, this is a fun game. However, only idiots participate. Rational people know that deadly weapons should be used only for protection and furthermore, they are used only when one is forced into using them.

Any professionally trained protector, whether a soldier or a policeman, will tell you that when you are forced into a fight you must use every weapon possible and with enough force to insure success. One would never use a pistol loaded for a game of Russian Roulette in a real fight. The professional soldier or policeman would not only want all bullets in the gun, but also all possible types of guns that might be needed.

This Nation may be entering into a game of "Russian Roulette" in carrying out our national defense policies. One of the bullets in our defense gun is being withdrawn—the manned bomber.

I am deeply and increasingly concerned over the current trend which seems to downgrade and, in fact, at times ignores the vital role that our strategic bomber force plays in preventing the Soviets and others from involving us in armed conflict.

One big reason people do not understand our strategic defense needs is that we have gotten tangled up and confused by focusing on such high sounding words and concepts as TRIAD, throw weights, megatons, and by bean counting warheads, ICBMS, SLBMS, MIRV'S or what have you. This fancy numbers and exotic word game serves only to obscure the very real need this Nation has for a modern strategic bomber force.

What must be brought out loud and clear and reiterated, is the very simple, yet most important, effects the bomber fleet has in keeping the Soviets from gaining an overwhelming, upper hand over us.

To understand this, we need first to consider the nature of the Soviet people. This is more important than many people realize. Unlike us, the Soviet nation has been brutally invaded on many, many occasions throughout history. The Poles, the French and—twice in this century—the Germans, among others, have invaded Russia. The Russians have, and understandably so, developed a strong national inclination to prepare against any kind of military force that can deliver the fight to their homeland. In contrast, we in the United States do not have this same preoccupation for strong defensive forces. Quite the opposite—our view is essentially that the best defense is a strong offense. Carrying a bigger bat than the other guy has worked so well for us that we spend very little, for example, on air defense forces. Meanwhile, the Soviets ring their boundaries and cities with SAMs, radars, and a huge fighter interceptor force.

In the past we have always maintained and planned a sizable manned bomber force that could strike anywhere in the Soviet Union. It was this bomber force strategy which forced the Russians, by nature and necessity, to direct massive resources to defend their air space. They dreaded the thought of an aerial invasion just as much as they feared a land assault. Their historical experience drives them to prepare and pay heavily for strong defenses against this potential invader.

We need to fully appreciate and understand what this means to us today, and, second, why it is vitally important that we continue to have a strong, modern manned bomber fleet.

The Soviet Air Defense Force has over 550,000 military personnel—about the size of our entire Air Force—580,000. Their strategic air defense includes over 12,000 expensive surface to air missiles—we have none; they have bought and must man 6,000 radar sites, and they have over 2,500 strategic air defense interceptors. The cost to develop, deploy, and update these forces—devoted solely for home turf—has been and continues to cost the Soviets billions.

If we do away with or deemphasize the strategic manned bomber, we will then allow the Soviets to divert these huge resources from homeland defense to building and expanding their offensive systems—their submarines, warships, armoured vehicles, intercontinental bombers and missiles.

We could come full cycle: From being unquestionably superior; past our present day, so-called equal situation; to a complete reversal—with the United States not able to negotiate on an equal basis with the Soviets.

Obviously, then, it is vitally important that we force the Russians to continue using large parts of their military budget for defensive purposes instead of having all their rubles go to offensive weapons.

A second factor in the Soviet makeup that we need to take into account is that the Russians respect size and strength. This factor is especially valuable if you can make it highly visible and impressive when the going gets tough. Our ICBMs are underground. They are out of sight as are our underwater based submarine launched ballistic missiles. These missiles are, therefore, most important but they are not very visible—at least not until after they are fired out of their silos and tubes.

The manned strategic bomber, in contrast, lends itself to reflecting national resolve and intent short of going to war. We have in the past flexed our strategic bomber muscles—and most successfully. When the Strategic Air Command took to the air in round-the-clock airborne alert during the Cuban crisis, the Soviets got the message. They backed down.

The same thing happened during the Israeli crisis when the number of strategic bombers on alert was rapidly and dramatically increased. A hard message of seriousness of purpose and resolve on our part was heard around the world. Again, the Soviet bear looked at this very visible, very credible bomber force and pulled his claws in. He knew we had our ICBM's and submarine missiles but it was the bombers that delivered the message.

Our Strategic Air Command has about 450 bombers: 60 of them are relatively new FB–111's. The vast majority have seen 16 to 19 years of service; the older ones have been around for over 23 years. The B–52 fleet is clearly aged in time and technology and is obsolete.

True, we are going to deploy the new air launched cruise missile—the ALCM—but we need to understand and the American people have a right to know that the ALCM, as good as it is, can never be a substitute for the manned bomber.

The ALCM can certainly hit the targets it is programed against but it cannot be recalled once launched; it cannot report the damage it has done to a target; and the ALCM cannot withhold on a high-priority target that may have already been hit by an earlier weapon.

Likewise, the ALCM cannot be reused; cannot conduct search and destroy missions against targets that may have avoided prior detection; nor can the ALCM, with its range of 1,500 nautical miles—and that is optimistic—strike all targets in Russia. Finally, the ALCM is not combat tested as have been our bomber crews and aircraft. Do not forget that our bombers have never been turned back from striking any target by any enemy; and the Soviets know that.

If we let the ALCM take preeminence over the strategic bomber—and we are headed that way—we are disrupting the balance of land-based ICBM's, sea-launched ballistic missiles, and manned strategic bombers. This mix of forces has proven entirely successful for the last three decades and we need to be very hesitant when we tamper with it.

Worst yet, we are playing right into the Soviets' hands. With no new bombers in sight, the Soviets can concentrate solely on missile defense against the ICBM's, submarine missiles and cruise missiles. Technological breakthroughs could decrease or eliminate the worth of all missile-oriented offense force.

Likewise with their defense proposition simplified—no new bomber to think about—the billions of rubles that have been spent to improve, expand, and modify air defenses could now be directed to expanding their offensive forces. The Soviets could easily and rapidly overshadow us in the manned bomber arena which has, until now, been the one place we had a decisive, powerful edge.

We also need to recognize that missiles—ICBM's, SLBM's, and ALCM's—can only be brought to bear in a nuclear exchange. This is not so for the bombers. One reason we must have a modernized bomber fleet is to give us solid strength for confrontations short of a nuclear war. Bombers can be used in the so-called "brush wars."

We do not know what nonnuclear actions the Soviets or their satellites might contemplate. We do know from experience they will push and shove anytime they have an advantage. A modern bomber force which can deliver concentrated loads of conventional, nonnuclear ordinance provides a healthy incentive for the Soviets and their associates to limit their pushing and shoving to the negotiating table and not take to the firing line.

Rightfully or wrongfully, the B–1 is down the tubes and the B–52 cannot go

on into the 1980's and the 1990's as a viable weapons system in today's high technology air defense systems. We must, therefore, for the safety of the Nation and in the interest of peace for the world move forward, without delay, to fill in the ever-widening gap.

Three years ago, I suggested a stretch version of the FB-111 as a possible, and less expensive alternate to the B-1. The Air Force was not very interested because the B-1 looked better than before cost increases and delays drove it out of sight. In today's changed circumstances I believe we should reexamine the less costly FB-111. I submit that we need to get a reasonable program underway to verify without undue delay whether or not a stretch version of the FB-111 can meet our needs. If so, let us get it. If not, let us move out to find an airplane that will, for we simply cannot afford to let the strategic bomber force deteriorate.

The very well-being of the Nation is at stake—ICBM's, SLMB's, ALCM's, and all other alphabet soup missiles are fine but they cannot replace the strategic manned bomber. A new bomber can and must be brought into our strategic inventory. Otherwise the Soviets are going to be in a position to club us into going their way—and they have been known to do just that. Ask Czechoslovakia, Hungary, Poland, and a few others.

I reiterate; a strong, modern manned bomber force is a vital cornerstone to our Nation's safety and a new manned strategic bomber is needed to keep that strength. We must remember and understand that it is that weapons system—the bomber—which forces the Soviets to divert their arms spending to defensive systems; lets us demonstrate our seriousness of purpose and resolve; and gives us options and capabilities, nuclear and nonnuclear, that no missile can provide. The strategic bomber is indeed the kingpin to deterrence and the prevention of war. We need it now and in the future.

Mr. Speaker, as stated earlier, "Russian roulette" is a game played by idiots. I hope we will not become a player.

SENATE—*Saturday, September 24, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

The PRESIDING OFFICER. Our prayer this morning will be offered by the Reverend JOHN C. DANFORTH, a Senator from Missouri.

PRAYER

The Reverend JOHN C. DANFORTH, a Senator from the State of Missouri, offered the following prayer:

Let us pray:

O God of history, throughout the centuries You have made Your presence known in the events of Your creation. In the fullness of time You came into the world You made to be with us and to redeem us. To each of us You have given our allotted time on this Earth, and You have entrusted us with responsibility for the faithful discharge of Your stewardship. Be with us now in all our actions that our days may be wisely spent in Your service, and that our time on Earth, not squandered in useless folly, may be dedicated to Your honor and glory, so that at the last day, when we must answer for our actions, we may be found worthy of Your eternal kingdom. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 24, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Friday, September 23, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO SENATOR DANFORTH

Mr. ROBERT C. BYRD. Mr. President, I personally want to commend our colleague, Senator DANFORTH, on his delivery of the prayer this morning. It was a very appropriate prayer, and I think that we, his colleagues, can be exceedingly proud that Senator DANFORTH performed so nobly in the offering of this prayer.

Mr. BAKER. Mr. President, I join with the majority leader in commending our colleague, Senator DANFORTH, for his opening prayer.

I was struck by the appropriateness and the uniqueness in the reference of the introduction by the distinguished Presiding Officer to Rev. JOHN DANFORTH, the Senator from Missouri. He serves with distinction in both capacities.

I have no further need for my time under the standing order, and I yield it back.

LIGHTING IN THE CHAMBER

Mr. ROBERT C. BYRD. Mr. President, I like the additional light that comes from above at this moment, and I hope there will be no cessation of this light throughout the day. [Laughter.]

Mr. BAKER. Mr. President, if the majority leader will yield, it was not providential but rather my request to the distinguished Sergeant at Arms to demonstrate this new facility to some of our colleagues who have not yet seen it and noticed it.

While I first related it to the benediction offered by our colleague, Senator DANFORTH, I see from the smiling countenance of the Sergeant at Arms that he instead claims full credit. [Laughter.]

Mr. ROBERT C. BYRD. Well, now, Mr President, I think I would have to say that I am not entirely persuaded by my distinguished colleague and friend, the minority leader. God works in mysterious ways his wonders to perform.

Mr. BAKER. We are off to some start. [Laughter.]

Mr. TOWER. Mr. President, if the Senator will yield, I hope the Sergeant at Arms will be instructed to keep the rheostat up higher today.

Mr. ROBERT C. BYRD. I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business to not extend beyond 9:30 a.m. with statements limited therein to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed subsequently in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no desire to proceed at this moment other than to try to clarify the situation for the day and to see how we might proceed.

I ask the Chair to state the pending business.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I take the floor only to see if we can get some insight into how the day may progress.

Will the Chair now state for me the pending question?

AMENDMENT NO. 1023

(FORMERLY UP AMENDMENT NO. 848)

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. BAKER. I believe I am correct that that there is no time limitation or other unanimous-consent order affecting the disposition of this amendment. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr BAKER. Mr. President, I ask my colleague and friend, the majority leader, if he can give us any advice on how he would expect the day to proceed.

Mr. ROBERT C. BYRD. Mr. President, this is one of those very unpredictable days, as any Saturday can be, when the Senate is not operating under a unanimous-consent agreement or under cloture.

Tabling motions are in order at any time. There could be a motion to table the Kennedy amendment. There can be votes. There can be motions to reconsider the votes, there can be points of order, and there can be appeals, any of which can result in rollcall votes. If the Kennedy amendment were to be disposed of, there could be a tabling motion on the Jackson amendment or there could be a vote up and down on these amendments. There can be perfecting amendments offered to the bill and votes can be had on those amendments in the second and first degrees.

So there are all kinds of possibilities for rollcall votes today.

On yesterday there was considerable discussion to the effect that some divestiture amendments might be offered, and the bill is open to such amendments at this point.

I hope that the Senate today will seriously consider those amendments and other serious amendments to the bill. I hope that is a good possibility.

In sum, I simply say that there is a good possibility that the Senate can make progress today. Progress may be slow. Rollcall votes are very likely. I expect them.

I hope that the Senate can make progress until the hour of 5, 5:30, or 6 p.m.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. President, I have no debate at this point, and no amendment or other motion to offer.

I understand the distinguished Senator from New Mexico wishes the floor. I yield the floor at this point.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, as we enter into this unusual Saturday session, it is important that we continue to be sure that we examine the basic foundation of energy supply upon which this country stands and which it will take well-considered policy to tap.

It is safe to say that the basic facts are that in the short term this country will be absolutely dependent on supplies of oil and natural gas to run its very broad and multifaceted economy.

If we did everything right and by the wisdom of this Congress and the wisdom of the executive branch we determined a method by which we maximize the supply available to this great country at the minimum possible price and then established policy to bring on other forms of energy as rapidly as possible, we would still find ourselves greatly dependent on oil and natural gas to run our economy for many years to come, very probably sufficiently dependent until the end of the century, so that we could not afford major interruptions of supply if, in fact, our dependency on foreign supply remains as it is today or even at a fraction of what it is today.

If I had my way and the ideal world could be established, we would see in the short term as rapid an increase in the availability of domestic natural gas and domestic crude oil as is humanly possible, we would see in the intermediate term a rapid increase in our utilization in environmentally sound ways of this Nation's vast reserves of coal, and we would see in that same time frame an increased utilization of geothermal energy, particularly in the Western United States, and an increased utilization of dispersed solar energy for the heating and cooling of homes and for the supplying of processed heat for agriculture and other comparable industries.

We would then see in the long term, through research and development, established data, and accelerating as rapidly as our human and financial resources make possible, the creation of inexhaustible sources of energy. Those sources, I believe, are going to be largely in the areas of fusion power, concentrated use of solar energy to produce electricity, and high temperature thermal energy.

At the same time, through research and development, we must create an ultimate substitute for the portable fuels, oil, and natural gas, that we use today; and that substitute almost certainly will be the gas hydrogen. Based on everything that is known to the engineering and science of today, hydrogen appears to be the portable fuel of the future, the fuel that will drive our automobiles and our airplanes, will fuel our homes, will provide means by which we take energy from one point of creation to another point of use.

But that bright time in the future—sometime early in the next century, if we do everything right—is not yet with us. It is going to take decisions in this Congress and in the next, wise decisions, hard decisions, just to establish the framework and the time schedule by which fusion, solar energy, and hydrogen become available to the future generations of Americans.

In the meantime, we are faced with the decisions of how to buy time so that we can survive as an economy and as a nation into the next century, through the use of coal, geothermal and dispersed solar energy, and conservation. Immediately, we must find a way to survive the present. It is on this point that this debate on natural gas is focused. It is focused on the question of how to relieve our dependence on foreign supplies of crude oil and prevent our becoming dependent on foreign supplies of liquefied natural gas.

It has been the contention of the opponents of the deregulation of new natural gas that the most rapid way to produce new supplies of natural gas at minimum or zero increase in cost to the consumer is to deregulate the price of new natural gas. In doing so, the incentive is given to the vast resource of American ingenuity and industry that we have available to us to go out, study, explore, drill, and produce new gas. At the same time, the impact of the increase in price of that new gas is minimized, because we retain the control of prices on old natural gas, and as the new gas comes on line, it is, in real effect, diluted in its impact by the existence of vast amounts of old gas now flowing in the pipelines.

Individual judgments and economic models differ on just what the effect of deregulation will be. But I think it is clear that that effect will be temporary, if the history of mineral economics has anything to tell us, because, as the price of new natural gas rises and an increased supply comes on line, two things will happen: One is that other sources of energy will begin to become more and more competitive with natural gas, and conservation of natural gas will result. The other is that the supply will increase and reincrease, and the producers and sellers of natural gas will find that demand for larger and larger supplies becomes less and less, and they will be forced, as they have been in Texas already, in an uncontrolled intrastate market, to contract at lower and lower prices,

the most recent prices in Texas being about $1.60 per Mcf and going down.

Mr. President, that is the way mineral economics in all areas of a reasonably free economy have worked in the past, both domestically and, in the last 50 years or so, internationally. It is the way that the proponents of deregulation believe it will operate in the case of natural gas. There is no known reason why it would not work that way, and all historical precedents demonstrate that it will.

The opponents of deregulation contend that there will be a very large increase in price very rapidly, and that the consumers of natural gas will have to bear an unreasonable burden as a consequence of that increase in price.

As I said before, the rate of increase in price, the rates at which it will impact the consumer, and the degree to which it impacts the consumer, are matters of judgment and economic models.

Those economic models for which I have most respect, including the MIT group, the Gas Committee, and others, suggest that that impact will be very small. Others that the opponents of deregulation have great respect for suggest the impact will be very large. It is in the judgment of this body that the American people now must put their faith.

The vote we had the other day on the motion to lay on the table the Pearson-Bentsen deregulation amendment suggests that the judgment of this body will be to provide deregulation. How that judgment will fare in the negotiations in conference with the House of Representatives is still an open question. However, it is this Senator's belief that at the very least we will reach a compromise with the House, as we must, because the Nation needs this energy legislation, and some form of, possibly, scheduled deregulation of new gas may be the final answer. But at this time the Senator from New Mexico, a natural gas producing State, believes that a strong Senate position on deregulation is absolutely necessary.

Mr. President, one issue that, for some reason, has been consistently deemphasized on this floor by the opponents of deregulation is the issue of the environment. Natural gas is undoubtedly among the presently economic energy sources, the most environmentally acceptable that is known to mankind. It is clean, it burns with very low waste. That waste can be made almost zero if it is used in fuel cells, a new technology developed by the space program. However you look at it, natural gas is one of the most desirable of environmental fuels. It is strange to this Senator that those who have consistently and, I think, for the most part correctly, championed the views of environmentalists are, today, found on the opposite side of the question. They are found on the side of the question that would minimize our ability to increase our utilization of natural gas until other environmentally acceptable energy sources are available, such as solar infusion and hydrogen. They are found on the side that would, by so limiting our use of natural gas, increase the use of coal, increase the use of crude oil, decrease the incentives for conservation.

In the use of coal, we shall find increased need for strip mining, increased need for polluting the atmosphere, because, even with the vast increases in environmental technology over the last decade, coal still is not a clean fuel. Hopefully, it will be before the end of this century, but it is not yet. Crude oil, although not as bad as coal, still provides a great deal of environmental damage. So, I do find it strange and inconsistent if not hardly in the national interest, to find the opponents of deregulation arguing basically against an increase in supply of the most environmentally acceptable of fuels, natural gas.

Mr. President, there are many fallacies, from this geologist's point of view, in the discussions that we have had to date. Certainly, one of the most onerous of these fallacies is the statement that there is no natural gas to be found through deregulation. Once again, Mr. President, I submit that that is just not so. Study after study has indicated that it is not so. Just simple logic should convince the opponents of deregulation that it is not so. There are tremendous areas of geologically favorable rock, tremendous volumes of this rock, that have yet to be explored, have yet to be examined as sources of natural gas; tremendously favorable areas, not just offshore, where we have hardly begun to look for natural gas and crude oil, but onshore, in basins that have not yet proved economic to drill; in the deep zones of basins where we have already found natural gas, where the present price on the interstate market does not permit drilling to the depths required.

Mr. President, there are some new events occurring in the geological profession, both in the science of and the research for natural gas. These new ideas involve the science of what is called stratographic traps and the technology of what is called "bright spot" seismic geophysics. Neither one of those expressions, probably, means very much to this body or to the people that will consider what we say here today and subsequently on this measure. But let me see if I can explain those two things—stratographic traps and "bright spot" seismic geophysics.

The stratographic trap represents a new idea in the last decade of how one traps natural gas within rock. To clarify this issue, let me begin by talking a little bit about the origin of natural gas and the origin of concentrations of that fuel in rocks beneath the earth's crust. Natural gas, like petroleum, is derived from the decomposition of organic matter, plants and animals, that are buried in the rocks gradually, through time, as geologic evolution of the Earth takes place. Trees, bacteria, and everything in between are buried as layer upon layer of rock is laid down through millions of years of time by the actions of water and wind.

As gas is evolved from the decay of this material, it migrates through the porous and permeable rocks that we have, not as rivers of gas or rivers of oil, but just as very slow movement of molecule after molecule, until it comes upon a barrier, an impermeable barrier of some kind. Historically, these barriers, the ones that we know about, were what are called structural traps. That is, these layers of rocks, like a stack of cards, through the motions of the Earth's crust, have bent into domes, for example. Within those domes, one of the layers may have been particularly impermeable, such as a shale or slate horizon, that most people are familiar with—very, very tight rock. Very little gas can migrate through those rocks.

When it encounters these layers through the dome, the gas begins to accumulate. Again, though, it accumulates in porous rock—not as a pool or river, but as gas dispersed throughout the rock.

At some subsequent time, a geologist, understanding the relationship of the trapping of gas beneath a shale dome, convinces his employer that it is worth the risk of capital and time and equipment and, in some cases, human life, to punch a hole through this shale horizon to see if there is any gas under it.

All of that costs money, and the deeper you go and the more uncertain the geologic judgment, the higher the cost and the greater the risk. Nine out of ten times, that hole is what is called a dry hole. They go through this favorable structure. They get beneath it, and nothing; at least, nothing economic. But on that tenth try, statistically speaking, a gas reservoir is discovered and the gas begins to flow into the well and eventually into the pipelines and eventually into the homes and businesses of America.

That was the traditional way. That was the way in which natural gas became the fantastically and, 25 years ago, the unbelievably cheap and abundant fuel that it was. Unfortunately, 25 years ago, the Government decided to hold it at a low price and not let the free market operate with respect to gas pricing. It became less and less profitable for the stockholders of various industries to drill for natural gas and produce more, and the reserves of natural gas began to decrease—particularly began to decrease in the early sixties.

Every one we produced, because of its cheap price, more and more increased use. The amount of reserves available to produce has decreased ever since.

Now, this new idea of stratographic traps appeared. This has to do with a systematically layered set of rocks without any domes, but where one of the layers, the shale horizon again, the layer of impermeable rock, overlies another layer of impermeable rock that has gradually pinched out, stopped, until one layer of impermeable rock has another that comes up to it and stops.

So that between those two layers there is another trap, one which cannot be seen as a structural trap, but nonetheless is just as real and is just as favorable for the production of natural gas.

Those stratographic traps are much more difficult to interpret and find, because the geologist must look through the three-dimensional layers of thousands of feet of rock, using his mind and his training to decide where that drillhole should be put in order to discover the gas.

It is a very difficult problem and one of the reasons that only 1 out of 10 holes is successful in drilling for oil and natural gas.

However, enter technology and the other idea I mentioned earlier, that is the bright spot, seismic geophysics.

But to explain this I have to talk about one of my favorite subjects, the space program.

When NASA sent spacecraft to Mars with television cameras designed to send back pictures of that new frontier in space, we were faced with a problem. We were faced with a problem of a tremendous amount of noise in the signal coming back. That is, the pictures we got were extremely hard to interpret. There was so much clutter, electronic clutter, and noise, that not a great deal could be learned from those pictures.

A technique was developed to process those pictures using computers and digital computer technology so that one could clean up the pictures, that one could, by a process called amplitude enhancement, gradually pull out the real picture from this morass of noise.

The pictures we saw finally in the newspaper and in the books and on television of Mars in those early days were the pictures that have been produced by this technique called amplitude enhancement.

Also in the space program, because we needed extremely reliable electronics, we pushed the technology of electronics to the point where there was very low noise, very high precision in the development of signals by various components in the systems.

This technology of low noise electronics was adapted by the geophysics industry, as was the technique of amplitude enhancement. When these technologies were applied to the search for deposits, or for the structures that might trap oil and gas, it was discovered that by computer processing of the signals that one receives when an explosive charge is detonated at the surface, sounds from which travel through the Earth and are then received at a geophone somewhere else, that the processing of that signal could not only determine the differences between layers of rock, but could determine the differences between water, between gas, and between oil.

We could, in some favorable conditions, start to actually see, in an electronic sense, the existence of oil and gas trapped in rocks deep beneath the Earth's surface.

This has not been universally successful as yet, but it shows what technology is doing in increasing the size of the available reserves of natural gas and crude oil to this country.

If we in this country are willing to do what we do so well, use our technology and our science in order to solve a particular problem, then we have nothing to fear from the future. We can have large supplies of natural gas when we need them. We can have large supplies of clean burning coal when we need them. We can have inexhaustible energy sources in the next century when we need them.

The only thing we must do is be willing to apply ourselves and our technology to those ends. I have no doubt that we will eventually do this.

Whether we will take one of the major, but necessary, steps to do it today or next week with respect to the natural gas issue, I cannot say. I do not know whether we will do that. I hope very much that we will.

If we do deregulate new natural gas so the vast potential of American science and technology can be released to find an increased supply to avoid the crisis of supply experienced by consuming States last winter, then I hope we will also take another step in consideration of the next energy bill that we will consider. I hope that we will remember with compassion the mistakes our Government has made and the consensus of those mistakes.

The mistake was ever regulating natural gas, because when we regulated the price of natural gas at an artificially low level, people all over this country became dependent on this cheap, clean fuel.

They became dependent because it was cheaper than any other energy source that they could purchase. They were encouraged by Government and by public service companies throughout this country to use natural gas, because it was cheaper and cleaner than other fuel.

So, through no fault of their own, through the last 25 years the American people were led to believe there would always be vast reserves of cheap natural gas, all the while that those reserves were being depleted more and more, fewer and fewer new reserves being discovered, until we reached the point today where there is less than 10 years' supply of natural gas available at the consumption rate in 1976. Of course, as the consumption rate rises, that reserve would last us less and less time.

So the American people have been done a great disservice and with them the United States, as a country, and, with the United States, the world, in which we are the only protector of systems of freedom.

As we take the step which I hope very much we will, to deregulate natural gas so that supply will increase, and increase rapidly, so that the crises of last winter and the almost certain crisis of this winter will begin to disappear and within a few years not occur, I hope we also will realize with compassion that there are many people in this country, many consumers of gas, employees of industries that depend on gas, who cannot afford at this time to see an increase in price beyond what already has occurred. In many cases, it already has gone too far for them to afford it.

We must find a way in which, while we recover from our mistakes in the past that have destroyed our supply of natural gas, while we recover and create a new supply, those consumers who, through no fault of their own will have to pay higher prices, will have time for transition, either to new energy sources that are cheaper than gas or to a time when oversupply of natural gas once again has driven the price down to where they can afford it. I am not sure what that mechanism of relief for the American consumer is, but I feel that, as the Senate, we must find such a mechanism. It is the price that the country must pay for having made 25 years of mistakes.

Although it is in a different context—it is in an intrastate market—this morning's newspaper carries the story of Crystal City, Tex., which illustrates, more than any other story could, exactly what has happened to the American gas consumer. It illustrates why, with the compassion for which Americans are noted, we must find not only the means of increasing the supply of natural gas for the country as a whole, but also must find the means by which the consumer who cannot afford higher gas prices finds his way out of the morass that overregulation of the price of gas has caused.

Mr. President, I ask unanimous consent to have printed in the RECORD the article on Crystal City, Tex., which appeared in this morning's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD as follows:

BIRTHPLACE OF RAZA UNIDA FINDS GAS SUPPLY CUT OFF

(By Bill Curry)

CRYSTAL CITY, TEX., September 23.—After more than two years of threats, court fights and a rigid refusal to pay higher rates Crystal City lost its natural gas today.

At 9:26 a.m. a remote-controlled valve, activated by reduced pressure and an $800,000 debt for back charges, closed itself and ended the flow of gas to this poor and predominantly Hispanic city of 8,107 in south Texas.

But so severe is the poverty here and so spare are the lives of many of those dwelling in it—and in whose name city officials refuse to pay increased gas rates—that even the cutoff of such a necessity had minimal immediate impact.

Along the rutted and unpaved roads that divide one family's shack from another's shanty. Carlos Lopez pointed to the front-yard faucet and garden hose that serves him and his wife with water and said, "I don't have hot water anyway. That's all I've got."

And for many of the elderly, living alone in their immaculately kept public housing duplexes, the loss of their gas was merely a return to the years of denial they experienced as field workers. "Long years ago we cooked outside, and when we went north they did not give us stoves either," said Benigna Aldava, 77, a former picker of grapes, cotton, celery and tomatoes. "We are used to it."

City officials reported no disruptions of municipal services, the schools had converted to electric stoves, there is no hospital here and the area's biggest employer, a Del Monte canning factory, has an independent gas supply.

So on a day with temperatures in the 90s and with the prospect of winter seemingly far away, city officials continued to blame their gas supplier, Lo-Vaca Gathering Co. of Houston, and the state government in Austin for their plight. Meanwhile, the mayor, the

city manager and a councilman met in Washington to seek help.

"A lot of the people still feel it's political," said Councilman Rudy Espinosa, who answered "definitely" when asked if his La Raza Unida party had alienated state officials and thus been unable to get state help.

For this area was the birthplace of the party, whose name roughly means "people together." In 1972, the party's gubernatorial candidate drew off enough traditional Democratic votes to nearly deny election to Democratic Dolph Briscoe who sits in the governor's office today.

Efforts to reach the governor's office for comment were unsuccessful.

Still, at the heart of today's cutoff was the nation's sharply increased energy costs and their impact on those of limited income. While the poor and the elderly have been strapped by those costs across America, it was here that the La Raza Unida-dominated city council drew the line and said no.

"We just don't have the means," said Espinosa. "We prefer balanced lives to balanced budgets. We had people who came in here and put down their welfare checks and still couldn't cover the gas bill," said Espinosa, referring to a brief period when the city did pass on the higher gas costs.

Lo-Vaca, which buys $100 million worth of gas a month for distribution to municipalities, industries and farmers in virtually the entire state, had contracted to supply Crystal City with gas at 36 cents for each 1,000 cubic feet. When costs incurred in obtaining gas rose, Lo-Vaca was granted higher rates by the Texas Railroad Commission, the state body that regulates common carriers, including gas pipelines. The rate is now more than $2 a thousand, and since early 1975 Crystal City has refused to pay.

By now the debt has risen to $800,000—$100 for every man, woman and child in one of Texas' lowest income areas. Per capita income is $1,616 a year, about half of what it is statewide.

Many residents here still pay $10 summertime gas bills and usually $20 in the winter. If the city were passing on the full cost of the gas those bills would be more like $50 and $100. Such bills would rival the monthly income of many of those living here.

It is generally agreed that without outside help the city has virtually no chance of ever paying off the debt. (Three other Texas cities also pleaded the hardship of poverty when rates were raised, but unlike Crystal City they put in escrow the difference between the old rate and the new, and their escrows now total $2.5 million.)

Many of the workers are migrant farm laborers, and the tilting one-room homes up on cinder blocks here makes this city look like an underdeveloped country. More fortunate are those able to get houses in the city's public housing complex.

There, residents were given an opportunity to buy electric hotplates for $25. But those people, who live on either fixed pensions or low wages, will thus face increased electric bills.

Pura Martinez, 27, and the mother of six, says she does not know what she will do about cooking for her children, ranging in age from 8 years to 2 months. Her double hotplate is clearly inadequate, and there is no oven. As a result, she expects to switch the children from meat, tortillas, beans and potatoes to "baloney sandwiches." Her husband, Raoul, is a migrant field worker now in Wyoming. Their income is about $5,000 a year, and they pay $48 a month rent on their four-bedroom public housing duplex.

Mrs. Martinez blames local officials for the gas cutoff, even though she does not know how she would pay higher costs.

Benigna Aldava takes an opposite view. She blames Lo-Vaca and state officials and says "Lo-Vaca should rot with its millions." And as a group of visitors leaves her tiny home, she calls out, "Viva Crystal City! Always! Arriva!"

Mr. SCHMITT. Mr. President, the situation in Crystal City is not entirely analogous to the situation we face in the country as a whole, but it does represent what can happen when people become dependent on supplies of a commodity at a price that is far below the true value of that commodity.

I do not know what it is going to take for this country eventually to recognize that we live in a world of resource economics, whether it has to do with agriculture or with mining or with oil and gas production. However, we must very soon wake up to some fundamental economic facts, the most fundamental of which, in the context of our discussions on natural gas, is that you cannot forever have a free lunch, you cannot forever pay less than the worth of a product. If we do not learn that lesson, then the petroleum and natural gas crises will just be the first of many crises that we will face. We, as a Nation and as a world, will be buffeted by crises of commodity supply.

At the present time, it probably is not known to most Americans that, in addition to being dependent on foreign sources for 50 percent of our oil supply, we are dependent on imports of a large number of metals essential to our modern civilization, to our modern way of life, and those metals come largely from abroad: manganese, cobalt, nickel, copper. It is a very long list.

I am afraid that unless we find a way to deal with this type of issue, both through the encouragement of the identification and availability of domestic supply, where that is possible, and the encouragement of international institutions, so that all people have assured supplies of these important elements and commodities, we will find the final breakdown of our civilization.

I am not a pessimist, Mr. President. I have seen us work out these kind of problems in the past, by reading history and to some degree experiencing them myself; but we can never tire of it at this time. We must always be looking at our national dependency with an eye toward surviving threats or actual embargoes of commodities, but never forgetting that we also must look to the rest of the world, with which we must live, for ways of insuring cooperation and mutual interdependence, so that perhaps someday, some brighter time, the people of the world will not have to worry about threats of embargoes and blackmail and dependence, which prevent the human race from realizing peace and prosperity and compassion, without the threat of war.

Mr. President, very often, when we spend a great deal of time debating the individual nuances and details of a question such as natural gas deregulation, we lose the perspective of the overall issue of energy supply and conservation. I hope that in the remarks I have made this morning, some of that perspective becomes a little more obvious: That the issue of natural gas will pass, either because we completely destroy the incentive to produce it and none is available and some other major crisis takes its place, or because we deregulate natural gas, new supplies of gas, and we have a tentative supply available, so that we can concentrate on the longer term picture of energy supply.

Whatever we do we will find new questions to debate. On the one hand, we will debate those questions in an atmosphere of continuing prices if we do not deregulate. On the other hand, we will be able to concentrate on other problems if we do deregulate.

I hope this illustrious body will at least try to remember in the course of its deliberations that it is much better to solve a crisis than it is to postpone that solution and allow the crisis to get worse.

As a final reminder to my colleagues, I hope they will remember that even at the prices that some of the most pessimistic estimates have indicated new natural gas would rise to, we are still dealing with prices that are less than the cost of imported petroleum, imported oil; less than the cost of imported liquefied natural gas, and less than the cost of producing and using electricity.

This is an extremely important point to remember in these deliberations because it is the consumer who eventually must bear the burden of not having natural gas and of having to use alternative energy sources.

If they must switch to coal, then they must pay the price not only of coal but of the environmental degradation that comes with it.

If they switch to oil, they will be switching to utilizing foreign supplies of oil at prices two and three times the cost of even deregulated natural gas.

If they switch to electricity they must pay up to five times the cost of deregulated natural gas.

That is why I have said on previous occasions, and will continue to say so, that the real consumer legislation is the Pearson-Bentsen legislation. It is the consumer who is going to benefit not only by having assured supplies of natural gas within a few years but also by not having to pay more for other forms of energy, bar none.

So I hope that as this debate continues it will become clearer and clearer to the consumer that the opponents of deregulation are asking them to bear an ever-increasing burden, an ever-increasing economic burden, and an ever-increasing burden of uncertainty of energy supply if those opponents of deregulation are successful in defeating the Pearson-Bentsen substitute for this energy bill.

Mr. President, I see our distinguished minority leader is on the floor. Does he desire recognition at this time?

Mr. BAKER. Mr. President, I thank the Senator. If he would yield to me just for a moment without losing his right to the floor.

Mr. SCHMITT. I will be happy to yield to the Senator without losing my right.

Mr. BAKER. Mr. President, I understand the distinguished Senator from Wyoming (Mr. HANSEN) wished the floor at this point, but I do not see him on the floor at the moment. In that event then, if the distinguished Senator from New Mexico wishes to speak a little further, I will see if I can locate him.

Mr. SCHMITT. I thank the Senator, and I will continue.

I see the Senator from Wyoming is now on the floor. Does he desire to speak?

Mr. HANSEN. Mr. President, shortly before recess last evening the Senator from Washington, the distinguished chairman of the Committee on Energy and Natural Resources, offered an amendment that I understand is in the nature of a substitute which, I think, being a rather voluminous amendment, left everyone uncertain as to precisely what it contained. I think, as a consequence, when another amendment was offered by the distinguished Senator from Massachusetts (Mr. KENNEDY), the wisdom of the majority leader in moving toward recess last night was indicated because, obviously, if we are to legislate wisely here, I think we need to know the thrust of what is contained in the various proposals before us.

I do not know how many Senators may have had a chance to read the RECORD in order to be informed as to what is contained in those two amendments, but I suspect we are better prepared this morning than was the case prior to the recess last evening.

It is my understanding, Mr. President, that the distinguished Senator from Arizona (Mr. GOLDWATER) wishes to be recognized in order that he might make some comments about a concern he has here within the District and, if I may, I would like to yield the floor at this time in order that he might be recognized.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. GOLDWATER. I thank my friend from Wyoming.

I would like to make a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GOLDWATER. It is permissible to speak on any subject at this time, is it not?

The ACTING PRESIDENT pro tempore. Rule VIII, paragraph 3, requires that debate be germane during the first 3 hours of each calendar day after the "conclusion of the morning hour or after the unfinished business or pending business has first been laid before the Senate." The time has not expired.

Mr. GOLDWATER. Does that imply we are not operating under cloture?

I ask unanimous consent that I may proceed out of order. I have been waiting for some time, many days, to say a few words about a subject I feel rather keenly about.

Mr. JACKSON. Mr. President, will the Senator yield? For how long would it be?

Mr. GOLDWATER. Not too long.

Mr. JACKSON. I mean could we have an understanding as to a time limitation? I want to accommodate the Senator if he has something he wants to say, but I think there ought to be a time limitation.

Mr. GOLDWATER. Maybe 10 minutes at the most.

Mr. ABOUREZK. Mr. President, reserving the right to object, do I understand the request to mean that the Senator be allowed to speak on a nongermane issue?

Mr. JACKSON. To speak out of order.

The ACTING PRESIDENT pro tempore. The Senator is correct. That was the request.

Mr. JACKSON. For a specified limited period of time.

The ACTING PRESIDENT pro tempore. For a period of 10 minutes. Without objection, it is so ordered.

A WASHINGTON, D.C., CIVIC CENTER

Mr. GOLDWATER. I thank my friends on the other side and then I may get germane. You never can tell. So if I get germane the 10 minute rule does not apply.

Mr. President, the local government of Washington, D.C., is very anxious to build a civic and convention center, and so far our Appropriations Committee has not found it wise to approve funds for the construction of this facility.

Mr. President, I live in a community that is one of the largest convention cities in the United States, and I have lived through the pains of developing a civic center. Our problem there was similar to the problem here, namely, people don't live in downtown Washington, they live out of the city. Also, we had a little different problem in my hometown in that the city as it became the fastest-growing city in the United States, sort of spread out. The hotels left the downtown and the downtown became just the financial and legal end of town, and in between there was sort of a nothingness of shopping centers, and so forth.

So we undertook to build a civic center and many thought that it would be unwise and expensive to operate.

But, Mr. President, since the construction of this civic center, we have brought new construction to downtown Phoenix. We have been able to attract large conventions where before we were pretty much like Washington, where the size of the convention to be attracted to this city was pretty well controlled by what the large hotels could handle. And with all due respect to the wonderful hotels in this city, about 3,000 would be the largest number that could be handled at any one time, while we have many conventions in this country that will total 15,000 whenever they can find the proper facility.

Now, I know there are arguments against a civic center. Looking at the history of some centers economically, they have not been immediately successful around the country. It may take some time, but eventually they do become successful and not only repay their initial cost but bring many, many people into the city who would not normally be able to come here. We have to remember that this is the Nation's Capital and every American wants to come here.

With all due respect and respect to my own hometown and other convention centers like Las Vegas, Los Angeles, and Chicago, I think Americans, given the chance to come to Washington, even though it would be a very large convention, would come here.

Also, we must recognize that no subsidy is involved. The funds will be borrowed and repaid with interest.

They are proposing to build a downtown civic center for Washington at a total cost of about $110 million, and this has been approved by Mayor Washington and the District of Columbia Council for funding as part of the capital works program.

The civic center in the vicinity of Mount Vernon Square South would be convenient to Metro, the downtown shopping area, the monumental core, important Government buildings and a number of potential downtown development sites.

If approved by Congress the center will be built on a nearly 10-acre site bounded on the north by New York Avenue, on the west by 11th Street Northwest, on the south by 8th Street Northeast, and on the east by 9th Street Northwest. Funds for site acquisition will be available by October 1, 1977, with actual construction to start early in 1979 and completion scheduled for sometime in 1981.

Mayor Washington, in transmitting the formal budget request for the civic center, wrote Council Chairman Sterling Tucker that the long-discussed center would offer the city substantial economic benefits. He said:

> It is an endeavor whose time has come. Increased private investment in the downtown area in consort with what the much needed facilities in the center will provide will assist us in moving toward our joint objective of economic revitalization of our city.

Councilman Tucker, Chairman of the Council, said:

> This is our opportunity. The risk is in failing to move forward, not in moving forward. We are trying to create a new body of resources to provide some funds so that there can be services to provide some income so that there can be jobs and to provide a stimulation to this economy. The center will attract new visitors and taxpayers from other areas who come to our city to buy goods, who come to our city to buy services and have come to our city to contribute to the welfare costs and the cost of the capital city that we are bearing alone.

Mr. President, just to conclude this brief portion of my nongermane remarks, we have seen in the last 2 days the approval of the President in giving the District of Columbia almost the status of a State, and if this ever comes about, then there is going to be a change in the tax status of the District as it becomes a State-type organization. This body, I believe, will have no further responsibility.

Therefore, they will immediately have to have other and larger sources of income. I cannot think of a better or easier way to raise money or to bring money into this Capital than by having a civic center large enough to accommodate conventions.

For example, it might be wise to hold the Democratic and Republican conventions in this city. Being close to the Capitol, maybe the delegates will have a better idea of the responsibilities of our Government than if they held the conventions, say, in Las Vegas, San Francisco, or some other community.

So, Mr. President, I have put my name as a cosponsor on an amendment that will be offered at the proper time by Senators EAGLETON and WEICKER to restore those funds unless the Appropriations Committee sees fit to include this in its report.

I thank my friends for allowing me to go as I did on a subject that is not particularly close to energy. But I might now get over into the subject of energy very briefly because we are on this subject of natural gas.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. GOLDWATER. Mr. President, one of the amazing things to me about this whole debate is that we find Senators from the Eastern States, the Northeastern States, who really need natural gas, voting against one sure way to get natural gas.

I have heard time and time again on this floor the recitation that, if we allow the wellhead price to go up and the wellhead price to become deregulated or unregulated, that would cause people in the eastern part of the country, the northeastern part of the country, to have to go without heat because of the cost increase.

Mr. President, my State probably depends upon natural gas as much as any State for energy. We produce 52 percent of the copper produced in this country, and our smelters are fired by natural gas and our homes when we need heat, which is not too often in that delightful climate of Arizona, are heated by gas.

I ran a checkout on the cost of gas to me in my home. If the wellhead price were increased 15 percent, and I think, as I listened to the debate, that that is pretty roughly what we are talking about—something between 13 and 20 percent, depending on the argument—it would cause an increase in my gas bill of about 3 percent and that would mean about $1.80 a month.

I do not think $1.80 a month is going to run anyone in this country out of heat. I think we should stop trying to fool the American people with accusations that billions of dollars would pour into the pockets of the large oil companies of this country and the large natural gas companies if we allow this deregulation. The most important thing, Mr. President, every Member, regardless of the State that he is from, should keep in mind is that we have to have more natural gas just as we have to have more gasoline, more diesel fuel, and more petroleum.

I have to say this, in all honesty, to those who have been advocating the President's package: We have not done anything yet to put more fuel into the hands of the American people. Americans are not going to conserve. If you doubt that statement, drive your car on the highway any day, and you will see more cars driving today at faster speeds than at any time in our history, and more four- five- and six-passenger cars with one person in them.

We cannot expect the American people to conserve, and that should not be the purpose of the legislation. The legislation we pass should have as its only purpose that of finding new sources of fuel and energy.

I can say this, Mr. President: The owner of a gas well, say, in the panhandle of Texas or in Oklahoma, is not about to ship gas to Ohio or Pennsylvania or New Jersey if he is selling that gas at a cost per unit less than it costs him to get it out of the ground. All he has to do, and it is perfectly legal, is just turn that big valve a little bit to the right, and a little bit less gas goes out.

I recall watching an interesting debate last year between the Governor of Oklahoma and the Governor of Pennsylvania. Both of those States are petroleum States, and Oklahoma, of course, is a natural gas State. The Governor of Oklahoma happens to be in the natural gas business. But he was speaking with a lot of sense.

He reminded the Governor of Pennsylvania that he was selling gas at, I forget the price, I believe it was at $1.65, or something like that, per unit, under contract to an interstate pipeline to Pennsylvania, when it was costing him more than that per unit to get it out of the ground.

He said to the Governor of Pennsylvania, "I don't have to deliver gas to you." He said, "If I want to, I can cut that valve off altogether, because I can sell that gas in the State of Oklahoma at a price at which I can not only break even but make a profit."

I know that is a dirty word in this body, but when we stop and realize we are not going to find any new wells drilled without profit, then I think it becomes even more important that we deregulate the wellhead price and allow more money to be made and more consumption of the fuel, so that the people who want to take the risks, who have earned the money in this business, can drill holes in the ground and find what comes out. If nothing comes out, that is their problem, it is not ours.

We have, in all of this debate—and I have sat here throughout most of it—talked about the wrong thing. We have talked about how to conserve fuel, how to use other forms of fuel. That is fine. But I cannot understand the environmentalists of this country, who tell a group in my hometown that it will take 3 years to determine the environmental impact of building a football field for a professional team—I cannot imagine those people standing still for the idea that we are going to use coal to drive the plants of the East and wherever coal can be used, because there is no way you can clean coal up.

I remember Pittsburgh during the early days of World War II, when I was serving in the East. When you would ask how to get to Pittsburgh, you would be told, "Just keep flying until you see a big black spot, and don't try to land, because you can't see through it."

Pittsburgh has done a fine job trying to clean up its coal, but the spot is still there; you can still see it.

We are having a little argument with our Navaho Indians about the fact that we do have emissions at a place called Four Corners—which, incidentally, is the only place in the Nation where four States come together. We have a rather large coal burning electric plant up there, where we merely scratch off the surface with a bulldozer, push the coal in the plant, and that is it.

We have cleaned those stacks up to the point where we have eliminated about 97 percent of the smoke that comes out, but that 3 percent we have left weighs more than 200 tons every day. We have not cleaned up that pollution, and yet, as we stand here on this floor, I am rather amazed to hear some of my friends use the environmental argument day after day. When you have to have an environmental report on everything but the Lord's Prayer, it amazes me to hear them advocating the use of coal. You cannot remove all the residue from coal. Some fuels you can, but not coal.

Natural gas is the best source of energy that we have, and while I am not a geologist, I depend on my friends who know something about geology, and they tell me that if we would work offshore on both coasts, if we would develop the fields we already have to a greater extent, there is practically an unlimited amount of natural gas available for the people of this country. And by the time that becomes exhausted, I can assure my colleagues, because of my work with NASA and in the general field of science that when that time comes we will have developed new sources of energy that will make coal, petroleum, and natural gas useless.

But in the meantime, we have to live. So I would suggest, Mr. President, that the wise thing to do would be to allow this deregulation, to take the shackles off the producers of our country and let them produce, so that we do not have to see the city of Buffalo suffering under 20 feet of snow with no heat; so that we do not have to see great cities in Ohio, upon which we depend for much of our material things in this country, suffer through another cold winter.

While I certainly have no divining rod that I can forecast the weather with, I am somewhat of an amateur meteorlogist, and I think we are going to have as bad a winter this year as we had last. In fact, I think we are going to have a long series of bad winters.

So I would hope that sometime today or sometime Monday we can say to the American people, "Yes, your natural gas may cost you a little more, maybe 3 percent, maybe 5 percent, but you will have it."

I think my gas bill in my apartment here in Washington is $3 a month. That is very easy to explain, because my wife does not live here and I have to do the cooking, so I do not eat much, and I think it is probably burned up by the pilot light.

But 3 or 5 percent is not going to raise havoc with the people of this country. It will guarantee them adequate gas, but more than that, it will entice and interest people who have made money in this field, who know something about the field, into exploring for gas in our country, offshore and on shore, so that we can, not slowly but very quickly, overcome our dependence upon the OPEC countries.

I think the happiest day of my life will be that day when we can literally thumb our noses at those countries who now, pretty much, have our future in their hands.

We read of the billions of dollars—not their dollars, but our dollars—that they have collected. It rather frightens me to think what can happen if we continue to place all of our dependence on getting fuel from countries that have not always been friendly with us but, I think, are today and can be. I do not like for the United States to depend on anybody when we have the means here.

So, Mr. President, I do hope that in the hours today and the hours coming up Monday, after a good Sunday, when we can stay home or play golf or play with our grandchildren, and we can think of all the things we have to do without listening to nongermane speeches and things like that, we can come back here and really get at this whole thing.

I thank the Chair for his patience and I thank my colleagues for the same.

QUORUM CALL

Mr. BAKER. Mr. President, I intend, in just a moment to suggest the absence of a quorum. I might say that there is a good prospect that that call will be permitted to go live. I inquire of the Chair, is there a unanimous-consent order down that there be no votes today before the hour of 10:30 a.m.?

The ACTING PRESIDENT pro tempore. Before the hour of 10:30 is correct.

Mr. BAKER. I thank the Chair. There is a possibility that there will be a vote shortly after this quorum call.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 28 Leg.]

Abourezk	Goldwater	Pearson
Allen	Hansen	Percy
Baker	Hatch	Ribicoff
Bayh	Hayakawa	Sarbanes
Bellmon	Heinz	Sasser
Burdick	Helms	Schmitt
Byrd, Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Jackson	Sparkman
Chiles	Kennedy	Tower
Clark	Lugar	Young
Domenici	McGovern	Zorinsky
Garn	Melcher	
	Metzenbaum	

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I also announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 75, nays 0, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—75

Abourezk	Baker	Bentsen
Allen	Bayh	Brooke
Anderson	Bellmon	Bumpers
Burdick	Hatfield	Packwood
Byrd, Harry F., Jr.	Hathaway	Pearson
Byrd, Robert C.	Hayakawa	Percy
Cannon	Heinz	Proxmire
Case	Helms	Randolph
Chafee	Hollings	Ribicoff
Chiles	Huddleston	Riegle
Church	Inouye	Roth
Clark	Jackson	Sarbanes
Cranston	Javits	Sasser
Curtis	Kennedy	Schmitt
Danforth	Laxalt	Schweiker
DeConcini	Lugar	Sparkman
Dole	Magnuson	Stevens
Domenici	McClure	Stevenson
Eagleton	McGovern	Stone
Ford	McIntyre	Thurmond
Garn	Melcher	Tower
Glenn	Metzenbaum	Wallop
Goldwater	Moynihan	Young
Hansen	Muskie	Zorinsky
Hatch	Nelson	
	Nunn	

NAYS—0

NOT VOTING—25

Bartlett	Humphrey	Pell
Biden	Johnston	Scott
Culver	Leahy	Stafford
Durkin	Long	Stennis
Eastland	Mathias	Talmadge
Gravel	Matsunaga	Weicker
Griffin	McClellan	Williams
Hart	Metcalf	
Haskell	Morgan	

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. BENTSEN addressed the Chair.

Mr. MELCHER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BENTSEN. I yield.

Mr. MELCHER. Mr. President, I ask unanimous consent that Bill Whitsitt, Van Straum, and Janine Volsky be granted the privileges of the floor during the consideration of this bill and all amendments and votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, during the past several days it has become apparent that there is strong disagreement in this Chamber on how we should price our natural gas resources. On several points, however, I think it is possible for both proponents and opponents of continued regulation to agree.

We can agree that it would be to our national advantage to produce more natural gas domestically and to import less energy from foreign sources. No one argues over that one.

We can agree that there is the imminent prospect of widespread curtailments this winter; curtailments that will cost our economy dearly and inconvenience millions of American citizens.

We can agree, and the administration tacitly acknowledges, that the current regulated price of natural gas is artificially low; it discourages new exploration and new drilling.

Finally, I think we can agree that the basic reason we are here on a Saturday

morning is to seek a formula that will provide an incentive to producers, that will increase our domestic production of natural gas, while at the same time protecting the American consumer from any dramatic rise in his fuel bill.

Mr. President, the Kennedy amendment, which is in fact the original administration proposal on natural gas pricing, does not do the trick. Let me explain why it is an inadequate response to the natural gas dilemma in this country, and why it should be defeated.

Mr. RANDOLPH. Mr. President, I call attention to the fact that the Senate is not in order. This is an important speech, an analysis of a pending amendment, and I would appreciate it if we could have order.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is entirely correct. The Senate is not in order. Will the Senators carrying on conversations please retire to the cloakroom for their conversations, and those remaining please give attention to the statement in progress by the Senator from Texas.

The Senator from Texas.

Mr. BENTSEN. Let me give you one of the prime reasons why the Kennedy amendment should be defeated. First, it provides virtually no incentive for the increased production of natural gas. The definition of new natural gas, under the Kennedy amendment, is so narrowly drawn as to exclude 94 percent of gas produced from exploratory wells from new gas prices. That means it provides virtually no incentive for the increased production of natural gas. Since gas produced from exploratory wells accounts for only 4½ percent of all gas produced, under the terms of the Kennedy amendment, only three-tenths of 1 percent of all gas produced in this country would qualify for new gas prices. Remember that, only three-tenths of 1 percent of all gas produced in this country would qualify for new gas prices under the Kennedy amendment, and that is virtually the administration's proposal.

In determining what constitutes a "new well" in the above formulation, I have used the criteria used by State regulatory boards when they are charged with the responsibility of protecting the property rights of producers.

Second, Mr. President, despite all the rhetoric to the contrary, a $1.75 new price is not guaranteed for any new gas.

But even if $1.75 was to become the regulated price of new gas, this figure would still be below, well below, the average price for new gas in the intrastate market. Accordingly, the Carter-Kennedy language would have the effect of rolling back the prices for some flowing gas that was developed in response to higher, unregulated prices, in response to the mechanics of the free market.

Recent increases in onshore drilling activity have been largely in response to higher unregulated prices in the intrastate market. Reserve additions in the intrastate market averaged 7.8 Tcf during the period 1971–75 inclusive.

The average proposal included in the administration bill could cripple increased natural gas drilling activity, slash the reserve additions of the intrastate market, and eliminate the one source of additional gas that has kept this country running during recent winters.

The administration proposal will not be an incentive to increased production of natural gas. Whom am I quoting on that one? I am quoting the Brookings Institution study, and it strongly suggests that it will lead to a decrease in current production levels, compounding the curtailments of this winter. I quote from that study:

> In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are uncontrolled. In addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes . . . If the Carter proposal is enacted, procedures would probably explore for and produce less gas than they do now; almost certainly they would produce less than if prices were decontrolled. (The 1978 Budget: Setting Historical Priorities—The Brookings Institute)

Mr. STONE. Mr. President, will the Senator yield for two or three questions?

Mr. BENTSEN. I would be delighted to yield to the distinguished Senator from Florida.

Mr. STONE. Will the Senator from Texas explain what is the rationale for capping domestic oil supply prices at a time that the Federal Government proposes to license the importation of Mexican gas supplies at between $2.50 and $2.75? What is the rationale there?

Mr. BENTSEN. I fail to understand it, frankly. This is the only product I know of where we are willing to pay foreigners more than we are willing to pay our own people, where we are willing to give more incentives to producers in Canada or Mexico, our neighbors in this hemisphere; where we say, "Come on, we are going to encourage you to drill for your reserves and help us take care of our curtailments, help us have a supply of gas." But then we say to our domestic producers, "Well, not you. That does not mean you." It means if we are manufacturing shoes in this country, we are always saying, "Let us be sure that our domestic producers get as good price," or if we are talking about shirts as good a price "as these products we are importing." But, no, not on gas.

Mr. STONE. Will the Senator explain the rationale by which the Federal Government caps domestic natural gas and yet proposes to set a price for liquefied natural gas, a considerably more risky type of commodity in terms of safety, in terms of explosions and the rest, at $3.37 per Mcf coming from Algeria. Is Algeria known as one of those reliable sources that we can count on during thick and thin?

Mr. BENTSEN. The Senator is asking me questions I just do not know the answers to because I do not see the rationale in it. I do not see any reason why we should continue to get down on our knees to these countries that have not been a stable supply for us, that embargoed us, and then at the same time not encourage our domestic production and pay them substantially less.

Mr. STONE. I thank the Senator.

Mr. BUMPERS. Mr. President, will the Senator yield for an additional question?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator from Arkansas for a question.

Mr. BUMPERS. Let us take Mexico, for example, from which the United States currently is buying gas. Does the Senator know what the consumer in Mexico is charged for gas as compared to what they charge for gas to other countries?

Mr. BENTSEN. I know that we are talking about a consortium going down there and buying that gas for the U.S. consumers and that is who I am most concerned about, the U.S. consumer and the U.S. producer, and they are talking about prices as high as $3.10.

Mr. BUMPERS. First of all, of course, Pemex, which is the oil exploration company in Mexico, is a Government-owned company, and is is the only oil company in Mexico, is that correct?

Mr. BENTSEN. That is correct. I also understand that under those kinds of conditions we have a country in very dire economic circumstances.

Mr. BUMPERS. But the point I want to make is what Mexico sells gas across their border for and what Canada sells gas across their border for or even what the Algerians and the Iranians and all the rest of them sell their oil and gas for has no relevance to what they charge their own people for gas; does it?

Mr. BENTSEN. It has a great deal of relevance as to what we are willing to pay in the way of incentives to try to see that we cut down on an imbalance of trade that will be approximately $25 billion this year on an importation of oil and gas that will amount to almost $45 billion this year. It makes no sense at all to me that we are willing to pay those foreign producers and contribute to their balance of trade and have the disastrous consequence to our own.

Mr. BUMPERS. The point I make is that if the United States were in the same position, if we were exporting gas, which is a finite resource and which we are going to run out of that we find the oil in the next 10 or 20 years, the point I make is that if I were in this position in this body today——

Mr. BENTSEN. Is this part of the Senator's question?

Mr. BUMPERS. Yes. I would filibuster against selling gas, for example, to Mexico or anyone else at any less than what I consider an exorbitant price because we need it, and I think that is what the Canadians and Mexicans are doing, but I do not think that is relative to what the fair return is to oil and gas companies in this country.

Mr. STONE. Mr. President, will the Senator yield for a comment on that point?

Mr. BENTSEN. I yielded to the Senator from Arkansas for a question, and it sounds to me like a speech.

Mr. STONE. Will the Senator yield for comments in the form of a question?

Mr. BENTSEN. Yes, I am delighted to yield.

Mr. STONE. Is that not exactly the point? If some of these producer countries abroad charge their own people considerably less or whatever they want to charge than they want to charge us, what does that say about the reliability of our supply from those countries in terms of our ability to keep our people at work, our people heated in the wintertime, and our people using natural gas as a fuel?

Mr. BENTSEN. I think the Senator makes a very valid point. We get to the question that was being debated some last night about a national oil and gas company and the reference being made to Mexico, a country that has tried some of those things and has had as a result, I think, some very dire economic consequences from which they have not recovered.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to yield for a question.

Mr. DOMENICI. If I understand what my good Senator from Texas is saying, he is saying that if the Brookings Institution is right in its analysis of the Kennedy bill, which is the President's proposal, we will produce less natural gas than we did before we put this new incentive-laden schedule on. Is that not what the Senator is saying?

Mr. BENTSEN. That is exactly right. That is what it does.

Mr. DOMENICI. If we are saying that, then the question of the good Senator from Arkansas makes little or no sense because it is that extra gas that we are willing to pay more to foreign countries for that this particular proposal will not let us produce for our people through our private sector. Is that not correct?

Mr. BENTSEN. That is correct.

Mr. DOMENICI. I thank the Senator.

Mr. BENTSEN. If I may finally conclude, I will then yield further.

Mr. BUMPERS. Mr. President, will the Senator yield for one question?

Mr. BENTSEN. Will the Senator let me continue my talk, and then I am delighted to yield to him again. I have already yielded several times.

The study goes on to say, in addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes.

If the Carter proposal is enacted—and again I am quoting the Brookings Institute, which is not exactly owned by the oil companies, as I understand it; it is not considered a bastion of conservatism. If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now.

That is what the Senator from New Mexico was making reference to.

Almost certainly they would produce less than if the prices were decontrolled.

The administration proposal on natural gas pricing continues our bankrupt, discredited policy of the past two decades; it is simply more stiffling regulation at a higher peg. It will not work. As Robert Samuelson recently pointed out in the National Journal—

> Economic logic sometimes works slowly, but, in the end, it usually works. That is worth remembering, because Congress and the Carter Administration seem determined to repeat the mistake of 1954. In the name of consumer protection, they seek to control gas prices . . . One almost certainly consequence of holding down prices would be to fan demand for foreign fuel.

Mr. President, I hardly need point out that that demand is already in evidence; it is causing serious problems in our balance of trade. In the second quarter of 1976, on an annualized basis, our balance of trade account has a set surplus of $10.2 billion. That was this the second quarter of 1976. In the second quarter of 1977, the balance of trade account showed a net deficit of $9.8 billion. This represents a net deflationary swing of $20 billion, which has the same affect on the economy as a $20 billion tax increase; $20 billion in purchasing power has been drained from the American economy.

This year the United States will spend over $45 billion on imported sources of energy, while we permit vitally needed natural gas reserves to remain underground because they cannot be exploited at regulated prices.

People talk about oil and gas being a finite resource. That is true. But so is time in the lifetime of people, and that is what we are trying to buy. We are trying to buy some time by increasing the exploration for oil and gas in this country. But will we ever have enough? No, I do not think so. I have seen some reports that say we would be awash with gas and have a great surplus. I question that. But I think we need to buy time and increase those supplies substantially as we go to the alternative sources such as coal from the State of West Virginia, of the distinguished Senator from West Virginia, where we go to coal gasification, coal liquefaction, geothermal, nuclear, solar.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator.

Mr. RANDOLPH. I hesitate to break the continuity of the cogent argument of the Senator from Texas (Mr. BENTSEN). But when he speaks of buying time, that is what the American people are doing today. I think mistakenly, but it has to be done, we spent $12.5 billion stockpiling petroleum products when that money, I say to my colleagues, could have been expended on a synthetic liquefied fuels program giving us billions of barrels of synthetic fuels for a period of 20 years. That is what the Senator is really saying here today about buying time in one way or another. But here is an expenditure that frankly we have to make, I realize. It is insurance against another embargo or whatnot. But how important it was to have had the incentive which should have been built into our programing. That is what the Senator is asking for, is that not right, in connection with natural gas?

Mr. BENTSEN. That is certainly right.

I say to the distinguished Senator from West Virginia, the Senator from Texas is a member of the Finance Committee, and this week I voted to put in effect a 20 percent premium or subsidy on bringing about the conversion of coal by gasification, or liquefaction, and this is the Senator from Texas who is supposed to be from an oil and gas producing State. But I think it is in the Nation's interest to develop these alternative sources and in the meantime we buy that time by trying to encourage the exploration for oil and gas. Give us time to get over to coal and the other alternative sources.

If we are going to turn this trade deficit around, if we are going to avoid a serious slowdown in the economy's growth rate, we must increase the supply of domestic energy. But we are confronted with an administration proposal that will actually reduce the availability of domestically produced natural gas.

We confront an administration proposal that ignores the special circumstances surrounding agricultural use of natural gas, a proposal that allows no priority for natural gas used by farmers. The administration proposal treats agricultural users as if they were industrial users under incremental pricing.

Finally, at a time when we are all concerned about a proliferating bureaucracy and stifling red tape, the administration has offered up an administrative nightmare. Let us consider, for example, the practical problems involved in determining whether the "completion location" of a new well is 2.5 miles away or 1,000 feet deeper than the completion location of any well which prior to April 20, 1977, produced or was capable of producing oil or gas. The problems are enormous.

First, many producers do not have the well data on all the wells of nearby operators and their predecessors to determine where the completion location actually is. In many cases, this is proprietary information that would not be released.

Where is the completion location if a well was directionally drilled?

If a well was abandoned or produced a small amount of oil or gas in a test, was it in fact capable of producing crude oil or natural gas?

Does it make any sense to tie the definition of "new gas" to a well that previously produced oil?

These are just a few of the problems inherent in administering the definition of new gas under the Kennedy amendment.

In summary, Mr. President, the Kennedy administration proposal will not serve as an incentive to the production of new gas; it may well be a disincentive. It will serve the consumer only by increasing the probability of curtailments. It will virtually guarantee increased imports of foreign energy sources at a time we should be exploiting domestic reserves to the maximum possible extent. And, if enacted, it will be extremely difficult and cumbersome to administer. It is totally inconsistent with the energy problems and requirements of this Nation, and it should be defeated.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Independent producers in West Virginia are concerned that the Kennedy amendment will drastically reduce dril-

ling incentives in our State. How does your amendment, which I support, encourage drilling in areas with special problems such as West Virginia?

Mr. BENTSEN. By tying the Pearson-Bentsen bill new gas definition to geological fact, we will encourage drilling in the very unique West Virginia producing area. Producing areas in West Virginia are characterized by geological formations that yield low volumes of gas, at higher costs, with closer spacings and in tighter formations. The Kennedy bill by arbitrarily defining new gas, does not anticipate this situation. As I stated earlier, 94 percent of the gas produced in the United States would be excluded under the Kennedy language. In West Virginia this percentage could even be higher.

Mr. RANDOLPH. We are agreed that your amendment would encourage exploration by producers and would not cause consumer prices to rise drastically.

Mr. KENNEDY. Mr. President, I have listened with great interest to my friend from Texas talking about the cost of the LNG program, and how we will have to import this product, and, therefore, it is necessary for the consumers to pay the additional prices.

You know, that argument can be turned on its head, Mr. President. In fact, most of the firms that are involved in producing foreign LNG are American firms. They made the foreign investment, and now they are the ones who are going to be the principal beneficiaries of deregulation. They made the investment abroad, and now they want the domestic price to go high enough to justify the high priced imports. The consumers are the ones who are going to be caught in the middle.

Mr. President, when we talk about this argument, about going down on your knees to foreign countries in terms of the importation of various gas products from other countries, the fact of the matter is that we are probably more generous to the gas and oil companies in this country than any other country in the world. As I understand, OPEC permits only a 22-cents-per-barrel return on the oil produced in OPEC countries. Under OPEC agreements, that is the margin permitted to the American companies; the rest of it goes to the OPEC countries themselves.

I would be interested if the Senator from Texas or Senators from any of the other oil-producing States can possibly provide evidence here that the prices that they are receiving here in the United States are not 2, 3, 5, or 30 times higher than that.

So, Mr. President, I think that the governmental policy and the market system of this country has worked very strongly in favor of the oil producers and those companies.

Finally, Mr. President, I saw this morning in the Washington Post an article showing the impact of high gas prices on citizens of this country. In this case, they happen to live in Texas. I think it is appropriate that we put this article in the RECORD.

On the front page of this morning's Washington Post there is a story about a low-income community in Texas which yesterday lost its natural gas supply because its residents could not pay their bills. The community is Crystal City, Tex. The average per capita income there is $1,616 a year, about half of the statewide average.

The gas is purchased from a Houston utility company, Lo-Vaca Gathering Co. The article states:

Lo-Vaca, which buys $100 million worth of gas a month for distribution to municipalities, industries and farmers in virtually the entire state, had contracted to supply Crystal City with gas at 36 cents for each 1,000 cubic feet. When costs incurred in obtaining gas rose, Lo-Vaca was granted higher rates by the Texas Railroad Commission, the state body that regulates common carriers, including gas pipelines. The rate is now more than $2 a thousand.

That is a sixfold increase in a little more than 2 years. I point out that what we are talking about in Texas is virtually an unregulated market. This is the ideal which Pearson-Bentsen would have us adopt, an example of free enterprise at work. The fact is that the $2 price which Crystal City could not pay, under a deregulated price, would go above $2, perhaps much higher.

So I think this article is a dramatic illustration of the impact on consumers of the Pearson-Bentsen amendment and those who are arguing in behalf of deregulation.

Make no mistake about it, Mr. President: We are talking about, I believe, thousands of small communities all over the country which will run into similar kinds of situations to that which Crystal City has seen in the period of the last 36 hours.

It is for that reason that I believe that the amendment which I have put forward, which is basically the Jackson amendment, is a reasonable adjustment. As far as I am concerned, I think the price, as I debated a few days ago, is excessively high in any event. But that is a reasonable position for the Senate to assume.

Mr. President, I ask unanimous consent that this morning's Washington Post article about Crystal City, Tex., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIRTHPLACE OF RAZA UNIDA FINDS GAS SUPPLY CUT OFF

(By Bill Curry)

CRYSTAL CITY, TEX., Sept. 23—After more than two years of threats, court fights and a rigid refusal to pay higher rates, Crystal City lost its natural gas today.

At 9:26 a.m. a remote-controlled valve, activated by reduced pressure and an $800,000 debt for back charges, closed itself and ended the flow of gas to this poor and predominantly Hispanic city of 8,107 in south Texas.

But so severe is the poverty here and so spare are the lives of many of those dwelling in it—and in whose name city officials refuse to pay increased gas rates—that even the cutoff of such a necessity had minimal immediate impact.

Along the rutted and unpaved roads that divide one family's shack from another's shanty, Carlos Lopez pointed to the front-yard faucet and garden hose that serves him and his wife with water and said, "I don't have hot water anyway. That's all I've got."

And for many of the elderly, living alone in their immaculately kept public housing duplexes, the loss of their gas was merely a return to the years of denial they experienced as field workers. "Long years ago we cooked outside, and when we went north they did not give us stoves either," said Benigna Aldava, 77, a former picker of grapes, cotton, celery and tomatoes. "We are used to it."

City officials reported no disruptions of municipal services, the schools had converted to electric stoves, there is no hospital here and the area's biggest employer, a Del Monte canning factory, has an independent gas supply. So on a day with temperatures in the 90s and with the prospect of winter seemingly far away, city officials continued to blame their gas supplier, Lo-Vaca Gathering Co. of Houston, and the state government, in Austin for their plight. Meanwhile, the mayor, the city manager and a councilman met in Washington to seek help.

"A lot of the people still feel it's political," said Councilman Rudy Espinosa, who answered "definitely" when asked if his La Raza Unida party had alienated state officials and thus been unable to get state help.

For this area was the birthplace of the party, whose name roughly means "people together." In 1972, the party's gubernatorial candidate drew off enough traditional Democratic votes to nearly deny election to Democratic Dolph Briscoe who sits in the governor's office today.

Efforts to reach the governor's office for comment were unsuccessful.

Still, at the heart of today's cutoff was the nation's sharply increased energy costs and their impact on those of limited income. While the poor and the elderly have been strapped by those costs across America, it was here that the La Raza Unida-dominated city council drew the line and said no.

"We just don't have the means," said Espinosa. "We prefer balanced lives to balanced budgets. We had people who came in here and put down their welfare checks and still couldn't cover the gas bill," said Espinosa, referring to a brief period when the city did pass on the higher gas costs.

Lo-Vaca, which buys $100 million worth of gas a month for distribution to municipalities, industries and farmers in virtually the entire state, had contracted to supply Crystal City with gas at 36 cents for each 1,000 cubic feet. When costs incurred in obtaining gas rose, Lo-Vaca was granted higher rates by the Texas Railroad Commission, the state body that regulates common carriers, including gas pipelines. The rate is now more than $2 a thousand, and since early 1975 Crystal City has refused to pay.

By now the debt has risen to $800,000—$100 for every man, woman and child in one of Texas' lowest income areas. Per capita income is $1,616 a year, about half of what it is statewide.

Many residents here still pay $10 summertime gas bills and usually $20 in the winter. If the city were passing on the full cost of the gas those bills would be more like $50 and $100. Such bills would rival the monthly income of many of those living here.

It is generally agreed that without outside help the city has virtually no chance of ever paying off the debt. (Three other Texas cities also pleaded the hardship of poverty when rates were raised, but unlike Crystal City they put in escrow the difference between the old rate and the new, and their escrows now total $2.5 million.)

Many of the workers are migrant farm laborers, and the tilting one-room homes up on cinder blocks here makes this city look like an underdeveloped country. More fortunate are those able to get houses in the city's public housing complex.

There, residents were given an opportunity to buy electric hotplates for $25. But those people, who live on either fixed pensions or low wages, will thus face increased electric bills.

Pura Martinez, 27 and the mother of six, says she does not know what she will do about cooking for her children, ranging in age from 8 years to 2 months. Her double hotplate is clearly inadequate, and there is no oven. As a result, she expects to switch the children from meat, tortillas, beans and potatoes to "baloney sandwiches." Her husband, Raoul, is a migrant field worker now in Wyoming. Their income is about $5,000 a year, and they pay $48 a month rent on their four-bedroom public housing duplex.

Mrs. Martinez blames local officials for the gas cutoff, even though she does not know how she would pay higher costs.

Benigna Aldava takes an opposite view. She blames Lo-Vaca and state officials and says, "Lo-Vaca should rot with its millions." And as a group of visitors leaves her tiny home, she calls out, "Viva Crystal City! Always! Arriva!"

Mr. SCHMITT. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. SCHMITT. The Senator from Massachusetts has brought to the attention of the Senate the article that I brought to our attention earlier. I was wondering if the Senator has researched the circumstances surrounding this particular community's difficulties to the point where he can be assured that there are not some other factors involved here, besides the cost he has mentioned.

Mr. KENNEDY. The one factor that I think probably does not need much research, though perhaps the Senator has additional information, is that these people are poor and they cannot afford it. I think that is the underlying bottom line of this particular article. If there are other points on which the Senator wants to comment, about the cure for that poverty, or the reason for that poverty, or other factors which influence that poverty, I would be glad to hear him; but the bottom line is that these are poor people who cannot afford the dramatic increase. I think that is the bottom line of that story. If the Senator has other conclusions he draws from it, I would be interested.

Mr. SCHMITT. As this Senator discussed earlier today, I think it is important in our consideration of other aspects of the bill that, in any instance where, for whatever reasons they may occur, energy prices increase because of an artificial leveling of prices for many, many years, as we have had in the case of natural gas, we must provide for those individuals who cannot afford the rapid increase in energy price or those industries who cannot afford a rapid increase in energy price, should that increase occur. I do not think it will. I think the evidence is clear that it will not. However, if it does occur, communities such as Crystal City should have some form of relief on a national scale from that price increase.

The importance of this is certainly obvious to those on fixed and low incomes and to industries, such as parts of agriculture and other processing industries, that are dependent on the existence of artificially cheap natural gas. It is no fault of theirs that they have become dependent upon it.

This country, for 25 years, has held the price of natural gas at artificially low levels, encouraging people in many ways—both federally and at the State level and in the private sector—to use cheap natural gas and, for some period of time, now, there is going to have to be a transition to where we increase our supply of natural gas and other energy sources so that reasonably priced energy is, once again, available, energy that is priced at its true replacement cost.

I also think it is important for the Senator to realize that if we do not increase the supply of natural gas on a national scale, if we do not provide the incentives to the private sector that will allow that increase to occur, there are not only going to be small towns like Crystal City and other towns in my home State of New Mexico who are going to have difficulties of this kind and require assistance; but the large cities and whole, entire consuming States are going to require assistance. Last winter proved that it is not just a problem confined to Crystal City, Tex. It is a problem applicable also to the Senator's State, to New York, to many other States in this Union that are consuming natural gas.

It is extremely important that this body, with the Senator's help, I hope, take steps that will assure supply. We are reaching a point where there is not going to be a supply of natural gas in this country at any price, not to mention the prices that have been experienced in Texas or anywhere else in the country.

I thank the Senator for yielding.

Mr. ABOUREZK. Will the Senator yield?

Mr. KENNEDY. I shall yield in just a second, after I respond.

I am interested in the remarks of the Senator from New Mexico because he comes from a State which, as I understand it, had a virtually deregulated industry in terms of intrastate gas up to fairly recently, with the last year or year and a half. When was that, specifically?

Mr. SCHMITT. In the last legislature, they chose, against the advice of much counsel, including my own, to regulate the price of natural gas at $1.44.

Mr. KENNEDY. I see. The State the Senator comes from had made the decision that it should not be deregulated, or continue to be deregulated, and regulated it. I think that is an interesting comment by the people of that State.

I do not know what else, besides poverty was involved in the gas cut of Crystal City—I am informed that this community was the home community of La Raza Unida, which is an extremely controversial political movement generally throughout the Southwest. I certainly hope that that did not have anything to do with the termination of gas there.

Mr. DOMENICI. Will the Senator yield?

Mr. KENNEDY. I want to let my associates get the floor, but I am glad to yield to the Senator from New Mexico for a comment.

Mr. DOMENICI. I want to take 1 minute to say something to my friend from Massachusetts, since he raised the issue, with reference to New Mexico. I want to assure him that the reason for regulating natural gas in the State of New Mexico has nothing whatsoever to do with the price of new natural gas; nothing.

New Mexico is burdened with a contract clause in natural gas contracts called a most-favored nation clause. What it means is that all gas used by our consumers could reach the price of the highest new natural gas by operation of contracts. So we have 25 and 30 cent old gas, as the Senator does in Massachusetts. They continue to get it even if we deregulate, because we are only letting at new rates. Our contract clauses make the whole pool of natural gas, old and new, reach the new price.

I do not intend to have a debate with the Senator from Massachusetts on it. I hope he will believe me that that is a peculiar contract provision with reference to the producers in the State of New Mexico that, 25 years ago, was good for the people. They have made a turnabout now and we have reached the highest price of new gas even for our old. I just give that to the Senator so he will understand.

Mr. KENNEDY. I appreciate that and I thank the Senator from New Mexico.

Will the Senator tell me how much the price of intrastate gas has risen in New Mexico in the last 2 years?

Mr. DOMENICI. I do not have the exact figures, but new natural gas is the only thing that has risen, as the Senator knows, to any appreciable amount.

Mr. KENNEDY. In just general figures, as I understand it, it has about quadrupled. I would be interested in what that has meant in terms of new production of natural gas in New Mexico in the last 2 years.

Mr. DOMENICI. New Mexico's new natural gas production is flowing at about the rate that it is in the other States; not as fast.

Mr. KENNEDY. That means it is going down.

Mr. DOMENICI. I do not understand. Our production is going down?

Mr. KENNEDY. If the Senator says it is going at the rate of the other States, it is basically going down. If the Senator is comparing it to Texas, for example, it would be going down.

Mr. DOMENICI. Then I do not understand the question.

Mr. KENNEDY. The question is a simple one: What has been the new production of natural gas in the last 2 years in respond to the quadrupling of rates in New Mexico? Those that support Pearson-Bentsen say deregulate it, and we are going to get all the gas we need. Many of us who oppose it say that is not going to be the case, because recent indications are that it has not been so. There has been approximately a quadrupling of price in New Mexico. I am asking a sim-

ple question: How is that reflected in terms of increased production of new gas?

Mr. DOMENICI. I shall supply the figures for the record, but I will say that it is substantially up, as is the entire intrastate production. I shall put the figures in the RECORD.

Mr. METZENBAUM. Will the Senator from Massachusetts yield?

Mr. BENTSEN. Will the Senator yield for a comment?

Mr. KENNEDY. I yield, for a comment on the statement of the Senator from New Mexico, to the Senator from Texas.

Mr. BENTSEN. I want to comment on the question the Senator from Massachusetts posed.

Drilling activity has increased substantially in the last 3 years in Texas. It is not nearly up to what it was in 1956. One of the problems that we run into is that, under the situation today, where we do not know what the Federal Government and Congress are going to do, a lot of the producers have been unwilling to drill into the deep reservoirs. We find that about 10 percent of the exploratory wells—only 10 percent of them—are being drilled in those deep and expensive formations that, it is anticipated, hold about 70 percent of the reserves that can be brought onstream.

With this kind of policy that has been as unstable as it has, and with the threats of rolling back prices, we have not seen that kind of drilling take place. I will say, though, that we have ended up with a modest surplus of gas in Texas and the additional drilling has brought a reduction in price.

Mr. ABOUREZK. Would that not be—I understand that drilling has increased, but what about production? Has that increased?

Mr. BENTSEN. That is the very question I was answering.

Mr. ABOUREZK. I did not hear the answer, then.

Mr. KENNEDY. Will the Senator state it in terms of Texas? Could the Senator tell us what parts of Texas, for example, have not been drilled, in terms of deep drilling?

Mr. BENTSEN. I think it will be found particularly true in South Texas, that we have not seen the deep drilling activity, where they anticipate a great amount of reserves will be found.

Mr. KENNEDY. I shall just say, then yield, that the provisions of the Jackson amendment provide a kind of discretion for the Secretary in terms of pricing in these areas which would be more expensive.

Mr. President, I am glad to yield the floor.

Mr. ABOUREZK. Will the Senator yield to me?

Mr. METZENBAUM. Just for a minute. I would like to get away.

Mr. ABOUREZK. I only want to make a response to the Senator from New Mexico.

When Senator KENNEDY brought up a point that Crystal City, Tex., had its gas shut off because they could not afford to pay their bills, the response was from the Senator from New Mexico—

Well, we have to figure out some way so we can provide money for these people to be able to pay their gas bill.

Is that going to be the response to the question, that we will put people on welfare, and have to, because we have to deregulate natural gas and make sure they get all the money they want? That is the response to the question?

It is the people on the other side who are generally the most vocal in denouncing welfare and putting people on welfare. I think those people would pay those bills if the prices were reasonable, but it is obvious they are unreasonable.

Mr. BENTSEN. I might as well specifically speak on that because the Senator raises the point.

Mr. METZENBAUM. Well, briefly, because I have been yielding to everybody.

Mr. BENTSEN. I understand.

Mr. METZENBAUM. All right.

Mr. BENTSEN. Let me say, I arranged with those people to meet with EDA yesterday afternoon to see if we could arrange a loan, not welfare.

Some other citizens with the same problem held that money in a trust fund as they collected it from the people in their cities, and they have now met that bill.

This particular city chose not to do that, and that did put them in a tough spot.

I have been trying to see if they could not borrow the funds from EDA, and I hope they will be able to do that, because I am concerned.

Mr. KENNEDY. If the Senator will yield for 30 seconds, I will have printed in the RECORD, since we are talking about production, Library of Congress figures that show that production of gas since 1973 has been decreasing in the United States, at the time when we had the explosion in terms of cost.

Mr. President, I ask unanimous consent that that be printed in the RECORD, since we were talking about it earlier with Senators.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESERVES AND PRODUCTION

	Reserves		Production	
	Total United States [1]	Intra [2]	Total United States [1]	Intra [2]
1966	289	94.2	17.5	6.3
1967	293	94.8	18.4	6.6
1968	287	92.3	19.3	7.1
1969	275	87.5	20.7	7.6
1970	290	117.1	22.0	8.2
1971	279	117.4	22.1	7.8
1972	266	119.2	22.5	8.6
1973	250	115.7	22.6	8.6
1974	237	116.6	21.3	8.4
1975	228	121.4	19.7	7.7
1976	216	117.7	19.3	8.1

[1] AGA, Gas Facts.
[2] Total U.S. Reserves and Production, compiled by AGA, minus FPC figures (form 15) for interstate reserves and production. Compiled by Congressional Research Service, Library of Congress.

*Texas and New Mexico gross natural gas production**

	Mmcf
New Mexico:	
1970	1,141,889
1974	1,248,006
1975	1,219,072
Texas:	
1970	9,398,526
1974	8,859,044
1975	7,988,713

*Gas facts, table 17.

*Proved reserves at year-end for Texas**

	Mmcf
1967	125.4
1976	64.6

*API Reserves Data Book.

Mr. SCHMITT. Will the Senator yield on that point?

Mr. METZENBAUM. Mr. President, I think I have been the most yielding Senator Senator on the floor today, so I think I would like to offer a few comments of my own.

The fact is that in Texas where prices have been decontrolled and deregulated and the price of intrastate gas has gone up 10 times, the production has gone down.

The evidence is not clear that price is going to have any impact whatsoever as far as producing additional natural gas. It has not done it throughout the country, and it has not done it in those States where there are deregulated gas prices.

One of the reasons they will not get any more gas if we increase the price comes about by reason of the fact that there are 2,300 rigs that are presently available for the producing and production of gas—2,066 of them are in use, according to the Federal Energy Administration, and 250 of them are in transit or repair.

Mr. President, I think the issue before the Senate has to do with the subject of whether we are going to get an energy bill, because all I have been hearing the last several days is that we need an energy bill and if we do not do something about this, we will not get an energy bill, and what a terrible travesty that will be because we will not have an energy bill.

If we do not want an energy bill, then pass Pearson-Bentsen out of this Senate, because that is what the Speaker of the House of Representatives has said—the statement by Speaker THOMAS P. O'NEILL, JR., on natural gas pricing policy, released yesterday.

I read, as follows:

The course of action in the Senate on natural gas pricing policy poses a serious threat to the President's energy program.

It is abundantly clear to me that the House will not accept deregulation of new natural gas. Specifically, the so-called Pearson-Bentsen amendment now before the Senate is totally unacceptable to the House.

The American consumer will pay dearly for deregulation. There is absolutely no guarantee that deregulation will produce more supplies: what it will produce is economic devastation.

The Congressional Budget Office after careful study, has concluded that the President's natural gas program would produce 95 percent of the gas we would secure through deregulation in 1985. To deregulate for that extra 5% would cost consumers an average of $10 billion a year between now and 1985.

The House, in acting on the President's plan, has approved a tough and effective program. But the House has been unwilling to impose economic hardships on the American public for minimal energy gains. The

House has rejected deregulation for this reason before and it will do so again.

Mr. President, the issue is quite clear. There are many of us who recognize what will happen to this Nation if Pearson-Bentsen becomes the law of the land. It will strike at the economic health of our country. It will add to the inflationary spiral. It will help increase unemployment. It will be a deterrent to increasing the gross national product.

Just within the last day or so, the Congressional Research Service came forth with a report on the whole question of Pearson-Bentsen against the President's bill. I will read just a couple of paragraphs from it. It is dated September 22, 1977, as follows:

This memorandum responds to your request, received this morning, for an analysis of the Pearson-Bentsen and Administration proposals for natural gas pricing reform. Given the time available for our response, we must caution that the analysis is not as complete or comprehensive as it could otherwise be, and consequently should not be relied upon for more than a general indication of probable differential impacts and results of the two subject proposals.

The essence of the policy dispute between the Administration approach to natural gas pricing and the Pearson-Bentsen approach is two-fold: (1) the mechanism by which incentive prices are set for "new natural gas", the Administration opting for an artificial ceiling, and Pearson-Bentsen advocates preferring market forces; and (2) what is meant by "new gas."

That is where the new definition is contained in Pearson-Bentsen.

At the conclusion of that report, it states, "The results of this analysis are as follows:" and they go on. But the concluding paragraph is, to me, the salient one:

In short, using these sources and this methodology—oversimplified to an extreme—the net cost of the Pearson-Bentsen approach over the Administration approach between 1978 and 1985 would range from a low of $33.3 billion to a high of $69.1 billion.

Mr. President, I ask unanimous consent that the report be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PRELIMINARY COMPARISON OF PEARSON-BENTSEN AND ADMINISTRATION NATURAL GAS PRICING PROPOSALS

This memorandum responds to your request, received this morning, for an analysis of the Pearson-Bentsen and Administration proposals for natural gas pricing reform. Given the time available for our response, we must caution that the analysis is not as complete or comprehensive as it could otherwise be, and consequently should not be relied upon for more than a general indication of probable differential impacts and results of the two subject proposals.

The essence of the policy dispute between the Administration approach to natural gas pricing and the Pearson-Bentsen approach is two-fold: (1) the mechanism by which incentive prices are set for "new natural gas", the Administration opting for an artificial ceiling, and Pearson-Bentsen advocates preferring market forces; and (2) what is meant by "new gas."

The first dispute revolves around such factors as: (a) the ability of the depleting natural gas resource base to respond to higher prices with additional supplies, the Administration pessimistic and Pearson-Bentsen advocates optimistic; (b) the incremental effort to discover and produce natural gas that producers could or would expend in response to higher prices, the Administration anticipating a small incremental effort because of structural problems in the industry and equipment limitations, and the Pearson-Bentsen advocates confident of a large incremental effort; (c) the amount and productivity of the wealth transferred from consumers to producers, which the Administration estimates would be high in amount and low in productivity, and Pearson-Bentsen advocates believe would be relatively low in amount and high in productivity; and (d) the overall impact on the economy of this transfer, which in accordance with the Administration's postulates would be harmful, and according to the Pearson-Bentsen advocates' assumption would be beneficial.

The second dispute, the definition of "new gas", can be refined to a disagreement about the time value of gas production. The Pearson-Bentsen bill appears to assume that production now (short and midterms) is preferable to production later. Hence, Pearson-Bentsen extends "new gas" pricing to new wells drilled in extension of existing reservoirs as well as wildcat wells. Under this proposal, well drilling into known reservoirs should accelerate, as well as drilling into undiscovered reservoirs. It should be noted that the Pearson-Bentsen amendment to S. 2104 excludes development or "infill" wells from "new gas" treatment, although gas from such wells would have received the incentive price under S. 256, the Pearson-Bentsen bill introduced earlier in this Congress.

The Administration proposal assumes that, insofar as known reservoirs are concerned, it is counterproductive to devote limited drilling equipment and capital to stimulate their rate of production now because their production will have equally great, or perhaps even greater, value later. Hence, the Administration would maintain old gas prices for gas in known reservoirs, whether from a known point of production in the reservoir or an undiscovered extension of the reservoir. The Administration definition of "new gas" puts the premium on increases in the reserve base, roughly defined as the gas that will be produced from existing wells. Pearson-Bentsen puts the premium on increased production of gas, awarding incentive rates to gas that would theoretically be eventually produced by existing wells, but would be produced sooner if the discovered reservoirs were more rapidly extended. The Pearson-Bentsen Amendment would not grant "new gas" incentive prices to increased production from existing reservoirs caused by adding compression to existing wells, producing existing wells faster or drilling "infill" wells (unlike the original Pearson-Bentsen bill), but would grant "new gas" prices to a similar increase in production from that reservoir if it resulted from a new well being drilled in extension of the reservoir.

In allowing higher market prices for "new gas," 55 Pearson-Bentsen advocates claim that drilling would increase enough above the drilling levels that would be achieved under the Administration proposal that the rate of new reservoir discoveries will be greater, in addition to faster extension of known reserves. Advocates of the Administration position, on the other hand, see practical limits to the drilling effort which can be mounted at any price, and expect the President's price to prompt as great an effort as a higher price. They would thus assert that under Pearson-Bentsen, a higher portion of the wells drilled will be into existing reservoirs identifying extensions; the number of wells drilled in search of new reservoirs would actually be lower under Pearson-Bentsen than under the Administration plan if their assumption that total drilling will be maximized under either proposal is correct.

This difference between the proposals in the focus of additional drilling would probably be observed in more early production under Pearson-Bentsen than under the Administration plan, because the risks of extension drilling, which the Pearson-Bentsen proposal encourages and the Administration proposal does not, are much lower than those of rank wildcats, and the chances of additional gas production commensurately greater. This amount of gas would be presumably produced under the Administration plan later during the time period, either from existing wells or from those extension wells which are drilled at the "old gas" price. Hence our conclusion that the "new gas" definition dispute essentially comes down to a matter of the timing of production from known reservoirs.

The economic impact of the difference in timing of production is related to the value of the alternative fuels that would be required under the Administration proposal to make up any early shortfall of needed energy that could not occur under Pearson-Bentsen. This cost should be offset by the value of the alternate fuels that will be required later when this gas in known reservoirs would be depleted under Pearson-Bentsen but would still be flowing under the Administration approach.

Thus, one basic policy issue is whether alternative fuels will be a better buy now or a better buy later. Now, and for the short and midterms, these alternative fuels will be imported oil and gas plus coal and electricity. Later, in the long term, they may be supplemented by synthetic fuels from coal, oil from shale, solar, and others now in R & D.

Many factors impinge on the question of whether alternative fuels will be a better buy now or later. One such factor is near-term import dependence, another the rate of technological development of alternative fuels technologies. The world's resource base and the U.S. gas resource base are also involved.

ECONOMIC IMPACTS

Calculation of the differential economic impacts of the Pearson-Bentsen plan versus the Administration plan should be carried to lengths of sophistication and detail which time does not permit us. For that reason, we must make the following assumptions:

(1) We assume that under both Pearson-Bentsen, which leaves regulation of old interstate gas with the Federal Power Commission, but does not control intrastate prices, and under the Administration, which permits the President to set prices of old gas contracts upon renewal at prices up to $1.45 and does control intrastate prices at the new gas price, the total national impact of old gas prices would be the same. The difference in impacts thus relates solely to new natural gas quantities and prices.

(2) We assume that the natural gas production rate experienced in 1977 would fall off at a rate of 7% per year in the absence of production from new reservoirs (in new or old fields) or extensions of existing reservoirs.

(3) 60% of the reserves added during the last eight years, and 59% of the reserves added during the last five years have come from extensions of existing reservoirs, and 40% of the reserves added have come from new field and reservoir discoveries, disregarding revisions or reestimates of old reservoirs.

We assume that of the production in excess of the declining base of last year's production, the same ratio of gas produced

from extensions of old reservoirs to gas produced from new reservoirs will apply as has applied to these recent years' reserve additions. However, rather than 60% of this increment being produced from extensions under the Administration plan, we assume that only 50% of the new production is derived from additions to reserves which are extensions. This is because the Administration plan focusses the incentive price on "new reservoirs," and may reduce the relative proportion of drilling for extensions in favor of drilling for new reservoirs.

(4) All prices are in 1977 dollars.

(5) OCS gas is treated as onshore gas. This biases the price impacts of Pearson-Bentsen upward, but simplifies the calculations greatly.

METHODOLOGY

Calculations of the differential impacts are based on two primary sources: the Congressional Budget Office report of September 6, 1977, and the American Gas Association's report of May 19, 1977. From these two documents are drawn: (1) CBO and AGA projections of the price path of new gas under the Administration approach and under new gas deregulation, assumed to be equivalent to Pearson-Bentsen; and (2) CBO and AGA projections of the total production of natural gas, onshore and offshore, resulting from the Administration and deregulation, again assumed to equate to Pearson-Bentsen.

The production of 1977 (estimated at 19.2 Tcf), reduced by 7% per year, is then subtracted from both CBO's and AGA's production expectations under both the Administration and Pearson-Bentsen approaches. If last year's production rate should be declined at more than 7% per year, the difference between the two proposals would be increased; if at less, decreased.

The difference between the 1977 production base and both CBO's and AGA's projections of total production under deregulation is then multiplied in full by the price anticipated by CBO and AGO for deregulated new gas: the entire increment is assumed to qualify under the Pearson-Bentsen, "New gas" definition. Only half, however, of the difference between the 1977 production base and the total production predicted under the Administration's plan by CBO and AGO is multiplied by the new gas prices anticipated by the two studies under the Administration plan, because half of this incremental production is assumed to come from extensions of existing fields, and as much is not eligible for "new gas" incentive prices under the Administration plan. This half is instead priced at $1.45, the maximum old gas price permitted under the Administration plan.

The annual totals are then added.

From the total calculated costs of cumulative production of the two approaches, we then substract the cost of the amount of alternate fuel at $3.00 per Mcf equivalent required to make up the gap CBO and AGA calculate between production under the Administration plan and production under Pearson-Bentsen. We did not attempt to quantify the cost of the extra alternate fuel that would be required in years after the relevant period if indeed Pearson-Bentsen causes the faster depletion of existing reserves.

CONCLUSIONS

The results of this analysis are as follows:

(a) Under the CBO production projections and CBO price path, the incremental production between 1978 and 1985 would cost $129.8 billion under Pearson-Bentsen and $66.9 billion under the Administration plan.

The difference of $62.9 billion would be diminished by $13.8 billion dollars in alternate fuel costs required to equalize the production estimates for a net cost of Person-Bentsen over the Administration plan's cost of $49.1 billion.

(b) Under the CBO production projection and AGA price path, the cumulative incremental production would cost $149.8 billion under Pearson-Bentsen and $66.9 billion under the Administration plan. The difference of $82.9 billion would be offset by $13.8 billion in alternate fuels cost for a total difference in cost impact of $69.1 billion

(c) Under the AGA production projections and AGA price path, the incremental production over the period would cost $157.2 billion under Pearson-Bentsen and $46.4 billion under the Administration plan. The $110.8 billion difference would be reduced by $57.6 billion in alternate fuel requirements to make up the supply discrepancy projected by AGA, for a total impact of $53.2 billion.

(d) Under the AGA production projections and CBO price path, the Pearson-Bentsen amendment would lead to $137.3 billion in costs for the incremental production over the base production, compared to $46 4 for the administration plan's incremental production. The difference of $90.9 billion, minus the cost of alternate fuels of $57.5 billion under this scenario, would yield a net cost of Pearson-Bensen over the Administration plan of $33.3 billion dollars.

In short, using these sources and this methodology—oversimplified to an extreme—the net cost of the Pearson-Bentsen approach over the Administration approach between 1978 and 1985 would range from a low of $33.3 billion to a high of $69.1 billion.

Mr. METZENBAUM. Mr. President, there are those who would argue that under Pearson-Bentsen there would be more natural gas available for some of the States that now look to interstate gas for their supply. But the fact is that the provisions of the Pearson-Bentsen bill are not the same as they were when it was passed on the floor of the Senate in 1975, and there are provisions in the Pearson-Bentsen bill which will make it possible for those States that are using the intrastate gas to hold back that intrastate gas from the interstate market.

At a later point in this debate I will be prepared to address myself to that subject in detail.

In substance, if we want an energy package—and I want an energy package as much as any Member of this Senate or any Member of Congress—then we cannot pass the Pearson-Bentsen amendment. Then we have to find some way to resolve this issue, and the President's bill certainly seems to go far enough.

It goes from $1.46 to $1.75. It gives that increase that is unwarranted, in my opinion, but still provides it.

The Kennedy amendment would make it possible for Members of the Senate to vote on an affirmative basis for a proposal that would help those who, in my opinion, need no help, the oil companies and the natural gas producers, to the extent of the difference between $1.46 and $1.75, plus additional relief. That is a reasonable approach, at least.

However, the Pearson-Bentsen proposal really means that we are going to take the lid off and have a negative impact upon this economy which the Nation can ill afford.

I believe that those who feel that President Carter is trying to do a job for this country and is trying to do something in the whole energy field must vote for the Kennedy proposal, which is indeed the administration proposal. To vote it down is to indicate that somehow, some way, we have more confidence in the representations of the oil companies and the natural gas producers than we do in the representations and the facts as presented to us in impartial studies by the Carter administration.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. RANDOLPH. I know the position taken by the Senator from Ohio and other Senators. I ask him this, as one of the active proponents of the Kennedy amendment: Would it not be advisable to vote on that amendment, vote it up or down? I am not interested in tabling.

Mr. METZENBAUM. I am aware of the fact that the Senator from Massachusetts, as early as last night, at the time he presented his amendment, said, "We are ready to vote on it." I think he speaks for all of us who are opposed to deregulation. The Senator from West Virginia indicates that he is ready for the vote, I know that he speaks for me, for the author, and for Senator ABOUREZK. If the other Senators are prepared, we are ready to vote. Let us go.

Mr. KENNEDY. Let us vote.

Mr. RANDOLPH. I cannot speak for any other Senator, but I feel that it would be in the interest of the procedure of the Senate and would be welcomed by the American people—not just the result one way or the other—and would show that the Senate is an action body on these matters which have been debated for weeks and weeks.

Mr. METZENBAUM. We are ready to vote. I hope that those who are opposed to the Kennedy proposal will not see fit to filibuster the matter.

Mr. RANDOLPH. I would like to vote on the Kennedy proposal.

Mr. KENNEDY. Let us vote.

Mr. BENTSEN. I say to the distinguished Senator from Ohio that what has been proposed is a very important and far-reaching amendment and deserves the same kind of consideration that we gave and the Senator's side gave to the question of tabling Pearson-Bentsen. That is when all Members can have an opportunity to be heard. The Senator from Ohio knows that.

I think they are having a good time, and I understand that.

However, a great number of Senators who are not here—on Saturday—had an understanding that things of this substantive nature would not be voted on today; that we will try to arrive at a time when all forces can be represented to cast their lot, and I will be delighted to see a vote at a time such as that.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not mean to attempt to say that the distinguished Senator from Texas is wrong in his understanding that Senators may have been told there would be no vote today on the Kennedy amendment. I know of no such understanding.

Mr. BENTSEN. That is perhaps because I look on the administration's measure as a highly substantive measure. I do not know of any agreement, and I must say that, if I left that impression, but I think many felt there would not be a vote today on the administration's measure. Perhaps that impression was wrong. I know there is no such formula. I do not mean to say that.

Mr. ROBERT C. BYRD. So far as I am concerned, a vote can occur at any time today on any amendment to this bill and on the bill itself. I know there are Senators who would not want to see a vote occur today, let us say, on the Jackson substitute, but there is no understanding that there will not be, no understanding that tabling motions will not be offered.

Senators were well aware days ago that there would be a Saturday session if the bill was not disposed of or if an agreement had not been reached whereby final time and date were agreed upon for a vote on passage.

I hope the distinguished Senator from Texas will not feel that I am in any way challenging his understanding. I am merely stating to Senators that everyone expected votes to occur—no holds barred. We have a good attendance. Seventy-five answered the call. I happen to know that there are others around who have come in since that time, and they have expected votes today.

I hope there will be votes today. Amendments can be called up, whether they are divestiture amendments or whether they are motions to recommit with instructions or tabling motions on amendments that are now pending. There is no reason why we cannot have decision on some of these matters today.

I think it would be a mistake for us to be in today, not have substantive votes, and be under any misunderstanding that there is any tacit agreement or otherwise that we are not going to vote on certain issues.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. METZENBAUM. I believe I still have the floor. I will say one word and then sit down.

Those of us who support the Kennedy amendment are prepared to vote at 5 minutes to 12 on Saturday—now.

Mr. TOWER. I should like to reinforce what my distinguished colleague from Texas has said.

Many of us know that there was a great deal of talk yesterday afternoon about votes today on divestiture. There was some indication that amendments relating to horizontal divestiture of the major oil companies would be brought up today and would be considered and that there was little likelihood that any votes would occur today on oil pricing and policy.

I think the proposal of the amendment by the Senator from Massachusetts last night caught a number of people by surprise. After all, this discussion had taken place previously, and I think some Members left with the understanding that the high probability was that there would be no votes today on oil pricing.

So I think the Senator from Texas is absolutely right, because I believe when many people left here last evening they thought if there were any votes today, they would be on the issue of divestiture.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Don Chamblee of the staff of Senator PROXMIRE be permitted access to the floor during the debate on this measure and the votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Kip Hawley of the staff of Senator CHAFEE be accorded the privileges of the floor during the debate on this matter and the votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. BURDICK assumed the chair.)

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ABOUREZK. Mr. President, I yield briefly to the Senator from West Virginia.

Mr. ROBERT C. BYRD. No. The Chair recognized me. When the Senator made his request, he lost the floor.

I merely want the floor in order to ascertain what action we can expect.

Mr. ABOUREZK. That is all I was going to ask.

Mr. ROBERT C. BYRD. Seventy-five Senators answered the rollcall on the motion to instruct the Sergeant at Arms. I understand that 7, 8, or 10 Senators who were around missed the rollcall.

The Senate is here to do business, and I do not want to move to table any amendment because I do not want to show partiality one way or the other at this point on any amendment. But I am interested in getting the Senate to take some action. If a tabling motion is made and it fails, then the amendment stays in its status quo position. If a tabling motion succeeds, that amendment can be offered on some other part of the bill or offered to one of the substitutes.

I hope that we will have some action. I understood there might be some divestiture amendments voted on today, and there will be motions to recommit with instructions, so I simply hope that the Senate will act soon on something and let us get some movement going.

Mr. President, of course, everyone on this side who I have heard said they are ready to vote on the Kennedy amendment, and there were a couple of objections voiced from the other side under the pretense ostensibly because they say there was some informal agreement not to vote on anything substantive today. I personally had not heard any such agreement made either informally, formally or whatever. I think it puts the Senate in a kind of precarious position. On the one hand, we have a cloture motion filed on the debate on the Bentsen-Pearson amendment. Yet now with the Kennedy amendment up, and that being filibustered by the other side, there is no cloture motion filed on that.

I wonder if we could kind of equalize this, to put a cloture motion on both or remove the one off the Bentsen-Pearson amendment and withdraw it.

It seems to me that would be the fair thing to do.

Mr. TOWER. Mr. President, there is a lot of sanctimonious talk going on here and in fact there were a number of principals in this debate who met last evening and made a good faith effort in my view, or at least my view at the time, to arrive at some basis of agreement so that Senators would be informed approximately when we would vote on what kind of issues.

There was a great deal of discussion on the matter of divestiture and suggestion that divestiture votes would be forthcoming today, and also the strong suggestion that any votes on gas pricing, particularly the Jackson amendment, would probably be voted on on Monday. And some participants in that discussion gave no indication at all that there would be an attempt to force a gas pricing vote today. As a matter of fact, late last evening one of the participants, Mr. KENNEDY, did offer this amendment on gas pricing.

Now the fact of the matter is that Senators were not expecting votes on that

issue today. No, there was no agreement, of course not.

But the Senator from Texas, however slow he might be, has been around here long enough to recognize a parliamentary maneuver when he sees one.

For my part, Mr. President, I do not think it would be proper for us at this point ot undertake to vote on a gas pricing proposal because I think many Senators, who did act with some understanding or some thought that yesterday's meeting was a good-faith meeting and everyone involved was airing what they could air at the time, expressing whatever intents they had, left in good faith.

So I hope we will not vote on the gas pricing provision and will proceed to consider matters that many thought we would consider today, and that is the question of divestiture.

Certainly it is an issue of very great substance. So I hope that Senators who have divestiture amendments will bring those up and let us vote on them.

Mr. BENTSEN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

UP AMENDMENT NO. 849

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment No. 849 to amendment No. 862 to S. 2104.

"'SEC. 28. (a)(1) Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after date of enactment to any pipeline company or local distribution company which directly serves boiler fuel users exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be allocated to the rates and charges of any such company applicable to direct sales of natural gas for boiler fuel use until the rates or charges applicable to any such use served by such pipeline company or such local distribution company, equal 120 percent of the average retail cost of No. 6 residual fuels to such boiler fuel users.

"'(2) The rule required to be prescribed under paragraph (1) shall provide that after the rates and charges—

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed reading the amendment as follows:

—of a pipeline company or local distribution company applicable to sales of natural gas to boiler fuel users served by such company, equal 120% of the average retail cost of No. 6 residual fuels to such boiler fuel users, served by such company, further increases in the average cost of natural gas delivered to such company shall be allocated to the rates and charges of such company applicable in accordance with the orders and directions of the Commission with respect to any such pipeline company and in accordance with the orders and directions of the state or local regulatory agency by which such local distribution company is regulated.

"'(3) The rates and charges for sales of natural gas by any pipeline company or by any local distribution company to all customers of such pipeline company or local distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

"'(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the average retail cost of No. 6 residual fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

"'(c) For purposes of this section:

(1) The term "boiler fuel" means natural gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity, whether or not alternate fuel capability has been installed in an amount greater—

Mr. BENTSEN. Mr. President, the substance of the amendment having been stated, I now join the Senator in asking unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

The amendment is as follows:

On page 15, after line 22, insert the following:

"INCREMENTAL PRICING OF NEW NATURAL GAS

"'SEC. 28. (a)(1) Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after date of enactment to any pipeline company or local distribution company which directly serves boiler fuel users exceeds the product of the average cost of natural gas delivered to such company during the twelve-calendar-month period ending immediately before the date of the enactment of this Act multiplied by the inflation adjustment, shall be allocated to the rates and charges of any such company applicable to direct sales of natural gas for boiler fuel use until the rates or charges applicable to any such use served by such pipeline company or such local distribution company, equal 120 per centum of the average retail No. 6 residual fuels to such boiler fuel users.

"'(2) The rule required to be prescribed under paragraph (1) shall provide that after the rates and charges of a pipeline company or local distribution company applicable to sales of natural gas to boiler fuel users served by such company equal 120 per centum of the average retail cost of No. 6 residual fuels to such boiler fuel users served by such company further increases in the average cost of natural gas delivered to such company shall be allocated to the rates and charges of such company applicable in accordance with the orders and directions of the Commission with respect to any such pipeline company and in accordance with the orders and directions of the State or local regulatory agency by which such local distribution company is regulated.

"'(3) The rates and charges for sales of natural gas by any pipeline company or by any local distribution company to all customers of such pipeline company or local distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

"'(b) Not later than ninety days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the average retail cost of No. 6 residual fuels in each region of the county (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

"'(c) For purposes of this section:

(1) The term "boiler fuel" means natural gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity, whether or not alternate fuel capability has been installed, in an amount greater than 1,500 Mcf on a peak day.

(2) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(3) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

"'(d)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until sixty calendar days after transmission to both Houses of Congress.'."

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. BENTSEN. Mr. President, I had not lost the floor.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator lost the floor by offering the amendment.

Mr. HANSEN. We cannot hear the Chair.

The PRESIDING OFFICER. The Senator lost the floor by offering the amendment.

Mr. BENTSEN. I did not lose the floor by making the unanimous-consent request, as I understand it.

The PRESIDING OFFICER. The Parliamentarian tells me that the Senator lost the floor when he offered the amendment.

Several Senators addressed the Chair.

Mr. BENTSEN. I did not lose the floor my asking unanimous consent that the reading of the amendment be dispensed with.

Mr. ABOUREZK. Regular order, Mr President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I was on the floor when this occurred. The Senator from Texas offered his amendment, and then began his presentation of his remarks. This clearly was recognition by the Chair, and to me amounts to the regular order.

Mr. ABOUREZK. Regular order, Mr. President. A motion to table is not debatable.

Mr. BENTSEN. Of course it is not debatable, but I had not lost the floor. Mr. President, I asked unanimous consent that further reading of the amendment be dispensed with.

Mr. BAKER. Mr. President, my parliamentary inquiry——

Mr. ABOUREZK. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The answer to the inquiry of the Senator from Tennessee is that at the time the Senator from Texas asked unanimous consent that the further reading of the amendment be dispensed with, at that time, the Parliamentarian tells me, the Senator from Texas lost the floor.

Mr. ABOUREZK. Regular order, Mr. President. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The vote was announced—yeas 17, nays 59, as follows:

[Rollcall Vote No 402 Leg.]

YEAS—17

Bumpers	Jackson	Proxmire
Clark	Javits	Ribicoff
Cranston	McGovern	Riegle
Glenn	McIntyre	Sarbanes
Hollings	Moynihan	Williams
Inouye	Nelson	

NAYS—59

Abourezk	Durkin	Meicher
Allen	Eagleton	Morgan
Anderson	Ford	Muskie
Baker	Garn	Nunn
Bayh	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Hansen	Pell
Brooke	Hatch	Percy
Burdick	Hatfield	Randolph
Byrd, Harry F., Jr.	Hathaway	Roth
Byrd, Robert C.	Hayakawa	Sasser
Cannon	Helms	Schweiker
Case	Huddleston	Sparkman
Chafee	Kennedy	Stevens
Chiles	Laxalt	Stevenson
Church	Lugar	Stone
Curtis	Magnuson	Thurmond
Danforth	Mathias	Tower
DeConcini	Matsunaga	Wallop
	McClure	Zorinsky

NOT VOTING—24

Bartlett	Haskell	Metzenbaum
Biden	Heinz	Schmitt
Culver	Humphrey	Scott
Dole	Johnston	Stafford
Domenici	Leahy	Stennis
Eastland	Long	Talmadge
Griffin	McClellan	Weicker
Hart	Metcalf	Young

So the motion to lay Mr. BENTSEN'S UP amendment No. 849 on the table was rejected.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as I was about to say—looking at the tabling motion maybe I should not give any further explanation of it—my concern and the concern of many others is what happens in the price of natural gas to the homeowner as we deregulate on new natural gas.

The effect of this amendment is really to shift more of that cost over to industry and to try to protect the homeowner, to give the homeowner the benefit of the old contracts and the older prices and still have the incentives out there to find the new gas and to bring it on stream.

That, in effect, in the simplest of terms is incremental pricing. We have heard a great deal about the impending curtailments of natural gas this winter and we certainly have heard some legitimate concerns and complaints of constituents about their utility bills.

We have a clear obligation to help assure that available natural gas in this country is put to its most efficient and its most practical use.

We have a clear obligation to do everything we can to try to hold down the price of that energy to the homeowner as we try to bring on additional supplies.

My proposal for incremental pricing for large boiler fuel users—those who consume more than 1,500 Mcf—will help meet both of these concerns.

Under the terms of my amendment, large boiler fuel users will be required to pay the average cost of new and artificial gas supplies until that cost reaches the level of 120 percent of the cost of No. 6 residual fuel oil.

Larger boiler fuel users, in other words, will be called upon to absorb the impact of higher priced, new gas before the homeowners or the small businesses have to pay for it.

I think there is a general agreement in this Chamber that the use of natural gas as a boiler fuel is a wasteful use of that kind of a finite resource.

In 1976, over 2 trillion cubic feet of natural gas was burned by industrial boilers.

It is important to understand, Mr. President, that most utility and industrial boilers, and the users thereof, can switch to oil or to coal. They continue to burn desperately needed natural gas because it is cheaper than alternative sources of energy.

Incremental pricing will help encourage the conversion by industrial users. They will then face that economic decision.

The homeowner cannot put in a coal chute these days, and he is not going to do it. We know that that homeowner who is using natural gas wants to be assured he has a supply, but he cannot afford the conversion costs. But most of industry can and that is where the conversion should be made.

I recognize that incremental pricing is a complex subject. But perhaps it can be best explained by this kind of an example.

Many pipelines in this country have two categories of customers—residential, and then on the other side, industrial and utility customers.

With deregulation, new supplies of natural gas will become available on the market and the best estimate is that it will be a 4- to 10-percent increase in the first year of deregulation.

New gas, of course, will cost more than old and regulated gas.

Under the terms of my amendment, if the pipeline in question purchases new gas to meet its combined industrial and residential demand, it would be required to sell the new and more expensive product to the industrial consumer who uses gas as a boiler fuel and has the ready option of conversion.

Mr. President, I am delighted to yield to the distinguished Senator from West Virginia for a question.

Mr. RANDOLPH. Mr. President, I thank the knowledgeable Senator from Texas who addresses himself to this subject matter.

I think we should all recognize whether we are for or against the so-called Bentsen-Pearson amendment, or the Pearson-Bentsen amendment, that this is an amendment that helps the residential user of natural gas.

Am I correct in that?

Mr. BENTSEN. That is correct.

Mr. RANDOLPH. I think the membership should recognize that that is the thrust of the amendment.

We should not try to just tie it to other subject matter in the proposals, three in number, that are pending—the so-called Kennedy proposal, the Jackson proposal, and the proposal sponsored by the Senator from Texas which has already had the support of this Senate by a margin of six votes.

I say this in good humor and good purpose. If we will look at this amendment just on its own merits and not connected with any of the other three proposals, as it is offered here, and very naturally here, I hope Members will study the amendment because it does give a preferential treatment to the consumer, that is, in this instance, the residential user.

Is that correct?

Mr. BENTSEN. It certainly does.

I say to the distinguished Senator from West Virginia that he has eminent knowledge of this and is a long-time student of this subject.

Mr. RANDOLPH. I appreciate supporting the amendment proposed.

Mr. BENTSEN. I thank the Senator.

What it really does, it penalizes the industrial consumer when he indulges in wasteful use of natural gas. It means if he is going to continue to try to do that, he is going to have to pay for that privilege.

It will try to discourage him in an economic way and push him into a conversion into coal for an alternative source of energy.

Now, this would remain in effect until they reached, as I say, 120 percent of the cost of No. 6 residual fuel oil.

If that level is attained, the Federal Power Commission would be free to allocate all or part of the excess of other customers.

Simply stated, my amendment would provide a strong economic incentive for industrial gas users to shift to alternative sources of energy. It will free up additional supplies for the residential user; and it will insulate the homeowner from higher fuel costs.

If there are no large boiler fuel users on a pipeline, the incremental pricing provision would not be needed, and, under my amendment, would not be applicable.

In summary, Mr. President, incremental pricing of new natural gas to large boilers will mitigate the economic impact on homeowners and high priority users while discouraging pipelines with boiler fuel loads from acquiring new supplies for wasteful purposes.

It will encourage and enable pipelines with large residential fuel loads to acquire new gas supplies that might otherwise be dumped under boilers at cheap prices but at a high cost of our economy and supplies.

Mr. President, I think the amendment makes eminent good sense. I hope the Senate will adopt it as a perfecting amendment to the Pearson-Bentsen bill.

Mr. ROBERT C. BYRD. Vote!

Mr. RANDOLPH. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, would the Senator from Texas yield for some questions on his amendment?

Mr. BENTSEN. I am pleased to yield to the distinguished Senator.

Mr. ABOUREZK. Does the Senator's amendment protect industrial users who use natural gas for processing? By that I mean processing where the flame actually touches the product being processed, such as painting cars, and so forth?

Mr. BENTSEN. Since those users are not boiler fuel users, they would not be penalized.

Mr. ABOUREZK. Under the Senator's amendment, they are protected if they have no substitute?

Mr. BENTSEN. That is right—if they have no place else to go. Otherwise, what you are doing is costing American jobs.

Mr. ABOUREZK. What about protection for industrial users who use natural gas for feedstocks?

Mr. BENTSEN. What we have done, I say to the Senator, is that we have put a limited application here in the way of a definition to the very largest boiler fuel user, to try to keep it as simple as we could.

Mr. ABOUREZK. So the Senator's answer is "No"?

Mr. BENTSEN. It depends on the size of the boiler fuel user.

Mr. ABOUREZK. But the Senator, in his amendment, does not protect users who have use for feedstock and have no alternative fuel?

Mr. BENTSEN. We do not penalize them in that situation.

Mr. ABOUREZK. The amendment would not penalize them but it would not protect them?

Mr. BENTSEN. The boiler fuel user is the one we penalize. No, no protection beyond that.

Mr. ABOUREZK. The Senator is saying it is only the boiler fuel user who would be affected?

Mr. BENTSEN. That is right.

Mr. ABOUREZK. When we talk about natural gas for processing, that is just about it; there are no real alternatives. If you have to use natural gas in a process, what alternative could you use?

Mr. BENTSEN. I am sorry, I did not hear the Senator.

Mr. ABOUREZK. In using natural gas for manufacturing processes where you have to use a flame with gas, what other alternatives do you have? There are none. I wonder whether the Senator would comment on that.

Mr. BENTSEN. Again, we are speaking about the boiler fuel user, and that is the limitation we put on it—the boiler fuel user.

Mr. ABOUREZK. So no protection is provided for processors?

Mr. BENTSEN. No, but we do not charge him with the incremental price.

Mr. ABOUREZK. Would residential and small commercial users be better protected by the Jackson incremental pricing provision?

Mr. BENTSEN. I do not have that kind of detailed study. We would be delighted to try to develop that information, in a comparison with the amendment of the Senator from Washington.

Mr. ABOUREZK. When could we do that? I think it is important to determine whether small commercial users are protected in the Senator's amendment.

Mr. BENTSEN. Small commercial users are protected, because we are talking about 1,500 Mcf per day with respect to the application of this.

Mr. ABOUREZK. Does the Senator mean that this amendment applies to people who use more than 1,500 Mcf?

Mr. BENTSEN. That is right. So the small one is protected in that kind of situation.

Mr. ABOUREZK. Let me ask another question in line with that. Does the Senator apply this amendment to the use of natural gas in refineries?

Mr. BENTSEN. No. We get clearly to boiler fuel users, which is thought to be the most wasteful utilization of natural gas, and that is where we put on the incremental cost.

Mr. ABOUREZK. Refinery use is perhaps as wasteful or more wasteful than boiler fuel use. In fact, there is a tremendous amount of natural gas burned in refineries. That is a perfect example of a place where you could use alternative fuels. You could use heating oil in refineries.

Mr. BENTSEN. We are talking about a great amount of gas here. We are talking about 2 trillion feet that is involved, that is under boiler fuel use. So it is making very substantial progress.

Mr. ABOUREZK. But the Senator does not extend it to refiners; he is leaving out refineries. Therefore, he is not requiring incremental prices for one of the major uses of natural gas, one of the major wasters of natural gas. Is that correct?

Mr. BENTSEN. No, that is not correct, if we compare it to what we are putting it on, when we talk about 2 trillion feet. We are talking about 25 percent of the oil in interstate pipelines going into boiler fuel. We have applied it to that; that is the major application.

Mr. ABOUREZK. Is there a reason for not applying it to refineries. That is a major application.

Mr. BENTSEN. We can go into great complexities, if we wish. This is a simple approach to it that gets to the biggest offenders. I think it is a major step forward in trying to protect the homeowner.

Mr. ABOUREZK. The Jackson Incremental pricing provision includes all major industries, including refineries, which would cover a great deal of natural gas that qualifies as a wasteful use. It is surprising to me that the Senator from Texas limits his prohibition to boiler use and leaves out refinery use of natural

gas, which is very wasteful, and for which there are alternatives.

Mr. BENTSEN. I say to the Senator from South Dakota, with respect to the Jackson amendment, that I am concerned because incremental pricing is attached to some of the agricultural use. I do not agree with that. I think we should have a protection there.

Mr. ABOUREZK. But we are not talking about that part.

Mr. BENTSEN. I am talking about that part. The Senator from South Dakota threw it into the dispute—the question as to the Jackson amendment compared with this amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield for a question.

Mr. MAGNUSON. Does the Senator's amendment exempt agricultural use of gas?

Mr. BENTSEN. Yes, it would. The incremental pricing is on the boiler fuel use at more than 1,500 Mcf. With the Jackson amendment, as I understand it, the incremental pricing would go to some of the agricultural usage, and I do not agree with that.

Mr. MAGNUSON. Some of my fruit growers use natural gas for protection against frost and things of that nature.

Mr. BENTSEN. But that would not be using it as a boiler use to the extent of 1,500 Mcf.

Mr. ABOUREZK. That would not come under the boiler fuel section?

Mr. BENTSEN. It would not be applicable to them.

Mr. ABOUREZK. Because that is not boiler fuel. Is that what the Senator means?

Mr. BENTSEN. Yes.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. GLENN. I do not know whether I misunderstood something earlier or not, but I think the Senator from Texas is trying to prevent boiler fuel use. Would that not also apply to refineries?

Mr. BENTSEN. If it is used as boiler fuel. Absolutely.

Mr. GLENN. Is the Senator talking about processes?

Mr. ABOUREZK. I am talking about use of natural gas other than boiler use in refineries, which amounts to about one-twentieth of all natural gas use in the country—5 percent. That is a substantial portion.

Mr. GLENN. Other than boiler use?

Mr. ABOUREZK. Other than boiler use. We concede that he applies it to only boiler use, but he exempts too many important aspects.

Would the Senator be willing to apply incremental pricing to all utilities that provide electrical power?

Mr. BENTSEN. This amendment applies to all boiler fuel users. If the natural gas expense gets too large these utilities can switch to other fuels without any significant cost to the consumer. Also, they would never pay more than 120 percent of the cost of No. 6 residual fuel.

Mr. ABOUREZK. What does that mean, that they can readily convert? They all can readily convert.

Mr. BENTSEN. No, I am afraid that is not the case.

The Senator from New York has made his point, and made it in the hearings the other day with Dr. Schlesinger, whereby we are running into some serious environmental problems in New York with respect to EPA regulations and a violation of the oxidant standards. He made a valid point that they were running into a serious health problem on the conversion. You run into a number of instances such as that.

Mr. ABOUREZK. Does the Senator's amendment specifically state what the alternative fuel should be, or is that left up to the Federal Power Commission?

Mr. BENTSEN. No, I do not think that by Government fiat we should be trying to determine in each instance what is economically best and what is more viable for each user that converts. That is the sort of regulation I hope we can avoid. I know the Senator apparently feels to the contrary, that it should be dictated.

Mr. ABOUREZK. How would the Senator's amendment be enforced then? How does it state that the alternative fuel should be decided?

Mr. BENTSEN. It is just a total placing of incremental price on boiler fuel usage.

Mr. ABOUREZK. In other words, there is no statement in there as to which alternative fuel should be used?

Mr. BENTSEN. No, certainly not. I do not think we should be in that position.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Texas has the floor.

Mr. BENTSEN. I yield.

Mr. GLENN. I was questioning the one-twentieth of our use. Is it considered boiler fuel only if it is a water boiler, and if you are heating crude and getting a distillate process going, that is not considered boiler use? Is that correct?

Mr. ABOUREZK. I do not know whether it is or not.

Mr. GLENN. What would the one-twentieth of our total use be for in refineries, then? I thought boiler use applied not only to water but to whatever else was being heated in a boiler-type operation. Perhaps I do not understand the refinery business well enough.

Could someone clarify that for me? I am a little surprised at this one-twentieth of our total gas use going to other than boiler functions in a refinery.

Mr. ABOUREZK. That is right. Those are the figures I have, and I think probably the Senator agrees with me.

Mr. GLENN. Is the definition of boiler use only where it is water, and if we are heating crude for distillate purposes that would not be considered boiler use; is that correct? How do we define boiler use is what I am asking.

Mr. ABOUREZK. If you are heating something aside from water that would not be boiler use.

Mr. GLENN. Why could it not be?

Mr. ABOUREZK. Well, it is a standard term. Boiler use is when you heat water to create steam; that is it.

Mr. BENTSEN. I do not have it. There is a standard definition of the use of boiler fuel, and I do not have it available. I am told the Federal Power Commission has such a definition but I do not have it before me.

Mr. GLENN. I thank the Senator.

Mr. ABOUREZK. If I could get back to incremental pricing being applied to all utilities, the Senator responded a minute ago by saying he would require it only if where there was an alternative source of fuel. How does the Senator's amendment determine whether or not utilities can readily convert to some other source of fuel?

Mr. BENTSEN. What they could do, obviously, is they could pay the incremental price or it would be dictated by economics if they switched to another fuel.

Mr. ABOUREZK. I am asking under the Senator's amendment, what happens to utilities? It gives them the total option to declare on their own whether they will convert or whether they can convert?

Mr. BENTSEN. They have an economic determination to make.

Mr. ABOUREZK. Pardon?

Mr. BENTSEN. They have an economic determination to make because if they utilize more than that in boiler fuel usage, they would pay the incremental price and they would have to decide whether or not they would use coal or oil.

Mr. ABOUREZK. Well, the determination is left up to them?

Mr. BENTSEN. Sure.

Mr. ABOUREZK. They can either pay the incremental price and stay with natural gas or they can convert.

Mr. BENTSEN. That is right. You would find that the economic pressure would be on them obviously to switch to an alternative source of energy.

Mr. ABOUREZK. But the Senator's amendment does bring all utilities under the incremental pricing provision?

Mr. BENTSEN. Will the Senator state his question again?

Mr. ABOUREZK. Yes. The Senator's amendment does bring all utilities under the incremental price provision?

Mr. BENTSEN. If they use more than that capacity in boiler fuel, that is correct.

Mr. ABOUREZK. What capacity?

Mr. BENTSEN. 1,500 Mcf.

Mr. ABOUREZK. Any utility would use much more astronomical sums?

Mr. BENTSEN. That is right. It is a wasteful use of natural gas.

Mr. ABOUREZK. But the Senator does bring all utilities under it.

Mr. BENTSEN. That is right. They would have the economic pressure on them then to convert.

Mr. ABOUREZK. Do we have a copy of the Senator's amendment printed?

Mr. BENTSEN. It is at the desk.

Mr. STONE. Mr. President, will the Senator yield for one question?

Mr. BENTSEN. I would be delighted to yield.

Mr. STONE. This then is an amendment directed strictly and directly in favor of homeowners for the use of gas; is that right?

Mr. BENTSEN. What it does in effect is it helps protect the homeowner and the small business user for the old price of natural gas. It helps shift the burden of finding new gas to the large industrial users.

Mr. STONE. Is it not the case that the highest priority assigned by everybody in ranking priorities, the President's ranking and everyone else, is the homeowner and the small business user, chiefly the homeowner?

Mr. BENTSEN. Yes.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BENTSEN. I would be glad to yield.

Mr. DECONCINI. In line with the Senator from Florida's question to the Senator is it primarily for the benefit of the homeowner? Based on the wording of the Senator's amendment you could not come to that conclusion. Would it not be better to spell it out with some wording that would indicate that the companies file separate tariffs and that old gas be distributed by the industry or utilities based on residential use, the cost of that gas? I submitted a copy of a suggested substitute amendment that would spell it out for the homeowner.

Mr. BENTSEN. Well, let me say the Senator from Texas voted for an amendment that did part of what the Senator is saying in the fall of 1975.

Mr. DECONCINI. Yes.

Mr. BENTSEN. And I would be favorable to a further expansion of it, this amendment. This is a major step forward as I have proposed it.

Mr. DECONCINI. Indeed it is.

Mr. BENTSEN. And I proposed in the most basic and simple terms the relief where it would be as easy as any way I know to administer. But I am fulfilling my commitment that I made on Thursday to this body that I would introduce this amendment with the specific provisions. That is not to say I would not be amenable to a further change to spell out more the homeowner.

Mr. DECONCINI. Mr. President, will the Senator yield for another question?

Mr. BENTSEN. Yes.

Mr. DECONCINI. Would the Senator be agreeable to accepting really what his former amendment was in 1975? I have submitted a copy of it to the Senator's staff as a substitute amendment.

Mr. BENTSEN. May I look at it?

Mr. DECONCINI. Yes.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, I would say to the distinguished Senator that, yes, this is, in effect, the amendment I agreed to in the fall of 1975, and if the Senator is proposing it, yes, I would accept it as a substitute for my amendment.

Mr. DECONCINI. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. It would take unanimous consent for the Senator to so modify his amendment because the yeas and nays have been ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, these amendments are flying around so fast I would like to get a chance to look at them. This is the first chance I have had to see the Bentsen amendment, and he is already abandoning it.

Mr. BENTSEN. It is not a question of abandoning it. I am fulfilling a commitment I made, as I stated on Thursday, and I have Senator DECONCINI who has proposed a modification of it.

Mr. ABOUREZK. Let us take a little time to see what it is.

Mr. BENTSEN. It is very interesting to see the Senator from South Dakota now asking to take time to study amendments, because, as I recall, just a few minutes ago when I proposed an amendment he moved to table it before I had any opportunity to explain it. So I am delighted to see his change of heart in the situation.

Mr. ABOUREZK. I only found out after I moved to table the reason why the Senator did not discuss it.

Mr. BENTSEN. I would be pleased to accept this, considering the parliamentary situation, either as an amendment or whatever the Parliamentarian says.

Mr. ABOUREZK. Reserving the right to object——

Mr. BENTSEN. I am asking the Parliamentarian for his advice.

The ACTING PRESIDENT pro tempore. The Senator from Arizona has the right to substitute his amendment when he is recognized.

Mr. BENTSEN. I yield to the Senator from Arizona.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. BENTSEN. I do not yield for that purpose, and I understand that——

The ACTING PRESIDENT pro tempore. The Senator from Texas.

UP AMENDMENT NO. 850

Mr. BENTSEN. I offer this as a substitute for my amendment.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) for Mr. DECONCINI proposes unprinted amendment No. 850 as a substitute for UP amendment No. 849.

Mr. BENTSEN. I offer this on behalf of the Senator from Arizona.

Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by UP-849, insert the following:

"RESIDENTIAL AND OTHER SMALL USERS

"SEC. 25. General.—The Commission shall—

"(a) Require all pipelines to file separate tariffs with respect to (1) old natural gas and (2) new natural gas (including synthetic or liquefied natural gas) in such form and manner as to reflect the price and average annual volumes of each which enter such pipeline.

"(b) Require all pipelines to give first priority for sales of transfers under the applicable tariff for old natural gas to natural gas distributing companies, to the extent such old natural gas is available, to meet the requirements of each such company's residential users and small users.

"(c) Promulgate rules to govern sales, exchanges, or transfers among pipelines and sales, exchanges, or transfers to natural gas distributing companies served by multiple pipelines, to the extent necessary to achieve the purpose of this section.

"(d) For the purposes of this section, persons using natural gas for essential agricultural purposes not to exceed 50 Mcf on an average day, shall be deemed small users."

Mr. BENTSEN. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. I yield for a question to the Senator from Arizona.

Mr. DECONCINI. My question is to the Senator from South Dakota who has indicated he may object to unanimous consent. Is it my understanding that the Senator from South Dakota wants to consider this?

Mr. ABOUREZK. The only thing I would like to do is to just find out what these amendments are saying before we make any disposition of them. I think that is only fair.

Mr. DECONCINI. Yes, I think it is only fair, too.

The substitute now that the Senator from Texas had offered to his own amendment sets up——

Mr. BENTSEN. It was offered in the name of the Senator from Arizona.

Mr. DECONCINI. In the name of the Senator from Arizona.

It sets up, as the Senator will see in paragraph (a) there, two separate tariffs, one for old gas and one for new natural gas. Under (b) it requires that all pipelines give first priority for sales to transfer under applicable tariff for old natural gas to natural gas distributing companies to the extent that such old natural gas is available to meet the requirements of each such company's residential users and small users.

In essence, as I interpret this and as the history relates from 1975 where really this came from, it means that the utility companies will first deliver old natural gas at the old natural gas price, whatever that may be, to residential users first, and get away from just a reference to boiler fuel use.

I think that is more advantageous.

Mr. ABOUREZK. What would this substitute do to give some kind of a financial incentive for large boiler users, refineries, to switch to an alternative fuel? Does it have an incentive?

Mr. DECONCINI. No; it does not have an incentive. That is not the purpose of it. The sole purpose of it is to insist that the lowest price of old natural gas goes to residential users. It would take another amendment to do what the Senator is suggesting, which I think is a very good idea.

But this only addressed the problem of residential users getting the lowest price of old natural gas.

Mr. ABOUREZK. What about new natural gas?

Mr. DECONCINI. New natural gas would then be distributed at whatever that price is now to the users of old natural gas. In other words, there would not be an average of the two costs to charge the residential user now who is using old natural gas.

Mr. ABOUREZK. For example, if the distribution company in an area had to buy gas under a new contract which would be termed new gas, they would pass that cost on to the small homeowner; is that right?

Mr. DECONCINI. Yes, after they had exhausted the use and the charge for old natural gas, that is correct.

Mr. ABOUREZK. I do not think the substitute provides anything more than what the new energy department already has the power to do. Is that correct?

Mr. DECONCINI. I am not sure they do. I cannot debate with the Senator from South Dakota whether or not the Energy Department has that.

Mr. ABOUREZK. And the Senator is offering that as a total substitute to the Bentsen amendment?

Mr. DECONCINI. The Senator from Texas has offered this in my name as a substitute. I presume that is a total substitute to the Senator's original amendment. Is that correct?

Mr. BENTSEN. That is correct.

Mr. ABOUREZK. What happened to the commitment the Senator from Texas was so strong on a few minutes ago on his own amendment? He gave in pretty easily, I thought. This is a totally different amendment.

Mr. BENTSEN. When I find someone has an interesting idea, I really do not worry about the pride of authorship I am delighted to defer to my distinguished friend.

Mr. DECONCINI. If I may answer that, the original amendment of the Senator from Texas goes to the boiler use and can be interpreted that that will be of benefit to the residential user who is now getting old gas, and I believe that is the intent and the hope of the Senator from Texas in offering that, based on his commitment on the floor, I believe, yesterday. This goes further and says that they shall have two tariffs, and, as I explained, the old gas shall be going first to residential users, and so, in essence, you are protecting, if you want to use that word, or insuring the residential user that he is going to get the total consumptive use of old gas at the cheapest price before he gets charged for new gas. The original amendment of the Senator from Texas originally did not go that far. It gave the cutoff use to boiler use primarily and then, assuming that that is where it would go, this perfecting or substitute amendment says it must do that.

I think it is a great improvement.

Mr. ABOUREZK. But the Senator's substitute apparently wipes out all of his language. If I understand correctly, that is what the substitute is.

Mr. DECONCINI. That is correct.

Mr. BENTSEN. I have no objection to that.

Mr. ABOUREZK. Right. I know he has no objection to it. But, what has happened here is that you provide no incentive whatsoever to stop the waste of natural gas by industrial users. There was very little of it in the Bentsen amendment, and the Senator has taken even that little out now.

Mr. DECONCINI. To answer the Senator's question, if he has a suggestion that he would like to include part of what is in the original Bentsen amendment as relating to natural gas for boiler users, I have no objection. That would be up to the Senator from Texas.

Mr. ABOUREZK. What I will do then, if the Senator has no objection, is to offer the Jackson amendment as a perfecting amendment to Senator BENTSEN's amendment, in order to take care of everyone's concerns.

Mr. BENTSEN. No, it does not take care of my concerns, obviously, because you have, in effect, incremental pricing to agriculture, and I do not agree with that at all.

Mr. ABOUREZK. Mr. President. I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. What is the amendment to?

Mr. ABOUREZK. It is a perfecting amendment to the Bentsen amendment.

The ACTING PRESIDENT pro tempore. That is not in order at this particular time. There already is a perfecting amendment before the Senate.

Mr. ABOUREZK. No, I do not mean the Bentsen-Pearson amendment. To the Bentsen amendment.

Mr. BENTSEN. Substitute by Mr. DECONCINI.

Mr. TOWER. Point of order, Mr. President.

Mr. ABOUREZK. To the Bentsen amendment that was just offered just a few minutes ago.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Arizona is the pending amendment in the second degree.

Mr. ABOUREZK. Parliamentary inquiry. Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ABOUREZK. Is the Chair saying that the DeConcini amendment is in the second degree? I thought it was a substitute.

Mr. TOWER. Parliamentary inquiry, Mr. President.

Mr. ABOUREZK. I thought the original amendment could be perfected.

Mr. BENTSEN. My original amendment is a perfecting amendment to the Pearson amendment.

The ACTING PRESIDENT pro tempore. It inserts other language, language in lieu of the language of the Senator from Texas but it is in the second degree: therefore, it is not in order.

Mr. ABOUREZK. I ask the Senator from Arizona if he would be willing to withdraw his substitute so I can offer this as a substitute. It takes care of his concerns.

Mr. DECONCINI. No. I realize that the interest of the Senator from South Dakota is to adopt what has been floating around and known as the Jackson amendment.

Mr. ABOUREZK. Yes.

Mr. DECONCINI. But I am not prepared to accept that at this time. What I am prepared to do is in my opinion move in a little stronger position in behalf of the residential user, and the Senator from Texas has also indicated a willingness to do that. I think it makes very good sense to take one step at a time. Now that this my amendment is before us if we can vote on that, get that approved, then I certainly will consider the Jackson amendment. But I do not want to adopt it as this. I would like to see this amendment agreed to.

Mr. ABOUREZK. The Senator did not have an objection to the Jackson amendment as such, but rather as a substitute for his amendment?

Mr. DECONCINI. I said I would consider the Jackson amendment. My prime interest is getting this adopted now and approved, and I do not want to take the Jackson amendment as a substitute to this. This is what I would like to see enacted.

Mr. ABOUREZK. I have to say that I do not have any objection to the Senator's amendment except it does not go far enough. It is very innocuous in its form. I would be willing to join his amendment with the Jackson amendment and make them as one so as to make it effective.

Mr. DECONCINI. That is acceptable to me.

Then I ask the Senator from South Dakota why he does not offer the Jackson amendment again?

Mr. ABOUREZK. I just tried.

Mr. DECONCINI. No, I mean at a later time.

Mr. ABOUREZK. If I might——

Mr. BENTSEN. Who has the floor?

Mr. ABOUREZK. Mr. President, I had the floor. The Senator sat down and then got up again. But I had the floor for several minutes.

Mr. BENTSEN. I sat down to rest a bit.

The ACTING PRESIDENT pro tempore. No one else has been recognized.

Mr. ABOUREZK. I sought recognition.

Mr. BENTSEN. As I understood I had yielded for a question and I ended up with a speech.

The ACTING PRESIDENT pro tempore. The Senator from Texas was recognized, and the Senator from Texas does have the floor.

Mr. BENTSEN. I still have the floor, and I would be delighted to yield to the Senator from South Dakota for a further question if he desires.

Mr. ABOUREZK. I just want to make a summary of this before we vote on it. I will be happy to wait.

Mr. BENTSEN. Under those conditions, I am very pleased to yield the floor if that is the purpose of the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, what has happened here in the last few minutes, if I can try to recap it—and I may be wrong because it happened so fast that I am not sure that my observations are going to be accurate—was that Senator BENTSEN from Texas offered what he called an incremental pricing amendment that left out everyone except boiler fuel users. He left out a lot of the waste of natural gas in this country and is going to allow all utilities and all refineries to continue to use natural gas. That is fine if that is what the Senate wants to do. If the Senate is interested in just pretending it is attacking the problem, then the Bentsen amendment would be the proper thing to do. If the Senate really wants to do something about the waste of natural gas, the amendment should include all industries that waste natural gas, and those are industries that have an alternative source of fuel they could convert to.

While we debated that amendment, suddenly the Senator from Arizona got up and offered a substitute for it, which was readily accepted by Senator BENTSEN, and which does nothing but say we have a commitment for old natural gas to be used for homeowners first. It says that contracts shall remain in force for residential users, but it does not say anything about protecting small owners, farmers, and people who are forced to use gas, who have no alternative source for heating, for industrial processes, or whatever; it does not protect them at all from bearing the burden of new natural gas prices. It does not prevent boiler users, refineries, utilities, or any other industrial user from wasting large quantities of natural gas.

If that is what the Senate wants to do, that is fine. If we want to pretend we are attacking the problem, and then not do it, I think Senators ought to know that. I think they ought to know that these two amendments together do very little toward preventing the waste of natural gas, and I would submit, Mr. President, before we vote on it—and I am ready to vote any time—that I think that Senators ought to be well aware of what is being done.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. ABOUREZK. For a question?

Mr. DECONCINI. No, to ask for the yeas and nays on the substitute amendment.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, just to make a comment, when the statement was made that this amendment does not really go very far, the amendment of the Senator from Arizona as now structured provides for incremental pricing for everyone using more than 50 Mcf a day. That is a very far-reaching amendment indeed. So the statement that we are only pretending to attack the problem is an incorrect statement.

I urge the adoption of the amendment.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Pearson-Bentsen substitute, No. 862, to S. 2104, to establish a comprehensive natural gas policy.

Robert C. Byrd, Clifford P. Hansen, Walter D. Huddleston, Jennings Randolph, Abraham Ribicoff, Henry M. Jackson, Jacob K. Javits, Warren G. Magnuson, Gaylord Nelson, Alan Cranston,

Howard Baker, Barry Goldwater, Thomas F. Eagleton, William Proxmire, Richard Stone, Spark M. Matsunaga, Wendell H. Ford, John Glenn, Daniel K. Inouye, Ted Stevens, and Charles H. Percy.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), the Senator from New York (Mr. MOYNIHAN), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 17—as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—61

Abourezk	Goldwater	Pearson
Allen	Gravel	Pell
Anderson	Hansen	Percy
Baker	Hatch	Proxmire
Bayh	Hatfield	Randolph
Bellmon	Hathaway	Ribicoff
Bentsen	Hayakawa	Riegle
Bumpers	Helms	Roth
Burdick	Hollings	Sarbanes
Cannon	Kennedy	Sasser
Chafee	Laxalt	Schmitt
Church	Lugar	Schweiker
Clark	Mathias	Sparkman
Curtis	Matsunaga	Stevens
Danforth	McClure	Stevenson
DeConcini	Melcher	Thurmond
Dole	Metzenbaum	Tower
Domenici	Morgan	Wallop
Durkin	Muskie	Zorinsky
Ford	Nunn	
Garn	Packwood	

NAYS—17

Brooke	Cranston	Magnuson
Byrd, Harry F., Jr.	Eagleton	McGovern
	Glenn	McIntyre
Byrd, Robert C.	Huddleston	Nelson
Case	Inouye	Stone
Chiles	Jackson	Williams

NOT VOTING—22

Bartlett	Humphrey	Scott
Biden	Javits	Stafford
Culver	Johnston	Stennis
Eastland	Leahy	Talmadge
Griffin	Long	Weicker
Hart	McClellan	Young
Haskell	Metcalf	
Heinz	Moynihan	

So Mr. DECONCINI's amendment (No. 850) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator RANDOLPH be added as a sponsor of this substitute amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 881

Mr. FORD. Mr. President, as a point of information, I have an amendment that would deregulate the so-called small gas wells as we did the stripper oil wells.

I would like to know at what position we are now that I might introduce that amendment, and what is the parliamentary procedure on which that amendment could be recognized?

The ACTING PRESIDENT pro tempore. The question recurs on the Bentsen amendment, as amended, which is not amendable. After this is disposed of, the Senator could offer an amendment to the Pearson-Bentsen

substitute, the bill itself, or the Jackson substitute.

Mr. FORD. Mr. President, I would like to send an amendment to the desk and ask that the Pearson-Bentsen substitute—or amendment—be amended for the stripper well.

I want to get to this amendment, if I can. Everybody seems to be for it. I would like to get something through today and have a lot of camaraderie here.

The ACTING PRESIDENT pro tempore. To what is the Senator adding his amendment, to the Bentsen amendment?

Mr. FORD. If I can.

The ACTING PRESIDENT pro tempore. It would take unanimous consent.

Mr. FORD. Mr. President, I ask unanimous consent that my amendment be——

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. FORD. Mr. President, I offer it to the bill.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. FORD. To make it correct.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes amendment No. 881.

The amendment is as follows:

At the appropriate place insert a new section to read as follows:

SEC. . Notwithstanding any other provision of this Act or other law, there shall be no limit to the maximum lawful price for natural gas produced from any well in quantities of less than 100 Mcf per day on a yearly average.

Mr. FORD. I thank the Chair.

Mr. President, this is just a little amendment that helps little folks. I am sure everybody wants to help little folks.

This amendment deregulates natural gas wells that produce 100,000 cubic feet or less per day.

Several weeks or several months ago, we deregulated the so-called stripper wells. That stripper well said that any oil well producing less than 10 barrels a day would be deregulated.

This stimulated a great deal of activity among those small wells that were producing less than 10 barrels. Some of the small wells that had been capped were uncapped and that oil began to flow into the veins of the American economy.

In my travels around Kentucky, in the discussion with many of those that have an interest in the natural gas legislation, many of those who are interested in this piece of legislation as I suggested it were very agreeable.

One of the areas in which this will be tremendously helpful is in the area of Appalachia. Certain parts of the Midwest would be helped.

These small wells have been referred to in the language of grocery stores as the mom and pop wells.

It would encourage getting the gas into the interstate pipelines. It would uncap old wells, cause new efforts to increase the flow from active wells, and would send at least some gas to the Northeast and the mid-Atlantic States.

There are many of these small wells, but the output per well is low. Many of them call these wells low deliverability wells, that once they make a find that there is natural gas, it does not have sufficient pressure to make is economically feasible at present prices to attempt to extract this gas from this reservoir.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. FORD. I am delighted to yield without losing my right to the floor to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Is it not a fact that the pending amendment, which I believe my colleague has been good enough to include me as a cosponsor, is helpful to a State like West Virginia?

Mr. FORD. This amendment would be helpful to the total area of Appalachia.

Mr. RANDOLPH. Due to the low productivity of West Virginia wells and the high cost of drilling and laying pipeline and operating wells in rugged, mountainous terrain a price limit high enough to attract drilling capital in most of the United States would not be sufficient to attract drilling capital to West Virginia. It will provide substantial relief to West Virginia if gas wells that produce less than 100,000 cubic feet per day are assured deregulated prices.

Over 95 percent of the more than 1,450 gas wells producing into one intrastate system in West Virginia produce less than 60,000 cubic feet per day.

Mr. FORD. Mr. President, I ask that the record show that this amendment is submitted for myself, Mr. MORGAN, Mr. RANDOLPH, Mr. BENTSEN, and Mr. HELMS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. FORD. I yield for a question, without losing my right to the floor.

Mr. METZENBAUM. Are we talking about the Senator's amendment No. 881?

Mr. FORD. Or it could be 988 or it could be one of the others. I filed this amendment so that it would apply to any of those areas, in any of the substitutes that might come up.

Mr. METZENBAUM. So that we may know what we are voting on, would the Senator be good enough to read us the amendment we are about to vote on?

The ACTING PRESIDENT pro tempore. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the appropriate place insert a new section to read as follows:

SEC. . Notwithstanding any other provision of this Act or other law, there shall be no limit to the maximum lawful price for natural gas produced from any well in quantities of less than 100 Mcf per day on a yearly average.

Mr. METZENBAUM. I thank the Senator.

Mr. FORD. I think the Senator understands that he has filed several amendments that are identical in language but to different areas. This language is identical, and I filed it to the bill.

Mr. METZENBAUM. I am not arguing with the Senator. I was merely trying to get clarification.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. FORD. I yield, without losing my right to the floor.

Mr. NELSON. What percentage of national production would this exemption cover?

Mr. FORD. I do not have the figures.

Mr. NELSON. I am interested in the Senator's amendment, but it would be helpful to get a reasonable estimate about the amount of production that is covered, before we vote.

Mr. FORD. I would be glad to recite something here while the staff looks it up, so that I will not lose my right to the floor.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question?

Mr. FORD. I yield for a question, without losing my right to the floor.

Mr. ABOUREZK. Is there a special reason for deregulating natural gas from any well?

Mr. FORD. Was there a special reason for deregulating oil from a special well? We did that.

Mr. ABOUREZK. Yes.

Mr. FORD. We were saying to that small well of three, four, or five barrels a day, which was capped, "You can open it up now because it would be economically feasible."

There are small natural gas wells that are not being used because it is not economically feasible to uncap them or to try to extricate the gas from a reservoir that does not have the pressure.

All we are trying to do is to say to those with a small capacity, "We want you to try to get it out and get it into the economic structure of this country."

Mr. ABOUREZK. I say to the Senator from Kentucky that I think there is a tremendous difference between small stripper oil wells and a mom and pop gas well.

Mr. FORD. There is very little.

Mr. ABOUREZK. May I finish?

With oil, you have to apply some very specific recovery techniques to get oil out of stripper wells, as the Senator from Kentucky knows better than I do. But with these gas wells, no matter how small or how big they are, gas escapes by pressure. It is there. You already have discovered it. You have a tube in it, and your gas begins to come out. Why do you need more money for that? The work is already done; the expense has been incurred.

Mr. FORD. It is coming out very slowly. There is no pressure. You have to extract it. The cost of getting it out and the slow process make it too expensive to fool with.

What I am saying is that if they have an opportunity to get a better price for it, they should uncap these wells, bring out the natural gas, and it will at least help us in this emergency, however slight it might be.

Mr. ABOUREZK. Will the Senator be willing to modify his amendment to make it apply to wells that have been capped for the past 3 years and not to operating wells?

Mr. FORD. No. I think what we need to do is to give some incentive to those that might be drilling, new exploration, for the small operator who might hit a small well which would not be economically feasible under the present price structure but at a price that he can sell it for which would give him some remuneration.

Mr. ABOUREZK. The Senator does not know how much gas we are talking about or how many wells?

Mr. FORD. That is true. And we did not know how many stripper oil wells were capped.

Mr. ABOUREZK. Yes, we did.

Mr. FORD. We were after whatever little oil we could get to help keep this country independent as it related to energy.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. FORD. Two or three Senators want me to yield. I yield to the chairman, without losing my right to the floor.

Mr. JACKSON. A point of clarification: The Senator refers to the "mom and pop" wells. Is this amendment confined to independent producers? It just says a well, and you can have wells owned by the large international oil companies that do not produce more than 100,000 cubic feet per day on a yearly average. There are a lot of those wells around.

Mr. FORD. Are they producing? Are they putting them into the pipeline?

Mr. JACKSON. This is addressed to wells.

Mr. FORD. That is true.

Mr. JACKSON. It does not make any difference whether it is an independent or a large oil company. I am talking about incentives.

Mr. FORD. That is what I am talking about.

Mr. JACKSON. The point is that gas from an oil well is gas that you produce, in any event, without extra cost.

We do not have the figures here. I would like to know to what extent the Senator is really talking about small, independent producers. Who are the beneficiaries of this? Frequently, gas is a by-product of oil well operations. This is wide open, the way the amendment is drafted. I understand it was to be a "mom and pop" operation.

Mr. FORD. It primarily is.

Mr. JACKSON. I raise the question as to whether it is.

Mr. FORD. There are thousands of these small wells in Appalachia, for example. I do not know whether they are owned by big oil companies or small independents. I know they are capped and they are not helping anybody. I think we should encourage more exploration by the small independents.

Mr. TOWER. The major producer sells off that stripper production when it gets to that point.

Mr. JACKSON. The bulk of the gas is discovered by independents. But 20 or 40 companies own 75 percent of the natural gas. They buy them up. That is the way this thing operates. The independents do not continue to operate gas wells. They do a lot of discovering, a majority of it, and they sell out to the large international companies.

Mr. FORD. I yield to the intelligence and the long experience of the Senator from Washington, but I also know my personal experience. I know from traveling the back roads of my State. I also look at those independents that are struggling, trying to find new exploration, for new finds. I believe they should have a little nudge or a little help.

If the Senator is going to try to hit my amendment by saying that it applies to all big oil companies, he will have to admit that practically every new find that is made is by a so-called wildcatter or independent. We cannot prevent them from selling a new find. We cannot prevent a wildcatter from selling to anybody. We cannot say to all these well owners, "You have to be very careful. You can't do this to this one or don't let this one get too big." The only thing I am trying to do is to bring as much new natural gas into the pipeline as humanly possible.

I think the decision of the Senate was a wise one when we deregulated the so-called small oil well, referred to as a stripper well. I cannot understand why we have to always throw big business at the little fellow.

Mr. JACKSON. There are amendments pending here to help the independents.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. FORD. I am going to yield, without losing my right to the floor, to the Senator from Ohio. He has been waiting patiently.

Mr. GLENN. I thank the Senator from Kentucky.

A moment ago, the Senator from South Dakota said this gas is leaking out at this time. I submit that there are enhancement techniques today which are not being used that could be used on many of these smaller wells which this might encourage.

I am for what the Senator from Kentucky is trying to do.

I wonder if the big producers could have their first 100,000 feet out of this.

Mr. FORD. No.

Mr. GLENN. We should have legislative history on that. When we are talking about 200,000, we are talking about $200,000, and it is going to mean very little to a big producer—practically nothing I can guarantee that in my part of the country, the area I grew up in, there are a lot of old capped wells. If people thought they were going to get $200 a day, they would do something about it.

Mr. FORD. It would encourage them to uncap it and bring it into the pipeline.

Mr. GLENN. It may be needed to bring in so that we do not have the great big producers getting an extra windfall on this. I do have concern here, but I am very much for what the Senator is trying to do, and I hope we can agree to it.

Mr. ABOUREZK. Mr. President, will the Senator——

Mr. FORD. Wait, just a minute. I have the floor, and I am going to yield to the Senator from Texas (Mr. BENTSEN) without losing my right to the floor.

Mr. BENTSEN. I say to the distinguished Senator from Kentucky that I certainly support his amendment. One of the points made earlier, you know, is that the big companies have most of the old oil and old gas, and that is a legitimate statement.

I agree with the Senator from Washington that they have most of it, and the independents often sell off that so they can go ahead and have some more money to drill some more wells.

But the other side of it is also true that as these fields play out and as you get marginal wells, be they gas or oil, they then turn around and sell those to the small producer, and they sell those to the independent who has a lower cost of administration to try to keep those things on stream, and it is becoming more and more difficult for that small producer and small manager to manage these wells that are marginal wells.

I believe this will keep a number of them from being closed down, and I think it is a productive amendment.

Mr. FORD. I might say to the Senator from Texas I was encouraged by the activity that was taking place in my State during the August recess for the small stripper wells, that this was encouragement and there was some excitement that they could now take a 3-, 4-, 5-, or 6-barrel well per day, and it would be worth something to them to make the effort to bring it out of the ground and to sell it and get it into the pipeline.

What I am trying to do with this amendment is exactly the same thing: one, I agree with the Senator from Washington they do sell so they can have money to go and explore.

I also understand when it becomes marginally profitable they sell it back or they want to get rid of it, and it is sitting there and, hopefully, we can encourage the small operator or independent to keep going and put it into the economic system of this country.

I yield to the Senator from Ohio without losing my right to the floor.

Mr. METZENBAUM. I think there are two questions that are relevant in this amendment: one is you have used the words, "new gas" or "new wells," and one of my questions pertains to the matter of whether or not you would accept an amendment which would limit it only to new wells.

Mr. FORD. I cannot do that, Senator, because the capped wells would then not be uncapped.

Mr. METZENBAUM. Would you accept an amendment——

Mr. FORD. No, I would not accept any amendment. I think it just ought to go ahead and paint with the broad brush so we can treat everybody equally.

Mr. METZENBAUM. That includes even those that are the big producers, and that you would give them these extra dollars as well?

Mr. FORD. The Senator keeps throwing "big" to me all the time. What I am trying to do is to help the small, little fellow. I want to keep them out from big Government now. I want to keep these people out from big Government, and keep big Government off their backs, and give them a chance, and, therefore, I want to be sure that I do not take any chances that I do anything to that small fellow out there who has an opportunity

to uncap this well, and has a new find that is not producing much, but we can encourage him to go ahead and put it into the pipeline.

Mr. METZENBAUM. But there is no intention on the Senator's part to help the big petroleum producers, because the Senator agrees the big oil companies do not need any help.

Mr. FORD. Well, the Senator just heard the Senator from Texas, who should have as much knowledge of this area as anyone, when he said it is true when an independent or wildcatter makes a find he wants to sell it. That is the reason he went out for his exploration. The fellow who buys it normally is the big oil company, but once it gets down to a marginal profitable area, then he is trying to find somebody to handle it, an independent, small operator, with less overhead who can probably do it. I just want to encourage every place I can to see that natural gas comes on.

So if the Senator is talking about big oil companies, I want to keep big government out of them.

Mr. METZENBAUM. There is another man on the floor, another Senator, who is very well informed and who has an objective point of view, and he is the chairman of the Committee on Energy and Natural Resources.

Mr. FORD. The Senator has not always agreed with him, so he is taking his side when he agrees with him.

Mr. METZENBAUM. And he indicated concern as to whether the amendment would cover the natural gas produced by the large oil companies, and I gather the Senator is not——

Mr. FORD. I say to the Senator all I want to do is to keep the small wells producing, and the small wells that are capped I would like for them to uncap them and get them into the mainstream so you cannot have your troubles in Ohio this winter like you had last winter. I want to be helpful not harmful.

All you want to do is to put big government into the little fellow's business, and I do not like that.

Mr. GLENN. Mr. President, will the Senator yield for a further question?

Mr. FORD. Without losing my right to the floor.

Mr. GLENN. I would ask the Senator from Kentucky would this apply to low-production new wells?

Mr. FORD. Yes.

Mr. GLENN. OK, because that could be very, very important for Ohio. We have all this Devonian shale which underlies Ohio, West Virginia, and Kentucky. It is low-production stuff, and it hardly pays to sink a hole into it. It is low-production, and I think what the Senator wanted to do, although he did not present it as a new field, low-flow field, was to encourage its production, and I think it might have that effect, and it might have a very, very major impact as to how much drilling we can get in Ohio into the Devonian structure, very low production, low flow.

Mr. FORD. It is my understanding you would see a great deal of exploration drilling in your State. You would see a great deal of additional exploration in Appalachia, in the mountains of Kentucky, West Virginia, and Pennsylvania and other places.

Insofar as these wells are concerned, they are hopeful that there are reservoirs under the rock of the mountains and that they can hit some of those, and we can. But there is no need of fooling ourselves that most of the wells are low production, very low deliverability.

Mr. ABOUREZK. Mr. President, will the Sentator yield for a question?

Mr. FORD. I yield without losing my right to the floor.

Mr. ABOUREZK. That is all right.

I wonder if the Senator is trying to amend with his amendment S. 2104?

Mr. FORD. I am just adding a new section.

Mr. ABOUREZK. That is right, just adding a new section.

If I could direct the Senator's attention to page 12 of that bill.

Mr. FORD. Is this the new one they have put on the desks or the one they have taken off the desks this morning for a technical change?

Mr. ABOUREZK. This is the original bill.

Mr. FORD. They were taking them off the desks this morning for a technical change. I do not know whether it is the earlier one or the one they brought back and directed——

Mr. ABOUREZK. September 23 is the date I have. Is that the same one?

Mr. FORD. I do not know. That is the same one I have on the desk here.

Mr. ABOUREZK. Section 10 called special pricing provisions. It says—

> The Secretary may, by rule, prescribe one or more lawful special prices applicable to the first sale of high cost natural gas produced in the United States.

And then line 22 applies it "under such other conditions as present extraordinary risks of costs."

So the very bill you are trying to amend includes a provision which allows the Secretary to raise the price, or deregulate if he sees fit, a well that presents high costs.

Why would the Senator want to exempt everybody, every single well, that produces 100,000 cubic feet per day or less? Why would he want to exempt every well even if it is already pumping, even if that well is costing—because it might have been drilled some time ago—5 cents per thousand cubic foot?

Mr. FORD. What if it is costing 50 cents?

Mr. ABOUREZK. Under deregulation he may get $4 or $5 per thousand cubic feet. Is that fair?

Mr. FORD. He might get 50 cents. It is selling for 71 cents in my State right now, new find. You start in throwing $5 and $6 at me, and——

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. FORD. I yield, without losing the floor.

Mr. METZENBAUM. I ask unanimous consent that Miss Juanita Powe be accorded the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. I thank the Chair.

Mr. ABOUREZK. What the Senator is creating is a loophole so wide we do not know who is going to drive through it.

Mr. FORD. The Senator said he was going to leave everything up to the Secretary, and we do not know what he is going to do, do we?

Mr. ABOUREZK. We have a much better chance.

Mr. FORD. You mandated it for small stripper oil wells.

Mr. ABOUREZK. There is a reason.

Mr. FORD. There is a reason for this.

Mr. ABOUREZK. Hardly any.

Mr. FORD. That is in the Senator's estimation. I think others will agree with me.

Mr. ABOUREZK. Let me ask you how many of these are capped and how many are not capped? How many are producing?

Mr. FORD. I really do not know, but I can give you an estimate. The Senator did not ask that same question when we went to stripper oil wells. It did not seem to make any difference.

Mr. ABOUREZK. Yes, I did.

Mr. FORD. Did you?

Mr. ABOUREZK. Yes, I did.

Mr. FORD. How many did you find out there were?

Mr. ABOUREZK. I do not have the figures in my head, but I did ask the question.

Mr. FORD. Help him there right quick, as we say, "He'p him."

[Laughter.]

Mr. GLENN. What is important about how many? If we are getting any gas flow out of this, it seems to me that would be good because it is gas that is not produced now. It is gas that is going to be produced unless something like this is done, and if we get only five wells out of the whole country that are opened up as a result of this, it seems to me we are stepping in the right direction.

Mr. ABOUREZK. Mr. President, I will be happy to respond to that.

The Senator asks what is wrong with doing it this way. What is wrong is that you do not know what kind of loophole you are creating. There could be thousands or trillions of cubic feet of gas producing today, under a regulated price, that you are going to open wide for deregulation. It is not going to cost those companies another cent for their producing wells. Why should they collect whatever the market will bear?

Mr. GLENN. The Senator keeps talking about the big companies all the time, and the intent has been spelled out by the Senator from Kentucky, and I am not for making any new windfall profits for the big companies. That is the reason I asked whether the first 100,000 would apply to large companies, which he said it would not. So the intent of this is good.

I think if this opens up some of the small wells and low-producing wells in the shale area, for instance, that is good for the whole country.

Mr. ABOUREZK. I think he said for the company, but for each well the company owns this will apply.

Mr. GLENN. No, that is not it. This would not.

Mr. ABOUREZK. Let me ask.

Mr. GLENN. A major producing company bringing in a new well would not be exempt on his first 100,000 feet per day.

Mr. FORD. No. If it is over 100,000 cubic feet per day, he is exempt.

Mr. ABOUREZK. It is the well, not the company. It is the well.

Mr. FORD. That is correct.

Mr. ABOUREZK. All right. That is the answer.

If the company has hundreds of wells and each produces 99,000 cubic feet every day, each and every one of those would be exempt under his amendment.

Mr. GLENN. I cannot imagine any company staying in business long going out and drilling to that point. What he is talking about are 100,000 cubic feet a day, and that would apply to the small producers who would be encouraged by that to come in, enhancing their techniques of water pumping techniques, and a lot of things that will help activate the old wells.

Mr. ABOUREZK. I am saying that is already in the bill. If that case exists the Secretary will deregulate or raise the price, whatever they might need.

Mr. FORD. He will not.

Mr. ABOUREZK. There is no reason for creating a big loophole in the bill with this amendment.

Mr. GLENN. I guess the difference is we do not see it as being a loophole. I do not see it as a loophole, but the Senator does.

Mr. FORD. I do not either. They would have to go to the Federal Power Commission.

Mr. ABOUREZK. Pardon me.

Mr. GLENN. The Department of Energy?

Mr. FORD. Yes; to get a new rate, probably. But it takes 2 or 3 years.

What we are trying to do is to expedite production.

Mr. ABOUREZK. I know what the Senator is trying to do. [Laughter.]

Mr. FORD. That is in his opinion and the innuendo is wrong.

Mr. ABOUREZK. I did not say it.

Mr. FORD. But the way the Senator said it, that is the way it came out, and the other people laughed, and they took it the same way I did.

Mr. TOWER and Mr. KENNEDY addressed the Chair.

Mr. FORD. Mr. President, I had not yielded the floor.

I yield to the Senator from Texas without losing my right to the floor.

Mr. TOWER. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. It is my understanding that the Bentsen amendment, as amended by DeConcini, has not yet been acted on. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. TOWER. And that the amendment of the Senator from Kentucky takes precedence. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. TOWER. I thank the Chair.

Mr. FORD. Mr. President, I ask unanimous consent to add the distinguished Senator from New Mexico (Mr. DOMENICI) as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. A point of information, Mr. President. Could I correct my amendment to eliminate one word without losing my right to the floor?

The ACTING PRESIDENT pro tempore. The Senator has the right to modify his amendment.

Mr. FORD. Mr. President, I ask unanimous consent to add the distinguished Senator from Texas (Mr. TOWER) and the distinguished Senator from Wyoming (Mr. HANSEN) as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Are there any other questions, or may we go to a vote on my amendment?

Mr. ABOUREZK. We do not have the figures. How can we?

Mr. KENNEDY. Mr. President, may I be recognized possibly so we can speak on it?

The ACTING PRESIDENT pro tempore. Will the Senator from Kentucky state what the modification was?

Mr. FORD. Mr. President, I asked if I could. I did not say that I wanted to modify my amendment. I just asked if I could. The Chair has told the Senator from Kentucky he can modify it, and I appreciate the Chair's indulgence.

I will yield to the Senator from Massachusetts without losing my right to the floor.

Mr. KENNEDY. Mr. President, I just wish to indicate that I will seek recognition in my own right to make comments on the amendment when the Senator from Kentucky finishes.

Mr. METZENBAUM. Mr. President, I expect to call up two amendments to the amendment of the Senator from Kentucky before the matter is brought to a conclusion.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. FORD and Mr. KENNEDY addressed the Chair.

Mr. FORD. Mr. President, I wish to withdraw my amendment.

Mr. KENNEDY. There are two comments I wish to make on the amendment of the Senator from Kentucky. It seems to me, Mr. President, that on this particular——

Mr. FORD. Mr. President, a parliamentary inquiry.

Mr. KENNEDY. Question, Mr. President, that what the Senator from Kentucky is attempting to do——

Mr. FORD. A parliamentary inquiry.

Mr. KENNEDY. Is——

Mr. HANSEN. Mr. President, who has the floor?

Mr. KENNEDY. Mr. President, as I was saying about the amendment of the Senator from Kentucky——

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts was recognized.

Mr. HANSEN. Who has the floor, Mr. President?

Mr. FORD. Mr. President, will the Senator allow me to make a motion so I might withdraw my amendment?

Mr. KENNEDY. I wish to make brief comments, and then I will be glad to entertain a question.

Mr. FORD. What is "brief"?

Mr. KENNEDY. I doubt if I take as long as the Senator from Kentucky took.

Mr. FORD. That is fine. I know what to do then.

Mr. KENNEDY. Mr. President, basically there are, I think, some important concepts which are within the amendment of the Senator from Kentucky, and this is the first one. The amendment would give an incentive to drill more and produce less.

That is basically what the amendment of the Senator from Kentucky will result in. The other results we do not know—how much additional gas will be produced or where the benefits will go and which companies the benefits will go to. We are finding out operating expenses basically are a minimal aspect of natural gas production. But we do know that this amendment will encourage a series of wells to be put into various reserviors to meet the particular requirements of his amendment, they will produce less than 100 Mcf's a day and they will effectively be deregulated.

So we are going to get more wells that are going to be drilled which are going to be more costly, more expensive, and that expense will be eventually turned on to the consumers, without producing more gas, and the incentive will also be to operate well so as to produce right up to the 100 Mcf but not above it because then they will reach the controlled price.

That is, at least, I think a reasonable interpretation of the amendment of the Senator from Kentucky, without having additional information as to what the estimates would be in terms of the additional production or about where the benefits from these particular wells will go, whether they are going to the individuals, the mom and pop companies of this industry, or whether they are going to the major companies.

So, Mr. President, it just seems to me, as the Senator from South Dakota pointed out, within the initial Jackson bill, and within the revised Jackson amendment, there are the provisions to give the flexibility to the Secretary to make exceptions where there is natural gas that would be unduly costly to produce.

So the flexibility is there in terms of for new production and achieving the goal without going through this particular process.

I hope that the amendment of the Senator from Kentucky will be at least amended along the lines, as I understand the Senator from Ohio, that would limit it to the mom and pop aspect of the gas industry, through whatever criteria the Senator from Ohio wants to devise, to make sure that the benefit, if we are going to go this route, which I hope we will not, would truly go to the smaller independents.

I am interested in whether the Senator from Ohio, as he has studied this amendment, would not agree with me in terms of production and in terms of where the benefits to be reaped from this particular amendment would end up.

Mr. METZENBAUM. I totally agree with the Senator from Massachusetts that when you have broad-based broad-brush amendments of this kind, it is going to result in nothing more than just playing into the hands of the major oil producers of this country, no matter how you slice it.

It is true that there are some independent producers; I have some in my State, and I have a concern about them, but I feel very strongly they would be very receptive to accepting the two amendments to the pending amendment which I have at the desk, one of which would limit this amendment of the Senator from Kentucky to only new wells, and eliminate the old wells, uncapped wells, or oil wells; and I see no objection to that, because there are no additional costs to come about.

But in addition, I am proposing an amendment to his amendment which would provide an exception for natural gas produced by companies whose volumes exceed 100 million mcf annually, as determined by the Commission.

When we talk about an amendment of this kind, we cannot just say it is momma and poppa. The facts just do not bear that out. We are talking about an amendment that has a tremendous impact upon the cost of energy in this country. We do not have any backup information on it. Although I think we are all concerned about mom and pop, mom and pop stores, mom and pop gas stations, and everything else we have heard about in connection with this amendment, somehow every time the momma and poppa amendments are adopted, and we look at them a couple of years later, it seems the ones who have the most are the ones who gain the most, and momma and poppa get left behind somewhere, perhaps at the wellhead.

Mr. KENNEDY. If the Senator's question is do I agree with him, I do agree with him.

Mr. METZENBAUM. I thank the Senator.

Mr. KENNEDY. I think one of the failures of the Senator's amendment is that it is not limited in terms of reservoirs. I think if the Senator had a limitation in terms of the reservoirs, which would effectively preclude multi-drilling of wells to be an effective escape from the mandate of the legislation, and we could be sure it was going to go to small firms and we could be more sure about the volumes of gas, and the tie-ins with various pipelines, and other factors, and if we would have some kind of sense as to whether it was going to cause new gas to be produced, then I think we could have some basis to give it a degree of support.

But I would think that without those kinds of limitations, the amendment, at least from my point of view, fails to meet the basic criteria necessary.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. KENNEDY. The Senator from Kentucky had asked me to yield earlier. I do not intend to keep the floor. Otherwise, I would yield to the Senator from Ohio.

Mr. FORD. Mr. President, as soon as I get the floor in my own right I intend to withdraw my amendment. I think we can arrive at an agreement to do what I want to accomplish without the amendment, that I think would probably be agreeable to the Senate. So as soon as the Senator from Massachusetts and the Senator from Ohio have finished their colloquy, if the Senator will yield to me, I will withdraw the amendment.

Mr. KENNEDY. I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, this is an amendment to the basic administration bill, so I think it is proper, in providing some of the same benefits the Senator from Massachusetts points out are in some of the other substitute amendments here.

Mr. KENNEDY. The only point I would make on that is that I understand the Secretary has that discretion under the original bill.

Mr. GLENN. To make an exception.

Mr. KENNEDY. To make an exception. I think that is the point the Senator from South Dakota was making, and I believe that all has been carried through in terms of the initial bill and in the Jackson substitute.

Mr. GLENN. It was my understanding that was in the original bill in the same form.

As far as major producers are concerned, and all this worry about whether this is a mom and pop amendment. I would submit to my colleagues that the issue is not whether it is mom or pop or not. What disturbs me is that we have plenty of gas under Ohio right now, in old wells that are capped, hundreds of them in the area where I grew up in southeastern Ohio, that are not producing now, that could be producing. I do not know whether we would need to alter the language of the Senator from Kentucky or not. He says he is going to withdraw his amendment. I am sorry he is, because I thought that this would be an opportunity to get at that problem. There are hundreds of wells there that are sitting there capped, and I would like to see them brought back onstream again. I thought this was a way of beginning to accomplish some of that, so that we would not have to go through all the problems we went through in Ohio last winter, with at least 500,000 unemployed.

Several Senators addressed the Chair.

Mr. METZENBAUM. Will my senior colleague yield for a question?

Mr. GLENN. Surely.

Mr. KENNEDY. I have the floor; I am glad to yield to the Senator for that purpose.

Mr. METZENBAUM. Without this amendment, the gas producers in Ohio would be able, under the administration bill, to get $1.75 for a thousand cubic feet, plus an inflation factor. How much is enough? How much do they have to get in order to uncap their wells? They were getting only 17 cents a few years ago.

Mr. GLENN. The Senator asks me a question I cannot answer. I have no idea what is necessary. I would ask the Senator the same question; what does he think is necessary?

With those very small production wells, I do not know how much it is going to require to get them where they will pay. Perhaps some enhancement techniques, water or steam pressure, or maybe just to open them up and let them flow, or in some cases to put in a mile or so of pipeline, which with a sufficient price they might be encouraged to do. I have no figures on that. I have not consulted with the Senator from Kentucky; I simply heard him explaining his amendment when I came on the floor, and thought it was an excellent one, and would apply particularly to our area of Ohio and Kentucky that has been so particularly hard hit.

Mr. HANSEN. Mr. President, will the Senator from Massachusetts yield to me to address a question to the Senator from Ohio?

Mr. KENNEDY. I am going to yield the floor in a moment, but before doing so, I might inquire of the Senator from Ohio whether those fields in Ohio are tied up to pipelines now.

Mr. GLENN. Some are and some are not. Some of them have been abandoned. There might be additional pipelines required to be put in. Some of the pipelines have been taken up; some are still in place and not being used. They are very low production wells, that have been capped over a long period of time. I thought perhaps this was a way to get them activated by providing additional incentives. There was no intention, at least on my part, to allow great windfall profits, and I would be glad to see some language to limit that in some way.

Mr. KENNEDY. That is an additional problem.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. KENNEDY. Does the Senator want me to yield the floor?

Mr. RANDOLPH. No, I would like to answer something that the Senator asked for earlier. May I?

Mr. KENNEDY. I would welcome the comments of the Senator from West Virginia.

Mr. RANDOLPH. The Senator from Massachusetts (Mr. KENNEDY), as well as the Senator from South Dakota (Mr. ABOUREZK), as I recall, asked a question of the Senator from Kentucky (Mr. FORD) about the amount of stripper well gas that moves in interstate commerce. Information provided to me seems to indicate that of all the gas moving in interstate commerce, about 2 to 3 percent is derived from stripper wells.

Now, as I understand it, the Senator from Kentucky did not have that information.

Mr. FORD. The Senator is correct.

Mr. KENNEDY. What does the Senator expect it will be increased? Can he tell us that?

Mr. RANDOLPH. I cannot tell the Senator, naturally, but it might triple.

Mr. KENNEDY. Did the Senator say considerable?

Mr. RANDOLPH. The words may not sound alike, but I used the word "triple."

Mr. METZENBAUM. Triple what? Does the Senator mean triple $1.75?

Mr. FORD. No, we are talking about tripling the production.

Mr. RANDOLPH. I am talking about increasing the 2 to 3 percent.

Mr. METZENBAUM. I understand now.

Mr. HANSEN. Mr. President, if I may, I want to join with my good friend, the junior Senator from Ohio, in doing a little crystal ball gazing. He asked the question, how high might this gas go? Let me tell what the facts are. This information is contained in a letter in a statement made by the chairman of the Federal Power Commission, Mr. Dunham.

I cannot answer or try to respond to the query by my good friend from Ohio as to how high in price this gas from stripper wells might go, but I can say that here are some of the parameters that I think ought to be understood. Here is what we are paying today. This is not speculative, it is what we are paying today for imports of natural gas from Canada: $1.94 a thousand. By September 23, 1977—that was yesterday—that price goes to $2.28 per thousand.

LNG to be imported by Trunkline, Commission-approved, is $3.37 a thousand. In the Pacific Indonesia case, the judges approved a rate of $3.59 per thousand cubic feet. Tapco has an application on file for its Atlantic importation, which would be $4.57.

We can talk all we want to and try to say how high this gas is going to go in price, and I cannot say. But I can say one thing: Here is what we are paying for it now.

I think I can safely say something else: We are not going to pay more for domestically produced gas from stripper wells than we can buy it from these other sources for. You can bet your last dime that that is the cap.

I join with the senior Senator from Ohio in saying this makes awfully good sense. It makes good sense because, first of all, it offers the promise of additional gas that is not now being produced. Let us understand that this old bugaboo about people capping a well and saying they are not going to produce it is a bunch of hokum. Here are the facts about what we have been doing since 1964: Offshore gas discovered in the Gulf of Mexico for 1964 shows that 39.6 percent of that gas was not being produced. I can read through all the figures, but I shall not. I shall ask that they be printed in the RECORD.

Come down to 1974, and that has dropped down from 39.6 percent of the gas that was discovered but not being produced offshore in the Gulf of Mexico in 1964, down to 31.1 in 1974.

Mr. President, I ask unanimous consent to have these figures printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED INITIAL COSTS AND VOLUMES OF FOREIGN LNG

Project	Docket No.	Price (cost per million cubic feet) Base price f.o.b. Algeria	F.o.b. United States [1]	U.S. terminal tailgate [1]	Volumes annually (billion cubic feet)
Approved:					
Distrigas	CP70-196	0.345	0.68	1.04-1.38	15
El Paso I	CP71-68	.305	1.23	[2] 1.66	365
			1.30	[3] 1.71	
Trunkline LNG	CP74-138	1.30	2.74	3.37	179
Pending:					
Distrigas	CP77-216	1.30	2.10	2.70	46
Eascogas	CP73-47	1.30	2.43	2.90	237
Pac Indonesia	CP74-160	1.25	2.83	3.16	196
El Paso II	CP73-258	1.30	2.85	3.23	365
Tapco	CP77-100	1.30	[4] 3.67	4.57	240

[1] Includes escalations.
[2] Maryland.
[3] Georgia.
[4] Estimated delivered price to terminal in New Brunswick, Canada.

TABLE 2.—COMPARISON OF NONPRODUCING AND TOTAL DEDICATED GAS RESERVES IN OFFSHORE GULF OF MEXICO 1964 THROUGH 1974

[All volumes in MMcf at 14.73 p.s.i.a. and 60° F]

Year	Nonproducing	Total offshore	Percent nonproducing of total
1964	7, 626, 515	19, 245, 080	39. 6
1965	7, 561, 439	22, 184, 289	34. 1
1966	9, 364, 551	24, 871, 199	37. 7
1967	9, 364, 070	27, 234, 977	34. 4
1968	9, 857, 167	29, 254, 458	33. 7
1969	10, 389, 937	33, 062, 086	31. 4
1970	8, 269, 031	34, 009, 872	24. 3
1971	7, 247, 039	32, 380, 630	22. 4
1972	9, 008, 658	32, 461, 534	27. 8
1973	7, 914, 728	30, 461, 836	26. 0
1974	[1] 8, 526, 533	[1] 27, 428, 681	31. 1

[1] Preliminary data. The nonproducing reserves for 1974 were determined by staff from company form 15 reports but have not been verified by staff in the pipeline company offices nor have the total remaining recoverable reserves been checked for compliance with form 15 reporting procedures.

Source: FPC form 15.

Mr. HANSEN. There are two basic reasons why gas is known to exist and is not being produced. No. 1, and the most important one, is that there is no way to get it from the well into a transportation distribution system. My good friend, the Senator from West Virginia (Mr. RANDOLPH) knows that. My good friend, the senior Senator from Ohio, knows that. I think most people know it. That is why it does not get into the line. It takes a while to build pipelines.

The second reason, and the important reason that I think the Senator from Kentucky is addressing in his amendment, is simply this: It is uneconomic. You can find gas and when an estimate has been made of the extent of the reserve, the person who has discovered that gas must then make the hard decision: Should he make the investment necessary to get that gas from the well into a distribution system so it can be sold? I could not agree more with my friend from Kentucky that this makes good sense.

Let me summarize by saying these things: If gas can be produced and sold at a profit, it will be. It is not all being done now for two principal reasons: No. 1, there are not pipelines that can bring it from the well into a distribution system; and the important reason, that is addressed by the amendment of the Senator from Kentucky, is that this will give that added incentive, because of the possibility of profitability, to make the investment to get the job done.

I think the amendment is good. We can be sure that we are not going to pay more for any of this gas than we would have to pay for an alternate source of supply.

Mr. MATSUNAGA. Will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. MATSUNAGA. As I understand it, the Senator from Kentucky will withdraw his amendment as soon as he can get the floor.

Mr. FORD. I want to correct that. I have talked to the principals that want to amend it and I think we have just decided that we are going to leave the amendment on the floor. If they want to amend it, we can do that and the Senate can go about doing its will.

Mr. MATSUNAGA. I thank the Senator from Wyoming for yielding.

Mr. DOMENICI. Is the Senator from Wyoming finished?

Mr. HANSEN. Yes, I have finished.

Mr. DOMENICI. Mr. President, I shall not take much time, but I wanted to direct two remarks to my good friend (Mr. METZENBAUM) as to what we are going to call here a stripper exemption for natural gas. I think he knows what I am talking about and I know what I am talking about.

I would like to offer an explanation to Senator METZENBAUM with reference to the argument that he has made here today. I am going to give an example which, I think, offers some credibility to the position that Senator FORD was taking.

In my State, in spite of our being a producing State, we have 11 cities that are on curtailment. Eleven of our cities, much like the Senator's, are on curtailment, which means they cannot grow today. They cannot add any substantial new residential development. They have to be very concerned when a new industry wants to move into town. That is in a producing State.

Now, to show the Senator that it is not the gas companies or the developers that are asking for this, I say that those 11 cities formally, in their own name, have asked me to see if there is some

way to get an exemption for a low-yield natural gas well so that they might have a chance to put together a proposal which would get that low-yield wellhead natural gas delivered to them as a possibility, because it is not being delivered anywhere now. They want to take the chance of getting some of that unregulated versus the curtailment problem we have.

So it appears to me that if we look at that on a national basis, it is a net plus to take natural gas that probably will not be delivered anywhere because of the small wellhead yield characteristic—some are already in that posture, I say to my good friend from Ohio. Some are not capped because of the accusations the Senator has made and the investigations he has properly inquired of, for holding it off the market. Some are shut in because low-wellhead-yield natural gas wells are just uneconomic.

I did not know the Senator from Kentucky was going to use the definition, but that is what comes to me from my State, from the cities and the experts, that that size well is probably uneconomical for the regular system today. To make it economical is to take the lid off and then it will get mixed in the intrastate and interstate system. The Senator's State will have more and my 11 cities that are on curtailment will have a shot for a little bit more.

I do not think it is only the developers, the big oil companies or the natural gas companies, that have an interest. As the Senator has indicated here, the communities that are getting strangled are saying, let us have a chance at a little bit more gas from those uneconomic wells that turn out not to yield enough at the wellhead to justify being hooked onto an intrastate or interstate system.

The Senator from Massachusetts would say we are going to entice people to produce that. The point is, if it comes out to be that small a well in terms of quantity coming out of the ground, it has defined itself as being noneconomic. The fellow that drilled for it had a loser. He did not go out looking for a wellhead that would yield that small amount. That just happened to him. No one is going to spend a lot of money drilling to get a well that produces this small amount.

I do not think we have to worry about enticing people to go and look for a low-yield well so he can get a big price for it. He would be much more pleased to get one that yields eight times as much and without the risk with regulation and deregulation. It falls on him that it does not yield very much.

I think the fact that cities ask for it is indicative that it has some broad-based consumer values, not singularly the kind of values the Senator is worried about in terms of the oil companies.

I thank the Senator for his attention.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I yield to the Senator from South Dakota.

Mr. ABOUREZK. I have just been discussing with Senator RANDOLPH the figure he used of 2 to 3 percent of the natural gas production to fall in this. We have gone over the House debate, the documentation Senator RANDOLPH had, with the figures as it came from the Bureau of Mines.

On closer examination there is not any figure except from a Congressman during debate. There is no substantiation.

Senator RANDOLPH and I agreed that if it had to be documented we ought to correct the record in that regard because it is not documented beyond that.

Mr. RANDOLPH. Following the comment of Senator ABOUREZK on this matter, I am going to pursue the source for the figure that I gave because I have reason to believe that is probably right, but I may be wrong and I would not want the Members to have a quotation from me of 2 or 3 percent when, in fact, that is not true based on official figures.

Mr. METZENBAUM. I very much appreciate the clarification of the Senator from West Virginia.

Mr. JACKSON. Will the Senator yield?

Mr. METZENBAUM. Without losing my right to the floor, I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I think one of the real problems in trying to understand the implications of the Ford amendment is the lack of data available to us.

I have just called Mr. John O'Leary, the head of the FEA, and I read the amendment to him. He informs me that he will have to check this out and we will have some data on Monday.

However, it is his offhand judgment that it would exempt a lot of natural gas in the United States.

For example, in the production of oil throughout the country we have natural gas as a byproduct. The question that the Senate would have to decide is, Would it be wise to turn around and simply increase the price of gas from the current average price of 60 cents per thousand cubic feet to $3.50 per thousand cubic feet where they are producing the gas, in any event?

It has nothing to do with an added incentive.

So I think our trouble here, if I may say so, is that we do not have, at least I do not have, sufficient accurate data to make a judgment on the course of action that we should follow.

Mr. President, that information will be sent up to us, and we will have it Monday noon, so that a judgment can be made.

I would support proper incentives. They are provided for in the substitute, by the way, that I introduced and sponsored. It provides for the Department of Energy to grant exemptions in connection with those situations where we can demonstrate that with adequate pricing in special situations where the costs are high, that price adjustments can be made accordingly.

Mr. FORD. Will the Senator yield for a question at that point?

Mr. JACKSON. Yes.

Mr. FORD. Has the Senator ever talked to anyone that ever applied for a price adjustment on how long it takes to get that price adjustment through the Commission?

Mr. JACKSON. No, I have not.

Mr. FORD. Two years.

I made a speech some time ago about the Federal Power Commission not even giving rates, and they were pumping natural gas back in the hole, off the Louisiana coast, we could not even get it through the Commission. Now the Senator says they have the authority——

Mr. JACKSON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio has the floor.

Mr. HANSEN. Mr. President, a parliamentary inquiry. I thought the Senator from Ohio was seated.

Mr. METZENBAUM. I welcome——

Mr. JACKSON. The Senator from Ohio yielded, and I ask unanimous consent——

Mr. HANSEN. I am glad to see him.

Mr. METZENBAUM. This is a bad enough day because Ohio is losing 17 to 0 to Senator PEARSON.

[Laughter.]

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Kentucky be given the opportunity to speak at this point without the Senator from Ohio losing his right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. FORD. Mr. President, can he make a motion since he does not have the floor?

Mr. METZENBAUM. He has the floor for that purpose.

Mr. FORD. The only thing I was trying to point out is, have the right to go and get an increase in price now, and it is almost impossible, almost impossible to get a request through. Eighteen months, 2 years.

Why can we not go on, make a decision for a small well, 100,000 cubic feet per day?

Even States like Louisiana, for instance, have a tax credit, 250 Mcf, a severance tax.

Mr. JACKSON. We are trying to get more data.

A large operator may be a typical case. He is producing oil and he is producing gas as a byproduct, which is less than 100 Mcf. This is the data I am seeking.

Mr. GLENN. Will the Senator yield?

Mr. JACKSON. Now, Mr. O'Leary tells me there is a tremendous amount of gas in that category. Why does the Senator give that an unwarranted profit?

Mr. FORD. Let me ask the Senator a question.

Mr. JACKSON. Let me finish my sentence, and then I will continue.

Currently, the average price is, roughly, 60 cents per thousand cubic feet.

The Senator from Kentucky under his amendment as it is before the Senate would give to that operator $3.50 per thousand cubic feet.

Mr. FORD. If he can get it.

Mr. JACKSON. Wait a minute. I am saying, is the purpose of the Senator just to grant a windfall?

Mr. GLENN. Will the Senator yield?

Mr. JACKSON. Or is it for the purpose of trying to provide incentives?

He cannot produce any more than that, so the Senator just gives him, hand him, in effect, $3.50 for his gas, whereas other operators, a small independent who is 101 Mcf per day——

Mr. FORD. I wish to ask the Senator a question.

Mr. JACKSON. He gets the price of 60 cents.

How does the Senator explain that?

Mr. FORD. Let me ask this question.

Mr. JACKSON. I am talking about the Senator's language.

Mr. FORD. Would the Senator agree that we just talk about gas wells?

Mr. JACKSON. Well, no. I think we have to look at the whole picture.

Mr. FORD. The Senator just said his biggest problem was the big oil companies in getting some gas off an oil well.

If that is all that is bothering the Senator, we will take the oil wells out.

Mr. JACKSON. I want an amendment addressing the incentives.

I am just saying, on the face of it, it is obvious we need the data and the facts. We will have that up here at noon on Monday.

Mr. GLENN. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. GLENN. It was my intent to encourage just gas production on this. I discussed this with the Senator from Kentucky. I think probably he would be amenable once the statistics are gathered on this, as the Senator from Washington suggested, to make this applicable to gas only and not where there is coproduction of oil and gas.

Mr. JACKSON. I will be glad to cooperate.

Mr. GLENN. If this is a situation where there is crude being produced as the main purpose of the well and this would give an excess profit only to that gas coming out, anyway, and for which the well was not drilled in the first place, I would agree.

My intent in backing the proposal was getting some of these wells uncapped that are capped now. Low production wells not producing any crude would be a means of getting gas production.

If there is coproduction I agree, because we really would not have any call for any price relief under this.

I do agree with the Senator from Kentucky that I think it is better to lock this in in whatever legislation we pass here, so we do not have to go through all that exemption process.

The Secretary will have it because, as in the past, it has been a long, consuming process, and while he does have that discretionary authority to get on his own, there is no guarantee he would be able to do this.

I think this can be a very important source of gas, so we could separate it out.

Mr. METZENBAUM. I think I still have the floor.

Mr. JACKSON. Yes.

I say to the senior Senator from Ohio that I agree with his objectives. I am just pointing out that the amendment needs to be gone over carefully. We will have the data here so we can determine what is the best course of action to follow to provide the incentives and the inducement to get that low-production gas to which the Senator has referred.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, without losing my right to the floor, I yield to the Senator from South Dakota and the Senator from Texas.

Mr. ABOUREZK. One more point: Perhaps the Senator from Kentucky can respond to this. This amendment does not take into account the gas company or oil company that has a well that is producing 200,000 cubic feet and it decides to tighten the valve down to 100,000 feet, to obtain the deregulated price.

Mr. FORD. I think it is very easy. If he were producing 200,000 cubic feet last year and then he turned the spigot down, he would be caught.

Mr. ABOUREZK. Where does it say in the amendment that he cannot do that?

Mr. FORD. I suspect that the Secretary of the Interior will be able to take care of all these things, if we have a problem there.

Mr. ABOUREZK. Not if we mandate it in the law. We do not require any action of the Secretary. Where does it say in the amendment that the gas company cannot do that?

Mr. METZENBAUM. It does not.

Mr. FORD. It is always a question of how people are going to do things—expect everybody to do something wrong. My daddy told me, when I was a little boy, that 97 percent of the people were honest. I am beginning to think there are a lot of 3-percenters around, listening to people say everybody is going to be crooked.

I am really concerned about these things thrown at me: These people are going to turn it down; they want to stop the cheaters. I take a man on face value. I take his word as his bond until he does something to me; then I will take a second look. We are always worried about cheaters. I do not think that is going to happen here.

Mr. METZENBAUM. Is the Senator from South Dakota perhaps concerned about the fact that there have been $40 billion in overcharges by the oil companies?

Mr. ABOUREZK. I do not want to lay anything off on the oil companies. I know there was a House study that showed that they withheld significant reserves.

Why does the Senator call it cheating? If a law is passed giving them the right to do that, it is not cheating.

Mr. FORD. I am not giving them the right to do that.

Mr. ABOUREZK. The Senator is.

Mr. FORD. We can add 100,000 Mcf on a yearly average in any calendar year. It is simple to take care of.

Mr. ABOUREZK. What if they drilled another hole close to it?

Mr. GLENN. Mr. President, will the Senator yield?

Mr. METZENBAUM. I think I have the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio has the floor.

Mr. BENTSEN. I think we are all trying to achieve the same objective. I counsel Senators, however, not to say that it should be exclusively gas. They should talk about the combination and try to get to an economic value of the product, to keep the marginal well in production.

I understand what the Senator is talking about. If there is a little oil well with a little gas, he does not want to give them an exemption. It should be the combination of those economic products coming out of it.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Ohio.

Mr. GLENN. I have one other point, to be on the side of the Senator from South Dakota.

Another point that should be tightened up in the final language is that you do not have a well brought in late in the year, a yearly average, which is the way this reads now, to put it in the category of getting this until the first of the following year. I do not think it is the intent of the Senator from Kentucky to give a windfall. It would not come out under the average provided in the amendment.

Mr. ABOUREZK. That is an excellent point. The point is that we do not know anything about the effect of this amendment. We have not gone through it. In this debate today, it has been pretty well picked apart. I think it would be a mistake even to act on it.

Mr. FORD. I say to the Senator that Senators offer amendments on which they do not want discussion, on which they want to vote immediately, or amendments are submitted and Senators automatically move to table them, without discussion. Whatever shoe fits is the one the Senator wants to wear.

Mr. METZENBAUM. Will the Senator from Kentucky agree to a unanimous-consent agreement to lay aside his amendment until some time Monday afternoon so that we may obtain adequate information? Perhaps during the interim, the Senator from Kentucky will see fit to consider the amendments I have suggested, as well as the proposal of the senior Senator from Ohio and the proposal of the Senator from Washington.

Mr. FORD. I cannot agree to that now, Mr. President—not for the time being, anyhow. I cannot agree to set it aside until Monday.

This amendment was one of the first amendments filed. It is not a new amendment. Anybody who wanted to read the amendment or had any concern with it could have read the amendment. It has been here for almost a week, so it is not something new. I am not in the mood right now to allow it to be set aside.

Mr. METZENBAUM. Mr. President, the matter to which the Senator from Kentucky addresses himself is interesting, and a number of us actually share some of his concerns. However, a number of suggestions and observations have been expressed on the floor of the Senate as to how the amendment would have to be amended if it were to be acceptable at least to a substantial number of Members of this body. I think that might be possible to achieve.

When the Senator from Washington, the chairman of the Energy Committee, pointed out that there will be available information on this subject which may be pertinent to the matter we are presently discussing, it seemed to me to be logical and reasonable to lay the amendment aside temporarily and come back to it on Monday. Inasmuch as the Senator from Kentucky is not agreeable to that procedure, I move to table the amendment.

Mr. FORD. I ask for the yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 28, nays 46, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—28

Abourezk	Hathaway	Pell
Anderson	Hollings	Proxmire
Bayh	Inouye	Ribicoff
Brooke	Jackson	Riegle
Bumpers	Kennedy	Sarbanes
Case	Magnuson	Stevenson
Church	Matsunaga	Williams
Clark	McGovern	Zorinsky
Cranston	Metzenbaum	
Durkin	Muskie	

NAYS—46

Allen	Ford	Nunn
Baker	Garn	Packwood
Bellmon	Glenn	Pearson
Bentsen	Goldwater	Percy
Burdick	Gravel	Randolph
Byrd, Harry F., Jr.	Hansen	Roth
Byrd, Robert C.	Hatch	Sasser
Cannon	Hatfield	Schmitt
Chafee	Hayakawa	Schweiker
Chiles	Helms	Sparkman
Curtis	Huddleston	Stevens
Danforth	Laxalt	Stone
DeConcini	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	Melcher	Wallop
	Morgan	

NOT VOTING—26

Bartlett	Humphrey	Moynihan
Biden	Javits	Nelson
Culver	Johnston	Scott
Eagleton	Leahy	Stafford
Eastland	Long	Stennis
Griffin	McClellan	Talmadge
Hart	McClure	Weicker
Haskell	McIntyre	Young
Heinz	Metcalf	

So, Mr. METZENBAUM'S motion to lay on the table Mr. FORD'S amendment (No. 881) was rejected.

UP AMENDMENT NO. 851

Mr. METZENBAUM. Mr. President, I call up an unprinted amendment which I have at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes unprinted amendment No. 851 to the Ford amendment No. 881.

On line 3 after the word "any" add the word "new."

Mr. FORD. Mr. President, will the Senator from Ohio yield for a question not related to the amendment, but only a question?

Mr. METZENBAUM. I yield.

Mr. FORD. How soon will the Senator from Ohio be willing to go to a vote on his amendment?

Mr. METZENBAUM. In about 3½ minutes.

Mr. FORD. Does the Senator from Ohio have other amendments then beyond this one?

Mr. METZENBAUM. I do.

Mr. FORD. About how many?

Mr. METZENBAUM. I have one other.

Mr. FORD. One other?

Mr. METZENBAUM. Yes.

Mr. FORD. Will there be any other amendment to this amendment? The Senator from Ohio says in 3½ minutes he will be ready to go to a vote on this amendment, that he has one other amendment, and then we could get this amendment out of the way.

The Senator from Arizona has an amendment, is that correct?

Mr. DECONCINI. Is this an amendment to the amendment of the Senator from Kentucky?

Mr. FORD. Yes.

Mr. DECONCINI. No.

Mr. FORD. It is just an amendment to my amendment that is at the desk. The tabling motion has just failed. The Senator from Ohio says he has an amendment to my amendment which will take 3½ minutes and he has one additional amendment, which will take how long?

Mr. METZENBAUM. I am not certain how long the second amendment will take, but I should point out to the Senator from Kentucky that if the second amendment is not agreed to then it is entirely likely I would draft a third amendment which would cover a portion of that which would attempt to be covered by the second amendment.

Mr. FORD. If that one fails, how far will the Senator from Ohio go after that?

Mr. METZENBAUM. I am not in position to advise the Senator from Kentucky as to the number of amendments I have nor what my plans are. I have indicated previously that in view of the fact that there will be information available to the chairman of the Energy Committee as of Monday noon and the chairman of the Energy Committee has indicated he felt it would be appropriate to vote on this subject on Monday, I suggest a unanimous-consent agreement be that we put the matter aside until Monday.

Mr. FORD. I have to object to that.

Mr. METZENBAUM. I only suggested that; I did not make it as a motion.

Mr. FORD. I said I will object if the Senator makes it.

Mr. METZENBAUM. I only say that I think the Senate should not be asked to vote upon this matter without knowing its full implications, and the chairman of the Energy Committee has indicated that he is attempting to obtain that information, that the information will be available around noon on Monday. I think that the Senator from Kentucky in presenting his amendment indicated he did not know how many wells would be affected, how much new gas might be involved, and actually indicated that there was no statistical data available for the Senate to use in considering the full impact of this amendment.

Mr. FORD. The Senator has the floor, and I will not try to impose on his time but, as I said earlier, just which shoe fits? Earlier he wanted to table an amendment that had just been introduced and moved to table, and I wanted to go ahead and introduce an amendment and get a vote on it without explaining it. Now the Senator is opposed to an amendment and is using those kinds of tactics. So if he is ready I hope he will present his amendment and in 3½ minutes we would vote on it.

Mr. METZENBAUM. Let me say to the Senator from Kentucky that I think his choice of words is a bit inappropriate about tactics. His amendment is a major amendment which would eliminate from control a vast body of natural gas in this country, much of which is owned by the major oil and gas companies of this country, and I think that before the Senate is expected to act on it we are entitled to know the information and what the impact of that amendment will be. The chairman of the Energy Committee is attempting to obtain that information and the Senator who proposes an amendment indicated he did not have the information available and when the Senator from West Virginia offered us some information on it it was helpful but the Senator from West Virginia, the gentleman that he is, came forth and said he is not certain that that information was

correct and it had only been used by a Congressman on the floor of the House of Representatives and had no more basis for it than that.

Now when we are talking about tactics, let us talk about the fact that the Senator from Massachusetts has an amendment pending on this floor and indicated he was prepared to vote on it last night. I stood on this floor and said that I was prepared to vote on it today, and others of us who were opposed to deregulation were prepared to vote on Senator KENNEDY's amendment today at any time. I have not heard any indication, except an offering of a number of amendments. So I think that the shoe fits both ways, and I do not think it is appropriate to be talking about tactics when apparently the Senator from Kentucky, plus some others, are involved in somewhat of a procedure which he can describe in any manner that he wants but some may call it dilatory and some may have some other kind of name for it.

Mr. FORD. The Senator smiled when he said that.

Mr. METZENBAUM. Having said that, I wish to say that the proposal and reason for this amendment being offered by the Senator from Kentucky is that it will help bring forth natural gas that is now not coming out of the ground, that there are people who cannot afford to produce it, that only if we deregulate these natural gas wells that produce less than 100,000 Mcf's per day will we be able to bring forth this natural gas.

All that my amendment does, and it is a very simple amendment, it says, OK, maybe the Senator has a point, but it says where the natural gas is presently flowing, where it is coming up the pipe, there is not any reason to deregulate the price of that. There is not any reason to provide a windfall. There is no reason whatsoever to deregulate the price of all natural gas that is coming from wells that are producing less than 100,000 Mcf's per day.

All I am saying by this amendment is add the word "new," and if the Senator wants to deregulate the price of natural gas that is coming from new wells, these small new wells, then at least he can make a credible argument for it. After that I do not think he can make a credible argument.

Mr. BENTSEN. Mr. President, will the Senator yield for 30 seconds?

Mr. METZENBAUM. I yield for the purposes of a question.

Mr. BENTSEN. Mr. President, I am sure the Senator did not mean to say 100,000 Mcf a day. It is 100 Mcf.

Mr. METZENBAUM. The Senator from Texas is correct. It is 100 Mcf. That reads 100,000 cf, cubic feet. The Senator is correct. It is 100 Mcf. That is the figure that is used in the amendment.

I yield the floor.

Mr. FORD. Mr. President, we have in the past attempted to do those things that would generate support and help by this country as it relates to our energy problem. If we accept the amendment of the Senator from Ohio, then it will only be new wells. Somehow there has to be an incentive to explore.

There has to be an incentive to uncap those wells that have been uneconomical. We need new procedures, new ways—and expensive ways—of bringing this natural gas out of the ground. I want to get at that which is already there, and that we know is there.

The Senator is talking about new wells. New wells, I think, are only part of the problem. They would be very helpful, but I say to my colleagues that I oppose this amendment by the Senator from Ohio. I suspect the proper way to dispose of it is to make a motion to table, which I shall not do at this time. He made a motion to table my amendment. I think that is the proper way, and we can go up and down on tabling motions, but I do not wish to preclude any of my colleagues from making any statements they wish.

Mr. TOWER and Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to make a general statement about both amendments, and then ask the Senator from Kentucky a question.

I would like to say, first of all, that there are indeed a lot of small gas wells in this country that produce 100,000 to 500,000 cubic feet. When gas was first discovered in my home county back about 30 years ago, it was not uncommon for the gas companies to cap and to leave idle wells with less than 1 million cubic fee a day, because they were small by comparison. Nowadays, of course, with natural gas in such short supply, that would not occur. I know that in southern Arkansas and northern Louisiana it is not uncommon for people seeking oil to hit small gas wells of 100,000, 200,000, or 300,000 cubic feet. I also know that it is not easy for me, knowing that I have a lot of constituents who have wells of that size, to vote against that amendment of the Senate from Kentucky.

I like the perfecting amendment of the Senator from Ohio. One of the questions that arises in my mind is, first of all, there are no lifting costs if it is a pure gas well. Whether it is 100,000 cubic feet or a million cubic feet, or whatever it is, there are no lifting costs; the gas comes out by pressure, and that contrasts from a lot of the oil, which is pumped out.

Second, 100,000 cubic feet or 100 Mcf a day is a highly arbitrary figure. The truth of the matter is that any well that produces less than 500,000 cubic feet a day has in the past been a highly marginal operation.

What we are doing here is opening up so many problems—let us assume you have a well that produces 150,000 square feet a day.

Mr. TOWER. Cubic feet.

Mr. BUMPERS. 150,000 cubic feet a day. My chairman takes care of my syntax.

Say you have a well producing 150,000 cubic feet a day. You can put a choke on it to choke it back to 100,000 cubic feet, and come within this qualification. There is not any point in inviting people to perpetrate a fraud when it is not necessary.

Third, there are a lot of oil wells in this country that produce quite a bit of oil, but, as Senators know, gas is always found with oil, and those wells also produce gas. So you may have a very substantial oil producer with 100,000 cubic feet or less of gas associated with it. Of course, this oil might belong to a major oil company, or it might belong to an independent. But I have a couple of thoughts about the matter.

First, I think the Senator from Ohio is right in limiting it to new wells, but it occurs to me that it would be infinitely better if it were new wells owned by independent operators who produce less than a certain amount annually, and I think it would probably be better if we limited it to gas wells only, and not gas found in association with oil.

I may vote for the amendment of the Senator from Ohio simply because I think it is an improvement over the present one, but I do not think either one of them are flawless.

Mr. METZENBAUM. Mr. President, will the Senator from Arkansas yield?

Mr. BUMPERS. Yes.

Mr. METZENBAUM. My second amendment, I think, covers the point with respect to the size of the producer. It does not cover the point about it being joint production with oil. If the second amendment does not prevail, I would offer that as a third amendment. Because I thought it should be separated, and that each of the issues were somewhat different, I had originally taken it to the desk and suggested they be combined, but I have a feeling perhaps these issues are separate, whether they are new wells and whether they are owned by majors or smaller producers, so I separated them. But I totally agree with the Senator from Arkansas that we have to cover not only both those aspects but probably the third one as well.

Mr. HANSEN. Mr. President, will the Senator from Arkansas yield for a question?

Mr. BUMPERS. Surely.

Mr. HANSEN. Would it be the Senator's conviction that a producer above a certain size, by virtue of that fact alone, would go ahead and install the necessary pipeline or make the added investment necessary to produce gas if it were still uneconomic?

Mr. BUMPERS. I think the question almost answers itself. I do not think anyone is going to do anything that is not economic.

Mr. HANSEN. Then why would the Senator want to impose a restriction on the application of this amendment according to the size of the natural gas producer?

Mr. BUMPERS. Well, No. 1, if there is anyone who is a marginal operator it is that small operator.

Let me say this: I do not like the idea of the amendment, because, first, it is a highly arbitrary figure. There are a lot of very wealthy people who are going to make it just fine at $1.75 for natural gas, and if we adopt this amendment, of

course, they are just going to make it that much better.

Mr. HANSEN. But are they going to go ahead and produce from a well that is uneconomic? It seems to me that if you cannot answer that question affirmatively, I find it difficult to see the rationale that——

Mr. BUMPERS. I think the Senator assumes that anything less than 100,000 cubic feet is uneconomic.

Mr. HANSEN. No, I am not assuming that at all. I just understood the Senator's amendment, when he was explaining it, wherein he says he would deny the beneficial treatment of the Ford amendment to those producers exceeding a certain amount. Was that what the Senator was saying?

Mr. BUMPERS. Well, we are talking about two things. First, we are talking about——

Mr. HANSEN. I am trying to understand what the Senator is talking about.

Mr. BUMPERS. Well, I am saying, No. 1, I think the amendment ought to be limited to gas wells, and not oil and gas. Second, I think it ought to be limited to those producers who produce less than a certain amount annually, because they need it to continue drilling. The major companies are going to continue drilling anyway.

Mr. HANSEN. But will they produce a minor well that does not make a profit?

Mr. BUMPERS. I will say that if they cannot make a profit at $1.75, it is probably too small to produce.

Mr. HANSEN. Of course, this is precisely the thrust of the Ford amendment, to make them economic to produce.

Mr. BUMPERS. I do not know of any 100,000 cubic foot wells in this country right now that are shut in at $1.45, so I would not expect a rash of wells to be shut in at $1.75, or $2.20 or any other figure.

Mr. FORD. I might just bring to the attention of the Senator from Arkansas a cutoff recognized by Congress in the tax laws and by the FPC in pricing regulations, "whose average production per well is less than 100,000 cubic feet per day, or 36.5 million cubic feet per year." It seems to me that not only is 100 Mcf recognized by the tax laws, but also by FPC itself in its jurisdiction, at the present time.

Mr. President, I have nothing more to say.

Mr. GLENN. Will the Senator yield?

Mr. FORD. I am glad to yield.

Mr. GLENN. I have a question for my colleague from Ohio.

It seems to me that the thrust of the amendment of my colleague would thwart the original intent of what the Senator from Kentucky is trying to do; that is, get increased production out of old facilities. The amendment offered by my colleague from Ohio would indicate that there would have to be new drilling before the new pricing would apply. I wonder if, in defining new gas—I know there are FPC designations of this, but at least for purposes of this amendment, I wonder if the Senator from Ohio would agree to defining new gas as increased production from what it has been over the last couple of years or 3 years, or some definite time period.

The objective is to get these people, whether it has been a capped-in well or a well at low production which could be enhanced, and have additional production; that is what we are after. If it were a new well, as the Senator proposed in his amendment to the amendment, that, too, would bring new gas flowing. That is really what we are trying to do, take these old fields or low-production fields and make them more productive.

If the definition of new gas for purposes of this amendment could be increased production where there was low production before, or increased production from a capped well that has not been used for the last 3 years or some time period we could negotiate, or new drilling, then it would seem we would be accomplishing the best of what we are all trying to do, bring more gas onstream and use this pricing mechanism for doing it.

I would be interested in the observation of my colleague.

Mr. METZENBAUM. I share the concerns expressed by the senior Senator from Ohio. I point out that the language of the amendment talks about new wells to distinguish from new gas. I think, on the point he makes with reference to uncapping of old wells, I have indicated to the Senator from Kentucky that that would not concern me if an amendment were offered to that effect to take care of the capped wells and, if they were uncapped, to release them from price restraints.

Mr. GLENN. How about low-production wells?

Mr. METZENBAUM. If I may finish, when we get into the question of low-production wells and then increasing that production, we now get into an area where it becomes very difficult to bring a piece of legislation that is going to cover that subject.

Are we going to say 1 percent, 5 percent, 10 percent, 50 percent, 100 percent? Who is going to make that determination?

I frankly admit, I would not know how to write that legislatively. I canont see myself accepting that concept unless I were certain that it could be done. Then I would be glad to consider that.

In connection with the matter of an exemption for capped wells that are to be uncapped, provided it were written appropriately, I would not oppose that as part of my amendment.

Mr. GLENN. If the Senator will yield further, right now, the way his amendment to the amendment of the Senator from Kentucky is stated, it would not provide any price increase unless this were a brand new well.

Mr. METZENBAUM. The Senator from Ohio is correct.

Mr. GLENN. I thank the Senator.

Mr. DOMENICI. Mr. President, may I have a chance to question the Senator from Ohio?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Do I understand what he is saying to the senior Senator from Ohio is that his amendment would include legally capped wells that are not presently yielding to the inter- or intrastate market?

Mr. METZENBAUM. I am sorry if my response led the Senator to that conclusion. What I actually said was that I had earlier indicated to the Senator from Kentucky that I would accept an amendment which would cover the question of uncapping presently capped wells and excluding that from price controls; in other words, deregulating the old, presently capped wells.

Mr. DOMENICI. But for purposes of his intention with his amendment, unless it is amended, his definition of "new" does not include that situation? Is that correct?

Mr. METZENBAUM. The Senator from New Mexico is correct.

Mr. DOMENICI. I thank the Senator.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. The objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk continued the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 851 (AS MODIFIED)

Mr. METZENBAUM. Mr. President, in the pending amendment that is at the desk, I modify the amendment by adding, after the word "new," "all presently capped wells" and strike the word "well."

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. FORD. Would the clerk read that? If we strike "wells," I do not think we have anything.

Mr. METZENBAUM. No, I took out "well" and put in "wells."

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 3, strike the word "well" and insert in lieu thereof "new or presently capped wells".

Mr. FORD. Is all time yielded back?

The ACTING PRESIDENT pro tempore. There is no time limitation.

Mr. FORD. Mr. President, I move to lay on the table the amendment of the Senator from Ohio, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. NUNN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Georgia (Mr. TALMADGE), is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Vermont (Mr. LEAHY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT) the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 41, nays 31, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—41

Baker	Ford	Melcher
Bellmon	Garn	Morgan
Bentsen	Glenn	Packwood
Burdick	Goldwater	Pearson
Byrd, Harry F., Jr.	Gravel	Percy
Byrd, Robert C.	Hansen	Randolph
Chafee	Hatch	Roth
Chiles	Hatfield	Schmitt
Curtis	Hayakawa	Schweiker
Danforth	Helms	Stevens
DeConcini	Huddleston	Stone
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
	Mathias	Wallop

NAYS—31

Abourezk	Church	Kennedy
Allen	Clark	Magnuson
Anderson	Cranston	Matsunaga
Bayh	Durkin	McGovern
Brooke	Hathaway	Metzenbaum
Bumpers	Hollings	Muskie
Cannon	Inouye	Pell
Case	Jackson	Proxmire
Ribicoff	Sasser	Zorinsky
Riegle	Sparkman	
Sarbanes	Stevenson	

NOT VOTING—28

Bartlett	Javits	Nunn
Biden	Johnston	Scott
Culver	Leahy	Stafford
Eagleton	Long	Stennis
Eastland	McClellan	Talmadge
Griffin	McClure	Weicker
Hart	McIntyre	Williams
Haskell	Metcalf	Young
Heinz	Moynihan	
Humphrey	Nelson	

So the motion to lay Mr. METZENBAUM's UP amendment No. 851, as modified, on the table was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The question recurs on the amendment of the Senator from Kentucky.

UP AMENDMENT NO. 852

Mr. METZENBAUM. Mr. President, I call up an unprinted amendment at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment No. 852 to the Ford amendment No. 881:

On line 4, before the period insert the following: "except for natural gas produced by independent companies whose sales exceed 100 billion cubic feet annually as determined by the Commission."

Mr. METZENBAUM. Mr. President, this amendment really strikes at the very heart of the question: For whose purpose is the amendment offered by the Senator from Kentucky being offered?

The question is: Are we talking about the mom and pop wells, or are we talking about wells that are owned by the major natural gas producers?

The figure that I set is not a very high one, talking about natural gas produced by independent companies whose sales exceed 100 billion cubic feet annually as determined by the Commission.

If we really feel, as has been indicated in the debate, that we are concerned about those little individuals throughout our various States who have some natural gas coming out of their facilities, and we want to see to it that the price of their gas is decontrolled, then we can very well afford to vote for this amendment because this amendment only strikes at the major natural gas and oil producers of this country.

This amendment says it will be limited only to the very smallest, only truly the independents, only the mom-and-pop operators, and I believe if Members of the Senate want to decontrol the price of natural gas for these smaller operations, then the smaller operations we are talking about ought to be those that are owned by individuals not by anyone other than the independents whose sales do not include 100 billion cubic feet annually.

Mr. FORD. Mr. President, I have to ask my colleagues not to support this amendment by the Senator from Ohio. One thing that strikes me through the thread of his amendments to my amendments is that he is more interested in who rather than in what. He is interested in who does it, and limits it to who does it rather than trying to get this natural gas into the pipeline and get it to the customers, to the industrial operations, and those people who need it.

I believe that small wells should be developed by whoever can develop such small well. Here we are again seeing an amendment that would limit, restrict, our ability and our effort to try to secure additional natural gas to make our country independent of foreign countries. We are willing to see that this big payment goes to other countries but we are not willing to pay our own people, give our own people jobs.

Therefore, Mr. President, if no one has any other debate on this amendment, I——

Mr. KENNEDY. I would like to ask questions of the Senator from Kentucky. One of the questions I would like to ask is whether he can tell us on the basis of his information how many companies would be included and how many would be excluded as a result of this amendment. Does the Senator from Kentucky have that information?

Mr. FORD. No. It is no easier for me to explain that this afternoon, Senator, than to tell you where to go to drill for gas or oil.

Mr. KENNEDY. The Senator could certainly tell us at least at the present time how many fall within that category; can he not?

Mr. FORD. I would suggest that the Senator ask the Senator from Ohio. He is opposing my amendment, and apparently he is opposing it for certain reasons, and maybe he has the figures separating it from the independents.

Mr. KENNEDY. I mean, the Senator must understand, as the proposer of the amendment, how many companies would be affected, and that it would be simply a matter of the application of a mathematical formula that we could reach that.

Could the Senator tell us how many—he cannot tell us then how many would be affected or excluded by this particular amendment?

Mr. FORD. No, and I would like for the Senator from Ohio to answer the Senator's question of how many will be excluded or included in his amendment. He is putting an amendment to my amendment, an amendment that would limit it, and I think the Senator should pose his question to him and let him give the Senator the figures.

Mr. KENNEDY. The reason I asked it is because I was here during the earlier period of the day when the Senator from Kentucky was selling his amendment as help to the "mom and pop" part of the gas industry, and making a very persuasive argument along those lines.

Mr. FORD. Not good enough.

Mr. KENNEDY. Now we find out the argument has switched in saying that the Senator does not really care who is going to benefit. It is just the results of the product.

Mr. FORD. I think that is what the American people want from us, I say to

the Senator, results, and that is what I am trying to see that we get.

Mr. KENNEDY. To what extent will the Senator's amendment limit the results?

Mr. FORD. I do not know, and the Senator from Ohio cannot tell you either.

Mr. KENNEDY. Is it also true that the Senator cannot tell us about who will benefit under the existing situation—not about anything prospective but under the existing situation; is that true as well?

Mr. FORD. I can only gage my interest in this amendment by the amendment that this body passed earlier in deregulating so-called stripper oil wells.

I have seen a great deal of excitement and interest in trying to find wells or to uncap wells or to get those wells into production because they were not economically feasible before that time.

So the only thing I am trying to do here is to produce new natural gas, that is not in the pipeline, from those small operations that have not been economical up to now, to give them an opportunity to reconstruct their wells, to put new pressure operations on them, to bring that gas out.

So I do not believe any of us, when we are freezing, worry about who except, number one, they want some new gas, they want gas in their pipeline, and they want to have the assurance this winter that they will not be jeopardized.

Mr. KENNEDY. We do not have any accurate information or even an estimate about how much new gas will be brought on by this amendment, and the Senator from Kentucky is unable to give us that information or estimate, so I think before the Senator from Kentucky's amendment is accepted that we ought to realize that even the proponent of the amendment is unable to indicate either the number of firms that would be or what additional gas will be produced from capped wells.

I am not asking what he thinks might be produced with the new discoveries. We are asking what is capped and if current production would be affected by this. But the Senator is unable to respond to that particular question.

Will the Senator tell us whether the multinational corporations are going to benefit, whether Exxon, Mobil Oil, with all the profits they have experienced are going to profit—and Texaco and the rest of the major oil companies, will they also be eligible—if they meet the particular requirements of this amendment?

Mr. FORD. I go back to what I said a moment ago: I am not particularly worried about who. I am worried about what, how do we get this natural gas out of the ground; how do we get it into the pipeline; how do we get it out from intrastate into interstate; how do we send it to the Northeast and the Midwest; how do we get this natural gas to those people who are there. We might do something to get it out.

Now, I think, and I should go back and point out again, that no one really knew, no one could give any kind of an estimate, what would happen as a result of deregulating oil wells that produce less than 10 barrels a day. I have seen the excitement, as I have referred to it, the interest in those small stripper wells that were not economically feasible before we passed that legislation, and I am just hopeful that this amendment will generate the same type of interest as the deregulation of the small stripper oil wells.

Mr. KENNEDY. Does the Senator have any information about how much oil is available at the present time and is not being developed because the prices are too low, and any estimates, any projections, that if we get up to, say, $1.50, given the known reserves now, and the wells that are in place and capped, we will get Y amount of gas, and if we increase so much, does the Senator have any kind of information along those lines?

Mr. FORD. I would say the Senator from Massachusetts said "oil," and I am sure he was meaning natural gas.

Mr. KENNEDY. Gas.

Mr. FORD. I would like to yield to the Senator from Wyoming who indicates he might have some detailed information for the Senator's question.

Mr. HANSEN. Mr. President, I thank my friend from Kentucky.

Let me say again, although I have said it earlier this afternoon, that the concern of the American people ought to be what we can do to get the production of gas that will not otherwise be produced. We have gone through the whole argument, and the amendment is basically no different from the ones we voted on earlier.

Therefore, I move that we table the amendment, and I ask for the yeas and nays.

Mr. KENNEDY. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has the floor.

Mr. KENNEDY. Regular order, Mr. President. Mr. President——

Mr. HANSEN. Mr. President, who has the floor?

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has the floor.

Mr. KENNEDY. He yielded the floor, Mr. President.

Mr. FORD. No, I did not except for him to answer the question.

Mr. KENNEDY. Mr. President, did he not yield the floor?

Mr. FORD. No, I did not, Mr. President. I yielded—the Senator from Massachusetts was asking me a question, and I yielded to the Senator from Wyoming who might have an answer.

Mr. KENNEDY. Did he yield it for the Senator from Wyoming to make such a motion?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has the floor.

Does he yield for a parliamentary inquiry?

Mr. FORD. I would yield for a parliamentary inquiry only as long as I retain my right to the floor.

Mr. KENNEDY. Mr. President, is it appropriate for the Senator from Wyoming to make such a motion if he has not the floor and has been yielded to only for a question?

The ACTING PRESIDENT pro tempore. The Senator was yielded to for the purpose of answering a question and was not yielded to for the purpose of making a motion.

The Senator from Kentucky.

Mr. FORD. Mr. President, since I think all of the nervousness is over now and no one else is interested, I move——

Mr. METZENBAUM addressed the Chair.

Mr. FORD. I move to table the amendment of the Senator from Ohio, and ask for the yeas and nays.

Mr. HANSEN. Yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. Mr. President, I object.

Mr. METZENBAUM. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will proceed to call the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MELCHER assumed the chair.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senators from Colorado (Mr. HART and Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I also announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. LUGAR), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 42, nays 27, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—42

Allen	Domenici	Packwood
Baker	Ford	Pearson
Bellmon	Garn	Percy
Bentsen	Glenn	Randolph
Burdick	Goldwater	Roth
Byrd, Harry F., Jr.	Gravel	Schmitt
Byrd, Robert C.	Hansen	Schweiker
Cannon	Hatch	Sparkman
Chafee	Hatfield	Stevens
Chiles	Hayakawa	Stone
Curtis	Huddleston	Thurmond
Danforth	Laxalt	Tower
DeConcini	Mathias	Wallop
Dole	Melcher	
	Morgan	

NAYS—27

Abourezk	Durkin	Metzenbaum
Anderson	Hathaway	Muskie
Bayh	Hollings	Pell
Brooke	Inouye	Proxmire
Bumpers	Jackson	Ribicoff
Case	Kennedy	Sarbanes
Church	Magnuson	Sasser
Clark	Matsunaga	Stevenson
Cranston	McGovern	Zorinsky

NOT VOTING—31

Bartlett	Javits	Nunn
Biden	Johnston	Riegle
Culver	Leahy	Scott
Eagleton	Long	Stafford
Eastland	Lugar	Stennis
Griffin	McClellan	Talmadge
Hart	McClure	Weicker
Haskell	McIntyre	Williams
Heinz	Metcalf	Young
Helms	Moynihan	
Humphrey	Nelson	

So the motion to lay Mr. METZENBAUM's UP amendment No. 852 on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of my colleagues, I yield for the purpose of a motion to reconsider the vote.

Mr. FORD. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. SCHMITT. Is my understanding correct that gas which was sold under an emergency or short term or limited term arrangement or a direct sale before January 1, 1977, would be classified as new gas under the definition of new gas in the Pearson/Bentsen bill, amendment 862?

Mr. PEARSON. Yes, Senator, your understanding is correct. Amendment 862 defines new natural gas as including gas sold or delivered in interstate commerce for the first time on or after January 1, 1977, and gas sold under the arrangements permitted under sections 2.79, 2.70(b)(3), 157.29, and 2.68 of the Commission's Regulations and General Policy and Interpretations is not considered to have been previously committed to interstate commerce. Further, although the Emergency Natural Gas Act amendments were not passed until after January 1, 1977, and any deliveries thereunder were made after that date, if the January 1, 1977, date is changed to a more recent date such as April 20, 1977, the natural gas sold under the Emergency Natural Gas Act would still be new gas.

Mr. CLARK. Mr. President, I have been very much disappointed by the extent of Senate support for deregulation of natural gas prices. I can understand that many people are dissatisfied with the present pricing system—I share that dissatisfaction. But I think the President's proposal does a good job of balancing the need for increased incentives against the fragile state of the economy. Let me explain why:

First, the Carter plan does provide substantially increased prices which should result in increased incentives to explore for new gas supplies. In addition, by providing a firm program with gradual and predictable increases each year, it discourages producers from holding back supplies in hopes of higher prices.

Second, it protects the consumer by keeping a lid on prices. The Congressional Budget Office report, which has been quoted so frequently during this debate is very convincing. It indicates that deregulation would cost consumers $10 billion per year more than the administration plan between now and 1985. That's billion, not million. Further, it indicates that a January 1985 heating bill that would be $70 under deregulation would only be $47 under the President's plan. Twenty-three dollars per month may not sound like much in the Senate where we talk about budgets of millions and billions, but it means a lot to me when I pay my heating bills and it means a lot to my constituents—especially in a State like Iowa, where winters are frigid.

Third, the Carter plan further protects the individual consumer by placing most of the burden of increased prices on industry. Right now, home consumers pay much more for natural gas than industrial consumers and they have much less flexibility to switch to other fuels.

Fourth, it protects the economy from the severe inflation which would be triggered by deregulation. The CBO study estimates that deregulation of new natural gas prices would increase inflation by five-tenths of a percent per year in 1977 and 1978—and that is hardly an insignificant increase. The President's plan will have an inflationary effect, too, of course—but the predictions are that the entire Carter plan will have no more inflationary effect than that predicted for deregulation alone.

By way of explanation, I voted against tabling the Kennedy amendment which would have kept prices at their present level because I was advised at the time that Senator KENNEDY was amending the Bartlett amendment. However, I understand that the Kennedy amendment was to the bill itself, and, under those circumstances, I would not be able to support it.

To sum up my position—we need more natural gas supplies but we do not need prices so high that both individuals and the economy suffer unnecessarily. In the last 8 years, natural gas prices—regulated prices in the interstate market—have gone up more than 600 percent. Even in the intrastate market, where prices have gone up 1,200 percent, supplies have not substantially increased over-all. These high prices have provided no magic answer to our natural gas problem. The Carter plan is no magic answer either, but I think it will get the job done in the best possible way.

STATEMENT OF POSITION ON CLOTURE VOTE

Mr. PERCY. Mr. President, I will not be able to be present for the cloture vote on Monday, September 26, as I am meeting with the Board of Directors of the State AFL–CIO for luncheon in Peoria, Illinois, and addressing their annual convention that afternoon.

In the event cloture is not obtained, I will vote for cloture on the next vote, inasmuch as I support the Pearson-Bentsen amendment and the issue of gradual deregulation of natural gas has been debated in this Chamber for several years, and my position has been made clear on many occasions.

COMPREHENSIVE NATURAL GAS POLICY

THE STATUS QUO

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of my colleagues, here is the status quo: At the moment, the only amendment that is presently open to amendment is the amendment by the distinguished Senator from Kentucky (Mr. FORD). In other words, the amendment by Mr. KENNEDY is not open to amendment at this point; the substitute amendment by Mr. JACKSON is not open to amendment; and the Pearson-Bentsen substitute is not open to amendment. The Bentsen amendment as amended—which is still hanging out there—is not open to amendment until final action is taken on the Ford amendment, which is a perfecting amendment to the bill. Obviously, the Senate can continue to offer and dispose of amendments to the Ford amendment today. If it is the will of the Senate to do so, it can dispose of the Ford amendment today. But until the Ford amendment is disposed of, that amendment is the only amendment that is open to amendment. I should like to ascertain whether or not

the Senate, today, wants to proceed to dispose of the Ford amendment.

I yield to Senator JACKSON.

Mr. JACKSON. Mr. President, I have asked the Department of Energy to get us the data that we need in connection with the Ford amendment. I would be prepared, first thing on Monday, to offer a substitute, in light of that information, to deal with this special problem of providing incentives for those gas producers who do have gas that can be made available but, because of high costs, or low flow rates, cannot do so. I have asked for that information. It will not be available until noon on Monday. I should like to offer an amendment at that time, which would be to the Ford amendment, which is the only amendment that can be amended.

Mr. RANDOLPH. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I appreciate the situation that is correctly outlined as the majority leader set forth. I have listened to the able Senator from Washington.

I believe that Senator METZENBAUM has indicated—I want to be correct in this matter—I believe he has indicated, and I hope that if I am wrong, he will correct me, that he will continue to offer amendments to the Ford amendment. He said that during debate—I thought he said it.

Mr. ROBERT C. BYRD. I yield to Senator Metzenbaum for a response.

Mr. METZENBAUM. I am not certain I heard the question of my good friend from West Virginia.

Mr. RANDOLPH. What I am trying to say is, I think if we continue on the Ford amendment this evening, we shall just continue and continue, because I believe the Senator from Ohio said earlier in the afternoon that he would continue to offer amendments to the Ford amendment.

Mr. METZENBAUM. What I said, I think—I am sure, as a matter of fact—is that until we receive the information that the chairman of the committee indicated would be forthcoming on Monday morning, I did not think it would be appropriate to have a final vote on the Ford amendment.

I also have indicated, and I want to reiterate it at this moment, that I am prepared to vote on the Kennedy amendment, and the author of that amendment is prepared to vote on it, this afternoon. In fact, we would appreciate having the opportunity to vote on it at this point. I think that it is of such major moment that it might be very appropriate to proceed to a vote on that issue.

Mr. RANDOLPH. Will Senator BYRD yield to me further?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I am modifying my understanding now to including that Senator METZENBAUM indicated that he would await information from Senator JACKSON on Monday.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. So it is the same situation, because Senator JACKSON has just said he could not have this information until Monday. That means that the Senator from Ohio is, naturally, going to continue to offer amendments. I feel that the Senate today has worked its will. I congratulate the leader and now, with 6 votes passed and having come in at 9, I hope we shall be reasonable and go over until Monday.

Mr. ROBERT C. BYRD. Let me proceed a little further before we do that. I thank my distinguished colleague, because he has helped clarify the situation for me.

Mr. METZENBAUM has indicated that he and Mr. KENNEDY and others would like to vote this afternoon on the Kennedy substitute to the Jackson substitute to the Pearson-Bentsen substitute to the bill. I am perfectly willing to do that, but to do that, we would have to have unanimous consent. It would require unanimous consent that the pending Ford perfecting amendment to the bill be temporarily laid aside and that we proceed to vote on the amendment by Mr. KENNEDY.

Mr. TOWER. I would object to that, I think, stringently.

Mr. ROBERT C. BYRD. All right, I think that closes off the only other possibility—

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes; I yield to the distinguished minority leader.

Mr. BAKER. I wish only to add to what the distinguished Senator from Texas said that we would not object from the point of obstructionism. I have recently taken a head count, and at this hour on Saturday, my members begin to drift away. In fairness to them, I think it is imperative that we save this vote until Monday. I join with the distinguished Senator from Texas in saying that it is unlikely that we will do much with it this afternoon.

Mr. PERCY. Mr. President, I first would like to say that I think we have made progress today. I commend the leadership on having us in here today, and all the Senators for the attentive consideration they have given to this matter, to the amendments offered, and I commend the floor managers for the workmanlike way they have handled this. I hope we shall continue as diligently as possible for the next hour or hour and a half, because many of us have definite commitments that we have to get back to our States for engagements tomorrow and we do not have reason to cancel and we shall not be able to get planes after a while. Could we have a definite time certain beyond which there will be no votes? I would suggest, respectfully, 6 p.m.

Mr. ROBERT C. BYRD. If the Senator will allow me, we may go home pretty soon. Let me continue to pursue this.

There is one other possibility, and that will require unanimous consent. It is possible, by unanimous consent, to set aside the perfecting amendment by Mr. FORD and vote on the Bentsen amendment, as amended by the amendment of the distinguished Senator from Arizona (Mr. DECONCINI). That would require unanimous consent, however. Is there a disposition on the part of the Senate to give unanimous consent to vote on the Bentsen amendment?

Mr. METZENBAUM. I would object, because if we are going to vote on anything by unanimous consent, I want us to vote on the Kennedy amendment. Therefore, I would object to bringing up anything else.

Mr. HANSEN. If I may express my personal pleasure, I would prefer to vote on the Metzenbaum amendments.

Mr. TOWER. If the Senator would yield, I think we would very much like to accommodate the distinguished Senator from Ohio tonight and vote on his amendments. Since that is the normal sequence of things at this moment, I suggest that we go ahead and vote on his amendments.

Mr. METZENBAUM. Let the Senator suggest his way and I shall suggest my way.

Mr. TOWER. If he does not wish to offer them, why would we not go ahead and dispose of the Ford amendment tonight?

Mr. FORD. Does the Senator from Ohio not wish to withdraw any amendments to my amendment and go ahead——

Mr. METZENBAUM. As a matter of fact, I do not think I have any amendment pending to the Ford amendment. I said I was seriously considering offering additional amendments if we were going to take up the Senator's amendment before we receive the information that the chairman of the committee has indicated will be forthcoming from the Energy Department.

Mr. FORD. Mr. Leader, if we were to go out tonight, what would be the legislative procedure, then, on Monday? What position would my amendment be in on Monday and what position would the other amendments be in?

Mr. ROBERT C. BYRD. The Senator's amendment would be in the same position on Monday, identically, that it is right now.

Mr. FORD. It would be the pending business when the Senate goes into session?

Mr. ROBERT C. BYRD. It would be the pending amendment and it would be subject to amendment.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I wonder if this might possibly be a way out of the impasse? This evening, vote on the Ford amendment, followed by the vote on the Bentsen-DeConcini amendment, followed on Monday by a vote on the Kennedy substitute at a definite time.

Mr. ROBERT C. BYRD. That would be the natural order of succession if Senators want to proceed in that manner.

Mr. ALLEN. This evening set a definite time for Monday.

Mr. JACKSON. I have an amendment to the Ford amendment.

Mr. ROBERT C. BYRD. The Senator wants to offer an amendment to the Ford amendment and he is not prepared to do that until Monday because he is awaiting some information.

Mr. JACKSON. That is right.

Mr. BAKER. Mr. President, I must say, while I share with the Senator from Alabama the desire to see us arrange the schedule so we can proceed not only

this afternoon, but Monday, it appears to me the best thing to do is let nature take its course.

There are certain things now ahead of us that have to be taken into account under the rules that would require unanimous consent to offer.

For instance, after the time to convene is established, even by an operation of the rules by consent, then proceed to have a cloture vote on Monday, and that will occur, I assume, 1 hour after we convene.

The Executive Calendar on Monday will have one treaty on it that I am prepared to clear for action during that ensuing hour from the time we convene until the cloture vote occurs.

After the cloture vote, then the legislative schedule would be, I believe, exactly as the Senator from Alabama has described it unless there is an intervening amendment from the Senator from Washington.

So it seems to me the most we can do and, probably the least we ought to do, is agree on a time to come in.

I am willing to establish a time to vote on the treaty and know in advance when we will vote on cloture and then let nature take its course.

Mr. ROBERT C. BYRD. Mr. President, I think I have established here by my questions, and also with the aid of my distinguished senior colleague (Mr. RANDOLPH) and others, by their questions and their comments—someone scored.

[Laughter.]

Mr. RANDOLPH. I want to say that scoring comes because of the excellence of the ringmaster, Senator ROBERT C. BYRD.

Mr. ALLEN. Will the Senator yield for a suggestion?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I might point out to the distinguished Senator from Washington who wishes to offer a substitute to the Ford amendment later, actually, the Ford amendment, in the nature of things, is meaningless because this amendment to the bill is going to be wiped out anyhow unless it is offered as an amendment to one of these substitutes

So he would have an opportunity later to offer his substitute. It really would not be prejudiced because this amendment would fall as soon as one of those substitutes is adopted and inevitably will be.

Mr. FORD. May I say to the distinguished Senator from Alabama, I think we are getting an indication how strong this amendment might be at a later date. I would hate to give up on the momentum.

Mr. ALLEN. I am suggesting a vote on it.

Mr. FORD. I am, too.

Let me ask, if I can help the leader in asking a question, after the distinguished Senator from Washington gets his information on Monday morning, is there a possibility that those who oppose my amendment might get with him and develop the substitute, and then we can have a vote, time certain on Monday. Would that help the leader?

I would be willing to get in that kind of position. It gets me out of the way and can move on to other things.

Mr. METZENBAUM. That possibility exists, but I would not want to get the Senator out of the way.

Mr. FORD. I am delighted to. I would like to.

I am about the only thing out here that can be amended. I am beginning to swing a little, but so far, I like it.

Mr. KENNEDY addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think the Senator from Kentucky makes a good point. I think if we could get an agreement to vote on the Senator from Kentucky's amendment, and then an oil divestiture amendment, we could package those together. I think maybe we could make this——

Mr. FORD. I will not accept being put in that position, I can guarantee.

Mr. ROBERT C. BYRD. Mr. President, I think I pretty clearly sense the mood of the Senate at this point.

Mr. SPARKMAN. Will the Senator yield to me for about 30 seconds?

Mr. ROBERT C. BYRD. Yes.

Mr. SPARKMAN. I say with reference to the treaty, I think we can dispose of it within 10, nor more than 15, minutes.

Mr. ROBERT C. BYRD. Would the Senator need any debate on it or could we just proceed?

Mr. SPARKMAN. Nothing more than making a statement. At least Senator CASE has indicated that to me.

Mr. ROBERT C. BYRD. Would the Senator and Senator CASE wish to put their statements in the RECORD or do they want to make them orally?

Mr. SPARKMAN. It will not be more than a couple of minutes each.

EXECUTIVE SESSION—PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of calling up the Protocol to the Convention on International Civil Aviation, Executive A, 95th Congress, first session.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senate, as in Committee of the Whole, proceeded to consider Executive A, 95th Congress, 1st session, the Protocol to the Convention on International Civil Aviation, which with its annex was read the second time, as follows:

PROTOCOL RELATING TO AN AMENDMENT TO ARTICLE 50(A) OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, SIGNED AT MONTREAL, ON 16 OCTOBER 1974

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Having met in its Twenty-first Session, at Montreal on 14 October 1974.

Having noted that it is the general desire of Contracting States to enlarge the membership of the Council,

Having considered it proper to provide for three additional seats in the Council, and accordingly to increase the membership from thirty to thirty-three, in order to permit an increase in the representation of States elected in the second, and particularly the third, part of the election, and

Having considered it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

(1) Approved, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

In Article 50(a) of the Convention the second sentence shall be amended by replacing "thirty" by "thirty-three".

(2) Specified, pursuant to the provisions of the said Article 94(a) of the said Convention, eighty-six as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

(3) Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above-mentioned and the matter hereinafter appearing:

(a) The Protocol shall be signed by the President of the Assembly and its Secretary General.

(b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.

(c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.

(d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the eighty-sixth instrument of ratification is so deposited.

(e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.

(f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.

(g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary of the Organization;

In witness whereof. The President and the Secretary General of the Twenty-first Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

Done at Montreal on the sixteenth day of October of the year one thousand nine hundred and seventy-four, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that excerpts from the report of the Committee on Foreign Relations on this agreement be printed at this point in the RECORD.

There being no objection, the excerpts from the committee report (EX. 95–11) were ordered to be printed in the RECORD, as follows:

PURPOSE

This Protocol, signed in Montreal October 16, 1974, amends article 50(a) of the Convention on International Civil Aviation to increase the membership of the Council of the International Civil Aviation Organization (ICAO) from 30 to 33 Contracting States.

BACKGROUND

The ICAO, a specialized agency of the United Nations, develops principles and techniques of international air navigation and fosters the planning and development of international civil aviation transportation in order to insure its safe and orderly growth.

The ICAO conducts its work through an Assembly in which every Contracting State is entitled to representation. The Assembly elects every 3 years representatives to the ICAO Council as per article 50. The Council is ICAO's governing body and also administers ICAO's finances and collects, examines and publishes data about air services, safety regulations, et cetera.

Since 1947 when the Convention came into force, ICAO's membership has greatly expanded; from 26 to 86 by 1961, when the Council's membership was first augmented to 27. By 1972 the ICAO had 119 members and Belgium proposed that Council membership be increased to 30. The United States at first abstained, but finally joined in order that the Assembly resolution could be passed unanimously. In 1974, ICAO had 129 Contracting States and Belgium again proposed adding between three to six members to the Council. A three-member increase was carried 91 to 1 (and one abstention) with the United States casting the only negative vote because it felt further expansion unnecessary so soon. Now it appears that it will come into force anwyay so the United States considers it in its own best interest to ratify the Protocol.

PRINCIPAL PROVISIONS

1. ICAO Council membership will be increased from 30 to 33.

2. The proposed amendment will enter into force when 86 Contracting States have ratified it.

COMMITTEE ACTION

The Protocol was submitted to the Senate and referred to the Committee on Foreign Relations on January 12, 1977.

On July 26, 1977, the committee held a public hearing on the Protocol, receiving the testimony of the Honorable Herbert J. Hansell, Legal Adviser of the Department of State. In expressing the position of the Department of State, Mr. Hansell said:

"The United States was the one nation which voted against the amendment. However, 52 [of the necessary 86] governments have ratified the amendment, and it is clear that it will enter into force in the near future. In this circumstance, we would like to ratify the amendment."

Mr. Hansell also stated, in response to questioning, that there would be no additional costs to the United States as a result of ratification and there was no opposition to U.S. ratification.

The committee met on September 20, 1977, and ordered the Protocol reported favorably to the Senate for its advice and consent.

COMMITTEE COMMENTS

Although the committee has determined that for reasons of effective U.S. participation and good relations in the International Civil Aviation Organization the Protocol should be ratified, the committee would encourage resistance to future increases in the Council of the Organization. Should the membership of the Council become too large, the body could become unwieldly and the worthwhile work of the organization hampered.

BUDGETARY IMPACT STATEMENT AND COST ESTIMATE

The Protocol will have no budgetary impact and ratification will not require the authorization or appropriation of any additional funds. The dues and other payments of the United States to the International Civil Aviation Organization will not be affected by the Protocol.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, the committee reports that article 50(a) of the Convention on International Civil Aviation signed in Chicago on December 7, 1944, would be amended to read as follows:

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of [thirty] *thirty-three* contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

EVALUATION OF REGULATORY IMPACT

As required by rule XXIX of the Standing Rules of the Senate, the committee has evaluated the regulatory impact of the Protocol and has determined that there would be no impact as a result of ratification.

TEXT OF RESOLUTION OF RATIFICATION PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at Montreal October 16, 1974, Relating to an Amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A, 95–1) without reservation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Treaty Number Executive A, 95th Congress, 1st session, Protocol to the Convention on International Civil Aviation, be considered as having passed through the various parliamentary stages up to and including presentation of the resolution of ratification.

The ACTING PRESIDENT pro tempore. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at Montreal October 16, 1974, Relating to an Amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A, 95–1) without reservation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order, as in executive session, to order the yeas and nays on Executive A, 95th Congress, first session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. ROBERT C. BYRD. Mr. President, I have two other questions to ask of my colleagues, after which, based on the answers, I will then be in a position to determine what time we come in on Monday and what time the cloture vote will occur.

Could we get unanimous consent to vote on Monday before the cloture vote? Could we get unanimous consent to vote on the Ford amendment, the Bentsen amendment as amended, the Kennedy substitute to the Jackson substitute, and the Jackson substitute to the Pearson-Bentsen substitute?

Mr. BAKER. Mr. President, reserving the right to object, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Is the distinguished majority leader seeking or exploring the possibility of a unanimous-consent request to vote in that sequence?

Mr. ROBERT C. BYRD. Yes, in that sequence, before we have the cloture vote.

Mr. BAKER. Does the Senator still anticipate the cloture vote would come an hour after we convene?

Mr. ROBERT C. BYRD. No. If we got consent to vote on those four, I think we should have some time for debating, and by unanimous consent we could establish that time and the time for the cloture vote.

Mr. METZENBAUM. Will the Senator repeat that again?

Mr. BAKER. If the Senator will yield again——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The problem I see with such a request, if such is made, is that after we get past the impasse of a restriction on amendments to Jackson, for instance, let us assume the Ford amendment is adopted or rejected, and let us assume——

Mr. ROBERT C. BYRD. Next would be the Bentsen amendment.

Mr. BAKER. We move next to the Bentsen amendment. We make no provision—or does the Senator plan to make some provision for amendments to Ford or Bentsen?

Mr. ROBERT C. BYRD. Yes. I was wondering if there is a disposition to dispose of those amendments, suggesting time for amendments to such amendments as are amendable, and vote on them then as amended, if amended, and then for the cloture vote.

Mr. BAKER. If the Senator will yield further for just a moment, as far as I am concerned, and I have not checked with everybody on this side, I would favor the idea of regularizing the procedures so

there is a time limit on each of those measures, with the time provision for amendments to those measures, and amendments to amendments, if they are in order.

I do not have times in mind at the moment, but if the majority leader wants to pursue that, we will consider it.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I have not made any request yet.

Mr. KENNEDY. I say to the leader that I would object to that unless there was provision also to include the Bayh vertical divestiture amendment. If that were included, I would not object. Unless there was going to be an opportunity to vote on that up or down——

Mr. ROBERT C. BYRD. Would anyone object to including the Bayh divestiture amendment in this grouping, and we can work out the times? I am merely trying to ascertain whether or not there is a possibility of getting such agreement.

Mr. HUDDLESTON. Is the Senator going to attempt to set a time certain for the cloture vote?

Mr. ROBERT C. BYRD. No. What I am trying to find out at the moment is whether or not there is an inclination on the part of the Senate to stack these votes up, with adequate times for debate, and then vote on cloture. But if there is a single objection to this procedure, regardless of the times that may be involved for debate or any one or more of the amendments, then that answers my next question, and we would simply come in at 12 o'clock and have the cloture vote at 1:15.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I would have no objection to a regularized procedure, but it seems to me that it might be appropriate to establish some time for the cloture vote, setting aside whatever else might be pending; because unless the Senator is able to get a hard and fast time agreement on amendments and amendments to amendments, it is going to be very uncertain as to when a cloture vote might occur. It might be 7, 8, 9, or 10 o'clock.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I will yield on this side first.

Mr. THURMOND. I object to including the divestiture amendment.

Mr. ROBERT C. BYRD. I think that answers my question. Mr. President. The Senator from South Carolina said he would object to including the divestiture amendment in that.

Mr. KENNEDY. I want to indicate clearly that I think most of us would have no objection to the leadership's request if we were able to get a vote on the divestiture issue with a reasonable time limitation. It seems to me to be a constructive proposition.

Mr. ROBERT C. BYRD. I thank all Senators. I do not think there is any possibility of working out this kind of agreement.

We have had a good day. We have had the best constant attendance on the floor and the most serious debate of any day this week.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-2058. A letter from the Secretary of Commerce transmitting, pursuant to law, a report entitled "The Molluscan Shellfish Industries and Water Quality—Problems and Opportunities" (with an accompanying report); to the Committee on Commerce, Science, and Transportation; and the Committee on Environment and Public Works, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Commerce relative to molluscan shellfish industries and water quality be referred jointly to the Committees on Commerce, Science, and Transportation; and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Maj. Gen. Robert Creel Marshall, 081-32-6336, U.S. Army, to be a member and president of the Mississippi River Commission.

Marvin B. Durning, of Washington, to be an Assistant Administrator of the Environmental Protection Agency.

David G. Hawkins, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

Brig. Gen. William Edgar Read, 240-28-5658, U.S. Army, to be a member of the Mississippi River Commission.

Col. Donald Michael O'Shei, Corps of Engineers, to be a member of the California Debris Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL:

S. 2137. A bill to provide that social security benefit increases occurring after December 1977 shall not be considered as income or resources for the purposes of determining the eligibility for or amount of assistance which any individual or family is provided under certain Federal housing laws; to the Committee on Finance.

By Mr. ANDERSON:

S. 2138. A bill to provide Federal assistance for State programs which provide payments on behalf of senior citizen homeowners for the purpose of paying real property tax; to the Committee on Banking, Housing, Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 2137. A bill to provide that social security benefit increases occurring after December 1977, shall not be considered as income or resources for the purposes of determining the eligibility for or amount of assistance which any individual or family is provided under certain Federal housing laws; to the Committee on Finance.

Mr. PELL. Mr. President, I am today introducing legislation that would ease the burden now placed on the nearly one-half million social security recipients living in subsidized Federal housing. This bill, which was approved by the House of Representatives during debate on H.R. 12945 in the 94th Congress, did not receive approval by the conference at that time. I am introducing it now so that the Senate will have an opportunity once again to consider its merits, and this time act favorably.

Mr. President, this bill would prevent social security cost-of-living increases from being treated as income for Federal housing eligibility or rent determination purposes, beginning January 1, 1978.

As the overwhelming vote of the House of Representatives last term indicated, this legislation is urgently needed. Each time social security recipients who live in Federal housing receive cost-of-living increases, their rents go up automatically. According to Federal housing policy, Federal housing tenants should be required to pay no more than 25 percent of their income for rent. Yet this is not always the case. For example, in section 236 housing, low income tenants, including the elderly, last year paid an average rent of $125.82 per month which amounts to 38.9 percent of their income. The intent of the law is not being uniformly carried out and those suffering, as usual, are least equipped to afford high rents. Even those who are only paying 25 percent of their income for rent are unable to afford other necessities.

Statistics show that 43 percent of public housing units nationwide are occupied by senior citizens. In my own State of Rhode Island over 3,000 elderly occupants of Federal housing suffer rent hikes every time they receive social security increases, the most nominal of income increments. The proof of their need has been documented to me in letters, cards, and calls from elderly constituents as well as in the many personal encounters I have had with individuals and senior citizens groups. I know their plight and I know how important this legislation is to them. I urge its most serious consideration by the Senate.

I ask unanimous consent that the text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, social security benefit increases occurring after December, 1977 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this paragraph, the term "social security benefit increases occurring after December, 1977" means any part of a monthly benefit payable to an individual under the insurance program established under Title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program occurring after December, 1977 pursuant to section 215(i) of such Act or any other increase in benefits under such program, enacted after December, 1977, which constitutes a general benefit increase within the meaning of section 215(i)(3) of such Act.

By Mr. ANDERSON:

S. 2138. A bill to provide Federal assistance for State programs which provide payments on behalf of senior citizen homeowners for the purpose of paying real property tax; to the Committee on Banking, Housing, and Urban Affairs.

SENIOR CITIZENS' PROPERTY TAX RELIEF ACT OF 1977

Mr. ANDERSON. Mr. President, today I am introducing S. 2138, the Senior Citizens' Property Tax Relief Act of 1977.

The heavy burden of property taxes on the homes of the senior citizens of this country has become a critical problem in the last several decades because of rapid increases of local property taxes. Increases in property taxes are not welcomed by any homeowner. But it is particularly difficult for senior citizens to bear property tax increases.

When a person retires, he finds that several things happen. Retirement income is less than income when working, and is often more fixed and less able to respond to inflation. Usually the total taxes paid by the typical retiree go down. Total income tax will fall because total income is less, income tax laws provide additional credits and deductions for the elderly, and, often, part of one's retirement income, such as social security benefits, is exempt from taxation.

One major tax facing the majority of this country's senior citizens, however, does not go down as they approach and enter retirement. Local property taxes not only do not go down, they often escalate every year at a rate in excess of any increases in income the senior citizen may receive. This makes it more difficult for senior citizens to remain in the homes in which they have lived, in most cases, for many years before retirement. Often a couple may spend a lifetime obtaining ownership of a home and then find in retirement that the taxes on that house are such that they must give up the home. A home in which they hoped to spend their retirement years, in a familiar neighborhood, and among friends.

Mr. President, I strenuously object to the situations around this country where rising property taxes drive senior citizens out of the homes in which they wish to remain. I know there may be some who believe it is not contrary to the public interest to drive the elderly out of their homes. These individuals object to property tax relief on the grounds that senior citizens take up too much room or should be forced through taxation to sell their homes to younger couples with families. I find this philosophy disgusting. My hope is that the advocates of such a philosophy will some day retire and find themselves forced out of the home they love by high property taxes. Perhaps then they will see the error of their ways.

Mr. President, I do not believe in forcing people out of their homes as a result of the imposition of higher and higher taxes on a fixed income. If a senior citizen wishes to leave a home to move to an apartment or other residence for reasons of preference or convenience, that should be a free choice. My concern is with the thousands of Americans who yearly approach the supposed rewards of retirement only to find that they cannot afford to live in the home they own and have lived in for many years.

Dealing with the problem of high property taxes on the retired is not easy at either the State or Federal level. The complex problems of overlapping levels of local government that all levy property taxes, rapid increases in home values, divided budgeting authority between local and State governments, and the multitude of special problems in different geographic areas of this country making solving this problem difficult.

The States are increasingly playing a major role in reducing the burden of local property taxes on senior citizens. In Minnesota, State government has taken a variety of steps over the past decade to deal with the problem of high property taxes. In 1967, a very limited program was instituted that used State general revenue to reduce the disproportionate burden of property taxes on very low income senior citizens, homeowners, and renters. This provision has been expanded several times since 1967. As Governor of Minnesota, I recommended to the legislature and the legislature enacted a law to provide for senior citizens a State-financed freeze of local property taxes and an expanded income-related property tax relief system. Since that legislation was passed in 1973, this statute has been expanded into a very generous income-related property tax relief program. Current Minnesota law provides for any senior citizen household with an income below $36,000, that the State will pay any property taxes that exceed a certain percentage of income, with certain maximum payments.

For example, a Minnesota senior citizen household with an income of $3,300 and a property tax of $460 pays 0.6 percent of their income in taxes, or $20. The State pays the rest of the local property taxes. At $10,000 and a property tax of $900, the couple pays 1.8 percent or $177 and the State pays $723. At $16,000, and a property tax of $1,300, the household pays $500 or 3.1 percent and the State picks up the remaining $800.

Mr. President, this program in my State, in my judgment, is an excellent one. Minnesota has made a significant commitment to providing property tax relief for its senior citizens. But even our Minnesota program has some problems. Some senior citizens find it difficult to even pay the property tax that remains, even after the State credit is applied. Also, the program cannot be easily transferred to other States. While some States have similar property tax relief laws, other States that depend more heavily on property taxes as a source of tax revenue for local government than is the case in Minnesota, are much harder pressed to finance such a system.

Because of the wide variety of State and local tax systems, it is difficult to design Federal law that would provide some measure of relief to our senior citizens and do justice to all areas of the Nation. State governments must, in the end, design the basic system that fits their own local governments.

Mr. President, there is one method, however, in which I believe the Federal Government can be helpful, that would be of assistance to senior citizen homeowners. It is the system that is established in the Senior Citizens' Property Tax Relief Act of 1977, which I am introducing today.

This system is not a replacement for a properly designed "circuit breaker" property tax relief statute such as the State of Minnesota has enacted. But it would provide a good supplement to such a law and, more importantly, would be of real assistance in those States that have not adopted any property tax relief program for senior citizens. Very importantly, this system would be strictly voluntary.

The concept of the Senior Citizens' Property Tax Relief Act is quite simple. All senior citizen homeowners have at least one major asset. This is their home. Often, it is the only sizable asset they possess. This home has, in most areas of the Nation, and will continue to experience a rapid increase in market value.

But this increase in the assessed value of a home is usually of little use, and sometimes of great harm, to the senior citizen homeowner. If a senior citizen or couple desire to live in the house, the increase in market value brings no realized gain. The inflation in the assessed value of the house does not mean the house has physically changed. It has not grown a new room, nor added a better roof.

So, in most cases the increase in home value is a problem, not a boon, because the local tax assessor then increases the value for tax purposes and thus increases the property taxes on the home. This situation, and increases in the prop-

erty tax rate, frequently makes it difficult for the senior citizen homeowner, usually on a fixed income, to stay in the home.

The inflated value of a home in this case can only be realized by doing the one thing the senior citizen often does not wish to do: sell the home and move out—move away from old friends and relatives to more modest accommodations. If the home is not sold, the increased property taxes may force the sale, when no other recourse is possible.

S. 2138 is an attempt to provide senior citizen homeowners a method, on a strictly voluntary basis to, first, take advantage of the inflated value of their homes; second, remain living in them, and third, continue to hold full legal title to the home, with all of the security and confidence that homeownership provides.

The Senior Citizens' Property Tax Relief Act of 1977 authorizes Federal funds for State governments to pay, on behalf of any qualified senior citizen homeowner, the real property taxes on a home in which the homeowner lives to the appropriate local government unit. Such payments would be repaid interest free to the State administering agency at such time when the senior citizen homeowner dies or voluntarily sells the home. The senior citizen would use the value of his home as security or collateral for the deferred payments but would retain full legal title to it.

The system authorized pursuant to S. 2138 would work as follows. At his option, a senior citizen would apply to a designated State agency to have the agency pay annually the property taxes on his home for him. The payment to the appropriate local government unit would be for the total amount of taxes owed. S. 2138 does provide that a State can set a certain maximum payment to prevent any abuse of the program by those with extremely expensive homes.

In return for the payment of his property taxes, the senior citizen would sign a contract with the State administrative agency. In this contract the homeowner would agree to do several things. First, to keep the home in repair so as to prevent its deterioration. Second, that if the homeowner sells the home, he will immediately repay to the State without interest, the property tax payments the State agency has made on his behalf. Third, the homeowner must maintain insurance on the home, so to guarantee if the home were destroyed that the agency would be repaid its outlays.

The State agency would continue to pay the property taxes of the senior citizen for as long as the senior citizen wished the agency to do so and as long as the total amount of payments did not exceed 90 percent of the unmortgaged market value of the home. Considering the inflation in home values at present throughout this country, the likely effect of this program is that most participating senior citizens would never again pay property taxes.

If the senior citizen dies, the contract would then become due and the State agency would be repaid from the estate of the homeowner, again without interest.

Mr. President, let me briefly illustrate how the program envisioned under S. 2138 can compensate for the injurious effects of increasing property taxes on a senior citizen homeowner.

Take a case of a senior citizen with a home with a market value of $45,000, an equity in the home of $35,000 and a property tax of $1,500 a year. This would be a very high tax for a home of that value in Minnesota, but assuming a high property tax illustrates the advantages of the Senior Citizens' Property Tax Relief Act very well. If property taxes escalated at a rate of 10 percent a year over 10 years, not an uncommon increase at present in many areas of this country, the property tax would more than double and result in a considerable problem for those retired on incomes that are fixed or semi-fixed.

However, if we assume this home is increasing in value at the rate of 10 percent a year, a normal situation in most of Minnesota and in many areas of this country, the annual increase in equity exceeds the increase in taxes. With the sort of program provided in S. 2138, the senior citizen homeowner would never again pay property taxes, and, would not even bear a reduction in the equity in the home.

The implementation of the bill remains impressive if we make more adverse assumptions. If we assume that taxes rise at 10 percent a year, but that the increase in the market value was only half that rate, 5 percent, the results are still attractive. Under these assumptions, after 10 years the senior citizen homeowner has paid no property taxes, and has not yet borne any loss in equity. After 15 years, the senior citizen would have paid no property taxes over that entire period and would still maintain an equity of over $30,000 of the original $35,000 figure. Even after 20 years, with the assumption of an annual increase of property taxes of 10 percent a year that would have increased the annual tax bill up to $10,088, the senior citizen would have paid no property taxes for the entire period and still retain an equity of over $14,000 on his home.

Thus in the end the State and Federal Governments would be repaid every dollar it advanced for the senior citizens' property tax payments. The only cost to the Government would be the administrative costs of the program and the implicit loss of interest on the money advanced until it is repaid. I believe this cost is small compared to the option it would provide many senior citizen homeowners to free themselves of a fixed, heavy tax burden and make use of a large asset, their home, without selling, moving out, or losing title to it, and, the benefits to our society of permitting senior citizens to remain in the homes they love for as long as they like.

S. 2138 requires that an eligible homeowner include a senior citizen owner, the spouse of a senior citizen, or the spouse of a qualified homeowner who remains in the home after the death of the qualified homeowner. The bill covers single family homes, duplexes, and triplexes.

The plan authorized in S. 2138 is strictly voluntary. No senior citizen need participate if the program does not fit his needs. A senior citizen may join the program at any time after reaching the age of 65 and may leave it at any time after repaying the taxes the State had paid in his behalf.

The program is also voluntary so far as State participation is concerned. No State is obligated to create a program. If the State desires to do so, it will administer the payment program and assume the administrative costs of the program. The Federal Government would pay, for its part, two-thirds of the cost of the interest-free loans provided by the State agency. The State would pay the remaining one-third. The Federal Government would also receive two-thirds of the repayments from program participants. States could pay their share of the property tax payment loans either through direct appropriations or by issuing bonds specifically for this purpose. The Federal Government would pay its share in cash and would guarantee two-thirds of the principal and interest of the bonds, if the State should choose to utilize bonds to participate in the program.

S. 2138 is drafted so to give the States, with their differing circumstances concerning property taxes and property law, the ability to adjust this property tax relief program to fit their needs. Only minimum Federal requirements are imposed in the legislation.

Mr. President, let me emphasize again what this bill is. It is one method for State governments, with the assistance of the Federal Government, to relieve senior citizen homeowners from the increasing burden of local property taxes. It is not a substitute for the types of direct relief programs enacted in Minnesota and some other States. In those States, this program would be an excellent supplement to eliminate the remaining burden of property taxes and to fill in some gaps that the direct property tax relief laws cannot cover. In those States without such programs it will provide a great measure of relief, until those States enact a direct relief law. Also, this program is not an excuse for governments at all levels not to control spending so as to control property tax increases.

I wish also to call the attention of the Senate to the simplicity of S. 2138. It does not create a new Federal bureaucracy. The State agency's involvement would be minimal. The program is easy to administer. There are no income tests or needs tests to qualify. In many States, agencies which already exist could easily assume the administrative tasks.

The program does not require a huge outlay of funds. Every loan dollar advanced under this program will be repaid. The only loss to the government is the implicit loss of interest on the funds advanced and for administering the payment system. As I stated earlier, those costs are minimal compared to the potential benefits of the program.

I also wish to note that a few States already have programs similar to the one provided in S. 2138. Several other States have this type of program under consideration. The one that has been in operation the longest, the program of the State of Oregon, has had only limited use by senior citizens to date. The principal reason for the limited use is the interest charges on the deferred taxes. It is for that reason that S. 2138 provides the repayment of taxes shall be free of interest charges.

Mr. President, I ask unanimous consent that a section-by-section summary of S. 2138, the Senior Citizens' Property Tax Relief Act of 1977, be printed in the RECORD, together with the text of S. 2138.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Senior Citizens' Property Tax Relief Act of 1977".

PURPOSE

SEC. 2. It is the purpose of this Act to provide Federal assistance for State programs which provide interest free payments on behalf of any qualified senior citizen homeowner for the purpose of paying real property tax on the home in which he lives. Such payments shall be repaid to the State agency at the time when such senior citizen homeowner dies or sells such home.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "qualified senior citizen homeowner" means a person who—

(A) is 65 years of age or over and owns (wholly or in part) and lives in, as his principal residence, within the meaning of section 1034 of the Internal Revenue Code of 1954, a home which is a single dwelling unit or a separately owned dwelling unit within a multi-unit structure (including a condominium unit), or is a multi-unit structure containing not more than three dwelling units; or

(B) owns (wholly or in part) and lives in, as his principal residence, within the meaning of section 1034 of the Internal Revenue Code of 1954, such a home, and is the spouse of, and lives in such home with, a person who is 65 years of age or over; or

(C) is the surviving spouse of a qualified senior citizen homeowner and lives in, as his principal residence, within the meaning of section 1034 of the Internal Revenue Code of 1954, the same such home in which the deceased homeowner lived, if such surviving spouse chooses to succeed the deceased spouse as a party to any contract for payment of real property tax between such deceased spouse and the State agency and to assume all the rights and obligations of such deceased spouse under such contract;

(2) the term "real property tax" means a tax of general application levied by any taxing authority based upon the value of real property, but shall not include charges for utilities, special assessments, or fees for public improvements;

(3) the term "qualified real property" means, with respect to any qualified senior citizen homeowner, that part of, or interest in, the home (the ownership of which enables him to meet the requirements of subsection (a)) and contiguous land not to exceed ten acres and not occupied by any other dwelling unit, with respect to which such homeowner is responsible to pay the real property tax;

(4) the term "State" means the fifty States and the District of Columbia;

(5) the term "Secretary" means the Secretary of Housing and Urban Development; and

(6) the term "State agency" means the agency or instrumentality designated by or established by the State pursuant to section 5(1).

APPROPRIATIONS

SEC. 4. For the purpose of carrying out the provisions of this Act there are authorized to be appropriated such sums as are necessary. The sums made available under this section shall be used to make payments to States which have submitted a State plan for real property tax relief for senior citizens, as required by section 5, which has been approved by the Secretary.

STATE PLAN FOR REAL PROPERTY TAX RELIEF FOR SENIOR CITIZENS

SEC. 5. A State plan for real property tax relief for senior citizens shall—

(1) designate a single State agency to administer the plan throughout the State;

(2) provide assurances that the State agency will pay from non-Federal sources, the non-Federal share of the costs of carrying out the State plan;

(3) provide that the State agency be authorized to issue bonds to finance activities in furtherance of the purposes of this Act, subject to the conditions in section 7(b);

(4) provide that the State will guarantee the value of the bonds issued by the State agency which are not guaranteed by the United States under section 7(b);

(5) provide that the State will pay all administrative costs of carrying out the State plan;

(6) provide that (subject to any limitations on payment contained in this Act) payment shall be made on behalf of any qualified senior citizen homeowner who has entered into a contract with the State agency which meets the requirements of section 6, for the purpose of paying his real property tax;

(7) provide a uniform, Statewide ceiling on the amount which may be paid in any year on behalf of any qualified senior citizen homeowner;

(8) provide that the State, or any subdivision thereof, shall not treat property owned by qualified senior citizen homeowners in a manner which is less advantageous to the homeowner than the manner in which the State or subdivision treats other similar real property for purposes of assessment, property tax or the imposition of any property related fee;

(9) provide that the State agency shall make such reports, in such form and containing such information, as the Secretary may require, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports;

(10) provide for prompt payment to the Secretary of an amount equal to 66⅔ percent of the repayments collected by the State agency, as required by section 8; and

(11) provide that contracts entered into under this Act are recorded (in accordance with local law) in such a manner so as to properly notify subsequent purchasers of real property of the existence of any such contract.

CONTRACT FOR PAYMENT OF REAL PROPERTY TAX

SEC. 6. In order for a State to qualify for Federal payments and guarantees under this Act, each contract between the State agency and a qualified senior citizen homeowner shall contain provisions to assure that—

(1) the State agency will pay, on behalf of the qualified senior citizen homeowner, the real property tax which is levied upon his qualified real property (as defined in section 3(3)), subject to any limitations on payment required under this Act;

(2) no interest will be charged on such payments;

(3) repayment by such homeowner need not be made for so long as he remains a qualified senior citizen homeowner;

(4) such homeowner will maintain such property in a state of repair which is sufficient so as to prevent any significant depreciation in the value of such property.

(5) such homeowner will maintain insurance on such property, with the State agency as the beneficiary, in an amount sufficient to repay to the State agency the total amount which such homeowner has received under the contract from the State agency in the event that the property is destroyed or damaged;

(6) the amount paid by the State agency in any one calendar year will not exceed the statewide ceiling specified in section 5(7) with respect to such homeowner;

(7) the total amount paid by the State agency on behalf of such homeowner will not exceed a sum equal to 90 percent of the value (as determined by the State agency) of the unmortgaged portion of the qualified real property;

(8) in the event that such homeowner at any time ceases to be a qualified senior citizen homeowner, sells the qualified property, or breaches any contractual obligation, the total amount which has been paid on behalf of such homeowner by the State agency under the contract will become due to the State agency and the amount due, together with additional costs which result from such breach, will be in a lien in favor of the State agency upon the real property with regard to which the payment was made by the State agency, such lien having the same priority as a lien for the payment of real property tax under local law;

(9) upon the death of such homeowner (unless survived by a spouse who continues to qualify as specified under section 3(1)(C)) the total amount of payments which have been made on behalf of such homeowner by the State agency under the contract will become due to the State agency and will be in a lien in favor of the State agency upon the real property with regard to which payment was made by the State agency, such lien having the same priority as a lien for the payment of real property tax under local law; but will further provide that the State agency will not execute any judgment against such property until the ownership of such property has been settled under local law; and

(10) such homeowner may cancel the contract at any time by paying to the State agency the total amount which has been paid on behalf of such homeowner by the State agency under the contract.

FEDERAL PAYMENTS AND GUARANTEES

SEC. 7. (a) The Secretary shall pay to each State having an approved plan under section 5, an amount equal to 66⅔ percent of the amount of the payments made by the State agency on behalf of senior citizen homeowners for the purpose of paying real property tax. Such payments shall be made on a quarterly basis upon verification of the payments made by the State agency, to the satisfaction of the Secretary.

(b)(1) The Secretary is authorized to guarantee 66⅔ percent of the value of bonds issued by the State agency not to exceed a total amount which the Secretary determines to be financially reasonable for such State.

(2) The Secretary shall take such steps as he considers reasonable to assure that bonds guaranteed under paragraph (1) will—

(A) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(B) bear interest at a rate satisfactory to the Secretary;

(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(D) contain or be subject to provisions satisfactory to the Secretary with respect to the protection of the security interests of the United States, including provisions relating to subrogation, liens and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(3) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section.

STATE PAYMENTS OF REPAID SUMS

SEC. 8. The State shall promptly pay to the United States an amount equal to 66⅔ percent of the amount which is repaid to the State agency or collected by the State agency under the provisions of this Act. Such payments shall be made on a quarterly basis.

SECTION-BY-SECTION SUMMARY—SENIOR CITIZENS' PROPERTY TAX RELIEF ACT OF 1977

Section 1: Short Title: "Senior Citizens' Property Tax Relief Act of 1977."

Section 2: Purpose: To provide federal assistance for State programs which provide payments on behalf of any qualified senior citizen homeowner, for the purpose of postponing the homeowner's property tax burden until such time as the home is voluntarily sold or the homeowner dies.

Section 3: Definitions:

(1) "qualified senior citizen homeowner"—

(A) over 65, living in a home as a principal residence, whether a single dwelling or a multi-unit of less than 4 units; or

(B) lives in a qualifying home and is the spouse of a person 65 or older; or

(C) is a surviving spouse of a qualified senior citizen homeowner and lives in a residence, the same home where the deceased owner lived.

(2) "real property tax"—general property tax levied by a taxing authority based on the value of real property (not including charges for utilities, special assessments, or fees for public improvements).

(3) "qualified real property"—qualified homeowners' part of, or interest in, home and contiguous land.

(4) "State"—all states and the District of Columbia.

(5) "Secretary"—Secretary of the Department of Housing and Urban Development, the responsible federal official.

(6) "State agency"—Agency designated or established by a participating state to administer the program.

Section 4: Appropriations: Authorizes such sums as are necessary for the property tax relief loan payment system. Sums may only be used for paying states which submit implementation plans, pursuant to Section 5, and that are approved by the Secretary.

Section 5: State Plan for Real Property Tax Relief for Senior Citizens:

The state plan for property tax relief shall include:

(1) A designated single state agency to administer the plan throughout the state.

(2) Assured payment of non-federal share of costs from non-federal sources.

(3) An authorization for the state agency to issue bonds to finance the program subject to 7(b).

(4) Provide for a state guarantee of the value of the bonds where not guaranteed by the U.S. under section 7(b).

(5) Provide for state payment of all administrative costs.

(6) Provide procedure for the payment of a qualified senior citizen's property tax.

(7) Provide a uniform, statewide ceiling on the amount that may be paid in any year on behalf of any qualified homeowner.

(8) Provide that a state will not treat a homeowner's property less advantageously than any similar real estate for purposes of assessment.

(9) Provide for state agency reports.

(10) Provide for prompt payment to Secretary of 66⅔ of repayments collected by the state agency.

(11) Provide for recording of contracts with homeowners made under the Act to give notice to subequent purchasers of the property.

Section 6: Contract for Payment of Real Property Tax:

In order for a state to qualify for federal payments and guarantees under the Act, each contract between the state agency and a homeowner must include the following provisions:

(1) The state agency to pay on behalf of a homeowner the real property tax levied on his property.

(2) No interest charged on payments.

(3) No repayment by homeowner so long as he remains a qualified homeowner.

(4) The property is to be maintained to prevent significant depreciation.

(5) The homeowner is to have insurance, the state agency as beneficiary, if the property is destroyed or damaged.

(6) The amount paid by a state in any one calendar year will not exceed a statewide ceiling specified in Section 5(7).

(7) The total amount paid by the state agency on behalf of a homeowner will not exceed a sum equal to 90 percent of the value (as determined by the state agency) of the unmortgaged portion of the qualified property.

(8) Where a homeowner at any time ceases to be qualified or sells the property, or breaches any contractual obligation, the total amount paid by the state agency becomes due and will be a lien in favor of the state agency upon the property.

(9) Same as (3), if a homeowner dies (unless spouse qualifies under Section 3(1)(C)) except state agency cannot execute judgment against property until ownership settled under local law.

(10) A homeowner may cancel contract at any time by paying to state agency the total amount on behalf of a homeowner under contract by the agency.

Section 7: Federal Payments and Guarantees:

(a) On a quarterly basis and subject to verification of agency payments, the Secretary to pay the state 66⅔% of the value of the bonds issued by the agency, not to exceed a total amount which the Secretary determines to be financially reasonable for the state.

(b)(2) The Secretary is to take the steps he feels are reasonable to assure the bond program is properly administered.

(b)(3) The full faith and credit of the U.S. is pledged to all guarantees paid under this section.

Section 8: State Payments of Repaid Sums: State to promptly repay on a quarterly basis 66⅔% of amount repaid to or collected by state agency under the provisions of the Act.

ADDITIONAL COSPONSOR

S. 1501

At the request of Mr. GARN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1501, to amend the Truth in Lending Act.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY CONSERVATION IN PUBLIC UTILITY SYSTEMS—S. 2114

AMENDMENT NO. 1025

Purpose: To authorize the Secretary of Energy to prescribe certain rules to protect certain cogenerator and small power producers concerning purchases and sales of electric energy.

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

COMPREHENSIVE NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 1026

Purpose: Makes certain changes in crude oil policy.

AMENDMENT NO. 1027

Purpose: Provides for extension of Emergency Natural Gas Act.

AMENDMENT NO. 1028

Purpose: Exempts State-owned natural gas from price controls.

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted three amendments intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 1032 THROUGH 1036

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted five amendments intended to be proposed by him to the bill (S. 2104), supra.

DIAGNOSIS AND TREATMENT PROGRAMS—S. 1392

AMENDMENTS NOS. 1029, 1030, AND 1031

(Ordered to be printed and referred to the Committee on Finance.)

CHILDREN'S MEDICAID AMENDMENTS

Mr. CHILES. Mr. President, I am today submitting several amendments to S. 1392, the improvements to medicaid for children which were introduced for the administration by Senators RIBICOFF, HATHAWAY, and KENNEDY.

The administration proposal would make several desirable improvements in the current EPSDT—early and periodic screening, diagnosis, and treatment—program. However, in several critical areas, the bill does not go far enough to really achieve its purposes.

For the last 2 years I have been investigating Federal child health programs at health mission budget hearings of the Labor-HEW Appropriations Subcommittee. We have found four major barriers to achieving our goals in child health services:

First, there is a lack of coordination among Federal programs, particularly between medicaid and the grant programs.

Second, the financial incentives to provide medical care for children are not as attractive as those for treating adults, so the mere availability of medicaid financing has not stimulated growth of enough provider capacity to meet service needs.

Third, many States do not provide coverage for basic medical services. The most glaring emission is dental care, which has the highest incidence of disease and lowest rate of treatment for poor children.

Fourth, many medically indigent children fall through the cracks of medicaid eligibility as their families go on and off welfare or because they are just a little above medicaid income levels.

This set of amendments is designed to improve the administration proposal in ways designed to overcome these barriers.

SUMMARY OF AMENDMENTS

The first amendment creates a planning and coordinating structure to meet the fundamental goal of tying screening and treatment resources into an operating network, with case referral, monitoring and followup. The amendment provides full flexibility to the States to determine who can best perform this role in each local area. This flexibility will also allow the system to operate without adding a new layer of bureaucracy and redtape.

The second amendment requires a study of minimum fee schedules and capitation arrangements as answers to the problem of financial disincentives. Unfortunately, there is little available data about fees for basic services in the various States. Action without such a study would entail unknown costs for the Federal Government and the States.

The third part of the package makes basic dental care a mandatory service for children through age 17. Cosmetic orthodontia is excluded to minimize the cost. Ages 4 through 17 is the period of greatest risk, and where a child cannot be expected to have other resources for dental care.

As I stated before, we have found these problems in the existing child health programs by introducing a mission budget approach for the Department of Health, Education, and Welfare.

Mr. President, I ask unanimous consent that to insert at this point in the RECORD a table showing the fiscal year 1977 budget for the child health mission.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I—*HEW Mission Budget, Fiscal Year 1977: Child Health Mission*

Funds for direct medical services to children and adolescents

	Million
Community Health Centers	$80
Maternal and child health grants	214
Hemophilia program	3
Family planning	19
Federal hospitals and clinics	16
Community Mental Health Centers	59
Drug Abuse programs	18
Alcohol programs	8
Medicaid (including EPSDT of 136)	3,710
Cuban refugee assistance	13
Indochinese refugee assistance	14
Medicare	12
Indian health	128
Program support and other	28
Total HEW	4,322

Mr. CHILES. Mr. President, we thus see that while medicaid makes the largest dollar contribution to child health services, it is only 1 of at least 13 Federal programs providing direct medical care to children. The $137 million expenditure for EDSDT is only 3 percent of the total budget for this mission. In addition, we have other programs for preventive services, training, and research.

It is necessary to look at all of these programs together in order to see the best way to meet the deficiencies.

The administration bill seeks to improve coordination by better tying screening to treatment and requiring coordination between medicaid and community health centers. I am pleased that the bill has moved to a more flexible approach than the original proposal, allowing contractual relationships among screening and treatment facilities. We must create clusters of specialized providers in each community if we are going to take full advantage of resources such as school health programs, county and municipal health departments.

At this point HEW data does not even have data to show which communities have none, one or all Federal child health programs operating simultaneously.

LEAD AGENCY FOR CHILD HEALTH COORDINATION

My first amendment is, therefore, a State plan requirement for title V of the Social Security Act, which authorizes maternal and child health services funded under formula grants. Title V contains the broadest mandate and is thus appropriate for a plan that comprehends both medicaid services and grant programs.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

The being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Amendment No. 1029

a. Page 5, line 20, delete, "and ending September 30, 1980,"

b. Page 5, line 25, replace "may" with "shall"

c. Page 6, line 2, delete all words following "pursuant to clause (B)" through line 8, and insert, "if the State certifies that local conditions are such that service can best be provided by a network of providers under a contractual arrangement approved by the local agency for child health;"

d. At the end of the bill, add the following new section:

AMENDMENTS TO TITLE V OF THE SOCIAL SECURITY ACT

SEC. 9. (a) Section 505(a) of the Social Security Act is amended—

(1) in paragraph (2), by—

(A) inserting "(A)" immediately after "(2)", and

(B) adding after and below such paragraph the following new subparagraph:

"(B) provides that the State agency shall designate, for each county (or comparable political subdivision) of the State or (at the option of the State) for each health service area (established pursuant to section 1511 of the Public Health Service Act) within the State, a lead agency, which shall be an agency described in subsection (c)(1) and which shall have the responsibilities described in subsection (c)(2);", and

(2) in paragraph (4), by—

(A) inserting "(A)" immediately after "State agency will", and

(B) inserting immediately before the semicolon at the end thereof the following: ", and (B) submit, not later than the December 31 next following the close of each fiscal year (commencing with the fiscal year ending September 30, 1978), a report with respect to such fiscal year which identifies, within each area with respect to which the lead agency is required to be designated pursuant to paragraph (2)(B), each provider of maternal and child health services which received (directly or through State or local governmental agencies) Federal funds during each year, the amount of such funds received by each such provider, the number of individuals receiving maternal and child health services from such provider, and the per centum which such Federal funds constituted of the entire cost of those services."

(b) Section 505 of such Act is further amended by adding at the end thereof the following new subsection:

"(c)(1) A lead agency, as required to be designated pursuant to paragraph (2)(B), may be a city or county (or comparable political subdivision) health department, a community health center, a health care provider having in effect an agreement entered into pursuant to section 1912(b), a consortium of health service providers, or any other appropriate agency as determined under regulations of the Secretary.

"(2) Each lead agency shall have the following responsibilities:

"(A) to develop a comprehensive maternal and child health treatment system to be composed of maternal and child health centers, migrant health programs, National Health Service Corps providers, school health agencies, clinics, hospitals, and other service providers in the area with respect to which the lead agency is designated,

"(B) to assure that written agreements among providers of screening, diagnostic, treatment and preventive services include adequate provisions for referral, follow-up and case-management, and certify contractual arrangements for purposes of Section 1912(b),

"(C) to develop and implement a program for immunization against childhood diseases, which program shall draw upon all service providers referred to in the preceding provisions of this paragraph, and shall draw upon volunteer services and communications media to stimulate public participation in the program.".

(c) The amendments made by this section shall take effect on October 1, 1977.

Mr. CHILES. Mr. President, the amendment we are proposing drops the 1980 limit in the administration bill on contractual arrangements for service in areas where the State certifies that a contractual network is most suitable for local conditions. We are sympathetic to the desire to tie screening and treatment together and have services provided in a comprehensive way. Unfortunately, in many areas, particularly rural areas, comprehensive care is not likely to be available due to lack of personnel, not just lack of funds. Many valuable screening, diagnostic, and treatment services are provided by local

health departments or clinics. We ought to help them continue their work if they can develop contractual arrangements for the missing service components. In large cities, there are often a variety of specialized services available from clinics, hospitals, and private practitioners. It would be more efficient to add a case-referral and followup component and tie the specialized services into a network by contract, rather than to amalgamate them or duplicate their work with a comprehensive treatment center.

We are aware that to be successful, such service networks must be carefully designed at the local level. It is for this reason that we require the designation of a local lead agency for child health in our amendment. The lead agency would be responsible for developing adequate service networks and certifying their qualification for reimbursement under CHAP. We have 10 or 15 years' experience with the various Federal grant programs for physical and mental health, for alcohol and drug abuse, and social services, to show that comprehensive service providers do not just spring up in the community. They come about as a result of strenuous organizational work by committed individuals on the local scene. We believe that the Federal statute must be flexible and allow each State to decide who is capable of performing that role in each community and designate them as responsible. The ability to obtain the high rate of Federal matching funds for service under the CHAP bill should be a sufficient inducement for local agencies or providers to make the effort.

Mr. President, I believe that this can be the first step in giving the State a flexible method to begin integrating the fragmented set of child health services we have created through our categorical grant system. We are not creating another level of bureaucratic review. Rather, we are giving whichever of the various programs which is best developed in a particular area the wherewithal to become comprehensive through contractual arrangements with other providers, including other Federal programs. I do not believe there is any single nationwide best model for delivering child health service. The best model will vary within States and among States. Our amendment recognizes that diversity and encourages it.

I am very sensitive to the burden created by adding paperwork and reporting requirements to the States. The core of the amendment is to draw programs together and begin to reduce the redtape. However, one single requirement is necessary to begin the process. A lead agency clearly cannot develop comprehensive care network unless it has available an inventory of child health services. In many areas these are being compiled by health systems agencies. Such an inventory is not just a report to the Federal Government, it is a basic tool in the local coordination of services. Without it, there could not be adequate referral or followup as required by the basic CHAP proposal. All we are asking is that these local inventories be collected by the State and transmitted to HEW.

The 13 or more Federal child health programs which I listed above have an unknown degree of overlap. Several are designed to reach underserved areas; several provide special services; several are aimed at particular population groups like poor children or Indians. No one can tell us which are serving the same or different communities. No one can show us where the gaps in coverage are. Perhaps one reason the children's share of Federal health dollars is declining is that no one has documented their needs in a way that will allow us to direct our attention and funds to the gaps in service.

FINANCIAL INCENTIVES STUDY

My second amendment is aimed at the lack of financial incentives to provide child health service under medicaid. It requires the Secretary of Health, Education, and Welfare to report to Congress on the costs and benefits of instituting a schedule of minimum fees for a defined set of basic medical services for children which all States would have to provide. Many States set medicaid reimbursement fees at levels well below actual cost, so that private physicians and clinics cannot afford to provide treatment.

We can see the effects of these disincentives in the declining share of public funding going to children's health services. The percent of public health spending going to the 0–19-age group dropped from 12.8 percent in 1967 to 9.7 percent in 1976. Since this age group represents 33 percent of the population, they are clearly underfunded. This declining percent of public funds going to children is not just due to the increase in hospital costs for the adults and elderly. The percent of Federal funds for physicians' services going to children dropped from 11 percent in 1967 to 9 percent in 1974. Similarly, the children's share of Federal payments for dentists dropped from 39 to 34 percent.

It is clear that just putting out the promise of medicaid funding does not cause the service capacity to increase. I have successfully sponsored amendments to health grant programs to increase appropriations for child health services. To keep a balanced approach, we must also straighten out the financial incentives in medicaid. There are lots of areas already served by hospital clinics and private physicians where it would not make any sense to use a grant to create a new clinic. Rather, we want to set medicaid fees high enough to allow existing providers to serve poor children.

The administration bill seeks to remedy these disincentives by increasing the rate of Federal matching. I have several objections to this approach.

First, States which are inclined to save money by cutting services are likely to absorb the increased Federal share as fiscal relief, rather than raising fee schedules. Second, when Federal matching gets as high as 90 percent, the States lose their incentive to closely monitor the cost and adequacy of service. Finally, the extra match only become available for care in comprehensive treatment settings. Many services can be provided more efficiently in noncomprehensive settings, such as a dentist's office.

I would envisage a set of minimum fees only for a defined set of basic children's medical services with differentiations by region and for rural versus urban areas. This would keep the system from spreading medical price inflation from one area to another.

I would like to see this provision take effect immediately. Unfortunately, the data on fees currently available is so minimal that neither HEW nor the Congressional Budget Office have been able to develop an estimate of what this provision would cost the various States and the Federal Government. I have therefore written it as a requirement that HEW gather the appropriate data and submit a full analysis of the costs and service benefits of setting such a fee schedule or of instituting a capitation approach, which some people have suggested as the most cost-effective method.

I must note, Mr. President, that I have been disappointed to learn how few hard numbers are available about medicaid fees. Here the Federal Government is spending 57 percent of a $21 billion program, and HEW does not even have a survey of how much various States are paying for basic medical services. We need this data for cost containment and for national health insurance planning, even if we were not interested in financial incentives for children's care.

Mr. President, I ask unanimous consent that the text of my second amendment appear in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1030

Add at the appropriate place: "Minimum Fee Schedule Study"

SEC. 9. By March 1, 1978, the Secretary of H.E.W. shall submit to Congress an analysis of the costs to the federal government and the States and of the service benefits to be derived, from setting a schedule of minimum fees or capitation payments for basic medical services to children and adolescents. Such schedule shall include differentiations of cost by region and by urban versus rural areas. For the purpose of this amendment, basic medical services shall include:

1. Screening and diagnosis for physical or mental impairments;

2. Outpatient treatment at hospitals or free-standing clinics;

3. Physicians services, including inoculation;

4. Dental care necessary for the relief of pain and infection and for restoration of teeth; cosmetic orthodontia is not included;

5. Inpatient hospital treatment for acute disorders.

DENTAL CARE AMENDMENT

Mr. CHILES. Mr. President, the third amendment I am offering is a requirement that the States provide medicaid coverage for routine dental care for eligible children through age 17. I was shocked to find that only 34 of the 50 States reimburse for dental care. The only reason for this limitation is cost, particularly the massive costs of orthodontia. Dental care for children is clearly

a medical service. Untreated dental problems produce not just pain but also permanent physical impairment. Many poor children sit in school distracted from their studies by pain caused by dental problems. Speech impairment often results. Nowhere are the benefits of preventive services more clearly apparent. When we fail to provide routine dental care at early ages we end up paying much greater costs later on for the complications and impairment that result. Every study of children's medicaid that I have seen has reported two consistent findings: Dental problems have the highest incidence of any disorder among poor children, ranging from 75 to 90 percent, of all reported disorders; dental problems have the lowest rate of treatment. It seems clear to me that modification of the Federal law is required.

The intent of the medicaid law is that poor children should be entitled to the basic medical services enjoyed by others. Dental care is one of these basic services. No one has been able to tell me a medical reason why dental disease is any less debilitating than other diseases. Its exclusion from coverage is an arbitrary attempt to save money that undermines the whole central intent of medicaid.

To limit the costs, the amendment limits the requirement to eligible children through age 17, and excludes cosmetic orthodontia. By linking this amendment to the availability of increased Federal matching under the administration bill, the increased costs to the States will be held to a minimal level. HEW estimates that for the first full year, this amendment would cost $197 million, based upon an average of 2.5 dentist hours per child at $60 per dentist hour, or $150 per child per year. Other analysts feel that the average cost could be held to $45 per hour, reducing the annual cost to $150 million. Dental care for children under medicaid in California has cost only $77 per child, or half the HEW estimate. Since there will only be about one-quarter fiscal year effect until the law is passed, regulations are written and services actually provided, fiscal year 1978 costs will be in the range of $25 to $50 million. This money has been assumed in the second budget resolution, so there is no budget problem.

Mr. President, I ask unanimous consent that the text of this third amendment appear at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1031

a. Page 3, line 12, delete "and (ii) dental care when not for the treatment of conditions discovered during an assessment."

b. page 3, line 18, before the quotation marks insert: "and (H) for payment at reasonable cost of routine dental care for all persons up to and including age 17 who are otherwise eligible under the state plan. For the purposes of this paragraph, routine dental care shall include dental care necessary for the relief of pain, for the prevention and treatment of infection and for restorative dentistry; it shall include replacement of teeth or orthodontia only for conditions causing major physical handicap, not for cosmetic purposes. The Secretary shall define by regulation which procedures are appropriate for different age groups and conditions, to insure that services covered are nonduplicative and cost-effective."

c. page 8, line 20, delete "dental and".

Mr. CHILES. Mr. President, I believe that with the addition of these three amendments to the administration bill we will have a package that substantially corrects the defects in the current medicaid program for children at a minimal cost. It has become commonplace to talk about the desirability of providing incentives for prevention and early intervention in medical care. This is a situation where we have a concrete opportunity to see that it is done. Dental care for children is a classic case of where relatively small expenditures early on can prevent large expenditures for later infection or surgery. The benefits are rapid and certain.

I commend President Carter and Secretary Califano for the high priority they have assigned child health by making the basic proposals, and I commend Senators RIBICOFF, HATHAWAY, and KENNEDY for introducing the administration bill. The bill, with these amendments, remains a limited but significant improvement in medicaid for children. It does not attempt to tackle all the problems in child health care, nor to go halfway to national health insurance. We have examined in great detail the barriers to success in the existing program and drawn specific provisions to overcome those barriers. Some improvements can only be achieved by better administration at Federal, State, and local levels. We have not attempted to write administrative procedures into the law. Rather, we have tried to give administrators sufficient resources and a workable structure so that they can respond to local conditions. I hope my colleagues will join me in supporting a full package of coordinated child medical services.

ADDITIONAL STATEMENTS

LET US HEAR THE OTHER SIDE OF THE RHODESIAN STORY

Mr. HARRY F. BYRD, JR. Mr. President, a group of moderate black Rhodesian leaders, including two members of the Rhodesian Parliament, desires to come to the United States to meet with veterans' groups and other organizations.

The group got as far as Bonn, West Germany, at which point the American State Department denied the black Rhodesians visas for entry into the United States.

As a result of the State Department action, the senior Senator from New Jersey (Mr. CASE) and the senior Senator from Virginia, sent the following telegram to Secretary of State Cyrus Vance:

We are advised that a group of moderate black Rhodesian leaders, including two members of the Rhodesian Parliament, now en route to Washington, is being delayed at Bonn, West Germany, and that your Department is denying visas for the entry of these black leaders into the United States. The Rhodesian group is scheduled to meet with veterans groups and other organizations and with the press. We strongly urge the issuance of the requisite visas. Failure to admit these black Rhodesian leaders would seriously affect U.S. support for the tradition of freedom of speech and exchange of ideas.

CLIFFORD P. CASE,
U.S. Senator.
HARRY F. BYRD, Jr.,
U.S. Senator.

In reply to the telegram, the State Department this morning informed my office that it is contrary to State Department policy to permit officials of the Rhodesian Government, even though they be black members of the Rhodesian Parliament, to enter the United States.

To me it is obvious that the State Department does not want the American people to learn the other side of the Rhodesian story. The State Department has its own biased approach to the problems of Rhodesia.

It has been unwilling to permit the Prime Minister of Rhodesia, Mr. Ian Smith, to come to the United States so that he might present his viewpoint—and now it is not even willing to permit black Rhodesian leaders who have a different point of view from both the State Department and Mr. Smith to come to the United States to present such views.

So the American people are permitted to learn only the extremist views of a small group in the State Department who are attempting to force their own solution to the many problems now existing in Southern Africa.

Ever since the days of Thomas Jefferson, the United States has had a tradition of freedom of speech. Most Americans feel that a free exchange of ideas is desirable, even though a majority may not agree with such ideas.

It is unfortunate that the State Department does not adhere to such a basic American principle.

THE CITY OF BURLINGTON, N.C., HAS HAD ENOUGH OF THE PROBLEMS CAUSED BY PUBLIC HOUSING

Mr. HELMS. Mr. President, I recently received a letter from Joe Barbour, Jr., mayor pro tem of the city of Burlington, N.C. He indicates to me that the Burlington City Council is in the process of requesting that the Department of Housing and Urban Development not approve any more apartment units for the city of Burlington.

The mismanagement of these units has become a headache to the city, and especially to the police department. Further, as Mr. Barbour put it:

The builders make money on these projects, and they leave town and the city has to provide all the usual city services for the occupants, which means that our city taxpayers end up subsidizing these people . . . We do try to provide equal services to every resident of the city, but we don't want to attract any more people who will just be a drain on our economy.

This is just one more example, Mr. President, of the chronic difficulties caused by Federal housing programs. I know Mr. Barbour and the people of Burlington. They are good and magnanimous people, and desire nothing but the

best for all residents of Burlington, rich or poor. But they realize in a firsthand way—a way the Washington bureaucrats cannot understand and frankly do not care to understand—that these Government plans and schemes work little more than havoc.

The Federal housing program will surely go down in history as the ultimate Government absurdity. Presumably, the major objective, the raison d'etre, of a housing program is to build houses. So what do we have? For instance, from 1950–68 the Government demolished 1,646,000 houses, while it built 559,000 public housing units. The Federal housing program has given us 1,087,000 fewer houses.

Some will reply that even though more houses were destroyed than were built, substandard houses were destroyed while good houses were built. Perhaps so. But who is living in these new houses? Or more to the point: How have the poor fared who lived in the substandard housing? The answer is not very well. The situation has been brilliantly described by Richard Craswell in his excellent study, "The Failure of Federal Housing." Mr. Craswell discusses the plight of the poor in the urban renewal program:

> To begin with, it is necessary to consider a few features of the problem the program was aimed at. In these blighted areas, the houses and buildings were not dilapidated because the people enjoyed living in substandard housing. The main reason these areas were in such condition was that this was the best the inhabitants could afford: either they were unwilling to spend money improving their homes because they preferred to save it for other things, or (much more commonly) they simply didn't have the extra money to spend. Given these people's incomes, substandard housing was the best they were able to afford.
>
> When the urban renewal plan was put into effect, then, what happened to the supply of substandard housing? The only justification a councilman or commissioner could offer to his constituents for having spent hugh sums of money over a seven year period was to be able to point to fine new buildings where a slum once stood and be able to say, "But for government and urban renewal, this would not have been possible." It would have been patently absurd to replace an existing slum with yet another slum, so the land was cleared. The substandard housing was destroyed, and in its place were built high-rise apartments, office buildings, and schools (many of which would have been built anyway but were shunted to the renewal area so the federal government would bear part of the cost), an occasional civic center or park: in general, impressive new buildings which would make the area a respectable part of the city.
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> But what of the residents of the former "blighted areas"? They could not move back into the renewed area; while two-thirds of all substandard housing units rented for less than $50 per month (and 97 percent for less than $100), the median monthly rent in renovated areas was $187 in 1967. Some public housing units were built in the area, but by June 1971 this came to a grand total of only 28,230 units—as opposed to over 400,000 housing units destroyed to clear the land for these projects.
>
> These people were already living in the best housing they could afford: the effect of the program was simply to force them into other areas of the city where they had to accept even poorer housing. Furthermore, the destruction of low income housing and the dumping of the inhabitants into an already scarce housing market, increased the demand for the remaining low rent housing, the cost of that housing went up, and the quality of housing the people could afford was reduced even further. While the program may have eliminated one slum, it did so only by expanding five others.

One could go down the rest of the list of housing schemes—rent controls, public housing projects, rent subsidies, rehabilitation programs—and the same story could be told time and time again. Fortunately, private enterprise continues to provide housing. Otherwise, the situation might evolve into a castrophe. Because of private endeavor, between 1950 and 1970, the proportion of American houses rated "standard" rose from 66 percent in 1950 to 94 percent in 1970. Private industry contributed 32.4 million units, or 97.1 percent while the Government, despite all the billion spent, provided only 1 million units, or 2.9 percent. Further, since the 1 million units credited directly or indirectly to the Federal Government are in considerable measure canceled by the net destruction of 1 million housing units, one could say that the Federal Government has contributed nothing at all, except perhaps for keeping thousands of bureaucrats well clothed and well fed, and presumably in very good housing.

The same mentality that argues that Federal housing, despite overwhelming evidence to the contrary, is the housing cure-all, is the same mentality that favors price controls, the forced busing of schoolchildren, and subsidized public transportation. It is the mentality that believes it is possible to decree happiness by Government edict, and to create wealth and a "great society" by more programs and more money.

Of course, even a schoolchild can understand, although apparently some politicians cannot, that Government cannot create wealth. Only the productive efforts of individual citizens and businesses create wealth. All Government can do is redistribute the wealth. If it gives to one group of people, it must take from another. It may take through taxes or through inflation, but take it will.

And the worst part of it is that the group that supposedly is to benefit is always shortchanged, because long before they ever receive the money taken from the donor group, a huge bureaucratic rakeoff is taken out. Further, the money taken from the working taxpayers and given to the recipient group is often spent on things the recipient group does not want or need. So everybody ends up much poorer.

This is precisely what is happening in Burlington. The occupants of the public housing projects cannot pay the full cost of their occupancy. So the other citizens of Burlington must subsidize this project. Not only must they pay their taxes to the Federal Government to subsidize the HUD bureaucrats' salaries, but they must pay more taxes to the city of Burlington.

This means there is less money available for other things. Among those other things is capital for private housing and money for more jobs. How many Burlington residents are unemployed because funds are being siphoned off by Government? As a result of their unemployment they receive yet another subsidy in the form of welfare, and yet more money is siphoned off.

If anyone doubts the futility of the Federal Government's involvement in housing, let him ask himself just one question. If he had $50,000 with which to build a new house, whom would he rather hire to build it—a private builder, or a special HUD construction team? The answer is obvious. If the relatively well-off person would not want the Government building his home, why inflict the Government on the poor? So much better to have some of that money going to Washington, and use it to create jobs and other economic opportunities for the lower economic classes, so that they can have the means to move out of slum housing and into something better.

The well-situated and comfortable Federal bureaucrats may sneer and cackle, but is this not what the "American dream" is all about? A person is no friend of a poor man if he relegates him to a lifetime of marginal subsidized housing. If a man is hungry, the easy way to express concern is to give him a fish. But it takes real care and love to take the trouble to teach him how to fish.

Of course the bureaucrats, with all their self-proclaimed wisdom, cannot understand this. Because I mentioned "fish," they will probably refer these comments to their section on maritime housing for further review. But people like Joe Barbour and the people of Burlington do understand. It is always a blessing to know that there are some folks back home with some good, commonsense.

WOMEN IN COMBAT

Mr. PROXMIRE. Mr. President, on September 1, 1977, the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee held the second in a series of hearings on the role of women in the military. At that hearing representatives of several women's groups and two high ranking women military officers scoffed at the services' timid use of women and agreed unanimously that there was no reason why women should not be deployed in combat.

The services—through legislation, regulation, and tradition—have excluded women from a large number of broadly defined "combat" jobs including long-range missile launch officers, missile repairmen, aircraft load masters, inflight refueling operators, and ground surveillance radar crewmen. As of today no Navy women may serve on any Navy ship, except for hospital ships and transports, of which there are none. The irony of this regulation is that Army and Air Force women may serve on board Navy ships, but trained female Navy personnel—including Naval Academy students—may not. To its credit the Navy is pushing legislation to open up shipboard opportunities for women on ships in peacetime.

There is no reason why a woman could not fulfill the duties of the jobs mentioned above. Excluding women from

these jobs not only unfairly limits promotion opportunities for women but also weakens our defense effort by keeping qualified personnel from serving.

Army nurses in the Pacific, the WACS in Europe in World War II and the WASPs—Women's Air Force Service Pilots—have proved that women can significantly add to the war effort. Women have given their lives for this country and are ready to serve in peacetime as in war.

Some critics have expressed reservations about women's lack of strength in direct combat. It may be that women as a group are not so strong as men, but I believe that soldiers should qualify for combat on an individual basis and should not be disqualified by gender. Some male soldiers are not physically capable of combat, either. Besides, in modern warfare it is estimated that less than 8 percent of the total Armed Forces would be combat infantry in time of war.

Women have traditionally been used as infantry support behind combat lines, and they are being trained in defensive combat since the support units also come under enemy attack.

The Philadelphia Evening Bulletin of September 16 offered a succinct editorial view of this matter.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COMBAT READY

Major General Jeanne M. Holm, Retired, former chief of women in the air force, says Congress ought to repeal laws prohibiting the use of women on Navy combat ships and air crews on combat missions. So does Colonel Mary A. Hallaren, Retired, former director of the Women's Army Corps.

When WAC's served in London under buzz-bomb attack, Colonel Hallaren reminds us, "no one ever asked for transfer to a safe billet". Working with men and women over the past 50 years in and out of the army has convinced Colonel Hallaren that "it is the individual and not the gender that determines a person's strength under pressure".

Well, it doesn't take the general and the colonel to convince us that modern women are combat ready. They can be very tough indeed and they live longer than men, too. In this technological age it could be an easy step from the electric kitchen to electronic missiles control.

TRAINING OF SCHOOL CAFETERIA WORKERS

Mr. DOLE. Mr. President, the need to provide more and better opportunities for school cafeteria personnel to upgrade their knowledge and skills in managing a food service operation has long been recognized. Personnel training is a must if we are ever going to increase the quality, as well as the safety of meals served in schools. It is a goal of all persons concerned with improving the nutritional integrity of school meals.

It is also reassuring to the American taxpayers who are aware of the financial "investment" being made in child nutrition programs—with a fiscal year 1977 budget of over $2.8 billion and a fiscal year 1978 budget of over $3.1 billion.

I understand there are more than 350,000 school cafeteria employees in the Nation, and many have the desire to upgrade their performance in cooking and serving good meals. One State is well on the road to helping them achieve this. North Carolina is the first of all States to require a certification program for school cafeteria workers. As of June 2 of this year, school food service employees will have to meet established minimum standards in order to work in the State of North Carolina. More than 13,000 food service employees will be affected by this new State policy.

Mr. President, I would like to share this achievement with my colleagues, and I ask unanimous consent to have printed in the RECORD the following passage from the September 1977 issue of the American School Food Service Association Journal. At the same time I would like to extend my congratulations to Ms. Carolyn Coble, president of the North Carolina School Foodservice Association and her membership. And wish them well as they go forward to effectively implement this certification program.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE CERTIFICATION PROGRAM PASSED

RALEIGH, N.C.—North Carolina's State Board of Education passed a proposal providing for a certification program for all state school foodservice employees. In passing the measure, North Carolina became the first state to offer this type of program.

"Certification," says Frances Carr Parker, R.D., certification committee chairman and 1976–77 North Carolina SFSA president, "is not a new idea. It has been in the mind and in the work of North Carolina's School Food Service Association for the past 23 years. The certification committee," she continues, "had been in limbo for years. Everyone wanted certification but no one seemed to really want to push it. It took Lib McPherson (NCSFSA past president and 1977–78 ASFSA southeast regional director) to buttonhole SDPI (State Department of Public Instruction) and start the action rolling."

Comments Dr. Jay Caton, ASFSA director of education, "The North Carolina achievement represents a significant step for child nutrition professionals all over the country. . . . With thirty five states implementing or planning to implement the ASFSA program, North Carolina has set a worthy goal."

As of June 2, 1977, North Carolina school foodservice employees will have to meet established minimum standards in order to work in the state.

Certification had received a shot in the arm back in November 1972 when the U.S. Department of Agriculture (USDA) provided a grant to SDPI-School Food Service Division for a project on the campus of the University of North Carolina in Greensboro (UNC–G). These funds covered two summers' worth of classroom instruction.

This project was entitled "Operation Improvement—Child Nutrition Programs." During the summers of 1973 and 1974, employees representing 100 counties across the state were selected to attend a week of intensive classes designed to upgrade foodservice skills.

Classes were assigned on an interest/need basis. Topics offered were (1) nutrition/child growth and development, (2) menu planning, (3) quantity food production, (4) equipment care and use, (5) sanitation and safety, (6) organization through management, (7) procurement, and (8) nutrition education and merchandising.

Classes were so much in demand that a third year was offered at UNC–G (summer 1975). In addition, classes were offered at Appalachian State and Western Carolina Universities. "If they couldn't come to us, we went to them," says Mrs. Parker. "We also offered a couple courses to UNC–G graduate students."

Says Mrs. Parker emphatically, "This positive attitude towards the classes points in one major direction. North Carolina school foodservice employees, on all levels, are willing to get, on their own time, any training and education offered them."

After many long, dedicated hours, the certification committee, Mrs. Parker, and numerous others were rewarded this past summer with the passage of the certification program by the State Board of Education.

More than 13,000 North Carolina foodservice employees will be affected by this new state policy. Says Mrs. Parker, "This procedure can only make for better programs, better meals, better fed children, and healthier children in our state."

KREMLIN SILENCES DISSIDENTS BEFORE BELGRADE MEETING

Mr. CASE. Mr. President, I would like to draw the attention of my colleagues to an article which appeared in the Washington Post on September 22, 1977. The article is consistent with the description I gave in the Senate this past Monday—CONGRESSIONAL RECORD, September 19, 1977 page 29811. In this piece, entitled, "Kremlin Silences Dissidents Before Belgrade Meeting," Kevin Klose outlines the many repressive actions which have been taken by the Soviet authorities against their domestic critics. On the eve of the Belgrade meeting, this article provides a useful overview of the present situation in the U.S.S.R. including the Soviet claims that all dissident activities are criminal and have paid connections to Western intelligence organizations.

In the interest of accuracy, I note the observation in the Washington Post article that the Helsinki accords "includes provisions in its third segment, or "basket," for freedom from political imprisonment." It is a common misapprehension that all human rights provisions are included under basket three. In fact, the broadest statement of human rights is under principle VII under basket one, and it is there that affirmations of the rights of freedom of conscience, belief, and religion are contained.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KREMLIN SILENCES DISSIDENTS BEFORE BELGRADE MEETING

(By Kevin Klose)

MOSCOW.—With just a few weeks before the opening in Belgrade of what may be a major east-west debate on human rights, the Kremlin—through arrests, threats and deportation—has all but throttled the tiny, vocal group of human-right activists whose inquires and reports could form an important part of the allegations that may be discussed at the conference.

While achieving their goal of virtually silencing critics, the Soviet leaders have:

Sharply criticized President Carter's public shows of support for the dissidents.

Warned their East European allies about the dangers of dissidence.

Told the rising Communist parties in the West that the new Soviet constitution, now pending, shows individual freedoms to be at an all-time high.

"As a damage-limitation policy, they've succeeded," commented one well-informed Western diplomatic observer. "They have nearly broken the link between the dissidents and the Western press. . . . There is a lack right now of dissident figures who can attract questions from the West."

Concern among diplomats here is shifting to what many say will be the next phase of the repression of dissenters; a public show trial of a jailed human-rights activist.

Recent history shows the Kremlin capable of disregarding outcries in the West and proceeding efficiently at stoppering dissent. Of 10 original members of a citizens' group formed last year to monitor Soviet compliance with the human-rights provisions of the Helsinki agreement on European security, four have been arrested, three sent abroad, and one is in Siberian exile. Two others, including Elena Bonner, wife of Andrei Sakharov, have not been subject to formal action.

Two Ukrainian activists have been tried, convicted and sentenced to long terms of hard labor for their attempts to file reports about human-rights troubles there.

Numerous others who were active in dissident circles have been given exit visas to Israel whether they initially sought them or not. One in that category is Valentin F. Turchin, 56, a computer expert who was given permission to leave last week. Earlier this year, Turchin said he did not choose to leave the Soviet Union. Since then, he has been subjected to questioning, threats and isolation and has had to consider what becomes the final, grim choice here of so many like him: Leave the country or go to jail.

As the summer waned, Western diplomats speculated on the future of a possible trial of a dissident, with some guessing it could take place well in advance of the Belgrade reviews of the Helsinki accords so the Soviets could, in the words of one source, "get things cleaned up in time for Belgrade."

Now, most informed observers here think any trial could be put off until after Belgrade, giving the Soviets time to bargain whatever they can at the conference without having to worry about the possible consequences of a blitz of bad publicity which could be sparked by any trial.

The United States and Soviet Union are clearly heading for a clash in Belgrade on the issue of human rights, with each side accusing the other of gross violations of the so-called "basket three" provisions of the agreement that was signed by 35 nations in Helsinki in 1975. That accord sets forth basic principles of European security and cooperation and includes provisions in its third segment, or "basket," for freedom from political imprisonment, and easing the bars to emigration and reunification of families.

Foremost in the minds of most Western sources here when talk turns to a possible trial is Anatoly Scharansky, who reportedly faces charges of treason, a capital crime. Scharansky, a young computer technician, was a member of the Moscow group that sought to monitor Soviet compliance with the Helsinki agreement. He signed several of the nearly two dozen reports they issued during 1976 and early 1977 on alleged abuses of individual freedoms.

Scharansky, a Jew, is a "refusednik," a person who has been refused permission to emigrate. As such, he was a member of a community of Soviet citizens scorned and vilified by officialdom and almost invariably sacked from their jobs within a short time of applying to emigrate.

The two other prominent jailed dissidents are Yuri Orlov, founder of the Moscow branch of the Helsinki monitoring group, and Alexander Ginzburg, who was a monitor and also administrator of a fund for political prisoners and their families financed by royalties from the works of Alexander Solzhenitsyn, the expelled Nobel laureate writer.

The causes of the three men has been widely publicized in the West and their plight taken up by various groups in America and Western Europe. One source here speculated that "if they put Scharansky on trial, the American Jewish groups are truly going to raise hell. They are a real political force and have clout in the U.S. They can pressure American firms not to trade with the Soviets, demonstrate at Soviet fairs and embassies, and there may even be new legislation in the Congress that would be a rebuff for staging a Scharansky trial."

The Soviets have tried to paint all the dissenters as akin to common criminals and, by doing so, to clear the way for whatever fate the state may find their due. The head of the KGB, the Soviet secret police, recently spent about a third of a lengthy televised speech denouncing dissidents as "an isolated band of renegades." Yuri Andropov described them as "a few people who have cut themselves off from our society . . . on a course of anti-Soviet activity," who "violate our laws, supply the West with slanderous information, spread false rumors and try to organize various anti-social provocations."

He said the dissidents exist "only because the enemies of socialism brought into the business the Western press, diplomatic and intelligence as well as other special services," he said, adding that dissidents are "generously paid" in hard currency.

Andropov also said that there are fewer persons in prison now for anti-Soviet activities than at any time since the 1917 revolution, a statement clearly intended for the ears of West European Communists, some of whom have criticized the Soviet Union for its handling of the dissidents.

The KGB chief's speech was followed in a few days by a series of unusual scenes at the Moscow international book fair, where a number of dissident writers appeared daily, including Vladimir Voinovich and Lev Kopelev. Voinovich later told reporters that he had been subjected to close "tailing" by several security men. Western sources commented that the apparent free travels of the writers was "an important ingredient to the Soviets in their attempt to look good at Belgrade," as one source put it. "They know the American publishers are deeply committed to questions of freedom to publish, and that the Americans also have things . . . the Soviets want to do business with them and so they were careful not to interfere. But it signals no real change in attitudes at the top."

As for the future of the dissident community, a person who has observed it for some time and has close ties to it said recently, "There are a number of people who want no contact with Western diplomats or reporters. They are part of a secondary group that lends support to the public dissidents, but is unknown to Westerns. They are falling back a little, just now, but they are there. It may be that in time, they will be heard from themselves."

THE GENOCIDE CONVENTION: TIME FOR RATIFICATION IS NOW

Mr. PROXMIRE. Mr. President, in May of this year, extensive hearings were held on the Genocide Treaty. Support was voiced, and the standard objections were once again refuted. However, to this day, the treaty remains as it was 28 years ago, pending Senate approval. As a result of this delay, a new objection has emerged: Why should we act favorably on the Genocide Convention now—after all these years?

During those hearings, the Honorable Arthur J. Goldberg, on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties, made a statement summarizing the need for ratification now.

Mr. President, for the benefit of my colleagues, I quote Mr. Goldberg:

The answer, it seems to me, has three parts:

First, the Genocide Convention outlaws action that is repugnant to the Amercan people. We should not decline to affirm our support for principles of international law and morality which we believe in. Our country was founded out of a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. I believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting this Convention at the last session of Congress. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder.

Second, our failure to adhere to this Convention is an unnecessary diplomatic embarrassment. Seventy-five countries have now ratified the Convention. We are the most prominent United Nations member that has not. When I was United States Ambassador to the United Nations, I was often asked to explain our failure to ratify the Genocide Convention. Frankly, I never found a convincing answer. I doubt that anyone can. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose. A continuing dedication and reaffirmation of the humane principles of our Bill of Rights and Constitution is very much in order.

Third, our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of Genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles. I do not say that our adherence to this Convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. I believe the same may be true of the Genocide Convention, if we only give it a chance.

I echo Mr. Goldberg's call for action and urge the Senate to realize and rectify the fact that ratification is long overdue.

TRIBUTE TO FORMER SENATOR HAYDEN

Mr. GOLDWATER. Mr. President, on October 2 of this year we will reach that point of the 100th anniversary of the birth of Senator Carl Hayden of Arizona. It was not just my honor to have served many years in the Senate with this fine gentleman, it was my greater honor, I believe, to have known him literally all of my life. And before that the lives of his family and mine were entwined throughout the entire development of the territory and State of Arizona. There probably will never be another man in the history of our country who will serve as long as Carl served in our Congress, nor can there ever be one who will serve as well! Thanks to the efforts of Dr. Donald A. Ritchie, associate Senate historian, there is available a sketch of Senator Hayden's career, and I ask unanimous consent that this sketch be printed in the RECORD.

There being no objection, the sketch was ordered to be printed in the RECORD, as follows:

CARL TRUMBULL HAYDEN (OCTOBER 2, 1877–JANUARY 25, 1972)

Of all the men and women who have served in the United States Congress, none has equaled the record set by Carl T. Hayden. He arrived as the first Representative of the new state of Arizona in 1912, at the age of 34, and retired as the state's senior Senator in 1969, at the age of 91. Hayden spent 56 consecutive years in Congress, with an unprecedented 42 years in the Senate.

Carl T. Hayden was born in the frontier territory of Arizona in 1877, at Hayden's Ferry (now Tempe). After attending Stanford University, he returned to take charge of his family's general store and flour milling business. Active in local politics, and a delegate to the 1904 Democratic Convention, Hayden first rose to prominence as sheriff of Maricopa County. Driving his Apperson Jackrabbit automobile, he overtook and captured, without a shot, a band of train robbers who had held up the Phoenix train. That exploit helped him win his first election to Congress when Arizona became a state in 1912.

Less than a month after he reached Washington he made his first speech on the floor of the House, supporting larger appropriations for fire-fighting in the national forests. When Hayden sat down he was berated by Representative Fred Talbott of Maryland, an old Confederate Army veteran. "You just couldn't hold it in, could you?" said Talbott. "You had to make a speech. Everything you said was taken down by the clerk and it will go into the Congressional Record, and you can't ever take it out. If you want to get ahead here, you have to be a workhorse and not a showhorse." Hayden took the advice seriously, shunned speechmaking, and made himself a "workhorse."

In the House, Hayden concerned himself with water and transportation projects for Arizona. He was floor manager of the bill to establish the Grand Canyon National Park, and also sponsored the 19th Amendment to the Constitution for Women's Suffrage. By 1926, Senator Henry F. Ashurst described Representative Hayden as "the most popular man in Arizona." That year Hayden won election to the United States Senate. He immediately joined Senator Ashurst in a six-week filibuster against the Boulder Dam bill until it was amended to provide more equitable treatment for Arizona.

The filibuster was highly uncharacteristic for Hayden. He did not make another formal speech on the Senate floor for twenty years. Known as the "silent Senator," who "works hard, speaks little," he concentrated his attention on the committee room and the cloakroom. "When you've got the votes," he explained, "you don't have to talk."

Franklin D. Roosevelt once asked Hayden why he always discussed roads when he came to the White House. "Because," replied Hayden, "Arizona has two things people will drive thousands of miles to see—the Grand Canyon and the Petrified Forest. They can't get there without roads." In 1934, as chairman of a subcommittee on post roads, he sponsored legislation authorizing federal funding of a national highway system. Hayden urged the President to make $400 million in highway construction funds available to the states without requiring them to match the money, as a way of putting the unemployed back to work. When Roosevelt asked how he had arrived at that figure, Hayden explained that he had telegraphed all the state highway departments and asked how much they could spend. Delighted with his approach, FDR told him, "Go tell Bob Wagner to put it in the relief bill."

Irrigation projects also concerned the Senator from an arid state. "To Carl Hayden, water was more important than oil," said Senator Mike Mansfield, "because water is the lifeblood of the Western states." President John F. Kennedy remarked that "every Federal Program which has contributed to Western irrigation, power, and reclamation bears Carl Hayden's mark." The Gila River Project, the San Carlos Project, the Salt River Project were all testament to his work, but his greatest monument was the Central Arizona Project to harness the waters of the Lower Colorado River Basin. Hayden first proposed the project in the 1920's, and fought for its approval through the state legislature, the Congress, and the Supreme Court, until it at last became law in 1968. "Carl Hayden, more than any other man," wrote the editor of the Arizona Republic, "created what America knows today as Arizona."

Throughout his five decades of service, Hayden held many influential posts: chairman of the Senate Rules Committee; chairman of the Democratic Patronage Committee; chairman of the Appropriations Committee; and, after 1957, President Pro Tempore of the Senate. Following the death of President Kennedy in 1963, Hayden became second in line of succession to the presidency. For fourteen years he chaired the Appropriations Committee, becoming an expert in federal budgetary matters. In the House-Senate conferences over appropriations bills, Gerald Ford called Hayden "a master at the art of constructive compromise." Lyndon Johnson credited him as the "third Senator" from every state.

In 1968, at the end of his seventh term he announced, "Arizona's foundation includes fast highways, adequate power and abundant water, and these foundations have been laid. It is time now for a new building crew to report, so I decided to retire from office at the close of my term this year . . . There is a time of war and a time of peace, a time to keep and a time to cast away, a time to weep and a time to laugh, a time to stand and a time to stand aside."

ARTHUR BURNS AND NOW ACCOUNTS

Mr. McINTYRE. Mr. President, I wish to call to the Senate's attention a recent speech by Arthur Burns, Chairman of the Federal Reserve Board, regarding S. 2055, a bill recently reported by the Banking Committee, pertaining primarily to nationwide NOW accounts and the Federal Reserve membership problem. Inasmuch as S. 2055 is currently pending on the Senate calendar, Chairman Burns' comments are particularly timely.

I ask unanimous consent that Chairman Burns' comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

VITAL ISSUES OF BANKING LEGISLATION

(By Arthur F. Burns)

It is a great pleasure for me to be here today and to have the privilege of addressing this gathering.

I thought I might usefully speak to you about some of the legislation pending in the 95th Congress. This is a busy season for banking legislation. Bills under consideration deal with such diverse subjects as nationwide NOW accounts, the financial burden of Federal Reserve membership, the operation of foreign banks in this country, the restructuring of bank supervisory and regulatory authority, and revision of the Truth in Lending statute. There are, moreover, various proposals in the Congressional hopper that aim in one way or another at circumscribing the Federal Reserve's scope for independent judgment and decision.

I cannot, of course, cover this morning all the banking legislation that is now pending. But I welcome this opportunity to comment on some of the major bills that have been introduced, and also to indicate why we at the Board are so deeply concerned about the character of numerous proposals that keep being advanced under the banner of "reform."

Let me say something first about S. 2055—the legislative package that combines authority for nationwide NOW accounts with measures to lighten the burden of Federal Reserve membership. As you know, this bill was voted out of the Senate Banking Committee in early August and may soon be debated on the Senate floor.

I am well aware that some of you have serious reservations about this bill. Indeed, I have heard from many bankers around the country who object to some of its key provisions—particularly the contemplated extension of NOW-account authority—and who urge the Federal Reserve to withdraw its support of the measure. The impact on earnings of paying interest on transactions balances is obviously of concern—and properly so—to commercial banks, especially those for which the checking accounts of individuals make up a large portion of total deposits.

Let me assure you that we at the Federal Reserve Board recognize the importance of good bank earnings. We well know that unless earnings are reasonably satisfactory, commercial banks, will not be able to serve their communities or the national economy in an effective manner. We also believe that bank earnings will be adversely affected for a time during the transition to a NOW-account environment. That has certainly been the experience with NOW accounts in New England.

Why, then, it may fairly be asked, does the Federal Reserve support nationwide NOW-account authority?

The reason essentially is that we think it is important to bring a sense of order to a development that has the look of inevitability about it but which to date has proceeded in haphazard fashion. The simple fact is that by one means or another depositors have been increasingly successful in earning interest or its equivalent on their transactions balances. Such interest is implicit in the banking services that are provided bank customers without charge or below cost.

Beyond this, and on a growing scale, many customers of financial institutions are already receiving interest in cash on transactions balances—not only in the New England states where NOW's are authorized, but throughout the country. This is the consequence, as you well know, of recent financial innovations that enable individuals as well as corporations to move funds readily between interest-bearing accounts and checking deposits or between money market instruments and checking deposits. Congressional inaction will not stop the spread of interest payments on what are in effect transactions balances; it would simply mean that the movement will go forward without guidance at the national level, attended by inefficiency and competitive distortion. My colleagues and I thus see S. 2055 as a vehicle or guiding this development in a gradual and

orderly fashion while limiting the adverse effects on bank earnings.

I well understand the displeasure that commercial bankers feel over the fact that S. 2055 would in effect confer checking-account authority on thrift institutions while leaving intact their ability to pay savings depositors a higher rate of interest than can commercial banks. To be sure, all depository institutions that decide to offer NOW accounts under the new authority would do so on the same terms, so that the troublesome interest-rate differential would be eliminated for that category of deposits. However, since NOW accounts would expand the powers of thrift institutions to a point where they could offer depositors the attractions of "one stop banking," the extension of parity should not be limited to newly created NOW accounts. Both logic and equity suggest that thrift institutions should enjoy either NOW-account authority or the interest-rate differential—but hardly both.

The difficulty of overcoming opposition to any modification of the differential must not, however, be underestimated. This was evidenced by the failure of the Senate Banking Committee to accept an amendment by Senator Lugar, which would have restored the power that bank agencies had until late 1975 to adjust the differential without ratifying action by the Congress. I have indicated to Senator McIntyre, the distinguished sponsor of the NOW-account legislative package, the desirability of removing the ratification requirement because it constitutes an impediment to timely adjustment of deposit interest-rate ceilings as circumstances change. Even though Senator Lugar's amendment failed in Committee, this moderate step toward less rigidity with regard to the differential deserves sympathetic consideration by the Congress at large. Senator McIntyre's support of the amendment was particularly encouraging. I hope that interested parties will continue to press the issue.

In your continuing assessment of S. 2055, I would urge that you weigh carefully the point I have made about the disadvantages inherent in letting interest payments on what are essentially transactions balances continue to spread in haphazard, piecemeal fashion. Neither individual bankers, nor their non-bank competitors, nor State legislatures, nor bank regulators, nor the Congress itself are likely to stand still. On the contrary, actions that serve to expand the payment of interest on transactions balances by all types of depository institutions will continue to multiply. It is my strong conviction that ultimately both the general interests of the Nation and the particular interests of commercial banks will be poorly served if the changes we have been witnessing are not subjected to orderly direction.

The transitional problems faced by financial institutions in adapting to NOW accounts will not be easy, but they ought to be less troublesome in most parts of the country than they have been in New England. I say this in part because the New England experience is available as a guide. It surely should be possible to avoid repeating some of the mistakes—particularly the mistakes in pricing—that were made by various institutions in that region. Indeed, it seems clear from the statistical evidence that depository institutions in Connecticut, Maine, Rhode Island, and Vermont have generally been able to profit from the earlier NOW-account experience in Massachusetts and New Hampshire. Banks and thrift institutions in the New England states that were relative latecomers to the NOW experiment have tended to pursue more cautious marketing and pricing strategies, and their earnings have consequently stood up better.

There are also other reasons for thinking that New England's experience is not likely to be repeated in other regions. For one thing, competition between commercial banks and thrift institutions appears to be somewhat more vigorous in New England than in most parts of the country. Then, too, S. 2055 is deliberately structured to minimize transition costs and protect bank earnings. It limits eligibility for NOW accounts to individuals. It gives regulatory agencies discretion to set a lower interest rate ceiling for NOW's than currently prevails in New England. It authorizes the payment of interest on reserve balances held at the Federal Reserve, including reserves against the NOW accounts. It anticipates lower reserve requirements on NOW accounts than on demand deposits. It allows more room for reductions in the reserves required of member banks, especially the smaller banks. And it delays the effective date of nationwide NOW-account authority for one year after the enactment of legislation.

These things in combination make it seem likely that depository institutions across the country will be able to maintain their earnings reasonably well as they move to NOW accounts. I would note especially that the one-year waiting period will afford banks time for rational planning of their operational systems and marketing strategies for NOW accounts. Without this array of provisions designed to maintain earnings strength, the Federal Reserve Board, I assure you, would not be willing to support the NOW-account proposal.

That there will nevertheless be some net cost to many commercial banks in making the transition to NOW's also seems clear. That is why we at the Board have been at such pains to keep this cost down and that is also why we have been so insistent on combining the NOW-account proposal with action to lighten the financial burden of Federal Reserve membership.

Member banks are already very sensitive to the cost disadvantage they suffer vis-a-vis nonmembers because of the more onerous reserve requirements they have to meet. This has resulted in recent years in a significant erosion of membership—particularly on the part of smaller banks. There is no question at all in my mind that this membership erosion would accelerate if we were to go forward with nationwide NOW's without taking simultaneous action to lighten the burden of membership. That is the reason, of course, the Board has worked so intensely to obtain authority to pay interest on reserve balances and to be in a position to lower reserve requirements—particularly for the smaller banks.

A healthy, effective central bank is not a matter of parochial concern—of importance only to Federal Reserve officials and member banks. The Federal Reserve serves the entire financial community and indeed the Nation at large. It would be in no one's interest to see its vitality sapped. Unless the erosion of membership is arrested, a steadily diminishing portion of commercial bank deposits will be lodged with members and the execution of monetary policy will therefore become less and less precise. Other things trouble me still more. Provision of lender-of-last-resort facilities was a critical reason for establishing the Federal Reserve System. I do not like to contemplate the ultimate consequences for the soundness of our banking structure if fewer and fewer banks enjoy ready access to the System's discount window.

Declining membership could also threaten the insulation of the Federal Reserve System from day-to-day political pressures. The System's independence from such pressures will remain sustainable, I believe, only as long as the System continues to have balanced representation of membership among all sizes of banks across the country. But membership attrition has been most acute among smaller banks—those with deposits of less than $100 million. If the exodus continues and the remaining members are only the larger banks, the Federal Reserve will then be perceived by the public as a big banker's bank. This would almost certainly generate disenchantment with the System. In time, the Federal Reserve's independence—which enables it to base monetary policy on long-range considerations as well as those related to the short term—would diminish if not entirely end.

I hope that these comments on key provisions of S. 2055 may suffice to show why we at the Board view the bill on balance as a constructive and desirable piece of legislation. I said before that I know many of you have reservations about it, and I understand the reasons for those reservations. I nevertheless believe that it would be the better part of wisdom to retain an open mind toward this legislative effort and seek to improve it rather than scuttle it.

Let me now turn to other items in the legislative mill. I noted earlier that the banking bills under consideration this year include the usual array of measures to "reform" the Federal Reserve System. The Federal Reserve Reform Act of 1977 recently cleared the House Banking Committee in a form greatly different from the measure originally proposed. Fortunately, the most troublesome features of the bill were eliminated during the Committee markup and this is an encouraging fact. One of the defeated provisions—that dealing with so-called lobbying communications—would have placed very broad restrictions on the right of Federal Reserve officials to communicate with bankers about legislative matters. Indeed, were it ever to become law, there would be a serious question whether I or any of my colleagues would be able to address an assemblage such as this in the manner I am doing. Other rejected provisions would have required the Federal Reserve to publicize at quarterly intervals numeral forecasts of interest rates and other sensitive financial variables. Forecasts of interest rates by the Nation's central bank may seem harmless at first blush, but any such pronouncement by the Federal Reserve would in practice carry implications for debt markets that could generate wide and unsettling swings in security prices.

The wish to have us make such pronouncements is somewhat puzzling. My best guess is that preoccupation with interest rates—particularly with trying to influence the Federal Reserve to keep interest rates down—often tends to blur judgment. Populist emphasis on low interest rates appears to be a key reason for the steady stream of proposals that in one way or another would enlarge opportunities for exerting political influence upon monetary policy. A less independent Federal Reserve—particularly one that would be less concerned about inflation and thus more generously accommodative of credit demands—clearly remains an objective of many people.

A perennial favorite for the past quarter century of those who would like to see the Federal Reserve enjoy less independence is the proposal to subject the System to audit by the General Accouting Office. Indeed, a bill giving the GAO sweeping authority to audit the Federal Reserve—as well as the Federal Deposit Insurance Corporation and the Comptroller of the Currency—was introduced in the House last January. In the course of the recent markup by the House Government Operations Committee, a number of provisions were wisely incorporated in the bill with a view to affording some protection against disclosure of confidential information. Even so, the measure retains major deficiencies and ambiguities, and we thus feel compelled to oppose it. Incidentally, the bill is expected to be on the calendar for floor action very soon, possibly this week or next.

The bill raises serious questions of public policy. The Federal Reserve Banks have never been subject to GAO audit. The exempted status of the Board dates back to the Banking Act of 1933. The complete exemption of the Federal Reserve System from GAO audit since 1933 thus complements the original exemption of the Federal Reserve from the appropriations process. These exemptions have conferred on the Federal Reserve a heavy responsibility to conduct its affairs with the highest standards of probity; they have also enabled the System to determine its internal management free from political pressures. Exemption from GAO audit is one of the main pillars of Federal Reserve independence.

In exempting the Federal Reserve from customary appropriations and auditing procedures, the Congress has recognized the special political vulnerability that a central bank tends to develop if it in fact comports itself as it should in carrying out its monetary function. It is simply a fact of life that whenever a central bank imposes monetary discipline, it almost always generates a good deal of opposition. Those displeased with Federal Reserve performance would surely have greater leverage in their efforts to get monetary policy changed if the System were subject to customary appropriations and auditing procedures. I do not mean to suggest that our stewardship should be beyond examination. Accountability by the Federal Reserve is obviously essential, and we believe that the arrangements Congress has fashioned across the decades achieve thorough accountability within a framework of safeguards that take account of the special vulnerability to which central banks are everywhere subject.

What concerns the Board most about proposals for a GAO audit is that such auditing may become a device through which pressure is brought to bear directly on the formulation of monetary policy. To be sure, the pending GAO audit bill excludes a broad range of monetary policy deliberations and transactions from the proposed audit, but it does not flatly and unambiguously exclude all monetary policy matters. For example, the Committee Report indicates that the GAO would have authority to audit and evaluate discount-window transactions to the extent that such transactions are related to the supervisory function of the System—as distinct from its monetary policy function. This is an extremely fuzzy distinction, and it could easily become a vehicle for GAO intrusion into monitoring monetary policy—an area in which that venerable institution has neither experience nor expertise, to say nothing of responsibility.

It is to the credit of the pending bill that it recognizes the need to protect sensitive and confidential information concerning private parties. But I am by no means satisfied that the bill's provisions in this regard are adequate. Except for records pertaining to monetary policy, the GAO would be given access to "all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by the entities being audited, including reports of examination of banks or bank holding companies . . . together with workpapers and correspondence relating to such reports . . ."

These materials obviously include a great deal of sensitive information. And while the bill prohibits the GAO from identifying individuals and institutions in its public reports to Congress, all such information could still be made available to Congressional committees sitting in executive session. Experience suggests that this limitation is scant guarantee that sensitive and confidential information about banks and their customers would not find its way into the public domain. Great damage could thus be caused to banks, individuals, and business enterprises. In self-protection bankers might soon become less forthcoming to examiners, while their work in turn might become infected either by timidity or by zealotry because of the potential for disclosure. The integrity of the entire bank examination process could therefore be undermined.

Ultimately, as I have tried to suggest, the exemption of the Federal Reserve from GAO audit can be properly understood only in the context of the importance that Congressional shapers of the Federal Reserve System have attached to insulating this Nation's central bank from day-to-day political pressures. That present audit arrangements for both the Board and the Federal Reserve Banks are thorough and effective has, I believe, been demonstrated by Federal Reserve officials in public testimony time and time again. It is a fact, moreover, that besides the auditing reports that go to the Congress each year, a great deal of detailed information about Federal Reserve activities and operations is supplied to Congressional committees in response to a steady stream of inquiries. When one also takes into account the scope of the public oversight hearings conducted by the House and Senate Banking Committees, the need for a GAO oversight role is doubtful at best. If the Congress should nevertheless want to go to the considerable expense of an additional audit by the GAO, I certainly hope that such legislation would not allow the GAO to involve itself in any way with monetary policy procedures or deliberations, and that it would also fully protect sensitive and confidential information concerning banks and their customers.

I am mindful that my remarks have been lengthy, particularly for the opening session of a working convention. Even so, there is much in the field of banking legislation on which I have not commented. For example, the Senate Banking Committee will soon consider a proposal to establish a Federal Bank Commission that would assume responsibility for the supervisory and regulatory work now carried on by the three banking agencies. In the Board's considered judgment, removal of the Federal Reserve's supervisory and regulatory responsibilities would at times seriously lessen the effectiveness with which monetary policy is carried out, and that is one basic reason—among others—why we are opposed to it. I regret that I cannot discuss this bill fully today, but I hope that you and other bankers in our country will make the effort to familiarize yourselves with the issues surrounding it.

In closing, I would like to touch on one more matter. In recent weeks, banking practices have become prominent in the general news, and as a result are coming under special Congressional scrutiny. Chairman St Germain's subcommittee, for example, has already embarked on hearings dealing with a range of banking practices—among them, correspondent bank relations, bank policies relating to loan collateral, and bank policies relating to overdraft facilities. Chairman Proxmire has scheduled hearings on similar topics toward the end of this month. Specific legislation directed at some of the banking practices that have recently received public attention will soon be considered.

I deem it premature to make any kind of judgment as to how sustained the legislative interest in such matters will be or to what specific ends it will be directed. My hope is that a sense of calm deliberation and balance will be maintained—difficult though this may be at present. We cannot remind ourselves too often that haste can easily make for bad legislation.

For several years, the Federal Reserve has been in the forefront of efforts to obtain added enforcement authority for Federal banking agencies. Our efforts in that direction in no sense imply an unfavorable view of banking. Like other industries, banking is not free of problems, but it is my judgment that generally high standards of behavior prevail in banking. The Federal Reserve's long-standing interest in greater enforcement authority simply reflects our belief that some gaps in supervisory authority exist and that improved enforcement powers are appropriate.

The 94th Congress did not give much attention to our initiative. This year, however, after full and calm deliberation, the Senate passed S. 71—a regulatory and supervisory bill that embodies more stringent rules on insider loans, strengthens cease-and-desist as well as officer-removal powers, and provides a range of cash penalties for violations of banking law or regulation. At present, the absence of an effective range of penalties at times causes undue restraint on the enforcement procedures of bank regulators.

Perhaps legislative remedies beyond those contained in S. 71 are needed. I certainly have an open mind on this question. But I would urge full deliberation before wider legislative remedies are enacted. The banking legislation that I have reviewed with you or alluded to this morning is quite enough for the Congress to handle in the remainder of this year.

I have talked a long time and I certainly dare not burden you with anything else. May I just express my appreciation once more for the privilege of visiting with you.

"PLANNED GENOCIDE" AGAINST AMERICAN INDIANS?

Mr. HATFIELD. Mr. President, I was very disappointed at the comments of Mr. Russell Means at the Conference on Discrimination Against Indigenous Populations of the Americas in Geneva. According to the Washington Post, Mr. Means has accused the U.S. Government of conducting "planned genocide" against American Indians. Not only is this patently false, it misleads the American public and the world at large, hindering progress being made by responsible Native American leaders in improving the life of their people.

It is a sad fact of history, Mr. President, that the U.S. Government has been grossly negligent, and brutal at times, in its treatment of Indians. As someone who has been actively involved in Indian affairs for the past several years, I personally know this to be true. I also know, however, that significant progress has been made. The American Indian Policy Review Commission has completed its 2-year study and presented to Congress its recommendations, made by the Indian people themselves, for the reform of Federal Indian policy. Indian tribes are being granted more self-governing authority and the funds to stimulate necessary economic development. The misguided policy of termination has been expressly repudiated by Congress and the administration. These are important steps.

This progress is no cause for complacency, for there is still much to be done, and I look forward to the continuing work of the Select Committee on Indian Affairs and the leadership of the new Assistant Secretary of the Interior for Indian Affairs, Mr. Forrest Gerard. I expect we will be receiving recommendations for new policy directions after the National Congress of American Indians concludes its annual meeting in Dallas this week.

This progress, however, can only be impeded by Mr. Means irresponsible and inaccurate remarks, which may further polarize sentiment in areas where the

pursuit of Indian rights has already caused considerable ill feeling between Indian and non-Indian.

Mr. President, I firmly reject Mr. Means' contention, and sincerely hope his remarks will not be regarded as accurately representing Federal Indian policy.

PROPOSAL FOR JOINT UNITED STATES-MEXICO DEVELOPMENT FUND

Mr. BENTSEN. Mr. President, last week speaking at the 50th Anniversary Commemoration of the University of Houston, I addressed the issue of U.S.-Mexican relations and proposed the creation of a $2 billion United States-Mexico Joint Development Fund to help establish labor-intensive industries in Mexico.

My proposal is consistent with the President's illegal alien program; it should meet legitimate Mexican concerns about direct foreign assistance; it should help create employment opportunities in Mexico and decrease pressures for illegal immigration to this country; it involves both the private and public sectors; it is an example of how Mexico and the United States can work together, on a basis of friendship and mutual respect, to address problems of concern to both nations.

I fully intend to follow-up on this proposal with concerned Members of Congress and executive branch agencies. I would, therefore, ask that the revelant portions of my Houston address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Today I would ask you to extend the parameters of your involvement even farther, some four hundred miles to the Southwest, to encompass the border with Mexico. A border that extends for 1800 miles and is crossed every year by millions of people and billions of dollars in trade.

We in this country devote a great deal of time, effort, and scarce resources to the subject of international relations. We tend to concentrate our concern on potential adversaries, like the Soviet Union and China, or on the industrialized democracies of Western Europe and Japan.

We tend to overlook the fact that immediately to the South of us lies a dynamic nation of over 60 million people, with some of the toughest problems and one of the highest rates of population increase in the world. If present trends continue, the population of Mexico will double every 19 years. Some of the students here today may live to see a time when Mexico is more populous than the United States.

Half of the population of Mexico is under seventeen years of age; productive employment will soon have to be found for millions of Mexicans in an economy where unemployment and underemployment already runs at the rate of about 40%.

The existence of these problems, and their potential consequences, does not alter the fact that Mexico and the United States have no choice but to share this continent as neighbors. Historically, economically, and geographically, our destinies are irrevocably linked one to the other. We cannot build a wall between the United States and Mexico, just as this University cannot, and should not, attempt to isolate itself from its surrounding environment.

The people of Mexico are directly affected by what happens in this country; by our trade policy, our immigration policy, our agricultural policy, and our policies on tax and investment. Matters that are generally considered domestic concerns.

But let us not lose sight of the fact that we, in this country, are also influenced by what happens, and what could happen, in Mexico. We have a vital national interest in a stable, prosperous, Democratic Mexico well disposed toward the United States of America.

There is one aspect of Mexican American relations that is well known, highly controversial, and touches on the daily lives of many people here in Texas and throughout the nation. I am talking about the issue of illegal aliens, or undocumented workers, who enter this country in violation of our laws, frequently across the Rio Grande, seeking employment and opportunity.

I sympathize with the Mexican, or Jamaican, or Asian who comes to this country, even illegally, in search of a better life. He or she is driven by the same impulse that brought millions of immigrants to our shores throughout our history. The same impulse that has made ours the most prosperous, powerful, and compassionate nation in the world. The same impulse that compelled many of you to attend this university.

But the fact of the matter is that in the latter half of the Twentieth Century, the United States of America can no longer accept wholesale, uncontrolled illegal immigration.

We cannot afford it economically, in a period of high domestic unemployment. We cannot accept the underclass it creates. We cannot condone a situation in which we have millions of people in this country illegally, unaccounted for, and responsible to no one. No other nation of the world would tolerate 6 to 12 million illegal aliens within its boundaries.

While acknowledging that many areas of the Southwest have traditionally relied and prospered on cheap Mexican labor, I would suggest that we are rapidly approaching the point where the United States can no longer provide a market for the wholesale export of Mexico's population and employment problems.

There is no issue more difficult, more fundamental to the future of our relations with Mexico, than the dilemma of the illegal alien.

President Carter has taken an important first step. He has impressed the American public and the government of Mexico with the urgency of the illegal alien problem and our determination to do something about it.

The President has proposed specific remedies: amnesty for aliens here before 1970, a non-deportable status for those who came illegally between 1970 and 1976; and civil penalties against employers who knowingly hire illegal workers.

The President's proposals, like the problem itself, are inherently controversial and deserve our best efforts at careful, compassionate, and thorough analysis. I believe that much of it must be enacted into law.

There is, however, one aspect of the President's program that has received minimal public attention to date, particularly as it relates to Mexico. I refer to our cooperation with the sending, or source countries.

One means to cut back on the incidence of illegal immigration is to create additional employment opportunities in the sending states. People come to this country to work. They will be less likely to come here if they find a job at home that pays a decent wage.

If we are to deal effectively with the problem of illegal immigration, the United States must be prepared to assist sending countries, such as Mexico, in their economic development efforts. To the extent that we can help Mexico establish labor intensive industries in the areas that are the source of most illegal immigration, we will succeed in treating the root causes, rather than merely the symptoms, of this problem.

As many of you are aware, Mexico for sound historical reasons does not accept unilateral assistance. They are not looking for any handouts and I'm not proposing such. It is a matter of pride with the Mexican people, and I commend them for this attitude.

However, this does not mean that the potential for assistance is non-existent. It merely implies that we must come up with a formula that meets the legitimate requirements of the Mexican people and, at the same time, serves our common objectives.

I would like to take this occasion, here at this influential institution and before a group of opinion makers, to propose the creation of a joint United States-Mexico Development Fund, a Fund to which the United States and Mexico would invest an equal share, perhaps 1 billion dollars each in the first instance.

The Fund would finance the development of labor incentive industry in Mexico, concentrating on areas traditionally the source of illegal immigration. Project financing would be on a fifty-fifty basis with private lending institutions. The Fund would put up half the money, private banks the remainder. The Fund would lend at concessional rates and on a long term basis; private funding would be at commercial rates and terms.

My proposal is consistent with the President's program. I believe it will meet the legitimate requirements of the Mexican government and people. I do not pretend that it will eradicate illegal immigration overnight. It will not. But I am convinced that my proposal for a joint U.S. Mexican Development Fund is an essential ingredient in any comprehensive, long-term strategy to combat illegal immigration into this country. It is in the best interests of both Mexico and the United States. It is entirely in keeping with the spirit of friendship, cooperation, and mutual respect that governs our relations.

I intend to discuss this proposal with the White House, the State Department, and the concerned Mexican authorities. If the reaction is favorable, I am prepared to sponsor the appropirate legislation to see that it is enacted into law.

As the University of Houston begins its second fifty years of service, you are keenly aware of your past accomplishments and your obligation to the future.

As students, faculty, and alumni, you are dedicated to the pursuit of truth and wisdom. At this particular university you are also committed to using this knowledge in the service of the community that surrounds you.

There are few future issues with the dimension and complexity of our relations with Mexico and particularly the illegal alien aspect of this relationship. There are few future issues that are directly relevant to our state and our region.

JOHN THOMAS WALKER SIXTH BISHOP OF WASHINGTON

Mr. MATHIAS. Mr. President, earlier today I had the privilege of attending the installation of the Right Reverend John Thomas Walker as sixth bishop of Washington. The service was held in the National Cathedral on Mount St. Alban which is more formally known as the Cathedral Church of St. Peter and St. Paul.

The participants in the ceremony included the Right Reverend John Maury Allin, the presiding bishop of the Episcopal Church in the United States, the Right Reverend William Forman Creighton, the fifth bishop of Washington and the Very Reverend Francis B. Sayre, Jr., the dean of the cathedral. The remarkable and moving music was under the direction of Richard W. Dirksen, precentor and choirmaster and Dr. Paul Callaway, organist-emeritus.

It was a happy occasion and the spirit of the day was well expressed by the words of Isaiah which were read:

Isaiah 61: 1–4

The spirit of the Lord God is upon me
because the Lord has anointed me;
he has sent me to bring good news to the humble,
to bind up the broken-hearted,

to proclaim liberty to captives
and release to those in prison;

to proclaim a year of the Lord's favour
and a day of the vengeance of our God;
to comfort all who mourn,

to give them garlands instead of ashes,
oil of gladness instead of mourners' tears,
a garment of splendour for the heavy heart.

They shall be called Trees of Righteousness,
planted by the Lord for his glory.

Ancient ruins shall be rebuilt
and sites long desolate restored;
they shall repair the ruined cities

and restore what has long lain desolate.

It is interesting to note that Bishop Walker took the oath with his right hand upon the Book of Common Prayer that had belonged to Bishop Thomas John Claggett, first bishop of Maryland. The prayer book was open to the page where are written words that are as appropriate to quote in the Senate as in the cathedral.

Whosoever will be great among you, let him be your minister; and whosoever will be chief among you, let him be your servant: even as the Son of Man came not to be ministered unto but to minister, and to give his life a ransom for many.

Bishop Walker has today entered not only an historic church, but also an historic ministry. The bishop of Washington has traditionally been a participant in the community life of Washington. Bishop Walker comes to this ministry at a time of great change and great stress. He is well prepared to meet these challenges and we wish him well as he takes his place at the head of his diocese and among the religious and social leaders of the Nation's Capital.

A SALUTE TO COLSTON A. LEWIS

Mr. DOLE. Mr. President, on Wednesday of this week I had an opportunity to participate in a special luncheon tribute to Commissioner Colston A. Lewis, sponsored by his many friends and acquaintances.

Colston A. Lewis is one of a large group of outstanding black public servants who has helped shape national policy in this country. A former Commissioner of the Equal Employment Opportunity Commission (EEOC), Mr. Lewis' term expired on June 30, 1977.

To this experienced senior member of the Commission, thanks and appreciation are expressed for his long tenure defending the rights of others.

I would like to share with this congressional body the following tribute to my friend and political colleague, "Choke" Lewis, and ask unanimous consent to have it printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

ESPECIALLY FOR SOMEONE WHO MAKES THESE WORDS RING WITH REALITY, "CHOKE," "THE GREAT GAMBINI"

Thank you, God, for little things that often
come our way—
The things we take for granted but don't
mention when we pray—

The unexpected courtesy, the thoughtful,
kindly deed—
A hand reached out to help us in the time
of sudden need—

Oh make us more aware, dear God, of little
daily graces—
That come to us with "sweet surprises" from
never-dreamed-of places.

Colston A. Lewis, the only black commissioner at the Equal Employment Opportunity Commission when his term expired on June 30, 1977, served longer than any other member on this Bi-Partisan Commission.

As the most experienced senior member of the Commission, he fought hard to eliminate discrimination in employment on the basis of race, color, national origin, religion, and sex as provided in Title VII of the Civil Rights Act of 1972. As one of the original "Title Seven Lawyers", his experience was valuable to the Commission and it was in this vein that groups, organizations and even the Governor of Virginia urged President Carter to reappoint him for another term.

As a commissioner, his was the only "voice in the wilderness" raised in defense of the rights of black complainants who were seeking equal opportunity.

He was said to be the only champion of the rights of all employees of EEOC who were (and possibly yet) suffering the results of shabby in-house mismanagement and objectionable treatment by the very officials sworn to protect their rights.

He voted against the Consent Decree in the steel cases because it did *not* provide the proper relief to female employees of all races.

He was the first black Presidential appointee at sub-cabinet level from the South. During his service on the Commission he never lost touch with the average citizen.

He is a life member of the NAACP; the Trustee Board of the Second Baptist Church of Richmond, Va.; a thirty second degree Mason; an Elk; a member of the Old Dominion Bar Association; National Bar Association; Richmond Chamber of Commerce; Richmond Republican Committee; Virginia Trial Lawyers; and Black Athletes Hall of Fame, to name a few.

He is married and has one son who is a senior at Gonzaga College High School in Washington, D.C.

Commissioner Lewis has received national and international recognition. Colston A. Lewis, your friends in "Saluting you", also thank you for standing tall for what you believe in and mostly for your efforts to protect the rights of all Americans in the field of Equal Employment while at the Commission.

AFL–CIO SPEECH IN PEORIA ON INDEXING MINIMUM WAGE

Mr. PERCY. Mr. President, as I said earlier today, I will be in Peoria, Ill., on Monday, September 26, addressing the 20th Annual Convention of the Illinois State AFL–CIO in the afternoon, and having luncheon with its distinguished board of directors and officers.

Because in the course of my remarks I intend to discuss a subject that is expected to be debated on the floor of the Senate next week, namely indexing the minimum wage, I ask unanimous consent that the text of the address I will be delivering on Monday, together with a list of the members of the executive board of the Illinois State AFL–CIO, be printed in the RECORD.

There being no objection, the list and address were ordered to be printed in the RECORD, as follows:

STATE FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS LUNCHEON, SEPTEMBER 26, 1977

EXECUTIVE BOARD AFL-CIO ATTENDEES

Stanley Johnson, President.
Robert G. Gibson, Secretary Treasurer.
Charles Hayes, Vice President.
Henry Anderson, Vice President.
Richard Reinke, Vice President.
Wilbur W. Freitag, Vice President.
Thomas Nayder, Vice President.
Edward C. Pope, Vice President.
Morrie D. Wishnick, Vice President.
John E. Desmond, Vice President.
Harold W. Schwartz, Vice President.
J. B. Boose, Vice President.
Wesley Isaacson, Vice President.
Vernon W. Rehmstedt, Vice President.
Dorothy Dufour, Vice President.
Alphonse E. Soudan, Vice President.
Eugene P. Moats, Vice President.
Buddy W. Davis, Vice President.
Noble B. Cain, Vice President.
Thomas J. Duggan, Vice President.
Lawrence E. Reinold, Vice President.

ADDRESS BY SENATOR CHARLES H. PERCY, 20TH ANNUAL CONVENTION, ILLINOIS STATE AFL–CIO, SEPTEMBER 26, 1977

It is a pleasure to again attend the annual State convention of the AFL–CIO and to help celebrate the convention's 20th anniversary.

I was just in Peoria a little over three weeks ago when new information was being uncovered about Bert Lance and his banking affairs. I talked to banking, labor and business leaders in this area, all of whom thought Mr. Lance should resign.

There was such mounting evidence against Mr. Lance's dealings with the Georgia banks that I called him the day I was in Peoria, just before Labor Day, to tell him what I had heard.

He said he had no intention to resign and reported to me that he had overwhelming support from his fellow Georgians. I told him that I didn't know what the sentiment was in Georgia, but I was in the heart of the midwest and I knew how the matter was playing in Peoria.

It is a special privilege to be here again today at an Illinois AFL/CIO annual convention, a privilege not accorded to a Republican Senator for 30 years prior to your first invitation to me several years ago. It is proof of your openness that you now welcome elected officials from both political parties. Labor should never be in the position of being taken for granted by one party and ignored by the other.

In the past when I have been with you, we have faced serious challenges and choices. In 1972, Americans were still fighting in Vietnam. In the fall of 1975, we were in the first months of economic recovery following the worst bout with both inflation and recession since the Great Depression. And last year, the first presidential debate was about to occur as the nation was headed toward economic recovery.

Today, we face many serious problems and important issues. When they are dealt with, they will affect us all.

I think many of the issues foremost in your minds and which I support—a new minimum wage, food stamp reform, catastrophic health insurance and job safety—are legitimate concerns that business management and Republicans should be more sensitive to. After all, these are means of strengthening the position of the American worker and at the same time the nation.

MINIMUM WAGE LEVELS AND INDEXING

Our current minimum wage level is too low. It has left too many Americans on the tightrope of life, balanced between survival and poverty and the choices for people who go to work every day should be greater than that.

There is before the Senate now legislation providing not only for an increase in the legal minimum wage paid American workers, but also calling for a change in the method by which minimum wage increases are determined.

Senate Bill 1871 stipulates that increases in the minimum wage be calculated as a percentage of the average hourly rate being paid to American manufacturing workers at any given time. I understand how attractive such a proposal is perceived by some and I understand also why such a method would be perceived to give some assurance that minimum wage level workers would receive increases at reasonable intervals without having to cope with the effects of conflicting political pressures on the Congress.

The minimum wage was originally devised to establish a floor for wages for the under educated and the unskilled. My fear is, that by indexing, we will be frustrating this original purpose by possibly putting a ceiling on wages as well as wages for the well educated and highly skilled. There will be a reluctance on the part of management to negotiate greater wage increases for production workers at all levels simply because they know it will precipitate a broad ranging series of increases throughout the economy.

In addition, I feel that the possible inflationary effect of indexing would impose another penalty on the worker in the form of higher living costs. Recent Bureau of Labor statistics data indicates that the level of increases in hourly wages in this country have begun to outdistance the increases in productivity so much that the rate of increase in unit labor costs are beginning to be a cause for concern. If these fears are well founded, unit labor costs could once again accelerate to a rate that could lead to rapid inflation, reduced purchasing power and recession. Certainly, this situation is something all of us know we do not want to live through again.

Viewed from a broader perspective, I have reservations about writing an indexing provision into law that is diametrically opposed to and inconsistent with the U.S. position against indexing in international negotiations. We have opposed the demand of developing countries for the indexing of the prices of the commodities and minerals they produce and export in relation to the prices of the goods they import from us. We particularly opposed—and I spoke to the Shah of Iran about this and the heads of other oil producing countries—the proposal of the OPEC countries to index the price of their oil exports to the price of the industrial goods they import. We cannot tell the rest of the world this is no good and then turn around and index wages for the American worker.

The federal government has adopted very few indexing proposals, and even then with great deliberation. Increases in the social security retirement benefits, as you may know, are indexed to the cost of living. This was done especially for the elderly who frequently have no where else to turn and for whom it is often too late in life to be looking for new sources of income. Such increases have no effect on the salaries of the average worker. Federal employee salaries also are indexed, to a certain degree, but they are adjusted to be comparable to salaries in the private sector—again they react to private sector salaries but have no effect on them nationwide.

The type of indexing proposed in the minimum wage bill is entirely different. Rather than preserving purchasing power in what we call "real" economic terms, indexing contributes to the continued inflationary spiral by practically guaranteeing wage and price increases. Experience in observing developing countries who have tried a variety of indexing proposals shows us that it is always difficult, if not impossible to discontinue these relationships when *de*-flationary policy becomes necessary.

Instead of indexing, my colleague Senator Javits of New York will offer, with my support what we think is a fair and reasonable alternative. It will be proposed on the Senate floor this week and I consider it to have a good chance of passage.

Our proposal authorizes a new minimum wage of $3.40 an hour, to be achieved in four steps: in 1978—$2.65; in 1979—$2.90; in 1980—$3.15; in 1981—$3.40. In each year the increase in the minmum wage should equal or exceed the level that would have been achieved with indexing. Yet at the same time, we retain to ourselves in the Congress the responsibility of periodically reviewing the minimum wage—and I do think we have the responsibility of reviewing it more often than we have in the past—in the context of changing economic conditions.

This alternative provides justifiable increases in the minimum wage without locking us into a new system that may be as unwise as it is untried.

NATIONAL HEALTH CARE

The people who are affected the most by the minimum wage increase are equally concerned about unexpected expensive health care. There is a need for a more efficient, cost effective and comprehensive health delivery system because health care for inner city and rural communities is woefully lacking. The soaring costs of health care in recent years has caused undue hardship for many middle-income families and has made it imperative that low-income families receive substantial government assistance.

The fact is particularly true when families are faced with catastrophic illnesses which require long and costly hospital stays or expensive outpatient treatment.

For these reasons, I support comprehensive health insurance in the form of the Long-Ribicoff Catastrophic Health Insurance Medical Assistance Reform Act. That bill is a three-part program which would gradually provide comprehensive health care for all low and middle-income Americans.

NUTRITION FOR AMERICANS

Another subject foremost in your minds should be Food Stamp reform. I do support the food stamp reform revisions in the Senate and House approved Food and Agriculture Act of 1977. The controversial requirement that recipients buy a portion of their stamp allotment was eliminated, as was the complicated deduction system which had been blamed for numerous errors and fraud. These major changes should curtail fraud in the program and insure that a higher proportion of the needy receive food stamps without any delay.

I fully support also a strengthened senior citizen nutrition program—both group luncheon and meals on wheels programs.

Every American should be more aware of these vital issues because American labor is the backbone of this country.

THE ECONOMY

Currently, the U.S. is still battling with economic pauses and slowdowns and is watching carefully for signs of any slippage in recovery efforts.

Although the index of leading economic indicators declined for the third straight month in July, this decline represented no more than six-tenths of one per cent over the three month period.

Unemployment continues to plague us despite moderate stimulative efforts on the part of the Federal government. But compared to the national average, Illinois has shown signs of improvement. In August, for example, the Illinois unemployment rate was 4.7 per cent, compared to 7.1 per cent nationwide.

This is a cautious but good sign of steady economic improvement. Nevertheless, unemployment continues to remain highest among our black urban youth and other minorities. Nationwide, unemployment among black urban youth between the ages of 16–24 tops 40 per cent.

That is absolutely staggering when we consider the hundreds of programs which have been created and the billions or dollars spent over the years to ease this unemployment burden among the less fortunate or our nation.

Despite the bumps on the economic road ahead, however, longer range prospects for overall economic growth look promising. It is hard, however, for a person out of work today to take cheer in the prospect for long term recovery.

Over the next 18 months, we can expect real growth approaching five per cent a year in our Gross National Product, which is just enough to sustain the economic recovery which began in early 1976.

REGULATORY REFORM

But as economic conditions improve, we must come to grips with yet another problem which is costing the American economy—including government, business, labor and consumers—more than $20 billion a year. The thieves, which pick every American's pocket, are the burden of rules and the mountain of paperwork forced on every one of us by the Federal regulators in Washington.

The Federal bureaucracy that cranks out these rules and paperwork is like a giant balloon constantly being filled by bureaucrats with more and more hot air. The balloon has been expanding to accommodate the air, but we cannot afford to stand by and watch it grow. I say we must deal with growing government regulation now, because if the balloon continues to expand, we will pay a greater price in higher inflation and lost jobs.

Reforming the growth of Federal regulatory agencies will not only affect the people in the executive suites, but it will also have a profound impact on the working man. Because this reform will save businesses money in the longrun, new doors for bargaining should open. Instead of so much money going to feed the Federal dinosaur, it allows employers more leeway for themselves and for you, through such things as better pension plans and health care benefits.

Presently, it costs unions at least $75 million a year to provide the information and reports required by Federal agencies. That comes to about $3 a year for each union member—and nearly twice the amount of per capita affiliates pay to the AFL–CIO.

Very few things we do in our daily lives are unaffected by Federal rules and regulations. The food we eat, the clothes we wear, the cars we drive and thousands of other products we use are heavily regulated by the Federal government.

At times, these Federal regulations weigh so heavily on businesses and deplete such large portions of the profits that many businesses are forced to close. For example, in the past four years approximately 350 foundries closed because they could not meet Federal regulatory requirements.

There is nothing inherently wrong with regulation if it is soundly based and responsibly exercised. As Lao-Tze, an old Chinese philosopher, once said: "Govern a great nation as you would cook a small fish—don't overdue it."

The Federal government's use of regulation as a tool designed to direct the nation towards certain social and economic goals dates back to the earliest days of American history.

George Washington established a Federal agency to regulate the payment of pension benefits to Revolutionary War veterans.

That was the beginning. In 1887 Congress established the first independent regulatory commission, the Interstate Commerce Commission.

Ninety years and over 70 regulatory agencies later, we are still creating new agencies and regulations while continuing to subsidize all of the old ones, some of which are tattered, threadbare and useless. Each time we establish a new regulatory agency, we add to the Federal budget, displace certain scarce resources and constrict a few more of our freedoms.

At a total of between $60 to $120 billion a year, the cost of Federal regulation averages out to a little less than $1,000 per family, or $275–550 for each individual in this room. This staggering figure makes it obvious that specific regulations are frequently made without consideration of the relative costs and benefits involved.

A handful of regulatory agencies are effective, but most resemble long-toothed, prehistoric monsters. Yet, they are far from extinct.

Few would disagree that government has a proper role in assuring the safety of such things as food, drugs and nuclear power plants. Some government regulation is necessary to police the competitive market and to defend consumers. Experts must be allowed to make judgments consumers are unable to make when they lack the requisite training or technical information.

But many regulatory agencies attempt to do what the free market can do better.

Economists long ago discovered that, other things being equal, the free market is the most efficient and fairest price setter around. It automatically accounts for costs of production, fair return on capital, expected shortages, buyer preferences and a host of other variables.

Not only is there an economic loss by wasting government enforcement dollars and industry compliance dollars, but there is also a loss of freedom. Some regulatory agencies seem determined to pick the last nit out of American industry.

Without question, people in and out of government are clamoring for reform of Federal regulation. Consumers, liberals and conservatives, Republicans and Democrats, businessmen *and* organized labor alike agree that Federal regulation is in need of continuing review and overhaul in order to make it more responsive to the needs of those it is intended to serve.

I am co-author of the Regulatory Reform Act of 1977 along with Majority Leader Bob Byrd and Chairman of Governmental Affairs Committee Abe Ribicoff. This bill takes a hard look at all Federal regulatory agencies and makes Federal regulators justify their existence and especially their paycheck.

The assumption behind this approach is that we should look at the purpose of regulation. This way, we can determine whether we need the regulatory agency in the first place, and if we do, how much and at what cost.

The bill sets an eight-year mandatory timetable for reform that requires the President to submit reform legislation to Congress every two years dealing with specific sectors of the economy. All regulatory agencies would be reformed or scrapped during the eight year period.

The legislation groups those agencies for review. For example, during one such two-year period, agencies to be examined deal with energy, the environment, housing and occupational health and safety. Other review periods would consider transportation and communication; banking, finance and international trade; and food, consumer health and safety and economic trade practices.

If no action is taken in the allotted time which the bill sets out, the agency is abolished. So, even inaction causes action—a rare phenomenon in the nation's capital. The "sunset" mechanism will force a hard look at the growth of Federal regulation and hopefully will save taxpayers millions of dollars. And it will once again make Federal regulatory agencies aware of who they are serving.

In this Age of Regulation, reform will be no easy task. Few things of this magnitude are. It will cause some uncertainty while the system is being revamped, but if we overcome the short-sighted objections of certain self-interested groups, the rewards should be substantial. As we shake off the shackles of needless regulation, we will regain the dynamism which made America the richest and most powerful nation in the world.

We must begin now to let some of the air out of the giant Federal regulatory balloon so that fighting inflation and creating jobs become our top priorities.

Thank you.

THE FACTS ON UNDERGRADUATE HELICOPTER PILOT TRAINING (UHPT) CONSOLIDATION

Mr. CHILES. Mr. President, during the recent Senate discussion of the consolidation of the Navy undergraduate helicopter pilot training with the Army program, at Fort Rucker, Ala., one of the central issues in debate was a response by the Department of Defense to data brought out in a letter from Senators STONE, GARN, TOWER, and myself. This DOD response was rebutted in another document which presents the cost analysis factors in a much more factual light, I ask unanimous consent that this rebuttal of the DOD position be printed in the RECORD so that all individuals can more readily understand the issues and the facts of the proposed consolidation; consolidation which has twice been rejected by the Congress despite intense pressure from the Department of Defense.

There being no objection, the rebuttal was ordered to be printed in the RECORD, as follows:

UNDERGRADUATE HELICOPTER PILOT TRAINING (UHPT) CONSOLIDATION

Subject: Key points regarding the position taken by Senators Chiles, Stone, Garn and Tower in opposing UHPT consolidation

A. VALIDITY OF THE COST SAVINGS

Issue 1. If UHPT is consolidated no additional Army aircraft need be bought, and operating costs were included in the OSD study.

Rebuttal: The OSD study charged as a cost of Navy helicopter training the projected FY79 budget request of $23 million for T-34C fixed wing trainers utilized in the first 91 flight hours of the Navy UHPT program. The OSD study did not include the investment recovery costs for Army H-1 helicopters that would be taken out of their current operating inventory for use in training Naval flight students in a UHPT program at Fort Rucker as a result of the proposed consolidation.

In testimony before the House it was stated by the Deputy Commander at Fort Rucker that a UHPT program for Navy which included 195 flight hours (145 hours of which would be flown in the H-1 helicopter) would require only 32 H-1 helos in addition to the 72 H-1's utilized by the Navy for their current UHPT program; or a total of only 104 H-1 helicopters. Navy calculations of H-1 requirements indicate that the Army number is greatly understated.

The Army stated further that if Navy UHPT was conducted at Fort Rucker, the additional H-1's required would be taken from lower priority missions, precluding the need for purchase of new training aircraft. Low priority missions imply a potential cost recovery for expensive aircraft being so utilized. On this basis the Army could have long ago recovered the cost of these excess aircraft and eliminated their operating expense through sale and/or inactivation. For the purpose of training cost comparability, then, the investment cost of training aircraft should be included for both services, either as a procurement cost or a cost recovery as a result of sale.

The calculations to determine H-1's required and their cost follow:

H-1 HELICOPTER

145.0	syllabus flight hours
8.0	hours for incomplete flights and extra time (5.5%)
6.7	hours for Navy instructor pilot training & standardization (4.6%)
5.8	hours flown on attrited students (4.0%)
12.2	maintenance test flights, weather recon., and misc. (8.4%)
177.7	H-1 aircraft hours flown per completed student
×550	graduates per year (509 USN/USMC, 31 USCG, 10 foreign)
=97,735	H-1 flight hours required per year
÷800	hours per year H-1 (aircraft utilization factor used by Army)
=122	operating H-1's required for Navy training
−72	Navy H-1's available for transfer to Army (see note 2)
50	Army H-1's required from other sources (see note 1)
×800	hours per year (Army utilization)
=40,000	excess Army flight hours flown per year
×240	dollars per H-1 flight hour (see note 3)
$9.6M	Army cost per year for excess flight hours
×5	years
=$48.0M	operating savings over a five-year period
$50.0M	value of surplus Army H-1 helicopters (see note 1)
=$98.0M	total savings FY78 through FY82

The savings generated through elimination of excess Army flying and disposition of surplus Army helicopters exceed savings predicted through consolidation.

NOTE 1.—Army sold 10 UH-1's to Pakistan in FY77. They were new, stripped-down models comparable to the H-1 training configuration. Unit costs were:

Flyaway	$768,150
Support and spares	282,000
Total	1,050,150

It is reasonable to assume that if Army were to give up these low priority mission helicopters, they could also dispose of equivalent support. Therefore $1.0M is a reasonable value for each H-1 surrendered if Navy helicopter training is not assumed by the Army.

NOTE 2.—Navy's flight training system concentrates 126 hours of flight time in aircraft that cost an average of $81 per hour to operate, and only 65 hours of flight time in the H-1 helicopter for UHPT students that costs $240 per hour to operate. Under the OSD consolidation plan, Navy, Marine and Coast Guard students would receive only 50 flight hours in relatively inexpensive aircraft and 145 hours in the H-1 helicopter at the higher hourly operating cost of $240. It is the difference in H-1 flight time between the two systems that accounts for the variation in H-1 aircraft requirements.

NOTE 3.—Differences in accounting systems make it impossible to compare Navy & Army costs directly. The figure of $240 per H-1 flight hour comes from Navy cost sheets on the airplane and includes fuel, maintenance, spare parts, etc.

Issues 2 & 3. The manpower savings calculated by OSD as a result of UHPT consolidation were limited to only those involved in the helicopter training line. Also, OSD properly accounted for savings resulting from Navy's introduction of the T-34C into its UHPT system. ($46 Million)

Rebuttal: The OSD study makes the following statement on page V-A-15: "In the absence of Navy outyear data, funding and manpower estimates were straight-lined from FY 1978."

Such extrapolation of FY 1978 data implicitly assumes that resources committed to UHPT are basically the same in Fiscal Years 1978 through 1982. This methodology ignores the significant reduction in operating costs and manpower requirements which were already programmed to occur in FY79 and FY80 as the T-34C aircraft was introduced into the Navy's undergraduate pilot training system. In effect the OSD analysis assumes that the Navy continues to operate the more expensive T-28 aircraft at the FY 1978 level into the indefinite future even though it will have been completely replaced by the end of FY 1980. No correction is ever applied to the data to rectify this error.

Navy resources programmed for Undergraduate Pilot Training were based upon efficiencies inherent in the new Navy Integrated Flight Training System. They were arbitrarily reduced as a consequence of this OSD methodology which derived inflated savings by a refusal to accept out-year data from Navy even though such data was included in their own Five Year Defense Plan. Since the resources deleted were in excess of those allocated to the training of helicopter pilots the effect was to eliminate resources required to train other than helicopter pilots, that is fixed-wing student aviators.

While the OSD study obtained its baseline by straight-lining Navy costs for UHPT into the outyears, it accepted Army estimates for this training in the outyears without question. The GAO May 5, 1977 review of the OSD study attests to this, stating on page two, "As a starting point to assess savings, the Defense study used the Army's estimate of costs to assume Navy's training loads and the Navy's budget estimate for conducting a separate program during fiscal year 1978."

Issue 4. Reimbursable cost by foreign governments for training their students was included in Navy costs to ensure comparability between the Navy flight training system and the OSD/Army UHPT consolidation plan.

Rebuttal: System cost comparability is also addressed in Issue I above and its rebuttal. The cost of training foreign students is reimbursed by their governments and, in fact, lowers the unit cost of flight training in any program. The OSD study, had it been truly objective, should have removed any such cost from the Army total rather than add it to Navy's.

However, under Navy's resource management system, reimbursable costs are readily attainable since they are attributed to the end product, i.e. the trained pilot. Under Army's system where end product unit training costs are not as clearly defined, there is probably no way to remove foreign student training costs from a specific program.

Three points are clearly evident:

(a) There is no valid comparison of service costs unless costing systems are standardized.

(b) In an effort to justify the claimed savings, comparability was used by OSD where it added to Navy costs (Reimbursables) and omitted when it added to Army costs (Aircraft Investment).

(c) If reimbursable payments offset training expense it makes no difference if total reimbursements go either up or down, as long as they compensate equally for the out-of-pocket expense of training foreign students.

Issue 5. OSD costing data for UHPT consolidation is reliable since it is based on official Army estimates.

Rebuttal: The OSD study report contains no source documentation, nor any justification for statements of fact made in the body of the report itself.

No opportunity was provided during the course of the report's preparation for Navy flight training experts to challenge either OSD estimates or data from another Service. There is no record of study proceedings that will substantiate OSD challenges to Army data, no record that details Army justification for their cost estimates, nor any record of a thorough audit of Army's current expenses in its UHPT system.

Issue 6. The Defense Department was willing to release its "Economic Adjustment" report for the Whiting Field area upon senatorial request. In any event the report itself does not identify significant additional costs to the government.

Rebuttal: The OSD paper is carefully phrased to omit the fact that several senatorial and congressional key staff members requested the report in behalf of their patrons, and it was not forthcoming. However, the issue of the report's availability begs the question. What is germane is that identifiable costs of the UHPT consolidation were not included in the study, and were not made available to the Congress in spite of extensive hearings a month following the date of the report itself.

On page 14 of the subject report $2.6 million in total grant and loan adjustment resources for the Milton, Florida area (Whiting Field) are identified. In addition, on page 7 of the report the following paragraph appears at the bottom of the page:

"Rental costs in Milton are very reasonable with a moderate income home renting for about $175 monthly. We agree with the local judgment that the UHPT consolidation 'would stall the local housing market.' It would undoubtedly be necessary to institute the DoD Homeowners Assistance Program—which guarantees the individual DoD civilian or military homeowner will receive up to 90–95 percent of the preannouncement value for his home."

The population of Milton, Florida is about 7,000. This represents, conservatively, about one quarter of the total urban population of Santa Rosa County. The homes affected by elimination of UHPT at Whiting Field are:

Military off base housing	916
Civilian off base housing	298
Total homes affected	1,214

Real estate appraisers for the area estimate the average unit drop that would occur in home value below the 90–95 percent current price following announcement of UHPT consolidation would be $8,750. They also agreed that having upwards of 20 percent of the available homes in the area for sale would stall the market for an extended period. Under the DoD Homeowners Assistance Program then, the Department of Defense would be liable for a minimum of: $8,750 times 11,214 homes equals $10.6 million.

The $10.6 million, which would come out of Defense funds, is in addition to any grant and loan adjustment, of which the $2.6 million is admittedly a preliminary estimate.

B. OBJECTIVITY OF THE STUDY

Issue 1. Naval flight training experts were given adequate opportunity to participate during the course of the OSD UHPT consolidation study.

Rebuttal: The word "consulted" implies a free and open exchange of views and ideas which was absent in OSD contracts with Navy during the course of the study. Other than by indirect inference responsible Navy staff personnel had no idea of the matters of fact, analytic techniques, or tentative conclusions being reached as the study progressed. They were "tasked" to provide voluminous data and a number of briefings but had no inkling of the interpretation being placed on the data until the draft study report was received for comment in late April 1977.

Issue 2. Key Navy officials were given adequate time to comment on UHPT consolidation study conclusions prior to a final decision on implementation.

Rebuttal: Those "portions" of the draft report provided several weeks before it was submitted officially for comment did not include key sections on base realignment and costing. Since most of the major disagreements which subsequently developed were over cost/savings issues, the Navy time to respond was effectively limited to the five days available from the point when the draft report was received.

Issue 3. Despite the wording of the OSD internal memorandum on UHPT consolidation the evidence introduced into the public record substantiates complete objectivity on the part of OSD analysts.

Rebuttal: The basic memorandum along with the covering comments speaks for itself. It may be interpreted, by any reasonable man, as a "game plan" designed to bring about UHPT consolidation through arbitrary and biased data collection, denial of Navy participation where the interests of professional balance could have been served, and colluding with the General Accounting Office to ensure their perfunctory approval of a final report.

The memorandum, in its entirety, is reprinted on pages 494–495 of the record of hearings on Department of Defense appropriations for 1978 before the Defense Subcommittee of the Committee on Appropriations, House of Representatives, Ninety-fifth Congress, First Session, Part 6, "Consolidation of Undergraduate Helicopter Pilot Training."

Issue 4. The experience of GAO personnel as professional critics of UHPT training programs was adequate, and consistent with GAO practice in other fields.

Rebuttal: The statement that the GAO people who reviewed the OSD report on UHPT consolidation lacked experience in aviation or flight training from a professional standpoint is correct, and still stands. Further, there is no record of GAO personnel interviewing or questioning Navy flight training experts during the course of their review.

It is customary for the General Accounting Office to seek outside consultant support when reviewing professional programs that require some expertise beyond that available in-house. In a recent study in depth of the Service Academies the GAO used such a distinguished expert as a West Point graduate and former Army Chief of Staff to head its study group of equally capable colleagues. In a Service such as the Navy, where flight training has always been an equivalent program to the Naval Academy in providing a foundation for a lifetime career, the services of no less an expert in the profession than a former high ranking Naval aviator could have been utilized on the same basis.

Issue 5. The GAO review was the result of a satisfactory audit of both Army and Navy cost data. Further, the Army would have no reason to understate their costs since they would form the basis of their budget for such training.

Rebuttal: The statement that the GAO did not verify the accuracy of each service's cost estimates is their own. It appears in their May 5, 1977 review, and needs no further amplification.

The statement that the Army has no reason to understate the resources required to support the UHPT consolidation program ignores a current fact of life. The Deputy Commander at Fort Rucker testified before the House Defense Appropriations Subcommitte that their UHPT training capacity with their present facilities is 2,400 pilots annually. They are now training only 821 helicopter pilots a year (1977) under the Army program. This represents a facility utilization of only 34 percent. Obviously it is worth the risk for Army training sponsors to acquire a higher base utilization through the subsidization of Navy training, and plan to reprogram as required once the decision to consolidate has been made. To do other than this leaves the high overhead at Fort Rucker open to serious challnge in future budget cycles.

Issue 6. The Service Chiefs of Navy and Marine Corps have expressed their opinions on UHPT consolidation freely.

Comment: The Chief of Naval Operation's statement on UHPT consolidation appears on page 203 of the record of Hearings, and the statement of the Assistant Commandant of the Marine Corps on the same subject follows that of the CNO on page 203 extending to page 204 of the hearings before the Defense Subcommittee of the Committee on Appropriations, House of Representatives, 95th Congress, 1st Session, Part 6.

Both statements speak for themselves.

C. QUALITY OF INSTRUMENT TRAINING

Issue 1. The Air Force is completely satisfied with the instrument training given to its trainees at Fort Rucker.

Rebuttal: The O-in-C of the Air Force Detachment at Fort Rucker expressed himself on this subject at length in an official communication on April 13, 1977. This letter begins:

"1. Air Force is not satisfied with the instrument training provided its undergraduate helicopter pilots in the IERW course. Our combat crew training school user Commands have identified weaknesses in the IERW graduates' instrument flying ability which hinder transition to larger, more complex helicopters and, ultimate conversion to high performance fixed-wing aircraft.

"2. The weaknesses noted are primarily attributable to differing service philosophies toward instrument flying and are not recent developments, but have surfaced repeatedly in the past . . ."

The communication appears in its entirety on pages 300 and 301 of the hearings on UHPT consolidation before the Defense Appropriations Subcommittee of the House.

Issue 2. An all-helicopter instrument training program is superior to Navy's current mix of fixed-wing/rotary training. Further, Army simulators are superior and 50 flight hours of service-unique training are available under the Army syllabus for instrument training.

Rebuttal: A statement on training effectiveness by Mr. D. N. Mealy, the deputy plans and programs officer for the Chief of Naval Air Training at Corpus Christi, Texas, and a professional expert in all phases of Navy flight training, appears on page 354 of the hearings on UHPT consolidation before the Defense Appropriations Subcommittee. It is quoted in part as follows:

". . . the fixed-wing aircraft is more stable, it is a better medium for initial instruction to incorporate all the regimes of training. Fixed-wing aircraft are better to teach instrument flying. Fixed-wing aircraft are better to teach instrument flying, because the student pilot flying can devote more time to the scan of the instruments and the instrument procedures rather than to concentrate on the actual control of the aircraft. Therefore, he can learn the instrument procedures much easier and have the same instrument training transfer applied to a helicopter. It is better to start the student in fixed-wing . . ."

The hearings also clearly document that the 2B24 simulator needed by Navy at Whiting Field for its own UHPT program is available for transfer from the Army without harm to their UHPT program through extension of their work week and assigning remaining 2B24 simulator capacity to low priority users on weekends. This would be at no cost to Defense, merely a transfer of funds ($3M) from one service budget to another, and is only a variation of the alternative proposed by Army for 2B24 simulator utilization should Navy UHPT be consolidated at Fort Rucker. (See page 410 of the hearings on UHPT consolidation.)

Under Navy's current UHPT program a student pilot, prior to designation as a Naval Aviator, receives 76 hours of instrument flight time, in addition to the service-unique time provided for within the 191 hour Navy syllabus. It would not be of advantage to Navy to sacrifice any of its service-unique time when it is already achieving adequate instrument time under its present system.

ORDER FOR RECESS UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 o'clock noon Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMOVAL OF HOLD ON H.R. 9262

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the hold on H.R. 9262, which is at the desk, be released.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that H.R. 9262 automatically would be referred to the Committee on Governmental Affairs.

The ACTING PRESIDENT pro tempore. That is correct.

ORDER FOR RECOGNITION OF SENATOR ALLEN NEXT WEEK

Mr. ROBERT C. BYRD. Let me state that again. I ask that the request be vitiated, and I will restate it.

Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order, which is at the opening of each daily session, on Tuesday, Wednesday, and Thursday next week Mr. ALLEN be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REFERRAL OF A RESOLUTION CONCERNING TELEVISION AND RADIO COVERAGE OF THE PANAMA CANAL TREATIES DEBATE

Mr. ROBERT C. BYRD. Mr. President, I offer a resolution on behalf of the distinguished minority leader and myself, and I ask simply that it be stated and referred in the normal course of things, and printed.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

S. RES. 268

Resolved, That the Committee on Rules and Administration be and is hereby authorized and directed to provide for radio and television coverage (including the making of videotapes) of proceedings in the Senate Chamber during consideration of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, both signed at Washington, D.C., on September 7, 1977. Such coverage shall be provided for continuously at all times while the Senate is considering the Treaties, except for any time when a meeting with closed doors is ordered.

SEC. 2. The radio and television coverage of proceedings in the Senate Chamber, and the videotapes of such coverage, provided for in the first section shall be made available to public and commercial radio and television broadcasting stations and networks under such terms and conditions as the Committee on Rules and Administration may prescribe.

SEC. 3. The radio and television coverage of proceedings in the Senate Chamber under this resolution shall be carried out in such manner as the Committee on Rules and Administration shall prescribe.

Mr. ROBERT C. BYRD. Mr. President, we recently witnessed an historic occasion upon the signing of the Panama Canal Treaties by President Carter, on behalf of the United States, and President Torrijos, on behalf of the Republic of Panama.

After 74 continuous years, these treaties would cause a significant change in that status. This is certainly a major change in the relationship of the United States and Panama and in the event the treaties are ratified, and it would be one that would have generated widespread interest among the citizens.

Over the course of the next several weeks, the President and the administration will make major efforts to advise the public on the results and the ramifications of the treaties, if ratified.

I compliment the President for the effort he will expend in this regard, and I say this without implying what position I may take or how I may vote.

Certainly, however, one of the most crucial needs we in the Congress will have in making our determination—we in the Senate will have in making our determination—is to know how our individual constituencies and the American public as a whole feel about the treaties. Only if the public is fully informed in this regard will they be able to impart the benefit of their wisdom to us.

In order to continue the process of imparting information on both sides of the issue, the pubic should be informed of the deliberations that will take place in the Senate.

Woodrow Wilson said that one of the most important functions of the Senate was the informing function, and that is one of the reasons why I believe the hearings of the Committee on Foreign Relations should be televised, and it is my understanding that they will be televised.

It is also important that, following the hearings, which will begin shortly, and the record which will be made therefrom, we in the Senate can have access to that record of hearings and begin to base our own conclusions on the facts that are adduced in the course of those hearings.

I personally want to go to Panama, after the Senate adjourns, and see with my own eyes and hear with my own ears what is to be seen and heard in the interest of making my own decision in that regard.

I have today, as I have said, introduced this resolution, and the distinguished minority leader and I have joined in sponsoring it and calling for television and radio coverage of the deliberations and voting which will take place in the Chamber of the Senate of the United States.

I hope this resolution can be considered and approved by the committee to which it has been referred in due time, and if it is approved, preparation then can go forward for such televising and other publication by the media to the American people.

Mr. BAKER. Mr. President, I congratulate the majority leader for proposing this resolution and for his statement in support of it. I am pleased to cosponsor it with him.

There are few issues that have come before the Senate in the almost 11 years that I have served here that are of greater consequence and of more importance, not only to the people of the United States, but, in fact, to much of the world.

It is important that we proceed carefully in our deliberations and judgment, in our exercise of the coordinate jurisdictional authority granted to the Senate by the Constitution in matters of foreign policy, particularly the ratification of treaties.

I, too, have not made up my mind on how I will vote on the treaties or what action I may take in respect to them. I am a member of the Committee on Foreign Relations, and I intend to participate fully in those hearings, and energetically I intend to try to develop a record and to contribute to it according to whatever talents I may possess, to test the testimony of witnesses as that may be appropriate or desirable. But mostly, I intend to function in my capacity and under my responsibility as a Senator exercising the unique and special responsibilities the Senate has in foreign policy. But in doing so I want, indeed I need and I greatly desire, the advice and consent of the country because I am mindful, as I have said on other occasions, that America has been remarkably right in her major decisions, not because she has had great leaders always, although she has had more than her share, but because the people of the United States in their collective judgment and wisdom have been remarkably right in their judgments and determinations.

It is the very essence of the congressional system that the public is informed, that it has access to and is aware of our deliberations and proceedings.

In this age of electronic media, of instantaneous communication, I believe it is our responsibility to broaden, to extend, and to elaborate the access of the public to our deliberations.

So, Mr. President, I think the time has come in having something of a significant departure from the past, and that is to present these deliberations in this body through the electronic media, as well as the writing press, as we proceed to make a judgment of such fundamental importance that we dare not do less than our best.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader for his comments and for his joining with me in the introduction of this resolution.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. THURMOND. As I understand it, the resolution that has been introduced would provide for television in the Senate Chamber; is that correct?

Mr. ROBERT C. BYRD. Yes. Television and radio coverage.

Mr. THURMOND. The distinguished Senator referred to the Foreign Relations Committee. Does this resolution cover the Foreign Relations Committee hearings, also?

Mr. ROBERT C. BYRD. The resolution only covers the Senate debate in the Chamber.

Mr. THURMOND. That is what I was thinking.

I guess that would be left to each committee chairman as to TV in the committees, would it not?

Mr. ROBERT C. BYRD. Yes.

Mr. THURMOND. The Armed Services Committee, I believe, is planning some hearings, also, and I would think that probably if the Foreign Relations Committee is going to have TV the Armed Services Committee may want TV also.

I have no objection to the resolution. I think it is a fine idea.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Carolina.

Mr. President, I ask unanimous consent that any Senators who may wish to join the distinguished minority leader and me in cosponsoring the resolution to which we have just alluded may have the privilege of doing so before the resolution is printed, so I would ask that they have until 3 p.m. on Monday to add their names.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I wish to be added as a cosponsor.

Mr. THURMOND. Mr. President, I wish to have my name added as a cosponsor.

Mr. HUDDLESTON. I wish to have my name added as a cosponsor to the resolution.

Mr. ROBERT C. BYRD. I thank the distinguished Senators.

Mr. President, I ask unanimous consent that Mr. ABOUREZK, Mr. THURMOND, and Mr. HUDDLESTON be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, the Senate go into executive session to consider Executive A, 95th Congress, 1st session; that there be 5 minutes for Mr. SPARKMAN and 5 minutes for Mr. CASE, after which the vote occur on the treaty, after which the Senate resume legislative session.

Mr. ABOUREZK. Mr. President, reserving the right to object, does the leader contemplate providing a full hour for debate on the cloture motion, or would this eat into the hour?

Mr. ROBERT C. BYRD. This would eat into the hour.

Mr. ABOUREZK. Would the leader consent to just setting a certain amount of time for the recognition of the two leaders and the disposition of the treaty and then make it 1 hour for the cloture vote.

Mr. ROBERT C. BYRD. Yes.

Mr. President, let me add to my unanimous-consent request: With the further proviso that when the Senate resumes legislative session immediately after the disposition of the resolution of ratification, the 1 hour under the cloture rule begin running.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the foregoing agreement means that at approximately 12:20 or 12:25 p.m. on Monday we would go into executive session and immediately vote on the treaty. The first vote, let us say, would occur at 12:30, so that everyone will understand.

After the 15 minutes have expired for that rollcall vote, the Senate will immediately go back into legislative session.

That would be around 12:45. The 1 hour then would begin running under the cloture rule. So about 1:45, the clerk would call the roll to establish a quorum. This would mean that about 2 p.m. or 2:05 or 2:10—whatever time is required for the establishment of a quorum—the vote on the cloture motion would occur, and that is automatic.

Mr. President, for the information of the Senate, I shall state the amendments that are presently pending and the order of precedence in which they would be normally voted on:

The amendment by Mr. FORD, which is a perfecting amendment to the bill S. 2104, and which is open to amendment in one further degree;

The Bentsen amendment, as amended, to the Pearson-Bentsen substitute;

The Kennedy substitute to the Jackson substitute to the Pearson-Bentsen substitute to the bill S. 2104.

If cloture is invoked on the Pearson-Bentsen substitute to the bill S. 2104, then that Pearson-Bentsen substitute will be the business before the Senate to the exclusion of all other business until it is disposed of one way or another, except by unanimous consent.

In the event cloture is invoked I would expect a great number of rollcall votes beginning on Monday and lasting daily until the matter is disposed of. Each Senator is accorded 1 hour under the rule and only those amendments which are germane and which are in writing at the desk at the time the vote occurs will be eligible to be called up.

So, I urge my colleagues to be prepared to cancel all other appointments and engagements until this matter is disposed of.

Unless it is disposed of by the close of business next Friday the Senate will be in session on Saturday, and I must also say to my colleagues that if it is necessary the Senate will be in early and stay late in order for the business of the Senate to be expedited.

Mr. President, I wish to thank all Senators for their indulgence and for the attendance today, and I think the Senate has had a good day.

RECESS UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 12 noon on Monday.

The motion was agreed to; and at 5:18 p.m. the Senate recessed until Monday, September 26, 1977, at 12 noon.

EXTENSIONS OF REMARKS

THE AMERICAN DIET

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RICHMOND. Mr. Speaker, I would like to share with my colleagues the last in a series of Wall Street Journal articles on food and nutrition in the United States. Next Tuesday, the Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, which I chair, will begin a long-term probe into Federal nutrition education programs. I hope my colleagues will share the subcommittee's concern for a healthy America:

THE WAY WE EAT—TOO FAT? THIN? TIRED? FAD DIETS ARE PUSHED AS CURES FOR OUR ILLS

(By Joseph M. Winski)

Over here, seated before a dish of mashed lentils and corn bread, we find Nellie Shriver. The gentle-voiced Miss Shriver is the vegetarian movement's chief lobbyist. She wants everybody in the world to be a vegetarian.

And over here, sitting down to a thick steak oozing blood-red juices, we find David Stroud. He is president of the National Live Stock and Meat Board, an organization striving to preserve meat's good name and sales. "She goes around telling everybody, 'don't eat meat, meat is killing you,' and that's hogwash," Mr. Stroud says. "That's all there is to it."

We seem to have a slight disagreement here. But considering the subject, that isn't surprising. Besieged by claims about the value of this food or the harm of that one, many Americans these days are taking a hard second look at what they have been eating. In a Gallup poll conducted for Redbook magazine last year, 88% of those surveyed said they wanted to know more about nutrition. A Harris poll earlier this year for Chicago's Mount Sinai Hospital found that only 14% of those questioned thought Americans ate properly.

No doubt some of this skepticism stems from the frequent disagreements on nutritional matters among the "experts" themselves: The science of determining food's relationship to health is still, it seems, an evolving one. In any case, many people now feel free to follow the dietary advice of their own choosing, seeking that combination of foods that will reduce weight, nourish the psyche as well as the body, or cure everything from impotence to cancer.

Catering to this market for alternatives to conventional eating habits is a multibillion dollar industry that includes book publishers, health food emporiums and fasting clinics. Leading the way are the specialty-diet advocates themselves. "For millions of Americans," says Dr. Frederick J. Stare of Harvard University's School of Public Health, "the road to utopia is paved with fad diets."

There is, for example. Adelle Davis, who believed that no one who drank a quart of milk daily ever got cancer. Miss Davis, author of books such as "Let's Get Well," died of bone cancer in 1974. There are the folks of Rodale Press Inc. who through their Organic Gardening and Farming magazine and other publications have persuaded thousands to eat only "organic" foods—even though many food scientists say there's no evidence that foods grown with chemical fertilizers are made dangerous or less nutritious than "organically grown" foods.

SARDINES VS. WRINKLES

Among the newcomers to the field is Dr. David Reuben, who a few years ago told us everything we wanted to know about sex. Now, in a book entitled "The Save-Your-Life Diet," Dr. Reuben advises that many of the "dread diseases of civilization" can be prevented by eating more fibrous foods and having large and easy bowel movements. Another physician, Dr. Benjamin Frank, in a book called "Dr. Frank's No-Aging Diet," suggests that sardines and other foods high in nucleic-acid content can erase wrinkles.

Vegetarianism is a more traditional alternative-eating philosophy, based both on the belief that meat is harmful to health and the personal conviction that animal life, including that of cattle and hogs, is sacred. As Nellie Shriver sometimes tells followers, "We must never rest. Every day the slaughterhouse grind out their victims. Every day people die of cancer."

The 34-year-old Miss Shriver heads American Vegetarians Inc., a group she helped form and which now devotes its efforts to lobbying politicians on behalf of the vegetarians cause. "The movement is exploding," Miss Shriver says. She estimates there may be as many as 15 million vegetarians in the U.S. today, compared to less than five million a decade ago. (The Meat Board's Mr. Stroud says those figures are greatly exaggerated.)

BOOM IN DIET BOOKS

Being a vegetarian is also supposed to help one lose weight. Others, however, offer easier ways to reduce, usually in both paperback and hardcover editions. These are the diet books, a phenomenon that probably began with the 1961 publication of Dr. Herman Taller's "Calories Don't Count."

Dr. Taller's book, which advocated heavy doses of polyunsaturated fats, sold two million copies. It also earned him the nearly universal disapproval of the medical establishment (calories do count, many doctors say) and a 1967 mail-fraud conviction in a Brooklyn federal district court for promoting a safflower product that was among the fats that the diet recommended. Other weight-loss books, offering different prescriptions from their authors, followed. One of them, Dr. Irwin Stillman's "The Doctor's Quick Weight Loss Diet," describe 63 quick-loss diets; it's now in its 42nd printing.

There are a number of diets that stress foods that, because of the enzymes in them, supposedly burn up more calories than they contain. The food usually called for is grapefruit, with eggs added for nutrition's sake. Fifty-one grapefruit-and-eggs diets were turned up in a 1973 Senate committee hearing on fad diets. These regimens often circulate as "mayo" diets. The reason isn't clear, but keeps the prestigious Mayo Clinic busy denying there is a connection.

Nutritionists say a lot of the popular diets do work, at least for a while. But they also warn that because many of these diets often require either too much or too little of the foods that the human body needs, otherwise healthy individuals can't—and shouldn't—stick to them for long.

Others suspect that diet-book promoters time the publication of books purporting to reveal new nutritional "finds" to coincide with the waning popularity of the previously published "discovery." One who does is Philip A. White, director of the American Medical Association's Department of Foods and Nutrition, which keeps up with new diets and alerts the public to the ones it believes are dangerous. "We can't get involved with every diet that comes along," he adds, "or we'd do nothing else."

The AMA did take issue with "Dr. Atkins' Diet Revolution," a book that has become a publishing-industry legend. It didn't appear until October, 1972, but it still made the Publisher's Weekly annual best-seller list both, for that year and for 1973. Demand at one point was so great that five printers were involved: nearly a million hardcover

editions were sold, and another four million paperback copies have been printed thus far.

In the book, Dr. Robert C. Atkins wrote he had developed a diet that lets "you eat as much as you want, as often as you want," including "heavy cream, butter, mayonnaise, cheese, meats, fish, fowl." Such claims prompted the AMA to issue a press release calling the diet " a bizarre regimen" that was "neither new nor revolutionary" and "without scientific merit."

Dr. Atkins says he is "chagrined" by the "savage" attacks from his peers. (He successfully sued the New York County Medical Society when it tried to censure him for "self-laudation.") And he disagrees with physicians who say he has made a fortune in the diet-book business.

DISCOVERING THREE CHINS

"I would say I made, at most, two hundred and some thousand on that book," Dr. Atkins says. A cardiologist by training, he explains he became interested in diet when he saw a picture of himself and realized, apparently for the first time, that he had three chins. Indeed, undaunted by the criticism his first book provoked, Dr. Atkins has written a second, "The Superenergy Diet," which advocates eating to gain energy (though one who follows it can supposedly lose weight, too) and advises megavitamin therapy, or the regular consumption of large doses of vitamins.

Joan Lappin, Dr. Atkins' assistant, is a believer in the "superenergy" diet. She takes five vitamin pills a day, each of which contains, among other ingredients, 1,388 percent of the recommended daily allowance of vitamin B6. She says this has given her not only a lot more energy, but also a "phenomenal memory" and resulted in "not a stretch mark on my body." (Physicians who eschew megavitamin therapy say it may be harmful to internal organs such as the kidneys.)

One thing neither "Diet Revolution" nor "The Superenergy Diet" promises is nirvana. The so-called Zen Macrobiotics diet literally does. First popular among food cultists in the early 1960s, Zen Macrobiotics calls for gradually reducing one's daily diet to brown rice, supposedly the "perfect" food.

In addition to leading the user to progressively higher stages of mental serenity, this diet also has been touted as a cure for cancer. "No illness is more simple to cure than cancer," George Ohsawa, developer of the diet, wrote. "Simply return to the most elementary and natural eating and drinking," as called for in one of the Zen Macrobiotic diets.

According to the AMA, at least three people have starved to death on the Zen Macrobiotics diet. One was a 24-year-old New Jersey woman who died in November, 1965, of what the official autopsy report said was "emaciation due to starvation." Even today, nutritionists say, this diet is attracting devotees, some of whom urge the diet on their children. Last March, the American Academy of Pediatrics listed the diet among "the recent increase in nutritional practices that are potentially hazardous to the health of children."

Sandy Goldberg never tried Zen Macrobiotics, but she concedes she tried dozens of other diets before finding one that, she says, really works. Here she is in a meeting room of Chicago's Palmer House Hotel, telling about 100 people, mostly large women, about her discovery:

"My name is Sandy Goldberg, and I am a member of the Weight Watchers organization. I lost 115 pounds on the Weight Watchers program, and that was four years, one month, two days and 37 minutes ago." Loud applause follows.

Miss Goldberg is a "lecturer" for Weight Watchers International Inc., a publicly held company that earned more than $2 million last year by conducting thousands of weekly meetings like this one. What Weight Watchers sells, nutritionists say, is a good low-fat diet (it calls for a lot of fish) packaged in the tenets of group motivation pioneered by Alcoholics Anonymous.

CLAPPING FOR ROSEANN

The highlight of Miss Goldberg's presentation is what she calls "cards," the reading from index cards of the name and weekly program of each student. "Eileen . . . five and a quarter pounds lost last week! Let's all clap for Eileen." But Roseann has gained two pounds. "What happened, Roseann?" "My daughter baked me a surprise birthday cake." "Let's all clap for encouragement for Roseann!" They do.

Weight Watchers says it has registered nine million students in its 13 years of existence. Many of them have shed pounds, although Dr. William Sebrell, the company's medical director, concedes, "You simply can't get anybody to lose weight if they aren't really motivated to." An example of motivation, Dr. Sebrell says, is the man who joined the program after having trouble getting out of a telephone booth.

There are, of course, many people who don't adhere to anyone's diet except their own. One is Bonnie Swearingen. Right now, she tells a visitor to her Chicago apartment, she is fasting on tea and honey to correct recent "excesses." More typically, Mrs. Swearingen simply makes substitutions in her diet, using fresh lemon juice as a flavoring instead of salt, whole-grained bread instead of white, and "absolutely no sugar." Occasionally, she also substitutes champagne for hard liquor and low-calorie caviar for red meat. (The caviar comes from Iran, "where my husband's company has a plant." Her husband is John E. Swearingen, chairman of Standard Oil Co. of Indiana.)

These habits, Mrs. Swearingen says, have given her good health. "But vanity comes before the health considerations," she adds. "I eat the way I do because I am too vain to let myself go." Chicago society columnists frequently assure the 43-year-old willowy blond that she hasn't let herself go.

Although some of Mrs. Swearingen's alternative foods may be only for the well-to-do, others, such as honey, have long been popular among health-food buffs everywhere. There's also Korean ginseng, whose rumored aphrodisiac qualities have helped boost U.S. imports to $3.5 million last year from only $67,000 in 1971. Yogurt continues to sell well, and bee pollen has become popular among athletes because it supposedly increases endurance. Nobody knows what tomorrow's big sellers will be, but some health-food advocates are predicting a welcome reception for the yucca plant.

THE UNITED STATES MUST STAND BY TAIWAN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McCLORY. Mr. Speaker, as our Government is expressing its ongoing concern for human rights at home and abroad we should be equally solicitous of the rights of nations, large or small.

Many people are fearful that the United States may be preparing to withdraw its recognition of the Republic of Taiwan, a nation with a demonstrably responsible government which has done nothing to deserve any such proposed action. Withdrawal of recognition of the Republic of China on Taiwan would dishonor us in the eyes of the entire world as the recent newspaper column by George Will so clearly points out.

George Will's article follows:

THE UNITED STATES MUST STAND BY TAIWAN OR LOSE FACE

(By George Will)

A state is, as De Gaulle said, a cold monster. Every nation commits cold-blooded acts that it rationalizes, and occasionally justifies, by "reasons of state." But rarely does a nation commit a cold-blooded act that is as opional, even pointless as the one the United States is being urged to commit against Taiwan.

Although there is no visible calamity to be forestalled, and no substantial gain to be achieved, the U.S. government is being urged, from within and without, to "normalize" relations with China on China's severe terms. This would involve withdrawing recognition from Taiwan, and nullifying the defense treaty with Taiwan. This would be the first time a friendly nation had been denied U.S. recognition.

U.S. policy toward China is, and since the 1972 Shanghai agreement has been, a policy of appeasement. To apply that description tc a policy is not necessarily to denounce the policy. It has been said that the worst consequence of Neville Chamberlain's policy was that appeasement was discredited as an aim of diplomacy.

But there is no need for the United States to appease China. There is no evidence that China, if unappeased, will turn its policy inside out and seek rapproachement with the Soviet Union. Either China needs close relations with the United States to counter the Soviet threat, or it doesn't. If it does, it needs those relations more than it needs to humiliate the United States over Taiwan. If China doesn't need close relations with the United States, the United States can't purchase close relations with China by abasing itself and sacrificing a small nation.

To "de-recognize" Taiwan would be to accept China's contention that Taiwan is just an unfinished chapter in China's civil war. As China's Premier Hua puts it, "We are determined to liberate Taiwan. When and how is entirely China's internal affair."

It is intolerable for senior U.S. officials to suggest (as they reportedly have) that, in exchange for "derecognition," China might declare that it has no immediate intention to exercise its "right" to use military force against Taiwan. It is grotesque for U.S. officials to ask if China might tolerate a U.S. statement declaring a U.S. "interest" in a peaceful settlement of the issue.

Surely the U.S. government realizes that any "assurances" it gives to Taiwan in conjunction with "derecognition" will be incredible because of their context. Similarly, any "interest" the United States expresses to China about a peaceful settlement will seem reckless because it will be expressed as part of a retreat from defense obligations.

The U.S. defense treaty with Taiwan is, like all treaties, part of the supreme law of the land. There is a lawful method (formal abrogation) to abolish it.

But some people favor a method more in keeping with the spirit of their appeasement policy. The United States could crawl away from its commitment by announcing "derecognition," and then asserting that because Taiwan has ceased to exist, so have treaties with Taiwan.

Currently the U.S govenment is inviting Americans to think well of the new treaty that cedes control of the Panama Canal to Panama The government says the treaty is not an act of weakness, but rather expresses the confident magnanimity of a large nation toward small nations

Simultaneously the government is contemplating sacrificing a small nation to satisfy the appetite of a large nation. That would be a message to small nations, and especially to Israel.

Today the U.S. government is inviting Israel to take grave risks for the possibility of peace. But if the United States turns its back on Taiwan, it will be apparent to Israel that the gravest risk a small nation can take is to rest its security on U.S. commitments.

The U.S. government is being urged to win China's affection by means of a policy that will earn China's contempt. Of course there are always "realists" who argue that no quaint principle of honor should inhabit a nation's pursuit of advantage. But "realists" have yet to demonstrate the advantage to the United States in such a unilateral, dictated sacrifice of honor.

It often is true that, as William James said, people do not run because they are scared, but are scared because they run. Certainly if the United States runs from its commitment to 16 million Taiwanese, Americans should be scared.

FORESIGHT ON COAL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. HARKIN. Mr. Speaker, the importance of increased coal production to the emerging national energy strategy has become apparent in recent months. For this reason, I am pleased to note in a recent editorial in the Des Moines Register that the State of Iowa has signed a long-term contract that will double the State's coal production.

This contract underscores the wisdom of the State's decision in 1974 to invest in coal research. In that year $3 million was awarded to the Energy and Mineral Resources Research Institute at Iowa State University to undertake the Iowa coal project. It was the research at an experimental coal washing facility operated by the Iowa coal project which established that the sulfur content of Iowa coal could be reduced to meet Federal and State air pollution standards. This development removed the last remaining obstacle to burning Iowa coal in the State.

I would also point out to my colleagues that the Energy and Mineral Resources Research Institute has achieved lead laboratory status in restoration research on prime agricultural land. Iowa State has become perhaps the only university in the country to operate its own strip mine, using faculty, students, and private contractors. A coal beneficiation plant which produces about 70 tons of coal per hour has been built on campus. I visited the plant earlier this year and I was most impressed with the research being conducted there.

Mr. Speaker, I am proud of the initiative taken by Iowa and especially the work being conducted at Iowa State in the area of coal research. I want to share with my colleagues the editorial in the Des Moines Register which further elaborates on the work of the Iowa coal project:

FORESIGHT ON COAL

Iowa's moribund coal-mining industry made an impressive turnaround recently when a major electric utility signed a long-term contract that will double the state's coal production. Iowa Electric Light & Power Co. of Cedar Rapids will pay $108 million over the next 10 years for an annual 500,000 to 800,000 tons of Iowa coal.

Last January several of the biggest of the state's remaining handful of mines closed, and some industry officials predicted that coal-mining in Iowa might come to an end within six months. Iowa coal has too high a sulfur content to meet federal and state air-pollution standards. It has been burned by a few utilities and public institutions in mixture with large amounts of low-sulfur western coal.

A month after the doleful predictions of January, plans were announced for a 300,000-ton annual capacity coal-washing plant to handle the production of several mines. (Coal-washing is a mechanical process in which coal is passed through water and the sulfur separated out by the difference in specific gravity between coal and sulfur.)

An experimental washing facility operated for the Iowa Coal Research Project by Iowa State University showed that the sulfur content of Iowa coal could be brought near the four per cent allowed by air-quality regulations (three per cent in 10 eastern counties).

Although Iowa coal and low-sulfur Wyoming coal both cost about $20 a ton at the mine, rail freight to Iowa Electric's generating plants from Wyoming is $15 and from Marion, Mahaska or Monroe counties only about $6. The Iowa coal produces more heat than Wyoming coal (but even though washed, it still must be mixed with western coal about six tons to one to meet air-quality standards).

National energy policy requires utilities to rely more on abundant coal and less on oil or gas. To the extent that Iowa coal can be used in Iowa, the benefit to the state's economy is obvious. Iowa Electric's long-term contract is a heartening expression of confidence and underscores the wisdom of the state's decision to invest in coal research.

MIHAIL KOZANEVICH'S RIGHTS DENIED

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. D'AMOURS. Mr. Speaker, I am deeply disturbed by the continuing disdain the Soviet government shows for the rights of its citizens. The hypocrisy of the Soviets' daily violation of the 1975 Helsinki Accords has been dramatically brought home to me by Mrs. Gladys Margolis of Manchester, N.H. She has brought to my attention the case of Mihail Kozanevich.

Mihail is a Jewish dissident and activist who lives in Leningrad. His plight is a classic example of what happens to a Soviet citizen who tries to exercise the freedoms which are supposed to be guaranteed him by Soviet law and the various international human rights agreements to which the Soviet Union is a party.

Mihail and his family first applied for permission to emigrate to Israel 4 years ago. They have repeatedly been denied exit visas, despite the fact that the Soviet Union signed the Helsinki Accords which guarantee the citizens of signatory nations the right to emigrate. Upon signing the Accords, Lenoid Brezhnev said they should be "put to practical use and made a law of international life not to be breached by anyone."

Mr. Brezhnev's words have proven to be a hollow mockery in the case of Mihail Kozanevich and the cases of 140,000 other Soviet Jews who are still refused permission to leave the Soviet Union. It is clear the Soviets fear that emigration of any kind from their nation will stand as proof to the entire world that the Soviet system is not working all that well.

In the case of Mihail Kozanevich, however, persecution by the Soviet government does not stem only from his desire to emigrate. Mihail's role in founding a Jewish club in Leningrad has earned him an even greater torrent of harassment and abuse than he had already experienced because of his application for exit visas.

When the club was first established last year, agents of the KGB confiscated all of the group's materials and the members were forced to start over again.

In December of 1976 the club was forced to cancel its Chanukka celebration when Soviet authorities began harassing participants as they arrived outside the apartment where the nightly observances were being held.

Mihail has repeatedly been threatened with imprisonment or confinement in an insane asylum. These threats often come from security agents who pound on Mihail's door in the early morning hours. During one period this winter, authorities paid threatening nighttime visits on Mihail on seven consecutive nights. Never do these police have the written warrants required by Soviet law.

In January Mihail was accused of being a "parasite" because he did not hold a job. Many a dissident has been trapped by this Soviet Catch-22. Since it is a crime not to hold a job, those who apply for exit visas immediately lose their jobs and find it nearly impossible to find new employment.

A telephone call was abruptly disconnected as Mihail was describing KGB harassment to my constituent, Mrs. Margolis. Mihail's phone was subsequently removed.

All of my letters to Soviet authorities on Mihail's behalf have gone unanswered and unacknowledged. It is difficult to get word to or from Mihail. Letters often go undelivered or the contents are removed.

The only favorable news recently came via the Soviet Jewry Council in Philadelphia, which reports that many of Mihail's friends in Leningrad have finally been granted permission to emigrate. It is my hope that Mihail and his family will soon receive similar good news.

I urge my colleagues to take part in the movement to keep a spotlight on the continuing repression of Soviet citizens by their government. Jews who have emigrated have expressed the belief that in many cases it has only been attention and concern from the free world that has prevented Soviet authorities from throwing dissidents into jails or asylums.

The denial of basic human rights to Mihail Kozanevich should be of concern to all freedom loving Americans.

ADMINISTRATION AND AGENCY SUPPORT FOR THE FEDERAL BANKING AGENCY AUDIT ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ROSENTHAL. Mr. Speaker, the House will soon vote on the Federal Banking Agency Audit Act (H.R. 2176). This legislation authorizes the GAO to audit the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the nonmonetary policy activities of the Federal Reserve System. Though opinions differ on various technical aspects of the act, this legislation is broadly supported by the administration and all affected agencies with the exception of the Federal Reserve.

In a recent letter Treasury Secretary Michael Blumenthal expressed the position of the administration, the Department of the Treasury, and the Office of the Comptroller of the Currency. Secretary Blumenthal wrote:

> While the Administration generally supports H.R. 2176, we continue to have some technical reservations. Since the purpose of the GAO audit is to review the operations of the regulators, rather than the members of the industries regulated, we find persuasive the arguments in favor of maintaining the confidentiality of information concerning banks and bank customers.

Though the bill has extensive privacy safeguards, the administration has reservations about paragraph (5)(d) which authorizes the GAO to disclose the full details of its audits to Congress, if Congress feels it is absolutely necessary, but only when sitting in closed executive session. The administration believes that details identifying an open bank or bank customer might be "disclosed" by the staff or Members of Congress and, for this reason, it feels the confidentiality safeguards are not airtight.

The FDIC, on the other hand, feels the confidentiality safeguards are completely adequate. In a recent letter FDIC Chairman George LeMaistre affirmed his support of the Federal Banking Agency Audit Act and acknowledged that all of the FDIC's recommended privacy safeguards were incorporated in the bill. Chairman LeMaistre went on to say that the FDIC has no objection to authorizing the GAO to discuss the details of its investigations in hearings which are closed to the public.

FDIC Chairman LeMaistre clearly recognizes that it would be unwise to limit the information-gathering powers of Congress, and absurd to require Congress to accept GAO findings without the ability to evaluate the facts underlying them, if necessary.

The Federal Reserve opposes enactment of H.R. 2176. Their opposition is based, as it has been for the past 25 years, on the belief that GAO audits will lead to a reduction in Federal Reserve independence. In my judgment the Federal Reserve's fears are not justified. The GAO has not reduced the independent effectiveness of any of the agencies it audits, and it will not impair the independence of the Federal Reserve either.

The Federal Reserve is particularly concerned about the GAO auditing Federal Reserve "discount window" loans to commercial banks. The Federal Reserve is afraid such audit authority may become a device for putting political pressure on monetary policy formulation. This fear is also unjustified. During the floor debate on this legislation and in the legislative report, it has been clearly established that a "discount window" loan transaction is not subject to GAO audit, if the purpose of the loan is to implement monetary policy.

The GAO supports H.R. 2176 but feels it should be allowed to audit without comment monetary policy transactions of the Federal Reserve. Because of a desire not to involve the GAO in Federal Reserve monetary policy, the GAO is not authorized to audit or even comment on such transactions.

It is impossible to satisfy fully the wishes of each agency. Some of their desires are impossible to reconcile—for example, the GAO's desire to audit monetary policy transactions and the Federal Reserve's opposition to such audit. Nevertheless, the bill meets the concerns of the banking agencies to the fullest extent possible without restricting the oversight powers of Congress and the audit capabilities of the GAO. The bill's privacy safeguards are extensive and the monetary policy exclusion is complete. In its present form, the Federal Banking Agency Audit Act is supported by the administration, the Department of Treasury, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the General Accounting Office.

MEDICARE-MEDICAID ANTI-FRAUD AND ABUSE AMENDMENTS

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ZEFERETTI. Mr. Speaker, this week the House of Representatives will consider a most important piece of legislation, the medicare-medicaid anti-fraud and abuse amendments. I wish to rise in support of this bill and to urge my colleagues to do the same.

Presently, the United States spends over $116 billion or nearly 8.3 percent of the gross national product to provide sufficient health care to our poor and elderly. In New York alone, the medicaid program accounts for an expenditure of well over $3 billion—or 20 cents of every medicaid dollar—which indeed makes it the largest medicaid program in the country. Similarly, medicare outlays for fiscal year 1977 in the United States are expected to reach $22 billion.

Along with the ever-increasing costs of these programs, one must also realize the constantly expanding size of this plan. Currently, medicare reaches almost 20 million persons in the United States, and State operated and administered medicaid programs insure that thousands more are promised adequate health care.

Inevitably, the sheer magnitude of the medicare and medicaid programs increase the potential for fraud and abuse. During the past few years, we have heard of waste and inefficiency, of erroneous expenditures and of excessive payments involved in the system; and the age, physical condition, and socioeconomic dependency of the beneficiaries of both programs certainly compounds these already severe problems.

Fraud in these health care financing programs adversely affects all Americans. It cheats taxpayers who ultimately must bear the financial burden of the misuse of the funds in the Government-sponsored programs. In addition, these abuses drain valuable program dollars and deprive the elderly and the poor of the needed unrestricted quality health care they deserve. It is up to us, as responsible Members of Congress, to no longer accept waste and inefficiency as unavoidable side effects of the medicare and medicaid programs.

As a cosponsor of this important piece of legislation, I feel that H.R. 3 is a giant step in insuring the financial integrity of these policies. This bill would certainly provide the much needed reforms in the accountability of our health programs. In enacting this bill into law we would be able to closely scrutinize this system, which, indeed, adds to the financial plight of our cities and States. We would also strengthen the capability of the Government to detect, prosecute, and punish fraudulent practices and activities under the present programs. We would be able to increase program efficiency and most importantly, according to a GAO report, "no increase in cost is expected to occur." In addition to this, HEW's Office of Legislative Liaison has informed me that the expected costs incurred by such program would be "offset by the savings involved."

Aside from the "savings involved," this bill would provide:

Authorization for an increase in the Federal matching rate for the medicaid program;

Ninety percent of the Federal matching for State expenditures to support programs of educational and technical assistance to expedite the filing and payment of claims; and

Ninety percent of Federal matching for expenditures to establish and operate State medicaid fraud control units.

The time has come to enact this long overdue piece of legislation and I respectfully urge my colleagues to join in passing this vital measure.

SOUTHERN CALIFORNIA IMPACT

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. BURGENER. Mr. Speaker, in California, we see the emerging technology of coal gasification as a way to provide a major new energy supply both to our State and to the Nation. In southern California it would help relieve a crippling shortage of natural gas forecast for the early 1980's. But this pioneering venture cannot proceed unless Congress enacts legislation authorizing assistance for development of the Nation's initial coal gasification facilities. These first coal gasification plants can be developed by private industry but they must have the backing of Federal loan guarantees. The alternative to this minimum involvement by the Federal Government if the coal gasification industry is to go forward is to have the Government build the plants without involving private industry, in which case the nonbenefiting taxpayer, rather than the consumer, would have to carry the full economic burden.

The facility, which would supply synthetic gas—SNG—from coal to the southern California area, would be constructed in northwest New Mexico and would be designed to produce 250 million cubic feet per day of pipeline quality gas which is enough to satisfy the needs of over 800,000 residential gas consumers. Two facilities are planned for this site for a total productive capacity of 500 million cubic feet of SNG per day. Production at this latter rate would equal in a single year more than one-fourth of all the energy generated by nuclear power in the United States during 1976.

The timing, however, is critical in the construction of this project. Natural gas currently provides nearly half of all the nontransportation energy used in southern California but available supplies have been declining sharply for several years, 1976 deliveries were 27 percent less than those of 1970. With no new supplies, we project that energy available to the people in southern California through natural gas supplies in 1980–81 will be only half that of 1970. Gas deliveries have been cut back to large industrial customers forcing them to switch to more costly and less environmentally acceptable fuels. By the early 1980's gas service will be in jeopardy to the 190,000 smaller business and industrial customers in southern California who have no alternate fuel capability—a prospect which would have a severe impact on southern California employment. Just the first wave of layoffs induced by gas curtailments could total 700,000 workers. As supplies continue to decline, cutbacks would begin to the more than 3 million residences served by the gas company. This coal gasification project was designed to supplement declining gas deliveries, thereby making economical use of what is now idle pipeline capacity. It was not envisioned that gasified coal would displace another fuel or expand an existing market.

But financing is the major problem facing development of coal gasification, and these projects cannot be built by private industry without Federal financial assistance. Due in large part to inflationary pressures and delays in the regulatory process, the estimated cost of this project has increased from initial estimates of less than $500 million to about $1.3 billion in January 1977 dollars. Each day of further delay adds another $290,000 to construction costs, an amount which must eventually be borne by the gas consumer.

A Federal loan guarantee program would facilitate the development of a coal gasification industry through private investment, thereby limiting direct tax supported Government financial participation. A Federal loan guarantee also would permit lower project financing costs and therefore lower costs to consumers. The projects will be under the jurisdiction of Federal and State regulatory agencies and Federal guarantees will not result in excessive profits.

One of the most significant statements that can be made in favor of early action on coal gasification is that a large network of gas transmission pipelines and utility distribution systems representing a national investment of $50 billion is in place now and available for use. It is a very efficient transportation system and it is not being fully used, because of the progressively worsening curtailments of domestic natural gas supplies. The idle capacity of this system becomes a real bargain when it can be put to use transporting an interchangeable gas from a new source.

Other parties have suggested that a Federal loan guarantee program is not required to proceed. But do these other parties have viable ready-to-go alternate energy supply programs? In particular, do they offer any program for utilizing coal in environmentally superior ways to produce premium energy supplies for homes and small businesses at lower costs in the amounts and on the same early delivery schedule as proposed through coal gasification? I think not. Further, none of those parties stated that they found investors willing to provide capital for this type of venture without a Federal loan guarantee, nor did they say they were willing to provide the necessary capital themselves. The question is not what might be desirable if the Nation changed its way of regulation, taxation and so forth, or of what could be done in an abstract theoretical study. The question is what can we accomplish now with the resources and technology at hand to produce a needed commercial product.

Limited support from the Federal Government is a key concept for the early plants, because this is the only way these plants will be built by the private sector. I submit that we should move forward now with a loan guarantee program in scope and size necessary to move this industry forward to commercial production at the earliest possible date.

CARGO PREFERENCE A BAD DEAL FOR THE COUNTRY

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. KASTENMEIER. Mr. Speaker, the House will be considering in the near future H.R. 1037, the Energy Transportation Security Act of 1977, more commonly known as the Cargo Preference bill.

This is a bad bill. Bad for consumers who will end up paying an estimated $610 million more for oil per year by 1985 as a result of the legislation. Bad for the economy because of its inflationary impact. Bad for our international trade relations because it flies in the face of our longstanding commitment to promoting a free trade policy.

Mr. Speaker, newspapers from Texarkana, Ark. to Shawnee, Okla.; from Fairbanks, Alaska to Honolulu, Hawaii, have editorially condemned this piece of legislation. I have sifted through the numerous editorial comments on this bill and chosen merely a few which highlight the serious problems with this bill. I take this opportunity to share some of this editorial opinion with my colleagues:

[From the Dayton Daily News, Aug. 15, 1977]

THE BIG PAYOFF

The maritime industry aims at retaining its position at the government's golden trough.

The maritime industry gave President Carter's early primary campaigns some $200,000, and they probably will get their reward to the tune of $7 billion.

Congress also has been heavily involved in this sordid little game since the big payoff has come from the House Merchant Marine Committee in the form of a cargo-preference bill. This would require that, initially, 4.5 per cent of all oil be shipped in the most expensive American-flag ships; after five years, 9.5 per cent of the shipments would be in American ships. Bad as it is, the maritime industries wanted more than 30 per cent of the oil shipped by American tankers, and the Carter administration bargained for this lesser, but still expensive, amount as a compromise.

Ships are subsidized by the government in the first place. The *Wall Street Journal* notes that a $63 million ship was recently built with $9 million in equity; the government threw in $27 million and insured the mortgage on the rest of the loan. That ship will gross $30 million in three years.

Because American ships cost four to five times more to use than foreign tankers, with seamen averaging more than $24,000 a year, the "cargo preference" rule, if made law, even in its compromised form, will hit American taxpayers for that extra $7 billion. This from a government supposedly concerned about fuel costs.

This scalping by Congress is thoroughly unjustified. And though a few Republicans made noises about it, this tradition of buying off the flaccid, uncompetitive maritime industry with the public treasury has been a crime in which recent Republican presidents also have indulged. In this business, a savior party is hard to come by, and even the compromises are exorbitant.

[From the Birmingham Post-Herald, June 8, 1977]

A THREATENED SHIPPING RIP-OFF

A powerful lobby made up of shipbuilders, ship operators and maritime unions is waging a well-financed struggle for President Carter's mind and, to be blunt about it, we hope they lose.

Their weapons are a vast advertising campaign and a bill in the House of Representatives that would require up to 30 per cent of imported oil to be carried in 1980 in privately owned tankers flying the American flag.

Sounds innocent enough, but the implications are bad and extremely costly for the U.S. taxpayers and consumers.

First, to meet the bill's goals some $13 billion in new U.S.-built tankers would be needed over the next few years.

Unfortunately it costs twice as much to construct a tanker in America as abroad. Now nobody in his right mind would order a tanker from a U.S. shipyard—unless of course the taxpayers subsidize the cost, which is what the maritime lobby plans.

Second, it costs far more to operate an American-flag vessel, U.S. crews being paid almost four times more than foreign ones. Since there is no free lunch, the tankers would need operating subsidies or would have to charge a lot to bring in the oil.

Simply put, this means that every gallon of gasoline and heating oil would cost more because of the shipping industry's bill. How much more is in dispute, but some estimates are that the nation's oil bill would be $38.3 billion higher by 1985. (Inflation, anyone?)

Third, there is a worldwide glut of tankers. Almost every nation has tankers laid up without cargoes for them. It is sheer economic madness for this country to build costly tankers when, if needed, they could be bought cheaply from surplus fleets.

The lobby is using a scare argument about "national defense," claiming that American flag tankers would be an asset in an emergency. In point of fact, vast tonnage of American-owned tankers is registered under foreign "flags of convenience," like Liberia's. In wartime they would go where their owners (and the U.S. government) told them, not where anyone else said.

In 1974, the maritime lobby, which contributes lavishly to political campaigns, got a similar bill through Congress. Fortunately for the public purse, President Ford had the wisdom and courage to veto it.

We wish we could say Carter would do the same. However, maritime interests kicked in early and often to his primary campaign. As an ex-naval officer he is sympathetic to their arguments about a strong merchant marine. And the lobby has cleverly hired the ad agency of Gerald Rafshoon, who did Carter's campaign publicity, to handle its $500,000 propaganda drive.

All in all, the public is in grave danger of a multibillion dollar shipping rip-off.

[From the Evening Bulletin, Aug. 4, 1977]

CARGO PREFERENCE LAWS—U.S. SHIPPING ASKS TOO MUCH

American-flag ships have the Alaskan pipeline crude oil all to themselves under a U.S. law that says no foreign tanker can haul between two American ports. And now with the scent of more business, the maritime industry is going after an even bigger catch—legislation that will guarantee it nearly 10 percent of all foreign oil imports.

In this case, what's good business for the shipping companies and maritime unions could send American family budgets into another tailspin as the costs of oil and the products it helps produce go even higher.

The cargo preference legislation, as it's called, already has sent political tremors through Washington. President Carter's support of the bill clearly fulfills a campaign promise, and some influential Republican leaders in Congress think that's the only purpose it serves.

Maritime interests are said to have pumped $100,000 into Mr. Carter's election effort, but a lot more Americans invested their trust when Candidate Carter promised he owed his soul to no special interest group.

Any of the estimates on the cost of this cargo preference bill are frightening. They range from $110 million to more than $800 million a year by 1985. We doubt costs of that size can be considered in the "national interest," as the White House claims.

It's no surprise that the U.S. maritime industry now carries just 3.5 percent of the foreign oil brought to ports like the busy one in Philadelphia. Oil shippers say it costs between $1.5 million and $3 million more to run up the American flag, what with labor, shipbuilding costs and safety regulations. And that's why the shipping industry sought the wide range of government incentives it now enjoys—things like $33 million toward the purchase of an $81 million tanker.

Although we have new restrictions on imports of Japanese television sets and footwear from Korea and Taiwan, President Carter can still prove his sincerity on open trade—providing he sees the harm and needless expense the cargo preference bill would bring.

Some members of Congress are out to convince the President of that, but they shouldn't rely on a presidential veto of this bill. It comes to their chambers first for approval.

[From the Willingboro (N.J.) Times, Aug. 6, 1977]

CARGO PREFERENCE CERTAINLY NOT OURS

A new "cargo preference" bill is working its way through Congress and heading for the President's desk. The President has promised to sign the bill if it gets that far.

We hope it gets waylaid.

The bill will line the pockets of a few at the expense of the many.

It's true that the few—the people who build and own and man American ships—helped Jimmy Carter get elected with generous campaign contributions. But that is not sufficient reason to add billions of dollars to the average American's fuel bills, which is just what the cargo preference bill will do.

The cargo preference bill would require that 4.5 per cent of all oil imported into the U.S. be carried in U.S. flag vessels. The percentage is to be upped to 9.5 per cent in steps over the next five years.

The reason that U.S. shipping interests need this requirement is that they can't or don't choose to compete with other shippers, charging oil companies four and five times the amount foreign firms charge to transport their oil. The U.S. ships are able to charge the higher rates and still keep busy because of cargo preference regulations already on the books requiring U.S. coastal shipping to be done by U.S. flag ships. With the additional demand for their services the new regulations will bring, the rates are expected to rise even higher.

The Wall Street Journal estimates that the average American seaman earns $24,300 per year. The paper also estimates that the cargo preference bill will add $7 billion in fuel costs to consumers over the next five years.

Much of that collective burden, furthermore, will fall on the residents of the East Coast, who depend heavily on imported oil for heating.

Mr. Carter may lose the seaman vote and forfeit contributions from the powerful maritime industry if he vetoes the cargo preference bill, but he stands to lose a much greater bloc of support if he doesn't.

[From the Cleveland Press, July 11, 1977]

CARTER AND THE MARITIME RAID

In perhaps his worst decision since entering the White House, President Carter has gone along with the maritime lobby in its selfish raid on the consumer's pocketbook.

What Carter has done is to accept the notorious idea of "cargo preference." Under his and the lobby's plan, at least 9.5 percent of imported oil would have to be hauled in tankers flying the American flag.

At present oil importers can hire any vessels they want. U.S. flag tankers have only about three per cent of the market because our vessels are costly to build and expensive to operate with their featherbedded crews.

Unable to compete fairly, the heavily subsidized shipbuilders, ship operators and maritime unions have turned to Congress for protection. President Ford vetoed a cargo preference bill in 1974, but this time, with Carter in camp, the lobby is expected to win.

It has been estimated that cargo preference will cost the public $7.25 billion over five years. What it really is, of course, is a sneaky and hidden tax on everyone who buys gasoline and heating oil.

Moreover, the effect of higher shipping costs is worse than Carter's proposed gasoline tax that Congress has rejected. At least that tax would have been rebated to consumers. The proceeds of this one will go to a small industry that already is lavishly subsidized.

In buying the lobby's line, Carter went against the advice of the Treasury and State Departments and his own homilies against protectionism in foreign trade.

Treasury opposed the plan because it is inflationary. State because of bad international repercussions. Ten friendly maritime nations already have protested. They are angry because they all have laid up tankers without cargoes, and here comes Washington to freeze them out of existing business.

In all likelihood other countries will retaliate against our blatant protectionism. Which would mean that as protected shipbuilders and unions grow fat, other Americans in export industries could lose jobs.

The maritime lobby started working on Carter early last year before he had his nomination in hand. In May he wrote to Jesse Calhoon, head of the Maritime Engineers Beneficial Assn., hinting he was for cargo preference.

Calhoon promptly helped raise some $200,000 from maritime unions and employers for Carter's campaign. That guaranteed the lobby a respectful hearing for its views, and now its investment is about to pay off handsomely.

The industry's multibillion-dollar ripoff bill is not through Congress yet, and there still is time for Carter to change his mind. Unfortunately for the public, there is no sign of such a switch to economic good sense.

[From the Christian Science Monitor, Sept. 14, 1977]

SINK THE CARGO BILL

The cargo preference bill being pushed through Congress by the Carter administration appears to be heading into troubled political waters—as well it should. There is little doubt that the bill itself amounts to a political payoff by the administration to maritime interests for their support of Mr. Carter during his presidential campaign.

The U.S. General Accounting Office, in a long anticipated report, estimated this week that enactment of the bill—which would require that 9.5 percent of imported oil be transported in U.S. carriers—would boost the cost of oil for American consumers at least $240 million a year. The nation's total fuel bill could be hiked as much as $550 million to $610 million by the proposal, the GAO warns.

This is only the latest of several warnings—many from within his own ranks of economic advisers—that the President thus far has chosen to ignore. Mr. Carter reportedly is locked in to supporting the bill by promises he made to maritime unions and shipping companies during the campaign.

We sympathize with the flagging U.S. maritime industry which has veered into hard economic straits, unable to compete effectively against the cheaper labor and lower shipping costs of foreign flagships. U.S. ships carry only 3.5 percent of the oil brought into the country today. However, the price of the cargo preference bill is far too high for the relatively small number of jobs that would be created by it—2,500 shipboard jobs, 2,100 shipyard jobs, and 15,000 additional jobs in the supply industries.

Such a stark protectionist move would be a dangerous precedent to set. The bill already has stirred strong critical comment in Europe, which supplies many of the ships importing oil to the U.S. Nations can be expected to retaliate with trade restrictions of their own if the cargo preference bill becomes law.

Even the Department of Defense pumps holes in the argument that the bill is needed to bolster national security. Getting oil, not tankers, would be the major difficulty in time of war, defense strategists argue.

President Carter has pledged to other nations the firm United States support of open trade policies. The cargo preference bill not only would violate treaties with more than 30 nations, but would certainly cause U.S. trading partners to question the integrity of the Carter commitments to open trading.

Although U.S. shipping already is among the most highly subsidized of any U.S. industry, the government and consumers have a stake in retaining the declining merchant marine fleet, which has dwindled to 231 tankers with a carrying capacity of 9 million deadweight tons—only a small fraction of that of other fleets.

The Federal Trade Commission suggests one less expensive way of expanding the U.S. fleet would be to purchase ships on the world market, currently glutted with hundreds of vessels standing idle. The FTC estimates the U.S. could save $200 million a year by buying oil tankers, rather than subsidizing their construction.

The cargo preference bill has nothing going for it but politics. We urge Congress to reject it and look for other approaches to buoying America's merchant marine fleet.

[From the Beaver (Pa.) Times, Aug. 30, 1977]

U.S. STEERS TOWARD NEW TRADE POLICY

(By John Dillin)

WASHINGTON, D.C.—President Carter and Congress, prodded by maritime interests, are steering the United States toward a revolutionary change in trade policy.

Under the innocuous label of "cargo preference," the administration is steaming full speed toward some of the most strongly protectionist legislation in history.

Implications for U.S. consumers include somewhat higher prices for gasoline made from imported oil. Some White House advisers also warn the move could set a precedent leading to higher prices for other imported goods.

Focus of the current drive is HR–1037, a bill introduced by Rep. John M. Murphy (D) of New York, chairman of the House Committee on Merchant Marine and Fisheries. The Murphy bill, given good chances of passage, has the President's support. It eventually would require that 9½ percent of all the oil being imported into the United States be carried in American tankers.

Such a requirement for civilian cargoes would be a first for this country.

Top White House economists have fought the bill. They told the President it would lead to higher prices, add to unemployment, and reduce the nation's total output of goods and services.

One high-level source, however, says the President's options were limited. He was locked in by old campaign promises to maritime interests, and could find no way out.

"Carter was in a tough campaign in '76. He made certain promises. This is what elections are all about," said one government source.

The Murphy bill is nothing new. Congress passed similar legislation three years ago, only to have it pocket-vetoed by former President Ford. But this time, there appears to be little resistance to the measure in either the House, the Senate, or the Oval Office.

The protectionist drive reflects, in part, a growing concern in some quarters about the American merchant fleet.

Following World War II, the United States had the biggest and best merchant fleet in the world. But the years since have seen a precipitous decline, with the U.S. slipping to 10th place behind Liberia, Japan, Britain, Norway, Greece, Panama, the Soviet Union, France, and Italy.

Today the U.S. tanker fleet has fallen to 231 ships. Many of these ships are aging and inefficient. Their total carrying capacity is 9 million deadweight tons, or just a fraction of the capacity of the fleets of several other nations.

U.S. tankers carry only 3½ percent of America's oil imports at a time when the nation has become more dependent than ever on petroleum from the Middle East.

The Carter-backed bill would require that 4½ percent of America's imported oil be carried by U.S.-flag tankers next year. That would increase to 9½ percent by 1982 or 1983.

Over the long term, supporters of the bill argue, this mandated requirement would lead to a larger U.S. fleet, which would be an important adjunct to America's national security capabilities.

Ironically, the Department of Defense has argued against the bill. The difficulties in wartime would be access to oil—not the getting of enough tankers, Defense officials have said.

The Murphy bill already has stirred critical comment in Europe, whose ships share heavily in the U.S. oil trade. Eleven nations, led by Norway, have protested any move toward protectionism in shipping in a series of notes to the State Department.

Further complicating the international picture are 34 treaties of "friendship, commerce, and navigation" which could be breached by such a measure. There is concern among some top members of the administration that protectionist moves by the United States could be quickly emulated by other nations—with unhappy consequences for U.S. foreign trade.

Finally, there is concern that once they have tasted the fruits of protection from foreign competition, U.S. maritime interests could unleash a campaign for more and more of the same.

[From the Wilmington (Del.) Journal, August 20, 1977]

SINK THE CARGO BILL

The United States may be on the verge of violating treaties of "friendship, commerce and navigation" with 34 nations in the world.

Sounds impossible? Unfortunately, it is possible and even likely.

A cargo preference bill is making its way swiftly through Congress—the powerful House Merchant Marine and Fisheries Committe reported the bill out by a generous 31 to 5 margin—and President Carter has made his support for the bill abundantly clear.

The cargo preference bill would require that next year 4½ per cent of our imported oil be transported in U.S. flag tankers; by 1982, the requisite percentage would be 9½. For comparison, currently a little over 3 per cent of imported oil gets brought to the United States in U.S. flag tankers.

That such a law would be a boon to American shipping interests need hardly be stated. But those are about the only interests that would profit.

For the rest of us, such a bill would be a disaster. The proposed law's first effect would be to add to the cost of imported oil. At present, it costs more than twice as much to operate a U.S. flag tanker than one flying under a foreign flag. That discrepancy would grow as American shippers can afford to be less competitive because they know that by law they are entitled to a certain share of the business.

The latest estimate from the General Accounting Office is that the cargo preference law would immediately add $240 million to the nation's oil cost. That may not seem like a huge amount in an era when money talk is often in billions, but any dollar spent unnecessarily is a dollar wasted.

There is little indication that the shipping industry needs the kind of shot in the arm that the cargo preference bill would assure. The federal government is already subsidizing shipping interests to the tune of almost $800 million a year for ship construction and ship operation. Furthermore, U.S. flag vessels are also profiting from another law, the Jones Act, which specifies that all U.S. coastal shipping must move in U.S. flag vessels. Alaskan oil is giving U.S. tankers quite a boost in that respect.

Nor is there much validity to the argument made by proponents of the cargo preference bill that the U.S. must enlarge its tanker fleet for security reasons. For one thing, it is unlikely that a war would find us pitted against Liberia, Panama, Greece and other seafaring nations that transport oil to U.S. shores. For another, the greater problem in case of war would be access to the oil, not its transportation.

Requiring 9½ per cent of imported oil (and possibly even more after 1982) to be shipped on American tankers would be contrary to trade treaties we have with numerous nations, as stated at the outset. In instances where there is no treaty, this preferential cargo law would breach the principles of free trade that President Carter has been proclaiming so earnestly.

Why then is the Carter Administration endorsing this legislation? Incidentally, this is not the first time that shipping lobbies have tried to get such a bill enacted into law; this is a perennial project that almost succeeded in 1974 when former President Ford used the pocket veto to kill it. The only explanation that can be offered for President Carter's support is that he is making good on a campaign promise that brought presidential aspirant Jimmy Carter over $100 billion in contributions from maritime interests during the primaries. With many members of Congress also having been frequent recipients of maritime generosity, there is no reluctance in Congress to go along with the President.

It is difficult to stop such a presidential-congressional alliance. But it is not impossible. A good dosage of public indignation about this piece of preferential legislation can sink this measure.

[From the Washington Post, Aug. 2, 1977]

THE MARITIME LOBBY'S TRIUMPH

The maritime lobby, with its money bags, has scored a great political triumph. The costs will be borne over coming years by everyone who buys oil products. It's another defeat for the enlightened trade policy that President Carter keeps proclaiming but never quite manages to put into practice.

The maritime interests—ship builders, ship operators and unions together—already enjoy more different kinds of subsidy than any other American industry. Despite this torrent of aid, they have worked their freight rates up so high that nobody uses American-flag shipping unless the law requires it. The maritime lobby has now obtained President Carter's misguided support for its perennial bill to force part of this country's oil imports into those American-flag tankers. The proportion of imports affected will be small at first, but it will rise steadily.

It's called a cargo preference bill, and it is 200-proof protectionism. It would violate American treaties with other nations. It would be inflationary. It would add still another layer of subsidy, this time paid directly by consumers in the form of higher oil prices. As national policy, it's got absolutely nothing

going for it but the lobbying muscle and the extensive campaign contributions of the people who wanted it. But that turned out to be enough to get the President's support.

Mr. Carter's whole trade policy is rapidly deteriorating. He keeps talking in terms of the most high-minded commitments to open trade and international competition but, unfortunately, the actual record points the other way. There have been three major cases so far, and three times the administration has caved in to the protectionists.

In the case of the color television sets from Japan, Mr. Carter resorted to an Orderly Marketing Agreement. That term is a euphemism for an agreement by the exporting country to limit shipments. In the shoe case, the administration imposed another couple of Orderly Marketing Agreements on Korea and Taiwan. They will save some jobs in American shoe factories; they will also cost some jobs in American retail stores as well as increase prices to American consumers. But at least an Orderly Marketing Agreement is limited in duration and is a legal procedure under the general trade rules that this country has bound itself to. The cargo preference bill is neither.

It's a strange performance for an administration that foresaw trade troubles and staffed itself with people to meet them constructively. Those people, led by Treasury Secretary Michael Blumenthal and Under Secretary of State Richard Cooper, have been walloped in each successive test. The President has been mainly following the advice of Robert S. Strauss, currently his special trade representative and formerly chairman of the Democratic Party. Like most party managers, Mr. Strauss thinks in terms of constituencies and grievances: a factory here, a union there. He apparently does not work in terms of broader concerns, like consumer interests in general, or American productivity, or the future of the highly competitive American industries whose overseas markets are now threatened by foreign retaliation.

If Mr. Carter will not resist protectionist pressure, he cannot expect the fragile governments of Western Europe to do better. He may get heat from aggrieved unions—but unlike, for example, the president of France, he does not face an election next year that might bring the Communists to power. In May, at the London summit conference, Mr. Carter joined in a pledge to support firmly the principle of open trade and a growing world economy. The people who heard him must wonder what he had in mind when they now read the cargo preference bill that he has promised to support.

INFLATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McDONALD. Mr. Speaker, inflation has become like the weather, everyone talks about it, but no one does anything about it. Everyone would like prices of the things he or she purchases to stop rising, but few people in the political world want to attack the root cause—the great imbalance of the Federal budget. Government programs, once started, always develop a constituency and are hard to stop. Given the number and variety of programs now operated out of Washington, D.C., it is safe to say that the United States is well on its way to becoming a welfare state, and the welfare state feeds on inflation. Great Britain is a recent example of this phenomena, even though she may temporarily stave off disaster by virtue of the wealth created by the North Sea oil. Dr. Hans F. Sennholz, in a recent article that appeared in the August 1977 issue of Private Practice outlined succinctly how inflation destroys freedom and our way of life. I commend this article to the attention of my colleagues:

INFLATION

(By Hans F. Sennholz, Ph. D.)

Few policies are more calculated to destroy the existing basis of a free society than the debauchery of its currency. And few tasks, if any, are more important to the champion of freedom than the securing of a sound monetary system.

Throughout the history of civilization, governments have been the chief cause of monetary depreciation. Especially since the rise of the welfare state, governments all over the world have embarked upon an unprecedented inflationary trend, the disastrous effects of which can only be surmised.

The welfare state breeds and in turn feeds on inflation. It breeds inflation because "expansionism" forms an integral part of its redistributive program. In fact, every one of its chief features encourages inflation. The large number of spending programs lays a heavy financial burden on the public treasury. Without income of its own, the government may at first derive its benefits from the income and property of wealthy producers. But this very convenient and popular method of "redistribution" is soon exhausted while the demands on the state go unabated or even increase. As the raising of taxes on the masses of people is unpopular, and therefore politically inexpedient, the welfare state is tempted to provide the promised benefits through deficit financing. It resorts to deficit and currency expansion as the least painful and most deceitful method of fund-raising.

The disastrous effects of monetary depreciation then strengthen the demand for welfare state measures. In fact, the ill effects of inflation provide social planners with the chief arguments for an extension of government functions and powers.

Inflation causes displacements in the distribution of income and property. As lenders and borrowers, most people usually do not take into account variations in the purchasing power of money. When the value of money declines, the lenders are bound to suffer losses in purchasing power while the borrowers gain a corresponding amount. There are long-term contracts that do not have to be fulfilled until later points in time. There are long-term employment contracts or contracts for the supply of materials, all of which involve money payments over time, that entail inflationary risks.

It is a popular fallacy that inflation affects only wealthy individuals because they are said to be the money lenders. This may have been true during the Middle Ages when economic wealth was concentrated with a few wealthy noblemen and merchants while the majority of people were struggling for mere suvival. Today, a great number of middle-class people are able to save some part of their incomes. There are the millions of creditors of life insurance companies, pension funds, savings banks, and similar institutions. Millions own government savings bonds and other money assets. They may have charge accounts and other consumer debt. But in most cases their savings exceed their obligations.

While most individuals mainly save in the form of money or claims to money, and thus are liable to be victimized by inflation, wealthy industrialists and merchants usually are debtors on net balance. They may be indebted to bondholders, banks, and other financial institutions. Many recognize the disastrous nature of inflation and, therefore, are hedging against it by avoiding investments in money or claims to money.

The disastrous nature of inflation becomes clear when we contemplate the magnitude of the losses inflation is inflicting on millions of American creditors every year. Even at the modest rate of ten percent annual depreciation, the annual losses to creditors and gains to debtors amount to more than $300 billion a year. The impact of this silent transfer of savings and wealth on millions of individual lives surpasses all imagination.

Considering such staggering losses on the part of the thrifty and provident, the rising clamor for welfare state measures is not surprising. Inflation losses strengthen the demand for social security, socialized medicine, and governmental controls over prices and rents. They foster federal aid and subsidies, and otherwise provide the chief arguments for an extension of government power.

Sooner or later inflation must come to an end. When the people finally begin to realize that inflation is no Act of God, but a willful policy of government, they may react by reducing their cash-holdings, savings, and claims to money, and by increasing their purchases of goods and services. This reaction accelerates the rise of goods prices and the depreciation of the currency. Of course, the very authorities that inflated the currency then blame the people for the depreciation and urge them to "hold the line on prices and wages." They may urge the citizenry to buy more savings bonds, or may raise income taxes in order to reduce the people's spending power. Unfortunately, all these measures must be futile because they aim at symptoms rather than causes. They enhance the spending power of the government, and concomitantly reduce the freedom of the people.

Individual freedom is further curtailed through tax progression. When our dollar incomes rise on account of inflation, we are lifted into progressively higher income brackets. Inflation together with the feature of tax progression allows government to absorb an ever-larger share of the people's earnings. In short, inflation gradually pushes us all towards the top rate of income taxation.

Business income is badly affected by monetary depreciation. When prices rise, a distortion in profits takes place. They are made to appear far larger than they actually are. Inflation lifts the costs of replacing plant and equipment far above the original costs. But for tax purposes, government recognizes only the original costs, and permits business to deduct only them as costs. Thus it forces business to overstate its actual earnings, and pay income taxes on "profits," which in reality merely are inflationary costs of replacement. These effects and other harmful consequences of inflation readily explain why the stock market, which is a clear mirror of the profitability of business, performs so poorly in times of rampant inflation.

Inflation is a dreadful disease of the body politic. It leads to massive transfers of unearned income and wealth, which breeds social conflict and strife. It destroys the middle class, which tends to invest its savings in money or claims to money. It disrupts economic production and exchange and causes upheavals and crises. It bestows vast power and great wealth on government while it abridges the freedom and wellbeing of the people. It is a fatal disease of a free society.

SENATE—*Monday, September 26, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. JAMES ABOUREZK, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father:

"Thy love divine hath led us in the past;
In this free land by Thee our lot is cast;
Be Thou Ruler, Guardian, Guide, and Stay;
Thy word our law, Thy paths our chosen Way."
—Daniel C. Roberts, 1876.

O Lord, watch over us this new week. Guard our speech. Control our lips. Sharpen our minds. Protect our hearts from evil that our service may be pure and holy.

For Thine is the kingdom and the power and the glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 26, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES ABOUREZK, a Senator from the State of South Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ABOUREZK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, September 24, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS THROUGHOUT THE WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the CONGRESSIONAL RECORD daily throughout the week be open for the usual transaction of routine morning business.

The PRESIDING OFFICER (Mr. NUNN). Is there objection? Without objection, it is so ordered.

STATEMENT ON COSPONSORSHIP OF SENATE RESOLUTION 268

Mr. ROBERT C. BYRD. Mr. President, on Saturday, September 24, on behalf of the distinguished minority leader and myself, I offered Senate Resolution 268 concerning television and radio coverage of the Panama Canal Treaties debate in the Senate.

At that time, I asked unanimous consent that any Senators who may wish to join in cosponsoring the resolution may have the privilege of doing so before the resolution is printed, until 3 p.m. on Monday, September 26, today. I wish to state that this request to hold the resolution, however, is not to be considered a precedent. I feel it necessary to make this statement now, because I realize that the practice of holding bills and resolutions for cosponsors by unanimous consent, if permitted, will soon prove objectionable.

Senators have often spoken out against cosponsoring bills and resolutions generally, with efforts being made through submission of resolutions and amendments to amend the Senate rules prohibiting the practice with certain exceptions.

To date, such efforts have been unsuccessful, but the prohibition against holding the printing of measures for cosponsors has been enforced by objection on every occasion when such requests were made. These objections date back to February 16, 1967, when the late great distinguished Senator Everett Dirksen, from Illinois—incidentally the father-in-law of the distinguished minority leader—attempted by amendment to the Legislative Reorganization Act of 1967 to generally prohibit cosponshorship.

His effort failed, but after the vote rejecting his amendment was over, he made the following statement:

Mr. DIRKSEN. Mr. President, if I may have the attention of the Senate, I want to let the Senators know that this is not the last they will hear of dual sponsorship. There will be objection on every occasion when a bill is left on that table for sponsors. I hope that Senators will take heed and respect the notice. If I am not present on the floor, Senators may take advantage of me by leaving bills at the desk if they want to do so.

I will see that the floor is monitored and there will be no more bills left on the desk to plague the clerks of the Senate by leaving bills there for days and weeks to get sponsors and thus make every Senator a target for these outside pressures.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Committee and the Finance Committee be authorized to meet daily during the days of this week.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

SENATE STATESMANSHIP AND THE PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, John Averill, veteran Capitol Hill reporter for the Los Angeles Times, wrote an excellent article over the weekend about Senate prospects for the Panama Canal Treaties, which also appeared in the Sunday Washington Post.

I want to say that despite the excellence of the article, I emphatically disagree with an unidentified Senate aide whom he quotes as saying:

I fear we won't see many statesmen around here when the vote comes.

If correctly quoted, that unidentified Senate aide did a disservice to the Senate and a disservice to the advise-and-consent process of the Senate in connection with the Panama Canal Treaties. I have no desire to ascertain who that person may be. He may remain anonymous as far as I am concerned.

I have, as my colleagues know, been working hard over the past several months to help steer the treaties through the Senate.

I have probably talked, at one time or another, with well over two-thirds of the Senate about the treaties. So I think I talk from intimate, firsthand knowledge when I say that Mr. Averill's anonymous Senate aide is way, way off base.

I do not believe I have ever seen in my years in the Senate such serious, careful deliberation on one issue by so many Senators.

All are very much aware of the heavy crush of mail they are getting opposing the treaty, even though much of the mail is obviously the result of an organized campaign rather than a spontaneous outpouring from their constituents.

Nonetheless, Senator after Senator I have talked with is clearly determined to find out all he can about pros and cons of the treaties and to make his final decision on the merits of the case.

That is one of the reasons for the delay in the treaties coming to the floor.

Most Senators have been following carefully the course of the debate so far—in the press and on the floor of the Senate.

They will be following perhaps even more carefully the Foreign Affairs Committee hearings that begin today.

They want time to read and to reflect on this vital national issue. They very correctly don't want to be rushed into a decision. And they will not be.

Most of my colleagues know by now how strongly I feel about the treaties. The treaties are—in my view—essential to our Nation's national security interests in Latin America.

But that is my view. Other Senators may disagree; some already do. But I have never had cause to question their motives or their sincerity. The burden is on those of us who favor the treaties to prove our case.

This much I am already convinced of: That when the final vote for ratification comes, every Senator will be voting his conscience—and his sincere view of the national interest—and not his mail.

It may be a hard vote for some. While I see the merits of the case overwhelmingly in favor of the treaties, others may see it as rather a close call, one way or another. I respect that view.

But win or lose, I am convinced the decision will be a decision of statesmen, of Senators who make up their own minds about right and wrong and who are not swayed—in a matter as vital as this—by outside pressures and fears about the next election.

Indeed, they know that so-called conventional wisdom is often wrong, and that the voters are far more likely to reward courage, integrity, and the strength of a man's conviction.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CRANSTON. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, I subscribe completely to what the distinguished majority whip has just said. I also want to say that I have very high regard for John Averill and the same high regard for the Los Angeles Times.

Now and then statements of aides are allowed to color the stories in all publications. I want to say that the Senate has never been devoid of statesmanship, and it has never been devoid of courageous men. Whatever our viewpoints are, when the time comes for the Senate to show down on the issue, I have faith in the courage and the integrity of every Senator who will cast his decision.

There will be those who will vote against, and there will be those who will vote for. I myself am keeping a completely open mind. I am determined that the Senate have an opportunity at some point to reach its decision, and I think that we owe it to the President and we owe it to the country, in the meantime, to have enough time to get over the emotional hump, lay out the facts, let Senators and the American people take a good look at those facts, and let Senators make their decisions on the basis of the facts that have been adduced.

Now, there may be some Senators who have already decided one way or the other. I do not question their judgment, their integrity, their courage, or their dedication as being just as good and high as mine. But this business of basing a story on a Senate aide's observations, I think, is a rather bad way to go about reaching a judgment as to what the Senate will do. We have to have our aides; we could not do without them. They perform a very important service to Senators and the Senate.

But as far as I know, Senators are accessible to the press. The leadership on both sides of the aisle is very accessible to the press, and any time the press wishes to speak with the leadership or any Senator to get their viewpoints, we are accessible, and the press knows that.

I would just hope that in a matter of such vital importance, either way one views it, if one is for the treaties or if one is against them, nevertheless it is a subject of such moment, such far-reaching significance, and such importance that Senators ought to be able to make up their own minds and have time to do so. I think they are capable of expressing their sentiments, they are capable of being statesmen, and they are capable of showing courage where courage is required. I have no doubt that the Senate will reach one of its finest moments when the time comes.

I am glad that the distinguished majority whip took the floor and the occasion to say what he said. I subscribe to it thoroughly. Let us be done with this business of Senate aides prognosticating and predicting what the outcome will be and how little courage there will be, and how devoid of backbone 100 Members of the Senate may be. I have absolute faith, confidence, and trust that this Senate will make the right decision when it is made, and I do not doubt any Senator's courage and dedication when it comes to the point of putting his country's interest first.

All of us are politicians; there is no question about that. We all get heavy mail, many times on many subjects. In connection with some subjects more than with others, I think, a degree of statesmanship is called for. But when it comes to something like the Panama Canal Treaty, watch the Senate. I dare say there will be many Senators who will cast votes that will cost them, politically, insofar as their constituents' support back home is concerned.

We reach issues from time to time when, any way one votes, one is going to disappoint some constituents. I cannot satisfy all my constituents without voting two ways on the treaties—one for and one against. But each of us has only one vote and we all realize that. When the time comes to cast that vote, I believe that every Senator is going to cast his vote in what he sees as the best interests of the Nation. Partisanship should have no part in this matter, in my judgment, whether we are Democrats or Republicans, whether we are for or against.

I hope that that, may I say to my friend from California, will help to supplement his fine statement.

Mr. CRANSTON. That is a superb statement. I welcome it. I agree with every bit of it. I want to stress, as the majority leader did, my recognition of the right of the press and my respect for the ability of the press to cover our doings and what is said and done by the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. I shall be happy to yield a portion of our time to the Senator.

Mr. CRANSTON. I specifically admire John Averill for ferreting out the Senate aide who gave him that quote to spice his article, along with all else he wrote. I do not admire the wisdom of that Senate aide at that particular moment.

Mr. ALLEN. Will the Senator yield?

Mr. STEVENS. Yes, I yield some time.

Mr. ALLEN. I commend the majority leaders for their statements. I, too, feel that there will be statesmanship shown by Members of the Senate on this issue. I might stress, too, that the side that the Senator votes on does not necessarily indicate whether he is a statesman or not. I think statesmen will appear on both sides of the isuue.

Mr. CRANSTON. Of course.

Mr. ALLEN. I think there are pressures from many, many quarters that will be evident as this debate goes on. But I do not feel that only those who vote "aye" on the treaties will be regarded as statesmen. I think those who feel that it is in the best interests of the country to vote "nay" can, equally well, be regarded as statesmen.

Then, too, I commend both leaders on stating that this matter will be allowed to be debated at length here in the Senate so that Senators can be fully informed and so that the Nation can be informed as to these issues.

Speaking for myself, I assure the leaders that there will be no filibuster, as such, on this treaty. As soon as legitimate arguments have been made, and legitimate amendments to the treaties and the reservations have had an opportunity to be considered here, in the Senate, I shall certainly be ready to vote.

I do feel that the treaty needs to be amended at a number of points, and there need to be reservations where amendments are not regarded as being a proper vehicle. But it should be debated at length and I am confident that there will be no obstructionist tactics used in connection with the treaty.

While the debate will be extended, it will not rise to be a filibuster. I think that is the sentiment on both sides.

Mr. CRANSTON. Will the Senator yield me 30 seconds?

Mr. STEVENS. Yes.

Mr. CRANSTON. I want to say that I welcome the statement of the Senator from Alabama, and I assure him that, of course, I recognize that there are and will be statesmen on both sides of this issue.

Mr. ALLEN. I might state that I plan to offer an amendment to the treaty that will leave the present treaty in full force and effect except as to the increase in the amount of annuity paid to Panama. If that amendment is adopted, that being the sole provision of the treaty, then I should be willing to support the treaty. But I think that is what we need to do here in the Senate. An amendment will be offered along that line, to raise the annuity, but let that be the only change in the treaties.

Mr. CRANSTON. I look forward to statesmanlike debates on the merits of this case on another occasion.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting minority leader for his courtesy in yielding to us on this side.

Mr. STEVENS. I thank the majority leader. I am happy to cooperate. If the minority leader were here, I am sure he would echo the sentiments of the majority leader.

For myself, I state again that this is no time for haste. I commend the majority leader for indicating that time will be taken to explore thoroughly all of the ramifications of these treaties and that the Senators will be given an opportunity to return to their homes to discuss the issues involved and to be part of the process of national education which must take place if these treaties are to be voted upon by an informed Senate.

I even believe that it ought to be a duty of each Member of the Senate to go to Panama, to see what we are talking about, and to be fully informed of the total consequences of the approval of these treaties. That, in and of itself, will take time. If that time is taken, I think the final judgment of the Senate will be the proper one.

If we have any further time, Mr. President, I yield it back.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Rhode Island (Mr. PELL), I ask unanimous consent that Mr. Robert Faust of his staff be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 361 AND H.R. 3 ORDERED HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when H. Con. Res. 361 and H.R. 3 are received from the House, that they be ordered held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION—PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider Executive A, with 5 minutes each to the Senator from Alabama and the Senator from New Jersey, with vote thereon to occur immediately thereafter.

The clerk will state the resolution of ratification.

The resolution of ratification was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at Montreal October 16, 1974, Relating to an Amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A, 95-1) without reservation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that was allotted to Mr. SPARKMAN and Mr. CASE be given to the distinguished acting Republican leader and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ALLOCATION OF TIME—S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that the one hour under rule XXII be under the control of the majority and minority leaders or their designees, and be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, may I just ask the majority leader if the understanding is that those of us who are opposed to the cloture motion will be accorded an opportunity on that matter?

Mr. ROBERT C. BYRD. Yes, no question about it. My purpose in getting this consent was to avoid a situation where one Senator might be foreclosed.

Mr. METZENBAUM. I thank the Senator.

Mr. MATHIAS addressed the chair.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Senator from Maryland has asked to be recognized.

Mr. MATHIAS. Mr. President, further reserving the right to object, I just wondered if under the procedure that the majority leader has outlined he could predict what time the vote on cloture would occur.

Mr. ROBERT C. BYRD. Let us approach it like this, the vote on the treaty would begin circa 12:30 p.m. today—it might be 12:35. The vote would extend about 15 minutes. After that vote, the 1 hour under the cloture rule would begin running, which would mean it would be about 10 till 1, perhaps.

About 10 till 2, give or take a little bit, there is a necessity for the establishment of a quorum under the rule which might take 15 minutes and put us over until 5 or 10 after 2, and then the cloture vote would occur.

Mr. MATHIAS. I thank the Senator.

Mr. ABOUREZK. Mr. President, reserving the right to object, was the request by the majority leader for division of time on the cloture debate?

Mr. ROBERT C. BYRD. No, on the hour.

Mr. ABOUREZK. On the hour.

Mr. ROBERT C. BYRD. That precedes.

Mr. ABOUREZK. Yes.

I do not know if it is a rule or a tradition, would the majority leader be willing to agree that half of the time be for the opponents for cloture for debate, a unanimous-consent request to share?

Mr. ROBERT C. BYRD. If the Senator will allow me, I will assure the Senator that, from the 30 minutes I will have under my control, the opponents will have half of it.

Mr. ABOUREZK. We will have 30 minutes that he will designate us?

Mr. ROBERT C. BYRD. I will assure the Senator he will have 15 minutes of my 30.

I assume the distinguished assistant Republican leader will say for his leader and himself that the opponents will be given half of that time.

Mr. STEVENS. I think basic fairness would require each side be given an equal opportunity. The majority leader's request is a normal one, that this time be equally divided.

Mr. ROBERT C. BYRD. That will not make any difference.

Mr. ABOUREZK. Traditionally, when both majority and minority floor managers of the bill are for the bill, the other part of the time, at least half, or could be under the time agreement, is accorded the opponents—even if they are not floor managers.

If the Senator could guarantee us half of the time, that is all we are asking.

Mr. ROBERT C. BYRD. If the Senator will accept my word, he may end up getting more than that.

Mr. ABOUREZK. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONSIDERATION OF NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, without the time being charged against either side on the treaty, I ask unanimous consent that the Senate, while it is in executive session right now, proceed to the consideration of nominations on the calendar which all have been cleared.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. The nominations will be stated.

MISSISSIPPI RIVER COMMISSION

The second assistant legislative clerk read the nomination of Maj. Gen. Robert Creel Marshall to be a member and president of the Mississippi River Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Brig. Gen. William Edgar Read to be a member of the Mississippi River Commission

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Marvin B. Durning, of Washington, to be an assistant administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of David G. Hawkins of the District of Columbia to be an Assistant Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CALIFORNIA DEBRIS COMMISSION

The second assistant legislative clerk read the nomination of Col. Donald Michael O'Shei to be a Member of the California Debris Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The Senate continued with the consideration of Ex. A (95–1).

Mr. ROBERT C. BYRD. Mr. President, I have a statement by Senator SPARKMAN which I shall read. I ask unanimous consent that the record show the statement as having been read by Mr. SPARKMAN. It is an explanation of the protocol on which the Senate is about to vote. The reason Senator SPARKMAN cannot be here to deliver this statement himself is a very simple one. He is conducting the foreign relations hearings at this very moment on the Panama Canal Treaty.

For that reason, I am sure everyone will understand the fact that he cannot be in both places at once and they will understand where he is that he is conducting the business of the Senate on a very important matter. For that reason, I ask that the record show Mr. SPARKMAN as having delivered this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, this protocol resulted from a 1974 proposal to the Assembly of the International Civil Aviation Organization to increase the membership of the Council of the Organization from 30 to 33. The Council is the administrative and financial agency of the ICAO. The United States was the only State to vote against the proposal. The membership of the Council had been increased from 27 to 30 in 1972, and the United States felt the increase to 33 was not desirable so soon after the 1972 increase.

The State Department and the Committee on Foreign Relations now feel that the United States should ratify the protocol. Fifty-two of the necessary 86 States have ratified the protocol and it is expected that the protocol will become effective in any event. The Department of State feels that U.S. relations with the Organization will be best served by ratification. There is no current opposition to ratification.

The committee has prepared a report detailing the protocol and its history, and I ask unanimous consent to have this report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The Committee on Foreign Relations, to which was referred the Protocol, signed at Montreal October 16, 1974, relating to an amendment to Article 50(a) of the Convention on International Civil Aviation (EX. A., 95–1), having considered the same, reports favorably thereon without reservation and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

This Protocol, signed in Montreal October 16, 1974, amends Article 50(a) of the Convention on International Civil Aviation to increase the membership of the Council of the International Civil Aviation Organization (ICAO) from 30 to 33 Contracting States.

BACKGROUND

The ICAO, a specialized agency of the U.N. develops principles and techniques of international air navigation and fosters the planning and development of international civil aviation transportation in order to insure its safe and orderly growth.

The ICAO conducts its work through an Assembly in which every Contracting State is entitled to representation. The Assembly elects every three years representatives to the ICAO Council as per Article 50. The Council is ICAO's governing body and also administers ICAO's finances and collects, examines and publishes data about air services, safety, regulations, et cetera.

Since 1947 when the Convention came into force, ICAO's membership has greatly expanded; from 26 to 86 by 1961, when the Council's membership was first augmented to 27. By 1972 the ICAO had 119 members and Belgium proposed that Council membership be increased to 30. The U.S. at first abstained, but finally joined in order that the Assembly Resolution could be passed unanimously. In 1974, ICAO had 129 Contracting States and Belgium again proposed adding between 3 to 6 members to the Council. A 3-member increase was carried 91–1 (and one abstention) with the U.S. casting the only negative vote because it felt further expansion unnecessary so soon. Now it appears that it will come into force anyway so the U.S. considers it in its own best interest to ratify the Protocol.

PRINCIPAL PROVISIONS

1. ICAO Council membership will be increased from 30 to 33. 2. The Proposed Amendment will enter into force when 86 Contracting States have ratified it (See (3)(d) of the Protocol).

COMMITTEE ACTION

The Protocol was submitted to the Senate and referred to the Committee on Foreign Relations on January 12, 1977.

On July 26, 1977, the Committee held a public hearing on the Protocol, receiving the testimony of the Honorable Herbert J. Hansell, Legal Adviser of the Department of State. In expressing the position of the Department of State, Mr. Hansell said:

"The United States was the one nation which voted against the Amendment. However, 52 [of the necessary 86] governments have ratified the amendment, and it is clear that it will enter into force in the near future. In this circumstance, we would like to ratify the amendment."

Mr. Hansell also stated, in response to questioning, that there would be no additional costs to the United States as a result of ratification and there was no opposition to U.S. ratification.

The Committee met on September 13, 1977, and ordered the Protocol to be reported favorably to the Senate for its advice and consent.

COMMITTEE COMMENTS

Although the Committee has determined that for reasons of effective U.S. participation and good relations in the International Civil Aviation Organization the Protocol should be ratified, the Committee would encourage resistance to future increases in the Council of the Organization. Should the Council be enlarged to too great a membership, it could become unwieldly and the very worthwhile work of the Organization accordingly be hampered.

BUDGETARY IMPACT STATEMENT AND COST ESTIMATE

The Protocol will have no budgetary impact and ratification will not require the authorization or appropriation of any additional funds. The dues and other payments of the United States to the International Civil Aviation Organization will not be affected by the Protocol.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of Rule XXIX of the Standing Rules of the Senate, the Committee reports that Article 50(a) of the Convention on International Civil Aviation signed in Chicago on December 7, 1944, would be amended to read as follows:

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of [thirty] *thirty-three* contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

EVALUATION OF REGULATORY IMPACT

As required by Rule XXIX of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the Protocol and has determined that there would be no impact as a result of ratification.

Mr. STEVENS. Mr. President, I ask unanimous consent that if there are further statements submitted by members of the Foreign Relations Committee or other interested Senators that they be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum with the time charged to both sides on the treaty.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make this request because there are some extenuating circumstances which I do not wish to explain here.

I ask unanimous consent that the rollcall vote on the protocol be a 20-minute rollcall vote, with the warning bell to be sounded 7½ minutes from the end of the vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive A, 95th Congress, 1st session, Protocol to the Convention on International Civil Aviation?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from West Virgiana (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 407 Ex.]

YEAS—90

Abourezk	Glenn	Moynihan
Allen	Goldwater	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stennis
Church	Laxalt	Stevens
Clark	Leahy	Stevenson
Cranston	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Morgan	

NAYS—0

NOT VOTING—10

Bayh	Humphrey	Randolph
Culver	McClellan	Stafford
Hathaway	Metcalf	
Helms	Percy	

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to the consideration of legislative business.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business S. 2104, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The 1 hour provided for under rule XXII will now begin.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, does the Senator from South Dakota (Mr. ABOUREZK) wish to be recognized at this moment? Does he wish time?

Mr. ABOUREZK. Yes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator such time as he may desire up to a maximum of 15 minutes with the understanding that he may be allowed to utilize that 15 minutes by farming it out to other Senators if he wishes.

Mr. President, I further ask unanimous consent that the 15 minutes be divided equally between the Republican leader and myself at this point.

Mr. ABOUREZK. Does the majority leader mean the remainder of the 15 minutes of his time?

Mr. ROBERT C. BYRD. No; I am saying the Senator will have 15 minutes now to farm out as he wishes and that that 15 minutes will be charged equally against the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I thank the majority leader.

Mr. President, in about an hour from now there will be a vote on cloture. I think the issue really goes beyond the cloture vote itself. The issue now consists of statements made over the weekend by President Carter that he would veto a deregulation bill if it came to him, combined with the statement by the Speaker of the House of Representatives the other day and, of course, the action of the House of Representatives in rejecting deregulation 2 years in a row. I see it now as a total act of futility for the forces of deregulation of natural gas to continue to press the various amendments, the Ford and Pearson-Bentsen amendments, that deal with deregulation of natural gas in any form.

Whether or not the Senate votes cloture today, I think it should be made clear that those of us who oppose deregulation of natural gas are interested in seeing those deregulation amendments tabled, and once they are tabled I think we can get on to the Senate dealing with whatever gas legislation that the Senate might wish to work its will on, keeping in mind that deregulation will get absolutely nowhere.

So I remind the Members that it goes beyond the issue of cloture. If the Senate does not see fit to table or recommit the deregulation amendments, I suspect that we still will be here for quite a long time even if cloture is voted, and I urge on the Members a vote not specifically on cloture at this time but a vote to reject the deregulation amendments for the reasons I have stated.

Does the Senator from Ohio wish to speak at this point?

Mr. METZENBAUM. Not at this point.

Mr. ABOUREZK. Mr. President, I reserve the remainder of the time designated to our side by the majority leader and if the other side wants to speak we will just let them go.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, if there be no request for time, I suggest the ab-

sence of a quorum and ask unanimous consent that it be charged against both sides equally.

Mr. ABOUREZK. Did the minority leader ask that it be charged against both sides equally?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is ordered.

ERDA AUTHORIZATION ACT OF 1978

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1811, the ERDA Authorization Act of 1978.

This morning, the House of Representatives completed action on legislation to authorize appropriations for fiscal year 1978 to the Energy Research and Development Administration. In July of this year the Senate passed S. 1811 which authorized appropriations for ERDA. There are a great many differences between the measure passed by the House and Senate, and consequently, the House has already asked for a conference with the Senate.

Mr. President, I move that the Senate insist on its amendment to S. 1811 and agree to the conference asked for by the House.

The PRESIDING OFFICER. I am advised that the message the Senator referred to has not been received by the desk.

Mr. JACKSON. Maybe we can get the carrier pigeon to go over and find it.

I withdraw my request at this time.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I ask that the time consumed by the Senator from Washington be charged equally to both sides. I suggest the absence of a quorum.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. METZENBAUM. Mr. President, objection.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself 5 minutes. The majority leader has control of the time.

Mr. STEVENS. Mr. President, we have yielded 15 minutes to the control of the Senator from South Dakota.

The PRESIDING OFFICER. The Chair is advised that the Senator from South Dakota has the time.

Mr. STEVENS. The opponents' time of 15 minutes has been yielded to the Senator from South Dakota for allocation amongst those who want to speak against the motion.

Mr. METZENBAUM. Is it not correct that there will be an additional 15 minutes available?

Mr. STEVENS. If it is requested by opponents of cloture after the time yielded to the Senator from South Dakota is exhausted, I am sure we will carry out our original intent to yield time.

Mr. METZENBAUM. I thank the Senator.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with consideration of S. 2104.

Mr. METZENBAUM. Mr. President, I have been examining the record with respect to the use of the so-called filibuster, or extended debate, procedure. I have gone back a number of years into the records of the Senate to determine on which occasions and under what circumstances this procedure has been utilized. Almost with no exception, the extended debate rights provided by the Senate rules have been used by those who have opposed consumer interests, by those who have opposed civil rights legislation, by those who have opposed District of Columbia home rule legislation, by those who have fought against the repeal of the right-to-work law, or 14(b) which authorizes it.

It has been used on occasions when the present Vice President, then Senator MONDALE and Senator Dirksen, the leader of the Republican side at that time, attempted to bring to a conclusion the vote with respect to open housing. It has been used with respect to the Equal Employment Opportunity Act. It has been used time and time again with respect to the Consumer Protection Agency, a piece of legislation directly concerned with the rights and needs of the consumers of this country and their ability to be represented in an advocacy position at the administrative level. In fact, in 1972, on three separate occasions, there was an attempt to terminate that debate and, on three separate occasions, that failed. Therefore, the bill failed.

It has been used against the voter registration bill in 1972 and 1973. It has been used against the legal services bill in 1973. In 1974, it was again used. On four separate occasions, there was an effort to bring debate to a close and there was an inability to do so, and the Consumer Protection Act again failed.

It has been used to attempt to defeat supplemental appropriations with respect to a school rider measure. It was used again in 1975 against the Consumer Protection Act. It was used in 1976 against the Antitrust Improvements Act, when, on two separate occasions, one beginning on May 27 and ending on June 10, there was extended debate; the second beginning on August 31 and ending on September 8.

What is so terrible about the same procedure being used in behalf of the consumers of this country? This is a piece of legislation that will cost the American people $10 billion a year. I am not certain that I thought in the past that that right of extended debate should be used to defeat legislation. But if the right is to be used to defeat legislation that inures to the benefit of the consumers and the people of this country, then maybe the time has come when those of us who recognize the havoc that would be caused by the Pearson-Bentsen amendment, or total deregulation, ought to use this free right of debate in order to bring to the attention of the people of this country what the impact will be.

If we deregulate natural gas prices, the Speaker of the House has indicated that the House will not accept the bill. If we deregulate natural gas prices, the President of the United States has indicated he will veto the legislation.

There are those who argue that it is time that we have an energy bill. I subscribe to that concept, but I believe it ought to be an energy bill that reflects the concerns of all of the people of this country and not just the concerns of those who are worried about the economic welfare of the oil companies and the utility companies of this Nation.

Therefore, Mr. President, I say now that I do, indeed, expect to debate this issue and offer those amendments that I think will improve a bad bill, with bad amendments. If that does, indeed, take some time, then I do not think the time will be lost.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. METZENBAUM. I yield myself 1 additional minute.

I think it is time that we recognize that this procedure does not belong to just a select few, that the procedure of extended debate and amendments to pending legislation should be used for all of the people of this country. I declare, Mr. President, that I am prepared to offer such amendments and bring up such amendments for a vote as may be necessary in order that the Nation may be made aware of what will occur to the economy of this country if we enact this legislation as presently suggested and as indicated in the Pearson-Bentsen amendment.

Mr. STEVENS. Mr. President, I yield to the Senator from Texas (Mr. TOWER) 10 minutes of the time allocated to the minority leader.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, we have heard during this debate on the natural gas pricing bill a great deal of strident talk about the allegedly "huge" and "obscene" profits of the major oil companies. Clearly, the facts do not support the conclusion that oil company profits are excessive but those facts are generally ignored or forgotten during debates on energy legislation in this Chamber.

The oil and gas industry has made great efforts to present an accurate picture of oil company finances. Financial institutions such as the Chase Manhattan Bank and studies by major universities have made similar efforts. For the most part, however, those studies which have concluded that oil industry profits are not excessive have generally been received with a great deal of skepticism.

I have obtained a study of oil industry finances which can hardly be criticized as having a pro-industry bias. The study was prepared in June of this year by the Federal Energy Administration. The study is entitled "A Summary of Aggregate Financial Data and Key Composite Annual Comparisons of 40 Major Oil Companies." It is, essentially, a financial profile of the 40 largest oil companies and it has been prepared under the auspices of an administration which often talks of "excessive" and "windfall" profits by the major oil companies. Put quite simply, this FEA study finds that oil company profits are not excessive. To the contrary, it suggests that higher profits are necessary.

I became aware of the possible existence of this report several weeks ago. I asked the FEA Administrator to confirm the existence of this important report and to provide me with a copy. FEA has done neither.

In the meantime, a copy of the draft FEA report has been made available to me from other sources. I call upon the Carter administration to make this important report available to the public now. In the meantime, I intend to make it available to the Senate.

I have prepared a summary of some of the key findings and conclusions of the FEA report. I ask unanimous consent that this summary, together with the report itself, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOME KEY FINDINGS AND CONCLUSIONS OF THE (DRAFT) SUMMARY OF AGGREGATE FINANCIAL DATA AND KEY COMPOSITE ANNUAL COMPARISONS OF 40 MAJOR OIL COMPANIES PREPARED BY FEA, JUNE 1977

"*Net income* (lines 1 and 2 of Table I). Prior to the 1973 oil embargo, net income had been almost flat since 1967. Extraordinarily large profit increases in 1973 and 1974 were due primarily to nonrecurring inventory earnings caused by major increases in OPEC crude prices. By contrast, the sharp 1975 profit decline was caused by lower world demand due to economic recession, an abnormally warm winter and disappearing inventory profits. The 1976 rebound was due in large part to the U.S. economic upturn which increased demand, plus higher prices in certain cases." (Page 4)

"It should be noted that energy company profits cannot be accurately viewed in a vacuum but rather must be studied in relation to capital expenditures for energy development (lines 7 and 8), returns to stockholders (lines 9, 10, and 11), return on stockholders equity (lines 18 and 19), and outside borrowing and debt ratios (lines 13, 14, 15, and 16)." (Page 4)

"*Cash flow* (lines 5 and 6). Cash flow, the sum of net earnings and depreciation, generally represents total internally generated funds for financing energy development (capital expenditures) and rewards to stockholders (dividends) for risking their capital. Any shortfall (line 12) in cash flow below capital expenditures must be made up by borrowing (lines 13, 14, 15, and 16). *The consistent monetary shortfall noted in line 12 has resulted in steady increases in debt ratios (line 15)*." (Emphasis added) (Page 5)

"*Capital and exploratory expenses* (lines 7 and 8). These are the funds expended to develop new energy resources (except for scattered investments in non-energy fields). These expenditures, unadjusted for inflation, (line 7) have increased markedly since the 1973 embargo. Group capital expenditures for the post embargo years (1973–6 inclusive) amounted to $102.7 billion compared to $57.9 billion for the immediate pre-embargo years (1969–72 inclusive). During the post embargo years, dividends increased from $4 billion to $5.28 billion, while the pre-embargo years dividends increased from $3.65 to $3.78 billion. Historically, the oil industry has financed exploration and expansion mostly from internally generated cash flow (line 1), but *the particularly heavy and increasing expenditures in 1973, 1974, 1975 and 1976 (line 7) have forced heavy outside borrowing (lines 13 and 14) and an accelerating increase in debt ratios* (lines 15 and 16)." (Pages 5–6) (Emphasis added)

"*Dividends paid and dividend payout ratio* (line 9, 10 and 11) represent reward to the stockholder for risking his money. Gradually increasing dividends are necessary to attract new capital. Historically, the payout ratio has amounted to about 50 percent of net income (profits) (line 11) with the other 50 percent being plowed back into the business. Line 11 indicates that since the 1973 embargo, a significantly lesser share has gone to the investor with an increasing share of profits being plowed back into the business (line 7)." (Page 6)

"*Long term debt and debt ratios* (lines 13, 14, 15 and 16). Previous references (paragraphs 3 and 4) have been made to the accelerated rate of debt accumulation as petroleum companies borrowed heavily to support increasing capital expenditures amounting to more than available funds from internally generated profits and depreciation/depletion. It is significant to note that the sample group long term debt has tripled (line 13) during the 1967–1976 period and long term debt ratio has moved upward from 17.2 percent to 26.4 percent (line 15). The maximum long term debt ratio sustainable without impairing credit rating and causing consequent difficulty and expense in raising debt capital will vary for different companies. . . . *However, unattributed but probably informed comments from the investment community have indicated a belief that debt ratios about 30 percent have become dangerously close to the maximum attainable without impairment of credit standings. Many smaller companies have already exceeded their maximum 'safe' ratio.*" (*Page 7*) (*Emphasis added*)

* * * "*Based on these data, it appears that a choice may have to be made between allowing higher profits or probably seeing lower capital expenditures for privately financed energy development efforts. The alternative will be increased Federal participation in energy development by subsidy or direct operational participation.*" (Pages 7–8) (Emphasis added)

"*Return on average total capital* (line 17). This ratio is a measure of return on total capital employed in the business and mainly consists of equity (net worth) plus long and short term debt. With the exception of the abnormally profitable years of 1973 and 1974 when returns were 12.0 percent and 14.8 percent respectively, 10 year returns have been in the 8 percent–10 percent range." (Page 8)

"*Return on average common equity* (lines 18, 19, and 20). Increases in the return on equity, coupled with earnings increases, are the key to investor expectation of future dividends and are a prime ingredient in common stock prices. Higher stock prices lower the costs of raising equity capital in the public capital markets.*** *In general, returns for the oil companies corresponded fairly closely with those of the non-oil company manufacturing group*, the prime exception being the year 1974, which coincided with the non-recurring oil inventory profits referred to in paragraph 1." (Pages 8–9) (Emphasis added)

1976 versus 1975—"A sample of 44 representative oil companies showed a 19.4 percent net income (profit) increase over 1975 results, compared to a 25.4 percent decline in 1975 profits from record 1974 profit levels, due in large part to non-recurring inventory profits." (Page 9) *Capital and exploration expenditures increased 7.1 percent to $28.8 billion, more than the $28.6 billion cash flow from profits plus depreciation.* (Page 11) (Emphasis added)

"To finance the cash flow shortfall, long term debt for the 44 company group was expanded 10.9 percent by outside borrowing, thereby increasing the debt to total capital ratio to 26.4 percent, a historical high. *The degree to which such large outside borrowing can continue to be obtained without lowered credit ratings (resulting in higher interest charges on debt and probable increased expense in raising additional equity capital), is uncertain.*" (Page 11) (Emphasis added)

"Return on average common equity was 14.3 percent in 1976, less than the 15.0 percent return earned by an approximate 2,000 group of non-petroleum manufacturing companies." (Page 11)

CONCLUSIONS

"While the purpose of this paper is not to present conclusions, the data suggest:

"Return on oil company stockholder equity is not excessive compared to other manufacturing industries, with the exception of 1974, which was an abnormal year.

"Oil companies have consistently been making capital expenditures in excess of available internally generated funds (consisting mainly of profits and depreciation/depletion).

"Profits have increased sharply since 1973 but are not excessive in relation to capital expenditures.

"Outside borrowing and long term debt ratios are increasing and may be approaching the limit beyond which credit ratings are impaired and more expensive financing results.

"Returns to stockholders (dividends) have increased only modestly compared to capital expenditures; dividend payments as a percent of earnings have been declining since 1973. The exception to this trend is 1975, a year of declining profits." (Pages 17–18)

SUMMARY OF AGGREGATE FINANCIAL DATA AND KEY COMPOSITE ANNUAL COMPARISONS OF 40 MAJOR OIL COMPANIES

INTRODUCTION

This brief study represents an attempt to present a balanced and factual summary of the key financial relationships governing the financial operation of an energy business over a sufficiently meaningful time period to provide perspective. It is intended to:

Provide a basic understanding of the significant interrelationships between expenditures for new energy supply, profits and cash flow, outside borrowings, and the necessity to provide sufficient stockholder return (dividends) to provide risk capital and borrowed money at reasonable rates.

Provide a reference source for answering many of the questions originating from variout governmental sources concerning oil company financial relationships.

Our basic data source is C. H. Pforzheimer & Co., New York City, for many a respected source of financial and investment related petroleum company statistics. Pforzheimer has made its data available as a service to the government.

In addition to basic individual company statistics, Pforzheimer has also maintained composite income statements and balance sheets of approximately 40 of the largest petroleum companies and has compiled historical key financial ratios and comparisons for the same companies. Table 1, "Selected Aggregate Financial Data for Approximately 40 Largest Petroleum Companies", includes many of these ratios supplemented by ERD calculations.

Net income

Depreciation-depletion

Capital and exploratory expenditures

Dividends

Dividend payout ratios (Dividends as a percent of net income)

Long term debt

Long term debt ratios (LTD as a percent of total long term capitalization)

Return on average invested capital

Return on equity (common stock)

This paper also presents selected key financial data for 25 major petroleum companies for the 10 year period including 1967–1976 (Table 2). Annual data included:

Net income

Percent annual change in net income

Earnings per share

DOMESTIC ENERGY SUPPLY AND DEMAND

Domestic consumption of energy has increased steadily while domestic supply has decreased. The May 1977 FEA Monthly Energy Review summarizes the supply and demand situation:

	1976	1975	1974	1973	1972
Total domestic consumption*	74.21	70.55	72.60	74.55	71.89
Total domestic production*	59.83	60.13	61.14	62.37	62.94
Foreign crude and product imports†	7.29	6.06	6.11	6.25	4.74
Domestic crude production‡	8.12	8.38	8.77	9.21	9.44
Domestic marketed gas production‡	19.9	20.1	21.6	22.6	22.5

* Quadrillion (10^{15}) Btu.
† Million barrels per day.
‡ Trillion cubic feet.

To date, 1977 trends indicate increasing domestic energy demand and decreasing domestic supply of oil and gas. The deficit is supplied by increasing imports from 33.4 percent of domestic crude production plus foreign crude and product imports in 1972 to 47.3 percent in 1976 with a continuing 1977 upward trend.

DISCUSSION OF AGGREGATE FINANCIAL DATA

The aggregate financial data shown in Table 1 was selected from approximately forty of the largest petroleum companies, the actual number and identity of which vary somewhat from year to year. However, these variations are considered minor, and the ratios are believed to accurately reflect the financial status of the industry mainstream.

A brief discussion of key ratios and comparisons follows:

1. *Net income* (lines 1 and 2 of Table I). Prior to the 1973 oil embargo, net income had been almost flat since 1967. Extraordinarily large profit increases in 1973 and 1974 were due primarily to nonrecurring inventory earnings caused by major increases in OPEC crude prices. By contrast, the sharp 1975 profit decline was caused by lower world demand due to economic recession, an abnormally warm winter and disappearing inventory profits. The 1976 rebound was due in large part to the U.S. economic upturn which increased demand, plus higher prices in certain cases.

It should be noted that energy company profits cannot be accurately viewed in a vacuum but rather must be studied in relation to capital expenditures for energy development (lines 7 and 8), returns to stockholders (lines 9, 10 and 11), return on stockholders equity (lines 18 and 19) and outside borrowing and debt ratios (lines 13, 14, 15 and 16).

2. *Depreciation-depletion etc.* (lines 3 and 4). This figure normally increases annually in an expanding business and generally represents capital recovery from past expenditures. The 1975 dip was an extraordinary item in "etc." and resulted chiefly from lesser dividends than equity in earnings in Aramco.

(It should be noted that considerable discussion regarding effects of inflation is occurring in business, accounting, and government circles regarding adequacy of depreciation allowances to allow rebuilding of obsolete plants in *all* manufacturing endeavors, including petroleum).

3. *Cash flow* (lines 5 and 6). Cash flow, the sum of net earnings and depreciation, generally represents total internally generated funds for financing energy development (capital expenditures) and rewards to stockholders (dividends) for risking their capital. Any shortfall (line 12) in cash flow below capital expenditures must be made up by borrowing (lines 13, 14, 15 and 16). The consistent monetary shortfall noted in line 12 has resulted in steady increases in debt ratios (line 15).

4. *Capital and exploratory expenses* (lines 7 and 8). These are the funds expended to develop new energy resources (except for scattered investments in non energy fields). These expenditures, unadjusted for inflation, (line 7) have increased markedly since the 1973 embargo. Group capital expenditures for the 4 post embargo years (1973–6 inclusive) amounted to $102.7 billion compared to $57.9 billion for the immediate pre-embargo years (1960–72 inclusive). During the post embargo years dividends increased from $4 billion to $5.28 billion, while in the pre-embargo years dividends increased from $3.65 to $3.78 billion. Historically, the oil industry has financed exploration and expansion mostly from internally generated cash flow (line 9), but the particularly heavy and increasing expenditures in 1973, 1974, 1975 and 1976 (line 7) have forced heavy outside borrowing (lines 13 and 14) and an accelerating increase in debt ratios (lines 15 and 16). (While our data does not include short term debt, a private communication from the petroleum economics department of the First National Bank of New York indicates corresponding increase in short term debt.)

5. *Dividends paid and dividend payout ratio* (lines 9, 10 and) represent reward to the stockholder for risking his money. Gradually increasing dividends are necessary to attract new capital. Historically, the payout ratio has amounted to about 50 percent of net income (profits) (line 11) with the other 50 percent being plowed back into the business. Line 11 indicates that since the 1973 embargo, a significantly lesser share has gone to the investor with an increasing share of profits being plowed back into the business (line 7). During the post embargo years, dividends increased from $4 billion to $5.28 billion while in the 4 preceding pre-embargo years dividends increased from $3.65 to $3.78 billion. Lines 2 and 10 show the post embargo lag in dividend increases compared to earnings increases.

6. *Excess of expenditures over cash income* (line 12) has been previously discussed, paragraphs 3 and 4.

7. *Long term debt and debt ratios* (lines 13, 14, 15 and 16). Previous references (paragraphs 3 and 4) have been made to the accelerated rate of debt accumulation as petroleum companies borrowed heavily to support increasing capital expenditures amounting to more than available funds from internally generated profits and depreciation/depletion. It is significant to note that the sample group long term debt has tripled (line 13) during the 1967–1976 period and long term debt ratio has moved upward from 17.2 percent to 26.4 percent (line 15). The maximum long term debt ratio sustainable without impairing credit rating and causing consequent difficulty and expense in raising debt capital will vary for different companies would probably be imprecise. However, unattributed but probably informed comments from the investment community have indicated a belief that debt ratios about 30 percent have become dangerously close to the maximum attainable without impairment of credit standings. Many smaller companies have already exceeded their maximum "safe" ratio.

Based on these data, it appears that a choice may have to be made between allowing higher profits or probably seeing lower capital expenditures for privately financed energy development efforts. The alternative will be increased Federal participation in energy development by subsidy or direct operational participation.

8. *Return on average total capital* (line 17). This ratio is a measure of return on total capital employed in the business and mainly consists of equity (net worth) plus long and short term debt. With the exception of the abnormally profitable years of 1973 and 1974 when returns were 12.0 percent and 14.8 percent respectively, 10 year returns have been in the 80 percent-10 percent range.

9. *Return on average common equity* (lines 18, 19 and 20). Increases in the return on equity, coupled with earnings increases, are the key to investor expectation of future dividends and are prime ingredients in common stock prices. Higher stock prices lower the costs of raising equity capital in the public capital markets.

Line 18 represents equity return for the approximate 40 oil company group sampled and line 19 represents equity return for about 2,000 manufacturing companies (excluding oil companies) as compiled by the First National City Bank of New York. In general, returns for the oil companies corresponded fairly closely with those of the non-oil company manufacturing group, the prime exception being the year 1974, which coincided with the non-recurring oil inventory profits referred to in paragraph 1. Chart 1 is a graphical comparison of oil company returns to manufacturing returns for a 10 year period. In years above the trend line the sample group oil company profits exceeded those of the manufacturing group, while manufacturing profits exceeded oil profits in the years below the trend line.

KEY COMPOSITE COMPARISONS—TABLE 1

Group comparisons—1976 versus 1975:

1. A sample of 44 representative oil companies group showed a 19.4 percent net income (profit) increase over 1975 results, compared to a 25.4 percent decline in 1975 profits from record 1974 profit levels, due in large part to nonrecurring inventory profits.

2. The 1975 profit rebound from 1975 was due primarily to the United States economic upturn which caused domestic petroleum demand to increase by 6.1 percent to 17.3 million barrels per day. Motor gasoline, distillate and fuel oil sales increased by 4.4 percent, 9.4 percent and 12.1 percent respectively. Profit margins widened slightly as government regulations allowed quicker recouping of some costs than in the previous year.

3. Gross revenues for 1976 rose by 17.2 percent from 1975 for the reasons stated in 2.

4. Capital and exploration expenditures increased 7.1 percent to $26.8 billion, more than the $28.6 billion cash flow from profits plus depreciation. Cash dividend payments increased by 11.4 percent to provide support for outside financing. The dividend payout rate of 38.3 percent of profits was less than the 41 percent 1975 payout rate and considerably lower than the approximate 50 percent payout rate average which prevailed before the embargo.

To finance the cash flow shortfall, long term debt for the 44 company group was expended 10.9 percent by outside borrowing, thereby increasing the debt to total capital ratio to 26.4 percent, a historical high. The degree to which such large outside borrowing can continue to be obtained without lowered credit ratings, (resulting in higher interest charges on debt and probable increased expense in raising additional equity capital) is uncertain.

5. Return on average common equity was 14.3 percent in 1976, les than the 15.0 percent return earned by an approximate 2,000 group of non-petroleum manufacturing companies.

Group comparisons—1975 versus 1974:

1. A 43 oil company group reported an aggregate 25.4 percent decline in net income from 1974 to 1975.

2. Decreased aggregate earnings resulted from lower world petroleum demand due to warmer-than-normal winter, a worldwide recession, disappearing inventory profits and higher taxes.

3. A 4-percent increase in gross revenue was insufficient to offset virtual loss of the depletion allowance and other provisions of the Tax Reduction Act of 1975.

4. Direct comparisons with 1974 profits are hampered by:

a. A change in accounting rules which modified the method of translating foreign earnings into dollars and rules covering insurance and contingency reserves in foreign operations.

b. Some companies opted to restate downwards certain past year profits in accordance with an accounting rule change regarding tax deferrals necessitated by decrease in percentage depletion.

5. Capital and exploration expenditures increased 4.6 percent despite decreased earnings to $26.9 billion versus $11.6 billion in earnings and $22.8 billion cash flow in 1975.

Group comparisons—1974 versus 1973:

1. A 43 company group reported an aggregate 35.0-percent net income increase compared with 1973 results.

2. Reported earnings were higher due in large part to nonrecurring inventory profits caused by substantial increases in crude oil prices, following a trend that began in 1973. These inventory profits were offset to a degree by some companies switching to "last in, first out" (LIFO) inventory accounting. These nonrecurring inventory claims also declined sharply during the fourth quarter of 1974. Petrochemical profits were sharply up from previously depressed levels.

3. Gross revenues increased 69 percent and taxes showed an appreciable jump.

4. Capital and exploratory expenses increased 57.7 percent compared to the 35.0-percent earnings increased. Actual aggregate capital expenditures amounted to $25.7 billion versus $15.9 billion net income and $28.9 billion cash flow.

Group comparisons—1973 versus 1972:

1. In 1973 a 43 company group reported a 73.2-percent net income increase over 1972.

2. U.S. earnings increased about 20 percent, slightly more than the percentage increase in domestic revenues. Major factors contributing to the increase included:

a. Increased volumes of oil production and product sales;

b. Higher prices;

c. Fuller utilization of plant capacity;

d. Improving tanker and chemical profits; and

e. Increased foreign income due to the U.S. dollar devaluation and some inventory profits.

3. The strong 1973 profit showing compares with the 1968–72 period when group earnings showed little increase despite heavy capital investment programs.

4. Gross revenues increased 25.5 percent.

5. Capital and exploration expenses increased 14.0 percent to $16.3 billion compared to $11.8 billion net income and $22.3 billion in cash flow.

Group comparisons—1972 versus 1971:

1. A 41 company group reported decreased aggregate 1972 earnings of 5.4 percent compared with 1971. However, results were mixed; 27 of the companies showed increases in 1972 net income, while a combined decline of three international companies resulted in the profit decline for the group as a whole.

2. Higher taxes and operating costs and early year weak product markets caused the earnings weakness.

3. Gross revenues increased 9.3 percent.

4. Capital and exploratory expenses increased 1.2 percent to $14.3 billion compared to aggregate net income of $6.8 billon and cash flow of $15.9 billion.

Group comparisons—1971 versus 1970:

1. A 39 company group reported an aggregate 1971 net income increase of 5.1 percent over 1970. Twenty-five organizations reported profit increases while 14 showed declining earnings.

2. The overall earnings improvement was due to international operations. U.S. earnings were depressed by several factors, including depressed gasoline and chemical prices. U.S. demand increased 2.7 percent, compared to a 6.4 percent foreign demand increase. U.S. crude production decreased 1.1 percent.

3. Gross revenues increased by 12.7 percent.

4. The 39 company group increased capital and exploratory expenses by 6.6 percent to $14.1 billion, compared to $7.2 billion net income and total cash flow of $15.1 billion.

Group comparisons—1970 versus 1969:

1. A 37 oil company group reported a 0.3-percent increase 1970 net income compared to the previous year. Eighteen of the companies reported higher 1970 net income while 19 reported declining earnings.

2. Fourth quarter earnings improvement prevented an aggregate net income decrease as some prices improved. Starting in November the domestic industry began to benefit from a 25 cents per barrel crude price increase and a 7 cents per gallon gasoline price increase.

3. Gross revenues increased 9.0 percent.

4. Capital and exploratory expenses increased by 3 percent over 1969 to $13.3 billion, compared to $6.8 billion net income and cash flow of $14.2 billion.

Group comparisons—1969 versus 1968:

1. A 36 oil company group reported a 1.2-percent gain in 1969 net income compared to 1968 results. Twenty-two firms reported earnings increases; 14 reported declines.

2. The earnings growth was retarded by increased costs of materials, labor and debt service, plus higher dry hole costs. These increased costs were not recovered in the marketplace where selling prices were generally weak.

3. Aggregate gross revenues increased by 8.3 percent as U.S. product demand increased by 5.5 percent, while total free world demand increased 8.2 percent over 1968.

4. Aggregate capital and exploratory expenditures for the year were $12.87 billion, an increase of 3.8 percent. Aggregate group net income was $6.8 billion, while cash flow amounted to $12.6 billion.

Group comparisons—1968 versus 1967:

1. A 37 oil company group reported an aggregate net income increase of 9.4 percent compared with 1967.

2. The 10.5 percent earnings increase resulted mostly from a 9.3 percent gain in aggregate free world demand. U.S. demand increased 6.3 percent.

3. Aggregate gross revenues increased 9.6 percent, slightly more than the 9.3 percent increase in free world demand.

4. Capital and exploratory expenditures increased 14.3 percent over 1967 to $12.4 billion compared to $6.8 billion net income and $11.9 billion cash flow.

The annual key financial data for 25 major oil companies included in Table 2 are provided primarily as an easily accessible data source to answer many of the commonly asked questions regarding major oil company financial results. It may also be utilized to compare individual oil company results with the industry composite results shown in Table 1.

CONCLUSIONS

While the purpose of this paper is not to present definite conclusions, the data suggest:

Return on oil company stockholder equity is not excessive compared to other manufacturing industries, with the exception of 1974, which was an abnormal year.

Oil companies have consistently been making capital expenditures in excess of available internally generated fund (consisting mainly of profits and depreciation/depletion).

Profits have increased sharply since 1973 but are not excessive in relation to capital expenditures.

Outside borrowing and long term debt ratios are increasing and may be approaching the limit beyond which credit ratings are impaired and more expensive financing results.

Returns to stockholders (dividends) have increased only modestly compared to capital expenditures; dividend payments as a percent of earnings have been declining since 1973. The exception to this trend is 1975, a year of declining profits.

(No copy of table No. 2 is available.)

TABLE 1.—SELECTED AGGREGATE FINANCIAL DATA FOR APPROXIMATELY 40 LARGEST PETROLEUM COMPANIES

	1976	1975	1974	1973	1972	1971	1970	1969	1968	1967
(1) Net income (billions of dollars)	13.80	11.56	15.94	11.80	6.81	7.20	6.85	6.83	6.75	6.17
(2) Percent change	19.4	−25.4	35.0	73.2	−5.4	5.1	0.3	1.2	9.4	
(3) Depreciation-depletion (billions of dollars)	14.82	11.26	13.00	10.54	9.11	7.95	7.38	5.74	5.16	4.85
(4) Percent change	31.6	13.4	23.3	15.7	14.6	9.8	28.6	11.2	6.4	
(5) Cash flow (billions of dollars (3+1)	28.62	22.82	28.94	22.34	15.92	15.15	14.23	12.57	11.91	11.02
(6) Percent change	25.4	−21.1	29.5	40.3	5.1	6.5	13.2	5.5	8.1	
(7) Capital and exploratory expenditures (billions of dollars)	28.83	26.93	25.75	16.33	14.32	14.15	13.27	12.87	12.40	10.85
(8) Percent change	7.1	4.6	57.7	14.0	1.2	6.6	3.0	3.8	14.3	
(9) Dividends paid (billions of dollars)	5.28	4.74	4.48	4.00	3.78	3.79	3.75	3.65	3.33	3.06
(10) Percent change	11.4	5.8	12.0	5.8	−0.3	1.1	2.7	9.6	8.8	
(11) Dividend payout ratio (percent)	38.3	41.0	28.1	33.9	55.5	53.3	55.2	53.1	48.8	49.5
(12) Excess of expenditures over cash income (7+9−5) (billions of dollars)	5.49	8.85	1.29	−2.01	2.18	2.79	2.79	3.95	3.82	2.89
(13) Long-term debt (billions of dollars)	36.37	28.89	25.04	22.48	21.78	20.78	18.52	16.35	14.6	11.5
(14) Percent change	25.9	15.4	11.4	3.2	4.8	12.2	14.0	11.3	27.0	
(15) Long-term debt ratio	26.4	23.8	22.2	22.0	23.3	23.0	21.9	20.6	19.9	17.2
(16) Percent change	10.9	7.2	.9	−5.6	1.3	5.0	6.3	3.5	15.7	
(17) Return on total average capital (percent)	10.7	10.0	14.8	12.0	7.4	8.2	8.3	9.0	9.7	9.6
(18) Return on average common equity (percent)	14.3	13.1	19.0	15.6	9.7	10.8	10.7	11.4	12.0	11.6
(19) Return on equity (manufacturing group ex petroleum) (percent)	15.0	12.2	13.9	14.7	12.5	10.7	9.8	12.6	13.4	12.6
(20) Ratio oil return/manufacturing group return (percent) (16/19)	95.3	107.4	136.7	106.1	77.6	100.9	109.2	90.5	90.0	92.1

Note: The ratios represent approximate rather than actual year-to-year comparisons because of changes in the make-up of the group due to mergers and other corporate changes. The year-to-year distortions in the comparisons are considered minor.

Source: Pforzheimer and FEA (PIR).

Mr. TOWER. Mr. President, this is what the FEA report that has been suppressed concludes. This is in the language of the FEA report prepared by this administration, but which they will not release because they had some preconceived notions and this report does not support them.

This is the administration's own report, prepared last June, suppressed until now, and it is going in the RECORD at this point.

Here is what it concludes, it says:

While the purpose of this paper is not to present definite conclusions, the data suggest:

Return on oil company stockholder equity is not excessive compared to other manufacturing industries, with the exception of 1974, which was an abnormal year.

Oil companies have consistently been asking capital expenditures in excess of available internally generated funds (consisting mainly of profits and depreciation/depletion).

Profits have increased sharply since 1973 but are not excessive in relation to capital expenditures.

Outside borrowing and long term debt ratios are increasing and may be approaching the limit beyond which credit ratings are impaired and more expensive financing results.

Returns to stockholders (dividends) have increased only modestly compared to capital expenditures; dividend payments as a percent of earnings have been declining since 1973. The exception to this trend is 1975, a year of declining profits.

Mr. President, there is one particularly ominous suggestion in this report. It says:

Based on these data, it appears that a choice may have to be made between allowing higher profits or probably seeing lower capital expenditures for privately financed energy development efforts. The alternative will be increased Federal participation in energy development by subsidy or direct operational participation.

Mr. President, this report, suppressed by FEA, was prepared by their direction. They will not even acknowledge its existence, much less pass out copies of it. But here it is.

The FEA–ERD, Office of Oil and Gas, a Summary of Aggregate Financial Data and Key Composite Annual Comparisons of 40 Major Oil Companies.

Either profits have to go higher, says this report, or they will have to go in with a Federal subsidy or Federal operation to get an adequate amount of capital investment in the energy industry in this country.

The suppression of this report leads me to believe that perhaps there are those in this administration who would like to see the energy industry in this country nationalized.

Perhaps our debate should focus on the desirability of the nationalization of oil and gas in this country.

The debt ratios are too high right now. Informed comments from the investment community have indicated a belief that debt ratios of about 30 percent have become dangerously close to the maximum attainable without impairment of credit standings. Many smaller companies already exceed their maximum safe ratio.

Mr. President, the administration's own report, prepared under its direction, says that the administration position is wrong.

I think the question is, why was this report suppressed, and I call on the President, consistent with his idea of having an open administration, to order FEA to release this report to the public, which I now have placed in the RECORD.

This report lets a very ugly cat out of the bag, indeed, Mr. President.

I still suspect that what we are hearing is an effort to so restrict and proscribe the production of energy by the private sector in this country that somebody will come to the conclusion that nationalization is the only solution.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the Senator from South Dakota still has 4 minutes of time that was yielded to him earlier which, when used, will make a total of 15.

I am ready to yield him an additional 8 minutes from my side, if the minority will yield him 7 minutes from their side, which will make a total of 30 minutes which the opponents were promised.

Mr. PEARSON. I think we have only 7 minutes left, if I am correct. I do not know of anyone who wants any time on my side.

Mr. ROBERT C. BYRD. I yield to him at this point.

The PRESIDING OFFICER. The Senator from Kansas has 13½ minutes under his control.

Mr. ROBERT C. BYRD. I will yield 8 minutes to him and the minority 7 minutes, and that will assure him he has had his full time.

Mr. PEARSON. Yes.

Mr. ABOUREZK. If we have 8 more minutes, does that mean we have a full 30?

Mr. ROBERT C. BYRD. My 8, and 7, the Senator has had 15, 4 of which still remain.

Mr. ABOUREZK. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. I yield myself 4 minutes.

Mr. President, I want to repeat something I said earlier in this particular hour's debate. I want to advise the Members of the Senate, and particularly the distinguished majority leader, that there are some 200 or 300 perfecting amendments to various portions of the bill that we are considering, and there are substitutes.

If cloture is invoked, each and every one of those amendments, which we think will perfect the bill, will be voted on. We will have up and down votes on each and every one of those, plus others. Perhaps votes as people try to get too stringent on procedure. I am sure we would have to vote on that, as well.

I see no reason for the Senate to be put through this, because it is going to mean long hours, early morning and late at night. I see no reason why, when the President has threatened a veto, when the Speaker of the House and the House itself, have said consistently that no deregulation bill is going to get through the House——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. In my judgment, the Senate will exercise its own independent will, entirely aside from what comments may be made from the outside.

Mr. ABOUREZK. Getting back to what I was saying, it is entirely futile—it is a futile gesture—to try to continue with any kind of deregulation measure when we know that it is not going to get anywhere, in the first place, and when we know that it is going to be weeks before we get to a vote on any deregulation measure, if we do get to a vote.

I think it is going to be a lot easier for the Members of the Senate if we do not vote cloture than if we do vote cloture; because I think we can come to some kind of reasonable resolution of deregulation amendments, preferably by tabling or recommitting them, so that we can get on with passing on the Carter bill or the Jackson substitute or whatever—something that is reasonable and not something that is unreasonable, such as deregulation.

I reserve the remainder of my time.

Mr. BELLMON. Mr. President, will the Senator yield me 3 minutes?

Mr. PEARSON. I yield.

Mr. BELLMON. Mr. President, apparently there is a great deal of concern and interest here today in the statement which is attributed to President Carter, in which he is supposed to have said that he would veto a bill that deregulates natural gas.

I have before me a letter written to Gov. David Boren, of Oklahoma, dated October 19, 1976, about 2 weeks before the election, which I should like to read for the enlightenment particularly of my friend from South Dakota and others who may wonder where the President stands.

The letter reads:

The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation—

I particularly emphasize the next phrase.

our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4% per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35% prior to the embargo to over 40% today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas.

So here is Jimmy Carter, candidate, saying that he wants to deregulate new natural gas, and now we have him saying that he may veto a bill.

I submit that the President is at least confused and uncertain on this issue and that his statements should not come into consideration as the Senate decides on this matter; because if he has changed his mind once, I submit that he might change it again.

Mr. President, I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 19, 1976.

GOV. DAVID BOREN,
State Capital Building,
Oklahoma City, Okla.

DEAR GOVERNOR BOREN: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4% per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35% prior to the embargo to over 40% today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average of 60% of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter Administration will provide this leadership.

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

Mr. ABOUREZK. Mr. President, will the Senator yield to me briefly?

Mr. BELLMON. On the Senator's time.

Mr. ABOUREZK. If the Senator from Oklahoma is giving me a choice as to which statement to accept, I will take the one the President made Saturday.

Mr. BELLMON. I am not giving the Senator a choice. I am simply suggesting that the President is confused on the issue. He said one thing last October and something different now.

I suggest that the Senate should make its decision on what we know is best for the country, and let the President make his decision when the bill gets to his desk.

Mr. ABOUREZK. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in a very few moments, we will be voting on cloture, in spite of the fact that the issue that is before the Senate is one on which the proponents are prepared to vote, and to vote now.

I cannot recall a time during my service in the Senate, almost 15 years, when we have been asked to vote on a cloture motion which would cut off debate for those who want to perfect the measure before the Senate, at a time when the supporters of that measure are prepared to go to an up-and-down vote. That is where we are at the present time.

Beyond this, Mr. President, I believe that during these past few days we have had a very good and enlightened debate on a number of the important issues which are raised in the proposed legislation. I think the most important is the relationship of price to supply, because that is at the heart of the whole issue we are considering on the floor of the Senate.

We have to recognize that if we go to cloture, the opportunity to work out any particular adjustment on the basis of information and the debate we have heard over the past few days is virtually eliminated. It seems to me to be unwise from that point of view.

The President has made his statement; the Speaker has made his statement. The Senate has indicated, by previous votes, that it is virtually evenly divided on this issue. It seems to me to

be unwise for the Senate to put itself into a straitjacket at this particular time, on this issue, when the interests are so divergent, and to preclude the opportunity for any kind of reasonable adjustment on the issue before us.

Third, Mr. President, it seems to me that, in the final moments, we are hearing about the regulation of an industry and what a disservice it is going to be in terms of the new capital formation, new exploration, in future years, if we are not going to deregulate that industry. Many of these arguments were explored during the time that Congress put a limitation and a cap on the processing of old oil. We heard many of the same voices that speak today say that if we put a limitation on old oil and we put a limitation on new oil, this is virtually going to end the opportunity for the oil industry to survive in this country.

Nonetheless, we did put on such a limitation, and we have seen the increase in the profits of oil companies, some $2.6 billion in the past years—billions of dollars that have come out of the pocketbooks of the consumers of this Nation.

It is quite clear that with the type of deregulation program that is suggested in the Bentsen-Pearson proposal, it is going to mean tens and tens of billions of dollars out of the pocketbooks of the consumers of this country and into the bank accounts of these major companies—with all the implications of equity and fairness, let alone the welfare of millions of Americans who are dependent upon heating their homes with natural gas. I think this is an enormous disservice to those people.

Mr. President, I think that the broad economic implications of the proposal we are considering today—in terms of our national well-being and national economy—are proved. The studies which have been done by the Joint Economic Committee clearly underline that fact.

We have seen, during recent periods of time, that the significant increase in the cost of petroleum products has virtually extended us into the longest periodic economic stagnation that we have seen since the earliest days of this country, including the depressing days of the early part of the thirties.

We still have not recovered. I daresay that the proposal we are facing here today on the Pearson-Bentsen proposal I believe would have a similar adverse impact and effect on an already faltering economy. It may very well be just that additional push that will put us right back into the kind of severe unemployment, galloping inflation, and the kind of stagflation which we have seen in recent times.

For all of these reasons, Mr. President, it seems to me to be unwise for the Senate to move ahead to a period of cloture which will effectively cut off the opportunities for the serious kind of discussions we have seen over the period of these past few days.

For these reasons, Mr. President, and the reasons we outlined in previous debate and discussion, I am very hopeful that this particular measure will fail.

I reserve the remainder of my time.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. No—let us wait and see if someone wishes to speak.

Mr. President, just permit me to say that I want Mr. ABOUREZK to be protected in his utilization of the 30 minutes which have been allotted.

As I understand, this would leave me about 7 minutes?

The PRESIDING OFFICER. The Senator from West Virginia has 7½ minutes. The Senator from South Dakota has 10 minutes remaining.

Mr. ROBERT C. BYRD. How much would remain on the other side?

The PRESIDING OFFICER. One and a half minutes to the Senator from Wyoming.

Mr. ROBERT C. BYRD. I would hope the Senator from South Dakota would be able to utilize some of his time now because a quorum call would eat into my remaining 7 minutes which I would like to reserve.

Mr. HANSEN. May I ask the distinguished majority leader, Mr. President, if it is not true that our side yielded time to the Senator from South Dakota as well——

Mr. ROBERT C. BYRD. Both sides did. So if the Senator could use some of his time——

Mr. ABOUREZK. Mr. President, I will ask for a quorum—how about if we divide the time equally?

Mr. ROBERT C. BYRD. The problem is it eats into my own 7 minutes, which is all the time I have left.

Mr. ABOUREZK. Mr. President, can we divide the remaining time between us and call a quorum based on that?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that of the time remaining the Senator from West Virginia have half and I have half, and that a quorum call be called with time equally charged.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The time will be so divided.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum on those conditions.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. ROBERT C. BYRD. Mr. President, the Senate is about to vote on whether debate should be brought to a close on the Pearson-Bentsen substitute to S. 2104 the Natural Gas Policy Act.

I shall take only a few minutes of the Senate's time to explain why I feel cloture should be invoked on this measure, and to urge all of my colleagues as strongly as I possibly can—Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Senate, please? Those who are talking will please retire to the cloakroom. May we have those talking please be quiet or retire to the cloakroom?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I shall take only a few minutes of the Senate's time to explain why I feel that cloture should be invoked on this measure and to urge my colleagues, as strongly as I possibly can, to support this effort to allow the Senate to come to a final determination on this very crucial matter.

First, may I say that I am proud of the dispatch with which the Senate has considered the administration's energy proposals. The President's energy message was delivered to the Senate on April 20. Senators will recall that because of the Senate's own reorganization involving among other things the Senate's committee structure, we were off to a very large start in consideration of our legislative agenda. In spite of that, and in spite of the extremely heavy flow of nonenergy legislation and energy-related legislation that was submitted by the new administration, the Senate and its Energy Committee worked diligently for long hours to put together the pieces of the energy package.

Because of that diligence on the part of the members and because of the dedication and unusual degree of cooperation on behalf of all Senators, both on the Majority and Minority side, we have made rapid progress toward the priority goal we set for ourselves early in this session, namely, to deliver to the American people a comprehensive energy program formulated by the new administration and designed to meet the Nation's energy needs in the years directly ahead.

We have already passed three major portions of the six-part energy program. We completed action on the Emergency Educational Assistance Act, S. 701, on July 20. We concluded our consideration of the Natural Gas and Petroleum Conservation and Coal Utilization Policy Act, H.R. 5146, on September 8. Shortly thereafter, on September 13, we sent to the House of Representatives the National Energy Conservation Policy Act. We are now about to take a vote which will hopefully enable us to conclude our deliberation ultimately on natural gas policy. When that is done, we can turn immediately to the consideration of the final measure from the Committee on Energy, the utility rate reform bill, and dispose of it in a reasonable time.

When we finally conclude our action on the utility rate reform bill, the Senate should be ready to turn to consideration of the heart of the administration's energy recommendations, the energy tax provisions to be reported by the Finance Committee of the Senate.

In the meantime we have other legislation which is considered to be very important, and the Senate will have to work its will thereon.

Mr. President, I turn now to our present situation. We have just concluded on last Saturday evening, 1 full week—a long 6-day week—of deliberation and debate on the natural gas bill. We have had full and I think adequate debate on the many aspects of the measure. I believe the deliberations of last week have been good for the Senate, good for the administration, good for the affected industries, good for the consuming public, and have been essential to the legislative process. These deliberations are, as a matter of fact, the very sine qua non of the process, and I believe the Senate is performing at its very best as the unique legislative entity it is, when it performs as it has in the past few days. Last Saturday's session provided, in my view, some of the best debate we have heard on the very difficult and extremely complex questions we are addressing in this bill and, Mr. President, may I again say that I am proud of the membership and of the performance of the Senate in this instance.

As I have stated, we are past the halfway mark with respect to the consideration of the energy bills. But we have now come to a very crucial point in our deliberations. The alternative courses on natural gas policy have been thoroughly aired.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me 2 minutes?

Mr. ABOUREZK. I yield 2 minutes to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Dakota for his courtesy.

The time has come for the Senate to halt its deliberations and decide. Deciding, as well as deliberating, is our duty. There is a point beyond which deliberation is fruitless. The alternatives are before the Senate. They have been thoughtfully presented, defended, and attacked. Compromise positions remain as alternatives but the time has been reached when further unlimited debate must be stopped and the focus of the Senate centered on choosing among the various alternatives. The invocation of cloture today is necessary to force that decision, and decide we must. This is not legislation that can wait for another time. It is crucial legislation. We face critical choices within this bill as we will in the energy tax bill which still remains to be considered by the Senate. But the time to begin to make these critical decisions is here and now. I urge each of my colleagues—whatever their substantive views may be concerning this bill—to vote to invoke cloture, to make the hard decisions, and to turn to the other pressing issues before the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, do I have 3 minutes remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. ABOUREZK. Mr. President, in attempting to obtain cloture, as Senator KENNEDY said, what the leadership is doing is trying to shut off what even the leadership admitted was constructive debate, for example, on last Saturday. Now there is no way that there is going to be some sort of an ideal compromise unless we are allowed to debate these things openly and freely. Cloture shuts off that open and free debate because each of us then after cloture has only an hour's time, except that I promise that there will be many efforts made to amend and to perfect the legislation that is before us if cloture is invoked. If that is what the Senate wants to go through, that is up to the Senate.

I submit, Mr. President, that there is one of the greatest economic issues of this century at stake today. It goes well beyond the $160 billion that this particular bill will cost in direct gas prices alone to consumers, to industry, and to those people who buy from industry. The inflationary impact of this will be staggering; the devastation to low-income people will be staggering. But there is one other factor that has not been debated very much during this discussion on the deregulation proposal.

And that is, if deregulation is allowed to take effect, it will give those oil companies and those energy conglomerates who want to go into synthetic gas production the pricing structure necessary to do that, and that is exactly and precisely what they are after. They are trying to get the price of gas up high enough not only to make an exorbitant profit directly out of the gas pricing structure but they want to go into the synthetic production of natural gas out of the other fossil fuel resources we have in this country. When they get to that then they are going to come to Congress and they are going to say let us take the Rockefeller proposal under which the Government will give $100 billion, which is the proposal, in loans and grants to the already overflowing coffers of the oil companies in order to "research and produce synthetic gas resources."

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Bentsen-Pearson substitute, No. 862, to S. 2104, to establish a comprehensive natural gas policy.

Robert C. Byrd, Henry M. Jackson, Daniel P. Moynihan, Warren G. Magnuson, Patrick J. Leahy, Wendell H. Ford, Alan Cranston, Claiborne Pell, Abraham Ribicoff, Charles McC. Mathias.

Howard H. Baker, Jr., John Tower, Richard S. Schweiker, Paul Laxalt, S. I. Hayakawa, Daniel K. Inouye, Ted Stevens, Henry Bellmon, Harrison A. Williams, Dennis DeConcini.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 29 Leg.]

Abourezk	Garn	Morgan
Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClellan	Wallop
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ford	Melcher	Zorinsky
	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The Senate will be in order, please.

The question is, Is it the sense of the Senate that debate on the Pearson-Bentsen substitute, amendment No. 862 to S. 2104, to establish a comprehensive natural gas policy, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. HATHAWAY), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The yeas and nays resulted—yeas 77, nays 17, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—77

Baker	Case	Eagleton
Bartlett	Chafee	Eastland
Bellmon	Chiles	Ford
Bentsen	Church	Garn
Biden	Clark	Glenn
Brooke	Cranston	Goldwater
Bumpers	Curtis	Gravel
Burdick	Danforth	Griffin
Byrd, Harry F., Jr.	DeConcini	Hansen
Byrd, Robert C.	Dole	Haskell
	Domenici	Hatch

Hatfield	McClure	Schmitt
Hayakawa	McIntyre	Schweiker
Heinz	Melcher	Scott
Huddleston	Moynihan	Sparkman
Inouye	Muskie	Stennis
Jackson	Nelson	Stevens
Javits	Nunn	Stevenson
Johnston	Packwood	Stone
Laxalt	Pearson	Talmadge
Leahy	Pell	Tower
Long	Proxmire	Wallop
Lugar	Randolph	Weicker
Magnuson	Ribicoff	Williams
Mathias	Roth	Young
Matsunaga	Sasser	Zorinsky

NAYS—17

Abourezk	Durkin	Metzenbaum
Allen	Hart	Morgan
Anderson	Hollings	Riegle
Bayh	Kennedy	Sarbanes
Cannon	McClellan	Thurmond
Culver	McGovern	

NOT VOTING—6

Hathaway	Humphrey	Percy
Helms	Metcalf	Stafford

The PRESIDING OFFICER (Mr. SARBANES). On this vote, the yeas are 77, the nays are 17. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. Each Senator is now limited to 1 hour for debate purposes.

COMPREHENSIVE NATURAL GAS POLICY

Several Senators addressed the chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the Senate has indicated very clearly that it wants to bring to a close the unlimited debate and reach a conclusion on the matter before it.

The Chair has already stated that each Senator is allotted 1 hour. That 1 hour is not transferable, except by unanimous consent.

I am informed that there are more than 500 amendments at the desk. These amendments may be called up as long as they are germane and are properly drawn and as long as no other points of order can be made against them.

Points of order under cloture are not debatable. Appeals are not debatable.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Members please take their seats?

Mr. ROBERT C. BYRD. As Senators are very well aware, in back of this bill, once a conclusion has been reached thereon, there is the next and last energy bill out of the Energy Committee—one which has to do with utility rate reform.

Then there is also the final energy bill, which is the energy tax measure, coming out of Senator LONG's Committee on Finance. There are other measures which will have to be disposed of before the Senate adjourns for the year.

I hope that Senators understand that we are in a very difficult situation, that it will take a considerable amount of time—in my judgment, at this point, at least—to finish the work on this bill.

There will be many, many rollcall votes, if I understand the situation, as I believe I do, after having discussed it with Senators on both sides of the question.

So I urge Senators to cancel all appointments and engagements, if it is possible for them to do so, beginning with today—whether those engagements and appointments are in the city or outside the city.

What I am saying is that there will have to be late sessions, there will have to be early sessions, and it may get to the point where we will just have one rollcall vote after another, one rollcall vote after another; and this also means that if the Senate has not completed action on this bill by Saturday, a Saturday session will be absolutely necessary. Even if the Senate completes this business before Saturday, it may be that, because of the press of other business, it still would be necessary to have a Saturday session.

So I say again there will be rollcall votes daily, very early and until late, very late. I do not know how late tonight as a starter, but I hope Senators will understand that if they leave the city or leave the Senate, they will be leaving with the understanding that they may miss a great number of rollcall votes.

If we do not complete the bill on Saturday, we will be continuing on Monday. But after a little while, the votes are going to come more often. I think there is a good possibility that there could be at least half as many rollcall votes on this bill as we have had in this entire session. That is easily possible.

Having said that, I think I have stressed the importance of our being here at all times. We can shorten the time for action on this bill, lengthy though it may be, if Senators will stay on the floor as much as they possibly can, so that when there are quorum calls, they will be completed as soon as possible and not be strung out.

Mr. BAKER. Mr. President——

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BAKER. Mr. President, I rise simply to ask the Chair to state the pending business.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Kentucky (Mr. FORD) amendment No. 881, to the bill itself.

Mr. BAKER. I thank the Chair.

UP AMENDMENT NO. 853

Mr. ABOUREZK. Mr. President, I call up an unprinted amendment, lettered A, and I demand a division of the amendment.

The PRESIDING OFFICER. If the Senator will defer the request for a division, the clerk will report the amendment.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 853 to amendment numbered 881 by Mr. FORD.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator request a division?

Mr. ABOUREZK. I request a division, and I ask that the amendment be read.

Mr. LONG. I object.

The PRESIDING OFFICER. The Senator from South Dakota has offered the amendment, and he has both the right to have the amendment read and to ask for a division of the amendment.

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. FORD. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President——

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair informs the Senator that unanimous consent is required to interrupt the reading of the amendment.

Mr. FORD. I ask unanimous consent that the reading of the amendment be interrupted, for the purpose of a parliamentary inquiry.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read the amendment.

Mr. FORD. A point of information——

The legislative clerk resumed the reading of the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue with the reading of the amendment.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

In lieu of the language proposed to be inserted by the Senator from Kentucky, insert the following:

TABLE OF CONTENTS

Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Calculation of the current Btu related price.
Sec. 5. Sales of new natural gas.
Sec. 6. Sales of old natural gas under existing contracts.
Sec. 7. Sales of old natural gas from new wells under new contracts.
Sec. 8. Sales of old natural gas under rollover contracts.
Sec. 9. Effective dates of rules with respect to maximum lawful prices.
Sec. 10. Special pricing provisions.
Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedure, enforcement and judicial review.
Sec. 13. Unenforceable contract provisions.
Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 years the natural gas market has changed dramatically as a national distribution system has been built

to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 with the continuation of cost-based regulation for natural gas and with a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers:

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Power Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2) (A) the surface location of the new well, or

(B) a point directly above the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60° Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of submerged acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease on the Outer Continental Shelf; or

(2) which is produced (other than from a new lease on the Outer Continental Shelf)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b)(1) the lesser of the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or

(2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977 under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

SPECIAL PRICING PROVISIONS

SEC. 10. (a) The Commission may, by rule, prescribe a maximum lawful special price, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special price may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special price is necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of gathering, processing, liquefaction, or transportation of such natural gas, the Commission may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company, and

(B) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels (as determined by the Commission) to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under paragraph (1) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline, and

(B) local distribution companies for resale to low priority users served by such local distribution company, equal the reasonable cost of substitute fuels (as determined by the Commission), to low priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(b) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any persons engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in pargaraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pusuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act, shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or for other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to answer Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

UNENFORCEABLE CONTRACT PROVISIONS

SEC. 13. (a) The price of any natural gas determined under this Act shall not be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of, the price of any natural gas on the basis fo sales of other natural gas.

(b) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply.".

(b) Section 1(b) of the Natural Gas Act, as amended by subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the provisions of this Act shall apply to—

"(i) any facility owned or operated, in whole or in part, by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption,

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline quality gas, and

"(iii) any natural-gas company, companies or their affiliates engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, transportation, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the manufacture of such pipeline-quality gas.

"(C)(i) If, before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the Commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any other provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this subsection, the term 'pipeline-quality gas' shall mean a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) that is interchangeable and compatible with natural gas as determined, by rule, by the Commission.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

Mr. ROBERT C. BYRD. Mr. President, with the understanding of Mr. FORD, I move that the amendment by Mr. FORD be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. DECONCINI). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum. There is not a quorum present.

The PRESIDING OFFICER. No response to the rollcall on the vote having been heard, the clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 30 Leg.]

Abourezk	Bumpers	Hathaway
Baker	Cannon	Muskie
Bentsen	DeConcini	

The PRESIDING OFFICER. A quorum is not present.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. On a Sergeant at Arms vote, you do not have to have 11.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. How many Senators do we need for a sufficient second?

The PRESIDING OFFICER. There needs to be one-fifth of those Senators responding to order the yeas and nays.

The clerk will continue to call the names of the absentees.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Business is not in order during the absence of a quorum.

Mr. METZENBAUM. A parliamentary inquiry.

The PRESIDING OFFICER. That is not in order either.

Mr. ABOUREZK. Mr. President, I move to adjourn. There is obviously not a quorum here.

I move that the Senate adjourn.

Mr. DURKIN. Mr. President, that would be out of order while a quorum call is in progress.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn.

Mr. PEARSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 0, nays 93, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—0

NAYS—93

Abourezk	Garn	Morgan
Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Kennedy	Stevens
Clark	Laxalt	Stevenson
Cranston	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Durkin	McGovern	Young
Eagleton	McIntyre	Zorinsky
Eastland	Melcher	
Ford	Metzenbaum	

NOT VOTING—7

Helms	Metcalf	Stennis
Humphrey	Percy	
McClellan	Stafford	

So the motion to adjourn was rejected.

The PRESIDING OFFICER (Mr. ZORINSKY). A quorum is present.

Mr. ROBERT C. BYRD. Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—92

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Anderson	Glenn	Muskie
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Proxmire
Brooke	Hatch	Randolph
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Wallop
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Eastland	Metzenbaum	Zorinsky

NAYS—1

Hollings

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

The motion to lay Mr. FORD's amendment (No. 881) on the table was agreed to.

Mr. HART and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. The Senate now being under cloture, does the cloture time limitation apply only to amendments to the pending amendment or to amendments to the bill itself as well?

The PRESIDING OFFICER. It applies to amendments to the bill itself and to the first two substitute amendments. The third one by Mr. KENNEDY would not be amendable.

Mr. HART. I thank the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Kentucky was agreed to.

I ask for the yeas and nays.

Mr. ROBERT C. BYRD. I move to lay that motion on the table and I ask for the yeas and nays on the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the

table the amendment of the Senator from Kentucky was agreed to.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Kentucky was agreed to.

On this motion the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ANDERSON assumed the chair.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—92

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Anderson	Glenn	Muskie
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Proxmire
Brooke	Hatch	Randolph
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Wallop
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Eastland	Metzenbaum	Zorinsky

NAYS—1

Hollings

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1037 (FORMERLY UP AMENDMENT NO. 849)

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Texas, as amended, to the substitute 862. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The Chair said that the question occurs on the amendment by the Senator from Texas. Which amendment is that? He has several amendments pending.

The PRESIDING OFFICER. It is the Bentsen amendment, as amended by the Senator from Arizona's amendment No. 1037, to the amendment No. 862. The yeas and nays have been ordered.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 90, nays 3, as follows:

[Rollcall Vote No. 412 Leg.]

YEAS—90

Abourezk	Glenn	Moynihan
Allen	Goldwater	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Morgan	

NAYS—3

Bartlett	Chiles	Tower

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So Mr. BENTSEN's amendment (No. 1037) was agreed to.

AMENDMENT NO. 1023

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 1022, offered by the Senator from Massachusetts (Mr. KENNEDY).

Mr. BAKER. I move to table amendment No. 1022, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, a parliamentary inquiry. No one has answered the rollcall.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry. We cannot hear in the rear of the Chamber.

The PRESIDING OFFICER. The Senator from Tennessee (Mr. BAKER).

Mr. BAKER. I asked the Chair to state the pending amendment before the Senate, and I understood the Chair to say "1022." Is it 1022 or 1023?

The PRESIDING OFFICER. It is 1023.

Mr. BAKER. My motion to table was against the pending amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Is it clear that we are voting on amendment 1023?

Mr. ROBERT C. BYRD. Which is the Kennedy substitute to the Jackson substitute to the Pearson-Bentsen substitute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. Mr. President, a point of order.

The PRESIDING OFFICER. A point of order is not in order.

Mr. ABOUREZK. The rollcall started, and debate is not in order. I make a point of order against it.

The PRESIDING OFFICER. Debate is not in order.

The call of the roll was concluded.

Mr. STENNIS (when his name was called). Mr. President, as I understand the situation, this is a matter that comes within the purview of the agreement I had with the Senator from Minnesota (Mr. HUMPHREY) regarding the Bentsen-Pearson amendment. If the Senator from Minnesota (Mr. HUMPHREY) were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF), are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. HUDDLESTON), would vote "nay."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY), are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

The result was announced—yeas 53, nays 39, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—53

Abourezk	Ford	Metzenbaum
Allen	Garn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hart	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Cannon	Hatfield	Scott
Chafee	Hayakawa	Sparkman
Chiles	Heinz	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Eastland	McClure	Young
	Melcher	Zorinsky

NAYS—39

Anderson	Glenn	Morgan
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Stevenson
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, for.

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to table amendment No. 1023 was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STONE. I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. STONE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Massachusetts was agreed to.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STENNIS (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 36, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—56

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Randolph
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Hart	Schmitt
Byrd, Robert C.	Hatch	Schweiker
Cannon	Hatfield	Scott
Chafee	Hayakawa	Sparkman
Chiles	Heinz	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Eastland	McClure	Young
	Melcher	Zorinsky

NAYS—36

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Stevenson
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, against

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to lay on the table the motion to reconsider the vote by which the motion to table Mr. KENNEDY's amendment (No. 1023) was agreed to.

AMENDMENT NO. 918

Mr. METZENBAUM. Mr. President, I call up my amendment No. 918.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is this amendment divisible?

The PRESIDING OFFICER. The amendment has not been stated. It is divisible.

Mr. ROBERT C. BYRD. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is this an amendment to the bill?

The PRESIDING OFFICER. It is an amendment to the bill.

Mr. ROBERT C. BYRD. Mr. President, if it is an amendment to the bill, in my judgment it is futile for the Senate to proceed to consider it. I do not know anything about the amendment except that it is to the bill and it is divisible.

The cloture motion goes to the Pearson-Bentsen substitute. The amendments below that, or above it, whichever way one wants to describe it, are included in the cloture motion. The last thing the Senate votes on will be the Pearson-Bentsen substitute.

If that is voted up, the ball game is over. No further amendments to the bill are in order.

I thought I should make that statement so that if Senators feel that they want to take the time to consider amendments to the bill, that is up to the Senate, but inasmuch as the Pearson-Bentsen substitute is going to be voted on finally, as amended if amended, then, in reality, I think Senators will want to think twice as to whether or not they want to take the time of the Senate to consider amendments that go to the bill, No. 1.

In the second place, if the Senate wants to consider this amendment, I would ask whether or not the Senator who is offering it would be willing to vote on the amendment without its being divided.

Mr. METZENBAUM. The answer is "No."

Mr. ROBERT C. BYRD. In other words, the Senator would want it divided?

Mr. METZENBAUM. That is correct.

Mr. ROBERT C. BYRD. All right. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Into how many parts is the amendment divisible?

The PRESIDING OFFICER. The amendment is divisible into three parts.

Mr. ROBERT C. BYRD. Three parts. Mr. President, I personally do not want to deprive the author of any amendment of a vote on his amendment. I am very willing to enter into a unanimous-consent agreement at any time, personally, to vote on the amendment up or down or to table it, but without dividing it, without voting on the divisions.

What I am saying is that instead of having three votes we could have one vote, and I would be very happy to have one vote on the Senator's amendment.

As I say, I do not want to deprive him of a vote on his amendment. But if he is going to insist on its being divided, then I should think that if any Senator wishes to table that amendment, that motion to table had better be made before it is presented to the Senate; in other words, before the clerk states it.

Mr. METZENBAUM. Mr. President——

Mr. ROBERT C. BYRD. And I still have the floor.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The normal procedure would be that the amendment would first be reported, and then no one would have the floor except under recognition by the Chair.

Mr. ROBERT C. BYRD. That is right; but I am trying to explore what the situation is. Once that amendment is reported, unless a Senator moves to table it immediately, the Senator can ask for its division. Once the Senator asks for its division, the motion to table that amendment is out.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. METZENBAUM. Mr. President, I am certain the Senator from West Virginia would not want to deprive the Senator from Ohio of my rights under the rules of the Senate. The amendment as offered really has three separate parts to it: One part has to do with data, one part has to do with plowback, and one part is the effectuating part of the amendment.

I believe I have a right, under the rules, to divide the amendment. Therefore, I would like to have the amendment read at the desk.

Mr. ROBERT C. BYRD. I still have the floor at the moment.

I certainly do not want to deprive the Senator of his right to have his amendment voted on.

However, I wish to apprise the Senate of two things: First, that the amendment is an amendment to the bill; and, second, that the author of the amendment intends to ask that it be divided.

If any Senator wishes to move to table, the Senator has that right. once the clerk states it.

But that motion to table has to be made before the request for the division is made, or else there will be several votes instead of one vote.

I am going to yield the floor shortly, but I just wanted the Senate to know what is about to happen.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. HART. A parliamentary inquiry Mr. President.

The PRESIDING OFFICER. First the clerk will state the amendment. Then I shall recognize the distinguished Senator from Colorado.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment:

On page 8, line 19, after "delivery)." add: *Provided*, That—

"(a) The natural gas producer reports for the past five years on an annual basis the following information:

"(1) exploration, development, and production expenditures;

"(2) new reserve additions from extension, revisions, and new well discoveries, including any negative revisions;

"(3) the cost of producing gas and the net income (or loss) including the rate of return earned on gas operations (or loss); and

"(4) interstate and intrastate sales and revenues of natural gas.

"(b) Any producer receiving this price increases exploration and development expenditures outlays by 50 per centum of the revenue increase resulting from the price increase above the highest level of exploration and development expenditures in the past five years.

"(c) For any producer not complying with the provisions of this section, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be $1.45 plus the inflation adjustment.".

Mr. HANSEN, Mr. METZENBAUM, and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized for a parliamentary inquiry.

Mr. HART. Mr. President, in response to a question of the Senator from Colorado earlier, the Chair ruled, I believe, that the cloture motion applies not only to all amendments to the bill but to the bill itself. I believe the Senator from West Virginia has just stated in his parliamentary inquiry that the bill itself is not covered by the cloture motion. Which is correct?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The bill is not covered by the cloture vote.

Mr. ABOUREZK, Mr. METZENBAUM, and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair has been asked to respond to a parliamentary inquiry. The Chair previously stated that the Pearson-Bentsen substitute, on which cloture was invoked, and all amendments thereto or the bill, are subject to cloture, but not the bill itself.

Mr. ABOUREZK, Mr. METZENBAUM, and Mr. BUMPERS addressed the Chair.

Mr. BUMPERS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for a parliamentary inquiry.

Mr. BUMPERS. Mr. President, this amendment by the Senator from Ohio, whether it is divisible or not, if it is adopted to the original bill, and Pearson-Bentsen is subsequently tabled or voted down, then the original bill, with the amendments that had been adopted to that bill, will be the pending business. Is that correct?

The PRESIDING OFFICER. The question would then be on the bill as amended, if amended.

Mr. ABOUREZK. Mr. President, I demand a division of the amendment.

The PRESIDING OFFICER. The division is demanded. The amendment will be divided.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ABOUREZK. Mr. President, regular order.

Mr. LONG. Mr. President, at this point, I make a point of order that this is a dilatory procedure. There is obviously a quorum present and there was on the last vote.

The PRESIDING OFFICER. The Chair will say that the Senator made the request for the point of order prior to the response for the rollcall. The Senator from Louisiana may state his point of order.

Mr. LONG. The point of order is that a quorum call at this point is dilatory. There is clearly a quorum here and there was at the last vote and no business has been transacted. It is purely dilatory.

Mr. METZENBAUM. The yeas and nays have been ordered.

The PRESIDING OFFICER. Under rule XXII, dilatory motions and amendments are not in order. Since this is a case of first impression, the Chair, under the rule, would submit the question to the Senate for a vote.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. BARTLETT. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARTLETT. It is my understanding that it takes one-fifth of those here to properly second the yea and nay request. I did not count 11. I question the number that the Chair counted.

Mr. METZENBAUM. The yeas and nays have been ordered, Mr President.

Mr. ROBERT C. BYRD. Mr. President, what question is the Chair submitting to the Senate?

The PRESIDING OFFICER. May the Chair respond to the Senator from Oklahoma?

The point of order on the question of the yeas and nays comes too late to be considered.

The Chair is submitting to the Senate the question as to whether, at this point, a request for a quorum call is dilatory.

Mr. ABOUREZK. Yeas and nays, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, under the rule, the Chair has the authority to say whether or not quorum calls, under cloture, are dilatory. I ask the Chair to state. That was the point of order that the distinguished Senator from Louisiana made. The Chair has that authority.

The PRESIDING OFFICER. The Chair is aware of that point raised by the Senator from West Virginia, but, since this is a case of first impression, it seemed appropriate to let the Senate make that decision.

Mr. LONG addressed the Chair.

Mr. ABOUREZK. Yeas and nays, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I would like to speak to my point of order for just one moment, because I do not want this precedent to be misunderstood. I am speaking of a situation where a quorum is obviously present, which there is. At that point, under cloture, it is dilatory, with a quorum obviously present and with a previous rollcall identifying that a quorum is present, for one to suggest the absence of a quorum when a point of order is——

Mr. BUMPERS. Mr. President, is a point of order debatable?

The PRESIDING OFFICER. Under the cloture rule, points of order are not debatable.

Mr. LONG. Mr. President, a parliamentary inquiry.

On a vote to sustain the point of order that this is a dilatory motion, would that be a yea vote or a nay vote?

The PRESIDING OFFICER. The question is, Is the point of order well taken that a quorum call would be dilatory?

Mr. McGOVERN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGOVERN. Mr President, if you agreed with the substantive position of the Senator from South Dakota but wanted to establish a principle that there is such a thing as dilatory tactics, would you vote "aye"?

The PRESIDING OFFICER. The Senator from South Dakota will have to make that decision for himself.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. BAKER. Mr. President, point of order.

The PRESIDING OFFICER. The question is, Is the point of order——

Mr. BAKER. Mr. President, I do not want to prolong this. This is not in the nature of a debate. May I inquire as to the point of order?

As I understand it, the Chair ruled that he observes that a quorum is present and that he submits the question to the Senate on whether or not a call for a quorum call under those circumstances is dilatory.

Mr. METZENBAUM. Mr. President, I have not heard the President make that ruling.

The PRESIDING OFFICER. The Chair itself cannot make that observation. It would depend on a quorum call establishing a quorum.

Mr. METZENBAUM. I am sorry, I could not hear the Chair.

The PRESIDING OFFICER. It would require a live quorum call or a rollcall vote to establish the fact that a quorum is present.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Chair itself could not make that observation.

Mr. BAKER. A further point of order.

This is a terribly important precedent. It is my personal preference at this time that we declare this a dilatory tactic and to support the Chair, or to support this proposition. But to guard against the unfavorable consequences and unfair consequences in the future, I would hope the Chair would observe and state for the RECORD that it is his opinion that a majority of the Senate, or more than 20 Senators were present, or that a quorum is present, because otherwise we would have submitted to the Senate the question of whether or not a quorum is present.

Mr. LONG. Mr. President, a point of order.

Mr. BAKER. I would call on the Chair to state whether or not in his opinion there is a quorum present.

The PRESIDING OFFICER. The Chair reiterates that it will submit this question to the Senate for its consideration.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. It is a question for the yeas and nays.

Mr. LONG. Point or order, Mr. President.

In view of the fact that we are going to have a rollcall vote, the rollcall will establish whether there are 51 Senators here.

Mr. CHILES. If the Senator will yield, why are we going to have a rollcall here? There has not been a sufficient second to have a rollcall vote?

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second?

There is not a sufficient second.

SEVERAL SENATORS. Vote! Vote!

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is, is the point of order well taken? (Putting the question.)

So the point of order was sustained.

Mr. ABOUREZK. Mr. President, I have been seeking recognition——

The PRESIDING OFFICER. A point of order——

Mr. ABOUREZK (continuing). Before the vote was announced.

I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Am I recognized, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. ABOUREZK. Mr. President, since there are not enough Senators to second a rollcall vote, it would seem to me there is not a quorum present and I suggest the absence of a quorum at this time.

Mr. LONG. That is dilatory.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senate just made that decision and the Chair rules, as a result of the Senate vote, that the suggestion of the absence of a quorum is a dilatory tactic at this point.

The question is on agreeing to division 1 of the amendment offered by the Senator from Ohio.

Mr. METZENBAUM. The yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. They have been ordered, have they not, Mr. President?

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 40, nays 53, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—40

Anderson	Haskell	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Burdick	Javits	Ribicoff
Case	Kennedy	Riegle
Church	Leahy	Sarbanes
Clark	Magnuson	Sasser
Cranston	Mathias	Stevenson
Culver	McGovern	Williams
DeConcini	McIntyre	Zorinsky
Durkin	Meicher	
Hart	Metzenbaum	

NAYS—53

Abourezk	Ford	Nunn
Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Randolph
Bellmon	Gravel	Roth
Bentsen	Griffin	Schmitt
Byrd,	Hansen	Schweiker
Harry F., Jr.	Hatch	Scott
Byrd, Robert C.	Hatfield	Sparkman
Cannon	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	Morgan	Young

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So division 1 of Mr. METZENBAUM'S amendment was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which division 1 was rejected.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which division 1 was rejected.

Mr. ABOUREZK. I move to lay that motion on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table the motion to reconsider.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Point of order, Mr. President. The suggestion is dilatory.

The PRESIDING OFFICER. The Chair would say he does not regard this as a dilatory tactic. The Senator asked for the yeas and nays, and they were not forthcoming. The Chair would state that the Chair feels the Senator has a right to proceed to get a quorum to seek the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining rollcall votes today be 10-minute rollcalls.

Mr. ABOUREZK. Objection.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. A point of order, Mr. President. I was going to make a point of order and I would have appealed the ruling of the Chair. I have counted the attendance and I have my doubts that there are 50 Senators.

Mr. BAYH. Mr. President, the yeas and nays are requested one more time.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. The Clerk will call the roll.

Mr. BARTLETT. Point of order, Mr. President, let us have a vote. A vote is called for, Mr. President.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 31 Leg.]

Abourezk	Chiles	McClure
Anderson	DeConcini	
Bartlett	Durkin	
Byrd,	Ford	
Harry F., Jr.	Hayakawa	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Allen	Griffin	Nunn
Baker	Hansen	Packwood
Bartlett	Hart	Pearson
Bayh	Haskell	Pell
Bellmon	Hatch	Proxmire
Bentsen	Hatfield	Randolph
Biden	Hathaway	Ribicoff
Brooke	Heinz	Riegle
Bumpers	Hollings	Roth
Burdick	Inouye	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Case	Johnston	Schweiker
Chafee	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McGovern	Wallop
Eagleton	McIntyre	Weicker
Eastland	Metzenbaum	Williams
Garn	Morgan	Young
Glenn	Moynihan	Zorinsky
Goldwater	Muskie	
Gravel	Nelson	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which division 1 of the amendment of the Senator from Ohio (Mr. METZENBAUM) was rejected.

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered on that?

The PRESIDING OFFICER. No; they have not been.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second .

Mr. ABOUREZK and Mr. METZENBAUM addressed the Chair.

Mr. ABOUREZK. Mr. President, there is not a quorum present.

Mr. WALLOP. Mr. President, a point of order.

The PRESIDING OFFICER. The Chair has announced that there is a quorum present.

Mr. ABOUREZK. I do not see one here on the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. Mr. President, there is not a quorum present. That is why there was not a sufficient second.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. I conclude from the statement just made by the Senator from South Dakota that despite the personal preference of Members to agree to a record vote or to withhold their request for a record vote seems to establish the presence or the absence of a quorum. I would think that that does not necessarily follow.

I submit, and my question is, cannot a quorum be present and yet Senators still fail to demand the yeas and nays as was just indicated?

The PRESIDING OFFICER. That is very possible.

Mr. HANSEN. I thank the Presiding Officer.

Mr. ABOUREZK. Mr. President, will the Chair look around and tell me if there are 51 Members present?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which division 1 of the amendment of the Senator from Ohio was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 33, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—59

Allen	Ford	Morgan
Baker	Garn	Nunn
Bartlett	Glenn	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Biden	Hansen	Randolph
Byrd,	Hart	Roth
Harry F., Jr.	Hatch	Schmitt
Byrd, Robert C.	Hatfield	Schweiker
Cannon	Hayakawa	Scott
Chafee	Heinz	Sparkman
Chiles	Inouye	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Stone
Danforth	Leahy	Talmadge
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durkin	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	Meicher	Young

NAYS—33

Abourezk	Haskell	Moynihan
Anderson	Hathaway	Muskie
Bayh	Hollings	Nelson
Brooke	Jackson	Proxmire
Bumpers	Javits	Ribicoff
Burdick	Kennedy	Riegle
Case	Magnuson	Sarbanes
Clark	Mathias	Sasser
Cranston	McGovern	Stevenson
Culver	McIntyre	Williams
DeConcini	Metzenbaum	Zorinsky

NOT VOTING—6

Goldwater	Humphrey	Percy
Helms	McClellan	Stafford
Huddleston	Metcalf	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER (Mr. BAYH). The Senator from West Virginia.

Mr. ROBERT C. BYRD. I would like to ask a question of the distinguished Senator from Ohio as to whether or not he will be willing to agree to a unanimous-consent request that the Senate vote en bloc on the remaining two divisions of his amendment.

Mr. METZENBAUM. I shall be very happy to accommodate the Senator, on the assumption that the yeas and nays will be asked for and we shall have a rollcall vote.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the remaining two divisions be voted on en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to divisions 2 and 3. The yeas and nays have been requested.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Mr. Tom Connaughton and Mr. Mack, aides to Senator BAYH, be accorded the privilege of the floor while this matter is being debated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes for the remainder of today be limited to 10 minutes.

Mr. ABOUREZK. Objection.

Mr. ROBERT C. BYRD. I ask unanimous consent that the pending rollcall vote be limited to 10 minutes,

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. PELL. Mr. President, I ask just to clarify it in my own mind, what is the objective, what is the reason for objecting? Is that an improper question? Is the intent to avoid having passage of this legislation in any way whatsoever? If that is the objective, OK. But why object to a 10-minute rollcall?

Mr. ABOUREZK. I say to my colleague from Rhode Island that it is the right of the Senate to have a 15-minute rollcall. We do not want anybody to miss a rollcall by calling for a 10-minute rollcall. I think that, in order to protect our colleagues who are not nearby, we ought to maintain the 15-minute rollcalls.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—27

Anderson	Hathaway	Pell
Bayh	Hollings	Proxmire
Bumpers	Jackson	Ribicoff
Case	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Williams
Culver	McGovern	Zorinsky
DeConcini	McIntyre	
Durkin	Muskie	
Haskell	Nelson	

NAYS—66

Abourezk	Garn	Moynihan
Allen	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Biden	Hart	Sasser
Brooke	Hatch	Schmitt
Burdick	Hatfield	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
Byrd, Robert C.	Heinz	Sparkman
Cannon	Inouye	Stennis
Chafee	Javits	Stevens
Chiles	Johnston	Stevenson
Church	Laxalt	Stone
Curtis	Long	Talmadge
Danforth	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young
Ford	Metzenbaum	
	Morgan	

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the remaining divisions of Mr. METZENBAUM's amendment were rejected.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which parts 2 and 3 of the amendment were rejected.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. The yeas and nays have been requested. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARTLETT. My point is that this is a dilatory tactic.

Mr. METZENBAUM. Mr. President, there is not a sufficient second available.

The PRESIDING OFFICER. The Senate has established the present precedent no further back than about 2 hours or an hour ago, that when the yeas and nays were requested, then there are not sufficient Senators to grant that request, that the Senator is certainly within his rights and the rules of the Senate to request a quorum so that he can get the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BARTLETT. A point of order.

Mr. METZENBAUM. I yield——

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Senator from Ohio——

The PRESIDING OFFICER. The Senator from Ohio has the floor and yielded to the Senator from West Virginia.

Mr. METZENBAUM. Without losing my right to the floor.

Mr. ROBERT C. BYRD. In view of the fact that the first part of the Senator's amendment was rejected, and obviously the first part having been rejected the second and third parts are really without legs to stand on, and they both having now been rejected, would the Senator allow us to vote on a motion to reconsider by voice vote?

Mr. METZENBAUM. I would prefer to have a rollcall vote, although I would like to accommodate my friend from West Virginia. In this instance, I would like to have a rollcall vote and I think that it is not inappropriate for me to ask that at this time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further?

Mr. METZENBAUM. I yield to the Senator from West Virginia without losing my right to the floor.

Mr. ROBERT C. BYRD. I like the very warm and gracious smile the Senator is wearing.

Would he not admit that the first section having been voted down, and now that the second and third sections have been voted down, and the motion to table the motion to reconsider the vote by which the first section was voted down having been carried, this is really a dilatory action? Would the Senator continue to look at me and continue to smile?

[Laughter.]

Mr. METZENBAUM. I just want to ask on whose time this is.

Mr. ROBERT C. BYRD. It is on the Senator's time.

The PRESIDING OFFICER. The Senator speaking is the one for whom the clock is ticking.

[Laughter.]

Mr. METZENBAUM. Does that mean the Senator from West Virginia?

The PRESIDING OFFICER. The Senator from Ohio is now speaking.

Mr. ROBERT C. BYRD. The Senator yielded.

Mr. METZENBAUM. But when the Senator from West Virginia is speaking, is it on his time?

The PRESIDING OFFICER. If the Senator from Ohio is kind-hearted enough to yield to a brother Senator, the clock is ticking for him.

Mr. METZENBAUM. That being the case, I can no longer yield, and I give the floor to the Senator from West Virginia, and then I can keep my smile.

Mr. ROBERT C. BYRD. Mr. President, it is a dilatory motion, I say with the greatest of respect. I am not going to make any point of it. Is the motion to reconsider or the motion to table before the Senate?

The PRESIDING OFFICER. The yeas and nays were requested on the motion to reconsider. There was not a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, in order to bring this to a close, I move to table the motion to reconsider, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, a point of order. This goes back to the point of order I made before.

Mr. ABOUREZK. Regular order.

Mr. BARTLETT. This is a point of order. I understand that the Chair grants the right to a Senator to establish a quorum or to establish a quorum for his request for the yeas and nays. I do not question that. But I question that it is dilatory to grant it, and it was not answered in that way.

The PRESIDING OFFICER. The Senator will state his point of order and not debate.

Mr. BARTLETT. My point of order is that the rules do not require, if dilatory tactics are taking place, that in this case the rollcall be granted. It can be requested. He has the right to request the yeas and nays, but it does not have to be granted if the tactics are dilatory.

The PRESIDING OFFICER. The Chair suggests to the Senator from Oklahoma that the yeas and the nays have been requested and already granted, so it seems to the Chair that the point of order of the Senator from Oklahoma is a little late.

Mr. BARTLETT. I had the floor. I was trying to retain the floor, to follow up on the point of order, and I want a point of order on this question. I think it is very unfair to count me out because I am not recognized.

The PRESIDING OFFICER. The Chair recognized the Senator from Oklahoma on the point of order and then recognized the Senator from Ohio, who yielded to the Senator from West Virginia.

Mr. BARTLETT. With due respect to the Chair, he did not answer my point of order, and I am asking it again.

The PRESIDING OFFICER. The Chair, with all respect, tells the Senator from Oklahoma that his point of order is not apropos to the situation which presently confronts the Senate, where there has been a sufficient second to the tabling motion of the Senator from West Virginia.

The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 70, nays 22, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—70

Allen	Ford	Moynihan
Baker	Garn	Muskie
Bartlett	Glenn	Nunn
Bellmon	Goldwater	Packwood
Bentsen	Gravel	Pearson
Biden	Hansen	Pell
Brooke	Hart	Randolph
Burdick	Hatch	Roth
Byrd, Harry F., Jr.	Hatfield	Sasser
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Heinz	Schweiker
Chafee	Inouye	Scott
Chiles	Jackson	Sparkman
Church	Javits	Stennis
Cranston	Johnston	Stevens
Curtis	Laxalt	Stevenson
Danforth	Leahy	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
Durkin	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young
	Morgan	

NAYS—22

Abourezk	Hathaway	Proxmire
Anderson	Hollings	Ribicoff
Bayh	Kennedy	Riegle
Bumpers	Magnuson	Sarbanes
Case	McGovern	Williams
Clark	McIntyre	Zorinsky
Culver	Metzenbaum	
Haskell	Nelson	

NOT VOTING—8

Griffin	Humphrey	Percy
Helms	McClellan	Stafford
Huddleston	Metcalf	

So the motion to lay on the table the motion to reconsider was agreed to.

UP AMENDMENT NO. 854

Mr. KENNEDY. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 854 to amendment No. 862.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 9, strike lines 19 through 24, and strike all of pages 10 through 12, and on page 13, strike lines 1 through 5, and insert the following:

SEC. 24. (a) Notwithstanding any other provision of law, all rates and charges made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas sold or delivered from offshore Federal lands shall be subject to the regulation of the Commission and shall be just and reasonable, and any such rate or charge that is not just and reasonable is declared to be unlawful.

(b) Each such rate of charge made, demanded, or received by any natural-gas company, for or in connection with, the purchase or sale of natural gas sold or delivered from offshore Federal land, found by the Commission to be just and reasonable shall be deemed, for purposes of this Act, to be a national ceiling for rates or charges.

Mr. RIEGLE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. RIEGLE. Mr. President, I ask unanimous consent that two members of my staff, Bill Humphreys and Susan Poor be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Senator.

Mr. KENNEDY. Mr. President, this is a very simple straightforward, and important amendment. What it basically does is it excludes the Outer Continental Shelf lands from the Pearson-Bentsen amendment.

We recognized during the debate on Pearson-Bentsen some 2 years ago that there should be a different consideration than would be given to the gas product on the Outer Continental Shelf from that that would be on the land in the United States. It is recognized in the price mechanism.

Just very briefly, Mr. President, unquestionably there is a large supply of natural gas on the Outer Continental Shelf which I think is generally recognized by the gas companies and by most oil and gas people.

Second, to lift that gas off the Continental Shelf because of the facility of moving pipelines offshore, it is done a good deal more cheaply than it would be if it is brought onstream on land where you have to acquire rights of way and build pipelines.

Third, and I think most importantly, is that the gas which is in the Outer Continental Shelf basically belongs to the American people and it is of common value to all Americans, and no provision of the Pearson-Bentsen amendment should permit that the profiteering from that particular resource be attributed to the gas companies.

So, Mr. President, I hope that the Senate will accept this amendment which would exclude the Outer Continental Shelf gas from the Pearson-Bentsen amendment and would continue the price mechanism which is the boilerplate price mechanism, what is just and what is reasonable, and that we would maintain the cost controls on that particular gas.

That is basically the description of the amendment.

I reserve the remainder of my time.

I am glad to get into a greater explanation of it. Otherwise, I wish to have a rollcall vote on that particular amendment.

So if either Mr. PEARSON or Mr. BENTSEN want to debate this amendment, I am glad to debate it for a short time. Otherwise, I wish to have a rollcall vote on that, Mr. President.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The rollcall was resumed and concluded.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The call of the roll was resumed.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER (Mr. ZORINSKY). The request is not in order, the lack of a quorum having already been announced. The clerk will continue.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 32 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Proxmire
Biden	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
	Morgan	

The PRESIDING OFFICER. A quorum is present.

Mr. McCLURE. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to

lay on the table the amendment of the Senator from Massachusetts (Mr. KENNEDY). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—50

Abourezk	Glenn	Packwood
Allen	Goldwater	Pearson
Baker	Gravel	Randolph
Bartlett	Hansen	Roth
Bellmon	Haskell	Schmitt
Bentsen	Hatch	Schweiker
Byrd, Harry F., Jr.	Hatfield	Scott
	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stone
Curtis	Johnston	Talmadge
Danforth	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eastland	Mathias	Weicker
Ford	McClure	Young
Garn	Nunn	Zorinsky

NAYS—43

Anderson	Eagleton	Morgan
Bayh	Hart	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Ribicoff
Cannon	Kennedy	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Sasser
Clark	Matsunaga	Sparkman
Cranston	McGovern	Stevenson
Culver	McIntyre	Williams
DeConcini	Melcher	
Durkin	Metzenbaum	

NOT VOTING—7

Griffin	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to lay on the table Mr. KENNEDY's unprinted amendment No. 854 was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Several Senators addressed the Chair.

Mr. MCCLURE. I move to lay that motion on the table.

Mr. BUMPERS. Mr. President, I sought recognition first.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair.

Mr. President, I will only take 3 or 4 minutes of my 1 hour to point out something to the Members of this body present here.

When the momentum gets going on a bill such as this and there is a certain mind set, the votes have a tendency to solidify on one side or the other with no real debate. Everybody is most anxious not to use up any portion of his 1 hour, because he wants this to go as long as possible.

But I simply want to point out that the amendment which we have just voted to table by a vote of 49 to 44 would only require three changed votes to reconsider. I personally think it is worthwhile, and I am willing to use up some of my time to tell the Senate why.

This is a very simple amendment. It simply excludes offshore gas from deregulation.

The first thing that somebody might say who takes issue with this is, offshore drilling costs a lot more money than onshore drilling, so why should it not be deregulated?

But what we are talking about here is production from the public domain.

This is not to say that the price of offshore gas might not bring more money than deregulated gas onshore. The case could be made before the new Federal regulatory energy commission and, if justified, the price could bring whatever the statistics indicated, based on the cost of drilling, the cost of capital investment, and so on.

So I simply want to say that I hope we will vote and have an honest-to-God vote to reconsider this, and that the Senators, some of them, will reconsider the way they just voted, because it is much too serious to allow an amendment of this magnitude to go down in that rote fashion that all the rest are going through, because we are dealing with public property now. We are not dealing with landowners who lease their land to some driller who, in turn, is going to sell it to an interstate pipeline, or whatever he wants to do with it.

We are talking about gas that actually belongs to the people of the United States next winter, or whenever, and they are entitled to know that their interest is not being jeopardized by a routine, formalized vote in the U.S. Senate.

So, Mr. President, the motion to reconsider is a very serious one. I seriously hope the Senate will, indeed, reconsider the vote.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MCCLURE addressed the Chair.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCLURE. Mr. President, I move to lay on the table the motion to reconsider.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—47

Allen	Glenn	Morgan
Baker	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bellmon	Hansen	Pearson
Bentsen	Haskell	Randolph
Byrd, Harry F., Jr.	Hatch	Roth
	Hatfield	Schmitt
Chafee	Hayakawa	Schweiker
Chiles	Heinz	Scott
Curtis	Helms	Stevens
Danforth	Johnston	Stone
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Eastland	Lugar	Wallop
Ford	Mathias	Weicker
Garn	McClure	Young

NAYS—44

Abourezk	Durkin	Moynihan
Anderson	Eagleton	Muskie
Bayh	Hart	Nelson
Biden	Hathaway	Pell
Brooke	Hollings	Proxmire
Bumpers	Inouye	Ribicoff
Burdick	Jackson	Riegle
Byrd, Robert C.	Kennedy	Sarbanes
Cannon	Leahy	Sasser
Case	Magnuson	Sparkman
Church	Matsunaga	Stevenson
Clark	McGovern	Talmadge
Cranston	McIntyre	Williams
Culver	Melcher	Zorinsky
DeConcini	Metzenbaum	

NOT VOTING—9

Griffin	Javits	Percy
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis

So the motion to table the motion to reconsider was agreed to.

AMENDMENT NO. 997

Mr. KENNEDY. Mr. President, I have at the desk——

Mr. ROBERT C. BYRD. Mr. President, may we have order so the Senator from Massachusetts may be heard?

The PRESIDING OFFICER. Senators will please clear the well. Senators will please cease their conversation and take their seats.

The Senator from Massachusetts.

Mr. KENNEDY. I call up my amendment 997 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 997.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—THE OIL AND GAS COMPETITION

"SEC. 201. This title may be cited as the 'Oil and Gas Competition Act'.

"FINDINGS AND PURPOSE

"SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

"(1) this Nation is committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents undue concentration of economic, social, and political power, and helps preserve a domestic society;

"(2) vigorous and effective enforcement of the antitrust laws and reduction of monopoly and oligopoly power in the economy can contribute significantly to reducing prices, unemployment, and inflation;

"(3) existing antitrust laws have been inadequate to maintain and restore effective competition in the oil and gas industry; and

"(4) the extraordinary dimensions of the remedy required by this Act necessitate expenditure judicial supervision of the divestitures and attendant actions required by this Act.

"(b) PURPOSE.—It is the purpose of the Congress in this Act to facilitate the creation and maintenance of competition in the petroleum industry, and to require the most expeditious and equitable separation and divestment of assets and interests of vertically integrated major petroleum companies.

"DEFINITIONS

"SEC. 203. As used in this title—

"(a) 'person' means an individual person or a corporation, partnership, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated, and whether or not domiciled or incorporated within the United States. It does not include any authority of the United States or of the several States;

"(b) 'control' means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates of officers, or contractual relations which substantially impair the independent business behavior of another person;

"(c) 'affiliate' means a person controlled by, controlling, or under or subject to common control with respect to any other person;

"(d) 'asset' means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation;

"(e) 'commerce' means commerce among the several States, with the Indian tribes, or with foreign nations; or commerce in any State which affects commerce among or between a State and a foreign nation;

"(f) 'energy resource' means crude oil, natural gas liquids, and condensate;

"(g) 'redefine' means to change by any operation the physical or chemical characteristics of petroleum or petroleum products in order to create a derivative product for resale, exclusive of the operations of passing petroleum through a separator to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum;

"(h) 'refined product' means any product, whether liquid or gas, which is produced by a refinery asset;

"(i) 'marketing asset' means any asset used in the sale and distribution of gasoline or fuel oil, including diesel and distillate, to ultimate consumers at a retail motor fuel outlet, other than the initial sale with transfer of ownership to customers at the refinery;

"(j) 'production asset' means—

"(A) natural deposits of crude oil, or condensate and natural gas liquids;

"(B) any asset used primarily in the exploration for, development of, or production of an energy resource including, but not limited to, an interest in real property, whether or not such real property is developed or undeveloped; and

"(C) geological and geophysical information;

"(k) 'refinery asset' means any asset used in the refining of an energy resource;

"(l) 'transportation asset' means any asset used in the transportation within the United States by pipeline or gathering line of crude oil or refined product;

"(m) 'major producer' means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, produced within the United States either a total of thirty-six million five hundred thousand barrels of crude oil, condensate and natural gas liquids, or whose interest in crude oil, condensate and natural gas liquid production totaled thirty-six million five hundred thousand barrels;

"(n) 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

"(o) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, and the Outer Continental Shelf;

"(p) 'Commission' means the Federal Trade Commission; and

"(q) 'prohibited asset' means any marketing asset, refining asset, or transportation asset, the retention of which is prohibited by section 204 of this Act.

"UNLAWFUL RETENTION

"SEC. 204. Notwithstanding any other provision of law, five years after the date of enactment of this Act, it shall be unlawful for any major producer to own, or control, any interest in any refinery asset, transportation asset, or marketing asset.

"SEC. 205. In order to facilitate the purposes of this title, the Commission is authorized to exempt any corporation formed or reorganized as a result of compliance with this section from the prohibitions contained in section 8 of the Act of October 5, 1914 (38 Stat. 732; 15 U.S.C. 19) for a period not to exceed one year.

"PROHIBITION ON SOLICITATION

"SEC. 206. It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a corporation subject to the requirements of section 204 or a subsidiary corporation thereof in contravention of such rules.

"REPORTS

"SEC. 207. Not later than thirty days after the date of enactment of this Act, each person subject to the requirements of section 204 shall file with the Commission a report listing its interests in its prohibited assets. The Commission may order such persons to file additional reports and may order any other person to file reports as it deems necessary to carry out the purposes of this Act. Not later than five days after any order of the Commission issued as provided in this section has been served, persons upon whom such an order has been served may bring an action for judicial review of such order in the court referred to in section 8(c) of this Act in accordance with the provisions of chapter 7 of title 5, United States Code. Such court shall take final action with respect to such order not later than ten days after such action is brought.

"ENFORCEMENT

"SEC. 208. (a)(1) The Commission, in accordance with such rules, regulations, or orders, as it deems appropriate to carry out the purposes of this Act, shall require each person subject to section 204 to submit to the Commission, not later than six months after the date of enactment of this Act, a plan for the divestment of its prohibited assets.

"(2) Such plan shall—

"(A) be developed in consultation with the officers and employees of the Commission and the Securities and Exchange Commission pursuant to guidelines which the Commission shall issue after consultation with the Securities and Exchange Commission;

"(B) be fair and equitable to all persons affected by such plan; and

"(C) provide for the substantial accomplishment of the required divestiture not later than three years after the date of enactment of this Act.

"(3) After each such plan is submitted to the Commission, the Commission shall provide the major petroleum producer submitting such plan the opportunity for a hearing on the record in accordance with the provisions of chapter 5 of title 5, United States Code, to resolve disputes of law and fact among all persons affected by such plan, the Commission, and the Securities and Exchange Commission. Prior to any such hearing, the Commission shall give notice of such hearing to all persons affected by such plan.

"(b)(1) In the administration of the provisions of this section, the Commission shall have primary oversight jurisdiction and responsibility for the preparation and final approval of the required divestiture plans.

"(2) The Securities and Exchange Commission and the Attorney General of the United States shall—

"(A) advise and file comments with the Commission as to the conformity of each such plan with general standards of fairness and equity with respect to the interests of the holders of debt and equity interests in corporations affected by the provisions of section 5; and

"(B) have the right to participate, including by intervention, in any proceeding with respect to any such plan.

"(c)(1) Not later than six months after the submission of any plan as provided in subsection (a), the Commission shall issue a final order with respect to such plan.

"(2) Not later than thirty days after such order is issued, such order may be appealed to a court of three judges of the United States District Court for the District of Columbia who shall be designated by the chief judge of the United States Court of Appeals for the District of Columbia. The filing of an appeal under this section shall automatically stay all related proceedings in State courts or Federal courts and such proceedings shall

be transferred to such court of three judges. The hearing of such appeal shall be given precedence and held at the earliest practicable date.

"(3) Such court of three judges shall have the power to modify the plan which is the subject of such final order.

"(4) The provisions of section 2284 of title 28, United States Code, shall not apply to such court of three judges.

"(5) The judicial panel on multidistrict litigation established by section 1407 of title 28, United States Code, shall not exercise any power or perform any functions with respect to such court of three judges or any matter before such court.

"(d) The Commission may institute suits or actions (1) only in the court referred to in subsection (c), and (2) for such relief as is appropriate to assure compliance by any person with this Act, including, but not limited to, orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, the appointment of temporary or permanent receivers or trustees, civil penalties, and punitive damages for willful failure to comply with lawful orders of the court.

"(e) In carrying out the provisions of this Act, the Commission shall have all powers, including the power to enforce, conferred upon the Securities and Exchange Commission by any other provision of law, and the Securities and Exchange Commission shall have all powers, including the power to enforce, conferred upon the Commission by any other provision of law.

"SANCTIONS

"SEC. 209. (a) Any person, or any officer, director, or partner thereof, who violates any provision of this Act shall be subject to a civil penalty of not more than $100,000, in the case of an individual, or not more than $1,000,000, in the case of a corporation. Such penalties shall accrue to the United States and may be recovered in a civil action brought by the Commission. Failure to obey any order of the court of three judges referred to in section 8 shall be punishable by such court as a contempt of court.

"(b) Any person, or any officer, director or partner thereof, who violates a lawful order of the Commission issued pursuant to this Act shall be subject to a civil penalty for each violation of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey an order of the Commission, each day that such failure or neglect continues shall be deemed a separate offense.".

Mr. KENNEDY. Mr. President, I will not delay the Senate very long. This is a vertical divestiture amendment. It seems to me it is absolutely relevant to this particular bill.

What we are talking about in terms of the Pearson-Bentsen amendment is the question of what the effect of price will be on the increase in supply. We want to insure that the price will reflect free market forces.

Since we are moving towards such an extraordinary conclusion involving deregulation, it seems only appropriate that we consider other steps to increase competition in the oil and gas industry. This amendment addresses that issue in a very detailed way that is modeled on the proposal that was reported from the Committee on the Judiciary last year after very extensive hearings and very long periods of markup before that committee.

Mr. President, the Committee on the Judiciary reviewed the history of the various joint ventures within the oil and gas industry, the various exchange agreements that exist within the industry, the farmout provisions, the interrelationship between pipelines and those interrelated aspects of the industry involving production and refining and marketing. The committee also did a very extensive review of concentration in the industry, focusing as well on the international activities of the oil and gas industry.

So this kind of amendment has had very extensive hearings. It will, I believe, be extremely important as part of the Pearson-Bentsen amendment because it will insure, in the words of the proponents of that amendment, sufficiency of supply at competitive prices. That can only be achieved with my amendment.

It seems to me it is entirely relevant and germane to this proposal, and I would hope the Senate is prepared to accept this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I raise the point that the amendment of the Senator from Massachusetts is not germane and, therefore, is not in order and, therefore, a point of order should lie against the amendment of the Senator from Massachusetts, and I ask the Chair to rule.

The PRESIDING OFFICER. Once cloture is invoked amendments must be germane under the rule. There is nothing in the nature of the amendment in the nature of a substitute that this is introduced to or the original bill dealing with divestiture.

Mr. KENNEDY. I will withdraw that amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 855

Mr. KENNEDY. I call up my second amendment.

The PRESIDING OFFICER. The clerk will report the next amendment.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 855:

Insert at the appropriate place a new section to read as follows:

SEC. . The Commission shall promulgate such rules and regulations as it finds appropriate to prohibit the ownership or control of natural deposits of coal or uranium by natural gas companies which produced during the calendar year 1976, or in any subsequent year within the United States one hundred billion cubic feet of natural gas, or whose interest in natural gas production during calendar year 1976, or in any subsequent calendar year, within the United States totaled one hundred billion cubic feet. In no case shall the rules or regulations permit the retention of the prohibited assets for more than five years from the date of enactment of this Act.

Mr. KENNEDY addressed the Chair.

Mr. SCOTT. Mr. President, point of order.

Mr. ABOUREZK. Regular order.

Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, if there is more than one subject matter in this amendment, is the amendment in order based upon that point?

The PRESIDING OFFICER. Is the Senator's point of order that this amendment offers new subject matter?

Mr. SCOTT. It addresses itself to more than one subject matter. As I understand, once cloture is invoked an amendment should only have one item.

The PRESIDING OFFICER. No, this inserts a new section. So the Senator would be wrong on his assumption.

Mr. SCOTT. I appreciate the Chair's response.

Mr. KENNEDY. Mr. President, this basically is targeted at the same objective as the previous amendment, but it adds powers to the commission which is dealt with in the Pearson-Bentsen amendment. In the Pearson-Bentsen amendment the energy regulatory commission is contemplated as having powers: Hearings, rulemaking, and setting the price for old gas. This adds to the commission's power one more function, relating to the control of various levels of activities by major oil and gas companies.

So, this will be good news to the Members of the Senate who wanted to vote on the divestiture amendment earlier, because now they will have that opportunity to do so.

Mr. President, I am prepared to have a vote on my amendment at this time.

Mr. TOWER. Mr. President, I raise the point of order that the amendment is not germane and, therefore, a point of order should lie against it, and I ask the Chair to rule.

The PRESIDING OFFICER. This amendment is not as clear as the previous amendment, but the Chair feels that it does deal with divestiture and therefore will sustain a point of order.

Mr. TOWER. I thank the Chair.

Mr. KENNEDY. Mr. President, because I do believe that it is related on the question of competitive aspects which are fundamental to this legislation in terms of the supply and price; therefore, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 60, nays 31, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—60

Abourezk	Glenn	Pearson
Allen	Goldwater	Pell
Baker	Gravel	Randolph
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Bentsen	Hatfield	Schweiker
Burdick	Hayakawa	Scott
Byrd, Harry F., Jr.	Heinz	Sparkman
	Helms	Stevens
Byrd, Robert C.	Inouye	Stevenson
Cannon	Johnston	Stone
Chafee	Laxalt	Talmadge
Chiles	Long	Thurmond
Curtis	Lugar	Tower
Danforth	Matsunaga	Wallop
DeConcini	McClure	Weicker
Dole	Melcher	Williams
Domenici	Morgan	Young
Eastland	Moynihan	Zorinsky
Ford	Nunn	
Garn	Packwood	

NAYS—31

Anderson	Eagleton	McIntyre
Bayh	Hart	Metzenbaum
Biden	Haskell	Muskie
Brooke	Hathaway	Nelson
Bumpers	Hollings	Proxmire
Case	Jackson	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	
Durkin	McGovern	

NOT VOTING—9

Griffin	Javits	Percy
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the ruling of the Chair was sustained.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not press that request. The vote is very one-sided, 60 to 31. Obviously the Senate is not going to vote now to reconsider that vote. The Chair has been sustained. I hope the Senator will not press for a rollcall vote on that.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the motion.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the motion is dilatory, and I ask the Chair to so rule.

The PRESIDING OFFICER. The Chair rules that the motion is dilatory. The bill is open to further amendment.

Mr. ABOUREZK. I appeal from the ruling of the Chair, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the appeal is dilatory. It comes right on the heels of a motion that has been ruled dilatory by the Chair.

The PRESIDING OFFICER. The Chair rules that the appeal is dilatory. The bill is open to further amendment.

The point of order is well taken. The bill is open for amendment.

The Senator from Colorado is recognized.

AMENDMENT NO. 991

Mr. HASKELL. Mr. President, I call up amendment No. 991 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes amendment No. 991.

Mr. HASKELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike line 24.

On page 5, strike all through line 7.

On page 6, strike all after line 13.

On page 7, strike line 1.

On page 6, after line 13, insert the following: "lease) from a newly discovered reservoir."

On page 7, after line 16 insert the following:

"(8) The term 'qualified geologist' means a person who meets requirements of technical competence and expertise to be specified by rule of the Commission.".

On page 21, after line 14 insert the following:

"(3) The Commission shall determine if gas produced from a new well qualifies as new natural gas under section 3(1)(2). In order to qualify as new natural gas the Commission shall have received the findings and certification of a qualified geologist and shall have determined based on accurate geological information that such gas was produced from a newly discovered reservoir. The Commission shall prescribe such rules as necessary governing the information and findings which will be required to make such a determination. The Commission shall have 90 days from the receipt of such findings and certification to review and render its decision.".

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HASKELL. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Paul Laudicina of Senator BIDEN's staff may have the privilege of the floor during consideration of this measure.

Mr. GLENN. Mr. President, I ask unanimous consent that Len Bickwit of my staff have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, this amendment is quite simple. It changes the definition of new gas. The amendment in the administration's bill and, as I understand it, the amendment in the substitute bill defines new gas by a certain number of miles from the existing well and a certain number of feet below the existing producing horizon. All my amendment does is basically eliminate this metes and bounds description and say that new gas is that gas determined to be new by geological opinion. Obviously, the Secretary would first rule and then the decision of the Secretary could be appealed and must be decided within 90 days by the regulatory agency set up.

I grant that the metes and bounds description is easier of administration. It is certainly bureaucratically easier. However, I suggest, Mr. President, to the Senate that my amendment is more realistic. New gas, in fact, is a geological determination, not a determination of a strict number of miles or number of feet. Therefore, Mr. President, based upon the realism of the situation, I hope that the Senate can adopt my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—72

Allen	Garn	Moynihan
Baker	Glenn	Muskie
Bartlett	Goldwater	Nelson
Bayh	Gravel	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart	Pearson
Bumpers	Haskell	Pell
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Ribicoff
	Hathaway	Roth
Byrd, Robert C.	Hayakawa	Sarbanes
Cannon	Heinz	Schmitt
Chafee	Helms	Schweiker
Church	Hollings	Stevens
Clark	Inouye	Stone
Cranston	Johnston	Talmadge
Culver	Kennedy	Thurmond
Curtis	Laxalt	Tower
Danforth	Leahy	Wallop
Dole	Lugar	Weicker
Domenici	Magnuson	Williams
Durkin	Matsunaga	Young
Eagleton	McClure	Zorinsky
Eastland	McIntyre	
Ford	Melcher	

NAYS—16

Abourezk	DeConcini	Riegle
Anderson	Jackson	Sasser
Biden	Mathias	Sparkman
Brooke	McGovern	Stevenson
Case	Metzenbaum	
Chiles	Proxmire	

NOT VOTING—12

Griffin	Long	Percy
Huddleston	McClellan	Scott
Humphrey	Metcalf	Stafford
Javits	Morgan	Stennis

So Mr. HASKELL's amendment was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from Ohio.

AMENDMENT NO. 955

Mr. METZENBAUM. Mr. President, I call up amendment No. 955.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HASKELL. I move to lay that motion on the table.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that vote was so lopsided that there is no need to reconsider the vote.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. METZENBAUM. Mr. President, I have the floor, and I have an amendment pending at the desk, and I do not believe any other motion is in order.

The PRESIDING OFFICER. The Senator is correct. The motion to reconsider is not in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 955:

On page 10, line 10, insert after "gas" the following: "associated with incurred cost and a fair rate of return not to exceed eighteen percent on equity".

Mr. METZENBAUM. Mr. President, this is a very simple amendment. It provides that if you want to give a fair return on the equity of the investment, this provides for an 18 percent return. It should be a noncontroversial amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, if this is a noncontroversial amendment, why do we not vote by voice?

Mr. METZENBAUM. Only if I had some assurance from the other side that it was indeed noncontroversial.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, let us not have the yeas and nays. Let us have a voice vote.

Mr. ABOUREZK. Mr. President, can we get the yeas and nays or not?

Mr. ROBERT C. BYRD. Mr. President, may I explain to my dear friend from South Dakota? Let us try a voice vote. If it carries, he does not need the yeas and nays.

Mr. DURKIN. Mr. President, let us try a motion to table.

The PRESIDING OFFICER. The Senator makes a motion to table.

Mr. ABOUREZK. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I realize that a quorum call is underway. I ask unanimous consent, with the understanding that the yeas and nays will be given, that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 28, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—61

Allen	Eastland	McClure
Baker	Ford	Meicher
Bartlett	Garn	Morgan
Bellmon	Glenn	Moynihan
Bentsen	Goldwater	Nunn
Bumpers	Gravel	Packwood
Burdick	Hansen	Pearson
Byrd, Harry F., Jr.	Hart	Pell
Byrd, Robert C.	Haskell	Randolph
Cannon	Hatch	Roth
Chafee	Hayakawa	Sasser
Chiles	Heinz	Schmitt
Curtis	Helms	Schweiker
Danforth	Johnston	Sparkman
DeConcini	Laxalt	Stevens
Dole	Leahy	Stevenson
Domenici	Lugar	Stone
Eagleton	Magnuson	Talmadge
	Matsunaga	Thurmond
Tower	Welcker	
Wallop	Young	Zorinsky

NAYS—28

Abourezk	Durkin	Metzenbaum
Anderson	Hatfield	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Proxmire
Brooke	Inouye	Ribicoff
Case	Jackson	Riegle
Church	Kennedy	Sarbanes
Clark	Mathias	Williams
Cranston	McGovern	
Culver	McIntyre	

NOT VOTING—11

Griffin	Long	Scott
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis
Javits	Percy	

So Mr. DURKIN's motion to lay on the table Mr. METZENBAUM's amendment was agreed to.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Ohio was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. DURKIN. Mr. President, that motion is dilatory.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The point of order is well taken.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. I did not make the motion. All I ask for is the yeas and nays on a motion by the Senator from Wyoming. If the Chair wishes to rule him dilatory that is fine. But asking for the yeas and nays was not dilatory.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. DURKIN. Mr. President, I move that that is dilatory.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. That point of order is well taken.

Mr. ABOUREZK. I suggest the absence of a quorum. There is obviously not a quorum present in the Chamber.

The PRESIDING OFFICER. The point of order is well taken.

Mr. DURKIN. No business has been transacted, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire.

The motion was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from South Dakota.

AMENDMENT NO. 868

Mr. ABOUREZK. Mr. President, I call up amendment No. 868.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 868.

Mr. DURKIN. Mr. President, that action is dilatory and that is the amendment of Senator JACKSON that has been tabled.

Mr. ABOUREZK. Regular order, Mr. President. The amendment has not been reported yet.

Mr. DURKIN. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. DURKIN. Point of order, Mr. President. That amendment has been tabled.

Mr. ABOUREZK. Regular order, Mr. President. The amendment has not yet been reported.

The PRESIDING OFFICER. The amendment has been tabled, and in addition, the amendment seeks to be a substitute for the bill at a time when there is a substitute for the bill pending, and therefore is not in order.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. This amendment to the bill S. 2104 has not been tabled. It has been tabled as an amendment, and it was in a different form. It has not yet been called up in the original bill.

I ask for the regular order.

Mr. DURKIN. Point of order, Mr. President.

Mr. ABOUREZK. The amendment has not been reported, Mr. President, and I am entitled to have it reported.

Mr. DURKIN. Point of order, Mr. President.

The PRESIDING OFFICER. The amendment has been tabled by the Senate and was not in order.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. DURKIN. Point of order, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. DURKIN. I move that the action of the Senator from South Dakota is dilatory on its face.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I just walked in the door. What does he want?

Mr. DURKIN. The Senator is just in time.

Mr. ABOUREZK. I am trying to get the yeas and nays.

Mr. ROBERT C. BYRD. On what?

Mr. ABOUREZK. On appealing the ruling of the Chair. The Chair ruled that the amendment had been tabled.

Mr. ROBERT C. BYRD. What was the vote?

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I just walked in. What is the question before the Senate.

The PRESIDING OFFICER. Whether an amendment has been read and tabled. Whether it is in order to be called up again and offered again.

Mr. ROBERT C. BYRD. The amendment was called up and was tabled. The question is whether or not it can be called up again?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. How did the Chair rule?

The PRESIDING OFFICER. That it was not in order.

Mr. ROBERT C. BYRD. The Chair is right. [Laughter.]

Mr. President, I would hope that the Senator would not appeal the ruling of the Chair.

Mr. ABOUREZK. Mr. President, if I could use the Senator's time, I do not want to use my time in this debate, but I have asked for a ruling.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the appeal.

Mr. ROBERT C. BYRD. Let us give him the yeas and nays so we will not have a quorum on appealing the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. What is the question that is going to be put?

The PRESIDING OFFICER. Shall the decision of the Chair stand as the judgment of the Senate.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 86, nays 3, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—86

Allen	Byrd, Harry F., Jr.	Curtis
Anderson	Byrd, Robert C.	Danforth
Baker	Cannon	DeConcini
Bartlett	Case	Dole
Bayh	Chafee	Domenici
Bellmon	Chiles	Durkin
Bentsen	Church	Eagleton
Biden	Clark	Eastland
Brooke	Cranston	Ford
Bumpers	Culver	Garn
Burdick	Goldwater	Glenn
	Gravel	Hansen
	Hart	Hatfield
	Hathaway	Hayakawa
	Heinz	Helms
	Hollings	Inouye
	Jackson	Johnston
	Kennedy	Laxalt
	Leahy	Lugar
	Magnuson	Mathias
	Matsunaga	McClure
	McGovern	McIntyre
	Meicher	Morgan
	Moynihan	Muskie
	Nelson	Nunn
	Packwood	Pearson
	Pell	Proxmire
	Randolph	Ribicoff
	Roth	Sarbanes
	Sasser	Schmitt
	Schweiker	Sparkman
	Stevens	Stevenson
	Stone	Talmadge
	Thurmond	Tower
	Wallop	Welcker
	Williams	Young
	Zorinsky	

NAYS—3

Abourezk	Metzenbaum	Riegle

NOT VOTING—11

Griffin	Long	Scott
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis
Javits	Percy	

So the ruling of the Chair was sustained as the judgment of the Senate.

AMENDMENT NO. 953

Mr. ABOUREZK. Mr. President, I call up amendment No. 953 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I make a parliamentary inquiry. Is this amendment divisible?

The PRESIDING OFFICER. The amendment will be stated first.

Mr. ROBERT C. BYRD. Why can I not have my question answered first?

The PRESIDING OFFICER. When a Senator offers an amendment, it should be stated first.

Mr. ROBERT C. BYRD. Does the Chair mean I cannot ask if it is divisible if it is not reported?

Mr. ABOUREZK. I ask for regular order, Mr. President.

The PRESIDING OFFICER. It is clearly divisible. It hits the bill in more than one place.

Mr. ROBERT C. BYRD. I thank the Chair doubly.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) for Mr. METZENBAUM proposes an amendment:

On page 7, strike out all in lines 7 through 18 and redesignate the clauses in section 3 accordingly.

On page 8, beginning with line 7, strike out all through line 11 and insert in lieu thereof:

"COST BASED NATIONAL CEILING PRICES

"SEC. 4. (a) Not later than the first day of the sixth full calendar month following the effective date of this Act the Commission shall establish a maximum ceiling price which shall be applicable to new natural gas produced in the United States and delivered on or after such date. Such price shall be promulgated in proceedings made on the record after opportunity for hearing in accordance with sections 553, 556, and 557 of title 5 of the United States Code, and may be adjusted thereafter in accordance with this section as the Commission determines necessary.

"(b) In establishing such national ceiling price, the Commission shall—

"(1) provide for the recovery of all costs on the basis of costs during the immediately

preceding period of not less than five calendar years;

"(2) provide for the recovery only of the actual amounts of tax under the Internal Revenue Code of 1954 paid or incurred by the producer;

"(3) provide for a reasonable rate of return (not to exceed 18 per centum of equity employed in the discovery, development, and production (at the wellhead) of natural gas);

"(4) if appropriate, take into account productivity determined on the basis of the average of annual average additions to reserves of natural gas during the immediately preceding twelve calendar years (excluding negative revisions of reserves not associated with such years); and

"(5) associate the reserve additions for any year with the drilling costs of the preceding year.

"(c) The Commission shall prescribe procedures for expediting determinations under this section.

"(d) Any price for the sale of natural gas shall not be considered as exceeding the ceiling price established under this section if such price is necessary to obtain an average rate of return of 18 per centum on equity employed in the discovery, development, and production (at the wellhead) of natural gas. The preceding sentence shall only apply if—

"(1) an appropriate petition for its application has been filed which contains such information as the Commission determines appropriate, and

"(2) within ninety days after such filing, the Commission has not determined that, from the information submitted in, or in connection with, such petition that such price is not necessary for the seller to obtain such rate of return.

"(e)(1) The Commission may establish a higher ceiling price in excess of the ceiling price established under this section in the case of a sale of high-cost natural gas if the Commission finds that such higher ceiling is necessary to provide reasonable incentives for the production of high-cost natural gas as defined in section 10.".

Redesignate the following sections of the bill accordingly.

On page 22, line 19, strike out "5", and insert in lieu thereof "4".

Mr. DURKIN and Mr. ABOUREZK addressed the Chair.

Mr. DURKIN. Point of order.

Mr. ABOUREZK. I demand the division of the amendment.

The PRESIDING OFFICER. The Senator from New Hampshire has been recognized.

Mr. DURKIN. I make a point of order that the amendment is not in order, inasmuch as it touches the bill in more than one place.

Mr. ABOUREZK. I demand a division.

The PRESIDING OFFICER. The Senator is correct. The point of order is well taken.

Mr. METZENBAUM. I appeal the decision of the Chair.

Mr. ROBERT C. BYRD. Mr. President, the point of order is well taken and it is well substantiated by numerous precedents. I therefore make a point of order that the appeal from the ruling of the Chair is dilatory.

Mr. ABOUREZK. Regular order. It is not debatable. Mr. President.

The PRESIDING OFFICER. In this context, the point of order is well substantiated.

Mr. METZENBAUM. What was the ruling?

Mr. DURKIN. My point of order was well taken.

The PRESIDING OFFICER. The Chair feels that the Senate has a right to speak to the question itself. Therefore, the Chair rules that the appeal is not dilatory.

Mr. METZENBAUM. Is not what?

The PRESIDING OFFICER. Not dilatory.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The last precedent being in 1972.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. ROBERT C. BYRD. The last precedent was in 1972?

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The Chair hears the objection.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 33 Leg.]

Abourezk	Danforth	Melcher
Baker	Dole	Metzenbaum
Bartlett	Domenici	Muskie
Byrd, Harry F., Jr.	Durkin	Nunn
Byrd, Robert C.	Hansen	Ribicoff
Chafee	Hatch	Schmitt
Chiles	Hatfield	Stone
Clark	Lugar	Zorinsky
Curtis	Magnuson	
	McClure	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators .

The second assistant legislative clerk resumed the call of the roll.

Bayh	Haskell	Packwood
Biden	Hathaway	Pearson
Brooke	Heinz	Pell
Bumpers	Hollings	Proxmire
Case	Inouye	Roth
Church	Jackson	Sarbanes
Culver	Johnston	Schweiker
Eagleton	Laxalt	Stevens
Glenn	Mathias	Thurmond
Goldwater	McGovern	Wallop
Gravel	McIntyre	Weicker
Hart	Morgan	Young

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President——

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, if Senators will turn to page 76, I will read from the book of precedents as follows:

An amendment consisting of two provisions amending a bill at different points is in fact two amendments and cannot be offered together if the question is raised, except by unanimous consent.

The Senator from New Hampshire made the point of order that the amendment was not in order, based on this precedent in the RECORD. The footnotes indicate that that precedent has been sustained at least twice and as recently as April 1972. The book was printed in 1974, and I know for a fact that there have been at least two or three situations in which that precedent has been sustained since the book was published. There is no precedent to the contrary.

In view of that history of several sustained precedents, I think that the appeal of the ruling of the Chair in a cloture situation, such as we are in now, is clearly dilatory, and I make the point of order that the appeal is dilatory.

The PRESIDING OFFICER. Having had more time to think it over, and in light of the total consistency of the more recent precedents, the last two in 1975, the Chair is now inclined to rule the motion dilatory.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

APPROVAL OF BILL

A message from the President of the United States announced that on September 24, 1977, he approved and signed the enrolled bill (S. 1752) to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes.

NATURAL GAS PIPELINE REPORT—PM-116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report on the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 14 of the Act and covers the activities for calendar year 1976, prior to the time I became President.

JIMMY CARTER.

THE WHITE HOUSE, *September 26, 1977.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes; and

H. Con. Res. 361. A concurrent resolution authorizing certain corrections to be made in the enrollment of H.R. 6111.

At 3:50 p.m., a message from the House of Representatives delivered by Mr. Berry announced that—

The House has passed without amendment the bill (S. 1322) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The House insists upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. FUQUA, Mr. FLOWERS, Mr. MCCORMACK, Mr. BROWN of California, Mr. THORNTON, Mr. OTTINGER, Mr. HARKIN, Mr. AMBRO, Mrs LLOYD, Mr. WATKINS, Mr. WYDLER, Mr. WINN, Mr. FREY, Mr. GOLDWATER, and Mr. GARY A. MYERS were appointed managers of the conference on the part of the House.

The House has passed the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, in which it requests the concurrence of the Senate.

At 5:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 25) providing for the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska for the National Statuary Hall collection, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An act to extend and revise the Library Services and Construction Act, and for other purposes.

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-2059. A letter from the Director of Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, money being appropriated through the apportionment process to the Board for International Broadcasting for the purpose of providing a grant to Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC-2060. A letter from the Executive Secretary of the Public Service Commission of the District of Columbia transmitting, pursuant to law, the 63d annual report of the Public Service Commission of the District of Columbia for the calendar year 1975 (with an accompanying report); to the Committee on Appropriations.

EC-2061. A letter from the Acting Secretary, Interstate Commerce Commission, reporting, pursuant to law, the Commission's determination to extend the time period for acting upon the appeal pending before the agency in Ex Parte No. 331; to the Committee on Commerce, Science, and Transportation.

EC-2062. A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Applicability of Federal Motor Vehicle Safety Standards and Regulations to Electric and Hybird Vehicles" (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2063. A letter from the Secretary of the Federal Trade Commission transmitting, pursuant to law, the third report of the FTC concerning the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2064. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on sales of refined petroleum products for June, 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2065. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on gasoline service station market shares for June, 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2066. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Social Security Act to expand the availability of emergency assistance under title IV in the case of natural disaster or other occurrence of regional or national significance beyond a State's control (with accompanying papers); to the Committee on Finance.

EC-2067. A letter from the Assistant Administrator for Legislative Affairs for the Agency for International Development, Department of State, transmitting, pursuant to law, notice of an increase in the funding level of the proposed fiscal year 1977 program in Panama (with accompanying papers); to the Committee on Foreign Relations.

EC-2068. A letter from the Administrator of the Agency for International Development, Department of State, transmitting, pursuant to law, an interim report covering the organizational arrangements, responsibilities, and administrative budget costs for a minority business section (with accompanying papers); to the Committee on Foreign Relations.

EC-2069. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United Sates within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

EC-2070. A letter from the Chairman of the Commission on Federal Paperwork transmitting, pursuant to law, a report with recommendations concerning paperwork burdens imposed upon the education community (with an accompanying report); to the Committee on Governmental Affairs.

EC-2071. A letter from the general counsel of the Commodity Futures Trading Commission transmitting, pursuant to law, a report on the establishment of two new systems of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC-2072. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a Navy proposal on a new system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC-2073. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "U.S. Coal Development—Promises, Uncertainties" (EMD-77-43, September 22, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2074. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Office of Education's Basic Grant Program Can Be Improved" (HRD-77-91, September 21, 1977) (with an accompanying report); to the Committee on Government Affairs.

EC-2075. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Operational and Planning Improvements Needed in the Veterans' Administration 'Domiciliary' Program for the Needy and Disabled" (HRD-77-69, September 21, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2076. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to make technical and perfecting amendments to the Federal program of insured loans to graduate students in health professions schools (with accompanying papers); to the Committee on Human Resources.

EC-2077. A letter from the Director of the Labor-Management Services Administration transmitting, for the information of the Senate, the "Register of Reporting Labor Organizations 1977" (with an accompanying report); to the Committee on Human Resources.

EC-2078. A letter from the Deputy Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to amend the Speedy Trial Act of 1974 (with accompanying papers); to the Committee on the Judiciary.

EC-2079. A letter from the Chairman of the Board of Directors of the Future Farmers of America transmitting, pursuant to law, a report of the audit of the accounts of the FFA for the fiscal year ended June 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC-2080. A secret communication from the Comptroller General of the United States transmitting, pursuant to law, a report re-

evaluating the U.S. policy toward lethal chemical munitions (PSAD-77-84), September 21, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. 2052. A bill to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment (Rept. No. 95-451).

S. Res. 269. An original resolution authorizing supplemental expenditures by the Committee on Rules and Administration (Rept. No. 95-452).

By Mr. LONG, from the Committee on Finance:

With an amendment:

S. 143. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes (Rept. No. 95-453).

HOUSE BILL REFERRED

The following bill was read twice by title and referred to the Committee on Human Resources:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE (for himself, Mr. RANDOLPH, Mr. WILLIAMS, and Mr. JAVITS):

S. 2139. A bill to reestablish the Advisory Committee on Sheltered Workshops to the Department of Labor; to the Committee on Human Resources.

By Mr. MELCHER:

S. 2140. A bill for the relief of Loretto B. Fitzgerald; to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 2141. A bill to facilitate the naturalization of applicants who are 50 years old and have lived in the United States for 20 years; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. ALLEN, Mr. ANDERSON, Mr. BENTSEN, Mr. CANNON, Mr. CURTIS, Mr. DANFORTH, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HATCH, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JOHNSTON, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. MELCHER, Mr. NELSON, Mr. PEARSON, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 2142. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Finance.

By Mr. INOUYE:

S. 2143. A bill for the relief of Mrs. Sun Ok Kim; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. THURMOND, Mr. PELL, Mr. HATHAWAY, Mr. CLARK, Mr. MAGNUSON, Mr. CULVER, and Mr. METZENBAUM):

S. 2144. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such program; and to require the conducting of certain studies and experiments, to enhance the capability of the Secretary of Health, Education, and Welfare to administer such program, and for other purposes; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. RANDOLPH, Mr. WILLIAMS, and Mr. JAVITS):

S. 2139. A bill to reestablish the Advisory Committee on Sheltered Workshops to the Department of Labor; to the Committee on Human Resources.

Mr. RIEGLE. Mr. President, I rise at this time to introduce, along with Senators RANDOLPH, WILLIAMS, JAVITS, and STAFFORD, a short and simple bill that would restore to the Department of Labor an exceptionally effective advisory committee that has until recently been of great service not only to the Department and the Federal Government, but also to the many handicapped citizens who are contributing to the economic health of the Nation through work in sheltered workshops. This advisory committee, which has done an excellent job of funneling citizen participaton into the Labor Department and also of avoiding unnecessary friction with employers and employees in the private sector, recently fell victim to the initial administration efforts at reorganization.

I am distressed that efforts at restructuring the executive branch—a process that should open Government up to the people, not close it off—has destroyed the Advisory Committee on Sheltered Workshops. I believe the decision to abolish the committee was unwise, and my bill would reverse that decision.

I am particularly proud that Senators RANDOLPH, WILLIAMS, JAVITS, and STAFFORD have joined in introducing this bill. Senator RANDOLPH, chairman of the Subcommittee on the Handicapped, is deservedly known as an outspoken advocate of sheltered workshops and other effective programs designed to enable handicapped individuals to play their full role in American society. Senator JAVITS is also known for his support for sheltered workshops, and as ranking minority member of the Human Resources Committee he has worked with Chairman WILLIAMS to encourage effective programs for handicapped individuals, programs that make every effort to encourage and depend upon participation by members of affected groups.

By Mr. SCHWEIKER:

S. 2141. A bill to facilitate the naturalization of applicants who are 50 years old and have lived in the United States for 20 years; to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I am pleased to introduce today a bill to make possible U.S. citizenship for applicants who are more than 50 years old and have lived in the United States for at least 20 years, but cannot read and write English—one of the requirements for obtaining naturalization. I have received many letters from constituents regarding the inability of family members to pass the English reading and writing examination which is a prerequisite to becoming a naturalized American citizen. Many former immigrants have simply never had a need in their every-day affairs to read and write in the English language even though they have been in the United States for years, adhering tightly to the work ethic, raising families, and contributing to their communities. Their children have served in the Armed Forces and have been productive citizens.

Because many of these former immigrants are advanced in years or have been away from an academic setting for so long, attending school to learn to read and write English is often highly impractical. As a result, many are frustrated by current law in their long-held ambition to obtain the honor of American citizenship.

We are a nation of immigrants. In communities throughout our Nation, names of Americans sound an echo from every corner of the world. This ethnic diversity has traditionally been a great source of vitality and strength, and represents a key element of our national heritage. I believe this bill is in the spirit of this great tradition. We should welcome into full American citizenship this group of people.

In recent years, U.S. immigration policy seems to have gotten out of kilter. By most reasonable estimates, illegal immigration greatly exceeds legal immigration. Yet President Carter has proposed recently that millions of illegal aliens be granted amnesty and allowed to remain in the United States. In May, I introduced legislation to deal with the problem of illegal aliens by making it unlawful to knowingly employ illegal aliens and imposing stiff fines on employers who choose to violate the law. That bill, S. 1601, and the one I introduce today share the objective of returning to the proposition that our immigration policy should benefit law abiders, not law breakers. Rather than rewarding aliens with special benefits, we should be granting American citizenship to those legal immigrants who have led good lives within the law for many years and have earned the right to become full partners in American society.

For these reasons, I propose that the English reading and writing requirements be waived for applicants who are more than 50 years old and who have resided in the United States at least 20 years.

There is precedent for this measure. When the current provisions of law, including the English reading and writing requirements, were enacted in 1952, an exemption was established for permanent resident aliens who at that time were more than 50 years old and who had resided in the United States for at least 20 years. This bill simply applies that same standard to all applicants, rather than just those who met the criteria in 1952. Although I am aware of no statistics on the question, my own experience leads me to conclude that the beneficiaries of the 1952 exemption have been competent and knowledgeable participants in public affairs. It is also noteworthy that this bill leaves unaffected all other naturalization requirements, including the requirement that applicants demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States. Moreover, the requirement that all applicants for immigrant visas be literate in their native language remains unchanged.

Mr. President, I hope my colleagues will join in opening the doors of U.S. citizenship to these people who have earned the honor. I ask unanimous consent that this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years".

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. ALLEN, Mr. ANDERSON, Mr. BENTSEN, Mr. CANNON, Mr. CURTIS, Mr. DANFORTH, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HATCH, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JOHNSTON, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. MELCHER, Mr. NELSON, Mr. PEARSON, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 2142. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Finance.

READIN' AND 'RITIN' AND REASON

Mr. PACKWOOD. Mr. President, I am introducing today the Packwood-Moynihan Tuition Tax Credit Act of 1977 to provide a tax credit for an individual's tuition expenses or those of a spouse or dependents. The amount is 50 percent of tuition payments up to a total credit of $500 per student. The credit will be subtracted directly from the amount of taxes owed, and it will be refundable if the credit is greater than the tax liability.

To be eligible for the credit, an individual can be a part-time or full-time student at an elementary or secondary school, a vocational school, a college or university. Included are business and trade schools which meet the basic accrediting requirements of the Office of Education.

Forty-two of my colleagues from both sides of the aisle and every section of the country cosponsor this measure. This diversity of support reflects the diversity of educational opportunity this bill will help preserve and promote.

Our educational system is a vast supermarket with a variety of educational programs and possibilities, but if too few people can educate themselves or their children, then the strength of the system itself is in danger. From the elementary level to the university, the excruciating cost squeeze of inflation is preventing too many middle class Americans from supporting our pluralistic approach. Without their support, the danger increases of our moving toward a public education monopoly.

Escalating tuition costs at the college level are hitting middle and lower income students hard. The College Entrance Examination Board reports that between the 1970–71 school year and the 1976–77 year the average tuition and fees at private 4-year institutions rose 54 percent, at public 4-year by 57 percent, at private 2-year by 52 percent, and at public 2-year by 130 percent. The Center for the Study of Higher Education at Penn State found tuition the major factor in enrollment decisions.

These costs impact directly on the lives of millions of Americans—parents who are educating their children, young Americans who are educating themselves, and older Americans who continue their education parttime. The profile of a college student has changed, and many are no longer June high school graduates who go directly to college in the fall. Many students, both young and older, are working and attending college at the same time. Much too little has been done to help these people who are working to educate themselves. They would be given encouragement for their efforts by a tuition tax credit, and many who may be forced to drop out because of these continuing cost increases might be able to continue their education.

We must stop thinking in educational cliches and realize our changing educational needs and traditions. The fluid labor market, different lifestyles, economic pressures, and new types of jobs all influence the educational needs of Americans. Retraining and continuing education have become an economic necessity for many. Other Americans begin or return to college in mid-life to refocus their lives or to prepare for a career. Many of these returning students are women working to reenter the job market, and many of these women are single heads of households supporting children.

College attendance among people 35 and older increased 50 percent between 1973 and 1975. These career adjustments or re-entry efforts directly affect our national employment picture; yet these Americans who are trying to help themselves through education receive limited support.

The higher educational picture is not limited to colleges and universities. Community colleges, vocational, trade, and technical schools, and other training institutions offer educational programs that must be accessible to people. The same problems of tuition increases and reduced income for education affects parents supporting students in these institutions as well as those students educating themselves.

Our multifaceted educational system cannot be sustained without enough educational consumers. This bill assists these consumers to make educational choices based upon individual needs in a most cost-effective approach. The tax credit method encourages individual decisions, and these personal choices are infinitely preferable to national planning. Freedom of choice is an important value to be nourished for many reasons. This very diversity of the system depends upon the availability of choices to all citizens.

The contributions of private educational institutions in America past and present have been well documented. At every educational level, private schools offer an alternative to our public system. No value judgments on either are needed or implied, because the two systems complement each other. Private institutions without the strictures of public governmental pressures sometimes speak to more select needs and interests than public institutions. A smaller constituency affords the opportunity for more specialized interests. By meeting these special needs, private institutions fulfill an important and vital function in the educational process.

In some areas, private schools at the elementary and secondary levels offer substantial financial relief for taxpayers because these schools carry a portion of the educational burden. In Boston, Chicago, Milwaukee, New Orleans, New York, and San Francisco, private schools educate approximately one-fourth of all students. In Cleveland and Philadelphia, that figure climbs to over 30 percent. To carry this share of the educational load of these cities, private schools depend upon these individuals willing to pay both taxes for public schools and tuition for private schools. I believe these individuals need help with this double burden.

Private elementary and secondary schools play a very useful role in educating our children. They offer parents an educational choice about the instruction

of their children. Often these schools give parents a greater voice in the educational process and a higher degree of accountability. Without these schools, America would have an educational monopoly with limited competition and less room for different ideas. The balance of power toward governmental control and away from individual choices would be even more lopsided than now without private institutions.

Enrollment at private elementary and secondary schools has declined substantially since 1966. U.S. Commerce Department statistics indicate that private elementary schools have lost 35 percent of their enrollment in the last 10 years. Private high school enrollment also dropped 13 percent even though total secondary enrollment around the country rose by 18 percent. Although there have been some hopeful signs that this enrollment decline has "bottomed out," it is clear that any further erosion of the private school system would seriously weaken our educational picture.

Private schools primarily educate lower and middle income students; in fact 51 percent of private school students come from families with incomes below $15,000. These middle and lower income Americans need help if private education is going to continue to be accessible to their children.

Whether private elementary and secondary schools or higher education, both public and private, or vocational education, lower- and middle-income Americans need the tax relief of the measure I propose. At the college level, the American Association of State Colleges and Universities estimate lower and middle income student participation in higher education has dropped approximately 20 percent since 1969. That assessment however, defines the upper limit of the middle income group as below $15,000, a very narrow definition. The hope of a college education for their children is a rapidly receding dream for millions of Americans.

Often the middle income students are financially locked out by having too much income to qualify for Federal aid and too little to afford education beyond high school without help. The American Council on Education found that students with adjusted family incomes of less than $7,500 receive about four-fifths of all basic educational opportunity grants, about two-thirds of all college work study awards, about half of the national direct student loans and about one-third of all guaranteed student loans. Obviously, lower income students need this assistance, but we must not overlook the needs of middle income students either. This legislation boosts the opportunities of lower- and middle-income families to finance their educational choices while at the same time reduces administrative costs and, equally important, puts the decisionmaking power in the hands of educational consumers.

The word "credit" in this legislation not only describes the tax procedure, but should also remind us of the credit due those Americans, especially in the middle class, who continue to work to educate themselves despite the pressures of taxes and inflation. Newsweek recently described the plight of what it calls the "middle class poor," those who have watched any income boosts eaten up by inflation and higher taxes. A new home and education lead the list of hopes now priced beyond many middle class taxpayers. The numbers can be tabulated easily. They show the distressing fact that a family of four with a 1970 gross income of $12,000, which now makes $18,000, actually has less disposable income than 7 years ago.

What cannot be figured as precisely, however, are how seriously the erosion of expectations affects the values of those whose hard work and faith keep the country going. Maybe we have talked so long and so often about inflation and its impact on people's lives that we fail to put the numbers with the facts and the names. Higher and higher price tags at colleges and universities are putting many students out of the classroom. Despite changing needs and expectations about a college education, the decision about college should be made on grounds other than it is too expensive.

The very rich, the very poor, and the very brilliant will be the only Americans with realistic prospects of college in a few years if the present situation continues. Those categories are too narrow to support and sustain our system of higher education. The product without the consumer is meaningless in the area of education. This legislation by providing tuition credits for each student in the family will also ease the burden of a family forced to choose which child will receive more education.

Self-help is a concept too often enshrined in our rhetoric, but absent from our legislative philosophy. The Tuition Tax Credit Act encourages self-help, and it will affect the lives of millions of students directly and in a more meaningful way than moneys that are administered and controlled by those unaccountable to all of us.

To put the cost of this proposal in perspective, the $4.7 billion price tag should be compared to an estimated fiscal year 1980 budget of $550 billion. That means this legislation is less than 1 percent of that projection. The tax credit approach also is only 4 percent of what the Nation's taxpayers spend every year for public education at the local, State, and Federal levels. If the 7.7 million students now enrolled in private elementary, secondary schools, or institutions of higher education were enrolled in tax-supported schools, the bill would be an additional $17 billion every year.

One of the most interesting arguments against the tax credit approach for education is that it takes control out of the hands of educational experts. That just may possibly be the best byproduct of tax credits. The educational consumer is also an expert from a more practical standpoint. Parents who want to direct their children's education and students tailoring their educational decisions to their own interests and local job markets are making personal choices on a personal level. I believe they are the people who should be making these decisions, and I believe they should have the opportunity of different options.

This tuition tax credit proposal concerns millions of Americans and their personal choices about education. It will help make colleages and universities more financially feasible for middle- and lower-income students. A college degree whether obtained in mid life or at 21 should be a reachable goal for all Americans willing to work for it. This proposal would help make that degree a reasonable hope.

Retraining or continuing education at any accredited institution will be more accessible to more Americans under this legislation. It specifically includes part-time schooling, because of those who work and study at the same time. Our present tax laws which give tax benefits to companies that provide educational opportunities for employees overlook the initiative and enterprise of individual Americans who seek further education.

Students at vocational schools, community colleges, and in continuing education have become a growing factor in education. As our job market continues to change, educational alternatives to the traditional 4-year college must be nourished. At a time when we need more types of educational experiences, we should be supportive of all aspects of our educational marketplace.

This bill is about preserving the variety of educational choices which individuals should be able to make. The parent who bears the dual burden of taxes and private school tuition, the 18-year-old who wants to go to a State university like his two older sisters, the single head of a household with three dependents who needs more education to get a job or the 35-year-old whose skills are outdated—these are the people this legislation can help. Do not multiply those examples by any numbers, but fill in the names of your friends and neighbors. When you read this legislation, think of individuals and their educational needs and consider how much impact these tax credits could have on their lives.

Mr. MOYNIHAN. Mr. President, I am today joining with Senator BOB PACKWOOD and 41 cosponsors in introducing the Tuition Tax Credit Act of 1977. This is an event of some significance, not simply because of the widespread and bipartisan interest in this measure that is already evident, but also because of the public policy implications of our proposal.

The legislation we offer is at once uncomplicated and far reaching. It is intended, in the first instance, to lighten the financial burden that is borne by individuals paying tuition to schools and colleges, and by parents paying the tuition of their children. In so doing, it will widen educational opportunity for lower and middle income families, and will broaden the range of school and college choices available to those without great personal wealth.

I wish to be clear that the primary purpose of this initiative is to assist individuals and families, particularly those in the financially beleaguered middle class who are seldom eligible for grant

and scholarship programs but who find it increasingly difficult to pay the spiraling cost of education without assistance.

But we have a secondary purpose as well, and one I wish to make explicit. The United States today boasts the world's most variegated and pluralistic educational system, not just because its governance is divided amongst 50 States and thousands of localities but also because of our splendid array of non-public schools and colleges.

In the main, these institutions do not receive subsidies from local, State, or Federal tax funds, save that contributions to them may ordinarily be deducted from the income tax return of the donor. Indeed, it may be said that one of their defining characteristics, the source of much of their cherished independence, is their freedom from the taut strings that are commonly attached to direct public subsidies.

It follows that these private institutions—some 14,000 grammar schools, 3,700 high schools, and 1,500 colleges and universities—are heavily reliant on tuition as their principal source of income, and that their very existence thus depends on the ability of those who would like to attend them to pay the associated costs. Without funds, the students will vanish. Without students, the schools will vanish. Without these schools, a large measure of the diversity and excellence that we associate with American education will vanish.

I take pluralism to be a valuable characteristic of education, as of much else in our society. In "Beyond the Melting Pot," Nathan Glazer and I wrote of the persistence of pluralism in American life, and of its values. We are many peoples and our social arrangements reflect this disinclination to submerge our inherited distinctiveness in a homogeneous whole.

At the college and university level, we tend to take for granted that diversity is a good thing, that estimable private educational institutions should coexist with the massive public universities as a valuable source of education with qualities that no public institution can supply. My own State of New York is in the vanguard of States that have begun to recognize this value—and the dull and costly fate that would befall us if we failed to assist such institutions to survive—and has developed an imaginative and creative set of measures to provide public resources to private colleges and their students. Federal policy is beginning to recognize—albeit inadequately and only at the level of higher education—the distinctive needs and contributions of private colleges and universities, and to tailor its programs to them as well as to their public sector counterparts.

Precisely the same values inhere in our private elementary and secondary schools, although public policy has been less ready to embrace them. They provide diversity to the society, choices to students and their parents, and a rich array of distinctive educational offerings that even the finest of public institutions find difficult to supply, not least because they are public, and must embody generalized values.

Diversity. Pluralism. Variety. These are values, too, and perhaps nowhere more valuable than in the experiences that our children have in their early years, when their beliefs and attitudes are formed, their minds awakened, and their friendships formed. I cherish these values, and I do not believe it excessive to ask that they be embodied in our national policies for the betterment of American education.

As we look to the future, two facts are fundamental. Tuitions in private schools and colleges continue to soar—as of course do tuitions and fees in State colleges and universities. And the number of persons in the school and college-going population continues to diminish.

Public policy can do little about these underlying conditions. As the costs of providing a qualitv education keep rising, so must school and college revenues. Whereas public schools and colleges can turn to public sources for those additional funds, private institutions have little recourse but to pass these increased costs through to their "customers" in the form of increased tuitions. As for the population, it is simply the fact that from a peak of 4.3 million live births in 1961, we declined to fewer than 3.2 million in recent years. This shrinkage in the infant population may be translated directly into school enrollments: our elementary schools enrolled 1 million fewer students in 1975 than they did 10 years earlier.

There is little to be done about the birth rate, or its impact on total school populations. But those who value diversity, pluralism, and choice in American education must be sensitive to the fact that our private schools are bearing a grossly disappropriate share of this contraction. Indeed, as the following table shows, our non-public schools have absorbed virtually the entire net student loss at the grammar school level during the past 10 years.

Day school enrollments, K–8, by institutional control

[In thousands]

	1965	1970	1975	Net loss
Public	30,563	32,577	30,545	−18
Nonpublic	4,900	4,100	3,900	−1,000
Total	35,463	36,677	34,445	−1,018

Source: National Center for Education Statistics, DHEW.

Many explanations may be offered, but one stands out: While everyone pays taxes in support of schools, virtually none of that tax money makes its way into nonpublic schools. They derive their support primarily from tuition, but those who must pay that tuition—taxpayers all—derive little or no assistance from their local, State, or Federal governments.

At the college level, the situation is somewhat different. Although the traditional college-going age group is also on the brink of an historic decline, it remains the case that many persons do not attend college at all. No one knows with certainty how many more millions of Americans are eager to continue their educations, if only they could afford to do so. What we do know is that as the "tuition gap" between public and private colleges has widened, the proportion of college students choosing private campuses has steadily shrunk: from 50 percent in the early 1950's to less than 25 percent today. As we begin to contemplate the effects of an overall decline in college enrollments in the next 10 years, we must aso entertain the gloomy possibility that our private institutions will once again bear more than their share of this decline.

Joseph Schumpeter warned years ago that the end of liberal societv would not come about through some Marxian convulsion but rather by what he described as the slow but steady "conquest of the private sector by the public sector".

In education todav, we still have a strong and vital nonpublic sector. But can it last, given rising costs, dwindling enrollments, and mounting competition for students, without a revision of social policies that today favor only public institutions and that erect sizable barriers to individuals whose educational needs might best be served in nonpublic ones?

It is widely known that the great majority of our private schools, and about half our private colleges and universities, are affiliated with or sponsored by various religious denominations. It is perhaps less widely known that in the early days of this Nation, there was no sharp line of demarcation between "public" and "private" schools, that education was largely a church function, and that our social policies were supportive of such institutions.

In 1961, about to leave for Washington to join the Kennedy administration, I published in the Reporter magazine an article recounting the history of our existing arrangements, a history largely played out in my own State of New York. In the earliest davs of the Republic, schools in New York, as elsewhere, were largely church run, and received public support. When public schools were first established, they were in fact, given the background of those who ran them, Protestant schools, and the growing Catholic community of the early 19th century reacted predictably by establishing its own schools. As one commentator has written:

> Catholics (had) their parochial schools and the Protestants (had) the public schools.

Thus there arose the patterns of a dual school system which exists to this day.

And thus there arose the question of whether these Catholic schools would continue to receive public support, or all the available funds be given to the public schools only.

It must be understood that throughout most of our history, the answer to this question was thought to be "Yes"; yes, that is, that nonpublic schools may receive public assistance. In New York, for example, Governor Seward proposed to the legislature in 1840 that Catholic schools receive State aid:

> I do not hesitate . . . to recommend the establishment of schools in which they (the children of immigrants) may be instructed by teachers speaking the same language with themselves and professing the same faith.

The next year, Seward's Secretary of State, John Spencer, issued a report once again assuming the justice of the Catholic position:

> It can scarcely be necessary to say that the founders of these schools, and those who wish to establish others, have absolute rights to the benefits of a common burden, and that any system which deprives them of their just share in the application of a common and public fund must be justified, if at all, by a necessity which demands the sacrifice of individual rights, for the accomplishment of a social benefit of paramount importance. It is presumed no such necessity can be urged in the present instance.

As the Catholic population grew, and as bigotry against it grew, the issue of public support for private schools came to the center of national attention. Beginning at mid century with the Know Nothing Party, anti-Catholicism became what can only be described as a political movement. In the election of 1876, President Grant took the measure of anti-Catholicism and did not scruple to appeal to it, and his party's platform for that year proposed a constitutional amendment prohibiting aid to Catholic schools. The platform states:

> The public schools system of the several states is the bulwark of the American republic; and, with a view to its security and permanence, we recommend an amendment to the constitution of the United States, forbidding the application of any public funds or property for the benefit of any school or institution under sectarian control.

Nothing is clearer from this proposal than the understanding that without such an amendment the Constitution did allow aid to Catholic schools—a proposition accepted even by bitter critics at the time.

Yet, today, how many of us genuinely believe that the Constitution allows aid to church-related schools?

In a line of cases beginning only in 1947, and culminating in 1973 and 1975 with two decisions which take what can only be called an extremist position on constitutional interpretation, the Court, in my view, has rewritten the history of the first amendment. Many have recognized that the Court goes much further than constitutional history allows, and further than the Constitution itself instructs, and some of these are the dissenting Justices on the Court itself. And yet, am I entirely wrong to detect—among those of us deeply concerned about private education in America, and among those of us deeply concerned about Catholic education in America—a loss of conviction? Am I wrong to detect a growing sense, not simply that the Court is persuaded, but that the Court is persuasive, that the Court is right?

The bill we are introducing today calls for tax credits for parents who send their children to public and nonpublic schools and colleges alike. It is a simple proposition, and one supported by both the Republican and Democratic platforms in 1976. Chief Justice Burger has stated, in a dissent to the decision which declared a similar New York State statute unconstitutional, some of the bill's rationale:

> It is beyond dispute that the parents of public school children . . . presently receive the 'benefit' of having their children educated totally at state expense; the statutes . . . at issue here merely attempt to equalize that 'benefit' by giving to parents of private school children, in the form of dollars or tax deductions, what the parents of public school children receive in kind. It is no more than simple equity to grant partial relief to parents who support the public schools they do not use.

Now I would say to you that this bill is constitutional, by which I do not mean that I predict the Court tomorrow would hold it so. I mean instead that a fair reading of our Nation's history demonstrates that the first amendment was never meant—and until recently never understood—to bar the sort of aid which we propose.

Consider the text of the first amendment, in relevant part:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Now, as I had occasion to remark in my Reporter article in 1961, there can be only one explanation of why it is thought that these words prevent public aid to nonpublic schools:

> It is only because most Americans no longer have the foggiest idea what an established religion is that they can be persuaded that the words of the First Amendment mean more than they say.

Consider several earlier versions of the first amendment—"Congress shall make no law establishing religion . . ."; "The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established . . ."; "No religion shall be established by law . . ."

In the debate in the House of Representatives on the amendment, on August 15, 1789, Madison said "he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law . . ." When one representative objected that the language then in question—"no religion shall be established by law"—would aid irreligion. The Annals of Congress tell us that "Mr. Madison thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen."

This, I believe, is precisely the history the Court now forgets. It is true that there is, in our history, an extreme separationist tradition, represented by the views of Madison and to some extent, Jefferson. On this tradition, the Court almost exclusively relies, and thereby we are justified in asking why it does not rely instead on the words and history of the first amendment itself.

One of our greatest constitutional scholars, Edwin S. Corwin, gave us the following definition:

> The historical record shows beyond peradventure that the core idea of "an establishment of religion" comprises the idea of preference; and that any act of public authority favorable to religion in general cannot, without manifest falsification of history, be brought under the ban of that phrase.

This view echoes the conclusions of constitutional experts down through our history. Cooley, writing in his classic General Principles of Constitutional Law in the United States in 1898, told us that:

> By establishment of religion is meant the setting up or recognition of a state church, or at least conferring upon one church of special favors and advantages which are denied to others . . .

Yet, as Walter Berns sadly notes in his recent book, The First Amendment and the Future of American Democracy:

> One looks almost in vain for references in the Court's opinions to what the great commentators—Story, Kent, and Cooley, for example—have written on freedom of speech and religion, or to what the Founders intended with the First Amendment.

It would go too far to say that the intent of the first amendment is undisputed, yet it does not, I think, go too far to suggest that the Supreme Court's present interpretation of that intent is wrong. Let us remember what Justice Story wrote, in 1833, when the intentions of the Founders were easily within the memory of living men: the purpose of the first amendment was "to exclude all rivalry among Christian sects and to prevent any national ecclesiastical establishment which should give to any hierarchy the exclusive patronage of the national government." This, I believe, is what our history teaches us.

But I would offer the thought that even as this history has become more clear, our public policies have grown ever murkier to the point of darkness on the subject of nonpublic education. Increasingly, at the State and Federal levels, we have lapsed into a pattern of avoidance with respect to those institutions not under immediate government control.

I was struck by this a few weeks back at a conference at the Woodrow Wilson International Center for Scholars convened on the subject of "the role of the Federal Government in American education during the last quarter of the 20th Century." The Office of Education had put up the money to engage the energies of five former United States Commissioners of Education to prepare materials, and lead discussions that would lead to a statement on this subject. This is a familiar process in Washington: the Government purchasing the advice it desires to receive. I had a hand in founding the Wilson Center, and served as vice chairman of its board and accepted an invitation to be present. I arrived as the guests assembled for dinner in the splendid great hall of the

castle, as we refer to Renwick's great Smithsonian Building on the Mall. In the glow of the candlelight and the Crozes-Hermitage, 1974, I inquired if in the proceedings so far any mention had been made of the Federal role in nonpublic education. None. Later in the evening at my suggestion one question was asked, but it was not answered. I looked at the guest lists. Not a single representative of Catholic education was present, and as I learned none had been invited. As for the Commissioners' draft document, nonpublic schooling simply does not exist.

Now these are serious men, and I have known each of them in office. They have served under Presidents of both parties, parties which openly discuss this matter in their national platforms. Indeed one of the Commissioners present was the one with whom I negotiated the language of the 1964 Democratic platform, which the Catholic bishops took to be an undertaking to provide their schools a measure of Federal aid. As I have said, the bishops kept their word: The Federal Government did not keep its word, not really.

We now have another opportunity. Secretary Califano assures me that his Department is "interested in any legislative proposals which seek to expand opportunities for aid to education for children enrolled in public or nonpublic schools". We shall eagerly await his testimony on the Packwood-Moynihan bill in January and look forward to administration support for this measure, although it is necessary to acknowledge that such support has not been forthcoming with respect to previous tuition tax credit proposals. Certainly the bill we are introducing today provides all three branches of Government with a fresh opportunity to demonstrate their commitment to the quality and well-being of all our schools, private as well as public, as well as to the broadening of educational opportunity in the United States.

Our proposal would provide modest-sized tax credits to individuals and families paying tuition to nonpublic elementary and secondary schools. But it would also do much more. It would extend those credits to the college level as well, both because we are persuaded that college costs are outstripping the ability of most Americans to pay them, and because we believe that the widest possible range of post-secondary educational opportunities should be available to every citizen with the capacity and the desire to make good use of them.

These opportunities—and their denial—are not confined to the private sector, and most certainly not to sectarian institutions. Fully half our nonpublic colleges and universities have no religious affiliation. And virtually all our State institutions charge tuition and fees now averaging $600 a year. When the costs of room, board, and other necessaries are added, the student matriculating at a public college must anticipate out-of-pocket expenses that average some $2,700 every year, or nearly $11,000 in the course of a 4-year bachelor's degree. How many families can afford such sums for each of their children? How many can afford the additional $1,800 per year that must be found if the child enrolls on a private campus?

The tax credit we are proposing today would not obliterate those difficulties. But it would ease them. Five hundred dollars per student per year, the maximum credit available under our plan, is not an enormous sum in light of contemporary educational costs. But for millions of American families, particularly those teetering on the brink of a decision about sending a child to college, or trying to identify the school best suited to that child's educational and personal needs, it could provide the critical margin of difference.

Tuition tax credits are not a new idea. Similar measures have passed the Senate several times in recent years, although none has yet reached the floor of the House of Representatives. It is an idea with a distinguished lineage in the Senate; long championed by Senator RIBICOFF, kindred measures have recently also been introduced by Senators SCHWEIKER, ROTH, and others. Indeed, I introduced a more limited version of such a bill several months ago, before deciding to combine my own efforts with those of Senator PACKWOOD and the many cosponsors of the present proposal.

But tuition relief is not yet a universally accepted idea. And it is to that end that we intend the hearings on this bill to be wide-ranging, comprehensive, and thorough. Educational policy, fiscal policy, tax policy, and Constitutional interpretation are all involved. For we intend to make certain that by the time the legislative process is completed, we will have crafted a sound and responsible measure that will cause the Supreme Court to take another look.

The proposal we are offering today would aid students and their parents, whether the educational institution to which they pay tuition is public or private, whether it is a grammar school, a high school, a college, or a graduate school. It is broadly based. Yet is remarkably uncomplicated in its constructions. Its sponsors are open to suggestions for modifying and improving it, and look forward to the careful consideration that it will receive as it moves through the Congress.

Mr. CURTIS. Mr. President, I would like to thank and offer support to my colleagues on the Committee on Finance for introducing the Tuition Tax Credit Act.

This legislation which will provide a refundable tax credit for tuition expenses paid up to a total of $500 per student is vitally needed today. For example, I have been informed that the cost of a private college education rose 119 percent between 1964 and 1975. Fees at public universities have risen 98 percent during the same period. While these figures are staggering, their impact has more significance when we learn that those hardest hit by the increase are families with middle-level incomes. They are unable to pay college costs, and yet they do not qualify for Federal financial aid. This bill is a step toward lightening this financial burden and making it possible for higher education to continue to be available to middle-income families.

Mr. President, the role of education in our democratic society cannot be disputed. Well informed and educated citizens form the foundation of our national institutions and the basis of self-government. In addition, as our society becomes increasingly complex, education becomes a vital necessity in the marketplace. One estimate places the difference between a high school diploma and a college degree at approximately $280,000. Thus, education is a good investment for individuals and for society. The individual learns new knowledge and skills that make him more productive and society benefits from the improved skills and ability of its members.

Mr. President, many of my colleagues recognize and support the need for tuition assistance but argue that direct grants or assistance to individuals and educational institutions should be made by the Federal Government. They oppose the use of the tax system to aid a particular segment of the economy and label credits and deductions as "tax expenditures." The theory of tax expenditures is predicated on the assumption that the Federal Government owns all resources except what they choose to rebate to individuals.

Mr. President, it should be observed that mismanaged Government fiscal policy resulting in double digit inflation is a major contributor to the rising costs of education. Further, our so-called progressive tax structure hits hardest at middle-income families and makes it increasingly difficult to educate their children. It is time to recognize and solve this problem through our tax system.

Direct grants, and financial assistance to students and institutions have a surface appeal but one must always keep in mind that Federal regulations closely follow Federal financial assistance. As evidence, look at the many institutions of higher education that are now complaining about Federal interference in the educational process. Further, many schools are now refusing Federal assistance rather than submit to such regulation and direction.

Mr. President, I think we can all agree that there is a need for tuition assistance and that a tax credit is the most simple and direct method of solving what has become a national educational crisis.

Again, Mr. President, I am pleased to be a cosponsor of this legislation and thank my colleagues Senators PACKWOOD and MOYNIHAN for taking the initiative in this vital area.

Mr. DANFORTH. Mr. President, I wish to offer my strong support for this legislation to provide tax credits to Americans who pay tuition for education.

The United States enjoys by far the greatest education system in the world. People everywhere envy our excellent public school system and the rights to free education guaranteed to every American. Our many nonpublic educational institutions supplement the public school system in a combination which encourages quality and—more important—freedom of choice.

In recent years, the Federal Government has significantly increased its direct role in underwriting the costs of public education. But very little has been done to encourage and preserve nonpublic educational alternatives.

It is estimated that in the past 5 years education costs at both public and private colleges and universities have increased more than 50 percent. The well-to-do can absorb these increases; and the availability of public scholarship, loan, and work-study funds for the poor permits many financially disadvantaged people to have access to private higher education. But there has been no relief for the middle-income family. They pay the taxes but are unable to afford the tuition, and their income exceeds the cutoff point for financial assistance.

This proposal takes a major step in helping such families to fulfill their dream of giving their children the best education possible.

The beauty of the proposal is that it maximizes the role of individual choice, and minimizes the intrusion of Government into the education process. Our education system is one of our most valuable national assets. This proposal will help to assure that this resource thrives well into the future.

Mr. DECONCINI. Mr. President, I am pleased to cosponsor the Tuition Tax Credit Act of 1977, introduced today by my good friends and distinguished colleagues, Senators PACKWOOD and MOYNIHAN.

Perhaps no other nation in the history of the world has placed such great emphasis on unimpeded access to educational opportunity for all its citizenry as has the United States. From the earliest colonial settlements, Americans have recognized, albeit imperfectly at times, that the advantages of education could not be confined to a privileged elite, if the ideals of liberty, equality, and individualism were to have anything more than symbolic significance. For a democratic order presupposes that each person has a right to pursue his aspirations and to fulfill his potentialities free of the artificial constraints of tradition, class, or caste. The key to translating this vision of man and his proper relation to society into practical reality has been and continues to be meaningful access to a suitable education. Indeed, the history of this country, and in fact of the Western World, amply demonstrates the indissoluble link between the dispersion of educational opportunity to ever wider segments of the population and the growth and vitality of democratic political and social institutions.

This process of expanding the mass base of the educational system, Mr. President, has been accompanied by an equally salutary diversification of organizational forms and curricular contents. At every level, American education is characterized by remarkable heterogeneity. Thus private preparatory schools have coexisted with both public and parochial institutions in providing elementary and secondary instruction to the Nation's children. And postsecondary education is, if anything, even more richly variegated—ranging from 2-year vocational and technical schools through small State colleges and private liberal arts institutions to world-renowned centers of advanced learning, some of which are maintained by private endowment and some by public funds.

This diversity, Mr. President, is one of the major strengths of the American approach to education; it both reflects and reinforces the social and cultural pluralism from which our country draws so much of its dynamism and vitality and makes it possible for those of varying tastes, interests, and needs to find the kind of institution and/or curricular offering that best meets their particular requirements.

Unfortunately, recent developments threaten to reverse the historic trend toward both wider accessibility and diversity in American education. The crux of the problem is quite simple: Schools and colleges across the country—public and private—are facing a devastating combination of declining enrollment and sharply escalating costs. Moreover, increasing numbers of families are finding it impossible to afford the sort of education they desire for their children. The measure I am cosponsoring today with my good friends from Oregon and New York is by no means a panacea for financial ills of American education. It is, though, a significant step in the right direction. This bill provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of this credit will be 50 percent of tuition payments up to a total credit of $500 per student. Of particular importance to low income taxpayers is that the credit will be refundable—if the taxpayer is entitled to a credit greater than the amount of his tax liability, the difference will be refunded to him in cash.

This approach provides simple and direct financial relief to students of all levels of education without the further expansion of the already massive Federal bureaucracy. More importantly, tax credits will help provide freedom of choice to the educational consumer.

Mr. HATHAWAY. Mr. President, I am pleased to join a number of my distinguished colleagues in introducing the Tuition Tax Credit Act of 1977.

It is particularly gratifying to be joining Senators PACKWOOD and MOYNIHAN and a substantial number of my colleagues on the Committee on Finance in this initiative, and as a member of this committee I look forward to participating in hearings to examine this proposal and to push for its prompt enactment into law.

THE TUITION TAX CREDIT PROPOSAL

The bill introduced today would provide for a tax credit of 50 percent of tuition paid by an individual for himself or herself, or in behalf of any dependent, up to a total credit of $500 annually per student. To be eligible, the tuition payment involved may be to any public or private educational institution, whether elementary or secondary, or post-secondary, including vocational and technical schools.

I am especially pleased to lend my support to this measure as a tax credit rather than a deduction. A credit, by being a direct dollar for dollar offset against the tax liability otherwise owed, serves to benefit all taxpayers equally without regard to their tax bracket. A deduction, on the other hand, inevitably benefits high-income taxpayers to a greater degree, and often gives no benefit whatsoever to those with lower income.

For example, a $100 charitable contribution yields a wealthy taxpayer in the 70 percent bracket a $70 tax saving. The same contribution by a taxpayer in the 20 percent bracket only saves him $20. And a taxpayer taking the standard deduction gets no direct benefit whatsoever. Charitable contributions would continue to be encouraged, but in a more equitable fashion, if a credit mechanism were substituted, or available as an alternative.

Further, and of particular benefit to low-income families, the tuition tax credit would be refundable. That is, if an individual taxpayer is entitled to a credit greater than his or her tax liability in the year in question, a refund from the Treasury in the amount of the excess credit would be forthcoming.

NEED FOR THIS LEGISLATION

This bill will provide a vitally needed boost to our Nation's educational system, which historically has relied heavily on both public and private institutions. This bill will be of special benefit to low- and middle-income families who, without such assistance, might be squeezed out of the educational marketplace. Our society as a whole, and our democratic system of government, is founded on equality of opportunity with special emphasis on equal opportunity through education to pursue any occupation or activity for which an individual is qualified. This notion is at the heart of the so-called American dream.

But without swift and decisive action by Congress this dream will become only a dream, with no realistic possibility of fulfillment. And for many of our citizens it could become a nightmare, holding out false promise and futile hope.

The rising costs of public and private institutions of post-secondary education are well-documented and if help is not forthcoming it will mean doors will be increasingly closed to students from low- and middle-income families. The College Board has shown that over the past 5 years tuition and fees at private 4-year institutions have increased by 54 percent, at public 4-year institutions by 57 percent. At private 2-year institutions the costs have gone up 52 percent, and at public 2-year institutions the increase has been a staggering 130 percent.

Accompanying these increased costs has been a steady decline in participation in postsecondary education by students from lower and middle income families—a decline amounting to 20 percent according to one source.

IMPACT ON PRIVATE ELEMENTARY AND SECONDARY SCHOOLS

These same phenomena are at work with regard to our Nation's private elementary and secondary school system. Approximately 10 percent of our Nation's

school children attend these schools on the basis of free choice and considerable family sacrifice. These schools which in many parts of the country form an integral part of community cultural, religious, and ethnic traditions are in grave financial trouble.

Though in many minds the idea of a private school conjures up images of exclusivity and elitism, the facts by and large do not fit this image.

In fact, in many instances the so-called private school plays a very large public role, and the distinctions to be drawn between public and private schools are blurred in many communities, with private schools serving as critically important and open resources utilized by the surrounding communities.

In this regard I refer my colleagues to the excellent study prepared by the New England Association of Schools and Colleges, entitled "A Study of the New England Academy, a Private School in a Public Role." Examples of these sorts of educational institutions which over many years have played a key role in meeting the educational needs of students from surrounding communities are Foxcroft Academy in Dover-Foxcroft, Maine; Fryeburg Academy in Fryeburg, Maine; George Stevens Academy in Blue Hill, Maine; Lee Academy in Lee, Maine; Lincoln Academy in Lincoln, Maine; Maine Central Institute in Pittsfield, Maine; Oak Grove-Coburn, in Vassalboro, Maine; Thornton Academy in Saco, Maine; North Yarmouth Academy in Yarmouth, Maine; and Washington Academy in East Machias, Maine, to name just a few. Over time some of these schools have become fully a part of the public school system. But others have valued and retained their independence, but in so doing have been no less important to meeting the needs of all their community's citizens.

Overall, private schools offer a more economical education. In 1974, the last year for which complete data is available, private elementary and secondary school students were educated at a per pupil cost of $1,191 versus $1,281 at public schools.

At parochial schools the difference in cost was more sharply drawn. In 1973, the per pupil cost of elementary parochial education was $310, and in secondary parochial schools it was $700.

The continued existence and vitality of these schools contributes toward increased accountability on the part of our public school system. And when sought out by families who must at the same time shoulder the burdens of rising property taxes and rising State and Federal taxes which in combination provide approximately $100 billion in aid to public educational institutions, these private schools stand as a strong example of pluralistic independence and quality.

In the last 10 years, though, enrollment at private schools has declined by 35 percent at the elementary school level, and by 13 percent at the secondary school level. This latter figure is particularly disturbing when viewed alongside a nationwide increase in secondary enrollment of 18 percent.

These declining enrollments are clearly a symptom of overly strained family budgets, which find it increasingly difficult despite preferences and traditions to endure outlays for elementary and secondary tuition payments with public schools available as an economical alternative.

But individual families who are increasingly forced to make this agonizing decision on economic grounds may in the long run create even greater economic problems for every taxpayer.

If the 7.7 million students who are currently enrolled in private elementary, secondary, and postsecondary institutions were to instead enroll in tax supported schools, the increased education bill to the taxpayer would be $17 billion every year.

COST OF PROPOSAL TUITION TAX CREDIT

The bill I am sponsoring would create a revenue loss of $4.7 billion per year, which in any context is an extremely large sum. But when compared with the $100 billion in public funds currently devoted to the support of public education, and when weighed against the potential additional cost of $17 billion per year if all our private educational institutions were to close their doors, the cost of the tuition tax credit seems most reasonable and justifiable.

FREE CHOICE

This tax credit proposal will provide a much needed boost to families, particularly lower and middle income families to provide for the educational needs of their children. It will not solve family budgetary problems nor will it offer an instant panacea to the financial difficulties of all our private schools.

But it will stand as an example of commitment on the part of our Federal Government to provide much needed assistance in this vital area, while at the same time preserving the fundamental values of independence and free choice.

THE TIME FOR TUITION TAX RELIEF IS NOW

Mr. HELMS. Mr. President, I am very pleased to join with my distinguished colleagues, ROBERT PACKWOOD and DANIEL MOYNIHAN, in introducing the "Tuition Tax Credit Act of 1977," to provide tax credits to almost every American who has to pay education tuition. Earlier this year, I was equally pleased to join the Senator from Pennsylvania (Mr. SCHWEIKER) in sponsoring the "Tuition Tax Relief Act of 1977." The substantial difference between these two proposals is that S. 834 provides an alternative of a tax credit up to $250 or a tax deduction up to $1,000, while the legislation we are introducing today provides a tax credit of up to $500.

If enacted, either of these bills would provide freedom of choice for the working, middle class taxpayer who up until now has been shut out of many educational opportunities by the increasing cost of tuition. Today, too many hard-working Americans are simply caught in the middle. They cannot afford increasing tuition costs and yet they do not qualify for Federal financial assistance.

As the Federal tax code is now structured, freedom of choice is available only for those wealthy enough to pay the cost of both public education through taxes and private education through tuition. The legislation we are proposing today will go far to remedy this situation.

During the last 5 years we have witnessed an increase in the cost of college tuition of over 50 percent. A major cause of this tremendous increase in the cost of education is the Federal Government itself. In my own State of North Carolina, for example, a recent survey showed that at Duke University the cost per student of implementing federally mandated social programs has increased from $58 per year in 1968 to $451 in 1975.

Congress could provide every student in the United States with a direct and substantial tuition rebate simply by reducing these federally imposed regulations and their accompanying costs. The millions of dollars now spent implementing Federal regulations could be spent providing thousands of low-income students with a college education and reducing the cost of education for everyone else.

I believe that a reform of the Federal tax laws to provide a tax credit for tuition is an equitable and fair method in dealing with the spiraling cost of education, however for it to provide a long-term, effective solution it must be part of a new effort by Congress to reduce education costs and Federal regulation of our colleges and schools.

Mr. LUGAR. Mr. President, I am pleased to join 42 of my colleagues in cosponsoring the Tuition Tax Credit Act of 1977. Enactment of this legislation would bring financial relief to families with students currently enrolled in school and hope to families who look forward to years of costly education.

The rapid increase in the cost of education provides another example of the devastating effect of recurring inflation. The average tuition and fees at private 4-year institutions have risen by 54 percent during the past 5 years and by 57 percent at public 4-year institutions. Costs at private 2-year institutions have increased 52 percent and public 2-year institutions have risen by a dramatic 130 percent during the same 5-year period.

What all of this means for individuals is that the middle-class taxpayers are being forced out of the public and private higher education system. Education costs are so exorbitant that only the poor who qualify for substantial financial assistance and the wealthy can afford to attend many schools.

What this means for the Nation is that in the long term the educational level of the average American will probably decline. The vast pools of well-educated people our Nation needs to compete in a sophisticated world will not continue to be available.

I believe the Congress must address promptly this deteriorating situation. The legislation introduced today represents a sound approach to the financial problems facing families with students or prospective students. The use of a tax credit allows maximum flexibility for individual choice and avoids additional

government interference in the education market.

I urge my colleagues to take early favorable action on this legislation.

Mr. SPARKMAN. Mr. President, I am pleased to join in the cosponsorship of the Tuition Tax Credit Act of 1977.

This is a legislative remedy that is long overdue. With spiraling educational costs and inflation in nearly every sector of our economy, some relief must be provided to parents laboring under the strain of supporting one or more children in school with all other costs adding to that load.

The bill being introduced today seeks to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such a credit is in certain instances refundable. This credit would be available in an institution of higher education, a vocational school, a secondary school and an elementary school.

Soaring educational costs make enactment of this bill imperative. I am informed that the average annual student cost of private education in institutions of higher learning has increased 52 percent over the past 5 years. For public colleges or universities this cost has increased over 55 percent during the same period.

I am particularly pleased that this bill provides a tax credit rather than a tax deduction. A tax credit is subtracted directly from the amount of tax owed, rather than, as in the case of a deduction, subtracted from overall income. This bill goes one admirable step further. If the taxpayer owes no tax, the credit is actually refunded. I hope we can pass this bill soon.

Mr. STEVENS. Mr. President, I am very pleased today to join with Senators PACKWOOD and MOYNIHAN in cosponsoring the Tuition Tax Credit Act. This legislation is an embodiment of congressional efforts dating back to the 88th Congress to provide relief for taxpayers overburdened with the high cost of tuition. This type of legislation has increasingly received support and I believe that its time for passage in both Houses of Congress has finally come.

I have been concerned with the ever fewer number of families able to take advantage of our country's educational opportunities due to the skyrocketing costs. Escalating tuition fees are prohibiting many capable people from participating in our vast educational programs on grounds of economics. I am confident that this tax credit will assure that families of all income levels can benefit and thus encourage a broadening of the financial backgrounds of those desiring to choose between the educational options available.

One of the major arguments surrounding the tuition tax credit is raised by those favoring direct Federal grant and loan programs. It is argued that tuition cost relief should be targeted specifically to those families in need. The Packwood-Moynihan legislation provides tax relief for those with all levels of income and is, in my opinion, a much better means for easing tuition cost burdens. First, by providing a blanket tax credit, this bill would allow for freedom of choice to the educational consumer. He or she could keep a larger portion of his or her earnings which would otherwise go to taxes and apply the tax credit toward paying the tuition bill. This appears preferable to the demeaning process of applying for Federal aid in which one must plead poverty and fill out detailed forms just to receive a portion of the money he has already paid in taxes. Second, by providing a blanket tax credit, all income levels can benefit. This is justified by the fact that the benefits of education are enjoyed not only by the individual that is educated, but by society as a whole.

It has been estimated that this legislation would cost the Treasury $4.7 billion in revenue loss. This loss is, however, relatively insignificant when viewed over the long term. The tuition tax credit is no more than an investment in the future; an investment that will be returned in better job opportunities, higher earnings, and higher Federal tax revenues. I am proud to be supporting this future investment and am confident that the already long list of cosponsors of this legislation will continue to grow with the addition of other Members wishing to do the same.

Mr. TOWER. Mr. President, last year I joined with Senator Bucklev of New York in an amendment to the "Tax Reform Act of 1976" which was similar to the measure offered here today by Senators PACKWOOD and MOYNIHAN. I am pleased therefore to join them as a cosponsor of the "Tuition Tax Credit Act of 1977."

The bill provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of this credit will be 50 percent of his tuition payments up to a total credit of $500 per student. For the long-forgotten middle income taxpayer, who is too affluent to qualify for educational loans yet is severely strapped by rising educational expenses, the bill will bring welcome and deserved relief.

A major—and to my mind, crucial—part of this bill is that it will apply to all education from first grade to graduate school. Surely, college expenses have increased dramatically; and the bill would deal with that problem simply and generously. But costs have skyrocketed at all levels of education. There has been no assistance to the millions of families who, through their sacrifice and hard work, are keeping alive the independent schools which provide diversity to this country's education. Of importance to low-income taxpayers is that the credit will be refundable. This means that if the taxpayer is entitled to a credit greater than the amount of his tax liability, the difference will be refunded to him in cash.

Affluent Americans have always been able to exercise their parental right to guide the education of their children. But for middle-income families and for the poor, that has been a hollow right. It has been the right to pay twice for schooling, once through taxes to support the public schools and again for tuition to secure the education they prefer for their youngsters. This bill would reduce the financial hardships associated with the parents' right to guide the intellectual and moral development of their own children.

Because the bill addresses the financial problems of education at all levels, because it applies to tuition paid to both public and private schools, and because it provides tax relief to individuals rather than to institutions, I believe it would be equitable, constitutional, and easily administered. It is also long overdue, and I urge my colleagues who have not done so to join Senators PACKWOOD, MOYNIHAN, myself, and 40 other cosponsors in support of this legislation.

Mr. ZORINSKY. Mr. President, I am happy to join a large number of my colleagues in cosponsoring the Tuition Tax Credit Act of 1977.

This legislation is designed to address the increasing costs of education in this country and the burden those costs have imposed on the Nation's vast majority of middle income families and individuals. At the least, the escalating costs of education curtail the freedom to choose among educational institutions, placing strains on public and private sectors alike and threatening the diversity of our educational system. The view toward the future indicates the growing possibility of an educational system accessible only to the relatively poor and rich. It is part of what is becoming a usual refrain in this country: Taxes and inflation combining to erode the standard of living enjoyed by the middle class, the backbone of our society. This legislation is an opportunity—a chance for the Congress to begin to redress that grievance and to establish a policy for the future.

The remedy proposed is simple and fair. The bill provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses of an individual or those of a spouse or dependents. The proposal applies to all levels of education: elementary, secondary and vocational schools, colleges and universities.

The Tuition Tax Credit Act of 1977 provides effective relief to overburdened taxpayers without enlarging an overgrown Federal bureaucracy. It allows our citizens to retain the freedom to seek educational services best-suited to individual needs and recognizes the importance of education to all members of our society. The proposed legislation is a sound answer to a problem of national scope, and I strongly urge its early consideration and adoption.

By Mr. KENNEDY (for himself, Mr. THURMOND, Mr. PELL, Mr. HATHAWAY, Mr. CLARK, Mr. MAGNUSON, Mr. CULVER, and Mr. METZENBAUM):

S. 2144. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such program; and to require the conducting of certain studies and experiments, to enhance the capability of the Secretary of Health, Education, and Welfare to administer such program, and for other purposes; to the Committee on Human Resources.

THE DRUG BENEFITS FOR THE AGED ACT OF 1977

Mr. KENNEDY. Mr. President, a serious problem has existed in our country for many years. Rather than improving, it has grown steadily worse. Without immediate remedial action by Government, it will inevitably continue to worsen.

The problem I refer to is the terrible burden of high prescription drug costs that has been placed upon many of our citizens 65 years of age and over. Because of the nature of the problem, it is obvious to all that its consequences are not simply economic but include lack of adequate preventive therapy, poor health, hospitalization which might have been avoided, suffering, and demoralization, even death.

THE PROBLEM

The circumstances of the problem are these:

Since 1965 medicare has been helpful to older Americans with their hospital, physician and in-hospital drug costs. Medicare does not, however, provide any assistance to the elderly with their often large out-of-hospital drug expenses.

Accordingly, on the average the elderly are expending some 25 cents out of each of their health dollars for the drugs and drug sundries they require to sustain health or mitigate illness. Payments for drugs represent their second highest health care expenditure.

Of the amount they spend on these drugs and drug sundries, over 80 percent is paid out-of-pocket.

The median personal income of elderly males was $4,961 in 1975. For females it was $2,642. The incomes of fully one-fourth of all persons 65 years of age and over were below the near-poverty level classification of an Administration on Aging survey in early 1976.

The National Center for Health Statistics says that the aged spend $72 per person per year on drugs, in contrast with $30 per person per year for all age groups, and only $22 per person per year for the age group 17 to 44. The unfortunate aspect of this statistic is its failure to reflect the extraordinary out-of-pocket expenditures for drugs by those aged who are chronically ill and the perhaps surprising fact that average individual prescription drug expenses in the two lowest classifications of family income—less than $2,000 and $2,000 to $4,999—are substantially more than those of elderly individuals in higher family income brackets. Of the total expenditures for drugs by the aged, only 13 percent are covered by public programs; 87 percent must now be paid out-of-pocket. In other words, just being old greatly increases one's drug expenditures. But being old plus having a low income and/or suffering from serious chronic illness is synergistically worse. The problems fall very unevenly on the elderly. A retired disabled veteran from Virginia reports that his income is only $2,600 per year. He says:

> I have a wife and small child. I spend over $1,200 a year in drugs. And I really can't keep up like this.

Consequently, the elderly, while comprising less than 11 percent of the national population, account for one-fourth of the total annual prescription drug utilization.

CHRONIC ILLNESS

Chronic illness is clearly many times more prevalent and disabling among the aged than among younger age groups. Over 40 percent of the elderly suffer from some form of chronic illness which limits their activity. That is twice the incidence of chronic illness among those in their middle years and over five times greater than younger persons.

Among 2,000 respondents to a survey of members of the American Association of Retired Persons and National Retired Teachers Association during 1973–74, most reported spending from $200 to over $1,000 annually on prescription drugs, representing from 10 percent to as much as 45 percent of their incomes.

Mr. President, the concept of an outpatient prescription drug benefit under medicare is not new. It has enjoyed the support of national, State, and local associations of older Americans, of the HEW Task Force on Prescription Drugs, the 1971 White House Conference on Aging, a Presidential Task Force on Aging, and the Social Security Advisory Council. Proposals have been introduced regularly and frequently in the Senate and House since the advent of the medicare program. Indeed, the Senate passed such legislation in 1967, 1972, and 1973, only to see the proposals fail to be sustained in conferences with the House.

I have today introduced the Drug Benefits Program for the Aged Act of 1977, a major bill to provide prescription drug coverage to every American and eligible aliens 65 years of age and older. I am pleased to have Senator THURMOND, the ranking minority member of the Subcommittee on Antitrust and Monopoly, join with me in cosponsoring this bill along with Senator PELL, Senator HATHAWAY, Senator CLARK, Senator MAGNUSON, Senator CULVER, and Senator METZENBAUM.

Our bill is a completely new proposal with workable controls on costs, with an effective and efficient means of administration, and with an adequate timetable for starting up the program, phasing in medications for chronic illness and, finally, providing comprehensive coverage of all necessary drugs for the elderly. It is a planned program that takes its time, not for the sake of delay or parsimony, but to insure that older Americans receive the highest quality drug products in the best therapeutic regimens at the most economical costs to the Government.

The drug benefits program for the aged is being introduced at a time when Congress is devoting much time and attention to the rising costs, the inflationary impact, the problems of access, and the claims of fraud and abuse in our health care system generally and the medicaid, medicare, and private insurance programs specifically. These serious matters have not deterred us from introducing a new health care program. But, they have made us even more aware of the vital necessity to design a drug benefit program that will prevent or avoid similar problems.

Unlike the 1960's when prescription prices declined, between 1970 and 1976, the prescription price component of the Consumer Price Index increased by 13.8 percent. Rising prescription prices have also contributed in part to the 125 percent increase in the cost of providing drug benefits under medicare and medicaid according to testimony of Robert A. Derzon, Administrator of Health Care Financing Administration, when he testified before joint hearings in July before the two subcommittees I chair on Health and Scientific Research and Antitrust and Monopoly. Retail drug prices vary by several hundreds of percent, yet some pharmacists are absorbing part of their cost increases and are experiencing a profit squeeze. Consumers are forced to pay more for products over which their health and prudence permit them no power of discretion. As always, those most aggrieved are the elderly, the poor, and the chronically ill.

The essential provisions of this legislation are these:

COVERAGE

The Drug Benefits for the Aged Act of 1977 covers all of the approximately 24 million residents of the United States, including aliens with at least 5 years residence, who are age 65 or over. The program is not restricted only to those now eligible for social security, medicare, or any other program for the aged.

Those persons 65 years of age or older now receiving prescription drugs under medicaid will, after full implementation of this act, receives their drugs under this new program. This means that this program will totally fund prescription drugs for medicaid beneficiaries, providing a savings to the States of the approximately $200 million they are now expending as their one-half contribution to a drug benefit under medicaid.

Elderly beneficiaries of this drug program will not be obligated to pay any amount for the approved drugs dispensed to them. There is no copayment, no coinsurance, and no deductible.

Cost-sharing proposals inevitably fall inequitably upon the elderly poor, whose past drug needs and expenditures have been shown to be nearly one-third higher than the nonpoor elderly. We also reject a means test for determining financial need because it can be arbitrary and capricious in its determination of assets from wages, savings, pensions, homesteads, et cetera, and because studies have shown that administration costs associated with imposing deductibles in such programs can amount to over $1 per claim. That would double the administrative cost of 50 cents per claim we have budgeted for this program.

ELDERLY RIGHT

Neither do we intend or desire this program to be relegated to the category of welfare for the aged. We consider this program to be in the best general health

and economic interests of our Nation. It is properly a right of older Americans which we acknowledge they have earned throughout their working years.

Senator Thurmond has explained—

Our bill is not one that gives something for nothing. Our bill is a bill which helps those who have worked hard for many years and have earned the right to a full measure of security and hope for the future.

I fully concur.

ADMINISTRATION

Efficient and effective supervision of the drug benefits program for the aged requires it to be administered by a new unit in the Department of Health, Education, and Welfare.

The Secretary of HEW will appoint a Drug Benefits Council whose chairman will be the Assistant Secretary of Health. The Commissioner of the Food and Drug Administration will serve on the Council as well as six members from the fields of medicine, pharmacology, public health and pharmacy, and three members representative of the eligible consumers of the services of the program.

The Council will advise and assist the Secretary with Administrative policy and long-term plans for the program. It will recommend the drugs for approval on the benefits list as well as the reimbursable costs for those drugs.

DATA PROCESSING

A centralized, automatic data processing system is essential for this program in order to handle an estimated claims volume of almost 300 million prescriptions. That is nearly five times the current claims volume under medicare and explains in part why this program should not be tied to medicare or its system of fiscal agents and carriers.

Another important reason why a single, separate and centralized system is vital to this program is the necessity of monitoring the prescriptions for purposes of drug utilization and prescribing review.

The final reason for preserving the integrity of a drug benefits system is the flexibility, experience and continuity that it provides for easily making it a part of whatever form of national health insurance is enacted by Congress. The preparation of uniform accounting and reporting systems, required by this legislation, will provide an information base readily transferable to a prescription drug program under national health insurance.

The Secretary is empowered, however, to contract with and reimburse State agencies to assist with various aspects of program administration.

BENEFITS

The ultimate goal of the Drug Benefits for the Aged Act is to provide comprehensive coverage of all necessary prescription drugs, insulin and a few approved nonprescription drugs for the elderly. The bill will begin this comprehensive coverage in the 6th year following enactment.

The first and second years after passage of the bill constitute the start-up period for the drug benefits for the aged program. This amount of time is needed to establish the Drug Benefits Council and staff, set up the electronic data processing system, determine the approved drugs and their reimbursement prices, contract with participating pharmacies, establish dispensing charges in each State, and get underway drug utilization review, information and education programs. Estimated costs for the first and second years are $100 million and $300 million.

When the program begins operation in the third year, a drug benefits list will be published consisting of the approved drug products arranged by therapeutic categories necessary for treating serious, chronic illness. This list of maintenance or long-term therapy medications is expected to cover about 70 percent of the total prescription drug costs of the elderly.

Coverage of psychotherapy drugs, including tranquilizers, is intended to assist programs aimed at keeping out and getting out the elderly from mental hospitals and other long-term care institutions.

DRUG CATEGORIES

The full list of therapeutic categories of prescription drugs which will be covered during the third, fourth and fifth years of the drug benefits for the elderly program are:

Prescription drugs: Adrenocorticoids, antianginals, antiarrhythmics, anticoagulants, anticonvulsants, antidepressives, antihypertensives, antineoplastics, anti-Parkinsonism agents, antipsychotics, antirheumatics, bronchodilators, cariotonics, cholinesterase inhibitors, diuretics, gout suppressants, hypoglycemics, miotics, sedatives, thyroid hormones, tuberculostatics.

Nonprescription drugs: Insulin.

Program costs for coverage of these drugs for chronic illness are estimated as follows: third year: $2 billion; fourth year: $2.2 billion; fifth year: $2.4 billion.

With comprehensive coverage of all necessary drugs for the elderly in the sixth year, the estimated cost is $3.4 billion.

Financing will be from general revenues with annual appropriations made as necessary.

The primary intent of this legislation is to provide necessary prescription drugs to the elderly. But in achieving this rightful aim, we have sought—and succeeded, we believe—to be fair to all other essential elements of the drug delivery system: The taxpayers, the practitioners, the pharmacists, and the manufacturers.

Taxpayers are protected from rapidly escalating program costs by provisions which will exert a downward pressure on wholesale drug prices, stimulate price competition among equivalent drug products, provide financial incentives to pharmacists to select lower cost products and put a hold on drug prices for 6-month periods, while permitting manufacturers the opportunity to justify and obtain legitimate price hikes to cover increased costs, when necessary.

The bill stipulates that the initial wholesale prices of drug products, reimbursable when the program begins, will be limited to no more than the 80th percentile of the actual costs of acquisition of the products based on surveys of invoices to pharmacies as of July 1, 1977. The provision will help protect projected program costs from being driven up by any large-scale price increases by manufacturers before the drug benefits program can get underway.

Pharmacies agreeing to participate under the terms of the program will be paid for dispensing approved prescriptions at guaranteed and equitable levels of reimbursement. The allowable payment to the pharmacy consists of two parts: First, cost of the drug product dispensed; and second, the dispensing charge.

MAC AND EAC

Reimbursement for the cost of the drug product is an amount equal to either the maximum allowable cost (MAC) if appropriate, or the estimated acquisition cost (EAC). In the case of multiple source drug products, which are determined to be therapeutically equivalent and interchangeable, the Secretary of Health, Education, and Welfare shall establish the MAC as the lowest cost at which the drug is widely and consistently available to pharmacies. Each approved drug is assigned an EAC which is the actual acquisition cost at which 60 percent of the participating pharmacies can obtain the drug product in a commonly ordered package size, as determined by the Secretary based on surveys of invoices for drug products received by participating pharmacies in the immediately preceding 6-month period.

Only those approved drug products and their EAC's and MAC's, where applicable, whose formulators or labelers have agreed to supply participating pharmacies for the purposes of the program at no more than their designated EAC's for 6 months, will be listed in the formulary of approved drug products published twice yearly and be reimbursed by the program.

Reimbursement for the dispensing charge will be established by the Secretary on a State-by-State basis and will be variable among participating pharmacies according to their geographical location—urban or rural, for example—and volume of prescriptions. The Secretary will establish the dispensing charge in each State after negotiation with representatives of participating pharmacies. The dispensing charge will be equivalent to the average cost of filling a prescription in each State, including but not limited to costs of pharmaceutical services and personnel, direct prescription and store expenses, overhead.

Equitable and realistic EAC's and dispensing charges will limit the amount of appropriations from general revenues requisite to funding the costs of the program. Set at levels adequate to cover the average and normal costs of pharmaceutical purchasing, services and profit, they will provide additional profit rewards for pharmacies which buy wisely and operate efficiently while limiting both the program's costs and the pharmacies' profitability for inefficient operations and imprudent buying.

HEALTH CARE COSTS

Costs of health care in this country have skyrocketed beyond belief and

probably, necessity. Their precipitous climb has evoked widespread demand for countermeasures. If and when adequate remedies are able to correct this intolerable situation, considerable needless personnel and financial tragedies will already have occurred.

This legislation intends to prevent these errors of omission from occurring in a pharmaceutical benefit program. The elderly need a prescription drug benefit. But Congress needs to insist that the program they get effectively, efficiently and comprehensively regulates costs at both wholesale and retail levels. This legislation will accomplish this aim.

A reimbursement policy for pharmacies and a price policy for manufacturers are just two ways in which our bill will constrain costs. In many ways, drug utilization review programs, required to be established by the Secretary, could prove to be even more important to controlling costs and, particularly, to raising the quality and propriety of prescribing and utilization. Because the state of the art in controlling prescription drug use is rudimentary and usually limited to closed systems such as hospitals and health maintenance organizations, this legislation mandates the Secretary of HEW to develop a variety of experimental drug utilization review methods and to adopt one or more which prove most efficient and effective.

The Secretary is also required to conduct such information and education programs directed at beneficiaries, participating pharmacies, and physicians as may be useful to assure appropriate use of the program and its benefits, adequate and proper product selection, and rational prescribing.

PHYSICIANS' RIGHTS

Physicians' prescribing responsibilities remain substantially the same under the provisions of the drug benefit program for the elderly. They retain the right either to insist that patients receive a particular brand of drug when medically necessary or permit the pharmacist to select the drug product from the program's approved formulary of therapeutically equivalent and interchangeable drugs. This provision coincides with current pharmacy law in 32 States which generally requires or permits drug product selection by pharmacists except when the prescriber or patient disallows substitution.

We believe that our bill addresses these problems which I have raised in a realistic, comprehensive and manageable manner. We feel that the passage of such critically needed legislation for our elderly is essential.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Benefits for the Aged Act of 1977".

SEC. 2. The Public Health Service Act (42 U.S.C. 201) is amended by adding at the end thereof the following new title:

"TITLE XVIII—DRUG BENEFITS PROGRAM FOR THE AGED

"TABLE OF CONTENTS

"Sec.
"1801. Definitions.
"1802. Establishment and entitlement of the Program.
"1803. Drug Benefits List.
"1804. Substitution of therapeutic equivalents.
"1805. Drug Benefits Council.
"1806. Payment.
"1807. Conditions of participation for pharmacies.
"1808. Administration of the Program.
"1809. Exceptions.
"1810. Hearings and appeals.
"1811. Penalties.
"1812. Authorization for appropriations.
"1813. Separability provision.

"DEFINITIONS

"Sec. 1801. (a) For the purposes of this title the term—

"(1) 'drug' shall have the same meaning as in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act and each dosage form and strength of a drug is a separate drug;

"(2) 'drug product' means a drug manufactured, packaged, or distributed by one or more specific formulators or labelers;

"(3) 'qualified drug' means a drug product which has been or approved and determined by the Secretary to be qualified to be marketed in compliance with applicable provisions of the Federal Food, Drug, and Cosmetic Act, and which is listed by the Secretary on the Drug Benefits list;

"(4) 'single source product' means a drug marketed or sold by only a single formulator or labeler;

"(5) 'multiple source product' means a drug marketed or sold by two or more formulators or labelers or a drug marketed or sold by the same formulator or labeler under two or more different brand names or both under a brand name and without such name;

"(6) 'generic name' means the established, official, on nonbrand name by which a drug is known, irrespective of its formulator or labeler, as assigned by the United States Adopted Names Council and accepted by the Federal Food and Drug Administration;

"(7) 'brand name' means the registered trademark or trade name given to a specific drug product by its formulator or labeler;

"(8) 'therapautic equivalent' means a drug product which when administered in the same amount will provide essentially the same therapeutic effect or rate of absorbtion as an appropriate reference product containing the same active ingredients in the same dosage form as certified by the Secretary;

"(9) 'estimated acquisition cost' means an approximated cost expressed in price per metric unit measure of the acquisition cost at which 60 per centum of the participating pharmacies can obtain a drug product in the most frequently purchased package size, as determined by in the most frequently purchased package size, as determined by the Secretary based on surveys of invoices for drug products purchased by participating pharmacies and published at least twice annually by the Secretary;

"(10) 'maximum allowable cost' means the lowest price per metric unit measure but not higher than the estimated acquisition cost at which a multiple source drug product is widely and consistently available from any formulator or labeler in a specific package size, as determined by the Secretary;

"(11) 'United States' shall have the same meaning as the term 'State' in section 2(f) of this Act;

"(12) 'hospital' shall have the same meaning as in section 1861(e) of the Social Security Act;

"(13) 'full pharmaceutical services' shall means the provision by a participating pharmacy of a range of services, as defined by the Secretary, to physicians and aged individuals, under the Program, including individual patient profiles, patient counseling with respect to drug utilization, delivery services, and other services designed to improve the use of benefits under the Program;

"(14) 'aged individual' means one who has attained the age of sixty-five or more years who is a resident of the United States, and is either (1) a United States citizen or (2) an alien who has been lawfully admitted for permanent residence who has resided in the United States continuously during the five years immediately preceding the month in which he or she applies for benefits under this title;

"(15) 'participating pharmacy' means any pharmacy establishment (including the outpatient department of a hospital), a clinic or other ambulatory care facility, including health maintenance organizations as defined in section 1301 (excluding dispensing physicians except as provided in section 1806(h) of this title, and Federal facilities), providing pharmaceutical services, which is licensed as such, under the laws of the State in which it is located or in which it otherwise lawfully provides pharmaceutical services and dispenses any qualified drug to a beneficiary of the Program and in accordance with the conditions of participation in section 1807 of this title;

"(18) 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he or she performs such function or action;

"(17) 'nonlegend drug' means a drug which does not require a prescription in order to be lawfully dispensed and which is not required by section 503(b)(f) of the Federal Food, Drug, and Cosmetic Act, to contain the warning against dispensing without prescription as part of its labeling;

"(18) 'prescription' means a written direction or order for the preparation and administration of a qualified drug by a physician, as defined herein, which specifies the name of the drug to be given, the amount of the drug to be dispensed (in accordance with the minimum and maximum quantities as determined by the Secretary), and the directions necessary for the patient to use the drug.

"(19) 'prescription drug' means a drug available to the public only upon prescription.

"ESTABLISHMENT AND ENTITLEMENT OF THE PROGRAM

"SEC. 1802. The Secretary shall establish within 24 months after the date of enactment of this title a Drug Benefit Program for the Aged (hereinafter referred to as 'Program') by which an aged individual is entitled to payment on his or her behalf made from funds appropriated under this title to a participating pharmacy for the purchase of qualified drugs dispensed to the aged individual for his or her health and well-being.

"DRUG BENEFITS LIST

"SEC. 1803. (a) The Secretary, after consultation with the Drug Benefits Council, established under section 1805, and after notice and an opportunity for hearing on the record, shall establish the Drug Benefits List within 24 months after the date of enactment of this title. The Drug Benefits List shall include prescription and nonlegend qualified drugs which the Secretary deems

appropriate for the treatment of conditions, illnesses, or injuries to the person or well-being of aged individuals. In determining the drugs to be included in the Drug Benefits List, the Secretary shall take into account—

"(1) the extent to which the benefits provided by the drug can help meet a serious health need of aged individuals, and

"(2) the relative benefits, risks, and costs of the drug as compared with other drugs available for the same health conditions, diseases, or indications.

"(b)(1) The Drug Benefits List shall contain a listing organized alphabetically by pharmacological therapeutic classification and subclassification of qualified drugs, and

"(2) Within each classification, the Secretary shall, as he deems necessary, include in the Drug Benefits List, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information for each qualified drug listed:

"(i) the established or generic name;

"(ii) the name of the formulators or labelers who have agreed to charge for a drug product a price no greater than the estimated acquisition cost or the maximum allowable cost to participating pharmacies for drug products and the brand name, if any, under which such drug products are sold;

"(iii) the estimated acquisition cost and the maximum allowable cost, where applicable, for the listed drug products;

"(iv) the therapeutic equivalents;

"(v) such other information as the Secretary deems appropriate in the interest of the health and well-being of aged individuals.

"(c) The Secretary may promulgate such limits on minimum and maximum quantities that may be dispensed for each prescription for which payment under the Program may be made, as he deems appropriate.

"(d) Notwithstanding paragraphs (a) and (b) of this section, for the period beginning 24 months after the date of enactment of this title until 60 months after the date of enactment of this title, the Drug Benefits List shall be limited to qualified drugs within the following pharmacological therapeutic categories:

"Andrenocorticoids;
"Anti-anginals;
"Anti-arrythmics;
"Anti-coagulants;
"Anti-depressives;
"Anti-hypertensives;
"Anti-neoplastics;
"Anti-Parkinsonism agents;
"Anti-psychotics;
"Anti-rheumatics;
"Insulin;
"Bronchodilators;
"Cardiotonics;
"Cholinesterase inhibitors;
"Diuretics;
"Gout suppressants;
"Hypoglycemics;
"Miotics;
"Sedatives;
"Thyroid Hormones; and
"Tuberculostatics.

"SUBSTITUTION OF THERAPEUTIC EQUIVALENTS

"SEC. 1804. (a) In filling prescriptions for multiple source qualified drugs, participating pharmacies may substitute such lower cost, therapeutic equivalents as are designated in the Drug Benefits List in accordance with the following conditions:

"(1) the drug product to be substituted is a qualified drug and a therapeutic equivalent, indicated on the Drug Benefits List, of the drug product identified in the prescription;

"(2) the label affixed to the immediate container by the pharmacist contains the generic name of the drug product, the brand name of the drug product, and the name of the formulator and labeler of the drug product, unless the prescribing physician has specifically requested that this information not be provided; and

"(3) the prescription kept by the pharmacist contains the brand name and the manufacturer and labeler of the drug product dispensed.

"(b) The participating pharmacy shall not substitute a lower cost therapeutic equivalent under the Program when the prescribing physician has indicated, in his own handwriting, that the qualified drug prescribed is medically necessary for the patient.

"(c)(1) Notwithstanding any State law, no State shall enforce any law which prevents, impairs, or prohibits, a participating pharmacy from substituting a lower cost therapeutically equivalent drug product to an aged individual in accordance with the conditions of this section.

"(2) A participating pharmacy shall not be subject to any fine or civil or criminal penalty for substituting a lower cost, therapeutically equivalent drug product to an aged individual in accordance with the provisions of this section.

"(3) No civil action may be brought against any participating pharmacy, or pharmacist actually dispensing qualified drugs in behalf of a participating pharmacy, or dispensing physician pursuant to section 1806, for damages arising out of the proper substitution of a lower cost, therapeutic equivalent in accordance with the conditions of this section.

"DRUG BENEFITS COUNCIL

"SEC 1805. (a) (1) There is established a Drug Benefits Council (hereinafter referred to as the 'Council') which shall consist of the Assistant Secretary of Health, who shall serve as the Chairman of the Council, a designee of the Secretary and nine members appointed by the Secretary.

"(2) The Secretary shall appoint six members, not otherwise in the employ of the United States, without regard to the provisions of title 5, United States Code, who shall be especially qualified to serve on the Council by virtue of their training, experience, or background and are of recognized professional standing and distinction in the fields of medicine, pharmacology, public health, or pharmacy.

"(3) The Secretary shall appoint three members not otherwise in the employ of the United States Government without regard to the provisions of title 5, United States Code, who are representatives of the eligible consumers of the services of the Program and who are not engaged in, and have no financial interest in, the furnishing of health services, who are familiar with the needs of the eligible population for drug benefits and pharmaceutical services and are experienced in dealings with problems associated with the furnishing of such services.

"(4) Each appointed member shall hold office for a term of four years, except that (i) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (ii) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, two at the end of the first year, two at the end of the second year, two at the end of the third year, and three at the end of the fourth year after the date of the enactment of this Act. No appointed member may serve for a period greater than eight years.

"(5) The Council shall be called to meet by the Chairman of the Council, a majority of its members, or the Secretary. The Council shall meet as frequently as it deems necessary, but not less than four times a year.

"(6) The Secretary shall provide such secretarial, clerical, professional, technical, or other assistance as may be required by the Council to carry out its functions.

"(7) Appointed members of the Council while serving on business of the Council (inclusive of traveltime) shall receive compensation at rates fixed by the Secretary but not in excess of the daily rate paid under GS-18 of the General Schedule under section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(6) It shall be the function of the Drug Benefits Council to make recommendations to the Secretary on matters of the content and format of the drug benefits list, and to advise the Secretary, as he or she deems necessary, on such matters of general policy in the administration of this title, including the formulation of regulations, and the operation of this title and the utilization of drug benefits under it, and to recommend any changes in the administration of the title or its provisions which may appear desirable.

"PAYMENT

"SEC. 1806. (a) For the purposes of payment under this title, the Secretary shall reimburse participating pharmacies the amount payable for each qualified drug dispensed to an aged individual under the Program as follows:

"(1) The amount payable for a prescription drug shall be the drug product cost multiplied times the units of drugs dispensed, plus a dispensing charge:

"(A) The drug product cost shall be either the maximum allowable cost, if applicable, or when the maximum allowable cost is not established, the estimated acquisition cost.

"(B) The dispensing charge shall be the average cost per prescription as established in each State of providing pharmaceutical services, including but not limited to personnel costs, direct prescription expenses, direct store expenses and overhead expenses, as defined by the Secretary.

"(2) The amount payable for a nonlegend drug (such as insulin) shall be the seventy-fifth percentile of the usual and customary charges to the general public of the pharmacies in the State for these drug products in the standard package sizes.

"(b) Notwithstanding subparagraph (a)(1)(A), beginning with the period 24 months and ending with the period 30 months after the date of enactment of this title, the drug product cost for a prescription drug shall be the maximum allowable cost, if established, or when the maximum allowable cost is not established, the eightieth percentile of the costs of acquisition of the drug products (based on surveys of invoices for drug products by participating pharmacies) that prevailed as of July 1, 1977.

"(c)(1) Notwithstanding subparagraph (a)(1)(A), where the prescribing physician has indicated in his own handwriting that a specific brand name drug product is medically necessary for the patient, and notwithstanding its availability as a generic drug from multiple sources, the drug product cost shall be the estimated acquisition cost of the brand name drug.

"(2) Beginning with the period of 24 months and ending with the period 30 months after the date of enactment of this title, the drug product cost for drugs under subparagraph (c)(1) of this section shall be the eightieth percentile of the costs of acquisition of the drug products (based on surveys of invoices for drug products by participating pharmacies) that prevailed as of July 1, 1977.

"(d) In establishing a dispensing charge, as defined in subparagraph (a)(1)(B), the Secretary shall—

"(1) develop such dispensing charge on a State-by-State basis after consultation with representatives of the participating pharmacies; and

"(2) vary, as he deems appropriate, such dispensing charge within a State taking into account the pharmacy's volume of total prescriptions (not only prescriptions under the Program), the location of the pharmacies in rural or urban areas, and the provision of full pharmaceutical services by the pharmacy.

"(e) The Secretary shall make no payment under this section for a separate dispensing fee when the participating pharmacy is compensated for dispensing drugs as some other amount payable to a provider of services under titles XVIII of XIX of the Social Security Act.

"(f) Payment for pharmaceutical services furnished an aged individual may be made only to participating pharmacies if—

"(1) a claim is filed for such payments in such form and in such manner as the Secretary may by regulation require, no later than the close of the period of one calendar year following the year in which the services were furnished; and

"(2) with respect to drugs furnished pursuant to and requiring a physician's prescription, such drugs are qualified drugs and the participating pharmacy has such prescription in its possession or some other record (in the case of non-legend drugs) that is satisfactory to the Secretary.

"(g) Any formulator or labeler of a drug product may request of the Secretary that the drug product cost as outlined in section (a) and (b) be increased if such request is accompanied by a written justification of the basis for the requested increase, and if the Secretary, after consultation and review by the Drug Benefits Council, agrees that such an increase in the estimated acquisition cost is reasonable and justified, he shall grant such increase.

"(h) Payment may be made under this section for qualified drugs only when such drugs are dispensed by a participating pharmacy; except that payment under this section may be made for qualified drugs dispensed by a physician where the Secretary determines, in accordance with regulations, that such qualified drugs were required in an emergency and that there was no participating pharmacy available in the locale, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a participating pharmacy for the purposes of this section with respect to the dispensing of such qualified drugs.

"(i) Within three years after the date of enactment of this title, the Secretary shall report to the Congress his recommendations for inaugurating an improved method of determining and assuring an appropriate allowable drug product acquisition price, including methods for negotiating such price directly with drug product formulators and labelers. Prior to his making his recommendations, the Secretary shall study how the sales of individual products relate to: (a) the maintenance of industry research and developmental activities, (b) the advertising, marketing, and promotion of industry products; and (c) the profitability of the product in question.

"CONDITIONS OF PARTICIPATION FOR PHARMACIES

"SEC. 1807. (a) As a condition of participation in the Program participating pharmacies shall execute a written agreement with the Secretary and therein shall agree to—

"(1) submit bills or other payment requests under the Program in such form, manner and frequency as the Secretary may require;

"(2) make available to the Secretary or his designee, and permits access by the Secretary or his designee, to such relevant information and records for the purposes of audit as the Secretary may require;

"(3) keep such records of the dispensing of drugs as may be required by the Secretary; and

"(4) post in a manner prescribed by the Secretary—

"(i) notice that the pharmacy or establishment providing pharmaceutical services is a participating pharmacy in the Drug Benefits Program for the Aged;

"(ii) lists of prices charged to the general public for a selected list of the most commonly prescribed drug products promulgated by the Secretary; and

"(iii) a list of therapeutically equivalent drugs, as certified by the Secretary.

"(5) dispense qualified drugs listed on the Drug Benefits List within such limitation in minimum and maximum quantities as may be prescribed by the Secretary;

"(6) prepare and affix to the immediate container for all prescriptions filled under the Program labels which contain the generic name and brand name, the strength of the drug product, the name of formulator or labeler of the drug product, and the quantity of the drug product unless the prescribing physician specifically states otherwise in the written prescription;

"(7) submit to the Secretary, in such form, manner, and frequency as the Secretary may specify, copies of invoices associated with the acquisition of the drug products contained in the Drug Benefits List,

"(8) accept as payment in full, the amount payable determined by the Secretary to be reasonable in accordance with section 1806, and

"(9) meet such other conditions of participation relative to quality of pharmaceutical services, accessibility of such services, and financial accounting practices as the Secretary may deem necessary to assure the health and safety of the aged individuals and the fiscal soundness of the Program.

"(b) Notwithstanding subsection (a) of this section, the Secretary is authorized to vary by regulation, as he deems necessary, certain conditions of participation of pharmacies to insure that pharmaceutical services under this Program shall be available to aid aged individuals in all geographical regions and localities of the United States.

"ADMINISTRATION OF THE PROGRAM

"SEC. 1808. (a) In carrying out the administration of the Program the Secretary shall—

"(1) establish effective and appropriate methods of—

"(A) determining initial and continuing eligibility under the Program, utilizing for the purposes of verification of age, eligibility by virtue of age in existing Federal programs, including eligibility under titles XVI, XVIII, and XIX of the Social Security Act, as prima facie evidence of age for the purposes of this Program;

"(B) informing those eligible or potentially eligible for the Program of its availability;

"(C) providing such information as will assist aged individuals to easily understand and comprehend the benefits available under the Program and how to obtain such benefits; and

"(D) issuing identification cards to aged individuals which uniquely identify the aged individual and which cannot be readily transferred from person to person;

"(2) establish and manage effective systems for the processing of claims under the Program in order to assure prompt payment to participating pharmacies;

"(3) establish, after experimentation with a variety of methods, such controls directed at assuring appropriate utilization and quality of services under the Program as the Secretary may find effective and efficient;

"(4) conduct such information and education programs directed at beneficiaries, participating pharmacies, and physicians as may be useful to assure appropriate use of the Program and its benefits, adequate and appropriate product selection, and rational prescribing;

"(5) develop, establish, and utilize methods of classification, identification, and coding of the drug products on the drug benefits list as will be most efficient in the administration and control of the Program;

"(6) develop and establish such methods as may be necessary to control abuse of the Program and possible fraud associated with use of Program benefits, including establishment of methods for suspending participating pharmacies or prescribing physicians, and for denying benefits, in whole or in part, to offending aged individuals; and

"(7) develop and establish appropriate grievance mechanisms and methods to appeal adverse decisions;

"(b) In carrying out this section, the Secretary shall consult with appropriate professional and consumer organizations, and with representatives of the pharmaceutical industry, and with appropriate State agencies.

"(c)(1) In carrying out the administration of this title, the Secretary may contract with appropriate State agencies to carry out any necessary determinations that participating pharmacies meet the conditions of participation, as established, to conduct or monitor utilization review and quality control mechanism, to conduct informational and educational programs, or for other purposes under the Act.

"(2) In carrying out the administration of contracts authorized under paragraph (1), the Secretary is authorized to make advance payments or to reimburse appropriate State agencies for services rendered.

"(d) The Secretary shall investigate the feasibility of utilizing (and if feasible shall install) uniform claims forms for benefits under the Program, automatic data entry systems, and such other systems as may improve the efficient and economical operation of the Program.

"EXCEPTIONS

"SEC. 1809. (a) Notwithtanding any other provision of this title, no payment shall be made by the Secretary under the Program if the Secretary determines that—

"(1) such payment is not reasonable and necessary for the treatment of illness or injury or to improve the functioning of a malformed body member of an aged individual;

"(2) the aged individual receiving the pharmaceutical services or drug products has no legal obligation to pay for the provision of such services or drug product, and for which no other person has such a legal obligation to provide or to pay;

"(3) the pharmaceutical services or drug products were not provided within the United States; or

"(4) the pharmaceutical services or drug products are furnished or administered to an aged individual while in a hospital or while the aged individual is a patient in a skilled nursing facility, as defined in section 1861(j) of the Social Security Act.

"(b) No payment shall be made by the Secretary under the Program with respect to any pharmaceutical services or drug products to the extent that payment for such services or products is covered, or that payment has been made, under a worker's compensation law or plan of a State, or of the United States, as determined by the Secretary.

"HEARINGS AND APPEALS

"SEC. 1810. (a)(1). Any individual adversely affected with any determination under this title as to—

"(A) whether an individual is entitled to benefits under section 1802, or

"(B) whether a participating pharmacy is eligible or has complied with the conditions of participation under section 1807 or requirements of payment under section 1806, or

"(C) whether the amount payable should be increased under section 1806, or

"(D) whether a drug should be listed on the Drug Benefits Lists, under section 1803, or

"(E) the reasonableness or applicability of a regulation promulgated by the Secretary pursuant this title, shall be entitled to a hearing thereon by the Secretary to be conducted in accordance with chapter 5, title 5 of the United States Code, and to judicial review of the Secretary's final decision after such hearing, as is provided in subparagraph b(2) of this section.

"(2) Notwithstanding the provisions of paragraph (1), a hearing shall not be available to an individual by reason of such paragraph if the amount in controversy is less than $100; nor shall judicial review be available to any individual by reason of such paragraph if the amount in controversy is less than $1,000.

"(b) (1) Any order or decision issued by the Secretary under this title (other than an order or decision excluded under paragraph (2) of subsection (a)) shall be subject to judicial review by the United States court of appeals for the circuit in which the affected party is located, or the United States of Appeals for the District of Columbia Circuit, upon the filing in such court within 30 days from the date of such order or decision of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside in whole or in part, except that the court shall not consider such petition unless such person has exhausted the administrative remedies available under this title. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Secretary, and thereupon the Secretary shall certify and file in such court the record upon which the order or decision complained of was issued, as provided in section 2112 of title 28, United States Code.

"(2) The court shall hear such petition on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"PENALTIES

"SEC. 1811. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title;

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title;

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment;

"(3) having knowledge of the occurrence of any event affecting—

"(A) his initial or continued right to any such benefit or payment, or

"(B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when of such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made under this title and who solicits, offers or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebates of any fee or charge for referring any such individual to another person for the furnishing of such items or services, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to dispensing or purchase of a qualified drug for which payment is made under this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1812. (a) There are authorized to be appropriated to establish the administration of the Program, $100,000,000 for the fiscal year ending September 30, 1978, and $300,000,000 for the fiscal year ending September 30, 1979.

"(b) There are authorized to be appropriated to administer and to provide the benefits of the Program, for the fiscal year ending September 30, 1980, and each year thereafter, such sums as are necessary.

"(c) The Secretary is authorized to set aside an amount not to exceed 5 per centum of the funds appropriated in any year under this title for the purposes of—

"(1) evaluation of the program performance;

"(2) experimentation with efficient methods of administration;

"(3) demonstration of effective utilization review procedures;

"(4) demonstration of effective consumer, physician, and pharmacist education programs;

"(5) demonstration of incentive reimbursement methods; and

"(6) and other demonstration, research, or experimentation programs, including review of foreign studies and programs, designed to improve the administration, effectiveness, and efficiency of the Drug Benefits Program for the Aged.

"SEPARABILITY PROVISION

"SEC. 1813. If any provision of this title is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the title or the applicability thereof to other persons and circumstances shall not be affected thereby.".

Mr. THURMOND. Mr. President, for sometime I have viewed with great concern the plight of our senior citizens. Many retired some years ago on modest, fixed incomes. Many depend only on social security payments to live. They have seen their dreams of a comfortable retirement go up in the smoke of inflation. I believe it is my duty to do my best to prevent the aspirations and hopes of our senior citizens from becoming a bitter illusion.

Recently, the Senate held a joint hearing before the Antitrust and Monopoly Subcommittee and the Health Subcommittee on drug pricing. The spiraling costs of health care has put adequate medical services beyond the financial reach of many Americans, particularly the elderly. It is in the years after 65 that people are most vulnerable to chronic and disabling illnesses. Many must take prescription drugs regularly. Testimony has indicated that some senior citizens spend between 10 and 45 percent of their income on medication. Others, unable to afford such an expenditure, take less than the prescribed amount of medication, or go without necessary drugs, often with disastrous consequences to their health.

I have always been a fiscal conservative. I believe that before taxpayers' dollars are spent several important questions must be addressed. Any Federal program must answer a need that the private sector is not now meeting or not meeting well. In many cases the Federal Government spends money in areas which would be better handled by the private sector and which simply replace the private sector. But the testimony which I heard on drug prices and their effects on the elderly demonstrated clearly that this is a serious situation and one which will not improve without our immediate attention. The policies of Government have had much to do with the inflation we have all been experiencing. I think it is the responsibility of those in Government to at least offer some assistance to those groups hardest hit by inflation.

Medicare currently covers prescription drugs for beneficiaries only on an inpatient basis. Senator KENNEDY and I are proposing this bill to provide free prescription drugs to all senior citizens over the age of 65 on an outpatient basis. Through the passage of this legislation the elderly will be provided the drugs which they must have to stay out of hospitals and skilled nursing homes.

Twenty-four million Americans, including 750,000 who are not eligible for medicare, would qualify for drug benefits under this program. It would begin by providing 70 percent of all prescription drugs, and would gradually be expanded to include the other 30 percent. The cost of the program, after a phase-in period of 18 months, is estimated at $2 billion for the first full year. This is a small amount to pay to assure better health to a sizable portion of our population.

Some question has been raised on the point that this program will make free medication available to those who do not actually need financial assistance. I have been informed that considerable research has been done on the cost of administering a means test in Federal programs. Evidence obtained indicates that the cost of determining the financial eligibility of elderly citizens would probably cost more than providing the drugs to all persons over 65.

This program is not one which gives something for nothing. This legislation will help those who have worked hard for many years and have earned the right to a full measure of security and hope for the future.

Mr. CLARK. Mr. President, I am very pleased to be an original cosponsor of the Drug Benefits for the Aged Act of 1977. This bill addresses a problem for which I have long been concerned—the way high medical costs drain the incomes of older Americans. I promise my full support for this effort, because it will clearly be of great benefit for the 24 million elderly persons in our Nation who must now pay for prescription drugs out of their own pockets.

In recent years, the medicare program has paid only about $4 of every $10 in health care expenditures of the elderly. In fact, today the elderly must pay $390 per person each year for medical care, as compared to 1965—prior to the introduction of medicare—when they paid just $240.

One of the major noncovered health expenses is prescription drugs that are used outside of institutions. Fully one-quarter of the total private health bill of the elderly goes to pay for these drugs, and only the out-of-pocket cost of nursing home care exceeds that amount.

This problem is especially acute for those who are chronically ill and those who have low-fixed incomes. A recent survey by the American Association of Retired Persons/National Retired Teachers Association found that older persons who fall into these categories pay as much as half of their incomes on prescription drugs alone. This clearly represents a gigantic burden, one that will be remedied through this bill.

The major elements of the bill are the following:

First, all 24 million older Americans will be covered by the program, not just those who are medicare beneficiaries;

Second, the program will use efficient administrative procedures, involving centralized data processing, so that the expected load of 300 million prescriptions per year can be accommodated;

Third, this will be a comprehensive program with coverage for all necessary drugs for the elderly. It will be phased in over 5 years, covering drugs for chronic illnesses as the initial step;

Fourth, the program includes a set of controls for quality, utilization, and cost; and

Fifth, the Federal Government will assume the total cost of the program. The elderly would no longer be forced to pay any portion of their bills for these drugs. Nor would States that now cover prescription drugs under medicaid—including my home State of Iowa—have to pay for the prescriptions of elderly medicaid participants. This will save the State of Iowa $2 million a year.

I consider this bill as just one more step in the long process toward implementing a program of national health insurance. The drug bill has all the components that are necessary for the successful operation of such a program—it is comprehensive, it is efficient, and it has cost controls.

Arthur E. Hess, former Deputy Commissioner of the Social Security Administration, cited the prescription drug program as a idea whose time has come. In his 1975 paper entitled "Next Steps in Medicare," he wrote:

> There are several reasons for starting with such a limited drug program. First, since there are many serious administrative problems associated with the introduction of a drug benefit, a controlled beginning with a controlled population would provide a base of experience for developing processing techniques and for assessing administrative costs. Second, program costs would be limited and manageable. Third, the cost of prescription drugs associated with chronic illness represents a known need which is an appreciable portion of the out-of-pocket drug costs of the aged and the disabled. Finally, it would make a significant contribution in the direction of meeting costs of catastrophic illness.

I have every expectation that Congress will give its close attention to this legislation, as it goes to the root of the inflation problem that is so burdensome for our elderly citizens.

Mr. HATHAWAY. Mr. President, I am pleased to join with my distinguished colleagues in introducing a bill to establish a program of outpatient drug benefits for older Americans. The bill would also establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of the program, and would require the conduct of certain studies and experiments to enhance the capability of the Secretary of HEW to administer such a program.

The Drug Benefits for the Aged Act of 1977 would provide for drug benefits for the 24 million residents of our Nation who are 65 years old or older, relieving the burden which has been placed on many of our senior citizens.

Chronic illness plagues more than 40 percent of our elderly. This amounts to twice the number of middle-aged persons affected by chronic illness and more than five times the number of younger persons so affected.

Of all the drugs dispensed in the United States, our senior citizens consume a very substantial proportion. This group now pays 80 percent of its costs for all prescription drugs out of pocket. For many of our senior citizens this absorbs a major portion of their already overstretched incomes. This is largely because medicare does not pay for any outpatient drugs.

The drug benefits bill would remedy this unfortunate situation by providing coverage to all senior citizens 65 years of age or older regardless of eligibility for medicare or social security. It would impose no cost-sharing requirement, thus putting the poor on an equal footing with the wealthier elderly. With a long-range goal of comprehensive coverage of all necessary drugs for the elderly, the bill would in its first year cover about 70 percent of all drug costs by paying for certain designated drugs needed for treatment of chronic diseases. After the first 5 years of the program, 100 percent of the drugs costs of older Americans would be covered.

The drug benefits bill is designed to develop cost control and efficient administration through demonstrations of drug utilization review. In addition, the bill promotes quality and cost control to keep costs down and insure quality of service. Unlike previous proposals, this bill will not be connected with the administrative mechanisms of medicare. It provides for centralized automatic processing; capable of processing claims for the anticipated 300 million prescriptions per year. The bill would cost approximately $2 billion in its first full year of operation, and $3.4 billion annually when fully implemented.

But its benefits would provide ample justification for these costs. The bill would insure that no senior citizen would be deprived of necessary drug therapy. This would promote home health care, and should result in a decreased need for institutionalization in long-term care facilities. It would enhance the dignity of our senior citizens by allowing many of them to stay out of hospitals and nursing homes, and maintain their independence and quality of life in their home environments. At the same time it would foster cost-savings in medicare and medicaid by promoting more timely and appropriate care.

A substantial number of all hospitalizations are due to the misprescribing of drugs. With the centralized data processing mechanism mandated by the bill, controls could be built in to insure correct prescribing practices and prevent overprescription of drugs. If this drug bill can result in reduced admissions to hospitals, it may well pay for itself.

Our senior citizens deserve the assistance which this bill provides. They have worked hard and contributed much to our country. We must not neglect them now when their need is great and their ability to respond to that need is limited. I shall look forward to considering this legislation as it comes before the Health Subcommittee on which I serve.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. GOLDWATER, the Senator from Montana (Mr. MELCHER)

was added as a cosponsor of S. 247, to provide recognition to the Women's Air Forces Service Pilots.

S. 1243

At the request of Mr. CHURCH, the Senator from Iowa (Mr. CLARK), the Senator from Rhode Island (Mr. PELL), the Senator from Vermont (Mr. STAFFORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Oregon (Mr. HATFIELD), the Senator from Michigan (Mr. RIEGLE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. BUMPERS), the Senator from Montana (Mr. MELCHER), the Senator from Vermont (Mr. LEAHY), the Senator from Nevada (Mr. CANNON), the Senator from Minnesota (Mr. ANDERSON), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Carolina (Mr. THURMOND), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. WEICKER), the Senator from Maryland (Mr. SARBANES), the Senator from Arizona (Mr. DECONCINI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Florida (Mr. CHILES), the Senator from New Jersey (Mr. CASE), and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 1243, to amend title II of the Social Security Act.

S. 1426

At the request of Mr. WILLIAMS, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1426, the Urban Trees Act.

S. 1868

At the request of Mr. MELCHER, the Senator from Kansas (Mr. PEARSON) and the Senator from Nebraska (Mr. CURTIS) were added as cosponsors of S. 1868, to expedite issuance of Federal permits.

S. 1974

At the request of Mr. NELSON, the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. HAYAKAWA), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 1974, the Regulatory Flexibility Act.

S. 2099

At the request of Mr. WEICKER, the Senator from Pennsylvania (Mr. HEINZ) and the Senators from New York (Mr. JAVITS and Mr. MOYNIHAN) were added as cosponsors of S. 2099, relating to payment of real property tax obligations owed by a railroad in reorganization.

S. 2130

At the request of Mr. PACKWOOD, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2130, to amend the Internal Revenue Code.

SENATE RESOLUTION 219

At the request of Mr. ROTH, the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of Senate Resolution 219, establishing a senior citizen internship program in the Senate.

SENATE RESOLUTION 269—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 269

Resolved, That section 2 of Senate Resolution 189, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$399,300" and inserting in lieu thereof "$437,700".

AMENDMENTS SUBMITTED FOR PRINTING

MINIMUM WAGE INCREASE—S. 1871

AMENDMENT NO. 1038

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI. Mr. President, I am submitting an amendment to S. 1871, the bill which would increase the existing minimum wage. My amendment would modify section 14 of the Fair Labor Standards Act regarding the payment of a lower minimum wage to full-time students.

Section 14 of the Fair Labor Standards Act permits employers to pay full-time students at the rate of 85 percent of the prevailing minimum wage providing the employer adheres to certain restrictions. Contained in these provisions is a requirement which restricts the number of full-time students an employer may hire. An employer may receive certification to hire up to 4 full-time students without excessive or time-consuming paperwork. However, if an employer wishes to employ more than four full-time students, he is restricted to a certain proportion of the total hours of employment of all employees in his establishment.

This amendment would revise these provisions by: First. Reducing from 85 percent to 74 percent of the minimum wage the amount which an employer must pay a full-time student; second, Expanding from four to six the number of full-time students an employer may hire without having to enter into extensive computations regarding hours of employment of all employees in his establishment; and, third. Exempting employers from the limitations as to the number of full-time students he may hire, providing the employer can show that such an exemption would not have an adverse effect upon full-time employment.

The rationale for establishing 74 percent as the full-time student differential minimum wage is to maintain the wage at its present dollar amount, which is approximately $1.96, when the minimum wage is increased to $2.65. Of course, the dollar amount would increase as the minimum wage increased beyond the $2.65 level.

I am aware of the fact that businesses have not made extensive use of the current provisions in section 14 regarding the employment of students at a subminimum wage. However, reducing the student differential, along with increasing the number of students an establishment could hire, would, in my judgment, provide additional incentives for employers to hire more full-time students.

A recently completed survey tends to support the need for some type of youth differential. Almost three-fourths of the small businesses who responded to the survey indicated that a youth differential would have a moderate-to-major effect on their decisions to hire young people in the future.

Mr. President, my amendment does not go to the extremes that some are advocating—a differential for all youth under a certain age. It is my opinion that such a youth differential, one permitting all under a particular age to receive a subminimum wage, might lead to teenagers dropping out of school to engage in full-time employment, especially among border-line students. My amendment modifies existing law to encourage the employment of students on a part-time basis during the school year with the possibility of full-time employment during periods of vacation. Thus, my amendment would create a situation in which a student could remain in school, gaining the necessary education for future full-time employment, and also work part time, allowing him or her to receive the work experience that will be beneficial in later years.

Further, it has been my experience that many students, mainly college students, are not able to complete school without the financial assistance provided by a part-time job. I believe the concept embedded in existing law is a step in the right direction, assisting those students in financial need; but, I also believe that broadening the concept—as my amendment does—would greatly improve the opportunities for full-time students.

Not only will my amendment help students, it will also prove beneficial to business. In Arizona, as in many other States, many jobs, because of the tourist industry, are seasonal or require quite a few part-time employees. Restaurants, hotels, recreational businesses are but a few of the businesses requiring employees of this nature. With the adoption of my amendment, these establishments will be able to maintain and possibly expand their services.

I hope, Mr. President, that my colleagues will give serious consideration to this amendment which, I believe, is worthy of their support.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1038

On page 12, insert between lines 17 and 18, the following:

LEARNERS, APPRENTICES, STUDENTS AND HANDICAPPED WORKERS

SEC. 5. (a) Section 14 is amended by striking "85 per centum" each place it appears and substituting "74 per centum".

(b) Section 15 (b)(4)(B) is amended by striking "four" each time it appears and substituting "six".

(c) Section 14(c) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.".

On page 12, line 19, strike "Sec. 5," and substitute "Sec. 6.".

On page 12, after line 25, add the following:

(c) The amendments made by section 5 shall take effect on January 1, 1978.

AMENDMENT NO. 1393

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, although European settlements were established in what is today the State of Maine as early as the first years of the 17th century, most settlements did not come until much later.

Indeed, it surprises many people today to learn that vast areas of Maine have never been settled, have no roads or inhabitants. For example, Aroostook County, which is larger than Connecticut and Rhode Island combined, is to this day mostly unbroken forestland which supplies pulp and saw logs to Maine's forest products industries.

Aroostook County's 100,000 inhabitants live on a narrow strip of cleared land which runs north-south along the border with New Brunswick, then west, over the top of the State, to where the fields cease and Maine's border with the Province of Quebec begins.

This area was the last frontier in New England and was first inhabited by white men in the 1820's and 1830's. The bulk of settlement was made just before and after the Civil War, by farmers from southern Maine, New Hampshire, and Massachusetts who sought cheap land.

In the 1890's, the railroad was extended to the southern part of Aroostook, and, at about the same time, a farmer in Houlton invented a structure which enabled farmers to store potatoes through the winter. This combination of events opened up to Maine potato farmers the rich Boston and New York markets, 250 and 500 miles, respectively, to the south.

For at least the last 75 years, the potato has been the most important crop in this part of the United States. It is the foundation for the region's economy and, because everyone has a stake in it, nearly everyone participates in the potato harvest at one time or another.

The schools in Aroostook County start in August—a month early—in order to close for "Harvest Recess" from mid-September to mid-October. Thus, it is safe to say that everyone in that part of Maine has worked in the harvest. It is an event which ties people together in their culture as well as their economy.

The Maine potato harvest has never been part of the stream of migrant labor which traverses other parts of the United States. Until the advent of mechanical harvesters 20 years ago, thousands of people from Canada came over to help in the harvest. Nowadays, the mechanical harvesters bring in about half the crop and only a few hundred people from Canada come over.

When the 1974 amendments to the Fair Labor Standards Act passed Congress, they included provisions which prohibited children under 12 from picking potatoes. This change was greeted with astonishment, then anger, in Maine. It was almost as though the Federal Government was telling the people of Aroostook County how to raise their children.

Over the years, the need for child labor has diminished. And fewer people have been able to justify the practice. We all know why this is. Too many children, especially those of migrant workers, worked year round, under terrible conditions, without benefit of schooling, and with a very dim future in front of them. No one, least of all I, wants to encourage or maintain such abuses. To the extent that the 1974 amendments did away with these abuses, I applaud them.

But we live, Mr. President, in a pluralistic society. And as I hope I have made clear, the situation in Maine's potato harvest is not, and was not, the abuse which our legislation sought to remedy. But we were affected by that legislation, nevertheless.

Families that picked together can no longer do so. They have to leave children under 12 at home. Thus, a babysitter must be found—quite an achievement during the one time of year when every pair of hands can be employed in the fields—or one of the parents must stay home with the child. In turn, this makes it harder for the farmer to bring in his crop and he is forced to consider the purchase of an expensive mechanical harvester.

Thus, a process which threatens the culture of a region is set in motion. People who depended upon one another no longer are allowed to do so.

In November of 1975, Senator PACKWOOD and I held a hearing in Presque Isle, Maine, on the economic problems of small business in the Northeast United States. Laura Parker, of Washburn, Maine, testified about the effects of the child labor amendment and I ask unanimous consent that a portion of her testimony be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON CHILD LABOR LAW—MRS. LAURA PARKER, WASHBURN, MAINE

Mrs. PARKER. Senator Hathaway, Senator Packwood, citizens of Aroostook County, my name is Laura Parker and I reside in Washburn, Maine.

I am grateful to Senators Hathaway and Packwood for relinquishing their time that I might come before you and let you know who I am and what I am dong. I am also indeed grateful for the encouragement that I have received from personal contact with people of Aroostook County.

As you know, through the media of radio, television, and newspapers, a few housewives, not content with being told by the Government what is good and what is not good for our children, have organized a campaign to bring about a change to the child labor law, to make it equitable to areas and conditions as they apply.

In reviewing the hearing before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 94th Congress, an examination of the provisions of the Fair Labor Standards Act against exploitation of child labor in agriculture, one cannot help but ask oneself, "Could this have taken place in America?"

Not one assertion by Jeffrey Newman, executive director, or Cassanadra Stockburger, director, National Committee on the Education of Migrant Children, is substantiated in their statements. Their testimony is one born of irresponsible conjecture, and with no sincere forethought or consideration of the principles involved; namely, the citizens and farmers of Aroostook County.

Are we going to sit back and let a few unconcerned politicians stagnate the economy of Aroostook County and the State of Maine without speaking out? I say, not until Washington is renamed "the Kremlin."

This fall a demonstration was held here in Presque Isle in front of the Maine Employment Security Commission. The purpose of this meeting was to determine the feelings of other housewives and mothers of the area. The response was so unanimous a decision was reached in favor of a drive to attempt to change this legislation. As a result of this decision, a petition drive was undertaken in northern Aroostock County to petition the elected State and Federal officeholders to work to change the Federal law so that children under 12 years of age may work in the potato harvest. Here again, the support of the people of Aroostook County has been tremendous. In 2 weeks' time, over 6,000 signatures were solicited. As a result of the huge success of this petition locally, it is our intent to expand our outreach to the areas of southern Maine, where the blueberry harvest was so affected by this law. If the reception is as strong there as it has been here, we will reach out further to other agricultural areas of this great land of ours, working hand in hand with people in those areas to gain support of their representatives to amend this law.

We received numerous calls in support of what we are doing. People say to us, "Please do not give up now." They ask, "Can we help?" My answer to you all is, "As long as I have the support of the citizens of this county and this State, which is our home, I will fight for the heritage which is born of us all."

We in Aroostook who work in the potato harvest are not considered as migrants. I defy anyone to statistically prove neglect as regard to the ill effects they claim working in the harvest has on our children's education, health, and mental capacity. I say let them come forward with responsible evi-

dence or let us determine for ourselves how we raise our children.

What we are after is to have this law amended and we want freedom of choice for our own children. We are American citizens and we want to be treated as citizens and see if you can do something for us.

Thank you.

Mr. HATHAWAY. In order to meet the needs of areas like Aroostook County, I intend to propose an amendment to S. 1871 which would give the Secretary of Labor the discretion to grant a waiver of the child labor prohibition when certain strict criteria are met. Through these restrictions, no child could be employed in an unhealthy job nor be allowed to miss school. My amendment, which has already passed the house, would benefit those few areas in the United States where local people traditionally participated to handharvest the crops of their neighbors.

I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

AMENDMENT No. 1393

On page 12, between lines 17 and 18, insert the following new section:

AGRICULTURAL HAND HARVEST LABORERS

SEC. 5. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"(1)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individual's protection.".

On page 12, line 19, substitute "Sec. 6." for "Sec. 5.".

On page 12, after line 25, add the following new subsection:

(c) The amendment made by section 5 shall take effect on the date of enactment of this Act.

NATURAL GAS POLICY—S. 2104

AMENDMENTS NOS. 1039 THROUGH 1042

(Ordered to be printed and to lie on the table.)

Mr. PEARSON (for himself and Mr. BENTSEN) submitted four amendments intended to be proposed by them to the bill (S. 2104), to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 1043 THROUGH 1049

(Ordered to be printed and to lie on the table.)

Mr. PEARSON submitted seven amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1050 THROUGH 1055

(Ordered to be printed and to lie on the table.)

Mr. NUNN submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1056

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1057 AND 1058

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1059 THROUGH 1063

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted five amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1064

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1065 THROUGH 1070

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1071

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1072 THROUGH 1283

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 112 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1284

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI (for himself and Mr. DOLE) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENTS NOS. 1285 THROUGH 1310

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted 26 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1311 THROUGH 1316

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1317

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1318

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1319

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1320 AND 1321

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1322

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. MORGAN, and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1323

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1324

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. RANDOLPH, Mr. HELMS, Mr. BENTSEN, Mr. HANSEN, Mr. DOMENICI, and Mr. TOWER) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1325

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1326

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. JOHNSTON, Mr. TOWER, Mr. DOMENICI, Mr. BARTLETT, Mr. HELMS, Mr. HUDDLESTON, and Mr. CHURCH) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1327 AND 1328

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1329

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. JOHNSTON, Mr. TOWER, Mr. HUDDLESTON, Mr. DOMENICI, Mr. HELMS, Mr. BARTLETT, and Mr. CHURCH) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1330

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. RANDOLPH, Mr. HELMS, Mr. BENTSEN, Mr. HANSEN, Mr. DOMENICI, and Mr. TOWER) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENTS NOS. 1331 THROUGH 1337

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1338 THROUGH 1345

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted eight amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1346 THROUGH 1349

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted four amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1350 THROUGH 1356

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted seven amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1357 THROUGH 1358

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. ABOUREZK) submitted two amendments intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENTS NOS. 1359 THROUGH 1363

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted five amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1364

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1365 AND 1366

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1367 THROUGH 1380

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted 14 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1381

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1382

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. BAYH, Mr. BROOKE, Mr. MATSUNAGA, Mr. MCINTYRE, and Mr. RIEGLE) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1383

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1384

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for Mr. HATHAWAY) submitted an amendment intended to be proposed to the bill (S. 2104), supra.

AMENDMENTS NOS. 1385 THROUGH 1390

(Ordered to be printed and to lie on the table.)

Mr. HART submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1391

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1392

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

NOTICE OF HEARINGS

AGRICULTURAL RESEARCH PROCEDURES

Mr. ABOUREZK. Mr. President, the Administrative Practice and Procedure Subcommittee of the Judiciary Committee will hold oversight hearings on agricultural research decisionmaking procedures of the Department of Agriculture on October 19 and 20 of this year. The hearing will be concerned with the manner in which the Department sets its priorities for doing and supporting agricultural research. Particular focus will be given whether the Department is giving sufficient attention to small farm research and to research into farming techniques that do not rely on heavy chemical, energy, or capital inputs. Persons wishing to present testimony to the committee should contact the subcommittee staff.

The hearings will be held in room 2228 of the Dirksen Senate Office Building at 9:30 a.m. each day.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. MCINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will hold oversight hearings on October 6 and 7, 1977, on alternative mortgage instruments.

The hearing each day will begin at 10 a.m. and will be held in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202-224-7391.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PROXMIRE: Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on distressed multifamily housing projects, insured by the Federal Housing Administration under the National Housing Act. The hearings, which were originally scheduled for Thursday, October 13 and Friday October 14, will be held instead on Friday, October 14 and Monday, October 17, 1977. The hearings will take place in room 5302 of the Dirksen Senate Office Building, and will commence at 10 a.m.

ADDITIONAL STATEMENTS

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO) ON UNION POLL

Mr. THURMOND. Mr. President, the importance of early and favorable action of S. 274, a bill to bar unions in the military, is amply illustrated by a press release issued recently by the American Federation of Government Employees.

Although the members of AFGE soundly rejected the proposal by the union's management to organize the military, the interest of that union in this goal was not dimmed.

On September 7, 1977, in a press release announcing the union vote, AFGE President Kenneth Blaylock made the following statement:

The overwhelming numbers of military personnel who have contacted this union for assistance is sufficient evidence that the idea of unionized military will not soon be laid to rest.

Mr. President, other statements in this news release such as "it will do no good for Congress to ban unionization" and "the results of our poll do not indicate a concession to the clamor of anti-union voices" merely stress the need to press forward with my bill, S. 274.

This bill, passed by a 72 to 3 vote in the Senate, is now under consideration in the House.

For the benefit of my House colleagues and others in Congress I ask unanimous consent that the September 7 press release issued by AFGE be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

AFGE MEMBERSHIP POLL REJECTS MILITARY ORGANIZATION; BLAYLOCK PLEDGES POLICIES WILL REFLECT THAT DECISION

American Federation of Government Employees (AFL-CIO) Local unions have rejected the concept of organizing military personnel into the Federation by a margin of 80 percent against, 20 percent in favor.

The poll was in the form of a mail ballot sent to each one of AFGE's 1,556 Local unions. More than 60 percent of the union's membership was represented by the poll results, which were: 151,582—no (approximately 80 percent of those responding); 38,764—yes (approximately 20 percent of those responding).

The poll was mailed to the chief officer of each Local in May with instructions that the issue be placed before the next available membership meeting of the Local

union. When the membership voted, the results were registered on the ballot and returned to the AFGE National Office. The response of each Local union was weighted by the actual voting membership of the Local union.

The Poll question: "Should the national President of AFGE be directed to commence organizing and representing members of the uniformed military service?"

In announcing the results of the survey, AFGE National President Kenneth T. Blaylock said:

"It is my intention to live by this decision. Press speculation to the contrary, we will not be acting to organize military personnel now, nor at any time in the foreseeable future.

"However, the poll results should not be misconstrued as a rejection of the idea that military personnel need representation. I personally believe that they do. I believe that eroding conditions for military personnel—cutbacks in pay, medical benefits, subsistence and many others—will force military personnel into a more militant posture. The overwhelming numbers of military personnel who have contacted this union for assistance is sufficient evidence that the idea of unionized military will not soon be laid to rest.

"In fact, the rejection vote seems to be based on the perception by AFGE members that we should first organize a larger percentage of the Federal civilian workforce. Along those lines, we have begun a year-long worldwide membership campaign to accommodate that feeling.

"The spinoff of this two and one-half years of debate is that Congress, the Pentagon and the American people have been forced to confront the ugly results of ill-advised austerity programs and neglect of the people—the men and women—who are expected to defend this nation at all costs.

"So too, the military associations, who have for years purported to represent the interests of military personnel, must evaluate the shortcomings of their soft policies and adopt more responsive positions.

"It will do no good for the Congress to ban unionization and proceed headlong ignoring the obvious signals being sent by rank and file military personnel that they will not stand still for cutbacks in pay and benefits. Injustice and inequity generate automatic responses which cannot be outlawed. It makes far more sense to identify the causes of damaged morale and attempt to remedy them.

"Finally, the results of our poll do not indicate a concession to the clamor of anti-union voices who have dominated the decision of the Senate Armed Forces Committee to propose an absolute ban on organization by military personnel. This union is discussing the ramifications of the bill (S. 274) with the American Civil Liberties Union to make certain that such unwarranted legislation, if enacted, will not go unchallenged in the courts."

AFGE represents 725,000 Federal civilian employees.

For further information, contact: Greg Kenefick, Director, Public Relations, 1325 Massachusetts Ave., N.W., Washington, D.C. 20005, (202) 737-8700.

WOMEN ALLOWED TO SERVE AS STRATEGIC MISSILE SILO CREWS

Mr. PROXMIRE. Mr. President, I would like to recognize and praise the belated Air Force decision to allow women to serve as strategic missile launch crews. It is long overdue and much remains to be accomplished before discrimination barriers are eliminated for women in the military, but it is a solid step forward.

On July 22 the Air Force testified before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee that women were precluded from serving as missile launch control officers because it was a "combat" job. They said that the military leaders and Congress were "uncomfortable about imposing this responsibility on women."

What nonsense. It was a simple case of discrimination, and they knew it. At least they had the good sense to change their minds.

The Air Force informs me that 15 women officers and 25 enlisted women will start training for Titan II ICBM missile silo duty early in 1978. The officers will undergo a 19-week course of instruction, and the enlisted women will have 23 weeks of training.

Eventually they will be assigned to Titan II sites at Davis-Monthan Air Force Base, Ariz.; Little Rock Air Force Base, Ark.; and McConnell Air Force Base, Kans. They will serve side by side with men in these units.

The decision was made by the Secretary of the Air Force and the Chief of Staff of the Air Force.

My advice to the Air Force is "Don't stop there." Look for other job classifications that can be opened to women. Ask for repeal of the legislation that prohibits women from flying or navigating aircraft that might be used in combat. Open up all Air Force jobs on the basis of individual qualifications and who can accomplish the task—not sex. And start promoting women on an equal basis with men.

The Navy has already requested changes in legislation to allow women to serve on board combat ships and in combat aircraft during peacetime. The Air Force should seek the same relief.

And the Army, which has no legal barriers to women serving in any capacity, should scrap their outdated "policy regulation" and open up all jobs to women who want to serve.

HAROLD LINDSELL OF "CHRISTIANITY TODAY" REPORTS ASTONISHING PROGRESS IN TAIWAN

Mr. GOLDWATER. Mr. President, I often have pointed to the relationship between our Nation's long-standing commitment to human rights around the globe and our resolve to maintain diplomatic and defense ties with the Republic of China on Taiwan. Moreover, I have time and again reminded my fellow Americans of the moral posture involved in keeping our friendship with the free Chinese on Taiwan in view of their open enjoyment of religious rights compared with the total annihilation of religious freedom on mainland China.

The Chinese Communists have transformed churches into stables and government meeting halls. They have banned religious schools and hospitals. They bar entry to missionaries and prohibit religious broadcasts.

Yet, off the southeastern coast of the Chinese mainland, on Taiwan and the other islands governed by the Republic of China, freedom of religion is flourishing. For example, more than 2,500 Buddhist temples are in active use and are attended by nearly 7,500 monks and nuns. There is a mosque in Taiwan used by some 20,000 followers of Islam.

In addition, there are over 800 Catholic churches with a membership of nearly 300,000 persons and 2,000 Protestant churches with more than 500,000 members. Christian religions operate 20 theological seminaries, several Bible schools, 35 hospitals, 3 universities, 7 colleges, and at least 35 high schools.

How our Nation's leaders could ever consider the possibility of abandoning our diplomatic and defense relations with a government that guarantees and provides religious freedom in practice for a government that is openly atheistic and destructive of religious worship is beyond me. Yet, from time to time, it is speculated that this is exactly what some officials in our Government are considering.

Mr. President, in this connection, I have recently read a thoughtful report on conditions in Taiwan by the editor of one of this country's best known religious magazines, "Christianity Today." The article is by Dr. Harold Lindsell, who visited Taiwan for almost 4 weeks of intensive investigation this summer.

His article makes the point that it would contradict the most fundamental of God's laws for a nation of religious people, as the United States is, to break their word to another people. Thus, Dr. Lindsell urges President Jimmy Carter "to issue a resounding endorsement" of our relations with the Republic of China and the rejection of the immoral and unethical proposal that we break relations with Taiwan.

Mr. President, I believe it would well serve each Member of Congress to read this excellent report by an objective and truthful observer who had freedom to journey wherever he wished in Taiwan, and so I ask unanimous consent that the article by Harold Lindsell be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Christianity Today, Aug. 26, 1977]

HAROLD LINDSELL REPORTS FROM TAIWAN

I recently returned from a fascinating and instructive trip to Taiwan, the Chinese bastion of freedom in the Far East. After almost four weeks of intensive investigation I have formed impressions and had opinions solidified about the state of affairs *visa a vis* the Republic of China in relation to Red China, to the United States, and its position in the struggle for freedom.

Taiwan is certainly not a paradise. It has slums, its educational opportunities are limited, its people work long hours, it has a lower standard of living than the industrial nations of the world, and its medical facilities appear sub-standard when compared with the United States. Sanitation facilities are somewhat primitive in suburban areas and the restrooms at some of the bus stops resemble those of Turkey. But the same things could be said about many other nations around the world. The media in the United States have treated Taiwan unfairly and it's time someone pointed out the positive and constructive aspects of a small nation that has made astonishing progress in a few decades.

During my journey I talked to various groups in Taiwan. Just about all of them said the same things. I spoke to Taiwanese and mainlander pastors, to university students (Christian and non-Christian), to missionaries, to representatives of the media from the United States including Time, the New York Times, NBC, and the Wall Street Journal, and to government leaders. I talked with a staff member from Senator Goldwater's office who did research for Mr. Goldwater's strong statement to the press about the responsibility of the United States to the Republic of China (ROC).

The picture I saw is quite different from that commonly bruited about by religious agencies such as the World Council of Churches, which in its Fifth Assembly in Nairobi spanked Taiwan for lack of human freedoms, and the United Presbyterian Church whose General Assembly adopted a resolution that included an erroneous statement about the lack of freedoms in Taiwan.

The ROC constitution (Religion Article 13) guarantees religious freedom. Unlike a similar guarantee in the Soviet constitution (and none in the constitution of Red China), the people of Taiwan are genuinely free from religious oppression. There are more than eight thousand churches and temples in Taiwan, including 1,246 Buddhist and 3,746 Taoist places of worship. There are 832 Catholic churches and 2,102 Protestant houses of worship. There is a church or temple for every 2,000 people. Billy Graham recently conducted an effective evangelistic crusade in Taiwan. This he could not do in Red China.

On an island slightly larger than New Jersey, there is a population of more than sixteen million people of whom three million came from mainland China since World War II. In 1975 Taiwan ranked ninth in the world in the sale of Bibles. Last year more than six million Bibles were sold. There are 1,000 missionaries representing thirty different nationalities. I met and talked with a Finnish physician and his wife. And one acquaintance landed up in a hospital that had been built by World Vision and is providing high grade medical care not far from Sun Moon Lake, a spectacular resort area on the small island.

Not only do the ROC people have religious freedom; they also enjoy freedom of speech. It is not unlimited freedom of speech anymore than Americans have such freedom. Radio and TV broadcasts do not feature those who might advocate the overthrow of the government. But neither do the networks in America. I talked with two top men who control radio and television outlets that cover the island. They started from scratch and under free enterprise have built media outlets with approximately two thousand employees. There are virtually no houses in Taiwan that do not have television. Television aerials, in fact, are omnipresent and their existence makes it clear that electricity is to be found everywhere.

Taiwan has a mixed economic situation in which privately owned shops abound. And private industry is found everywhere. One of the truly revolutionary developments on Taiwan involved land redistribution. Interesting land reform was brought about without revolution. Approximately 38 per cent of the economic activity of Taiwan is devoted to agriculture. The farmers own their own land and work that land intensively; they produce three rice crops a year. Mechanization is gathering momentum, though the farmers do back-breaking work. Latin America would do well to follow the pattern set by Taiwan.

The island has virtually no industrial resources. Iron and coke, as well as tin, copper, and aluminium must be imported. The ROC has lifted itself up by its own boot straps and produced an industrial society from what was almost exclusively an agrarian civilization. One of the world's shipyards has been constructed. I saw a 445,000-ton tanker that had just come down the ways. The keel for another one of the same size has been laid. I visited a major steel plant equal to anything found in the West. I visited an export center where I saw the wide variety of products manufactured for sale abroad. The ROC is fiscally prudent and enjoys a favorable balance of trade. One of the great dangers faced by this tiny nation is the possibility of economic strangulation if its sources of raw materials are cut off.

Socially, Taiwan is a mobile nation. Its main means of transportation include a good railroad system (which operates on time), a network of buses, and what seems to Westerners an almost unlimited number of bicycles and motorcycles. Automobiles are expensive and are heavily taxed. But motorcycles are the choice of the masses. I saw hundreds of motorcycles loaded with mom, pop, and/or a young child. Taipei, Kaohsiung and Taichung are the three major urban cities with a combined population of almost four million inhabitants. Air pollution is found in these cities as in any other modern metropolis. The temperature in the summertime rises above ninety degrees almost every day and the humidity keeps pace with the thermometer. The houses are built to let the breezes blow through, and air conditioning among the masses is limited.

Citizens and foreigners are relatively unrestricted in their travel. There are no closed areas except for military installations. I was free to roam as I pleased—by air, by bus, by railroad, or on foot. The ever-present language barrier exists for the foreigner. The written language is a baffler and makes most Westerners distrait. This is also true for the Chinese themselves. Mandarin and Taiwanese are the two major languages. I was interpreted in either of the two languages depending on the groups to which I spoke. I preached in the largest church on the island on a very hot day. It was a Taiwanese language group. I spoke on two different nights to enthusiastic audiences who sweltered under the heat. When the invitation was given at one of these two meetings a dozen people came forward; most of them were young. In a college-age conference a number of non-Christians made decisions for Christ. In Taipei, Dr. Paul Han, the president of a medical school (they have five on the island), interpreted for me at a Sunday worship service. He has a Ph.D. and an M.B.; he worked under and with Dr. John Brobeck, a Wheaton College alumnus who teaches at the University of Pennsylvania School of Medicine. Dr. Han is a second-generation believer whose father is a member of the Gideons. He has an excellent understanding of the Bible. The family fled from mainland China when the communists took over.

The political aspect of Taiwan's life is its most complicated problem and its persistent nightmare. This is true internally as well as externally. Externally its freedom is at stake, and it wants to wrest control of mainland China from the hands of its communist foes. The communist menace is fully understood by the ROC's governing officials and their hatred of the system is unalloyed. The perennial threat of an invasion of Taiwan by the communists exists and one military spokesman declared that if the communists were willing to pay a frightful price in the loss of life an invasion might occur.

Internally the problem of national democratic elections persists. President Chiang Kai-Shek brought his office with him when he fled the mainland and held it until his death. National elections have not been held because to do so without participation by the mainland Chinese would contradict the foremost ROC claim. The government based on Taiwan claims to be the only legal government of *all* China. The situation for local government is different: most of the mayors of the cities, including the three largest, are native Taiwanese. A few Taiwanese nationalists make much of this difficulty and complain abroad about mainlander rule. But most Taiwanese seem to accept the present situation. Increasingly the mainlanders are elevating Taiwanese into the national government; obviously it is desirable that this trend continue.

While I was in Taiwan two important events took place. The first was the speech given by Secretary of State Cyrus Vance, a speech that alarmed the government and brought forth a spate of statements designed to keep the Carter administration from deserting Taiwan as the U.S. pursues normalization of relations with the People's Republic of China. Vance's failure to give any assurances to the ROC even as he opened the door wide to "normalization of relations" with Red China could only be interpreted as a drastic change in policy. The second event was the desertion of the MIG 19 jet pilot who brought his plane to Taiwan amid the plaudits of millions. It gave the nation a psychological shot in the arm at a time when the Vance speech brought dismay and an impending sense of isolation.

The ROC officials seem to be genuinely puzzled by Jimmy Carter. From their perception of America's role in the world they see no possible gain for the nation to break diplomatic relations with the ROC and establish them with Red China. They think it incredible that Red China should make demands that the United States must first fulfill if diplomatic relations are to be established. Rather, they feel the United States should set up conditions that the Red Chinese should meet, not the least of which is to grant the people human rights, religious and political freedom. Some high officials expressed dismay about Mr. Carter's policy for some very specific reasons.

Mr. Carter refused to grant an audience to Ambassador Shen in Washington despite a request to speak face to face with the President. The ROC takes this refusal to mean that Carter does not wish to hear both sides of the story and without the ROC's story they think he is in no position to make a fair decision. Moreover, they feel that this approach is an inconsistent application of his Christian principles. One official, who has a Ph. D. from the United States, went even further. He expressed how unreasonable it seems to him that Mr. Carter should excoriate the Soviet Union on human rights while he has never said a word about the absence of human as well as religious rights on mainland China. He feels that this failure casts doubt on the President's Christian profession. He said America's enemies seem to get preferential treatment over America's friends. The implication was plain—if you assault America and write the worst things about it and demean it as an enemy you get better treatment than if you act as its friend.

The ROC sincerely believes that the United States has a treaty with it that can be broken only at great loss to the United States. The pledged word of America would then mean less and less to other nations with whom it has treaties. They regard their treaty with the United States as sacrosanct and for a Christian to abrogate it would be eminently unfair from Mr. Carter's own Christian perspective. Moreover, they believe normalization of relations with Red China will desta-

bilize the Far Eastern situation whereas the status quo will at least prevent aggression in the area. They believe the Japanese will probably obtain nuclear arms if the United States breaches its treaty with Taiwan. And they do not think normalization of relations with mainland China will help the United States in its relations with the Soviet Union. They know the Red Chinese hate the Russians and hotly dispute the ownership of vast tracts of land they share as border neighbors. And while Taiwan has no use for the Russions, it is thecretically conceivab'e that if the United States were to break diplomatic relations with them Taiwan might be forced into some kind of rapprochement with the Soviets.

The ROC people believe that they are true representatives of the free world and particularly of free Asia. Certainly they have shown the world and Red China what can be done by a hardworking, energetic people who feel themselves to be politically, economically, and religiously free, and who are willing to suffer and die for their freedom. Neither Mr. Carter nor the American people should for one moment suppose that Taiwan will capitulate or let down its guard. The ROC will endure any hardships and make any sacrifices necessary to maintain its independence and keep its freedoms. The ROC is a militant nation and the people in high places make clear they are at war with mainland China and want to resume control of it as soon as possible.

Taiwan wants no part of two Chinas any more than the Red Chinese want it. Both Red China and the ROC claim to be the real government of the whole of China. There is little sympathy in Taiwan for United States recognition of both Chinas as in the case of West and East Germany. Since the People's Republic of China is a de facto government this fact does not seem to alleviate a sort of intransigence when it comes to the two Chinas' situation from Taiwan's standpoint.

Some Taiwan officials think Mr. Carter is well meaning but not fully instructed on international matters. They hope he will see the dangers of communism more clearly and keep the ROC as a linch pin in the Far Eastern policy of the nation as it finds itself facing the worldwide communist threat to all democracies. If the United States were to break relations with Taiwan and acknowledge the People's Republic of China as the *de jure* and only real government of all China it would create a situation that could have catastrophic consequences. If mainland China were to invade Taiwan it would be virtually impossible for the United States to help Taiwan. It would be an internal Chinese affair in which aid to Taiwan would be considered an act of war against mainland China. And it is easy to imagine what the Third World countries would have to say about Yankee imperialism.

I think the Taiwanese have a good case. I think Senator Goldwater expressed the sentiments of the American people when he recently argued that the United States must keep its treaty agreements with the ROC. We can be sure that if Taiwan goes down the rest of the Far East likely will go down as well. And the Japanese situation will be compromised almost beyond repair. If the Christian faith has any part in molding foreign policy the least it must do is to create the understanding that morality and ethics are essential components of any national policy. It must also make clear that nations that break their word shall in their turn be broken by God's natural laws and their impartial application by the Supreme Ruler of the universe.

It will be a sad day if President Carter carries out what seems to have been implied in Mr. Vance's speech. The best thing he can do for the nation and for his administration is to issue a resounding endorsement of the existing Taiwanese policy that goes back several decades and has been recognized by Democrats and Republicans alike, and has proved to be a successful foil to communist desires to take over all of the Far East.

PROFESSOR THUROW ON THE ECONOMY

Mr. McGOVERN. Mr. President, it is becoming increasingly clear that the traditional techniques for dampening inflationary pressures—namely, tight monetary policy and slackness in the economy—are not having their desired impact. The rate of inflation continues to hover in the 6-percent range, while unemployment remains in excess of 7 percent. A credible explanation for this anomaly is offered by Prof. Lester C. Thurow in the September 12 issue of the Wall Street Journal. Mr. Thurow, a professor of economics and management at Massachusetts Institute of Technology, cogently argues that the resistance of inflation to traditional remedies is due to indexing which is spreading throughout our economy. Mr. Thurow correctly points out that while indexing prevents the rate of inflation from falling, it does not prevent it from rising. Then what can be done? Of three possible policy options, Mr. Thurow sees only one as viable: an income policy. While admitting that such a policy is not particularly attractive, Professor Thurow correctly concludes—

To maintain the current level of idle resources in the face of their demonstrated impotence to reduce the rate of inflation is simply an exercise in national masochism.

I heartily draw my colleagues' attention to Mr. Thurow's article and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OPTIONS FOR DEALING WITH INFLATION

(By Lester C. Thurow)

Despite the quick denials, it is quite likely that incomes policies are being discussed in the back rooms of the Carter administration. Incomes policies are being discussed for a very simple reason. Tight monetary and fiscal policies simply are not reducing the U.S. rate of inflation.

After the first impacts of the price shocks administered by the OPEC oil cartel, the dollar devaluation and the weather-induced surge in grain prices had passed through the economy, the U.S. rate of inflation quickly fell from the double digit rates of 1974 to the 6% range in early 1975. Since then, however, there has been little or no change in the rate of inflation.

Over that 2½-year period, conventional macroeconomic tools have been vigorously used to reduce inflation. The money supply (M1) has grown less than one-half as fast as the nominal GNP. Long-term corporate bond rates have subsided only slightly from 1974 credit-crunch levels. The full employment surplus of federal, state and local governments (the difference between revenue expenditures if the unemployment rate had been only 4.9%) has been large, ranging from $15 billion to $31 billion.

It's true, of course, that the federal government in fact has continued to run a large deficit and that other measures of the money supply continue to show substantial increases by historical standards. And doubtless this newspaper's editorial writers, among others, would argue that monetary and fiscal policies simply haven't been tight enough.

Yet the fact remains that we already have been given a stiff dose of the old time religion—and that the chief effect has been to create a huge reserve of idle productive resources without making a dent in inflation. Unemployment has ranged between 7% and 9%. Over the same period of time, from 17% to 29% of the manufacturing capacity has been idle, according to the Federal Reserve's index of capacity utilization.

Since one percentage point of unemployment represents about $60 billion in output lost annually, a very expensive war against inflation is being fought with little or no payoff. Nor is there any sign of the "light at the end of the tunnel." If one looks at forecasts, the optimists predict the rate of inflation will remain in the 6% range for the rest of the decade (no one predicts much further into the future), and the pessimists predict an acceleration of inflation. Almost no one is predicting that the current war against inflation will be won. Why?

INDEXING PHENOMENON

If one seriously asks why idle resources are not reducing the rate of inflation, the answer is not hard to find. It lies in the phenomenon of "indexing." Since 1974 and the scare of double-digit inflation, labor, business and government have sought to protect themselves from the uncertainties of future inflation by adding cost of living indexes to all their future commitments. By putting cost of living escalators in all their price and wage contracts, labor and business prevent themselves from being hurt by future increases in the rate of inflation. Adding cost of living escalators to private contracts is a perfectly rational response to inflation on the part of both business and labor, but it fundamentally alters the nature of the economy and the effectiveness of monetary and fiscal policies.

This is most clearly seen if we imagine an economy that has been legally indexed. In an indexed economy all contracts are signed in current dollars, but every contract also contains a legally mandated cost of living clause. If the cost of living goes up 15% from the time the contract is signed until the product or labor is delivered, then the buyer or the employer must pay the amount agreed upon plus 15%. The basic objection to legal indexation is that it prevents monetary or fiscal policies from reducing the rate of inflation.

The reasons for this are easy to see. Imagine that the inflation rate has been running at 6% per year. If the inflation rate of the past year was 6%, then every price and wage will go up by 6% this year due to the legally mandated price and wage increases. But the legally mandated increases lead to a 6% rate of inflation this year. Hence with escalators the rate of increase will also be 6% next year. Tight monetary and fiscal policies can reduce demand and increase the quantity of idle resources, but they cannot reduce the rate of inflation. With a legally indexed economy, only external events (such as an appreciation in the exchange rate or a reduction in the price of oil or grain on international markets) can reduce the rate of inflation.

What is even more troublesome is that indexing leads to an upward ratchet effect on the inflation rate. Indexing prevents the rate of inflation from falling, but it does not prevent the rate of inflation from rising. Suppose some policy—let's say President Carter's proposal to raise the price of domestic energy to world levels—raises the rate of inflation to 7%. Once a 7% rate happens indexing will prevent it from falling. As a result, every piece of bad luck or price raising policy leads to higher and higher rates of inflation.

The U.S. economy is not 100% legally indexed, but it has rapidly become heavily indexed since 1974 with the introduction of *de jure* and *de facto* escalators by government, industry, and labor. Cost of living escalators are increasingly being built into government programs and wages.

Nonunion workers don't have legal cost of living escalators, but companies that provide cost of living protection to their unionized workers almost always grant the same increases to their nonunionized workers. Similarly, nonunion employers in fact index their wages to prevent their best employees from gradually leaving for employers who do index and to keep labor unions out of their plants.

While indexing is growing because of private actions rather than formal government actions, the effect is exactly the same as if the government had legally installed indexing. Monetary and fiscal policies no longer have any capacity to lower the rate of inflation. Because of indexing the 6% rate of inflation has become a structural problem that can be solved only by structural means.

THREE OPTIONS

Basically there are three policy options. Policymakers could attempt to crack the current system of private indexation by creating truly enormous quantities of idle resources. If policymakers were willing to re-create the Great Depression they might be able to destroy the current system of private indexing, but this would require an enormous price in terms of lost output and human suffering. The second option is simply to sit back and admit that there is nothing that can be done about the inflation rate. Since the economy is almost completely indexed informally, the indexing might as well be made formal to cover those small parts of the economy that are not now protected by cost of living clauses. After all, with indexing inflation does not hurt anyone—or so the argument goes.

If neither of these solutions is acceptable, the only remaining solution is "incomes policies." What the incomes policies have to do is clear. How to do it is much less clear. Assume an indexed economy with a 6% inflation rate. Inflation will go down only if everyone agrees to a cost of living raise less than the previous year's rate of inflation. If everyone agrees to raise his or her wage or price by only 4%, even though inflation has been running at a 6% rate, then this year's inflation rate can be reduced to 4% instead of 6%. But the essence of such a policy is an economy where people are willing to accept something less than the full protection afforded by their escalator clauses.

The trick, however, is not what to do, but how to get the agreement that wages and prices go up only 4% rather than 6%. This agreement is the essence of any incomes policy, but with our current system of private indexing such an agreement is virtually impossible to get. Converting the current system into a legally indexed system would give the government a handle to reduce the allowable index adjustment below the previous year's rate of inflation, but enforcing such a reduced escalator would be equivalent to wage and price controls.

Unfortunately, in an indexed economy there are no other solutions. None of the three alternatives is particularly attractive, but one of the three, or some combination of the three, must be chosen. Our current choice is to tolerate a level of idle resources which is high enough to cause enormous losses in output and wasted human opportunities but not high enough to crack indexing and lower the inflation rate. To maintain the current level of idle resources in the face of their demonstrated impotence to reduce the rate of inflation is simply an exercise in national masochism.

LAW AND THE REAL PUBLIC INTEREST

Mr. GARN. Mr. President, since I entered public life, I have heard a great deal about "the public interest" and far more than I care to from those who claim to know what it is, and worse yet, to speak for it. Indeed, a great deal of the time spent in taking testimony before the Banking Committee is spent in listening to those who claim to be anointed to translate the public will into legislation for our benefit.

Of course, the genius of this country, Mr. President, lies in the fact that its founders recognized the impossibility of any one person discovering the "popular will," and our Government was designed to act as a broker, or harmonizer, of the thousands of special interests that make up our country.

We are all consumers, and thus it is in our interest to have low cost, high quality goods. At the same time, we are all taxpayers, and if governmental regulation designed to produce those low cost, high quality goods costs more than the goods are worth, who can say that the public interest is served? At a further remove, we are all wage-earners, and the goal of low-cost goods conflicts with the maximum salaries we would like to have. Virtually all of us are stockholders, either directly, or through the pension funds we contribute to. The goal of maximum return on our investment conflicts again with the goal of low costs.

These and many more conflicts exist in a free society. We can eliminate them, but only at the cost of our freedoms, a cost that I, for one, am unwilling to pay The genius of the market system is that it permits the resolution of these conflicts in ways of the greatest benefit to society as a whole. Thus the "public interest," whatever it is, can be said to be served. But I would not be egotistical enough to say that I know what it is. Certainly there are "externalities," effects of the markets operation which impose costs on innocent third parties, and these must be mitigated through governmental action. Such are the effects of the pollution that result from treating air, water, and land as "free goods." In mitigating this pollution, government must play a role, though I would argue that even there the market mechanism can play a greater role than it traditionally has in our history.

But to return to those who claim to speak for the public interest. By and large, these individuals, the "consumer advocates," "public service lawyers," and so on, do not represent the public. They have stood for no election, have no mandate from society, and represent, in fact, a narrow-minded group, the intellectuals of the land who think they know better than the people themselves what is good for the Nation. For too long now, they have been unchallenged in their assertions. They have been free to enter lawsuits on the side of the trees, and consumer disputes on the side of "motherhood." The results have not been an unmixed blessing. In many cases costs have been driven up, and the range of choices available to consumers have been restricted. Lawsuits against the Government have forced the Government to act in cases where the Congress did not want it to go, and where bureaucracy knew it had no business.

A few years ago, there was a heartening development. The founding of the National Legal Center in the Public Interest indicated that the monopoly of the so-called public service lawyers was about to be broken. The National Legal Center in the Public Interest, despite its title, does not know what the public interest is any more than Ralph Nader does. Its organizers and lawyers do know that there is a broader public interest than that suspected by Ralph Nader. They know that the public is not served by bigger government, by higher costs imposed by unwise and costly business practices unrelated to the safety and protection of the worker or the environment. While the NLCPI is not directly connected with the Pacific Legal Foundation, though there is cooperation between the two, and they have similar aims.

The purpose of my taking this time today is to call to the attention of my colleagues a conference on the philosophical issues underlying the formation of the NLCPI. The center is sponsoring this weekend a national conference on "The Role of the Judiciary in a Democratic Society." It will be held at the Georgetown University Law Center Friday and Saturday of this week. Let me list a few of the participants, and I think the Senate will see the importance of this conference. There will be presentations from Prof. Nathan Glazer, Department of Sociology of Harvard University; Prof. Ralph Winter, Yale University School of Law; Robert Bork, former Solicitor General of the United States; Prof. Walter Berns, Department of Political Science, University of Toronto; the Honorable Charles Renfrew, U.S. district judge for the northern district of California; Hon. Wilbur Pell, U.S. Court of Appeals, Seventh Circuit; Hon. Malcolm Wilkey, U.S. Court of Appeals for the District of Columbia; Hon. Richard P. Conaboy, judge of the court of common pleas, Lackawanna County, Pa. and Hon. Myron H. Bright, U.S. Court of Appeals for the Eighth Circuit.

It is especially appropriate that this conference be called at this time, when the unelected and potentially unrepresentative nature of the Federal judiciary is being examined as never before in the history of the Nation.

Throughout most of our history the people as a whole have been content to ignore the fundamentally undemocratic nature of our Federal judicial system. That is because until very recently, the

judiciary has exercised restraint. It has refused to interject itself into disputes which are fundamentally political, where the efforts of a court to impose a solution of one kind or another would have to provoke attacks on its actions.

Thus we see today a nation which decisively rejects the ideas of busing for school integration, and yet children are bused; we see a nation which wants prayer in its schools, and yet prayers are forbidden; we see a nation which wants filth and perversion taken off its newsstands, and yet anything goes; the Nation rejects abortion on demand, yet the killing goes on. In these and dozens of other instances there is strong evidence that the Federal judiciary is out of step with the majority in the country, and out of step with those that the majority has elected to its legislatures. In light of that lack of agreement, it is being brought home to people that the Federal judiciary is unelected. It is accountable to no one; it has a life tenure.

The result is predictable: Bills in the Legislature restricting the scope of the courts, limiting the tenure of judges, providing for periodic reconfirmation, or for review of Federal decisions by panels of State judges. We can expect more.

In light of these developments, the NLCPI conference is especially timely, and I think Senators and their staffs would be well advised to attend it, and to participate in the discussions it will generate. If we do not now give some attention to this controversy, we will shortly find that it has passed us by while we were wondering what has happened.

Mr. President, I ask unanimous consent that a press release issued by the National Legal Center for the Public Interest be printed in the RECORD, along with the complete program for the conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESS RELEASE

WASHINGTON, D.C., September 26.—Dr. Ernest Van Den Haag, the noted author, educator and sociologist, will be the feature speaker at the Friday evening dinner during the two-day conference on the "The Role of the Judiciary In A Democratic Society" on September 30–October 1 in Washington, D.C.

Sponsored by the National Legal Center for the Public Interest, the Conference is the first ever convened to examine the unique role of the judiciary in the American political system. Outstanding jurists, academicians, journalists, lawyers and scholars will be in attendance.

Dr. Van Den Haag will address participants on the topic: "The Judiciary and the Protection of Society."

Dr. Van Den Haag has been a teacher and lecturer at City College and Brooklyn College in New York; at the Universities of Colorado and Minnesota. He has lectured at the University of California-Berkeley, Columbia, Yale and Harvard. He is currently Adjunct Professor of Social Philosophy at New York University and Visiting Professor of Political Science at Queens College of the City University of New York.

A well-known author, Dr. Van Den Haag has written in a wide variety of fields, and his works include: "The Fabric of Society" (1957); "Passion and Social Constraint" (1963); "Political Violence and Civil Disobedience" (1972).

The NLCPI Conference is at the Georgetown University Law Center, 600 New Jersey Ave., NW.

CONFERENCE SCHEDULE

Friday, September 30, 1977

REGISTRATION

Welcoming Remarks: J. Robert Fluor, Chairman, NLCPI; Chairman, Fluor Corporation.

Introduction: Leonard J. Theberge, President, NLCPI.

Panel I

Moderator: Charles F. Barber, Chairman, ASARCO, Incorporated.

Speaker: Professor Walter Berns, Department of Political Science, University of Toronto, "The Least Dangerous Branch, But Only If . . ."

Commentators: Robert Goldwin, American Enterprise Institute; Rita Hauser, Esquire, Stroock & Stroock & Lavan, New York; Professor Philip Kurland, University of Chicago School of Law; and Hon. Charles Renfrew, United States District Court, Northern District of California.

LUNCH

Panel II

Moderator: Hon. Wilbur F. Pell, Jr., U.S. Court of Appeals, Seventh Circuit.

Speakers: Professor Nathan Glazer, Department of Sociology, Harvard University, "The Judiciary and Social Policy"; Professor Ralph Winter, Yale University School of Law, "The Growth of Judicial Power."

Commentators: Professor Kent Greenawalt, Columbia University School of Law, Max M. Kampelman, Esquire, Fried, Frank Harris, Shriver & Kampelman, Washington, D.C.; Professor Herbert Storing, Department of Political Science, University of Chicago; Professor Robert G. Dixon, Jr., Washington University School of Law.

OPEN DISCUSSION

Reception—Dinner

Dinner Speaker: Dr. Ernest Van Der Haag.

Saturday, October 1, 1977

Panel III

Moderator: Hon. Malcolm Wilkey, U.S. Court of Appeals, District of Columbia.

Speakers: John W. Finley, Jr., Esquire, Brashich & Finley, New York, "The Courts and Affirmative Action"; Michael Uhlmann, Esquire, former Assistant Attorney General, U.S. Department of Justice, "The Judiciary and Political Representation."

Commentators: Robert Bork, Esquire, American Enterprise Institute, former U.S. Solicitor General; Professor Steven Schlesinger, Department of Political Science, Rutgers University; Professor Jan Vetter, University of California, Berkeley School of Law.

LUNCH

Panel IV

Moderator: Frank H. Morison, Esquire, Holland and Hart, Denver.

Speakers: Edith Efron, author and columnist, "The Law and Product Bans"; L. Manning Muntzing, Esquire, Doub, Purcell, Muntzing & Hansen, Washington, D.C., "The Courts and Energy Policy"; Arch Puddington, Executive Director, League for Industrial Democracy, "The Economic Impact of Recent Judicial Decisions."

Commentators: James G. O'Hara(Esquire, Patton, Boggs & Blow, Washington, D.C.; Suzanne Weaver, Editorial Writer, The Wall Street Journal; Hon. Myron H. Bright, U.S. Court of Appeals, Eighth District.

NATIONAL WATER POLICY

Mr. McGOVERN. Mr. President, in his environmental message of May 23, the President called for the creation of a "national water resources management policy."

To accomplish that goal, the Water Resources Council, the Office of Management and Budget and the Council on Environmental Quality were directed to review existing water resource policy and recommend reforms within 6 months.

Field hearings have been held and the Policy Committee of the Water Resources Council will shortly begin their deliberations to finalize the recommendations to be submitted to the President.

Issue and option papers on the dimensions of the President's proposal appeared in the Federal Register of July 15 and July 25, 1977. In my view there has been insufficient time for public comment on what realistically amounts to a major change in national water policy.

Hopefully, through the Congress next year there will be a full and fair opportunity for everyone to be heard.

I believe it is important that every citizen who is concerned on water development and policy participate in this national discussion.

Mr. President, I ask unanimous consent that my statement to the Water Resources Council be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GEORGE MCGOVERN

I am pleased to have this opportunity to respond to the invitation of the Water Resources Council—acting in concert with the Office of Management and Budget and the Council on Environmental Quality—to provide comments under the Presidential directive to develop a "national water resources management policy".

My comments, while submitted directly to WRC, should be made a part of the record submitted by the Missouri River Basin Commission States and principally involve water related issues that are present in the MRBC area.

It has been instructive to note the "Issue and Option Papers" appearing in the Federal Register of July 15th and 25th, 1977, as well as the various public comments by the President, Secretary of Interior and others on the basic challenge for water resource planning.

While I welcome this Administration's strong focus on revision of our National water policy, a case can be made that the timeframe for these hearings and comment from the public and private sectors is unnecessarily abbreviated, allowing insufficient time for studied response. I believe, however, this problem can be overcome once the President presents his proposals, based on this review, to the Congress for a more thorough review. Organizations in both the public and private sector should have an additional opportunity for comment on the final proposals through the Congressional hearing process—and through their own Members of Congress.

If similar, more studied local reviews take place upon Congressional initiative, I believe the Congress can present the President with the full-range of comment I believe he wants and his proposals need. I am confident that together the President and the Congress can carry out the great task this Administration has begun. It is a welcome and overdue task we are beginning together.

It is logical to require that plans for the use of water resources be prepared, kept up-to-date and implemented. However, I find

three primary faults in Federal planning to date. First, they are excessively detailed and rigid. As a result we have a second problem, the plans are either not implemented or are put into action so slowly that they are obsolete by the time the plans come off the shelf. Finally, the agencies involved are often at odds with one another in their approaches to particular plans. It becomes very difficult to resolve these problems and differences on the local level and to implement a particular plan. Hopefully, a comprehensive approach to water resource management to meet today's and future standards will help overcome these problems.

To avoid these difficulties, the longer range comprehensive water use policy should focus to a maximum degree on administrative policies and intergovernmental procedures, including guidelines on the sharing of costs; on the general shape of planned programs; and on a "bank" of proposed alternative actions. This includes structural management measures, which may be drawn upon as needs arise. Such a broad flexible plan should be accompanied by a specific "program" drawn up for a short-term period of years, stating specifics of the projects and measures to be undertaken during that period and in approximate time priority. Such a program could well be reviewed annually.

There will still be an on-going requirement for a substantive amount of conceptual development, organization and education in both the public and private sector. In general, the public is still regrettably uninformed on the various essential aspects of water resources development and water utilization.

The Executive agencies involved in carrying out water resource development are fragmented in their responsibilities. In working with my constituents, it is all we can do to assist them in winding their way through the maze involved in attempting to implement water resource developments, no matter what their scope.

It is incumbent upon these same Executive agencies to work more cooperatively with one another, first, and then to conduct closer liaison not only with Congress, but with states, local people, and regional entities as well. Whether the agencies are the actual architects of a particular type of development or agencies which will affect those developments, they must convey information to those affected in order for them to evolve local developments efficiently and comprehensively.

With these factors in mind, I would like to comment on the five areas surfaced by WRC which will serve as the basis for the Policy Committee's review:

1. *Revision of Water Resources Planning and Evaluation Criteria and Procedures:*

The growth of the western United States has been predicated to a large degree on the availability of water. Concentrations of population have not, however, necessarily developed in direct adjacency to natural river courses or subsurface water resources. It has been the practice in the past—and the Colorado River is perhaps a prime national example—to move water to the people, rather than to encourage the people to settle near the water.

The structural response to these water requirements is everywhere in evidence in the far West; based on early plans and development shortly after the turn of the century.

It is certainly true, that the impoundment, channelization and transfer of water does not increase the net total of water available, but it does bring it to the point of need, rather than permitting it to flow unused to its terminal or merger point.

It is not necessary here to recite the complex array of economic, political, social, and related pressures that have been brought to bear on water development; but it is sufficient to note that it has been a complicated procedure at best that has not developed in accordance with any realization that water would be in short supply.

Unlike specific energy sources where some alternatives may be available, there is no substitute for water.

In order to meet these perceived needs for water transferral, the U.S. Army Corps of Engineers and the Bureau of Reclamation, in cooperation with the Congress, evolved a system of study and Congressional review of various developmental opportunities. As a criteria for determining the "merit" of a given proposal, the benefit/cost (b/c) ratio was conceived. The b/c ratio standard, however, is not a precise measurement and is susceptible to unwarranted tinkering by assigning a greater weight to secondary values or peripheral benefits when the agency wants to construct a given project, or the downgrading of primary benefits in relation to cost when the agency is disposed against a particular water development proposal. This has created a substantial inter-play between and among Federal agencies, and Congress, state and local interest, environmental groups and others on individual projects. The b/c ratio standard, if continued, needs to be substantively revised with specific guidelines and criteria than can be universally applied and checked by others than those who initiate and promote a specific project.

In light of this Administration's review of water projects, the failure of Teton Dam, and the influence of the environmental movement's activism, I believe two more elements suggest themselves for weighing by the Congress before authorization of any future project. These elements are environmental impact and safety.

These two elements are not easily quantified using mathematical formulas, but I believe the need for some sort of quantification exists for review purposes.

As things stand, the Congress is portrayed as insensitive when it authorizes projects according to economic criteria and local support alone. These authorized projects are often later held up because of litigation dealing with environmental and safety questions. We must devise a method of bringing these increasingly important criteria to the front of the authorization process.

I do not propose that a full environmental and safety analysis be prepared. That analysis should come on the heels of preparation of definite plans as it does now. But if enough of a plan exists prior to authorization to allow economic analysis, then enough plan exists to allow some degree of environmental and safety analysis. All three factors can then be weighed during the congressional review process.

The most recent example in the Upper Missouri Basin that underscores these multiple problems is the consideration this year of the Public Works Appropriations Bill for FY/78.

Under the Pick/Sloan (Flood Control) of 1944, the Oahe Irrigation Project in South Dakota and the Garrison Diversion Unit in North Dakota were conceived together as part of the benefit that these up-stream water storage states would derive from the utilization of substantial amounts of land for the Missouri River impoundments. These dams and their associated reservoirs were basically constructed to provide flood control for down-stream states, assure a year-round source of navigational water, and to provide hydro-electric power generation. The first phase of that Act has been completed, but up-stream development remains.

There are few projects that are as similar as Oahe and Garrison. Despite this similarity, however, the Congress funded, and the President approved, only Garrison for FY/78, leaving Oahe with no appropriated monies. If there is substance to the argument that projects should proceed on their merits, then it is difficult to square that view with the position taken by the Administration and the Congress in relation to 1977 action on these two projects. This certainly brings into sharp focus the need for more definite and certain policy on project development.

The troubles the Garrison and Oahe projects face when they are discussed in Washington are due to local opposition, either by local farming interests or environmental interests on a local or national scale. The story we hear in Washington is that the operating Federal agency, the Bureau of Reclamation, appear inflexible concerning project design and construction, and in adequately addressing environmental concerns. While I believe the Bureau is making an effort to be flexible in both areas, there is an obvious need for improvement. However, I believe part of the problem is time.

Both projects indicate the absolute necessity of faster implementation once projects of this nature are authorized. How can we expect projects designed 25 years prior to the start of construction to meet today's standards? How can these designs incorporate sufficient flexibility to allow them to conform to changing standards not even envisioned at the time of their planning? If these problems are to be avoided with similar projects in the future, then we must incorporate the new standards I have suggested in the Congressional review process.

These two projects problems are sympathetic of the frustrating nature of today's problems in water resource development. In their way, these projects point the direction we must take in the future as we review our National water policies and standards.

Beyond this, however, there is a need to bring water resources planning under control and relate it to not only state and local requirements, but also coordinate it with river basin and inter-basin systems. The 'first in time—first in line' idea of water utilization needs to be reviewed. Subsequently, identified water needs may well take precedence over earlier water withdrawal patterns. Unfortunately, much of this has been looked into state and federal law and will be difficult to change in the absence of a well defined national consensus to do so.

2. *Cost Sharing for Federal Projects:*

The present policy envisions federal financing for major water development with pay-back features projected into the future predicated on project use. Revenues from hydro-electric power generation, irrigation contracts and assigned "values" for municipal and industrial water along with fish and wildlife benefits are factored into a complex formula that—over time—envisions a return of the federal investment.

Had such a policy not been in place, it is unlikely that most of the existing and operating projects—such as the great dams on the Missouri River—could have been built.

In an inflationary period, this procedure has not been as satisfactory as one might hope. Even as basic project costs are revised upward as a result of inflation so too are the payback provisions benefitted by return inflated dollars to the treasury to replace earlier expenditures of "higher cost" dollars.

A case can be made for more state and local financial participation in a project during its construction and early operational phases. It should be noted, however, that such a procedure will, in a sense, transfer indebtedness from the Federal government to State government and its subdivisions. While this may be desirable from a Federal budgetary viewpoint, it is certainly open to question on the merits in terms of the already heavy obligations carried by most states, municipalities and re-

lated entities. This is especially true when one notes the relatively limited tax base available for this kind of development in a local or state context as compared with the Federal government. It is difficult, also, to envision a firm national policy on this matter which would be equitable for all sections of the country. As noted previously, the structural response to water supply needs in many states has been completed, but in other areas, such as South Dakota, we have yet to maximize our utilization of the Missouri River or other water sources to the extent that is necessary to meet in-state requirements.

A mandatory policy of substantive state and local financial participation before a project becomes operational would probably preclude any further water development in South Dakota and certain other states of the kind that circumstances require.

Cost sharing, while acceptable in the abstract, must be based on a policy that takes into account the financial resources available in a given jurisdiction. Flexibility must be the key factor in any adjustment in the present program.

3. *Institutions and Institutional Arrangements:*

The multiplicity of Federal, regional, state and local entities involved in water policy planning, project development and related water uses almost defies description—and certainly is not understandable to anyone other than professional water planners. No one seriously suggests that the present situation can be allowed to continue if we are to have a truly national policy on water utilization and development that is responsive to current and future needs.

It would be an error, in my view, to attempt to find a way through existing institutional and administrative arrangements to implement any new water plan. Instead, the Administration should develop a 'uniform water code' which can be adopted by the several states under the well defined Federal guidelines.

Such a code should be sensitive to the over-all thrust of national policy on water utilization, but permit substantive latitude within individual states and river basins. Water development should have its beginning locally, as it does now in many cases, and not be dictated by those frequently far removed from local problems and conditions.

Water planning should be simplified and structured to respond to local interests so that a proposal, once conceived, can be promptly evaluated and an early decision reached. The specific and total water needs of a given area should be factored into water availability. Non-structural alternatives should be considered where feasible and the full utilization of other projects should be evaluated in meeting needs outside the immediate project area. The governmental and administrative mechanisms to accomplish the desired goals should be flexible enough to meet any perceived needs, but definite enough to provide an easily understood conduit for information and a timetable for the decision process at each stage of the project consideration.

It should be as flexible as possible to permit on-going changes in any development as needs change during the construction life of the project.

The failure of our present institutional arrangements to evolve a workable and pragmatic approach to problems of water supply is nowhere in more evidence than it is in the application of existing law and regulation to the efforts by smaller communities to bring themselves into compliance with environmental concerns on water quality.

Let me cite the experience we have had in South Dakota, where small towns, some of only 100 or several hundred people, have been told by EPA to upgrade their waste-water treatment and/or discharge practices. Yet these towns have been frustrated at every turn in locating sites which are environmentally sound and yet financially possible.

One very small town in northeastern South Dakota was discharging sewage into a wildlife refuge lake. In 1966, they began the long journey toward modernizing their system. That project, just completed this summer, hit every bureaucratic snag conceivable. The climax occurred when the site they chose for a small 6-acre stabilization pond was challenged by the Fish and Wildlife Service as a wetland and therefore untouchable for this purpose.

This was a gravity flow system—certainly what a town of 200 people would choose. There were 10 other wetlands in the same square mile, 571 in the township and 6,574 in the county. The 120-acre wildlife refuge lake which they were polluting was near the six-acre site. They were told by personnel of the Fish and Wildlife Service that they should go across the road on a hill and dig their pond. The townspeople rightfully saw this as ludicrous. It would have taken productive farmland, it would have required a lift station and fulltime maintenance, would have increased the cost of the project by 25% plus the cost of the land and, what they all knew, the six-acres in the wetland did not have a high record of attracting wildlife.

Regulations on the National Environmental Policy Act of 1969 stated that if an EPA action (grants for sewer projects) may affect wetlands, the responsible official shall consult with the appropriate offices of the Department of Interior and Corps of Engineers during the environmental review to determine the probable impact of the action on the pertinent fish and wildlife resources and land use of these areas.

Also, an environmental impact statement will be prepared when any major part of the treatment works will be located on productive wetlands or will have significant adverse effects on wetlands, including secondary effects.

We also have Executive Orders which instruct all agencies of the federal government to evaluate their actions to strive for minimum energy needs and minimum inflation features.

All these were violated in the attempt to prevent this small town from using the six-acre wetland.

Had this been the only instance of an agency wearing blinders, it still would have been a remarkable case. However, small towns across our state are running into this attitude that it is sufficient to identify a wetland not necessary to evaluate it in terms of the surrounding environment and against the existing pollution.

Our experience with EPA has been that most often they have been willing to evaluate a situation from all perspectives—what is the town's problem? What environmental damage are they currently causing? What risk to the health of their citizens are they currently taking? What are the relative merits—financial and environmental—of each proposed site? What can this town afford to do which will cause the least environmental damage?

Fish and Wildlife most often says: "We will tolerate no environmental damage and we don't care what that leaves you."

I am not environmentally insensitive and fully support the concept that treatment facilities should not be built on locations which degrade the environment. But any responsible person must then ask: What environmental damage are they causing now? And how much can they and the federal government afford to get out of it?

The environment includes people too. Any agency which has the power to block needed development and interprets its mandate in a narrow and self-serving manner, is not acting in the public interest.

All federal programs should enhance the possibilities for people to have basic services to improve the quality of life in rural and urban areas. But when it takes a small town ten years to finance and construct a basically simple sewer project it makes us wonder just how helpful the federal government really is.

The language in the 1969 National Environmental Policy Act is still valid. The Act seeks to maintain conditions under which man and nature can exist in productive harmony and fulfill the social economic and other needs of present and future generations. In many respects, the spirit of that Act and the Congressional Intent evident in its enactment have been frustrated by federal agencies who have interpreted their responsibilities under the Act to mean representation of a specific and identified constituency. This practice all too often leaves the public interest far behind.

4. *Indian Water Rights and Federal-Reserved Water Rights:*

The water rights of Indian people, both as individuals and as tribal entities, have not been handled in a way that reflects credit on the federal government or other water policy planners.

Indian water utilization has suffered from the general lack of economic activity on the Reservations. In the interim, other water users have, to some extent obligated water that might, under a more equitable policy, have been reserved for Indian use.

Some effort has been made to quantify Indian water rights, but this has met with opposition from some Indian leaders and others who make the case the Indians should be allowed to withdraw water on the basis of present and future needs; rather than on some predetermined formula.

It is not my purpose here to set out a finalized Indian water rights policy, but rather to suggest that more discussion and consultation is needed if this matter is to be settled in a mutually satisfactory way. The elements of compromise of the difficult and interlocking legal and supply problems do not appear to be present at this time. But it certainly must be the policy of the Federal government to vigorously pursue the options that may be available.

It is clear that the Federal Government has proceeded in the past on the basis of its 'title' to waters impounded as a result of federal projects and/or waters that develop on public lands. The Memorandum of Understanding, between the Secretaries of Army and Interior relative to marketing of reservoir waters in the upper Missouri Basin left little doubt as to 'whose water' is involved. There needs to be a more exact definition of Federal waters, and, to the extent possible, these need to be quantified as to availability so that state and regional water planners can determine what withdrawal rates can be requested without doing violence to overall River Basin demands for water utilization. I would favor returning to the Regions and the States as much control over water stored and generated within their respective boundaries as possible and in keeping with over-all national water guidelines as to withdrawal and use. There needs to be a more closely defined use pattern of Federal waters to determine what uses can be met and still return water into the system. As an example, hydroelectric power is a non-consumptive use; whereas removal of water from a given water course for irrigation, municipal or industrial use makes varying demands on total water availability within a given river system. The Federal interest should be maintained within the framework of the identified national interest, but to the extent that may be excess to demand, control should be returned to regional and state jurisdiction.

5. *Water Conservation:*

At the present time, the value of water is negligible. The price of water at the irrigation head gate, the power plant or the faucet is realistically no more than the cost of the storage and distribution system required to bring it to the point of use.

As demand for water exceeds the supply, however, it is apparent that consumptive use—and conservation—can only be achieved by the assignment of an economic value to the water itself.

In addition, of course, the concept that a heavy water user qualifies for a lower rate must be reversed. Manufacturers of water related appliances and fixtures must be encouraged or required to provide built-in devices to minimize the amount of water utilized.

Estimates vary, but it is safe to say that upwards of 30% of the total water used in this country is wasted based on outdated technologies, ignorance about the finiteness of our usable water supply and a general insensitivity to our individual and collective impact on total water availability. A great deal more needs to be done to educate the public on the dimensions of water supplies. In some water-short areas of the west, for example, public understanding of limited water supplies can result in substantive savings.

More attention must be given to recycled water use. We are presently using an irrational water flow principle rather than a natural water recycling concept that could ultimately increase the actual amount of water that is available.

I am encouraged to believe that with more public awareness of the need for conservation and the problems involved—that individually and collectively we can substantially improve our water supply situation.

Conclusion:

Water is an essential part of our life support system. We have not always used it wisely or well in the past, but circumstances demand that we do so in the future.

We can no longer regard water as a limitless resource. As is the case with energy, water is becoming in shorter supply and the distribution mechanisms are becoming more expensive.

We cannot continue as we are now in terms of water development, but neither can we afford to remain in a static position in terms of transferral systems to move water from storage points to areas of need. Some accommodation will be required and all parties of interest will find the need to compromise on their original views and conclusions. This is not an easy task in view of the historic perception of water utilization, but it is vitally necessary if this country is to continue to grow and prosper.

I am convinced that a national water policy can be developed to meet our needs and to insure that there is water available for everyone. This may ultimately require some adjustment in population growth patterns and some aspects of our individual life styles. The realization of the limitation of water supplies is an important ingredient in our overall understanding of resource policy and the need to deal with the realities of our nation's present and future.

THE SOUTHWEST MINNESOTA LAKE IMPROVEMENT ASSOCIATION

Mr. ANDERSON. Mr. President, one of the more important sections of the Clean Water Act of 1977 that the Senate passed on August 4, 1977, was the amendments to section 314, the clean lakes program. The Senate provided additional direction to EPA on the implementation of lake restoration projects around this country and authorized an additional $500 million for the program.

I believe the language of the Environment and Public Works Committee report on the clean lakes program is particularly appropriate to recall at this time and I ask unanimous consent that that section of report 95–370 be printed in the RECORD at this point.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

CLEAN LAKES

SUMMARY

This section amends section 314 by requiring the Administrator to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biannually information to the States on methods and procedures to restore and enhance freshwater lakes. Section 314 is further amended to authorize $450 million for fiscal years 1978, 1979, and 1980 for the ocean lakes program.

DISCUSSION

The 1972 act recognized the urgent need for a lake improvement program to restore the significant number of the Nation's 95,000 freshwater lakes that were in eutrophic and deteriorated conditions. The clean lakes program was conceived to respond to this problem: $100 million was authorized for lake pollution research; $350 million for grants for restoration and improvement projects on lakes throughout the country.

In the 5 years since Public Law 92–500 went into effect, lake restoration programs essentially have not even begun. Only 15 percent of the 95,000 freshwater lakes in this country have been investigated pursuant to section 314. The EPA has not requested any of the research funds authorized for lake pollution. Previous administrations never once requested funds for the clean lakes program. Only $40.3 million has been appropriated since fiscal 1975. Even of those inadequate funds appropriated through fiscal year 1977, the EPA has allocated only $19 million. With tens of thousands of lakes warranting the use of clean lakes project grants, the EPA has only funded 54 projects to date.

The committee hearing record clearly demonstrates that there is a great interest in lake areas in the restoration and preservation of degraded freshwater lakes, that the clean lakes grants that have been made have had some impact and that additional research and demonstration efforts are necessary so as to successfully implement clean lakes projects, especially in urban areas.

The committee believes that the basic structure of 314 is adequate. The amendments are technical in nature and intended to correct two inadequacies of the program. First, the Administrator is directed to provide the States with financial assistance to survey lakes to determine their condition. The lake surveys are the first step to a successful lake restoration program. Pursuant to this amendment and funds available therefrom to the States, all States should have the capability to initiate lake surveys to determine the priority lakes for restoration projects.

Second, the Administrator is directed to biannually issue to the States information on the state of the art of lake restoration techniques and practices. The committee believes publication of this material is necessary on a regular basis and this amendment so provides.

The provision authorizes $450 million for the clean lakes program for fiscal years 1978–80. The committee believes this authorization represents a level of effort that reflects the expectations of the Congress for this program, recognizing that the problem of lake eutrophication and deterioration nationwide far exceeds even this authorization level.

The committee is hopeful that the new administration will act to make lake restoration a key element of the EPA's water pollution control program contrary to the EPA's implementation of this section to date.

Finally, the committee intends in subsequent legislation to be reported to the Senate to provide additional authorizations for lake pollution research.

Mr. ANDERSON. Mr. President, examples of freshwater lakes in need of restoration are continually brought to my attention. On September 16, 1977, the Minneapolis Tribune reported on the efforts of Mr. Pete Kooiman of Slayton, Minn., and other members of the Southwest Minnesota Lake Improvement Association to fight lake pollution in the Southeastern part of my State. With the relatively small number of lakes in that area of Minnesota, the restoration of polluted and eutrophied shallow lakes is particularly important to provide recreational opportunities for the citizens of the area.

Mr. President, the Tribune article, "Wading Back Into Swamps May Cut Lake Pollution," is a very informative commentary on the problems of lake pollution, that the clean lakes program of the Clean Water Act is designed to combat. I am hopeful that the expanded clean lakes program authorized in S. 1952, will be accepted by the House of Representatives and be then available to help Mr. Kooiman and his friends as they work to restore Lakes Shetek, Heron, Wilson, Maria, and Long Lake for the future enjoyment of themselves, their friends, and their children and grandchildren.

Mr. President, I ask unanimous consent that the article by Minneapolis Tribune Reporter Tom Hamburger of September 16, 1977, "Wading Back Into Swamps May Cut Lake Pollution," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WADING BACK INTO SWAMPS MAY CUT LAKE POLLUTION

(By Tom Hamburger)

SLAYTON, MINN.—Pete Kooiman, a farmer and drainage contractor, has spent much of his life draining swamp and wetland areas in southwest Minnesota. Now he's pushing to create marshes.

Kooiman is part of an organization looking at the redevelopment of marshes in southwestern Minnesota to halt lake pollution. And he's urging the organization to get farmers and feedlot operators to change their land-management practices to prevent nutrients and soil runoff from flowing into the area's dying lakes.

Lakes in southwest Minnesota have needed help for some time. But until early this year when Kooiman and a dozen others got together, there never was an organization to protect them.

That organization was formed none too soon.

Several lakes in the area have already died. Their bottoms have filled with farm soil. The fertilizer, soil and human and animal wastes that flowed into them caused a boom in the growth of algae and other aquatic plants. Shallow fishing lakes like Heron, Wilson, Maria and others have become unsuitable for humans and most fish in recent decades, according to Michael Sobota, regional planner with the Southwest

Regional Development Commission. Only the carp population is booming.

When 3,600-acre Lake Shetek, the largest in southwest Minnesota, showed signs that it too might die, action began. Shetek is the most important recreation center of southwest Minnesota, the region of the state with the fewest lakes and the fewest areas left in their natural condition.

"Southwest Minnesota has only 1.9 percent of natural environment land while there is 19.3 per cent in the Twin Cities," said Sobota. Naturally, the lake is an important recreation area, drawing tourists from several states.

Precisely because of its location, it is in danger of being destroyed.

Shetek's watershed has one of the highest feedlot concentrations in the state, according to Sobota, and it is surrounded by agricultural land. The effects of farming, combined with heavy recreational use, have created serious problems.

The shallow lake—it's only 10.5 feet at its deepest point—is getting shallower at the rate of .4 of an inch a year as the area's unusually fine soil flows from the farmland into the lake.

As the lake gets shallower, it warms up, encouraging algae growth already spurred by the high nutrient content from cattle manure fertilizer and human waste. Swimming has never been restricted at Shetek, but residents became alarmed that if conditions persisted, it could be.

As the lake was becoming increasingly gummy from algae growth in the summers, folks who made their money from the lake, and those who enjoyed it, began talking last year about the need for action.

Lake improvement is a touchy subject in the rolling, rich prairie farm land. Farmers and feedlot operators don't want to change their farming practices. Attempts to discuss restrictions on their activities in the past have met with angry refusals.

But the Southwest Minnesota Lake Improvement Association is having some success. It's finding support from a cross section of the region's population, including farmers, probably because the organization has skirted the issues of runoff and feedlot control.

It has concentrated on a novel approach that everyone can endorse: The development of marshes to control pollution.

The organization has hired a contractor to study the idea and is preparing an educational package to present to county commissioners.

The creation of marshes, or sediment basins, at key locations around the lake would provide a natural filtering system for water feeding into the lake, according to Sobota.

The marsh would catch pollutants before they enter the lake. It would use up the large supply of nutrients that is causing the algal bloom, which turns lakes like Shetek green and smelly by midsummer.

The marshes would slow the water running into the lake enough so that soil, manure and chemical pollutants could settle out before the water reached the lake. The nutrients would be absorbed by the heavy marsh plant growth.

One of the areas being considered for development of a marsh to protect Lake Shetek is Long Lake, a small lake that flows directly into Shetek. Long Lake has already suffered eutrophication (becoming too rich in nutrients). It is surrounded by grazing land and cattle can often be seen standing in the lake.

Sobota said the association will likely recommend that Long Lake be drained, permitting cattails and other reeds to develop. The lake would then be refilled and the marsh filtration process could begin.

In recent years scientists have begun to realize the importance of marshland in controlling sedimentation and pollution of area lakes. Minnesota tightened its regulations controlling destruction of marshland in 1973, and experiments with creation of marshes are beginning across the country.

Officials of the state Department of Natural Resources say the Lake Shetek proposal is probably the most extensive in the state's history. The idea has also caught the interest of DNR employees interested in establishing wildlife management areas on the newly created marshes.

Where the money for the marsh project will come from is uncertain, Sobota said. The association hopes to apply for federal funds when an engineers' report on the project is complete. No cost estimate for the project was available, Sobota said. He said he hopes the DNR might come up with funds.

"DNR people are interested in establishing wildlife management areas here, where agricultural management practices have depleted most natural vegetation," Sobota said. "DNR is looking at areas like Long Lake that would increase vegetation. It's a bald lake now."

The association is interested in expanding from Lake Shetek to other lakes, the members say. "We decided to concentrate efforts on Shetek," Sobota said, "because there were studies done on the lake and because it's such an important regional resource."

Kooiman thinks that ideas like the marshland proposal will instruct farmers and others that efforts to clean up the lake need not threaten their livelihoods.

If we can show farmers how easy it is to eliminate the problem," he said, "I think we can solve this."

"STARLAWS AND SPACELAWYERS"—REMARKS BY SENATOR HARRISON SCHMITT

Mr. STEVENSON. Mr. President, my distinguished colleague Senator HARRISON SCHMITT, who serves as ranking minority member of the Subcommittee on Science, Technology and Space, recently presented a speech to the American Bar Association, entitled "Starlaw and the Enterprise." In his speech, Senator SCHMITT emphasized the need for "starlaws" to meet demands of future exploration of our space environment and the space resources that will soon become available to us. He envisions numerous legal and regulatory problems arising from our continued space exploration which must be dealt with by spacelawyers and a judicial system geared to our interactions in a changing space environment. I commend him for his forsight in probing this dimension of the space frontier. I urge my colleagues to read and ponder Senator SCHMITT's remarks.

I ask unanimous consent that the text of Senator SCHMITT's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STARLAW AND THE ENTERPRISE

(By Senator Harrison Schmitt)

The Space Shuttle Enterprise flies alone in a few days; the first major milestone in our leap from Apollo to Star Trek. The explorers of the near frontier of Earth have passed; the pioneers have arrived; civilization and "starlaw" will soon follow.

Compressed into one decade of activity in space, history has seen the equivalent of two centuries of exploration of the great American West. History is not in the habit of waiting for us to proceed further; history is proceeding with or without us in a rather impersonal way. Nations traditionally have some difficulty in recognizing or remembering this fact until events suddenly indicate, in no uncertain way, that it is time to move or be left behind.

We have been more than just part of history during the past decade; we have been part of evolution. By the use of his mind, man has made evolution through technology historically equivalent to biological evolution. By constructing a shield for life around himself, man has made the universe an accessible part of his environment.

The evolution of man into space has opened new opportunities for us and for all men. There are now new resources, in the broadest sense of that word, which never before have been available to mankind. These resources are available for research, for manufacturing, and possibly most importantly, for service to our fellow man. One of the major questions before the nation, as I see it, is whether or not we of this generation will continue to develop our technological capability to use these new resources. The answers to this question lie within the limits of our imagination. The first movements into space, which culminated in Apollo, catalyzed our imagination. Skylab gave direction to our imagination. The Space Shuttle now gives licenso to our imagination.

The Space Shuttle is the first major step in a positive answer to the question of our space future. Once the Space Shuttle exists, that is, when we have relatively economical and convenient access to the near-Earth space environment, then imaginative use of that environment becomes possible. To evaluate the benefits of the Space Shuttle to this and future generations, let us look first at the nature of our new space resources.

The resources of near-Earth space are basically three in number: 1) instantaneous and continuous view of the Earth, the sun, and of deep space; 2) an infinite quantity of clean; ultrahigh vacuum; and 3) a weightless environment, that is, an environment free of gravitational stress.

An instantaneous and continuous view of the Earth and its total environment makes possible a wide spectrum of space activities. Observatories become possible from which research and services in meteorology, oceanography, geology, and environment can be conducted and from which broad-scale explorations for new terrestrial resources can be carried out. Man's application of his eyes and mind to the direction of old and new remote sensing systems has presently unlimited potential.

Starlawyers must quickly come to grips with the implications of this new view of Earth. Litigation involving a wide variety of problems concerning weather, ocean, land and environment will have increasingly new and potentially definitive evidence with which to deal. Knowledge of the distribution of earth and ocean resources will become general knowledge with increased complexity for international and anti-trust litigation.

The sun remains the major contributor to the stability and the changes of our magnetic atmospheric, oceanic, and biological environments. However, our knowledge of how the sun's energy and magnetism influence changes in our environment is extremely limited. A continuous view of the sun outside the shielding effects of the Earth's atmosphere first will allow attempts at understanding processes taking place on and in the sun and the nature of their interactions with the Earth. Then, eventually this view will allow efforts to forecast and protect against, or take advantage of, the effects of these interactions.

As our understanding of the detailed nature of the interaction between Sun and Earth increases, so will our ability to monitor and assign blame or credit for changes in that interaction. As we work to expand the limits within which mankind can survive and prosper on Earth, so must we develop the technical and legal means to monitor the global effects of this expansion. For a case in point, we need look only as far as the controversy over the effect of fluorocarbons on the ozone in the ionosphere and in turn, its effects on the incidence of skin cancer.

The continuous view of the sun from near-Earth space offers another potentially great resource. Our short-term energy problem is that of producing more fossil fuel, whereas our long-term problem is the conversion of a society dependent on fossil fuels to one where fossil fuels are a minor source of energy. Solar power stations in space are some of many potentially feasible alternatives to fossil fuels, alternatives that we as a nation must develop soon.

There are numerous legal and regulatory questions that arise when one contemplates solar power systems in synchonous orbit around the Earth. How do we establish national and/or international rates for the power generated and transmitted to receiving points on Earth? As more and more men and women work in space stations like this, what laws and judicial system will govern their inter-relationships?

One of man's greatest sources of intellectual strength and scientific vitality is in his continued observations of the universe and his attempts to understand the stars and interstellar space. The greatest discoveries of the future probably lie in investigations of stellar and interstellar phenomena. The nature of gravity; the origin of planets; the limits on our ability to manipulate matter, energy, and time; and our future as explorers of the universe are all issues at stake.

One of the major limitations to experimentation and manufacturing in many areas of physics and chemistry is the difficulty in creating and maintaining clean, ultrahigh vacuums in large volumes. The existence and accessibility of such a vacuum and high pumping rates in near-Earth space open new dimensions to the study and use of physical and chemical theory.

The continuous absence of gravitational stress, that is, weightlessness, provides a unique experimental and practical environment heretofore unavailable to man. Extensive experimentation and manufacturing never before have been possible where convection does not exist, where containers for fluids are not required, and where unconstrained crystal or biological growth can occur.

Possibly the most urgent area of Starlaw that requires attention is the extension of medical, corporate and patent law to cover the infinite range of treatment, research and industrial activities that will soon begin in space. Precedents are being set which may not be in the right direction either with respect to the interests of business, the interests of future consumers, or the interests of our country.

In spite of the obvious limitations on our ability to have all that would be useful all at once, the Space Shuttle will allow us to bring the benefits of our new space resources to more and more of mankind. Our obligation to the present and to the future is to move with all deliberate speed into the new era and into the Earth's frontier now open before us. Now is the time for Starlaw to be born and take its permanent place in the history of society. As we consider our national and international priorities, I hope that we find the compassion and wisdom to survive the present, but I also hope that we find the imagination and wisdom to see the future.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, today the Committee on Foreign Relations began an extension series of hearings to consider the Panama Canal treaties. Today the committee heard testimony from Secretary of State Cyrus Vance and our two negotiators for the treaties, Ambassador Ellsworth Bunker and Mr. Sol M. Linowitz.

I ask unanimous consent that the statements of each be printed in the RECORD. I believe that these statements will be of interest to my colleagues and other readers of the RECORD, in view of the intense interest in the treaties.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SECRETARY OF STATE CYRUS R. VANCE ON THE PANAMA CANAL TREATIES

Mr. Chairman, Members of the Committee:

Today I seek your support for new treaties governing the Panama Canal.

First, these treaties protect and advance the national interests of both the United States and Panama.

Second, they provide for an open, neutral, secure and efficiently operated Canal for this hemisphere, and for other nations throughout the world.

And third, they will promote constructive and positive relationships between the United States and other nations in this hemisphere.

These treaties, in my judgment, will gain us respect among other nations of the world—both large and small—because of the responsible way they resolve complex and emotional issues which have been with us for most of this century.

The treaties are the culmination of 13 years' work by four American Presidents of both major political parties, and their Secretaries of State.

They are the outcome of patient and skillful negotiation since 1964 by a number of dedicated political leaders, diplomats, and military men. They have been achieved because of valuable counsel and support offered by members of this Committee and by representatives of American business and labor who have seen these new treaties as being in their own interest and in the larger national interest.

They are, above all, a triumph for the principle of the peaceful and constructive settlement of disputes between nations. That is a principle we seek to apply in all aspects of American foreign policy.

It is quite proper that this Committee, the Senate, and the American people should consider carefully the content and implications of these treaties. For they should not at some later time be made the subject of partisan or divisive debate. In my opinion, they should be beyond partisanship.

They should now be examined in detail by this Committee, and by the nation. Basic questions are being asked—and should be asked—about them.

These questions express the same concerns and goals that have been on our minds during the negotiations.

Do these treaties safeguard our national security interest in the Canal?

Do they establish a long-term basis for open and effective operation of the Canal?

Do they enhance our relationships with nations of this Hemisphere?

Do they place any new burden on the American taxpayer?

Do American workers in the Canal Zone get a fair shake?

And, without the treaties, what might happen?

I am satisfied in my own mind that these questions have been properly answered, thanks to the skilled and hard bargaining by our negotiators. I will discuss these questions briefly this morning.

LONG-TERM OPERATION OF THE CANAL

The United States will control canal operations through a new U.S. government agency—the Panama Canal Commission—to be supervised by a board composed of five Americans and four Panamanians. The Commission will operate the Canal until the end of this century. The present Panama Canal Company will be discontinued.

The United States will maintain responsibility for managing the canal, setting tolls, and enforcing rules of passage until the year 2000. Until the year 2000 the U.S. will also maintain primary responsibility for the defense of the Canal. After that, the United States will have responsibility to maintain the permanent neutrality of the Canal to assure that it will remain open to our ships, and those of all other nations on a nondiscriminatory basis.

The treaties further allow for the modernization of the Canal through construction of a third lane of locks and foresee the possibility of construction in Panama of a new, sea-level canal. This would provide access for many modern super-tankers and warships too large to pass through the present Canal.

HEMISPHERIC RELATIONS

I believe the ratification and implementation of these treaties will be the single most positive action to be undertaken in recent years in our relations with Latin America.

Only last month, in Bogota, the democratic governments of Venezuela, Costa Rica, Colombia, Mexico and Jamaica issued a joint communique urging the United States and Panama to conclude the new treaties rapidly. For years, Latin American peoples and governments have viewed our negotiations with Panama over the Canal as a litmus test of our intentions toward their countries.

The treaties, as negotiated, represent a fair and balanced reconciliation of the interests of the U.S. and Panama. They create a partnership under which our two countries can join in the peaceful and efficient operation of the Canal. They symbolize our intentions toward the Hemisphere. And they prove, once and for all, the falsity of the tired charges that we are imperialistic exploiters bent only on extracting Latin American raw materials and using the continent for our own economic interests.

NATIONAL SECURITY ASPECTS

Representatives of the Joint Chiefs of Staff worked closely with the treaty negotiators on the security provisions, and played a major role in drafting the neutrality treaty. The United States will retain all military bases and facilities—all the lands and waters—that we require for the Canal's defense until the year 2000. We may keep the same force levels we now maintain in the zone—about 9300—and can increase them if necessary.

After the year 2000, as I indicated earlier, the United States will have a permanent right to maintain the Canal's neutrality, including the right to defend the Canal if necessary. Our warships are given the right to use the Canal expeditiously.

Article IV of the Neutrality Treaty says:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two contracting parties."

This means there is no limit under the Treaty on the freedom of the U.S. to assure permanently the Canal's neutrality.

THE ECONOMICS

Under the treaties, Panama will receive payments which more fairly reflect the fact that it is making available its major national resource—its territory. But the treaties require no new appropriations, nor do they add to the burdens of the American taxpayer.

The treaties provide that Panama will receive 30 cents per Canal ton for traffic transiting the Canal; a fixed annuity of $10 million per year; and an additional $10 million per year provided canal revenues permit. Panama would initially receive about $60 million per year under this formula, which will apply until the year 2000. All of these payments are to be made from Canal revenues. Panama will thus have a strong interest in insuring unimpeded and efficient use of the canal.

We have agreed, outside the treaty, to certain arrangements which will assist the general economic development of Panama and enhance its stability. We have formally told the Panama Government that we are prepared to develop a program of loans, loan guarantees and credits to Panama—including up to $200 million in Export-Import Bank credits over a five-year period; up to $75 million in AID housing investment guarantees over the same period; and a loan guarantee of up to $20 million from the Overseas Private Investment Corporation. All the loans concerned require repayment. There are no grants. In addition, over a 10-year period, Panama will receive up to $50 million in foreign military sales repayment guarantees, so that its armed forces can be better prepared to help defend the Canal. Most of this assistance will be used to purchase American equipment. These programs would be subject to all relevant U.S. legal requirements and program criteria.

AMERICAN WORKERS IN THE ZONE

Some 3,500 American employees of the Canal enterprise and their dependents live in the Canal Zone. Some have spent all their working lives there; most of these American workers will continue to be employees of the U.S. Government until their retirement. The treaties protect their basic conditions of employment. If they remain they will be free to continue living in government housing and to use the American schools and hospitals in the areas. Until the year 2000, the treaties guarantee American employees and their dependents basic civil rights, similar to those that apply in the U.S., in Panamanian courts, and other benefits and protections similar to those enjoyed by other U.S. Government employees overseas. The AFL–CIO, which represents both Panamanian and U.S. workers in the Canal Zone, supports these treaties.

WHAT IF THE TREATIES ARE REJECTED?

It would be all too easy for me to emphasize today that if 13 years of effort were lost, and these treaties rejected, our relations with Panama would be shattered; our standing in Latin America damaged immeasurably; and the security of the Canal itself placed in jeopardy.

Indeed, all of these things could and might happen if these treaties were not ratified. But that is not the major reason for supporting them.

They deserve support because they are in our interest, as well as the interest of Panama.

For the people and government of Panama, there is the knowledge that they, eventually, will assume full jurisdiction over their own territory. There are also the economic benefits to be gained from canal revenues, and from the guarantees, loans and credits—not grants—we have pledged to consider on their behalf. Panama, as a result, will be a more stable and prosperous country.

For us, there is our knowledge that the Canal will be open, neutral, secure and efficiently operated, for our benefit and that of other nations in the world. We are not appropriating American taxpayers' money to accomplish this. And we will have gained respect throughout Latin America and the world for addressing this issue peacefully and constructively.

It is our interests, not foreign pressures, that led us to these treaties.

OTHER QUESTIONS

Let me address, very briefly, some doubts about the treaties that have been raised, but can be dispelled as the facts become better known.

We are asked whether the new treaties may encourage Panama to nationalize the Canal. But our new treaty rights would be no less binding than our rights under the existing treaty. Moreover, a Panama which is cooperating with us in canal management and will eventually exercise full management responsibility has no reason to seize or obstruct the Canal. Any Panamanian government will have an interest in preserving the treaties because the treaties are in the interest of Panama—as well as ourselves. These treaties reduce the chance of such an event.

It has been suggested that the new treaties could diminish our ability to maintain the neutrality and security of the canal. But, in fact, the Joint Chiefs of Staff are satisfied that the treaties enable us to keep the canal open indefinitely.

It has been suggested that we are "paying the Panamanians to take the canal away from us." But payments to Panama will come from canal revenues, not from American taxpayers.

Finally, let me address briefly another question which has been raised: human rights in Panama.

The Panamanian government has in the past been charged with abusing the civil and political rights of some of its citizens. And we have discussed this issue with that government. The closer relations between our two countries that will grow out of the new treaties will provide a more positive context in which to express such concerns, should it be necessary in the future.

Already, there are encouraging signs. On September 13 Panama invited the Inter-American Human Rights Commission to send a team to investigate human rights conditions in Panama. In addition, it has invited the United Nations to send observers to its plebiscite on the new treaties next month.

At the same time, the Panamanian government has made continuing and real commitments to the economic and social rights of its citizens. Its economic development plans give priority to upgrading the housing, nutrition, health care and education of the ordinary Panamanian citizen.

How we respond to an issue such as these Panama Canal treaties will help set the tone for our relations with the rest of the world for some time to come.

Both we, and others, are under considerable pressure in our domestic economies. There is a tendency toward economic protectionism. And there is question about the most appropriate ways to use our power in a world grown so complex.

Panama is a small country. It would be all too easy for us to lash out, in impatience and frustration, to tell Panama and Latin America—and other countries around the world—that we intended both to speak loudly and carry a big stick and to turn away from the treaties four Presidents have sought over so long a time.

But that, in my judgment, would not be conduct appropriate to a responsible world power or consonant with the character and ideals of the American people.

Any nation's foreign policy is based, in the end, not just upon its interests—and, in Panama, our interests are clear and apparent. It also is based upon the nature and will of its people.

I believe the American people want to live in peace with their neighbors . . . want to be strong, but to use their strength with restraint . . . want all peoples, everywhere, to have their own chance to better themselves and to live in self-respect.

That is all a part of our American tradition.

And that is why I am convinced that after the national debate they deserve, these treaties will be approved without reservations by the Senate, with the strong support of the American people.

STATEMENT BY HON. SOL M. LINOWITZ

Mr. Chairman and Members of the Committee: Although I have not been involved in Panama Canal diplomacy for as many years as Secretary Vance and Ambassador Ellsworth Bunker, I have for a long time been deeply concerned about the Panama Canal issue and its implications for our whole relationship with Latin America.

For three years prior to my designation as Co-Negotiator of the new Canal treaties, I served as Chairman of the Commission on United States-Latin American Relations.

In the Report which our Commission issued on December 20, 1976 we said: "The most urgent issue the new Administration will face in the Western Hemisphere in 1977 is unquestionably the smoldering dispute with Panama." We went on to say: "1977 will be a crucial year for resolving the volatile Panama issue; if negotiations do not produce an equitable solution during this coming year, deepened hostility seems inevitable." We urged the new President "to exercise prompt, vigorous and decisive leadership in negotiating an acceptable compromise with the Panamanian Government while serving our own interest in the Canal. Such an action will also indicate our desire to address the issues which concern the United States and Latin America in a more cooperative and mutually respectful atmosphere."

Our recommendation was: "The new Administration should promptly negotiate a new canal treaty with Panama; it should involve members of both parties and both Houses of Congress in the negotiations; and it should make clear to the American public why a new and equitable treaty with Panama is not only desirable, but urgently required."

Mr. Chairman, the treaties which we have negotiated and which are now before you in large measure follow that prescription. We have negotiated treaties which are, we believe, fair and equitable and which fully preserve our interest in the canal while taking into account Panamanian aspirations. In the course of the negotiations, we have involved members of both parties and both Houses of Congress. And the terms we have agreed upon clearly reveal a more cooperative and mutually respectful atmosphere in hemispheric relations.

There are, I believe, three basic facts which must be understood about the Panama Canal issue.

First, it is an issue which involves far more than relations between the United States and Panama. For it is an issue which affects all United States-Latin American relations. In the eyes of our Latin American neighbors, the Panama Canal runs not just through the center of Panama, but through the center of the Western Hemisphere. All the countries of the hemisphere have made common cause in looking upon our position in the canal as the last vestige of a colonial past which evokes bitter memories and deep animosities. So in going forward with these new treaties with Panama, the United States will be improving its position with virtually all the countries of this hemisphere whose attitude towards us as a nation will be importantly

influenced by how we conduct ourselves on the Panama Canal issue.

Second, our primary interest in the Canal is, and always has been, to assure that it remains secure and open, on a neutral, nondiscriminatory basis. Viewed in this light, it is unmistakably clear that the greatest threat to the operation and security of the Canal would be to try to insist upon retention of the present outmoded treaty and its anachronistic provisions—provisions which have in the past, and can so easily again in the future, trigger hostility and violence. The simple fact is that if we do not agree upon treaties which are mutually agreeable and acceptable, the time may come when we may find ourselves in the position of having to defend the Canal by force against a hostile population and in the face of widespread condemnation by the countries of Latin America and even the rest of the world.

Third, it is, therefore, clear that the best way to preserve an open, accessible and secure canal and to maintain its permanent neutrality would be to substitute for the 1903 Panama Canal Treaty a new arrangement which will be mutually fair, which will properly provide for Panama's just aspirations, and which will take into full account our own national needs. Putting it another way, a new treaty arrangement is the most practical means for protecting the very interests we are seeking to preserve in the Canal.

We believe that the new treaties meet this test by preserving for the nation the important interest it has in assuring that the Canal remains secure, accessible and open on a nondiscriminatory basis—and in a manner which will both advance our national security interests and further our hemispheric objectives.

With your indulgence I would like to recall a few words of history about how we got where we are in the Panama Canal.

During the middle of the 1800's we were, as a young nation, interested in the possibility of constructing a canal across the isthmus in order to connect the Atlantic and Pacific Oceans. This need was dramatically underlined when, during the Spanish American War, it took the battleship *Oregon* 67 days to get from the Pacific coast to its Atlantic battle station.

At the end of the 1800's the French Canal Company had undertaken to construct a canal through the Province of Colombia known as Panama. By the end of the century it acknowledged failure—failure because of disease, because of technological and scientific problems which seemed unsurmountable, because of lack of financing, and finally because of lack of spirit and morale.

At that time an engineer, Phillippe Bunau Varilla, who had worked for the French Canal Company, spurred an effort for the United States to take over the French company's assets and enter into a treaty with Colombia for the completion of the canal. Such a treaty was rejected by the Colombian Senate.

At that point it was suggested that the Province of Panama might undertake to declare its independence from Colombia and then enter into a satisfactory treaty with the United States. On November 4, 1903 a revolution occurred in Panama and a few days later the United States recognized Panama's independence. Thereupon a treaty was entered into known as the Hay-Bunau-Varilla treaty.

The treaty granted the United States rights "in perpetuity" to construct a canal within a zone 10 miles wide over which the United States would exercise the "rights, powers and authority" it would have if "it were the sovereign." Secretary of State Hay candidly wrote to a leading Senator that the treaty was "very satisfactory, vastly advantageous to the United States and, we must confess with what face we can muster, not so advantageous for Panama." The treaty was ratified in 1904 and construction of the canal was begun immediately. It was completed in 1914 after a brilliant engineering and scientific performance by American engineers, doctors, scientists and builders who were determined to conquer the unconquerable and make the canal a reality.

Today the Panama Canal stands as an engineering marvel, as one of this country's greatest accomplishments. In a very real sense it was our moon shot of the early 1900's. Any American must view with pride this highly complex, integrated hydraulic system of locks, dams and artificial bodies of water designed to move ships over the uplands of the isthmus for 50 miles from ocean to ocean.

And we can also point with pride to the way we have operated the Canal. For 62 years it has been run as a public service for the nations of the world rather than as a business. Tolls have been set as low as compatible with meeting costs and providing a modest return, and world commerce has been a major beneficiary of the Canal operation. The toll rate when the Canal opened in 1914 was $1.20 per Panama Canal ton; today it is $1.29.

But while the Canal has been a source of deep pride to the United States, it has been a troubling and festering presence in Panama. Under the treaty the United States exercises jurisdiction over the Canal Zone courts. It has established the Zone's schools, jails and its police force. It has set up what the Panamanians have regarded as a colonial enclave splitting their country in two and using 550 square miles of their territory. And the Panamanians have made known their resentment at the United States doing so pursuant to a treaty which was not even signed by a Panamanian.

It is against this backdrop that these new treaties must be evaluated.

Several arguments have been widely advanced against a new treaty arrangement with Panama. Secretary Vance has already discussed the sovereignty issue, and I would like to touch upon several other major concerns which have been asserted in connection with the new treaties.

First, will the new treaties in any manner prejudice our national security? Your Committee will have the benefit of the testimony of our foremost defense authorities on this score; but it is important to stress that in all of our negotiations we have worked closely with the Department of Defense and the Joint Chiefs of Staff to assure that our national security interests would not in any respect be prejudiced under the new treaty arrangements. And we have been assured by them that the treaties we have agreed upon will not only preserve but indeed enhance our national security interests.

Second, will the new treaties seriously affect United States commercial interests? The new treaties, we believe, are the best protection of our commercial interest in the Canal. The simple fact is that the commercial value of the Canal has diminished considerably as world commerce patterns and technologies of shipping have changed. Today supertankers and other larger vessels cannot use the Canal. In percentage terms the Canal is much more important to the various countries of Latin America than it is to us. Today approximately 7 percent of total United States international maritime trade passes through the Canal each year. About 4 percent of the trade between the East and West coasts traverses the Canal. It is, therefore, clear that though the Canal is still important, it has, to a substantial extent become economically obsolescent.

Third, is the present Government of Panama the one with whom we should be negotiating these new treaties? For over 13 years we have been engaged in negotiations for a new Panama Canal treaty. The present Chief of Government, General Omar Torrijos, who has been in power for almost 9 years, has been committed to trying to work out a new treaty with the United States and in doing so he is supported by the people of his country and is following in the footsteps of every Panamanian Head of State since 1903—irrespective of ideological differences. Moreover, pursuant to the Panamanian Constitution, the treaties will now have to be submitted to a plebiscite in Panama next month so that the Panamanian people will be able to express their judgment with respect to these treaties.

Secretary Vance and Ambassador Bunker have already described to you the major terms of the new Panama Canal treaty, and I would like to focus my remarks on the neutrality treaty. This treaty commits the United States and Panama to maintain a regime of permanent neutrality for the canal. Under the rules of neutrality set forth in this treaty, the Canal is to be open to merchant and naval vessels of all nations at all times without discrimination as to conditions or charges of transit. A special provision authorizes United States and Panamanian warships to transit the Canal expeditiously in both peace and war without being subject to any restriction as regards means of propulsion, armament or cargo.

Under this provision no question can be raised about the right of U.S. naval vessels to transit the Canal with all their weapons nor can any restriction be placed on the type of cargo they may carry. Further, we are assured of a preferential right to expeditious transit of our naval vessels whenever we consider this necessary.

Under the treaty the United States is in a position to assure that the Canal's permanent neutrality is maintained and there is no limitation on our ability to take such action as we may deem necessary in the event the Canal's neutrality is threatened or violated from any source.

The precise type of response we might determine to make would of course depend upon all the political, military, legal, economic and other factors involved in a particular situation. But the key point is that it is for the United States to make the determination as to how we should respond and how we should defend our rights under the Canal's regime of permanent neutrality. Thus the treaty provides for the United States maximum freedom to determine how to carry out its responsibility for Canal neutrality. We are under no obligation to consult with or seek approval from any other nation or international body before acting to maintain the neutrality of the canal nor does the treaty in any other way limit our ability to act.

This permanent neutrality treaty will also apply to any other international waterway that may be built in Panama in the future. In short, the neutrality treaty provides a firm foundation for assuring that our long-term interest in the maintenance of an open, accessible, secure, efficient Canal is preserved—now and in the future.

In order to emphasize the importance of the regime of neutrality to world shipping there is a protocol to the neutrality treaty which will be open to accession by all the countries of the world. The signatories to this protocol will, in effect, endorse the neutrality treaty by specifically associating themselves with its objectives and by agreeing to respect the regime of permanent neutrality of the Canal both in time of war and in time of peace. The Instruments of Accession will be deposited with the Secretary-General of the Organization of American States.

The lasting and deeply significant implications of this treaty have been fully recognized by the Panamanians. In signing the

treaties at the Pan American Union here in Washington on September 7, 1977, General Torrijos clearly told the people of Panama, the people of the hemisphere, and the people of the world: "We have agreed upon a neutrality treaty that places us under the protective umbrella of the Pentagon. This pact could, if not administered judiciously by future generations, become an instrument of permanent intervention."

Both countries recognize that this treaty is designed not only to assure that our own interests will be fully preserved but to assure the other countries of the world that the United States will be in a position to do whatever may be required in the future to preserve the openness, security and accessibility of the Canal.

It is vitally important that the American people study these new treaties carefully and open-mindedly and recognize what is at stake. The issues involved are far too complex and significant to be compressed into a slogan or reduced to the size of a poster. In these agreements we believe we have a rare opportunity to demonstrate to the world how a large nation and a small nation can settle their differences amicably and with mutual respect and enter into a lasting partnership of which future generations will be proud. They will bear witness to our intentions to build a balanced, constructive, and lasting relationship among the countries of this hemisphere.

Theodore Roosevelt put it very well:

"We have no choice as to whether or not we shall play a great part in the world. That has been determined for us by fate. The only question is whether we will play that part well or badly."

STATEMENT BY AMBASSADOR ELLSWORTH BUNKER

With the opening today of these hearings, the resolution of one of our nation's most difficult and pressing foreign policy problems enters a new stage. You have before you two new treaties designed to assure our interest in a secure and efficient Panama Canal.

Those of us who have participated in the negotiations have completed our task. It is now up to the Senate to examine the agreements and to make a judgment on them.

My first involvement with Panama Canal diplomacy came in 1964, when I was serving as Ambassador to the Organization of American States. From that vantage point it was possible to see at firsthand how urgent was the need for the United States to modernize its relationship with Panama and how important such a step forward was for our position in the Hemisphere.

My direct association with the Canal negotiations began in 1973. At that time the two sides began working out a set of principles to serve as a guide in preparing new treaties. These principles—which have guided the subsequent negotiations—were embodied in the Joint United States-Panamanian Statement signed at Panama City in February 1974. In January of this year these principles were reaffirmed by Secretary Vance on behalf of the Carter Administration. This action followed a thorough policy review in which the incoming Administration established its positions on the principal issues at stake in the negotiations.

The fundamental concept in the 1974 principles is that of United States-Panamanian partnership. Throughout the discussions of the past three years, our objective has been to shape a close and enduring partnership between the United States and Panama in maintaining an open and efficiently operated canal. That is the concept which underlies the treaties you have before you today.

The partnership envisioned in the new treaties has three aspects:

The United States and Panama will be partners in the operation of the Canal through the end of this century. During this period the United States will continue to shoulder the responsibility of managing the canal enterprise, building on a tradition of safety and reliability developed in over sixty years of experience. At the same time, we will be preparing Panamanians to carry on this tradition after the year 2000.

The United States and Panama will also be partners in protecting the Canal. For the duration of the Panama Canal Treaty, the United States will have the primary responsibility for defense of the waterway and will retain bases and troops in Panama for that purpose. Panama will also contribute forces to canal defense. While the forces of the two countries will work in coordination, they will retain their separate lines of command. We will be able to act unilaterally to maintain canal security if need be.

Finally, the United States and Panama will share a long-term responsibility for maintaining the Canal's neutrality. The United States role in assuring neutrality will continue for as long as the Canal remains in operation—even after management of the waterway passes to Panama.

Let me now explain more specifically how the United States-Panamanian partnership in operation of the Canal will function.

The Panama Canal Treaty provides for the creation of the Panama Canal Commission, which will manage and operate the Canal through December 31, 1999. The Commission, which will replace the existing Panama Canal Company, will be a United States Government agency constituted in accordance with legislation to be sought from the Congress.

The Commission will be supervised by a nine-man Board consisting of five Americans and four Panamanians. The Commission's executive officers will be an Administrator and a Deputy Administrator. Until 1990 the Administrator will be an American and the Deputy Administrator a Panamanian. After that time, the Administrator will be Panamanian and the Deputy, American.

The United States will appoint all officials of the Commission, including the Administrator, Deputy Administrator, and the nine Board members—Panamanian as well as American. The Panamanian appointees will, however, be proposed by Panama.

United States control of Canal operations throughout the treaty period is fully assured. The United States will have a majority on the Commission Board; it will appoint Commission officers; it can remove the Commission executive officers at will. Most importantly, the Commission will operate in accordance with United States law.

At the same time, the participation of Panamanians at the highest levels in the Canal enterprise—both as Board members and executive officers—will permit Panama to attain the managerial expertise to operate the Canal after the year 2000. When Panama assumes responsibility for canal operation, Panamanians will have had the benefit of twenty years of involvement in the direction of the Canal enterprise.

The Treaty grants to the United States the rights needed to carry out its responsibility for operating the Canal. These include the authority to establish and collect tolls, make and enforce rules pertaining to navigation and marine traffic control, and regulate planning relations with employees. The Treaty also grants the United States the use of all lands, waters and facilities required for Canal operation. The areas and facilities reserved for this use and specifically identified. They include the Canal itself and related installations.

The Panama Treaty encourages continuity and quality in the Canal work force. The provisions governing employees are designed to encourage experienced personnel to remain with the Canal under the new Commission. Salary levels, and the terms and conditions of employment, will remain generally as favorable as they are now.

An important difference for employees will be the change from United States to Panamanian jurisdiction in what is now the Canal Zone. For the United States employees—most of whom reside in the Canal Zone and who will therefore be most deeply affected by the shift—the treaties provide special guarantees which commit Panama to apply specified procedural standards in criminal cases involving United States citizen employees. In addition, an agreed minute provides that Panama, as a matter of general policy, will, in such cases, transfer jurisdiction to the United States at the latter's request.

As with management, there is provision for development of a qualified Panamanian work force to man the Canal enterprise. In hiring new employees the Panama Canal Commission will give preference to qualified Panamanians. The Commission will also provide training programs to develop Panamanian workers with all the requisite skills needed by the Canal enterprise. During the more than two decades of the Treaty period, it should therefore be possible to build up a fully qualified Panamanian work force. We, of course, start from a strong base. Seventy-four percent of current Canal employees are Panamanian.

A sound financial structure is also important to the success of the Canal enterprise. We have kept this objective very much in mind in working out the economic arrangements under the new Treaty.

At the start of these negotiations—in the 1974 Kissinger-Tack Joint Statement of Principles—both countries agreed that Panama should receive "a just and equitable share of the benefits derived from the operation of the Canal in its territory". In line with this principle the United States consistently maintained during the negotiations that payments to Panama for its contributions to the Canal enterprise should be drawn entirely from Canal revenues—that is, that the payments should reflect the Canal's economic value as measured by its revenue-generating capacity. Panama initially sought much larger payments, which far exceeded what could be financed by Canal earnings.

The United States concept has been followed in establishing the payments to be made to Panama under the Panama Canal treaty. These payments—as Secretary Vance explained—will come entirely from Canal revenues. The amounts established are based on what we consider sound and realistic projections of the Canal's earning capacity.

The economic and military assistance—of up to $345 million, which—as Secretary Vance has stated—we have undertaken to provide Panama, has been kept entirely separate from the Canal treaty and from Canal operations. This aid is not linked in any way to our rights and obligations under the new Canal treaties and will not be a burden on the Canal operation. At the same time, it will, we believe, enhance the successful implementation of the new treaties by contributing to Panama's economic development and thereby helping to foster a climate of stability conducive to efficient and secure Canal operation.

We are confident that the economic arrangements worked out will contribute to the success of the United States-Panamanian partnership. The payments Panama will received from Canal revenues will give it a stake in the success of the Canal enterprise.

At the same time, they are set at a level within the Canal's projected earning capacity. And the economic assistance to be provided outside the Treaty—while in no way tied to Canal operations—will contribute to the success of the new arrangements.

I am confident that the Treaties provide the basis for efficient operation of the Canal under United States stewardship until the end of the century and with Panamanian management thereafter. They build on effective operating procedures already established. They provide for an orderly shift to Panamanian operation. They ensure that over the long term the Canal will have an effective management, qualified work force and a sound financial base—three of the essential elements for any successful industrial enterprise.

I am also confident that the United States and Panama can work together effectively in carrying out all aspects of the new relationship which these Treaties envision.

In our preoccupation with differences over the Canal, both Americans and Panamanian tend to overlook the many positive elements in our long association. The United States and Panama have been working together for three-quarters of a century. It is fair to say that there is no other nation with which Panama maintains a closer relaionship than the United States. This relationship has centered on the Canal, but it has not been limited to that. Important ties of trade and investment link our two countries. For thirty years the United States and Panama have also been allies under a mutual defense treaty—the Rio Pact. And on a personal level, thousands of Panamanians have attended schools and universities in the United States.

The United States and Panama are well prepared to enter on an area of closer cooperation in the Canal enterprise. They begin from a solid foundation of mutual understanding and concrete accomplishment. Without that, these Treaties would never have been concluded. That is why I am convinced that the partnership envisioned in these Treaties will be productive and successful.

GREAT PLAINS CONSERVATION PROGRAM

Mr. McGOVERN. Mr. President, on Wednesday, the Senate agreed to my amendment which makes the Great Plains conservation program permanent, and I would like to thank the majority leader, Senator BYRD, and the minority leader, Senator BAKER, for their efficient handling of this amendment. It is a great pleasure to realize that such early action has been taken to extend a valuable conservation program that would otherwise have been terminated in 1981, without reaching its original goal to treat 16,000,000 acres of fragile and erodible plains area. Now, with the Great Plains conservation program a permanent part of the current effort to extend to individuals the opportunity to develop soil protection plans that require technical assistance from trained conservationists, it is possible for destructive droughts, winds and floods to be significantly controlled. The support that I received for this amendment from South Dakotans is also appreciated. The provided statistics showing that, in spite of extreme drought conditions in the State last year, Great Plains program participants were in much better financial and production condition than those who were outside the program. It is my hope that the extension that has been approved and the limitation of the total appropriations available for the program will significantly ease future climatic hazards.

Now that the Western States have been included in this program under related legislation also passed Wednesday, there is a good chance that the original acreage goals will be increased by several thousands. Also, the inclusion for formerly ineligible counties not classified as semi-arid will make the program more realistic because few counties have been untouched by the lack of rainfall in the years since 1956 when legislative authority for the Great Plains conservation program was enacted.

Again, I would like to thank both leaders of the Senate for their cooperation in securing approval for S. 896, and Senator TOWER and METCALF for their cosponsorship and support. I hope that the other House concurs with Wednesday's action by moving quickly for approval.

GENOCIDE: THE CASE OF MELOS

Mr. PROXMIRE. Mr. President, for over a decade now I have attempted to keep the issue of ratification of the Genocide Convention before the Senate and the American people. This convention was an important human rights document when it was first drafted and it remains just as important today.

Quite frankly, one of the most pervasive problems that the supporters of this convention, and similar ones, face is apathy. Genocide is viewed as a remote and isolated experience of the Second World War. Tragically, this is a total misconception. I offer a notable historic example to you; that of the destruction of the people of Melos in fifth century B.C.

Fifth century Athens is associated with culture; Plato, Socrates, Aristotle, and many others lived in Athens around 500 B.C. Athens was also noted for its democracy and civilizing influence on the world. Yet despite this, in 416 B.C., Athens carried out genocide on the peaceful people of Melos because the people of Melos refused to pay a nominal tribute to Athens. For this "crime" Athens decided to make an example of Melos and killed the adult male population and sold all the women and children into slavery. The controversy in Athens and the Greek world at the time was over the excessive use of force employed rather than implications of genocide as Athenians preferred to think of Melos as part of its domain and hence not a separate people. Yet the people of Melos considered themselves a separate people and by strict definitions of genocide this destruction of a people does constitute genocide.

Genocide can occur anytime, anywhere. Even countries and peoples considered to be civilized have been known to commit genocide. We must not think that we can afford to ever relax our vigilance in forestalling this crime against humanity. For this reason I urge my fellow colleagues to give their support to ratify the genocide treaty.

CONSERVATIVES SUPPORT THE PANAMA TREATIES, TOO

Mr. CRANSTON. Mr. President, the national debate over the Panama Canal Treaties sometimes gives the impression that this is a liberals versus conservatives dispute, with so-called liberals favoring the treaties and so-called conservatives opposing them.

That is an erroneous perception, as a column by Emmett B. Ford, Jr., who calls himself a card-carrying conservative, makes eloquently clear.

Mr. Ford, who supports the treaties, writes a weekly column for the Charlottesville, Va., Daily Progress. One of his columns was reprinted in today's Washington Post.

In it, he accurately points out that there is "a considerable body of conservatives in good standing," that also supports the treaties.

The reason, as he puts it, is simple:

> In the final analysis . . . it really does not matter whether we bought the canal, paid for it, built it or stole it. That is all in the past.
>
> In deciding whether or not to ratify the Panama treaty, the Senate . . . must very simply decide which future course is in the best interests of the United States.
>
> The course offered by the new treaty can serve only to enhance the international prestige and moral authority of the United States. By neutralizing a potential hot spot and cutting down on the numbers of those hostile to us abroad, it effectively strengthens our overall defense posture.
>
> How can an avowed conservative object to that?

Mr. President, I ask unanimous consent that Mr. Ford's article, as it appeared in the September 26, 1977, issue of the Washington Post, be printed in the RECORD—except for one sentence, which I have deleted, because I do not want to give wider audience to some critical remarks about some Members of the Senate and their supporters.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 26, 1977]

CONSERVATION SUPPORT

(By Emmett B. Ford, Jr.)

Everyone seems to asume of late that all Americans on the conservative end of the political spectrum are united in their opposition to the recently signed treaty giving Panama unrestricted sovereignty over the Canal Zone.

* * * * *

There remains a considerable body of conservatives in good standing, including Gerald Ford, Bill Buckley and Henry Kissinger, who firmly support the Panama treaty. And, as a card-carrying conservative, I support it myself.

I support it because it corrects a gross injustice that we perpetrated against Panama, Colombia and indeed all of Latin America three-quarters of a century ago. (Is the perception of injustice and inequality reserved only for liberals?)

I support it because it slowly and subtly phases out an anachronistic colonial arrangement that has increasingly soured our relations not only with Panama, but with all of our neighbors to the south.

I find that I can, in good conscience, support it because I am persuaded absolutely

that our vital security interests in the canal are safeguarded. A Panama with which we have concluded a mutually satisfactory agreement is far less likely to create difficulties for us over the use of the canal than would a Panama with a permanent 10-mile-wide strip of foreign occupation right through its middle.

Moreover, under the terms of a separate treaty to be signed later by every country in the Western Hemisphere, the United States will guarantee the neutrality of the canal and its accessibility to world shipping (that is, we will have the right to intervene militarily).

Opposition to the treaty seems to be based more on nostalgia for the late 19th-century era of "manifest destiny" than anything else. One can almost hear Ronald Regan saying (to paraphrase Winston Churchill): "I did not become Mr. Conservative in order to preside over the liquidation of the American Empire."

What Regan actually did say about the canal during the election campaign last year has gradually become the rallying cry of the opposition: "We bought it, we paid for it, we built it. And we are going to keep it." We are going to keep it, he said, because it is ours, and to cede anything that is ours constitutes ignominious retreat.

But there is a good deal of loose rhetoric in this position. Certainly there is more emotion than fact in his arguments.

To begin with, the Canal Zone is not "ours" and never has been. Even in 1903, when we could have dictated any terms we wished to impose upon the newly created Panamanian state, we did not choose to acquire full and sovereign rights to the territory.

According to the treaty of that date, Panama granted to the United States, in perpetuity, "all the rights, power, and authority . . . which [it] would possess and exercise if [repeat, if] it were the sovereign" of the zone. Thus, as we confirmed in a subsequent agreement with the Republic of Panama, that country has always retained legal sovereignty over the Canal Zone, despite the fact that we exercise full control in perpetuity over it.

Similarly, we may have paid out enormous sums as rent, construction costs and bribes, but we have never "bought" the Canal Zone from anyone. A few years after we had successfully separated the Republic of Colombia from its province of Panama, we paid Colombia the sum of $25 million as "a gesture of goodwill." And, of course, we spent over $350 million to build the canal itself.

None of these expenditures, however, can be (or is) legally regarded as the purchase price of the property. The Canal Zone was never purchased outright for a specific sum of money as was the case with Louisiana, Alaska or the Gadsden strip. Panama, in effect, still has the deed, while the United States plays the role of an unwanted tenant with a very long-term lease.

That lease is the 1903 treaty, upon which all rights exercised by the United States in the Canal Zone are based. It is historically of enormous significance to the Panamanians that no Panamanian had anything to do with drawing up the document that rented out part of their country forever.

The 1903 treaty was negotiated in Washington between Philippe Bunau-Varilla, a French businessman serving as Panama's envoy to the United States, and John Hay, the American Secretary of State.

It was approved by the U.S. Senate before the arrival of the official Panamanian delegation and ratified later by the Panamanian provisional government under threat of the withdrawal of American military protection. A thoroughly sneaky and discreditable performance.

But if we could not be proud of the manner in which we acquired the right-of-way for the canal, we covered ourselves with glory in the building of it.

By the time it was completed, Dr. William Gorgas had conquered yellow fever, and Maj. Gen. George W. Goethals had overcome the incredible engineering problem of cutting through the mountains of a continental divide. It was—as many have already noted—the moon shot of its day.

In the final analysis, however, it really does not matter whether we bought the canal, paid for it, built it or stole it. That is all in the past. In deciding whether or not to ratify the Panama treaty, the Senate, which will begin hearings this week on approval of the treaty, must very simply decide which future course is in the best interests of the United States.

The course offered by the new treaty can serve only to enhance the international prestige and moral authority of the United States. By neutralizing a potential hot spot and cutting down on the numbers of those hostile to us abroad, it effectively strengthens our overall defense posture. How can an avowed conservative object to that?

IN OPPOSITION TO THE WASHINGTON, D.C., CONVENTION CENTER

Mr. PROXMIRE. The convention center that we have all been hearing so much about from the Washington business community requires a $110 million loan from the U.S. Treasury. While these funds would be paid back by the city government over a 30-year period, it should be noted that part of the funds the city would use to pay back the U.S. Treasury would also be Federal funds that come to the city in the form of the Federal payment. At the present time the Federal payment represents 34 percent of local revenues. It can be seen, therefore, that the convention center involves a great deal of Federal money from taxpayers all over the country. This is not just a local project to be paid for by the local community.

The downtown business community in Washington which stands to profit from the convention center wants the convention center a great deal. They have not, however, been willing to help pay for the construction of the center. If the business community were willing to help finance the convention center in the amount of $20 to $30 million or more, I as one U.S. Senator would feel differently about this proposal. Currently, as proposed, all of the risks of the project are being borne by the U.S. taxpayers and from what I have been able to learn from the many letters and visits to my office, the citizens in Washington, D.C., are not willing to pay for a project that would not benefit them directly and would likely result in an increase in their taxes.

The proponents of this convention center have cast their arguments in the terms of a home rule debate. Current law requires the Congress to enact a budget for the District of Columbia. The current arrangement between the city and the Congress is a partnership arrangement. It would not be fair to ask one partner's role to be limited only to helping pay the bills. There is no city in the United States that could expect to have a unilateral voice in the decision of whether or not the U.S. Treasury would loan it $110 million. While the home rule argument has emotional appeal, in this case it has a hollow ring.

I do not oppose the concept of a convention center for the District of Columbia. For example, I would not oppose a convention center that had been approved by a referendum vote by the citizens of the District of Columbia. This convention center has not been put to such a test. I would not oppose a convention center that would be funded in part by the business community which would benefit from such a proposal. This convention center has no financial contributions going to it from the business community. I would not oppose a convention center that cost 30 or 40 percent less than the one currently being proposed by the city. The city clearly could build a convention center for $60 to $70 million by putting the convention center on land already owned by the city or the Federal Government.

CONGRESS SHOULD BLOCK AIR BAG ORDER

Mr. GRIFFIN. Mr. President, on June 30 of this year, Secretary of Transportation Brock Adams issued an order mandating air bags (or "passive restraints") in new American automobiles.

As I commented on the day the order was issued, "Secretary Adams' decision will put Big Brother in the front seat of every American automobile—so it's both ironic and appropriate that his target year to finish the job is 1984."

I think air bags should be available to those who want them. However, I strongly oppose a Government mandate which forces air bags on all car buyers in the absence of more extensive field testing.

Secretary Adams' order will become effective October 10 unless overturned by both Houses of Congress.

Accordingly, I have introduced a Senate concurrent resolution (S. Con. Res. 31) disapproving the Adams directive.

This resolution of disapproval is now before the Senate Commerce Committee. Hearings have been held, and I have urgently requested the full committee, through Chairman MAGNUSON, to act as quickly as possible and report the resolution to the Senate floor for a vote.

Whatever the outcome, I believe the Senate and the House owe the American people an up-or-down vote on the merits of this important issue.

In my judgment, Secretary Adams' rule is premature and unwarranted, for the following reasons:

First. Cost. A well respected independent research firm, Economics & Science Planning, Inc. (ESP), has estimated that air bags, including installation, replacement, insurance, and fuel costs due to increased weight, will cost consumers a net $25 billion over the next 20 years.

Second. Air bag relative ineffectiveness. ESP also calculates, based on the limited field data accumulated so far by the Department of Transportation (DOT), that air bags have been less effective than seatbelts—and not much better than no restraint at all.

Third. More information is needed. DOT admits, in its own statement of justification for Secretary Adams' rule, that there is "substantial room for uncertainty and argument as to the true observed effectiveness of the various restraining systems." In particular, there is hardly any information on (a) inadvertent deployments—estimated by DOT to occur at the rate of 7,000 per year once bags are installed in all cars—and (b) accidents where bags do not inflate.

Fourth. Loss of choice. The person who currently uses his belt will be forced to spend an estimated $200 for a product which is demonstrably less effective in preventing injury or death than the product he already uses.

This is not the first Senate challenge to the bureaucratic intrusions of DOT's super-regulators. In September 1974, the Senate voted 64–21 to overturn the DOT seatbelt interlock requirement.

Although the air bag—unlike the seatbelt interlock—is a passive instrument, the DOT air bag rule is more troublesome to me because (a) it is far more costly and (b) its relative effectiveness is, at the very least, open to serious question.

Premature Government action to mandate air bags may turn out to be very costly in terms of both dollars and lives. Unlike the seatbelt interlock decision, the air bag decision—once implemented—will be difficult, if not impossible, to reverse.

Alternatives—such as additional field testing of the air bags and other restraint systems, and intensive campaigns to increase the use of seatbelts—need to be pursued, and quickly. If the air bag decision becomes final due to congressional inaction, those alternatives may be lost.

Therefore, Mr. President, it is particularly important that all Senators weigh this issue on its merits—carefully—and quickly.

Congress has less than 2 weeks left to act, and the consequences of our action—or inaction—will be far reaching.

I ask unanimous consent that a number of editorials and articles which have appeared in leading newspapers around the country be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Muskegon, (Mich.) Chronicle, July 24, 1977]

AIR BAGS TOO COSTLY, RELATIVELY INEFFECTIVE

The Automobile Club of Michigan, a number of auto safety experts and the U.S. Department of Transportation's own researchers have bolstered arguments against the federal order that every car buyer must pay extra for a set of air bags or other "passive restraint" system by 1984.

The Ralph Nader forces whose lobbying prompted the mandatory bags-or-belting order made much of the argument that the bags would reduce auto insurance costs.

The truth, according to the Auto Club's statistics, is the opposite.

The organization said that while air bags might reduce the average insured's personal injury premium 30 percent ($13) rates on collision coverage would jump 39 percent ($45).

The projection was based on a $700 cost for replacing a deployed air bag system, a cost that would be above other damage caused by an auto accident.

Once an air bag has been inflated in a collision (at 12 miles an hour or more), or by accident (Congressman Bud Schuster of Pennsylvania predicts 30,000 accidental deployments a year if all cars are air bag equipped) it must be replaced.

The Auto Club, whose Insurance Group is Michigan's largest, said that while collision costs would rise with a mandatory air bag system, there is no certainty of reduced medical premiums since insurers now granting a 30 percent reduction in medical provisions have too little experience to determine whether it is justified.

What evidence there is from the limited testing of cars equipped with air bags indicates the personal injury rate would be much higher than for cars equipped with the shoulder harness.

There have been only 143 accidents involving air bag-equipped cars, including four deaths and 21 serious injuries, and 12 deployments of bags when they should not have deployed.

That rate is far higher than for harness-equipped cars, even averaging in accidents in which the shoulder harness was not in use.

The Wall Street Journal quotes Dr. Howard Goldmuntz, who has been conducting auto safety research under federal contracts for six years, as saying that harnesses were in use 44.2 percent of the time in 1975 cars involved in tow-away accidents, and that "even at the 1975 voluntary usage rates, 30 percent more lives would be saved with harnesses than by mandating the air bag.

"For those of us who use the harness," he added, "requiring that we use the less safe air bag is a cruel and unwarranted imposition."

The superior safety afforded by the harness is evident from the DOT's own research and there is very little crash data on the only passive restraint seat belt now in use—in the Volkwagen Rabbit.

The Journal reports that this system pulls a strap across the driver and passenger when the car door is closed and utilizes "knee bolsters" to prevent driver and passenger from sliding under the strap.

We haven't seen this system, but we have a feeling the public will respond to it the same way it did to being forced to belt-up with the starter-interlock seat belt system—with outraged defiance.

That system forced you to buckle up in order to start the car. The public found ways to bypass it, and was so vocal about its dislike for it that Congress was forced to scrap it.

The same thing could easily happen again.

There are other problems, cost among them.

DOT Secretary Brock Adams said air bags "could" cost an added $100 or $200. The Journal reports the lowest estimate by a major automaker is GM's $193. Ford's cost $235 and Chrysler estimates it at $250.

They also add up to 60 pounds to the weight of the car, require maintenance—the bag can be dangerous if its deceleration sensor is mishandled by a mechanic—and, as noted, once inflated they have to be replaced.

The Auto Club, which opposes federally mandated air bags, paid one accident claim involving an air bag-equipped car, shelling out $629 to replace the system, including $126 for labor.

A General Motors study, as well as one by Dr. Goldmuntz, shows that auto occupants are safer with the current lap-shoulder belt system at the current far-too-low 20 per cent usage than they would be if all cars had air bags.

So that's it. We're to be made to accept a safety system that costs a ton and is not as effective as the lap-shoulder system.

We don't like it, and in that we're not alone.

Apart from many other objections, we don't like the Big Brother implications of Brock's bureaucratic mandate.

The papa-knows-best bureaucracy not only knows what is good for us, it is going to make us be good.

We've sacrificed too much freedom already to bureaucrats bent on protecting us from ourselves. Let the car buyer decide himself how much safety he wants. Let him decide himself whether he wants to be safe or sorry.

Government has no mandate to protect an individual from what it considers his own foolishness.

Whether the air bags and passive restraint belts are effective or not, they should be offered as optional equipment; made available after adequate testing, yes, but optional.

Congress has about six weeks left to review Adams' plan, and unless it objects, the plan becomes law. It should object—loudly—and reject it.

We think Congress will—if enough of us write and urge the members to scrap the mandatory bag-and-belt plan, leaving us the choice as to how safe we want to be.

The addresses are:

Sen. Robert P. Griffin, 353 Russell Office Building, Washington, D.C. 20515, Sen. Donald W. Riegle, Jr., 1207 Dirksen Office Building, Washington, D.C. 20515, and Rep. Guy M. Vander Jagt, House of Representatives, Washington, D.C. 20515.

Please write soon!

[From the Grand Rapids Press, July 6, 1977]

AIR BAGS MANDATED

U.S. Transportation Secretary Brock Adams has jumped deep inside the car safety thicket, and like his predecessor, he has hounds baying relentlessly on all sides.

Mr. Adams last week ordered automakers to install front-seat passive restraints in all cars by 1984.

The only such restraints now in use or in the experimental stage are air bags and a belt system that opens and closes with the doors. The order will go into effect unless it is rejected by Congress within 60 days.

As in their debates on other issues directly related to public health and welfare, many friends and foes of Secretary Adams' order are for and or against the mandated system for the wrong reasons. Chrysler and American Motors oppose the ruling—they're fighting for a larger share of the market and will be hurt by price hikes; General Motors is neutral—it has a long lead in air bag technology; Ralph Nader is opposed—he wants the order to take immediate effect, and one might wonder whether Mr. Nader isn't hoping that higher car prices might someday force Americans to rely on them less; some major insurance companies support the order—passive restraints will help to trim the size of the claims. (But will premiums go down? No, because the resulting higher prices for cars, and the more complex equipment in them, will boost the cost of insurance to car owners, and especially for the low-risk drivers.')

Ordinarily, Mr. Adams' order wouldn't have a chance of standing up in Congress, but recent support from UAW President Douglas Fraser (more jobs, more union members) indicates that the issue will be closely fought before lawmakers start their vacation on Aug. 6.

There is no question but that government has a proper role to play in reducing the number of highway deaths and serious injury. Design and engineering can contribute to a product's safety or its hazard—there is even more need for cars to be built for safe use than, say, home appliances to be free of electrical faults, or that amusement park rides be inspected regularly.

And car safety no longer is a matter of "protecting us from ourselves." Mandatory insurance laws, the high cost of highway safety features, economic deprivation of survivors or the care of those permanently injured—in fact the enormous impact of the motor vehicle industry on the nation's economy—make car safety a public, not private, matter.

One trouble with Mr. Adams' passive restraint order is that it is so expensive and so obnoxious to so many drivers that its implementation may be in doubt.

Passive restraints are expected to cost the car buyer from $100 to $300. The price is high enough to be a valid objection to the Adams order. But the issue would vanish if the states and members of Congress would acquire the gumption to move aggressively toward reliance on seat and shoulder belts.

The seat belt interlock, which prevented the car from starting unless belts were buckled, was foolishly abandoned by Congress several years ago because the system was a petty annoyance to drivers. At the time The Press noted—accurately, as it turned out—that rescinding the interlock order would speed the day when the more expensive, and possibly even less effective, air bags would become mandatory.

No one can contend that laws and car design can assure 100 per cent seat belt use, but they can go a long way toward encouraging a good habit—which is what wearing belts is all about.

The refusal of states—including Michigan—to require seat belt use has the effect of suggesting that the system isn't important, and that is a serious act of omission. It is ironic that the state can require drivers to carry certain types of insurance but will do nothing to encourage the use of seat belts.

Experience in Canadian provinces and other foreign countries indicates that mandatory seat belt laws increase their use significantly, thus reducing highway deaths and serious injury accordingly.

Blithely ignoring the possibility of a similar reduction in this country is simply shirked responsibility on the part of lawmakers.

[From the Detroit News, July 13, 1977]

NEW AIR BAG ISSUE—U.S. URGED TO CHECK CLAIM OF HIGHER INSURANCE RATES

Will the consumer suffer a substantial increase in auto insurance rates when—and if—air bags are installed in cars?

The Automobile Club of Michigan says that although the car owner will probably get a $13 decrease in premiums for medical protection on an "air bag" car, this cut will be more than offset by a $45 increase in property damage rates to protect against the cost of reinstalling an air bag system that has been deployed.

The AAA says the bill for air bag reinstallation will be $700. General Motors Corp., which has sold a fleet of 11,000 cars equipped with air bags, uses the same figure. Since GM is the only company with extensive experience, it ought to know the cost of replacement.

This raises a serious question that ought to be answered before Congress decides what to do about the order of Transportation Secretary Brock Adams that all cars must have passive restraint systems beginning in model year 1982.

Adams offered a choice, either the air bags or a belt system like that of Volkswagen which locks automatically when the driver and front seat passenger close their doors.

The public will be suspicious of the AAA and GM claims on costs of restoring an air bag system because of their self interest. The AAA is in the auto insurance business and is vehemently against air bags. Is the club overstating its opposition? GM is similarly resistant to air bags, especially their effect on the price of cars. Is GM going a little too far in fighting them?

Now that the claims have been made about the higher insurance costs, the Department of Transportation ought to address itself to the issue. If it thinks the figure is wrong, the DOT should say so. Either way, the DOT should deal with this matter quickly to aid Congress and inform the consumer.

The $700 repair figure is even more upsetting than the original installation cost. Units sold in limited numbers by GM cost more than $500 per car and were installed at a loss by the company. Currently, the industry estimates the cost of the bag system on a mass production basis at about $200, although the Department of Transportation uses a $100 figure.

This brings us back to the other option offered by Adams—the VW belt system sold in West Germany as a $40 option. The installation cost is reasonable. There is no reinstallation cost.

But, say the car makers, the VW system would knock out the six-passenger car, since the reels for these belts must go between split front seats.

Do we really make use of the "six passenger" car? Is the use of the extra passenger space worth $100 to $200 for bags and another $700 for reinstallation if you have an accident?

The whole issue of passive restraint systems turns on cost. Already embattled by inflation, the consumer surely will resist a federal mandate which in effect threatens him with a $700 repair bill.

If that figure is wrong, Brock Adams ought to say so. And if he is silent, surely air bags are condemned.

[From the Lansing (Mich.) State Journal, July 28, 1977]

AIR BAG MOVE PREMATURE

The U.S. Department of Transportation climbed out on a limb a few years ago when it ordered a seat belt interlock system which killed the ignition if you didn't lock your seat belt.

The public outcry was so great that Congress repealed the action less than two years later.

Now Transportation Secretary Brock Adams has taken up the cause again by ordering the auto industry to install either air bags or passive restraint systems for new cars starting in 1982. Adams provided an option with the passive restraint plan—a seat belt harness that automatically covers passenger and driver when they get in the car.

No one is lobbying hard for this device which has had only limited testing. The major lobbying thrust is for air bags, the devices which inflate on front end collisions to protect driver and passengers.

The problem with the Adams decision, in spite of all the hoopla, is that air bags have not yet been proven more effective than the existing seat belts and shoulder straps.

Congressman Bud Shuster, R-Pa., is leading the opposition to air bags. He charged that Adams glossed over findings of his own transportation department showing that air bags do not provide the overall protection of seat belts and straps.

Automakers insist that air bags will cost anywhere from $200 to $300 per vehicle for the installation, and once the bag inflates, by accident or in a crash, the replacement cost will be more than the original factory installation.

In other words the program will sharply increase the cost of owning a new car with the safety factors gained still highly questionable.

Shuster also ripped claims by air bag proponents that the devices will reduce insurance premiums by as much as 30 per cent. Shuster said his studies found the average saving would be closer to one percent.

At the heart of the debate is the issue of whether people can be forced to take sensible steps to protect themselves from death and injury on the highways.

Shuster stresses that the existing seat belts and shoulder straps are more effective in saving lives. But the problem as always is that a large percentage of American motorists won't use them.

So the alternative is mandatory federal government action despite reports that car buyers have shown little interest in cars with air bags offered as an option on some models.

A proposal for a federal law making use of seat belts mandatory would be difficult to enforce although it might spur citizens to buckle up to avoid a ticket. Congress so far had shown little enthusiasm for the idea.

Adams has chosen to risk the public wrath in his order which will stand unless Congress vetoes it.

Congress should take that step now and demand that DOT provide more comprehensive evidence of the air bag usefulness before foisting this costly system on the public.

Efforts to reduce the Nation's disgraceful highway death toll are needed and must be pursued. But it is important that devices like air bags prove their worth over existing equipment like seat belts and shoulder straps before they are made mandatory equipment.

[From the Detroit Free Press, July 21, 1977]

AIRBAGS AND OTHER IMPOSITIONS

(By James J. Kilpatrick)

WASHINGTON.—President Carter endorsed no-fault automobile insurance the other day. At about the same time, Transportation Secretary Adams mandated the installation of air bags. And up on the Hill, a number of small bakers were protesting some labeling requirements. The stories are unrelated, but they have a common theme. That theme is the needless exercise of federal power.

Our masters in Washington increasingly take the view that they know what is good for us, and willy-nilly, they will impose their superior wisdom upon the states and on the people.

No-fault insurance is a case in point. The idea has been kicking around for 10 years or more. Under the no-fault approach, the element of responsibility is largely removed from the settlement of automobile accident claims. The driver surrenders his right to sue, except in the most serious instances, but he is assured of prompt compensation for his injuries. It makes no difference who was to blame. By eliminating tedious investigation and litigation, a reduction in insurance premiums can be achieved.

Massachusetts pioneered with no-fault in 1970. Subsequently, 15 other states decided to give the idea a whirl. Another eight states began experiments with no-fault offshoots. The results have not been remarkably impressive. The states are still tinkering with different versions.

Under these circumstances, common sense should dictate that Congress back off. The need for a national no-fault law has not been demonstrated. The states ought to be left free to perform their function under federalism. But the Senate and the Carter administration are bent on imposing their supposed wisdom anyhow.

Secretary Adams' air bag edict stems from the same Potomac fever. By September of 1983, unless Congress overrules his mandate, all new cars will have to be equipped with this expensive and complex device (or with passive safety belts), whether car buyers want the protection or not.

Real world experience indicates that air bags work. The successful results have been widely publicized. But whenever manufacturers have offered air bags as optional

equipment, the customers have shunned them. In the judgment of the marketplace, the risk does not justify the cost. In a voluntary society, such judgments ought to be respected, but Secretary Adams has no faith in a voluntary society.

The bakers appeared before the House Small Business Committee to complain bitterly at some new labeling requirements laid down by the Food and Drug Administration. Starting January 1, packaged foods must list the chemical names of the ingredients. The idea is to let the purchaser know what he is getting, and there is nothing wrong with that idea.

But one result is that instead of "baking powder," a label might have to indicate "sodium aluminum pyrophosphate, gluconodeltalactone." What is the sense in this? Such requirements do not clarify; they obscure. And in the case of the small bakers, the expense of frequent label changes, as ingredients are modified, could be ruinous. To these complaints, the FDA is deaf.

And so it goes. In each of these instances, the intentions are good—to simplify insurance settlements, to save lives, to disclose precisely what is in the food we eat. The trouble lies in the clumsy use of power, and in the steady erosion of the principles of a free society.

Left alone, the states will enact the no-fault laws their own people want. Left alone, prudent motorists will buy air bags as they please. Left alone, competitive bakers will attract customers by giving them clear information. Our busy masters, sad to say, simply do not work that way.

[From the Detroit News, Mar. 28, 1977]

AIR BAGS STILL OF DOUBTFUL VALUE

Transportation Secretary Brock Adams will reopen the issue of whether air bags ought to be required on U.S. cars in a new hearing April 27. In doing so, he acts in unseemly haste and appears to be prejudging the issue. He admits he is leaning heavily toward mandatory requirement of the bags.

Adams criticized the decision of his predecessor, William T. Coleman, who did not order installation but instead arranged an agreement for massive test installations at enormous cost to the auto industry.

Coleman wasn't sold on the bags, which inflate when a car is struck with an impact greater than 12-miles-per-hour. In our view, the former secretary's doubts were justified. Coleman also had reached his conclusion after a long and careful series of hearings.

The deliberate process is not for Adams. He leaps in with both feet. He says he can't understand how his predecessor failed to mandate a safety device which, Adams says, would save 9,000 lives a year.

That statement is unfair.

The Coleman report says air bags would save 12,100 lives in traffic accidents annually and also prevent tens of thousands of injuries. But Coleman didn't stop there. He said air bags are not superior to lap and shoulder belts already installed in cars.

The belts, Coleman said, would save even more lives than air bags if they were buckled up in all cars all the time.

Washington is seeking a "passive restraint" system which protects a driver without his doing anything on his own. Air bags have their appeal because, in theory, they deploy automatically in a crash and throw a cushion in front of the driver.

But the air bag system is not the only "passive" equipment available. It is the most costly—and that is its distinction.

Inflating car prices by $500 a unit is no small matter. Some people can remember when one could buy a whole car for that amount. Adding that much to the price would remove thousands of people from the car market and create serious unemployment.

[From the Mining Journal, Marquette (Mich.), July 15, 1977]

CONSUMER RIPOFF

When it comes to consumer ripoffs, the effort by Transportation Secretary Brock Adams, to require mandatory automatic crash protection on all cars ranks as a new North American record.

Adams has told Congress that passive restraints—either air bags that inflate in a crash or a safety belt that automatically wraps itself around the driver and front seat passengers—must be installed on automobiles starting with the 1982 model year.

What will these safety bags cost the car buyer? Adams estimates the price at something between $100 and $300. Automobile manufacturers say it could be as much as $600. Nobody is saying how much it will cost to reinstall the bags after they have inflated.

What will the bags acomplish? They are designed to inflate in a crash of 12 miles per hour or greater, cushioning front seat riders. They are not intended to provide protection from side impact nor will they keep a person within the structure of the car in a rollover accident.

Our opposition to the Adams order requiring the automatic safety equipment is based on a number of factors. First, we do not believe the government should be in the business of protecting people from hurting themselves without regard to the cost. The next thing you know, we'll be breaking the law if we don't brush our teeth or jog in place 15 minutes every morning.

Next, we don't even know if the air bags will do what they're supposed to do. There are only about 11,000 cars equipped with the bags in operation today and there have been only about 200 crashes in which they inflated. There have been three cases in which air bags have inflated accidentally. If you project that figure to all of the autos in the country, you get some 30,000 accidental inflations each year and who knows how many accidents caused by the malfunctions.

Finally, we already have safety devices which are more efficient and foolproof than air bags. They're called seat belts, and all you have to do is hook them up. Experts agree that 19,000 lives could be saved each year if all motorists wore seat belts.

Sen. Robert Griffin, R-Michigan, calls Adams' order a "$20 billion consumer ripoff." We agree.

[From the Memphis (Tenn.) Press-Scimitar, July 13, 1977]

VOTE NO ON AIR BAGS

If it has any respect for public sentiment, Congress will veto a government requirement that all new cars be equipped with air bag safety systems by the fall of 1983.

As near as we can tell, there is little popular demand for a costly balloon-like cushion of air that automatically pops out of the dashboard to protect front-seat passengers during head-on collisions.

The Ford administration had the right idea back in December when it asked the auto companies to voluntarily install up to 500,000 air bags in new cars on a trial basis, beginning in 1979.

But now the new secretary of transportation, Brock Adams, has gone from optional to mandatory by insisting that new standard-size cars be equipped with air bags in the fall of 1981, new intermediates and compacts in the fall of 1982 and new smaller cars in the fall of 1983.

The order will go into effect unless both houses of Congress veto it within 60 working days—which is why citizens who have doubts about the air bag should be urging their congressmen to vote against it.

The air bag will add several hundred dollars to the already inflated cost of a new car. But beyond the cost factor, there is not much evidence that air bags would save 9,000 lives a year, as Adams contends.

What evidence there is seems to show that air bags would be considerably less effective than seat belts at preventing serious injuries in auto accidents.

Let's give the air bag a fair trial as an optional piece of equipment. But let's not force new car buyers to accept (and pay for) a debatable safety device that most of them might prefer to do without.

[From the Boston (Mass.) Herald American, July 11, 1977]

THE AIR BAG DECREE

By the Big Brother proclamation of Transportation Secretary Brock Adams, all 1984-model automobiles put on sale in the United States will have to be equipped either with those highly-controversial air bags—which cost buyers up to $300 each—or the alternative nuisance of lap and shoulder restraints which wrap around occupants automatically when car doors are shut.

The bureaucratic fiat, which will take effect unless vetoed by Congress in the next 60 session days, was a long-sought goal of consumer activist Ralph Nader and others convinced that the public needs more protection from its own lack of responsibility. Making the safety devices mandatory, they claim, will save up to 10,000 lives a year.

Maybe so—and maybe not. The effectiveness of the expensive and cumbersome automatic restraints has not been proven in practice. What has been proven in fact is that the public, in general, is at the very least unenthusiastic about them. Indeed, it has been shown in no uncertain fashion that a likely majority of motorists is indignantly opposed.

Seat belts, for example, have been tolerated and increasingly used because their use is voluntary. When they were made mandatory in the safety belt interlock system, the ensuing public outcry caused Congress to scuttle the system in 1974. Lap and shoulder harnesses that automatically clutch car riders at the closing of a door are not likely to be any more acceptable than the buzzing interlocks were.

Similarly, the mere idea of air bags under a dashboard which are triggered to inflate instantly in your face by an impact bump has been enough to spook many front-seat riders even more than the fear of collisions. Only about 10,000 such units were sold when General Motors, in a test of public demand, offered them as optional equipment several years ago.

Former Transportation Secretary William Coleman, in weighing all aspects of the car rider interior safety problem, concluded that the sensible and responsible position for the government to take was to encourage voluntary acceptance of automatic restraints—not to try forcing them on the public for its own good.

If Congress fails to recognize the wisdom of the Coleman solution in the next several months and does not veto the arbitrary decree of his successor, it is virtually certain that an uncooperative and resentful public will compel such recognition later.

The 1984 envisioned by novelist George Orwell as the time for total Big Brother dictatorship by government bureaucracies everywhere is still far from being realized in this country. Up to now, that is.

[From the Wall Street Journal, July 20, 1977]

THE HALF-SAFE CAR

We've been wondering why Brock Adams, in his "air bag decision," seeks to force the nation's motorists to accept an auto safety device that is both expensive and relatively ineffective.

The most charitable answer is that the Transportation Secretary felt compelled by the rigidities of the Motor Vehicle Safety Act to go with available technology, however flawed. If so, he should read the act again.

Less charitably, but more plausibly, we could guess he fell victim to the air bag lobby—such voices as Allstate Insurance, Ralph Nader and Joan Claybrook, a Nader protege who has risen to become Mr. Adams' highway safety chieftess. These early advocates of the air bag trouble their minds little with recent data demonstrating its inadequacies.

Least charitably of all, we might think the Secretary himself has come down with that virulent Washington disease, paternalism. Whatever the reason, it was a bad decision.

We should note at the outset that the Secretary did not commit himself unequivocally to the air bag. His order merely requires that beginning in 1981 and by 1984 all new cars be equipped with "automatic crash protection—air bags or passive seat belts."

But no one is lobbying very hard for the passive seat belt. Reliable crash data still are sketchy on the one such device in general use, on the Volkswagen Rabbit, which pulls a strap across the passenger when he closes the car door and utilizes "knee bolsters" to prevent his sliding under the strap in a crash. Given the DOT's biases, it is not misleading to call the Secretary's action, at this stage at least, an "air bag" decision.

But the DOT's own research shows lap and shoulder harnesses, with which cars sold in the U.S. already are equipped, far more effective than air bags in protecting passengers. In tow-away accidents involving the approximately 11,000 cars equipped with air bags from 1973 through 1976, there have been four fatalities (five if you count one delayed death) and 23 serious injuries. That rate is far higher than for shoulder harness equipped cars, even averaging in accidents in which the shoulder harness was not in use.

Dr. Howard Goldmuntz, who has been conducting auto safety research under federal contracts for six years and who favors laws requiring motorists to use their shoulder harnesses, notes that harnesses were in use 44.2% of the time in 1975 car involved in tow-away accidents. "Even at the 1975 voluntary usage rates, 80% more lives would be saved with harnesses than by mandating the air bag," he contends. "For those of us who use the harness, requiring that we use the less safe air bag is a cruel and unwarranted imposition."

Indeed it would seem so. In order to argue that the air bag would save lives it was necessary for DOT to hold, on the basis of observations in shopping center parking lots, that motorists buckle their harnesses only 20% of the time. Even at 20% harness usage, Dr. Goldmuntz doubts that the air bag would be superior.

It doesn't help the Secretary's case when costs are thrown into the balance. His argument that air bags "could" cost an added $100 to $200 is so optimistic as to border on the fraudulent. The lowest estimate by a major auto maker is GM's $193. Ford puts the cost at $235. Chrysler estimates it at $250 or more.

That doesn't include consideration of the air bag's 40 to 50 pounds extra weight, which calls for costly additional engine power. It doesn't include maintenance costs; the air bag can be dangerous if its deceleration sensor is mishandled by a mechanic. And it doesn't take account of replacing the bag and repairing the damage to the passenger compartment if the air bag bangs out through malfunction or a minor accident. The bill here runs $500 to $600. Congressman Bud Shuster of Pennsylvania predicts 30,000 accidental deployments a year if all cars are air bag equipped and puts the bag's cost to the average motorist during his driving life at $2,000. Claims that the air bag would lower insurance costs look implausible in the face of these numbers.

It should be obvious by now that there is something other than logic propelling the drive for "passive restraint." There is. Passive restraint is a part of the theology of those who distrust individual choice and judgment. The Secretary's brief for the air bag holds that "the automobile's characteristics must reflect broadly defined societal goals as well as those advanced by the individual car owner." In case you haven't heard, "societal goals" are set in Washington.

Secretary Adams decided to mandate air bags after discovering that "public acceptance or rejection of passive restraints is not one of the statutory criteria which the department is charged by law to apply in establishing standards." Maybe not, but Congress might want to give some thought to public reaction in deciding over the next two months whether to let the Secretary's decision stand. It has only been three years since Congress was forced by public outrage to scrap the interlock, which made it impossible to start a car without first buckling the seat belt. Public preferences may not look very important to Secretary Adams but we have the feeling they still count for something in the American political process.

[From the Los Angeles Times, July 4, 1977]

COSTLIER BUT INFERIOR—NOT BETTER

Few Americans are likely to disagree with the desire of Transportation Secretary Brock Adams to avoid 9,000 traffic fatalities a year through improved protection for automobile occupants. But the way he has chosen to aim at that goal is the most expensive means available, and far from the most effective.

Adams has ruled, subject to congressional veto, that air bags or automatically self-fastening safety belts must be put in the front seats of new cars starting on a phased schedule in the 1982, 1983 and 1984 model years. The air bags will inflate automatically when the front bumper feels an impact of a certain strength. The seat belts will be anchored on one end to the doors; they will envelop and protect occupants without any human action.

The basic problem is plain enough, and frightful enough. Highway carnage snuffs out almost 50,000 lives a year in the United States. Some 70% of people riding in cars today decline to fasten their belts. People who die because they neglected to use belts impose not only grief on their families but great costs on others.

Yet the bags and the automatic belts won't do the same job that today's ordinary belt systems do. The bags are good in front-end collisions, almost useless when a car is bashed on the side. To avoid pinning people inside a wreck, they must deflate almost as quickly as they expand. That means that occupants are unprotected against the subsequent ricochets that are common in the worst accidents.

The door-mounted belts are dangerous, too. They can lock an occupant inside the car if the door is damaged.

These flawed systems will add at least $1 billion a year to America's expenditure on automobiles. The cost is extravagant, considering that regular lap-and-shoulder belt systems when well designed—and when used—are both cheaper and better.

Canada's province of Ontario has shown a dramatic drop in fatalities and injuries recently by requiring people to buckle their belts. Adams should be exploring ways of paralleling that success. And Congress in the meantime should scuttle the transportation secretary's plans to make mandatory the costlier and less-effective alternatives:

[From the Detroit News, July 21, 1977]

AIR BAG TEST JUST A GIMMICK?

(By John E. Peterson)

Some of Detroit's best automotive engineers are seething over the national exposure given photos that allegedly showed an air bag about to cushion a small girl during a demonstration on Capitol Hill of the controversial safety device.

The photos were sent out by Associated Press and United Press International, who both covered the July 5th press conference.

The conference was called by a pro-air bag coalition, and the deployment demonstration was designed to show doubting congressmen and newsmen that air bags will effectively protect small children in auto crashes.

You probably remember the picture. Three-year-old Shelby Sutcliffe, the daughter of coalition attorney S. Lynn Sutcliffe, was perched in the driver's seat of an auto compartment mockup with Ralph Nader looking on.

Suddenly the air bag shot out of the steering wheel, planted a soft "lovepat" on Shelby's blond locks and forehead and collapsed.

Strobe lights flashed and cameras whirred. The episode made the nightly television news and the photo was splashed on the front page of dozens of newspapers across the country.

The remarkably successful publicity gimmick probably would have gone unquestioned, if several automotive engineers with years of air bag testing experience hadn't been in the watching chowd.

They noted that the air bag didn't go bang with the explosive force it is supposed to, it seemed to deploy a bit more slowly and the little girl was not in a position to be protected if she were in a real life crash.

Armed with growing doubts, the automotive engineers videotaped the air bag demonstration off that night's network news. Then they time it. Not once, but numerous times.

They discovered some interesting facts. The demonstration air bag took 300 milliseconds to reach Shelby Sutcliffe's head. In a real crash situation, air bags must balloon out to front-seat occupants in only 30 milliseconds to provide effective protection.

The demonstration air bag barely touched Shelby Sutcliffe. In a real crash situation, it all but enshrouds the occupant, then collapses instantly to prevent suffocation.

The engineers called Allstate, which owns the demonstration model, and asked for an explanation. They said Allstate disputed that the bag had deployed at only a tenth of its real speed, but conceded that deployment was one/half to one/third slower.

Allstate, they said, contended that the demonstrator only simulates air bag deployments, so people can see how the air bag works.

"They didn't bother to explain that to the press or any of the lawmakers who attended the demonstration," said one of the automotive engineers who witnessed the test.

"They let all of those people walk out of there believing they had seen an actual air bag deployment," he said. "If the auto makers had pulled a stunt like that they would have been crucified by the press."

The Detroit News placed two phone calls to Allstate's public relations office in Northbrook, Ill., yesterday seeking a fuller explanation of the incident. They were not returned.

The company is careful to term the air bag demonstrations as "simulated," however.

Photo editors at both AP and UPI said they pointed out that the demonstration was a simulation in captions accompanying the picture.

Nevertheless, many newspapers apparently deleted the word "simulate" from the captions they ran with the photos—leaving their readers with the impression that the demonstration was the equivalent of an actual air bag explosion.

THE COMMON SENSE OF THE PUBLIC SPEAKS OUT—KEEP OUR TIES WITH THE REPUBLIC OF CHINA

Mr. GOLDWATER. Mr. President, on several occasions during the Presidential campaign last year, then candidate and now President Jimmy Carter repeatedly stated his desire to tap the good commonsense of the American public on foreign policy issues. In pursuit of that expressed goal and willingness, Betty Field, an American temporary resident in Taipei, Republic of China, has written an open letter to President Carter presenting the deep feelings of most Americans who know there is something badly wrong with a Government policy which would ignore our friends on Taiwan and cater to the totalitarian rulers of mainland China.

Contrary to the remarks of some apologists for looting which occurred in New York City during its most recent blackout, Betty Field points out that this social phenomenon does not occur universally throughout the world. She writes that Americans can take a lesson from the Chinese on Taiwan who suffered the great devastation caused by typhoon Vera.

In Taipei, and other cities on the island, where there were blackouts lasting for a 24-hour period from the storm, there was no looting, no disruption and no need for police control. Instead, local citizens joined together voluntarily in relief efforts serving the welfare of the many.

Mr. President, this episode spotlights the decency of our friends on Taiwan and emphasizes the value of keeping our friendship with them.

Mr. President, so that this eloquent letter may be read in full by my colleagues, I ask unanimous consent that the letter to President Carter from Betty Field be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the China Post, Aug. 26, 1977]

LETTER TO PRESIDENT CARTER

President JIMMY CARTER
The White House
Washington, D.C.

DEAR MR. PRESIDENT: "Open Door Policy" if in word only, means little or nothing. I do not profess to be a politician, the fact is, I abhor "double talk" which is what this letter is all about. This is my second attempt to contact you. The first time back in 1976, after a one month delay, I was informed the matter would be handled by the State Department and that I would hear from them—the only problem is, they forgot to mention which decade.

Our State Department is staffed with fine, well educated men and women. Unfortunately, like in the horse and buggy days, they seem for the most part to have blinds on their eyes so that they can see in only one direction. This remark will offend their sensibilities true but it is time that they took their heads out of the sand and looked at their surroundings. Our foreign policy has always left a lot to be desired. A few great men build an image which the rest manage to tear down through sheer stupidity.

Take for instance U.S. Secretary of State Cyrus Vance's comments on the Republic of China versus Communist China. Do you see anyone fleeing from the Republic of China? Have you as an individual seen Taiwan for yourself? Do you realize that there are over 16 million free people in the Republic of China working hard to become a developed nation and doing so by leaps and bounds. The U.S. has a lot to learn from this beautiful but struggling island. For example, the recent blackout in New York City due to a power failure and the havoc that followed. There was a blackout in large sections of heavily populated Taipei where not only electricity but water as well was affected for a 24-hour period due to typhoon Vera. No, there was no looting, no disruption and no need for police control. This alone should tell you something.

Your intention to "normalize" relations with Communist China is the biggest mistake of your career. Knowing the lion is hungry, would you deliberately put your hand into his mouth? I think not! Yet, with apparent closed eye policy, you are willing to damage U.S. prestige all over the world by showing that our words of friendship are just that "words". Do business if you will with the Communist Chinese but not at the expense of a friendship of long standing. You expound on human rights and yet you close your eyes to reality. Empty words do serious harm.

I am not just talking about one country, two or three but the whole world. Our actions speak much louder than words. The State Department is adept at using an excellent range of vocabulary but when it boils down to the simple vernacular, they have lost the game.

Americans are warm people ready to help those in less fortunate circumstances. They take out of their own pockets although now they are more heavily taxed than ever, to help others. This becomes apparent in any crisis. The most recent was when they opened their hearts and their homes to the Indo china refugees. Yet these same Americans are being duped by their own government. Few Americans have access or really are knowledgeable to read for instance the "Foreign Policy" monthly or quarterly booklet. Yet, this small publication is a jewel of information. Don't you think the American Public would be shocked to learn that the food we sent to Bangledish was used as a political tool knowingly and that the millions of destitute never received its benefits? The powers that be in Washington, D.C. are well aware of this situation and I imagine many similar, but this is what we call "political strategy". Filthy as it might be, it works to our advantage so why worry about a few million illiterate souls . . . let them die . . . life is cheap. If the shoe were on the other foot, you would find the pinch unbearable!

No one can tell you how to run the country. It is a rather thankless job but a big political plum. You speak of making changes—many are needed at home and abroad.

Our Senators and Congressmen who go abroad, barely see the country they are in but "know it all", make rash judgments and need badly to be reeducated. How wonderful to travel at the taxpayers' expense and then expound strongly on subjects they have little knowledge of. They see only a narrow picture of any country they visit. There is the language barrier which I admit can be formidable. This restricts their movement, their contacts, etc. but the good Lord has given them their senses. They can move about a country and see for themselves. It is not necessary to rely on a prepared stereo type response as being the gospel truth.

Yes, Mr. President, we are in need of radical changes. Get the U.S.A. off welfare, effect a "PA system" if necessary. Pay for a performance done. Change our foul foreign policy outlook. The world is watching closely. If we ourselves are to remain a free country, then we must work at it. Right now, we are taxing the middle class who are the very backbone of the country, out of existence. You can push people just so far and then the clever doctrine of the Communists will gain a foothold. Years ago Khrushchev stated that Communism would take over without a shot fired. Do we have to close our eyes to what is happening?

The Communists harbor contempt, hatred and hostility towards the U.S. yet we choose to welcome them with open arms. We see that "human rights" do not exist in these countries and that the very word is a sham for there are no human rights.

Are the Russians free people? Can they discuss politics freely or for that matter, move about freely? The Chinese Communists have made great strides at progress but do the people have freedom? Recently a Chinese pilot, Fan Yuan-yen fled to Taiwan seeking freedom. Yet what were the comments in the U.S.A. . . . he only brought a MIG–19 with him. No so called secrets but the biggest secret of all was exposed! He sought freedom at a huge price. He was forced to leave his family behind hoping one day to be reunited with his loved ones. People flee a country because oppression gets to be too much. Must we continually close our eyes to the basic truth?

My letter has covered a wide range of cancerous ills. It is not meant to win any Pulitzer Prize. I am known for my directness. It's just that like many Americans, I see the filth and underhandedness within our own government. The corruptness which is allowed to exist. You are aware of it yourself but will you be able to dent the surface in attempting to correct that which is wrong?

With the sincere wish that this letter passes eventually to your hands, I remain,

Very respectfully yours,

BETTY FIELD,
Taipei.

ADMISSION OF COMMUNIST VIETNAM TO THE U.N.

Mr. THURMOND. Mr. President, on September 20, the 1977 session of the United Nations General Assembly began. The occasion was marked by the customary pious oratory about working for peace and the expansion of human rights. This year, however, this oratory rang a little more hollow than usual, for this year a new nation was added to the membership rolls—Communist Vietnam.

It would be hard to imagine a government that has done less to achieve the goals of the United Nations over the last decade than that of Vietnam. The hands of the Vietnamese leaders are still red with the blood of the countrymen that were slain in their brutal invasion of South Vietnam in the spring of 1975. Their U.N. representatives leave at home an ongoing program to stamp out every vestige of the civil and political rights once enjoyed in the southern part of their country. Yet here, at the U.N., the speeches of welcome resound with praise and congratulation.

This hypocritical spectacle comes as no surprise, but I cannot refrain from recording my outrage. It pains me to think that the United States has not only helped to write the script for this ludicrous play, but is also furnishing the stage on which it is being enacted. Others, too, are disgusted. A thought-

provoking editorial on the subject recently appeared in the State newspaper of Columbia, S.C., and in order that my colleagues may have the benefit of hearing more on this subject, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PEACE-LOVING VIETNAM JOINS UNITED NATIONS

The opening of this year's session of the United Nations General Assembly clearly reveals the world organization as a pious perversion of what ostensibly is a world family of "peace-loving states."

We deliberately put "peace-loving" in quotation marks, not only because the term is lifted directly from the U.N. Charter but because its application is more artificial than real when applied to nations such as Vietnam. The point is pertinent because that forcibly reunited Asian nation was admitted to the United Nations Tuesday as its 149th member.

At this juncture, it would be well to remember that another premise upon which the United Nations stands is that of self-determination of peoples. Who on the scene is naive enough to believe that the non-Communist people of South Vietnam have exercised self-determination in becoming subjects of their Communist masters of the North? But the argument for self-determination currently seems reserved for the castigation of such anti-Communist nations as Rhodesia and South Africa. Let us return, however, to Southeast Asia.

Vietnam's entry into the U.N. fold was made possible by the withdrawal of former objections (within the Security Council) by the United States. It was two months ago that the United States backed away from its opposition, succumbing to pressures of dozens of other countries which apparently see no inconsistency in accepting belligerent nations into an organization dedicated (as least on paper) to the "maintenance of international peace."

As an element of that professed dedication to peace, the United Nations gives lip service to "the suppression of acts of aggression."

But by any definition of the word, whether taken from a dictionary or the 1975 U.N. resolution specifically defining aggression, North Vietnam's invasion and subjection of South Vietnam must rank as the rankest sort of aggression.

Yet, here we are today ("we" being the United States) consenting if not conniving in the admission of this blood-stained aggressor to the United Nations.

Perhaps there is a lesson here which illustrates mankind's ability to rationalize practical actions which run counter to the very principles which supposedly govern men's affairs. We are reminded of the profound observation uttered more than three centuries ago by Sir John Harrington:

Treason doth never prosper,
what's the reason?
For if it prosper, none dare
call it treason.

So it seems with aggression. If it succeeds, who dares call it aggression? Certainly not those members of the United Nations whose own national standing stems from the forceful elimination of obstacles, organizations, and individuals standing in their way.

Finally, there is the business of human rights, another listed concern of the United Nations charter. But that high-flown phrase took a beating back in 1971 when the U.N. General Assembly ousted the National Chinese republic on Taiwan in favor of Communist (mainland) China.

The line forms to the right (perhaps "left" would be more appropriate) for those who believe the United Nations as constituted today has any real interest in self-determination, human rights, or the suppression of aggression if such interest would offend its Communist clientele.

UNITED STATES/UNITED KINGDOM TAX TREATY

Mr. GRAVEL. Mr. President, there is pending before the Senate a tax treaty which the U.S. Treasury negotiated with the United Kingdom. One provision of this treaty, article 9, section 4, is unprecedented and is of grave concern to the States. In this provision, the Treasury has bargained away the ability of the States to effectively enforce their tax laws against multinational corporations based in Great Britain. If the Senate approves article 9, section 4, it will become a precedent for our dealings with other countries, and the loss to the States in potential revenues will be hundreds of millions of dollars. My own State of Alaska stands to lose up to $50 million per year from the United Kingdom Treaty alone.

Not only do such revenue losses shift more of the tax burden to small taxpayers, they also give the large multinationals a still greater competitive advantage over small in-State businesses, which do not have foreign subsidiaries in which to hide their income from State tax collectors.

In defending this indefensible provision, the Treasury has cast unqualified aspersions upon the particular technique for auditing multinationals that the United Kingdom Treaty would ban. This technique, called the "unitary" or "whole business" method, takes the corporation's worldwide income and divides it up among the respective States and countries according to the percentage of the corporation's worldwide business that is done in each. This approach prevents the multinationals from juggling their income into subsidiaries in other parts of the world.

There has come to my attention, a study by Treasury's International Economist, George Carlson, of methods used by the States to determine the taxable income of multinational corporations. This study takes a much more balanced view of the "unitary" or "whole business" method than Treasury has presented to the Senate. In fact, the study cites several advantages which the unitary method has over the alternatives.

Since some of my colleagues may have based their position on article 9, section 4, upon Treasury's statements to the Foreign Relations Committee, I ask unanimous consent that the relevant portions of this indepth study be printed in the RECORD for my colleagues to review.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE TAXATION OF CORPORATE INCOME FROM FOREIGN SOURCES

(By George Carlson)

III. ANALYSIS

State taxation of foreign source income, as defined by Federal law, creates the possibility of double or extraterritorial taxation; it can reduce the Federal tax base; and in some circumstances it may raise significant administrative problems. These aspects are examined as they arise under the specific allocation method, formula apportionment, and the unitary system. To the extent states exclude foreign source income from taxation, the problems do not arise.

1. Specific allocation method. The 46 states with corporate income taxes allocate certain items of nonbusiness income to a specific geographic source, usually on the basis of the situs of the property, the extent of its use, or the taxpayer's commercial domicile, and divide business income between jurisdictions on the basis of apportionment formulas (see Table 2). The states differ, of course, in how they define nonbusiness and business income. Income that might be allocated by one state could be apportioned by another. Delaware, Florida, New Hampshire, Georgia, and Ohio exempt some items of foreign source income, and are the only states to provide special rules for the tax treatment of foreign source income.

In the remaining 41 states, any taxation of foreign source income results from the application of the general rules for taxing a multistate corporation. Based on these rules, the following items of foreign source nonbusiness income are included in the tax base of a significant number of states: dividends; interest; capital gains from intangible personal property; and rents and royalties from personal property.

(a) Double taxation. Double taxation, defined in its broadest terms, occurs when the same income is taxed by two or more jurisdictions. In this sense, double taxation regularly occurs between the states and the Federal government, although the Federal deduction for state taxes ameliorates the extent of double taxation. It also occurs between states when their methods of dividing the income of a multistate corporation do not mesh. Double taxation between the Federal and foreign governments is addressed by the foreign tax credit provisions of Federal law.

For present purposes, double taxation is defined more narrowly to occur whenever two or more jurisdictions tax the same income in such a manner that the taxpayer has a total tax burden that exceeds the higher of the tax burden levied by all jurisdictions within the geographic source of his income or the tax burden levied by all jurisdictions within the taxpayer's own place of residence.

Thus, if the combined taxes of states, the Federal government, and foreign governments on foreign source income exceed on the one hand the tax burden imposed by states and the Federal government on domestic source income, and on the other hand the tax burden imposed by foreign government alone on foreign source income, double taxation may be said to occur. This narrow type of double taxation is illustrated in Case IA of Table 4. Similarly, this narrow type of double taxation also exists between the states if the combined taxes levied by the Federal government and the states exceed the combined Federal and state taxes that would be levied if the corporation operated in only one state.

In the context of state taxation of foreign income, the operation of specific allocation rules creates the possibility of two similar kinds of double taxation. In the first place when the domiciliary state provides no credit for foreign taxes, foreign source income may be taxed at a higher rate than in either the source or residence jurisdictions. In the second place, the income might be taxed both in the domiciliary state under specific allocation rules and in some other state under formula apportionment or a unitary system.

For example, since Illinois allocates foreign source nonsubsidiary dividends, portfolio interest, and some capital gains to Illinois when received by a corporation whose commercial domicile is in Illinois, double taxation may arise if this income also is taxed at its foreign source. Foreign source income also may be taxed by two or more states. For example, Illinois apportions foreign source subsidiary dividends as business income, but Indiana allocates them entirely to that state if the recipient corporation has its commercial domicile in Indiana. Therefore, a corporation domiciled in Indiana, but also doing business in Illinois, would find that any subsidiary dividends it received from foreign sources would be taxable in full in Indiana and a portion of the dividends would again be subject to tax in Illinois.

These examples are not unique. Double taxation regularly occurs because the states do not provide a credit for foreign taxes paid in excess of the amount creditable under Federal law.[1] Double taxation also occurs because states do not have a uniform system for allocating and apportioning income among them, and, with the exception of Alabama, do not provide a credit for taxes paid other states. Thus, a multistate corporation will be subject to double taxation whether or not it has foreign operations.

Fifteen states allow the dividend received deduction provided by Federal law. This deduction applies mainly to dividends from domestic corporations; dividends from foreign corporations are eligible only if received from a corporation with significant gross income effectively connected to a U.S. trade or business. Several more states exempt intercorporate dividends from corporations taxable in the state where the payee is domiciled. Thus, in these states, intercorporate dividends from foreign sources will be included in the state's tax base to a greater extent than if the dividends were received from corporations operating mainly within the United States.

(b) Reduction of the Federal tax base. Whenever foreign income is taxed by a state, a deduction is created which may be claimed in computing Federal taxable income. Again, in this respect, there is no difference between state taxation of domestic income and state taxation of foreign income. Any state or local tax reduces the Federal tax base.

The new issue raised by state taxation of foreign income is whether this tax base should be reserved to the Federal Government. It might be argued that to the extent foreign source income is taxed at all, it should be taxed for the benefit of a particular state. The income is earned abroad, and does not depend upon, or benefit from, state protection or expenditures.

On the other hand, the United States taxes its residents on their worldwide income. By analogy, it can be argued that the individual states should be permitted to tax their residents on worldwide income. Under this view, it makes no difference whether states tax foreign income deliberately through a specific allocation procedure or inadvertently through a malfunctioning formula apportionment. In both cases, states should be permitted to tax foreign income.

(c) Administrative problems. The specific allocation method does not create substantial administrative problems for the corporate taxpayer. The income is either entirely allocated to the state, or entirely allocated to another jurisdiction. However, with any specific allocation method, state tax administrators must be concerned about erosion of the tax base, and consequent loss of revenue, through artificial transfer pricing.

2. Formula apportionment. In taxing a multistate corporation or a multinational corporation, each state faces the problem of assigning a "reasonable" proportion of the corporation's total taxable income to the state. A "reasonable" proportion generally means that the state will seek to tax only that part of a corporation's income that is generated within its borders. The United States faces a similar problem in taxing multinational corporations. Thus, the Internal Revenue Code sets forth detailed source rules and arm's length pricing procedures. Such an approach would strain the administrative capability of many states. A frequently used device at the state level, therefore, is to apportion business income in relation to the corporation's activities in the particular state. The question raised by formula apportionment is whether in addition to serving as a convenient measuring device, it has the side effect of enabling the states to tax foreign source income, as defined by Federal law.

(a) Double taxation. As shown in Table 2, each of the 46 states which levies a corporate income tax subjects at least some of the following items of business income to formula apportionment: dividends, interest, capital gains, rents, and royalties. With few exceptions, this treatment applies uniformly to income from foreign and domestic sources.

While state apportionment formulas are not uniform, it is fairly typical to use a 3-factor formula involving payroll, property, and sales, with each factor having a weight of one-third. Assume that the ABC corporation, which is taxable in New Jersey, has New Jersey payroll, property, and sales of $100,000, $200,000 and $500,000, respectively, and total payroll, property, and sales of $300,000, $600,000 and $1,500,000, respectively. Thus the apportionment factor would be:

$$\frac{\frac{\text{New Jersey payroll}}{\text{Total payroll}} + \frac{\text{New Jersey property}}{\text{Total property}} + \frac{\text{New Jersey sales}}{\text{Total sales}}}{3}$$

$$\frac{\frac{100,000}{300,0000} + \frac{200,000}{600,000} + \frac{500,000}{1,500,000}}{3}$$

$$= \tfrac{1}{3} = \text{apportionment factor}$$

If the corporation received $100,000 in royalties from either a domestic or foreign subsidiary, one third of that, or $33,333 would be apportioned to and taxable in New Jersey. Thus royalty income from a foreign subsidiary would be taxed both in New Jersey and abroad, but royalties from a domestic subsidiary might also be taxed both in a sister state, and in New Jersey. This form of double taxation occurs regularly because the state apportionment formulas, except in the case of branch income and except under a unitary system, do not give recognition to the subsidiary payroll, property, and sales that generate business income in the form of capital gains, dividends, interest, rents, and royalties.

Some states do include selected items of business income in the denominator of the apportionment formula. This has the effect of reducing the size of the apportionment factor. Such an approach mitigates, but does not eliminate double taxation. Moreover, it is difficult to find a logical reason for this particular adjustment. An apportionment formula seeks to divide income, usually, on the basis of a corporation's payroll, property, and sales inside and outside the taxing jurisdiction. It thus seems inappropriate to include an income item in the denominator of the formula.

Formula apportionment does not always create double taxation. It may reduce a state's tax base. This is particularly true of branch income. Virtually all states applying formula apportionment include the income and relevant apportionment factors of both foreign and domestic branches in the apportionment calculation for the parent.[2]

Continue the example of the ABC corporation which had an apportionment factor of one-third. If the corporation had taxable income of $300,000, then $100,000 of that would be apportioned to New Jersey. Now assume that the ABC corporation opens a new branch, either foreign or domestic, but outside New Jersey, that earns $60,000 in taxable income and has payroll, property, and sales of $100,000, $200,000, and $500,000, respectively. The ABC corporation's apportionment formula would then be:

$$\frac{\frac{100,000}{300,000+100,000} + \frac{200,000}{600,000+200,000} + \frac{500,000}{1,500,000+500,000}}{3}$$

$$= \tfrac{1}{4} = \text{apportionment factor with new branch}$$

The ABC corporation now has $360,000 of taxable income that is subject to apportionment, the original $300,000 plus the $60,000 from the branch. It also has a smaller apportionment factor, ¼, rather than ⅓, since the formula recognizes the activities of the new branch. The taxable income which the ABC corporation actually apportions to New Jersey is:

$$\$360,000 \times \tfrac{1}{4} = \$90,000.$$

In this example, the branch earnings, whether foreign or domestic, serve to reduce the New Jersey tax base. This result is produced by a special assumption; namely, that the new branch's ratio of its taxable income to its payroll, property, and sales is less than the ratio of the rest of the ABC corporation's taxable income to its payroll, property, and sales. Of course, if branch operations are more profitable than the corporation's other operations, the ratio of branch income to its payroll, property, and sales would be greater than the corresponding ratio for the rest of the corporation and some branch income would be apportioned to and taxable in New Jersey. The ultimate result depends on how profitable branch operations are relative to the rest of the corporation. Formula apportionment applied to branch operations may thus increase or decrease a state's tax base.

Formula apportionment can also lead to double taxation between states (or a reduction of the states' tax base) because of the failure of state apportionment formulas to mesh properly. Foreign or domestic source income will then be victim to the lack of uniformity in apportionment formulae. Assume that a corporation has foreign subsidiary dividend income of $100,000; that the corporation is engaged in business both in state A and state B; and that the income is apportioned by each of the states. Assume further, to keep the example simple, that the two states use only a property factor in the apportionment formula. State A values property at cost, while state B at cost less depreciation. The property values for the corporation are:

[In millions]

	State A	State B	Total
Cost	$10	$15	$25
Cost less depreciation	$5	$15	$20

The property in state B has just been put into service and has therefore incurred no depreciation.

The $100,000 in foreign subsidiary dividend income is apportioned as follows:

STATE A

(Property valued at cost)
$10/25 \times \$100,000 = \$40,000$

STATE B

(Property valued at cost less depreciation)
$15/20 \times \$100,000 = \$75,000$

Total apportioned:
Foreign dividend income: $115,000.

Because of differing apportionment formulas, the two states apportion more than

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Footnotes at end of article.

the $100,000 in foreign subsidiary dividend income. Clearly, the two states are subjecting some of the foreign subsidiary dividend income to double taxation, in the sense that it bears a higher tax burden than if it had been allocated to one of the two states rather than apportioned between them. This type of double taxation results from differences in the state apportionment formulas. It can and does occur with respect to many items of income from both foreign and domestic sources.

(b) Reduction of the Federal tax base. The apportionment of domestic and foreign investment income (dividends, capital gains, interest, rents, royalties) usually leads to additional taxation at the state level. This happens because the apportionment factor reflects only the activities of the receiving corporation and does not reflect the activities of the paying corporation.[2] Since state taxes are a deductible expense, the Federal tax base is correspondingly reduced.

The apportionment of domestic and foreign branch income may either increase or reduce taxation at the state level. An increase in state taxation would diminish the Federal tax base; a decrease in state taxation would enlarge the Federal tax base. *On average, it seems likely that foreign branches are as profitable as domestic investments. Thus, apportionment of foreign branch income probably does not lead to a substantial net increase or decrease in the Federal tax base.*

(c) Administrative problems. Formula apportionment was initially devised to bypass the difficulties of a source rule approach. It resolves many transfer pricing questions which would otherwise concern state tax administrators. But by comparison with a specific allocation method, formula apportionment may be more complicated for taxpayers.

3. Unitary system. Under a unitary system, the total domestic and foreign business income of the controlled corporate group is apportioned for tax purposes. Unlike other methods, the unitary system apportions the undistributed income of a foreign subsidiary corporation, the income of a foreign parent corporation and the income of foreign brother-sister corporations.

The unitary system evolved from the application of formula apportionment to the activities of a single, multistate corporation. Formula apportionment was upheld by the United States Supreme Court in *Underwood Typewriter Co.* v. *Chamberlain*, 254 U.S. 113 (1920). In discussing the taxpayer's appeal the Supreme Court said:

The profits of the corporation were largely earned by a series of transactions beginning with manufacture in Connecticut and ending with sales in other states. In this it was typical of a large part of the manufacturing business conducted in the state. The legislature, in attempting to put upon this business its fair share of the burden of taxation, was faced with the impossibility of allocating specifically the profits earned by the processes conducted within its borders. It, therefore, adopted a method of apportionment which, for all that appears in this record, reached, and was meant to reach only the profits earned within the state."[4] (Emphasis added.)

In sustaining formula apportionment, the Court was clearly aware of the difficulty of separately accounting for the profit earned in the various stages of an integrated manufacturing and distributing operation.

The Franchise Tax Board of the state of California contends that, since it may be similarly impossible to separately identify the profits earned by individual corporations in a unitary group, the unitary method is justified:

"The use of a combined report (unitary method) for determining income is not based upon the concept that members of a unitary group have not acted at arm's length. It is used because separate accounting, regardless of its mathematical accuracy, does not properly reflect the income of a unitary business. For example, assume one corporation manufactures an item which is sold by another wholly owned corporation and that the combined net income is $1 million. In such cases, should it matter if separate accounting records reflect that one corporation earned $3 million and that the other corporation lost $2 million?[5]

Similarly, the California Supreme Court, in unanimously approving the combined report procedures, stressed the interdependence of a unitary business and questioned the relevance of separate accounting:

"[W]hen the business is not separate, and is an integral part of a larger and unitary system, the separate accounting is inadequate and unsatisfactory in ascertaining the true result of the activities and values attributable to that business."[6]

Other commentators, such as Frank M. Keesling, former Counsel for the California Franchise Tax Commissioner, have argued that the combined report is necessary to confront the loss of tax revenue resulting from unrealistic transfer pricing.[7]

(a) *Double taxation.* The unitary system may either increase or decrease a state's tax base compared to separate accounting between corporations and formula apportionment applied to the activities of a single corporation. It may result in either higher or lower taxation of a corporation compared to what the corporation's taxable income would be if it was not a member of a combined group.

Consider the earlier example where U.S. parent corporation A and wholly owned subsidaries B and C are engaged in the business of manufacturing and selling lathes (Section II(3)(g) above). Corporation A would have a taxable income of $72 under the unitary method, but $50 under separate accounting. In this instance, the inclusion of corporation B (a domestic subsidiary) and corporation C (a foreign subsidiary) in corporation A's combined report serves to increase corporation A's California tax liability.[8]

It could be argued that, since California is taxing more than corporation A's total income, it is necessarily taxing income earned outside its borders and that double taxation may consequently arise. Alternatively, it could be argued that there is no realistic way to separate corporation A's taxable income from that of its wholly owned subsidiaries, corporations B and C, which also manufacture and sell lathes, and that the combined report provides a reasonable method of assigning an appropriate percentage of the corporate group's total earnings to California. The crux of the debate over the unitary system is whether it systematically increases the state's tax base in the face of more reasonable alternatives.

In *Edison California Stores* v. *McColgan*, 183 P.2d 16 (1947), the California Supreme Court was faced with the question of whether formula apportionment could be applied to an entire corporate group. The parent corporation, which was incorporated in Delaware with headquarters in St. Louis, Missouri, provided centralized purchasing, distribution, advertising, and management for its 15 wholly owned subsidiary retail stores operating in various states. The only activities in California were carried on by the taxpayer corporation, a wholly owned subsidiary which operated retail stores within the state. In approving the application of formula apportionment to the corporate group as a reasonable means of determining the instate income of the California subsidiary, the court found the same operational interdependence which it found earlier in *Butler Brothers* vs. *McColgan* 111 P.2d 334 at 336 (1941):

"It is only if its business within this state is truly separate and distinct from its business without this state, so that the segregation of income may be made clearly and accurately, that the separate accounting method may properly be used. Where, however, interstate operations are carried on and that portion of the corporation's business done within the state cannot be clearly segregated from that done outside the state, the unit rule of assessment is employed as a device for allocating to the state for taxation its fair share of the taxable values of the taxpayer."[9]

Thus, when the parts of a multicorporate group are interrelated, the court found it reasonable to assume all parts are equally profitable and to apply formula apportionment to the entire group.

Some commentators, however, contend that in recent years the California courts have broadened the definition of unitary operations.[10] For example, in Chase Brass and Copper Company v. Franchise Tax Board 95 Cal. Rptr. 805 (1970) the California Court of Appeals approved the state's attempt to combine Kennecott Copper Corporation with its wholly owned subsidiary Chase Brass. Kennecott mined copper in Utah, Nevada, Arizona, and New Mexico, but did no manufacturing in California and had no contacts of its own in the state. The court relied on such factors as: Chase Brass purchased about 20 percent of Kennecott's copper output at an arm's length price for use in its manufacturing operations; Kennecott made a large loan to Chase, at the prime rate, to rebuild its plant; and Chase executives reported to the President of Kennecott on major policy matters. The application of unintary reporting increased Chase Brass' California taxable income by thirteen times.

Leo Brockett, in analyzing the court's decision in *Chase Brass*, contends that, although the court based its findings on a unity of ownership, operation, and use, the factors leading to a unitary determination in the case would be present in almost any parent-subsidiary relation. Similarly, John Nolan has observed that "while unity of use and operation, or dependency of contribution between in-state and out-state business is thoretically required, California in fact seems to require little more than the normal attributes of common ownership".[11]

(b) Reduction of the Federal tax base. To the extent that the unitary system results in higher state taxation of foreign or domestic source income, the Federal tax base will be diminished. On the other hand, to the extent that the unitary system results in lower taxation by the state of foreign or domestic income, the Federal tax base will be enlarged.

(c) Administrative problems. A frequently voiced criticism of the unitary system is the administrative burden which it imposes on taxpayers, particularly when it is applied to a corporation organized in a foreign country. This criticism is sharpest when the activities of a foreign controlled group are brought within the unitary system because it has a subsidiary in a unitary state, such as California, but the activities of the subsidiaries are a relatively small portion of the foreign group's total activities.

A combined report necessitates the computation of a taxable income figure, as defined by state law, for each corporation in the group. Each corporation must provide data on its payroll, property, and sales, with intercompany sales eliminated. Critics contend that, because of differences in accounting period and practices, this information requires a completely new set of calculations and imposes a substantial administrative burden on foreign corporations. Indeed, it is argued that a corporation operating within the United States, but outside a unitary state such as California, may also have administrative problems because of differences in how the states define net income. Finally, some observers have questioned the wisdom of applying the 3-factor formula to a foreign corporation since differences that exist between states with respect to the ratio of income to the three factors are likely to be magnified when a foreign country is included in the apportionment.

The essence of the administrative burden argument is that, while formula apportionment may be a useful tool with respect to one corporation, it is not useful with respect to a corporate group. When applied to a single multistate corporation, formula apportionment avoids the need to construct separate sets of accounts for the corporation's activities in each state. But, with two or more corporations the separate accounts already exist; therefore, continues the argument, the rationale for formula apportionment no longer exists. If the corporate accounts do not accurately reflect income, the solution, it is urged, is through reallocating income and expenses, as provided by Section 482 of the Internal Revenue Code, rather than through formula apportionment.

Proponents of the unitary system disagree strongly. They feel it is difficult to enforce a transfer pricing statute, particularly at the state level, because of an inability to obtain the information needed to assess the transactions of a corporate group with operations in many states and countries. Moreover, they question the underlying meaning of separate accounts within a corporate group, preferring instead to assume that each member of the corporate group earns, or should earn, the same rate of return. Thus, the advocates of the unitary system feel it is sound both administratively and conceptually.

(d) Treaty implications. A basic tax treaty position of the United States and other developed countries is that an enterprise should be taxable in a country on its business profits only if it carries on business in that country through a branch or similar permanent establishment. This principle is enunciated in Article 7 of the Model Income Tax Treaty of the Organization for Economic Cooperation and Development as well as the income tax treaties of the United States.

The worldwide application of the unitary system may be inconsistent with this principle. This is particularly true when it is applied to the multinational activities of a foreign parent having a subsidiary in a unitary state, such as California. Combining the parent and its other subsidiaries with the California subsidiary can be viewed as taxing enterprises that have no permanent establishment in the United States.

"Taxation by a state based on income of a foreign nonresident parent company from outside the U.S. which is owned and controlled by non-U.S. shareholders living outside the U.S. is beyond accepted bounds of jurisdiction."[12]

State taxation of foreign source income under the unitary system would be restricted by an income tax treaty between the United States and the United Kingdom which was signed December 31, 1975, and amended May 3, 1976. Article 9, Paragraph 4 of the treaty, which must still be approved by the United States Senate and the United Kingdom House of Commons, provides that a state which is assessing the income of an enterprise doing business in that state may not take into account any income or expenses of a related company which is a resident of the United Kingdom or any other foreign members of the same corporate group.

However, this restrictive rule will apply only if certain restrictive conditions are met.

First, the enterprise doing business in, for example, California must be either a resident of the United Kingdom (i.e., a branch of a United Kingdom company operating in California) or be controlled, directly or indirectly by a United Kingdom resident (i.e., a United States corporation which is a subsidiary of a United Kingdom corporation).

Second, where the United Kingdom resident is a corporation, such corporation must be neither controlled by a United States corporation nor by a corporation which is a resident of a third state.

Third, no United Kingdom or third country enterprise which is related to a United States subsidiary doing business in California would be excluded from California unitary apportionment calculations under the treaty if that enterprise is controlled by the United States subsidiary.

A few examples may clarify how the rule would operate.

If a subsidiary of a United Kingdom corporation is doing business in California, and that United Kingdom parent corporation has subsidiaries in France and Germany, California would be prohibited from including in its unitary apportionment base the income or expenses of the United Kingdom parent or its subsidiary corporations in France or Germany.

However, if the United Kingdom corporation is itself controlled by, say, a New York corporation, or by a Dutch corporation, California may take into account the income and expenses of the entire group—the United Kingdom corporation, the French and German subsidiaries and the Dutch or New York parent.

44. Revenue estimates. Table 3 presents rough estimates of the 1972 revenue impact of state taxation of foreign source income. Based on present law in the 46 states with a corporate income tax, an attempt was made to estimate the amount of various types of foreign source income presently included in state taxable income. It was assumed that, on average, the unitary systems do not result in the inclusion of foreign income in the state tax base. The net inclusion or exclusion will, however, differ from company to company.[13] It was also assumed that the apportionment of foreign branch income does not, on average, affect the state tax base.

According to the estimates in Table 3, approximately $3,450 million of foreign income was included in the 1972 tax base of all states. State taxes derived from this income were approximately $190 million. The deduction claimed for state taxes would have reduced Federal tax revenue by about $90 million. A rough extrapolation to 1976 suggests that state revenues on foreign income were approximately $410 million, and that the consequent reduction in Federal revenue was about $200 million.

TABLE 3.—REVENUE IMPACT OF STATE TAXATION OF FOREIGN INCOME[1]

[In millions of dollars]

Types of foreign income	Total	Included in tax base of States[2]
1972 estimates:		
Subsidiary dividends	$4,400	$2,200
Portfolio dividends	680	520
Interest	360	350
Rents and royalties	830	380
Total	6,270	3,450
Impact on State tax revenue[3]		190
Impact on U.S. tax revenue[4]		−90
1976 estimates:		
Impact on State tax revenue[3]		410
Impact on U.S. tax revenue[4]		200

[1] With the exception of subsidiary dividends, these figures are gross of foreign and Federal taxes because States typically do not allow a deduction for these taxes. Three-fourths of the gross-up for the underlying corporate tax on foreign subsidiary dividends is eliminated because approximately ¾ the States allow it as a deduction.

[2] The amount actually included in the taxable income of corporations domiciled in a given State depended on the State's tax law.

[3] Based on State corporate income tax rates for 1975.

[4] Based on the U.S. statutory rate of 48 percent.

Sources: Joint Committee on Internal Revenue Taxation, Taxation of Foreign Source Income: Statistical Data Sept. 30, 1975, table C-2. Advisory Commission on Intergovernmental Relations, Federal-State-Local Finances: Significant Features of Fiscal Federalism, November 1975, table 23; Statistical Abstract of the United States, U.S. Department of Commerce, Bureau of the Census, p. 267.

FOOTNOTES

[1] A state credit for excess foreign taxes would, of course, be limited by the combined rate of state and Federal taxes on foreign source income. While no such credit is provided, as shown in Table 1, most states do allow a deduction for at least some foreign income taxes.

[2] The exception is Florida which apparently exempts foreign branch income.

[3] Except under a unitary system.

[4] 254 U.S. at 120–121.

[5] "Staff Observations Regarding Income Tax Provisions of Legislative Proposals," California State Franchise Tax Board, State Taxation of Interstate Commerce, Hearings before the Subcommittee on State Taxation of Interstate Commerce of the Committee on Finance, United States Senate, 1973, p. 299.

[6] Edison California Stores v. McColgan, 183 P. 2d 16 at 21 (1947).

[7] Frank M. Keesling, "A Current Look at the Combined Report and Uniformity in Allocation Practices", Journal of Taxation, February, 1975, pp. 106–110.

[8] Corporation B's taxable income in California is decreased by the combined report requirement; it would be 25 under separate accounting; 24 under the combined report.

[9] 183 P. 2d at 20.

[10] See, for example, Leo Brockett, "Chase Brass and Copper Co. v. Franchise Tax Board Intercorporate Unity and State Income Taxation", California Western Law Review, Spring 1971, pp. 508–521 and John S. Nolan, "Extension of the California Unitary Business Concept", in State Taxation of Interstate Commerce, 1973, pp. 433–437.

[11] Nolan, Op. cit., p. 434.

[12] Nolan, Op. cit., p. 435.

[13] According to California tax authorities, the worldwide application of the unitary system produces about $125 million in state tax revenue. The basis of this estimate is unknown, and the estimate itself appears to conflict with the California claim that the purpose of the unitary system is to measure California income, and not to tax foreign source income as defined for Federal tax purposes.

Mr. GRAVEL. Mr. President, this study strongly suggests that the "unitary" method is at least as valid as the other methods available to the States, and that it may offer several advantages. Certainly there is no persuasive case that the Federal Government should intervene in this area of State law—especially through the treaty process, which circumvents the normal legislative process and deprives the States of a timely and adequate opportunity to present their arguments.

Of the points presented by Mr. Carlson, two stand out: First. Despite Treasury's allegations in Senate testimony that the unitary method often results in double taxation, the Carlson study observes that, in fact, the use of this method can reduce as well as increase the amount of income that is taxable in a particular State. This observation is consistent with the trust of the matter, that the unitary method is not a device for taxing foreign income, as Treasury alleges, but rather a method of determining what income is in fact foreign, and how much is legitimately taxable by the States.

Second. Despite Treasury's allegations that the unitary method is complicated and administratively burdensome, Carlson's study points out that the alternatives, and in particular the "arms length"

Footnotes at end of article.

method which Treasury would have the States use, are also complicated. Carlson observes that the "arms length" method would strain the administrative capability of many States. In this connection, I should point out that the Joint Committee on Taxation staff testified before the Foreign Relations Committee that the "arms length" method had proven inadequate in 40 percent of the IRS cases in which transfers between subsidiaries were at issue. And yet, this is the method which Treasury would force upon the States by treaty.

And so, I would encourage my colleagues to consider the provisions of this Treaty carefully, especially article 9, section 4. Treasury is using the treaty process to affect State tax laws which have not been fairly tested by the congressional process. State taxing powers have been negotiated away by Treasury with no prior input from those States. Treasury has attacked the fairness of the unitary method before the Foreign Relations Committee, but can offer the States nothing better. I hope that my colleagues will join me requiring that Treasury face up to the issue of whether or not the unitary method is a legitimate method of taxation. The Carlson study, done by Treasury itself, suggests that it is not a bad method. The study demonstrates that we must take cautiously Treasury's arguments on this treaty.

I hope that my fellow Senators will join me in acting to reserve this provision of the United States/United Kingdom Tax Treaty.

WELFARE REFORM IS A HIGH NATIONAL AND REGIONAL PRIORITY

Mr. PELL. Mr. President, very few legislative issues draw such widespread and deserved support as do efforts at welfare reform. Our National and State welfare systems are chronically unwell. They do not work as we intend them to, they do not really help many people in the long run, and they are expensive. At present, our Nation's programs constitute a chronic example of Government by patchwork, chewing gum, and bailing wire. Examples of bureaucratic duplication exist side by side with gaping holes in important programs. Clearly, if ever there was a subject which calls for debate, cooperation, and reform, a change in our welfare programs and welfare services is that subject.

President Carter called for comprehensive welfare reform during his campaign last year and promised that his administration would work to improve the current situation, both nationally and on the State level. On March 9 I wrote to Secretary of Health, Education, and Welfare Califano spelling out what I believe should be four general principles of welfare reform at this time and urging their adoption.

Later, on March 29, these four themes were presented at a Welfare Reform Forum conducted by the Department of Health, Education, and Welfare at the Bishop McVinney Memorial Auditorium in Providence at a meeting conducted especially to get the views of community social welfare specialists and welfare recipients on this complex subject.

Basically, I believe that welfare reform legislation ought to encompass four major principles in order to assure its success and its fairness to the beneficiary and taxpayer alike.

First, Federal welfare benefit levels should be designed in conjunction with a revised and improved cost-of-living index which takes into full account the difference that a cold climate makes in determining the cost of living in some regions of the country.

A recent study conducted by the Library of Congress shows that because of higher energy, clothing, transportation, and food costs, the minimal cost for a minimum standard of living for an average four-person family in so-called cold weather cities was about $2200 more per year than in warm-weather cities. Certainly, in order for welfare benefits to be equitable, we must insure that benefits can allow recipients to purchase equal services, housing, and food, despite regional differences in cost.

Second, the welfare system should be uniform and Federal in its character so that a consistency in program intent and coverage is achieved. At the same time, we should encourage a full level of State participation in planning and administration with Federal assistance to the States to relieve some of the cost burden from State bureaucracies.

Third, the new welfare system should be consolidated in nature and should embrace the strongest possible and practicable work-incentive and an employment acceptance requirement. I think that the best possible consolidation would embrace at least our present food stamps, aid to families with dependent children, supplemental security income, unemployment compensation for some individuals who have suffered from extended unemployment, workers compensation for some workers, and social security title II disability programs.

Finally, the new system should combine administrative simplicity with full and fair due process for beneficiaries' claims so that beneficiaries are treated as individuals, not as numbers or computer cards.

I outlined these four principles in a letter to Secretary Califano in early March. I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 9, 1977.

Hon. JOSEPH CALIFANO,
Office of the Secretary, Department of Health, Education, and Welfare, Independence Avenue SW., Washington, D.C.

DEAR MR. SECRETARY: Thank you for your letter seeking my thoughts on the subject of welfare reform. I am delighted to participate in this important effort, and I commend you and President Carter for undertaking such a difficult task.

Today, there is no substantial agreement in our nation on exactly what "welfare" means and consequently "welfare reform" has been a vague and elusive phrase. Some observers would define it narrowly, applying primarily to programs for unemployable persons, while others would consider it more broadly, to embrace all income maintenance or income supplement programs, including "in-kind" non-cash subsidies.

My personal thought is that it would be most valuable to consider "welfare reform" as a comprehensive reorganization of federal income maintenance and social service related programs, as well as a fresh and unfettered assessment of our goals, as a nation, with respect to supporting the family structure to the greatest possible extent as a vital central element of American life.

It is in this context that I am responding to your letter, and offering my suggestions. I believe that our primary goal should be to provide a decent living standard for each American, utilizing and encouraging to the greatest extent possible private sector employment, and family life.

At the same time, we must be mindful of the cost of the program we construct, and direct our funds in such a way as to maximize their impact, avoid wasteful duplication, excessive and costly administration, and eliminate fraud on the part of both service providers and beneficiaries.

First, we must redefine the poverty level, by acknowledging that differences in climate play a substantial role in determining the cost of living in different parts of our country. The Department of Health, Education and Welfare has recently published a study, *The Measure of Poverty*, as a result of language I included in Section 823 of the Education Act Amendments of 1974. Unfortunately, although the language in Section 823 explicitly mentioned "climate" as a variable to be studied, the resultant study, more than 1900 pages long, contains only a dozen scant references to climate as a factor in cost of living measurements, and contains no proposals for including climate related expenses in an index to poverty. However, as we in New England know from hard experience, energy costs, fuel costs, and the equally expensive necessities of winter clothing, high calorie food, and insulation make living in a cold climate considerably more expensive than living in a temperate climate. This study failed to answer a primary question it was supposed to address, and cannot be considered useable in its present form.

Second, we should design a system which is federal in character, with the uniformity of basic programs and inherent administrative efficiency this would bring, but which retains a level of state participation in planning, financing, evaluation, and experimentation. For example, I believe that Medicaid and SSI should be phased out and replaced by national health insurance and a national relief floor. However, states should be required to pay into this program, with contributions scaled according to a formula which takes into account a states ability to pay state rates of unemployment, population, and the current state level of support for income-replacement services.

Third, we should consolidate 6 of our income replacement and income maintenance programs into a national relief floor, with an employment-acceptance requirement for those who are able to work (except single heads of households containing children, or where the other household member is disabled or over age 62). This would replace the present programs for Food Stamps, Aid to Families with Dependent Children, Supplemental Security Income, Unemployment Compensation, Workers Compensation, and Title II Disability Insurance.

In relation to this floor, most other social service programs, such as health services, Title XX Social Services, and most importantly education and job training services, should not be considered as income or assets, for purposes of computing monthly benefits. Subsidized housing, however, should be considered as an asset.

One major improvement under this unified benefit program would be that the Disability Insurance program would cover gradations of disability.

Fourth, we must insure that the administrative functions within this system are performed promptly and fairly, and that the individuals who apply for and who receive benefits under a reorganized income maintenance program, are treated as individuals, and not as numbers or computer cards. The principles I have drafted into the Social Security Recipients Fairness Act should be extended to all recipients of income maintenance benefits; these principles are full due process in the application for benefits, full administrative and judicial appeal of adverse administrative decisions, prompt service in the event of a delay in the delivery of due benefits, and individual consideration of a beneficiaries repayment schedule should an accidental overpayment occur.

I hope that these suggestions are helpful to you, and I look forward to continuing to work together on this subject.

Warm regards.

Sincerely,

CLAIBORNE PELL.

Mr. PELL. Mr. President, on August 6, President Carter made public his proposal for welfare reform, and I am pleased to note that it matched a number of my proposals and suggestions for comprehensive change.

Unfortunately, there is not as yet any provision for the welfare benefits to reflect the increased cost of living associated with cold climate regions. It still seems to me that this is a necessary component of a workable system. I would strongly support such a measure and plan to offer some legislation to that effect myself if it is not forthcoming from the administration.

I am very happy to note the strong work-related tone of the current proposal. This must be coupled with as complete as possible a program to find jobs in the private sector for willing individuals and with a public jobs program to fill in the difference between private jobs and job-seekers.

We in Congress have the opportunity now to make a historic change in the course of welfare programs. The key to the matter is practicality—to make the programs work, to insure a decent and fair level of income and supportive social services for every recipient—and accountability—to assure the taxpayer that the public funds are well spent. I certainly look forward to working with the administration and the appropriate committees in the Senate to construct and support an excellent bill.

DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. THURMOND. Mr. President, recently the Judiciary Committee gave its approval, by a margin of one vote and over my strong objection, to a constitutional amendment that would provide for direct popular election of the President. This unwise proposal would cancel, at least as far as the Presidency is concerned, the historic compromise among the States that brought the Federal Government into being. It would allow big States to dictate the choice of the Nation's Chief Executive, and so would assure that the interests of the little States would be neglected. It would crudely disrupt the delicate system of checks and balances that our forefathers labored so painstakingly to create.

Fortunately, this amendment, if approved by majorities of two-thirds in both Houses of Congress, must then be approved by three-fourths of the States. Sentiment in the States is very different from that in the Judiciary Committee. There recently appeared in the State newspaper of Columbia, S.C., an editorial on the proposed amendment expressing adamant opposition. This editorial is concise and cogent, and I believe that it reflects the feelings of the overwhelming majority of the citizens of my State. In order that my colleagues may have access to it, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, Sept. 24, 1977]

SMALL STATES' VOTES THREATENED ONCE MORE

Popular election of the President of the United States, that hardy perennial of anti-federal zealots in and out of Congress, has reared its head again in Congress.

As usual, it takes the form of a proposal by Indiana's liberal Sen. Birch Bayh to scrap the electoral college procedure for Presidential elections which is imbedded in the Constitution. In its stead, Senator Bayh and his colleagues would substitute direct election in which the total popular vote nationwide would determine the outcome.

Proponents of the plan argue, including President Carter that it simply reflects the American tradition of majority rule. What they don't acknowledge is that its adoption would gut another valued political tradition historically linked with the United States—federalism.

At present, each of the states of the union has a number of Presidential electors corresponding with its members of Congress. That means that every state has two electors (for its two U.S. senators) and as many additional electors as its population entitles it to have representatives in the House. This pattern reflects the great compromise embodied in the composition of the Congress itself; that is, variable numerical representation reflecting population plus fixed representation which reflects the status of states as states.

Thus, the present system tends to give weight to the smaller and lesser populated states of the union beyond that which they would have in a direct election hinging on numbers alone. Not only does this system incorporate the essence of federalism, it has the political benefit of insuring that Presidential candidates concern themselves with the voters in all states, not just those in the teeming population centers.

That point was raised recently when the Senate Judiciary Committee gave the Bayh bill a 9 to 8 favorable vote, thereby setting it up for debate in the 1978 session. Sen. Malcolm Wallop, speaking for the lightly populated western state of Wyoming, told his colleagues that the "vast majority" of Americans would never see a Presidential candidate, since they would limit their campaigning to big cities and industrial concentrations.

There are, to be sure, shortcomings in the electoral college system as now constituted. For one thing, the "winner-take-all" feature means that the candidate who carries a state by as little as 51 per cent of the popular vote is awarded 100 per cent of the electoral vote. For another, there is an awkwardness in the business of actually naming persons as Presidential electors without assurance, in some instances, that they will vote as their constituents wished.

These weaknesses can be readily corrected by adoption of one of several plans by which a state's electoral vote (not electors) is apportioned among the Presidential candidates according to the candidates' relative showing in that state's popular balloting. Senator Thurmond has sponsored such a move.

The proportional approach would give weight to voting strength in all states, but it also would preserve the federal feature which gives weight to the states themselves. And it would preserve a system of representation which the U.S. Supreme Court has described as being "ingrained in our Constitution, as part of the law of the land. It is one conceived out of compromise and concession indispensable to the establishment of our federal republic."

SUPPORT OF THE PASSIVE RESTRAINT RULE

Mr. KENNEDY. Mr. President, the carnage on our Nation's highways is staggering. Each year, automobile accidents claim more lives than were lost in the entire Vietnam war. Approximately 27,000 of these are occupants of motor vehicles. While steps have been taken to improve the safety of automobiles, like safety glass, collapsible steering columns, rollover protection, and turn signals, the tremendous loss of life continues.

The strain resulting from highway accidents on our medical facilities is enormous, not to mention the tremendous cost in terms of human suffering and anguish. For example, one-sixth of the persons admitted to hospital emergency rooms are victims of automobile accidents. Persons who are killed or incapacitated in auto accidents leave societal costs that affect all of us. Welfare and social security costs must support many of the families of deceased or incapacitated auto crash victims. Public investment in education of auto crash victims is frequently lost. Retraining costs for seriously injured automotive accident victims are large, as is the depletion of the tax base due to the loss of earning power.

On January 30, Secretary of Transportation Brock Adams promulgated a rule which could have profound effects on the health and safety of the driving public in this country. The rule would require that automatic crash protection devices be installed in all new automobiles under a phased schedule beginning in model year 1982.

The decision of the Secretary of Transportation to require that automobiles have the latest in occupant crash protection should reduce substantially the number of deaths and injuries occuring on the Nation's highways. The Department of Transportation has estimated that 9,000 lives could be saved and 100,000 severe injuries prevented if all vehicles were equipped with these kinds of automatic crash protection.

There are few things that the Federal Government may do that would have this kind of life-saving potential. In fact, I am confident that there would be little or no hesitency on the part of the Congress to impose rigorous strictures on the chemical or drug industry or any other facet of business if the effect would be to save 9,000 lives and 100,000 severe injuries.

The consumer will be the winner if Secretary Adams' decision goes into ef-

fect. Not only will lives be saved and injuries avoided, but insurance costs will go down if passive restraints are included in every automobile. In fact, if air cushions are installed, consumers will be repaid through insurance savings in approximately 5 years—about one-half the useful life of an automobile.

The alternative to mandatory passive restraint equipment is vastly increased use of existing belt systems in automobiles. While effectiveness equal to that of passive restraints is possible by the 70 to 80 percent of seatbelts, it is clear that there is no way to achieve that kind of usage short of mandatory requirements for belt use, punishable by fines or even jail terms. An intensive media campaign in Grand Rapids, Mich., financed by the auto industry has resulted in virtually no increase in seatbelt usage. Moreover, a national survey completed by the National Highway Traffic Safety Administration of the Department of Transportation indicates that seatbelt use is gradually going downhill in recent years. Currently, less than 20 percent of automobile occupants nationwide use seatbelts.

There is widespread support for the Secretary's decision. A coalition formed for the express purpose of insuring that the Secretary's decision is upheld, the National Committee for Automobile Crash Protection, contains the American Academy of Pediatrics; the American Congress of Rehabilitation Medicine; the American Nurse Association, Division of Medical Surgical Practice; the Epilepsy Foundation of America; the Physician's National Housestaff Association; and the Mid-Atlantic Emergency Services, Inc. Other groups, including the American Automobile Association, the International Association of Chiefs of Police, the United Auto Workers, and the American Public Health Association, likewise support the decision. I ask unanimous consent that a "Dear Colleague" letter listing groups in support of the decision sent to Members of the Senate by the distinguished senior Senator from Washington, chairman of the Committee on Commerce, Science, and Transportation, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, I applaud the efforts of the Secretary of Transportation to insure that American consumers are offered inherently safe automobiles. To delay that objective now can only postpone what should have been done long ago. I urge my colleagues to support the Secretary's decision.

EXHIBIT No. 1

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., September 9, 1977.

DEAR COLLEAGUE: As you know, Secretary of Transportation Brock Adams recently promulgated a rule requiring that new automobiles be equipped with automatic crash protection devices, the so-called "passive restraints." Passive restraints would be required in all new automobiles under a phased schedule beginning in model year 1982 and completed in model year 1984.

Under the terms of the National Traffic and Motor Vehicle Safety Act, Congress has an opportunity, for 60 calendar days, excluding recesses of greater than 3 days, to overturn the decision. Assuming no further recesses of greater than 3 days, the 60-day period will expire on October 9. Secretary Adams' decision has broad support. In fact, an organization has been formed, the National Committee for Automobile Crash Protection, for the sole purpose of supporting the Secretary's decision. The membership of the organization is broad, including not only individuals, but such diverse organizations as the bulk of the insurance industry, medical groups, organized labor, and many others.

So that members of the Senate may be aware of those groups which are supporting Secretary Adams' decision, the following list contains members of the National Committee for Automobile Crash Protection, plus additional individuals and organizations who have supported the Secretary's decision.

NATIONAL COMMITTEE FOR AUTOMOBILE CRASH PROTECTION

United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW).
American Academy of Pediatrics.
Aetna Life and Casualty Insurance Company.
Alliance of American Insurers.
Allstate Insurance Companies.
American Congress of Rehabilitation Medicine.
American Insurance Association.
American Nurse Association, Division on Medical-Surgical Practice.
Automobile Club of Missouri.
Automobile Owners Action Council.
Susan P. Baker, Associate Professor, Johns Hopkins School of Hygiene and Public Health.
Center for Auto Safety
Center for Concerned Engineering.
Consumer Action Now.
Epilepsy Foundation of America.
Farmers Insurance Exchange.
Dr. Hal Fenner, Jr.
Oscar P. Hampton, Jr., M.D., F.A.C.S.
Independent Insurance Agents of America.
Mid-Atlantic Emergency Medical Services, Inc.
Ralph Nader, Attorney.
National Association of Independent Insurers.
National Association of Mutual Insurance Companies.
Nationwide Insurance Companies.
Physicians' National Housestaff Association.
Prudential Insurance Company of America.
Prudential Property and Casualty Insurance Company.
Safeco Insurance Company of America.
State Farm Insurance Companies.
Travelers Insurance Companies.

OTHER GROUPS AND INDIVIDUALS SUPPORTING THE SECRETARY'S DECISION

American Automobile Association (AAA).
International Association of Chiefs of Police.
American Public Health Association.
Citizens for Highway Safety.
Consumer Federation of America.
Consumers Union.
Council on Wage and Price Stability.
John Delorean, President, John Z. Delorean Corporation.
Eaton Corporation.
Insurance Institute for Highway Safety.
Kemper Insurance Companies.
Hartford Life and Accident Insurance Companies.
Maryland Association of Women Highway Safety Leaders.
Maryland Department of Transportation.
Maryland Transportation Commission.
Mid-Atlantic Emergency Medical Services Council.
Mississippi Safety Council.
National Conference of Governors' Highway Safety Representatives.
National Motor Vehicle Safety Advisory Council.
National Transportation Safety Board.
New York Consumer Assembly.
Physicians for Auto Safety.
State of Maine Department of Transportation.
Talley Industries, Inc.
Thiokol Corporation.
Transportation and Traffic Safety Committee of the Maryland Medical and Chirurgical Faculty.
West Virginia Safety Council.

With best wishes.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman, Committee on Commerce, Science and Transportation.

S. 2104

Mr. PEARSON. Mr. President, the substitute amendment to S. 2104, the natural gas pricing bill, offered by Senator JACKSON is not a compromise. I urge the Senate to reject the Jackson substitute in favor of the Pearson-Bentsen amendment to S. 2104.

Mr. President, the debate of this last week illustrates the obvious disagreement in the Senate over how this country should price its natural gas resources. On several points, however, I think it is possible for both proponents and opponents of continued regulation to agree.

We can all agree that it would be to our advantage to produce more natural gas domestically at a fair price to the consumer. The Jackson substitute will not encourage production. In fact, it would work a virtual shut down of exploratory drilling nationwide. The definition of new gas under the Jackson substitute is so rigidly drawn as to exclude 94 percent of gas produced from new exploratory wells. Since only about 4½ percent of our total current production comes from exploratory wells, approximately three-tenths of 1 percent of the gas produced in this country would be eligible for new gas prices under the formula proposed by Senator JACKSON. This is hardly a compromise.

We can all agree that substantial curtailments of natural gas are likely this winter, and we should do everything possible to ameliorate the expected shortages. The Federal Power Commission has projected curtailments for this winter to reach more than 1.6 trillion cubic feet. Senator JACKSON's substitute would exacerbate these curtailments in this and coming winters. It will actually roll back prices in the intrastate market, the sole source of additional gas that has kept this country running during recent winters. Since under the Jackson substitute only a small percentage of exploratory wells would qualify, most new gas would not receive the $2.03 price advertised, but rather the old regulated price of $1.46 per Mcf.

We can agree that it would be to our national advantage to decrease our dependence on foreign imports. This year our bill for foreign energy will be in excess of $45 billion. Senator JACKSON's substitute amendment continues the discredited policy or regulation. It will do little to stimulate domestic production or lessen our demand for foreign energy.

Mr. President, the Pearson-Bentsen amendment, which effectively deregulates the price of new natural gas, will increase production in a time of shortage; and it will decrease our dependence on imported energy. Contrary to the claims of its opponents, the Pearson-Bentsen amendment will not lead to a precipitous price increase to the residential consumer since we are proposing the deregulation of only new gas and because the wellhead price is a minor, perhaps 25 percent factor, in the average homeowner's gas bill.

In order to further insulate the small consumer from the increased cost of new gas, today we have agreed to a number of changes in the Pearson-Bentsen proposal.

First, we have agreed to residential price protection through the incremental pricing of new, deregulated gas. Industrial users will bear the full cost of new gas while residential, small commercial, human needs, and agricultural users continue to receive old gas prices for as long as old gas remains available.

Second, we also have agreed to a 24-month fail-safe cap on deregulated sales of natural gas. While incremental pricing and the laws of supply and demand should prevent new gas prices from exceeding those of equivalent fuels, we shall accept a "failsafe cap" to provide added protection to the consumer. The cap will prevent market aberrations during the period immediately following deregulation while at the same time providing the American producer a fair price for new natural gas. This cap may not exceed the price allowed for new natural gas imported from Mexico.

Third, there are certain instances in which gas may rightfully be withheld from production, such as when discoveries are made in remote areas not served by existing pipelines and the cost of building a pipeline to the gas cannot be justified, or a new discovery may not be economical because the cost of producing a marginal gas reserve can exceed prevailing prices. However, to guard against the possibility of withholding gas in anticipation of expedited price increases, we will add a provision that empowers the Federal Energy Regulatory Commission to deny deregulated prices to any gas found to have been wrongfully withheld.

Fourth, we will accept an amendment already proposed by Senators STONE and CHILES to allow interstate pipelines to compete freely for gas in the intrastate market.

Mr. President, the total Pearson-Bentsen proposal, the changes that I have just outlined together with the basic provisions of Pearson-Bentsen—which deregulate only new gas and provide an agricultural priority for all gas—represents a truly comprehensive natural gas policy which will provide for increased supplies of natural gas for the American people at a fair price.

DEREGULATION

Mr. STONE. Mr. President, most economists agree that Federal price controls of natural gas have discouraged domestic exploration and production of this important energy source. It is absolutely certain that unless our energy policy provides greater incentives for domestic natural gas production, America will have little choice but to import increasing amounts of oil and natural gas.

The Pearson-Bentsen bill, of which I am a cosponsor, provides the necessary incentives for greater domestic natural gas production. An editorial in the Orlando Sentinel Star underlines this point. I ask unanimous consent to print this editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLITICS AND FAILURE TO DEREGULATE

In 1954 U.S. Supreme Court Justice William O. Douglas prophesied "years of confusion" if the Federal Power Commission attempted to regulate thousands of natural gas producers, all with different costs bases and methods.

Two years later President Eisenhower warned that the continued regulation of natural gas "will discourage individual initiative and incentive to explore for and develop new reserves of gas."

Despite the accuracy of these and later warnings, the FPC has retained its regulatory authority over interstate gas pricing and transmission. Last week the House extended that control to sale of in-state gas which previously was unregulated.

House action was pegged to internal politics staged by Speaker Thomas P. O'Neill of Massachusetts and Majority Leader James Wright of Texas. True, they threw a bone to the industry by raising the price of newly discovered natural gas from $1.45 per 1,000 cubic feet to $1.75, but the defeat of deregulation, however narrow, was a clear victory for President Carter and fulfillment of another of his campaign pledges.

Consumers of natural gas haven't long to wait—January at the latest—to balance wintry weather against limited supplies of gas and ponder the ways of their representative government.

The shortage of natural gas is the direct result of artificially imposed price ceilings. The alternative to doing without is to switch to fuel oil which is more expensive. The price of old crude, still regulated, is about $5.25 a barrel. New domestic and foreign crude is almost $12 a barrel. An equivalent amount of natural gas today sells for $3.

And yet, there are more known reserves of natural gas on and offshore continental United States than there are of oil. The barrier to drilling is the inflated cost of exploration and government's continued intervention.

Ironically, we are increasing our consumption of foreign oil that costs up to four times what we are willing to offer a domestic industry and asking that it also invest in speculative exploration.

NOTICE OF INTENTION TO SUSPEND THE RULES

Mr. ROBERT C. BYRD. Mr. President, I submit the following notice in writing: "In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 1 of rule XXI for the purpose of moving to waive the reading of proposed amendments to S. 2104, without debate."

NOTICE OF INTENTION TO SUSPEND THE RULES

Mr. ROBERT C. BYRD. Mr. President, I submit the following notice in writing: "In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 1 of rule XXII, to wit the phrase, "To amend," to permit a motion to call up amendments to S. 2104 en bloc."

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 994

Mr. ABOUREZK. I call up amendment 994. I ask the clerk to report it.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 994.

The second legislative clerk proceeded to read the amendment.

Mr. DURKIN. Mr. President——

Mr. HANSEN. Mr. President——

Mr. ABOUREZK. Regular order, Mr. President.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. The clerk will finish reading the amendment.

The second assistant legislative clerk continued to read the amendment.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The second assistant legislative clerk continued to read the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HANSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

On the first page between lines 2 and 3 insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—PETROLEUM INDUSTRY COMPETITION

"SEC. 201. This Act may be cited as the 'Petroleum Industry Competition Act of 1977'.

"FINDINGS AND PURPOSE

"SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

"(1) this Nation is committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents undue concentration of economic, social, and political power, and helps preserve a democratic society;

"(2) vigorous and effective enforcement of the antitrust laws and reduction of monopoly and oligopoly power in the economy can contribute significantly to reducing prices, unemployment, and inflation;

"(3) existing antitrust laws have been inadequate to maintain and restore effective competition in the petroleum industry; and

"(4) the extraordinary dimensions of the remedy required by this Act necessitate expenditure judicial supervision of the divestitures and attendant actions required by this Act.

"(b) PURPOSE.—It is the purpose of the Congress in this Act to facilitate the creation and maintenance of competition in the petroleum industry, and to require the most expeditious and equitable separation and divestment of assets and interests of vertically integrated major petroleum companies.

"DEFINITIONS

"SEC. 203. As used in this title—

"(a) 'person' means an individual person or a corporation, partnership, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated, and whether or not domiciled or incorporated within the United States. It does not include any authority of the United States or of the several States;

"(b) 'control' means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates of officers, or contractual relations which substantially impair the independent business behavior of another person;

"(c) 'affiliate' means a person controlled by, controlling, or under or subject to common control with respect to any other person;

"(d) 'asset' means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation;

"(e) 'commerce' means commerce among the several States, with the Indian tribes, or with foreign nations; or commerce in any State which affects commerce among or between a State and a foreign nation;

"(f) 'energy resource' means crude oil, natural gas liquids and condensate;

"(g) 'refine' means to change by any operation the physical or chemical characteristics of petroleum or petroleum products in order to create a derivative product for resale, exclusive of the operations of passing petroleum through a separator to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum;

"(h) 'refined product' means any product, whether liquid or gas, which is produced by a refinery asset;

"(i) 'marketing asset' means any asset used in the sale and distribution of gasoline or fuel oil, including diesel and distillate, to ultimate consumers at a retail motor fuel outlet, other than the initial sale with transfer of ownership to customers at the refinery;

"(j) 'operate' means engaging in the business of selling gasoline and diesel, directly or indirectly, or through any agent who receives any commission, compensation, or payment because of the sale of such product;

"(k) 'production asset' means—

"(A) natural deposits of crude oil, or condensate and natural gas liquids;

"(B) any asset used primarily in the exploration for, development of, or production of an energy resource including, but not limited to, an interest in real property, whether or not such real property is developed or undeveloped; and

"(C) geological and geophysical information;

"(l) 'refinery asset' means any asset used in the refining of an energy resource;

"(m) 'transportation asset' means any asset used in the transportation within the United States by pipeline or gathering line of crude oil or refined product;

"(n) 'major marketer' means any person which, during the calendar year 1974 or in any subsequent year, alone or with affiliates, marketed or distributed one hundred and ten million barrels of refined product within the United States;

"(o) 'major producer' means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, produced within the United States either a total of thirty-six million five hundred thousand barrels of crude oil, condensate, and natural gas liquid production during the calendar year 1974 or in any subsequent calendar year totaled thirty-six million five hundred thousand barrels;

"(p) 'major refiner' means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, refined within the United States one hundred and ten million barrels of refined product, including that refined by another refiner under a processing agreement;

"(q) 'petroleum transporter' means any person which transports an energy resource or refined product by pipeline in commerce within the United States;

"(r) 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

"(s) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands and the Outer Continental Shelf;

"(t) 'Commission' means the Federal Trade Commission; and

"(u) 'prohibited asset' means any marketing asset, production asset, refining asset, or transportation asset, the retention of which is prohibited by section 102 of this Act.

"UNLAWFUL RETENTION

"SEC. 204. Notwithstanding any other provision of law, five years after the date of enactment of this Act, it shall be unlawful—

"(a)(1) for any major producer to own, or control, any interest in any refinery asset, transportation asset, or marketing asset;

"(2) for any petroleum transporter to own or control any interest in any production asset, refinery asset, or marketing asset;

"(3) for any major refiner or major marketer to own or control any interest in any production asset or transportation asset;

"(b) for any person who owns any refining asset, production asset, or marketing asset to transport any energy resource or refined product in which he has any interest, by means of any transportation asset in which he has any interest.

"UNLAWFUL OPERATION

"SEC. 205. Upon enactment of this Act, it shall be unlawful for any major refiner to operate, either directly or indirectly, any marketing asset which it did not operate prior to January 1, 1977.

"EXEMPTIONS

"SEC. 206. (a) The Commission may, upon application by any person required to divest interests in assets under section 102 or prohibited from using assets by section 102 (b), exempt any major producer, petroleum transporter, major refiner, major marketer, or any other person from the operation of section 102 with respect to any transportation asset upon a finding—

"(1) that such transportation assets are so integral a part of other assets, the retention or use of which is not prohibited under section 102, that no public purpose would be served by the divestment of or prohibition of the use of any such transportation asset; and

"(2) that the retention or use of any such transportation asset will not tend to injure competition or otherwise subvert the purposes of this Act.

"(b) In order to facilitate the purposes of this section, the Commission is authorized to exempt any corporation formed or reorganized as a result of compliance with this section from the prohibitions contained in section 8 of the Act of October 5, 1914 (38 Stat. 732; 15 U.S.C. 19) for a period not to exceed one year.

"REPORTS

"SEC. 207. Each person subject to section 102 or 103 shall, within thirty days from the date of enactment of this Act, file with the Commission a report listing their prohibited assets. The Commission may order subsequent reports from persons subject to section 102 or 103 and may order reports from such other persons as it requires. Appeals from an order of the Commission issued under this section must be filed with the court within five days after the order has been served and the court must grant or deny the appeal, or modify the order as it deems proper within ten days.

"PROHIBITION ON SOLICITATION

"SEC. 208. It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a corportation subject to the requirements of sections 102 or 103 or a subsidiary corporation thereof in contravention of such rules.

"ENFORCEMENT

"SEC. 209. (a) The Commission, in accordance with such rules, regulations, or orders as it deems appropriate to carry out the purposes of this Act, shall require each person subject to the provisions of sections 102 or 103 to submit to the Commission within 18 months of the date of enactment of this Act, a plan or plans for the divestment of the prohibited assets. Such plan must—

"(1) be fair and equitable to all affected persons; and

"(2) substantially accomplish the required divestiture within 5 years of the date of enactment of this Act.

The Commission, within one hundred and twenty days after the submission of the plan or plans by the persons subject to sections 102 and 103, shall file its plans with the court; except that no plan shall be filed which will not substantially accomplish divestment of prohibited assets on or before five years the date of enactment of this Act. Failure of any person or persons to file a plan or plans shall not relieve the Commission of its duty to file its plan or plans for the divestiture of the prohibited assets of that person or persons.

"(b) The plan required under subsection (a) of this section shall be devised by each

person subject to the provisions of this Act with respect to their own interests only, in consultation with the officers and employees of the Commission, and the Securities and Exchange Commission under guidelines which the Commission, with the advice and counsel of the Securities and Exchange Commission, shall promulgate.

"(c) The Commission shall institute suits or actions only in the court established under title II of this Act for such relief as is appropriate to assure compliance by any person with this Act, including, but not limited to, orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, the appointment of temporary or permanent receivers or trustees, civil penalties, and punitive damages for willful failure to comply with lawful orders of the court.

"(d)(1) In the administration of the provisions of this section, the Commission shall have primary oversight jurisdiction and responsibility for the preparation and final approval of the required divestiture plans.

"(2) The Securities and Exchange Commission shall advise the Commission as to the conformity of each such plan with general standards of fairness and equity with respect to the interests of the holders of debt and equity interests in corporations affected by the operation of section 102 or 103.

"(e) In carrying out the provisions of this Act, the Commission and the Securities and Exchange Commission are each authorized to utilize all powers conferred upon them separately, and all sanctions associated therewith, by any other provision of law.

"(f) The Commission and the Securities and Exchange Commission shall serve as advisers to the court in any reorganization proceeding related to the operation or enforcement of the provisions of section 102 or 103 of this Act.

"FAIR AND EQUITABLE

"SEC. 210. Simultaneously with the filing of the Commission's plan with the court, the Securities and Exchange Commission shall file separately and independently an analysis of the conformity of such plan with general standard of fairness and equity with respect to the holders of debt and equity interests of any corporation affected by the provisions of section 102 or 103.

"STATEMENT OF DIFFERENCES

"SEC. 211. Any person subject to the provisions of section 102 or 103, not later than sixty days after the date on which the Securities and Exchange Commission and the Commission have filed the reports pursuant to the requirements of section 107, shall be entitled, as a matter of right, to file with the court a statement of differences with the proposed plans.

"JUDICIAL DISPOSITION

"SEC. 212. After the filing of the plans by the Commission, the court shall—

"(a) give notice to all persons affected by the plans;

"(b) permit the intervention by all persons having legally cognizable rights affected by the final disposition of the plans;

"(c) resolve in hearings on the record such disputes of law and fact as may arise between and among the affected persons, the Commission, and the Securities and Exchange Commission regarding the disposition of the plans for divestiture of the prohibited assets;

"(d) prior to entering a final order regarding the implementation of the plans, give an opportunity to all interested persons to file written comments on the plans; and

"(e) no later than two years from the filing by the Commission of its plans, issue orders causing the implementation of the plans in such a manner as will accomplish the purposes of the Act within five years of its enactment and be fair and equitable to all persons affected.

"The court shall have the power to modify the plans as it deems necessary.

"Notwithstanding any other provisions of law, the Attorney General of the United States may intervene in any matter before the court as a matter of right. The court may seek the advice of the Attorney General concerning any matter before it.

"ADMINISTRATIVE SUPPORT

"SEC. 213. Notwithstanding any other provision of law, the Commission and the Securities and Exchange Commission may contract for the services of such persons including lawyers, economists, accountants, appraisers, securities analysts, neutral experts, and such other personnel as may be necessary to expeditiously carry out the responsibilities vested in each of them respectively by the provisions of this Act.

"SANCTIONS

"SEC. 214. (a) Any person or any officer, director, or partners thereof, who violates any provision of this Act shall forfeit and pay to the United States a civil penalty of not more than $100,000 in the case of an individual, or not more than $1,000,000 in the case of a corporation. Such penalties shall accrue to the United States and may be recovered in a civil action brought by the Commission. Failure to obey any order of a court pursuant to this Act shall be punishable by such court as a contempt of court.

"(b) Any person or any officer, director or partner thereof, who violates a lawful order of the Commission issued pursuant to this Act shall forfeit and pay to the United States, for each violation, a civil penalty of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey an order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense.

"SALE OF SECURITIES

"SEC. 215. (a) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to require that any plan or plans for divestment of the prohibited assets shall provide for the maintenance of competitive conditions in capital markets for the sale of notes, securities, or assets pursuant to such plan or plans.

"(b) To this end, the Commission shall require that the size, timing, and other conditions of sale for such notes, securities, or assets shall be such as to encourage broad participation by underwriters and potential purchasers.

"(c) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to assure that competitive conditions are maintained in capital markets when loans, leases, and other financings are entered into by persons required to submit a plan or plans required pursuant to this section during the pendency or in conjunction with such plan or plans.

"ESTABLISHMENT

"SEC. 216. There is hereby created a court of the United States to be known as the Temporary Petroleum Industry Divestiture Court (hereinafter referred to in this title as the "court") which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The court shall be dissolved by order of the Chief Justice of the Supreme Court upon a determination that its purposes have been accomplished and at such time its power, jurisdiction, and any unfinished business shall be transferred to the United States District Court for the District of Columbia.

"JUDGES

"SEC. 217. The Chief Justice of the United States shall designate one of such judges as chief judge of the court and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members and any such division may render judgment as the judgment of the court.

"REFERENCE JURISDICTION

"SEC. 218. The court shall have the powers of a district court with respect to the jurisdiction conferred on it by this Act. The court or a panel thereof may, at any stage of a proceeding under this Act, refer the proceeding or any part thereof or any issue therein to a referee in bankruptcy to hear and determine any and all matters not reserved to the court or panel by this Act, or to referee as a special master, to hear and report generally or upon specified matters, or to a special master for such action with respect thereto as the court or a part thereof may direct.

"TRANSFER JURISDICTION

"SEC. 219. (a) A single judge or panel of the court may exercise all functions of the Judicial Panel on Multidistrict Litigation as provided under section 1407 of title 28, United States Code, with respect to any matter before the court.

"(b) The Judicial Panel on Multidistrict Litigation shall exercise no function with respect to any matter before the court.

"GENERAL JURISDICTION

"SEC. 220. The court shall have exclusive jurisdiction, without appeal, except as otherwise provided in this Act, of all plans, actions, and suits brought under this Act or which relate to any matter affected by the operation of this Act and the resolution of which is necessary to the expenditious implementation of any provision of this Act or of any divestiture required by this Act. The jurisdiction of the court shall not include any action brought by the Department of Justice or the Commission under the antitrust laws or the Federal Trade Commission Act.

"COMPULSORY PROCESS

"SEC. 221. Notwithstanding any other provision of law in the execution of its responsibilities and powers under this title the court may issue its process to any person and service thereof may be had in any district where such person resides, transacts business, or many otherwise be found. The court, in aid of the execution of this provision, may issue such writs as may be provided under section 1651 of title 28, United States Code.

"RULES

"SEC. 222. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases of which it has jurisdiction under this Act.

"APPEAL

"SEC. 223. The court may fix and establish a table of costs and fees to be approved by the Supreme Court of the United States, but the costs and fees so fixed shall not exceed with respect to any item the costs and fees charged in the Supreme Court of the United States. Within thirty days after entry of a judgment or order, interlocutory or final, by the court a petition of a writ of certiorari

may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a circuit court of appeals of the United States. No interlocutory appeal may be filed without certification of the court. The Supreme Court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section. The court and the Supreme Court upon review of judgments and orders of the court shall have exclusive jurisdiction. Except as provided in this section, no court, Federal, State, or territorial, shall have jurisdiction or power to consider any appeal involving any action or suit brought under this Act or any matter affected by the operation of this Act and the resolution of which is necessary to the expeditious implementation of any provision of this Act or any divestiture required by this Act.

"CLERK AND EMPLOYEES

"SEC. 224. (a) The court may appoint a clerk who shall be subject to removal by the court. The court may appoint or authorize the appointment of such other officers and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"(b) The officers and employees of the court shall be subject to the removal by the court or, if the court so determines, by the clerk or other officer who appointed them, with the approval of the court.

"(c) Referees and special masters appointed under section 203 shall be compensated as provided under section 40 of the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898 (30 Stat. 544, 556), as amended (11 U.S.C. 68).

"(d) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts.

"LAW CLERKS AND SECRETARIES

"SEC. 225. The judges of the court may appoint such law clerks and secretaries as may be necessary.

"LIBRARIAN, MARSHAL, AND BAILIFFS

"SEC. 226. (a) The court may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

"(b) The court may appoint a marshal, who shall attend the court at its sessions, be custodian of its courthouse or chambers and offices, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court may direct. The marshal shall be subject to removal by the court. The marshal, with the approval of the court, may employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court or marshal may direct. The bailiffs shall receive the same compensation as bailiffs employed for the district courts of the United States.

"SEAT

"SEC. 227. The principal seat of the court shall be in the District of Columbia. The court may sit at such times and places within the United States as the court may designate.

"SEAL

"SEC. 228. The court shall have a seal which shall be judicially noticed.

"SESSIONS

"SEC. 229. The time and place of the sessions of the court shall be prescribed by the chief judge pursuant to rule of the court.

"CONFLICTS

"SEC. 230. No judge of the court, receiver in bankruptcy, or special master shall hear or determine any matter in which he has a conflict of interest.

"APPROPRIATIONS

"SEC. 231. There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.".

Mr. HANSEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. This amendment, in the first place, should be ruled out of order because it is nongermane. It deals with divestiture which is not before the Senate at this time. Second, it would seek to amend the bill in two different places.

I appeal to the Chair to rule it out of order.

The PRESIDING OFFICER. The Chair sustains the point of order on both counts.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow.

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate now stand in recess until the hour of 9 a.m. tomorrow.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The question is on agreeing to the motion of the Senator from West Virginia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—87

Abourezk	Byrd,	DeConcini
Allen	Harry F., Jr.	Dole
Anderson	Byrd, Robert C.	Domenici
Baker	Cannon	Durkin
Bartlett	Chafee	Eagleton
Bayh	Chiles	Eastland
Bellmon	Church	Ford
Bentsen	Clark	Garn
Biden	Cranston	Glenn
Brooke	Culver	Goldwater
Bumpers	Curtis	Gravel
Burdick	Danforth	Hansen
Hart	Mathias	Riegle
Haskell	Matsunaga	Roth
Hatch	McClure	Sarbanes
Hatfield	McGovern	Sasser
Hathaway	McIntyre	Schmitt
Hayakawa	Meicher	Schweiker
Heinz	Metzenbaum	Sparkman
Helms	Morgan	Stevens
Hollings	Moynihan	Stevenson
Inouye	Muskie	Stone
Jackson	Nelson	Talmadge
Javits	Nunn	Thurmond
Johnston	Packwood	Tower
Kennedy	Pearson	Wallop
Laxalt	Pell	Williams
Leahy	Proxmire	Zorinsky
Lugar	Randolph	
Magnuson	Ribicoff	

NAYS—1

Weicker

NOT VOTING—12

Case	Long	Scott
Griffin	McClellan	Stafford
Huddleston	Metcalf	Stennis
Humphrey	Percy	Young

RECESS UNTIL 9:00 A.M. TOMORROW

The motion was agreed to; and at 10:14 p.m., the Senate recessed until tomorrow, Tuesday, September 27, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 1977:

DEPARTMENT OF LABOR

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years (reappointment).

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066 in grade as follows:

To be lieutenant general

Maj. Gen. John Raymond Kelly, Jr., 191-16-0495, U.S. Air Force.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 1977:

MISSISSIPPI RIVER COMMISSION

Maj. Gen. Robert Creel Marshall, 081-32-6336, U.S. Army, to be a member and president of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

Brig. Gen. William Edgar Read, 240-28-5659, U.S. Army, to be a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

ENVIRONMENTAL PROTECTION AGENCY

Marvin B. Durning, of Washington, to be an Assistant Administrator of the Environmental Protection Agency.

David G. Hawkins, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

CALIFORNIA DEBRIS COMMISSION

Col. Donald Michael O'Shei, Corps of Engineers, to be a member of the California Debris Commission, under the provisions of section 1 of the act of Congress approved March 1, 1893 (27 Stat. 507) (33 U.S.C. 661).

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, September 26, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He hath showed thee, O man, what is good; and what doth the Lord require of thee but to do justly, and to love mercy, and to walk humbly with thy God? Micah 6: 8.

O God, our Father, eternal source of wisdom, power, and love, whose mercy is over all Thy works and whose will is ever directed to Thy children's good, help us with increasing faith to come to Thee for light upon our way, for strength in our way, and for love along our way, that we may now and always do justly, love mercy, and walk humbly with Thee.

As we face the tasks of this day and this week, grant us faith and fortitude that we may make our decisions wisely, plan our work thoughtfully, and develop our policies prayerfully for the good of all. Laboring this day and every day, keep our minds clear, our hearts clean, and our spirits courageous that we may become a stronger nation living in a better world.

In the spirit of Him who is the Way, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6415) entitled "An act to extend and amend the Export-Import Bank Act of 1945."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7554) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes and that the Senate agreed to the House amendments to the Senate amendments numbered 28, 45, and 46.

The message further announced that the Senate disagreed to the amendment of the House to the amendment of the Senate numbered 40 and requested a further conference with the House thereon and appointed Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. MCCLELLAN, Mr. MATHIAS, Mr. CASE, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG to be conferees on the part of the Senate to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 81. Joint resolution to express the sense of the Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977."

INCREASING RETIREMENT BENEFITS FOR RETIRING MEMBERS OF CONGRESS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, last Friday, a bill was brought up to increase retirement benefits for Members of Congress retiring at the end of this term. This bill was brought up by unanimous consent which permits routine handling of noncontroversial, purely technical matters. By calling up H.R. 9262 on that calendar, its purpose was seriously abused in a manner which I find intolerable. It is unbelievable that the leadership permitted this to happen.

When a bill will enrich a select few Members of this body—or any other for that matter—at the expense of American taxpayers, I just cannot understand how it can be called either "noncontroversial" or "technical." And when the House handles expensive, self-serving legislation, the same day as it was introduced, with no committee consideration, with no prior official notice to the membership, and without a vote, I can understand all too well why public confidence in this body has eroded so severely.

News of this legislation was on the front page of the Wichita Eagle this Saturday morning, but we in the House had no prior notice. I am shocked, as I am sure many Americans are, to think that this expensive provision was approved in such a devious manner.

While our colleague, Representative OBEY, has been striving to secure approval of ethics proposals designed to rebuild public confidence in Congress, the handling of this one bill could seriously undercut his efforts.

We are playing a dangerous parliamentary game. The issue of congressional perks is most assuredly controversial. And well it should be. If I cannot appeal to your sense of decency, then may I appeal to your sense of politics. If this body continues to vote itself more and more and to listen less and less to the urgings of the people for Congress to stop making backdoor deals on our own behalf, then we will see others in our places in the 96th Congress.

Noncontroversial? Not in my district and I have grave doubts that it is in your district either.

NINTH ANNUAL REPORT ON ADMINISTRATION OF NATURAL GAS PIPELINE SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report on the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 14 of the Act and covers the activities for calendar year 1976, prior to the time I became President.

JIMMY CARTER.

THE WHITE HOUSE, *September 26, 1977.*

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 6655, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits and ask unanimous consent that the bill

be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.
Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.
Sec. 122. District of Columbia Policemen and Firemen's Retirement Fund.
Sec. 123. District of Columbia Teachers' Retirement Fund.
Sec. 124. District of Columbia Judges' Retirement Fund.
Sec. 125. Management of Retirement Funds.
Sec. 126. Payments from Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.
Sec. 142. Determination of Federal and District of Columbia payments to the Funds.
Sec. 143. Information about retirement programs.
Sec. 144. Federal and District of Columbia payments to the Funds.
Sec. 145. Conforming amendments.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

Sec. 161. Personal financial disclosure by Board members.
Sec. 162. Annual reports.
Sec. 163. Retirement program summary description.
Sec. 164. Filing reports and furnishing information to participants.
Sec. 165. Reporting of participants' benefit rights.
Sec. 166. Public information.
Sec. 167. Retention of records.
Sec. 168. Additional information.
Sec. 169. Criminal penalties.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

Sec. 181. Fiduciary responsibility.
Sec. 182. Liability for breach of fiduciary duty.
Sec. 183. Exculpatory provisions; insurance.
Sec. 184. Prohibition against certain persons holding certain positions.
Sec. 185. Bonding.
Sec. 186. Limitation of actions.
Sec. 187. Civil enforcement.
Sec. 188. Claims procedure.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICEMEN AND FIREMEN RETIREMENT BENEFITS

Sec. 201. Salary base period for computation of annuity.
Sec. 202. Creditable service for full-time officials of employee organizations.
Sec. 203. Requirements for optional retirement.
Sec. 204. Disability retirement.
Sec. 205. Recovery from disability.
Sec. 206. Survivor's annuities.
Sec. 207. Deferred annuity.
Sec. 208. Interest on refunds and on deposits for prior service credit.
Sec. 209. Cost-of-living adjustments of annuities.
Sec. 210. Authority to waive collection of overpayments.
Sec. 211. Commencing date of payment of annuities.
Sec. 212. Payment of annuities to minors and mental incompetents.

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

Sec. 251. Cost-of-living adjustments of teachers' annuities.
Sec. 252. Cost-of-living adjustments of judges' annuities.
Sec. 253. Interest on teachers' refunds and deposits.
Sec. 254. Interest on judges' redeposits.
Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the policemen, firemen, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for policemen and firemen, is predicted to exceed the cost of salaries for active policemen and firemen by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for policemen and firemen, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired policemen, firemen, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal amortization payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title—

(1) the term "Mayor" means the Mayor of the District of Columbia;

(2) the term "Council" means the Council of the District of Columbia;

(3) the term "Speaker" means the Speaker of the House of Representatives;

(4) the term "President pro tempore" means the President pro tempore of the Senate;

(5) the term "Board" means the District of Columbia Retirement Board established by section 121 of this Act;

(6) the term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by title I, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72-80, April 5, 1972 (D.C. Code, title 1—Appendix));

(7) the term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title II of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia;

(8) the term "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone;

(9) the term "party in interest" means—

(A) any person (including members of the Board) having fiduciary responsibilities under title I,

(B) any person providing services to a Fund,

(C) the government of the District of Columbia,

(D) an employee organization, and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant, of any individual described in subparagraph (A) or (B);

(10) the term "Fund" means the District of Columbia Policemen and Firemen's Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124;

(11) the term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination;

(12) the term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State;

(13) the term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974;

(14) the term "security" means a security as defined in section 2(1) of the Securities Act of 1933;

(15) the term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program;

(16) the term "teacher" means a teacher as defined in section 13 of the Act entitled

"An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-733);

(17) the term "judge" means a judge as defined in section 11-1561(1) of title 11 of the District of Columbia Code; and

(18) the term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years, as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) If any member of the Board who was selected under subparagraph (A), (C), or (E) of paragraph (1) ceases to be a member or officer of the Metropolitan Police force, a member or officer of the Fire Department, or a teacher, as the case may be, he may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, members of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it deems necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the funds established by this title.

DISTRICT OF COLUMBIA POLICEMEN AND FIREMEN'S RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Policemen and Firemen's Retirement Fund into which shall be deposited the following which shall constitute the assets of the Fund:

(1) Any amount which is paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount which is appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1977, or after the end of the thirty-day period beginning on the date on which funds are first appropriated under either section 144(a)(1)(A) or (b)(1)(A), whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park

Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) Subsection (c)(5) of such Act (D.C. Code, sec. 4–523(5)) is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122 (a) of such Act. All other members shall deposit such sum with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in equal monthly installments not exceeding twenty-four.".

(3) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4–502), is amended by inserting immediately before the period ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act".

(4) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4–504a), is amended by inserting "or the District of Columbia Policemen and Firemen's Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first time it appears.

(c) The amendments made by paragraphs (1) through (3) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (4) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount which is paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any amount which is appropriated for such Fund under part C of this title.

(3) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended and thereafter shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31–721)—

(i) by adding the following new sentence at the end of the first paragraph: "After the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31–722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31–725(b)(1)(ii)) by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31–729(a)) by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31–729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123 (a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31–737) by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31–744), is amended by inserting immediately before the period at the end of the first sentence "until such time as all amounts in such fund have been expended and thereafter from the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act). for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount which is deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any amount which is appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

(b)(1) Section 11–1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11–1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11–1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11–1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11–1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by strking out "fund" the second time it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments) and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bill, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in—

(1) interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as to the payment of both principal and interest by the United States Government; or

(2) interest-bearing certificates of deposit issued by national, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to determine, in accordance with generally accepted actuarial practice—

(A) at the times specified in paragraph (2), the level percentage of payroll, as a percentage of payroll, required to be deposited in each Fund annually in perpetuity in order to meet the cost of annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable in perpetuity from such Fund less the amount of employee contributions to such Fund for such year expressed as a percentage of payroll;

(B) in years before the fiscal year 2004 and at the times specified in paragraph (2), the base level percentage of payroll, as a percentage of payroll, required to be deposited in each Fund annually in perpetuity in order to meet the cost of annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable in perpetuity from such Fund less the amount of employee contributions to such Fund for such year expressed as a percentage of payroll, as if the benefits payable from such Fund and the noneconomic actuarial assumptions relating to such Fund were those in effect at the end of the ninety-day period begining on the date of enactment of this Act; and

(C) each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the amount (hereafter in this title referred to as the "net pay-as-you-go-cost") required, in addition to employee contributions to each Fund for the next fiscal year, to meet the obligations of such Fund during such fiscal year for payment of annuities and other retirement and disability benefits (including refunds and lump-sum payments).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A) and (B) of such paragraph at the following times:

(A) Not later than December 31, 1977.

(B) Upon a request of the Board or of the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made pursuant to paragraph (1), the enrolled actuary shall certify to the Board, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net pay-as-you-go-cost.

(B) The net level percentage cost, which shall be computed as the product of the percentage determined pursuant to paragraph (1)(A) and an estimate by the enrolled actuary of current active duty payroll.

(C) With respect to each fiscal year before the fiscal year 2004, the base net level percentage cost, which shall be computed as the product of the percentage determined pursuant to paragraph (1)(B) and an estimate by the enrolled actuary of current active duty payroll.

(4) On the basis of the most recent certification submitted by the enrolled actuary pursuant to paragraph (3), the Board shall determine the Federal amortization payment for the next fiscal year for each Fund and the District of Columbia payment for the next fiscal year for each Fund, which payments shall be determined as follows:

(A) If the net pay-as-you-go cost is greater than or equal to the greater of the base net level percentage cost and the net level percentage cost, then the amount of the Federal amortization payment shall be zero and the amount of the District of Columbia payment shall be the amount of the net level percentage cost.

(B) If the net pay-as-you-go cost is less than the greater of the base net level percentage cost and the net level percentage cost, then—

(i) if the net pay-as-you-go cost is greater than or equal to the lesser of the net level percentage cost and the base net level percentage cost, then the amount of the District of Columbia payment shall be the net level percentage cost less the amount, if any, by which the base net level percentage cost exceeds the net pay-as-you-go costs, and the amount of the Federal amortization payment shall be the amount, if any, by which the base net level percentage cost exceeds the net pay-as-you-go cost; or

(ii) if the net pay-as-you-go costs is less than the lesser of the net level percentage cost and the base net level percentage cost, then the amount of the Federal amortization payment shall be the difference between the base net level cost and the net pay-as-you-go cost, and the amount of the District of Columbia payment shall be—

(I) the net pay-as-you-go cost less the amount by which the base net level percentage cost exceeds the net level percentage cost, if the base net level percentage cost is greater than or equal to the net level percentage cost; or

(II) the net pay-as-you-go cost plus the amount by which the net level percentage cost exceeds the base net level percentage cost, if the net level percentage cost is greater than the base net level percentage cost.

(5) If with respect to any fiscal year the Federal amortization payment computed pursuant to paragraph (4) is greater than the amount authorized for the Federal amortization payment for such fiscal year under section 144(a), then the amount of the District of Columbia payment for such fiscal year shall be increased by the difference between the amount of the Federal amortization payment computed pursuant to paragraph (4) and the amount authorized for the Federal amortization payment for such fiscal year, and the amount of the Federal amortization payment computed pursuant to such paragraph shall be reduced by such difference.

(b)(1) On the basis of the most recent determinations made pursuant to subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through the calendar year 2002, submit to the President and to the Congress a request for appropriation of the Federal amortization payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to sub-

mit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District of Columbia payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget the full amount certified by the Board, pursuant to paragraph (1)(B), as being the amount of the District of Columbia payment for the next fiscal year for each Fund.

(c) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (1) the net pay-as-you-go cost with respect to the retirement program, (2) the net level percentage cost with respect to the retirement program, and (3) the level of the Federal amortization payments and the District of Columbia payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits shall not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(d) The representatives of the General Accounting Office shall have access to all book, accounts, records, reports, files, and all other papers necessary to carry out the responsibilities of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to the retirement programs to which this title applies as the Board deems necessary to enable it to carry out its responsibilities under this title (including the responsibilities of the enrolled actuary under section 142).

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a)(1) There is authorized to be appropriated from the revenues of the United States as the Federal amortization payment—

(A) to the District of Columbia Policemen and Firemen's Retirement Fund, $27,200,000 for the fiscal year 1978;

(B) to the District of Columbia Teachers' Retirement Fund, $11,100,000 for the fiscal year 1978; and

(C) to the District of Columbia Judges' Retirement Fund, $1,100,000 for the fiscal year 1978.

(2) For the fiscal years 1979 through 2003, there is authorized to be appropriated from the revenues of the United States as the Federal amortization payment to the Funds established by this title, the amount requested by the Board in accordance with section 142(b)(1)(A) with respect to such Fund for such fiscal year or the amount specified in the following table, whichever is less:

Fiscal year	Policemen and firemen's fund	Teachers' fund	Judges' fund
1979	$26,900,000	$19,600,000	$1,100,000
1980	26,600,000	19,900,000	1,000,000
1981	26,300,000	20,100,000	900,000
1982	25,700,000	20,300,000	900,000
1983	24,900,000	20,400,000	900,000
1984	23,800,000	20,600,000	800,000
1985	22,400,000	20,800,000	800,000
1986	20,600,000	21,100,000	700,000
1987	18,400,000	21,400,000	700,000
1988	15,600,000	21,600,000	700,000
1989	12,400,000	21,800,000	700,000
1990	8,700,000	21,800,000	700,000
1991	4,500,000	21,600,000	700,000
1992	0	21,200,000	700,000
1993	0	20,900,000	600,000
1994	0	20,400,000	500,000
1995	0	19,700,000	300,000
1996	0	18,800,000	200,000
1997	0	17,700,000	0
1998	0	16,400,000	0
1999	0	14,700,000	0
2000	0	12,500,000	0
2001	0	9,800,000	0
2002	0	6,400,000	0
2003	0	2,000,000	0

(b)(1) Amounts appropriated as a Federal amortization payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of section 142(b)(2) with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

CONFORMING AMENDMENTS

SEC. 145. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31-734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31-707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31-715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31-716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year in such form as the Council may by regulation require and containing such information, in addition to the following, as the Council may by regulation require with respect to the member's financial condition:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identiy and category of value of each liability owed, directly or indirectly, which exceeds $2,500 as of the last day of the year (excluding any mortgage which secures real property which is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income which has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property which is the principal residence of such member or which is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount or value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000,

(2) Greater than $5,000 but not more than $15,000,

(3) Greater than $15,000 but not more than $50,000,

(4) Greater than $50,000 but not more than $100,000,

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) An annual report for each fiscal year (beginning with fiscal year 1978) shall be published by the Board with respect to each retirement program to which this title applies and the Fund for such retirement program. Such report shall be filed

with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and where applicable, subsection (f), and shall also include—

(i) a financial statement and opinion, as required by paragraph (3) of this subsection, and

(ii) an actuarial statement and opinion, as required by paragraph (4) of this subsection.

(2) If some or all of the information necessary to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account,

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account, or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act), such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraph (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the account to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4)(A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: a description of the retirement program including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including policy with respect to prior service cost), and any changes in such policies during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest, and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) a statement of the assets and liabilities of the Fund aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) a statement of receipts in and disbursements from the Fund during the preceding twelve-month period aggregated by general source and application;

(C) a schedule of all assets held for investment purposes aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value;

(D) a schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction;

(E) a schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof;

(F) a list of all leases which were in default or were classified during the year as uncollectable; and the following information with respect to each lease on such schedule (including a notation as to whether parties involved are known to be parties in interest); the type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property), the identity of the lessor or lessee from or to whom the Fund is leasing, the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

(G) the most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all of the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate trust, such other information as may be required by the Board in order to comply with this subsection; and

(H) a schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party if such transaction is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceeds 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction

with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including but not limited to, any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel or custodian who rendered services to the Board or who had transactions with the Board) who received directly or indirectly compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government, or any employee organization, and any other office, position, or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of accountant, insurance carrier, enrolled actuary, or investment counsel.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed: the amounts determined under section 142 (a)(1), the accrued liabilities, an identification of benefits not included in the calculation, a statement of the other facts and actuarial assumptions and methods used to determine costs, and a justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) The current value of the assets accumulated in the Fund.

(6) A certification of the payments to the Fund necessary to reduce the accumulated fundings deficiency to zero.

(7) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(8) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(9) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(10) A copy of the opinion required by subsection (a)(4).

(11) Such other information regarding the plan as the Council may by regulation require.

(12) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

Such actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a) (4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assests of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year which have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose. If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and (B) if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a) A summary retirement program description of any retirement program to which the provisions of this Act apply shall be furnished to participants and beneficiaries as provided in section 164(b). The summary retirement program description shall include the information described in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program. A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b) shall be written in a manner calculated to be understood by the average participant and shall be furnished in accordance with section 164(b)(1).

(b) The summary retirement program description shall contain the following information: the name and type of administration of the retirement program; the name and address of the chairman of the Board who shall be the agent of the Board for the service of legal process; names, titles, and addresses of all members of the Board; a description of the relevant provisions of any applicable collective bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program and the remedies available under the retirement program for the redress of claims which are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) each annual report for a fiscal year within two hundred and ten days after the close of such year;

(B) a copy of each summary retirement program description within one year after the enactment of this Act; and

(C) a revised summary retirement program description, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs, as the case may be. The Mayor shall make copies of such summary retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including but not limited to the bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council deems it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal amortization payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description, and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant, or (in the case of a beneficiary) within ninety days after he first receives benefits. The Board shall furnish to each participant, and each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished not later than two hundred and ten days after the end of the fiscal year in which the change is adopted to each participant and to each beneficiary who is receiving benefits under the retirement program.

(2) The Board shall make copies of the latest annual report and any bargaining agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may prescribe by regulations).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such complete copies. The Council may by regulation prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under the retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANT'S BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) In no case shall a participant or beneficiary be entitled under this section to receive more than one report described in subsection (a) during any one twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information and the Mayor, the Council, the Speaker, and the President pro tempore shall each make any such information and data available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data for statistical and research purposes, and may compile and publish such studies, analyses, reports, and surveys based thereon as may be deemed appropriate.

(b) Information described in section 165 (a) with respect to a particular or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 156(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Any person who willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall upon conviction be fined not more than $5,000 or imprisoned not more than one year, or both; except that in the case of such violation by a person not an individual, the fine imposed upon such person shall be a fine not exceeding $100,000.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach; or

(3) if he has knowledge of a breach by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension

of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund, and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program. Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and (A) a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or (B) a pooled investment fund of an insurance company qualified to do business in a State, if—

(i) the transaction is a sale or purchase of an interest in the Fund.

(ii) the bank, trust company, or insurance company receives not more than reasonable compensation, and

(iii) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries; or

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach, and to restore to such Fund any profits of such fiduciary which have been made through use of assets of the Fund by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnaping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes in an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title, or

(2) as a consultant to any Fund established by this title,

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section—

(1) a person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event;

(2) the term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund; and

(3) a period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a) Every fiduciary of a Fund established by this title and every person who handles funds or other property of such a Fund (hereafter in this section referred to as "Fund official") shall be bonded as provided in this section; except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(1) is a corporation organized and doing business under the laws of the United States or of any State;

(2) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(3) is subject to supervision or examination by Federal or State authority; and

(4) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000. This paragraph shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation, only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

The amount of such bond shall be fixed at the beginning of each fiscal year. Such amount shall be not less than 10 per centum of the amount of funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Mayor, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 per centum limitation of the preceding sentence. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Council. Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund, without being bonded as required by subsection (a) and it shall be unlawful for any Fund official of such Fund, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Fund official, with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund, to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it deems proper.

(c) The Board may sue or be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall—

(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under a retirement program to which this title applies has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant or beneficiary; and

(2) afford a reasonable opportunity to any participant or beneficiary whose claim for benefits has been denied for a full and fair review by the appropriate named official of the decision denying the claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICEMEN AND FIREMEN RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-521 (17)) is amended—

(1) by striking out "twelve consecutive months of police or five service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second time it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the pension of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time he entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost

of the pension of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time he entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528(1)) is amended by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years, and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service,".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528) is amended by striking out "in subsection (h)," and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police Force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of any injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4-526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine the percentage of disability for such member giving due regard to—

"(I) the nature of injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity to his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) one year from the date of the medical examination showing such recovery,

"(C) one year from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an

annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, receives income from wages or self-employment, or both, in any calendar year in an amount in excess of the difference between the current annual salary for the position which such annuitant held immediately prior to his retirement and the amount of annuity paid to such annuitant held immediately prior to his retirement and the amount of annuity paid to such annuitant during such year under such subsection, then (except as provided in subparagraph (B)) the annuity of such annuitant shall be reduced as follows:

"(i) For each $1.00 of excess income received during such year, $0.75 shall be withheld from the annuity paid to such annuitant.

"(ii) Such withholding shall be prorated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(iii) The twelve-month period during which withholding occurs shall begin as soon after the end of the calendar year during which such excess income was received as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(B) Notwithstanding the requirements of subparagraph (A), in any case to which the provisions of such subparagraph apply in which the Mayor of the District of Columbia determines that the level of excess income of an annuitant whose annuity would otherwise be reduced in accordance with such subparagraph has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in clause (i) of such subparagraph as he deems appropriate or he may waive the requirements of subparagraph (A) completely if he finds that circumstances justify such waiver.

"(C)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully fails to comply with the requirements of such clause, or who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause, shall forfeit all rights to his disability annuity, but any such forfeiture shall not affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m)(2) of such Act (D.C. Code, sec. 4-533(2)) is amended—

(1) by inserting "(A)" before "If a member;

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires or the medical examination of such member after he reaches the age of fifty."; and

(3) by adding at the end of such subsection the following new subparagraph:

"(B) In addition to any medical examination required under subparagraph (A), any retired member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia (regardless of whether such retired member is reemployed) shall, until he reaches the age of fifty, undergo an annual medical examination by the Board of Police and Fire Surgeons or by a physician designated by the Board. The disability annuity of any such member who fails to comply with the annual medical examination requirement of this subparagraph shall be suspended until such member complies with such requirement unless the Board determines that such failure to comply was due to circumstances beyond the control of such member, but any such suspension shall not affect any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received in calendar year 1978 or any calendar year thereafter.

SURVIVOR'S ANNUITIES

SEC. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second time it appears, and

(ii) by striking out "computed;" and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4-521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum) in the Consumer Price Index (all items—United States city average), published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the 90-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITY

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the

Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Policemen and Firemen's Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first time it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second time it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant's" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) Any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by inserting the following new subparagraph at the end of such paragraph:

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (1)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph, by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto".

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5)), as amended by section 122(b)(2) of this Act, is further amended—

(A) by inserting "(A)" immediately after "(5)";

(B) in the second sentence, by inserting ", plus interest computed in accordance with subparagraph (B)," immediately after "such sum";

(C) in the fourth sentence—

(i) by striking out "equal", and

(ii) by inserting before the period ", except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts"; and

(D) by adding the following new subparagraph at the end of the paragraph:

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Policemen and Firemen's Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such 90-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207(a)(1)(A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a)(1)(B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2)(A) or (2)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described, in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.".

(2) Subsection (m)(2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1)(B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(c) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENTS OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)) is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth

of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739 a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGE'S ANNUITIES

SEC. 252. (a) Section 11–1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of this Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721) is amended—

(1) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(2) in the second paragraph—

(A) in the first sentence—

(i) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act", and

(ii) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(B) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31–721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof

"(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) insert thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31–729 (a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of enactment of the District of Columia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31–730(f)(3)) is amended by inserting after "interest" in the first time it appears ", earned prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act,".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1980, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1980, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the mid-point of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest or interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first

month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(A) by striking out "and interest"; and

(B) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of the District of Columbia Code is amended—

(1) in section 11–1161—

(A) in paragraph (9)(C) by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C) by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11–1569(c) by inserting "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period begining on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited. Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11–1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)".

(c) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1977, or at the end of the ninety-day period beginning on the date of enactament of this Act, whichever is later.

The SPEAKER. The gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the purposes of the bill (H.R. 6536), as set forth in the committee report (H. Rept. 95–335), are first, to establish, with Federal financial assistance, separate retirement funds for policemen and firemen, teachers, and judges of the District of Columbia in order to liquidate the Federal responsibility for the unfunded liability of the pensions as transferred to the District's home rule government on January 2, 1975; second, to establish a Retirement Board to manage the funds; third, to provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans; fourth, to require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93–406, 88 Stat. 829); and fifth, to provide Federal assistance to the District of Columbia to finance the unfunded pension liabilities incurred before the establishment of self-government for the District. The bill does not affect active or retired members of the U.S. Park Police, Executive Protective Service, or Secret Service.

NEED FOR THE LEGISLATION

The committee finds that Congress established the District of Columbia police and firemen's, teachers', and judges' pension plans and granted benefits, but failed to provide for adequate funding of these plans prior to granting home rule to the District in 1975. In addition, Congress mandated that the city hire an additional 2,000 policemen during the 1960's, for a total authorization of 5,100, a force substantially larger than that for cities of equivalent size.

As the result, in October 1976, the unfunded liability of the police and firemen's retirement system was $1.4 billion, teachers' $635.6 million, and judges' $9.5 million, making a total accrued unfunded liability of $2.03 billion.

The police and firemen's pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers' fund—congressionally mandated to be maintained at $61.5 million—is so inadequate as to be considered unfunded. The same can be said of the judges' $1.3 million fund.

Pension payments for police and firemen are currently 52 percent of the payroll, and are estimated by the U.S. Treasury to be 105 percent of payroll by the year 2020. If funding commences in fiscal 1978 at the level percentage determined by the U.S. Treasury actuary, the costs, less employee contributions, for police and firemen can be held at 72.5 percent of payroll in perpetuity. The level percentage required to fund the teachers' pension is 25.3 percent and judges' 51.6 percent of payroll. The Federal amount needed for the three funds in fiscal 1978 is $47.7 million.

The committee believes that pension funds should be established now to commence earning interest, since it is clear that unless these pension plans are funded the District will not be able to meet future pension because each year's delay adds $714 million to the current $2.03 billion in unfunded liability.

Since 1950 the city's population declined from 802,000 to 701,000, and, according to U.S. Census estimates, the District will continue to lose 5,000 persons per year until 1980, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent per year.

To lower pension costs, the committee bill reduced several benefits after studying comparative data on retirement benefits in other cities—see appendix B. If the cost of the pension program is expressed as a percentage of the current active payroll that must be contributed to the fund to keep it actuarially sound the committee found that the benefit reductions in H.R. 6536 reduced pension costs by 16.6 percent over current law.

MAJOR PROVISIONS OF THE BILL

First. Establishes separate retirement funds for police and firemen, teachers, and judges, but allows moneys to be commingled for investment purposes.

Second. Establishes an 11-member Retirement Board to manage the funds. Five appointed by city, six elected by active and retired employees.

Third. Requires that these funds be managed on an actuarially sound basis to provide proper financing of benefits.

Fourth. Prohibits investment of funds in District of Columbia, Maryland, and Virginia bonds, real estate, and agencies.

Fifth. Gives the Retirement Board fiduciary responsibility over the funds.

Sixth. Requires the Retirement Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).

Seventh. Provides for Federal payments into each fund to help finance, in part, liabilities for retirement benefits enacted and administered by Congress prior to home rule.

Eighth. Makes certain changes in benefits.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker and members of the committee, public awareness of fiscal problems that occur when public pension plans are underfunded or, as in the case of the District of Columbia police and firemen, completely unfunded, has only surfaced in recent years.

According to a recent study by the Advisory Council on Intergovernmental Relations, one of the major fiscal problems facing cities today is the existence of underfunded locally administered retirement systems. While very few cities have systems which are funded on actuarial principles, even fewer have current actuarial valuations of their unfunded liabilities.

There are many factors that work against adequate funding of public plans, especially those of police and firemen. Because of their hazardous work police and firemen are usually granted more generous benefits than other employees, and they tend to retire at an earlier age. Under current law, a District of Columbia police or firemen may retire at 50 percent of pay after 20 years service. Assuming he joins the department in his early twenties, it is not inconceivable that he will spend more time on the retirement rolls than in active service.

A more important factor, applying to all public employees, is the tendency to grant overly generous benefits because there is no immediate impact on a city's budget. The problem of paying for the benefits comes at a later time to a different group of elected officials than those who granted the benefits.

Cities across the country are now confronted with funding astronomically large pension liabilities. The day of reckoning is here and cities must either meet the problem squarely or face financial disaster.

But the District of Columbia is unique. While their pension problems are not unlike those in many other cities, the circumstances that led to them are different. Prior to home rule Congress established the retirement plans. Congress set the benefit levels. But Congress failed to provide funding. In addition, Congress mandated that the District hire an additional 2,000 policemen during the 1960's, making the force substantially larger than that for cities of equivalent size.

As the result, in October 1976, the unfunded liability of the police and firemen's retirement system was $1.4 billion, teachers' $635.6 million, and judges' $9.5 million, making a total accrued unfunded liability of $2.03 billion.

The police and firemen's pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers' fund—congressionally mandated to be maintained at $61.5 million—is so inadequate as to be considered unfunded. The same can be said of the judges' $1.3 million fund.

Pension payments for police and firemen are currently 52 percent of active payroll, and are estimated by the U.S. Treasury to be 105 percent of payroll by the year 2020.

The committee believes that pension funds should be established now to commence earning interest, since it is clear that unless these retirement plans are funded, the District will not be able to meet future pension costs, because the average amount for each years delay costs $189 million in addition to the current $2.03 billion in unfunded liability.

Since 1950 the city's population declined from 802,000 to 701,000 and, according to U.S. Census estimates, the District will continue to lose 5,000 persons per year until 1980, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent per year.

Because of the role Congress played in establishing pension benefits prior to home rule, the responsibility to fund these plans clearly lies with Congress.

H.R. 6536 had its genesis in 1974 when the report of the Organization of the Government of the District of Columbia—the Nelsen Commission—expressed grave concern for the District's unsound pension financing. As a result of that report, the prehome rule Government requested the Treasury Department to develop several methods of funding to put the pension plans on an actuarially sound basis.

That report, entitled "Financing Alternatives for the Police and Fire Retirement System," April 25, 1974, proposed three financing options:

Option A—The prior unfunded liability is amortized over the first 30 years of funding and financed by the Federal Government.

Option B—Similar to Option A, but financed by both the Federal and District governments.

Option C—A level percentage of payroll is actuarially determined that would pay pension costs as they are earned—the normal cost—and amortize the prior unfunded liability over the life of the funds. Contributions are financed by both the District and Federal governments.

Using the "Alternatives" report as a basis for funding, former Congressman Thomas M. Rees introduced pension legislation in 1974 and 1976. The bill before us, introduced by Mr. MAZZOLI, is similar to the one reported by the committee last Congress.

During the three sets of hearings held by the committee, testimony was taken from Members of Congress, expert witnesses, the city, and employee groups, both active and retired. The legislation before us today is a result of cooperation and compromise by all who are affected by it.

Title I of H.R. 6536 has five purposes:

First. To establish separate funds for the police and firemen's, teachers, and judges' retirement systems;

Second. To establish a Retirement Board to manage the funds;

Third. To provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans;

Fourth. To require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA); and

Fifth. To provide Federal assistance to the District of Columbia to finance the unfunded pension liabilities incurred before the establishment of self-government for the District.

The Retirement Board is composed of 11 members—6 elected by active and retired police, firefighters, and teachers and 5—2 of whom must have financial experience—appointed by the city. The judges asked not to be named to the board, because of possible conflicts of interest should board actions become subject of litigation. The Director of the Office of Budget and Financial Management is an ex officio nonvoting member for additional financial expertise. The chairman is elected from among the board members, but may not be the Mayor's budget officer.

The board is the fiduciary of the funds, but may enter into a written agreement with an investment counsel or counsels who then assumes fiduciary responsibility. The three funds are managed separately since benefits vary, but assets may be commingled for investment purposes.

The managers of the funds may not invest the funds' assets in District of Columbia, Maryland, or Virginia bonds, real estate, mortgages, or agencies. This restriction was adopted to avoid the temptation for the board to invest in low yielding local bonds or to "prop up" local projects. The restrictions were expanded including Maryland and Virginia to avoid sweetheart deals to buy each others' bond issues.

Parts D and E of title I are based on reporting and disclosure requirements of ERISA. These sections were developed with the assistance of the pension task

force of the Committee on Education and Labor.

Requirements include:

(a) Personal financial disclosure statements from Board members.

(b) Annual report detailing all transactions.

(c) Annual actuarial report.

(d) Retirement plan information for each Fund.

(e) Strict fiduciary standards making Board members liable under a "prudent man" standard for investment.

(f) Civil penalties to allow interested parties to bring suit to recover losses.

(g) Criminal penalties for willful misuse of the Funds.

Title II changes certain benefits, mainly for police and firemen hired after enactment, and tightens requirements for disability retirements.

Of the total number of retirements in 1969, 99 percent of the firemen and 98 percent of the police were retired on disability. Disability retirement requirements were tightened in the 93d Congress, and yet the rate has fallen only to 60 percent. This remains an unacceptable rate compared with New York's 31 percent and Los Angeles' 15 percent.

Two major factors influence the abuse of disability retirement in the District of Columbia:

First. A tax free annuity of 66 percent of average pay compared to normal retirement taxable pay of 50 percent after 20 years.

Second. The ease of retiring under the so-called "aggravation clause." If a member "aggravates" an off-duty injury while on duty, he may retire on a full disability annuity.

To further reduce disability retirements, the bill institutes a system of percentage of disability based on the percentage of impairment.

The following changes outline the reforms of title II:

FOR PRESENT EMPLOYEES

First. Provides vesting in 5 years with the right to a deferred annuity at age 55. There is currently no vesting.

Second. Provides cost-of-living adjustments on March 1 and September 1 as in the civil service retirement system. They are currently at the same time and same percent as active members pay increases. Since salaries do not always keep up with the rate of inflation, this keeps annuities on par with the Consumer Price Index. This does not apply to current retirees at their request.

Third. Eliminates the aggravation clause for off-duty injuries and requires more strict accounting for aggravation claims for on-duty injuries. Currently a member can receive disability retirement if his duty aggravates an injury incurred off duty.

Fourth. Conforms the timing of cost-of-living adjustments to those of Federal retirees—March 1 and September 1 of each year. An annuitant who retires after the adjustment would receive no less than if he had retired prior to the adjustment. Currently an annuitant does not benefit from an increase if he retires immeditely after an adjustment.

Fifth. Increases survivor annuities to conform with current civil service and social security practices.

FOR NEW HIRES

First. Bases pensions on 3 years' average pay. The pension base is currently the final year's average pay.

Second. Changes minimum eligibility for normal retirement to age 50 with 25 years service. Normal retirement is currently 20 years service with no age limit.

Third. Disability retirements. There are currently no comparable provisions:

(a) The Board of Surgeons will determine the percentage of impairment.

(b) The Retirement Board will determine the percentage of disability taking into account:

(1) Percentage of impairment.

(2) Position held prior to injury.

(3) Nature of injury.

(4) Age of member.

(5) Other factors which may affect capacity to earn in disabled condition.

(c) An annuitant may earn the difference between his annuity and the amount he would be earning in the position he held prior to retiring. For every dollar over that amount, his annuity will be reduced by $.75. Every retiree must provide the Mayor a notarized statement of earnings or lose his annuity.

(d) A yearly medical statement by the Board of Surgeons or a doctor designated by them is mandatory. If a retiree fails to provide this information, his annuity will be suspended until he fulfills this requirement.

(e) No annuitant injured on duty will receive less than 40% of basic pay, and no annuitant injured off-duty will receive less than 30% of basic pay.

(f) The medical and current earning statements shall be required for current retirees.

These changes result in a new entrant cost savings of 26.3 percent over current law.

FOR TEACHERS AND JUDGES

One. Repeals the 1-percent "kicker" on annuity adjustments and provides for cost-of-living adjustments on March 1 and September 1 as in the civil service retirement system.

Two. Restores a retired teacher's full annuity—if teacher has elected to receive a reduced amount in order to increase survivor's annuity—if the beneficiary dies before the teacher. This conforms to recent civil service changes.

Mr. Speaker, at this point I want to correct an error in the committee report. On page 23 in the section-by-section analysis of title II, we state that section 204, to establish a system of percentage disability, applies to all who become disabled 90 days after enactment. It should read that it applies to all who are hired after enactment.

The funding method used by the committee in H.R. 6536 is the "level percentage" approach. A constant percentage of payroll is actuarially determined that will pay normal costs as they accrue and amortize the unfunded liability over the life of the fund. The percentage of payroll remains constant as long as benefits and actuarial and economic assumptions remain constant. Any change in benefits is reflected by an increase or decrease in the level percentage.

H.R. 6536 mandates that any pension benefit negotiated by the mayor must be costed out actuarially before it is approved to determine what change it will make to the fund's level percentage.

The committee chose the level percentage funding method for the following reasons:

First. The initial outlay is less than the normal cost approach, thereby reducing the fiscal impact on both the Federal and District governments in the early years of funding.

Second. It is equitable. The cost burden falls equally on the taxpayer today and the taxpayer 30 years from now.

Third. Any changes in benefits or actuarial assumptions are immediately evident, because the level percentage changes. The warning should lessen the tendency to grant overly generous benefits, because the administration that grants the benefits must begin to pay for them.

Fourth. Level percentage is more easily understood than normal cost by those who administer the benefits and invest the funds. The Mayor, the Chairman of the City Council, and U.S. Treasury actuary have all testified that this method of funding was acceptable to them.

The bill requires that an enrolled actuary redetermine the level percentage for each fund every 3 years. However, the Federal contribution cannot be higher than the amount authorized by the bill. Any increase must be borne by the District.

But if the District, through prudent management, reduces the level percentage, the savings reduces the District contribution to the funds.

It is important to note that interest earned by the funds is used to pay retirement benefits and not to lower the Federal or District contribution to the funds.

The annual amounts for each fund are received from three sources: First, the District of Columbia; second, the Federal Government; and third, the employee.

The District share is the pay-as-you-go amount the city would pay under the present system. Instead of paying beneficiaries directly as it does now, the city will make two payments yearly into the funds.

The Federal share is the difference between the District share—plus employee contributions—and the level percentage amount determined for each fund.

When the District pay-as-you-go amount exceeds the level percentage, the Federal payments will cease and the plan will be considered funded. From that time on the District will pay only the level percentage in perpetuity.

The net level percentage—less employee contributions—determined by the U.S. Treasury actuary for the police and firefighters fund is 72.5 percent of payroll, for teachers 25.3 percent and for judges 51.6 percent if funding begins in fiscal 1978.

The Federal amount needed for the three funds in fiscal 1978 is $47.7 million. The total Federal authorization is $768.9 million through the year 2003.

Mr. Speaker, this amount may seem large, but we must not lose sight of the fact that for every $1 the Federal Government pays into the funds, the District and the employees contribute $4.

And, more importantly, if we were to pay off the accrued unfunded liability in 40 years—as mandated by ERISA for private pension plans—the total cost would exceed $6 billion for the three retirement plans.

It we were to be completely fair to the District, we would pay off the unfunded liability that accrued prior to the passage of home rule. But we are all politicians, and politics is the art of the possible. H.R. 6536, then, strikes a balance between what is practical and what is fair.

The fiscal health of the District of Columbia depends on the financial assistance contained in this bill. We must see our duty and act before it is too late.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 6536, the District of Columbia Retirement Reform Act. This is landmark legislation for the District of Columbia and may well prove to be a model for State and municipal pension funding across the country.

I want to congratulate the leadership shown by my colleagues, Mr. DIGGS, Mr. DELLUMS, and Mr. MAZZOLI in bringing this legislation to the floor. Credit is also due our former colleague, Mr. Rees of California for his contributions to earlier drafts of this legislation in the previous Congress.

We in the Congress have a special responsibility to act favorably on H.R. 6536. Congress established the pension systems for the District's police, firefighters, teachers, and judges. Congress granted the liberal benefits these employees enjoy and established the basic employee levels in their departments. Indeed in the 1960's, Congress added 2,000 men to the police and fire departments. Furthermore, in 1970, Congress approved a shift away from funding in the teacher's pension system. I believe it is now incumbent upon us to expeditiously redress the problems created by our own actions.

The District Committee has reported a responsible and fiscally sound bill which will lead to the liquidation of the nearly $2.03 billion in unfunded liabilities created by congressional neglect. The funding method used in H.R. 6536 places a cap on increasing pension costs and moves these pension plans into a funded position by 2003. Without funding, pension benefits will cost the District more than its total payroll by that time.

The funding mechanism adopted requires a Federal contribution of $768.9 million over a 25-year period. Over the course of the next 5 years, the Federal contribution will approximate $47 million annually. This is a relatively small amount of the total contribution to the funds, representing a share of only 13 percent. The District government and the employees, on the other hand, will provide over $6 billion or 87 percent as their share.

The District committee adopted a level of Federal contributions far more modest than those originally suggested to the committee. Additionally, through the modifications in the benefits for new employees included in title II of the bill, District police and firefighters pension costs will be reduced by 26.3 percent representing a total savings of approximately $568.1 million to the Federal Government.

I am particularly pleased that title II addresses a longstanding problem regarding disability retirements in the police and fire departments. Due to the ease of qualifying for disability retirements and the lucrative benefits provided disability retirees currently, these provisions have been subject to abuse. In 1969, disability retirements ran at 99 percent and 98 percent of all retirements in the fire and police departments respectively. Due to tighter administration and the advent of the "20 year and out" normal retirement in the early 1970's, this figure has decreased to around 60 percent in the last several years. However, this percentage is almost twice as large as that found in New York City and four times as large as that found in Los Angeles.

H.R. 6536 provides for disability retirement which is equitable and yet discourages abuse. Instead of every disability retiree receiving a full annuity, which is tax free, based on 66⅔ percent of his final salary, a board of police and fire surgeons would make a determination of the extent or percentage of disability suffered. This percentage of disability would be the basis for the annuity award. There is a disability floor of 40 percent of salary for duty-related injuries and 30 percent for nonduty related injuries to provide comparability with other District employees. Additionally, a more stringent outside earnings limitation is applied to those hired after the enactment of H.R. 6536 to discourage the double dipping phenomenon we are all familiar with in the Federal retirement system.

Delaying the funding of these pension programs poses grave dangers for the District of Columbia. Every year of delay adds $174 million to the total unfunded liability. Since the inception of Home Rule in 1975 alone, this liability had increased by over $600 million. The seriousness of this situation prompted the Arthur Andersen firm, in its report to the District of Columbia Committee of the other body last year, to state:

> Failure to resolve this . . . could possibly result in a recorded liability . . . so large that the District's financial stability would be questioned.

Mr. Brenton Harries, president of Standard and Poor's municipal rating service wrote during subcommittee hearings that the investing public and the financial community have become more aware of the danger of unfunded pension liabilities and "all else being equal, the community without an unfunded pension liability is a stronger credit than the one with such liability." So the continued lack of funding will have a serious effect on the District's ability to borrow in the capital markets and, thereby derive any savings from lower interest rates.

In a recent report issued through the task force on the District of Columbia, the Carter administration has recognized the responsibility of the Federal Government in sharing the costs of funding these pensions with the District—a recognition not made by previous administrations. The Office of Management and Budget supports the method of funding adopted in H.R. 6536, although it disagrees on the amount of Federal contribution.

It is important to realize that the funding shares included in H.R. 6536 were arrived at through long discussions with all parties involved—the District Government, the affected employees, pension experts, the Treasury Department—and I believe these amounts are justified and supportable.

We have before us an opportunity to take the most constructive step in the relationship between the District of Columbia and the Federal Government since the passage of the Home Rule Act in 1973. We should not forsake this opportunity, and for this reason I urge your support for H.R. 6536.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to take this moment to pay public tribute to my colleagues on the committee; to my chairman, the gentleman from California (Mr. DELLUMS); to the chairman of our full committee, the gentleman from Michigan (Mr. DIGGS); and to my colleague on the committee, the gentleman from Connecticut (Mr. McKINNEY), for all the hard work which they have done on this bill.

Mr. Speaker, I rise to speak in favor of H.R. 6536, the District of Columbia Retirement Reform Act, which I have sponsored along with 20 of my colleagues.

First, I would like to acknowledge the outstanding work done on this bill by my distinguished colleagues, Mr. DELLUMS and Mr. DIGGS. Their prompt scheduling of hearings and expeditious conduct of markup have brought this bill to the floor in its current form.

H.R. 6536—a product of 3 years of resarch and hearings—is designed to relieve the pressure that spiraling pension costs will place on the District's budget. With a declining population and a dwindling tax base, the District—and most other major cities—cannot afford the rapidly escalating pay-as-you-go costs of public pension plans.

At present, police and firemen's pension costs are $50 for every $100 of active payroll. By the early 2000's pension payments will exceed payroll. Each year's delay in setting up proper funding for the District's employee-retirement pension plans adds $170 million to the unfunded liability and brings closer the day when the District government will be unable to meet these costs.

Who is responsible for this delimma? Who set the costly level of current benefits? Who failed to provide adequate funding for these benefits? Who decided to allow tomorrow's taxpayers to pay for today's services? Unfortunately, Mr. Speaker, we made those decisions—the Congress of the United States.

The current pension system was put in place during the years before home rule was granted to the District of Columbia. All of the benefits and the type of funding system employed in the District were adopted by the Congress based on the recommendations of Presidentially appointed commissioners.

It is because of this Federal responsibility that we are here today to consider this bill—H.R. 6536.

The actuarially sound funding method in this bill is one of three proposed by the District government and the U.S. Treasury in their 1974 study of pension funding alternatives.

Under this method—the "level percentage" method—a fixed percentage of payroll is contributed annually to the retirement funds that will be sufficient, along with interest earned on investments, to pay all pension costs. The Federal share is the difference between the District's current pay-as-you-go amount—what is needed yearly to pay benefits owed to retirees—and the level percentage.

The Federal contribution to all three funds—police, fire, teachers, and judges—will cease in the year 2003.

This method will cost about $47 million in Federal funds per year in each of the first 5 years of the program, and a total of $768 million over the life of the program.

Under this level percentage method, the Federal Government pays about 20 percent of the cost of funding and the District of Columbia about 80 percent.

By way of comparison, the most expensive method proposed to cure these pension problems would have cost $6.03 billion in Federal funds over the life of the program—over $150 million per year. This plan would have shifted 100 percent of the cost of funding to the Federal Government.

In addition to its lower costs, the level-percentage funding method in H.R. 6536 has the advantage of equity. It places an equal burden on present and future taxpayers since the percentage of payroll paid into the fund remains constant so long as benefits do not change.

Another feature of this funding method is that, when benefits are increased, the increased cost is reflected immediately by an increase in the size of the District's contribution needed to keep the fund actuarially sound. Because the District must—under the provisions of this bill—pay the full amount of any such increase, I believe that this provides an incentive to the District to control pension costs by limiting future benefit increases.

The Mayor of the District testified during hearings held last Congress that this funding method was a "reasonable approach for building actuarially sound retirement funds over a realistic time period." Even though the District would contribute over $4 for every $1 of Federal aid, the Mayor stated that the District would support this plan. Actuaries and pension experts consulted during the development of this bill agreed that this was an acceptable method of funding.

This legislation has also been carefully drafted to prohibit conflict of interest in the management of the pension funds. To guard against political pressure to invest in potentially risky local ventures, the bill provides that no funds may be invested in bonds or real estate of the District of Columbia, Maryland, or Virginia. These provisions were endorsed by pension management experts as a necessary safeguard.

Further, the bill creates an independent Board of Trustees composed of five members appointed by the District government and six members elected by active and retired employees. Pension plan participants and beneficiaries have a voting majority on the board to further insure that the funds will not be used to prop up falling projects of the District of Columbia government.

This pension board operates under strict reporting and disclosure and fiduciary standards similar to those contained in ERISA for private sector pension plans. These restrictions should insure that the pension funds will be managed only in the best interests of the retired employees.

Finally, the bill makes a number of changes in benefits for employees. For present police and fire employees, the bill provides vesting after 5 years, and tightens up disability retirement rules.

The primary reason for the runaway costs of the District's pension plans is the inordinate number of disability retirements. During 1969 disability retirements were 98 percent of total retirements. These rates have dropped to around 60 percent, but are still exorbitant compared to other cities including New York. I believe that the disability retirement changes in this bill will largely solve this problem.

For new police and fire employees the bill changes the current 20 years of service rule for optional retirement to a rule of age 50 and 25 years of service. Also, these new employees will be eligible for disability retirements on a percentage of disability system. This means that the disability annuity that they receive will be proportional to the extent of their injuries.

These changes have helped us hold down the cost of this bill. Also, these changes in benefits were worked out in close consultation with the District government and representatives of the respective employee groups. All of these groups now support the bill as reported by the committee.

All in all, Mr. Speaker, I believe that this is a good bill and I urge my colleagues to support it.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 6536, a bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia. There is an urgent need for passage of this measure now. If no action toward establishing pension funds is taken, by the year 2000, the cost to the District to support the retirement plan for policemen and firemen alone will exceed the salaries of active employees covered by the plan.

Prior to granting home rule to the District in 1975, Congress established the various pension plans and granted benefits, but failed to provide for adequate funding of these plans. Further, Congress, during the 1960's mandated that the city hire an additional 2,000 policemen, for a total authorization of 5,100, a force substantially larger than that for cities of equivalent size.

Consequently, in October 1976, the accrued, unfunded liability for all of the pension plans totaled $2.03 billion.

In the face of a decreasing tax base, and an increasing revenue-expenditure gap, we must act now to provide relief to the city. Congress created the problem, and Congress must provide the solution.

It has been my position throughout the discussions and debate on this matter, that the congressional obligation was greater than that which H.R. 6536 provides for. The bill is well drafted and has been carefully thought out, and I would hope that this House does not shrink from its responsibility and pass this admittedly watered-down, but necessary measure.

Mr. BAUMAN. Mr. Speaker, I rise in support of H.R. 6536, the D.C Retirement Reform Act. Originally recommended in 1972 by our former colleague from Minnesota, Representative Ancher Nelsen, this legislation is a responsible approach to the most serious financial problem currently facing the District of Columbia.

The pension plans of the District's police, firemen, teachers, and judges are in serious difficulty due to the existence of unfunded liabilities of approximately $2.03 billion. Partly due to this, the costs of police and fire protection in the District are abnormally high. The District Government is paying more than 50 percent of its annual payroll in pension benefits and this will increase to 105 percent of the current payroll by the year 2003 unless action to fund these pensions is taken now.

The funding method adopted by H.R. 6536 provides for a "cap" or "ceiling" on increasing pension costs by creating a fund which pays for the benefits of current police and firemen as they accrue every year and amortizes the unfunded liability over the life of the fund. This will be a major improvement over the current "pay-as-you-go" system which burdens tomorrow's taxpayers with today's pension debts.

The total Federal contributions to the fund would be $768.9 million which amounts to about 13 percent of total contributions to the fund. The rest of the contributions come from the District Government and the District employees. I would also add that this amount is much more modest than the alternative funding proposal considered and rejected by the District Committee which would have increased the Federal share to as much as $6.2 billion.

H.R. 6536 also makes efforts to curb future pension costs by making several modifications in the benefits available primarily to police and firemen hired after the adoption of this legislation. These modifications reduce total new

entrant costs by 26.3 percent and reduce total Federal costs by $63.5 million. Had New York City attempted to do as much it might not be in its current unenviable position.

I have long sought to reduce Federal spending whenever and wherever possible. This is an instance where I believe the Federal Government has a clear responsibility to provide a contribution so as to assure those past retirees and current public servants who protect the Nation's Capital that the money to pay for their retirement will be available when they retire.

I urge your support for this fiscally sound legislation.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill H.R. 6536.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 21, not voting 65, as follows:

[Roll No. 583]

YEAS—348

Abdnor
Addabbo
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gephardt
Giaimo
Gilman
Ginn
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Symms
Taylor
Thompson
Thone
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—21

Ashbrook
Chappell
Cleveland
Collins, Tex.
Dingell
English
Glickman
Hammer-schmidt
Hansen
Jenkins
Jones, Okla.
Kelly
Miller, Ohio
Montgomery
Mottl
Myers, Gary
Ryan
Stump
Waggonner
Winn
Wydler

NOT VOTING—65

Akaka
Alexander
Allen
Badillo
Beard, R.I.
Bedell
Biaggi
Boland
Bolling
Bowen
Brooks
Clawson, Del
Clay
Corman
Cotter
Cunningham
Dent
Dornan
Eckhardt
Ford, Mich.
Gaydos
Gibbons
Goldwater
Gonzalez
Gudger
Hall
Harrington
Heckler
Hillis
Holland
Howard
Johnson, Calif.
Kazen
Koch
Leach
Lehman
Luken
McClory
McCloskey
McDonald
Mann
Michel
Milford
Minish
Moss
Patterson
Pepper
Pettis
Pursell
Reuss
Roberts
Rodino
Roncalio
Ruppe
St Germain
Teague
Thornton
Vander Jagt
Wampler
Whalen
Wilson, Bob
Wolff
Yatron
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Bedell.
Mr. Cotter with Mr. Del Clawson.
Mr. Corman with Mr. Boland.
Mr. Luken with Mr. Dornan.
Mr. Dent with Mr. Gibbons.
Mr. Akaka with Mr. Gonzalez.
Mr. Wolff with Mr. Kazen.
Mr. Harrington with Mr. Clay.
Mr. Allen with Mr. Holland.
Mr. Badillo with Mr. Hall.
Mr. McDonald with Mr. Mann.
Mr. Eckhardt with Mr. Cunningham.
Mr. Rodino with Mr. Patterson of California.
Mr. Pepper with Mr. Goldwater.
Mr. Johnson of California with Mr. McClory.
Mr. Howard with Mr. Michel.
Mr. Biaggi with Mr. Gudger.
Mr. Bowen with Mr. Yatron.
Mr. Brooks with Mr. Lehman.
Mr. Koch with Mr. Whalen.
Mr. Milford with Mrs. Heckler.
Mr. Minish with Mrs. Pettis.
Mr. Thornton with Mr. Bob Wilson.
Mr. Teague with Mr. Reuss.
Mr. St Germain with Mr. Hillis.
Mr. Roberts with Mr. Roncalio.
Mr. Beard of Rhode Island with Mr. McCloskey.
Mr. Alexander with Mr. Ruppe.
Mr. Ford of Michigan with Mr. Wampler.
Mr. Gaydos with Mr. Pursell.
Mr. Moss with Mr. Vander Jagt.

Mr. CHAPPELL changed his vote from "yea" to "nay."

Mr. EDWARDS of Oklahoma changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GEORGE WASHINGTON UNIVERSITY CHARTER RESTATEMENT ACT

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the Senate bill (S. 1060) to amend the Act of February 9, 1821, to restate the charter of The George Washington University, and ask unanimous consent that the Senate bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "An Act to incorporate the Columbia College in the District of Columbia", approved February 9, 1821 (6 Stat. 255), as amended and supplemented, is amended to read as follows:

"ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia The George Washington University (hereinafter in this Act referred to as the 'university') as a university and a body corporate which shall have perpetual succession.

"PURPOSES

"SEC. 2. The purposes of the university are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

"POWERS

"SEC. 3. In order to carry out the purposes of the university, the university may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the university,

"(2) establish any school, division, or department of learning to become a part of the university,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the university without regard to the restrictions of any usury law, but may not plead any usury law as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the university and the facilities of any agency of the United States available to the university,

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29 1005) on the date of the enactment of The George Washington University Charter Restatement Act and not inconsistent with the purposes of the university, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the university.

"BOARD OF TRUSTEES

"SEC. 4. (a) The management, direction, and government of the university shall be vested in a board of trustees (hereafter in this Act referred to as the "board"). The bylaws of the university shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the university.

"(b) Each individual who is a member of the board on the date of enactment of The George Washington University Charter Restatement Act shall continue to serve as a member until the membership termination date applicable to such individual.

"(c) No bylaw of the university which establishes qualifications for membership on the board may permit any individual (except the president of the university) to serve as a member of the board during the period in which the individual is serving as an officer, professor, lecturer, teacher, tutor, or employee of the university.

"AUTHORITY OF THE BOARD OF TRUSTEES

"SEC. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the university in a manner consistent with this Act, shall have full authority over all personnel and activities of the university, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent, or employee of the university. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the university for—

"(1) the conduct of the purposes, business, and affairs of the university, or

"(2) the regulation of the internal government of the university.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge with any other nonprofit organization.".

SEC. 2. The amendments made by the first section of this Act constitute a complete restatement of the charter of the university and supersede all prior charter provisions contained in the Act of February 9, 1821 (6 Stat. 255) and all amendments and supplements thereto prior to the date of the enactment of this Act, without disturbing the present and continuing corporate status of the university.

SEC. 3. This Act may be cited as "The George Washington University Charter Restatement Act.".

With the following committee amendment:

Strike out all after the enacting clause and insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The George Washington University Charter Restatement Act".

SEC. 2. The Act entitled "An Act to incorporate the Columbia College in the District of Columbia", approved February 9, 1821 (6 Stat. 255), is amended to read as follows:

"ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia a university and a body corporate which shall be known as The George Washington University (hereinafter in this Act referred to as the 'University') and which shall have perpetual succession.

"PURPOSES

"SEC. 2. The purposes of the University are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

"POWERS

"SEC. 3. In order to carry out the purposes of the University, the University may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the University,

"(2) establish any school, division, or department of learning to become a part of the University,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the University without regard to the restrictions of any usury law, but may not plead any usury law as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the University and the facilities of any agency of the United States available to the University,

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005) on the date of the enactment of The George Washington University Charter Restatement Act and not inconsistent with the purposes of the University, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the University.

"BOARD OF TRUSTEES

"SEC. 4. (a) The management, direction, and government of the University shall be vested in a board of trustees (hereinafter in this Act referred to as the 'board'). The bylaws of the University shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the University.

"(b) No bylaw of the University which establishes qualifications for membership on the board may permit any individual (except the president of the University) to serve as a member of the board during the period in which the individual is serving as an officer, professor, lecturer, teacher, tutor, or employee of the University.

"AUTHORITY OF THE BOARD OF TRUSTEES

"SEC. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the University in a manner consistent with this Act, shall have full authority over all personnel and activities of the University, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent, or employee of the University. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the University for—

"(1) the conduct of the purposes, business, and affairs of the University, or

"(2) the regulation of the internal government of the University.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge the University with any other nonprofit organization.".

SEC. 3. (a) The amendment made by section 2 constitutes a complete restatement of the charter of The George Washington University without disturbing the present and continuing corporate status of The George Washington University and supersedes all prior charter provisions of The George Washington University contained in the Act of February 9, 1821 (6 Stat. 255), and all amendments and supplements thereto.

(b) Each individual who is a member of the board of trustees of The George Washington University on the date of the enactment of this Act shall continue to serve as a member until the membership termination date applicable to such individual.

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate bill and committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this legislation has as its objective, as stated in the Committee report (H. Rept. 95–612), the complete restatement of the George Washington University Charter so as to provide the university with a more adequate and flexible modern corporate charter.

The original charter and all amendments are consolidated in S. 1060 into a single, simple document which will provide sufficient flexibility so that the university's normal processes of change may be accomplished without any forseeable need for future legislative action.

The primary purpose of the reported bill is to confer upon the governing body of the university a modern comprehensive charter. For example, the present charter requires that the majority of the members of the board of trustees be residents of the District of Columbia. It is the position of the university that the best qualified trustees be elected without regard to their place of residence. Section 4(a) of the bill provides in part that the bylaws of the university shall provide for residency requirements of trustees. The proposed change is consistent with general corporate laws, including that of the District of Columbia, which do not require trustees of nonprofit corporations to be residents of any particular jurisdiction (D.C. Code, title 29, sec. 1018 (1973 ed.)).

The university's students (over 15,000) are recruited from the entire United States and from many foreign countries as well. Testimony of the university officials before this committee was that between 60 percent and 70 percent of the alumni now reside outside the District of Columbia, and many are concentrated in the large urban centers, including New York, Boston, Chicago, Los Angeles, Seattle, Miami, Houston and the like. It is from such diverse alumni that the university is desirous of recruiting members to serve on its board of trustees.

BACKGROUND

The Congress of the United States on February 9, 1821, enacted the initial charter statute, which created a national educational institution in the Nation's Capital, known as "Columbia College." Its name was changed in 1904 to "The George Washington University."

The original charter was amended eight times—1871, 1873, 1878, 1893, 1898, 1904, 1905, and 1970. The original act and subsequent amendments, which are superseded by the reported bill, are shown in full in the Ramseyer which is a part hereof.

A brief historical sketch of the University, as presented to the committee at its hearing on this legislation, is appended hereto.

The reported bill is similar to legislation passed by the Senate in 1976 and also approved by the Judiciary Subcommitee of this committee, but not considered by the House before adjournment of the 94th Congress.

SECTION-BY-SECTION ANALYSIS OF REPORTED BILL

Section 1 sets forth the title of the act as "The George Washington University Charter Restatement Act".

Section 2 amends the 1821 act, as follows:

Section 1. Establishes the university (as did the original 1821 act) as a corporate entity with perpetual succession.

Section 2. Specifically sets forth the purposes of the university which are generally provided for in the present charter. The purposes of the university are stated as:

(1) To educate in liberal arts, languages, sciences, etc.

(2) To conduct scholarly research and publish the findings thereof.

(3) To operate hospital and medical facilities.

(4) To engage in any activity incidental to the above purposes.

The section inserts new language into the charter by providing that the purposes of the university shall be accomplished without regard to race, color, creed, sex, or national origin.

Section 3. The section lists the powers of the university to include the power to:

(1) Confer academic and honorary degrees.

(2) Establish schools and divisions within the university.

(3) Receive, invest and administer gifts (in the form of money, real or personal property).

(4) Borrow money without regard to the restrictions of usury laws.

(5) Enter into agreements with other educational institutions.

(6) Exercise all powers delegated to other nonprofit corporations incorporated under the District of Columbia Nonprofit Corporation Act.

(7) Exercise incidental powers.

Section 4. Vests management of the school in a board of trustees and provides that the bylaws of the university shall provide for the election, number, term of office, residency requirements, qualifications, and so forth, of board members. This bill does not require that a majority of the trustees be residents of the District as is required by the present charter.

Provides for the appointment of an executive committee and prevents employees of the university from serving on the board.

Section 5. Grants the board full authority over all the personnel and activities of the university. Requires two-thirds vote of board to amend or repeal bylaws. Gives the board, by two-thirds vote, the power to merge with any other nonprofit organization.

Section 3 of the bill provides that this bill shall constitute a complete restatement of the charter and supersedes the present charter and all amendments thereto.

HEARING

The Subcommittee on Judiciary held a hearing on H.R. 2700, the earlier bill, on May 3, 1977, at which representatives of The George Washington University testified; and at a markup session a clean bill was ordered favorably reported (with technical amendments) to the full committee (See H.R. 7300).

COMMITTEE VOTE

On September 19, 1977, the full committee approved S. 1060, amended to contain the provisions of H.R. 7300, and by voice vote ordered the same reported to the House.

SUMMARY

The objective of S. 1060, requested by the administration of the George Washington University, is to restate completely the school's charter, substituting a more adequate, flexible, and modern document for the cumbersome and now-antiquated original granted in 1821.

Congressional action is required to effect the change, as it was by means of a statute enacted by Congress that the institution was established as a Federally-chartered university.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, on September 19, 1977, the District of Columbia Committee by unanimous voice vote reported out S. 1060, a bill which restates the charter of the George Washington University.

The primary purpose of this bill is to confer upon the governing body of the university a modern comprehensive charter. This original charter, adopted in 1821, has been amended eight times—the last time being in 1970. This bill consolidates the original charter and all the amendments into a single, simple document and will provide sufficient flexibility so that the university's normal processes of change may be accomplished without any foreseeable need for future legislative action.

The desired flexibility has been incorporated into S. 1060 by drawing extensively upon generally accepted principles of corporate law which grant the university's trustees discretion in policy making and all matters concerning governance of the university. However, the trustees may not exercise such discretion in a manner inconsistent with the purposes of the university set forth in the bill—those purposes are the same as set forth in the present charter, as amended.

A specific change from the existing charter is contained in section 4(a) which states that the bylaws shall provide for the residency requirements of the members of the board of trustees, as opposed to the act of 1898 which required the majority of the trustees to be residents of the District of Columbia. This change is to reflect the national character of the university and to avoid unduly restrictive limitations on those persons who may serve it. Moreover, the change is consistent with the District of Columbia Non-Profit Corporation Act which does not require directors or trustees of nonprofit corporations to be residents of the District.

Mr. Speaker, I urge all of my colleagues to vote for this bill.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, ever since the Columbian College in the District of Columbia was first granted its charter in 1821, it has been constantly growing and undergoing the changes necessary to keep up with America's educational demands. Since 1904, when it changed its name to the George Washington University, this facility has rapidly moved to the forefront of higher education in this country. Today, George Washington is a university encompassing 12 colleges, schools, and divisions. With more than 15,000 students, George Washington University can boast of not only a national, but an international student body. It is the need to serve these students and the ever-expanding alumni, that we bring this bill to the floor today.

In reinstating the George Washington University charter, we will provide the university with an up-dated, flexible document, and can hopefully forego the need for continued legislation in this area. In effect, since there has not been a major revision of the university's charter since 1905, it might be said that we are bringing the charter in tune with the 20th century so that the university officials can best plan for the next century.

Mr. Speaker, I am sure that those of us in this Congress, which in itself is an ever-changing institution, can well recognize the need for the legislation before us today. I hope that my colleagues will join me in supporting S. 1060.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Speaker, I want to rise in support of this legislation. I subscribe to the gentleman's remarks. I think it is very important for us to pass this bill.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill to restate the charter of the George Washington University. This is a simple matter and it ought to be passed unanimously because it has as its only purpose the modernization of the governing instruments of this very fine national institution of higher education.

George Washington University's 12 colleges have students from all of the 50 States and many foreign countries. Its graduates have held many positions in the service of this Nation and, it as an institution contributes much to this city through its law and medical schools and hospital.

The history of this university dates to the time of the passing of our first President, George Washington. It is fitting that so fine a university of national reputation and national service be accorded its charter by the Congress and that it be continued to be of interest and concern by this Congress.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the pending bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 4, not voting 67, as follows:

[Roll No. 584]

YEAS—363

Abdnor
Addabbo
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gialmo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Sikes
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—4

Burton, John
Miller, Calif.
Stark
Wydler

NOT VOTING—67

Akaka
Alexander
Allen
Ambro
Badillo
Beard, R.I.
Biaggi
Boland
Bolling
Bowen
Brooks
Clawson, Del
Clay
Corman
Cotter
Cunningham
Dent
Dornan
Eckhardt
Ford, Mich.
Gibbons
Goldwater
Gudger
Harrington
Heckler
Hillis
Holland
Howard
Johnson, Calif.
Koch

Leach	Patterson	Staggers
Leggett	Pepper	Teague
Lehman	Pettis	Thornton
Luken	Pursell	Vander Jagt
McClory	Reuss	Wampler
McCloskey	Roberts	Whalen
McCormack	Rodino	Wilson, Bob
McDonald	Roncalio	Wolff
Mann	Ruppe	Yatron
Michel	Shuster	Young, Tex.
Minish	Simon	Zeferetti
Moss	Skubitz	
Obey	St Germain	

The Clerk announced the following pairs:

Mr. Akaka with Mr. Bob Wilson.
Mr. Zeferetti with Mr. Ruppe.
Mr. Corman with Mr. Hillis.
Mr. Luken with Mr. Del Clawson.
Mr. Pepper with Mr. Whalen.
Mr. Dent with Mr. Shuster.
Mr. Wolff with Mr. Roncalio.
Mr. Harrington with Mrs. Heckler.
Mr. Allen with Mr. Pursell.
Mr. McDonald with Mr. McClory.
Mr. Eckhardt with Mrs. Pettis.
Mr. Johnson of California with Mr. Wampler.
Mr. Koch with Mr. Leggett.
Mr. Badillo with Mr. McCormack.
Mr. Beard of Rhode Island with Mr. Minish.
Mr. Moss with Mr. McCloskey.
Mr. Biaggi with Mr. Lehman.
Mr. Boland with Mr. Vander Jagt.
Mr. Rodino with Mr. Gibbons.
Mr. St Germain with Mr. Cunningham.
Mr. Teague with Mr. Michel.
Mr. Staggers with Mr. Mann.
Mr. Yatron with Mr. Goldwater.
Mr. Holland with Mr. Alexander.
Mr. Howard with Mr. Gudger.
Mr. Ambro with Mr. Dornan.
Mr. Bowen with Mr. Obey.
Mr. Brooks with Mr. Patterson of California.
Mr. Clay with Mr. Reuss.
Mr. Eckhardt with Mr. Simon.
Mr. Ford of Michigan with Mr. Roberts.
Mr. Cotter with Mr. Thornton.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5813) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Public Works Act of 1954, approved May 18, 1954, is amended as follows:

(1) Section 160(b) of such Act (D.C. Code, sec. 43–1541(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the water and water services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for water and water services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of water and water services to be furnished to the United States: *Provided*, That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for water and water services furnished prior to October 1, 1977: *Provided further*, That, notwithstanding any other provision of law, outstanding payments for water and water services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977.".

(2) Section 212(b) of such Act (D.C. Code, sec. 43–1611(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the sanitary sewer services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for sanitary sewer services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of sanitary sewer services to be furnished to the United States: *Provided*, That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for sanitary sewer services furnished prior to October 1, 1977: *Provided further*, That notwithstanding any other provisions of law, outstanding payments for sanitary sewer services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977.".

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members be permitted to revise and extend their remarks on the bill H.R. 5813.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the purposes of the bill, H.R. 5813, as set forth in the Committee report (H. Rept. 95–247), (which was requested by the Government of the District of Columbia), are first, to cause the Mayor to include in his annual budget estimate an amount based on the water and sewer services expected to be provided to the Federal Government during the fiscal year beginning October 1, 1977, based on rates to be in effect for that fiscal year; second, to authorize an appropriation of that amount with an adjustment for actual use to take place over the next 2 fiscal years; and third, to authorize the appropriation of an amount equal to the charges owed to the District Government for services furnished prior to October 1, 1977.

BACKGROUND AND NEED FOR LEGISLATION

Special Federal payments to the District of Columbia's Water and Sanitary Sewage Works Fund, in lieu of charges for water and water services and sanitary sewage services, were authorized by the District of Columbia Public Works Act of 1954 (68 Stat. 101: District of Columbia Code, title 43, section 1601).

The District Government provides such services to numerous Federal facilities in the city and in surrounding jurisdictions. The Federal Government is charged on the basis of actual consumption, at the rates in effect for other users of the services.

Present law requires the city to base its annual budget estimates for the Federal payments on the actual amount of services furnished during the most recent fiscal year for which actual usage can be determined.

Because of that requirement as it relates to the requirements of the appropriations process, the Federal payment for water and sewer services appropriated to the District of Columbia for a given fiscal year is for services provided approximately 2 years earlier and is not related to the actual cost of providing services to Federal facilities in the year in which the appropriation is made.

For example, the Federal payment for such services appropriated for the current fiscal year is based on actual services provided to Federal facilities during fiscal year 1975, at the rates then in effect.

The delay in receipt of the Federal payment, together with the rising costs of providing water and sewer services, has produced higher rates for other users than would be in effect if the Federal Government paid as prescribed in the reported legislation (H.R. 5813).

Water and sewer services are set to cover the budgeted costs of furnishing services to all users in a given year. The Federal payment appropriated for that year, however, does not cover the current costs of services because it is based on services furnished 2 years earlier.

Therefore, water and sewer rates are set high enough not only to cover budgeted costs for non-Federal users, but also to cover that part of the cost attributed to services to Federal facilities that are not covered by the Federal payment appropriation.

As a result, in fiscal years 1973, 1974, District residents paid approximately $730,000 more each year than they would have been required to pay if the Federal payments had been current. District residents paid about $1.9 million more in 1976 and $640,000 more to date in 1977.

Another cost to District residents is the loss of the interest that could be earned if the Federal payments for water and sewer services were made on time. If the $20 million owed by the Federal Government were available to the District for investment, the District could have earned $1 million in interest annually.

The District's financial plan for fiscal year 1978 assumes that the transition to the current payment method will be made with the 1978 appropriation.

PROVISIONS OF H.R. 5813

H.R. 5813 amends the District of Columbia Public Works Act of 1954 to provide for a revised system for the billing and collection of charges incurred by the Federal Government for the consumption of water and sewer services provided by the District of Columbia.

Section 1 of the bill amends section 106(b) of such act (District of Columbia Code, title 43, section 1541 (b) to require the Mayor of the District of Columbia to include in his annual budget estimate, beginning with budget estimate for the fiscal year beginning October 1, 1977, an amount based on the water services expected to be provided to the Federal Government in the coming fiscal year. This amount shall be based on the rates to be in effect to all customers for that fiscal year.

The section also authorizes an annual appropriation of the estimated amount, subject to adjustment over the following 2 fiscal years, for actual use as determined by the District of Columbia.

The bill would not relieve the Federal Government of any obligations for water services owed to the District of Columbia Government prior to October 1, 1977. The bill would further require the Federal Government to make all outstanding payments for water services delivered by the District prior to October 1, 1977, on that date.

Section 2 of the bill amends section 212(b) of the 1954 act (District of Columbia Code, title 43, section 1611(b)) to provide for payment by the Federal Government of sanitary sewer service charges in the same manner.

DEPARTMENTAL VIEWS

The Office of Management and Budget submitted the following letter to the committee expressing strong support of H.R. 5813. Mr. James M. Frey, Assistant Director for Legislative Reference, said in part, "We believe that a shift to a 'current services' billing practice for the Federal Establishment is both practical and consistent with acceptable municipal accounting practices, which should be encouraged."

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 19, 1977.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of the Office of Management and Budget on H.R. 5813, a bill to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

H.R. 5813, which is identical to the proposal transmitted by Mayor Washington on March 28, 1977, would advance to a current-year basis the schedule for appropriation and payment of Federal water and sewer service charges due to the District of Columbia from the Federal Government.

The purpose of this bill is to insure that Federal service payments are made on the same basis as those of other system users in the District of Columbia. The present "late" payment scheme seems to have been instituted for administrative convenience and to fit the Federal appropriations process schedule. We believe that a shift to a "current services" billing practice for the Federal establishment is both practical and consistent with acceptable municipal accounting practices which should be encouraged.

We support the provisions of H.R. 5813, and urge its prompt enactment.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

HEARING

Mr. Speaker, on Wednesday, April 20, 1977, the Subcommittee on Economic Development and Regional Affairs heard testimony on H.R. 5813 and reported same to the full committee. Witnesses heard were Comer S. Coppie, Special Assistant to the Mayor for Budget and Management Systems; William R. Krause, Deputy Director for Financial Operations of the Office of Budget and Management Systems; and Herbert L. Tucker, Director of Environmental Services, all of the District of Columbia Government.

It was the assertion of the District Government officials that because of the existing requirement that the annual budget estimates of the Federal payment for water and sewer services be based on the actual amount of services furnished the United States during the most recent fiscal year for which such value can be determined, payment to the District government may lag up to 2 years from the time the services are rendered and the time payment is received. It was the contention of the District witness that as a result of the current method of payment, other customers must pay artificially higher prices to balance the water and sewer budgets in any given year. The final result is that those consumers must subsidize the operation of the Federal Government.

No opposition to the legislation was then expressed nor has since been received by the committee.

A subcommittee staff survey of the primary water and sewer service suppliers in the Washington metropolitan area follows:

SUBCOMMITTEE COMPARISON OF CHARGES AND PAYMENT CYCLE FOR SERVICES TO FEDERAL FACILITIES IN WMA

Washington Suburban Sanitary Commission: 130 Federal accounts; estimated total charges for water and sewage—$3.1 million annually; payment cycle is monthly with some paying quarterly.

Fairfax County Water Authority: Total number of Federal accounts not available; Fort Belvoir $700,000 per year; USGS $100,000 per year; payment cycle is quarterly.

Arlington County: 38 Federal accounts; estimated total charges—$120–$130,000 per year; payment cycle is monthly.

Alexandria/Virginia American Water Co.: Four major accounts: Cameron Station, Jones Point, Hoffman Complex, DOD; estimated total charges—$100,000 per year; payment cycle is monthly.

District of Columbia: Estimated total charges—$10.2 million; payment cycle annually with 2-year lapse between payment and rendering service.

COSTS

The enactment of this proposed legislation will involve no added costs to the District of Columbia Government nor to the Federal Government.

However, it should be noted that the enactment of the proposed legislation will provide for payment by the Federal Government of water and sewer charges at the beginning of the fiscal year in which the services will be delivered with an adjustment for actual services used over the next 2 fiscal years. The proposed legislation also authorizes a balloon payment to the District Government of all unpaid Federal water and sewer obligations incurred prior to the fiscal year beginning October 1, 1977.

Mr. HARRIS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 5813 is to cause Uncle Sam to pay his water and sewer bill on a current basis just as everyone else does. At the present time, the Federal Government pays its bill 1 to 2 years after the fact. In 1977 it pays for what it consumed in 1975 at rates that were in effect in 1975. Currently the Federal Government consumes nearly 20 percent of the city's water.

The impact of the city's largest single customer delaying a $10 million payment for 1 to 2 years while costs and consumptions are increasing is to cause other D.C. customers to pay higher rates.

For instance, during fiscal years 1973 and 1974, District residents paid approximately $730,000 more each year than they would have if Federal payments were current.

At the same time, if the 2 years of back payments—$20 million—were available to the District for investment, it would earn $1 million in interest annually.

The Office of Management and Budget summarized the justification for H.R. 5813 with this comment from their letter endorsing the legislation. Quote: "We believe that a shift to a 'current services' billing practice for the Federal establishment is both practical and consistent with acceptable accounting practices, which should be encouraged.

We support the provisions of H.R. 5813, and urge its prompt enactment." End of quote.

The budget that the President submitted for the city in January for fiscal year 1978 reflects this anticipated change in accounting practices.

At the present time, the Federal Government is charged for water and sewer services on the basis of actual consumption at the rates in effect for other users of the services.

The District of Columbia Public Works Act of 1954, however, authorized special Federal payments in lieu of changing individual agencies for water and sewage services.

Present law requires the city to base its estimate for Federal payments on the most recent fiscal year for which actual usage can be determined.

Because of that requirement as it relates to the requirements of the appropriations process, the Federal payment for water and sewer services appropriated to the District of Columbia for a given fiscal year is for services provided approximately 2 years earlier and is not related to the actual cost of providing services to Federal facilities in the year in which the appropriation is made.

The purpose of the bill, H.R. 5813, which was requested by the government of the District of Columbia, are first, to cause the Mayor to include in his annual budget estimate an amount based on the water and sewer services expected to be provided to the Federal Government during the fiscal year beginning October 1, 1977, based on rates to be in effect for that fiscal year; second, to authorize an appropriation of that amount with an adjustment for actual use to take place over the next 2 fiscal years; and third, to authorize the appropriation of an amount equal to the charges owed to the District government for services furnished prior to October 1, 1977.

The enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government.

However, it should be noted that the enactment of the proposed legislation will provide for payment by the Federal Government of water and sewer charges at the beginning of the fiscal year in which the services will be delivered with an adjustment for actual services used over the next 2 fiscal years. The proposed legislation also authorizes a catch-up payment to the District government of all unpaid Federal water and sewer obligations incurred prior to the fiscal year beginning October 1, 1977.

To make the transition from the current appropriations procedure to that provided for in H.R. 5813, the Federal Government will make payments in the 1978 fiscal year for water and sewer services furnished by the District in fiscal years 1976, 1977, and 1978.

On the basis of actual services provided during the 1976 fiscal year and estimates of services to be provided during the 1977 and 1978 fiscal years, the payment to be appropriated for fiscal year 1978 is $28,116,000.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I rise in support of H.R. 5813, a bill to put on a current basis the Federal Government's payments for water and sewer services furnished by the District of Columbia to the Federal agencies in this area.

The District government provides these services to the various Federal agencies at the rates in effect for all of its customers, including the residents of the District. However, the present law requires the city base its annual congressional budget estimates for the Federal payments on the actual amount of water and sewer services furnished during the most recent fiscal year for which actual consumption can be determined.

This bill would eliminate a 2-year lag in the Federal payments by amending the District of Columbia Public Works Act of 1954 to require the Mayor first, to include in his annual budget estimate for the congressional appropriations an amount based on water and sewer services expected to be provided the Federal Government in the ensuing year and second, authorize an annual appropriation of the estimated amount, subject to later adjustment for the services actually delivered. This new procedure would begin with the current budget estimate for the fiscal year beginning October 1, 1977, and would also authorize inclusion in the appropriation an amount to cover the charges for such services delivered by the District prior to October 1, 1977.

Mr. Speaker, like any good customer and citizen, the Federal Government should meet its obligations on a current and timely basis. Indeed, this legislation, introduced at the request of the District of Columbia government, has the strong support of the Office of Management and Budget. Our favorite action today will eliminate the present inequity and restore to the District the present use of funds to which it is entitled.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 5813, a bill to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The purpose of the bill is to establish a system whereby the Federal Government will pay its water bill to the District of Columbia on time. To achieve this end, the bill requires the Mayor to include in his annual budget estimate and amount based on the water and sewer services expected to be provided to the Federal Government during the fiscal year beginning October 1, 1977, based on rates to be in effect for that fiscal year. It also authorizes an appropriation of that budget estimate with an adjustment for actual use to take place over the next 2 fiscal years. The bill further authorized the appropriation of an amount equal to the charges owed to the District government for services furnished prior to October 1, 1977.

Presently, the Federal Government's payment to the District of Columbia for water and sewer services is for services provided approximately 2 years earlier and is not related to the actual cost of providing services to Federal facilities in the year in which the appropriation is made.

The delay in receipt of the Federal payment, together with the rising costs of providing water and sewer services, has produced higher rates for other users than would be in effect if the Federal Government paid as prescribed in the legislation (H.R. 5813). As a result, in fiscal years 1973, 1974, District residents paid approximately $730,000 more each year than they would have been required to pay if the Federal payments had been current. District residents paid about $1.9 million more in 1976 and $640,000 more to date in 1977.

Another cost to District residents is the loss of the interest that could be earned if the Federal payments for water and sewer services were made on time. If the $20 million owed by the Federal Government were available to the District for investment, the District could have earned $1 million in interest annually.

The District's financial plan for fiscal year 1978 assumes that the transition to the current payment method will be made with the 1978 appropriation.

Thus, Mr. Speaker, I submit that fairness, equity and, indeed, efficiency demands that we pass this legislation.

Mr. DIGGS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 1, not voting 58, as follows:

[Roll No. 585]

YEAS—375

Abdnor	Blouin	Chisholm
Addabbo	Boggs	Clausen, Don H.
Alexander	Boland	Cleveland
Ambro	Bonior	Cochran
Ammerman	Bonker	Cohen
Anderson, Calif.	Brademas	Coleman
Anderson, Ill.	Breaux	Collins, Ill.
Andrews, N.C.	Breckinridge	Collins, Tex.
Andrews, N. Dak.	Brinkley	Conable
Annunzio	Brodhead	Conte
Applegate	Broomfield	Conyers
Archer	Brown, Calif.	Corcoran
Armstrong	Brown, Mich.	Cornell
Ashbrook	Brown, Ohio	Cornwell
Ashley	Broyhill	Coughlin
Aspin	Buchanan	Crane
AuCoin	Burgener	D'Amours
Badham	Burke, Calif.	Daniel, Dan
Bafalis	Burke, Fla.	Daniel, R. W.
Baldus	Burke, Mass.	Danielson
Barnard	Burleson, Tex.	Davis
Baucus	Burlison, Mo.	de la Garza
Bauman	Burton, John	Delaney
Beard, Tenn.	Burton, Phillip	Dellums
Bedell	Butler	Derrick
Beilenson	Byron	Derwinski
Benjamin	Caputo	Devine
Bennett	Carney	Dickinson
Bevill	Carr	Dicks
Bingham	Carter	Diggs
Blanchard	Cavanaugh	Dingell
	Cederberg	Dodd
	Chappell	

Downey	Keys	Rahall
Drinan	Kildee	Rangel
Duncan, Oreg.	Kindness	Regula
Duncan, Tenn.	Kostmayer	Rhodes
Edgar	Krebs	Richmond
Edwards, Ala.	Krueger	Rinaldo
Edwards, Calif.	LaFalce	Risenhoover
Edwards, Okla.	Lagomarsino	Robinson
Eilberg	Latta	Rodino
Emery	Le Fante	Roe
English	Lederer	Rogers
Erlenborn	Lent	Rooney
Ertel	Levitas	Rose
Evans, Colo.	Livingston	Rosenthal
Evans, Del.	Lloyd, Calif.	Rostenkowski
Evans, Ga.	Lloyd, Tenn.	Roussel ot
Evans, Ind.	Long, La.	Roybal
Fary	Long, Md.	Rudd
Fascell	Lott	Runnels
Fenwick	Lujan	Russo
Findley	Lundine	Ryan
Fish	McDade	Santini
Fisher	McEwen	Sarasin
Fithian	McFall	Satterfield
Flippo	McHugh	Sawyer
Flood	McKay	Scheuer
Florio	McKinney	Schroeder
Flowers	Madigan	Schulze
Flynt	Maguire	Sebelius
Foley	Mahon	Seiberling
Ford, Tenn.	Markey	Sharp
Forsythe	Marks	Shipley
Fountain	Marlenee	Shuster
Fowler	Marriott	Sikes
Fraser	Martin	Simon
Frenzel	Mathis	Sisk
Frey	Mattox	Skelton
Fuqua	Mazzoli	Skubitz
Gammage	Meeds	Slack
Gaydos	Metcalfe	Smith, Iowa
Gephardt	Meyner	Smith, Nebr.
Giaimo	Mikulski	Snyder
Gibbons	Mikva	Solarz
Gilman	Milford	Spellman
Ginn	Miller, Calif.	Spence
Glickman	Miller, Ohio	Staggers
Gonzalez	Mineta	Stangeland
Goodling	Minish	Stanton
Gore	Mitchell, Md.	Stark
Gradison	Mitchell, N.Y.	Steed
Grassley	Moakley	Steers
Gudger	Moffett	Stockman
Guyer	Mollohan	Stokes
Hagedorn	Montgomery	Stratton
Hall	Moore	Studds
Hamilton	Moorhead, Calif.	Stump
Hammer-schmidt	Moorhead, Pa.	Symms
Hanley	Moss	Taylor
Hannaford	Mottl	Thompson
Hansen	Murphy, Ill.	Thone
Harkin	Murphy, N.Y.	Traxler
Harris	Murphy, Pa.	Treen
Harsha	Murtha	Trible
Hawkins	Myers, Gary	Tsongas
Heckler	Myers, John	Tucker
Hefner	Myers, Michael	Ullman
Heftel	Natcher	Van Deerlin
Hightower	Neal	Vanik
Hillis	Nedzi	Vento
Hollenbeck	Nichols	Volkmer
Holt	Nix	Waggonner
Holtzman	Nolan	Walgren
Horton	Nowak	Walker
Hubbard	O'Brien	Walsh
Huckaby	Oakar	Watkins
Hughes	Oberstar	Waxman
Hyde	Obey	Weaver
Ichord	Ottinger	Weiss
Jacobs	Panetta	White
Jeffords	Patten	Whitehurst
Jenkins	Pattison	Whitley
Jenrette	Pease	Wiggins
Johnson, Colo.	Perkins	Wilson, C. H.
Jones, N.C.	Pickle	Winn
Jones, Okla.	Pike	Wirth
Jones, Tenn.	Poage	Wright
Jordan	Pressler	Wydler
Kasten	Preyer	Wylie
Kastenmeier	Price	Yates
Kazen	Pritchard	Young, Alaska
Kelly	Quayle	Young, Fla.
Kemp	Quie	Young, Mo.
Ketchum	Quillen	Zablocki

NAYS—1

Early

NOT VOTING—58

Akaka	Bolling	Corman
Allen	Bowen	Cotter
Badillo	Brooks	Cunningham
Beard, R.I.	Clawson, Del	Dent
Biaggi	Clay	Dornan
Eckhardt	McCormack	Teague
Ford, Mich.	McDonald	Thornton
Goldwater	Mann	Udall
Harrington	Michel	Vander Jagt
Holland	Patterson	Wampler
Howard	Pepper	Whalen
Ireland	Pettis	Whitten
Johnson, Calif.	Pursell	Wilson, Bob
Koch	Railsback	Wilson, Tex.
Leach	Reuss	Wolff
Leggett	Roberts	Yatron
Lehman	Roncalio	Young, Tex.
Luken	Ruppe	Zeferetti
McClory	St Germain	
McCloskey	Steiger	

The Clerk announced the following pairs:

Mr. Ford of Michigan with Mr. Goldwater.
Mr. Zeferetti with Mr. Ruppe.
Mr. Akaka with Mr. Leggett.
Mr. Luken with Mr. Del Clawson.
Mr. Corman with Mr. Michel.
Mr. Dent with Mr. Roncalio.
Mr. Wolff with Mr. Lehman.
Mr. Harrington with Mr. Pursell.
Mr. Allen with Mr. McClory.
Mr. McDonald with Mrs. Pettis.
Mr. Eckhardt with Mr. Wampler.
Mr. Johnson of California with Mr. McCloskey.
Mr. Koch with Mr. Vander Jagt.
Mr. Badillo with Mr. Cunningham.
Mr. Beard of Rhode Island with Mr. Pepper.
Mr. Ireland with Mr. Dornan.
Mr. Biaggi with Mr. Railsback.
Mr. Mann with Mr. Steiger.
Mr. Cotter with Mr. Udall.
Mr. Teague with Mr. Whalen.
Mr. Yatron with Mr. Bob Wilson.
Mr. Holland with Mr. McCormack.
Mr. Howard with Mr. Whitten.
Mr. Bowen with Mr. Patterson of California.
Mr. Brooks with Mr. Reuss.
Mr. Clay with Mr. Thornton.
Mr. St Germain with Mr. Charles Wilson of Texas.
Mr. Roberts with Mr. Leach.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DIGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1322), to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Public Works Act of 1954, approved May 18, 1954, is amended as follows:

(1) Section 106(b) of such Act (D.C. Code, sec. 43-1541(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the water and water services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for water and water services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of water and water services to be furnished to the United States: *Provided*, That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for water and water services furnished prior to October 1, 1977: *Provided further*, That, notwithstanding any other provision of law, outstanding payments for water and water services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977."

(2) Section 212(b) of such Act (D.C. Code, sec. 43-1611(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the sanitary sewer services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for sanitary sewer services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of sanitary sewer services to be furnished to the United States: *Provided*, That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for sanitary sewer services furnished prior to October 1, 1977: *Provided further*, That, notwithstanding any other provisions of law, outstanding payments for sanitary sewer services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5813) was laid on the table.

AIRSPACE USE

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7766) to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mayor of the District of Columbia may enter into an agreement with the United States Postal Service to enable the United States Postal Service to construct a conveyor bridge over First Street Northeast between Union Station Terminal and the City Post Office located at North Capitol Street and Massachusetts Avenue Northeast. Any such agreement shall provide that such construction, and the use of such bridge, shall not be inconsistent with the use, operation, and maintenance of any street or alley and shall not deprive any real property not owned by the United States and administered by the United States Postal Service of easements of light, air, and access.

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of the bill, H.R. 7766, as stated in the committee report (H. Rept. 95–611)—which was requested by the U.S. Postal Service—is to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service that will enable the Postal Service to construct a conveyor bridge across First Street NE., in the District of Columbia for the purpose of transporting mail from the District of Columbia Post Office located at North Capitol Street and Massachusetts Avenue NE., to the Union Station Terminal.

BACKGROUND AND NEED FOR LEGISLATION

From 1914 until recently, mail has been transferred between the Washington City Post Office and the Union Station by means of bridges which connected the two buildings. These bridges spanned the air space over First Street NE.

The National Visitors Center, which was created by the act of Congress (Public Law 90–264), has been built on the location of the former Union Station, and the station activities were transferred to a new building under construction immediately behind the station. This construction necessitated the demolition of the bridges and requires the construction of a single new bridge to reconnect the post office with the Union Station. In addition, demolition of the bridges was an aid in the construction of the new subway in the area.

The District of Columbia Space Utilization Act (approved October 17, 1968, 82 Stat. 1116; D.C. Code, title 7, section 953) allows the utilization of the space over streets in the District of Columbia except in a defined area in the vicinity of the Capitol Building. This bridge would be constructed in that area. Accordingly, congressional approval is required before the project can proceed.

All other necessary legal requirements have been met, including approval of the National Capital Planning Commission, the Joint Committee on Landmarks of the National Capital, the Advisory Council on Historic Preservation, the Commission of Fine Arts, the Architect of the Capitol and the Mayor of the District of Columbia.

The Washington Post Office transports a daily average of 14,833 pieces of mail between the post office and Union Station. On an annual basis this volume is 5,399,000 pieces, consisting primarily of sacks and parcels. The work hours and associated dollar cost of transporting this mail between Union Station and the post office have been substantially increased since the bridge conveyance system went out of operation in August 1975.

COSTS

Since then the Washington Post Office has been forced to use the present costly method of trucking this mail to and from Union Station. The cost of constructing the proposed bridge would be approximately $550,000. Cost comparison shows the total cost of that construction would be completely offset in less than 1 year by the reduced costs in transporting the mail by the post office. Primarily, the savings would materialize from the much reduced labor cost made possible by the construction of the bridge.

The bridge conveyance system would provide an estimated annual dollar savings of $697,000 in operating costs to the Washington, D.C., Post Office. The present method of transporting mails to and from Union Station costs approximately $2,779,000 annually, while the bridge conveyance method would cost approximately $2,082,000 annually.

BENEFITS OF THE PROJECT

Besides cost savings, there would be other benefits from the construction of the proposed bridge conveyance system. The consumption of approximately 2,300 gallons of gasoline would be eliminated on an annual basis. This would aid us in our current energy program.

The orderly and timely movement of mails in and through the Washington Post Office would be enhanced tremendously with the bridge conveyance capability. At present, the mail is trucked by circuitous routes, with associated problems in traffic. Also, the construction of this bridge conveyance system molds very well with other actions and programs already scheduled for the Washington, D.C., Post Office.

The present design and configuration of the post office building requires that extensive mail processing functions be conducted on five floor levels. Over the years, the transportation of mails between floors for various stages of processing has not only proven to be very costly in terms of manpower and equipment but has impeded the rapid and efficient handling of mails.

Within the next few months an extensive renovation program will be initiated and will provide a complete redesign of the mail processing areas. One of the most significant benefits derived will be that mail processing functions will be condensed to only two floor levels, with the majority of the functions confined to only one floor. A part of this redesign will call for installation of modern conveyance systems to replace the present wheeled conveyance methods. The bridge conveyance system would fit well with this renovation.

Construction of the bridge conveyance would also greatly alleviate the traffic congestion on First Street between the post office and Union Station. This street is one way, running north to south. During peak traffic periods, early morning and late evening, the postal vehicles transporting mails across the street contribute to congestion as well as creating a safety hazard unless we observe very, very strict precautions all day. The traffic congestion problem is particularly acute on weekdays. The present method of transporting the mails to and from Union Station requires vehicles to cross the entire breadth of First Street numerous times during the day.

PROVISIONS OF H.R. 7766

H.R. 7766 authorizes the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service for construction of the aforementioned bridge and stipulates that such agreement shall provide that the construction and use of the bridge shall not be inconsistent with the use, operation and maintenance of any street or alley and shall not deprive any real property not owned by the United States and administered by the U.S. Postal Service of easements of light, air and access.

HEARING

The Subcommittee on Economic Development and Regional Affairs held a hearing on this proposed legislation on July 26, 1977, after which it reported same favorably to the full committee.

Representatives of the U.S. Postal Service—which requested enactment of this legislation by the Congress—and of the District Government testified in support of the legislation. No opposition to H.R. 7766 was then expressed nor has any since been received by the committee.

COMMITTEE VOTE

On September 19, 1977, the full committee approved H.R. 7766 by voice vote and ordered the bill reported favorably to the House.

Mr. HARRIS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the purposes of the bill, H.R. 7766—which was requested by the U.S. Postal Service—is to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service that will enable the Postal Service to construct a conveyor bridge across First Street, NE., in the District of Columbia for the purpose of transporting mail from the District of Columbia Post Office located at North Capitol Street and Massachusetts Avenue Northeast to the Union Station Terminal.

The District of Columbia Space Utilization Act (approved October 17, 1968, 82 Stat. 1116; D.C. Code, title 7, section 953) allows the utilization of the space over the streets in the District of Columbia except in a defined area in the vicinity of the Capitol Building. This bridge would be constructed in that area. Accordingly, congressional approval is required before the project can proceed.

All other necessary legal requirements have been met, including approval of the National Capital Planning Commission, the Joint Committee on Landmarks of the National Capital, the Advisory Council on Historic Preservation, the Commission of Fine Arts, the Architect of the Capitol and the Mayor of the District of Columbia.

This bill does not involve any authorization of funds by the U.S. Congress.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, a number of years ago, a bill came before the House seeking to transform Union Station into a national visitors center and to construct a new railroad station behind the present building. During the past few years, we have all witnessed the transformation of the once dark and dank building into a national showplace which combines the beauty and gracefulness of the past with the everchanging needs of the present. While many of us lament the fact that this center has yet to realize its potential as being the first stop for visitors to our Capitol City, I am a firm believer that it will eventually emerge as a positive asset to the city.

In constructing the National Visitors Center and rebuilding the rail station, it was necessary for much of the surrounding area to undergo substantial adjustment and perhaps no facility was more affected by this construction than the neighboring U.S. Post Office. As many of us are aware, the Postal Service has undergone many changes during the past few years, and while some may believe that the majority of the mail travels by air or truck these days, there is still quite a bit of mail which is conveyed by train. Thus, there is a definite need for a new bridge between the new station and the post office to replace those demolished during the construction phase. Without such a bridge, the Post Office must resort to the use of trucks, at great expense, to transport the mail several hundred feet between the train station and the Post Office.

In light of the savings to be gained by the construction of this bridge, both in terms of dollars and wasted gasoline, I am sure my colleagues will join me in support of this bill.

Mr. HARRIS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

BORROWING AUTHORITY FOR DISTRICT OF COLUMBIA

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6530) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–241 note) is amended—

(1) in subsection (a) by striking out "the effective date of title IV" in the first sentence and inserting in lieu thereof "October 1, 1979"; and

(2) by adding at the end thereof the following new subsection:

"(d) The authority contained in this section to make loans shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 8. Section 448(4) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–226(4)) is amended by striking out "November 1" and inserting in lieu thereof "February 1".

SEC. 3. (a) Section 431(e)(1)(C) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, title 11 App. 431(e)(1)(C)) is amended—

(1) by striking out "202" and inserting in lieu thereof "102"; and

(2) by striking out "subsection (b)(4)(D)" and inserting in lieu thereof "paragraph (3)(E)".

(b) Section 434(b)(1)(C) of such Act (D.C. Code, title 11 App. 434(b)(1)(C) is amended—

(1) by striking out "202" and inserting in lieu thereof "102"; and

(2) by striking out "subsection (b)(4)(D)" and inserting in lieu thereof "paragraph (4)(E)".

SEC. 4. Section 490 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–254) is amended by adding at the end thereof the following new subsection:

"(f) Payments authorized or required to be made by or pursuant to any act authorizing the issuance of revenue bonds, notes, or other obligations under this section shall be made without further authorization or approval.".

SEC. 5. Section 743 of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) by striking out "60 Stat. 195" in subsection (b) and inserting in lieu thereof "64 Stat. 195";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

"(e) Section 4 of the Act entitled 'An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system', approved June 12, 1960 (74 Stat. 211; D.C. Code, sec. 43–1623), is repealed.".

With the following committee amendments:

Page 2, strike out line 22 and all that follows through line 4 on page 3.

Page 3, line 5, strike out "Sec. 5." and insert "Sec. 4.".

The committee amendments were agreed to.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill, H.R. 6530.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move to strike the requisite number of words. I now yield to the gentleman from California (Mr. DELLUMS) for further explanation of this measure.

Mr. DELLUMS. Mr. Speaker, H.R. 6530 is a bill to amend the Home Rule Act with respect to the borrowing authority of the District of Columbia, and for other purposes. This bill was requested of the Congress by the District government for the following four reasons: First, provide the District of Columbia government with temporary authority to borrow from the U.S. Treasury until it can finance its capital works projects via general obligation bond issues, or other sources of revenue; second, require the Mayor of the District of Columbia to submit to the Council of the District of Columbia a complete financial statement and report by February 1, instead of November 1, for the District's preceding fiscal year—which now corresponds with the changed date of the Federal fiscal year, October 1 to September 30; third, make technical and clerical corrections in Public Law 93–198—the Home Rule Act—with regard to the qualifications for appointment to the Commission on Judicial Disabilities and Tenure and to the Judicial Nomination Commission; and fourth, repeal the authority to the District to borrow from the Treasury with respect to a sewer connection to Dulles International Airport, since the project is now complete.

BACKGROUND AND NEED FOR LEGISLATION

The District remains presently without any means to finance its capital works and related projects. However, the Home Rule Act terminated the District government's authority to borrow from the treasury and authorized the Treasury to loan the District only those sums required to complete capital projects for which construction and construction service funds were authorized or appropriated "prior to the effective date," January 2, 1975.

Because of unexpected delays in the development and implementation of the District's own bonding authority, the extension proposed by H.R. 6530 of the period for which Treasury loans may be made is necessary; outherwise, vital ongoing improvement efforts will be halted and new projects may be delayed.

H.R. 6530 is similar to legislation passed by the House during the 94th Congress. The Senate then added a non-

germane amendment, and it was not possible to call up the bill again in the House before adjournment.

The District's repayment record with the Treasury is "very good" according to the Department's testimony. No opposition was expressed at the committee's hearing or since to this grant of interim authority, which is, in effect, a continuation of the District's right—authorized and approved before home rule—to borrow from the U.S. Treasury.

Enactment of this legislation was requested of the Speaker by the Mayor, supported by the Council, of the District of Columbia.

The enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government. I urge adoption of this bill.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 6530 which amends the Home Rule Act by extending the borrowing authority of the District of Columbia until fiscal year 1980. This bill is similar to legislation passed by the House in the 94th Congress.

Unless this borrowing authority is extended, financing of needed capital improvements in the next 4 fiscal years such as modernization and roof and boiler repairs at several city schools, water and sewer main repair, city street and bridge maintenance, and replacement of worn-out fire department equipment, would be seriously impeded.

Both the District government and the Department of the Treasury support this bill. A Treasury official testified before the committee that the District government's repayment record was "very good" and given the District's inability to market its obligations, a grant of interim authority similar to the proposed legislation would be necessary.

It is indeed unfortunate that the District Government has been delayed from utilizing its bonding authority provided under the home rule charter. Not only would it have established Washington, D.C., as an independent and fully functioning financial unit, but it would have afforded the District an opportunity to save on interest payments as the rates available in the private market are significantly lower than those available from the Treasury. However, in view of the District's inability to enter the bond market until 1979, the District's long established authority for borrowing for its capital needs from the Treasury should be temporarily extended.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of the bill, H.R. 6530, which would amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to extending the time by which the government of the District of Columbia may continue to borrow from the U.S. Treasury to finance its capital works programs until it is able to borrow on the private money markets.

This bill is vitally necessary to assure the continued efficient operation and management of the various capital projects which are underway or which are planned in the city. The home rule legislation, which was passed by the Congress, provided for an interim period by which the city would continue to borrow from the Treasury until it was ready to enter the municipal bond markets; but, as you know from the House report (H. Rept. 95-248) the required financial statements which the Congress directed the city to prepare and which may not be complete for some yet number of months, means that it is unlikely that the city can enter the municipal bond market except at great costs. In the meantime, the interim period provided in the Home Rule Act has expired.

Among the projects which are underway and which would have to be halted are capital improvements in the schools, water and sewer construction, road and bridge repairs and modernization, and replacement of fire department engine equipment. Additionally, unless there is assurance, evidenced most directly by the passage of this bill, that the city will be able to borrow to finance its capital projects, those which would be included in the prospective fiscal years—fiscal years 1977, 1978, 1979, and 1980—might be delayed or the payments be late which would be most unfortunate for continued effective management of the city.

This bill, Mr. Speaker, has the support of the Treasury and does not authorize any expenditures by the city. It is merely legislation which would facilitate the ability of the city to carry out its established obligations at the least possible costs.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise to speak in support of the committee amendment which would strike out section 4 of this bill.

I offered this amendment at the full committee markup and the committee unanimously adopted the amendment at that time.

This amendment is very simple. Section 4 of the bill would allow the District of Columbia City Council to authorize, without congressional approval, the issuance and payment of revenue bonds or notes. The amendment would strike out section 4 of the bill and thereby allow Congress to retain its current authority to approve or disapprove—through the appropriations process—of the payment of principal and interest on revenue bonds.

The committee opposed section 4 for a number of reasons. First, the committee opposes eliminating from the congressional appropriations process the payment of debt service on revenue bonds. Under the current law, revenue bonds technically are not the obligation of the District of Columbia. However, what has all too often happened is that the facilities financed by the revenue bond issue fail to provide enough revenue to pay off the principal and debt service on the bonds.

Then the District government has to pay off the defaulted bonds. The end result of all this is that the burden of paying off these revenue bonds falls on the Federal Government and every taxpayer of this country.

The revenue bonds which were issued to finance the construction of the R. F. K. Stadium are a case in point. In 1960 the Armory Board sold $19.8 million of revenue bonds which will fall due in December of next year. Nothing has been paid on the principal and the facility does not produce enough revenue to cover interest payments. As a result, the city has had to borrow from the U.S. Treasury to meet annual interest payments of $831,600.

Since the Federal Government is likely to be the ultimate guarantor of any revenue bonds issued in the District of Columbia, it appears to be necessary and appropriate to retain congressional oversight on the whole process of issuance of revenue bonds.

Second, there is some question as to whether or not our committee has jurisdiction to remove revenue bonds from the congressional appropriations process.

Based on these factors, the committee voted to strike section 4 from the bill. It is for these reasons that we ask the House to adopt the committee's amendment to this bill.

Mr. BAUMAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this legislation is considerably more potentially complex and expensive than any of the previous speakers have indicated. It is not just a routine measure to allow the District of Columbia to borrow from the Federal Government.

In the first place, when home rule was enacted by the Congress in 1973, we were told that by 1975 this Federal borrowing authority which was given to the District of Columbia government on an interim basis, would no longer be necessary. Unfortunately, through a combination of circumstances, not the least of which has been the gross mismanagement of the fiscal policy of the District of Columbia government, that government has never been able to use public borrowing authority by the issuance of general revenue bonds, as had been projected by the proponents of home rule.

So what do we have? We have the District government having been given full measure of rule over their own affairs, but still wishing to come to the Federal Treasury to pay their expenses.

Now, the specific issue which arises is that this bill, if passed and signed into law, will enable the beginning of the so-called Civic or Convention Center, since a $27 million down payment on that project was contained in the appropriation bill passed here the week before last.

At the appropriate time I shall offer an amendment which will deal with the Civic Center, but in the larger context,

I think we ought to think twice in the Congress, where we retain the constitutional right to veto any measure dealing with the laws of the District or any appropriation. If you support this bill you are, in effect, once again bailing out the District of Columbia and approving its fiscal mismanagement.

Granted, this borrowing is on a limited basis until October 1979; but we are doing for the District what many other cities would like to have done. We are doing for the District what the city of New York had to have when it was in extremis, that is, bailing it out of its fiscal mismanagement, rewarding its profligacy.

Mr. Speaker, I yield back the balance of my time.

Mr. DIGGS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, while we await the formal presentation of the gentleman's amendment, I would just simply remind the House that this is the same bill that passed in the last Congress session 2 to 1. I think there has been very little change in the membership since that time.

I further would remind the House that this bonding authority includes authorization for the city to deal with all of the capital projects, hospitals, public buildings, educational facilities and all the rest.

I just wanted to put this measure in its proper perspective of significance, and further to remind the House of its previous action.

Mr. McKINNEY. Mr. Speaker, will the chairman yield?

Mr. DIGGS. I am happy to yield to the ranking minority Member.

Mr. McKINNEY. Mr. Speaker, I would just like to remind my colleagues that one of the reasons the city is not out in the public market is because of a decision made by you and I, when we said that we would have an audit of District of Columbia affairs before we would let them go through. It has been suggested in the Congress, on both sides of the aisle, that they not go into the public market until this audit we have appropriated money for, and which is presently going on, is finished.

Historically, the District has borrowed from the Treasury. They would like to go outside and borrow from the public market. In fact, we have expert testimony that tells us that the District would get a rate that would allow it to borrow cheaper on the outside, in the public market, than it is now borrowing from the Treasury.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 1, line 8, strike out "October 1, 1979," and insert in lieu thereof:

"October 1, 1979; provided that no loans authorized by this section shall be used for the acquisition of site or the construction of a Washington, D.C. civic or convention center, without the prior legislative authorization of the Congress of the United States."; and".

Mr. BAUMAN. Mr. Speaker, this amendment simply says that the borrowing authority granted in this bill may not be used for purchasing any land in the District of Columbia for construction of a civic or convention center unless—and I emphasize the word "unless"—the District of Columbia government comes back to the Congress of the United States and its appropriate committees and presents to us plans for such a center; and then the Congress subsequently, in both Houses and by a majority vote, approves of the construction of such a center. I think that is an eminently reasonable restriction to place upon this project, which has been estimated to cost at least $110 million, and could cost as much as—by another estimate—up to $250 million.

The history of these types of facilities all over the United States in the last 10 years is that they are losing propositions. Despite the fact that the District government provided through its auditor a glowing and rosy prediction of what this center would mean, the General Accounting Office faulted that study in many instances and pointed out that the project could lose money and could saddle the taxpayers of all the United States and of the District with an immense liability.

Why must we have this amendment adopted now despite this bill expiring October 1, 1979? Because the convention center downpayment already is contained in the 1978 appropriation bill. I think Congress has been generous with the District of Columbia in many instances, such as the $300 million for the Pennsylvania Avenue redevelopment plan. Why cannot private enterprise finance such a project? Already, we have seen a plan of $100 million for a project located on the site of the National Press Building through private funding, which will compete with the convention center.

What we are being asked to do with this particular proposal for a convention center is to pay the freight for private business interests, such as hotels, restaurants, and so forth, that ought to more properly finance this kind of facility with their own resources or, at the very least, the resources of the District of Columbia rather than the Federal taxpayers.

This amendment would do nothing more than to say that no convention center could be built without congressional approval. It does not interfere with the planning, and funds could possibly be borrowed or used if they are authorized by other means for the planning—but it does say that once a feasible plan, and not the one justified by this faulty Gladstone report, but once a feasible plan is presented by the District government, Congress would consider its full funding, with a full estimate of the cost, and we would vote on that. That, I think, is an eminently sensible safeguard.

I think we ought to retain this control because, mark my words, otherwise the taxpayers all across this Nation will ultimately be saddled with a project which will cost more than the Kennedy Center, more than the Metro, more than a great many other expensive projects, based on the track record of the District government.

Mr. Speaker, I ask for approval of this amendment, and I hope we will be able to obtain a rollcall on it.

Mr. NATCHER. Mr. Speaker, I move to strike the last word.

Mr. Speaker, in 1973, when we passed the home rule legislation, as the Members will recall, one provision of that bill provided that the Mayor and the elected city officials would have the right to issue bonds for all capital outlay projects.

In 1975 the other body passed a resolution denying that right to the city of Washington, D.C. So, therefore, Mr. Speaker, we are back here today asking for a continuation of the loan authority which we have had all down through the years since 1958.

Mr. Speaker, in the regular appropriation bill for fiscal year 1978 we have 30 capital outlay projects. One of these projects is the civic center. Mr. Speaker, the Mayor wants it, 10 of the 13 city council members want it, the newspapers in Washington want it, the people who live in the neighborhood want it, and I could go on down the list. For a period, now, Mr. Speaker, of over 8 years $1 million has been expended to make the necessary surveys and studies as to this civic center. Not one dollar of Federal money will be required to build the civic center. The Mayor and the elected city council here in the city of Washington want this center. They are elected by the people of this city. They seek to borrow out of the Federal Treasury $27 million with every dollar of that to be refunded and paid by the District of Columbia government over a period of 30 years, at the going rate of interest.

Mr. Speaker, for a number of years here in the city of Washington we have refused in this House to give the elected officials in this city the right to bring in industry. We say, "You are not going to bring any smokestacks into this city, no industry." If we let them build the civic center that they want to build with their own money in the downtown section, which needs help, Mr. Speaker, according to the studies which have been made, millions of dollars will go on the tax rolls. We will have over 300,000 more visitors in our city of Washington.

Mr. Speaker, as I pointed out, it is their money they want to spend. All down through the years they came in each time, as provided by law, and they said to the House of Representatives, "These are capital outlay projects. We are going to spend our own money for them." And now the gentleman comes in here and says, "You cannot do it."

Mr. Speaker, the city of Washington today would be issuing bonds if it had not been for the resolution on the other side. We had to pass a resolution in the 94th Congress extending the loan authorization. This bill that the distinguished gentleman from Michigan (Mr. DIGGS) and his committee comes in today with is an extension of this loan authorization.

I say to the Members, Mr. Speaker, that it is an awful easy thing for us to sit in this House and say to the District

of Columbia: "It is your money. Your elected Mayor, your City Council, the business people, the banks, the media, and everybody in the City of Washington who are interested in the capital city wants it, but one man does not want it or two men do not want it so it must not be constructed."

I say to the Members, Mr. Speaker, that this amendment should be defeated. We should say to the elected city Mayor and to the city council, elected by the people, "Certainly, you have home rule, you come in and you want to spend your own money so this center should be constructed."

In 1973, Mr. Speaker, as we will recall, the committee brought in a bill providing for a civic center. I was 100 percent against it, and most of the Members were against it. They were asking, in the end, for a Federal subsidy. They knew they could not build it; they knew it would not be built downtown by a consortium or by a group of contractors and returned to the city.

Now the distinguished gentleman from Michigan (Mr. DIGGS) and his committee which worked so hard on this legislation for the city have come in and said to the Congress, "It is their money. Their Mayor and their council want it. Why should we refuse it?"

Mr. Speaker, the District of Columbia needs this civic center.

We have such a center in my State. When it was built, they spent over $50 million on it, and it does not pay a dime, but the spinoff from the additional taxes that have gone on the tax rolls will pay for it time and again.

Mr. Speaker, I say to the Members in all frankness that this amendment, ought to be rejected.

Mr. WRIGHT. Mr. Speaker, I rise in opposition to the amendment.

There is little that can be added and probably nothing that needs to be added to the very excellent statement which has been made by the gentleman from Kentucky (Mr. NATCHER). I take this time merely to emphasize the hope of the leadership that the Members will reject this amendment.

Washington, D.C. is the Capital of our Nation. We have granted the city home rule, and now in pursuit of governing the city under home rule, the elected spokesmen for the city of Washington have determined that they want to build a convention center.

Numerous studies have been made. The General Accounting Office has attested that those studies have been well carried out. A sound cost-benefit ratio has been established, and it is estimated that this convention center will bring needed business and revenue into the city of Washington in the sum of approximately $100 million annually. Part of that will help provide needed work for Washington citizens. Part of it will inure to the city treasury in taxes. The city will assume full responsibility for retiring the bonds, without any Federal subsidization.

The Bauman amendment, therefore, would simply deny to the city of Washington the right to spend its own money to develop its own city in the manner in which its elected officials have decided to do.

So long as we deny to the citizens of Washington voting representation in this Congress, then it seems to me that each of us has some special responsibility, if not to assist the city of Washington, then at least not to throw rocks in its path.

The amendment that has been offered would deny the use of any of these loans to the city—and they are repayable loans, I remind the Members—for the acquisition of site or construction of a civic or convention center without the specific future legislative authorization of Congress.

We have given that authorization in the past. We gave that authorization in the loan legislation itself. We do not require this procedure for any of the other items being contemplated by the city of Washington. So it would seem to me petty and petulant for this House to interpose its judgment against that of the elected officials of this city and to deny them the privilege of spending their money to build that which the city manifestly needs and which—according to all the studies of reputable intent—will not only pay for itself but yield rich dividends to the city and to its treasury over the next few years.

So, Mr. Speaker, I ask for a "no" vote on the amendment.

Mr. MCKINNEY. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, it is impossible for me to match the eloquence of the gentleman from Kentucky (Mr. NATCHER), the chairman of the subcommittee on District of Columbia appropriations, a Member who has in his long history in this House shown an interest in the affairs of the District. It is likewise impossible for me to match the eloquence of the majority leader on this subject. We are talking about a subject that is very important to me, and that is the right of the people of the District of Columbia to run their own affairs.

Moreover, Mr. Speaker, there are a few things we should mention just to clarify the record. The Treasury Department, No. 1, tells us that the District has an absolutely excellent record of repaying its loans. We have had a GAO report, by the way, which says that the District does a great deal better than the Federal Government in building projects on time and within the budget.

In fact, Mr. Speaker, I would suggest that we just look down the street at something that used to be called Union Station to see how well we in the Federal Government do our work as opposed to how well the District has done some of its work in the past. Those are two points which are technical, but very important.

Mr. Speaker, why are we in this situation? We are in this situation because of our own activities. The city council and the Mayor have always had the right to come to the Treasury. The other body, in its wisdom, said, "You will continue to go to the Treasury until we receive back an audit."

This project, Mr. Speaker, is not going to cost the Federal taxpayer one solitary dime. In fact, what we are doing is that we are socking the city for 8 percent interest out of the Treasury when the city could go into the public market and pay 5 to 5½ percent interest. Therefore, if anything, the Federal Government is making money that it should not be making with respect to this project.

Some of the things which we think will happen with respect to this matter is that we will have an addition in real property taxes, from hotels alone, in a tax revenue range of $1.7 to $2.3 million; and we will have an addition in hotel occupancy taxes from $3.4 million to $4 million. We will have an addition in retail sales taxes which we expect to go from $3.4 million to $4.1 million.

Mr. Speaker, this center will mean 4,000 permanent jobs with corresponding salaries and taxes for the city of Washington.

It seems to me, Mr. Speaker, that the city has come forth with a plan, a plan that they need. We have left them with no alternative except tourism. That is all they have, tourism, real estate taxes, and income taxes.

Mr. Speaker, if we do not allow them to expand their tourism, we are going to have to change our thinking and perhaps turn this metropolis into an industrial city. We have to do something to give them a broader tax base. This is now their decision. They elected their government, their representatives. We told them to do it. We told them to run the city, and now we stand here today and say, "Do not do this. Do not build a building."

I think, Mr. Speaker, that that is grossly unfair. Please vote against the amendment.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

I would, Mr. Speaker, indicate now that it is my intention to vote against the amendment offered by the gentleman from Maryland; but I would to have the attention of the gentleman from Kentucky and perhaps his counsel. Having listened to the gentleman's very eloquent statement today, Mr. Speaker, I have been persuaded even more that our commmittee bill is a good bill.

However, I would ask the chairman, in view of the fact that I was the movant in striking section 4 of this bill, which would have, by law, permitted the District of Columbia to issue revenue bonds without going through the appropriation authority of the gentleman's committee, I feel that there ought to be some opportunity for the Congress, which represents the people who pay the bills, to have something to say and to have some input in this system.

Therefore, Mr. Speaker, I ask the gentleman from Kentucky (Mr. NATCHER), the chairman of the committee, is there an opportunity that the chairman will have to help this House and to help these Members so that they can be able to talk to their constituents straight up and say, "No money is being wasted.

This project is being brought in on time and at cost"?

Could the gentleman perhaps help me in that respect?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, my friend, the distinguished gentleman from Kentucky (Mr. MAZZOLI), was here at the time we passed the home rule bill. As the gentleman will recall, that bill provided that the budget for the District of Columbia should be sent to the Congress. Further, all reprograming requests had to be approved by the Committees on Appropriations in the House and Senate.

In addition to that, under the bill which authorized the issuance of bonds, every capital outlay project for which bonds would be issued has to be approved by the Congress.

It has to be in the budget. It has to come back to the Congress for approval. That is in direct answer to the gentleman's question as to the people throughout the United States, as to whether or not these projects are away from the Congress, they are in the budget regardless of whether bonds are issued or whether the loan authorization is continued, every project has to be approved by the Congress.

Mr. MAZZOLI. If the gentleman will permit me to ask one further question, does the gentleman from Kentucky (Mr. NATCHER) then have contact with further activities leading to the eventual construction of this civic center? Would the gentleman be consulted by the city council? Would the gentleman's subcommittee be consulted? And will the gentleman and his committee have some periodic oversight of that program?

Mr. NATCHER. They will be consulted, and I will assure the gentleman at this time that that certainly will happen.

Mr. MAZZOLI. One other thing: The gentleman from Kentucky is aware of the recommendations of the task force of the District of Columbia which has recommendations to phase out congressional control of the budgeting apparatus by 1981. Does the gentleman say that his subcommittee will have a contact between now and 1981 and thereafter? Would the gentleman to able to advise me on that?

Mr. NATCHER. The gentleman is absolutely correct that oversight of the projects will be submitted and the committee will move along at all times on proposals of the District of Columbia government.

Mr. MAZZOLI. I thank the gentleman for his assurances. The gentleman's talented leadership of the subcommittee has helped persuade me that the amendment offered by the gentleman from Maryland (Mr. BAUMAN) should be defeated.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I move to strike the requisite number of words.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I do not know how the gentleman from Kentucky drew the conclusion, as much as I respect his judgment, that the convention center is not going to cost the Federal taxpayers a dollar. The entire $110 million comes right out of the pockets of the taxpayers in the form of a loan that the District government will borrow from the Treasury of the United States, and that may or may not be paid back over 30 years. If the track record of New York City and the recent experience of the District of Columbia are any examples, then we have no guarantee that this money will ever be paid back. Further, if it is repaid it will probably come out of funds Congress appropriates to D.C. and in any case your taxpayers will foot the bill.

The gentleman from New York (Mr. KEMP) and the gentleman from Utah (Mr. MCKAY) in their minority views on the 1978 D.C. appropriation point out the dubious nature of this project. Do not take the gentleman from Maryland now speaking as any authority, and many of you would not—but look at the General Accounting Office report which says that the District has overestimated the number of visitors who might come to this center. The GAO questions the very accuracy of the $110 million estimate of the cost which they point out would probably escalate considerably over the next few years. They even question the ability of the District of Columbia government to effectively manage this particular project once it is built and they note that in other cities that have built similar centers management is the key to success.

Already this project has been turned down by the Subcommittee on District of Columbia Appropriations and by the full Committee on Appropriations of the other body.

The project has been opposed or seriously questioned by a number of civic groups in this city, including the District of Columbia Federation of Civic Associations—and I could go on through the whole list who have had questions about this particular project.

Unless we adopt this amendment you will go right ahead and authorize this civic center without any further look at it by the Congress of the United States. We will not be given the opportunity to exercise our judgment on behalf of the people we represent regarding one of the most potentially costly projects that this city has ever built.

Take a look at Metro, with the water pouring in from the Potomac River; take a look at that white elephant, the R. F. Kennedy Stadium that no longer has a baseball team; take a look at the leaky roof of the Kennedy Center, and in each one of those instances we had all of the assurances that these projects, when they came before us, would not cost the taxpayers and would not come out of the Treasury of the United States. The history is replete. Congress should be able to make the decision on this civic center.

I urge your support of my amendment. At this point I include a statement of the Senator from Vermont (Mr. LEAHY).

[From the Washington Post, Sept. 22, 1977]

THE CONVENTION CENTER IS NOT NEEDED

(By U.S. Senator Patrick Leahy)

An important debate has developed in the District of Columbia and in Congress over the need for the city government to build and operate a convention center. The $110 million proposal represents the largest capital-expenditure item ever proposed by the city as a single jurisdiction. A proposal to spend that much of the *taxpayers'* money needs to be carefully considered, and, therefore, I believe the current debate is a healthy sign of good government.

The Senate Appropriations subcommittee on the District of Columbia held two days of special hearings on this topic alone and heard from over 30 witnesses. The subcommittee had two evaluations of the economic feasibility of the proposal, one done by the General Accounting Office and the other by the D.C. city auditor. Additional economic analysis was submitted by civic associations and by the city government. On the basis of the hearings and of study and review of the analysis, I believe that the proposed center is too expensive and will result in a net revenue loss to the city. The center is not needed to maintain and permit growth in the city's current position in the tourist and convention market.

And while I support the objective of revitalizing downtown, I believe the convention center is not needed to meet that objective, nor could the convention center alone guarantee it. Moreover, several projects are already under way to meet this objective and several other projects are on the horizon:

Metro, with a cost over $5 billion, will crisscross the downtown area with seven subway stops. This considerably increases the economic development potential of the downtown area and will help make it more accessible to the entire metropolitan area.

Over $300 million in federal funds has been authorized for the Pennsylvania Avenue redevelopment plan. This plan will focus on the redevelopment of the north side of Pennsylvania Avenue extending as much as four blocks into the downtown area. Plans for a major $100 million complex of hotels, offices and shops to be included in the Pennsylvania Avenue redevelopment area were announced recently by the National Press Club and Atlanta architect and developer John C. Portman Jr. This proposal itself includes convention facilities and will be financed primarily with private funds.

A second project in this area, proposed by the Quadrangle Development Corporation and approved by the Pennsylvania Avenue Redevelopment Corporation, provides for an office building with two levels of retail stores, a pedestrian arcade and offices.

The city has a proposal from the Hines Corporation of Dallas to build a 1-million-square-foot building complex at 12th and G streets NW. This complex would be located atop a new subway station. The Hines Corporation is interested in having the city support this project by agreeing to lease approximately 300,000 square feet of the proposed office space. The Senate Appropriations Committee has chosen to leave the decision on this matter to the city, and the city, which *does* need that office space, could bring this project (or others like it) to the downtown area simply by exercising its leasing powers.

At $110 million, the proposed convention center is one of the most expensive ever proposed in the United States. Centers recently built in St. Louis and Atlanta cost approximately $36 million. One of the reasons that these other centers were less expensive is that they were built on donated land. I asked the mayor, in a letter last month, to consider an alternative site for the convention center, a site already owned by the city

or the federal government, as this would save over $25 million and considerably increase the economic feasibility of the proposed convention center. The city and the federal government own over 45 per cent of the land in the District, and numerous sites are available. On Sept. 1, the city responded by rejecting further consideration of alternative sites.

One fact not well known is that the District of Columbia is already the third largest convention city in the United States even without having a major, government-owned, convention facility. Additionally, the Sheraton Park Corporation is making a $60-million expansion of its facility, which will then be able to accommodate 80 percent of the conventions that would come here.

Economic feasibility for the proposed center hinges on estimates of the net additional delegates that it would bring to Washington. The city's estimate of 390,000 net additional delegates appears to be greatly inflated when compared with the track record of other cities that have built convention centers. If Washington's performance in terms of attracting additional delegates to the city were equal to the average performance of other cities, the center would attract 100,000 to 150,000 new delegates. The fact that the District already is the third largest convention city makes the chances for a great amount of rapid growth in its market share.

The bottom line of our analysis is that the convention center would lose between $4 million and $9 million a year in tax revenue to the city, including all the tax benefits from projected spinoff developments. It is still true that the convention center would bring profits to some business interests, and understandably the business community has been pushing hard for the convention center. While it would benefit a segment of that community, it would represent a net drain on the city's resources, taking revenue away from the needs of the more traditional city functions and activities. This would come at a time when the city appears to be making great progress on two of its more vital functions: schools and police protection.

Washington already has the highest per capita expenditure level of any city in its population range, the highest per capita debt load of any city in the United States and, according to the city, the largest tax burden of any jurisdiction in the metropolitan area. The convention center would only aggravate these negative trends and only put further upward pressure on local taxes. On the basis of the testimony of witnesses that appeared before the subcommitee, on letters and on a petition by 85 percent of the civic associations in the District, the citizens of the District do not appear agreeable to having their taxes increased to fund a convention center. Many of the citizens who have testified and written to me believe that a center would bring no direct benefit to themselves while they, the citizens, would be asked to pay for it.

Proponents have cast this debate in terms of a test of home rule for the District. So there can be no misunderstanding, let me point out several facts. I have often stated my support for full home rule as well as full voting representation in both the House and Senate. However, that does not change the reality of this situation. Until it can be changed, the law requires the Congress to enact a budget for the District of Columbia. As chairman of the Senate's D.C. appropriations subcommittee, I cannot abdicate my responsibility to evaluate the city's proposals, particularly with millions of federal tax dollars involved.

In this instance, the city's proposal to build a downtown convention center simply is not, in my opinion, financially feasible.

Mr. DELLUMS. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, as the subcommittee chairman holding hearings on this legislation, I would simply like to remind my colleagues that we are moving away from the issue that is at hand here. The basis for the legislation is the need to extend the borrowing authority to the government of the District of Columbia. It is needed because of prior action on the part of the House and the Senate in the last Congress, so the need is there.

The second question is, can the District of Columbia in fact pay its bills? The U.S. Treasury says that the District of Columbia has a good record in paying its bills. The General Accounting Office says that the District of Columbia has not only a good record in paying its bills but it has the financial wherewithal to do it.

Now I would like simply to conclude by speaking briefly to the appropriateness of this amendment. Within the framework of the rules that guide the House of Representatives, I would suggest to my colleagues that this amendment is appropriate, so we did not offer an effort to challenge this amendment. But the question is whether it is appropriate within the framework of the law that we passed called the Home Rule Act, or the spirit and intent of that law.

With respect to the question of law, I would suggest that this amendment thwarts the city council's prior right—to legislate. We have 30 days in this body and 30 days in the other body to act if we do not agree with the actions taken by the District government. But I believe that this amendment knocks out that prior right, so within the framework of the law known as the Home Rule Act, I think this amendment is wholly inappropriate.

With respect to the spirit of the law, I would simply like to quote very briefly from an article that is in today's Washington Star written by two of our colleagues from the other body, Senator EAGLETON and Senator WEICKER. It states very briefly as follows:

> It is time Congress gave meaning to home rule for the District of Columbia and removed the yoke of second-guessing that prevents the city from building greater financial independence and stability. Home rule was enacted in the conviction that the District no longer should be indentured to Congress, but should have greater freedom to exercise its own initiative.

That is the issue that is at hand with respect to this amendment. It is appropriate within the rules of this House, but in terms of the spirit of the Home Rule Act, it is wholly and totally inappropriate. The citizens of the District of Columbia are not our slaves. They should not be indentured to us. We should be giving them much broader freedom, not narrowing the freedom. With the suggestion of that statement, I would hope that our colleagues would strike down this amendment.

Mr. Speaker, I yield back the remainder of my time.

Mr. FRASER. Mr. Speaker, the House should support H.R. 6530 to extend until October 1, 1979, the authority of the District of Columbia government to finance capital construction projects from Treasury loans, rather than seeking funds from the municipal bond market.

This bill passed the Senate last June 13, as S. 1061. It passed both the House and Senate in the last Congress, but got caught in the adjournment rush last October.

The capital projects which will be financed are part of the fiscal year 1978 D.C. budget which has had to be approved by the Mayor and city council and then be approved by the Office of Management and Budget for submission by President Carter to Congress.

The one project which is the subject of this amendment—the civic center—was approved by the Mayor and council. The city is not being careless and irresponsible in building this civic center. The council has given preliminary approval to a tax bill especially for financing the civic center. Council bill 2-169, is a hotel occupancy tax and other business taxes for a 3-year period totalling $16 million to cover the start up costs of the civic center. The business community has agreed to this tax package.

The amendment should be defeated and H.R. 6530 should be passed by the House.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 187, nays 196, not voting 51, as follows:

[Roll No. 586]

YEAS—187

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burleson, Tex.
Byron
Caputo
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Dingell
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Findley
Fish
Fithian
Florio
Flowers
Flynt
Forsythe
Frey
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hansen
Harsha
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Ketchum
Kindness
LaFalce
Lagomarsino
Latta
Lent
Livingston
Lott
Lujan
McCormack
McDade
McEwen
McKay
Mahon
Marlenee
Marriott
Mathis
Mikulski
Mikva
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Oberstar
Poage
Pressler
Pritchard
Quayle
Quie
Quillen
Rahall
Railsback
Regula
Robinson
Rogers
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Schulze
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stangeland
Stark
Steed
Stockman
Stratton
Stump
Symms
Taylor
Thone
Treen
Tsongas
Wampler
Whalen
Wilson, Bob
Wilson, Tex.
Wolff
Yatron
Young, Tex.
Zeferetti

NAYS—196

Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Cochran
Collins, Ill.
Conte
Conyers
Danielson
Davis
Delaney
Dellums
Derrick
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evans, Ga.
Fascell
Fenwick
Fisher
Fisher
Flippo
Flood
Foley
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Fuqua
Giaimo
Ginn
Gore
Gudger
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Hefner
Hillis
Holland
Holtzman
Horton
Huckaby
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McFall
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Pike
Preyer
Price
Rangel
Rhodes
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rooney
Rose
Rosenthal
Roybal
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Smith, Iowa
Solarz
Staggers
Stanton
Steers
Steiger
Stokes
Studds
Thompson
Traxler
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Watkins
Weaver
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wydler
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—51

Akaka
Allen
Badillo
Beard, R.I.
Bolling
Bowen
Brooks
Clawson, Del
Clay
Corman
Cotter
Cunningham
Dent
Dornan
Eckhardt
Ford, Mich.
Goldwater
Harrington
Howard
Johnson, Calif.
Koch
Leach
Lehman
Luken
McClory
McCloskey
McDonald
Madigan
Mann
Michel
Mitchell, Md.
Patterson
Pepper
Pettis
Pursell
Reuss
Roberts
Roncalio
Ruppe
St Germain
Teague
Thornton

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Zeferetti against.
Mr. McDonald for, with Mr. Wolff against.
Mr. Del Clawson for, with Mr. Whalen against.
Mr. Dornan for, with Mr. Akaka against.
Mr. Goldwater for, with Mr. Dent against.
Mr. Michel for, with Mr. Pepper against.
Mr. Wampler for, with Mr. Cotter against.

Until further notice:

Mr. Koch with Mrs. Pettis.
Mr. Clay with Mr. Bowen.
Mr. Corman with Mr. McClory.
Mr. Yatron with Mr. Mann.
Mr. Mitchell of Maryland with Mr. Reuss.
Mr. Brooks with Mr. Madigan.
Mr. Beard of Rhode Island with Mr. Johnson of California.
Mr. Badillo with Mr. McCloskey.
Mr. Eckhardt with Mr. Cunningham.
Mr. Ford of Michigan with Mr. Patterson of California.
Mr. Luken with Mr. Pursell.
Mr. Lehman with Mr. Thornton.
Mr. Howard with Mr. Tsongas.
Mr. Harrington with Mr. Bob Wilson.
Mr. Allen with Mr. Charles Wilson of Texas.
Mr. St Germain with Mr. Ruppe.
Mr. Roberts with Mr. Roncalio.

Messrs. BONKER, LEVITAS, and CARNEY changed their vote from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DIGGS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed, read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 266, nays 119, answered "present" 1, not voting 48, as follows:

[Roll No. 587]

YEAS—266

Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cederberg
Chisholm
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Cornwell
Coughlin
D'Amours
Daniel, Dan
Danielson
Davis
Delaney
Dellums
Derrick
Dickinson
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Foley
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Gore
Gudger
Guyer
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Holtzman
Horton
Hubbard
Huckaby
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Pattison
Pease
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Quie
Rahall
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton
Stark
Steers
Steiger
Stokes
Studds
Thompson
Traxler
Treen
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walsh
Waxman
Weiss
White
Whitley
Whitten
Wilson, Tex.
Wirth
Wright
Wylie
Yates
Young, Mo.
Zablocki

NAYS—119

Abdnor
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Broomfield
Brown, Ohio
Broyhill
Burleson, Tex.
Cavanaugh
Chappell
Clausen, Don H.
Cochran
Coleman
Collins, Tex.
Conable
Corcoran
Cornell
Crane
Daniel, R. W.
de la Garza
Derwinski
Devine
Dingell
Early
Edwards, Okla.
English
Ertel
Evans, Del.
Evans, Ind.
Fithian
Flynt
Forsythe
Frey
Gibbons
Glickman
Gonzalez
Goodling
Gradison
Grassley
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hightower
Hollenbeck
Hughes
Ichord
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
LaFalce
Lagomarsino
Latta
Lent
Livingston
Lott
Lujan
McDonald
Marlenee
Marriott
Martin
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Gary
Myers, John
Panetta
Poage
Pressler
Quayle
Quillen
Robinson
Rousselot
Rudd
Runnels
Russo
Satterfield
Schulze
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Steed
Stockman
Stratton
Stump
Symms
Taylor
Thone
Tribie
Vander Jagt

Waggonner	Whitehurst	Wydler
Walker	Wiggins	Young, Alaska
Watkins	Wilson, C. H.	Young, Fla.
Weaver	Winn	

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—48

Akaka	Goldwater	Pursell
Allen	Harrington	Reuss
Badillo	Holt	Roberts
Beard, R.I.	Howard	Roncallo
Boling	Johnson, Calif.	Ruppe
Bowen	Koch	St Germain
Brooks	Leach	Teague
Clawson, Del	Lehman	Thornton
Clay	Luken	Tsongas
Corman	McClory	Wampler
Cotter	McCloskey	Whalen
Cunningham	Mann	Wilson, Bob
Dent	Michel	Wolff
Dornan	Patterson	Yatron
Eckhardt	Pepper	Young, Tex.
Ford, Mich.	Pettis	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Teague against.

Until further notice:

Mr. Akaka with Mr. Bowen.
Mr. Wolff with Mr. Goldwater.
Mr. Badillo with Mrs. Holt.
Mr. Cotter with Mr. McClory.
Mr. Koch with Mrs. Pettis.
Mr. Dent with Mr. Whalen.
Mr. Ford of Michigan with Mr. Del Clawson.
Mr. Luken with Mr. Dornan.
Mr. Mann with Mr. McCloskey.
Mr. Pepper with Mr. Eckhardt.
Mr. St Germain with Mr. Wampler.
Mr. Beard of Rhode Island with Mr. Cunningham.
Mr. Brooks with Mr. Patterson of California.
Mr. Johnson of California with Mr. Michel.
Mr. Howard with Mr. Bob Wilson.
Mr. Allen with Mr. Tsongas.
Mr. Clay with Mr. Ruppe.
Mr. Corman with Mr. Roncallo.
Mr. Yatron with Mr. Pursell.
Mr. Roberts with Mr. Reuss.
Mr. Lehman with Mr. Leach.
Mr. Harrington with Mr. Thornton.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DIGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1061) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PRETRIAL RELEASE OR DETENTION

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7747) to amend title 23 of the District of Columbia Code with respect to the release or detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 23-1321 of title 23 of the District of Columbia Code is amended—

(1) in subsection (a), by striking out "an offense punishable by death" in the first sentence and inserting in lieu thereof "murder in the first degree or forcible rape"; and

(2) in the section heading, by striking out "non-capital" and inserting in lieu thereof "other than first degree murder or forcible rape".

(b) Section 23-1325 of such title is amended—

(1) in subsection (a)—

(A) by striking out "an offense punishable by death" in the first sentence and inserting in lieu thereof "murder in the first degree or forcible rape"; and

(B) by striking out the second sentence and inserting in lieu thereof "If after a pretrial detention hearing the judicial officer finds on the basis of information presented by proffer or otherwise (1) that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community, and (2) that there is a substantial probability that the person committed the offense for which he is charged, the person may be ordered detained. The procedures specified in section 23-1322(c) shall apply to pretrial detention hearings held pursuant to this subsection, and the provisions of section 23-1322(d) shall be applicable to persons detained pursuant to this subsection."; and

(2) in the section heading, by striking out "capital" and inserting in lieu thereof "first degree murder or forcible rape".

(c)(1) Section 23-1322(c) of such title is amended by inserting "or section 23-1325(a)" after "pursuant to this section" in the matter preceding paragraph (1).

(2) Section 23-1322(d) of such title is amended by inserting "or section 23-1325(a)" after "pursuant to this section" in the matter preceding paragraph (1).

(d) The chapter analysis for chapter 13 of such title is amended—

(1) in the item relating to section 23-1321, by striking out "noncapital" and inserting in lieu thereof "other than first degree murder or forcible rape"; and

(2) in the item relating to section 23-1325, by striking out "capital" and inserting in lieu thereof "first degree murder or forcible rape".

SEC. 2. (a) Section 23-1322(c)(1) of title 23 of the District of Columbia Code is amended by inserting "or by the judicial officer sua sponte" immediately before the period at the end thereof.

(b) Section 23-1322(c)(2) of such title is amended by inserting the following new sentence immediately after the first sentence: "Such a pretrial detention hearing may also be initiated by the judicial officer sua sponte.".

SEC. 3. (a) Subsection (e) of section 23-1322 of title 23 of the District of Columbia Code is amended to read as follows:

"(e) The judicial officer may detain for a period not to exceed ten calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently, and was at the time of the offense with which such person is charged, on bail or other release for a felony offense under State or Federal law or that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the ten-day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal court, probation, or parole officials. If such officials fail or decline to take the person into custody during such period, the judicial officer shall, on the next court day after the end of such period, hold a pretrial detention hearing pursuant to this section to determine whether to detain the person pending trial. The person may be detained pending the hearing. At the conclusion of the hearing, the judicial officer may, subject to the provisions of this section, order the person detained pending trial. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection.".

(b) Subsection (b) of such section is amended—

(1) in the matter preceding paragraph (1), by inserting ", and no person described in subsection (e) of this section who appropriate State or Federal officials have failed or declined to take into custody during the ten-day period provided in such subsection," after "subsection (a) of this section";

(2) in paragraph (2)(A), by inserting "or in subsection (e) of this section" after "subsection (a) of this section";

(3) in paragraph (2)(B)(i), by inserting "or a person described in subsection (e)" after "paragraph (1) of subsection (a)"; and

(4) in paragraph (2)(B)(ii), by striking out "such subsection" and inserting in lieu thereof "subsection (a)".

(c) Subsection (c) of such section (as amended by subsection (c)(1) of the first section of this Act) is amended by inserting "(except that paragraphs (1) and (2) shall not apply to pretrial detention hearings required by subsection (e))" immediately before the colon at the end of the material preceding paragraph (1).

SEC. 4. Section 23-1322(d)(2)(A) of title 23 of the District of Columbia Code, is amended by striking out "sixty" and inserting in lieu thereof "ninety".

SEC. 5. The amendments made by this Act shall apply with respect to any person charged with an offense on or after the date of enactment of this Act.

With the following committee amendment:

Page 3, strike out lines 6 through 8 and insert in lieu thereof the following:

(2) Section 23-1322(d) of such title is amended—

(A) by inserting "or section 23-1325(a)" after "pursuant to this section" in the matter preceding paragraph (1); and

(B) by striking out "in accordance with section 23-1321 in paragraph (2) and inserting in lieu thereof "in accordance with the procedures specified in section 23-1321".

Mr. DIGGS. Mr. Speaker, I move to strike the requisite number of words, and I yield to the gentleman from Kentucky (Mr. MAZZOLI), chairman of the Subcommittee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, this is a technical amendment which simply makes abundantly clear in the bill that any individual who has been charged with first-degree murder or forcible rape, and on that basis has been detained prior

to trial, can stay no longer than 90 days in jail unless the trial has begun. If the trial has not begun within that 90-day period, that individual must come under the control of 1321 which mandates the release of that prisoner on either personal recognizance or some form of third-party custody release.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Is that true even if the delay is occasioned by the defendant's actions?

Mr. MAZZOLI. This would be true. Yes, it would be, but, of course, what we have in this whole bill is a revamping, a speeding up of the procedure to allow the district attorney to prepare his case so that there could be no dilatory tactics on the part of the defendant; there could be no matter brought to the court's attention which could persuade the court that there has been less than full action on the part of the prosecuting attorney.

If the prosecuting attorney senses that there is a tactic being employed on the part of the defendant which would have the net result of extending beyond the 90 days, then there are, of course, motions which could be made, which could be brought to the court's attention, and this 90-day period would be inoperative. But if there is no effort to delay on the part of the defendant, and if the U.S. attorney's office is, however, delayed in preparing his case, that individual cannot be kept beyond 90 days He has to be put under 1321 which has a whole series of bail remedies, including recognizance, but also including third-party custody, custody to the parents, if that be the case.

Mr. JOHNSON of Colorado. If the gentleman will yield further, this does not remove the judge's discretion to refuse to give somebody personal recognizance who cannot meet the bonding requirement; does it?

Mr. MAZZOLI. It does not. It does not.

Mr. JOHNSON of Colorado. I thank the gentleman.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. DRINAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill, H.R. 7747, is described in the report as a measure "not designed to make broad changes in the basic requirements of the main pretrial detention section of existing law. * * *"

I am certain, however, that it makes very basic changes, and I am opposed to its enactment. This bill does not apply exclusively to repeaters, as the report seems to suggest. It also applies to those who are out on personal recognizance.

In the hearing which I have read, the strongest testimony was given by the American Civil Liberties Union against this bill. Testimony at great length was also given by the Friends Committee on National Legislation in very strong opposition to this bill. Likewise, the Washington pretrial justice program of the American Friends Service Committee presented excellent testimony showing why this bill is unwise and unjust.

The Bail Reform Act of 1966 for the District of Columbia provided for a presumption of release. In 1970 that law was changed to authorize for the first time pretrial detention. But that pretrial detention was rarely requested by the U.S. attorney. Then there were apparently illegal acts by some judges in the District in that they required excessive bail.

In reaction to this situation the committee of the House on the District of Columbia has recommended that we modify and restrict and even eliminate some of the provisions of bail.

Mr. Speaker, let me mention some of the provisions which are the most objectionable. This bill dispenses with the requirement that the United States District Attorney initiate pretrial detention hearings. This bill allows the judge to be the prosecutor. The judge on his own initiative can send this person to jail.

Secondly, the 5 days hold now in the law as the maximum period is increased to 10 days. That might not be too objectionable perhaps, but the category of people for whom bail can be denied is expanded to include not merely those who are being rearrested but also those on pre-trial release.

Furthermore, if during these 10 days the probation officials fail to act, the judge "may detain the defendant without bail or trial." The period, moreover, during which a defendant can be in prison without bail prior to trial is enlarged from 60 to 90 days.

Mr. Speaker, this bill very seriously compromises the presumption of innocence. What the committee should do is enact a bill similar to that introduced by our able colleague, the Delegate from the District of Columbia, Mr. FAUNTROY, a bill which would establish speedy trials in the District of Columbia. Mr. FAUNTROY's bill is designed or modeled after the 1975 Speedy Trial Act which was enacted by the Congress and which already is bringing about very desirable developments in the federal system.

Mr. Speaker, I am opposed to this bill. It is ill-advised, ill-considered, and is opposed by civil libertarians. I hope my colleagues will vote "no."

Mr. MAZZOLI. Mr. Speaker, I rise in support of the bill and I move to strike the requisite number of words.

Mr. Speaker, I will address my comments with some direction to the gentleman from Massachusetts in due course, but I would like just generally to describe this bill to the Members of the House, because I certainly realize the gentleman from Massachusetts speaks from personal persuasion, a persuasion I do not share, but nonetheless from his heart, and I do not think the bill is quite as reprehensible as he seems to think it is.

This is the same bill, but with two changes the gentleman from Massachusetts would approve of, that was passed by a voice by this Congress last year, in the 94th Congress. Those improving changes limited the amount of time that ordinarily one can be detained pending trial and also improved the type of hearing required at each stage.

The reason we are here today is because of the problem of recidivism in the District of Columbia, the problem of those who repeatedly commit new crimes. In 1974, nearly 5,000 defendants who were released on some form of pretrial release, probation or parole were rearrested and charged with at least one new crime in the District of Columbia. Of all those defendants arrested and charged in the Superior Court in 1975, approximately 30 percent were on some kind of pretrial release, probation or parole when rearrested on the new charge. Even more alarming is the fact that a mere 7 percent of all defendants arrested are responsible for approximately 25 percent of all of the crime committed in the District of Columbia.

Within the past year, the U.S. Attorney's Office and the Metropolitan Police Department under the guidance and leadership of the Superior Court have implemented a program called "Operation Doorstop." This is designed to investigate crimes committed by repeat offenders and to prevent the release of these persons pending trial.

This program has been successful in securing the detention of 95 percent of those repeat offenders who have been assigned to the career criminal unit.

Ninety-four percent of these defendants have been prosecuted and have been convicted, so we are prosecuting and we are not netting the innocent in order to try to get the few that are guilty. The ones that come within the purview of the program are the guilty people.

This bill makes four basic changes in the present law of the District of Columbia. First, the bill authorizes the pretrial detention of defendants charged with first-degree murder or forcible rape only after such defendant is given a hearing before a court. This provision applies only to first offenders in the crimes of first-degree murder and forcible rape. Under this provision, the defendant is accorded certain due process safeguards in the hearing, such as the right to counsel, the opportunity to present evidence, and the right to be tried within 90 days, or the right to be released. This gives the authorities the opportunity to detain defendants charged with first-degree murder or forcible rape who have no prior record. Current law does not so provide.

Second, this bill authorizes judges to move for pretrial detention hearings when a defendant has been charged with a dangerous crime or a crime of violence. Present law simply authorizes the United States Attorney to initiate this procedure.

Third, H.R. 7747 extends from 5 to 10 calendar days the current hold period for defendants who are rearrested and charged with a new offense while on probation, parole, or a pretrial or posttrial release program. To hold such a defendant for these 10 days, the court must find that such persons may

flee or pose a danger to the community if released.

If by the end of the 10-day period the appropriate parole or probation authorities have not acted to initiate action to revoke the parole or probation, the judge must make a determination as to whether to detain the defendant pending trial.

Again the House should remember, there is always a hearing, never a summary procedure.

I must suggest parenthetically that last year we voted a bill out of this House which did provide for summary detentions with respect to the crimes of murder or forcible rape. This bill has been improved in part because of the observations of the American Civil Liberties Union and others to be sure that there is a hearing, not a summary detention, even for the crimes of murder in the first degree or forcible rape and also that there is a hearing at every stage.

The last change this bill makes is authorizing that a defendant's trial must be in progress within 90 days after the judge orders him detained. Otherwise, the defendant must be conditionally released pending trial, under section 1321.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for an additional 3 minutes.)

Mr. MAZZOLI. Mr. Speaker, as the gentleman from Massachusetts has said, this bill does not attempt to completely overhaul the current bail laws, but is aimed at plugging certain loopholes which have been found to exist in the current law.

The gentleman from the District of Columbia, our distinguished colleague (Mr. FAUNTROY), has suggested, and the gentleman made a very eloquent plea in the committee that we move toward having a speedy trial law for the District of Columbia, and I agree with the gentleman. Part of our effort does go to speedy trial within 90 days, no longer; but I also agree that hearings on the bill shall take place in the near future in order that we have a fuller exposition of these ideas.

I am prepared to answer any questions. I would simply say, I believe the committee has studied the bill. It has studied it long and hard. It has by reason of making these changes answered one of the problems brought up by the gentleman from Massachusetts. It has eliminated money bail. One of the ruses and subterfuges the local judges have adopted as a means to keep people detained pending trial is to assign an unconscionable high money bond and money bail. This is wrong. This bill of ours will no longer permit that to happen, because it sets up clear-cut procedures. This idea of in a sense unequal justice because of a person's inability to pay will no longer be the law in the District of Columbia.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, when the bill came before this House last year I was in opposition. The bill is practically the same as it was with the exception that the gentleman from Kentucky mentioned; is that correct?

Mr. MAZZOLI. The genleman is correct. It is the same bill that was passed last year, with the only change being limited to pretrial detention. It is now 90 days and cannot be exceeded.

Also, by making sure as to first offenders charged with first degree murder and forcible rape that there has to be a hearing to precede their pretrial detention.

Mr. EDWARDS of California. Now, in the 1970 District of Columbia crime bill, in the section regarding pretrial detention for up to 60 days, there are safeguards, due process safeguards. For example, the defendant has the right to counsel, he has the right to present witnesses, the right to cross-examine witnesses, the right to see a written reason for the detention; and lastly, the right to the court's finding that there is a substantial probability that the defendant actually committed the crime. Now, it is my understanding that the gentleman has in this bill lessened that due process, and now the judge only has to make one finding.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(By unanimous consent Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Mr. EDWARDS of California. I have found what I was looking for. The finding the judge must make is that the defendant committed the offense for which he is brought before the judge, is that correct?

Mr. MAZZOLI. The gentleman is partly correct. The finding additionally must be that the judge finds, first of all, that there is a substantial probability that the individual charged has indeed committed the crime; but also, in order to be detained, as to first offenders for murder in the first degree and rape, there has to be an additional finding that that person's release under the conditions of 1321, which would be personal recognizance or third-party custody—that is in the disjunctive—would be a danger to the community or, if the person were released, he or she would flee. So that there is an additional finding beyond the substantial probability.

We had quite extensive hearings on this, and as far as the protections of due process, that of course was one of the foremost aspects before us; that is, to be sure the individual has full notice, full opportunity to be represented.

Mr. EDWARDS of California. I thank the gentleman. I would like to ask the gentleman from Kentucky about the last part on page 4 of the report, where it says:

> Unlike the current law, this bill gives the court the authority to detain defendants charged with first degree murder or forcible rape who have no prior record.

Does that mean they can have no prior criminal record, and if someone is charged with rape, still could be detained up to 90 days without trial?

Mr. MAZZOLI. They do not have to be detained. They are only detained if the judge makes the finding that there is a substantial probability that the person committed the offense. And furthermore, that if release of that individual, either on recognizance or third-party custody, would be a danger to the community or would allow the person to flee. For those first offenders we, of course, have severely limited detention to those charged with the very heinous and grievous and outrageous crimes of first degree murder and forcible rape. Of course, the committee is under a certain amount of pressure to expand that field, and of course is under pressure to reduce it.

As the gentleman knows, the current reading of 1325 calls for crimes punishable by death. These are added to the act to be sure that there are no more crimes punishable by death. We feel that the whole study is in a state of flux, so we have redefined that classical definition. Indeed, first offenders would be detainable, but not necessarily detained.

Mr. EDWARDS of California. I understand that, and I thank the gentleman. Now, a person accused of forcible rape—a most reprehensible and violent crime, as everyone in this room would agree—still can be held for up to 90 days without trial, which I am sure the gentleman will agree is rather extensive pretrial punishment.

Being locked up for 90 days plus 10 days is punishment, regardless of whether or not one is guilty or not guilty. However, did it come out in the hearings that in Washington only one out of five alleged rapists charged are found guilty by a jury? How does one resolve that? We are locking up people, and yet chances are that 1 out of 5 will be convicted and 4 out of 5 will be released.

Mr. MAZZOLI. I, of course, supported many bills, some of which have been introduced by our colleague, the gentlewoman from New York (Ms. HOLTZMAN), to try to revamp the whole program of rape laws in order that the individual who has been raped is not subject to the kind of ridicule and the kind of public torment which really deters women from actually becoming active in the prosecution of cases. I would be willing to say that probably part of that 1-out-of-5 statistic is due to the fact that the state of the law today discourages women from prosecuting their claims.

Second, as the gentleman well knows—and the gentleman sought very much to overcome the problem—there is this delay tactic which can be used, sometimes as an offensive weapon, sometimes as a defensive weapon. That, of course, means the witnesses get tired, the witnesses leave, the information and the evidence gets cold. And I think that might account for some of it. But, obviously, the law is imperfect. Although we can seek the millennium, we are not always going to arrest only those who are guilty. But I think the gentleman has

brought up the $64,000 question. That is: How do we balance society's right to live, with reasonable security, against the right of the individual.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding, and I appreciate the gentleman's reference to my pending legislation on the question of rape. If we change our evidentiary laws with respect to rape, I believe we will find that women would be more willing to prosecute and report these crimes.

Mr. MAZZOLI. I hope so.

Ms. HOLTZMAN. With reference to the bill before us, I have some serious questions. First, what does the language "danger to a person or to a community" mean? Are we talking about physical danger, or are we talking about some other kind of danger?

Mr. MAZZOLI. I would suggest physical danger. I do not know if that is a word of art. That, of course, is in the current D.C. law, and I am sure it has been interpreted in cases. But I would think physical danger.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for that clarification.

If the gentleman will yield further, I am also concerned with that section 3. As I understand the section—I hope the gentleman will correct me if I am wrong—under this bill a person who has committed any offense under State law may be detained for a period not to exceed 10 calendar days if he is charged with any offense in the District of Columbia.

Mr. MAZZOLI. I think the gentlewoman is incorrect, but it might be because I imperfectly described the bill.

Ms. HOLTZMAN. That is how I would read it. Let me give an example.

Somebody charged in the State of New York with a traffic offense, who has been released on probation or parole, and who is rearrested in the District of Columbia for a traffic offense could be subject to a 10-calendar-day detention.

Mr. MAZZOLI. The way I understand the bill—and we did this both last year and this year—the 10 calendar days in the current bill affects those individuals who are rearrested on any offense and who are out on probation or parole. The third category this bill seeks to add is the additional one of pretrial release. We would add a third category, bail, probation or parole, and then have 10 days to allow the probation or the parole or the bail authorities to examine the records and decide for themselves if there is a substantial probability this individual committed the crime.

If indeed that crime automatically constitutes a revocation, after a breach of the terms of parole or of a conditional release, then that makes the revocation the basis for an order by the judge, and then that person continues to serve the time under the original sentence before release.

Ms. HOLTZMAN. Mr. Speaker, if the gentleman would yield further, I would say to the gentleman that may have been the intention of the committee, but the language I see on page 4, from line 21 down through 25, refers to a person who "is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law."

There is nothing in here that refers to any violent crime; there is nothing in here that refers to any felony.

That, it seems to me, would jeopardize persons in the District of Columbia who had been sentenced for gambling offenses or shoplifting or for some minor traffic infraction. That is what I am concerned about.

Mr. MAZZOLI. Mr. Speaker, I would certainly concur that should be the gentlewoman's concern, but when we use the example of a traffic infraction, I do not believe that New York State would—and I am very sure that very few jurisdictions would—put a person literally in jail for such an offense so that that person would have to be paroled or put on probation.

As far as shoplifting or gambling is concerned, I am not convinced that does not constitute a kind of moral offense or a specific kind of attitude that is preconditioned., and perhaps they might consider such a person would come under this provision providing for the 10 days in jail.

Ms. HOLTZMAN. So the gentleman would concede that this bill would authorize pretrial detention for persons who had not committed any violent crime?

Mr. MAZZOLI. That is the case in the District of Columbia. If the gentlewoman's clients would come in from New York, I do not know what the situation would be, but as far as the District of Columbia is concerned, it is primarily concerned with a person who is out on probation or parole and is rearrested for the commission of some dangerous or violent crime, not a person who is rearrested on another traffic charge.

Ms. HOLTZMAN. But it is not confined to a felony; is that correct?

Mr. MAZZOLI. That is a very good point, but I am sure the rearrest would not be on a traffic charge or for gambling. The rearrest would probably not be for shoplifting, but I am not sure of that. The rearrest should be for the commission of a violent or dangerous crime before the 10-day provision would come into play.

Ms. HOLTZMAN. Mr. Speaker, I think the gentleman has tried to clarify that point, but the original arrest, if I understand the language in the bill, for which the person is on parole or on mandatory release or the like, does not have to be on a major charge.

Mr. MAZZOLI. That is true, but the rearrest should be for the commission of a dangerous or violent crime.

Ms. HOLTZMAN. Mr. Chairman, with all due respect to my distinguished colleague, the explanation is inadequate. No matter what views one holds on the issue of preventive detention, surely no one would contend that a person should be subject to automatic imprisonment before trial for a minor traffic violation. But that is what this bill does.

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Speaker, I rise in support of H.R. 7747, a bill providing for the pretrial detention of certain persons in the District of Columbia.

The bill empowers judges to order pretrial detention hearings in certain well-defined cases—cases in which a person is accused of either first degree murder or forcible rape, and in cases in which those who are free on pretrial or posttrial release are charged with the commission of a dangerous crime.

This bill is similar to one which I sponsored last year and I urge it's support for a couple of reasons.

First, ultimate passage of this bill will allow members of State legislatures to observe what happens here in the District of Columbia with the possibility in mind of passing similar legislation at the State level.

Second, passage of this bill shows that we are willing to take a cautious step toward making our streets more safe.

The rights of the accused are in no way jeopardized under this legislation. The accused is to be given a hearing before a judge with full legal safeguards and right to counsel.

The important point here, Mr. Speaker, is that, after taking great pains in the hearing process not to violate anyone's rights, we have an opportunity to respond to the sincere wishes of our law enforcement officials. I cannot imagine that there is a Member of Congress who has not heard the desire of local law officials for assistance in helping them to keep dangerous criminals off the streets after the police spend their time in trying to bring them in. There is nothing more disheartening to those who serve on "the thin blue line" than to see someone they arrested released, only to commit another serious crime. We cannot blame our police for asking themselves in those instances, "what's the use?"

I believe, Mr. Speaker, that experience has shown that in some cases it is most wise to deal with an arrested person leniently—to give them a break. But there are no absolutes in law enforcement and we should show judges, attorneys, and police that we appreciate this fact by allowing them the opportunity to deal forthrightly with cases in which leniency is not at all appropriate.

I believe it is entirely appropriate to allow a judge the discretion to deny release after a pretrial hearing has shown

that the accused poses a clear and serious threat to the well-being of others or may flee.

I look forward to Senate passage.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's yielding.

I wish to make reference to page 4 of the report, and I know the gentleman has a copy of that with him.

Mr. MAZZOLI. I have the report, but if the gentleman will read the portion to which he is referring, I will appreciate it.

Mr. WEISS. Mr. Speaker, on page 4, in the third paragraph of the report, the language reads as follows:

> The time has come to strike a balance between the competing concerns of protecting law-abiding citizens from the criminal acts of dangerous lawbreakers who are already awaiting trial on substantial charges, and of guaranteeing to those lawbreakers all the legal safeguards to which they are entitled under the Constitution.

Is it the position of the committee that this legislation in fact deprives these so-called dangerous lawbreakers of their constitutional rights?

Mr. MAZZOLI. Mr. Speaker, I cannot speak on behalf of the committee, but I believe the general consensus was that—and I can make this statement because this is the third year in which we have worked on this bill—this bill does not abridge the constitutional rights of either a person accused of two offenses or a first offender, such as one accused of murder in the first degree or rape, and that includes a second offender.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's stating that, because, regardless of my vote on this bill, I think the gentleman will agree that that particular sentence is perhaps infelicitously phrased, because it seems to imply that in order to protect society we are in fact striking a balance and taking away some of the constitutional guarantees that are otherwise provided.

Mr. MAZZOLI. The gentleman makes a valid point. Unfortunately, words are imprecise, and sometimes in our zeal to get reports finished we may fail to look at the nuances. But that is a very good point.

It was certainly not the committee's intention to unlawfully abridge anyone's rights, but it was the committee's feeling that there should be some strong consideration given to the rights of society, the rights of communities, and even the rights of victims, and that the rights of the accused should be protected very jealously, but in a framework that is within the context of the total social situation.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 30 additional seconds.)

Mr. WEISS. Mr. Speaker, will the gentleman yield further?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, the gentleman agrees, then, that he would not support legislation which would in fact deprive anyone of his constitutional guarantees?

Mr. MAZZOLI. I certainly would not, I will say to the gentleman from New York. I believe my record over these years has been such as to indicate I would not support such legislation.

Mr. WEISS. Mr. Speaker, I appreciate that. That is why I asked the question, so the gentleman could make that assertion.

Mr. COLEMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would like to commend the gentleman from Michigan (Mr. DIGGS), chairman of the Committee on the District of Columbia, for his efforts, and I would also like to commend my colleague, the gentleman from Kentucky (Mr. MAZZOLI), who is the chairman of the Subcommittee on the Judiciary, for bringing this bill to the floor.

I think it does give a balance and does strike the proper balance between those concerns of protecting the public from criminal activity and at the same time protecting the constitutional rights and safeguards of those people who have been arrested and accused of a crime.

Mr. Speaker, we have referred to statistics already this afternoon, and I would like to add a few more. One is that 32 percent of those people who commit crimes in the District of Columbia are repeat offenders. Of course, this reflects the number of crimes actually reported. It does not reflect the number of crimes by persons who have committed a first crime in the District of Columbia and then may go to Northern Virginia or to Maryland or to other States to commit a second crime. Consequently, at least one-third of all those arrested commit another crime.

As far as the constitutional rights and legal safeguards of the accused are concerned, the President's Commission on Crime and the District of Columbia and the American Bar Association both have passed on this particular bill and support it.

Mr. Speaker, I think we have to stand up for the law-abiding citizen. If we cannot get the hardened criminals rehabilitated, we can at least get them off the streets. I think this bill goes a long way toward that end.

However, Mr. Speaker, I do feel that the bill can be improved because I think we need to enlarge the scope of this particular piece of legislation. With that in mind, I think we ought to add to the bill those suspects arrested for committing armed robbery in this legal classification for pretrial detention.

AMENDMENT OFFERED BY MR. COLEMAN

Mr. COLEMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. COLEMAN: Page 2, beginning on line 1, strike out "murder in the first degree or forcible rape" and insert in lieu thereof "murder in the first degree, forcible rape, or armed robbery".
>
> Page 2, beginning on line 4, strike out "first degree murder or forcible rape" and insert in lieu thereop "first degree murder, forcible rape, or armed robbery".
>
> Page 2, beginning on line 10, strike out "murder in the first degree or forcible rape" and insert in lieu thereof "murder in the first degree, forcible rape, or armed robbery".
>
> Page 3, beginning on line 4, strike out "first degree murder or forcible rape" and insert in lieu thereof "first degree murder, forcible rape, or armed robbery".
>
> Page 3, line 24, strike out "first degree murder or forcible rape" and insert in lieu thereof "first degree murder, forcible rape, or armed robbery".
>
> Page 4, beginning on line 2, strike out "first degree murder or forcible rape" and insert in lieu thereof "first degree murder, forcible rape, or armed robbery".

Mr. COLEMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COLEMAN. Mr. Speaker, as the bill is reported, the pretrial detention will cover only two crimes: first-degree murder and forcible rape.

My amendment attempts to put in a third crime—armed robbery.

Mr. Speaker, a recent study indicated that in the District of Columbia well over 44 percent of those first-time offenders who commit robbery are rearrested and recharged for the commission of a second crime. This was a study done by the LEAA. The highest classification of repeat offenders that we have in any category, including murders, rapists, or anything else, is robbers. They are our repeat offenders. Almost one-half of those repeat offenders go out and commit a violent crime, the very violent crimes we are talking about, first-degree murder or forcible rape. The person will start as a robber and end up committing other violent crimes.

Mr. Speaker, what this statistic boils down to is this: If we are really interested in getting tough with the criminal element, if we want pretrial detention, let us get the people who are actually out committing violent crimes the second go-around. They are the very people we are trying to keep off the streets, and those are the armed robbers, because armed robbery is just one step from murder.

Mr. Speaker, I think these people need to be singled out for special treatment, just as we single out those accused of murder and forcible rape.

Mr. Speaker, we should be concerned with this problem more than we are about other subjects before the Committee on the District of Columbia, upon

which we have voted on today. They really do not affect our districts.

Mr. Speaker, I think that when we talk about crime, we are talking about our own well-being and the well-being of the people who work in the District of Columbia, in this metropolitan area, people who live and who work here and who visit us, as well as people from other States, in the territory surrounding the metropolitan area. The people who may commit crimes in the District of Columbia on a first-offense basis may be out in the neighborhoods where other persons live and work, in the Northern Virginia suburbs and in the Maryland suburbs. There they commit a second offense.

Mr. Speaker, the chances are one out of two that that second offense is going to be a violent crime.

For all those reasons, Mr. Speaker, I urge adoption of my amendment.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, the amendment offered by the gentleman from Missouri (Mr. COLEMAN) is a very interesting amendment. I was wondering whether the gentleman would consider extending it even further to, say, child abuse, which is a very violent kind of crime, it is also repetitive in nature? Would the gentleman want to in lude that also?

Mr. COLEMAN. As the gentleman from Kentucky mentioned, there is much support for extending the concept. I think it is important that we determine where to draw the line and I believe that should be where the statistics bear out the facts that a person will go out and commit another violent crime. I do not, by saying that, approve of the people who perform such violent crimes such as child abuse but I do believe there has to be a cutoff somewhere and the logical cutoff I believe has to be determined where the statistics show a person will also commit a violent crime of rape or murder.

Mr. MITCHELL of Maryland. If the gentleman will yield further, it seems to me that those persons who are pushers of heroin are doing great violence to people, physical and psychological violence and, in essence, that is a violent crime. Why did you draw the line to preclude that? Why not include the pushers of heroin?

Mr. COLEMAN. Let me say this, that a person who does commit armed robbery puts directly into mortal fear the people he is robbing. Under the bill as written, a person could go into a grocery store or into a drug store and rob the individual there, shoot him but not kill him so that that individual could be maimed for life, or he could have been stabbed multiple times, and under the terms of the bill as it is written now that armed robber could be a first offender and not come under the pretrial detention.

However, Mr. Speaker, I prefer to talk about the substantive aspects of my amendment and not get off on to other items.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I certainly deplore crime in general, and do not really want to get into a discussion of other crimes that we could all agree on as being bad in nature, but I would say that the gentleman from Maryland (Mr. MITCHELL), makes such an eminently good suggestion why does the gentleman not draft such an amendment?

Mr. MITCHELL of Maryland. Mr. Speaker, if the gentleman will yield, I will reply to my distinguished colleague, the gentleman from Maryland (Mr. BAUMAN).

Will the gentleman from Missouri yield?

Mr. COLEMAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. The purpose of this colloquy is to show the illogic in what the gentleman is attempting to do.

You cannot be logical when you start to separate the degrees of violence because once you start the procedure under the amendment the gentleman is offering, then you will have to continue it ad infinitum.

Mr. COLEMAN. Mr. Speaker, if I may reclaim part of my time. I assume the gentleman would also be opposed to having forcible rape come under the terms of the bill, and, if you are, then I suppose you would vote against the bill.

Mr. MITCHELL of Maryland. I intend to.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

Mr. Speaker, let me first extend my thanks to the gentleman from Missouri (Mr. COLEMAN), who has been a very productive and dependable member of our committee. He has been extremely active and has put a great deal of input into the work and I want to thank the gentleman for his efforts. However, my personal fondness for the gentleman and admiration for his work will not quite get me over the hump of being in favor of his amendment. But I do appreciate his efforts. As a first termer he has done a good job.

Mr. Speaker, my reasons for opposing the amendment parallel the arguments made by my colleague, the gentleman from Maryland, Mr. PARREN MITCHELL, in saying that there is no real logical formula where you have got to stop it, because you have to draw the line somewhere. Our committee was faced with a difficult task when we tried to draw the line in trying to redefine crimes punishable by death. We had a lot of advice for crimes punishable by death. Capital crimes were historically those of first-degree murder and forceful rape, therefore, we limited redefinition to those two crimes, in providing for detention of first offenders.

There was also in our minds the fact that, as the gentleman already pointed out, roughly two-thirds of all the people who are charged and arrested for armed robbery are probably repeat offenders, so that there are a great number of people who will be taken care of in the second provision of the bill which does have a 10-day hold provision for those who have already somehow run afoul of the law and are out on some type of pretrial release.

The District of Columbia Law Revision Commission is underway and its mandate and charge is to totally rewrite the laws of the District of Columbia.

As the gentleman knows, one of the matters before that Law Revision Commission will be this law and any amendments thereto and there is the possibility that they might wish to extend or even possibly, I guess, contract these provisions after careful review.

Lastly, the U.S. attorney's office, who, of course, is anxious to have a bill which will serve the purposes of law enforcement and crime control, does not urge the extension of this definition to include armed robbery.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

The gentleman mentioned that a large percent of those people who commit armed robbery then commit other crimes. The gentleman said two-thirds.

Mr. MAZZOLI. That is right.

Mr. COLEMAN. Yes. We can handle those in the second part of the bill, but only after they commit their second offense, only after they go out and rape and murder. I am only trying to keep these people from committing the second offense. Is that right?

Mr. MAZZOLI. I understand the gentleman's position. The gentleman brought his amendment up in the subcommittee and lost and in the full committee and lost. He made an eloquent plea at both stages. Perhaps if our committee were going back and rewriting the bill, it might be included; I do not know. But our effort, which was in part built upon our bill in the 94th Congress, however supplemented by further hearings this year, led us to start from a certain point, and that point was largely to stick to the classical redefinition of what a crime punishable by death actually is.

Mr. COLEMAN. If the gentleman will yield further, my only suggestion, without being presumptuous as a first-term Congressman, is that we might build upon past mistakes and make this even better in the 95th Congress.

Mr. MAZZOLI. The gentleman is entirely correct. I hope that the House rejects the gentleman's amendment.

Mr. WIGGINS. Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, many of my distinguished colleagues oppose preventive detention on conceptual grounds. They made their arguments in 1970 and last year. Their arguments are premised upon a belief

that preventive detention is violative of due process. It is a constitutional argument.

I am the first to admit that there is a certain strain upon constitutional values by any preventive detention statute; but I am convinced, after reading a great deal on the subject, that such a statute does not go beyond the constitutional pale and that it is within our authority to enact some type of a preventive detention measure.

So I am going to put that preliminary question behind me for a moment and address myself only to the amendment, which is the policy question of how far the statute should go and what its coverage should be.

The argument has been made that it is difficult to draw a commonsense line beyond rape and first-degree murder. But, Mr. Speaker, frankly, it is much easier to start with armed robbery than it is with first-degree murder or with forcible rape. Statistically, robbery is the offense which poses the greatest harm to the community, and not the murderer or the rapist.

Even in this city, most murders are family offenses in which the murderer often poses a minimal risk to society as a whole. The same might be said with respect to rape. Rapes, of course, are notorious, and get much publicity in the newspaper, but by comparison to robbery, they are a minuscule problem in the District of Columbia.

Society in the District is threatened primarily by robbers, not by murderers and not by rapists. Indeed, many murderers are a consequence of an attempted or completed robbery. It seems to me that if we are going to have a preventive detention statute at all—and I endorse it—we ought to cover at least robbery. Whether we include murder and rape is largely immaterial to me, because that is not the substance of the iceberg: it is only its tip. It is a deficiency in this bill that it does not extend its coverage to armed robbery. For that reason I endorse the gentleman's amendment and urge its adoption.

Mr. FAUNTROY. Mr. Speaker, I am delighted to learn that Mr. MAZZOLI is agreeable to conducting hearings and making an assessment of the need for and the value of a speedy trial system for the District of Columbia. During the subcommittee and full committee work on this measure, I stated my opposition to a further expansion of the use of preventive detention in the prosecution of criminal matters in the District of Columbia. My opposition was based, in large part, on my belief, and the belief of many others, that the best way to get the repeat, violent criminal off the street is through a system of swift and sure justice. I expressed the concern that dragnet style pretrial detention could have the net effect of unjustly punishing the innocent and thereby encouraging criminality.

I am, however, encouraged by the prospect of a speedy trial measure for the District, and I am, therefore, less apprehensive about H.R. 7747. I, too, want the dangerous and violent career criminal off the streets of Washington, D.C. I, too, want the possibility of recidivism to be minimized. A system of mandatory speedy trials coupled with preventive detention may be a useful approach to the problem which all of us want to solve.

Mr. BINGHAM. Mr. Speaker, I oppose the Coleman amendment for the reasons offered by the chairman of the subcommittee, Mr. MAZZOLI. The principal purpose of this bill is to prevent repeat offenders from being able to obtain quick release—the so-called revolving door system. Armed robbers, as well as other criminals, could be held under these provisions.

I do, however, support H.R. 7747 as a whole. It provides additional protection for society in the District of Columbia from dangerous criminals, as well as additional assurance that the procedural rights of defendants will be protected.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

The question was taken; and on a division (demanded by Mr. MAZZOLI) there were—ayes 39, noes 13.

Mr. MAZZOLI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 43, not voting 45, as follows:

[Roll No. 588]

YEAS—346

Abdnor
Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins Tex.
Conable
Conte
Corcoran
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meeds
Meyner
Mikulski
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Pattison
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thone
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—43

Bellenson
Bingham
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Conyers
Dellums
Drinan
Edgar
Edwards, Calif.
Fascell
Fraser
Frenzel
Gore
Hawkins
Holtzman
Jacobs
Lundine
McFall
McHugh
Maguire
Mazzoli
Metcalfe
Mikva
Mitchell, Md.
Natcher
Nix
Nolan
Ottinger
Pease
Richmond
Rodino
Rosenthal
Roybal
Seiberling
Simon
Stark
Stokes
Thompson
Vento
Weaver
Weiss

NOT VOTING—45

Akaka
Allen
Badillo
Bolling
Bowen
Brooks
Clawson, Del
Clay
Corman
Cotter
Cunningham
Dent
Dornan
Eckhardt
Goldwater
Harrington
Howard
Johnson, Calif.
Koch
Leach
Lehman
Luken
McClory
McCloskey
Mann
Michel
Patterson

Pepper
Pettis
Pursell
Reuss
Roberts
Roncalio
Ruppe
St Germain
Teague
Thornton
Tsongas
Wampler
Whalen
Wilson, Bob
Wolff
Yatron
Young, Tex.
Zeferetti

Mr. YATES changed his vote from "nay" to "yea."

Mr. STOKES changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DIGGS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight or midnight tomorrow night to file a conference report on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON H.R. 6415, EXPORT-IMPORT BANK ACT EXTENSION, 1978

Mr. NEAL submitted the following conference report and statement on the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945:

CONFERENCE REPORT (H. REPT. NO. 627)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede fom its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by inserting before the period at the end of the third sentence the following: "and shall, in cooperation with other appropriate United States government agencies, seek to reach international agreements to reduce government subsidized export financing".

SEC. 2. The last sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting before the period at the end thereof the following: ", and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the export supported by a loan or financial guarantee and the effect such exports may have on human rights in such country".

SEC. 3. (a) The first sentence of section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by inserting "(i)" immediately after "No loan or financial guarantee or combination thereof";

(2) by striking out "shall be finally approved by the Board of Directors of the Bank, and no loan or financial guarantee or combination thereof" and inserting in lieu thereof ", (ii) in an amount"; and

(3) by inserting immediately after "Union of Soviet Socialist Republics" the following: ", or (iii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities,".

(b) Section 2(b) of the Export-Import Bank Act of 1945 is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting immediately after paragraph (3) the following new paragraph:

"(4) The Secretary of State shall report to the appropriate committees of Congress and to the Board of Directors of the Export-Import Bank if he determines that any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after the date of enactment of this paragraph, such safeguards or that any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after the date of enactment of this paragraph, any guarantee or other undertaking to the United States made in such agreement or that any country that is not a nuclear-weapons state (as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons) detonates, after the date of enactment of this paragraph, a nuclear explosive device. The Secretary shall specify which country or countries he has determined to have so acted, and the Board shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country unless the President determines that it is in the national interest for the Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country and such determination has been reported to the Congress not less than twenty-five days of continuous session of the Congress prior to the date of such approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the twenty-five-day period referred to in such sentence.".

(c) The first sentence of section 2(b)(5) of the Export-Import Bank Act of 1945, as redesignated by subsection (b), is amended—

(1) by striking out "or" immediately after "the United States,"; and

(2) by inserting before the period at the end thereof the following: ", or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility"

Sec. 4. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "June 30" and inserting in lieu thereof "September 30".

And the Senate agree to the same.

HENRY S. REUSS,
STEVE NEAL,
PAUL TSONGAS,
JOHN J. CAVANAUGH,
MARK W. HANNAFORD,
DAVE EVANS,
BRUCE F. VENTO,
J. W. STANTON,
HENRY J. HYDE,
MILLICENT FENWICK,
Managers on the Part of the House.

WILLIAM PROXMIRE,
ADLAI E. STEVENSON,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to amend the Export-Import Bank Act of 1945 in order to extend the authorities of that Act and to add or strengthen provisions pertaining to human rights, international export financing competition, and nuclear proliferation, submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers of the conference and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause, except for the final clause, which changes the expiration date for the Export-Import Bank Act from June 30, 1978 to September 30, 1978.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill. The differences between the House bill and the amendment which is a substitute for the House bill are noted below.

SECTION 1. HUMAN RIGHTS

The House bill required the Export-Import Bank to take into account "all available information" concerning human rights conditions in the country to receive exports supported by a loan or financial guarantee from the Bank. The amendment would delete the reference to "all available information". It is the intent of the conferees that the Bank obtain advice principally from the Secretary of State as to the observance of human rights in a given country and the effect the proposed exports might have on such observance.

The amendment also deletes the reference to "fundamental freedoms." The conferees believe that such freedoms are encompassed within the term "human rights".

The amendment replaces the word "will" with the word "may" in reference to the relationship between the proposed exports and the human rights situation in the country to receive the exports. The conferees recognize that the effect of the exports on human rights cannot be predicted with certainty and precision, and therefore, prefer language which reflects such indeterminancy.

The amended language of section 1 is intended by the conferees to enable the Bank to continue to facilitate U.S. exports while acting in consonance with U.S. human rights policy.

SECTION 2. INTERNATIONAL NEGOTIATIONS ON EXPORT FINANCING

The House bill required the Bank to cooperate with "other appropriate government agencies" in an attempt to reach "agreement on ways of reducing and eventually eliminating the use of all forms of government supported export financing."

The conferees agreed to amend the language to clarify the mandate to the Bank. The amendment directs the Bank to cooperate with other United States government agencies in international negotiations directed toward mutual reduction of government subsidized export financing. It is the intention of the conferees that the Bank, in such negotiations, seek the reciprocal elimination of export financing subsidies where feasible, but that the Bank avoid unilateral concessions which would place U.S. exports at a disadvantage versus foreign competition. The conferees are equally concerned with other forms of government export subsidies, in addition to export financing, and urge the appropriate agencies of the U.S. government to move more aggressively to negotiate reciprocal reductions of such subsidies as well.

SECTION 3. FINANCING FOR NUCLEAR RELATED EXPORTS

The conferees agreed to delete from the House bill Section 3(a)(2) which specified in detail the nature of consultations to be held between Congress and the executive branch concerning proposed nuclear-related exports during the prescribed 25-day notification period. The Department of State and the Arms Control and Disarmament Agency have indicated their willingness to provide the information in question to the appropriate committees of Congress upon request. Letters to that effect are appended to this report.

The conference accepted the House version of the other portions of section 3 of the bill.

SECTION 4. EXTENSION OF EXPIRATION DATE

The House and the Senate were in agreement on this provision.

Hon. STEPHEN NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives.

THE DEPUTY SECRETARY OF STATE,
Washington, September 7, 1977.

DEAR MR. CHAIRMAN: I am writing to confirm that the Secretary of State or his designee would be fully prepared to consult with the appropriate committees or subcommittees of Congress concerned with foreign loans, financial guarantees or combinations thereof under proposed section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, at their request, within the twenty-five day period contemplated by section 2(b)(3) of the Act.

At the discretion of the committee or subcommittees involved, these consultations would include discussion of the prospect that U.S. nuclear exports might further the development of the foreign country's nuclear explosive capability and of the adequacy of safeguards, guarantees, peaceful use assurances, conditions of supply, and other control mechanisms agreed to in connection with the projected United States export which is to be supported by the Bank's loan or financial guarantee or combination thereof.

Sincerely,

WARREN CHRISTOPHER.

UNDER SECRETARY OF
STATE FOR SECURITY ASSISTANCE,
Washington, D.C., September 9, 1977.

Hon. STEPHEN NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to a question by the staff of your Subcommittee on International Trade, Investment and Monetary Policy of the House Committee on Banking, Finance and Urban Affairs, we would like to clarify that we would be ready to discuss the adequacy of safeguards guarantees, peaceful use assurances, conditions of supply, and other control mechanisms to which the country that receives the U.S. export under the Bank's loan or financial guarantee or combination thereof has agreed in any treaties or agreements.

Sincerely,

JOSEPH S. NYE,
Deputy to the Under Secretary.

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, D.C., September 14, 1977.

Hon. STEPHEN NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives.

DEAR MR. CHAIRMAN: I am writing to confirm that the Director of the United States Arms Control and Disarmament Agency or his designee would be fully prepared to consult with the appropriate committees or subcommittees of Congress concerned with foreign loans, financial guarantees or combinations thereof under proposed section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, at their request, within the twenty-five day period contemplated in section 2(b)(3) of the Act.

At the discretion of the committees or subcommittees involved, these consultations would include discussion of the prospect that the U.S. nuclear exports involved could further the development of the foreign country's nuclear explosive capability and of the adequacy of safeguards, guarantees, peaceful use assurances, conditions of supply, and other control mechanisms to which the country that will receive the U.S. exports to be supported by the Bank's loan or financial guarantee or combination thereof, has agreed in any treaties or agreements.

Sincerely,

SPURGEON M. KEENY, Jr.,
Deputy Director.

HENRY S. REUSS,
STEVE NEAL,
PAUL TSONGAS,
JOHN J. CAVANAUGH,
MARK W. HANNAFORD,
DAVE EVANS,
BRUCE F. VENTO,
J. W. STANTON,
HENRY J. HYDE,
MILLICENT FENWICK,
Managers on the Part of the House.

WILLIAM PROXMIRE,
ADLAI E. STEVENSON,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1977

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6693) to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, as amended.

The Clerk read as follows:

H.R. 6693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Child Abuse Prevention and Treatment Amendments of 1977".

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 2 (a) Section 2(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(b)) is amended—

(1) in paragraph (1) thereof, by striking out "and publish" and inserting in lieu thereof "publish, and disseminate";

(2) in paragraph (3) thereof, by striking out "and publish" and inserting in lieu thereof ", publish, and disseminate"; and

(3) by adding at the end thereof the following new sentence: "The Secretary shall establish research priorities for making grants or contracts under paragraph (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.".

(b) Section 2(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(c)) is amended by adding at the end thereof the following new sentences: "Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.".

(c) Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as may be necessary for the Center to carry out effectively its functions under this Act."

DEFINITION

SEC. 3. (a) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by inserting "or exploitation" after "sexual abuse".

(b) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by inserting "or exploitation" after "sexual abuse".

(b) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102), as amended by subsection (a), is further amended by inserting "(a)" after "SEC. 3." and by adding at the end thereof the following new subsection:

"(b) For purposes of this Act, the failure by any parent or guardian to provide, or arrange for the provision of, specified medical treatment for any child of such parent or guardian, solely as a result of the legitimate practicing by such parent or guardian of his religious beliefs, shall not be considered to be child abuse or neglect. The provisions of this subsection shall not be construed to affect the authority of any court to order or otherwise require the provision of medical treatment for any child.".

SERVICE OR DEMONSTRATION PROGRAMS AND PROJECTS

SEC. 4. (a)(1) The first sentence of section 4(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(a)) is amended by inserting "service or" before "demonstration programs".

(2) Section 4(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(a)(1)) is amended by striking out "the development and establishment of".

(b) Section 4(b)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(b)(1)) is amended—

(1) by striking out "5 per centum and not more than 20 per centum may" and inserting in lieu thereof "30 per centum shall";

(2) by inserting "(through the Center)" after "Secretary"; and

(3) by striking out "for the payment of reasonable and necessary expenses".

(c) The heading for section 4 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103) is amended to read as follows:

"SERVICE OR DEMONSTRATION PROGRAMS AND PROJECTS".

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. Section 5 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104) is amended by striking out "and" after "1975," and by inserting before the period at the end thereof the following: ", $25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 for the fiscal year ending September 30, 1980, and for each of the next two succeeding fiscal years".

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

SEC. 6. (a) Section 6(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended by striking out "(a)" after "SEC. 6.".

(b) Section 6 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended by striking out subsection (b) and subsection (s) thereof.

SEXUAL EXPLOITATION OF CHILDREN

SEC. 7. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue, and the sale and distribution of such materials are carried on to a substanital extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws dealing with the interstate distribution of pornographic materials do not protect against the use of children in the production of such materials, and specific legislation in this area is both advisable and needed.

(b) The Child Abuse Prevention and Treatment Act (Public Law 93-247; 88 Stat. 4) is amended by adding at the end thereof the following new sections:

"SEXUAL EXPLOITATION OF CHILDREN

"SEC. 8. (a) Any person who causes or willfully permits a child to engage in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends—

"(1) that such act will be photographed, filmed, or electronically reproduced; and

"(2) that any photograph, printed material containing such photograph, film, or electronic visual image depicting such act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(b) Any person who photographs, films, or produces an electronic visual image of a child engaging in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends that any photograph, printed matter containing such photograph, film, or electronic visual image made by such person depicting such an act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(c) Any person who violates subsection (a) or (b) shall be fined not less than $5,000 nor more than $50,000, or imprisoned not more than 20 years, or both.

"REPRODUCTION, TRANSPORTATION, AND DISSEMINATION OF CERTAIN PHOTOGRAPHS, FILMS, AND ELECTRONIC VISUAL IMAGES

"SEC. 9. (a) Any person who—

"(1) manufactures, reproduces, or duplicates any photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, and who knows, has reason to know, or intends that the product resulting from such manufacture, reproduction, or duplication will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale or such materials;

"(2) knowingly transports or ships through, or in such manner as to affect, interstate commerce or foreign commerce or knowingly mails any photograph, printed matter containing such photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, for the purpose of sale or resale;

"(3) knowingly receives for the purpose of selling or knowingly sells any photograph, printed matter containing such photograph, film, or electronic visual image which has been shipped or transported through, or in such manner as to affect, interstate commerce or foreign commerce or has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or

"(4) uses for profit, or makes available for profit, in any public showing any film or electronic visual image which has been transported or shipped through, in such a manner as to effect, interstate commerce or foreign commerce or which has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, shall be punished as provided in subsection (b).

"(b) Any person who violates subsection (a) shall be fined not more than $25,000, or imprisoned not more than 15 years, or both.

"ENFORCEMENT AUTHORITY

"SEC. 10. Enforcement authority for the provisions of sections 8 and 9 shall be vested in the Attorney General of the United States.

DEFINITIONS

"SEC. 11. For the purposes of sections 8 and 9—

"(1) the term 'child' means any individual who has not attained age 16;

"(2) the term 'prohibited sexual act' means sexual intercourse, anal intercourse, masturbation, fellatio, cunnilingus, sexually oriented sadomasochistic abuse, sexual bestiality, or a lewd exhibition of the genitals in the context of any sexual activity;

"(3) the term 'public showing' means any showing which is accessible to the general public for the payment of any direct or indirect fee or other consideration and includes any membership organization for which the qualifications are established for the primary purpose of making any individual who qualifies as a member eligible to attend such a showing; and

"(4) the term 'simulation' means the depiction of the genitals in explicit sexual activity which gives the appearance of the performance of any prohibited sexual act.".

CENTERS FOR TREATMENT OF SEXUALLY ABUSED CHILDREN

SEC. 8. The Child Abuse Prevention and Treatment Act, as amended in section 7(b), is further amended by adding at the end thereof the following new section:

"CENTERS FOR TREATMENT OF SEXUALLY ABUSED CHILDREN

"SEC. 12. (a) The Secretary, through the Center, is authorized to make grants to private nonprofit organizations under this section for the support of at least five centers for the provision of treatment and other services to sexually abused children and to persons who have committed acts of sexual abuse against children.

"(b) Any private nonprofit organization which desires to receive any grant from the Secretary under this section may transmit an application to the Secretary. Any such application shall be in such form, and shall be transmitted in accordance with such procedures, as the Secretary may reasonably require. Such application shall—

"(1) include a plan developed by the private nonprofit organization involved which—

"(A) contains a detailed statement of the manner in which such organization will provide treatment and other services to sexually abused children and to persons who have committed acts of sexual abuse against children; and

"(B) includes a program for the training of such personnel as may be necessary to enable such organization to provide such treatment and other services;

"(2) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to such organization under this section; and

"(3) includes such other information as the Secretary may reasonably require.

"(c) The Secretary shall not approve any application transmitted by a private nonprofit organization under this section until the Secretary has made specific findings as to the compliance of such application with the requirements of this section, and the Secretary is satisfied that adequate procedures are set forth to ensure that the assurances and provisions contained in such application will be carried out.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) will be recognized for 20 minutes, and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 6693, extends the Child Abuse Prevention and Treatment Act for 5 additional years, that is, through fiscal year 1982, and amends the present law to strengthen the protective and treatment services available to abused children and their families.

Mr. Speaker, the child abuse legislation was signed into law early in 1974 after congressional hearings demonstrated that existing efforts to treat child neglect and abuse in the United States were inadequate.

Funds appropriated since the enactment of the Child Abuse Prevention and Treatment Act, Public Law 93–247, have made possible programs for research on child abuse problems as well as programs for local prevention and treatment of child abuse. With the passage of this measure the Federal Government pledged its resources as a participant in dealing with the problems of child abuse and neglect. This law focused the Federal effort on improving the prevention and treatment of child abuse and neglect by assisting State and local programs that help abused children. The bill under consideration would continue support for these important activities.

PURPOSE OF PUBLIC LAW 93–247

Let me, Mr. Speaker, describe briefly the purpose of the Child Abuse Prevention and Treatment Act. Public Law 93–247 was enacted on January 31, 1974, to provide Federal financial assistance for promising efforts to prevent, identify, and treat child abuse and neglect. In addition, the law is intended to provide technical assistance and other resources needed to increase and expand programs for the prevention, identification, and treatment of child abuse and neglect. Assistance is available under the act through the demonstration grant program and the State grant program.

Funds available through the demonstration program may go to a wide variety of individuals, institutions, and State or local agencies such as hospitals, police or welfare departments, universities, and parent organizations.

Mr. Speaker, 26 demonstration treatment centers have been established with funds from the National Center on Child Abuse and Neglect since the enactment of Public Law 93–247. The projects serve as agencies to protect children and provide treatment for abused and neglected children and their families. Certain projects are focused on types of families which are not often reached by existing services such as native American, military, rural, and migrant families.

Requirements for eligibility under the State grant program include a child abuse reporting law with immunity for persons making reports of instances of child abuse and neglect, an investigation procedure, and procedures and resources for working with affected families. The States are also required to give preference in funding to parental organizations combating child abuse and neglect.

During 1974, the first year of enactment of Public Law 93–247, only two States qualified for grants authorized by the law to strengthen their prevention and treatment programs. In the 1978 fiscal year, it is projected that over 40 States will be eligible to take advantage of these funds, making use of the full allocation provided by the law for State programs.

EXTENSION OF THE ACT

Mr. Speaker, in testimony given before the subcommittee on the Child Abuse Act, witnesses indicated virtually unanimous support for extension of the program. While various witnesses suggested an amendment to the law to help facilitate the achievement of the original goals of combating child abuse and neglect, no witnesses suggested that the program should be terminated.

The testimony received at the hearings further indicated that while the program—now only 3 years old—had begun to address some of the critical problems in the area of child abuse and neglect, enormous challenges remain to be met in dealing with this serious problem. Witnesses testified to the need for continued and expanded research into the basic causes and treatment of child abuse and neglect. Other witnesses expressed the nationwide need for resources for providing vitally needed services to children and families faced with child abuse problems.

Representatives from the Department of Health, Education, and Welfare testified regarding the various programs launched and achievements under the act and the desire of the department to have the act extended.

In light of the testimony received in support of renewal of the act, Mr. Speaker, the committee decided to extend the authorization of appropriation for 5 additional years.

AUTHORIZATIONS

Funds authorized by H.R. 6693, Mr. Speaker, would extend assistance to the Federal child abuse effort in line with current expectations for appropriations and provide for some modest increases over the next 5 years for which this bill would extend the act.

The bill carries an authorization of $25 million for the 1978 fiscal year, identical to the amount of funds authorized by the present law for the current fiscal year. In addition, H.R. 6693 makes slight increases in authorizations for the succeeding years, with $27.5 million in fiscal year 1979, and $30 million in fiscal year 1980 as well as in fiscal years 1981 and 1982.

ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Let me now, Mr. Speaker, describe the changes that would be made by H.R. 6693 to strengthen and expand the programs of research and the prevention and treatment of child abuse supported by the act.

Dissemination would be added to the responsibilities of the National Center for materials that it compiles and publishes on research on child abuse and on training for personnel engaged in child abuse prevention and treatment. This addition to the law would assure that the National Center fulfill its role as a source of information and technical assistance on the subject of child abuse.

Further, Mr. Speaker, the Secretary of Health, Education, and Welfare would be required to establish research priorities for the child abuse effort and to review the quality of research in progress. H.R. 6693 also provides that funds be made available to research projects for 3-year periods. This would allow the National Center to fund quality, long-term research projects that are necessary to develop the base of information required for effective programs to prevent and treat child abuse.

In addition, the Secretary would be required to review research grants annually by a peer review mechanism to further insure the quality of research funded by the National Center. Because the committee is concerned about the ability of the National Center to carry out its functions effectively with a limited staff, the Secretary would be required to furnish necessary staff and resources to the National Center to perform its responsibilities competently.

Several witnesses at hearings before the Subcommittee on Select Education were critical of the research activities sponsored by the National Center. Because grants for research comprise a large share of the Federal funds available for child abuse projects, the committee believes that responsible oversight of this activity within the administrative branch is necessary.

DEFINITION OF CHILD ABUSE

At this point, Mr. Speaker, let me speak of the problem of sexual exploitation of children which has gained national attention in recent months. We are all aware of the shocking use of children, including those very young, in pornographic films and publications. Although the sexual exploitation of children is not a recent development, and includes such other sexually abusive forms of mistreatment of children as prostitution and incest, the Federal effort to prevent and treat child abuse has not reached deeply into this area.

The Subcommittee on Select Education held hearings in Los Angeles and New York, and jointly in Washington with the Judiciary Committee's Subcommittee on Crime, at which we received testimony about the severity and extent of the sexual abuse of children.

H.R. 6693 would, Mr. Speaker, expand the definition of child abuse in the act to include "sexual exploitation," underscoring the need to provide treatment to children who have been sexually abused and to seek to prevent this pernicious form of abuse.

Further on this matter, Mr. Speaker, the gentleman from Michigan (Mr. KILDEE), a member of the Subcommittee on Select Education, will speak to his amendment which seeks to curb the use of children in pornography by imposing criminal penalties on individuals involved in the production of pornographic films and publications depicting children.

The Subcommittee on Select Education held hearings on the issue of the sexual exploitation of children on May 27 and 28 in Los Angeles and on May 31 in New York City. In addition, a hearing was held in Washington on June 10 jointly with the Subcommittee on Crime of the Committee on the Judiciary.

Let me say, too, Mr. Speaker, that the gentleman from California (Mr. MILLER), also a member of the subcommittee, will speak on the amendment to H.R. 6693 which adds a new authorization to support centers for the treatment of sexually abused children, providing services to sexually abused children and to parents and other adults who have abused children sexually.

Mr. Speaker, one additional change made to H.R. 6693 is addressed to protecting individuals against charges of neglect, such as Christian Scientists, who may rely on a nonmedical system of healing for their children.

SERVICE OR DEMONSTRATION PROGRAMS AND PROJECTS

H.R. 6693 would also amend, Mr. Speaker, that section of Public Law 93–247 which directly supports programs and projects designed to prevent, identify and treat child abuse and neglect. The bill would allow the funding of direct, ongoing programs in child abuse prevention and treatment rather than restricting the funds, as the act now does, only to demonstration programs.

GRANTS TO THE STATES

Let me now, Mr. Speaker, briefly describe the change proposed by H.R. 6693 in the program of grants to the States for child abuse projects.

The level of funds which is allocated to the States for assisting child abuse prevention and treatment programs is set now by the act at a maximum of 20 percent of the appropriated funds. H.R. 6693 would raise this level to a minimum of 30 percent of the funds.

Funding to the States under Public Law 93–247 has enabled the States to move to a more responsive approach in the development of protective services for children. By increasing the share of funds for State programs, the States should be able to better respond to the problem of child abuse and neglect by offering innovative services to families and children.

Mr. Speaker, at this point I would like to thank all of the members of the Committee on Education and Labor for their support of this bill. In particular, I would like to thank the distinguished chairman of the Education and Labor Committee, Mr. PERKINS, and the distinguished ranking minority member, Mr. QUIE, for their help in bringing this measure before you today. Let me also thank Mr. BIAGGI, Mr. MILLER, and Mr. KILDEE for their major contributions to the formulation of H.R. 6693. I also would like particularly to thank the ranking member of the Subcommittee on Select Education (Mr. JEFFORDS) as well as all the other members of the subcommittee for their efforts on this bill.

This show of bipartisan support demonstrates the commitment of our committee to the continued support of the Federal effort to assist in the prevention and treatment of child abuse.

Mr. Speaker, I urge this same demonstration of support by all the members of the House of Representatives today.

Mr. KILDEE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to the gentleman from Michigan (Mr. KILDEE), whom I want to warmly commend for his constructive leadership in this matter.

Mr. KILDEE. Mr. Speaker, this amendment is basically the same as the bill which I introduced on February 23 with Mr. MURPHY of New York as chief cosponsor to prevent the sexual abuse of children in pornographic materials. One hundred and twenty-four other Members of the House have joined us in sponsoring this legislation.

Extensive hearings have been held on this legislation both here in Washington and in other cities. These hearings have pointed out the seriousness of the problem. We have heard testimony that literally thousands of both boys and girls are the victims of this industry. We have heard that such activities may result in severe psychological traumatization. Both testimony and psychological studies have pointed out that sexual abuse can cause severe sexual dysfunctions later in life. These dysfunctions can be at either extreme of normal sexual activity. Such action can encourage promiscuity. One sociological study of prostitutes pointed out that almost three-quarters of those that they interviewed had been sexually abused as children. At the opposite extreme, such activity may cause such severe psychological problems that the individual is unable to have a sexual life at all. In studies done of parents who abuse their children, there has been a statistically significant number who were themselves abused as children.

The final version of the legislation incorporates the suggestions of many expert witnesses and the thoughtful contributions of many of the Members of the House. I would like to thank both those witnesses and my colleagues for their input.

I feel that this amendment is a very responsible response to a tragic situation. Briefly, this amendment would amend the Child Abuse Prevention and Treatment Act by adding four new sections.

The new section 8 would provide maximum penalties of 20 years imprisonment and a fine of $50,000 for those who cause, participate in, or photograph an act of sexual abuse of a child who has not attained the age of 16 if that act is photographed, filmed, or electronically reproduced, and the product enters into interstate or foreign commerce or is mailed.

The new section 9 treats the materials which are produced as contraband on the assumption that they are the fruits of an illegal activity and on the assumption that those who profit from the sexual abuse of a child are, in fact, contributing to that abuse. It would provide maximum penalties of 15 years imprisonment and a fine of $25,000 for the entire stream of interstate and foreign commerce after an act of the sexual abuse of a child. It would cover: knowingly reproducing such photographs, films, or videotapes; knowingly transporting or mailing such materials; knowingly receiving for the purpose of sale or selling such materials; or publicly showing such materials in a setting where there is a fee or admission charge.

The new section 10 places enforcement authority in the Department of Justice.

The new section 11 provides: a definition of child; a list of sexual activities, the performance of which, or simulation of which, in the context of the preceding sections would be prohibited; a definition of public showing; and a definition of simulation.

Since some people have made inquiries as to the objectives this amendment will achieve, I would like to reiterate the purpose of the gentleman from New York (Mr. MURPHY) and I in introducing this legislation.

As offensive as we personally find obscene materials, our overriding concern from the beginning has been to protect children from being sexually abused by commercial exploiters, not to introduce a new piece of obscenity legislation.

As a matter of fact, one of the first things which the gentleman from New York and I investigated in the preparation of the legislation was the possibility of amending the Child Labor Act. We feel that the amendment before you should be viewed in this light; that is, that it was intended as a protective measure, not as a censorship measure. This amendment is focused on a reprehensible type of conduct and only as a corollary expression itself.

I do not find it rational to argue that those who profit from the abuse of children are not in some way contributing to that abuse. If there were no profit, fewer children would be commercially sexually abused. By limiting the ability to market such materials, we are also limiting the possibility of such profit.

In essence, those who distribute and sell these pornographic materials are accessories after the fact. The Congress has previously recognized, in the Child Labor Act, that the fruits of an illegal activity are contraband and that anyone who distributes or sells such materials is materially contributing to the original action.

In Oklahoma Press Publishing Co. against Walling the Supreme Court specifically held that protective legislation could be passed which would limit the publishing industry and not violate the

first amendment. In this light, this amendment falls well within the confines of constitutional authority.

Mr. Speaker, in the early part of this century, our illustrious predecessors in this body took action to regulate the conditions of the employment of children because of the atrocious working conditions that existed. I feel that just as pernicious as the sweatshops which left physical scars are the modern day conditions which leave psychic scars.

We in America have always valued our children. They are truly our link to the future. Any abuse of a child is ultimately a crime against ourselves and society. Coldhearted abuse in the pursuit of profit is a particularly heinous crime. These children are not capable of caring for themselves. They need our nurture and protection.

I do not believe that any right-thinking person or fair-minded Federal judge would conclude that the Constitution protects the right to abuse children or to profit from that abuse as an accessory.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

The SPEAKER pro tempore. The gentleman from California (Mr. MILLER) is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker, first of all, I would like to congratulate my chairman, the gentleman from Indiana, Mr. JOHN BRADEMAS, for the work he has done in bringing this measure to the floor and for the new direction that it will give the National Center on Child Abuse; but I would also like to refer to the provision in this bill which will provide moneys to set up a limited number of centers, not more than five centers cross this country to deal with the problem of sexual abuse of children.

Mr. Speaker, the purpose of this amendment is for the Congress to take advantage of evidence that was uncovered by the Subcommittee on Select Education during its field hearings in California.

During those hearings the committee heard from witnesses representing the child sexual abuse treatment program from Santa Clara, Calif. This program has been in existence for 6 years and during that time the caseload of the program has increased from 30 families to 800 families a year.

The program deals with the trauma and tension that occur in the family as a result of the sexual abuse of one of the members of the family. The Santa Clara project has demonstrated that in spite of the high trauma and destructive nature of incest the family can be saved and children can return home.

The program has also showed us that in order to bring about such positive results, extensive training is necessary and the full cooperation between the local law enforcement agency and the program is absolutely necessary.

It is the purpose of this amendment to cause the Federal Government to focus its attention on this dramatic and severe problem of the sexual abuse of children within the family. It is hoped that by the establishment and support of at least five centers, we will be developing workable programs that can help interested communities in establishing such programs. It is the committee's intention that in the establishment of these programs the HEW draws on the experience and knowledge of the people at the child sexual abuse treatment program at Santa Clara, Calif., as a resource center for the necessary training guidance for replication and expansion of this very successful program. It is not the intent of the committee that HEW start from scratch but rather that they draw on the experience and knowledge of those who have already been successful such as the Santa Clara project.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I strongly support an extension of the child abuse prevention and treatment program for an additional 5 years, particularly with the addition of the term "sexual exploitation" to the definition of child abuse.

I am a cosponsor of similar legislation, and feel it is vitally important that this Congress address itself, immediately, to a problem that is increasing in magnitude.

I question the wisdom, however, of an amendment to be offered to the bill before us today.

The Judiciary Subcommittee on Crime is today marking up sexual abuse legislation, with full committee action tentatively scheduled for September 29. Complex first amendment issues are involved, and I believe the wisest course would permit full consideration by the House Judiciary Committee before being brought before the full House.

Among the shortcomings, the amendment to be offered does not contain language amending the Mann Act, to apply its coverage to male as well as female children under 18 years of age.

The amendment does not include conspirators, and consequently, does not include parents, advertisers, financiers, and distributors.

The amendment before us does not make clear whether or not the child engaged in the prohibited sexual act would have to testify in court for a conviction.

Mr. Speaker, it seems to me that in our well-intentioned desire to attack the revolting crime of child abuse, we have let our zeal overcome our judgment. Certainly the child abuse prevention and treatment program should be extended—providing more dollars for services to stimulate State and local efforts. Nearly 1 million children suffer abuse and neglect each year, and we must reach out to them and help them survive the severe psychological horrors they will inevitably face.

But in our desire to attack the problem head-on, let us not, in our haste, so muddy the waters that the crime itself becomes unprosecutable, or we will be trying to undo our errors next year when the ineffectiveness of this proposal leads to continuing abuses and increased public outrage.

I do not attempt to belittle my esteemed colleague's efforts to bring an immediate halt to this despicable crime. I share his disgust at the perversion that entices young children into erotic conduct to stimulate sick minds. Surely there is no human behavior more disgusting, and the gentleman from Michigan is to be commended for his legislative endeavors.

Let us pass the bill before us today as it was reported out by the committee on April 27 without the amendment. Let us not raise constitutional questions that will bog this issue down in the courts.

Let us take the issue of child pornography and deal with it effectively with the legislation the Judiciary Committee is acting upon this very week.

The distinguished Chairman of our Judiciary Committee has said that child sexual abuse legislation is a priority item in our committee. The Senate Judiciary Committee has already reported legislation to outlaw the production of obscene material which uses children.

Sexual abuse of children continues unabated because effective laws have not been legislated. Moral cripples, perverted, and avaricious minds have seized upon the inadequacies in State and Federal laws, claiming the first amendment to the Constitution gives them the inalienable right to peddle pornography as long as there is a dollar to be made.

Let us pass the bill before us today, without the amendment, and expedite consideration of the Judiciary Committee bill, now nearing completion, which properly addresses the complex legal definitions of the crimes and provides for severe criminal penalties under the Federal Criminal Code.

The need is for this Congress to protect our children. The issue is whether the grossest sort of perversion can find any constitutional protection. It is our responsibility to set forth in clear, unmistakable terms, the legal definitions that will protect our children, and that will withstand constitutional attack. The Judiciary Committee, I am confident, is doing so now.

Despite my reservations, however, should the amendment remain in the legislation before us today, I will support it.

But I caution my colleagues: Do not think you have done all that needs to be done. Do not think you have put adequate laws on the books to correct this evil.

To those who believe the first amendment protects obscenity, I want to quote the late Prof. Alexander M. Bickel, an eminent constitutional authority:

> There comes a time, and I believe we have reached it, when society is threatened by unbridled obscenity. Societies polluted by moral stench are not likely to survive.
>
> Like all civilized societies we have long had many rules which attempt to set moral standards and regulate sexual conduct. Regulation of pornography is no different. It is more than coincidence that societies that have decayed and collapsed—the Roman Empire is a perfect example—have generally done so in an atmosphere of steeply declining moral standards.

In the 95th Congress we have an opportunity to protect our children from such abuse. They cannot protect themselves. They do not have the power; they do not have a citizens' lobby. They deserve our best efforts and the sooner the better.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak in favor of this bill. I would first like to commend the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS), for the time he has put in to this bill and for coming up with a bill that I think properly addresses the serious problem of child abuse, and for giving consideration to the difficult area of sexual abuse.

I also want to commend the gentleman from California (Mr. MILLER) for his work along with that of the gentleman from Michigan (Mr. KILDEE) in bringing forth a bill which does get into the very sensitive and critical area of sexual abuse.

Before I go on with that, Mr. Speaker, I would like to mention that this bill does mark I believe, a cornerstone in approaches toward handling these problems. We have moved, in this bill, away from purely direct grants and moneys for experimental programs and research programs. The emphasis now is to put money out where it can be better used in preventing this serious problem. With respect to sexual abuse, which the committee looked into, at length, the bill has taken the approach of moving into those areas of sexually abused children through pornographic use, and sexual abuse at home. I believe the bill is a good bill. And I commend the gentleman from Michigan who introduced the bill, now an amendment which sets up some reasonable answers. I believe this amendment can be upheld in the courts. Now let me return to the issue of child abuse.

Mr. Speaker, when we think of babies we think of cute, happy, cuddly little persons. We think of our children as extensions of ourselves as we watch them grow and develop. Most of us take pride in them and devote our lives to helping them learn and hopefully become strong, functioning members of our community. This is the way, I am sure that most of us view our children and reflects to a great extent the image we have of children in America.

There is another picture of children in America—a disgusting and horrifying one. There are children who are abused and neglected by parents and guardians. This committee over the years has seen or had described grotesque examples of what some parents do to their children. Believe me it is not pleasant.

You might ask, just what is child abuse and neglect? What are we talking about here today. Child abuse are children who have been beaten, bitten, dipped in scalding hot water, burned; children with broken arms, legs, and fractured skulls; infants who have been burned with cigarettes; those who are scarred as a result of having been placed on electric burners. There are babies who have not been fed who looked like skeletons with skin, and a child who is 6 weeks old and had not been washed and still has afterbirth on parts of its body. There are children who slept in urine and excrement and because they are never washed have the matter caked on their bodies. Some children live in such filthy conditions that they have maggots crawling over them. There was a child who had crawled between the mattress and springs of a bed apparently playing and was crushed to death by its mother who was high on drugs.

While there are no accurate statistics, it is estimated that there are hundreds of thousands of children who are abused and neglected each year. The legislation we are extending today has established programs designed to assist States enact laws and bring about enforcement of their own laws, and at the same time assist in research and prevention efforts. The legislation in its first few years has done some good and some of the changes that the chairman described that we made this year, I am confident, will go far in making the program better.

The committee entered into a new area this year, one which goes beyond abuse and neglect to the sexual exploitation of children. You would think that the examples I have listed above could not be matched in their ability to shock and disgust. They can be matched in the area of child pornography or "kid porn." Can you imagine a magazine featuring preteen girls showing off their genitals in the style popularized by the so-called adult magazines? There was also a farm for wayward teens where the director of the camp staged homosexual orgies with boys and mailed the pictures of activities to donors around the country. There was a social worker sent to jail for allowing his three foster sons to perform sex acts before a camera for $150 each. Another case involves a couple selling their 12-year-old son for sexual purposes to a man for $3,000. The list of known cases is almost endless. This perversity is just coming to light, how many cases are there that have not been found out? It is ridiculous that men and women would force children to do these things and make a profit from them.

When the gentleman from Michigan (Mr. KILDEE) introduced this bill I had several concerns about it. Certainly not because of the intent, I agreed with that, but because I thought it was unenforceable and created possible first amendment problems. Congressman KILDEE, Congresman MILLER, and I worked together to develop this amendment which is being offered today. I think that it will withstand any constitutional test. Most important, I believe that it can be the vehicle to stamp out this repulsive sexual exploitation of children.

Finally, as a result of the hearings held by the subcommittee, Congressman MILLER and I developed an amendment which will provide money for treatment and rehabilitation of children and their parents who have been involved in child abuse and neglect. When the subcommittee was in California, we heard potent testimony, and possibly the most dramatic came from a panel of workers, lawyers, policemen, a parent who had sexually abused his child and a child who had been sexually abused. This group deals with parents and children who have been involved in incestuous relationships and works with both parties as well as the rest of the family. They claim that sexual abuse in families is far more extensive than the number of children who are used in pornographic materials. The claim that "25 percent of the women in America have been sexually molested as children, and over one-half of them by family members or close family friends. Although the statistics are not complete, we have reason to believe that an equal number of men were also molested as children."

Tom Warren, who is the vice president of Parents United told the committee that he had an affair with his daughter 5 years ago. He said that because he and his wife worked different hours that they did not see much of each other and he had "the need to be wanted and loved." He said that he loved his daughter and "it just happened." He served 8 months in jail and then became involved with Parents United, where he explained in a very touching way that the center helped him understand himself and his family. He indicated that he never had any desire to seek a relationship with a prostitute or anyone other than his wife.

Debbie Rome was sexually abused by her stepfather between the ages of 9 and 15. She is 19 today and appeared to be thoroughly accepting of her experiences as well as the world around her. She now works with Daughters United, who help girls who have been in situations similar to hers. What was significant about Parents United was that of the 800 families who have been served by the program, not one of the females who had been sexually abused became a prostitute or became involved with drugs of any sort. Even more significant is that out of the 800 families served, only two were involved in any way with pornographic films. The Jeffords-Miller amendment will provide authority and hopefully dollars to establish at least five more centers throughout the country like this one. I think such centers are going a long way toward helping both parents and children to correct experiences that they would both prefer to forget.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI), a member of the committee.

Mr. BLANCHARD. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

I simply want to echo the earlier remarks made by my colleague, the gentleman from Michigan (Mr. KILDEE), and commend him for his work on this important matter relating to sexual abuse and commercial exploitation of children.

Mr. BIAGGI. Mr. Speaker, I would like to take this occasion to commend the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS), for his leadership.

Mr. Speaker, on May 26, 1969, my first year in Congress, I introduced H.R. 11615, the National Child Abuse Act. It was the first major piece of legislation offered on child abuse. In each of the succeeding Congresses I reintroduced versions of the measure. Finally, on January 31, 1974, we achieved fruition when the Child Abuse Prevention and Treatment Act was signed into law.

I am proud today to again rise as a cosponsor of H.R. 6693, a bill to extend the act for 5 years. This critically important measure will permit the legislative mandate of the act to be accomplished.

This Nation is still maligned by the scandal known as child abuse. It is currently estimated that almost 1 million children are abused and neglected each year. Of these, an estimated 2,000 die each year from the effects. Obviously these figures underscore the severity of the problem. They present us with a most compelling reason to extend the Child Abuse Prevention Act for an additional 5 years.

I am especially proud to have sponsored a key amendment to this legislation. My amendment broadens the definition of "child abuse" to include sexual exploitation. This amendment was prompted by the shocking proliferation of child pornography in this Nation. The Select Education Subcommittee, on which I am privileged to sit, has conducted extensive hearings on this national problem. At one hearing which I chaired in New York City, it was disclosed that children as young as 3 years of age have been victimized by pornographers. Overall, some 200,000 children nationally have been affected.

Passage of this bill with my amendment will represent the first substantive action taken by the full House on the child pornography issue. Appropriately, our initial attention will focus on the helpless victims. I am confident that later, we will crack down on the perpetrators of these crimes. I have sponsored a version of such legislation, H.R. 5522, to impose strict penalties on those persons procuring children for pornography or prostitution.

I cannot say with all honesty, that I am totally satisfied with the record of the Child Abuse Act. During hearings earlier this year, I criticized certain research projects which were funded by the National Center on Child Abuse and Neglect. The new Assistant Secretary for human development at DHEW advised the subcommittee that she would undertake a full review of the Center's questionable priorities and report back to us in the future.

I am very pleased that a greater concentration of funds under the act will go to direct treatment and other ongoing service programs. We are effectively lifting the somewhat restrictive provision which limited funds to demonstration programs. The problem of child abuse is real and frightening. Research should be limited to that which will result in improved services and outreach programs to identify victims.

H.R. 6693 makes one other substantive improvement. It increases from 20 to 30 percent, the level of funds allocated to the States for assisting child abuse prevention and treatment programs. As a result, no State will lose any funds under the act, all told, the revisions contained in H.R. 6693 will make the act considerably more responsive to the victims of child abuse and neglect.

I came to Congress after a 23-year career with the New York City police department. As an officer, I witnessed hundreds of appalling child abuse cases. When I entered Congress, I was committed to seeing to it that the problem would be addressed by the Federal Government. The leadership or our distinguished colleagues, Mr. BRADEMAS, as well as the former Senator from Minnesota, Vice President MONDALE, permitted this commitment to be realized.

We are now back to expand and improve upon the act. Our objective is to reduce the incidences of child abuse—reduce the number of victimized children. We have no higher calling than to protect our most valuable resource—our children. Support for this bill should be overwhelming.

I wish to pay tribute again to the chairman, Mr. BRADEMAS, as well as to the leaders in the medical profession who are so deeply involved in working for the eradication of child abuse. I can think of no one more committed or dedicated to this goal than Dr. Vincent Fontana, director of the New York Foundling Hospital. He was one of the leading forces behind the initial enactment of this law and continues to be deeply involved in assuring that the act achieve its mandate. I salute him and the hundreds of professionals and volunteers active in the fight against child abuse. It is a battle which must be won and passage of this legislation is an important step.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. CONYERS), the chairman of the Subcommittee on Crime of the House Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I rise in opposition to H.R. 6693, the Child Abuse Prevention and Treatment Act because of the committee amendment proposed to be added to it by Congressman KILDEE.

I personally have no quarrel with the aims and goals of the bill, which extends the authorization of the Child Abuse Prevention and Treatment Act. But since it has been brought up under a suspension of rules, I must oppose it in order to confront an amendment dealing with the sexual exploitation of children, which will be automatically passed if the bill passes.

Just last week, on September 20, 1977, the Subcommittee on Crime, which I chair, of the Committee on the Judiciary, completed hearings on a number of bills that would amend title 18 of the United States Code, the Criminal Code, to provide punishments for the use of children in the production of photographs, films, and other materials depicting explicit sexual conduct. The subcommittee has marked up these bills today, September 26, and the Judiciary Committee action is expected on September 29.

One of the bills we have considered, H.R. 3913, by Mr. KILDEE, is identical to H.R. 4571, also by Mr. KILDEE, which has been considered by the Select Education Subcommittee of the Education and Labor Committee, except rather than amending the Criminal Code, that bill would amend the Child Abuse Prevention and Treatment Act by adding criminal sanctions identical to those provided in H.R. 3913.

A modified version of H.R. 4571 is what we have before us on the floor today. It would be attached to the Child Abuse Prevention and Treatment Act, and I fear would make that bill unconstitutional.

My concerns are twofold. Mr. KILDEE's amendment to H.R. 6693, like H.R. 3913 which my subcommittee has been considering, is, in its entirety, a proposed criminal statute. In the interest of integrity and consistence of our system of codification of our laws, it properly belongs in title 18, the Criminal Code, rather than in the Child Abuse Prevention and Treatment Act. Furthermore, it is my view that such an amendment of our criminal laws should not be approved by the House until the Judiciary Committee has had an opportunity to complete its consideration of the matter. This is particulary true when, as now, Judiciary Committee action is imminent. I have discussed this matter with Chairman RODINO, and he shares my view in this regard.

This concern has been echoed in the Senate where the proposed bills were jointly referred to the Senate Judiciary Committee and the Senate Human Resources Committee. The Human Resources Committee, recognizing that the bill provided criminal penalties for the activity sought to be regulated, adopted a resolution urging the Judiciary Committee to hold hearings on the matter. In the Senate, the Judiciary Committee has reported a bill and has been solely responsible for this matter with the encouragement and approval of the other committee involved.

Second, our consideraiton of H.R. 3913, which, as noted above, is virtually identical to the amendment that Mr. KILDEE has offered to H.R. 6693, raised critical questions concerning the constitutionality of some of the major provisions of the proposal. The legal experts who raised these questions, which included witnesses from the Department of Justice, had serious reservations about the constitutionality of provisions which authorize the prosecution of distributors and sellers of printed materials depicting actual or simulated sexual conduct involving children without a requirement that the materials be proven to be obscene. I might add that it was precisely because of these constitutional questions that the Senate Judiciary Committee decided to delete such provisions from the bill they reported on this subject recently, S. 1585.

Final action on this matter by the Subcommittee on Crime and the Committee on the Judiciary, the appropriate bodies to report to the House on the matter, will be complete in a few days. I urge you to oppose the Kildee amendment to H.R. 6693, so that we may complete our work on this important matter; and, if the House and the Senate approve their respective Judiciary Committee bills, represent the House in conference with the Senate.

I must reaffirm my belief that no one is for child pornography. I and other members of the Subcommittee on Crime are horrified by the instances of adults physically and sexually abusing children. We have heard of parents who sell their children to pederasts for prostitution purposes. We have been shown lewd photographs of children and adults engaging in sexual activity. The subcommittee staff has received hundreds of letters from the public expressing disgust at the revelations in the press accounts, television reports, and witnesses' statements before the House and Senate subcommittees investigating the matter. Surely, in this country, a survey of the "community standard" for freedom of expression would not allow for child pornography.

We on the Judiciary Committee will report a bill in a few days which we hope will rid the country of this activity, and will overcome all of the constitutional problems we see in Mr. KILDEE's attempt.

Mr. Speaker, on behalf of a number of members of the Committee on the Judiciary, and especially of the Subcommittee on Crime which I chair I rise in opposition to the act.

We have held a number of hearings—some of them joined with the subcommittee now presenting the Kildee amendment—it is with a great deal of reluctance that I must point out to the Members that we in this body cannot by statute amend the Constitution of the United States. In attempting to do so, we are going to have the curious and ironic effect of setting free those pornographers and abusers of children. There is no question that this House to a man and a woman are in great anger and high emotion about this issue. Let me be very specific about the constitutional question that is involved here that makes it something of a travesty to bring up under suspension of the rules an amendment that involves such a grave question.

The Department of Justice in the person of Deputy Assistant Attorney General of the Criminal Division, John Keeney, testified before both subcommittees that this amendment was defective, and it has not yet been corrected, for the simple reason that when we talk about punishing those who are engaged in the transportation, shipping, receiving or showing of pornographic materials that involve youngsters; namely, section 9(a) of this amendment, we are running contrary to the first amendment of the U.S. Constitution that says the Congress shall make no law abridging freedom of speech or of the press, and contrary to several cases decided by the U.S. Supreme Court which elaborate that cherished provision of our Constitution. There is another way to do it.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I believe that what the gentleman from Michigan has just recited is something we should consider rather seriously before we support this bill without due deliberation. I was one of the early supporters of legislation that would prevent sexual exploitation. We ran into serious problems however as the Subcommittee on Crime, which is part of the Committee on the Judiciary, considered this matter over a period of time.

The question of considering this matter without considering what the constitutional problems are, is I believe not in keeping with the wisdom of this body.

The Committee on the Judiciary and the Subcommittee on Crime is dealing with this particular section, the subcommittee met today and reported out a bill which will be considered by the full Judiciary Committee this Thursday.

I agree with the stated purposes and the many provisions of the Child Abuse Prevention and Treatment Amendment of 1977, at the same time I am troubled by the constitutional questions raised by this particular committee amendment.

Mr. JEFFORDS. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, first I want to commend the gentleman from Indiana (Mr. BRADEMAS) for offering the bill under a suspension of the rules and including the amendment that was addressed by the gentleman from Michigan (Mr. KILDEE) and commend the gentleman from Michigan (Mr. KILDEE) for his persuasive work on this legislation.

I realize that in the Judiciary Committee we may have some constitutional questions. I believe that our committee addressed them and came up with an amendment which is within the Constitution.

I must point out that our committee had many days of hearings and spent a long time considering this matter. We looked at child abuse and beating of children, but when it came to sexual abuse and the filming of these sexual abuses, it was impossible for me to believe that human beings could or would do such things.

Let me put this subject in perspective.

A year ago who had ever heard of child pornography or even imagined that children were being abused in this manner? Child abuse meant that someone was beating up a child—the matter of sexual abuse, if it was ever mentioned, brought to mind the molesting of little girls in the park. But it was rarely mentioned and almost never discussed. Pornography was the lurid publications or pictures that someone else had in the back of drawers or under mattresses or the stag movies that were shown at smokers. The subjects of these publications, pictures, or movies were never thought of as people but as objects who had fallen below degradation. The fact that they were adults was never questioned, and certainly it never occurred to anyone that children may be involved.

All of a sudden there it was. In newspapers, in Time magazine, on television, and, inevitably, on the House floor. The revelations were shocking and disgusting. Children, ages 3 to 16, being used, sold, traded, photographed for sexual purposes. It just could not be true. But it was, and is.

If there is anyone here today who has not read the testimony the Education and Labor Committee received or the many articles on this subject, let me tell you what child pornography is. It is the use of a 10-year-old girl and her 8-year-old brother in a film engaged in intercourse. It is a film showing a bike gang raping six little girls at their First Communion. It is an 11-year-old boy whose father began sexually abusing him at 6 years old, then sold him as a sex slave, and put him in films, pictures, magazines, and swap clubs. At age 11 he had 5 years of experiences that, if you stop and think about them, just boggle the mind. Child pornography is case after case of children being picked up in the streets, drafted out of day camps, boys ages 11 to 15 from a Boy Scout troop being used for sex and photographs and films; and maybe they are from the family next door to you.

What is child pornography or "kiddie porn"? It is books that advise child molesters how to pick up children from playgrounds and what to do with them sexually. It is books and films which describe for parents how to have incest with their children, or books that describe the joys of sexual gratification that come from beating children. These all, of course, are complete with explicit pictures.

The amendment before us today to provide criminal penalties for those involved in the sexual exploitation of children is the result of many hours, days and months of hard work intended to do one thing—stop this perversity. It is specific as to what it prohibits and it is specific as to the penalties to be imposed on anyone connected with the sexual exploitation of children.

How big the problem is may never be known. It has been estimated that there are 30,000 children involved in Los Angeles alone. I do not know if there are 30,000 or 3,000 who are being sexually exploited, I do know that if it were only 3, it would be 3 too many.

Through this legislation I hope that those involved in this national disgrace will be caught and prosecuted. I hope that it will scare those involved on the edges of the industry enough for them to get out of this business. Most of all, I hope that it will protect all children in the future, and I ask you, in the name of those children, to support this legislation.

I believe it is necessary for us to pass this legislation and to adopt it to this bill now. I hope the Members will support the motion offered by the gentleman from Indiana so that we can at least begin to get at one of the most perverse problems that has ever come to my attention as a legislator.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my friend for yielding.

I certainly agree with everything my good friend and leader of our committee has indicated. There are several problems here.

I think those who addressed this subject as members of the Committee on the Judiciary are not making the point they make because they have any less interest in curbing this traffic, in curbing this terrible travesty, than any other Member of this body. It is just that we do honestly recognize some of the constitutional problems which cannot be swept away. If I were to reduce the problem to a somewhat simplistic portrayal, it would be basically this. Everyone agrees we can

pass laws to prohibit the horrendous sexual acts which involve children and the abuse of children. However, if you do not catch them in the act and this action is reduced to a picture, if it is in a magazine, if it is in a film, at that point it becomes an entirely different constitutional problem. I do not like this. I wish it were not that way, but that basically is the problem as the Supreme Court has looked at it. Once it becomes something that is on film, at that point the ability of the legislator to circumscribe that activity, like it or not, and I do not like it, has been severely handicapped by court decision. When on a film and distributed in interstate commerce, the court looks at these sexual activities in a different light.

I am a member of both committees, the Committee on Education and Labor and the Committee on the Judiciary. I am in total sympathy with what the gentleman from Michigan is trying to do. I have a similar bill equally as tough as the gentleman's bill; however, I can say very categorically after having testimony, after having hearings, this is not an area where we can have a simple answer. I would honestly say to each Member that it is an area we cannot legislate by unanimous consent or suspension of the rules. This is an area where we must have more legislative attention. This is an area where, indeed, the main thrust of the Kildee and Ashbrook approach which probably will run into trouble is the area that deals with transportation in interstate commerce, the sale of pictures, the sale of newspapers, because that is tied, like it or not, to free speech.

Again, I think most of us speaking against this particular way of legislating are not saying this because we have any less ardor in stemming this traffic, any less enthusiasm for striking a blow at this child pornography. It is simply because, like it or not, those constitutional problems are there. I do not think these constitutional problems will go away simply because of suspending the rules, as we are today.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I am happy to yield to the distinguished gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to commend the gentleman from Ohio, whom I happen to know, having looked at the legislation just this morning, would go very far and in quite the same direction, but who appreciates the constitutional question involved.

I would like to remind my colleagues that the criminal penalties in this legislation, in the Child Abuse and Treatment Act, will amend title XIII (42) of the United States Code instead of title XVIII of the Criminal Code of the United States. This is what the Department of Justice argued before both subcommittees would be inappropriate. Title 18 should be amended to facilitate prosecution rather than title 42.

What I fear is that we are going to be doing exactly what is the reverse of the intention of every man and woman in this Chamber. We are going to be furnishing an obvious out to any lawyer who has read the string of decisions on obscenity and child pornography. He will be able to allude specifically to the legislative history knowing we have stated time and again that obscenity cannot be defined by statute and unless that test is made in that or other court cases, we are not able to get around it.

This morning our Subcommittee on Crime has reported out legislation that the full committee chairman of the Committee on the Judiciary has agreed that he will bring before the full committee on Thursday. I suggest our bill adequately disposes of the constitutional questions which have arisen.

In the United States Senate the gentleman from Iowa (Mr. CULVER) has already produced a Judiciary Committee bill that would meet ours. So, because the bill is under suspension of the rules we cannot amend this as an amendment. Instead we urge that the thoughtful Members of this body join us in unfortunately rejecting the Kildee amendment and therefore the bill.

Mr. ASHBROOK. I thank my colleague for his contribution.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I would like to voice my support for Mr. CONYER'S opposition to the present structure of H.R. 6693, specifically that portion which relates to the Kildee amendment and the sexual exploitation of children. My opposition results in part by the questionable constitutionality of portions of the bill, as well as my belief that it is inappropriate for consideration by the full House at this time. We should await action by the Judiciary Committee.

To begin with, proposed section 9 of this bill would, as I understand it, add a new section to title 42, providing that any person who "receives for the purpose of selling or knowingly sells" films or photographs of children under the age of 16 engaged in certain specified sexual acts will be punished by fines up to $25,000 and terms of imprisonment up to 15 years, or both. While I do not fault the intent behind this language, I am deeply concerned about the first amendment problems which abound from it.

The Judiciary Subcommittee on Crime, of which I am a member, has met on several occasions in an attempt to study this very matter, our most recent hearing having occurred last Tuesday. We have heard from witness after witness who have indicated serious concern for the constitutionality of this portion of the legislation.

Mr. Speaker, the law is clear with the Supreme Court's pronouncement that "obscenity" is not protected by the first amendment. But the leading case on the subject, Miller against California, requires that that material must be evaluated as a whole in determining whether it is obscene. This bill would outlaw the distribution of a film containing one brief scene depicting actual or simulated prohibited conduct. It would, for example, probably apply to the "The Exorcist" and the more recently released "Taxi Driver," among others.

In short, it might apply to films we may not generally consider as obscene. If the conduct we are talking about is therefore not obscene within the Miller definition, we are infringing on the first amendments freedom of expression, in this case photographic of cinematographic expression. Along this line, the Supreme Court, as recently as 1975, has reiterated that a criminal statute which reaches protected speech as well as obscenity is unconstitutionally overbroad. (See *Erznoznik* v. *City of Jacksonville*, 422 U.S. 205).

Whether we like what is produced or not isn't the question; if it is not obscene or does not create a "clear and present danger" in connection with its publication, we cannot prohibit its distributon.

The constitutional problems I have discussed should rightfully be considered and resolved in the Judiciary Committee, not here today. As I noted, we have been conducting hearings in an attempt to take a responsible look at a serious problem. This morning we began markup of a child pornography bill which we believe can be accepted by the Senate, whose Judiciary Committee, incidentally, reported legislation without a distribution penalty a week or so ago. We expect that the full Judiciary Committee will pass on the bill within the week and we will have the opportunity once more to vote on a bill which is more properly located in title 18, where criminal laws are supposed to reside.

Mr. JEFFORDS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would like to speak to the issue of constitutionality, because it bothered me very, very seriously, when the original bill was introduced. I discussed this with the members of the Committee on the Judiciary and I expressed to them my concern. I discussed it with the committee, and I went to the legislative resources we have with us in order to look into this problem. The questions which have been raised have been answered. The problems have been removed from this bill. It no longer raises any serious constitutional questions, although I can maybe imagine one in the section on transportation, on the definition of "knowingly" which I will discuss later. Here, first, we are not talking about obscenity. This is important. We are talking about abuse of children. We are talking about problems of taking advantage of children and taking their pictures and showing them around the country. It is not just lurid pictures of adults. It is child abuse.

That raises different questions, standards which have not been tested regard ing constitutional questions, standards which give us an opportunity in this area to make the law more specific and to take care of problems which might not be possible under the more general law with respect to pornography. This bill is another standard for controlling abusive child labor, a sound constitutional base.

Even if pornographic-type questions are raised, the usual problems have been cured as this law is more specific. It takes care of the problems which have been discussed here. The words are precisely defined. Much of the language came from the Senate bill. We borrowed

that language because we thought it was good and realistic and legally sound. For instance, the exorcist problem is no longer in this bill. It was before. The author of this amendment readily agreed some of these problems ought to be removed because we want an enforcible statute. We have one now.

It is true that regarding the problem of transportation the definition ought to be clear. We are talking about people knowing that it is the kind of stuff we are talking about, not knowing they are just transportating a piece of material. It is intended that they have knowledge of the type of material being transported, that it contains the type of material proscribed by this bill.

The legislative history should be clear on that so as to remove any chance it will lead into constitutional problems.

Mr. Speaker, I advised my own State legislature, as the attorney general of the State, on this type of problems. It is a legal area I have been close to for years. I am aware that when we get into this area it presents tough problems because we are running up against possible first amendment problems. Any time we infringe on those rights we are getting into trouble, and rightfully so. But I want to emphasize again, that this is not the usual pornographic problem.

We are talking here primarily about abuse of children. We are talking about abusing those children and profiting by it, child exploitations of the worst form. Something, like the limited Senate bill, which does not prevent these things from being shown for profit would not be a good bill. This is the only way we are going to stop it. The most effective way to stop this horrible abuse is to destroy the market. This is what this committee did in the child labor laws, regarding physical abuse of children. This is what we seek to do here, to prevent this abusive exploitation of children too young to fully understand the actions they are forced or asked to do.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, I would like to thank the gentleman for clarifying as much as he possibly can the constitutional question. This bill is specifically directed to anyone who is the cause of or participates in, dealer or processor of such materials which depict the sexual abuse of a child and which thereby contributes to the destruction of that child's life. It is quite narrowly drawn to that point. It does not go to first amendment questions at all. The transportation issues were covered very carefully through the joint hearings of both the Judiciary Subcommittee and the Education and Labor Subcommittee.

Mr. Speaker, I would like to compliment the chairman, the gentleman from Indiana (Mr. BRADEMAS) for his detailed hearings he went through, and the great contribution the gentleman from Vermont is making to this debate.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding.

Just for the purpose of legislative history, we ought to understand that if the gentleman is asserting to me that the obscenity test that is required by the United States Supreme Court decisions in Miller against California, and others, which precludes transportation and shipping and receiving of printed matter as found in this bill, without first defining obscenity, I must disagree. I would like to point out to the gentleman section 9(a)(1) specifically fails to meet the most obvious and elementary constitutional requirement. Any law student looking at these series of cases for the first time will tell us what the Department of Justice and attorneys who testified before both of our committees have said.

We want to find these pornographers guilty, but if we give them a law which will be overturned on its first test, that is going to result in exactly the opposite kind of an occurrence.

The SPEAKER pro tempore. All time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

The gentleman from Indiana (Mr. BRADEMAS) has 3 minutes remaining.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to join my colleagues on the Committee on the Judiciary who have made the point over and over again that we feel as strongly as anybody else about the issue of child abuse and about the need for the Federal Government to do what it can to stop it.

However, just addressing ourselves to child abuse in a statute and saying it is horrible does not mean that it will be an effective statute or provide an effective way to fight child pornography.

This statute, in my judgment, is probably unconstitutional, and if it is unconstitutional; instead of stopping child pornography, it is going to provide sanctuary to those people who engage in it.

I regret that this bill has come up under suspension of the rules. The parliamentary procedure means we cannot amend the bill to make it work. I think the issues posed here are serious, and we should be concerned about whether we are just writing words on the wind or doing something effective. I do not think we are doing anything effective if we adopt legislation that is unconstitutional.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I would like to associate myself with the remarks of my colleague who spoke before me and clarified the point that this is not a first amendment issue.

I do not believe that Alexander Hamilton and Tom Jefferson went to all the trouble of writing a Constitution so that 9-year-olds could be used as models in sexually exploitive films. If we take a look at the way this legislation has been approached, I feel that, just as we protect 9-year-olds from working in sweat shops, this legislation will help them and prevent them from working in "smut" shops. We are not tampering with the Constitution. We are prohibiting parents from photographically pimping for their children.

I urge adoption of the legislation.

Mr. BRADEMAS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me say, first of all, that I am well aware of the point that was made with respect to section 9(a)(1), and I could only observe, as the gentleman from Vermont (Mr. JEFFORDS) has suggested to me, that if that part should be found unconstitutional, the rest of the statute would stand. Let me state, however, Mr. Speaker that our subcommittee took some pains to assure ourselves we were writing a bill that is constitutional.

Second, I want to assure my colleagues on the Committee on the Judiciary that we stand willing to work with them in as cooperative a manner as possible. We want to write a statute that will stand the test of constitutionality while at the same time addressing itself to the narrower issue which is the focus of the amendment offered by the gentleman from Michigan (Mr. KILDEE) involving the exploitation for pornographic purposes of young children.

Therefore, Mr. Speaker, I hope very much that the Members of this body on both sides of the aisle will give their support to the bill being considered under suspension which includes the amendment that has been the subject of so much of the debate this afternoon.

Mr. MURPHY of New York. Mr. Speaker, I shall be brief in my remarks about this important legislation. Mr. KILDEE has thoroughly and expertly explained all of the provisions of the amendments which we have proposed with the support of 126 sponsors on our bill, and another 20 sponsors of various similar versions. I believe the point has already been made that the legislation before us now is necessary, is a reasonable approach, and most important, will be effective in curbing what is certainly one of the most abhorrent abuses of children imaginable.

I would like to expand on one point, however, which has apparently been a cause for concern among some of our colleagues. In essence, it has been a concern that we do not rush into a situation where legislation is unnecessary, or where the cure might be worse than the disease. In the bill before us, nothing could possibly be further from reality.

While the proposals have enjoyed expeditious travel through the legislative process, they are far from hastily conceived. These amendments have been subjected to hearings before two different subcommittees, including unprecedented joint hearings between both the Crime and Select Education Subcommittees, as well as field hearings outside Washington, in Los Angeles, and New York, where we heard from community leaders and from various medical and professional experts on both the causes and effects of such abuse of children, as well as on suggested approaches to State and Federal legislation designed to stop the abuses.

We have heard from police department specialists, psychologists, welfare

workers, newspaper investigative reporters, attorneys, legislators, district attorneys, and even from pornographers themselves. Virtually every conceptual approach to the problem has been studied in considerable detail, and carefully molded into the amendments before us today.

Our hearings determined two things: First, that existing legislation simply did not cover the problem, except in a few rather nebulous interpretations; and second, the approach we have created here is a rational, reasonable, and workable attack on a serious problem.

The original version admittedly had a few technical and language problems which we had not foreseen early in the drafting process. But that is the strength of the legislative process: We heard experts in virtually every relevant field discuss the pros and cons of this bill; we had a multitude of suggestions, some good, some bad, which helped to strengthen our bill. We carefully dissected the bill, word by word, and restructured some of the language in at least a dozen instances, so that there could be no doubt whatsoever that the Congress is serious about the cessation of the sexual abuse of children.

Not only did we carefully determine who would be affected by this legislation, we also made quite certain to protect those who should not be subject to its provisions. The bill quite clearly focuses on the pornographers, and protects, for example, the truck driver who has no knowledge or control over the magazines which he delivers. But we have very definitely directed the legislation at anyone who is a cause of, or a participant in, dealer or processor of, such materials which depict, according to the definitions in the bill, the sexual abuse of a child, and which thereby contribute to the destruction of that child's life.

I cannot overemphasize how carefully this legislation has been considered; how extensively the proponents and opponents of its various provisions have been heard and closely examined; how the details of its language and nuances have been scrutinized to leave no room for error—and most important, how vital its passage is to not just curb an industry which feeds on the blood of children, but to protect those children from a lifetime of degradation and mental agony brought about through their abuse, both sexual, physical, and mental, in pornographic materials.

Mr. DERWINSKI. Mr. Speaker, as a cosponsor of this bill, which prohibits the sexual exploitation of children, I am pleased that it is being considered by the House today.

The legislation, which provides for the continued funding of existing programs under the Child Abuse Prevention and Treatment Act, has 126 cosponsors, and deserves support to protect the children of America.

Child pornography is hardly new, and the use of young children is startingly common. For example, in my own State of Illinois, State's Attorney Bernard Carey says porno pictures of children as young as 5 and 6 are now generally available throughout the Chicago area, and according to a State's attorney investigator they are spreading to the suburbs. Illinois, as well as many other states battling against child pornography view their efforts as a last stand against the tide of pornography. To most of them it is a reflection of the social and spiritual morality of this nation. They believe that if there is to be any reversal in the trend, the place to start is child pornography.

The language of this bill has been strengthened as a result of many days of hearings and input from a large number of expert witnesses. It would make any proven involvement with the production and sale of explicit sex pictures of children a felony. It is clearly enough directed toward child abuse so that the first amendment should not arise—it defines child pornography as a form of abuse, rather than a form of obscenity.

I strongly urge Members to vote in support of this important legislation to protect the children of America.

Mr. PERKINS. Mr. Speaker, I rise in support of H.R. 6693, a bill to extend for 5 years the Child Abuse Prevention and Treatment Act.

Initially, I want to compliment the distinguished chairman of the Subcommittee on Select Education—our colleague, JOHN BRADEMAS. The child abuse prevention and treatment program was enacted in 1974, largely through the untiring efforts of JOHN BRADEMAS.

His continuing and thoughtful attention to the program since that time has produced this important legislation to improve and extend the act.

I want to compliment also the ranking minority member of the committee, Mr. QUIE, and members of the committee on both sides of the aisle, for their work on this bill.

I would be remiss if I did not pay particular tribute to our able coleague from Michigan, DALE KILDEE, for his yeoman work in connection with the amendment to prohibit the sexual exploitation of children. Congressman KILDEE's persistent and determined efforts to end this shocking and unconscionable activity merits not only the commendation of this House but the gratitude of parents throughout the country as well.

Mr. Speaker, the Child Abuse Prevention and Treatment Act expires in just a matter of days. H.R. 6693 proposes a 5-year extension of the act. A modest authorization of $25,000,000 is proposed for fiscal year 1978, with modest increases added for the subsequent 4-year period. Presently an appropriation level of $18,928,000 is being provided for these programs.

Other significant amendments in the bill provide for—

First, dissemination of materials dealing with child abuse;

Second, the setting of priorities in research on this subject;

Third, funding of ongoing child abuse prevention and treatment service programs; and

Fourth, an increase in the reservation of moneys for state-assisted programs of child abuse prevention and treatment.

Finally, as I have mentioned, Mr. Speaker, the Kildee amendment will prohibit any sexual exploitation of children and the transportation and dissemination of photographs or films depicting such exploitation. I believe this amendment will be an effective instrument in drastically curtailing—if not totally eliminating—activities such as this, which we all abhor.

Mr. Speaker, I know of no opposition to H.R. 6693, and I urge its overwhelming approval.

Mr. YOUNG of Missouri. Mr. Speaker, I strongly support the provisions of the child abuse prevention bill that deal with child pornography.

It is clear that the American public is outraged by the widespread abuse of children in pornographic materials. We have read about this problem in newspapers, we have seen television reports, we have listened to testimony at congressional hearings—and now it is time for the Congress to act to stop this abuse.

It is fitting that these measures to fight child exploitation are connected with other child abuse amendments. For I do not think there is any doubt that this sexual exploitation is child abuse.

We are talking about the abuse of small children, many of them so young that they have little or no sexual awareness. These children are recruited by adults—sometimes even their parents—and exploited for money.

The fact that there is a demand for such material is a distressing example of moral decay in American society. But the horrifying factor is the effects that the pornography has on the children who are forced to engage in these activities.

Strong measures are needed to stop this—and they are needed soon.

The provisions of this bill that deal with child exploitation would provide these strong penalties—child pornographers, photographers, and other responsible parties would be subject to maximum penalties of 20 years' imprisonment or a $50,000 fine if these provisions become law.

Persons who transport, receive, or sell such materials would be subject to 2 years imprisonment, a $25,000 fine, or both.

I believe those would be just penalties for persons whose motivation for abusing children is greed and profit.

I strongly support these amendments, as well as the other provisions of this legislation that expand the Child Abuse Prevention and Treatment Act. And I urge you to vote for these amendments.

Ms. OAKAR. Mr. Speaker, I want to state my wholeheated support for this bill and to ask my colleagues to lend their support to it.

We are being flooded with all kinds of matter which degrades and exploits the human mind and body. What is even more shocking is the spread of sexual exploitation to our children. Our colleague JOHN MURPHY held hearings earlier this year which revealed the extent of this exploitation. It was and still is shocking to consider that children, and I emphasize the word children, are being used in the making of pornographic materials.

Those who are engaged in such deplorable practices must be stopped, and H.R. 6693 gives us the opportunity to stop them. H.R. 6693 would make sexual abuse of children a felony punishable by 20 years imprisonment or a $50,000 fine or

both, if this abuse is photographed, printed, and shipped through interstate or foreign commerce for sale or resale.

We have a responsibility to protect those who are being exploited, even more so when the victims are innocent children. I cannot think of a more heinous crime than that which involves sexual abuse of our children. Let us vote for H.R. 6693. It is a major step toward fulfilling this responsibility.

Mr. ZEFERETTI. Mr. Speaker, most of us are now aware of the horror stories involving the sickening sexual exploitation of children by adult pornographers. On city streets across the Nation one can buy films and magazines that demean and use children, aged 3 to 16, who have been coerced into performing sexual acts for photographers.

Recent investigations have uncovered a highly sophisticated and organized pornography industry operating Nationwide. It has become a multimillion-dollar enterprise, involving thousands of children. In addition, profits from pornography are one of the main sources of funds used to back drugs, prostitution and other forms of organized crime in America.

Certainly the children are not to blame. Many of these victims are runaways who have escaped parental abuse and broken homes. These helpless children then trade themselves for food, shelter, or money. Some are coerced into pornography through drugs. We have also learned that some parents hidiously rent their children to photographers for pornographic purposes. The result is that many of them become the victims of sexual abuse and eventually turn to crime as their only alternative means of surviving the street life they are forced to live.

Clearly the time has come to put an end to this obscene practice. Current Federal law does not deal with this type of child pornography, and only a handful of States have such statutes. For this reason I have joined in cosponsoring H.R. 4631, which is being offered as an amendment to the Child Abuse Prevention and Treatment Act. This amendment would make it unlawful to photograph or film a child under age 16 in any of a number of prohibited sexual acts or their simulation if there is reason to believe the pictures are to be moved in interstate or foreign commerce. Violators may be fined up to $50,000 and/or serve a prison sentence for as much as 20 years. This same penalty also applies to vendors who knowingly sell such materials to the public.

I strongly support this amendment and I can think of no legitimate reason why anyone would be opposed to putting an end to this disgusting business. It is time to put some teeth into Criminal Code and put the smut peddlers out of business.

Mr. KOCH. Mr. Speaker, I regret that I was unable to be present for the vote today on H.R. 6693, which amends and extends the provisions of the Child Abuse, Prevention and Treatment Act. Had I been present I would have voted for this important legislation, both because of the improvements recommended in the bill as originally reported by the Education and Labor Committee and because of the amendment accepted by Chairman JOHN BRADEMAS which will explicitly outlaw the use of children under 16 years of age in any pornographic film, videotape, or photograph. This latter amendment was proposed by Congressmen JOHN M. MURPHY of New York and DALE E. KILDEE of Michigan. It will provide a fine of up to $50,000, but not less than $5,000 and a jail sentence of up to 20 years to any person found guilty of causing or permitting a child under 16 years to participate in explicit pornographic scenes for movies, photographs, or videotapes that are shipped in interstate commerce, affect interstate commerce, or are transported by mail.

I was one of those who introduced legislation earlier this year to prohibit the use of children in sexually explicit, pornographic scenes. I introduced H.R. 7468, which would make it a crime for any adult to produce, distribute, or sell material employing children in such sexually explicit scenes. Congressmen MURPHY of New York and KILDEE also introduced legislation to outlaw the use of children in pornographic scenes and they obtained over 100 cosponsors for their legislation.

I am pleased that Congressman KILDEE and Congressman MURPHY have pursued this legislation with such commendable vigor, and that the distinguished chairman of the Select Education Subcommittee, JOHN BRADEMAS, has accepted their proposal. As one of those who favored such legislation and introduced a proposal to deal with the shocking problem of children sexually abused for commercial purposes, I am particularly pleased that the House of Representatives has voted to approve these amendments to the Child Abuse, Prevention, and Treatment Act.

For those who think that this legislation is not needed, I would suggest taking a tour of one of the "adult entertainment" areas found in many cities. I made such a tour in my own city of New York last winter, and I was dismayed to discover that many of these "adult" emporiums were showing movies of children engaged in explicit sexual acts. I believe that consenting adults have the right to participate in the filming of explicit scenes, where only adults are involved, but I do not think that the government must stand back, when children are placed in explicit sexual scenes. For this reason, I am pleased that these amendments have been adopted and I look forward to their acceptance by the other body and their adoption as low.

Mr. GRASSLEY. Mr. Speaker, the bill H.R. 6693 (Child Abuse Prevention and Treatment Amendments of 1977) warrants rapid passage by the Congress of the United States. Of special concern to me are those sections of the legislation which attempt to end the sexual abuse and exploitation of children.

This entire matter has received considerable attention since the first of the year when the dimensions of the child pornography industry were first made public. On March 8, 1977, I cosponsored a bill, H.R. 4630, which contains language similar to that now before the House of Representatives. More than 100 Members have become actively involved in this effort. Legislation has been introduced. We have contacted our colleagues who sit on the committees which have jurisdiction over the subject matter of this legislative initiative. We have also written President Carter seeking to enlist the administration's support in our drive to eliminate this type of pornography.

Now we have a chance to vote in favor of legislation which, within the guideline of the Constitution's commerce clause, provides a possible penalty of 20 years imprisonment together with a $50,000 fine for persons convicted of actively participating in or photographing the sexual abuse of a child under 16 years of age. Those that distribute, sell or otherwise purvey the illegal materials—these merchants of smut—can also be prosecuted. Here the maximum penalties would be a $25,000 fine and 15 years incarceration.

Some argue that we in the Congress should wait and not take any sort of precipitous action. Without in any way questioning their motives, I can only respond that we, and the American people, have waited long enough. We should move ahead right now and pass a law that will enable law enforcement agencies and officials to put the creeps and perverts behind bars where they belong.

You will have to excuse me if I appear to be more concerned with protecting the children of our country than the alleged first amendment rights of those that prey upon the young. But that is the way I feel. This is good legislation which can make things better—not worse—and I am proud to support it.

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to express my support for H.R. 6693, the child abuse prevention and treatment amendments, which the House passed or September 26 under suspension of the rules.

I support this bill because it extends and strengthens the Federal role in protecting our children from various forms of neglect, abuse and brutality.

Since the enactment of the Child Abuse Prevention and Treatment Act nearly 4 years ago, Federal funds have made possible programs for research on child abuse problems as well as service programs of prevention and treatment. More significantly, the passage of this act has resulted in an increased public concern for this tragic circumstance.

This bill extends the authorization of the Child Abuse Prevention and Treatment Act for 5 years, through fiscal year 1982 at a level of $25 million for fiscal year 1978, $27.5 million for fiscal year 1979 and $30 million each for fiscal year 1980 and fiscal year 1982. The necessity for this funding should be clear to anyone with an interest in the basic causes and treatment of child abuse and neglect.

A notable feature of this bill is that it expands the definition of child abuse to include sexual exploitation, the shocking use of children—some as young as 3 years old—in pornographic films and magazines, and contains an amendment to punish such activity. This amendment

which I cosponsored when it was first introduced by Congressmen KILDEE and MURPHY as H.R. 4572 calls for up to 20 years' imprisonment and/or a $50,000 fine for the production of pornography involving children and a sentence of up to 15 years and/or a $25,000 fine for shipping or selling such materials.

I am pleased to see that the majority of my colleagues join me in support of this much needed legislation.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. All time has expired.

PARLIAMENTARY INQUIRY

Mr. RAILSBACK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. RAILSBACK. Mr. Speaker, may I just inquire as to how the Kildee amendment was accepted? I am just curious about the procedure. By what procedure was the Kildee amendment, which I understand was not part of the bill, accepted in the bill that was reported out?

The SPEAKER pro tempore. The motion that was offered was to suspend the rules and pass the bill, as amended.

Mr. RAILSBACK. Mr. Speaker, I understand that, but by what procedure was the amendment adopted?

The SPEAKER pro tempore. The amendment is part of the motion, and the amendment is at the desk as a part thereof.

Mr. RAILSBACK. Therefore, Mr. Speaker, this will be tantamount to the approval of the amendment; there has been no previous action on the Kildee amendment, is that right?

The SPEAKER pro tempore. The Chair will state that the gentleman is correct.

Mr. RAILSBACK. I thank the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 6693, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

ESTABLISHMENT OF A CENTER FOR THE BOOK IN THE LIBRARY OF CONGRESS

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6214) to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

The Clerk read as follows:

H.R. 6214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. The Congress hereby finds and declares—

(1) that the Congress of the United States on April 24, 1800, established for itself a library of the Congress;

(2) that in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) that the Congress of the United States in recognition of the importance of printing and its impact on America purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) that the Congress of the United States has through statute and appropriations made this library accessible to any member of the public;

(5) that this collection of books and other library materials has now become one of the greatest libraries in civilization;

(6) that the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two hundred-year history;

(7) that in the year 1977, the Congress of the United States assembled hereby declares its reaffirmation of the importance of the printed word and the book and recognizes the importance of a Center for the Book to the continued study and development of written record as central to our understanding of ourselves and our world. It is therefore the purpose of this Act to establish a Center for the Book in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term Center means the Center for the Book;

(2) the term Librarian means the Librarian of Congress.

ESTABLISHMENT OF THE CENTER

SEC. 3. There is hereby established in the Library of Congress a Center for the Book.

The Center shall be under the direction of the Librarian of Congress.

FUNCTION OF THE CENTER

SEC. 4. The Librarian through the Center shall stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

ADMINISTRATIVE PROVISIONS

SEC. 5. The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without reference to Federal disposal statutes; and

(3) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6214 would establish a Center for the Book in the Library of Congress. The Center, under the direction of the Librarian, would serve to promote both scholarly research and public interest in books. Obviously, the Library of Congress, with its unrivaled collections and its location in the Nation's Capital is well suited to house such a Center. The Center for the Book will find a unique need because at present no research program has the book as its principal object of study. There is still much to learn about the book, although we take it for granted, and the Center will shed important light on such topics as the role of the book in the transmission of human knowledge; the book in social, intellectual, and political history; and the book in art as art. Through activties such as lectures, exhibits and publications, the Center will share this information with the public.

H.R. 6212 is intended to show specific congressional approval for such a Center at the Library, and to provide flexibility in the use of donated money and property by the Library of Congress in the operation of the Center.

No Federal funds are authorized for the project. The Library of Congress is given the authority to use money acquired by gift, grant, or bequest for the Center, and to provide administrative and clerical support services for the Center using existing personnel.

I have no further requests for time, Mr. Speaker, on this side.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I support the bill and wish to associate myself with the remarks of the gentleman from Michigan (Mr. NEDZI), the distinguished chairman of the subcommittee; and I wish to stress again that this bill does not authorize any additional Federal funds. It is a way to facilitate more effective use of donations and private contributions made to the Library.

Mr. Speaker, I urge adoption of this bill by the House.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

I only asked for the second because I thought that the Library of Congress already was a Center for the Book.

Mr. Speaker, I perused the legislation, and I do remember the Folklife and Folklore Center at the Library which cost the taxpayers some additional funds.

I would like to have the assurance of my friend, the gentleman from Michigan, that indeed this bill will not cost the Government more money or add employees.

Mr. NEDZI. If the gentleman will yield, Mr. Speaker, it is not contemplated that any additional moneys will be acquired by the Library of Congress for the purpose of carrying out the provisions of this act.

I might add that the Library can create such a Center for the Book without this legislation. However, it was felt that the congressional imprimatur would assist it in securing the necessary gifts from private sources.

Again, it is not intended that any Federal funds will be involved.

Mr. BAUMAN. May I also ask whether or not this has anything to do with individual Members of Congress creating their own private centers for the book. I have been reading various stories in the newspapers regarding such private collections.

Mr. NEDZI. If the gentleman will yield further, Mr. Speaker, no such information has come to the attention of the committee.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill H.R. 6214.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1331) to provide for the establishment of a Center for Books in the Library of Congress.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS, DECLARATION, AND PURPOSE

SECTION 1. (a) The Congress hereby finds that—

(1) the Congress of the United States, on April 24, 1800, establish for itself a library of the Congress;

(2) in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) in recognition of the importance of printing and its impact on America, the Congress purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) the Congress has through statute and appropriations made this library accessible to any member of the public;

(5) this collection of books and other library materials has now become one of the greatest libraries in civilization; and

(6) the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two-hundred-year history.

(b) The Congress declares its reaffirmation of the importance of the printed word and books and recognizes the importance of a Center for Books to the continued study and development of written record as central to our understanding of our world.

(c) It is the purpose of this Act to establish a Center for Books in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

ESTABLISHMENT OF THE CENTER

SEC. 2. There is hereby established in the Library of Congress a Center for Books (hereafter in this Act referred to as the "Center"). The Center shall be under the direction of the Librarian of Congress.

FUNCTION OF THE CENTER

SEC. 3. The Librarian of Congress through the Center shall stimulate public interest and research in the role of books in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

ADMINISTRATIVE PROVISION

SEC. 4. The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without regard to any other law; and

(3) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

AMENDMENT OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEDZI: Strike out all after the enacting clause of S. 1331 and insert in lieu thereof the provisions of the bill H.R. 6214, as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6214, was laid on the table.

AUTHORIZING A BUST OR STATUE OF MARTIN LUTHER KING, JR., TO BE PLACED IN THE CAPITOL

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 60) authorizing a bust or statue of Martin Luther King, Junior, to be placed in the Capitol.

The Clerk read as follows:

H. CON. RES. 60

Resolved by the House of Representatives (the Senate concurring), That the Joint Committee on the Library is authorized and directed to procure a bust or statue of Martin Luther King, Junior, and to cause such sculpture to be placed in a suitable location in the Capitol as determined by the Joint Committee on the Library.

SEC. 2. Expenses incurred by the Joint Committee on the Library in carrying out this concurrent resolution, which shall not exceed $25,000, shall be paid out of the contingent fund of the House on vouchers approved by the chairman of the joint committee.

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) and the gentleman from Ohio (Mr. ASHBROOK) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Dr. Martin Luther King, Jr. sought through nonviolent protest to bring racial and economic justice to all Americans. It is appropriate to recognize his leadership in moving Americans toward their birthright and our Nation's central goals of "liberty and justice for all" by honoring Dr. King with a bust or statue in the U.S. Capitol. House Concurrent Resolution 60 authorizes the Joint Committee on the Library to procure the memorial, using $25,000 from the contingent fund of the House. Design and plans are to be carried out by the Architect of the Capitol, who has suggested that the memorial be placed on the first floor in the House wing, south of the crypt.

Mr. Speaker, it might be noted that, despite the many rich contributions of black Americans to the culture, science, history, and politics of the Nation, the statue of Dr. King is the first memorial to a black American to be placed in the Capitol.

This is not the first time the House has considered this legislation. Similar bills were passed by both the House and the Senate during the 94th Congress, but because Senate passage was immediately prior to adjournment, the House was unable to consider the resolution as amended in the Senate.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from New York (Mr. BINGHAM), one of the prime movers of this legislation.

Mr. BINGHAM. Mr. Speaker, the resolution before us, House Concurrent Resolution 60, authorizes the placement of a bust or statue of Dr. Martin Luther King, Jr., in the Capitol, at a cost not to exceed $25,000.

I would like to express my appreciation to the gentleman from Michigan (Mr. NEDZI), chairman of the House Administration Subcommittee on Libraries and Memorials, the gentleman from New

Jersey (Mr. THOMPSON), chairman of the House Administration Committee, and to the members of the committee for bringing this resolution before us today.

House Concurrent Resolution 60, which I introduced on January 17, 1977, and which I first introduced in 1972, has a total of 168 cosponsors, including members of both political parties and all the members of the Congressional black Caucus. Their names are appended at the end of this statement.

It is altogether fitting that we honor Dr. King, for he has done much to further the struggle for equal justice, equal opportunity, and indeed for basic rights.

In 1955 Mrs. Rosa Parks, a seamstress with tired feet, was arrested for refusing to give up her seat on a local bus to a white man. Her arrest triggered the first great civil rights test of power, and launched Dr. King's quest for equality. Dr. King, then an unknown minister from Alabama, led the Montgomery black community that year. Mrs. Park's arrest ended 382 days later with the capitulation of the Montgomery bus line to the doctrine of racial equality. Dr. King had begun his march.

In the years that followed, Dr. King's influence grew. He set out to correct specific injustices, but also to educate our country and win the hearts and minds of our people. His marches awakened our country and aroused our sympathy.

Indelibly impressed in our minds is that horrible spectacle in 1963 when Dr. King and his marchers, dressed in their Sunday clothes, met fire hoses, truncheons, and police dogs in Birmingham. A few months later, in his famous "I have a dream" speech, Dr. King addressed thousands of people gathered at the Lincoln Memorial, and said,

> When we let freedom ring, we will speed the day when all God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing the words of the old Negro spiritual: "Free at last/Free at last/Thank God Almighty, we're free at last."

In 1964 Dr. King became the 14th American and the youngest man ever to win the Nobel peace prize.

I had the great privilege of meeting Dr. King personally in Selma, Ala., at the time of his release from jail there, and on other occasions. I was one of those from this House who attended his funeral in Atlanta in 1968.

A firm believer in Christian ideals and Gandhi's principle of peaceful nonviolent protest, Dr. King set out to fulfill a dream, to give life to this country's highest ideals. He spoke for the present and the future, of "getting to the mountaintop" and "reaching the Promised Land." He was indeed one of the truly great figures of our American history.

But there are other reasons why this memorial should be authorized in the Capitol.

Is it not shocking that, of all the black Americans who have contributed to this Nation's greatness, not one is honored among the 681 works of art in the Halls of the Capitol? Is it any wonder that, in the absence of any such recognition, so few black families are to be seen among the millions of tourists who flock to our Capitol Building each year? Is it not distressing that a nation, striving to set right the wrongs of the past, has blotted out, here at the very seat of our Government, any recognition of the role of black people in building this great country?

This memorial to Dr. King presents a perfect opportunity to begin to correct that injustice. This civil rights leader deserves to receive official recognition and appreciation by his Government.

I appreciate the action of the Speaker in placing this resolution on the suspension calendar so that the House may act on it with dispatch and send it to the Senate for prompt action. As many of you know, this resolution passed both the House and Senate in the last Congress. However, there were minor differences between the bills and Congress recessed before they could be resolved in conference.

Although Dr. King's violent death is a tragic blot on our recent history, his life was a shining example for us all. For over a decade, his hopes and his dreams guided the Nation in the struggle for equal justice, equal opportunity, and basic rights. He carried that struggle as far as any man or woman in this century.

A permanent memorial to Dr. King in the Capitol would remind America and the rest of the world over the years to come of the inspiring leadership of this great man.

The list of cosponsors follows:

COSPONSORS OF HOUSE CONCURRENT RESOLUTION 60 AND IDENTICAL RESOLUTIONS

1. Mr. Addabbo.
2. Mr. Akaka.
3. Mr. Ammerman.
4. Mr. Anderson of California.
5. Mr. Anderson of Illinois.
6. Mr. Ashley.
7. Mr. Badillo.
8. Mr. Baldus.
9. Mr. Baucus.
10. Mr. Beard of Rhode Island.
11. Mr. Bedell.
12. Mr. Benjamin.
13. Mr. Biaggi.
14. Mr. Blouin.
15. Ms. Boggs.
16. Mr. Boland.
17. Mr. Bolling.
18. Mr. Bonior.
19. Mr. Bonker.
20. Mr. Brademas.
21. Mr. Brodhead.
22. Mr. Brown of Ohio.
23. Mr. Brown of Michigan.
24. Mr. Brown of California.
25. Mr. Buchanan.
26. Ms. Burke of California.
27. Mr. John L. Burton.
28. Mr. Phillip Burton.
29. Mr. Carney.
30. Mr. Cavanaugh.
31. Ms. Chisholm.
32. Mr. Clay.
33. Mr. Cohen.
34. Ms. Collins of Illinois.
35. Mr. Conte.
36. Mr. Conyers.
37. Mr. Corman.
38. Mr. Cornwell.
39. Mr. Corrada.
40. Mr. Cotter.
41. Mr. Coughlin.
42. Mr. Dellums.
43. Mr. de Lugo.
44. Mr. Dicks.
45. Mr. Diggs.
46. Mr. Downey.
47. Mr. Drinan.
48. Mr. Duncan of Tennessee.
49. Mr. Duncan of Oregon.
50. Mr. Eckhardt.
51. Mr. Edgar.
52. Mr. Edwards.
53. Mr. Eilberg.
54. Mr. Ertel.
55. Mr. Evans.
56. Mr. Fascell.
57. Mr. Fauntroy.
58. Ms. Fenwick.
59. Mr. Findley.
60. Mr. Fish.
61. Mr. Fisher.
62. Mr. Flood.
63. Mr. Foley.
64. Mr. Ford.
65. Mr. Fraser.
66. Mr. Frenzel.
67. Mr. Gammage.
68. Mr. Gibbons.
69. Mr. Gilman.
70. Mr. Glickman.
71. Mr. Gore.
72. Mr. Harrington.
73. Mr. Harris.
74. Mr. Hawkins.
75. Ms. Holt.
76. Ms. Holtzman.
77. Mr. Horton.
78. Mr. Howard.
79. Mr. Hughes.
80. Mr. Jacobs.
81. Mr. Jenrette.
82. Mr. Johnson.
83. Ms. Jordan.
84. Mr. Kastenmeier.
85. Ms. Keys.
86. Mr. Kildee.
87. Mr. Koch.
88. Mr. Kostmayer.
89. Mr. Lederer.
90. Mr. Le Fante.
91. Mr. Leggett.
92. Mr. Long of Maryland.
93. Mr. Long of Louisiana.
94. Mr. Luken.
95. Mr. Markey.
96. Mr. Mazzoli.
97. Mr. McCloskey.
98. Mr. McHugh.
99. Mr. McKinney.
100. Mr. Meeds.
101. Mr. Metcalfe.
102. Ms. Meyner.
103. Ms. Mikulski.
104. Mr. Mikva.
105. Mr. Miller of California.
106. Mr. Mineta.
107. Mr. Mitchell of New York.
108. Mr. Mitchell of Maryland.
109. Mr. Moffett.
110. Mr. Moorhead.
111. Mr. Moss.
112. Mr. Murphy of New York.
113. Mr. Murphy of Illinois.
114. Mr. Myers of Pennsylvania.
115. Mr. Neal.
116. Mr. Nix.
117. Mr. Nolan.
118. Mr. Nowak.
119. Mr. O'Brien.
120. Mr. Ottinger.
121. Mr. Panetta.
122. Mr. Pattison.
123. Mr. Pepper.
124. Mr. Price.
125. Mr. Pritchard.
126 Mr. Rahall.
127. Mr. Rangel.
128. Mr. Reuss.
129. Mr. Richmond.
130. Mr. Rodino.
131. Mr. Roe.
132. Mr. Rosenthal.
133. Mr. Roybal.
134. Mr. Santini.
135. Mr. Scheuer.
136. Mr. Seiberling.
137. Mr. Sharp.
138. Mr. Simon.
139. Mr. Sisk.
140. Mr. Solarz.

141. Ms. Spellman.
142. Mr. Stanton.
143. Mr. Stark.
144. Mr. Steers.
145. Mr. Stockman.
146. Mr. Stokes.
147. Mr. Studds.
148. Mr. Thompson.
149. Mr. Traxler.
150. Mr. Trible.
151. Mr. Tsongas.
152. Mr. Tucker.
153. Mr. Udall.
154. Mr. Van Deerlin.
155. Mr. Vento.
156. Mr. Volkmer.
157. Mr. Walgren.
158. Mr. Waxman.
159. Mr. Weiss.
160. Mr. Whalen.
161. Mr. Wilson of Texas.
162. Mr. Wilson of California.
163. Mr. Wolff.
164. Mr. Won Pat.
165. Mr. Wydler.
166. Mr. Yates.
167. Mr. Yatron.
168. Mr. Zeferetti.

Mr. NEDZI. Mr. Speaker, I would like to say further that the resolution was unanimously reported by the committee.

I have no further requests for time.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this resolution. I understand it will go through without any trouble, but I think it represents a rather interesting sidelight on how history is written.

Almost every significant character in American history has been reviled by contemporary historians except for Mr. King. George Washington and Lincoln have not escaped. The media would have us believe that Mr. Nixon is a crook, John F. Kennedy was a ladies' man, and J. Edgar Hoover was a tryant but strangely enough, when it comes to Martin Luther King, Jr., very little is said. As a matter of fact, there is absolute silence regarding his shortcomings of which there were many. I merely want the record to show that at least one Member of this body does not believe that Dr. King should have his bust memorialized in our Halls, at least not until we have some debate on his particular contributions.

Unlike most of the Members, I have read very carefully the statements of Dr. King over his lifetime. I have closely chronicled his activities, and I say for the record that I do not believe that he deserves this particular honor.

After saying that, Mr. Speaker, I yield back the remainder of my time. I merely want to have history show that one person did not think this action was appropriate.

Mr. TUCKER. Mr. Speaker, I was pleased to cosponsor House Concurrent Resolution 60 to place a bust of the late Dr. Martin Luther King in the Capitol and urge my colleagues to support the measure.

Dr. King inspired all of us, black and white, Christian and Jew, Northerner and Southerner, to reach for the American dream—to feed our hungry, to educate our children, to shelter our poor and to provide the opportunity of a job for all our citizens.

Langston Hughes asked:

> What happens to a dream deferred?
> Does it dry up like a raisin in the sun?
> Maybe it just sags like a heavy load. Or does it explode?

Dr. King's dream exploded but in an unexpected way—in a wave of nonviolence, pacificism and brotherly love. He taught us that the crises that divide us are not nearly as important as the qualities that unite us. He taught us in Birmingham, Salem, and Washington. His leadership in the struggle for equal justice, equal opportunities and equal rights rekindled the spirit of peace and righteousness which won him the Nobel peace prize in 1964. For a generation of young Americans—and, particularly, a generation of young Southerners—he shaped our conscience and opened our view of the past—our vision of the future.

It is written in Genesis 37:19:

> And they said one to another, behold the dreamer cometh. Come now, therefore, and let us slay him, and cast him into some pit * * * and we shall see what will become of his dreams.

Martin Luther King's dream gave us a better country and guides us, even now, when our vision dims. His dream will not die; his words must not go unheeded. With this token we offer a small commemoration to the enduring legacy of a great American.

Mr. STOKES. Mr. Speaker, I rise in support of House Concurrent Resolution 60 which would authorize a bust of Dr. Rev. Martin Luther King, Jr., in Statuary Hall of the U.S. Capitol.

The Capitol is a monument that symbolizes the unification of all the 50 States and citizens of those States under one flag and one country, the United States of America. The Capitol is filled with figures of those who have contributed to the construction of this country. However, no black man is represented in neither bust nor statue form.

Mr. Speaker, I feel it is appropriate that we pass this resolution authorizing a bust of Dr. King in the Capitol. Such a tribute to his leadership and contribution to this country is fitting not only for black Americans, but indeed for all Americans and all people.

An avid integrationist civil rights leader, Dr. King won many victories on many battlefields: The Montgomery bus boycott, public accommodations, voting rights, and equal employment opportunity. And despite the fact that he was arrested on more than 15 occasions, was jailed, often assaulted, and continually threatened. Dr. King won all battles with the use of nonviolence, which has been one of the most effective weapons in the black man's fight for justice in the United States. His beleaguered efforts as a civil rights leader won him the Nobel Peace Prize in 1964. He was the third black man, and at the age of 35, the youngest man to be awarded the prize.

Dr. King, additionally, was an orator, a prolific writer, and a scholar. During an incarceration he wrote a "letter from the Birmingham jail" which was his now classic reply to those white religious leaders of all denominations who criticized him for his leadership. The March on Washington on April 28, 1963, in support of pending civil rights legislation, was the largest civil rights demonstration in the history of the United States. The highlight of the march was Dr. King's "I Have a Dream" speech which echoed the Bible, the Constitution, and the National Anthem. Many around the world continue to share his dream that one day "sons of former slaves and sons of former slave owners will be able to sit down at the table of brotherhood."

Mr. Speaker, I ask my colleagues to join me in supporting this resolution authorizing a bust of Dr. King, a man who represents not only the courage, sacrifice, and suffering of the black man in America, but a man who has inspired the world through his sermon of love and hope.

I hope this bust of Dr. King reaffirms our own commitment to the brotherhood of man and serves as a reminder for us to rededicate ourselves to his dream for America.

Mr. WHALEN. Mr. Speaker, for several years, I have supported a congressional initiative to commission a statue or bust of Dr. Martin Luther King, Jr., to be placed in the Capitol. The measure we are now considering, House Concurrent Resolution 60, authorizing $25,000 from the House contingency fund for this purpose, merits the immediate endorsement of this Congress.

At present there is not a single statue or portrait of a black American in the Capitol. Such a commemoration will memorialize a great man—a man who shared a dream with America and with the world. A man who not only symbolized, but who personified the very principles for which he sacrified his life: nonviolence, love and respect for humanity, and the advancement of peace and civilization throughout the world.

This fall, I have the distinct honor and privilege of working at the United Nations alongside Martin Luther King's widow, Mrs. Coretta Scott King. Mrs. King is a Public Member of the United States Delegation to the United Nations 32d General Assembly. I find it fitting that she is representing our Nation as a Public Member, and I can think of no one more worthy than Mrs. King for carrying on the crusade for peace and equality that Martin Luther King advanced so far. As an extension of Dr. King's struggle for equality and justice for all, Mrs. King remains, striving for the same principles her husband died for.

As we remember Dr. Martin Luther King, Jr., let us praise his contributions not only to America, but to civilization as a whole. And further, let us be thankful that people such as Coretta Scott King carry on the struggle for human dignity and peace. As Dr. King himself once stated, let us "not be satisfied until justice rolls down like water and righteousness like a mighty stream."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 60).

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was ageed to.

A motion to reconsider was laid on the table.

ERNEST GRUENING STATUE IN STATUARY HALL

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 25) providing for the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska for the National Statuary Hall collection, and for other purposes.

The Clerk read as follows:

S. CON. RES. 25

Resolved by the Senate (the House of Representatives concurring), That the statue of the late Senator Ernest Gruening, presented by the State of Alaska for the National Statuary Hall collection, is accepted in the name of the United States, and the thanks of the Congress are tendered to the State of Alaska for the contribution of the statue of one of its most eminent personages, illustrious for his distinguished civil service.

SEC. 2. The State of Alaska is authorized to place temporarily in the rotunda of the Capitol the statue of the late Senator Ernest Gruening referred to in first section of this concurrent resolution, and to hold ceremonies in the rotunda on that occasion. The Architect of the Capitol is authorized to make the necessary arrangements therefor.

SEC. 3. (a) The proceedings in the rotunda of the Capitol at the presentation by the State of Alaska of the statue of the late Senator Ernest Gruening for the National Statuary Hall collection, together with appropriate illustrations and other pertinent matter, shall be printed as a Senate document. The copy for such document shall be prepared under the direction of the Joint Committee on Printing.

(b) There shall be printed five thousand additional copies of such document which shall be bound in such style as the Joint Committee on Printing shall direct, of which one hundred and three copies shall be for use of the Senate and three thousand copies shall be for the use of the Members of the Senate from the State of Alaska, and four hundred and thirty-nine copies shall be for the use of the House of Representatives, and one thousand four hundred and fifty-eight copies shall be for the use of the Member of the House of Representatives from the State of Alaska.

SEC. 4. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the Governor of Alaska.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan, Mr. NEDZI.

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, by statute, each State is privileged to contribute not more than two statues commemorating distinguished citizens of the State to the Statuary Hall collection in the Capitol. Senate Concurrent Resolution 25 authorizes the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska. The statue of Senator Gruening will be placed temporarily in the rotunda of the Capitol, where the State of Alaska will hold the unveiling ceremony. The resolution also provides for the printing of the rotunda ceremony for use of Members of the House and Senate.

There is no cost to the Congress for the statue, or for its installation in either the temporary or permanent locations.

Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and concur in the Senate Concurrent Resolution 25.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6214, House Congressional Resolution 60, and Senate Congressional Resolution 25.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SATURDAY MAIL DELIVERY

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 277) expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service.

The Clerk read as follows:

H. CON. RES. 277

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States Postal Service should not reduce the frequency of mail delivery service for any user of the mails below the frequency of such service which was in effect for such user on June 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CHARLES H. WILSON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have an opportunity to go on record in opposition to further reductions in the level of Postal Service.

House Concurrent Resolution 277 specifically states that it is the sense of the Congress that 6-day home mail delivery service shall be maintained despite the past statements of Postmaster General Bailar and others that a cut to 5-day delivery would be desirable as a cost-cutting device.

It is my belief that any such reduction in service would not be in the public interest, and I have been gratified that 226 Members have now joined me to cosponsor this resolution.

Saturday mail service is an historical public service of the American postal system. Simply put, it should not be discontinued without careful consultation with the Congress and an accurate estimate of the impact of such a change in service upon public opinion and postal operations. No evidence has been submitted to demonstrate what impact upon service this change would have. One immediate consequence would be the elimination of a delivery system for thousands of rural newspapers which are delivered on Saturday. Also, unless all mail were delivered on Friday, the backlog of mail to be delivered on Monday and Tuesday would be greatly increased. When one of the six "Monday holidays" occurs, the entire mail schedule can be seriously disrupted.

I hope that you will join me in support of this simple but important measure.

Mr. Speaker, I reserve the remainder of my time.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it makes no sense to tilt with windmills, since it is a time consuming and fruitless exercise. With more important matters awaiting decisions, it makes little sense to waste the valuable time of this body with empty proposals such as House Concurrent Resolution 277. It will have about as much impact as a piece of Kleenex dropped from the top of the Washington Monument.

This body, in the very near future, will have the opportunity to vote on legislation which will require the Postmaster General to submit all proposed national service changes in service to Congress. Clearly, that legislation would cover any Postal Service plan to reduce mail delivery from 6 days to 5 days. I think it also is worth noting that the legislation, H.R. 8978, has virtually 100 percent bipartisan support from members of the Post Office and Civil Service Committee.

This bill is designed to back up words with actions which will give Congress a direct voice on the type of mail service to be provided by the Postal Service, in contrast to the resolution before us.

The fate of House Concurrent Resolution 277 is irrelevant to improving or maintaining current mail delivery standards.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in strong support of House Concurrent Resolution 277. This resolution expresses congressional opposition to further reductions in the level of postal service, particularly the proposal to cut delivery from 6 to 5 days a week.

The operations of the semi-independent Postal Service have been a disaster. It is bad enough that rates have skyrocketed. Now the Postal Service management is thinking about doing away with Saturday mail delivery as a cost-cutting measure. Such a move would be a serious mistake.

Saturday mail is an important public service. Americans depend on the mail for business and for pleasure. For many, such as those receiving social security, the mail carries the check they need to eat and pay their bills.

A reduction in service would disrupt these valuable functions. Important information and transactions would be delayed, to the detriment of our citizens. The delay would be especially severe on the Monday holiday weekends, when no mail would be delivered from Friday until the following Tuesday.

Why must Americans be punished for the ineptitude of Postal Service management? Saturday mail delivery is a historical public service of the post office and it should not be discontinued.

I urge the adoption of this resolution.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois for yielding.

I, too, rise in support of this worthy legislation.

Mr. Speaker, I rise in support of House Concurrent Resolution 277, which expresses in no uncertain terms the sense of the Congress not to reduce mail service from 6 to 5 days a week, eliminating probably, though not certainly, Saturday mail service.

That this resolution is necessary at all only serves to demonstrate what I can only describe as the "obtuseness" of the Postal Service in reading the will of the American people as expressed by their Representatives here in Congress.

As a Member of the Post Office and Civil Service Committee, and the ranking minority member of the Subcommittee on Postal Operations and Services, I have been present at innumerable, at what can only be described as, confrontations with Postal Service management over a variety of service issues not the least including 6-day-a-week delivery service.

If the service cutback is actually permitted to go into effect, and Saturday service is indeed eliminated, the consequence will be the elimination of rural newspaper and parcel post delivery, mounting backlogs of mail to be delivered on Monday and Tuesday, and a serious disruption of the Nation's mail schedule when a national holiday on Monday occurs.

As a cosponsor of House Concurrent Resolution 277, I urge my colleagues to vote to suspend the rules and to pass this most sensible legislation.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the measure before us which expresses the sense of Congress that the Postal Service should not eliminate Saturday mail delivery.

Saturday mail service is an historic public service of the American postal system and, as a service, simply curtailing operations is not the proper approach to dealing with postal financial difficulties. I have been told by my colleagues on the Post Office and Civil Service Committee that the elimination of Saturday delivery would save less than 1 cent on the cost of a first-class stamp and any substantive cost-savings would not be realized for at least 2 years.

In my district the discontinuation of Saturday service would completely disrupt the Saturday delivery of our weekly newspapers. It would hit especially hard our small businesses which depend on a reliable mail service and it could add at least one more day's delay to those older citizens waiting for a social security compensation check. On Monday the backlog of mail in our small post offices would be mammoth and, it is unlikely that the entire three day buildup of mail could be processed in just 1 day. Letters that should be delivered on Monday may well have to wait until Tuesday or even Wednesday. And, when one of the six "Monday holidays" occur the entire mail schedule could be disrupted for the entire week.

This measure only expresses our concern that the Postal Service not reduce mail service and that prior to recommending a reduction they should consult with the Congress and submit an impact appraisal. I believe this simple, but important, measure deserves our wholehearted support.

Mr. HEFNER. Mr. Speaker, I rise in support of House Concurrent Resolution 277. This resolution should make it clear to the management of the Postal Service that Congress will not tolerate reductions in postal services until we, speaking for the people, have had a chance to come up with some better solutions to the problems of our mail system.

I have been very concerned that the Postal Service has been planning to go ahead on its own selectively to adopt and ignore some of the recommendations of the Commission on Postal Service. The Commission did a good job. I do not agree with all it recommended, but its report should be read and studied by all of us here in the House and by the officials of the Postal Service. More importantly, major postal reforms should not be taken lightly and without full consideration. Without proper caution, more harm than good can be done. The Postal Service acting on its own could make changes which would be hard to undo if we, the public and the Congress, decide later against such changes.

Take the proposal for eliminating Saturday mail deliveries for example. The Postal Commission based its recommendation on a public opinion survey showing that 80 percent of the people would accept reduction in mail deliveries if necessary to hold down future rate increases or public service subsidies. That 80 percent of the people has been mighty quiet, and from my mail, I have to conclude that only a small handful live in my district. The public has commented on the 5-day delivery proposal and they have said "no." The resolution before us today will show that we are listening to them.

Too much is not known about the effect of reducing mail deliveries. Despite the Commission's survey, we do not know just how many people really would accept 5-day mail delivery. Neither do we know how much postage rates might have to increase just to continue 6-day deliveries. But we do know that cutting out Saturday deliveries will not prevent future rate increases—the Postal Service's request to the Postal Rate Commission for an increase clearly shows this. And we do know that 5-day delivery will have an adverse impact on rural areas that depend on the mail for delivery of newspapers and other essential information. And I think we can all imagine what might happen over a long holiday weekend when the mail would back up from Friday to Tuesday. Weighing what we do know against what we do not, I think we had better keep 6-day delivery for the time being.

There was a recommendation of the Commission I agree with. The Commission proposed to put limitations on the closing of post offices so that the Postal Service could not eliminate a small post office just to save money. Limitations are needed.

We all know of the plans last year by the Postmaster General to close about 12,000 small third and fourth-class post offices. That announcement alone probably did more than any other circumstance to secure passage of the legislation creating the Commission on Postal Service and establishing a moratorium on rate increases or post office closings. This moratorium has expired and I fear that we will see the Postal Service moving ahead with similar plans to close small rural post offices. Postal officials say they can phase out many of these offices and provide local residents with better services through rural carriers than they now receive. Maybe so, but I do not think it is up to the Postal Service alone to decide what is better service. The local residents themselves should be given a voice in this decision. The Postal Service may find out, as I suspect it would, that what it considers to be "better service" by closing a community's post office would not be thought to be so by that community.

The Commission found that the public in general would support some reductions in certain postal services in order to hold down future rate increases. But it also found that Americans from small towns and rural areas strongly opposed the closing of the post offices which play such an important part in the life of their communities. Just as the Postal Service seems intent on following the advice of the Commission on 5-day delivery, it seems equally determined to ignore the Commission's recommendations on post office closings. I believe the Postal Service ought to hold off here.

Mr. Speaker, I introduced a concurrent resolution similar to House Concurrent Resolution 277 earlier this year.

Like House Concurrent Resolution 277, it called for a suspension of any plans to reduce the frequency of mail deliveries. But it also called for a new moratorium on post office closings until March 1978, 1 year from the date of the Postal Commission's report. This would give us time to study the problem and come up with a better idea. I support House Concurrent Resolution 277, but I urge the distinguished chairman of the committee reporting this resolution to consider also the problem of our small post offices—another endangered species.

Mr. THONE. Mr. Speaker, I rise in support of House Concurrent Resolution 277, expressing the sense of Congress that 6-day mail delivery service be maintained.

The nonservice oriented Washington management of the U.S. Postal Service is driving away some of its most profitable business by its policies of less and less performance accompanied by more and more costs to its customers.

The U.S. Postal Service is antirural America in its attitudes. One illustration of these attitudes is the Postal Service's persistent attempts to close post offices in small towns. The proposal to eliminate Saturday delivery of mail also will hit harder on rural America than in the Nation's urban centers.

Many mail order businesses are conducted in small communities. These firms will be hard hit if the Postal Service were to be allowed to eliminate service on Saturday. Considerable time would be added to span between a customer mailing an order and it being filled if Saturday mail service were eliminated. This elimination, combined with many Monday holidays, would often mean that 3 days would go by before mail could be delivered.

The proposed halting of Saturday delivery would have a disastrous effect on small daily newspapers.

In my home State of Nebraska, some newspapers deliver 80 percent of their circulation through the mail. Even the newspaper with the largest circulation in Nebraska, the Omaha World-Herald, is terribly dependent upon 6-day-per-week mail service. Nebraska is about 500 miles long. The World-Herald is one of the great unifying forces for our State. It reaches every corner of Cornhuskerland. And 13 percent of that circulation is delivered by mail.

Mr. Speaker, I have given only a couple of many reasons why continuance of 6-day-per-week mail delivery is essential to the well-being of rural America. I urge adoption of this resolution.

Mr. HILLIS. Mr. Speaker, I rise in support of the resolution (H. Con. Res. 277). For a number of years the American people have been asked to pay higher postal rates while experiencing inferior mail delivery. Attempts have been made to resolve this situation; however, it appears that most of these attempts have been directed at reducing the quality of mail delivery instead of addressing the more complex and difficult management problems which plague the Postal Service.

Elimination of Saturday mail delivery was suggested by the Postal Service Commission in an attempt to reduce the overhead of the USPS. However, as in the past, it will be the American public who will suffer the most due to the mismanagement of the Postal Service. Millions of Americans continue to rely on Saturday delivery for personal and business reasons. Little consideration of the adverse effects of eliminating Saturday mail delivery was given before this suggestion was made.

In attempting to justify the suggestion that Saturday mail delivery be discontinued, the Postal Service Commission quoted a survey which showed that 79 percent of the American people polled would prefer that Saturday mail delivery be discontinued as opposed to increasing postal rates. However, it is obvious if one studies the recent history of the Postal Service, that postal rates will not remain steady for very long even if Saturday delivery is discontinued.

I oppose the elimination of Saturday mail delivery for a number of reasons. To begin with, this decision should be made by the Congress, not by a group of bureaucrats. Too much power has been given to the bureaucrats in the past while the Congress has become increasingly less involved in major policy decision.

Second, I do not feel that enough consideration has been given to the adverse effects which might result with the discontinuance of Saturday mail delivery. Before an intelligent decision on this matter can be reached, it is vital that the effects of increased workloads on Fridays and Mondays be evaluated completely. Further, it is not clear what effects the discontinuance of Saturday mail would have on many small businesses which depend on this service. Third, more efforts should be made to eliminate poor policy decisions and mismanagement within the Postal Service before any reductions in mail delivery are made. Last, and perhaps most importantly, the American people simply do not want Saturday mail delivery discontinued.

I strongly urge my colleagues to support House Concurrent Resolution 277. We cannot allow the administration to continue to make important policy decisions without enough consideration as to the effects of these decisions, and without sufficient congressional input. Congress should make its position on the issue clear in order that our constituents can judge us accordingly.

Mr. BEDELL. Mr. Speaker, I rise in support of the resolution to halt the Postal Service's plans to terminate 6-day postal delivery.

This ill-conceived proposal by the Commission on Postal Service, which has subsequently been endorsed by Postmaster General Bailar, deserves to be lost in the dead letter office. Rather than save money as its advocates claim, I fear the idea will simply fuel the flight to private carriers by first-class customers, and unfairly penalize rural residents and small town weekly newspapers.

While on the one hand bemoaning the loss of volume to private carriers, the management of the Postal Service seems bent upon doing all it can to further reduce volume by raising rates and curtailing service. As a lifelong small businessman who believes that customer service bring success, I am continually astounded at the logic which dominates management philosophy.

Because I believe in getting out among the people who are carrying out Government programs, I have made a regular practice of making impromptu unannounced "snoop" visits to different Federal agencies.

Recently, I found myself talking with workers at the Postal Service's L'Enfant Plaze headquarters to find out firsthand some of the ills plaguing that agency. If what I found is duplicated in other offices around the country, I am not surprised that mismanagement exists.

Of all the departments I have visited, I have never seen one where the problem of keeping people at their desks was so bad that a sign-in, sign-out book at the front entrance was required. I was told by a top official that this policy was introduced because of the problem of keeping people at work for a full 8-hour day. Extra long coffee breaks and early departure times as well as other personnel problems were discussed openly and freely with me by workers during my 5-hour visit. Indeed, I was so concerned with what I heard that I broke my policy of not talking to top management on these visits to discuss my findings with the Deputy Postmaster General right there on the spot.

It may be that a substantial amount of money now being spent on salaries at L'Enfant Plaza could be saved if there is not enough work to keep these people busy, or that they could be asked to help out with the sorting and delivery tasks around the country. If the workload does not justify present staff levels, I cannot understand why more attention is not being paid to this problem.

When the top management of the Postal Service, without consulting Congress, announces to the public that by sacrificing 6-day delivery some $412 million can be saved annually, I have a very hard time sympathizing. Knowing what I do of headquarters conditions, I cannot justify asking my constituents to forego Saturday delivery.

Where are the studies on the impact of such a service cutback on rural residents? Do we know how this action will be felt by rural customers who would have to travel many miles to the nearest post office to get their Saturday mail, or what the impact would be upon commerce of 3-day weekends without any postal delivery? These studies have not been done, yet we are going ahead with the termination of service.

It seems to me that the Postal Service has developed many of the faults of both the private corporation and the governmental bureaucracy. Like many bureaucracies, it has grown insensitive to the pleas of individual Americans for better service, and will listen only when bludgeoned over the head by congressional resolutions such as the one we consider today. Like many corporations, it is trying to improve its balance sheet by cutting services without concern for its public duties. However, unlike other governmental agencies it is not directly responsible to Congress, and unlike private corporations it gets Federal subsidies to the tune of nearly $1 billion yearly.

The time has come to put this operation in order, and in that vein I strongly support the legislation recently introduced by Mr. WILSON of California and Mr. HANLEY of New York to return the Postal Service to congressional control. But first, let us put a stop to this attempt to halt 6-day delivery.

Mr. VAN DEERLIN. Mr. Speaker, I am especially pleased to rise in support of House Concurrent Resolution 277, to put Congress on record in favor of the continuance of 6-day home delivery mail service.

Some public services are essential and must be maintained even if a public investment is required. A lot of people depend on buses for essential transportation, so we do not cut back on bus schedules when a line loses money—we provide funds to keep the service going in the public interest.

Nearly everyone is dependent on the Postal Service, and the public commitment to full maintenance of this service is or should be even more compelling than is the case with transit systems.

Even a 1-day delay in receipt of certain mail can be a devastating blow to many individuals—people waiting for checks, for example. If we permit the abolishment of Saturday service, the 1-day delay stretches into 2, as patrons must stand by until Monday to receive mail that otherwise would have been delivered on Saturday.

I do not believe our constituents will stand for a reduction in home mail delivery service from 6 to 5 days a week. We should not either, and resounding approval of the pending resolution will put the House back on the right track toward reasserting its authority in this critical area of Government service to our citizens.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. CHARLES H. WILSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 277).

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

ESTABLISHMENT OF U.S. POSTAL SERVICE ARBITRATION BOARD

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7132) to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, as amended.

The Clerk read as follows:

H.R. 7132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following subsections:

"(c)(1) If the Postal Service and an organization of supervisors and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree, within 60 days after the organization submits a written notice to the Postal Service, upon a program for consultation or a plan to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters), either party shall have the right to refer the matter to an arbitration board established under the provisions of subsection (d) of this section.

"(2) If the Postal Service and an organization of supervisors and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree with respect to pay policies and schedules, fringe benefit programs, and other programs related to such employees, which affect all or a substantial portion of such personnel on a long-term or permanent basis, after participating directly in the planning and development thereof, either party, upon a 30-day written notice, may refer the dispute to an arbitration board established under the provisions of subsection (d) of this section.

"(3) If the Postal Service and an organization of supervisors and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to reach an agreement as to whether or not a particular issue is subject to consultation or direct participation under this section, either party, upon a 30-day written notice, may refer the issue to an arbitration board established under the provisions of subsection (d) of this section.

"(4) If an agreement as contemplated under this subsection is in effect, no party to such an agreement shall terminate or modify the agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 60 days prior to the expiration date of the agreement, or not less than 60 days prior to the time it is proposed to make such termination or modification. If the parties fail to reach agreement or to adopt a procedure providing for binding resolution of a dispute by the date of the expiration of the agreement or the date of the proposed termination or modification, as appropriate, either party shall have the right to refer the dispute to an arbitration board established under the provisions of subsection (d) of this section. The provisions of this paragraph shall not apply to the terms of an agreement which were decided by an arbitration board and which were in effect for less than 1 year.

"(5) An organization of supervisors and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section, shall have the exclusive right to invoke the arbitration provisions of subsection (d) of this section on behalf of such employees.

"(d)(1) An arbitration board shall be established to consider and decide a dispute arising under subsection (c) of this section and shall consist of three members, one of whom shall be selected by the Postal Service one by the recognized organization, and the third by the two thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director of the Federal Mediation and Conciliation Service.

"(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. Decisions by the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

"(3) Costs of the arbitration board shall be shared equally by the Postal Service and the recognized organization.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CHARLES H. WILSON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7132 is a bill sponsored by my good friend and colleague, BILL CLAY. This legislation, which would establish arbitration rights for postal supervisors is not controversial; indeed, it is virtually identical to a bill which I sponsored in the last Congress which was approved by voice vote of the House—no Senate action was taken.

This is a bill which will allow the over 40,000 postal supervisors across the country to have a role in the development of policies which directly affect them, a concept which was intended by Congress in the 1970 Postal Reorganization Act, but subsequently ignored by postal management.

As chairman of the Postal Personnel and Modernization Subcommittee, I have become deeply concerned about top management's failure to acknowledge the important role supervisors play in postal operations.

For several years we have been told by postal management that the difficulties and friction with supervisors could all be worked out without this legislation.

Unfortunately, however, it has become clear with various continuing legal action brought against the Postal Service by the National Association of Postal Supervisors that, if anything, the relationship between postal management and supervisors has deteriorated since the House approved this concept in the last Congress.

After careful study of the situation, it is obvious that the Postal Reorganiza-

tion Act should be amended with respect to supervisory rights.

This bill accomplishes that goal through its arbitration procedures, and reaffirms the belief which Congress expressed in the Postal Reorganization Act of 1970 that, while postal supervisors are a part of management, they still have certain rights as employees because of their unique position, which differs substantially from most supervisory personnel in private industry.

This legislation insures that the current law providing for consultation and participation rights will be respected by postal management and that the kind of capricious management decision we have seen in recent years will be prevented from recurring.

It should be emphasized that the arbitration provisions of this bill do not in any way create a form of collective bargaining similar to that for rank-and-file postal employees, and does not allow supervisors to join rank-and-file unions.

Not only will the establishment of such an arbitration board render fair and impartial decisions in disputes, but also the existence of the board will encourage more cooperation and consultation between the supervisory organization and the U.S. Postal Service.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

When a ballpayer, in a single season, leads the league in hitting, runs batted in and homeruns it is a mark of distinction because it is a comparative rarity. In Congress, every session seems to produce a triple crown winner. This session, H.R. 7132 is in a class all by itself in three categories. It is ill-conceived, illogical, and it ignores time-tested labor-management relations practices in Government and private industry.

With the U.S. Postal Service under heavy attack from the mail-using public and the White House still in search of a postal policy position, this is not the time to drive a stake into the heart of postal management. The Postal Service needs all the assistance it can muster, if it is to provide the type of service the public demands and expects. Instead, H.R. 7132 guarantees divisiveness by creating the legal machinery which will make the Postmaster General and a large segment of his managers adversaries.

When Congress passed the 1970 Postal Reorganization Act, it preserved an established principle in the public and private sectors of the economy by making it clear postal supervisors were part of the management team. The functions and responsibilities of supervisors likewise disprove the argument they are managers in name only. Supervisors schedule mail operations, determine whether different segments of the line work force are performing the proper jobs at the proper times, maintain discipline, handle grievances, and implement safety programs. Clearly, such duties and responsibilities are management prerogatives.

In passing the Labor-Management Relations Act of 1947, Congress removed supervisory employees from the compulsory bargaining provisions of the 1935 National Labor Relations Act. That provision has governed supervisory employees in the private sector for nearly 30 years.

Based on my own personal experience, I am convinced that the vast majority of supervisors identify with management. Unfortunately, they have been misled by a small group of labor leaders whose only interest is self-preservation.

In providing for binding arbitration, H.R. 7132 would place responsibility for policy decisions in the hands of someone not accountable to the public, Congress, or the Postal Service.

H.R. 7132 can only divide, disrupt, and demoralize the Postal Service. It is a triple crown winner without distinction.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in support of H.R. 7132, to establish a three-member board of arbitration to consider disputes arising between the U.S. Postal Service and an organization of supervisors and other managerial personnel. The bill grants the postal supervisors a right to consult with the Postal Service through a binding arbitration process. Areas subject to this process would be planning and development pay policies and schedules, fringe benefit programs, and programs relating to supervisory employees.

Under the Postal Reorganization Act of 1970, the supervisors' national organization is "entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees." However, experience has demonstrated that the U.S. Postal Service is unwilling or unable to follow either the letter or the intent of the law.

This refusal by management to comply with section 1004 of title 39 forced the supervisors to seek relief in the courts in March 1972. As a result, an agreement was reached between the Postal Service and the supervisors in March of 1974. This agreement was intended to formalize a program of consultation and should have solved the problems which were seriously impairing the operations of the Postal Service.

Apparently, however, the U.S. Postal Service has consistently failed to perform satisfactorily in this regard. It appears necessary, therefore, for the Congress to formalize the consultive procedures which are contained in H.R. 7132. This legislation would provide a means of resolving disputes concerning major personnel policy issues. The bill would provide for arbitration only of those disputes concerning policies which affect all or a substantial portion of supervisory personnel on a long-term or permanent basis. Such arbitration would motivate the Postal Service to permit supervisors direct participation in the planning and development of personnel policies which is already required by statute. I urge my colleagues to support H.R. 7132 and vote for its passage today.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield, although I know my colleague, the gentleman from Illinois, would yield, too.

Mr. GILMAN. Mr. Speaker, as a very proud cosponsor again this Congress of H.R. 7132, I rise in support of this legislation, sponsored by my distinguished colleague from Missouri (Mr. CLAY).

H.R. 7132 establishes an arbitration board to settle disputes between organizations of postal supervisors and other managerial personnel and the U.S. Postal Service. The arbitration board consists of three members—one selected by the U.S. Postal Service, one by the recognized supervisory organization, and the third by the two thus selected or by the Director of the Federal Mediation and Conciliation Service if the parties fail to agree.

Several of my colleagues have expressed concern over the scope of the board's jurisdiction indicating a misunderstanding both of the intent of this legislation and the limited nature of the board's jurisdiction.

First, the National Association of Postal Supervisors (NAPS) seeks no bargaining rights but a strengthened and enforceable consultation process through arbitration under H.R. 7132. This binding arbitration by a third party on postal policies already is established through the national agreement. Second, the arbitration board is only authorized to settle disputes concerning: Procedures for consultation or participation in developing pay policies, fringe benefits, and other programs relating to supervisory employees; the policies and programs themselves; and whether a particular issue is subject to consultation or direct participation.

Some members have posed the reasonable question of the need for this legislation as the 1970 Postal Reorganization Act already provides that the Postal Service must "consult" with recognized organizations of postal supervisors, in lieu of collective bargaining. Unfortunately, this provision has been observed more in the breach than in fact.

The Post Office and Civil Service Committee, of which I am a member, maintains that the U.S. Postal Service has not consulted with NAPS, except to inform them ex post facto of the decisions of the Postal Service, causing a "policy of confrontation," not a "policy of consultation," as required by law.

Further serving to underscore the seriousness of this problem, NAPS has successfully taken the Postal Service to court three times since 1970 at a tremendous cost of money to NAPS and with a commensurate rise in ill will directed at the Postal Service by postal supervisors.

Mr. Speaker, this intolerable state of affairs should not continue. The chaotic conditions currently existing at the Postal Service, producing such ill-conceived operations as the bulk mail system, the job evaluation program, rural post office closings, and 5-day-a-week delivery service, can only be compounded by midlevel management at odds with top management.

I urge my colleagues to endorse H.R. 7132 and vote to suspend the rules and pass this legislation.

Mr. DERWINSKI. Mr. Speaker, with

two powerhouses like the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. CHARLES H. WILSON), handling this at this time, I am overwhelmed.

Mr. Speaker, I yield to the young man from Illinois (Mr. CORCORAN).

Mr. CORCORAN of Illinois. Mr. Speaker, I find myself in an unusual position in opposition to the senior members on the committee.

I join with the ranking members in opposing this measure.

Mr. Speaker, the late Vince Lombardi always instructed his backs to "run to daylight." After months of indecision on how best to come to grips with postal problems, the White House has devised a "run-for-cover" strategy. That strategy was enunciated clearly by an administration spokesman when he testified last week before our two postal subcommittees.

With the White House advocating a business as usual approach which conveniently sidesteps tough policy decisions, Congress cannot afford to embrace legislation, no matter how well intentioned, which will complicate rather than streamline postal management practices. That is why I oppose H.R. 7132. This is legislation which will disrupt and conceivably paralyze postal management.

While I am opposed to this bill, I do find myself in sympathy with our dedicated, hard-working front line supervisors who clearly identify with postal management and want to be treated accordingly. Something is radically wrong when these supervisors are forced to go into court in an effort to be consulted about and involved in management decisions. The 1970 Postal Reorganization Act clearly recognized supervisors as part of management and accorded them treatment in keeping with that status. It should not require much time or effort on the part of top postal management to determine whether it is living up to the letter of the law.

Instead of accentuating the need for cohesiveness in the ranks of postal management, H.R. 7132 offers more confusion and chaos. In addition, it turns back the clock on three decades of accepted labor-management practices in the public and private sectors whereby supervisors have been recognized and regarded as an integral part of management

Mr. ANDERSON of Illinois. Mr. Speaker, in light of the continuing deterioration in the relationship between the Postal Service and the National Association of Postal Supervisors, the House today passed a bill to establish an arbitration board between these two bodies. I was pleased to support this action which would amend the Postal Reorganization Act with respect to supervisory rights by establishing set arbitration procedures.

In view of the Postal Service's failure to consult with postal supervisors in the past, I believe this legislation will result in the direct participation by supervisors in planning, development and implementation of programs pertaining to their salaries and other benefits. It will insure that current law providing for consultation and participation rights will be respected by postal management. I would also like to emphasize my belief that the arbitration procedures of the bill do not create a form of collective bargaining similar to that for rank and file postal employees. Moreover, the establishment of such an arbitration board will not only render fair and impartial decisions in disputes, but will encourage greater cooperation and consultation between the organization of supervisory personnel and the Postal Service.

Mr. HILLIS. Mr. Speaker, I rise in support of the measure, H.R. 7132. This bill would establish an arbitration board for postal supervisors. This is not the first time this body has addressed this issue. In the 94th Congress, a similar bill was passed by voice vote. However, the Senate failed to consider it before adjournment.

Although the administration opposes enactment of this legislation, it is obvious that the postal supervisors have not been treated fairly in recent years by the management of the Postal Service. While the Postal Service might consult with the National Association of Postal Supervisors on policy decisions, there is no guarantee that the supervisors' position will be given due consideration before a decision is made. H.R. 7132 would alter that situation so that the National Association of Postal Supervisors could submit their position during a dispute to an arbitration board and receive an unbiased verdict.

While other unions in the Postal Service have had arbitration rights for a number of years, the postal supervisors have had to resort to lawsuits in order to protect their rights. These lawsuits, all of which have been decided in favor of the supervisors, would not have been necessary if an arbitration board had been available to resolve the particular issues involved.

H.R. 7132 established an equitable procedure to resolve any disputes between the Postal Service and the postal supervisors. Decisions of the arbitration will be binding. Such a procedure is a much better method of handling policy disagreements than having the Postal Service sued by the postal supervisors.

Inasmuch as the House has already proven its support for this legislation, I urge my colleagues to support passage of H.R. 7132 in order that the Senate can have ample time to consider the merits of the issues involved and hopefully join with the House in supporting arbitration rights for postal supervisors.

Mr. CORRADA. Mr. Speaker, in recent weeks, after conversations with postal workers, postmasters, postal supervisors, and others, I have become increasingly aware of the overly broad discretion exercised by top level individuals at the U.S. Postal Service with regard to matters directly affecting supervisory and other managerial postal personnel.

Section 1004(b) of title 39, United States Code states in pertinent part:

> The Postal Service *shall* provide a program for *consultation* with recognized organizations of supervisory and other managerial personnel who are not subject to collective bargaining agreements under chapter 12 of this Title.

Despite the mandatory language contained in this provision the term "consultation" has apparently been taken very lightly by the Postal Service. As a result postal supervisors have been placed in a position affording them little or no influence over decisions affecting their wages and benefits. It is my understanding that in some cases a promotion to supervisor status has meant a reduction in pay and/or benefits. This has created an anomalous, unjust, and somewhat embarrassing situation for the supervisors.

If the Postal Service will not comply with insomuch as the spirit of section 1004, the supervisors have no way to enforce their rights to "consultation" other than to resort to the courts. The problem is that resorting to the courts should be a remedy of last recourse, not only of sole recourse. Although the supervisors have been consistently successful in their court battles with the Postal Service, the patent injustice of the situation dictates that new legislation be enacted providing supervisors and other managerial personnel with an adequate and binding prejudicial remedy. H.R. 7132, a bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, provides just such a remedy.

Arbitration would provide objective assessment, by a competent body, of both the supervisors' position and the position of the Postal Service. The conclusions of the arbitration board would be binding on both parties. I believe it is time that the Postal Service recognized its obligation to have the views and needs of its nonunion managerial personnel play a role in the determination of matters affecting them.

It is important to note that under H.R. 7132 arbitration would not be automatic. Rather, it would provide an equitable nonjudicial remedy only in the case of disputes which could not be settled between the Postal Service and its nonunion managerial personnel within a specified time period.

It is for all the above reasons that I fully support H.R. 7132.

Mr. DOWNEY. Mr. Speaker, today the House will consider H.R. 7132, a bill to establish a U.S. Postal Service Arbitration Board. It is an important bill which deserves our support.

H.R. 7132 reaffirms the congressional intent of the 1970 Postal Reorganization Act which, in section 1004, provides for a "program for consultation" between Postal Service management and supervisory personnel. The spirit of this provision has not been followed by the Postal Service in many instances, and H.R. 7132 will insure that postal supervisors can seek effective relief from arbitrary management decisions. By institutionalizing the "program of consultation" called for in the 1970 law, the Congress will take a major step in remedying a major problem in the Postal Service management-labor relations system.

I think the supervisors are more than justified in seeking this legislation, because of their unique status in the labor-management continuum. They do not seek bargaining rights associated with labor unions; rather, they seek the right to arbitrate differences with Postal Service administrators.

On four different occasions the Postal Supervisors Association has taken the U.S. Postal Service to court for violations of section 1004. On three occasions the court has upheld the claims of the supervisors. It should be noted that the estimated costs of arbitration as listed in the H.R. 7132 committee report—less than $100,000 in the next 3 years—will be far more cost-effective than the current series of judicial proceedings and subsequent antagonisms that have occurred under section 1004.

This legislation would not be necessary had the Postal Service adhered to the clearly stated "consultation clause" of the 1970 Reorganization Act. Because Postal Service compliance in the past 7 years has been, at best, uneven, I fully support the arbitration remedy of H.R. 7132. As it did in 1970, the Congress must recognize that, although postal supervisors are basically treated as management personnel, the administrative structure of the Postal Service requires that they be given a voice in the contract proceedings that affect them.

Mr. STOCKMAN. Mr. Speaker, I rise to urge my colleagues to give their support to H.R. 7132, a bill to authorize arbitration of disputes between the Postal Service and organizations representing postal supervisors.

This legislation has been made necessary only by the continued refusal of the Postal Service to comply with the mandate for "consultation with recognized organizations of supervisory personnel" contained in the Postal Reorganization Act of 1970. Although the Congress clearly intended to give the postal supervisors a key role in the development of policy at the Postal Service, the senior management has shunted the claims of the supervisors' organizations aside.

These organizations have had to go to the courts to uphold their right to participation in the decisionmaking process. On three separate occasions, the courts have upheld the rights of the supervisors. H.R. 7132 would obviate the need for such costly and time-consuming litigation. The real beneficiaries would be the customers of the Postal Service, because the wisdom and experience of middle-management would be given a greater role.

A final solution to the ills of the Postal Service can come only from a comprehensive reform package. I have introduced such a bill, H.R. 8306. I hope that it and other similar pieces of legislation will be given a full and prompt hearing before the relevant committees. But until we have the opportunity for major reform, we must close the gaps in the present structure. One of these gaps is the lack of communication between senior management and the postal supervisors. H.R. 7132 will fill this need by acting as a deterrent to arbitrary and capricious decisions by top management at the Postal Service.

For these reasons, Mr. Speaker, I urge the House to adopt this bill.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and pass the bill, H.R. 7132, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

Mr. ASHBROOK. Mr. Speaker, I do not withdraw the point of order.

The SPEAKER pro tempore. It is so considered. Under rule XV, clause 6(e) there is no question now being put to a vote.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, my understanding is that there is a question pending.

The SPEAKER pro tempore. Under the rule, further proceedings on the motion to suspend the rules are postponed. There is no longer a question pending.

Mr. ASHBROOK. Mr. Speaker, I insist on my point of order.

The SPEAKER pro tempore. There is no question pending, however, and the Chair cannot now recognize the gentleman to make his point of order.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 6693, House Concurrent Resolution 277, and H.R. 7132.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8309, NAVIGATION DEVELOPMENT ACT

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–631) on the resolution (H. Res. 776), providing for the consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2329, FISH AND WILDLIFE IMPROVEMENT ACT OF 1977

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–630), on the resolution (H. Res. 775) providing for the consideration of H.R. 2329, to improve the administration of fish and wildlife programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1037, ENERGY TRANSPORTATION SECURITY ACT OF 1977

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–629), on the resolution (H. Res. 774) providing for the consideration of H.R. 1037 to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 277 and H.R. 7132.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6693, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 6693, as amended on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 12, not voting 47, as follows:

[Roll No. 589]

YEAS—375

Abdnor
Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Cornwell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—12

Armstrong
Ashbrook
Benjamin
Conyers
Crane
Edwards, Calif.
McDonald
Moss
Quayle
Railsback
Rudd
Symms

NOT VOTING—47

Akaka
Allen
Badillo
Bolling
Bowen
Brooks
Clawson, Del
Clay
Corman
Cotter
Cunningham
Dent
Dornan
Eckhardt
Evans, Ga.
Goldwater
Goodling
Harrington
Johnson, Calif.
Koch
Leach
Lehman
Luken
McClory
McCloskey
Mann
Martin
Michel
Patterson
Pepper
Pettis
Pursell
Roberts
Rogers
Roncalio
Ruppe
St Germain
Teague
Thornton
Tsongas
Wampler
Whalen
Wilson, Bob
Wolff
Yatron
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Dent with Mr. Goldwater.
Mr. Zeferetti with Mr. McClory.
Mr. Akaka with Mrs. Pettis.
Mr. Luken with Mr. Whalen.
Mr. Teague with Mr. Del Clawson.
Mr. Wolff with Mr. Dornan.
Mr. Badillo with Mr. McCloskey.
Mr. Koch with Mr. Wampler.
Mr. Cotter with Mr. Cunningham.
Mr. Pepper with Mr. Michel.
Mr. Brooks with Mr. Bob Wilson.
Mr. Johnson of California with Mr. Ruppe.
Mr. Allen with Mr. Pursell.
Mr. Corman with Mr. Leach.
Mr. Yatron with Mr. Goodling.
Mr. Harrington with Mr. Martin.
Mr. Bowen with Mr. Clay.
Mr. St Germain with Mr. Roncalio.
Mr. Rogers with Mr. Tsongas.
Mr. Roberts with Mr. Lehman.
Mr. Mann with Mr. Evans of Georgia.
Mr. Patterson of California with Mr. Eckhardt.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such Act, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SATURDAY MAIL DELIVERY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 277).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 277), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 9, not voting 48, as follows:

[Roll No. 590]

YEAS—377

Abdnor
Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goodling
Gore
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.

Murphy, Pa.	Rooney	Studds
Murtha	Rose	Stump
Myers, John	Rosenthal	Symms
Myers, Michael	Rostenkowski	Taylor
Natcher	Rousselot	Thompson
Neal	Roybal	Thone
Nedzi	Rudd	Traxler
Nichols	Runnels	Treen
Nix	Russo	Tribie
Nolan	Ryan	Tucker
Nowak	Santini	Udall
O'Brien	Sarasin	Ullman
Oakar	Satterfield	Van Deerlin
Oberstar	Sawyer	Vander Jagt
Obey	Scheuer	Vanik
Ottinger	Schroeder	Vento
Panetta	Schulze	Volkmer
Patten	Sebelius	Waggonner
Pattison	Seiberling	Walgren
Pease	Sharp	Walker
Perkins	Shipley	Walsh
Pickle	Sikes	Watkins
Pike	Simon	Waxman
Poage	Sisk	Weaver
Pressler	Skelton	Weiss
Preyer	Skubitz	White
Price	Slack	Whitehurst
Pritchard	Smith, Iowa	Whitley
Quayle	Smith, Nebr.	Whitten
Quie	Snyder	Wilson, C. H.
Quillen	Solarz	Wilson, Tex.
Rahall	Spellman	Winn
Railsback	Spence	Wirth
Rangel	Staggers	Wright
Regula	Stangeland	Wydler
Reuss	Stanton	Wylie
Rhodes	Stark	Yates
Richmond	Steed	Young, Alaska
Rinaldo	Steers	Young, Fla.
Risenhoover	Steiger	Young, Mo.
Robinson	Stockman	Zablocki
Rodino	Stokes	
Roe	Stratton	

NAYS—9

Cleveland	Duncan, Oreg.	Myers, Gary
Collins, Tex.	Erlenborn	Shuster
Derwinski	Gradison	Wiggins

NOT VOTING—48

Akaka	Goldwater	Pursell
Allen	Goodling	Roberts
Badillo	Harrington	Rogers
Bolling	Johnson, Calif.	Roncalio
Bowen	Koch	Ruppe
Brooks	Leach	St Germain
Carney	Lehman	Teague
Clawson, Del	Luken	Thornton
Clay	McClory	Tsongas
Corman	McCloskey	Wampler
Cotter	Mann	Whalen
Cunningham	Martin	Wilson, Bob
Dent	Michel	Wolff
Dornan	Patterson	Yatron
Eckhardt	Pepper	Young, Tex.
Evans, Ga.	Pettis	Zeferetti

The Clerk announced the following pairs:

Mr. Wolff with Mr. Del Clawson.
Mr. Zeferetti with Mr. Goldwater.
Mr. Akaka with Mr. Martin.
Mr. Badillo with Mr. Michel.
Mr. Teague with Mr. Cunningham.
Mr. Thornton with Mr. McClory.
Mr. St Germain with Mrs. Pettis.
Mr. Cotter with Mr. Whalen.
Mr. Tsongas with Mr. Dornan.
Mr. Dent with Mr. Ruppe.
Mr. Bowen with Mr. McCloskey.
Mr. Allen with Mr. Goodling.
Mr. Brooks with Mr. Pursell.
Mr. Carney with Mr. Wampler.
Mr. Clay with Mr. Pepper.
Mr. Corman with Mr. Roberts.
Mr. Harrington with Mr. Rogers.
Mr. Koch with Mr. Lehman.
Mr. Luken with Mr. Roncalio.
Mr. Mann with Mr. Eckhardt.
Mr. Patterson of California with Mr. Evans of Georgia.
Mr. Yatron with Mr. Johnson of California.
Mr. Bob Wilson with Mr. Leach.

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ESTABLISHMENT OF U.S. POSTAL SERVICE ARBITRATION BOARD

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 7132, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and pass the bill H.R. 7132, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF ADDITION TO LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to proceed out of order for 2 minutes in order to make an announcement with respect to tomorrow's schedule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, I take this time to advise the Members that it is the intention of the leadership to call up one or perhaps two additional suspensions tomorrow. One will be H.R. 9278 dealing with staffing for former Presidents; and perhaps a second resolution may be called up dealing with the Labor-HEW conference.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

In reference to the latter bill the gentleman mentioned, is there any certainty that the Labor-HEW conference report will be voted on?

Mr. WRIGHT. There is no certainty at this moment, but the leadership wanted the Members to know that there is a possibility that it may come up tomorrow for a vote in the House.

Mr. BAUMAN. And that might involve a vote on the Hyde amendment?

Mr. WRIGHT. Yes; I would say to the gentleman it quite conceivably could.

Mr. BAUMAN. I thank the gentleman.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. (Mr. HARKIN). Is there objection to the request of the gentleman from Texas?

There was no objection.

OPPOSITION TO THE IRS PLAN TO TAX FRINGE BENEFITS CONTINUES TO GROW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, on August 4 I told the House that the Internal Revenue Service was moving forward with a plan to tax employee fringe benefits—such as free parking spaces, store discounts for retail employees, travel passes for airline and rail employees day care centers for women et cetera—as regular income.

I pointed out that no clear line divides compensation of this kind from conditions of work, that widespread taxation of fringe benefits would increase the tax burden on the American people, and that the implementation of such a plan would be enormously disruptive to labor/management relations.

In order to forestall this IRS action—which had been revealed by Commissioner of Internal Revenue Jerome Kurtz in an interview—I introduced House Resolution 740, which declares that it is the sense of Congress that the IRS ought not to change its longstanding practices toward the taxation of fringe benefits without consultation with Congress. This resolution was also introduced in the Senate by Senator ORRIN HATCH, and has the following cosponsors in the House:

LIST OF COSPONSORS

Mr. Conable.
Mr. Martin.
Mr. Stockman.
Mr. Broyhill.
Mr. Brown of Ohio.
Mr. Jacobs.
Mrs. Keys.
Mr. Waggonner.
Mr. Devine.
Mr. Rousselot.
Mr. Abdnor.
Mr. Archer.
Mr. Bafalis.
Mr. Blouin.
Mr. Buchanan.
Mr. Crane.
Mr. Dan Daniel.
Mr. Delaney.
Mr. Downey.
Mr. Duncan of Tennessee.
Mr. Eilberg.
Mr. Frey.
Mr. Goldwater.
Mr. Ketchum.
Mr. Lagomarsino.
Mr. Leach.
Mr. Lederer.
Mr. Lott.
Mrs. Lloyd of Tennessee.
Mr. McClory.
Mr. Moorhead of California.
Mr. Preyer.
Mr. Rinaldo.
Mr. Santini.
Mr. Whitehurst.
Mrs. Holt.
Mr. Quie.
Mr. Hughes.
Mr. Forsythe.
Mr. Burgener.
Mr. Kindness.
Mr. Collins of Texas.
Mr. Hyde.
Mr. Heftel.
Mr. Goodling.
Mr. Badham.
Mr. John T. Myers.
Mr. Steers.

Recently the Brookings Institution issued a new study called Comprehensive Income Taxation, in which the idea of taxing all fringe benefits as ordinary income is endorsed. Brookings argues that this will increase Federal tax receipts by roughly $20 billion per year. Although the proposal also says that this money should be returned to the people in the form of tax reduction, I strongly submit that the vast majority of people would be worse off as a result because that which the politicians get their hands on, they will not let go.

I believe that Congress should move ahead on this issue and make its feelings known to the President, the Treasury, and the IRS by endorsing our resolution before it becomes necessary to prepare legislation to protect the American people from IRS higher taxes.

We should be lowering taxes not seeking ways of raising taxes.

ANTI-MANDATORY RETIREMENT BILL'S HOUSE PASSAGE A DECLARATION OF INDEPENDENCE FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, since at least early in the 93d Congress, legislation to amend the Age Discrimination in Employment Act by eliminating the upper age limit of 65 has been gaining strength in both the number of bills and the number of cosponsors. I am proud to have been one of the initiators of these efforts and to have my bill, H.R. 5383, approved on the floor of the House on Friday by the overwhelming vote of 359 to 4.

I am pleased that the Senate Human Resources Committee, chaired by Hon. HARRISON WILLIAMS, has scheduled action on the bill this week. I am confident the full Senate will also take prompt action and that the President will sign the bill shortly thereafter. I am hopeful that the bill will become law in this session of Congress.

The speed with which the bill has moved in this session of Congress is testimony to recognition by the Congress that we must eliminate ageism as a means of arbitrary discrimination against people in our society, as we have previously made great strides toward eliminating racism and sexism.

I want to give a special thanks to my colleague from California (Mr. HAWKINS)—himself an initiator of this legislation—for his untiring efforts to move this legislation through his Subcommittee on Employment Opportunities and the Committee on Education and Labor to the floor of the House. I am happy that the Select Committee on Aging has been able to assist the Education and Labor Committee in this matter by holding 10 days of hearings over the last 18 months on the subjects of age discrimination and mandatory retirement. During these hearings we heard from corporations with and without mandatory retirement age policies, representatives of labor unions, economists and legal experts in the area of retirement age policies, the Department of Labor, representatives of senior organizations, and senior citizens themselves.

Our report on these hearings, entitled "Mandatory Retirement: The Social and Human Cost of Enforced Idleness", was issued last month.

Mandatory retirement is just a euphemism masking the cruelty of age discrimination and forced unemployment. It severs productive persons from a livelihood, squanders their talents, scars their health, strains an overburdened social security system, drains social welfare programs, and drives many of the elderly into despair.

For those driven into poverty by it, age-based retirement is a particularly perverse birthday present.

The end of mandatory retirement will mean a declaration of independence for many of the senior citizens of our Nation.

Opponents of my bill to limit mandatory retirement worry that, if they are banned, doddering older workers will clog the employment channels, closing off job opportunities for the young and forestalling upward mobility for women and minorities. This is questionable, especially if one looks to the example provided by a number of employees who have no mandatory retirement age and are doing quite well.

During World War II it was necessary to employ retired older workers in the aircraft plants of southern California. A study found that older workers "had greater stability on the job, fewer accidents and less time lost from work than did younger employes."

The study concluded that it was "unfair to judge workers on terms of their chronological age." Studies by the Department of Labor and the National Council on Aging, among others, have since established that older workers are able to produce work qualitatively and quantitatively equal or superior to that of younger workers. The Labor Department also found that there is more variation in work ability within the same age group than between age groups.

Some persons dodder at 30, some at 80 and some pass through life without doddering at all.

Elderly persons who have managed to evade mandatory retirement provide dramatic evidence that age 65 does not signal senility. Who would tell Margaret Mead, 75, that her contributions to the study of anthropology ended at age 65? Who would tell Arthur Fiedler, 83, or Leopold Stokowski, 94, that those over 65 cannot contribute meaningfully to the appreciation of music?

There is ample evidence that the older American brings valuable skills to the labor force. Annie Jones is a 72-year-old correspondent for the Bangor Daily News. At 68, Lillian Carter served as a nurse in the Peace Corps. At 78, she helped elect a president. And Arthur Rubinstein celebrated his 90th birthday with a nationally televised virtuoso performance.

If one assumes that persons become inflexible and senile at 65, then perhaps Justice Brandeis, who retired at 82, or Justice Holmes, who retired at 90, should have been driven from the bench at 65.

The real tragedy of mandatory retirement is found in the lives of senior citizens whose unrealized contributions to society could have been as significant as the contributions of Margaret Mead or Justice Brandeis had they not been arbitrarily exiled from the labor force.

A full employment economy ultimately will nullify the contention that jobs must be stolen from the old to give to the young. In the interim, the proponents of mandatory retirement advocate changing the age of the victim rather than remedying the problem.

I see no social or ethical grounds for arguing that a young person has any more right to a job than an older person. By exchanging jobs through mandatory retirement, grandchildren simply are spared the realization that they are shoving their own grandparents from the labor force. The assumption that mandatory retirement opens jobs for the young is itself suspect.

In periods of economic expansion, technological advances render the jobs typically held by older workers obsolete while creating jobs based on new technology for young workers. In periods of economic contraction, older workers are eased out of the labor force and not replaced.

Stretched to its extreme, the argument would become one for universal mandatory retirement at an age younger than 65. The absurdity of that proposal is that if you follow the premises to their conclusion you would lower the age of mandatory retirement until every jobless young person has stolen an older person's job.

The employment crisis caused by young workers will soon ease. Peter Drucker, a labor-management expert, notes that, "from 1978 on, we will have each year up to 30 percent fewer entrants into the working population than we had in the 10 years from 1966 to 1977."

Proponents argue that banning mandatory retirement would produce a decline in promotional opportunities for younger workers. A younger worker whose upward mobility has been purchased at the price of an older person's job has entered into a Faustian contract with the proponents of mandatory retirement. When that young worker, still competent, productive and eager to work, reaches the arbitrary age of retirement, he or she will find that the right to cry "age discrimination" has been bartered away.

The argument that we ought to rob jobs from the old to give to the young reminds me of a Grimm Brothers story.

A farmer forces his elderly father to eat from a wooden trough apart from the family. One day the farmer notices that his son is constructing a trough.

"What are you doing?" asks the father.

"I'm preparing for your old age," replies the son.

The father dismantles both troughs.

Those who attempt to turn women and minorities against the cause of the elderly by promising promotions in ex-

change for support of mandatory retirement apparently forget that elderly women, elderly minorities and elderly minority women suffer the double or triple burden of age, race and sex discrimination. Attempting to transform natural allies into enemies is a tactic commonly used by those opposing social change. Following the Civil War and again in the 1960's those championing women's rights were told that they would hurt the cause of blacks. Now women and minorities are told that it is in their self-interest to inflict discrimination on another abused group. Equal opportunity and age discrimination cannot coexist.

Proponents of mandatory retirement contend that a ban would break down in operation, since supervisors are ill equipped to evaluate the performance of older workers. They argue, moreover, that many in the over-65 group would ultimately have to be fired for incompetency, and thus be stigmatized unnecessarily.

But why should not capable, compassionate supervisors be able to evaluate older workers as readily as they judge the younger ones? Even now tools exist for detecting workers no longer able to perform adequately—regardless of age. With support from the National Council on Aging, Dr. Leon Koyl of York Central Hospital in Richmond, Ontario, has developed techniques to determine job competency that have been successfully applied in both government and industry. Again, the testimony of companies without mandatory retirement age policies indicates that such a policy is administratively feasible.

In fact, the "administrative difficulties" cited by proponents of mandatory retirement would better be termed "administrative laziness." Experience to date shows that abandoning mandatory retirement does not stigmatize older workers, demoralize younger employees, traumatize supervisors, clot the promotional channels with doddering incompetents, reduce productivity or jeopardize the financial security of retirees.

The claim that mandatory retirement imposes suffering is not exaggerated. A survey of new social security beneficiaries found that, even when combined, social security, private pension benefits and savings did not begin to match the preretirement income of the average worker. Typically, the retiree dropped to less than half of his or her median pre-retirement income.

Those favoring mandatory retirement ought to ask themselves whether they could live in dignity on less than half of their current income. Increased life expectancy coupled with a trend toward later marriage exacerbate the financial crisis by increasing the likelihood that a worker at 65 will be supporting both an elderly parent and college-age children.

Both the Social Security System and private pension plans confront the same socio-demographic trends. The Census Bureau projects that the percentage of the population over 65 will rise from 10.7 percent in 1976 to 12.9 percent in 2000, an increase of 9-million persons. As those born in the postwar baby boom reach 65, the ranks of the elderly will surge from 32 million at the beginning of the next century to almost 55 million in 2030.

As older workers are forced to retire, they tax an already strained social security system. Not long ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by the year 2030, the ratio will approach 2 to 1. By 1982 or 1983, the Congressional Budget Office estimates, the balances in social security will be depleted. As fewer workers support more Social Security and private pension-plan beneficiaries, we must ask whether the economy and the country would not be better served if older workers who want to work and are able to work were permitted to remain in their jobs.

Mandatory retirement drains social security and private pension plans and jeopardizes the financial well-being of some older workers. In addition, by depriving the older worker of the meaning and companionship which work often provides, mandatory retirement can scar the health of the retiree, resulting in a needless drain on social welfare programs.

Banning mandatory retirement does not bar or discourage voluntary retirement. In no way is my bill tied to Commerce Secretary Kreps' proposal to delay Social Security benefits. Her proposal constituted a callous breach of faith with those who have paid into social security for decades on the assumption that they would receive full benefits at 65, and I vigorously opposed it. Secretary Kreps has assured me that her discussion of a delay in Social Security benefits represented her personal view and that the administration "is not considering any proposal to alter the existing arrangement for retirement with full benefits at age 65."

Banning mandatory retirement clearly makes sense in a society that seeks to root out all forms of discrimination against its members. Already at least one union and many firms are trying out plans that allow competent workers to choose for themselves when they want to quit. The United Steelworkers of America has no mandatory retirement age in its contracts with the steel, can, and aluminum industries. Bankers Life and Casualty, the Paddock newspapers, Cartier Jewelers, and recently Connecticut General and Aetna insurance companies are some of the firms that have eliminated mandatory retirement based on age for all or almost all their employees.

Thirteen individual State governments have banned various forms of age-based forced retirement. The voters of the city of Los Angeles overwhelmingly passed a referendum last April that ended mandatory retirement for city employees. Just last week, California Governor Jerry Brown signed bills which abolish all mandatory retirement for employees in both the public and private sector in his State, which has 10 percent of the Nation's citizens over 65. The Mayor of Seattle signed an executive order in May to eliminate the practice of mandatory retirement for municipal employees. A number of State legislatures are presently considering legislation to end or greatly reduce age-based mandatory retirement.

The crusade against mandatory retirement is bipartisan. The 1976 Republican National Platform declared:

> We favor the abolition of arbitrary age levels for mandatory retirement.

During the 1976 campaign, President Carter said,

> We need to change the laws and policies that force retirement of older persons who are willing and able to work.

Last month he told me that he supports "in principle" my bill banning mandatory retirement in the Federal sector and extending protection from mandatory retirement in the private sector to 70. The results of this legislation will assuage the fears of those who predict that cataclysm would follow a total ban on age discrimination in employment.

The abolition of mandatory retirement has been endorsed by the Federal Council on Aging, which is the President's advisory committee on issues concerning the elderly; the American Medical Association; the National Caucus on the Black Aged, and the National Organization for Women. The American Federation of Government Employees of the AFL–CIO testified in favor of the Federal sector provisions of the bill.

In addition, 18 leading national senior citizens organizations have endorsed H.R. 5383: American Association of Homes for the Aging; American Association of Retired Persons; Association for Gerontology in Higher Education; International Center for Social Gerontology; National Association for Spanish-Speaking Elderly; National Association of Area Agencies on Aging; National Association of Counties; National Association of State Units on Aging; Gerontological Society; National Association of Retired Federal Employees; National Center on Black Aged; National Council of Senior Citizens; National Council on the Aging, Inc., National Indian Council on Aging, Inc.; National Retired Teachers Association; Urban Elderly Coalition; the Task Force on Aging of the U.S. Conference of Mayors; Western Gerontological Society.

I want to emphasize that this bill is an interim step toward abolition of all age-based mandatory retirement. Tolerating mandatory retirement of capable persons when they reach an arbitrary age, whether 65 or 70, makes us accomplices in discrimination. The choice of age 70 for the non-Federal sector was a compromise to meet the concerns of business and unions. I am confident that the report of the Secretary of Labor due in 2 years will demonstrate that the fears of opponents of this bill were unfounded and that a complete uncapping of the upper age limit is warranted.

The principle involved is clear. Competence, not such extraneous factors as race, sex, religion, or age, should determine whether a worker is hired, retained, and promoted.

By tolerating mandatory retirement, we become accomplices in an anomalous form of discrimination that punishes the victim for the most unavoidable of all human experiences—simply growing older.

I urge the Senate and the President to act as quickly as possible.

HUMAN RIGHTS, CAPTIVE NATIONS, AND NEW DIRECTIONS IN FOREIGN POLICY FEATURED IN 1977 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore: Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the basic value of the annual Captive Nations Week observance has been to focus on issues most critical to our national security interest. This was well demonstrated again in the recent 19th observance of the week. A lingering myth surrounding this national annual event is that our citizens' concern is solely concentrated on Eastern Europe, erroneously interpreted as captive territory up to the western borders of the Soviet Union. As shown in the original congressional resolution itself, the fact is that most of the captive nations are in the Soviet Union itself. And Soviet Russian imperiocolonialism is today our only real threat, none other.

These and other themes were clearly brought out in the nationwide publicity given to the week. I commend the reading of my colleagues items selected in a further report of the week—the Illinois House of Representatives resolution on the 1977 week and articles and editorials in the Anderson, Ind., Herald, St. Louis Globe-Democrat, Sioux Falls Argus-Leader, Gary, Ind., Post-Tribune, the Tujouga, Calif., Record-Leader, the Marion Forum broadcast, the Los Angeles Times, the Christian Science Monitor, the Boston Herald American, and the Muncie, Ind., Star:

[State of Illinois House of Representatives]

HOUSE RESOLUTION No. 353

Whereas, The plight of those nations subjugated by the forces of Communism is a cause of great concern to all free people; and

Whereas, The national independence of Lithuania, Latvia, Estonia, Hungary, Poland, Bilearus, Rumania, Ukraine, Slovakia, Serbia, Czechoslovakia, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, North Korea, Croatia, Idel-Urai, Viet Nam, Georgia, Albania, Tibet, Cossakia, Solvenia, Turkestan and other nations has been suppressed by their Communist masters; and

Whereas, Since 1959 when President Dwight D. Eisenhower and the Congress of the United States first designated the third week in July as Captive Nations week, each President and each Congress has observed the occasion in order to focus world attention on the plight of those nations who have lost their national independence as the result of direct and indirect aggression of world Communism; and

Whereas, 1977 is the 19th anniversary of Captive Nations week, and the observances which are to be held throughout the United States and Canada will include a parade and banquet in the City of Chicago; therefore, be it

Resolved, by the House of Representatives of the Eightieth General Assembly of the State of Illinois, That we support the aims and aspirations of all people who desire freedom and the right of self-determination; and that we commend the Captive Nations Committee for its valiant efforts in behalf of the restoration of freedom and democracy in Communist dominated countries; and, be it further

Resolved, That a copy of this preamble and resolution be forwarded to Mr. Viktors Viksnins, Chairman of the Captive Nations Committee.

Adopted by the House of Representatives on June 20, 1977.

[From the Anderson (Ind.) Herald, Aug. 12, 1977]

CAPTIVE NATION'S WEEK

Captive Nation's Week began July 17. The Carter White House, claiming to be big on human rights, ignored it until July 20 and issued a proclamation then only under pressure from ethnic groups.

That proclamation has been described as the weakest in the 19-year history of the observance. It did not mention communism or fascism. It did not refer to the capitive nations of eastern Europe or enslaved people elsewhere.

It merely called on the "people of the United States to observe this week with appropriate ceremonies and activities, demonstrating America's support for those who seek independence, liberty and human rights."

If there had been no protest it appears likely that Carter would not have issued a proclamation. On July 15, Lee Edwards, executive director of the National Captive Nations Committe, was told by Craig Traverton of the National Security Council that because of Carter's "well-known" stand on human rights there was "no requirement" for a proclamation.

Communists everywhere agreed.

[From the St. Louis Globe-Democrat, Aug. 6, 1977]

THE CAPTIVE NATIONS WEEK

(By Walter E. Orthwein)

Where are they now? Persons, places and things make headlines for months or years, then fade away, but often are remembered. For instance, what ever happened to . . .

Captive Nations Week, designated by Congress in 1959 as an annual observance to focus attention on the fate of hundreds of millions enslaved by Communist tyranny?

Once highlighted from coast to coast by parades of refugees, candlelight processions and commemorative services during the third week in July, the event has been virtually forgotten.

This year, President Carter became the nation's first chief executive to fail to proclaim Captive Nations Week since it was instituted 18 years ago.

Two years after President Eisenhower signed the congressional declaration into law, President John F. Kennedy said in his 1961 inaugural address:

"Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty . . ."

Mr. Carter's failure to follow the example of his five predecessors in the White House has been denounced as a new low in U.S. foreign policy by the head of the National Captive Nations Week Committee, Dr. Lev Dobriansky.

Dobriansky, professor of economics at Georgetown University, Washington, D.C., wrote the President.

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad.

"Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet.

"Instead, for the first time since 1959 and in strange contrast to your five predecessors, you chose to ignore this traditional annual observance of Captive Nations Week that has consistently given coherent expression to human rights on the scale of over 27 nations held in Communist captivity.

"Your indifference to this concrete issue reflects not only Poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

The Georgetown professor said he and his colleagues are appalled by what he calls "a new low in the basic barometer of our foreign policy course toward the imperio-totalitarian part of the world."

One of the biggest public observances of Captive Nations Week here was in 1962, when refugees from Hungary, Romania, Cuba, Czechoslovakia and China marched in two downtown parades.

They carried signs and banners reading: "All Commies Are Killers"; "Tito Murdered a Million Croats"; Cuba—Communism 90 Miles from U.S."; "We Are Our Brothers Keeper" and "Thanks, America! We're Not Captive But Our Parents Are!"

In a 1971 service at the Old Cathedral, the Rev. Dr. Martin Scharlemann of Concordia Seminary preached a Captive Nations Week sermon. The Rev. Richard Wurmbrand, a Romanian pastor jailed by the Communists for 14 years, spoke on the Old Post Office steps.

This week, Dr. Scharlemann told The Globe-Democrat:

"There appears to be abundant evidence for a failure of nerve and a lack of will on the part of the American government and its people to stand up to the threats to its own liberties.

"Under such conditions, observance of Captive Nations Week seems to be a hollow mockery."

[From the Sioux Falls (S. Dak.) Argus-Leader, Aug. 5, 1977]

WHY DID CARTER LET PROCLAMATION SLIDE?

To the Editor:

Each year since 1959 the third week of July has been officially designated as Captive Nations Week to memorialize those nations held captive by Communist dictators and to give hope to their oppressed peoples by declaring that they have the support of America for recovery of their freedom. And each year for the past 18 years, in response to a Joint Resolution of Congress codified as Public Law 86–90, the President of the United States has issued the Captive Nations Week proclamation long in advance. That is until this year when President Carter issued it with half of Captive Nations Week already gone. He did it only after Rep. Larry McDonald (D-Ga.) began a campaign of exposure.

President Carter claims to support human rights. Why did he block release of the Captive Nations Week proclamation? It appears that the issue of human rights is now being used by the Carter administration to harass our anti-Communist allies. While this truth is never even mentioned: where Communists rule, human rights are simply nonexistent.

KAREN KWASNIEWSKI.

Webster, S. Dak.

[From the Gary (Ind.) Post-Tribune, Aug. 4, 1977]

RAPS CARTER STAND ON CAPTIVE NATIONS WEEK

How many times have you read or heard the word human rights lately? If our President is so sincere about the issue why did he hesitate to proclaim Captive Nations Week?

It took some concerted action by patriotic and concerned congressmen to make a White House reversal, so Captive Nations Week wasn't completely ignored as planned by the Carter Administration.

What about human rights for the one million political prisoners in slave labor camps in the Soviet Union? What about some recognition for the Czechoslovakian people? It has been nine years since they last sought human rights. This year, hundreds of Czechs signed a manifesto called Charter 77 to remind the West that human rights supposedly guaranteed by the Helsinki Accord have not been extended to those ruled by the Soviet Union. In response, the secret police arrested 100 prominent signers and began to assault Western journalists in the streets.

What about human rights for East German people? They have been waiting for 32 years to throw off their shackles.

Human rights are simply nonexistent wherever the Communists rule. But Jimmy Carter sought to avoid even to offer hope to the enslaved peoples by declaring Captive Nations Week. On the first undeclared day of Captive Nations Week—Monday, July 18, 1977—the sellout of the oppressed people of Romania was gaining momentum with Rep. Charles A. Vanik, D-Ohio, and Republican Rep. William A. Steiger of Wisconsin, who delivered a unanimous vote to extend "most favored nation" treatment to the Communist dictatorship in Bucharest.

Concerned Americans who wish to ask Mr. Carter why it was he sought to become the first president in 18 years not to declare Captive Nations Week can write or wire him at the White House, 1600 Pennsylvania Ave. N.W., Washington, D.C. 20500. It isn't much to ask that you at least protest this attempted betrayal of millions.

—MARIE HORAK.

VALPARAISO.

[From the Tujunga (Calif.) Record-Ledger, Aug. 11, 1977]

VIEWPOINT

(By Karl Nelson)

In 1959 Public Law 86-90 designated the third week of July as Captive Nations Week. This was done to recall to mind that there are nations held captive by Communism and to give those oppressed peoples hope by declaring that they have the support of America for recovery of their freedom.

For the last 18 years every President has responded to Public Law 86-90 by issuing the Captive Nations proclamation in advance of the third week of July.

We should remember that: Over one billion people are now enslaved by Communism; there are millions in the Soviet slave-labor camps and the forced-labor camps of Red China, Vietnam, Cambodia, Laos, Cuba, etc.; and, millions of human beings have been murdered to advance and enforce Communism.

Just what does Public Law 86-90 say? It starts out by saying, "Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of friendship between the people of the United States and other peoples; and . . ." It continues by stating that one of the best hopes for a just and lasting peace and a powerful deterrent to war lies in the fact that most of the enslaved peoples want liberty and independence. We must let them know we are with them in their desire to be free.

This year our President did not sign this proclamation before the start of Captive Nations Week. Why? According to Congressman Lawrence P. McDonald, one Greg Treverton of the National Security Council said that as the President's position on human rights was well known, it was unnecessary for him to honor the tradition of Captive Nations Week. Designated Assistant Secretary of State Patricia Derian added that she was not overly concerned that the President was not planning to honor it.

Why would our President, who has publicly expressed concern for human rights, not sign a document in furtherance of that claim?

Congressman McDonald spoke out on this issue on July 19 in Congress in order to expose it and force a White House reversal. On July 20 he and other congressmen were going to take the matter to the House floor. Before that could happen the White House press office advised that, with half of Captive Nations Week gone, the President had changed his mind and signed the document.

It is beginning to appear that to the present administration human rights are not an issue in Communist countries—maybe because human rights are nonexistent under Communism. However, human rights are certainly the administration's concern when it comes to anti-communist countries—like Brazil, Chile, Argentina, South Africa, Rhodesia, Taiwan or South Korea. Those countries are criticized for daring to jail communist terrorists who are out to overthrow those anti-communist governments by force and violence.

Why would our government use the issue of human rights to harass our anti-communist allies and to ignore the plight of millions of enslaved people?

In the long run the human rights issue is being used to help obtain ratification of the United Nations Genocide Treaty which, in reality, would deny rights while claiming to protect them. This Treaty has been discussed in this column before and it should be remembered that the Senate Foreign Relations Committee has recently approved it. It needs only to be ratified by the Senate. If the Treaty were to be ratified there would have to be a way to enforce it. On June 23, 1977, Congressman Peter Rodino introduced H.R. 7986 which is designed to implement the provisions of the treaty once it is ratified.

Somebody expects it to be ratified!

If Americans are really concerned about human rights they should make it their business to find out what is really going on and then help to expose and reverse that trend.

[From the Manion Forum Broadcast, Aug. 7, 1977]

THE BELATED CAPTIVE NATIONS PROCLAMATION

DEAN MANION. Our 1977 Captive Nations Week has come and gone. Three days of it had already passed before President Carter was finally persuaded to proclaim it as all Presidents of the United States are requested to do by a unanimous resolution of Congress passed on July 17, 1959.

President Eisenhower proclaimed the first Captive Nations Week on the same day. Here are some excerpts from the lengthy Eisenhower proclamation: "Many nations of the world have been made captive by the imperialistic and aggressive policies of Soviet Communism. The peoples of the Soviet dominated nations have been deprived of their national independence and their individual liberties. . . .

"Since the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent, it is appropriate to manifest to the people of the captive nations the support of the government and people of the United States for their just aspirations for freedom and national independence, and since Congress, by joint resolution passed this day, requested the President to designate the third week of July, 1959, as Captive Nations Week and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world—I now do so—and I urge the people of the United States to study the plight of the Soviet dominated nations and re-commit themselves to the support of their just aspirations for freedom and independence."

President Carter's belated proclamation made on Wednesday, July 20, mentions neither the "Soviet Union" nor "Communism" at both of which the Congressional resolution was expressly aimed. But President Carter does reiterate his interest in human rights. Ask the White House Press Secretary to send you a copy of the Carter Proclamation—and note how our foreign policy has changed since 1959.

[From the Los Angeles Times, Aug. 14, 1977]

CAPTIVE NATIONS

There are no other areas of the world where the denials of human rights are more prevalent than in captive nations under the yoke of the Soviet Union. But for some unknown reasons President Carter, the very first President since the enactment of public law 86-90 in 1959, had planned to ignore the Captive Nations Week.

The week, which concluded July 24, was not proclaimed by the President until July 20, and that only after a strong pressure of the various organizations and the members of Congress.

The Belgrade Conference this year should place the issue of human rights and national self-determination squarely before the international community. The right of captive nations to choose their destiny should receive top priority by our negotiators at the conference.

VINCENT KAZLAS.

[From the Christian Science Monitor, Aug. 16, 1977]

SUPPORT CAPTIVE NATIONS

Recent events in the Soviet Union show that dissidents are active in the Ukraine and Lithuania. Repressive measures of the puppet governments of Czechoslovakia, Poland, East Germany, and Romania against dissidents likewise show that nationalism is growing in Eastern Europe. Events in Eastern Europe show that observers familiar with the problems of the non-Russian peoples were correct when they predicted a few years ago an explosion of nationalism in the Soviet Union within a decade.

The captive nations of Eastern Europe are reliable allies of the United States. The U.S. should encourage and support this growing nationalism of the captive peoples.

FARMVILLE, VA.

ALEXANDER V. BERKIS.

[From the Boston Herald American, Aug. 2, 1977]

CAPTIVE NATIONS WEEK

July 17-23 was observed nationally as "Captive Nations Week" in accordance with Public Law 86-90, passed by Congress in 1959. President Carter and Governor Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine and others continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief;" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of UN Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric, bordering on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guaranteed of the Helsinki Accords, which it signed. Recently two Ukrainian dissidents, Mykola Rudenko and Olesiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. In Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, the Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatislav Karavanski, Stefania Shabatura, Nina Strokata-Karanaska, Ivan Hel, Vyacheslav Chornovil—just a few of hundreds of Ukrainian political prisoners.

This year's Captive Nations Week was observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementation of the Helsinki Accords of 1975. However, the captive nations in the Russian Communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations Week served as an appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Russian Communist domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress, Committee of America, Boston Chapter.

[From the Muncie (Ind.) Star, Aug. 25, 1977]

HUMAN RIGHTS

How many times have you read or heard the word "human rights" lately? If President Carter is so sincere about the issue why did he hesitate to proclaim Captive Nations Week? It took some concerted action by patriotic and concerned congressmen to make a White House reversal, so Captive Nations Week wasn't completely ignored as planned by the Carter administration.

What about human rights for the one million political prisoners in slave labor camps in the Soviet Union? What about some recognition for Czechoslovakian people? It has been nine years since they last sought human rights. This year hundreds of Czechs signed a manifesto called Charter 77 to remind the West that human rights supposedly guaranteed by the Helsinki Accord have not been extended to those ruled by the Soviet Union. In response, the secret police arrested 100 prominent signers and began to assault Western journalists in the streets.

What about human rights for East Germany that has been waiting for 22 years to throw off its shackles?

Human rights are simply nonexistent wherever Communists rule. But President Carter sought to avoid even offering hope for the enslaved peoples by declaring Captive Nations Week.

FLOTILLA OF SHIPS HONOR PETER RODINO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. LE FANTE) is recognized for 10 minutes.

Mr. LE FANTE. Mr. Speaker, last Sunday on September 18, the New York-New Jersey Harbor witnessed an early celebration of Columbus Day.

Columbus Afloat 77, a parade of more than 40 vessels, ranging from antique yachts to luxury sailing crafts, embarked from Richmond Marina in Edgewater, N.J., in honor of Christopher Columbus and all Italians who immigrated to our shores. The event, sponsored by the Hudson County based American Maritime Academy, was highlighted by the presentation of the "Statesman of the Year Award," to Representative PETER W. RODINO in recognition of his status as "the most prominent Italian-American in the country."

Needless to say, the Columbus Afloat Committee of the American Maritime Academy could not have decided upon a more fitting recipient for the honor of statesman of the year than our own PETER RODINO. The Nation is amply aware of his outstanding ability and his dedicated commitment to insuring that our citizens are accorded the superior public service that they so duly deserve.

PETER RODINO's tenure as the chairman of the House Judiciary Committee has brought him the notoriety and global admiration which he so immanently merits. He has served both his district and our Nation with distinction throughout his years in Congress, and I am proud that I was chosen, along with Mr. William R. DeNoble, the general chairman of the Columbus Afloat Pageant, to present this latest honor to PETER W. RODINO, JR. in a nautical ceremony aboard the 118-foot yacht *Imperator*.

Mr. Speaker, I would like to commend the American Maritime Academy, and especially Rear Adm. Richard Knight Lukerman and Grand Marshal Arthur E. Imperatore, for sponsoring Columbus Afloat 77 and for awarding Mr. RODINO his well deserved accolade. In addition, I know that this entire Chamber joins me in publicly congratulating our colleague from Newark on receiving this distinguished honor from this praiseworthy seafaring civic organization.

THE SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 10 minutes.

Mr. LEVITAS. Mr. Speaker, I rise to address the House at this time in connection with the actions of the Subcommittee on Social Security in reporting out certain changes in our present social security law. I think that the Subcommittee on Social Security is to be commended not only because of their concern about meeting the immediate problem of the shortfall in revenue which, in a very few years, will lead to an exhaustion of the present trust funds, but that they have gone further and dealt with other matters of concern over inequities and problems in this most important area of our law.

There is no doubt that the social security system in this country is becoming a matter of great concern on the part of many of the elderly and retired citizens who are fearful that the benefits, which are presently meager, may not be there, and on the part of a growing number of younger people coming into the work force who are concerned at the amount of their pay check being taken to pay into the social security system.

I think it is absolutely essential that this Congress make it very clear to all concerned that the ironclad commitment that this Nation has to its social security system will be met and it will not be defaulted. I do not think there is any question, but that we must make that fully clear but, by the same token, I think it is essential that for the young people who are coming into the work force today and who are paying this most regressive of all taxes that we give them the hope that the type of social security system which they will be contributing to and looking to for benefits in the future, is one that will not become exorbitantly expensive and one which will be able to meet our needs for disability, retirement, and survivorship benefits.

I think it would be a travesty if the Committee on Ways and Means and this Congress, at a time when we are asking the American public again to pay more and more taxes into the same system, which is riddled with problems, does not at the same time provide a mechanism by which the problems and inequities of the social security system can be addressed from a long-rage vantage point.

The social security system, which was designed in the 1930's, may or may not be the same type of system necessary to meet the needs of the latter part of this century and on into the next century. The financial problems, the different social and economic circumstances of our society, the increased longevity of the American public are all factors which have created problems and which must be looked at and cannot be looked at on a piecemeal, short-term basis. I think it would be a shame if we again went with a Band-Aid-and-Mercurochrome approach and just pumped more money into the same old system without providing any hope for a comprehensive, long-term view of this situation.

Therefore, Mr. Speaker, it was for that reason that in January of this year I reintroduced a bill which would create a National Commission on Social Security, a national commission which would not be simply a house counsel of the type that the existing advisory committees of social security are, and would not just exist for the 2 years that each Congress exists, but which would be composed of men and women independently appointed by the executive and legislative branches of the Government for 4 years, to travel around the country, and not just sit in offices in Baltimore, Md., and try to figure out what is good for the American people, but talk to housewives, talk to retired people, disabled people, employers, actuaries across America, and make recommendations—imaginative and bold and creative recommendations—for a system which direly needs change and scrutiny if it is to work—not for tomorrow or the next day, but for the next 50 years.

I would hope that the Committee on Ways and Means when it considers this legislation in its full committee markup will see the merit in adopting the suggestion for having a national commission which would be in existence for 4 years, and which would make annual reports culminating in a fourth annual report, making long-term, imaginative, creative, bold recommendations to the effect of whether the present system is the type we need for the future, whether there need to be changes, whether we need to look at general revenues, whether we need to bring the private sector insurance companies more into the system, whether we need to create an optional form of retirement disability and survivorship insurance with mandatory Federal standards, but with an option to go into the private sector. We need to ask the hard and difficult long-range questions which have not been asked. We do not need any more aspirin, and we do not need any more Mercurochrome, and we do not need any more Band-Aids. But if we are going to ask the American taxpayer again to pump up this system, we have got to give them something else to look forward to. We have got to give them the hope that this system for the future will make sense.

I submit, Mr. Speaker, to the Members of the House that with all of the good work the Social Security Subcommittee has done, it has not addressed the long-term question, and that would be addressed by a National Commission on Social Security.

I predict if that decision is not made now as we consider this legislation which will meet the short-term financial problems, that the problem we think will be solved for the time being, we will stop worrying about and consequently we will do nothing about it long term.

Therefore, Mr. Speaker, I urge the Social Security Subcommittee to give serious consideration to this and I will hope that such action will be taken. If not, Mr. Speaker, it is my intention to go before the Rules Committee and ask for a rule which will make it in order for the House itself to have an opportunity to vote on long-term solutions at the same time we are being asked to give a quick fix to the problem.

Mr. Speaker, I ask unanimous consent at this point to insert in the RECORD a copy of the amendment which incorporates the National Commission on Social Security proposal, which I hope will be offered and adopted in the Ways and Means Committee markup of this measure, and, if not, which I will endeavor to have the Rules Committee make in order for full consideration by the House when this measure comes before this body.

The SPEAKER pro tempore (Mr. HARKIN). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Speaker, the amendment is as follows:

NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. —. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(a) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of four years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits, and the conditions of qualification for benefits provided by such programs;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental pension and insurance programs, other governmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories; and

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax, with the financing of such programs being accomplished instead from general revenues or in some other manner, (ii) the establishment of a system providing for mandatory participation by covered individuals in a private insurance program as an alternative to participation in any or all of the Federal programs, and (iii) the establishment of a system permitting covered individuals a choice of public or private programs or both.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than six months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first four years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The fourth such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

STATEMENT OF CHAIRMAN AL ULLMAN CONCERNING PUBLICATION OF AMENDMENTS TO DEBT CEILING BILL (H.R. 9290)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, the Committee on Ways and Means has today ordered reported another bill (H.R. 9290) extending the temporary debt ceiling. The committee has requested a rule on the bill that would require that any amendments be germane and requires that such amendments be printed in the CONGRESSIONAL RECORD at least 24 hours prior to the time the bill is considered on the floor of the House of Representatives. Since the leadership has scheduled the bill for floor action on Wednesday, it will be necessary that any proposed amendments be printed in the RECORD not later than tomorrow, September 27, so that they will be in print in the RECORD received Wednesday morning. This means that any proposed amendments have to be submitted for printing either today or tomorrow.

MEETING THE CHALLENGE OF POPULATION GROWTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, as a cosponsor of House Resolution 70, which would establish a Select Committee on Population, I have occasionally inserted into the RECORD articles which have described how population-related problems touch every aspect of our lives.

On Sunday, September 25, the Washington Post printed "A Race Against Time: Meeting the Challenge of Population Growth," by Warner Fornos, director of the population information program at George Washington University Medical Center's department of medicine and public affairs.

This analysis is an excellent summary of how unprecedented and unplanned population growth and distribution have had a tremendous impact on every citizen of the world.

Enrique Penalosa, secretary general of the 1976 U.N. Habitat Conference, is quoted in the article as noting that answers to these problems will not come easily. Mr. Penalosa observed:

> Even right decisions carry penalties, and we can ill afford mistakes. But there is one factor that can steel our resolve. We cannot go on as we are today.

I also believe we should not continue on the path we are now following. This essay outlines many of the problems we face and I commend it to the attention of my colleagues:

A RACE AGAINST TIME: MEETING THE CHALLENGE OF POPULATION GROWTH

(By Werner Fornos)

Within the next 45 years, if current trends continue, there would be more people in Mexico than there are in the United States. Similarly, Indonesia would have 1.78 billion people in a century, nearly half of the present world population.

These scenarios are unlikely to occur. Populations of that magnitude—added in such short periods of time—cannot be accommodated by the political or social structures of these countries. Political leaders in some nations have begun to grasp this reality, and their countries have been making notable progress in holding down birth rates. But much more needs to be done if the world is not to be overwhelmed by the immense strains resulting from population problems.

World population growth, gathering momentum during the late 19th and early 20th Centuries, reached crisis proportions after World War II when death rates fell precipitously throughout the world while birth rates in developing countries continued at traditional high levels.

The peak rate of population growth of approximately 2 per cent was reached about 1965, when world population totaled roughly 3.3 billion, and the peak annual increase in numbers of people, roughly 70 million, occurred about 1970. Sometime in 1976, the world population passed the 4 billion mark, and 62 million have been added during the past year.

The addition each year of a population greater than West Germany, Great Britain or Mexico to the world total—mainly in the poorest continents and countries—inescapably has profound implications for the adequacy of food and fuel supplies, housing, education, health services and every social structure.

The implications of rapid population growth are most clearly seen with respect to food supplies. Although recent harvests indicate a food surplus in the United States this year, food production has barely matched population growth in the developing countries—creating a precarious balance which could mean disaster for the world's poor.

In the words of Norman Borlaug, father of the Green Revolution in world agriculture, "If a crop failure occurs in any of the large grain-producing areas of the world, tens of millions would die in an international disaster and little could be done to prevent it."

Future climatic conditions will greatly determine how well the world will be able to feed itself. Some experts, such as Reid Bryson of the University of Wisconsin, have concluded that the climate of the past 50 years has been unusually good and that we may face a return to the more normal—that is, poorer—conditions which existed for centuries before.

Although both the population growth rate and the annual increment of population have fallen since their peaks, the addition of more than 60 million people this year (170,000 new mouths each day) places great stress upon the world food system in the developing world—where, excluding China, 80 per cent of the population growth is occurring and where only 20 per cent of the world's food is being produced.

The ironic paradox of this autumn of 1977 is the superabundance of American grain harvests, exceeding storage capacities and piled on streets in the Midwest, while hundreds of millions suffer from severe malnutrition and starvation in Africa, Asia and Latin America.

And no longer can we, in good conscience, solve this U.S. grain surplus problem as we did in the 1950s and 1960s, by shipping our surpluses to the developing countries on concessional terms. Such action may appeal to American farmers and farm state legislators, but it can now be seen as often a long-term disservice to the developing countries.

Such "Food for Peace" aid to India, Pakistan and many other countries in the 1950s and 1960s enabled them to delay self-help actions to curb population increases and raise local food production—a delay which compounded and enlarged their basic problem of too rapid population growth.

UNICEF estimates at least a billion people—one-quarter of the world's population—suffer from malnutrition. The U.N. Food and Agriculture Organization predicts that this number could increase by 50 per cent in 8 to 10 years, even without any major droughts or crop failures.

Obviously the relationship between population growth and food production is a dynamic one—with important food production gains from new seeds, more fertilizer and irrigation repeatedly being rapidly overtaken by burgeoning populations.

Vigorous action to increase agricultural production in developing countries through water management, road building, insect control, fertilizers and improved seeds and crop management will, of course, continue, but unless more than matched by actions to curb human fertility in those countries, these efforts to improve the human condition must necessarily fail.

At present it takes about .40 hectares per person to produce a minimally adequate diet. There are now only about .35 hectares of usable land per person in the world. Moreover, the total amount of prime agricultural land is shrinking due to soil erosion, climatic change and salination. These problems will probably increase as more marginal land is brought into production. Also, millions of acres are taken over each year by expanding needs for homes and other nonagricultural uses.

Yields on current acreage per family can be increased, perhaps doubled or tripled in developing countries, by using better seeds, double cropping and general modernization of agricultural techniques adapted to tropical conditions. But the major inputs needed to increase yields, such as fertilizer, fuel for irrigation and mechanization have increased dramatically in price, limiting their availability in most of the poorest countries.

In theory, consumption patterns could also be changed. Millions of tons of grains and legumes now fed to livestock every year and suitable for human use could be made available to feed the world's hungry. But even if people in affluent countries immediately cut meat consumption by 20 per cent, grain supplies for human use would increase by only 24 million tons or about 3.4 per cent of annual consumption. If population increases each year at the current rate, this one-time reduction in meat consumption would have little permanent impact on world per capita food supplies.

Some progress can, and indeed must, be made in all of these directions, especially in increasing per-acre yield, but unless population growth is checked as well, none of these increases will be sufficient to avert disaster within the next generation.

BURGEONING "MISEROPOLI"

While food is the most obvious need of burgeoning population, the whole spectrum of human needs is under stress. The imbalance of supply and demand is often most acute and apparent at the periphery of sprawling urban slums which surround all of the Third World's major cities. Today these shantytowns or, in Barbara Ward's words, "Miseropoli," account for 30 to 70 per cent of major city populations. Moreover, they are expanding faster than any other form of human settlement. The World Bank estimates shantytown growth rates to be as high as 20 per cent a year in many major cities—meaning a doubling of populations there in less than four years.

Housing shortages, traffic congestion, crime and pollution are urban ills suffered by rich and poor countries alike. But the accumulation of these problems is most acute in the developing countries, where city populations could quadruple in 20 years.

And as Enrique Penalosa, secretary general of the 1976 U.N. Habitat Conference, stated: "Answers won't come easily. Even right decisions carry penalties and we can ill afford mistakes. But there is one factor that can steel our resolve. We cannot go on as we are today."

The real question is time. If human settlements continue to expand so rapidly, the magnitude and cost of resolving these problems may well overwhelm human ingenuity and resources.

Whatever the other causes, rapid urban growth in developing countries continues to be fed by population growth. Unlike urbanization in developed countries, urbanization in developing countries produces no decline in the rural population. Thus, while urban populations may double by the end of the century—from 1 to 2 billion—rural populations will also mushroom—from 2 to 3 billion—thereby supplying a continuous pool of new urban migrants.

THE EMPLOYMENT GAP

Pushed out of rural areas by land shortages and lack of alternative economic opportunities, new urban immigrants add to surplus labor and unemployment problems in the cities. The growth of surplus labor and joblessness, while related directly to underdevelopment, is also obviously tied to population growth—with a lag time of about 15 years.

In many countries, unemployment is growing proportionately faster than employment. Between 1960 and 1975, economic growth in developing countries created over 150 million new jobs, but the labor force grew by almost 170 million. Jobless rates of 15 to 30 per cent (highest among youth) combined with underemployment rates of perhaps 35 per cent or more are turning some Third World countries into urban powder kegs. Measures to discourage migration into cities and greater emphasis on rural development may help, but eventually there must be a better balance between economic growth and population growth.

Half the population in the less developed world is under 19. In many poor countries, more than 40 per cent is under 15. In Nigeria and Peru, 45 per cent of the population is under 15; in Pakistan, 46 per cent. These young people are bound to swell the ranks of the unemployed since in most poor countries there already is significant unemployment.

In the United States, fertility has dropped substantially in the past decade. Yet population pressures from developing nations cause an estimated 800,000 illegal immigrants to be added to our population each year. U.S. population growth is itself still a cause for concern because we alone consume about one-third of the world's annual production of non-renewable resource and energy.

GLIMMERS OF HOPE

The magnitude and urgency of the world population problem were recognized by U.S. leaders in the 1950s and 1960s and led to key changes in U.S. policy and population program action beginning in 1965. By the end of the current fiscal year next Friday, the United States, through the population program of the Agency for International Development, will have provided $1 billion toward resolution of the world population crisis.

This $1 billion, representing 60 per cent of all international population program assistance during the past decade, has been the foremost source of contraceptives, training and assistance for family planning programs throughout the developing world. It also has spurred the population programs of many developing countries and of multilateral organizations, such as the U.N. Fund for Population Activities and the International Planned Parenthood Federation.

Hard lessons have been learned, and attempts to limit population growth are beginning to bear fruit. At least 40 of the world's most populous developing countries—nearly 80 per cent of the Third World population—are supporting some kind of family planning program as part of an official policy to reduce population growth. A handful now have population stabilization targets. Conversely, only about 15 of the world's countries (seven of them developed countries) provide no support at all for family planning programs.

In those countries where national leaders speak out, action is taking place, whether for the purpose of population stabilization or for the improvement of public health.

More and more national leaders have begun to speak forcefully about the need for such action. Mwai Kibaki, Kenya's minister of finance, addressing an outdoor meeting in the province of Vihiga, said, "Family planning is an integral part of development planning . . . you cannot hope to plan other forms of production if you cannot plan the production of the main resource, human beings."

Even in India, where popular resentment against coercive sterilization programs contributed to the fall of Prime Minister Indira Gandhi's government, the new leadership appears fully committed to stemming runaway population growth.

Parents around the world are becoming increasingly aware of the cost of raising children. "Even among farm families in less developed countries, children cost more to care for until they reach 15 than they contribute by their work," Thomas J. Espenshade, an economist at Florida State University, reports in "The Value and Cost of Children." Studies show "parents vastly underestimate the expenses involved in childbearing. Foreknowledge might affect fertility," he believes; "knowing what one child will cost them would well cause couples to pause before embarking on parenthood."

While the availability of family planning to the world's couples is still grossly inadequate, especially in rural areas, pilot programs have shown surprising acceptance of modern contraceptive methods when concentrated efforts are made. In Indonesia, where wholesalers have been distributing contraceptives to nearly 50,000 local retailers, and where government pressure for small families is strong, 1.5 million new contraceptive users were attracted in one year's time. In Egypt, several rural pilot projects served 30 per cent of the reproductive age couples in the area in just five months. In Colombia, family planning volunteer workers cooperating with the Coffee Growers Association attracted up to 50 per cent participation in the households they visited.

In a recent article on U.S. population program assistance overseas, Dr. R. T. Ravenholt, AID's population program director, wrote: "The most notable discovery of recent years is that poor and illiterate peasants use effective means of fertility control to approximately the same extent as literate urban residents when these means are made fully available in rural areas."

Another barrier slowly falling concerns the status of women. In most developing countries, women have fewer rights and opportunities than men, resulting in both less control of their reproduction lives and fewer alternatives to childbearing. Increased education for women and participation in a country's economic life would contribute toward smaller families.

Religion is frequently given as the immovable force preventing progress in adopting family planning. Yet, as the Rev. Rodney Shaw, president of the Population Institute, has pointed out, "there is no doctrine contained in the world's major religions that is so inflexible that it cannot be understood to favor responsible parenthood and birth control in the face of present human realities." Often the people are changing traditional social patterns even before their leadership. In the United States, middle-income Catholics use birth control to the same extent as Protestants; internationally, some of the major success stories are found in heavily Catholic Latin American nations such as Colombia and Costa Rica.

Global experience during the last decade has amply demonstrated that the problem in implementing family planning programs is not mainly with the people, but with the policymakers. If the political leaders of a country are truly dedicated to solving this problem, it can be done with remarkable speed, even in large, poor countries.

FALLING BIRTH RATES

With an undertaking of such massive global dimensions, operating in a most sensitive area of human activity, it necessarily takes some years before the impact on fertility can be measured.

But sufficient time has now elapsed so that demographic changes in many countries can be related to program operations.

Birth rates are falling in almost all countries of Asia and Latin America, especially in nations with vigorous family planning programs. But in Africa, where such programs have lagged, little change in fertility has occurred during the past decade.

China, generally credited with having implemented the most powerful fertility control program during the past decade, has emphasized delay of marriage, full availability of all effective means of fertility control and intense social pressure for reduced child-bearing.

Among the countries assisted by AID, Korea, Indonesia, Thailand, Colombia and Tunisia are family planning leaders, with birth rates decreasing from 17 to 33 per cent during the last decade.

Many other countries receiving population program assistance from the United States and other donors have also achieved substantial declines in average completed family size: Costa Rica, from 6.8 children in 1965 to 3.9 children in 1975; Dominican Republic, from 7.4 to 4.8; Chile, from 4.9 to 3.3; Taiwan, from 6.0 to 3.0; Mauritius, from 6.0 to 3.5, and Sri Lanka, from 4.8 to 3.6.

Rapid fertility decreases in developing countries are becoming a general phenomenon in this decade, analogous to the rapid mortality decreases of the 1950s and 1960s. Data for 25 less developed countries indicate an average reduction of more than one birth per woman during a span of less than a decade. A dozen other countries have experienced a decline of more than 1.5 births per woman.

ACTIONS REQUIRED

Future actions toward solution of the world population crisis should include intensified efforts by the United States, other developed countries, and the developing countries themselves. The impact of rapid population growth is no longer just a health or family planning matter. It requires concerted action at all levels of social concern.

In addition to making fertility control services and information fully available to all couples in developing countries, there is need to gear development assistance programs to this effort. For example, increased literacy and improved educational opportunities for all people—but especially for women who have received less than their fair share—will aid the population effort as well as being basic to human development in general.

Agrarian reform—giving people a more meaningful stake in their own production and a greater share of the benefits of society—can combine with population control to increase the net gain of each person in all human amenities.

In addition, there is a need in all countries for political leaders to make careful analyses of the impact any proposed action would have on population growth.

Many of the most crucial contributions toward a solution of population problems during the last decade were made by private individuals and organizations. Expanded action by individual donors, foundations and corporations, to the extent of at least $1 billion, is needed during the next decade. Multinational corporations, such as Exxon, with $3.1 billion net profits in 1976, and General Motors, with $1 billion, should find it in their own self-interest to contribute to this effort in a responsible and substantial way.

The dynamics of population growth require that, to achieve desired changes in the future, action must be taken now. A total of $10–12 billion in combined government and private funds during the next decade would accomplish more than hundreds of billions of dollars several decades later.

One reason for optimism is that it is greatly in the self-interest of individuals and families to determine the number and spacing of their offspring. For poor women, it is often a matter of life or death.

A peasant woman in Bangladesh, without family planning services, faces more than a 10 percent chance of dying from complications of unlimited pregnancies. Surely she will choose to live and care for her existing children if given the opportunity.

RESOLUTION TO INSTRUCT CONFEREES TO RECEDE FROM HOUSE AMENDMENT TO SENATE AMENDMENT 82 ON H.R. 7555, MAKING APPROPRIATIONS FOR DEPARTMENTS OF LABOR AND HEW—HYDE AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, I rise at this time to announce to the House that late this afternoon I introduced a resolution in the House which I understand will probably come up under the Suspension Calendar on tomorrow. The resolution, Mr. Speaker, reads as follows:

H. RES. —

Resolved, That upon the adoption of this resolution the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to Senate amendment numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, be, and they are hereby instructed to recede from the House amendment to Senate amendment numbered 82 and to agree to the Senate amendment.

Mr. Speaker, I have been requested to file this resolution with the House, the request having been made by the chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON), and the chairman of the Labor-HEW Appropriations Subcommittee, the gentleman from Pennsylvania (Mr. FLOOD), and the Speaker of the House.

The purpose of the introduction of this resolution is so that we may attempt to resolve an impasse which has taken place between the House and the Senate conferees over the Labor-HEW bill which has been passed by both bodies.

As the Members know, for some 2 or 3 months now we have been in conference off and on attempting to resolve the matter of the Hyde amendment which was passed by the House. In that vein we have agreed upon all of the money items in the bill and now for the past couple of months we have been attempting to resolve the Hyde amendment. We have not been able to do so.

We have been requested by the Senate conferees to present the Senate language to the House and to have a vote on that language. The Senate conferees insist that until such time as the House conferees have presented the Senate language to the House either for adoption or rejection, that we will be unable to have any further dialog in conference. So as a consequence of it, I have filed this resolution with the House so that the House can work its will as it relates to the Hyde amendment.

I might say that the Senate language which we will be asked to vote upon tomorrow is as follows:

None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or for the treatment of rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Mr. Speaker, you will recall that when we took the Labor-HEW bill to conference it contained the Hyde amendment in its purest form. Subsequently, we came back to the House, at which time the House did offer the Senate compromise language. We passed section 209 on August 21, which reads as follows:

None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Subsequently this language was presented by the Senate conferees to the other body. That language was rejected by the other body. As a consequence of that when we last met the posture of the Senate conferees was that until such time as the Senate language had been presented to the House for either adoption or rejection that they would not have further dialog or conference with your conferees.

I say that at the request of the Speaker and at the request of my chairman, the distinguished gentleman from Texas, and also the distinguished subcommittee chairman, the gentleman from Pennsylvania (Mr. FLOOD), that I have introduced this resolution with the House which will be acted upon tomorrow.

I would like my position to be patently clear. That is, the Senate language is not my language. I would have preferred no language. In fact, that has been my consistent posture on this matter; but in an effort to try to resolve this matter and afford the House an opportunity to resolve the question so that we might be able to enter into more meaningful dialog in conference and get this legislation out before we find ourselves forced into a continuing resolution or some other legal or parliamentary position, I have filed this resolution in the House.

My own position is that if we have to have language in this bill, then I, of course, would prefer the Senate language to that which the House now has in its bill.

I intend during the course of debate tomorrow to try to elaborate much further upon this entire situation parliamentarily.

I hope that when the House ultimately takes the vote, we will have accepted the Senate language.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. STOKES was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the distinguished gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I compliment my colleague for his position which I think is accurate. I think in particular the gentleman has painted the picture exactly as it is.

One thing I did not understand is the parliamentary situation. Did my colleague indicate he had filed such a report earlier?

Mr. STOKES. I filed the resolution late this afternoon.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman.

Mr. STOKES. Mr. Speaker, I thank the gentleman for his very kind remarks.

SADAT OR WAR

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, in the Middle East an uncertain peace has been made more fragile by the policies of the Begin government in Israel. Prior to Mr. Begin's election, there had been at least an indication of essential concessions from both Israelis and Arabs. The Israelis have wanted for years to achieve public recognition by the Arabs of the State of Israel with agreement to negotiate from this standpoint. The Arabs have insisted on a return of captured territories plus an agreement in principle that a Palestinian State would be established on soil now held by Israel. There were hints from both sides which pointed to progress toward these goals.

The hard line policies of Mr. Begin dimmed concessions from either side which could lead to meaningful negotia-

tions. These policies provided a new irritant for the Arabs whose patience already was wearing thin. The Arabs, who sometimes are a volatile people, had raised new questions about the ability of the Americans to establish a workable base for meaningful negotiations. This resulted in growing uneasiness about the future of peace in the area.

This situation has created a double dilemma for the United States because we have been leaning more and more on President Sadat and on other friendly Arab States, both to ease the threat of war and to counter the rapidly growing Russian presence in Africa.

Now, after several months of stalemate, the Palestinian Liberation Organization has offered a degree of acceptance of the recognition of the State of Israel. In return, Israel's Foreign Minister Dayan, has made statements which could open doors for discussion on the question of the creation of a Palestinian State on the west bank of the Jordan River. Presumably it would be on land taken from Jordan in the 1967 war. The fate of the Palestinians, many of whom have continued to exist under wretched conditions for more than a generation in concentration camps, largely in Lebanon, is still undecided. The world knows there will be no permanent peace in the Middle East until a Palestinian state is established.

The United States has prodded the Israelis, more or less gently, toward acceptance of the requirement for the creation of a separate homeland for the Palestinians. We have now passed the stage of gentle prodding. Results will have to be shown or another war appears inevitable. Another Kissinger is needed and the Carter administration would be well advised to consider asking Mr. Kissinger to accept this very important assignment, one with which he is intimately familiar.

In all of this, the essentiality of one man continues to be demonstrated. Hopes for a preservation of peace in the Middle East have in large measure been kept alive by the work of President Sadat of Egypt. He is still probably the only person who enjoys sufficient prestige and respect in both Western and Arab worlds to obtain the time needed for successful negotiations. If he cannot do the job, it is doubtful that anyone else can. President Sadat is a man of vision and ability, and his accomplishments in maintaining a tenuous peace during recent years are monumental. He is the key to Arab participation and not war. Obviously, he alone cannot bring a lasting peace. The United States must offer leadership which is clear and equally strong to bring the Israelis to the peace table.

Mr. Sadat has serious problems at home. His country has economic difficulties which are increasingly serious. He must maintain a sufficiently strong position at home to insure the continued acceptance of his leadership in the Arab world. If there should be a weakening of Mr. Sadat's position in Egypt or in the Arab world, it is the Israelis and the Western World which have the most to lose because war could follow quickly. Regardless of the outcome, another war in the Middle East would be highly destructive to the participants, and would have serious adverse effects in the Western World. To be considered are the costs of assisting Israel's defense and the effects of another oil embargo; the loss of standing by the United States and inevitable gains by Russia in the Arab world.

TO PROVIDE LAND FOR A PERMANENT HOME FOR AIR FORCE ENLISTED MEN'S WIDOWS AND DEPENDENTS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am today reintroducing a bill to provide property on which to construct and develop permanent facilities for Air Force enlisted men's widows and dependents. This legislation will authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home. The proposed development is to be similar to the Air Force Foundation for Retired Air Force Officers' Widows in San Antonio, Tex., and the Army Distaff Home in Washington, D.C. A nominal fee will be paid for the property.

The Enlisted Men's Widows and Dependents Home Foundation, Inc. is a nonprofit, charitable organization formed for the purpose of establishing a residence for elderly widows and widowers of Air Force enlisted retired personnel, and Air Force enlisted retired couples aged 62 years and above. Younger widows of active duty enlisted men and their dependent children needing the Foundation's help may be accepted on a temporary basis immediately upon the death of a husband. Any elderly widow or widower whose spouse was a retired Air Force enlisted person, Regular, Reserve, or Air National Guard, is eligible to apply for residence.

The policy of the Foundation is to assist those persons whose earnings are insufficient to pay the fair market value for rentals and continue to meet their personal needs and obligations. As a general rule, the cost for rent does not exceed 30 percent of the resident's annual income. The top monthly rent is $170 for a two-bedroom unit and $150 for a one-bedroom unit. This price is paid by anyone with a total income in excess of $6,500 per year. Total income includes pensions and social security. At the other end of the spectrum, the bottom is open. This means there are many residents who cannot afford to pay the fair market value; however, these persons are provided a subsidy for their rent.

Much of the ability of the Foundation in assisting these persons is dependent upon donations. The main source of the funds is derived from an annual Air Force assistance campaign which, in 1977, brought $615,000 to the Foundation; however, funds were also obtained from the Air Force Association, Air Force Sergeants Association, officers and NCO wives clubs, and other service oriented organizations. In 1977, the Eglin Chapter of the Air Force Association sponsored a Bob Hope benefit show which provided over $26,000 for the Foundation.

A survey of Air Force installations indicated that Eglin Air Force Base would be an ideal site for the home. The excellent climate and economic environment were major contributing factors in the site selection. Eglin AFB is an area of 722 square miles or 460,575 acres. These boundaries in several locations are uneven and a recent Executive order survey indicated a need for adjustment of base boundaries.

The selected site is on the perimeter of the reservation and in a locale suitable from the standpoint of its proximity to a hospital, a commissary, and other field facilities. It is not required for any foreseeable Air Force or defense need. The site is adjacent to State Highway 85, is elevated and dry and has all county utilities. The tract consists of 79 acres which is considered necessary for current building plans and to accommodate future growth. To obtain a loan for actual construction, it will be essential for the Foundation to have title to the property. The Air Force is holding the land in abeyance pending congressional action.

Present plans call for a 200-unit complex, including efficiences and 1- and 2-bedroom apartments, a community center, and recreational facilities; a chapel, a library, and an on premises infirmary and related treatment center.

Action was not completed on the bills I introduced earlier for this purpose. The Foundation was in the process of development and was unable at that time to provide the necessary proof of occupancy and financing. The picture has now changed. The Foundation has made tremendous progress since purchasing a temporary facility in Fort Walton Beach, Fla., in 1975. This project, which contains 100 units consisting of 84 two-bedroom apartments and 16 one-bedroom apartments, is now fully occupied and there is a waiting list of prospective tenants.

I am hopeful this legislation will be favorably considered at an early date. Action is needed now. The Foundation has proven its ability to successfully operate the temporary facility, and the additional units to be provided by this legislation are needed to accommodate those now waiting for homes. I urge support for this meritorious project.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIKVA. Mr. Speaker, on Friday, September 16, I missed rollcall No. 559, the District of Columbia appropriations bill, because I was required to be in my district. Had I been present, I would have voted "yes."

The holiday on Thursday, September 22 prevented me from voting on rollcall No. 577, approval of Wednesday's Journal. Had I been present at that time, I would have cast a "yes" vote.

THE TEMPORARY HELP EMPLOYEE PROTECTION ACT OF 1977

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today I am introducing the Temporary Help Employee Protection Act of 1977. This bill provides for the licensing of temporary help supply firms, and the creation and enforcement of standards for their operation. The bill also provides for certain basic benefits available to all other workers and prohibits restrictive hiring practices and the hiring of temporary help employees as strikebreakers.

The temporary help industry is estimated to employ between 2 and 3 million people during an average year. This represents approximately 2 percent of the American work force. For the agencies, temporary help is big business—earning millions of dollars each year and growing by about 20 percent annually. Unfortunately, the lack of more precise data has contributed to apathy surrounding temporary help employees.

Temporary help workers are at the bottom of the economic barrel. They are generally uneducated, unskilled, and unrepresented in the normal employer-employee relationship. All of these factors make the temporary help employee ripe for exploitation. They have to spend much of their days waiting for assignments or traveling to and from assignments without compensation. Many temporary help agencies obtain agreements from employers not to hire any day laborer on a permanent basis for at least 3 months following assignment from the temporary agency. This practice virtually insures that temporary help employees will not be permanently hired.

Temporary help employees are also denied many of the basic rights enjoyed by all others. The Temporary Help Employee Protection Act will bring day laborers into the mainstream of working life by requiring the Secretary of Labor to license temporary help agencies, and requiring as a condition of licensing that the Social Security Act, the Fair Labor Standards Act, the Civil Rights Act, and the Labor Management Relations Act apply to temporary employment.

The bill will not affect the reputable temporary help service agencies. Rather, it is directed toward the marginal operators—those businesses which depend on exploiting workers to succeed. I do not believe that requiring decency and fair treatment from temporary help agencies will reduce the number of jobs for temporary help employees. This country decided long ago that no one is entitled to make a living by abusing others. There is no justification in this country for letting people work under unsafe conditions for subminimum wages. This legislation will bring us closer to realizing that goal, and I ask my colleagues to join me in supporting it.

The text of the bill follows:

H.R. 9298

A bill to protect the rights of temporary help employees, to require temporary help agencies to obtain licenses issued by the Secretary of Labor, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Help Employee Protection Act".

PURPOSES

SEC. 2. It is the purpose of this Act to—

(a) prohibit doing business as a temporary help agency except as licensed by the Secretary of Labor;

(b) authorize the Secretary of Labor to set standards and regulations for the licensing of temporary help agencies, and to enforce such standards and regulations;

(c) make applicable to temporary help employees certain benefits in order to protect their health and welfare;

(d) remove obstacles to permanent employment of temporary help service employees, such as restrictive hiring clauses; and

(e) insure fair labor practices in the temporary help service industry.

DEFINITION

SEC. 3. As used in this Act, the following definitions apply:

(a) "Temporary help agency" (hereinafter referred to as "employer" or "agency") means any individual proprietor, partnership, corporation, or any other form of business organization, engaging in the business of placing temporary help agency employees at the disposal of clients on a temporary basis, in return for a fee or other compensation from the client.

(b) "Temporary help employee" (hereinafter referred to as "employee" or "worker") means any person paid by a temporary help agency to perform services for, or under the direction of, a client on a temporary basis.

(c) "Client" means an individual proprietor, partnership, corporation, other form of business organization, or person, to or for whom, or under whose direction, services are rendered by the worker, on a temporary basis.

(d) "Secretary" means the Secretary of Labor.

(e) "Department" means the Department of Labor.

EXCEPTIONS

SEC. 4. This Act shall not apply to agencies solely engaged in supplying skilled laborers or professional employees. Secretarial and clerical employees are not skilled laborers or professional employees for the purposes of this Act.

LICENSING

SEC. 5. It shall be unlawful to operate a temporary help agency unless a license is obtained from the Secretary or his designee.

MINIMUM STANDARDS

SEC. 6. (a) The Secretary is authorized to set standards and issue regulations, to license agencies meeting such standards and complying with such regulations, and to enforce compliance with such standards and regulations. In addition to any standards set by the Secretary, no agency shall be licensed unless its employees are provided with coverage and benefits under the following:

(1) the Social Security Act, where applicable;

(2) the Fair Labor Standards Act, regardless of the dollar volume of the agency: *Provided.* That for purposes of computing pay under that Act, hourly rate of pay shall be determined by dividing the gross amount paid by the number of hours worked, and the number of hours worked shall include travel-time between the jobsite and the agency, time spent at the jobsite, and one-half the time spent awaiting assignment at the agency prior to being sent to a jobsite;

(3) the Occupational Safety and Health Act;

(4) an adequate workmen's compensation plan: *Provided,* That participation in the workmen's compensation program of the State in which the agency is located shall be deemed prima facie compliance with this requirement;

(5) the Civil Rights Act of 1964; and

(6) the Labor-Management Relations Act of 1947.

(b) The Secretary or his designee may refuse to issue, revoke, or suspend any license granted to an agency when he finds the agency has failed to meet any of the standards or regulations.

RESTRICTIONS AND PROHIBITIONS

SEC. 7. (a) No agency shall engage in any practice which operates to restrict the right of any employee to accept a permanent position with a client to whom he is referred for temporary work, or to restrict the right of such a client to offer such employment to an employee of an agency.

(b) No agency shall demand or directly or indirectly receive from any employee any fee for the placement of the employee's services at the disposal of a client.

(c) No agency shall demand or directly or indirectly receive from any employee any fee for transportation.

(d) No employee of a temporary help agency shall be employed as a strikebreaker where a legitimate labor dispute is in progress.

REPORT BY SECRETARY

SEC. 8. Within one year of the date of enactment of this Act, the Secretary shall submit to Congress a report on the implementation of this Act, including his recommendation for extending unemployment insurance benefits to employees of temporary help agencies.

ENFORCEMENT—PRIVATE RIGHT OF ACTION

SEC. 9. (a) Whoever willfully violates the provisions of this Act shall, upon conviction thereof, be subject to a fine of not more than $10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this section except for an offense committed after the conviction of such person having a prior offense under this section.

(b) Any person injured by violation of any provision of this Act shall be entitled to bring an action for damages or such other relief as the court deems proper.

REPORTS BY AGENCIES

SEC. 10. Once every twelve months, on a date as established by the Secretary, each licensed agency shall furnish the Department with the following data:

(a) the number of workers employed during the year;

(b) the number of individual assignments, by industry, including:

(1) office;

(2) industrial;

(3) technical;

(4) domestic service;

(5) chauffeur; and

(6) any other categories established by the Secretary;

(c) the number of clients serviced;

(d) the number of days each worker was assigned; and

(e) other information the Secretary may require.

INVESTIGATIONS

SEC. 11. The Secretary or his designee may investigate and gather data regarding the conditions and practices of employment in any agency subject to this Act, and may enter and inspect such places and such records (and make such transcriptions

thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act.

RELATION TO OTHER LAWS

SEC. 12. No provision of this Act or any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing standards or requirements higher than or otherwise not inconsistent with those established under this Act.

CONFERENCE REPORT ON H.R. 6655

Mr. ASHLEY submitted the following conference report and statement on the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs.

CONFERENCE REPORT (H. REPT. NO. 634)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6655) to amend certain Federal Laws pertaining to community development, housing, and related programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing and Community Development Act of 1977".

TITLE I—COMMUNITY DEVELOPMENT

OBJECTIVES AND PURPOSES OF COMMUNITY DEVELOPMENT ACTIVITIES

SEC. 101. (a) Section 101(c) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof ": and"; and

(3) by adding the following new paragraph after paragraph (7):

"(8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base."

(b) Section 101(d)(4) of such Act is amended by inserting the following before the period at the end thereof: "by Federal agencies and programs as well as by communities".

DEFINITIONS

SEC. 102. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States" in paragraph (1) and inserting in lieu thereof "and the Trust Territory of the Pacific Islands";

(2) by inserting before the period at the end of paragraph (4) the following: "; except that any city which has been classified as a metropolitan city under clause (B) of this paragraph shall continue to be so classified until the decennial census indicates that the population of such city is less than fifty thousand";

(3) by inserting the following before the period at the end of paragraph (5): "which have not entered into cooperation agreements with such town or township to undertake or to assist in the underaking of essential community development and housing assistance activities";

(4) by inserting in paragraph (6) "either" before "(B)" and by inserting before the period at the end thereof the following: "or (C) has a population in excess of one hundred thousand, a population density of at least five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of Census";

(5) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (17), (18), (19), and (20), respectively; and

(6) by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'age of housing' means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(11) The term 'extent of growth lag' means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities.

"(12) The term 'housing stock' means the number of existing housing units based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(13) The term 'adjustment factor' means the ratio between the age of housing in the metropolitan city or urban county and the predicted age of housing in such city or county.

"(14) The term 'predicted age of housing' means the arithmetic product of the housing stock in the metropolitan city or urban county multiplied times the ratio between the age of housing in all metropolitan areas and the housing stock in all metropolitan areas.

"(15) The term 'adjusted age of housing' means the arithmetic product of the age of housing in the metropolitan city or urban county multiplied times the adjustment factor.

"(16) The term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).".

(b) Section 102 of such Act is amended by adding the following new subsection at the end thereof:

"(d) An urban county designated under subsection (a)(6)(B)(i) of this section shall notify, prior to a date set by the Secretary for each year, all incorporated units of general local government the populations of which are included in the population of such urban county for purposes of this section of their opportunity to exclude their population from such urban county. Any unit of general local government which has not elected to have its population so excluded shall have its population included within the population of such urban county for purposes of this section until it, on its own initiative, elects to exclude its population by notifying the urban county on or before a date set by the Secretary.".

AUTHORIZATIONS

SEC. 103. (a) The first sentence of section 103(a)(1) of the Housing and Community Development Act of 1974 is amended by inserting "and Indian tribes" after "units of general local government".

(b) Section 103(a)(1) of such Act is amended by striking out everything after the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated for these purposes not to exceed $3,500,000,000 for the fiscal year 1978, not to exceed $3,650,000,000 for the fiscal year 1979, and not to exceed $3,800,000,000 for the fiscal year 1980. Any amount authorized for any fiscal year under this section but not appropriated for such year may be appropriated for any succeeding fiscal year.".

(c) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriations Acts pursuant to paragraph (1), $50,000,000 for each of the fiscal years 1975 and 1976, $200,000,000 for the fiscal year 1977 (not more than 50 per centum of which amount may be used under section 106(d)(1)), $350,000,000 for the fiscal year 1978 (of which not more than $175,000,000 may be used under such section), $265,000,000 for the fiscal year 1979 (of which not more than $25,000,000 may be used under such section), and $250,000,000 for the fiscal year 1980 (none of which may be used under such section) shall be added to the amount available for allocation under section 106(d) and shall not be subject to the provisions of section 107."

(d) Section 103(b) of such Act is amended—

(1) by striking out "for the fiscal year 1977," and inserting in lieu thereof "for each of the fiscal years 1977, 1978, 1979, and 1980,";

(2) by striking out "to units of general local government having urgent community development needs which cannot be met" and inserting in lieu thereof "for the financial settlement and, to the extent feasible, the completion of projects and programs assisted under the categorical programs terminated in section 116(a), primarily urban renewal projects assisted under the Housing Act of 1949, to units of general local government which require supplemental assistance which cannot be provided"; and

(3) by adding at the end thereof the following new sentence: "No funds shall be made available under this subsection (1) for fiscal year 1978 unless the amount appropriated under subsection (a) for fiscal year 1978 is at least $3,500,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsection (a) for fiscal year 1979 is at least $3,650,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsection (a) for fiscal year 1980 is at least $3,800,000,000.".

(e) Section 103 of such Act is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by adding the following new subsection after subsection (b):

"(c) There is authorized to be appropriated a sum not in excess of $400,000,000 for supplemental grant assistance under section 119 for each of the fiscal years 1978, 1979, and 1980, except that no funds shall be made available for such purpose (1) for fiscal year 1978 unless the amount appropriated under subsections (a) and (b) for fiscal year 1978 is at least $3,600,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsections (a) and (b) for fiscal year 1979 is at least $3,750,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsections (a) and (b) for fiscal year 1980 is at least $3,900,000,000.".

APPLICATION REQUIREMENTS

SEC. 104. (a) Section 104(a) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "and housing" in paragraph (1) after "which identifies community development";

(2) by inserting after "needs" in paragraph (2)(B) the following: ", including activities designed to revitalize neighborhoods for the benefit of low- and moderate-income persons.";

(3) by striking out "and" at the end of paragraph (3)(A); by striking out the semicolon at the end of paragraph (3)(B) and inserting in lieu thereof "and in a manner to insure fully opportunity for participation by, and benefits to, the handicapped; and"; and by inserting the following new subparagraph after paragraph (3)(B):

"(C) improve conditions for low- and moderate-income persons residing in or expected to reside in the community and foster neighborhood development in order to induce higher-income persons to remain in, or return to, the community;";

(4) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) submits a housing assistance plan which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, and persons displaced or to be displaced) residing in or expected to reside in the community and identifies housing stock which is in a deteriorated condition,

"(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low- and moderate-income, and

"(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects;"; and

(5) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) provides satisfactory assurances that, prior to submission of its application, it has (A) prepared and followed a written citizen participation plan which provides citizens an opportunity to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low- and moderate-income, provides for timely responses to the proposals submitted, and schedules hearings at times and locations which permit broad participation; (B) provided citizens with adequate information concerning the amount of funds available for proposed community development activities and housing activities, the range of activities that may be undertaken, and other important requirements; (C) held public hearings to obtain the views of citizens on community development and housing needs; and (D) provided citizens with an opportunity to submit comments concerning the community development performance of the applicant; but nothing in this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.".

(b) Section 104(b)(2) of such Act is amended—

(1) by striking out "low- or moderate-income" in the first sentence and inserting in lieu thereof "low- and moderate-income"; and

(2) by striking out all after "urgency" in the second sentence and inserting in lieu thereof "because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.".

(c) Section 104(b)(3) of such Act is amended—

(1) by striking out clauses (B) and (C) and inserting in lieu thereof "(B) the application does not involve a comprehensive community development program, as determined by the Secretary, and"; and

(2) by redesignating clause (D) as clause (C).

(d) Section 104(c)(3) of such Act is amended by inserting after "the requirements of this title" the following: ", with specific regard to the primary purposes of principally benefiting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency,".

(e) Section 104(d) of such Act is amended—

(1) by inserting after the first sentence the following: "The performance report shall include any citizen comments submitted pursuant to subsection (a)(6)(D) and the Secretary shall consider such comments, together with the views of other citizens and such other information as may be available, in carrying out the provisions of this subsection."; and

(2) by adding at the end thereof the following: "With respect to grants made pursuant to sections 106(d)(2) and 106(f)(1)(B), the Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.".

(f) Section 104(e) of such Act is amended by adding the following new sentence at the end thereof: "In addition, the Secretary may provide an opportunity for the State, in which a grant is to be made to a unit of general local government under section 106(d)(2) or 106(f)(1)(B), to participate in the selection process for funding such grants. Such participation may include, as determined practicable by the Secretary, the incorporation of State growth and resource coordination policies in funding decisions on such grants, or such other arrangements, excluding administration of the grants referred to in the preceding sentence, as the Secretary deems appropriate.".

(g) Section 104 of such Act is amended by adding the following new subsection at the end thereof:

"(i)(1) The Secretary shall, in making funds available to the recipients of grants under this title, permit any such recipient to receive funds, in one payment, in an amount not to exceed the total amount designated in the recipient's application, and approved by the Secretary pursuant to this section, for use by the recipient for establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities that are part of the recipient's community development program. The Secretary may, as a condition of making such payment, require that the revolving loan fund be utilized for the making of loans to finance rehabilitation activities in a manner consistent with this title. Rehabilitation activities authorized under this section shall begin within forty-five days after the Secretary has made such payment.

"(2) The Secretary shall establish standards for such cash payments which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include, at a minimum, one or more of the following elements, or such other criteria as determined by the Secretary—

"(A) leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;

"(B) commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;

"(C) provision of administrative services in support of the rehabilitation program by the participating lending institutions; and

"(D) interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program.

At the time of application, the Secretary shall review and approve all agreements with lending institutions which receive funds for community rehabilitation programs. Such approval shall be made on a case-by-case basis, and upon a determination by the Secretary that the agreements with the lending institution meets minimum benefit standards as listed in this paragraph.".

ELIGIBLE ACTIVITIES

SEC. 105. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended by inserting the following after "under this title" the first time it appears therein: "shall consist of activities which assist in carrying out a comprehensive strategy for meeting the community development and housing needs and priorities identified pursuant to section 104, giving primary attention to activities benefiting low- and moderate-income persons and neighborhoods, aiding in the prevention or elimination of slums or blight, or meeting other community development needs having a particular urgency. These activities".

(b) The parenthetical expression in section 105(a)(4) of such Act is amended to read as follows: "(including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties)".

(c) Section 105(a)(8) of such Act is amended by striking out "economic development,", and by inserting before the semicolon at the end thereof the following: ", and if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of application submission for funds which are to be made available under this title, and which are to be utilized for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the applicant".

(d) Section 105(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(14) activities which are carried out by public or private nonprofit entities when such activities are necessary or appropriate to meeting the needs and objectives of the community development plan described in section 104(a)(1), including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities, site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning; and

"(15) grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development project in furtherance of the objectives of section 101(c).".

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 106. (a) Section 106(a) of the Housing and Community Development Act of 1974 is amended by striking out "(2) or (3)" in the second sentence and inserting in lieu thereof "(1) or (2)".

(b) Section 106(b) of such Act is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(b)(1) The Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

"(A) the average of the ratios between—

"(i) the population of that city and the population of all metropolitan areas;

"(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

"(iii) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan areas; or

"(B) the average of the ratios between—

"(i) the extent of growth lag in that city and the extent of growth lag in all metropolitan cities;

"(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

"(iii) the age of housing in that city and the age of housing in all metropolitan areas.

"(2) The Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

"(A) the average of the ratios between—

"(i) the population of that urban county and the population of all metropolitan areas;

"(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

"(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan areas; or

"(B) the average of the ratios between—

"(i) the extent of growth lag in that urban county and the extent of growth lag in all metropolitan cities and urban counties;

"(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

"(iii) the age of housing in that urban county and the age of housing in all metropolitan areas.

"(3) In determining the average of ratios under paragraphs (1)(A) and (2)(A), the ratio involving the extent of poverty shall be counted twice, and each of the other ratios shall be counted once; and in determining the average of ratios under paragraphs (1)(B) and (2)(B), the ratio involving the extent of growth lag shall be counted once, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.".

(c) Section 106(b)(5) of such Act is amended—

(1) by striking out "(5)" and inserting in lieu thereof "(4)"; and

(2) by striking out "receive" and inserting in lieu thereof "are entitled to".

(d) Section 106(c) of such Act is amended—

(1) by striking out "During the first three years for which funds are approved for distribution to a metropolitan city or urban county under this section" in the first sentence and inserting in lieu thereof "With respect to funds approved for distribution to a metropolitan city or urban county under this section during fiscal years 1975, 1976, and 1977"; and

(2) by inserting "only for such funds approved for distribution in fiscal years 1975, 1976, and 1977" after "adjusted" in the first sentence.

(e) Section 106(d) of such Act is amended to read as follows:

"(d)(1) Any portion of the amount allocated to metropolitan areas under the first sentence of subsection (a) which remains after the allocation of grants to metropolitan cities and urban counties in accordance with subsection (b) and any amounts added in accordance with the provisions of section 103(a)(2) shall be allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and, second, in accordance with the provisions of paragraph (2).

"(2) Any portion of such amounts which remains after applying the provisions of paragraph (1) shall be utilized by the Secretary for grants to units of general local government within metropolitan areas (other than metropolitan cities and urban counties), and States for use within metropolitan areas, allocating for the metropolitan areas of each State the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this paragraph as either—

"(A) the average of the ratios between—

"(i) the population of the metropolitan areas in that State and the population of the metropolitan areas of all States;

"(ii) the extent of poverty in the metropolitan areas in that State and the extent of poverty in the metropolitan areas of all States; and

"(iii) the extent of housing overcrowding in the metropolitan areas in that State and the extent of housing overcrowding in the metropolitan areas of all States; or

"(B) the average of the ratios between—

"(i) the age of housing in the metropolitan areas in that State and the age of housing in the metropolitan areas of all States;

"(ii) the extent of poverty in the metropolitan areas in that State and the extent of poverty in the metropolitan areas of all States; and

"(iii) the population of the metropolitan areas in that State and the population of the metropolitan areas of all States.

In determining the average of the ratios under subparagraph (A), the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the metropolitan areas in each State under such paragraph so that the metropolitan areas in each State will receive an amount which represents the same percentage of the total amount available under such paragraph as the percentage which the metropolitan areas of the same State would have received under such paragraph if the total amount available under that paragraph had equaled the total amount which was allocated under that paragraph.

"(3) If the Secretary approves a grant under paragraph (2) to a unit of general local government which has a comprehensive community development program with provision for lower-income housing, the Secretary may make a multi-year commitment, up to three years, to any such unit of general local government for specified grant amounts, subject to the availability of appropriations. In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2), before making new commitments. In making grants under paragraph (2), the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified, and shall consider such factors as the unit's engaging in economic redevelopment activities, past performance of the unit in community development activities, prior and present funding levels under this title, the function of the unit as a regional center of economic development and activity, impact on the unit's growth of national policy or direct Federal program decisions, the potential for having increased employment within such unit as a result of community development activity, the physical and economic deterioration within the unit, the age of housing stock and the extent of poverty within the unit, the extent to which the unit's activity or program of activities is necessary to alleviate a serious threat to health or safety, the capacity of the unit to carry out such programs, and any other factors deemed, by the Secretary, to be relevant to carrying out the purposes of this title. The Secretary shall make grants under paragraph (2) in such a manner as to insure that a reasonable proportion of grants is available to applicants which are not seeking funding for comprehensive community development programs. The Secretary may accept and approve commitments for annual grants based on comprehensive community development programs commencing in future fiscal years subject only to the availability of appropriations. In computing amounts under paragraph (2), there shall be excluded metropolitan cities, urban counties, Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h).".

(f) Section 106(e) of such Act is amended—

(1) by striking out "during such program period" in the first sentence and inserting in lieu thereof "within a reasonable time"; and

(2) by striking out "during the same period" in the first sentence.

(g) Section 106(f) of such Act is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(f)(1) Of the amount approved in an appropriation Act under section 103(a) for grants in any year (excluding the amount provided for use in accordance with sections 103(a)(2) and 107), 20 per centum shall be allocated by the Secretary—

"(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h), and

"(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be utilized by the Secretary for grants to units of general local government outside of metropolitan areas and States for use outside the metropolitan areas, allocating for the nonmetropolitan areas of each State the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either—

"(i) the average of the ratios between—

"(I) the population of the nonmetropolitan areas in that State and the population of the nonmetropolitan areas of all States;

"(II) the extent of poverty in the nonmetropolitan areas in that State and the extent of poverty in the nonmetropolitan areas of all States; and

"(III) the extent of housing overcrowding in the nonmetropolitan areas in that State and the extent of housing overcrowding in the nonmetropolitan areas of all States; or

"(ii) the average of the ratios between—

"(I) the age of housing in the nonmetropolitan areas in that State and the age of housing in the nonmetropolitan areas of all States;

"(II) the extent of poverty in the nonmetropolitan areas in that State and the extent of poverty in the nonmetropolitan areas of all States; and

"(III) the population of the nonmetropolitan areas in that State and the population of the nonmetropolitan areas of all States.

In determining the average of the ratios under clause (i) of subparagraph (B) the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under clause (ii) of subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under subparagraph (B) and the total of the amounts available under such subparagraph, make a pro rata reduction of each amount allocated to the nonmetropolitan areas in each State under such subparagraph so that the nonmetropolitan areas in each State will receive an amount which represents the same percentage of the total amount available under such subparagraph as the percentage which the nonmetropolitan areas of the same State would have received under such subparagraph if the total amount available under such subparagraph had equaled the total amount which was allocated under such subparagraph.

"(2) If the Secretary approves a grant under paragraph (1)(B) to a unit of general local government which has a comprehensive community development program with provision for lower-income housing, the Secretary may make a multiyear commitment, up to three years, to any such unit of general local government for specified grant amounts, subject to the availability of appropriations. In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2), before making new commitments. In making grants under paragraph (1)(B), the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified, and shall consider such factors as the unit's engaging in economic redevelopment activities, past performance of the unit in community development activities, prior and present funding levels under this title, the function of the unit as a regional center of economic development and activity, impact on the unit's growth of national policy or direct Federal program decisions, the potential for having increased employment within such unit as a result of community development activity, the physical and economic deterioration within the unit, the age of housing stock and the extent of poverty within the unit, the extent to which the unit's activity or program activities is necessary to alleviate a serious threat to health or safety, the capacity of the unit to carry out such programs, and any other factors deemed, by the Secretary, to be relevant to carrying out the purposes of this title. The Secretary shall make grants under paragraph (1)(B) in such a manner as to insure that a reasonable proportion of grants is available to applicants which are not seeking funding for comprehensive community development programs. The Secretary may accept and approve commitments for annual grants based on comprehensive community development programs commencing in future fiscal years subject only to the availability of appropriations. In computing amounts under paragraph (1)(B), there shall be excluded units of general local government which are entitled to hold-harless grants pursuant to subsection (h) and Indian tribes.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by striking out "during such period" in paragraph (3), as redesignated, and inserting in lieu thereof within a reasonable time"; and

(4) by striking "during the same period" in such paragraph.

(h) Section 106(g)(2) of such Act is amended—

(1) by striking out "(b) (2) or (3)" and inserting in lieu thereof "(b) (1) (A) or (B), or (2) (A) or (B)"; and

(2) by inserting ", as computed under subsection (b) (1) (A) or (B), or (2) (A) or (B)," immediately before "shall" in clauses (i) and (ii).

(i) Section 106(i) of such Act is amended—

(1) by striking out "population, poverty, and housing overcrowding";

(2) by striking out "receive" and inserting in lieu thereof "are entitled to"; and

(3) by striking out "(b)(5)" and inserting in lieu thereof "(b)(4)".

(j) Section 106(j) of such Act is amended—

(1) by striking out "not later than thirty days prior to the beginning of any program period" in the first sentence and inserting in lieu thereof "by such date as the Secretary shall determine";

(2) by inserting "for a hold-harmless grant for a single year" after "eligibility" in the first sentence; and

(3) by striking out "(b)(5)" in the second sentence and inserting in lieu thereof "(b)(4)".

(k) Section 106(l) of such Act is amended to read as follows:

"(l) Not later than September 30, 1978, the Secretary shall report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under this title, with specific analysis and recommendation as to the feasibility of utilizing factors of impaction (such as adjusted age of housing and extent of poverty) as a measurement consideration, and the feasibility of utilizing a single formula based on the current factors or others, including regional or area differences in income and cost of living. As used in this subsection, the term 'impaction' means the intensity, measured in terms of absolute numbers and proportions of each need factor.".

(l) Section 106 of such Act is amended by adding the following new subsection at the end thereof:

"(m) In the event that the total amount available for distribution under this section in fiscal year 1978 or fiscal year 1979 is insufficient to meet all basic grant and hold-harmless entitlement needs as provided pursuant to this section, and funds are not otherwise appropriated to meet such deficiency, the Secretary shall meet the deficiency through a pro rata reduction of (1) all basic grant and hold-harmless entitlement amounts, and (2) funds available under section 106(d)(2) (including amounts provided for use under section 103(a)(2)) and section 106(f)(1)(B).".

DISCRETIONARY FUND

SEC. 107. Section 107 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and 1977," in subsection (a) and inserting in lieu thereof "1977, 1978, 1979, and 1980,";

(2) by striking out "2 per centum" in subsection (a) and inserting in lieu thereof "3 per centum";

(3) by striking out "and units of general local government" in subsection (a)(5) and inserting in lieu thereof ", units of general local government, and Indian tribes";

(4) by striking out "and" at the end of subsection (a)(5), by striking out the period at the end of subsection (a)(6) and inserting in lieu thereof a semicolon, and by adding the following after subsection (a)(6):

"(7) to Indian tribes; and

"(8) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title. The Secretary may also provide such technical assistance under this paragraph directly or through contracts.";

(5) by striking out "one-fourth" in subsection (b) and inserting in lieu thereof "15 per centum"; and

(6) by adding the following new subsection at the end thereof:

"(d) No grant may be made to an Indian tribe unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with such grants, the provisions of section 109 and section 110."

GUARANTEE OF LOANS FOR ACQUISITION OF PROPERTY

SEC. 108. Section 108 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out subsections (a) and (b);

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting before subsection (f), as redesignated, the following:

"(a) The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee the notes or other obligations issued by units of general local government, or by public agencies designated by such units of general local government, for the purposes of financing acquisition of real property or the rehabilitation of real property owned by the unit of general local government (including such related expenses as the Secretary may permit by regulation). Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as

may be prescribed by regulations issued by the Secretary.

"(b) No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this section would thereby exceed an amount equal to three times the amount of the grant approval for the issuer pursuant to section 106.

"(c) Notwithstanding any other provision of this title, grants allocated to an issuer pursuant to this title (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

"(d) To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to—

"(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

"(2) pledge any grant approved or for which the issuer may become eligible under this title; and

"(3) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this title or dispositions proceeds from the sale of land or rehabilitated property.

"(e) The Secretary is authorized, notwithstanding any other provision of this title, to apply grants pledged pursuant to subsection (d)(2) to any repayments due the United States as a result of such guarantees.";

(4) by striking out, in the first sentence of subsection (h), as redesignated, the following: "may, at the option of the issuing unit of general local government or designated agency," and inserting in lieu thereof "shall";

(5) by striking out, in the second sentence of subsection (h), as redesignated, the following: "In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants" and inserting in lieu thereof "The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts,";

(6) by striking out "such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of" in subsection (j), as redesignated, and inserting in lieu thereof "is guaranteed pursuant to"; and

(7) by adding at the end thereof the following:

"(k) Notwithstanding any other provision of this section, the total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) shall not at any time exceed $3,500,000,000 or such higher amount as may be authorized to be appropriated for sections 106 and 107 for any fiscal year.".

REPORTING REQUIREMENTS

SEC. 109. Section 113(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof: "; and"; and

(3) by adding the following new paragraph after paragraph (2):

"(3) with respect to the action grants authorized under section 119, a listing of each unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year.".

URBAN DEVELOPMENT ACTION GRANTS

SEC. 110. (a) Section 104(a) of the Housing and Community Development Act of 1974 is amended by inserting "or section 119" after "106".

(b) Title I of such Act is amended by adding the following new section at the end thereof:

"URBAN DEVELOPMENT ACTION GRANTS

"SEC. 119. (a) In order to promote the primary objective of this title of the development of viable urban communities, of the total amount of authority approved in appropriation Acts under section 103(c), the Secretary is authorized to make urban development action grants to severely distressed cities and urban counties to help alleviate physical and economic deterioration through reclamation of neighborhoods having excessive housing abandonment or deterioration, and through community revitalization in areas with population outmigration or a stagnating or declining tax base. Grants made under this section shall be for the support of severely distressed cities and urban counties that require increased public and private assistance in addition to the assistance otherwise made available under this title and other forms of Federal assistance.

"(b) Urban development action grants shall be made only to cities and urban counties that have, in the determination of the Secretary, demonstrate results in providing housing for persons of low- and moderate-income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of physical and economic distress of cities and urban counties for eligibility for such grants, which standards shall take into account factors such as the age and condition of housing stock, including residential abandonment; average income; population outmigration; and stagnating or declining tax base.

"(c) Applications for assistance under this section shall—

"(1) include documentation of eligibility for grants in accordance with the standards described in subsection (b);

"(2) describe a concentrated urban development action program setting forth a comprehensive action plan and strategy to alleviate physical and economic distress through systematic change, which program shall be consistent with the community development program described in section 104(a)(2) and the housing assistance plan described in section 104(a)(4), and, where it exists and is in effect, the overall economic development plan as provided for in section 202(b)(10) of the Public Works and Economic Development Act of 1965, but only in the event and after such time as such plans are required by law or administrative action to be consistent with community development programs. Such program shall be developed as to take advantage of unique opportunities to attract private investment, stimulate investment in restoration of deteriorated or abandoned housing stock, or solve critical problems resulting from population outmigration or a stagnating or declining tax base;

"(3) include the activities to be undertaken in the urban development action program, together with the estimated costs and general locations of such activities;

"(4) indicate public and private resources which are expected to be made available toward achieving the action plan and strategy described in paragraph (2); and

"(5) provide satisfactory assurances that, prior to submission of its application, it has (A) prepared and followed a written citizen participation plan, which plan provides the opportunity for citizens to participate in the development of the application, with special attention to measures to encourage the statement of views and the submission of proposals by low- and moderate-income people and residents of blighted neighborhoods, and to scheduling hearings at times and locations which are convenient to all citizens, (B) provided citizens with adequate information concerning the amount of funds available for proposed activities under this section, the range of activities that may be undertaken, and other important program requirements, and (C) held public hearings to obtain the views of citizens on needs which may be dealt with under this section.

"(d) To the extent that the application requirements of section 104(a)(4) have been satisfied in connection with a grant made pursuant to section 106, such requirements shall be determined to have been met for purposes of this section.

"(e) In establishing criteria for the purpose of making grants under this section the Secretary shall establish selection criteria which must include (1) as the primary criterion, the comparative degree of physical and economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (2) other factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration in cities and urban counties; and (3) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; impact of the proposed urban development action program on the special problems of low- and moderate-income persons and minorities; extent of financial participation by other public or by private entities; extent of assistance to be made available by the State; impact on the physical, fiscal, or economic deterioration of the city or urban county; extent to which the program describes activities representing a special or unique opportunity to meet local priority needs or the objectives of this title; and feasibility of accomplishing the program in a timely fashion within the grant amount available.

"(f) In addition to activities authorized under section 105(a), an urban development action program may also include such additional community development and neighborhood development and conservation activities as the Secretary may determine to be consistent with the purposes of this section.

"(g) No assistance shall be provided for business loans or industrial development under this section unless the Secretary shall first consult with and coordinate such assistance with other Federal agencies which make available funds for similar activities.

"(h) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants pursuant to this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of such review and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(i) No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the unemployment or economic base of the area from which such industrial or commercial plant or facility is to be relocated.

"(j) The Secretary shall allocate the amounts available for grants under this section in a manner which achieves a reasonable balance among programs that are designed primarily (1) to restore seriously deteriorated neighborhoods, (2) to reclaim for industrial purposes underutilized real property, and (3) to renew commercial employment centers.

"(k) Not less than 25 per centum of the funds made available for grants under this section shall be used for cities under fifty thousand population which are not central cities of a standard metropolitan statistical area.".

REHABILITATION LOANS

SEC. 111. (a) Section 312(c)(4)(A) of the Housing Act of 1964 is amended—

(1) by striking out "the amount of a loan which could be insured by the Secretary of Housing and Urban Development under section 220(h) of the National Housing Act" and inserting in lieu therof "$27,000 per dwelling unit"; and

(2) by striking out "under such section".

(b) Section 312(d) of such Act is amended by striking out "and not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976" and inserting in lieu thereof "not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976, and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977".

(c) Section 312(h) of such Act is amended by striking out "1977" each place it appears and inserting in lieu thereof "1979".

COMPREHENSIVE PLANNING

SEC. 112. The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking "and not to exceed $100,000,000 for the fiscal year 1977" and inserting in lieu thereof "not to exceed $100,000,000 for the fiscal year 1977, and not to exceed $75,000,000 for the fiscal year 1978".

STUDY ON SMALL CITIES

SEC. 113. The Secretary of Housing and Urban Development shall conduct a study and, not later than one year after the date of enactment of this Act, report to the President and to the Congress recommendations on the formation of a national policy on the developmental needs of small cities. In carrying out such study, the Secretary shall (1) take steps to improve the data available about small cities, (2) suggest means of reducing the duplication in government programs in jurisdictions which affect small cities, and (3) consider all of the relevant differences and similarities between small and large cities, particularly in the areas of housing, growth, development patterns, infrastructure, education, energy needs, and social development. In addition, the Secretary shall include in the report alternative verifiable formulae to be used in the distribution of discretionary balance funds available for allocation to small cities under title I of the Housing and Community Development Act of 1974.

EFFECTIVE DATE

SEC. 114. The amendments made by this title shall become effective October 1, 1977.

TITLE II—HOUSING ASSISTANCE AND RELATED PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately following "July 1, 1975," the first time it appears; and

(2) by inserting immediately after "on October 1, 1976," the following: "and by $1,159,995,000 on October 1, 1977,".

(b) Section 5(c) of such Act is amended by inserting after the third sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1977, and approved in appropriation Act, the Secretary shall make available not less than $42,500,000 for modernization of low-income housing projects, not less than $197,139,200 for low-income housing projects permanently financed by loans from State housing finance or State development agencies, as defined in section 802(b)(2)(A) of the Housing and Community Development Act of 1974, and not less than $120,000,000 for low-income housing projects permanently financed by loans pursuant to section 202 of the Housing Act of 1959."

(c) Section 8(c)(1) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative.".

(d) Section 8(c)(4) of such Act is amended by striking out the following: "(i) if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or (ii)".

(e)(1) Section 8(d) of such Act is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.".

(2) Section 8(e)(2) of such Act is amended by adding the following new sentence at the end thereof: "In approving any public housing agency to assume all the management and maintenance responsibilities of any dwelling unit under the preceding sentence, the Secretary may do so without regard to whether such agency administers the housing assistance payment contract for that unit.".

(f) Secion 9(c) of such Act is amended—

(1) by striking out "and" immediately following "on or after July 1, 1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $685,000,000 on or after October 1, 1977".

(g) The Secretary of Housing and Urban Development shall conduct a study of payments in lieu of taxes made under section 6(d) of the United States Housing Act of 1937 and report to the Congress on the status and adequacy of such payments not later than twelve months after the date of enactment of this section.

(h) Section 208 of the Housing and Community Development Act of 1974 is amended by inserting ", including the right to renewal of such lease to the maximum term permitted by law," after "United States Housing Act of 1937".

SECTION 202 HOUSING FOR THE ELDERLY

SEC. 202. (a) Section 202(d)(3) of the Housing Act of 1959 is amended by inserting the following before the period at the end thereof: ", which cost shall be determined without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 231 of the National Housing Act".

(b) Section 202 of such Act is amended by adding at the end thereof the following new subsection:

"(g) In carrying out the provisions of this section and section 8 of the United States Housing Act of 1937, the Secretary shall issue and implement regulations, as soon as practicable after the date of enactment of Housing and Community Development Act of 1977, which shall provide that the processing of any application for a loan for a project under this section and the processing of any application for assistance under such section 8 with respect to housing units in the same such project shall be coordinated in an economical and efficient manner.".

URBAN HOMESTEADING DEMONSTRATION

SEC. 203. Section 810(g) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $5,000,000 for the fiscal year 1978" and inserting in lieu thereof "and not to exceed $15,000,000 for the fiscal year 1978".

RESEARCH AUTHORIZATION

SEC. 204. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by inserting before the period at the end thereof the following: ", and not to exceed $60,000,000 for the fiscal year 1978".

SECTION 235 ASSISTANCE FOR COOPERATIVES

SEC. 205. Section 235(b)(2)(A) of the National Housing Act is amended by inserting "or section 212(d)(3)" immediately after "financed with a mortgage insured under section 213".

SECTION 236 OPERATING SUBSIDIES

SEC. 206. (a) Section 236(f)(3) of the National Housing Act is amended by striking out the second and third sentences and inserting in lieu thereof the following: "The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level. Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project. Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments.".

(b) Section 236(f)(3) of such Act is further amended by striking out "only if the Secretary finds that the increase in the cost of utilities or local property taxes is reasonable and is" in the last sentence and inserting in lieu thereof "unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not".

(c) Section 236(g) of such Act is amended by striking out "1974" in the fourth sentence and inserting in lieu thereof "1977".

(d) The amendments made by this section shall become effective on October 1, 1977, and shall apply to assistance payments pursuant to section 236(f)(3) of the National Housing Act with respect only to periods commencing on or after such date.

HOUSING ASSISTANCE PLANS

SEC. 207. Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by inserting after the first sentence the following new sentence: "The Secretary shall assure, to the maximum extent practicable in carrying out the national housing and community development objectives, that funds available for each housing assistance program referred to in subsection (a) shall

be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 104, and shall be utilized to meet needs reflected in data referred to in the preceding sentence.".

NEW COMMUNITIES

SEC. 208. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

TREASURY DRAW AUTHORITY

SEC. 209. Section 14(b) of the Federal Reserve Act is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1977"; and by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1977".

TITLE III—FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AND RELATED PROGRAMS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1977" in the first sentence and inserting in lieu thereof "October 1, 1978".

(b) Section 217 of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1977" in the fifth sentence and inserting in lieu thereof "September 30, 1978".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(f) Section 244(d) of such Act is amended—

(1) by striking out September 30, 1977" in the first sentence and inserting in lieu thereof "September 30, 1978"; and

(2) by striking out "October 1, 1977" in the second sentence and inserting in lieu thereof "October 1, 1978".

(g) Section 245 of such Act is amended by striking out "September 30, 1977" where it appears and inserting in lieu thereof "September 30, 1978".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof "September 30, 1978".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof "September 30, 1978".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof September 30, 1978".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof "September 30, 1978".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

INCREASE IN MAXIMUM MORTGAGE AMOUNTS UNDER FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 303. (a) Section 203(b)(2) of the National Housing Act is amended by striking out "$45,000", "$48,750", and "$56,000" wherever they appear and inserting in lieu therof, "$60,000", "$65,000", and "$75,000", respectively.

(b) Section 220(d)(3)(A) of such Act is amended by striking out "$45,000", "$48,750", and "$56,000" wherever they appear and inserting in lieu thereof "$60,000", "$65,000", and "$75,000", respectively.

(c) Section 221(d)(2)(A) of such Act is amended by—

(1) striking out "$25,000", "$29,000", and "$33,000" each place they appear and inserting in lieu thereof "$31,000", "$36,000", and "$42,000", respectively; and

(2) striking out "$28,000", "$38,880", "$47,520", "$36,000", "$46,080", and "$54,720", and inserting in lieu thereof "$35,000", "$48,600"; "$59,400", "$45,000", "$57,600", and "$68,400", respectively.

(d) Section 222(b)(2) of such Act is amended by striking out "$45,000" and inserting in lieu thereof "$60,000".

(e) Clause (A) of the third sentence of section 234(c) of such Act is amended by striking out "$45,000" and inserting in lieu thereof "$60,000".

(f) Section 235 of such Act is amended—

(1) by striking out, in the last proviso in subsection (b)(2), "$25,000", "$29,000", "$29,000", and "$33,000" and inserting in lieu thereof "$32,000", "$38,000", "$38,000", and "$44,000", respectively;

(2) by striking out, in subsection (i)(3)(B) "$25,000", "$29,000", "$29,000", and "$33,000" and inserting in lieu thereof "$32,000", "$38,000", "$38,000", and "$44,000", respectively;

(3) by striking out "and" at the end of subparagraph (B) of subsection (i)(3);

(4) by redesignating subparagraph (C) of subsection (i)(3) as subparagraph (E) and inserting immediately following subparagraph (B) the following new subparagraphs:

"(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $32,000 ($38,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $38,000 and $44,000, respectively;

"(D) involve, in the case of a two-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $44,000 ($49,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require); and"; and

(5) by adding the following new subsection at the end thereof:

"(n) No mortgage may be insured under this section on a unit in a subdivision, after the effective date of enactment of this subsection, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary.".

(g) Section 203(i) of such Act is amended by striking out "$16,200" and inserting in lieu thereof "75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section".

DECREASE IN DOWNPAYMENT REQUIREMENTS

SEC. 304. (a) Section 203(b)(2) of the National Housing Act is amended—

(1) by striking out, in clause (i) of the first sentence, all the parenthetical language which begins "(but, in any case";

(2) by striking out clauses (ii) and (iii) in the first and second sentences and inserting in lieu thereof in each sentence "and (ii) 95 per centum of such value in excess of $25,000."; and

(3) by inserting immediately after the second sentence the following: "Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction.".

(b) Section 220(d)(3)(A)(i) of such Act is amended—

(1) by striking out the comma at the end of clause (1) and all of clauses (2) and (3) in the matter preceding the first proviso and inserting in lieu thereof "and (2) 95 per centum of such value in excess of $25,000"; and

(2) by striking out in the second proviso the comma at the end of clause (1) and all of clauses (2) and (3) and inserting in lieu thereof "and (2) 95 percentum of such value in excess of $25,000".

(c) Section 222(b)(3) of such Act is amended by striking out clauses (ii) and (iii) and inserting in lieu thereof "and (ii) 95 per centum of such value in excess of $25,000;".

(d) The third sentence of section 234(c) of such Act is amended by striking out clauses (A)(ii) and (A)(iii) and inserting in lieu thereof "and (ii) 95 percentum of such value in excess of $25,000,".

AUTHORITY TO INCREASE MORTGAGE INSURANCE PREMIUM FOR SECTION 203 (n)

SEC. 305. Section 203(c) of the National Housing Act is amended by inserting the following before the colon preceding the first proviso: "Provided, That premium charges fixed for insurance under subsection (n) is not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 percentum per annum".

MAXIMUM MORTGAGE AMOUNT AND MATURITY UNDER TITLE I OF THE NATIONAL HOUSING ACT

SEC. 306. (a) The first sentence of section 2(b) of the National Housing Act is amended—

(1) by striking out "$10,000" the first time it appears in clause (1) and inserting in lieu thereof "$15,000"; and

(2) by striking out "twelve years" in clause (2) and inserting in lieu thereof "fifteen years".

(b) Section 2(b) of such Act is amended by striking out "$12,500 ($20,000" in clause (1) and inserting in lieu thereof "$16,000 ($24,000"; and by inserting the following before the semicolon at the end of the proviso in clause (2): "(twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules)".

(c) Subparagraph (B) of the second paragraph of section 2(b) of such Act and subparagraph (B) of the third paragraph of such section 2(b) are each amended by striking out "twenty years" and inserting in lieu thereof in each case "twenty-three years".

(d) Section 2(b) of such Act is amended by adding at the end thereof the following new undesignated paragraph:

"Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or Hawaii, increase any dollar amount limitation on mobile homes or mobile home lot loans contained in this subsection by not to exceed 40 per centum.".

SECTION 203 INSURANCE IN CERTAIN COMMUNITIES

SEC. 307. Section 203 of the National Housing Act is amended by adding at the end thereof the following:

"(o)(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation may prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

"(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

"(B) such ownership claims are reasonably likely to be settled, by court action or otherwise;

"(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages;

"(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

"(E) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or Nation.

"(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this title relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner occupant of a home in a community specified in paragraph (1) who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary is authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are insured under subsection (b) as modified by this subsection forebearance, assignment of mortgages to the Secretary, or such other relief as the Secretary deems appropriate and consistent with the purpose of this subsection. This Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 238 of this title.".

MISCELLANEOUS MORTGAGE INSURANCE

SEC. 308. (a) Sections 232(d)(4) and 242(d)(4) of the National Housing Act are amended by inserting "or section 1521" after "section 604(a)(1)".

(b) Section 242(c) of such Act is amended by adding the following sentence at the end thereof: "No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act.".

MORTGAGE INSURANCE IN MILITARY IMPACTED AREAS

SEC. 309. Section 238(c) of the National Housing Act is amended to read as follows:

"(c)(1) Notwithstanding the provisions of this or any other Act, and without regard to limitations upon eligibility contained in any section of this title, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this title a mortgage executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

"(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.".

EXPERIMENTAL FINANCING

SEC. 310. (a) Section 245 of the National Housing Act is amended—

(1) by striking out "on an experimental basis" in the first sentence;

(2) by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title the principal obligation (including all interest to be deferred and added to principal) of a mortgage insured pursuant to this section may not exceed 97 per centum of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance, or if the mortgagor is a veteran and the mortgage is to be insured in accordance with the provisions of section 203 of this title, such higher percentage of appraised value as is provided for purposes of determining the maximum mortgage amount eligible for insurance under section 203(b)(2) in the case of veterans."; and

(3) by adding at the end thereof the following new sentence: "Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions.".

(b) The caption of section 245 of such Act is amended to read as follows:

"GRADUATED PAYMENT MORTGAGES"

TITLE IV—LENDING POWERS OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS; SECONDARY MARKET AUTHORITIES

CONSTRUCTION LOANS

SEC. 401. The twenty-first undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out "3 per centum" and inserting in lieu thereof "5 per centum".

SINGLE FAMILY DWELLING LIMITATIONS

SEC. 402. The first undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out "$55,000" and inserting in lieu thereof "$60,000", and by inserting "but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess." immediately after "improved real estate without regard to the foregoing limitations,".

LENDING AUTHORITY

SEC. 403. The twenty-second undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by inserting "or farm" immediately after "residential."

PROPERTY IMPROVEMENT LOANS

SEC. 404. The second and third undesignated paragraphs of section 5(c) of the Home Owners' Loan Act of 1933 are amended by striking out "$10,000" and inserting in lieu thereof "$15,000".

MULTIFAMILY DWELLING LIMITATIONS

SEC. 405. The first sentence of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out ", and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property".

CONFORMING AMENDMENT TO FEDERAL HOME LOAN BANK ACT

SEC. 406. Section 10(b) of the Federal Home Loan Bank Act is amended by striking out "$55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitations may, by regulation of the Board be increased by not to exceed 50 per centum)" and inserting in lieu thereof the following: "the dollar limitation under the first proviso of the first sentence of section 5(c) of the Home Owners' Loan Act of 1933, as amended,".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION HOME PURCHASE ASSISTANCE

SEC. 407. (a) Section 313(a)(1) of the National Housing Act is amended by adding at the end thereof the following: To the extent feasible and consistent with the primary purpose of this section to stabilize housing production, the Secretary may direct the exercise of the authority conferred by this section to promote homeownership opportunities for moderate-income families.".

(b) Section 313(a) of such Act is amended by adding at the end thereof the following:

"(3) In carrying out the authority conferred by this section, the Secretary may require the Association to utilize a part of the authority to purchase mortgages under this section for the purchase of mortgages executed to finance the rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods to the extent such action is feasible and consistent with the primary purpose of this section, and for the purpose of this paragraph, the Secretary is authorized to prescribe such regulations as may be appropriate.".

(c)(1) Section 313(b)(B) of such Act is amended by inserting after "$42,000" the following: "($49,000 in the case of any property with respect to which assistance payments pursuant to section 8 of the United States Housing Act of 1937 are being or will be made and which is located in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require)".

(2) Section 313(b)(D) of such Act is amended by inserting after "Secretary" the following: and $55,000 in the case of any property with respect to which assistance payments pursuant to section 8 of the United States Housing Act of 1937 are being or will be made and which is located in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require".

(d) Section 313(g) of such Act is amended by adding at the end thereof the following: "The Association's purchases and commitments under this section during fiscal year 1978 may not exceed $7,500,000,000.".

(e) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

LIMIT ON AMOUNT OF A CONVENTIONAL MORTGAGE WHICH MAY BE PURCHASED BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OR FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 408. (a) The last sentence of section 302(b)(2) of the National Housing Act is amended by inserting "by more than 25 per centum" after "exceed".

(b) The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by inserting "by more than 25 per centum" after "exceed".

(c) Section 309(h) of the National Housing Act is amended by inserting at the end thereof the following: "Pursuant to the authority provided in this subsection, the Secretary shall conduct a review of the financial operations of the corporation and undertake a study of the extent to which the activities of the corporation meet the purposes of this title. Such review and study shall be completed and transmitted to the Congress on or before July 1, 1978.".

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "September 30, 1977" in clauses (b), (c), and (d), and inserting in lieu thereof "September 30, 1978"; and

(2) by striking out "$80,000,000" in clauses (b) and (c) and inserting in lieu thereof "$105,000,000".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(d) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978"; and

(2) by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

CHANGES IN THE GUARANTEED HOUSING LOAN PROGRAM

SEC. 502. (a) Section 502(b)(3) of the Housing Act of 1949 is amended by inserting "except for guaranteed loans," after "(3)".

(b) Section 517(e) of such Act is amended by inserting after the first sentence the following new sentence: "The guaranteed loan program under this title shall be operated separately from the insured loan program operated under this title and no funds designated for one program may be transferred to another program.".

(c) Section 517 of such Act is amended by adding the following new subsection at the end thereof:

"(n) Loans guaranteed under this section shall be made only to borrowers with above-moderate incomes.".

(d) Section 521(a)(1) of such Act is amended by adding at the end thereof the following: "Any loan guaranteed under this title shall bear interest at such rate as may be agreed upon by the borrower and the lender.".

PREPAYMENT OF TAXES AND SIMILAR ITEMS BY FARMERS HOME ADMINISTRATION BORROWERS

SEC. 503. Section 501(e) of the Housing Act of 1949 is amended by striking out the second sentence and inserting in lieu thereof the following: "Such payments shall be disbursed by the Secretary at the appropriate time or times for the purposes for which such payments are made, and after October 1, 1977, if the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay these costs in full, which advances shall be charged to the account of the borrower and bear interest and be payable in a timely fashion not to exceed two years, as determined by the Secretary.".

COMPENSATION FOR CONSTRUCTION DEFECTS

SEC. 504. Section 509 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsections:

"(c) The Secretary is authorized, after October 1, 1977, with respect to any unit or dwelling newly constructed during the period beginning eighteen months prior to the date of enactment of the Housing and Community Development Act of 1977 and purchased with financial assistance authorized by this title which he finds to have structural defects to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property, if such assistance is requested by the owner of the property within eighteen months after financial assistance under this title is rendered to the owner of the property or, in the case of property with respect to which assistance was made available within eighteen months prior to the date of enactment of the Housing and Community Development Act of 1977, within eighteen months after such date of enactment. Expenditures pursuant to this subsection may be paid from the Rural Housing Insurance Fund. Decisions by the Secretary regarding such expenditures or payments under this subsection, and the terms and conditions under which the same are approved or disapproved, shall not be subject to judicial review.

"(d) The Secretary shall, by regulation, prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.".

FARM LABOR HOUSING LOANS AND GRANTS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 505. Section 514(f)(3) of the Housing Act of 1949 is amended to read as follows:

"(3) the term 'domestic farm labor' means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States, Puerto Rico, or the Virgin Islands and either (A) are citizens of the United States, or (B) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence therein.".

PURPOSES FOR WHICH FUNDS FROM THE RURAL HOUSING INSURANCE FUND MAY BE USED

SEC. 506. Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(5) after October 1, 1977, and as approved in appropriations Acts, to make advances authorized by section 501(e); and

"(6) after October 1, 1977, and as approved in appropriations Acts, to make the expenditures authorized by section 509(c).".

HOUSING FOR THE ELDERLY AND HANDICAPPED

SEC. 507. (a) Title V of the Housing Act of 1949 is amended—

(1) by striking out "elderly persons" in section 501(a)(3) and inserting in lieu thereof "elderly or handicapped persons or families";

(2) by striking out "that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use," in section 501(c)(1) and inserting in lieu thereof "that the applicant is an elderly or handicapped person or family in a rural area without an adequate dwelling or related facility for its own use,";

(3) by striking out "elderly persons and elderly families" in subsections (a) and (b) of section 515 and inserting in lieu thereof "elderly or handicapped person or families";

(4) by striking out "elderly persons and elderly families" in section 521(a)(1) and inserting in lieu thereof "elderly or handicapped persons or families"; and

(5) by inserting "or handicapped" after "elderly" in clause (i) of the last sentence of section 521(a)(2)(A).

(b) Section 501(b)(3) of such Act is amended to read as follows:

"(3) For the purposes of this title, the term 'elderly or handicapped persons or families' means families which consist of two or more persons, the head of which (or his or her spouse) is at least sixty-two years of age or is handicapped. Such term also means a single person who is at least sixty-two years of age or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions, or if such person is a developmentally disabled individual as defined in section 102(7) of the Developmental Disabilities Services and Facilities Constructtion Act. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, eligibility of families and persons

for admission to and occupancy of housing constructed with assistance under this title. Notwithstanding the preceding provisions of this paragraph, such term also includes two or more elderly (sixty-two years of age or over) or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to the care or well-being of such persons, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this title, with the deceased member of the family at the time of his or her death.".

CONGREGATE HOUSING FOR ELDERLY AND HANDICAPPED FAMILIES

SEC. 508. (a) Section 515(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "However, specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant.".

(b) Section 515(d)(1) of such Act is amended by adding at the end thereof the following: "; and such term also means congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves; such housing for the handicapped may be utilized in conjunction with educational and training facilities;".

(c) Section 515(d)(3) of such Act is amended to read as follows:

"(3) the term 'congregate housing' means housing in which (A) some of the units may not have kitchen facilities, and (B) there is a central dining facility to provide wholesome and economic meals for elderly or handicapped persons or families.".

PROVISION FOR A DIVISION OF INSURED RURAL HOUSING LOANS

SEC. 509. Section 517 of the Housing Act of 1949 (as amended by section 502(c)) is amended by adding at the end thereof the following new subsection:

"(o) At least 60 per centum of the amount of loans made pursuant to sections 502 and 515 shall benefit persons of low income.".

RURAL HOUSING RESEARCH

SEC. 510. Section 506(d) of the Housing Act of 1949 "is amended to read as follows:

"(d) In order to carry out this section, the Secretary shall establish a research capacity within the Farmers Home Administration which shall have authority to undertake, or to contract with any public or private body to undertake, research authorized by this section.".

RURAL RENTAL ASSISTANCE

SEC. 511. Section 521(a)(2)(A) of the Housing Act of 1949 is amended by striking out "may" wherever it appears, except in clause (i), and inserting in lieu thereof "shall".

TAXATION OF FARMERS HOME ADMINISTRATION-HELD PROPERTY

SEC. 512. (a) Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"SEC. 528. All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this title other than property used for administrative purposes shall be subject to taxation by a State, Commonwealth, territory, possession, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided*, That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

"(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

"(2) any notes or lien instruments administered under this title which are made, assigned, or held by a person otherwise liable for such tax; or

"(3) the value of any property conveyed or transferred to the Secretary, whether as a tax on the instrument, the privilege of conveying or transferring, or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.".

(b) Notwithstanding any other provision of law, no State, Commonwealth, territory, possession, district, or local political subdivision which has received, prior to the date of enactment of his Act, tax payments from the Department of Agriculture based on property held by the Farmers Home Administration shall be liable for, or be obligated to refund, the amount of any such payment, which, if it had been made after the date of enactment of this Act, would have been authorized by the provisions of section 528 of the Housing Act of 1949, and no officer or employee of the United States shall incur or be under any liability by reason of having made or authorized any such payments.

(c) The amendment made by subsection (a) shall become effective as of January 1, 1977.

TITLE VI—NATIONAL URBAN POLICY

SEC. 601. (a) Section 701 of the Urban Growth and New Community Development Act of 1970 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) This title may be cited as the 'National Urban Policy and New Community Development Act of 1970'.";

(2) by striking out "growth" the first time it appears in subsection (b);

(3) by inserting "energy and" before "our natural resources" in subsection (b);

(4) by inserting "and their residents" before "of adequate tax base," in subsection (b); and

(5) by inserting "good housing in" before "well-balanced neighborhoods" in subsection (b).

(b) Section 702 of such Act is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Congress finds that rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created an imbalance between the Nation's needs and resources and seriously threaten our physical and social environment, and the financial viability of our cities, and that the economic and social development of the Nation, the proper conservation of our energy and other natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.";

(2) by inserting "and redevelopment" before "which adversely affect" in subsection (b), by striking out "our" in subsection (b) and inserting in lieu thereof "energy and other", and by striking out "growth" the last time it appears in subsection (b);

(3) by inserting "energy and other" before "natural resources," in the first sentence of subsection (c), by striking out "growth" in the first sentence of subsection (c), by striking out "growth" the first time it appears in the second sentence of subsection (c) and inserting in lieu thereof "development and redevelopment", and by striking out "growth and stabilization" in the second sentence of subsection (c) and inserting in lieu thereof "urban";

(4) by striking out "growth" the first time it appears in subsection (d);

(5) by striking out "help reverse trends of migration and physical growth which reinforce" in paragraph (3) of subsection (d) and inserting in lieu thereof "encourage patterns of development and redevelopment which minimize"; and

(6) by striking out "growth and stabilization," in paragraph (8) of subsection (d) and inserting in lieu thereof "development and redevelopment, encourage", by inserting "energy and other" before "natural resources" in such paragraph (8), and by striking out "the protection" in such paragraph (8) and inserting in lieu thereof "protect".

(c) Section 703 of such Act is amended—

(1) by striking out the section heading and the material preceding paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"NATIONAL URBAN POLICY REPORT

"SEC. 703. (a) The President shall transmit to the Congress during February 1978, and during February of every even-numbered year thereafter, a Report on National Urban Policy which shall contribute to the formulation of such a policy, and in addition shall include—";

(2) by striking out "and statistics, describing characteristics of urban growth and stabilization and identifying significant trends and developments" in paragraph (1) of subsection (a) and inserting in lieu thereof ", statistics, and significant trends relating to the pattern of urban development for the preceding two years";

(3) by striking out "growth" in paragraph (2) of subsection (a), and by inserting "affecting the well-being of urban areas" before the semicolon at the end of such paragraph;

(4) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(5) by inserting after paragraph (2) the following:

"(3) an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average;";

(6) by striking out "growth" in paragraph (4) of subsection (a), as redesignated;

(7) by striking out "growth" in subsection (b) and inserting in lieu thereof "policy"; and

(8) by striking out "Report on Urban Growth" in subsection (c) and inserting in lieu thereof "National Urban Policy Report" and by striking out "growth" in such subsection and inserting in lieu thereof "areas".

(d) The title heading for such Act is amended by striking out "URBAN GROWTH" and inserting in lieu thereof "NATIONAL URBAN POLICY".

(e) The part heading for part A of such Act is amended by striking out "GROWTH".

TITLE VII—FLOOD AND RIOT INSURANCE

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 701. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

FLOOD INSURANCE STUDIES

SEC. 702. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by inserting the following before the period at the end thereof: "and not to exceed $108,000,000 for the fiscal year 1978".

SANCTIONS

SEC. 703. (a) Section 202(b) of the Flood Disaster Protection Act of 1973 is amended to read as follows:

"(b) In addition to the requirements of section 1364 of the National Flood Insurance Act of 1968, each Federal instrumentality described in such section shall by regulation require the institutions described in such section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property.".

(b) Section 3(a)(4) of such Act is amended by striking out all after "mortgages or mortgage loans" and inserting in lieu thereof the following: "but shall exclude assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood);".

FLOOD INSURANCE PROGRAM IMPROVEMENTS

SEC. 704. (a) Section 1306(b) of the National Flood Insurance Act of 1968 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or applicant to receive coverage up to an amount of $150,000 under the provisions of this clause;

"(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to an amount of $50,000 under the provisions of this clause;

"(4) in the case of business property owned, leased, or operated by small business concerns for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraph (B) of paragraph (1) shall be made available to every such owner, lessee, or operator in respect to any single structure, including any contents thereof, related to premises of small business occupants (as that term is defined by the Secretary), up to an amount equal to (i) $250,000 plus (ii) $200,000 multiplied by the number of such occupants which coverage shall be allocated among such occupants (or among the occupant or occupants and the owner) in accordance with the regulations prescribed by the Secretary pursuant to such subparagraph (B), except that the aggregate liability for the structure itself may in no case exceed $250,000;

"(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1038 which are not less than the estimated premium rates under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable; and

"(6) the flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973, do not apply to the additional flood insurance limits made available in excess of twice the limits made available under paragraph (1).".

(b) Section 1362 of such Act is amended—

(1) by inserting "(a)" after "SEC. 1362.";

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) incurred significant flood damage on not less than three previous occasions over a five-year period of time and on each occasion the cost of repair, on the average, equaled or exceeded 25 per centum of the value of the structure at the time of each flood event or was damaged substantially beyond repair by flood while so covered,"; and

(3) by adding at the end thereof the following:

"(b) When any real property referred to in paragraphs (1) and (2) of subsection (a) has sustained damage as a result of a single casualty of any nature under such circumstances that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost, the Secretary may enter into negotiations with the owner of the property or interest therein for the purchase of such property for the uses and purposes of this section.

"(c) Whenever, as a result of damage from any casualty, the repair, reconstruction, or substantial improvement of any single-family dwelling structure located within a regulatory floodway and insured under the flood insurance program is deemed by the Secretary to be made more effective from the standpoint of prudent flood plain management by elevation of the structure so it will not interfere with the flow of water from the base flood within such regulatory floodway, the Secretary is authorized to make a low-interest loan at a rate of interest of 2 per centum per annum, repayable in ten years, to the owner of any such structure for the purpose of so elevating the structure. There is authorized to be appropriated for purposes of implementing this subsection not to exceed $4,500,000.

"(d) The Secretary is authorized to issue such regulations as may be necessary to carry out the purposes of this section.".

(c) Section 1363 of such Act is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) When, incident to any appeal under subsection (b) or (c), the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Secretary shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Secretary in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection, not to exceed $250,000.".

(d) Section 201 of the Flood Disaster Protection Act of 1973 is amended by adding at the end thereof the following:

"(e) The Secretary is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Secretary by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Secretary shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Secretary in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed $250,000.".

TITLE VIII—COMMUNITY REINVESTMENT

SEC. 801. This title may be cited as the "Community Reinvestment Act of 1977".

SEC. 802. (a) The Congress finds that—

(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit services as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

SEC. 803. For the purposes of this title—

(1) the term "appropriate Federal financial supervisory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) the Federal Deposit Insurance Corporation with respect to State chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) the Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies;

(2) the term "regulated financial institution" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act; and

(3) the term "application for a deposit facility" means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) a charter for a national bank or Federal savings and loan association;

(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association or similar institution;

(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) the relocation of the home office or a branch office of a regulated financial institution;

(E) the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under section 18(c) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or

(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 408(e) of the National Housing Act.

SEC 804. In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

(1) assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and

(2) take such record into account in its evaluation of an application for a deposit facility by such institution.

SEC. 805. Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this title.

SEC. 806. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

TITLE IX—MISCELLANEOUS

INDIAN AND ALASKA NATIVE HOUSING AND COMMUNITY DEVELOPMENT

SEC. 901. Section 4 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following:

"(d)(1) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be responsible for coordinating all programs of the Department relating to Indian and Alaska Native housing and community development. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after the date of enactment of this subsection.

"(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

"(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

"(B) estimates of the cost of the projected activities for succeeding fiscal years;

"(C) a statistical report on the conditions of Indian and Alaska Native housing; and

"(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.".

MOBILE HOME SAFETY

SEC. 902. (a) Section 604 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(h) The Secretary shall exclude from the coverage of this title any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

"(1) designed only for erection or installation on a site-built permanent foundation;

"(2) not designed to be moved once so erected or installed;

"(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

"(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.".

(b) Section 610(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) issue a certification pursuant to subsection (h) of section 604, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.".

HOMEOWNERSHIP COUNSELING

SEC. 903. Section 106(a)(2) of the Housing and Urban Development Act of 1968 is amended by inserting the following immediately before the period at the end of the first sentence thereof: "and may provide such services for other owners of single family dwelling units insured under title II of the National Housing Act".

PROTOTYPE COSTS

SEC. 904. (a) Beginning in calendar year 1979, the Secretary of Housing and Urban Development shall prepare and publish annually prototype housing costs for one- to four-family dwelling units for each housing market area in the United States, as determined by the Secretary. Prototype housing costs for an area shall be determined on the basis of the Secretary's identification and estimate of reasonable construction and other costs (including reasonable allowances for the cost of land and site improvements) for that area of various types and sizes of new one- to four-family dwelling units designed for various segments of the housing market of the area, as determined by the Secretary. In determining prototype housing costs, the Secretary is authorized to take into account the need for durability required for economic maintenance of housing, the need for amenities suitable to assure a safe and healthy family life and neighborhood environment, the application of good design and quality in architecture, and the need for maximum conservation of energy, as well as the advice and recommendations of local housing producers.

(b) The Secretary is authorized to take such action as may be necessary to develop, aggregate, and evaluate data and other information required for the timely development, implementation, and maintenance of the prototype housing cost system referred to in subsection (a).

And the Senate agree to the same.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
PARREN J. MITCHELL,
LES AUCOIN,
JAMES J. BLANCHARD,
STANLEY LUNDINE,
GARRY BROWN,
WILLIAM STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS,
THOMAS J. MCINTYRE,
ALAN CRANSTON,
ADLAI E. STEVENSON,
JOHN TOWER,
JAKE GARN,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6655) to extend the authorization and modify the community development block grant program, to extend the authorization for annual contributions under the United States Housing Act of 1937, to extend certain housing programs under the Housing Act of 1964, the National Housing Act, the Housing Act of 1949 and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, and the Senate amendment, and the substitute agreed to in conference and noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

OBJECTIVES

The House bill contained provisions, not in the Senate amendment, adding an objective to and clarifying a purpose of the block grant program. It added an objective of alleviating physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base. A program purpose of fostering coordinated and mutually supportive housing and community development activities by Federal agencies and programs, as well as by communities, was also added. The conference report contains the House provisions.

DEFINITIONS

The House bill contained a provision not in the Senate amendment which permitted a town or township to be deemed a city if all incorporated places within its boundaries entered into agreements with it to undertake or assist in undertaking essential community development and housing assistance activities. The conference report contains the House provision.

The Senate amendment contained several definitions not in the House bill. The term "housing stock" was defined to mean the number of existing housing units based on U.S. Bureau of the Census data which is referable for all jurisdictions to the same point in time. The term "predicted age of housing" meant the arithmetic product of a metropolitan city's or urban county's housing stock and the ratio between age of housing and the housing stock in all metropolitan areas. The "adjustment factor" was defined as the ratio between a metropolitan city's or urban county's age of housing and predicted age of housing. And the "adjusted age of housing" was defined as the arithmetic product of the age of housing in a metropolitan city or urban county and its adjustment factor. The conference report contains each of these definitions.

The Senate amendment also contained a definition for "allocation amount" which was not in the House bill. It was defined as the greater of an amount which bears the same ratio to the allocation for all SMSAs as either the ratio determined under the dual formula or the Senate proposed third formula. The conference report does not contain this definition.

URBAN COUNTY DETREMINATION

The House bill contained a provision not in the Senate amendment requiring urban counties to notify, by December 1 of each year, any incorporated unit of government whose population is included in the urban county population of the opportunity to

have its population excluded and, after December 1, 1977, the population that is included could be excluded only if the unit of local government notified the urban county of its election on or before December 1 of any year. The conference report contains the House provision modified to maintain the flexibility found in existing law which gives the HUD Secretary authority to set the date by which urban counties are to issue notification. The incorporated unit of government is to notify the urban county of its election to be excluded within 30 days of the urban county's notification.

BASIC BLOCK GRANT AUTHORIZATION

The House bill authorized appropriations for the basic Community Development Block Grant and Urban Development Action Grant programs of not to exceed $3.9 billion, $4.05 billion and $4.2 billion for fiscal years 1978, 1979, and 1980, respectively. The Senate amendment authorized appropriations for the basic Community Development Block Grant program of not to exceed $3.5 billion, $3.65 billion and $3.8 billion. The conference report contains the Senate provision.

FINANCIAL SETTLEMENT FUND AUTHORIZATION

The House bill authorized appropriations of $100 million for each of the fiscal years 1978, 1979, and 1980 for the financial settlement of projects and programs assisted under the categorical programs. The Senate amendment authorized appropriations of $100 million for each of fiscal years 1978, 1979, and 1980 for the financial settlement and to the extent feasible the completion of projects and programs assisted under the categorical programs. The conference report contains the Senate provision. The conference committee wishes to emphasize its intent that in making grants for financial settlement, HUD should facilitate not only the closeout of ongoing projects, but their completion as planned. However, this intent should not be construed to include the completion of as yet unstarted projects.

URBAN DEVELOPMENT ACTION GRANT AUTHORIZATION

The House bill provided that $400 million for each of the fiscal years 1978, 1979, and 1980 be made available out of the basic block grant authorization in each of those years for the Urban Development Action Grant program. The Senate amendment authorized appropriations of $400 million for each of the fiscal years 1978, 1979, and 1980 to fund the Urban Development Action Grant program and, to the extent necessary, the proposed Senate third formula. The conference report contains the Senate provision modified to provide that only urban development action grants may be funded under this authorization.

FUNDING PRIORITIES

The House bill set priorities on funding the basic grant program, the Financial Settlement Fund and the Urban Development Action Grant program. It provided that if amounts appropriated are less than the total amounts authorized for these programs,the sums available will first be used to fund, up to the full authorized level in any fiscal year, the basic program, then the Financial Settlement Fund and last the Urban Development Action Grant program. The Senate amendment provided that if funds made available for the basic grant program were less than the authorized level, the difference would be made up by the funds available for the Senate proposed third formula and the Urban Development Action Grant program. Additionally, the Senate amendment provided that if the funds appropriated for the third formula and the Urban Development Action Grant program were insufficient to meet the funding requirements of the third formula, the grant to each third formula recipient would be ratably reduced. The conference report contains the House provision.

COMMUNITY DEVELOPMENT PLAN SUMMARY

The House bill contained a provision not in the Senate amendment requiring the summary of the 3-year community development plan included in block grant applications to identify housing as well as community development needs. The conference report contains the House provision.

PROGRAM DESCRIPTION

The House bill contained a provision not in the Senate amendment which required that an application for block grant funds describe a program to improve conditions for low- and moderate-income persons residing or expected to reside in the community and to foster neighborhood development in order to induce higher income individuals to remain in or return to the community. The conference report adopted the House provision.

The conference committee believes that a strategy for community development should take into account the needs of all income groups, and, particularly in older distressed cities, the need to encourage higher income persons to remain in or return to the community. The committee, however, does not intend that this amendment change the requirement that community development grant funds must, to the maximum extent feasible, be used for activities primarily benefitting low and moderate income persons or aiding in the prevention or elimination of slums and blight.

CITIZEN PARTICIPATION PLAN

The House bill required a block grant applicant to provide satisfactory assurance, prior to submission of an application, that it has (a) prepared and followed, through public hearings, a written citizen participation plan, which provides the opportunity for citizens, particularly low- and moderate-income people, and residents of blighted neighborhoods to submit proposals and comment on the plans and includes the scheduling of hearings at locations and times which are convenient to all citizens; (b) provided citizens with adequate information concerning important program requirements, including the range of activities that may be undertaken and the amount of funds available for proposed block grant and housing activities; (c) prepared and will follow a plan providing citizens an opportunity to participate in monitoring and evaluating the implementation of the community development program. The Senate provision was similar to the House bill but did not require assurances that the applicant has followed a written citizen participation plan and did not require that citizens have an opportunity to participate in monitoring and implementing the program. The Senate provision required in addition that the plan provide for a timely response by the applicant to proposals submitted by citizens and reiterated existing law that nothing in the citizen participation requirements restricts the responsibility and authority of the applicant to develop and execute its community development program. The conference report contains the Senate provision, amended to require (a) a written citizen participation plan, (b) that citizens have an opportunity to submit comments concerning the community development performance of the applicant, and (c) that citizens' comments on the community development performance of the applicant be included in the performance report prepared by the department and that the Secretary shall take those comments into consideration in reviewing that report.

WAIVER OF REQUIREMENTS

The House bill contained a provision not in the Senate amendment which permitted the Secretary to waive certain block grant requirements in the case of small communities where the application does not involve a comprehensive community development program, as determined by the Secretary. The conference report contains the House provision.

ADJUSTMENT TO DISCRETIONARY GRANT AMOUNTS

The House bill contained a provision not in the Senate amendment which authorized the Secretary to adjust, reduce, or withdraw grants made from the metropolitan and nonmetropolitan discretionary balances or take other action with respect to such grants as appropriate in accordance with the reviews and audits conducted under section 104(d), except that funds already expended on eligible community development activities could not be recaptured or deducted from future grants made to the recipient. The conference report contains the House provision.

STATE ROLE IN DISCRETIONARY GRANT SELECTION PROCESS

The House bill authorized the Secretary to provide an opportunity for a State to participate in the selection process for funding discretionary grants to localities within the State. Such participation could include, as determined practicable by the Secretary, the incorporation of State growth and resource coordination policies in funding decisions on such grants, or such other arrangements, excluding the administration of discretionary grants, as the Secretary deemed appropriate. The Senate amendment contained no similar provision. The conference report contains the House provision. The committee wishes to emphasize that the role of the State may be only consultative, and that a State may not exercise a veto power over selection of discretionary grant recipients.

GRANT DRAWDOWN FOR REHABILITATION PROGRAMS

The House bill contained a provision which required HUD, on a case by case basis, to permit grant recipients to drawdown in one payment amounts designated in the community development application and approved by the Secretary for the establishment in a private financial institution of a revolving loan fund to finance rehabilitation activities which would have to begin within 45 days of payment by HUD. The Senate amendment was similar except the Secretary was authorized instead of required to permit the drawdown. The conference report contains the House provision.

The term "revolving loan fund" is employed to make clear that a locality may establish a revolving fund with a lump sum drawdown and then reuse repayments for additional loans without securing further approval from the Department of Housing and Urban Development. The term is not intended to narrowly restrict the kinds of financing techniques which may be used with lump sum drawdown by localities. In writing regulations to establish the appropriate benefits which localities should gain from lump sum drawdown of CDBG funds, the Department should emphasize particularly quantifiable benefits such as payment of interest.

HOUSING ASSISTANDE PLAN

The Senate amendment contained a provision not included in the House bill which required housing assistance plans to (1) identify housing stock which is deteriorated or likely to deteriorate and to provide for the reclamation of such housing where feasible through the use, by local government, the private sector, or community organizations, of a broad range of housing restoration techniques, including acquisition and rehabilitation; (2) include adequate provision to insure that the preponderance of families benefiting from subsidized housing rehabilitation is of low and moderate income, and that a reasonable proportion of rehabilitated units is set aside to give tenants displaced as a result of the rehabilitation efforts an opportunity to be relocated in their immediate neighborhood; and (3) designate, to the maximum extent practicable, one or more areas where housing rehabilitation and neighborhood revitalization will be concentrated. The conference report contains the Senate provision amended to provide that the HAP should include (1) an identification of the housing stock in a deteriorated condition, (2) adequate provision that families of low- an moderate-income are assured that a preponderance of subsidized rehabilitated housing will be made available to them, and (3) provisions requiring that in indicating the location of proposed housing for lower income persons additional objectives should be the reclamation of the housing stock where feasible through a broad range of techniques by local government, the private sector or community organizations, and to provide for a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood.

The conference committee wishes to make clear its intent that a community in outlining a rehabilitation program pursuant to its HAP should, except where it has been demonstrated to the Secretary that it is necessary to assist in low and moderate income housing deconcentration, to meet immediate relocation needs, or to eliminate conditions detrimental to public health and safety, concentrate its efforts in contiguous neighborhood areas. The conference committee believes that a concentrated rehabilitation program is far more desirable and effective than a scattered rehabilitation program.

INCOME GROUPS TO BE BENEFITED

The Senate amendment contained a provision not in the House bill which changed the income groups which should benefit from Community Development activities from 'low or moderate income families' to 'low and moderate income families'. The conference report includes the Senate provision.

URGENT NEEDS

The Senate amendment required that an application setting forth community development needs having a particular urgency have such urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available. No similar provision was contained in the House bill. The conference report contains the Senate provision.

APPLICATION DISAPPROVAL

The Senate amendment contained a provision not included in the House bill which provided for the disapproval of block grant applications which do not comply with the requirements of the block grant program and specifically with the primary purpose that the program principally benefit persons of low- and moderate-income. The conference report contains the Senate provision amended to specifically incorporate the present law requirements that no application be approved unless it: (1) aids in the prevention or elimination of slums and blight, (2) principally benefits persons of low- and moderate-income, or (3) meets a need of particular urgency.

NEIGHBORHOOD REVITALIZATION ACTIVITIES

The Senate amendment contained a provision not included in the House bill which required block grant applicants, to specifically identify those resources, other than block grant funds, to be used for activities designed to revitalize neighborhoods for the benefit of low- and moderate-income persons. The conference report includes the Senate provisions.

Eligible activities

ECONOMIC DEVELOPMENT

The House bill contained a provision which made economic development an eligible activity when carried out by public or private nonprofit entities or by minority enterprises small business investment companies (MESBIC'S) and when necessary and appropriate to meet the needs of the recipient's community development plan. The economic development activities included but were not limited to: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities, site improvements and utilities, and (ii) commercial or industrial buildings; (3) planning; and (4) assistance to local development corporations meeting criteria established by the Secretary. The Senate amendment contained a provision similar to the House bill except that for public and private nonprofit entities eligible activities were limited to those listed. Neighborhood based nonprofit organizations and MESBICS were not limited to those listed activities. Also, no HUD criteria were specified for local development corporations. The conference report contains the Senate provision amended to provide, as in the House bill that local development corporation activities are not limited to those listed.

PUBLIC SERVICES

The House bill contained a provision not included in the Senate amendment which prohibited the use of block grants for public services if such services were provided by the unit of government within 12 months preceding the community development application unless HUD found that their discontinuation was due to events not within the applicant's control. The conference report contains the House provision.

COMPREHENSIVE STRATEGY REQUIREMENT

The Senate amendment contained a provision not included in the House bill which required that to be eligible for funds, block grant activities must carry out a comprehensive strategy for meeting the community development and housing needs and priorities identified in the application, giving primary attention to activities benefiting low- and moderate-income persons and neighborhoods. The conference report contains the Senate provision amended to specifically incorporate existing law that the comprehensive strategy be directed toward principally benefitting persons of low- and moderate-income or aiding in the preventing or elimination of slums and blight. The amended provision also makes clear that the CD activities are required only to assist in carrying out the comprehensive strategy.

Basic Grant Determinations

DUAL AND THREE FORMULA APPROACHES

The House bill provided, with regard to the allocation of funds in the basic program, that metropolitan cities and urban counties are entitled to receive the greater of amounts calculated under present law (current formula or hold harmless, whichever is greater) or a second formula employing the following factors: growth lag (weighted .2), poverty (weighted .3), and age of housing (weighted .5). The Senate amendment included this second formula and added a third formula using factors of growth lag, poverty and adjusted age of housing, weighted .2, .3 and .5 respectively. This third formula was to be phased in during fiscal years 1978 and 1979. Each community would be entitled to the greater of the amount calculated by the first two formuli plus 50 percent in fiscal year 1978 and 75 percent in fiscal year 1979 of the differences between that amount and the amount calculated under the third formula. The conference report contains the House provision.

EXCLUSION OF HOLD HARMLESS LOCALITIES FROM GRANT DETERMINATIONS

The House bill required the exclusion of units of general local government which are entitled to hold harmless grants from computations to determine urban county basic grant amounts and discretionary grant allocations for metropolitan and non-metropolitan areas. The Senate amendment provided similar exclusions except that communities which receive grants from the metropolitan discretionary balance for comprehensive community development programs would also be excluded from urban county grant determinations and Indian tribes entitled to hold harmless grants would be excluded from calculations for discretionary grant allocations. The conference report contains the House provision.

Phase down of hold harmless

The House bill provided that the phase down of hold harmless grant entitlements for metropolitan cities and urban counties, as required under current law, be calculated against the higher of the amounts computed under the present or the new second formula. The Senate amendment retained the present law method of computing the phase down of hold harmless entitlements of these communities except that no such community could receive less than 80 percent of the previous year's aggregate grant amount. The Senate amendment also provided that if the appropriations were insufficient to meet this requirement, 60 percent of the needed funds (up to $15 million) would be transferred from funds set aside for metropolitan discretionary grants and 40 percent (up to $10 million) would be transferred from the nonmetropolitan discretionary balances. The conference report contains the House provision.

Small Communities

DISCRETIONARY BALANCE ALLOCATION

The House bill contained a provision which allocated the discretionary balance for metropolitan and non-SMSA areas on a State-by-State basis. Another House provision required that the allocations be made in accordance with the higher of amounts determined under two formulas: the existing formula or a second formula using as factors age of housing (counted 2½ times), extent of poverty (1½ times) and population (once). The Secretary was required to make pro rata reductions of allocations to compensate for the difference between the total to be allocated and the total amounts available. The Senate provision was similar, but gave grants for comprehensive community development programs the same funding priority as hold harmless with the remainder available for formula allocation. The Senate version also added Indian tribes as specific hold harmless recipients. The conference report contains the House provision.

COMPREHENSIVE COMMUNITY DEVELOPMENT PROGRAM

The House bill provided for three-year grant commitments for localities having a comprehensive community development program which provided for lower-income housing. In making such commitments, the Secretary was required to give special consideration to smaller, hold-harmless communities presently carrying out comprehensive community development programs and to consider such factors as economic redevelopment activities, past community development performance, function as a regional center of economic development and activity, potential for having increased employment as a result of community development activity, physical and economic deterioration, impact of national policy or direct Federal program decisions on the locality's growth, extent to which the locality's program is necessary to alleviate a serious threat to health or safety, and any other

factors deemed by HUD to be relevant to carrying out the purposes of the block grant programs. The House provision also required the Secretary to distribute discretionary funds to insure that a reasonable proportion of grants is available to localities not seeking funds for comprehensive community development programs.

The Senate amendment provided for multiyear instead of three-year commitments, subject only to the availability of appropriations. In making commitments, the Secretary was required to give due consideration to past and present performance and to fund smaller hold-harmless communities with comprehensive community development programs before making new commitments. For participating communities, the Secretary was required to establish an annual entitlement amount which was meaningful in relation to the community's size, proposed program, capacity, past and present block grant funding levels, age of housing, poverty and impact of national policy or direct Federal program decisions. Commitment amounts for hold-harmless communities were to include hold-harmless entitlement amounts.

The conference report contains the House provision amended to permit multiyear commitments of up to three years duration and to require that the Secretary give special consideration to communities presently carrying out a comprehensive community development program and presently receiving hold harmless grants before making new commitments. The amended provision also requires that the Secretary establish for each participating community an annual grant amount meaningful to the size of the community and the comprehensive program identified by the community.

Reporting Requirements

FORMULA ALLOCATION

The House bill contained a provision not in the Senate amendment which required the Secretary of HUD to report, not later than March 31, 1979, to Congress with respect to the adequacy, effectiveness and equity of the formula used for block grant fund allocations with analysis and recommendations as to the feasibility of using impaction as a measurement consideration and of using a single formula. The term impaction was defined as the intensity measured in absolute numbers and proportions of each needs factor. The conference report contains the House provision amended to change the reporting date to September 30, 1978, and to identify adjusted age of housing and poverty as factors of impaction which should be considered in addition to factors identified by the Secretary. The conferees expect the Secretary to make use of sources outside the Department in making the recommendations required in this report.

URBAN DEVELOPMENT ACTION GRANT

The House bill contained a provision not included in the Senate amendment which required that the annual report on the community development program submitted to Congress also contain a list of each local government unit receiving, and the amounts of, urban development action grants, as well as a brief summary of the projects funded, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year. The conference report contains the House provision.

SMALL CITIES TASK FORCE

The Senate amendment contained a provision not included in the House bill which required HUD to establish and chair a Task Force on Small Cities to study and report with legislative recommendations within one year on the developmental needs of small cities, i.e. cities which have a population of less than 50,000 and are not central cities of metropolitan areas. The task force was required to: (1) take steps to improve the data available about small cities; (2) suggest means of reducing the duplication in government programs in jurisdictions which affect small cities; and (3) consider all of the relevant differences and similarities between small and large cities, particularly in the areas of housing, growth, development patterns, infrastructure, education, energy needs and social development. In addition, the task force was to include in its report alternative, verifiable formulae to be used in the distribution of discretionary balance funds available for allocation under the block grant program.

The conference report contains the Senate provision amended to delete the establishment of the task force but to require the Secretary to conduct the specified study. The conference committee directs the Secretary to involve representatives of small cities in the development of the study and the legislative recommendations.

URBAN FISCAL CRISIS REPORT

The Senate amendment contained a provision not included in the House bill which required HUD, in consultation with the Treasury, to send to Congress by March 1, 1978, a report analyzing the urban fiscal crisis, including, but not limited to: (1) the number and characteristics of cities presently suffering from or nearing fiscal stress; (2) the causes of fiscal stress; and (3) specific recommendations and options which are or should be available to the Federal, State, and local governments for preventing and/or reversing fiscal stress. The conference report does not contain the Senate provision. However, it is the intent of the conferees that the National Urban Policy Report as authorized in title VI should include an analysis of the urban fiscal crisis as outlined in this Senate provision.

Miscellaneous

DEFICIENCY IN GRANT AMOUNTS

The House bill contained a provision not included in the Senate amendment which required that if the total amount available in fiscal years 1978 and 1979 for distribution under section 106 is insufficient to meet all basic grant and hold-harmless needs, and funds are not otherwise appropriated to meet the deficiency, the Secretary will make up the shortfall through a pro rata reduction in all entitlements and discretionary amounts. The conference report includes the House provision.

SECRETARY'S DISCRETIONARY FUND

The House bill contained a provision not included in the Senate amendment which made States, units of local government, Indian tribes, and areawide planning organizations eligible for grants from the discretionary fund for the purpose of providing, directly or through contracts, technical assistance in planning, developing, and administering block grant assistance. The conference report contains the House provision.

The conference report includes a provision included in both the Senate and House bills which established a separate funding mechanism for Indian tribes by authorizing grants to tribes out of the Secretary's Discretionary Fund. The Secretary's Discretionary Fund was increased from 2% to 3% of the total amount available for basic community development block grants to accommodate this change. It is anticipated that this approach will result each year in a level of funding for Indian tribes which is commensurate with the level of tribal needs as based on the elements of the original block grant formula.

The House bill contained a provision not included in the Senate amendment which reduced from 25 percent to 15 percent the amounts set aside in the discretionary fund for each year which may be used for grants to meet emergency community development needs caused by federally recognized disasters. The conference report contains this provision.

LOAN GUARANTEE

The House bill contained a provision requiring that guaranteed indebtedness could only cover acquisition of real property while the Senate amendment provided that guaranteed indebtedness could cover either the acquisition or the rehabilitation of real property. The conference report contains the Senate provision amended to limit the use of guaranteed indebtedness to the acquisition of real property and the rehabilitation of publicly owned real property.

A House provision not included in the Senate amendment eliminated the present requirement that the real property to be acquired serve or be used in carrying out eligible block grant activities identified in the community development application. The conference report contains the House provision.

The House bill contained another provision which replaced present conditions for making a guarantee with requirements that (a) the total outstanding obligations guaranteed not exceed three times the grant amount approved under section 106(b) for the same program period and (b) the recipient pledge, to assure repayment of obligations and charges incurred, present and future block grants and such other security determined by the Secretary, including increments in local tax receipts generated by block grant assisted activities. The Senate amendment contained a similar provision except that the total guaranteed amount could not exceed three times the grant amount approved under section 106. HUD would also be required to enter into a contract with the recipient calling for repayment of the guaranteed obligation over a six-year period. The recipient was also specifically permitted to pledge the disposition proceeds from the sale of land or rehabilitated property to assure repayment of obligations incurred.

The conference report contains the Senate provision amended to eliminate the requirement of a six-year repayment period. The conferees do not intend, by removing the six-year requirement, to imply that it would be generally appropriate to authorize a repayment period longer than the six-years. However, the conferees, by permitting greater flexibility as to repayment period, expect the department to critically appraise each project and to authorize a repayment period longer than six years only where necessary to achieve the purposes of the community development program.

The Senate amendment contained a further provision, not included in the House bill, requiring all securities guaranteed under these provisions to be subject to taxation and requiring that an interest rate subsidy of 30 percent be provided by the Federal Government to compensate the locality for the higher interest costs associated with taxable securities. The conference report contains the Senate provision amended so that the amounts available for the subsidy are subject to appropriations.

The Senate amendment contained another provision, not included in the House bill, which limited the total amount of outstanding obligations guaranteed on a cumulative basis to $3.5 billion or such higher amount as may be authorized to be appropriated pursuant to sections 106 and 107 for any fiscal year. The conference report contains the Senate provision.

URBAN DEVELOPMENT ACTION GRANTS

The House bill provided for an Urban Development Action Grant (UDAG) program and required that the applicant's plan

for the use of the grant be consistent with, where it exists and is in effect, the overall economic development plan provided for in the Public Works and Economic Development Act of 1965 but only in the event and after such time as the overall economic development plan is required to be consistent with the community development program. The Senate amendment contained a similar provision without tying the requirement of consistency to the event and time when the overall economic development plan is required to be consistent with the community development program. The conference report contains the House provision.

The House bill contained another provision which detailed the UDAG selection criteria, made them mandatory, and included as one of the criteria the extent of assistance to be made available by the State. The Senate amendment contained the same criteria with the exception of the extent of assistance by the State; however, it did not require the use of the listed criteria. The conference report contains the House provision amended to make the primary selection criteria the comparative degree of physical and economic distress as principally determined (for metropolitan cities and urban counties) through the differences in extent of growth lag, poverty, and the adjusted age of housing.

The conference report provides that the primary criterion for the selection of UDAG recipients would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction formula—the extent of growth lag, the extent of poverty, and the adjusted age of housing. By defining the principal selection criterion for UDAG recipients in this manner, the Conferees endorse the concept of impaction as an important means of measuring the relative economic and physical distress among the nation's cities. Moreover, the conferees intend that UDAG funding be assured to the cities and urban counties in greatest distress as determined according to the Senate's weighted impaction formula factors, recognizing that those communities must also propose feasible and effective projects.

The conference report also requires the Secretary to include among the selection criteria other factors relevant to the assessment of comparative degrees of physical and economic distress among UDAG applicants. The conferees wish to make clear that those additional factors would be secondary in importance to those of the Senate's impaction formula. The conferees have also recognized that in the case of small (non-entitlement) cities, data for each of the elements of the Senate's impaction formula, particularly growth lag, may not be available. The conferees, therefore, intend that if the comparative degree of distress among non-entitlement applicants cannot be measured using each of the elements of the Senate's impaction formula, then the Secretary shall substitute other relevant and comparable measurements of such distress.

The Senate amendment contained a provision not included in the House bill which required the Secretary to allocate UDAGs in order to achieve a reasonable balance among programs designed primarily to: (1) restore seriously deteriorated neighborhoods; (2) reclaim underutilized real property for industrial purposes; and (3) renew commercial employment centers. The conference report contains the Senate provision.

The House bill contained a requirement that, before UDAGs are made for business loans or industrial development, HUD consult with and coordinate such assistance with other Federal agencies which make funds available for similar activities. The Senate amendment required that UDAGs not be used for business loans or industrial development unless the Secretary of HUD determined such assistance is not available under the Public Works and Economic Development Act of 1965. The conference report contains the House provision.

The House bill contained a provision not found in the Senate amendment which required the Secretary, at least on an annual basis, to review and audit UDAG recipients to determine the progress made in carrying out activities substantially in accord with approved plans and timetables; HUD could adjust grants and take other appropriate action based on reviews and audits, except that funds spent on eligible activities could not be recaptured or deducted from future grants. The conference report contains the House provisions.

The House bill contained a further provision not included in the Senate amendment which prohibited UDAGs for projects intended to facilitate the relocation of industrial or commercial plants or facilities unless HUD found that the relocation would not significantly and adversely affect the unemployment or economic base of the area from which the relocation was proposed. The conference report contains the House provisions.

The House bill contained another provision not included in the Senate amendment which required UDAG applicants to meet citizen participation requirements comparable to those proposed for block grant applicants. The conference report contains the House provision.

Other Community Development Programs

SECTION 312 REHABILITATION PROGRAM

The House bill and the Senate amendment extended the section 312 rehabilitation program for two years and authorized $60 million for fiscal year 1978. In addition, the Senate amendment increased the maximum 312 loan amount for residences to $27,000 per dwelling unit. The conference report contains the Senate provision. In extending authorization for the section 312 rehabilitation loan program, the conferees expect that the Secretary will take all steps necessary for assuring that the repairs and improvements undertaken through this loan assistance will be done in a professional manner and in accordance with high standards of workmanship. By increasing the maximum amount of loans in this program, the conferees intend to establish more realistic loan limits so as to enable substantial rehabilitation where it is required to adequately improve properties for future use.

COMPREHENSIVE PLANNING

The House bill authorized an appropriation of $80 million for fiscal year 1978 and required that not less than 20 percent of the appropriations for fiscal year 1978 and for succeeding fiscal years be made available for planning grants to cities (including the District of Columbia) with populations of at least 50,000 and urban counties, as defined in the block grant program. The Senate amendment authorized an appropriation of $75 million for fiscal year 1978 and did not contain a 20 percent set aside. The conference report contains the Senate provision.

EFFECTIVE DATE

The House bill contained a provision, not included in the Senate amendment, which established that the amendments made in title I of the bill would not become effective before October 1, 1977. The conference report contains this provision.

TITLE II—HOUSING ASSISTANCE AND RELATED PROGRAMS

Housing Authorizations

INCREASED CONTRACT AUTHORITY FOR ANNUAL CONTRIBUTIONS

The House bill provided $1,232,120,000 of additional annual contributions contract authority under section 5(c) of the United States Housing Act of 1937 (hereinafter the "USHA") to become available in fiscal year 1978 in amounts approved in appropriation acts. The Senate amendment provided $1,116,620,000 of such additional annual contributions contract authority. The conference report contains the House provision amended to provide a total of $1,159,995,000 in such additional annual contributions contract authority.

TRADITIONAL PUBLIC HOUSING

The House bill limited the amount of the total additional authorization for annual contributions contracts which could be used to assist housing units other than under section 8 of the USHA to no more than $198,200,000. The Senate amendment did not limit the amount of total funds allocated to assist housing units other than under section 8, but did contain a provision to require not less than $42,500,000 of such additional contract authority be available for modernization of traditional public housing projects. The conference report contains the Senate provision.

HOUSING FOR THE ELDERLY OR HANDICAPPED

The Senate amendment contained a provision not included in the House bill which set aside not less than $120,000,000 of the total additional low-income housing contract authority for projects for the elderly or handicapped receiving loan assistance under section 202 of the Housing Act of 1959. The conference report contains the Senate provision.

LOAN MANAGEMENT

The Senate amendment contained a provision not included in the House bill which limited the amount of the total additional low-income housing contract authority which could be used for housing units in projects held by or assigned to the Secretary or insured under Title II of the National Housing Act which are threatened with foreclosure to no more than $136,000,000. The conference report does not contain the Senate amendment. However, the conferees wish to make clear the serious concern they have that a disproportionate amount of increased contract authority might be used in projects held by or assigned to the Secretary and threatened with foreclosure. Therefore, the conferees expect that the Secretary will limit the use of these increased funds to the number of housing units under the existing loan management category as contained in HUD's adjusted budget estimates—approximately 55,000 housing units. The conferees also expect that the Secretary in the future authorization requests will specifically identify that portion of the total authorization requested which she anticipates will be used for loan management purposes.

NOTIFICATION TO CONGRESS

The House bill contained a provision not included in the Senate amendment which prohibited the Secretary of HUD and public housing agencies, after the date of enactment of the Housing and Community Development Act of 1977, from agreeing to enter into an annual contributions contract under section 8 of the USHA, before giving 30 days notice to the Representative and Senators in whose district or State the assisted housing is or will be located. The notice was to include location, number and type of units, number and age or income group of occupants, person with whom the agreement will be entered into, and date for commencement of any rehabilitation or construction. The conference report does not contain this provision.

COST AND HIGH-RISE LIMITATIONS ON SECTION 8

The House bill contained a provision not included in the Senate amendment which prohibited the Secretary from entering into

contracts under section 8 for assistance to units in which debt service plus any FHA insurance premium exceed $100 per month per room. The conference report does not contain this provision, however, the conferees urge the Secretary to make every effort to hold down costs consistent with the need to provide shelter in high cost areas.

The House bill contained a provision not included in the Senate amendment requiring the Secretary to prohibit the use of section 8 for assistance to units in high-rise elevator projects for families with children unless there was no practical alternative. This prohibition would not apply in the case of units in projects to be located in Alaska or Hawaii. The conference report contains this provision.

Prohibitions regarding occupied units

The Senate amendment contained a provision not in the House bill which prohibited the Secretary from providing section 8 housing assistance payments for occupied dwelling units where families continued in occupancy, unless the local public housing agency certified that special circumstances, including but not limited to, size and composition of families, age of occupants, and cost and availability of alternate housing, made such utilization of these dwelling units appropriate. This provision is not contained in the conference report.

The conferees are concerned that too little attention has been paid to utilizing section 8 housing assistance as a means of upgrading the housing stock, which is one of the major objectives of the section 8 housing assistance program. The conferees recognize that there is merit in using section 8 housing assistance payments in occupied dwellings. Such use of this assistance can aid in stabilizing and maintaining viable neighborhoods and often can meet the special housing needs of large size families and elderly or handicapped families. Therefore, the conferees direct the Secretary to establish procedures which will assure that in utilizing section 8 assistance, adequate attention is given to improving the housing stock, in addition to meeting the special needs of lower income families, and stabilizing and revitalizing neighborhoods.

PRIORITY IN SECTION 8 ASSISTANCE

The Senate amendment contained a provision not included in the House bill which directed the Secretary in providing assistance under section 8, to give priority to the utilization of new or substantially rehabilitated housing in communities having a less than adequate rental vacancy rate for nonseasonal and available rental units suitable for low- and moderate-income persons, including large families, and in other communities to give priority to the utilization of the existing housing stock. The conference report does not contain this provision.

The conferees are concerned that existing section 8 regulations by emphasizing overall vacancy rates, fail to consider adequately the needs for new construction in some communities. Therefore, the conferees expect the Secretary to re-examine and to revise the section 8 regulations accordingly.

ACCESSIBILITY TO THE HANDICAPPED

The House bill contained a provision not found in the Senate amendment which directed the Secretary to issue and implement regulations to insure that an adequate number of new or substantially rehabilitated section 8 units be designed to afford ready access to and use by physically handicapped persons. This provision is not contained in the conference report because the conferees believe that the Secretary is already taking steps to meet this objective. The conferees commend the Secretary for her actions in assuring that section 8 housing assistance will be available for housing designed to accommodate the special needs of physically handicapped persons. These actions will insure that a portion of all authorized section 8 housing assistance will be available for the special housing needs of these persons in accordance with the conferees' intent.

OPERATING SUBSIDIES

The House bill authorized appropriations for operating subsidies under section 9(c) of the USHA in an amount not to exceed $665,000,000 in fiscal year 1978. The amount authorized in the Senate amendment for these subsidies was not to exceed $708,100,000 for the same fiscal year. The conference report contains the House provision amended to authorize appropriations for these subsidies in a total amount of not to exceed $685,000,000 in fiscal year 1978.

PAYMENTS IN LIEU OF TAXES

The Senate amendment contained a provision not found in the House bill directing the Secretary to conduct a study of payments made in lieu of taxes which are authorized under section 6(d) of the USHA and to report to the Congress on the status and adequacy of such payments not later than 12 months after the date of enactment of this Act. The conference report contains this provision.

SECTION 202 PROCESSING REQUIREMENTS

The House bill contained a provision not included in the Senate amendment that directed the Secretary to issue regulations, as soon as practicable after enactment, requiring processing of section 202 projects which also involve subsidy assistance under section 8 to be coordinated in an economical and efficient manner. The conference report includes the House provision.

RESEARCH AUTHORIZATIONS

The House bill contained a provision authorizing appropriations for research and development activities under title V of the Housing and Urban Development Act of 1970 of an amount not to exceed $65 million for fiscal year 1978. The Senate amendment contained a provision authorizing appropriations of an amount not to exceed $60 million for research and development in fiscal year 1978. The conference report contains the Senate provision.

SECTION 235 ELIGIBILITY

The Senate amendment contained a provision not in the House bill which permitted assistance payments made pursuant to section 235 of the National Housing Act to be used in cooperative housing developments financed with a mortgage insured under section 221(d)(3) of the National Housing Act. The conference report includes the Senate provision. In permitting section 235 assistance payments to be used in cooperative housing developments, however, the conferees expect that such assistance will be limited to townhouse developments and not be permitted for use in high-rise developments.

SECTION 236 OPERATIOG SUBSIDIES

The House bill contained a provision to amend section 236(f) of the National Housing Act to require the Secretary to make, to the extent approved in appropriations acts, section 236 operating subsidy payments. It also specified that non-insured projects assisted under a State or local program providing assistance through loans, loan insurance, or tax abatement, are eligible for operating subsidies provided under section 236. It also expanded the subsidy coverage to include increases in all operating and maintenance expenses payable by the project owner, rather than only the cost of utilities and local property taxes as under existing law. The period used for establishing the initial operating expense level for a project was changed to the 12-month period following the date on which a project first achieves 50-percent occupancy, and a project became eligible for operating subsidies within 90 days of establishment of the initial operating expense level but not prior to October 1, 1977. It provided that all projects with contracts entered into prior to the enactment of this Act would have their initial operating expense level established within 180 days of the enactment date of this Act. It also authorized contracts to be amended periodically for appropriate adjustments. The Senate amendment also contained provisions to amend sections 236(f). It required the Secretary to make, to the extent of moneys in the reserve fund established under section 236(g) and to the further extent of funds authorized in appropriation acts, operating subsidy payments for increases in the cost of utilities and local property taxes above the initial operating expense level established at the time the project became fully occupied. It deleted a provision in existing law basing determination of the amount of subsidy on a percentage of a tenant's income payable for rent for each unit, and required instead that payments be used to reduce basic rental charges established for the project. It also deleted the existing provisions authorizing periodic adjustments in the amount of subsidy payments and required instead single year contracts for payments, with renewals and appropriate adjustments annually to the extent approved in appropriation acts. An existing provision which authorizes payments only if Secretary determines that cost increases are reasonable and comparable to increases affecting other rental projects was amended to authorize payments unless the Secretary found that such cost increases were not reasonable and comparable.

The conference report contains the House provision, amended to: (1) direct the Secretary to make additional section 236 operating subsidy payments to cover increases in utility and local property tax costs in excess of initial operating expenses to the extent of funds in the reserve fund and to the further extent of funds authorized in appropriation acts; (2) provide that such payments shall be used to reduce the basic rental charges established in the project; (3) require that contracts for additional monthly assistance payments be made for a one-year period and adjusted annually to the extent approved in appropriation acts; (4) provide that such payments be made unless the Secretary finds such increases to be unreasonable; (5) require the Secretary to establish an initial operating expense level for projects with contracts entered into prior to the enactment of the Housing and Community Development Act of 1977 not later than 180 days after enactment; and (6) provide that the amendments made by these provisions shall be effective on October 1, 1977, and to clarify that they shall be applicable to all assistance payments made with respect to any period commencing after that date.

The conferees intend by these amendments that the Department of Housing and Urban Development make operating subsidy payments from the reserve fund established under Section 236(g), as well as from monies approved in appropriation Acts. The reserve fund is to remain fully available for the payment of such operating subsidies as approved in appropriations acts. The conferees are further aware that HUD has asserted in litigation that it does not have sufficient contract authority to make such payments to the full extent of monies in the reserve fund. These amendments are intended to clarify that while the Secretary is authorized to enter into contracts with project owners to make such payments, no contract authority is needed to spend the reserve funds for operating subsidies.

It is expected that the Secretary in making single year contracts for operating subsidy payments will ensure that the contracts contain adequate provisions for all anticipated cost increases over the term of the contract.

The conferees intend that these amendments shall not prejudice the rights or liabilities of any party presently before the courts seeking operating subsidy payments pursuant to Sections 236(f)(3) and 236(g). The conferees do intend, however, that any relief awarded shall be used by the project owner solely to effect a reduction in the basic rental charges established for the project and actually charged to the tenants of such projects. In addition, while the amendments agreed to give the Department 180 days from the enactment of this Act to establish initial operating expense levels for projects financed under Section 236; it is the intent of the conferees that additional monthly assistance payments authorized by these amendments shall be made prospectively as of the effective date of these amendments to Section 236.

REFLECTION OF HAP'S IN HOUSING SUBSIDY FUND ALLOCATION

The Senate amendment contained a provision not included in the House bill which amended section 213(d) of the Housing and Community Development Act of 1974 to direct the Secretary to assure, to the maximum extent practicable, that funds available for all HUD housing assistance programs shall be allocated or reserved and shall be utilized in accordance with needs and goals described under subsection 213(d) and goals described in local, State or other housing assistance plans approved by the Secretary under section 104 of the Housing and Community Development Act of 1974. The conference report contains the Senate provision.

EXTENSION OF NEW COMMUNITIES SPECIAL PLANNING GRANT AUTHORITY

The House bill contained a provision which extended through September 30, 1978, the Secretary's authority to make special planning assistance grants under section 720 of the HUD Act of 1970 to private new community developers and state land development agencies. The Senate amendment did not contain such a provision. The conference report incorporates the House provision.

EXTENSION OF TREASURY DRAW AUTHORITY

The House bill contained a provision, not in the Senate amendment, which amended section 14(b) of the Federal Reserve Act to reinstitute and extend until October 1, 1977, the Treasury Department's draw authority on the Federal Reserve Banks and to reinstitute and extend until September 30, 1977, the authority of the Federal Reserve Banks to purchase U.S. obligations directly from the Treasury up to a limit of $5 billion outstanding at any one time. The conference report contains the House provision.

TITLE III—EXTENSION OF HUD PROGRAMS

FHA MORTGAGE INSURANCE

EXTENSION OF FHA MORTGAGE INSURANCE AUTHORITIES

The House bill contained a provision not in the Senate amendment which extended the authority of the Secretary to insure mortgages under section 221(d)(2) of the National Housing Act, through September 30, 1978. The conference report contains this provision.

SECTION 235

The House bill contained provisions for increasing the section 235 mortgage limits for single family units from $25,000 to $31,000 (and $29,000 to $36,000 for families of five or more persons); in high cost areas, limits were increased from $29,000 to $36,000 (and from $33,000 to $42,000 for five or more persons). The Senate amendment increased section 235 limits for single family units from $25,000 to $34,000 and from $29,000 to $40,000 for families of five or more persons. In high cost areas, these section 235 limits were increased from $29,000 to $40,000 and from $33,000 to $46,000 for families of five or more persons. Section 235 limits were also increased for two-family units from $28,000 to $46,000 and from $36,000 to $54,000 in high cost areas. The conference report contains the House provision amended to increase section 235 single family limits from $25,000 to $32,000 and from $29,000 to $38,000 for families of five or more persons. In high cost areas, these section 235 limits would be increased from $33,000 to $44,000. In the case of two-family units the limits are increased from $28,000 to $44,000 and in high cost areas from $36,000 to $49,000.

The House bill also contained provisions limiting the number of units with mortgages insured under section 235 in any specific subdivision to 40 percent of all units in such subdivision. The Senate amendment did not restrict the concentration of section 235 units in any specific subdivision. The conference report retains the 40 percent limitation with the exception that it shall not apply in the case of rehabilitated units or to units or subdivisions in urban neighborhoods or areas for which the Secretary determines that there is a sound proposal supporting the concentration of subsidized units beyond the limitation provided, and that an aggregation of such subsidized units is essential to a community's overall redevelopment plan.

INCREASE IN OTHER MORTGAGE LIMITS

The House bill contained a provision which was not included in the Senate amendment increasing section 220(d)(3)(A) limits from $45,000 to $60,000 for single-family units, from $48,750 to $65,000 for two- and three-family units, and from $56,000 to $75,000 for four-family units. The conference report contains the House provision.

The House bill contained a provision which was not included in the Senate amendment increasing section 221(d)(2) limits for single-family units from $25,000 to $31,000 (and from $29,000 to $36,000 for families of five or more persons); in high cost areas limits were increased from $29,000 to $36,000 (and from $33,000 to $42,000 for families of five or more persons). Section 221(d)(2) limits for two-family units were increased from $28,000 to $35,000 (and from $36,000 to $45,000 in high cost areas); for three-family units from $38,880 to $48,600 (and from $46,080 to $57,600 in high cost areas); and for four-family units from $47,520 to $59,400 (and from $54,720 to $68,400 in high cost areas). The conference report contains the House provision.

The House bill also contained a provision which was not included in the Senate amendment decreasing downpayment requirements under section 220(d)(3)(A) to conform to other FHA downpayment decreases. The conference report contains the House provision.

TITLE I HOME IMPROVEMENT LOANS AND MOBILE HOME LOANS

The House bill contained a provision to increase the loan ceiling for title I mobile home loans from $12,500 to $15,000 (and from $20,000 to $23,000 for mobile homes composed of two or more modules). The Senate amendment increased the loan ceiling for title I mobile home loans to $16,000 ($24,000 for mobile homes composed of two or more modules). The conference report contains the Senate provision.

The House bill, also, contained a provision not contained in the Senate amendment to increase the ceiling for title I home improvement loans (other than for mobile home loans) from $10,000 to $15,000. The conference report contains the House provision.

The House bill contains a provision not contained in the Senate amendment to increase the maximum term of maturity for title I loans (other than mobile home loans) from 12 years and 32 days to 15 years and 32 days. The maximum term was increased, in the case of a loan for a mobile home composed of two or more modules from 15 years and 32 days to 23 years and 32 days, and from 20 years and 32 days to 23 years and 32 days in the case of a loan to finance the purchase of a mobile home and an undeveloped lot for the home. The conference report contains the House provision. With respect to extending the maximum term to 23 years, the conferees wish to emphasize that the Secretary is expected to establish a shorter maturity period for these loans if she finds it necessary in order to maintain the actuarial soundness of the program at reasonable insurance premium costs to the borrowers.

Also, the Senate amendment contained a provision not included in the House bill authorizing the Secretary, because of prevailing higher costs, to increase, by regulation, mobile home title I loan ceilings by not to exceed 50 percent in Alaska, Guam, or Hawaii. The conference report contains this provision amended to authorize the Secretary to increase by not to exceed 40 percent the title I mobile home loan ceiling. In permitting the Secretary to increase the maximum loan amount insurable under title I by 40 percent, the conferees expect that the limits will be increased only to the extent of the actual cost differentials.

SECTION 203 MORTGAGE INSURANCE IN COMMUNITIES AFFECTED BY INDIAN CLAIMS

The House bill added a new subsection (o) to section 203 of the National Housing Act authorizing the Secretary, notwithstanding any other provision of title II of the Act, to insure under section 203(b) mortgages in communities where widespread foreclosures or distress sales are likely to result from temporarily adverse economic conditions due to Indian land claims which are expected to be settled during calendar year 1977. The Senate amendment was similar to the House provision except that (1) did not require likely settlement of the Indian land claims by the end of calendar year 1977, and (2) it contained the requirement that 50 or more individual homeowners had been joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to land in the community by an American Indian tribe, band, or nation. The conference report contains the Senate provision.

MORTGAGE INSURANCE FOR HOSPITALS AND NURSING HOMES

The Senate amendment contained a provision not included in the House bill which amended section 223(f) of the National Housing Act to authorize the Secretary to insure a mortgage executed in connection with the purchase or refinancing of an existing hospital which was subject to a mortgage insured under section 242. The conference report does not contain this provision.

The Senate amendment contained three other provisions not included in the House bill. First, existing requirements under section 223(f) with respect to refinancing of property located in older declining areas were applicable only in the case of refinancing multifamily housing projects. This provision is not included in the conference report. Second, sections 232(d) and 242(d) of the National Housing Act were amended to specify that certification required with respect to HUD insurance of a mortgage covering a nursing home or other facility under section 232 or a hospital under section 242 may be from a State agency designated under section 1521 of the Public Health Service Act, as well as from those designated under section 604(a)(1) of that Act. The conference report includes this provision. Finally, the Senate amendment provided that no mortgage insurance premium would be charged, in connection with a hospital mortgage insured under section 242 of the National Housing Act, on any amount of principal

and interest guaranteed by HEW under title VII of the Public Health Service Act (assistance for nonprofit teaching facilities hospitals). The conference report contains this provision.

VETERANS' HOUSING—CONDOMINIUM CONVERSIONS

The Senate amendment contained a provision not included in the House bill which amended section 1810(a) of 38 United States Code to authorize the Veterans Administration to guarantee loans for the purchase of single-family units in condominiums approved by the Administrator of the Veterans Administration. The conference report does not contain the Senate provision.

MORTGAGE INSURANCE IN MILITARY IMPACTED AREAS

The Senate amendment contained a provision not included in the House bill which authorized the Secretary of HUD to insure, under any section of the National Housing Act, a mortgage covering property located near military installations where conditions prevent mortgage insurance eligibility requirements from being met where (1) the Secretary of HUD determines that the benefits involved outweigh the risk of probable cost to the Government and (2) the Secretary of Defense certifies that there is no foreseeable intention to curtail substantially the assignment of personnel to the installation. The conference report contains the Senate provision.

EXPERIMENTAL FINANCING

The House bill contained a provision limiting the principal obligation (including deferred interest added to principal) of mortgages insured under section 245 of the National Housing Act to 97 percent of appraised value. The Senate amendment contained a similar provision except that it limited the outstanding principal balance to 97 percent of appraised value. The Senate amendment also required a mortgage or loan eligible for insurance pursuant to section 245: (1) to be executed by a mortgagor or borrower who has paid on account of the property at least 10 percent of the Secretary's estimate of the acquisition cost, (2) to have a maturity of not more than 30 years, and (3) to meet the requirements of section 203 of the National Housing Act except as modified by section 245. The conference report contains the House provision.

TITLE IV—LENDING POWERS TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS

LENDING POWERS

The House bill contained the following provisions not in the Senate amendment:

(1) it permitted Federal savings and loan associations to make line of credit construction loans in amounts not exceeding the greater of the sum of their surplus, undivided profits, and reserves, or 5 percent of their assets (rather than 3 percent of assets as under existing law):

(2) it authorized Federal savings and loan associations to make loans for farm purposes, as part of the 5 percent of assets category currently allowed for nonconforming loans:

(3) it deleted the 20 percent of assets limitation with respect to the aggregate amount of investments which could be made by Federal savings and loan associations on the security of property having more than 4 dwelling units or nonresidential property, but only to the extent of the mortgage limits set by section 207 of the National Housing Act; and

(4) it increased the loan limits on property improvement loans made by Federal savings and loan associations from $10,000 to $15,000.

The conference report contains these House provisions.

The House bill also contained a provision which increased from $55,000 to $60,000 the limitations on real estate loans for single-family dwellings which could be made by Federal savings and loan associations and provided that only the excess over $60,000 (rather than the entire amount of such loan, as presently required) be counted against the 80 percent of assets limitation. The Senate amendment contained a provision which increased from $55,000 to $65,000 the limitation on residential real estate loans for single-family dwellings which could be made by Federal savings and loan associations. The conference report contains the House provision.

GNMA INTERIM MORTGAGE PURCHASE AUTHORITY

PROMOTION OF HOMEOWNERSHIP BY LOW- AND MODERATE-INCOME FAMILIES

The Senate amendment contained a provision not in the House bill that authorized the Secretary, to the extent feasible and consistent with the purpose of stabilizing housing production, to direct GNMA to exercise its mortgage purchase authority under section 313 of the National Housing Act so as to promote homeownership opportunities for low- and moderate-income families. The conference report contains the Senate provision amended to limit the GNMA mortgage purchase authority to the promotion of homeownership opportunities for moderate-income families.

HOUSING IN OLDER OR DECLINING NEIGHBORHOODS

The Senate amendment contained a provision not included in the House bill that authorized the Secretary to require GNMA to utilize a part of its mortgage purchasing authority under section 313 of the National Housing Act to purchase mortgages executed to finance rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods, to the extent feasible and consistent with the primary purpose of section 313, and to prescribe appropriate regulations in this regard, and directed the Secretary to allocate mortgage purchasing authority under section 313 on the basis of a formula which took into account unemployment and housing needs of the housing market areas of the Nation. The conference report contains the Senate provision amended so that the Secretary is not required to allocate mortgage purchase authority on the basis of a formula.

While the conferees agreed to delete any statutory direction to the Secretary to take account of unemployment and housing needs by market areas, the conferees believe that such factors ought to be considered by the Secretary when purchasing or making commitments to purchase mortgages under the "Brooke-Cranston" emergency tandem plan, authorized by Section 313 of the National Housing Act.

INCREASES IN PER-UNIT LIMITS FOR SECTION 8 HOUSING

The Senate amendment contained a provision not in the House bill which authorized GNMA to purchase a mortgage under section 313 involving an original principal obligation of not to exceed $49,000 per dwelling unit in the case of properties assisted under section 8 located in high cost areas. The conference report contains this provision.

Also, the Senate amendment contained a provision which authorized GNMA to purchase a mortgage under section 313 involving a principal residence having a sales price of not to exceed $55,000 in the case of properties assisted under section 8 located in high cost areas. This provision was not in the House bill. The conference report contains the Senate provision.

In increasing the maximum amount of section 8 assisted mortgages for GNMA purchase, the conferees recognize the special needs of areas in the nation in which normal section 8 mortgage limits are simply too low and result in discouraging the use of this much needed housing assistance program. But the conferees are concerned that these new mortgage limits might be viewed as the rule rather than the exception without regard to the variances in cost structures among the high cost areas in the nation. Not all section 8 assisted housing in high cost areas should be constructed to the new maximum and the conferees expect that the higher maximum mortgage limits will be scaled down to reflect the actual economic conditions in the particular market area in which this assistance is provided.

LIMITATION ON TOTAL AMOUNT OF PURCHASES AND COMMITMENTS

The Senate amendment contained a provision not included in the House bill which, during the 1978 fiscal year, limited the purchases and commitments under section 313 of the National Housing Act to $7.5 billion. The conference report contains this provision.

FNMA OR FHLMC PURCHASE OF CONVENTIONAL MORTGAGES

The House bill contained a provision not in the Senate amendment which provided that conventional mortgages eligible for purchase by FNMA or by FHLMC would have a principal amount no greater than 25 percent above the mortgage limits set under section 5(c) of the Homeowners' Loan Act for savings and loan institutions. The conference report contains the House provision. In raising the mortgage limits for the Federal Home Loan Mortgage Corporation, the conferees would like to note the following: The Congress in the 1974 Housing and Community Development Act expressly provided HUD-approved mortgagees the authority to service mortgages eligible for purchase by FHLMC. The managers of the conference report of the 1974 Act stated that the authority clarified the intent of Congress in this regard. The conferees understand that present FHLMC regulations are inconsistent with that intent. The conferees wish to reaffirm that the legislative intent of the Congress should not be circumvented.

REVIEW OF FNMA OPERATIONS

The House bill contained a provision not included in the Senate amendment which directed the Secretary of HUD to undertake a review of FNMA financial operations, to study the extent to which FNMA activities meet the purposes of title III of the National Housing Act and to submit a completed study to Congress by July 1, 1978. The conference report contains this provision. The conferees wish to stress, however, that adoption of the House provision is not intended to preclude consideration by the Senate of legislation, currently pending before the Senate Committee on Banking, Housing and Urban Affairs, which would make amendatory changes to Title III of the National Housing Act, creating and prescribing the powers and organization of the Federal National Mortgage Association.

EXCEPTION TO REFINANCING REQUIREMENT

The House bill contained a provision not included in the Senate amendment which excepted guaranteed loans from the graduation provision under existing law which requires the borrower to refinance his FmHA loan from private credit sources if future increases in his income are sufficient for him to do so. The conference report contains the House provision.

INCOME REQUIREMENTS FOR GUARANTEED LOANS

The Senate amendment contained a provision not included in the House bill which required that loans guaranteed under section 517 of the Act be made only to above moderate-income borrowers. The Senate provision is included in the conference report.

In restricting the FmHA guarantee program to above moderate income borrowers, the conferees wish to emphasize that their intent is to continue the low and moderate income insured loan program at its current program level. The guaranteed program should be used for those who can afford the extra costs associated with guaranteed loans—downpayments, points, fees and related costs—but who cannot obtain private credit without the federal loan guarantee.

In defining eligibility for the guaranteed loan program, the conferees intend that FmHA establish an interim income ceiling of no more than $20,000 annual income. Until FmHA is able to simplify the procedures for guaranteed loans, as the VA guaranteed loan program for supervised lenders has done, the conferees are concerned that an unlimited guaranteed loan program would overly tax FmHA's staff resources.

The conferees expect FmHA to conduct a general evaluation of the income limits for the moderate income and low income insured loan program, and to consider lowering those income limits on a county or other basis which more closely reflects income and cost differences in various parts of the country.

COMPENSATION FOR CONSTRUCTION DEFECTS

The House bill authorized expenditures, after October 1, 1977, to (1) correct defects, (2) pay owner's claims arising from defects, or (3) acquire title to a property, where a newly constructed unit purchased with financial assistance from FmHA is found by the Secretary of Agriculture to have structural defects. All properties purchased within 18 months prior to the enactment of this bill, as well as all properties purchased after enactment are eligible for assistance. It also provided that decisions made by the Secretary regarding expenditures or payments and terms or conditions of approval or disapproval are not subject to judicial review. The Senate amendment was similar except that it specified that eligible defects are structural or other conditions not in conformance with standards prescribed by the Secretary of Agriculture. In addition, the Senate amendment did not exempt the decisions of the Secretary of Agriculture from judicial review. The conference report contains the House provisions. The conferees intend, however, that the term "structural" should be broadly construed by the Secretary to include those defects which though serious, do not necessarily threaten the integrity of the unit—but would significantly reduce the useful life or habitability of the unit.

TAXATION OF FMHA ACQUIRED PROPERTY

The House bill contained a requirement that, effective January 1, of the year of enactment. FmHA-held or acquired property other than property used for administrative purposes be subject to State and local taxes. The Senate amendment was similar to the House provision except that any jurisdiction which has received, prior to enactment of this bill, tax payments from the Department of Agriculture shall not be liable for, or be obligated to refund, such payments. The conference report contains the Senate provision.

DEFINITION OF RURAL AREA

The Senate amendment contained a provision not found in the House bill which amended the definition of "rural" and "rural area" under section 520 of the Housing Act of 1949 to delete the requirement that an area with a population between 10,000 and 20,000 may not be considered a rural area if it is contained within an SMSA, and provided that the amended definition applies to any application for technical assistance filed after January 1, 1975. The conference report does not adopt the Senate provision.

DEFINITION OF DEVELOPMENTALLY DISABLED PERSON

The House bill defined a developmentally disabled person as one meeting the criteria of section 102(a)(5) of the Developmental Disability Services and Facilities Construction Amendments of 1970. The Senate amendment defined such a person as one meeting the criteria of section 102(7)(A)(i) of the Development Disabilities Services and Facilities Construction Act. The conference report includes the House provision amended to include the Senate definition.

TITLE VI—NATIONAL URBAN POLICY

The House bill contained several provisions not included in the Senate amendment which (1) changed the short title of the "Urban Growth and New Community Development Act of 1970" to the "National Urban Policy and New Community Development Act of 1970", (2) changed the statement of purpose to include as purposes of the Act the development of a national urban policy, the encouragement of the conservation of energy and the support of development to assure good housing, (3) amended the findings of the Act to emphasize the changes in patterns of urban settlement and in population distribution, economic distribution and economic bases of urban areas (energy is specified as one of the natural resources affecting these patterns) (4) changed the existing policy of reversing and stabilizing growth trends or patterns of growth to one of encouraging desirable patterns of development and redevelopment. The conference report contains the House provisions.

The House bill provided that the report required under existing law focus on national urban policy rather than on national urban growth policy. The Senate amendment required the report to include an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average. The committee report includes both provisions. The conferees intend that the National Urban Policy Report include an analysis of the urban fiscal crisis.

TITLE VII—FEDERAL INSURANCE ADMINISTRATION

Land-use requirements under the National Flood Insurance Program.—The House bill contained a provision not included in the Senate amendment which permitted the repair, improvement, or reconstruction of property, located in flood-prone communities where such costs do not exceed 80 percent of the market value of the structure prior to the repairs, improvements, reconstruction or damage. The conference report does not contain the House provision.

Limits of coverage under the National Flood Insurance Program.—The Senate amendment contained provisions not included in the House bill which increased (1) the ceiling of optional insurance coverage, at actuarial rates, up to $70,000 for any single family dwelling and up to $150,000 for any residential structure containing more than one dwelling unit, (2) the coverage of contents from $10,000 to $50,000, and (3) the optional structure and content coverage for small business properties at actuarial rates from $100,000 (plus $100,000 for each small business occupying the property) to $250,000 (plus $200,000 for each small business occupant). Coverage for small business occupants would be allocated among such occupants according to rules prescribed by the Secretary and total coverage for the structure, itself, could not exceed $250,000. Flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973 (prohibition of Federal assistance and Federal mortgage insurance and guarantees for failure to purchase flood insurance in flood-prone areas) were not applied to the additional coverage described above. The conference report contains these Senate provisions.

Secretarial purchase of certain flood-damaged properties.—The Senate amendment contained a provision not in the House bill which retained the existing authority of the HUD Secretary to purchase property covered by flood insurance where the insured property is damaged substantially beyond repair by a flood, and additionally authorized such purchases where property either:

(1) incurred significant flood damage on at least 3 occasions over a 5-year period and on each occasion the cost of repair, on the average, equalled or exceeded 25 percent of the value of the structure at the time of each flood event; or

(2) has sustained damage as a result of a single casualty of any nature under circumstances such that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost.

The conference report contains this Senate provision.

TITLE VII—FEDERAL INSURANCE ADMINISTRATION

LAND-USE REQUIREMENTS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

The House bill contained a provision not included in the Senate amendment which permitted the repair, improvement, or reconstruction of property, located in flood-prone communities where such costs do not exceed 80 percent of the market value of the structure prior to the repair, improvement, reconstruction or damage. The conference report does not contain the House provision.

LIMITS OF COVERAGE UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

The Senate amendment contained provisions not included in the House bill which increased (1) the ceiling of optional insurance coverage, at actuarial rates, up to $150,000 for any residential structure; (2) the coverage of contents from $10,000 to $50,000, and (3) the optional structure and content coverage for small business properties at actuarial rates from $100,000 (plus $100,000 for each small business occuping the property) to $250,000 (plus $200,000 for each small business occupant). Coverage for small business occupants would be allocated among such occupants according to rules prescribed by the Secretary and total coverage for the structure, itself, could not exceed $250,000. Flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973 (prohibition of Federal assistance and Federal mortgage insurance and guarantees for failure to purchase flood insurance in flood-prone areas) were not applied to the additional coverage described above. The conference report contains these Senate provisions.

SECRETARIAL PURCHASE OF CERTAIN FLOOD-DAMAGED PROPERTIES

The Senate amendment contained a provision not in the House bill which retained the existing authority of the HUD Secretary to purchase property covered by flood insurance where the insured property is damaged substantially beyond repair by a flood, and additionally authorized such purchases where property either: (1) incurred significant flood damage on at least 3 occasions over a 5-year period and on each occasion the cost of repair, on the average, equalled or exceeded 25 percent of the value of the structure at the time of each flood event; or (2) has sustained damage as a result of a single casualty of any nature under circumstances such that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost. The conference report contains this Senate provision.

LOW-INTEREST LOANS FOR ELEVATION OF CERTAIN DAMAGED PROPERTY

The Senate amendment contained a provision not in the House bill which authorized the HUD Secretary to make two percent loans for the purchase of elevating the structure to owners whose single-family dwellings are located in a "regulatory floodway" (most severe flood area of a flood-prone community) and are insured under the flood insurance program. Loans would be authorized in cases where such a property has suffered damage from any casualty and the Secretary deems that the repair, reconstruction or improvement is made more effective from the standpoint of flood plain management by elevation of the structure. This provision authorized the appropriation of not to exceed $4,500,000 for the purpose of implementing the provision. The conference report contains the Senate provision.

APPEALS OF DETERMINATIONS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

The Senate amendment contained a provision not in the House bill which directed the HUD Secretary to reimburse individuals or communities for expenses of surveying, engineering or similar services (excluding legal services and contingent fees or payments) in connection with wholly or partially successful appeals of the Secretary's proposed determinations of flood elevations or identification of flood-prone communities. This provision authorized the reimbursement of that portion of the reasonable value of all such services which reflected the ratio of the successful portion of the appeal to the entire appeal. This provision authorized not to exceed $250,000 for the appeals of flood elevation levels.

This provision also authorized the HUD Secretary to establish administrative procedures for appeal of the Secretary's determination of a flood-prone community under section 201(a) of the Flood Disaster Protection Act of 1973 by the community or by the owner or lessee of real property within the community who believes such property to have been inadvertently included in a special flood hazard area. This provision authorized not to exceed $250,000 for the appeals of flood-prone community designations. The conference report contains the Senate provision.

FAIR PLAN REQUIREMENTS UNDER RIOT REINSURANCE PROGRAM

The House bill contained a provision not in the Senate amendment which required all State FAIR plans to include a provision prohibiting insurance of any risk within the plan at a rate higher than the advisory rates set by State licensed rating organizations for essential property insurance in the voluntary market, except that the HUD Secretary may allow a rate up to 30 percent higher upon showing of extraordinary need. The conference report does not contain the House provision.

The conferees, however, are concerned that the administration of FAIR plans in certain states has raised the cost of insurance coverage to the point that many lower income property owners are preempted from receiving adequate property insurance coverage. Because this situation merits thorough examination and immediate action, the conferees direct the Secretary to undertake a study of the conduct of states in administering the program and the effects and potential effects of that administration on the availability and affordability of insurance coverage and to report to the Congress with recommendations for appropriate legislative action no later than January 15, 1978. The responsible committees have agreed, upon receipt of this report, to promptly convene hearing and to undertake the appropriate legislative action to remedy this situation.

Low-interest loans for elevation of certain damaged property.—The Senate amendment contained a provision not in the House bill which authorized the HUD Secretary to make two percent loans for the purchase of elevating the structure to owners whose single-family dwellings are located in a "regulatory floodway" (most severe flood area of a flood-prone community) and are insured under the flood insurance program. Loans would be authorized in cases where such a property has suffered damage from any casualty and the Secretary deems that the repair, reconstruction, or improvement is made more effective from the standpoint of flood plain management by elevation of the structure. This provision authorized the appropriation of not to exceed $4,500,000 for the purpose of implementing the provision. The conference report contains the Senate provision.

Appeals of determinations under the National Flood Insurance Program.—The Senate amendment contained a provision not in the House bill which directed the HUD Secretary to reimburse individuals or communities for expenses of surveying, engineering or similar services (excluding legal services and contingent fees or payments) in connection with wholly or partially successful appeals of the Secretary's proposed determinations of flood elevations or identification of flood-prone communities. This provision authorized the reimbursement of that portion of the reasonable value of all such services which reflected the ratio of the successful portion of the appeal to the entire appeal. This provision authorized not to exceed $250,000 for the appeals of flood elevation levels.

This provision also authorized the HUD Secretary to establish administrative procedures for appeal of the Secretary's determination of a flood-prone community under section 201(a) of the Flood Disaster Protection Act of 1973 by the community or by the owner or lessee of real property within the community who believes such property to have been inadvertently included in a special flood hazard area. This provision authorized not to exceed $250,000 for the appeals of flood-prone community designations. The conference report contains the Senate provision.

FAIR plan requirements under riot reinsurance program.—The House bill contained a provision not in the Senate amendment which required all State FAIR plans to include a provision prohibiting insurance of any risk within the plan at a rate higher than the advisory rates set by State licensed rating organizations for essential property insurance in the voluntary market, except that the HUD Secretary may allow a rate up to 30 percent higher upon showing of extraordinary need.

[Action of conferees to be supplied later]

TITLE VIII—COMMUNITY REINVESTMENT

The Senate amendment contained provisions not in the House bill which required the appropriate federal financial supervisory agency to assess a financial institution's record of meeting the credit needs of its primary service area, consistent with safe and sound operation; to take this record into account in its evaluation of an application by the institution; to prepare regulations no later than 180 days after enactment, and to report annually to the Congress.

The Senate provisions were agreed to with two amendments. The first would substitute consideration of the credit needs of "the entire community, including its low and moderate income neighborhoods" for the credit needs of its "primary service area." The second amendment would defer implementation of the title for 390 days instead of 180 days.

In adopting the Senate provision the conferees recognize the vital interconnection between successful community and housing development and local private investment activities. The effectiveness of the community development program, the housing assistance programs, and the mortgage insurance programs, as amended by this conference report depend in large part upon the availability of private capital, particularly as made available through local lending and financial institutions. This title and other amendments contained in this bill are designed to encourage more coordinated efforts between private investment and federal grants and insurance in order to increase the viability of our urban communities.

[to be supplied]

TITLE IX—MISCELLANEOUS

INDIAN AND ALASKAN NATIVE HOUSING AND COMMUNITY DEVELOPMENT

The Senate amendment contained a provision not included in the House bill which provided that title VI of the amendment would be cited as the "Indian and Alaska Native Housing and Community Development Act." The conference report does not contain this Senate provision.

The Senate amendment contained a second provision not included in the House bill which created in HUD an Office of Indian and Alaska Native Programs to carry out functions relating to Indian and Alaska native housing and community development. The Office was to administer all HUD programs that affect Indians and Alaskan Natives and to assure delivery of these programs in coordination with other appropriate Federal agencies. The Secretary within 120 days after enactment and annually thereafter, was to submit a report to Congress which included a description of the actions taken toward, and a specific timetable for and cost of, achieving the goals of these provisions, and legislative or administrative recommendations in support thereof. Quarterly reports on the actions of the Director of the Office were also required. The appropriation of such sums as may be necessary to carry out these provisions was authorized.

The conference report contains the Senate provision amended so that no new office is created in HUD, but a Special Assistant to the Secretary is to be designated by the Secretary to coordinate the HUD programs affecting Indians and Alaska Natives. By December 1 of each year, the Secretary is to submit to Congress a report which follows the same guidelines established in the Senate provision. No appropriation is authorized.

The conferees are aware of the administrative problems which have impeded HUD's efforts to meet the very serious housing and community development needs of Indians and Alaska Natives. The conferees believe that one reason for that impediment is the current diffusion of responsibility for delivery of services to Indians and Alaska Natives among various program offices within HUD. Moreover, there is evidence that those charged with responsibility for Indian housing programs are also assigned other totally unrelated Departmental functions. The conferees believe that only by concentrating these operations in one person, responsible only to the Secretary, can there be any reasonable likelihood that Indian and Alaska Native problems can be more fully addressed.

The conferees intend that the Special Assistant should be appointed within 60 days after enactment of the section and should have as his exclusive responsibility the coordination of the Department's programs in this area. The conferees also believe that the Special Assistant should be assigned sufficient support staff to perform his duties in as effective and efficient a manner as possible.

EXCLUSION OF MODULAR HOMES FROM MOBILE HOME STANDARDS

The Senate amendment contained a provision not included in the House bill which exempted from coverage under the National Mobile Home Construction and Safety Standards Act of 1974 structures certified by the manufacturer to be designed only for installation on a site-built permanent foundation and manufactured to comply with a nationally recognized or equivalent local model building code, with a State or local modular building code equivalent to site-built housing codes, or with FHA minimum property standards.

As part of the certification, the Secretary could require manufacturers to secure written assurances from purchasers that the structure would be permanently attached to site-built foundation.

The provision also added to acts prohibited under the Mobile Home Safety Standards Act the knowing issuance of a materially false or misleading certification in connection with an exemption of a modular home.

The conference report contains the Senate provision amended so that a manufacturer may not be required to secure written assurances from the purchasers of such structures that the structure will be permanently attached to a site-built foundation but will be required to certify that, to the manufacturer's knowledge, the structure is not intended to be used other than on a site-built permanent foundation.

HOMEOWNERSHIP COUNSELING

The House bill contained a provision not included in the Senate amendment which explicitly stated that under section 106(a) of the HUD Act of 1968, the Secretary of HUD could provide counseling and advisory services to homeowners assisted under section 235 and to other owners of single-family units insured under title II of the National Housing Act. The conference report contains this provision.

PROTOTYPE HOUSING COSTS

The Senate amendment contained a provision not included in the House bill which directed the Secretary, beginning in calendar year 1979, to prepare and publish annually, prototype housing costs for one- to four-family dwelling units for each housing market area in the United States. Such prototype costs were to be determined on the basis of the Secretary's identification and estimate of reasonable construction and other costs (including costs of land and site improvements) for the area of various types and sizes of new one- to four-family dwelling units designed for various segments of the area's housing market, and authorized the Secretary in determining such costs to take into account the need for durability, amenities and energy conservation, application of good design and quality in architecture, and advice and recommendations of local housing producers. The amendment authorized the Secretary to take such action as necessary to develop, aggregate, and evaluate data and other information required for timely development, implementation and maintenance of a prototype cost system. The conference report contains the Senate provision.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
PARREN J. MITCHELL,
LES AUCOIN,
JAMES J. BLANCHARD,
STANLEY LUNDINE,
GARRY BROWN,
WILLIAM STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS,
THOMAS J. MCINTYRE,
ALAN CRANSTON,
ADLAI E. STEVENSON,
JOHN TOWER,
JAKE GARN,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 7797

Mr. LONG of Maryland submitted the following conference report and statement on the bill (H.R. 7797) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-633)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797) "making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 28, 48, and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 9, 10, 18, 23, 25, 30, 32, 35, 38, 39, 40, 41, 43, 44, 52, 55, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70, 71, 75, 76, and 78, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$76,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$231,250,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$115,000,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,750,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$213,000,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,900,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$217,500,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 11, 13, 15, 20, 21, 22, 24, 26, 27, 29, 31, 33, 36, 37, 42, 45, 46, 47, 49, 54, 57, 59, 61, 64, 66, 72, 73, 74, 77, 79, 80, 81, 82, 83, and 84.

CLARENCE D. LONG,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
LOUIS STOKES
(except amendments Nos. 37, 42, 45, 46, 47, 72, 73, 74, 77 and 79),
ELFORD A. CEDERBERG,
Managers on the Part of the House.

DANIEL K. INOUYE,
LAWTON CHILES,
J. BENNETT JOHNSTON, JR.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK HATFIELD,
CHARLES MATHIAS, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797), making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC ASSISTANCE

Amendment No. 1: Food and nutrition, Development Assistance: Appropriates $515,000,000 as proposed by the Senate instead of $535,000,000 as proposed by the House.

Amendment No. 2: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 3: Population planning, Development Assistance: Appropriates $155,000,000 as proposed by the Senate instead of $160,600,000 as proposed by the House.

Amendment No. 4: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 5: Health, Development Assistance: Appropriates $95,000,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

": *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Education and human resources development, Development Assistance: Appropriates $76,000,000 instead of $80,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 8: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 9: Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: Appropriates $90,000,000 as proposed by the Senate instead of $95,000,000 as proposed by the House.

Amendment No. 10: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 11: Loan allocation, Development Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount made available for loans, $75,000,000 shall be available for loans repayable within forty years, $87,000,000 shall be available for loans repayable within thirty years and $148,500,000 shall be available for loans repayable within twenty years.

Amendment No. 12: International organizations and programs: Appropriates $231,250,000 instead of $257,000,000 as proposed by the House and $224,750,000 as proposed by the Senate.

The amount provided for international Organizations and Programs includes $115,000,000 for the United Nations Development Program. The managers agree, however, that future appropriations for this activity will depend on whether or not the specialized agencies of the United Nations continue to finance technical assistance programs for developing countries through their assessed budgets.

The conferees concur with and support the position adopted by the conferees on the State, Justice, and Commerce, the Judiciary and related agencies Appropriation Bill for FY 1978 on this subject. In addition, the conferees intend by this language to instruct the Administration that as long as this dual method of financing technical assistance programs of the United Nations development system continues, we will find it difficult to fully support future U.N.D.P. budget estimates. In fact, it may be expected that in considering future appropriations for United States contributions to U.N.D.P., assessed contributions for technical assistance will be balanced against requests for U.N.D.P.

The Appropriations Committees are not alone in their criticism of the way U.N. development programs are financed. Five different GAO reports and a report by the Senate Committee of Government Operations also criticize this practice. Ironically, official United States policy itself is in agreement with the Committees' position. We intend to put an end to the current practice.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks international organizations and program funds for several Organization of American States' programs ($500,000 for the Special Cultural Account, $500,000 for the Special Development Assistance Fund, and $1,500,000 for the Special Multilateral Fund).

The managers have considered the President's request (transmitted in Senate Document 95–60) for an additional United States contribution to the voluntary funds of the Organization of American States for cultural and educational activities. In response to the Administration's concern that the United States contribute to the cultural and educational activities of the Organization of American States, the managers have agreed to an earmarking of a total of $2,500,000 specifically for this purpose. The managers have not, however, increased the amount to be provided to the OAS from the appropriations account "International Organizations and Programs".

Amendment No. 14: Places a limitation of $115,000,000 on funds to be available for the United Nations Development Program instead of $120,000,000 as proposed by the House and $110,000,000 as proposed by the Senate.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the United States from making a contribution to the United Nations University.

Amendment No. 16: Places a limitation of $3,000,000 on funds to be available for the United Nations Decade for Women as proposed by the House instead of $1,500,000 as proposed by the Senate.

Amendment No. 17: American schools and hospitals abroad: Appropriates $23,750,000 instead of $25,000,000 as proposed by the House and $19,800,000 as proposed by the Senate.

The managers are concerned that funds appropriated in this account continue to be expended for institutions such as the American Hospital of Paris, the American Library in Paris, the American Hospital in Rome and the American University of Beirut. It is apparent that in many cases the host country or other interested countries are now financially capable of providing the total support for such institutions. While the managers fully understand that the purpose of these expenditures is to demonstrate United States interest in the countries where the institutions are located, it would seem that in many cases the United States interest has more than adequately been demonstrated and, therefore, additional allocations of funds are not required to accomplish that purpose.

The managers instruct the Director of the Office of American Schools and Hospitals Abroad of the Agency for International Development to provide a full report to the Appropriations Committees of both Houses justifying the expenditure of funds for the above named institutions and indicating if continued expenditures to these institutions are presently contemplated.

Amendment No. 18: American schools and hospitals abroad (foreign currency program): Deletes language proposed by the House which would have provided for the appropriation of $7,000,000 in excess foreign currencies.

Amendment No. 19: Italy relief and rehabilitation assistance: Appropriates $25,000,000 instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 20: Sahel development program: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

": *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 21: International narcotics control: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following:

"$37,100,000"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $37,100,000 instead of $39,000,000 as proposed by the House and $38,000,000 as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control and that $12,475,000 shall be available only for programs in Mexico from the funds appropriated for international narcotics control.

Amendment No. 23: Deletes language proposed by the House which dealt with the availability of unobligated balances.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of unobligated balances to the same appropriation account as originally provided for in the appropriation Acts and under the same terms, conditions and limitations as originally prevailed.

Amendment No. 25: Retains language proposed by the Senate which deals with the deobligation of funds.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of deobligated funds to the same appropriation account as originally provided for in appropriation Acts and under the same terms, conditions and limitations as originally prevailed. The Senate language also provides that the Appropriations Committees of both Houses shall be notified fifteen days in advance before these funds may be obligated for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 28: Restores language proposed by the House which requires that the various agencies and departments funded in this bill notify the Appropriations Committees of both Houses fifteen days prior to the obligation of reprogramed funds.

The managers on the part of the Senate and the managers on the part of the House have agreed to this action with the firm expectation that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the specific headings mentioned in this section.

The managers agree that any activity, program, project, type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to not have been justified and the Committees not informed.

MIDDLE EAST SPECIAL REQUIREMENTS FUND

Amendment No. 29. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the funding of the Sinai support mission from this account. Funding for the mission is provided under the security supporting assistance account.

SECURITY SUPPORTING ASSISTANCE

Amendment No. 30: Changes the reference section numbers to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the funding of the Sinai support mission under this account.

Amendment No. 32: Appropriates $2,202,200,000 as proposed by the Senate instead of $2,214,700,000 as proposed by the House.

Amendment No. 33: Loan Allocation, Security Supporting Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount appropriated for security supporting assistance, not to exceed $856,800,000 shall be available for grants and of the amounts available for loans, not to exceed $865,400,000 shall be available for loans with maturities in excess of thirty years but not to exceed forty years.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 34: Appropriates $213,000,000 instead of $215,200,000 as proposed by the House and $210,200,000 as proposed by the Senate.

Amendment No. 35: Deletes the word "appropriated" as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 37: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits funds appropriated for international military education and training for Argentina.

General provisions

Amendment No. 38: Section 101: Deletes language proposed by the House and retains language proposed by the Senate which updates the reference used to establish the standards and criteria for water or related land resource projects financed from funds in this Act.

Amendment No. 39: Section 102: Deletes language proposed by the House and retains language proposed by the Senate which exempts the United States Emergency Refugee and Migration Assistance Fund from the restriction that not more than 20 percent of the funds made available can be obligated during the last month of availability and excludes appropriations used for loans from this exemption.

Amendment No. 40: Changes the word "title" to "Act".

Amendment No. 41: Strikes out "and/".

Amendment No. 42: Section 107: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits any indirect assistance to Uganda, Cambodia, Laos or Vietnam.

Amendment No. 43: Section 109: Places a limitation on the entertainment expenses of the Agency for International Development of $15,000 as proposed by the Senate instead of $20,000 as proposed by the House.

Amendment No. 44: Section 113: Deletes the language "or likely to have the effect of aiding" and the word "indirectly" which was proposed by the House. This provision deals with the prohibition on providing security assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of its population.

Amendments Nos. 45, 46, and 47: Section 114: Reported in disagreement. The managers in the part of the House will offer a motion to insist on the House position which prohibits any indirect assistance to Mozambique and Angola.

Amendment No. 48: Deletes language proposed by the Senate which would have provided that all the salaries and related benefits of full-time Agency for International Development employees in permanent positions be funded out of operating expenses. The managers on the part of the Senate and the managers on the part of the House are in agreement that the salaries and related benefits of all full-time AID employees should be financed only by funds made available under the appropriation account entitled Operating Expenses of the Agency for International Development. While this requirement has not been incorporated into the language of the bill this year, the conferees direct that the Agency for International Development include in the budget estimate for Operating Expenses of the Agency for International Development for fiscal year 1979 all salaries and related benefits for all AID full-time employees.

Amendment No. 49: Section 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

Amendment No. 50: Appropriates $675,850,000 as proposed by the House instead of $677,000,000 as proposed by the Senate.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

Amendment No. 51: Appropriates $82,900,000 instead of $81,000,000 as proposed by the House and $84,800,000 as proposed by the Senate.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

Amendment No. 52: Changes the appropriation title as proposed by the Senate.

Amendment No. 53: Appropriates $217,500,000 instead of $200,000,000 as proposed by the House and $235,000,000 as proposed by the Senate.

The managers agree that these funds should be allocated as follows: Paid-in capital—$16,799,000, Callable capital—$151,189,000, and the Asian Development Fund—$49,512,000.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

It is not the purpose of this provision to include within the $50,000 compensation limitation of the Executive Director of the Asian Development Bank, allowances and benefits ordinarily paid to U.S. Government officials posted overseas. The excluded allowances are as follows: housing allowance, travel allowance, education allowance, representation allowance, official residence expense allowance, transfer allowance, temporary lodging allowance, shipment of automobile and limited household effects allowance, cost of living allowance and post differential allowance.

It is also not the intent of this provision to include within the $47,500 compensation limitation such allowances paid to the Alternate Director.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way

in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 55: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $523,000,000 appears in the Inter-American Development Bank paragraph, the actual budget authority level provided in this Act for the Bank is $480,000,000. The provision providing this level of funding appears in Title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall five percent reduction in total budget authority.

The managers agree that the $480,000,000 budget authority level appropriated to the Inter-American Development Bank in this Act should be allocated as follows: Interregional paid-in capital—$36,711,000, Callable capital—$182,639,000, Interregional callable capital—$145,927,000, and the Fund for Special Operations—$114,723,000.

Amendment No. 56: Deletes language dealing with the authorization reference title as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTER-REGIONAL DEVELOPMENT BANK

Amendment No. 58: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $400,000,000 appears in the International Bank for Reconstruction and Development paragraph, the actual budget authority level provided in this Act for the Bank is $380,000,000. The provision providing this level of funding appears in Title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall five percent reduction in total budget authority.

The managers agree that the $380,000,000 budget authority level appropriated to the International Bank for Reconstruction and Development in this Act should be allocated as follows: Paid-in capital—$38,000,000 and Callable capital—$342,000,000.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

Amendment No. 65: Changes the appropriation title as proposed by the Senate.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Senate provision stating that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed certain specific percentages.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

Amendments Nos. 67 and 68: Retain language proposed by the Senate and delete language proposed by the House which denies financing for the export of nuclear equipment, fuel, or technology to any nonnuclear weapons state eligible to receive economic or military assistance under this Act which detonates a nuclear explosive after the date of enactment of this Act.

TITLE V—GENERAL PROVISIONS

Amendment No. 69: Deletes language proposed by the House which would have prohibited funding for the Inspector General, Foreign Assistance, unless the Office of the Inspector General responded to requests for information submitted by Congress or the General Accounting Office within a thirty-five day period or the President certified that he had forbidden the release of such information.

Amendments Nos. 70 and 71: Change section numbers.

Amendment No. 72: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits the funding of military assistance, international military educaton and training and foreign military credit sales to Ethiopia and Uruguay.

Amendment No. 73: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits the funding of foreign military credit sales to Argentina, Brazil, El Salvador, and Guatemala.

Amendment No. 74: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which reduces military assistance by $3,000,000, foreign military credit sales by $300,000 and international military education and training by $200,000 to the Philippines.

Amendment No. 75: Section 504: Retains language proposed by the Senate which prohibits funds appropriated by this Act from being available for the Office of the Inspector General of Foreign Assistance.

Amendment No. 76: Changes section number.

Amendment No. 77: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits funds appropriated or made available to the International Financial Institutions from being used by those institutions for the purpose of establishing or expanding production of palm oil, sugar, or citrus crops if the United States is a producer of the same, similar, or competing agricultural commodity.

Amendment No. 78: Changes section number.

Amendment No. 79: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits the use of any funds for indirect aid or trade to Cuba.

Amendment No. 80: Section 507: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Congress provision stating that the United States representatives to the International Financial Institutions should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental human rights, where other means have proven ineffective and except when the President determines that the cause of human rights would be better served by not voting against such assistance or the assistance is directed at the impoverished majority in such country.

Amendment No. 81: Section 508: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of this provision is only to reduce the budget authority level from $523,000,000 reflected in the Inter-American Development Bank paragraph to $480,000,000 and reduce the budget authority level from $400,000,000 reflected in the International Bank for Reconstruction and Development paragraph to $380,000,000, and nothing more. This procedure is made possible by the general effect of the House provision requiring an overall five percent reduction in budget authority for payments not required by law.

While the managers have agreed to delete the general five percent reduction provision, it should be pointed out that, in fact, the House managers considered the effect of this provision in dealing with each of the specific appropriation accounts. This is reflected by the fact that the final conference amount totals $6,772,654,000 which is a level lying between $6,851,854,000 as recommended by the Senate and $6,694,131,300 as recommended by the House including the provision requiring a general five percent reduction.

Amendment No. 82: Section 509: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 83: Section 510: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

Amendment No. 84: Section 601: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $13,000,000 for fiscal year 1977 for Romanian relief and rehabilitation assistance.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the fiscal year 1978 budget estimates, and the House and Senate bills for fiscal year 1978 follow:

New budget (obligational) authority, fiscal year 1977	$5,596,497,000
Budget estimates of new (obligational) authority, fiscal year 1978	[1] 7,601,461,136
House bill, fiscal year 1978	6,694,131,300
Senate bill, fiscal year 1978	6,851,854,000
Conference agreement	[2] 6,772,654,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+1,176,157,000
Budget estimates of new (obligational) authority, fiscal year 1978	−828,807,136
House bill, fiscal year 1978	+78,522,700
Senate bill, fiscal year 1978	−79,200,000

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 budget estimates, and the House and Senate bills for fiscal year 1977 follow:

Budget estimates of new (obligational) authority, fiscal year 1977	[3] 13,000,000
House bill, fiscal year 1977	----------
Senate bill, fiscal year 1977	13,000,000
Conference agreement	13,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	----------
House bill, fiscal year 1977	+13,000,000
Senate bill, fiscal year 1977	----------

[1] Includes $2,500,000 of budget estimates not considered by the House.
[2] Estimated conference total.
[3] Not considered by the House.

CLARENCE D. LONG,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
LOUIS STOKES
(except amendments Nos. 37, 42, 45, 46, 47, 72, 73, 74, 77 and 79),
ELFORD A. CEDERBERG,
Managers on the Part of the House.

DANIEL K. INOUYE,
LAWTON CHILES,
J. BENNETT JOHNSTON, JR.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, JR.,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. BOWEN (at the request of Mr. WRIGHT), for September 26 through September 30, on account of official business (64th Inter-Parliamentarian Conference).

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. LEHMAN (at the request of Mr. WRIGHT), for September 23 through September 30, on account of official business (64th Inter-Parliamentarian Conference.)

Mr. CUNNINGHAM (at the request of Mr. RHODES), for today and the balance of the week, on account of official business.

Mr. DORNAN (at the request of Mr. RHODES), for today, on account of official business.

Mr. MCCLORY (at the request of Mr. RHODES), for today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINDNESS) to revise and extend their remarks and include extraneous material:)

Mr. JEFFORDS, for 15 minutes, September 27, 1977.

Mr. QUIE, for 5 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. JENKINS) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DODD, for 15 minutes, today.

Mr. LE FANTE, for 10 minutes, today.

Mr. LEVITAS, for 10 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. ULLMAN, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. MANN, for 60 minutes, September 27.

Mr. NICHOLS, for 60 minutes, September 27.

Mr. EDWARDS, of California for 60 minutes, September 27.

Mr. STOKES, for 5 minutes, today; and to revise and extend his remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PERKINS.

(The following Members (at the request of Mr. KINDNESS) and to include extraneous material.)

Mr. MCKINNEY.

Mr. KASTEN.

Mr. HAGEDORN.

Mr. LAGOMARSINO.

Mr. STEERS, in two instances.

Mr. WHITEHURST.

Mr. KETCHUM.

Mr. STOCKMAN.

Mr. PRESSLER.

Mr. STEIGER.

Mr. ABDNOR in four instances.

(The following Members (at the request of Mr. JENKINS) and to include extraneous matter:)

Mr. RODINO.

Mr. IRELAND.

Mr. CLAY.

Mr. TEAGUE.

Mr. BAUCUS in two instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. DELANEY.

Mr. ROYBAL.

Mrs. BURKE of California.

Mr. ZEFERETTI.

Mrs. SCHROEDER.

Mr. METCALFE.

Mr. MURTHA in three instances.

Mr. MAZZOLI.

Mr. VANIK.

Mr. MATHIS.

Mr. PHILLIP BURTON.

Mr. JOHN BURTON.

Mr. LEVITAS.

Mr. MCHUGH.

Mr. RICHMOND.

Mr. LUNDINE.

Mr. MINETA.

Mr. MCDONALD in four instances.

Mr. KOCH in two instances.

Mr. EDGAR.

Mr. HEFNER.

Mr. CHAPPELL.

Mr. BRECKINRIDGE.

Mr. MILFORD.

Mr. WEISS.

Mr. PRICE.

SENATE JOINT RESOLUTIONS REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 81. Joint resolution to express the sense of the Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82–324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An act to extend and revise the Library Services and Construction Act, and for other purposes; and

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 29 minutes p.m.), the House adjourned until Tuesday, September 27, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2454. A letter from the Comptroller General of the United States, transmitting a report on the United Kingdom's development of its North Sea oil and gas reserves (ID–77–51, September 23, 1977); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

2453. A letter from the Comptroller General of the United States, transmitting a report on improving the Navy's intermediate ship maintenance program (LCD–77–412); jointly, to the Committees on Government Operations, and Armed Services.

2452. A letter from the Deputy Assistant Secretary of the Army (Civil Works), transmitting the annual report on the status of cooperation agreements on water resource projects, pursuant to section 221(e) of Public Law 91–611; to the Committee on Public Works and Transportation.

2451. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to implement article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

2450. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1977, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2449. A letter from the Acting Secretary, Interstate Commerce Commission, transmitting notification of the Commission's extension of the statutory time period for acting upon the section 5b application No. 8, Railroads Per Diem and Mileage Rates for Trailers and Containers—Agreement, pursuant to section 17(9)(f) of the Interstate Commerce Act, as amended (90 Stat. 49); to the Committee on Interstate and Foreign Commerce.

2448. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of various construction projects to be undertaken by the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee of conference. Conference report on H.R. 6415 (Rept. No. 95–627). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. H.R. 9143. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1977 in certain disaster areas in South Carolina; with amendment (Rept. No. 95–628). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 774. Resolution providing for the consideration of H.R. 1037. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels (Rept. 95–629). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 775. Resolution providing for the consideration of H.R. 2329. A bill to improve the administration of fish and wildlife programs, and for other purposes (Rept. No. 95–630). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 776. Resolution providing for the consideration of H.R. 8309. A bill authorizing certain public works on rivers for navigation, and for other purposes (Rept. No. 95–631). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9290. A bill to increase the temporary debt limit, and for other purposes. (Rept. No. 95–632) Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Maryland: Committee of conference. Conference report on H.R. 7797 (Rept. No. 95–633). Ordered to be printed.

Mr. REUSS: Committee of conference. Conference report on H.R. 6655 (Rept. No. 95–634). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. TEAGUE: Committee on Science and Technology. S. 1617. An act to establish a program of ocean pollution research and monitoring, and for other purposes; with amendments (Rept. No. 95–626, Pt. I). Referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 17, 1977 for consideration of such provisions of the bill as fall within the jurisdiction of that committee under clause 1(n), rule X, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 9290. A bill to increase the temporary debt limit, and for other purposes; to the Committee on Ways and Means.

By Mrs. BOGGS (for herself and Mr. WINN):

H.R. 9291. A bill to amend the Endangered Species Act of 1973 to exempt antique articles composed in whole or in part of endangered species or threatened species from the importation prohibitions in such act; to the Committee on Merchant Marine and Fisheries.

By Mr. PHILLIP BURTON:

H.R. 9292. A bill to reform the mining law, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 9293. A bill to amend the Railroad Retirement Act of 1974 to provide spouses' and widows' benefits for certain divorced persons; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee (for himself and Mr. BRODHEAD):

H.R. 9294. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for occupational therapy services, whether furnished as part of home health services or otherwise; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HAGEDORN (for himself, Mr. BOWEN, and Mr. MCDONALD):

H.R. 9295. A bill to amend the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. HAGEDORN (for himself, Mr. DAN DANIEL, Mr. JEFFORDS, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. STANGELAND, Mr. TREEN, Mr. WHITEHURST, Mr. GOODLING, and Mr. QUAYLE):

H.R. 9296. A bill to amend the Congressional Budget Act of 1974 to limit increases in levels of total budget outlays and total new budget authority established in concurrent budget resolutions; to the Committee on Rules.

By Mr. LEVITAS:

H.R. 9297. A bill to amend the Federal Aviation Act of 1958 to assure increasing reliance upon competition in the provision of air transportation services, to insure use of dormant air transportation authority, to provide air carrier management with increased pricing flexibility, to recognize the high national priority placed upon the conservation of energy, to insure administration expedition, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MIKVA:

H.R. 9298. A bill to protect the rights of temporary help employees, to require temporary help agencies to obtain licenses issued by the Secretary of Labor, and for other purposes; to the Committee on Education and Labor.

By Mr. MIKVA (for himself, Mr. AKAKA, Mr. ANDREWS of North Dakota, Mr. BAUMAN, Mr. BEDELL, Mr. BLOUIN, Mr. BONIOR, Mr. CARR, Mr. DOWNEY, Mr. EILBERG, Mr. FRASER, Mr. HARRINGTON, Ms. KEYS, Mr. LEHMAN, Mr. MCCLORY, Mr. MOAKLEY, Mr. MOFFETT, Mr. MURPHY of Pennsylvania, Mr. NEDZI, Mr. PEPPER, Mr. RAHALL, Mr. ROE, Mr. ROSENTHAL, Ms. SPELLMAN, and Mr. VENTO):

H.R. 9299. A bill to amend title XVIII of the Social Security Act for the purpose of including outpatient rehabilitation services among the benefits of the medicare program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland (for himself, and Mr. ROBERT W. DANIEL, JR.):

H.R. 9300. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. MOORHEAD of California:

H.R. 9301. A bill to provide for State and local determination concerning inclusions in the National Register, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR (for herself, Mr. BOLAND, Mr. ROSENTHAL, Mr. HARRINGTON, and Mr. WEISS):

H.R. 9302. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of tax obligations owed by a railroad in reorganization; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.R. 9303. A bill to amend section 553 of title 5, United States Code, to improve Federal rulemaking practice by creating procedures for regulatory issuance in two or more parts; to the Committee on the Judiciary.

By Mr. SIKES:

H.R. 9304. A bill to authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home; to the Committee on Armed Services.

By Mr. SNYDER (by request):

H.R. 9305. A bill to amend the Interstate Commerce Act, the Rail Passenger Service Act, and the Harter Act in order to provide for expeditious claim-settling procedures to facilitate the flow of freight in interstate commerce, to provide shippers with greater security against monetary loss, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. THONE:

H.R. 9306. A bill to amend the Bail Reform Act of 1966 to authorize consideration of danger to the community in setting conditions of release, to authorize revocation of pretrial release for persons who violate their release conditions, intimidate witnesses or jurors, or commit new offenses, and for other purposes; to the Committee on the Judiciary.

H.R. 9307. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

H.R. 9308. A bill to provide for a reduction in general diversity of citizenship jurisdiction, and for other purposes; to the Committee on the Judiciary.

H.R. 9309. A bill to provide for additional sentences for commission of a felony with use of a firearm; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 9310. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of future agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. WON PAT:

H.R. 9311. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes; to the Committee on the Judiciary.

By Mr. BEDELL (for himself, Mr. D'AMOURS and Mr. MAZZOLI):

H.R. 9312. A bill to amend chapter 35 of title 44, United States Code, to require an annual justification for the continued use of any form used to solicit information from private persons and State and local government agencies; to the Committee on Government Operations.

By Mr. BRECKINRIDGE:

H.R. 9313. A bill to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BRODHEAD:

H.R. 9314. A bill to include power-operated wheelchairs as a type of durable medical equipment for which payment may be made under title XVIII of the Social Security Act; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. KEMP (for himself, Mr. COLEMAN, Mr. CRANE, Mr. LAGOMARSINO, Mr. MCEWEN and Mr. MARKS):

H.R. 9315. A bill to provide for permanent tax rate reduction for individuals and businesses; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. BADHAM, Mr. BEVILL, Mr. BUCHANAN, Mr. BUTLER, Mr. COUGHLIN, Mr. CRANE, Mr. DENT, Mr. EWARDS of Oklahoma, Mr. EILBERG, Mr. HYDE, Mr. KETCHUM, Mr. KINDNESS, Mr. MCKAY, Mr. MADIGAN, Mr. MARKS, Mr. MURPHY of Pennsylvania, Mr. MURTHA, Mr. NOWAK, Mr. O'BRIEN, Mr. PERKINS, Mr. QUAYLE, Mr. CHARLES WILSON of Texas, and Mr. YATRON):

H.R. 9316. A bill to provide for an alternative amortization period for pollution control facilities; to the Committee on ways and means.

By Mr. LAGOMARSINO:

H.R. 9317. A bill to amend section 7422 of title 10, United States Code, relating to rates of petroleum production and use of excess pipeline capacity with respect to Naval Petroleum Reserve No. 1; jointly to the Com-

mittees on Armed Services and Interior and Insular Affairs.

H.R. 9318. A bill to amend the Social Security Act to provide for a demonstration program for the transfer of individual entitlements to medical assistance under the medicare and medicaid programs to similar entitlements under a qualified State health insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MARLENEE (for himself, Mr. GEPHARDT, Mr. EDGAR, and Mr. NOLAN):

H.R. 9319. A bill to expedite issuance of Federal permits and developments of a transportation system to move Alaskan crude oil to Northern Tier and other inland States, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. MURPHY of New York:

H.R. 9320. A bill to establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, to establish a maritime heritage preservation program, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. DRINAN (for himself, Mr. BADILLO, Mr. BEDELL, and Mr. REUSS):

H.R. 9321. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

By Mr. BRADEMAS (for himself, Mr. THOMPSON, Mr. JEFFORDS, Mr. PERKINS, and Mr. QUIE):

H.J. Req. 600. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

By Mr. DERWINSKI (for himself, Mr. FISHER, Mr. ANDERSON of California):

H.J. Res. 601. Joint resolution to authorize the construction and maintenance of a monument to Gen. Draza Mihailovich in the District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

By Mr. SAWYER:

H.J. Res. 602. Joint resolution proposing an amendment to the Constitution to provide that except in time of war or economic emergency declared by the Congress, expenditures of the Government may not exceed the revenues of the Government during any fiscal year; to the Committee on the Judiciary.

By Mr. KEMP (for himself, Mr. LAFALCE, and Mr. NOWAK):

H.J. Res. 603. Joint resolution designating the first Sunday of October in every year as National Choir Recognition Day; to the Committee on Post Office and Civil Service.

[Omitted from the Record of Sept. 23, 1977]

By Mr. MOTTL (for himself, Mr. VANIK, Mr. STOKES, Ms. OAKAR, Mr. STANTON, Mr. MURPHY of Pennsylvania, Mr. REUSS, Mr. STANGELAND, Mr. KEMP, Mr. ASHLEY, Mr. CARNEY, Mr. EILBERG, Mr. HORTON, Mr. NOWAK, Mr. HARSHA, Mr. MILLER of Ohio, Mr. LUKEN, and Mr. PEASE):

H. Con. Res. 362. Concurrent resolution expressing the sense of the Congress that the proposed toll increases on the St. Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

[Introduced Sept. 26, 1977]

By Mr. MAGUIRE:

H. Con. Res. 363. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mr. MARKEY (for himself, Mr. DOWNEY, and Mr. MAGUIRE):

H. Con. Res. 364. Concurrent resolution declares that it is the sense of Congress that the circumstances surrounding the death of Steven Biko be investigated; to the Committee on International Relations.

By Mr. HAGEDORN (for himself, Mr. ABDNOR, Mr. DEL CLAWSON, Mr. DAN DANIEL, Mr. KINDNESS, Mr. MCDONALD, Mr. STANGELAND, Mr. SPENCE, Mr. TREEN, and Mr. GOODLING):

H. Res. 777. Resolution to amend the Rules of the House of Representatives to require that each introduced bill and resolution contain a statement of the constitutional basis of authority for the bill; to the Committee on Rules.

Mr. KETCHUM:

H. Res. 778. Resolution providing for an increase in the compensation for positions under the Doorkeeper of the House of Representatives; to the Committee on House Administration.

By Mr. STEIGER (for himself and Mr. TUCKER):

H. Res. 779. Resolution to require that the CONGRESSIONAL RECORD contain a verbatim account of remarks actually delivered on the floor, and for other purposes; to the Committee on Rules.

By Mr. STOKES (for himself and Mr. ROYBAL):

H. Res. 780. Resolution to instruct the conferees on H.R. 7555; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred to as follows:

By Mr. MARLENEE:

H.R. 9322. A bill for the relief of Lawrence Youngman; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland:

H.R. 9323. A bill for the relief of Habib Haddad; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

254. The SPEAKER presented a petition of the New York Department of Jewish War Veterans, U.S.A., relative to recognition of the late Haym Salomon; which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3816

By Mr. LEVITAS:

Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (1), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(1)(1) Notwithstanding any other provision of this Act, simultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of , which rule was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rules may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 36, 60, and 90 calendar days of continuous session of Congress.".

And redesignate the following sections accordingly.

H.R. 6951

By Mr. LEVITAS:

On page 3, immediately after line 5, insert the following new section:

SEC. 6. The President is authorized and directed to present a plan to Congress before March 30, 1978, to transfer, effective September 30, 1979, the functions of the Council on Wage and Price Stability to appropriate agencies of the United States. When presenting the plan to Congress, the President shall inform Congress of any functions of the Council on Wage and Price Stability which other agencies of the United States have the power to carry out without any such transfer.

EXTENSIONS OF REMARKS

WILD AND SCENIC RIVER DESIGNATION

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. BAUCUS. Mr. Speaker, in his environmental message of May 22, 1977, President Carter recommended the inclusion of portions of the Madison and Yellowstone Rivers in Montana into the National Wild and Scenic Rivers System. Over the past few months, many Montanans have requested information about the Wild and Scenic Rivers System. Many landowners have had questions regarding the effects, if any, that a Wild and Scenic River designation would have on their property.

Personally, I have taken no position yet on either of the President's proposals. I suspect they will be submitted soon in bill form as formal legislative proposals. When that happens, an intensive deliberative process will ensue in which I and may constituents will undoubtedly play a lively role.

In anticipation of that event, and because of certain experiences I had last year with similar legislation, I asked the U.S. Department of the Interior to prepare for me some explanatory materials. Before offering these materials to my colleagues, let me tell you of the experiences I had which prompted me to ask for this information.

Last year portions of the Flathead and Missouri Rivers in Montana were included in the National Wild and Scenic River System. During the course of Congressional consideration of those proposals, a great deal of erroneous and conflicting information regarding Wild and Scenic River designation was disseminated.

The Bureau of Outdoor Recreation, Department of the Interior, prepared at my request the following short summary of pertinent Wild and Scenic River questions and answers. I have found this summary to be very helpful, and I trust my colleagues will also:

WILD AND SCENIC RIVER STUDIES—QUESTIONS AND ANSWERS

1. Q. What are the criteria used in determining whether or not a river should be included in the national wild and scenic rivers system?

A. Generally, rivers included in the system must be free-flowing streams which have outstanding remarkable scenic, recreational, geological, fish and wildlife, historic, cultural or other similar values. They must also be long enough (generally 25 miles or more) to provide a meaningful recreation experience, have sufficient volume of water, and have high or restorable water quality.

Rivers included in the national wild and scenic rivers system are classified, designated and administered as either wild, scenic or recreational river areas.

2. Q. If a river was to be recommended for inclusion in the national wild and scenic rivers system, would the entire river be under one classification, or is it possible to have a combination of river classifications?

A. It is possible to have portions of a river classified as either wild, scenic or recreational depending on the character of each river section.

3. Q. Could less than the entire river be included?

A. Yes, but generally a river segment would have to be at least 25 miles long. A shorter stretch that has outstanding qualifications might, however, be included in the national wild and scenic rivers system.

4. Q. How may a river be included into the national wild and scenic rivers system?

A. Two ways are possible. First, a river designated for potential addition to the system would be studied and found to be worthy of inclusion. An *Act of Congress* would be required to place the river into the system. Secondly, the Governor of the State in which a river lies may petition the Secretary of the Interior to include the river into the national system. Under this arrangement, the river under consideration must first be designated and administered by the State or one of its political subdivisions as a wild, scenic or recreational river and meet the criteria established for components of the national wild and scenic rivers system. If the river qualifies for inclusion into the national system, it would be designated by the Secretary of the Interior but would continue to be administered by the State or one of its political subdivisions without expense to the Federal Government.

5. Q. Who may administer a national wild and scenic river?

A. Streams designated to the system by an Act of Congress will normally be at least partially administered by a Federal agency. Secretarial approved rivers (those rivers protected by States and included in the national system by administrative action) *must* be administered by the State or one of its political subdivisions at no cost to the Federal Government. However, any State agency or political subdivision may become involved in administration of a Federal river through cooperative agreements with a Federal agency.

6. Q. What are the boundary limitations of a national wild and scenic river?

A. The National Wild and Scenic Rivers Act states that not more than an *average* of 100 acres per mile on both sides of the river (50 acres on each side) may be acquired in fee title. This applies both to those rivers designated as "instant" components of the system and to any river which may be later added to the system by an Act of Congress unless Congress specifies otherwise. Also, the Act limits the boundary of the instant rivers to an average of not more than 320 acres per mile on both sides of the river (160 acres on each side). This total includes the 100 acres in fee title plus an additional 220 acres acquired in less-than-fee, such as by scenic easement.

In the event that a river is added to the national system by application of a State governor to the Secretary of the Interior, the State should, as a minimum, have as much control of that river as would be required should the same area be managed as a Federal component within the system. All land purchases in this instance would be a State responsibility.

7. Q. What does purchase in fee title mean exactly?

A. Within a recommended boundary for a wild and scenic river, all property rights are acquired to some lands in order to provide protection of the natural scene and to accommodate the existing and permissible levels of recreational use. Generally, fee acquisition would be confined to land needed to provide access and facilities to the general public and to protect the river and resource values which would otherwise be in jeopardy from less-than-fee control. The remainder of the land within the boundary could be controlled by scenic easements and, when acceptable to the Secretary of the Interior, by adequately enforced local zoning regulations.

8. Q. How do scenic easements work?

A. Scenic easements are essentially agreements between the Federal Government and the landowner in which the Federal Government buys the right to certain uses on selected portions of the owner's land. For a national wild, scenic or recreational river the Federal Government would purchase an owner's right to cut timber or shrubbery, to put up buildings, or any use which would detract from the scenic beauty of the river. The landowner would retain all other rights to this land except those purchased by the Federal Government, and he may sell or leave them to his heirs, etc., as would be the case for any other property he owns. The rights purchased by the Federal Government, and only those rights, remain with the land in any transaction the owner may have. This applies only to that land for which the scenic easement is negotiated.

Such easements would require detailed investigation before the advisability and degree of protection to be contained in the easement can be determined.

9. Q. Is it possible to provide acceptable land-use control through the use of zoning?

A. Under the Wild and Scenic Rivers Act, land cannot be acquired through condemnation if such lands are located within any incorporated city or town which has in force valid zoning ordinances that fulfill the purposes of the Act and are acceptable to the Secretary of the Interior.

10. Q. May condemnation be used to acquire fee title and easement?

A. Yes, however, this method is used only as a last resort. It is preferred to conduct purchases through negotiations with landowners and this is the manner in which most purchases are made.

The condemnation authority is, however, subject to restrictions. Lands located within any incorporated city or town which has in force a valid zoning ordinance and which conforms with the purposes of the Act cannot be condemned. Furthermore, where 50 percent or more of the total acreage within a federally administered river is owned by the United States, a State or a political subdivision, the Act prohibits acquisition by condemnation altogether.

11. Q. Do limitations on Federal condemnation and purchase of land apply to rivers in the national wild and scenic rivers system under State administration?

A. No, these are not applicable to rivers under State administration.

12. Q. Suppose I own a home and property which lie inside the proposed river area boundaries. Could I sell my land to the Federal Government and continue to live in my home?

A. Yes, an owner of improved property (a detached, one-family dwelling) whose property is acquired by the Federal Government may retain for himself and his successors the right of use and occupancy for a period of his choice not to exceed 25 years, or the owner may instead choose a right of use and occupancy for the remainder of his life and that of his spouse.

13. Q. Would landowners be compensated for their lands?

A. Yes, of course. The value of all lands and improvements obtained in fee title and all rights purchased under easement would be determined and purchased at their fair market value. There is no provision, however, under which the Federal Government may reimburse a landowner for rights foregone as a result of zoning instituted by a non-Federal unit of government.

14. Q. May the right of use and occupancy be terminated before the term expires?

A. Yes, the Secretary of the administering Federal department (the Secretary of the Interior or the Secretary of Agriculture) may terminate the right of use and occupancy whenever this right is being exercised in a manner which conflicts with the purposes of the Wild and Scenic Rivers Act. An example might be commercial use of the property.

15. Q. How is the boundary of a wild, scenic or recreational river determined?

A. A "visual corridor" serves as the basis for determining appropriate boundaries. The visual corridor is essentially that zone or adjacent land which has a visual impact on the river user and which, therefore, should be protected from adverse use and development if the natural and scenic appeal of the riverway is to be maintained. The width of the visual corridor varies depending on the height and angle of slope of adjacent riverbanks and bluffs and on the amount of vegetative cover near the river's edge. Where canyon walls lie near the river, the land area subject to control would usually be to the canyon rim. Where the river valley is broader and streamside vegetation determines the river user's perception of the corridor, only a narrow strip of land adjacent to the river would be included in the visual corridor.

In this manner the boundary of a river area may vary in width according to the topography and vegetative cover along its length. Based on experience, the maximum allowable average acreage as provided in the Act may not be needed in all cases to preserve the natural character of a river.

16. Q. To what extent does the Act regard rights-of-way to prevent intrustions of highways into or across wild or scenic river areas?

A. The Secretary of the Interior or the Secretary of Agriculture has the power to prevent any encroachment if he feels it would detract from the river scene. Roads are permitted on rivers classified as recreational but are more restricted in river areas classified as wild or scenic.

Mr. Speaker, I would also like to include two more items that relate to the wild and scenic rivers issue. Listed below are more specifics on the Madison and Yellowstone proposals. These two descriptions were prepared by the Department of the Interior and submitted to me at my request.

As I mentioned earlier, I have taken no position yet on either of these proposals. I offer them now simply to shed more light on this issue.

MADISON RIVER, MONTANA

(Main stem from Earthquake Lake to Ennis Lake)

1. Significant Values:

Excellent fishing opportunities are possible along this segment of the Madison River, which attracts anglers from across the Nation. The Madison also is one of Montana's most popular floating and canoeing streams, especially that portion from McAtee Bridge (22 miles south of Ennis) to Ennis Lake. The float through Beartrap Canyon is probably the most hazardous of any rivers in southwestern Montana. Below the canyon, the river meanders slowly and affords few obstacles to floating.

2. Threats and Probability of their Occurrence:

Streamside subdivision of lands for recreation homesite and related developments is the most immediate threat to the river. Such development has been occurring for a number of years and is likely to continue due to a lack of control over uses on private lands that border the river.

Concerning potential water resource development projects, the only one that is proposed in the river segment discussed here is the Cameron Bench Unit. A small diversion dam (no storage) would be located about 25 miles below Earthquake Lake that would provide water for the irrigation of about 20,700 acres (3,400 acres of supplemental water).

3. Relationship to Other Studies:

Due to severe reductions in fish populations in the past few years, certain parts of the upper Madison River are closed to fishing as part of an effort to determine the cause. A study is currently underway by the Montana Department of Fish and Game to ascertain whether there is any relation between angling pressure and the decrease in fish populations.

4. Land Ownership and Use:

At its upstream end, the Madison River flows through a portion of the Gallatin National Forest for a distance of about 8 or 9 miles. Between the forest boundary and Ennis Lake, most of the land bordering the river (about 95 percent), is in private ownership except for small scattered tracts of public domain and state-owned lands. Much of the private land is either devoted to agriculture or being developed for private homesites.

YELLOWSTONE RIVER, WYOMING AND MONTANA

(Main stem from Yellowstone Lake to Pompey's Pillar)

1. Significant Values:

The Yellowstone River, which stretches from its source at Yellowstone Lake in Wyoming to its confluence with the Missouri River in extreme northwestern North Dakota, is one of our nation's last large, essentially free-flowing rivers. The initial segment of the river within the boundaries of Yellowstone National Park encompass the gamut of wilderness values. Downstream, fish and wildlife, recreation, and historical values are significant. The Montana Stream Classification Committee determined that 153 of the 225 miles of river between Gardiner (at the northern boundary of Yellowstone National Park) and Pompey's Pillar are of nationwide or statewide trout-fishing significance. That same stretch of river in recent years has been managed by the Montana Fish and Game Commission as a free-flowing recreation waterway. Two trails of historic significance and potential additions to the National Trails System, either follow or cross the river segment—the Lewis and Clark and Nez Perce Trails.

2. Threats and Probability of their Occurrence:

Numerous water projects either exist or have been proposed along the length of the Yellowstone. The Allenspur Dam and Power Plant and the Billings Water Supply Unit are the two which would have the greatest effect on the river.

The Allenspur Unit, located 2.5 miles above Livingston, is a Bureau of Reclamation proposal. The earth and rock fill dam would stretch about 2,700 feet across a narrow canyon, creating a 31-mile long reservoir in the Paradise Valley area between Livingston and Gardiner. The Bureau of Reclamation concluded in 1964 that no need or justification existed at that time for the dam, and subsequent reviews have upheld that conclusion. The project is considered inactive at this time.

It is felt that the Billings Water Supply Unit would not, by itself, alter the Yellowstone's eligibility for inclusion in the National Wild and Scenic Rivers System. This determination was based on the fact that the required structures would be located on a side channel and the additional withdrawal of 320 cfs would not have a significant impact on river resources during most years.

Other water resource proposals, such as SCS watershed irrigation projects, were not considered to have serious direct impacts upon the study reach of the Yellowstone. The Whitehorse Bench Unit and the Cove Unit in the vicinity of Laurel, and the Huntley South Unit at the extreme end of the study segment, are three irrigation project proposals which would deplete river flow to some exent. The Whitehorse Bench is considered to be economically feasible but there is no active interest at present. The Cove Unit is not considered to be economically feasible, but it may be pursued by the privately owned Cove Ditch Company. The Huntley South Unit is considered to be marginal.

Certain nonwater projects may also have adverse effects on the river corridor. Three of the alternates for a 12-miles construction project on U.S. Highways 310 and 212 south of Laurel would require a new highway right-of-way and bridge site across the Yellowstone River. Another example is the application by the Montana Power Company to cross the river with a 2,400-volt transmission line in the vicinity of Livingston.

3. Relationship to Other Studies:

The Missouri River Basin Commission is presently in the process of conducting a study of water-related resources in the Yellowstone River Basin and adjacent coal area. This study includes the entire segment of the river from its source to Pompey's Pillar except for that portion within Yellowstone National Park. The Bureau of Outdoor Recreation is participating in this study.

The river segment from the Yellowstone National Park boundary to Pompey's Pillar was included in a previous list of potential wild or scenic rivers, pursuant to Section 5 (d) of the Wild and Scenic Rivers Act. A BOR-led study team in a 1975 report (copy of which is attached made a preliminary determination that segments of the river qualified for inclusion in the National Wild and Scenic Rivers System.

4. Land Ownership and Use:

Nearly all of the lands in the immediate vicinity of the river are in private ownership. Even within the Gallatin National Forest near Gardiner, the major portion of the lands fronting the river is privately owned. Thus, the primary land use is for agriculture and homesite development.

The upper portion of the river, from Yellowstone Lake to Gardiner, is within the national park and is entirely within Federal ownership. The segment of the river from Gardiner to Pompey's Pillar traverses five counties in Montana. Of these lands, Federal ownership comprises about 29 percent, State ownership about 3.4 percent, and private or local ownership the balance. Lands which are immediately adjacent to the river have an even greater percentage of private ownership than is reflected in the county-wide figures.

AN EXPLANATION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. EDGAR. Mr. Speaker, last Friday, September 23, 1977, I had several important commitments in Pennsylvania that required my missing several important votes. Early Friday I spoke

to a conference at the Franklin Institute on the National Energy Plan: Regional Implications. Later, I met with Mr. Manuel S. Whitman, executive director of economic development for Delaware County. I also had a public forum that day. On Friday there were four recorded votes. Had I been there I would have voted as follows:

Roll No. 579 to approve the Journal from Thursday. Passed 332 to 14, I would have voted "yes."

Roll No. 580 H.R. 6796 ERDA civilian research and development authorization. Passed 317 to 47—2 present. I would have voted "yes."

Roll No. 581 H.R. 3 medicare-medicaid antifraud and abuse. Passed 362 to 5. I would have voted "yes."

Roll No. 582 H.R. 5383 Age Discrimination in Employment Act Amendments. Passed 359 to 4—1 present. I would have voted "yes."

CONGRESSMAN DANIELSON SUPPORTS JAPANESE AMERICAN INTERNEE BILL

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MINETA. Mr. Speaker, the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service—chaired by Congresswoman GLADYS N. SPELLMAN—held hearings on September 12, 1977, on H.R. 6412. This is a bill I introduced that would allow credit under the Federal civil service retirement system for any Japanese American civil servants who were forced to live in an internment camp during World War II because of their Japanese ancestry.

My colleague, Congressman GEORGE E. DANIELSON, California, is a cosponsor of that legislation and joined in urging the subcommittee to act favorably on the bill. Last week, on September 12, he appeared before the subcommittee which is considering my bill and made a strong statement in support of it. His statement follows:

STATEMENT OF CONGRESSMAN GEORGE E. DANIELSON

Madam Chairman, I appreciate this opportunity to add my support for the bill H.R. 6412, a bill authorizing retirement credit for civil service employees of Japanese American extraction who were forced to relocate to and spend time in detention camps during World War II.

This bill, if enacted, would eliminate the arbitrary prerequisite of having to have been a civil service employee before July 16, 1952, in order to qualify for retirement credit as provided under present law. All detainees who joined the civil service would be able to receive the credit.

I believe that this is a fair and overdue improvement of the present law. Time spent in the detention camps would be counted as if the detainee had been employed in a civil service job.

The important point is that the retirement credit should be given to these former detainees without regard to when they later joined the civil service.

Although relatively few individuals—probably less than 1,000—may be affected by the operation of this bill, it is the obligation of the American people to recognize our debt to those unjustly deprived of liberty.

I note that retirement credit would be granted without regard to the age of the civil service employee at the time of his or her detention. Without a specific age provision, the civil service would, in some cases, be giving retirement credit to some individuals who were below the minimum working age at the time of their detention. The subcommittee may wish to consider this fact.

I commend the members of this distinguished subcommittee for their attention to this matter. I am certain that enactment of this bill into law would be welcome news to many in my home State of California.

AIRLINE REGULATORY REFORM—A NEW APPROACH

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. LEVITAS. Mr. Speaker, the United States has the finest and safest aviation system in the world. It has generally performed outstanding service for the American traveling and shipping public and has received a high vote of public confidence recently in a public opinion poll.

Nevertheless, in recent years the airline industry overall has encountered serious financial problems, even though fares have continued to increase at a rate which has become a major concern to many consumers.

Although the airline industry has a good record, that does not mean there is no room for improvement. Obviously, there is room for improvement. Part of the problems which now exist, and therefore part of the opportunity for improvement, is the existing restrictive, snail-paced regulatory system under which the aviation industry operates.

Consumers, passengers, present and past administrations, economists, and even leaders in the industry itself have called for changes in the present Civil Aeronautics Board system of regulation. I agree. Change and reform are needed to benefit the public and the industry alike. Proposals for change in the existing system have generally been labeled "de-regulation." The fact of the matter is that most of these present proposals for change are not "de-regulation" but are rather a variety of proposals for "re-regulation"—a reordering of the regulatory system for more ease of entry, fares, rates, and the like, to be achieved mainly by a series or arbitrary, untested numerical formulas; but these proposals generally do not call for an orderly, rational de-regulation of the restrictive and uneconomic system which now exists.

For over 2 years now, I have been carefully studying this important issue. As a member of the House Aviation Subcommittee, I have participated in weeks and weeks of testimonial hearings, read mounds and mounds of documents, and listened to hundreds of people address all aspects of this question. I have studied the variety of pending bills and have concluded that, in the process of considering aviation regulatory reform, a new, alternative approach to such reform should be placed before the Congress and considered as the House proceeds with its work on these important measures. Therefore, I am today introducing a bill to enact the National Air Transportation Act of 1978, which I submit for study, analysis, comment, and consideration by the Congress and the public.

The major argument about the need for aviation "de-regulation," or "re-regulation," is that there are many people who are not flying because fares are too high. This is called market elasticity. The argument continues that fares are too high because there is no real competition between the carriers because of CAB restrictions and protectionist policies; that deregulation will lead to more carriers, more competition on routes, lower fares and, therefore, more passengers and higher profits. If all of these results would occur, then I assume that everyone would favor deregulation. But, because we do not really know what will occur in the event of deregulation, many people are worried that the results of some of the present proposals will result in breaking up the industry like Humpty-Dumpty, with the result that we will not be able to put it back together again.

Nevertheless, something needs to be done, and my bill is a possible alternative and new approach to an orderly and rational effort to bring about regulatory reform in the aviation industry, for its benefit and most importantly for the benefit of the public.

Dr. Alfred E. Kahn, the new Chairman of the CAB, has said that if more competition in the airline industry is needed, then CAB needs a new charter, new instructions from the Congress. He has also said that with a proper new charter, he believes that, under his leadership, CAB could lead the industry into a new period of healthy and profitable competition. One aspect of my bill is just that: To provide CAB with a new charter which will let it do the job; and, if it works, to move toward deregulation in a real sense. Now let us turn to the bill itself.

The major purpose of the National Air Transportation Act of 1978 is to provide the Civil Aeronautics Board with a new congressional mandate to guide the Board in moving this Nation's domestic air transportation system toward an even more competitive status than that which now exists, and in improving the U.S.-flag international air transportation system.

This new set of instructions is primarily contained in five areas of the act: First, in a wholly new policy statement (section 2 of the bill) for the Board's guidance, which emphasizes competition in the industry much more strongly than does the present Federal Aviation Act of 1958, coupled with replacement of the present specification that new or additional services must be "required" by the public convenience and necessity, with a specification that they merely be found to be "consistent with" those elements (section 4(c)); second, in a section (sec-

tion 17 of the bill), not contained in the present Federal Aviation Act, requiring the Board to act in a most expeditious manner on new and competitive route applications, and on other regulatory matters; third, in a provision (section 16) granting carriers increased pricing flexibility which, together with the emphasis on expedited grant of competitive route applications, should result in additional price competition within the industry; fourth, in provisions (sections 4(c) and 16) immediately deregulating all-cargo air transportation; and, fifth, in provisions for replacement of carriers not using existing nonstop authority with other carriers willing to do so, and for transfer of authority between carriers and from carriers to new entrants into the industry, where that is appropriate for full utilization of certificated authority.

These various provisions in combination, together with section 406 of the present act which would be carried forward, will assure continuation of essential small community service.

In addition, the act would provide for total deregulation 7 years hence, through a complete "sunset" provision applicable to the board and its functions. The act calls for a comprehensive review of the CAB's implementation of the act's provisions, and of their impact on the industry and the traveling and shipping public, to be submitted at the end of 5 years in order to permit congressional review prior to the slated 7-year expiration date.

While thus providing for eventual, full deregulation, and for a continued transition to increased route and pricing competition, the act would in the meantime leave the CAB with general control over both the continued development of the national air route structure and industry pricing. In this manner, increased industry route and price competition can be explored, but a control mechanism will remain to prevent undesirable, unforeseen consequences pending the review 5 years hence.

As an additional, general matter, the proposed act, unlike other current regulatory proposals, takes due note of the high priority which this Nation must place on energy conservation, both now and in the future.

Mr. Speaker, I commend this bill to the attention of the Congress, the administration, the industry, and the public.

PERSONA PLAYERS PROVIDE CULTURAL ENRICHMENT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. CLAY. Mr. Speaker, the cultural community of St. Louis has been most fortunate these past 10 years. During this period the Persona Players have provided a means of cultural enrichment for our metropolitan area. The Players have offered an outlet for the theatrically inclined citizens of our city.

This year marks the occasion of the 10th anniversary of this energetic group. I was pleased that I could be on hand with my administrative assistant, Jerome Williams, to help celebrate this milestone. Mr. Williams was, incidentally, a charter member of the group.

Among the many successful productions put on by this group are "Dark of the Moon," their first, "Black Girl," "John Brown's Body," "Silver Whistle," "Day of Absence," "Happy Ending," and the 10th anniversary production, "Pearlie."

Special mention should be made of Mrs. Sally Forth, their first president, and Mrs. Willette Carter, who spawned the idea for this black cultural group.

The Persona Players were a long-time affiliate of the Page-Park YMCA. They have recently added a new dimension to their activities by establishing a Jean Q. Washington Scholarship Fund.

This effort is in commemoration of a former Persona member. It awards financial assistance to deserving high school graduates who wish to pursue a degree in the arts.

The scholarship fund was initiated in the memory of a prominent St. Louis educator and beloved charter member, the late Jean Quinones Washington. The scholarship committee is charged with the responsibility of selecting a student from one of the area schools to become the recipient of the award.

I wish to take this opportunity to commend the Persona Players for having served as a inspiration to the St. Louis community.

FAMILY FARMERS/RANCHERS ARE LIVING ON FALSE PAPER EQUITY

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PRESSLER. Mr. Speaker, nearly one-third of all South Dakota farmers who have debts are refinancing them rather than paying them this year, according to a recent bankers' study.

About one-third of all the farmers in the upper Midwest including South Dakota, and as many as one-half of Kansas' farmers will have to refinance their debts rather than pay them this year because of low farm prices.

The only thing that is keeping farmers and ranchers on the land is that the paper value of their land is increasing. This allows them to refinance existing credit.

But this cannot go on much longer. Such refinancing is artificial since it is based on the value of land which a farmer does not intend to sell except in destitution.

We are on the absolute last generation of family farmers and ranchers unless this Congress does something about farm prices, about the glut of foreign beef imports and about the totally unaggressive policy regarding the equal treatment of agricultural and industrial products in our international trade policy.

Many Congressmen are unaware of the bad financial situation in which many farmers and ranchers find themselves. This is because of the ability to refinance debts based on the paper value of increased land values is keeping some farmers and ranchers in business for another year or two.

I sincerely hope that this study will help change this misconception regarding the financial situation of many farmers and ranchers, and encourage reforms in our Nation's farm policy.

THE NEED TO PROTECT OUR WETLANDS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. STEERS. Mr. Speaker, on April 6, 1977, I explained why I voted against the Water Pollution Control Act Amendments of 1977. I felt that the House had gone too far in H.R. 3199 to relieve the problem of "redtape." It had gone so far that we may have imperiled our very valuable wetlands. The Senate has passed a very different version of the amendments and therefore a conference committee is necessary.

I have no way of knowing how that committee will resolve the differences that separate the two houses on this issue. I still believe that we can balance the need for our State and local governments to be free of Federal Government "redtape" and protect our inland wetlands.

In the Baltimore Sun of September 24, 1977, the Chairman of the President's Council on Environmental Quality commented on the protection necessary for our wet lands. I think it would be wise for all of our colleagues to read this short article as the Congress attempts to find a solution to this thorny problem:

WETLANDS IN LEGISLATIVE PERIL

Sir: Congress will soon decide how many billions should be spent to clean up the nation's waters. Ironically, the same clean water legislation may lead to widespread destruction of our nation's wetlands, a natural resource of immense environmental value. If they are destroyed we lose one of the richest habitats on earth for fish and wildlife, natural capacity to filter pollutants from water and buffers against storms and floods.

The 1972 Federal Water Pollution Control Act established protection of these wetlands as an integral part of our national water system. Congress is now considering amendments to this act which would remove federal protection from 75 to 80 per cent of the country's remaining wetlands. President Carter and a majority of the Senate are opposed to the change to this House approved amendment. Their differences will be resolved in a conference committee.

Wetlands, better known by such names as swamps, bogs, marshes, potholes, wet meadows and river outflow land, are important areas where water and land come together. Their vital natural functions, and their subtle beauties, are not immediately obvious to everyone. A seaside salt marsh with its mud and coarse grass may lack the appeal of a rocky shore or sand beach; and a freshwater marsh edged with cattails is perhaps less dramatic than a forested mountain slope.

Many people have an understandable urge to put these places to some "good use" by dredging or filling them for housing tracts, shopping centers, pipelines, pastureland, marinas or navigable waterways. Yet this view is blind to the fact that wetlands play essential roles in natural systems.

They absorb impurities and act as giant filtration systems. They remove pollutants such as nitrates from the water. By retarding high waters, they reduce the impacts of floods, oceans storms and hurricanes. They stabilize water flows and help control floods. They provide essential habitat in the life cycle of many birds and fish.

They are enormously important to the production of plant life and in turn provide food for marine and freshwater animals. It is estimated that 50 per cent of all commercial marine fishes and invertebrates rely on estuaries or wetlands at some point in their life cycle.

Sea estuaries adjacent to wetlands support two-thirds of the fish species in the Atlantic and the Gulf of Mexico. Oysters, clams and mussels live out their lives in tidal waters and shrimp and crab depend upon them for nurture of their young.

Many birds depend upon tidal areas for food and nesting places. Migratory fowl winter there. Plant life in the marshes and swamps takes nutrients washed from upstream and converts them into food for inhabitants. About half of the food that these plants produce is washed out into estuaries to support more creatures there.

Unfortunately, experience has proven that without protection many of these critical wetland areas are destroyed. We don't have complete records on what has happened to wetlands originally found in the United States but the best estimates are that scarcely more than half remain. For example, South Florida has lost 25 per cent of its wetlands in the last 20 years alone. Arkansas has lost about 50 per cent. Louisiana's wetlands are decreasing rapidly. California's wetlands are mostly destroyed.

There can be wetlands protection without excessive bureaucracy and red tape. The bill recommended by President Carter exempted from permitting requirements most farming, logging and ranching practices which cause little environmental damage. It directed the Army Corps of Engineers to speed up review of necessary permits. It also allowed states to assume major responsibility for wetlands protection in lieu of any federal agency.

The Senate passed a bill along these lines. In contrast, the House measure carves out vast wetland acreage to be immune from federal review. In unprotected areas, a developer could fill a wetland for a shopping center as easily as a farmer could plant rice there. This insensitive approach could lead to vast destruction of wetlands in the name of cutting red tape.

Important wetlands should be protected by sensible regulation. It would be an ironic and tragic waste if Congress, while spending billions on many necessary man-made structures for pollution and flood control, paved the way for the destruction of one of the most productive and protective of natural systems.

CHARLES WARREN.

INSTITUTE FOR POLICY STUDIES HOLDS KOREA CONFERENCE TO FACILITATE A COMMUNIST "REUNIFICATION"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. McDONALD. Mr. Speaker, the Institute for Policy Studies (IPS) held a "Conference of Japanese and U.S. Parliamentarians on Korean Problems" in the Cannon caucus room on Monday and Tuesday, September 19–20, 1977. Organized by IPS's staff of dedicated full-time propagandists for Asian Communist terrorist regimes and movements, the conference sessions were ostensibly designed to allow United States and Japanese legislators to discuss the problem of South Korea. But in fact the conference was designed to facilitate the destabilization of South Korea in preparation for military conquest by the North Korean Communist regime by laying the groundwork for U.S. economic, military, and strategic abandonment of South Korea.

The Institute for Policy Studies is a consortium of Marxist New Leftists organizing for a "new economic and political world order" and an America neutralized as a world power through a variety of tactics. Among these tactics have been an organized attempt to dismantle and cripple the U.S. foreign and domestic intelligence capability; organizing violent street demonstrations such as the 1971 Mayday riots in Washington, D.C., to shut down the Government ment in support of the Vietcong; organizing an alternative program for State and local public officials which places them in contact with their counterparts in foreign Communist governments and parties; and a sort of direct lobbying or subversion from the top in which IPS attempts to gain influence in Congress and the administration through seminars for staffers and direct contacts with officials and lawmakers.

The Institute for Policy Studies and its international subsidiary project, the Transnational Institute (TNI), have compiled considerable public records of activity on behalf of Soviet and Cuban-supported terrorist groups and of ties to the Cuban and Soviet intelligence agencies. IPS/TNI staff has included leaders of the Weather Underground, the Algerian FLN, the Trotskyite terrorist Fourth International and the current so-called patriotic front of Rhodesia. Last year IPS, which has maintained ties with and a support apparatus for the Palestine Liberation Organization terrorists for nearly 10 years, enticed several officials of American Jewish organizations to meet privately and without publicity with two PLO terrorists. IPS then publicized the meetings as a propaganda victory for the PLO.

In May of this year, Hilversun's Aktua TV in the Netherlands reported that the Amsterdam office of IPS Transnational Institute was instrumental in obtaining Dutch residency for CIA defector Philip Agee, deported from Great Britain for his continuing association with hostile intelligence service personnel and terrorist revolutionaries. Agee, who has been spotted in Moscow doubtless obtaining additional "research" for his destabilization drives against the United States and free world countries, has not only admitted contacts with Cuban intelligence officers, but has given credit to members of the Cuban Communist Party and Cuban Government agencies for supplying him with material for his anti-CIA diatribes.

Orlando Letelier, exposed after his death a year ago as a KGB agent working with a Cuban DGI case officer, went on the IPS payroll shortly after he returned to this country in 1974. Letelier was head of the IPS/TNI program at the time of his death. Letelier was receiving money from an international Soviet front, the World Peace Council, and from Cuba to pay the expenses of U.S. Congressmen and others to participate in international Communist-front activities. In light of Letelier's well-financed activities on behalf of the Soviet and Cuban spy agencies, it is particularly inappropriate for IPS to escalate an anti-South Korean campaign at a time when this body is actively investigating charges of South Korean influence-peddling and corruption. Perhaps Orlando Letelier's replacement as head of the IPS/TNI, admitted Castroite propagandist Saul Landau who appears to have open access to the pages of the Washington Post and New York Times, and IPS codirectors Barnet and Raskin feel the Letelier exposure was merely a passing embarrassment to their complex apparatus.

On August 16, IPS codirector Richard J. Barnet sent invitations to a number of Members of the House and Senators requesting their participation in the IPS Korea conference. Barnet stated the objectives of the conference were:

> Examining in depth the political, economic and military situation in North and South Korea, and of exploring the possibilities of easing tensions and moving toward peace and the restoration of human rights in both countries.

Despite the nonpartisan phraseology, in fact the only speaker at the conference who expressed concern for the absolute repression of human rights under the North Korean totalitarian regime as well as for real and alleged abuses in South Korea and who apparently understood the difference between a totalitarian system and an authoritarian government was Harvard Law School Associate Dean Jerome A. Cohen.

Organized from the IPS/TNI annex offices on the third floor at 1506 19th Street NW., Washington, D.C. (202/234–0550), IPS staffers Jeff Seabright, Jeff Stein, and Gareth Porter were responsible for conference arrangements. Porter, associated with IPS for over 13 years, has been the principal propagandist whitewashing the systematic massacre of civilians by the Communist forces at Hue during the 1968 Tet offensive.

With Richard Barnet serving as master of ceremonies, the conference's opening address was delivered by the sartorially resplendent former Presidential candidate from South Dakota, Senator GEORGE MCGOVERN.

As listed in the conference program, the "specialists," Japanese parliamentarians and "American Congressional Delegation" included:

> INSTITUTE FOR POLICY STUDIES,
> *Washington, D.C.,*
> *September 19 and 20, 1977.*
>
> CONFERENCE OF JAPANESE AND U.S. PARLIAMENTARIANS ON KOREAN PROBLEMS
>
> JAPANESE PARLIAMENTARY DELEGATION
>
> Yoshikata Asoo, Independent's Club, is a member of the House of Representatives from the First District of Tokyo; he has been returned four times. A member of the Democratic Socialist Party from 1960 until 1972,

he served as Deputy Secretary General of that party, Secretary General of the Democratic Socialists' League, and as Deputy Chairman of the Diet Policy Committee, Democratic Socialist Party.

Usaburo Chizaki, Liberal Democratic Party, is a member of the House of Representatives for the First District of Hokkaido; he has been returned five times. He is Chairman of the Standing Committee on Communications. He has served as President of the Social Welfare Federation, Hokkaido; Chairman, Sapporo Branch, Liberal Democratic Party; Vice-Chairman, Hokkaido Federation, Liberal Democratic Party.

Hideo Den, Japan Socialist Party, is a member of the House of Councillors for the National Constituency. He has been returned twice, both times receiving the highest number of votes in the House of Councillors' election. He is Director of the International Bureau of the Japan Socialist Party.

Mrs. Takako Doi, Japan Socialist Party, is a member of the House of Representatives for the Second District of Hyogo Prefecture; she has been returned three times. She is Director, Standing Committee on Foreign Affairs, Special Committee on Environment, a member of the Standing Committee on Local Administration, and a member of the Standing Committee on the Cabinet.

Kunio Hatoyama, Independents' Club, is a member of the House of Representatives for the Eighth District of Tokyo; he was returned in December, 1976. He is a member of the Standing Committee on Judicial Affairs, and had served as Secretary to the Prime Minister.

Susumu Kobayashi, Japan Socialist Party, is a member of the House of Representatives for the Third District of Niigata Prefecture; he has been returned eight times. He is Vice-Chairman of the Diet Policy Committee and of the General Policy Committee, Japan Socialist Party, and Chairman of the Social Security Committee. He also is Permanent Director of the Japan-China Parliamentary League.

Kosuke Ito, House of Councillors, Liberal Democratic Party.

Yohei Kono, is the Leader of the New Liberal Club and a member of the House of Representatives for the Fifth District of Kanagawa Prefecture; he has been returned four times. He was the popular choice for future Prime Minister in a recent poll.

Akira Kuroyanagi, Komeito (Clean Party), is a member of the House of Councillors for the Tokyo District; he has been returned twice He is Director, International Bureau, Komeito; Chairman, Tokyo Headquarters, Komeito. He has visited the Democratic Peoples' Republic of Korea.

Senpachi Oishi, Liberal Democratic Party, is a member of the House of Representatives for the First District of Shizuoka Prefecture; he has been returned twice.

Mrs. Yoshiko Otaka, Liberal Democratic Party, is a member of the House of Councillors for the National Constituency; she was returned in 1974. She is a member of the Standing Committee on Foreign Affairs, Liberal Democratic Party and Deputy Secretary General of the Liberal Democratic Party's Afro-Asian Problem Study Group.

Misoji Sakamoto, Liberal Democratic Party, is a member of the House of Representatives for the Second District of Ishikawa Prefecture; he has been returned four times. He is a member of the Liberal Democratic Party Executive Council and Director of the General Organization Bureau. He is Chairman of the Foreign Policy Study Board, Liberal Democratic Party.

Naoso Shibuya, Liberal Democratic Party, is a member of the House of Representatives for the Second District of Fukushima Prefecture; he has been returned six times. He is actively involved in labor problems, and has served as Deputy Director, Labor Division of the Policy Affairs Research Council. He is also a member of the Policy Board of the Policy Affairs Research Council, Liberal Democratic Party.

Kazuo Shionoya, Liberal Democratic Party, is a member of the House of Representatives for the Third District of Shizuoka Prefecture; he has been returned four times. He is Vice-Chairman of the Diet Policy Committee, Liberal Democratic Party, and Secretary General of the Afro-Asian Problems Study Council, Liberal Democratic Party. He is also Permanent Director of the Japan-China Parliamentary League and the Japan-North Korea Parliamentary League.

Reiichi Takeuchi, Liberal Democratic Party, is a member of the House of Representatives; he has been returned five times. He is Chairman of the Standing Committee on Foreign Affairs and has served as Parliamentary Vice-Minister of the Ministry of Foreign Affairs and as Vice-Director General of the Economic Planning Agency.

Tokuma Utsunomiya, Independents Club, is a member of the House of Representatives from the Second District, Tokyo; he has been returned ten times. He was instrumental in founding the Liberal Party, predecessor to the Liberal Democratic Party. He has served as a member of the House Committee on Foreign Affairs, Leader of the Liberal Democratic Partys Afro-Asian Problem Study Group, and as Vice-Chairman of the Policy Affairs Research Council, Liberal Democratic Party. He has visited the Democratic Peoples' Republic of Korea.

Toshio Yamaguchi, New Liberal Club, is a member of the House of Representatives for the Second District of the Saitama Prefecture; he has been returned four times. He is Chairman of the Diet Policy Committee of the New Liberal Club.

JAPANESE SPECIALISTS

Eiichi Imagawa, is a senior Researcher at the Institute of Developing Economies, Tokyo; he was Guest Researcher at the Brookings Institution, 1973–1975. His books include "China's Great Cultural Revolution" and "The Vietnam War" (co-author, 1968), "Modern History of Southeast Asia," (1972), and "U.S. Internal and Foreign Affairs," 1973–1975. (1975)

Hiroharu Seki, is Director of the Institute for Peace Science, Hiroshima University, and is Professor of Political Science at Tokyo University. He is the author of many books, including "Search for Peace" (1975) and "International Relations for the 1970s" (1975).

Mikio Sumiya is Professor Emeritus, University of Tokyo. He was formerly Dean of the Economics Department at the University of Tokyo. His publications include "History of Wage Labor in Japan," "Analysis of Japan's Coal Industry," and the "South Korean Economy."

AMERICAN CONGRESSIONAL DELEGATION

Alan Cranston, Democratic Senator from Oregon, is the Senate Majority Whip. Now in his second term, he is a member of the Budget Committee, the Banking, Housing and Urban Affairs Committee, and the Human Resources Committee. He is Chairman of the Veterans' Affairs Committee.

Mark Hatfield, Republican Senator from Oregon, is a member of the Appropriations Committee, the Energy and Natural Resources Committee, the Rules and Administration Committee and the Select Committee on Indian Affairs. He is now in his second term.

Edward Kennedy, Democratic Senator from Massachusetts, was first elected to the U.S. Senate in 1962. He is a member of the Human Resources Committee, the Judiciary Committee, the Joint Economic Committee, and the Select Committee on Nutrition and Human Needs.

George McGovern, Democratic Senator from South Dakota, was the Democratic Party candidate for President in 1972. Now in his third term, he is a member of the Foreign Relations Committee and the Agriculture, Nutrition, and Forestry Committee. He is Chairman of the Select Committee on Nutrition and Human Needs.

John Anderson, Republican, represents the 16th District of Illinois in the House of Representative. He is now serving his ninth term in Congress and his fifth term as Chairman of the House Republican Conference. He is also a member of the House Rules Committee.

Anthony Beilenson, Democrat, represents the 23rd District of California in the House of Representatives; he was elected to his first term in 1976. He is a member of the International Relations Committee, the Committee on the Judiciary, and the Committee on Science and Technology.

Donald Bonker, Democrat, represents the Third District of Washington in the House of Representatives. He is now serving his second term. He is a member of the International Relations Committee and the Committee on Merchant Marine and Fisheries.

Bruce Caputo, Republican, represents the 23rd District of New York in the House of Representatives. Now serving his first term, Rep. Caputo is a member of the Committee on Standards of Official Conduct and the Committee on Banking, Finance and Urban Affairs.

Donald Fraser, Democrat, has represented the Fifth District of Minnesota in the House of Representatives for eight terms. He is a member of the International Relations Committee and Chairman of the Subcommittee investigating United States-South Korean relations.

Thomas Harkin, Democrat, represents the Fifth District of Iowa in the House of Representatives. He is now serving his second term. He is a member of the Committee on Agriculture and the Committee on Science and Technology.

Michael Harrington, Democrat, represents the Sixth District of Massachusetts in the House of Representatives. He is now serving his fourth term. He is a member of the International Relations Committee and the Committee on Government Operations.

Robert Kastenmeier, Democrat, represents the Second District of Wisconsin in the House of Representatives. He is now serving his tenth term. He is a member of the Committee on the Judiciary, the Committee on Interior and Insular Affairs and the Select Committee on Ethics.

Paul McCloskey, Republican, represents the 12th District of California in the House of Representatives He is now serving his fifth term. He is a member of the Committee on Government Operations.

Helen Meyner, Democrat, represents the 13th District of New Jersey in the House of Representatives. She is now serving her second term. She is a member of the International Relations Committee.

Leo Ryan, Democrat, represents the 11th District of California in the House of Representatives. He is now serving his third term. He is a member of the International Relations Committee.

Stephen Solarz, Democrat, represents the 13th District of New York in the House of Representatives. He is now serving his second term. He is a member of the International Relations Committeee, the Subcommittee on European and Middle Eastern Affairs and the Subcommittee on African Affairs.

Morris Udall, Democrat, represents the Second District of Arizona in the House of Representatives. He is now serving his ninth term. He is Chairman of the House Committee on Interior and Insular Affairs, and is a member of the Select Committee on Ethics.

Lester Wolff, Democrat, represents, the Sixth District of New York in the House of Representatives. He is now serving his seventh term. He is a member of the International Relations Committee, Chairman of the Subcommittee on the the Far East and the Pacific, Chairman of the Subcommittee on Future Foreign Policy, and a member of the Subcommittee on International Operations.

Clement Zablocki, Democrat, represents the Fourth District of Wisconsin in the House of Representatives. He is now serving his fifteenth term. He is Chairman of the International Relations Committtee.

Additional "American Paliamentarians" participating included Representatives Berkley Bedell of Iowa; George Brown of California; Ronald Dellums of California; and Edward Pattison of New York.

AMERICAN SPECIALISTS

Professor Jerome Cohen is Director of East Asian Legal Studies and Associate Dean at Harvard Law School. He has contributed over 40 articles and reviews to professional journals and is the author of several books, most recently "China Today and Her Ancient Treasures" (with Joan Lebold Cohen). He has also served as consultant to the U.S. Senate Committee on Foreign Relations.

Professor Bruce Cummings is Associate Professor of Political Science at the University of Washington, He is Secretary of the Committee on Korean Studies, Association of Asian Studies. He is the author of several articles on Korea, and is now preparing a book on the origins of the Korean War.

Professor Richard Falk is the Albert C. Milbank Professor of International Law and Practice at Princeton University. He is a Senior fellow at the Institute for World Order and Faculty Associate at the Center for International Studies. He is the author of "Future Worlds, The Vietnam War and International Law: The Concluding Phase" (4 Volumes), "A Study of Future Worlds," and "The Future of the International Legal Order" (With Professor Cyril Black).

Selig S. Harrison is a Senior associate at the Carnegie Endowment for International Peace. As Northeast Asia Bureau Chief for the Washington Post from 1968–1972, he was one of two American journalists to have visited the D.P.R.K. He has served as Senior Fellow in charge of Asian Studies at the Brookings Institution and as Professorial Lecturer in Asia Studies at the John Hopkins School of Advanced International Studies. He is the author of "The Widening Gulf: Asian Nationalism and American Policy" (The Free Press, forthcoming) and The Carnegie Endowment study, "China, Oil and Asia: Conflict Ahead?" (Columbia University Press, forthcoming)

Professor Gregory Henderson is on the faculty of the Fletcher School of Law and Diplomacy, Tufts University. He was a Foreign Service Officer from 1947 to 1964, serving as Political Officer and Chief Cultural Officer in Seoul, 1958–1963. He is a Research Associate at Harvard University, and has served as a Research Officer at the United Nations. He is the author of "Korea: Politics of the Vortex" (Harvard, 1963), and "Political Change" (Praeger, 1973), "Divided Nations in a Divided World" (McKay, 1974), and many articles.

Gareth Porter is an Associate Fellow at the Institute for Policy Studies. He received his Ph. D. from the Southeast Asia Program, Cornell University. He was Research Associate in the Cornell University International Relations of East Asia Project from 1972 to 1974, and was Co-Director of the Indochina Resource Center, Washington, D.C. from 1974 to 1976. He is the author of "A Peace Denied: The U.S., Vietnam, and the Paris Agreement," and "Cambodia: Starvation and Revolution."

Earl C. Ravenal is a Fellow of the Institute for Policy Studies and Professor of American Foreign Policy at the Georgetown School of Foreign Service and The Johns Hopkins School of Advanced International Studies. While a Defense Department Officer, he was Director of the Inter-Agency Task Force Study on Korea for the N.S.C. in 1969, and Director of the Asian Division of the Office of Systems Analysis. His books include "Peace with China? U.S. Decisions for Asia" (co-author and editor) and "Never Again: Learning from America's Foreign Policy Failures" (forthcoming), and "Foreign Policy in an Uncontrollable World" (forthcoming).

Rinn-Sup Shinn is a Senior Research Scientist, The American University. He has participated in numerous conferences on Korea and often serves as a consultant and lecturer on the Koreas. His articles have appeared in Problems of Communism, and he is the co-author of the "Area Handbook" for North Korea (1969, 1976), South Korea (1975), Peoples Republic of China (1971), and Japan (1974).

Jeffrey Hall Stein, an Associate of the Institute for Policy Studies, holds an M.A. degree in Asian Studies from the University of California, Berkeley. He was a U.S. Army Intelligence Officer in Viet Nam, 1968–1969. He has contributed to the Nation, the Progressive, the Christian Science Monitor, Far East Economic Review, and National Public Radio, primarily on questions concerning U.S. policy towards the Far East.

The "First Working Session" of the meetings was based on discussion of four prepared papers, Selig Harrison's "U.S. Force Reductions and North Korean Policy;" Gregory Henderson's "Arms, Intentions and Misperceptions" (titled in the conference program "The Danger of a New Arms Race in the Korean Peninsula"); Eiichi Imagawa's "Japan's Peaceful Coexistence Policy in Relation to Korea;" and IPS fellow Earl Ravenal's "Troop Withdrawal and U.S. Policy Options in Korea."

Selig S. Harrison, a Senior Associate at the Carnegie Endowment for International Peace, based his analysis of Korean affairs on information he received during his 5-week visit to Pyongyang and interview with the North Korean Communist dictator, Kim Il-sung, in 1972. Making the best possible interpretation of North Korean intentions and motives, Harrison called for reduced defense spending by South Korea to "enable Pyongyang to address growing popular economic demands more effectively without upsetting its existing economic and political foundations." Stripped of euphemisms, this proposes that if North Korea doesn't intend a military venture against South Korea, it might free up enough of its economy to provide some additional consumer goods and undercut internal tension which could possibly result in a popular uprising and overthrow of the totalitarian government and its stringent economy.

Harrison also proposed with a straight face that South Korea might "launch a military unification adventure" against North Korea which is backed by extensive Soviet and Red Chinese troop forces concentrated in Northeastern Asia. Admitting that his focus was primarily on how North Korea sees the situation, Harrison propounded that "there will be a continuing danger of a military explosion in Korea" until Korea moved "in the direction of confederation and ultimate unification."

Harrison promoted a North Korean proposal for a "confederation" of South Korea with North Korea setting the legal framework for a Communist "reunification." Wielding euphemisms with the skill of a Madision Avenue publicist, Harrison justified the North Korean dictator's continued aggression and subversion campaign against South Korea by saying that Kim "could not abandon, or appear to abandon, the unification goal without seriously tarnishing his leadership image." And he praised the Pyongyang dictatorship's "settled society with a strong sense of achievement and unity."

At the beginning of his exposition of the North Korean position, Harrison noted in passing that his knowledge was derived from his 1972 visit to North Korea and his interviews with Kim Il-sung and other North Korean functionaries. In the printed text of his position paper, Harrison writes of "my contacts since 1972 with North Koreans based outside the country" who have provided him with the view that "Pyongyang is prepared to adapt its bargaining posture to changing American and Japanese policies." The "North Koreans based outside the country" are virtually without exception either embassy personnel and or agents of the North Korean espionage apparatus. How convenient for Pyongyang that Mr. Harrison has been able to convey their political message to an informal gathering of Japanese and American legislators in such sympathetic tones. According to the U.S. Department of Justice, Mr. Harrison is not a registered foreign agent for North Korea.

Another proponent of conciliatory policies toward North Korea and a harsh U.S. and Japanese policy toward South Korea was Earl C. Ravenal, a long-time IPS associate whose speciality is promoting fast military withdrawal of the U.S. as a world power. Ravenal has worked on anti-U.S. defense projects for the Center for International Policy (CIP), a project sponsored by the Fund for Peace and staffed principally by IPS associates; in which Letelier took a leading role and the lobbying group called the Coalition for a New Foreign and Military Policy (CNFMP) which like the Fund for Peace cooperates closely with the Soviet World Peace Council that promotes U.S. disarmament while providing logistical support to Soviet-backed terrorist movements.

Ravenal presented a considerable amount of material previously developed by Donald L. Ranard, Center for International Policy director and former State Department Korea desk officer who also argues that the U.S. has no strategic interest in aiding South Korea. Ravenal argued that the "developing world system" required an unconditional withdrawal of U.S. troops from South Korea with only limited military aid as a replacement. Continued U.S. guarantees of South Korea sovereignty might "unhinge the international order," said Ravenal.

The second session was based on a series of seven papers, Richard Falk's "Human Rights and U.S. Policy Toward Korea;" Jerome Cohen's "The Human Rights Situation in South Korea;" Bruce Cumings' "Political Repression and Economic Development Strategy in South Korea;" "Need for a New Direction in Japan's Korean Policy" by Kazu Shionoya and Hajime Ishii; and three separate papers on human rights in South Korea submitted by Japanese participants.

The consensus of panelists averred that repression of human rights under the authoritarian government in South Korea was far worse than the total suppression of human rights and individuality of thought and expression under the Communists in the north because the United States is allied with South Korea but has no ties with North Korea. (Throughout the conference many panelists called for America to open relations with North Korea and develop an "even-handed" policy toward North and South Korea).

Of the "human rights" panelists, perhaps the most vocal supporter of the "enormous success" of the Communist regime in North Korea was Richard Falk, a professor of international law long associated with IPS co-director Dick Barnet. Falk and Barnet were among twenty "peace activists" who signed an ad in the New York Times in January defending the Vietnamese Communist regime's campaign of repression and state terror against the Vietnamese people and saying "The present government of Vietnam should be hailed for its moderation and for its extraordinary effort to achieve reconciliation among all its people." Humanitarians Falk and Barnet in the ad cited as an example of the Communists' "moderation" the fact that

only tens of thousands of persons who had "collaborated" with the previous anti-communist government of South Vietnam were in concentration camps, rather than the hundreds of thousands "guilty" of collaboration."

However, his credentials as a human rights activist were not challenged by either other panelists or by the press.

The third session of the conference was devoted to "Prospects for Tension Reduction and Political Accommodation in Korea." Papers submitted by IPS's Gareth Porter, Rinn-Sup Shinn, Tokuma Utsunomiya, Hiroharu Seki and Hideo Den urged conciliation with North Korea and for U.S. military and economic pressure to be applied to South Korea in order to force South Korea to enter negotiations with the North "on matters which are vitally important to defusing the North-South military and political conflict and establishing an atmosphere of peace."

As Porter and the Institute for Policy Studies leaders are well aware, "peace" to the Marxist-Leninists is what comes with the end of the class war and the overthrow of capitalism.

At the beginning of September, the official Soviet "new agency" TASS denounced the economic arrangements among South Korea, Japan and the United States and the increasing importance of South Korea and Japan to U.S. defense after the fall of Southeast Asia to the Communists. North Korea's propagandists picked up the refrain only days before the IPS Capitol Hill conference, attacking the economic and political alliance of the U.S., Japan and South Korea as "a source of tension in this region."

The fourth and final "working session" of the IPS conference examined what use could be made of the "Koreagate" investigations into improper influence peddling and possible bribery of Congressional figures by South Korean agents. This issue, which is now under investigation by the Ethics Committee, was felt to have been virtually made to order for the anti-South Korea campaign. Some expressed the feeling that any legislator who in the future went on record in support of military assistance to South Korea could be smeared with "Koreagate" charges.

The "Koreagate" affair also provided IPS's Jeff Stein with the occasion to launch another broad smear attack on Western intelligence agencies charging that corruption is innate in the "tapestry of Cold War ideology and the clandestine bureaucracies which are built in the name of anticommunism." Japanese Socialist Party official Susumi Kobayashi concurred with Stein in the suggestion that corruption was the only and real motivation behind anticommunist sentiments in Japan and America. Stein held that "Koreagate" would finally be the level to cause the repudiation of South Korea by the U.S. Government. Stein's tawdry attack, matching his other opportunistic propaganda smears against the intelligence community in recent months, provided a fitting end to these unseemly proceedings.

The neo-Marxist influence peddlers of the Institute for Policy Studies who have repeatedly demonstrated their loyalty to Communist causes and movements are now working to consolidate the contacts made and alliances formed during the conference and the legislative nuclei in the U.S. and Japanese legislatures produced by their Korea conference.

Sources involved in the IPS Korea project report that the organization expects to see a radical change in U.S.-Korean relations by next spring's appropriations.

It is our responsibility to see that our deliberations and investigations are conducted free from outside influence mongers whose operations themselves might provide a fertile field for Congressional investigation.

I would further note that even as the academic leftists of IPS targeted elected officials for cooptation into the anti-South Korea campaign, the street level activists in the Soviet and Cuban sectors of the U.S. left consolidated their anti-Korean campaign earlier this year. And I will provide future reports on that lower level of pressure.

DANGEROUS TILT TO THE STRATEGIC BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. BRECKINRIDGE. Mr. Speaker, I wish to interrupt, temporarily, my ongoing "Balance(s) of Power" series to alert the Congress and the American people to a thought-provoking and ominous article by Senior Specialist John Collins of the Library of Congress. Mr. Collins' article appeared in the Baltimore Sun of September 21, 1977, and summarizes the shift in the balance of power between the Soviet Union and the United States. John Collins clearly states the implications for America and the free world of the declining U.S. power. In concise terms, John Collins points out that "America's security is now at a crucial crossroad," and it is up to each and every one of my colleagues and the American public to address this national security issue. Mr. Collins' article follows:

DANGEROUS TILT TO THE STRATEGIC BALANCE

(By John Collins)

WASHINGTON.—The balance of U.S. and Soviet military strength is clearly shifting across the board in the Kremlin's favor. That is not an inflammatory statement. It is a straightforward fact.

Fifteen short years ago, at the time of the Cuban missile crisis, America's armed services reigned supreme in almost every respect. We were the world's sole military superpower. Moscow's machine was mainly second class. Since then, U.S. forces have registered many improvements, but their relative decline has been dramatic compared with Soviet counterparts.

Mutual vulnerability, this country's nuclear deterrent mainstay, is much less mutual than it was in the 1960's.

Moscow's monster ICBMs, with added accuracy and many large MIRVs, threaten the survival of U.S. second-strike Minutemen, which are sitting ducks in undefended silos. Our missiles may still serve as effective deterrents for some extended period, but the question no longer is whether the Soviets eventually could crush them. The only question is when.

America's leaders lately have all but scuttled strategic defense, leaving this nation naked to nuclear salvos. The Soviets, in contrast, are taking strong, cumulative steps to protect their population and production base. Assertions that their defensive shield could soon neutralize U.S. retaliatory strikes probably are premature, but a Soviet ABM breakthrough, coupled with existing air and civil defenses, could discredit U.S. strategy, which banks heavily on abilities to destroy aggressors if they assault the United States.

U.S. conventional capabilities have also slumped in comparison.

American armed services, assisted by allies in some cases, must deter or, if need be, deal decisively with Soviet challenges, while retaining sufficient strength in reserve to safeguard U.S. interests overseas against possible threats by lesser powers. Many experts doubt they could do it.

Active U.S. ground combat forces, for example, include just 16 Army divisions. Half of those are committed to current missions in Asia and Europe, or act as NATO reserves. Six in the United States should serve as a rotation base for troops stationed abroad. Only two, along with U.S. Marines, are free to contend with contingencies. Conversely, the Soviets maintain a mammoth Army, which has been much modernized since the mid-1960's. Its superior abilities to absorb combat casualties are apparent, and its strength in Central Europe completely overshadows our own.

America's tactical air combat assets in the aggregate afford flexibility not available to any competitor. Our side still enjoys a clear qualitative edge. Small size, however, creates an Achilles heel. The several U.S. services found it physically impossible to satisfy requirements during the recent showdown in Southeast Asia without significantly undercutting capabilities in Europe. They still are spread too thin.

U.S. surface fleets are in danger of destruction by Soviet air-and-sea-launched antiship cruise missiles, which could trigger huge surprise attacks, some from point-blank defense or comparable capability.

Other U.S. naval problems pertain to comparable numbers.

Admiral Thomas H. Moorer, when he was chairman of the Joint Chiefs of Staff, used to quip that U.S. policy had compelled him to "sink" more American ships than any combination of enemy admirals in our history. The intent was to create a smaller force with greater capabilities than its predecessors, but size was cut more quickly than strength could increase.

U.S. attack submarines, whose primary purpose is to counter enemy counterparts, now are outnumbered three-to-one by Soviet wolf packs. Our abilities would be better if the ratio were reversed. As it stands, that balance bodes badly for the U.S. Merchant Marine, whose few ships are marginally sufficient for small-scale operations. Even modest attrition from Soviet submarine attacks could impinge inimically on every aspect of U.S. security, by restricting the transoceanic flow of imperative reinforcements, resupplies, and critical raw materials.

The implications of such developments are subject to dispute. Some seers predict disaster, others disagree. But liberals and conservatives alike seem to concur on one point: neither U.S. principles nor programs of any sort could prosper in peacetime or persevere in war if the balance tipped too far toward the Soviets.

Declining U.S. power already relegates reciprocal arms control accords to a salient position in American plans. This country's security quite literally depends to a high degree on cooperation by a shrewd competitor whose incentives to collaborate are less intense than our own.

Declining U.S. power already weakens America's alliance system, whose political cracks in several cases can be traced to lack of confidence in U.S. capabilities.

Declining U.S. power already degrades our diplomacy. If the present course continues, we could be quite hard put to convince the Kremlin that compromise is preferable to one-sided deals that serve Soviet ends at U.S. expense.

The pity of it is we are letting ourselves be outclassed militarily by a plodding, pedestrian opponent whose path is mainly predictable. Most of our wounds are self-inflicted, caused by questionable concepts that reduce this country's stature and reinforce the Russians.

Item: We disband armed forces after every war. The Kremlin continues its buildup.

Item: We stress quality at the expense of quantity, while the Soviets strive for both.

Item: We feature firepower instead of manpower. The Soviets feature both.

America's security is now at a crucial crossroad as a direct result of those and similar dubious policies. We have the potential to turn trends around, but problems will prevail if U.S. decision-makers bank on bigger budgets to cure defense ills, instead of better strategy. Procuring unnecessary or unusable accoutrements simply to achieve apparent parity (a strong argument for some U.S. weapons systems) seems a poor way to shore up sagging capabilities or to influence perceptions among enemies, allies, or uncommitted countries. Practical power would pay greater dividends.

In short, we can drain the Treasury dry without improving security, unless U.S. leaders match meaningful ends with measured means in ways that minimize risks and reinforce weak spots. David didn't drop Goliath with "more of the same." He used a slingshot instead of a sword, and changed the name of the game.

INTERNATIONAL WOMEN'S YEAR—IWY—ORLANDO, FLA. CONFERENCE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. CHAPPELL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Over the past few months, there has been considerable controversy generated as a result of various International Women's Year conferences held at the State level. Certainly, my own State of Florida was no exception in this regard. The Orlando, Fla. conference held in July has caused much unrest among the women of Florida's Fourth District and, I believe, warrants special consideration.

Based on information I have received, examples of which follow, it appears that the Orlando meeting of the IWY was conducted in a manner which violated the spirit and intent of House Concurrent Resolution 309 which authorized these State level meetings and H.R. 9924 which provided the funds. Specifically, my constituents who attended the State meeting in Orlando believe that the IWY is a cover for ERA lobbying activities contrary to and prohibited by congressional mandate. It is my fear that what we have done in this instance is to authorize funds for political activity. If this is the case, and keeping in mind the fact that Congress has authorized $5 million of the taxpayer's money, I feel that we must convey a need for more clearly defined objectives if such conferences are to fulfill their purpose in the future. Furthermore, it is my feeling that delegates elected as representatives at the Orlando conference were not chosen on the basis of guidelines established by Public Law 94–167. In effect, this thwarted the will of the majority and casts doubt as to the real purposes of these IWY operations. Due to the controversial aspects of the Orlando, Fla. meeting, I have asked the General Accounting Office to investigate the manner and tone of the Orlando conference to ensure that it follows congressional mandate.

Mr. Speaker, I want to share with my colleagues two letters sent to me by two of my constituents, Mrs. Joan Mathias and Mrs. Jackie Grant of Ocala, Fla., as I believe they are representative of the frustrations and disappointment experienced by many who attended the Orlando IWY conference. It is my hope that in the future IWY conferences will be more representative of the majority views and held strictly accountable for the use of taxpayer's dollars.

The text of the two letters follows:

JULY 22, 1977.

President JIMMY CARTER,
The White House,
1600 Pennsylvania Avenue,
Washington, D.C.

DEAR PRESIDENT CARTER: The following occurrences at the International Woman's year (I.W.Y.) Florida Conference, which were contrary to all proper parliamentary procedures, cause me to doubt the integrity of all 56 I.W.Y. Conferences.

Write-in candidates were disallowed by the chair. Roberts Rules of Order Newly Revised (R.O.N.R.), Pg. 361 states ". . . each member is free to vote for any eligible person, whether he has been nominated or not."

It is my understanding the purpose of the I.W.Y. Conferences was to discover how women all over the country felt about such issues as ERA, abortion and other subjects pertaining to women. In such a case, "those present" should constitute a quorum. The Chair for the Florida IWY declared the meeting adjourned on the day these issues were to be decided, when in fact only those interested enough to attend should be able to have any effect on the outcome. To allow those so disinterested as to not attend, to stop those attending from voting, is of course a miscarriage of justice.

The chair also closed the nominations after one hour. R.O.N.R. clearly states, pg. 366, that "when it appears no one else wishes to make a nomination, the chair should again ask if there are any further nominations, and if there is no response, he may normally declare the nominations . . . are closed . . ."

It is further stated on pg. 241–2 (R.O.N.R) in Motions Relating to Nominations, "7. require a majority vote, except a motion to close nominations, which requires a two-thirds vote because (a) its adoption deprives members of a basic right—to nominate; and (b) the assembly must be protected against attempted abuse of power to close nominations by a temporary majority." Page 364 states "After the nominating committee has presented its report and before voting . . . takes place, the chair must call for nominations from the floor."

In regards to "Mass Meetings", R.O.N.R. on page 455 states . . . "in any event, a mass meeting is convened—and those who attend are admitted—upon implied understanding that the sponsors . . . have the right to have the proceedings confined to the overall object they have announced; but that the entire assembly (which is made up of persons whose help the sponsors are seeking) has the right to determine the action to be taken in pursuit of the stated object."

The rules as sent to the Federal Registry prior to the Florida I.W.Y. meeting included the one-hour limit on floor nominations. This plus the refusal of the chair to allow write-ins and the refusal to allow voting on workshop issues using the excuse "lack of a forum", all are incorrect actions and therefore invalidate all actions taken at the forum, in my opinion. I come to this conclusion because any rule which "deprives members of a basic right" must be agreed upon by a ⅔ vote in the affirmative by the assembly.

Further evidence to support my feelings includes the fact that the top 13 vote-getters of the 40 nominees to attend the Houston Conference were from the "conservative slate" (anti-ERA) and were nominations from the floor. The voting went as follows:

Total vote, 1,671.

(A) W. LeFils (top conservative vote-getter), 1,032.

(B) G. Cherry (top pro-ERA vote-getter), 632.

(C) M. Mosher (lowest conservative vote-getter), 949.

(D) R. Cacciola (lowest pro-ERA vote-getter), 504.

A little simple math suggests a bleak picture of the violations of the majority rights of those attending the Conference.

By subtracting the number of votes for LeFils (1,031) from the total voting (1,671), then only 639 women at the conference were pro-ERA. OR, by subtracting G. Cherry votes (632) from total voting (1,671) then 1,039 were conservative, or anti-ERA. It takes little imagination to see that if floor nominations had continued the conservatives could have won all 40 delegate spots. I re-emphasize, the top pro-ERA candidate had 317 FEWER votes than the lowest conservative vote getter.

This proves to me that at the Florida IWY Conference (and perhaps at most or all the conferences) the wishes of the majority were ignored. As Henry M. Robert stated "Where there is no law, but every man does what is right in his own eyes, there is the least of real liberty."

I suggest the officials (or outside observers if necessary) of the IWY Conference in Houston examine each of the delegations sent (and the procedures of all 55 Conferences) and ascertain that such blatant violations of Parliamentary Law did not occur and that such violations be sufficient evidence to exclude those delegates from the Houston Meeting.

I further suggest that the viewpoints of Florida women were not fairly exhibited by the 27 pro-ERA delegates elected, and therefore I ask that none of those 27 be allowed to attend, much less vote at, the Houston Meeting. The only proper place for them would be participating in the submission of a minority report, which of course would allow them, even as a minority, to have their say.

Very Sincerely,

JOAN T. MATHIS,
Ocala, Fla.

OCALA, FLA.,
August 3, 1977.

Representative BILL CHAPPELL,
207 N.W. 2nd Street,
Ocala, Fla.

DEAR MR. CHAPPELL: I am aware of your deep and growing concern for our country, and wish to call to your attention (as I know countless others have) a very serious matter concerning the blatant misuse of our tax money for the so-called International Women's Year. They have five million of our tax dollars, and now they want three million more. If you could have been with us in Orlando at the meeting several weeks ago, you would have thought you were in Russia, instead. It was absolutely frightening.

I have an appointment to see you next Wednesday morning, but wish to give some preliminary thoughts of my impression of the conference. I am sure that Shirley Correl, Rani Davidson, and others have already informed you of the unfair voting and nominating procedures for Houston delegates, though they do not live in this district; and I know for certain that Joan Mathis, who is somewhat of an expert on parliamentary procedure, has written you concerning the details of the nominations down there. Suffice it to say that it was rigged and manip-

ulated from the word go, by the Federally Appointed committee, which was by far slanted toward the left, liberal, pro-ERA, pro-abortion, pro-lesbian side of the ledger.

The resolutions they drew up, which were never approved by the convention but which those hussies say, in their news releases, that they are going to take to Houston, are frightening. Some of the things they propose are rights for lesbian mothers and all lesbians, homosexual adoption, sex education in the schools, an international slant instead of pro-American nationalism, etc. I will bring my copy when I come next week.

The sad thing is, the pro-family, anti-abortion, anti-ERA, pro-God women were in the majority at the conference. Our thirteen received the highest number of votes; in fact, our lowest received 317 more votes than their highest vote-getting delegate, Gwen Cherry. It is strange, too, that 22 of the 27 they elected were also members of the committee who planned the whole fiasco. At any rate, we did disrupt the conference; we had to, as our rights were being trampled on in such a thoroughly un-American way. It made my blood boil.

The "other" side consisted of several types: slick, professional feminists like Cherry, Athanasakos, and Wilson; and, what I would call rabble. Many were there in sloppy blue jeans and tee shirts with feminist sogans; many were obviously and admittedly lesbians; many were obviously and admittedly socialists. It was sickening.

And yet, this weird crowd proposed to speak for the women of Florida. You can bet we didn't let them get away with it, though "officially" they elected more delegates. We are in the process, now, of trying to get an injunction against the whole slate of delegates and the resolutions—declare the whole convention illegal, which in fact it was.

Apparently, the Florida convention was not the only one which was dominated, as carefully planned beforehand, by the weird feminists; it was not until the later conventions that the women woke up to what was going on, so the majority at Houston will, presumably, be the non-typical women of the type I have just described.

It was sickening, the way they shouted and cursed and booed when anyone on our side mentioned God, the Bible, or quoted Scripture.

Just how far these creeps will go, is evidenced on the fact that they had a pornographic art show in connection with the Orlando meeting, which was so bad it had to be taken down. Some of our women saw it, and it was raw. In one of the sex workshops at the Pennsylvania meeting, according to "The Wanderer," "bestiality and necrophilia were promoted as normal forms of sexual expression. 'Alice Loves Mary' buttons were prominent as were photos of homosexual and lesbian acts in the student union center on Duquesne's Catholic campus." "The Mindszenty Report" tells of Communist literature being distributed at the Minnesota meeting; Colorado's meeting had lesbian workshops and one on atheism (though neither the American flag, National Anthem, nor prayers were permitted); and in Virginia, self-proclaimed witches had a workshop on witchcraft. And in Minnesota, where one participant suggests opening with prayer and pledge to the flag, she was hissed, shouted down, and voted out of order. In Wisconsin, radical feminists marched from the state capitol shouting "Two-four-six-eight, Smash the Family, Smash the State."

And so it has gone, in state after state, Florida being no exception. I saw radical literature being distributed that could be called nothing short of Communist. I had a long conversation with two lesbians manning the Socialist Worker's Party booth. Pro-abortion literature was rampant, and it was sickening. Thank goodness, the good people were there; the pro-lifers had a booth, as well as several others. But though we were in the clear majority, the leftists who were leading the convention had already sewed things up so that officially, anyhow, they "won".

But in "winning", they actually lost; for they have gone too far this time. They have so incensed the decent women of Florida and the nation, that we will not be kept down, we will not be silent.

And so, I will be looking forward to seeing you. I am certain you will be sympathetic to our cause.

Sincerely,

JACKIE GRANT.

JOHNSTOWN AND METROPOLITAN LIFE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MURTHA. Mr. Speaker, Metropolitan Life Insurance Co. recently located its mideastern head office in Johnstown, Pa. I want to insert in the CONGRESSIONAL RECORD an article which lists the work done by Metropolitan during the flood of 1977 and I commend them for their help:

MET'S DISASTER RELIEF PROGRAM HAS GIVEN AID FOR 60 YEARS

Metropolitan employees who suffered loss of property in the Johnstown flood were eligible for financial assistance under the Company's Disaster Relief Program. In charge of the program's administration is Vic Emerson, Manager, Authenticating Division under Senior Vice-President and Controller Paul Knies.

"This program goes back in Metropolitan history to 1917," says Mr. Emerson, "It's designed to help the employee restore some of the essentials of life—common household utensils, clothing, things of that sort.

"When there is a disaster like the one in Johnstown, we send a representative from this department—either myself or, in this case, Walter Zdeb—right to the scene. We interview people individually. In Johnstown we worked at the head office where there are checkwriting facilities and we were able to disburse some money right on the spot.

"Authorizations for the payments are made by someone at the site. It was Joe Guiffre (Vice-President in charge of the Mideastern Head Office) who authorized these last grants."

Metropolitan also has another emergency assistance program for employees, the Hegeman Memorial Fund for Employees' Welfare, but it is not related to the Disaster Relief Program.

"The Hegeman Fund," says Mr. Emerson, "is used more in the nature of personal problems which might develop. The Disaster Relief Fund is used strictly in disaster situations. Money is provided for the disaster program by an annual appropriation by the Board of Directors."

GUIFFRE, BARKER OPTIMISTIC

When the flood struck Johnstown, Metropolitan was very fortunate to have two unusually dedicated people in charge of its offices there—Joseph Guiffre, Vice-President at the Mideastern Head Office, and Edwin Barker, Johnstown's District Sales Manager.

Both offices escaped damage, and operations are now almost back to normal. Home Office Edition spoke to Mr. Guiffre and Mr. Barker about the recovery efforts.

MR. GUIFFRE

Q. Did the flood cause the head office to be closed any days?

A. Part of one day only—Wednesday, July 20. At about 10:15 we decided to call a halt to operations because the electric power and the telephones were very erratic. That was the only time we were totally closed.

Q. How many of your people were able to make it in that first day?

A. About 55. After that they began drifting back in larger numbers each day.

Q. Is everything back to normal now?

A. Yes, there's no question about it. Our work is being brought up to date. There were some electronics problems between here and Scranton and between here and Wichita that contributed to our backlog of work, but we are caught up now.

Q. What would you say was the mood of the employees?

A. They had a positive attitude throughout the whole thing, really. Understandably several were in a kind of shock. That's what I discerned in talking with them, particularly those who had severe damage to their homes. But overall I think we were extremely fortunate, and when you consider the number of people we employ, we had relatively few losses. While we had several people who lost their homes, we didn't lose a life, and that's quite fortunate when you consider the total damage done.

Q. What financial help has Metropolitan Salvation Army?

A. Many grants have been made and are still being made to employees who have suffered property damage. Also, by going through normal channels at the home office, it was arranged to contribute $15,000 to the American Red Cross and $10,000 to The Salvation Army.

Q. Were those contributions used for any specific purpose?

A. Appropriately, it was earmarked only for Johnstown. We requested it be used for food, clothing or shelter for the local victims.

Q. At one point, all but a few employees had been accounted for. What was it like waiting to hear about them?

A. Most of us have had tragic experiences in our lifetimes, but you can't get used to these experiences. You feel a great deal of remorse, a great deal of concern, and you try to address yourself to other things so that you don't get morbid or morose about it. When you're visible, as I am, you can't indulge yourself in that way. It doesn't help the people around you. You feel deeply, but you must do it inwardly. In addition, your main responsibility is to provide leadership to almost 2,000 other sales and sales management people and to service approximately four million policyholders in the State of Pennsylvania. So you can't let the whole thing fall apart, notwithstanding the tragedy that we experienced.

Q. What expectations do you now have from the Johnstown area?

A. While the situation was extremely bad in terms of property damage and loss of life, normalcy is returning quickly. Of course, the flood will have its effect for some time to come. But I think the thing the people of Johnstown have going for them—and this is aside from the layoffs at Bethlehem Steel—is their good morale and resilient attitude. They will do whatever is necessary to put the flood behind them. They'll work harder and longer. That's what it boils down to.

MR. BARKER

Q. What's the situation now in Johnstown? Do the people have faith in their slogan, "We Will Rebuild Together"?

A. The town will rebuild together. I don't know if it's the background of the people in Johnstown, what they've been through—this is the city's third flood in 88 years—but the people will rebuild Johnstown. It'll

take awhile. Especially among the people who suffered the greatest losses. And they also have to fight the depressed mood that accompanies disasters like this. But you can already see the difference in the town, the progress the town has made. You might look out now and say it's still in a hell of a mess, and I'd agree with you. But it looks like a fairyland compared to what it looked like a few weeks ago. And that's because of the people, including the business community, the Red Cross and the Salvation Army, who dug in and dug out and helped each other.

Q. How about this district office? What's going to happen here?

A. A lot of people may have written us off in terms of production for this year but we've had a pretty good record for the past several years. And in talking to my people I can sense that we haven't given up. We know we're going to have another good year. We have a good, proud organization, and the people in Johnstown whom we service need life insurance just as much now, or maybe more than they did prior to the flood. I think many of them are more cognizant of the need for life insurance now than they ever were before. Take a look at the end of the year. See where Johnstown District is. We're determined not to finish poorly in 1977.

Q. When you got back together for the first time with all the sales people, what did you tell them? Did you have some kind of general plan in mind on how to operate?

A. Not really. They rallied on their own. It was remarkable. Everyone was just happy and thankful that we didn't lose anyone, that no one lost anybody from their family, that no one was wiped out financially. We had some people who lost things, but no major catastrophes. And the first few times we got together, we were still talking about the flood. We all just went back to trying to get our work done. We could feel the spirit, and we're kind of proud of the district starting right then to come back together.

Q. How about yourself? Have you been able to recover from the emotional impact of everything that happened?

A. It depends on what I'm doing. If I get involved with someone who was hit hard by the flood, I have to be very careful not to let my emotions take over. It was very disheartening to me to see our city in the condition that it was in. At the same time, I'm very proud to see the way people are coming back, the way the city is cleaning up and businesses are rebuilding. But the faces of some of the people still tell the tragic story, particularly among some of the elderly people who were wiped out and who don't have the heart to start over again; their plight reaches out to you. You just have to be careful that you don't let your emotions take over. Most of the time you have a good feeling about the way the people are responding and about their overall good attitudes.

RESOLUTION INTRODUCED TO INCREASE COMPENSATION FOR POSITIONS IN OFFICE OF DOORKEEPER OF THE HOUSE OF REPRESENTATIVES

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. KETCHUM. Mr. Speaker, today I have introduced a resolution which seeks to increase the compensation for positions under the Doorkeeper of the House of Representatives.

In 1974 the Subcommittee on Personnel and Police of the House Administration Committee recommended that all doormen be reclassified from level 3 to level 2 within the House Wage Schedule. What this did was to reduce the salary of newly appointed doormen as well as to reduce the level of pay increases to currently employed doormen.

It certainly is a poor state of affairs to find that doormen of the House of Representatives were subject to salary schedule reductions by the very Members whom they have so ably served. The office of Doorkeeper has evolved into an integral part of the legislative structure of the House, and it is only fitting that the Members reinstate the doormen to the classification that they properly deserve.

HUD HOUSING POLICIES

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. LUNDINE. Mr. Speaker, I would like to bring to the attention of my colleagues the following speech delivered by Jay Janis, Under Secretary of the Department of Housing and Urban Development, to the annual convention of the National Association of Real Estate Brokers in Atlanta, Ga., on August 15, 1977.

Although in the past I have sometimes been critical of the policies of the Department of Housing and Urban Development, I am encouraged by the renewed vigor with which the Carter administration is addressing our Nation's housing problems. HUD is beginning to demonstrate tangible signs of their commitment to solving the chronic maladies which have afflicted our cities for so long.

Not only has HUD begun to address the problems of our urban centers more vigorously, but they are becoming increasingly responsive to the problems of small cities and rural communities. It is the unique problems of these nonurban areas with which I have become especially involved, particularly during deliberations on the Housing and Community Development Act of 1977. With the cooperation of HUD, we were successful in securing revisions in our major housing programs that will more adequately address the community development needs of these areas.

The specific efforts of the Carter administration and the Department of Housing and Urban Development, under the leadership of Secretary Patricia Roberts Harris, to more actively address our Nation's housing and community development needs are clearly outlined in the speech presented by HUD Under Secretary, Jay Janis.

REMARKS BY JAY JANIS, UNDER SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Before I begin, I have a special message for you. President Carter has asked that I give you his best wishes for a productive and rewarding conference. He is very much aware of the good things this group is doing, especially under the strong leadership of John Thompson, whom he recently appointed to the FNMA Board.

I bring you also very special greetings from Secretary Patricia Harris. She wanted very much to be here on the occasion of your annual meeting and she regrets that her schedule would not allow her to join you. She has been devoting her full energies to the job of turning HUD around—to make it effective and efficient again. And believe me, she has been succeeding. More important, she has carved out new policy directions regarding this Nation's urban concerns—and it is these new policies that I will be discussing later. Her new urban initiatives and her leadership—not only within HUD but within the Executive Branch itself—have been central to shaping the emerging Carter Administration policy for our cities and for those who are ill-housed. The impact she has made in her first eight months has been enormous and I am personally proud to be a part of her team.

It has been a little more than a month now since the night of the blackout in New York City—and the looting that followed. A great deal of anger was generated across the land by the scenes on the Nation's television sets. Small businesses were destroyed and those without insurance may never recover. This was a human tragedy of sizeable proportions which no one denies.

In the days that followed, editorial passions calmed and cooler heads began to assess the tragedy in terms of cause and effect. Yes, they said, the summer heat could have been a factor in the violence that erupted on the city's streets. And unemployment, especially among the city's younger population.

Unemployment? The New York Times, in a story that appeared August 2nd, three weeks later, reported that 86 percent of ethnic/minority teenagers in New York City, and 74 percent of white teenagers, were unemployed. The Times survey showed that in a population of more than 515,000 between the ages of 16 and 19, only 113,000 had jobs.

Those, in themselves, are frightening statistics. When you add to them the compendium of ills that weigh down the poor in our older cities—the impaction in the ghettos, the lack of decent housing, inadequate health care and educational opportunities, and all the rest—you get a clearer picture of "why" and "how" that night of agony came about.

This is another type of human tragedy perhaps of even greater significance to the future of American democracy.

The night of July 13 reminds us of the need to renew our commitment for a single national policy, meshing our housing and urban development programs to form a coordinated new design for urban America.

During the past eight years of the Nixon-Ford Administrations, we abandoned our national commitment against the continued existence of two societies—one black and one white, separate and unequal. And we abandoned our national goal of a decent home in a suitable environment for every American.

The Carter Administration will not allow those commitments and goals—enunciated as far back as 1949—to be forgotten. We are committed to a new vision for America.

The road is not an easy one, but let me recite some of the initiatives we have already taken to preserve our cities and serve the housing-deprived in this country.

The Community Development Block Grant program will be reauthorized for three years, at $3.5 billion in Fiscal 1978, $3.65 billion in Fiscal 1979, and $3.8 billion in Fiscal 1980.

We will be using a formula that will target more funds to older distressed cities. New York City stands to gain $75 million, Chicago $60 million and Detroit $35 million in 1980 under this method of funding.

We are initiating a multi-million dollar Urban Development Action Grant program to meet the unique development needs of urban America, and to give local government leaders a flexible tool for urban revitalization.

We are expanding program activities under block grants to encourage local economic development.

Let me interject a word here on the way we plan to carry out the Community Development Block Grant program. Under the previous Administration very little was done in the way of monitoring the more than $3 billion in funds going out to some 1,500 communities. That procedure—or lack of it—has been changed. We have made it clear that we will enforce the requirement that the funds be used for projects that help low and moderate income neighborhoods, eliminate slums and blight, or meet other urgent needs.

And we have informed the participating communities that we will strictly enforce the requirements for low and moderate income housing when that type of housing is demonstrated to be necessary.

We have shown the communities that we mean what we say. No longer will they be eligible for these funds unless they accept their fair share of low and moderate income housing.

In the area of housing, we have proposed:

An increase for Fiscal 1978 to 381,000 units of assisted housing—164,000 units of existing Section 8 housing, 136,000 units of new and rehab Section 8 housing and 81,000 units of public housing, including 6,000 for Indian housing.

Expanding the Urban Homesteading program to 39 cities, with $6 million in property and rehabilitation loans from HUD. The cities estimate that this extra $6 million will generate $25 million in public and private investment in the designated urban neighborhoods.

Raising mortgage limits in our FHA insured programs. The basic single-family mortgage limit (Section 203(b)) will increase from $45,000 to $60,000. The basic 235 home-ownership assistance program mortgage limits will increase from $25,000 to $32,500 and from $29,000 to $38,000.

Decreasing the minimum downpayment requirements in our single-family programs. For instance, on a $48,000 house, the current minimum downpayment required is $4,350 or approximately 9 percent. Under the new rule, the minimum downpayment would be $1,900 or approximately 4 percent.

Expanding the Graduated Payment Mortgage plan to broaden ownership opportunities for younger families. This allows young families to make lower monthly payments now, when their incomes are low, and slightly higher payments later when their incomes have increased.

We have also established new procedures for using the Section 8 subsidized housing rehabilitation program for neighborhood conservation. We have set aside 20,000 units for this purpose, to provide subsidized housing in areas being revitalized, so that the poor will not be displaced by higher income families moving back into the central cities. Finding solutions to the negative aspects of such displacement will be given the highest priority over the coming months.

Processing time has been radically reduced in the Section 8 program. We are speeding up our program, not to improve our statistics, but because we want to serve the poor more effectively. For example, as of March 1, only 12,688 Section 8 units were under reservation and less than 13,000 had been started. By July 30, 160,773 units were reserved, and 65,672 were started. During 1976, only 40,000 units were started; in 1977 we expect to start 100,000.

In the four-month period ending May 31, FHA insured 116,000 single family units—nearly half of the total volume for Fiscal 1976—and 30,000 multifamily units, 66 percent of the 1976 volume.

We have not stopped there. We are now in the process of evaluating new ways to improve our present programs and evaluating new initiatives to meet our responsibilities. We are discussing:

How the CDBG program and Urban Development Action Grants can contribute to the preservation and revitalization of cities.

Coordinating public and private investments in the inner cities, in particular, leveraging public dollars to boost private investment.

Expanding housing counseling assistance to help low income families become homeowners.

And we are examining how our mortgage insurance programs can be used to increase the supply of housing in the inner city, to include more middle income families to return to the cities, as well as provide assistance to low and moderate income families who are living in the cities and would like to stay there.

Why are we so concerned about housing, you might ask. Let me tell you why. Our latest figures indicate that while 80 percent of American households are reasonably well housed, there are at least 14 million households that suffer from some sort of housing deprivation. Approximately 5 million of them live in substandard housing, with the remainder paying an excessive portion of their income for rent, which we define as more than 25 percent of income. Without assistance these families would have to spend 40 to 50 percent of their income for decent housing. Compare this to an overall American average of 19 percent, which in itself exceeds the percentage of income spent on housing in many European countries, e.g., Sweden—15 percent; West Germany—13 percent.

If we are to have a national housing policy in this country, it must turn on whether or not we accept as a national commitment the Congressional goal of a decent home in a suitable environment for all Americans, first expressed in the 1949 Housing Act. I believe that acceptance is essential. We must meet this Nation's need for shelter, in particular, for those whose needs cannot be met by the private market without some form of subsidy.

The needs of these families must be addressed by active, ongoing housing assistance programs, not by fits and starts as it has been for the last eight years, but at predictable, noncyclical levels. It is folly to expect much from an industry that is, at first, persuaded to gear up to produce subsidized housing and then is told that the programs may be stopped. Given the long lead times required in putting a project into the ground—along with the cash investment necessary up front—most builders will look for other less risky ways to spend their time. Builders of low and moderate income housing cannot be turned on and off like a faucet. They simply won't be there the next time we need them.

The need for new single and multifamily housing can be easily quantified—based on calculations of the increase in households every year, losses from the housing stock as older units are destroyed or placed into some other use, and the elimination of substandard housing units. A number of people have made estimates of those needs, and I have seen figures ranging anywhere from 18 million to 30 million units over the next 10 years. We believe the need to be approximately 25 million dwelling units, of which between 4.5 and 5.5 million units will require a subsidy of one form or another. This is an extraordinary number of dwellings, and unless we have active supply-side housing programs we could never hope to meet those needs.

From the point of view of national housing policy, we have made a deliberate choice on housing policy to emphasize supply programs to meet household growth requirements, replacing unusable housing and providing a sizeable number of units for poor families directly. There are other possible housing strategies besides supply-side subsidies—for instance, housing allowance payments, income assistance, or building for the top segment of the market and hoping the housing "filters down." None of these alternatives, however, seems to us to be a particularly sensible or productive way to go about meeting the housing needs of the American people.

But there are also other good reasons for having active housing subsidy programs.

First, new, rehab and existing housing programs can, if used properly, contribute to neighborhood preservation and rehabilitation. One of the key goals of HUD is to help cities bring about revitalization of their inner cores. Many local governments have taken the lead, with the help of private investment and neighborhood participation, to plan and carry out reinvestment and revitalization strategies. A key ingredient in their plan is housing subsidies specifically targeted to certain neighborhoods for purposes of preservation, renovation, relocation, new construction—or whatever else may be necessary as part of their urban revitalization plan.

Second, many of our housing subsidy programs address the needs of special groups—the elderly, the disabled and the handicapped, for instance. By itself, the private sector has not and probably will not supply adequate housing for these groups, even if everyone in these groups had the income to pay for decent housing, which they do not. Housing for the handicapped is a good example. Housing for handicapped people requires special equipment—grab bars, ramps, special warning systems. Without Federal intervention or inducement, this housing will just not get built. The same is true of housing for the elderly, or for Indians, or for large poor families.

Third, active housing subsidy programs are necessary to generate the private investment to maintain the existing housing stock. One of our most valuable assets is our housing stock and recent experience has taught us that a subsidy incentive is necessary if private investors are to overcome their fears about putting money into urban areas to preserve the housing stock.

Fourth, housing subsidy programs serve to promote upward mobility among families, thereby increasing equity. Housing programs have been criticized because they don't serve all the families who are eligible for and need the assistance. I would like to differ with that statement. For one thing, the only reason we are not able to serve 100 percent of the need is a matter of budget priorities, not program design. For another, housing assistance programs are not permanent, they are temporary. In other words, a public housing family is not always a public housing family. They move into public housing and receive the benefits, but once their economic situation has improved, they are able to afford decent housing without assistance. It allows families to leave the ghetto and start a new, better life. It is difficult to argue that this is not equitable.

With further regard to the question of equity, while this Nation's housing subsidy programs currently serve only about 20 or 25 percent of those eligible for assistance, this may be true only for any given period of time. That statistic does not take into consideration the total number of families that have lived in a single subsidized housing unit. When looked at in that way, a far larger number has been served. This is because a subsidized housing unit is a durable good which adds to the housing stock

and can be used and reused over and over again by successive families.

Fifth, a strong housing subsidy program provides more than shelter. One of the problems economists often have with housing, and housing subsidies, is their belief that housing is simply a commodity like any other and therefore, in a free market economy, should not receive any special treatment. What they forget are the "externalities"—to adopt the economist's own jargon—that is, the benefits of providing housing beyond just shelter itself. Clearly, housing subsidies generate benefits to groups other than those directly assisted. Employment increases of course, because every housing start generates approximately two person-years in the labor force. Thus, 400,000 units of subsidized housing would generate close to 800,000 new jobs in the economy. In addition, each assisted unit generates $4,610 in Federal revenues, $460 in State revenues and $960 in local revenues for a total of $6.030 which totals over $2.4 billion for 400,000 units. Subsidized housing programs also help promote racial and economic integration. They promote better land use and they are located in environmentally suitable areas. As mentioned before, they provide mayors with the tools they need to revitalize their cities.

Sixth, an effect that not many observers notice is that subsidized housing programs have a beneficial impact on the unsubsidized market. An active assisted housing program contributes to the housing supply, which helps to ameliorate some of the upward pressure on costs for all families. Increasing the supply of rental housing, in particular, is absolutely essential since we currently are in the tightest rental market in our history. Vacancy rates are at an all time low of 5.3 percent. Unless supply is increased, there will be continuing upward pressure on rents. Those people who advocate cutting down or eliminating housing assistance programs don't, I think, appreciate this last point.

For all of these reasons, this Nation needs strong housing subsidy programs designed to meet the needs of the housing deprived and to help cities in their long, up-hill battle to fiscal and social solvency. That battle begins in the center city.

This concern for housing by the Carter Administration is not unusual. Assisted housing has been a cornerstone of public policy of every Democratic President since Franklin D. Roosevelt, with the insightful help of Eleanor Roosevelt, looked over a Depression-wrecked America and saw, in compassion, a third of a Nation ill-housed.

For nearly half a century, Democratic Presidents have been following through on FDR's commitment to the American people to help those who cannot cope with the cruel realities of free-market housing to find a safe, clean and decent place to live. And most Republican Presidents have been doing their best to water down or reverse the progress which has been made.

The worst of the Republican attack on American housing policy came during the Nixon era, in which every effort was made to scrap housing subsidy programs, bring housing construction for lower income families to a grinding halt and, to the extent possible, actually dismantle the relatively new agency of government which had been given the task of housing the Nation's poor—HUD.

The Nixon wrecking crew was very effective. Not only did poor people suffer from the absence of new assisted housing starts, but the cost to them for access to the static stock of assisted housing rose. Workers in the construction trades lost jobs. Many contractors went out of business. Manufacturers of building supplies and tools were hard hit. And, in what could not possibly have been an unrelated coincidence, the entire national economy began to slide faster and further into the Nixon recession.

When the American people elected Jimmy Carter as their President they were saying, in part, they wanted no more of the Nixon economics and the Nixon anti-social programs.

Theirs was an Administration which did not like the poor, resented the cities and the kinds of people who populate them, and felt programs aimed at improving the lives of urban dwellers were unAmerican.

Theirs was a mentality which enjoyed telling New York City to "drop dead."

Contrast that with these strong sentiments expressed by Jimmy Carter as the Democratic candidate for President:

He made it clear that "housing for low- and moderate-income people is an expression of concern consistent with the highest standards of the American people."

He supported "greater emphasis on the rehabilitation of existing neighborhoods."

He supported "direct Federal subsidies and low-interest loans to encourage construction of low- and moderate-class housing."

He encouraged "more loans for housing and rehabilitation to the poor."

He favored "expanding assisted housing for the elderly and handicapped."

And a little more than a month ago the President said to the National Black Network that the amount of money that goes for better housing for poor people is going to increase every year he is in the White House.

It is the Carter Administration, through its Department of Housing and Urban Development under Secretary Harris' superb leadership, that has turned the Nixon policies around.

It is the Carter Administration which is committed to the revitalization of the American cities.

That is the Number One priority of HUD.

And, HUD's Number One tool to revitalize the cities is assisted housing.

We intend to turn our full energies to the future—a future in which the Carter Administration can bring forth new initiatives for revitalizing the cities.

That is the mission which Secretary Harris has charted for HUD, and it is at the very heart of the Carter Administration commitment to serve the American people.

For it is the cities where the overwhelming numbers of American people live. And it is people this Administration is honor-bound to serve.

1984 SUMMER OLYMPICS IN LOS ANGELES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ANDERSON of California. Mr. Speaker, I would like to take a brief moment today to congratulate the city of Los Angeles on its success in being chosen the official U.S. candidate city for the 1984 summer Olympics games. The U.S. Olympic Committee has made a wise decision, and it appears very likely at this time that Los Angeles will be chosen over any international competitors.

By stressing a "Spartan" spirit and the fact that the games could be held on a financially sound basis, Mayor Tom Bradley and the Los Angeles delegation were able to overcome a fine bid placed by New York City. California Gov. Edmund G. Brown, Jr., is also to be congratulated for his assistance in gaining the committee's approval.

When the 1932 Olympics were held in our city, they did not result in a huge deficit such as now faces Montreal. Certainly, that was many years ago, and the economic picture today is quite different than it was then. But even though the games have grown in scope, size, and expense over the years, Los Angeles still has the advantage of many facilities which can be readily available for the Olympiad's activities—including the Los Angeles Memorial Coliseum, originally constructed to host the games.

In preparing its bid, Los Angeles has consistently resisted efforts to increase the budget it has proposed to carry the cost of the 1984 Olympiad. I am positive that city officials will continue to avoid pressures to increase the financial outlay, and not allow Los Angeles taxpayers to carry the burden for fiscal extravagance.

The Olympic spirit does not entail such extravagance and luxury. I hope Los Angeles is successful in its efforts to return a "Spartan spirit" to the games; not only would it insure the success of the 1984 Olympiad, it would do much to guarantee the success and desirability of future Olympics as well.

LABOR INPUT TO PANAMA CANAL TREATY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement and testimony of Mr. Alfred J. Graham, president of the Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO, and AFL–CIO labor adviser to the U.S. Panama Canal negotiating team, before the House Committee on International Relations. I believe his comments pertaining to the representation of labor during the treaty negotiations are pertinent in view of the fact that Congress was not consulted and little informed during the negotiation process.

STATEMENT—PART I

(By Alfred J. Graham)

Mr. Chairman, members of the committee, my name is Alfred J. Graham, President of the Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO.

The CLU–MTC in the Canal Zone represents 14 local unions affiliated with nine national AFL–CIO unions. We represent the largest organized group of U.S. citizen employees of the Panama Canal Co.-Canal Zone Government.

The Canal Zone Central Labor Union and Metal Trades Council thanks you and your Committee, Mr. Chairman, for providing us with the opportunity to express our views on the proposed new Panama–U.S. Treaty.

Our presentation will be in two parts. The first part will cover Employee Privileges and Immunities along with Labor Provisions written into the Treaty. The Second part will cover our views on the political impact of the Treaty on the Canal Zone and the U.S. Government Employees working there.

EMPLOYEE PRIVILEGES AND IMMUNITIES

As written into the new Panama–U.S. Treaty, Employee Privileges and Immunities are for the most part satisfactory.

We are not satisfied with the lack of Treaty provisions that would solve the dual citizenship problem once and for all.

The Republic of Panama has a Citizenship Law that in our opinion was enacted for the sole purpose of harassing U.S. Citizens born to American parents on the Isthmus of Panama. The law states that these Americans are Panamanian citizens. These Americans do not want Panama Citizenship, they serve in the U.S. Armed Forces, pay U.S. Income tax, for the most part without representation, and consider themselves to be U.S. Citizens. The U.S. Government agrees that they are U.S. Citizens, but Panama disagrees and says they are Panamanians. When crossing into Costa Rica they must carry a Panamanian passport. The U.S. State Department agrees with the dual citizenship problem by doing nothing to correct it.

If Panama becomes sovereign over the Canal Zone these employees fear that they will be subject to further harassment from the Government of Panama.

We requested that the Treaty stipulate that Panama will surrender all claim of Panamanian Citizenship, in the past and for the duration of the Treaty, on all U.S. Citizens born on the Isthmus of Panama, if the U.S. Citizen states his or her intention of U.S. Citizenship at age 21 to the U.S. State Department. This request was denied.

LABOR PROVISIONS IN NEW PANAMA-UNITED STATES TREATY

As a result of the July meeting of the AFL–CIO Panama Canal Committee, I was elected by the Committee and appointed by AFL–CIO President George Meany to be the AFL–CIO Labor Advisor to the U.S. Treaty Negotiating Team.

I worked with the U.S Treaty Team on Treaty labor provisions until August 26.

We are satisfied that most of the labor provisions we required are included in the New Treaty.

One of the most important labor provisions, Optional Open-Ended Early Retirement, will require legislation. However, we are grateful for the attention President Carter and his staff gave this matter by stipulating that the U.S. Government would sponsor this legislation in the Treaty.

We face other labor problems with DOD. Canal Zone Government operations that will become DOD functions, if the Treaty is ratified, are in danger of losing the Washington, D.C. pay base and Canal Zone leave benefits This will cause serious labor unrest in the Canal Zone. Our schools and hospitals are very important to all of us in the Canal Zone and any disruption of these operations could affect the entire Panama Canal operation.

Labor legislation

We will be seeking labor legislation for the following:

1. Optional Open-Ended Early Retirement.
2. Unemployment Compensation for Non-U.S. Employees.

CONCLUSION

Although Treaty labor benefits are, for the most part, satisfactory we wish to go on record at this time opposing the New Panama-U.S. Treaty.

President Meany does not speak for the affiliated local unions of the CLU–MTC when he supports this Treaty.

This concludes the labor section of our testimony. I will be glad to answer any questions that the House International Relations Committee members wish to ask.

STATEMENT—PART II

It is our opinion that President Carter's Treaty Signing Ceremony in Washington, D.C. set democracy in Latin America back 100 years. It amazes us to witness a U.S. President, with a human rights platform, gather together the largest group of anti-human rights dictators in Central and South America and honor them by signing a Treaty with another dictator.

Ambassador Bunker and Mr. Linowitz testify over and over again that the Canal Zone will be turned over to the Panamanian people. This is what they label as "educating" the American voter so that they will not oppose the New Treaty.

You can be assured that 7 billion dollars worth of land and property will not be turned over to the Panamanian "people". As usual with military dictators the "people" will get little or nothing out of this Treaty.

The U.S. Citizen employees are observing the "educational" program of both Countries very carefully. Ambassador Bunker is trying to paint an oppressive Government lily-white. The Panamanian Government has a different tactic. Their action plan is to print anti-U.S. articles in the Government controlled press and 24 hours a day broadcast Imperialist Yankee Go Home slogans on the Government controlled T.V. and news media.

Communist and pro-communist elements within the Panamanian Government are working diligently to "educate" the people of Panama to throw the U.S. presence out no matter what guarantees are written into the Treaty concerning continued U.S. military presence in Panama.

U.S. Citizen employees who would be asked to remain in Panama to operate the waterway until Panama could operate it are rightfully concerned over their loss of Civil Rights under the sovereignty of the present Panamanian Government. There is no freedom of the press, speech or the broadcasting media.

Many of our members fear the actions of the Guardia National. Some think that Americans will be harassed so that they will leave Panama sooner than they planned. Already one Canal Zone labor leader, opposed to the Treaty, has been arrested and harassed by the Government of Panama, and this included the blowing up of his private automobile.

To bring this point home to Committee members, the fact that I am reporting to you our feelings about the oppressive Government of Panama, I am placing in jeopardy the well being of my family and myself at this very moment. I am also putting my career with the Panama Canal on the line. You can be assured that I will go on the list of Americans to be dealt with should sovereignty become a reality.

We do not pretend to be experts on National Defense matters. However, the Neutrality Treaty provides that if the U.S. goes to war, the enemy nation will have guaranteed access to the Panama Canal. To put it another way, if an ally of the U.S. sent an expeditionary force to Panama to stop the enemy nation from using the Panama Canal, the U.S. military would be required to stop them so that our enemy could be free to transit ships of war to attack the United States.

Our Joint Chiefs of Staff have approved this Treaty and we say we want our share of income tax money back that is helping to pay their salaries, because these fine gentlemen are not earning their pay.

In conclusion, we oppose any treaty given to a military dictator. We believe that the U.S. should live up to its image as the leader of the free world and consider a treaty only with a Constitutional Government in Panama. Do not be fooled by the word plebiscite. Plebiscite by threat is no substitute for Democratic Government.

Furthermore, we are convinced that the Panama Canal will be in the hands of the Communists, if not before, then shortly after the year 2000.

We believe that the American people are being misled and lied to about the Panama Canal. It is too small, too old, the Canal Zone is an area dividing Panama. The Panama Canal can be blown up with one hand grenade. All nonsense.

It is the largest lock type Canal in the world. The Queen Elizabeth II transits as well as ships up to 946 feet long and 105' wide drafting 40 feet.

It has been maintained and is in better condition today than it ever was.

The people of Panama are free to enter the Canal Zone whenever they wish, and anyone who says it can be destroyed with one hand grenade has never seen the Canal.

Finally, we believe that no Senate or Congress of the United States should be told by a dictator to "Ratify or Else".

Again I thank the Committee for permitting us the opportunity to express our views.

PART III

Mr. LAGOMARSINO. Mr. Graham, you indicated you sat in, you were a special adviser.

Mr. GRAHAM. Yes, sir, I was AFL–CIO adviser to the U.S. treaty team.

Mr. LAGOMARSINO. Did you meet with our negotiators in that capacity?

Mr. GRAHAM. All but Mr. Linowitz. Mr. Linowitz was never in town while I was working in the State Department. I did meet Ambassador Bunker, Mr. Wayrough, General Dolvin, people that were actually doing the staff work on the treaty.

Mr. LAGOMARSINO. Do you feel you had input into the decisions that were reached on the labor matters?

Mr. GRAHAM. Yes.

Mr. LAGOMARSINO. I congratulate you on having apparently more influence than we have, because as far as I know no member of Congress was consulted and asked for suggestions, so you have something that is unique.

Mr. GRAHAM. This is one of the problems why we were asked not to advertise my presence there. The shipping lobby and others would be interested also in having advisers.

Mr. LAGOMARSINO. I am quite sure they would be.

Mr. GRAHAM. However, the outcome I think speaks for itself. That obviously the U.S. State Department was interested in Mr. Meany's final approval, and it stands to reason that Mr. Meany has 13 million members in the AFL–CIO, active AFL–CIO opposition to the treaty could well result in its defeat. I believe that was the overriding factor that persuaded Mr. Bunker to put a labor representative on the treaty team.

Mr. LAGOMARSINO. On the other hand, overwhelming opposition by Members of Congress can result in its defeat.

Mr. GRAHAM. That is one of the things that has been bothering me all along about this. The Government of Panama seems to think that the Congress of the United States is some kind of big judge you didn't have to deal with. He is a military dictator who walks into his hand-picked national assembly and says all in favor say Aye and rubber stamps every bill he hands them. Perhaps that influences his thinking when it comes to the Senate and the Congress of the United States. That man is really, in the United States I think we would term him as somewhat of a hick.

His ignorance, for instance, of the operation of the Panama Canal is appalling. I have personally spoken to him and he seems to have a notion that the ship shows up and somebody goes out in a row boat and picks up the check and says go ahead and takes off and that is all there is to it. A slight obstruction in the wakes of the locks never seems to enter his mind. I also believe that he has no real knowledge of the American legislative process, and so that I believe influences him also.

VOLUNTEER MILITARY SAID WORKING

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. STEIGER. Mr. Speaker, Dr. Richard V. L. Cooper's long-awaited Rand Corp. report, "Military Manpower and the All-Volunteer Force," has been published.

Dr. Cooper, perhaps the top civilian expert on military manpower policies, spent 4 years preparing his report. His firm conclusion is that the switch 4½ years ago from a draft-induced to a Volunteer Armed Force "has worked."

Today's volunteers are smarter than their draft-era predecessors, he found. They are representative of the Nation as a whole, too, both economically and from an urban-rural standpoint.

Contrary to critics' claims, the All-Volunteer Force—AVF—has not driven up defense manpower costs, Rick Cooper found. Only two-tenths of 1 percent of added defense costs can in any way be attributed to the AVF, he concluded. Increased pay and benefits preceded the volunteer approach, and they were implemented because of the draft in many cases.

The Washington Post and New York Times both provided excellent synopses of Rick Cooper's study in their Monday editions. I commend them to your attention:

[From the Washington-Post, Sept. 26, 1977]

VOLUNTEER MILITARY SAID WORKING

(By George C. Wilson)

The great American experiment of filling the ranks of the military with volunteers rather than draftees "has worked," the Rand Corp. said yesterday.

The all-volunteer force, said Rand in its 407-page report, has proved in its first 4½ years to be at least as fair to young people as the draft.

The services have attracted smarter people through recruiting than the draft brought them, the study said. Fears that ending the draft would mean a poor, black Army have not been realized, it added.

"The military services can attract a socially representative mix of the desired quantity and quality of new recruits without the pressure of the draft," it concluded.

The nonprofit research firm, based in Santa Monica, Calif., said the extra cost of relying on volunteers has been modest, adding only two-tenths of 1 per cent to the defense budget.

While "for the most part, the story of the volunteer force has been one of success," Rand said, it warned that the experiment "can be made to fail" if Pentagon and congressional leaders do not improve the way they manage military and civilian personnel on the defense payroll.

The study was commissioned by the Defense Department's Advanced Research Projects Agency.

Other conclusions in the report, entitled "Military Manpower and the All-Volunteer Force," included:

The shortage of jobs for teenagers is not the main reason people have been volunteering for the military since the draft ended, "but rather the fact that military service is apparently seen as an attractive employment option by a broad cross-section of American youth."

Today's black young people are better educated than those of 20 years ago and thus more can meet military entrance requirements, one of two main reasons for the increased number of blacks in the services. The other reason is "the unusually high" unemployment rate among young black men.

There are just as many youths from middle-and high-income areas enlisting as were taken in under the lottery draft system late in the Vietnam war. (The draft ended in 1973.)

The proportions of country and city youths volunteering "are remarkably similar" to what they were under the draft.

It "is plainly incorrect" to blame the volunteer experiment, which started in January, 1973, for the biggest increases in military manpower costs. Higher pay and better benefits preceded the experiment.

Looking ahead, the Rand study said that "the key all-volunteer force issue" is not the size of the manpower pool for the military but the number of people the services will need to sign up each year.

Because the services limit the number of enlisted people that can enter the senior pay grades, partly in response to congressional restrictions, the flow of people entering and leaving the military is faster today than it was under the draft.

Yet, said Rand, "the long-run success" of the volunteer force hinges on reducing this personnel turbulence through better management of enlisted manpower.

"Shifting from the current mix of 60 per cent first-termers and 40 per cent careerists to a 55-45 mix or a 50-50 mix," said the report, would result in a better matchup between people and jobs and reduce the need for new volunteers. The combination could save "up to $1 billion to $2 billion per year," said Rand.

Additional automation and more reliance on civilians within the military establishment would save significant sums, according to Rand.

The study faulted the military's system of requiring a person to advance or leave the service, even though "a recent survey shows that nearly 50 per cent of all enlisted personnel would prefer to remain technical specialists rather than assume supervisory responsibilities."

The report said pay and related compensation for the military have risen to the point that officers "earn about 70 per cent more and enlisted personnel about 30 per cent more than comparably aged and educated civilian workers."

[From the New York Times, Sept. 26, 1977]

VOLUNTEER MILITARY CALLED SUCCESS; PAY AND PENSION OVERHAUL URGED

(By Bernard Weinraub)

WASHINGTON, Sept. 25—While the volunteer military has been a success, outdated policies are costing $5 billion to $10 billion annually, according to a detailed study of the nation's four-year-old shift from drafted to voluntary military personnel.

The report by the Rand Corporation, released today, pointedly disputes the conventional wisdom that the volunteer Army includes growing numbers of poorly educated youths from ghettos. Instead, the report says, an increasing proportion of black men and women are meeting the requirements for service.

"The number of blacks entering the armed forces would be about the same under the all-volunteer force or the draft," the report says. "The main difference is that the all-volunteer force, by paying competitive wages with civilian jobs, is not discriminating against blacks the way the draft did."

The report adds: "The American military has not been nor is it becoming an Army of the poor or the black. Military service apparently continues to be viewed as an alternative employment option for a very broad cross section of American society, from the wealthiest to the poorest."

Dr. Richard V. L. Cooper, a senior Rand Corporation analyst and the author of the 394-page report, said in a telephone interview: "Clearly the military service is still an integral part of American society. It's not a poor man's Army. The reason kids join is the same as they've always joined: employment, pay and benefits, job training, a chance to see the world, getting away from home. The reasons haven't changed."

The report said that much of the debate over the volunteer military has been the result of "either a lack of information or misinformation." Although 16 percent of enlisted men are black, as against 8 percent in 1960, the report heaps gentle scorn on critics worried about the influx.

"The rising proportion of blacks should be viewed as a positive sign, given that the main cause is the vastly larger numbers of blacks qualifying for military service," the report said. The Rand Corporation, a research and analysis group based in Santa Monica, Calif., made the study for the United States Defense Advanced Research Projects Agency.

BOOST FOR ENLISTMENT

High unemployment for black youths, coupled with a lag in earning potential for them, has accelerated the numbers of blacks entering the military.

Rather than finding fault with changes that have accompanied the shift to volunteerism, the report declared, "The legacy of the draft has obscured and inhibited change that should be made by Congress and the Department of Defense." It said that the Pentagon could save $5 billion to $10 billion annually with an overhaul of promotion, pay and pension policies.

The report urged the Pentagon to open the door to more re-enlistments, thereby cutting the costs of training new recruits each year, and to remove sizable numbers of civilians from its payroll, replacing them with civilians under short-term contracts.

In dealing with the often-criticized military pension system, which costs more than $35 billion a year, the report said plainly that the Pentagon must undertake a major overhaul of the pension program before costs escalated further.

HIGHER COMPENSATION

"It turns out that military personnel remaining until retirement earn a total compensation package 30 to 40 percent higher than the average amount earned by their comparably aged and educated counterparts," the report said.

It added: "Part of the reason for the enormous growth of retirement costs is the number of years that each retiree spends on the retired rolls. In contrast to the civilian worker who retires at, say, age 65 and spends about 10 years receiving retirement pay, the average enlisted member serving 20 years spends more than 35 years on the retirement rolls, and the average 20-year officer spends just a little under 35 years."

If retirement policies are not changed, the report predicted, the cost of the program, which has grown from 1 percent of the defense budget to 7 percent since 1956, will be eating up 12 percent of the budget by the mid-1990's.

And, although military pay, which Mr. Cooper calls a "costly patchwork," is supposed to be comparable to civilian pay, officers' total compensation would place them in the top 10 percent of comparably aged and educated civilian workers, the report said.

The report's key proposals for pay and pensions would make the military pensions

contributory, as in civilian life, so that the growing costs of retirement are shared by both the individual and the Government; reestablish the 30-year career as "the norm" and encourage more 35-year careers, and alter military pay so that increases are less automatic and more responsive to achievement.

"The removal of the draft has raised genuine questions about the ways in which the D.O.D. [Department of Defense] uses and manages its human resources," the report concluded. "The legacy of the draft means that fundamental changes in manpower management and utilization are needed, not only to insure the long-run success of the volunteer force, but more important, to halt spiraling manpower costs and make better use of defense resources."

CAMPAIGN FINANCING ACT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. STEERS. Mr. Speaker, and my distinguished colleagues, I would like to take this opportunity to stress the importance of immediate House action on the Campaign Financing Act of 1977 (H.R. 5157). The House of Representatives can create a necessary fundamental change in the method whereby congressional candidates are financed.

This legislation, to provide for the matching of private contributions with public money from the voluntary $1 income tax checkoff fund, has more than 120 cosponsors. At present, it is being reassessed by the House Administration Committee in view of Senate action on S. 926.

Prior to the August recess, the Senate passed a campaign financing reform bill (S. 296) without the bill's public financing provisions. The argument has been raised by opponents of congressional public financing that the Senate action killed this issue. I believe passage of S. 926 indicates that the House can go directly to conference if it acts on public financing legislation.

Public financing of congressional campaigns will restore the confidence of the American people in their Government and increase voter involvement in the electoral process.

The costs of conducting a political campaign to reach and inform the constituents in congressional districts, including the expenses for radio and television spots and publications, are considerable and excessive. The unfortunate effects of the enormous costs of campaign financing impacts directly on the voters. Well-funded special interest groups secure an inordinate amount of access to candidates through large campaign contributions. Individual voters cannot match the financial strengths of organized special interest groups.

This legislation encourages candidates to seek contributions from members of the general public. Passage of this bill would equalize the ability of the voters and the special interest groups to influence candidates for office—an essential element in the operation of a representative democracy.

The availability of public funds would also enable candidates to throw their hat into the political arena without all the existing problems created by the need to pay for campaign expenses. The competition created by this legislation would improve, in my opinion, the quality of Government and would create a more responsive and capable Congress. When the electorate has a well-defined choice, elections will be more likely to be won on merit.

In conclusion, H.R. 5157 will be a constructive change in our political process. Prompt action by the House Administration Committee and the House of Representatives is imperative in order that this reform may be in place in time for the 1978 elections.

BOOTLEGGED CIGARETTES

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. McHUGH. Mr. Speaker, last evening the television program "Sixty Minutes" devoted a segment of its telecast to the problem of bootlegged cigarettes. I would like to commend those involved in producing this segment for bringing the issue to the attention of the public.

I am sure that those Members who were watching this program were made aware of the extent to which organized crime is involved in bootlegging cigarettes. The profits to be made are enormous, and are rechanneled into other activities by organized crime.

Last April I introduced legislation, H.R. 6330, to help solve this problem. A number of other Members have done likewise. To date, however, nothing has happened. Consequently, I wrote to the distinguished chairman of the Subcommittee on Crime, Mr. CONYERS, requesting hearings last month.

For the benefit of those Members who missed "Sixty Minutes," I am inserting a copy of my letter to Chairman CONYERS into the RECORD. It should help to familiarize those who were not aware of this problem with its nature and depth.

I do not claim that the approach incorporated in my bill is necessarily the best alternative among the several bills that have been introduced. I also appreciate the very heavy schedule that the Subcommittee on Crime faces. Given the seriousness of this problem, however, it is my hope that hearings will be scheduled in the very near future.

The problem is nationwide in scope, and does not merely involve the loss of tax revenue to a small number of States. As I mentioned previously, the profits derived by organized crime are rechanneled into a variety of other criminal activities. None of us should overlook this when considering the issue.

The letter follows:

AUGUST 31, 1977.

Hon. JOHN CONYERS,
Chairman, Subcommittee on Crime, Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR JOHN: On April 19th I introduced legislation to curb traffic in bootlegged cigarettes. This bill, H.R. 6330, was referred to your subcommittee. As you know, a variety of similar bills have also been introduced, and the Advisory Commission on Intergovernmental Relations has recently concluded that some legislative remedy is necessary. Consequently, I would like to urge you to schedule hearings on these bills.

According to the Law Enforcement Assistance Administration, cigarette smuggling is the second largest source of revenue for organized crime. In turn, much of this money is funneled into other illegal activities.

At the same time, bootlegged cigarettes deprive states of much needed revenue. This is especially true in the case of my own state, which estimates the revenue loss at some $80 million annually. However, Michigan is also among those states which suffer the greatest loss in tax revenues. Altogether, states are losing approximately $300 million annually according to the Multi-State Tax Commission.

This is money that those states can ill afford to lose. Ultimately, of course, these losses are passed on to the individual taxpayer.

Everyone agrees there is a problem, that the problem is caused by wide differentials in tax rates, and that the states cannot stop the flood of bootlegged cigarettes themselves. Given the seriousness of the problem, it would seem desirable to explore the problem in greater detail and to consider alternative legislative remedies. That is why I am asking for hearings.

I appreciate the very heavy schedule your subcommittee faces, and only hope that you will give my request your most serious consideration.

Best regards.

Sincerely,

MATTHEW F. McHUGH.

HEALTH SERVICES IN RURAL AMERICA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, South Dakotans are greatly worried when they read of some of the Federal schemes to cut rising health costs. Like everyone else, they would like to see the costs go down—but not at the expense of losing the few doctors we have or the health facilities which are located in our wide open spaces.

Bob Holsworth tells it "like it is" in his recent column published in the Hoven, S. Dak. Review. I commend it to the attention of my colleagues:

OBSERVATIONS

(By Bob Holsworth)

It wonders me at times how the various governmental agencies conduct their studies and evaluate the findings and most of all, where they conduct the studies and surveys.

It disturbs me a lot when I see the conclusions they have come up with concerning distribution of health care, especially that one about closing down small hospitals that operate at less than 80 percent of bed capacity and another about the closing of small post offices, which in my mind constitutes the same kind of stinkin' thinkin'.

This type of "economy" may work fine for California and New York and other highly populated areas, but when you consider the distances with gas at about the 65c level and the spread-out population of this part of the nation, it just don't make economic sense to

me, not even considering the humanitarian aspect of the situation.

In 1969 my life depended on quick medical action. It was saved in a 20-bed hospital with one doctor, and the hospital sometimes had only three or four patients in bed, and at that time did not even have a heart monitor. Had it been necessary to haul me to a hospital with 80 percent of its beds filled, I probably would not be here to tell about it—They woulda had to ship me clear to Minneapolis or at least Sioux Falls, and I didn't have that much time.

In the fall of 1967 my dad's life was saved in a small Minneosta hospital because it was close. It is highly unlikely he'd have made it to Minneapolis.

Here east of the river where the population is more dense than out west, there are places where it is necessary to go 30 or 40 miles to a small hospital, and I really doubt if even the larger cities like Aberdeen and Watertown operate at the 80 percent level more than a fraction of the time.

PANAMA CANAL TREATY

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. IRELAND. Mr. Speaker, I have submitted the following remarks in written form in order to avoid tying up the House's time for oral discussion.

Much has been made lately in the news media of the fact that former Secretaries of State Rusk and Kissinger support the new Panama Canal Treaty.

Recently, as a member of the House International Relations Committee, I had a chance to question both of these gentleman about the treaty, and I would like to take this opportunity to share some observations with my colleagues.

From my own reading of the treaty it seems clear that there are two basic assumptions which are crucial to the treaty and are the touchstones upon which many of its advocates are basing their support. The first of these is that the United States is entitled to intervene to protect the neutrality of the canal, and the second is that U.S. warships are entitled to expeditious or privileged passage through the canal.

Numerous advocates of ratification have consistently maintained that both rights are "guaranteed" by the treaty.

However, on August 24 of this year at a press conference in Panama, Dr. Bethancourt, Panama's chief treaty negotiator, observed "the pact does not establish that the United States has the right to intervene in Panama. "Nor," he went on to say, "does it provide the United States with the right to determine when (that) neutrality is violated."[1]

As to the issue of the expeditious passage of U.S. warships, Dr. Bethancourt observed, "if the Gringos with their warships say, 'I want to go first,' that is their problem. We cannot go that far."[2]

The point here Mr. Speaker, is that quite obviously, different interpretations are being applied to the same key principles by both parties. I raised this concern with Messrs. Rusk and Kissinger and the following dialogue ensued:

Mr. IRELAND. I would like to pursue for a minute, gentleman, this different interpretation that apparently exists in Panama and the United States on issues that have been referred to earlier as the real heart of the treaty.

The chief negotiator in Panama, as I think most of us are aware, was on the radio in Panama in late August saying that the treaty does not establish that the United States has the right to intervene or send troops into Panama, and that we do not have the rights that have been alluded to as the strong point in the argument presented this morning.

My real concern is that should the Congress approve such a treaty based on Article IV, based on the interpretation that we do have these rights, and the Panamanians approve the treaty based on the fact that we don't have the rights, what good is the treaty with such a very basic difference of opinion in it?

Mr. RUSK. I expressed earlier that to me this Article IV (Defense and Protection) is a very important part of these two treaties and I would hope that this Committee, for example, in its Committee report, would make this point very clear in terms of United States' interpretation. . . .

Now if at the time of the exchange of ratifications there is a fundamental difference publicly expressed by the two sides on this point, then we may have to go back to the drawing board and see what can be worked out. . . . (Emphasis added.)

Mr. KISSINGER. I would think this is a case in which it is important to spell out the meaning of Article IV and I would support a Congressional attempt to express in turn its support for the Administration's interpretation of Article IV.

I must say my own support of the agreement hinges importantly on the neutrality clause and it is my understanding that it gives us the possibility to defend the neutrality of the Canal unilaterally. . . . (Emphasis added.)

Mr. RUSK. Over in the other body, for example, in their resolution of advice and consent they might include this as an understanding. I would hope it would not be raised as a technical reservation, because that creates some technical problems, but as an understanding so there is no doubt as to what this treaty means as far as we are concerned.

Mr. IRELAND. How would that operate mechanically should they say this is our understanding and it is dramatically different from what has been expressed in Panama? Where would this going back to the drawing board occur, in your opinion?

Mr. RUSK. If this should happen and then at that time of exchange of ratification, or when you approach the exchange of ratification, or when you approach the exchange of ratification, if Panama then does not want to ratify, in the face of that expression of our interpretation, then you are back to the drawing boards. In other words, the public still has some misunderstanding about what ratification means. . . .

Mr. KISSINGER. I would think at the time of exchange of ratifications the act of exchanging should make clear that the other side understands our interpretation of this treaty and I think this can be worked out. . . .

Mr. RUSK. This point is a basic consideration in exchange for an abrogation of the 1903 treaty, among other things. It is part of the basic consideration.

It seems crucial to me, Mr. Speaker, that prior to any attempt at ratification, Congress should make certain that both sides understand and agree on the meaning of each and every clause in the treaty. Otherwise, if each side is allowed to attach whatever interpretation suits its purpose in order to promote ratification, the treaty truly will not be worth the paper on which it is written.

Therefore, Mr. Speaker, I would respectfully encourage my colleagues at this point to look rather closely at this whole question of interpretation and not base their judgments solely on the basis of the formal language contained in the treaties.

Thank you, Mr. Speaker.

A. ALAN POST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ANDERSON of California. Mr. Speaker, on September 1, 1977 the State of California lost the leadership of a man who has been one of the most widely respected government figures in the past three decades. A. Alan Post, legislative analyst for the State of California, has retired after a highly distinguished tenure in government service.

As the chief financial adviser for the California State Legislature, Alan's influence in state affairs has been tremendous. He has served with five Governors, both Republican and Democratic—and with countless faces and political philosophies in the State senate and assembly. Yet his impartiality and ability have been praised and respected almost universally, a tribute to the professional reputation he was able to establish and maintain over the years.

I first came to know Alan while serving in the California State Assembly. His duties were to advise the legislature and make nonpartisan recommendations on any proposal carrying a fiscal implication—including the Governor's budget. Obviously, his was a job tailor made for controversy.

During the 8 years I served as Lieutenant Governor of our State, my wife and I were able to know the Posts quite well. Alan is a slight man, whose polite demeanor and patience belie his strength and conviction. The respect and admiration he inspired in those around him was amazing, yet at the same time he was a good friend and a warm, caring personality.

A native Californian, A. Alan Post was born in Alhambra on September 17, 1914. He attended the Chouinard Institute of Art prior to his graduation from Occidental College in 1938, and received an M.A. degree in economics from the Princeton University Graduate School in 1940.

Alan's career in fiscal matters began in 1933, when he worked for the Security First National Bank of Los Angeles until 1936. After spending the period between 1940 and 1942 in investment banking, he taught economics at Occidental College

[1] Foreign Broadcast Information Service Translations, August 29, 1977.
[2] *Ibid.*

in 1942, serving as an assistant professor at American University in 1943.

During World War II, Post served in the U.S. Naval Reserve, seeing active duty in 1943-44 as an apprentice seaman and ensign. Following that tour of duty, he joined the U.S. State Department as an economist in 1944.

Post first worked for the State of California in 1946, when he became chief economist-administrative assistant for the joint legislative budget committee. In 1950, he was appointed State legislative auditor by then Gov. Earl Warren; the title was changed to legislative analyst in 1958.

As a fiscal conservative, Post seemed to have a yearly task of slashing the Governor's proposed budget—or, in some cases, calling for increases in certain items. Obviously, such a responsibility is not exactly geared to endear a person to the heart of the chief executive—nor to the legislators whose pet programs are labeled as uneconomic. Yet A. Alan Post's fairness, objectivity and ability remained unquestioned throughout his career in Sacramento.

Since the beginning of his long tenure as a State official, Post has seen California grow from, in his own words, "a veritable outpost of the continental United States to one of the largest and most important political entities in the world." California's tremendous growth and prosperity in the past 30 years is due in no small measure to the economic expertise and advice that A. Alan Post has provided to our State's leadership.

Alan's reputation as a fiscal expert is reflected in the wide range of professional societies and activities he has been involved with over the years. These include the National Tax Association; the Research Advisory Committee of the Council of State Governments; and the National Legislative Conference Committee on Legislative Staff Training. In addition, he has at various times held positions on the Committee on Government and Higher Education; as a consultant on Future Operations, 1965–66; and as a member of the Advisory Committee for the Legislative Services Project, American Society for Public Administration in 1967.

Alan's community involvements have reflected his interest in arts and the humanities. An accomplished artist, he is a former member of the California Water Color Society, and is chairman of the Art Evaluation Committee for the Capitol Mall, Redevelopment Agency of the city of Sacramento. Post served as president of the Crocker Art Gallery's board of directors in 1966, and is a member of the Sacramento Artists League.

In addition, Post was chairman of the board of managers of the Young Men's Christian Association in 1961–62, and is a member of the board of directors, People to People Council, Inc.

Now that he is retired, Alan plans to spend more time in his home on the coast of Spain, where he plans to devote much of his time to painting. In addition, he will continue to serve as an economic consultant to the Shah of Iran, a position he took temporarily last fall. Travel also will play an important part in his plans.

Mr. Speaker, seldom does a public servant have the opportunity to serve the people of a State for so long and so well as A. Alan Post has done. His retirement this month is truly the end of an era in California government, for his singular capacity for work and untarnished reputation have been a constant and distinguishing factor in Sacramento for nearly 30 years.

My wife, Lee, joins me in congratulating Alan on an outstanding career, and in sending our best wishes to his lovely wife, Helen, and their son, David. I am positive that they are justly proud of Alan's many accomplishments.

We would also like to wish Alan the best of fortune as he vacations on Spain's scenic coast prior to his working as a consultant for the Shah of Iran. Retirement is, of course, a relative term; Alan will keep busy when he returns to California at the end of this year and starts a new career as an instructor at the University of Southern California, and as a consultant.

It is good to see that he will return to California, for the love he holds for our State is amply demonstrated by his sterling record of service on our behalf.

MYSTERIOUS DEATH OF BLACK LEADER

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mrs. BURKE of California. Mr. Speaker, the mysterious death of black leader Steven Biko has attracted worldwide attention. The black nationalist died in custody on September 12. The South African Government announced that Biko's death was the result of a 7-day hunger strike, making Biko the 21st black to die while in detention during the past year.

Steven Biko, the 30-year-old black leader has been labeled the Martin Luther King of South Africa's movement toward "black consciousness." This proud nonviolent man is also contributed with the founding of the movement. It is a sad note that until his death Steven Biko was unknown to many. For, Biko was a victim of the South African Government's policy of "banning" persons who express comments that were contrary to government actions, and was prohibited from being referred by the press and confined to his home in King William's Town in Cape Province.

Biko's death is exemplary of frustration that potentially results in backlash. Already, there has been mounting criticism requesting the resignation of the Minister of Justice Jimmy Kruger. The growing demands come from not only blacks, but from whites who are enraged by the South African Government's role in this affair. Originally, the Government had stated that Biko died due to a hunger strike. However, recently, there have been growing suspicions that there could be other causes for Biko's death. Members of the family who viewed Steven Biko's body on Saturday night have reported that there appeared to be a pronounced swelling on Biko's forehead and there was a distortion of his features, which are hardly the result of a hunger strike.

Throughout South Africa there have been demonstrations against the Government's actions. In addition, memorial services and protest meetings are planned with the promise of creating more repercussions from abroad.

The South African Government by it's contradictory statements has left itself wide open for more criticism. My hope is that with the mounting pressure, the Government will open a wide investigation into the true cause of Steven Biko's death and that this will mark the beginning of new attitudes directed at recognition of the black majority which is demanding its long overdue right to participate at the most fundamental levels in a society which has to this point insisted on remaining ignorant of mounting frustrations. South Africa's Government, by refusal to grant worth and dignity to all individuals is asking not only for worldwide criticism but is refusing to recognize the very seeds of bloodshed and eventual self-destruction which it has planted.

IN PRAISE OF BOB POAGE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MATHIS. Mr. Speaker, as Members are aware, one of the most distinguished Members of this House has made a decision not to continue his service. The gentleman from Texas, Mr. POAGE, made that announcement in his beloved home district over the weekend, and in doing so has announced an end to one of the most distinguished careers in the long history of this body. W. R. "BOB" POAGE is probably today the most knowledgable person in the world on agricultural matters, and is recognized as such by persons involved in agricultural here and abroad. I have had the pleasure of serving with this great American since 1971, both as a Member of this body and on the House Committee on Agriculture. I came to this body with knowledge of BOB POAGE's expertise and leadership, and my admiration has grown in direct proportion to the length of time I have known and served with him.

The citizens of this Nation, and especially the constituency he has served from his native Texas, will always be indebted to this gentleman, and I know I speak for all Members when I say he will be sorely missed. My wishes are for a full and rich retirement for both BOB and his lovely Mrs. Poage.

THE PREDATOR CONSERVATION ACT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. WHITEHURST. Mr. Speaker, on September 28, 1977, I plan to reintroduce H.R. 6909, a bill which I believe could have an immediate positive impact on the wildlife of our Nation. This bill, the Predator Conservation Act, is intended to protect predators from indiscriminate slaughter and ultimately to preserve the prey-predator interrelationship. I think we all need to be reminded of the vital role played by predators in keeping our ecosystem in balance. The repercussions from the practice of indiscriminate slaughter are extremely detrimental to this balance, and H.R. 6909 would go a long way toward abating the inhumane treatment of many animals.

Examples abound of such indiscriminate slaughter, including the killing of predators by aerial hunters, the use of steel-jaw traps, and sweeping use of poisons. Such methods are certain to upset nature's delicate balance. For example, the mountain lion is one of the most adaptable of carnivores, but it is constantly facing the threats of poison, guns, and traps. This marvelous predator ranges through more kinds of country and varying degrees of latitude than any other; it has managed to survive the ebbs and flows of the glaciers, and it lived through the massive dying-off of mammals in the Pleistocene era. Today the mountain lion, known also as panther, cougar, or puma, depending on the section of the country, roams through the sea swamps of Florida, travels the 11,000-foot flanks of Mount Whitney, and climbs the Andes to 15,000 feet. It finds a home also in prairies, coastal woodlands, swamplands, deserts, and hill country, but nevertheless the species is being diminished gradually but steadily by the encroachment of what we like to call civilization.

In North America, there are an estimated 12,000 pumas, and this continent is the last major stronghold of this animal. The current methods of taking these animals appear to be anything but civilized. Trappers use oil of catnip and recorded mating calls as lures. Experienced hunters are aware of the lions' habits and stalking trails, and they have developed effective slaughter methods. It is clear that the mountain lion's worst enemy is man, who has taken away so much of this animal's habitat and food supply and killed so many of the species directly as well. Needless to say, the mountain lion has been backed into an ecological corner. Paradoxical as it may seem, the predator may not need wilderness as much as it needs protection from human harassment.

Another predator that has suffered the consequences of indiscriminate slaughter is the bobcat. According to a recent news article, inflated prices for the fur of the bobcat have led some biologists to begin investigating the impact of such heavy demands on the U.S. bobcat population. It appears that this animal is having great difficulty withstanding the uncontrolled exploitation which has been a direct result of pressure for the cat's skin. This vanishing breed continues to go unprotected in many areas of the country while the price of pelts climbs upward. There is no doubt that protection is lagging behind fashion and the profit motive. At an average price of $200 per pelt, the pursuit of this tormented cat continues: bobcats in most of our Western States can be taken day or night, 365 days a year.

Also suffering the consequences of inhumane slaughter methods is the wolf. Despite this animal's role in the ecosystem, it has been reviled and driven almost to the brink of extinction. Besides natural illnesses, the wolf has no real enemy except man. The wolf in the past has also been among the world's most adaptable carnivores, but such is no longer the case since man has branded this animal as a pest and a menace. At one time, the habitat of the wolf included almost any region except desert and tropical jungle. Today the wolf's range in the conterminous United States is 1 percent of what it once was. Six of the 24 subspecies of the timber wolf are probably already extinct. The legendary evils of the wolf have caused it to be hunted for bounty for more than 2,500 years; man has devised poisons and snares to destroy it and has even used the rest of the canine family against it by breedings dogs large enough and strong enough to help kill off their closest wild relative.

I am pleased to say that my bill has received support from Marlin and Carol Perkins, and Ms. Perkins presented H.R. 6909 this past June at the Endangered Species Symposium in St. Louis. In addition, endorsements have been received from the International Primate Protection League and the Fund for Animals.

I would be the first to agree that a degree of regulation of some species is an essential factor in maintaining a proper balance in the ecosystem, but such regulation need not be carried out in an inhumane or indiscriminate manner. One of the basic principles of ecology is that life forms which occupy a habitat must adapt to it. If this adjustment is disturbed, the end result will be the deterioration of the habitat. It is hard to understand why, of all the creatures on earth, man alone has attempted to make himself independent of ecological rules by artificially altering habitats to suit his needs without regard for maintaining any sort of balance.

Predators are no exception to nature's laws, and their numbers must be limited to what the available territory can provide. My concern, as reflected in H.R. 6909, is that this limitation be accomplished by humane methods and not by indiscriminate slaughter of the types so prevalent today. It is my hope that my colleagues will see fit to join me in support of H.R. 6909, and I will welcome their cosponsorship.

AIR BAG RULING MUST BE REVERSED

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. KASTEN. Mr. Speaker, the Subcommittee on Consumer Protection and Finance of the House Interstate and Foreign Commerce Committee has opposed a resolution I have cosponsored to block Federal orders requiring installation of air bags in all new automobiles.

I am very disappointed with the subcommittee's action. It should be overturned by the full committee before the October 10 deadline. If not, the American people will again become the victims of more Government regulation and interference in their lives.

While there are several good reasons to oppose the Department of Transportation's ruling, I think the central question remains: To what extent should the Government protect us from ourselves? In this case, the Government bureaucrats have gone too far. We must reject the philosophy that Government can or should regulate all aspects of our lives—to make decisions for us—in the expectation that we will be better off for having done so. Our obligation as lawmakers is to guarantee the individual's freedom of choice—not necessarily to protect him from every possible danger of living in society.

COST CONSIDERATIONS

In our consideration of the air-bag ruling, I do not think we can ignore the consumer factor. The Department of Transportation admits that the air bag could add $200 or more to the price of a new automobile. Once an air bag inflates, the car must be returned for a new air bag installation which costs more than the original factory installation. Since 1.2 million injurious accidents occur each year, the air bag may inflate in several hundred thousand cars annually. The cost of the air bag each time a person buys a new car, plus the accident replacement cost, could add up to a new expense for the average car owner of over $2,000 during his driving life. Again, we must ask ourselves: Does the Government have the right to inflict that cost increase on the average consumer?

QUESTIONABLE VALUE

One of the more disturbing aspects of the Department's ruling is that no hard evidence exists to show that air bags would significantly improve highway safety. Last year Transportation Secretary William Coleman negotiated a plan whereby 400,000 cars would be equipped with air bags so that real-world safety statistics could be gathered as a basis for making a sound, quantitative analysis of the value of air bags. Instead, the new administration has chosen to circumvent that voluntary approach in favor of an arbitrary decision that could very well prove as disastrous as the mandatory inter-lock system several years ago.

SEAT BELT ALTERNATIVE

Seat belts are installed in 95 percent of today's automobiles. Hard evidence, as opposed to conjecture, exists which shows that seat belts are effective in saving lives. A person wearing a seat belt in a serious accident triples his chances for survival. At the same time, a DOT analysis shows that seat belts, even though worn by only 44 percent of the population, save 30 percent more lives than would air bags. Indeed, to achieve maximum effectiveness, air bags must be used with seat belts.

It is tragic that more people do not use their seat belts, but a few people have the right to do "foolish things." Yet, the air bag ruling penalizes those who do take safety precautions for the benefit of those who choose to ignore the warnings and drive without benefit of seat belt protection. A nationwide seat-belt education program would be a far better alternative than promulgating another Government regulation to further aggravate the American consumer.

A GLARING EXAMPLE

I agree that this particular issue pales in comparison with some of the more weighty matters which must be addressed by this Congress. However, it stands out as a glaring example of how Government encroachment begins—not with malice, but rather with a simple premise that Government should take actions which will hopefully be good for us. The flaw, however, is that the people, and not the Government, should be making those judgments.

OPPORTUNITIES FOR BLACKS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PHILLIP BURTON. Mr. Speaker, I would like to call the Members' attention to the comments of Dr. Carlton B. Goodlett, president of the National Newspaper Association—Black Press of America. His observations on the important relationship between opportunities for Blacks and the implementation of black economic influence are incisive and inspiring.

We have no illusions about the chances o. 26 million blacks, representing the black tail, wagging the white dog. Yet, 26 million blacks, finally recognizing the ultimate disaster offered by capitalism for black colonials in capitalist America, led by the Black Psychologists, Black Nurses and Doctors, the Black Church, the Black Politicians, and Black leaders everywhere, using their moral, mental and physical resources: such a unified, dedicated black force for change, residing in the belly of the beast, would create an irresistible process in the body politic that would force the total nation to seek and develop viable economic alternatives.

Three examples come to us from the Jewish experience by which Blacks might use our economic power to combat racism:

(1) The Jews, early in the life of their progeny, as soon as a child develops the capacity to understand concept, identify for their progeny who they are and what they are: Jews are Semites; and the child is told of the great history of the Jewish people. Shortly after developing self-identity, the young Jew must be taught a lesson never to be forgotten: who the enemy is—the anti-Semite, and no means must be spared to destroy anti-Semitism. Blacks, similarly, at the age of conceptual development, must identify for young Blacks who they are. The importance of Alex Haley's "Roots" cannot be over-estimated. Its psychological impact involving a dramatic appreciation by Blacks of their origins and a discussion of the mythology of docile acceptance of slavery was accompanied by a deep sense of psychological awakening on the part of whites, who previously had lived with the myth that Blacks, even in slavery, were the White Man's Burden. Our Black progeny must be acquainted with the beauty of blackness, and the history of the Black man's contribution to world civilization and progress must be vividly painted—for example, the history of the mighty kingdoms of Africa, with its great universities and societies of culture; the domestication of animals, the mining and smelting of precious metals, are the contributions of Blacks to civilization. Next, our Black young must be taught that the eternal enemy of the Black experience is racism, and no means must be spared to destroy it.

(2) Jews have always recognized and accepted their responsibility to use their resources to take care of their own. The National Jewish Welfare Appeal is a most important instrument with which internal needs of the national Jewish community are met; the needs of the international Jewish community are responded to in the Bonds for Israel drives. Blacks in 1976 earned $77.1 billion, while they spent $70 billion—more than any other identifiable group in the nation in terms of the expenditure of its gross annual income for goods and services. Blacks are the 9th wealthiest nation of the non-socialist world; as the Jews, we must use our economic resources in the development of a National Black United Fund (NBUF), so that blacks can undergird through self-help and financial support, the intra-group needs of Black America, not only giving aid and assistance to the needy of 26 million Black Americans but also providing leadership in the assistance and development of trade and commerce, and relief to the nations in Africa and other third world peoples.

(3) Jews use their economic resources and their political power in forging opportunities for Jews as well as using political and economic means to punish their enemies. Similarly, 26 million Blacks, two-thirds of whom live in America's fifty largest cities, with a 1976 annual income of $77.1 billion, must use Black economic power and political power as instruments in developing intra-group opportunities for Blacks, on the one hand, and using this political and economic power, on the other hand, to punish the racists who thwart Black progress.

The power of economic boycott was no better illustrated than the response of the American Jewish community in 1975 to Mexico's affirmative vote on the UN Resolution declaring Zionism was a form of racism. Because of this vote, American Jews literally destroyed Mexico's multimillion-dollar tourist industry. Even though Mexico changed its foreign ministers and came to New York pleading for reconciliation, the Jewish leaders curtly told Mexico, "We will see how Mexico votes in the 1976 UN session." At the 1976 UN session, Mexico changed her vote, and in January, 1977, Jews were officially notified in the mass communications media that they should now return as tourists to Mexico.

No Black sacrifice is too great in our struggle—with allies if possible, but alone if necessary—to destroy racism—the enemy eternal, by any means necessary, and create for all people a decent life.

A recent observation on how many times a dollar changes hands within the ethnic communities of San Francisco should be of significance to us: A dollar changes hands in the Chinese ocmmunity 5 to 6 times, in the Jewish community 4 to 5 times, in the WASP community 3 to 4 times, and in the Black community, once—it comes in and goes out! Think of the awesome economic power Blacks will control, when we learn and practice the simple expedient of allowing a dollar to touch Black hands twice while residing in our community!

In the new planned national economy, Blacks should show the highest degree of creative statesmanship by moving to the vanguard, offering to White businesses and the White middle class who have flown the cities an invitation to return and rebuild these areas of enterprise, and share in the political power which thereby results; they should urge the development of the metropolitan concept, in which the borrough system provides, with federal assistance, the economic basis for all the life enrichment potentials—adequate schools, adequate health facilities, adequate housing, adequate finances—a community vibrant enough to implement the philosophical demands of the Humphrey-Hawkins Full Employment Bill: a job for every able-bodied citizen, with the government accepted as an employer of last resort.

Only in the Black experience and our own sordid circumstances can we find the courage, fortitude and daring intellectual perspective to move out from a submerged, amorphous mass, the victims of an oppressive social and political system, to rally millions of sleeping giants in America to the cause of turning this nation around, moving in a great crusade to fulfill the humanistic promises in a Second American Revolution (or indeed to guarantee the fulfillment of the humanistic promises submerged in the First American Revolution) which must be won. Our crusade will give birth to a planned economy, dedicated to the service and enrichment of life for all Americans. What a victory this would be for a suffering humanity against all of our enemies, who stealthily but surely are structuring a planned society for the few who are rich, the few who are powerful, the few whose greed knows no bound.

We have hastily postulated the emerging pattern of the new yet great design by which 26 million Blacks residing in the belly of the beast can find internal resources with which to enlarge their political and economic options. If, however, we slumber while our masses crawl and our youngsters are allowed to rot in jail, we shall deserve our fate—which is being ignored in person, while our economic resources are snatched from us as life-enriching contributions for those who are basically our enemies. We fail to utilize the intellectual, creative genius of Black America in this crusade for Black survival at great peril.

The struggle in the founding conventions of the nation pitted supporters of humanistic values against those of materialistic values. Unfortunately, the materialists won, and the nation has traveled its first 200 years down the contradictory road of verbalizing paeans of "Freedom Liberty, Justice and Equity," but the cadence of the nation's drum-beat in act and deed emphasizes rights held in primacy over human rights."

The greed of the Whites who landed at Plymouth Rock began a process of sustained exploitation which led ultimately to the extinction of the native Red Man, and accepted for 200 years the moral stench of Black slavery. The neurosis of greed displayed in the destruction of both material and human resources in the name of freedom, justice and equality, has created an avaricious breed of homo sapiens interested foremost in the acquisition and accumulation of wealth—vast holdings by the powerful and greedy, in violation of the most elemental laws of a finely honed eco-cycle. Racism, sexism and classism are a double-edged sword, contributing to the mental illness of both the victims of this aberrant behavior and the perpetrators.

How could a system that lived a lie, and glorified personal greed, which flaunted human and moral values, create a physical and psychological climate which was not foreboding to all societal resources, physical and human?

The Kerner Commission's Report identified racism as the one cardinal sickness which haunts the nation; the second and third horsemen of the Apocalypse which threaten the nation are sexism and classism. The fourth, mental illness.

OUR NATION IS A SICK SOCIETY

How can good mental health abound in a society which: (1) spends $50 billion securing Western Europe against communist dogma, post-World War II, but refuses to guarantee a national wage above the poverty line for its workers? (2) Whose leader proclaims human rights throughout the world, yet the nation rejects equal rights for its female citizens? (3) A nation which spends $25 billion to place footsteps on the moon but will not guarantee to its citizens the right to a job with all of the rehabilitating virtues which honest work gives to a man or woman? (4) A nation more interested in the bottom line for industry and investment with no concern for the lifeline to health for its citizens? This is indeed a sick society.

John D. Rockefeller III said it best: This nation needs a Second Revolution, in which humanistic values long deferred become the elan vital of the body politic. Rampant inflation, with unbridled unemployment, are the bells which toll the irreconcilable conflicts of a laissez-faire capitalist society. With Lincoln's words ringing down through the ages: "A nation divided cannot endure," the evils of racism, sexism and poverty threaten the survival of our society. In response to such festering problems, the President has appointed a Commission to make a national inquiry into Mental Health. As a psychologist and a physician interested in illness—personal and societal—let me urge this Workshop's participants to beware the folly of probing symptoms only, and ignoring the deep etiological factors which allow—indeed, force—a sick society to spawn mental illness among its citizenry.

Our nation created the atomic bomb, and now, while its scientists cringe in horror, its political leaders amass without restraint weapons capable of destroying all of humanity and all living things, to leave its skyscrapers as sentinels resembling the pyramids of Egypt and the temples of the Incas.

NEW CHALLENGES FOR SELF-HELP

We have recently organized the National Conference of Presidents of 100 Largest National Black Organizations. In its April, 1977 conference these leaders representing mass organizational membership of 11.5 million Blacks accepted the full responsibility of being the vanguard of the Black struggle to turn this nation around, if necessary. Moreover, it adopted two self-help programs: (1) Endorsement and sponsorship of the National Black United Fund, presently organized in 14 cities, destined to reach the fifty largest cities of the nation so that the Black have's can lend aid and assistance to the have-nots, in reconstituting their lives. (2) Pledged full support to the efforts to build here at Morehouse College the first Black medical college conceived in the 20th century, to serve mankind in the challenging 21st century. We must raise matching funds of at least $20 million from Black America, to make this medical school a reality and a tangible demonstration that a people earning $77 billion in 1976 and an anticipated $100 billion in 1982 can and will support its own, monetarily as well as physically, for the new birth of freedom in the USA.

"THE SEARCH FOR A BLACK IDEOLOGY"

We hope shortly to call, probably at Robert Moten's Farm in Virginia, behavioral scientists, representing all of the disciplines, to search for a Black Ideology in this, the 114th post-Lincoln Emancipation Year. We project soon to call a first international conference of Blacks in Diaspora, a gathering of representatives of the 65 million Blacks inhabting North, Central and South America, such as Afro-Americans, the Latino-Africans and the Hispano Africans. These two projects—the think-tank in search of an idaology and the convening of an international conference of Blacks in Diaspora, must demand the attention and receive the assistance of the nation's Black Psychologists, and other behavioral scientists.

Finally, we dare not fail to reconstitute our struggle to protect the Black psyche.

According to the Joint Commission on Mental Health, 1969, in terms of mental health, racism is a more pervasive and far more serious threat than childhood schizophrenia, mental retardation, psychoneurosis or any other emotional derangement. It destructive effects severely cripple the growth and development of millions of our citizens, both young and old alike. Yearly, it directly and indirectly causes more fatalities, disabilities, and economic loss than any other single factor.

This is the challenge that primarily faces those trained as Black behavioral scientists. This is the challenge facing millions of Blacks, especially the educated tenth. As we visualize our role, all that we have said this morning might be dismissed, if we only remember the prophetic message in Mari Evans' "Speak the Truth to the People":

"Speak the truth to the people
Talk sense to the people
Free them with reason
Free them with honesty
Free the people with love and courage and care for their being
Spare them the fantasy
Fantasy enslaves
A slave is enslaved
Can be enslaved by unwisdom
Can be enslaved by black unwisdom
Can be reenslaved while in flight from the enemy
Can be enslaved by his brother whom he loves
His brother whom he trusts
His brother with the loud voice
And the unwisdom
Speak the truth to the people
It is not necessary to green the heart
Only to identify the enemy
It is not necessary to blow the mind
Only to free the mind
To identify the enemy is to free the mind
A free mind has no need to scream
A free mind is ready for other things . . .
Speak the truth to the people
Spare them the opium of devil-hate
They need no trips on honky-chants
Move them instead to a Black One-ness
A black strength which will defend its own
Needing no cacophony of screams for activation
A black strength which attacks the laws
Exposes the lies, disassembles the structure
And ravages the very foundation of evil
Speak the truth to the people
To identify the enemy is to free the mind
Free the mind of the people
Speak to the mind of the people
Speak truth.

—Mari Evans."

AGRICULTURAL TRADE

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. HAGEDORN. Mr. Speaker, I would like to add to the remarks of my colleagues some observations on a specific point which is of direct concern to both myself and my constituents. This concerns the status and future of agricultural trade between the United States and the Republic of China.

I think that no one would dispute the fact that the Republic of China on Taiwan has developed on extremely dynamic economy which demonstrates the best of what can be achieved through a successful economic development program. Being an island state with severe limitations on available land, the economy of the ROC has been based in large part on the development of high volume international trade. I am pleased to point out that the United States has played a major role in the development of that trade, and that the level of U.S.-China trade currently stands at close to $4 billion.

This constitutes a very real economic interest of the United States, and a not inconsiderable one. While a large part of American exports to the ROC is composed of mechanical and capital equipment, the American farming community is particularly concerned with the maintenance of large-scale American exports of agricultural products to that country.

The figures for 1976 American trade with the ROC suggest the importance of those exports. In that year the United States exported to the Republic of China $77.9 million worth of unmilled wheat, $4.6 million in barley, $94.5 million in corn, $5.9 million in infant cereal preparations, $2.9 million in leguminous dried vegetables, $19.5 million in unmanufactured tobacco, $84.3 million in raw cotton, $148.4 million in soybeans, and $15.3 million worth of other agricultural commodities—for a total of $473,724,000 in 1976 alone.

These figures indicate a number of things. In the first place, they indicate the viability of the Republic of China as a major trading partner of the United States. Beyond that, however, they indicate the concrete interest which the United States has in maintaining and expanding its economic links with the Republic of China. Unlike the PRC, the Republic of China is a proven market, which promises to absorb even greater American exports in the years to come. I believe very strongly, as my constituents do, that this market should be protected and expanded, and that this Government should think twice before taking any step which would seriously endanger our current trading relationship. I will repeat—that America's trade with the Republic of China in agricultural commodities, as with its trade in machinery and other heavy goods, has proven itself beneficial to both parties, has helped both our general balance of payments situation and our farming com-

munities, and must not be endangered or undermined in pursuit of a policy with no proven economic, much less moral, advantages. This is our responsibility both to our own people, and to those in the Republic of China with whom we have over the years developed such a favorable relationship.

PRAISE FOR SENATE INITIATIVE ON TUITION RELIEF

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. DELANEY. Mr. Speaker, I would like to take this opportunity to call the attention of my colleagues to a very significant event taking place in the Senate at this very moment. Some 43 Senators from both sides of the aisle and every section of the Nation are joining together in a united effort to pass education tax credit legislation and provide relief for our students and hard-pressed families caught by the spiralling cost of tuition expenses. I wholeheartedly endorse their effort and pledge to work closely with them to bring about this urgently needed reform in the Internal Revenue Code during the 95th Congress.

Senators PACKWOOD and MOYNIHAN, the principal sponsors of the Tuition Tax Credit Act of 1977, tell me that 12 of the 18 members of the Senate Finance Committee have already sponsored their bill and Chairman LONG has made a commitment to hold Senate hearings in January—hearings, to quote Senator MOYNIHAN, which will be "wide-ranging, comprehensive, and thorough."

The Tuition Tax Credit Act, going into the Senate hopper today, provides a credit for a taxpayer's tuition expenses, those of his spouse, or of his dependents—the amount is 50 percent of tuition payments up to a total of $500 per student and is refundable if the credit is greater than the tax liability.

Mr. Speaker, you will recall that on February 9 of this year I introduced H.R. 3403, the Tuition Tax Relief Act of 1977. While not exactly identical to the new Senate legislation, it is similar in major respects and I foresee no difficulties in resolving differences between the two versions in Committee. H.R. 3403 now enjoys the cosponsorship of 60 of my colleagues from both sides of the aisle; numerous variations on this theme have been proposed by other House Members; and Senator SCHWEIKER, who introduced a bill similar to H.R. 3403 on March 1, has cosponsored the new Tuition Tax Credit Act in the Senate.

The problems of skyrocketing tuition and reduced income for education are affecting both parents supporting students and students educating themselves. As Senator PACKWOOD is mentioning at his press conference today, Newsweek recently described the plight of these "middle-class poor," who have watched income adjustments eaten up by inflation and higher taxes. Homes and quality education seem to head the list of dreams priced beyond the means of many middle-class Americans.

The Tuition Tax Relief Act here in the House and the Tuition Tax Credit Act in the Senate both encourage these people to help themselves—in a far more meaningful way than money distributed through Government doles. The cost of the legislation is less than 1 percent of our national budget projections and would be only 4 percent of what taxpayers presently spend each year for public education at local, State, and Federal levels.

I was encouraged by the overwhelming sentiment expressed by both the House and the Senate a week ago in setting aside money for tuition tax relief through the second budget resolution. I applaud my colleagues in the other Chamber for their unified effort today. And I call upon our Ways and Means Committee to expedite hearings on this important topic and report appropriate legislation to the House floor as quickly as possible.

The list of cosponsors follows:

THE HOUSE TUITION TAX RELIEF ACT OF 1977

[Cosponsored by 60 Members]

James J. Delaney (NY)
Edward P. Beard (RI)
Carlos J. Moorhead (CA)
Norman E. D'Amours (NH)
J. Herbert Burke (FLA)
Leo C. Zeferetti (NY)
Robert W. Edgar (PA)
James L. Oberstar, (MN)
Jack Kemp (NY)
Donald J. Mitchell (NY)
Romano L. Mazzoli (KY)
Robert A. Young (MO)
Newton I. Steers, Jr. (MD)
Barbara A. Mikulski (MD)
Hamilton Fish, Jr. (NY)
Raymond F. Lederer (PA)
Don Young (Alaska)
Robert H. Mollohan (W. VA.)
Thomas J. Downey (NY)
W. C. Dan Daniel (VA.)
David C. Treen (LA)
John J. LaFalce (NY)
Henry J. Hyde (ILL)
Clarence D. Long (MD)
John Joseph Moakley (MA)
Robert J. Cornell (WIS)
Mario Biaggi (NY)
Floyd J. Fithian (IND)
Bob Traxler (Mich)
Richard L. Ottinger (NY)
James M. Hanley (NY)
Daniel K. Akaka (Hawaii)
Robert J. Lagomarsino (CA)
John E. Fary (ILL)
John H. Rousselot (CA)
Robert E. Badham (CA)
James C. Cleveland (NH)
Robert K. Dornan (CA)
Joshua Eilberg (PA)
John M. Murphy (NY)
Bruce F. Caputo (NY)
Barry M. Goldwater, Jr. (CA)
Eldon D. Rudd (Ariz)
Norman F. Lent (NY)
Gus Yatron (PA)
Dale E. Kildee (Mich)
Toby Moffett (CT)
Thomas A. Luken (Ohio)
Samuel S. Stratton (NY)
Doug Walgren (PA)
Fred B. Rooney (PA)
Edward J. Markey (MA)
Matthew J. Rinaldo (NJ)
Joseph D. Early (MA)
Richard M. Nolan (MN)
James M. Jeffords (VT)
Elliott H. Levitas (GA)
Lucien N. Nedzi (Mich)
Edwin B. Forsythe (NJ)
John Buchanan (ALA)

THE SENATE TUITION TAX CREDIT ACT OF 1977

[Cosponsored by 43 Senators]

Bob Packwood (ORE)
Daniel Patrick Moynihan (NY)
Richard Schweiker (PA)
James B. Allen (ALA)
Wendell Anderson (MN)
Lloyd Bentsen (TX)
Howard Cannon (NEV)
Carl T. Curtis (NEB)
John Danforth (MO)
Dennis DeConcini (Ariz)
Robert Dole (Kan)
Pete V. Domenici (NM)
John A. Durkin (NH)
Jake Garn (Utah)
Barry Goldwater (Ariz)
Mike Gravel (Alaska)
Robert Griffin (Mich)
Clifford P. Hansen (WY)
Orrin G. Hatch (Utah)
William Hathaway (Me)
S. I. Hayakawa (CA)
H. John Heinz (PA)
Jesse Helms (NC)
Hubert Humphrey (MN)
J. Bennett Johnston (LA)
Paul Laxalt (Nev)
Patrick Leahy (VT)
Richard Lugar (IND)
Charles Mathias (MD)
James McClure (ID)
John Melcher (MT)
Gaylord Nelson (Wisc)
James Pearson (Kan)
Jennings Randolph (W. VA.)
Abraham Ribicoff (CT)
Harrison Schmitt (NM)
John Sparkman (ALA)
Ted Stevens (Alaska)
Strom Thurmond (SC)
John Tower (TX)
Malcolm Wallop (WY)
Milton Young (ND)
Edward Zorinsky (Neb)

WILLIAM R. HULL, JR.

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SISK. Mr. Speaker, it is with a distinct sense of sadness that I join my colleagues today in paying tribute to our beloved former colleague Bill Hull.

Bill and I came to Congress together in 1955 and my association with him for the next 20 years was a delight, both socially and professionally. His infectious good humor lightened the burdens as we worked together on many complex issues.

Often called "the most conservative of the northern Democrats," Bill, nevertheless, was a progressive thinker and possessed uncommon "horsesense."

We were saddened when he retired in 1974, and are even more saddened now as we realize his cheerful presence is forever gone.

Reta and I extend our deepest sympathies to his children and grandchildren and can only tell them that he was indeed an able and effective public servant in the eyes of his fellow Members.

HEW STATEMENT ON HEALTH MAINTENANCE ORGANIZATIONS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ROYBAL. Mr. Speaker, recently the Honorable Hale Champion, Under Secretary of Health, Education, and Welfare, addressed the Group Health Association of America on the subject of Health Maintenance Organizations. In view of the ever-increasing costs of health care, Mr. Champion's remarks will, I am sure, be of interest to many of my colleagues.

Therefore, I insert Mr. Champion's remarks into the RECORD:

REMARKS BY HALE CHAMPION

I'm here for a lot of reasons.

I have some old friends in this room—including the man who made the invitation—Jeff Cohelan.

I've had a long time interest in HMOs. I was a Kaiser member when I lived in California, and that goes back 25 years. I was a director of the Harvard Community Health Plan up to the day I was sworn in as Under Secretary.

Further, I happened to be in the neighborhood as Chairman of the National Health Insurance Issues Advisory Committee. We're looking around the country before advising President Carter on the national health plan he has pledged to submit to the Congress early next year—and I think a lot of us have been impressed by what we're learning about HMOs, their performance and their potential roles.

And finally, strange as it may be for a Convention speaker, I'm here because I also have something substantial to say—and I wanted to say it directly to you.

Secretary Califano and I don't think you are a demonstration project. We think you're for real, and we intend that you shall be treated that way. We think you are already very important to the health and pocketbooks of the people of his country and we want to make you even more important. You're not perfect, but nobody is. Not us, certainly, and certainly not the American Medical Association or the American Hospital Association.

I think you have often been ill-served by the Department of which I am now Under Secretary, and the Secretary and I have agreed we are going to try to do a whole lot better by you in the future.

It may take us some time to turn matters around, and I know your past experiences may give you justified reason to be skeptical about the pace and character of change as we try to make up for lost time. But our interest is great and our commitment is genuine—not to you as individuals, but to the enormous potential that the nature of your organizations offers as an approach to better, more comprehensive and less expensive health programs for all.

We will not always agree, but I think we may well agree more often with you than with any other group in the whole vast national health industry.

And make no mistake about it—health is a big business, the third largest in the United States, behind only construction and agriculture.

The figures I have become familiar with in recent months are staggering. One of every twenty employed persons in the United States is in health activities. Last year, $139 billion was spent on health in this country. In just 10 years, health has grown from 5.9 percent of the Gross National Product to 8.3 percent. And if the costs keep careening out of control, it will reach 10 percent by 1980.

And the most astounding figure of all to a man with my responsibilities is this: 12 cents of every Federal budget dollar is spent on health—or, at least, in the name of health.

I don't think we're getting our money's worth: That should be enough to do far better in building better health for the American people, and some changes are clearly in order.

Some people think that the problems in Medicaid and Medicare are inevitable products of government-financed programs. Not so. The problems are the inevitable products of putting programs under the care of people who often didn't like their objectives and didn't work hard enough at making them succeed. A lot of repair work is overdue, and we are hard at it even as we try to plan a more cohesive set of programs for the future.

I think any careful examination of Federal handling of HMOs in the last six years will make my point about government programs and the critical importance of the right kind of leadership and direction about as well as it can be made.

In 1971, President Nixon told you that by 1976 he wanted 1,700 HMOs with 40 million enrollees across the country. But what did he and his people do? They decided to treat HMOs as a demonstration program. They turned around and marched down the hill again. They wrote regulations that the most successful HMOs in the country couldn't qualify under, and they inhibited growth and development in a multitude of ways you are all too familiar with. So today, when we desperately need the capacity he called for, we have only 175 plans with 6.5 million members. And you accomplished most of that while the prior administration kept calling you a demonstration. Ridiculous. What is there left to demonstrate when over 25 HMOs have been providing good quality care to four million enrollees for the last ten years, and Kaiser and others have been going strong for over thirty years. How much more proof does one need than the studies that already show HMOs' ability to provide quality care at five to thirty per cent less than the fee-for-service sector.

We are through with this nonsense about demonstration. We are going to get about the business of stimulating the development of more HMOs—and we're going to stay in that business!

I also want to share with you some of my thoughts about why I think HMOs are so vital to any future design of a national health system and why I find it so disturbing that more HMOs weren't developed during the past few years.

When Secretary Califano and I began at HEW, we immediately were confronted with the staggering inflation in health care costs and the prospect that our national ability to cope with domestic needs could easily be crippled by these runaway expenses. With some firm guidance by President Carter we realized that unless we took strong action, the Federal Government ran the risk of using up all our health dollars in escalating costs, without obtaining any additional health benefits, notably in the preventive areas.

Our first step was to develop a hospital cost containment proposal. During our analysis, we found that HMOs offered a remarkable record of cost savings by reducing hospital admissions and lengths of stay. HMOs helped give us a basis on which to make some very critical decisions. For example, we felt a lid of 9 or 10 percent increase on hospital revenues was reasonable, even generous, in light of evidence that HMO members had only half as many hospital days per 1,000 as Blue Cross-Blue Shield members. Clearly, fee-for-service hospitals had room to economize without undermining quality. And, we were so confident of HMOs' ability to restrain costs that we exempted HMO-operated hospitals from our proposal.

But HMOs also looked promising for more reasons than efficiency. As I began meeting with the Advisory Committee on National Health Insurance Issues and as I learned more about other HEW health programs, it became evident to me that HMOs could play a major role in our evolving strategy to deal with some other principal shortcomings in the present health care systems. HMOs can provide instructive lessons in three areas:

Access to the appropriate level of care;
Emphasis on preventive medicine;
And the quality of care provided.

For those who don't already know better than I, let me explain:

When the average consumer approaches the current health care system, that person is faced with a bewildering array of providers and a complex set of decisions regarding treatment. That person needs assistance. In the current situation, the consumer turns himself over to his family doctor, an internist or a physician in a hospital out-patient department, who makes choices for him. There's no need to tell all of you how often this results in appropriate care.

HMOs provide an attractive alternative. The HMO member knows precisely where to go to receive the kind of care he needs. Moreover, the provider has little, if any, financial incentive to promote unnecessary treatment. Entry into the system is fast, and simple, and the provider's motivation is to improve and preserve health, not to encourage use of excess and expensive services and facilities.

In addition to appropriate access and strong prevention, I believe that HMOs also have a major organizational capability in the provision of high quality care. I subscribe to the belief that physicians who practice medicine in the company of other physicians almost always do a better job. Interaction among peers is a fundamental strength of HMOs. Thus, physicians keep abreast of the latest medical procedures and frequently consult with one another on difficult cases just as in a good teaching hospital.

In summary then, my view is that HMOs offer significant promise both in terms of quality and of cost, and that they can help us overcome several of the severe shortcomings of the present health care system.

But, while the promise is great, and while many HMOs have proved their worth, the HMO industry in general still has some distance to go. As I said earlier, I realize that part of your problem has been the Federal Government—and I'll speak to that again in a few moments. But since I just finished discussing what HMOs can do well, let me next offer some advice on how HMOs can help themselves.

There can be no question that public concern that HMOs might provide care of inferior quality is the greatest threat to HMO development. I think it is clear that the scandals here in California with certain prepaid health plans which enrolled only Medicaid patients did undeserved, but serious damage to the credibility of true HMOs as providers of quality care. They were not real HMOs. They were sometimes motivated not as most of you are, but by the "fast buck" and they were encouraged by officials who wanted only to cut costs without worrying about quality of coverage.

They demonstrated, however, that some kinds of HMOs can provide an incentive to underserve, just as the fee-for-service sector can offer clean incentives to overprescribe. In the case of the California PHPS, profits were pursued and quality of care often forgotten. This is a situation which must not be forgotten. I'll talk about HEW's intentions to do better, but we also need your help in policing against inferior HMOs. And I know

that all of you will continue to be vigilant as well in maintaining the quality of your own medical services.

Another area where HMOs can do better is in preventive medicine. The potential of HMOs in this regard, which I discussed earlier, has not been fully realized. Many HMOs have not been as aggressive as they might. I think HMOs are in a strong position to play a leading role in the effort to emphasize preventive as well as curative medicine, and I want to urge you to provide that leadership.

I have one last observation, and then I'll stop telling you how to do better and begin discussing the changes we're going to make to have the Federal Government do better.

I would also hope that HMOs would take a leadership role in the efforts to end medicine's unhealthy fascination with new technology, especially expensive gadgetry of unproven value, and to keep physician salary increases within appropriate limits. Even an HMO can sometimes succumb to the lure of experimental new technology and expensive salary structures.

Now, as I said before, I realize full well that the performance of HEW's HMO program has been anything but stellar. In fact, the Federal Government, with an announced policy of stimulating the growth of HMOs, has probably done more to dampen development than anyone since the early days of professional ostracism. Last year, Congress passed amendments to improve the situation. Now it's time for the Executive Branch to get itself together.

I want to outline for you the problem that we think that we have inherited and, at least in a general way, the steps we have in mind.

One: We understand that it is very difficult to raise capital to start an HMO. As you know, the authority for feasibility grants expires at the end of fiscal year 1978. We will push to have that authority extended. And we will encourage private investment whenever possible by making it clear that NHI is an opportunity for HMOs, not a threat. I think insurance companies ought especially to be encouraged to move more aggressively in HMO investment.

Two: HEW has not been aggressive in determining where there ought to be HMOs, seeking out groups in those areas that have the potential to form HMOs, and then providing interested groups with technical assistance. Rather the Department has dealt with applications as they arrived and not very enthusiastically even then. This is going to change. We are going to do everything we can to stimulate HMO activity, including the new interest of local governmental units such as Contra Costa County in this approach.

Three: we recognize that in HEW the grant program and the office of qualification have been hopelessly divided and that the resulting lack of cooperation has led to confusion and delay. We understand how important it is for a new HMO to have a smooth transition between the two offices. New organizational arrangements are being discussed and changes will be made to insure greater cooperation between the two units.

Four: The qualifications office is receiving an average of four applications a month and can only process two. About fifty applications are now pending. Furthermore, there are not adequate criteria for determining qualification.

Secretary Califano and I think this situation is totally unacceptable, and I tell you now—that backlog is coming down. As a first step, we have asked Dr. Milton Roemer of UCLA's School of Public Health to come in to help us reform the process.

Five: I recognize full well how slow the Department has been in issuing regulations. I am not satisfied that nine months after the passage of the HMO Amendments of 1976 the regulations issued only partially implement the law. In fact, I'm damn unhappy about it.

We are going to accelerate the processing of the remaining HMO regulations. Secretary Califano has already instituted action on the regulations to implement common HMO requirements in Medicare, Medicaid and the Public Health Service, and those regulations will be finished this summer. In addition, we are beginning to look at how state planning agencies should evaluate HMO applications for certificate of need. I pledge speedy consideration. In fact, the delays in your regulations are symptomatic of problems with the entire regulations development process in HEW. But we are currently changing that process and have now speeded up all regulations writing. Unfortunately, we have a huge backlog to be dealt with, with many carrying statutory priority.

Six: We recognize that HEW has not paid much attention to the enforcement of standards in the 31 federally qualified HMO's or among those receiving federal grants or loans. This cannot continue. As I mentioned earlier, all proponents of HMO's, including us, must be vigilant in the protection of consumers from inferior HMO's. To risk failure is totally counterproductive to the goal of HMO growth. It is ironic, but true, that HMO's must meet a higher standard than many of those whose errors HMO's have done much to overcome. But so be it.

Seventh and last: We are totally dissatisfied that only one and one-half percent or under 700,000 of Medicare and Medicaid recipients are enrolled in HMOs. We are going to consider ways to increase that percentage significantly.

Even that list is not a complete one. We also need to explore better and more adequate funding, and zero-based budgeting is going to give us a chance to do that by reassessing our priorities, even at present departmental spending levels.

As we embark on these efforts, we will consult you. But we hope and expect that you will not wait to be called. Let us know on your own initiative what works well and what does not.

And, perhaps most importantly, let us together try to revive the confidence and enthusiasm of earlier years, to overcome the distrust and pessimism of the recent past—some of which seems to be carrying over into the present in Washington.

All the good things won't happen right away. The disarray and debris left behind by people who didn't believe government could help solve problems or speed progress will take some time to clear away. Attitudes will have to change and so will aspirations. But if we can rebuild mutual confidence in social progress with people like you, then we'll begin to actually make some again.

One of the best places I know to start is in health, and I can't think where we could find better partners than in HMOs.

I've given you a lot to hold us to. Please feel free to do it.

Thank you.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MAZZOLI. Mr. Speaker, because of previous commitments in my district, I was absent on September 23, 1977, and missed four rollcall votes. Had I been present:

I would have voted "yea" on roll No. 579, approving the Journal of Thursday, September 22.

I would have voted "yea" on roll No. 580 on final passage of H.R. 6796, the ERDA Research and Development authorization.

I would have voted "yea" on roll No. 581 on the final passage of H.R. 3, the medicare-medicaid antifraud and abuse amendments.

Also, I would have voted "yea" on roll No. 582, final passage of H.R. 5383, Age Discrimination in Employment Act amendments.

THE CAMPAIGN AGAINST FOREIGN STEEL

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MURTHA. Mr. Speaker, the Johnstown works of United States Steel Corp. is helping to launch a nationwide effort to restrict the import of foreign steel.

With the Johnstown area already stunned by July flooding, the impact of imports and other factors on the steel industry has struck a particularly hard blow. Along with a set of bumper stickers saying, "The threat is real from foreign steel," Mr. Fred Beiser, general superintendent of the Johnstown Works has sent me an article from the plant's newspaper and one of the first letters sent by one of their employees to President Carter.

I would like to enclose both items for the information of the Members:

FLOODS CANNOT STOP US: FOREIGN STEEL CAN

(By Fred R. Beiser)

To everyone who worked so hard to get the plant quickly back in operation, I can only say: "A fine Job—you came through beautifully!"

We proved that floods can't stop us. Sure, they hurt, but we had it within our grasp to make a quick recovery and we did!

Now that we have "beaten" a devasting flood, it is time to turn everyones' attention to something more hazardous than any flood as far as our plant is concerned!

Dumping foreign steel into the United States by Japan and western Europe at less than it costs to produce and sell in Japan and Europe is against existing Federal Anti Dumping Laws.

Foreign steel hurts our customers and ourselves.

Each of us should insist that our government enforce Anti Dumping Laws. Get the message across to your congressmen and senators! Write them! Tell them that foreign steel is affecting your job and our business!

Write to your government representatives at the above addresses! Tell them that you're a U.S. Steel Corp. employee (or retiree) from Johnstown Works or Canton Plant. If you're a union member, include your Local's number and your name and address. Insist that these elected officials enforce the Federal Anti Dumping Law! Tell them that our nation's economy and our jobs depend on their immediate support of this law. Voice your opinion now!

SEPTEMBER 14, 1977.

DEAR JIMMY: I have never written to a President before because I always figured you were much too busy with bigger problems than any of my little ones. But this time I thought I better write from my flood-wrecked town and let you know about the plight of many jobless steelworkers. I wanted to write you sooner but we were too busy cleaning up from the flood; the time I was going to write was about two months ago when you made the statement that the government agencies should buy the cheapest steel, foreign or not. If we all did this our country would be in bad shape. I'm sending you a bumper sticker for your car and asking you to reconsider your policy on foreign steel.

Thank you,

WALTER W. SHOSTEK.

P.S.—If you need any more stickers for your staff please let me know. Answer as soon as possible.

ORGANIZATIONS CONCERNED WITH SOCIAL JUSTICE ENDORSE PROPOSED CANAL TREATIES

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. METCALFE. Mr. Speaker, two organizations concerned with social justice have given their endorsement to the proposed Panama Canal treaties. The endorsement of the treaties by the Board of Directors of the NAACP—National Association for the Advancement of Colored People—and the restatement of position of the National Conference of Catholic Bishops by its president, Archbishop Joseph L. Bernardin, is based on the belief that the treaties embody the best principles of the conduct of international relations. Both the Conference of Bishops and the NAACP have criticized the present Canal treaty relationship with Panama because it does not allow the country of Panama to fully develop all of its natural resources.

In addition to the endorsement by these two major organizations, Mr. Vernon Jordan, executive director of the National Urban League, has also indicated his support for the agreements. In an article which appeared September 17, 1977, in the Chicago Defender, Mr. Jordan said:

So the question becomes, how can we arrange for the Panamanians to have a stake in the Canal's operations and sovereignty over their own land while protecting our best interests.

I commend the views of the NAACP, the National Conference of Catholic Bishops, and Mr. Vernon Jordan to my colleagues.

The articles follow:

NAACP URGES SENATE TO OK PANAMA TREATY

NEW YORK.—The NAACP commended President Carter today for bringing to an end 14 years of negotiations on the Panama Canal and urged the Senate to ratify the treaty.

In a resolution adopted at its quarterly meeting on Monday, September 12, the NAACP National Board of Directors noted that the proposed treaty "at long last acknowledges the Republic of Panama's incentives over its territory. The full text of the resolution follows:

"Whereas, the proposed treaties between the United States and the Republic of Panama concerning the operation and use of the Panama Canal appropriately and at long last acknowledges the Republic of Panama's sovereignty over its territory; provides for economic incentives for the efficient operation of the Canal; affirms the Canal's neutrality, and commits the United States to protect and defend the international waterway from acts of aggression or any interference with the free exercise of our right to its use;

"Whereas, the National Board of Directors of the NAACP views the embodiment of these sound principles of international cooperation as a positive and important instrument of peace and goodwill;

"Whereas, opposition to the pacts is premised on emotional ties to historical blunders such as "the manifest destiny;'

"Whereas, the NAACP has been in the forefront of those who believe that colonialism has long been a threat to international peace, to freedom and the liberty of people of color; and,

"Whereas, these treaties in no way threaten the security or interests of the United States;

"*Be it therefore resolved*, That the NAACP congratulate and commend President Jimmy Carter for the culmination of fourteen years of negotiation of these agreements, and that the Board of Directors of the NAACP go on record as urging the ratification of these treaties, and urge our branches, chapters, units and members to write their senators recommending ratification."

[From the Washington Post, Sept. 16, 1977]

CATHOLIC BISHOPS TO SUPPORT TREATIES ON PANAMA CANAL

(By Marjorie Hyer)

America's Roman Catholic bishops will support the Panama Canal treaties and submit Senate testimony in their behalf "at an appropriate time," the head of the American hierarchy told President Carter this week.

Archbishop Joseph L. Bernardin, president of the National Conference of Catholic Bishops, made the pledge during a half-hour meeting with the President to discuss questions of human rights.

The archbishop said he had requested the White House meeting because he had "received many questions on this subject from bishops in other countries" and anticipated further questioning at the worldwide Synod of Bishops that opens in Rome later this month.

Churchmen in other countries, he said, have expressed concern "about how firm and lasting the present U.S. emphasis for human rights will prove to be."

He said he came away from the White House interview convinced of President Carter's "firm and sincere commitment" to human rights as a matter of national policy.

Archbishop Bernardin, who was accompanied by the Most Rev. Thomas C. Kelly, general secretary of the Catholic hierarchy, said he volunteered Catholic support on the Panama Canal treaties during the White House conversations.

He pointed out that the bishops' conference nearly a year ago adopted a policy statement favoring a new treaty. "Once a policy is adopted," he explained in a press briefing, "it is followed up."

The churchman said he also commended the President on the administration's opposition to federal funding for abortion and reiterated the Catholic Church's support for a constitutional amendment outlawing abortions.

The White House meeting of the two bishops was the first meeting of President Carter with members of the hierarchy since he became President.

During last year's election campaign, Archbishop Bernardin and other top officers of the hierarchy met with both presidential candidates to discuss abortion and other campaign issues.

In their White House meeting this week, at which Vice President Mondale also was present, the Catholic bishops registered concern for such issues as undocumented aliens, unemployment and welfare reform, the archbishop said.

[From the United States Catholic Conference, Nov. 10, 1976]

A STATEMENT ON U.S.-PANAMA RELATIONS

The United States and the Republic of Panama are presently engaged in negotiations about the future of the Panama Canal. These negotiations have been in progress since 1964 and have been advanced significantly since the Statement of Principles formulated by the two governments in 1974.

The Administrative Board of the U.S. Catholic Conference issued a policy statement in February 1975 which affirmed that: "It is a moral imperative—a matter of elemental social justice—that a new and more just treaty be negotiated." (Panama-U.S. Relations, 1975) We continue to believe that the moral imperative exists to fashion a new treaty which respects the territorial integrity and sovereignty of Panama, and dissolves the vestiges of a relationship which more closely resembles the colonial politics of the nineteenth century than the realities of an interdependent world of sovereign and equal states.

Since 1975 there has been extensive debate in the United States about the treaty negotiations. Issues of a political, strategic and economic nature have been raised. In addition, the status of U.S. citizens living in the Canal Zone is a matter of concern for U.S. policy. Our purpose in this statement is to reaffirm our stance in favor of a new treaty by specifying major issues which we believe should be in the forefront of the public debate and policy decision-making in the United States.

Speaking as bishops of the Catholic Church, our perspective on the treaty negotiations is set by a text from Pope John XXIII's *Pacem In Terris*. In his discussion of relations between states, the Pope said: "Each of them, accordingly, is vested with the right to existence, to self-development and the means fitting to its attainment, and to be the one primarily responsible for this self-development." (para. 86) It is the principle which is at stake in the treaty negotiations: the fundamental question is the need to acknowledge in principle and in fact Panamanian sovereignty over its own territory. The terms of the 1903 Treaty acknowledge the principle of Panamanian sovereignty, but prevent its exercise in any form in the Canal Zone. Without rehearsing the history or the terms of the treaty, we simply would affirm that the moral, legal and political realities of international life today render the 1903 Treaty an anachronism.

The terms of the Treaty make it impossible for Panama to be the primary agent of its own development, because it deprives the nation of a substantial part of its territory, income and capacity for planning the integral development of its people. Finally, by restricting sovereignty in this way, the present relationship strikes directly at the national dignity and sense of respect which any nation needs for free and independent existence. To quote Pope John again, "Nor must it be forgotten, in this connection, that peoples can be highly sensitive, and with good reason, in matters touching their dignity and honor." (para. 89)

Because the issue of sovereignty is so closely tied to the freedom and self-deter-

mination of a nation, it has become an issue of dignity and honor for the Panamanians. Given our political history, the world has a right to expect that Americans will be especially sensitive to another nation's claims for freedom, dignity and self-determination.

The implications of the sovereignty issue for Panama can be illustrated with two examples: First, as we indicated in our 1975 statement, the inability of Panama to integrate the Canal and the territory comprising the Canal Zone into its national planning has significant economic consequences ranging from urban congestion in Panama City to the amount of revenue which can be garnered from operating the Canal. Second, through a process of unilateral actions, the United States has developed in the Canal Zone a very substantial military presence which goes far beyond the requirements for defending the Canal. The existence there of the U.S. Southern Command implies a U.S. military presence throughout Latin America. It is a continuing political problem, casting reflection on the independence of Panama, for its government to be so closely tied, without choice, to the military policy of the United States in Latin America. Without a new treaty the Panamanians have no possibility of addressing either of these issues.

We support a new treaty, therefore, because we see it as a requirement of justice between our nations. As we consider this larger question of justice, however, we wish also to express our pastoral concern and public support for a negotiated treaty which will protect the welfare of the people living and working in the Canal Zone. We especially call attention to the need for an agreement which will provide for the economic security of Americans presently employed in the Canal Zone. This too is a requirement of justice which rests upon both the United States and Panamanian governments.

The issues involved between our two countries are complex; they are also emotionally volatile. The need in both countries is for reasoned discussion, a sense of the other's point of view and a commitment to a fair resolution which will lay the basis for a long-term relationship of respect and cooperation between our governments and our peoples. It is to achieve these objectives that we commit ourselves to a continued program of public education and discussion in the United States.

[From the Chicago Defender, Sept. 17, 1977]

CANAL TREATY IS SOUND

(By Vernon Jordan)

The credibility of American foreign policy and our position of enlightened world leadership are at stake in the recently concluded Panama Canal Treaty.

If the Senate fails to ratify the treaty, this country will be in deep trouble. One possibility might be a prolonged Vietnam-type guerrilla war in Panama. The Canal, always vulnerable to sabotage, could be closed. And America's prestige among South American and Third World countries would go down the drain.

Despite this, the treaty has become one of those emotional issues tailor-made for demogoguery. We're hearing wild charges that the Treaty is a "giveaway," that it endangers national security, and that it involves territory we own.

None of these charges hold water. The Treaty is no giveaway. It assures U.S. operating control of the Canal and an American military presence there until the year 2000, and we retain freedom of action to assure Canal's neutrality. It's a sound agreement that will mean continued access to the waterway for all nations and continues America's strong position there.

Rather than endangering national security, the Treaty strengthens it. The Joint Chiefs of Staff and U.S. Officers at the Canal all endorse the Treaty. They know it means stability of the Canal's operations and that the agreement is the best defense against sabotage because Panama will have a major economic stake in its operation. Even after the Treaty ends, if our defense interests required it, our armed forces would still be in a position to defend the Canal.

And it is incredible to hear people say that the U.S. owns the Panama Canal Zone. We have rights there, but we don't own the place. The Canal Zone is not like other territories the U.S. purchased and owned forever thereafter.

Our control—not ownership—is based on a 1903 Treaty that was rammed down the throats of the Panamanians during the heyday of colonialism. By renegotiating that Treaty we put our presence there on a legal and moral basis far superior to that now governing our control.

Ratification of the Treaty is essential to avoid bloodshed. I often wonder whether the people so loudly opposed to the Treaty are willing to put their own lives on the line in fighting any war that might result from its rejection.

It should not be so hard to understand the Panamanian feelings about the Canal Zone. How would we as Americans feel if a foreign country controlled a broad strip of land cutting through the heart of our country? And how would we react if that control was based on a colonial era treaty forced upon us and if the foreign power refused to grant us sovereignty over our own land and operating participation in a canal on our own territory?

It's as if Great Britain had granted independence in 1776 while still holding on to a big chunk of America and refused to give it up 200 years later. We'd be pretty hot about that, and that's the way most Latin Americans feel today.

The real question is not whether we will continue to control the Canal and the Zone in all aspects. We can forget about that. If the Treaty is rejected by the Senate then the Canal may be closed down anyway by military action or by sabotage, almost impossible to stop.

So the question becomes, how can we arrange for the Panamanians to have a stake in the Canal's operations and soverignty over their own land while protecting our best interests.

The answer to that is the Treaty. It is fair, honorable and workable. It took 13 years to negotiate. Four Administrations have worked for an agreement that supplants the dishonorable 1903 Treaty, and all have started from the assumption that Panama's rights have to be honored.

So this is not a partisan issue. It would be irresponsible to endanger America's international position and her relations with other countries for whom the Treaty is a key indicator that our Nation is willing to deal with power and weaker nations on a basis of mutual interest and mutual respect.

THE JOHNSTOWN FLOOD OF 1977—PART V

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MURTHA. Mr. Speaker, the concluding part in this series on the Johnstown flood concerns the future of the town, and how some of the residents see the situtaion following the July devastation. As this series closes, I would again like to congratulate Dave Leherr and Stuart Brown of the Pittsburgh Post-Gazette on compiling this excellent article on the Johnstown flood and its effect.

The article follows:

THE JOHNSTOWN FLOOD OF 1977—PART V

Robert Rose, 53, a lawyer, stood in the mud that used to be the first floor of the David Glosser Memorial Library in downtown Johnstown.

"We lost 100,000 books, many of them rare volumes that can never be replaced," says Rose, who is a member and former president of the library board of directors.

The library was just dedicated in 1971. Ironically, the old library is now the Johnstown Flood Museum.

"We saved the top shelf of books," he says.

Aided by three busloads of Penn State students who came to Johnstown to help in the mopup operations, Rose was dry freezing the salvaged books and packing them in boxes to preserve them. Others were sponging microfilm to keep it wet so that this valuable part of the library's collection would not crack.

Rose was one of those who talked with determination and confidence—not just hope—about the future.

"This town will survive this flood and it will be stronger because of it," says Rose. "I was 12 in 1936. I remember the mud then. I remember my grandmother shoveling mud. I remember the hardship. But most of all I remember how quickly they came back.

"Yes, we were told we were flood free and we believed it. No, I'm not angry. But I can understand those who are. If I had lost a loved one or if I had lost a business, I might not be so charitable."

Perhaps it was fate, perhaps just chance, but even as Rose talked, one of the students was hosing off laminated copies of old newspapers which are part of the library collection.

She held up the April 6, 1936, edition of the Johnstown Democrat.

The headline read: "Greater City Rises From Ruins of Deluge."

For some reason, an employee of Lee Hospital, on Main Street in downtown Johnstown, was up during the middle of the night of July 19–20 at her home more than 40 miles away. She turned her radio on and heard reports of heavy rainfall in the Johnstown area. At her home there was no rain.

She is the sort of person who will rush to work unasked during an emergency, but these reports didn't seem especially urgent, though they were unusual.

She drove to work the next morning and was astounded to find Main Street under several feet of water. The basement of the hospital was wiped out, and gone were generators, the cafeteria and food preparation area, surgical supplies and other equipment.

She telephoned her husband to say she'd be coming home late, and he idly wondered why the hospital was taking so much of her time these days. Later she would be driving a truck.

This week, in a semi-darkened office at the hospital where most electrical power had not yet been restored, a weary administrator, Richard Seifert, told a visitor how nearly 300 patients had been evacuated without panic.

Some had been waiting for surgery. Some were recuperating. Though the electricity had gone out in the middle of the night, most of the patients were not aware of the flood until they awoke in the morning and looked out their windows, Seifert said.

The administrator was tired, bone tired, and though he and the visitor had not met before it appeared some of the deep lines in Seifert's face must have emerged during the past week.

He said those patients who could be sent home were, and others were transferred to other hospitals. Most were carried down the stairs of the six-floor building. And as Seifert spoke, the only unit of the hospital still functioning was the emergency room, which had administered 10,000 tetanus shots in addition to other chores.

Outside on Main Street dozens of volunteers were shoveling mud and gathering debris away from the hospital. They included hard-working Mennonites from far away, Penn State University student volunteers and Seifert's teen-age girl.

Seifert was asked when he thought Lee Hospital, with its 321 beds, might again begin admitting patients. He said around Aug. 7 or 8 they might be able to "phase them in." But nothing was certain in this mess, he conceded.

"Our electrical power is down to nothing," Seifert said as, nearby, staff members sat near windows straining their eyes to write. "Three emergency generators we had lasted us an hour. Then they were wiped out and the night could have been a night of terror in this place.

"But our people were beautiful. They moved. They kept things calm. The patients were disturbed as little as possible. We had 276 of them, and they moved out 97 the first day, 103 the second day and the rest on the third day. Remember, some of these people were so sick it took 10 people to carry them downstairs, and I don't have to tell you what it was like outside."

Seifert was asked about the spirit of Johnstown, about whether it would come back.

"I see a community coming back stronger than before," he said, "but it's up to the people—their attitudes and their industry."

Then, apparently not satisfied with his answer, he got up and walked slowly to a table. A framed picture was lying face up. Seifert picked it up and held it out for the visitor to see: The face of a bearded man. The plaque said "Dr. J. K. Lee."

"John K. Lee," said Lee Hospital's administrator. "His widow died in 1916 and left the money that helped us to become this beautiful hospital. We came through World War I and construction wasn't finished on our present building until 1928. Then we had the floods of 1936 and World War II and now . . . this.

"Dr. Lee died on May 31, 1889. He was a victim of Johnstown's Great Flood. So when you ask me, will we make it back. I look at this bearded man and this hospital and that muck outside and tell you this:

"It's only the game fish who can swim upstream, and I think the people here are tough enough to take this—and survive."

1984 AT COORS: POLYGRAPHS ON DEMAND II

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mrs. SCHROEDER. Mr. Speaker, on September 20, 1977, at page 30039. I inserted a letter to the editor of the Denver Post from a striking Coors brewery worker in which he explained that a central issue in the strike was that the Coors management insisted on the right to require employees to submit to polygraph tests upon demand, and that refusal to take such a test would be grounds for dismissal.

The RECORD insert elicited the following letter which, I believe, speaks for itself:

DEAR CONGRESSWOMAN SCHROEDER: I noted in the Congressional Record of 20 September 1977 your submission of a letter to the editor of the Denver Post regarding the striking Coors employees. Included in the letter is a discussion pertaining to mandatory submission on the part of employees to polygraph tests, if requested by the employer. I believe my experience with polygraph tests is extremely germain to just this issue.

During my leaner years as a returning student, I sought a job with a Denver firm operating an armoured car service. Unfortunately I don't remember the name of the firm or of that administering the required polygraph tests, but it should be easy to determine since there can't be too many of either in Denver. In any event, I was subsequently advised by the armoured car firm that they could not hire me. In response to my query of why not, I was further advised that it was simply due to the fact I failed the polygraph test. Needless to say, I was deeply disturbed and imposed upon the firm to give me a second test.

I failed the second test as well, but I was able to get the tester to show me the results, even though it was contrary to his firm's policy. Thus, I personally confirmed, and it was obvious, that according to the graph I did indeed clearly lie on two occasions: 1) when asked if I had ever been jailed, I answered no; and 2) when asked if I had ever stolen anything with a value of $150.00, to which I again answered no.

Since my life is extremely easy to document, I can easily show I have never been jailed, albeit it is virtually impossible to confirm that I have never stolen anything over $150.00. In any event, my failing the tests must be attributable to my recognition of the importance of the two above noted questions and, perhaps, the anxiety brought about by my need for employment and income. I have been concerned over polygraph use since then, fearing that as a matter of expediency or frustration on the part of the courts, they will begin to accept polygraph results as admissable evidence or that, as in the Coors case, refusal to take such a test will be taken as a measure of guilt.

Accordingly, based on my own personal experience, I firmly believe the use of polygraphs should be against the law, unless specifically offered, under no suggestion or duress, by the individual concerned.

MEAT IMPORT HEARINGS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, last week the International Trade Commission completed a series of hearings on the impact of meat imports on domestic prices—a series which began last June in Rapid City, S. Dak. Some 230 South Dakotans and meat producers from other Midwestern States attending this final hearing in Washington at which I presented the following statement:

THE HONORABLE JAMES ABDNOR BEFORE THE U.S. INTERNATIONAL TRADE COMMISSION WITH REGARD TO LIVESTOCK AND MEAT IMPORTS

Mr. Chairman and members of the Commission, I am pleased to finally have this opportunity to appear before you to express my views on the issue of livestock and meat imports. As you may recall, I had intended to appear at your initial hearing in June held in Rapid City, which is in my Congressional district. My statement was placed on the record but, unfortunately, I was prevented from presenting it personally due to a last minute legislative scheduling conflict which required my presence on the floor of the House.

Since my statement is on the record, I will not take much of your time. I did want to make you fully aware of my deep, personal interest in this matter by my appearance before you this morning, however, and I would also like to reiterate and emphasize the major points of my statement, which as you will recall dealt primarily with flaws in the Meat Import Act of 1964. (A copy of my statement is attached for your ready reference.)

Although I identified fourteen more-or-less distinct problems with the '64 Act, they can be summarized basically as errors of concept, omission, and administration.

First, the concept of an import quota which increases as domestic production does is faulty in that it ignores the cyclical nature of the industry. Second, omitting live animals, meat of certain livestock, and processed meats of all kinds ignores the interrelated nature of these products with those subject to the quota and invites circumvention. Third, the inadequate protection afforded in light of the errors of concept and omission inherent in the '64 Act is further diminished by the manner in which the law has been administered.

Mr. Chairman, I believe these issues can and should be addressed in the context of amendments to the 1964 Meat Import Act. I also believe and urge that all imported meat products should be subject to health and sanitation requirements which are equal to those placed upon domestic production and, finally, that imported meat products should be identified as such to the ultimate consumer.

Mr. Chairman and members of the Commission, you can be certain these issues will continue to have my attention as long as the dire financial condition of the livestock industry prevails. As you can appreciate, however, in an urban dominated Congress the efforts of rural members like myself and the others who appear before you today will continue to be futile unless we have the understanding, concern, and support of officials such as yourselves.

With that thought in mind, I thank you for your consideration.

IN PLACE IN IRVING

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MILFORD. Mr. Speaker, I would like to share with you a story that was published in the Sunday magazine of the Dallas Morning-News about one of my good friends in Irving, Tex. First, I think you should know that Irving is a suave, sophisticated city and rather conservative in outlook. In many ways, this city of 118,000 people is the typical "suburbia" often stereotyped in TV shows.

Recently, Jackie Townsell, who is both female and black, defeated a white male realtor to win a seat on the Irving City Council. I think it is an interesting story.

Politics is not Jackie's only claim to fame—she cooks some of the best food in the district. Both my staff and I enjoy eating at Jackie's grocery-cafe where you can always find the best black-eyed peas around.

Mr. Speaker, I include this article written by Mike Granberry in the RECORD:

IN PLACE IN IRVING

(By Mike Granberry)

The stringy-haired, buck-toothed teaser limps in with a grin, plops down to a hot plate of meat loaf and cabbage and expresses unequivocal, unabashed displeasure.

With a smile as big as Dallas and a falsetto that would fill Gomer Pyle with pride, he declares, "All I need me is some YEW-TIN-SILLS!"

First one laugh, then another. In moments, everyone in Jackie Townsell's Irving, Texas, grocery-cafe is laughing like a seasoned idiot. Epidemic laughter, Jackie leading. Guffaws, running rampant.

Welcome to the House of Good Feeling.

Soon, the country-talkin' cane-poker is fitted with knife and fork and is gobbling cream corn and slurping strawberry Kool-Aid from a Mason jar as if his last meal had been set before him. "Jackie," he drawls, corn dripping out the side of his mouth, "I'd vote for yew inny-time!"

"Thank you," she replies. And laughs and laughs. . . .

The noon rush over, Jackie herself settles down to a jar of Kool-Aid and an hour of quiet conversation. Only a few latecomers remain, munching diligently in the corner.

"I'm the only woman on the Irving City Council," Jackie declares, "and that is no problem for me. I speak out and say what I want and handle myself in the most businesslike manner possible. Men understand that, you know."

The men in the corner could be a trio of extras taking leave from "Straw Dogs." Or characters from the pages of a D. H. Lawrence novel. The men are mechanics, and they are greasy. They even joke about the odor they carry.

Hearing Jackie's remark, the curly-haired man rises, holds his cornbread high in the air in mock salute and cries out, Amen, brother! Ahhhhhh-Men!"

Jackie laughs.

To a politician like Jackie Townsell, such endorsements are often worth free meals. But everyone pays at Jackie's place, and everyone gets their money's worth; all-you-can-eat, $2.50. And almost no one walks into or away from Townsell's Grocery without feeling embraced.

The air in there is certainly warmer than it is in anyone's political headquarters. Besides Jackie's omnipresent laughter and home cooking, a two-tone cat curls up in the corner and naps for a solid hour. Dust gathers on the Hershey bars as if, by God, it belonged there. Two boys, one black, one white, wearing boxer shorts, wrestle over a Dr Pepper bottle that is half as big as they are.

Jackie's mother, Mrs. Ola Howard, who along with Mrs. Ruby Collins cooks most of the vittles, takes swipes at three flies trying to kamikaze their way into the meat bin.

Follow the sloping ceiling and rutted floor of Jackie's general store all the way to the characters hunched in primitive chairs in the back corner. Past the Tide, Wonder Bread and Hostess Twinkies. Even past the Lifebuoy. Way past the Lifebuoy. Quick to admit that Jackie is an Irving folk hero, these pot-bellied boys are even quicker to confirm that they'll be back, again and again.

Politicized fork-movers have always frequented Townsell's Grocery, but lately more and more have been stopping in, having heard of or read about Jackie and wanting a piece of the action. Like a piece of peach cobbler, served up after cornbread and meat loaf and strawberry Kool-Aid.

Jackie Townsell's popularity base began building seventeen year ago, she suspects, when she and husband Jimmy first opened a grocery store in the muddy Bear Creek community of West Irving. A behind-the-scenes grassroots political organizer, Jackie started stuffing hearty meals into the stomachs of hungry callers five years ago. Food became the ultimate unifying force, luring eaters of all ethnic origins. "Me and Jimmy used to live here," she says, pointing to the back door where the bedroom used to be. "I'd be cookin' and people'd want some. I figured I'd better make 'em pay for it."

Which is cause for a good-natured laugh. And another. Looking "lean and mean" in summer blouse and blue jeans, Jackie appears much younger than 41, the mother of a man of 26. A fan of her own cooking, she is one of those rare individuals who can stomach great quantities of food and at the same time struggle to keep her weight up. Infuriating, those people are. But Jackie more than makes up for it. Good feeling comes as naturally to her as a giggle or a grin. Opportunity is a constant companion. The luckiest of accidents appear to happen to her as often as the grocery door swings open, as often as she smiles, take another bite or greets a newcomer.

Truly blessed by chance—"I have had a good life," she says—Jackie is equally endowed with a gift for gab. Storytelling is as much a part of the store scene as political theorizing. Jackie is a laugh-along ringleader whose laugh is almost always the last. And for whom votes, when the time came, were as naturally easy to come by as belches of satisfaction.

The time was April, when Jackie defeated two challengers for a city council post. White realtor Jack Spurlock finished second; retired Navy man Johnny Watson, third. Watson visited the store, offering congratulations. Spurlock was never heard from.

"You wanna know how all of this started?" she says now, turning a capped hot sauce bottle upside down and watching its contents flow thickly to the top. "We used to sit around and talk about things—that's how it all got started. We'd talk about this amendment, that resolution—the world or the local situation in general. We'd discuss and cuss, agree, disagree, hash it out just to pass the time.

"I can't remember first being really concerned long about 1968. But that wasn't the time for a black woman to run for office in Irving, Texas. Gradually, I got better and better feelings about running. Knowing when to run—why, people just made me feel it. Made me feel like I ought to.

"My white friends gave me the go-ahead to run. They asked that I put together a resume, list everything that I'd done in the last five years." She laughs. "They were shocked and impressed. It was so long." Laughs again. "One thing leads to another—don't you know?

"I feel delighted to be elected," she says, mentioning that she had lost a council seat by 225 votes in a runoff three years ago. Long active in civic affairs, Jackie preceded her council bid by serving as precinct chairman, a post she resigned to run her April campaign.

"To know the kind of people we have here—progressive, proud people—makes me feel pride. I'm happy just being associated with them. I have so many friends, I'm filled up with tears just thinkin' about 'em . . .

"You know," she continues, "I don't know what a person would do without friends. A friend is someone I talk to whenever I'm low. Someone I call up whenever I want. Someone who's always there. Friends mean love to me, no matter what color they are.

"See, I see myself as a voice, a voice of all the people. I want to listen to the needs of those less fortunate than me, though I resent 'black spokesman' tags. I'm not a spokesman anyway. I'm a spokesperson." She laughs.

"Understanding means a lot of things, and I want to be all of the things to all of the people all of the time. Seriously, I'm for the entire city, all of Irving, not just West Irving. I have no hangups about black or white, rich or poor. I serve all. All elected me."

Race is a moot point in Jackie's store. Whites and blacks trade tidbits of gossip between bites and swallows. A white council member walks in, waves to Jackie and takes a chair. An old black peddler, wearing a red cap and poking the floor with an oak cane, sits down beside him. "How ya been?" the men say.

"The Sixties opened a lot of eyes," Jackie says. "On both sides, black and white. Blacks were as prejudiced as whites. But people's minds have mellowed. Who you are is more important than what color you are.

"Martin Luther King was a hero of mine, and my other heroes were Mother and a white woman I used to work for. Both taught me to cook, and Martin Luther King is responsible for improving race relations, almost totally responsible. Martin Luther King taught me and a lot of other people how to love."

Politics and food have a way of infecting Jackie in the way that she infects others. Delightfully, with an innocence that seems to promise everyone no harm. "You've got to love politics," she says. "I certainly didn't get into it for the money (for council members, $100 a month). Prestige may be involved, but it's more the prestige of the people that I care about.

"I've always been a Democrat, though. I've always read the paper. I've always been obsessed with politics. Little sister (Jackie is the eldest of three daughters) always read the funnies." She laughs, turns serious, shifting again her train of thought.

"You know what we need to do? We here in Irving? We need to stop building and start *repairing*. We're building too many new, unnecessary roads. We need to repair, then build."

Roads are among Jackie's earliest memories. Her Bear Creek ties run deep, beyond her West Dallas birthplace, from which she moved at the age of eleven to a hollow hamlet "where the roads were dirt and stumps were all over. We'd slosh home in the mud, couldn't drive to save ourselves and had to hike to school. I met Jimmy about then—we were just kids." She laughs. "He was seventeen, I was fifteen." Laughs again. "I knew I couldn't help fallin' in love.

"You know, Jimmy's boyhood dream was to build a store. He was raised to Terrell. His parents were sharecroppers, and he used to walk to a store that a white man owned. That man was a hero of Jimmy's. He used to give him candy and stuff. Jimmy always wanted a store just like his. He talked about it the whole time we were courtin'.

"When we got it . . ." She's laughing now." . . . it wasn't anything like he thought it would be. He didn't last long. So who's kept the store? Me, that's who."

But nowadays, Jimmy works a full day at Dresser Industries, then comes home to mind the store while Jackie attends meetings, civic functions or political rallies. 'He's a good man," she says. "You oughta see him play jacks with the kids in here, always sayin', 'Mistuh Jimmy, would you play us some jacks?' Whoooooee! He'd kill me if he knew I'd told that!"

Playing jacks, checkers, tuning in jazz, rock, even country blues—these are the lighter aspects of Jackie Townsell's lighter side. "I enjoy being alone at night, coming back from a meeting or a talk. I can think then.

"And, no, I don't enjoy campaigning. I hate it. Beatin' on doors, runnin' here, runnin' there—it'll wear you out. Some of my friends said. 'Jackie, you're crazy! We wouldn't do that for nothin'!'

"I never, as a big girl or a little girl, thought I could be a politician. I didn't even know what a politician was. I always wanted to be a secretary. Takin' messages, typin'—that's still a dream of mine.

"Am I serious? Of courre. And I will never, ever run for higher office. By the time this is over, I'll be old and gray . . ."

And Jackie Townsell laughs again, at herself, with you, a warm sound that sticks to the ribs of your mind through the afternoon.

CONSUMERISM—WHAT'S AHEAD

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. RICHMOND. Mr. Speaker, it is ironic that as a nation which prides itself on the preeminence of its agricultural system and the high quality of its food supply and which refers to itself as the "best fed nation in the world" we are literally eating ourselves to death. Recent scientific studies show that at least six major diseases are directly related to a diet that is overly rich in fats and calories. Faced with dire warnings about their health and barraged with seductive advertisements for nonnutritional foods, American consumers are demanding accurate information about the food they are eating and its relation to their health and well-being.

One voice which is speaking out for the consumer is that of Ms. Nancy Steorts, a respected and influential official at USDA during the former administration. On the eve of our investigation into the role of the Federal Government in nutrition education, I would like, as chairman of the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee, to include in the RECORD a very important speech recently delivered by Ms. Steorts before the American Chemical Society.

CONSUMERISM—WHAT'S AHEAD

The consumer movement is a major social, economic and political force in this country today and is a vital force to be contended with in the years ahead.

In a recent study, "Consumerism at the Crossroads", which was commissioned by Sentry Insurance in cooperation with Louis Harris Associates and the Marketing Science Institute of Harvard University, it was pointed out that the consumer movement is here to stay—and in fact is growing stronger every year. According to this survey, consumers still feel they are not being treated fairly in the market place and believe that the quality of goods and services has depreciated over the last ten years.

The study points out very clearly that the business community is sharply out of step with the American people on consumer issues. It is predicted that if this attitude doesn't change business can expect to be continually attacked by both consumer activists and elected representatives which will more than likely result in more regulations.

HOW CAN BUSINESS START TO CHANGE ITS IMAGE?

1. See the consumer once again as the Customer.

2. Work with and not against consumers and the issues that are important to them.

3. Find out what the needs of today's consumer are. They are changing constantly.

4. Work with professional consumer representatives—invite responsible consumer leaders into the board room for advice.

5. Don't let your Public Relations firm or Advertising Agency dictate to you the best approach to reach consumers—talk to consumers themselves—let the PR firm then take the lead from you.

6. Keep in close touch with what's happening in Washington, in State and Local Government, as well as in your own communities.

7. If you move aggressively and initiate a program be sure you then communicate the story effectively.

8. Personal contact with our key communicators is essential today. If you are proud of what you are doing, tell your story. The consumer is interested in what's happening today.

Business executives often say that many consumer demands are not possible. Consumers have pointed out very clearly that they are willing, however, to pay more for better products—if the quality is real, the price difference not excessive and they are fully aware of the improvements that have been made.

BACK TO THE BASICS

There has been a tremendous return to the basics today in American Society and a great new awareness of nutrition as it relates to our health.

We've seen an increase in home gardens, a massive return to home canning and freezing, an upsurge in the number of people preparing meals from scratch rather than depending on convenience foods and a tremendous need for more nutritional information.

FOOD AS IT RELATES TO HEALTH

The old adage, "You Are What You Eat", is rather evident in a recent U.S. Department of Agriculture survey which shows that there are a large number of people who want to change what they are.

The study shows that there is a large number of people who are worried about dealing with or preventing health problems. Almost two-thirds of the 1,400 people interviewed said that they, or someone in their household, suffered from some type of ailment. High blood pressure, allergies and overweight were mentioned most frequently. (In fact, according to the AMA, about one in five Americans is overweight.) About 60 percent of those with a health problem said they had changed their diet.

Both groups appear to be cutting down on items high in saturated fats and oils, replacing them with other products.

They are substituting fatty red meats with fish, poultry and lean red meats. Other changes listed include drinking more low fat milk, eating more cheese and using more margarine instead of butter.

Many households are also looking for special information on the labels of food and beverage products to check for the number of calories, the amount of fat, or the presence of sugar. Other types of special information they are looking for include vitamins, minerals and the amount of carbohydrates.

Rather than eating sweets, snacks and fried foods, changing dieters are turning more to fresh fruits and vegetables. They are eating more salad vegetables, especially green peppers, raw broccoli, cauliflower, spinach and mushrooms.

As scientists involved in the development of new foods you have a great challenge ahead. Additives, coloring, fortification, preservatives are all going to be questioned very severely by consumers. What will the effects of these be to the consumer's health? Consumers want the facts—not advertising fluff.

The era of the "twinkie" is quickly coming to an end.

NUTRITION—A NATIONAL PRIORITY

Consumers are looking to government and industry today to help them become more knowledgeable about nutrition and the nutritional quality of the food they are buying.

Last week in Washington I attended a Conference on Nutrition and the American Food System, which was sponsored by Family Circle magazine, Food Marketing Institute & Community Nutrition Institute. Government, industry and consumers spent two days discussing this most important subject of nutrition which is now becoming a national priority.

Senator Robert Dole in his keynote address to this Conference said, "I am convinced that agriculture and nutrition must be brought into closer coordination." As more and more Americans are aware of the link between what they eat and how healthy they are, nutrition is likely to be the central consideration in all our food policies. Senator Dole predicted that as the food buying habits of the American people change, the production habits of the American farmer will change.

This could bring about an entirely different scene at the supermarket.

Congressman Fred Richmond, Chairman of the House Agriculture Committee's Domestic Marketing Consumer Relations & Nutrition Subcommittee, stated at this same Conference that this Subcommittee is undertaking a thorough five-part investigation in the Fall of the role of the federal government in nutrition education.

Consumers, food industry representatives, health and education professionals, public interest and private groups, and media experts will all be called to discuss their activities and advise on how the federal government can play a more effective role in nutrition education.

At the conclusion of these hearings a report will be prepared and legislation will be introduced to insure that the federal government will play an active and leading role in determining national nutrition policy.

A White House task force is currently preparing a report on the status of nutrition research and it has been learned that the President will personally determine which issues should be given immediate and long-term attention.

No one alone can determine national nutrition policies. It must be a joint effort. Congressman Richmond stated that Congress must allocate more funds for nutrition research, foster inter-agency coordination, disseminate more sophisticated consumer information materials by the government, consolidate all federal efforts, demand the government take a position on labeling and consumer oriented grading programs and establish federal policy and standards on food advertising.

We are in a new era today—an era of good food for good health. As scientists in research we need your help.

We must have nutrition education today. It is a national priority. It must be available when consumers need it. It must have high visibility—in advertising—at the grocery store—in the welfare office and throughout the media. Consumers need to have the facts about the FOOD they are buying. You can help. Through your research activities you can tell us more about the food we are eating. Help us develop new guidelines for quality foods.

A concentrated effort is needed. Government officials, industry executives, nutritionists, health officials and consumers need to work together to define the goals and direction of future nutrition policy. By working together we should be able to devise an effective nutrition policy.

CITIZEN RATE BOOBY TRAP?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, we have been hearing a good deal from the U.S. Postal Service and the administration concerning one of their solutions for rising postage rates—the so-called citizen rate.

That not all citizens are being deceived by contrivance is illustrated in this very perceptive editorial of publisher Wendell Long in the Bennett County Booster II at Martin, S. Dak.

DON'T BE DECEIVED

The 13 cent-16 cent first class letter rates proposed by President Carter has been approved by the U. S. Postal Service Board of Governors, according to "Federal Times."

The plan now goes to the Postal Rate Commission and, if approved, the new rates will become effective next May. The PRC gets up to 10 months for hearings.

The Proposal is for first class business letters to rise three cents to 16 cents. And there would be a new "citizen rate" that would stay at 13 cents per letter as at present. Other classes of mail would increase.

We wonder what the ghost of Ben Franklin somewhere up there thinks of what has happened to his United States post office idea, an idea that enables individuals to communicate with one another at a reasonable cost, an idea essential to a free society, and idea that gave us the glue to keep our society together.

We think that U.S. citizens should not be deceived by this big break the postal service intends to give us.

On a fact sheet about "citizens' fate" handed out at Postmaster General Benjamin F. Bailar's press conference recently, eight facts were listed and facts numbered 7 and 8 were most revealing, we think:

Fact 7: "Citizens' Rate Mail will not be subjected to a mandatory requirement that it be processed during peak-load hours."

Fact 8: "Regular first-class and other priority mail will normally have carrier and lock box priority over Citizens' Rate Mail."

In other words, non-business mail from you is going to be put at the bottom of the pile, sent to the back of the bus. Your letter to mom or dad or son or daughter or Aunt Abigail often won't get there as soon as it does now. And if the postal service's scheme to cut down six-day delivery to five-day delivery—meaning no Saturday mail in most cases—goes through, as it probably will, Lord only knows how long it might take for your letters to arrive.

Since the President has urged the postal service to keep citizen mail at 13 cents, this postal service plan to slow your mail service down even more smacks of a political ploy. Which is to say that Bailar pleases the President and cuts down on service to the U.S. citizen at the same time. Neat, right?

It was nice in 1970 to get politics out of the post office, but the present postal service setup isn't working. We need a mail system that works. Thirteen cents for a first-class stamp is too much and six-day service is essential.

The new "citizens rate" scheme is no step in the right direction. It just means poorer service for us all.

PROBLEMS WITH A VITAL ENERGY OPTION

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PRICE. Mr. Speaker, newspapers too infrequently carry truly accurate and clearly focused reports of events and situations—even those of first-rank importance from the standpoint of the national interest.

On the first page of the New York Times on September 21, I read an article by John Vinocur that I believe merits high marks for its truth content and well-focalized presentation. It describes a serious situation that could have disastrous implications for our plans for solving our national energy problem. I hope it is read by lawyers—and particularly by officials of the Nuclear Regulatory Commission and executive branch agencies—who, at this very moment, are concentrating Federal brainpower on the need to formulate considerable improvements in the overall nuclear regulatory process. The likelihood of reversing, or continuing, the present decline in the prospects for assuring availability of nuclear power to help meet our energy needs will depend to a large extent on such improvements.

I place Mr. Vinocur's article in the RECORD, and commend him for his comprehension and unvarnished account of an alarming situation:

[From the New York Times, Sept. 21, 1977]

OUTLOOK HELD BLEAK FOR MANUFACTURERS OF ATOMIC REACTORS

(By John Vinocur)

American manufacturers of nuclear reactors are in deep trouble. Their slumping markets show no signs of recovery, and the industry itself is now facing the disintegration of skills and production capability built up since World War II.

Business is terrible. In the early 1970's, atomic power seemed the logical energy source for last quarter of the century and utility companies ordered an average of 30 reactors a year to run their electricity generating plants. But after this bright period of expansion, domestic orders have fallen off to almost nothing.

[Rebuffing President Carter, the House of Representatives joined the Senate in authorizing funds for the Clinch River Breeder Reactor.]

TWO-YEAR LIMIT CITED

There were three orders for new nuclear plants in 1976. This year, there have been four, although two are tentative preliminary contracts.

"In about two years, you are going to see this business disintegrate," said Howard M. Winterson, a vice president at Combustion Engineering, one of the American manufacturers.

"We have yet to show a profit. When everybody works off his backlog, things are going to be very, very tough."

Utility companies have turned almost exclusively to coal from the reactors that use nuclear fuel instead of coal. A fission process in the reactors creates the steam needed to drive the industry's power-generating turbines.

The reasons for the change, the manufacturers say, are regulations that stretch out the delivery time for nuclear plants to more than 10 years and thereby multiply inflationary costs, decreased demand for electricity as a result of the recent recession and higher prices, continuing resistance by strong environmentalist groups and what is perceived as an active anti-nuclear bias within the Carter Administration.

During the current slump, the four manufacturers of nuclear plants—the Westinghouse Electric Corporation, the General Electric Company, Combustion Engineering and the Babcock & Wilcox Company—are managing to operate their nuclear reactor divisions through an industrywide backlog, based on old orders, and estimated at about $15 billion to $20 billion by industry sources. The size of the backlog is described as deceptively large because of the possibility of cancellations and the lack of any new business.

SALES ABROAD SEEM THREATENED

Westinghouse and General Electric have not had any new orders since 1975 and overseas sales, once a major hope for development, now seem threatened by Administration export controls and local anti-nuclear sentiment of an intensity so far unknown in the United States.

"The technical people are very disillusioned with the business and are beginning to look outside," Mr. Winterson said. "How could you blame an engineer for thinking, 'I've got a family to support. Maybe I ought to go to aerospace.' There's nothing really optimistic to hold him back with. In a sense, it could mean dismantling a generation of advanced technology."

On a national scale, the nuclear reactor builders employ directly about 30,000 people, with Westinghouse centering its operations in the Pittsburgh area, General Electric in San Jose, Calif., Babcock & Wilcox at Lynchburg, Va., and Barberton, Ohio, and Combustion Engineering at Windsor, Conn.

Sam W. Shelby, marketing general manager for Westinghouse's water reactor divisions, also used a two-year time frame in his gloomy assessment of the industry's chances for recovery.

"It's going to be extremely difficult then," he said. "Our second- and third-tier suppliers are hurting badly already. We've nurtured these small and middle-sized industries over the years and are very concerned about their future. If the situation persists, the capacity we once had to create a new generation of products will be gone."

The industry's view usually involves the phrase "prospects of disintegration." But there is a plausible case for asserting it has already started and may be difficult to reverse, according to Irvin C. Bupp, a professor at the Harvard Business School who has studied the economics of nuclear power.

"JUST CANNOT GO ON"

"Flatly stated, the manufacturers just cannot go on under the present conditions," Mr. Bupp said. "The minimum healthy market for one of the companies I know is five to 10 new orders a year."

But there are many people who do not despair about the industry's troubles.

The vasting illness that has attacked the business is seen by some environmentalists as a salutory development in blocking expansion of a technology they call unsafe and unreliable. It is also a kind of vindication for a small group of economists who have maintained that coal power is cheaper in the long term that nuclear fuel.

The reply of the reactor manufacturers is that dismissing nuclear power would make the nation entirely dependent on coal, which they say would be unrealistic in terms of coal supply and cost.

The nuclear industry's poor health 20 years after the start-up of the first American commercial reactor contrasts with Government projections in the 1960's for as many as 1,000 nuclear-powered generating plants to be operating by the end of the century.

The Government has now scaled back this year 2,000 goal to about 300 plants in addition to the 63 now in operation that furnishing 11.9 percent of all United States generating capacity.

Under optimum conditions, the present backlog would eventually increase the total of operational plants to 209 according to Kidder, Peabody & Company, but the pattern since 1974 has been more one of cancellations of old orders than of winning new ones.

Over the last three years, utilities throughout the country, hard pressed by inflation and a drop—largely related to the recession—in the traditional 7 percent annual growth rate in the use of electricity, cut back sharply on the construction of all generating plants—oil and coal, as well as nuclear.

But because coal-powered plants take only six years to build, in comparison with 10 or 12 years now needed for nuclear-powered plants, and because coal-powered plants have none of oil's uncertainties and involve relatively small capital costs, there have been 14 new orders for them during the first six months of 1977, compared with the dismal nuclear record.

ILLUSTRATED BY FLORIDA DECISION

What happened to the nuclear business is illustrated in the decision in December 1975 by the Florida Power Corporation, a St. Petersburg-based utility supplying electricity to central Florida, to cancel plans to build two nuclear-powered generating plants, each of 1,100 megawatts, or 110,000 kilowatts. Over a period of two years, the cost had run up for the units to $2.6 billion from $1.4 billion.

"It's simple," said William Johnson, spokesman for the utility. "With the high capital costs and long lead time on nuclear we had to project out 10 years. Excluding the other variables, that means 10 years at 6 percent or 60 percent overall."

"You can't borrow just at one time," he added. "It's not like building a house. The interest can cost almost as much as the plant. We completed one nuclear plant at $400 million The originally projected price was $118 million."

At the same time, Mr. Johnson spoke favorably, as almost all the utilities do, of nuclear power.

"If it weren't for the capital problem, someone in our situation would be foolhardy not to pursue nuclear," he said.

"The fuel cost comparison with oil is super and the coal option will become increasingly expensive. If they could get their plant delivery time down to five to seven years it would be a very different situation," he added.

Industry advocates say its situation could be improved through passage of a proposed Nuclear Regulatory Reform Act that the Carter Administration expects to send to Congress by the end of the month. The bill, which is still being drafted, aims at getting nuclear-powered generating plants on line six years after they are proposed.

This would be accomplished by trying to speed up the process through early site approval, creating pre-approved standardized plant designs and narrowing the room for maneuver that environmental groups have to block or stall a project.

If the bill were to go through, states could reserve areas for the construction of nuclear plants removing the possibility of years of environmental arguments on site selection.

Admission of standardized plant designs would further reduce the time lost in individual plant investigations.

At the same time, a provision in the proposal would require the Nuclear Regulatory Commission, the Federal agency that oversees nuclear power, to pay the legal expenses of environmental groups fighting plant construction.

BILL'S FUTURE IS UNCLEAR

The bill's future is unclear at best. A Senate staff member, specializing in nuclear issues, said that, even though the Administration has called for the construction by the year 2000 of 300 new nuclear plants in addition to those operating today, he feels the Administration is weighted with opponents of nuclear power.

"I don't see the people Carter has put into the Interior Department—they're no-bones-about-it anti-nuclear—standing for any kind of bill that is going to limit the environmentalist role in the area."

The industry's main hopes are tied to shortening plant delivery time and an improvement in the health utilities themselves.

Its pessimism about the short term is slightly lessened by the increasing cost of setting up coal plants. In some areas far from the coal fields, the cost margin between nuclear-powered and coal-powered generators has narrowed.

The Florida Power Corporation for example is now paying $360 million for a coal-powered 600,000 kilowatt unit under construction compared with the $400 million that its last 825,000 kilowatt nuclear plant cost.

TESTIMONY OF PROF. F. MICHAEL SCHERER AT WAYS AND MEANS TRADE SUBCOMMITTEE'S HEARING ON STEEL—PART 2

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. VANIK. Mr. Speaker, on September 20, the Subcommittee on Trade of the Committee on Ways and Means held a hearing on "World Steel Trade: Current Trends and Structural Problems."

Prof. F. Michael Scherer of Northwestern University presented a statement at the hearing which provides an extraordinarily balanced and thoughtful summary of present steel problems.

I would like to include his statement in the RECORD for the benefit of all those who are concerned about the present steel situation:

STATEMENT OF F. M. SCHERER

It is an honor to appear before the Subcommittee today on the important question of America's role in world steel trade. I testify not as one who analyzes every squiggle in the weekly tonnage statistics, but from a background of observing the steel industry's performance carefully throughout the 1960s and then conducting from 1970 to 1974 a seven-nation study of economies of scale in steel making. What I hope to offer is perspective, not details, on the current crisis.

THE U.S. STEEL INDUSTRY'S COMPARATIVE EFFICIENCY

The current position of American steel makers is very much a matter of historical legacy. The industry's raw steel output reached a peak in 1955 that was not exceeded until nine years later. And even in the 1973 boom, raw steel output was only 29 percent higher than in 1955. Steel in the United States has been an industry of slow growth, and as a result, expansion has for the most part occurred by adding to or replacing capacity at long-established steel production sites. This in turn means that American steel makers have been significantly constrained by ancient plant location choices and plant layouts, making it more difficult to increase productivity than if they could have started with a clean slate.

In contrast, Western European steel capacity has more than doubled since 1955, and Japanese production has increased thirteenfold. For the Japanese in particular this rapid expansion has made it possible to build new steel works at deep-water ports able to receive raw materials and ship products in the most efficient manner. These new works embody the latest blast furnace, converter, and rolling mill technology, and they are laid out so that the flow of materials makes few if any detours, thus minimizing handling costs. For these and other reasons, the Japanese steadily narrowed the United States' once solid lead in steel productivity per worker, and sometime during the early 1970s they pulled ahead. Unless drastic changes occur, their lead is likely to increase in coming years as they round off the edges of the modern steel-making base they have established.

Nor is the problem merely one of physical facilities. In part because of its comparatively undynamic history, the U.S. steel industry has been less attractive to young engineers and scientists than such industries as aerospace, electronics, and chemicals. Nor is it unfair, I believe, to the industry's many able managers to say that it has not held its own in the competition for managerial personnel. Talent flows where the growth opportunities lie, and American steel has not been among the leaders. By way of contrast, steel in Japan has in recent decades been considered one of the most dynamic industries, and it has attracted at least its fair share of Japan's technical and managerial elite.

A homely example of what these developments imply is suggested by an experience I had in the fall of 1973. Within the span of a month I had the opportunity to inspect Japan's newest cold strip rolling mill and one of the newest U.S. counterparts. The difference was striking. The Japanese mill—the first to break away from U.S. engineering traditions—was better designed for rapid coil changeover and high-speed production. Its crew was remarkably skilled and enthusiastic; they seemed to take pride in overriding the automatic controls to change coils even faster than the design parameters contemplated. Perhaps I caught them on a bad day, but productivity of the U.S. crew was much lower—in part because of inferior equipment design, in part because of what appeared to be less skill in using the equipment they had, and partly because they lacked the Japanese crew's manifest enthusiasm.

Similarly, the Japanese engineers and managers with whom I met appeared to have a better understanding of how technological changes would permit them to improve the efficiency of their steel mills than their American counterparts did. Indeed, the reason I sought interviews in Japan was that I encountered no one in my 1970–72 U.S. and European interviews with a sufficient understanding of the scale economies yielded by the large new blast furnaces being erected then by the Japanese.

In short, we Americans are simply being outclassed in the design and operation of steel works. That is one important reason, although not the only, for the difficulties the American industry is now experiencing.

One further point along this line deserves mention. It is often said that American steel makers are suffering because foreign producers receive vast governmental subsidies. Without doubt, large subsidies are being

doled out overseas. But it is my impression that at least in the developed nations, subsidization is most common in countries with the least efficient steel industries (such as the United Kingdom and France), and least common in nations like Japan, West Germany, and Holland with highly efficient industries.

In Germany, the principal subsidies as of 18 months ago were payments to induce the use of high-cost local coal in place of the imported coal steel makers preferred even with subsidies, modest transport cost subsidies to badly located Saarland mills, and Kurzarbeit (i.e., short working time) payments, which appear to be merely a more humane way of handling unemployment compensation. In Japan, a feature often singled out as preferential is the high debt leverage permitted by close enterprise—bank—government ties. But high leverage is typical of all Japanese industry, not just steel. It certainly cannot explain American steel's special problems.

PRICING

Another reason for the difficulties American steel producers face now lies in the realm of pricing. For decades the U.S. steel industry was one of the most tightly disciplined of industrial oligopolies—the casebook example of so-called administered pricing. All major producers followed United States Steel's price leadership in virtual lock step, and even as late as the mid 1960's, off-list pricing was rare.[1] Gradually, this has changed. One factor for change has been the less aggressive price leadership role played by United States Steel, in part because of its declining market share and partly, I suspect, because it grew weary of government criticism for its repeated moves to higher price levels. Second, tough import competition has apparently induced more extensive off-list pricing in the very recent past, especially in West Coast states. But even now, it is reasonably accurate to say that steel prices in the United States move in only one direction—up.

This is not the case overseas. Foreign steel prices behave the way an economist would expect them to behave in a competitive basic industry: they go up in booms (as in 1973) and fall in slumps (as during the past two years). This is contrasting behavioral pattern leaves the U.S. industry vulnerable during slumps, for its high maintained prices simultaneously attract a flood of imports when overseas prices fall and prevent it (given anti-dumping treaties) from fighting back by attempting to cut prices and exports more vigorously.

It is said that there is more to the problem than this, and in particular, that foreign producers dump in the U.S. market. I lack the facts to assess the truth of that allegation. I do know, however, that comparing home and export prices is not easy. The main difficulty is that there is typically not one set of steel prices in Western Europe and Japan, but two and perhaps several. In Europe, steel producers sell at both their announced basing point prices, which tend to be fairly rigid, and also at "alignment" prices adjusted (usually downward) to meet the competition of importers.[2]

Needless to say, they sell as much as they can at regular basing point prices, but the more intense import competition becomes, the more transactions tend to occur at alignment prices. I am told that an even more complex system of pricing exists in Japan, with some prices being quite stable and others highly flexible. If therefore it is claimed that the Europeans and Japanese are selling in the United States below their domestic price level, it is important to ask, below which domestic price level? This point is frequently overlooked in discussions of alleged dumping, including, as nearly as I can discern, in the May 1977 report by Putnam, Hayes & Bartlett for the American Iron and Steel Institute.

The problem of American steel makers' non-competitiveness via a vis imports has become sufficiently acute that one gropes for radical cures, such as proposing an analogous multi-tier approach to pricing American steel. Steel buyers to whom stability of either supplies or prices is important might contract for their minimum needs at a fixed price subject to neither escalation nor reduction. The remainder of steel output would move in spot markets at prices that vary more or less continuously with supply and demand conditions. Such a system would make the United States industry much better able to cope with import competition without eliminating stability for those steel users who value it. It would also permit U.S. producers with substantial excess capacity to compete vigorously to utilize that capacity—among other things, by seeking export orders. It is of course a system unlikely to be accepted gladly by the industry; if it were otherwise, it presumably would have been adopted long ago.

Its main drawback from an industry perspective is loss of the simplicity and transparency that provide the basis for strong price leadership. Without such a prop, price competition would undoubtedly become more vigorous. What its impact on profits would be is less clear. More competition would work in the direction of reducing already depressed profits, but better utilization of capacity during periods of slack demand would have the opposite effect. Such a change and its probable consequences should, it seems to me, be considered seriously by government agencies able to extract a quid for the protectionist quo currently being sought by the industry.

THE POLICY DILEMMA

How can the United States move to a situation in which its steel industry is sufficiently cost- and price-competitive to withstand the competition of efficient importers? I know no easy solutions. There is a fundamental dilemma. If the industry is given no protection and if world steel markets continue to be depressed, which seems likely for at least the next two to three years, U. S. producers' profits will be under heavy pressure. Despite appreciable cash flow from depreciation charges, it is questionable whether steel industry management will find foreseeable industry conditions attractive enough to warrant heavy investment in expansion and modernization. Without such investment, the U. S. industry will fall even further behind world leaders. On the other hand, the industry has an absolutely striking history of squandering through elevated prices and wages any advantages conferred by low productivity abroad (once, but no more), import quotas, and devaluation of the dollar.

If the government is to intervene, it must surely be with a well-balanced combination of the carrot and the stick. At the very least, in my opinion, dumping at prices below national spot market or aligned levels should be enjoined. Ignoring the very serious spillover effects on other areas of international trade—e.g., grain, aircraft, and electronics—where the U.S. is strong, not weak, one could conceivably see some potential good coming from stronger tariff or quota protection against steel imports. But if it chooses to traverse the protectionist route, the government should insist upon some and perhaps all of three conditions: (1) commitments from the individual leading firms (i.e., the top eight), to a seven-year plan of modernization with ambitious productivity increase goals; (2) commitments by the leading firms that they will not use their increased cash flow to make diversification acquisitions[3] or raise dividends by more than the general rate of inflation; and (3) commitments to create a spot market for steel products more sensitive to supply and demand changes than the existing administered price system.

I personally believe that, considering the danger of stimulating more widespread international trade breakdowns, the protectionist approach is the wrong way to go. I would prefer to "tough it out" and hope that time heals what will for a while be some very painful wounds. Barring a substantial change in the U.S. industry's pricing policies or an unexpectedly large resurgence in world steel demand, the short-term consequences of non-intervention will probably be further import penetration, continued pressure on steel industry profits, some retardation of investment, and the closure of especially inefficient plants, with attendant hardship to their employees. What happens over the longer run will depend critically upon world supply and demand developments. If demand grows more rapidly than supply, the pressure of imports will ease and investment in new domestic capacity will accelerate.

A more likely scenario in my view is continued slackness in world steel markets—if not because demand growth fails to recover, then because developing nations with rich ore and coal resources are going to insist upon adding more value at home and satisfying a growing share of world semifinished and finished steel demand. The persistence of slack in world markets and "get all you can" oligopolistic pricing domestically will mean a continuing rise in the share of U.S. demand satisfied by imports and more plant closures, but also the expansion of well-located plants with good modernization potential. I think it highly improbable that domestic capacity would shrink enough during this century to jeopardize national defense mobilization needs. This most likely of free market scenarios is a sad one, for the United States, with its rich coal reserves, abundant capital, and vast technological capabilities, probably has a comparative advantage over most of the world's nations in steel production. But if U.S. steel makers fail to find ways of becoming cost- and price-competitive, it may be the most one can reasonably hope for.

AMERICAN VETERANS MUCH IN EVIDENCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. TEAGUE. Mr. Speaker, on June 17, I expressed my shock to this body in learning that the National Academy of Sciences had submitted the results of a study entitled "Health Care for American Veterans" which, among other things, recommended turning over the Veterans' Administration hospital and medical program to private physicians and the private hospital system.

In the meantime, a number of hearings have been held by the Subcommittee on Medical Facilities and Benefits, during which time the subcommittee heard from representatives of the National Academy of Sciences who were responsible for preparing and submitting the report. A press release that was prematurely issued by the Academy entitled "Report Finds Role of VA Health Care Obsolete, Recommends Integrating with Community Services" has apparently found much currency among newspaper editors across the Nation. One of the articles in this regard appeared in the Outlook section of the Sunday, August 28, 1977, issue of the Washington Post entitled "The Fading American Veteran." While the article had some kind things to say about the veterans programs and the new Administrator, Max Cleland, the thrust of the article was a reiteration of the argument put forth by the National Academy of Sciences in the report referred to in my remarks of June 17.

Almost from the day I entered Congress, there have been attacks of one kind or another on veterans programs. Over the years, the Department of Health, Education, and Welfare has indicated its desire to take over the VA hospital and medical system. The Office of Management and Budget has conducted a campaign from one administration to the next to reduce the number of veterans being cared for in VA hospitals on a day to day basis. The American Medical Association has always taken a dim view of veterans medicine and has made no bones of its opposition to VA medical care for veterans in general and especially veterans with nonservice-connected disabilities. I mention these to indicate that the National Academy of Sciences study is just the latest assault on veterans programs.

The hearings on the National Academy of Sciences study are continuing with Veterans Administrator Max Cleland scheduled to testify in behalf of the Veterans' Administration. I cannot emphasize enough that veterans must be on guard against the forces abroad in this country whose ultimate purpose is to destroy the VA medical and hospital program. There are more than 29 million veterans in this country, who together with their dependents comprise almost one-half of our population. Our committee has heard from great numbers of these veterans, and I can assure you that studies such as the National Academy of Sciences submitted to the Congress are serving to remind these veterans that none of their cherished veterans rights and programs are sacred, and that unless they continue to be on guard, others will be asserting every effort to take them away.

I want to take this opportunity to share with my colleagues the article in the Washington Post on August 28:

THE FADING AMERICAN VETERAN

(By Warren Rogers)

Out in San Diego, home of the U.S. Navy's Pacific Fleet, back before World War II, they would let their daughters go out with sailors and Marines, but only if you wore civvies. It was okay to date the girls, as long as the neighbors didn't see you were in service and get the wrong idea about thier morals. And on the East Coast, at Norfolk, where the Atlantic Fleet headquartered, it was common for the good citizens to put out signs saying: Dogs and sailors, keep off the grass.

That all changed, of course, when the Japanese bombed Pearl Harbor, and nothing was too good for our boys in uniform. By war's end there were 12 million of us, including the girls' brothers and sometimes the girls themselves, still in uniform. It was apparent then, and during the Korean police action, and, in a different way, amid the myriad ambiguities of Vietnam, that Rudyard Kipling had our number as a people, although referring to another culture and another time, when he wrote:

For it's Tommy this, an' Tommy that,
An' "Chuck 'im out the brute"
But it's "Savior of 'is country" when
The guns begin to shoot

The guns are silent now and the hope, even expectation, is that they will stay that way for a long time and so it is chuck-him-out time again for the American veteran. The signs are everywhere, The National Academy of Sciences' National Research Council spends three years and $6 million studying the Veterans Administration's medical system and recommends that it go out of business as a separate entity and phase in, over the years, with the rest of the nation's hospitals. President Carter's new head of the Civil Service Commission, Alan K. Campbell, makes a speech to the American Legion in Denver and calls for an end to veterans' preference in government hiring—that is, an end to the 5 per cent for all veterans and 10 per cent for disabled veterans added automatically to their scores in Civil Service tests for government jobs.

What many veterans think they are hearing is something like, "Don't you know there's peace on?" Especially for the confused and suspicious veterans of Vietnam—and 8 million of America's 29 million veterans are of that era, the unhallowed period of the paradeless war—winds of change in our society seem to be saying this, "Okay, vets, the wars are over. We thank you for what you did. But how long must a grateful nation remain grateful? Enough's enough, all good things must end, and this is it for veterans. In a burgeoning, welfare state, with national health insurance for all just around the corner, why should veterans be treated any differently from other citizens."

LINCOLN'S CONCERN

Why indeed? For most of our history, they got no special treatment. No President gave them much thought, apparently, until Abraham Lincoln, at his second inauguration on March 4, 1865, spoke of the need "to care for him who shall have borne the battle and for his widow and his orphan." Lincoln was facing unprecedented numbers of veterans to be rehabilitated, along with all the other crushing problems of Reconstruction. But the next month he was dead of an assassin's bullet, and it was nearly two generations and a few wars later, including the big one of 1914–18, before any sort of organized government approach to the special needs of veterans began to take form. Even then, it was more do-it-yourself than anything else, with the creation by World War I's doughboys of the American Legion as their powerful voice.

Aside from the Legion, veterans have demonstrated they can be a headache and worse for any President. Most notably, there were the bonus marchers confronting President Hoover in 1932, to the lasting embarrassment of Douglas MacArthur and Dwight D. Eisenhower, obliged as Army officers to disband them by force. Then, too, the Legion and other veterans' organizations leaned so hard on President Truman right after World War II that he brought up a truly big gun, four-star (later five-star) Gen. Omar N. Bradley, to face them down as VA administrator.

President Carter need fear no bonus marchers in these affluent times, so far removed from the Depression days that overwhelmed Hoover, and the veterans' organizations no longer have the power they once enjoyed with Congress, the press and the public. And so he could afford to cut across the grain, as it were, in picking a fellow Georgian, from the Atlanta suburb of Lithonia, to head the VA.

The story of Max Cleland has been told in exquisite detail through written and broadcast news reports—a triple-amputee Army veteran of Vietnam combat duty, handsome and articulate, imaginative and tough, a hellraising witness on Capitol Hill for GI rights, driving his own car to work despite his physical handicaps, surrounding himself with other Vietnam veterans as advisers, fanning the fires in his gut to fulfill a passion for public service—and the story undoubtedly will continue to be told.

Cleland's appointment caused the biggest stir at VA headquarters since Gen. Bradley's because the seven other administrators in between were more or less predictable types bearing the Legion's and the Veterans of Foreign Wars' seal of approval. By contrast, the choice of Cleland was heretical, and, because of that, exciting.

With him, easily the youngest VA chief at 34, and the first to come out of Vietnam, the old-line veterans' organizations were uncomfortable. They had wanted one of their own, like Cleland's immediate predecessor, Richard L. Roudebush, who had been a VFW national commander, and his predecessor, Donald E. Johnson, a former Legion national commander (as was John S. Gleason, President Kennedy's VA administrator). But there is little they can do or say, except wait and watch his performance, because Cleland's credentials for the $57,500 job are impeccable and, while it is not yet clear how high his own personal ambitions might soar, he has the full support of President Carter, at least at the outset of his tenure.

Blond and hefty, 6-foot-3, with a bachelor's degree from Stetson University and a master's in American history from Emory, Cleland joined the Army to "find out more about the war."

He qualified as a paratrooper only to be assigned as a general's aide. Tiring of that, he volunteered for Vietnam and, for 11 months, tromped the bomb-pocked terrain around Khe Sanh as a captain with the 1st Air Cavalry Division.

In April, 1968, one month before his tour was up, he reached for a loose grenade, to throw it away from himself and his men, and it exploded in his face. He lost both legs and his right forearm.

He came home a hero—Purple Heart, Silver Star and Bronze Star Medals for wounds and valor—and all but consumed by pain, horror, frustration, fear and more than a little self-pity. What probably saved him from wallowing in all that, and spending the rest of his life a basket case, was that fire in his gut. He got angry, first at himself and then at the system, which, he figured, was geared to warehouse him, not rehabilitate him.

Cleland fought the system for 18 months in Army and VA hospitals. They never gave him a wheelchair of his own; he finagled one. They discouraged him from trying to operate an automobile; he learned from another triple amputee. They told him he would never walk on artificial legs; he walked, puffing and sweating and excruciating every step of the way, but he walked.

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[1] See George J. Stigler and James K. Kindahl, *The Behavior of Industrial Prices* (New York: National Bureau of Economic Research, 1970), pp. 72–74.

[2] See Klaus Stegemann, "Three Functions of Basing-Point Pricing and Article 60 of the E.C.S.C. Treaty," *Antitrust Bulletin*, Summer 1968, pp. 395–432, for an analysis of European pricing patterns.

[3] Mergers should be permitted and perhaps even encouraged among non Big Eight ordinary steel producers other than min-mill bar product producers. Firms with less than four million tons capacity are too small to achieve all significant economies of scale using blast furnace—oxygen converter methods.

Now resigned to life in a wheelchair and neither bitter nor self-pitying, he has a chance to shape the VA as he thinks it should be.

The major responsibilities handed this 34-year-old bachelor by the President include:

The nation's largest medical system by far; primarily 171 hospitals with 94,000 beds, 317 outpatient clinics, 86 nursing homes and 16 domiciliaries, served by more than 5,800 full-time physicians, nearly 25,000 full-time nurses and more than 150,000 other medical care employees.

The world's largest adult education program: the GI Bill, which to date has provided training to more than 16 million veterans, including more than 6.5 million under the current GI Bill.

One of the nation's largest life insurance programs: nearly 5 million veterans covered by GI life insurance policies valued at $35 billion. The VA also supervises the insurance program for active-duty and reserve military personnel, amounting to another $64.5 billion in value.

A GI home loan program that has provided in excess of $120 billion thus far in more than 9 million veterans home loans.

A compensation and pension program that distributes $8.1 billion annually to 5.5 million veterans and veterans' survivors.

Administrative problems galore in the third largest federal agency, with a quarter-million employees and an annual budget of $19 billion. The only bigger departments are Defense and Health, Education, and Welfare.

A FIGHT ON HIS HANDS

Cleland starts out right away with a fight on his hands. He faces a deadline Thursday for responding to that National Academy of Sciences' report which, when all is said and done, would do away with VA hospitals as they now exist. The report, filed this summer after three years of study by the Academy's National Research Council at a cost of $6 million, was authorized by the Senate's Veterans Affairs Committee, and is entitled, "Health Care for American Veterans."

None of its findings came as a big surprise to the VA, which, after all, supplied the raw data. But Cleland and his chief adviser, VA General Counsel Guy McMichael, who for six years had been general counsel of the Senate committee, were hopping mad at the report's chief recommendation: to merge the VA hospital system, over a period of a few years, with the nation's other hospitals, public and private.

A chief argument for this phasing in was that it is only a matter of time until every American, veteran or not, is covered by a national health insurance program of some kind, and, further, what is the use of maintaining a general hospital system for certain members of society (veterans) when, as age takes its toll in physical ills and financial income, they will be no different in their medical needs from all other members? In other words, chuck-him-out time?

Cleland, McMichael and others at the VA, like Dr. John D. Chase, the VA's chief of medicine, are breathing easier since Academy spokesmen said that this and all of its other recommendations should not be taken too literally but that its findings should. Some of the findings are far from common knowledge and paint a picture of a changing profile of the American veteran, and, indeed, a rather surprising one for those veterans who use VA hospitals.

In the beginning, when the VA hospital system was organized in 1922, the goal was to treat veterans suffering from disabilities connected with their military service—the result of World War I wounds, illnesses and injuries, primarily. This was boldly innovative, a move from scratch, because at the time the federal government had almost no role in providing health care for the general public, nor was there anything like today's commercially operated health insurance programs.

Nowadays, however, the picture has so changed that it might be said to be totally reversed. Only 29 per cent of VA hospital care today is provided to veterans with service-connected disabilities. Thus, an astonishing 71 per cent of the veterans in VA hospitals are there with disabilities they received when they were civilians. This is true even though government expenditures of all kind (local, state and federal) for the health of the public at large totaled $179 billion in fiscal 1976, and health insurance protection in some form now covers more than four-fifths of the general public—with a national health insurance program, with some kind of federal financing, certain to be adopted by Congress within the next few years.

Further, more and more veterans are growing eligible for full VA hospital care. This is because the largest bloc of veterans, some 13.5 million from World War II, is approaching the age when long-term-care needs increase rapidly and ability to pay for it out of dwindling incomes is decreasing. VA rules stipulate that any veteran at age 65 is eligible for VA hospital care automatically, just as if he or she were disabled. The reasoning is that 65 is the age at which veterans most need support, as personal income drops drastically upon retirement and illnesses hit oftener and harder.

The VA's statistics show that, by 1980, some 2.6 million veterans will be 65 and older. By 1990, this will be more than double, to 5.9 million, and, by 2000, the figure will be 7.1 million, or about 25 percent of all surviving veterans (always provided there are no more wars this century to produce more new veterans than would accrue in peacetime).

The assumption is, then, that the number of veterans in long-term-care facilities will more than triple by the year 2000. Today, some 44,500 of the 95,000 VA patients, nearly half, are in long-term-care facilities, and the VA is paying in whole or in part for another 16,400 in non-VA long-term-care facilities. As time passes, then, it is apparent that the VA hospital system thus becomes more and more rather like an old soldiers' home.

The profile of the average veteran using VA hospitals is a bleak one older than most veterans, usually unmarried, less likely to have hospital insurance coverage and poorer. The survey showed 54 percent were over 50 years of age, compared with 29 percent of all veterans, 48 percent were unmarried, compared with 20 percent for all, and 30 percent had hospital insurance coverage, as against 82 percent for all veterans. Of those in VA hospitals, 48 percent had incomes (for 1975) under $5,000, compared with 26 percent in other hospitals, and only 5 percent had incomes over $15,000, compared with 21 percent in other hospitals.

There are other depressing signs. For instance, the most common diseases for VA patients are chronic and require continuing care and repeated admissions.

Also, of the 10 most common primary diagnoses, alcoholism ranks second and cirrhosis of the liver, one of its major consequences, is eighth. Counting secondary diagnoses as well as primary, alcoholism was present for 13.8 percent of all patients, several times higher than the rate in private hospitals.

RESPONSE BY VA

The picture that emerges from this thicket of statistics is what apparently is bothering the National Academy of Sciences surveyors. It is of a benevolent Uncle Sam liberally extending hospital care, not to deserving veterans in gratitude for their having "borne the battle," but to down-and-outers, the poor and ailing who are life's losers and who just happen to be veterans.

The Academy also is saying that the VA cannot go on rocking along like this for the rest of the century because (a) it will be faced with more and more older veterans—three times as many by the year 2000, in fact—in search of geriatric attention and (b) it doesn't make much sense because there is going to be some form of federally funded national health insurance in a few years anyhow, and VA must coordinate with that in some way.

Cleland, McMichael and their colleagues at VA have put together a response to the Academy's report that, by and large, looks like a rear-guard action, agreeing with the generalities but giving ground grudgingly on the details. Their response apparently will be along these lines:

The VA agrees by and large with the general tenor of the Academy's findings; it knew about those things all along and has been moving toward "fine tuning" and correcting inadequacies.

The VA is ready, even eager, to cooperate with whatever national health insurance plan evolves in Congress. But the VA hospital system constitutes only 10 per cent of the national hospital picture, and the VA insists that its integrity be preserved as a veterans system. The key to a national health insurance program is getting costs under control: How much will it cost? What is wrong with the VA continuing to go it alone for veterans?

As an experiment, the VA is prepared to establish a "health maintenance organization" in one or more of its hospitals. This would make VA hospital care available to families of veterans, a possible prelude to bringing in other non-veterans later as part of a general national health approach.

The VA is ready, as it has been for years, to take payments from health insurance companies for medical care provided veterans who are covered by policies from those companies. So far, the companies have declined the VA's invitation.

The VA would cling to its affiliation with medical schools around the country, as it has since 1946. VA stipends for interns and residents now cover 26 per cent of all graduate medical education, and half of all doctors now entering practice have had some training in VA hospitals. Without such support, some medical schools would go out of business.

And that is how matters now stand for the veteran, who turns out to be, as far as the VA is concerned, somewhat of a different bird than perceived since Lincoln's day; and for the fellow Georgian President Carter tapped to sort it all out. The saga of Max Cleland, whom life itself tried to chuck out by taking away his legs and right forearm, is still unfolding, and his former boss, Guy McMichael, now his top aide, may have a lot to say about where it goes from here.

There are those who whisper that McMichael actually is running the VA, with Cleland at the virtually attack-proof front man.

"Who's going to criticize a triple-amputee as sincere and dedicated and hard working as Max?" asked one VA official. "Not meaning to sound grisly, but it would have to be a blinded veteran or somebody like that, wouldn't it?" the whisperers note that McMichael is a man of proven administrative ability, whereas this is Cleland's first time out in this area. Be that as it may, they make an exceptionally effective team: the tough, coolly articulate McMichael, as informed as any person in the country on veterans' affairs, and the warm, effusively articulate and even schmaltzy-folksy Cleland, who has grown from angry advocate to persuasive protector of the rights of veterans, especially handicapped veterans.

McMichael, now 37, enlisted in the Army as a private in 1962 upon graduation from Harvard. Discharged in 1964, he went to the University of Michigan law school, finishing in 1967, and practiced for a while in his native South Bend, Ind., before becoming an assistant prosecutor for the State of Indiana. He also dabbled in Democratic politics and, at the behest of his mentor, then Sen. Vance Hartke (D-Ind.), moved to Washington in 1971, when the Senate organized the Veterans Affairs Committee.

POLITICAL AMBITIONS

The Cleland-McMichael team dates to 1975, when Cleland came to Washington and joined McMichael's staff at the committee. Cleland, after serving two terms in the Georgia state senate, had reached out for the office of lieutenant governor in 1974. He lost, third in a field of 10, but he had made a lot of friends, including Georgia's Gov. Jimmy Carter, and the political die for him was cast.

It is no secret that Max Cleland wouldn't mind being governor of Georgia, as his friend was, and it may be that he is gathering the administrative know-how right now to help him do the job. Some at the VA call him "governor," but not to his face. And, whatever is in the back of his mind, nobody can say he is not giving his all to the job at hand

As one looks out of his office window in downtown Washington, it is only 600 yards across Lafayette Park and Pennsylvania Avenue to the White House. This was pointed out to him, teasingly, the other day: "Only 600 yards to go, Max."

He snorted his big man's laugh and said, dismissingly, "Yeah, but that's a lo-o-o-ng 600 yards." Still, there seemed to be a touch, just a touch, of dreaming in the way he said it.

CARCINOGENS IN THE WORKPLACE

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PERKINS. Mr. Speaker, a distinguished former member of the House, the Honorable Earle C. Clements of Kentucky, who has since had other careers as Governor of Kentucky, and a U.S. Senator, recently sent me a very thoughtful and penetrating article from Science magazine of September 23, 1977, concerning carcinogens in the workplace.

It occurred to me that this article is so timely that it should be included in the RECORD:

CARCINOGENS IN THE WORKPLACE: WHERE TO START CLEANING UP

The most hazardous industry in the United States, in terms of exposure of workers to carcinogens, may well be the manufacture of scientific and industrial instruments, according to a study prepared by John Hickey, James Kearney, and their associates at Research Triangle Institute for the National Institute for Occupational Safety and Health (NIOSH). The fabricated metal products industry was rated second most hazardous, and the manufacture of electrical equipment and supplies third. The chemical industry, which many people would consider an odds-on choice to head the list, was ranked a lowly 12th.

The study was designed as a first step for controlling exposure of workers to carcinogens. But because of NIOSH's limited resources, it was first necessary to identify those industries where the potential hazard is the greatest, and therefore where the maximum effort should first be exerted.

The rankings in the study are based on two separate sets of data: the total amount of exposure to carcinogens, and the relative potencies of the carcinogens. The relative potencies of the carcinogens were estimated as accurately as possible from a comprehensive search of the available literature. The ranking for carcinogenic potential took into account the time required for tumors to appear after exposure to the carcinogen, the minimum amount of carcinogen required, and the method of administration. Some of the available data about individual carcinogens are contradictory and some are incomplete; most of the information, furthermore, is based on studies with animals. Each of these areas represents a potential pitfall of the study, particularly the need to extrapolate animal data to human exposures. But the data used, the report emphasizes, are the best now available.

The investigators ranked some 86 industrial chemicals according to their carcinogenic potential. The ten most potent chemicals, the report concludes, are *N*-nitro-sodiethylamine, thallium, chromium, asbestos, nickel, coal tar pitch volatiles, methyl methane sulfonate, acetamide, yellow OB, and ethylenimine.

Information about the exposure of workers to carcinogens was obtained primarily from NIOSH's National Occupational Hazards Survey (NOHS). For this 56-million, 3-year study—which has not yet been completely published—a group of engineers went to manufacturing facilities throughout the country to determine, among other things, how many workers in each type of plant are exposed to chemical agents, what those agents are, how the exposure occurs, and the length of the exposure. Data from this survey were then combined with data on carcinogenic potential to produce two new lists, one ranking carcinogens by a combination of exposure and potency and the second ranking industries by the amount of exposure to carcinogens and suspected carcinogens.

In the first case, the investigators combined potency, amount of exposure, and annual production to conclude that the ten most hazardous industrial chemicals are, in order, asbestos, formaldehyde, benzene, lead, kerosene, nickel, chromium, coal tar pitch volatiles, carbon tetrachloride, and sulfuric acid. Similarly, the potency of the materials and the amount of exposure to them was used to rank American industries.

The new results differ from the conclusions of previous studies. Hickey tells *Science*, because those previous studies generally considered only the volume of the carcinogens and not the amount of exposure. Previous studies have ranked the chemical industry very high, for example, because it manufactures hazardous materials in lots of tons or more. But the large quantities of materials may actually be manufactured by only a very small number of people, so that consideration only of the volume of carcinogens grossly overestimates the potential hazard.

In contrast, Hickey says, the manufacture of scientific and industrial instruments requires relatively small amounts of carcinogenic materials. But these materials are used in the hand fabrication of devices, so the total exposure—and thus the total risk—is very high. The fabrication of metal and electrical products both rank high for the same reasons. Hickey emphasizes that the total amount of hazard is very similar in the top ten industries, and the actual rankings could be altered by undiscerned factors such as the discovery of previously unrecognized carcinogens. But there seems little doubt, he adds, that these are the industries where research and cleanup efforts should first be directed.

The single most severe problem in many industries, the report says, is the presence of carcinogenic dusts in the workplace. These occur in the dry mixing of paints and pesticides, for example, and in many other processes where solids must be mixed. A major effort is thus needed, according to the report, to develop new ways to enclose the entire system of dry materials production, mixing, and transfer.

Another severe problem that seemingly could be easily solved is better venting of areas where carcinogens are used. In many cases, the report says, the venting system now in place does little good and, in some instances, it even blows carcinogens back in the faces of the workers. More attention apparently also needs to be given to the use of masks and protective gear now used only infrequently.

It must be emphasized that the Research Triangle Institute report is basically a library study. The investigators neither visited factories nor tested potential carcinogens. They also did not use any data about occupational cancer in the studied industries: many of the most potent carcinogens, in fact, have not been in use for the 25 to 30 years that would be required for cancers induced by them to begin showing up. It is also possible that better controls have been established in some industries since the NOHS study was conducted. Nonetheless, the results will give NIOSH a good idea where to begin emphasizing control procedures. The study should also give pause to many executives who now think they run clean industries.

BANKRUPTCY LAW REVISION—BANKRUPTCY COURTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. EDWARDS of California. Mr. Speaker, I am pleased to report that the Committee on the Judiciary has acted favorably on H.R. 8200, a bill to revise the bankruptcy laws of the United States. It has been a long and difficult effort preparing such a complex bill, but I am proud of the product that the committee has produced, and I am confident that it will make a vast improvement in our bankruptcy system.

The committee filed the bill, as amended, and the committee report on September 8. The report is report No. 95–595, and I urge my colleagues to study it carefully, for it contains a detailed description and analysis of the bill, and goes over in detail the reasons that we proposed what we did in the bill.

One issue that is addressed in the committee report is the need for the separation of the bankruptcy court system from the district courts. Though this is covered fully in chapter 1 of the report, I wish to add to the record on this point. My colleague from California (Mr. DANIELSON) included in the report as separate additional views a copy of a letter from Judge Shirley Hufstedler of California. I received a copy of that let-

ter when it was first sent in June, as did all members of the committee before we considered H.R. 8200, so it was before us before we debated and voted on the amendment offered in committee by the gentleman from Illinois (Mr. RAILSBACK). I answered Judge Hufstedler's letter, and that, too, was before the members of the committee. In order to complete the record before the House, I would like to set out my response to Judge Hufstedler here:

WASHINGTON, D.C.,
July 26, 1977.

Hon. SHIRLEY M. HUFSTEDLER,
U.S. Court of Appeals,
U.S. Court House,
Los Angeles, Calif.

DEAR JUDGE HUFSTEDLER: Thank you for sending me a copy of your letter to Congressman Wiggins concerning H.R. 7330 (now H.R. 8200) and the proposed bankruptcy court system. I understand your concerns about the proposed courts, but feel that they fail to recognize the state of bankruptcy administration today, and the potential drastic decline that may result if the current system is not substantially changed. I would like to address the points you raise in opposition. They have been considered in detail by the Subcommittee on Civil and Constitutional Rights, when it debated this legislation earlier this year, and by the full Committee on the Judiciary during its recent mark-up.

First, you are correct that the bill creates 94 new bankruptcy courts, one for each judicial district in the United States. The bill does not, however, create any specific number of new judgeships for the bankruptcy courts. The reason is simple. When creating a new tenured bench, it is important to know first how many judges will be needed. The bill provides for a five-year transition period during which the new substantive law will be implemented and the caseload measured. Then Congress will have the opportunity to establish the proper number of judgeships. It is too early to tell now how many judges will be needed. It may be that far less than 94 will be needed. The legislation has the capacity to provide for less than 94, because the provisions governing designation and assignment of judges and permitting roving judgeships for more than one district will permit great flexibility in channeling judicial resources.

Second, I would like to distinguish between two separate issues that you raised. The first is whether the court that handles bankruptcy cases should be a subordinate adjunct of the district court or whether it should be separate and independent of the district court. The second issue arises only if the first issue is decided in favor of a separate court, and I believe the authors of the Staff Report to which you refer made that explicit: if an independent court is to be established, then the Congress must decide the constitutional status of that court. It is important to separate the issues, though. I recognize that if the Constitution dictates that an independent court be an Article III court, some may wish to reconsider the issue of the independence of the bankruptcy court.

You have suggested that those seeking to establish a new court system have a heavy burden of persuasion to bear, and have suggested further that the changes proposed are not supported by the record. There is no question in my mind that most of the changes proposed are supported by the record. I served on the Bankruptcy Commission for two years. The Commission's hearings and discussions were replete with evidence of the need for an independent court. The Subcommittee hearings before the Congress, which I chaired, were similarly filled with specific examples of the severe problems in bankruptcy administration caused by the step-child relationship between the district courts and the bankruptcy courts. The Staff Report to which you referred cites the record extensively in support of the proposition that a new court is needed.

Moreover, it is not only the bankruptcy specialists who have called for a new court system. The American Bar Association adopted a resolution last year endorsing the concept of an independent bankruptcy court. Numerous State Bars, including the Bar of Arizona in the Ninth Circuit have done likewise, and the Association of the Bar of the City of New York has also endorsed the concept; no State Bar has rejected it. The American Bankers Association also favors an independent bankruptcy court.

From my experience on the Bankruptcy Commission, I concur in your observation that about 90 percent of all bankruptcy cases are consumer cases that require primarily administrative work. Under present law, there is much administrative work in business cases as well. The combination of administrative and judicial responsibility for a case in the same individual leads to an unjustifiable institutional bias in the bankruptcy judge. That is precisely the reason the Commission proposed, and every major organization has endorsed, the concept that the administrative and the judicial functions in bankruptcy must be separated, and not performed by the same individual. H.R. 8200 accomplishes that result.

The administrative functions are to be taken over by private trustees in part, and by the United States trustee in part. Only the judicial functions are to remain with the new bankruptcy courts. Examination of the bill as a whole is a prerequisite to understanding the function of the proposed bankruptcy court. A simple assertion that new courts should not be created to handle the administrative aspects of bankruptcy cases, both consumer and commercial, will not do, because the bill does not create such a court system. Under the bill, the court will become involved only when there is a dispute to be resolved, that is, only when two parties appear, each asserting different rights under the law.

Further, to demean the importance of bankruptcy work by suggesting that only a small proportion of that work involves matters that rise to trial level fails to recognize the enormous volume of nonbankruptcy litigation, both civil and criminal, that is settled before trial, and requires only administrative processing. In my view, the work of the bankruptcy court is very important; unfortunately, many judges fail to appreciate the broad impact bankruptcy has.

During the course of a year, more people in this country are affected by bankruptcy cases than by all other civil and criminal litigation combined. In fiscal year 1976, there were 246,549 bankruptcy cases as compared with 130,597 other civil cases, and 41,020 criminal cases filed in the district courts. Of the bankruptcy caseload, 35,201 cases or 14.3 percent were completed business bankruptcies, of which 3,901 were filed under the reorganization chapters, X, XI, and XII. By contrast, complicated civil litigation in the district courts appears to be less frequent. During fiscal year 1976, only 2,230 securities, commodities and exchange cases were filed, and only 1,555 antitrust cases were filed.

On the other hand, 10,355 social security cases were filed, 13,962 personal injury cases were filed, and 19,809 prisoner petitions were filed. Moreover, within each bankruptcy case, several adversary proceedings and contested matters serve as mini-trials magnifying the significance of the 246,549 bankruptcy cases many-fold.

While civil cases may involve two or three parties on each side, a bankruptcy case involves one or two debtors and often hundreds of creditors. In fiscal 1976, over 9 million creditors were scheduled in bankruptcy cases. This figure does not reflect many unscheduled creditors, omitted through inadvertence or as a result of the poor records of many debtors. Bankruptcy cases often impact entire communities and occasionally the entire nation. Cases pending in the bankruptcy court in October, 1976, involved over $27 billion in scheduled assets and nearly $43 billion in scheduled liabilities. *W. T. Grant* involved assets of over $600 million and liabilities of $1.1 billion and affected the job of 80,000 employees, the investments of 70,000 public investors, and the rights of millions of consumers. Bankruptcy cases pending in the district courts such as *Penn Central* affect the lifestyle and the jobs of countless Americans. In addition, the possibility that major municipalities may have to seek relief under the Bankruptcy Act indicates the enormous importance of this legislation.

I am not sure that arguments relating to trends in judicial administration help us solve the recognized problems that plague bankruptcy administration. I know that trends do not guide you in deciding particular cases that come before your court, but that you decide them on the merits of each individual case. We must decide this issue on its merits.

Nor do I believe that creation of this court will lead to any fragmentation, and demands by each specialized group for its own separate court. In fact, all that this bill does for bankruptcy litigants is to give them the same kind of judges and the same kind of court that all other federal litigants already have—tenured judges and independent courts. If bankruptcy litigants could be accorded equal treatment in the federal district courts, many problems would be solved. But for the past 40 years, the federal judiciary has made it absolutely plain that they wish no part of bankruptcy. The district judges refuse to become involved or decide bankruptcy cases except when they have to; this posture is at variance with their zeal to decide other complex areas of the law, such as securities law, labor law, and tax law.

Neither will the proposed court system change the priority currently accorded bankruptcy cases. They are presently heard almost exclusively by bankruptcy judges. The cases are not required to wait along with all other Federal civil cases to be heard. The reason is a practical one. It is not because we consider bankruptcy cases to be more important than other Federal cases; rather bankruptcy and reorganization cases can succeed only where the procedure is quick. A reorganization that is prolonged due to court delays is a reorganization that is doomed to failure. Creditors simply will not wait, and will prefer instead to liquidate a business rather than participate in drawn out reorganization procedures. That could affect thousands of jobs and public investors, and millions or billions of dollars.

Once we assume, even arguendo as you suggest, that an independent court is necessary, I am sure that you, as a strong believer in the Constitution, can understand our reluctance to establish an Article I court if there is a reasonable doubt that such a court would violate Constitutional norms. The Staff Report raises substantial doubts that anything less than an Article III court can perform the functions of a full-fledged bankruptcy court. The Department of Justice has recently communicated to us their view that an Article I court most likely could not pass constitutional muster, and certainly could not be granted all the powers that are necessary to bankruptcy administration.

The Department of Justice has also stated very clearly, in their Report on the Needs of the Federal Judiciary, that first-rate people can only be attracted to a job with sufficient prestige, because Congress will never pay judges the salaries they could earn in other pursuits. As to the quality of the present bankruptcy bench, I have no doubt that the judges are able and dedicated individuals. Neither do I have any doubt that it is becoming increasingly difficult to attract first-rate people to the bankruptcy bench. But it is beyond doubt that everyone regards the district judges as a cut above even the best of the bankruptcy judges. The attitude and actions of the Judicial Conference toward bankruptcy judges underscores that fact. A new court with tenured judges will attract highly qualified individuals. Federal litigants are entitled to no less.

As to the constitutional issues, they are covered exhaustively in the Staff Report. The Report reviews case law, scholarly writing, and the responses of nine constitutional experts to a letter from Chairman Rodino. The comments quoted in the Report by those legal scholars may not have been directed to H.R. 7330 specifically. Nevertheless, even a cursory reading of Chairman Rodino's letter of inquiry will indicate that all of the responses were directed solely at the powers and the constitutional status of the proposed bankruptcy courts.

The expanded jurisdiction of the bankruptcy court is a concept that is central to this bill. My service on the Bankruptcy Commission convinced me that the current limited jurisdiction of the bankruptcy courts is a cause of serious concern, and hampers judicial administration unnecessarily. The hearings before the Subcommittee indicated the same. What is granted by the bill is not "a jurisdictional bonanza", but rather something that is essential to efficient bankruptcy administration. Any volume of Federal Supplement that you read has at least one case concerning the jurisdiction of the bankruptcy court. The issues litigated on jurisdiction are often the same as those litigated on when the case comes to trial on the merits. That is wasteful, and no amount of concern over a "bankruptcy menace" will change that fact. I am surprised by your conclusion that expanded jurisdiction is unsupported by the record and your contention that expansion is countenanced only by bankruptcy specialists. Nothing could be further from the truth. Every State Bar that has considered the issue has supported expanded jurisdiction, as has the American Bar Association.

The second major topic discussed in your letter focuses on the "intolerable systemic costs" of the bill. You understandably express concern that routing appeals to the courts of appeals will result in an intolerable increase in the caseloads of the courts of appeals, but you fail to take account of the flexibility that a full complement of Article III judges will give to the federal courts. The liberal designation and assignment provisions in the bill will permit bankruptcy judges to fill in on an as-needed basis; they should be particularly useful on appellate panels where their special expertise will be a valuable asset.

To the extent that there will be an increase in the caseload of the courts of appeals, I agree with the Staff Report that the increase is not likely to be such as to unduly overburden these courts. You note that the comparison between the projected 1.7% increase in the caseload and the proposed 30% increase in the number of judgeships is unfair, because the increased appellate caseload will fall most heavily in just a few circuits, especially the Ninth. However, you failed to note that the 30% figure was also an average, and that the judgeship bill proposes nearly a 100% increase in the number of judges for the Ninth Circuit.

You contend that a panel of judges cannot be expected to handle more than 200 cases a year, and cite the 1976 Annual Report of the Director. Examination of the Management Statistics for the United States Courts 1976 also published by the Director indicates, at page 13, that 97 judges disposed of 16,426 appeals in fiscal 1976. While it is true that "actions per judgeship" were reported to be 169 cases terminated in fiscal 1976, the Director makes clear on page 13 that a three-judge panel would dispose of roughly three times that number. Thus, the extra 300 bankruptcy appeals suggested by the Staff Report translates into a burden of less than two-thirds of the work of one appellate panel for the entire country.

As you imply on pages 9 and 10 of your letter, we all tend to be concerned with things that affect us the most. The bankruptcy appellate burden will be borne most heavily in the Ninth Circuit, but that is not a sufficient reason to oppose a bill of national importance, or the creation of a badly needed new court system.

I welcome any further communication you wish to have on the bankruptcy legislation.

With kind regards,

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.

DAY OF RECKONING AHEAD!

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, the public, the administration and the Congress are most reluctant to face up to the fact that a day of reckoning is fast approaching in our national fiscal policies. Once in a while—as when we defeated a resolution to increase the debt limit—we give token awareness that there is a problem, but for the most part we go blindly on enacting ever more expansive government programs.

In trying to help its readers understand what is happening, the Watertown, S. Dak., Public Opinion carried this editorial, which all of us in the Congress need to seriously consider:

I.O.U.'s CAUSE MOST OF FEDERAL FISCAL PROBLEMS

The federal government is rapidly pushing its way toward the trillion dollar debt milestone, being roughly three-fourths of the way there already and no slowdown in sight despite President Carter's campaign promises of a balanced budget and a beginning of debt reduction by 1981.

There has been little but lip service so far. Meanwhile, the demands upon the government for more of everything—and all of it expensive—continue unabated. Saying "no" isn't a prominent characteristic in government.

The situation has bothered one Watertown resident who believes the average person's unconcern with a steadily worsening situation may stem from a lack of understanding of how and why we got that way. He reduced it to children's bedtime story stature and, preferring anonymity lest he be misunderstood, came up with this:

"Once upon a time there was a father who had a number of children who were industrious and made a practice of saving part of their allowances and other earnings in their piggy-banks.

"From time to time one or another of the children wanted things like roller skates, bicycles, formals, clothes, cars and so on which they felt their father was obligated to give them. In nearly every instance, the father would respond with "I don't have the money myself but I'll take it out of your piggy-bank and put in my I.O.U." This made everybody happy.

"Then came a day when one child wanted to buy a home, another wanted to start a business, another take a long trip, and so on and they all went to the father and asked him to give them the money for his I.O.U.'s.

"Father could only reply, "I don't have any more money now than I ever had. I have given you all the things you asked for and you can't have it twice."

"Could it just be possible the father is Uncle Sam and the children are people like you and me, businesses and financial institutions? And the I.O.U.'s our government securities?"

The analogy is clear and direct. "You can't have it twice" and a day of reckoning and revelation always comes.

When one considers the I.O.U.'s the federal government has stacked up against itself, that day could be cataclysmic indeed.

RESOURCES IN THE BLACK COMMUNITY

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I would like to call the Members attention to a recent speech given by Dr. Carlton B. Goodlett, a distinguished physician, publisher, and leader in the black community.

As always, Dr. Goodlett's comments are provocative and penetrating:

"IDENTIFICATION AND UTILIZATION OF RESOURCES IN THE BLACK COMMUNITY: WHERE DO WE GO FROM HERE?"

(By Carlton B. Goodlett, Ph.D., M.D., President National Newspaper Publishers Association—Black Press of America)

I am grateful for the opportunity to involve myself in this new experience today, of sharing with Black professionals in psychology a summer workshop in which there are more Black professionals in this room than there are fingers on the hands. Permit me a few nostalgic moments.

Approximately 45 years ago, when the General Education Board was seeking a university setting in which to establish an institute for the Study of the Black Child, the late, venerated John Hope, President, the Atlanta University system, invited a search team to inventory Atlanta as a site for this important Institute. The decision was made to establish an Institute for the Study of the Negro Child at Atlanta University, but, alas! There were no Blacks in the nation who had specialized in this discipline. Harold Jones, Professor of Psychology and Director of the Institute of Child Welfare, University of California, was chairman of the search committee; he thereupon set about looking for a protege to train so that this important institute could be built for Black children. In 1935, I stumbled into Professor Jones' class on Child Development at UC, Berkeley; without my knowledge of his intent, three years later, May 1938, the 92nd Black Ph.D. recipient in the history of the United States was graduated, and efforts were made to establish the deferred Institute for the Study of the Black

Child. But, unfortunately, the General Education Board had reached the end of its Child Development Institute cycle, and no funds were available.

Another historical reminiscence: in 1938–'40, two Black psychologists at West Virginia State College, Institute, West Virginia, attempted to organize a National Association of Black Behavioral Scientists; because of the paucity of specialists in sociology, psychology, educational psychology and other related disciplines, the catch-all phrase "behavioral scientist" was used. This effort died a-borning, because it was an idea whose time had not come.

Fortunately for Black Americans, approximately 7 years ago a National Association of Black Psychologists was organized, and reflects the rapid development occurring since John Hope's efforts to establish an Institute for the Study of the Negro Child at Atlanta University. This summer workshop, sponsored by the Middle Level Community Clinical Psychology of the Southern Regional Educational Board, is a testimony of the fact that "behavioral sciences" have come of age in Black America.

Let us hope that the Black behavioral scientists will have the ability, the investigative techniques and, finally, the courage and insight, to search for new ways to assist 26 million American Blacks, an aggregation larger than 158 other nations in the world, to live in a hostile, racist society—a society which threatens Black America's very survival.

BLACK AMERICA

For the past twenty years, since the Montgomery Freedom Walk, Black America has been haunted by the Martin Luther King-Abernathy-Jesse Jackson litany, "I Am Somebody!" Let us briefly inventory this *somebodyness*.

The thought had haunted me, shortly after the litany was started, and we mentioned it to Dr. King once: "Martin, would it not be horrendous, for some White folks, such as George Wallace, to get on national TV and prove that Black folks are really Nobody?" I was challenged to attempt to quantify King's "Somebody" litany, and found the following applicable data:

For the totality of the American experience until recently, Blacks have been caught up in the semantics of "individual freedom", as opposed to the broad concept of "freedom for the masses." Rugged individualism and the myth of individual freedom and security leads to a black man's being described as "the 9th American", when in truth the strength of Black America lies in the concept that we are 12 percent of America—a force of over 26 million. In this light, we become a nation within White America which is the second most numerous aggregation of blacks within the boundaries of a nation on the face of the earth—second only to Nigeria with its population of 61 million. In terms of higher education and economic advantages, Black America is the most highly developed of any black people in the world. With approximately 7,500 physicians, 2,700 dentists, 4,000 attorneys, thousands of academicians, we are a learned people. Our black youth in institutions of higher learning number 667,000—300,000 more than British students in institutions of higher learning in Great Britain, with her population of 55 million.

Even though 600,000 Black youths in college is an impressive figure, these numbers must be counterbalanced by the fact that probably two to three times that number of Black youth are not attending any school, anywhere—not subject to any discipline or authority, and lacking the skills, education or psychological maturity to become "productive citizens"—a description by the capitalist society of those who produce goods and services.

Many of these jobless Black adolescents are still seeking nonexistent jobs. However, many at the end of the hope rainbow have simply given up.

To translate statistics: while the actual size is difficult to determine, it has been estimated that from 500,000 to 600,000 Black youths from 16 to 19 are continually out of work. If we include the underclass, ranging from 8 to 16, while too young to work they must be counted because far too many of them are committing violent crimes and using narcotics. A conservative estimate of these endangered Black youngsters would equal about one million, living in the 25 largest U.S. cities. These youngsters live on the edge of civilized society. The most immediate option for these Black youth is crime—first and foremost against other Blacks.

The commander of the Homicide Division of the Chicago Police Department recently stated in an interview that the average person found guilty of murder is "male, Black, 18 and under." Louisiana probably is the only state in the nation where there are more young Blacks incarcerated in prison than young Blacks attending college.

Many Black adults, particularly women, are organizing into groups, like the Concerned Women in the War Against Crime in Chicago, to which the White establishment media give a tremendous play. These women are encouraging Blacks to cooperate more closely with the police. Never do they attempt to look for or address themselves to a solution of the deeper root causes of crime, which are poverty, miseducation, poor housing, all compounded elements of racism in the American society.

The White establishment and increasing numbers of Black organized anti-crime organizations are rapidly becoming the adversaries of these Black under-class youth. This contradiction of Blacks joining the establishment in pursuit of the wrong solution to the problem of Black crime against property and person is a glaring example of the cruel, vicious contradictions in White capitalist America. First, Samuel Yette in "The Choice: Black Survival—USA," and now Ward in his article, "Black Youth—An Endangered Species," warns us that an entire generation of Black youth are becoming useless, expendable, non-functional, non-productive human waste material, because the system refuses to educate them or provide for them or their parents.

These young expendables have become the nation's number one social liability; the same system of racism and exploitation which created their despicable lot apparently is readying the machinery for their disposal.

We do not condone Black crime by any spectrum of the age cycle. Obviously the fear of crime in the Black ghettos is warranted. However, just as Blacks exposed the chicanery and the diabolical nature of Moynahan's description of the Black Family, so must Blacks vigorously reject the White analysis of the Black crime problem, which consistently leaves out the first culprit and villain—America itself—and instead places the blame on young Blacks for not "boot-strapping" themselves out of poverty. This is a classic American conundrum: the victim of racism, black youth, is again made the scapegoat for his own victimization.

The nightmare of white racism, 1977, reminds us of Alexis de Tocqueville's observations in 1882 on the American experience:

"The most formidable of all the ills that threaten the future of the Union arises from the presence of a black population upon its territory. The two races, European and Negro, are attached to each other without intermingling; and they are alike unable to entirely separate or to combine."

Implied in de Tocqueville's formulation are the three ultimate resolutions to America's racial crisis: total separation of the races, amalgamation, or extermination of one race or the other.

Those who believe that the fate of Black Americans is, after all, inextricably entwined with that of all the powerless, dispossessed and wretched of the American Earth must present to our youth, the inheritors and architects of tomorrow, their grand design for the raceless society! What are their means and timetables? What viable alternative do they propose when they look up and see that events have rushed by them, that the USA is now a divided society, with a white nation well fed, well clothed and comparatively happy, and a black nation ill-housed, ill-educated, underemployed and progressively poorer?

After 114 post-Lincoln's Emancipation years of recycling depression, inflation, and the last-hired first-fired syndrome, the teeming black masses feel that there must be something better than their wretched economic existence, and they are crying for help—for jobs, food for their children, care for the aged, and roofs over their heads. From whence will this help come? What and who will rescue our people?

The answer: Black America must rescue itself.

No help can be expected from any other quarter!!

What are the Black resources available for "self-service"?

Black Schools: Our sons and daughters must be imbued to seek educational excellence and dedicate their lives to the service of the teeming Black masses. Our youth must never forget that there is a nation to be led, and an eternal struggle to be waged against racism.

The Black Family: In all ages when men were victims of both physical and psychological slavery, the strength for survival has been the family. The Black family has been a balm and a refuge in time of distress; we must not be brainwashed by the nonsense of a Moynahan. The family institution must rescue the lost Black youth; it must strengthen the resolve of each Black citizen to walk tall and assume leadership in the human struggle for survival and liberation.

The Black Sororities and Fraternities: More than 600,000 of the educated Black elite are members of the Pan-Hellenic Council, composed of members of our national sororities and fraternities. They must assume the responsibilities which higher education and economic advantage places upon the apex of the 26-million Black pyramid. These organizations, together with the various orders of the Masonic Lodge and the Eastern Star, the Knights of Tabor, the Pythians, the Woodmen of the World, the Elks and others, are capable of amassing tremendous manpower and economic resources for common programs and common causes. Their only need is an ideology as the precursor to their development of agendas, to rechart the Black experience.

The Black Church: Too often, the Black Church has become a bastion of conservatism, reflecting the *status-quo-ism* of the organized White Church. Black churchmen must become revolutionary leaders using their institutional resources to build the whole man, who can use religion as an instrument for social change.

Of all the Black religious forms, perhaps the Muslims come closest to developing a Black ideology; they have set themselves apart and built a Black agenda, with the possibility of accomplishing through togetherness that which Blacks cannot accomplish alone. The Muslim ideology reflects itself in their espousal of the dignity and the beauty of Blackness.

The Black Church has a prophetic mission to play in Black survival. Christianity is a revolutionary religion, and Black churchmen must take on the revolutionary zeal of the early Christians, when Jesus was the first great socialist, and Christianity was the earliest form of socialism. The Acts from the Bible describe the first church:

"And they continued steadfastly in the apostles' doctrine and fellowship, and in breaking of bread, and in prayers. And all that believed were together, and had all things common; And sold their possessions and goods, and parted them to all men . . ."

A DYNAMIC AND MEANINGFUL ROLE FOR THE BLACK CHURCH

The Black Church should develop new techniques so as to contribute to the solution of the crisis which threatens black youth in America. Three suggestions for actions in a grand design for aid to black youth are here presented:

I. Every church should open up its Sunday School facilities for day child care facilities; thereby providing without the necessity of responding to the many sophisticated requirements placed upon nursery schools, day care with little or no charge to all young mothers surrounding the parish who need such assistance.

II. The Black Church must establish halfway houses, and lend assistance to those young blacks who are attempting, individually and with help, to rescue themselves from the grasp of narcotics, drug abuse and alcoholism.

III. As the Jewish Synogogic schools, or the Chinese or Japanese language schools, the Black Church should open its doors to black youth three days a week, Mondays, Wednesdays and Fridays, from 3:30 to 5 p.m. This 90-minute period should be utilized in the development of black identity and black history, and black youth must be taught their collective responsibility and concern for the black masses. Moreover, these after-hours church schools must provide remedial procedures in the language arts so as to increase the comprehension and interpretive verbal skills of black youth.

IV. The Black Church should organize their considerable economic power as leverage against economic racism. In Harlem the churches bank $1 million every Monday, but less than 10% goes to Black banks; Black churches bank at least a billion dollars a year, but that money drops into White pockets. Black institutions must learn to increase Black economic viability.

The Black Press: In times of stress, the Black Press has been the sole conduit to convey the alarm or sound the promise of hope. Without its press, Black USA would resemble a giant whose spinal cord has been severed, leaving a complete interruption with no transmission from the brain to the vital organs.

The Black Financial Institutions: Black banks have net assets of $1.3 billion. The 39 black life insurance companies, built from the meager economic base which sustains 26 million blacks, have a total asset of $531 million. The black savings and loan associations have assets totaling $464 million. These financial institutions have great potential and must become a force to help in the creation of a new world being born.

The Black Politicians: With over 3,500 black elected officials there are more today than at any previous period. Unfortunately, too often they represent a mere replacement by a black face of a white politician. These misguided politicians, rather than serving the masses who elected them enter the political treadmill and play politics as usual. Black political officeholders are primarily elected to serve their black constituencies. The black masses soon will demand that the black politician be in the vanguard of political leadership, structuring important social changes. These politicians must be about the business of combating the enemy eternal, racism.

UAW OPPOSES THE NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. WEISS. Mr. Speaker, on Wednesday I will introduce an amendment to H.R. 6566—the ERDA National Security Authorization—to delete all funds for the development, production, and deployment of the neutron bomb.

On September 22, I received a telegram from the United Auto Workers Union stating its support for the amendment and its opposition to production of the neutron bomb.

I would like to share a copy of this telegram with my colleagues and hope that they too will support the amendment on Wednesday when we consider the bill on the House floor.

In addition to the UAW, the following eight other organizations have voiced their support for the amendment: Americans for Democratic Action, New Directions, the Coalition for a New Foreign and Military Policy, SANE, Network, New Democratic Coalition, Women Strike for Peace, and the Women's League for Peace and Freedom.

Twenty-three of our congressional colleagues are joining me in introducing this amendment and their names are printed below: Representative HERMAN BADILLO, Representative BERKLEY BEDELL, Representative WILLIAM BRODHEAD, Representative JOHN BURTON, Representative JOHN CONYERS, Representative RON DELLUMS, Representative ROBERT DRINAN, Representative ROBERT EDGAR, Representative DON EDWARDS, Representative DAN GLICKMAN, Representative ELIZABETH HOLTZMAN, Representative ROBERT KASTENMEIER, Representative ANDREW MAGUIRE, Representative EDWARD MARKEY, Representative BARBARA MIKULSKI, Representative GEORGE MILLER, Representative PARREN MITCHELL, Representative RICHARD NOLAN, Representative RICHARD OTTINGER, Representative LEON PANETTA, Representative FRED RICHMOND, Representative FORTNEY (PETE) STARK, and Representative HENRY WAXMAN.

The UAW telegram:

DEAR REPRESENTATIVE WEISS: The UAW supports your amendment to prevent construction of the neutron bomb. While we struggle to make progress in the SALT negotiations, and recalling President Carter's inaugural address and emphasis on curbing nuclear proliferation, it is folly to proceed with a weapon like the neutron bomb. The UAW has long felt that there must be an end to the nuclear arms buildup and fears that the neutron bomb could open a new and potentially dangerous door to disaster. We support your amendment and hope the House acts favorably upon it.

HOWARD G. PASTER,
UAW Legislative Director.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 27, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 28

8:00 a.m.

Energy and Natural Resources

To continue hearings on the proposed Alaska natural gas pipeline route.

3110 Dirksen Building

9:00 a.m.

Agriculture, Nutrition, and Forestry.

Agricultural Production, Marketing, and Stabilization of Prices Subcommittee

To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.

322 Russell Building

Commerce, Science, and Transportation, and Environment and Public Works

* To hold hearings jointly on the nomination of Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances, Environmental Protection Agency.

4200 Dirksen Building

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings on the activities of the Consumer Product Safety Commission.

5110 Dirksen Building

Select Nutrition and Human Needs

To hold oversight hearings on food quality in the Federal food program.

Until Noon 6202 Dirksen Building

9:30 a.m.

Human Resources

To mark up S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers; S. 2108, to amend the Indochina Migration and Refugee Assistance Act of 1975; and S. 1328, to encourage the implementation of career education programs.

4232 Dirksen Building

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.

224 Russell Building

Judiciary

Business meeting on pending calendar business.

2300 Dirksen Building

Judiciary

Juvenile Delinquency Subcommittee

To continue hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues.
5302 Dirksen Building

Finance
To continue consideration of the proposed National Energy Tax Act as embodied in H.R. 8444.
2221 Dirksen Building

Foreign Relations
To hold a business meeting on treaties, nominations and other committee business.
4221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on the implementation of the Government in the Sunshine Act (P.L. 94-409).
1224 Dirksen Building

Rules and Administration
To hold hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs.
301 Russell Building

Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
318 Russell Building

1:00 p.m.
Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
154 Russell Building

3:00 p.m.
Conference
On S. 1019, to authorize funds for certain maritime programs for fiscal year 1978.
S-126, Capitol

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building

Select Intelligence
To hold a closed business meeting.
S-407, Capitol

10:00 a.m.
Finance
To continue consideration of the proposed National Energy Tax Act as embodied in H.R. 8444.
2221 Dirksen Building

Governmental Affairs
Reports, Accounting, and Management Subcommittees
To resume hearings on S. 1847, 1838, 1829, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building

Judiciary
Improvements in Judiciary Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2046, to enable Alaska Natives to maintain or consolidate tribal governing bodies, and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
1202 Dirksen Building

Joint Defense Production
To receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

2:00 p.m.
Select Ethics
To hold an open followed by a closed business meeting.
S-126, Capitol

2:30 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To mark up proposed standards on automatic auto crash protection devices.
5110 Dirksen Building

SEPTEMBER 30

9:00 a.m.
Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1:p.m. 6202 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from Executive branch officials on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Veterans' Affairs
To hold hearings on a study by the National Academy of Science on health care for American veterans.
Until 12:15 p.m. 4221 Dirksen Building

10:00 a.m.
*Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Joint Defense Produdction
To continue to receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

Finance
To continue consideration of the proposed National Energy Tax Act as embodied in H.R. 8444.
2221 Dirksen Building

Select Intelligence
Special Investigations Subcommittee
Closed business meeting.
S-407, Capitol

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building

Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Human Resources
Aging Subcommittee
To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.
1224 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
6202 Dirksen Building

OCTOBER 5

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings to review a report by the Congressional Budget Office on energy conservation through public transportation.
4200 Dirksen Building

Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building

Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

9:30 a.m.
Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building

Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
357 Russell Building

Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

OCTOBER 10

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

OCTOBER 11

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearing on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold overight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

OCTOBER 18

9:00 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3310 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 3

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.

NOVEMBER 9

Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, September 27, 1977*

The House met at 12 o'clock noon.

The SPEAKER. The prayer today will be offered by a guest chaplain, father of one of our Members, Dr. Carroll Hubbard, Sr., Southern Baptist Theological Seminary, Louisville, Ky.

Dr. Carroll Hubbard, Sr., Southern Baptist Theological Seminary, Louisville, Ky., offered the following prayer:

Eternal Father, Ruler of creation and Sovereign of nations, we confess our dependence upon Thee. It is not in us to order our paths or to achieve our destiny.

Give us strength for the living of these days. May these who stand in places of great responsibility have the wisdom needed to make right decisions and the courage to act for the country's highest good and the glory of God.

Grant in this Chamber and across the land such a return to personal faith and integrity that *"justice may roll down like waters, and righteousness like an everlasting stream"*—Amos 5: 24.

In a chaotic world, make us instruments of Thy peace. Fill our hearts with compassion for needy, suffering people everywhere.

We pray in the Redeemer's name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, is it the Chair's intention to entertain a motion for a call of the House prior to proceedings under suspension of the rules?

The SPEAKER. The answer is in the affirmative.

Mr. BAUMAN. I thank the Speaker, and withdraw my reservation of objection.

The SPEAKER. Without objection, the Journal stands approved.

There was no objection.

DR. CARROLL HUBBARD, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, naturally, it is a special joy for my wife and me to have visiting with us my parents, Dr. and Mrs. Carroll Hubbard, my aunt, Mrs. Ruth Ambrose and her sister-in-law, Mrs. Jeffrey Ambrose, at our Nation's Capital.

It is an honor for my father, Dr. Carroll Hubbard, a Baptist minister, to give the invocation at this September 27 session of the U.S. House of Representatives. I am grateful to our Chaplain, Dr. Edward G. Latch, and to my colleagues for extending to my father this privilege.

My parents, both natives of and highly respected in the district I represent, were very helpful toward my being elected as a Member of the Congress.

APPOINTMENT OF CONFEREES ON H.R. 4544, BLACK LUNG BENEFITS REFORM ACT OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees:

Messrs. PERKINS, DENT, PHILLIP BURTON, GAYDOS, CLAY, BIAGGI, ZEFERETTI, MICHAEL O. MYERS, MURPHY of Pennsylvania, CORRADA, SIMON, MILLER of California, THOMPSON, ANDREWS of North Carolina, ULLMAN, ROSTENKOWSKI, VANIK, QUIE, ERLENBORN, ASHBROOK, SARASIN, EDWARDS of Oklahoma, JEFFORDS, and DUNCAN of Tennessee.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9290, DEBT LIMIT TEMPORARY INCREASE

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–635) on the resolution (H. Res. 781), providing for consideration of the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 9090

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report on the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DR. CARROLL HUBBARD, SR.

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, a few days ago we had as our guest chaplain the brother of our colleague, the gentleman from Hawaii (Mr. AKAKA). Today we have the great privilege of having as our guest chaplain the father of our colleague, the gentleman from Kentucky (Mr. HUBBARD).

Dr. Carroll Hubbard has been an inspiration to many thousands of people who have known him during the 48 years that he has served as a minister of churches in Kentucky and Tennessee. Now he is serving as a professor at Southern Baptist Theological Seminary in Louisville. Having had the great delightful experience of visiting in his home in Louisville, I can share with the Members the great sense of warmth and love that his friends throughout mid-America feel for him. I join in rejoicing with our colleague, the gentleman from Kentucky (Mr. HUBBARD) over his father's presence and that of his mother here today with us.

PERMISSION FOR SUBCOMMITTEE ON MINORITY ENTERPRISE AND GENERAL OVERSIGHT OF COMMITTEE ON SMALL BUSINESS TO SIT ON THURSDAY, SEPTEMBER 29, 1977, AT 9 O'CLOCK, A.M., DURING 5-MINUTE RULE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business may be permitted to sit on Thursday, September 29, 1977, at 9 o'clock, a.m., during the deliberations of the House under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO LAWRENCE O'BRIEN

(Mr. RONCALIO asked and was given permission to address the House for 1 minute.)

Mr. RONCALIO. Mr. Speaker, the death a few weeks ago of Kenny O'Donnell gave me occasion to reread his book, "Johnny We Hardly Knew Ye." That required me to read again Lawrence F. O'Brien's "No Final Victories," and thus to gain perspective on the Kennedy years that only an additional 15 years on the Washington scene can give one.

I came to the conclusion after reading these two books that there are few Americans in our history who have made a more solid contribution to the success of our political processes than has Lawrence O'Brien.

I am pleased to note that his friends are planning a dinner in his honor in New York City Thursday night. I will not be there, but I want to publicly recognize this truly great American.

LABOR STEAMROLLER AT IT AGAIN

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, the Committee on Education and Labor has reported favorably H.R. 8410, the so-called labor reform bill. The procedure used in adopting this bill was atrocious. All attempts at injecting fairness into the system and providing some balance were rejected. Sound amendments went down to defeat as the committee leadership insisted on its own narrow version of what the bill should contain. Instead of a compromise which many of us could support, we are left with a one-sided approach to labor law reform.

Such a procedure, of course, is not unusual for the Education and Labor Committee. This committee has a history of reporting out bills without balance and then having the legislation rewritten drastically on the House floor.

The minimum wage bill is a good example of this process. Rather than taking time and arriving at a compromise in committee which most of us could agree on, a no-compromise position was the order of the day. Instead of giving the general membership time to consider the provisions of the legislation, the goal was to rush the bill through the House before the August recess. And when the bill reached the House floor, major changes were voted by the Members.

Frankly, this procedure is unfair to you, the individudal Member. The failure of the committee to try to reach a compromise puts you on the spot. It makes it extremely difficult for you to go out and defend such a bill to your constituents. You are the real loser in the process.

I urge you to reject any attempt to rush through this one-sided labor law reform proposal. Both you and our Nation deserve better.

PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH, AND TECHNOLOGY OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TOMORROW DURING 5-MINUTE RULE

Mr. THORNTON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology may be permitted to meet on tomorrow, Wednesday afternoon, September 28, 1977, while the House is considering amendments under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this request for the purpose of conducting hearings?

Mr. THORNTON. Mr. Speaker, if the gentleman will yield, this is only for the purpose of conducting hearings.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

CALL OF THE HOUSE

The SPEAKER. The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. —]

Andrews, N.C.	Gaydos	Reuss
Archer	Harrington	Rhodes
Ashley	Harsha	Roncalio
Badillo	Johnson, Calif.	Rudd
Bolling	Kastenmeier	Ruppe
Bowen	Kemp	Santini
Breaux	Kindness	Scheuer
Chappell	Koch	Shuster
Clawson, Del	LaFalce	Skubitz
Conyers	Lehman	St Germain
Cotter	Lujan	Stump
Coughlin	Lundine	Teague
Crane	McClory	Udall
Cunningham	Moakley	Ullman
Davis	Murphy, N.Y.	Vander Jagt
Dent	Nolan	Whalen
Derrick	Patterson	Wiggins
Diggs	Pattison	Wilson, Bob
Drinan	Pepper	Wolff
Evans, Ga.	Quayle	

The SPEAKER. On this rollcall 375 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENTS BY THE SPEAKER

The SPEAKER. The Chair would like to make these announcements.

The House will consider suspension No. 2 first and then go back to suspension No. 1 when the gentleman from Arizona is available to make the motion and follow through with the suspensions. If we have not completed debate on all the suspensions by 5 o'clock, we will stop any further debate on suspensions at 5 o'clock in order that we may vote at that time.

There are Members who would like to have a vote on the first suspension immediately, but in view of the fact the Chair has given assurances to some Members that votes will not occur until later in the afternoon, the Chair feels obligated because of these previous commitments.

Pursuant to the provisions of clause 3 (b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions, to be determined by "non-record" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

RESOLUTION TO INSTRUCT CONFEREES ON H.R. 7555

Mr. STOKES. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 780) to instruct the conferees on H.R. 7555.

The Clerk read as follows:

H. RES. 780

Resolved, That upon the adoption of this resolution the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to Senate amendment numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, be, and they are hereby instructed to recede from the House amendment to Senate amendment numbered 82 and to agree to the Senate amendment.

The SPEAKER. Is a second demanded?

Mr. CONTE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. STOKES) and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the thrust of my resolution is to instruct the House conferees to recede from the House amendment numbered 82 and to agree to the Senate amendment. I offer this resolution out of a sense of compromise and because the Senate has refused to meet with the House conferees unless and until the House has either voted up or down the Senate amendment on the abortion issue.

Mr. Speaker, I think that it is deplorable that the most important piece of social legislation passed by the House has now been tied up in conference for 3 months because of this Hyde amendment language. As conferees we agreed upon and settled without disagreement $60 billion in money items. For 3 months your constituencies and mine have been denied this important legislation because of this punitive and pernicious Hyde amendment.

As all of you know, the fiscal year will end 3 days from now and the House will be faced with the embarrassing position of either passing a continuing resolution or not funding the largest money bill for fiscal 1978 human-need programs. This entire bill is now endangered because of a difference in language over an issue; namely, whether the poor for whom this legislation was originally designed should have access to abortion services under certain circumstances.

On Monday, September 12, 1977, the Senate conferees requested that the House conferees vote upon the Senate abortion language. They based their request upon the fact that the Senate has twice voted upon and rejected the House language. In addition they have voted twice to overwhelmingly support the Brooke language, once by a vote of 56 to 39 and again by a vote of 60 to 33. In spite of this not a single House conferee other than Mr. ROYBAL and myself has been willing to put his name on a resolution which honors the request of the Senate to have you vote either up or down the Senate language. Now, I want my position to be patently clear. The Senate language is not my language. My preference is no language, and I have consistently voted against the Hyde amendment and the Conte compromise amendment. But in the sense of compromise, I offer the House the Senate language which your other conferees refuse to offer you even with the knowledge that they cannot go back to the conference table until they have done so.

It is therefore in the sense of compromise that I acceded to the request of my distinguished chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON) and the distinguished chairman of our subcommittee, the gentleman from Pennsylvania, (Mr. FLOOD) that I introduce this resolution. I hope that the House will in a sense of compromise agree to accept the Senate language and save the House from the embarrassment it is now suffering.

We find ourselves in this embarrassing position as a result of the House playing doctor in an area where most of us have little or no medical training in our backgrounds. The Senate language appears to be a way for the House to now compromise and gracefully step out of this no win and embarrassing predicament.

I hope that you will support this resolution to an impossible impasse.

Mr. CONTE. Mr. Speaker, will the gentleman yield for a brief observation?

Mr. STOKES. Yes; I yield to the gentleman.

Mr. CONTE. I just want to observe—and I am sure it was an error—but in the RECORD yesterday, on page 30959, the gentleman mentioned the Senate language, but in the Senate language he leaves out the words "or medically necessary." Then, I notice in the Democratic whip notice that it also leaves out the words "or medically necessary." That must be an overt act.

Mr. STOKES. On both occasions, I say to the gentleman from Massachusetts, that was a printer's error and not our error. We submitted the Senate language as is set forth in the bill, which does contain that additional language.

Mr. CONTE. I want to thank my good friend.

The SPEAKER pro tempore (Mr. HUBBARD). The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio, a very able Member of the House, has talked about compromise. There is, certainly, in the legislative process a need for compromise on occasion. But the resolution before us deserves to be defeated soundly because it is not a compromise. There can be no compromise on the issue of life and death. That is what we are debating here today. The Senate language is so broad that without question it sanctions abortion on demand. This House on five different occasions over the last 2 years has repeatedly stood by the language as drafted by the gentleman from Illinois (Mr. HYDE), the gentleman from Massachusetts (Mr. CONTE), the gentleman from Pennsylvania (Mr. FLOOD), and others. The language that the House has voted upon deserves to be upheld today. If the gentleman from Ohio thinks the House is playing doctor in offering this language, read the other body's language. It is a most complex medical prescription of when abortions can be allowed and so broad as to allow them at any time. This is not a no-win situation. It does not embarrass the gentleman from Maryland, nor should it embarrass anyone else. The end of the fiscal year is approaching in a few days. The other body, if we soundly reject this resolution, will have to adopt the House position as last year they did when they finally capitulated to the House position, this very same language. We have voted on this five times, yes, in this House, but this sixth time, this final time when we are asked to hold firm in favor of allowing these children to live, will be one that our constituents will look at. This will be the record vote that will count. I hope this House will uphold its position in favor of the right to life and vote down this resolution by the same or a greater margin than we have defeated similar language in the past. Stand fast. This is one of the fundamental and important issues facing us in this country today, and we, the peoples' representatives, again should affirm our position.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL), the ranking minority member on the committee.

Mr. MICHEL. Mr. Speaker, I wish to outline the parliamentary situation here, which is rather unique. It comes about only by the fact that the conferees, having met several times now with the Senate, have really reached an impasse, mainly because the Senate would prefer that we at least give them a vote in the House on their language. I personally happen to think it is a legitimate request on their part, since they have had two votes on the House language, one this year and one last year. That does not necessarily mean that the gentleman from Illinois is going to vote for the resolution. On the contrary, I will oppose the resolution. But it will put us in the position that, by defeating the resolution, we can go back in conference with the Senate, telling them in good faith we had our vote, and the House, hopefully, in my opinion, will have reaffirmed its earlier position.

Then we can get down to talking seriously, because we only have several days in which to conclude action on this big money bill for Labor-HEW before the end of the current fiscal year. As we all know, the figures have heretofore been agreed to. The only hangup is this one sticky amendment.

Mr. STOKES. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. FLOOD), the distinguished subcommittee chairman.

Mr. FLOOD. Mr. Speaker, I doubt if I will take 4 minutes. The gentleman from Illinois has stated the case very well indeed. Very well. I rise, of course, in opposition to the resolution. The resolution

proposes to instruct the House conferees to agree to Senate amendment numbered 82.

The Senate amendment is, in my opinion, totally unacceptable.

Experts agree that to permit payments for abortions "where medically necessary"—that phrase is as proposed by the Senate—would open the door to abortions for all sorts of reasons, especially those related to mental health. The Senate amendment would put in language that would in effect permit payment for abortions as a method of family planning or for emotional or social convenience, which is just what the House of Representatives and the American people want to stop.

The House conferees have decisively rejected that Senate language time and time again. We have taken several votes on it in the conference, and with the exception of one conferee, all the House conferees have agreed to vote against it. The Senate conferees want the full House to vote now on their amendment, and this, of course, is our opportunity to do so.

I urge the resolution be decisively defeated so that we can go back to conference with a strengthened hand. That is what we want to do. The new fiscal year will begin just in a matter of a few days now, and it is of the utmost importance that we resolve this issue so that the $60 billion Labor-HEW appropriation bill, which affects the lives of every man, woman, and child in this Nation, can be enacted into law.

Mr. CONTE. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I rise in opposition to this resolution accepting the Senate language and urge my colleagues to continue to support the provision of the House amendment to the Labor-HEW appropriations bill.

The House version would permit the use of Federal funds for abortions only if the life of the mother would be endangered if the fetus were carried to term. But before I present the specific arguments against the Senate position, I would like to address a personal note to my colleagues.

The abortion issue is, perhaps, the most difficult one facing us as legislators and as individuals. It is difficult because support or opposition to abortion is not based on economics or practicality, but rather on our moral and philosophical beliefs. Fortunately, we are not deciding that issue today.

While I disagree, I respect the right of an individual to believe that abortion should be a matter of personal choice. However, it does not necessarily follow that such a choice should be exercised at public expense. Each year the Federal Government has been spending about $50 million for some 300,000 medicaid abortions. The importance of this fact is that it indicates significant numbers of abortions are being performed at public expense as a matter of convenience, or as a form of birth control, rather than as a matter of genuine medical necessity.

It is not my desire or intent to restrict the access of poor women to abortions when their lives would be endangered by a full term pregnancy. And, indeed, the House amendment covers this contingency.

In the past few days there has been a great deal of pressure exerted upon us by various interests, who are dependent either directly or indirectly on this Labor-HEW appropriations bill. I fully understand and sympathize with them in their dilemma. There is no one who has worked more diligently than I to assure adequate funding for necessary and worthwhile programs, whether they be in the field of health or education. And as a member of the Labor-HEW Appropriations Subcommittee, I have devoted a considerable amount of my efforts to improving the situation of the less fortunate in society. I have been particularly involved in providing additional funds for maternal and child health programs; mental health facilities and programs; the distribution of medical personnel to poverty, rural, and other underserved areas; day care facilities; educational outreach programs, including those for the underprivileged; as well as many other social service programs. I have also been a strong supporter of family planning programs, research into improved contraceptives and the elimination of barriers to adoption of unwanted children.

However, it is precisely because of this deep-seated respect for the dignity of human life and my attempts to help to preserve and better it, that I cannot accept or support the so-called compromise language of the Senate amendment.

The Senate version would allow Federal funding of abortions in the case of rape, incest, or other medical necessities. In my opinion, the language is weak, overbroad, unnecessary and would lend itself to abuse.

Instead of a genuine medical necessity, an abortion could be performed as a matter of convenience as long as a doctor authorized it as a medical necessity. Physicians have already indicated that their interpretation of "medically necessary" means "an abortion that was requested by a woman."

While a great number of individuals are opposed to abortions on demand, there are many who feel that where abortion is a medical necessity it should be funded. However, medical testimony indicates that abortion is very rarely a medical necessity. Indications are that if this "medical necessity" loophole is allowed to stand, elective abortions will be performed under the guise of mental health. For example, when California liberalized its abortion law in 1968, 92 percent of the abortions done in the first year were for mental health reasons. In short, adopting this language would mean abortion upon demand.

With regard to the rape and incest language of the Senate's version, it is my opinion that the language is unnecessary.

First, pregnancy resulting from rape is extremely rare. In Buffalo, N.Y., a study in 1969 indicated that there had not been a pregnancy from confirmed rape in over 30 years; in Chicago up through 1967 in over 9 years; and in St. Paul up through 1972 in over 10 years. In a 1968 District of Columbia report, evidence indicates that out of 300 rape victims, only 1 of those victims became pregnant.

Second, testimony from law enforcement officials indicates that inclusion of the rape-incest language would, in their opinion, induce individuals to file false rape reports in order to be eligible for Federal abortion funds. This would not only result in perjured reports, but also would raise havoc with the judicial system in investigating and processing these false reports.

Third, although it is true that the House amendment would not provide funds for abortions resulting from rape or incest, it would not prevent contemporaneous medical treatment which may prevent fertilization or implantation. This has been attested to by Attorney General Griffin Bell. Based upon this legal interpretation, the Department of Health, Education, and Welfare is and will provide for treatment of rape or incest victims as long as the treatment is prompt; that is, before the fact of pregnancy is established.

And, as in all cases, funds for abortions will be allowed if it is medically determined that the life of the mother would be endangered if the fetus were carried to term.

It is apparent from these interpretations that the rape and incest exception of the Senate amendment is unnecessary and that the House language adequately provides treatment for the victims of rape and incest.

Arguments have been raised as to the methods and safety of treatment of rape and incest victims. It is true that extensive use of DES has proven to be cancer inducive. But the use has to be excessive. Also, there are alternatives to DES which are effective and allowed under the House language as legitimate methods of treatment. I realize, however, that there is a great deal that could be done to promote better treatment programs for these victims, both in terms of medical treatment and support treatment to deal with the trauma involved. I would be the first to advocate the use of funds to promote research and implementation of new programs for these victims. But the possible inadequacies in present programs in no way justifies the use of abortion as an alternative to immediate treatment.

The Senate exemptions are so numerous and broad as to leave the Government with the obligation to pay for virtually all abortions. When the Senate passed the language on June 29, 1977, Dr. Louis Hellman of the Population Reference Bureau estimated in the Washington Post that under the Senate language, 90 percent of those abortions now performed would still remain federally financed. In contrast, under the language supported by the House conferees, Dr. Hellman estimated that "only a few thousand—possibly 1,600 a year" would be financed by the Federal Government.

When I was in the conference with the Senate I talked to the chairman of the Senate committee and I said to him "I would have greater respect for the U.S. Senate if they would vote on this amendment up or down but do not come in here with the camouflage of rape, incest, and

medical treatment because it is like driving a bulldozer through a plate glass window. Let us be honest with ourselves, that is what you are trying to do."

And because of these reasons, Mr. Speaker, I am asking the Members to reject the Senate amendment and to reaffirm their commitment to the House language as we have done so affirmatively in the past five occasions.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I was rather astonished by the gentleman's statement that to allow medicaid abortions in the case of incest would be to create an enormous loophole; that to permit medicaid abortions in the case of rape would be to create an enormous loophole. Is the gentleman stating to the Members of this House that he is opposed to providing, for poor women, abortions in cases of incest and in cases of rape?

Mr. CONTE. The gentlewoman did not listen to me. She is dragging a red herring across the issue. What I said, and I have said it before, and I have given you the statistics time and time again, from Buffalo, N.Y., and from the District of Columbia and other parts of the country, where there have been no pregnancies because of rape. If a woman is raped, she can go in and have medical treatment and there will be no pregnancy. So, let us not drag a red herring across the issue.

Ms. HOLTZMAN. Would the gentleman answer the question?

Mr. CONTE. I would be glad to answer the question. I believe I did.

Ms. HOLTZMAN. Does the gentleman support medicaid abortions for poor women in cases of rape or incest? Yes or no?

Mr. CONTE. I am saying under this amendment and under the ruling of Attorney General Bell that any woman who is raped or is involved in a case of incest that she can be given medical treatment promptly so that pregnancy or fertilization will never occur.

So, why talk about it? It is not an issue.

Mr. Speaker, for the benefit of the Members I insert the following:

ABORTION IS, ABOVE ALL, A MORAL ISSUE

(By Eunice Kennedy Shriver)

While Congress debates the language of federal legislation on the public funding of abortion, a concerted attack is being waged on President Carter's opposition to such funding.

Even the moral basis of the president's position is being misconstrued as the imposition of his religious beliefs. Such arguments are misleading and do an injustice both to President Carter and the presidency.

Much of the confusion stems from an inability to distinguish between religious discourse and moral discourse. Religion defines man's relationship to God. Morality debates such issues as the meaning of life—human rights, justice equality and freedom—on philosophical grounds which are independent of one's religious convictions or affiliations.

When he spoke to the Houston Ministerial Association in 1960, President Kennedy said "Whatever issues come before me as President . . . I will make my decision . . . in accordance with what my conscience tells me to be in the national interest, and without regard to outside religious pressures or dictates."

In taking his stand on abortion, President Carter is saying exactly the same thing. He is proclaiming that presidential leadership above all else, must be based on moral conviction. He is not speaking from the context of his religion but with the clear voice of his conscience.

Abortion is not exclusively a religious issue. It is also a moral issue involving the moral principle of equity which Mr. Carter has vigorously supported. This principle demands respect for the rights of the powerless as well as the powerful, of the fetus as well as the mother. It insists on the right of protection and good physical care for the unborn during the uterine stage of growth and development, just as we all need and are granted various forms of protection during each stage of our lives.

It is not true, as has been claimed, that President Carter is "imposing the moral views of a minority on the majority." For example, a recent poll shows that 63 per cent of all Americans oppose governmental support of abortion through Medicaid. But it would not matter if 63 per cent were on the other side. For the deeper point is that numbers count for little when human rights are at stake.

The reason we have a Constitution and why human rights need protection is that majorities, throughout history, have often been insensitive to the rights of minorities.

The abortion issue is no exception. When President Carter expresses his concern for the rights of the unborn he acts in the great tradition of American justice by refusing to permit a powerless minority to be disposed of either by a consensus of the majority or by a decision of the more powerful.

Not only is this in the tradition of the American Constitution; it is in the tradition of the American presidency as well. From George Washington in the Revolutionary period to Abraham Lincoln in the Civil War until today, presidents have used their office to advance moral discourse and to preserve moral principles.

I think it is totally misleading to compare this with the imposition of religious doctrine. The Constitution separates church from state but not morality from government. When Theodore Roosevelt called the presidency a "bully pulpit" he was referrering precisely to the unequalled opportunity for moral leadership which the office provides.

Similarly, opposition to federal support for abortion should not be equated with the Catholic, or any other, faith. The fact, as we all know, is that many Americans of every faith—and of no religious belief at all—share the conviction that federal support of abortion (except under rare circumstances involving survival of the mother or rape or incest) is unacceptable both as moral principle and as public policy.

It is unfortunate that in the present situation the rights of the unborn can be protected only in some cases. The Supreme Court has created a form of economic inequality that is regrettable; but would there be truly greater equality if even more of the unborn had their lives terminated? Would it be more moral if all the powerless were put at risk?

Those who agree with President Carter's position recognize that the present compromise is an imperfect one. But they recognize, too, that our obligation to social justice and the needs of the poor can be met in more humane ways. Instead of spending public money on aborting the unwanted babies of the poor, we should be finding out why these babies are unwanted and alleviating the conditions which produce hopelessness, alienation and despair.

For example, the most glaring lack in our social agenda is the absence of any strong public policy towards strengthening the family and making the welfare of infants and children the center of our national concern. Even today, we are one of the few countries to deny public funds to assist young women having their first babies.

Instead of focusing only on ways to prevent infants from being born, we should be looking for times and places to strengthen families, to repair the shattered network of communication among parents and their children, to give young men and women less reason to feel rejected and unwanted themselves, and therefore less reason to reject their own children as unwanted.

We know that efforts in this direction can make a difference. One teen-age pregnancy center at Johns Hopkins Hospital and Medical School, for example, has been able to cut down on prematurity, encourage girls to stay in school, lower the level of infant mortality, dramatically reduce the number of repeat pregnancies, and at the same time, strengthen and sustain the concepts of rights, duties and responsibilities within the family life on which society is founded.

It seems to me that in the strengthening of families and the assurance of a healthy and wanted life for all babies, conscience and public policy converge.

Only in a newborn child do we see what might have been, but still might be. Only in the newborn child do we catch a glimpse of absolute innocence, pure beauty, soul untouched, raw possibility and soaring hope. Who can say that the squalling, helpless infant that we hold in our arms may not save someone from suffering or lead men into peace? Who knows?

The SPEAKER. The time of the gentleman has expired.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Speaker, I realize that this is a very difficult vote for every Member of the House. It is, indeed, most difficult for me, as a practicing Catholic, to stand before the House in support of the resolution presented by the gentleman from Ohio (Mr. STOKES) particularly since I am opposed to abortion. The issue before us, however, is not whether abortion should be outlawed or prohibited, but whether or not Federal funds can be used to pay for abortions performed on women on welfare, medicaid, and the poor in general. We are in this predicament because the conferees have reached a stalemate. The House conferees insist on their position and the Senate members of the conference committee insist on theirs.

Let us, for a moment, however, examine the real facts. When we first went to conference the House had just passed the Hyde amendment which states, and I quote:

None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

It was the wish of the majority members of the House that voted for the Hyde language that there be a complete prohibition of the use of Federal funds to pay for abortions under any and all circumstances.

But, the Hyde amendment was abandoned by the House conferees and instead presented to the Senate conferees the Conte amendment of last year as the official position of the House.

The Conte amendment reads as follows:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

This was voted down by the Senate, and since both sides refused to compromise, Mr. STOKES and I decided to try to break this impasse for we all know that without this action this bill would die, and the elderly, the blind, the disabled and the poor in general would suffer the consequences.

Someone during this debate said that the truth must be known. The truth of the matter is that last year the House adopted in essence most of the present Senate language. We adopted not only the Conte amendment but the following report language which I will quote in part:

It is not our intent to preclude payment for abortions when the life of the woman is clearly endangered as in the case of multiple sclerosis, or renal disease when the fetus is carried to term; nor is it the intent of the conferees to prohibit medical procedures necessary for the termination of an octopic pregnancy or for the treatment of rape or incest victims; nor is it intended to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

This is the language that we, the Members of the House, adopted last year. The Conte amendment without the report language is now the position of the House conferees. Given only those two choices I favor the Senate language excluding the terms medical necessity and including cases of multiple sclerosis, renal diseases and medical procedures for the termination of an octopic pregnancy.

The answer as to what we as conferees will do is now up to you.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, when this subject came before the House the last time—and I believe it was about a month ago—I pleaded with the House and with the committee to allow us to vote on the Senate compromise language. I want to compliment the gentleman from Pennsylvania (Mr. FLOOD), the chairman, and the leadership in this House for allowing us to have this vote.

I realize that there are people in this Chamber who really do believe, as one speaker said, that this is the greatest issue facing this Nation today, and they say that there will never be any way to compromise on this issue. I respect the people in this Chamber who have that belief, but I believe there is a majority of House Members who believe as I do, either we should be willing to have a different position on the subject of abortion or we should be willing to look at a compromise. For the Members in this Chamber, I just hope that they read this compromise and not just listen to all the medical experts who are speaking in this Chamber today. I think it is a reasonable compromise.

The real issue, of course, is whether we are going to have safe abortions or whether we are going to have illegal, dangerous abortions for the poor women of this country. That is the issue.

The Ambassador from Mexico just a month and a half ago said that in their country where abortion is illegal—absolutely illegal—their abortions are running almost 3 to 1 to the rate that we are having legally in the United States. No action by Congress is going to stop abortions in America.

Read this language. I believe it is a worthwhile compromise.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

In this language is there any period or requirement for time that a rape would have to be reported to the police or anybody else, to any law enforcement authority?

Mr. PRITCHARD. If the gentleman is suggesting that some woman would wait 6 or 7 or 8 months before reporting a rape, I think that is ludicrous.

Mr. VOLKMER. Is there any requirement that it be reported at all? There is none whatsoever in this provision.

Mr. PRITCHARD. I am sure if the gentleman wants to take that as the objection of the House, and he wants the committee to take it back, we can work this out.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield further, it cannot be improved, we should have what we have now.

Mr. PRITCHARD. I just want to assure the gentleman that his objection can be taken care of, if that is his real objection to this compromise.

Mr. VOLKMER. That is just one objection to the resolution, and I have many more.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I think the Members of the House can understand what is involved in the Senate language that is before us. All the Senate language does is authorize, in cases where women are too poor to pay for abortion themselves, the right to have a safe medical abortion in the case of rape, in the case of incest, or in the case in which a doctor determines there is medical necessity.

Despite the hemming and hawing of the gentleman from Massachusetts (Mr. CONTE) on this issue, I hope almost every Member would agree that to deny a safe medical abortion in cases of rape is unconscionable and to deny a safe medical abortion in the case of incest is unconscionable, that to deny a careful, safe abortion, in a circumstance where a doctor determines it is medically necessary is unconscionable.

Despite claims to the contrary there has already been a compromise with the principle that the so-called rights of the fetus should always prevail. The House bill compromises that position by permitting abortions when the life of the mother is in danger. So the choice is not between compromise and no compromise at all.

Mr. Speaker, I think the proposal on the floor is a reasonable one. I hope it is adopted.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of the resolution of the gentleman from Ohio.

We are never going to agree very easily in this country on the great devisive emotional issue of abortion.

We are never going to accede to one point of view. The facts are confused. The interpretations are confused. The definitions, medically, philosophically, religiously, and otherwise, are not subject to one interpretation; so it behooves us all to find a middle ground, a compromise if you will, so that we can get on with this very difficult situation which afflicts not all women, but which afflicts poor women. Remember, in the United States today a woman can have an abortion if she has the money to pay for it, within the limitations set forth by the Supreme Court decision.

So the question then remains, what about poor women who cannot afford medical expenses for an abortion? Shall the Government help them?

I submit that this compromise language is reasonable. It is extremely reasonable. We should try to come together, try to agree to accept this language. It is not so shocking. It is not so outrageous. It does not offend, or should not offend, one's sensibilities, even if he or she is against abortion. It says that in the case of rape and incest you will allow and provide an abortion for a woman who cannot otherwise afford it, and in the other instance, where the language is relatively similar to the House language, where the health of the mother would be endangered. So I urge this House to let us resolve our differences. Let us compromise this matter and support the resolution of the gentleman from Ohio, and get on with the affairs of government.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I voted against the Hyde amendment consistently because it is unrealistic and because there are no exemptions for life-shortening diseases, for rape or for incest; but I am also asking you to vote no on this resolution.

No. 1, it cannot pass, anyway, because it is under a suspension of the rules and we need a two-thirds vote to pass it. If you have a majority which supports it, the Senate conferees will misread it and they will not compromise.

What we ought to do is vote no, so we can get back into conference and both sides of the conference can do what they should have done originally, which is to reach a compromise which is different than both the Senate language and the House language.

If either the Senate or the House language prevails, we will really have accomplished nothing. All we will do is assure that every year we will have the same fight. The law will bounce up and down like a ping pong ball, depending upon which group is in the majority in that particular session. I think we want a law which is consistent for all

groups to live with, even though they may not like it.

The only way we can do that is if both the Senate and House language is defeated, and we get back into conference and we can get some rational compromise on both sides.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I want there to be no mistake about what we are being asked to vote upon in this resolution: This is no compromise—it is total capitulation.

We are being asked to repudiate the House position established over five separate votes since 1976 and to capitulate to the Senate language which is abortion on demand.

In sworn testimony before the U.S. district court in New York, Dr. Jane Hodgson stated that all abortions are medically necessary.

Dr. Louis Hellman, a former HEW official who supports abortion wrote in the Washington Post 90 percent of so-called medicaid abortions would be permitted under this language.

One of the most effective supporters of abortion, a member of the other body, is quoted in the New York Times as stating—

> Is there any abortion that wouldn't fit within this description?

The pregnant woman would not even have to claim she had a headache or athlete's foot to get an abortion under this language.

That the other body even came up with this amendment is a slight concession to the fact that 55 percent of a nationwide survey conducted by CBS and the New York Times said the Government should not pay for abortions, only 38 percent said "yes."

We are told that if the Hyde amendment continues in the law there will be a great increase in maternal deaths as a result of back-alley abortions. The Center for Disease Control has set up a well-funded monitoring program with two doctors roaming the country searching for maternal deaths due to back-alley abortions since August 4 when the courts finally permitted enforcement of the Hyde amendment.

They have not reported one.

Actually, the C.D.C.'s statistics issued in April 1977 indicate the leading cause of abortion-related maternal death in the United States is legal abortion.

Do not forget, the mortality rate for unborn children in abortion is 100 percent.

We are told that denying medicaid abortions is an act of cruelty toward poor women. We tell the poor they have to wait a little longer for adequate food, education and housing, but we will thrust upon you the means to kill your preborn young.

The Reverend Jesse Jackson, national president, Operation PUSH, sent everyone a telegram this month and he said:

> As a matter of conscience I must oppose the use of Federal funds for a policy of killing infants. The money would much better be expended to meet human needs. I am therefore urging that the Hyde Amendment be supported in the interest of a more humane policy and some new directions on issues of caring for the most precious resource we have—our children.

Jesse Jackson is from Chicago, and his commitment to the poor is at least the equal of those who support the idea that poor unborn children are socially expendable.

We hear so much about the "quality of life" * * * but the quality of a society is measured by its concern for the rights of human beings who exist on the very edge of full humanity—the very aged, the dispossessed, the dying, and the preborn.

Our society waivers on the razor's edge of a choice between efficiency, economy, and comfort on the one hand, and respect for the lives of the weak, helpless, unproductive, and unborn on the other.

The cause against wholesale abortion is a cause for the soul of a society that must make that choice—do we want efficiency and convenience more than respect for the helpless, defenseless lives that interfere with that convenience?

Abortion is violence, whether done with a curette or a suction machine. Do we have to commit our society to violence as a solution to our socioeconomic problems?

This resolution is a step toward consigning untold thousands of pre-born children to death for the crime of being innocently inconvenient.

This resolution is a step toward transforming the medical profession from healers to executioners-for-hire.

It is a lethal resolution and ought to be resoundingly defeated.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I congratulate the gentleman from Illinois (Mr. HYDE) on his statement.

Mr. Speaker, I rise in opposition to House Resolution 780, to instruct the House conferees to recede from the House position on the Hyde antiabortion language in the fiscal year 1978 Labor/HEW appropriations bill and concur with the Senate language.

Our citizenry is sending Congress a message that is loud and clear: They do not want their tax dollars spent on abortions or abortion-related activities.

Our President—and his Secretary of Health, Education, and Welfare—have sent Congress a message that they also feel the expenditure of Federal funds for abortions is totally inappropriate.

We have been urged here today to compromise on the abortion language so that the money for important human-need programs will no longer be tied up in conference. We speak of human-need programs on the one hand, while we debate denying the most human of needs: protection of life at all stages of development.

I am certainly in favor of providing the necessary funds for the many worthy programs funded by the Labor/HEW Appropriations measure. But in ordering our priorities, certainly the issue of life and death takes precedence and cannot be compromised.

I have repeatedly stated my opposition to abortion and my support of "alternatives" legislation for dealing with this multifaceted problem—counseling services for pregnant, unwed adolescents; adoption subsidies; family planning funding and so forth. So, I will not rehash those feeling here today.

But I will state my intention to do everything I can to insist that the House version of the Hyde prohibition be ushered into the statute books with the Labor/HEW funding measure.

I commend to the attention of my colleagues the following telegram by the Reverend Jesse L. Jackson, national president of Operation Push.

CHICAGO, ILL.,
September 6, 1977.

Mrs. THEA BARRON,
National Press Building,
Washington, D.C.

> An open letter to Congress as a matter of conscience I must oppose the use of Federal funds for a policy of killing infants. The money would much better be expended to meet human needs. I am therefore urging that the Hyde amendment be supported in the interest of a more humane policy and some new directions on issues of caring for the most precious resource we have—our children.

Rev. JESSE L. JACKSON,
National President Operation Push.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, so that we understand the parliamentary situation, if we vote yea, we are voting for the Senate language. If we vote nay, we are voting for the Hyde-Conte amendment.

Mr. HYDE. If we vote yea, we are capitulating to the Senate. If we vote nay, we are saying we meant what we said, no abortion except to save the life of the mother.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Speaker, I am opposed to the Hyde-Conte language because it would prohibit the use of Federal funds for abortions for poor people, even where the health of the mother would be permanently impaired. The woman could be left permanently crippled or with permanent brain damage and you could still not use the money to perform an abortion. I am not enthusiastic about the Senate language, but I am going to vote for the resolution in the hopes that we can come back with reasonable language that all of the Members of this House can support. I hope we will be successful in that effort.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I would just like to make several very interesting observations.

First of all, I think that if women Members of the House were voting on this, this really would not be an issue, and we would be going along with the Senate and its language allowing abortions where doctors determine they are medically necessary.

Second, we have heard a lot about "incest" and "rape." I will only remind the

Members that if we just went with language allowing abortions in cases of incest and rape, the young woman victim must go down, allege incest or rape to get an abortion, and it becomes a part of the record. Where does she go at night, when she is all finished with her abortion? Can she go home? She could be beaten for alleging rape or incest. She is not provided with any other shelter. What a horrendous choice a young girl is forced to make.

Third, more on teenage pregnancies. We hear a lot about our children and how concerned we are about our greatest natural resource, our children. Children are very important. Remember, 1 in every 10 teenage girls in America last year between 15 and 19 years old became pregnant.

The death rate from complications of pregnancy and childbirth is 13 percent greater for 15- to 19-year-olds and 60 percent greater for teenagers 14 or younger compared with women in their early 20's.

Babies born to teenagers are two to three times more likely to die in their first year than babies born to women in their early 20's.

Teenagers bear nearly one in five babies born in the United States; two-fifths of these births are out of wedlock and account for half the total out-of-wedlock births in the country.

We also see a much greater chance for teenagers around that age to have children with birth defects. I think that is a very, very serious problem. Allowing doctors to perform abortions when they determine one is medically necessary is not promiscuous abortion on demand. We are talking about complicated medical decisions and the Congress should not start down the dangerous road of quarterbacking doctors' professional opinions in this area.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, I would like to address this whole question of "medically necessary." We know there are two groups of women of childbearing age who are considered to be high risk in having children.

One of those groups is women over 35. I am a person over 35 who had a child, and my doctor at no time told me there was a medical crisis involved in my having that child. But some women over 35, if they do have a child, may be advised by their doctor that it would not be advisable.

The other group is girls who are under 18. Fifteen thousand of those affected by this bill will be under 14. Some girls under 14 may be mature enough to have a child; some girls under 14 will be told by their doctor, "If you have this child, it is not going to be medically advisable."

During my lifetime girls under 14 who had children often died. Today the question is this: If you have the money and you are under 14, you can be saved, but if you are poor and under 14 and your doctor says there is a crisis involved, you may not survive. Under this bill we say to them, "If you are poor, you may not have that alternative."

Mr. Speaker, I ask the Congress to support this resolution.

Mr. RUDD. Mr. Speaker, I rise in support of the original House position—the Hyde amendment as passed on June 13—and against the Senate language.

As my distinguished colleague from Illinois (Mr. HYDE) has already noted, the Senate language is so wide open that it will allow the use of taxpayer dollars for abortion on demand.

I have received overwhelming support for the Hyde amendment and opposition to the Senate language from my own constituents.

Of particular interest is a letter from the Navajo tribal superintendent of police, who has written to support the Hyde amendment and to oppose the Senate language on rape and incest.

It is the view of Superintendent Philip Meek, Jr., who serves as police chief for the approximately 70,000 Navajo Indians in my district, that the ultimate effect of the Senate version if it becomes law will be the filing of false rape and/or incest reports by women wishing to obtain free abortions at taxpayer expense.

The House of Representatives has endorsed the language of the Hyde amendment on five previous occasions. The law already protects the woman who is the victim of rape or incest—prior to proof of pregnancy. I believe the House has a moral obligation to stand by its previous position, and I urge my colleagues to insist that we do on this vote to retain the original House language in the HEW appropriations bill.

Mr. DORNAN. Mr. Speaker, today we are considering a resolution which, in effect, says that the House of Representatives does not really stand by what it says. This resolution would direct the House conferees to the conference committee on the Labor-HEW appropriations to agree to the Senate language dealing with the funding of abortion on demand. If we agree to this language which allows "medically necessary" abortions, the House will have caved in on its oft-repeated insistence that abortion on demand should not be funded by the taxpayers.

On five separate occasions, in two separate Congresses, in 1976 and 1977, the House has cleaved to the language of the Hyde amendment which prohibits the Federal funding of abortions unless it is to save the life of the mother. Moreover, the House has been sustained in its decision and interpretation of the law by the Supreme Court.

Simply put, there is absolutely no reason now to give in to the Senate's version which would allow federally funded abortion on demand.

That repudiating our stand and receding to the Senate would permit federally funded abortion on demand has been admitted by the proponents of the Senate language. In testimony before Judge Dooling in the U.S. district court in New York, Dr. Jane Hodgson testified on August 3, 1977, that:

> In my opinion, "medically necessary" means any abortion that was requested by a woman."

In other words, any abortion demanded by a woman—abortion on demand. And Dr. Louis Hellman, a former HEW official stated that the Senate language would permit 90 percent of the medical abortions to continue. On the Senate side, Senator BOB PACKWOOD, an outspoken proponent of abortion on demand, has asked publicly of the medically necessary clause. "Is there any abortion that couldn't fit within this description?"

Anyone who does not see the reality of the Senate language has certainly not been listening to the authorities on HEW-funded abortion.

The "medically necessary" clause in the Senate language would open a pandora's box and make a farce of the attempt of the Congress to put a limit on the use of taxpayer's funds to pay for abortion. This provision of the Senate amendment is reason enough to stand fast by our commitment to the taxpayers of America that their money will not be used to fund abortion. I urge my colleagues to vote nay and support the wishes of the majority of American citizens not to be forced to pay for someone else's right to kill human life.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 780, the legislation under consideration, and that I may be permitted to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STOKES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing this debate today, I just want to say this: The gentleman from Illinois (Mr. HYDE) has said that to vote for this resolution will mean capitulation; it will mean voting for a lethal resolution.

I just want to say to the House that if it were not for me, we would not have any resolution, and we would also be in the embarrassing position that we could not even go back to conference. The Senate conferees have walked out on the House conferees. They said, "Until such time as you present a resolution to the House and present our language to the House, we will not even talk to you."

I have brought this resolution here today because our conferees have put us in an embarrassing position. None of them would touch this resolution with a 10-foot pole, except the gentleman from California (Mr. ROYBAL) and myself.

I say to the Members that the House has a chance today to pull itself out of this embarrassing situation and to attempt some kind of a compromise and do something for the American people who are sitting out there looking at us while we sit here for 3 months arguing about foolish, oppressive, pernicious language in a $60 billion bill. The American people deserve better representation than that. I urge you to vote for my resolution.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, the gentleman is absolutely right. Even though I am taking the opposite side on this matter, I admire the gentleman and commend him for his courage for bringing this issue to a head once and for all so that we can get this bill out of the way.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. STOKES) that the House suspend the rules and agree to the resolution (H. Res. 780).

The question was taken.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR AGREEMENT TO SENATE AMENDMENT TO H.R. 5645, CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1977

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 782) providing for agreement to the Senate amendment to the bill H.R. 5645.

The Clerk read as follows:

H. RES. 782

Resolved, That immediately upon the adoption of this reolution, the bill (H.R. 5645) to raise the limitation on appropriations for the United States Commission on Civil Rights, with the Senate amendment thereto be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the bill be, and the same is hereby, agreed to with an amendment as follows:

On line 8 of the Senate engrossed amendment, strike out "$10,420,023", and insert "$10,480,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker. I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. EDWARDS) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5645, with a Senate amendment, raises the authorization for appropriations for the U.S. Commission on Civil Rights from a current level of $9,540,000 for fiscal year 1977 to $10,420,023 for fiscal year 1978. That amendment would change the authorization amount to reflect what has already been approved by this Congress in the fiscal year 1978 appropriations—$10,480,000. This figure represents a compromise of half the difference in the House and Senate authorization bills.

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 to study and collect information on the denial of equal protection of the laws because of race, color, religion, sex, or national origin or in the administration of justice. Although appropriations for the Commission have already been approved, passage of this bill is necessary because the Commission's present authorization ends on September 30, 1977, and any supplemental appropriations for pay increases or employee benefits will require an authorization.

I ask that my colleagues join with me in supporting the passage of H.R. 5645 as amended.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority members of the Committee on the Judiciary charged with handling this bill were not here at the time the bill was called up and that is the reason I asked for a second.

I wonder whether the gentleman from California (Mr. EDWARDS) would inform me as to whether the bill has the support of the minority members, so far as the gentleman knows.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will yield, my answer is yes, the bill has the support of the gentleman from Virginia (Mr. BUTLER) and of the gentleman from Illinois (Mr. MCCLORY).

Mr. Speaker, I thought the gentleman from Virginia (Mr. BUTLER) was here. He is not, but I assure the gentleman from Maryland that this bill has the support of the gentleman from Virginia (Mr. BUTLER), the ranking Republican member.

Mr. BAUMAN. Mr. Speaker, with that assurance, I have no further requests for time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and agree to the resolution (H. Res. 782).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJUSTMENT OF STATUS FOR INDOCHINA REFUGEES

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7769) to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The Clerk read as follows:

H.R. 7769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within three years after the date of enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least two years.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to the date of enactment of this Act; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 2. Upon approval of an application for adjustment of status under section 1 of this Act, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 3. Any alien determined to be eligible for lawful admission for permanent residence under this Act who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this Act may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 4. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this Act, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 1(a) of this Act. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 5. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this Act.

SEC. 6. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this Act the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 7. Except as otherwise specifically provided in this Act, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this Act shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill which the committee brings to the floor today is designed to authorize the adjustment of status of some 150,000 Indochina refugees who have been admitted to the United States as well as some additional refugees who are in the process of being admitted.

At the current time these refugees are in a "parole" status and the bill would authorize them to acquire the status of permanent resident aliens, which would eventually allow them to become naturalized U.S. citizens.

This legislation is noncontroversial, and the Members will note that the bill has been cosponsored by all of the members of the Subcommittee on Immigration, Citizenship, and International Law and was unanimously approved by the full Judiciary Committee. There is ample precedent for the enactment of legislation of this type. For example, legislation was enacted in 1958 for Hungarian refugees and in 1966 for Cuban refugees both of whom entered this country in such substantial numbers that their adjustment of status was impossible under the normal provisions of the Immigration and Nationality Act.

By authorizing the adjustment of status of these Indochina refugees, this bill will serve two primary purposes: First of all, it will overcome the effect of various state laws which limit employment opportunities in certain professions and occupations to aliens who have acquired permanent resident status. These include, among others: Accountants, architects, barbers, engineers, manicurists, nurses, teachers, and law enforcement officers.

In addition to these statutory restrictions, many employers are reluctant to hire refugees because of their parole status, and that status makes them ineligible to enlist in the U.S. Armed Forces. Furthermore, many refugee students are required to pay nonresident tuition fees because they are parolees and not permanent residents, even though some have resided within a particular State for well over 2 years.

Another less tangible—but still important—benefit resulting from this legislation would be the removal of the sense of insecurity felt by these refugees as a result of their ambiguous parole status. Testimony presented by Departments of State and HEW indicated that this uncertain legal status has created a great deal of anxiety and uneasiness among the refugee population and that the granting of permanent residence status to them would facilitate their assimilation into American society.

I will now attempt to briefly explain the major provisions contained in the bill for the benefit of my colleagues. First of all, it authorizes the Attorney General in his discretion to adjust the status of those refugees who file applications for such adjustment within 3 years from the date of enactment of the bill.

Two separate categories of Indochina refugees are covered by this bill—namely those who were in the United States at the time of the Communist takeover in their respective countries and those who fled during or after that takeover.

The bill further provides for their retroactive adjustment of status to March 31, 1975—a date which covers all of the countries involved—or to their date of arrival into the United States, whichever is later.

In order to be eligible for adjustment of status the refugees would be required to file an application and to have been physically present in the United States for a period of 2 years. In addition, the refugee would be required to be admissible under the Immigration and Nationality Act with the exception of certain documentary requirements, the labor certification and literacy requirements, and the ground of exclusion relating to public charges.

Provision is also made for the spouse and children of the principal refugee regardless of their nationality.

Another provision of H.R. 7769 would make ineligible for adjustment any person who "ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion."

Finally, the bill grants permanent residence without regard to the 20,000 per country limit on immigration or the 170,000 limitation on immigration from the Eastern Hemisphere so that these refugees do not compete for immigrant visas with other qualified immigrants.

As I have stated, Mr. Speaker, this bill is noncontroversial in nature, is strongly supported by the administration—and I might add by the previous administration—and by the American Council of Voluntary Agencies, representing some 44 different voluntary agencies.

In fact, I am not aware of any opposition to the enactment of this proposal, and as a result urge my colleagues to support this meritorious legislation.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my appreciation to you for scheduling floor action on my bill, H.R. 7769, to adjust the status of the Indochinese refugees to that of permanent residents. I also wish to commend Chairman EILBERG and my fellow members of the Subcommittee on Immigration and the full Judiciary Committee for reporting this bill to the House for action.

As you will recall, 2½ years ago the Subcommittee on Immigration met on a daily basis to deal with the very human problem of the thousands of refugees created by the fall of Indochina. The Congress performed admirably at that time and, in a very brief period, we were able to enact into law the Indochina Migration and Refugee Assistance Act establishing a program to assist Indochinese refugees in their resettlement in this country. As part of that bill we required periodic reports to the Congress which deal with the many issues involving the resettlement of the Indochinese refugees. In reference to the pending legislation which would allow the refugees to acquire permanent residence, the March 21, 1977, HEW task force report to the Congress reads as follows:

In addition to providing an important emotional benefit to the refugee population, such legislation would have the practical effect of enabling refugees to overcome present limitations that prevent them from competing for some jobs, that deny them entrance into other occupations because of state or union regulations, and that deny in-state college tuition benefits in some places.

In addition, the General Accounting Office has studied the refugee program and has reported three separate times on this program. Their report of May 10, 1977 indicated that legislation such as my bill, H.R. 7769, would "pave the way for U.S. citizenship and more job opportunity."

Mr. Speaker, the underemployment of refugees, the result of their uncertain immigration status, has caused many to resort to public assistance. While the employment rate for refugee males was 94.6 percent—compared with 93.5 percent for the overall U.S. male population, and 86.4 percent of refugee females, compared with 91.5 percent for overall U.S. female population—36 percent of the refugees are receiving some cash assistance. Such figures indicate that the number of refugees actually employed is practically the same as the number of U.S. workers employed. The need for some refugees to resort to welfare assistance is not due to their unwillingness to work, but rather their need to supplement their income due to their underemployment.

What we see is a high work ethic among Indochinese refugees and at the same time a severe problem of underemployment.

As the June 20, 1977, HEW task force report states:

Enactment of such legislation would open a wide range of employment opportunities to refugees, helping them become more fully self-sustaining. It can also make them eligible for instance tuition rates at many state

colleges and universities, and for enlistment in the U.S. Armed Forces.

Mr. Speaker, enactment of this legislation will permit these refugees to achieve the ability to be fully self-sustaining, of which I know they are capable.

Turning to the provisions of my bill, it would provide that any alien:

First. Paroled into the United States after March 31, 1975;

Second. Physically present in the United States for at least 2 years; and

Third. Found to be admissible as an immigrant under the Immigration and Nationality Act, with certain exceptions, is eligible to become a permanent resident. Such permanent residence would be retroactive to his date of arrival in the United States.

My bill applies to natives or citizens of Vietnam, Laos, or Cambodia, and the spouse or child of those refugees granted permanent residence. It allows all persons who fit within these categories to adjust their status if they are otherwise admissible and have been physically present in the United States for 2 years. My bill would specifically waive the grounds for inadmissibility dealing with the requirement of a labor certification, the public charge provisions, the requirement for a possession of valid immigration visas, literacy, and special requirements relating to foreign doctors. It specifically makes ineligible any alien who ordered, assisted, or otherwise participated in the persecution of others because of race, religion, or political opinion.

Refugees so adjusted to permanent residence would not be charged against any quotas and would not be required to pay any fees for such adjustment of status.

This is a comprehensive bill that deals with the several categories of persons that have been paroled into the United States as refugees. It should be noted that special legislation has been enacted in the past to deal with large groups of refugees who have been allowed to come to our country, such as refugees from Hungary following the 1956 uprising (Public Law 85–559), and the Cuban refugees who fled that country in 1959 and the years following (Public Law 89–732).

I believe we now are in a similar situation where legislation is needed to allow the Indochinese who we have accepted into our country to participate more fully in our society as permanent residents. It is appropriate that we now enact legislation to allow them to adjust their status and allow these people to get on with the task of rebuilding their lives in their new country.

This legislation had the support of the Ford administration last year. I urge its enactment.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I am pleased today to support H.R. 7769, a bill which would grant permanent residence status to over 150,000 Indochinese refugees who were legally admitted to the United States as parolees and are living here on a permanent basis.

I urge my colleagues to support H.R. 7769. This bill will have a beneficial impact on thousands of Indochinese refugees who are living in the United States; and, in that it enables these refugees to enter the mainstream of our society, the bill is beneficial to all people in our country.

REFUGEE LAWS OUTDATED

Our laws governing the admission of refugees are antiquated. In my opinion, it is misleading to admit people on a permanent basis and then call them something other than permanent residents and not give them the rights and responsibilities of residents. The Indochinese refugees are here. We gave them the opportunity to resettle in the United States, and we should now grant them a status that reflects the fact that they are here permanently, if they so choose.

Refugees are admitted into the United States either as parolees or conditional entrants. The immigration status of a refugee seems to indicate that he or she is in a probationary status; and that, if the individual manages to survive the probationary period, the refugee will be allowed to stay permanently and become nondeportable. This is a misconception.

The fact of the matter is that any alien, including a permanent resident, can be deported. Under section 241 of the Immigration and Nationality Act, any alien who entered the United States fraudulently, who was ineligible for admission at the time of his entry, who is convicted of a crime involving moral terpitude, who is an anarchist, Communist or member of a totalitarian party or advocates the violent overthrow of the United States, can be deported. Calling refugees parolees or conditional entrants does not protect the public from undesirable aliens.

LEGISLATION PROVIDES NEEDED PROTECTION FOR REFUGEES

Unlike permanent residents, parolees are not granted "green cards" which aliens are generally expected to use to prove that they are legally allowed to secure employment. Aliens without green cards are prohibited from entering the Armed Forces; in some States they cannot practice medicine, and in other States, their children are denied instate tuition rates. Unless an adjustment bill is enacted, it will take years, if it is ever possible, for the Indochinese refugees to obtain permanent resident status. It simply does not make sense to create an arbitrary barrier to frustrate the efforts of refugees to secure employment or obtain an education. Our laws should encourage refugees and other legal aliens to become productive members of our society—rather than public charges whose conditional status stands in the way of their complete assimilation.

The Indochina war caused inordinate suffering among Southeast Asians. We have, and rightly so, offered them a haven in our land, as well as the rights and responsibilities of living here. We should not leave their status in limbo. We should at least grant them the dignity of an immigration status that eases them into the mainstream of American life, and gives them the chance to be considered on an equal par with other legal residents. Such substantive reform—while needed—is not the purpose of this legislation. Yet enacting H.R. 7769 would be an important first step in the effort to remove misleading and outdated immigration laws from the books. Again, I urge your support.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SAWYER), a member of the subcommittee.

Mr. SAWYER. Mr. Speaker, I am from the Grand Rapids area of Michigan. We have some 700 refugees that we took in on this program, 150 families. It has been run under the direction of the Reverend Howard Schipper. They have done a fantastic job. These are great people with an exceedingly high work ethic. They have 100 percent employment of those that are in the labor market in our area. At this point in time, only 19 of these families are requiring any kind of public assistance.

The problem is not employment or unemployment or the desire to work or the ability to find jobs. It is, as has been stated here, the problem of underemployment. This is brought about by language barriers, custom problems to some degree; but to a large degree by this parolee status which prevents them from getting into some kinds of employment for which some of them are very well qualified.

Mr. Speaker, I think this is a very good step. I can conceive of no group or individual that would have objection to letting these people move from a parolee status into the mainstream and measure up to their capability in the employment market.

Mr. Speaker, I, too, want to congratulate the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG) for very efficiently, effectively, and promptly getting this legislation on the floor.

Mr. FISH. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. FENWICK), who had the first piece of legislation introduced in this chamber on this subject.

Mrs. FENWICK. Mr. Speaker, I thank my colleague.

Like my other colleagues, I, too, congratulate the chairman of the subcommittee and the ranking member.

This is the kind of legislation that without opposition accomplishes something so good and so much in the tradition of our country. We are dealing here with tragic people. We use the word refugees, but of whom can it be said more truly than of these people, escaped from a harsh and cruel totalitarian regime. As we read in the paper, many of them launched themselves in little boats, hoping to be picked up, with inadequate food, with children and babies, men and women.

So they come to this country as, indeed, they should. What this bill does is to give them the opportunity to be what they can be, industrious, hardworking, ingenious people, able to settle down and make some life of what is left of the wreck of their country and their hopes.

Mr. Speaker, I think this is a splendid bill. I congratulate again the chairman and the ranking member and the House.

Mr. STARK. Mr. Speaker, today I rise in support of H.R. 7769 which adjusts the status of Indochinese refugees. I represent the State of California which has the largest population of Indochinese refugees. The Indochinese refugees have proven that they are an extraordinarily hardworking and industrious people. Their unemployment rate is lower than the unemployment of the general American population. Yet, this hardworking people still have many obstacles to overcome. One of these obstacles is underemployment. Many Indochinese who are highly trained people have been forced to take unskilled jobs. H.R. 7769 which I support today would remove one of the obstacles to self-sufficiency for the Indochinese. H.R. 7769 would adjust the status of these Indochinese from that of temporary parolees to permanent resident aliens. This adjustment would greatly assist the Indochinese in becoming fully self-reliant participants in our society. There is no real alternative to the approach adopted in H.R. 7769. This legislation is absolutely essential for any humane policy toward the refugees. This bill has widespread support and I fully endorse it.

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

Mr. FISH. I have no further requests for time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 7769.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9278) to amend the Act of August 25, 1958, with respect to staff allowances for former Presidents.

The Clerk read as follows:

H.R. 9278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of the first section of the Act of August 25, 1958, entitled "An Act to provide retirement, clerical assistance, and free mailing privileges to former Presidents of the United States, and for other purposes", as amended (3 U.S.C. 102 note) is amended by inserting after "$96,000 per annum" the following: "adjusted as provided in paragraph (2)), except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum (adjusted as provided in paragraph (2))".

(b) Subsection (b) of the first section of such Act is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Effective at the beginning of the month in which an adjustment taking effect after September 30, 1977, under section 5305 of title 5, United States Code, occurs in the rates of pay under the General Schedule, each amount subject to adjustment under this paragraph shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such amount (including any previous adjustment) which corresponds to the overall average percentage of the adjustment in the rates of pay under the General Schedule.".

SEC. 2. The amendments made by the first section of this Act shall take effect October 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will considered as ordered.

Mr. BAUMAN. Mr. Speaker, is the gentleman opposed to the bill?

The SPEAKER pro tempore. Is the gentleman from Illinois opposed to the bill?

Mr. DERWINSKI. No, I am not.

The SPEAKER pro tempore. Is the gentleman from Maryland opposed to the bill?

Mr. BAUMAN. Yes, I am opposed to the bill and I demand a second.

The SPEAKER pro tempore. The gentleman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important that H.R. 9278, a relatively simple and uncomplicated bill be acted on under this expedited procedure today in order to correct an inequity which will soon be upon us.

The purpose of the bill is to increase the authorization for funds to pay for staff of former Presidents from the current $96,000 per year to $150,000 per year, but only during the 30 months immediately following termination of funds provided to former Presidents under the Presidential Transition Act. In the case of former President Ford, this will occur on October 1 of this year, less than 1 week from now. The $96,000 amount currently authorized would continue permanently following the 30-month period.

In addition, both levels of authorization—the $150,000 and the $96,000 would be increased each year by an amount equal to the average comparability pay raise granted each October to other Federal employees. This is the same method used to increase the clerk hire allowance each year for Members of the House.

Simply stated, former Presidents would be authorized funds for staff in accordance with the following timetable:

One. The initial period immediately upon leaving office—such funds as are authorized by the Presidential Transition Act.

Two. For the next 30 months, $150,000 per year, adjusted annually by the average comparability pay raise.

Three. Thereafter and for the remainder of the life of former Presidents, $96,000 adjusted annually by the average comparability pay raise.

Mr. Speaker, it is clear that the activities of former Presidents are generally quite hectic immediately upon leaving office and, for the most part, subside after a few years. For instance, I understand that President Ford has received and will respond to tens of thousands of letters on the issue of the Panama Canal Treaty alone; hence the bill establishes a declining rate of authorization.

This authorization was last increased in 1970 from $80,000 to $96,000. Given the rate of inflation that has occurred in the last 7 years, it is only right and equitable that we act now so that former Presidents will have adequate funds to enable them to perform their work. H.R. 9278 is important and necessary. I urge the passage of this bill.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I support the effort of my distinguished committee colleague to provide an increase in the staff allowance for former Presidents of the United States.

The bill provides a reasonable formula for accommodating the staff needs of a former President for a 30-month period after the expiration of funds appropriated for the 6-month transition period following a President's leaving office.

As my colleagues are aware, there are two laws providing staff assistance to former Presidents. One is the Presidential Transition Act of 1963 which authorizes up to $1,000,000 for staff and related expenses for a 6-month period to "promote the orderly transfer of executive power in connection with the expiration of the term of office of a President." Following that, a former President is authorized a staff allowance under the Former Presidents Act of 1958. It is the latter act that this legislation amends.

Presently, the law provides a staff allowance of $96,000 a year for former Presidents. The last time this allowance authorization was adjusted was in 1970 when it was increased from $80,000 to $96,000.

The legislation before us authorizes a base allowance of $150,000 for a 30-month period, following which the au-

thorization is reduced to a base allowance of $96,000. This formula recognizes continued demands on former Presidents during the period immediately following the transition period and the need to provide adequate staff assistance during that period.

The bill also provides annual adjustments in the base allowance in a manner similar to the adjustments made in congressional staff allowances. That is, the allowance is increased by a percentage equal to the average percentage increase which occurs under the annual comparability pay act for Federal white collar employees.

Mr. Speaker, this legislation provides a practical and continuing solution to the problem of meeting staff requirements of our former Chief Executives and deserves the support of this body.

Mr. Speaker, I would like to point out that the gentleman from Arizona very effectively has described the purpose of the bill. But I would like to put this in a somewhat more personal fashion. The specific reason for this bill is that as of October 1 the transition funds involving the immediate former President, Mr. Ford, expire. Mr. Ford turned back to the Treasury a very substantial portion of the transition funds that he was provided, and, as the gentleman from Arizona pointed out, due to inflationary complications, as well as the ongoing demands on the immediate past President, it is deemed proper that for a 30-month period the funds be increased. I think if we keep in mind what we know to be the very busy official schedule of the former President, and the fact that he has been called on by President Carter to address a number of issues, we can see that the immediate past President does in fact bear a substantial workload and does in fact require the additional staffing these funds would provide. That is the practical purpose.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I would like to inquire of the gentleman from Arizona as to the status of the President prior to President Ford under this bill.

Mr. UDALL. If the gentleman will yield, let me say to the gentleman that, if I had my way, the last President before President Ford would get nothing. It seems to me he left office under unusual circumstances. If this had been the Army I suspect we would classify him as having an "other than honorable" discharge. But officially he left office without any cloud over his rights. He is officially just as much a former President as any of the others. The reason we draw the distinction in this bill is that in the first 30 months after a President leaves office we feel there is a much greater demand and much more work.

He will continue to get the $96,000 figure.

Mr. VOLKMER. This piece of legislation would not affect his allowance?

Mr. UDALL. No. There is a $96,000 allowance made for ex-Presidents. He gets it now. He will continue to get it under the bill. He will get nothing except the cost-of-living comparability adjustment that other Federal employees on other Federal staffs would get.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, could the gentleman from Arizona tell me whether or not hearings were ever held in subcommittee or in committee on this legislation and, if so, when?

Mr. UDALL. If the gentleman will yield, the answer is no, they were not held, so I cannot tell him when.

Mr. BAUMAN. The bill in fact was only introduced yesterday?

Mr. UDALL. The bill was introduced yesterday.

Mr. Speaker, if the gentleman will yield briefly, I will explain it more fully.

Mr. BAUMAN. Certainly, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I do not like to legislate this way, I will say very frankly to the gentleman. This bill was introduced by the chairman of the Committee on Post Office and Civil Service, the gentleman from Pennsylvania (Mr. NIX), on September 23.

I think the explanation is that it slipped up on us. President Ford had recently contacted me, the Speaker, and some other Members, including the gentleman from Illinois (Mr. DERWINSKI). Former President Ford had suddenly discovered that as far as this quite substantial staff that he now has under the Presidential Transition Act is concerned, the money for that staff has run out. Here he is, with thousands of letters coming in every day, with public appearances to make and testimony to give, and we were putting him in a position that I did not think we should put a former President in.

If we had gone through hearings and through markup in the subcommittee and in the full committee, there would have been a real gap in the staff support available to former President Ford. It is to accommodate him that we are moving ahead on this schedule in this way.

Mr. BAUMAN. Am I correct in my assessment of the figures available that the increase in allowances for former President Ford will be in the amount of $64,600 under this legislation?

Mr. UDALL. The gentleman is correct.

Mr. BAUMAN. And the increase for former President Nixon will be $6,800?

Mr. UDALL. Yes. He only gets the cost of living addition to his staff allowance. Mr. Nixon would only get the comparability payment addition, if you will. There is no adjustment made for him, in his basic allowance.

Mr. BAUMAN. But that is the amount Mr. Nixon will get as a result of this bill?

Mr. UDALL. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I will just say that while I am not opposed to proper compensation or expenses for former Chief Executives of the United States, providing funds for the answering of the mail, it is startling to hear the gentleman from Arizona (Mr. UDALL) say that one of the reasons for this increase is that former President Ford is receiving a great volume of mail—perhaps 10,000 letters so far—as a result of his statements on the Panama Canal.

If the taxpayers are in fact to be asked to finance Mr. Ford's propaganda in favor of this treaty, a stand which is at odds with the majority viewpoint of the people of the country and at odds with the 1976 Republican national platform on the issue, I just wonder whether or not this is an appropriate expenditure of public money. If he wants to propagandize in favor of the treaty, he ought to do it at his own expense. I cannot quite understand this thinking.

Mr. UDALL. Mr. Speaker, will the gentleman yield to me?

Mr. BAUMAN. Yes; I yield to the gentleman from Arizona.

Mr. UDALL. Would the gentleman feel differently if President Ford were against the treaty? Does the gentleman think he ought to be enabled to answer his mail if he were against the treaty?

Mr. BAUMAN. Mr. Speaker, if the gentleman from Arizona will get former President Ford to change his wrong position, then I will be glad to respond to that question.

Mr. UDALL. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. There is an analogy here that we ought to bear in mind.

When a Member retires from Congress or from the House of Representatives, people do not stop writing to the Member that morning. People continue to write a former Member.

So we have had on the books for a hundred years, I suppose, ever since we have had the frank, a provision that gives retiring Members the frank for the first 90 days after they are out of office.

Mr. Speaker, I find this bill somewhat in that same kind of context.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, appreciating, as I do, the great statesmanship of the gentleman from Maryland (Mr. BAUMAN), I will make this statement.

Mr. BAUMAN. I have learned all my statesmanship from the gentleman from Illinois (Mr. DERWINSKI) by watching him closely.

Mr. DERWINSKI. Mr. Speaker, I would just like to point out that what we are talking about here is staff allowance.

The immediate past President is in great demand by virtue of the wishes of numerous groups who appreciate his contributions to the country and his stature as a real statesman. I think all of us who have worked with him know he is a human being and not necessarily perfect, so, on occasion, we could have honest differences of opinions on issues with him.

Keeping in mind that a former President is in need of a staff in a position like Mr. Ford's, he has communicated that need to the leadership of both Houses.

I think this is a very reasonable proposal, one that directly affects only the staff needs of the immediate past President.

Mr. BAUMAN. Mr. Speaker, I thank both the gentlemen for their explanation.

I just thought, in view of the fact the legislation has had no hearings nor did it go through the usual committee procedure, it would be well to have a full discussion. I think we get the picture as a result of the remarks that have been made.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the minority leader.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the bill, H.R. 9278, has been brought here as a result of the communication by the former President with the Speaker and me. I am sure that we would all agree that former President Ford is the best judge of his own needs as far as clerk-hire is concerned.

Nobody can anticipate the needs of a past President. They may be large, they may be small. It happens that this particular past President is receiving mail in volumes which he could not have anticipated and which we could not have anticipated either. I believe that when he says he does need this additional fund he does mean it. I feel that it is certainly in the interests of the country that any former President have the wherewithal to execute the duties which remain and to respond to the many people who continue to write to him and to deserve a reply.

Once a person is President, he never quite gets away from the office as long as he is living. This ex-President, being, certainly, the conscientious man we all know him to be, will want to discharge those duties. I hope we will give him the wherewithal to accomplish that.

Mr. UDALL. Mr. Speaker, I yield myself 1 additional minute.

I would like to make one point: $150,000 seems like a lot of money. However, I think we should bear in mind that an ex-President was President of a country containing 215 million people, a lot of whom feel they have a right to correspond with him and to get an answer.

Mr. Speaker, to put the matter into better perspective, that staff allowance is less than 50 percent of the staff allowance of a Member of the House of Representatives representing 450,000 people. Therefore, we are giving the ex-President of the whole country about 40 or 45 percent of the staff allowance for 30 months that we give to a Member of Congress.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 9278.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. BAUMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 9278.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

HUMAN RIGHTS IN CAMBODIA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 724) to express the House of Representatives deep concern over the disregard of basic human rights in Cambodia, as amended.

The Clerk read as follows:

H. RES. 724

Whereas the foreign policy of the Carter administration gives high priority to the issue of human rights conditions around the world;

Whereas there have been numerous credible accounts by refugees from Cambodia telling of countless killings and other barbaric brutalities by the Government of Cambodia; and

Whereas the United States and the peoples of the world must protest the brutality taking place within Cambodia: Now, therefore, be it

Resolved, That the United States House of Representatives—

(1) expresses deep concern over the continuing disregard for basic human rights, including atrocities and killings, of the Cambodian people by the Government of Democratic Kampuchea; and

(2) calls upon the President to cooperate with other nations, through appropriate international fora such as the United Nations, in an effort to bring the flagrant violations of internationally recognized human rights now taking place in Cambodia to an end.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLARZ) and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise not only as a Member of the Congress but as someone whose people were the victims of what may well be the greatest crime in the history of mankind. It is hard to believe, but it was only three decades ago, after the liberation of Buchenwald, Auschwitz, Bergen-Belsen, Treblinka, and other death camps, whose names too will go down in the annals of demonology, that the world finally and fully realized the extent of the horror of Hitlerism. I wish I could forget the sad events of those unfortunate days, but they remain, no matter how hard I try, a vivid and haunting memory.

I remember how, during the years in which Germany dominated most of the continent people were rounded up throughout the Nazi-occupied countries and herded into ghettos in Warsaw and Lodz and elsewhere around Europe. I remember how they were taken from the ghettos and sent to extermination camps like Treblinka, Auschwitz, Buchenwald, and Bergen-Belsen. I remember that when they arrived at the extermination camps they were stripped completely naked and sent into the gas chambers where they lost their lives: I remember how 6 million people, men, women, young children and old folks, artists, rabbis, carpenters, bakers, housewives, just plain people, who wanted nothing more than to lead their lives and serve their God, were sent to their deaths. And I can remember, while all of this went on, while 6 million died, how Popes and presidents and prime ministers stood by in silence and said nothing.

I would have hoped after the holocaust that the world would have learned its lesson and that the extermination of the Jews was the last chapter in the brutal history of man's inhumanity to man. Alas, that was not to be the case.

When the Khmer Rouge entered Phnom-Penh in April of 1975, signalling the collapse of the Lon Nol regime and the end to the war in Cambodia, there was hardly anyone who realized that the curtain was about to rise on a new act in the deadly drama of mass murder.

There was, I think, throughout the world a sense of relief that the slaughter and the killing which had taken place in Cambodia during the course of that conflict had come to an end and, indeed, in Cambodia itself, there was similar feeling of relief as the victorious Khmer Rouge troops entered their capital. As the Communist cadres marched into Phnom Penh they were acclaimed by the inhabitants of that city, not only with a sense of relief, but almost with a sense of joy, not so much because they identified themselves with the aims and objectives of the Khmer Rouge, but because the war and the killing had come to an end.

How wrong, how tragically wrong they were, because within only hours of the time that those Communist troops entered the capital of Cambodia, the curtain had gone up on what has since, we now realize, become one of the most monstrous crimes in the history of mankind. The Khmer Rouge troops immediately proceeded to completely evacuate the city. Three million men, women and children, even the sick and the infirm who were in hospitals, even those who were on their death beds, were forced out of their homes, were forced out of the hospitals, and sent on a forced march into the countryside.

Never before in the history of mankind had a regime attempted to so radically restructure the basis of the social

order in a country. The cities were completely depopulated, and on that march into the countryside—for which no preparations had been made, for which no food had been set aside, for which no water was available, for which no medicine was nearby—literally thousands upon thousands of Cambodians lost their lives. When they reached the remote countryside, they were ordered to build housing for themselves, and they were sent to work, regardless of their background, in the jungles, clearing areas and constructing rice paddies, and sent to work in the fields. Once they had done that, the new regime began to systematically slaughter, to isolate, to single out and to execute anyone who was in any way identified with the old regime. It was not just that they were slaughtering and murdering officials of the old regime, or people who served in the army of the Cambodian Republic, they also began to slaughter anyone who had an education.

Our committee held hearings on this dreadful situation, and we were told that that it had apparently been the policy of the Cambodian Government to murder anyone considered an intellectual, and by their terms an intellectual was anyone who had a seventh grade education. I regret to tell the Members that these killings are continuing today, and the country has been turned into one vast concentration camp. The people who live there are forced to get up at dawn. They are sent to work in the fields until about noon. They are given maybe a half hour or an hour for lunch, which consists of a meager ration of rice. They work until sundown, and then after having dinner are often herded together for indoctrination lessons in the evening.

Starvation throughout the country is rampant, and while no one knows for sure how many have lost their lives to mainutrition, to disease, and to execution, the best estimates we have are that it is, at the very least, in the hundreds of thousands and, yes, may well exceed 1 million.

We talk about the problem of genocide. We think of how the Germans slaughtered the Jews. We think of how the Turks slaughtered the Armenians. But what we have in Cambodia is something which is almost unprecedented in the annals of human history. It is something for which in a way the existing language is inadequate. Jean Lacoutre, one of the most esteemed and respected students and scholars of Indochina, who has recently written a book about these events, said the only way to describe it was to coin a new phrase, the phrase of autogenocide: The slaughter of a people by their own people.

Since the fall of Phnom-Penh in April 1975 about one-quarter of the Cambodian people have been slaughtered by their own Government, and there is no end in sight to these mass killings.

So, the Members might ask, what can we do about it? Probably not very much. This is an isolated regime. There are only eight countries in the world that even have diplomatic relations with it, and those countries that do have ambassadors in Phnom-Penh are restricted to 100 yards of their embassies in terms of their ability to send their diplomatic personnel out into the countryside. It is a country which appears to be impervious to what other countries and other peoples think about it. They are so determined to be autonomous that they accept no aid or assistance from other countries that conceivably could be terminated. Consequently, boycotts and embargoes probably would not do much, and I do not know anyone who has suggested that an expeditionary force should be sent into Cambodia in an attempt to free the people of that wretched country from the grip of the regime that has come to power. But the fact that we probably cannot do very much does not mean that we cannot do something and does not mean that we should not in some way, however inadequate that may be, attempt to deal with this dreadful situation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I certainly concur wholeheartedly with the purpose of this resolution.

I recently had an opportunity to talk to three refugees from Cambodia, one of them living in my district, and they presented to me the horrors that the gentleman from New York has described regarding the people that live in that sorrowful land.

They also gave me, and I inserted in the RECORD on September 7, two resolutions, one adopted by Cambodian refugees in the United States and Canada, and one by a group of Cambodian refugees in Washington, D.C. Both resolutions were forwarded to the United Nations more than a year ago. It is my understanding they have received no action by the United Nations at all and no response.

I notice the pending resolution asks the United Nations to take some action. I wonder if it is not something of a useless gesture in the light of what has happened to ask the U.N. to act on this.

Mr. SOLARZ. Mr. Speaker, the gentleman raises an important point. It seems to me that the central existential fact of human history was the slaughter of 6 million Jews by the Nazis in World War II. As someone who has thought very hard and very long about that sad experience, I want to tell you that I have been haunted by a statement that was attributed to Hitler at the height of the holocaust when he was discussing his plan to exterminate the Jewish people with some of his henchmen. During that discussion he observed that, when the Turks had slaughtered the Armenians at the end of World War I, mankind said very little and that the world soon forgot what had happened to the Armenian people. Hitler's point was that in the same sense that international public opinion had ignored the slaughter of the Turks, so, too, could the Germans reasonably expect that mankind would ignore the slaughter of the Jews.

It seems to me it is not inconceivable that if mankind had spoken out more forcefully at the time that the Armenians fell victim to the Turks, that Hitler might have thought twice before launching his extermination program against the Jews.

Is it not possible that if we now express our concern, express our protest over what is happening in Cambodia, that even if we cannot prevent what is happening there, we might discourage such developments in the future.

I think it was Emerson who once said:

> The only thing which is necessary for the triumph of evil is for good men and women to do nothing.

This resolution expresses the concern of the Congress over the events which have taken place in Cambodia since the end of the war. It talks about the brutalities and barbarities and the countless killings that have taken place. It calls upon the President to raise this question at the United Nations and other international forums.

We cannot, to be sure, say that it will work. Probably it will not work. God knows that we bear a measure of responsibility for setting in motion the forces which led to the present situation. It was, after all, our invasion and our bombardment of Cambodia which created the civil war which ultimately led to the triumph of the very regime whose activities we now deplore; but the fact that our moral credentials may not be pure should not prevent us from speaking out now. Were we to accept that argument, it would be a formula for moral and political paralysis and we would be unable to express our concerns with respect to the existence of immorality and evil anywhere in the world.

So I say to my colleagues, in conclusion, that even if this resolution is not about to bring an end to this terrible killing, I would hate to think, when the final history of our country is written, that during the years when these terrible events in Cambodia were taking place, the Congress of the United States and the American people remained silent and said nothing and were indifferent to the plight of these unfortunate people.

Let us at least make our position clear. Let us speak out and let us hope that by so doing we can encourage others in our own country and elsewhere around the world to express their outrage as well.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I rise in support of what the gentleman has said, and particularly the perceptive comment regarding the fickleness of what we might call world opinion—the fact that so often the world does seem to be blinded to inhuman activity.

I would point out one further area, though. It seems to me that even in this country we have a degree of a double standard. The Chinese Communists, for example, are guilty beyond a shadow of a doubt of exterminating upwards of 10 to 15 million of their own countrymen. That is a regime that is still in existence, and yet for some reason or other, which always seems to evade my understanding, we in this country seem to look with favor on that country, particularly our Presidents, past and present. We do not

seem to hold them to the same standard that my colleague from New York is properly saying that we should hold the Cambodians. Or the PLO, for example.

I think perhaps in some cases we in the United States contribute to that very world opinion that Hitler was alluding to some quarter century ago.

I thank the gentleman for bringing this particular area of inhumanity to our attention. I would only hope that across the board we would try to keep it balanced and applied to all the people in the world who are using this unexplained and unforgivable type of political solution, the extermination of their fellow men.

Mr. DERWINSKI. Mr. Speaker, I wish to address myself to this resolution and urge its support.

Mr. Speaker, once in a while in the course of human events, something occurs of such staggering dimensions that many dismiss it as untrue. The autogenocide addressed in the resolution now before us is a case in point. The magnitude of the slaughter taking place in Cambodia has now reached such mind-boggling proportions that many just cannot believe something like this can happen in today's world.

I, too, felt that way until I listened to the findings of a variety of witnesses before our Subcommittee on International Organizations. Especially impressive was the testimony of State Department's principal Cambodia watcher, Charles H. Twining, who based his conclusions on information gleaned from hundreds of interviews of refugees fleeing from Cambodia since the overthrow of the Lon Nol government. From those interviews, Mr. Twining deduced that after the systematic liquidations in 1975 of Cambodians tied to the Lon Nol government, the new regime began—in early 1976—killings of "all other intellectuals." He went on to define an intellectual as "anyone who had a seventh-grade education or above."

In light of that testimony, Mr. Speaker, Congress is morally obliged to speak out through House Resolution 724 on this deplorable situation. As columnist Anthony Lewis put it so well several months ago in the New York Times:

> To remain silent in the face of barbarism as enormous as Cambodia's would be to compromise our own humanity. It would be to say that hundreds of thousands of Cambodians do not count in the human scale. It would be to repeat the West's corrupting mistake in 1972 of ignoring tribal genocide in Burundi. In today's world, we ignore mass murder anywhere at our own peril.

Mr. Speaker, it must be noted that the lack of congressional support for U.S. policy in Cambodia played a role in consigning the people there to a Communist hell. It also should be noted that congressional thwarting of Ford administration efforts to help sustain the Government of South Vietnam led to total communization of that country. Certainly, when one looks at the suffering of the people in Cambodia, it would be impossible to reason that the Cambodian Reds are merely the agrarian reformers of the 1970's.

Mr. Speaker, I would like to point out to the Members of the House that the gentleman from New York (Mr. SOLARZ) was very effective in developing this resolution and seeing that hearings were held; and in interrogating witnesses who appeared before us, especially one who was actively defending the Government of Cambodia. I would like to point out that he has very, very accurately and properly dramatized for us the historic issue here. That is mankind stood by silently while the Turks perpetrated the first modern genocide against the Armenians. There was too little done when the German Nazis attempted to exterminate the Jews.

Now we have in this case of Cambodia, in my judgment, a situation where people are being wiped by their own. At this point, I direct the attention of the Members to the fact that our colleague from Ohio (Mr. PEASE) has introduced a resolution calling for hearings in the House on the subject of atrocities being perpetrated in Uganda by the government there against its own people. So, I commend the gentleman from New York for the initiative he has taken. Notwithstanding the hopelessness, we feel that at a time like this it is nevertheless essential that we do write a proper record, and we are doing that this afternoon.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding to me. What we have heard this afternoon does honor to the speakers and to this House. It is fitting that we should try, no matter how unproductive it may be, to establish in this world a sense of solidarity with those who suffer. We cannot stand by in silence.

I think it was Mr. Scranton, our Ambassador to the United Nations, who said that we cannot stand by and watch such cruelty without seeming to condone it; even more profoundly, perhaps, without becoming in some sense accomplices.

Like the earlier speaker, I, too, watched what happened in Germany. It changed the course of my life and pushed me into politics, which I had never contemplated as a younger woman. That is what this century ought to have taught us, that we are all human beings on this planet, to some extent responsible one for another. We cannot stand silent and watch what is taking place in Cambodia. It is proper that we pass this resolution. I had hoped that somebody would do this, someone from the Committee on International Relations, and I commend the gentleman from New York and our ranking minority Member for having presented it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I just wanted to pursue again the point I posed to the gentleman from New York, which he never really quite answered. The gentleman from Illinois also raised another aspect of the same point.

This resolution calls upon the President to call upon international fora, such as the United Nations, to deal with the persecution and genocide in Cambodia. I point out that the United Nations has had before it for almost a year two resolutions presented by numerous Cambodian exiles, regarding this problem and the U.N. has failed to do anything.

The United Nations Commission on Human Rights, meeting a few months ago, refused to debate the issue of Idi Amin and Uganda. Yet the United Nations is ready in this current session to debate at great length the issue of Rhodesia, where no one is being slaughtered by the government but by roving guerrilla bands supported by many members of the U.N.

It seems to me the actions of the United Nations are highly selective as to what human rights are involved and where they want to have them enforced. That immoral selectivity demonstrates hypocrisy as I see it.

Mr. DERWINSKI. Mr. Speaker, the gentleman is correct. The U.N. members performing in New York have hurt the reputation of U.N. They have hurt its effectiveness. By applying purely political approaches to world problems they have rendered the U.N. far less effective than it should be.

The gentleman made a very practical point. We will see a U.N. session in a few weeks that will play a political game, a resolution against Israel. That is because of the political makeup of the U.N. It is unfortunate, but those of us who have worked with the U.N. recognize that it is an imperfect body, because of the political nature of the membership and the manner they perform. That, however, does not take away the point made by the gentleman from New York that by dramatizing this issue, by emphasizing our interest, we might somehow start to develop the momentum that could bring about an overdue but certainly legitimate interest in the plight of the poor people in Cambodia.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this resolution, and I want to associate myself completely and wholeheartedly with the remarks of the gentleman from New York (Mr. SOLARZ).

Mr. Speaker, there is no reason why this resolution, which expresses the concern of the House with the disregard of basic human rights in Cambodia, should not pass unanimously. I hope that we will have a recorded vote on this matter. The magnitude of the slaughter which has taken place and, we are told is still going on, defies comprehension.

There are two brief points that I would like to make. The first is that the national media have, with only a few exceptions, failed to give this situation the attention and exposure it deserves. Reports which I have seen indicate that approximately 2 million persons have perished since the Communists came to power. That is out of a pretakeover population of 7 million. There are a few questions, and they are rhetorical to be sure, which must be asked on behalf of those whose voices have been stilled. Where are the front page newspaper articles. Where are the angry editorial denunciations. Why the deafening silence from

those who are charged with informing the people of current events.

Second, our Nation seems to be preoccupied with allegations of human rights by governments which are, or have been, our allies in world affairs. But we seem to want to disregard even more outrageous actions by those who have in the past chosen to be our adversaries. Our attitude seems to be one of ignoring the problem in the hope that it will go away. This might be a variation of the old philosophy of benign neglect. The only thing we can be sure of is that if we continue to ignore the problem—only those who have so far managed to survive will go away.

It does not matter in the least to me whether the wrongs are committed by a Communist or non-Communist government. It does not matter whether the victims are in Asia, Africa, Europe, or South America. The taking of life is wrong. Depriving a people of their right to self-determination is wrong and cannot be tolerated. No distinctions can be made in this area—to do otherwise is the height of hypocrisy. I hope and pray that my colleagues in the House will join me in unanimously approving this resolution. It is the very least we can do.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Resolution 724, expressing the concern of the Congress regarding the disregard of basic human rights in Cambodia. The sponsor of this resolution, the gentleman from New York (Mr. SOLARZ) is to be commended for focusing the attention of the House on the tragic turn of events in Cambodia, since the takeover of that country by the Khmer Rouge.

Hearings held by the Subcommittee on International Organizations, chaired by Congressman FRASER, revealed numerous reports of widespread bloodshed and gross violation of human rights in Cambodia in the last 2 years.

Equally disturbing were the reports of drastic government action directed against the masses of the population, such things as forced migrations and forced labor, along with short rations and lack of medical supplies and attention have reportedly resulted in the needless and callous loss of thousands of innocent lives.

It is the duty of the Congress to express the opposition of the American people to such evidence of official violence against individual lives wherever this might occur. To stand by without even voicing our opposition to the evident disregard by the Khmer Rouge for human rights and particularly human lives, would be a dereliction of duty.

Mr. WAXMAN. Mr. Speaker, the horror started within hours of the Khmer Rouge's sweeping entry into Phnom Penh. Sydney Schanberg of the New York Times captured the astonishing events in an article that was to win him a Pulitzer Prize. More than 2 years ago, as one of the last Westerners in Cambodia, he wrote,

> Perhaps as many as four million people, most of them on foot, have been forced out of the cities and sent on a mammoth and grueling exodus into areas deep in the countryside where, the Communists say, they will have to become peasants and till the soil . . .
>
> In Phnom Penh two million people suddenly moved out of the city enmasse in stunned silence—walking, bicycling, pushing cars that had run out of fuel, covering the roads like a human carpet, bent under sacks of belongings hastily thrown together when the heavily armed peasant soldiers came and told them to leave immediately, everyone dispirited and frightened by the unknown that awaited them and many plainly terrified because they were soft city people and were sure the trip would kill them.
>
> Hospitals jammed with wounded were emptied, right down to the last patient—limping, crawling on crutches, carried on relatives' backs, wheeled on their hospital beds.
>
> The Communists have few doctors and meager medical supplies, so many of these patients had little chance of surviving . . .
>
> Everyone, Cambodians and foreigners alike, thought this had to be Phnom Penh's most miserable hour . . .
>
> But the hours have turned into days, the days months, and the months years. In all that time, the suffering, the hardship, the senseless, cruel, horribly calculated murders of a people—the dismemberment of a society—have continued.
>
> It is thought the Khmer Rouge, so jaded by the Indochina wars, have decided to eradicate completely the last vestiges of all that was associated with the last regimes. They have cut off Cambodia from the rest of the world. Completely. They have emptied the cities. Completely. They have moved the population into communes in the countryside for the production of rice. They have shunned outside assistance, relying solely on nothing more than themselves.
>
> And whoever cannot survive such an upheaval, dies.
>
> It has been estimated that from several hundred thousand to 2 million of Cambodia's 7 million people have died since the end of the war. This represents nothing less than genocide.
>
> What is occurring in Cambodia is beyond the pale of humanity, beyond any rationale, any justification, any ideology, any nationalism, any redemption.
>
> As one commentator has recently written, "Clearly, Cambodia has fallen into the hands of monsters."
>
> It is long past the time that the world—so sensitive to compelling issues of human rights everywhere—no longer be silent in the face of these crimes against humanity.

House Resolution 724, expressing our concern for the disregard of human rights in Cambodia, breaks our official silence by calling upon the President, through cooperation with other nations, to work to bring this barbarism to an end.

Passage of this resolution is a pitifully small step when weighed against the enormity of Cambodia's holocaust. But conscience demands that it be the first.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and agree to the resolution (H. Res. 724) as amended.

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 38, noes 0.)

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman from Ohio (Mr. ASHBROOK) object to the vote on the ground that a quorum is not present?

Mr. ASHBROOK. No. Under article I of the Constitution, which requires a quorum be present for the conduct of business, I make the point of order that a quorum is not present.

Mr. SOLARZ. Mr. Speaker, I ask for a vote on the resolution.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. SOLARZ) object to the vote on the ground that a quorum is not present?

Mr. SOLARZ. No objection.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ORDER OF BUSINESS

Mr. ASHBROOK. Mr. Speaker, I insist on my point of order that a quorum is not present, as required under the Constitution, for the conduct of business.

The SPEAKER pro tempore (Mr. MURTHA). The Chair will inform the gentleman that further proceedings have been postponed, there is no longer a pending question being put to a vote, and under clause 6(e), rule XV, the point of order is not now in order.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. Mr. Speaker, the Chair counted the House not more than 1 minute ago and found that not even 40 Members were present. I do not think any Member was present who did not stand. There was clearly not a quorum present.

I want the record to show that I object to that. I think my rights and responsibilities as a Member of Congress have been diluted by this rule, and I want to object to further proceedings because there is not a quorum present, as required by the Constitution.

Mr. Speaker, I make a point of order to that effect.

The SPEAKER pro tempore. The Chair will inform the gentleman that the Chair merely counted a division vote, and did not count the House.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

BICENTENNIAL COMMEMORATIVE MEDALS

Mr. FAUNTROY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 386) to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789.

The Clerk read as follows:

H.J. RES. 386

To provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789

Whereas the Bicentennial of the adoption of the Declaration of Independence of the United States of America has been commemorated with the breadth and dignity befitting the American diversity, and

Whereas the Bicentennial celebration during 1976 saw the majority of our citizens participate in activities which helped to improve the quality of life for millions of Americans in thousands of communities across this nation while each were brushed with a sense of our past, our history, and

Whereas the Bicentennial year has given us great impetus to continue our historical review as we realize that the signing of the Declaration of Independence was only the beginning of our struggle to become a nation, and

Whereas it was the ratification of the Constitution and the inaugural of our first President the following year that truly signaled the beginning of our success under the great American experiment, and

Whereas the Members of the Congress of the United States of America recognize that from the careful study and commemoration of past events and writings can we have a better understanding to make sound judgments affecting our future, and

Whereas the Congress of the United States assembled in the United States Capitol Building stands as a working and living symbol of our Republic, the oldest continuously democratic form of government in history, and

Whereas the United States Capitol Historical Society represents all Americans through their duly elected Representatives who themselves are members of the Society, and

Whereas the United States Capitol Historical Society was founded in 1962 with the express purpose to encourage an understanding by the people of the founding, growth and significance of the Capitol of the United States as a tangible symbol of their free representative government, and

Whereas the United States Capitol Historical Society has historically undertaken scholarly research, citizen study of the Constitution of the United States and other significant contributions to art, restoration, publication and film without appropriated funds to promote an understanding of the richness and inspiration of our history, and

Whereas the United States Capitol Historical Society seeks to foster and increase an informed patriotism of the land in the study of those historic events and personalities who contributed to the founding of the Nation and our Constitution form of government, and

Whereas the United States Capitol Historical Society recognizes the need to promote greater awareness of the events which led to the adoption of the Articles of Confederation, our first effort at governing our Republic, the intervening struggle for independence and finally the adoption of the Constitution of the United States of America, and

Whereas it is recognized that one means to generate a greater awareness of the events and personalities who helped form our national fabric is to commemorate these events and personalities on medals to be struck by the Secretary of the Treasury and made available for purchase by the citizenry; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in commemoration of the Bicentennial of the founding of the United States of America and the adoption of the Constitution of the United States of America and of those individuals who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the United States Capitol Historical Society (hereinafter referred to as the "Society") no less than one medal each year for thirteen years with suitable designs, emblems and inscriptions to be determined by the Society, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. The thirteen medals shall be made and issued at such times and in such quantities as may be required by the Society and subject to the approval of the Secretary of the Treasury but no medals shall be made after December 31, 1989. One of the thirteen medals shall honor President James Madison, and shall be issued to coincide with the dedication of the new James Madison Building of the Library of Congress and also commemorate the establishment of the Library of Congress. The thirteen medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the Society at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses. The Director of the Mint is authorized to announce the availability of the medals to the collectors of coins and medals whose names and addresses appear on the customer lists maintained by the Mint. Security satisfactory to the Director of the Mint shall be furnished by the Society to indemnify the United States for full payment of the costs of manufacture and announcement of the medals.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the Society.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the District of Columbia (Mr. FAUNTROY) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have sponsored this resolution for the U.S. Capitol Historical Society.

The resolution would authorize the U.S. Mint to strike and furnish to the society one medal each year for the next 13 years. These medals would commemorate the bicentennials of historic events that occurred during the revolutionary era from 1777 to 1789.

The resolution authorizes the mint to announce the availability of these medals through their mailing lists. All costs of the manufacture and the announcement would be reimbursed by the society, and there would, therefore, be no expense to the Government.

Joining me in the sponsorship of the resolution is the ranking Republican member of the Subcommittee on Historic Preservation and Coinage, Mr. LEACH. We were joined by Mr. WRIGHT, the Democratic leader, and Mr. RHODES, the Republican leader, and by Mr. CONABLE and Mr. PICKLE, who are members of the board of the U.S. Capitol Historical Society. The chairperson of the Joint Committee on the Arrangements for the Bicentennial, Mrs. BOGGS, also joined us in sponsoring this resolution. The joint committee, of course, ceased to exist at the end of the 94th Congress.

The departmental report indicated that the administration has no objection to this bill.

The resolution was unanimously favorably reported by both the Subcommittee on Historic Preservation and Coinage and the Committee on Banking, Housing, and Urban Affairs.

At this time I would like to yield to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my subcommittee chairman for yielding.

Mr. Speaker, I would just like to make two points. First, let me say that I strongly support this bill.

The first point I wish to make is that our subcommittee is very, very reluctant—and we are continuing this policy—in the matter of passing bills which will compete with private coinage. The only reason for this particular bill is that this bill is aimed at a very worthy cause, which is the study and preservation of the Capitol Building itself.

The second point I would like to make is that the bill itself is a tribute to the Honorable Fred Schwengel, who is president of the Capitol Historical Society. I am honored to represent the district which he formerly represented, and I am sure that every Member in this Chamber will agree that no one has contributed more to the history and preservation of the Capitol itself than has Mr. Schwengel.

Mr. FAUNTROY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I rise in support of this measure as well.

May I say first that it is important to understand that there will be no cost to the taxpayers if this joint resolution is adopted.

The Capitol Historical Society will underwrite the costs, although the Mint will strike the medals. There is no single Federal agency responsible for the

remainder of the Bicentennial period; and I am very pleased that our Historical Society has come forward to advance Bicentennial activities in ways that will allow them eventually to raise substantial sums of money to carry on this and other work of the Society.

That work involves not only the historical art projects going on within the Capitol, but the sponsorship of a symposium relating to the Bicentennial period, which will be held annually and which will provide a high level of scholarship for our understanding of the events of the bicentennial period and the years intervening between the Revolution and the signing of the Constitution.

Mr. Speaker, the medals will be available to all collectors. There is a rather well defined group of medal collectors in the country, and it is a predictably successful project. For that reason, Mr. Speaker, the Members should have no reservation about supporting this project.

I would like to urge the Members to take some interest in the work of the Capitol Historical Society. The gentleman from Texas (Mr. PICKLE) and I both serve on the executive committee, and it is performing very interesting work, not only in exploring the historic background of this most historic building in the United States, but also in contributing to the understanding and traditions of our country and the art heritage that is included within these walls.

Mr. Speaker, I would like to join the gentleman from Iowa (Mr. LEACH) in his remarks about the President of the Society, Mr. Schwengel, a very selfless and dedicated person whose interest in history is well known to us all and whose contributions through the Capitol Historical Society have been significant.

Mr. FAUNTROY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. PICKLE), a cosponsor of the legislation with the gentleman from New York (Mr. CONABLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the distinguished chairman of the Subcommittee on Historic Preservation and Coinage, the gentleman from the District of Columbia (Mr. FAUNTROY), for his leadership on this resolution of which I am a cosponsor.

This resolution is the result of a great deal of hard work and planning by many people. It was an effort primarily led by our former colleague the Honorable Fred Schwengel who is now the president of the U.S. Capitol Historical Society.

I hope that my colleagues will join in supporting this very worthy project to strike 13 commemorative medals to celebrate our Nation's history. While some people may think that our Bicentennial celebration ended on December 31 last year, that year was only the beginning of our celebration. Just as the signing of the Declaration of Independence was only the beginning of a long hard fight to establish a free republic, our celebration last year was just a beginning of our recognition of our 200th birthday.

That Declaration on July 4, 1776, was the beginning of a battle that culminated in April of 1789 with the inauguration of our first President.

The purpose of this resolution is to create a series of medals to commemorate the events of those 13 years which resulted in the establishment of our Government and the adoption of our Constitution.

All of the costs of manufacturing and marketing these 13 medals will be paid by the U.S. Capitol Historical Society. This will not cost the taxpayers anything.

The proceeds from the sale of these medals will be used to continue the outstanding work that the Capitol Historical Society began 15 years ago. It will help to continue the work of historical research, citizen study of the Constitution, restoration, and the publication of books and films. It will also help the Historical Society in hosting an annual conference addressing itself to the events of 200 years ago. This conference will be attended by leading historians and preservationists.

Mr. Speaker, our history as a Nation did not end with the signing of the Declaration of Independence; it only began. And our celebration of our 200th birthday should not end in 1976. By encouraging the commemoration, study and discussion of the events that lead to the adoption of our Constitution, we will be furthering the understanding of our heritage and the principles of our Government.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I am delighted to yield to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I thank the gentleman from Texas (Mr. PICKLE) for yielding to me. I would like to add my thanks to the committee members and others, especially the gentleman from New York (Mr. CONABLE), Mr. PICKLE, and other members of the Historical Society for bringing this legislation to the floor. Certainly the purposes of it fit in entirely with the purposes of our Joint Committee on the Bicentennial of last year because the proceeds will be devoted to a better understanding not only of our Capitol Building, but of the Congress itself and of the historical events that did take place during that era, during the time of the Revoluntionary War, and after the war, before we were finally a constituted government, to which our Bicentennial celebration was dedicated.

Mr. Speaker, I would like to ease the feelings of any who think this would interfere with private enterprise. Whenever we have had the Government issuance of a medal, instead of hurting private enterprise it has somehow or other encouraged more collectors and the issuance of more medals by private enterprise, that have a relationship to the Government issued medal. It really has helped private enterprise a great deal.

Members may be interested in knowing that the so-called unappropriated funds spent by the American Revolution Bicentennial Administration were really funds derived from the sale of Bicentennial medals. Through this we were able to not only pay all of the expenses of the Bicentennial and to share with the State commissions some of our moneys, but, having paid for our own report in a timely fashion to the Congress, and to self-destruct, as we were supposed to do on June 30 of this year, we were able to turn some of those unappropriated funds gained from the sale of Bicentennial medals over for further use in Bicentennial programs.

So I recommend very highly to the Members of this body the swift passage of this legislation.

Again I wish to thank the Members for bringing this to the floor. Also I am very grateful to Fred Schwengel for his interests.

Mr. PICKLE. Mr. Speaker, before yielding back my time, I wish to take this occasion to compliment the gentlewoman from Louisiana (Mrs. BOGGS) for the leadership she gave the Bicentennial Committee this past year. She presided over the committee with grace and dignity, fairness and determination. We could not have had a more appropriate or lovely chairman than we did in the gentlewoman from Louisiana (Mrs. BOGGS).

So we compliment the gentlewoman for her work.

Mrs. BOGGS. I thank the gentleman from Texas for his kind remarks.

Mr. FAUNTROY. I have no further requests for time.

Mr. LEACH. I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the District of Columbia, Mr. FAUNTROY, that the House suspend the rules and pass the joint resolution (H.J. Res. 386).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 43, noes 0.

So (two-thirds having voted in favor thereof), the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 386 just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

INDIAN CLAIMS COMMISSION ACT AMENDMENTS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2664) to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20(b) of the Act of August 13, 1946 (c. 959, 60 Stat. 1054), as amended, is hereby further amended by adding a new sentence at the end thereof, as follows: "Notwithstanding any other provision of law, upon application by the claimants within thirty days from the date of the enactment of this sentence, the Court of Claims shall review on the merits, without regard to the defense of res judicata or collateral estoppel, the determination of the Indian Claims Commission entered February 15, 1974, adjudging that the Act of February 28, 1877 (19 Stat. 254), effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment, and shall enter judgment accordingly.".

The SPEAKER pro tempore. Is a second demanded?

Mr. COHEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. ASHBROOK. Mr. Speaker, I object and on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. RONCALIO and Mr. ASHBROOK.

The House divided, and tellers reported that there were—ayes 16, noes 13.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. RONCALIO. Mr. Speaker, will the Chair kindly advise the Members what we are doing. Please repeat the issue.

The SPEAKER pro tempore. The House is now voting on ordering a second in order to permit consideration of the motion.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. On this vote, if the second is ordered, what is the procedure following the ordering of a second?

The SPEAKER pro tempore. We will debate the motion to suspend the rules.

Mr. VOLKMER. I thank the Speaker.

And if the second is not ordered?

The SPEAKER pro tempore. The motion will no longer be pending.

Mr. VOLKMER. I thank the Speaker.

The SPEAKER pro tempore. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 19, not voting 39, as follows:

[Roll No. 592]

YEAS—376

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Armstrong
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Hillis
Byron
Holland
Carney
Hollenbeck
Carr
Holtzman
Carter
Horton
Cavanaugh
Howard
Chisholm
Hubbard
Clausen, Don H.
Huckaby
Clay
Hughes
Cleveland
Hyde
Cochran
Ichord
Cohen
Ireland
Coleman
Jacobs
Collins, Ill.
Jeffords
Conable
Jenkins
Conte
Jenrette
Corcoran
Johnson, Colo.
Corman
Jones, N.C.
Cornell
Jones, Okla.
Cornwell
Jones, Tenn.
Coughlin
Jordan
Crane
Kasten
D'Amours
Kastenmeier
Daniel, Dan
Kazen
Daniel, R. W.
Kelly
Danielson
Kemp
Davis
Ketchum
de la Garza
Keys
Delaney
Kildee
Dellums
Kostmayer
Derrick
Krebs
Derwinski
Krueger
Devine
Latta
Dickinson
Le Fante
Dicks
Leach
Dingell
Lederer
Dodd
Leggett
Dornan
Lent
Downey
Levitas
Drinan
Lloyd, Calif.
Duncan, Oreg.
Lloyd, Tenn.
Duncan, Tenn.
Long, La.
Early
Long, Md.
Eckhardt
Lott
Edgar
Lujan
Edwards, Ala.
Luken
Edwards, Calif.
Lundine
Edwards, Okla.
McCloskey
Eilberg
McCormack
Emery
McEwen
English
McFall
Erlenborn
McHugh
Ertel
McKay
Evans, Del.
Madigan
Evans, Ga.
Maguire
Evans, Ind.
Mahon
Fary
Mann
Fascell
Markey
Fenwick
Marks
Findley
Marlenee
Fisher
Marriott
Fithian
Martin
Flippo
Mattox
Flood
Mazzoli
Florio
Meeds
Flowers
Metcalfe
Flynt
Michel
Foley
Mikulski
Ford, Mich.
Mikva
Ford, Tenn.
Milford
Fountain
Miller, Calif.
Fowler
Miller, Ohio
Fraser
Mineta
Frenzel
Minish
Frey
Mitchell, Md.
Fuqua
Mitchell, N.Y.
Gammage
Moakley
Gaydos
Moffett
Gephardt
Mollohan
Giaimo
Montgomery
Gibbons
Moore
Gilman
Moorhead, Calif.
Ginn
Moorhead, Pa.
Glickman
Moss
Goldwater
Motti
Gonzalez
Murphy, Ill.
Goodling
Murphy, N.Y.
Gore
Murphy, Pa.
Gradison
Murtha
Grassley
Myers, John
Gudger
Myers, Michael
Guyer
Natcher
Hagedorn
Neal
Hall
Nedzi
Hamilton
Nichols
Hanley
Nix
Hannaford
Nowak
Hansen
O'Brien
Harkin
Oakar
Harris
Oberstar
Hawkins
Obey
Hefner
Ottinger
Heftel
Panetta
Hightower
Patten
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Russo
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Young, Fla.
Zablocki
Yatron
Young, Mo.
Zeferetti
Young, Alaska
Young, Tex.

NAYS—19

Ashbrook
Harsha
Myers, Gary
Bauman
Heckler
Poage
Butler
Holt
Quayle
Caputo
Kindness
Symms
Collins, Tex.
Lagomarsino
Taylor
Hammer-schmidt
Livingston
Wiggins
McDonald

NOT VOTING—39

Archer
Evans, Colo.
Nolan
Beard, Tenn.
Fish
Patterson
Bolling
Forsythe
Pattison
Bowen
Harrington
Pepper
Brown, Calif.
Johnson, Calif.
Runnels
Cederberg
Koch
Ryan
Chappell
LaFalce
St Germain
Clawson, Del
Lehman
Stark
Conyers
McClory
Teague
Cotter
McDade
Whalen
Cunningham
McKinney
Wilson, Bob
Dent
Mathis
Wilson, C. H.
Diggs
Meyner
Wolff

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Maine (Mr. COHEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to bring to the floor a bill which I believe will prevent a serious miscarriage of justice. H.R. 2664 directs the Court of Claims to review, on the merits, a decision of the Indian Claims Commission that the United States took the Black Hills area of the Great Sioux Reservation from the Sioux Nation in violation of the fifth amendment of the Constitution.

In 1877, Congress unilaterally took the Black Hills area of the Great Sioux Reservation, approximately 7,347,000 acres, in violation of the Fort Laramie Treaty of 1868. The Black Hills, valuable for gold and other natural resources, was also a religious shrine of the Sioux and they have continued to press their claim since the date of taking.

The Sioux first filed their claim for the Black Hills in the 1920's. This litigation has been before the courts for over 50 years. In 1942, the Court of Claims held that the Sioux were not entitled to recovery. There was serious question on whether the court dismissed the claim on its merits or for lack of jurisdiction.

The Sioux filed the claim again before the Indian Claims Commission. After another long, tortuous path of litigation, the Commission held in 1974 that the United States took the Black Hills in violation of the fifth amendment and that the Sioux were entitled to interest at 5 percent per annum on the principal amount, $17,500,000. They also held that the 1942 Court of Claims decision was not a bar to the claim before the Commission on the grounds of res judicata.

In 1975, the Court of Claims reversed the Commission on this issue of fifth amendment taking, holding that the 1942 court decision was res judicata. The court did not address the issue on its merits, even though it did say:

[A] more rank case of dishonorable dealings will never, in all probability, be found in our history.

Mr. Speaker, simply put, this bill will waive any defense the United States has to this claim based on res judiciata or collateral estoppel and authorizes the Court of Claims to review the fifth amendment taking issue on its merits. This bill does not, I repeat, does not make a congressional determination of the validity of the claim.

The charge is made that this bill establishes an undesirable precedent in waiving the defense of res judicata. I disagree. First, res judicata is a judicially created, technical defense designed to avoid repetitious litigation. Equity would require that, in appropriate cases, it should be waived to avoid a gross miscarriage of justice and I believe this case meets that criteria.

Secondly, the United States has, through appropriate congressional actions waived the defense in the past where claimants against the United States would be denied elemental justice. Congress has already established the precedent of waiving this defense and doing justice.

Mr. Speaker, while I am not ashamed of the record of our treatment of Indian tribes, I must admit that, in many cases in our history, the United States has acted less than circumspect in this regard. The record of our treatment of the Sioux in the taking of the Black Hills, as the Court of Claims admits, does us no credit.

I do not think that it would be honorable for the United States to now hide behind the technical defense of res judicata and deny the Sioux their day in court on the merits of this issue.

I strongly urge the Members to vote for passage of this bill.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding.

I would like to recommend to the membership of the House that they just take a few minutes to read the report on this particular bill. It is a fascinating story of how the United States stole this area.

Mr. Speaker, the court that ruled against the Indians said:

A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history.

Then the court ruled against the Indians after making that statement.

Mr. Speaker, there are technical legal objections to passing this bill, and evidently the gentleman from Maine (Mr. COHEN) is going to raise those objections. I had not intended to talk at this point because I thought I would wait and respond to his statement.

However, Mr. Speaker, I urge the Members to read the report. This area of land was given to the Indians, ceded to them, in 1868; and it was said that it would be theirs in perpetuity. In 1877 the Congress unilaterally declared that the treaty of 1868 was no longer in effect, and so, 11 years after we had given the land to them, we said, "No; the treaty no longer applies."

Then in 1943 the court said,

On the basis of the treaty of 1877, we will not allow you to file a claim under the 5th amendment.

Subsequently in 1974 the Claims Commission said the Sioux were entitled to damages for the taking of $17,500,000 plus interest at 5 percent from 1877. But the Court of Claims held in 1975 that the 1943 decision was res judicata with respect to the interest portion of the award.

Mr. Speaker and Members of the House, that is the rank double-dealing, dishonorable event which we are trying to correct by this piece of legislation.

Those Members who will fall back on the strict procedural techniques they learned in law school will undoubtedly say that res judicata applies forever and ever.

Mr. Speaker, I used to teach business law, and I used to teach my students the value of res judicata. That is fine for the court, but it is not appropriate here in Congress.

Please read the report. Please see that all this bill tries to do is to award interest which the Indian Claims Commission said the Indians are entitled to and then the Court of Claims said that they could not award it, despite the "dishonorable dealings."

Mr. Speaker, all we are saying is that the Court of Claims should consider whether or not the interest which the Indian Claims Commission awarded the Indians should be given to them. That is all this amounts to.

Again, please read the report. It is a fascinating document.

Mr. Speaker, if the Members are interested at all in history and in how we treated these conquered people, they will find the report to be one of the most fascinating things that they could read. It would only take them a few minutes. Once they read that report, Mr. Speaker, I think they will agree that this bill should be passed and passed unanimously.

Mr. RONCALIO. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker and Members of the House, I think it is no secret that I have had disagreement with the committee before on matters regarding the Indian Claims Commission; and from what I can see, I will have disagreement on some of the matters which they will bring to the floor in the future.

However, let me say that I am unhesitatingly in favor of this bill.

Mr. Speaker, we are here dealing with the largest and the most historically significant of all of the Indian claims presented against this country. Therefore, I think a little history of the situation is necessary for a proper understanding. Everyone does not have the time and will not take the time to read the report. I agree with the gentleman from Colorado (Mr. JOHNSON) that if they did, they would vote for this bill.

However, very briefly, Mr. Speaker, by act of this body in February of 1877, the United States unilaterally stripped the Sioux Nation of the Black Hills. This was a retaliation for the Custer defeat at Little Big Horn. It is one of the darkest pages in the history of our dealings with American Indians.

By a special act, this matter was brought into the Court of Claims in 1926; and in 1942, with great haste, the Court of Claims held that the Sioux claim was not proper. It is not clear, but it appears to careful students that the court held, in effect, that it did not have jurisdiction and so it dismissed the case in 1942.

After the Indian Claims Commission came into being in 1946, the Sioux claim was brought before the Indian Claims Commission; and in 1974 the Indian Claims Commission held that the act of 1877 was indeed a unilateral taking, that it was a taking under the fifth amendment of the U.S. Constitution, that the Sioux were entitled to $17.5 million as compensation for that taking, and because it was a fifth amendment taking, they were entitled to interest at the rate of 5 percent.

That judgment was then taken by the Federal Government to the Court of Claims who dismissed it, saying that it was res adjudicata, the decision of the court in 1942 barred a further claim in the court. And while they said that:

A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history. . . .

They held that res adjudicata must prevail and that it must be dismissed.

The value at the time of the taking is really the critical issue.

Mr. JOHNSON of Colorado. Mr. Speaker, if the gentleman will yield, I think the gentleman made a misstatement and I know the gentleman knows better, and I think the point should be cleared up. The court affirmed the $17 million award and said that they could not consider the question of interest because of res adjudicata.

Mr. MEEDS. That is exactly correct. They in effect ruled that the earlier court had ruled on the fifth amendment taking aspect and they did affirm the $17,500,000 award. That is not here in controversy. The effect of this legislation is not to decide the question of the fifth amendment taking but merely to have this body waive the claims on res adjudicata, so that they can be reinstated. We are not making the final decision, the court will make the final decision, as it should. They will decide whether it was a fifth amendment taking. So it is important to understand we are not passing on any claims.

As I said earlier, this is a history of missed opportunities and bitterness by the Sioux Indians. Rightly or wrongly, this case, above all other cases, is regarded as the prime example by Indians of the white man's injustice to Indians in his judicial system.

But, despite this, a large number of the Sioux Indians have continued to press in the courts, since 1926, then in the Indian Claims Commission and the Court of Claims. Now some Sioux point to this and demand the return of large parts of seven States, but most of them

prefer to work within the system to achieve the ultimate benefits.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RONCALIO. I yield 2 additional minutes to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I thank the gentleman from Wyoming (Mr. RONCALIO) in yielding me the additional time.

Mr. Speaker and Members of the House, our failure to pass this legislation will only lend credence to the people, like Russell Means. Conversely, passage will raise the long and suffering hopes of the vast majority of the Sioux people who have kept faith in the system. And, just as importantly to the Members in this House, it will write a more honorable finish to a chapter in American history that has had less than an honorable beginning.

So I urge the adoption of the legislation.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reason I take this time is to raise some questions about the procedure, really, that we are adopting today, not so much as to the merits of the case but rather than procedure.

I would suggest, respectfully, that this bill, arguably is inconsistent with the action taken earlier this year by this Congress dealing with the finality on Indian claims. I am talking about Public Law 95–69 on the Indian claims authorization extension and Public Law 95–103, which was the extension of the statute of limitations with the United States as trustee. That is a minor issue, perhaps, but it is an argument, I think, that has to be addressed.

The gentleman from Colorado (Mr. JOHNSON), for whom I have a great deal of respect, pointed out that this really is a moral claim, and it is really an equitable claim rather than a legal one. As such, it is my opinion that it belongs in the nature of a private relief bill rather than this public act being taken today. This is a $17.5-million claim by the Sioux. It is now pending before the Indian Claims Commission. They withheld final judgment at the request of the attorney for the Sioux. The purpose, I take it, is so that the Claims Commission could add $85 million as interest.

There is also pending in the Indians Claims Commission an offset in favor of the United States against the Sioux in the amount of $45,685,000, I am told. Nothing in this bill indicates how that is going to be handled, which is one of the major concerns I have.

I would like to read, if I could, from this report. The gentleman from Colorado (Mr. JOHNSON) has asked that we read the report. I refer to page 11, where the administration in a letter to the gentleman from Arizona (Mr. UDALL) said:

Accordingly, the administration believes that a Federal policy towards unresolved Indian claims is a necessary element for an overall Federal policy towards Indian affairs. Since the administration has not yet had the opportunity either to develop its overall policies on Indian affairs or to complete the review of all unresolved Indian claims, we strongly recommend that the Congress defer action on H.R. 2664.

On the same page, a bit further down:

If this policy is changed for one or two tribes, there is a great potential that much of the past effort which has gone into the resolution of Indian claims may have been for naught. Therefore, we recommend that Congress defer action on the bill, pending an administration submission of a comprehensive recommendation on Indian claims. If this recommendation is not accepted by the Congress, we would recommend that certain technical changes be made in H.R. 2664.

The reason they make these recommendations, again contained on page 12 of that report, is they are concerned about the offset. Again, nothing in the bill addresses the possibility of the United States litigating that claim. It seems to me that ought to be addressed. That is one of the reasons the Department of Justice objected to this measure. They also suggested certain amendatory language, which brings me back to the point of why are we bringing this up under suspension where no amendments can be offered, because the Department of Justice has made a recommendation on page 13 of the report:

If our recommendation to defer action is rejected, we recommend that the material in quotation marks in Section (a) of H.R. 2664 be changed to the following: Notwithstanding any other provision of law and without regard to the defense of *res judicata* or collateral estoppel the Court of Claims shall hear and determine *de novo* . . . .

Mr. Speaker, that is a critical distinction: de novo, because the chairman of the subcommittee has indicated to this body we are not making any final judgment. It is going back to court, and there the issue is going to be litigated. It will be litigated on a very narrow basis. It will not be litigated de novo but only as the Indian Claims Commission found in 1974.

I think the Department of Justice makes very solid points here. I am not passing judgment on the merits of the claim, but it seems to me when we are about to make a decision exposing the Federal Treasury to another $85 million, we ought to take into account the recommendation of the Department of Justice.

Mr. Speaker, it is for those reasons that I would vote against taking this matter up under suspension.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Speaker, some strong words have been spoken here about the misconduct of the United States which gave rise to this claim by the Indian tribes, but that is not the issue any more. The misconduct resulted in a taking, and the taking is not now disputed. The reasonable value of the property has been determined to be approximately $17.5 million, and that is not disputed. It is not in issue. The Indians are to be paid for the misdeeds of our predecessors.

What is involved now, however, is only the issue of interest. In other words, Mr. Speaker, we are talking, as seemingly in all cases, only about money—$85 million. That payment of interest is unrelated to the misdeeds of the United States. The misdeeds are compensated by paying for the taking. Interest is not payable in this case as a matter of law. That is why it is being suggested that the law be changed.

The Court of Claims determined that interest was not payable by application of the doctrine of res judicata. And certiorari was denied not once but more than once by the U.S. Supreme Court.

The appeal, then, is not one of law. The appeal is to the good conscience of this House. Frankly, my conscience is not offended by denying the payment of interest amounting to about 5 or 6 times the principal to a claimant when the United States has deferred payment in accordance with law. The United States has not arbitrarily withheld payment during this period but has simply followed the law. The United States could not have paid the interest after the court decision without violating the law. If I am to exercise my conscience it would not be for the payment of $85 million to an uncertain group of people, but rather to pay the $17.5 million as compensation for the taking.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I appreciate the gentleman yielding.

I am directing my question to my good friend and eminent legal mind, the gentleman from California (Mr. WIGGINS). I have respected his opinion in matters judicial for a great number of years.

If the gentleman had a tort claim for a wrongful deed of a little girl being hit by a drunken soldier driving near a military base and he got a judgment and then got into unconscionable legal delays which dragged on for 25 or 30 years, would he not consider it his legal duty to say as a matter of law that his client was entitled to interest for waiting all those years?

Mr. WIGGINS. Mr. Speaker, if the gentleman will yield further, in the hypothetical situation posed, the proper remedy is a private bill and not amending the basic law.

Mr. RONCALIO. I thank the gentleman. I will address the difference between a private bill and the public bill later in the debate.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, the gentleman mentioned offsets. I am unaware of any offsets pending in the Indian Claims Commission at this time. There were at some time some pending, but I do not think there are any longer because this body acted on that matter about 3 years ago.

Mr. COHEN. I am looking on page 12. It is on a different docket. It is my understanding that the Indian Claims Commission might have an offset of this other claim. But as of now there is no mention of it. It might be strictly construed that there is no offset on this.

Mr. MEEDS. I am informed by counsel that is a different claim by different Sioux and does not pertain to the Sioux Black Hills claim at all.

Mr. COHEN. On the question and colloquy addressed in this "Dear Colleague" letter, it says:

What is the position of the Administration on this legislation?

The Secretary of the Interior has reported in favor of the legislation. The Attorney General has recommended that consideration of the bills be postponed until completion of a proposed study concerning the number of Indian claims which have never been filed in court.

It did not indicate the Justice Department made specific recommendation that we not vote this procedure and we should redraft and review it as a de novo case and not as it is strictly confined in this bill.

Second, will the legislation set a precedent? It will, which is one reason why I think we should go the private bill relief route rather than this one.

In the "Dear Colleague" letter it is claimed: "The Sioux Black Hills claim is unique." I would agree. That is all the more reason why it should emerge as a private relief bill so it would not set a precedent for all the other bills that will come before this body. The Carter administration should make a policy decision and we should not be taking this action to set such a precedent.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, several points have been raised that I think should be answered because they can be answered.

The gentleman raises a point about the type of claims handled by the Claims Commission. That was because of an entirely separate set of circumstances under which the Claims Commission was not able to handle all of its work. This does not relate to that. The Claims Commission was established because the courts before 1946 had been so unfair and so arbitrary that they caused the conscience of the country to be shocked.

So the Indian Claims Commission was established. Then the Indian Claims Commission finds the Indians are entitled to $17.5 million, plus interest, since 1877.

The court says, "Oh, no, you can't have interest from 1877, because the Treaty of 1877 prevents it."

Marvelous. Think of the injustice of that. That is a classic Catch 22 situation. I hope Mr. Heller reads this colloquy, because he can write a new book someday, because this is the Catch 22 of our session.

Furthermore, the gentleman raises the point they can pursue another course of action. There is no other course of action if you do not give them this kind of relief, because it is res judicata.

Mr. COHEN. The fact is you can submit a private bill at any time. This is not the only time. At any time you can submit a private bill. That is what the Justice Department wants to do on this matter before we set a precedent on these Indian claims.

Just this summer there was an item in the paper that certain tribes in Nevada, and Montana are going to be seeking the return of large amounts of land or $30 billion in lieu of the land.

We are setting a precedent that will be a very serious one. All I am suggesting is not to take it up under suspension, but to file a private bill or take it up under our regular procedures.

Mr. JOHNSON of Colorado. Mr. Speaker, if the gentleman will yield further, I object to the notion that the administration is the final arbiter in these situations and I am not suggesting that the House should be the final arbiter, as the gentleman suggests, with the filing of a private bill.

The Indian Claims Commission was established to avoid this kind of emotional debate, this kind of argument about res judicata, the poor Indians, or anything else.

The Claims Commission, if we examine their work, has done a good dispassionate job. This is their decision and because of a complicated legal situation, their determination is unable to be carried to fruition. What we are saying is let the court decide whether the Indian claims are valid or invalid on the basis of merit, not on res judicata from the decision in 1943, which relates back to 1877, which everybody agrees was a unilateral stealing of the Indians' lands.

Mr. COHEN. Mr. Speaker, all I am suggesting is that a private bill can be filed and will receive overwhelming support: but to come in and say on an ad hoc basis we are going to change the application of res judicata, I think is a mistake. I think we can correct the injustice by doing it in the appropriate and proper way.

Mr. JOHNSON of Colorado. Mr. Speaker, if the gentleman will yield further, what the gentleman is saying is send it to the Congress and we on the subcommittee will be beseiged with claims. The gentleman is saying we should make that decision. There is no way we can handle that volume of business.

Mr. COHEN. All the more reason we have to wait for the Carter administration to make a proposal how it will deal with all the Indian claims.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Mr. Speaker, I would like to associate myself in general with the comments of the gentleman from California concerning the legality of the position we are in now. I will not extend this debate with a long assessment of this problem of the doctrine of res judicata, which has been applied by the Court of Claims and sustained by the Supreme Court in the case. I have done that arguing in my dissenting opinion on page 17 of the committee report. I would like for the record to show one paragraph of that opinion. I state therein:

I would find it much easier to support a bill to grant a special appropriation to the Sioux Nation of Indians, even acknowledging therein that it is for the purpose of extinguishing a moral or equitable obligation arising upon the Black Hills claim, but I cannot justify in my own mind this exercise of congressional review of a judicial decision which I consider contravenes our exclusively legislative responsibility under the separation of powers doctrine. Furthermore I feel that it is in the best interest of the Indian Nations that their claims be resolved by law under the legal principles applicable at the time of the enactment of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049, 25 USC section 70). I feel that in each instance where Congress undertakes to rewrite the law to deal with the claim of a particular tribe or nation, it makes more difficult the closing of the old wounds and the settlement of the ancient claims which it was the purpose of the Indian Claims Commission Act to terminate and which continue in litigation now 30 years later.

Thus, under the constitutional doctrine of separation of powers, under the principle that our law should be uniform in application, and under my personal conviction that the purposes of the Indian Claims Commission Act should be executed without further congressional interference, I voted "no" in committee and will vote "no" when H.R. 2664 (S. 838) comes up for consideration by the full House of Representatives.

I firmly believe it is in the best interests of the country to not enact the legislation; however, I am not going to speak against it, other than in the dissenting opinion to which I have heretofore referred.

Mr. MILFORD. Mr. Speaker, will the gentleman yield for a question?

Mr. RONCALIO. I yield.

Mr. MILFORD. I appreciate the gentleman yielding to me. I am curious about something. We are talking about roughly $100 million in money, or at least the possibility of that much. We are talking about damage which occurred some 100 years ago.

I am curious to know, who will be the actual beneficiaries. Who will get the $100 million? How is the proposed bill's provisions going to determine exactly who will be entitled to the money and on what basis?

Mr. RONCALIO. The court will review and determine what will be the respective interests. I would presume it would be awarded to the several tribes and their members in accordance with the judgment rendered by the Court. All this does is give them a chance to go to court. They may get nothing at all.

The objection we hear, I say to my good friend from Texas, is that this ought to be a private bill and not a public bill. I submit that is not the appropriate method for the treatment of Indian claims. I have never known a private bill to hit the floor of this House and have an opportunity to be debated because three men—one of them was H. R. Gross, God bless him, I miss him—simply said, "I object."

That took care of my private bill, and after it was objected to twice it went to the bottom of the calendar. It is the old tyranny of the runaround, and that is why this bill is here today, trying to stop the runaround.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I would like to stop debating the legalities and talk a little bit about this bill from another aspect. This lawsuit has been pending for over

50 years, and is a festering sore which has been breeding trouble through the 50 years, and culminated in about 1973 with the outburst of AIM at Wounded Knee. It is still a troubled area. These people, these 60,000 Sioux, are wondering if the U.S. Government ever intends to meet about this bill from another aspect: its obligation to them.

We make all kinds of payments to other groups and other countries, and they have been taken care of; yet, these people who want a chance to be heard in a court, are refused. That is what this is about.

Mr. Speaker, I am pleased today to have this opportunity to urge my colleagues to support H.R. 2664, the bill to amend the Indian Claims Commission Act, with respect to the Sioux claim for the Black Hills of South Dakota.

The Black Hills claim was first instituted over 50 years ago. In 1974, the Indian Claims Commission handed down a decision on the claim which amounted to an admission of the taking of the Black Hills from the Sioux and a liability by the U.S. Government for just compensation for the fair market value of the land in 1877, plus interest. Then, in 1975, following a Government appeal of the 1974 decision, the Court of Claims dismissed the interest portion of the claim on the principle of "res judicata," before even hearing the Sioux's side, claiming that in a decision they reached in 1942 the Sioux did not have a fifth amendment claim in the 1877 act. With that decision, the question of whether the Sioux are entitled to interest cannot now be tried—at least not until the provision of res judicata is waived.

This bill would amend the Indian Claims Commission Act by waiving res judicata in this particular case. Our Government acknowledged the taking of the Black Hills portion of the Great Sioux Reservation with the Indian Claims Commission decision of 1974. Therefore, it is not fair that we have not given the Sioux their chance before the Court of Claims to seek the interest they feel is due them.

It is not the responsibility of the Congress to decide if their claim is valid, but it is our responsibility to insure that they do have a chance to have their claim heard on its merits by the court. Passage of my bill will do just that.

Thank you for giving me this opportunity to urge your favorable consideration of H.R. 2664.

Mr. COHEN. Mr. Speaker, I yield one minute to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I would like to ask the gentleman a question. The $85 million mentioned in this legislation refers to possible repayment to Indians for interest accrued since 1877 on this claim, but when the claim was first established it was prior to the time the Indians were entitled to constitutional protections because Congress had not conferred upon them citizenship rights. If that is the case, how can any Indian claim fifth amendment rights that were established prior to the time they were conferred.

Mr. COHEN. I am not serving on the committee. I am just addressing myself to a different aspect of the procedure.

As to whether they were entitled to fifth amendment protection or not, the problem is review on the merits. But, it is not a trial as the chairman, I think mistakenly, said a moment ago, that it would be a new trial. It is no new trial as such. It is a review on the record of the Indian Claims Commission; not a trial. They are simply going to review it.

It is simply going to review the determination made in 1974 as to the award itself, plus $85 million in interest. But there is no trial.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding so that I might respond to the gentleman's inquiry.

We are not here deciding the fifth amendment question now. This still has to be decided by the court. But, in any event, the property of all people, whether they are citizens of the United States or not, who are under the flag of the United States, is protected under the fifth amendment of the U.S. Constitution. So the fact that they were not citizens at that time does not bar this claim.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, one of the most difficult and thankless jobs in the House of Representatives is the job held by the gentleman from Wyoming (Mr. RONCALIO) dealing with the sensitive, difficult and complicated claims of Indians, and similar bills, which job he has undertaken and which he does with class, style, a lot of consciousness and compassion. I want to say he has reached a good result here, and we support him.

I commend the gentleman from Colorado, the ranking minority member on the subcommittee, for his support also.

This is a good bill and one which was recommended by the committee.

Mr. COHEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. I thank the gentleman for yielding.

Mr. Speaker, in conclusion, I would only ask those who are not decided to take a look at the last paragraph of the Senate report which accompanies the legislation. It is an excellent treatment of the res adjudicata defense and, in my opinion, adequately responds to, and surmounts the objections of the eminent gentleman from California.

Mr. Speaker, let me state again the principle here, in trying to address the unhappiness of the Indians of America.

I would like to think the gentleman from Maine would be observant enough to recognize that we are trying to meet these problems of the Indians of our Nation. That is not running away from our responsibility. We know we have problems in the Northeast and in other parts of the country. We appreciate the efforts of the gentleman from Maine in responding to these problems. And this is an opportunity to correct an evil, ancient wrong in every part of the United States. And not to say now to the Sioux, "Bring it back next year in a bill," or, "Bring back a bill granting judgment for $84 million," who are we to determine it would be $84 million? It may, of course, be nothing, or only a fraction of. Let a judge decide $80 million. Let the Sioux have their day in court. That is all we ask for in this bill.

Mr. Speaker, I ask for a yea vote.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

The real issue here is what avenue we are going to proceed on, whether we are going to follow this procedure, which runs a very serious risk of setting a precedent that this body will have to live with, with all of the other claims that will have to come before Congress in the next few years, or whether we should follow the more appropriate procedure of a private bill which will not set the precedent that this bill will set.

Mr. Speaker, I will close by referring to the report, on page 13, which reads as follows:

. . . the Court of Claims would serve merely an appellate review function to the Indian Claims Commission's decision entered February 1, 1974. If the Commission's 1974 decision had been arrived at after a trial and after a careful consideration of the material facts and law, there might be some merit for the Court of Claims providing only an appellate review. But this was not the case. Rather, no opportunity to adduce evidence relevant to the Sioux fifth amendment claim was presented to the parties by the Indian Claims Commission, no trial was held thereon, and the parties were not given a chance to submit written briefs on the issue.

That is the reason why the Justice Department recommended a change in the language of the bill if we reject their advice to defer action for the time being.

So in view of that, Mr. Speaker, I would recommend that this bill be defeated.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, just so I know what the procedure would be here, if we use a private bill, one Member could object on a request by unanimous consent; is that correct?

Mr. COHEN. I am advised that is correct, but we also have the other option that we have a comprehensive proposal coming from the Carter administration in the very near future.

Mr. VOLKMER. Then you have to wait for the President to tell you what to do?

Mr. COHEN. We have to wait for the President to establish what kind of policy he is going to set regarding all the claims that are coming before this body.

Mr. Speaker, I yield back the balance of my time.

Mr. RONCALIO. Mr. Speaker, prior to 1851, the Western Sioux traditionally and aboriginally had a hunting range which covered a vast area in the northern Great Plains which extended into seven existing States. In 1851, the United States entered into the 1851 Treaty of Fort Laramie in order to secure over-

land trails to California, where gold had been discovered 2 years prior. The treaty provided for the safe passage of white emigrants through the Sioux lands and attempted to define the respective borders of the seven signatory tribes. In the ensuing years great numbers of white emigrants began to pour over the overland trails, disrupting and destroying the hunting capacity of the tribes and leading to conflict between the Sioux and the white travelers.

In 1868, the United States and the Sioux entered into another treaty—1868 Fort Laramie Treaty—in which, first, the United States agreed to abandon certain forts; second, the United States confirmed in the Sioux recognized title to a tract of land which became known as the Great Sioux Reservation; third, the Sioux surrendered all rights to permanently occupy lands outside the Great Sioux Reservation, but retained the right to hunt in an aboriginal hunting area; fourth, the United States agreed to keep all unauthorized personnel out of the Great Sioux Reservation; and fifth, the United States agreed that no further lands of the Sioux would be ceded without three-fourths consent of the adult male population.

Even prior to 1868, it was known that the Black Hills, which was located within the confines of the Great Sioux Reservation, contained gold. After the 1868 treaty, the army did attempt, though unsuccessfully, to keep gold seekers out of the Black Hills.

In 1873, Lt. Col. George Custer conducted an official exploration of the Black Hills and confirmed the existence of gold.

After this confirmation of the presence of gold, the Secretary of the Interior sent a commission to the Sioux to negotiate a sale of the Black Hills, but failed.

In 1875, President Grant and the Secretary of the Interior decided that they could no longer keep whites out of the Sioux country, and decided to buy the land. Another commission, the Allison Commission, was sent to negotiate, but the Sioux refused to sell.

In November 1875, the President decided to end all efforts to keep whites out of Sioux country and by secret order, withdrew the army. During that time, the administration asked Congress to unilaterally take the Black Hills, but the Congress refused.

One month later, on December 3, 1875, the Secretary of the Interior instructed agents to notify the Sioux that unless they returned to the reservation by January 31, 1876, they would be declared "hostiles." The Sioux were hunting off the reservation, with the permission of the Government's agents, and in accordance with the provisions of the 1868 treaty, at the time. Because of the severity of the winter, the short notice, the fact that families—rather than men only—were on the expedition, the Sioux were unable to meet the deadline.

Custer was searching for "hostiles" when he met his famous defeat at Little Big Horn on June 25, 1876. The news, which arrived in Washington during the celebration of the Nation's Centennial, incensed the Congress. Congress, by attaching a rider to an appropriations act, gave the Sioux an alternative—sell the Black Hills or starve.

After this ultimatum, yet another commission went to negotiate with the Sioux. Despite the ultimatum, less than 10 percent of the adult male population agreed to a cession agreement—far less than the 75 percent required under the 1868 Treaty.

Nonetheless, in the act of February 28, 1877, Congress unilaterally effected the acquisition of the Black Hills and abrogated all off-reservation rights possessed by the Sioux under the 1868 Treaty.

HISTORY OF LITIGATION ON THE BLACK HILLS CLAIM

After 1877, the Sioux repeatedly requested permission from the Congress to present the Black Hills claim to an impartial tribunal. In 1920, a special statute was enacted which permitted the Sioux to bring suit in the Court of Claims. The Black Hills case was filed with 12 other suits, and eventually, all were dismissed. The court, in dismissing the Black Hills case in 1942, essentially decided that the Sioux did not have a fifth amendment claim, as was alleged, for the taking of the Black Hills since: First, the United States had acted in a guardianship capacity in taking the Black Hills; and second, the promises which had been made under the 1877 act taking the Black Hills; that is, provision of certain food and rations, and addition of 900,000 acres to the Great Sioux Reservation, had been kept. The court, however, went on to say that the Sioux claim, if they had one, was a moral claim and the Congress, in the Sioux Jurisdictional Act, had not given the court jurisdiction to hear moral claims. In addition, the court made several statements in which they appeared to be questioning their jurisdiction to determine what would be "just compensation" in the event a fifth amendment taking had been found.

Upon establishment of the Indian Claims Commission, the Sioux filed another claim for the Black Hills. In 1954, the Commission dismissed the suit on the ground that the petitioners had failed to prove their case. The Court of Claims affirmed this decision in 1956.

However, the Sioux, through new counsel, requested a rehearing, which was granted, and in November of 1958, the Court of Claims vacated its judgment of affirmance and remanded the case to the Commission. On November 4, 1960, the Sioux filed an amended petition which reiterated the allegation that the 1877 act constituted a fifth amendment taking. Six years later, the Government filed its answers, which had been due within 60 days. During the intervening 6 years, the Government had first petitioned the Court of Claims for a writ of mandamus seeking to upset the Commission's actions on remand, but was unsuccessful. The Government then moved to dismiss the case, and 4 years later moved for a clarification of the record.

In 1973, the Indian Claims Commission ruled that, first the Black Hills land and minerals had a fair market value of $17.5 million; second, the 1877 act constituted a fifth amendment taking; and third, that the United States had waived the defense of res judicata and that, even if there had been no waiver, the Court of Claims dismissed the Black Hills claim in 1942, because of lack of jurisdiction. Because the Commission determined that this was a fifth amendment taking, interest at the rate of 5 percent per annum, was due. Hence, the $17.5 million award became $100 million.

The Government appealed to the Court of Claims, and on June 25, 1975, the Court of Claims reversed the decision of the Commission on the fifth amendment taking. The court determined that the issue of a fifth amendment taking had already been decided by the Court of Claims in 1942, and thus, was res judicata. The effect of this decision is to wipe out the interest payable on the claim, and leave the Sioux with $17.5 million, rather than $100-plus million.

The Sioux appealed to the Supreme Court for a writ of certiorari, which was denied the petition in December of 1975.

The case is now back before the Commission, which is determining offsets the Government can make against the claim. You will remember the "Sioux" amendment to the Indian Claims Commission Act last year which prohibited the Government from offsetting "food, rations, or other provisions" as payments on the claim.

The Commission is ready to hand down its decision, but has agreed to wait until the end of the year to give the Sioux a chance to reverse the Court of Claims' decision through legislation.

THE CENTRAL QUESTION OF RES JUDICATA

The Government is alleging that the 1942 decision of the Court of Claims was a decision on the merits of the fifth amendment taking, that the Sioux were found not to have a claim and, therefore, the case was dismissed on the merits. The Government contends that the Indian Claims Commission case is barred by res judicata.

The Sioux, on the other hand, are alleging that the 1942 decision does not state whether a judgment was entered on the merits or whether the case was dismissed for lack of jurisdiction. The Sioux say that language was employed which indicates that the dismissal was for lack of jurisdiction to determine what would have constituted "just compensation" had a fifth amendment taking been found.

The Indian Claims Commission, in its decision, decided that the 1942 court had not denied the Black Hills claim on its merits, but had dismissed the case, because of lack of jurisdiction. Thus, the issue of a fifth amendment taking was not res judicata. In support of this conclusion, the Commission cited the defendant's brief before the court, the plaintiff's motion for a new trial, and the defendant's brief in response to the motion.

In its motion for a new trial, filed July 28, 1942, the plaintiff asserted only one error of law in the court's opinion—the court's holding that it had no jurisdiction to grant any relief to the plaintiff. In its brief in response to this motion, the defendant argued that the

court was correct in dismissing plaintiff's claim for lack of jurisdiction.

The Commission also quoted language the court had included in a case 4 months after the 1942 Sioux case in which the court seemed to indicate that it did not have the authority in the Sioux case to determine what would have constituted "just compensation" if a fifth amendment taking had been found.

In order for the defense of res judicata to be sustained, the following four conditions must exist:

(1) the same cause of action;
(2) the same parties or their privies;
(3) a court of competent jurisdiction must have heard the case;
(4) a final judgment on the merits must have been issued.

The Claims Commission, in essence, decided that the third and fourth requirements had not been met by the earlier decision. Thus, the defense of res judicata could not be sustained.

Chairman Kuykendall, the lone dissenter in the Claims Commission decision, expressed his belief that the Court of Claims had heard the fifth amendment claim on its merits, and did determine that the Sioux were not entitled to recover.

In 1975, the Court of Claims reversed the decision of the Indian Claims Commission and ruled that the issue of a fifth amendment taking was res judicata. The court did not address the merits of the Sioux claim, but did admit numerous times that "duplicity" was involved in the Government's dealings with the Sioux, that "a more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history * * *" and that the "want of fair and honorable dealings seems obvious." However, the majority of the court held that the prior court did have jurisdiction to determine the taking claim, but that "there was just no valid * * * claim, whether a tribunal was provided for its enforcement or not." The court admitted that it was being lenient with the Government in its pleading of res judicata, which the Sioux contend had not been affirmatively pled, as is required. In addressing this point, the court said:

The Commission's taking theory founders on the bar of res judicata. As if doubtful of its reading of the 1942 case, the Commission strained to find an abandonment of this defense by the Government. Defendant did say in its pleadings that we held we had no jurisdiction in 1942, but explains it meant we had not jurisdiction of claims that were moral and not legal. Until after the remand by this court, the claim was actively prosecuted on the new moral grounds created by the 1946 Act. The Government shows that it gave clear notice that it relied on res judicata as to any matters properly before the 1942 Court. After 1960, when it was clear that the Indians relied on a taking theory, the defendant debated the theory in full reliance on the 1942 case. We think the Commission should have accepted the Government explanation of its pleadings, as do we. When it came to write its decision it was well aware that the 1942 decision had not been stipulated out of the case. Our policy, and the Commission's has been to be lenient with the Indians as to whether their original petition allegations filed before the jurisdictional cutoff, stated the claim on which they were ultimately to recover. It will not do, in cases under the same Act, to trap the Government in pleading allegations that were at best, ambiguous.

The lone dissenter in the Court of Claims, Judge Davis, held that the 1942 court had essentially divided the fifth amendment claim into two parts: First, whether or not there was a fifth amendment taking; and second, what would constitute "just compensation." Judge Davis expressed the belief that the 1942 court had the authority to determine whether or not a fifth amendment taking had occurred, but had no power to decide the latter question of compensation. Thus, the 1942 court was not, in his opinion, a court of competent jurisdiction. In the closing sentence, Judge Davis said:

I am not persuaded that in 1942 the Indians had the opportunity to present their 5th Amendment claim to a tribunal which deemed itself fully empowered to decide all aspects of that demand on their merits.

SHOULD CONGRESS REMOVE THE BAR OF RES JUDICATA IN THE SIOUX CASE?

There is no doubt that the ambiguity of the 1942 decision supports both sides' case, as evidenced by the Indian Claims Commission which awarded for the plaintiff, and the Court of Claims reversal which found for the defendant. In addition, in both instances, dissents were filed expressing the opposite view held by the majority of the tribunal.

The Sioux attorneys, in their petition for writ of certiorari before the Supreme Court, stated:

Without meaning to sound melodramatic, counsel can state unhesitatingly that, after a 100-year wait, an award of only $17.5 million for the cherished Black Hills, which works out to less than $300 per capita, will be thought of by the Sioux as yet another breach of faith by white institutions. Instead of settling an old grievance, this case will become a new grievance, while the long and painful transition of the Sioux from a buffalo hunting culture to a place in modern society will be set back a few more generations. The Black Hills claim is important—still a living part of our nation's history.

As I recall your conversation with Mr. Lazarus and Mr. Sonosky, you agreed to carry the ball on the Sioux bill if we could determine that the Sioux case is unique. If the bill is to pass the committee and the House, I think we will have to convince Members that the Sioux claim is unique and that Congress has, in the past, removed the bar of res judicata. The Library of Congress has done some research on this latter point, and have given us three examples of Congress taking this action. There are probably others which could be found if further research was done.

The first part of our argument—that the Sioux claim is unique—will be very difficult to prove. Messrs. Lazarus and Sonosky indicated that one of the strong points in favor of Congress acting in the Sioux case is that the claim is still open. We would not be reopening any case. The Justice Department had furnished to the Senate committee a list of 100-plus cases in which the res judicata argument had been raised. These cases, however, are all dead cases.

You will recall that we asked the Commission whether there were any pending cases in which res judicata or collateral estoppel had been raised as a defense. The Commission informed us by letter this morning that there are 24 pending cases in which the Government has raised these defenses. Eleven of those 24 are fifth amendment claims. This evidence is the most damaging, and represents the biggest hurdle to committee and House passage of the bill. Harry Webb with the Claims Commission indicates that from his viewpoint, there is no particular set of circumstances which would distinguish the Sioux case from the other active cases. I have sent a copy of the Commission letter listing the 24 cases to the Sioux attorneys so they can counter.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 2664, as amended.

The question was taken.

Mr. COHEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MONTANA WILDERNESS ACT

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 393) to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

The Clerk read as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Montana Wilderness Study Act of 1977".

SEC. 2 (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-

four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated January 1974, comprising approximately twenty-one thousand acres which shall be known as the Mount Henry Wilderness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mount Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however*, That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, it is with the greatest sense of honor that I today rise in emphatic support of S. 393, the Montana Wilderness Study Act of 1977. I say "honor" because this bill, along with the Absaroka-Beartooth wilderness proposal which should come before us late this Congress, represents the culmination of 25 years of service in the Congress by our distinguished friend and colleague from Montana, Senator LEE METCALF. Specifically, the bill before us today represents the product of over 4 years of extremely hard work by Senator METCALF, with the strong support of former Senator Mansfield. Indeed, an almost identical bill passed the Senate in August of last year, only to die in the House for lack of time at the end of the 94th Congress. Senator METCALF reintroduced the bill this year, and it passed the Senate unanimously in May.

From the outset it should be made clear that S. 393 is a wilderness study bill only. Not one single acre of land will be designated as wilderness if S. 393 is enacted into law. Rather, S. 393 would direct the Secretary of Agriculture to study nine areas within various national forests in Montana to determine their suitability for potential addition to the National Wilderness Preservation System. Upon completion of the studies, the President would make recommendations to Congress as to which areas, or parts of areas, should, or should not, be added to the wilderness system.

It is also important to note that because S. 393 is a wilderness study bill only, the nine areas involved would remain open to use by off-road vehicles such as snowmobiles, trail bikes, and four-wheel-drive machines, unless or until they are designated as wilderness by Congress. This point should be stressed because many opponents of wilderness study fear the areas will be closed to off-road vehicles.

It should further be understood that even if the areas are ultimately designated as wilderness, the Wilderness Act will allow the following uses, among others, to continue: First, hunting and fishing; second, grazing; third, the use of aircraft and motorboats if established prior to addition of the area to the Wilderness System; fourth, any measures necessary for the control or prevention of fire, disease, or insects; fifth, mineral exploration until 1984; and sixth, fisheries enhancement programs and facilities, including the aerial stocking of fish. As such, wilderness and wilderness study status for an area cannot fairly be said to constitute the absolute lockup of the area which many wilderness opponents allege.

I believe that the evidence accumulated during our hearings on S. 393 also irrefutably demonstrates that S. 393 will not unduly interfere with timber harvesting on Montana's national forests.

For example, U.S. Forest Service data shows that the annual allowable cut on Montana's national forests generally far exceeds the volume actually harvested, in some cases by a ratio of greater than 2 to 1. This is dramatically illustrated by the fact that in 1976, over 60 million board feet of timber were offered for sale by the Forest Service in Montana which were not purchased by industry. This amount is in excess of even the most optimistic estimates of annual allowable harvest from the nine areas in S. 393. Further, in the two study areas in the Lewis and Clark National Forest, where opponents of wilderness study argue an immediate need for the timber resources, Forest Service land use planning will not be completed until approximately 1982. As the Forest Service has agreed to refrain from timber sales in roadless areas until land use planning is completed, the maximum 5-year wilderness study period in S. 393 will not interfere with any future harvesting schedules in these areas.

During markup of S. 393 suggestions were advanced that would have shortened the wilderness study period for the nine areas from 5 years to 2 years, and limited Congress' time for acting on the President's recommendations to 4 years. These were both wisely rejected. Letters from both the Departments of Agriculture and Interior requesting the full 5-year study period in order to allow for the completion of mineral surveys, land exchange options, and other endeavors, prompted the committee to retain the full 5-year study period. In view of the committee's and Congress increasingly crowded schedule, we also felt it would be imprudent to force ourselves to act on nine wilderness proposals in the single State of Montana within 4 years of receiving the President's recommendations. However, to accommodate concerns that the wilderness study process does not drag out unnecessarily, the committee report on S. 393 has instructed the Secretary to complete the wilderness studies, if at all possible, within 2 years, giving top priority to three areas where resource conflicts appear the most pressing. I believe this will resolve any problems of delay, while at the same time enabling the wilderness studies and mineral surveys to be completed in an orderly and unhurried fashion.

In closing, allow me to stress that the nine areas to be studied in S. 393 have been carefully chosen for their outstanding natural values. They represent the judgment of Senator METCALF, with almost 25 years of service to his State in Congress, and former Senator Mansfield,

with over 30 years, that these areas contain values which merit, at the minimum, further study of their wilderness potential. I am honored and privileged to today have the opportunity of insuring that their judgment will be given the force of law. I urge my colleagues' strong support of S. 393.

Mr. Speaker, I include at this point a letter dated September 13, 1977, addressed to me by the Washington representative of The Wilderness Society, as follows:

THE WILDERNESS SOCIETY,
Washington, D.C., September 13, 1977.

The Honorable TENO RONCALIO,
Chairman, Subcommittee on Indian Affairs and Public Lands, House Office Building, Washington, D.C.

DEAR MR. RONCALIO: At the August 4 markup on S. 393, the Montana Wilderness Study Bill, you stated that the Committee Report would contain language assuring an adequate power supply for the Big Sky resort. I believe that this promise can be kept without giving the Secretary of Agriculture the authority to approve a powerline across the Taylor-Hilgard Wilderness Study Area to Big Sky before the wilderness study is completed and before Congress has had a chance to act on the President's recommendations.

There are three key points to consider:

(1) A powerline corridor from the west to Big Sky, although preferred by the resort, is not the only way to deliver power to Big Sky. The Montana Department of Natural Resources determined that the existing corridor in the Gallatin Canyon is the best route. In addition, the hearing examiner found that only a 69-KV line, rather than 161 KV, is needed. A line this small can be strung on the existing poles, or buried, thereby minimizing the impact on the Gallatin Canyon.

(2) The Board of Natural Resources is expected to make its decision this week, on the need for and location of the "Big Sky powerline". Committee Report language allowing the Secretary to bypass the S. 393 mandate for powerline approval would seriously bias the Board's decision and would be used as leverage against the Board by the Montana Power Company.

(3) It is in Big Sky's best interests to accept an alternative other than a route from the west due to the time frame involved. The S. 393 wilderness study for the Taylor-Hilgard will take no longer than the Beaverhead Forest land use plan to complete. In addition, lengthy appeals and lawsuits can be expected if the Montana Power Company tries to build a powerline across the Taylor-Hilgard before the necessary studies are completed.

With these thoughts in mind we reluctantly offer the following language in an effort to compromise on this issue and to be fair to all parties concerned:

"In view of the need to resolve the question of a future power source for the Big Sky resort the Committee directs the Forest Service to incorporate the consideration of alternative powerline corridors to Big Sky into the wilderness study for the Taylor-Hilgard area. The Committee further directs the Forest Service to finish the Taylor-Hilgard wilderness study within two years in order to reduce the economic uncertainty facing the Big Sky resort as a result of delays in deciding the need for and location of a powerline to the resort. It is the desire of the Committee that this language not prejudice the utility siting decision for a powerline to Big Sky pending before the Montana Board of Natural Resources and Conservation."

I hope that something like the above is acceptable and I greatly appreciate your consideration in this matter.

Sincerely,

BILL CUNNINGHAM,
Washington Representative.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker and Members of the House, I rise in opposition of the bill as it is now written. As it is now written it does not respond to the needs of the people who have to live with these study areas. I do not object to the study of most of the areas within S. 393. As a matter of fact I wholeheartedly support study of six of the nine areas included in the bill. My primary objection is with the indefinite time given for action to be taken on these nine Montana areas. As the bill is presently written, the Forest Service would have 5 years to study the areas, the President would have an additional 2 years to make his recommendations to Congress, and the Congress would have an indefinite time to make a final decision on whether or not an area should be wilderness.

Members of Congress in the meantime, we have State and local governments, local industries, workers and citizens who must live with the uncertainty of potential economic disruptions for an indefinite period of time. For several of the areas, removing the timber from production during the wilderness study, even for a limited amount of time, will cause hardships on local industries and communities. With the extended time for study and with an unlimited period given for congressional action, as proposed with the present language in S. 393, timber mill closures are a very real possibility. And in communities in Montana that are totally dependent upon timber and its availability, mill closures spell economic disaster for everyone.

I am convinced that the Federal Government can complete the necessary studies within 3 years and that Congress can make a decision within two terms of Congress.

In fact the Indian Affairs and Public Lands Subcommittee accepted my amendment to shorten the study period, but the full Interior Committee deleted this provision. Apparently the Forest Service knew enough about several of the areas already to recommend wilderness in their August 4 testimony in subcommittee.

I am also opposed to the inclusion of two areas in my district—the Big Snowy Mountains and the Middle Fork of the Judith River. Both areas are included in the Forest Service's new roadless area review evaluation where the wilderness characteristics of both areas would be compared with those of all other roadless areas and if the characteristics are of comparable quality, wilderness or additional wilderness study would be requested at less cost and less public resentment than through a congressionally mandated wilderness study that S. 393 mandates.

I ask my colleagues to defeat S. 393 under suspension of the rules so the bill can be amended to shorten the study period and force a more timely decision.

If you share the growing frustration of many people over the lack of timeliness of the Federal Government in making decisions that affect local economies and jobs, then I urge you to join with me in voting "nay" on S. 393 under suspension of the rules.

Mr. RONCALIO. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, as the chairman of the subcommittee, the gentleman from Wyoming (Mr. RONCALIO) has paid tribute to a great former Congressman and present Senator, LEE METCALF, I would like to pay tribute to my dear colleague and my great chairman, the gentleman from Wyoming (Mr. RONCALIO), for the work that he has done on this committee and his untiring, sensitive and conscientious concern for the west. He is a great man.

This bill not only stands as a monument to Senator LEE METCALF but to our colleague, TENO RONCALIO.

I would also like to say to the gentleman from Montana (Mr. MARLENEE) that I will work with the gentleman in the next Congress, if I am still here, to make sure that the studies be done speedily, so that we can resolve this issue. I agree with the gentleman that it should not go on ad infinitum as a study arrangement. I will work with the gentleman to see that the Department of Agriculture and the Forest Service bring this to as speedy a conclusion as possible.

As I say I will work with the gentleman, but I do believe that it is only right that the Congress not have a gun at its head, by a provision saying that we must come to a conclusion in a certain number of years. But I certainly will help the genleman from Montana, (Mr. MARLENEE) to act swiftly.

Mr. RONCALIO. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Montana (Mr. BAUCUS), an excellent lawmaker and a great young man.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman for yielding to me and I join the chairman of the subcommittee, the gentleman from Wyoming (Mr. RONCALIO), and also the gentleman from Oregon (Mr. WEAVER), in paying tribute to LEE METCALF, the Senator from Montana. I think that Senator METCALF, who was reelected for four terms in the House of Representatives, served here with tremendous distinction, just as he is now doing in the Senate. It was his vision really that led to this bill, and it is his vision for the future of Montana that has led hopefully to the passage of this bill. I think all of us should pause for a second to realize the tremendous effort he has undertaken and to commend him for it.

The main reason for this bill is that we in Montana are in a state of transition. There is much pressure on the public lands in Montana—pressure for development, hunting and fishing, pressure to keep the land the way it is. We now are at the point where we have to address those pressures and make some decisions. That is the whole point of this bill. It

asks us to look at the 1 million acres in Montana and to really decide whether those acres should be set aside together or should not be so set aside. That is the whole point of the bill; it permits us to pause, to reflect, and to study so that we can then make wise and equitable decisions. If we do not do this, 20 years from now when we in Montana and other portions of the country might wish to stop and say, "Wait a minute, we made a mistake, we should have set this land aside as a wilderness." At that time it will then be too late. That is the reason why we should pass this bill at this point, study the areas, let us look them over and see what makes sense and what does not make sense.

One of the objections the gentleman from Montana (Mr. MARLENEE) makes is that the study period is too long. I agree with the gentleman, the study period should be shorter than 7 years. Seven years is too long a period of time. I believe that the Forest Service can make its recommendations in a much shorter period of time, but I do not think that that is any reason to defeat the bill. I believe we should go ahead and pass the bill and then encourage the Forest Service to come up with its recommendations within a much shorter period of time.

In fact, that is just what the committee report language dictates to the Forest Service. It says the Forest Service should come up with its recommendations within 24 to 30 months. That is 2 years to 2½ years. That is the same period of time in which we would have mandated the Forest Service to come up with its recommendations.

In addition to that, just 3 hours ago Forest Service officials assured my office that they can and will complete the studies of these nine areas within the time that we prescribe in our language in the committee report. That is, there is no need for us to stop and defeat the bill and try to amend it under some other procedure.

We have told the Forest Service to expedite its study. The Forest Service has assured us it will expedite its study. I see no reason, therefore, to delay this. Let us get on with the show. Let us look at these nine areas. Let us do it so that all of us, not only Montana, but other parts of the country, 10 or 15 or 20 years from now will be proud when we look back knowing it will be part of our action taken here today in pausing for a few years in order to determine which lands should be set aside and which lands not. I think that is the heart of the question here, and I think all of us will agree we should proceed with the bill. Let us pass it so that Montana and other parts of the country will know what the future holds for them, so we can be proud of not rushing too quickly into forcing development.

Mr. Speaker, since my election to Congress a great number of interested individuals have shared with me their thoughts, concerns, knowledge, and vital information regarding this and other wilderness proposals pending before Congress. They have given freely of their time. Although many may disagree with my position regarding S. 393, I would like each of them to know that I sincerely appreciated our conversations and correspondence. My decision regarding S. 393 was openly determined after attempting to hear all viewpoints.

I am grateful for having the opportunity to meet and work with each of them. It is my hope we will continue to work together, to discuss our differences and to attempt to forge a balanced equitable public lands policy.

I know that I will inadvertently omit a name but I will hazard an attempt to thank personally the individuals who have assisted me in my deliberations regarding S. 393. That list follows:

Don Aldrich, Bob Anderson, Ron Barkley, Larry Blasing, Harold Brown, Billy Brothers, Don Brunell, Millar Bryce, Mike Comola, Ernie Corrick, Art Crane, and Joe Crosswhite.

Bill Cunningham, Orville Daniels, John Delano, Gerald Delin, Forrest Dobson, Jack Duke, Bill Hand, Dudley Haupt, Gene Hawkes, Bob Helding, Lonn Hoklin, Russ Hudson, and Pete Jackson.

Ray Karr, Doug Kilner, Holly Larson, Gil LeKander, Bob LeProwse, Floyd Marita, John McBride, Howie McDowell, John McGuire, John and Jeannette McIntire, Clifton Merritt, Doris Milner, Dale Moore and Bob Morgan.

Rolf Olson, John Orth, Bob Ream, Harlan Rosacker, Royce Satterlee, Steve Sherrick, Nina Smith, T. T. Smith, Phil Tawney, Mons Teigen, Robert Torheim, Robert Wambach, Jean Warren, Ken Weyer, Hubert White, Bob Williams, Everett Woodgerd, and William Worf.

I thank the gentleman from Wyoming for yielding time to me, and I yield back the remainder of my time.

Mr. RONCALIO. Mr. Speaker, we have no further requests for time. I reserve the last few minutes of my time.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

I would like to correct an impression that may have been left, I think inadvertently, by some of the Members on this side when they spoke about the interest of Senator METCALF in this bill. Senator METCALF did endorse the bill and does endorse it, of course, but Senator MELCHER was opposed to it. He was afraid of it because of the time restraints, because of the grazing concerns, and because of timbering questions.

I have always taken the position that when we talk about a wilderness area, we should listen primarily to the Representatives who come from the area involved. I know that there are many Members, particularly on this side, who do not agree with that. The chairman of the Committee on Interior and Insular Affairs and I have debated that. He agrees in principle that we should listen to the Representative from the area, but we should not give him a veto. I agree with that.

That makes sense, too. But now we are talking about 973,000 acres which the delegation from Montana is divided about. We are talking about some areas that the gentleman from Montana (Mr. MARLENEE) has in his district being included that he does not think should be involved and tied up for this length of time. The gentleman from Montana (Mr. BAUCUS) believes that it is fine in his area. I believe we should try to accommodate Mr. BAUCUS and we should try to accommodate Mr. MARLENEE, and we cannot fully adopt this bill today. There is not any reason why we cannot accommodate both of them if we do not accept this bill, because by amendment we could take care of the problem and, of course, we cannot amend today.

Let me point out to the Members one of the problems with this bill. We have a 5-year study that is authorized. The gentleman from Montana (Mr. BAUCUS) says that he has just received assurances from Mr. Cutler that it will not take that long. However, the report on page 18 has a paragraph in the letter from Joan Davenport, the Assistant Secretary of the Interior, and she says:

> The 5 years provided before the amendment is a more realistic time frame. This would provide the Geological Survey and the Bureau of Mines the time to work these areas into their ongoing program in a way that would not disrupt meeting other wilderness deadlines.

So here we have the Department of Agriculture with one point of view and the Department of the Interior with another point of view. It seems to me that we have to take that into consideration.

Third, and most importantly, section 3(a) of the bill on page 5 says this:

> Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character. . . .

Mr. Speaker, what we are doing is creating wilderness by adopting this act, and then later on we are perhaps going to take away the wilderness designation. It says it will be treated as a wilderness until Congress determines otherwise. The Members know what is going to happen when somebody comes in with a bill to determine otherwise. We know what is going to happen when somebody comes in 5 or 7 years from now representing the State of Montana and says, "Look, we don't want you to treat this as a wilderness."

Somebody will be standing up and saying, "Look, that has been treated as a wilderness. It is part of our heritage. It is part of the cathedral."

We know that "wilderness" is a cheap environmental vote and you will be branding something for Montana because it is easy for us outside of Montana to say, "Sure, you should have a wilderness."

I have seen this wilderness experience happen too many times here. It is easy to impose wilderness on somebody else's district. There is a great temptation to want to do that. We pacify a few vocal Representatives, a few vocal people in our districts, at the expense of some other districts. That is why I keep insisting we should listen to the Representatives who go back home and represent those people affected by our designations.

If the gentleman from Montana (Mr. BAUCUS) wants this designated as a study, we ought to give it to him. If the gentleman from Montana (Mr. MARLENEE) does not want it and wants to exclude it, we ought to give it to him. We

should very well treat it as a wilderness until we determine it otherwise and that means we treat it as de facto wilderness until considered otherwise. But only if the Representative of the area agrees.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I do not know how much of the gentleman's State is in wilderness. The State of Wyoming, which I represent, every foot of its 98,000 square miles, has 23 percent of its national forest in wilderness. I defy any State to match that record, any State in the Union. None of them have as much as 23 percent, but I do. So I am not pushing wilderness on my colleagues in Montana or anywhere else. We ought to look at these beautiful lands in the pristine way that Congress intended back in 1964.

In my own State back in the good old robber baron days, 5½ million acres were given to the Union Pacific Railroad and they own it lock, stock, and barrel, a swath 500 miles long. They own the shale, the uranium, the minerals, and everything in it. If we have that devotion to our system, we should have some devotion for the things that are beautiful, too, to protect them for future generations.

Mr. JOHNSON of Colorado. The gentleman has raised a totally irrelevant argument. I have sponsored in my career three wilderness areas in my district and the gentleman has gone along with them. I believe in the wilderness concept, but I do not believe we ought to force it on somebody else. That is what we are doing to the gentleman from Montana (Mr. MARLENEE).

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield further, how can we do this when the Montana delegation is split on this matter, and Senator METCALF, with 25 years of public service and good judgment, views the passage of this bill as critical?

I can cut the body in two, like Solomon, and say, "Here is your part and here is your part."

We cannot do that in the State of Montana.

We put in page 2 of the report:

> The committee suggests that the Secretary of Agriculture give a high priority to the completion of all nine studies within a period of 24 to 30 months.

If we do that, the gentleman from Montana (Mr. MARLENEE) has no objection to the bill. That is his suggestion to the subcommittee, which I voted for.

Mr. JOHNSON of Colorado. It is in the report, but it is not in the bill. The bill says it will be wilderness until Congress acts otherwise. The gentleman from Montana (Mr. MARLENEE) is opposed to that language, the same as the Senator from Montana (Mr. MELCHER), a former Member of this body, is also opposed.

Mr. RONCALIO. How can you study an area to become wilderness if you do not retain its wilderness characteristics during the study period?

Mr. JOHNSON of Colorado. But the language of the bill extends it beyond the study period until Congress acts otherwise. That is the weakness of the bill. It could be easily handled if the bill was open to amendment and we could bring it to the body in debate.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, they have not even begun a study of the two areas in my State and these would fall under studies for review of the Forest Service. Until they are studied as such, it would be a needless waste and duplication.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I thank my colleague from Colorado for yielding. As I listened to the gentleman speak about the necessity of paying some attention to the Congressman who represents the area, I thought of a skit I saw on television one time. Danny Thomas was portraying the part of a young Lebanese boy who had come to this country and was trying to make a go of it. He was expounding on the greatness of this country. He said:

> One thing about the United States is that you can do anything you want to do, but don't do it in my front yard.

That is about how this body acts at times. We have a habit of always trying to do something in somebody else's area, in some other congressional area.

It seems to me the fellow who knows more about his district, his people and their likes and dislikes is in a better position to tell this body what ought to be done than the way those outside the area who know little or nothing about the area, the people, or its economic and social problems.

Mr. COHEN. Mr. Speaker, I have no further requests for time.

Mr. RONCALIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393.

The question was taken.

Mr. RONCALIO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 393.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is reminding the Members again that the recorded votes will begin at 5 p.m.

RIVER AND HARBOR IMPROVEMENTS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7744) to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of August 11, 1888 (25 Stat. 423; 33 U.S.C. 622), is amended to read as follows:

"SEC. 3. (a) The Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary'), in carrying out projects for improvement of rivers and harbors (other than surveys, estimates, and gagings) shall, by contract or otherwise, carry out such work in the manner most economical and advantageous to the United States. The Secretary shall have dredging and related work done by contract if he determines private industry has the capability to do such work and it can be done at reasonable prices and in a timely manner. During the four-year period which begins on the date of enactment of this subsection, the Secretary may limit the application of the second sentence of this subsection for work for which the federally owned fleet is available to achieve an orderly transition to full implementation of this subsection.

"(b) As private industry reasonably demonstrates its capability under subsection (a) to perform the work done by the federally owned fleet, at reasonable prices and in a timely manner, the federally owned fleet shall be reduced in an orderly manner, as determined by the Secretary, by retirement of plant. To carry out emergency and national defense work the Secretary shall retain only the minimum federally owned fleet capable of performing such work and he may exempt from the provisions of this section such amount of work as he determines to be reasonably necessary to keep such fleet operational after the minimum fleet requirements have been determined. Notwithstanding the preceding sentence, in carrying out the reduction of the federally owned fleet, the Secretary may retain so much of the federally owned fleet as he determines necessary, for so long as he determines necessary, to insure the capability of the Federal Government and private industry together to carry out projects for improvements of rivers and harbors. For the purpose of making the determination required by the preceding sentence the Secretary shall not exempt any work from the requirements of this section. The minimum federally owned fleet shall be maintained to technologically modern and efficient standards, including replacement as necessary. The Secretary is authorized and directed to undertake a study to determine the minimum federally owned fleet required to perform emergency and national defense work. The study, which shall be submitted to Congress within two years after enactment of

this subsection, shall also include preservation of employee rights of persons presently employed on the existing federally owned fleet.".

SEC. 2. Section 8 of the Act of March 2, 1919 (40 Stat. 1290; 33 U.S.C. 624), is amended to read as follows:

"SEC. 8. (a) No works of river and harbor improvement shall be done by private contract—

"(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plant; or

"(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

"(b) In estimating the comparable cost of doing the work under subsection (a)(1) by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

"(c) In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DON H. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) and the gentleman from California (Mr. DON H. CLAUSEN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am particularly pleased to bring to the floor today H.R. 7744 relating to the performance of dredging by contract. A key factor in bringing this legislation to the floor has been the usual fine leadership of the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON). I wish also to extend my very warm thanks to the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN) and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA).

The purpose of this bill is to establish the policy that dredging work associated with Corps of Engineers navigation projects should be performed by contract if private industry has the capability to do the work and it can be done at reasonable prices and in a timely manner. The bill also clarifies the procedure to be used in preparing the Government estimate of the cost of doing a particular job.

The Corps of Engineers stated in a letter dated April 26, 1977, to this committee that it believes its principal reliance should be on private industry to perform required Federal dredging and that a healthy and profitable dredging industry is necessary to insure the economical and timely execution of the program. It therefore instituted the "testing of the market" program to determine the feasibility of increased reliance upon private industry. It further stated its intention to gradually reduce the current corps-owned dredge fleet to a minimum fleet configuration as industry demonstrates its capability to perform the work which requires specialized dredging equipment.

One of the primary purposes of this program is to induce industry to build modern, technologically advanced equipment. The information developed by the committee in its hearings on this bill, however, is that without the assurance provided by a legislative declaration of policy, as opposed to one established by agency regulation, the necessary incentive to private industry to undertake the expenditure of large sums of money will simply not exist. Accordingly, H.R. 7744 establishes the policy that dredging work should be accomplished by contract, while at the same time protecting the interests of the Federal Government.

The requirement that work shall be done by contract is to be phased in over a 4-year period. By the end of the 4-year period all work, other than that reserved for the minimum fleet, will be advertised for bids. As private industry demonstrates its capability to perform the work, the corps' dredge fleet will be gradually reduced to a minimum fleet capable of performing emergency and national defense work. The Corps of Engineers is authorized to exempt work from the provisions of the bill and assign it to the minimum fleet so as to keep that fleet operational. The corps can retain as much of the fleet over and above the minimum fleet as it determines necessary, for as long as it determines necessary, in order to insure the combined corps-private industry capability to meet national dredging needs. For this additional fleet, however, work may not be exempted from the provisions of the bill.

Existing law provides in part that—

> . . . No part of the funds appropriated for works of river and harbor improvement shall be used to pay for any work done by private contract if the contract price is more than 25 per centum in excess of the estimated cost of doing the work by Government plant. . . .

Hired labor estimates, employing Government plant costs, are only utilized by the Corps of Engineers for comparison with bids when Government plant is in fact available to do the work. Where Government plant is not available the corps utilizes a "well equipped contractor" estimate—the cost of the work to a well equipped contractor without profit. There has been some question as to whether this practice is in conflict with the above-quoted legislation. Accordingly, the bill clarifies this and provides that where Government plant is available to do the work, and the cost of doing the work by contract is more than 25 percent in excess of the estimated cost of doing the work with Government plant, the work shall not be done by contract. Similarly, where Government plant is not available, the work shall not be done by contract if the cost of doing it by contract is more than 25 percent in excess of the estimated cost of a well equipped contractor doing the work.

Mr. Speaker, a provision similar to H.R. 7744 was contained in the House-passed version of the Water Resources Development Act of 1976 but was not contained in that legislation as finally enacted because of objections raised by the Senate conferees. This year we have worked very closely with Senator HATFIELD and the public port interests to remove or modify those parts of the legislation to which they objected. The bill, as reported by the committee, is no longer objected to by these parties, nor by the administration. I urge its passage.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7744. As the gentleman from Texas, Mr. ROBERTS, has already ably explained, this bill provides for a statement of Federal policy that dredging performed in the navigable waters of the United States, under the auspices of the Federal Government, should be done by private industry. This is necessary to assure the private sector that if they make the commitment to provide the capability to dredge our navigable waters that they will have an opportunity to do so.

Mr. Speaker, when H.R. 7744 was first introduced some concern was raised over the impact that this bill might have on the hopper dredging currently done by the Corps of Engineers on the west coast. During our hearings these concerned witnesses testified to their concern that if the bill were enacted there might no longer be the capability on the west coast to do the necessary dredging because of retirement of Federal plant. Senator HATFIELD and I were able to work on what we believe is a fair solution to this problem and my colleagues on the Public Works Committee have graciously accepted these minor clarifications.

I am especially grateful to Chairman ROBERTS for giving me the opportunity to work out solutions to my concerns over availability of dredging plant on the west coast. The bill and report both reflect the necessary clarifications of intent.

Specifically, these clarifications now provide that:

First. The Secretary of the Army may retain as much of the federally owned fleet as he determines necessary, for as long as he determines necessary, to insure that the Federal Government and

private industry together will have sufficient capability to carry out projects for improvements of rivers and harbors.

Second. During the period that the federally owned fleet is being reduced the Secretary shall require competitive bidding only for that part of the fleet which is over and above the requirements for maintaining a minimum fleet.

Third. The minimum fleet will be a modern technological "up-to-date" fleet and the corps will begin to develop this technologically modern fleet immediately.

Fourth. The term "keep such fleet operational," as described in section 3(b) on line 25, page 5 of the committee print, means that it is intended that the Chief will maintain and utilize the minimum fleet in a manner which is economically advantageous to the United States. That is to say, that it will be kept busy. It is intended that there will be no restrictions on the Secretary of the Army to set aside work for the Federal minimum fleet.

Fifth. The term "retirement of plant," as used in this bill, is intended to be broadly interpreted. For example, retirement can include not only scrapping or selling of vessels, but also mothballing or other storage or research or demonstration use.

Sixth. The size of the Federal minimum fleet and the time of the reduction to its minimum configuration is a decision which solely rests with the Secretary of the Army, acting through the Chief of Engineers, and that their decision will not be conditioned by any other interest.

Mr. Speaker, because these agreements were worked out I can support this bill and it is my understanding that these qualifications will result in a sound Federal policy upon enactment of H.R. 7744. I, therefore, urge my colleagues to support this adoption.

Mr. ROBERTS. Mr. Speaker, I yield 6 minutes to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman's yielding this time for the purpose of entering into a colloquy with me.

I have read the committee report on H.R. 7744 and I want to commend you and the committee for your commitment to providing a workable relationship between the Corps of Engineers and the private dredging industry. More commendable is your quest for a climate that will produce economical dredging of our rivers and harbors.

I further want to commend you for agreeing in committee to amendments and report language that will assure a continued corps role in dredging in areas such as the Pacific Northwest, where I am from, which lacks sufficient private industry capacity to maintain vital river and harbor entrances.

Within this context, I rise today to seek further understandings that bear on the cost of dredging and are relevant, I believe, not only to the west coast, but to the entire Nation.

First, section 2(c) of H.R. 7744 authorizes the corps, in determining a fair and reasonable cost for a private dredging contract, to take into account "proper charges for depreciation or replacement of a plant." Allowing the option for computation of "replacement cost" into the corps' cost estimate is a sharp break with current practice, and one I fear will lead to higher costs for dredging.

Currently, depreciation is included in the calculations of the cost of dredging. But the cost of replacing equipment is expected to come out of profit margin. The assumption is that tax deductions for depreciation and capital investment, and corps allowances for depreciation in cost estimates, are adequate compensation and incentive to private industry.

The problem with permitting a company to realize replacement costs is that there is no assurance the company will replace its plant when it becomes obsolete and in that instance the replacement allowance amounts to a windfall.

But I fear there is a strong likelihood of a higher cost for dredging. A contractor must be awarded the contract for a particular job if his bid is the lowest responsive bid and is no more than 25 percent over the corps cost estimate. If plant replacement cost compensation is fed into the cost estimate computation and the 25-percent margin is maintained, we are almost certain to see an increase in dredging costs. Further, the corps also would be required to make a similar such allowance to maintain comparability. The net result may be dredging at a cost that is prohibitive in some cases.

I would appreciate an explanation of what factors prompted the committee to include the option of a replacement cost factor and your feelings as to whether it will push up dredging costs.

Mr. ROBERTS. The provision you cite would provide for consideration of depreciation or replacement costs by the Corps of Engineers when estimating the cost of doing a particular job. Which of the two of these items is included is entirely up to the Corps of Engineers. They presently have the authority to use either of these factors and if replacement costs were not mentioned in the bill we would be taking away a discretionary authority which the Corps of Engineers now possesses.

Mr. AUCOIN. I thank the chairman for that explanation. I still, however, am concerned about dredging costs and to what extent competition in the private industry exists to mitigate against unwarranted price increases.

The committee should be commended for its foresight in including language that insures that a minimum corps fleet is to be maintained, kept up to technologically modern and efficient standards, including repair and replacement, and fully utilized to achieve cost-effective benefits from this equipment.

I also appreciate that the committee has recognized the need for the corps to retain dredges above and beyond the minimum fleet. This is particularly meaningful to the Northwest where private industry's capability, especially with respect to hopper dredges, is limited.

However, Mr. Chairman, I hope the committee agrees with me that over time, as the corps fleet is reduced down to the minimum fleet, it will be recognized that a fully utilized minimum fleet capable of immediate response not only is a mandatory safeguard for emergencies and national defense, but also serves to supplement competition and to promote price stability.

Mr. ROBERTS. The bill would authorize the Corps of Engineers to retain as much of its fleet over and above the minimum fleet as it determines necessary, and for as long as it determines necessary, in order to insure the capability of the Federal Government and private industry together to carry out and maintain projects for improvement of rivers and harbors. This fleet over and above the minimum fleet will be used to perform work where private industry lacks the capability or where private industry does not meet the requirement in section 2 that its bid be no more than 25 percent above the Government estimate. This will insure that there is sufficient Federal and private capability to meet our Nation's dredging requirement and that there will continue to be competitive pricing and bid practices.

Mr. AUCOIN. Again, I appreciate the chairman's comments. Allow me to address one final, technical matter. In two places in H.R. 7744 the phrase "Government plant" appears. I am certain this is meant to refer to "Federal Government plant" and is not intended to embody any reference to dredges owned by other Government entities such as ports.

Mr. ROBERTS. That is correct. The term "Government plant" means Corps of Engineers' dredges.

Mr. AUCOIN. I thank the speaker for engaging in this most instructive colloquy on H.R. 7744. These matters are of the utmost importance to my constituents.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I thank the gentleman.

I just wish to take this time to associate myself with the comments of my colleague, the gentleman from Oregon (Mr. AUCOIN), and I thank the chairman of the subcommittee for his cooperation.

Mr. HARSHA. Mr. Speaker, I rise in strong support of H.R. 7744. This bill provides for encouragement to provide industry where economically feasible to carry out some of the dredging activities currently done by the Federal Government. The dredging industry of the United States under current Federal policy has no assurance that if they make substantial investments in plants the Federal Government will allow them the opportunity to do the work.

Since 1888 the Corps of Engineers has been able to determine whether dredging should be done by Government plant or by private firms. The corps has interpreted their authority to mean that unless the Government fleet is completely utilized, private industry will have no work available to them. That is to say that the Federal Government has a monopoly. Since it is fair to assure in my opinion that the Members support the free enterprise system is it not unusual that we have allowed for a government monopoly in the dredging sector?

H.R. 7744 recognizes this inequity with a series of incentives to private industry which assures them that if they

will provide the capability the Government will provide them with the work. My colleague, the gentleman from Texas, has already enumerated the provisions and I will not take the time of the House to repeat them. I would, however, remind the Members that the purpose of this bill is not to increase costs but to decrease them. H.R. 7744 provides a mechanism to draw down the Government-owned fleet as industry demonstrates its capability to do the job at reasonable prices. This will be a cost saving. It makes no sense whatsoever for the Government to maintain dredging plant and conduct the work if private industry has the capability to do the work at reasonable cost. Of course, for national defense purposes, there will be a minimum Federal fleet maintained to meet our defense needs and this fleet will be kept operational and technically modern.

Mr. Speaker, the bill, as originally introduced, raised some concerns with our friends on the west coast and my able colleague, the ranking minority member of the Water Resources Subcommittee, DON CLAUSEN, has worked out a compromise which assures that there will always be sufficient dredging plant available to be able to meet the demand, and, I stress, at reasonable cost.

Mr. Speaker, I believe H.R. 7744 represents sound application of the principles of free enterprise. My only regret is that it has taken so long to bring this bill before the Members since it will accomplish what we in Congress always say we are trying to do—to stimulate the private sector and make this a government of less Federal involvement. H.R. 7744 will accomplish that goal and still provide for the national defense.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this opportunity to extend to the chairman of the subcommittee, the gentleman from Texas (Mr. ROBERTS), appreciation on behalf of the minority for the kind of consideration he gave to the working out of this compromise with regard to dredging and our ability to maintain the minimum capability on the west coast, as has been articulated by my friend, the gentleman from Oregon, LES AUCOIN.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. DON H. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members who so choose to have the opportunity to insert their remarks at this point in the RECORD be permitted to do so.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 7744, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office, a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation, or to increase basic knowledge and understanding in a specific area of relevance to agency missions, authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation, or to increase basic knowledge

and understanding in a specific area of relevance to agency missions, authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and, to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients, and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of section 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

GUIDELINES

SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative guidelines to promote consistent and efficient use of contracts, grant agreements, and cooperative agreements as defined in this Act.

REPEALS AND SAVINGS PROVISIONS

SEC. 10. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891 and 1892), is repealed, effective one year after the date of enactment of this act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d). The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7691 was reported unanimously by the Committee on Government Operations. It will make a long-needed improvement in the instruments which are used by the Federal Government to govern grants, procurement contracts, and cooperative agreements. There has been much confusion in these terms and how they have been defined. Many instances have been noted when grants were called contracts and when contracts were in fact grants.

This bill will distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships. An identical bill was passed by the last Congress, but was vetoed by President Ford after adjournment and there was no opportunity to override. In my opinion, the veto was not well considered and this legislation should be enacted into law. The Carter administration supports the bill.

It will carry out two recommendations of the Commission on Government Procurement. The first recommendation was to enact legislation to distinguish assistance relationships as a class from procurement relationships by restricting the term "contract" to procurement relationships and the terms "grant," "grant-in-aid," and "cooperative agreement" to assistance relationships, and also to authorize the general use of instruments reflecting the foregoing types of relationships. The second recommendation was to urge the Office of Federal Procurement Policy to undertake or sponsor a study of the feasibility of developing a system of guidance for Federal assistance programs.

H.R. 7691 seeks to clarify the distinctions between grant-type assistance, and procurement, and to distinguish between the classes of grant-type assistance by requiring each executive agency to use a contract, a grant, or a cooperative agreement which would reflect more precisely the relationship between the Federal Government and the recipient.

The bill authorizes executive agencies to enter into contracts, grants, or cooperative agreements and to use the instruments required. The bill further directs the Office of Management and Budget to undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs and determining the feasibility of developing a comprehensive system of guidance for such programs.

The legislation is basically technical, but its results will be extremely beneficial in properly and clearly determining the relationships between the Federal donor and the recipient and make for a general improvement in such relationships.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7691 is more than a bill that seeks to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships. H.R. 7691 is a bill that seeks to improve management techniques at some of the highest levels of our Government so that unnecessary paperwork and redtape can be effectively reduced. As chairman of the Federal Paperwork Commission, I find such a result a compelling and attractive feature of virtually any piece of legislation that comes before this House. If we are ever going to win our war against excessive paperwork, we must fight and win the decisive battles right here where so much paperwork begins, right here in the Congress.

I want to remind my colleagues that H.R. 7691 fulfills one of the key recommendations found in the 1972 report of the Commission on Government Procurement; namely, that we clarify the distinctions between grant-type assistance and procurement. It is most unfortunate that we have not yet legislated those distinctions, but we have today an opportunity to take positive action without further delay.

Mr. Speaker, the Procurement Commission did not make its recommendations without sufficient justification. They conducted a very thorough study before reaching any conclusions. We must ask ourselves if what they found 5 years ago still exists today. I submit that if the reasons for this legislation were so apparent 5 years ago, they are even more apparent today. All we need to do is look around us. Just a few months ago, the Secretary of Health, Education, and Welfare unveiled a major program to combat abuse and simple confusion in HEW's grant and contract procedures. So we know that the problem still existed at HEW earlier this year. Similar problems with abuse and confusion can be found in virtually every segment of our Federal Government. During the sub-

committee hearings on this bill, we heard from Senator LAWTON CHILES of Florida, who told us of instances where agencies were switching to grants near the end of the fiscal year in order to obligate more funds. They were switching because grants were easier and much quicker to process. And speed was the name of the game if they were to obligate the funds at their disposal before time ran out.

The Paperwork Commission has found through hearings that abuse of this sort does exist. It is human nature. No one wants to be bothered with mountains of redtape if an easier alternative is available. The bill before us today will help to structure and organize management in Federal assistance programs, thereby improving management techniques so that paperwork and redtape can, indeed, be reduced.

Actually, it is a very simple bill. If H.R. 7691 becomes law, those who award contracts will know, without question, that a contract must be used whenever the principal purpose is in the acquisition of property or services for the direct benefit or use of the Federal Government. They will know that a grant must be used when there is no anticipated substantial involvement between the executive agency and the recipient during the performance of the contemplated activity. Finally, they will know that a cooperative agreement must be used when substantial involvement is anticipated between the executive agency and the recipient. Another provision mandates a study that should lead to the development of a comprehensive system for Federal assistance programs. In conclusion, I want to point out the one area of disagreement over this bill. As far as I have been able to determine, no one objects to the goals of H.R. 7691. Everyone agrees that action must be taken to distinguish between grants and contracts. The disagreement is over the implementation of that action. Some feel that these goals should be accomplished through administrative action. Many of us in the Congress feel that we should achieve these goals through legislative action. I suggest that, instead of passing the buck to the executive branch, we in the Congress should exercise our responsibility and establish some meaningful guidelines for the distribution of Federal grants and contracts.

Mr. Speaker, I urge the prompt approval of H.R. 7691.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 7691, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL PROGRAM INFORMATION ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6257) to provide for the efficient and regular distribution of current information on Federal domestic assistance programs, as amended.

The Clerk read as follows:

H.R. 6257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Program Information Act".

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services;

(2) "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code;

(3) "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits for a State or States, territorial possession, county, city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government; and

(4) "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

DUTIES OF THE DIRECTOR

SEC. 3. The Director of the Office of Management and Budget (hereinafter referred to as the "Director") shall identify all existing Federal domestic assistance programs and provide information on each such program to the general public through electronic media as authorized under section 5 of this Act and through a printed catalog as authorized under section 6 of this Act.

INFORMATION REQUIREMENTS

SEC. 4. (a) The Director shall prepare and maintain a Federal Assistance Information Data Base (hereinafter referred to in this Act as the "data base"). For each Federal domestic assistance program the data base shall—

(1) identify each such program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Director;

(2) describe the program, the objectives of the program, and the types of activities which have been funded under the program;

(3) describe the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provide financial information, including the amount of funds appropriated for the current fiscal year or, if unavailable, the amount of funds requested by the President, and the amounts obligated, and the average amounts of awards made in past years;

(5) identify information contacts including the administering office and regional and local offices and their addresses and telephone numbers;

(6) provide a general description of any application requirements and procedures and, to the extent practicable, an estimate of the time required to process the application.

(b)(1) Each Federal agency shall furnish to the Director, at such times as the Director may determine, current information on all domestic assistance programs administered by such Federal agency.

(2) The Director shall on a regular basis incorporate into the data base all relevant information received under paragraph (1) of this subsection.

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 5. (a) The Director shall establish and maintain a computerized information system to provide access to the data base.

(b) The Director, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals wherever available.

(c) The Director, notwithstanding any other provision of law to the contrary, when he determines the efficiency of the information system established pursuant to subsection (a) of this section requires it, may enter into contracts with private organizations to obtain computer time-sharing services including, but not limited to, computer telecommunications networks, computer software, and associated services.

(d) The Director shall insure that the information available under this Act is made available to the public at a reasonable price.

(e) The Director may develop information services to further assist State and local government officials identify or obtain sources of Federal assistance.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 6. (a) The Director shall prepare and publish each year a catalog of Federal Domestic Assistance Programs (hereinafter referred to in this Act as the "catalog").

(b) The Director shall prepare and publish supplements to the catalog as necessary.

(c) The Director may prepare and publish specialized compilations of the information in the catalog by function as necessary.

(d) The catalog shall contain, in such form as the Director determines—

(1) all substantive information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the Director considers may be helpful to potential applicants or beneficiaries under such programs; and

(3) a detailed index.

(e)(1) The Director shall make each catalog available to the public at a reasonable price.

(2) There are authorized to be distributed, without cost, catalogs to Members of Congress, Delegates, Resident Commissioners, agencies, State and general purpose units, Indian tribes, Federal deposit libraries, and other local repositories designated by the Director.

TRANSFER PROVISION

SEC. 7. The Director is authorized to transfer to the Office of Management and Budget all personnel, books, records, and other documents of the Department of Agriculture of any kind or description which he determines to be principally held or engaged in the operation and function of the Federal Assistance Programs Retrieval System (FAPRS).

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $900,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980.

FEDERAL INFORMATION SYSTEMS STUDY

SEC. 9. The Director of the Office of Management and Budget shall conduct a study of existing Federal information systems that provide fiscal, budgetary, and program-related data, statistics, and information on grant awards and shall report to the Congress, within one year from the date of enactment of this Act, his recommendations for appropriate dissemination of Federal financial information, a summary of all executive branch actions taken within the year to consolidate, reorganize, and improve the existing financial information system, and his recommendations for statutory changes necessary to further develop and improve methods for the dissemination of Federal financial information, using modern communications technology.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6257, the Federal Program Information Act, was reported unanimously by the Committee on Government Operations after hearings and consideration. The bill is supported by the Carter administration, the National Governor's Conference, and the National Association of Counties.

This legislation authorizes the Office of Management and Budget to identify all existing Federal domestic assistance programs and provide information on each such program to the general public through a computer data bank and through a catalog of Federal domestic assistance programs. Its purpose is to provide a more ready access by State and local communities, private organizations and the general public to current up-to-date information on the availability of and eligibility for funds for domestic assistance and to avoid efforts that may be needless in tracking such information. The bill was proposed in response to complaints received by the Congress on the difficulties many local governments—particularly small ones—institutions and persons were having on obtaining such information.

Under the system potential recipients could go to a computer terminal, which is a part of the system, and determine what programs they are eligible for and how to apply for that program. The user will receive a description of the program including its objectives and a listing of the types of activities which have already been funded. In addition, eligibility requirements, distribution formulas, use restrictions and recipient obligations will be identified and various financial data, information contacts, and application requirements and procedures will be listed.

The OMB is also directed to undertake a study of existing Federal information systems that provide information on assistance programs and suggest legislative changes needed to improve the dissemination of the information.

In my opinion this legislation will be highly beneficial to the public.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we approve H.R. 6257, the Federal Program Information Act, we will be giving our Nation's towns and cities, large and small, the helping hand they have been reaching for during the last decade. It is ironic that we have thrust hundreds of Federal programs in their direction but neglected to provide them with a reasonable method of keeping track with what is available. This legislation before us today will remedy that shortcoming.

In my capacity as Chairman of the Commission on Federal Paperwork, I have witnessed time and again the frantic scramble for simple access to information on federally funded programs. Small towns in my district, for example, have no real way to keep up with the ever-increasing network of Federal programs. Many of them have no idea that we have more than 250 health programs or more than 100 different education programs. Many local leaders are dismayed and frustrated when they learn that larger communities are finding and making use of a far wider range of Federal programs than they ever dreamed existed. They are, in many cases, simply unable to compete for funds to which they are entitled. They cannot compete simply because they cannot afford to hire someone full time to keep up with the programs.

A recent study conducted by the Paperwork Commission confirmed what many of us in the Congress should have known for years, that there is a crying need for Federal data on financial assistance programs to be disseminated to State and local governments. At our Commission hearings, for example, State and local officials testified that such information would be extremely useful for planning and budgeting purposes. In short, it would mean an opportunity to develop better local government organization. When they improve their organization and streamline their search for Federal funds, there, of course, will be a significant reduction in Federal paperwork and unnecessary redtape. That is a bonus from H.R. 6257 that we cannot afford to pass up.

What we are establishing here is a relatively low-cost system administered by the Office of Management and Budget. Under the provisions of this act, OMB will develop a data retrieval system, a computer system, and they will also maintain an up-to-date catalog of all Federal programs.

This simple, but effective, system will allow a potential recipient to report to a nearby computer terminal and learn not only what is available but also how to apply for it. That computer terminal will provide a State or local official all the pertinent information he or she needs about a Federal program, including that program's objectives, its eligibility requirements, distribution formulas, and recipient obligations.

Finally, H.R. 6257 will require OMB to conduct a study of existing Federal information systems that provide information on assistance programs. The Director will report to Congress within 1 year of enactment, giving us recommendations on dissemination of Federal financial information.

Mr. Speaker, this bill has been favorably reported by the Legislation and National Security Subcommittee as well as by the full Government Operations Committee.

During the course of our hearings, we heard supporting testimony from Senator KENNEDY, Senator CHILES, Jim McIntyre of the Office of Management and Budget, and Diedre-Reimer and Terry Smith of the National Governors' Conference. The Commission on Federal Paperwork has found it to be an excellent piece of legislation. I am pleased to recommend its prompt approval.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 6257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 904) to provide for the efficient and regular distribution of current information on Federal domestic programs and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

S. 904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Program Information Act".

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services;

(2) "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code;

(3) "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits for a State or States, territorial possession, county,

city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government; and

(4) "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

TITLE I—PROGRAM INFORMATION

DUTIES OF THE DIRECTOR

SEC. 101. The Director of the Office of Management and Budget (hereinafter referred to as the "Director") shall identify all existing Federal domestic assistance programs and provide information in each such program to the general public through electronic media as authorized under section 103 of this Act and through a printed catalog as authorized under section 104 of this Act.

INFORMATION REQUIREMENTS

SEC. 102. (a) The Director shall prepare and maintain a Federal Assistance Information Data Base (hereinafter referred to in this Act as the "data base"). For each Federal domestic assistance program the data base shall—

(1) identify each such program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Director;

(2) describe the program, the objectives of the program, and the types of activities which have been funded under the program;

(3) describe the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provide financial information, including the amount of funds appropriated for the current fiscal year or, if unavailable, the amount of funds requested by the President, and the amounts obligated, the average amounts of awards made in past years, and, within two years, to the extent possible and appropriate, current information on the amount of funds not already obligated nor otherwise committed;

(5) identify information contacts including the administering office and regional and local offices, and their addresses and telephone numbers;

(6) provide a general description of any application requirements and procedures and to the extent practical, an estimate of the time required to process the application.

(b)(1) Each Federal agency shall furnish to the Director, at such times as the Director may determine, current information on all domestic assistance programs administered by such Federal agency.

(2) The Director shall on a regular basis incorporate into the data base all relevant information received under paragraph (1) of this subsection.

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 103. (a) The Director shall establish and maintain a computerized information system to provide access to the data base.

(b) The Director, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals wherever available.

(c) The Director, notwithstanding any other provision of law to the contrary, when he determines the efficiency of the information system established pursuant to subsection (a) of this section requires it, may enter into contracts with private organizations to obtain computer time-sharing services including, but not limited to, computer telecommunications networks, computer software, and associated services.

(d) The Director shall insure that the information available under this Act is made available to the public at a reasonable price.

(e) The Director may develop information services to further assist State and local government officials identify or obtain sources of Federal assistance.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 104. (a) The Director shall prepare and publish each year a catalog of Federal Domestic Assistance Programs (hereinafter referred to in this Act as the "catalog").

(b) The Director shall prepare and publish supplements to the catalog as necessary.

(c) The Director may prepare and publish specialized compilations of the information in the catalog by function as necessary.

(d) The catalog shall contain, in such form as the Director determines—

(1) all information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the Director considers may be helpful to potential applicants or beneficiaries under such programs; and

(3) a detailed index.

(e)(1) The Director shall make each catalog available to the public at a reasonable price.

(2) There are authorized to be distributed, without cost, catalogs to Members of Congress, Resident Commissioners, agencies, State and general purpose units of local government, federally recognized Indian tribes, Federal deposit libraries, and other local repositories designated by the Director.

SEC. 105. The Director is authorized to transfer to the Office of Management and Budget all personnel, books, records, and other documents of the Department of Agriculture of any kind or description which he determines to be principally held or engaged in the operation and function of the Federal Assistance Programs Retrieval System (FAPRS).

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. There are hereby authorized to be appropriated to carry out the purposes of this Act $1,200,000 for fiscal year 1978, $1,700,000 for fiscal year 1979, and $2,200,000 for fiscal year 1980.

TITLE II—GRANT AND BUDGET INFORMATION SYSTEMS

NOTICE REQUIREMENTS

SEC. 201. Title II of the Intergovernmental Cooperation Act of 1968 is amended by striking out section 201 thereof and inserting in lieu thereof the following new section:

"SEC. 201. Any department or agency of the United States Government which administers a program of Federal assistance to any of the State governments of the United States or to their political subdivisions shall, upon request, notify the Governor, the State legislature, or other official designated by either, of the purpose and amounts of actual Federal assistance awards to the State or its political subdivisions. Such notification will, upon request, also provide such additional related information on other Federal assistance awards, where a perceived need exists, to facilitate State and local government planning, budgeting, or program administration; except that this provision shall not be construed to authorize the disclosure of information pertaining to individuals or to awards made directly to individuals. The Office of Management and Budget shall oversee the compliance by the departments and agencies with the provisions of this section, and shall issue guidelines and regulations to provide uniform compliance by all such departments and agencies."

OFFICE OF MANAGEMENT AND BUDGET STUDY

SEC. 202. The Director shall conduct a study of existing Federal information systems that provide fiscal, budgetary, and program-related data, and information on grant awards and shall report to the Congress within one year from the date of enactment of this Act, his recommendations for the appropriate dissemination of Federal financial information, and his recommendations for statutory changes necessary to further consolidate and improve methods for the dissemination of Federal financial information, using modern communications technology.

REPORTS

SEC. 203. (a) Not later than twelve months after the date of enactment of this Act, the Comptroller General of the United States shall undertake, prepare, and submit to the Congress a progress report on the action taken by the Director of the Office of Management and Budget to implement this Act and the degree to which any such actions have been successful.

(b) Not later than twenty-four months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a full report and audit which shall include, but not be limited to, the following:

(1) a progress report on the action taken by the Director of the Office of Management and Budget to implement this Act and the degree to which those actions have been successful;

(2) an evaluation of the effect of the activities of the Director of the Office of Management and Budget on the efficiency and effectiveness of affected Federal agencies in carrying out their assigned functions and duties under this Act; and

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of title I of this Act.

MOTIONS OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill S. 904 and to insert in lieu thereof the provisions of H.R. 6257, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6257) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GAO AUDITS OF INTERNAL REVENUE SERVICE AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Mr. ROSENTHAL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 213) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 117 of the Accounting and Auditing Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Comptroller General shall make, under such rules and regulations as he shall prescribe, audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury: *Provided*, That such audits shall not affect the finality of findings or decisions of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code.

"(2) For purposes of, and to the extent necessary in, making the audits required by paragraph (1) of this subsection, representatives of the General Accounting Office—

"(A) shall, to the extent provided by, and subject to the requirements imposed by, section 6103 of such Code but notwithstanding the provisions of any other law, have access to returns and return information (as defined by section 6103(b) of such Code); and

"(B) shall, notwithstanding the provisions of any other law, have access to all other books, accounts, financial records, reports, files, papers, things, and property belonging to or in use by the Internal Revenue Service or the Bureau of Alcohol, Tobacco, and Firearms:

Provided, That no officer or employee of the General Accounting Office shall, except as otherwise expressly provided by law, divulge or make known in any manner whatever to any person, other than another officer or employee of such office whose official duties or responsibilities require such disclosure, any information described in clause (B) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Any such officer or employee who makes a disclosure in violation of this proviso shall be subject to the penalties provided by law.

"(3) The Comptroller General shall, from time to time, but not less often than once every six months, designate in writing the name and title of each officer and employee of the General Accounting Office who, pursuant to the provisions of paragraph (2) of this subsection, is to have access to tax returns and tax return information, or any information described in clause (B) of such paragraph (2), in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. Each such written designation, or a certified copy thereof, promptly shall be deliverd to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms.

"(4) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed. In addition, the Comptroller General shall submit an annual written report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, the Committee on Government Operations of the House of Representatives, and the Committee on Governmental Affairs of the Senate which report shall include, but shall not be limited to, the following:

"(A) The procedures and requirements which the General Accounting Office, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms have established for protecting the confidentiality of tax returns and tax return information made available to the Comptroller General under this subsection;

"(B) The scope and subject matter of any audit or other examination or review authorized under paragraph (1) of this subsection; and

"(C) Any findings, conclusions, or recommendations developed by the Comptroller General as a result of any audit or other examination or review authorized under paragraph (1) of this subsection including any significant evidence of inefficiency or mismanagement.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROWN of Michigan. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. ROSENTHAL) and the gentleman from Michigan (Mr. BROWN) will be recognized for 20 minutes each.

The chair recognizes the gentleman from New York, Mr. ROSENTHAL.

Mr. ROSENTHAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the 94th Congress, the House passed and sent to the Senate legislation to authorize General Accounting Office (GAO) to conduct independent audits of the Internal Revenue Service (IRS) and the Bureau of Alcohol, Tobacco, and Firearms (ATF) of the Treasury Department. The legislation, which resulted from investigative hearings into the IRS by the Commerce, Consumer, and Monetary Affairs Subcommittee, passed the Senate in amended form. The Senate bill added provisions requiring reports to the Congress on personnel and procedures involved in GAO's access to tax return information; and requiring that plans for GAO initiated audits be reported to the Joint Committee on Taxation and made subject to veto by a two-thirds vote of the committee membership within 30 days. Due to a number of technical difficulties in the Senate, an official version was not received by the House prior to its adjournment sine die.

In this Congress, the Senate acted first and approved S. 213 which is identical to last year's Senate bill. The Government Operations Committee unanimously approved and ordered reported S. 213, without amendment.

The Department of Treasury, IRS, and GAO support S. 213.

The purpose of the legislation is to resolve the longstanding differences between the GAO and the IRS over the right of the GAO to gain access to records necessary to perform regular audits of the Service. Because the problem of GAO access to tax administration documents and records applied not only to the IRS but also to the ATF, the committee included that Bureau within the provisions of S. 213.

S. 213 scrupulously safeguards the privacy and integrity of income tax returns and information from unauthorized disclosure and subjects GAO employees to the same penalties and sanctions available against IRS employees and others for any unauthorized disclosure of tax return information. Moreover, the final authority of the Secretary of the Treasury under section 6406 of the Internal Revenue Code to make decisions regarding the merits of any claim presented under the Internal Revenue laws, is not disturbed.

The committee believes that regular and independent GAO audits of the IRS and the AFT will result in substantially greater efficiencies and economies in the operations and activities of those agencies.

GAO audits of the IRS and the ATF of the Department of the Treasury have been severely restricted and often made impossible because of the continued refusal by IRS and ATF to grant GAO access to needed records. Without access to necessary records, GAO cannot effectively evaluate IRS and ATF operations involving millions of dollars of appropriated funds and billions of dollars of annual revenue collections.

The longstanding refusal by the IRS to permit the GAO to review administration of the Internal Revenue laws has been the subject of discussion and correspondence between GAO and IRS for a number of years. It has also been the subject of congressional hearings before subcommittees of the House Committee on Government Operations in 1972 and 1973 and in 1975 by the Subcommittee on Commerce, Consumer, and Monetary Affairs.

The IRS has consistently interpreted the Internal Revenue Code as prohibiting the Commissioner of IRS from making any documents or records on the administration of the Internal Revenue Code available to GAO, and the Service questions the authority of GAO to make independent management reviews. The Tax Reform Act of 1976 the "tax return" itself is covered under the code as well as tax return information, which is broadly interpreted to include practically all documents in IRS possession.

GAO has long believed the sections of the Internal Revenue Code relied on by the IRS do not preclude the Service from making records available to GAO for audit purposes and that GAO does have authority to make independent management audits of IRS under the Budget and Accounting Act of 1921, the Accounting and Auditing Act of 1950, the Legislative and Reorganization Act of 1970 and the Congressional Budget and Impoundment Control Act of 1974. Because the GAO has no authority to seek court review of its differences with the IRS, the legislation presently before the House today is made necessary.

The committee vote in support of this legislation is an expression of our belief

that as a consequence of this lack of independent audit capability, IRS and ATF management practices and administration of the tax laws have not been as efficient as they otherwise would have been; and that many committees and individual Members of Congress have been denied meaningful information on IRS and ATF operations.

Mr. BROWN of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I should like to take this opportunity to commend the ranking minority member, the gentleman from Michigan (Mr. BROWN), and the chairman of the subcommittee, the gentleman from New York (Mr. ROSENTHAL), for bringing this legislation to the floor.

Mr. Speaker, the subject of S. 213 has long been the concern of the Government Operations Committee. It is a bill that will allow the General Accounting Office to oversee, as it does with other executive agencies, the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, both of the Department of the Treasury. GAO will be allowed to audit on its own initiative the operations of the IRS and have access to tax returns and other return information it needs in doing such audits.

The purpose of the auditing by GAO is to provide independent and objective evaluations of how well IRS is carrying out its responsibilities; the GAO is not concerned with the identity of individual taxpayers, nor do they intend to impose their judgment upon that of IRS in individual cases. The GAO will examine individual tax transactions only to serve as a reasonable basis for evaluating the effectiveness, efficiency, and economy of selected IRS operations and activities. We have been careful to include in this legislation severe penalties for any unauthorized disclosure of tax return information.

The need for this legislation should be self-evident. The IRS is an agency of 80,000 employees and it has enormous legal powers and duties. The Government Operations Committee has, in the last 18 months, issued three reports critical of IRS operations on the taxpayer assistance program, the income document matching program, and the enforcement of the Bank Secrecy Act. Independent reviews of IRS operations by GAO would be another means of ascertaining whether alleged abuses and weaknesses do exist and of identifying other problems concerning the administration of the tax laws.

I support S. 213 and urge its passage.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation but I wish to take a minute to stress limits of the audit permitted by the bill.

The main purpose of the bill is to resolve a longstanding disagreement between the IRS and GAO, by making clear that the Comptroller General has the authority to initiate regular mangement reviews of the IRS and to obtain access to pertinent records, including tax return and tax return information, and to make such audits on an independent basis.

I think we should first recognize that this legislation provides for an administrative audit, not an audit or a second-guessing of substantive determinations made by the IRS.

Final authority of the Secretary of the Treasury or his delegate to make decisions in individual cases is specifically preserved. For emphasis on this point I refer to the actual language of the legislation. In the very first paragraph it says:

Provided, That such audits shall not affect the finality of findings or decisions of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code.

I wish to add these remarks to establish the parameters of the audit.

I also have some concern about the privacy of tax returns—but that issue has already been decided in the Tax Reform Act of 1976, in favor of permitting GAO access to tax return information. However, in view of congressional concern regarding personal privacy, as evidenced by the Privacy Act of 1974, I expect the General Accounting Office to exercise its authority under this legislation in a most cautious and disciplined manner.

With these comments, I support the bill.

Mr. ROSENTHAL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, this is long overdue legislation that would have been enacted last year but for some technical problems on the Senate side that delayed action until after Congress adjourned.

This bill simply authorizes the Comptroller General to conduct independent audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms. For years, the IRS took the position that it was prohibited by the Internal Revenue Code from making its administrative records available to the GAO. The GAO never accepted that interpretation of the code, and they have been battling it out for a long time.

Now we have a bill that is acceptable to the GAO, to the IRS and to the Bureau of Alcohol, Tobacco, and Firearms. House passage today will send it to the White House and we can get on with the work.

Mr. LEVITAS. Mr. Speaker, I commend the gentleman from New York (Mr. ROSENTHAL) for bringing this important bill to us, and I rise to speak in support of S. 213. This bill would allow the General Accounting Office to perform its independent auditing function within the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury.

In the opinion of some people, this bill is not needed because they interpret the present laws to grant GAO this power already. However, since neither IRS nor ATF will permit GAO to have access to their records, we must take this legislative method to settle a procedural interagency dispute. Both IRS and the Department of the Treasury desire the leg-legislative method and support S. 213.

IRS and ATF are to be commended if their prior refusal to allow GAO to audit their operations stemmed from a genuine desire to protect the individuals whose records they keep. I share that concern. However, as GAO has repeatedly stated, they do not intend to audit individual returns but to examine some only to ascertain how effectively and efficiently the IRS and ATF are carrying out their tax collecting responsibilities. Furthermore, I believe that the provisions of this bill, and the safeguard amendments resulting from the Tax Reform Act of 1976, are sufficiently strict so that individual privacy is adequately protected; and the legislative history of this bill is such that the GAO must know that individual privacy protection is a major purpose and concern.

The success of a voluntary tax collection system such as ours depends completely on the perceptions of the taxpayers that it is fair and equitable, and that their privacy is being respected.

As Benjamin Disraeli said:

All power is a trust; we are accountable for its exercise. And accountability is the issue here.

We have seen past abuses on the part of the IRS. The investigations, findings, and conclusions of the Government Operations Committee in the House of Representatives have disclosed occasions of neglect and inequities by IRS in administering its operations, all of which might have been forestalled by the knowledge that they were accountable to some outside authority. In the absence of GAO review, there is no independent assurance that IRS and ATF are carrying out their operations in an equitable, efficient, effective, and economical manner.

The magnitude and complexity of Federal tax collection activities are such that independent GAO evaluation of IRS and ATF operations are needed to assist the Congress in its oversight functions and will almost certainly strengthen the administration of the programs and activities of these important Government agencies.

Mr. ROSENTHAL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of Michigan. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL) that the House suspend the rules and pass the Senate bill S. 213.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings under this motion will be postponed.

The gentleman from California withdraws his point of order.

PARLIAMENTARY INQUIRY

Mr. WYDLER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WYDLER. What is the business before the House, Mr. Speaker?

The SPEAKER pro tempore. The Chair is about to determine whether to recognize the gentleman from North Carolina (Mr. FOUNTAIN) for a motion to suspend the rules and pass the next bill.

Mr. WYDLER. Mr. Speaker, I urge the Chair to do something.

The SPEAKER pro tempore. Is the gentleman from New York seeking recognition?

Mr. WYDLER. I am not seeking recognition. I am seeking some progress on the floor.

AUTHORIZING CERTAIN APPROPRIATIONS FOR THE TERRITORIES OF THE UNITED STATES AND TO AMEND CERTAIN ACTS RELATING THERETO

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes, with the Senate amendments thereto, concur in Senate amendments Nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25, and concur in Senate amendments Nos. 10, 19, 20, and 26 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 9, strike out all after "1977;" over to and including "annum;"." in line 2 on page 2 and insert: "for fiscal year 1978, $90,000,000; for fiscal year 1979, $122,700,000; for fiscal year 1980, $112,000,000;".".

Page 2, strike out lines 3 to 15, inclusive, and insert:

(b) Section 2 of the Act of June 30, 1954 (86 Stat. 330), as amended, is further amended by (1) deleting "but not to exceed $10,000,000," and (2) deleting all of the language beginning with the words "which amounts for each fiscal year" up to and including the words "calendar year 1974,".

Page 2, strike out all after line 23 over to and including line 6 on page 3.

Page 3, line 7, strike out "104." and insert: "103.".

Page 3, line 14, strike out "105" and insert: "104.".

Page 4, lines 6 and 7, strike out "or who has developed thyroid atrophy resulting in myxedema, or" and insert: "or who has developed hypothyroidism, or".

Page 4, line 19, strike out "(1) or (2)" and insert: "(1)".

Page 5, line 3, after "section." insert: "The costs of such medical care and treatment shall be assumed by the Administrator of the Energy Research and Development Administration.".

Page 5, line 18, strike out all after "per" down to and including "$100,000." in line 20 and insert: "capita. Where the demise of any individual eligible for payment under paragraph (1) or (3) supra is directly related to the thermo-nuclear detonation referred to in paragraph (a) of this section, the Secretary may make an additional compassionate payment not to exceed $100,000 to the heirs or legatees of such individual. In determining the amount of such payment the Secretary shall consider, but is not limited to, the following: any payments which the deceased has received or would have been eligible to receive under this section, and loss of support, services, or contributions to the heirs or legatees.".

Page 6, strike out all after line 15 over to and including line 21 on page 8.

Page 8, line 11, strike out "III" and insert: "II".

Page 8, line 23, strike out "301." and insert: "201.".

Page 9, line 22, strike out "302." and insert: "202.".

Page 10, line 6, strike out "303." and insert: "203.".

Page 10, strike out all after line 7 over to and including line 2 on page 11 and insert:

(a) by deleting from the first sentence of section 9-A(a) everything after the words "government of Guam"; adding a period after "Guam"; and inserting the following sentence: "Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior.";

Page 11, after line 2, insert:

(b) the Act of June 30, 1954 (68 Stat. 330), as amended, is further amended by deleting the last sentence of section 4(a);

Page 11, line 3, strike out "(b)" and insert: "(c)".

Page 11, line 6, strike out "surtax" and insert: "separate tax".

Page 11, strike out all after line 9 over to and including line 19 on page 13 and insert:

"SEC. 204. (a) Notwithstanding any law or court decision to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through judicial condemnation proceedings, by the United States between July 21, 1944, and August 23, 1963, and to award fair compensation in those cases where it is determined that less than fair market value was paid as a result of duress, unfair influence, or other unconscionable actions.

(b) Land acquisition effected through judicial condemnation proceedings shall remain res judicata and shall not be subject to review hereunder.

(c) Fair compensation for purposes of this Act as defined as such additional amounts as are necessary to effect payment of fair market value at the time of acquisition, if it is determined that, as a result, of duress, unfair influence, or other unconscionable actions, fair market value was not paid.

(d) The District Court of Guam may employ and utilize the services of such special masters or judges as are necessary to carry out the intent and purposes hereof.

(e) Awards made hereunder shall be judgments against the United States.

(f) Attorney's fees paid by claimants to counsel representing them may not exceed 5 per centum of any additional award. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both. A reasonable attorney's fee may be awarded in appropriate cases.

(g) All agencies and departments of the United States Government shall, upon request, deliver to the court any documents, records, and writings which are pertinent to any claim under review.

Page 13, after line 19, insert:

SEC. 205. Section 11 of the Organic Act of Guam (64 Stat. 387; 48 U.S.C. 1423a), as amended, is further amended by adding at the end thereof the following language: "The Secretary is further authorized to guarantee for purchase by the Federal Financing Bank notes or other obligations of the government of Guam in an aggregate amount of not more than $25,000,000 which shall be issued in order to meet the health care needs of Guam, and such bank, in addition to its other powers, is authorized to purchase, receive, or otherwise acquire these same. The interest rate on obligations purchased by the Federal Financing Bank shall be not less than a rate determined by the Secretary of the Treasury taking into consideration the current market yield on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 per centum, plus 1 per centum per annum. Such guaranteed notes or other obligations shall, while outstanding, include a provision for semiannual payments of interest only. The maturity of any notes or other obligations to be guaranteed may not exceed thirty years. If the Secretary determines that the government of Guam will not meet its obligation to pay interest, the Secretary shall request the Secretary of the Treasury to deduct such payments from sums collected and paid pursuant to section 30 of this Act (48 U.S.C. 1421h). Should there be default at maturity on the notes or other obligations so guaranteed, (1) the Secretary may withhold such sums as he determines may be necessary from sums collected by the Secretary of the Treasury pursuant to section 30 of this Act (48 U.S.C. 1421h) until losses incurred by the Secretary under the guarantee plus interest at the rate specified in this section have been reimbursed to the Secretary and (2) notwithstanding any other provisions of the law, Acts making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam pursuant to this guarantee. In addition, should there be a default and should the section 30 sums be insufficient to cover such default, the Secretary may require the government of Guam to impose such additional separate taxes for such period of time as he determines would be sufficient to cover such default. For the purposes of this Act, under section 3466 of the Revised Statutes (31 U.S.C. 191), the term 'person' includes the government of Guam. The Secretary may place such stipulations as he deems appropriate on the notes or other obligations he guarantees. No loan may be guaranteed by the Secretary for the health care needs of Guam pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.".

Page 13, line 20, strike out "IV" and insert: "III".

Page 13, strike out all after line 20 over to and including line 18 on page 14 and insert:

SEC. 301. (a) The Revised Organic Act of the Virgin Islands (68 Stat. 504) as amended (48 U.S.C. 1599) is further amended as follows: Delete from the first sentence of sec-

tion 17(a) everything after the words "government of the Virgin Islands", add a period after "Virgin Islands" and insert the following sentence: "Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior.".

Page 14, after line 25, insert:

(c) Section 8 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574) is amended by adding at the end thereof the following new subsection:

"(f)(1) The Legislature of the Virgin Islands may impose on the importation of any article into the Virgin Islands for consumption therein a customs duty. The rate of any customs duty imposed on any article under this subsection may not exceed—

"(A) if an ad volorem rate, 6 per centum ad volorem; or

"(B) if a specific rate or a combination ad valorem and specific rate, the equivalent or 6 per centum ad valorem.

"(2) Nothing in this subsection shall prohibit the Legislature of the Virgin Islands from permitting the duty-free importation of any article.

"(3) Nothing in this subsection shall be construed as empowering the Legislature of the Virgin Islands to repeal or amend any provision in law in effect on the day before the date of the enactment of this subsection which pertains to the customs valuation or customs classification of articles imported into the Virgin Islands.".

Page 15, line 1, strike out "V" and insert: "IV".

Page 15, strike out lines 2 to 13, inclusive, and insert:

SEC. 401. The Secretary of the Interior is directed to submit to the Congress not later than January 1, 1978, a report on Federal programs available to the territories of the United States indicating in such report what programs are available to each territory, what additional programs would be of benefit to such territory if made available, what changes or modifications to each program should be made to improve the operation and effectiveness of each program and the estimated costs of such program. There is hereby authorized to be appropriated for fiscal year 1978 $50,000 to assist the Secretary in the preparation of this report.

Page 15, strike out all after line 13 over to and including line 6 on page 16 and insert:

SEC. 402. In order to compensate the territories of Guam and the Virgin Islands for unexpected revenue losses occasioned by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 there is hereby authorized to be appropriated to the Secretary for grants to the government of Guam not to exceed $15,000,000 and after October 1, 1977, for grants to the government of the Virgin Islands not to exceed $14,000,000, such sums being in addition to those previously authorized for such purposes.

The Clerk read the House amendments to the Senate amendments numbered 10, 19, 20, and 26, as follows:

In the Senate amendment numbered 10 strike out the period and insert in lieu thereof a comma and the following: "and insert in lieu thereof:

SEC. 105. In addition to amounts heretofore authorized pursuant to the Micronesian Claims Act of 1971 (85 Stat. 96), there are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to satisfy all adjudicated claims and final awards made by the Micronesian Claims Commission to date under title I and title II of said 1971 Act, for full payment of such awards: *Provided*, That no sums appropriated pursuant to this section may be paid on awards pursuant to title I of said 1971 Act until, subsequent to the date of enactment of this section, the Government of Japan has provided to the Government of the Trust Territory of the Pacific Islands a contribution, which contribution may be in goods and services, which has a value as determined by the Secretary of Interior equivalent to not less than 50 per centum of the total awards made pursuant to title I of said 1971 Act less $10,000,000 from such total.".

In the Senate amendment numbered (19), in the matter inserted by that amendment:

(1) In subsection (a) after "proceedings," and before "by" insert "in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,";

(2) In subsection (a) between "result of" and "duress", add "(1)", and delete the period after "unconscionable actions" and insert ", or (2) unfair, unjust, and inequitable actions of the United States.".

(3) In subsection (b) after "proceedings" and before "shall" insert "in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,";

(4) At the end of subsection (c) insert the following language: "Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section."

In the Senate amendment numbered 20, in lieu of the matter inserted by that amendment, insert the following:

SEC. 205. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary for grants to the Government of Guam to meet the health care needs of Guam, but not to exceed $25,000,000: *Provided*, That no grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

In the Senate amendment numbered 26, at the end of the matter inserted by that amendment, add the following:

SEC. 403. Effective on the date of enactment of this Act, those laws, except for any laws administered by the Social Security Administration and except for Medicaid which is now administered by the Health Care Financing Administration, which are referred to in section 502(a)(1) (except for the reference to the Micronesian Claims Act of 1971 (85 Stat. 96)) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263), and 502(a)(2) of said Covenant shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Commonwealth of the Northern Mariana Islands.

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures of certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments thereto be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California that the Senate amendments and House amendments thereto be considered as read and printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. Is there objection to the first unanimous-consent request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman tell us whether we have been consulted?

Mr. PHILLIP BURTON. If the gentleman will yield, yes, I have consulted with the minority on this, and we are in full agreement. This bill is substantially, not entirely, the same as the House passed about 5 months ago with only three dissenting votes. The main difference is this bill provides a 3-year rather than a 5-year authorization and, therefore, costs some $200 million less than the bill we sent down.

Mr. Speaker, we have before us today the conference report on H.R. 6550, the omnibus authorization bill for the territories of the United States. These include Guam, the Virgin Islands, American Samoa, the Government of the Northern Marianas, and the Trust Territory of the Pacific Islands. The House version of the bill was passed by the House last May with only three dissenting votes. The Senate passed its own version in July. What we are taking up today is the House bill as amended by the Senate and with certain amendments thereto. Following is a breakdown of what the major differences are between the original House bill and the version before us today:

First of all, title I, section 101: The Senate bill contains a 3-year authorization, as opposed to a 5-year authorization in the House bill, for the Trust Territory of the Pacific Islands. The House bill authorized $80 million for fiscal 1978 and each of the succeeding 5 years and retained the base year indexing formula which provided for yearly adjustment of the authorization. The Senate bill authorizes $90 million for fiscal 1978, $122,700,000 for fiscal 1979, and $112,000,000 for fiscal 1980 and deletes the inflation adjustment formula, thus providing higher absolute dollar levels in its place. I have agreed to accept the Senate language. The provision to authorize for the trust territory such amounts as were authorized but not appropriated for fiscal years 1975, 1976, and 1977, as set forth in the House bill, are still intact in the bill before us.

The Senate deleted the section authorizing funds for the trust territory economic development loan fund. Since the House Appropriations Committee in June directed that no money be appropriated to this fund until an audit was completed and certain other conditions were met, we have agreed to delete this authorization at this time.

The Senate deleted the entire section authorizing payment of adjudicated claims and final awards made by the Micronesian Claims Commission under title I and title II. We are insisting that this section be reinstated and to meet certain objections, we have added a proviso making U.S. payment of title I claims contingent on Japan's payment of its 50 percent share of those claims.

The Senate, in the section providing compassionate payments to inhabitants of Rongelap Atoll and Utirik Atoll in the trust territory who were victims of U.S. thermonuclear testing, made a few changes, which are acceptable. These include the broadening of a medical definition and the stipulation that ERDA, as the successor to the AEC, should assume the costs of medical care and treatment for these people. Additionally, the Senate provided compassionate payments of up to $100,000 for the heirs or legatees of any individual who dies as a result of the U.S. nuclear testing. The House had provided $100,000 for the parents of the only person to die to date but should any additional deaths occur in the future, the Senate language would provide for that.

What was title II, section 201 of the House bill, which provided for the consolidation of block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory and the Government of the Northern Mariana Islands, was stricken by the Senate. We have requested that they reinstate this section as a new title V.

I might note here that there is on the books already Public Law 93-510, the Joint Funding Simplification Act, enacted in 1974. This act simplifies the application and reporting process by providing for integrated funding through a lead agency representing other participating Federal agencies. We strongly urge all agencies and departments to actively implement this law in regard to Federal grants for the territories of the United States.

It is essential to the well-being of these territories that we assist them in every possible way to eliminate the burden caused them by unnecessary red tape. And between Public Law 93-510 and this new title V, this goal ought to be attainable.

The Senate substituted new language for the sections in the House bill dealing with the comptrollers for Guam and the Virgin Islands. The Senate provided for the Secretary of the Interior to assume costs for both these offices, effective October 1, 1977, which essentially was the intent of the House language. We have therefore accepted the Senate's language on these two sections.

The Senate made a technical change in the House amendment authorizing the Guam Legislature to levy an additional tax. Their language, which provides for a "separate" tax, as opposed to a "surtax," is totally acceptable.

Section 304, the Guam postwar land takings section, has been changed to section 204, and in effect, is a new section proposed by the Senate. I need not remind my colleagues of the destruction of lives and property suffered by the people of Guam during World War II. A substantial number of Guamanians lost their lands after the war, and these losses were due not necessarily to the Japanese occupation of the island, but by condemnation proceedings conducted in most cases by military authority rather than through the normal judicial proceedings. Section 204 seeks to redress the inequities caused by our own Government, and we think it only fair that the landowners be justly compensated for the taking of their lands by the Government. Therefore, we accept the Senate proposal to grant jurisdiction to the district court of Guam to review the claims of persons, their heirs or legatees, whose interests in land on Guam were taken from them without fair compensation.

While I respect the other body's concern about frivolous claims and no standards whereby the judiciary could better measure the fairness of such claims, I am just as concerned that the court does not impose unreasonable burdens upon the claimants to prove their claims in court, and as a result, end up without any compensation at all. In other words, while it may be possible to carry the burden of proving who owned the land, where it was, and how much the United States paid for it in 30-year-old condemnations, it will be grossly more difficult—if not impossible—to carry the burden of proving that some unnamed and unlocatable U.S. naval officer had threatened a claimant's grandfather with a "take what we offer or we'll take it anyway and you might get less" decision on this matter.

We fully intend that the United States shall offer all possible cooperation and assistance, including making all records and documents available to claimants since the U.S. agency files are the repository of most of the relevant information that the claimants will need for litigation. Furthermore, on the matter of standard of proof, there is an understanding that the phrase "unconscionable actions" was deliberately used in order to expand and soften the rigid requirements of fraud and duress to include any actions, promises, appeals, or other activities which would amount to an unfair advantage to the landowner at the time his land was acquired by the government. This language, when viewed with the additional "unfair, unjust, and inequitable" language contained in (2) reflects our desire that these claims be viewed with sympathy and sensitivity, as well as reflecting the climate at the time.

As I mentioned earlier, at the time Guam was administered by military authority, many of the claimants whose lands were taken following reoccupation, did not have the opportunity to seek competent legal advice or to be represented by legal counsel in any proceeding where the matter of fair compensation was adjudicated. Section 204 seeks to correct this deficiency and to assure all litigants of their rights to seek an equitable solution to this problem, given the fact there was, at the time, an almost nonexistent judiciary forum to which the claimants has access immediately following World War II.

The Senate added a section authorizing a $25 million guaranteed loan to Guam, with the approval of the Secretary of HEW, to enable the Guam government to purchase the new Medical Center of the Marianas to replace the Guam Memorial Hospital. Over the last 10 years Guam Memorial Hospital has suffered severe damages caused by two super typhoons and has undergone several renovations and much patchwork. It is estimated that it would require between $18 and $20 million to simply upgrade the present facility to meet minimum health care standards and to acquire hospital accreditation. A recent health care needs study of Guam reveals the numerous deficiencies of the Guam hospital, asserts that the economy of Guam cannot support two hospitals and recommends the purchase of a fully equipped hospital, which we understand is available at the approximate cost of $25 million.

Since the government of Guam does not have the financial ability to undertake a large capital improvement project to build a new hospital or to assume a new debt obligation, we believe that a

direct appropriation of $25 million is the more responsible course to take. With this in mind, we are offering an amendment to the Senate amendment to provide such a grant.

The Senate added an amendment to allow the Virgin Islands Legislature to vary the present 6-percent ad valorem custom duty on the importation of articles into the Virgin Islands. The duty is a carry-over from Danish law and because we agree with the Senate that the local legislature ought to be able to vary it, we have accepted the amendment.

The Senate struck the provision of the House bill which would have extended to Guam and the Virgin Islands certain programs that will be extended to the Northern Marianas by the Commonwealth Covenant. We are requesting that this section be reinstated, and to meet certain objections we have added language making it clear that medicaid and those programs administered by the Social Security Administration shall be excluded.

The Senate, in striking the above section in its version of H.R. 6550, added a section directing the Secretary of the Interior to submit to the Congress by January 1, 1978, a report on Federal programs available to the territories of the United States and authorized $50,000 for this purpose. We have no objection to retaining this section.

And that concludes the changes with which we are dealing today. As the chairman of the House Interior Subcommittee with jurisdiction over the insular areas, I would assure my colleagues that what we have before us is the most equitable and responsible final disposition of H.R. 6550 that it is possible to attain. In approving these amendments, we will be properly discharging our responsibilities toward the people in these offshore areas and reassuring them that we have their best interests at heart. We can do no less. I urge my colleagues to support the amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 6550 as amended. It is an omnibus bill, authorizing funds for the upkeep of America's offshore areas as well as financial relief for those Micronesians harmed as a result of World War II and its aftermath or impaired as a result of U.S. nuclear testing in the Pacific.

As amended H.R. 6550 will in title I: Provide a 3-year authorization for the continuance of the civil government of the Trust Territory of the Pacific Islands—including the government of the Northern Marianas until the separate funding provisions of the covenant becomes effective, provide for the payment of Micronesian war claims, provide authorization for the rehabilitation of Enewetak Atoll, and provide compensation to those affected by radioactive fallout at Rongelap and Utirik Atolls.

In title II, provision is made for typhoon rehabilitation in Guam, for continuance of Guam's economic development fund and to purchase a new hospital. Also, the Secretary of the Interior will assume the costs of the Guam Comptroller, and the District Court of Guam is provided jurisdiction to review postwar land claims.

Title III directs the Secretary of the Interior to assume the cost of the Virgin Islands' Comptroller. Further, the Virgin Islands Legislature is authorized to override a line item veto by the Governor and to vary the 6-percent ad valorem custom duty imposed by a carryover from Danish law.

Title IV directs a study of Federal programs by the Secretary of the Interior, permits discretionary consolidation of grants-in-aid to the territories by concerned Federal departments, extends some of the Federal programs granted to the Northern Marianas under terms of the covenant to Guam and the Virgin Islands; and authorizes grants to Guam and the Virgin Islands to compensate for tax losses occasioned by changes in the Federal tax laws.

As is apparent, the bill undertakes a comprehensive approach in dealing with America's offshore areas. For the first time, unity, rather than fragmentation, is the hallmark of our territorial legislative effort. I commend the chairman of the subcommittee together with my other colleagues on the Interior Committee for fashioning legislation which is truly responsive to the needs of America's territories.

Therefore, without reservation, Mr. Speaker, I support H.R. 6550 and encourage my colleagues to do likewise.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 6550 as amended. This legislation is a territorial omnibus bill, authorizing funds for the continued administration of the Trust Territory of the Pacific Islands; for typhoon relief on Guam; for the purchase of a new hospital on Guam; for the adjudication by the District Court of Guam of property claims lodged by Guamanians against the Federal Government; and for Federal grants to compensate Guam and the Virgin Islands for losses in governmental income resulting from recent Federal tax reductions. The bill also transfers payment for the Interior Departmental Comptrollers on Guam and the Virgin Islands to the Secretary. Moreover, the bill provides departmental discretion to those Federal agencies furnishing grants-in-aid to the territories—Puerto Rico excepted—to consolidate any or all programs. Lastly, the legislation provides that Federal programs made applicable to the Northern Marianas by provisions of the Covenant, with some exceptions, will be applicable to Guam and the Virgin Islands on the same terms.

H.R. 6550 is a comprehensive bill, initiated by the Subcommittee on Territorial and Insular Affairs to meet the long-term needs of America's offshore areas. Contrary to procedures of the past, where Congress relied upon the administration to propose piecemeal legislation, this year the House of Representatives took the lead in developing the legislation now before us. The measure represents our best judgment, rendered on a bipartisan basis and in coordination with the other body, to meet the financial and humanitarian needs of Americans living in the offshore areas.

Accordingly, Mr. Speaker, I ask my colleagues to support passage of this amended version of H.R. 6550 as they did its precursor last May.

Mr. WON PAT. Mr. Speaker, I rise to urge passage of the conference report of H.R. 6550, a bill to authorize funds for a number of projects in the Trust Territory of the Pacific, the Virgin Islands and Guam.

Because Congressman PHILLIP BURTON, chairman of the House Subcommittee on National Parks and Insular Affairs, will present in detail the key aspects of this bill, I will address at this time only several points of major concern to my constituents on Guam.

The most crucial is found in title III of the measure, which pertains to the post-World War II land takings on Guam by the Federal Government.

Hundreds of my constituents are on official record charging that their property was taken by agents of the Federal Government either without adequate payment or in some instances without any payment at all. The methods used by Federal representatives were, according to these persons, almost always abusive and without any regard for the legal rights of the parties involved.

For the people of Guam who had just come through 3 years of brutal occupation by Japanese forces, their liberation by American forces was a blessing. But shortly after our liberation, U.S. naval agents began to approach islanders for their property which was used to bolster the war effort against Japan. As a result of those early land takings, over one-third of our best land on Guam lies in Federal hands.

In addressing this section, I must note that the postwar land takings is the most controversial section in the bill and one which has created difficulty. The final language now before you is by any standards a compromise to which I only agreed to with hesitation.

The present language of this section calls for the Federal District Court in Guam to be granted authority to review all claims by persons—or their heirs—whose lands were acquired by the United States between July 21, 1944, and August 23, 1963. The court is ordered to award "fair compensation in those cases where it is determined that less than fair market value was paid as a result of duress, unfair influence, or other unconscionable actions."

I call to the attention of my colleagues that this language is not meant to subject future claimants with unfair and inflexible rules which would prevent them from pursuing their legitimate goal of justice and fair compensation from the Federal Government. In the Senate Energy Committee report on H.R. 6550, that committee clearly noted that it had, and I quote:

> Deliberately used the word "unconscionable" to expand and soften the rigid requirements of fraud and duress to include any actions, promises, appeals, or other activities which would amount to an unfair advantage.

The committee also included language to make evidentiary rules more flexible.

It has been over 30 years since many of the land takings occurred. In that time, many of the parties have either passed away or can no longer be found. For this reason, it is important that the courts fully understand the need to be flexible in the matter of evidence. I can only repeat that it is the intention of Congress that this matter be brought to an honorable and equitable solution in a manner which will provide the long-sought-for justice that the people of Guam deserve.

Although I have some personal reservations about the need for claimants to show proof of duress after so many years, I am concurring to the present language of H.R. 6550 in an effort to expedite the passage of this measure before this present session of Congress adjourns. My failure to do so would jeopardize other key portions of the measure and would only delay the time when the people of Guam can bring this matter to the courts.

I am deeply appreciative to my colleagues on the House Interior and Insular Affairs Committee for their support in this matter. A special note of gratitude must go to my good friend, Congressman PHILLIP BURTON, who has stood by us all the way in our efforts to seek a fair settlement of the land takings on Guam. He has shown an enormous capacity for detail and a keen awareness of what was needed by the people of Guam. Equally deserving of praise is the minority members of the committee including Representatives JOE SKUBITZ, DON CLAUSEN, and ROBERT J. LAGOMARSINO.

I also want to note the outstanding efforts of Senator J. BENNETT JOHNSTON of the Senate Committee on Energy and Natural Resources for his assistance in the land-taking sections and also for his support of my request for funds to help the Government of Guam meet its health care needs.

I thank you for your attention and urge that this measure be passed.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. —]

Addabbo	Eckhardt	Moorhead, Pa.
Archer	Ford, Mich.	Murphy, Ill.
Ashbrook	Fowler	Nix
Ashley	Gephardt	Nolan
Aspin	Gibbons	Patterson
Beard, R.I.	Goldwater	Pepper
Beard, Tenn.	Harkin	Robinson
Boland	Harsha	Roe
Bolling	Hefner	Roncallo
Bonker	Holtzman	Rose
Bowen	Johnson, Calif.	Santini
Burlison, Mo.	Kemp	Scheuer
Cederberg	Koch	Shuster
Chappell	Lehman	Sisk
Clawson, Del	Long, Md.	Teague
Conyers	Lundine	Tucker
Cornwell	McClory	Ullman
Cotter	McDonald	Waxman
Cunningham	Mathis	Wilson, Bob
Davis	Mazzoli	Wolff
Dent	Meeds	Zablocki
Drinan	Mineta	

The SPEAKER pro tempore. On this rollcall 369 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 780, by the yeas and nays;
H.R. 7769, by the yeas and nays;
H.R. 9278, de novo;
House Resolution 724, de novo;
H.R. 2664, by the yeas and nays;
S. 393, de novo; and
S. 213, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PARLIAMENTARY INQUIRIES

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, the gentleman who is in the chair has just announced that the first order of business is the vote on House Resolution 780.

I would like to ask the Chair, in view of the fact that the pending resolution directs the conferees on the Labor, and Health, Education, and Welfare appropriation bill to abandon the House amendment, better known as the Hyde amendment, and agree to the Senate language, is it not correct that a "no" vote on this resolution will support the retention of the Hyde amendment?

The SPEAKER pro tempore. The Chair will state to the gentleman that that is not a parliamentary inquiry.

Mr. BAUMAN. I thank the Chair.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CHARLES H. WILSON of California. Mr. Speaker, would the Chair give the Members again the list of resolutions and bills on which it has been decided there will be rollcall votes?

The SPEAKER pro tempore. The Chair will repeat. Votes will be taken in the following order:

House Resolution 780.
H.R. 7769.

Does the gentleman wish the Chair to continue with the reading of the list?

Mr. CHARLES H. WILSON of California. Mr. Speaker, I wonder if the Chair could in each instance identify the bill or the resolution by subject matter.

The SPEAKER pro tempore. The Chair will inform the gentleman that the Clerk will read the titles of the bills and resolutions as they come up for vote.

Mr. CHARLES H. WILSON of California. The inquiry I have made, Mr. Speaker, has to do with the procedure to obtain a rollcall vote on a bill on which a vote was not ordered during the course of the day. I have reference to the bill for the staffing of former Presidents.

Will there be a rollcall vote on that bill, or will a rollcall vote have to be requested?

The SPEAKER pro tempore. The Chair will inform the gentleman that the question will be put de novo on that particular bill.

Mr. CHARLES H. WILSON of California. Then, Mr. Speaker, we will have an opportunity to obtain a vote?

The SPEAKER pro tempore. A Member can ask for a recorded vote at that time.

Mr. CHARLES H. WILSON of California. I thank the Chair.

The SPEAKER pro tempore. Does the gentleman from California (Mr. CHARLES H. WILSON) desire that the Chair proceed with the reading of the list of bills and resolutions?

Mr. CHARLES H. WILSON of California. No, Mr. Speaker, that is not necessary.

RESOLUTION TO INSTRUCT CONFEREES ON H.R. 7555

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 780).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. STOKES) that the House suspend the rules and agree to the resolution, House Resolution 780, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 164, nays 252, not voting 18, as follows:

[Roll No. 594]

YEAS—164

Akaka
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
AuCoin
Badillo
Baucus
Bellenson
Bingham
Blanchard
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Butler
Carr
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conyers
Corman
Cornwell
Coughlin
Daniel, R. W.
Danielson
Dellums
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Del.
Fascell
Fenwick
Findley
Fisher
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Hannaford
Harkin
Harrington
Harris
Hawkins
Hefner
Heftel
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Koch
Kostmayer
Krebs
Krueger
Leggett
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McKinney
Maguire
Martin
Mattox
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Moss
Neal
Ottinger
Panetta
Pattison
Pease
Pettis
Pickle
Preyer
Pritchard
Railsback
Rangel
Reuss
Richmond
Risenhoover
Roncalio
Rose
Rosenthal
Roybal
Ryan
Sarasin
Scheuer
Schroeder
Seiberling
Sisk
Slack
Solarz
Spellman
Stark
Steed
Steers
Stockman
Stokes
Studds
Thompson
Tsongas
Tucker
Udall
Van Deerlin
Walgren
Waxman
Weaver
Weiss
Whitley
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Yates

NAYS—252

Abdnor
Addabbo
Ambro
Ammerman
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Aspin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blouin
Boggs
Boland
Bonior
Bonker
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cochran
Coleman
Collins, Tex.
Conte
Corcoran
Cornell
Crane
D'Amours
Daniel, Dan
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Flood
Florio
Flowers
Flynt
Fountain
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Goldwater
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harsha
Heckler
Hightower
Hillis
Holland
Hollenbeck
Holt
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Livingston
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Mathis
Mazzoli
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Patten
Perkins
Pike
Poage
Pressler
Price
Pursell
Quayle
Quie
Quillen
Rahall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Rogers
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steiger
Stratton
Stump
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
Whalen
White
Whitehurst
Whitten
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—18

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Johnson, Calif.
Lehman
McClory
Nix
Nolan
Patterson
Pepper
Roe
Teague
Wilson, Bob
Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Pepper and Mr. Lehman for, with Mr. Nolan against.

Mr. Patterson of California and Mr. Nix for, with Mr. Cotter against.

Mr. Johnson of California and Mr. McClory for, with Mr. Bob Wilson against.

Until further notice:

Mr. Dent with Mr. Del Clawson.

Mr. Wolff with Mr. Cunningham.

Mr. Davis with Mr. Bowen.

Mr. Teague with Mr. Roe.

Mr. JONES of Oklahoma changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motions to suspend the rules on which the Chair has postponed further proceedings.

ADJUSTMENT OF STATUS FOR INDOCHINA REFUGEES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 7769.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 7769, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 22, answered "present" 1, not voting 21, as follows:

[Roll No. 595]

YEAS—390

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rodino
Rogers
Roncalio
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Sarasin
Sawyer
Schulze
Sebelius
Seiberling
Shipley
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Spence
Stanton
Steed
Steiger
Stockman
Taylor
Thompson
Traxler
Treen
Tucker
Udall
Ullman
Vander Jagt
Vento
Waggonner
Walker
Walsh
Wampler
Whalen
White
Whitehurst
Wiggins
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—18

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Johnson, Calif.
Lehman
McClory
Nix
Nolan
Patterson
Pepper
Roe
Teague
Wilson, Bob
Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Pepper and Mr. Lehman for, with Mr. Nolan against.

Mr. Patterson of California and Mr. Nix for, with Mr. Cotter against.

Mr. Johnson of California and Mr. McClory for, with Mr. Bob Wilson against.

Until further notice:

Mr. Dent with Mr. Del Clawson.

Mr. Wolff with Mr. Cunningham.

Mr. Davis with Mr. Bowen.

Mr. Teague with Mr. Roe.

Mr. Bowen with Mr. Patterson of California.

Mr. Roe with Mr. Johnson of California.

Mr. ALLEN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 9278.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 9278.

The question was taken and the Speaker pro tempore announced that in the opinion of the chair two-thirds having not voted in the affirmative, the motion was rejected.

RECORDED VOTE

Mr. DERWINSKI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 203, not voting 20, as follows:

[Roll No. 596]

AYES—211

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Badham
Bafalis
Baldus
Bellenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Butler
Carney
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Evans, Colo.
Evans, Del.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Foley
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gephardt
Giaimo
Goldwater
Gonzalez
Goodling
Gradison
Hamilton
Hammer-schmidt
Hanley
Harrington
Heckler
Hillis
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Johnson, Colo.
Kasten
Kastenmeier
Kemp
Ketchum
Kindness
LaFalce
Lagomarsino
Leach
Leggett
Lent
Levitas
Livingston
Long, La.
Lott
McCloskey
McDade
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Meeds
Michel
Mikva
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, John
O'Brien
Oakar
Oberstar
Obey
Pattison
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Roncalio
Rogers
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Ryan
Sarasin
Sawyer
Schulze
Sebelius
Seiberling
Shipley
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Spence
Stanton
Steed
Steiger
Stockman
Taylor
Thompson
Traxler
Treen
Tucker
Udall
Ullman
Vander Jagt
Vento
Waggonner
Walker
Walsh
Wampler
Whalen
White
Whitehurst
Wiggins
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NOES—203

Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Applegate
Armstrong
Ashbrook
Aspin
AuCoin
Badillo
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Blouin
Bonior
Bonker
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Byron
Caputo
Carr
Chisholm
Clay
Cleveland
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
Crane
D'Amours
Danielson
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Okla.
Eilberg
English
Ertel
Evans, Ga.
Evans, Ind.
Fithian
Flippo
Florio
Flynt
Ford, Mich.
Ford, Tenn.
Gammage
Gaydos
Gibbons
Ginn
Glickman
Grassley
Gudger
Guyer
Hagedorn
Hall
Hannaford
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holt
Holtzman
Hughes
Ireland
Jacobs
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kelly
Keys
Kildee
Koch
Kostmayer
Krebs
Krueger
Latta
Le Fante
Lederer
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lujan
Luken
Lundine
McCormack
McDonald
McHugh
Maguire
Markey
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Milford
Miller, Calif.
Minish
Mitchell, Md.
Moffett
Mollohan
Montgomery
Moss
Mottl
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nichols
Nowak
Ottinger
Panetta
Patten
Pease
Perkins
Poage
Pressler
Quayle
Rahall
Rangel
Reuss
Richmond
Risenhoover
Roberts
Rose
Rosenthal
Roybal
Russo
Santini
Satterfield
Scheuer
Schroeder
Sharp
Shuster
Skelton
Slack
Smith, Nebr.
Snyder
Solarz
Speilman
St Germain
Staggers
Stangeland
Stark
Steers
Stokes
Stratton
Studds
Stump
Symms
Thone
Thornton
Trible
Tsongas
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Wilson, C. H.
Wylie
Yatron
Zeferetti

NOT VOTING—20

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Guyer
Harsha
Johnson, Calif.
Lehman
McClory
Nix
Nolan
Patterson
Pepper
Roe
Teague
Wilson, Bob
Wolff

Kasten
Kastenmeier
Kazen
Ketchum
Keys
Kildee
Kindness
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Pressler
Price
Pritchard
Quayle
Pursell
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Roberts
Rodino
Rose
Rogers
Rosenthal
Roncalio
Roybal
Rooney
Russo
Rostenkowski
Santini
Rousselot
Satterfield
Rudd
Scheuer
Runnels
Schroeder
Ruppe
Sharp
Ryan
Shuster
Sarasin
Skelton
Sawyer
Slack
Schulze
Smith, Nebr.
Sebelius
Snyder
Seiberling
Solarz
Shipley
Speilman
Sikes
St Germain
Simon
Staggers
Sisk
Stangeland
Skubitz
Stark
Smith, Iowa
Steed
Spence
Steers
Stanton
Stokes
Steed
Stratton
Steiger
Studds
Stockman
Stump
Taylor
Symms
Thompson
Thone
Traxler
Thornton
Treen
Trible
Tucker
Tsongas
Udall
Van Deerlin
Ullman
Vanik
Vander Jagt
Volkmer
Vento
Walgren
Waggonner
Watkins
Walker
Waxman
Walsh
Weaver
Wampler
Weiss
Whalen
Whitley
White
Whitten
Whitehurst
Wilson, C. H.
Wiggins
Wylie
Wilson, Tex.
Yatron
Winn
Zeferetti
Wirth
Wright
Wydler
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—22

Ambro
Applegate
Bafalis
Bevill
Brooks
Burleson, Tex.
Caputo
Collins, Tex.
de la Garza
Kelly
Lujan
Miller, Ohio
Moss
Mottl
Murphy, Pa.
Nichols
Rudd
Runnels
Shuster
Skubitz
Stump
Young, Fla.

ANSWERED "PRESENT"—1

Burton, John

NOT VOTING—21

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Harsha
Johnson, Calif.
Kemp
Lehman
McClory
Nix
Nolan
Patterson
Pepper
Roe
Ruppe
Teague
Wilson, Bob
Wolff

The Clerk announced the following pairs:

Mr. Dent with Mr. Del Clawson.

Mr. Cotter with Mr. Bob Wilson.

Mr. Nix with Mr. Cunningham.

Mr. Nolan with Mr. Ruppe.

Mr. Pepper with Mr. Harsha.

Mr. Teague with Mr. McClory.

Mr. Wolff with Mr. Kemp.

Mr. Lehman with Mr. Davis.

The Clerk announced the following pairs:

Mr. Teague with Mr. Del Clawson.
Mr. Dent with Mr. Cunningham.
Mr. Wolff with Mr. Bob Wilson.
Mr. Cotter with Mr. McClory.
Mr. Bowen with Mr. Harsha.
Mr. Lehman with Mr. Guyer.
Mr. Nix with Mr. Rangel.
Mr. Nolan with Mr. Roe.
Mr. Pepper with Mr. Johnson of California.
Mr. Davis with Mr. Gammage.

Mr. CARNEY, Ms. OAKAR, Messrs. ASHLEY, PURSELL, TUCKER, and LEVITAS changed their vote from "no" to "aye."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HUMAN RIGHTS IN CAMBODIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 724) as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and agree to the resolution House Resolution 724, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

INDIAN CLAIMS COMMISSION ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 2664, as amended.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 2664, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 173, nays 239, not voting 22, as follows:

[Roll No. 597]

YEAS—173

Abdnor
Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Aspin
Badillo
Baldus
Baucus
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bonior
Brademas
Breaux
Breckinridge
Brodhead
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen, Don H.
Clay
Collins, Ill.
Conable
Conyers
Corman
Cornell
Cornwell
Delaney
Dellums
Diggs
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Ford, Mich.
Fraser
Gephardt
Glickman
Gonzalez
Goodling
Gore
Grassley
Hamilton
Harkin
Harrington
Harris
Hawkins
Holland
Holtzman
Howard
Jenrette
Johnson, Colo.
Kazen
Keys
Kildee
Koch
Kostmayer
Leach
Long, La.
Lujan
Lundine
McFall
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Mattox
Mazzoli
Meeds
Metcalfe
Mikulski
Mikva
Mineta
Mitchell, Md.
Moffett
Moore
Murphy, N.Y.
Murphy, Pa.
Myers, John
Oakar
Oberstar
Obey
Ottinger
Pettis
Pike
Pressler
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Reuss
Rhodes
Richmond
Risenhoover
Rodino
Roncalio
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Ryan
Santini
Sawyer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Solarz
Staggers
Stangeland
Stark
Steed
Steers
Steiger
Stokes
Thompson
Thone
Traxler
Tsongas
Udall
Van Deerlin
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Whalen
Winn
Wirth
Wright
Yates
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki

NAYS—239

Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Applegate
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bevill
Boland
Bonker
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Caputo
Carney
Carter
Cederberg
Chappell
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Eilberg
Emery
Ertel
Evans, Del.
Evans, Ga.
Fascell
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gradison
Gudger
Hagedorn
Hall
Hammer-schmidt
Hanley
Hannaford
Hansen
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Luken
McCloskey
McCormack
McDade
McDonald
McEwen
McKinney
Mahon
Mann
Marriott
Martin
Mathis
Meyner
Michel
Milford
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Poage
Preyer
Quayle
Railsback
Regula
Rinaldo
Roberts
Robinson
Rogers
Rooney
Rose
Rousselot
Rudd
Russo
Sarasin
Satterfield
Scheuer
Schulze
Shuster
Sikes
Siak
Skelton
Slack
Snyder
Spellman
Spence
St Germain
Stanton
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thornton
Treen
Trible
Tucker
Ullman
Vander Jagt
Vanik
Waggonner
Walker
Walsh
Wampler
Weaver
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NOT VOTING—22

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Gammage
Guyer
Harsha
Johnson, Calif.
McClory
Nix
Nolan
Patterson
Pepper
Rangel
Roe
Lehman
Teague
Wilson, Bob
Wolff

The Clerk announced the following pairs:

Mr. Bowen with Mr. Lehman.
Mr. Cotter with Mr. Davis.
Mr. Teague with Mr. Johnson of California.
Mr. Wolff with Mr. Del Clawson.
Mr. Nix with Mr. McClory.
Mr. Cunningham with Mr. Guyer.
Mr. Harsha with Mr. Nolan.
Mr. Bob Wilson with Mr. Patterson of California.
Mr. Dent with Mr. Pepper.
Mr. Rangel with Mr. Roe.

Messrs. HANLEY, FLOOD, MILLER of California, and MARRIOTT changed their vote from "yea" to "nay."

Mr. GLICKMAN changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MONTANA WILDERNESS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 393.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393.

The question was taken.

RECORDED VOTE

Mr. MOTTL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 155, not voting 23, as follows:

[Roll No. 598]

AYES—256

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Bennett
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie

Quillen
Rahall
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sarasin
Sarasin
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Staggers
Stark
Steers
Stokes
Studds
Thompson
Thone
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walsh
Waxman
Weaver
Weiss
Whalen
White
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOES—155

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ga.
Flippo
Flynt
Foley
Forsythe
Frenzel
Frey
Fuqua
Gammage
Giaimo
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hall
Hammer-schmidt
Hansen
Hightower
Hillis
Holt
Horton
Huckaby
Miller, Ohio
Minish
Montgomery
Moore
Myers, John
O'Brien
Poage
Pressler
Quayle
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Sarasin
Satterfield
Schulze
Shuster
Sebelius
Sikes
Snyder
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Treen
Trible
Vander Jagt
Waggonner
Walker
Watkins
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wydler
Young, Alaska
Young, Fla.

NOT VOTING—23

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Evans, Del.
Guyer
Harsha
Johnson, Calif.
McClory
Nix
Nolan
Patterson
Pepper
Rangel
Roe
Ruppe
Teague
Wilson, Bob
Wolff

The Clerk announced the following pairs:

Mr. Bowen with Mr. Lehman.
Mr. Cotter with Mr. Davis.
Mr. Teague with Mr. Johnson of California.
Mr. Wolff with Mr. Del Clawson.
Mr. Nix with Mr. McClory.
Mr. Cunningham with Mr. Guyer.
Mr. Harsha with Mr. Nolan.
Mr. Bob Wilson with Mr. Patterson of California.
Mr. Dent with Mr. Pepper.
Mr. Rangel with Mr. Roe.
Mr. Ruppe with Mr. Evans of Delaware.

Mrs. LLOYD of Tennessee changed her vote from "no" to "aye."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

GAO AUDITS OF INTERNAL REVENUE SERVICE AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 213.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL) that the House suspend the rules and pass the Senate bill S. 213.

RECORDED VOTE

Mr. QUILLEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 402, noes 5, not voting 27, as follows:

[Roll No. 599]

AYES—402

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie

Quillen	Simon	Van Deerlin
Rahall	Siak	Vander Jagt
Railsback	Skelton	Vanik
Regula	Skubitz	Vento
Reuss	Slack	Volkmer
Rhodes	Smith, Iowa	Walgren
Richmond	Smith, Nebr.	Walker
Rinaldo	Snyder	Walsh
Risenhoover	Solarz	Wampler
Roberts	Spellman	Watkins
Robinson	Spence	Waxman
Rodino	St Germain	Weaver
Rogers	Staggers	Weiss
Roncalio	Stangeland	Whalen
Rooney	Stanton	White
Rose	Stark	Whitehurst
Rosenthal	Steed	Whitley
Rostenkowski	Steers	Whitten
Rousselot	Steiger	Wiggins
Roybal	Stockman	Wilson, C. H.
Rudd	Stokes	Wilson, Tex.
Runnels	Stratton	Winn
Russo	Studds	Wirth
Ryan	Stump	Wright
Santini	Symms	Wydler
Sarasin	Taylor	Wylie
Satterfield	Thompson	Yates
Sawyer	Thone	Yatron
Scheuer	Thornton	Young, Alaska
Schroeder	Traxler	Young, Fla.
Schulze	Treen	Young, Mo.
Sebelius	Trible	Young, Tex.
Seiberling	Tsongas	Zablocki
Sharp	Tucker	Zeferetti
Shipley	Udall	
Shuster	Ullman	

NOES—5

Ashbrook	Hammer-schmidt	Waggonner
AuCoin		
Bauman		

NOT VOTING—27

Boiling	Guyer	Pepper
Bowen	Harsha	Poage
Chappell	Johnson, Calif.	Rangel
Clawson, Del	Kildee	Roe
Cotter	Lehman	Ruppe
Cunningham	McClory	Sikes
Davis	Nix	Teague
Dent	Nolan	Wilson, Bob
Evans, Del.	Patterson	Wolff

The Clerk announced the following pairs:

Mr. Bowen with Mr. Lehman.
Mr. Cotter with Mr. Davis.
Mr. Teague with Mr. Johnson of California.
Mr. Wolff with Mr. Del Clawson.
Mr. Nix with Mr. McClory.
Mr. Cunningham with Mr. Guyer.
Mr. Harsha with Mr. Nolan.
Mr. Bob Wilson with Mr. Patterson of California.
Mr. Dent with Mr. Pepper.
Mr. Rangel with Mr. Roe.
Mr. Evans of Delaware with Mr. Ruppe.
Mr. Kildee with Mr. Chappell.
Mr. Sikes with Mr. Poage.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

SEPTEMBER 22, 1977.

Hon. THOMAS P. O'NEILL,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved two 11(b) resolutions which direct the Administrator of the General Services Administration in cooperation with other interested Federal agencies to investigate the feasibility and need for construction of a Federal building in Springfield, Massachusetts, and Boston, Massachusetts, to meet the needs of Federal agencies in the area on September 22, 1977.

An original and copy of the authorizing resolution are enclosed.

Sincerely,

RAY ROBERTS,
Acting Chairman.

COMMUNICATION FROM CHAIRMAN OF SELECT COMMITTEE ON CONGRESSIONAL OPERATIONS

The SPEAKER laid before the House the following communication from the chairman of the Select Committee on Congressional Operations:

SELECT COMMITTEE ON CONGRESSIONAL OPERATIONS,
Washington, D.C.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Select Committee on Congressional Operations in cooperation with the Architect of the Capitol has, pursuant to your direction, completed the test of television coverage of the daily proceedings of the House of Representatives, beginning March 15, 1977, and ending September 15, 1977.

The Select Committee transmits herewith its report and evaluation of this test together with its recommendaions for future broadcast coverage of the House. The report and recommendations were approved unanimously by the members of the Select Committee.

Sincerely,

JACK BROOKS.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, That the Senate disagree to the amendment of the House of Representatives to the bill (S. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes," and agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon and appoints Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT be the conferees on the part of the Senate.

INTRODUCING BILL TO AUTHORIZE HYDROELECTRIC POWER PROJECTS

(Mr. MEEDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MEEDS. Mr. Speaker, I have today introduced for myself and several colleagues a bill to authorize various hydroelectric power projects at existing water resource development projects constructed and operated by the Secretary of the Interior under the Federal Reclamation law. I have sought this opportunity to discuss the bill in the belief that it is sufficiently unique and relevant to warrant the attention of those Members of the House who are genuinely concerned with the lack of tangible programs being offered to abate the energy crisis confronting our country at this time.

The bill, when enacted, will authorize the Secretary of the Interior to proceed immediately with final design, construction, operation, and maintenance of 13 hydroelectric powerplants with appurtenant switching facilities on existing reservoirs and canals of the Bureau of Reclamation. These plants will have the approximate capacity of 657,000 kilowatts and will involve the currently estimates expenditure of $243,614,000.

In selecting this array of powerplants for authorization at the present time, the bill has been limited to those opportunities that involve no additional water management facility construction. In other words, the dams, reservoirs, and canals are in place and the water resource is presently accomplishing beneficial purpose. This measure will allow the corollary use of the water for power production without diminishing its use for other purposes, or causing any environmental impact except the limited impact arising from construction activities.

Generally, the powerplants will fall into two categories: Those which produce additional energy and those which provide additional peaking capacity. In the energy producing category, the plants in the bill will produce more than 600 million kilowatts hours of energy annually representing a saving in fuel oil consumption of approximately 400,000 barrels. In addition the program will provide approximately 500 megawatts of peaking capacity to the several systems served by the plants. This is the equivalent of one-half of a major, modern day nuclear power station. Such capacity is sorely needed throughout our western systems as more and more of the total energy supply is met from steampower sources. The presence of these plants online would have the cumulative effect of delaying the requirement for installation of a major steamplant for an appreciable period of time; thus delaying major economic investment by others and forestalling potential adverse environmental consequences.

In short, Mr. Speaker, the bill we have introduced is in the finest tradition of multiple utilization of our natural resources and there is no reason whatsoever to delay its consideration beyond the minimum period of time required to firm up the cost and production data. Two things are certain, these plants are going to become more feasible over time as the cost of energy from alternative sources becomes more expensive and they will become more costly to construct the longer we delay their development. With this in mind, it is my intention promptly to proceed with this measure with a view to bringing to the floor early in the next session.

GENERAL LEAVE

Mr. MANN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

DOMESTIC TEXTILE INDUSTRY AND INTERNATIONAL TRADE

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. MANN) is recognized for 60 minutes.

Mr. MANN. Mr. Speaker, as you well know a great variety of international trade matters has been before this body of Government on many occasions over many years. Likewise, the problems of the domestic textile industry in regard to international trade—specifically imports—have been the topic of many long hours of discussions in these chambers.

Most of those discussions have had a common characteristic which I can only describe as "habitual behavior." We've concerned ourselves with the issue, familiarized ourselves with the problems; but, Mr. Speaker, we have not formulated lasting solutions. Our domestic textile industry has fallen victim to our own liberal, short-sighted policies in international trade.

Not since 1957—20 years ago—has the American textile industry enjoyed a favorable balance of trade. The textile trade deficit through June of this year has already exceeded $1.2 billion. Last year, it represented $3 billion of our $9 billion total trade deficit. During the first half of this year, the figures were running well ahead of the totals for the same period in 1976. We are again witnessing and condoning "habitual behavior."

Yet, we now have an opportunity to be constructive—to positively change this pattern. We should not permit tariff cuts in the forthcoming Tokyo round.

Certainly, we have seen from experience what tariff cuts do to the balance of trade in textiles. Hindsight must have taught us that true "free trade" does not exist. The lesson we must have learned by now is that our own policies have not been good for our own textile industry.

Other nations have seen the internal effects of a liberal international trading posture upon their textile industries. They have seen it, and they have taken steps to correct it with agreements and tariff structures in line with their own best interests.

On the other hand, we as a nation have one of the most generous textile trade policies of any nation. I assert that they are too generous. Our existing tariff schedules are inadequate. They do not offer a fair and balanced international textile trade situation. Yet, there is talk of lowering these tariffs further. To me, that is inconceivable. It is unjustified. It is detrimental to the well-being of our own industry and ultimately the Nation.

Let us look at the historical evidence of the effects of such policy. Since World War II, the vast textile industries of the world have looked to the United States as the prime target for marketing their goods.

A 1955 reduction of U.S. textile tariffs helped spur such a rise in cotton imports—especially from Japan—that a special import restraint agreement had to be negotiated the next year. This one reduction in textile tariffs was an additional incentive to other uncontrolled low-wage countries to seek new markets in the United States.

At the time the first GATT textile agreement was negotiated in Geneva in 1961, U.S. imports of cotton products amounted to 5.2 percent of U.S. domestic consumption. By 1973, when the new GATT textile agreement covering manmade fibers, wool and cotton was negotiated, cotton imports represented 14.3 percent of the domestic market. In the same period, manmade fiber consumption had risen to 10.3 percent, and wool consumption was up to 25.5 percent, of the domestic market.

Substantial increases have continued since then. Negotiations to renew the present GATT Multifiber Arrangement have concluded. As a result of these negotiations, governments representing about 85 percent of free-world textile trade requested that the Director General of GATT open a protocol on December 15, 1977, to renew the MFA for a 4-year period.

The MFA, while by no means a perfect instrument, is to date the very best method we have to insure orderly textile trade with other nations. It is a conceptually sound agreement and has succeeded in keeping imports from rising to levels they might otherwise have reached. Complementing this broad and general agreement are bilateral agreements with other trading nations and the existing tariff schedules imposed on these imports.

During the tough MFA renewal negotiations, our negotiators were unable to achieve a reduction in the import growth rate to bring it to a level more near that of the growth rate of the domestic textile industry. This reality, Mr. Speaker, places even greater importance on our bilateral agreements and the present tariff schedules. They represent our only hope of slowing down—or even containing within tolerable limits—the current penetration of imports into our own textile market.

Negotiations to renew the MFA were based on our current domestic tariff structure. Any thought toward reducing tariff schedules must take this into account. For even with the MFA and existing duties, textile imports have increased 14 percent since 1974 when the MFA took effect. And a mere glance at our current deficit in trade in the textile sector would be sufficient reason for no reductions in textile tariff rates.

The condition of our balance of trade in textiles has wider implications than a tally sheet can show. The textile/apparel industry in the United States employs 2.3 million Americans, or about one in every eight workers involved in manufacturing. Of this total work force, a great percentage are either female and/or members of minority groups. The proportion who belong to these groups is much larger in the textile industry than in other U.S. manufacturing concerns.

Currently, unemployment in textile plants is 7 percent and 10 percent on the apparel side. These facts take on added importance when you consider that many of the jobs are in central cities or small towns where no realistic employment alternatives exist. If we continue to allow greater influx of imports, textile and apparel unemployment will surely grow.

The health of the textile/apparel industry, the largest industrial employer in the United States, obviously plays a leading role in the health of the country's overall economy. Those 2.3 million employees, if thrown out of work by imports, would wreak havoc on income tax revenues and public assistance expenditures. With all of our emphasis on jobs and full employment, surely our official policy should not be one of sacrificing employment on the altar of free trade.

The textile industry assumes a great importance in regard to national defense and support for all branches of the military. As you know, the importance of textiles in the defense of our country has been rated only second to the steel industry's.

In this area of national security, the need for a healthy, comprehensive, domestic textile industry is acute. In times of war, Mr. Speaker, we may not be able to look to outside suppliers for the textile products we need.

Mr. Speaker, the record clearly shows that our domestic textile industry has not fared well in affairs of international trade. The industry simply cannot tolerate such a deteriorating situation, and history has proven too well that a reduction in textile tariffs will merely encourage an increase in imports.

Mr. Speaker, I strongly believe that our best course of action is to exempt the entire textile sector from the Tokyo round of tariff negotiations, and I urge the administration to adopt such a course.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman for taking the leadership in bringing this issue to the

floor of this House. I am supportive of the gentleman's thrust.

Mr. Speaker, the negative effect of the avalanche of imports from low-wage nations on the employment and product capacity of the U.S. garment and textile industry has become a matter of great national concern. Although the apparel industry is the largest employer of labor in the United States, employing 2.3 million individuals—one-eighth of all manufacturing employment—every year thousands of these jobs are being sacrificed to low-cost imported goods from abroad. The impact of imports on our domestic market is demonstrated dramatically by employment and man-hour statistics:

Domestic producers of womens' and childrens' apparel attained a peak level of output in 1972—only marginally higher than the output attained in 1968. The employment of production workers engaged in making womens' and childrens' clothing was at pea' in 1969. On the other hand, man-hours spent by workers in shops peaked in 1966. Compared with 1966, domestic volume of the industry's output was down by 12.1 percent, while employment was off by 12.6 percent and man-hours down by 14.2 percent. But the physical volume of imports advanced by 250.6 percent from 1966–76. A similar comparison between 1972 and 1976 reveals that the industry's physical volume was down by 14.5 percent with employment down 8.1 percent and man-hours down by 9.5 percent; meanwhile, imports rose by 14.5 percent. The obvious conclusion is that the increased penetration of imports into our domestic apparel market has incessantly eroded employment for the industry's workers, while simultaneously inhibiting the industry's volume of output—all statistics from the U.S. Bureau of the Census.

That is only part of the story. As the actual job market eroded, a significant number of potential employment opportunities diminished for individuals wishing to find jobs in the apparel and garment industry. The International Ladies' Garment Workers' Union—AFL–CIO—has estimated that between 1961 and 1976, approximately 151,000 persons lost potential employment in the garment industry as a direct result of the rise in imported apparel goods during the same period.

The ILGWU reports that during the same 15-year period, New England lost over 100,000 jobs, Illinois over 18,000, Pennsylvania more than 65,000; every State with a significant number of textile/apparel manufacturers has lost an appalling number of employees and business due to the rising flood of imports.

Who are the people who have lost their jobs?

Individuals who normally get jobs in the manufacture of womens' and childrens' garments are women minorities and semiskilled workers. One out of every five never completed grade school. Ten percent are black, nine percent Latin Americans. Over 42 percent are over 45 years old. Eighty percent are women whose geographic mobility is severely limited: one-third of these women are widowed, divorced, single or separated; in other words, they work to support themselves and their families, not for supplemental funds—U.S. Womens' Bureau, Bulletin No. 239. These persons all have limited job opportunities—particularly women with only primary educational skills and children, parents, and/or a husband to support.

The jobs the garment industry could provide, if not for the unchecked growth of imports, are desperately need for our economy: for women and minorities, the industry is a source of livelihood—the garment industry is the Nation's largest employer of women—providing an essential economic base. For this reason alone the Federal Government would be justified in curbing imported goods.

Lazare Teper, director of research at the ILGWU, has predicted that, with the renewal of the Multifiber Textile Agreement and extension of present bilateral agreements:

> Import penetration in womens' and childrens' apparel in the next 5 years is likely to increase from its present 31.1 percent of domestic output to around 39 percent to 42 percent—(and) may actually exceed these figures. . .

This in turn will cause an increased corrosion of domestic production and employment.

The American market is the largest in the world; a major objective of almost every exporting nation, therefore, is access into our market. These exporting nations use various devices to target their goods into the United States—devices which are totally irrelevant to the doctrine of free trade. These devices, including pricing products according to out-of-pocket costs rather than by real costs; dumping goods in the U.S. market; receiving subsidies or total immunity from antitrust laws; inducing domestic manufacturers to relocate abroad in their own nations to produce goods aimed at American markets by offering economic incentives they will not offer to their own manufacturers: free land, exemption from duty on production material, exemption from taxes and guarantees against expropriation.

The largest competitive advantage that foreign producers have over American firms, however, is the great difference in wage levels. In 1975—the most current year for which data is available—the average hourly wages in foreign nations was significantly lower than in our own country, making our domestic apparel and textile industry especially vulnerable to the impact of these low-wage, and therefore low-cost imports. These wage and salary differentials, which are not offset by duties, only encourage the growth of women's and children's wear imports. In an industry as labor-intensive as the garment industry, it is impossible for American producers to compete with foreign suppliers—particularly when one notes that salaries range from an average of 24 percent to 39.3 percent of the value of the finished product.

Even worse, the average consumer no longer benefits from the original low cost of imported goods: the price advantage of imports from low-wage nations has practically disappeared. The Amalgamated Clothing and Textile Workers Union (AFL–CIO) reports that:

> The markup on items brought in to open price lines is comparable to markup on domestically produced items . . . (and) when an import is used to "fill in" a line, e.g., a department store's imported private label shirt is sold alongside a branded shirt, it is sold at the branded price; thus the markup is higher.

The ACTWU report shows that whenever import penetration exceeds approximately 40 percent over an extended period of time, pricing tends to be based on import costs; therefore, the markup is comparable to the markups on goods produced in the United States.

It is becoming increasingly obvious that American consumers may not get and price advantage from buying imported goods in retail stores: in 1975, the Baltimore research office of the ILGWU and in August 1977, Sidney Margolius, a consumer affairs expert and author, conducted studies that found scores of examples of equivalent prices between domestic and imported goods. It is time to realize that imports have reached the higher price bracket. In fact, the most famous American brand names now are used on low-wage imports and no longer can be used as evidence that the products are made in this country or the quality can be relied upon as equivalent to U.S. union craftsmen.

Aside from all of the previously stated reasons for checking the flow of imported goods into the United States is still another, often overlooked area of concern: Imported products, whose manufacture is not subjected to our own strict domestic environmental and safety standards, often pose serious hazards to users, due to careless design and construction. Low prices often equal low quality, particularly in the apparel and shoe industries. Sidney Margolius reported in the August 1977 issue of the AFL–CIO American Federationist that:

> Quality problems are noticeable in cheap imported men's suits and women's coats. Some of the discount clothing stores . . . advertise discounts on name brands but often the main stocks are low-priced imports. These . . . usually are machine-made garments with poorly fitted linings which soon can become quite shapeless. The imported women's coats often are made of reprocessed wool with inferior wearing qualities. . . . Imported products have been especially notorious for the many instances of . . . flammable clothing and fabrics . . . (p. 10–11).

Many people have argued that the imposition of import barriers by the Federal Government amounts to using U.S. consumers to subsidize U.S. industry by paying higher prices for goods. But I have already enumerated the exorbitant social costs of imported goods: The costs of unemployment, both actual and potential, and the loss of tax revenues when

jobs and entire businesses are ruined by foreign competition. It is not fair to sacrifice American workers in threatened domestic industries—persons who work at low wages and have few economic resources by our own standards—to the ideals of "free trade." Although the Carter administration has sought to increase the amounts of adjustment assistance to businesses and employees injured by increased imports, this is not the solution any more than welfare is a solution for unemployment. Not only is there a cumbersome and lengthy procedure to wade through to qualify for such assistance, but the Government is again doing just what the opponents of increased tariffs do not want: Asking the consumer to pick up the tab for purchasing certain goods.

Through the vigorous efforts, our Govermnent has worked out agreements that regulate imports on an orderly basis under the provisions of the multifiber textile arrangement (MTA). An agreement to renew the MTA was recently reached in Geneva. Under its provisions, imports are expected to increase at an annual rate of 6 percent, even though domestic production is growing at considerably less than that percentage—the ILGWU reports that employment in the garment industry has dropped by 25 percent, and domestic investment in the industry has been steadily declining since 1973; ergo, the increases in productivity that could have offset higher U.S. labor costs will be lower, since less money is being pumped into the industry.

Obviously, the MTA arrangement and the agreements with foreign countries concluded in accordance with its provisions are inoperable. Time and again, they permit imports of specific apparel or textile products to rise far beyond the contemplated 6 percent. The effect only causes increased unemployment of domestic workers and places undue hardship upon our own manufacturers. Duty cuts would only bolster the tempo at which imports erode the desperately needed jobs in this country. This should not be permitted to take place.

It has become absolutely essential for the United States to take appropriate action to safeguard the jobs in this Nation. Controls on presently unrestricted textile and apparel imports should be imposed before these imports rise at an even higher tide. Bilateral negotiations should be conducted with a view to reducing import growth in every threatened area, thereby protecting domestic employers and employees. No reduction of any sort should be made in existing tariffs on imported textiles and apparel.

Mr. Speaker, permit me to conclude my remarks by quoting a letter I received from a constituent, a letter which portrays the problem more eloquently than any statistics or floor statement:

> As a . . . voter in your district, I am compelled to write to you to point out a very serious problem that faces the New York, New Jersey metropolitan area . . . It is amazing to read in the papers that the Congressional Delegation is trying to bring jobs into this region. They dream up all kinds of schemes with Federal financing. There is a very simple answer to the high unemployment in this region. Save the existing jobs in the Textile industry; stop the excessive imports. See for yourself and go to any department store and all you will see is Made in Hong Kong, Korea and Taiwan . . . Right now our industry is absolutely dying. In the last two years along 250 knitting mills went bankrupt. . . . Local No. 155 ILGWU in New York City represented 147 mills 3 years ago. Last year during contract negotiations, they had 80 mills to deal with . . . There is no end to it. This is a weekly occurrence. Judging by the machines that are offered in (this week's) liquidation sales, another 300 jobs are gone. Highly sophisticated knitting machines that cost $40–$60,000 two years ago are being auctioned off at prices from $250 to $5,000. That should tell you something about the state of this once proud industry. I hope that Congress will finally wake up and save our industry. The shoe and television industries are gone. Are we next?

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding, and want to commend the gentleman for his initiative in taking this special order. It is important that we emphasize the fact that we are talking about the largest single number of workers of any industry in the United States.

Mr. Speaker, on August 4, 1977, I spoke before this body on the Multifiber Textile Arrangement and the bilateral agreements with different countries regulating textile and apparel imports. At that time, I sought to analyze the nature of the problems these instruments were supposed to deal with, the progress and pitfalls of the past, as well as the present needs.

I concluded that, in the light of the renewed MFA, we need to negotiate realistic agreements with exporting countries taking into account our capacity to absorb additional imports. I also noted that we must bring countries not currently under bilateral agreements with us, such as the People's Republic of China, into the orbit of the MFA and the bilateral agreements concluded under its terms—and also suggested that there was no justification for lowering customs duties on apparel and other textile products in the course of the Geneva tariff negotiations.

Today I want to address myself to this latter point—why duties should not be cut in the course of the current round of tariff negotiations under the GATT auspices.

An examination of the levels of imports of textiles and apparel over a period of time reveals that the existing agreements with different countries, while slowing the tempo of advance, did not bring it even to the levels contemplated in the particular instruments. To me, this is proof enough that the existing duty levels were not sufficient to keep undo imports from our shores. If anything, import penetration in product after product proved to be excessive and unduly harmful to the domestic manufacturers' ability to produce and employ workers.

Should duties be cut below the present levels, unquestionably the pressure of imports will increase. Countries that have not tried to export to us will begin exporting. Countries that do export to us—but which have not always shipped to the fullest extent allowed under the existing agreements—will try to fill their pipelines and further swamp the domestic scene with foreign textiles and apparel.

American retailers, who normally take much larger markups on goods of foreign origin than they do on domestic apparel and textiles, would benefit. American consumers, I am afraid, would continue to pay the same prices as heretofore, if past experience is a guide. This was the conclusion of a recent study conducted by the Library of Congress for the House Committee on Ways and Means. It stated, despite the difficulties of getting information because of its proprietory nature, that:

> Markup ratios on imports . . . appear to be higher than those on domestic products since the aim of the retailer is usually to sell identical or equivalent products at the same or approximately the same price and that the lower cost of imports does not result in any price benefit to the consumer and merely allows the seller a higher profit.

Were duties cut, the capability of the American producers of apparel and textiles would be hurt. Producers would either be forced out of business or else reduce their operating rates but stay in business after laying off part of their workforce or else putting their total workforce on short-time schedules. In the alternative, it would force a number of domestic producers to start producing abroad for the U.S. market or else to import foreign-made goods manufactured by someone else. I do not view such prospects in a favorable light. It would spell heightened job loss over here, increased joblessness, and an increased welfare load that ultimately has to be borne by all consumers—by the American public at large.

This is why it is essential that apparel and textile products be treated as an exception in the forthcoming Multilateral Trade Negotiations in Geneva. The jobs that apparel and textiles provide are badly needed in our economy. To maximize employment opportunities for the type of workers who are normally employed in producing apparel and textiles in the United States, we must do everything possible to safeguard employment opportunities in textiles and apparel.

Some people might argue that duties on apparel and textiles can be reduced because the multinational and bilateral textile agreements serve to limit the volume of imports. This is an unsound argument. The various agreements did help to slow the tempo of import growth, but they did not reduce the import growth, itself. Imports continue to grow and continue to erode jobs in the domestic industry. Bear in mind that the ability to expand output abroad, even in the countries that to date have not exported apparel in any significant quantity to the United States, is fostered by low capital

required to enter business and the ease with which the needed work force can be trained.

Our Nation cannot afford to take chances with boosting the already high levels of unemployment. I would therefore encourage the administration to exclude apparel and textiles from any duty reductions in the Geneva talks.

Let me not in this connection that the Trade Act of 1974 has already recognized apparel and textiles subject to textile agreements as import-sensitive products by excluding them under the provision of section 503(c)(1)(A) from the Generalized System of Preferences.

I would also like to note that the Trade Act of 1974 excluded from duty cuts products with respect to which action was taken under its section 203 or section 232 or 351 of the Trade Expansion Act of 1962. In the instant case, the United States recognized as a matter of public policy that textiles and apparel are import-sensitive and therefore negotiated the Multifiber Textile Arrangement and the bilateral agreements thereunder. In effect, the situation differs little from that contemplated by the Trade Act to which I referred. Duty exclusions are justified both for items covered by the existing textile agreements, as well as for the few similar garments and textiles which may not be covered by the similar agreements . . . these products serve the same end use, can be readily imported, and act as substitutes for items which are covered by the MFA.

I repeat—duties should not be reduced on apparel and textiles, and I so recommend.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the leadership the gentleman from South Carolina (Mr. MANN) is providing in attempting to find ways to solve the problem of textile imports.

Over the past 10 years, while the U.S. market has grown only 28 percent, textile imports have increased a staggering 71 percent. The net effect has been the loss of an estimated 350,000 American jobs.

The problem is especially acute for cotton. In 1976, more than 700 million pounds of cotton yarn, fabric and apparel were imported, more than 40 percent above a year ago. Textile imports now account for about 20 percent of the U.S. market for cotton.

The continued erosion of cotton's domestic market by textile imports threatens more than 4 million people who depend directly on cotton production for their livelihoods.

In my home State of Arkansas, cotton is grown on nearly 8,000 farms. In 1976 revenue from cotton and cottonseed to Arkansas farmers totaled $258 million, making Arkansas the Nation's fourth largest cotton-producing State.

The importance of cotton to the State of Arkansas can be seen from the fact that revenue from cotton and cottonseed was over one-fifth as much as the entire payroll of all manufacturing industries within the State.

Obviously, the continued loss of the domestic market to textile and apparel imports will have a devastating impact on Arkansas and other areas which are heavily dependent on cotton production.

Many of the jobs that would be lost in rural areas where job opportunities are few. It is doubtful that rural communities could survive such an economic loss.

I join with you and other concerned Members of the House in urging that our position in seeking renewal of the multifiber arrangement and bilateral agreements with exporting nations which will result in a more equitable rate of growth in textile imports.

Mr. MANN. Mr. Speaker, I thank the gentleman from Arkansas (Mr. ALEXANDER).

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I want to commend the gentleman from South Carolina (Mr. MANN) for arranging for this special order in order that the very important issue that has been presented to the House could be fully discussed. I want to echo the sentiments which have been expressed.

Mr. Speaker, the availability of jobs for our people, as well as the economic health of our Nation, requires that textile imports should not increase more rapidly than those markets increase.

Textile imports into the United States have increased more than twice as fast as the domestic textile market has grown over the past 10 years. Consequently, our textile and apparel employment declined over 144,000 in that period instead of showing an increase in employment of near 3 percent comparable to the market growth.

Excessive textile imports affect our farmers as well as textile manufacturers. When excessive cotton imports reduce the demand for our farmers' cotton they must plant other crops. This results in adverse economic impact for two reasons. The economic output from cotton production per acre is greater than for substitute crops such as feed grains and soybeans. Also, when textile imports cause acreage to be diverted from cotton to other crops, the prices of those crops tend to be depressed.

While the multifiber arrangement and the bilateral agreements negotiated thereunder are limiting to some extent textile imports into the United States, the U.S. textile industry has already lost significant portions of the U.S. market to imports even though the United States has been levying import duties on these textile imports. Any reduction in the current level of U.S. textile tariffs would permit foreign exporters to capture still more of the U.S. domestic market at the expense of the U.S. domestic textile industry and U.S. textile workers. This would be contrary to the best interest of the U.S. textile industry, the U.S. textile workers, the U.S. consumers, and the U.S. economy. Consequently, it is strongly recommended that the U.S. trade negotiators refrain from granting any reduction in the current level of textile tariffs during the Tokyo Round of the Multilateral Trade Negotiations.

Mr. Speaker, our trade negotiators can enhance our Nation's economic health by keeping textile imports in a close relationship to the rate of growth of the textile market and by declining to grant any reductions on our textile import tariffs.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I, too, want to commend the gentleman from South Carolina (Mr. MANN) for offering leadership on this issue. I join with him in the statement he has made here today.

Mr. Speaker, the increasing problem this country is having with its balance of payments is aggravated by the growing import deficit in the apparel industry. Last year $2.8 billion of our trade deficit was accounted for by apparel and textile imports. This year it will undoubtedly be even greater.

Within the next few years, if the administration has its way with the tariff cuts they are negotiating, the apparel deficit could be significantly greater than it has ever been.

Even with the controls we have had on apparel imports, they have grown at three to four times the rate of domestic market demand. Imports are not only taking all the growth in our apparel markets, they are taking large portions away from the markets previously established by American producers.

When markets are taken away by imports, people lose jobs. Imports are posing a serious threat to hundreds of thousands of apparel workers in every part of this country. Right now we have about 1.4 million apparel workers contributing to the economy of this country. They are found in almost every State and in over half of all the congressional districts.

In my district in Maryland, there are 3,300 apparel workers. They are among the 18,400 apparel employees in the State of Maryland. Many of these people are employed in the production of apparel lines which are especially vulnerable to rising imports—men's and boys' suits, coats, and trousers, and women's sportswear. Their jobs are in jeopardy.

The administration claims that employment among minority groups and among women is a high priority item. Yet they are willing to place apparel tariff cuts on the negotiating table in Geneva. In the current "Tokyo round" of tariff negotiations there is the potential of cut up to 60 percent on apparel tariffs.

The obvious result of tariff cuts on apparel is to increase imports on a large scale. Employees in our apparel industry will be put out of work as their production is replaced by imports.

Mr. Speaker, American apparel workers are 80 percent women, they come in large measure from minority groups, were unskilled until they were trained by the apparel manufacturer, and often live in rural areas where alternative employment is unavailable. When their jobs are lost because of imports, they must join the ranks of the unemployed in great numbers. They will no longer be contributing members of our society, they will be taking welfare checks and unemployment checks.

The cost to us, if apparel tariffs are cut, is not only in terms of the balance of payments, it is in greater Government outlays for the unemployed and it is in lost income no longer generated by apparel workers and by workers in related industries, particularly textiles and manmade fibers.

The social costs in terms of unemployment are incalculable. The lives of hundreds of thousands could be devastated by such a move by the administration. We must support our constituents—all of them—by supporting the American apparel industry's stand against tariff cuts.

Mr. Speaker, I include at this point in my remarks tables showing the importance of the apparel industry in Maryland and the United States as well as an exchange of correspondence between myself and the President's chief trade negotiator, Mr. Strauss.

MARYLAND

Employment in Maryland—1974: Total private employment, 1,112,400.

Total manufacturing employment, 269,500.

Apparel, textiles and fiber employment—1974: Apparel, 18,400.

Textiles, 1,700.

Man-made fibers, 2,500.

Total, 22,600.

Percent of total manufacturing, 8 percent.

Apparel industry in Maryland in 1974: Seventh largest employer in manufacturing.

Employment, 18,400.

Percent of all manufacturing, 6.8 percent.

Total annual payroll, $114,200,000.

Number of apparel plants, 244.

Number with 100 plus employees, 57.

Value of apparel production in Maryland in 1974:

Men's and boys' suits and coats, $176,000,000.

Men's and boys' shirts, trousers and work clothing, $114,000,000.

Women's outerwear and sportswear, $60,700,000.

All other apparel, $144,000,000.

Total apparel, $494,700,000.

1974 apparel employment in Maryland by congressional district

District	Number of plants	Total employment
First (Bauman)	38	3,330
Second, Third & Seventh (Long, Mikulski, Mitchell)	144	9,264
Fourth (Holt)	10	171
Fifth & Eighth (Spellman, Steers)	8	57
Sixth (Byron)	36	5,577
Total above	236	18,399
Not reported by county	8	13
Total State	244	18,412

UNITED STATES

Employment in the United States—1974:

Total private employment, 63,487,600.

Total manufacturing employment, 20,380,700.

Apparel, textiles and fiber employment—1974:

Apparel, 1,380,500.

Textiles, 975,200.

Manmade fibers, 100,300.

Total, 2,456,000.

Percent of total manufacturing, 12.1 percent.

Apparel industry in the United States in 1974:

Employment, 1,380,000.

Percent of all manufacturing, 6.8 percent.

Total annual payroll, $8,246,395,000.

Number of apparel plants, 23,034.

Number with 100+ employees, 3,494.

Value of apparel production in the United States in 1974 (Wholesale value):

Men's & boys' clothing, $9,924,000,000.

Women's outerwear, $9,333,100,000.

Women's & children's underwear & nightwear, $1,824,900,000.

Children's outerwear, $1,435,800,000.

Knit outerwear & underwear, $2,470,800,000.

Hosiery, $1,328,500,000.

All other apparel, $1,860,400,000.

Total apparel, $28,195,500,000.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The current world trade negotiations conference is charged with solving problems, the resolution of which will certainly have a direct effect on the lives, jobs and security of American workers.

During the swearing-in ceremony of our country's special trade representative, Robert S. Strauss, you spoke of this, and I certainly share your position on this particular matter. That is you spoke out for a balanced policy with the emphasis on protecting the jobs of American workers and the support for a strong and competitive American economy.

One of the matters to be resolved will be a final agreement on multi-fiber imports. I am familiar with many citizens who depend on the clothing and textile industries, citizens who are currently worried about the security of their jobs and the very life of our economy which are directly threatened by the mass importation of cheap textile materials from abroad.

It is primarily on their behalf that I respectfully request that you direct our nation's trade representative to support reasonable restrictions on the importation of these items. Certainly the vitality of world trade and free commerce are jeopardized without a productive and continually growing U.S. economy. Like yourself, I believe that a balanced approach is best to resolve many of the problems currently besetting us, an approach which will entail selective import restrictions beneficial to both our economy and world trade.

Thank you in advance for your consideration.

Faithfully yours,
ROBERT E. BAUMAN,
Member of Congress.

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, D.C., June 9, 1977.

Hon. ROBERT E. BAUMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BAUMAN: Your letter to President Carter concerning the impact of imports on the textile industry has been referred to me for a reply.

You correctly point out that this Administration is seeking to achieve a balanced U.S. trade policy. I am, of course, concerned about the harmful effects of textile and apparel imports on this industry, and I am aware that imports of some of these products are growing at a faster rate than domestic production. Hence, the jobs of many American workers could be at stake.

The United States is seeking to renew the Multifiber Arrangement Regarding International Trade in Textiles which expires at the end of this year. Under that Arrangement, the United States has negotiated 18 bilateral textile and apparel agreements that establish quotas on textile and apparel exports to this country. Approximately 75 percent of U.S. cotton, wool and man-made fiber textile and apparel imports are subject to these agreements.

In the next fourteen months, thirteen of our 18 textile and apparel agreements will expire. In renegotiating these agreements we will be mindful of the concerns you expressed. We will continue to maintain quotas, with suitable modifications if necessary, to prevent disruptive imports; these measures will be vigorously enforced.

You can be certain that this Administration is determined to assure the well-being and vitality of our domestic textile and apparel industry, and if I can be of further assistance to you, please do not hesitate to let me know.

With every good wish,
Sincerely,
ROBERT S. STRAUSS.

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman in the well for his leadership on the Ad Hoc Textile Committee, and I commend as well my good friend and distinguished colleague, the gentleman from New York (Mr. FISH).

I feel that in participating in this discussion today we represent the whole country, not a specific region, and we show a bipartisan concern for what is truly an American problem. It seems to me that as we in this Congress look at so many public issues, we are at the point of a midcourse correction. We must correct our course if we have gone too far in terms of protecting the environment and overlooking the economy. We must also correct our course if we have gone too far in opening our doors to free trade on a virtually unlimited basis and causing unemployment at home.

One of the biggest dilemmas of our time is the question of welfare reform. We read steadily of welfare recipients who wish to work and who want jobs, and certainly we in the Congress feel a sense of commiseration with them and a desire to help them, because we know they want to be effective Americans. But how can we as a nation help those on

welfare and put them in the work force if, on the other hand, we are denying employment, through the unstemmed tide of foreign imports, to those who are already working?

In my congressional district, unfortunately, the textile industry to a great extent left in the 1920's and went to other areas. I speak with some regret that we lost the opportunity to keep that valuable segment of industry in our section of the United States. But we do still have 14,000 apparel-related jobs, and the people who need the apparel industry as a means of livelihood are so concerned about the tide of imports and the joblessness that it has produced that they have literally taken to a forum of public protest that is quite unfamiliar to them.

Mr. Speaker, I speak today in protest as well, not against free trade but in favor of fair trade which takes into account the needs of American workers.

Mr. Speaker, I rise to make additional comments about the seriousness of the problem of textile imports and their effect on domestic jobs.

Last month, when I held office hours in Fall River, a woman worker in one of our textile plants there took time off from her job to come into the office. Because we had so many constituents to see that day, she had to wait several hours. And when she got in to see me, she was in tears—because she fears for her job.

During the same visit, I toured a textile plant in the district. Men and women both came up to me to shake hands and tell me of their concerns. Their message was clear: these imports are driving our companies out of business. We cannot afford to lose our jobs. We are not trained to find jobs in other industries.

Although I believe in world trade and feel it is important for nations to find markets outside their own boundaries, I also believe that our first priority is jobs for Americans.

American textile and apparel plants have been forced to cut 150,000 jobs in the past 10 years. This industry provides about 2.3 million jobs, which accounts for 12 percent of all manufacturing jobs in the country. The continued loss of jobs in this industry will have a critical effect on our economy.

In my congressional district, thousands are employed in the textile industry. In the Fall River area, 14,000 people are so employed. Of those, 1,000 jobs are provided by knitting companies. This is one of the most seriously affected units of the textile industry. Some 300 knitwear companies have gone out of business in the past 10 years, due to the importation of large amounts of knitwear products.

The critical situation in the knitwear industry can be illustrated by a few facts. Although knitted outerwear employment accounts for less than 10 percent of the total textile and apparel employment of the Nation, the balance of trade deficit in knitted outerwear accounted for about half of the total textile and apparel trade deficit in 1976.

These are the figures: Total U.S. textile and apparel trade deficit in 1976 was $2.6 billion; the total knitted outerwear trade deficit was $1.3 billion.

In that same year, the United States trade deficit with Korea, Hong Kong, and Taiwan—the countries that hurt our knitwear industry the most—was a staggering $3 billion. That figure is even more startling when we realize that our exports to Korea and Taiwan consist mostly of weapons which are sold at below cost and are subsidized by the American taxpayer.

There is another aspect to this loss of American jobs that I wish to emphasize. On the average 75 percent of the employees in the knit industry are minorities. Women comprise 90 percent of the total labor force in that industry. These individuals—like the people of my district—are not likely to be able to be retrained for other jobs and are not mobile enough to relocate to another State should their jobs be lost.

We must take action to reverse this trend toward loss of jobs in the textile industry. We are already taking some steps. My distinguished colleague, Mr. HOLLAND of South Carolina, is heading a task force on the operation and extension of the multifiber agreements, as part of the Ways and Means Committee.

I have also been pleased to cosponsor, with my friend Mr. LEDERER of Pennsylvania, a bill which would prohibit imports which have been assembled outside this country from carrying a label stating "Made in the U.S.A." just because parts of the garment were made here. This is a small step, but at least it informs our consumers that they are not buying American-made goods.

The question is: What is the administration doing? The new bilateral trade agreements are now being negotiated. The Hong Kong agreement, though it provided for a rollback of 6 percent in the quota for sweaters made of manmade fibers, it did nothing for those made of wool and most of our imports from Hong Kong are of wool.

In extending the multifiber agreements, we could suggest that the present 6 percent quota growth be reduced to a level no greater than domestic market growth, which grew only 3 percent in 1976. We could also urge that new bilateral agreements allow no quota growth in those categories of products already heavily impacted by imports.

But the multifiber agreements are not the only important considerations in approaching the problem. Maintaining existing tariffs on imported textiles and apparel is of primary importance. The multifiber agreements are not substitutes for tariffs, but are supplemental.

When, in the 1960's, the United States agreed to cut tariffs on textiles and apparel over a 5-year period, textile imports rose by 150 percent in that period. Now, there are suggestions that tariffs be reduced again. I believe that move would be disastrous for the textile industry.

The industry had understood that textiles and apparel were not going to be included in the Tokyo Round of negotiations on tariffs involving 11 countries. Now the administration has said that textiles and apparel will be included in those negotiations. Again, I repeat, lowering tariffs would be disastrous for the textile industry.

Low-cost, low-wage foreign producers should not be permitted to jeopardize American jobs. Our first priority, as I said earlier, is domestic jobs—jobs for our workers.

I commend my colleagues, Mr. MANN and Mr. FISH, for requesting this special order today to bring to the attention of the Congress the increasing problems of the textile industry and the responsibility of Congress to address these problems immediately.

Mr. MANN. Mr. Speaker, I thank the gentlewoman from Massachusetts (Mrs. HECKLER) for her contribution.

Mrs. CHISHOLM. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentlewoman from New York.

Mrs. CHISHOLM. Mr. Speaker, there is a human dimension bearing on textile and apparel imports that should not get lost in the welter of statistics, studies, rules and regulations that invariably play so important a role in any high level negotiations among governments. I refer to the very unique character of the people who make up the work force in the textile and apparel trades.

They are the people who can least afford added adversity because, in most cases, their lives have been one long woeful tale of adversity. They are the most vulnerable populations in our Nation.

Who are they? Overwhelmingly women and minorities.

For ages, women have come to these industries because, in their origins, they were cottage industries where the work was done at home. Although, these industries have changed their methods of production over the years, they still retain something of the character of the old time cottage industry.

Pushing a needle or weaving the fabric has, in many cultures, been women's work. Whether it should have been is a question for discussion. But there is little doubt that this has been the traditional way.

Today, about 80 percent of the employees in the apparel trades are female. In textiles, women compose about half the work force.

The girls, the married women, and the elderly females who work in these mills and factories do not do so to earn pin money, to gain a few extra pennies for some piece of finery. They work because they have to. Some do so as supplementary earners, but a very high percentage are the main support of their families.

It is not tradition alone that brings them to these trades. Many girls learn to run a sewing machine at an early age in their homes. When they have to go out to work, this is a skill at hand. It is also a skill that is easily learned.

Other girls learn to run the machines in a trade school. Upon graduation they are ready to go into the factory to apply and adapt their skills to the needs of mass production.

Women are also recruited to this industry because they are available at lower

pay. Because both textile and apparel production—especially in the latter case—is labor intensive, the producers are continually on the look out for cheap labor. When men leave these trades because they are able to command higher wages elsewhere, invariably they are replaced by women.

These women do not have the mobility enjoyed by most men. Many of them have children who need their attention; homes they must clean and meals they must cook for the family. They have a double responsibility: one on the job and the other at home. If the job disappears, the worker cannot disappear that easily because she still has that other job with her family.

Some of the factors that draw women into these industries also draw minorities into the same mills and factories. Typically, a migrant or immigrant generation of women toil for years to scrape together the few pennies to see their children through school. Their hope—that their children will know a better life—is often realized. The result is that the second generation does not stay on in the parental profession of tending a loom or running a sewing machine. The children move on to skilled trades, to capital intensive manufacture with its higher wage level, to government jobs, to the professions, to managerial posts.

The vacuum, however, is soon filled by the newcomers—from new countries or continents, from Appalachia, from southern plantations, from the Mexican border, Puerto Rico, Cuba. As one minority leaves, another minority enters.

To generations of minorities, these trades have been the first rung on the economic ladder. It has been the first hopeful step in an upward climb.

For these vulnerable minorities—to the women who must work, to the minorities who want hope—the textile and apparel trades are not expendable. When they lose their jobs they lose more than income; they lose hope. To them discharge means despair.

When we speak of these people we are not talking about some speck on the economic landscape. The textile and apparel trades employ more than 2,300,000 workers. Actually, there would be at least another quarter million of these people—among the Nation's most needy—employed if imports had not been chewing away an even bigger portion of our American market.

Regrettably, there is easy talk about the need for us to give up these jobs so that workers in the poor lands of the earth shall have a chance for gainful employment. Usually this is put in terms of affluent Americans making sacrifices for the indigent Third World.

In reality, however, it is not affluent America that makes the sacrifice when a job is wiped out in a textile mill or in an apparel shop. It is the nonaffluent American who is sacrificed.

We dare not indulge in an impossible policy where we pit the people of the Third World against the people in our own Third World. And we do have our own Third World composed of racial and ethnic minorities who even look like and feel like the people of the other Third World.

We can and should develop policies that will allow us to live while we allow others to live. In an expanding American economy, there is room for both expanding domestic as well as foreign production.

We have the instruments for arriving at such balanced agreements. The means for doing so is the multifiber arrangement recently negotiated in Geneva as well as actions that can be taken in accordance with its provisions.

These agreements, of course, are far from perfect. That is why we cannot afford to cut tariffs on textiles and apparel. These items must be excepted in the course of the forthcoming negotiations in Geneva.

But certainly, whatever chips we use in the game of trade, we must not indulge in the dangerous ploy of throwing away chips that are marked "women" or "minorities". To do so is merely to add injury to injury and this is not the aim of our society. We must protect their jobs. Hence, the need for agreements to regulate trade in textiles and apparel, and there is a need to leave the existing tariff structure alone.

Mr. MANN. Mr. Speaker, I thank the gentlewoman from New York (Mrs. CHISHOLM) for her remarks.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I thank my distinguished colleague, the gentleman from South Carolina (Mr. MANN), for yielding.

Mr. Speaker, it is a long, long way from Geneva, Switzerland, to Egg Harbor, N.J. But I trust that our country's representatives who recently negotiated the renewal of the Multifiber Agreement at Geneva were aware of the impact of their activities on towns all over the United States like Egg Harbor. I say "towns like Egg Harbor," because for lots of people in Egg Harbor itself it is already too late.

Egg Harbor is a very small community. The Lisa Manufacturing Co., a garment firm, was one of its few employers. It employed 65 workers—not a large number by big city standards—but in a town the size of Egg Harbor it was one of the mainstays of the local economy. In January of this year the Lisa Manufacturing Co., closed its doors and went out of business—because it could no longer meet the challenge of cheap imports produced by workers in far-off countries who earned 30 and 40 cents an hour.

The loss of these 65 jobs has had a major, devastating effect on the economy of Egg Harbor. And a dozen miles up the road, in Hammonton, N.J., the situation was repeated when the Aggressive Coat Co., employer of some 90 workers, ended operations at about the same time. And in town after town from one end of the country to the other come similar stories—stories of small and medium sized establishments, frequently the mainstay of a community's economy, closing down under the relentless pressure of low-wage foreign competition, leaving economic disaster and human misery in their wake.

The stories of the Egg Harbors and the Hammontons of America, small though the number of workers in each individual case may appear to be, add up. In my own State of New Jersey alone, for example, fully one-quarter of the jobs in the apparel industry have been lost during the last 10 years—and they have been lost very largely as a direct result of the import problem. In 1966, more than 80,000 New Jersey workers were employed in that industry. But by last year the number had shrunk to 60,000—and is still declining.

Job losses of this magnitude constitute a major dislocation to the economy of the communities involved and the State as a whole; but for the individuals involved and for their families they often constitute an economic catastrophe—for large numbers of displaced workers—the majority of them women—are the sole or primary supporters of their families. And many do not have—and find it very difficult to acquire—the skills needed to obtain other types of employment. For them, the availability or lack of availability of work in the apparel or textile industries represents the difference not between one job and another job, but the difference between making a living and living in poverty—between being a wage-earner or becoming a public charge.

So I hope that our negotiators dealing with the problems of tariffs on apparel and textiles keep the Egg Harbors and the Hammontons of America in mind. This is a human aspect of the problem—an aspect which cannot be measured by statistics.

The economic health of the towns and the cities of America is not expendable. That is why no cuts in tariffs should be made on any article of textiles or apparel. The existing regulation of imports is far too inadequate to supply proper safeguards to preserve jobs and work opportunities even though they are decidedly a step in the right direction. But very decidedly they must be supplemented by adequate tariffs. This is essential.

Mr. MANN. Mr. Speaker, I thank the gentleman very much for his remarks.

Mr. DUNCAN of Tennesse. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am most pleased to join with my colleagues here today in support of efforts to control the increasing imports of textile products into this country.

The fiber, textile, and apparel industry is a vital one for the entire United States, but perhaps even more important for the district which I am privileged to represent. In my district alone, there are 57 apparel manufacturing plants with more

than 14,000 employees. In the entire State of Tennessee, there are 128,000 jobs provided by this industry: 73,400 in apparel manufacturing, 32,600 in textile manufacturing and 22,000 in the production of manmade fibers.

These jobs, which are so vital to the economy of my district and my State, are threatened by the increasing volume of imports of fibers, textiles, and apparel into this country. These imports have grown so steadily that more than one out of five garments purchased in this country last year were either made abroad or were made of imported fiber or fabric. Imports have mounted so fast that they already have displaced the jobs of more than 350,000 American workers.

One must point out that American workers are particularly vulnerable to imports, because of the huge difference between wages in the United States and wages in other countries which are the principal supporters of these imports. The average hourly wage in the American textile and apparel industry is over $3.50 an hour. In Hong Kong, Korea, and Taiwan, the most significant sources of imports, the hourly wages are 74 cents, 38 cents, and 42 cents, respectively.

Mr. Speaker, I believe it is incumbent upon this Government to take steps to preserve orderly world trade in textile products and to preserve the jobs of the 2.5 million Americans who work in the fiber-textile-apparel industry.

The Multifiber Arrangement (MFA), under which bilateral textile product restraint agreements are negotiated, is up for renewal at the end of the year. While it has not been nearly as effective as most would wish, I do hope that it is renewed, because it does provide an import framework under which individual quota agreements are concluded with the major exporting nations.

One would hope, also, that the administration would insist during negotiations with individual countries that imports, particularly in highly impacted areas, be limited so as not to further endanger American industry and employment.

The MFA and the bilateral agreements are important, but perhaps of even greater importance is the maintenance of current American tariffs on fiber, fabric, and apparel. Even with our current duties and with the MFA, imports have continued to rise. Without either one of them, the rate of imports will, without a doubt, increase.

For this reason, I urge the administration not to bargain away these vital textile product duties during the multilateral trade negotiations now underway in Geneva. There is no compensation our negotiators could bring home from Geneva which would make up for the loss of this vital American industry.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman from South Carolina for yielding to me, and I am delighted that he has invited the Members to be present so as to have a chance to take part in his most important special order tonight.

Mr. Speaker, I might point out that I come from a district that has 42 percent Spanish surname people. I come from a district that is sort of a port of entry into this country for a large number of people who come here seeking a livelihood. They are not always highly skilled, but they can fit into the textile and garment making industries and into the apparel industries. That this opportunity for them exists I believe is a wonderful thing and I believe it is in the best traditions of America. I believe it ought to be encouraged. These people are out working, they are earning a living, they are not out raking leaves, they are not taking part in make-work jobs. They are making a product that is important and essential to everyone of us each day of our lives. It is productive work, it is decent work and it is meaningful work. It is work by means of which they can take that first step on the escalator that will bring them into our society as an important part of our Nation and an important part of our economy.

Again I want to thank the gentleman from South Carolina (Mr. MANN) for letting us participate in his special order today.

Mr. Speaker, the statistics are well known. Eighty-one percent of all apparel workers are women. Almost half the workers in textile mills are women.

The reasons for women being able to enter these jobs easier than most others result from the work structure of the apparel and textile plants. They provide some of the all-too-few opportunities for first-time entrants into the work force. Thus, when imports threaten to destroy these industries, the tragedy affects the entire movement for social equality, not just the particular individuals who are unemployed.

Where can a woman find a job after being out of the job market for 15 to 20 years, because she wanted to devote her efforts to raising her children? Where can the new divorcee find steady income when previously she was dependent upon her husband's income? Where even can a woman find a job such that she can work part time to handle the dual pressures of family and economic necessity.

The apparel industry fills these roles and provides these opportunities. For most women there are no other possibilities available to them. That is due in large measure to the fact that most of the tasks performed in an apparel plant fall into the semiskilled category. Inexperienced people can be trained on the job within a short period of time. Production in this industry is minutely subdivided so that anyone can learn a specific task.

In the case of sewing machine operators for example, the work is subdivided to such a degree that most operators may do no more than sew a single short-run seam on a garment. Once the elementary instruction in handling a sewing machine is given an inexperienced worker, the rest of the learning process consists of a progressive and relatively rapid acquisition of maximum operating speed.

Thus many women can earn a livelihood when, by necessity or choice, they want to quickly enter the job market. And these needs shall continue to exist even after skilled or professional jobs are totally freed from the sexual biases that currently remain.

The problems of working-class women are seldom addressed. But by fighting against imports we are keeping open what is in many localities the most available source of income for them.

When the Government negotiates bilateral agreements with growth rates for imports such that these imports take over an increasing portion of our markets, it is working women who will suffer. The justice of that escapes me. There can be no way to correct the inequities of greater unemployment for women than for men when the Government directly allows jobs to be destroyed en masse in the apparel and textile industries. Failure to recognize all the social consequences of the rising tide of imports can only mean more problems for the Government in the near future. We must protect the livelihood of American workers, and this most necessarily includes the women who earn their living in the apparel industry.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. MANN. I am happy to yield to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, people in the State of Georgia are concerned about the problems faced by the American apparel industry. Apparel is important to all Georgians, because almost 100,000 of us work in that industry. It is important to all other Georgians because the far-reaching effects of that employment and its $400 million annual payroll mean thousands more jobs and millions more payroll in related industries throughout the State. In my district alone the apparel industry employs 10,800 people and pays them about $60 million.

We are only one of 25 States in this country which have more than 10,000 apparel workers. Throughout this great land there are 1.4 million people employed in the apparel industry, and almost every State has one or more apparel plants.

These people who produce our clothes are special. Many of them were unskilled when they entered the industry; 80 percent of them are women; a large percentage of them come from minority groups; and a lot are bringing home second incomes which help substantially raise the family's standard of living.

Apparel workers have incomes which enable them to buy other goods in our economy. They are good community citizens, often active in the small towns where many of them live and work. They pay taxes, and in general are part of the mainstream of American life.

These are people who are not on the unemployment or welfare rolls. But they could be, if we in this country do not act to stem the rising tide of imported apparel.

We are at a crucial point in time for the apparel industry. The controls, which have been in effect for the last 4 years, to provide orderly markets in apparel and textiles are coming up

for renewal in a few months. The Multifiber Agreement must be renewed by this December or orderly markets will no longer be assured, and imports will most surely enter this country in much greater quantities than ever.

Although renewal is not yet assured, 16 countries representing 80 percent of the world trade in apparel and textiles have tentatively agreed to sign a protocol extending the Multifiber Agreement. Strong support of our Government will help to make this a reality.

An even greater potential threat to the American apparel industry is the possibility of tariff cuts. The current "Tokyo Round" of tariff negotiations going on in Geneva hold the potential of a 60-percent reduction in apparel tariffs. If these tariffs are reduced even slightly we will all suffer the consequences. Apparel imports will increase at an even faster rate than ever.

The present tariff structure is such that even with quantity controls on apparel imports, these imports are growing at least three times faster than market demand. A cut in tariffs will further aggravate this situation, allowing greater amounts of imports to come to our shores to displace American-made apparel.

American apparel producers cannot compete with low-wage countries, such as Korea which pays its apparel workers only 32 cents per hour. The average American apparel worker earned $3.39 per hour in 1976. Our workers enjoy a standard of living unknown to Korean workers, or to Taiwanese apparel workers who earn 41 cents per hour.

Apparel tariffs stand between employment and unemployment for thousands of apparel and textile and fiber workers in this country. Many others will also suffer if these tariffs are cut.

We all stand to lose if imports push Americans out of the apparel business. Unemployment will grow measurably, welfare rolls will increase, balance-of-payments deficits will go up, and the economy will go down. There is nothing to be gained by selling apparel tariff reduction for tariff cuts from another country.

It is the experience of American business that whenever tariffs are cut by almost all other countries, nontariff barriers are set up almost at once. They exclude our trade in ways we would not even consider.

We need American workers working. We need apparel produced in this country, both for its fine quality and for the economic contribution this great industry makes to America.

Textiles and apparel are the industrial life blood of Georgia and we can no longer, especially with today's high rate of unemployment, allow the import of foreign textile products to further retard and reduce our own domestic industry.

With textile imports representing nearly one-third of our total international trade deficit, it is inconceivable that we would entertain the idea of any tariff reductions in the upcoming Multilateral Trade Negotiations in Geneva.

In Georgia, the textile industry employs over 124,000 American citizens. The related apparel industry employs another 68,700 people. Together, they represent the largest industrial employer in the State.

The industry is even more vital to the State economy when you consider that textile plants number more than 166, and they are located in almost all of Georgia's counties. Many of the areas are rural, less-populated sections where no alternate employment is available.

In Georgia, textiles have served as an agent of employment for those who have no other source of work or those whose qualifications are limited.

The young, displaced farm workers, Vietnam veterans—all of these people through textile employment have good paying jobs. Their steady employment has allowed them improved stations in life.

The very nature of the industry also allows for steady advancement for those willing to work and learn. In today's highly technical world, few industries have the promotional opportunities textiles create.

Mr. Speaker, the loss of employment would be a very serious matter to any of those 124,000 American citizens working in Georgia's textile plants.

Loss of jobs also has grave implications for the overall community in which the plant is located, not to mention the effect it would have on the State and national economy.

It would represent loss in revenues for all governments at all levels.

Unemployment greatly affects community developments and improvements. In Georgia, textile companies have done their fair civic duties. Swimming pools, ball fields, museums, donations to finance additions to schools and churches have all been made possible by textile companies. The very quality of life of many Georgians has improved as a result of the textile industry.

I might add that one of the premier track and field events in the Nation—the Georgia olympics—held annually in Jefferson, Ga., is the brainchild of one of our Nation's most enlightened textile executives. Through the expenditure of his time, his effort, and his money this event attracts nationwide attention, as my friend, the gentleman from Illinois (Mr. METCALFE) will attest.

Textile imports have already climbed to an alarming level. Any reductions in tariffs can only encourage more imports into this country. Too much American industry has died at the hands of uncontrolled imports from foreign markets. We must act, and act decisively, to save the textile industry.

I am not advocating a protectionist position. I am merely suggesting that we regulate our trade, as all nations do, so that we maintain our domestic industry which employs so many Americans.

Mr. HOLLAND. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from South Carolina.

Mr. HOLLAND. I thank the gentleman for yielding.

Mr. Speaker, when you talk about textiles, you are talking about something I, like every South Carolinian, know something about.

In fact, you are talking about an industry that directly employs nearly half the entire working force of the State.

You are talking about an industry which employs over 213,000 South Carolina citizens who spin, weave, knit, and finish textiles. You are talking about thousands of additional jobs related to the support and maintenance of this industry.

You are talking about an annual payroll in excess of $1.1 billion a year.

You are also talking about a very important corporate citizen for the State and the Nation.

Last year alone, corporate income taxes paid by the South Carolina textile industry amounted to over $21 million.

An additional $3.7 million was paid by the industry in sales and use taxes.

Individual income tax paid by hourly textile workers accounted for $15.5 million.

It does not take a mathematician to see the overall contribution this industry makes to the maintenance of both State and Federal governments.

By the same token, it does not require an economist or historian to relate the adverse effects that imports flooding into the domestic marketplace have had, and continue to have, on this important industry.

In South Carolina, imports have real meaning. They mean unemployment, diminishing revenues, financial insecurity, and cloudy futures.

Mr. Speaker, the level of textile imports in this country is already at almost intolerable levels. We know that in the last 10 years imports have been responsible for the loss of hundreds of thousands of jobs in the American textile industry. The people of South Carolina and the entire textile industry simply cannot afford any reduction in tariffs which will, as history has shown, encourage, promote and generate still more and more imported textiles.

Mr. Speaker, international trade with all of its many concepts and theories is a very complicated issue. No doubt, it requires enlightened thinking and broad-minded approaches.

However, Mr. Speaker, one basic and easily understood premise of a democracy is that Government be responsive to the needs of the people.

Any reduction in import tariffs on textiles is not serving the needs of the people. Not the 213,000 textile workers in South Carolina, or any of the other millions who count on textiles day-after-day as a means to earn a living.

During the recent recess, like most of my colleagues, I spent considerable time talking with the people of my district. In those conversations, one subject concerned people of all ages and from all walks of life—our unemployment rate. People need jobs. People want to work. They want to contribute.

With all of the complex problems facing this Nation, I rejoice when we are able to resolve a problem effectively. The question concerning a lowering of textile tariffs is one such problem. It does offer an immediate solution. The solution, Mr. Speaker, is to retain present tariffs with no changes. This solution assures our people their jobs.

Mr. LOTT. Mr. Speaker, the American apparel industry plays a unique role in our economy. It employs large numbers of people who would otherwise be included in the high unemployment groups—minorities, women, unskilled workers.

The American apparel industry trains its newly employed workers, providing them with job skills they did not have. It costs the industry millions of dollars each year to provide this training, and it gives our economy trained people who take pride in their ability to earn a living and produce one of the necessities of life.

Now these people are being threatened as never before. Apparel imports are not new to our economy, but the volume of imports is new.

The multifiber agreement covering international trade in apparel and textiles creates an orderly market for this trade. However, it also provides a rapidly growing market in this country for imports, thus cutting back markets for domestic apparel producers.

Right now apparel imports are being allowed to grow at a pace three to four times the growth in demand for apparel. This means that imports take all the market growth plus some of the market already established by American apparel manufacturers.

All this is going on under the present tariff structure. If there is a change in this rate structure, imports are sure to increase at an even faster pace.

Imported sweaters now account for more than 50 percent of the total sweater market in this country. Men's and boys' woven dress and sport shirts are more than 40 percent imported. And many other examples could be cited to show large amounts of penetration into important American apparel markets.

The potential of a tariff cut of up to 60 percent exists at this time. The "Tokyo Round" of tariff negotiations going on in Geneva could result in just such a drastic move. We cannot allow this to happen.

The Multifiber Agreement is coming up for renewal in December, and the people of Mississippi support this renewal. Provision of orderly markets and some control of apparel imports is important to this vital industry. In connection with this, however, we need to maintain the present tariff rates to assure that the apparel industry of this country is able to remain strong.

Almost 5,000 people in the Fifth District of Mississippi rely on apparel directly to give them an income of $23 million a year. Thousands more of us get indirect support from these workers through the money they spend, the taxes they pay, and the contributions to community activities made by these people.

If even half of these people lost their jobs because of increasing imports of apparel, the welfare rolls and unemployment lines would grow, not just in length but in burden to our area.

What could happen in the Fifth District of Mississippi could happen in the Nation as a whole. With 1.4 million apparel workers contributing to our economy we can be assured of fine quality clothing and 1.4 million self-supporting citizens.

With even half of these people, 700,000, out of jobs because of imports, we would have a heavy burden to be borne by an already overburdened economy.

But it is not just the apparel industry which would suffer unemployment. Half of the value of the textile industry's output goes into apparel production. Much of the fiber industry's production goes into apparel fabrics. Distributors, shippers, packaging firms, and many others would experience significant decreases in demand if large numbers of apparel workers became unemployed.

We must support the apparel industry's stand on the tariff situation. We cannot ask our apparel workers to toil for 32 cents an hour as they do in Korea. American apparel workers earned an average of $3.39 per hour in 1976, and this makes price competition with imports impossible. Let us support the American apparel worker and the American way of life to which he is such an important contributor.

Mississippi

Employment in Mississippi—1974: Total private employment, 535,300.

Total manufacturing employment, 219,700.

Apparel, textiles, and fiber employment—1974: Apparel, 42,100.

Textiles, 7,200.

Manmade fibers, 0.

Total, 49,300.

Percent of total manufacturing: 22 percent.

Apparel industry in Mississippi in 1974: Largest single employer in manufacturing, employment, 42,100.

Percent of all manufacturing, 19.2 percent.

Total annual payroll, $202,900,000.

Number of apparel plants, 211.

Number with 100+ employees, 146.

Value of apparel production in Mississippi in 1974: Men's and boys' apparel, $438,800,000.

Women's, girls', children's and infants' apparel, $150,000,000.

All other apparel, $112,600,000.

Total apparel, $701,400,000.

1974 apparel employment in Mississippi by congressional district

District	Number of plants	Total employment
First	59	12,208
Second	56	10,112
Third	42	9,619
Fourth	28	5,234
Fifth	21	4,685
Total above	206	41,858
Not reported by county	5	283
Total State	211	42,141

United States

Employment in the United States—1974: Total private employment, 63,487,600.

Total manufacturing employment, 20,380,700.

Apparel, textiles, and fiber employment—1974: Apparel, 1,380,500.

Textiles, 975,200.

Manmade fibers, 100,300.

Total, 2,456,000.

Percent of total manufacturing, 12.1 percent.

Apparel industry in the United States in 1974: Employment, 1,380,000.

Percentage of all manufacturing, 6.8 percent.

Total annual payroll, $8,246,395,000.

Number of apparel plants, 23,034.

Number with 100+ employees, 3,494.

Value of apparel production in the United States in 1974 (wholesale value): Men's and boys' clothing, $9,924,000,000.

Women's outerwear, $9,333,100,000.

Women's and children's underwear and nightwear, $1,842,900,000.

Children's outerwear, $1,435,800,000.

Knit outerwear and underwear, $2,470,800,000.

Hosiery, $1,328,500,000.

All other apparel, $1,860,400,000.

Total Apparel, $28,195,500,000.

Mr. BURKE of Massachusetts. Mr. Speaker, it is no secret that our textile and apparel industry is threatened with extinction. Dramatic shifts in foreign penetration of the domestic textile and apparel industry have seriously reduced the American producer's share of our own market.

The textile/apparel industry employs over 2.3 million Americans, and it is the responsibility of this Government to see to it that the jobs of these workers are protected.

It is extremely important that we maintain existing tariffs on imported textiles and apparel. In fact, because of the following facts, the U.S. trade negotiators should be seeking to increase tariffs rather than to even consider reducing them. During the Kennedy round, the United States agreed to cut tariffs on textiles and apparel over a 5-year period. Yet, in the first year of these reductions, textile imports increased by 28 percent. By the end of the 5-year period, they had increased by 150 percent. So it is very clear, proposals to cut U.S. tariffs on textiles and apparel come at a time when imports increased 34 percent in 1976 alone.

Mr. Speaker, in my State, Massachusetts, the textile/apparel industry provides 73,700 jobs and an annual payroll of $652 million. I do not intend to stand quietly by and watch these jobs be further jeopardized.

Of particular concern to me is the knitted outerwear industry. This industry maintains four plant locations in the Commonwealth of Massachusetts. During the last few years the knitting industry has lost over 300 mills and the 1976 trade deficit was $2.59 billion, caused mainly from foreign imports. The knitting industry is a labor intensive industry employing an estimated 125,000 employees. The industry provides a greater proportion of jobs for female and minority workers than does American industry as a whole.

During 1976, the average wage rate of a U.S. knitwear worker was $3.56 per hour. Their Far East competition pay the following wage rates: Hong Kong, 78 cents per hour; Taiwan, 48 cents per hour; and South Korea, 39 cents per hour.

The knitted outerwear industry has suffered more than a 50-percent market penetration from foreign imports.

It is my hope that these astonishing facts can be impressed upon our U.S. trade negotiators.

It is quite clear from this data that a reasonable reduction of textile/apparel imports can only help our national economy, and protect most needed American jobs.

Mr. KETCHUM. Mr. Speaker, unemployment continues to be one of this Nation's most difficult problems. The latest figures show that, during the month of August, unemployment in this country rose to 7.1 percent.

Concern over this problem is continuing to be expressed, but mere expressions of concern are not enough. We must act—and act decisively—on this problem.

And that means protecting the existing jobs of our workers, and creating the climate for new jobs. We must not allow ourselves to be put in the position of exporting a significant part of our jobs market.

Yet that is exactly what we doing when we allow a flood of textile and apparel imports to come into this country and take over our markets.

Between 1969 and 1975, we saw 271,000 jobs in the textile and apparel industries lost to imports. And that is just an overall figure. Some segments of the industry were especially hard hit. The men's and boys' tailored clothing industry alone lost 40 percent of its total workforce because of the unfair competition from imports produced in countries where wages are low and where government regulations are practically nonexistent.

We need to take a close look at the textile and apparel industries in this country and recognize how important they are to our economic health. One out of every eight persons working in manufacturing plants in the United States is employed by these industries. Sixteen percent of the employees in U.S. textile and apparel plants are black, and 81 percent are women. In addition, there is not a State in this Union which does not have a textile plant, an apparel plant, or both. So the problem of textile and apparel imports should be of concern to all of us.

The Multifiber Arrangement and the bilateral agreements negotiated thereunder currently govern U.S. textile imports. The arrangement and the bilateral agreements were negotiated on the basis of the current U.S. tariffs on textiles. If the U.S. negotiators agree to any textile tariff reductions during the forthcoming Multilateral Trade Negotiation under GATT, this would destroy the effectiveness of the agreements and would further weaken the competitive position of the U.S. textile industry. Under the circumstances, I strongly recommend that the current level of textile tariffs be continued, and that our trade negotiators refuse to consider and reduction in our textile tariffs.

I think we all recognize the importance and the benfits of international trade. We want it to continue, and we are willing to share the growth in our domestic markets with the less developed countries.

But we must insist that international trade in textiles be orderly and equitable. We cannot afford to sacrifice the livelihood of thousands of Americans on the altar of unrestrained and totally unreasonable foreign competition. This is the message we need to get across to our trade negotiators.

Mr. MURTHA. Mr. Speaker, there can be no doubt Americans are becoming increasingly upset about the import of foreign materials—imports that too often are costing Americans jobs and growth within our economy.

That is why I am very pleased to participate in this discussion of trade policy for the Nation's apparel industry.

In 1961 only 7 garments were imported for every 100 made in the United States. Last year, 35 garments were brought in for every 100 produced in our own country. The result of this—a pattern repeated in steel, electronics, combs, and other industries—is the unemployment of thousands of workers, loss of investment in the U.S. economy, and a stagnation of American economic growth. Like other industries, if this import rise continues, it will surely lead to more men and women out of work, and more problems for our economy.

As a representative of the ILGWU recently wrote to me—

> Negotiating further duty cuts for apparel products would seriously aggravate an already dangerous situation. Even at existing rates, imported apparel enjoys a substantial competitive advantage over garments made in the United States, an advantage that has led to the devastating growth of the past. Most foreign made apparel does not compete in terms of unique design, superior quality or similar features. It competes primarily in terms of cost. The cost savings to distributors and retailers who rely on imports is enormous and in most cases the savings is not passed on to the consumers.

To follow up on that point, it must be noted apparel is a labor-intensive product, with from 25 to 35 percent of the wholesale cost of an American made garment represented by wages. Existing duties fail to inhibit shipments into the United States between 1961 and 1976 apparel imports, measured in terms of square yards of fabric used in their manufacture, rose by 722 percent.

The fact is our present apparel import policy does not adequately protect American industry and workers.

I am very hopeful the administration will insure no duty cuts will be negotiated for apparel items. If this is not done, I believe the American apparel worker will be further damaged.

As in other trade categories, we seek not to close our doors to imports, or put up barriers that will harm the world's economy. What we desire is a fair policy, that recognizes the needs of our own people, our own industries, and the need for growth within our own Nation.

That is the policy I urge. I would like to thank Congressman MANN for organizing this discussion, so we can impress on the Government and the Nation the very deep concern that many of us have in this important policy area.

Mr. BUTLER. Mr. Speaker, we in this country have a choice to make. We can choose to keep apparel workers productive and earning their wages and benefits. Or we can see to it that they swell the ranks of the unemployed who receive unemployment checks and welfare checks in order to survive.

We will make this choice by the way we react to the tariff negotiations which are starting soon in Geneva. There is the potential for apparel tariffs to be cut by as much as 60 percent in what is known as the Tokyo Round of multilateral trade negotiations. If we sit back and allow such drastic cuts in apparel tariffs, we will surely be making the choice for unemployment.

Last year the average hourly wage in the American apparel industry was $3.39. In Korea the average apparel worker earned 32 cents per hour, in Taiwan it was 41 cents, and in Hong Kong it was 69 cents. That is the basis for competition between domestically produced apparel and foreign-made apparel. We cannot ask our workers to take a wage cut and reduce their standard of living to a level experienced in these Far Eastern countries.

The American consumer is not benefiting from apparel imports. Retailers buy imports to sell in their stores because they can take significantly higher markups on imports, thereby making greater profits. The savings which might be realized by consumers simply do not occur.

The threat posed by tariff reductions on apparel imports is one of massive unemployment among apparel workers and among workers in related industries, particularly textiles and manmade fibers. These three industries—apparel, textiles and manmade fibers—employ 2.4 million workers in this country. Apparel alone accounts for almost 1.4 million workers.

In the Sixth District of Virginia there are 5,400 apparel workers. They too are threatened by increasing apparel imports. To a great extent they are people in rural areas where there are few opportunities for alternative employment. They have been trained by the apparel companies for whom they work, and generally have few other work-related skills.

When apparel workers are forced out of their jobs by increasing imports they very often have to join the ranks of the unemployed, taking unemployment and welfare checks instead of weekly wage checks. They change from productive, contributing workers to an economic drain on us all.

The magnitude of the problem in the apparel industry makes it particularly important for us to support the industry's stand against any tariff cuts. The potential increase in unemployment and consequent economic drain on the whole country is a threat which none of us wants realized. We as a nation cannot afford to grant tariff cuts on apparel in exchange for any of the minor diplomatic concessions we might receive. The cost to us is too high, both in dollar terms and in terms of wasted employment opportunities.

Virginia

Employment in Virginia—1974: Total private employment, 1,323,200.

Total manufacturing employment, 401,200.

Apparel, textiles and fiber employment—1974: Apparel, 36,200.

Textiles, 45,600.

Manmade fibers, 20,000.

Total, 101,800.

Percent of total manufacturing: 25 percent.

Apparel industry in Virginia in 1974: Second largest employer in manufacturing, employment, 36,200.

Percent of all manufacturing, 9.0 percent.

Total annual payroll, $188,000,000.

Number of apparel plants, 238.

Number with 100+ employees, 121.

Value of apparel production in Virginia in 1974: men's and boys' suits and coats, $68,300,000.

Men's and boys' shirts, trousers and work clothing, $17,100,000.

Women's outerwear and sportswear, $128,800,000.

Childrens' outerwear, $63,900,000.

All other apparel, $121,300,000.

Total apparel, $559,400,000.

1974 apparel employment in Virginia by congressional district

District	Number of plants	Total employment
First	11	1,360
Second	8	255
Third	23	3,198
Fourth	10	1,501
Fifth	39	6,632
Sixth	35	5,412
Seventh	30	6,704
Eighth	0	------
Ninth	53	10,096
Tenth	0	------
Total above	209	35,158
Not reported by county	29	1,053
Total State	238	36,211

United States

Employment in the United States—1974: Total private employment, 63,487,600.

Total manufacturing employment, 20,380,700.

Apparel, textiles and fiber employment—1974: Apparel, 1,380,500.

Textiles, 975,200.

Manmade fibers, 100,300.

Total, 2,456,000.

Percent of total manufacturing: 12.1 percent.

Apparel industry in the United States in 1974: Employment, 1,380,000.

Percent of all manufacturing, 6.8 percent.

Total annual payroll, $8,246,395,000.

Number of apparel plants, 23,034.

Number with 100 plus employees, 3,494.

Value of apparel production in the United States in 1974 (wholesale value): Men's and boys' clothing, $9,924,000,000.

Women's outerwear, $9,333,100,000.

Women's and children's underwear and nightwear $1,842,900,000.

Children's outerwear, $1,435,800,000.

Knit outerwear and underwear, $2,470,800,000.

Hosiery, $1,328,500,000.

All other apparel $1,860,400,000.

Total apparel, $28,195,500,000.

Mr. ANNUNZIO. Mr. Speaker, judging by the letters to our congressional offices and the statements by textile and apparel union officials, there is currently a swirl of controversy, not only about excessive and injurious imports, but also about the excessive profit markups by apparel importers. Through our reciprocal trade agreements program since 1934, we have been in the forefront of freer trade among our trading partners and the diminution and elimination of nontariff trade barriers not just among the industrial nation competitors, but also among the over 100 lesser developed nations. All in all, our granting of minimal tariffs is supposed to pay off in lower prices to our American consumers. Yet, in truth, this is not the case in our textile and apparel market. Consumers pay as much for cheaper produced foreign imports as for domestic goods. So the question arises: Why let foreign goods displace American production?

It seems to me that the time has come to speak out loudly and clearly about the penetration of our domestic clothing market by foreign imports, much to the detriment of our own workers and at great profit to the importers as opposed to the profits accruing to our domestic manufacturers.

In no uncertain terms I wish to add my voice to those who are advocating much stronger pressure to impose much stricter quotas on textile and apparel imports.

In July of this year, the Multifiber Arrangement (MFA) was renewed through 1981. Under this umbrella agreement, we undertake to negotiate bilateral import totals with 47 countries for textiles and apparel made of cottton, wool and manmade fibers in 135 categories. The MFA sets a ceiling of 6 percent on the annual rate of growth of these imports to the United States, but here is the rub: The annual rate of growth of our domestic textile production has been only 2.6 percent over the last several years. Why should foreigners be entitled to a growth rate twice as high as our domestic growth rate? This new accord assures foreigners an ever-increasing share of our domestic textile and apparel market.

I am talking of no small industry—total textile trade involved $31 billion last year: 2.2 million people are engaged in the clothing business. Are we in Congress going to stand by inactively while many of these workers, some in our own districts, lose their jobs because of ever-growing competitive imports? In my case, I say the answer is—"No."

Consider these facts. In 1976, our textile imports totaled $1.762 billion, our exports were $1.865 billion—result: A trade surplus in our favor of $103 million. But listen to the apparel story. In 1976, our apparel imports totaled $3.5 billion, our exports amounted to $400 million—result: A trade deficit against us comprising $3.1 billion. This total is 30 times as large as our textile export surplus. I think you would agree with me that something is seriously wrong here.

I am talking of imported sweaters, made of manmade fibers equaling our domestic production. I am talking of imported cotton blouses equaling our domestic production. I am talking of imported wool sweaters surpassing twice our domestic production. I am talking of imported men's wool suits comprising 30 percent of our domestic production. In this latter instance alone, employment in our men's wear industry has dropped from 295,000 in 1965 to 240,000 in 1976.

In our total apparel trade 1976 imports as a percentage of domestic consumption are as follows:

[In percent]

Cotton	19.2
Wool	22.5
Manmade fibers	6.8

Yet we are supposed to allow these percentages to grow year by year. At whose cost? I am told that our clothing unions estimate that around 150,000 jobs have been lost to imports over the last decade. No wonder our labor unions and American clothing firms feel that the 6 percent growth in imports is excessive—3 percent should be the utmost limit.

I am not alone when I say that this growth rate of 6 percent in imports is excessive. Mr. Brandis, the director of trade for the American Textile Manufacturer's Institute, is against the 6 percent growth rate. Mr. Meany of the AFL-CIO, Mr. Finley of the Clothing Workers' Union, and Mr. Charkin of the Garment Workers' Union have actually met with President Carter to discuss this excessive rate of imports. Yet the proponents of free trade still insist that if we cannot produce textiles for less, then we should trade for them and produce something else. And the administration says that it is in the interest of the United States to promote the trade of developing countries—such as Taiwan, South Korea, and Hong Kong. I must say that I am rather biased in favor of our own working people and our domestic industry.

I am concerned not only about the injurious effects of excessive imports but also the excessive profits derived from these imports. The American consumer is paying through the nose for these imports because of the high markup practices of textile and apparel importers. Our consumers are simply not getting any share of the cheaper imported goods. Few verifiable facts exist as to the markup practices of importers, so a definitive conclusion cannot be stated. However, based on congressional testimony by officials of the International Ladies Garment Workers Union, the AFL-CIO, the Amalgamated Clothing Workers, and others, we know that a 50-percent markup policy is the general practice, even though the costs of imported foreign textile goods may be 30 percent lower than comparable American goods. It is even more significant when a spokesman for the National Knitted Outerwear Association, representing 1,500 U.S. manufacturers, attests to the 50 percent markup policy as being seen "very often" when applied to imported goods.

It is also a fact that imported garments are styled so realistically to resemble American products that consumers simply cannot tell the difference. Nor are these marked as imports. They are mixed with domestically-produced items and the consumer pays the price.

Our House Ways and Means Committee plans to hold hearings on textile imports. At that time, I hope that importing apparel retailers will reveal their internal pricing data. Similarly, the International Trade Commission plans an extensive study coupled with hearings on the importation of textiles.

As I said in the beginning, I am for freer trade, but on a reciprocal basis and to mutual profit between nations. But not when the United States opens wide its doors to injurious imports at the expense of American workmen, American firms, and, above all, American consumers.

I insist that we do everything possible to protect the jobs of our people, to protect American companies, and to protect American consumers, and urge my colleagues to join together in the effort to stem the tide of the steadily rising textile/apparel trade deficit which is running well ahead of last year's deficit of $3 billion.

Mr. HILLIS. Mr. Speaker, I represent the Fifth Congressional District of Indiana, which includes most of Logansport, a small city of about 21,000 people located in the north-central part of the State. The H. W. Gossard Co., makers of girdles and brassieres, has a shop in Logansport. Not many years ago, this shop provided work for more than 200 people. Those 200 people and their dependents comprised a not insignificant portion of Logansport's consuming public. They spent their wages purchasing the products and services sold by the merchants of Logansport. They contributed a great deal to the economic well-being of the community.

The shop is still there today—still functioning. But it no longer employs 200 workers. By the latest count available to me, the work force in that plant is now down to 139. The massive flood of garment imports which has rolled over this country in the last several years has swept away the jobs of one-third of these workers, affecting not only the workers themselves and their families but the many others in Logansport who benefited directly and indirectly from their buying power—and, to a significant degree, the community as a whole.

But I have recently learned that Logansport is, in this regard, actually far more fortunate than several other communities. Not very long ago, this same firm had not just the one plant in Logansport, but four plants: two others in the State of Indiana and one up in the Upper Peninsula of Michigan. Taken together these 4 factories employed upward of 750 people.

Some time in 1975, the company was forced to terminate operations at its plant in Bicknell, Ind., where about 100 workers had been employed. At the end of 1976, the comoanys' facilities at Ishpeming, Mich., which had provided employment for about 250 workers, was closed down. And just last month, a third of this company's factories shut down, this one located at Sullivan plant. Thus, in a relatively brief period, a firm which had employed some 750 workers has had to reduce its work force down to less than 140. Five-sixths of the jobs provided by this employer—over 600 in all—have disappeared.

But the jobs have not, of course, really disappeared. The products which the company produced are still in demand in this country, but that demand is now being met by products turned out not by the workers of Indiana and Michigan, but by workers and employers in places like Philippines and Haiti and Mexico, places where many workers are paid rates that are less than one-quarter or one-fifth of our legal minimum wage—let alone our average wage.

I said a moment ago that Logansport, because its plant is still in operation, is actually somewhat more fortunate than communities like Bicknell and Ishpeming and Sullivan, where shops have had to be shut down. Similarly, my own State of Indiana, while hard hit, is also in a sense more fortunate than a number of other States where the effects of the tide of garment imports verge on the disastrous. Florida has seen its apparel employment drop by 20 percent in only 3 years. Massachusetts and New Jersey have lost a quarter of their apparel jobs in a decade. In the same period, Pennsylvania has lost some 46,000 apparel jobs. Connecticut has lost some 29 percent of its apparel employment. In Illinois, almost 37 percent of the apparel jobs disappeared within 11 years. And fully 40 percent of the apparel jobs of New York—some 115,000—have gone down the drain.

These are very important figures, Mr. Chairman, for they indicate that the penetration of imports in the apparel trades in the American market has caused and is continuing to cause very severe disruptions in the economy of many communities and many States all over this country. I would hope that those who represent us in negotiating agreements with foreign countries, and those who administer the whole program are aware of the extent of this penetration and of the havoc it is causing.

There are still 139 workers left at the Gossard plant in Logansport. They and the remaining workers and producers in these affected industries look to our representatives at Geneva for some assurance of protection against the fate which has already befallen so many of their fellow Americans.

We look to them to except textiles and apparel in the course of the current negotiations for duty reductions. These industries cannot take it. Their workers cannot take it. The United States cannot take it and witness a further loss of employment, so much needed in our country in this day and age.

Mr. BROYHILL. Mr. Speaker, I wish to congratulate and commend my colleague from South Carolina for taking the leadership in this problem that confronts a great part of this Nation. This is an important matter for my State, for many States in the Union and, in fact, for the entire Nation.

The gentleman from South Carolina has placed before this House details of a situation that cannot and must not be ignored. Every Member of this body, and every official of the executive branch who has any responsibility in the area of international trade policy, should take notice.

The dimensions of the total textile import problem are much too broad, and involve too much of the country's total economy to be swept aside with a few indifferent words.

When the interests of this significant industry are threatened by a condition in our economy and may be further jeopardized by international negotiations to which we as a Nation are a party, it is time for us in the House to pause and take inventory of the situation.

I do not wish to chronologically relate the developments which ultimately led to our present-day GATT multifiber arrangement, since most of you are familiar with that history.

However, I do wish to talk briefly in response to those who would propose to include textiles and apparel in the upcoming Tokyo round of multilateral trade negotiations. For them, I think some pertinent points need review.

The initial MFA, although not a perfect agreement by any means, did establish broad guidelines upon which orderly international textile trade could be conducted. More importantly, the MFA allowed for certain bilateral negotiations to be conducted and agreements reached with our textile trading partners.

During the tenure of the MFA, we have learned that our own domestic market could not achieve a growth rate comparable to the 6 percent allowable for imports. In fact, the domestic market grew at less than half that rate. The result, Mr. Speaker, was that foreign countries were able to unload vast amounts of textile products on our markets, which retarded even more the development of these markets.

Today, even with the MFA scheduled for signing and renewal in mid-December, the 6-percent growth provision remains intact. Our Nation's negotiators, however, have assured the industry that steps to alleviate the problem will be worked out in bilateral agreements which must be renewed prior to year's end.

To date, new textile bilaterals have been reached with Hong Kong and South Korea. On balance, I believe they are an improvement over our previous agreements with these governments, although they do not accomplish all that I would have wanted.

The MFA, Mr. Speaker, was negotiated, along with the Hong Kong and Korean bilaterals, under the current textile tariff schedule. If our administration's negotiators allow these tariffs to be reduced during the Tokyo round, such action would only serve to weaken, even cripple further, our only means of safeguarding the American Textile Industry. Tariff cuts during the multilateral trade negotiations could also open a Pandora's box in future bilateral trade negotiations.

It is evident, Mr. Speaker, that textiles must not be considered during the Tokyo round. The various segments of this industry are so commercially interdependent and unique in international trade matters that they require special consideration and treatment.

Mr. Speaker, it is imperative that a full and thorough account be taken of the trade impact of the GATT multifiber arrangement and the bilaterals under its

auspices. Any consideration toward reducing these tariffs will only cloud this matter and weaken the beneficial effects of these trade instruments.

I realize, Mr. Speaker, that when one calls for exempting specific sectors from general trade negotiations, he is inevitably faced with loud cries that such action inhibits free trade and smacks of protectionism. Nothing could be further from the truth.

The domestic textile market is the most internationally competitive industry in all of America. This industry is not suffering from import competition because of inefficiency or obsolescence. Quite the contrary. No textile industry in the world spends as much on equipment, modernization and research. No textile industry offers the consumer such an array of new and quality products at noninflationary prices.

All of this has been accomplished, Mr. Speaker, even when our textile employees are paid the highest wages of any textile manufacturing nation anywhere. And, when I say high, I am comparing our current average hourly wage of $4.03 to average wages of other countries who pay 30 or 40 or 60 cents an hour.

In my own State of North Carolina, where textiles employ over 269,000 workers, more than 1,365 plants are operating. They produce practically every conceivable product. They utilize nearly every known production method. Yet, no matter how modern, no matter how efficient, logic tells us that such an industry cannot, in the long run, survive such unequal competition as foreign imports present.

I fear even to consider for a moment what would happen if the annual textile payroll of North Carolina—some $2.3 billion—would disappear.

The consequences of lowering textile tariffs would be devastating. Such action would only invite a greater surge of imports.

The only proper action, Mr. Speaker, is to exempt the textile sector from the multilateral trade negotiations, and insure that present textile tariffs remain uncut.

Mr. NICHOLS. Mr. Speaker, the textile/apparel industry in Alabama is the single largest industrial employer in the State. Several large textile and apparel manufacturers have chosen Alabama as their headquarters, while many other manufacturers operate various plants throughout the State. Currently, more than 85 plants representing 40 corporations are operating textile/apparel plants in Alabama.

The annual payroll for the Alabama textile/apparel industry last year totaled $832 million. When you consider the amount of local, State, and National revenues this payroll generates, the value of Alabama's textile industry becomes even more significant.

I am told that the industry has not yet fully recovered from the 1975 recession which saw textile employment in the State drop by some 35,000 workers. Today, the combined textile/apparel industry employs more than 106,000 Alabama citizens. Of this total, more than 20 percent represent minorities. Women and minorities together account for 50 percent of the total work force.

Mr. Speaker, textile and apparel corporations in Alabama have an outstanding record of good citizenship in the communities in which they operate. The quality of life has been greatly improved by the many contributions to civic causes, recreational facilities, and education all made possible by Alabama's textile/apparel industry.

The industry in Alabama is diversified; it is involved in all phases of textile/apparel production. Plants in the State spin, weave, knit, and finish textile and apparel products for the home, for industrial use, and to meet recreational needs.

The industry also represents a major customer for many products and services provided by the State and Nation.

Alabama's cotton farmers, as well as many of the farmers from other States, see the industry as a vital consumer of their crops. Manmade fiber producers and suppliers of various dyestuffs and finishing chemicals consider the plants in Alabama as prime customers.

Mr. Speaker, I am proud of the contributions made by the textile and apparel industry to Alabama. On the other hand, I am equally concerned about its problems.

At this very moment, we have textile plants in Alabama operating at less than total capacity. Some plants in the State have not operated full workweeks since the 1975 recession.

This "short week" has broad and intense implications beyond the obvious fact that when plants operate at less than full capacity, the employment ranks shrink to accommodate that condition.

Furthermore, at less than full capacity, full benefits for capital outlays for machinery and plant equipment cannot be realized. Nor does such a production schedule allow for adequate business and profit to generate the needed capital to remain healthy and competitive.

As you may already know, the return on investment for textile manufacturing is well below the national average for all manufacturing.

At a time when companies are being required to expend vast sums of revenue to meet federally imposed standards of clean air, clean water, and other nonproductive costs, this return is increasingly inadequate. Operating at less than full capacity clearly hampers the need for generating adequate capital.

We have all seen the alarming figures of rising imports in the general apparel and textile sector. We all know, too, that our domestic industry is competing with low-wage countries which are not required to spend literally millions of dollars a year to meet environmental regulations, nor are they required to spend millions to assure and improve the health and safety of their employees.

Mr. Speaker, as imports increase, our industry in Alabama suffers.

Just recently, Chicopee Manufacturing Co. permanently closed a plant in Anniston. Another textile plant closed recently in Geneva, Ala. The reason: the plants could no longer produce the product at a cost that would allow for adequate capital outlays for needed modernization and new machinery.

The American textile/apparel industry operates some of the most modern, safe, and efficient plants in the world. If I may repeat myself, I am proud of the industry in Alabama. It is inconceivable to me that anyone could remain silent while this vital U.S. industry is eroded by cheap, imported products, manufactured by workers who are paid indecent wages and who work under sweatshop conditions.

Mr. Speaker, any reduction in tariffs on imported textiles and apparel can only place a heavier burden on our domestic market.

It will undoubtedly contribute to the decline of an industry in Alabama which for many years has fought a courageous, but unsuccessful, battle against an impractical foreign trade policy.

I, Mr. Speaker, wish to go on record as strongly opposing any textile tariff reductions during the Tokyo round. I further urge that textiles and apparel be exempted from consideration during the multilateral trade negotiations.

Mr. RINALDO. Mr. Speaker, I am pleased to have this opportunity to comment on the critical problem of textile imports and the adverse impact they have had on the U.S. garment industry. As a member of the Informal House Textile Committee and the Committee on Interstate and Foreign Commerce, I had the opportunity recently to visit certain nations in the Far East, including Taiwan and Hong Kong. This fact-finding mission was undertaken in view of the signficant rise in unemployment among U.S. textile and garment workers.

Over the last 10 years New York and New Jersey garment manufacturing plants alone have lost more than 100,000 jobs as a result of foreign imports and low-wage child labor competition from the Far East. The loss of jobs in this sector of the economy, which has traditionally served to attract unskilled women and minority workers into the job market, has resulted in a major decrease in tax revenues for cities like Newark and New York, and has contributed to the increase in unemployment and welfare costs.

The fact-finding mission also sought to learn whether opportunities exist in Hong Kong and Taiwan for American-made goods, particularly those of small manufacturers in the Northeast, where the loss of industrial jobs has been the principal reason for unemployment rates exceeding the national average.

The expansion of U.S. export trade with the Far East and other nations is of particular urgency in view of the anticipated $25 billion trade deficit that has been projected by the U.S. Department of the Treasury for the current year. Should this trend persist, it would further undermine the stability of the dollar, both at home and abroad. On the domestic front, it could lead to renewed double-digit inflation and increased unemployment.

In view of the expiration of 11 bilateral trade agreements at the end of 1977, it was a particularly opportune time to obtain on-the-spot appraisals of present difficulties in United States-Far Eastern commercial relations, and to seek the advice of businessmen and United States and foreign government representatives on the possible alternatives and improvements in the current trade agreements that are due to expire.

In the recent trade talks in Geneva on textiles and apparel, one of the unstated, but very real, problems is the sweat shop. The term has almost gone out of usage in the United States. But once it was fitting phrase for a life of toil that was inhuman. At the turn of the century, the sweat shop was the curse of the apparel trades. The quarters were crowded and disease ridden; the hours of work were long; the pay was low; the lighting bad; the air polluted. The product, of course, was cheap. But the price paid by those who worked in these sweat shops was their health and their lives.

For many generations America has sought to wipe out the sweat shop. The unions played their role. State governments passed sanitary codes and laws for protection against fire. Federal law eliminated child labor, established workmen's compensation, limited hours of work, set minimum wages.

After these many generations the American worker had reason to believe that the sweat shop was gone forever and that, in a more sane, sanitary, and civilized setting, he would no longer have to compete in the market against other producers who continued with sweat shop labor. But now, almost a century later, the sweat shop is back. It is located in other lands but its products are sold here—generally under the instigation, initiative, and institutional know-how of American companies.

During the visit to Taiwan, Representative NORMAN LENT and I inspected a textile factory in Panchaio and the Far East textile garment factory. In the course of our inspections, we witnessed girls as young as 14 years old working at physically exhausting labor at a pay scale of $78 a month. We were informed that children are recruited out of grade school and live in factory dormitories with only three holidays a year. These child labor practices were banished in the United States and other major industrial nations more than 100 years ago, but appear to be widespread in Taiwan.

As a result, Taiwan's exports of garments and textiles to the United States are increasing faster than some of its competitors in the Far East. The island is heavily dependent on the U.S. market, and competition from South Korea has stirred new interest in Taiwan to increase its share of the U.S. market.

Since Taiwan is the major remaining uncontrolled low wage supplier of textiles and apparel to the United States, it is imperative that the bilateral agreement between our countries be concluded expeditiously. Furthermore, I suggest that a U.S. policy of prompt negotiations of such bilaterals be made with any nation whose imports threaten or significantly impact on the U.S. market, and I urge that textile and apparel tariffs be exempted from the present round of multilateral trade negotiations.

I strongly support the multifiber agreement; it should be extended for 5 years with the present 6-percent quota growth factor reduced to a level no greater than domestic market growth. Further, I support a revision of those provisions of the multifiber agreement which permit carryovers of unused ceilings to the following year. This provision has permitted Taiwan manufacturers to borrow on ceilings from previous years and from other categories of goods. Moreover, I recommend that any new bilaterial agreements should prohibit quota increases in those categories of products that are already heavily impacted by imports; additionally the amended agreement should define such impact by total imports of a particular product from all countries. I further recommend that the agreement place bilateral limits on a year-to-year basis so that unused quotas would not result in an excessive increase in shipments, and that the provisions of bilateral agreements be monitored and enforced more effectively.

Protecting the jobs of 2½ million workers in the U.S. textile and apparel industry should be the cornerstone of our policy toward trade negotiations with Taiwan. Together, textile and apparel imports created an all-time high trade deficit of $31 billion in 1976, or one-third of the total U.S. trade deficit. The expiration of 11 bilateral trade agreements, including those with Hong Kong and Taiwan, offers an opportunity for a more realistic approach towards salvaging U.S. industries that are dangerously threatened by imports.

In Hong Kong, Representative LENT and I visited the Manhattan Garment Co., Ltd., and with company officials discussed United States-Hong Kong trade relations. During these discussions, I sought to learn their views on the export trade quota system, the relationship of quota brokers, and their views on changing the Multi-Fiber Agreement, as well as the expected impact of the recently concluded 5-year textile agreement that reduces the overall quota growth rate from 6 percent a year to only 1.5 percent next year.

The reduction in the growth rate in 1978 will, however, only be temporary. Under the terms negotiated, it will climb back to 6 percent during the next 4 years.

Even though there has been a 7-percent drop in exports in the first half of this year from Hong Kong, compared to the same period last year, the Hong Kong garment and textile industries are seeking to increase the value of each item and thus increase the actual value of their exports. This will mean more competition with high-fashion garments in the United States.

Hong Kong trade officials are strongly opposed to arguments from the United States and the European Economic Community to maintain the quota system as a means of protecting their own garment and textile industries from low-wage exports, such as Hong Kong.

The quota system has not by any means been adequately enforced. The administration of the quota system by the government in Hong Kong has led to charges of serious abuses. The carryover of quotas has led to the development of quota brokers who have made a fortune in buying and selling quotas. However, the Hong Kong government claims it has no list of these brokers, thus it is unable to police their activities.

American importers in Hong Kong argue that the United States should directly administer the present quota system. They claim the United States would more effectively police the quotas, collect the premiums paid, and avoid abuses in selling carryover quotas from one year to the next.

The major drawback to the United States in taking over the administration of the quota system is that it would be hard to police and would require an extensive bureaucracy.

The other option of abandoning the quota system would, on the other hand, insure a flood of imports and devastate the American textile industry which pays significantly higher wages than those in Hong Kong. This option is not acceptable under any circumstances since it would exacerbate unemployment in the garment and needle crafts in the United States.

In 1976 Hong Kong exported more than $3 billion worth of garments, with one-third shipped to the United States.

Hong Kong businessmen and economic planners are seeking a 7-percent growth rate this year.

Hong Kong experienced a phenomenal growth rate of 16 percent last year on the crest of a 43 percent annual increase in domestic export values. Expectations of a further increase would seriously threaten the viability of our own garment and textile production and sales.

Whether American and private investment in Hong Kong over current trade policies are in our best interests is open to question.

Hong Kong is our major link to mainland China, and is the source of future trade and improved relations with that country. But before the United States encourages more rapid investment and trade with Hong Kong, we should be concerned with whether Hong Kong has become a bastion for the exporting of American capital and jobs to the Far East to the detriment of U.S.-based industries and jobs.

I favor a congressional inquiry into U.S. commercial relations with Hong Kong in an effort to project the possible future course of U.S. trade policies; to learn the efficacy of the present quota system; to measure with more accuracy the outflow of U.S. capital and jobs to Hong Kong, and the effect that increased commerce through Hong Kong would have on our future diplomatic and commercial relations with Red China.

This on-the-spot visit with America's major trading partners in the Far East

has convinced me of the tremendous possibilities for a major expansion of U.S. trade there—provided that some trade barriers and redtape are removed by those governments. It also served to clarify some of the difficult obstacles that the United States faces in changing the 11 bilateral trade agreements expiring this year.

The discussions also serve to reveal how dependent Hong Kong and Taiwan have become on the U.S. market and the health of the U.S. economy. Serious disturbances in the U.S. economy have earthquake-like effects in the Far East.

The United States remains the epicenter of business and commerce in the Pacific, and our diplomatic relations with countries in the Far East rests principally on our trade policies.

The situation in Taiwan is, of course, related to our long-range diplomatic ambitions of establishing more normal and full-fledged relations with mainland China. Hong Kong serves as a proving ground for those relations since its economy is tied in, through a variety of commercial interests, with mainland China. We have no way of knowing at this point, however, whether that commerce with mainland China will substantially increase during the next decade. However, the prospects appear to be good barring any diplomatic or military tensions over the fate of Taiwan.

Finally, during the course of our conversations with representatives of foreign governments and businesses, we were frequently confronted with a challenge to the United States to compete more effectively in the Far Eastern market. The low wage scales in Taiwan and Hong Kong make this a one-sided challenge. Furthermore, the increased licensing of U.S. patents and designs with firms in Taiwan and Hong Kong, undercuts U.S. attempts to transport goods manufactured in the United States to those markets. However, some specialized U.S.-made goods, aside from those already manufactured in the Far East, offer some promise for increased exports of U.S. products.

I recommend that the U.S. Department of Commerce do more to familiarize small U.S. manufacturers with the potential demand in the Far East for their products, and that it actively encourage and assist these small American based businesses to engage in cooperative trade ventures in the Far East, either alone or in concert with other small businessmen interested in export sales to the Far East.

Mr. PREYER. Mr. Speaker, we all know that the most compelling justification for reasonable restraints on textile and apparel imports is the preservation of the more than 2 million jobs that those industries provide.

Not everyone is so familiar, however, with another important reason for import controls. That is the preservation of the interest of the American consumer.

Because some imported items of textiles and apparel are sometimes cheaper than American-made goods, it is often assumed that this is always true and always will be true.

History, however, teaches another lesson.

The fact is that the laws of economics apply as much to imported goods as domestic goods.

All prices tend to go as high as the market will bear. And foreign-made textile prices climbed steeply just a few years ago (1973–74) when there was great worldwide demand and the value of the American dollar was in decline. Manufacturers in other countries could get higher prices for their textiles in other countries than they could get here, so they shifted a large share of their exports to those other countries. If we had not had a strong textile/apparel industry which could take care of American demand, we would have had to bid up our prices in order to get the supplies we needed.

It has been estimated that apparel prices would have gone up about 5 percent, which translates into a total cost increase to American consumers of $3 billion in 1973 and even more in 1974.

Foreign suppliers price their exports low in order to acquire a share of our market. Once they get a dominant share they can raise their prices to whatever level the market will bear. And this share does not have to be as high as 50 percent or 70 percent. It can be as low as 30 percent. Today we see that about 25 percent of all garments sold in the United States were made abroad and many of those foreign-made garments cost as much or more than their domestic counterparts.

America is fortunate. We do not have the high rates of inflation that are plaguing some other countries. The prices of raw materials do not fluctuate as widely. Consequently, the production costs in our own textile and apparel industries do not jump around as much as they sometimes do in other countries. As a result, our prices do not swing as widely up or down.

If we allow reductions in tariffs and allow textile/apparel imports unrestrained entry to the United States, we give a blank check to foreign producers to set their prices at whatever level they wish, and to ship their goods to whatever nation will pay the highest price without any regard for American consumers.

Without a strong American textile and apparel industry, we will put ourselves completely at the mercy of foreign manufacturers who will ship us what they wish and charge us what they wish. We have already seen evidence that this could happen when markets in other countries became temporarily more attractive than here and as certain apparel products have achieved a major position in our market.

The American consumer profits most from the diversity and availability of American-made textiles and the reasonable and stable price structure that characterizes them.

Despite years of inflation, American textiles are still a bargain. The consumer price index for all items was 179.6 in April. Food stood at 190.9 and housing was 186.7, but apparel prices were at the relatively low level of 148.6 and textile home furnishings were only slightly higher.

We can keep textile and apparel prices stable and low in America if we keep our textile and apparel industries strong and free from unreasonable and unbridled foreign competition.

We have seen from past practices that any reduction in tariffs merely weakens the domestic market.

With the trade deficit running at nearly $3 billion in textiles, American textile trade policy is more than adequate to promote reciprocal trade.

Mr. FLYNT. Mr. Speaker, I join with my colleagues in expressing my deep concern about the adverse impact of increased textile and apparel imports into this country. It is my belief that greater protection is needed to insure the continued viability of the U.S. textile and apparel industry.

In order to provide relief and afford adequate protection for our domestic industries, I urge the renewal of the multifiber arrangement (MFA) and the renewal of those bilateral agreements which expire at the end of this year.

Additionally, we must insist that our Government refrain from any reductions of the existing tariff levels on textiles and apparel during the multilateral trade negotiations.

Mr. Speaker, unless these measures are taken to provide adequate protection, I fear that the textile and apparel industry will suffer the same fate as the American shoe industry and other industries severely damaged by excessive imports.

Mr. McDADE. Mr. Speaker, the issue of foreign import penetration in the textile and apparel industries is of critical importance to workers and employers throughout my congressional district.

Clearly American markets have suffered substantial invasion by imported textile and apparel goods. The comparative growth rate between the market for domestic goods and imported goods has long been a subject of controversy. For example, during the last 10 years, textile imports have grown a total of 71 percent while the U.S. market grew only 28 percent overall. It is estimated that the increase in textile and apparel imports has cost American workers 100,000 jobs between 1966 and 1976—49,000 in my State of Pennsylvania alone. In fact, my State and district suffer more from imports than almost any other area of the Nation.

As a member of the Steering Committee of the Informal House Textile Committee, I have been deeply involved in the attempt to persuade the administration to adopt strict controls on imports. Indeed 230 of my colleagues have joined in calling for a limit to textile/apparel imports. However, to date, the administration has not been successful in significantly improving the trade rules. While it is true that the negotiations on the multifiber agreement (MFA) are essentially completed, resulting in a more flexible agreement, and that the Hong Kong and Korean Bilateral Agreements are an improvement on past history, still

growth rates of imports remain substantially in excess of our domestic market. Clearly this is not the improvement we had hoped for.

Now, added to an already unhappy situation is the prospect of a tightly scheduled round of tariff cuts. We know that the negative impact of reducing tariffs in the predicted 25 to 60 percent range would be disastrous. Tariff cuts have always meant increased imports. To include textile and apparel items in this tariff cutting round denies any progress made to date in the MFA and Bilateral Agreements. These tariff cuts will benefit all the nations who trade with the United States, not just those bound by the MFA or bilateral agreements. Our industries would be left virtually unprotected.

The situation demands an industry-wide exclusion for textile/apparel products—nothing less. Item by item justifications for exclusions are not sufficient. If the administration wants justifications, it can look at my congressional district. Our unemployment rate is at an acceptable level—in excess of 9 percent. We will lose hundreds of jobs if an exclusion and a policy of overall protection is not adopted. Frankly, with the U.S. average wage in the textile/apparel industry at $4.13 per hour, we cannot hope to compete with Korean wages of 40 cents per hour, or Hong Kong wages of 80 cents per hour or lesser Latin American wage rates. We should not have to. This Nation has made some basic decisions about its values: we value a decent wage for working people, a clean environment, the health and safety of our workers, education instead of exploitation of our children—we have expressed these goals in countless pieces of legislation, but they all cost. However, when it comes to standing firm on these goals by protecting our domestic industry from goods produced by nations which observe none of these values, we find the administration unwilling to act.

I submit the Congress cannot and will not yield on this issue and it is time our trade negotiators got that message.

Mr. MARTIN. Mr. Speaker, I join my colleagues today in what amounts to a plea on behalf of the textile and apparel workers of America and the industries of which they are the essential ingredient.

These two industries, alone, employ more than 2,400,000 people. Most of them have families. We should not dismiss lightly the fate of that many people. To put it bluntly, that is enough people to have turned around all but two of the Presidential elections we have had since World War II. Yet, the administration has proposed to include textile and apparel among the items negotiable in the upcoming "Tokyo Round" of tariff negotiations to be held in Geneva. My State had about one in six of those jobs and, to be quite frank, I do not consider these people's jobs negotiable. And, I doubt those 375,000 people concur in being put on some Swiss auction block.

The auctioning at Geneva of our textile and apparel industries could result in reductions of up to 60 percent in tariffs on these goods. Those who know me know I am no diehard protectionist. I certainly wish the textile and apparel exporting nations no ill; on the contrary, I see their balanced and orderly growth as essential to a peaceful world order. But, our economic well-being is our first concern. It is in our interest that our trading partners prosper since partners are also customers and we prefer customers with enough to cover their checks. There is absolutely nothing wrong with the textile and apparel exporting countries sharing in the growth of American consumption of textiles and apparel. But, there is the problem: they have overshared with imports growing at three or four times the rate of growth in consumption.

The plain fact is that the growth of textile and apparel imports has not been orderly, has not been fair, and has not been just to American workers. A couple of hundred thousand Americans have lost their jobs because of these imports. That is not at all surprising when you consider differing wage costs: 32 cents in Korea, 41 cents in the Republic of China, 69 cents in Hong Kong, and $3.39 here. Now, $3.39 is not a high wage. But, it is better than unemployment, and a lot better over the long haul.

It is time—and this sounds like a broken record—to call a halt to the galloping growth rate of textile and apparel imports. There is a limit to how much import-provoked deterioration my area's textile-based economy can take, and we reached it some time ago.

Textile jobs and apparel jobs are not glamorous jobs. They are not high-paying jobs. But they are the jobs that keep hundreds of small towns alive. The bulk of the workforce in these jobs is made up of women and minorities; 80 percent are, in fact, women. Most of them are the second wage earners in an intact family.

The loss of these jobs that comes about as imports rise relative to consumption has a ripple effect, one that is felt in my district as much as in any. To the extent these jobs are a household's major income source, the impact is obvious. To the extent those jobs are lost in the smaller towns in neighboring districts, my more urban district loses retail sales and gains unskilled, unemployed job-seekers. To the extent these jobs are lost by second wage earners in a family, we lose new car sales, furniture and appliance sales, and housing starts. My district also loses textile machinery sales. As a commercial center, we lose bank deposits, mortgages, and consumer loans. To the extent the newly unemployed become rootless, we and other larger population centers—including Washington—gain welfare clients. Tax impacts are obvious, both in terms of income taxes lost to the Treasury, as well as costs of welfare and unemployment imposed on Federal and State taxpayers and, significantly, property taxpayers in major metropolitan areas to which former workers migrate.

Mr. Speaker, textile and apparel workers are a hard-working group, and a very independent group. Concentrated in smaller towns, and imbued with the work ethic, they are not willing candidates for the dole. But, if the present import situation worsens—as it will if this industry goes on the block in Geneva—we will have to confront economic, social, and political—not to mention emotional—traumas that will scar vast areas for a generation.

Mrs. LLOYD of Tennessee. Mr. Speaker, 20 years ago the wardrobe of the average American male and female was predominantly American made. Unfortunately, this is no longer the case. In 1956, for every 100 garments made here, 4 garments sold here were made abroad. By 1961, the proportion was 6 out of every 100. Then came the startling developments.

By 1971, 25 garments for every 100 made in this country were made abroad, and now the figure is 35 out of every 100.

The noted economist, Prof. John Dunlop of Harvard, predicts that at current growth rates, import penetration in the men's and boys' clothing industry will reach or exceed 50 percent by 1987.

The economic well being of our Nation is dependent on the well-being of our industries and of their employees. That well-being is now in dire jeopardy because of the threats from low-wage imports to the major industry in our community—textile/apparel manufacturing—and to its thousands of workers.

That means that all of us are in jeopardy. For as the flood of imports into the United States from low-wage countries goes on unabated, threatening further closing of textile and apparel plants and the consequent heavy loss of more jobs, the whole economy of our country is threatened.

A chain reaction of disaster looms: Business suffers, there are more jobless added to the already high unemployment rolls, more people go on welfare, community services are cut and taxes rise.

We must stop this chain reaction at the source.

With some 2 million jobs, the textile/apparel industry is the largest employer of labor in U.S. manufacturing. Hundreds of thousands of jobs in the industry have already been lost because of low-wage imports. Many cities and communities across the country have felt the effects of this economic disaster.

Some observers have advocated increased use of Government adjustment assistance programs to help workers adversely affected by the flood of imports. Adjustment assistance is a program designed for special instances and can only be used on a very selective basis. If it were to be used merely to help the hard-hit textile and apparel industry, it would cost the taxpayers of this country billions of dollars each year. It is certainly not the answer to a major import problem.

The fight against the flood of low-wage imports has long been led in the textile/apparel industries by the Amalgamated Clothing and Textile Workers Union and the International Ladies Garment Workers' Union. These great American trade unions have no desire to cut off international trade; they have sincerely cooperated with the U.S. Gov-

ernment to work out agreements with low-wage nations that would control imports on an orderly basis. Such an agreement has been worked out under the provisions of the multifiber textile arrangement.

I urge President Carter to direct our trade negotiators to concentrate on getting better agreements covering textile and apparel imports with foreign countries and to limit the permissible annual growth rate of apparel and textile imports. I also urge that uncontrolled textile and apparel imports be placed under control when such imports rise sharply and substantially, and that no reductions of any kind in the tariffs on textiles and apparel be negotiated in the course of the forthcoming discussions in Geneva.

This is a must. To do otherwise is to injure thousands of workers still eking out their living in the production of textiles and apparel in the United States. To cut duties is to place more people on public assistance. This cannot be our national goal.

Mr. DERRICK. Mr. Speaker, I get the feeling that we are 10 years behind in our international trade agreements.

Now we are talking about the possibility of cutting the U.S. tariffs on textiles and apparel—despite the fact that imports of these items increased 34 percent in 1976 alone and the tariffs are clearly no barrier to a growing influx of textile imports.

At the Kennedy Round we agreed to reduce our textile/apparel tariffs over a 5-year period. These cuts amounted to 20.8 percent for cotton goods and 14.8 percent for manmade fiber goods.

Perhaps it should have been foreseen that imports of all fibers began to climb shortly thereafter, rising from 2.5 billion square yards in 1967 to 5 billion square yards in 1976. In terms of dollars, imports of textile manufacturers jumped from 1 billion in 1967 to 4.4 billion in 1976.

Obviously, one must conclude that existing tariff levels do not limit access to the U.S. market.

During the 10 years since the reduction of the Kennedy round, we have witnessed a continuing deterioration in our textile balance of trade. Indeed, 1957 was the last year in which we enjoyed a favorable balance.

In 1967 the deficit was relatively small, only $801 million. By 1976 the deficit had climbed—if climbed is the right word—to $2.7 billion. This is almost one-third of the total U.S. trade deficit.

Despite the abundant evidence of increasing textile imports and the growing deficit in our balance of trade, we fear that in the multilateral trade negotiations—the Tokyo Round—textile tariffs will be thrown on the table as a bargaining chip along with a host of other industries. Other nations will seek reductions in textile tariffs in payment for concessions that we want.

Textiles and apparel should be clearly and cleanly exempted from the Tokyo Round.

The present multifiber arrangement, an international agreement subscribed to by 50 nations governing world trade in textiles, is conceptually sound and has played an important role in keeping imports from rising to levels they might otherwise have reached. The MFA was negotiated under our present tariff structure.

Thus, an adaquate structure of customs duties is essential to support the MFA. Even present duties are insufficient to achieve that result. As more and more of the developing nations build production capacity in textiles beyond their own needs, it is inevitable that the imports problem will become ever more critical.

It would be a mistake to trade off textiles in the Tokyo Round negotiations in exchange for some hoped-for concession by another nation in another industry.

The United States should agree to no textile tariff reductions. Tariffs are already inadequate and there is no good reason why the United States should deprive itself of even this small revenue from customs. Further, and most important, we need to retain textile tariffs as a barrier, even though imperfect, against the kind of unrestrained imports which threaten to engulf our domestic industries and add more jobless to the 350,000 workers who have already been displaced.

Mr. VOLKMER. Mr. Speaker, I rise to discuss the serious problem that exists in the field of employment of production workers in apparel and other textile products. In the last several years, despite the existence of various international and bilateral agreements with foreign countries, we have witnessed a steady erosion in the number of textile and apparel jobs in this country. The number of workers producing these important products has diminished steadily. The opportunities for many workers who would have loved to have a job in textile mills and apparel plants have been seriously curtailed.

I do not propose to add to the figures that have been mentioned by other Members who spoke before me. I want to address your attention to the human aspects of the problem.

Just think of the wage earner who loses a job in a community where a textile mill or an apparel plant provides the main source for earning a livelihood. The family roots are in the particular community. That is where the family friends and relatives reside. That is where all members of the family have gone to school. That is where they feel they belong.

But when jobs disappear, it affects the family and its well-being. More than that, it also affects the well-being of the community. Some people, of course, would argue that the community should be helped to get back on its feet, and of course it should. But while such aid is under consideration, the bare fact remains. People in the community are jobless.

This is what has been happening in the apparel industry producing clothes from knit and woven materials. The human tragedy for the families of the workers who lost their jobs because of increased import penetration cannot be remedied by paying them some minute sums of money on top of unemployment insurance, in the form of adjustment assistance. That such additional payments are needed is unquestionable. But these payments do not solve the problem of worker displacement. They do not solve the problem of communities who lose their textile mills and apparel plants because these were killed by imports.

The problem is real. It does receive recognition from the Federal Government, and did so for many years past under both Democratic and Republican administrations. An effort was made to cope with the problem by means of international and bilateral agreements designed to contain import growth. But that is all they do—they contain import growth. They do not eliminate it. And what happens in fact, due to imperfection of these documents and because we do not have agreements with all countries that ship textiles and apparel to our shores, imports keep increasing far beyond the amounts contemplated in these agreements.

Clearly, the network of such agreements needs to be shored up, strengthened and expanded. But at the same time, we must make sure that nothing is done to tamper with our existing duty structure. Clearly, the level of our tariffs did not prevent massive inflow of imports to our shores. Were duties cut, a further rise in imports, far beyond whatever was attained up to now, would take place. We cannot permit this to happen. We cannot witness an increase in joblessness among textile and apparel workers.

I am sure that the administration will heed this advice and negotiate stronger bilateral agreements with foreign nations dealing with imports of textile and apparel and desist from tariff cutting in this field.

Mr. SISK. Mr. Speaker, when textile and apparel imports are allowed to come into the United States at unreasonable levels, they adversely affect the American consumer.

This is a point that is frequently overlooked.

There is a popular misconception that imported fabrics and apparel are lower priced than domestically produced goods. This may be true for some types of apparel, but not always. Surveys show that a higher markup is normally added on imported goods, so it is not always the consumer who benefits most from the low cost of production in low-wage countries.

But when you weigh the real cost of unrestrained imports to the American consumer—not what's on the price tag, but the real cost in terms of the unemployment created by imports . . . the real cost in terms of the tax revenues lost when imports wipe out jobs and industries in communities across the country—then you can see the adverse effect this has on the American consumer.

Moreover, if we allow American consumers to become totally dependent on foreign producers for essential fiber and apparel, we are putting them at the mercy of those same foreign producers when it comes to actual price and supply on down the road.

We must not allow this to happen. We must not pursue policies that, in effect, say our home industries are expendable and we are going to allow them to go under because these goods can be produced cheaper overseas. The idea is completely fallacious.

But if we do not stand firm in our trade negotiations, if we do not see to it that the growth in our domestic markets is shared and not completely turned over to imports, then this is what is going to happen.

Preliminary discussions are already taking place under the Tokyo round of the multilateral trade negotiations. In my opinion, during the Tokyo Round it would be a mistake for the United States to agree to grant tariff reductions on textiles because the multifiber arrangement and the bilateral agreements under this arrangement were negotiated on the basis of the current U.S. tariffs on textiles. Reducing the tariffs on textiles would undermine the multifiber arrangement and the bilateral agreements and would be unfair to the U.S. textile industry. Consequently, I strongly urge that the U.S. negotiators refuse to agree to any reductions in the current level of textile tariffs.

Mrs. HECKLER. Mr. Speaker, I rise to make additional comments about the seriousness of the problem of textile imports and their effect on domestic jobs.

Last month, when I held office hours in Fall River, a woman worker in one of our textile plants there took time off from her job to come into the office. Because we had so many constituents to see that day, she had to wait several hours. And when she got in to see me, she was in tears—because she fears for her job.

During the same visit, I toured a textile plant in the district. Men and women both came up to me to shake hands and tell me of their concerns. Their message was clear: These imports are driving our companies out of business. We cannot afford to lose our jobs. We are not trained to find jobs in other industries.

Although I believe in world trade and feel it is important for nations to find markets outside their own boundaries, I also believe that our first priority is jobs for Americans.

American textile and apparel plants have been forced to cut 150,000 jobs in the past 10 years. This industry provides about 2.3 million jobs, which accounts for 12 percent of all manufacturing jobs in the country. The continued loss of jobs in this industry will have a critical effect on our economy.

In my congressional district, thousands are employed in the textile industry. In the Fall River area 14,000 people are so employed. Of those, 1,000 jobs are provided by knitting companies. This is one of the most seriously affected units of the textile industry. Some 300 knitwear companies have gone out of business in the past few years, due to the importation of large amounts of knitwear products.

The critical situation in the knitwear industry can be illustrated by a few facts. Although knitted outerwear employment accounts for less than 10 percent of the total textile and apparel employment of the Nation, the balance of trade deficit in knitted outerwear accounted for about half of the total textile and apparel trade deficit in 1976.

These are the figures: Total U.S. textile and apparel trade deficit in 1976 was $2.6 billion; the total knitted outerwear trade deficit was $1.3 billion.

In that same year, the U.S. trade deficit with Korea, Hong Kong, and Taiwan—the countries that hurt our knitwear industry the most—was a staggering $3 billion. That figure is even more startling when we realize that our exports to Korea and Taiwan consist mostly of weapons which are sold at below cost and are subsidized by the American taxpayer.

There is another aspect to this loss of American jobs that I wish to emphasize. On the average 75 percent of the employees in the knit industry are minorities. Women comprise 90 percent of the total labor force in that industry. These individuals—like the people of my district—are not likely to be able to be retrained for other jobs and are not mobile enough to relocate to another State should their jobs be lost.

We must take action to reverse this trend toward loss of jobs in the textile industry. We are already taking some steps. My distinguished colleague, Mr. HOLLAND of South Carolina, is heading a task force on the operation and extension of the multifiber agreements, as part of the Ways and Means Committee.

I have also been pleased to cosponsor, with my friend Mr. LEDERER of Pennsylvania, a bill which would prohibit imports which have been assembled outside this country from carrying a label stating "Made in the U.S.A." just because parts of the garment were made here. This is a small step, but at least it informs our consumers that they are not buying American-made goods.

The question is: What is the administration doing? The new bilateral trade agreements are now being negotiated. The Hong Kong agreement, though it provided for a rollback of 6 percent in the quota for sweaters made of manmade fibers, it did nothing for those made of wool and most or our imports from Hong Kong are of wool.

In extending the multifiber agreements, we could suggest that the present 6 percent quota growth be reduced to a level no greater than domestic market growth, which grew only 3 percent in 1976. We could also urge that new bilateral agreements allow no quota growth in those categories of products already heavily impacted by imports.

But the multifiber agreements are not the only important considerations in approaching the problem. Maintaining existing tariffs on imported textiles and apparel is of primary importance. The multifiber agreements are not substitutes for tariffs, but are supplemental.

When, in the 1960's, the United States agreed to cut tariffs on textiles and apparel over a 5-year period, textile imports rose by 150 percent in that period. Now, there are suggestions that tariffs be reduced again. I believe that move would be disastrous for the textile industry.

The industry had understood that textiles and apparel were not going to be included in the Tokyo Round of negotiations on tariffs involving 11 countries. Now the administration has said that textiles and apparel will be included in those negotiations. Again, I repeat, lowering tariffs would be disastrous for the textile industry.

Low-cost, low-wage foreign producers should not be permitted to jeopardize American jobs. Our first priority, as I said earlier, is domestic jobs—jobs for our workers.

I commend my colleagues, Mr. MANN and Mr. FISH, for requesting this special order today to bring to the attention of the Congress the increasing problems of the textile industry and the responsibility of Congress to address these problems immediately.

Mr. BUCHANAN. Mr. Speaker, the growth of apparel imports is a threat to the U.S. economy. Apparel imports are detrimental to consumers because—

Imports are used by retailers as a source of higher-than-average markups, not passing any true savings on to the consumer.

Imports create unemployment among apparel workers and their suppliers in the textile, fiber, and other industries.

Growing apparel imports are a drain on our economy because they cost us in higher unemployment payments, more welfare payments, loss of training opportunities for minorities, women, and the unskilled, all of whom are hired and trained by this unique industry.

We here in Alabama have 48,900 apparel workers. Many of them are living in small towns and rural areas where their apparel jobs are the only source of outside income. These workers are paying taxes, supporting their local economies in a way that makes them an important part of their communities, not a drain on their neighbors.

Apparel is the largest manufacturing employer in the State of Alabama. But it is not just here that it is an important industry. In 25 States apparel workers number over 10,000. In almost every State in the union there are apparel plants, 23,000 throughout the Nation.

The threat to this industry is greater now than it has ever been. Right now in Geneva the Tokyo Round of tariff negotiations holds the potential of cutting apparel tariffs by as much as 60 percent.

The controls which are now in force regarding world trade of apparel and textiles has such a generous growth factor that our apparel imports are growing three times faster than apparel demand. If we cut tariffs we are just inviting imports to grow at an even faster pace.

The current tariff structure has allowed apparel imports to grow so rapidly that they have satisfied all the increased demand in our markets and have also taken over large portions of the market previously held by U.S. apparel producers.

Direct price competition with most foreign apparel producers is not possible.

We have a standard of living in this country which is reflected by the $3.39 per hour we pay our average apparel worker. He or she cannot get along with the 32 cents per hour paid the average Korean apparel worker.

It is important to Alabama and to the Nation as a whole to maintain a viable apparel industry. Its size—1.4 million workers, $8.6 billion payroll—and its indirect influence on many other industries in our economy are important reasons for maintaining a strong apparel industry.

But even more important, its unique role as employer and trainer of people who have few or no other job opportunities makes it essential to support their stand against tariff cuts. Let us help the industry compete so that it can continue to provide us with high quality clothing at prices we can afford.

The Sixth District of Alabama has 1,450 apparel workers who are depending on the support of Congress in their fight for jobs. All the rest of us in the Sixth District are also supporting these apparel workers because their jobs contribute to the total welfare. The interdependence of our economy makes a threat to apparel workers a threat to us all.

Mr. SIMON. Mr. Speaker, the textile and apparel industries in our country are facing some serious problems, and the problems stem in part from the amount of textile and apparel imports coming into our country from abroad. I consider myself a "free trader," and I am always reluctant to recommend solutions that involve import restrictions. On occasion, however, significant import increases create problems that we cannot ignore. The present decline in the textile and apparel industry in the United States is one of these situations.

The textile and apparel industries are, by no means, the only industries to suffer from plant closings and loss of jobs. But they are particularly vulnerable since their product lines are relatively uncomplicated to manufacture, and their operations can be so easily shifted from one location to another. And since these industries are the largest employers of labor in the United States—more than 2.3 million workers—they are obviously vital to the economic stability and well-being of the Nation.

The impact of exports has been devastating to this industry. In the State of Illinois alone, the number of workers employed in textiles and apparel has declined by 39 percent over the last 10 years, and that decline is continuing. Some 18,300 breadwinners lost their apparel-related jobs in that period of time. Last year, in the first 4 months of 1976, a total of 2,810 apparel workers, laid off or terminated as a direct result of imports, were certified by the Government for special trade adjustment assistance. This is a help to the employees involved, but it is not the answer to the overall problem.

The multifiber textile arrangement—like the long-term arrangement applicable to cotton textile and apparel imports before it—has helped to regulate, in an orderly manner, the imports of cotton, wool, and synthetic fibers without impairing international trade since its implementation in 1974. But these measures, though helpful, have not been perfect and have allowed increases in imports far beyond anything that was contemplated in the agreement.

I am happy to note that an international consensus to renew the multifiber textile arrangement was reached in Geneva on July 24. The protocol on the renewal provides that in negotiating bilateral agreements with key suppliers, it is possible to depart from the strict reading of this arrangement to meet the problems caused by significant import increases. My hope is that the United States will take full advantage of these provisions, and, whenever feasible and justifiable, will seek a reduced rate of growth of textile and apparel imports.

At the same time, I hope that it will be possible for the United States to reach mutually beneficial agreements with those countries such as the People's Republic of China with whom we presently have no agreements.

And, I hope that in the course of the forthcoming tariff negotiations in Geneva, there will be no actions taken that will bring about further erosion of this part of our domestic economy.

Mr. QUILLEN. Mr. Speaker, I am deeply concerned about the problem of apparel imports and I welcome this opportunity to join my colleagues in urging greater efforts on the part of the administration and our trade negotiators to protect the fiber, fabric, and apparel industry which is essential to the economic well-being of this country, of my State, and of my district.

There now exists the possibility that textile tariffs will be reduced at the same time that apparel imports are rising. I fear that the apparel industry may suffer the fate of the shoe industry—tariff cuts on footwear resulted in the American market being inundated by imports.

Many people in my district depend on the jobs provided by the apparel industry and these people are now directly threatened because of the increasing imports of textile products from low-wage countries. A rising tide of imports dumped onto the American market will, if unchecked, destroy thousands of American jobs and inflict economic ruin in towns and cities throughout the United States. We cannot permit this to happen.

There are more than 4,700 persons employed by the 24 apparel manufacturing operations in my district and there is also a heavy concentration of production of manmade fibers. Throughout the State of Tennessee the apparel industry is the No. 1 manufacturing employer. There are over 73,000 apparel workers, or 1 of every 7 manufacturing employees in Tennessee. In 1974, these people produced almost $1.25 billion worth of apparel and earned an annual payroll of $380 million.

My concern is not for my district or my State alone. Most congressional districts have apparel employment. A total of 1.4 million American workers in the apparel industry are now directly threatened by imports, and many more in other industries will also be affected.

All of these jobs are being placed in jeopardy by the large and increasing volume of imports. It is no use to say that the American apparel industry is losing its market because it is not competitive. Price competition is impossible because of the tremendous difference between the American standard of living and that in the Orient, which is the source of most of the imports. In 1976, for example, the average hourly wage earned by an American apparel worker was $3.39. In Korea, it was 32 cents.

Mr. Speaker, about 21 percent of all apparel purchased in this country last year was imported or made from imported goods. It is expected that these imports will continue to grow at an annual rate of 8 percent while the domestic market expands at a rate of only 2 percent each year. These imports are going to cause increasing numbers of our apparel workers to be thrown onto the unemployment and welfare rolls if we further encourage them through tariff cuts.

I was alarmed to discover last week that the administration plans to put our textile and apparel tariffs on the negotiating table during the multilateral trade negotiations. I would urge the administration to reconsider. The present tariffs are the key to orderly international trade in textiles and to the preservation of jobs in this country.

The multifiber arrangement is up for renewal, and it should be extended. We must support the apparel industry's stand against any reduction in tariff rates. We now have many bilateral agreements with other textile nations, and the administration has been successful in negotiating better terms in the recent renewal of some of them. I applaud these efforts, but they will amount to little if the current duty structure is destroyed.

Mr. Speaker, the following statistics regarding the apparel industry in Tennessee demonstrate its vital importance to my State and reinforce my determination to protect these Tennesseans, and other Americans in the apparel industry, from unfair foreign competition.

The material follows:

TENNESSEE

Employment in Tennessee—1974: Total private employment, 1,276,900.

Total manufacturing employment, 513,400.

Apparel, textiles and fiber employment—1974:

Apparel, 73,400.

Textiles, 32,000.

Manmade fibers, 22,000.

Total, 128,000.

Percent of total manufacturing: 25 percent.

Apparel industry in Tennessee in 1974: Largest single employer in manufacturing—

Employment, 73,400.

Percent of all manufacturing, 14.3 percent.

Total annual payroll, $380,000,000.

Number of apparel plants, 379.

Number with 100-plus employees, 210.

Value of apparel production in Tennessee in 1974:

Men's and boys' suits and coats, $80,900,000.

Men's and boys' shirts and nightwear, $186,800,000.

Men's and boy's trousers and slacks, $241,700,000.

Men's and boys' work clothing, $274,300,000.

Women's outerwear and sportswear, $127,400,000.

All other apparel, $304,900,000.

Total apparel, $1,216,000,000.

Mr. STUDDS. Mr. Speaker, as a Member of Congress from an area of the country where there are many apparel plants, I feel the trade negotiations in which the administration is presently engaged are too important to ignore.

I understand that the administration is considering plans to reduce tariffs on textiles and apparel. This will increase the flow of imports into this country and can only lead to a reduction of textile and apparel jobs in this country.

I think every effort should be made to make sure this does not happen. Even though textiles and apparel are already covered by the multifiber arrangements, nonetheless they should not be considered for cuts in the course of the Tokyo Round of tariff negotiations.

The apparel and textile industries are vital to the well-being of our country. Not only do they form a large part of the industrial base of our economy, but they employ 2.3 million Americans—a number which is certainly too large to ignore or consider expendable.

The American apparel manufacturers are the most efficient in the world. They and their employees should not have to suffer from unfair competition which results when American products are marketed along with a growing number of imported products which are produced much more cheaply through sweatshop wages and conditions in overseas shops.

No one is suggesting that we completely curtail imports in general or apparel imports specifically. We certainly want industries in other countries to be allowed to develop. What is being suggested is that the agreements which are negotiated contain import quotas which are fair to all parties concerned.

We cannot allow imports to grow at astonishing rates and expect to maintain the viability of our own industries.

In a 1976 study, Prof. John Dunlop projected that at current growth rates, import penetration would reach or exceed 50 percent for all products by 1987.

I find this unthinkable, especially since only 20 years ago, the figure for import penetration was 4 percent. The rise in imports must be halted in such a way as to be fair to all concerned.

Agreements with other countries are important, but we also need to maintain our existing duty structure applicable to apparel and textiles. To reduce tariffs is to invite a further invasion of our markets by an avalanche of imports from many countries that are not exporting these products to us at this time. Even before any controls are applied to such exports, they can destroy too many jobs over here. We cannot afford to have this happen.

Mr. DAN DANIEL. Mr. Speaker, my colleagues and I are here today because of the grave threat excessive imports are inflicting on one of our key domestic industries, the textile industry.

We hope to focus enough attention on this problem, so that the executive branch will not take any steps to make an already serious situation worse.

The damage that would be caused to the domestic textile industry by any reduction in textile tariffs would be severe.

So, I join in urging that the United States not offer reductions for textile products during multilateral trade negotiations this year.

Mr. Speaker, the Commonwealth of Virginia is not one of the largest textile-producing States, but we still have some 46,000 people employed in this industry, with a total payroll of $400 million this year alone.

I would not be properly serving these constituents if I did not do what I can, such as speaking today, to help save this industry from the fate which faces it if imports remain the threat they are today.

However, I believe the magnitude of the problems besetting the textile industry go beyond the serving of the interest of my own State.

It is a national problem. For example, our trade deficit in textiles was $3 billion in 1976, one-third of the American balance-of-trade deficit for that year.

Certainly, a country with a sophisticated textile industry such as we have should not be put in the position of importing such large quantities of these products.

It is time for us to take action.

At a minimum, we must assure no reductions take place in our textile tariff schedule during this year's multilateral trade negotiations. Such action would only serve to worsen a critical problem by allowing an even greater influx of textiles into our domestic market.

I hope people will take heed to what we have been saying here today. When we consider the fact that the import situation in America has been deteriorating year after year, there is no doubt that it is time for action.

Mr. D'AMOURS. Mr. Speaker, I appreciate the opportunity to join with many of my colleagues from all across the Nation to voice my concern for the future of the American textile and clothing industry.

The textile and clothing industry is one of America's oldest and most highly competitive industries. In the past it has also been one of our largest manufacturing industries. Yet today the very existence of the textile and clothing industry, and the livelihoods of its 2.3 million workers nationwide, is threatened by foreign imports.

The American textile industry is fighting for survival because foreign governments are heavily subsidizing their own textile industries, both directly through preferential tax treatment, and indirectly through low wage requirements. American manufacturers on the other hand, receive no Government subsidies, must abide by our minimum wage and overtime laws, pay substantial social security and unemployment security taxes, may not hire young children at slave wages, and must comply with a wide variety of Federal, State, and local environmental, health and safety regulations.

It is illustrative to note that while the average manufacturing wage in the textile industry in Korea is 16 cents per hour and in Taiwan is 17 cents per hour, in the United States the average wage in the textile industry is between $3 and $4 per hour not including fringe benefits.

It is entirely fitting and proper for the U.S. Government to be concerned with the environment, the health and safety of U.S. workers and other similar issues. At the same time these factors must be taken into account when the Government is negotiating tariff and quota levels with other nations. To do otherwise would be to insure increased unemployment in the United States and to encourage and reward lower standards abroad.

We must not allow the United States to become an importer of goods made by poverty level foreign labor if the end result is that we are forcing American workers out of jobs and onto welfare.

During the Kennedy round of trade negotiations in the 1960's the United States agreed to cut tariffs of textiles and clothing over a 5-year period. The effect of those agreements was disastrous for the U.S. textile and clothing industry. By the end of that 5-year period textile imports had increased 150 percent.

Last year alone imports skyrocketed another 34 percent—to the point where the United States is now importing close to $4 billion a year in textiles and clothing.

The profit level of the U.S. textile manufacturers who survived the trade negotiations of the 1960's and early 1970's indicates that the future does not look bright for the American textile industry. Profits were down to 2.4 percent of sales last year as compared to an average of 5.3 percent in all manufacturing industries. In the last quarter of 1976 profits dipped to 1.6 percent of sales.

In my own home State of New Hampshire the effect of these generous trade concessions has been equally damaging. The number of textile and clothing plants has declined 30 percent in the last 10 years. The precipitous drop in the number of manufacturers has resulted in a similar reduction in the work force. In 1967 there were over 12,000 men and women employed in the textile industry in New Hampshire. This year there are only 8,500 textile workers. Nationwide, employment in the textile industry has been reduced by 144,000 over the last decade. Most of the loss in employment has been at the expense of female and minority workers who already suffer from high rates of unemployment.

As my colleagues here today are well aware, the present multifiber arrangement is due to expire on December 31, 1977. Given the present state of the textile and clothing industry in the United States today it is my strong hope that the administration, under the leadership of Ambassador Robert Strauss, the Special Representative for Trade Negotiations, will work toward an extension of the multifiber arrangement for at least 5 years with the present 6-percent quota growth factor reduced to a level no greater than domestic market growth; and

with revision of those provisions which permit carryovers of unused ceilings to the following year, and "borrowing" from other categories.

Mr. SPENCE. Mr. Speaker, South Carolina has 57 percent of its manufacturing employees working in the three interrelated areas of apparel, textiles, and manmade fibers. Apparel is the second largest manufacturing employer in the State, accounting for 47,300 workers. In the Second District alone—the district I represent—there are 5,000 workers in the apparel industry according to latest figures.

The annual payroll for the 47,300 apparel workers in South Carolina, according to figures provided by the American Apparel Manufacturers, is $242 million and the value of the goods they produce is $940 million.

These people and their payroll and production are seriously threatened today by rapidly rising imports. Hundreds of thousands of workers could be unemployed and billions of dollars in production could be replaced by imported apparel in the next few years, if apparel tariffs are cut in the current trade negotiations.

Last year American apparel workers earned an average of $3.39 per hour for their work. Apparel workers in Korea earned an average of 32 cents. In Hong Kong it was 69 cents and in Taiwan it was 41 cents per hour. It is obvious that we cannot compete with the price of imported apparel because we must pay our workers enough to enjoy the standard of living only this country can provide.

I am not lacking in concern for the economic well being of our friends and allies in the free republics of Asia. But we do them no favors if, by permitting imported apparel to flood our markets, we disrupt our own economy and put our own apparel workers on the unemployment and welfare rolls. For many apparel workers in this country there is little opportunity for alternative employment. They came into the industry with little or no skills and were trained at the expense of the manufacturer. Still others live in rural areas where there are very few jobs available other than in the local apparel factories. Others are "difficult to employ" because they are members of minority groups which traditionally have higher-than-average unemployment levels.

It is up to Congress to protect the American apparel industry—and most especially its employees—from the drastic effect that any cut in apparel tariffs would have. As representatives of the people, we owe it to our constituents. Well over half the congressional districts in the country have apparel workers. Almost every State in the union has some apparel production. Twenty-five States have over 10,000 apparel workers.

This is a problem all of us face—not just a few of us from a couple of States or a particular region. This is a problem which could have devastating effects on the entire economy, if the administration has its way in the tariff cutting business.

The potential of adding hundreds of thousands to our employment rolls, of having taxpayers turned into welfare recipients, is a serious problem with ramifications for us all. Any benefit to the consumer is more than counterbalanced by the loss to the taxpayer. And the cost in human lives disrupted and money needlessly spent is too great a price.

A recent study by an economist in the Library of Congress tells us that apparel imports give no price savings to U.S. consumers because retailers put greater markups on imports. Apparel imports thus appear to contribute little or nothing to our benefit, and their substantial increase could seriously disrupt our economic future.

I therefore call upon my colleagues in the House to oppose tariff cuts affecting the apparel industry at the present time. I ask unanimous consent to include immediately following my remarks certain tables of figures relating to the apparel industry in South Carolina and in the United States as a whole.

SOUTH CAROLINA

Employment in South Carolina—1974: Total private employment, 799,000.

Total manufacturing employment 380,600.

Apparel, textiles and fiber employment—1974: Apparel, 47,300.

Textiles, 152,900.

Man-made fibers, 18,000.

Total, 218,200.

Percent of total manufacturing: 57 percent.

Apparel industry in South Carolina in 1974: Second largest employer in manufacturing.

Employment, 47,300.

Percent of all manufacturing, 12.4.

Total annual payroll, $242,400,000.

Number of apparel plants, 277.

Number with 100+ employees, 136.

Value of apparel production in South Carolina in 1974:

Men's and boys' shirts and nightwear, $273,900,000.

Men's and boys' trousers, Jeans and work clothing, $47,600,000.

Women's outerwear and sportswear, $143,400,000.

Women's and children's underwear and nightwear, $64,100,000.

Children's outerwear, $113,600,000.

All other apparel, $297,700,000.

Total apparel, $940,300,000.

1974 apparel employment in South Carolina by congressional district

District	Number of plants	Total employment
First	23	3,715
Second	38	5,000
Third	61	9,712
Fourth	54	12,991
Fifth	58	8,432
Sixth	41	7,350
Total above	275	47,200
Not reported by county	2	81
Total State	277	47,281

United States

Employment in the United States—1974: Total private employment, 63,487,600.

Total manufacturing employment, 20,380,700.

Apparel, textiles and fiber employment—1974:

Apparel, 1,380,500.

Textiles, 975,200.

Man-made fibers, 100,300.

Total, 2,456,000.

Percent of total manufacturing: 12.1 percent.

Apparel industry in the United States in 1974:

Employment, 1,380,000.

Percent of all manufacturing, 6.8 percent.

Total annual payroll, $8,246,395,000.

Number of apparel plants, 23,034.

Number with 100 plus employees, 3,494.

Value of apparel production in the United States in 1974 (Wholesale Value):

Men's and boys' clothing, $9,924,000,000.

Women's outerwear, $9,333,100,000.

Women's and children's underwear and nightwear, $1,842,900,000.

Children's outerwear, $1,435,800,000.

Knit outerwear and underwear, $2,470,800,000.

Hosiery, $1,328,500,000.

All other apparel, $1,860,400,000.

Total apparel, $28,195,500,000.

Mr. EVANS of Delaware. Mr. Speaker, the problem of increasing imports of fiber, fabric, and apparel is of great concern to me and I wish to join the gentlemen from New York and South Carolina in expressing the hope that the administration will take strong steps to support this industry which means so much to our Nation.

Delaware plays an important role in the manufacture of manmade fibers which provide about 70 percent of the fibers used in American textile mills. Thus, the fibers industry is an integral part of the production chain which provides apparel for the American consumer.

The fiber/textile/apparel industry provides about 2.5 million jobs for Americans, one out of every eight manufacturing jobs in the country. And these jobs are being threatened by the rising tide of imports. It has been estimated that 21 percent of all garments sold at retail in this country last year were imported or were made with imported yarn or fabric. This apparel market penetration by imports could well reach 50 percent or more within 10 years. Already, current textile imports in all forms have reduced U.S. employment by more than 350,000 jobs. Further increases by imports could disastrously inflate the number of Americans out of work even more.

These imports also have a significant impact on our balance of trade. During 1976, the balance of trade in textile products was a deficit of $2.4 billion, or 26 percent of the entire U.S. trade deficit of $9.2 billion. The textile trade deficit will be even higher this year.

Mr. Speaker, some have argued that free importation of textiles benefits the consumer. I want to make two observations with respect to that contention.

First, studies have shown that little if any of the lower prices for imported apparel ever reach the consumers. They are largely absorbed in higher retail margins.

And second, if imports reach levels much above the present figures, during periods when there is heavy demand

abroad, the U.S. consumer would have to pay higher prices for imported apparel that could no longer be provided adequately from domestic sources. If the United States does not have a strong textile-apparel industry we could one day be subjected to the sort of price escalation of imported apparel that we face today on such commodities as oil and coffee.

There are several steps which can be taken to alleviate this problem. The first is to obtain a renewal of the multifiber arrangement, which is the umbrella international agreement under which bilateral textile import agreements are negotiated. The MFA expires at the end of this year and it is my hope that it will be renewed. The second step that must be taken is for our negotiators to insist on tighter and better restraint agreements with our trading partners. It is my understanding that recently renewed bilateral agreements have been much improved over previous efforts in terms of import growth rates, and I encourage the administration to continue this trend.

The most important action that can be taken, however, is for our administration to insist that there shall be no American tariff reductions on fiber, fabric or apparel during the multilateral trade negotiations which are already underway in Geneva. These tariffs are the only permanent protection for American industry. The quantitative restrictions on imports permitted by the MFA would disappear if the MFA were not renewed. In addition, the MFA itself was negotiated on the basis of current duties.

Any reduction in American tariffs would encourage even greater imports from low-wage countries, would severely disrupt orderly world trade in textile products, and would continue costing us American jobs.

Mr. Speaker, I join with my colleagues in urging the administration to take these steps to preserve a vital American industry.

Mr. DICKINSON. Mr. Speaker, the production of apparel in this country is of extreme importance to us all. It is not important only to those who work in the industry, or to those in the textile, manmade fiber, distribution, and packaging industries who derive a large portion of their business from the American apparel industry.

Apparel production affects us all. When an industry is as big as the American apparel industry is—1.4 million workers and $30 billion in production—it is a vital part of our entire economic system. We must make sure that this important link in our economic chain remains strong.

Any move that weakens the apparel industry is an immediate threat to the 1 million workers in the textile and manmade fiber industries who are its important suppliers. It is an additional threat to the economy as a whole because of the potential of extra unemployment which could number in the hundreds of thousands.

The contribution of the apparel industry to this country extends beyond its economic role. It has a unique function as an employer. The majority of apparel workers are in the "difficult to employ" groups in this country. Eighty percent of them are women, many are from ethnic minorities, a great number of them came to the industry as unskilled workers and were trained by their employers.

Apparel employment is found in almost every State in the Union and in over half of the congressional districts. These people are in both metropolitan and rural areas.

The Second District of Alabama has 11,600 apparel workers in 57 plants. They represent almost one-quarter of the 48,900 apparel workers in my State. The apparel industry in Alabama is the largest manufacturing employer in the State, followed by the textile industry.

The administration has recently said that it might be necessary to do something about the fact that the steel industry of this country is being hurt by imports. The reasoning behind this is that the steel industry is important to us and is being undercut by imports produced by low-wage countries, principally Japan in this case.

The same arguments can also be used by the apparel industry to defend its strong stand against ever-growing imports. The apparel industry has received some help in maintaining orderly markets. The multifiber agreement has been in existence for the last 4 years and has helped to keep apparel imports from taking over more of our markets than they might have. But apparel imports are still growing at three to four times the rate of market demand.

Now the administration is posing another threat to the American apparel industry. Current tariff negotiations in Geneva hold the potential for as much as 60 percent apparel tariff reduction. This could mean even faster growth in apparel imports.

The American apparel industry cannot compete with imports on the basis of price. Apparel workers in Korea earn an average of 32 cents per hour. In Taiwan the hourly average for apparel workers is 41 cents and in Hong Kong 69 cents.

Last year American apparel workers earned an average of $3.39 per hour. They enjoy a standard of living unknown to workers in the Far Eastern countries with whom they compete.

We cannot tolerate a tariff reduction on apparel which will mean unemployment for thousands upon thousands of workers in this country. These are people who are often difficult to employ in good economic times, and certainly will join the ranks of the unemployed in an economy such as we have now. We need to keep our workers productive, taxpaying citizens, not welfare recipients. We need to strengthen our economy, not make it more difficult to recover from our recent troubles.

We can do this if, among other things, we help to keep the American apparel industry viable. Let us support the industry in its strong stand against tariff cuts. We will be helping all the American people in this effort.

Mr. HORTON. Mr. Speaker, early next year, representatives from the United States and other countries around the world will resume negotiations held under the auspices of the Tokyo round of GATT (General Agreement on Tariffs and Trade). The purpose of these talks will be to establish new tariff reductions to improve the climate of international trade. While many of us applaud the resumption of these talks with the hope that the world economy will recover from its staggering low during the early 1970's, there is nevertheless cause for great concern. The administration has indicated that it is considering reductions of 60 percent for the textile and apparel industry. Should such a consideration be recommended and adopted by GATT signatories, our domestic industry would suffer severely. Accordingly, I strongly recommend that the administration exclude apparel and textiles from any tariff reduction in the Geneva talks.

Earlier this year, many of us participating in the House Informal Textile Committee met with leaders of the American Textile Manufacturers Institute, the International Ladies Garment Workers Union, the Amalgamated Clothing and Textile Workers Union, the American Apparel Manufacturers Association and other textile/apparel/fiber related organizations to discuss the then impending renewal of the multifiber agreement. It is this agreement, strongly supported by the United States, which has led toward orderly world textile trade by setting forth guidelines for bilateral textile trade treaties. While the United States has negotiated two such treaties under the recently renewed MFA, it will have 11 major bilaterals to negotiate this year and next. To date, agreements with Hong Kong and Korea have called for overall quota growth rates of less than 6 percent permitted under the extended MFA. Those two agreements, and succeeding ones with other countries, however, will fail to establish a reasonable balance between the United States and its trading partners if textiles are not exempted from the upcoming tariff talks.

The disadvantages with which our domestic textile and apparel industry are faced far outstrip its ability to cope with the additional injustice resulting from a tariff reduction and consequent increase in imports. Employment in our domestic industry now totals approximately 2.3 million. There can be no doubt that an increase in imports would cause additional job losses. The American textile and apparel employer is already the victim of unbelievably low wages abroad. According to some estimates, the average Korean textile worker makes 32 cents per hour, an Indian worker 21 cents an hour and clothing workers in Haiti 18 cents per hour. The same estimates indicate that American clothing workers begin at $2.50 per hour.

In addition, our textile and apparel industry must deal with a maze of burdensome regulations governing everything from health and safety to energy and pollution standards. I am not saying that these standards are inherently wrong. What I am suggesting is that American industry must comply with rules and

regulations not required of all its competitors abroad. Add to that the fact that some foreign governments are willing to subsidize their textile and apparel export programs.

It is my understanding that administration officials will begin preliminary discussions on our position at the Geneva talks. If the indications we have received are correct, those same officials are considering a 60-percent reduction for textiles, as I have mentioned. Because the economic viability of the American textile and apparel industry is at stake, and because the United States is in the process of renegotiating several major bilateral agreements under the MFA, I strongly urge the administration to exclude apparel and textiles from any duty reductions in Geneva.

Mr. EMERY. Mr. Speaker, constituents in my district have recently brought to my attention the current import situation which exists regarding the textile-apparel trade. They indicate to me that unless imports on textile-apparel goods are not stabilized and, in some instances, even decreased, their jobs will be severely threatened.

In order to understand the current situation, one must know certain basic characteristics about the domestic textile-apparel industry. Textile-apparel companies in the United States tend to be many and small, thus making them highly competitive. More than nearly any other industry, they employ large numbers of women and minorities, thus making them important to our over-all economy. And like many of our domestic industries, when faced with American labor costs, they cannot compete with foreign imports.

Given the fact that after the Kennedy round negotiations in 1962, which cut tariffs on textile-apparel goods over a 5-year period, imports increased by 150 percent, and given the fact that in the most recent 12-month period textile-apparel imports increased by 54 percent, many domestic industries will be unable to stay in business.

If these domestic industries are forced to close, the overall adverse effect on a State like Maine will be significant. We are a small State, mainly rural, which depends upon small businesses to keep the local economy healthy. There are 12,500 employees in the Maine textile-apparel trade with a payroll of $96 million for the 1977 12-month period. There are 136,400 employees in the New England textile-apparel trade with a payroll of over $1 billion for the same period.

While such numbers may not appear significant to a company like Alcoa Aluminum or Mobil Oil, I assure you, Mr. Speaker, they are important to the Maine and New England economies.

The United States will soon have an opportunity at the Tokyo round tariff negotiations in January 1978 to support the domestic textile-apparel industry by excluding this industry from negotiations and bargaining sessions. It appears at this time, however, that Robert Strauss, our special representative for trade negotiations, will include textile-apparel as part of the negotiations. This is especially alarming in view of the fact that the multifiber agreement, created in 1975, is already based on our current domestic tariff structure and allows an annual 6 percent growth factor. I believe that the current import quotas are already too high, but inclusion of textile-apparel as part of the Tokyo round talks will almost certainly further jeopardize the industry's security. I urge the Congress to voice its position on this important matter and encourage Ambassador Strauss to exempt textile-apparel goods from the negotiations, so that the current tariff structure will at least be maintained.

Mr. WAGGONNER. Mr. Speaker, textile imports into the United States have increased more than twice as fast as the domestic textile market has grown over the past 10 years. Thus, textile imports now represent a severe problem for the U.S. economy.

In 1976 our imports of cotton, wool, and manmade fiber textiles and apparel amounted to more than $4.4 billion, creating a textile trade deficit of more than $2 billion, or nearly 29 percent of the total U.S. trade deficit of $6.9 billion in 1976.

Our textile imports in 1976 displaced more than 1¼ billion pounds of domestic mill fiber consumption and more than 350,000 jobs in the textile and apparel industries of the United States. Textile and apparel employment in the United States actually declined over 144,000 between 1966 and 1976, despite a growing domestic market for textile products.

Although one of the goals of the Tokyo round of multilateral trade negotiations is to generally lower import tariffs, this does not mean that it would be right or appropriate for the U.S. negotiators to agree to lower or eliminate the tariffs on U.S. textile imports. The multifiber arrangement and the bilateral textile agreements were negotiated on the basis of the current U.S. tariffs on textile imports. Consequently, lowering or eliminating such tariffs would jeopardize the operations of the arrangement and the agreements, and would weaken the competitive position of the U.S. textile and apparel industries, thereby threatening job security in these industries. In view of these considerations, it is strongly urged that, during the forthcoming GATT negotiations, the U.S. negotiators decline to consider any reduction in the level of tariffs on U.S. textile imports.

Mr. Speaker, having good trade relations with our friends in the developing countries does not require that we turn over our whole market to them. Yet that is what will happen if recent trends continue. Our negotiators should be more concerned about the welfare of the United States and its workers. They should insist that imports grow no faster than the domestic market.

Ms. MIKULSKI. Mr. Speaker, in discussions bearing on control of textile and apparel imports it is argued at times that we ought to encourage maximum imports to the United States because such products from overseas are a boon to the consumer. The assumption is that the low cost of production in lands where wages run at the incredibly low level of 20 and 30 cents an hour offers a bargain to the American buyer. This is a miscalculation as readily seen when examined in the light of what really happens. The error arises from the fact that low cost imports do not go directly from the overseas producer to the American consumer. Between these two parties are the middlemen, whose prevalent game it is to put high markups on the imported products.

In a recent convention of textile producers in the United States, Mr. Thomas M. Macioce, president of Allied Stores, put his objectives very clearly. When he was asked by a reporter for Women's Wear Daily, a trade magazine, "Aren't retailers really just buying a markup when they buy imports?" the retailing spokesman was refreshingly frank: "Sure," he responded, "we are indeed buying better markups, but that's our job We would be delighted to buy only American-made goods if we could make the same type of markup."

The consumer is not the beneficiary of low wages overseas. The true beneficiaries are American manufacturers who have their work contracted out for production overseas, or American retail chains, or American importers. They buy cheaply and then mark up the price to sell at levels comparable with products produced in the United States.

Startling evidence to this effect was submitted to the Trade Subcommittee of the House Ways and Means Committee, March 25, 1976, by the president of the International Ladies' Garment Workers' Union, Mr. Sol C. Chaikin. I should like to recall that evidence and enter it in the RECORD.

Mr. CHAIKIN. Mr. Chairman, I have samples of garments produced in the U.S. and abroad made of the same materials and sold at the same prices to American consumers. This, I think, is part of an answer to a question asked by a member of your committee, Mr. Chairman, and I would like to with your permission offer them as exhibits.

Mr. GREEN. You may do so.

Mr. CHAIKIN. First, I offer three misses' shirts, style 1458, made of fabric blended from 65 percent acetate, 35 percent nylon, size 14. They are identified by a Sears Roebuck label, and an RN number 43721 registered to Niki-Lu of Miami, Inc., according to information supplied by Mrs. Klein of the Federal Trade Commission on March 15, 1976. Three shirts were purchased from Sears at the Paramus Plaza, New Jersey, on March 13, 1976. The retail price is $8 each. One was made in the United States, one was assembled in El Salvador and one in the Dominican Republic.

The detailed Sears sales slip shows the quantity purchased to be three, totalling $24. Stitch for stitch it is the same item, same quality, same piece goods, same style number, same Sears number, same Sears price for the people who would come in and buy.

Our second product consists of two brassieres, style No. 1038. The identification on these items is Warner's RN 16396, one made in the United States, the other in Mexico, both purchased at Macy's on March 16, 1976; their retail price was $6.50 each.

The details of the Macy's sales slip are right here.

Our third product is a pair of misses' blouses, style 46241, made of knit fabric, otherwise not identified. That is just a small violation. They are identified as a product of White Stag, a large domestic company. One of the two garments was made in the USA and the other one in Japan, both purchased at Bloomingdale's on Lexington and 59th Street in New York City on March 22, 1976. The retail price is $14 each. The details of the Bloomingdale's sales slip are right here.

We now have for Congressman Karth and others men's long-sleeve dress shirts, size 16, sleeve length 33, made of 65 percent polyester and 95 percent cotton, with a Sears label, one made in the USA and the other one in Korea, both purchased at the Sears Paramus Plaza store in New Jersey on March 13, 1976. Retail price was $8 each.

In this case, we bought them on sale, reduced to $4.99 each. The original price was the same. The reduced price on sale is exactly the same and the detailed Sears sales slip is here.

Now these examples could have been multiplied literally by thousands of instances.

Comparison shopping in men's clothing, conducted in several Baltimore stores, revealed the same pattern. Here are several examples that once more make the point about the higher mark-ups on imports.

The following data was compiled on comparable retail prices for American-made and imported apparel sold in Baltimore department stores in August 1975. This is what they showed.

RETAIL PRICES OF COMPARABLE DOMESTIC AND IMPORTED APPAREL

The following data was compiled on comparable retail prices for American-made and imported apparel sold in Baltimore Department stores.

Shirts at the Hecht Co.—

American-made—Golden Arrow, 100% polyester, button down, short sleeve—$12.

Imports—Van Heusen Splendor, Double knit, made in Taiwan, 100% polyester, long sleeve—$13, short sleeve—$12.

American-made—Clay Poole, 3 button knit sport shirt, 50% polyester, 50% cotton—$6.50.

Imports—Clay Brook, Made in Hong Kong, 3 button knit sport shirt—$12.50.

Shirts at Stewarts:

American-made—Arrow, Belmont short sleeve shirt—$9.

Imports—Van Heusen, Van Luster, made in Taiwan, short sleeve shirt—$10.

Denim jackets at the Hecht Co.:

American-made—Lee, $21.25 and $24.

Imports—Britannia Sportswear, Made in Hong Kong, $25, $27, and $27.50.

Jeans at the Hecht Co.:

American-made—Lee, $17.

Imports—Britannia Sportswear, Made in Hong Kong, $18 and $20.

Sweaters at Hutzler's:

American-made—Robert Bruce, 100% Orlon acrylic—$20.

American-made—Jantzen, 100% Wintuck acrylic—$19 and $20.

Imports—the label read: "Made in Italy for Hutzler's," 100% acrylic—$25.

Source: Data collected by Martin Lesser, Upper South Department, ILGWU, on August 5, 1975.

Mr. ZABLOCKI. Mr. Speaker, to show the effects of textile/apparel imports very directly, I want to talk about the glove industry.

Wisconsin has always been one of the Nation's major producers of both dress and work gloves. Milwaukee had several companies that manufactured gloves. I say had, because only one company exists now.

Dress gloves were made from deerskins. Today the deer are still plentiful but no dress glove industry exists. Thousands of people lost their jobs, particularly in the northern half of the State. This is because the overwhelming majority of dress gloves sold in America today are made abroad. The labor content of dress gloves is among the highest of the already high amount of labor put in most other apparel products. There is no way Wisconsin manufacturers can compete with wage levels below 50 cents an hour, as they are in Korea, Taiwan, Haiti, Brazil, Barbados, and other glove producing areas.

Work gloves are still produced in the United States in substantial numbers. But here, too, the import penetration is expanding rapidly at the expense of domestic production. While the market in work gloves has remained essentially static over the last 6 years—domestic consumption rose only 3.4 percent—imports rose in this period by 348 percent.

Cotton gloves have experienced the same inundation. In the short period from 1972 to 1976 cotton glove production in America declined 15.[illegible] percent. The import penetration ratio went from 5.8 percent in 1972 to 26.8 percent in 1976.

It is essential for the executive branch to limit these growths of imports to a much greater degree than they have heretofore. Controls on currently unrestricted countries should be imposed before marked disruption becomes irreversible.

Under title V of the Trade Act of 1974, which governs the GSP procedures for granting zero duty preferences to developing nations, the President has authority to exclude any article from such preferences as he determines to be import sensitive. It is significant, therefore, that work gloves have been specifically excluded from zero tariff reduction under the generalized system of preferences. Cotton work gloves were excluded because of section 503(c) of the Trade Act. Other work gloves were excluded from GSP because the administration's review procedure, of public comment and advice from appropriate U.S. Government agencies, had convinced the executive branch that such work glove imports were already so large and injurious to the domestic industry that GSP duty-free treatment for these articles was neither warranted nor necessary. By the same token, there is little justification for a reduction in U.S. duty rates in the upcoming multilateral trade negotiations.

Mr. METCALFE. Mr. Speaker, the textile and apparel industries—their firms and workers—make a major contribution to the well-being of our country. It is the primary source of employment for that part of the workforce which suffers structural handicaps which close off most other job opportunities to them in America's sophisticated industrial economy. Thus the ever-rising tide of imports hurts most those who already are at a disadvantage.

Where will the labor force in the apparel and textile industry find alternative jobs?

A job once lost in the apparel industries means, in effect, indefinite unemployment. The consequence of such chronic unemployment also means indefinite social and economic costs which must be shouldered not only by the individual and his family, but by his community and the Nation at large. This cost of supporting the unemployed and the loss of their productive contribution is always forgotten by economists when they speak of increased costs to consumers from import restrictions.

As is perfectly obvious from the increased volume of imports—1976 was a record year for general imports of apparel—the current rates of duty are no deterrent to textile/apparel imports. The only consequence of tariff reductions in textiles and apparel would be a further influx of goods from abroad and could mean the effective demise of many branches of the apparel industry in this country.

Section 127(b) of the Trade Act of 1974 automatically excludes from consideration for purposes of tariff reductions, any item which has been accorded import relief by the President under that act.

In this respect, textile and apparel products, in effect, have been accorded such relief by virtue of the various bilateral agreements which have been negotiated by the United States with various supplying countries pursuant to the multilateral arrangement regarding international trade in textiles (MFA) to which the United States is signatory.

It is, of course, acknowledged that the U.S. textile and apparel import control program stems from different statutory authority than the Trade Act of 1974, but the purpose of the textile and apparel import program is to provide to the domestic industry needed relief against import competition. As a group, therefore, I urge the President to exempt textile and apparel from the multilateral tariff reduction negotiations in the same manner as would be products directly accorded relief under sections 201–203 of the Trade Act.

Mr. LENT. Mr. Speaker, I want to join my distinguished colleagues, Mr. MANN, of South Carolina, and Mr. FISH, of New York, in stating my concern about the problems caused by increasing imports of textiles.

The continuing economic problems of our Nation have come to preoccupy our thoughts and deliberations. But little attention has been given to the relationship between foreign trade and the conditions necessary to promote economic prosperity here at home.

The relationship of foreign trade to the domestic economy can be set forth in a few statements.

First. Jobs are the fundamental base on which our economic and social well-being rest.

Second. Investment will not be made unless a stable market and expanded sales are seen as reasonably assured in the future.

Third. No lasting social or economic progress can be made or political stability maintained either within the United States or elsewhere in the free world, unless the U.S. economy remains strong. The increasing international interdependence which we all know about not only means that the United States cannot act in isolation from the rest of the world, but also that our own economic

health is absolutely essential to the economic and social welfare of the entire international community.

Fourth. Unless present trends in foreign trade are reversed, the result will be an undermining of this country's economic strength.

. In 1976 apparel imports were the highest on record. This while the unemployment rate of experienced apparel workers averaged above 13 percent.

Economists are decrying the fact that insufficient amounts of capital investment are being made in the textile and apparel industries. Not only does this lack prevent the creation of new jobs to lower the unconscionable unemployment level but causes a long-term decline in the average rate of productivity growth.

Without productivity growth, there can be no improvement in the general standard of living of our people. Unless textile and apparel companies see a halt to imports unabated movement to completely take over the American market, they see no incentive to invest in their productive capacity here.

We are told that we should recognize the need of the developing countries to develop—to industrialize their economies and to obtain for themselves a larger share of world trade. Labor-intensive textile and apparel production is where their comparative advantage lies. But this development cannot happen unless the U.S. economy is strong and full employment prevails here.

The success of poor nations in improving their economies is tied to a healthy world economy, of which a strong, growing U.S. economy is fundamental. If the American economy fails, if our recovery falters and we slide into another recession—which is the way the signs are pointing at the moment—the free world economy may come down like a house of cards. That is why it is so important to pay attention first and foremost to what is happening in U.S. manufacturing, to jobs which are the base on which the economy stands.

The impact of imports is far reaching and ultimately the prosperity of all Americans is involved. We have arrived at a point in our history when we must decide whether we are going to halt and reverse our decline as an industrial nation, or whether we are going to allow the decline to continue to our own detriment and the detriment of the free world.

Mr. FLIPPO. Mr. Speaker, my interest and the interest of many of my colleagues in the textile import situation is not limited to the textile and apparel manufacturing industries alone—as vital and as important as they are.

There is another segment of our population that is equally concerned with import developments. I refer to the hundreds of thousands of families engaged in cotton farming.

Mr. Speaker, I am particularly bewildered by the inconsistencies in the import situation. For some 40 years, our Government has maintained rigid import quotas on cotton, permitting entry into the United States of only 30,000 bales of upland cotton each year—less than 1 day's supply for our mills.

Also, our farmers have been encouraged to reduce their cotton crop acreage drastically, creating far-reaching hardships for great segments of the cotton economy from North Carolina to California.

But now, Mr. Speaker, we sit here and watch cotton in the form of manufactured textile products enter this country at the rate of some 2 billion square yards annually. Last year alone, imports of cotton textile products soared by 53 percent over 1975.

Soon our trade negotiators will be deciding what tariffs to cut, and by how much. With our textile tariffs now in effect obviously presenting no barrier to foreign imports, it would be sheer and deliberate foolishness to invite an even greater import problem by cutting textile tariffs. The President should instruct his negotiators immediately to remove from the list all textile items.

Such action will be in the best interest of our Nation and the 2.3 million American workers in our domestic textile and apparel industry.

Mr. BEVILL. Mr. Speaker, I am here today to add my support to protecting both the employers and employees of America's textile industry.

Mr. Speaker, this industry is extremely competitive, with literally thousands of companies vying for the consumer's business. While it is generally known that small business units are prominent in the apparel segment, it should be noted that more than one-half of all textile mill products come from companies with less than $50 million in annual sales.

As manufacturing employment in this country continues to shrink, it becomes even more vital to at least maintain and even expand the American textile industry. This is particularly true because this industry provides a very large number of threshold jobs which this society must have if the welfare problem is to be successfully addressed.

Mr. Speaker, the most modern and efficient textile industry in the world must also compete with the sweatshops of Asia, Africa, and Latin America. I have been told that about 350,000 American jobs would be required to produce the present volume of textile and apparel imports from these nations.

I have also been told that the administration is considering reducing textile tariffs which would allow more imports, and take away more American jobs. This, Mr. Speaker, must not happen.

The textile and apparel industry of the United States is scattered through the 50 States. It provides a heavy concentration of jobs in New York, Los Angeles, Miami, and other large cities. It also frequently provides the only industrial employment in a long, long list of American small towns. It gives jobs to a much larger proportion of females than in American industry as a whole. It is substantially more representative of minority groups than is the work force as a whole.

Why, I must ask, would we want to jeopardize the livelihoods of these citizens? Why would we support a greater tide of textile imports?

No one, Mr. Speaker, must make matters worse.

It would indeed be tragic if our own Government added insult to injury.

Mr. EILBERG. Mr. Speaker, representatives of the United States and other countries have been meeting to renegotiate agreements with various countries relating to the export of textiles and apparel to this Nation. This is one of the most important matters now facing us and I think we in the Congress should be aware of the facts and should take a strong stand in favor of regulating trade between the United States and other countries.

The record on the threat to employment here is a shocking one.

Total imports of textiles and apparel made of wool and manmade fibers have been increasing by leaps and bounds. In 1976, these imports grew by 35.9 and 24.5 percent, respectively. Imports of women's and girls' sweaters grew by a shocking 111.5 percent in 1976, while the number of men's and boys' sport coats imported from low-wage countries rose by 44.9 percent. In the same year, there was an increase of over 36 percent in the number of trousers imported by our country, 20.8 percent in men's suits, 34.5 percent in women's coats and jackets. As imports continue to rise, they take a larger and larger share of our domestic market. We cannot continue to absorb such increases and erosion of the domestic market.

These imports are made at very low labor costs. In the Far East, apparel workers now receive from 38 cents an hour in Korea, to 42 cents in Taiwan, to a high of 74 cents an hour in Hong Kong—only a fraction of U.S. earnings. Most imported apparel comes from low-wage Far Eastern countries, but even apparel made in the advanced nations of Europe are made at wage rates below ours.

In my State of Pennsylvania alone, employment in textile mills went down from 70,300 in 1966 to 50,600 in 1976. It was the same picture for apparel employment, which was down in 10 years from 182,200 to 136,500.

Our Government must act promptly to deal with this perilous situation.

We are not asking our Government to cut off trade. We are not asking even to reduce the current levels. But we must urge that prudent regulations be adopted and these regulations be strictly enforced.

I urge President Carter to see to it that controls on presently unrestricted textile and apparel imports should be imposed when these imports show a sharp rise and that there should be no reductions of any kind in existing tariffs on imported apparel and textiles.

I urge that bilateral agreements to be negotiated in the near future provide the lowest possible growth rates in heavily impacted areas.

I stated at the outset of my remarks that the need to renegotiate agreements with various countries dealing with their exports of textiles and apparel to us is one of the most important matters now facing the Nation. The other most important matter is the maintenance of the

existing duty structure in the course of the discussions that are due to begin in Geneva before long. All existing duty rates on textiles and apparel should be left intact. For if they are cut, it would lead to an additional threat to jobs that our country cannot afford.

Mr. PICKLE. Mr. Speaker, I commend my colleagues on their impressive statements outlining the scope of the textile industry and bringing to light the problem of ever-increasing competition from foreign imports.

The value of the American textile industry to our national security has been outlined in previous statements. In order to avoid repetition, my remarks will be brief. However, brevity in no way diminishes the importance I place on the relationship between the textile industry and our national security.

It has been noted that during World War II, textiles emerged second only to steel in importance.

During the Vietnam conflict, the domestic textile industry met the need of not only our own troops, but were major contributors of support supplies for our allies. All of this was accomplished with extreme efficiency.

With all of the vast amount of sophisticated weaponry and warfare items of today's modern world, we perhaps may tend to underestimate the support supplies still required to keep our Armed Forces combat-ready and proficient.

Mr. Speaker, a healthy and adequate domestic textile industry is still an important element in our national defense.

I need not remind my colleagues what it means to be dependent upon a foreign nation for a vital product. Each of us is reminded quite vividly every time we drive into a gasoline station.

All other arguments aside, our country cannot jeopardize our national defense by allowing our own textile market to be destroyed. We cannot afford still another dependence on foreign suppliers for such a vital commodity.

Any future tariff reductions on textile products entering this country will no doubt, as the past has shown, cause still another rise in imports.

At a time when the U.S. industry is struggling to remain alive under present economic and international trade conditions, further erosions in the marketplace cannot be tolerated.

Our textile officials tell us, and we can see from the facts and figures, the rate of return on investment for domestic textiles is already at crucial levels.

In the name of national security and the welfare of all Americans, let us not formulate or allow trade policies which are detrimental to U.S. textiles.

Mr. Speaker, our clearest and most direct way to the solution of this problem is to exempt textiles completely from the upcoming multilateral trade talks scheduled in Geneva.

Mr. CLEVELAND. Mr. Speaker, I am pleased to participate today in this special order with my colleague from South Carolina (Mr. MANN), on the serious threats posed to the American textile/apparel industry by rising imports and inadequate trade policies.

Although my district contains relatively few textile mills, this issue has been a concern to me ever since I came to the Congress in 1963. My work over the years on similar problems encountered by the shoe industry has sharpened my interest in the textile situation, and I have long advocated protective trade policies to aid both industries.

Earlier this year I joined Mr. MANN and others in contacting President Carter to request assistance for the textile industry, and I also contacted Special Trade Representative Robert Strauss to express my personal interest in trade policies affecting it.

At a time when textile imports are reaching alarmingly high levels, it is incredible that the administration intends to include textiles and apparel in the upcoming Tokyo round of negotiations aimed at reducing tariffs. On the contrary, common sense and the prospect of massive unemployment should dictate higher tariffs.

The so-called Kennedy round of trade negotiations in the mid-1960's resulted in a voluntary reduction by the United States of textile and apparel tariffs over a 5-year period. It is crucial to point out that at the end of that period, textile imports had risen 150 percent, clearly attributable to the tariff reductions. Last year alone, imports were about 35-percent higher than the previous year.

These imports have had a severe effect on employment in the textile industry, and the belief is widespread that if our present tariff structure were reduced any further, the resulting surge of imports would prove disastrous. The multifiber arrangement (MFA), established in 1974 to set import quotas, has not yet been renewed, and it would by no stretch of the imagination be able to control imports in the face of lower tariffs. The MFA is inadequate even now, because of its provisions allowing a 6-percent annual growth in imports and permitting unused quotas to be carried over from year to year.

Mr. Speaker, I subscribe fully to the doctrine that our trade system should be a free but fair one, without undue advantages accruing to either side. However, when circumstances combine to give foreign products such advantages, we should utilize tariffs or quotas to neutralize them.

In any event, there are certain domestic capabilities, and the textile/apparel industry is surely one of them, that are essential to our national interest. Imported products are now threatening the well-being of the American textile industry, and every effort should be taken to maintain and protect it. The preservation of vital American jobs and industries is more than worth the risk of any adverse trade effects.

Mr. FOUNTAIN. Mr. Speaker, on no occasion, when we stand to discuss international trade in these Chambers, do we ever avoid division among Members with regard to the theories of international trade.

Usually, the most resounding cries come from those Members who believe any attempt to regulate or coordinate international trade is a disguised method to inhibit free trade. They charge that regulation is a subtle effort toward favoritism for a select group. They call it protectionism.

Regulated foreign trade, they tell us, diminishes competition, promotes monopolies, is a disservice to the consumer.

Well, Mr. Speaker, today we are talking about regulating textile and apparel trade. We are considering textiles and the upcoming multilateral trade negotiations and possible tariff cuts.

Many of my distinguished colleagues have presented some alarming facts concerning the threat imports have become to the domestic textile industry. They have told us that the industry simply cannot tolerate the increase in imports which will no doubt come about if we reduce current tariff levels.

They are asking that textiles and apparel be exempted from the upcoming trade talks in Geneva.

No doubt, the suggestion of such an approach will be met by predictions from free-trade advocates that such action will produce untold evils. We will be told that the American textile industry will enjoy the fruits of a monopoly—that the consumer will fall prey to increased prices, decreased product choice and a decline in quality.

Nothing could be further from the truth.

The domestic textile industry is the most internally competitive of all American industry.

Literally thousands of small companies compete day-to-day for a share of the market. Market position and product pricing is a result of intense bareboned parlaying where even a penny may decide the outcome.

Prices on domestically produced textile products have increased less than on almost any other product.

Nor has consumer choice been limited within the spectrum of American-made products.

Next time you are in a department store, look at the bedding sheets. Every conceivable color, style and pattern is at the tip of the consumer's hands.

Look at the innovations made in other products. We did not get all of the wonder-fabrics and easy-care, long-lasting textiles from research and development labs in Korea or Hong Kong. Nor did they invent permanent-press, rayon, nylon or water repellent cloth.

A monopoly? Hardly. Poor quality? Nonsense. Limited consumer choice and satisfaction? No.

Mr. Speaker, I am quite sure we will hear the cries of the free trade theorists concerning this matter.

But perhaps they will think twice before putting forth all of their usual arguments.

Because with the American textile industry their arguments simply do not hold water. The facts speak for themselves.

Ms. OAKAR. Mr. Speaker, I am extremely pleased to join with Congressman MANN in this special order on the serious problem of textile imports. Even before coming to Washington after my election to Congress last year, I was contacted by both labor and management in several of the large textile firms

in my district on the imports situation. I met with these concerned men and women, and they told me of how a number of textile companies in Ohio had closed down because of imports, and naturally, they fear that their jobs may be the next to go.

Despite improvements in the Nation's economic conditions in recent months, we still have in this country nearly 7 million unemployed men and women. This number does not include nearly 1 million persons who became discouraged and stopped looking for work in their communities in the belief that no work was to be found. Nor does it include persons forced to work on short-time schedules because work on regular schedules was not available at their places of employment.

These continued high levels of unemployment bring into focus the problem that we encounter in the textile and apparel industries—rising imports that add to the joblessness of workers who normally earn a living in these industries.

Between 1961 and 1976, 15-year period imports of textiles and apparel increased more than fivefold. As a result of this upsurge, many experienced textile and apparel workers lost their jobs. Not only were experienced workers displaced in the process, but newcomers who under more normal circumstances would have secured work in textiles and apparel were also left in the cold, jobless.

The overwhelming rise in imports took place despite the fact that our Government sought to contain them by means of multinational and bilateral agreements with foreign countries. While these efforts did slow down the tempo of import penetration, it remained very high. As a result, a number of plants were forced out of business. Other plants had to operate on part-time schedules.

It is highly important therefore to strengthen and widen our network of agreements with foreign countries to contain import penetration to an even greater degree than has been attained up to now. At the same time, it is essential that we leave our existing duty structure intact. In view of the imperfect coverage of the existing agreements, cutbacks in tariffs are likely to lead to further appalling increases in the volume of textile and apparel imports.

With the existing levels of unemployment, both in these industries as well as throughout our Nation, we cannot afford to even contemplate such reductions. I certainly hope that the administration will recognize the existing state of affairs and exempt apparel and textiles from the negotiations that are due to proceed in Geneva before long.

Mr. ANDREWS of North Carolina. Mr. Speaker, my colleagues who have spoken here today deserve the thanks of the entire American people, not just those who are employed by the American textile industry, but all persons who are concerned that our Government take those steps necessary to see that American jobs are not lost.

Any lowering of tariffs on textiles and apparel at this time would, in my mind, constitute an outright disregard for the legitimate needs of our own workers.

Mr. Speaker, I have been told by some shortsighted individuals that many of our industries, such as textiles and apparel, are outmoded, inefficient, too labor intensive for our modern day economy. They even believe that these industries must simply disappear to be replaced by more sophisticated types of industry.

This kind of thinking, Mr. Speaker, is disturbing, for it indicates a total loss of mental power and a complete separation from reality.

What these individuals forget, or choose to ignore, is that the textile/apparel industry employs some 2.3 million Americans, and that the first responsibility of the Government of the United States is to see that these 2.3 million citizens are not thrown out of work onto relief rolls.

I do not need to be reminded that in my State of Tennessee the textile/apparel industry provides about 100,000 jobs and an annual payroll of $700 million.

Mr. Speaker, I think that it should be made perfectly clear that those of us in the Congress who are concerned with the future of the textile industry will not—I repeat—will not sit quietly and watch the downfall of the U.S. textile industry from imports.

We are standing up today to make it known to our friends and foes alike that we expect full recognition of the legitimate needs of 2.3 million textile and apparel workers.

Mr. ZEFERETTI. Mr. Speaker, I am deeply concerned over the rise of imports in many lines of manufacture, particularly in the textile industry. Due to the existing import control system now in operation in this country, ever-increasing imports have resulted in the loss of many jobs, particularly in the garment industry.

The United States has the world's largest textile industry, but in 1976 apparel imports hit a new high. In fact, the overall United States textile trade deficit last year in all fibers was approximately $3 billion. I feel that it is blatantly unfair to allow the lion's share of American market growth to benefit foreign industries at the expense of our own.

This situation has been aggravated by two loopholes in our tariff law, which help to export jobs, expand industry abroad, and increase imports at the expense of our economy. The immediate repeal of these items of our Tariff Schedules by the Congress is in the best interests of both the worker whose job is in jeopardy and the consumer who pays exorbitant markups on foreign-made products.

Another practice which I vehemently oppose is the importation of products manufactured in this country and then assembled in a foreign land, which are permitted to reenter the United States at a lower duty rate.

It is my understanding that the Carter administration is considering including textile and apparel products as a possible area of tariff cuts in the upcoming multinational trade negotiations. Any tariff cut would, no doubt, result in even more imports flooding the American market. For this reason, I have urged both President Ford and President Carter to develop a new and more realistic trading policy and one that better protects our own working people.

It is time for Congress to take the appropriate actions necessary to save the textile industry and its workers. The enactment of legislation, such as the proposal to close the existing loopholes in our tariff laws, is vital to maintaining this industry which has been so vital to America's economy. I urge my colleagues to join in supporting measures that will restore vitality and growth to our textile industry.

Mr. SNYDER. Mr. Speaker, America's negotiating team recently returned from Geneva where 85 percent of the participating countries agreed to formally renew the MFA on December 15.

Our negotiators were unable during these talks to reduce the present 6-percent growth rate of imports to one closer to the 3-percent growth of our own textile market.

We must now rely on individual bilateral negotiations to aline import growth closer with the growth of the domestic market. Many such bilaterals will be renegotiated before year's end.

Hundreds of thousands of American textile and apparel jobs hang in the balance of these renegotiations. If import growth goes unchecked, it means loss of jobs, loss in gross national product and it means more people on welfare roles.

It also means, Mr. Speaker, that we will deprive our domestic textile industry of some of the resources essential to comply with many of the regulations on environment and health and safety that our own Government is imposing.

You might call this a reverse subsidy, Mr. Speaker, favoring foreign competition.

Our own textile industry is faced with stringent regulations in a number of areas—regulations which most foreign nations do not even begin to impose on their manufacturers.

We have water pollution guidelines for 1983 which the National Commission on Water Quality has estimated will cost the industry between $526 and $785 million, plus $50 to $81 million more in annual operating costs.

The Occupational Safety and Health Administration has promulgated standards on noise and cotton dust which, if enforced, will impose an astronomical burden on the textile industry.

The noise standard alone is estimated to cost the industry $3 billion. Meeting the dust standard, according to estimates by the Research Triangle Institute, a Government contractor, will cost around $2.8 billion.

Taken all together, the cost of water preservation and noise and dust control will amount to well over $6 billion in an industry whose annual capital expenditures have averaged only $762 million in the last 5 years and whose profit after taxes has averaged $646 million.

Mr. Speaker, I must ask how can we expect our own companies to compete successfully with foreign manufacturers who have no such regulatory burden to carry and who pay wages which are so low as to be illegal in the United States?

It is one thing to espouse free trade, but it is something else again when our trading partners overseas play the game under different rules.

Mr. Speaker, our Government negotiators will soon be returning to Geneva to undertake multilateral trade negotiations, the so-called Tokyo round. And I hear talk about the possibility of cutting the U.S. tariffs on textiles and apparel—despite the fact that imports of these items increased 34 percent in 1976.

Despite the fact that our deficit of trade balance is growing.

Despite the fact that the current level of imports is drawing away vital resources essential to compliance with many environmental and safety and health regulations.

And despite the fact that American textile and apparel jobs are already in jeopardy from imports.

Despite all this evidence, Mr. Speaker, we fear that textile tariffs will be used as a bargaining chip along with a host of other industries during the Tokyo round:

Such action would be a grave error.

Textile tariffs should not be reduced. Textiles and apparel should clearly and cleanly be exempted from the Tokyo round. Tariffs are already inadequate. Even so, they must be retained at present levels as a barrier against the kind of unrestrained imports which today threaten to swallow the American textile industry.

Mr. FLOWERS. Mr. Speaker, I commend my distinguished colleagues for their very fine presentations which have given us a knowledgeable picture of the importance of the U.S. textile industry and the very complex concepts at work in international trade.

I noted with considerable interest a recent article which appeared in the Daily News Record regarding textile plant closings in the United States.

The article listed two reasons for plant shutdowns over the past several years: foreign imports and the lack of available capital to meet stringent Government regulations with regard to safety and health and environmental preservation.

I ask unanimous consent to include portions of this article in the RECORD. I think it clearly points out the conflicting dilemma in which our own textile industry operates. That is, our own Government policy, on the one hand, encourages the proliferation of imported products from low-wage countries while, on the other hand, we legislate vast amounts of regulations which require literally millions of dollars from our industry.

TEXT: DAILY NEWS RECORD—AUGUST 15, 1977

New York—well over 66 textile plants have been shut down in the past 2½ years, with a job loss estimated in excess of 13,000, according to a survey by DNR.

Well-informed industry sources estimate the total figure as being well in excess of 100 plants closed during the period—in 1974 it is believed knitting plant liquidations numbered at least 200.

In areas of spinning, weaving and finishing, imports are clearly the underlying factor in the closing of more than 38 units since the start of 1975.

It was the contention of textile-apparel management and labor that between 1969 and 1975, the combined complex suffered a loss of 271,000 jobs due to imports. In men's and boys' tailored clothing alone, they claimed, 45,000 jobs, or 40 percent of the total work force went down the drain.

While imports of textiles have been frightening the U.S. mail industry for many years now, the buildup of apparel from overseas since 1975 has eclipsed in seriousness the fabric threat, industry said.

According to the U.S. Bureau of the Census, in 1947 there were 8,157 American plants engaged in spinning, weaving, knitting and finishing textiles, by 1963, the figure was down to 7,201. So, there was a gradual attrition underway before the apparel import buildup had begun to reach alarming penetration levels here.

It was the contention of a spokesman for the American Textile Manufacturers Institute that in the area of polyester-cotton woven dress shirts, U.S. production amounted to 5,270,000 dozen in 1976, against imports in that year of 4,763,000 dozen, for a penetration in excess of 50 percent.

Value of apparel imports has been running ahead of prior years due to inflation, the spokesman observed, but this apparel flow from overseas represents a displacement of close to 30 percent of American apparel fabric output.

Said Frank Gress, a partner in the gray goods brokerage firm of Ehrlich, Gress: "I have handled imported cloth as well as domestic, but the heavy shift from cloth to apparel by overseas suppliers have given them such a labor advantage that there is no way in which greater mill efficiency here can overcome this disadvantage."

Gress dismissed ideas of helping U.S. mills become more efficient to fight imports as nonsense.

"Apparel is much more labor intensive than cloth, and mills are losing out in a situation which they cannot rectify by getting new machines."

He went on to say that in some cases, mills could not compete even if they gave their cloth away to their American apparel manufacturing customers.

Gress predicted that the U.S. cloth business will be forced to content itself with "periodic boomlets," which would occur in the early phases of recovery from inventory glut, attributable to the speed with which domestic mills could fill revived demand.

Dan River's executive vice-president, John B. Russell, agreed with Gress when he saw only brief periods of good buying here because of imports.

"I see a modest pickup in our business in September across the board. But imports will probably prevent this buying from really taking off. June imports of apparel were at record levels, and I expect this will turn out to be the case for all the summer months," Russell told DNR.

Yet he said he could not single out imports as the lone culprit behind the shutdowns. "Cost of OSHA regulations is huge. We'll be spending about $80 million in the next five years. Of course, imports did shrink the market here, making it more competitive. This in turn makes it less attractive for mill management to invest, so they close down many older units." Dan River has done some of this.

Russell said he sees a continuation of this contraction of American textile industry, though perhaps not at the rate of the past few years.

Peter Scotese, president of Spring Mills said: "We will spend $100 million in the next five years on OSHA rules and on modernization—nothing for new plant. There's no rate of return on this capital, zero. There is no question that imports are making it difficult for all segments of this industry to survive. And I don't think we can stop that buildup.

"I see a continuation of mill closings. If you are thinking of investing borrowed capital, it's extremely difficult to realize a return in the face of foreign apparel."

Scotese added that where mills are heavily into apparel goods, foreign competition will exert continuing pressure on prices and profits.

Imports will affect some industry segments seriously, might even wipe them out and will probably not hit others at all, he said.

Austin List, president of Johnston Industries, said the textile industry pie has been cut up into smaller pieces because of imports, and that this is forcing the collapse of numerous marginal operations.

A world textile depression has added to the pressure, he explained, discouraging important investments.

"Management is more realistic today. In the face of doubling machinery costs, plus imports, many will just turn the key. It's cheaper to invest somewhere else," he declared.

He predicted the industry will continue to contract and will become more verticalized—even in industrial fabrics.

List expressed the hope that Washington might wake up to the realities and change its policies. If it does not, he asserted, those who remain will do well, but there will be "a lot fewer of us."

Robert Elsen, executive vice-president of Greenwood Mills, was more emphatic in blaming the foreign cloth and apparel surge as causing mills to fail. "Why should management invest in modernization of old plants in the face of this threat to their profit-making capabilities?" He asked. "The rise of blends has made it necessary to refrigerate mills at great cost," he observed. "And with imports the frequent decision has been to shut plants down," he said. "Other factors, like mills being located in tight labor areas, or OSHA rules, are secondary," he stated.

Mr. ASHBROOK. Mr. Speaker, like many of my colleagues, I am increasingly alarmed at the threat foreign competition poses to domestic employment. Because of trade policies which fail to place basic American interests first, American jobs are being lost to overseas competitors. This is happening in such diverse areas as our basic steel industry and the textile and apparel industry.

I am very disturbed that the long running imbalance of trade and tremendous deficit in textiles has retarded the healthy growth of the domestic industry which serves as one of the few remaining people-intensive manufacturing concerns. The result is higher unemployment—something we certainly cannot afford at this time.

We spend billions of dollars annually in welfare payments to millions of Americans. We fund program after program designed to stimulate the economy and provide for Government service employment. And yet, when it comes to trade, we follow policies which reduce employment opportunities.

We all know that the solution to our unemployment problem lies in the private sector of our economy. Given fair and free operation, American industry can provide jobs for more people with

more satisfactory results than all of the Government-financed programs combined.

And yet, as we have witnessed by these discussions here, we seem to refuse to accept the fact that our own international trade policies with regard to textiles, as well as other industries, benefit other nations at the expense of our own. Imports have and will continue, unless actions are taken, to erode our own industrial employment.

I am weary of being labeled a protectionist by some who wish us to be supreme benefactor to the whole world at the expense of our own taxpaying citizens. Mr. Speaker, America has the most liberal, free trade policy of any nation in the world. We have been a generous people. Look at our foreign aid tab. We were generous with our funds which poured vast sums into countries to help rebuild their war-plagued economies. We were generous with our funds that helped to establish many of the very factories which are closing ours down today.

Mr. Speaker, unemployment is one of our major enemies. Short-sighted American policy has created much of it. When will we learn?

From New England to the Deep South through the Western States, the textile and apparel industry is a very vital and necessary part of our economy. A vital and necessary part of the economy because it provides literally hundreds of thousands of jobs for hardworking, taxpaying, law-abiding citizens.

And yet right now, this very day, we are watching this industry being slowly choked. We are watching the employment rates shrink. We are witnessing plant closings.

Mr. Speaker, it seems inconceivable that we would consider tariff cuts on imports for this industry. Reduced tariffs can only lead to increased imports, and imports cost jobs. Jobs which we as a nation cannot afford to lose.

We must consider the impact of our trade policies on domestic employment. We must place basic American interests first when it comes to our textile and apparel industry. We cannot afford to lose an even greater share of the U.S. textile-apparel market to foreign imports.

Mr. MANN. I thank the gentlemen who have spoken and wish to thank them on behalf of the industry for the oversight that his subcommittee and he individually have furnished, and the leadership that he is furnishing on that committee toward seeking a solution for this problem.

Mr. Speaker, today we have heard from approximately 50 Members of this House expressing their concerns about the import problem. There have been many discussions in this hall concerning this problem, and we are still seeking that elusive lasting solution. We seem to be the victim of habitual behavior in this as well as other areas.

Not since 1957, 20 years ago, has the American textile industry enjoyed a favorable balance of trade. In recent years we have developed some solutions. With our current tariff structure and multifiber arrangement, some measure of control has been brought to the import picture. In spite of that, there has been a 14-percent growth in import penetration in the textile industry since the MFA went into being in 1974, but now we are confronted with a true crisis with the administration apparently taking the position that our international posture requires a tariff-cutting exercise.

When the MFA was agreed to, or tentatively agreed to, in Geneva 2 months ago, our negotiators' industry representatives and others proceeded on the assumption that the tariff levels and the tariff structure would remain the same. No one was satisfied with the MFA because it did not solve the problem of the 6-percent annual growth that is allowed for imports as against an increase in the domestic market of less than 3 percent.

So as we confront now the multilateral treaty negotiation, if the textile industry is laid upon the table to be traded off and fluffed off with other commodities and other considerations in the world, then we are faced with what I feel is a disaster for the textile industry, but even more importantly a disaster for this country, because the importance of the textile industry in terms of employment has been pointed out in its numbers. The importance of the textile industry with reference to the strategic defense capability of this country surely cannot rely upon outside sources for uniforms and for parachutes and for those many things that are necessary were this country to be confronted with an armed conflict.

The historical effects of tariffs and of reductions in tariffs are well demonstrated. In 1955 there was a reduction in tariffs with Japan in particular and it developed that imports increased so rapidly, not just from Japan and the major exporting countries but also from other countries that got into the act because our market then became attractive to them, that it was necessary at that time to provide for an emergency tariff control or increase within a year.

I can only suggest to the administration that in the jobs program that I referred to earlier, 2.3 million people are paying taxes and producing goods for the people of this country even now with a trade deficit, and we read the disturbing news of the increasing trade deficits of this country across the board. I should point out that of the $9 billion deficit last year, $3 billion of that was traceable to the textile deficit, and there seems to be an increase occurring this year.

Mr. Speaker, the record clearly shows that our domestic textile industry has not fared well in affairs of international trade. The industry simply cannot tolerate such a deteriorating condition, and history has proven too well that a reduction in textile tariffs will result in an increase in imports. We have a tenuous position in the industry at this point.

I must insert here that, as we have heard here today, there are sweatshop conditions that exist in other countries and low wages exist in other countries. We see on the other hand the Government-regulated requirements that we are putting on our industry, requiring them to pull up their corporate profits for the last few years and requiring the profits to be invested in environmental and other governmentally required improvements to plants and operations, which of course contribute to the quality of life of our people. But do we trade off the industry as a whole and accept the sweatshop products of other countries without considering what we are doing to ourselves?

Mr. Speaker, I strongly believe that our best course of action is to exempt the entire textile sector from the Tokyo round of tariff negotiations, and I urge the administration to adopt such a course.

I appreciate the opportunity of expressing my opinion on the problems of the textile industry, and particularly I express my appreciation to my colleagues who have joined in this effort to bring sanity to our export and import and international trade policy with reference to this most important of our industries in this country.

Mr. MATTOX. Mr. Speaker, during the last 10 years textile imports into the United States have increased more than twice as fast as our domestic textile market has grown. As a result, employment in this industry declined by approximately 144,000 jobs at the same time there was a market growth of nearly 3 percent.

The textile/apparel industry is the largest industrial employer we have, providing 2.3 million jobs. Trade policies which weaken this industry also have a critical effect on both our balance of payments and our rate of unemployment.

As a member of the National Security Task Force of the House Budget Committee, I am also concerned about disruptions in this industry having an adverse effect on our national security. The importance of textiles to our national defense has been rated second only to the steel industry. In a national emergency we may not be able to look to outside suppliers for the textile products we need. For this reason alone, it is of vital importance to keep our domestic capability strong.

The health of the textile industry is of special concern to women. They hold 81 percent of apparel jobs. These jobs provide needed opportunities for first-time entrants into the work force, especially women who have been out of the job market for 15 or 20 years because they have sacrificed to raise children.

Our American textile market is the largest in the world. Other exporting nations use various devices to target unrealistically priced products into our market. Because these countries are not subject to the same quality and safety standards, they have an unfair competitive advantage over our own industry.

When a textile or apparel plant is forced to close because of inability to compete with imports from countries where wage rates are shamefully low and employee working conditions are intolerable, not just the plant personnel are affected.

This is especially true in a small town. The whole town suffers from the loss of productivity and revenue, not to mention the emotional loss for those workers who took pride in their work.

Although the employees may be eligible for trade adjustment assistance, it is just short-term help if it is approved and does not necessarily lead the recipients back into useful full-time employment.

The majority of those employees who lose jobs when apparel and textile plants close are usually women and members of minorities who are skilled sewing machine operators or are only skilled in some phase of textile or apparel production. Even if there are other jobs available in the community, skills learned in apparel production are not always readily transferrable and many people must remain unemployed.

Most of the people who work in these plants have to work in order to support their families. This is true even of those who are bringing in a second income to their families. Without that income, the family will have to cut back on some of the things it needs in order to live a decent life. This cutback also affects local merchants, who suffer from decreased demand for their goods.

Unemployed workers place a double burden on Government finances. Not only are they receiving public assistance in the form of unemployment compensation checks, food stamps, et cetera, but they are also not adding to Government revenues as they were through taxes when they were employed.

This human side of plant closings due to imports must be taken into consideration when the administration determines its trade policy. It is essential that the United States engage in world trade, but it is equally essential that such trade be truly fair to all concerned.

That is why we cannot lower our tariffs. That is why we must conclude more agreements with countries that export to us and that are likely to export to us. Otherwise, we will face a disaster. Our administration must make certain that this does not happen.

Our existing tariff schedules are inadequate. They do not offer a fair and balanced international textile trade situation. It is absolutely necessary that these tariffs be reevaluated during the Tokyo trade negotiations with the objective of placing our domestic industry on a sound footing.

Mr. YATRON. Mr. Speaker, I rise to speak on imports, but with a slightly different orientation. Not only will I comment and present statistical information on the tremendous damage that the Government's trade policies have caused in my jurisdiction, in the Commonwealth of Pennsylvania, and in this country, but I will first point out some things that are often ignored and recommend to the administration and this Congress a new analysis of this old problem.

The most frequent argument heard in favor of allowing underdeveloped countries free and unlimited right to export into this country is that this provides jobs for their people; with the implication that those jobs bring the dignity that jobs have brought to the American worker. This is false.

What the United States is fostering by this policy is the continued subjugation of the nationals of underdeveloped countries by outsiders.

A great percentage of the production facilities located in these underdeveloped countries are owned by nationals of developed countries, including the United States. It is they who reap the profits from the labors of the workers of the underdeveloped countries; workers who are paid sums like 16, 18, and 21 cents per hour for their labor. We are encouraging the very type of sweatshop which the unions in this country were formed to eliminate, while at the same time depriving the workers in this country of the right to work.

This is done in the name of the "workers" in underdeveloped countries, but is actually done for the benefit of entrepreneurs from fully developed countries with booming economies. This is wrong.

If the cost to the American taxpayer in unemployment compensation, retraining programs, and other related expenses were fully calculated, it is my belief that we could conclude that rather than continue to encourage the financial subjugation of workers in underdeveloped countries by a so-called free trade policy, our American taxpayers and workers, and the workers in the underdeveloped countries would be better off with a new aid program which would directly aid the countries, whose exports to the United States would be reduced, to develop their natural resources and indigenous industries which would be in the hands of their own nationals.

As to the damage that has been done to the Commonwealth of Pennsylvania and its residents, the facts are clear. Imports of women's and children's apparel have increased more than 250 percent between 1966 and 1976. Many of the contractors who do the actual sewing of these garments are located in Pennsylvania and many in my district.

This is clearly a Pennsylvania as well as national problem. The seriousness of this problem from the point of view of Pennsylvania can best be emphasized by the fact that the decline of employment in Pennsylvania between 1966 and 1976 was almost 100 percent greater than the decline in jobs for the country as a whole. One-half of the total number of jobs lost in the garment industry in this period was lost in Pennsylvania.

In the United States it is not the large entrepreneurs who are engaged in the cutting and sewing of women's apparel but "mom and pop" shops which represent the best form of the free enterprise system. The U.S. Bureau of Census, County Business Patterns publication for 1973 stated that the average women's and children's apparel contracting plant employed 53 people en toto; including executives and administrators. Multiplant organizations are uncommon.

No one can complain that profitability in the domestic industry is unreasonable. Statistics compiled by Dun & Bradstreet, Inc. indicate that in 1975 the average net profit earned on sales by blouse manufacturers in the women's and children's wear industry was 1.28 percent.

A new awareness of the fact that lower cost of production overseas does not profit the American consumer is finally encroaching on the public's consciousness. As recently as September 5, 1977, Business Week featured an article in its economic section which it subheaded with the statement that—

> A new study concludes that it (free trade) allows apparel retailers to take bigger markups.

The article went on to note that savings were not passed on the consumer.

It seems clear from all of this that to be profree trade is to be against the American worker and the American consumer.

Let the problems of those overseas be handled directly.

The recommendation which I would like to make is to cut off all imports. This must be modified, however, taking into account the realities of the situation in the world today.

The following recommendations were formulated by the Atlantic Apparel Contractors Association and adopted by and transmitted to the Pennsylvania Congressional Delegation Steering Committee which then sent to the White House a letter dated August 10, 1977. In that letter the Pennsylvania Congressional Delegation Steering Committee recommends, and I herewith recommend, the following proposals:

> The Multi-Fiber Tariff Arrangements which expire at the end of this year as well as the Bi-Lateral Arrangements with countries not covered thereby should be amended to provide as follows:
>
> (a) Imports should be limited to rise at a maximum rate of 3% in excess of the amount provided for in the previous year, or the actual rise in total domestic production during the previous year, whichever is less.
>
> (b) The practice of allowing newly created industries in less developed countries to export to the United States without restrictions initially should be amended to provide that any such increase should result in a limitation on the 3% increase that all other countries are allowed to enjoy in any year pursuant to (a) above.
>
> (c) The practice of borrowing from one import category or from a succeeding year's quota to justify an increase in imports in another category should be discontinued.
>
> (d) Notwithstanding the fact that a manufacturing facility may be located in a less developed country; if it is operated or controlled, directly, or indirectly, by the nationals of another country, then items imported from that plant should be charged against the quota of the country whose nationals control the manufacturing facility.
>
> I further recommend, as did the Pennsylvania Congressional Delegation Steering Committee, that Item 807.00 of the Tariff Schedule of the United States be amended so that it will operate as interpreted by the Tariff Commission in 1963. This will result in duty-free entry of American made parts of a foreign manufacturer's product being permitted *only* if it is readily separable, i.e. constructively segregated. It will insure that garments cut in the United States *cannot* be sewn abroad without tariff being payable on the value of the entire garment.

While the foregoing does not result in a termination of imports of garments, it is at least calculated to protect against unpredictable increases in imports

dampening the economy in this area even as it picks up for the balance of American industry.

In summary, I recommend your attention to the questions raised at the beginning of my statement. Analyze the cost to the American taxpayer of unrestricted imports in the apparel and other industries in terms of costs related to lost jobs. Analyze where the money paid for imports really goes. It is my belief that when this is calculated precisely it will shock even the most ardent free trader.

This Congress and this administration should make a policy decision as to the appropriate distribution of the large amount of taxpayer money spent because of imports. It is my opinion that the money would be better spent by preserving jobs in the United States and helping the economies of underdeveloped countries to mature along lines that are suggested by their own resource bases, free of outside control and dominance.

Mr. RICHMOND. Mr. Speaker, the apparel industry is an indigenous industry of my district. It has historically been one of the most basic sources of employment, not only for my district, but in fact the largest source of manufacturing employment in all of the New York area. Thus the massive amount of garment imports in the last several years has been a contributing factor in our economic difficulties. If imports are to continue as in last years, the effect on New York will be worse than the Great Depression. Some 115,000 jobs have been lost in New York in the past decade.

There had been hope that the multifiber arrangement would provide significant relief to the firms and workers in this industry. Unfortunately, this has not proved to be the case and the future prospects suggest more of what has been our experience in the last decade: declines in apparel production, greater unemployment, and imports taking over our domestic markets.

Let me cite what has happened to the major branches of the men's and boys' apparel industry over the last 10 years. The import penetration rates have jumped dramatically. The most striking is that for men's and boys' suits, where in 1967 the import penetration level was only 1.2 percent of domestic production. By 1976, it is estimated to have reached about 22½ percent or well over one-fifth of the market.

For coats and jackets imports, penetration leaped from the substantial level of 9½ percent in 1968 to nearly 45 percent, or almost half of the domestic market by 1976. The situation for trousers and shirts, both of which had suffered from the already high import penetration levels of 15.6 percent and 14.8 percent, respectively, in 1968, show the imports to have shot up to 45 percent in trousers and 40.4 percent in shirts

This bleak picture has developed over the last decade despite constant effort on the part of the U.S. Government to control imports through multilateral and bilateral agreements. Now, however, the Government proposes to further exacerbate the problem by cutting tariff rates for textile and apparel products.

Indeed, it would be completely inconsistent policy to have apparel and textiles receive import relief under bilateral agreements negotiated with the exporting nations and then have that relief vitiated by cutting tariffs on these products.

The extreme import-sensitivity of all apparel and textile products is also evidenced by the statutory exclusion given to these products from the generalized system of preferences under the Trade Act of 1974. Since Congress has determined that GSP duty-free treatment of apparel and textiles is neither warranted nor necessary, this too supports the position that there can be no justification for reduction in the U.S. duty rates on these products in the upcoming multilateral trade negotiations.

Indeed, to cut these imports duties after Congress exempted such products from preferences would act to negate congressional action.

The issue is not that of choosing between free trade and protectionism. It is a case of weighing the full consequences for not only the people in my district but for the Nation as a whole. Can we permit the escalating erosion of this industry, which provides livelihood to such a large number of people for who few alternative opportunities exist?

People will do desperate things when they see their economic security and future hopes relentlessly threatened.

The import situation must be stabilized now if the economic and social fabric of cities is to be maintained.

Mr. COHEN. Mr. Speaker, I appreciate this opportunity to express my views on the importance of the textile and apparel industries to the United States, and on the need to establish effective trade policies which will permit those industries to prosper.

There was a period during the 19th century when the United States exported fabric to many parts of the world. We sent cloth in American vessels to Europe, to the East, and to Africa. In fact, American-made cloth was so common in certain remote areas that the inhabitants believed that all material came from the United States. In the East Africa of Livingstone's day cloth from the mills of New England was used in African markets as a medium of exchange. Even today, the swahili word "amerikani" or "merikani" means fabric in the coastal regions of Kenya and Tanzania.

The legend which persists does not reflect the situation which exists today. American textile and apparel manufacturers are no longer recognized as great exporters of their goods. Indeed, American firms are having difficulty holding on to the traditional markets within the United States on which they have grown to depend. Massive importation of foreign cloth and apparel is to blame.

In my own State of Maine, there are 9,400 textile workers and 3,500 apparel workers. Together these employees represent 12 percent of all manufacturing employment in the State. In 1977 alone, these workers will earn an estimated $96.6 million. In several of Maine's smaller cities, the textile and knitting mills constitute the only industrial employers in the area. The mills, as a result, play a vitally important economic role in communities and, to a significant degree, they dictate the extent to which many communities prosper or decline.

Steadily increasing cloth and apparel imports are hurting these communities in Maine.

Between 1974 and 1976, the amount of imported wool fabric and apparel rose by 18 percent, an amount which was double the rate of growth for these goods in the domestic market.

In the most recent 12-month period, these imports were up by 54 percent.

The situation is easily understood if one looks closely at the experiences of specific manufacturers. For example, one knitwear manufacturing firm in my district, the Emple Sales Corp. of Brewer, Maine, lost to imports business in excess of $600,000 in 1968, $180,000 in 1971, $150,000 in 1972, and $200,000 in 1974. That averages out to over $160,000 per year in lost business over a 7-year period. If permitted to continue, that translates into unemployment, idle machinery, defaulted loans, and vacant, crumbling buildings. In Maine it usually has one added effect: the deterioration of communities resulting from an out-migration of the young in search of work.

This body has a responsibility to address the textile and apparel import penetration problem. Two actions can and must be undertaken. First, we must strenuously encourage the President to promptly renew the multifiber arrangement (MFA) with improvements which will prevent the already high quotas granted to our trading partners from being increased precipitously. Second, we must impress on the President and his Special Representative for Trade Negotiations the absolute necessity of tightening the existing tariff rate structure which prevents floods of imports from those nations with which the United States does not have bilateral agreements governing textile imports.

Our involvement in this matter becomes even more necessary now that our international economic policy planners are considering loosening, rather than tightening, the tariffs. Robert S. Strauss, the President's Special Representative for Trade Negotiations, was quoted recently as saying; "Textiles and apparel definitely will be included in any Tokyo round negotiations." If this is the case, I would hope that Mr. Strauss will bear in mind that tariff cuts have historically resulted in increased imports. I would hope that he will remember that in the first year following the Kennedy round cuts imports increased by 26 percent and that within 5 years of those cuts they had increased by 150 percent. Lastly, I would hope that Mr. Strauss will not forget that during 1976 alone, textile and apparel imports increased by 30 percent over the previous year.

The textile and apparel industries constitute an important segment of our local and national economies which must not be allowed to atrophy as a result of unsound trade decisions and a lack of attention by the Federal Government. I hope that many of my colleagues in the Congress will join with me in sending this message to President Carter.

Mr. JENRETTE. Mr. Speaker, the textile industry is crucial to the United States and particularly to the State of South Carolina which I have the pleasure to represent in this body.

The textile import problem is naturally of utmost importance and interest to the State of South Carolina. More than 60 percent of the industrial employment in our State is in textiles and related industries. South Carolina produces on an annual basis 15 percent of the cotton, synthetic, and wool fabrics in the Nation.

Even though the cotton textile industry has the benefit of the multifiber arrangement, the cotton textile situation looks like this. In 1976, there was an increase in the cotton bale equivalent of cotton imports of 432,000 bales over 1975. Although there is an almost absolute quota on the importation of upland type raw cotton imports, this quota does not extend to manufactured cotton textiles. In 1976, cotton textile imports totaled 2 billion square yards, a 53-percent jump over 1975.

Mr. Speaker, this circumstance will have a doublebarreled effect in the long run. Not only does it have an immediate effect upon the cotton textile industry and those employees engaged in the industry, but it will seriously affect the cotton growers in our country. In South Carolina, for example, cotton added $48 million to the gross income of the State in 1975. The market for this cotton is in the domestic textile mills of this Nation. If production and employment continue to be affected as a result of low-price imports, the market for our own domestic cotton will be decreased proportionately. This, in turn, means that the Government's cotton program will be more expensive to the taxpayers of our country, since there will be an insufficient market to handle domestic cotton production.

There are a number of things which can be done to correct the problem which exists in the textile industry, both as to cotton and other fibers. The No. 1 thing is that no tariff reductions on any textile product should be negotiated by the administration in the upcoming multilateral trade negotiations. The massive volume of imports already attests to the fact that there is no need for a tariff reduction to make the U.S. market available to foreign imports of textile products. In fact, Mr. Speaker, the only purpose any negotiated reductions in our tariff structure on textiles would serve would be to inflict greater damage upon the textile industry. I am absolutely confident, Mr. Speaker, that that is not the desire of our Government.

In conclusion, the United States can no longer afford to delay taking effective action to bring the rate of increase of imports of textile products under effective control.

Yes, foreign trickers aided by loopholes in our laws and by attitudes of many who administer our import-export market, are causing the demise of the American cottonpicker—we must not allow that to happen.

The hour is at hand, Mr. Speaker. Action must be taken.

FEDERAL ASSISTANCE EQUALITY ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, today I am introducing with my colleagues, Mr. DRINAN and Ms. JORDAN, the Federal Assistance Equality Act of 1977, a comprehensive revision of title VI of the Civil Rights Act of 1964 relating to equality of opportunity in federally assisted programs.

Title VI of the Civil Rights Act of 1964 directs Federal agencies to enforce compliance with that title's prohibition against racial or ethnic discrimination in federally assisted programs. The responsibility for assuring that federally assisted programs do not engage in unlawful discrimination rests with those Federal officials who operate the programs. Although there has been progress over the last 10 years, Federal title VI responsibilities have not been effectively discharged. The Federal program suffers from a number of significant and well-documented deficiencies, including the lack of overall leadership and coordination among the agencies, despite Executive orders directing the Attorney General to coordinate enforcement, the absence of consistent guidelines and strict time limits for processing complaints, the failure of agencies to utilize the findings of discrimination of other forums, particularly State and Federal courts, and the agencies' failure to conduct a sufficient number of compliance reviews, both pre- and post-award. Finally, the overall impact of title VI is seriously hampered because it is limited to discrimination based on race, color, or national origin. The bill we introduce today seeks to correct these and other deficiencies. It addresses the need for restructuring and improvement of the Federal effort to assure that the billions of dollars spent on Federal financial assistance each year are not being used to perpetuate unlawful discrimination.

In a report issued by the U.S. Civil Rights Commission in November of 1975, "The Federal Civil Rights Enforcement Effort—To Extend Federal Financial Assistance," the Commission evaluated the civil rights activities of several Federal agencies responsible for assuring nondiscrimination in their federally assisted programs. In its report, the Commission concluded that:

> During the past few years dedicated staff in a number of Federal agencies have tried hard to establish viable equal opportunity programs, but, largely because of inadequate governmentwide leadership, these efforts have often been futile.

After finding widespread shortcomings in the title VI enforcement effort, the Commission recommended a number of changes, including legislative revision of title VI.

The Commission's findings parallel those of congressional committees which have undertaken studies of a similar nature, including the House Judiciary Committee Subcommittee on Civil and Constitutional Rights, which I chair. The subcommittee and the full committee have examined the antidiscrimination enforcement activities of several agencies in connection with specific Federal programs.

As a result of our activities, there have been several instances in which I have been forced to conclude that specific statutes as originally enacted have proved ineffective, cumbersome, and incapable of accomplishing the goals they were designed to achieve. There are times when we must conclude that no matter how good our earlier intentions, the results we intended have not been forthcoming because the mechanisms necessary for achieving those results are not available. In such cases, legislative revision becomes imperative.

For example, in October 1975, the subcommittee held hearings on the civil rights aspects of revenue sharing. As a result of those hearings the subcommittee issued a report calling for certain administrative and legislative changes designed to enhance enforcement of the civil rights provisions of the General Revenue Sharing Act. I testified before the Subcommittee on Intergovernmental Relations and Human Resources of the House Committee on Government Operations in November 1975, to present the findings and recommendations contained in the subcommittee's report. Because the Government Operations Subcommittee had legislative jurisdiction over the revenue sharing program, and was at that time considering proposals for extension and modification of the program, the focus of my testimony was on the subcommittee's recommendations for legislative modifications. The subcommittee's recommendations were adopted by the Government Operations Subcommittee as civil rights amendments to the General Revenue Sharing Act. These amendments subsequently were adopted by the full Committee on Government Operations, the House, and, in revised form, by the conferees on the extension of general revenue sharing. As a result, the civil rights provisions of the enactment of the amendments.

At the same time, the House was also considering legislation reauthorizing the Law Enforcement Assistance Administration. Civil rights language almost identical to that adopted by the House Government Operations Committee was adopted by the House Judiciary Committee for the LEAA program. The full House passed the LEAA civil rights amendments, and they were accepted by the Senate.

Certain fundamental concepts were agreed to in the development of last year's civil rights provisions for revenue sharing and LEAA. First, that the Federal enforcement agency should be required to take cognizance of discriminatory findings by courts, by agencies after a due process hearing, and by the U.S. Attorney General. Second, if a finding of discrimination had been made, then the Office of Revenue Sharing and LEAA should be required to send notice to the recipient. If compliance is not achieved in a specified number of days, the funds to that recipient would be suspended temporarily. Third, the recipient government could request an administrative hearing on the matter, but if compliance is not achieved within a specified number of days after suspension, the money would be terminated premanently. Fourth, the recipient should be given every incentive to come into voluntary compliance, but negotiations toward compliance would not disrupt the suspension and termination timetables. Fifth, private individuals must have their complaints investigated within a reasonable period of time. And sixth, private individuals should be allowed to go to the courts to seek relief.

Throughout the many months which it took for the legislative process to move these basic concepts from the form of an introduced bill to enactment into law, these basic concepts were not comprised. The timetables, the triggering mechanisms, the hearings available to the recipient, the issues allowed to be heard in hearing, and the rights of private parties vary. Revenue sharing has one set of timetables, LEAA another; revenue sharing notices of noncompliance are triggered by one set of holdings or findings, LEAA notices are triggered by another set. But the basic concepts are the same. The legislation we are introducing today incorporates those basic concepts and applies them to all Federal departments and agencies which extend Federal financial assistance.

This bill, whose provisions parallel many of the changes in the civil rights aspects of revenue sharing and LEAA programs, will bring about similar improvements in the enforcement of the civil rights requirements of federally assisted programs. It also aims to create greater uniformity in policies and standards by placing overall direction of the program within the Executive Office of the President. It aims to correct the glaring omission of sex discrimination by adding sex to its coverage as well as age and handicap. Enforcement mechanisms are tightened and improved with more stringent timetables, along with the addition of private remedies which has proved to be one of the most effective tools of civil rights enforcement.

Some of the basic proposals for reform contained in this bill could be implemented through means other than legislation, that is, through Executive order and reorganization. Indeed, in its 1975 report, the Civil Rights Commission recommended that the prohibition of sex discrimination in any federally assisted program be accomplished by Executive order. The Commission also recommended that the transfer of the responsibility for coordinating and directing the title VI effort to the Executive Office of the President be accomplished by Executive order. Moreover, I am advised that the Civil Rights Task Force of the President's Reorganization Project plans to examine title VI enforcement after completing its study of equal employment opportunity enforcement. I have indicated the subcommittee's willingness to work with the task force on this project. It may be that the goals we seek to implement through this bill will be adopted by the task force.

But regardless of the final decision as to the most appropriate vehicle for change, I am convinced that the legislative process is a proper forum for stimulating public comment on all of these proposals, and to indicate congressional concern to the administration. If introducing the bill and holding hearings can serve to initiate a general examination of title VI—an examination that is long overdue—then we will have accomplished a substantial portion of our goal in drafting this legislation. We must begin the process now, however, if equal opportunity in federally assisted programs is to become a reality.

So that a short description of the bill is readily available to all, my colleagues Representatives DRINAN and JORDAN and I wish to insert a section-by-section analysis at the conclusion of our remarks.

FEDERAL ASSISTANCE EQUALITY ACT OF 1977—SECTION-BY-SECTION ANALYSIS

Section 1. Provides a short title for the act.

Section 2. Amends Title VI of the Civil Rights Act of 1964 so as to make the following revisions:

(1) Section 601. (a) Re-enacts the existing Section 601 and adds "sex" as a prohibited ground of discrimination;

(b) Keys in the prohibitions against discrimination based on age and handicap contained in the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973.

(2) Section 602. (a) Requires each federal executive agency providing federal financial assistance to send notices of non-compliance to recipients whenever (i) a state or federal court finds discrimination; (ii) a state or federal agency, after notice and opportunity for hearing, finds discrimination; (iii) such agency determines there is reasonable cause to believe a recipient has discriminated in a federally assisted program; or (iv) receives a reasonable cause determination of another agency from the Executive Office of the President;

(b) Places an affirmative obligation upon each agency to discover state or federal court or agency findings which would "trigger" enforcement proceedings, and gives the Executive Office of the President the duty to establish uniform procedures for such discovery;

(c) Requires each federal agency to commence enforcement proceedings within 10 days of any of the four "triggering" events by sending a notice of non-compliance to the recipient. Gives the recipient 30 days to comply voluntarily before assistance is suspended. Requires the Executive Office of the President as well as the federal agency and the recipient to sign any compliance agreement;

(d) Requires each agency to forward its reasonable cause determinations to the Executive Office for possible forwarding to other agencies;

(e) Gives the Executive Office the responsibility to coordinate enforcement of Title VI, thus transferring that authority from the Attorney General.

(3) Section 603. Requires suspension of assistance 30 days after notice, limiting the suspension to the program or activity in which the discrimination has been found or determined to exist, if compliance is not achieved.

(4) Section 604. Describes the circumstances which require resumption of federal financial assistance after it has been suspended. Such circumstances include reversal of a discrimination finding or determination by a court or agency, and compliance with the non-discrimination requirements which triggered the suspension.

(5) Section 605. (a) Requires termination of assistance 60 days after suspension, and authorizes the agency to seek repayment of all or some of the prior assistance;

(b) Describes the circumstances which will preclude termination, including a court or agency reversal of the discrimination finding or determination, and compliance with the non-discrimination requirements which triggered suspension.

(6) Section 606. Requires deferral on applications or other requests for assistance upon the discovery of an event which would trigger commencement of enforcement proceedings under section 602.

(7) Section 607. (a) Authorizes the Attorney General to initiate litigation against a recipient either if there is a pattern or practice of violations or if an agency recommends such action;

(b) Requires suspension of funds 45 days after the Attorney General commences a suit unless the court otherwise orders;

(c) Authorizes the Attorney General to intervene in any private suit initiated under Title VI;

(d) Describes the kind of relief which the Attorney General may seek when bringing or intervening in a suit.

(8) Section 608. Codifies the right of aggrieved, private individuals to institute actions under title VI, and describes the relief which may be awarded.

(9) Section 609. (a) Requires each agency to promulgate regulations within 60 days of enactment of the Act or of any new authorization for federal financial assistance. Such regulations shall include time periods for processing complaints and conducting compliance reviews;

(b) Gives the Executive Office of the President the authority to review and approve (or reject) proposed regulations promulgated under subsection (a);

(c) Provides a similar procedure for amendments to existing regulations as is provided in subsection (b) for new or initial regulations.

(10) Section 610. Defines the terms "Federal executive agency" and "State."

H.R. —

A bill to revise title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Assistance Equality Act of 1977".

REVISION OF TITLE VI OF 1964 ACT

SEC. 2. Title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964 is amended to read as follows:

"TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

"PROHIBITION OF DISCRIMINATIONS

"SEC. 601. (a) No person in the United States shall, on the ground of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

"(b) No person in the United States shall be subject to an act or omission that would constitute a violation of section 303 (42 U.S.C. 6102) of the Age Discrimination Act of 1975 or of section 504 (29 U.S.C. 794) of the Rehabilitation Act of 1973 under any program or activity receiving Federal financial assistance.

"TRIGGERING MECHANISM FOR COMPLIANCE; VOLUNTARY AGREEMENTS; COORDINATION

SEC. 602. (a) Each Federal executive agency providing Federal financial assistance shall, in accordance with subsection (c), commence enforcement proceedings against a recipient of such assistance whenever—

(1) a State or Federal court finds that a recipient of Federal financial assistance has violated section 601 or otherwise discriminated on the ground of race, color, sex, national origin, age, or handicap;

(2) a Federal executive agency or a State agency, after notice and opportunity for a hearing, finds that a recipient of Federal financial assistance has violated section 601 or otherwise discriminated on the ground of race, color, sex, national origin, age, or handicap;

(3) such agency, after an investigation, determines there is reasonable cause to believe that a recipient of Federal financial assistance has violated section 601 or otherwise discriminated on the ground of race, color, sex, national origin, age, or handicap; or

(4) the Executive Office of the President, under subsection (a), refers to such agency any reasonable cause determination of another agency made under subsection (a)(3).

(b) It shall be the duty of each Federal executive agency providing Federal financial assistance to discover in a timely fashion any findings of discrimination under subsections (a)(1) and (a)(2) that would result in the commencement of enforcement proceedings. The Executive Office of the President shall, under subsection (e), establish uniform procedures to assure that each such agency timely discovers such findings.

(c) Within ten days after discovery of such findings, after its own determination of reasonable cause, or after a referral under subsection (a)(4), each Federal executive agency providing Federal financial assistance to a recipient found or determined to have discriminated shall commence enforcement proceedings under this title by sending a notice of noncompliance to such recipient. Such notice shall advise the recipient that Federal financial assistance will be suspended, in accordance with section 603, unless agreement for compliance is secured within thirty days after the date of the notice. If such recipient agrees to comply, the terms and conditions agreed to shall be set forth in writing and signed by the recipient, the Federal executive agency, and the Executive Office of the President.

(d) Whenever a Federal executive agency determines reasonable cause under subsection (a)(3), such agency shall, in addition to commencing enforcement proceedings, simultaneously forward its determination to the Executive Office of the President for review within fifteen days after receipt by such Office. If such Office approves such determination, then such Office shall forward such determination to all other Federal executive agencies.

"(e) The Executive Office of the President shall coordinate enforcement by the Federal executive agencies of this title. Such Office shall prescribe standards and procedures regarding implementation of this title and shall assist such agencies in accomplishing that implementation effectively. The Executive Office of the President may adopt such rules and issue such orders as are necessary to carry out the functions of such Office under this subsection.

"SUSPENSION

"SEC. 603. If, by the end of the thirtieth day after notice under section 602 of this title, such recipient has failed to enter into a compliance agreement, each Federal executive agency providing Federal financial assistance to such recipient shall suspend further assistance to such recipient. Such suspension shall be limited to the program or activity with respect to which a determination or finding of discrimination described in section 602(a) of this title was made. Such suspension shall not occur if the recipient is in full compliance, as determined by the court or agency whose determination or finding triggered the notice under section 602(a) of this title, with any relevant remedial order of such court or agency.

"RESUMPTION OF FINANCIAL ASSISTANCE

"SEC. 604. At any time after suspension under section 603 of this title but before termination, suspended assistance shall be resumed only if the suspension arose out of—

"(1) a State or Federal court or State agency or Federal executive agency finding of a violation of section 601 or other discrimination and—

"(A) that finding has been reversed after judicial review or appellate proceedings; or

"(B) the recipient has fully complied with the remedial terms of an order issued by such court or agency as determined by the court or agency issuing the order; or

"(2) a reasonable cause determination of a Federal executive agency and—

"(A) such agency fails to find a violation of section 601 or other discrimination after affording the recipient an opportunity for a hearing; or

"(B) the recipient has entered into a compliance agreement signed by such Federal agency, the recipient, and the Executive Office of the President.

"TERMINATION

"SEC. 605. (a) Not later than the sixtieth day after the commencement of suspension of financial assistance under section 603 of this title, each Federal executive agency that has suspended such financial assistance shall terminate that financial assistance and may order repayment by the recipient of some or all prior financial assistance provided by such agency to the program or activity with respect to which a determination or finding of discrimination described in section 602(a) of this title occurred.

"(b) The termination required under subsection (a) of this section shall not take place if the suspension arose out of—

"(1) a State or Federal court or State agency or Federal executive agency finding of a violation of section 601 or other discrimination and—

"(A) that finding has been made the subject of judicial review and, after such judicial review or appellate proceedings, has been reversed; or

"(B) the recipient has fully complied with the remedial terms of an order issued by such court or agency as determined by the court or agency issuing the order; or

"(2) a reasonable cause determination of a Federal executive agency and—

"(A) such agency fails to find a violation of section 601 or other discrimination after affording the recipient an opportunity for a hearing; or

"(B) the recipient has entered into a compliance agreement signed by such Federal agency, the recipient, and the Executive Office of the President.

"AGENCY DEFERRAL MECHANISM TO ASSURE COMPLIANCE

"SEC. 606. (a) Each Federal executive agency, in processing any application or other request for Federal financial assistance, shall defer or deny, such application or other request beginning when such agency discovers a determination or finding that results in, or would, if the party making such application or request were receiving financial assistance from such agency, result in, the commencement of enforcement proceedings under section 602 of this title. Such deferral or denial shall continue until a compliance agreement is signed or another event occurs that results or would result, if the party making such application or request were receiving financial assistance from such agency, in resumption of such assistance.

"(b) The provisions of subsection (a) of this section shall apply to all applications or requests for assistance, including such applications or requests from potential recipients seeking assistance for the first time, recipients seeking renewal or continuation of assistance, recipients whose assistance is suspended, and recipients whose assistance has been terminated.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"SEC. 607. (a) The Attorney General may commence a civil action against any recipient if—

"(1) the Attorney General believes that such recipient has engaged in a pattern or practice of violations of section 601 of this title; or

"(2) a Federal executive agency that has suspended or terminated financial assistance to such recipient under this title recommends commencement of such action.

"(b) Beginning on the forty-fifth day after the commencement of a civil action under subsection (a)(1) of this section, each Federal executive agency providing financial assistance to a program or activity with respect to which the pattern or practice of violations is alleged shall, unless the court orders otherwise, suspend such financial assistance, pending the conclusion of such civil action. The Attorney General shall give timely notice to each Federal executive agency providing financial assistance to such program or activity of the commencement of a civil action with respect to such program or activity under this section.

"(c) The Attorney General may intervene in any civil action commenced by any person under section 608 of this title.

"(d) In any civil action commenced under this section or in which the Attorney General intervenes under this section, the court may grant appropriate relief to enforce the rights guaranteed by section 601 of this title. Such relief may include any temporary restraining order, preliminary or permanent injunction, or other order, including the suspension, termination, or repayment of Federal financial assistance, or the placement of funds in escrow pending the outcome of the litigation.

"PRIVATE ENFORCEMENT

"SEC. 608. Any person aggrieved by a failure to comply with this title may institute

a civil action in a State or Federal court to enforce the rights guaranteed by this title against the person or other entity responsible for such failure and recover appropriate relief. Such relief may include any temporary restraining order, preliminary or permanent injunction, or other order, including the suspension, termination, or repayment of Federal financial assistance, or the placement of funds in escrow pending the outcome of the litigation.

"REGULATIONS

"SEC. 609. (a) Within sixty days after the date of the enactment of this Act or of an Act authorizing Federal financial assistance, each Federal executive agency authorized to provide financial assistance shall publish in the Federal Register proposed regulations regarding—

"(1) the discovery of determinations and findings of discrimination made by State or Federal courts or agencies;

"(2) the investigation of complaints alleging a violation of this title, including reasonable time limits for completing such investigations;

"(3) the initiation of compliance reviews, including reasonable time limits for completing such reviews; and

"(4) the processing of applications for Federal financial assistance to assure compliance with this title.

"(b) Upon publication of the proposed regulations in the Federal Register, such Federal executive agency shall submit such regulations to the Executive Office of the President for approval. Within sixty days after such submission, the Executive Office of the President shall either approve the proposed regulations for final adoption or return such regulations with written objections to such Federal executive agency for revision and resubmission within fifteen days after such return. Final regulations shall be issued not later than one hundred and twenty days after the date of the first submission of regulations to the Executive Office of the President by such agency under this subsection.

"(c) Any amendment to regulations adopted under this section shall follow the same procedure as applies to the adoption of regulations under this section.

"DEFINITIONS

"SEC. 610. As use in this title—

"(1) the term 'Federal executive agency' has the meaning given the term 'Executive agency' in section 105 of title 5 of the United States Code; and

"(2) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any possession or other territory of the United States.".

Ms. JORDAN. Mr. Speaker, the bill Congressmen EDWARDS and DRINAN and I are introducing today is called the Federal Assistance Equality Act of 1977. We have no illusions that it will be adopted in 1977. We introduce the bill today to focus debate on current enforcement of title VI of the Civil Rights Act of 1964 and the organizational structure used to coordinate enforcement.

In March of 1976, I introduced legislation which strengthened the civil rights enforcement program of the Law Enforcement Assistance Administration. My bill was incorporated into Public Law 94–503, the Crime Control Act of 1976. During this same time last year, I offered amendments in the Intergovernmental Relations Subcommittee of the House Government Operations Committee which strengthened the civil rights enforcement program of the Office of Revenue Sharing. Those amendments were accepted by the House. Although modified in conference with the Senate, they were incorporated into Public Law 94–488, the State and Local Fiscal Assistance Amendments of 1976. Earlier this year, I introduced legislation which applied the civil rights enforcement provisions of the general revenue sharing to the countercyclical fiscal assistance program. My bill was incorporated into Public Law 95–30.

The bill we introduce today is a logical extension of these three public laws. The bill would apply the same enforcement procedures of these three public laws to all Federal departments and agencies which extend Federal financial assistance. For the first time since 1964, the bill would make enforcement of title IV truly uniform throughout the Government.

Government agencies would know exactly how and when to enforce title VI. And recipients of Federal assistance would know exactly what is expected of them. At the moment, we have neither. Some Federal agencies try to vigorously enforce title VI. Some Federal agencies appear to ignore title VI. Recipients of Federal assistance from more than one Federal agency are confronted with duplicating and sometimes contradictory civil rights implementation schedules and reporting procedures.

Since the passage of title VI, the Congress has added various civil rights provisions to separate authorizing legislation. In some programs, discrimination based on sex is included in the law and sometimes it is not mentioned. This bill would achieve uniformity throughout the Government in the basic prohibitions. One of the questions which the Congress will face as this bill moves through the legislative process is whether to repeal all the special civil rights provisions in various authorizing statutes which would conflict with the bill. That is a course of action I favor. Without doing so, we would not have achieved true uniformity.

This bill places in the Executive Office of the President the coordinative functions now assigned by Executive order to the Attorney General. The bill contemplates that the President would assign the responsibilities of coordination to an already existing unit within EOP, such as the Office of Management and Budget, or create a new unit especially for civil rights coordination. Experience has shown that it is difficult for one Cabinet official to coordinate the actions of other Cabinet officials.

Although the Executive order delegating to the Attorney General title VI coordination responsibilities specifically states the Attorney General may order another department to take specific enforcement actions, so such order has ever been issued. It is unlikely that such an order will be forthcoming in the future. Before civil rights coordination can be truly effective, it must be placed in that unit of the Government which has the power and authority to achieve uniformity throughout the Government. That power and authority is found within the Executive Office of the President. It is not contained in any other executive agency.

Mr. Speaker, the basic purpose of this bill is to strengthen enforcement so as to achieve compliance with the Civil Rights Act of 1964. Compliance is what we are after. The bill contains provisions for notifying the recipient that it is not in compliance, for suspending payments, for terminating payments and for filing civil actions. All these measures sound harsh. They are all proposed in order to induce compliance. Suspension and termination are last steps. They are in the bill because they must be there in order to have an effective civil rights enforcement program. But if compliance is achieved, suspension or termination will never happen. Under the present act, compliance is not uniformly sought. With the enactment of the provisions of this bill, compliance will be uniformly sought, for all.

Mr. DRINAN. Mr. Speaker, I join with Chairman EDWARDS of California and Representative JORDAN in the introduction of the "Federal Assistance Equality Act of 1977." This bill seeks to revise title VI of the Civil Rights Act of 1964, which forbids discrimination on the ground of race, color, or national origin in federally assisted programs or activities. We are undertaking this revision because of numerous deficiencies which have been revealed in the enforcement of that title.

The adequacy of title VI has been the subject of much examination and debate since its enactment over 13 years ago. The following is only a partial list of those who have studied its effectiveness: the Judiciary Subcommittee on Civil and Constitutional Rights, chaired by Representative EDWARDS of California; the U.S. Commission on Civil Rights; the Center for National Policy Review; the Leadership Conference on Civil Rights; and the Center for Law and Social Policy. I think it is fair to say that critics of title VI agree that improvements, either administratively or legislatively, must be made if the title is to have the impact originally intended.

The bill we introduce today seeks to make the necessary changes in title VI so that it will have the vitality which underlay its initial passage. Despite 13 years of operation, title VI has not ended discrimination in federally assisted programs. A large measure of its failure is attributable to lax enforcement by the Federal executive agencies. In its latest, massive report on that title, the U.S. Civil Rights Commission found that "Federal title VI responsibilities have not been effectively discharged." The Commission recommended a number of administrative changes; we propose to accomplish those objectives by legislation.

One of the major criticisms of title VI is the broad discretion given to the Federal agencies to enforce its proscriptions. Even though the agencies are "directed" by title VI to effectuate its nondiscrimination provisions, they have exercised that apparently mandatory duty in a discriminatory manner. In some instances litigation has been needed to compel Federal agencies to undertake compliance activities. See *Adams* v. *Richardson*, 480 F. 2d 1159 (D.C. Cir. 1973).

This bill would correct that deficiency in several ways. First, it would require each agency to "commence enforcement proceedings" within 10 days of its discovery of a finding of discrimination by any Federal or State court or agency, or within 10 days of an agency reasonable cause determination of discrimination. Second, the bill sets out precise time periods for negotiating voluntary compliance after the commencement of enforcement proceedings, and for the suspension, termination, and resumption of Federal financial assistance.

Third, the bill also narrows the discretion of agencies by providing specific timetables for promulgating regulations to enforce title VI. In addition, it requires that "reasonable time limits" be adopted for processing complaints and conducting compliance reviews. These three changes are essential elements to revitalize title VI, and are based on similar changes Congress made last year in the nondiscrimination provisions of the revenue sharing and the law enforcement assistance acts.

A second major criticism of title VI is the scope of its coverage. Under existing law discrimination is forbidden only if it is grounded on "race, color, or national origin." We propose to broaden that coverage to include discrimination on the basis of sex, age, and handicap. To avoid confusion with other laws, we key in the provisions of the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973.

The so-called "pinpoint" provision is a third area of deficiency in title VI. That provision limits termination of or refusal to provide Federal financial assistance "to the particular political entity, or part thereof, or other recipient as to whom such a finding—of discrimination—has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been found." 42 U.S.C. 2000d–1. While that provision is amenable to a broader construction, at least one court has construed it narrowly. See *Board of Public Instruction of Taylor County* v. *Finch*, 414 F.2d 1068 (5th Cir. 1969). Thus even though a recipient may be operating several programs or activities receiving Federal funds, such assistance cannot be cutoff unless discrimination is found in each and every program or activity.

This construction of the "pinpoint" provision obviously imposes a tremendous enforcement burden on the agency and is inconsistent with the underlying purpose of title VI not to provide Federal financial assistance to a recipient which discriminates. In order to correct that misinterpretation, the bill would modify the Taylor County construction of the "pinpoint" provision. Under our proposal, Federal agencies would be authorized to terminate or refuse funding to the entire "program or activity" in which discrimination is found. By dropping the "or part thereof" language, the bill expands the authority of agencies to suspend, terminate, or deny assistance. That authority, however, would not be unlimited. It would extend only to the program or activity in which the discrimination occurred unless the violation infected every program or activity operated by the recipient.

A fourth area of concern is the coordination of title VI implementation at the Federal level. By Executive order, the President has assigned coordination responsibilities to the Attorney General. The exercise of that authority by the Department of Justice has not been very satisfactory. First, the Department has been reluctant, despite the express terms of the Executive order, to direct other agencies to take specific administrative action to enforce title VI. In part that reluctance is based on the co-equal status of the Attorney General and other cabinet level officials.

Second, the Department is essentially a litigating agency. It is not a coordinator of administrative activities. Indeed some would say that such coordination is incompatible with its litigation role. When the Civil Rights Commission, 2 years ago, suggested that the coordination responsibility be transferred out of the Department, then Assistant Attorney General for Civil Rights, J. Stanley Pottinger, agreed with the Commission.

In light of these considerations and the recommendation of the Commission, our bill would transfer the coordination function from the Department of Justice to the Executive Office of the President. The need for direction in the enforcement of title VI from the highest office in the Nation has been documented several times over by the Civil Rights Commission and others who have studied the problem. Although the Commission stated specifically that the authority should be given to the Office of Management and Budget, our proposal allows the President flexibility as to which component in the Executive Office should assume those duties.

It may be, for example, that the President will want to create a new civil rights office in the Executive Office whose only responsibility will be to coordinate title VI enforcement. Or he may wish to assign the duties to the Office of the Vice President. To be sure, there may be other options which, upon further study, will prove to be more efficacious.

Before concluding, I should note additional changes which this bill makes in title VI. It omits existing provisions dealing with contracts of insurance or guarantee—sections 602 and 605, judicial review—section 603, employment—section 604, and congressional involvement in the administrative process—section 602. Developments in the law since 1964 have rendered these provisions obsolete, unnecessary, unworkable, or confusing. For example, the bank regulatory agencies have, for some time, deemed themselves excluded from the title VI requirements because of the provision relating to contracts of insurance or guarantee, even though one court has taken a contrary view. See *Laufman* v. *Oakley Building & Loan Co.*, 408 F. Supp. 489 (S.D. Ohio 1976). The bill would clarify that ambiguity.

Further, the proposal would codify the authority of the Attorney General to commence self-initiated pattern or practice suits against recipients. It also retains the authority of the Attorney General to sue upon the recommendation of a title VI agency. Of course, we do not mean to imply that litigation by the Attorney General is to be preferred to administrative remedies. Indeed President Carter is to be commended for his July 20, 1977, memorandum to all heads of executive departments and agencies in which he stated that "administrative proceedings leading to fund terminations are the preferred method of enforcing title VI, and this sanction must be utilized in appropriate cases."

Additionally, the bill codifies the right of aggrieved individuals to initiate suit under title VI, a right long recognized by the courts. That right of action would extend not only to suits against the recipients of Federal assistance which may be discriminating, but also against the Federal agencies themselves in the event they fail to comply with the directives in the new title. Attorney fees are not included as part of the remedial provisions since Public Law 94–559 already authorizes them in actions brought under title VI. The Attorney General is given the power to intervene in such private suits.

The bill also seeks to regularize the deferral authority now exercised by the agencies. That practice, which arose out of the administrative enforcement process, has never been addressed legislatively, except for the Fountain amendment which has limited application. By including a deferral provision in this bill, we hope to encourage public discussion of that mechanism and a more formal resolution of it so that the agencies apply a uniform practice.

Finally it should be noted that this bill is not intended to alter existing substantive law as to the standard of liability under title VI. The Supreme Court and lower Federal courts have held that effect, not purpose or intent, is all that needs to be proved in establishing a violation of Section 601. *Lau* v. *Nichols*, 414 U.S. 563 (1974); *Soria* v. *Oxnard School District Board of Trustees*, 386 F. Supp. 539 (C.D. Cal. 1974). The Supreme Court has reaffirmed that effect-oriented standard in a recent case under the equal employment opportunity provisions of Federal law. *Dothard* v. *Rawlinson*, 97 S. Ct. 2720 (1977). This bill would continue to apply that standard of liability to title VI.

In conclusion, it has been 13 years since enactment of title VI of the Civil

Rights Act of 1964. Since that time, a number of developments have occurred in the enforcement of it and in the Federal programs providing financial assistance. It is now time for Congress to reevaluate the effectiveness of title VI and to revise and strengthen it. That is the course we pursued last year with the Revenue Sharing and Law Enforcement Assistance Acts. It is apropriate to follow a similar path with title VI.

GENERAL LEAVE

Mr. GORE. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from California (Mr. EDWARDS).

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 22, 1977, I was absent from the House of Representatives on the Yom Kippur recess. Had I been present, I would have voted in the following fashion:

Rollcall No. 577: Journal: The House approved the Journal of Wednesday, September 21, 1977, "no."

IRREGULARITIES IN HEAD START ALLOTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 15 minutes.

Mr. QUIE. Mr. Speaker, the matter which I have obtained permission to print is a report regarding the Head Start formula prepared by the Congressional Research Service of the Library of Congress. The report raises serious questions about the administration of the Head Start program by the Administration for Children, Youth, and Families, formerly the Office of Child Development, and indicates that the administrative office is not comply with the law, but manipulates funds in an effort to give the appearance of compliance.

As the report indicates, the Office of Child Development under the last administration and the Administration for Children, Youth, and Families under this one, have not utilized the formula the Education and Labor Committee placed in the law January 4, 1975. The result of their failure to follow the law is that 12 States: Arizona, Connecticut, Georgia, Illinois, Maryland, Michigan, New York, Ohio, Oregon, Pennsylvania, South Dakota, Wisconsin, and the Commonwealth of Puerto Rico, in the next fiscal year when the $625 million Head Start appropriation is distributed will actually receive less than the minimum amount each of those States would be entitled to if the formula in the law was used.

Because the implications of the CRS report are so serious, I have asked the chairman of the Education and Labor Committee, Mr. PERKINS, to ask Ms. Arabella Martinez, Assistant Secretary for Human Development; Ms. Bambi Cardenas, Commissioner for the Administration for Children, Youth, and Families; Mr. Sol Rosoff, Deputy Commissioner for the Administration for Children, Youth, and Families; and Mr. James L. Robinson, who was and has been the Director of Head Start since the formula became law in 1975, to appear before our committee to explain exactly why this office has chosen to ignore the law.

I want to congratulate Jean Yavis Jones, Steve Chilton, and Sharon House of the Education and Public Welfare Division, Congressional Research Service of the Library of Congress, for the outstanding job they did on compiling this report. The report follows:

DISTRIBUTION OF FORMULA GRANT FUNDS UNDER THE HEAD START PROGRAM: CURRENT LAW AND EDUCATION AND LABOR COMMITTEE PROPOSAL

This report includes a discussion of the issues relating to the procedures and effect of the current and projected methods of distribution of Head Start funds. It includes an analysis of the Office of Child Development's method of distributing these funds and the impact of a proposed formula change on the funds allotted to the States.

I. CURRENT LAW AND DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE PROCEDURES

The law governing the allocation of Head Start funds among the States is contained in sec. 513(a) of P.L. 93-644. The Head Start, Economic Opportunity, and Community Partnership Act of 1974. This subsection reads as follows:

"ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

"SEC. 513. (a) Of the sums appropriated pursuant to section 512 for any fiscal year beginning after June 30, 1975, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. In addition, the Secretary shall reserve not more than 20 per centum of the sums so appropriated for use in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest satisfactory available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, and (2) the relative number of related children living with families with incomes below the poverty line in each State as compared to all States; but there shall be made available, for use by Head Start programs within each State, no less funds for any fiscal year than were obligated for use by Head Start programs within such State with respect to fiscal year 1975. Allocation of such increases within each State shall, to the extent feasible, be made in such manner as to reflect the proportionate increases in program costs incurred by grantees, in accordance with regulations which the Secretary shall prescribe for this purpose. For the purpose of this subsection, the Secretary shall utilize the criteria of poverty used by the Bureau of Census in compiling the 1970 decennial census."

According to the plain meaning of the statutory language CRS believes that the correct procedural steps for implementing this section are as follows:

1. Determine the amount of the appropriation to be used for the outlying areas, subtract and set this aside for that purpose. The law gives the Secretary the authority to determine this amount as long as it does not exceed 2 percent of the total appropriation.

2. Determine the amount of the appropriation to be reserved for discretionary purposes by the Secretary, and subtract this amount from the total. The law gives the Secretary the authority to determine this amount as long as it does not exceed 20 percent of the total appropriation.

3. Distribute one-half of the remainder among the States based on the relative number of public assistance recipients in each State compared to all States. Distribute the other half of the remainder among the States based on the relative number of related children living with families with incomes below the poverty line in each State as compared to all States.

4. If after the above step any State has less than the amount obligated for use by Head Start programs in the State for FY 1975, such States are increased to the FY 1975 level and States with amounts over their 1975 amounts are proportionately reduced to provide the amount needed to raise all States to their 1975 amounts.

5. Funds reserved by the Secretary (in step 2 above) may be used in accordance with criteria and procedures established by the Secretary. Such funds, or any proportion thereof, may be distributed to the States in accordance with such criteria and procedures of the Secretary.

The above procedures, steps 1-4 have been used by the Congressional Research Service in the Headstart allocation tables it has prepared for the use of the Committee on Education and Labor. We have withheld the maximum amount allowed for both the outlying areas (2 percent) and the Secretary's reserve (20 percent), and we have not distributed any of the Secretary's reserve to the States. Therefore the amounts shown in the CRS tables represent the minimum any State should receive under the formula in the law for the specified appropriation amount. The minimums would be higher if the Secretary chose to reserve less than the amounts reserved under the CRS distribution.

According to information provided to CRS by responsible officials in the DHEW Office of Child Development on September 23, 1977, the Department has not followed the above procedures in allocating headstart formula funds. One procedure was followed in FY 1977, and a different procedure was followed in the estimates provided to the Committee for the allocation of FY 1978 funds according to the current law.

In FY 1977, the procedures used by DHEW, OCD in allocating headstart funds were as follows:

1. $1,776,000 was reserved for the outlying areas (less than 2 percent).

2. An amount was reserved for discretionary use by the Secretary.

3. From the remainder, each State was given the amount it obligated in 1975.

4. The remaining formula funds were then distributed to provide each State with a cost-of-living increase over the FY 1976 amount.

5. Additional funds were distributed to projects from the Secretary's reserved funds.

This distribution method did not take into account the number of public assistance recipients nor the number of children living in poverty as required by law. In making its 1977 allocations, DHEW made two errors.

One error was to reserve the FY 1975 "hold harmless" amounts from the formula grants monies initially. The second error was to distribute cost-of-living increases out of formula funds to each State without regard to the formula.

The effect of the first error is to make the FY 1975 hold harmless amount an additional amount to the formula distribution, rather than part of it. Under this procedure all States receive higher than their 1975 amounts. If the formula in the law were used, all States would not necessarily receive more than their FY 1975 amounts. Other States would then, of course receive less than due them under the formula.

In relation to distributing what should be formula funds in order to provide a cost-of-living increase to each State, DHEW, OCD officials have referred CRS to the legislative intent of the appropriations committees. However, there is no mention in the FY 1977 appropriations legislation (P.L. 94-439) or the accompanying report which indicates Congress intended Headstart funds to be distributed by any formula other than that in the authorizing legislation. The Committee reports accompanying the FY 1977 appropriations bill did contain indications that the increased funds were to be used for "increased operation costs of headstart projects across the nation," and "to offset some of the costs of special training and related services to handicapped children." We must assume that Congress intended funds for these purposes to accrue to States through the formula in the law and/or from additional funds provided from the Secretary's reserve awarded to Headstart projects on a discretionary basis.

We do not know at this time whether some States actually received less Headstart funds than they were legally entitled to for FY 1977. However, since the formula was not followed, it is possible that some States received less than the amount to which the formula would entitle them. It is likely that any such shortfalls would be quite small, since meeting the FY 1975 hold harmless alone required the use of all but about six million dollars of the non-discretionary (i.e., formula) funds, which could easily be made up in every State by the $46 million of discretionary funds which were distributed by OCD.

We have not investigated the FY 1976 allocation of Headstart funds in detail. However, we assume they were distributed in a similar way because of a statement before the Subcommittee on Economic Opportunity of the House Education and Labor Committee on September 7, 1977 by the Staff Counsel who reported that "HEW informed us that except for 1965 (sic) the year the allocation formula was first utilized, HEW has never utilized the allocation formula in the distribution of monies to the States for Headstart."

The DHEW, OCD arrived at the FY 1978 estimates they submitted to you in the following manner, according to information they supplied us:

1. Beginning with an estimated $625 million appropriation, they set aside $2.5 million for the outlying areas.

2. They subtracted 20 percent of $625 million and set this aside as the Secretary's reserve.

3. From the remaining funds (to which the formula should apply) they then subtracted amounts to provide each State with its FY 1975 level.

4. The remaining formula funds were then distributed according to the formula in the law. This amount for each State was added to each State's FY 1975 hold harmless amount.

Further funds from the Secretary's reserve were awarded to the States in the following manner and added to the above amounts:

5. Where necessary, each State was given an additional amount so that each State would receive 6 percent more than its FY 1977 amount.

6. From approximately $40 million set aside for this purpose, each State received an amount proportionate to its proportionate share of the amount distributed in steps 3-5, except that each State received at least enough for each project grantee to expand by one classroom of 15 children.

The error in this computation is in step 3 where they again subtracted out the FY 1975 hold harmless amounts before applying the formula instead of the reverse.

Steps 5 and 6 above allocate funds from the Secretary's reserve which are discretionary by law. These steps were presumably taken at least in part to comply with the language in the report of the State Committee on Appropriations on the FY 1978 appropriations legislation.*

Impact of OCD distribution of Head Start funds under the current formula for 1978 projections

The attached table 1 represents a comparison of the allotments which would be available to the States for Headstart programs under the formula in current law as computed by CRS and the Office of Child Development.

Because of the different methods of computing the allotment formula and because the CRS figures do not include additional reserve funds given to the States, these figures are difficult to compare. However, since the CRS figures represent the minimum amounts which each State is entitled to receive under the allotment formula in the current law, they can be compared to the OCD projections to determine whether or not the funds as allotted by OCD are at least as much as those required amounts. A perusal of the attached table shows that according to OCD projections, 12 States and Puerto Rico would actually receive less than the minimum amounts required by the law as computed by CRS. These and the amounts of discrepancy are:

Arizona	$542, 895
Connecticut	677, 594
Georgia	1, 156, 214
Illinois	2, 627, 910
Maryland	621, 045
Michigan	5, 655, 001
New York	315, 289
Ohio	1, 648, 872
Oregon	560, 481
Pennsylvania	3, 898, 751
South Dakota	75, 180
Wisconsin	137, 136
Puerto Rico	1, 648, 944

NOTE.—It should be noted that OCD, in compiling the projections of State allotments utilized less than 2% for the outlying areas. This means that they distributed more than the amount distributed by CRS. Since CRS included the full 2% reserve for those areas it is possible that more than the above listed States would actually receive less than the minimum required under the OCD method of distribution.

As a result of OCD's method of distributing funds, those States whose 1975 hold-harmless levels were significantly higher than what would have been available to them if the allotment formula had been in force at that time get a higher amount of funds than due them under the formula. These funds are obtained by reducing the amounts to those States whose 1975 hold-harmless levels more closely approximated the current allotment formula.

Grants made to projects in the States for Headstart programs in 1975 were not arrived at through the use of the current allotment formula, and therefore, did not necessarily relate to the number of public assistance recipients and children in poverty. By deleting the hold-harmless amounts from the funds appropriated and distributing only the remaining funds according to the allotment formula OCD further perpetuates whatever imbalance may have existed in 1975 with regard to the distribution of funds via poverty and public assistance populations in each of the States.

In summary, CRS believes that DHEW did not follow the law in allocating FY 1977 Headstart funds because of incorrect treatment of the FY 1975 hold-harmless amounts and because of the distribution of cost-of-living increases to each State. However, we do not at present know the dollar effect of these procedures. Discrepancies between the amount received and the amount due under law for any State are likely to be small if they exist at all.

The OCD did not utilize the correct formula in distributing Headstart funds in their 1978 projections. Continuation of this method of distribution of FY 1978 funds at the $625 million level would deprive at least 13 States and Puerto Rico of the minimum amounts they are entitled to under the allotment formula in law which appears to be a violation of the law.

TABLE 1.—COMPARISON OF HEADSTART ALLOTMENTS AT THE $625,000,000 LEVEL UNDER CURRENT FORMULA AS ESTIMATED BY CRS AND OCD (FISCAL YEAR 1978)

State	OCD	Current formula in law (using AFDC recipients and poverty children under 18): CRS minimum amount provided by allotment formula [1]	Amount required to bring OCD estimates to minimum allotment level
Alabama	$14, 959, 812	$11, 393, 000	
Alaska	1, 923, 319	1, 311, 000	
Arizona [2]	3, 676, 419	4, 219, 314	$542, 895
Arkansas	7, 693, 243	5, 798, 000	
California	45, 041, 078	27, 559, 000	
Colorado	6, 945, 856	5, 168, 000	
Connecticut [2]	4, 056, 089	4, 733, 683	677, 594
Delaware	1, 538, 303	1, 096, 000	
District of Columbia	4, 130, 595	2, 944, 000	
Florida	18, 096, 925	15, 814, 725	
Georgia [2]	11, 861, 007	13, 017, 221	1, 156, 214
Hawaii	2, 699, 385	1, 924, 000	
Idaho	1, 962, 763	1, 329, 000	
Illinois [2]	25, 808, 538	28, 436, 448	2, 627, 910
Indiana	9, 034, 343	7, 179, 444	
Iowa	4, 966, 564	3, 677, 593	
Kansas	4, 751, 586	3, 495, 000	
Kentucky	14, 330, 234	10, 359, 000	
Louisiana	13, 599, 973	11, 243, 968	
Maine	2, 818, 644	2, 387, 323	
Maryland [2]	6, 992, 174	7, 613, 219	621, 045
Massachusetts	12, 360, 487	12, 015, 983	
Michigan [2]	16, 157, 786	21, 812, 787	5, 655, 001
Minnesota	6, 519, 220	4, 586, 205	
Mississippi	47, 206, 531	37, 082, 000	
Missouri	13, 279, 397	10, 310, 271	
Montana	1, 853, 953	1, 388, 000	
Nebraska	2, 917, 594	1, 943, 000	
Nevada	869, 186	743, 741	
New Hampshire	1, 427, 694	1, 131, 595	
New Jersey	16, 066, 949	15, 491, 942	
New Mexico	4, 045, 729	3, 434, 803	
New York [2]	41, 375, 674	41, 690, 963	315, 289
North Carolina	15, 188, 467	11, 255, 000	
North Dakota	874, 840	801, 363	
Ohio [2]	20, 148, 264	21, 797, 136	1, 648, 872
Oklahoma	8, 634, 070	6, 634, 000	
Oregon [2]	3, 533, 799	4, 094, 280	560, 481
Pennsylvania [2]	19, 975, 206	23, 873, 957	3, 898, 751
Rhode Island	1, 800, 834	1, 794, 206	
South Carolina	9, 417, 598	6, 857, 000	
South Dakota [2]	1, 104, 849	1, 180, 029	75, 180

*The above observations as to the correct legal method of distributing headstart funds have been reveiwed and concurred in by David Ackerman, legislative attorney of the CRS, American Law Division.

TABLE 1.—COMPARISON OF HEADSTART ALLOTMENTS AT THE $625,000,000 LEVEL UNDER CURRENT FORMULA AS ESTIMATED BY CRS AND OCD (FISCAL YEAR 1978)—Continued

State	OCD	Current formula in law (using AFDC recipients and poverty children under 18): CRS minimum amount provided by allotment formula [1]	Amount required to bring OCD estimates to minimum allotment level
Tennessee	12, 506, 456	9, 568, 827	
Texas	25, 029, 672	24, 291, 459	
Utah	2, 194, 615	1, 689, 932	
Vermont	1, 464, 213	1, 076, 743	
Virginia	9, 019, 398	8, 075, 828	
Washington	6, 703, 699	5, 628, 586	
West Virginia	6, 658, 812	5, 045, 000	
Wisconsin [2]	7, 467, 947	7, 605, 083	137, 136
Wyoming	1, 051, 792	751, 000	
Puerto Rico [2]	20, 601, 397	22, 250, 341	1, 648, 944
Total	544, 337, 978	487, 499, 998	19, 565, 312

[1] This represents the least amount which must be distributed to the States based on the allotment formula. It represents the amount available with the 2-percent reserve for the trust territories taken out and with the full 20-percent reserved for the discretion of the Secretary.

[2] States which would get less than the minimum required by the allotment formula according to OCD distribution.

II. IMPACT OF PROPOSED CHANGES IN HEADSTART ALLOTMENT FORMULA ON DISTRIBUTION OF FUNDS TO THE STATES

Current formula

The current formula for allotment of funds to the States for Headstart programs provides for a distribution which takes into consideration both the number of Public Assistance recipients (generally defined as AFDC money recipients) and the number of children in poverty aged 0–18 in each of the States as compared to the total number in the United States. The formula includes a hold harmless provision which mandates that no State get less than the amount they received in FY 1975. The Secretary is permitted to reserve up to 2 percent of the total appropriation for the Virgin Islands, American Samoa, Guam and the Trust Territories (usually referred to as outlying territories) and up to 20 percent of the total for discretionary purposes. At a minimum this provides for at least 78 percent of the Headstart appropriation to be distributed to the States according to the allotment formula. The law requires that data used for computation in determining allotments be the most recent information available.

Proposed formula change in H.R. 7577

H.R. 7577, the Economic Opportunity and Community Service Amendments of 1977, included a provision which would have changed the current allotment formula to distribute funds to the States solely on the basis of the number of children aged 0–6 living in families with incomes below the poverty level. On Sept. 7, 1977 the Subcommittee marking up the bill deleted the proposed change in the allotment formula, leaving the formula as it was, except to specifically define Public Assistance recipients as AFDC recipients. The decision to leave the formula intact was to a large extent the result of the difficulty in determining the impact of such a change on the States because of discrepancies between tables prepared by the Office of Child Development and by the Congressional Research Service at the request of the Subcommittee.

Distribution of funds according to allotment formulas

The attached CRS TABLE 2 represents the minimum amount of funds which would be distributed to the States on the basis of the formula as it now exists; the funds if it were changed and the difference in amounts resulting from such a change. It assumes an appropriation of $625 million with a hold harmless at the 1975 level. For the purposes of measuring the impact of the States, the full 22 percent reserve allowed to the Secretary was utilized and 78 percent of the appropriation was distributed to the States.

As a result, the allotments as shown by this table represent only the minimum amounts available to the States as required by the formulas. The Secretary could choose to reserve less than 22 percent of the total thereby distributing more funds to States in accordance with the allotment formula (this would result in a proportionate increase in each State) or the reserve funds could be used to provide additional funds to the States on the basis of program need or cost of living increases or any other criteria established by the Secretary. Under no circumstances should any State be entitled to receive less than the amount shown in this chart if either of the appropriate allotment formulas were used.

Fiscal impact of change in formula

In general, the current allotment formula provides for a proportionate distribution of funds among States with equal weight given to the relative number of children in poverty and the number of public assistance recipients. A change from the current to the proposed formula would distribute large amounts of funds to those States with smaller proportions of welfare recipients and higher proportions of young children in poverty families. The following tables show the differences in minimum amounts which would be available to the States under both formulas.

STATES ENTITLED TO LESS UNDER PROPOSED FORMULA CHANGE

State	Minimum amount required—Under current formula [1]	Under proposed formula	Decrease
Connecticut	$4, 733, 683	$4, 120, 269	$613, 414
Florida	15, 814, 725	13, 381, 000	2, 433, 725
Illinois	28, 436, 448	24, 748, 964	3, 687, 485
Iowa	3, 677, 593	3, 504, 000	173, 593
Maine	2, 387, 323	1, 973, 000	414, 323
Maryland	7, 613, 219	5, 282, 746	2, 330, 473
Massachusetts	12, 015, 983	9, 339, 607	2, 676, 376
Michigan	21, 812, 787	16, 234, 903	5, 577, 885
Minnesota	5, 486, 205	5, 145, 984	340, 221
Missouri	10, 310, 271	9, 327, 000	983, 271
New Hampshire	1, 131, 595	1, 091, 610	39, 985
New Jersey	15, 491, 942	12, 431, 673	3, 060, 269
New York	41, 690, 963	27, 527, 721	14, 163, 242
Oregon	4, 094, 280	3, 483, 703	610, 577
Pennsylvania	23, 873, 957	18, 387, 040	5, 486, 917
Rhode Island	1, 794, 206	1, 353, 945	440, 261
Tennessee	9, 568, 827	9, 111, 000	457, 827
Vermont	1, 076, 743	1, 059, 284	17, 458
Virginia	8, 075, 828	7, 306, 825	769, 002
Washington	5, 628, 586	5, 371, 020	257, 566
Wisconsin	7, 605, 083	6, 669, 016	936, 066

[1] These amounts represent the minimum amount which each State would be entitled to under the formula at an appropriation level of $625,000,000. They do not include any reserve or other funds beyond the 78 percent of appropriated funds which must be distributed according to the formula.

STATES ENTITLED TO MORE UNDER PROPOSED FORMULA CHANGE

State	Minimum amount required—Under current formula [1]	Under proposed formula	Increase
Arizona	$4, 219, 314	$6, 765, 993	$2, 546, 679
Arkansas	5, 798, 000	10, 773, 122	4, 975, 122
California	27, 559, 000	39, 715, 709	12, 156, 709
Georgia	13, 017, 221	15, 521, 253	2, 504, 033
Idaho	1, 329, 000	1, 552, 871	223, 871
Indiana	7, 179, 444	7, 442, 344	262, 900
Louisiana	11, 243, 968	12, 251, 396	1, 007, 428
Montana	1, 388, 000	1, 454, 651	66, 651
Nebraska	1, 943, 000	2, 313, 766	370, 766
Nevada	743, 741	1, 003, 336	259, 595
New Mexico	3, 434, 803	3, 825, 608	390, 805
North Carolina	11, 255, 000	11, 801, 324	546, 324
North Dakota	801, 363	814, 356	12, 993
Ohio	21, 797, 136	22, 263, 624	446, 487
South Dakota	1, 180, 029	1, 336, 539	156, 510
Texas	24, 291, 459	32, 103, 034	7, 811, 575
Utah	1, 689, 932	2, 337, 388	647, 456
Puerto Rico	22, 250, 341	33, 314, 373	11, 064, 032

[1] These amounts represent the minimum amount which each State would be entitled to under the formula. They do not include any reserve or other funds beyond the 78 percent of the appropriated funds which must be distributed according to the formula.

Under the current formula nineteen States would be entitled to a minimum of at least the hold-harmless level, that is the amount they received in 1975. Under the proposed one factor formula 18 states would remain at the hold-harmless level. However, thirteen States remain at a minimum hold-harmless level under both formula.

States at minimum hold-harmless level under both formulas

Alabama, Alaska, Colorado, Delaware, District of Columbia, Hawaii, Kansas, Kentucky, Mississippi, Oklahoma, South Carolina, West Virginia, Virginia, and Wyoming.

States at minimum hold-harmless level under current formula—but not under proposed formula

Arkansas, California, Idaho, Montana, Nebraska, and North Carolina.

States at minimum hold-harmless level under proposed formula—but not under current formula

Florida, Iowa, Maine, Missouri, and Tennessee.

TABLE 2.—ALL FORMULAS ASSUME A FISCAL YEAR 1975 HOLD HARMLESS, A TOTAL ALLOCATION LEVEL OF $625,000,000 (OUT OF WHICH IS TAKEN 22 PERCENT AS A SET-ASIDE, LEAVING $487,500,000 TO BE DISTRIBUTED)

[The current formula is calculated as a 2-part formula: Pt. 1 is based on the number of children 0 to 18 in poverty according to the 1975 survey of income and education (SIE). Pt. 2 is based on the number of AFDC recipients as reported in February 1977. The new formula is based solely on the number of children 0 to 5 in poverty according to the SIE. All data is shown in the table III. Poverty data for Puerto Rico is taken from 1970 census figures]

State	Fiscal year 1975 allocation	Povchil 0 to 18	AFDC recipients	Povchil 0 to 5	Current formula	New formula	Difference
Alabama	11, 393, 000	209, 380	166, 899	85, 130	11, 393, 000	11, 393, 000	0
Alaska	1, 311, 000	9, 600	10, 991	3, 890	1, 311, 000	1, 311, 000	0
Arizona	2, 428, 000	139, 070	57, 463	54, 420	4, 219, 314	6, 765, 993	2, 546, 679
Arkansas	5, 798, 000	147, 080	95, 911	86, 650	5, 798, 000	10, 773, 122	4, 975, 122
California	27, 559, 000	908, 210	145, 087	319, 440	27, 559, 000	39, 157, 709	12, 156, 709
Colorado	5, 168, 000	89, 140	92, 305	29, 000	5, 168, 000	5, 168, 000	0
Connecticut	2, 406, 000	85, 970	134, 522	33, 140	4, 733, 683	4, 120, 269	−613, 414
Delaware	1, 096, 000	19, 340	31, 700	6, 330	1, 096, 000	1, 096, 000	0
District of Columbia	2, 944, 000	32, 090	95, 302	11, 240	2, 944, 000	2, 944, 000	0
Florida	13, 381, 000	492, 590	244, 050	14, 148	15, 814, 725	13, 381, 000	−2, 433, 725
Georgia	7, 705, 000	354, 470	251, 864	124, 840	13, 017, 221	15, 521, 253	2, 504, 033
Hawaii	1, 924, 000	28, 970	55, 710	10, 920	1, 924, 000	1, 924, 000	0
Idaho	1, 329, 000	33, 110	19, 829	12, 490	1, 329, 000	1, 552, 871	223, 871
Illinois	15, 997, 000	546, 040	778, 512	199, 060	28, 436, 448	24, 748, 964	−3, 687, 485
Indiana	6, 314, 000	167, 310	167, 104	59, 860	7, 179, 444	7, 442, 344	262, 900
Iowa	3, 504, 000	75, 100	96, 200	26, 170	3, 677, 593	3, 504, 000	−173, 593
Kansas	3, 495, 000	59, 930	76, 798	21, 300	3, 495, 000	3, 495, 000	0
Kentucky	10, 359, 000	225, 410	212, 810	69, 940	10, 359, 000	10, 359, 000	0
Louisiana	9, 797, 000	303, 560	220, 177	98, 540	11, 243, 968	12, 251, 396	1, 007, 428
Maine	1, 973, 000	50, 810	60, 390	14, 620	2, 387, 323	1, 973, 000	−414, 323
Maryland	4, 351, 000	137, 660	216, 959	42, 490	7, 613, 219	5, 282, 746	−2, 330, 473
Massachusetts	7, 801, 000	183, 480	376, 217	75, 120	12, 015, 983	9, 339, 607	−2, 676, 376
Michigan	8, 655, 000	360, 005	656, 021	130, 580	21, 812, 787	16, 234, 903	−5, 577, 885
Minnesota	4, 414, 000	121, 650	133, 894	41, 390	5, 486, 205	5, 145, 984	−340, 221
Mississippi	37, 082, 000	260, 130	175, 270	78, 640	37, 082, 000	37, 082, 000	0
Missouri	9, 327, 000	209, 120	271, 126	67, 310	10, 310, 271	9, 327, 000	−983, 271
Montana	1, 388, 000	32, 300	18, 775	11, 700	1, 388, 000	1, 454, 651	66, 651
Nebraska	1, 943, 000	50, 390	34, 173	18, 610	1, 943, 000	2, 313, 766	370, 766
Nevada	596, 000	22, 280	12, 363	8, 070	743, 741	1, 003, 336	259, 595
New Hampshire	1, 015, 000	27, 490	25, 219	8, 780	1, 131, 595	1, 091, 610	−39, 985
New Jersey	10, 312, 000	274, 270	447, 335	99, 990	15, 491, 942	12, 431, 673	−3, 060, 269
New Mexico	2, 895, 000	104, 140	55, 851	30, 770	3, 434, 803	3, 825, 608	390, 805
New York	26, 409, 000	701, 190	1, 240, 749	221, 410	41, 690, 963	27, 527, 721	−14, 163, 242
North Carolina	11, 255, 000	294, 060	202, 057	94, 920	11, 255, 000	11, 801, 324	546, 324
North Dakota	520, 000	23, 710	13, 617	6, 550	801, 363	814, 356	12, 993
Ohio	12, 322, 000	443, 440	571, 857	179, 070	21, 797, 136	22, 263, 624	466, 487
Oklahoma	6, 634, 000	127, 150	90, 264	46, 770	6, 634, 000	6, 634, 000	0
Oregon	2, 045, 000	66, 320	124, 389	28, 020	4, 094, 280	3, 483, 703	−610, 577
Pennsylvania	12, 067, 000	452, 430	659, 604	147, 890	23, 873, 957	18, 387, 040	−5, 486, 917
Puerto Rico	15, 315, 000	844, 409	191, 998	267, 953	22, 250, 341	33, 314, 373	11, 064, 032
Rhode Island	1, 145, 000	29, 980	53, 593	10, 890	1, 794, 206	1, 353, 945	−440, 261
South Carolina	6, 857, 000	21, 636	140, 393	5, 691	6, 857, 000	6, 857, 000	0
South Dakota	739, 000	31, 180	23, 785	10, 750	1, 180, 029	1, 336, 539	156, 510
Tennessee	9, 111, 000	256, 040	189, 670	69, 290	9, 568, 827	9, 111, 000	−457, 827
Texas	17, 748, 000	813, 190	318, 291	258, 210	24, 291, 459	32, 103, 034	7, 811, 575
Utah	1, 540, 000	41, 920	36, 796	18, 800	1, 689, 932	2, 337, 388	647, 456
Vermont	929, 000	26, 900	23, 254	8, 520	1, 076, 743	1, 059, 284	−17, 458
Virginia	6, 399, 000	201, 760	174, 407	58, 770	8, 075, 828	7, 306, 825	−769, 002
Washington	4, 643, 000	116, 140	146, 036	43, 200	5, 628, 586	5, 371, 020	−257, 566
West Virginia	5, 045, 000	104, 060	65, 941	34, 220	5, 045, 000	5, 045, 000	0
Wisconsin	4, 698, 000	148, 960	205, 280	53, 640	7, 605, 083	6, 669, 016	−936, 066
Wyoming	751, 000	11, 490	6, 632	4, 610	751, 000	751, 000	0
Federal total	371, 772, 000	10, 516, 110	9, 915, 440	3, 463, 752	487, 499, 998	487, 499, 997	

LEGISLATION TO AMEND TRADE ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes.

Mr. GARY A. MYERS. Mr. Speaker, today I am reintroducing legislation to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief granted under section 203 of the Trade Act if the Congress disapproves such action. I have been joined by 15 of my colleagues who have cosponsored this measure.

Members who have been following the crucial trade policy debate now heating up throughout the Nation realize that my legislation could benefit most immediately the domestic "specialty steel" industry. The specialty steel industry, makers of stainless and other steel products noted for strength, durability, and corrosion resistance, is composed of more than 20 producers nationwide which hire 65,000 workers to manufacture over a million tons of steel yearly. This industry petitioned the International Trade Commission (ITC) in 1976 for relief from heavy import damage to production and employment and, in a landmark case, was granted 3 years of relief—in the form of moderate quotas on imported specialty steel—in June 1976.

As many of my colleagues further realize, President Carter has asked the ITC to take another look at the import relief already promised, to gage the impact on domestic industry of terminating the quotas. Under authority conferred in the Trade Act of 1974, the President has the authority to terminate or reduce already-granted import relief without consulting Congress or seeking congressional approval. My bill would simply permit the Congress to override the President's decision to terminate import relief, thereby restoring executive-legislative balance in the formulation of trade policy.

I urge my colleagues to support this legislation. There has been a great deal of discussion recently concerning the depressed state of the domestic steel industry, caused in part by increased imports. A "steel caucus" has formed to focus attention and action on the unique problems of the steel industry. But the legislation I am reintroducing today is not just "steel legislation," or "electronics legislation," or "shoes legislation." It is not aimed solely at any one industry hurt by increased imports. Rather, it is intended to insure that both the administration and Congress can participate fully in the debate on trade policy—a debate that will have immensely important implications for the way all Americans will live in the future.

There are those among my colleagues who are inclined toward "protectionism" while others are doctrinaire "free traders." I believe we can all agree, though, on the principle that Congress must participate fully in the formulation of trade policy. The bill I am reintroducing today embodies that principle and I urge my colleagues' support.

AN EXTENSION OF SALT I INTERIM AGREEMENT WITHOUT CONGRESSIONAL APPROVAL VIOLATES THE ARMS CONTROL ACT OF 1961

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, when the Arms Control and Disarmament Agency was established in 1961, procedures were formulated which enabled the Congress to participate in the approval of "any action" taken by the executive branch which would have the effect of limiting American arms through agreement with foreign nations. The act in particular calls for Senate and House approval when the President takes action such as is embodied in the Interim Agreement on Offensive Arms which limits the number of strategic missile launchers. The House of Representatives approved the 1972 interim agreement as required by statute. Its renewal or extension similarly calls for House approval, because the President is taking action which limits American arms.

The administration's extension of SALT I is in violation of the provisions of the 1961 act if it does not obtain explicit approval from both Houses of Congress. The approach favored by the ad-

ministration of obtaining the tacit agreement of the Soviets that they will continue to be bound by the terms of the 1961 act is bad policy as well as being illegal. It is bad policy, because we now know too well from our experience with the present interim agreement, that every ambiguity not firmly established by written mutual agreement will be resolved against the United States. Should the Soviets, for example, deploy for sea trials, the 63d, 64th, and 65th missile firing submarines they have now completed, in violation of the terms of the interim agreement, the fact that we have no formal agreement with the Soviets would gravely prejudice our ability to force Soviet compliance with an agreement whose term had formally expired. Similarly, Secretary Brown has already disclosed that the Soviet Union has four entirely new missiles ready for deployment in land-based missile silos, to replace the current generation of MIRVed ICBM's—the SS–17, SS–18, and SS–19. Should the Soviets deploy these missiles either in the fixed silo mode or the mobile mode, in the absence of an agreement with the Soviets ratified by the Congress, we will surely be at a serious disadvantage from a negotiating perspective. The continuation of the Soviet Backfire (Tu–26) intercontinental strategic bomber program in the wake of the U.S. cancellation of the B–1 bomber similarly imposes risks which we will have difficulty in controlling in the absence of full congressional participation in a temporary extension of the interim agreement.

I strongly urge the administration to support an appropriate congressional resolution to extend, for a time certain, the terms of the interim agreement so that the administration is in full compliance with the law, and the rights of the Congress under the law are assured.

STRONG TEXTILE TARIFFS ARE NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLLENBECK) is recognized for 5 minutes.

Mr. HOLLENBECK. Mr. Speaker, I welcome the opportunity to address the enormous trade deficit that is plaguing the American textile and apparel industry.

Last August, I witnessed, first hand, the tragic effect that the flood of imported textiles has had on our economy. I toured a number of knitting mills in and around my district in New Jersey, and heard the same story from both management and employees. The continuing growth of imports from low wage countries has resulted in shrinking the American textile market.

Why then, I ask you, is the administration considering the possibility of cutting the U.S. tariffs on textiles and apparel when the imports on these items have increased over 34 percent in the last year alone? Literally thousands of my constituents have lost their jobs in recent years due to the flood of imports. In the last 5 years, a local textile related union has lost over 3,000 members. I contend that reducing textile tariffs would do nothing more than increase our Nation's already high unemployment rolls.

In recent weeks we have witnessed the administration bow under to Korea and Taiwan in the negotiations of the multifiber arrangement. In theory, the MFA is designed to keep imports from rising to harmful levels. However, from all reports, that has not been the case. With the MFA negotiated under the present tariff structure, it does not appear hopeful that effective import quotas will be agreed to.

Thus, an adequate structure of customs duties is essential to support the MFA. It is obvious that the present duties are insufficient to achieve that result. Each year more and more developing nations are increasing their textile capabilities. It is inevitable that the import problem will become more and more critical.

The United States should not and economically cannot agree to any more textile tariff reductions. Strong textile tariffs are our only defense against the kind of unrestrained imports which threaten to shut down our domestic textile industries.

PERIL IN PREMATURE GENEVA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, a significant advance toward reconvening a Geneva conference on Middle East peace occurred over the weekend. The Israeli Cabinet approved an American proposal for a single unified Arab delegation at the conference. In announcing its willingness to negotiate with a Pan-Arab group, Israel also stated its acceptance of a Palestinian presence in the delegation.

This Israeli decision is an important contribution to sustaining the momentum toward peace in the Middle East. Many critical questions remain yet to be resolved, however. For example, Israel has conditioned her acceptance of Palestinian participation in the talks with the caveat that these representatives may not be known members of the Palestine Liberation Organization. What constitutes a known member as opposed to an unknown member of the PLO is not yet clear.

In order to continue the momentum toward peace it is now critical for the PLO to make a significant contribution toward reaching a settlement. This organization could state publicly what its leaders have indicated privately—that in the context of a final peace agreement that provides for Palestinian self-determination in the West Bank, it would recognize and respect the sovereignty and integrity of Israel as a nation state. Such a move would greatly enhance prospects for peace.

Further progress toward peace, however, will require time. Deadlines for reconvening a peace conference must, therefore, be avoided. Excessive reliance should not be placed on the impetus toward agreement a conference alone can generate. The face-to-face presence of an Israeli and an Arab delegation will not suffice to generate solutions of broad differences and momentous problems existing between these parties.

We need to promote, therefore, prior to a Geneva conference the common acceptance of general principles intrinsic to a peace agreement.

We must approach the reconvening of a conference, therefore, with caution, with deliberation and patience. Enthusiasm and haste cannot substitute for the painstaking attention to clarifying issues and seeking potential compromise that alone will assure a successful conference outcome. Not to convene a conference would be a great misfortune. But to convene a conference only to see it fail would provoke consequences considerably more dire.

If general principles are not largely agreed to in advance, Geneva carries the grave prospect of disaster rather than a just peace.

CAPTIVE NATIONS WEEK, 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the 1977 Captive Nations Week was impressively observed both in our country and abroad. As shown—and at that selectively—by continuous reports on the week's observance, citizens and the media throughout this Nation let it been known that our people have not forgotten the captive nations; that if human rights are to become the centerpiece of our foreign policy, the captive nations in toto must become the prime center of interest and concern; and that no matter how under the illusions of détente and simplistic normalization many in our society remain apathetic to the plight of over 27 captive nations in the Communist totalitarian world, these are sufficiently offset by those who understand and appreciate the value of all the captive nations in the unending struggle for world freedom and the end of all empires.

I wish to present these further evidential items of the scope and nature of the recent 19th observance of Captive Nations Week, which entail the proclamation of Gov. James R. Thompson of Illinois, the program of the New York observance, and articles, editorials and letters in the Worcester Telegram, Indianapolis Star, the Pilot of Boston, the Muncie, Ind. Star, Dallas News, South Pasadena Review, and the Boston Herald American:

PROCLAMATION OF THE STATE OF ILLINOIS

The nineteenth observance of Captive Nations Week beginning July 11 will be culminated with a parade at noon Saturday, July 16, down State Street in Chicago.

The colorful, annual event, with its different ethnic groups, reminds us that many peoples throughout the world are denied the

right of self-determination and the freedom that we here take for granted. Through the years liberty-loving people have sought the freedom of America where they can worship as they wish and develop their talents in our free society.

Their different customs and characteristics have made our lives more exciting and interesting, broadened our perspective, and enriched the culture of our state. Getting to know them has given us a warm understanding and sympathy for the aspirations of all peoples.

Appreciative of their contributions to the growth and development of this Prairie State, I, James R. Thompson, Governor of the State of Illinois, proclaim July 11 through 16, 1977, Captive Nations Week and suggest that all Illinoisans participate in the observance.

19TH ANNUAL OBSERVANCE—CAPTIVE NATIONS WEEK

SUNDAY, JULY 1

9:30 a.m.: Procession on Fifth Avenue 59th Street to St. Patrick's Cathedral.

10.00: High Holy Mass—St. Patrick's Cathedral, Rt. Rev. Basil H. Losten, Ukrainian Bishop of Philadelphia.

11:15: Procession up Fifth Avenue—St. Patrick's Cathedral to 72nd St., then to the Central Park Mall (Band Stand).

12 noon: Rally at Central Park Mall, Master of Ceremonies Horst Uhlich, Executive Vice Chairman.

National Anthem, Go-World Brass Band, Kevin Pickard, Conductor.

Pledge of Allegiance, Commander Jerry Bianchi, Catholic War Veterans, Queens, N.Y.

Invocation.

Opening Remarks, Dr. Ivan Docheff, Chairman, Captive Nations Week Committee of N.Y.

Captive Nations Week Proclamations.

Addresses, Honored Guests of the Committee.

Resolution, Ing. John Kosiak, Chairman, Resolutions Committee.

Folklore Entertainment, Estonian Folks Dance Group, Turkestan National Folcke Group, Crimean Tatar National Folk Dancers.

Music Interlude, Go-World Brass Band.

WEDNESDAY, JULY 20

2:30 p.m.: Mayor Beame's Captive Nations Week Proclamation, Honorable Abraham Beame, City Hall Blue Room, Manhattan.

PRESIDENT CARTER AND CAPTIVE NATIONS WEEK

To the Editor:

Since 1959 there has been a law authorizing the President to designate the third week in July as Captive Nations Week. The law states that the President is "authorized and requested" to issue proclamations each year "until such time as freedom and independence have been achieved for all the captive nations of the world."

The act has become a symbol for those Americans from Eastern Europe who have seen their countries swallowed up by Soviet armies. Every year dozens of groups, many of whose members typify the ethnic base of the Democratic party in the East, meet to talk of the liberation of their homelands.

As in past years, Professor Levi E. Dobriansky, chairman of the National captive Nations Committee, wrote to the President early in May, telling him of the importance of Captive Nations Week. In response, a man at the Office of Management and Budget informed him the matter would be handled by the State Department. Later he was referred to Greg Treverton, a staffer at the National Security Council, which is headed by the President's chief White House adviser on foreign affairs, Zbigniew Brzezinski.

Time passed. Prof. Dobriansky, having to fly to Cleveland to be on a panel which, ironically enough, discussed "detente," asked Lee Edwards, a conservative activist and publicist, to take over while he was gone. Calling later on the phone, the professor was told by Mr. Edwards that Brzezinski's staffer Treverton had announced there was not to be any proclamation.

Dobriansky spread the news about the President's decision to interested ethnic groups and to congressional leaders.

In a letter to the President, Dobriansky wrote, "Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction, and certainly will weigh it accordingly.

"For one who is supposedly concerned and and committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in contrast to your five predecessors you chose to ignore this annual observance of Captive Nations Week . . . We are appalled at your difference."

The President did then issue a token proclamation.

This Carter effort to appease Moscow follows a series of cancellations of defense measures, including, and especially, the B–1 bomber. What's next in the big sellout of America?

C. S. Dow.

Box 187, Rutland.

HUMAN RIGHTS STAND WEAKENING?

To The Editor Of The Star:

How many times have you read or heard the word human rights lately? If our President is so sincere about the issue why did he hesitate to proclaim Captive Nations Week? It took some concerted action by patriotic and concerned congressmen to make a White House reversal, so Captive Nations Week wasn't completely ignored as planned by the Carter administration.

What about human rights for the one million political prisoners in slave labor camps in the Soviet Union? What about some recognition for the Czechoslovakian people? It has been nine years since they last sought human rights. This year, hundreds of Czechs signed a manifesto called Charter 77 to remind the West that human rights supposedly guaranteed by the Helsinki Accord have not been extended to those ruled by the Soviet Union. In response, the secret people arrested 100 prominent signers and began to assault Western journalists in the streets.

What about human rights for East Germany, that has been waiting for 32 years to throw off its shackles?

Human rights are simply nonexistent wherever the Communists rule. But Mr. Carter sought to avoid even offering hope to the enslaved peoples by declaring Captive Nations Week.

MARIE HORAK,
Valparaiso.

LET MY PEOPLE GO

The 19th observance of Captive Nations Week is currently underway (July 17–23). It is an appropriate time to remind ourselves that the captive nations must remain our concern so that we may keep the hope of freedom alive in the many people who do not enjoy the same kind of liberty which we do. From Armenia and Byelorussia, which were annexed in 1920, to Cambodia, South Vietnam and Laos in 1975 and Angola last year, communist, totalitarian states have been forced on millions of people.

President Carter has repeatedly reaffirmed his commitment to human rights but there remains a lingering confusion as to exactly what human rights are. They have been vaguely interpreted as political, social, economic, scientific, artistic, and racial. What then do we mean when we use the term rights?

We define right as the moral power to do, hold or exact something. To do means either to perform or omit something because a person may have a right to keep silent as well as to speak. To hold means to own, keep or use something and includes metaphorical meanings such as to hold a job or an office. To exact means to demand that someone else perform or omit some action, and so a teacher exacts attention and silence from the pupil. This kind of right is a subjective right because the moral power to do, hold or exact resides in the subject or person possessing the right.

When we transfer the word right from the person who has the right to the things over which the right is possessed, we call that an objective right. If I say: "I will get my rights" I am speaking of an objective right, some object which is rightfully mine.

Right is founded on law. Right puts an obligation on others to respect the right. Since all obligation comes from law and ultimately from the natural and eternal law, then all right comes from law.

To exemplify these three meanings of right: A person is unjustly deprived of a right (objective right, an object due the person); appeal is made to the code of civil rights (the law); the person is given a fair trial to which he or she has a right (subjective right).

There are four components to a right: Subject, the one possessing the right; Term, those bound to respect or fulfull a right; Matter, what one has a right to and Title, the reason why this subject has this right. Take the example of an employee having a right to wages and we will discover these four elements: the employee who has earned the wages, (Subject; the employer who is bound to pay the wages (Term); the wages the employee has earned (Matter); and the work done whereby the employee has earned the wages. (Title).

The issue of human rights becomes complex when we introduce the issue of duty because right is limited by duty. I may exercise my right up to the point where my duty to others supercedes my right. A right ceases to be a right when it injures another's rights.

As we observe Captive Nations Week, the issue of human rights assumes a necessary prominence. The dissidents in the U.S.S.R. place different emphasis on human rights; for example, many of the Jewish people in Russia wish to exercise their right to leave the Soviet Union, while Russian citizens wish to exercise their rights to assemble, to criticize without fear of imprisonment and to be fairly represented. A third group of non-Russians including Lithuanians, Ukrainians and Georgians wish to exercise their rights to preserve their culture and their language and to govern themselves. The Captive Nations desire a restoration of their human rights, be they personal, civil or even national. It remains our duty to insist on their rights.

TRADE WITH THE RUSSIANS

(By Anthony Harrigan)

This summer, the Department of Commerce took the commendable step of denying Control Data Corp. a license to export its sophisticated Cyber 76 computer system to the Soviet Union. This government action was praiseworthy because the Cyber 76 system could have been adapted for military purposes.

The United States should be very strict in preventing the export of high technology equipment to hostile nations. Such equipment strengthens the enemies of freedom. Indeed, in the case of Cyber 76, it's shocking that Control Data sought to sell a computer system that would have greatly enhanced the military power of America's principal adversary.

The issue of trade with the Soviet Union should be more carefully examined. Every commercial transaction with the USSR may have political and military significance.

Fortunately, close scrutiny of U.S. trade with the Soviet Union will be given Sept. 9–10 in Denver, when the Solzhenitsyn Society (P.O. Box 2336, Boulder, Colo. 80302) sponsors national conference on this subject.

Dr. Edward Rozek, president of the Society, is professor of political science at the University of Colorado and a leading authority on Soviet affairs. Scholars, officials, businessmen, and former Soviet citizens will address the conference.

The speakers include Dr. Lev Dobriansky, head of the Captive Nations Assembly; Dr. Ray Cline, former deputy director of the Central Intelligence Agency; Efraim Sevala, a former Soviet citizen who escaped to the free world; John L. Moore, Jr., president of Export-Import Bank; and William F. Buckley, author and columnist.

In recent years, the Soviets have been very successful in gaining access to Western technology. In many cases, they have obtained complete "turnkey" projects, in which a western contractor provides a plant so complete that the Soviet officials only have to unlock the door and start producing.

The Soviets have gained access to Western industrial know-how, utilizing Western money. Since 1974, Soviet borrowing from the West has jumped from $6 billion to $14 billion. That's money diverted from projects in the United States or in friendly nations.

In other words, the Soviets have been importing valuable technology "on the cuff." This enables the Communist leadership to divert men and materials to military projects.

Since the early years of the Soviet regime, Moscow has turned to the West for technological know-how. While preaching the downfall of capitalism, they have maneuvered to acquire the skills—and money—of the capitalist nations. The Soviet leadership expects to use the Western technology and Western-built plant facilities to bury the West.

During the Kissinger years, the U.S. government encouraged the sale of technology and equipment to the Soviet Union. The U.S. public now realizes that Dr. Kissinger's detente policy was a dangerous illusion. It's time, therefore, to reexamine all aspects of trade with the strongest totalitarian regime in the world today. The Solzhenitsyn Society conference is an important step in that direction.

STALLED CRUSADE?

The National Captive Nations Committee, which is dedicated to freedom for the Iron Curtain countries, has a grievance against Mr. Human Rights, Jimmy Carter. Each year since 1959, the president, in accordance with congressional mandate laid down that year, has proclaimed Captive Nations Week.

But this year was slightly different. The proclamation arrived four days late. At that, it made no mention of the 27 captive nations, nor of the prime captor, the Soviet Union. Dr. Lev. E. Dobriansky, chairman of the captive nations committee, was incensed.

"We feel compelled to ask," said Dobriansky, "which is more important to this administration—human rights or relations with the Soviet Union? We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he himself has called his 'crusade for human rights.' His near-disastrous inaction on Captive Nations Week sugegsts that his commitment to his human rights crusade is growing lukewarm if not cold."

The likelihood, to be sure, is that Carter has lately grown nervous over his strained relations with the Soviet Union. But what an extraordinary thing it will be if it turns out that the Carter human rights policy is for all nations but the Soviets. That would be like "Hamlet" without the Prince of Denmark, provocative perhaps but rather beside the point.

CAPTIVE NATIONS WEEK: TRAGIC TRAVESTY

(By John H. Rousselot)

During last week's 19th observance of Captive Nations Week, it is most appropriate that we take time to consider the millions of people throughout the world for whom tyranny and oppression are features of everyday life. The list of captive nations is long. They exist in virtually all parts of the world. Some of these countries once enjoyed long periods of self-determination and freedom. Others have been free for only the briefest of moments.

Yet in each of these countries, the spirit of liberty remains alive—held dear by those who continuously struggle to rid themselves from the oppression which grips their homelands. In recognition of their ongoing battle, we have set aside the third week in July as Captive Nations Week. Through this commemoration, we pay tribute to the courage of those who are not yet free and we reaffirm our own country's strong commitment to human and civil rights for all people. It is, therefore, truly unfortunate that America's current foreign policy seems to conflict with our respect for the human rights of these captive nations.

For the past two years, the only country to enjoy United States most-favored-nation trade benefits, subject to the human rights and free emigration conditions of the Trade Act of 1974, has been Romania. In the past, our government has granted Romania a waiver from those requirements because, allegedly, the Romanians were pursuing a foreign policy independent of the Soviet Union. Many of us here in Congress, however, have been concerned about constant charges that attempts have been made to suppress the language and culture of ethnic minorities. In addition, recent news accounts have referred to continued harassment of those seeking to emigrate and a new crackdown on dissidents—actions which point to a serious disregard for human rights and a badly needed reconsideration of our trade position.

Unfortunately, the Carter administration does not share that viewpoint. On June 3, the President recommended that a waiver from the human rights and free emigration conditions of the trade act be extended—that we continue to trade with Romania. Earlier this week the Trade Subcommittee of the House Ways and Means Committee added its approval to the administration's recommendation. I find these actions tragic and wonder aloud when we are going to stop having a selective human rights foreign policy—when we are going to give more than lip service to Captive Nations Week.

CAPTIVE NATIONS WEEK

July 17–23 was observed nationally as "Captive Nations Week" in accordance with Public Law 86–90, passed by Congress in 1959. President Carter and Governor Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine and others continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief;" and "Hundreds of Ukranian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of UN Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric, bordering on outright ethnocide and genocide. Hundreds of Ukranian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed. Recently two Ukranian dissidents, Mykola Rudenko and Olesiy Tykhy, members of the Ukranian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. In Soviet jails and concentration camps are: Valentyn Moroz, a Ukranian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, the Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatislav Karavanski, Stefania Shabatura, Nina Strokata-Karanska, Ivan Hel, Vyacheslav Chornovil just a few of hundreds of Ukrainian political prisoners.

This year's Captive Nations Week was observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementation of the Helsinki Accords of 1975. However, the captive nations in the Russian Communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations Week served as an appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Russian Communist domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress, Committee of America, Boston Chapter.

WESTERN ALLIES SUPPORT UNITED STATES IN ILO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, the United States is soon going to decide whether to remain a member of the International Labor Organization or to allow the 1975 letter of intent to withdraw to take effect on November 6. I believe the United States should remain in the ILO and am very glad to learn that the nine governments of the European communities support the United States staying in ILO. On behalf of the European community, Prime Minister Leo Tindemans recently wrote to President Carter expressing the great hope that the United States would

withdraw its notice of intent, and the willingness of the governments of the nine to work with the United States in resolving complex issues we all agree require solution in ILO. The Prime Minister also states that together we would be able to work effectively in supporting an organization whose historical commitment to social justice is so consonant with the purposes of the U.S. Government.

Mr. Speaker, I include this important letter from Prime Minister Tindemans in the RECORD:

BRUSSELS,
September 9, 1977.

Mr. JIMMY CARTER,
President of the United States of America, Washington.

MR. PRESIDENT: I am writing to you on behalf of the Nine member Governments of the European Communities to convey to you our views on the present situation in the International Labour Organisation.

The member Governments of the European Communities have been following recent events in the ILO with keen concern. We share the preoccupations of the United States' Government. Like the U.S. Government, we consider that certain developments at the annual Conference of the ILO, held in June 1977, were damaging to the Organisation. One of the results of that Conference, the failure to adopt the report of the Committee on the Application of Conventions, seems to us particularly regrettable. It is our firm view that the successful operation of the ILO requires that the annual reports of this Committee should be adopted and should be acted upon. It is our intention, which we believe is shared by many member Governments, to insure that the main points in this years report, and in particular its endorsement of the need for a single standard in judging performance, are actively pursued within the organisation.

The 1977 Conference was the more disappointing in that we consider the ILO to be an element of major and indeed growing importance in the UN system. As the World Employment Conference showed, the ILO has a significant role to play in the attempts of global economic development. It has a substantial contribution to make to the success of the basic needs strategy. Similarly it has a major contribution to make in the fiscal of human rights where the ILO machinery is the longest established and, so far, the most effective of that deployed by any international organisation. Finally the regular work of the ILO, the only world-wide tripartite organisation, in standard setting and in improving conditions of work throughout the world seems to us of undiminished importance.

For these reasons we consider the ILO remains an organisation fully worthy of our support. It would be a major blow both to the Organisation itself and to the UN system as a whole if the U.S. were to withdraw. Nor do we believe that the resulting situation would be readily rectified. The task of reform and of achieving the objectives we share in the ILO might well be impossible in the absence of the United States even though the Governments of the Nine would continue their efforts to preserve and enhance the value of the ILO's services to the international community.

On the other hand, working together with the United States in the organisation and seeking the support and goodwill of the many member states who share our objectives, we consider that there would be a reasonable prospect of making progress in the right direction and of preserving the integrity of the Organisation. This would of course require flexibility on the part of all involved in the negotiations which lie ahead. We believe it will be possible to secure a strengthening of the defence of due process through amendment of Article 17 of the Standing Orders. The necessary restructuring of the Organisation, including, for instance, changes in voting procedures, will require the most careful consideration. But if the discussions are approached in a spirit of mutual understanding the essential requirements of the membership of the Organisation, including the preservation both of the principles of tripartism and of the partnership between the industrial and developing countries can be satisfied.

There is of course no prospect of resolving these complicated issues in the next two months. But a recent opinion by the Legal Adviser to the ILO in response to our inquiry concludes that notice of intent to withdraw from membership can be extended for a defined period of time. We greatly hope that the United States will withdraw its notice of intent. If however there are factors which make that impossible, we urge that you take appropriate steps to extend the formal notice for a new period so as to allow time to work out lasting solutions to the problems which confront the ILO. Such an extension would cover next year's Conference, to which any results of our work in the months ahead will need to be submitted.

In this way all of us, together, will be able to work effectively in support of an organisation whose historical commitment to social justice is so consonant with the purposes of your Government.

Respectfully yours,

LEO TINDEMANS.

PRESIDENT SHOULD ESTABLISH COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 60 minutes.

Mr. NOLAN. Mr. Speaker, my colleagues and I introduce a resolution expressing the sense of the House of Representatives that the President of the United States should establish a Commission on Domestic and International Hunger and Malnutrition. The 254 Members who have joined in cosponsoring the resolution agree that this Commission will be the most practical and effective means to provide the President and the Congress with a concise and comprehensive analysis of public policy as it relates to the root causes of world hunger.

In his inaugural address, President Carter called for a "common effort" to guarantee "the basic right of every human being to be free from poverty and hunger and disease and political repression." Members of Congress have long shared the President's concern. Indeed, our political leaders have expressed these sentiments for generations, but hunger and malnutrition remain an all too present reality at home and abroad.

Thirty-six years ago, when Europe was at war and the bombing at Pearl Harbor lay only 11 months ahead, President Franklin Roosevelt called for a world founded upon the "four freedoms," one of which included freedom from want. In his address to Congress, Roosevelt denied that freedom from want was merely "a vision of a distant millennium." Rather, he said:

> It is a definite basis for a kind of world attainable in our own time and generation.

In order to move closer to a world committed to securing freedom from want, the United States helped lead the way in organizing the Food and Agriculture Organization (FAO) of the United Nations in 1943. Building upon the efforts by the League of Nations to improve nutrition and to solve agricultural marketing problems, the founders of FAO declared their intention to focus upon two central objectives: freedom from hunger and adequate returns for farmers. During the pre-World War II years, the prevalence of hunger and malnutrition amidst burdensome and unmarketable surpluses, had convinced the FAO founders that the physical presence of food stocks was not enough to assure freedom from hunger. Instead, FAO stressed the need to improve nutrition, to broaden the distribution of food and to keep agriculture economically healthy.

By 1977, hunger and malnutrition still remain daily facts of life for millions of people throughout the world. Freedom from hunger has not been attained in one generation as President Roosevelt had hoped. In terms of sheer numbers, the population explosion of the last 30 years has made world hunger a more serious concern today than it was a generation ago. If President Carter's determination to attain freedom from hunger in our lifetime is to be more successful than Franklin Roosevelt's similar determination three decades ago, we must intensify our efforts in behalf of hungry people in the United States and around the world.

The sponsors of this resolution therefore call upon the President to establish a Commission on World Hunger. After evaluating the numerous studies, reports, policies and programs related to domestic and international hunger and malnutrition, the Commission is expected to summarize and clarify its findings. The Commission's comprehensive survey will serve as the basis for specific policy and legislative recommendations and for developing a clearly defined and coordinated national food policy. The work of the Commission will thus enable the President and Congress to choose courses of action which will significantly reduce hunger and malnutrition in our lifetime.

Mr. Speaker, my colleagues and I also recognize the need for the Commission to focus its resources upon an examination of the continuing paradox between increasing worldwide hunger and the burdensome grain surpluses in the United States. The League of Nations and the Food and Agriculture Organization recognized the paradox, but after 40 years we still have not resolved the contradiction. Most of the voluminous studies and reports that have been made on the "world hunger" problem have passed by this paradox. By tackling this question headon, the Commission can

make an original contribution to our understanding of the nature of the food and agriculture problem and of the practical measures that will be needed to overcome it at last.

The world food supply has alternated between glut and scarcity, for generations. World hunger nevertheless has been a continuing reality despite the periodic appearance of food surpluses. For the world's farmers, however, the wide swings in the level of food production have repeatedly disrupted the agricultural economy both at home and abroad. Like the movement of the grim reaper's deadly scythe, each up and down swing in food production has cut into the capability of the world's farmers to produce enough food to meet minimum human needs. If this destructive process is not halted, the day will come—if it is not already at hand—when our farms will not yield enough to eat for the human race.

One of the Commission's first priorities, therefore, must be to explain the paradox of the continuing increase in numbers of human beings who suffer from hunger and malnutrition while the prices received by farmers in the United States are falling under the burden of surpluses to the lowest levels of purchasing power since the depths of the Great Depression in 1933. Our agricultural productivity cannot be maintained when our farmers are sinking in perilous economic straits.

By weakening the world's farm economies, food surpluses actually reduce our capability of feeding a hungry world. And, despite efforts to improve nutrition and food distribution—the goal of many of our domestic and international aid and development programs—hunger and malnutrition stubbornly persist. The paradox of continuing hunger amidst food surpluses thus will lead the Commission to examine the reasons why those who are hungry cannot earn enough to pay farmers what it has cost them to produce the food that overflows our storehouses today. Indeed, the world's hungry cannot even purchase food when it is cheap—when the prices farmers receive for their production have been driven down by surpluses. If we are going to end world hunger, the Commission will have to learn why the paradox of hunger amidst plenty continues to exist, and then make the recommendations to resolve the problem once and for all time.

Mr. Speaker, the challenge which lies before the Commission and before our country is both solemn and momentous. Our parents and grandparents lived through an era when public officials dared to dream about eliminating world hunger in their lifetimes and tried to work toward that end. We can benefit from their experience. We do not need to preoccupy ourselves with the fact that those who preceded us failed to reduce world hunger. Rather, we need to know why they failed. The proposed Presidential Commission provides a unique opportunity to ask the right questions and to offer well-conceived recommendations for solving the problem of world hunger.

The bipartisan, rural-urban coalition which has joined together in support of the Commission demonstrates a widespread recognition that we need to make elimination of world hunger and malnutrition a priority. The emergence of the coalition also indicated that we have the interest and the support in the House and in the Senate for a Presidential Commission to undertake a comprehensive food policy review.

The congressional coalition supporting the Commission did not, however, just happen to coalesce. The active efforts of Harry Chapin and the staff of World Hunger Year contributed immeasurably to building the coalition. Through their efforts, the largely urban-based religious and humanitarian groups concerned about world hunger have established a closer relationship with farmers and farm organizations. The National Farmers Organization and the National Farmers Union both support the Commission and they have helped to define its purpose.

When the President appoints the members of the Commission, he therefore should strive for a balanced membership that will include farmers and representatives from the religious and humanitarian organizations, in addition to other individuals who represent a variety of backgrounds, taking into account age, income, interest in food and agriculture issues, and relationship to hunger and malnutrition. In selecting commission members, the President should also search for people who are willing to devote considerable time, effort and talent to the commission's work.

The strong support which my colleagues have shown for the commission indicates that the House of Representatives is serious about trying to end world hunger and malnutrition. We urge the President to establish the commission and to mandate that it perform the function suggested by the House of Representatives in this resolution.

The resolution follows:

Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition

Whereas, hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas, there is a need to examine the continuing paradox between increasing worldwide hunger and malnutrition and the burdensome grain surpluses in the United States;

Whereas, it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas, the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas, the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas, Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas, in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself.

Resolved, That the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2. (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition.

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the public; and

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. 3. The Commission shall be a balanced membership composed of 15 persons appointed by the President from individuals who represent diverse backgrounds, taking into account age, wealth, and relationship to the problems of hunger and malnutrition.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of section 2 of this resolution together with a schedule of activities and goals for the following six months; and

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations.

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States.

SEC. 5. The Clerk of the House shall transmit a copy of this resolution to the President.

Mr. GILMAN. Mr. Speaker, legislation is being introduced today by my distinguished colleague from Minnesota (Mr. NOLAN) and me, and over 225 of our colleagues establishing a Presidential Commission on World Hunger. I intend to actively support the goals toward which this Commission will be directed; namely, significantly reducing the hunger and malnutrition which imperils the lives of millions in this and other nations. I am hopeful that such a commission will provide us with valuable insight concerning the manner in which costly, inefficient food programs may be modified or excised, and efficacious, forward-looking programs initiated.

The commission's goal is threefold in nature: First, establishing clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition; second, identifying and evaluating existing Federal programs and policies related to hunger and malnutrition; and third, developing for the President and the Congress specific recommendations for policies and legislation to markedly reduce hunger and malnutrition in the world, and assisting in implementing such recommendations.

Mr. Speaker, an oriental adage posits the following scenario:

If you give a man a fish,
he will have a single meal;
If you teach this same man how to fish,
he will eat for the rest of his life.

Indeed, in a recent letter which was circulated by Congressman NOLAN, myself and 23 of our colleagues, we stressed this premise, asserting that "the ultimate solution" to the scourge of world hunger and malnutrition is "assisting people to obtain an adequate diet." Our concern is not with ad hoc stop-gap measures characterized, for example by only a continual stream of food shipments to less developed countries. Rather, the United States—in concert with other developed nations—must identify those policies whereby emergency food shipments can be provided the hungry, while at the same time initiating programs aimed at encouraging and providing less-developed nations with the capability of assisting themselves in developing and implementing techniques for increasing their food production and distribution.

Domestically, we must similarly strive to develop and implement policies providing self-help assistance to the millions of American hungry and malnourished. Concurrently, our policies must reflect legitimate concern for both assuring that farmers and consumers encounter a fair and equitable price in the marketplace, and for avoiding disruptions in the producing potential of our farmers.

The manner in which these tasks are to be accomplished has generated many differing proposals—ascertaining the relative viability and adequacy of these proposed solutions lies at the heart of this Presidential Commission's task.

Last year, the Subcommittee on International Resources, Food, and Energy, of which I was the ranking minority member, held 4 days of hearings on "the Right-to-Food" Resolution. Testimony from more than 25 witnesses contained numerous interpretations of the causes of widespread hunger and malnutrition, and illuminated the cataclysmic manifestations in which global hunger appears.

Many well-reasoned, but often divergent, recommendations for combating hunger were advanced, with agreement crystallizing around the conclusion that key policy decisions remained concerning implementing an intensified commitment to markedly attenuate the crisis of world hunger and malnutrition. The Right-to-Food Resolution emerged as a realistic statement of congressional and public concern for marshaling our forces to check the famine and unreliable or shortsighted systems of food production and distribution responsible for the death and suffering of so many.

I am confident that a Presidential Commission on World Hunger can efficiently serve as a vehicle for conceptually organizing responsible recommendations aimed at ameliorating the debilitating concomitants of hunger and malnutrition.

Accordingly, I urge my colleagues to join with us and our more than 225 colleagues who are actively supporting this bipartisan effort for establishing a Presidential Commission on World Hunger.

Mr. BONIOR. Mr. Speaker, my statement will be brief because this resolution and the large number of signatures attached to it provide their own eloquence.

I only want to say that I am extremely proud to be a cosponsor of this resolution. It displays the continuing interest in human rights and humanitarian concerns that has marked this Congress thus far. It is a reordering of priorities long overdue.

Hunger and malnutrition are not the world's inheritance. To the extent that they exist, they do so more through price, maldistribution, and agricultural underdevelopment rather than scarcity. In the words of Alan Berg, food expert for the World Bank:

Enlightened policies and actions could prevent this and we have no choice but to try. To do otherwise would reflect a fundamental and grievous change in the character of man.

I commend my colleagues for their concern and urge quick passage of this resolution.

Mrs. HECKLER. Mr. Speaker, I rise today to speak in support of establishment of this most important Commission on Domestic and International World Hunger and Malnutrition.

In my 3 years as a member of the House Agriculture Committee, I have become increasingly frustrated over the monumental lack of knowledge about nutrition, even in our own country. Finally, the House is scheduled to hold hearings on the subject of nutrition. I applaud that first step.

However, I believe that what we must do, as representatives of the people, is to arrive at a bold new approach to food and nutrition. We must first become knowledgeable about nutrition, then we must establish a national policy on nutrition that will be our guide for the programs we must consider and approve as the Congress of the United States.

The objective of the forthcoming nutrition hearings is simply to discover what we know about nutrition. I think I already know what these hearings will reveal: and that is that we know very little about nutrition.

There is an urgent need for a new nutrition-oriented national food policy and that is why I wholeheartedly support this resolution calling for a Commission on Domestic and International World Hunger and Malnutrition.

Although experts disagree, many climatologists are warning us that the weather will be increasingly variable over the next decade. This warning, if proved true, will vitally affect our food supply—and that of the world.

Even this country, with its great capacity for production of food is not immune from the specter of hunger.

Not only does the United States need to develop a clearly defined food and nutrition policy, but we must help develop an international policy as well. We all know how significantly the food and agriculture policies of the United States affect the world. We all know that we have the greatest agricultural production machine in the world—and yet hunger and malnutrition are increasing in the world at large.

Therefore, I feel this problem needs a focus—a forum where the issue will receive national, and worldwide, attention. A Presidential Commission on hunger would seek to establish the relationships between the problem of hunger and our policies here in the United States. It would also develop recommendations that the President and Congress can use to provide legislation that could reduce hunger and malnutrition throughout the world.

There is no more important problem that Congress could consider. Food and nutrition are basic to our survival and to our children's survival. Our policy must take into account, not only what we must do in the next few years, but what we must do to insure adequate food production in the next century.

My long interest in the problems of the consumer has caused me to take an ever-closer look at the problem of food and to realize that it is truly a global problem and a massive one. We must begin to address this problem now. The nutrition hearings the Agriculture Committee will hold are a first step, and this Presidential Commission is another first step. Therefore, I urge the Congress to approve this resolution calling for establishment of a Presidential Commission on Domestic and International Hunger and Malnutrition.

Mr. BAUCUS. Mr. Speaker, the accomplishments of mankind are surely incredible. Men fly through the air, walk on the Moon, and communicate instantaneously with any point in the world. Yet, tens of millions of the world's people continue to starve.

Meanwhile, American farmers face increasing surpluses and sinking prices. Farmers in Montana lose money on every bushel of wheat and every head of cattle they produce. Something is terribly wrong.

This resolution to establish a Presidential Commission on World Hunger can go a long way to resolve this cruel paradox. Such a commission could determine why starving people are not able to earn enough to buy food for as much as it costs the farmer to produce it and what can be done to give them this abil-

ity. Both the hungry people of the world and the bankrupt American farmer would benefit.

It is my hope that our President, who is so keenly-sensitive to other violations of human rights will adopt this resolution and set in motion it's plan to eliminate the tragedy of starvation.

Mr. FRASER. Mr. Speaker, I rise to add my endorsement to Congressman RICK NOLAN's resolution to establish a Presidential Commission on Domestic and International Hunger and Malnutrition.

The resolution states that the Commission shall pursue three goals: First. Establish clearly the causes of domestic and international hunger and malnutrition and their interrelationships; Second. Identify and evaluate existing programs and policies that are concerned with hunger and malnutrition; and Third. Present to the President and Congress specific recommendations for legislation to significanlty reduce hunger and malnutrition and outline specific steps for the development of a clearly defined and coordinated national food policy. In addition to its charge to provide essential analyses and recommendations, the Commission could dramatically draw national attention to the need for a sustained and serious public commitment to understand and ameliorating the plight of the world's hungry and malnourished.

The foreign economic assistance and food aid programs of the United States have been generous and well-intentioned. Too frequently, however, our efforts have been skewed by an adherence to political/strategic objectives, undermined by a lack of understanding of the effects our aid has on food-poor nations' agrarian development, and plagued by an inability to engage in long-term planning and coordination.

Beginning with the "New Directions" policy of the Foreign Assistance Act of 1973, and continuing through the International Development and Food Assistance Acts of 1975 and 1977, Congress has addressed and sought to correct many of these problems. Yet, our efforts have not been sufficient. We devote only .24 of 1 percent of our GNP to official development assistance, despite repeated urgings by the international community to meet a target level of .70 of 1 percent. We have been unable to develop anything resembling a national food and nutrition policy, even though there is widespread recognition of the haphazard and ad hoc manner in which policies bearing on hunger are formulated and implemented. We have not fully tapped the reservoir of good will the American people feel toward those in need and have failed to institutionalize the concern that surfaces so readily in times of international emergency.

The Presidential Commission alone obviously cannot rectify these failings. But it could serve as a highly visible and dramatic catalyst. It could help draw together, organize, render intelligible, and disseminate the vast body of research that has been undertaken on the causes and consequences of hunger. It could help coordinate the energies of the executive and legislative branches in an attempt to fashion an embryonic national food policy. It could provoke new thinking about how an individual might influence the course of a campaign against hunger. And it could challenge and help transform prevailing assumption about international development, leading to a heightened awareness of the need to ensure that a person's right to a nutritionally adequate diet becomes a fundamental point of reference in the policymaking process.

The resolution is an important and timely measure. I commend Congressman NOLAN and all those who have worked with him in developing this idea for their initiative. Particular credit must be given to Harry Chapin and the staff of World Hunger Year for their unceasing efforts on behalf of this concept. I encourage my colleagues to see that the proposal is given prompt and positive consideration.

Mr. STEERS. Mr. Speaker, I would like to urge the support of every Representative for a resolution introduced by Congressman RICHARD NOLAN to establish a Presidential Commission on Domestic and International Hunger and Malnutrition.

The problem of hunger is still painfully acute in many countries throughout the world. Although there have recently been few dramatic examples—such as the Sahel drought in Africa—to publicize the tragedy of human starvation, the scope of this problem still grows larger. The problems of famine, hunger and malnutrition are not episodic occurrences that disappear as soon as a flurry of publicity arises, but rather long-term and constant problems that must be continuously attacked.

For this reason, I believe that a Presidential Commission is highly desirable. It is needed to raise the public's level of awareness of the causes and possible solutions of hunger in the United States and abroad. The humanitarian goals of this Commission are totally consistent with the American people's desire to translate their good intentions into realistic and concrete solutions. The needs of the hungry are universal; I hope that partisanship will not block any potential remedy—especially a resolution that establishes a Presidential Commission to study and propose solutions to the problem of hunger.

Mr. SIMON. Mr. Speaker, I am pleased to join my friend from Minnesota (Mr. NOLAN) in introducing a resolution to establish a Presidential Commission on Hunger. I commend him for the leadership he has taken in this field and would also like to note the important role played by Harry Chapin and others involved with World Hunger Year.

Despite efforts by the United States and other nations to combat world hunger, there has not been a noticeable improvement in the situation. The problem is overwhelming. Approximately 460 million people around the world—twice the size of the U.S. population—suffer from chronic hunger. Even in our own land of opulence and high grain yields, a sizable number are malnourished.

The problems of hunger—both in this country and abroad—are not just a simple matter of producing more food. We need to improve our efforts in distribution and agricultural technologies. We need to understand the relationships between hunger, population, and economic development.

The administration recently announced its plan for a grain reserve of 30 to 35 million metric tons. Six million tons will be placed in an International Emergency Food Reserve. This announcement is a positive and important step in the right direction. But more needs to be done. At the time an increased reserve was announced, the administration proposed reducing our food production through expanding the set-aside program.

We need to develop and implement our policies on a more informed and coordinated basis. We must increase our understanding of the world hunger problem, develop new and more adequate policies to deal with the problem, and implement these policies effectively.

The proposed Presidential Commission on Domestic and International Hunger and Malnutrition will serve these needs. It has three important goals. First, the Commission will establish clearly the causes of domestic and international hunger and malnutrition and their interrelationships. This will provide those of us in Government as well as individuals and groups in the private sector with the understanding necessary to focus effectively on the hunger problem.

The second goal of the Commission will be to identify and evaluate existing programs and policies that are concerned with hunger and malnutrition. So many Federal, private, and international programs attempt to deal with the hunger problem, that it is necessary to get a firm grip on what is being done before we can improve the situation.

The accomplishment of these first two goals—understanding the causes of hunger and present programs to combat it—will allow the Commission to attack its third and cruicial goal with adequate preparation and expertise. This final goal is to bring to the Congress and the President specific recommendations on how to significantly reduce hunger and malnutrition and to outline specific steps for the development of a well-defined and coordinated national food policy. The Commission's recommendations could serve as a spearhead for more comprehensive and effective action.

Mr. Speaker, I strongly support this resolution. I have written on the subject and am familiar with it.

An attack on hunger is basic to our fundamental responsibility as political leaders and as human beings. I hope my colleagues will examine this proposal and offer their support.

Mr. DOWNEY. Mr. Speaker, the major catalyst for the introduction of this resolution in support of a Presidential Commission on Domestic and International Hunger and Malnutrition has been the work of a hunger-action group which I have had the privilege of being associated with since my election to Congress. The name of the group is World Hunger Year (WHY).

I think it is fitting that this small phrase, WHY?, is the most important for outlining the reasons for this resolution and the massive support it has received in both chambers of Congress.

Why a Presidential Commission?

The country and the Federal Government have become increasingly more aware of the need for a coherent and comprehensive national food policy. The increasing productivity of American farms coupled with continuing domestic and global hunger and malnutrition is a situation that defies a piecemeal approach. Food is the most basic of human needs, and this need demands a basic and thoroughly evaluated Government approach.

The first step in the formulation of a national food policy is a comprehensive and integrated analysis of the causes of world and domestic hunger. A Presidential Commission, with representation of all perspectives on this issue, will be a visible and functional vehicle for addressing this problem of far-reaching consequences.

A Presidential Commission will serve as a springboard for legislative action and public consideration of the entire hunger paradox. The Commission concept is not new, and it has sometimes failed. Yet, the continuing and growing importance of the issue, the need for compilation, coordination, and analysis and not "original research," and the vast potential for legislative and administrative follow-through clearly indicate that this Commission can succeed. I believe it will.

Why should the 95th Congress act?

The research, public interest, and Federal programs associated with the hunger problem have reached a certain type of threshhold in recent years. Direction is needed. A comprehensive and integrated analysis of the causes of world and domestic hunger by the Commission can provide that direction. The time is ripe for elevating the consideration of this issue and to funnel our resources in a direction where they can accomplish the most.

A coordinated examination of available hunger research, a distillation of ideas and recommendations, the communication of these recommendations to the Congress, administration, and public, and assistance in implementing these recommendations constitute the blueprint for this Presidential Commission. It will mark a new beginning in America's effort to deal with the hunger issue.

It is new beginnings that is the theme of the Carter administration, and the congressional support for this resolution will show that this is a new beginning that receives support from legislators representing a multiplicity of interests and with varied perspectives. The basic problem of hunger in the world deserves no less.

Mr. BONKER. Mr. Speaker, a Presidential Commission on Domestic and International Hunger and Malnutrition should help generate what this Nation has long needed, namely an integrated, coherent, and well-formulated national food policy. Under a Presidential commission U.S. Government policy would be developed in a manner reflecting the best interest of this Nation and of the world, still heavily populated by those experiencing hunger and malnutrition on a daily basis. For too long our food policy has been a confusing mix of positions adopted by a multitude of Government agencies often heavily dominated by narrow perspectives and priorities.

It will take much more than a Presidential commission and a national food policy to counteract the problem of domestic and world hunger. By this resolution we are not suggesting there are easy answers nor that the United States should try to solve world hunger on its own. Rather, we are on the threshold of a new approach and of a new era in America's commitment to help eradicate not only the symptoms, but also the causes of domestic and international hunger and malnutrition. For these reasons, I am happy to cosponsor this resolution. At the same time, I would like to commend the performing artist Harry Chapin for his devotion to the vital cause which our resolution seeks to strengthen.

Mr. AUCOIN. Mr. Speaker, 2 weeks ago Time magazine carried a story about America's bumper harvest. There in full color we saw surplus wheat dumped onto the main street in Marshall, Okla. Another photograph showed wheat piled high against an already filled elevator in Kansas.

It was the third best wheat crop in U.S. history. Together with corn and soybeans this country faces a projected grain surplus of 84 million metric tons at year's end. A certain symbol of America's bounty.

Yet too often these stories are followed by stories of another kind. Stories of hunger, of suffering. Of human misery spawned by a simple lack of food.

The Food and Agriculture Organization today estimates that more than half a billion people lack the minimum nourishment they need to maintain their health, their growth, and their work capabilities. In short, some 500 million people are so hungry they're sick.

Some never recover.

Unfortunately, the gulf between America's swollen silos and the world's hungry is far greater than the few pages between news stories. And therein lies one of the most difficult and perplexing problems facing mankind.

Finding an answer will require all the ingenuity we can muster. The resolution which is being introduced today is one step in that direction.

A Presidential Commission on Hunger would provide a badly needed focus for national debate on U.S. food policies at home and abroad. This has been lacking in the past and is undoubtedly the reason our food programs today are so fragmented. The commission could also pull together the increasing volume of research that has been done on the world hunger, digesting the findings and identifying key causes of hunger in all countries.

It could serve as an advisory group to Congress in its search for sound legislative solutions. Most importantly, it could elevate public consciousness about a problem that must be of personal concern to each and every American.

In this regard I think something needs to be said about the efforts of Harry Chapin and my colleague from Minnesota (Mr. NOLAN). It is they as much as anyone who have championed the fight against human hunger. If we succeed in reducing the number of malnourished by even a fraction it will be due in large measure to the determination and hard work of these two men.

I am proud to be able to join with them in their cause and am proud to cosponsor this resolution, which seeks such a commission. I urge every Member of this House to do likewise.

Mr. JEFFORDS. Mr. Speaker, I would like to join my colleague from Minnesota (Mr. NOLAN) and my colleague from New York (Mr. GILMAN) in their plea to the Members of the House and to the President to establish a Commission on Domestic and International World Hunger and Malnutrition. This Nation with its many successes and our availabilities can hardly expect to be a credible world leader unless we make a serious effort to solve the world hunger problem.

First, I would like to commend Mr. NOLAN, Mr. GILMAN, and the distinguished Senator from my home State of Vermont, Mr. LEAHY, as well as a great musician and man with a cause, Mr. Harry Chapin for their very active role in this great battle to reduce hunger and malnutrition in this country as well as abroad.

As a member of the Committee on Agriculture, I have had an interest in many food programs. There are many areas I could discuss relative to this situation but I would like to concentrate on the following three points:

First. World food reserves. The purpose of a reserve may vary from assuring emergency food aid to price stabilization or it may serve as some combination of the two. Reserves could similarly be used in such instances to assure food assistance and commodities for the Food for Peace program. With an increasing percentage of exportable U.S. commodities guaranteed to buyers by long-term agreements, other trading partners would be assured of having access to supplies.

There are three main issues to be considered in discussing a reserve proposal. First is the availability and cost of acquiring stocks. Second, is the determination of what countries and under whose control—farmers, government, or a combination—the stocks would be held. And finally, identification of the mecha-

nism which would trigger the accumulation and release of stocks.

Despite the recommendations of the World Food Conference and an increased awareness of the importance of giving priority to increasing agricultural production, the World Food Council estimated recently that the world food situation has not changed significantly over the last few years. The global population continues to increase by 70 to 80 million people per year. World food production is barely increasing as fast as population. The UN's most seriously affected countries have an increasing food deficit. A number of these countries have suffered such severe food shortages during the past year that consumption has been reduced below the usual requirements. Approximately half a billion people remain malnourished.

Second. Infrastructure. There is a severe shortage in many developing nations of what is known as "infrastructure": facilities to transport, distribute and store food. This applies both to food aid and to food which is produced in these countries. The resulting losses are so large that it has been estimated by former Secretary of State Henry Kissinger that investment in better storage and pesticides could prevent enough losses to match the total of all food assistance worldwide.

The absence of adequate storage and other "infrastructure" is the most important limitation on the absorptive capacity of many nations, especially the poorest nations, to receive more of our badly needed food assistance. It is also a major disincentive to agricultural development. Farmers do not increase their output because they know there are no additional facilities to store and transport it.

Third. Developing appropriate technologies to facilitate the production of food: Congressman BINGHAM and Congressman HARRINGTON proposed an amendment, which was adopted in the Development Assistance Act of 1978, to stimulate bilateral programs in rural oriented nonconventional energy technologies. This amendment was derived from a bill I introduced with over 80 cosponsors. Such a program would establish cooperative arrangements on a bilateral basis between the United States and developing countries to research, develop and demonstrate, with the goal of earliest possible widespread use, of nonconventional technologies—that is, solar, wind, biomass, et cetera—in the rural areas of the Third World.

These are the areas where the vast majority of the Third World lives. Oil prices have hit these countries especially hard, and lack of rural energy development has served as a significant drag on overall Third World economic development. A large portion of the rural Third World is remote enough that extension of central energy grids is prohibitively expensive; thus the focus of the technologies addressed in this proposal are "decentralized" and "small scale."

The procedure would be twofold initially: First, in areas where there is already a reasonable chance of success for a known technology to solve a known problem, joint development and demonstration of the technology should begin as soon as possible. Second, in other countries and regions, survey teams composed of members of AID, ERDA, and recipient country representatives will do studies of the energy needs, uses and resources in these areas. The results of the surveys will be included in a new information system whose purpose would be the transferability of new technologies from one like area of the world to another, accelerating the pace of rural energy development as much as possible.

The thinking behind the creation and direction of this proposed program is already well along in the agencies, and was the subject of a memorandum of understanding signed by the Administrators of AID and ERDA last fall. The development of such technology is necessary to maximize the agricultural potential of these nations.

I have brought out these various points to stress the need for food production and international development. We must begin now. By establishing such a Commission to find out why we have the hunger problem and what we can do, as legislators, to conquer it. This Commission would report to the Congress and the President after 6 months, its findings as well as recommendations in policy and legislation to reduce hunger and malnutrition in the world. I urge your support of such a measure.

GENERAL LEAVE

Mr. GORE. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Minnesota (Mr. NOLAN).

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THE PUBLIC PARTICIPATION IN FEDERAL AGENCY PROCEEDINGS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, earlier this year Congressman RODINO and I reintroduced the Public Participation in Federal Agency Proceedings Act. H.R. 8798, the latest version of legislation, has been reported out of Chairman DANIELSON's Administrative Law Subcommittee and is currently pending before the full Judiciary Committee. I am hopeful that the full committee will act favorably on this legislation before the end of the first session of Congress.

In its September 19, 1977, editorial, the New York Times endorsed the legislation. For the benefit of our colleagues, the text of the editorial follows:

[From the New York Times, Sept. 19, 1977]

PUBLIC FUNDS FOR PUBLIC WATCHDOGS

In 1973 the United States Treasury issued tentative rules that banned accounting practices by which multinational corporations could hide profits in foreign subsidiaries, beyond the reach of American tax collectors. Numerous corporations testified against the proposed rules and one citizen watchdog group, Tax Analysts and Advocates, testified in favor. Three years later, the Treasury revised the proposal and again solicited public comment. This time, more than 100 companies joined in opposition but Tax Analysts did not have the money to pay for necessary technical assistance to rebut their arguments. Shortly thereafter the Treasury adopted rules that favored the multinationals and sacrificed about $1 billion annually in tax revenues.

This experience is not unusual. When citizen groups—most notably environmentalists—seize on issues with obvious public appeal, they have little difficulty in making their views count. Often, however, the only groups with money to offer persuasive research data or expert testimony on complex issues are those with a direct financial stake in the outcome. That is not to say that self-appointed groups necessarily represent the ultimate "public" interest in every case. Most government regulators agree, however, that the involvement of such groups often leads to significant research and argument that might otherwise escape governmental notice.

New legislation, introduced by Senator Kennedy and Congressmen Koch and Rodino, is designed to insure such a constructive presence. Their Public Participation bill would provide $10 million a year to pay the expenses of impecunious groups before Federal agencies—when the agencies believe their expert testimony to be useful. The bill would also provide funds to reimburse such groups for successful court challenges of decisions by Federal agencies.

Much of the opposition to "public participation" funding comes from lobbyists who simply don't want competition. But more serious criticism has been voiced by those who believe that the money would be used irresponsibly to slow down Federal proceedings. The opponents of nuclear power, for example, have been able to delay the construction of power plants for many years by skillful manipulation of the law.

Undoubtedly some proceedings would be slowed down to give a hearing to additional voices. But the agencies themselves would choose the groups to be funded and would be bound by the law to pay their expenses only when additional testimony was plainly needed for a fair evaluation. That should prevent the financing of those seeking merely to stall. And in court cases, groups would qualify for funds only if an agency's actions were ultimately declared illegal.

As often as not, citizen groups want action, not delay. That is clear from the experience over the last two years of the Federal Trade Commission, the only agency that has been compensating private groups for research under separate legislation. The grants have speeded up rulemaking procedures concerning eyeglass advertising, hearing aid sales practices and nutritional claims for processed food.

"Public participation" funding is an experiment. It is no more likely to work miracles than "sunshine" and freedom of information laws. And it might prove to be more nuisance than benefit. But the practical objective of making Federal agencies aware of diverse points of view warrants that modest risk.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

Mr. CARR. Mr. Speaker, on Friday, September 9, I was at Bethesda Naval Hospital for an eye examination and I missed three votes, rollcall Nos. 526, 527, and 528. These votes were on resolutions providing for the consideration of H.R. 6566, ERDA authorization for national security programs; H.R. 6796, ERDA authorization for nonnuclear programs; and H.R. 2176, Federal Banking Agency Audit Act, respectively. Had I been present, I would have voted in favor of all three of the above resolutions.

On Monday, September 12, I was absent from the first quorum call. At that time I was delivering a lecture to the Air Force War College, Maxwell Air Force Base, Ala.

On Wednesday, September 21, I was absent for rollcall No. 575. I was on the Senate side of the Capitol conferring with a group of Japanese parliamentarians when this previously unannounced vote took place. Had I been present, I would have voted in favor of the amendment by the gentleman from Pennsylvania (Mr. COUGHLIN).

ANTI-AMERICAN HANOI HELPERS

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, remember back in the 1960's and early 1970's when the press was so laudatory about those pushing for "peace" in Vietnam. The television networks and the newspapers could not give too much coverage to those individuals who were pushing to get the United States out of Vietnam.

At that time the argument was that the Vietnamese people should make their own decisions. If the United States would leave, the democratic forces would come to power instead of the U.S.-supported regime which supposedly was crushing the people's rights.

With the Communists in power you would think that all those who were arguing this line would be ashamed to show their faces. But not the Cora Weisses, David Dellingers, Ramsey Clarks, Sam Browns, and 2,500 others of that ilk.

To quote the Washington Post:

The men and women who marched to rally opposition to the Vietnam war crowded into a Manhattan theater to shake hands with and welcome the Vietnamese delegation to the United Nations.

Cora Weiss asked, "Isn't it good to be here?" I wonder where her concern is for the thousands in "reeducation," that is, concentration camps in Vietnam, the millions being forcibly resettled and the thousands trying to escape.

These people gathered for a "victory" celebration. Let us not forget that it is the victory of the Communists these people applaud that cost the lives of more than 56,000 American servicemen.

At this point I include the full text of the article from the Washington Post entitled "Another Hurrah for Hanoi":

ANOTHER HURRAH FOR HANOI

(By Lee Lescaze)

NEW YORK, September 25.—The antiwar movement came together again today for a victory celebration—another, if not a last, hurrah.

The men and women who marched to rally opposition to the Vietnam war crowded into a Manhattan theater to shake hands with and welcome the Vietnamese delegation to the United Nations.

Today, the protesters carrying placards outside were Vietnamese—about 250 exiles singing the songs and waving the flags of their vanished nation, South Vietnam.

Some of the roughly 2,500 Americans making their way into the theater tried to sing down the Vietnamese. None appeared interested in the placards proclaiming that "Vietnam tramples upon human rights."

Inside and outside the theater, one message was the same, however. The crowd was told by the protesters standing in the rain and by the speakers on the stage that they all are friends of the Vietnamese people. And in both places the talk was of freedom. The crowd inside liked the message better.

"Isn't it good to be here?" asked Cora Weiss, the event's organizer and a longtime opponent of America's Vietnam policy. In the crowded lobby, guest after guest agreed. "Smile, this is a great day," one woman told a friend. "Isn't this great?" people said upon meeting.

And they stood, applauded and whistled for minutes when the Vietnamese delegation entered the theater after shaking hands for an hour on a receiving line in the lobby. Vietnam was formally admitted to the United Nations last week.

"The war is over," as posters in the lobby noted, which leaves the antiwar movement without its cause. But many of its leaders deny that the movement will die away, and would object to labeling today's rally a last hurrah.

David Dellinger, who has marched in unpopular causes since World War II, made it clear that he sees a new wrong for the movement to right. He cannot understand, Dellinger told the crowd, how anyone who favored the independence and sovereignty of Vietnam would not favor the independence of Puerto Rico. Dellinger's reference to "the war against the Puerto Rican people" was cheered.

Cora Weiss pledged that the organization she heads, Friendshipment, would launch a new campaign to persuade President Carter and Congress to approve U.S. aid for Vietnam. But, while looking to the future, her speech also contained a nostalgic call of the antiwar movement's honor roll.

As she called out each name—Norman Morrison who set himself on fire outside the Pentagon, the GIs of Ft. Hood who first said "I won't go," and many more—the audience applauded. The loudest applause was for the four students shot dead at Kent State.

The Vietnamese, Weiss said, will never forget their war for independence, but she fears Americans 300 years from now may not remember the role some of them played in ending U.S. involvement in Vietnam.

Ngo Dien, the deputy foreign minister for press and information, replied on behalf of the Hanoi delegation. He said the late President Ho Chi Minh had spoken of taking a trip abroad after the final victory in order to thank people around the world who had helped his cause. Ngo Dien said Ho would have been delighted with today's welcoming party.

"Long live the friendship of the Vietnamese and American people," he said in conclusion, and the audience stood and clapped as he clasped his hands over his head.

The mood was joyful, but not markedly forgiving. There was warm applause for Ho Chi Minh, but only scattered handclaps when Weiss said the United States is "a great nation." That was not what the people came to hear. This was a victory party, and the United States lost the war.

CANAL ZONE MADNESS?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, James C. Woolley of the Pasadena American Legion Post 277, VFW, Fort Smallwood, submitted a letter to the editor, in response to an inflammatory Carl Rowan column in the August 25 issue of the News American. It is certainly worthy of the attention of all persons concerned about President Carter's ill-advised treaty in collaboration with Sol Linowitz and Ellsworth Bunker.

Mr. Woolley's letter follows:

VOICE OF THE PEOPLE: IN DEFENSE OF VETERANS

After reading Carl Rowan's article in the Aug. 25 issue of the News American titled "Canal Zone Madness," and as a veteran of World War II and Korea (not by my choice, but by the choice of the president, the Congress and the people of the United States), I can honestly write I was thoroughly disappointed and disgusted with this article.

For Mr. Rowan's benefit, we members of the American Legion and the V.F.W. do not have to prove that we are heroic patriots. We already did that by fighting four wars in the last 55 years or more, so that such people as Mr. Rowan could live in a free country and write insulting remarks about us. We did not run to Canada or Switzerland, Mr. Rowan.

It is a known fact, even an historic fact, according to my encyclopedia, that the United States purchased and owns the Panama Canal outright. It is my belief that it should be renamed immediately, the American or United States Canal. History has already proved that we of the veterans organizations and millions of other Americans are not being deluded by myths or emotional non-issues in this matter.

Panama is already controlled by a dictator who is receiving weapons daily from this country and who openly states he will turn these same weapons on us if we do not meet his demands. Cuba demands, China demands, North Vietnam demands, Israel demands, Russia demands, and all other foreign countries continually demand one thing or the other from the United States daily.

Do we ever say who the hell do you think you are, demanding from us? Why don't we demand on occasion, especially about our M.I.A. citizens in Southeast Asia.

We gave Cuba and the Philippines their freedom. Where are they now? Under a dictatorship of unbelievable power. Treaties signed by our country are usually broken by the foreign countries.

We of the Legion and V.F.W. are not all geriatric gallants as we have some very patriotic young men from the Korean and Vietnam Wars. Some of our WW II vets are still in their early 50's, which isn't too old

to forget. No we are not all white haired, Mr. Rowan and those of us who are, don't have short memories either.

Neither do we believe in an aggressive foreign policy, which will lead to war, but we do know from first hand experience, in the trenches, that most foreign countries, especially our potential enemies understand strength and cannot be trusted. A strong foreign policy with a strong defense will make all these characters back down and stop making demands upon Uncle Sap or Uncle Sucker as most of them call us.

It has been stated by more than one leader of our country, both military and civilian, in the past decade or more, that if the United States had followed more closely the views and recommendations of the American Legion with respect to foreign policy over the years, our position in the World would be stronger than it is today.

Although I respect Mr. Rowan and many of his columns, I wish to God he would attempt to discontinue making a racial issue of everything he writes. I'll be the first to admit that we all, whether we are red, yellow, black or white, have a certain amount of prejudice in our hearts, and the minority of the world have suffered, but I don't think that everything that happens in the world is caused by some racial issue as Mr. Rowan continually claims.

He also lives in the past and keeps writing about things we did to Panamanians years ago. Why didn't he write about our treaty in 1955, which allowed Federal agencies to pay Panamanian workers the same wages that Americans earn there for the same type of work.

The way I read Mr. Rowan and the very, very, few other citizens and organizations that are for the Panama Canal treaty is that we should give up every territory we ever purchased. That means, we should give Alaska back to the Russians; New Mexico back to Mexico or Spain; California can be split between Spain, Mexico and Russia; France can have Louisiana and the rest of the Mississippi Valley that we purchased from them and last but not least we could give Manhattan, which we stole for a few beads, back to the Indians. In fact, if Mr. Rowan wants to write about a minority group, he should write about the Indians; there is a group that has really suffered over the years. Our ancestors stole the whole country from them and they have had very few rights since.

I read where four out of five citizens in this country are against the Panama Canal treaty. If this is so why is the President pushing to have it approved? Don't the people have anything to say about government anymore? It seems like more than just veterans organizations are against the treaty, so why pick on us.

Yes, Mr. Rowan, we veterans are flag wavers, we are patriotic, we are for God and Country, we dare to care about others, etc. We are against such things as a judge in New Jersey ruling it is against the law to pledge allegiance to the flag and to salute it. Although the Nazi flag was banned world wide after WW II, it is still displayed in this country and this is an insult to the many who died to stop such a display.

We are for a strong defense and the few veterans rights we receive. We are strong for peace in this world, but not to the point where we have to bow down to dictators, communism, etc. We don't believe we should be so easy in our foreign policy that the other countries will take advantage of our good nature. Further, we become very upset when people like Mr. Rowan insult our integrity, and knowledge of what is happening in this world today.

JAMES C. WOOLLEY,
American Legion Pasadena Post 277,
VFW Ft. Smallwood.

UNIVERSAL SOCIAL SECURITY COVERAGE—TIME TO TAKE ANOTHER LOOK

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, almost everyone knowledgeable about old-age benefits and needs, advances the idea of universal social security coverage as a good one. But usually they follow this with the statement that universal coverage is not practical for one reason or another.

On Tuesday, September 13, the Ways and Means Social Security Subcommittee voted by a strong majority of those present to enact universal coverage under social security. About a week later, on September 19, the subcommittee reaffirmed this vote and also set as a tentative goal bringing about universal coverage by 1980.

There has been a lot of misinformation about what the subcommittee did and did not do in these actions, and we here today would like to set the record straight and to open what we hope will be a new and better informed dialogue on universal social security coverage.

First, the subcommittee did not vote to phase out or reduce benefits people under Federal retirement are counting on getting—and it does not pretend to have the jurisdiction to do so.

Second, the subcommittee is well aware that there are complicated and difficult matters which must be worked out before universal coverage can become a reality. Whatever method is worked out with the Federal civil service retirement, for instance, must be carefully thought through and tested to see that no one is left worse off under the dual system than they would have been under the civil service system by itself. Required contributions for a dual system should be along the same lines of what is expected for the single system. And we would want to be careful not to add to the already very high unfunded liability suffered by the civil service retirement system. This unfunded liability was at $107 billion at the end of last year computed on a static basis, and I believe it would be even higher computed on a more life-like dynamic basis.

Regarding State and local coverage, a method must be found to cover the 30 percent not already covered in a way that would not be struck down by the Supreme Court. And they, too, must have an adequate transition. Constitutional questions are something which should not, by the way, be a problem with a few nonprofit employees not already covered provided the current exemptions such as those regarding special religious beliefs are continued.

So, first and second—and these points do bear repeating—the subcommittee did not vote to phase out or reduce anyone's expected retirement, and the subcommittee is very well aware that there are serious complications which must be thought out carefully before universal coverage can become a reality.

The third point I want to make is this: The subcommittee has been accused of voting universal coverage simply to "bail out" the short-term financing needs of the social security system. I take issue with that. The simple truth is that universal coverage would come into play too late to save the day. The disability fund is slated to run out possibly in late 1978. If we put the resources of the OASI and DI funds together, then both of them will run out in 1981. The subcommittee set as a tentative goal bringing in universal coverage by 1980. I do not think any of us are under the illusion that universal coverage can come about that rapidly.

Even if we were successful in making a start in 1980, my guess is it would be only the beginning of a gradual phase-in that would start then. So, in essence, we do not rely on the Federal civil servant and others to bail out the social security system because they cannot do so. They are just too late. By the time they join up, the system will be on a sound track all on its own once again, and the Congress should be well aware of its moral and political obligation to see that this is so.

Now, if we are not doing it to cut back other retirements, and if we are not doing it because we think it will be easy, and if we are not doing it to bail out the system, then, one might ask, why are we doing it?

The answer, and the fourth point I want to make, is a simple one. Universal coverage is right; it is fair; it is a good deal for all, and it is in the national interest.

To begin to get an idea of why I and many on the subcommittee feel this way, let me list some of the problems we have under the current system:

There are serious gaps in the coverage of workers who work for a short time under the civil service retirement system and for those who work part of their lives under one system and part under the other. Some may qualify for only one pension—and that at a reduced level because it is not based on their full work history. Some may wind up qualifying for neither pension. If a worker dies or suffers disability shortly after leaving the civil service system but before retiring, his family is left with no coverage whatsoever as the civil service system has no carryover provisions.

Further, to provide survivor coverage after retirement, a civil servant must take a reduced pension. About 80 percent of the people who leave the civil service system before retirement withdraw their contributions, making the gaps in coverage even wider. Under the civil service system, it generally takes much longer to reach a family survivorship protection on a par with that offered under social security. And disability benefits, where there are several dependents involved, are also less under civil service than under social security and take a longer time of service to earn—5 years as opposed to six quarters.

People working in uncovered State and local positions usually face much the same risks and disadvantages. Moreover, their own systems may be more promise than prospect. I do not have hard statistics, but from all that I have been told, these States and localities who are not covered under social security or who have pulled out of the system usually base this judgment on a lack of funds to pay for it. And if they do not have the money for social security, I am willing to wager they have not set aside much money to fund their own pension systems either. This raises future financing problems for those localities of a far greater proportion than we face today with social security. This would especially be the case where jurisdictions have pulled out of social security for financial reasons and have turned around and liberalized their own retirement systems to try to approximate what the employees have had to forego because of the termination.

The bottom line of all this is that when the civil service retirement system or these uncovered State and local retirement systems fail to pick up on someone, the taxpayer winds up with the bill.

It simply is not fair for a few—and they are few in terms of the national employment picture—long-term Federal, State, and local employees to set up for themselves a "good deal" which works to the disadvantage of the Nation as a whole.

This unfair burden is compounded when the long-term civil service employee goes out and moonlights or works after retirement just long enough to qualify for the minimum benefit under social security. He or she then receives full social security rights on top of an already adequate pension and without paying very much into the social security system. In 1969 the Social Security Administration and the Civil Service Commission estimated that as many as 43 percent of civil service retirees were also qualifying for social security. That may have gone up to 50 percent by today because of the provision which went into effect in 1966 allowing retirement at age 55 after 30 years of service.

Allowing these windfall benefits and gaps to continue is wrong. Not only is it unfair to the rest of the people, who must bear their cost, but it is against the national interest as well. It is wrong that we have let our own house, the house of the Federal Government, work against the long term objectives of social security for over 40 years. It is time to put things in order. The fact that it can be done, and I firmly believe it can, without harm to those same civil servants, makes it a travesty against the future of this Nation if we do not begin now to address this issue.

To understand why I think this, and think it so strongly, we need to look at the basic principles of the social security system—what it is and what it was intended to do.

Social security is a national social insurance policy. The first such system apparently was begun by Bismarck in 1889. Austria followed suit in 1906; England in 1908, and by 1928 all of Europe had social security policies of one form or another. The policies arose from the need in industrial societies to find new ways to care for the risks and vicissitudes of poverty and infirmity in old age.

In this country poverty and infirmity were viewed mainly as individual maladies. The Depression showed us that in an industrial society more than the individual was responsible, and people began to present ideas on how to handle the situation. Some may remember Francis E. Townsend with his $200-a-month old-age pension which would be raised by a sales tax and must be spent immediately. This was at a time when the average wage was $75 to $100 a month. Then there was Senator Huey Long's "Share the Wealth" proposal. And there was the social security legislation proposed and pushed by Franklin Roosevelt, which was the idea that prevailed here as in Europe.

In signing the social security law, President Roosevelt described it as—

> A cornerstone in a structure which is being built, but is by no means complete—a structure intended to lessen the force of possible future depressions, to act as a protection to future administrations of the government against the necessity of going deeply into debt to furnish relief to the needy—a law to flatten out the peaks and valleys of deflation and of inflation—in other words, a law that will take care of human needs and at the same time provide for the United States an economic structure of vastly greater soundness.

What we are really talking about here is the social and political costs of poverty in a democracy. Fear of old-age destitution, uncertainty of adequate protection for one's family, and the reality of that destitution when it comes are nothing more than seeds of political unrest of a type which has, historically, worked against the survival of democracy.

When I say, therefore, that it is in the national interest to have universal coverage, when I say that it is in the national interest to have a secure foundation to our national retirement, survivor, disability, and health programs, I am not talking about frills but about something which is very basic and very necessary. In an industrial society, social security has come closer to providing that secure foundation than has any other program.

Social security does not, and has never, provided a total retirement program. What it does do is provide a basic hedge against the most damaging risks we encounter in our working lives: against death or disability during wage-earning years and against outliving our sources of income in later years. The only other primary financial hazard one faces is unemployment.

With this in mind, the question becomes, really, not "Should we have universal coverage?" but "Why haven't we had it from the beginning?" President Roosevelt again provides the best answer for this when he stated, in explaining the social security proposal—

> It is overwhelmingly important to avoid any danger of permanently discrediting the sound and the necessary policy of federal legislation for economic security by attempting to apply it on too ambitious a scale before actual experience has provided guidance for the permanently safe direction of such benefits.
>
> In short, the founders of social security faced the political and the real danger of biting off more than they could chew.

And opted for a reduced program for starters so that they were sure they would have something they could manage well.

The intention for universal coverage was made, however, in the very first Advisory Committee report, of December 10, 1938, which recommended the following regarding social security coverage:

> I. The employees of private non-profit religious, charitable, and educational institutions now excluded from coverage under Titles II and VIII should immediately be brought into coverage under the same provisions of these Titles as affect other covered groups.
>
> II. The coverage of farm employees and domestic employees under Titles II and VIII is socially desirable and should take effect, if administratively possible by January 1, 1940.
>
> III. The old-age insurance program should be extended as soon as feasible to include additional groups not included in the previous recommendations of the Council and studies should be made of the administrative, legal, and financial problems involved in the coverage of self-employed persons and governmental employees.

All but the last item have been taken care of. We are down to that final step. And I firmly believe that we now have the administrative capability and the experience necessary to handle that final step.

The final point I want to make is that universal coverage is not just a good deal for the Nation. It is a good deal for the Federal civil servant and the other currently uncovered employees, too.

It would end the uncertainty employees face of "falling through the cracks" between covered and uncovered employment. It would maximize their retirement potential by covering their entire working lives with a solid base. It would extend to uncovered employees the additional survivor, disability, and health benefits which are available only under a system as massive as social security.

Mr. Speaker, as an additional aid to further discussions of the question of universal coverage, I would like to include in the RECORD three additional items.

The first is a chart which compares the basic provisions of civil service retirement with social security. I caution that this chart may contain some errors, so I ask that no one view it as a Bible on the subject. But it does help to give a general idea of the two systems, which is necessary before we can begin working out the details of how to set up a dual structure. I point out, too, that this chart

does not list any of the health benefits available to those who qualify for social security—an important and large benefit for anyone planning their retirement.

The second is a short description, published by the Joint Economic Committee in December 1974, of the health program, medicare, available under social security.

Third, I would like to include the testimony presented before the subcommittee by Mr. Jerry Wurf, international president of the American Federation of State, County & Municipal Employees AFL-CIO. Mr. Wurf heads a union now numbering about 1 million, making it one of the largest, as well as the fastest growing, in the country. He and I often disagreed on many things, but we do agree on this issue of social security, on what it means to the average worker and on the importance of universal coverage. Where two people of such divergent philosophies agree, I submit there must be some merit and some truth.

The benefit chart, medicare description and Mr. Wurf's statement follow:

COMPARISON OF THE PRINCIPAL PROVISIONS OF THE CIVIL SERVICE RETIREMENT SYSTEM AND SOCIAL SECURITY

CIVIL SERVICE [1]	SOCIAL SECURITY
A. Financing	*A. Financing*
Contributions	Contributions
Employee and agency each contribute 7% of basic pay to finance normal cost (amount of funds which, if accumulated annually and invested over covered employees' careers, will meet their future benefit payments).	Employees, employers, and the self-employed pay social security contributions on covered earnings up to the taxable earnings base ($16,500 in 1977, automatically adjusted as average wages rise) according to the following tax rate schedules:

Employees and employers, each

[In percent]

Calendar year	Tax rate: OASDI	HI	Total
1977	4.95	0.90	5.85
1978–80	4.95	1.10	6.05
1981–85	4.95	1.35	6.30
1986–2010	4.95	1.50	6.45
2011 on	5.95	1.50	7.45
Self-employed			
1977	7.00	0.90	7.90
1978–80	7.00	1.10	8.10
1981–85	7.00	1.35	8.35
1986–2010	7.00	1.50	8.50
2011 on	7.00	1.50	8.50

CIVIL SERVICE [1]

Annual interest payments for unfunded liability and cost of military service credits. The unfunded liability for this purpose consists of that portion of liabilities not met by present assets, the present value of future employee and agency contributions, and the present value of future 30-year payments (1 above). Government appropriations and Treasury transfers (1 and 2 above) are estimated to total $6.9 billion in FY 1978.

An additional source of revenue is interest earned through investment of money received from the above sources (estimated at $3.2 billion in FY 1978).

The unfunded liability of the CSR system (computed on a static basic) was $107 billion as of the end of FY 1976.

B. Age and service retirement

Full benefits at age 62 after 5 years, age 60 after 20 years [2] or age 55 after 30 years: 1½% of average salary of highest 3 consecutive years times years of service not exceeding 5, plus 1¾% of high-3 average salary times years of service exceeding 5 but not exceeding 10, plus 2% of high-3 average salary times years of service exceeding 10. Substitute 1% of high-3 salary, plus $25 for any or all of above percentages if higher. Unused sick leave used in computing years of service.

Minimum annuity: Equal to minimum social security PIA. Minimum annuity is not payable if entitled to other periodic governmental payment equalling or exceeding minimum social security PIA.

Maximum: 80% of high-3 average salary. Higher amount produced by crediting unused sick leave is payable.

Footnotes at end of table.

SOCIAL SECURITY

Cash benefit financing provisions based on dynamic assumptions as to future movement of wage and price levels, and therefore benefit levels. (Benefit amounts are automatically adjusted as prices rise, and the contribution and benefit base and retirement test exempt amounts are automatically adjusted as average wages rise.)

Financing provisions are intended to provide sufficient income (along with interest earnings on invested contingency-reserve assets of social security trust funds and other income—see below) to meet benefit payments and administrative expenses as they fall due and maintain trust funds at modest contingency-reserve levels for use in temporary situations where income may be less than outgo.

Additional financing sources are: (1) premiums from people enrolled in the SMI program and from certain uninsured people in the HI program, and (2) general revenue funds for (a) special purposes in the cash benefits program (e.g., special age—72 payments to certain uninsured aged), amounting to less than 1% of program income, and (b) HI benefits for those already aged when the HI program began and a substantial portion of the cost of the SMI program

Current projections, based on present-law financing provisions, indicate long-range shortfall equivalent to an annual average of 8.2% of taxable payroll. (However, about half—3.88% of payroll—of this projected shortfall is attributable to the present coupled benefit structure; assuming enactment of decoupling legislation (as proposed in H.R. 8218), the remaining long-range financing shortfall that is projected under present law financing would be equivalent of 4.32 percent of taxable payroll.)

B. Age and service retirement

At age 62 (reduced if benefits taken before age 65) with full insured status. A person is fully insured if he has (1) 40 quarters of coverage (QC's), or (1) 1 QC (acquired at any time) for every year elapsed after 1950, or age 21, if later, and before age 62, or year of death or disability if earlier (a minimum of 6 QC's is required). Retirement benefit is equal to the primary insurance amount (PIA) which is computed from a benefit table in the law that is based approximately on the formula: 145.90% of the first $110 of average monthly wage [3]; plus
53.07% of the next $290; plus
49.59% of the next $150; plus
58.29% of the next $100; plus
32.42% of the next $100; plus

CIVIL SERVICE [1]

C. Disability provisions

At any age after 5 years:

The worker must be totally disabled for position held or similar position. Same as age and service retirement unless higher benefit allowable under guaranteed minimum formula which grants lesser of (1) 40% of high-3 average salary, or (2) annuity computed under general formula after adding assumed service from date of separation to age 60. Guaranteed minimum not available to employee age 60 or over.

Minimum annuity: Equal to minimum social security PIA. Minimum annuity is not payable if entitled to other periodic governmental payment equalling or exceeding minimum social security PIA.

D. Dependents of annuitants

No provision.

E. Survivor provisions

1. Annuities or benefits

Death before retirement—After 18 months: Widow, widower, and unmarried children under age 18 (or 22 if full-time student), or if older, incapable of self-support because of a disability incurred before age 18. Surviving spouse's benefit is 55% of regular worker's annuity plus for each child the smallest of (1) 60% of high-3 average salary divided by number of children; (2) $1,689, or (3) $5,068 divided by number of children. Children with no surviving parent: to each child the smallest of (1) 75% of employee's high-3 average salary divided by number of children; (2) $2,027; or (3) $6,081 divided by number of children. Children's annuities are increased with increases in the cost of living.[4]

Minimum survivor annuity: Equal to higher of minimum social security PIA or an amount no less than the smaller of the two following amounts: (a) 55% of 40% of the employees high 3-year average salary (in effect, 22% of the average salary), or (b) the amount obtained under the general formula after increasing the employee's actual service by the period of time from the date of his death to the date on which he would have attained age 60. Widow's benefit amounts under part (a) of the guarantee are equivalent to amounts that would have been paid under the general formula if the decreased worker had 21 years and 11 months of Federal service. If a widow becomes entitled to an annuity based on a period of service of at least 18 months but less than 3 years, the annuity is computed based on the average salary for the actual period of service. (Not payable if entitled to other periodic governmental payment equalling or exceeding minimum social security PIA.)

Death after retirement—Children—Same as provisions for death before retirement.

2. Optional annuities

Death after retirement—Widow or widower: If named at retirement, with reduced annuity, entitled to 55% of amount of service annuity elected as survivor base. Person with insurable interest: Beneficiary named by unmarried employee or member in good health at retirement, entitled to 55% of reduced service annuity.

3. Lump sum

Death before retirement—Death in service: Service of less than 5 years—refund of accumulated employee contributions, plus interest to death if over 1 year of service. If 5 or more years of service and no survivor annuitant—refund of employee contributions plus interest only to 12/31/56. Death after separation: Less than 5 years of service—refund of employee contributions, plus interest to separation if over 1 year of service. Five or more years of service—refund of employee contributions plus interest to 12/31/56. No eligible survivor annuitant and amount credited to employee not exhausted—refund of employee contributions plus interest to 12/31/56 minus all regular annuities paid.

Death after retirment—Death before amount credited to employee exhausted and no eligible survivor annuitants, or after termination of annuity rights—refund of employee contributions plus interest to 12/31/56 minus all regular annuities paid.

SOCIAL SECURITY

27.02% of the next $250; plus
24.34% of the next $175; plus
22.54% of the next $100; plus
21.18% of the last $100.
Minimum: $114.30
Maximum: $632.90

C. Disability provisions

At any age before 65, after a 5-month waiting period:

The worker must be unable to engage in any substantial gainful activity; the impairment must be a medically determinable physical or mental condition that is expected to continue for at least 12 months or to result in death. Fully insured status and (a) if disabled before age 24, at least 6 QC's out of the 12 quarters preceding disablement, or (b) if disabled between ages 24 and 31, QC's in at least half of the quarters after age 21, or (c) if disabled after age 31, 20 QC's in the 40-quarter period ending with disablement. The disabled blind can qualify for benefits if they are fully insured. Benefit is equal to the PIA.

D. Dependents of annuitants

Wife or husband, age 62 or over (reduced if taken before age 65), or wife caring for child entitled to benefits, and dependent, unmarried child, if child is under age 18 (or 22 if full-time student), or disabled with a disability which began before age 22, of a person entitled to retirement or disability benefit. Benefit is 50% of PIA subject to maximum family benefit. Maximum family benefit is computed from a benefit table that is based on the PIA. (Highest maximum family benefit is $1,107.60, based on maximum PIA.)

E. Survivor provisions

1. Annuities or benefits

Widow or widower age 60 or over or between age 50 and 60 if disabled (benefits reduced if taken before age 65); widow or widower (mother or father), if caring for a child under age 18 or disabled who is entitled to benefits: dependent parent, age 62 or over, dependent unmarried child under age 18 (or 22 if full-time student), or disabled with a disability which began before age 22. Fully insured status required except that child's, mother's, and father's benefits may also be paid based on currently insured status. Currently insured status requires 6 QC's within the 13-quarter period ending with the quarter of death. Age-65 benefit for widow or widower is 100% of PIA (100% of worker's benefit if taken before age 65), and for dependent parent is 82½% of PIA, except that two (2) dependent parents receive 75% each. Benefit for child and mother is 75% of PIA. All benefits subject to maximum family benefit provisions.

No distinction based on whether death occurred before or after retirement.

2. Optional annuities

No provision.

3. Lump sum

Payable based on fully or currently insured status. Benefit is $255.

COMPARISON OF THE PRINCIPAL PROVISIONS OF THE CIVIL SERVICE RETIREMENT SYSTEM AND SOCIAL SECURITY—Continued

CIVIL SERVICE [1]	SOCIAL SECURITY
F. Separation provisions	*F. Separation provisions*
Service of 1 year or less: Refund of employee contributions without interest. More than 1 year, but less than 5 years of service: Refund of employee contributions plus interest to separation. After 5 years: (a) Deferred annuity at age 62, or (b) Refund of employee contributions plus interest to 12/31/56, provided application filed more than 31 days before commencing date of any annuity for which he may be eligible. If separation is involuntary, after 25 years, or after 20 years at age 50, immediate annuity reduced by 1/16 of 1% for each month the employee is under age 55.	None.
G. Cost-of-living annuity increase provision	*G. Cost-of-living annuity increase provision*
Benefits are increased automatically effective in March by amount of increase in the Consumer Price Index (CPI) from previous June through December and effective in September by amount of increase in the CPI from previous December through June. The automatic increases apply only to annuitants on the rolls; however, there is a guarantee that an annuity which commences after a cost-of-living increase shall be no less than it would have been if it commenced on the effective date and had received the cost-of-living increase.	Benefits are increased automatically each June whenever the CPI rises 3 or more percent between specified base periods. However, an automatic benefit increase will not go into effect if in the year preceding the June for which it would otherwise become effective a general benefit increase (other than an automatic benefit increase) has become effective or has been enacted. The automatic increases apply to future beneficiaries as well as to beneficiaries on the rolls when the increase occurs.

[1] Provisions also generally apply to Members of Congress except Members contribute 8 percent of basic pay and are eligible for full benefits computed at 2½ percent of high-3 average salary times years of service at age 62 after 5 years, or age 60 after 10 years. annuities of certain congressional employees are also computed under a special benefit formula.

[2] Employee mandatorily separated under civil service system after attaining age 70 with 15 years' service.

[3] Average monthly wage is based on earnings in a specified number of years. Generally, the number of years is 5 less the number elapsing after 1950 (or after age 21, if later) and up to the year in which the worker reached retirement age, became disabled, or died; the years used in the average are those after 1950 in which earnings were highest.

[4] Although cost-of-living increases of annuities generally apply only with respect to annuitants already on the rolls, cost-of-living adjustments permanently modify annuity rates for a child, since a child's benefit is a specified amount not affected by salary increases.

EXAMPLES OF MONTHLY BENEFIT PAYMENTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM

	High 3 average salary			
	$8,000	$11,000	$16,500	$20,000
MONTHLY BENEFIT PAYMENTS				
Retired worker after 20 yr of service	$242	$332	$498	$604
If maximum survivor benefit is provided for wife	236	322	471	566
Retired worker after 30 yr of service	375	516	773	938
If maximum survivor benefit is provided for wife	360	487	717	866
Retired worker after 42 yr of service (maximum benefit)	533	733	1,100	1,333
If maximum survivor benefit is provided for wife	503	683	1,012	1,223
Disabled worker: 40 percent minimum guarantee [1]	267	367	550	667
Widow [2] of worker who had 5-yr service	$147	$202	$303	$367
Widow and 1 child	288	343	444	508
Maximum family payment [3]	570	625	726	790
Widow of worker who had 10-yr service	147	202	303	367
Widow and 1 child	288	343	444	508
Maximum family payment [3]	570	625	726	790
Widow of worker who had 20-yr service	147	202	303	367
Widow and 1 child	288	343	444	508
Maximum family payment [3]	570	625	726	790
Widow of worker who had 30-yr service	206	284	425	516
Widow and 1 child	347	425	566	657
Maximum family payment [3]	629	707	848	939
1 surviving child [4]	169	169	169	169

[1] This guarantee applies in all cases where a worker has less than 21 yr and 11 mo of covered Federal service and entered such service prior to age 39. (Another guarantee applies if he has less than 21 yr and 11 mo of service and entered at age 39 or later.) Disability benefit amounts are equivalent to age-service retirement benefit amounts if the disabled worker has at least 21 yr and 11 mo of covered Federal service.

[2] These are benefits payable to the widow of a worker who dies in service. If the worker dies after retirement the widow would only receive an annuity if the worker had elected to receive a reduced annuity at his retirement from service. In such a case she would receive 55 percent of the amount of his annuity he elected as a survivor base. The benefits payable to a child are as shown whether the worker dies in service or after retirement.

[3] This represents the total monthly benefits payable to a widow and 3 or more children—the total monthly benefits payable to 3 or more children when there is an entitled widow or widower cannot exceed $423.

[4] The total monthly benefits payable to 3 or more surviving children when there is no entitled widow cannot exceed $507.

EXAMPLES OF MONTHLY BENEFIT PAYMENTS UNDER SOCIAL SECURITY

	Average yearly earnings		
	$8,000	$11,000	$16,500
Monthly benefit payments: [1]			
Retired worker 65 or older; disabled worker under 65	$453	$525	$633
Wife 65 or older	226	262	316
Retired worker at 62	362	420	506
Widow at 60	324	375	453
Widowed mother and 1 child	680	788	950
1 surviving child	340	394	475
Maximum family payment [3]	793	918	1,108

[1] The maximum benefit for a male worker who becomes age 65 in 1977 is $437.10 a month based on average yearly earnings of $7,608. Because of the limitations on the amount of covered earnings ($16,500 for 1977), the higher benefits for retired workers and their aged dependents or aged survivors shown in the chart generally will not be payable until later.

[2] The family maximum always comes into play when there are 3 or more beneficiaries receiving benefits on 1 record.

Dated Sept. 20, 1977.

HEALTH CARE: NON-INCOME-TESTED

MEDICARE—HOSPITAL INSURANCE (HI) [1]

Basic program information

Legislative objective.—To provide hospital insurance for persons who are: (1) age 65 and over and eligible for social security or railroad retirement; (2) disabled and eligible for social security or railroad retirement for at least 24 consecutive months; or (3) chronic renal disease patients who have social security coverage either as worker, spouse, or dependent.

Date enacted and major changes.—The program was enacted in 1965 to cover the hospital expenses of the aged. Coverage was extended to disability insurance beneficiaries and chronic renal disease patients in 1972.

[1] Much of this information, including the supplementary materials, was taken from the "1974 Annual Report of the Board of Trustees of the Federal Hospital Insurance Fund," 93d Cong., 2d sess., House Doc. No. 93–314.

Administering agency.—The Social Security Administration of the Department of Health, Education, and Welfare, with the assistance of other Federal agencies, State health agencies, and intermediaries—Blue Cross plans and private insurance companies—which determine the amount of payments due and process claims.

Financing.—Medicare hospital insurance is financed by an earmarked payroll tax paid half by the covered employee and half by his employer and a tax paid by self-employed people on their earnings. The combined health insurance tax rate for employee and employer is 1.8 percent paid on all earnings up to $14,100 (effective Jan. 1, 1975), and the tax rate for the self-employed is 0.9 percent on the same amount. Benefits for persons enrolled who reach age 65 before 1975 and who have insufficient coverage for full entitlement but meet a transitional insured status requirement are financed from general revenues of the U.S. Treasury (See section on old-age, survivors, and disability insurance—OASDI.). Other aged can enroll by paying a premium of $36 a month. Premiums are redetermined annually.

Eligibility criteria

Major eligibility conditions.—To be eligible to receive benefits, individuals must be: (1) age 65 or over and receiving or entitled to social security or railroad retirement benefits as an insured worker or a dependent or survivor of an insured worker; (2) disabled and eligible for social security or railroad retirement benefits for 24 or more consecutive months; or (3) chronic renal disease patients who have social security coverage either as worker, spouse or dependent.

Special temporary provision.—In addition to the above, persons are eligible for hospital insurance who reached age 65 before 1968 and who had insufficient coverage for entitlement to cash benefits. Persons who reach age 65 after 1967 and have three quarters of covered employment for each additional year after 1967 until 1975 for men and 1974 for women are also eligible. At those times, the coverage requirement will be the same as for social security cash benefits. Persons 65 and over not eligible under any other entitlement provisions can get medicare coverage by paying a premium of $36 a month. Excluded from the program are persons eligible for Federal employees' health benefits, aliens admitted for permanent residence who have resided in the United States less than 5 consecutive years immediately preceding application, and persons convicted of certain subversive activities.

Persons included.—Only the eligible individuals noted above are included in the program.

Income test.—There is none.

Assets test.—There is none.

Other Conditions

Citizenship.—There is no requirement except under the special temporary provision for persons not fully entitled. See major eligibility conditions above.

Residence requirement.—Payments ordinarily are made only for services provided in the United States, Puerto Rico, the Virgin Islands, Guam, and American Samoa. However, payments may be made for emergency hospital services provided in border areas outside the United States for persons who become ill or are injured in this country if the foreign hospital to which they are admitted is closer or more accessible than the the nearest U.S. hospital.

Institutional status.—There is no limitation on benefits for persons in institutions. Person residing in institutions may qualify if they are otherwise eligible.

Benefits and services

Nature of benefits.—Hospital and posthospital services are covered by insurance as specified in legislation. Payment is made to providers of inpatient hospital services, health maintenance organizations, posthospital extended care in a skilled nursing home or other qualified extended-care facility, and for posthospital home health services for the reasonable cost of such services, within specified limits, reduced by fixed deductible amounts charged to the beneficiary.

Inpatient hospital services are provided up to 90 days in each benefit period. A benefit period begins when the individual receives hospital or extended-care services and ends when he has not received such care for 60 consecutive days.

Determinants of benefit amounts.—The beneficiary pays an inpatient hospital deductible amount applicable to all hospitalization in a benefit period and a daily coinsurance amount for the 61st through the 90th day. The inpatient hospital deductible was originally $40; however, the medicare law requires an annual review of the deductible by the Secretary of Health, Education, and Welfare and provides a specific formula for redetermining the deductible. In general, the inpatient hospital deductible rises as hospital costs rise; for 1974, the deductible was $84. All coinsurance amounts under hospital insurance are a percentage of the inpatient hospital deductible. Thus, for the 61st through the 90th day of covered hospital care in a benefit period, there is a daily coinsurance amount equal to one-fourth the inpatient hospital deductible; for 1974, the amount was $21 per day. In addition, each beneficiary has a lifetime reserve of 60 inpatient hospital days for optional use with a daily coinsurance amount equal to one-half the inpatient hospital deductible; for 1974, this amount is $42 per day. For instance, if a beneficiary is in the hospital for any length of time up to 61 days in a benefit period, he pays $84 toward the hospital costs. If he is in the hospital for 90 days, he pays $21 per day for the 61st through the 90th day, or a total of $714. If he stays in the hospital another 10 days and uses part of his lifetime reserve, he pays an additional $420.

Posthospital extended care is allowed for up to 100 days in each benefit period with a daily coinsurance amount equal to one-eighth of the inpatient hospital deductible (for 1974 this amount is $10.50) for each day after the first 20 days.

Posthospital home health services for homebound persons (visiting nurse services and various types of therapy) are allowed for a maximum of 100 visits during the year following 3 days or more of hospitalization or extended care.

Hospital insurance payments are not made to the extent that payment is made, or can reasonably be expected to be made, under a workmen's compensation plan of the United States or an individual State.

Benefit amounts. The average payment per beneficiary receiving services in fiscal year 1973 was $1,414; the average for all enrolled persons was $318 per year. These amounts were up from $1,210 and $260, respectively, in 1971.

MEDICARE—SUPPLEMENTARY MEDICAL INSURANCE (SMI) [1]

Basic program information

Legislative objective.—To provide medical insurance for persons who elect this coverage and who are: (1) age 65 and over; (2) disabled and eligible for social security or railroad retirement for at least 24 consecutive months; or (3) chronic renal disease patients who have social security coverage as worker, spouse, or dependent.

Date enacted and major change.—This program was enacted in 1965 to cover the medical expenses of the aged. Coverage was extended to disability insurance beneficiaries and chronic renal disease patients in 1972.

Administering agency.—The Social Security Administration of the U.S. Department of Health, Education, and Welfare, with the assistance of "carriers" including Blue Shield plans, commercial insurance companies, and group practice prepayment plans.

Financing.—Supplementary medical insurance is financed half by the premiums paid by those enrolled in the program and half by general revenues of the Federal Government. The enrollee premium effective June 1974 is $6.70 per month, usually deducted automatically from social security, railroad retirement, or civil service benefits. The individual's premium may be paid from medicaid funds in behalf of persons eligible for both medicaid and medicare.

[1] Much of this information, including the supplementary materials, was taken from the "1974 Annual Report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund," 93d Cong., 2d sess., House Doc. No. 93–315.

Eligibility criteria

Major eligibility conditions.—An individual must pay monthly premiums and be (1) entitled to medicare hospital insurance, or (2) age 65 or over and a citizen and resident of the United States or an alien lawfully admitted for permanent residence who has resided in the United States for the 5 years immediately preceding application. Beginning July 1, 1973, eligibility was extended to disabled persons under 65 who have been entitled to disability insurance for 24 months or more, and to persons who have been receiving renal dialysis for 3 months or more (coverage terminated 1 year after a successful kidney transplant). No one who has been convicted of certain subversive activities such as treason may enroll for supplementary medical insurance.

An individual generally may not enroll more than 3 years after his first opportunity to do so and may not enroll more than twice. The premium rate for a person who does not elect to come into the system at his first opportunity is increased by 10 percent for each full year he stays out of the program. The premium for aged persons receiving public assistance—either money payments or medical assistance—may be paid for them by State public assistance agencies, under agreement with the State.

Persons included.—Only the eligible individuals noted above who elect to enroll are included in the program.

Income test.—There is none.

Assets test.—There is none.

Other conditions—

Citizenship.—See major eligibility conditions above.

Residence requirements.—See major eligibility conditions above.

Institutional status.—There is no limitation for benefits to persons in institutions.

Benefits and services

Nature of benefits.—Beneficiaries receive health services covered by the insurance as specified in legislation. Insured services include the following: (1) Physicians' (including surgeons and the professional component of anesthesiologist, pathologist, radiologist, and physical medicine in a hospital) services, except for routine physical examinations, eye examinations to determine the refractive state of the eye, examinations for hearing aids, immunizations, elective cosmetic surgery, and routine foot care; (2) services and supplies normally furnished in a physcian's office incident to his professional services (including drugs which cannot be self-administered); (3) out-patient hospital services; (4) services of independent clinics; (5) home health services up to 100 visits per year; (6) diagnostic X-ray and laboratory tests; (7) X-ray, radium, and radio-active isotope therapy; (8) surgical dressings and splints and other devices used for reduction of fractures and dislocations; (9) rental of durable medical equipment (or purchase thereof if not more expensive); (10) ambulance services in certain circumstances; (11) prosthetic devices; (12) braces and artificial limbs where required due to a change in the patient's physical condition; and (13) manual manipulation of the spine to correct a subluxation (demonstrated by X-rays to exist) by a chiropractor.

Determinants of benefit amounts.—Payment is made by reimbursement to the beneficiary or directly to the provider, for 80 percent of the excess of reasonable charges for services (100 percent for radiology or pathology services provided by a physician in a hospital; and 100 percent for home health

services after the first $60 in a calendar year). The beneficiary pays the deductible of $60 annually for all services plus percent of the reasonable charges for covered services after the first $60 is paid. The payment for out-of-hospital physician's treatment of mental, psychoneurotic, and personality disorders is limited to $250 or 50 percent of expenses, whichever is less, in a calendar year.

The determination of reasonable charge takes into consideration the customary charges for similar services generally made by the physician or other provider, the prevailing charges in the locality for similar services, and whether services were delivered in an efficient manner. Benefits are not paid to the extent that payment is made, or may reasonably be expected to be made, under a workmen's compensation plan of the United States or of an individual State.

Benefit amounts.—The average payment per beneficiary receiving services in fiscal year 1973 was $228; the average cost per enrolled individual was $117. These amounts were up from $197 and $104, respectively, in 1971.

In fiscal year 1973, $1,193 million in premiums were deducted from monthly benefit checks, $149 million were deposited by States, and $84 million were paid by individuals to the Social Security Administration.

STATEMENT SUBMITTED TO THE SUBCOMMITTEE ON SOCIAL SECURITY, COMMITTEE ON WAYS AND MEANS

(By Jerry Wurf, International President of the American Federation of State, County and Municipal Employees, AFL-CIO)

July 19, 1977.

Mr. Chairman and members of the Subcommittee, I am Jerry Wurf, International President of the American Federation of State, County and Municipal Employees. Our union has over 750,000 members who work for state and local governments and, when we negotiate for wages and working conditions, we represent more than 1.5 million public employees.

We are in substantial agreement with the Administration's short and long term Social financing reform proposals. The Administration's program, if enacted, should go a long way towards preserving the fiscal integrity of the nation's most important social insurance program.

However, there is one major area of the Social Security program which the Administration has not touched upon that also is in serious need of reform. This pertains to the coverage provisions of the Social Security System, particularly as they impact upon state and local government workers.

I want to urge that coverage under Social Security be made universal. The System should not only include workers in private industry, but also all state and local government employees, federal employees, and even members of Congress and their staffs.

The present Social Security coverage situation for state and local employees in particular is neither healthy from the worker's standpoint nor from Social Security's standpoint.

a. From the Worker's Standpoint—

Before a state or local government can join the Social Security System, its employees must vote to be covered. But the Social Security Act also gives public jurisdictions the unilateral power to terminate coverage for their employees. These provisions are inconsistent and unfair, and have proven to work to the detriment of the public employees who really need the income security protections of the Social Security System.

The facts are that general, nonuniformed state and local workers, who have their coverage terminated, are the ultimate losers because Social Security benefits cannot be replaced. This was clearly demonstrated in recent studies of the cost of replacing Social Security benefits for Alaska and California state workers and for employees of San Jose, California.

The State of Alaska—the only state government thus far to submit a withdrawal notice—requested that the William M. Mercer Company, an independent pension consulting firm, determine what the cost to the State would be for replacement of Social Security benefits, should the State go ahead and withdraw from the System. The Mercer report estimates that it would cost the State a whopping 22% of payroll to fully replace lost retirement, disability and death benefits provided by Social Security. The cost of partial replacement of lost benefits, based upon four alternative programs, would range between 12.5% and 19.25% of payroll. The report stressed, however, that these figures only represent benefit replacement costs. They do not reflect the high cost (and difficulty) of administering such a program.

The Wyatt Company, another independent pension consulting firm, recently studied the impact of termination of Social Security coverage on the State of California and its workers. The Wyatt report concluded that the cost of replacing Social Security benefits by a state program would be prohibitive, estimating that even partial replacement of benefits would cost the State 12.32% of payroll. Subsequently, the Commission on California State Government Organization and Economy, which requested this study, issued its own report to the Governor and State Legislature, not only recommending that the State continue to participate in Social Security, but also urged that coverage be made universal throughout the country for public employees at all levels of government.

A third study was recently completed by Robert J. Myers, former Chief Actuary of the Social Security Administration. He examined whether San Jose, California, which has withdrawn from Social Security, was able to replace the benefits which city workers lost. He, too, concluded that benefits lost by opting out of Social Security were far greater than any improvements made in the City's pension plan.

The reason for this unanimity among the experts on this point is because Social Security, over the last 40 years, has emerged as the cornerstone of the American worker's income security. Social Security is more than a retirement system. It also provides income for workers who are permanently and totally disabled and for survivors of workers who die prior to or after retirement. In addition, it is a health insurance system, which protects permanently and totally disabled workers and retirees against the rising cost of health care.

The only workers that truly benefit from opting out are higher paid public employees, police and fire for example, who retire in their late forties or early fifties and qualify for Social Security benefits through second career employment. I might add that this also is the case with respect to federal employees, 50% of whom qualify for Social Security by moonlighting or through a second career.

The danger of the present voluntary system of entry into and exit from the Social Security System also focuses on the state and local workers who have never had coverage, as in Massachusetts. These workers frequently have to rely on financially unstable state and local pension plans for their retirement security and certainly do not have the scope of income security protection afforded by Social Security in cases of death, disability, or other contingencies.

To underscore the significance of this last point, it should be understood very clearly that there is an interrelationship between Social Security coverage for public employees and the stability of state and local pension plans. The facts are that the current funding problems of state and local pension plans cannot be resolved unless Social Security is made the basic income security program for all public employees. Without universal coverage, the cost of providing even substandard public pensions by financially strapped state and local employers will continue to be prohibitive.

b. From the Social Security System's Standpoint—

In my opening remarks, I indicated that the present public employee coverage situation is unhealthy for the System as well as for the worker.

Present coverage provisions represent a financial drain on the Social Security System. They encourage abuse by some public employees, enabling them to qualify for Social Security benefits that are far greater than their contributions. And as a whole, the four million state and local employees and 2.6 million federal employees currently not covered by the System have become a substantial source of lost income to the Trust Funds, which presently are experiencing a $5.6 billion deficit. This was clearly demonstrated by Social Security estimates of the impact of future public employee entry into or exit from the System.

The Social Security Administration has estimated that if coverage is terminated for one-half of the 8 million state and local workers who are currently covered, the loss in contributions and interest between 1978 and 1982 would be $37.2 billion! On the other hand, if all 12 million state and local employees were covered under Social Security on a mandatory basis, an additional $35.2 billion would be added to the Trust Funds. The Social Security Administration also estimated that the long-range fiscal impact of extending coverage to all state and local workers would be a reduction in the cost of the cash-benefits program by about 0.15% of taxable payroll, and 0.04% for the hospital insurance program.

As you are well aware, federal civil service employees (including employees of the Social Security Administration) are not covered by Social Security. This is because the federal government, as their employer, has chosen not to do so, even though it has elected to cover the military for the past 20 years.

Nevertheless, it is estimated that nearly 50% of the 2.6 million civil service work force become eligible for windfall Social Security benefits anyway through outside or second career employment. Since only 10 years of covered employed are required to receive full Social Security benefits, the incentive for "double-dipping" is significant.

The Social Security Administration estimates that if this situation were corrected, mandatory federal employee coverage would, over the long run, reduce Social Security costs by about 0.17% of taxable payroll for the cash benefits program and 0.06% for the hospital insurance program.

In light of these figures, I strongly urge that the Subcommittee seriously consider incorporating the concept of universal coverage as an integral part of the Social Security financing reform program that it will be considering. It certainly would be a logical extension of the theme of the Administration's proposals, which we support—that is, to preserve the short and long term fiscal viability of the Social Security System. The direct link between universal coverage and the fiscal integrity of the System is sufficient grounds to advocate universal

coverage, to say nothing of supporting it for equity reasons.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I would be glad to yield to the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman and commend him for his remarks. I would like to join in his remarks.

Mr. Speaker, I rise today to join my colleagues on the Social Security Subcommittee of the Committee on Ways and Means to urge your favorable consideration of "universal coverage" which would mandate participation in the social security system for all Federal, State, local and nonprofit organization employees.

Two weeks ago, five other members of the subcommittee and I, Republicans as well as Democrats, made a tentative decision against the opposition of two other members to approve universal coverage. Your mail this past week has no doubt carried the same message as mine, that we have created a debacle from which we must retreat. We were and are still aware that this is a controversial issue with the people who would be most affected. However, we feel just as strongly that this step is a necessary improvement for the equity and fairness of our social security system. By now you should have received a letter from eight subcommittee members asking that you keep your position open on the question until we have had a chance to present our case to you. This special order is one forum in which we hope our facts and arguments will prevail.

The social security structure has been shaped both by long-standing traditions and by changing economic and social conditions. One hundred years ago, we did not need social security, for ours was an agrarian society in which over half the Nation's adult workers were farmers; individual effort as a means of security prevailed—but ask any senior citizen in your neighborhood whether they need social security now.

Fifty years ago we did not think the National Government could institute legislation in this area. A Federal-State constitutional system was then interpreted by the courts as limiting such action.

Furthermore, social insurance lacked the support of most organized trade union movements, given relatively high wages of labor and a high standard of living. So what evolved—retirement programs for certain groups of government employees—mainly teachers, policemen, and firemen. Federal, State, and local governments, in essence, recognized and accepted an early responsibility to provide benefits against certain risks of economic insecurity in an industry, government, small in size and isolated from market-influenced wage increases. Do we not have to recognize today that government is big business and cost-of-living increases are nearly automatic? Is it not our responsibility to address the question of why employees in the private sector are required to participate in social security, but Government employees are not?

It took the severe Depression of the 1930's to dramatize the fact that many American workers were almost universally dependent on factors beyond their individual control for their economic security. Federal action became a necessity, as neither the States and local communities nor privately organized charities had the financial resources to cope with the growing need among the people. We first made loans, then grants to the States to pay for direct relief and work relief. Special Federal emergency relief and public works programs were started. There followed the passage of the Social Security Act, signed into law on August 14, 1935.

I will not recount the evolution of our social insurance program and how it has provided coverage to new groups of people or increased benefits. For purposes of today's subject we need only recognize two facts. First, Federal, State, and local employees were not initially covered by social security because they were already covered by social insurance. Second, as of today, only these same employees and those employed by nonprofit organizations are exempt.

Thus, history tells us that universal coverage is the last step in a long, hard march to provide aid to the needy, which dates from the earliest colonial times. But our mail tells us that Federal, State, local, and nonprofit organization employees are not in need of social security. The mailgrams read: "Leave us alone"; "Don't bail out social security money problems with mine." Just a few years ago, it was necessary to underwrite the civil service retirement system benefit obligations. We are still paying off that debt, with interest, but that is not the point. The net revenue effect over the long term of universal coverage is a wash and we must not delude ourselves that this is a remedy for social security's short term financial problems. The best reason to cover Government employees is because it is the only fair and reasonable thing to do. If social security is good for everyone else in America, it must be good for us who work in government.

At the end of 1975, out of a total of 2.7 million Federal civilian employees, about 2.4 million were excluded from social security coverage because they were covered under a Federal staff-retirement system. Social security coverage for employees of the States and their political subdivisions is available through agreements between the Secretary of HEW and the States. About 70 percent—some 8 million out of the approximately 12 million State and local employees—are covered under social security. However, the social security law permits termination of coverage for employees of State and local governments upon action by the State and there is an increasing trend in this direction. As recently as 1966, only five State or local groups elected to terminate coverage for a total of 33 employees; this year notices have been filed by 150 groups affecting 54,860 employees.

You may ask for reasons behind this trend. I assure you it is not in most cases because of social security's financial problems, but rather its financing requirements. The basic motivation for terminating coverage is to reduce costs to the Government, to the employee, or both. But a new plan in its place may be inadequately financed. Contributions may be diverted from retirement systems for other operating funds. In short, without social security, there may be no security at all. I reiterate that the decision to terminate coverage can only be taken by the State, not the employees of the State and local governments involved.

About 90 percent of the roughly 4 million employees of nonprofit organizations are covered by social security. But those organizations, like the States, may elect to be covered by social security. Reversing the coin, some of my constituents who work in private industry rightly complain that I have the right to keep myself and other Federal employees out of the social security system while they are required by law to participate. We should either treat all workers fairly and equitably or have no social security system at all.

Universal coverage will fill the gaps in protection that many individuals face who have worked under both the social security and civil service retirement systems. On the other hand, for those employees who have worked under both systems, windfall benefits may accrue under present law in relation to the worker's social security contributions. This can be corrected at a reduced cost to both employees and the Federal Government if we have universal coverage. We also protect those employees at the State and local levels who want social security coverage, but who are terminated because part of the group desires otherwise.

It is also important to make two other points. First, the adoption of this proposal would not mean the abolishment of any existing civil service retirement system. Second, the adoption of this proposal would not necessarily result in increased pension contributions or reduced pension benefits to Federal, State, local, or nonprofit employees. If universal coverage is adopted, the existing Federal, State, and local pension systems will simply have to be modified so they appropriately integrate with the social security system—as pension plans in private industry have for years. The specific details of those modifications would have to be decided by Congress for Federal employees, and by State and local governments for their employees. This is not a problem, but a responsibility, that changing economic and social conditions require us to accept and correct.

In conclusion, I would share with you the words of one constituent, who wrote to me saying, "Is this not a government of the people, by the people, and for the people?" Without universal coverage, how would you answer that question? With it, you can say that as a representative of the people, I have voted to provide economic security for and by

all the people, including myself, through the social security system.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to ask the gentleman from Texas, who made an excellent presentation on this very important issue, one or two questions. The first is whether or not the proposal which the gentleman advocates would also cover Members of the Congress of the United States as well as civil servants.

Mr. PICKLE. Yes; it would.

Mr. LEVITAS. I commend the gentleman for his leadership in this regard, and the others who have worked with him. A lot of my constituents, and I am sure the same is true for Members who represent other districts as well, are somewhat baffled by the fact that they pay into a social security system significant taxes, that they are looking forward to meager benefits, and yet the Commissioner of the social security system himself is not party to the social security system and does not pay the taxes and does not look to it for his benefits.

There is a lingering suspicion in the American public that if it was a good dish, he might want to eat it himself. It might make the American people a little more confident in their entire social security system if those of us who are responsible for it in the Congress, and those of us who are responsible for administering the Social Security Administration, were paying into it and looking to it for benefits.

As the gentleman may know, I introduced a bill during the last Congress, and reintroduced one in this Congress, which would bring under the system the Members of Congress and certain others along the lines that the gentleman's subcommittee has proposed. I want to associate myself with his efforts, with the reasonable way in which he has approached it, with the assurance that the existing retirement system of civil service and other presently noncovered retirement systems will not be lost; that they will not forfeit rights that they have acquired, and that we will move to a stage where people will be covered by social security and there will not be some elite group omitted from the system.

I commend those members of the committee who have taken the leadership in this regard.

Mr. PICKLE. Mr. Speaker, I would say to the gentleman from Georgia that the purpose of this program is simply to do away with the dual system and not cause damage to any individual who has already qualified or is qualifying under the civil service retirement system, but to have one system. That is the very point of the universal coverage, so that everybody will feel that everybody is paying into the system and not that only a portion of them are paying for the benefits that others may be receiving.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, I would add that what the gentleman from Georgia (Mr. LEVITAS) just said is a lingering suspicion I am afraid is not a suspicion on the part of our constituents, but is knowledge; that they are living under a system which is not being imposed on the entire country, in fact is not being imposed on the lawmakers themselves. The gentleman's point is very well taken and is a good reason we want to go forward with the program.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, I appreciate very much the gentleman's yielding and also his having arranged this special order.

Mr. Speaker, I look at the mail that has come into my office, and I suspect my mail is no different than the mail of my colleague, the gentleman from Texas (Mr. PICKLE) or the mail of the gentleman from Missouri (Mr. GEPHARDT) or the mail of the gentleman from Arkansas (Mr. TUCKER). There is an awful lot of misinformation and a tremendous amount of concern being expressed about the decision to go to universal coverage. I believe that was the decision made by the subcommittee and I hope it will be sustained by the full committee. Obviously, I hope it will be sustained by the full House of Representatives.

Mr. Speaker, the fundamental issue involved is the very one which the gentleman from Texas has so precisely stated; that is to say, whether or not a certain group within this society should not be included within a universal system of social security. I think they should be included. I think that as time goes on we can assure our colleagues, who have a concern based on the fact that this issue has arisen in the way that it has, that it is possible for us to devise a social security system that is sound and stable, which compliments and supplements the civil service retirement system which is also sound and stable.

Both goals can be accomplished, and what is said today will, I hope, shape the decision that the House will make. I hope it will help to influence others to recognize the correctness of the decision made by the subcommittee.

Mr. Speaker, I very much appreciate the gentleman's yielding.

Mr. PICKLE. Mr. Speaker, I would say to the gentleman from Wisconsin (Mr. STEIGER) that my mail has been, I am sure, similar to his. At least the inquiries I have received have been rather numerous in the last week.

Some news columnists have come out and said, "They are going to liquidate the Federal retirement system." One of the unions here in Washington, specifically the postal group, has put out a pamphlet. I think the pamphlet is misleading, and I hope it is corrected. However, they have sent it out all over the country, and it says that we are going to literally do away with the present system.

We are not going to hurt the present Federal system. You can have both, as the gentleman from Wisconsin (Mr. STEIGER) said You can have a strong social security base, and on top of that you can have whatever other kind of system you want to pay for.

The inference has been that we are going to destroy the Federal retirement system. That is not so. We have no intention of doing that, and we do not have the jurisdiction to do it. I would hope the various groups affected would study the situation and ferret out the facts before they make a change and perhaps scare people into a situation that is not justified.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would like to emphasize one point that has been made here, and I think it is one that bears thinking about for a moment in considering the facts we are dealing with.

At the end of 1975, out of a total of 2.9 million Federal civilian employees, about 2.4 million were excluded from social security coverage because they were covered under a Federal staff retirement system.

Social security coverage for employees of the States and their political subdivisions is available through agreements between the Secretary of HEW and the States. About 70 percent or about 8 million of the approximately 12 million State and local employees are covered under social security.

However, the social security law permits termination of coverage of employees of State and local governments upon action by the State, and there is an increasing trend in this direction.

As recently as 1966, only five State or local groups elected to terminate coverage for a total of 33 employees. But this year notices have been filed by 150 groups affecting 54,860 employees.

I think the point that we get from these statistics is that not only do we have a vast number of people who are not included but we have an even larger group that is now seeking to opt out of this Federal social security system.

So the questions that are being legitimately asked by our constituents who do not have the option to get out of the system are going to be asked with even more force and even more legitimacy as the days go on and as people continue to opt out of the system at the State and local levels.

Mr. PICKLE. Mr. Speaker, I think the gentleman is right.

Mr. GEPHARDT. If we do not act this year, I think we will have an even larger group getting out of the system. We are going to have to act within the next few months, and now is the time to take that action.

Mr. PICKLE. We are going to have to institute these safeguards, because the situation is running in reverse, and it gets much worse if we do not act and if we continue to allow them to opt out.

Mr. TUCKER. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Arkansas.

Mr. TUCKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to echo the gentleman's sentiments that in making the proposal that the Subcommittee on Social Security has made, there is absolutely no intention to take away any benefits from anyone who has paid into the system.

However, I think it is constructive and helpful to remind ourselves that a retirement system, whether it is a public or private employee retirement system, is a different type of system than a national social insurance system. Under the social security system there is no pretense that the money we pay into the system today—and I should not say, "we," since those in Congress are among the favored few who do not pay in—but under a social insurance system the money that an individual pays in today will not be returned to him.

The purpose of a social security system is to see to it, candidly, that one generation of workers is always supporting that same generation of retirees, so those of us who are working today are paying benefits into a trust fund to support those who are retired today.

There has never been any pretense in the social security system that it was intended to do otherwise.

On the other hand, an employee retirement system is designed so that if I make contributions today, I will receive a return for those contributions as a sort of deferred wage in future years when I finally reach retirement age.

Mr. Speaker, as my colleague and good friend, the gentleman from Missouri (Mr. GEPHARDT), has pointed out, because of the approach we have taken in this area and in some other areas over the past several decades, we face some real jeopardy in the social security system. It is true that 70 percent of the employees of all State and local governments are currently covered under social security; but merely by a sizable number of those employees giving notice that they intend to withdraw from the system over the next few years, we could send the social security system spiraling into great financial difficulty.

Mr. Speaker, there is no way by which we in Congress can continue to justify saying that a General Motors employee or an employee at some local filling station or an employee under the many teacher retirement systems and Government units across the country which have participated in social security coverage has to pay social security in addition to whatever private payments he gives to his pension system.

However, those favored few who fall into the few categories that are, by law, excluded, merely have to contribute to their public retirement system and do not have to take part in the social security system.

Mr. Speaker, social security is too vital to leave any group out.

I compliment my colleague, the gentleman from Texas (Mr. PICKLE), and my other colleagues on the committee for the efforts they have exerted today.

Mr. Speaker, we can make the social security system absolutely financially stable, and we can assure the continuation of what I believe is today the finest system of social insurance extant in any nation in the world. However, to do so we are going to have to face some hard reality and require it to be what it ought to be, a nationwide mandatory system of social security coverage for all.

Mr. Speaker, I include with my remarks the following article by William C. Greenough and Francis P. King.

PENSION PLANS AND PUBLIC POLICY

UNDERFUNDING OF FEDERAL EMPLOYEE PLANS

The annual report for 1968 of the United States Civil Service Commission stated bluntly that "something has to be done about the civil service retirement system." Referring to an existing policy of "brinksmanship in retirement funding," the report pointed to an unfunded liability for fiscal 1968 "of more than $52 billion and a balance of $18 billion." By 1974 the unfunded liability had grown to $77 billion.

The huge unfunded liability has developed gradually, the product of years of inadequate financing. Employees have paid in their share for the contributory retirement plan, but the Civil Service Commission has frankly acknowledged that the government has "not made regular, systematic contributions in amounts sufficient to take care of liberalized benefits." Consulting actuaries to the U.S. Civil Service pension system told the Congress in 1973 that "by all standards set by the government for nongovernmental pension funds, the retirement system is not adequately financed, with the result that considerable present expense is being passed on to future generations of taxpayers."

Already, retirees from federal government service receive higher pension benefits than do their counterparts in private industry. At present, under the contributory federal plan employees pay in 7 percent of their salaries and the government matches this amount. Since the majority of private plans are noncontributory, it might seem that the federal employee contribution was making up the difference in benefit levels, but this is not the case. The huge cost of the federal plan is understated because if its continued and increasing underfunding. As was explained in Civil Service Commission testimony before a Senate Appropriations Subcommittee in 1968, "every time we increase salaries by $1, we are increasing the unfunded liability by $2.50."

To magnify the problems already existing, Congress in 1970 added the most liberal cost of living increase to be found among all the pension plans in the nation, private or public. Failure in dealing with the problem of inflation as it affected the public generally did not deter either Congress or the Administration from insulating from the effects of inflation the more than one million beneficiaries of the system and, in the future, all retirees from the current federal work force of over two and a half million. This is done through a provision of the law that provides a full cost-of-living pension increase whenever the cost of living has gone up by at least 3 percent since the date of any previous increase. The law adds to this an extra 1 percent every time the cost of living increases by 3 percent, a one-third extra premium on inflation. The stated objective of the extra 1 percent was to protect federal employees from the three-month lag; actually the 1-percent extra benefit is a permanent addition and is even included in the base for future benefit increases. Writing in Business Week, Arch Patton notes that "some wags have suggested that the one-third premium explains why Washington has done so little about curbing inflation: All the civil service employees make a profit on it."

Between 1965 and 1974 the cost of living rose 69 percent; civil service pensions rose 85 percent. A man who retired with a pension of $500 a month was getting $925 a month. Increases between 1970 and 1974 alone have already added over $10 billion of unfunded increased future costs.

The effect of the automatic escalator in benefits for federal employees who will retire in the future is estimated by the Civil Service pension actuaries to require an increase in the current normal cost of the plan from the present 14 percent of payroll to 21.13 percent. Double-digit inflation could quickly bring the cost up to 30 percent or more of the federal payroll. And it must be remembered that this figure does not include amortization provision for the existing unfunded liability, the interest cost of which is now only partially included in the current costs and will not be fully included until 1980. As incurred liabilities rise because of the cost-of-living increases, this interest cost will rise too, perhaps then bringing the cost of the pension system in 1980 to 40 percent or more of payroll. If a 4-percent annual inflation rate is assumed, the 1974 unfunded liability would rise to $156 billion instead of $77 billion under a static assumption.

Another reason for the high cost of the federal civil service plan is that it provides, as do many state plans, extremely expensive early retirement provisions. An employee may retire with a full pension at age 55 after 30 years of service. This provision roughly doubles the cost of providing a pension over what it would cost were age 65 to be the normal retirement age. It partially accounts for the high ratio of retired federal employees to the current work force.

Yearly actuarial reports of the Civil Service Retirement System point out to the Congress the growth and extent of unfunded plan liabilities. Adding, though gradually, the interest cost to current funding levels has represented a step toward more rational and responsible financing of the system. The cost-of-living feature, with its compounding 1 percent extra, adds enormously to the difficulty of the task.

The benefit structure and funding situation of the federal civil service plan raises many of the same policy questions regarding pension protection of employees that the public employee systems of the states do. Should not the same funding standards be applied to pension plans of public and private employers? Equitable treatment of all members of retirement plans—and of taxpayers—would seem to make sense if government employees are not to become a specially protected elite, benefiting from the capacity of governments to provide for taxation of citizens in the future who are unable to represent themselves in the legislative sessions of today. Or, on the other hand, retired public employees could become an endangered species if their unit of government ever entered a stage of contraction, or if taxpayers ever decided the tax burden for pensions was too great.

Another Federal Plan—The Military. Perhaps the most obscure of all public pension plans is the Armed Services Pension System. It provides the public with no annual report and its unfunded liabilities exceed even the gargantuan liabilities of its companion, the Federal Civil Service Retirement System. As figures shown in Chapter 5 indicate, the failure to establish a sound method of reserve financing for this system has created an annual burden of expenditure that is expected to rise to nearly $6 billion in 1978.

The unfunded liability now exceeds $130 billion.

A PUBLIC POLICY FOR PUBLIC PLANS

Several points become immediately evident upon the examination of local, state, and federal employee retirement systems. Nearly all government employers provide a retirement plan for their employees, an excellent record, providing coverage far ahead of the private sector. On the average, the vesting provisions of these plans are at least on a par with those of private plans, and in some cases vesting is earlier, also a good record. Benefits of public plans are often provided for at ages or service periods enabling retirement with normal benefits as early as age 55, and for uniformed employees even earlier. This is extravagant. Such over-generous provisions can increase by as much as half the costs of these plans. Also extravagant is the frequent failure of the plans to integrate benefits with Social Security; over-generous early retirement benefits and failure to integrate with Social Security make some public employees a true pension elite, retirees who fare far better than their counterparts who have worked throughout their productive lives in the private sector. Perhaps most serious of all the defects is lack of prudent funding, representing a lack of willingness to face up to the actual costs of pension plans. While few of the state and local plans are operated wholly on a "pay-as-you-go" basis, have accumulated liabilities substantially in excess of assets. This does not provide adequate security for public employee pensions, or fair treatment for future taxpayers. Coupled with this is the increase in the number of public employees during the last decade or two. As they begin to retire, a surge in the population of retired public employees will take place (augmented by the unusual opportunities for early retirement that are open to them). Promises made in earlier decades, but not fully funded, will have to be kept at tremendous cost.

Specific steps should now be taken to improve the soundness of public retirement systems—federal, state, and local.

1. Public employee plans should be required to meet the same standards for the amortization of past service benefits and the funding of normal costs that are applied by law to private pension plans.

2. If the above requirement is implemented, it will be necessary in most if not all states to rechannel tax revenues in order to begin the process of reducing unfunded liabilities and meeting normal costs. This should raise the consciousness of taxpayers regarding plan provisions.

3. For each legislative or collective bargaining proposal, independent current and future cost estimates should be required, and specific tax increases mandated to meet any increased costs.

4. In reexamining public plan provisions, careful attention should be given to the generous early retirement provisions so prevalent at present, and growing in use. Although it may be impossible to alter benefit promises and early retirement options available to persons presently participating in these plans, it would be desirable to consider bringing newly hired public employees into plans that provide for a normal retirement no earlier than age 65, with earlier retirement available only under standard actuarial reduction provisions. Splitting off new entrants into a separate plan or a plan with altered provisions for new entrants will not be easy. One of the main arguments mounted against it is that two employees in the same job and pay class would be treated differently in terms of the employer expenditure for the deferred pension benefit of each. Union leaders in particular have argued that a proposal for a split pension plan would do violence to the principle of equal pay for equal work or equal treatment of employees in similar situations. This argument could back fire were the public ever to decide that reform in early retirement provisions could only occur through depriving present employees of benefits promised them. A better method might be to provide a current salary differential for new entrants who would be accepting a return to age 65 as normal retirement age.

5. Are uniformed public employees—police, firefighters, and sanitation personnel—to remain as separate classes of pensioners when it comes to early retirement? This is perhaps one of the toughest problems of public administritaon. On the one hand it is reasonable to support the idea that the physically demanding and often dangerous situation of the uniformed services demands younger men and women. Early retirement seems appropriate in the light of the hazards faced and the demands made. Yet plan provisions frequently make early retirement attractive not for the purpose of binding up the wounds and exhaustion of an arduous life, but for the purpose of seeking another job at comparable pay with the additional advantage of receiving a "retirement" income at the same time. A policy question that must be fairly and frankly acknowledged is whether public budgets can afford this result.

6. All public employees should participate in the Social Security system. Federal employees (except members of the Armed Forces Retirement System), and nearly all public employees in a half a dozen states, plus some in some pension systems in other states, do not now participate in Social Security. The burden and the benefits of an income transfer and redistribution system—Social Security—should be shared as broadly and as equitably as possible. All citizens benefit from the existence of such a system, whether they participate or not. Those who participate receive benefits directly. Employers and employees who do not contribute to Social Security, however, effectively increase the burden on those who do participate. The option for state and local employments to remain outside the Social Security program and the noncoverage of federal employment represent the last serious gap in this national scheme.

7. The contributions or the benefits of all public pension plans should provide their benefits so as to be integrated with Social Security.

8. The highest standards of actuarial evaluation, accounting, and disclosure of operations should be required of public pension systems. Perhaps model state laws should provide for this. Independent certified public accountants should examine each pension fund annually and the results of the audit should be published. The exact extent of unfunded liabilities should be determined by qualified actuaries according to a reasonable and clearly stated set of actuarial assumptions and established amortization schedules.

It would seem reasonable to establish as public policy that all types of employer-sponsored or jointly-administered pension plans be subject to the same rules of conduct, whether they involve public employers or private employers. The distinction between a public social insurance program and a public employee retirement system should be kept clear. By its nature a social insurance system, or Social Security, is a system for redistribution and intergenerational transfer, and it must depend on the willingness of each successive generation to support aged persons, in return for the implicit promise that the supporting generation's turn will come. An employee retirement system, on the other hand, public or private, defers a part of wages until the retirement age, and is thus properly operated on the basis of reserve funding. Public policy should not permit heavily unfunded liabilities for public employee or private retirement plans to be created and thrust forward onto future generations, captive though they may be through precedent or sovereign power.

It is very much in the interest of present public employees and their governmental units to move toward sound retirement provisions and adequate financing and funding of public plans. A rapid shift of priorities from benefit leapfrogging to assurance of future payments of reasonable benefits would seem to be in the public interest. Public employees are just as deserving of legislative and regulatory protection of their benefits as are private employees. But to achieve adequate financing and funding, they will have to forego excesses in early retirement benefits, accept integration of benefits with Social Security, and be prepared for higher tax rates. All signs point toward intense public policy discussion of public employee retirement plans in coming years.

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Arkansas (Mr. TUCKER) for his comments.

He is eminently correct that it must be a universal system and that we must put everyone under it. We can do so without damaging any other group.

Mr. KETCHUM. Mr. Speaker, I commend my fellow colleagues on the Ways and Means Subcommittee on Social Security for addressing the concept of universal coverage during a special order this afternoon. After much forethought on how best to proceed with social security reform, our subcommittee tentatively decided to extend social security coverage by providing for the participation of all Federal, State, and local government employees, and nonprofit organizations' employees, by 1980. Since that decision, I have received no fewer than 50 mailgrams and letters in which concern has been expressed that we are "liquidating" the civil service retirement system. Nothing could be further from the truth. Misinformation on the concept of universal coverage has been widespread. I hope that we may elucidate any misunderstandings that might still be circulating.

Mandated by the Social Security Act of 1935, and liberalized by amendments thereafter, the social security system has grown to be an integral part of the income structure of the American economy. Statistics published in January's Social Security Bulletin show that to 32.7 million Americans, "social security" means a check in the mail once a month—a total of $6.3 billion a month, $75 billion a year, of purchasing power. In 1976, benefits to retired persons averaged $223 a month; to the disabled, $244.

Social security is compulsory, nearly universal already, and most important, it is virtually immune to the risk of economic distress, a risk few families can fully insure against. Our objective to extending coverage to all current civilian employees is the integration of the civil service retirement and social security systems without reducing benefits or protection for, or increasing contributions from, participants in either program.

Universal coverage is a rational and desirable goal of any nationwide social insurance system. Public discussion of universal coverage has taken place for many years. It has long appeared that a large majority of Americans favor it, but no action has previously been taken by the Congress. Many difficulties, both legal and administrative, have stood in the way.

However, despite these difficulties, the latest Advisory Council on Social Security stated that—

It is of great importance from the standpoint of assuring good protection for all workers on an equitable basis that all Federal, State, and local jobs be compulsorily covered under social security.

The Council urged the Congress to move promptly toward that goal. I share with you a copy of a letter from Indiana State Representative, William Drozda, which supports these recommendations.

GARY, IND., *September 16, 1977.*

Hon. WILLIAM M. KETCHUM,
House Ways and Means Subcommittee on Social Security, Longworth Office Building, Washington, D.C.

DEAR CONGRESSMAN KETCHUM: It has come to my attention that the Ways and Means Social Security Subcommittee has tentatively voted to extend Social Security participation to all federal, state and local government civilian employees. I wish to commend your committee on this action, to encourage it to maintain this position, and to emphasize why this will mean very much to all too many State employees in Indiana.

The State employees in Indiana who will benefit most from the proposed extended Social Security coverage are those that are working full time and participate neither in Social Security nor the Indiana Public Employees' Retirement Fund. As hard as it may be to believe, there are numerous State employees in Indiana who are exactly in that predicament—They are working full time yet accruing neither federal, state, nor private retirement plan benefits.

The current Federal-State agreement between Indiana and the Social Security Administration provides that only "Temporary," "Intermittant," "Hourly Rated," "Contractual," and "Emergency" employees of the State of Indiana shall be excluded from Social Security coverage. The Indiana State Budget Agency, Public Employees' Retirement Fund and State Personnel Division have determined that "If it is anticipated that the position will require work amounting to 600 hours of work per year or less, then no FDIC contributions should be deducted," per memorandum of their offices dated 10/30/73.

In spite of the aforementioned agreement, to date there are no fewer than 13 employees of the Indiana Employment Security alone, who are working full time this year, have worked over 600 hours last year and have no retirement program at all. Please consider the future of such unprotected public employees as these when considering expansion of Social Security coverage.

If further information would be of any benefit, please contact me at (219) 884-7493. I thank you and your committee for its action to date in these matters and in closing must reemphasize the future needs of too many pensionless employees of the State of Indiana.

Sincerely,

WILLIAM DROZDA,
State Representative.

Integration of the individual staff retirement and social security systems will be an extremely difficult task, crossing jurisdictional boundaries of major committees in both the House and Senate, and involving many complex technical problems. But integration could be achieved, in an equitable manner by 1980. Discussion must develop between the appropriate subcommittees to make changes in the civil service retirement program and social security which would prevent the payment of excessive benefits and to reduce the cost of both employees and the Federal Government.

In the name of equity and fairness, and adequate total retirement income for all Americans, I respectfully request my colleagues in the House of Representatives to support universal compulsory coverage under social security and integration of private pension with social security benefits.

Mr. MIKVA. Mr. Speaker, one of the most distressing aspects of the debate over universal coverage has been the amount of misinformation surrounding the phasein of social security coverage with the various civil service retirement and disability plans. Many of us on the Social Security Subcommittee have spent as much time this past week explaining what we have not done, as what we have. I would like to take a few minutes to try to clarify this transition.

Under the bill approved last week by the subcommittee, all current and future Federal employees will be covered under social security. Current employees will be provided with quarters of coverage for work completed prior to the effective date of 1980. No work time would be lost for anyone, and benefits thus accrued would not be reduced. In short, no Federal employee will be forced to work one extra minute to make up for the time he or she has not been covered by social security. The bill specifically guarantees that Federal employees would be deemed to be insured if they die, become disabled, or retire without enough social security credits. Thus, employees both with and without credits will be protected under universal coverage.

Much of the apprehension about our action, I think, stems from the dual jurisdiction in the House over pension and disability systems and the coordination which will be necessary for an equitable integration of these retirement and disability plans. The Post Office and Civil Service Committee will have to design conforming amendments to Federal retirement plans before social security coverage can be phased in. It will take time to coordinate a fair transition, and no one on our subcommittee denies that there will be problems in doing so.

For example, there are gaps in protection for many employees who have worked under both civil service and social security retirement and disability. There is also the problem of Federal workers who retire early under civil service and take new jobs in the private sector, usually receiving substantially higher social security benefits. It is estimated that the percentage of the retired Federal employees eligible for social security may be as high as 50 percent. Clearly, it will require a great deal of skill and sensitivity in drafting transition legislation if these difficulties are to be overcome.

It is because of these problems, and not in spite of them, however, that our subcommittee has acted at this time to mandate social security coverage for Federal Government employees. We have taken this step in full knowledge of the conflicts involved, and in the belief that ours must be the committee to initiate mandatory social security coverage. We have done so under the assumption that the transition worked out by the Post Office and Civil Service Committee will be a fair and orderly one which will provide for the continuation of coverage and benefits earned by Federal employees, without doubling payroll taxes. Tax rate schedules are to be integrated in the same manner as coverage and benefits. No one should pay twice for the same coverage, and no one should be denied the protection that they have earned. Under the bill contemplated by the Social Security Subcommittee, no one will.

The transition is as simple—and complex—as that. It will take patience, courage, and hard work to phase in universal social security coverage by the 1980 effective date. It may even be that more time will be necessary to complete the transition. But we must not let complexities defeat our purpose of providing a coordinated, fair and stable retirement and disability system for all Americans. The Subcommittee on Social Security has recognized that it must act first if the process of instituting universal coverage is to begin. We ought not let misinformation about the details of integrating these plans obscure the goal of providing a fair and unified tax and benefit retirement structure.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous material:)

Mr. SARASIN, for 5 minutes, today.
Mr. QUIE, for 15 minutes, today.
Mr. GARY A. MYERS, for 5 minutes, today.
Mr. KEMP, for 5 minutes, today.
Mr. HOLLENBECK, for 5 minutes, today.
Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. GORE) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. FRASER, for 5 minutes, today.
Mr. NOLAN, for 60 minutes, today.
Mrs. CHISHOLM, for 5 minutes, today.
Mr. KOCH, for 5 minutes, today.
Mr. CARR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. QUIE, and to include extraneous

material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,369.

Mr. PICKLE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,817.50.

Mr. FOLEY, to extend his remarks in the permanent RECORD immediately prior to the vote on the adoption of the conference report on the bill S. 275.

(The following Members (at the request of Mr. MARKS), and to include extraneous matter:)

Mr. SCHULZE.
Mr. JOHN T. MYERS.
Mr. GRADISON.
Mr. CONABLE.
Mr. WALSH.
Mr. STEERS in two instances.
Mr. LAGOMARSINO in two instances.
Mr. REGULA.
Mr. VANDER JAGT.
Mr. KEMP in two instances.

(The following Members (at the request of Mr. GORE) and to include extraneous matter:)

Mr. KASTENMEIER in two instances.
Mr. MURTHA.
Mr. FLIPPO.
Mr. MCHUGH.
Mr. DANIELSON.
Mr. BAUCUS.
Ms. MIKULSKI.
Mr. TEAGUE.
Mr. SKELTON.
Mr. EILBERG in three instances.
Mr. VANIK in two instances.
Mr. RANGEL in 10 instances.
Mr. MOLLOHAN.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BRECKINRIDGE.
Mr. AUCOIN.
Mr. WAXMAN in three instances.
Mr. EDWARDS of California.
Mr. RODINO.
Mr. BONKER in two instances.
Mr. BEARD of Rhode Island.
Mr. BARNARD.
Mr. DINGELL.
Mr. DAN DANIEL.
Mr. NOLAN.
Mr. LEVITAS.
Mr. STARK.
Mr. FISHER.
Mr. WEISS.
Mr. DRINAN.
Mr. MILFORD.
Mr. NEDZI.
Mr. DODD.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1322. An act to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 23, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 1862. To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5262. To provide for continued participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes; and

H.R. 6502. To amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

ADJOURNMENT

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), the House adjourned until Wednesday, September 28, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2455. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2456. A letter from the Secretary of Health, Education, and Welfare, transmitting his views in opposition to proposed legislation relative to student loan bankruptcies (section 316 of H.R. 8200); jointly, to the Committees on Education and Labor, and the Judiciary.

2457. A letter from the Comptroller General of the United States, transmitting a report concerning how General Services could save millions of dollars annually by relocating Federal agencies into existing Government-owned property (LCD-77-314); to the Committee on Government Operations.

2458. A letter from the Comptroller General of the United States, transmitting a report concerning Government's unresponsiveness to multifamily housing real estate tax problems (CED-77-125); jointly to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

2459. A letter from the Comptroller General of the United States, transmitting a report on flexible and compressed work schedules in relation to their use in industry and State, local, and Federal governments (FPCD-77-62); jointly, to the Committees on Government Operations, Education and Labor, and Post Office and Civil Service.

2460. A letter from the Comptroller General of the United States, transmitting a report on the analysis of the prospects for developing America's vast coal resources (EMD-77-43); jointly, to the Committees on Government Operations, Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules, House Resolution 781. Resolution providing for the consideration of H.R. 9290. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 95-635). Referred to the House Calendar.

Mr. ZABLOCKI: Committee on International Relations. Report on allocation of budget totals under the second concurrent resolution of the budget for fiscal year 1978 (Rept. No. 95-636). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 8410. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act; with amendment (Rept. No. 95-637). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949 (H. Rept. 95-638). Referred to the Committee on Appropriations for period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 9324. A bill to amend title XVI of the Social Security Act to provide that an alien may not qualify for supplemental security income benefits unless he not only is a permanent resident of the United States but has also continuously resided in the United States for at least 5 years; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. KOCH, and Mr. THOMPSON):

H.R. 9325. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for certain contributions of literary, musical, or artistic compositions; to the Committee on Ways and Means.

By Mr. BURLESON of Texas:

H.R. 9326. A bill to amend the Internal Revenue Code of 1954 to repeal the passive income limitation for small business corporations; to the Committee on Ways and Means.

By Mr. DERRICK:

H.R. 9327. A bill to amend the Federal Home Loan Mortgage Corporation Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DEVINE:

H.R. 9328. A bill to amend the Regional Rail Reorganization Act of 1973 and the Department of Transportation Act to provide financial assistance, in connection with rail service assistance programs, to any State which accepts an offer of settlement from a railroad in reorganization with respect to

real property tax obligations owned by such railroad to such State; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS of California (for himself, Mr. DRINAN, and Ms. JORDAN):

H.R. 9329. A bill to revise title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Colorado:

H.R. 9330. A bill to designate the Big Blue Wilderness, Courthouse Mountain Wilderness, Dolores Peak Wilderness, Mount Sneffels Wilderness, and Mount Wilson Wilderness, San Juan and Uncompahgre National Forests in the State of Colorado; to the Committee on Interior and Insular Affairs.

By Mr. FORD of Michigan (for himself, Mr. NEDZI, Mr. CONYERS, Mr. TRAXLER, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BONIOR, and Mr. PURSELL):

H.R. 9331. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mr. FRENZEL (for himself, Mr. BURKE of Massachusetts, and Mr. RAILSBACK):

H.R. 9332. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. MEEDS (for himself, Mr. UDALL, Mr. LUJAN, Mr. RONCALIO, Mr. JOHNSON of Colorado, Mr. SANTINI, Mr. KREBS, Mr. MARLENEE, Mr. JOHNSON of California, Mr. HANSEN, Mr. BAUCUS, Mr. STUMP, Mr. DON H. CLAUSEN, and Mr. MARRIOTT):

H.R. 9333. A bill to authorize the Secretary of the Interior to construct hydroelectric powerplants and various existing water projects, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOCH (for himself, Mr. BRADEMAS, and Mr. ZEFERETTI):

H.R. 9334. A bill to amend the Public Health Service Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. BROWN of California, Mr. PHILLIP BURTON, Mr. CARNEY, Mrs. CHISHOLM, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. DOWNEY, Mr. EDWARDS of California, Ms. HOLTZMAN, Mr. KASTENMEIER, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. WAXMAN, Mr. WEISS, Mr. CHARLES H. WILSON of California, and Mr. WOLFF):

H.R. 9335. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes; to the Committee on the Judiciary.

By Mr. KOCH (for himself and Mr. DORNAN):

H.R. 9336. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for tenants of houses or apartments for their proportionate share of the real property taxes and interest paid or incurred by their landlords; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 9337. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy; to the Committee on Education and Labor.

By Mr. MILLER of Ohio (for himself, Mr. COHEN, Mr. LAGOMARSINO, Mr. CORCORAN of Illinois, Mr. DAN DANIEL, Mrs. LLOYD of Tennessee, Mr. COLLINS of Illinois, Mr. CONTE, Mr. EILBERG, Mr. HUGHES, Mr. WHITEHURST, Mr. TRAXLER, Mr. KINDNESS, Mr. HARRINGTON, Mr. EDGAR, and Mr. MOTTL):

H.R. 9338. A bill to amend title 38 of the United States Code to extend to 45 days the period between semesters, terms, or quarters during which the Administrator of Veterans' Affairs may continue to pay educational assistance or subsistence allowances to eligible veterans and eligible persons if the educational institution is closed during such period for more than one full calendar month as part of an energy conservation program or as a result of a fuel curtailment; to the Committee on Veterans' Affairs.

By Mr. MITCHELL of Maryland:

H.R. 9339. A bill to provide for the establishment of the Federal Protective Service for the protection of property under the jurisdiction of the General Services Administration, to provide for the pay and training of the members of such service, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York (for himself, Ms. MIKULSKI, Mr. DAVIS, Mr. BENJAMIN, Mr. EILBERG, Mr. YOUNG of Alaska, Ms. MEYNER, Mr. FARY, Mr. AUCOIN, Mr. DRINAN, Mr. ERTEL, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, and Mr. ZEFERETTI):

H.R. 9340. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Technology.

By Mr. MURPHY of New York (for himself, Ms. MIKULSKI, Mr. DAVIS, Mr. BENJAMIN, Mr. YOUNG of Alaska, Ms. MEYNER, Mr. FARY, Mr. AUCOIN, Mr. DRINAN, Mr. ERTEL, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, and Mr. ZEFERETTI):

H.R. 9341. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Technology.

By Mr. GARY A. MYERS (for himself, Mr. BUCHANAN, Mr. KETCHUM, Mr. MURPHY of Pennsylvania, Mr. BEVILL, Mr. TREEN, Mr. MURTHA, Mr. MITCHELL of New York, Mr. APPLEGATE, Mr. ST GERMAIN, Mr. LUNDINE, Mr. WALGREN, Mr. PURSELL, Mr. ROE, Mr. EILBERG, and Ms. MIKULSKI):

H.R. 9342. A bill to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief if the Congress disapproves such action; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 9343. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 9344. A bill to amend title 10, United States Code, to allow female members of the Armed Forces to serve in all duty assignments for which they volunteer and are otherwise qualified; to the Committee on Armed Services.

By Mr. THOMPSON (for himself, Mr. PERKINS, Mr. CLAY, Mr. MILLER of California, Mr. PHILLIP BURTON, Mr. KILDEE, Mr. BRADEMAS, Mr. FORD of Michigan, Mr. MICHAEL O. MYERS, Mr. WEISS, Mr. BIAGGI, Mr. BEARD of Rhode Island, Mr. SIMON, Mr. ZEFERETTI, and Mr. LE FANTE):

H.R. 9345. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act; to the Committee on Education and Labor.

By Mr. ULLMAN:

H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN:

H.R. 9347. A bill to amend the Tariff Schedules of the United States by repealing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself, Mr. BADILLO, Mr. BONIOR, Mr. BURKE of Florida, Mr. DOWNEY, Mr. DRINAN, Mr. EDWARDS of Oklahoma, Mr. KEMP, Mr. MCCLORY, Mr. MOAKLEY, Mr. PURSELL, Mr. RODINO, Mr. ROE, Mr. SIMON, Ms. SPELLMAN, Mr. STEERS, Mr. WAXMAN, and Mr. CHARLES WILSON of Texas):

H.R. 9348. A bill to protect predators from indiscriminate slaughter; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLFF (for himself and Mr. BINGHAM):

H.R. 9349. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself and Mr. HOLLENBECK):

H.R. 9350. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to eligible veterans and dependents; to revise the criteria for nonaccredited courses; to provide alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period; to provide for a conditional extension of the delimiting period for certain Vietnam-era veterans; to provide for the development of additional educational, employment, and readjustment assistance programs for veterans; to provide for the correction and preclusion of, and protection against, abuses and misuse of veterans benefits; and to otherwise enhance and improve the effectiveness, integrity, and utilization of veterans readjustment assistance programs; to the Committee on Veterans' Affairs.

By Mr. JACOBS (for himself, Ms. KEYS, and Mr. ZEFERETTI):

H.J. Res. 604. Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.J. Res. 605. Joint resolution to authorize and request the President to proclaim the second week in April of each year as National Medical Laboratory Week; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. HORTON, Mr. RUNNELS, Mr. DAVIS, Mr. BYRON, Mr. FLOWERS, Mr. CHAPPELL, Mr. HUBBARD, Mr. KASTEN, Mr. SATTERFIELD, Mr. BREAUX, Mr. FLYNT, Mr. CAPUTO, Mr. VOLKMER, Mr. LLOYD of California, Mr. QUILLEN, Mr. MATHIS, Mrs. LLOYD of Tennessee,

Mr. RISENHOOVER, Mr. WATKINS, Mr. COHEN, Mr. HUCKABY, Mr. IRELAND, Mr. YOUNG of Missouri, and Mr. ENGLISH):

H. Con. Res. 365. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of California:

H. Res. 782. Resolution providing for agreement to the Senate amendment to the bill H.R. 5645.

By Mr. JACOBS (for himself, Ms. KEYS, and Mr. GLICKMAN):

H. Res. 783. Resolution to amend the Rules of the House of Representatives to require that measures affecting the salaries, freebies or emoluments of Members or former Members of Congress be adopted by rollcall vote; to the Committee on Rules.

By Mr. NOLAN (for himself, Mr. GILMAN, Mr. BONIOR, Mr. WEAVER, Mr. AUCOIN, Mrs. HECKLER, Mr. ROSE, Mr. HARKIN, Mr. GUYER, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. BEDELL, Mr. SIMON, Mr. MCCLOSKEY, Mr. STEERS, Mr. BRODHEAD, Mr. DOWNEY, Mr. MOFFETT, Mr. RICHMOND, Mr. MAGUIRE, Mr. MCHUGH, Mr. BONKER, Mr. FRASER, Mr. BROWN of California, and Mr. SMITH of Iowa):

H. Res. 784. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. REUSS, Mr. HARRINGTON, Mr. ABDNOR, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. AMBRO, Mr. AMMERMAN, Mr. ANDERSON of Illinois, Mr. ASPIN, Mr. BADILLO, Mr. BALDUS, Mr. BARNARD, Mr. BAUCUS, Mr. BEARD of Rhode Island, Mr. BENJAMIN, Mr. BEVILL, Mr. BIAGGI, Mr. BINGHAM, Mr. BLANCHARD, Mr. BLOUIN, Mrs. BOGGS, and Mr. BRADEMAS:

H. Res. 785. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committee on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. BREAUX, Mr. BRECKINRIDGE, Mr. BRINKLEY, Mr. BUCHANAN, Ms. BURKE of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CAPUTO, Mr. CARNEY, Mr. CARR, Mr. CARTER, Mr. CAVANAUGH, Ms. CHISHOLM, Mr. CLAY, Mr. COCHRAN of Mississippi, Mr. COHEN, Ms. COLLINS of Illinois, Mr. CONABLE, Mr. CONTE, Mr. CONYERS, Mr. CORCORAN of Illinois, Mr. CORMAN, Mr. CORNELL, and Mr. CORNWELL):

H. Res. 786. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. COUGHLIN, Mr. D'AMOURS, Mr. DAN DANIEL, Mr. DAVIS, Mr. DELLUMS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKS, Mr. DIGGS, Mr. DODD, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EDWARDS of California, Mr. ENGLISH, Mr. ERTEL, Mr. EVANS of Georgia, Mr. EVANS of Colorado, Mr. FAUNTROY, Mr. FINDLEY, Mr. FISHER, Mr. FITHIAN, Mr. FLIPPO, and Mr. FLORIO):

H. Res. 787. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By NOLAN (for himself, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FOUNTAIN, Mr. FRENZEL, Mr. GEPHARDT, Mr. GIAIMO, Mr. GIBBONS, Mr. GINN, Mr. GLICKMAN, Mr. GORE, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HANLEY, Mr. HANNAFORD, Mr. HANSEN, Mr. HAWKINS, Mr. HEFNER, Mr. HEFTEL, Mr. HIGHTOWER, Mr. HOLLAND, Mr. HOLLENBECK, Ms. HOLTZMAN, Mr. HOWARD, and Mr. HUBBARD):

H. Res. 788. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By NOLAN (for himself, Mr. HUCKABY, Mr. HUGHES, Mr. HYDE, Mr. IRELAND, Mr. JACOBS, Mr. JENRETTE, Mr. JOHNSON of Colorado, Mr. JONES of North Carolina, Ms. JORDAN, Mr. KASTENMEIER, Mr. KEMP, Ms. KEYS, Mr. KILDEE, Mr. KINDNESS, Mr. KOCH, Mr. KOSTMAYER, Mr. KREBS, Mr. KRUEGER, Mr. LAFALCE, Mr. LEACH, Mr. LE FANTE, Mr. LEGGETT, Mr. LENT, and Mr. LEVITAS):

H. Res. 789. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. LLOYD of California, Ms. LLOYD of Tennessee, Mr. LONG of Louisiana, Mr. LUKEN, Mr. LUNDINE, Mr. MCDADE, Mr. MCEWEN, Mr. MCFALL, Mr. MADIGAN, Mr. MARKS, Mr. MARLENEE, Mr. MARTIN, Mr. MATHIS, Mr. MATTOX, Mr. MAZZOLI, Mr. METCALFE, Ms. MEYNER, Ms. MIKULSKI, Mr. MIKVA, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of New York, Mr. MITCHELL of Maryland, and Mr. MOORHEAD of Pennsylvania):

H. Res. 790. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. NATCHER, Mr. NEAL, Mr. NEDZI, Mr. NIX, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. OBEY, Mr. O'BRIEN, Mr. OTTINGER, Mr. PANETTA, Mr. PATTEN, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. PEASE, Mr. PEPPER, Mr. PERKINS, Mr. PRESSLER, Mr. PREYER, Mr. PRICE, and Mr. PRITCHARD):

H. Res. 791. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. PURSELL, Mr. QUIE, Mr. RAHALL, Mr. RINALDO, Mr. RISENHOOVER, Mr. RODINO, Mr. ROE, Mr. ROONEY, Mr. ROSENTHAL, Mr. ROSTENKOWSKI, Mr. RUNNELS, Mr. RYAN, Mr. ST GERMAIN, Mr. SANTINI, Mr. SCHEUER, Ms. SCHROEDER, Mr. SEBELIUS, Mr. SHARP, Mr. SHIPLEY, Mr. SKELTON, Mr. SOLARZ, Ms. SPELLMAN, Mr. STAGGERS, and Mr. STARK):

H. Res. 792. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

Mr. NOLAN (for himself, Mr. STOCKMAN, Mr. STOKES, Mr. STUDDS, Mr. THOMPSON, Mr. THONE, Mr. THORNTON, Mr. TRAXLER, Mr. TREEN, Mr. TRIBLE, Mr. TSONGAS, Mr. UDALL, Mr. ULLMAN, Mr. VAN DEERLIN, Mr. VENTO, Mr. WALGREN, Mr. WALSH, Mr. WEISS, Mr. WHITLEY, Mr. CHARLES WILSON of Texas, Mr. WOLFF, Mr. WON PAT, Mr. WRIGHT, Mr. ZEFERETTI, and Mr. HAMILTON):

H. Res. 793. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture and International Relations.

Mr. NOLAN (for himself, Mr. MINISH, Mr. HILLIS, Mr. MARKEY, Mr. LEDERER, Mr. WAXMAN, Mr. STANGELAND, Mr. RAILSBACK, Mr. FARY, Mr. FISHER, Mr. RONCALIO, Ms. MEYNER, Mr. PICKLE, and Mr. STRATTON):

H. Res. 794. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculure, and International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISH:

H.R. 9351. A bill for the relief of Kumari Kumudini Mahakud; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 9352. A bill for the relief of James William Dibben; to the Committee on the Judiciary.

H.R. 9353. A bill for the relief of Vincent Gagliardi; to the Committee on the Judiciary.

By Mr. EILBERG:

H. Res. 795. Resolution opposing the granting of permanent residence in the United States to certain aliens; to the Committee on the Judiciary.

H. Res. 796. Resolution opposing the granting of permanent residence in the United States to Arif Raza Zaidi Syed; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

258. By the SPEAKER: Memorial of the Legislature of the State of California, relative to bees; to the Committee on Agriculture.

259. Also, memorial of the Legislature of the State of California, relative to genetic diseases; to the Committee on Appropriations.

260. Also, memorial of the Legislature of the Territory of Guam, relative to Federal payments to Micronesians under the Micronesian Claims Act of 1971; to the Committee on Appropriations.

261. Also, memorial of the Legislature of the State of California, relative to the Sugar Pine Dam project; to the Committee on Interior and Insular Affairs.

262. Also, memorial of the Legislature of the State of California, relative to the use of flame retardant chemicals in clothing; to the Committee on Interstate and Foreign Commerce.

263. Also, memorial of the Legislature of the State of California, relative to arson; to the Committee on the Judiciary.

264. Also, memorial of the Legislature of the State of California, relative to child abduction; to the Committee on the Judiciary.

265. Also, memorial of the Legislature of the State of California, relative to illegal aliens; to the Committee on the Judiciary.

266. Also, memorial of the Legislature of the State of California, relative to uniform relocation assistance; to the Committee on Public Works and Transportation.

267. Also, memorial of the Legislature of the State of California, relative to hydrothermal powerplants; to the Committee on Science and Technology.

268. Also, memorial of the Legislature of the State of California, relative to veterans educational benefits; to the Committee on Veterans' Affairs.

269. Also, memorial of the Legislature of the State of California, relative to medicare; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

255. By the SPEAKER: Petition of the Council of State Governments, Atlanta, Ga., relative to water resources research; to the Committee on Appropriations.

256. Also, petition of the Washington Urban League, Inc., Washington, D.C., relative to the proposed Convention Center in Washington, D.C.; to the Committee on Appropriations.

257. Also, petition of Kentucky Bankers Association, Louisville, Ky., relative to congressional oversight of banking practices; to the Committee on Banking, Finance and Urban Affairs.

258. Also, petition of the Council of State Governments, Atlanta, Ga., relative to the Water Resources Planning Act; to the Committee on Interior and Insular Affairs.

259. Also, petition of the Council of State Governments, Atlanta, Ga., relative to coastal zone management; to the Committee on Merchant Marine and Fisheries.

260. Also, petition of the council of the county of Maui, Wailuku, Hawaii, relative to Federal subsidies of American Merchant Marine ships; to the Committee on Merchant Marine and Fisheries.

261. Also, petition of the Council of State Governments, Atlanta, Ga., relative to water pollution; to the Committee on Public Works and Transportation.

262. Also, petition of the North Carolina State Coordinating Committee for International Women's Year, Raleigh, N.C., relative to displaced homemakers; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce, and Ways and Means.

SENATE—*Tuesday, September 27, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Right Reverend John T. Walker, bishop of the Diocese of Washington, Protestant Episcopal Church, offered the following prayer:

Let us pray:

We thank You, Almighty God, for having given into our trust a land so well endowed with resources of the Earth and so rich in human talent. Grant us to be faithful stewards of that trust. Give vision to those who serve this people in government. May Your divine spirit, the spirit of truth, of love, and of justice keep them from all falsehood and corruption; may it keep them free of malice and hate and may it guide them into the ways of mercy and of peace. We pray that our people may have courage to stand fast, upholding those principles upon which this Nation was founded. We pray always to the honor and glory of Your name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., Sept. 27, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, September 26, 1977, be approved.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

REQUEST FOR CONVENING HOUR THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes daily this week through Saturday, it convene at the hour of 9 o'clock a.m. following a recess.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. ALLEN. Yes, I am glad to.

REQUEST FOR TIME LIMITATION ON VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes today be 10-minute rollcall votes.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, on Friday, September 16, 1977, I discussed in some detail the major cash benefits which would flow to the Government of Panama should the Senate ratify the proposed Panama Canal Treaty. I relied heavily on an analysis of treaty benefits by the Panamanian Planning and Economic Policy Minister, Nicolas Arditto Barleta, given on August 19, 1977, to the National Assembly of Panama in Panama City. Minister Barleta stated to the National Assembly that cash benefits accruing to Panama under the treaty would total some $2.262 billion in 1977 dollars, for an average annual payment of approximately $190 million, during the term of the proposed treaties.

The major treaty I have reference to would turn full control of the canal over to Panama in the year 2000.

At the time I made my remarks on Minister Barleta's analysis of the expected cash flow from the proposed treaty, I advised the Senate that I would subsequently discuss the relationship of this projected cash flow to the enormous loans which have been made by the large multinational banks to Panama and which are in danger of default. The fact is, Mr. President, that the treaty income that the military dictatorship in Panama hopes to exact from U.S. taxpayers and from the users of the canal would be spent not to upgrade the position of the Panamanian worker, but rather to refinance or pay off these existing tremendous debts owed to the big international banks.

Some time ago, at my request, the Economics Division at the Library of Congress researched the claims of the foreign and domestic branches of U.S. banks against Panamanian borrowers. The Library of Congress reported an astonishing total of $2.77 billion in claims on Panama by U.S. banks and their foreign branches alone, and I should point out, Mr. President, that this $2.77 billion in claims does not—does not—take into ac-

count similar claims by major European and Japanese multinational lenders.

To be sure, much Panamanian borrowing is in the private sector—no doubt also substantial personal loans have been extended to members of the elitist Panamanian regime—but of U.S. total claims of $2.77 billion, a minimum of $1.4085 billion is public sector borrowing, and I am reliably advised that this figure has grown over recent months to a conservatively estimated $1.7 billion in public sector borrowing. How did Panama raise this kind of cash? What collateral was pledged for this enormous debt? A clue is found in a particularly perceptive passage from the recent staff report of the Committee on Foreign Relations entitled "International Debt, the Banks, and U.S. Foreign Policy." I quote:

The question arises of how prudent the banks have been in their lending, how thorough their assessment of the credit worthiness of individual borrowers. In light of the general lack of accurate data on the external debt situation of many countries, it is hard to see how their evaluations of sovereign risk can be very precise. Has the profitability of this activity blinded them to the underlying risks? Or has the banks' willingness to lend to foreign countries for balance of payments purposes been premised on the unstated assumption that in the event of a real debt repayment crisis, the governments of the wealthy industrial countries will have to come to the rescue because they cannot afford to see either the debtor countries or their own large banking institutions go under?

In my judgment, the answers to the questions posed should be obvious to us all.

So, Mr. President, although it is virtually impossible to obtain completely accurate data on the debt position of the Government of Panama, a fact recognized by the Foreign Relations staff report, my own study of this matter convinces me that Panama is in the midst of a serious financial crisis, if not on the brink of bankruptcy. This pending insolvency of Panama should be especially obvious to the big U.S. banks which are clearly overlent to Panama, and indeed the multinational banks must all see the clear danger that the Government of Panama could soon default on very substantial loans now coming due—unless, of course, the U.S. taxpayer puts up the cash or unless the Panama Canal, with its substantial revenues, is handed over. We are, in this case, being asked to do both.

As I said, Mr. President, the multinational bankers like to shroud their affairs in a cloud of mystery, making it accordingly quite difficult to keep tabs on international banking transactions, but again, the Panamanians have helpfully supplied us with a memorandum from Minister Barleta to the President of Panama, Demetrio B. Lakas—Mr. Torrijos is the dictator, but they do have a nominal President, Mr. Lakas—in which financial perspectives for Panama for 1977 are outlined in grim, but presumably accurate, detail. Minister Barleta advises President Lakas that commitments of an obligatory nature in the Panamanian budget include:

Between B/42.3 million—

A Balboa is the equivalent of the dollar in Panama. It has the same value as the American dollar. It is tied to the American dollar.

Between B/42.3 million to B/42.7 million for servicing the foreign debt which will increase from between B/87.5 million to B/129.8 million or B/130.2 million in 1977, depending on whether or not the economy recuperates during the last semester. Interest will increase from between B/24.8 million or B/25.2 million, depending on the above observation, while the amortizations will be increased by B/17.5 million. Due to the tendency required to service the foreign debt, its ratio in respect to current revenue increases from 29.6 percent to between 38.2 percent and 39.0 percent which significantly deteriorates our capacity for further indebtedness.

That is Minister Barleta advising President Lakas of Panama.

If we in this country pay some $42 billion in interest on our national debt, it is only approximately 10 percent of our current Federal income. The interest on the Panamanian debt is going to jump up to about 38 or 39 percent of their total revenue. So we see the horrible financial straits they are in. The only thing that can save them and, secondarily, the big international banks is to have this Panama Canal Treaty approved.

I do not believe it is in the interest of the American taxpayer to hand over the canal to Panama in order that they can pay back the international banks.

Mr. President, these figures are truly incredible. This small country of 1.7 million people is already obligating up to 39 percent of its current revenues to foreign debt service. These multinational banks have got their hooks into Panama pretty solidly, and one can well imagine the dilemma facing the Government of Panama and can certainly understand the Panamanian dictator's frantic desire to shake down the Panama Canal Company for quiet money to satisfy these international bankers.

But, Mr. President, Minister Barleta's memorandum to President Lakas contains other information which ought to be carefully considered by the Senate. Minister Barleta states:

The global (annual) deficit (of Panama) will be between B/ 131.9 million and B/ 138.7 million, depending on how well the economy recuperates during the second semester of 1977. To finance this deficit we will require B/ 15.6 million from the Venezuelan Investment Fund, B/ 5.0 million in Internal Bonds, and from B/ 111.3 million to B/ 118.7 million from the private banks.

So we can see the desperate straits that Panama is in.

Mr. President, I do not know whether this latest B/ 118.7 million from the private banks has yet been obtained, but I understand that a consortium of banks did extend an additional $150 million in loans to Panama about the time it became obvious that the executive department of the United States was serious about pressing for the conclusion of a proposed treaty and a cash bailout of the Government of Panama. So one of the chief parties in interest in this whole proceeding is the group of international banks. They stand to gain by this more than anybody else, possibly.

Minister Barleta continues in this fashion:

We feel it will be extremely difficult to syndicate loans with the commercial banks in the amounts previously mentioned, taking into account that during the present fiscal period we must contract for a total of B/ 323.6 million with those sources, who in turn have become more demanding each time that an accord has to be finalized. Besides, the relation between servicing the debt and current revenues of between 38.9 percent and 39 percent suggest a deteriorated capacity to service this debt and thus will increase the risk as realized by the lending institutions.

We should remember, Mr. President, that these remarks are in a memorandum which predates by some months the conclusion of the proposed treaty, and I note particularly that Minister Barleta refers to commercial banks becoming "more demanding each time that an accord has to be finalized." I do not think there should be any doubt in anyone's mind what accord Barleta has in mind. He is talking about this treaty, Mr. President. He is talking about this document signed a few weeks ago amid such fanfare down there at the OAS and at the White House.

So, Mr. President, what we have is a relatively small country down there of some 1.7 million inhabitants—about half the size of my native State of Alabama—a spendthrift dictatorial government, and multinational banks demanding payment. What we have gotten proposed to us as a solution to their problems is apparently the Panama Canal Treaty. The banks get their money, the Panamanians get the canal, the Canal Zone, and the American people get to hold the bag. That is what the whole situation boils down to.

Again, Mr. President, Minister Barleta expresses the problem quite succinctly:

. . . In short, 1977 lines up as extremely delicate due as much to current expenses increasing more than current revenues, as well as to the amount and structure of the new financing that must be contracted which reaches the limits available to the Nation as such.

Yes, 1977 does line up as an extremely delicate year for Panama and for the United States and for the big banks. But, Mr. President, the U.S. Senate cannot permit the interests of these multinational banks to outweigh the critical and special national interest of our own people.

Perhaps methods of assisting this destitute Panamanian Government should be explored, notwithstanding the repressive and repugnant character of the present dictator, but in no event should the United States give economic aid to Panama in a form which damages the security of our country and, indeed, the entire free world. If we must bail out these banks, can we not find some other method of rendering assistance? The stability of these banks, to be sure, is important to us all, but surely we ought not permit the dismantling of our own country in order to satisfy their insatiable appetite for profit.

Mr. President, I ask unanimous consent that the memorandum of Minister

Barleta, together with a related memorandum of the U.S. Embassy in Panama and two reports from the Congressional Research Service of the Library of Congress dated July 21, 1977, and July 28, 1977, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 21 1977.

To: Subcommittee on Separation of Powers,
Attention: Quentin Crommelin.
From: Economics Division.
Subject: U.S. Commercial Bank Loans to the Government of Panama.

As we have discussed on the telephone, we are enclosing photocopies of different materials pertinent to the above-mentioned subject. There is a statement by Henry C. Wallich, Member, Board of Governors of the Federal Reserve System, dated March 23, 1977, to the House Subcommittee on Financial Institutions of the Committee on Banking, Finance and Urban Affairs, which includes a table on claims of U.S. banks on various foreign countries, including Panama.

We have also included a June 3, 1977 Federal Reserve press release which has tables on U.S. bank claims on selected foreign countries in 1976. Panama is included in the section on offshore banking centers on page 5 of the tables.

Another source in the Federal Reserve indicated that foreign branches of U.S. banks had claims of $1.886 billion on Panama at the end of 1976, while the March 1977 Treasury Bulletin indicated that domestic offices of U.S. banks had $886 million in short and long-term claims against Panama as of that date. Of this amount, only 13% were long-term claims. Adding the two figures results in $2.772 billion in claims on Panama by U.S. banks and their foreign branches. This appears to be the number used by Governor Wallich in the attachment to his statement.

We are also including a photocopy of the World Debt Tables, Volume II, p. 117, which shows the external public debt position of Panama. Unfortunately, the table includes data only up through 1974. Conversation with a World Bank official revealed that 1975 and 1976 figures are in the process of compilation and some results are expected by the end of next week.

If you would like further assistance on this matter, please do not hesitate to contact us on 426-5750.

DAVID HOYT,
Analyst in Banking and Capital Markets.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 28, 1977.

To: Senate Judiciary Committee, Subcommittee on Separation of Powers.
From: Economic Division.
Subject: Further information on loans to Panama.

As we have discussed on the telephone, we have been able to gain some further information on the availability of data on U.S. bank loans to the Government of Panama.

In conversation with a Federal Reserve official, it was learned that they do not have information available which gives a distinction by type of borrower for foreign loans from U.S. banks. They do have a figure for borrowing by banks and official institutions in Panama from the head office of a U.S. bank. This figure, however, is not available over the telephone and is obtainable only "through normal channels". Information on loans made from individual U.S. banks is, in some instances, known by the Federal Reserve, but is regarded as confidential information and was not released to us.

The World Bank provided us with some preliminary data on the external debt of the entire Panamanian public sector. At the end of 1975, loans outstanding and actually disbursed by foreigners to Panama totaled $767.9 million with $58.7 million accounted for by Panamanian branches or offices of private, foreign-owned banks. The corresponding figures for 1976 were $1.0909 billion and $129.4 million. The 1976 figure for Panamanian public sector borrowing, disbursed or undisbursed was $1.4085 billion.

DAVID HOYT,
Analyst in Banking and Capital Markets.

MEMORANDUM

To: Eng. Demetrio B. Lakas, President of the Republic, Presidency of the Republic.
From: Nicolas Arditto Barleta, Planification Minister.
Matter: Financial perspectives for 1977.

The purpose of this Memorandum is to call attention to the financial basis upon which will be defined the budget policy of 1977 thus permitting to show the pertinent limitations that are being detected in this year's budget.

(a) The current revenues should increase between B/ 43.6 million and B/ 44.2 million with respect to this year's revised income figures thus reaching totals of B/ 339.7 million or B/ 333.3 million; dependent on whether or not there is a recuperation in the economic activity during the last six months of this year.

(b) The increase in current revenues assumes an economic upturn of 3 percent and an inflation rate of 5 percent throughout 1976.

(c) It also assumes a B/ 21.0 million package increase of taxes which should not interfere significantly in the desired economic recuperation process.

(d) The technical group involved in this evaluation has concluded that the following are the tributary measures that would fill the above requirements:

A consumer tax designed in such a manner as to minimize its effect on prices and on lower income groups. This type of taxation tends to divert private expenditure towards investments, thus stimulating economic development.

Reform import duties in order to replace specific value taxes by value added duties. This measure will adjust the increase of tax income to the increased cost of imported goods, and will thus help to stimulate internal production.

Limit the tax deduction permitted on interest paid for mortgage loans used to buy homes for one's personal use.

Consolidate the progressive tax structure for corporations into one tax rate in order to avoid the use of numerous companies to lower the effective tax rate.

(e) At the same time, operational expenses are estimated to increase from between B/ 50.3 million and B/ 50.7 million and will reach totals of B/ 340.6 million or B/ 341.0 million, depending on how the economy is reactivated during the second semester of this year.

(f) The fact that the increase in revenues will be inferior to the increase in expenses suggest that there will virtually be no new recourses to augment the coverage of public services.

(g) The significance of the rigidity to which the new budget elaboration will be subjected will be understood when one observes that only B/ 3.1 million will correspond to net reincorporations of previously frozen expenditures, while the remaining B/ 47.2 million correspond to commitments of an obligatory nature.

(h) These commitments of an obligatory nature can be broken down in the following manner:

(1) From between B/ 42.3 million to B/ 42.7 million for servicing the foreign debt which will increase from between B/ 87.5 million to B/ 129.8 million or B/ 130.2 million in 1977, depending on whether or not the economy recuperates during the last semester. Interest will increase from between B/ 24.8 million or B/ 25.2 million, depending on the above observation, while the amortizations will be increased by B/ 17.5 million. Due to the tendency required to service the foreign debt, its ratio in respect to current revenue increases from 29.6 percent to between 38.2 percent and 39.0 percent which significantly deteriorates our capacity for further indebtedness.

(2) B/ 2.3 million of the amortization of salaries are for:

Education—B/ 1.4 million.
Health—0.4 million.
Housing—0.1 million.
Other institutions—0.4 million.

(3) B/ 1.3 million of current transferences which reflex the increase in subsidy to the National University, the payment of Balboa notes subscribed to BID and the increased consumption of water.

(4) E/ 0.4 million in salary increases to:

Health—0.3 million.
Government and Justice, Labor—.
Presidency—0.1 million.

(5) B/ 0.3 million for the XIII the month of public functionaries.

(6) B/ 0.2 million for inclusion in the MIDA budget for personnel frozen in its investment portion of said budget and for the hiring of new auditors for the Finance Ministry.

(7) B/ 0.4 million in order to bolster the supply budget of the Health Ministry and other compulsory expenditures.

(i) Since, for the above reasons, all other expenses must be maintained at the budgeted fiscal 1976 level, it is convenient to eliminate from the budgeting process all programmed budgeting meetings in order that the respective institutions and our analyst can dedicate the most amount of their time possible to formulate, evaluate and turn in punctually their budget by program.

(j) As to the Central Government contribution towards the public investment program, we calculate that it will be B/ 78.0 million which represents an increase of B/ 18.0 million over B/ 60.0 million that is estimated will have been contributed this year.

(k) As a result, the global deficit will be between B/ 131.9 million and B/ 138.7 million, depending on how well the economy recuperates during the second semester.

(l) To finance this deficit we will require B/ 15.6 million from the Venezuelan Investment Fund B/ 5.0 million in Internal Bonds, and from B/ 111.3 million to B/ 118.7 million from the private banks.

(m) Thus, the amounts that must be financed as well as the amounts that must be obtained, create very concrete problems which in turn reiterate the need to increase expenses and investments only in those areas of an obligatory nature and to dedicate the most of time possible to the conscientious elaboration of a budget by programs in order to execute the largest possible amount of services required by our society with the scarce resources that are available.

(n) On the one side, the required new financing of between B/131.9 million and B/138.7 million implies that there will be pressure on the liquidity and solvency of the National Bank which must provide the Central Government the monetary resources while the 3 previously mentioned financial operations can be formalized, all of which should take at least four months. During this period, the National Bank will have to recur to its lines of credit as well as to its internal reserves which have been practically saturated during the present year by having to finance the global deficit of B/99.3 million which in turn is between B/32.6 million and

B/39.4 million less than what has been estimated for 1977.

(n) On the other hand, we feel it will be extremely difficult to syndicate loans with the commercial banks in the amounts previously mentioned, taking into account that during the present fiscal period we must contract for a total of B/323.6 million with those sources, who in turn have become more demanding each time that an accord has to be finalized. Besides, the relation between servicing the debt and current revenues of between 38.9% and 39% suggest a deteriorated capacity to service this debt and thus will increase the risk as realized by the leading institutions.

(o) In short, 1977 lines up as extremely delicate due as much to current expenses increasing more than current revenues, as well as to the amount and structure of the new financing that must be contracted which reaches the limits available to the Nation as such.

(p) As a result of the above, I respectfully request your backing in eliminating the budgeting meetings and in demanding from the institutions that they pay the most attention to formulating and elaborating a budget by program. Also, I ratify the need for you to back the approval and execution of the taxing measures that we have presented for your consideration, once that we have finalized the pertinent studies.

With by highest consideration and appreciation.

EXHIBIT 4

(Sent by United States Embassy in Panama to the State Department on Oct. 26, 1970)

Tags: ECON, EFIN.

Subject: Panama's recession is structural—a result of low productivity.

1. This message is part of a continuing series of mission economic studies of the State of the Panamanian economy and projections for its future.

2. Summary: Panama's recession, which deepened during the first half of 1976, is neither cyclical nor primarily a product of economic conditions outside Panama. In our view the economy is floundering mainly because its high cost output is not competitive in the world market and few opportunities exist for available private investment. To establish a basis for renewed sustainable growth will require actions that lead to lower costs and improved productivity. These could include easing the labor code, reducing subsidies, boosting domestic savings, and directing resource flows more toward the international service sector where Panama has natural advantages, however, most such actions would cut back social benefits granted to the working classes under the "revolution", and might not be politically acceptable under the present government, inflows of foreign capital have not been getting at the core problem of high costs (low productivity). Lack of access to relevant Canal Zone sites is delaying GOP development of infrastructure which is prerequisite to the growth of various commercial services industries by the Panamanian private sector. End summary.

3. Economic conditions in Panama worsened steadily during the 1976 first half. There were decreases from a year ago in key indicators—manufacturing, construction, external trade, unemployment, (increase), and sales to the Canal Zone (see reftel), overall growth is likely to be near zero for 1976.

4. Failure of the economy to respond to a variety of stimulants indicates that the recession is more than a cyclical maladjustment. Credit has remained relatively plentiful, with preferential rates available from the government for both agricultural and industrial projects. There are tax subsidies for new exports, and tax benefits for reinvested profits. No basic changes have been made in the "rules of the game" under which business operates, such as the labor code or tax laws, since before the onset of recession, in fact, the GOP in recent months has actively sought by various direct means to improve the business climate. A large boost in 1975 public sector spending had little effect on either private investment or aggregate demand.

5. Also, Panamanian economic problems do not seem to be caused primarily by worldwide economic trends or world trade. In contrast to Panama's continuing decline, other developing countries (LDC's) have been experiencing a quickening economic tempo so far this year in response to rapid recovery by the industrialized countries, plus some correction of structural maladjustments, LDC exports have been generally increasing as a part of the marked improvement in 1976 first half world trade (plus 10 percent) while the value of Panamanian exports remained at its 1975 level (excluding an abnormal decline in petroleum products exports), changes in Panama's economy also differed from the worldwide pattern both during the 1974–75 world recession and the years immediately preceding it. Despite sharp 1974–75 recession among the industrialized countries (zero growth), LDC's, gross domestic product (GDP) increased 5.5 percent in 1974 and 1.7 percent in 1975. Growth had begun tapering off in 1971 whereas during 1971–73 the rest of the world including Latin America experienced unprecedented boom.

6. Private investment in Panama reached a peak in 1971. Growth in manufacturing began to fall off in 1971 with a decline in the number of attractive import substitution possibilities, little increase has subsequently taken place in the volume of manufactured exports, output of both construction materials and intermediate goods stopped expending in 1973. Expansion of construction activity began slowing in 1972 and has actually been declining since 1974. Imposition of rent controls in 1973 brought private investment in low cost housing to a standstill. On the other hand, growth of the important services sector remained near 8 percent annually through 1974 (plus 3 percent in 1975) due in part to the major expansion of the foreign banking sector since 1971, growth in agricultural output has remained sluggish since 1970 at about 3 percent annually, much slower than during the 1960's.

7. Panama's basic economic weakness in our view and the reason behind current stagnation is its non-competitiveness in the world market—a structural problem involving primarily high cost production (coupled with a lack of resources) in both agriculture and industry. The export potential for Panamanian agriculture is extremely limited at present, the main exports, bananas, is in the hands of foreign plantation operators, and has probably reached its peak in an increasingly competitive world market. In general land is of poor quality and farm labor costs are high—the $3 per day minimum wage is estimated to be at least double the rate anywhere else in Central America. The government encourages high cost production, including rice, the principal crop, by subsidizing producers through support prices typically set above the world market. Thus, Panama cannot profitably export major crops such as rice and corn and is further precluded from developing any profitable export potential for various lesser crops by the small domestic market base in Panama. Accessible forests have been cut over and there is little potential for meat exports while access to the U.S. market is restricted. Panama's sugar industry is likewise non-competitive due to high costs of both cane production and refining operations.

8. As with agriculture, Panama's manufacturing industry currently has little export or overall growth potential because of high production costs coupled with a dearth of natural resources (copper deposits have not yet been determined to be economically exploitable). Minimum wages and the general wage and benefit structure in Panama are estimated to be the highest in Central America and among the highest in all Latin America. Higher wages and benefits in the Canal Zone exert upward pressure on wages in the republic as employers compete for the generally better qualified workers attracted by Zone wages. The dominance of the service sector in Panama's central urban areas with its higher skill levels also creates upward pressure on the entire wage and benefit structure. Employee benefits under Panama's labor code add to direct employment costs. The code exerts indirect pressures on costs through subsidies such as firing restrictions imposed on employers and, by strengthening the trade union movement, bolsters the trend toward costlier contract settlements. High labor costs encourage the substitution of capital for labor, thus boosting structural unemployment throughout the economy. Also, relative capital costs—mostly foreign sourced—are likely to rise as Panama's already high debt service burden worsens and the economic outlook for other LDC's improves relative to Panama.

9. Establishing the basis for renewed growth and improved economic well being that can be sustained will require actions that lead to a lower cost structure. One widely discussed possibility is an easing of the labor code, although its real impact on costs remains uncertain (it did not bring on recession although it may have stood in the way of needed private sector adjustments). Changes probably would not induce an immediate surge of private investment, however, the business community has made clear its conviction that changes are essential, giving them an additional psychological importance that bears importantly on the general investment climate. Changes might be a convincing sign of GOP concern over the private sector's economic plight.

10. Appropriate belt tightening also could include lowering subsidies as well as the wage benefit structure to reduce relative production costs, and increasing personal taxes to curb consumption (particularly imports) and expand domestic savings. These effects are usually achieved indirectly by currency devaluation. Since Panama's currency is the U.S. dollar, such actions must be taken directly; in addition, resources may need to be more heavily concentrated in the internationally-based services sector where Panama has more natural advantages, with proportionately less in agriculture and the nonproductive social sectors.

11. Comments:

(A) Panama's high wages, subsidies, and consumer imports—together with a moderate tax burden and little public saving—permit a standard of living which no longer appears to be supportable by Panama's inefficient domestic production.

(B) Increased external financial flows per se, regardless of concessionality, permit Panama to defer grappling with the core problem of low productivity until a later date when the problem will probably have worsened, unless such financing bears specifically on some aspect of costs. Indeed, much of the capital inflow of the past three years has aggravated Panama's economic malaise by exacerbating its debt service burden without enhancing overall productivity. Moreover, total inflows greatly exceeded the current account deficit of Panama's balance of payments, resulting in large negative "errors and omissions" (around $100 million annually) most of which probably represented outflows of domestically-owned capital.

(C) The types of actions mentioned above for addressing Panama's high cost structure run headlong into the "revolution"—the social and economic benefits granted to the urban and rural working classes over the past eight years which would need to be reversed in part—in short, the "revolution" has collided with growth and one or the other must yield; whether or not actions of sufficient scope to be economically meaningful along the above lines are politically possible for the present government is questionable.

(D) Panama's best economic prospects lie in the development of its potential as a sub for servicing international commerce, various aspects of cargo handling are an essential part of the picture. Thus, the GOP has a valid case in urging early access to relevant canal zone sites needed to develop the infrastructure on which growth of various transport, storage and other commercial services depend.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 5 minutes of my regular time that I turned back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, what was the request?

Mr. ROBERT C. BYRD. I turned back my time under the order and I asked unanimous consent to receive 5 minutes of it back.

Mr. ABOUREZK. May I ask the leader is it for the purpose of speaking or does he have any motions or amendments in mind he wants to make during those 5 minutes?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 5 minutes of the time which was allotted me under the order, and which I very thoughtfully and in consideration of the time of the Senate yielded back.

Mr. ABOUREZK. Reserving the right to object——

The ACTING PRESIDENT pro tempore. I have already ruled.

Mr. ABOUREZK. Well, Mr. President——

Mr. ROBERT C. BYRD. The Senator did reserve the right to object.

The ACTING PRESIDENT pro tempore. After the Chair ruled.

Mr. ABOUREZK. I do not have any objection. He has the right to have 5 minutes. But is it going to be counted against his hour?

Mr. ROBERT C. BYRD. No, it would not be.

The ACTING PRESIDENT pro tempore. It would not be counted.

Mr. ABOUREZK. I have no objection.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that on all rollcall votes today there be a 10-minute limitation.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on every day this week through Friday that it stand in recess until the hour of 9 a.m. daily through Saturday.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. The bill, S. 2104, and the pending amendments are automatically before the Senate. The question is on the appeal by the Senator from Ohio (Mr. METZENBAUM) from the ruling of the Chair that amendment 994 was not in order. The appeal is not debatable, and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. METZENBAUM. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the appeal.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. ABOUREZK. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 73, nays 6, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—73

Allen	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Hollings	Sasser
Cannon	Huddleston	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Sparkman
Church	Javits	Stennis
Culver	Kennedy	Stevens
Curtis	Laxalt	Stevenson
Danforth	Leahy	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	Magnuson	Tower
Durkin	McGovern	Wallop
Eagleton	Meicher	Weicker
Ford	Metzenbaum	Young
Garn	Morgan	Zorinsky
	Muskie	

NAYS—6

Abourezk	Brooke	McIntyre
Bayh	Hart	Riegle

NOT VOTING—21

Anderson	Hayakawa	Metcalf
Case	Humphrey	Moynihan
Clark	Johnston	Randolph
Cranston	Mathias	Sarbanes
Eastland	Matsunaga	Scott
Gravel	McClellan	Stafford
Haskell	McClure	Williams

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senate?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, is this time being charged against my 60 minutes?

The ACTING PRESIDENT pro tempore. Not until the Senator begins to debate.

Mr. ROBERT C. BYRD. Mr. President, I think that I owe it to the Senate to state what the situation is, as best I can see it, so that Senators will know what the Senate, as a body is up against.

Today is our eighth day of deliberations on the pending natural gas pricing bill. The leadership waited 5 days before it presented the first cloture motion, feeling that it was best not to enter a cloture motion until Senators had had adequate time to debate this very controversial and important measure.

On yesterday the Senate overwhelm-

ingly voted to invoke cloture, so as to put an end to unlimited debate. The Senate had worked hard all of this year in an effort to diligently transact the public's business. The leadership on both sides of the aisle, the joint leadership of the two Houses, and the President of the United States joined early in the session in setting a tentative target date of October 8 to complete our work.

Obviously we cannot now complete our work by October 8. The bill that is before the Senate is one of the most important components of the President's comprehensive national energy policy. The Senate has a duty to work its will on this legislation, to amend it, to modify it if the Senate wishes—but to work its will. I said months ago that the President's package was not thought of by anyone, even the President himself, as something sacrosanct, that could not be changed, or that ought not to be changed, or that could not be improved; and the Senate has proceeded, in a deliberative fashion to study the various parts of the package. That is our duty as Senators.

We are under no obligation to rubber-stamp anything that the President sends up here, and the President does not expect that. The Senate is an independent body and I, for one, am not persuaded by any comments from the outside, from any source, on this bill or on any other bill. The Senate should work its own will and exercise its independent judgment, regardless of what comments may come from the outside, and from what source.

But the Senate has a duty ultimately to reach a decision. We have spent 7 days already.

I respect the right of Senators strongly opposed to the bill, to try to get the bill amended. I respect the right of any Senator to utilize the rules of the Senate. They are there for every Senator. But there comes a time when even the rules can be abused, and I say this without casting any aspersions on any Senator.

Yesterday, there were 18 rollcall votes, not counting the vote on the treaties. That is a total of 270 minutes spent on rollcall votes alone. Yesterday, 1 hour and 6 minutes were utilized on quorum calls. That is 66 minutes, which, when added to the 270 minutes, reaches a total of 336 minutes, or 5 hours and 36 minutes of your time—the time of every Senator here—5 hours and 36 minutes utilized in doing nothing but having quorum calls and rollcall votes.

A Senator is entitled to a rollcall vote on a matter if one-fifth of the Senators present sustain his request. But obviously the Senate cannot go on in the face of what we were confronted with yesterday. When cloture was invoked yesterday, I stated that there were somewhere between 300 and 400 amendments at the desk. Actually, there were 508 amendments at the desk at that time.

I have heard it said that every amendment will be called up, and I have heard it said that the Senate will go on for weeks. I have heard it said that we may go on for 3 months.

My hope is that Senators will understand what is going on, and that Senators will try to accommodate the Senate, call up their serious amendments, debate them, have a vote on them, let the Senate work its will, and pass a bill and send it to conference.

After this bill, there is the utility rate reform. After that bill there is the energy tax bill that comes out of Senator LONG's Finance Committee. There are other measures that have to be passed before we go out: extension of the debt limit, minimum wage, District of Columbia appropriations, supplemental appropriations, various conference reports, and so on.

Every day of delay, delay, delay for the purpose of delay, delay, delay is not helping the Senate to reach its decision. It is imposing upon the Senate itself, and is not getting the business of the public done.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. If the distinguished Senator will allow me to complete my statement I shall be glad to yield.

We are now in a cloture situation. What is the purpose of cloture? The purpose of cloture is to shut off unlimited debate, allow the Senate to move more quickly toward a final decision, to expedite the business of the Senate. So the rules that might be utilized in the normal course of things are not exactly the same rules and precedents that govern our actions when the Senate has invoked cloture. Under the cloture rule, no dilatory motion or dilatory amendment or amendment not germane shall be in order.

What does "dilatory" mean? "Dilatory," when the Senate is not operating under cloture, means something far different from what the word "dilatory," means when the Senate is working under cloture. When the Senate is under cloture, under a mandate by three-fifths of the Senate—and, in this case, under a mandate of more than three-fourths of the Senate—to get on with the business and to promptly get that business transacted, "dilatory" means to ask, what is the intent of the Senator who is making the motion or offering the amendment? What is his intent? Is it a serious amendment or motion and offered with serious intent and in good faith, or is its purpose merely to delay or obstruct the Senate in working its will?

The Senate is in the best position to interpret that intent—based on the circumstances at a given time.

I hope the Senate will be prepared, if what we saw yesterday continues through today, to spend the night and to spend more than one night, if necessary, to get final action on this bill. I am not willing to see the Senate, while it is on trial—and that word has been said so often that it is hackneyed, but it is on trial—I am not willing to see the Senate prevented by dilatory actions from reaching a final decision on the bill. So I urge all Senators, if it is at all possible, to stay on the floor and let us have a majority, if we can, of Senators on the floor at all times so that, if we have to have quorum calls, a quorum can be quickly established and we shall save time.

I urge Senators to think about this carefully and give the Senate the utmost of cooperation, give the managers of the legislation cooperation, and be mindful that the longer the quorum calls last, the more the Senate will be delayed in reaching a final decision on this issue.

Mr. LONG. Will the Senator yield?

Mr. ABOUREZK addressed the Chair.

Mr. BAKER addressed the Chair.

Mr. LONG. Will the Senator yield to me?

Mr. ABOUREZK. He cannot yield under this cloture situation.

Mr. LONG. He can yield for a question.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. Mr. President, I am yielding for a question.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has the floor and he may yield for a question.

Mr. LONG. I would like to ask the Senator if he does not realize that the Senate voted on yesterday to say, by an overwhelming vote, that clearly we have a quorum present. Anybody can look here and see that we have two-thirds of the Senators present.

Mr. ABOUREZK. Mr. President, is that a question?

Mr. LONG. Where there is clearly a quorum present, it is dilatory to suggest the absence of a quorum with a quorum sitting here. Is the Senator aware of that?

Mr. ROBERT C. BYRD. I agree, in certain instances that would be the case.

Mr. BAKER addressed the Chair.

Mr. LONG. When we have cloture invoked, is it not correct that we must assume that there is a filibuster going on and that there is an effort being made to delay?

Mr. ROBERT C. BYRD. Yes, I think the Senate reached that conclusion yesterday.

Mr. LONG. Under those circumstances, is it not within the power of the Senate to simply agree among the Senate that where an amendment, in the judgment of the Senators, is dilatory and where his tactics are dilatory and known to be so, we are simply not going to second the motion for the yeas and nays?

Mr. ROBERT C. BYRD. I hope that would be the case.

I now yield to the distinguished minority leader for a question.

Mr. BAKER. Mr. President, I seek recognition in my own right.

Mr. ROBERT C. BYRD. Before I yield, then, Mr. President, I ask unanimous consent that, when the Senate completes its business daily, this week, it stand in recess until the hour of 9 a.m. each morning through Saturday.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow morning.

Mr. ABOUREZK. I object.

Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. I do not lose the floor by virtue of asking unanimous consent.

Mr. ABOUREZK. I submit that he does.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes today be limited to 10 minutes.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, this is the third time today I have made each of these unanimous-consent requests and they have been objected to in each instance.

Mr. ABOUREZK addressed the Chair.

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ABOUREZK. Will the Senator from Tennessee yield briefly so I may make a response?

Mr. BAKER. No, Mr. President, I cannot. I have some remarks to make in connection with the remarks of the Senator from West Virginia and I want to save this time for that purpose.

Mr. President, this is really a difficult stuation for the Senate. I have been here almost 11 years now, which is very junior in terms of the service of many others who are present on the floor at this time. This is the first time that I have seen the prospect that the Senate might indeed be in session all night long, possibly more than one night. Mr. President, it occurs to me that the Senate, then, is doing something that is almost archaic. It is necessary, and I support it. I am going to say some more about that in a minute. But what we have arrived at in this conflict is not just a test of wills which the Senate is designed to accommodate, but a test of energy and stamina. It is unfortunate that we have reached that point. But that is the only way, under the present rules, that we can deal with 500 amendments that are at the desk.

So, in the idiom of another undertaking, sometimes you win; sometimes you lose; sometimes you get rained out. The one thing I do not want to see is for us to get rained out.

I have a serious disagreement with the administration on how we ought to proceed on this measure. I am willing, nonetheless, to see the Senate work its will, to see us arrive at a determination within this body on how we should proceed to approach the House of Representatives, in conference, on our disagreements, if there are some. I do not want to see us have no bill. I do not want to see us rained out.

So, Mr. President, I join with the majority leader in seeking cloture. Every Member on this side of the aisle, save one, who reserved his vote because of an unbroken precedent over many years of service, every single Member present on this side voted for cloture except that one. So I rise, Mr. President, to say that it is imperative, in my view, that we proceed to do the Nation's business. It is imperative that we deal with these issues; that we dispose of the matters that are before us; and that, if we must, we simply meet the challenge of the test of strength.

Mr. President, there are hearings going on that are of extraordinary importance to the country; for instance, the hearings in the Committee on Foreign Relations on the advice and consent of the Senate with respect to the ratification of the treaties with Panama. They have permission to meet. I hope they will continue. I hope the distinguished chairman of that committee and the ranking member, Senator CASE, of New Jersey, will go ahead and do the best they can, notwithstanding that rollcall after rollcall and, maybe, quorum calls will be in progress. I hope they will send a few over here and keep a few there and continue with their witness list.

For my part, I do not know of any issues that have given me as much trouble in my own mind as the Panama Canal issue; but I think I need to stay here, so I shall not be at those hearings much of the time.

I hope other committees—the Committee on Finance, for instance—will continue to meet if they have permission to meet. I offer whatever physical space or arrangements I have so they can be close to the floor.

Mostly, Mr. President, I hope that Senators on this side of the aisle will stay here and give us the resource and muscle we need to meet this test of physical stamina.

Mr. ABOUREZK. Mr. President.

Mr. RANDOLPH. Will my persevering colleague yield?

The PRESIDING OFFICER (Mr. BUMPERS). Does the Senator from Tennessee yield to the Senator from West Virginia for a question?

Mr. BAKER. Mr. President, I yield briefly to the Senator from West Virginia for a question.

The PRESIDING OFFICER. The Senator will state the question.

Mr. BAKER. Does the Senator seek yielding for another purpose?

Mr. RANDOLPH. I will ask a question.

Mr. BAKER. I yield for a question.

Mr. RANDOLPH. I thank the Chair.

The conference on the Federal Mine Safety Health Amendments Act of 1977, between the Senate and House conferees, was in session yesterday afternoon and evening. It was most difficult—it was almost impossible to do our work. We finalized that conference last night but the excessive rollcalls caused problems as we were attempting to move forward this vitally important legislation.

Mr. BAKER. Mr. President, I thank the distinguished Senator from West Virginia, he has done very much in this field of safety for coal miners and we all owe a great debt of gratitude to him.

Several Senators addressed the Chair.

Mr. MAGNUSON. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator yielded. The Senator from South Dakota is recognized.

Mr. ABOUREZK. If I can get consent to get the floor as soon as Senator MAGNUSON asks his question, I will be happy to yield.

Mr. MAGNUSON. Mr. President, I want to make an announcement here that we still have HEW to bring up this week and we still have not reached any agreement with the House. If we do not reach an agreement by this weekend, there is a possibility that all our social security checks will not be sent out, all of the grants that affect pretty nearly every person in the United States, medicare, medicaid, and we are going to have to have a long conference with the House on the same old question, abortion, again to get this done.

Mr. JACKSON. Will the Senator yield?

Mr. MAGNUSON. I do not know how we will do it if we have to run up to the floor every 10 minutes and answer a live quorum or a vote.

HEW is much more important to me, and I think to every Senator on this floor, than this long, troublesome thing we are having going on here.

The Senator from Tennessee said he had been here 11 years and he has never seen a situation like this before. I have been in the Senate 31 years and I have not seen it.

I have seen a filibuster, but that is when somebody stands up and talks about something, not just dilatory actions.

Sure, we have slept here all night, many a night, but there was someone talking. At least we could come in and get educated once in a while in the course of an evening. [Laughter.]

But I have never seen anything like this. I have seen it for a couple of days, but not go on for a whole week like this.

I want to point out that HEW is pretty important come October 1 and we better realize that here, all of us, on either side.

Mr. ABOUREZK. Mr. President, how much time do I have remaining on my hour?

Mr. MAGNUSON. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Dakota has requested how much time he has left.

The Senator has only used 7 minutes on this. He has 53 minutes.

Mr. ABOUREZK. I yield myself no more than 5 minutes at this time.

Mr. President, I am very much interested in the series of speeches given this morning concerning the present parliamentary situation.

I have to say, before I get into the main part of my remarks, that I think the majority leader, who I supported in his election to that position last year, has done an excellent job as majority leader. He has been extremely efficient. He has worked the Senate very hard. He has done whatever he could to move along the business of the Senate—and that, incidentally, has included some legislation that faced a filibuster, or the threat of a filibuster, which he refused to call up for fear it would tie up the Senate. I am speaking of the Consumer Protection Agency legislation.

While I might disagree with that action, I do not argue with the motives of the majority leader in doing that because he is interested in seeing the Senate move along.

Now, he made three unanimous-consent requests just now, with a great num-

ber of Senators present. He asked that the rollcalls be 10 minutes, and that we adjourn or recess until 9 o'clock in the morning.

Now, let me say, Mr. President, I know exactly why he has done that. He made those requests early this morning when no one was here, and last night no one was here. But he did it again this morning so that all the Members present could hear JIM ABOUREZK object to those requests.

Now, he knew I was going to object, as I objected last night. And I did object again this morning.

In fact, I know exactly why he did it. Last year when I was managing, on behalf of Phil Hart who was very ill at the time, a couple of antitrust bills, I did the same thing to JIM ALLEN—precisely the same thing.

I did it while a lot of Members were around. It is designed to build pressure against those who are bringing up amendments or doing a lot of talking.

That is within the prerogatives of the leader to do that and, it is within the prerogative of other Senators, committee chairmen, to get up and say, "My committee has important legislation that we've got to get out and I agree with the leader—I'm getting tired of this, tired of being called here every 15 minutes for a vote."

As the chairman, Mr. MAGNUSON said, at least if there were a talking filibuster, we could get half-way educated. Well, I would argue with that, on occasion.

But in point of fact, by bringing up the cloture petition and getting the motion voted on, and getting enough support to shut off debate, we only have 1 hour apiece. I have to be very careful of not using my time because there are occasions like this when some of us must respond to what is going on.

Let me say that these efforts to put pressure on people who feel very strongly about the legislation that is up are not going to work, simply because, as the majority leader knows and the other Senators know, we are acting, I believe, in the tradition of the Senate.

What is the Senate all about? Is it a group of 100 people who are here to follow orders, or are we here to ask questions, to question the issues that come up and determine in the best interest of our constituents, determine in our own conscience, what we ought to do?

I think that is what it is about. We are elected for 6 years. Supposedly, that is to take off the narrow, special interest, pressures that are put on a Senator for the first 4 years, until he has to run for election again.

In addition, the Senate rules were devised to allow Senators to object. If there is only one man who wants to object, the rule allows him to object as long as he is physically able to do so; to object to legislation which he opposes.

The leader and everybody here knows it is not pleasant to be put in the position of protest. All kinds of peer pressure is put on one. As the nights drag on, as votes come on, I have had any number of Senators come up to me and say, "Why don't you let us get out of here and go home?"

I know precisely what number of speeches the leader has given. I know the effect they have on other Senators. But I want to say to the leader and to the Members——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ABOUREZK. I yield myself 5 minutes.

I would like to say that there are a number of us who feel that the natural gas deregulation issue is the most important economic issue in several decades.

I believe that the cost of deregulation, estimated by the Library of Congress up through 1990, would be $162 billion to the American consumer. Add onto that the ripple effect of inflation, for people who consume natural gas, who buy products made with natural gas, and on and on and on, and we have got much more than that $162 billion.

It is not a question of exploring for more energy. The administration has a program which insures and encourages exploration for more energy.

This is simply an economic question: Is the money going to stay with the consumer, or is it going to be transferred to the oil companies? That is the question. The question is not whether we are going to move the Senate along and make it convenient for Senators so that they do not have to answer a rollcall vote every 15 minutes. The question is, Are we going to do what we think is proper in our own minds?

I do not object to the majority leader trying to put on pressure, because I understand it very well. But I just want to make very clear what my personal position is. I speak for myself and my constituents who agree with me, and that is a great number, that this is a disastrous piece of legislation.

I have another question I should like to pose. The President has said that he would veto a deregulation bill. The House Speaker has said a deregulation bill would never get through the House.

The majority leader has said that we have to determine in our minds what is good for us and he is right about that. But this question arises: If the Speaker of the House is against it and will not let it go through, if the President will veto it and not let it become law, why is the leader and why are the proponents of the deregulation measure pushing so hard to get it out of the Senate? What is the reason for it?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. The President mentioned the leader. I voted with the Senator on the deregulation question.

Mr. ABOUREZK. The leader is right; he voted to table Bentsen-Pearson. But since the vote to table, he has not quite redeemed himself in my mind.

[Laughter.]

Every action he has taken has been to get the deregulation measure out of here and over to the conference committee.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. ABOUREZK. I will not yield anymore until I am finished.

I think somebody has to answer a very serious question, and I do not know who has the answer: Why are the proponents—why is the leadership—working to push Bentsen-Pearson, the deregulation measure, out of the Senate, if it is not going to go anywhere? There must be some other reason. What is going to happen in the conference committee? Is there something we here do not know that might happen in the conference committee?

I want to conclude by apologizing to my colleagues for inconveniencing them. It is not very pleasant for me, either physically, emotionally, or any other way, to do so. But I hope they understand that some day—I do not know when it will be—they will have an issue that strikes them, that grabs them so hard, about which they will feel so strongly, that they might want to do the same thing.

Last night, the leader filed written notice of his intention to suspend the rules. Listen to this. He intends to suspend the rules, or try to—it has to be done by a two-thirds vote—in order to prevent, first of all, the reading of amendments and, second, to require that amendments be voted en bloc.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I will yield in a moment.

If two-thirds of the Members of the Senate vote for whatever motions he will file later—he is entitled to do it today at any time—then the Senate will have prevented any further discussion, any further amending of this bill. He probably would not have filed them if he did not intend to follow up on those questions.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I will yield on the Senator's time.

Mr. ROBERT C. BYRD. The Senator cannot yield to me on my time.

My ABOUREZK. By unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator yield to me for a statement, on my time.

Mr. ABOUREZK. On his time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. My question is this: Has not the Senator from South Dakota also filed at the desk today a written notice of his intent to move to suspend the rules to allow nongermane amendments to be called up?

Mr. ABOUREZK. Yes, that is correct.

Mr. ROBERT C. BYRD. Let us lay out the whole record.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ABOUREZK. Mr. President, I have not given up the floor.

The PRESIDING OFFICER. The Chair apologizes. Does the Senator wish additional time?

Mr. JACKSON. Mr. President, will the Senator yield to me on my time?

Mr. ABOUREZK. By unanimous consent, I yield to the Senator on his time, if I can get the floor again.

Mr. JACKSON. On my time.

The PRESIDING OFFICER. Without objection, the Senator is yielded to, on his time.

Mr. JACKSON. Mr. President, I think the time has come to be candid about what is going on here.

I have some very strong views about the issue of deregulation. As chairman of the committee and as the floor manager of this bill, I have to deal with realities.

I feel very strongly that we should set aside the rancor and all the other things that go with protracted discussions of the nature we have engaged in and will indeed get into in the next 24 hours. It seems to me that what is needed here is a little pause to discuss, privately and quietly, how we can try to bring together the divergent views and get those views to the conference.

Mr. President, the bottom line will be the conference; and even in the conference, we will have to face some difficult decisions. We are not kidding anyone by going on and on here, going nowhere, because the conference will be the bottom line.

My only appeal would be for our colleagues on both sides of this issue to try to see if we can find a common meeting ground. I have proposed a compromise. I was aware of what the feedback would be on that compromise. I have had objections on both sides, converging on my position. It is not the kind of position I would normally approve, but it is the kind of position I have to go forth with in light of the problems we face here.

My appeal is for our colleagues on both sides of the issue, as we continue these discussions throughout the day, to see if we can come together and find a common meeting ground and get the issue into the forum where it is going to be decided, and that is the conference between the House and the Senate.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ABOUREZK. Mr. President, I still have the floor.

The PRESIDING OFFICER. The Senator is correct. He has not yielded the floor.

Mr. ABOUREZK. Mr. President, I only want another minute or two.

I suggest that if the leader, who sets the schedule in the Senate, intends to go all night long and start again early tomorrow morning, it is within his purview.

However, I suggest that we recess every day until 1 o'clock, to let the Foreign Relations Committee hear the treaty testimony. I do not want to interrupt the Foreign Relations Committee any more than he does, but I suggest that to the majority leader, and he might want to consider it and do that.

Mr. HANSEN. Mr. President, I suspect that a great many of us on this side of the aisle and some on that side as well might feel called upon to respond to the rhetorical question posed by the Senator from South Dakota.

I claim no particular, exclusive knowledge at all, but he did ask the question as to why, in the face of what the President of the United States has said, what the Speaker of the House has said, and what others have said, we persist in trying to get passed the particular legislation that is being sponsored by a bipartisan coalition, including Democrats as well as Republicans.

The Senator from South Dakota makes a projection as to the cost of deregulation. There are all kinds of projections that have been made about cost. But, first of all, let me say there can be no denying the opportunity to discover great amounts of gas is very real and exists in the United States, and on the Outer Continental Shelf. The MOPPS study disclosed this: the USGS figures disclosed this, and did not square with what the administration has been proposing and, as a consequence, Dr. McKelvey of the USGS found himself out of a job.

Most recently, the FEA commissioned a study that gives the lie to what has been said by administration representatives. It says that the way to have more gas is to deregulate, and if we do not deregulate we had better accustom ourselves to going without gas because there will not be enough found.

May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Wyoming.

Mr. HANSEN. Mr. President, the key to more gas is to give the incentive to the industry to go out and undertake the increasingly expensive search for and production of gas. It is just that simple.

There is no reason at all why the law of supply and demand has not worked and will not continue to work just the same in searching for oil and gas and in producing oil and gas as we have found works in the marketplace on any other commodity you want to talk about.

The Senator from South Dakota speaks about the great burden that, according to his figures, would be visited upon the economy and upon Americans if we deregulate. Let me say that the mind and the recollections of Americans are shorter than I suspect they are if we think for 1 minute that the people in the Northeast cannot recall very vividly what it means to be out of gas. Factories were shut down; schools were closed; people were out of work; lights in certain areas of the country were out simply because we were out of gas.

It may cost more—it will cost more—to produce more gas, but it will not start to cost, it cannot possibly be as expensive as being out of gas.

So it gets down to this issue: Are we willing to have the effort made to find the gas so that we will not be out of gas or do we want to continue along in the demagogic fashion that some people propose we do now and say, "Let us not pay any more to Americans to find more gas to put people to work, to guarantee employment here? Let us add to our balance of payments deficit by having to import more." Is that we want? At the present time we are importing about half of all the oil we use, and that is costing at least this year, according to the best estimates, not less than $45 billion. So the alternatives ought to make crystal clear to anyone who is concerned why it makes good sense to take this first small step toward deregulation.

My good friend from West Virginia, the senior Senator, has reminded me that a large majority of State Governors support the Pearson-Bentsen amendment, which reminds me that I am not persuaded by the President's assurance given Virginia voters in the height of a political campaign down there just a few days ago that he would veto any deregulation bill, because I can recall all too clearly when he was campaigning less than a year ago or about a year ago he gave a similar assurance, equally positive, to the Governor of Oklahoma. But in that case he was not going to veto a natural gas deregulation bill; he was going to see that deregulation became an accomplished fact. He criticized the then President of the United States, President Ford, because he was unable to work with the Congress of the United States, and he said, "I can and will work with the Congress. We will get natural gas deregulated."

I ask unanimous consent that that letter from the candidate for the Presidency, Jimmy Carter, now President, to Gov. David Boren, Governor of the State of Oklahoma, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 19, 1976.

GOV. DAVID BOREN,
State Capital Building, Oklahoma City, Okla.

DEAR GOVERNOR BOREN: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4% per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35% prior to the embargo to over 40% today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital.

Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average

of 60% of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter Administration will provide this leadership.

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

Mr. HANSEN. There is one other reason, a compelling reason, why I think we should move toward deregulation. I have spoken about employment and unemployment that certainly will follow if we run out of gas. I have spoken about the balance of payments, which is extremely serious now.

But, lastly, I speak about national security. We are dependent upon uncertain foreign sources of supply for about 50 percent of all the petroleum products we use today, and it seems to me that no one in his right mind, given the uncertain state of world affairs today, would possibly want to exacerbate this extremely critical and serious problem for Americans by suggesting that we ought to continue on down the same wrong road we have been on for all too long.

Mr. President, I hope that despite the fact my good friend from South Dakota, who posed the question, now seems not to be on the floor, he will take the occasion, if he is interested, and I hope he will be, to read what I said by way of response to his rhetorical question.

Mr. METZENBAUM. Mr. President, I think in these moments of stress, where there is kind of an anxiety, we lose sight of the fact too often that the amendments that are being offered are substantive, are meaningful, and are put in by those of us who propose the amendments with only one purpose in mind, and that is to make a bill we do not think is a good bill into a better one.

We are talking about something that will have more significant impact upon the economy of this Nation than almost any other action that will come before the Senate this year, $10 billion a year in additional costs.

While we are talking about this particular piece of legislation and the number of amendments to which the majority leader addressed himself, there is strong feeling on both sides of the issue. I want to point out to my good friend, the distinguished majority leader, that of the amendments that were offered yesterday, 95 of them were offered by 14 Senators whose views are not in accord with mine, who favor deregulation, and I believe the Senate should work its will. I think the amendments should be considered fairly, and I think, unfortunately, too many amendments are going to be swept under the rug because they are going to be thrown out with all of the other issues on the basis of, "Well, this is just another amendment of those who oppose deregulation."

AMENDMENT NO. 956

Mr. President, I call up amendment No. 956.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. Mr. President, will the Senator from Ohio yield to me to use about 3 minutes of my hour, and yielding back to him for his amendment after I have made my few remarks?

Mr. METZENBAUM. By unanimous consent I believe I can yield the floor to the Senator and——

Mr. ROBERT C. BYRD. Mr. President, what is the request?

Mr. DOMENICI. The Senator offered an amendment, and I asked him if he would yield to me without losing his right to the floor, yield 3 minutes of my hour just to make a statement.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have listened here today to a number of Senators. Some of them have been here a lot longer than I have and some as long as I have been here, and I think I would first like to say I do not believe that because one Senator, after cloture has been invoked, has strong feelings about some issue that he necessarily ought to be entitled to frustrate the will of the Senate.

This issue is not so difficult that we cannot resolve it. Everyone has strong feelings about difficult legislation, and I do not think anyone ought to tell this institution that even after cloture is invoked his individual freedom as a U.S. Senator justifies his being dilatory to the exclusion of this body's making up its mind, whether it makes it up his way or another way.

That is not the reason that we invoke cloture, to let a Senator have the freedom to use his conscience, and it may be his conscience to say we are not going to have any legislation. That is precloture. That is not after cloture.

On this issue that the Senator from South Dakota makes so simple that if we vote for deregulation we are going to hurt all the consumers in the country and give all the money to the oil companies, let me just say that there is a genuine dispute in this country among experts across the board, and you can find some facts to support anyone's theory. I would assume you could even find some that would say roll back the price 80 or 90 percent and they would give you some thesis.

But to show you that there is a genuine dispute and that those of us who favor deregulation are not necessarily against the consumers of this country, I give the President all the credit that he is due. I have great respect and admiration for him. I will even say he can change his mind. But I want to say this. On October 19, 1976, he did not feel deregulation was going to hurt the consumers of this country. And he changed his mind, and he is entitled to change his mind. But that does not make those of us wrong who agree with him in his statement of October 19, 1976. We happen to still agree that way, and that does not mean that we are for robbing the consumers of America. Perhaps we just continue to agree with what Jimmy Carter said on October 19.

I want to read what Jimmy Carter said on October 19, 1976, so everyone will know that it addressed this very issue.

There is one little paragraph. He wanted to be elected for these reasons:

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas.

Another sentence:

The decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital.

That might be enough.

Now let me read the next part:

Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. Let me read the last sentence. And then I will be delighted to yield.

Mr. LONG. Who said that?

Mr. DOMENICI. It is signed "Sincerely, Jimmy." "Jimmy Carter" typed; "Jimmy" signature.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. DOMENICI. Mr. President, will the Senator yield me 1 additional minute?

Mr. METZENBAUM. I yield the Senator 1 additional minute on the same terms.

The PRESIDING OFFICER. The Senator is yielded 1 additional minute under the same terms.

Mr. DOMENICI. I want to read the last sentence:

While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Mr. President, could we have order, please?

The PRESIDING OFFICER. May we have order in the Senate?

Senators please take their seats or retire to the cloakroom.

Mr. DOMENICI. Mr. President, the only other argument made that in my opinion deserves to be commented upon is that the President having changed his mind since October 19, 1976, which he

is entitled to—I say again I have the utmost admiration and respect for him, and he is entitled to it—now should this institution, because he says he is going to veto a measure that does what he recommended in October of last year——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOMENICI. Mr. President, will the Senator yield me an additional 2 minutes?

Mr. METZENBAUM. I yield the Senator an additional 2 minutes under the same terms and conditions.

The PRESIDING OFFICER. The Senator is yielded 2 additional minutes.

Mr. DOMENICI. That is right. Under the same terms.

Should we because he has changed his mind and because the Speaker of the House of Representatives, who has agreed with him, is saying, "What you passed, if it is deregulation, will never become law," we go home? Should we go home and say they are right, in spite of the kind of differing opinions among genuine people, including genuine people in this institution? There should be more fear about that kind of abdication of our responsibility than any fear about denying one Senator his conscience-bound position to fight even after cloture has been imposed even if this institution finds it dilatory.

The first argument is a far better one than the second argument.

We have a responsibility and the institution is being denied the responsibility. If the House of Representatives and the President tell us, "Pass only this or I will veto it," or "Pass only this and the House of Representatives will not agree to it," then I would submit, if that is the case, the good leader does not need to wait for October 8. We can adjourn today and tell someone to send us a message over here the next couple of weeks as to what they want law to be and we can all go home today.

I do not think anyone wants to do that, and I think we should get on with voting.

The issues are complex but can be resolved and whatever side wins we will go to conference and sooner or later we will live up to our responsibility and have an energy policy with reference to natural gas.

I yield the floor.

AMENDMENT NO. 956

Mr. METZENBAUM. Mr. President, I call up amendment No. 956 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 956.

On page 8, line 13, insert after the semicolon the following: "(4) each producer's exploration, development, and production expenditures; (5) each producer's new reserve additions from extension, revisions, and new well discoveries, including any negative revisions; (6) each producer's cost of producing gas and the net income (or loss) including the rate of return earned on gas operations (or loss); (7) each producer's interstate and intrastate sales and revenues of natural gas;".

Renumber succeeding clauses accordingly.

Mr. METZENBAUM. Mr. President, I do not think this is a controversial amendment. It merely requires the gas producers to provide the commission data, project by project, on cost of exploration and estimated recovery reserves.

This data will permit the commission to arrive at an accurate cost of production figure.

If it is acceptable, I am perfectly willing to do it on an oral basis.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

(Putting the question.)

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JOHNSTON. Mr. President, I make a point of order that the request for the rollcall is dilatory.

Mr. METZENBAUM. It cannot be.

The PRESIDING OFFICER. The point of order is not well taken. Any Senator has a right under the Constitution to ask for the yeas and nays on an amendment.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. LONG. Has the Chair announced the result of the vote?

The PRESIDING OFFICER. The Chair has not.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment (No. 956) of the Senator from Ohio (Mr. METZENBAUM).

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 34 Leg.]

Abourezk	Garn	Moynihan
Allen	Gravel	Muskie
Anderson	Hansen	Nunn
Baker	Hart	Pearson
Bartlett	Haskell	Randolph
Bellmon	Hatch	Ribicoff
Bentsen	Hayakawa	Schmitt
Bumpers	Helms	Scott
Burdick	Inouye	Stennis
Byrd, Robert C.	Jackson	Stevens
Cannon	Johnston	Stone
Chiles	Laxalt	Talmadge
Cranston	Leahy	Tower
Curtis	Long	Wallop
Danforth	Lugar	Young
Dole	McClure	Zorinsky
Domenici	Meicher	
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the amendment of the Senator from Ohio?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Point of order, Mr. President; a quorum is present.

Mr. STEVENS. No business has been transacted.

Mr. BENTSEN. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. BENTSEN. The motion is dilatory, since no business has taken place and a quorum has just been established.

The PRESIDING OFFICER. The refusal of the yeas and nays is business, so business has taken place.

Mr. METZENBAUM addressed the Chair.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is going to rule that, in light of the fact that a quorum has been established, and there are very few Senators on the floor now to honor the request of the Senator for yeas and nays, to which the Chair feels he is entitled, the Chair will not rule that it is a dilatory tactic.

Mr. STEVENS. Mr. President, a parliamentary inquiry: Did the Chair state that a Senator is entitled to the yeas and nays by the rules?

The PRESIDING OFFICER. The Chair stated that. He misspoke himself. But it is the feeling of the Chair that, based on the number of Senators present, there are not enough Senators here necessary, considering the division on this issue, to get the yeas and nays which he has requested.

The clerk will call the roll.

Mr. STEVENS. Mr. President, is the Chair making a ruling that the burden is on those who oppose a rollcall vote to demonstrate that a quorum is present?

The PRESIDING OFFICER. Let me say that it is the Chair's feeling that if there were 51 Senators on the floor and the Senator from Ohio requested the yeas and nays and was not success-

ful in getting it, the Chair would so rule as it has.

Mr. STEVENS. But the record discloses that the transaction of business immediately prior to the request for the yeas and nays was, in fact, a quorum call. Who is to presume that there are not 51 Members on the floor at this time? Is the Chair counting them?

The PRESIDING OFFICER. The Chair does not presume; the Chair knows there are not 51.

Mr. STEVENS. Is the Chair noting that and counting them?

The PRESIDING OFFICER. Certainly.

Mr. ABOUREZK and Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. There are less than 47 Senators on the floor at this time.

The Clerk will call the roll.

Mr. STEVENS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. STEVENS. The inquiry is, if the Chair is assured by his own vision that there are 51 Members on the floor, would the Chair rule in the manner he has just ruled, that the transaction of business—namely, the request for a rollcall—vitiates the previous quorum call, which established a majority of the Senators being present?

The PRESIDING OFFICER. No. The Chair has just stated that if there were 51 Senators on the floor—and I might say the Chair has counted the Senators three or four times in the last hour to ascertain whether there is a quorum present. There is not, in the opinion of the Chair, at this moment a quorum present.

Mr. METZENBAUM. Regular order, Mr. President.

Mr. ABOUREZK. I ask for the regular order, Mr. President.

QUORUM CALL

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. ZORINSKY). A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 35 Leg.]

Abourezk	Danforth	Inouye
Allen	DeConcini	Jackson
Anderson	Dole	Javits
Baker	Domenici	Johnston
Bartlett	Durkin	Kennedy
Bayh	Eagleton	Laxalt
Bellmon	Eastland	Leahy
Bentsen	Ford	Long
Biden	Garn	Lugar
Brooke	Glenn	Magnuson
Bumpers	Goldwater	Mathias
Burdick	Gravel	Matsunaga
Byrd, Harry F., Jr.	Griffin	McClure
	Hansen	McGovern
Byrd, Robert C.	Hart	McIntyre
Cannon	Haskell	Melcher
Case	Hatch	Metzenbaum
Chafee	Hatfield	Morgan
Chiles	Hathaway	Moynihan
Church	Hayakawa	Muskie
Clark	Heinz	Nelson
Cranston	Helms	Nunn
Culver	Hollings	Packwood
Curtis	Huddleston	Pearson
Pell	Schmitt	Thurmond
Percy	Schweiker	Tower
Proxmire	Scott	Wallop
Randolph	Sparkman	Weicker
Ribicoff	Stennis	Williams
Riegle	Stevens	Young
Roth	Stevenson	Zorinsky
Sarbanes	Stone	
Sasser	Talmadge	

The PRESIDING OFFICER. A quorum is present.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I call up amendment No. 1007 and ask that it be reported.

Mr. CHILES. Let us have a vote.

Mr. MELCHER. A voice vote.

Mr. TOWER. A point of order. Has there been disposition of the motion on the Metzenbaum amendment?

The PRESIDING OFFICER. The amendment of the Senator from South Dakota is not in order.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry. The Senator from South Dakota was recognized to call up his amendment. Why is it not in order? Under what rule?

The PRESIDING OFFICER. There is an amendment of the Senator from Ohio pending. The question is on agreeing to the amendment (putting the question).

Mr. TOWER. The question is on the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I believe the question was on the motion to table, was it not?

The PRESIDING OFFICER. The Journal indicates that there was no motion to table.

Mr. TOWER. There was a motion to table and there were the yeas and nays.

The PRESIDING OFFICER. The amendment is rejected.

The bill is open to further amendment.

AMENDMENT NO. 1007

Mr. ABOUREZK. Mr. President, I call up amendment 1007 and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1007.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read.

The legislative clerk resumed the reading of the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

"TITLE II—PUBLIC PARTICIPATION IN FEDERAL AGENCY PROCEEDINGS

"SEC. 18. (a) Subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure) is amended by inserting after section 558 of such title the following new sections:

"§ 558a. Attorney's fees; fees and costs of experts; participation expenses

"(a)(1) The Congress finds that effective functioning of the administrative process of Government requires Federal agencies to seek the views of all affected citizens. In practice, access to the administrative process is frequently an exclusive function of a person's ability to meet the high costs of participation in Government proceedings.

"SEC. 19. The purpose of this section is to promote increased public participation in agency proceedings, thereby insuring more effective functioning of the administrative process by enabling all affected persons to secure the representation in agency proceedings to which such persons are entitled. The Congress intends that each Federal agency shall utilize to the fullest extent the authority and funds provided pursuant to this section.

"(b) For the purpose of this section the term—

"(1) 'person' means any person as defined in section 551(2) of this title and includes a group of individuals with similar interests;

"(2) 'proceeding' means any agency process including rulemaking, ratemaking, licensing, adjudication, or any other agency process in which there may be public participation pursuant to statute, regulation, or agency practice, whether or not such process is subject to the provisions of this subchapter.

"SEC. 20. Each agency is authorized, in accordance with the provisions of this section, to award reasonable attorneys' fees, fees and costs of experts, and other costs of participation incurred by eligible persons in all rulemaking, ratemaking, and licensing proceedings, and, in addition, to such other proceedings involving issues which relate directly to energy, health, safety, civil rights, the environment, or the economic well-being of consumers in the marketplace.

"(2)(A) This section does not authorize funds for merely attending, as opposed to participating in, agency proceedings, nor for proceedings where the cost of participation is minimal.

"(B) This section does not create any new right to participate in any Federal agency proceeding.

"(d) Any person is eligible to receive an award under this section for participation (whether or not as a party) in an agency proceeding if—

"(1) the person is an effective representative of an interest the representation of

which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, taking into account—

"(A) whether the interest is adequately represented by a participant other than the agency itself,

"(B) the number and complexity of the issues presented,

"(C) the importance of public participation, in consideration of the need to encourage participation by representatives of segments of the public who, as individuals, may have little economic incentive to participate, and

"(D) the need for representation of a fair balance of interests; and

"(2)(A) the economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person, or whenever the person is a group or organization, the economic interest of a substantial majority of the individual members of such group or organization is small in comparison to the costs of effective participation in the proceeding, or

"(B) the person does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this section.

"SEC. 21. Any person seeking an award under this section shall submit to the appropriate agency an application which states the basis of such person's eligibility for the award and the amount sought. Upon receipt of such application, the agency shall make a written determination of the eligibility of the person for an award and the amount and computation of such award, if any, and shall state the reasons therefor. Such determination shall be made promptly, and prior to timely participation in the proceeding by that person unless the agency finds that prior determination cannot practicably be made, and states in writing its reasons for a temporary deferral. The agency shall make determinations required by this paragraph after consideration of the funds available for awards under this section for the proceeding and the requests or possible requests for such awards by other eligible participants in the proceeding. For the purpose of this section a determination under this paragraph is a final agency action in accordance with chapter 7 of this title.

"(2) Whenever multiple applications are submitted for participation in a proceeding, the agency may—

"(A) require consolidation of duplicative presentations;

"(B) select one or more effective representatives to participate;

"(C) offer compensation only for certain categories of expenses, or

"(D) jointly compensate persons representing identical or closely related viewpoints.

"(3) Payment of fees and costs under this section shall be made—

"(A) within ninety days after the date on which a final decision or order disposing of the matters involved in the proceeding or phase of the proceeding is made by the agency; or,

"(B) within ninety days after an eligible person submits to the agency a statement of its fees and costs if the agency has deferred making a determination under subsection (e)(1) of this section by the date of such final decision.

"SEC. 22. Notwithstanding any other provision of law, an agency shall make advance payments to permit any eligible person to participate or to continue to participate in a proceeding if the person establishes that the ability of such person to participate in the proceeding will be impaired by failure to receive funds prior to the conclusion of such proceeding.

"SEC. 23. The amount of reasonable attorneys' fees, fees, and costs of experts, and other costs of participation awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished or to be furnished, except that (A) no expert or consultant shall be compensated at a rate in excess of the highest rate of compensation for experts and consultants paid by the agency involved; and (B) attorneys' fees shall not be awarded in excess of $50 per hour for any such participation unless the agency determines that special factors, such as an increase in the cost of living or limited availability of qualified attorneys for the proceedings involved justify a higher fee.

"SEC. 24. No determination under this section shall be made by any office, bureau, or other division of an agency having responsibility for the presentation of the case or the initial decision or recommendation in any proceeding to which this section applies, except that agency personnel and hearing examiners in any such proceeding may provide relevant information with respect to such determinations.

"SEC. 25. Each agency shall take appropriate action to assure that information concerning the availability of compensation for public participation pursuant to this section is contained in the notices of proceedings to which this section applies and to otherwise publicize the availability of such funds to the general public.

"(f)(1) A person who receives advance payments pursuant to this section or who the agency determines to be eligible to receive a specified award pursuant to this section shall be liable for repayment of part or all of such payments actually received, or for forfeiture of part or all of the specified award for which such person is determined to be eligible, whenever the agency determines that the person clearly has not provided the representation for which the payments or specified award was made.

"(2) In any agency proceeding—

"(A) in which an eligible person acts in a manner demonstrating bad faith toward any other participant, and upon application by such other participant, the agency may rescind part or all of an award under this section to such eligible person, or

"(B) in which any participant (other than an eligible person) acts in a manner demonstrating bad faith toward an eligible person, and upon application by such eligible person, the agency may require such participant to pay to the agency an amount equal to part or all of an award made to such eligible person under this section.

"(g) A person who has applied for an award under this section may bring an action in accordance with chapter 7 of this title for review of a final agency action under this section—

"(1) denying an award, failing to make a determination, or failing to pay an award of fees or costs or both to such person, or

"(2) granting an amount of fees or costs, or both, which is insufficient to enable such person to participate or to continue to participate effectively in a proceeding, or

"(3) reimbursing an amount of fees or costs, or both, which is insufficient to compensate such person for its participation in such proceeding

in the appropriate court of the United States having jurisdiction of an appeal from the proceeding in which such person participated or sought to participate, except that such appeal shall not be the basis for the court to enter an order to stay such proceeding. No person shall be entitled to intervene in any action brought under this section involving an application for an award by another person.

"(h)(1) Each agency shall, within ninety days after the date of enactment of this section, propose regulations to carry out the provisions of this section. Such regulations shall be adopted by the agency and take effect no later than one hundred and eighty days after the date of enactment of this section.

"(2)(A) The head of each agency to which this section applies shall prepare and transmit to the Congress and to the Office of Management and Budget by such date as the Director of the Office of Management and Budget designates an annual report with respect to the nature and disposition of all proceedings by which awards of fees and costs pursuant to this section were sought. Each report shall include the amounts sought and awarded in each such proceeding, the computation of such amounts, and the identity of each applicant and recipient.

"(B) The Director of the Office of Management and Budget shall allocate the funds appropriated pursuant to section 5(a) of the Public Participation in Federal Agency Proceedings Act of 1977 among agencies to which this section applies. In making such allocations, the Director shall be guided by the indicia of need for funds to promote public participation in each agency's proceedings based on a survey of agency estimates for the initial year and thereafter based upon the report of each agency submitted pursuant to paragraph (A) of this subsection. The Director shall insure that the funds appropriated pursuant to such section 5(a) for each fiscal year are utilized to the fullest extent.

"(C) The Director of the Office of Management and Budget shall submit to Congress on the date of submission of the President's budget a report showing the funds allocated to each agency pursuant to this subsection.".

(b) The analysis of chapter 5 of title 5, United States Code, is amended by inserting immediately after the item relating to section 558 of such title the following new item:

"558a. Attorneys' fees; fees and costs of experts; participation expenses.".

SEC. 26. Chapter 7 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 707. Attorneys' fees; fees and costs of experts; litigation expenses

"(a) For the purpose of this section, the term 'person' means any person defined by section 551(a) of this title and includes a class of individuals and any individual member of such class.

"SEC. 27. Notwithstanding any other provision of law, any party or party intervenor in a civil action or other proceeding for judicial review of agency action under this chapter, including actions by the Department of Energy, or the Federal Energy Regulatory Commission, shall be entitled to recover reasonable attorneys' fees, fees and costs of experts, and other reasonable costs of litigation, including taxable costs, from the United States if—

"(1) the court affords such person the relief sought in substantial measure or, after the filing of such action, the agency affords such person the relief sought in substantial measure;

"(2) such action served an important public policy; and

"(3)(A) the economic interest of the person in the outcome of the action is small in comparison to the costs of effective participation in the action by that person, or whenever the person is a group or organization, the economic interest of a substantial majority of the individual members of such group or organization is small in comparison to the costs of effective participation in the action, or

"(B) the person does not have sufficient resources available to participate effectively, in the action in the absence of an award under this section.

SEC. 28. Reasonable attorneys' fees, fees and

costs of experts, and other costs of litigation awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished.".

SEC. 29. The analysis of chapter 7 of title 5, United States Code, is amended by adding immediately after the item relating to section 706 of such title the following new item:

"707. Attorneys' fees; fees and costs of experts; litigation expenses.".

SEC. 30. The Administrative Office of the United States Courts shall, in accordance with such rules as the Judicial Conference of the United States may prescribe, prepare, and transmit to Congress an annual report on awards of attorney's fees and litigation expenses against the United States under section 707 of title 5, United States Code. Such report shall contain a list of all civil actions in which such awards were sought, and shall include the amounts awarded in each such action and the identity of each recipient.

SEC. 31. (a) In addition to the sums authorized under subsection (b), and in addition to any funds otherwise available for supporting public participation in agency proceedings, there are authorized to be appropriated for the purposes of carrying out the provisions of the amendment made by section 2 of this Act the sums of $10,000,000 for the fiscal year 1978, $10,000,000 for the fiscal year 1979, and $10,000,000 for the fiscal year 1980. All funds for any fiscal year which are not expended during such year shall remain available for expenditure in succeeding fiscal years for awards of fees and costs in proceedings commenced during such fiscal year.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the amendments made by section 3 of this Act for each fiscal year prior to October 1, 1980, and there are authorized to be appropriated, for the fiscal year 1981 and succeeding fiscal years, such sums as may be necessary to satisfy court awards of fees pursuant to the amendments made by section 3 where the action was brought prior to the end of fiscal year 1980.

SEC. 32. The provisions of this Act shall take effect on the date of its enactment, except that—

(1) the amendment made by section 2 shall take effect one hundred and eighty days after such date, but the provisions of the amendment made by such section shall apply to the proceedings in which regulations are required to be issued under section 558a (h)(1); and

(2) the amendments made by section 3 shall apply to any civil action brought after such date of enactment.

Mr. TOWER. Point of order, Mr. President. The amendment is not germane. I therefore suggest that a point of order should lie against it, and I ask the Chair to rule.

The PRESIDING OFFICER. The point of order is well taken.

The bill is open to further amendment.

AMENDMENT NO. 1352 (FORMERLY UP AMENDMENT NO. 856)

Mr. KENNEDY. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment No. 856 which is now printed amendment No. 1352.

At the appropriate place add the following:

"*Provided:* that this section shall not apply to any well owned or controlled or in which an interest is held in whole or in part by any natural gas company or affiliate of any natural gas company which also owns, controls or has an interest in assets used in the refining, transportation or marketing of petroleum."

Mr. KENNEDY. Mr. President, the amendment I am calling up would limit the deregulated price to natural gas sold by independent producers. The purpose of this amendment is simple—it is to promote competition. It is clear that one of the reasons the consumer will lose so badly under deregulation of natural gas prices is that the industry which produces gas is not competitive—in short, the market forces that hold prices down to a level determined by supply and demand are not at work in this industry. This fact is absolutely central to the deregulation issue.

My amendment is not lengthy or complicated. It merely limits the deregulated new gas price to gas produced by nonintegrated firms.

What I am offering today represents a minimal approach to a serious competitive problem. It is the very least we can do and still claim to be facing up to the problem of monopoly in the oil and gas industry. It attacks the basic problem: The growing control over our energy resources by the major integrated oil and gas firms.

The arguments on this issue were debated both in the last Congress, and I would not belabor them here. It might be well, however, to review briefly some basic facts about the oil and gas industry for the benefit of new Members and to refresh the memories of the rest of us.

First, let us look at what the major integrated companies have done in the oil industry itself. The top 16 companies, each with production in excess of 100,000 barrels a day, lift more than 70 percent of our domestic crude oil. But their control extends far beyond this percentage, to most of the oil produced in this country.

They own the gathering systems which pick up oil at the wellhead, and the trunk pipelines which deliver it to refineries. In 1975 some 92 percent of the oil delivered into ICC-regulated lines went into the lines owned by the 16 majors. Much of the independent production is on farmouts which they hold on major company acreage. The farmout agreement always gives the primary leaseholder a perpetual call on all the oil, in addition to a generous share of it as an overriding royalty. In other words, the major has given up the right to produce some of the oil on its leases, but still controls the disposition of all the oil from those leases.

Then there is the system of exchange agreements among the majors, and independents drawn into their sphere of influence, which keeps control of oil firmly in major hands. Let me refer to a letter written to Secretary of the Interior Rogers Morton by the president of Kerr-McGee Corp.

The circumstances were that Kerr-McGce had been ordered to deliver Government royalty oil from its offshore leases to a small business refinery. The company pointed out that this oil had already been committed for exchange to a major company which would sell Kerr-McGee oil for its Synnewood, Okla., refinery. If the oil had to go to the small business refinery, Kerr-McGee would be unable to get enough crude to run its own refinery at an efficient level:

Kerr-McGee exchanges or trades all of the oil produced by it in the Gulf of Mexico for oil to supply its refineries or for products to meet marketing requirements ... when there still remained surplus production in the United States ... there was no obligation to return crude to the various major companies from whom we purchased. Beginning in 1972, ... we faced increasing demands to sell these companies offsetting barrels of Kerr-McGee's Louisiana production. This situation has continued to deteriorate until today we are literally unable to buy a free barrel of oil from these large producers.

Let me emphasize that this is not some academic critic of the industry. It was the president of a large independent oil company addressing the Secretary of the Interior, who said:

... we are literally unable to buy a free barrel of oil from these large producers.

This was back in 1973, when oil supplies were getting tight, and independent refiners were being cut off from supplies. Had it not been for Congress moving in in December 1973 with the Emergency Petroleum Allocation Act, there would be very few independent refiners left today.

Second, the major international oil companies with their control of downstream refining and marketing operations have played a role in stabilizing the monopoly prices of the OPEC cartel. In the international area, the effects of integration are particularly harmful. The world's integrated majors quite simply have no serious incentive to bargain with OPEC for lower prices.

Let me suggest an example. Since December 31, 1972, Exxon has lost more than 30 billion barrels of its former overseas proved reserves. This is a volume of oil almost equal to total proved reserves of the United States today, including the North Slope. Yet the company has never been more healthy and prosperous; its credit standing with the financial community has never been better. The reason is simple: Exxon still has 19 billion barrels of reserves left, which are worth a great deal more than the 50 billion barrels they once had. The rise in open prices, by multiplying the value of crude reserves, has enabled Exxon to hand over an unbelievable volume of reserves to OPEC countries without suffering in the slightest.

The North Slope offers another example. The companies were eager to go ahead with the Alaskan pipeline back in 1969, when crude would have been delivered to west coast refineries at not much over $3 a barrel. Given the escalation in pipeline costs, this would have been impossible by the time the line was finished. It was the rise in OPEC prices which converted the oil industry's North Slope investment from an unmitigated disaster to a glorious success.

In other words, the integrated majors stand to profit so much from their crude oil price increases—which they can readily pass through their refining channels—that they have little reason to shop around for the least expensive foreign crude. No matter what Iran, or Saudi Arabia, or Venezuela does to crude prices, the majors go right on lifting it for the countries.

This has a clear impact on gas prices. The price of any gas deregulated will move at the very least to the level of OPEC crude prices on a Btu equivalence basis. Some members of producing States have said it should go to the even higher price of No. 2 heating oil.

In any event, the willingness of the majors to go along with OPEC price increases is a major factor in high gas, as well as oil, prices. We should not reward them for cooperating with the cartel by letting them extend the profit benefits of such cooperation from their oil to the gas production.

What this amendment does is to recognize the competitive problems of the oil and gas industry. It removes the controls from that part of the industry which now is truly competitive. And moreover, it recognizes that it is the independent producer who responds to higher prices as incentive to find more gas in the United States rather than in investing in department stores, circuses or the North Sea or Saudi Arabia. For almost a decade the independent producers have accounted for the bulk of onshore domestic discoveries. To give a deregulated price to the major companies would simply enhance their profits and their market power and would produce no new supply.

Mr. President, essentially this is consistent with what the Senator from Wyoming mentioned earlier in his comments regarding the competitive forces in our society. There has been quite a bit of discussion over the years concerning the independent sector of the gas industry's being the most competitive. What this amendment would do is provide whatever incentives are agreed to exist in the Pearson-Bentsen amendment only to the independent sector, to the nonintegrated sector of the industry. It would, I think, provide all of the additional incentives which the proponents of this proposal claim.

It would, however, preclude the large windfall profits which I believe would accrue to major integrated companies without this amendment.

Mr. President, I am hopeful that those who believe in the strength of the independent gas producer, who believe in the importance of providing additional incentive to that independent sector, and who understand full well the workings of the major integrated oil companies in moving and shifting profits and production around would find reason to support this amendment.

Much over $3 a barrel. Given the escalation in pipeline costs, this would have been impossible by the time the line was finished. It was the rise in OPEC prices which converted the oil industry's North Slope investment from an unmitigated disaster to a glorious success.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. TOWER. Mr. President, I move to table the amendment.

Mr. KENNEDY. Mr. President, if we are unable to get a seconding on substantive amendments, we are going to be around here a whole lot longer than some of us intend to be.

I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, I, too, although I oppose the Senator's amendment, hope the Senate will keep in mind that there is a difference between dilatory amendments and substantive differences of opinion on this subject.

While I have withheld seconding for a rollcall vote on dilatory amendments, I would urge the Senate not to do that with regard to substantive amendments. Again, I shall vote against this amendment, but I think the record should be clear that it is not being offered as a part of any dilatory tactic. It is a subject that has been raised before.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment, for the reasons stated, and I must say that the Senator from Massachusetts has not been calling up amendment after amendment after amendment after amendment, just to consume time.

The PRESIDING OFFICER, Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move that the amendment be laid on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAYH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Debate is not in order. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The clerk will call the roll.

Mr. HART. Mr. President, the amendment which——

The PRESIDING OFFICER. Debate is not in order. A motion to lay on the table is pending. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—64

Allen	Danforth	Hatch
Baker	DeConcini	Hatfield
Bartlett	Dole	Hayakawa
Bellmon	Domenici	Heinz
Bentsen	Eagleton	Helms
Brooke	Eastland	Hollings
Bumpers	Ford	Huddleston
Burdick	Garn	Javits
Byrd, Harry F., Jr.	Glenn	Johnston
	Goldwater	Laxalt
Cannon	Gravel	Long
Chafee	Griffin	Lugar
Chiles	Hansen	Mathias
Curtis	Hart	McClure
Melcher	Schmitt	Thurmond
Morgan	Schweiker	Tower
Nunn	Scott	Wallop
Packwood	Sparkman	Weicker
Pearson	Stennis	Williams
Percy	Stevens	Young
Randolph	Stone	Zorinsky
Roth	Talmadge	

NAYS—32

Abourezk	Haskell	Moynihan
Anderson	Hathaway	Muskie
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Byrd, Robert C.	Kennedy	Proxmire
Case	Leahy	Ribicoff
Church	Magnuson	Riegle
Clark	Matsunaga	Sarbanes
Cranston	McGovern	Sasser
Culver	McIntyre	Stevenson
Durkin	Metzenbaum	

NOT VOTING—4

Humphrey	Metcalf	Stafford
McClellan		

So the motion to lay Mr. KENNEDY's amendment No. 1352 on the table was agreed to.

AMENDMENT NO. 1039

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BENTSEN. Mr. President, I have an amendment at the desk that I request be stated.

The PRESIDING OFFICER. The Senate is not in order. Will Senators please take their seats?

Mr. BENTSEN. Mr. President, I have a printed amendment No. 1039 at the desk.

Before it is reported, I wish to make a couple of comments on my time. If I have heard it from one Senator, I have heard it from a great number, "Can't you come up with something in the way of a compromise that you can get together on?" I think we have done that in the amendment I am about to propose. We have made some further major concessions on the Pearson-Bentsen bill.

Remember that the Pearson-Bentsen bill, as introduced, was the culmination of months of debate on the floor of the Senate in the fall of 1975. Now we have gone beyond that. There are those who think that there might be an aberration in the price and talk about $5 and $6 gas. I certainly do not think that is going to happen. But we have provided, in this amendment that is about to be reported, a fail-safe cap. I think the law of supply and demand in competing fuels is going to take care of the problem. But, just to be certain, there is a 2-year fail-safe cap that would say the very top price that would be paid is what they would be paying for No. 2 heating oil landed on the docks of New York. That is the agreement that has just been made or is in the process of being made with the Mexican Government. In effect, it would be comparable to that. In no way does that mean they are going to get that price. But that is a fail-safe cap to give the market time to adjust.

One of the other things we have done which we are all concerned about is protect the residents, protect the homeowners, who are already paying too much. We have put an incremental pricing provision in this after talking to many Senators here who are concerned about it, incremental pricing that would protect the school and the hospital and the homeowner, and see to it that the price for the new gas found was to be paid by industry to the extent that new

gas is available. Only after that has been fully utilized will they begin to move into the old gas that will go to the other services that we are talking about. That is a very major concession and a major provision that should be of interest to all of the Senate.

One of the concerns has been that we might have wrongfully withheld gas.

There are economic instances when they have found gas way out in the boondocks, a long way from a pipeline, and it takes time. They have to build those reserves and drill additional wells, before they can justify building that pipeline.

Those are things we understand. But there are times when possibly there might be the wrongful withholding of that gas.

We provide there that the Federal Energy Commission at that point could make that determination and if they decide that gas is wrongfully withheld, we would be denied the price of the deregulated gas.

Then there has been the concern as expressed by Senator CHILES, Senator STONE, Senator GLENN, and others, about, "Have you put a barrel around your State where we can't really get in and compete to buy your gas?"

We have seen that any question of that has been taken out of the Pearson-Bentsen, by accepting an amendment. We worked together with Senator CHILES, Senator STONE, and Senator GLENN. I think we have brought forth a true compromise that I hope the Senate will be able to accept.

I yield to my colleague and cosponsor of this amendment, the Senator from Kansas (Mr. PEARSON).

The PRESIDING OFFICER (Mr. FORD). The Senator from Kansas.

Mr. PEARSON. Mr. President, I thank the Senator for yielding.

Under the cloture provisions, I will speak on my time, Mr. President.

Mr. President, among all the charges that have been leveled by and toward, and back and forth and among the proponents and opponents of this particular issue, an issue which for decades has polarized the people of this country, is what is the proper role of Federal regulation over interstate sales of natural gas. Prior to the Supreme Court decision in the Phillips case in 1954, a ruling contrary to the intent of Congress in the Natural Gas Act, regulation of natural gas producer sales was nonexistent. That history, as to the proper sale of Federal regulation, so long debated among those who were experts in this field, so long debated by Members of this Congress through the decades, once again has an opportunity to be resolved.

Mr. President, the Pearson-Bentsen measure introduced in January of this year was essentially and fundamentally the measure that was introduced and passed by the Senate in 1975 by a vote of 58 to 32.

It was refined, distilled down, made more certain by events through the past 2 years and by the action of the Congress in other pieces of energy legislation.

For example, those measures dealing with conversions were taken out because conversion was addressed in other legislation. This bill retained provisions for deregulation of new natural gas onshore, and phased deregulation offshore under new criteria, with continuing controls over offshore gas, for the next 5 years.

Mr. President, neither the Senator from Texas nor myself had the privilege of serving on the Energy Committee. We appeared and we testified. We were not a part of their deliberations. It was closely divided in the committee, too. Those that know the history of the committee action know that the particular Pearson-Bentsen measure as introduced failed on a vote of 9 to 9. So the Energy Committee reported out the administration provision without recommendation.

We have, through debate, gained further understanding over particular and unique conditions in various States, and have been able to understand more clearly what the natural gas supply situation is in the country. Therefore, with the press of cloture coming upon us, we put together what we considered to be a fair and equitable modification which was in response partly to the move made by the Senator from Washington 2 days ago.

This is repetitious, but it serves some repeating, because I want to stress the provisions of these modifications.

There was a great deal of concern over what the price of natural gas would be. We sought to answer that in various ways. Many times we pointed out what percentage of the total price was applicable to the wellhead price.

In 1975, the price, the percentage of the wellhead price as to the total price of natural gas, was about 15 percent with the FPC, in subsequent rulings has increased to about 20 or 25 percent, but that is the total of the percentage of this new gas price.

When they cite figures that have been cited by the Secretary of Energy and by the President and others as to the enormous price increases from deregulation, no one ever makes reference to what the price of alternative fuels will be when we do not have any natural gas.

This is not a situation in the abstract. We started off this year in January. Nobody anticipated in the state of the Union message, or any place else, that one of the first pieces of legislation would be to meet a natural gas crisis in this country. Everything else was set aside.

At that time, I debated at great length whether we should come forward with the Pearson-Bentsen proposal. Or, stated otherwise, should we offer some sort of a permanent solution in a time of crisis?

Last winter we were assured that everything will take care of itself, do not mix up the energy legislation, the administration is going to come forward with a program at a later time. They promised to have it proposed by about April 20—and they did.

The recommendation for natural gas policy is unfortunately unworkable. I understand the Secretary of Energy says the totally restrictive definition for new gas can be understood by the bureaucrats; it is measurable. Because we are within 2½ miles or we have to go a thousand feet deeper. The pricing provisions are also totally unrealistic.

The people in my State, and I have not been parochial about this because the State of Kansas is an importer of gas today, are seriously concerned over the shortcomings of this proposal.

Natural gas contracts are about 20 years in length. They expand at the rate of 7 or 10 percent per year. Whatever new price we have for new gas under our proposal is blended into the total of about 7 to 10 percent per year.

But there was fear as to the price impact. There were apprehensions—and justifiably so. So yesterday we proposed a cap of 2 years for onshore gas to have some adjustment period to phase-in not only offshore production, but to phase-in onshore new gas. That is in the modification which Senator BENTSEN and I are now preparing.

There was concern about who is going to pay for this new expensive gas. So we have proposed incremental pricing in our modification, a complex provision whereby the new price of new gas as it comes on is borne by others than those we set forth as the high priority classification—residents, small commercial users with less than 50 thousand cubic feet per day, human needs and essential agricultural purposes.

The industrial users, who must bear the burden of incremental pricing are some of the greatest friends the deregulation movement had. But still, we are proposing incremental pricing.

Years ago, the people in the front lines were the Senators from the producing States. I have heard and other Senators have heard Senators today from producing States say time and time again, "I might be just better off if we didn't have a bill." And, indeed, they might. But we still intend to persevere.

I should note that the industrial and the agricultural users, I think, were the people who showed great statesmanship in arguing for some sort of proposal that would increase the supply. We talk price, price, price. Nobody ever mentions supply. We talk about jokes, about how much bananas cost, and we do not even have bananas to sell. Supply is the great issue here.

In the low price we charge to residents, we add incremental prices to industrial users. The people who work the hardest are not happy about this now; but in the give and take, I think it is a fair thing to do.

At one time, in the original proposal we sought to protect the intrastate consumers' market. We said that on those contracts that expired by their own terms intrastate, if such gas is sold out of State to the interstate system, it can be sold no higher than the price set by the Federal Power Commission. It did not give a chance to the interstate pipelines to come in and bid for that gas. Senators here today thought that was a wrong approach, and we modified it yesterday, to the detriment of the intrastate system that for years had produced the gas, for years had paid the price, for years had developed their industrial system.

This whole debate is about 50 percent a debate on the popularity of the oil and gas industry. One of the great motivations in the Senate and throughout the Congress and the administration is

whether or not you like the oil and gas companies. Never mind what the facts are; never mind what the provisions are. Does it help big oil or big gas?

I, as one, might say to Senators that they are their own worst enemies. I think we can give a little credit for the potential success of our proposal to the people in big oil or big gas.

This is not an industry bill, as proposed by the news media. The TV and the newspapers continually talk about "the proponents of the industry bill today came forward with this proposal." It is a proposal that deals with supply, consumer protection, and the economic health of this country.

We often hear that producers have withheld available gas and thereby cheated the consumer. There were allegations that contracts to give gas to the interstate pipeline systems were not honored. No one has proved that there have been contract violations.

It is alleged that somebody is lying about the proved reserves in this country. Yet, all the industry and the governmental estimates of proven reserves in this country are almost identical.

But the fear exists. The big bogeyman of the big corporations colors everything, and the shadow falls over all the calming deliberations we have had here. So we do something about withholding in our modification. If anybody withholds gas and then seeks to sell it into the interstate system, they sell it at no higher than the FPC regulated price.

Mr. President, we have accommodated legitimate concerns. These seem to be the main ones. We have sought to accommodate them within the time pressures we had.

One last thought: I do not think anyone has to remind another Senator that it does not make an awful lot of difference what the President says, and it does not make an awful lot of difference what the Speaker of the House says, that we should make this judgment within ourselves. But I have wondered continually throughout this debate why the opponents of this measure are continuing to fight even the chance to get it up for a vote. Apparently they have won. They have a Speaker who already has declared, "We will have none of it, no matter what your judgment may be." Then the President of the United States, who does not even know the provisions of the bill, said, "I am going to veto it."

I think they have won. Why hold this back now? Why not let the Senate express its will? I do not know if that will be the case. I believe it may even be an exercise in futility and almost stupidity.

We have a chance now to look at this anew, to look at it in better form, and for the Senate to work its will.

Mr. President, the Senator from Texas called up amendment 1039. I ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an amendment numbered 1039.

The legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. HAYAKAWA. Mr. President, I ask for order, and may I ask that the clerk read much more slowly and carefully and articulately so that we can all understand this amendment.

The PRESIDING OFFICER. The Senate will come to order and the clerk will continue.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendment of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided, however*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that at any time prior to January 1, 1977, proper facilities were in place for natural-gas production, such natural gas could be produced economically, and such natural gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B)(1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas.

"'(9) "Boiler fuel use" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2 (a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Nothwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates

and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following six new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a)(1) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(A) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(B) the rates and charges necessary to encourage the optimum levels of (i) the exploration for natural gas, (ii) the development, production, and gathering of natural gas, and (iii) the maintenance of proved reserves of natural gas;

"'(C) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(D) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of provisions (A) through (C) of this paragraph.

"'(2) The Commission shall monitor the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in paragraph (1).

"'(3) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to paragraph (1)(a) or the interim ceiling established pursuant to paragraph (4) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(4) Pending the establishment of a national ceiling pursuant to paragraph (1) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977, the Commission shall establish on a monthly bases an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to paragraph (1) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(5) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(6) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(7) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'(b)(1) Rates and charges for new natural gas sold or delivered from sources other than offshore Federal lands on or after January 1, 1977, shall not exceed on a British thermal unit (Btu) basis the current cost of Number 2 fuel oil, landed in New York, New York, as determined by the Commission.

"'(2) From and after two years subsequent to the date of enactment of the Natural Gas Act Amendments of 1977, there shall be no ceiling price applicable to the sale or delivery of new natural gas from sources other than offshore Federal Lands.

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'(d) For purposes of this section the term "small user" means any person utilizing 50 Mcf or less on a peak day.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sale of other natural gas.

"'SEC. 28(a)(1) The Commission may, by rule or order, authorize any interstate or intrastate pipeline to transport natural gas on behalf of any interstate or intrastate pipeline or local distribution company served by any interstate or intrastate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of the transportation of any natural gas authorized by the Commission under this subsection.

"'(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under this Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under this Act.

"'(3) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of this Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any transportation of natural gas authorized by the Commission under this subsection.

"'SEC. 29. INCREMENTAL PRICING. The Commission shall—

(a) Require all natural-gas companies with certificated facilities for transportation of natural gas to file reports at least annually with respect to (1) old natural gas, (2) new natural gas, and (3) synthetic or liquidified natural gas in such form and manner as to reflect the price and volumes received into such facilities.

(b) Consistent with the provisions of Sections 4, 5 and 7 of this Act, require that the costs of old natural gas be allocated for rate purposes to those users specified in Section 25(a) of this Act, including essential agricultural users until the rates or charges for natural gas for users not specified in Section 25(a) equal to reasonable cost of substitute fuel oil.

(c) In cases where the users identified in subsection (b) obtain natural gas supplies directly or indirectly from more than one natural-gas company, the Commission shall allocate the relative volumes attributable to such users for rate purposes among the supplying natural-gas companies.

(d) The Commission shall report to Congress annually on the effect of incremental pricing.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. ——) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof April 20, 1979; and,

"(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978, and January 1, 1979,' ".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Is this amendment in order, because it amends more than one section?

The PRESIDING OFFICER. An amendment to be struck down as amending more than one part of the bill must skip around in the bill. This amendment is a complete substitute, and the Chair rules it is in order.

The Senator from Kansas.

Mr. PEARSON. Mr. President, I did not seek recognition.

The PRESIDING OFFICER. The Chair apologizes to the Senator.

AMENDMENT NO. 1118 TO AMENDMENT NO. 862

Mr. METZENBAUM. Mr. President, I call up my amendment No. 1118.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1118 to amendment No. 862.

Mr. METZENBAUM. Mr. President, I ask that further reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Mr. President, may we please have stated what the amendment is?

The PRESIDING OFFICER. The Senator is correct. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

On page 3, line 25, after January 1, strike through line 5 on page 4 and insert "1978.".

Mr. METZENBAUM. Mr. President, this amendment is a substantive amendment which would change the definition with respect to extensions of previously discovered reservoirs.

While I am on my feet I want to make clear to Members of this body that all amendments offered by this Senator in the past several days have been substantive amendments which went to the heart of the legislation and not a dilatory proceeding. This one falls in the same category, and I hope the Senate will see to it to agree to the yeas and nays.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PEARSON. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Kansas.

Mr. PEARSON. Mr. President, as I understand this amendment it modifies the definition of new gas in the Pearson-Bentsen proposal.

Mr. METZENBAUM. That is correct.

Mr. PEARSON. Not the modified Pearson-Bentsen proposal but the one that was existing prior to the modification.

Mr. METZENBAUM. That is correct.

Mr. PEARSON. Mr. President, let me say very briefly that the definition of new gas has one purpose, to provide additional supplies of gas into the interstate system. It provides, first, for gas sold in the interstate system for the first time after January 1, 1977; second, new reservoirs; and, third, extensions of new reservoirs, which is a determination made by the Federal Power Commission or its successor. We think this is essential. We think this is an essential part of the definition of new gas. I move to table the amendment of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, not really wishing to follow this procedure but not having any alternative available to me, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senators from Minnesota (Mr. ANDERSON and Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—53

Allen	Glenn	Packwood
Baker	Goldwater	Pearson
Bartlett	Gravel	Percy
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Sparkman
Curtis	Helms	Stevens
Danforth	Johnston	Stone
DeConcini	Laxalt	Talmadge
Dole	Long	Thurmond
Domenici	Lugar	Tower
Eastland	McClure	Wallop
Ford	Melcher	Weicker
Garn	Morgan	Young
	Nunn	Zorinsky

NAYS—41

Abourezk	Hart	McIntyre
Bayh	Haskell	Metzenbaum
Biden	Hathaway	Moynihan
Brooke	Hollings	Muskie
Bumpers	Huddleston	Nelson
Byrd, Robert C.	Inouye	Pell
Cannon	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stevenson
Durkin	Matsunaga	Williams
Eagleton	McGovern	

NOT VOTING—6

Anderson	McClellan	Stafford
Humphrey	Metcalf	Stennis

So the motion to lay amendment No. 1118 on the table was agreed to.

Mr. KENNEDY addressed the Chair.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER (Mr. ZORINSKY). Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Is this a motion to table?

The PRESIDING OFFICER. It is.

The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from Minnesota (Mr. ANDERSON and Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—65

Abourezk	Garn	Packwood
Allen	Glenn	Pearson
Baker	Goldwater	Pell
Bartlett	Gravel	Percy
Bellmon	Griffin	Proxmire
Bentsen	Hansen	Randolph
Biden	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
Byrd, Robert C.	Heinz	Schweiker
Chafee	Helms	Scott
Chiles	Huddleston	Sparkman
Cranston	Johnston	Stennis
Curtis	Laxalt	Stevens
Danforth	Leahy	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	McClure	Tower
Eagleton	Melcher	Wallop
Eastland	Morgan	Weicker
Ford	Muskie	Young
	Nunn	Zorinsky

NAYS—30

Bayh	Haskell	McGovern
Brooke	Hathaway	McIntyre
Bumpers	Hollings	Metzenbaum
Cannon	Inouye	Moynihan
Case	Jackson	Nelson
Church	Javits	Ribicoff
Clark	Kennedy	Riegle
Culver	Magnuson	Sarbanes
Durkin	Mathias	Stevenson
Hart	Matsunaga	Williams

NOT VOTING—5

Anderson	McClellan	Stafford
Humphrey	Metcalf	

So the motion to table the motion to reconsider was agreed to.

AMENDMENT NO. 1361

Purpose: "Data" amendment with administration definition of new gas.

Mr. KENNEDY. Mr. President, I call up amendment No. 1361 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment No. 1361 to amendment No. 862.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (17) through (19), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir; and was produced by a qualified producer.

"'(8) 'Reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) 'Newly discovered reservoir' means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

"'(10) 'Old well' means any well other than a new well.

"'(11) 'Qualified producer' means a producer which has publicly disclosed such items related to costs, expenses, taxes, natural gas production and discovered reserves for the past ten years and annually for every year thereafter according to rules and regulations as the Commission may promulgate.

"'(12) 'Old natural gas' means natural gas other than new natural gas.

"'(13) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(14) 'Affiliate' means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(15) 'Offshore Federal lands' means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(16) 'Intrastate Commerce' means commerce within the United States other than interstate commerce."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this amendment, in addition to redefining new gas in the Pearson-Bentsen amendment, would permit the deregulated price only to firms that publish basic data which include the costs, the expenses, the taxes, the production, and reserves.

It is basically an information-oriented amendment. Most of these data are published at the present time by the independent gas companies in their annual reports. They generally do an absolutely superb job.

But the integrated companies fail, I think, to meet a similar standard, despite the fact that we have passed important information- and data-gathering provisions in the Petroleum Allocation Act and in the 1975 Energy Policy and Conservation Act.

The integrated companies can basically hide behind a consolidation of various reports. If we are going to deregulate under the Pearson-Bentsen amendment, it seems to me we ought to be entitled, and the public ought to be entitled to know the effect of deregulation. We are entitled to know the facts.

We do not want to find ourselves in the mid-1980's in cold houses with gas at $5 per Mcf and not really know what has happened or be able to assess why.

I know, Mr. President, there are those who believe there are already existing provisions in the current legislation to provide such information. But all you have to do, Mr. President, is to inquire of the Federal Trade Commission or the Federal Power Commission to find that the investigations have been going on for years, while their requests for information, for raw data, have been contested by the major integrated companies and tied up in the courts. Still this information is not available.

During the course of our discussion we are constantly talking about the resources which are available, the amount of natural gas in reserves, those areas which lend themselves to future production. But one of the reasons we do not have as clear a definition as we would like is because the major oil companies and gas companies refuse to provide that kind of information.

Mr. President, we hear the argument made that it is unreasonable to demand that we have such information, that it impinges on proprietary interests of the gas companies. But, the fact of the matter is, if we look at what happens up in Alberta, Canada, the oil and gas province of Canada, we find they have virtually similar requirements of all the oil and gas companies that drill in that area, and they work. Those data requirements work very effectively, and the public benefits.

It is in an attempt to derive that kind of information for the American public that this amendment is proposed.

Mr. President, it is very clear, as I mentioned earlier, that the independent gas companies are already providing much of this information to the Government. They do not have reluctance, nor have they really been resistant, to providing the kind of vital information so that informed judgments can be made. It is the major integrated companies stonewalling the Government and the public.

All this amendment says is if you are going to benefit under deregulation, you are going to have to provide information which should be available to the American public, since energy is such an absolutely essential aspect of the American economy and American life. If we are going to provide windfall-type incentives to this major industry, the American people are entitled to the information. Make no mistake about it, they are not going to get the information under the current language of Pearson-Bentsen.

Finally, this amendment also attempts, under the definition of new natural gas, to close the loophole that exists under the Pearson-Bentsen amendment. Senator HASKELL offered an amendment last evening which begins to address that issue and I will offer one that will deal more precisely with that, although the new natural gas provisions would be defined as well in this amendment.

Those essentially are the provisions of this amendment, and I hope that the amendment will be accepted.

Mr. President, I am prepared to withhold the remainder of my time and move to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BENTSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—50

Allen	Glenn	Pearson
Baker	Gravel	Percy
Bartlett	Griffin	Randolph
Bellmon	Hansen	Roth
Bentsen	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Sparkman
Curtis	Helms	Stennis
Danforth	Johnston	Stevens
DeConcini	Laxalt	Stone
Dole	Long	Talmadge
Domenici	Lugar	Thurmond
Eastland	McClure	Tower
Ford	Melcher	Wallop
Garn	Morgan	Weicker
	Packwood	Young

NAYS—44

Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Huddleston	Nunn
Burdick	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Church	Leahy	Sarbanes
Clark	Magnuson	Sasser
Cranston	Mathias	Stevenson
Culver	Matsunaga	Williams
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	

NOT VOTING—6

Abourezk	Humphrey	Metcalf
Goldwater	McClellan	Stafford

So the motion to lay Mr. KENNEDY's amendment No. 1361 on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the vote on that particular amendment was very close. We have better participation by the Members. Basically, what we were attempting to do with the last amendment was to build the deregulated price only for the gas companies that were going to provide for the American people information on their reserves and also on their production. That information is not now available. No one can sit through the long hearings listening to members of the Federal Trade Commission or the Federal Power Commission, which have been trying to gain this information, and not realize that we do not have the mechanism or the device to be able to obtain that information.

The PRESIDING OFFICER. Will the Senator from Massachusetts suspend for one moment? The Senate is not in order. Will Senators please cease their conversations.

The Senator from Massachusetts.

AMENDMENT NO. 1365

Mr. KENNEDY. Mr. President, I call up my amendment No. 1365 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 1365.

The amendment is as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977, and is produced and sold by a qualified producer.

"'(8) "Reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) Qualified producer means a producer which invests each year in exploration for natural gas in areas not yet proven to contain natural gas by drilling, an amount equal to the highest amount expended for such purposes in any of the past ten calendar years, plus all net receipts accruing to it as a result of natural gas sales at prices in excess of $1.45 per Mcf.

"'(10) "Old natural gas" means natural gas other than new natural gas.

"'(11) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(12) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(13) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2 (a)

of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(14) "Intrastate Commerce" means commerce within the United States other than interstate commerce."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this is a relatively short and uncomplicated amendment. What it provides is to insure that the profit from the increased prices of deregulated natural gas are going to be plowed back into new exploration for natural gas in this country. This is basically a plowback provision for the Pearson-Bentsen amendment.

During the course of the debate we heard a great deal about how we need to provide the additional incentive that is going to be provided by the free market area, which is an argument which I think many of us have contested. But, nonetheless, there have been those who have supported the Pearson-Bentsen deregulation feeling that it was going to provide a substantial increase in profits which is going to be available for increased exploration.

What this particular amendment would do is to insure that the excessive profits from marketing would be placed back into exploration. I think it is entirely fair and entirely just if we are talking about trying to devise a gas policy which is going to benefit the American people and also provide a reasonable return.

We have heard during the course of the debate for the past few days that we should be less concerned either about the structure of the independent gas industry, or what they are going to actually benefit in terms of price, and that what we ought to be interested in is how to insure that we are devising a national energy policy that is going to produce the greatest amount of energy, in this case natural gas.

This particular amendment will insure that we will have the additional resources committed to exploration. It will require that those resources above the fair and reasonable return will actually be plowed back into exploration for natural gas in areas not yet proven to contain natural gas by drilling.

It seems to me that this is a desirable, worthwhile, and valuable addition to the Pearson-Bentsen amendment.

So, Mr. President, I would hope this amendment would be accepted.

Mr. PEARSON. Will the Senator yield for a question on my time?

Mr. KENNEDY. Yes.

May we have order, Mr. President?

Mr. PEARSON. Is this amendment to the original bill or to the Pearson-Bentsen substitute?

Mr. KENNEDY. This is an amendment to the Pearson-Bentsen amendment.

Mr. PEARSON. And it provides that all earnings shall be plowed back into further exvploration and development over a certain percentage of profits?

Mr. KENNEDY. That is right. All the earnings above the $1.45 figure would be used for exploration. That is really what we are attempting to insure, that we are going to get the greatest degree of production.

This would insure the plowing back of those profits that would go to the gas companies which are being justified here as an additional incentive to look into new areas. It seems to me this would be the best way, if we are going to go the route of Pearson-Bentsen, to assure that the greatest amount of resources would be available for exploration for natural gas.

Mr. PEARSON. What is the provision if the producer does not plow back, if he refuses to comply with the mandate of this particular amendment?

Mr. KENNEDY. It is not a very serious one. It is only that they lose the benefit of the deregulated Mcf figure.

Mr. PEARSON. Or all deductions that they may acquire?

Mr. KENNEDY. If they do not plow back, that is. The principal reason for Pearson-Bentsen, as I understand it from the author, is that it is the best device to increase production because of the expansion of the revenues which will be gained. This amendment is to insure that those revenues will actually be used in exploration. Is it not the intention of the author of Pearson-Bentsen that the additional increase in price will be so used?

Mr. PEARSON. The Senator is correct. I want to understand his amendment. As I understand it now——

Mr. KENNEDY. The Senator has no objection to accepting the amendment?

Mr. PEARSON. We will see about that. As of now, if a producer fails to plow back, he loses the deregulated price on all of his production?

Mr. KENNEDY. I would rather state it a different way. I would rather state that when he does plow that back, he is eligible for the extraordinary benefits of Pearson-Bentsen. I think that is probably a more appropriate way of explaining it.

Mr. PEARSON. I thank the Senator.

Mr. KENNEDY. The author of the amendment indicated that he expects the benefits of his proposal above the $1.45 will be plowed back and there will be new exploration. There really should not be any reason for him not to accept this amendment.

Mr. DECONCINI. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. DECONCINI. Is it the intent of this amendment that the producers would be able to have enough incentive and enough profit at the regulated interstate price? That is where the price would be. All gas would be regulated at the interstate price. This provides they plow back any profits above that?

Mr. KENNEDY. The Senator is correct. It would be at basically the interstate price.

Mr. DECONCINI. At the interstate price?

Mr. KENNEDY. Well, the ones that would not be would be at the $1.45, but anyone who obviously plows this back is going to be under the deregulated price. So anybody who plows back is going to be eligible for the deregulated price. I think it was going to go up to either $3, $4, or $5 per Mcf, but if they do not plow back then they come back to the reasonable price, which at the present time is $1.45.

Mr. DECONCINI. Will the Senator yield for another question?

Mr. KENNEDY. Yes.

Mr. DECONCINI. Is there any time limit after which this would cease, such as 5 years, or any anticipation of that? Would this just continue?

Mr. KENNEDY. There are two questions on that. I think if there is going to be compliance with the provisions, they would be automatically eligible so in that sense it is a continuing factor. On the other part of it, which is the regulated price, that is recalculated by the commissioner. So that, I imagine, would go up. It would certainly be my intention that it would go up by the inflationary factor. The other amendment we offered on that, the previous amendment, had the inflator factor built into it. I understand that the Federal Power Commission makes those judgments on an annual basis based on various factors and that they would certainly include the inflator factor. So if they do not comply, they are back to any variance of the $1.45 increase.

Mr. DECONCINI. I thank the Senator.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. KENNEDY. Could the Senator use his time for a question and I will use my time for the answer, if that is agreeable?

Mr. BENTSEN. I did not know this was done. That is not the customary procedure. I have been yielding for questions. It is truly a question and not a speech.

Mr. KENNEDY. I yield for the question.

Mr. BENTSEN. I would like to know how the provision would work when the Senator refers to an amount being spent that would be the highest amount spent in any of the past 10 calendar years, and it must be in areas in which they have not found natural gas. It seems to me that would be a little difficult and arduous. I said I would not make a speech. Will the Senator respond?

Mr. KENNEDY. That effectively sets the base which its future investment would be based upon. So in looking back, we would have to add any of the additional revenues that would come from deregulation; they would have to be added into that. What we would do is use the base. Yet we would use the carrying forward of the resources that would be gained by deregulation. That will, I think, be much more expanded than the Senator from Texas believes.

In any event, whatever those figures would be, you would use the 10-year base, figuring that that would be the highest of that time. That would be the base figure from which it would come.

Br. BENTSEN. If I may comment on my own time, I think what we end up with is a very complicated procedure

that gives no consideration at all for a man's cash flow in the business and what might be his financing concerns, and the determination of the terms of that financing is, therefore, very difficult in this application.

Mr. KENNEDY. The only point is that it would be required that he spend as much time as he has spent in the past on it. If he has been spending that, it seems to me to be a reasonable expectation. If the purpose of this policy is to find new areas, we expect him to expend that and do as well in the future as he has in the past.

Mr. SCHMITT. Will the Senator yield for a question?

Mr. KENNEDY. Will the Senator use his time for the question and use my time for the answer?

Mr. SCHMITT. I did not know I was establishing a precedent, most people having yielded for questions, but I shall be happy to.

On the Senator's proposal, which I have not been able to get a copy of yet, would he explain what happens if the cost of production of gas is greater than $1.45? Does not his proposal result in a disincentive to invest if his cost of production is higher? Really, it is just a back door means of doing exactly what the Pearson-Bentsen amendment is trying not to do.

Mr. KENNEDY. What we are talking about is, basically, exploration costs. I think that that would make it easier for the particular company to comply, to spend as much as they did in the past.

Mr. SCHMITT. We cannot attract investment in the drilling, which is the whole problem we have in the production of gas, unless we can realize a profit. If the cost would be greater than $1.45, I believe the Senator's proposal would act as a disincentive for investment.

Mr. KENNEDY. This amendment is very simple. As they get an increase, in terms of the deregulated price, they are going to have a requirement that that is going to have to be poured back into continued exploration on it. We have set out how that is going to be measured, which will provide, obviously, a reasonable return on the investment, but will insure that the inflated price that is going to be passed on to consumers—which is, I think, not going to be reflective of traditional market forces—is going to be plowed back into additional exploration fo resources.

It seems to me that that is the minimum that we ought to expect from a highly inflated source.

Mr. SCHMITT. I do not believe prices are going to be highly inflated, but the point I am trying to make with this question is that, if the Senator's amendment were adopted, as I understand it, then any earnings above $1.45, gross earnings, would have to be plowed back into exploration.

I am a supporter of a plowback provision, but it has to be above a certain reasonable return on investment that should be invested in exploration. Without a reasonable return on investment, the drilling will not proceed and we will not get an increase in supply for the marginal or higher-cost frontier area. I am afraid the Senator's amendment would not accomplish anything other than a restriction to areas in which the costs are $1.45 or less. That is not what we want to do. We want to increase exploration in as marginal areas as we can, increase exploration of deposits that may come in at costs quite a bit higher than $1.45, but for which there is a sales market available for the gas so produced.

I recommend that my colleagues vote either against the amendment or for a tabling motion.

Mr. KENNEDY. Will the Senator give me a chance to respond?

The procedure we outline here is basically almost the identical procedure which would be used by the independent gas companies in their exploration. It is basically what is being followed now as a practice and procedure. They do not have the kind of problem that the Senator has expressed here. Some of the others, such as the integrated companies, do.

The fact remains that there is going to be more and more in terms of return above what is a reasonable price. I am sure that, to the Senator from New Mexico, $1.45 is not a reasonable price. On the bottom side, we are going to have that price gradually increased. It is to be reviewed at an annual basis to reflect the inflated factors, to arrive at a reasonable price. But as more and more gets returned to the gas companies, there is the expectation that what is going to be above the reasonable price is going to have to be returned in terms of exploration. The Senator is correct in understanding that as the thrust of this amendment.

I just say, finally, that it is basically the procedure which is being followed by the independent gas companies, which are the most competitive in the oil and gas industry today. They do not feel it is too much of a burden, quite frankly. Others, such as the integrated companies, do. That is basically my response.

I am going to reserve the remainder of my time.

Mr. SCHMITT. If the Senator will yield, I submit that there will be no independent gas producers if the independent is going to produce gas at a price higher than $1.45 and if he has to plow back every bit of that extra price into the ground. He has to be able to offer his investors and himself a return on investment. If it happens to cost $2 to bring some gas in and we adopt the Senator's amendment, that investment is not going to be made in that higher cost gas reservoir.

So, again, I suggest that it is not really a plowback provision at all; it is a disincentive for future investment.

Mr. KENNEDY. This Senator understands and the Senator from New Mexico may correct me if I am wrong—what is the practice in New Mexico in terms of the independent gas companies? It is my understanding—and if I am wrong, I would be glad to be corrected—with regard to the independents, that they are the part of the oil and gas industry which is by far the most competitive. Generally, as a rule, as a practice, they are reinvesting just about all of their profits in exploration. All we are trying to do is insure that the rest of the industry is going to follow what is already the practice in the most competitive aspect of the oil and gas industry.

Mr. SCHMITT. I realize the Senator is not a geologist or a minerals economist but, over a period of time, it does not make sense to plow back everything you earn over costs or, even, as in the case of the Senator's amendment, plow back more than what you earn over cost. That just does not make sense. No independent in New Mexico would do that consistently over any period of time, or anywhere else in this country.

For a limited period of time, in anticipation of increased return at some later time, you may actually spend more than you are making. You may plow back more than you are earning, but if you do it over an indefinite period of time, you are going to go out of business. You are certainly not going to attract any stockholders.

Once again, I urge that the amendment not be adopted and that we not be fooled that this is a realistic plowback provision. I think many of the Senators who support Pearson-Bentsen believe in some form of plowback provision, but this is not the form it should take.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy of my staff be permitted the privilege of the floor throughout consideration of this bill.

THE PRESIDING OFFICER. (Mr. CHILES). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I want to say to the Senator that I do not want to limit his development of the idea in his amendment, but if he has completed his presentation, I want to advise him that I shall be moving to table.

Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The motion before the Senate is a motion to table.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—56

Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Sasser
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Cannon	Hayakawa	Scott
Chafee	Helms	Sparkman
Chiles	Huddleston	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Stevenson
Danforth	Long	Stone
Dole	Lugar	Talmadge
Domenici	Mathias	Thurmond
Eastland	McClure	Tower
Ford	Melcher	Wallop
Garn	Morgan	Weicker
	Packwood	Young

NAYS—38

Anderson	Hart	Metzenbaum
Bayh	Hatfield	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Nunn
Byrd, Robert C.	Jackson	Pell
Case	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Leahy	Riegle
Culver	Magnuson	Sarbanes
DeConcini	Matsunaga	Williams
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	

NOT VOTING—6

Abourezk	Humphrey	Metcalf
Heinz	McClellan	Stafford

So the motion to lay Mr. KENNEDY's amendment (No. 1365) on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. The Senator from Vermont does not seek recognition.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the roll to ascertain the presence of Senators.

The assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 36 Leg.]

Allen	Curtis	Helms
Anderson	Danforth	Hollings
Baker	DeConcini	Huddleston
Bartlett	Dole	Inouye
Bayh	Domenici	Jackson
Bellmon	Durkin	Javits
Bentsen	Eagleton	Johnston
Biden	Eastland	Kennedy
Brooke	Ford	Laxalt
Bumpers	Garn	Leahy
Burdick	Glenn	Long
Byrd, Harry F., Jr.	Goldwater	Lugar
Byrd, Robert C.	Gravel	Magnuson
Cannon	Griffin	Mathias
Case	Hansen	Matsunaga
Chafee	Haskell	McClure
Chiles	Hatch	McGovern
Church	Hatfield	McIntyre
Clark	Hathaway	Melcher
Cranston	Hayakawa	Metzenbaum
	Heinz	Morgan
Moynihan	Riegle	Stone
Muskie	Roth	Talmadge
Nelson	Sarbanes	Thurmond
Nunn	Sasser	Tower
Packwood	Schmitt	Wallop
Pearson	Schweiker	Weicker
Pell	Scott	Williams
Percy	Sparkman	Young
Proxmire	Stennis	Zorinsky
Randolph	Stevens	
Ribicoff	Stevenson	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 1039

The question is on agreeing to the amendment of the Senator from Texas (putting the question). The "yeas" appear to have it. The amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I was seeking recognition before the Chair announced the vote.

The PRESIDING OFFICER. If the Senator was seeking recognition before the result was announced, he has a right to recognition, and the Chair's announcement that the amendment was agreed to is nullified.

Mr. ROBERT C. BYRD. I thank the Chair. I think, Mr. President, that on an amendment of this significance, the sponsors of the amendment and those who are opposed to it ought to be present and be aware that a vote is occurring.

Mr. PEARSON. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield.

Mr. PEARSON. What is the pending business?

The PRESIDING OFFCIER. The amendment of the Senator from Texas, cosponsored by the Senator from Kansas, numbered 1039.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would just like to point out to the Members of the Senate that there is not a Senator, other than the sponsors, who have had an opportunity to read this amendment. It is not printed and not available. It has not been available at the desk. It would be totally irresponsible, in my judgment, to vote on an amendment of this nature without Senators having a chance to read it and see its contents.

Mr. ROBERT C. BYRD. Mr. President, the Chair acted properly. When a quorum was established, the Chair acted properly in putting the question, but I felt——

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Wait a minute, I have the floor.

I thought that an amendment of this magnitude should certainly have more Senators on the floor than were present, or at least not be passed by voice vote with so few Senators on the floor.

Now I yield the floor.

AMENDMENT NO. 915

Mr. METZENBAUM. Mr. President, I call up amendment No. 915. In doing so, I would like to advise that one reason why I am calling it up at this time is that I think the Senator from Washington (Mr. JACKSON) has a strong interest in this amendment. It is to the substitute amendment (No. 862) of the Senator from Texas (Mr. BENTSEN), and I think the Pearson-Bentsen amendment should not be considered without it.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 915 to amendment No. 862:

On page 3, strike all of lines 12 through line 17 and insert in lieu thereof "That".

Mr. DURKIN. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. Mr. President, this is a substantive amendment, limiting what would happen. If we enact this amendment, it would make it possible that that which is new natural gas today be delivered in an interstate market on an emergency basis. Otherwise that which is truly interstate gas at this moment would be classified as domestic, intrastate gas in the future. It is appropriate; I urge the adoption of the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STONE. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 915) of the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CULVER), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—56

Allen	DeConcini	Hayakawa
Baker	Dole	Heinz
Bartlett	Domenici	Helms
Bellmon	Eastland	Johnston
Bentsen	Ford	Laxalt
Burdick	Garn	Long
Byrd, Harry F., Jr.	Glenn	Lugar
Byrd, Robert C.	Goldwater	McClure
Cannon	Gravel	Melcher
Chafee	Griffin	Morgan
Chiles	Hansen	Nunn
Curtis	Haskell	Packwood
Danforth	Hatch	Pearson
	Hatfield	Percy
Randolph	Stennis	Tower
Roth	Stevens	Wallop
Schmitt	Stone	Weicker
Schweiker	Talmadge	Young
Scott	Thurmond	Zorinsky

NAYS—37

Anderson	Huddleston	Muskie
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Brooke	Javits	Proxmire
Bumpers	Kennedy	Ribicoff
Case	Leahy	Riegle
Church	Magnuson	Sarbanes
Clark	Mathias	Sasser
Cranston	Matsunaga	Sparkman
Durkin	McGovern	Stevenson
Eagleton	McIntyre	Williams
Hathaway	Metzenbaum	
Hollings	Moynihan	

NOT VOTING—7

Abourezk	Humphrey	Stafford
Culver	McClellan	
Hart	Metcalf	

So the motion to lay on the table Mr. METZENBAUM's amendment (No. 915) was agreed to.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. JACKSON. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on S. 1811, the ERDA Authorization Act of 1978. Mr. President, this is a very important matter.

Without objection, the Presiding Officer (Mr. SARBANES) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT, conferees on the part of the Senate.

AUTHORIZATION FOR COMMITTEE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration may have until October 17 to report the results of a review of laws relating to contributions solicited from or made by officers and employees of the Senate pursuant to Senate Resolution 110.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued consideration of the bill.

Mr. DURKIN. Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. DURKIN. I yield to the Senator from Ohio for the purpose of a unanimous-consent request.

Mr. GLENN. I ask unanimous consent that Rick Ross of my staff may have the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I yield to the Senator from Ohio to call up an amendment.

Mr. PEARSON. Will the Senator yield? I would like to get the yeas and nays on the pending business, amendment No. 1039. Will the Senator yield for that purpose?

Mr. METZENBAUM. Will the Senator be good enough to tell us what amendment No. 1039 is?

Mr. PEARSON. It is the Pearson-Bentsen modification, which is now the pending business. I would like to get the yeas and nays ordered on it.

Will the Senator yield for that purpose?

Mr. METZENBAUM. Yes.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays on amendment No. 1039? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURKIN and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. DURKIN. I yield to the Senator from Ohio to call up his amendment.

The PRESIDING OFFICER. Without objection, the Chair recognizes the Senator from Ohio.

AMENDMENT 1074

Mr. METZENBAUM. Mr. President, I call up amendment No. 1074 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment.

On page 11, strike lines 4 through 10.

Mr. METZENBAUM. Mr. President, this is a very simple amendment, which would eliminate from the bill a provision making it possible for persons to charge an amount in excess of the national ceiling which has been established pursuant to law. I think there is no real reason to permit anything to go over and above that which is permitted under the provisions of the law as proposed.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 433 Leg.]

YEAS—31

Anderson	Huddleston	Muskie
Biden	Inouye	Nelson
Church	Jackson	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Leahy	Riegle
Culver	Magnuson	Sarbanes
DeConcini	Matsunaga	Stevenson
Durkin	McGovern	Williams
Hart	McIntyre	Zorinsky
Hathaway	Metzenbaum	
Hollings	Moynihan	

NAYS—64

Allen	Ford	Nunn
Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bayh	Goldwater	Pell
Bellmon	Gravel	Percy
Bentsen	Griffin	Randolph
Brooke	Hansen	Roth
Bumpers	Haskell	Sasser
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Heinz	Sparkman
Case	Helms	Stennis
Chafee	Javits	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young
	Morgan	

NOT VOTING—5

Abourezk	McClellan	Stafford
Humphrey	Metcalf	

So Mr. METZENBAUM's amendment No. 1074 was rejected.

Mr. DURKIN and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1075

Mr. METZENBAUM. Mr. President, I call up amendment No. 1075.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment numbered 1075:

On page 12, line 8, strike everything after "ceiling" through line 12 and insert a period.

Mr. METZENBAUM. Mr. President, Senators have just voted against an amendment that would prohibit charging prices higher than the national ceiling price. The bill contains a proviso that would prevent the commission from setting rates lower than the interim ceiling price. This is a substantive amendment. It is the reverse of the amendment the Senate just rejected. If the other one should have been defeated, then this one should be adopted. I urge its adoption.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 434 Leg.]

YEAS—56

Allen	Garn	Pearson
Baker	Glenn	Percy
Bartlett	Goldwater	Randolph
Bellmon	Gravel	Roth
Bentsen	Hansen	Sasser
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Byrd, Robert C.	Hatfield	Scott
Chafee	Hayakawa	Sparkman
Chiles	Heinz	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	McClure	Wallop
Eastland	Melcher	Weicker
Ford	Morgan	Young
	Packwood	Zorinsky

NAYS—37

Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Inouye	Nunn
Bumpers	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Stevenson
Durkin	McGovern	Williams
Eagleton	McIntyre	
Hart	Metzenbaum	

NOT VOTING—7

Abourezk	Humphrey	Stafford
Griffin	McClellan	
Helms	Metcalf	

So Mr. HANSEN's motion to lay on the table Mr. METZENBAUM's amendment (No. 1075) was agreed to.

AMENDMENT NO. 909

Mr. BUMPERS. Mr. President, I call up printed amendment No. 909 which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes amendment No. 909 to amendment No. 862.

On page 11, line 24, strike the words "Secretary of the Department of Energy or the".

Mr. BUMPERS. Mr. President, this amendment is designed to cure a possible overlap of jurisdiction and, therefore, confusion.

Under the Pearson-Bentsen amendment, the Pearson-Bentsen amendment allows either the Secretary of the Department of Energy or the Federal Energy Regulatory Commission to determine the new crude oil equivalent price on which prices for new natural gas developed offshore will be based.

This amendment simply strikes the Secretary from it and leaves the authority with the Commission.

It is not a big amendment but has the potential for eliminating what all of us complain about constantly and that is the duplicitous nature of the regulatory agencies, the overlapping of regulatory agencies.

Obviously if the Secretary and the Commission both—and the Commission is supposed to be fairly independent—but if both of them have the right to determine the Btu equivalent price on which the price of offshore gas is going to be based there is the potential for conflict and confusion, overlapping and delayed decisions. So my amendment simply takes the Secretary out of the business and leaves it with the Commission where I think it properly should be.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, will the Senator yield for a question on my own time?

Mr. BUMPERS. The Senator from Texas asked me to yield for a question on his time. I am pleased to yield.

Mr. BENTSEN. My understanding is leave it with the Commission and not have it as a possible conflict between the two; is that correct?

Mr. BUMPERS. That is correct.

Mr. PEARSON. Mr. President, will the Senator yield on my time?

Mr. BUMPERS. I yield.

Mr. PEARSON. I might say to the Senator that as I understand it, I would have no objection to the Senator's amendment. We drafted it in the alternative to make it comply with the act creating the Department of Energy where the Secretary in some cases gets into the fixing of prices for emergency powers. If I understand the Senator's amendment he would place it in the regulatory agency rather than the Secretary; is that correct?

Mr. BUMPERS. It takes away the possibility of the Secretary having the power because right now it is vested in both. It says either the Secretary or the Commission.

Mr. PEARSON. To repeat, I have no objection to the Senator's amendment. We drafted it in that way, as I understand it, to comply with the wording and the structuring of the Department of Energy.

Mr. BENTSEN. The Senator from Texas has no objection.

Mr. BUMPERS. Mr. President, I am most reluctant to take the time of the Senate when this amendment could be agreed on. To be candid with Senators, I asked for the yeas and nays and have a sufficient second. Senator METZENBAUM is off the floor right now. So I will have to insist on a rollcall vote until he gets back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from New Hampshire (Mr. MCINTYRE), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT), are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 62, nays 31, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—62

Abourezk	Ford	Packwood
Allen	Garn	Pearson
Anderson	Griffin	Pell
Baker	Hansen	Proxmire
Bayh	Hart	Randolph
Bentsen	Hatch	Riegle
Biden	Hatfield	Roth
Bumpers	Hathaway	Sarbanes
Burdick	Hayakawa	Sasser
Byrd, Harry F., Jr.	Heinz	Schmitt
Cannon	Huddleston	Schweiker
Case	Kennedy	Sparkman
Chafee	Leahy	Stevens
Church	Matsunaga	Stevenson
Clark	McClure	Stone
Cranston	McGovern	Thurmond
Culver	Melcher	Wallop
Danforth	Metzenbaum	Weicker
Dole	Moynihan	Williams
Domenici	Muskie	Young
	Nelson	Zorinsky

NAYS—31

Bartlett	Gravel	Mathias
Bellmon	Haskell	Morgan
Brooke	Helms	Nunn
Byrd, Robert C.	Hollings	Percy
Chiles	Inouye	Ribicoff
Curtis	Jackson	Scott
DeConcini	Javits	Stennis
Durkin	Johnston	Talmadge
Eagleton	Long	Tower
Eastland	Lugar	
Glenn	Magnuson	

NOT VOTING—7

Goldwater	McClellan	Stafford
Humphrey	McIntyre	
Laxalt	Metcalf	

So Mr. BUMPERS' amendment (No. 909) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Indiana.

Mr. BAYH. Mr. President. I have not had much to say in the debate in which the Senate has been engaged today. I have some thoughts I would like to express. I was going to express them earlier today in the reasonable proximity of an amendment proposed by our distinguished colleague from Massachusetts (Mr. KENNEDY) on the question of divestiture, which I believe ties in closely with what we have been discussing. At that time my remarks were shut off by a motion to table by our distinguished colleague from Texas, who, of course, was within his right to do that. I intend at this time to express myself on this issue. I would say to my colleagues who may have elsewhere to go that my remarks will probably take somewhere between 15 and 20 minutes. I do not intend to call up any amendment so, for the sake of convenience, they might be able to do something which will not require them to be here.

Mr. President, I have heard a great deal of very conscientious discussion from all of our colleagues relative to their concern about the energy problem to which we are addressing ourselves. It is amazing to me how men of equally good purpose can be as far apart as some of us are on what the solution to a common problem is.

The distinguished Senator from Texas (Mr. BENTSEN) and the distinguished Senator from Kansas (Mr. PEARSON), both of whom I have a great deal of respect for, have proposed a revised amendment which they suggest is a compromise to the earlier proposal which they made.

I would say out of deference to both of these colleagues and their supporters that I think there are some significant improvements in the new Bentsen-Pearson, Pearson-Bentsen amendment over the earlier one. But when we get to what the bottom line is, the impact is ultimately going to be the same thing.

During the discussion of their modified amendment, both of our distinguished colleagues stressed supply and demand, and how, by freeing up new gas, supply and demand was going to determine price, and the forces of the marketplace were going to move in and take over from the Federal bureaucrats.

How much I wish that were the case. I believe all of us can look back now with the 20–20 vision of hindsight and we can see that there have been some miscalculations in the pricing of natural gas. That, indeed, is partially responsible for some of the shortages of supply and some of the lack of exploration.

But to suggest that merely deregulating, as several proposals before us would do, is going to turn the ultimate decision of price over to the forces of the marketplace is, I respectfully suggest, being a little bit naive and ignoring what is actually happening out there in the cold, cruel world.

I think this was brought vividly into focus during the remarks of both these distinguished colleagues when they talked about forces of the marketplace and supply and demand determining what the price of gas is going to be. In other words, get the Federal Government out, get the bureaucrats out, take the regulations off, and then supply and demand will determine what the consumer has to pay—but at the same time we must protect against the so-called acquisition of $5 gas, so we are going to limit gas prices to the price for a similar Btu quantity of No. 2 crude oil as it is laid down in New York.

That, in essence, says it will not be supply and demand in the marketplace that will determine prices but that the price will be set by whoever determines the price of foreign oil laid down in New York.

That is not supply and demand. In essence, we are saying that right now we have a cartel, an OPEC cartel, which we would like to get rid of—it is not going to disappear—and they are the ones who determine the price of No. 2 crude oil. There is not a whole lot we have been able to do about that. The subject before us now is not whether we will let OPEC determine what the price of crude oil will be, but whether we are going to say that, in essence, OPEC is also going to set the price of so-called dergulated gas.

What concerns the Senator from Indiana is that I do not like to see all this regulation, but I have to confess to my colleagues, both those are on my side of this issue and those who are not, that if there is going to be any regulating done, I would rather that we did it rather than letting foreign governments do it. The practical fact, whether we like it or not, I say, is that there is no free market in petroleum right now. The OPEC price has a dynamic, if not totally influential, impact on the price of crude oil.

For us now to say, in considering what our natural gas policy is going to be, that we are going to limit, through deregulation, the price of natural gas to what the similar Btu price of crude oil is going to be, and then kid ourselves into believing that we really set natural gas prices in the free market is quite far from what the facts really are.

I am concerned about how we get new supplies. I think what we are going to have to do is increase the price of new natural gas, as President Carter suggested. But I have to say that I do not think we ought to let OPEC determine what that price should be. It is rather clear that supply and demand does not determine what OPEC's price is. For that reason, I think the administration proposal or some reasonable compromise like it that lets the cost of production have an impact on prices—not a cartel limitation setting the price—makes a great deal more sense to me than deregulation under current conditions.

I think my friend from Kansas said that those opposing deregulation sometimes try to capitalize on the unpopularity of oil and gas corporations. Well, I suppose they have been subjected to a certain amount of criticism, perhaps abuse. I happen to be one who feels that they have asked for a good deal of it. But, to me, this whole business really should not be directed at taking on the unpopular oil and gas industry, but, really, we ought to structure our natural gas program and the gas pricing mechanism in a way that reflects our concern for consumers, who really do not have the high-priced lobbyists, and are not able to conduct the kind of high level, very sophisticated Madison Avenue type campaigns that we have seen the petroleum industry conduct over the last couple of years.

Somebody has to be concerned about the average citizen and unless we are willing to stand up and limit the price of new gas to whatever is necessary to go out there and have the kind of exploration we need, I think the consumers are the ones that are going to get it in the back of the neck.

The Senator from Indiana is one who has been very concerned about the lack of competition in the petroleum industry. I was going to address myself to this particular subject at the time that the Senator from Massachusetts called up his divestiture amendment, but, as I said a moment ago, I was foreclosed from doing so by a tabling motion. I say that with no acrimony in my heart toward my colleagues who proposed the tabling motion, because there has been a lot of that done and everybody has been exercising their right.

I do want to say right now that, inasmuch as we have had a proposal that has been made here recently, which was suggested to be a compromise, and is directly related to the cost of gas as it compares to a similar Btu value of petroleum, I think the Senate ought to look at how petroleum prices are set. I think we ought to explore more carefully than we have—and apparently, from a parliamentary standpoint as well as from a vote standpoint, we do not have the horses to do it, the effect that the vertical integration of the oil companies has on the price of petroleum and, indeed, on the entire petroleum industry.

First of all, I am concerned about competition. My distinguished friend from Wyoming talked about the fact that there were a number of industries in which there are significantly fewer companies than in the petroleum industry. And you know, he is honest, he is accurate, and he is right. But what he did not say, and what I think we have to consider if we are talking about vertical integration, is not only the number of companies, but the way in which they have a pervasive, almost insidious control over the whole chain of command; so that, not only do we have some dozen to a dozen and a half major multinational corporations, but we also have those corporations controlling exploration, production, transportation, refining, and retail sales. That is what makes vertical integration so bad: A combination of a relatively small number of companies and complete control of the distribution system of a very vital, indispensable commodity.

We can say that there are only four automobile companies. I think there were four the last time I counted. Indeed, there are more oil companies. But the automobile companies do not own the steel mills; they do not own the railroad systems, the transports for steel and the automobile parts. And indeed, they do not have the kind of lock on the

retail end of the market that exists in petroleum. So I am concerned that there is not the kind of competition that there ought to be.

One of the responses that some of our colleagues, very well intentioned and sincere, have made to the concern that some of us have that we need to divest the major oil companies, break them up into their component parts, to be very harsh about it, I suppose, is that, at a time when we really ought to devote more resources in the area of exploration, to break up the major multinational oil companies, would be to create smaller companies and thus decrease the amount of resources that are available for exploration. You know, that argument would be persuasive to the Senator from Indiana if it were not for the facts, two general sets of facts.

First of all, I think we have every right, if we are concerned about the development of energy, and if we are concerned about possible lack of competition—and, indeed, in addressing ourselves to the divestiture of oil, the major multinational companies, if we are concerned about studying vertical integration—I think we have to look to see how the oil companies, some of them, are currently investing their money. It concerns me that we need to have more resources in the area of exploration. I am prepared to accept a reasonable solution on how we get more money into the area of exploration. But I must say, that when I look at the facts as they are, and I find one of the major multinational oil companies, Mobil Oil, going out and spending several hundred billion dollars to buy Marcor—Montgomery Ward, I wonder just how much that is going to do to help discover more gas and more oil.

It may make good business sense from their standpoint, but if one of the reasons for not breaking up the oil companies into their component parts is that this is going to take away resources from the multinationals that would otherwise go into the exploration area, then I think we have every right to say, "How much new gas, how much new oil is being discovered and developed because Mobil now owns Montgomery Ward?"

I think we could ask the same question, about why Gulf tried to buy Ringling Brothers Circus. If I look at some of the ads that are supposed to prove the great diversity of the oil companies, the fact of the matter is that they are involved in everything from sports complexes to pesticides that have no relevance at all to what most of us feel is the traditional petroleum system. Yet they have done it, for reasons that seem to make sense to them, but for reasons which I feel cut back on competition and take money out of the area of exploration for new energy supplies.

Second of all, I want to make clear that divesting the majors would not result in small companies with insufficient resources for effective exploration and development.

Exxon, which is now No. 1 on the Fortune 55 list of U.S. corporations, would have successor companies that would all be in the top 20, and Exxon Production would be No. 4. Even the smallest of the oil giants—Marathon Oil, which is now number 17 on the Fortune 500—would be succeeded by companies which would all be on the Fortune list and thus among the very largest U.S. corporations.

Not only would they still be able to raise the capital, but the available capital would not have to go through the bureaucratic delays and limitations of an integrated company. Of equal importance, available capital would no longer be diverted to other nonenergy investments. Mobil Production, for example, would be in the oil production business and its stockholders, banks, and other financial sources would expect it to focus its effort and capital on that work, rather than diluting its skills and experience with non-energy undertakings, such as its current Marcor—Montgomery Ward—venture. Similarly, Gulf Production would never consider purchasing the Ringling Brothers Circus, as Gulf recently tried to do.

I think the fact that the vertical integration of the oil industry has had a rather perverse impact on competition can best be brought to the Senate's attention by reminding Senators that the Federal Trade Commission was so concerned about the practices of the seven largest multinationals, the so-called Seven Sisters, that they brought the case which is known either as the Exxon case or the Seven Sisters case. Anybody who wants to really get chapter and verse on the insidious lack of competition that exists in the petroleum industry ought to bring that Federal Trade Commission report to the Senate, or take it to bed with him some night, and read it.

Right there in cold, hard print we see what one of the major agencies of the Federal Government has to say about the present practices of the vertically integrated major oil companies.

Let me summarize very quickly some of the very high points, the three major FTC complaints: First, the companies are charged within the complaint with the combination or agreement to monopolize the relevant market.

Second, they are charged with having maintained monopoly powers in the same markets.

Also, individually and with others, they are charged with restraining trade and maintaining a noncompetitive market structure in the relevant markets.

I suggest to any of my colleagues, who will remember back when this complaint was brought, that it was brought at a time when we had an administration in power that was hardly an administration looking for a way to get the oil companies.

Quite to the contrary, this was not what the thrust of that complaint would have been if it had been brought in a different time—perhaps now rather than back in a previous administration. I recommend that brief as reading to anyone who really wants an idea of some of the very complicated practices in restraint of trade, and the violations of our antitrust and monopoly laws that exist today in the petroleum industry.

One concern that the Senator from Indiana has had expressed to him frankly, from a number of his constituents confronted with the very effective public relations campaign that the major multinationals put out in their effort to shoot down divestiture at the time the Senate Judiciary Committee reported a bill the Senator from Indiana cosponsored with several other Senators from the committee, is the massive public relations blitz we see conducted.

One of the major thrusts of the public relations blitz was that since there were a lot of stockholders out there that owned this oil company stock, that if Senators BAYH, KENNEDY, ABOUREZK, METZENBAUM, and some of the rest of us who were involved in this divestiture were successful, that the stockholders, retired school teachers, small businessmen, perhaps the farmer, the laborer, the individual citizen who had a small or a large portfolio of stock, were the ones who were really going to be hurt.

I suggest to anyone who is really concerned about this, who is really concerned about free enterprise, who really believes, as the Senator from Indiana does, that the more competition, the better off we are, the more healthy industry is, we better look at the only case in point. I think it proves that the more concentration we have, the less profit we have, and the less healthy industry is.

Look back at the old John D. Rockefeller trust, when it was brought to court and by court decree was forced to divest. What happened to the stock? What happened to the poor people out there relying on that stock to retire?

The fact of the matter is that instead of that stock going down in value, after the company was broken up into its component parts, we found that within 1 year's time—within 1 year's time—after the breakup of the Standard Oil monopoly, the price of the stock in the successor companies went up 47 percent—47 percent—which proves to the Senator from Indiana that when we break up large monopolistic corporations and actually put them out in the marketplace and say, "OK, go get them, sell that mousetrap cheaper, let's have more competition," that they make more profits, the people that own the stock get more dividends, and the country is better off as a result.

So. Mr. President, I regret that the Senate is again going to be unable to come to grips with the question of divestiture. I say, as I said a moment ago, that I think it is very relevant to the question before us right now, because the petroleum market does not have the kind of competition it should have. Yet one proposal before us is suggesting that the price of deregulated gas be limited to the price of so-called deregulated petroleum, which is not deregulated at all. It is controlled by the OPEC pricing system. And the effects of this system are exacerbated by the vertical integration of the major, multinational oil companies.

I frankly feel that if we moved ahead on vertical divestiture, we could have some sort of a free crude oil market and begin to put one OPEC nation off against the other. That, perhaps more than anything else, would enhance our chances of ultimately coming to grips

with OPEC. I am realistic enough to know that that is not going to happen overnight.

But, it seems to me that we ought to do everything we can to separate ourselves from OPEC and not tie the price of natural gas to a similar Btu value of OPEC oil.

QUORUM CALL

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 37 Leg.]

Abourezk	Curtis	McClure
Allen	Eastland	Melcher
Baker	Garn	Moynihan
Bartlett	Goldwater	Pearson
Byrd, Robert C.	Hansen	Sparkman
Cannon	Hart	Tower
Chiles	Jackson	Weicker

The PRESIDING OFFICER. A quorum is not present.

Mr. ABOUREZK. I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Anderson	Griffin	Nelson
Bartlett	Haskell	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Proxmire
Bumpers	Helms	Randolph
Burdick	Hollings	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Riegle
	Inouye	Roth
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Church	Kennedy	Schmitt
Clark	Laxalt	Schweiker
Cranston	Leahy	Scott
Culver	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Thurmond
Eagleton	McIntyre	Wallop
Ford	Metzenbaum	Williams
Glenn	Morgan	Zorinsky
Gravel	Muskie	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 906

Mr. ABOUREZK. Mr. President, I call up amendment 906 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 906.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I temporarily object to calling it off until the clerk can at least say what the amendment is to.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk read as follows:

Amendment No. 906 to S. 2104.

On page 2, line 19, strike, "but not intrastate gas,".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

We have been voting on amendments that we know nothing about for about 48 hours. Is it not necessary, under the rules, for the proponent of an amendment to explain the amendment, so that those of us who might agree with him could agree or those who might oppose could oppose?

The PRESIDING OFFICER. It is not necessary under the rules for a proponent to explain an amendment.

Mr. GOLDWATER. Is it necessary under the rules of commonsense?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

Mr. PEARSON. Mr. President, I concur in the view of the Senator from Arizona. We are just going through an exercise now. We call up an amendment, ask unanimous consent that it not be read, and ask for the yeas and nays.

To be consistent with that in what we have been doing around here, which must embarrass some of us, but it is possible to get out of it, I just moved to table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea".

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—78

Allen	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Bumpers	Hatfield	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Roth
	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Johnston	Sparkman
Chiles	Laxalt	Stennis
Church	Leahy	Stevens
Cranston	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Morgan	Zorinsky
Garn	Moynihan	
Glenn	Muskie	

NAYS—16

Abourezk	Durkin	Metzenbaum
Anderson	Hart	Ribicoff
Bayh	Hathaway	Riegle
Brooke	Hollings	Sarbanes
Clark	Kennedy	
Culver	McGovern	

NOT VOTING—6

Hayakawa	McClellan	Stafford
Humphrey	Metcalf	Young

So the motion to lay Mr. ABOUREZK's amendment No. 906 on the table was agreed to.

AMENDMENT NO. 1064

Mr. RIEGLE. Mr. President, I call up amendment No. 1064 which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CANNON). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes amendment No. 1064 to S. 2104.

Mr. HANSEN. May we have order, Mr. President? We cannot hear the clerk.

The assistant legislative clerk resumed and concluded reading the amendment.

The amendment is as follows:

On page 15, line 21, strike out the period and insert in lieu thereof a comma and "or" and after such line insert the following: "Any nonprofit, public service institution providing services vital to public health and safety, including schools and hospitals, as defined by the Commission.".

Mr. RIEGLE. This amendment, for those Senators who were able to hear that explanation, deals with including

certain public service institutions such as schools and hospitals into the classification of high priority users, and there are really two purposes for wanting to do this. One is to insure that those vital public functions receive what supplies there are available if shortages should arise, and, second, also to insure that they be given the cost benefits that the bill presently assigns to those categories of users that fall in the high priority-use category.

I think this is an oversight in the bill and not an intentional one, but there are a number of hospitals and schools, particularly, whose usage during the winter months would be in excess of 50 metric cubic feet, which is the cutoff point in establishing the amount that the customer would use to be into that high-use category, and I want to see that we include them in the category that would give them the price advantage that normal smaller users would have.

I have talked with the committee about this, and in our discussions the Senator from Washington and his staff have indicated that they are inclined to accept the amendment. The House of Representatives has a similar amendment that it has passed.

Of the 89,000 elementary, secondary, and higher education institutions in the country, probably about 27,000, or about 30 percent, would be affected.

In terms of public hospitals, we have about 2,600 public hospitals in the country, and it is thought that probably half of them would likely be affected by the amendment.

So I hope this is something that can be accepted by virtually all Members of the Senate, because I think it makes good sense, both in terms of assuring that these public services will be provided in instances where there might be shortages, and also that there might not be intense financial pressure applied to these public service institutions at a time when they are feeling the cost pinch from so many other directions as well.

I ask the Senator from Washington if he is willing to accept the amendment.

Mr. JACKSON. Mr. President, will the Senator yield on my time, so I do not use his time?

Mr. RIEGLE. I yield.

Mr. JACKSON. Mr. President, I commend the Senator from Michigan for his amendment. As I understand it, it would amend the incremental pricing setup at schools and hospitals to the definition of high priority users.

I must say that there should be little dispute over that policy decision. I think it is a good amendment, and I am prepared to vote for it.

Mr. HANSEN. Mr. President, this amendment is consistent with the incremental pricing provision in Bentsen amendment No. 2. Our side is willing to take it.

Mr. RIEGLE. I thank the Senators. The Senator from Alabama (Mr. SPARKMAN) has asked to be added as a cosponsor. The Senator from West Virginia, Mr. RANDOLPH, has also worked with me on this amendment, and should also be included as a cosponsor. I wish to thank him for his help.

In the light of the fact that we may have other bills to deal with on the same subject, I think it is important to have the yeas and nays on the amendment. So I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan (Mr. RIEGLE). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. (HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Heinz	Ribicoff
Byrd,	Helms	Riegle
Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Sparkman
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	

NAYS—1

Scott

NOT VOTING—5

Hayakawa	McClellan	Stafford
Humphrey	Metcalf	

So Mr. RIEGLE's amendment (No. 1064) was agreed to.

Mr. HANSEN. Mr. President, will the distinguished majority leader yield momentarily for a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. Mr. President, I ask unanimous consent that Mary McKenna of the staff of the Committee on Energy and Natural Resources be granted the privilege of the floor during debate and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the amendment that I offered previously and which was accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 957

Mr. ABOUREZK. Mr. President, I call up amendment No. 957 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

On page 8, beginning on line 18, strike out all through line 19 and insert in lieu thereof the following: "be the price which was determined to be just and reasonable by the Commission and was in effect on April 20, 1977.".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. TOWER. I raise the point of order that this amendment has already been disposed of by the Senate and, therefore, is out of order.

The PRESIDING OFFICER. The Senator is correct. The point of order is sustained.

AMENDMENT NO. 929

Mr. ABOUREZK. Mr. President, I call up amendment No. 929 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

On page 3, between lines 12 and 13 insert the following:

"(8) it is necessary to take account of the production differences between nonassociated and associated or dissolved natural gas;".

Renumber succeeding paragraphs accordingly.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—70

Allen	Glenn	Packwood
Baker	Goldwater	Pearson
Bartlett	Gravel	Pell
Bellmon	Hansen	Percy
Bentsen	Haskell	Proxmire
Biden	Hatch	Randolph
Bumpers	Hatfield	Roth
Burdick	Heinz	Sasser
Byrd,	Helms	Schmitt
Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Jackson	Scott
Cannon	Javits	Sparkman
Chafee	Johnston	Stennis
Chiles	Laxalt	Stevens
Cranston	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Mathias	Talmadge
DeConcini	McClure	Thurmond
Dole	McIntyre	Tower
Domenici	Melcher	Wallop
Eagleton	Moynihan	Weicker
Eastland	Muskie	Young
Ford	Nelson	Zorinsky
Garn	Nunn	

NAYS—23

Abourezk	Durkin	Matsunaga
Anderson	Hart	McGovern
Bayh	Hathaway	Metzenbaum
Brooke	Hollings	Morgan
Case	Inouye	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Williams
Culver	Magnuson	

NOT VOTING—7

Griffin	McClellan	Stafford
Hayakawa	Metcalf	
Humphrey	Sarbanes	

So the motion to lay Mr. ABOUREZK's amendment No. 929 on the table was agreed to.

AMENDMENT NO. 933

Mr. KENNEDY. Mr. President, I call up amendment No. 933.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HANSEN. Mr. President, I did not hear the distinguished Senator from Massachusetts. What is the number of the amendment?

Mr. KENNEDY. Amendment 933. I think the Senator will want to support this one. [Laughter.]

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment numbered 933:

On page 8, line 3, after the word "reserves" change the period to a comma and insert the following: "and shall determine separately the following: (a) proved reserves, (b) probable reserves, (c) possible reserves, and (d) speculative reserves.".

Mr. KENNEDY. Mr. President, in the Pearson-Bentsen amendment there are provisions for the Commission to determine the estimates of natural gas reserves. It is couched in rather old boilerplate language which has never actually resulted in the United States being able to determine accurately, under a common definition, what the reserves are in this country. Different companies have interpreted it different ways, and different estimates have been provided. As a result, we have not been able to obtain the kind of reserve information which would be obtained if this amendment were adopted.

I think all of us could call the American Petroleum Institute and ask for natural gas reserves and they would give us an estimated figure. However, it is highly likely that this figure would not be reliable. What we need, in order to make public policy, is the best information on the available natural gas reserves.

Therefore, I am offering this amendment to the Pearson-Bentsen amendment. It requires that the reserve data be broken out into four areas: the first, proved reserves; the second, probable reserves; the third, possible reserves, and the fourth, speculative reserves.

There are enabling provisions to give the Commission the authority, by regulation, to define those terms in a way in which all the major gas companies could conform to give us uniform data.

It seems to me that this would yield an important source of information for the public, for consumers, for Government agencies, and for Congress, to be able to legislate in the future in this important area.

I repeat: All one has to do is to listen to the Federal Trade Commission or the Federal Power Commission, to analyze their attempts over the years to try to gain this kind of information, and to see the frustration they have faced at every point of the long, complicated path.

This information is not available today. This amendment would assure that this information would be available in the future. It is absolutely basic, I believe, to making an informed judgment on matters of this magnitude. It is absolutely essential if we are going to make policy considerations in the natural gas area.

So I hope that this amendment will be accepted by the proponents of the bill; but if that is not so, I will ask for the yeas and nays on the adoption of the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I inquire of the Senator from Wyoming if he feels that this would strengthen the Pearson-Bentsen amendment in any way. If he is prepared to vote on it, that is fine.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Can the Senator use his time?

Mr. TOWER. On my time.

Would the Senator be prepared to dispose of this amendment by voice vote, if it appeared that the voice vote would be favorable?

Mr. KENNEDY. The answer to that is "yes."

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1077

Mr. METZENBAUM. Mr. President, I call up amendment No. 1077.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1077:

On page 11, line 21, strike everything after "average" through "(15 U.S.C. 757)" on line 2, page 12; and insert the following: "per barrel domestic refiner cost of acquiring crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954)".

Mr. METZENBAUM. Mr. President, this amendment goes to the question of what the price will be during the 5 years of the phaseout period provided for in the Pearson-Bentsen amendment. Under this amendment, it would provide that for offshore gas, it would be a ceiling price equal to the Btu price in the President's bill.

I will ask for the yeas and nays; but if this is acceptable, as was the previous amendment, we will not have to have the yeas and nays. Absent that, I ask for the yeas and nays.

Mr. HANSEN. Mr. President, we find this amendment not as meritorious as the previous one.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. STONE assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr.

McCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—58

Allen	Glenn	Pearson
Baker	Gravel	Pell
Bartlett	Griffin	Percy
Bellmon	Hansen	Randolph
Bentsen	Hart	Roth
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Byrd, Robert C.	Hatfield	Scott
Cannon	Heinz	Sparkman
Chafee	Helms	Stennis
Chiles	Johnston	Stevens
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	McClure	Wallop
Eastland	Melcher	Weicker
Ford	Nelson	Young
Garn	Nunn	Zorinsky
	Packwood	

NAYS—36

Abourezk	Eagleton	McIntyre
Anderson	Hathaway	Metzenbaum
Bayh	Hollings	Morgan
Biden	Huddleston	Moynihan
Brooke	Inouye	Muskie
Bumpers	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Stevenson
Durkin	McGovern	Williams

NOT VOTING—6

Goldwater	Humphrey	Metcalf
Hayakawa	McClellan	Stafford

So Mr. TOWER's motion to lay on the table Mr. METZENBAUM's amendment (No. 1077) was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that Jim Range, of my staff, may be accorded access to the floor during the continuation of the consideration of this matter and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1363

PURPOSE: NEW NATURAL GAS DEFINITION

Mr. KENNEDY. Mr. President, I call up my amendment No. 1363.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1363.

The PRESIDING OFFICER. The amendment is not at the desk. Will the Senator send his amendment to the desk?

Mr. KENNEDY. If the desk will send it back.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4(a). Section 2 of the Natural Gas Act—

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (14) through (16), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977.

"'(8) "Reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) "Old natural gas" means natural gas other than new natural gas.

"'(10) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(11) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(12) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(13) "Intrastate Commerce" means commerce within the United States other than interstate commerce.' "

Mr. KENNEDY. Mr. President, this is an amendment which is somewhat similar to the amendment agreed to last evening involving the definition of new natural gas. We have voted on different amendments addressing this problem, including one proposed last evening by Senator HASKELL, and others by Senator METZENBAUM. It seems to me that this amendment provides the best opportunity for the Senate to define, in an important way, exactly what we believe to be the appropriate definition for new natural gas.

The proposal that is included in this amendment is very similar to the one which has been accepted in the House, in the Krueger-Wirth-Brown proposal.

That is the essential part of the amendment. The rest of the amendment restates other definitions.

The definition which I propose rewards with a higher price gas from new reservoirs. It does not stipulate where those reservoirs shall be. They can be below an existing reservoir. They can be above it. They can be next door. They can be in frontier areas or in established, well-defined areas. Under my definition new gas is gas from a new reservoir.

The Pearson-Bentsen bill is generous to a fault. Pearson-Bentsen includes as new gas:

Gas already dedicated to interstate contracts;

Gas from a well which is merely an extension of an existing reservoir; and

Gas from an existing well which could produce gas but has been capped.

In the next few minutes, Mr. President, I intend to discuss specific provisions of Pearson-Bentsen which cry out for revision.

If Pearson-Bentsen makes any sense at all, it must be because of the need for additional natural gas and the probability that a higher price will get it produced. It follows that higher prices should be related to higher costs. That is what producers have been telling us: We cannot get all the gas at present prices. We need more money to get at the new, high cost gas.

But when we look at the definition of new gas which will get the deregulated price, we are left to wonder. Here is one of the definitions of new gas in Pearson-Bentsen:

Gas produced from a well within an extension of a previously discovered reservoir, as determined by rule by the Commission regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

What does this language mean?

I am not a geologist or an oil man but, as it has been explained to me, I do not have to be. The words pretty much speak for themselves. This gas is not from a new reservoir. This is not a new, wildcat frontier area. This refers to an area which has been drilled and is producing. This is a well from the same reservoir—but simply an extension of that reservoir.

An extension well is a well about the same depth. It is drilled at a defined distance away from a well which has been producing gas, for example 500 yards. Wells are drilled in a pattern, in different directions, to find where the rest of the reservoir lies.

Already we should know that the costs of extension wells cannot be much greater than the wells already in place because the depth and the geology are likely to be the same. But we also know that the risk of drilling a dry hole are much less than normal. In fact, the best information I can find is that extension wells are much more likely to find gas—and to find more of it. It stands to reason.

I asked the Library of Congress to tell me what the success rate was likely to be on an extension well. The results bear out my suspicion. In 1975, 1,577 extension wells were drilled in the United States. Of these, 905 were dry, 672 were successful, leaving an overall success rate of 43 percent. In other words, nearly every other extension well pays off.

Now compare this to wells drilled in new, exploratory areas. In that case 6,104 wells were drilled and 5,228 of them came up dry—a success rate of only 14.4 percent. So you can see that on this basis, an extension well is three times as likely to find oil compared to exploration in new fields—14 percent compared to 43 percent.

Let us add in exploratory wells in old fields, where success is more likely. There you find that the average success rate of all wells other than extension wells is 19 percent. Extension wells are still more than twice as successful as all other wells.

Next, consider how much gas these extension wells are likely to discover. In 1975 there were 5.39 billion cubic feet of natural gas discovered for every foot of a successful exploratory well—which is a well other than an extension well. But there were 14.488 billion cubic feet found for every successful extension well. This means that an extension well not only is two or three times more likely to find gas, it is also likely to find three times as much.

One final statistic should be noted, and that is that in 1975—the last year for which reports are available—no extension wells were reported on the OCS. This is inconceivable unless we understand that oil companies have not wanted to add to estimated reserves on the OCS while there is a chance they could get a higher price for such a well in the future. That is exactly what Pearson-Bentsen would provide. Next year, if this bill becomes law, you could be sure extension wells will be drilled with abandon on the OCS.

This leads to another consideration. What is to prevent a company from drilling another well in an old reservoir just to call it an extension well eligible for the higher price? What is to prevent a company from moving over a few hundred yards and drawing the same oil from the same pool? The geological facts are not so well defined as to prevent that from happening. The information about pressure levels is available only to the producing companies and they would, with this legislation, have every incentive to stick in another straw but drink from the same soda.

This bill, Mr. President, is full of holes. And if it is passed, those old reservoirs are going to be full of holes too. Old gas will become new gas by the simple expedient of sinking a new hole into the same field.

On Wednesday, Senator BENTSEN and I engaged in a colloquy during debate on my amendment to retain the present price for gas. Senator BENTSEN told me—

> We think 70 percent of the new reserves will be found, because the potential new reserves we believe to be in those deeper areas and some of those high risk areas that have not been effectively drilled yet.

If that is the case—if the bill is intended to get at new reserves, where higher costs is justified—why does this bill make extensions of old reservoirs eligible for a new gas price?

Extensions merely delineate and expand the knowledge about gas found in the past. It is not in any way the discovery of new gas.

This definition will do one thing. It will reward those who have been holding back on production of known reserves. The extension loophole is a reward of those great people who may have brought us the gas shortage in the first place. None of us who suspect that there has been gas withholding is so naive as to think in terms of little men running around turning off the valves of thousands of gas wells around the country. What has happened is that reservoirs have been located, the presence of gas has been determined—and producers have either not developed those reservoirs at all or have not developed them fully.

You cannot blame the producers. Back in 1969 John Nassikas promised at his first press conference that there would be a "Nassikas round" of price increases as soon as he moved into FPC. Successive commissioners under Nixon and Ford have voted to raise gas prices as fast as they possibly could—indeed in his later years at the Commission, Nassikas often found himself in the minority opposing outrageous increases. Any producer, knowing prices were going up, would hold back on development.

The last selection of this definition reads, "Whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market."

Again, it does not take a geologist to know why that provision is in there. It takes an oilman who wants to get out from under the onerous burden of honoring a contract he made with consumers to provide gas from a particular reservoir. That contract was made in good faith based on the prevailing price of the day and based on the cost of producing from that reservoir. The reservoir is said to be "dedicated" to the interstate market, but under Pearson-Bentsen all dedication ceases.

The attempt to exempt these reservoirs from their previous dedication is further evidence that this is not genuinely "new" gas. The reservoir could hardly have been dedicated if it were totally unknown. It is clear—if any further evidence is needed—that the cost of pumping from this reservoir is not drastically different. Otherwise, the producer would never have made such a contract in the first place.

It is important to remember that what we are talking about is likely to be a reservoir which has been producing profitably at 52 cents and in some cases substantially less. If this were not true, producers could be losing, which they clearly are not. We are talking about a reservoir producing for a price less than $1.46. Now, with deregulation, the price will jump somewhere between $3.50 to $5 during the initial years and then settle down to about double the highest price now in the interstate market, about $2.80 per Mcf. This is the evidence provided by the Congressional Budget Office.

Is it any wonder that producers want out from the burden of honoring existing dedications? Who would not want to multiply their profits 6 or 10 times over with the help of the U.S. Senate?

So much for extension wells. Now let us consider another effect of the Pearson-Bentsen bill as it relates to "capped wells."

Mr. President, last winter when natural gas was in short supply, schools and factories were closed and some homes went without heat. Senators rightly concerned about this plight want to see increased production to meet those needs. That may account for the vote on Thursday.

At the same time, hundreds of wells dotting the producing country wore tight metal caps—not to keep them warm like people up North wanted to be but to keep them from producing. What were the owners of these wells waiting for?

The answer of course was higher prices. The wells were known to be able to produce gas. Prices were high by all reasonable standards, but they were expecting them to rise still further. Under the administration's bill they will have an attractive price; $1.75 in 1978, climbing to $2.47 by 1985. But under the Pearson-Bentsen bill these wells will be designated in 1978 as producing "new" gas at more than $3.

It takes some boldness for the Senate to come along and slap a sign on these wells which says they are "brand new" and then to put a price on that gas which will exceed $3. Not even used car dealers would try to get away with that.

Not even the great champion of deregulation in the House of Representatives, Representative KRUEGER of Texas, was bold enough to ask for that. The deregulation bill he proposed in the House excluded capped wells. So would the Senate version, if my amendment were passed because it would stipulate that only wells drilled after January 1, 1977 could qualify for the higher price.

Mr. President, I think we all know that Pearson-Bentsen is not so constructed as to focus on frontier areas—those genuine wildcat areas where risks are high. We know that the sponsors intend to go on producing from the same general areas where they have already found gas. For that reason, I have not proposed an amendment which would eliminate new reservoirs in old areas, even though these are not the frontiers from which we must expect the big breakthroughs.

But there comes a point at which the definition of new gas becomes ridiculous. How can it apply to gas which is already discovered? That makes no sense at all.

Proponents will tell us of the rare cases—the cases where a small amount of gas is discovered away from a pipeline, cases of little old ladies and retired dirt-farmers who hit it lucky and are not holding on to get a little more for retirement. We will hear about how we cannot compel production on private property. And of course, that is true. No one is compelled to bring gas into the market.

But can anyone really argue that giving new gas prices to capped wells achieves the purposes of this bill? Is it in the national interest to encourage producers to hold out for a sunny day? Have we added anything to the national reserve?

The answer is so obvious as to defy a plausible rejoinder. Let us take an easy step and exclude capped wells.

I think if we limit this Pearson-Bentsen amendment in this way, we will go in a very important way down the road toward reducing the very substantial wind-

fall which would result under the Pearson-Bentsen definition of new gas.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question, on my time?

Mr. KENNEDY. Yes, I will be glad to yield. My response on my time, and the question on the Senator's time.

Mr. JOHNSTON. I thank the Senator. As I understand, from the little factsheet here, the Senator has excluded from the definition of new gas, gas now under existing 5-year-or-less contracts. The exclusion includes the 5-year-or-less contracts; does it also include sales under the Emergency Natural Gas Act passed just a few months ago?

Mr. KENNEDY. My understanding is that if it is new gas under the Emergency Act, it would be excluded from the effect of this definition, but it does not change the definition. It would be so excluded.

Mr. JOHNSTON. Is the Senator aware that the President built in an exemption from FPC control for both kinds of gas, that sold under the Emergency Natural Gas Act and that sold under 5-year contracts? The purpose of that exemption was that if the producers responded to the national need, the national emergency, and dedicated their gas to new contracts under either the 90-day-or-less contracts or under the 5-year-or-less contracts, they would not thereby suffer any regulation by the FPC, and no disadvantage.

My question is, would this not really be breaking faith with those producers, in effect penalizing them for responding to the national need?

Mr. KENNEDY. I would say no. As I understand the provisions that were applied in the Emergency Act, it was to provide incentives to move gas into the interstate system. I do not think we should extend that kind of assurances beyond those particular intentions. That was at least my understanding of why those incentives were provided in the Emergency Act.

It seems to me that the profit that will be realized without the deregulation in the intrastate market would be, certainly, a very good and substantial one. The purpose of this legislation is to encourage new gas production and new gas finds, and not just the finding of an additional way of moving known resources into a higher price area.

Mr. JOHNSTON. My second question is, This would regulate intrastate contracts, which are now selling at an average price of something around $1.85, with more recent spot contracts up as high as $2. It would roll all of those back to the price of old gas; would it not? And what price would the Senator envision that that rollback would be? From, say, $1.85 to what?

Mr. KENNEDY. Well, the Senator is correct about the extension of regulation to the intrastate market, but the price would be the just and reasonable price under the present law. That, I think, would be a moving price, and as I understand it, it would be adjusted according to cost.

Mr. JOHNSTON. On a cost-of-discovery basis; is that not correct?

Mr. KENNEDY. All costs are considered, as I understand.

Mr. JOHNSTON. Does the Senator really believe we are going to help natural gas prices by rolling back the prices of natural gas from the producing States?

Mr. KENNEDY. The question would be, Senator, whether the particular price is just and reasonable. If it is not just and it is not reasonable, then I think it ought to be rolled back. If it is fair and reasonable, it should not be rolled back.

What is considered within the definition of just and reasonable are a decent rate of return or profit on investment, and other financial incentives.

If it is not just and reasonable, then, of course, it ought to be escalated and increased. If what you are talking about is an inflated figure over what is just and reasonable, I do not see its justification, for the major gas companies. I think that ought to be the test and it is the criterion in this particular amendment. But beyond that, I think it focuses the incentive on the place where the incentive should be focused, and that is on new gas.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes.

I think this amendment is very clearly the worst we—well, I will not say that. I will say it is one of the worst we have considered. I would say it would have an absolutely devastating effect on natural gas. More than that, it would constitute a breach of faith by the Senate with gas producers, first, because they were assured when they responded to the emergency need under the Emergency Natural Gas Act and under the 5-years-or-less sales provision, that they would not be regulated. This amendment proposes to come in and regulate them, not under the new gas price, but under the old gas price, which is based on a cost basis.

Second, we are likely to break a lot of small producers who, relying on the intrastate price, borrowed money and are paying interest to the banks, and now are operating on borrowed money based on the price they are getting for new natural gas. We would break many of them, put them out of business, and break faith with what Congress told them, and in the process, we would do precisely the opposite of what we wanted to do, which is provide an incentive to gas producers.

I urge the Senate to defeat this amendment.

Mr. BENTSEN. I yield myself 2 minutes.

Mr. President, the Senator's definition for "new natural gas" is fine—the definition of a reservoir system, where it extends the field beyond its estimated limits as so found by previous drilling, and the Energy Commission would make the decision as to whether or not it accomplished that and extended it.

The factsheet that was distributed also talks about gas that was withheld. In the Pearson-Bentsen bill, we have added an amendment to it to protect against that kind of a situation. Any gas that is wrongfully withheld—and that finding, of course, is made by the Commission—will not be subject to the new price for gas, or the unregulated price, or the cap price, any one of those.

So we have provided the safeguards to take care of that kind of situation.

The step out of a field is a substantial risk. They are going out into new horizons and trying to prove up that the field extends beyond what the original estimates happen to have been.

I urge the Senate to defeat the amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just briefly, it is difficult for me to understand the sense of indignation of those that oppose this amendment on the issue of price and cost.

The fact of the matter is that if this amendment is accepted, and if in the interstate market the price which is being charged for old gas has little relationship to the cost, then it is not just or reasonable, and it ought to be regulated.

I cannot understand why those that are so concerned about this amendment feel that undue enrichment out of the pockets of the American consumer ought to continue, but that is effectively what they are saying.

"If this amendment goes through, those boys are going to have to prove this is a fair and just price and they might not be able to do it, so we will oppose it."

That is what they are saying with regard to the intrastate gas.

If they can make the case for a fair and reasonable price, which includes a reasonable profit, why should it be different in Texas than the Midwest, or New England. That price can be determined in a public hearing as a result of examining the facts and the information.

But to say that we do not want to open our books on this and give the information out, we do not want to have to justify it, therefore, it is a terrible amendment, just seems to me to hit the target of what the Pearson-Bentsen amendment is all about, and that is providing windfall profits on old gas.

It is extraordinary to me when we really try and define what is new gas that we get all these objections. When we try and say, "All right, take the lid off what is really new gas," the apologists of deregulation say, "Oh no, we can't do that, we also have to call old gas new gas," and they go through this convoluted formula to try by some definition to make this transformation.

That is really what is at the heart of this amendment.

True, this amendment provides a definition of what is new gas which is consistent with the plain English meaning of the word. It does not include old gas that will now be defined as new gas. I think that is part of the reason why at least some are so concerned about it.

Mr. BARTLETT. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield if the Senator would use his time for the question. I will use my time for the answer.

Mr. BARTLETT. That will be fine.

I would point out to the distinguished

Senator that a field may be extended in perhaps two ways, and perhaps more of it, at least, by an offset well drilled to the outer limit of the wells, the extent of the field, or it can be extended by a wildcat stepping out.

Now, if a person would decide to try to extend a field by drilling a wildcat field, considered by the industry to be a wildcat, separate, not 2½ miles, but some distance from the field, do I understand the language of the amendment correctly that this would not allow him to have the uncontrolled price?

Mr. KENNEDY. It is my information that based on the 1975 statistics only 14.4 percent of the wells in the new fields, which would fall within this definition of new gas wells, were successful.

Five thousand, two hundred twenty-eight out of 6,104 came up dry. Compare this with the 43 percent for the extension wells, and with the 36 percent for new reservoirs in old areas. Moreover, these wells are likely to come up with only a third as much gas.

So, in effect, there is a substantial difference in drilling new reservoirs, versus the extension of reservoirs and redrilling in old fields. A dramatic difference in terms of risk.

What we are doing in this particular amendment, it seems to me, is throwing that second group into the first group.

I think if the case can be made in terms of the deregulation, it has to be limited to the high risk effort to produce gas from the new reservoirs.

I think a case can be made, perhaps, for deregulation in this area. But I fail to see why we ought to include those other areas as well.

Mr. BARTLETT. I would think the Senator would want a person wildcatting to have as much success as he could in finding new and additional reserves of natural gas. It is very important. But as I understand the answer, the answer is that he would not be entitled to the decontrolled price?

Mr. KENNEDY. The Senator is correct.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I have a unanimous-consent request, if it is not out of order.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I ask unanimous consent to be allowed to make a technical modification to the amendment I earlier offered which was accepted by the Senate 94 to 1.

I have discussed it with the minority and majority leaders on this bill, but the amendment is defective in that it keyed in the wrong line in the bill. I drafted technical language to put it on the right line.

I ask unanimous consent that the technical modification be accepted.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object, I think we better see the amendment before we agree to that.

Mr. RIEGLE. Let me say, I have discussed it with Senator HANSEN, who I see is off the floor now, and the staff members sitting beside the Senator now are aware of it.

I discussed it with him. We agreed to it. So I hope the Senator will not object.

Mr. BARTLETT. Reserving the right to object, I would like to see the amendment.

Mr. RIEGLE. Fine.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The question is not debatable. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—51

Baker	Garn	Percy
Bartlett	Glenn	Randolph
Bellmon	Gravel	Roth
Bentsen	Griffin	Schmitt
Burdick	Hansen	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
Byrd, Robert C.	Hatfield	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stone
Church	Johnston	Talmadge
Curtis	Long	Thurmond
Danforth	Lugar	Tower
DeConcini	Mathias	Wallop
Dole	McClure	Weicker
Domenici	Melcher	Young
Eastland	Metzenbaum	Zorinsky
Ford	Packwood	
	Pearson	

NAYS—42

Abourezk	Hart	Morgan
Allen	Haskell	Moynihan
Anderson	Hathaway	Muskie
Bayh	Hollings	Nelson
Biden	Huddleston	Nunn
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Sparkman
Durkin	McGovern	Stevenson
Eagleton	McIntyre	Williams

NOT VOTING—7

Goldwater	Laxalt	Stafford
Hayakawa	McClellan	
Humphrey	Metcalf	

So the motion to lay on the table Mr. KENNEDY's amendment (No. 1363) was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. BARTLETT. I move to lay the motion on the table.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair inquires, is there a sufficient second to reconsider? There is a sufficient second.

On the motion to table, is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 57, nays 33, as follows:

[Rollcall Vote No. 441 Leg.]

YEAS—57

Allen	Glenn	Percy
Baker	Griffin	Proxmire
Bartlett	Hansen	Randolph
Bellmon	Hatch	Roth
Bentsen	Hatfield	Schmitt
Burdick	Hathaway	Schweiker
Byrd, Harry F., Jr.	Heinz	Scott
Byrd, Robert C.	Helms	Sparkman
Cannon	Hollings	Stennis
Chafee	Johnston	Stevens
Church	Laxalt	Stone
Curtis	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Mathias	Tower
Dole	McClure	Wallop
Domenici	Melcher	Weicker
Eastland	Morgan	Young
Ford	Muskie	Zorinsky
Garn	Packwood	
	Pearson	

NAYS—33

Abourezk	Eagleton	Metzenbaum
Bayh	Hart	Moynihan
Biden	Haskell	Nelson
Brooke	Huddleston	Nunn
Bumpers	Jackson	Pell
Case	Javits	Ribicoff
Chiles	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Matsunaga	Sasser
Culver	McGovern	Stevenson
Durkin	McIntyre	Williams

NOT VOTING—10

Anderson	Humphrey	Metcalf
Goldwater	Inouye	Stafford
Gravel	Kennedy	
Hayakawa	McClellan	

So Mr. BARTLETT's motion to lay on the table the motion to reconsider was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. DENT, Mr. PHILLIP BURTON, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. ZEFERETTI, Mr. MICHAEL O. MYERS, Mr. MURPHY of Pennsylvania, Mr. CORRADA, Mr. SIMON, Mr. MILLER of California, Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. QUIE, Mr. ERLENBORN, Mr. ASHBROOK, Mr. SARASIN, Mr. EDWARDS of Oklahoma, Mr. JEFFORDS, and Mr. DUNCAN of Tennessee were appointed managers of the conference on the part of the House.

The House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25 to the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes; and that the House agrees to Senate amendments numbered 10, 19, 20, and 26 with amendments in which it requests the concurrence of the Senate.

The House has passed the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The Speaker has signed the enrolled bill (S. 1322) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The enrolled bill was subsequently signed by the President pro tempore.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

TECHNICAL CORRECTION TO AMENDMENT NO. 1064

Mr. RIEGLE. Mr. President, I ask unanimous consent that I be permitted to make a technical correction in amendment No. 1064 which I offered about a half hour ago and which was accepted by the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 912

Mr. ABOUREZK. Mr. President, I call up amendment No. 912.

The PRESIDING OFFICER. The clerk will report.

Mr. BARTLETT. Will the Senator state the number of the amendment.

Mr. ABOUREZK. 912.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 912:

On page 9, lines 4, 5, and 6, strike "(without regard to the outcome of any appeal of such price determination pending on April 20, 1977).".

Mr. ABOUREZK. I ask for the yeas and nays on this amendment, Mr. President.

The PRESIDING OFFICER (Mr. RIEGLE). Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The call of the roll was resumed.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that Mike Aylward of Senator MCINTYRE's staff be granted the privileges of the floor between the hours of 7:30 p.m. and 9:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 38 Leg.]

Abourezk	Clark	Hatfield
Allen	Cranston	Hathaway
Anderson	Culver	Heinz
Baker	Curtis	Helms
Bartlett	Danforth	Hollings
Bayh	DeConcini	Huddleston
Bellmon	Dole	Inouye
Bentsen	Durkin	Jackson
Biden	Eagleton	Javits
Brooke	Eastland	Johnston
Bumpers	Ford	Laxalt
Burdick	Garn	Leahy
Byrd,	Glenn	Long
Harry F., Jr.	Goldwater	Lugar
Byrd, Robert C.	Gravel	Magnuson
Cannon	Griffin	Mathias
Case	Hansen	Matsunaga
Chafee	Hart	McClure
Chiles	Haskell	McGovern
Church	Hatch	McIntyre
Melcher	Randolph	Stevens
Metzenbaum	Ribicoff	Stevenson
Morgan	Riegle	Stone
Muskie	Roth	Talmadge
Nelson	Sarbanes	Thurmond
Nunn	Sasser	Tower
Packwood	Schmitt	Wallop
Pearson	Schweiker	Weicker
Pell	Scott	Williams
Percy	Sparkman	Young
Proxmire	Stennis	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I make a point of order against the pending amendment No. 912 inasmuch as it purports to strike language in the bill that is not in the bill.

The PRESIDING OFFICER. The point of order of the Senator from New Hampshire is well taken.

Does anyone else wish to be heard?

The Chair sustains the point of order of the Senator from New Hampshire.

The bill is open to further amendment.

AMENDMENT NO. 913

Mr. ABOUREZK. Mr. President, I call up amendment No. 913 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 913:

On page 11, strike lines 8 through 10, and insert in lieu thereof the following: "from offshore Federal lands, based upon a showing of actual costs.".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 55, nays 35, as follows:

[Rollcall Vote No. 442 Leg.]

YEAS—55

Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Schmitt
Burdick	Hatch	Schweiker
Byrd,	Hatfield	Scott
Harry F., Jr.	Heinz	Sparkman
Byrd, Robert C.	Helms	Stevens
Cannon	Johnston	Stevenson
Chafee	Laxalt	Stone
Chiles	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Matsunaga	Tower
DeConcini	McClure	Wallop
Dole	Melcher	Weicker
Eastland	Morgan	Young
Ford	Nunn	Zorinsky
Garn	Packwood	

NAYS—35

Abourezk	Eagleton	McIntyre
Anderson	Hart	Metzenbaum
Bayh	Haskell	Muskie
Biden	Hathaway	Nelson
Brooke	Hollings	Pell
Bumpers	Huddleston	Proxmire
Case	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Williams
Durkin	McGovern	

NOT VOTING—10

Domenici	Kennedy	Stafford
Hayakawa	McClellan	Stennis
Humphrey	Metcalf	
Javits	Moynihan	

So the motion to lay on the table Mr. ABOUREZK's amendment (No. 913) was agreed to.

AMENDMENT NO. 903

Mr. BAYH. Mr. President, I call up amendment 903 and ask respectfully for its immediate consideration.

The PRESIDING OFFICER (Mr. MUSKIE). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 903:

On page 3, between lines 3 and 4, insert:

"(6) the fourfold increase in world oil prices since 1973 is the result of ruthless international cartel action rather than market forces to the detriment of the economy of the United States and to general international economic development;".

Renumber succeeding sections accordingly.

Mr. BAYH. Mr. President, I shall be brief because, frankly, I think anyone who listened to the amendment can understand its implications and its thrust.

It is in the "purpose" section, and I think it is important, in line with what I said earlier, whether you choose to accept the Senator from Indiana's feeling about vertical integration and whether indeed we should tie the price of natural gas in this country to what amounts to the price of OPEC oil as it is delivered to this country.

Nevertheless, I think it is important for the "purpose" section to state unequivocally the basis for the problem that confronts us today, and that is a fourfold increase in the price of oil.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent to suspend the yeas and nays.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. Could the Senator tell us is he willing to accept this?

Mr. SCHMITT. We are willing to accept this on a voice vote, Mr. President.

Mr. WALLOP. I object.

The PRESIDING OFFICER. Objection is heard.

The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Indiana. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 54, nays 36, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS—54

Abourezk	Eastland	Moynihan
Allen	Ford	Muskie
Anderson	Glenn	Nunn
Bayh	Hart	Packwood
Brooke	Haskell	Proxmire
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd,	Heinz	Roth
Harry F., Jr.	Helms	Sarbanes
Byrd, Robert C.	Hollings	Schweiker
Cannon	Inouye	Sparkman
Case	Jackson	Stevenson
Chiles	Leahy	Stone
Church	Magnuson	Talmadge
Clark	Matsunaga	Thurmond
Cranston	McGovern	Weicker
Danforth	Meicher	Williams
Durkin	Metzenbaum	
Eagleton	Morgan	

NAYS—36

Baker	Gravel	Pearson
Bartlett	Hansen	Pell
Bellmon	Hatch	Percy
Bentsen	Huddleston	Randolph
Biden	Johnston	Sasser
Chafee	Laxalt	Schmitt
Culver	Long	Scott
Curtis	Lugar	Stevens
DeConcini	Mathias	Tower
Dole	McClure	Wallop
Garn	McIntyre	Young
Goldwater	Nelson	Zorinsky

NOT VOTING—10

Domenici	Javits	Stafford
Griffin	Kennedy	Stennis
Hayakawa	McClellan	
Humphrey	Metcalf	

So Mr. BAYH's amendment (No. 903) was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1138

Mr. METZENBAUM. Mr. President, I call up my amendment No. 1138.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment to amendment No. 862 numbered 1138:

On page 12, strike lines 13 through 15.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1138) of the Senator from Ohio (Mr. METZENBAUM). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 39, nays 51, as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—39

Abourezk	Hart	McIntyre
Anderson	Haskell	Melcher
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Huddleston	Nelson
Bumpers	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Case	Kennedy	Riegle
Church	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Sparkman
Durkin	Matsunaga	Stevenson
Eagleton	McGovern	Williams

NAYS—51

Allen	Chiles	Gravel
Baker	Curtis	Hansen
Bartlett	Danforth	Hatch
Bellmon	DeConcini	Hatfield
Bentsen	Dole	Heinz
Burdick	Eastland	Helms
Byrd,	Ford	Johnston
Harry F., Jr.	Garn	Laxalt
Byrd, Robert C.	Glenn	Long
Chafee	Goldwater	Lugar

McClure	Randolph	Thurmond
Metzenbaum	Roth	Tower
Morgan	Schmitt	Wallop
Nunn	Schweiker	Weicker
Packwood	Scott	Young
Pearson	Stevens	Zorinsky
Pell	Stone	
Percy	Talmadge	

NOT VOTING—10

Clark	Humphrey	Stafford
Domenici	Javits	Stennis
Griffin	McClellan	
Hayakawa	Metcalf	

So Mr. METZENBAUM's amendment was rejected.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to reconcider the vote by which the amendment was rejected.

Mr. SCHMITT. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and navs were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 32, as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—59

Allen	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bellmon	Griffin	Pearson
Bentsen	Hansen	Pell
Burdick	Hatch	Percy
Byrd,	Hatfield	Proxmire
Harry F., Jr.	Heinz	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Schmitt
Chafee	Huddleston	Schweiker
Chiles	Johnston	Scott
Cranston	Lavalt	Stevens
Curtis	Leahy	Stone
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Morgan	Young
Garn	Muskie	Zorinsky

NAYS—32

Anderson	Clark	Inouye
Bayh	Culver	Jackson
Biden	Durkin	Javits
Brooke	Eagleton	Kennedy
Bumpers	Hart	Magnuson
Case	Haskell	Mathias
Church	Hathaway	Matsunaga
McGovern	Ribicoff	Sparkman
Melcher	Riegle	Stevenson
Metzenbaum	Sarbanes	Williams
Moynihan	Sasser	

NOT VOTING—9

Abourezk	Humphrey	Stafford
Domenici	McClellan	Stennis
Hayakawa	Metcalf	Talmadge

So the motion to lay on the table was agreed to.

AMENDMENT NO. 974

Mr. KENNEDY. Mr. President, I call up amendment No. 794.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 974.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, strike all of paragraph (c), and insert the following:

(c) The Commission may by rule establish one or more special prices or authorize or require a person to charge or receive for new natural gas an amount in excess of or less than the base price, as the case may be, authorized in subsection (b) of this section, in any high-cost or low-cost production area designated by the Commission. The Commis-

* * * * *

and, pursuant to the factors for revising the base rate in paragraph (2) of subsection (b) of this section; may establish such special prices if the Commission finds—

(1) that the current incurred costs, without regard to prospective levels of general inflation or deflation, of production in such low-cost or high-cost production areas designated by the Commission are substantially above or below the adjusted base price authorized under subsection (a) of this section; and

(2) the production of new natural gas in designated high-cost production areas is required by the public convenience and necessity.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, in the Pearson-Bentsen amendment, for the period before 1982, no figure is established for the price of natural gas produced on the Federal Outer Continental Shelf. A series of criteria are spelled out on page 10 of the Pearson-Bentsen amendment by which the commission will determine a "national ceiling price" a price for OCS gas. On page 11 it says that the commission may authorize a person to charge an amount in excess of the "national ceiling price," if they make a determination that these are high costs involved in the production of certain gas.

This simple amendment adds the provision that if they find out that it is low-cost production, they can lower the price and pass those savings on to the consumers.

It seems to me an eminently sound, eminently logical, and eminently fair proposal. I do not know whether any supporters of the Pearson-Bentsen amendment would like to talk about that or question the logic of that proposal. However, we do see in the language that it says that the standard established by the criteria in the Pearson-Bentsen bill gives the opportunity to establish amounts in excess for particular gas that is found in special reservoirs that are going to be unduly high-cost production. This simply says that if they find it will be cheaper, those costs savings will be passed on to the consumer.

I think it is readily understandable, and unless there is further discussion on it, I might be willing to have a voice vote.

Mr. SCHMITT. Mr. President, I question the logic, and I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 52, nays 37, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—52

Allen	DeConcini	Laxalt
Baker	Dole	Long
Bartlett	Eastland	Lugar
Bellmon	Ford	Mathias
Bentsen	Garn	McClure
Burdick	Glenn	Melcher
Byrd,	Goldwater	Nunn
Harry F., Jr.	Gravel	Packwood
Byrd, Robert C.	Griffin	Pearson
Chafee	Hansen	Randolph
Chiles	Hatfield	Roth
Cranston	Heinz	Sasser
Curtis	Helms	Schmitt
Danforth	Johnston	Schweiker

Scott	Talmadge	Weicker
Stevens	Thurmond	Young
Stevenson	Tower	Zorinsky
Stone	Wallop	

NAYS—37

Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Inouye	Pell
Bumpers	Jackson	Percy
Cannon	Javits	Proxmire
Church	Kennedy	Ribicoff
Clark	Magnuson	Riegle
Culver	Matsunaga	Sarbanes
Durkin	McGovern	Sparkman
Eagleton	McIntyre	Williams
Hart	Metzenbaum	
Haskell	Morgan	

NOT VOTING—11

Abourezk	Hayakawa	Metcalf
Case	Humphrey	Stafford
Domenici	Leahy	Stennis
Hatch	McClellan	

So Mr. SCHMITT's motion to lay on the table Mr. KENNEDY's amendment (No. 974) was agreed to.

ROUTINE MORNING BUSINESS

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

Without amendment:

S. Res. 270. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 785, a bill conveying 2,700 acres to the Paiute and Shoshone Tribes of the Fallon Indian reservation. Referred to the Committee on the Budget.

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Without amendment:

H. Con. Res. 282. A concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways (Rept. No. 95–454) (together with additional views).

By Mr. McINTYRE, from the Committee on Armed Services:

With amendments:

S. 1863. A bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes (Rept. No. 95–455).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

George Claude Pimentel, of California, to be Deputy Director of the National Science Foundation.

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH (for Mr. WILLIAMS), from the Committee on Humane Resources:

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 27, 1977, he presented to the President of the United States the following enrolled bills:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An act to extend and revise the Library Services and Construction Act, and for other purposes.

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, was read twice by its title and referred to the Committee on Government Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF:

S. 2145. A bill to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule; to the Committee on Governmental Affairs.

By Mr. TALMADGE (by request):

S. 2146. A bill to amend the Consolidated Farm and Rural Development Act, as amended; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STONE (for himself, Mr. CHILES, and Mr. WILLIAMS):

S. 2147. A bill to amend the Immigration and Nationality Act of 1952; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2148. A bill to amend the Internal Revenue Code of 1954 to provide rules for the tax treatment of employees under certain profit sharing plans; to the Committee on Finance.

By Mr. EASTLAND:

S. 2149. A bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 2150. A bill to amend the Internal Revenue Code of 1954 to provide a special computation for determining the public support of certain charitable organizations; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2151. A bill to authorize loans for the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Human Resources.

By Mr. SPARKMAN (by request):

S. 2152. A bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund; to the Committee on Foreign Relations; and, if and when reported by that committee, to the Committee on Banking, Housing and Urban Affairs, by unanimous consent.

By Mr. DOLE:

S. 2153. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 2145. A bill to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the General Services Administration, I am introducing legislation to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V (47,500) of the Executive Schedule.

The GSA advises that the position is presently authorized at level V by Presidential authority and enactment of this legislation will include the position under the same statutory authority as other GSA heads of a service.

I ask unanimous consent that the text of the bill and the accompanying statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5316 of chapter 53, title 5, United States Code, is amended as follows:

( ) Commissioner, Automated Data and Telecommunications Service, General Services Administration.

WASHINGTON, D.C.,
July 20, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith for referral to the appropriate Committee, is a draft bill "To amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule."

The position of Commissioner, Automated Data and Telecommunications Service (ADTS), is currently authorized at level V

by Presidential rather than statutory authority. This position was elevated to the Executive level V in 1971 in the predecessor organization, Transportation and Communications Service, prior to the establishment of ADTS. This legislation is requested to include the ADTS Commissionership under the same statutory authority as the other General Services Administration's Heads of Services.

GSA recommends prompt and favorable consideration of this legislation. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to submission of this legislative proposal to the Congress.

Sincerely,

ROBERT T. GRIFFIN,
Deputy Administrator.

By Mr. STONE (for himself, Mr. CHILES, and Mr. WILLIAMS):

S. 2147. A bill to amend the Immigration and Nationality Act of 1952; to the Committee on the Judiciary.

Mr. STONE. Mr. President, the bill I am introducing today with the senior Senator from Florida and the junior Senator from New Jersey would extend the right of citizenship to elderly, long-term U.S. residents who are political refugees and have been unable to learn English, despite years of living, working, and paying taxes in this country. The measure would waive the language requirement for those individuals who, on the effective date of the bill, are over 50 years old and have lived in the United States for at least 5 years. It would apply only to persons admitted to the United States as political refugees—from Cuba, Yugoslavia, the Soviet Union, Indochina, and oppressive regimes throughout the world.

In the State of Florida, there are thousands of Cubans who came to our country in the early 1960's and have been working and paying taxes ever since. For some of them, particularly the elderly, learning English has proved an insurmountable obstacle to the achievement of citizenship status. I have received letters from elderly residents who have gone down to the Federal building time and time again and paid their $25 examination fee, only to be denied citizenship, because they are unable to demonstrate an adequate knowledge of English. If such people could take the exam in their native language, they would have a chance at the full legal protection and increased opportunity for civic participation that citizenship affords. Above all, they could achieve the dream of becoming full-fledged U.S. citizens.

The measure we are introducing today would not apply to new arrivals in the United States or to young people in school. It would affect only older political refugees who after at least 5 years of living and working here on the date of this bill's passage are unable to meet the language requirement for citizenship. It would apply to citizens who have fled from oppressive governments in search of democracy and now would like to participate more fully in the American way of life.

In recent months, Congress and the Carter administration have been developing a foreign policy based on human rights and sending a strong message throughout the world on behalf of human dignity. A logical application of this human rights policy here at home would be to make citizenship more available to political refugees who have sought asylum in our country, learned our history, and adopted our culture.

By Mr. EASTLAND:

S. 2149. A bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

Mr. EASTLAND. Mr. President, I am introducing today, by request of the administration, a bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (H.J. Res. 549, Public Law 94-241, 90 Stat. 266).

This bill has been drafted by the Committee on the Judiciary after consultation with representatives of the administration and the Administrative Office of the United States Courts.

Article IV of the Covenant requires the United States to undertake to establish a court of record to be known as the "District Court for the Northern Mariana Islands" which will have, among other things, essentially the same jurisdiction as a district court of the United States, including exclusive jurisdiction over certain Federal questions and Federal crimes. The district court will also have original and appellate jurisdiction, except as the constitution and laws of the Northern Mariana Islands shall otherwise provide, over all civil and criminal cases arising in the Northern Mariana Islands.

It is anticipated that the constitution for the Northern Mariana Islands may become effective as early as January 9, 1978. This constitution requires the Legislature of the Northern Marianas to establish a Commonwealth trial court with, among others, original jurisdiction over civil and criminal matters where the amount in controversy or the fine does not exceed $5,000 or imprisonment for more than 5 years. Until the Constitution becomes effective, the legislature will have no authority to act. After the constitution becomes effective, it will take the legislature and the Government of the Northern Mariana Islands some undetermined time to provide for and establish the Commonwealth trial court. Therefore, unless the district court for the Northern Mariana Islands is established in this session of the Congress, the Government of the Northern Mariana Islands may find itself without a functioning judicial branch to try civil and criminal cases. Moreover, even assuming the local legislature could move expeditiously after the constitution becomes effective, there still would be no court with jurisdiction over Federal questions, Federal crimes, and civil and other criminal matters where the amount in controversy or the fine exceeded $5,000 or 5 years of imprisonment, and there would be no appellate tribunal to review any of the cases arising in the Northern Mariana Islands. We should not wait until the next session of this Congress acts on this bill. To do so would leave an unacceptable void in the judicial functions of this new government.

Mr. President, I ask unanimous consent that a copy of the bill be placed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands." The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

(b)(1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

(b)(2). The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the Ninth Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(b)(3). The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

(b)(4). If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States atttorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

(c). The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in Articles IV and V. The terms "attorney" as used in the Federal Rules of Criminal Procedure (Rule, 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

SEC. 2(a). The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b). The District Court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on the basis of this subsection, the District Court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by Grand jury or trial by jury.

SEC. 3. The District Court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the District Court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b)(2), provided, however, that only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the District Court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

SEC. 4. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in Article IV of the Covenant; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Section 3 of this Act.

(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in Article IV of the Covenant.

SEC. 5. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 2150. A bill to amend the Internal Revenue Code of 1954 to provide a special computation from determining the public support of certain charitable organizations; to the Committee on Finance.

Mr. STENNIS. Mr. President, on behalf of myself and my distinguished colleague from Mississippi (Mr. EASTLAND), I introduce a bill to amend the Internal Revenue Code as it relates to the classification of organizations as public charities under section 509.

Charitable, educational, scientific, and like public organizations are generally classified as either public charities or private foundations under section 509 of the Internal Revenue Code. Among the types of public charities are organizations described in sections 509(a)(1) and 509 (a)(2) of the Code, because their financial support comes from, directly or indirectly, the general public. In the case of certain publicly supported charities, the Internal Revenue Service regulations provide that an organization will be a publicly supported charity where it meets either a mechanical test or a facts and circumstances test in computing the amount of financial support deemed to be derived from the public. In making such computation, the Service has provided, by regulation, that contributions from any one person, with certain exceptions, are subject to a percentage limitation, so that only a portion of the gift, if the gift is a large one, is treated as part of the charity's public support. The dollar limit is an amount determined by multiplying contributions and other allowable financial support over a 4-year period by a 2-percent factor. This means that, in the case of any contribution from any one person, with the exceptions noted below, the amount of the gift deemed to come from the public cannot exceed 2 percent of the organization's aggregate 4-year financial support. However, regulations provide that contributions from publicly supported charities, such as organizations described in section 170(b)(1)(A)(vi), are not subject to such percentage limitations. Gifts from one public charity to another are deemed to come from the general public.

Therefore, if a charitable organization is supported through contributions by one public charity, the donee organization is itself classified as a public charity, even though it has no other source of support than the one donor.

Section 509 recognizes that certain charitable organizations should be treated as public charities where they are operated, supervised, or controlled by or in connection with a civic league described in section 501(c)(4), a labor organization described in section 501(c)(5), or a trade association described in section 501(c)(6) if these organizations can meet certain publicly supported tests prescribed in section 509(a)(2) of the Code. Thus, if a trade association described in section 501(c)(6) can satisfy certain financial support tests contained in section 509(a)(2)(A) and section 509(a)(2)(B), a charity which it controls, operates, or supervises, will not be treated as a public charity under section 509(a)(3). However, contributions made by that same publicly supported business league to its charitable organization are not treated as contributions from the general public, despite the fact that the trade association has broad public support from, for example, its members.

It seems clear that contributions by a publicly supported business league or labor organization should be treated no differently than contributions from a publicly supported charity where the charitable donee, in making computations of its public support for purposes of classifying it under section 170(b)(1)(A)(vi) and section 509(a)(1). The Internal Revenue Service has recently, and in my judgment erroneously, ruled that contributions by a chamber of commerce to a charitable organization are subject to the 2-percent limit as if the chamber of commerce was a private individual. I ask unanimous consent that Revenue Ruling 77-255 be included in the RECORD immediately following the conclusions of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. STENNIS. Mr. President, to make matters worse, the Service has ruled privately that controversies relating to these limitations are not subject to review by the Tax Court under the declaratory judgment provisions of section 7428 enacted as part of the Tax Reform Act of 1976 where the charity is currently classified as a public charity. Thus, a chamber of commerce which makes contributions to a charitable organization cannot controvert this finding by the Internal Revenue Service except by having the donee organization treat itself as a private foundation.

This bill will remedy this unfair and discriminatory practice by treating all such contributions as public contributions where the donor organization is itself publicly supported so that a charitable organization, supported entirely by a civic league, labor organization, or business league, can be classified as a public charity.

EXHIBIT 1

[¶ 55,712] Rev Rul 77-255. IRB 1977-30, p. 7. Charitable Contributions and Gifts. Contributions made by Section 501(c)(6) business league to Sec. 501(c)(3) organization seeking to be classified as other than private foundation under Sec. 509(a)(1) because it's publicly supported under Sec. 170(b)(1)(A)(vi) are subject to two percent limitation imposed by Sec. 1.170A-9(e)(6) of Regs. Ref. ¶ 16,011. Sec. 170.

Advice has been requested whether contributions given under the circumstances set out below are subject to the two percent limitation imposed by section 1.170A-9(e)(6) of the Income Tax Regulations.

An organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 that is not organized and operated for the purpose of testing for public safety has requested a determination that it is other than a private

foundation by virtue of being described in sections 509(a)(1) and 170(b)(1)(A)(vi). A business league exempt from Federal income tax under section 501(c)(6) has made contributions to the section 501(c)(3) organization that total more than two percent of the section 501(c)(3) organization's support during the period in which its support is to be measured under section 170(b)(1)(A)(vi). The business league engages in some charitable and educational activities that benefit the community in which it is located, but it is not organized and operated exclusively for such purposes. It is not a governmental unit referred to in section 170(c)(1). None of the amounts contributed to the section 501(c)(3) organization by the business league has been earmarked by the donors to the business league for use as contributions to the section 501(c)(3) organization.

Section 509(a)(1) of the Code excludes from private foundation status, among other organizations, those organizations described in section 170(b)(1)(A)(vi).

Section 170(b)(1)(A)(vi) of the Code describes an organization that is referred to in section 170(c)(2) and that normally receives a substantial part of its support from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public.

Section 170(c)(2) of the Code, in part, describes a domestic corporation, trust, or community chest, fund or foundation, that is organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

In determining whether an organization receives the support required under section 170(b)(1)(A)(vi) of the Code, section 1.170A-9(e)(6) of the regulations provides that contributions by an individual, trust, or corporation shall be taken into account as support from direct or indirect contributions from the general public only to the extent that the total amount of the contributions by any such individual, trust, or corporation during the period for which the support is being measured does not exceed two percent of the organization's total support for such period.

Section 1.170A-9(e)(6) of the regulations provides an exception to the two percent limitation, however, in that the limitation does not apply to support received from governmental units described in section 170(c)(1) of the Code or to contributions from organizations such as those described in section 170(b)(1)(A)(vi) unless those contributions represent amounts that have been expressly or impliedly earmarked by the donor to such governmental unit or section 170(b)(1)(A)(vi) organization as being for, or for the benefit of, the particular organization claiming section 170(b)(1)(A)(vi) status.

The business league is not an organization of the type described in section 170(b)(1)(A)(vi) of the Code because it is not organized and operated exclusively for the purpose set out in section 170(c)(2). Because it is neither a governmental unit described in section 170(c)(1) nor an organization of the type described in section 170(b)(1)(A)(vi), the contributions by the business league to the section 501(c)(3) organization do not fall within the exception to the two percent limitation.

Accordingly, the contributions by the business league are subject to the two percent limitation set out in section 1.170A-9(e)(6) of the regulations in determining the section 501(c)(3) organization's support from direct or indirect contributions from the general public.

By Mr. WILLIAMS:

S. 2151. A bill to authorize loans for the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Human Resources.

Mr. WILLIAMS. Mr. President, there are between 80 and 100 million cats and dogs in the United States today, with 2,000 to 3,500 more born every hour.

Far too many of these animals are unwanted. The cuddly kitten or puppy, purchased on a whim, may lose its appeal when it matures. Or a pet owner may not be able to find homes for a new litter. These unwanted animals suffer needlessly, and they impose a considerable burden on society.

Each year 15 million to 17 million cats and dogs are turned over to animal shelters, where more than 13 million of them are destroyed. Another 5 million are abandoned to fend for themselves. Only 1 in 10 of these abandoned animals finds a new home. The others die within a short time of disease, starvation, exposure, or under the wheels of a car.

This pet population explosion has created serious problems in cities throughout the Nation. In 1974, U.S. mayors ranked dog and other pet control problems as the primary source of citizen complaints.

Stray animals are a menace to public health, spreading disease, and biting and scratching the unwary. Some 65 diseases—including mumps, measles, tuberculosis, diphtheria, and scarlet fever—are transmittable from cats and dogs to humans. A million and a half Americans require medical treatment for dog bites every year, and 30,000 must undergo treatment for rabies. Unfortunately, most dog bite victims are children.

Pets and stray animals pollute the environment with waste and noise. Dogs deposit some 110,000 pounds and 3,000 gallons of waste per day on the streets of New York City alone. In addition, stray animals damage property, cause traffic accidents, and kill other animals.

The costs of animal control figure significantly in municipal budgets, and, despite massive expenditures, the problem continues unabated. Some $500 million annually is spent for public and private animal control efforts. About $100 million of this amount is spent just to destroy unwanted animals. The city of Chicago, for example, spends $1 million a year on its animal shelter, and another $60,000 to remove dead animals from the streets. Long Beach, Calif., spends $74,000 a year just to care for impounded animals.

Other countries have tried various means of controlling their pet populations. In Reykjavik, Iceland, dogs have been banned since 1924. In the Soviet Union, dogs are periodically prohibited in certain cities and are shot on sight in the streets.

Few people would recommend such draconian solutions in the United States. Pets provide needed companionship and protection for children, for the elderly, indeed, for people of all ages. But it is clear that something must be done to bring our pet population under control. Animal shelters simply do not have the capacity to handle the burgeoning number of unwanted pets. If no one adopts them within a few days, the only alternative is to destroy them.

But there is a better solution. It involves prevention rather than the "cure" of the decompression chamber and the needle.

One city, Los Angeles, has tried this solution with notable success. In 1971, Los Angeles established a low-cost spay and neuter clinic as a pilot project for controlling its dog and cat population. The project worked so well that after 2 years, two more clinics were opened in other parts of the city. The purpose of these clinics is to sterilize pets at the lowest possible cost, while maintaining the highest possible medical standards. The fee of $11.50 for neutering and $17.50 for spaying saves pet owners from $23.50 to $140 per operation.

The response of Los Angeles pet owners has been enthusiastic. Thousands of dogs have been spayed and neutered in the low-cost clinics. And, contrary to some predictions, private veterinarians have also shown an increase in spaying and neutering operations. As a result, the percentage of licensed dogs that have been altered increased from 16 percent in 1972 to 37.7 percent in 1974. At the same time, impoundment and destruction of animals in the city's shelters have been sharply reduced. From 1971 to 1975, the number of animals impounded declined 18.9 percent, and the number of animals destroyed was reduced by 21.7 percent.

Other factors besides the municipal clinics have contributed to these trends. Stricter enforcement of the city's leash law, lower license fees for sterilized dogs, and public education have all played a role. But Los Angeles officials are convinced that the clinics have been a key element in reducing and stabilizing the pet population.

This means savings to the taxpayers. While the city pays $3 for each sterilization, it must pay $20 for each animal it handles in a shelter. One study indicates that for every dollar spent on the public clinics, the city will save $6.50 in animal control costs.

I believe the Los Angeles experience can be applied to other cities to help them cope with their animal populations. Unfortunately, financially hard-pressed city governments cannot come up with the initial funding needed to start clinics like Los Angeles.

Therefore, I am introducing a bill which would provide Federal loans for this purpose. Loans of up to $200,000 would be available to any city, county or other local government with a population of 100,000 persons or more, for the establishment and initial operating costs of public nonprofit clinics for the spaying and neutering of dogs and cats. The bill would authorize $4 million each year for 5 years for such loans.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds and declares that—

(1) the Nation has an overpopulation of pet dogs and cats; and

(2) this overpopulation has resulted in an increasingly vast number of homeless dogs and cats, which suffer needlessly and cause—

(A) a grave hazard to public health and safety;

(B) environmental and property damage; and

(C) a severe financial burden on local governments throughout the Nation.

(b) The Congress further finds and declares that—

(1) spaying and neutering of dogs and cats are effective means of bringing these animal populations under control;

(2) most pet owners are willing to pay a reasonable fee for spaying or neutering their dogs and cats if adequate facilities are available; and

(3) existing public and private facilities are unable to provide spaying and neutering on a large enough scale at a reasonable cost.

(c) It is, therefore, the purpose of this Act to encourage and assist in the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats.

LOANS

SEC. 2. (a) The Secretary of Health, Education, and Welfare is authorized to make loans to general purpose units of local government, including, but not limited to, cities, counties, towns, townships and parishes, which have populations of at least one hundred thousand persons according to the latest estimates available from the Department of Commerce, for the purpose of establishing, by construction or otherwise, and providing initial operating costs of public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats. No eligible unit of local government may receive a loan in excess of $200,000 under this Act.

(b) Any such loan shall be made on the basis of an application submitted to the Secretary of Health, Education, and Welfare in such form and containing such information and assurances as he may, by regulation, prescribe.

(c) The Secretary of Health, Education, and Welfare shall, from time to time, promulgate regulations establishing maximum fees for spaying and neutering which may be charged at clinics established or operated with loans pursuant to this Act. Any unit of government receiving such a loan shall abide by such maximum charges until such loan is repaid in its entirety.

(d) Each such loan shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one per centum, plus an allowance adequate in the judgment of the Secretary of Health, Education, and Welfare to cover administrative costs and probable losses under this Act.

(e) Each such loan shall be repayable over a period and according to a schedule determined by the Secretary of Health, Education, and Welfare to be appropriate, but not exceeding twenty years.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 3. To carry out the provisions of this Act, there is authorized to be appropriated not to exceed $4,000,000 for the fiscal year ending September 30, 1978, and for each of the four succeeding fiscal years.

By Mr. SPARKMAN (by request):

S. 2152. A bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund; to the Committee on Foreign Relations; and, if and when reported by that committee, to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to authorize United States participation in the supplementary financing facility of the International Monetary Fund.

In accordance with Senate rule XXV.1 (j)(1), I request that the aforementioned bill be referred to the Committee on Banking, Housing, and Urban Affairs when it is reported from the Committee on Foreign Relations.

The bill has been requested by the Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the sectional analysis of the bill and the letter from the Secretary of the Treasury to the President of the Senate dated September 16, 1977.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2152

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2), as amended, is further amended by adding at the end thereof the following new section:

"SEC. 27. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as "the facility") established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

(b) The Secretary of the Treasury shall account, through the fund established by section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), for any adjustment in the value of monetary assets held by the United States in respect of United States' participation in the facility."

SECTIONAL ANALYSIS

This bill amends the Bretton Woods Agreements Act to authorize the Secretary of the Treasury to take the steps necessary for United States participation in the Supplementary Financing Facility of the International Monetary Fund. The terms of United States participation in the facility will be governed by the decisions of the IMF Executive Directors establishing the facility and authorizing replenishment of IMF resources for the purposes of the facility.

The bill provides that resources of the United States will be available for the purpose of participating in the Supplementary Financing Facility in an amount not to exceed 1,450 million Special Drawing Rights. These resources will be provided by the United States entering into an agreement with the IMF as provided in Executive Board Decision numbered 5509–(77/127). In addition, the United States can transfer (i.e. sell) its reserve claims on the IMF arising from participation in the facility to others under the Executive Board Decision, and can purchase such claims on the IMF held by others. However, in no event may the total amount of currency made available by the Secretary of the Treasury, net of amounts received with respect to U.S. participation in the Facility, exceed the equivalent of 1,450 million Special Drawing Rights.

Transactions arising from U.S. participation in the facility, like other U.S. transactions with the IMF, are exchanges of monetary assets. This accounting and budgetary treatment of U.S. transactions with the Fund was adopted as a result of the recommendations in 1967 of the President's Commission on Budget Concepts. Concurring in the application of the exchange of assets concept, the Congress, since 1975, has considered appropriations unnecessary for increases in the United States quota and for payment by the U.S. of its maintenance of value obligations in the IMF.

Similarly, no appropriations are necessary for U.S. participation in the IMF Supplementary Financing Facility and none are authorized by the proposed bill. When the United States provides dollars under the terms of the facility, the U.S. in return will receive a monetary asset in the form of a liquid claim, of equivalent SDR value, on the IMF. These claims will form part of the U.S. "reserve position" in the IMF and so will form part of U.S. monetary assets.

Because the assets and accounts of the Treasury are denominated in dollars, while those of the IMF—including all U.S. claims on the IMF—are denominated in SDR, there may, as a consequence of exchange rate changes, be a net change in the value of U.S. monetary assets arising from United States participation in the facility.

The proposed bill, therefore, provides for the Exchange Stabilization Fund, established by section 10 of the Gold Reserve Act of 1934, as amended, to account for any such net adjustment in the value of U.S. monetary assets arising from U.S. participation in the facility. The Exchange Stabilization Fund similarly is used, pursuant to section 3 of the Special Drawing Rights Act, as amended (22 U.S.C. 286o), to account for valuation changes in U.S. holdings of Special Drawing Rights and, in light of section 18 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286e–3), to account for any valuation adjustment in foreign currencies purchased by the United States from the IMF.

Interest earned on claims held by the United States through its participation in the facility will be covered into the Treasury as miscellaneous receipts.

THE SECRETARY OF THE TREASURY,
Washington, September 16, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am today transmitting legislation to authorize United States participation in the Supplementary Financing Facility of the International Monetary Fund.

The establishment of the new facility, a major initiative to strengthen the international monetary system at a time of critical need, represents the fulfillment of an important goal agreed at the London Summit. The facility will provide the International Monetary Fund with resources which are urgently needed to improve international balance of payments adjustment and to as-

sure the smooth functioning of and strengthen confidence in the international monetary system.

A Special Report on the Supplementary Financing Facility, prepared by the National Advisory Council on International Monetary and Financial Policies, accompanies this legislation. I fully support the Council's strong recommendation that the United States participate in the facility, and I urge prompt Congressional action to authorize that participation.

The International Monetary Fund, since its establishment in 1945, has served as the world's central institution for international monetary cooperation and is a cornerstone of United States international monetary policy. The IMF serves a key role in establishing and monitoring the "rules of the game" for acceptable international monetary and financial behavior of its 131 members. The IMF also serves a critical function in facilitating the adjustment of payments imbalances by members by providing temporary financing during the period while corrective policies take effect and eliminate the need for such financing.

Thus, adjustment is made possible in ways that are compatible with our liberal trade and payments objectives, in ways that avoid discrimination against others and disruption of the world economy.

The facility would provide approximately $10 billion of additional resources to the International Monetary Fund to meet demands that may be placed on the Fund over the next several years. The pattern of world payments has recently undergone profound transformation, with the strain of a quintupling of oil prices, unprecedented inflation, and the worst recession in a generation. Existing international monetary mechanisms, official and private, have thus far met the extraordinary financing needs arising from these events. This facility is needed to assure that the international community can deal with future balance of payments financing needs in the context of an orderly and cooperative international monetary system.

The Supplementary Financing Facility would be used in certain clearly defined circumstances. It would make additional resources available for a temporary period to help meet the financing needs of those IMF members with particularly large payments problems relative to their quotas in the IMF, where such members are willing to undertake effective and sustained economic measures to correct their difficulties. In light of the severe adjustment problems faced by some members, those eligible to draw on the facility will receive more financing than is otherwise available to them from the IMF, and will be afforded a somewhat longer period to adjust and repay their drawings on the Fund. Interest on drawings on the facility will be market-related, so that borrowing members will also pay a somewhat higher charge than on drawings from the IMF's regular resources.

The legislation I am proposing today will authorize the United States to participate in the facility in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights—approximately $1,700 million. Congressional authorization for U.S. participation in the facility is required by section 5 of the Bretton Woods Agreements Act, as amended. No appropriations are required for U.S. participation in the facility, since U.S. transactions with the IMF, which are akin to deposits in a bank, do not involve expenditures of funds, but are exchanges of monetary assets.

This $10 billion facility represents a unique cooperative effort on the part of the United States, other industrial countries, and the major oil exporting nations. Participation is equitably shared, with the industrial countries providing slightly over half and the U.S. providing approximately 17 percent of the total. Participation of the United States and all other major participants is essential to the initiation of the facility.

The need for the facility is present and real in this period of exceptional balance of payments financing difficulties. Establishment of the facility is critically important to the interests of the United States and the entire IMF membership. I strongly urge the Congress to consider this proposal promptly and favorably.

It will be appreciated if you will lay the enclosed bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the President's program.

Sincerely,

W. MICHAEL BLUMENTHAL.

Mr. SPARKMAN. Mr. President, in accordance with Senate rule XXV 1(j)(1), I ask unanimous consent that the bill I have just introduced be referred to the Committee on Banking, Housing, and Urban Affairs when it is reported from the Committee on Foreign Relations.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the bill, and has it been cleared with the chairmen of the committees?

Mr. SPARKMAN. It is out of the Foreign Relations Committee.

Mr. ROBERT C. BYRD. Mr. President, from time to time I have had to reserve the right to object to protect the various chairmen of committees to which measures are being referred. May I ask whether or not, in the opinion of the Parliamentarian, this is a referral which would be required?

The PRESIDING OFFICER. I am advised by the Parliamentarian that the bill would normally go to the Foreign Relations Committee. However, the chairman of the Foreign Relations Committee is making the request, so it would go to the Banking Committee after reported from the Foreign Relations Committee.

Mr. ROBERT C. BYRD. I have no feelings one way or the other about the matter. I am merely trying to protect all the chairmen to be sure matters have been cleared with them.

Mr. SPARKMAN. Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. SPARKMAN. Under the rules that were adopted when Senator STEVENSON was revising the rules, it was provided that on international financing might go to the Foreign Relations Committee, the Banking Committee would have sequential jurisdiction. This is just following that course.

Mr. TOWER. If the Senator will yield, speaking as the second ranking Republican on that committee and the ranking member of the Financial Subcommittee, this is certainly established procedure now under the new rules. I am certain that no members of the Banking Committee would object.

Mr. ROBERT C. BYRD. Very well. I do not object, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. DOLE:

S. 2153. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Finance.

TAX CREDIT FOR DAY CARE PROVIDED BY GRANDPARENTS

Mr. DOLE. Mr. President, the bill which I am introducing today is needed to correct what I would like to think is an oversight in our present tax law. This bill amends the Internal Revenue Code to make it possible for parents to claim a 20 percent credit on day care expenses when the grandparents are employed to sit with the children.

Even though Congress liberalized the tax treatment of day care services provided by relatives in the Tax Reform Act of 1976, the law still excludes, in most instances, care provided by the child's grandparents. Under our present law, parents can claim a credit for child care if the child is kept by strangers, in some facility, or by more distant relatives. In only a few instances is a credit allowed when the grandparents care for the child. Those cases are when the parent of the child is widowed; is divorced and has not remarried; or if there is a mentally or physically handicapped spouse who can not take care of the child. Even when these conditions are met, the credit is not allowed if the sitting takes place in the grandparents' home.

These restrictions were designed to keep abuse from taking place, and the Senator from Kansas shares this concern. However, in attempting to prevent the splitting of income between taxpayers we have put an unwarranted restriction on day care.

Today, there are many forces working against strong cohesive family units. Child care problems often arise when both parents work, or when there is a single parent home and that parent has to work. Frequently, in these situations, there is a grandparent available to care for the child. But, since our tax structure makes it economically advantageous not to use grandparents as sitters, the child is often shuttled off to another babysitter.

For those parents who financially need the 20 percent credit, this creates a conflict. It seems to me that where grandparents are available and willing to work as sitters, they should be encouraged to do so. In most cases, grandparents care is preferred to that offered by the sitter down the block. Also, in many instances, it is the best care.

Despite the fact that the United States has always had a highly mobile population, the majority of families still continue to live in fairly close proximity to their relatives. Two studies within the last 5 years indicate that somewhere between one-quarter and one-third of working parents use relatives to care for their children in either their own homes or in the relatives' homes. The studies further indicate that while all ethnic groups rely heavily upon their relatives

for child care assistance, black and Spanish families use paid care by relatives somewhat more than do whites.

The bill I am introducing today would, if enacted, eliminate the cross reference to section 3121(b) that resulted in the distinction between a taxpayer's parents and his/her other relatives for purposes of this tax credit. Beginning in calendar year 1977, the cost of day care provided by grandparents would be eligible for the 20 percent credit regardless of the taxpayer's marital status or the location of the child care.

This amendment of the day care tax credit makes good practical sense, is good day care policy, and encourages family ties and mutual assistance. Its merits significantly outweight the risks of tax abuse or avoidance that prompted the inclusion of the section 3121(b) cross-reference. I believe this adjustment brings the tax credit into closer conformance with what most Senators understood the intent to be of including care provided by relatives. Many were, and still are, under the impression that the sole purpose of the cross-reference was merely to make sure that relatives employed to provide child care services eligible for the credit were indeed paid for their services and in turn were paying their social security and income taxes. I do not think everyone realized the cross-reference would condition child care provided by grandparents on the parent's marital status or the place where the care was provided.

The removal of the cross-reference to the definition of employment for social security purposes will not affect in any way the obligations of the day care employer or employee to pay social security taxes, regardless of family relationship. Thus, parents of the taxpayer would continue to be covered under social security in the same situations as they are presently.

Elimination of the cross-reference to section 3121(b) would not affect other existing safeguards. Payments to dependents would continue to be ineligible for the credit. A person is disqualified as a dependent if gross income is $750 or more. Thus, taxpayers who pay their parents less than $750 for child care services would generally pay less taxes by continuing to claim their parents as dependents than by claiming the 20-percent day care credit. Regardless of the amount paid to their parents, if they chose to claim the 20-percent day care credit, they could not also claim the dependency exemption.

The fear that income splitting between taxpayers and their relatives might occur is mitigated by the limit on annual expenses eligible for the credit of $2,000 for one child and $4,000 for two. Thus, there is no tax advantage to be derived from the 20-percent day care credit for paying caretakers more than these maximum amounts.

The existing provisions limit the tax credit for day care expenses to families where the sole parent or both parents work, or where one parent attends school full time while the other works. This, plus the requirement that the taxpayer have in his household a qualifying individual—a child aged 14 or younger, or a spouse, or dependent who is physically of mentally incapable of caring for himself—almost guarantees that whoever is being paid will, indeed, be providing services.

The Joint Committee on Taxation estimates the cost of this bill to be $33 million. This figure reflects a $10 million cost incurred when currently married couples are allowed to take the child care credit. The remaining $23 million arises when child care in the taxpayer's parents' home is made eligible for the credit. Both of these changes are necessary if we really want to encourage strong family ties.

It is difficult to justify a tax benefit which benefits people who use institutional day care but not those who employ their children's grandparents; which benefits day care provided in the child's home, but not that provided in the grandparent's home; and, which benefits broken families but not those which have remained together. Our Government and politicians lately have given a lot of lipservice to the "American family." This measure offers a concrete, direct way to remedy an antifamily technicality in the tax law and to eliminate tax penalties for families which provide mutual support and assistance.

ADDITIONAL COSPONSORS

S. 1587

At the request of Mr. STONE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1587, to amend the Internal Revenue Code.

S. 1590

At the request of Mr. DOMENICI, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1590, granting a Federal charter to American Ex-Prisoners of War, Inc.

S. 1855

At the request of Mr. HATCH, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 1855, the Employee Bill of Rights Act.

S. 1868

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1868, to expedite the issuance of Federal permits.

S. 1891

At the request of Mr. BELLMON, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 1891, to amend the Social Security Act.

S. 2115

At the request of Mr. RIBICOFF, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. Res. 242, relating to IRS policy toward fringe benefits.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Massachusetts (Mr. BROOKE), the Senator from Vermont (Mr. LEAHY), the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. ABOUREZK), the Senator from North Dakota (Mr. BURDICK), the Senator from Colorado (Mr. HART), the Senator from Iowa (Mr. CULVER), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 264, authorizing additional expenditures for the Select Committee on Nutrition and Human Needs.

AMENDMENT NO. 842

At the request of Mr. MELCHER, the Senator from Texas (Mr. TOWER) was added as a cosponsor of Amendment No. 842, to be proposed to the bill (S. 1868) to expedite the issuance of Federal permits.

AMENDMENT NO. 993

At the request of Mr. GRIFFIN, the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. MOYNIHAN), and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of Amendment No. 993, to be proposed on S. 2104, to establish a comprehensive natural gas policy.

AMENDMENT NO. 1025

At the request of Mr. PERCY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Amendment No. 1025, to be proposed to the bill (S. 2114) to encourage energy conservation in public utility systems.

SENATE RESOLUTION 270—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 785

(Referred to the Committee on the Budget)

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution:

S. RES. 270

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 785. Such waiver is necessary because the Congressional Budget Act of 1974 requires that all authorizations for appropriations for Fiscal Year 1978 be submitted by May 15, 1977. However, the Senate Select Committee on Indian Affairs is a new Committee which was not fully operational by that date and could not, therefore, have met the May 15, 1977, deadline.

SENATE RESOLUTION 271—SUBMISSION OF A RESOLUTION TO ESTABLISH A COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

(Referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. LEAHY (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BAYH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. GLENN, Mr. HART, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. KENNEDY, Mr. LUGAR, Mr. HOLLINGS, Mr. BELLMON, Mr. FORD, Mr. MCGOVERN, Mr. MELCHER, Mr. METZENBAUM, Mr. PELL, Mr. PERCY, Mr. SASSER, Mr. STAFFORD, Mr. STONE, Mr.

WILLIAMS, Mr. CHURCH, Mr. CASE, Mr. HUDDLESTON, Mr. CHILES, Mr. RIEGLE, Mr. MORGAN, Mr. METCALF, Mr. DANFORTH, Mr. HATHAWAY, Mr. DECONCINI, Mr. DURKIN, Mr. INOUYE, Mr. SARBANES, Mr. BIDEN, Mr. MCINTYRE, Mr. HASKELL, Mr. MATHIAS, Mr. CULVER, Mr. HEINZ, Mr. BENTSEN, Mr. RIBICOFF, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. BROOKE, Mr. JOHNSTON, and Mr. JAVITS) submitted the following resolution:

Resolved, it is the sense of the Senate that the President should establish a Commission on Domestic and International Hunger and Malnutrition.

Whereas, hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas, there is a need to examine the continuing paradox between increasing worldwide hunger and malnutrition and the burdensome grain surpluses in the United States;

Whereas, it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas, the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas, the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas, Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas, in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself.

Resolved, that the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2 (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition;

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the public; and,

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. 3. The Commission shall be a balanced membership composed of 15 persons appointed by the President from individuals who represent diverse backgrounds, taking into account age, wealth, and relationship to the problems of hunger and malnutrition.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of Section 2 of this resolution together with a schedule of activities and goals for the following six months; and,

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations.

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States.

SEC. 5. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. LEAHY. In this time of greater national emphasis on protecting basic human rights, there can be no higher priority than guaranteeing the right of every human being to be free from hunger and malnutrition.

The American people have long been committed to meeting this tremendous challenge. Our deep and enduring commitment is evidenced in our established domestic food and nutrition programs and our unilateral, bilateral and multilateral food aid and economic assistance programs. Domestically, a significant amount of our Government expenditure has been directed toward alleviating hunger and malnutrition. Internationally, the United States has been a most generous country in its assistance to the poorer nations.

Yet, despite our efforts, hunger and malnutrition remain daily facts of life for millions of people throughout the world. Estimates by the World Bank and the Food and Agriculture Organization suggest that around 450 million, and possibly as many as 1 billion, people worldwide are severely malnourished.

Malnutrition causes millions of premature deaths each year. Most of the victims are infants, children, pregnant women, and nursing mothers in the developing countries. Of every 100 babies born, 40 will die before the age of 6, mostly from nutrition-related causes. A substantial number of the survivors will be mentally or physically impaired because of their malnourishment.

However, malnutrition is not limited to the developing countries. Millions in the United States are hungry and malnourished.

In addition malnutrition is not limited to the underconsumption of food, but includes the consumption of the wrong types and amounts of food. This type of malnutrition can be almost as debilitating as underconsumption. In fact, the Senate Select Committee on Nutrition has reported that malnutrition can be linked to 6 of the 10 leading causes of death in the United States.

Why, despite our past and present efforts, is hunger and malnutrition becoming the fate of an increasing number of the world's population? What can we do to help stop and reverse that trend?

It is imperative that these questions be answered if we seriously wish to fulfill the commitment we made at the World Food Conference in Rome that by 1985 "no child will go to bed hungry . . ., no family will fear for its next day's bread, and . . . no human being's future and capacities will be stunted by malnutrition."

It is to find the answers to these questions that Senators and I are submitting a resolution which proposes that the President establish a Commission on Domestic and International Hunger and Malnutrition. An identical resolution is being submitted in the House by Congressman NOLAN.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD a list of the House cosponsors.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Alexander, Allen, Aspin, AuCoin, Badillo, Baldus, Baucus, Bedell, Bingham, Bonior, and Bonker.

Brodhead, Bowen, Brown, G., Carr, Collins, C., Conyers, Dellums, Downey, Drinan, and Edgar.

Fraser, Harkin, Harrington, Heftel, Jacobs, Jones, E., Kastenmeier, Keys, Kostmayer, and LaFalce.

McHugh, Maguire, Mitchell, P., Moffett, Neal, Nolan, Panetta, Reuss, Richmond, and Burton, Phil.

Burton, John, Stark, Edwards, Don, Mineta, Diggs, Solarz, Howard, Patten, Preyer, Rooney, Thompson, Walgren, Jordan, Wilson, Charlie (Tex), and Roe.

Anderson, J., Caputo, Gilman, Grassley, Guyer, Heckler, Jeffords, Kemp, Lent, and McCloskey.

Pursell, Quie, Rinaldo, Steers, Thone, Frenzel, Johnson, Jim, Madigan, Rinaldo, and Carter, Tim.

Leach, Stockman, Hagedorn, Marlenee, Mitchell, Don, Coughlin, Rodino, Rose, Scheuer, and Schroeder.

Simon, Smith, N., Studds, Tsongas, Udall, Weaver, Wolff, Zeferetti, and Spellman.

Jones, Walter, Breckinridge, English, Fithian, Jenrette, Huckaby, Glickman Akaka, Whitley, Risenhoover, Ginn, Barnard, Evans, Billy, Cornwell, D., and Thornton, Ray.

Kildee, Lloyd, Nowak, Mathis, Oberstar, Rahall, Boggs, Benjamin, Davis, Hefner, Long, and Gillis.

Skelton, Ammerman, Krebs, Hightower, Miller, George, Biaggi, Patterson, Pepper, Murphy, John, and Nedzi.

St Germain, Santini, Ireland, Sharp, Krueger, Ford, H., Hannaford, Fauntroy, Metcalfe, Murphy, Morgan, Rostenkowski, Fisher, Mikva, Carney, Wright, and Nix.

O'Brien, Hollenbeck, McEwen, Cohen, Conable, Pressler, Trible, Hansen, Hyde, Buchanan, Duncan, Kindness, Corcoran, and Conte.

Martin, Walsh, McDade, Findley, Marks, Cochran, Treen, Pritchard, Sebelius, Stangeland, Hillis, Railsback, Fisher, and Levitas.

Hughes, Ryan, Ullman, Runnels, Price, Foley, Staggers, Gephardt, Meyner, Florio, Minish, Pease, Stokes, Cavanaugh, Moorehead, William, Giaimo, and Hamilton.

Waxman, Fary, Markey, Bellenson, Roncalio, Meyner, Ambro, Gore, Vento, Traxler, Natcher, Obey, Perkins, Murphy, A, and Hubbard.

Cornell, Bevill, Daniel, Dan, Brinkley, Pattison, Won Pat, Dicks, Van Deerlin, Shipley, Koch, Brademas, McFall, Luken, Gibbons, Holtzman, Blanchard, Oaker, and Holland.

Chisholm, Beard, E., Blouin, Breaux, Clay, D'Amours, Corman, J., de Lugo, Ertel, Dodd, Derrick, Evans, F., Fountain, Burke, Yvonne,

Hawkins, Hanley, Leggett, Le Fante, Lloyd, M., Lundine, Rosenthal, Ottinger, Mikulski, Mazzoli, Mattox, and Weiss.

Mr. LEAHY. The Commission on Domestic and International Hunger and Malnutrition is not intended to be a factfinding commission. The research about the number, location, and problems of the hungry and malnourished is available, but scattered. The Commission would be expected to correlate and integrate the existing information.

The major purpose of the Commission would be to assess and evaluate U.S. public policies and programs which affect domestic and international hunger and malnutrition in order to recommend steps toward an effective national food, nutrition, and hunger policy. Specifically, the Commission would assess whether the hungry and malnourished are in fact receiving food and assistance, and the impact of such assistance. It would evaluate all economic and development assistance programs as to their effect on the food production system of the recipient countries, especially on their ability to produce adequate amounts of food for their own domestic consumption, and on the hunger and malnourishment in those countries. The Commission would assess the impact of our domestic food and agricultural program and policies on the domestic and world food supply, hunger and malnutrition, and the relationship between each. It would especially address the continuing paradox of increasing worldwide hunger and malnutrition in the face of burdensome grain surpluses in the United States. Throughout the consideration of each of these questions the Commission must evaluate the relationship of each program and policy to the others, and their cohesiveness as one national policy.

The Commission would then analyze their findings and present to Congress and the President legislative and other recommendations for a unified national food, hunger, and nutrition policy that would be effective in reducing hunger and malnutrition.

The Commission should be composed of 15 people who have practical knowledge about the areas of hunger and malnutrition, food production and supply, and related public policy, including representatives from the Executive and Congress. We hope that a special effort would be made to appoint a balanced membership representing diverse backgrounds.

The Commission is given a strict timetable for its work. It would issue an interim report after 6 months, and a final report at the end of a year. However, unlike other commissions, this Commission would not disband and let its report gather dust. It would exist for a year after the issuance of a final report in order to, at the request of Congress or the President, engage in a program of public education of its findings, and assist in implementing its recommendations.

If established, the Commission would go far beyond studies and commissions of the past. The most recent study of domestic food policy was undertaken by the White House Conference on Food, Nutrition and Health in 1969; significantly, international food policy was not considered. The most recent U.S. study of world food problems was undertaken by the Departments of Agriculture and State prior to the World Food Conference. This study concentrated on management of grain stocks and on assistance to developing countries for increasing production. However, it did not fully consider the interrelationships of U.S. domestic food policy and world food problems.

Therefore, the Commission we propose would be the first comprehensive inquiry by the Federal Government into the total impact of our public policies on domestic and international food and malnutrition.

It is also important to note this Commission on Democratic and International Hunger and Malnutrition will not duplicate the work of the World Food Council, but will supplement its coordinating role of United Nations agencies concerned with food matters. Further, it will enhance our contribution to the World Food Council by offering a cohesive national policy.

The proposed Commission is asked to answer difficult questions about the U.S. policies affecting hunger. We are asking, "What are we doing?," "Can we do it better?," and "Can we do more?".

The Senators and Congressmen who support this legislation ask these questions and actively seek their answers because of their true humanitarian concerns.

We understand our actions can play a vital role in eliminating the specters of hunger and malnutrition which afflict millions in our country and on our planet. We can replace that specter of hunger. Our actions can shape a world where:

A child born today can be glad to be alive, secure in the prospect of a lifetime of mental and physical well-being.

A family can provide for its own basic needs.

The most basic human right, to be free from hunger and malnutrition, is guaranteed.

Ghandhi, the Hindu philosopher, once said, "Even God dare not approach a hungry man except in the form of bread." One need not travel far these days to understand why bread bespeaks the most universal of all languages. It is a language that our country could learn to speak eloquently. It is a language we are still learning to speak, sometimes awkwardly. It is a language we are going to be called upon to speak louder and louder in the coming years. We must be prepared to speak with one voice. The Commission would help shape this unified voice.

Mr. President, I ask unanimous consent that a short statement by Senator HUMPHREY in support of this resolution be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Mr. President, there are few problems that are more frustrating than the problem of human hunger.

We have made major progress in the struggle against hunger here at home, but the battle abroad needs a strengthening of our commitment and resolve.

This Resolution, which would establish a Commission on Domestic and International Hunger and Malnutrition, is a mechanism by which we can more fully assess the intensity of this problem.

I am very pleased to cosponsor this Resolution and I want to applaud Senator Leahy for taking the initiative with this Resolution. A companion Resolution has been offered in the House of Representatives by Congressman Rick Nolan of Minnesota. Both the Senate and House efforts have overwhelming support, a further tribute to the primary sponsors and their leadership.

The hunger problem is very perplexing. On the one hand, our capacity to respond to immediate human tragedy has never been greater, a fact that should raise our moral responsibility in answer to situations like the recent Sahel disaster.

However, our commitment to world hunger must go beyond responding to tragedy. We must prevent tragedy by designing and developing food production and distributions systems that get nutritious food to all of those who need it.

We need a new commitment, as I have said before. Perhaps what we need is an innovative institutional and fresh psychological approach, something like our resolve to reach the moon in the early 1960's.

This resolution is thoughtful and creative. The fact that we have been spinning our wheels in this problem is not unknown. Perhaps this Resolution will put us on a new road to the betterment of mankind.

Again, I offer my support to this effort and commend both Senator Leahy and Congressman Nolan for their leadership in introducing this important measure.

Mr. DOLE. I am pleased to cosponsor with PAT LEAHY and my other congressional colleagues a resolution to establish a Commission on Domestic and International Hunger and Malnutrition.

FOOD ISSUES ARE COMPLEX

Needless to say, food production and distribution is a complex problem requiring international attention. I was among the congressional advisers to the World Food Conference in 1974. I believe that conference and subsequent follow-up actions have sparked a keen interest in food matters: an interest which has caught the imagination of the people in both the developed and the yet to be developed nations.

The problem of world hunger and malnutrition still exists, but fortunately more resources are being directed to a broad spectrum of food issues—food aid, agricultural research, production, distribution, nutrition, investment, trade and so on. Yet still more needs to be done. But it can be done only if all nations work together in a reasoned and rational manner. "Human reason," Thomas Mann wrote, "needs only to will more strongly than fate and it is fate."

SOLUTION TO HUNGER AND MALNUTRITION SHOULD BE MAJOR INTERNATIONAL GOAL

Frequently we talk about our achievement of putting a man on the Moon; and, indeed that was quite an achievement. However, a more difficult goal to achieve because of its international complexities is that of adequately addressing the problems of world hunger and malnutrition.

A major difference between our success in putting a man on the Moon and in

finding the solution to the hunger and malnutrition problem is that the latter cannot be accomplished by the unilateral action of one nation. It will take the cooperation and coordinated efforts of the developed and the developing nations, of national and international institutions and organizations, and of the people themselves in accepting change and providing resources to accomplish it.

After having said this, however, I hasten to say that "ending hunger and malnutrition" should be an international goal. I liked the bold objective declared by Henry Kissinger at the World Food Conference—"That within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition." I hope that President Carter and other heads of state will help such a dream come true.

DEVELOPED NATIONS SHOULD HELP NEEDY COUNTRIES TO HELP THEMSELVES

I believe that linkage of food assistance to agricultural development is an excellent idea and one that will hasten the day when no one goes to bed hungry. The food gap in developing countries can never be filled with food aid from donor countries. The developed countries must help the needy countries to develop their economies, especially their agriculture. This not only makes sense from the standpoint of a humanitarian act, but it also makes good economic sense viewed from our own self-interest perspective. Many former Public Law 480 food recipient countries are now good cash customers for U.S. agricultural exports.

The World Bank has substantially increased its lending for agricultural development in developing nations. I commend that effort.

Section 211 of the International Development and Food Assistance Act of 1977 provides U.S. food assistance for development. That legislation was initiated in the Senate Agriculture Committee of which I am the ranking minority member. I supported this provision of Public Law 480 and have urged the Carter administration to increase their Public Law 480 budget substantially above the amounts planned for fiscal year 1978.

BIPARTISAN EFFORT NEEDED

Public Law 480, Food for Peace, through which $30 billion worth of farm commodities has gone to foreign recipient countries, was passed in 1954 by a Republican Congress and was signed by a Republican President, Dwight D. Eisenhower. It was amended and supported over the last 23 years by my colleagues on both sides of the aisle. Thus, Public Law 480 probably has had more bipartisan support over a sustained period of time than any other single piece of legislation.

Here at home the food stamp program, the child nutrition programs, and other domestic food assistance programs are bipartisan efforts.

I believe the problem of world hunger and malnutrition deserves this strong and effective bipartisan effort.

This is why I am joining with over 50 of my colleagues in the Senate and 240 in the House in asking for the establishment of a Commission on Domestic and International Hunger and Malnutrition. This is needed to maintain the momentum that was initiated by the World Food Conference and to continue the search for ideas and new ways to solve the problems of world hunger and malnutrition. The nearer we come to solving this important human problem the closer we will come to achieving a lasting world peace.

SENATE RESOLUTION 272—SUBMISSION OF A RESOLUTION INCREASING CERTAIN EXPENDITURES

(Referred to the Select Committee on Small Business.)

Mr. NELSON (for himself (Mr. HASKELL, Mr. WEICKER, and Mr. PACKWOOD) submitted the following resolution:

S. RES. 272

Resolved, That section 2 of Senate Resolution 140, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$1,500" and inserting in lieu thereof "$4,500".

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY CONSERVATION IN PUBLIC UTILITIES—S. 2114

AMENDMENT NO. 1394

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON (for himself, Mr. DOMENICI, Mr. JACKSON, and Mr. FORD) submitted an amendment intended to be proposed to the bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

Mr. JOHNSTON. Mr. President, during mark up of the administration's public utility rate reform proposals, the Senate Committee on Energy and Natural Resources deferred consideration of the interconnection, wheeling and pooling provisions of the administration bill pending further hearings. On Tuesday, September 20, 1977, the Subcommittee on Energy Conservation and Regulation received testimony on these provisions from the administration and representatives of public and private utilities.

As a result of information generated at that hearing, we have determined that new authority with respect to interconnections should be granted to the Federal Energy Regulation Commission. We have further concluded that any legislation respecting the more complex economic issues associated with wheeling and pooling should be deferred until in-depth hearings and study can be completed.

Our amendment provides authority for the Commission to order the physical connection of transmission facilities between electric utilities whether or not those utilities are presently covered by the Federal Power Act. Such an order may be made only when the Commission finds such action necessary to encourage energy conservation or the optimum efficient use of electric utility facilities and resources.

The authority provided in this amendment is not to be used to remake the structure of any utility system. Thus, the reference in this amendment to sales and exchanges of electric energy and coordination among utilities applies only to those interactions and transactions which are necessary to effectuate the interconnection. The amendment states explicitly that no Federal Power Act regulation shall be extended under this amendment to any utility which is not presently covered by the act, except to the limited extent necessary to provide for compliance with an interconnection order.

The amendment provides the Commission with authority to order interconnections only in those specific situations in which:

Energy conservation or efficient use of facilities will be encouraged;

Enlargement of generating facilities is not required;

No uncompensated economic loss occurs; and

No undue burden or impairment of the reliability of or the ability to render service by any utility would result.

We believe these restrictions will insure the responsible use of this authority to overcome present institutional obstacles to improving energy efficiency without placing any unwarranted burden on the parties affected by an interconnection order.

The amendment requires that these authorities be placed in the Federal Energy Regulating Commission when the Department of Energy begins operation. We feel strongly that the issues associated with any interconnection order should be subjected to the collegial examination and careful procedures established for the commission in the Department of Energy Organization Act.

Mr. President, this amendment represents needed extension of Federal authority which has been carefully crafted to limit its application to those situations in which specific and widely agreed upon goals can be achieved. I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1394

On page 16, line 18, insert a new section 15 as follows, and renumber succeeding sections accordingly:

"INTERCONNECTION

SEC. 15. (a) Section 202 of the Federal Power Act is amended by adding a new subsection (g) to read as follows:

"g(1) Whenever the Commission, upon application of any State Regulatory Authority or any qualifying cogenerator as defined in the Public Utility Regulatory Policy Act of 1977 or any electric utility, and after notice to each State regulatory authority, qualifying cogeneration or electric utility affected and after opportunity for hearing, finds such action necessary or appropriate to carry out the purposes of paragraphs 2(a) or 2(b) of the Public Utility Regulatory Policy Act of 1977, it may by order direct an electric utility (other than a Federal agency)—to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator; and to order such utility or qualifying cogenerator to sell energy to, to exchange with, and otherwise to coordinate with said parties only as necessary to effectuate the intent of the interconnection.

"(2) Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order to be determined by negotiation among said parties. *Provided*, that said terms and agreements shall be subject to approval by the Commission and in the event that the parties do not reach an agreement approved by the Commission, the Commission may prescribe the terms and conditions of the agreement among the parties affected by such agreement, including the apportionment of cost among them and the compensation or reimbursement reasonably due to any of them. *And Provided further*, that if in the Commission's judgment, time is of the essence, the Commission may issue an order under the authority of this subsection prior to or during the negotiations among the parties.

"(3) The Commission shall have no authority under this subsection to—

"(A) compel the enlargement of generating facilities for purposes of this subsection, or

"(B) take any action that would result in an uncompensated economic loss to the electric utility or its customers, place an undue burden on such utility, unreasonably impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

"(4) Except as provided in this subsection, compliance by any electric utility with an order issued under this subsection shall not subject any electric utility to regulation under the Federal Power Act if any such electric utility is not otherwise subject to regulation under such Act.

(b)(1) The first sentence of section 201 (b) is amended by inserting "(other than section 202(g))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(g) shall apply to the electric utilities and other persons specified therein."

"(2) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(g))" before the period at the end thereof.

(c) Upon the effective date of the Department of Energy Organization Act (Public Law 95–91) the authorities vested in the Federal Power Act by this section shall be transferred to and vested in the Federal Energy Regulatory Commission.

"(5) For the purposes of this subsection the term: "electric utility" means a utility as defined in the Public Utility Regulatory Policy Act of 1977 which sells or exchanges electric energy;

AMENDMENTS NOS. 1395 AND 1396

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted two amendments intended to be proposed by him to the bill (S. 2114), supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. ALLEN. Mr. President, I announced that on September 30, 1977, the Subcommittee on Separation of Powers of the Committee on the Judiciary will hold hearings to receive testimony associated with executive branch negotiations for the disposition of the territory and property of the United States located in the Isthmus of Panama. The hearings will begin at 9 a.m. in room 1318, Dirksen Senate Office Building.

CANCELLATION

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations had previously scheduled hearings on October 11 on three bills regarding diplomatic immunity, H.R. 7819, S. 1256 and S. 1257.

These hearings have now been canceled until further notice due to the committee's extremely heavy Panama Canal Treaty hearings schedule.

CABINET-LEVEL DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, I wish to announce the Committee on Governmental Affairs will begin consideration in October of S. 991, and four related bills, to create a separate, Cabinet-level Department of Education in the Federal Government.

The committee will hear testimony on October 12, 13, and 14 from both the public and the private sector, including representatives from education organizations, State and local governments, and a wide variety of concerned citizens and public officials.

The hearings will begin at 10 a.m. each day in room 3302 of the Dirksen Senate Office Building.

HEARING CHANGE

Mr. ABOUREZK. Mr. President, I wish to announce that the time of the hearing scheduled by the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee on the Freedom of Information Act on October 6, has been changed from 10 a.m. to 9 a.m.

ADDITIONAL STATEMENTS

HE ALWAYS BRINGS ME CANDY

Mr. ROBERT C. BYRD. Mr. President, the word "parson" is not too frequently heard these days, but it can still be applied to many clergymen. To the people of an earlier era, the local minister or priest was often the best educated, most talented, and wisest member of the community. He was called "parson" a word derived from the Latin word for person—because he was considered the prime example of responsible and successful personhood in the community.

The people of the Beckley area of West Virginia are fortunate to have in their midst such a clergyman—such a parson. He is the Reverend C. Shirley Donnelly, an ordained Baptist minister who served the Crab Orchard Baptist Church just outside the city of Beckley for 25 years. The Reverend Dr. Donnelly, who emerged from the Army as a full colonel in the chaplaincy after World War II, is 82 years old. Colonel Donnelly is a scholar, a citizen helpfully involved in many community affairs, and one of the best living West Virginia historians. His personal library contains more than 1,500 books and manuscripts—many of great historical value. His ministry and life have touched thousands personally, and a column which he has written for nearly 2½ decades for a local newspaper remains one of the most consistently popular features among that paper's readers. Shirley Donnelly's life is an excellent example of the mature and disciplined exercise of one's talents, intelligence, commitments, and interests. He is, indeed, a contemporary "parson," in the best sense of that word.

The Reverend Dr. Donnelly has found a genuine satisfaction in serving his community, his State and Nation, and his God. Over the years of that service, he has acquired a treasury of wisdom based on experience. As the Book of Job states, "The price of wisdom is above rubies." Today, Shirley Donnelly, to the good fortune of the citizens of West Virginia, is a priceless repository of modern parables and vivid anecdotes.

One of his stories is a special favorite of mine. It portrays the enviable compassion and wisdom that often have characterized people in the Appalachian region. Colonel Donnelly published this story in a column a few years ago in the Beckley, W. Va., Post-Herald. The column, titled "Byrd Hears Lucky Moonshiner's Tale," appeared on April 1, 1974.

Mr. President, I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Beckley (W. Va.) Post-Herald, Apr. 1, 1974]

BYRD HEARS LUCKY MOONSHINER'S TALE

(By Shirley Donnelly)

When Robert C. Byrd was in Oak Hill on March 16 for a speaking date he and his driver, Sgt. W. F. Wiant of the State Police, were guests in our home.

As we sat at meat, the senator asked me to tell him again a story that he once read here. It was a story told me by a parole adviser, Philip Ross, who was on the staff of the U.S. District Court when the late Judge George F. McClintic was federal judge.

Ross and I had grown up together in Charleston. He would stop and stay the night at our home at Oak Hill while at work in this area.

A few times he spent weekends with us. In the course of our evenings together he used to relate some of his experiences in dealing with people who had run afoul of the federal law.

During the days of the early 1930's, the country was wallowing in the trough of "The Great Depression." A man in one of the little towns on Route 60 upstream from Charleston found himself up against it, so turned to making and selling a little liquor on the side.

It wasn't long until someone turned him in and the authorities caught him. Following his arrest he was arraigned in Judge McClintic's court where he pled guilty and asked to be put on probation.

After the judge looked him over the man was told to go home and report for sentencing.

In the meantime the court had the case of the man investigated. Ross was assigned to it. One summer afternoon Ross went to the man's house in time to meet him when he came in from the mine.

In the home was a little girl, four or five years old. Ross sat on the steps of the miner's humble home and chatted with the child. He asked her age and also if she loved her daddy. When Ross asked if she loved her daddy he said the magic word and the child bubbled over with joy as she told of her love.

Ross asked the child why she loved her daddy and was told, "I love him because he always brings me candy." She turned and looked down the road and at the sight of her father the little girl broke from Ross's questioning and ran to meet him.

When the father saw his child racing toward him he stopped and set down his dinner bucket. Ross saw the man remove the lid from his dinner pail and take out a little poke of candy. This he handed to the little girl.

When the man and child reached the house, Ross told him his mission and how the child had told about her father always bringing her a bag of candy each evening. Ross asked the man why he did this.

The poor miner told how when he was a child he loved candy better than anything but his parents who were very poor and he was denied the pleasure of his life.

However, when he was but a small boy he vowed that if he lived, got married and had a child he would see to it that his child would get candy every day! When this came to pass the father religiously kept his boyhood vow.

Ross wrote this story in his pre-sentencing investigation of the offender. When "come back day" dawned, the man appeared before Judge McClintic expecting to be sent to Atlanta Penitentiary. After reading the candy story, McClintic was moved to grant the man probation, adding privately, "I couldn't send a man like that to prison."

SALT TALKS

Mr. TOWER. Mr. President, I would like to offer to the Senate a few brief observations concerning the present situation with respect to the Strategic Arms Limitation Talks.

Our failure to achieve a SALT II agreement prior to the expiration of SALT I is not surprising. Since the beginning of the year we have unilaterally canceled the B-1 program, signaling the Soviets that we do not intend to produce an advanced, penetrating strategic bomber. We unilaterally terminated our only ICBM production line and deferred development of a new mobile ICBM system.

The Soviets are no doubt smugly pleased with the course of strategic policy under the Carter administration. It is, frankly, an erratic course, substantially altered by decisions which reflect confusion and uncertainty as to the future of our strategic deterrents. It is troubling to me that this administration has articulated no justification for these evident changes in our strategic plans and policies. They urge Congress and the American people to accept these decisions only because they say "it's cheaper," and because it will permit them to hold down the level of spending for national defense.

The climate that has resulted from these decisions and the shortsighted rationale offered in defense of these actions is not at all the sort of climate that will help our efforts at the negotiating table. The Soviets are witness to unilateral U.S. concessions that will have a decided effect upon our side of the strategic equation.

In my view, this sequence of concessions would seem questionable even under conditions of normalcy in military and strategic affairs. In the framework of ongoing negotiations with the Soviets on arms limitation, however, such concessions are extremely disturbing and untimely. In short, I fail to see how we can participate in prudent deliberations with the Soviets on arms limits when our own strategic policy is as unsettled, vague, and befuddled as it is today.

So, I am not alarmed at the prospect of SALT I expiring on October 3 with no new treaty yet negotiated. I have never felt that we should approach SALT II on the basis that without a new agreement, there would occur a dramatic acceleration in the so-called arms race. I am not opposed to an informal extension of the existing agreement, if observed on the same basis by both sides. As the Senate, however, cannot be circumvented in this regard, it is incumbent on the administration to justify the basis for its actions and provide to the Senate an assessment of the anticipated duration and nature of ensuing negotiations aimed at such agreements it seeks to conclude.

Above all else, I think our Government, and particularly our negotiators, must be alert to the necessity—should it arise—to demonstrate to the Soviets our capacity for patience. Mr. Warnke, I hope, will be mindful of the response Winston Churchill gave to the interviewer who asked what the three most critical attributes of a prime minister of England ought to be: Mr. Churchill is said to have slowly and deliberately replied:

> The first is patience . . . the second . . . is patience . . . and, the third . . . young man, is patience.

THE DRUG BENEFITS FOR THE AGED ACT OF 1977

Mr. CULVER. Mr. President, I was pleased to join Senator KENNEDY and Senator THURMOND yesterday in introducing the Drug Benefits for the Aged Act of 1977. Many people do not know what their elders have learned the hard way: that medicare pays little over one-third of the medical expenses of the elderly. When first implemented in 1967, medicare paid 46 percent of the medical bills of those 65 and older; in fiscal 1976 medicare coverage dipped to only 38 percent of total medical expenses. Last year, the elderly themselves had to pay fully 27 percent of their medical expenses. And if one included supplemental insurance premiums, the aged paid nearly 1 out of 3 health care dollars out of their own pockets. Another fact that commonly escapes those under 65 is that medicare covers only those drugs administered in the hospital or administered in a doctor's office—a mere 13 percent of the aged's drug costs. Again, the elderly must foot the bill for the remaining 87 percent of drug costs, either with supplemental insurance or directly from their pockets.

If I seem somewhat disenchanted in the face of such inadequate medicare coverage, it is no wonder. But I am not nearly so disenchanted as the millions of medicare beneficiaries who must continually make up for the medicare shortfall, and regularly struggle to afford the high cost of needed prescription drugs.

Mr. President, approximately 85 percent of people 65 and over suffer from at least one chronic disease, such as cancer, heart disease, or stroke, and nearly half of these are disabling. The aged's susceptibility to illness is clearly reflected in last year's average medical bill: $249 for those under 19, $547 for those 19 to 64, and $1,521 for those 65 and over. Of that $1,521, the typical senior citizen must pay over $400, or fully 27 percent, directly out of his or her pocket. That $400 constitutes a particularly heavy burden for elderly families whose median income is about half that of younger families.

Even though the elderly account for little more than one-tenth of the population, they account for about one out of every four prescription drugs dispensed in the country. And since medicare covers only 13 percent of the drug costs, 1 out of every 4 health dollars the aged spend out of pocket, or $100 a year, is for drugs.

As further evidence of the demand for this type of drug assistance for those over 65, I would like to cite a few excerpts from the April 14, 1977, Cedar Rapids Gazette:

> ELDERLY: DRUG COST HELP IS TOP NEED
>
> (By Mary Burke)
>
> Prescription cost assistance has replaced transportation as the most important need of senior citizens according to survey results released Wednesday by the Heritage Agency on Aging. . . .
>
> In addition to prescription costs, discussion focused on congregate meals, the most used service according to the 1,770 participants in the survey; transportation, the second most important need; and assistance in paying utility bills, a need not specifically covered in the survey. . . .
>
> Important services—1. Prescription cost assistance; 2. Transportation; 3. Meals on wheels; 4. Activity and recreation programs; 5. Public health nursing; 6. Friendly visiting; 7. Tours and outside area trips; 8. Handyman chore service; 9. Congregate meals; 10. Well elderly clinics. . . .

Therefore, Mr. President, I am pleased to have this opportunity to cosponsor the Kennedy-Thurmond Drug Benefits for the Aged Act of 1977. Six years after enactment, the legislation is designed to cover all the drug costs of the 24 million Americans aged 65 and older. During the first 5 years it would pay for approximately 70 percent of their drug costs, particularly those for chronic illnesses. Neither funding nor administration would be through the medicare program; it would be financed from the general treasury and administered by the Department of Health, Education, and Welfare. And the measure contains quality, utilization, and cost controls to minimize abuses in the system.

Mr. President, I am proud to be associated with this legislation to meet one of the most urgent needs of our senior citizens—assistance with the cost of drugs.

EXTENSION OF SALT I INTERIM AGREEMENT

Mr. DANFORTH. Mr. President, the existing United States-Soviet arms agreement dealing with strategic offensive nuclear weapons expires October 3. Last week, both the Soviet Union and the United States issued identically worded, supposedly unilateral statements pledging each nation to continue its strategic weapons programs consistent with the expiring interim agreement. The administration alleges that because the positions of each nation were arrived at unilaterally and not as a part of any mutual agreement, no action is required by Congress in accordance with section 33 of the Arms Control and Disarmament Act. Both as a matter of law and policy, I strongly disagree with the administration and I hope that Congress will formally act on the continuation of the interim agreement.

The language of section 33 clearly supports my position:

> SEC. 33. The Director is authorized and directed to prepare for the President, the Secretary of State, and the heads of such other Government agencies, as the President may determine, recommendations concerning United States arms control and disarmament policy: Provided, however, *that no action shall be taken under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States* . . . (Emphasis supplied)

It should be obvious to anyone that the plain and simple meaning of this section is that both the letter and the spirit of this law require congressional action to give validity to any extension.

It is irrelevant that the statements of the two nations were issued separately. Their timing, following a meeting of Secretary of State Vance and Foreign Minister Gromyko, and their nearly identical wording demonstrate that their separation was merely a thinly disguished attempt to circumvent section 33. Surely no one can believe that the declarations of intent were not mutually agreed to. And even if we were to believe this, the requirement for formal congressional affirmation to a unilateral decision by the administration is called for in this law.

As a matter of policy, it is inconceivable that the administration would not want the concurrence of the Congress in this historic action. The extension of the interim agreement could affect the fundamental security of our nation and peace in the world. The implications and meaning of such a momentous declaration must involve the Congress if the administration desires to share the responsibility for the fate of the United States with the American people. The confidence and support of the public in this and any future arms limitation agreements call for nothing less.

Mr. President, I also hope that in the process of addressing this action of the administration that the Congress would also ascertain the precise meaning of and state its views on our "unilateral" declaration. Secretary Vance's statement says the United States will continue to act in accordance with the provisions of the interim agreement "provided that the Soviet Union exercises similar restraint." How does this nation intend to interpret what precisely constitutes "similar restraint."

Frankly, Mr. President, this vague terminology, without further clarification, leaves me feeling more than slightly uneasy. In the past there have been a number of news reports concerning Soviet violations of the SALT I agreements. The Soviet Union has continued an aggressive and alarming development program of strategic weapons. Only recently, Defense Secretary Brown announced that the Russians have under development at least four new types of ICBM's. How does this continued Soviet action, especially viewed against our hesitancy to experiment with new generations of strategic systems, fit in with the "restraint" espoused by the administration.

Mr. President, a continuation of the current agreement, if properly understood and reviewed, may well be beneficial, as we attempt to reach a SALT II agreement which we could all support. An extension would remove the pressure of time which could otherwise compel our negotiators to accept provisions in a new accord which may not truly be in our best interests but which would be accepted in order to reach some agreement.

We have an opportunity to provide needed time for thoughtful deliberation. But such time, to obtain maximum benefit, must be brought through the legal process of congressional action.

DRUG BENEFITS FOR THE AGED ACT OF 1977 DESERVES SENATE SUPPORT

Mr. PELL. Mr. President, I am very pleased to join with Senators KENNEDY and THURMOND as a cosponsor in the introduction of S. 2144—the Drug Benefits for the Aged Act of 1977. This legislation would assist more than 24 million older Americans who have made the painful discovery that the present medicare program is inadequate and incomplete when it comes to prescription drug coverage, and who, as a group, have a real and burdensome financial problem when it comes to paying out of pocket for these needed medical products.

The importance of this legislation is readily apparent when one studies the volumes of testimony and the thousands of letters sent to Senators by senior citizens. I have heard in hearing after hearing about the disproportionate portion of an elderly person's income which goes to paying prescription drug costs. When the Senate's Special Committee on Aging held a hearing up in Providence, R.I., last year, every witness who discussed health programs also pinpointed the high cost of prescription drugs as one of the most serious unresolved problems in their lives today.

Our witnesses have shown us that without adequate access to proper drugs, individuals suffer from prolonged ill health, and frequently eventually undergo otherwise unnecessary hospitalization, which could have all been avoided if only they could have afforded these pharmaceutical products in the first place.

This legislation covers every citizen of this country aged 65 or over: about 24 million Americans. It is universal, not restricted in the present sense of medicare and medicaid. It will supplant the present medicaid system for individuals over age 65 and will eventually save the States about $200 million, representing their present share of the medicaid copayment requirement.

Senior citizens who receive prescription drugs under this program will not be subjected to copayments, deductibles, or any coinsurance costs. The aim is to provide these pharmaceuticals with no out-of-pocket expense to the beneficiary.

This legislation goes beyond earlier approaches to the prescription drug problem, which were linked to medicare recipients. The Senate passed such limited legislation three times in the past, in 1967, 1972, and 1973, and I voted for it each time, but we always lost to the House in conference. This time I believe that there are better controls on expenditures, quality, and appropriateness in this bill and that it deserves full support from both Houses of Congress.

America's elderly citizen deserves decent and prompt medical care, not as a welfare program, but as a right. Full pharmaceutical coverage makes sense and is long overdue, and I urge my colleagues to strongly support this important bill.

AUTOMOTIVE AIR BAGS

Mr. BARTLETT. Mr. President, the recent decision of Transportation Secretary Adams to mandate the installation of air bags on all new autos by model year 1984 has generated considerable public interest. This interest is apt to increase as the public becomes fully aware of all the ramifications of this decision.

The elimination of freedom of choice for the car-buying public on the question of air bags has concerned me greatly since the Secretary's decision was announced. I suspect that the increased cost of automobiles which will result from the Secretary's decision will concern virtually everyone.

The concerns I have spoken of have been reflected in the editorials which have appeared in several papers in my own State of Oklahoma. The July 2, 1977, edition of the Tulsa World, the July 4, 1977, edition of the Oklahoma City Times, and the September 6, 1977, edition of the Daily Oklahoman all contain editorials which focus attention on the various aspects of the air bag issue.

One sentiment has surfaced rather frequently in my discussions with others about the air bag issue. That sentiment was well expressed in the above-mentioned Daily Oklahoman editorial when it concluded: "There is a limit to what government can or should do to save people from themselves, and the airbag order seems to have exceeded that limit." I concur completely with that statement.

In order that my colleagues might have the benefit of the thoughts expressed in these editorials, I ask unanimous consent that they be printed in the RECORD.

Hopefully, we in the Congress will address the issues raised by these editorials by considering, and hopefully by passing, one of the Senate concurrent resolutions which have been offered to disapprove Secretary Adams recent mandate.

There being no objection, the editorials were ordered to be printed in the RECORD, as follow:

[From the Daily Oklahoman, September 6, 1977]

PUNCTURING THE AIR BAGS

Unless Congress rouses itself this year to vote otherwise, all domestic and foreign automobiles sold in this country—beginning with standard-size models in 1982—must be equipped with a so-called "passive restraint system."

This highly questionable and controversial ruling by Secretary of Transportation Brock Adams would become effective in 1983 for mid-size models and in 1984 for the smaller cars. It has all the trappings of another ignition interlock fiasco, which ought to be reason enough for Congress to reverse the Adams ruling.

The issue has become so charged with emotionalism and clouded with conflicting testimony that even the experts are haranguing each other. If they seem confused, the average motorist is probably even more so.

If the Adams ruling is allowed to stand, it means that the auto industry must begin in 1982 to install either harness belts that wrap around automatically or air bags that inflate instantly upon frontal impact to cushion driver and front seat passengers.

Since there is no actual operating experience in mass production and use to guide either side, the opposing arguments are a mass of conjecture and extrapolation from statistics and limited tests.

Air bag proponents claim they would save more than 9,000 lives annually and prevent thousands of injuries. That may or may not be true; nobody really knows.

It is a fact, however, that the air bags would operate only in head-on collisions. They would afford no protection in rear-enders or when a vehicle was broad-sided, categories of accidents which far outnumber the incidence of frontal crashes.

It is also a fact that air bags would add substantially to the cost of a car, probably about $200. What also bothers many opponents is the possibility of unwanted air bag inflation due to faulty installation or age deterioration of the system. The auto industry is hardly in any position to guarantee 100 per cent quality control on air bags, any more than it is on transmissions or other components.

Finally, what weighs most against the idea is its compulsory aspect. There is a limit to what government can or should do to save people from themselves, and the air bag order seems to have exceeded that limit.

[From the Oklahoma City Times, Oklahoma City, Okla. July 4, 1977]

BLOW TO CAR BUYERS

Opting for the most stringent of three alternatives under consideration, Transportation Secretary Brock Adams has ruled that cars must be equipped with air bags or other passive restraints starting Sept. 1, 1981.

Under the Adams ruling, automatic protection devices will be required for standard and luxury-size cars of the 1982 model year, for 1983 intermediate and compact cars and for 1984 model subcompact and mini-size autos. The devices may include either the controversial air bag, which inflates automatically when the car is in a collision, or a combination lap and shoulder harness attached to the car door.

Other alternatives Adams had under consideration were encouraging passage of state laws requiring use of seat belts and standing on existing federal rules that allow car builders the option of installing seat belts or air bags.

Obviously, Adams bowed to pressure from consumer-oriented activists, although insurance firms also hailed the decision. Adams claimed 9,000 lives can be saved annually with use of the passive restraints. But the air bag is effective in protecting passengers from injury only in head-on collisions. Even with the air bag, seat belts will still be necessary for rear-seat passengers. Indeed, Adams said seat belts like those used in present cars will be required as an air bag supplement.

The National Highway Traffic Safety Administration has said that even 70 per cent use of seat belts would mean 11,400 fewer highway deaths each year. That's only slightly less than the life savings claimed for air bags—when used in conjunction with optional seat belts.

Skepticism about the air bag stems from reported inadequate testing, doubt about their reliability after years of road use and the potential hazard from accidental inflating.

The added cost of installing air bags—estimated between $187 and $340—will make new car owners cringe. Not only that but the cost of replacing a bag once inflated is expected to be about $600.

Congress has 60 days to decide whether to let Adam's order stand. Any public reaction will have to develop quickly.

[From the Tulsa World, July 2, 1977]

AIR BAGS FOR ALL

Transportation Secretary Brock Adams has decided to require mandatory safety restraints for all automobiles, beginning in 1982.

The controversial air bag and automatic seat restraints will be the options available to the American motorists, who have shown little interest in the air bags and downright dislike for seat belts.

The theory of the "passive" restraints is to automatically protect motorists in front-end collisions. The idea of saving 9,000 lives a year, as Brock predicts, is appealing.

Of course the Secretary is on safe ground when he defends such devices in the name of saving even one human life.

But past experience with auto safety indicates that the public doesn't want to pay the extra $100 to $300 that Brock estimates the air bags or seat restraints will cost.

The likelihood is great that enterprising motorists who have found ways to thwart various devices guaranteeing use of seat belts also will thwart the new passive devices.

Remember the history of the seat belt? Motorists refused to buy them when they were optional equipment and when they were required, they refused to use them.

When warning buzzers were placed in the autos, they were ignored and when a system that made it impossible to start an auto without the seat belts fastened, the public rebelled. Interlock systems were disconnected all over the country and a system featuring a return to the buzzer was substituted.

All of this of course cost the public money.

The air bags will do the same. Manufacturers say the cost will be close to $300 and up to $600 for reinstallation in the case of an inflation.

Adams' decision on the air bags will not end the controversy. If Congress doesn't overrule him now, there might come a time when the public will. That time could very well be when the buyers start seeing that $300 cost showing up on the stickers of the new cars in 1981.

THE GENOCIDE CONVENTION AND PRESIDENT CARTER'S UPCOMING TOUR

Mr. PROXMIRE. Mr. President, last Friday President Carter announced plans for an 11-day, four-continent trip to take place late in November. During this time the President will visit eight nations, seven of which ratified the Genocide Convention at least 17 years ago. Once again, the foremost representative of the United States will have to step into the international arena hampered by his country's perplexing and inexcusable failure to ratify this important treaty.

Apart from the strictly "business" reasons for the trip, the White House announcement emphasized the President's desire to "underline traditional ties of allegiance, of beliefs, and of values," to "symbolize our willingness to cooperate with systems that are different than ours socially, politically, and economically," and to "widen the scope of international cooperation." To accomplish these worthwhile goals, the President's agenda will include stops in such infrequently visited areas such as Latin America and black Africa.

Mr. President, other nations, and especially the developing countries of the Third World, look to the United States for protecting human rights and promoting human dignity. Why must it be, then, that a President who has given a high personal priority to protecting human rights and promoting international cooperation must explain to others why his country has not supported a widely respected treaty designed to do both? How can Congress in good conscience both acknowledge the worth of the President's goals and consistently withhold support for a document to help accomplish them? I urge my colleagues to support the President in his preparations for this trip by once and for all ratifying the Genocide Convention.

CONSTITUTIONAL INITIATIVE AMENDMENT

Mr. HATFIELD. Mr. President, on July 11, I joined my colleague from South Dakota, the Honorable JAMES ABOUREZK, in introducing a resolution which would be the first step in amending the Constitution to allow a national initiative. One of my reasons for cosponsoring such a bill was Oregon's early establishment of a statewide initiative.

As we consider the possibility of a national initiative, it is important to look at the experience of a State that has had an initiative provision for 75 years. The wide range of topics indicates that this has been a helpful outlet for public expression in my State.

I am grateful to the Congressional Research Service for providing me with a history of the use of the initiative in Oregon. I ask unanimous consent that it appear in the RECORD at this point:

THE INITIATIVE IN OREGON

In 1902 the Oregon legislature submitted to the voters an amendment to the State constitution to create a procedure whereby citizens could participate in the legislative process via the initiative and referendum procedure. This constitutional amendment was ratified: yes—62,024; no—5,668.

In Oregon, in order to get an initiative on the ballot, 6 percent of the legal voters are required to file a petition with the Secretary of State not less than four months prior to the election. For constitutional amendments which are initiated, eight percent of the legal voters must sign the petition. Once on the ballot, a majority is sufficient for passage.

From 1902 through the November 1976 general election, a total of 225 initiative measures, including 76 constitutional amendments, have appeared on the ballot in Oregon. Seventy-six of these initiatives were adopted, 26 of which were constitutional amendments. A few statistics follow:

From 1902–1976, 33.77 percent of all initiatives on the ballot were adopted.

Of all initiatives on the ballot, 85, or 37.77 percent, were constitutional amendments.

30.58 percent of constitutional amendment initiatives were adopted; 39.59 percent of other initiative measures were successful.

A wide variety of topics, many of them controversial, have been considered via the initiative process. The first two issues considered by Oregon voters after the adoption of the procedure in 1902 were on questions of the establishment of a direct primary nominating convention, and the selling of liquor by local option. Both (in 1904) were successful. In 1908 a constitutional amendment initiative to create equal suffrage was defeated. (However, ultimately women were given the right to vote via an initiative on the ballot in 1912.) A successful initiative of 1908 instructed the legislature to vote for the people's choice for U.S. Senator.

In 1910, a successful initiative created a direct primary system permitting voters to express a choice for President, Vice-President and to select delegates to a national party convention.

In 1912 an initiative to abolish capital punishment was defeated; however, two years later, in 1914, a successful initiative abolished the death penalty.

Other subjects of initiatives have been an eight-hour work day (unsuccessful in 1914), repeal of Sunday closing laws (successful in 1914), compulsory education (successful in 1922), legalized gambling (unsuccessful in 1940), and liquor by the drink (successful in 1954).

SMALL BUSINESSES DISAPPEARING FROM NATION'S SECURITIES MARKETS

Mr. NELSON. Mr. President, as chairman of the Senate Select Committee on Small Business, I wish to inform the Senate of some disturbing trends with regard to reduced small business participation in the Nation's securities markets, and the consequent difficulties of these companies in raising capital.

SHARP DECLINE IN NEW AND SMALL STOCK OFFERINGS

The decline in the number of stock offerings by smaller- and medium-sized firms has been alarming. Registered securities offerings by smaller companies, those with less than $5 million in assets, dropped from a high of 698 in 1969 to a low of 3 in 1975, and only 41 for the past 3 years, 1974–76.

Another way of analyzing the figures is to compare the total number of stock issues of companies of all sizes with the number of offerings by unseasoned companies—those attempting to sell stock for the first time. These first-time issues could be large or small, but all are new. As a percentage of total offerings, the new or first-time stock offerings have fallen to a minor fraction, from 62.05 percent to 16.37 percent between 1972 and 1976, a drop of almost 75 percent. With new and small stock issues no longer coming to the market, the average size of equity security offerings rose from $4 million in 1969 to $29 million in 1976.

These statistics corroborate the testimony presented to our committee by professional venture capital investors that, while they used to launch between 12 to 15 new technology companies a year, they have been lucky to create any at all in the past 4 years.[1]

I ask unanimous consent that a table summarizing these trends be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[1] Joint Hearings before the Senate Small Business Committee and the Senate Finance Committee, 94th Cong., 1st sess., "Small Business Tax Reform," Statement by Richard J. Hanschen, June 19, 1975, pg. 443.

COMMON STOCK OFFERED FOR CASH IN THE UNITED STATES [1]

Year	Number of common stock only	Issues by companies with assets of less than $5,000,000	Number of issues by unseasoned companies [2]	Dollar amounts raised by unseasoned issues	Percent of issues by unseasoned companies	Total dollar amounts (in millions)	Average size of issue
1965	376					$1,811	4,816,400
1966	324					2,265	6,990,700
1967	466					1,935	4,152,300
1968	1,009	358				3,890	3,855,301
1969	1,703	698				7,481	4,392,800
1970	976	198				7,126	7,301,200
1971	1,112	248				9,384	8,438,800
1972	1,020	409	633	$1,690	62.05	6,795	6,661,700
1973	324	101	176	300	54.32	4,487	13,848,700
1974	150	9	45	82	30.00	2,791	18,606,600
1975	211	3	24	70	11.37	6,331	30,004,700
1976	251	29	42	176	16.37	7,398	29,474,100
1977			21	113			

[1] Registered S-1 issues under Securities Act of 1933. Registration A issues excluded.
[2] 1st-time offerings.

Source: Securities and Exchange Commission figures (August 1977) except col. 3, statistics on issues with less than $5,000,000 in assets. Col. 3 furnished by the National Association of Small Business Investment Companies and the National Venture Capital Association (September 1977).

VALUE OF NEW AND SMALL BUSINESS

Mr. NELSON. Mr. President, it is common knowledge that new and small enterprises are the lifeblood of the Nation's economic progress. Every study of the subject has shown that individual inventors and small businesses account for more than 50 percent of all inventions and innovations.[2] The story is the same in heavy industry, light industry, trade and consumer goods. The list includes the airplane, Wilbur and Orville Wright; the helicopter, Cierva, Focke, and Sikorsky; catalytic petroleum refining, Eugene Houdry; oxygen steelmaking, Schwarz, Miles, and Durrer; power steering, Francis Davis; Xerox copying, Chester Carlson; the mercury dry cell, Samuel Ruben; the automatic transmission, H. F. Hobbs; FM radio, Edwin Armstrong; air conditioning, Willis Carrier; penicillin, Alexander Fleming; the instant camera, Edwin Land; the zipper, Judson and Sundback; dacron polyester fiber, Whinfield and Dickson; and many other commercial and household items.

On the horizon there are other exciting breakthrough inventions, a majority of which will predictably be made by small businesses.

INABILITY TO RAISE CAPITAL

To develop these inventions from the idea stage—to build a plant, a production line and a marketing organization—takes money. It is almost certain that a new firm will not have the capital it takes to develop and introduce new products. They need to find people willing to invest money—several hundred thousand dollars, or even a few million dollars. These requirements are far beyond the means of the inventor's family, friends and associates. If the small inventor is to have any real chance to develop his product, he must solicit money from a wider public. Since bonds and commercial paper are sold in multi-million amounts with minimum purchases of $10,000 or $25,000, this usually means that the aspiring inventor must reach the stock market where both smaller and larger investors can supply capital according to their varying resources and interests.

But, the cold facts and figures we have

[2] Small Business, as defined by Small Business Administration Standards also accounts for 55% of all private employment, 48% of business output, and 43% of the GNP.

reviewed tell us that the chances of the entrepreneur of the present or the future reaching the public securities markets are dismal.

A recent MIT study demonstrates that once promising young companies have been launched, they generate increases in jobs, sales, and taxes, that are far above the growth rates of more mature and established firms.[3]

In this connection is it pertinent to note the tendency of many Wall Street professionals to overlook the potential of dynamic new and growth companies in contributing to the economy and overall performance of their portfolios. This is typified in a Wall Street Journal report of September 21, 1977, that over the past 10 years professionally managed funds, which are characterized by concentrated investments in the very largest corporations, had a yearly rate of return of 4.2 percent, while a sample of 115 bank trust departments showed an average annual rate of return on equity of 1.92 percent (1972–76). Significantly, the article quotes a professional investor as not being interested in "the next IBM" because he did not regard such companies as a basis for a sound investment program. See the article entitled "Some Portfolio Managers Are Discarding Traditional Tenets and Testing New Ones," reprinted below.

It is to be hoped that regulatory authorities and the professional investment community would look at the scorecard of accomplishment by new companies since World War II, and would support efforts of those interested in the free enterprise system to expand capital formation and access to equity funds for this sector of the economy.

ROLE OF INDEPENDENT BROKER-DEALERS

Despite a growing economy, the number of independent brokers and dealers have steadily declined by about 12 percent, with the total number of broker-dealers falling from 4,614 in 1970 to 4,070 in 1974.

The Wall Street Journal of September 22, 1977, reported that 299 investment banking and brokerage firms went out of business in the past 4½ years, including some of the most familiar names. I ask unanimous consent that this article be printed at the conclusion of my remarks.

It would seem there is a direct connection between the disappearance of these independent professionals and the ability of smaller firms to raise equity capital. The Small Business Committee has been told that the large nationwide securities firms are not interested in floating stock issues for any business until it has reached $1 million in annual profits. But, the most critical stage of a fledgling business is getting to a respectable level of profits. This zone includes all of the start-up enterprises which hold promise of developing new products and services at cost savings to the consumers. The smaller broker-dealers are the only entry point for the smaller and unseasoned businesses. Without them new and small companies cannot hope to sell their stock to the public and thus participate in public securities markets for the funds needed to survive and grow.

CONSEQUENCES OF THE TRENDS

The danger of what is happening is that the dynamism of the economy is undermined, our free private enterprise system is imperiled by shifting all the new developments into existing big business, and our national economic and societal goals—growth, diversity, opportunity—are thereby impaired.

In other words, we are moving rapidly in exactly the wrong direction. Our policies should encourage and preserve these long-held and central values of the American system.

In my view, we must change our policies, and in a hurry, or the traditions that our citizens have prized so highly will be things of the past.

For several years, the Small Business Committee has been bringing these worrysome facts and figures to public attention.[4]

In 1975 Congress responded to these circumstances by amending the Securities and Exchange Act of 1934 with a mandate that the Securities and Exchange Commission gauge the effect its rules and regulations are having on the viability of small broker-dealers (P.L. 94–29). The act required that SEC make an effort to help assure the continued participation of small broker-dealers in U.S. securities markets.

This congressional declaration recognized that while economic conditions and cyclical forces have inevitable effects on security markets, so also do effects of Government policies.

Accordingly, the Small Business Committee, earlier this month, sent a letter to the SEC requesting an interim report on the commission's efforts, pursuant to the statute, to preserve the viability of small broker-dealers, to reduce their regulatory and reporting burdens, and to survey the impact of any current commission proceedings on this segment of the industry.

On September 19, the SEC replied that it will prepare and deliver such a report to the committee.

This report would, we hope, include a small business assessment of rule 390 proceeding under which the commission seeks to permit unlimited stock trading off the floor of exchanges beginning January 1, 1978.

RESERVATIONS ABOUT THIS PROPOSAL BY INFORMED OBSERVERS

Those interested in small business must be concerned that the Wall Street Journal article of September 22, stated that this proceeding "may be a factor in many (more) small brokerages' calling it quits . . ." Similarly, a New York Times editorial of last week reported that there is presently no electronic system capable of taking up the slack which would result from adoption of the commission's recommendation. I ask unanimous consent that this editorial also be reprinted at the conclusion of the statement.

The Times is saying that there is not presently in existence a system which would be capable of instant display of the outstanding offers to buy and sell a listed stock and then provide for an execution of the bid and offer that are selected.

Particularly disturbing is the conclusion of Merrill Lynch, the largest U.S. securities firm, and the biggest potential beneficiary of the SEC proposal, that "the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace."

The Treasury Department also has publicly expressed its concern about the lack of a workable electronic system which the SEC proposal appears to contemplate.

The Small Business Committee, of course, is concerned about how this proposal will affect independent broker-dealers and the small business community, and the consequent impact on the economy and the free enterprise system.

Obviously competition is desirable in the securities industry as well as in the economy in general. Competition is served by the maximum number of viable independent brokers and dealers across the country which can provide advice, assistance, and an outlet for the securities of new and small enterprises. By this process competition in products and services becomes and remains a reality. This is how the investor, the producer, the worker, the consumer, and everyone else will benefit.

Our committee would like to receive assurances that the rule 390 proposal will actually result in increased competition, rather than increased concentration.[5]

While there can be no absolute assurances of the effect of any future action, this SEC proposal seems to have more than its share of uncertainties. The absence of the computer system and information about the impact on small business, and the reservations on the part of The New York Times, The Wall Street Journal and the Treasury Department, should be sufficient to cause the Commission to proceed with caution in this matter.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point several newspaper articles to which I have referred, together with the letter sent by the committee on September 9, 1977 to the Honorable Harold M. Williams, Chairman, Securities and Exchange Commission, and the reply of September 19, 1977.

There being no objection, exhibits I through V were ordered to be printed in the RECORD, as follow:

EXHIBIT I

[From the Wall Street Journal, Sept. 21, 1977]

SOME PORTFOLIO MANAGERS ARE DISCARDING TRADITIONAL TENETS AND TESTING NEW ONES

(By Gene G. Marcial)

NEW YORK.—Using all his professional savvy, a New York securities analyst recently decided to make two major additions to his portfolio—Occidental Petroleum and Teledyne.

Occidental provided him with a 20 percent loss on his investment in less than three weeks. Teledyne sank even faster, requiring only two weeks for a 20 percent drop.

"I just don't understand this market," another portfolio manager laments. "We have tried just about everything, and nothing seems to work."

Money managers across the country voice similar anguish about their own accomplishments in particular as well as the stock market's weakness in general.

And well they might fret. A survey by Becker Security Corp. shows that 90 percent of professionally managed funds fared worse than the general market, as gauged by Standard & Poor's 500-stock index, over the past 10 years. The median rate of return of the typical professionally managed fund for the 10 years through 1976 was 4.2 percent a year, against the 6.7 percent compounded annual rise of the S&P index. Another survey of 115 bank trust departments shows that between 1972 and 1976, the average annual rate of return on their equity portfolios was a paltry 1.92 percent.

UNPROFESSIONAL SHOWING

Such performances, of course, are embarrassing to professionals. This embarrassment led to the current "indexing" fad, wherein portfolio managers invest proportionately in all the shares included in a major market index such as the S&P 500—so that the managers' performance will correspond with the ups and downs of the index itself. That way the managers can at least say they have kept pace with the market.

Ever since the fad took hold a year or so ago, analysts have grumbled that indexing, in effect, is settling for an average investment scorecard. But nowadays, with the market wallowing around a 20-month low, investment strategists are questioning not only indexing but also a lot of older investing concepts. And they are closely examining any promising new concept.

In this soul-searching, some analysts conclude that such old techniques as trying to anticipate a company's future earnings as a basis for buying or selling of the stock haven't been working for quite some time.

Among those disenchanted with most traditional concepts are Alfred J. Moran, Jr. and Anthony L. Adams, managing directors of QSR Advisory Corp., an investment-counseling concern. Substantial testing, they say, has shown that many strategies held dear by Wall Street actually have "very limited uses."

UNRELIABLE INDICATORS

Earnings forecasts and the stock price's relationship to the company's earnings, for instance, were found to be "invalid" guides to investment in stocks listed on the New York Stock Exchange. "They don't work on a long and consistent basis," Mr. Moran says.

Also disturbed by the principles and performance of professional institutional investors over the years is Josef Ben-Porat, who has been with the San Francisco brokerage house of Sutro & Co. for 17 years.

After he lost most of his clients in the market declines of 1960 and 1966, when he relied largely on professional analytical advice in picking stocks, he says, "I decided I could do far better myself." Having discarded traditional market concepts and paying little attention to economic indicators, Mr. Ben-Porat maintains a 30-stock portfolio that he says has shown "vastly improved gains" since he first developed his own strategies in 1967.

"I don't look for the next IBM because buying untried or unknown companies isn't a basis for a sound investment program," he says. Instead, he sticks to major companies, which he considers more likely to survive any economic difficulties. Emphasizing the long-term trends of a company, his key rule is to buy a stock only when it is close to its lowest average closing price for a 10-year period.

DISREGARDING THE PROFITS

Mr. Moran and Mr. Adams of QSR also have developed their own theories because of disenchantment with the prevailing principles. They cite Texas Oil & Gas Corp. as an example of the unreliability of a company's earnings outlook and price-earnings ratios in guiding investment strategy. The company's earnings grew steadily from 1969 through 1975, but the stock peaked at about $35 in 1972 and then tumbled to $13 in 1975 (it has since recovered to around $29).

Conversely, General Electric Co.'s stock climbed from $30 in late 1974 to about $50 in mid-1975, although the company's earnings were declining. "The point is, earnings actually have a more casual relationship with a stock's price than is generally believed on Wall Street" Mr. Adams says.

"In hundreds of tests" he adds "we deduced that buying stocks that sell at lower than a historically derived average (price-earnings ratio) and then selling them at a higher than historically derived average is of no basic use in making money in the stock market."

In the third quarter of 1973 Mr. Moran and Mr. Adams note General Motors stock was selling at about five times its annual earnings, a low multiple suggesting to many analysts at the time that the stock was a good buy. But in fact the stock plunged from about $68 then to about $28 in late 1974.

SOME EXCEPTIONS

QSR says there isn't any doubt that under certain circumstances a low-multiple stock could be very attractive. But low ratios "shouldn't be pursued as an investment strategy" Mr. Moran says.

QSR has also studied the relative effects of what it calls abnormal economic occurrences on the one hand and abnormal corporate occurrences on the other. An abnormal economic event might be the reduction of the reserve requirement of Federal Reserve member banks, while an abnormal corporate event could be a sharp increase in a company's spending for research and development. "We have developed a computer model that tracks abnormal occurrences in 500 different corporate and economic series. We have found that since 1945, stocks on the Big Board have responded to abnormal economic occurrences only 18 percent of the time and to abnormal corporate occurrences 82 percent of the time," Mr. Moran says.

Mr. Moran concludes that widely heralded changes in economic indicators often have little impact on the stocks of individual companies and that it is important to try to determine which stocks are most likely to be affected.

He says, for example, that bank reserve requirements have been cut eight times since July 1953, and that each time Standard & Poor's 500-stock index was up an average of 31.7 percent a year later. Through the use of "pattern-recognition" techniques, he says, "we are able to determine which stocks have the highest propensity for upward or downward movement" at the time of such occurrences.

"ABNORMAL CORPORATE EVENTS"

As for abnormal corporate events, Mr. Moran says that a big increase in General Electric's spending for research and development typically has spurred a rise in the company's stock. However, a similar spending increase by Dow Chemical Co. might have little or no impact on that stock, Mr. Moran says.

Some other investment counselors are trying to get away from what they describe as the "herd instincts" of the institutional investors in their approach to the market.

William A. Kent, institutional research director of Philips, Appel & Walden Inc., a New York brokerage house, believes that a big factor behind the failure of institutional investors to beat the market averages is their "cavalier attitude" in failing to investigate the quality of management of companies whose stocks they buy.

He also suggests that dividend payments aren't a good gauge of investments. He says studies of stocks he follows indicate that since 1967, at least 17 companies that either cut or omitted dividends have seen their stock prices rise an average of 78 percent in a period of 52 weeks after the event. "The stocks of those that omitted dividends did better, in fact," Mr. Kent says, rising an average of 100 percent.

Mr. Kent also observes that the top 10 companies in total return (price appreciation plus yield) among the Fortune 500 industrial companies in 1976 paid minuscule or no dividends in that year. "Above all, avoid companies that pay huge dividends," he advises. "It tells you the company is trying to promote its stock, or maybe it knows of no better way to spend its money to expand the business."

EXHIBIT II

[From the Wall Street Journal, September 22, 1977]

A SPECIAL BACKGROUND REPORT ON TRENDS IN INDUSTRY AND FINANCE

Mergers and name changes continue to take a toll of brokerage firms.

At least 150 investment banking and brokerage houses have departed in one of those ways over the past 4½ years. Another 149 firms simply went out of business. Among well-known Wall Street names that have vanished: W. E. Hutton; Model, Roland & Co.; D. H. Blair, and William D. Witter. One of the latest major firms to hang up its stock charts was Faulkner, Dawkins & Sullivan, acquired last month by Shearson Hayden Stone.

Reasons for the trend to fewer brokerages are the advent of negotiated commissions, which give larger firms an advantage; a decline in the number of new issues, which limits available business; the rise of attractive alternative investment opportunities, and a generally disappointing stock market. A recent survey by Hill & Knowlton Inc. indicates that "consolidation on the Street will continue for some time to come".

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[3] A comparison of five young technology companies (Data General, National Semiconductor, Compugraphic, Digital Equipment, Marion Laboratories) with six mature companies (Bethlehem Steel, DuPont, General Foods, General Electric, International Paper, and Proctor and Gamble), all of which are among the largest 100 corporations, reveal the following:

Compound Annual Rate of Increase

	New companies (In percent)	*Mature companies (In percent)*
Jobs	40.7	.6
Sales	42.5	11.4
Taxes	34.1	7.8

[4] Twenty-fifth Annual Report of the Select Committee on Small Business, U.S. Senate, for the 93rd Cong., 2d sess., Rept. No. 94–13, Feb. 17, 1975, pp. 113–6; and the Twenty-Sixth Annual Report of the Select Committee on Small Business, U.S. Senate, for the 94th Cong., 1st sess., Rept. No. 94–636, Feb. 19, 1976, pp. 115–8.

[5] There are less than 3,000 corporations listed on the U.S. Securities Exchange out of a total 2 million U.S. corporations. Also, the 25 largest brokerage firms presently account for two-thirds of the capital and two-thirds of the gross revenues from securities industry.

The SEC plan to permit off-board trading in listed stocks also may be a factor in many small brokerages' calling it quits. Such a move would clearly benefit the larger firms.

EXHIBIT III

[From the New York Times, September 19, 1977]

PLAYING CHICKEN AMONG THE BULLS AND BEARS

The Securities and Exchange Commission wants to foster a freely competitive national marketplace. It has decreed, therefore, that as of Jan. 1, 1978, members of the New York Stock Exchange do not have to take stock sale and purchase orders to the exchange floor. They can trade stocks in their own offices, on street corners, or anywhere else. The commission hoped, by this action, to induce the various stock exchanges and securities associations to create a national electronic system which would display instantly every offer to buy and sell. The stock exchanges say their progress in setting up such a system is slow because there has been no leadership from the S.E.C. to design the system it wants.

So it is now dawning on all parties that on Jan. 2 the trading of securities is likely to fragment into minimarkets, with some loss of continuity and flexibility. The large, well-capitalized brokerage firms will use their resources to build inventories of stocks, so that they can match buy and sell orders in their offices. The 25 largest New York Stock Exchange firms already possess almost two-thirds of the capital and handle two-thirds of the gross revenues of the 378 member firms. The trend toward merger and concentration would be accelerated by the dispersal of trading, since the larger firms would pick up most of the business that leaves the floor of the exchange. The S.E.C. heard testimony that half of the New York Stock Exchange volume might leave in the first year, 90 percent in the second year, and within three years the exchange might be out of business. Even Merrill Lynch, the largest firm and likely to be the biggest beneficiary of the change, warns that the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace.

Historically, the securities industry has resisted change, and greeted each reform proposal as a threat to capitalism. But the reformers, in their zeal for pure competition, seem sometimes to forget that the existing system does function efficiently. In its current effort to force greater competition, the S.E.C. has whetted the appetites of the large firms, frightened the small ones, and confused the interested public.

All parties agree that a national electronic marketplace, open to brokers everywhere, is a plausible and workable idea. And Wall Street, by and large, has accepted the end of the quasi-monopoly of its exchanges. But the electronic market does not now exist and is not likely to come into being in the next 90 days. The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "chicken" to persist between the securities industry and its regulators. It is time to get on with the transition to an electronic market system that is both open and orderly.

EXHIBIT IV

SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., September 9, 1977.

Hon. HAROLD M. WILLIAMS,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware, the Senate Small Business Committee has long been interested in the nation's securities industry. Securities markets provide a vital medium of financing for new, small and growing corporations. Also, many brokers and dealers are small and independent business organizations.

For several years, the Committee has followed with concern, its Annual Report and otherwise, the decline in the number of securities brokers and dealers, the sharp reduction in the number of registered offerings by companies with less than $5 million in net worth and the average size of equity offerings. A recent letter to President Carter pointed out that securities issues by firms with less than $5 million in assets declined from 698 in 1969 to 13 in 1976. During the same period, the average size of all equity securities issues rose from about $4 million to $29 million. We understand also that the number of broker-dealers has declined by about one-fourth during the same period of time.

These disturbing trends lead Congress in 1975 to amend the 1934 Securities and Exchange Act to provide that the SEC should review its efforts to help assure the continuing participation of small broker-dealers in the U.S. securities markets.

It would therefore be appreciated if the Commission could arrange for members of the professional staff of this Committee to receive and discuss a brief interim report on the efforts that are currently under way pursuant to the statute, including measures aimed at the viability of smaller broker-dealers, the reduction of reporting and regulatory burdens, and the effect of any current proceedings of the Commission, such as Rule 390 and related matters which might have an impact on the ability of small securities brokers and dealers in communities across the country to provide advice and assistance to smaller companies who wish to reach the public securities markets.

With thanks for your interest in this matter,

Very truly yours,

GAYLORD NELSON,
Chairman.

EXHIBIT V

SEPTEMBER 19, 1977.

Hon. GAYLORD NELSON,
Chairman, Select Committee on Small Business, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 9, 1977, requesting a report on efforts by the Commission to reduce regulatory burdens on small broker-dealers.

Please be assured that my fellow Commissioners and I share your concerns in this area, and are anxious to do all we can to make sure no unnecessary burdens are placed on either small broker-dealers or small corporate issuers. I have referred your letter to Mr. Andrew Klein, Director of the Division of Market Regulation, and asked him to compile the information you requested. The Commission will be in further contact with you as soon as possible.

With best wishes,

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

THE LAMAZE WAY TO AN ENERGY POLICY

Mr. GARN. Mr. President, last week I shared with Senators the conclusions of an Arthur D. Little study of our present energy situation, and the proposals that are now before us. Those conclusions were that what conservation can be achieved is already being achieved, through the operations of the marketplace, as a result of the higher energy prices we now have. The study concluded that if no energy policy was enacted, almost all of the goals of conservation set by the President would be achieved by 1985.

Mr. William Bonner, the executive director of the National Taxpayers Union, has come to much the same conclusion. In Mr. Bonner's words, "Carter's energy proposals are as unnecessary as spanking a newborn baby. At best they serve no more useful purpose than commanding the Sun to rise at dawn. And at worst, they actually slow down the rate of conservation, cause confusion, reduce production and bring about economic stagnation."

I find Mr. Bonner's logic unassailable, and hope that all Senators will take the opportunity to look them over. I ask unanimous consent that Mr. Bonner's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 25, 1977]

WHY ANY ENERGY BILL?

(By William Bonner)

In his book, *Birth Without Violence*, French obstetrician Frederic LeBoyer blames much of the suffering which babies experience at birth on two human flaws: impatience and insecurity.

For example, when a baby is born, it is often dangled by the feet and smacked on its buttocks in order to elicit a healthy cry. This is not done for any medical reasons, but to relieve the mother's (or doctor's) anxiety.

Also, rather than wait a few moments for the baby to begin breathing, doctors and midwives generally sever the umbilical cord immediately. This cuts off the supply of oxygen coming from the mother and jolts the baby's lungs into operation.

These practices, and many others, cause considerable trauma to the newborn. What's more, they are entirely unnecessary. Birth, claims Dr. LeBoyer, has been turned into a painful ordeal simply because we have been unwilling to take things at their natural pace.

But it is not only childbirth which is touched by this refusal. In areas of national concern, impatience and insecurity often lead to far more suffering than the fleeting pain caused to the world's babies.

Most recently, energy has received a good deal of nervous attention. A peculiar nexus of world affairs has shaken public confidence in the obscure forces which normally tend to such matters. And as a result, it appears the nation and the Congress are resolved to "do something" about energy affairs.

Until four years ago, energy was as insignificant as other consumer goods. There was no more need for a national energy policy than for a national coffee policy or a national policy on Swiss cheese.

But the Arab oil embargo changed things. All of a sudden, energy was elevated to national prominence. It became the most talked about item in the country. Oil became the godhead of western civilization.

In the spring of 1974 experts on energy sprang up out of the ground like crocuses. Colleges offered courses in it. Lawyers specialized in it. People hoarded it. And at least one person (who cut in line at a filling station) died for it.

The immediacy of the crisis quickly subsided, however. The Arabs could not refrain from selling oil any more than the Japanese could stop selling transistor radios. But though the threat was gone, the stage had been set for government to "do something" on a permanent basis about energy.

Jimmy Carter realized the insecurity which people feel about energy matters and made use of it during his campaign. He promised to develop a national energy policy and has done so.

But, Carter could hardly say that his predecessors had done nothing on energy affairs. In the three years before he took office, the federal government spent about $7 billion and hired more than 11,000 people to work on energy matters. A vast, entrenched bureaucracy had been created. High-paid people spent their days on everything from drawing up plans for controlling the seven sisters to drawing pictures of a strange cartoon character called Energy Ant who goes around reminding children to close the door.

Carter's own energy proposals are not altogether ridiculous. They at least realize that far more energy can be had by conservation than by more development. The particular elements of his program are designed for the most part to encourage conservation. Yet, though some may believe them to be sound enough, Carter's energy proposals are as unnecessary as spanking a newborn baby. At best, they serve no more useful purpose than commanding the sun to rise at dawn. And at worst, they actually slow down the rate of conservation, cause confusion, reduce production and bring about economic stagnation.

This results from what is fundamentally an unrealistic notion of the value of energy. Conservationists often begin to think of energy as we once thought of virginity—as something to be valued for its own sake. But like virginity, energy is only useful as it is expended.

A group of 20 or so 5th graders, one of whom had received a fund-raising letter from a Washington-based public interest organization, each wrote back (obviously put up to it by their teacher) saying that it was a waste of paper to send such a letter to a 10-year-old. "Don't you know there's a paper shortage?" the letters uniformly inquired.

This line of argument—coming as it did in 20 separate letters in response to just one—had certain obvious flaws. The director of the organization, however, merely replied that: paper shortage or no, if paper were not used to exchange information and opinions, of what use was it?

And so it was that the 5th grade at an upstate New York grammar school was exposed to this modest, yet important, idea: unused, energy is of no more value than the "flower that blooms unseen and wastes its fragrance on the desert air."

Germany has realized this. There is no oil native to Germany. Yet, Mercedes still fly down the autobahn at speeds of 90 miles an hour. No speed limits have been imposed in an effort to save fuel. Germany recognized that conservation is desirable only as much as it increases prosperity and improves the quality of life.

No one drives a car to conserve fuel. People drive to get from one place to another. They may want to do so as efficiently as possible, of course, for economic reasons.

In 1973, a modified 1959 Opel set the world record for miles per gallon. It traveled 376.6 miles on a single gallon of gas, at an average speed under 30 mph. Thus, vast savings could be realized if everyone were forced to drive 1959 Opels and the speed limit were reduced to 30 mph. It is hard to imagine how this would improve the quality of life, however.

Similarly it is doubtful if any real improvement in the quality of life results from reducing the speed limit to 55 mph. The consumption of oil is supposedly reduced by 3 billion gallons per year. But so too is the number of man-hours available for work or leisure. If each member of the labor force loses just 6 minutes a day in extra travel time due to the 55 mph limit, the loss to the nation is in excess of 2 billion man-hours annually. At an average hourly wage of $5 per hour, that reflects a dollar loss of $10 billion per year. Or, at today's oil prices, about 18 billion gallons per year.

Of course, no accurate figures on the subject exist. This is just a way of showing that energy is not an isolated product. It is a part of a much greater order of labor, raw materials, capital, expertise, and enterprise which functions in the same complex fashion as an ecological system. Efforts to influence the balance of these things—such as those proposed by Carter and the conservationists—are sure to produce unwanted results; just as Army Corps of Engineers projects upset the balance of nature.

One unwanted result would be brought about by the use of the tax system in an attempt to restrict fuel consumption. Largely because of its impossible complexity, the tax code is an abomination. President Carter called it "a disgrace to the human race" in his campaign statements. Unfortunately, manipulation of the tax code with proposed energy features would make it an even greater disgrace.

But that is only the most minor tax-related problem. More important is the economic effect these tax features would have. By the mid-1980s, if Carter's taxes on gas guzzlers and gas guzzled went through, the government would be collecting another $75 annually in taxes. While this money would not be entirely removed from productive economic activity (the oil companies would have it to invest before payment to IRS), society would anticipate its removal and reduce investment and consumption almost proportionately. It is of little consequence that some of this money would be intended for rebate. Economic disruption would have already occurred.

Another unwanted result, already partly seen, is a dramatic rise in insulation and solar energy prices as a result of tax subsidies. The insulation materials industry hasn't been able to keep up with the demand. Solar energy companies too are hard pressed to meet the rising market for their services. With this tremendous pressure, prices rise dramatically, making conservation even less economic and, hence, less attractive.

Neither President Carter nor the proponents of strict conservation measures are seriously worried by these adverse effects. They apparently think that such side effects are outweighed by the good they hope to accomplish.

But just what good is it that they expect to achieve? Surely not conservation for its own sake? Behind the clamor for a national energy policy is not the desire to keep petroleum in the ground, it is the abiding fear that one day we may wake up and not be able to warm our instant coffee. The motivation for Carter's energy legislation is the desire to plan an orderly reduction in the use of oil and gas as well as a transition to other energy sources. They are a way of avoiding that terrible day when the last drop of gasoline is pumped and we suddenly realize there is no more. Presumably, on this day, people would begin to starve and freeze. Riots would break out. Confusion and disorder would engulf the industrialized world.

The way to prevent this catastrophe is, of course, to plan ahead. And that is what a national energy policy aims to do. But the real question is whether the government can plan more successfully than the people themselves.

There are, no doubt, people who have confidence in the ability of politicians and bureaucrats to distribute the world's resources with justice and efficiency. There are also farmers who plow backwards to fool the crows. Neither group has any record of successes to point to. The truth is that government planning most often causes the very disasters it is intended to avert. In energy matters, there is no exception.

Government planning frustrates individual planning. Deprived of the information provided by free-floating prices, the individual is adrift without a compass. He has only a complex system of government incentives, penalties, and policies to guide his actions. Unfortunately, these policies are usually bewildering, and contradictory. The Department of Interior is requiring leaseholders on federal oil lands to increase production. At the same time, President Carter is proposing stiff new taxes to decrease consumption. He is also proposing to hold down gas prices at a time when slightly higher prices would yield (according to the American Gas Association) enough gas for more than a thousand years of consumption at present rates.

In line with Carter's request, there already has been ordained another new goliath agency with thousands of employes, a fleet of hundreds of cars and trucks and well-lighted, heated and air-conditioned offices to enforce a policy of conservation which—if done by individuals themselves—would be free and effortless.

These contradictions—and many others like them—make it very difficult to perceive an energy policy, much less order one's affairs around it. They virtually guarantee a confused, and perhaps irrational, response by consumers to the energy "crisis."

The best way to promote orderly conservation would be, as Dr. LeBoyer suggests, to let nature take its course. As prices rise, reflecting diminishing resources, consumers will gradually reduce consumption and switch to other means of power. No bombastic program is necessary. No one needs to be encouraged to save money. People buy hamburger because it is cheaper than steak. McDonald's doesn't need a subsidy to sell it.

Not only is this "method" cheap, it is also effective. Throughout history products and services have come and gone. And in almost every instance, their arrival and departure have been orderly and gradual—like a bell curve—except in two cases: when governments interfere with the transition, or when there are unforeseen calamities (against which no one could plan).

And in the case of energy, the "do nothing method" is already working well. In countries where prices have risen steeply, efficiency has also increased. Germany has a per capita energy consumption only half that of the U.S.—despite a similar economy and standard of living. Even within the U.S., consumers have been responsive to price changes. In New York, the average person uses only half as many BTUs as the average person in Texas. This is because energy costs about twice as much in New York as it does in Texas.

It scarcely needs to be said that there already is enough unnecessary hardship in the world—for tiny babies as well as full-grown adults. Perhaps a little more confidence in the natural order of things, and in people's ability to adapt to changing circumstances, could spare us additional grief.

REGIONAL ENERGY DEVELOPMENT ACT OF 1977

Mr. MOYNIHAN. Mr. President, the Regional Energy Development Act of 1977 was introduced today by my distinguished colleagues, the Senator from Washington, chairman of the Energy and Natural Resources Committee. This proposal, of which I am a cosponsor, represents a truly constructive and innovative step toward a solution of the Nation's energy problem.

The bill contains enabling legislation for regional energy corporations, for profit entities which will initiate planning and development to meet the energy

needs of the various regions. I want to emphasize that the Federal involvement in this corporation is minimal: the directors of the corporations will be appointed by the President, with the advice and consent of the Senate; and, a portion of the obligations of the corporations will be guaranteed by the Federal Treasury. Other than for these limited ties, the corporations will be on their own.

The legislation is also drafted to limit the control that the corporations can exert over private energy development projects. Specifically, the corporations are prohibited from operating any of the energy development projects which it supports financially. This is important: we are not advocating governmental control of energy development; rather, we are establishing a partnership whereby publicly established, but privately owned, corporations will work with private enterprise to promote solutions to regional energy problems.

There have been other proposals for energy financing corporations and for energy development banks. The regional corporations established by this bill are, however, unique. First, the obvious distinction is that the focus of our proposal is on the region, while the other proposals would have established national energy banks. This concentration on regions is important since energy problems vary appreciably from one region to another. The Northeast, for example, is a region that lacks sufficient energy sources of its own. The Northeast's energy corporation would, therefore, strive to increase its sources of energy and to plan for their optimal use on a regional scale. Energy-rich regions, such as the Southwest, the Northern Mountain States, and the Appalachian States, have problems of their own: the impact of intense resource development and exploitation on the region's economy and environment. In all of these cases, the regional energy corporations could address those energy problems that are most important to the particular region.

Another aspect of the proposal which I feel is of particular significance is its emphasis on planning and on a development process which is consistent with that plan. To be truly effective, to be a positive force in the resolution of the region's problems, the corporation's activities must be coordinated with a plan for the region's energy future. The legislation specifically requires that a systematic analysis of the region's energy problems, leading to a plan for action, be conducted, and that all investments of the corporation be consistent with that plan.

Governor Carey of New York and his colleagues in the Coalition of Northeast Governors deserve our thanks for their efforts to develop this proposal. I am enthusiastic about the potential of regional energy corporations, as a blend of planning and financing and as a cooperative effort by the public and private sectors. I am hopeful that this legislation will quickly be passed by Congress and will, when implemented, contribute greatly to the solution of energy problems the Nation now faces.

PROFITS, PROPHETS, AND PROFFITS

Mr. GARN. Mr. President, during our consideration of natural gas deregulation, which is apparently going to go on for some time, it may profit us to think of some of the factors that have enabled America to grow to her present greatness.

In a recent speech in Denver, the outgoing President of Rocky Mountain Oil and Gas spoke of the idea of freedom, the need for vision, and the willingness to sacrifice which have characterized this Nation from the beginning. As we debate this bill, and think of President Carter's campaign promise to deregulate the price of natural gas, contrasted with his threat last Saturday to veto any bill deregulating natural gas, it would be nice if all of us would think about the implications of the points Mr. Eliason makes.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TO SOLVE OUR ENERGY PROBLEMS AMERICA NEEDS PROFITS, PROPHETS, AND PROFFITS

Twenty-five years ago this week, I left my home in Logan, Utah for New York City. I had just won a four-year scholarship to attend Columbia College. My Dad was so pleased that he said, "Max, I am going to buy you a first-class ticket to New York", and he did.

As the prop-driven plane approached Chicago, one of the engines stopped. I sighed with relief after we landed safely in Chicago, but I was very nervous as I watched the mechanics remove the engine for repairs. We had a three-hour layover, so I walked into the terminal and bought a $50,000 life insurance policy payable to my Dad. A few moments later, I got on a weight machine that told fortunes. My fortune read, "Congratulations. An investment which you have just made is about to pay off big."

Each of us has the hope that an investment which we make will pay off big. Of course, we also hope to live to enjoy it.

My remarks today will mainly center on the need for adequate incentives for the oil industry. When I finish, I hope that you will agree that "to solve our energy problems, America needs Profits, Prophets and Profits." I wish to discuss these three "P's".

PROFITS

Let us first talk about profits.

During my four years at Columbia, most of my classes were held in Hamilton Hall, named after Alexander Hamilton. He was an early student at Columbia, which then was called "King's College". His statue stands in front of the building. Hamilton was a brilliant statesman. He was the first Secretary of the Treasury of the United States under George Washington. His policies were largely responsible for establishing this Nation on a firm financial basis.

Hamilton believed that "if social progress is a legitimate public interest, then adventurers must be permitted to invest, take risks, and save for further investments from their successful ventures."

In other words, businessmen should be allowed to keep the profits from their successful ventures.

Our founding fathers made that principle a cornerstone of the new Republic. As a result, America became to the entire world the land of freedom and of economic opportunity. It became the land of Horatio Alger.

This economic freedom and the opportunities for profit made possible the rapid development of the mineral resources of the United States. Why? Because our system provided the incentives needed to encourage individuals to work hard, invest and take risks.

Now, however, America faces a severe energy shortage. In fact, oil imports increased 31 per cent during the first half of 1977 and now supply 47 per cent of total domestic consumption. They averaged 8.8 million barrels per day this year vs. 6.7 million barrels per day in the first 6 months of 1976. From January 1 to July 1 of this year, imported oil cost Americans $23 billion. By comparison, the U.S. in 1971 imported 3.9 million barrels of oil per day at a cost of $3.6 billion.

These figures show that the United States has a monumental energy supply problem. Great debates are going on to determine the reasons for these shortages, and how to correct them. Some men in Government have stated that the United States does not have the resources needed to provide the energy needs of America, and so our only solution is to conserve energy. This seems to be one of the major assumptions on which the Carter energy plan is based.

These men are right in stressing that our fossil resources should be used wisely. But conservation alone will not do the job. Domestic supplies must be developed rapidly, and they can be, because the United States has approximately one-third of the world's fossil fuel resources when our oil and gas, coal, oil shale and tar sands reserves are taken into account.

Recognizing that America has abundant energy resources, the obvious primary reason for our supply shortages is that economic incentives to develop domestic energy supplies have been and are being destroyed by foolish political decisions. Many of our present political leaders have forgotten, or else never learned, that incentives are the basic reason why our economic system is the most successful one in the world.

Unfortunately, some of our leaders seem to think that "oil profits" are a political embarrassment to be avoided where possible. They are completely wrong, because oil profits are the most powerful tool available to solve the energy crisis. Without them, any energy program is doomed to failure.

The Independent Petroleum Association of America (IPAA) estimates that to increase U.S. production and reduce imports will require a 10-year drilling program involving 670,000 wells at a cost of $256 billion. That large required sum of money will not be available if the present price control systems on oil and natural gas are continued.

I do not have to recount to you the history of these price controls, because we are painfully aware that natural gas prices have been regulated since 1954 and oil prices since the early 1970's.

These controls are a crime against the millions of American citizens who have an interest in oil and gas production, because they are being forced to sell their product for less than full value because of arbitrary governmental decrees. No other segment of our society is being subjected to such controls.

Price controls on oil and natural gas also are a crime against every consumer, because the oil industry is being deprived of the profits which are needed for investments to provide increased energy supplies for the consumers.

Governmental reports show that crime has been increasing steadily in this country in recent years. These reports fail to show, however, that the Federal government is the biggest thief of all because it is literally stealing billions of dollars each year from the owners of oil and natural gas. If the Carter Administration's proposed energy plan is adopted, this rip-off will continue indefinitely.

Suppose that the United States Congress

authorized the Federal Government to go into the United Bank of Denver tomorrow morning and to confiscate two-thirds of the money out of every depositor's account. Would you consider that to be thievery? I would. And, those depositors would have every reason to be terribly upset.

How does that example differ from the case where the Federal Government is forcing some domestic producers of oil to sell their product for just $5.25 per barrel, when in fact that oil is worth about $15? Some stripper oil well production in this Country, on which the price is not regulated, is selling for in excess of $15 per barrel, and we are paying approximately $14 per barrel for foreign oil landed on our shores.

How can anyone justify such a rip-off? Two main reasons given by the proponents are that (1) allowing prices to rise would cause more inflation and injure consumers, and (2) removing these controls would give "windfall profits" to producers.

Those are not very good reasons to justify the stealing of oil and gas from producers.

The Carter Administration has tacitly admitted that the first of these reasons is not valid, since they propose to increase the price of oil as a means of restricting wasteful consumption. However, to accomplish this, they are proposing to equalize oil prices by adding new taxes on oil at the wellhead.

Bill Blackburn, an independent oil man and former President of RMOGA, sent a letter to President Carter on August 2, 1977, in which he succinctly described the effect of this oil taxation portion of the President's proposed energy program. Here is part of his comments:

For oil developed prior to September, 1973, and now producing more than 10 barrels per well per day I now receive $5.25 per barrel.

Your proposed energy program would increase the price of this oil to $13.50 per barrel over a period of three years.

I would continue to receive $5.25 per barrel and the government would receive all proceeds over $5.25 per barrel. After three years the government would receive $8.25 per barrel and I would receive $5.25 per barrel. I would pay all expenses out of my $5.25, and would "net" $1.50 to $3.50 (average $2.50 per barrel). I would pay all taxes levied by various governments—i.e. school, county, state, federal and so forth.

The government's share of $8.25 per barrel would have to be added to the retail price paid by consumers. As a consumer, I would pay my share.

I do not understand how a government can "tax" a product with a net price to me of $2.50 per barrel at a rate of $8.25 per barrel to the government.

This is the way it looks to me: I find it: I develop it: I operate it: I take all risks: I get $2.50 per barrel: the Government gets $8.25 per barrel and the price to the consumer goes up.

Bill, that is how it looks to me, also.

Now what about the argument that ending price controls would give oil and gas producers "windfall profits"? The dictionary defines a "windfall" as an "unexpected gain".

Since when is it wrong for any American to receive an unexpected gain? Does the Federal government have the right to take such a gain away from one person and give it to another?

Clearly, the value of oil and gas has increased. Who should benefit from that increase—the man who invested his money and took the risks, or someone who had nothing to do with developing the resource?

Last week the nationally-syndicated columnist, Michael Novak, posed some interesting questions in his column, which he said he would like to ask ten anti-oil senators to answer: "What is wrong with windfall profits for American oil men, that is right with windfall profits for Arab oil men? Does not the same windfall blow in Araby that blows in Texas? If someone in this world is going to make money on oil, wouldn't you rather have it be Americans?"

Those are very penetrating questions. Why should American oil producers be robbed with price controls while we continue to send billions of dollars overseas each year to enrich the Arab nations?

There are some critics who have voiced concern that even if oil and gas prices are increased, oil industry profits will not be reinvested in energy projects. However, figures compiled by the Commerce Department show that about 80 per cent of industry's revenues from oil and gas production is plowed back into exploration, development and production—all aimed at increasing U.S. energy output. This is even though the incentive to do so has been dampened because of the present price control systems.

Before leaving this subject, I would like to pose another question: Why are profits of the oil industry labeled "windfalls", but profits of other industries are not? Is the oil industry the only one where profits are being made?

Let me tell you about another personal experience. In 1970, I made my first real estate investment in a duplex apartment. The purchase price was $25,000, but I paid only $3,500 down. In the intervening years, the rentals have paid off the second mortgage and have reduced the balance owing on the first mortgage to $10,000.

I could sell that duplex tomorrow for $50,000. I would net $40,000 after paying off the $10,000 mortgage. Subtracting my $3,500 investment, my profit would be $36,500. In other words, since 1970 my original $3,500 investment has yielded a ten-fold return. And just think, I did not have to drill one dry hole—my risk was very low.

Should that profit be taken away from me? Should I be forced to sell the duplex for perhaps $17,000, which would allow me to just double my investment? Anyone who says "yes" to these questions does not understand the keystone to America's economic system, which is economic incentives. I made my investment only because I hoped to make a good profit.

PROPHETS

That brings us to the second "P"—Prophets.

I was in Washington in January of last year testifying before a Senate subcommittee against proposed divestiture legislation aimed at breaking up the major oil companies. While there, I visited Arlington National Cemetery and paused to meditate beside the eternal flame which burns over the grave of President John F. Kennedy.

Between President Kennedy's grave and the Potomac River is a granite wall on which are engraved excerpts from his inaugural address, as chosen by his widow. Among the quotes is the following:

Let every Nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty.

As I read those words and looked over that wall at the city of Washington across the Potomac, I wondered if our friends and enemies abroad recognize that many Americans no longer are dedicated to assuring the survival of liberty. Why did I wonder? Because that very morning, in the Halls of Congress, I had seen men who were intent on destroying the oil industry, which is an integral part of our free economic system.

It is clear that governmental controls and regulations will destroy our individual freedoms unless the course of events is changed dramatically. Not just the freedom of the oil industry is at stake, it is the freedom of every American.

Some people claim that it is too late to save our freedoms. I disagree. The theme of this 32nd Annual Convention of RMOGA is "We Can Do It." I believe that this statement of confidence applies to saving our Country as well as our Industry.

This Nation is crying for leaders who have the vision of Prophets—men who can lead us away from the brink of Socialism where we presently find ourselves—men who can restore our faith in government and in ourselves.

There were many citizens who hoped that Jimmy Carter would be one of those "Prophets" that we sorely need to lead us back to basic American economic principles. The final verdict is not in, but clearly he has let many of his supporters down so far.

For example, candidate for President Jimmy Carter wrote a letter dated October 19, 1976, to Governor David Boren of Oklahoma, on a letterhead which displays pictures of Jimmy Carter and Walter Mondale above the caption, "Leaders, for a change". Among other things, Jimmy Carter said therein:

"If we are to reach our goals of full employment and a healthy growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. . . .

Coupled with energy conservation, our policy must encourage additional production of our domestic reserves. . . .

To increase our domestic production, I have proposed three important steps. First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital. . . .

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Jimmy Carter's reason for advocating decontrol of natural gas prices could have been written by my fellow Columbian, Alexander Hamilton. It makes good sense.

Mr. Carter wrote a similar letter to Governor Edwards of Louisiana and Governor Biscoe of Texas, and he sent a telegram containing the same promise to the Convention of the IPAA in New Orleans in the fall of 1976. I was there when his telegram was read to the assembled oil men.

But many of us in the oil and gas industry questioned whether Jimmy Carter would keep his promise to work with Congress to deregulate new natural gas prices. We considered that promise to be a last-minute attempt to insure his victory in the Presidential election.

As it turned out, Jimmy Carter won the electoral votes of Oklahoma, Texas and Louisiana. If he had not done so, he still would be down in Georgia with his brother Billy.

Instead, Jimmy Carter is in Washington. But is he working with Congress to decontrol natural gas prices as he promised? No, sir. He personally has been contacting members of Congress urging that they vote to continue such price controls. He, in fact, has gone one step further. He is working for legislation which would extend price controls for the first time to natural gas sold in intrastate commerce.

This situation reminds me of a question that I heard the other day—"It is 10 o'clock, President Carter. Do you know where your campaign promises are?" His actions have made President Carter's oft-repeated statement, "I will never lie to you", sound very hollow indeed.

In his energy message, President Carter declared that we should approach solving our

energy problems as if we are at war. He sounded like a "Prophet" as he told America of the seriousness of our energy situation.

We in the oil industry agree with the President that an all-out effort is required. And we are anxious to work unitedly with our fellow Americans to win the energy war. But we become disheartened when we note that a large part of the "war effort" is being directed at crippling the oil industry, through price regulation, threats of dismemberment, and governmental red tape. The Government is making it continually more difficult even to get into lands to develop energy resources.

This is a lousy way to fight the war. It should be written up in Ripley's "Believe It or Not".

Let me tell you of a recent "war story" involving governmental foolishness.

My Company, Skyline Oil Company, filed an application to drill a well on a 160-acre tract in the Well Draw Field in Converse County, Wyoming. Three weeks ago, we received a notice from the Bureau of Land Management stating that "a cultural resource inventory by an approved archaeologist for work within the State of Wyoming must be conducted prior to approval of application to drill".

I personally called the Casper BLM office for more information, since we already have drilled three wells on the same lease without needing to have an archaeologist study the drill sites. I was told that such an inventory now is required by regulations adopted pursuant to the Federal Antiquities Act, the National Historic Preservation Act, and other legislation.

I explained that the Federal government owns the minerals under the 160-acre tract, but a rancher in Wyoming owns the surface rights. Therefore, any artifacts or other items on the surface are owned by the rancher, and we are paying a substantial sum to him for surface usage.

The BLM man told me that "even though the surface owner may own the artifacts, etc., he may not have the right to change or destroy them because of Federal law." I paused for a moment to consider whether I may have misdialed my phone and reached Moscow instead of Casper.

A vision then popped into my head of a collapsed rock sheep pen which an archaeologist found near a remote proposed drill site in New Mexico last year. The archaeologist advised the Operator that if the drill site pad had encroached upon the pen, the location would not have been approved. That archaeologist stated that any artifact which is older than about 1950 could be of significance. The rock pen was about thirty years old.

Can you imagine the Federal government telling the farmers of America that they cannot destroy old sheep pens and other such structures which are located on their property and which they own? What is this Country coming to? What is happening to the property rights of Americans as guaranteed by the Fifth and Fourteenth Amendments? Are you concerned about the Federal government's effort to extend its control over your private property?

I, for one, am convinced that it is high time for each of us to stand up and be counted in the fight to preserve property rights and other freedoms in America. Then perhaps Congress and the President will wake up and change the battle plan in the energy war. Hopefully, they will gain new vision and become "Prophets".

PROFFITS

Now, I would like to talk about the third "P"—Proffits.

As I was growing up in Logan, Utah, one of my best friends was a fellow named Bruce. We lived on the same street. We were in the same scout troop. One of our favorite sports was to divide the neighborhood boys up into armies, dig trenches and foxholes, and have a war using tomatoes for hand grenades. We fought our own World War II.

When Bruce and I got to high school, we both joined the ROTC unit. I became a Lieutenant Colonel and commander of the ROTC drill team and Bruce, who was a year younger than I, became assistant commander. When we graduated, I went off to Columbia to college and Bruce went off to war. Bruce loved the military and made it his career. He was sent to Vietnam as an infantry officer, where he became very ill. After recovering, he asked to be sent back to Vietnam. On his second tour of duty in the jungles there, he contracted a fatal illness from which he died in 1971 at age 36. My buddy Bruce, gave his life for this Country.

As I was standing in Arlington Cemetery on that cold January day, reading President Kennedy's words, I thought of Bruce and tears came to my eyes. His body lies buried there at Arlington, in the rolling hills that were behind me. He is the only person I personally know who is buried there.

Lieutenant Colonel Ray Bruce Proffit, my buddy, gave his life for freedom. Millions of others like him have made the supreme sacrifice for that cause. If we allow short-sighted politicians to succeed in making foolish decisions which destroy our liberties, we will betray these sacrifices, which then will have been made in vain.

Milward Simpson, a former Senator from Wyoming and former Governor of Wyoming, said that the word "free" in free enterprise should be struck out and that it should be called the "private enterprise system". He said that "it is not free, for men have given their lives and fortunes to protect private enterprise".

This Country desperately needs "Proffits"—men and women who have courage and are willing to fight for the preservation of our sacred liberties, whether in the foxholes or in the arena of politics. The energy battle is being waged not only in the oil fields, but also in the political fields. The "Proffits" of today must fight on both fronts if we are to win the energy war.

"We Can Do It" if we remember that to solve our energy problems America needs Profits, Prophets and Proffits.

To conclude, I would like to leave with you these words from the man who was President of Columbia University when I arrived on campus 25 years ago this week, Dwight D. Eisenhower:

"There is nothing wrong with America that the faith, love of freedom, intelligence and energy of her citizens cannot cure."

I believe that. Do you?

DOUGALD McRAE—IN MEMORIAM

Mr. MORGAN. Mr. President, last Thursday while the business of the U.S. Senate was being conducted, I was absent. I had returned to the State of North Carolina for the funeral service of a very dear friend of mine and to serve as pallbearer.

I could not miss being there.

Dougald McRae, described so aptly by my county newspaper at home as "one of the county's most colorful political figures and longtime confidant of the State's leading Democratic officials" was one of my oldest friends and political allies. I ran for my first public office, clerk of the court, while still a student at Wake Forest Law School and Dougald McRae was one of those who encouraged me to run and lent me his support, which was considerable in my county. I never ran again for any office without his advice and his help and when I was elected to the U.S. Senate no person took greater pride in that fact. And when I went home on weekends, we often met on Saturday mornings at the local cafe where Dougald was always ready to give counsel.

What sort of man was Dougald McRae?

Let me tell you.

Politics was his life and to him, there was nothing derogatory about that term. "Politics" to Dougald was simply the business of government, whether at the county, State, or national level, and if he was not actively shaping it at the courthouse or the polling place he was helping mold public opinion at the service station, the cafe, or the street corner.

And he never tired of it.

His champion was the Democratic Party and the largest floral spray at the historic Summerville Presbyterian Church on the day of his funeral had a ribbon with the word "Democratic" boldly printed on it.

He would have liked that.

He cut his teeth in politics in the days when the parties fought bitterly in our part of the State, and no one ever wondered what side Dougald was on. As the paper stated last week:

McRae was often controversial as most politicians are but never hesitant to take a stand. He made his views known and he worked hard for the candidates he supported.

And he was respected for it.

Franklin Roosevelt was a hero and to Dougald, Harry Truman epitomized the rough-and-tumble politics for which my home county of Harnett is famous. A staunch Scottish Presbyterian, he defended the right of a Catholic to be President of the United States and though well up in years shared the spirit of Camelot. Dougald admired Lyndon Johnson's practical approach to politics and his persuasive powers, both of which Dougald had long since mastered himself. He adored HUBERT HUMPHREY, considering him to be the expert on American government, and tolerated GEORGE MCGOVERN, realizing they stood miles apart philosophically but were both good Democrats.

A host of local and State candidates were the direct beneficiaries of his political efforts and the vote in his precinct, Upper Little River No. 1, always reflected it. He shared the confidence of a long line of North Carolina Governors, Senators, and State officials and former Chief Justice of the Supreme Court considered him one of his closest friends, inquiring of me each time I saw him, "And how is my good friend Dougald McRae?"

His neighbors in a rural farming community called on him for help and counsel. Long before the word "ombudsman" became popular, Dougald McRae was one. He helped his friends by listening to their problems and then using his considerable contacts and friends to cut through redtape and find practical solutions. He loved his family and there was seldom a time when he and his wife Katherine were at home alone, for children or grandchildren or neighbors or friends were always there and that is the way he liked it.

In spite of all this, he was an unpretentious man.

He was uncomfortable in a suit and sometimes considered shaving a bother. Cars were not for show but for getting you about. They drove better when slightly battered. Hats were a part of his wardrobe but wore best when crumpled. Neckties were most comfortable when loose at the collar.

And cigars were never meant to be smoked but rather chewed, slowly.

Dougald McRae never sought high public office. But he cherished his duties as a poll holder, precinct chairman, and then for many years member and chairman of the county elections board. This was his way of "serving" and he did it well.

He left his print on my county, my State, and my life. He made his 77 years count for something by making sure that the democratic process worked and stayed healthy and strong. And his faith in it never waivered.

I hope someday the same can be said of me.

TUITION TAX CREDIT

Mr. DOMENICI. Mr. President, I wish to make the following statement in support of legislation recently introduced by Senators PACKWOOD and MOYNIHAN, the tuition tax credit, S. 2142. I am pleased to join my distinguished colleagues as a cosponsor of this legislation.

Education rightly ranks high on the list of American priorities. Today, increasing numbers of Americans, young and old, male and female of all races, are availing themselves of the benefits of our educational system. Unfortunately, however, the ability of the American consumer to purchase this high-priority commodity is eroding at a rapid rate. The skyrocketing costs of education have touched the pocketbooks of all of us.

I rise today to support legislation which will help to bring the cost of education back within an affordable range. The Tuition Tax Credit Act, introduced by Senators PACKWOOD and MOYNIHAN, is a step in the right direction toward deescalating educational costs.

The Tuition Tax Credit Act provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of the credit will be 50 percent of tuition costs up to a total of $500 per student. The tax credit is also refundable if the credit is greater than the tax liability. This provision makes the legislation especially attractive to lower income Americans.

Students at all educational levels are eligible for the credit. In order to benefit from this legislation, an individual can be a part-time or full-time student at an elementary or secondary school, a vocational school, or at a college or university. Also included are business and trade schools which meet the basic accrediting requirements of the Office of Education.

One especially desirable feature of the Tuition Tax Credit Act is that the credit is extended to students in private elementary and secondary schools. Formerly, private school education, though expensive, was affordable. However, it has been projected that enrollment in private elementary and secondary schools will drop by 50 percent by 1984 due to rising costs. Enactment of this legislation will help to reverse the trend toward declining enrollment. I am particularly pleased with this aspect of the Tuition Tax Credit Act since I have long felt that parents who choose to send their children to nonpublic schools deserve some kind of tax relief.

Of all the legislation I have seen to date which is designed to provide tuition tax credits, the Packwood-Moynihan bill offers the best approach. It provides a workable mechanism for according to middle and lower income Americans direct and effective tax relief. I wholeheartedly agree with Senator PACKWOOD's statement this measure is a "revolutionary concept in self-help education."

I am pleased to cosponsor and actively support this very important piece of legislation. The broad-based support which this proposal has received in the Senate indicates to me that the time is right for enactment of tuition relief legislation. I hope that we in the Congress can act quickly to implement the Packwood-Moynihan Tuition Tax Credit Act.

REGULATION OF THE TRUCKING INDUSTRY

Mr. BAYH. Mr. President, it is certainly an honor and a privilege for me to submit the testimony of Mr. Morris Katz, chairman of the board of the Katz Bag Co., for inclusion in the CONGRESSIONAL RECORD. Mr. Katz is a man of great knowledge and experience in the field of interstate as well as intrastate trucking. He recently testified before an Interstate Commerce Commission hearing in Chicago, Ill. In his testimony he argued that continued regulation of the trucking industry was necessary if our country expects to maintain the orderly movement of goods from one point to another. In these months of intensive debate regarding regulatory issues, I believe it would be profitable for all of us to reflect on Mr. Katz's views as we consider alternative courses of action.

Mr. President, I ask unanimous consent that the testimony of Mr. Katz be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF MORRIS KATZ

My name is Morris Katz, Chairman of the Board of the Katz Bag Company, Inc., Indianapolis, Indiana. I come before you wearing two hats.

One is as Chairman of the Board of Katz Bag Company, and the second is as a past President of a national trade organization known as the Textile Bag Processors Association, and presently I am a member of their cabinet.

I will abbreviate the trade organization as the TBPA, which consists of approximately 150 member companies throughout the United States and Canada. We are similar in nature and they have asked me to also represent them here as well, and speak on their behalf.

I come before you to also represent the small business firms, of which there are hundreds of thousands throughout the United States.

Without the use of commercial regulated carriers we would be put out of business, and thereby put many people out of work.

Katz Bag Co. was organized in 1911. We are a small family owned company and I can remember back in the 20's and 30's when we did not have regulated truck lines.

I am against government intervention in private enterprise and especially with regulations, and believe totally in open competition of the free enterprise system, but with certain exceptions;

For example: If there were no regulations and insurance thru the FDIC in the banking and savings and loan industries, there would be utter chaos for over 230 million people in the United States and throughout the world.

By the same token, I place the regulated commercial trucking industry in the same vein.

In my business 95 percent of our domestic shipments are less than truck load, and we use the commercial carriers whether it be for intra or inter state shipments. The commercial carriers are a highly competitive market because we have many options in carriers for shipping. The trucking industry is regulated to a point where we, as a shipper and receiver, know our freight costs of our raw materials and finished products to any part of the 50 states.

When you stop to realize the importance of maintaining a semblance of order in the trucking industry, I am one of the few who can remember the past when we had no order in the trucking industry.

Back in the 30's before the trucking industry was regulated and before the I.C.C., using a truck line at that time the shipper did not have confidence or trust in the carrier, as you did not know your cost, as there were all kinds of rates being offered and there were quite a number of lost shipments during that period of time, with a limited liability or responsibility from the carrier.

When the I.C.C. came into being they brought in an established order, responsibility, and eliminated chaos in the trucking industry; and it gave the shipper confidence and trust that our merchandise would be shipped, arrive, and be received at its destination by responsible carriers at reasonable rates, in a reasonable time frame.

We are also one of the companies that make small shipments in the minimum category. There is no other way to ship these small shipments. We realize that the truck lines have to lose money on pick-up and delivery on minimum shipments, but we also sweeten their pie because we ship and receive millions of lbs. of freight yearly.

De-regulation of the trucking industry would be chaotic to our economic system and would create economic turmoil.

We ourselves would be put out of business as would others, as we presently have no shipping alternatives.

I further understand that nothing is perfect and that adjustments or modifications probably are in order, but to destroy what it has taken generations to establish we might as well go back to the horse and buggy days.

It would be totally unfair to make the American people victims for the selfish interests of a few, who are not aware of the pitfalls of de-regulation.

During the 40's it was the regulated trucking industry that supplied the necessary quick movement of the war materials from all parts of the country to the ports for shipment overseas.

I wish to call to your attention, and I have some photos with me to show you, that during the floods of 1971 and 1973 along the Mississippi River from Minnesota to New Orleans that our industry supplied sand bags and other materials to our government and municipal agencies and others around the clock on a few hours notice.

Had it not been for the effective movement of goods by regulated carriers, several billions of dollars worth of loss could have occurred.

Example of our participation:

While fighting a 1973 flood, in excess of 40 million sand bags were used. One of your large commercial carriers kept trailers at our plant to be loaded with approximately ¼ million bags per trailer, and they moved into vital areas and delivered sand bags on location where they were needed. I might add that our government in 1973 was so deeply concerned about delivery of these sand bags that they brought into service U.S. Air Force Hercules and DC-6's to fly sand bags into these areas. But I must say the aircraft did a poor job under the circumstances and were excessive in cost to the taxpayer.

First the sand bags had to be loaded into trailers, taken to the airport, re-loaded into the aircraft, delayed with loading restrictions, and then the aircraft were subject to weather conditions and limited to landing only at airfields which could service aircraft of that size. After landing the bags then had to be reloaded into U.S. Army trucks for final delivery to their destination.

With urgency a top priority we strongly suggested to the U.S. Government Agency not to use government or commercial aircraft as they were delaying deliveries and also wasting taxpayer's money. They allowed us to continue using commercial regulated carriers and the trailer loads were delivered in a matter of hours to critical areas where volunteers of men, women, and children would fill the sand bags to protect their homes, industries, and cities along the Mississippi River.

It is only through the regulated commercial carriers that we can effectively move emergency supplies into critical areas, without excessive costs.

This ends my testimony and should anyone have any questions, I will certainly try to answer them to the best of my abilities.

But let me again reiterate that this experimentation with the regulated carriers must not only be carefully evaluated, but must proceed with the utmost caution. Otherwise, the snowballing effect it will have can put many small firms out of business as we will no longer have a handle on our freight costs for inbound or outbound shipments of finished products or necessary raw materials. It is impossible to operate a business if your costs fluctuate greatly from day to day and too many man hours are wasted "shopping" for the most competitive freight rates for all our shipments.

The net result will be that everyone will be hurt, but the consumer will pay the greatest cost in higher prices and unemployment.

SHADOW OPEN MARKET COMMITTEE'S RECOMMENDATIONS FOR MONETARY POLICY

Mr. HATCH. Mr. President, the Joint Economic Committee's midyear economic report has just been released, and it is encouraging that 11 members of this 20-member committee dissent, in varying degrees, from the "majority" view that calls for rapid money creation. Perhaps in time all 20 members of the committee will come to understand that rapid money creation leads to inflation and that inflation leads to unemployment.

It is instructive that the policy recommendations of the Shadow Open Market Committee, a distinguished group of monetary experts, are exactly the opposite of those contained in the JEC majority views. I ask unanimous consent that the Shadow Open Market Committee's recommendations be printed in the RECORD.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

POLICY STATEMENT: SHADOW OPEN MARKET COMMITTEE

The policies that produced sustained recovery, rising employment and lower inflation have ended. The growth rate of money—currency and demand deposits—has returned to the high levels of 1968, 1972 and early 1973. Government spending is growing again at a faster rate than the economy. The budget deficit is rising.

Prospects for the economy in 1978 and 1979 as a result appear less attractive than when this Committee met last March. Inflation is expected to increase next year and the growth of real output is expected to fail. The reasons for slower growth and higher inflation differ, however. Capacity utilization is high in many industries, and real growth must slow to the trend rate of capacity growth—three to four percent per year. Accelerating inflation, and an enhanced risk of recession are mainly the result of the inappropriately expansionary monetary policy that the Federal Reserve pursued during the past two years, and particularly during the past six months.

Increased money growth in 1977 has restricted the choice of policies for 1978 to three principal alternatives. None of the three is attractive, but there are important differences. At is meeting today the Shadow Open Market Committee discussed these differences and recommended that the Federal Reserve return to policy of eliminating inflation gradually, while minimizing the risk of a large recession.

THREE OPTIONS

The Federal Reserve has three options. (1) It can continue on the path of rapid money growth that has prevailed in 1977. (2) It can accept the errors of the past year while immediately restoring the policy of slowing inflation. (3) Or in some measure it can correct for the excessive money growth of the past year, and once again restore a policy of ending inflation.

The first option minimizes the risk of recession in 1978, but would result in increased inflation. By maintaining the recent high rate of money growth, real growth might temporarily be higher than otherwise, but at the cost of higher inflation later. As inflation increases, the demands to do something about inflation increase. Controls on wages and prices would become more likely. But controls, if adopted, would ultimately prove to be useless against inflation. Shortages of goods, services, and materials used in production would be the inevitable result. Sooner or later money growth would be reduced as part of a new, anti-inflation policy. This option adds to real growth in 1978 at the cost of higher inflation. This policy would squander the progress that has been made in restoring stability. The benefits of this option seem small when compared to the costs.

The second option would be to accept higher inflation in an unavoidable, but temporary, consequence of excessive money growth. Money growth would be reduced to an annual rate of 4 percent starting from present levels. This policy means that the Federal Reserve's summer errors would be translated into a recession. Output growth under this policy would probably be less than the trend rate.

The third option is to partially correct the summer bulge in the money stock. This bulge can be partly eliminated without severe consequences for real growth because the economy has not yet adjusted to the higher level.

At the previous meeting of this Committee, in March 1977, we recommended that the growth rate of money be held between 4 percent and 4½ percent during the year ending in the first quarter 1978. The growth rate of money for the second and third quarter has been over twice the rate we recommended. The annual rate of money growth is far above the 5¼ percent midpoint of the target chosen by the Federal Open Market Committee, November 1976, and reaffirmed at subsequent meetings. By their standards, as well as ours, the growth rate of money has been excessive.

This Committee has affirmed repeatedly that stable growth, lower inflation, and recovery from recession can be achieved together if proper policies are chosen. The Federal Reserve's 1977 excesses may mean that a recession will once again follow when it attempts to reduce inflation.

RECOMMENDATIONS

The inordinate growth of money in the last six months stemmed from two episodes. In March and April, Federal Reserve credit was increased rapidly to keep interest rates from rising; consequently the money stock jumped. But this only postponed the rise in interest rates to the end of April.

Again in June and July, Federal Reserve credit growth was accelerated to keep short-term interest rates from rising and the stock of money rose rapidly. But the rise of interest rates was only postponed one month.

The Federal Reserve has not been able to prevent a rise of short-term interest rates this year. It has only been able to obtain slight delays of rate rises. And it has done this only at the expense of losing control of the amount of Federal Reserve Credit and the money stock.

The failure of the Federal Reserve to reach its targets is not an accident. Excessive money growth has been the result of inappropriate procedures for controlling the stock of money. The Federal Reserve has continued to concentrate on short-term changes in interest rates and has ignored the movements of the monetary base and other determinants of the stock of money. The result has been excessive money growth in periods of expansion, and insufficient money growth in recession.

This Committee has warned repeatedly that current procedures for confronting money are inadequate. The result of those procedures is that stable high output has not been achieved; inflation has increased; price and wage controls have become more likely; and the risk of returning to a stop and go economy is greater.

In addition to the change in procedures, the Shadow Open Market Committee recommends that the summer bulge in money be removed by reducing the current level of the money stock by $4-billion, the reduction to be accompanied by an announcement that the step has been undertaken to return the money stock to the level it would have reached if the most recent error in monetary policy had not occurred. Subsequent to the correction, money growth should resume at a constant annual rate of 4½ percent.

A stop-go monetary policy is not inevitable. We urge again, that the Federal Reserve refrain from trying to control short-term interest rates. It should not take the Federal Funds rate as its operating target. Instead, it should adopt procedures to directly control money. If it does so, the Federal Reserve is fully capable of achieving its announced targets for money growth.

The return to stability with rising real income cannot be achieved by monetary policy alone. The growth rate of government spending is high and rising. A rising share of resources absorbed by government means fewer resources for private investment, slower growth of private output and fewer jobs in the private sector.

We project that the budget deficit for fiscal 1978 and the borrowing by off budget agencies will require the private sector to absorb about $60-billion in new government securities. This amount is much larger than appropriate under current conditions. We recommend that nothing further be done to increase the budget deficit and government borrowing in 1978 and that the budget deficit be reduced in 1979. The Congress and Administration should adopt a program to limit the growth of government spending, so as to achieve and maintain the balanced budget promised by the Administration for fiscal 1981.

Prof. Karl Brunner, Director of the Center for Research in Government Policy and Business, Graduate School of Management, University of Rochester, Rochester, New York.

Prof. Allan H. Meltzer, Graduate School of Industrial Administration, Carnegie-Mellon University, Pittsburgh, Pennsylvania.

Mr. H. Erich Heinemann, Morgan Stanley & Company, Inc., New York, New York.

Dr. Homer Jones, retired Vice President and Director of Research, Federal Reserve Bank of St. Louis, St. Louis, Missouri.

Dr. Jerry Jordan, Senior Vice President and Chief Economist, Pittsburgh National Bank, Pittsburgh, Pennsylvania.

Prof. Thomas Mayer, University of California at Davis, California.

Dr. Rudolph Penner, American Enterprise Institute, Washington, D.C.

Prof. Robert Rasche, Department of Economics, Michigan State University, East Lansing, Michigan.

Prof. Wilson Schmidt, Department of Economics, Virginia Polytechnic Institute, Blacksburg, Virginia.

Dr. Anna Schwartz, National Bureau of Economic Research, New York, New York.

Dr. Beryl Sprinkel, Senior Vice President and Economist, Harris Trust and Savings Bank, Chicago, Illinois.

Dr. William Wolman, Senior Editor, Business Week, New York, New York.

TESTIMONY ON PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued its hearings today on the Panama Canal treaties. The witnesses today were Dr. Harold Brown, Secretary of Defense, Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, Adm. Robert L. J. Long speaking for Adm. James L. Holloway III, the Chief of Naval Operations, and Lt. Gen. D. P. McAuliffe, Commander in Chief, U.S. Southern Command.

I ask unanimous consent that the prepared statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE HAROLD BROWN

Mr. Chairman and Members of the Committee: Just over sixty-three years ago the first United States vessel crossed through the Panama Canal from one to the other of the two great oceans which border our country.

Let us strip the matter to its essentials. Your deliberations in this committee room today are vital. As much as any other factor, they will determine whether we can be confident that our ships of war and vessels of commerce will continue to use that important but fragile waterway during and beyond the last quarter of the twentieth century as they did in the first.

We have always been a practical people—proud of our history, but not sentimental; remembering where we have been, but oriented toward the future. You all are practical men or you would not hold the offices you do. In my judgment, the issues before you are practical ones, and it is in practical terms that I shall address them.

On September 7, 1977 the President signed two treaties affecting the operation and control of the Panama Canal. I am pleased to appear before you this morning with General George Brown, Chairman of the Joint Chiefs of Staff, to state that the Department of Defense wholeheartedly and fully supports these treaties, and to explain why I believe they deserve our—and your—full support.

Quite properly, the focus of your deliberations must be on whether these treaties promote the national interest—and specifically the national security interest—of the United States. To help in answering that question, there are three points that I consider critical:

Use of the Canal is more important than ownership.

Efficient operation of the Canal in the years ahead is more important than nostalgia for a simpler past.

Ability to defend and control access to the Canal is essential. But the issue is how that ability can best be assured—by a cooperative effort with a friendly Panama, or by a garrison amid hostile surroundings.

I have examined these issues personally and in detail. So have the Joint Chiefs of Staff. The Department of Defense has been fully involved in all stages of the drafting and negotiation of these treaties. Mr. Chairman, I believe, personally, and in the light of my responsibilities as Secretary of Defense, that these treaties fully serve, and greatly promote, our national security interests. The Joint Chiefs of Staff, as General Brown will tell you, share that assessment. These treaties deal with today's realities. They provide the security which we need for the future.

I see three elements which together make up our national security concerns relating to the Canal. These are:

First, unimpeded use;

Second, effective operation; and

Finally, physical security of the Canal.

These are our paramount objectives.

The first requirement includes free and unimpeded use of the Canal both by our Navy and by our merchant ships. Free use of the Canal is essential to assure optimum ability to shift our forces and materiel rapidly between the Atlantic and Pacific Oceans. That capability enhances our defense posture in both the European and Pacific regions.

The neutrality treaty—more formally, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal—provides that the Canal shall be open permanently to all vessels of all nations. Moreover, it contains an important additional provision. The United States is given a preferred position with respect to use of the Canal, a position which no other country except Panama will enjoy: United States vessels of war, and the United States auxiliary fleet (important examples of which are oilers and supply ships) are guaranteed rapid transit through the Canal. This is so irrespective of the cargo they carry. These provisions assure us that the United States will remain able to use the Canal in timely fashion whenever military necessity dictates, just as we can today.

Our second national security requirement is that the Canal operate effectively. The Panama Canal treaty provides that during its term the United States will operate the Canal, with increasing participation of Panamanian managers and workers operating under the treaty terms according to U.S. laws and regulations. Thus, the United States can continue the present efficient operation of the Canal for many years to come, and the Panamanians will be in a position to operate it successfully when the treaty expires.

Our third national security requirement is that we must be able to defend the Canal from hostile acts. Our armed forces now control, and they will continue to control with overwhelming forces, the sea approaches to the Canal, on both the Pacific and Caribbean ends. This is not affected by the treaty.

The treaty goes even further, however. It states unequivocally that during the life of the treaty, the United States armed forces shall enjoy the right and the primary responsibility to defend the Canal itself. It further provides that during that period the United States may station, train, and support units of our armed forces in Panama, and that the United States will decide unilaterally whether and how to modify the force levels we maintain there. All key military bases and training areas which we now operate in the Canal Zone will remain under U.S. control.

When the Panama Canal treaty expires, as the year 2000 dawns, the neutrality treaty provides that U.S. and Panama are to maintain jointly the permanent neutrality of the Canal, and that no troops other than Panamanian may be stationed in Panama. The United States is also made a guarantor of the neutrality of the Canal. In that capacity, we have the right to take appropriate measures to enforce this guarantee. In my judgment, these provisions ensure that the United States' ability and unilateral right to defend the Canal against any external threat remain unimpaired.

There is another aspect of the third national security requirment—ability to defend the Canal from hostile acts—which cannot be ignored. Such hostile acts might not be external. If Panama and other Latin American countries, or major elements of the Panamanian population, became hostile to the United States, then protecting the Canal against internal threats, terrorism and guerrilla actions would become much more difficult. Such occurrences are far less likely under the new treaty than they would be if the long unsettled status quo were to continue. The treaty is a guage of our good faith, toward Panama and all of Latin America. It also provides Panama with a tangible stake in the continued effective operation of the Canal. Further, the treaty contemplates a combined defense agreement between the United States and Panama as a result of which Panama's armed forces will be able to protect the Canal against threats from within Panama more effectively than they can at present. Nothing in life, and still less in international life, is certain. But all these elements should add to the real security of the Canal, and make its availability for United States use much more sure than any alternative course of action.

As I see it, and I do not think anyone with national security responsibilities disagrees, the Panama Canal will, for the foreseeable future, be an important defense artery for the United States. The treaties which you are examining provide real security, not paper claims. They offer the firmest and most practical guarantees obtainable that the Canal will remain operational, secure, and available to the United States.

The Canal was built for shipping, not slogans. We seek to guarantee transit of vessels, not theoretical claims of title. These goals we have sought, as I said at the beginning, are practical. The issues before you are practical ones. Our negotiations have obtained instruments which—more certainly than thousands of forces and their armaments on the spot—will assure those practical objectives for generations to come. I am convinced that approval of these treaties will best provide for our national security.

I would be happy now to answer any questions you may have.

STATEMENT BY GENERAL GEORGE S. BROWN, USAF

Mr. Chairman and Members of the Committee: I am here to discuss the security aspects of the proposed Panama Canal treaty.

The Joint Chiefs of Staff recognize the Panama Canal as a major defense asset, the use of which enhances United States capability for timely reinforcement of United States Forces. The strategic military value of the canal is reflected in our ability to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans. The strategic value of the canal is not expected to change substantially throughout the life of the new Panama Canal Treaty and beyond, so long as the canal provides the sole means of transiting ships across the American continent.

United States military interests in the Panama Canal are in its use, not its ownership. Therefore, any new treaty must assure that access to and security of the Panama Canal are protected in times of war and peace. This assurance is provided by a permanent regime of neutrality to be maintained by the U.S. and Panama which specifies that the canal will remain open to all world shipping at reasonable tolls, without discrimination, in accordance with specific rules of neutrality, and that it will always be operated efficiently under rules that are just, equitable and reasonable and necessary for safe navigation and efficient, sanitary operation.

Defense of the Panama Canal has two components: internal security and external defense. Both are presently the responsibility of the United States Government.

Internal security entails surveillance and control. It is primarily concerned with countering sabotage and terrorist activities. Currently the Canal Zone's police and security forces are responsible for internal security. When required, reinforcement is provided by the United States military units assigned to U.S. Southern Command. Under the new Panama Canal Treaty there will no longer be a Canal Zone and police functions will become the responsibility of the Government of Panama. However, the Canal Commission will continue to provide security for Canal installations. The military units of U.S. Southern Command will be available to augment the Panamanian forces and Commission guards.

External defense is concerned with defense against armed attack by hostile forces using guerrilla or conventional tactics. Our current plans will be described by General McAuliffe. Under the new Panama Canal Treaty, the United States will have primary responsibility for the defense of the canal during the balance of this century. Under the new Panama Canal Treaty, the Panamanian Guardia Nacional and appropriate U.S. Forces Commander will develop plans in concert to provide for mutual defense. The Joint Chiefs of Staff will continue to plan for rapid reinforcement of U.S. Southern Command in the event of emergency need.

Our capability to defend the Panama Canal will be enhanced through cooperation with the Government of Panama. The new treaty provides a basis for such cooperation between the United States and Panama. The alliance relationship should develop and strengthen during the life of the Panama Canal Treaty and be further enhanced by the Neutrality Treaty. The regime of neutrality provided in the Neutrality Treaty calls for a canal open to all ships of all nations in times of peace or war. It specifically provides that U.S. and Panamanian naval ships shall transit expeditiously without impediments or preconditions. Since both the United States and Panama agree to this regime, our right to take the measures that we may deem to be necessary to maintain the canal's neutrality is assured.

For these reasons, the Joint Chiefs of Staff support the treaty as being protective of the military interests of the United States and as providing an effective basis for defense of the canal.

STATEMENT OF ADM. ROBERT L. J. LONG, U.S. NAVY, (SPEAKING FOR ADMIRAL JAMES L. HOLLOWAY III, U.S. NAVY CHIEF OF NAVAL OPERATIONS)

I have gone on record with the other members of the Joint Chiefs of Staff, in supporting the Panama Canal Treaties.

The Joint Chiefs of Staff are unanimous in their position supporting the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, although each of us may have reached this conclusion on the basis of our individual line of reasoning. I would like to provide the Committee, in this statement, with my own rationale.

The Panama Canal is and will remain of major importance to the United States. Its use is a key factor in the Navy's ability to accomplish its responsibilities in connection with essential war plans and other contingencies involving our national security. While I cannot state that loss of the Canal would result in the failure of these plans or in the inability of the Navy to carry out these responsibilities, it would certainly make these tasks enormously more difficult. We would be much better off with the use of the Canal than without it.

The importance of the Canal to the Navy for defense purposes lies in its assured use, not in its ownership. There are two threats to the continued use of the Canal by our naval forces and essential shipping: the external threat and the internal threat.

The external threat is represented by a general war situation. In a conventional conflict, our capabilities to defend the approaches of the Canal are adequate to provide me with reasonable confidence that defense of the Canal against an external threat is practicable. In the case of a nucler conflict defense of the Canal would be virtually impossible as would be defense of almost any other major installation of importance to the United States. However, in a strategic nuclear war, the importance of the Canal in relative priorities diminishes to an inconsequential position.

The second threat to our continued use of the Canal is the internal threat from subversive, clandestine, or local guerrilla activities. The defense against such a threat in the formidable jungle terrain of the Canal area would be extremely difficult, particularly in view of the vulnerability of the lock system to disruption as the result of relatively minor damage to critical mechanical components. Defense against a persistent and continuing internal threat would be particularly difficult. Therefore defending against this internal threat is significantly enhanced if the cooperation of the local interests, the Panamanians and Central Americans, can be maximized. On the other hand, our ability to defend and protect the Canal so as to ensure its continued operation, would become extremely difficult in the face of an adversary relationship with our Latin neighbors, or an active hostility on the part of the local population. Our adherence to these treaties, which make the Panamanians our direct partners in the defense of the Canal, will substantially contribute to a friendly and cooperative attitude among all Latin Americans toward the United States on the Panama Canal issue.

The specific provisions in the Panama Canal Treaty providing for the defense of the Canal by the United States until the year 2000, and in the Treaty of Neutrality which will guarantee our use of the Canal after the turn of the century, are considered by the unified commander, Commander-in-Chief Southern Command, to be adequate. That view is shared by the Joint Chiefs of Staff, based upon the analysis of the Services and the unified commander. It is my judgment that the favorable effect which I believe the Treaties will have on the attitudes of the Panamanians and Central Americans toward our continued use of the Canal, for national and hemispheric security purposes, will substantially assist the United States to defend the Canal against the internal threat. On this basis, it is my view that the continued use of the Panama Canal for military purposes in our national defense plans is best assured through the provisions of the new Treaties.

STATEMENT BY LIEUTENANT GENERAL D. P. MCAULIFFE

Mr. Chairman and Members of the Committee, thank you for inviting me to appear before you, as the Commander in Chief of the United States Southern Command. My priority mission is the defense of the Panama Canal.

I will discuss with you my present capability to perform that mission with the forces and facilities presently available and also an assessment of my capability to perform that mission under the treaties signed on 7 September.

The forces presently available to me to carry out the mission of canal defense are well trained and capable of implementing a wide range of defense tasks to protect the canal and also to protect U.S. lives and property. They are not capable, without reinforcement from the United States, of protecting the canal from a major external threat. Substantial reinforcement forces would be needed in the event of such a contingency. We could not, however, assure the uninterrupted operation of the canal in such a hostile environment, but it is my firm conviction that under the most likely threats, we can limit such interruptions to ones of short duration.

I have been consulted regularly during the course of the treaty negotiations and have furnished information, comments and recommendations to the Joint Chiefs of Staff for the development of U.S. defense positions concerning the negotiations.

In my judgment the Panama Canal treaty provides adequately for the United States to exercise primary responsibilitiy for the defense of the Panama Canal and for the support of the forces needed to carry out that mission. That judgment is based upon the following factors: The United States has an adequate military force structure in the canal area now; that force structure is expected to remain adequate and may, of course, be modernized during the treaty period; our capability to reinforce from the United States will continue to exist; U.S. forces, located astride the most critical canal facilities, have sufficient bases and training facilities, the latter of which will be shared; the treaty and its agreements provide freedom of movement for military forces in carrying out the canal defense mission.

The Panama Canal treaty establishes a concept of defense which includes U.S. and Panamanian forces operating cooperatively to defend the canal. Indeed, the most effective defense of the canal can be obtained in conjunction with a friendly Panama. We expect that the Panamanian armed forces, that is, the Guardia Nacional, will contribute military units to canal defense and that they will train with our forces in appropriate canal defense tasks.

The concept for combined defense which I have recommended to the Joint Chiefs of Staff envisions the continued presence of American forces in the vicinity of the canal for the term of US control of canal operations, not only to assist in defense of the canal but also to provide protection of US lives and property.

Under this concept certain types of military facilities are essential to support the US Forces committed to canal defense. These include the major airfield, cantonment areas for stationing of forces in close proximity to the canal, training areas, communications facilities, piers and docks, logistic support facilities and family housing. These essential facilities are provided for in the Panama Canal treaty and its implementing agreements.

It is apparent that the Panama Canal treaty will require the relocation of a few US military units from their present locations in the Canal Zone to other locations within selected US military defense sites in Panama. These consolidations will not adversely affect our capability to defend the canal and, in fact, in many ways will contribute to a more efficient operation.

The US primary defense responsibility and the presence of US military force in Panama, together with the provisions of the neutrality guarantee, adequately protect the security interests of the United States. When these factors are combined with a cooperative defense effort by the Government of Panama and its armed forces, they even more adequately provide for the security interests of the United States.

That concludes my statement. I shall be pleased to answer any questions you may have.

COMMITTEE ON GOVERNMENTAL AFFAIRS REPORT PURSUANT TO SECTION 302(b) OF CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, I herewith submit the report of the Committee on Governmental Affairs concerning the budget authority allocated to it in the joint explanatory statement of managers accompanying the conference report on the second concurrent resolution on the budget, and ask unanimous consent it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS, U.S. SENATE
2D REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[Figures in millions of dollars]

	Fiscal year 1978 direct spending jurisdiction	
	Budget authority	Outlays
Controllable programs:		
Department of Commerce, Bureau of the Census: Special studies, services, projects	4	4
District of Columbia: Advances to stadium sinking fund, Armory Board	1	1
The Judiciary: Trust funds, Operation of the Public Defender Service for the District of Columbia	2	2
General Services Administration:		
Real property activities, expenses, disposal of surplus real property (special fund)	1	1
Records activities, National Archives gift fund	(1)	(1)
National Archives trust fund		(1)
Advisory Commission on Intergovernmental Relations	(1)	(1)
Controllable subtotal	8	8
Other programs:		
Civil Service benefit funds:		
Retirement and disability fund	17,592	11,274
Employees life insurance fund (trust revolving)	0	−425
Employees health benefits fund (trust revolving)	0	−30
Retired employees health benefits fund (trust revolving)	0	6
Federal payment to civil service retirement and disability fund	5,139	5,139
Department of the Treasury: Secret Service, contribution for annuity benefits	6	6
Other subtotal	22,737	15,970
Committee total	22,745	15,978

[1] Represents amounts less than $500,000.

Entitlements: The only entitlements program under the jurisdiction of the Governmental Affairs Committee requiring appropriation action is for the Compensation of the President, in the amount of $200,000 (budget authority and outlay).

Sept. 27, 1977.

GAS FOR HOSPITALS AND SCHOOLS

Mr. SPARKMAN. Mr. President, last winter the natural gas shortage that resulted from the bitter cold and our sadly declining supplies forced the closing of many businesses and factories throughout Alabama as well as most other States. Residential users were protected from being cut off from natural gas supplies, because they are considered by the Federal Power Commission and most State agencies as the highest priority users, as they should be. Cutting off gas to industry and commerce is devastating to local economies and threatens the financial well-being of workers and their families. But cutting off homes would threaten their very survival.

Although this assignment of priorities seems to be appropriate, there are two types of users of natural gas whose needs are not appropriately recognized in the scheme of natural gas allocations during a shortage. I refer to schools and hospitals. I favor the Riegle amendment to put schools and hospitals along with residential and small commercial customers into the highest priority classification.

It is hard for me to understand how the discontinuance of vital energy supplies to a hospital could be considered. Hospital patients, already threatened by other factors—the reasons for their being in hospitals—should not be further jeopardized by natural gas curtailments in the hospital, even while their homes are still heated. Natural gas is used for many crucial purposes other than heating in hospitals. The ill and infirm of our society who require hospitalization should be more protected from shortages of vital energy than those of us who are healthy and vigorous.

I would also include schools in the highest priority category. Any commercial establishment which uses less than 50,000 cubic feet on a peak winter day can qualify for the highest priority. This includes many establishments which are not as important to our society as our schools. Last winter we closed the doors on our schools in many areas while the doors remained open to nonessential, even frivolous enterprises. Is it more important to continue the operation of low priority businesses than to continue our children's educations? From what does society profit more than from its schools? When we curtail natural gas supplies to schools are we making a wise judgment about our priorities? I think we are not.

I urge my colleagues to join me in adding hospitals and schools to those categories of uses which are the last to be curtailed from natural gas.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. I ask unanimous consent that the official notification be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 23, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 23, 1977.

In reply refer to: I-7876/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an African country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Anency and Deputy Assistant Secretary (ISA), Security Assistance.

REGULATORY AGENCY BIAS TOWARD INDUSTRY

Mr. PERCY. Mr. President, independent regulatory agencies play a major role in determining the nature of our society. All types of industries, from television to

trucking to toys, fall under the purview of regulatory agencies.

The underlying raison d'etre for any regulatory agency—indeed, perhaps for Government itself—is the protection of consumer welfare. Yet, far too often we find that consumers have little or no input into the regulatory decisionmaking process.

Several recent studies, including the Senate Committee on Governmental Affairs' study, "Public Participation in Regulatory Agency Proceedings," conducted pursuant to Senate Resolution 71, help to document this problem.

Last fall, Common Cause issued a report entitled "Serving Two Masters." This study indicated that the impartiality of the Federal regulatory agencies is jeopardized by the disproportionate number of officials who come to Government from the regulated industries, by high-level employees with stock in regulated industries, and by the high proportion of public employees who leave Government to go to work for private interests with which they had direct dealings while in Government service. Indeed, the "revolving door" appears to be quite popular.

A new study by Common Cause issued last month, entitled "With Only One Ear," is no more optimistic. Based on a survey of the appointment calendars of 39 Federal regulatory commissioners during the year 1976, the study reveals that these commissioners met with representatives of industry 10 times as often as with consumer spokespersons. Forty-six percent of the commissioners' meetings with outside groups were with industry representatives, while only 4 percent were with spokespersons for consumer and other nonindustry groups. Seventeen of the 39 commissioners recorded no consumer contacts during the year.

As usual, the Common Cause study addresses a timely issue in a responsible manner. The industry-consumer imbalance revealed in "With Only One Ear" is a situation that must be remedied. It demonstrates the need for an agency which will represent consumers—an Agency for Consumer Advocacy—in their dealings with the Federal Government. A bill which would establish such an agency will come before the Senate next session. Its passage is long overdue.

Because of the importance of this issue and the need to deal forthrightly with it, I ask unanimous consent that the summary of "With Only One Ear" together with a summary of findings of the Senate Committee on Government Affairs' "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings," be printed in the RECORD.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

WITH ONLY ONE EAR: A COMMON CAUSE STUDY OF INDUSTRY AND CONSUMER REPRESENTATION BEFORE FEDERAL REGULATORY COMMISSIONS, AUGUST 1977

SUMMARY

Federal regulatory commissioners have often been criticized for being unduly responsive to the viewpoints of the industries they are charged with regulating. The data contained in this study, based on a Common Cause survey of the appointment calendars of federal regulatory commissioners, document the close contacts regulatory officials maintain with industry representatives. The data also reveal that consumer representatives have relatively few meetings with commissioners of the independent federal regulatory commissions. During 1976, the data show, the 39 commissioners who supplied the requested information met with representatives of industry ten times more often than they did with consumer representatives.

Industry has a constitutional right, like that of any individual citizen, to lobby government for favorable action. Consultation between regulatory officials and industry representatives is an essential part of effective policy-making in regulatory agencies. But Common Cause believes the underrepresentation of consumer interests and the secrecy often surrounding contacts between regulatory officials and industry agents revealed here raise serious questions of agency bias toward industry viewpoints. Present regulatory decisions are suspect in the public's view because of the narrow range of facts and viewpoints on which they are based.

Specific information regarding regulatory officials' contacts with industry is generally unavailable to the public. Only one of the 11 independent federal regulatory agencies surveyed—the Consumer Product Safety Commission—has adopted regulations requiring the maintenance and public disclosure of comprehensive records of outside contacts. At other agencies, most commissioners maintain some form of appointment record but for their personal use rather than for public information. As a result, recording practices vary widely.

The data presented in this study are the result of a six month project by Common Cause. Of the 50 federal regulatory commissioners who served for at least five months during 1976, eleven were unwilling or unable to supply any form of appointment record. Their responses to our requests ranged from simple refusals to make their calendars public to a statement by one commissioner that he destroys his records at the end of each year. The remaining 39 commissioners provided appointment calendars of varying degrees of completeness. Most of these calendars required considerable clarification from the commissioner or staff members.

The data in this study should not be used to single out individual commissioners or commissions as pro- or anti-consumer. The data supplied by the regulatory commissioners is necessarily incomplete because of the lack of a uniform system of record keeping. The data, however, do reveal significant patterns in the meeting practices of the commissioners as a whole. Common Cause found that:

"Forty-six percent (or 1,273 of the 2,786 recorded outside contacts by the 39 commissioners were with industry representatives.

"Only 4 percent (or 121) of the commissioners' recorded outside meetings were with representatives of consumer or public interest organizations or concerned individuals.

"Forty-four percent (or 17) of the 39 commissioners who were willing to make public their appointment records for 1976 recorded no contact with consumer or public interest representatives at any time during the year."

The Common Cause findings complement the findings of two recent Congressional studies of federal regulation. In October of 1976, the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce of the U.S. House issued a study concluding that "the actions of regulatory agencies reflect more than anything else their primary attention to the special interests of regulated industry and a lack of sufficient concern for underrepresented interests." In July of 1977, the Committee on Governmental Affairs of the U.S. Senate issued a study finding that "in agency after agency, participation by the regulated industry predominates—often overwhelmingly. Organized public interest representation accounts for a very small percentage of participation before Federal regulatory agencies."

The Common Cause study concludes that increased public representation in commission proceedings is needed along with a comprehensive system of public logging of commissioner contacts with outside parties. The study points out that the lack of contact with consumers is often the result of the lack of organized consumer groups rather than inhospitable attitudes on the part of commissioners. The Common Cause study endorses two complementary legislative proposals that were recommended in the Senate and House committee studies:

"Establishment of an independent, nonregulatory consumer agency with authority to advocate consumer interests before federal agencies and courts; and

"Authorization to provide compensation to eligible persons for costs incurred in participating in agency proceedings."

In addition to increasingly public participation in regulatory decision-making, the Common Cause study recommends adoption by President Carter of a proposed executive order to require top officials to log outside contacts. Common Cause believes that a logging procedure would help counterbalance interest group pressures by increasing agency accountability.

A copy of the proposed executive order as submitted to the White House by Common Cause in February of 1977 is appended to the study. The order is still under review. Its major features include:

"Coverage of federal agency officials and employees at and above the GS-16 level and other employees designated by their agencies;

"Logging of meetings and telephone calls on substantive policy matters between covered employees and persons who have an interest in influencing official action (there are exemptions for informants, news media, and other appropriate situations);

"Logs must provide the date and place of the communication, the name, affiliation, and position of participants, and a brief description of subjects discussed;

"Logs must be made available to the public by designated agency officials, consistent with the Freedom of Information Act; and

"Employees who violate the order would be subject to disciplinary action."

[Report From the Senate Committee on Governmental Affairs, Study of Federal Regulation, Volume III, July 1977]

PUBLIC PARTICIPATION IN REGULATORY AGENCY PROCEEDING

SUMMARY OF FINDINGS

The following is a restatement of the major findings and conclusions of this report, listed by chapter.

Need for public participation

(1) Full public participation in the regulatory agencies are to effectively discharge their mandate to regulate in the public interest.

(2) Increased public participation and input can provide regulators with a greater range of ideas and information, broaden the active constituency of the agency, and place greater emphasis on public interest concerns and viewpoints. A lack of such public participation, on the other hand, requires regulators to rely too heavily on input from the industry they are charged with regulating.

Extent and cost of participation

(3) At agency after agency, participation by the regulated industry predominates—often overwhelmingly. Organized public interest representation accounts for a very small percentage of participation before Federal regulatory agencies. In more than half of the formal proceedings, there appears to be no such participation whatsoever, and virtually none at informal agency proceedings. In those proceedings where participation by public groups does take place, typically it is a small fraction of the participation by the regulated industry. One-tenth is not uncommon; sometimes it is even less than that. This pattern prevails in both rulemaking proceedings and adjudicatory proceedings, with an even greater imbalance occurring in adjudications than in rulemaking.

(4) The single greatest obstacle to active public participation in regulatory proceedings is the lack of financial resources by potential participants to meet the great costs of formal participation. Lack of funds has prevented public participation in many important proceedings.

(5) The regulated industry consistently outspends public participants by a wide margin in regulatory agency proceedings. In every case or agency reviewed, industry spent many times more on regulatory participation than their public interest counterparts. In some instances, industry committed as much as 50 to 100 times the resources budgeted by the public interest participants. For example, in 1976 the nation's 11 trunk airlines spent more than $2.8 million on outside counsel to represent them in regulatory proceedings before the CAB. By contrast, the Aviation Consumer Action Group, the principal representative for public interest organizations at CAB proceedings, had a total 1976 budget of $40,000, of which approximately half was spent on participation in CAB proceedings.

(6) Lack of resources has limited the amount of technical expertise that participant groups have been able to bring to bear in agency proceedings.

(7) Opportunities for citizen participation are hampered by significant administrative costs such as transcript fees and reproduction of required materials.

Standing and intervention rights

(8) The Supreme Court in recent years has taken an increasingly restrictive view of the standing requirements that make it difficult for citizens to obtain judicial review of allegedly unlawful Government action. At present, some of the Supreme Court's decisions in this area constitute a considerable barrier to citizen participation in the regulatory process.

(9) Although agencies generally have relaxed intervention requirements in recent times, there is considerable variance in the standards between agencies. In some cases, the standards have not been precisely or clearly defined; in the case of other agencies, the standards have been conservatively applied. Greater clarity and uniformity is needed to assure full public access to administrative agency proceedings.

Administrative obstacles to participation

(10) Delay, which is a general problem in regulatory agency activities, is particularly burdensome to participating citizen groups. Prolonged proceedings result in straining further the usually limited resources of such groups and hinders effective and constructive participation. The prospect of expensive, protracted proceedings, has a chilling effect which frequently means that public participation is effectively precluded from the outset.

(11) Potential public participation is often foreclosed by inadequate notice of pending proceedings. Although some agencies have utilized the general and trade press, mass mailings, and agency publications, most agencies seldom make active efforts to solicit public views on important proceedings. This may be the only way for individual citizens, as opposed to citizen groups, to be alerted to proceedings which may affect them.

(12) Some agency proceedings provide inadequate time for effective public participation. These include FPC proceedings in which rate increases are granted with no opportunity for participation until after the rate increase goes into effect; FPC proceedings in which multiple and updated filings change the matters being decided by the agency; and NRC proceedings in which public participants are effectively excluded at early stages as a result of agency staff working with the regulated industry in advance of an announcement of a formal agency proceeding.

(13) Informal negotiations between the FCC and the broadcast networks—as in the case of the "family viewing" hour—in lieu of official agency proceedings, resulted in circumventing the notification and public participation requirements of the Administrative Procedure Act. Such practices make effective public participation impossible.

Public counsel office

(14) The effectiveness of both the CAB Office of Consumer Advocate and the ICC Office of Rail Public Counsel has been limited by the lack of full statutory independence from direction and control by the parent regulatory agency.

(15) Congressional intent in establishing the Office of Rail Public Counsel in the Interstate Commerce Commission has been thwarted by the failure of the President to nominate a Director of that Office.

(16) The Office of Consumer Advocate at the Civil Aeronautics Board has been more successful in promoting consumer interests in such areas as overbooking and baggage handling, than in relation to fundamental economic questions, particularly fare increases. The Office of Consumer Advocate has stopped short of full advocacy of consumer interests in deregulation and lower fares.

(17) The outreach program of the current Public Counsel office in the Interstate Commerce Commission has been highly successful in enabling communities to participate in rail reorganization planning.

Direct compensation of intervenors

(18) The Federal Trade Commission's program, pursuant to the FTC Improvement Act, of providing compensation to certain participants in rulemaking proceedings, has allowed for the presentation of diverse viewpoints and information that otherwise would not have been presented.

(19) There is no evidence that the encouragement of participation through a compensation program would, by itself, lead to delay of agency proceedings, unless additional participants raise new issues which should be considered.

Complaint handling

(20) Most regulatory agencies do not sufficiently utilize the complaints they receive from the public in agency policymaking, particularly in rulemaking.

(21) Most regulatory agencies do not use complaints they receive from the public to inform the public about the performance of regulated industries and potentially dangerous products.

Advisory committees

(22) Although a much higher proportion of regulatory agency advisory committee meetings are open than is the case for other Government agencies, there have been important and unwarranted instances when meetings have been closed.

(23) Nearly all regulatory agency advisory committees do not have a balanced representation of viewpoints in that they seriously lack representation of consumer and other broad public interests.

Public understanding of agency regulations

(24) Citizen participation in the regulatory process cannot be effective unless the general public is able to comprehend agency action. Agency rules and regulations are frequently obsolete, conflicting, confusing, or obscure. For years, Federal agencies have issued rules without systematic, periodic evaluation of those already on the books. Also persons involved in drafting regulations are too often ill-equipped and untrained for that responsibility.

SUMMARY OF RECOMMENDATIONS

The following is a restatement of the major recommendations contained in this report, listed by chapter.

Requirements of standing and intervention

(1) Congress should ease the requirements of standing in order to provide greater public access to the Federal courts for review of regulatory agency decisions:

(a) Legislation should be adopted to provide that when a statute has been designed primarily to benefit the general public, any member of the public has standing to sue to enforce the provisions of that statute.

(b) Congress should amend the Administrative Procedure Act to provide that when permission is granted to a party to intervene in an administrative agency proceeding, the requisite for standing to seek judicial review of the proceeding will be satisfied.

(c) Congress should, where appropriate and necessary, incorporate permissive standing into specific pieces of legislation.

(2) Congress should amend the Administrative Procedure Act to provide full opportunity for public intervention in regulatory agency proceedings. A general interest standard should be established, and agencies should be required by statute to grant intervention if:

(a) A clear interest, economic or otherwise, is established which is likely to be affected by the outcome of the proceeding; and

(b) that interest is not adequately and competently represented by the existing participants, other than the Government.

However, agencies might impose reasonable limitations on participation in the interest of (i) restricting irrelevant, duplicative, or repetitive evidence or argument, (ii) having common interests represented by a single spokesperson, and (iii) retaining authority to determine priorities and control the contents of the proceeding.

Administrative obstacles to participation

(3) Regulatory agencies should actively solicit the views of the widest possible public in all rulemaking and adjudicatory proceedings with significant and wide-reaching impact. Such public notification should include efforts to reach the public at points of contact with regulated industries as well as by broadcasting, advertising, and mailings.

(4) Regulatory agencies should hold regional hearings whenever a proposed action would have a significant or unusual regional implication or effect. Consideration should also be given to holding certain hearings in the evening and on weekends to facilitate public participation.

(5) In agency licensing proceedings where substantial agency staff consultation precedes submission of the license application—for example, with respect to nuclear plant licensing by the Nuclear Regulatory Commis-

sion and hydroelectric project licensing by the Federal Power Commission—the applicant should be required to file a letter of intent, to be published in the Federal Register, before beginning work with the agency staff on the formal application.

(6) Because rapid changes in the matter being decided unduly hamper public participants, rate making agencies should severely restrict repeated updated filing and multiple rate filings by the regulated industry. Because there is no effective opportunity for public participation after a rate increase is in effect, rate increases should not go into effect until after they have been found to be fair and reasonable.

Independent Consumer Agency

(7) Congress should establish an independent nonregulatory consumer agency that would: (1) have full intervention, participation, and appellate rights to advocate consumer interests before the Federal agencies and the Federal courts; (2) undertake studies and disseminate information of importance to consumers; (3) serve as a consumer complaint clearinghouse; (4) possess authority to obtain information needed to carry out its functions; and (5) have adequate funding to assume these responsibilities.

Public Counsel Office

(8) Internal consumer advocate offices should be established within major Federal rate setting regulatory agencies. These include the Civil Aeronautics Board, the Federal Power Commission (Energy Regulatory Commission), the Federal Communications Commission (Common Carrier Bureau), and the Interstate Commerce Commission.

These offices should be statutorily established and separately budgeted to assure independence. They should have full powers of intervention and authority to seek judicial review. These offices should have consumer complaint handling responsibilities, and should also be permitted to advise and assist independent groups who seek to represent broad interests.

(9) Congress should provide grants to States for the establishment and operation of offices of consumer services to assist consumers in their presentations before State banking, insurance and telephone rate regulation commissions.

Direct compensation of intervenors

(10) Congress should enact legislation authorizing agencies to provide compensation to eligible persons for costs incurred in participating in agency rulemaking, ratemaking, licensing, and certain other proceedings. Eligibility for compensation of reasonable costs should be conditioned on whether (a) the participant can reasonably be expected to make a substantial contribution to a fair determination of the issues; and (b) the economic interest of the person is small in comparison to the cost of effective participation or the participant does not have sufficient resources to participate effectively. Such legislation should also provide compensation to eligible persons for costs incurred in seeking judicial review of agency actions.

(11) Until such time as general legislation for compensation of public participation costs is enacted, regulatory agencies should implement their own programs to compensate eligible participants in agency proceedings as appropriate.

(12) The APA should be amended to empower agencies to order "fee shifting" in cases of bad faith, willful violation of an agency order or other egregious conduct. Agencies should have the power, as do the courts, to allow exceptions to the general American rule that litigating parties pay their own attorneys fees, whether they win or lose.

Complaint handling

(13) Each regulatory agency that normally receives complaints from the public should have a central complaint handling office charged with the orderly logging and classification of complaints. This office should also be directed to bring patterns of complaints to the attention of the highest appropriate level in each agency for enforcement and rulemaking attention.

(14) In agencies dealing with consumer products and services, such as the CAB, ICC, and CPSC, complaint summaries should be produced and made publicly available.

(15) Individual complaints should be available for public inspection, with proper safeguards against bad faith complaints and protection for privacy rights of complainants.

Advisory committees

(16) Agencies should act to remedy the lack of consumer and other public interest representation that now exists on most advisory committees.

(17) Agencies should solicit and honor nominations for service on advisory committees from recognized citizen groups in appropriate fields.

(18) Advisory committee meetings of consequence should be announced at least 15 and, if possible, 30 days in advance and should be widely publicized in appropriate publications, as well as the Federal Register.

Public understanding of agency regulations

(19) Congress should require regulatory agencies to review their rules and regulations, and eliminate or modify and conflicting, inconsistent, redundant, or inactive provisions. Every effort should also be made to clarify rules in simple, easy to understand language. In the review process, agencies should submit proposed recodifications to a panel composed of citizens, whose duty is to advise the agencies of matters of clarity and organization. A complete review of agency rules should be accomplished within 2 years after enactment of this legislation.

(20) The Federal Register should require agencies submitting proposed rulemaking documents to state that a good-faith effort was made to determine that the proposal does not conflict with or duplicate any existing rules. Any similarity or inconsistency should be explained or justified in the rulemaking proposal submitted to the Federal Register.

THOUSANDS WELCOME VIETNAM DELEGATES

Mr. MOYNIHAN. Mr. President, it is seldom that one is dismayed by a gathering of American citizens in support of a political objective—except when that objective is repugnant to American principles and to common decency generally. Such a gathering occurred in the city of New York 2 nights ago. Members of the Vietnamese delegation to the United Nations were feted at a New York theater, their attacks on the United States applauded by many of the Americans in attendance. The New York Times reports that at least one official of the U.S. Government was in attendance. He is quoted as being "deeply moved" by the experience of having his own country and his own Government excoriated by the spokesman of a Stalinist dictatorship in Vietnam.

Eric Sevareid of the Columbia Broadcasting System rightfully characterized that gathering as one of persons who were anti-American and pro-Hanoi, whose supposed antiwar sentiment was in fact directed exclusively against the United States. It is of course a tribute to our Constitutional system that it protects the rights of those who wish to express their support even for totalitarian enemies of the United States. It remains the responsibility of the rest of us to point out what has occurred.

I ask unanimous consent that the New York Times article I referred to be printed in the RECORD and that Mr. Sevareid's astringent commentary be printed immediately thereafter. This is political counterpoint which deserves broader appreciation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 26, 1977]

THOUSANDS WELCOME VIETNAM DELEGATES—ANTIWAR ACTIVISTS AMONG THOSE AT CEREMONY IN NEW YORK FOR UNITED NATIONS TEAM

(By Pranay Gupte)

With an explosion of emotion yesterday, Vietnam's new delegation to the United Nations was greeted by thousands of its American friends and supporters, many of whom had opposed the United States involvement in Indochina. In songs and speeches they suggested that a new, more harmonious era between the two countries was about to begin.

"Your presence here finally puts the past behind us," Cora Weiss, a longtime antiwar activist, said to the Vietnamese at a ceremony at the Beacon Theater, Broadway and 74th Street. Her reference seemed to be as much to the end of the Vietnam war as to the recent admission of that nation to the United Nations—admission that the United States had opposed several times.

As she spoke, dozens of supporters of what was once the Saigon Government stood in the rain outside the theater and chanted slogans accusing the Vietnamese Government in Hanoi of ignoring human rights. Occasionally, a sharp argument would break out between the demonstrators and passersby, and at one point it even looked as though there might be a fistfight. There were no arrests, although policemen watched warily.

Mrs. Weiss was repeatedly cheered during her speech, but the applause was loudest when she called on the Carter Administration to provide financial assistance for the reconstruction of Vietnam.

She looked down from the dais at members of the Vietnamese delegation. She smiled, they smiled back.

"Welcome, welcome in the name of the American people," Mrs. Weiss shouted.

The audience of about 2,500 rose to its feet, roared, and clapped for many minutes.

As the cheering continued, Mrs. Weiss beckoned to the Vietnamese, four of whom walked up to the stage and, with their hands clasped above their heads, acknowledged the applause of the crowd, which had been invited by Friendshipment, a coalition of peace and religious groups in this country, which Mr. Weiss is affiliated.

One of the Vietnamese, Ngo Dien, the Deputy Foreign Minister of Press and Information, then stepped to the microphone and read a speech, a substantial portion of which was an attack on United States "imperialists."

"From such a long distance the American imperialists send half a million troops to wage a bloody colonial war," he said in English. "Yet no enmity exists between the Vietnamese and American people."

Heavy applause interrupted him.

Mr. Dien motioned for quiet, then continued: "How can we accept that those who dropped 50 million tons of bombs on Vietnam not contribute to the healing of war wounds?" There was more applause.

"Long live the friendship between the Vietnamese and the American people!" Mr. Dien declared.

The crowd once again rose to its feet and cheered.

Among those who applauded was Ramsey Clark, the former United States Attorney General. "I'm very happy to see Vietnam finally in the United Nations, where they belong," he said.

The man next to him nodded. He was Sam Brown, the former antiwar activist, now an official in the Carter Administration.

"I am deeply moved," he said. "It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?"

"I believe we ought to aid the Vietnamese in their reconstruction," Mr. Brown said, adding that he hoped President Carter could be persuaded similarly.

Then Pete Seeger sang a few songs, some from the days of the antiwar protests in which many of those in yesterday's audience had participated. Later there were hugs and kisses, much like in a class reunion.

"We've waited so long, so long for this day," said Evie Moore, who was among those present. There were tears in her eyes.

CBS EVENING NEWS WITH WALTER CRONKITE

WALTER CRONKITE. The United Nations General Assembly opened debate today before representatives from 149 countries, the newest member—Vietnam. Eric Sevareid comments.

ERIC SEVAREID. The UN General Assembly has reconvened in New York, including representatives of the regime that now runs a unified Vietnam. They won their war. They have demonstrated full control of that country. The principle of universality must govern UN membership, not likemindedness, so they are entitled to their seat. Americans must put up with that.

What they may properly react to is the transaction that occurred yesterday in a New York theater. Several thousand other Americans joyfully welcomed the Hanoi delegation, one of whom promptly denounced what he called U.S. imperialism and demanded money payment from this country. One newspaper describes the gathering as the antiwar movement coming together again. It was, rather, that part of the antiwar movement which was not antiwar at all; it was anti the American role in the war and pro Hanoi. This group never had the slightest objection to the murderous civil war in Vietnam, which was started by the Hanoi Communists, who invaded the South, where the war was entirely fought save for the American bombing of the North.

There's a great difference between those Americans who wanted the United States out of the war because they thought it was none of our business, unwinnable, morally and politically destructive of our own principles and our own society—between them and the Americans who wanted Hanoi to win. It was the latter, for the most part, who met in the theater, and they had the effrontery to welcome the Hanoi officials in the name of the American people. There is nothing most Americans want to forget more than Vietnam, but this occurrence obliges us to do a little remembering—to remember the thousands of North Vietnamese farmers cold-bloodedly liquidated by the Hanoi Communists in the name of their class warfare doctrine; a million or so ordinary people of the North driven into exile in the South, men, women and children on foot, tens of thousands of Catholics among them; the thousands of village leaders in the South executed by Vietcong assassination squads. And to remember that at no time was there evidence that the majority of Southern Vietnamese desired communist rule and much evidence that a majority feared and loathed the prospect. They were not a downtrodden starving people, however inefficient and often corrupt their officialdom, which never imposed massive regimentation upon them.

Most of those in the New York theatre were not celebrating peace. They were celebrating the triumph of communist totalitarianism, which is what they had always been working for in the guise of a peace movement.

CRIME KEEPS PACE WITH TECHNOLOGY: THE COMPUTER AGE AND SENATOR RIBICOFF RESPONSE

Mr. PERCY. Mr. President, in the last decade our Nation has been plagued with an alarming increase in the crime rate. While much of our attention has been focused on the violence and immediacy of crime in the street, we are also faced with an ever-increasing amount of white collar crime. Like the rest of our society, the criminal element is doing its best to keep up with the rapid technological advances of our age. We are now confronted with the very real danger of massive computer crimes which may involve individual thefts of millions of dollars.

The difficulties we face in combating crime in the computer age are many. Computer thefts and misuse are extremely hard to detect. Very few law enforcement officials and prosecutors are familiar enough with the technical issues to prosecute effectively and convict computer criminals. Private firms and banks are sometimes reluctant to divulge the fact that such crimes have occurred within their institutions. Present laws do not provide the public with adequate protection against computer theft.

On June 27, 1977, my distinguished and respected colleague, Senator RIBICOFF introduced S. 1766 entitled "Federal Computer Systems Protection Act of 1977." I was pleased to be one of eight cosponsors of this bill which, if adopted would be the first law enacted by the Congress aimed directly at controlling crime by computer. It would impose heavy prison terms and stiff fines for electronic burglars who use the computer systems of the Federal Government, financial institutions, and other entities to steal or manipulate information, financial instruments, and other property. This legislation, which is urgently needed, is the culmination of a year's study of computer security in Federal programs by GAO and the staff of the Governmental Affairs Committee.

I recently read an illuminating two-part article in the New Yorker magazine, entitled "Annals of Crime: Dead Souls in the Computer," by Thomas Whiteside which appeared in the August 22 and August 29 issues. It cites numerous examples of the ingenious ways in which computer criminals operate, and describes the very serious problems involved in maintaining the security of the information stored in the computers. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Yorker, Aug. 22, 1977]

ANNALS OF CRIME—DEAD SOULS IN THE COMPUTER—I

(By Thomas Whiteside)

Crime usually does its ingenious best to keep pace with technology, so it is probably inevitable that some of the more interesting specialized manifestations of criminality to emerge recently have had to do with deliberate misuses of the computer. Over the past two decades, computers have come to play such a dominant role in the processing of all kinds of information that it is now difficult to imagine any large-scale enterprise being able to function without them. In banking; in conducting credit transactions of every kind, including those involving credit cards; in keeping records of corporate sales; in drawing up inventories and payrolls; in trading securities; and in maintaining Social Security, health, welfare, and tax records—in all these activities the computer has become an essential organizational tool. Some hundred and fifty thousand computers are currently in use in the United States, but that figure does not reflect the true extent of computerization in the country, for just one large computer may serve several thousand individuals or corporations, who, on a time-sharing basis, feed their particular programming data into it by telephone connection from remote keyboard terminals or other devices, and receive, via telephone line, printouts or other records of processed information. The number of Americans now directly involved in computer operations is more than two million. This group includes programmers, who translate written information into binary computer language and prepare it in step-by-step logical form for electronic processing; operators who handle the computers themselves and their data-storage libraries; and operators at keyboard terminals and printout terminals.

The number of citizens whose lives are affected by computers is, of course, incomparably greater than this, for it includes practically everyone who has a bank account, engages in any kind of credit transactions, or has any kind of financial relationship with the government or with any large organization. In fact, one would have to be a hermit nowadays to avoid involvement in the economic and social consequences of computer-processing activity. To most people, the computer is a sort of unseen universal engine of unfathomable complexity—a device capable of calculating at incredible speed the correct path to land spacecraft on Mars, the status of one's bank account, or the seating available on a commercial-airline flight. It seems to possess an almost magical ability to produce certainty out of a box, and at the same time it endows what used to be transactions between human beings, which were slower and perhaps less efficiently conducted, with an air of chilling impersonality. The intimidating effect of the computer is not confined to people who have only an ordinary citizen's knowledge of its functioning but often extends to managers and chief officers of big corporations that employ computers on a large scale. These executive types seem to be fascinated by the efficiency of computers and by the endless printouts that can be ordered up at the touch of a button, and too often they tend to place in the veracity of these instant and apparently unassailable results a faith that they would almost certainly hesitate to place in the work of mere human beings. Even professional auditors seem frequently to give unusual credence to the accuracy of the computer printouts that form a large part of the evidence of an organization's financial position. Often, an auditor's faith in the computer has led to surprises.

The impersonality of the computer also affects the people who are in the computer profession—who work as programmers or computer operators, or who staff remote terminals connected to the computers. But, having a working understanding of what computers can and cannot do, these people are less prone to intimidation by the computing process than are the managers of the corporations that employ them or the citizens the daily details of whose lives are now so largely subject to computer accounting and recording. It seems that a sort of computer mystique has helped make possible a significant increase in illegal manipulations of the computer, in which it and its technology have been used as instruments of embezzlement, fraud, and theft.

It also seems that computers have driven some people who work with them to crimes that have taken on the quality of ideological acts. A clear example, involving theft through a computer of what in this kind of crime is an altogether trifling sum—the equivalent of seven hundred and twenty dollars—was than of an English salary clerk named Henry King. In a court in Cambridge, he pleaded guilty to manipulating the computer programming for his company's salary accounts in such a way as to have the computer pay him salary checks to which he was not entitled. In his defense, his lawyer explained to the court that King had undertaken to outwit his company's computer because it was "a horrible impersonal machine."

Records of computer crime contain a number of instances in which the computer has been an object of physical attack, for the reason that someone has come to regard it either as a kind of electronic destroyer of personal identity or as an abhorrent symbol of corporate capitalism. Sometimes these attacks are committed by programmers or other computer processors in irrational outbursts, and sometimes they are planned, for political or other reasons. Several incidents have involved guns being fired at computers. In 1974, at an installation at the Charlotte Liberty Mutual Life Insurance Company, in Charlotte, North Carolina, a computer operator, apparently in a fit of frustration, was reported to have fired a handgun several times at the company computer. In Olympia, Washington, in 1968, an unknown person fired two shots from a pistol at an I.B.M. 1401 computer in a state employment office. And in a municipal office in Johannesburg, South Africa, in 1972, an unidentified person, who city officials suspected may have been the recipient of an exorbitant bill of some kind, fired four shots through a window at a computer. The computer was dented but continued working.

Where guns have not been used, attackers seem to have employed any instruments at hand to disable computers. After half a million dollars had been spent in attempts to correct fifty-six serious breakdowns over a two-year period in a Burroughs 3500 computer used by the National Farmers Union Service Corporation of Denver to process data from the Farmers Union insurance companies, a computer operator was arrested and accused of having caused the breakdowns by inserting a car key in a memory-disc file, thus short-circuiting the computer's memory. The suspect, who was caught in 1972 through the use of a closed-circuit television monitor, was subsequently quoted as telling police that he had committed the acts because of an "overpowering urge" to shut the computer down. A while later, in New York, a memory system in a Metropolitan Life Insurance Company computer was found to have been damaged by an attack with a screwdriver. And an attack in 1972 on the core memory system of a Honeywell computer used by a New York bank—this one evidently also carried out with a pointed instrument—caused damage to the computer estimated at five hundred and eighty-nine thousand dollars.

Computers have also been the targets of sabotage by radical and revolutionary groups. During the Vietnam war, a number of computer centers on American campuses—particularly those at universities reported to be engaged in Defense Department research—were bombed by radical students. In 1970, for example, a computer center at the University of Wisconsin was bombed, resulting in the death of one student and damage estimated at one and a half million dollars. In the same year, a Molotov-cocktail bombing of a computer at Fresno State College, in California, caused damage estimated at a million dollars. In 1973, antiwar demonstrators in Australia shot a computer in the offices of an American computer manufacturer in Melbourne. The weapon used was a double-barrelled shotgun, and the damage to the computer was extensive. At New York University, in 1970, a group of radical students placed gasoline bombs on an Atomic Energy Commission computer being used by the university, and declared that they would destroy the computer unless they were given a hundred thousand dollars to pay the bail bond of a jailed Black Panther. Faculty members raced into the computer room in time to defuse the devices.

An attack on an academic computer facility in Rome last June was more successful. According to a Reuters dispatch, three masked women, armed with rifles and a silencer-equipped pistol, held two professors and an assistant on duty powerless in a computer center at the university while a male accomplice poured gasoline on the center's computer and then set it on fire. The computer-terrorist women gave no motive for their behavior. Damage to the computer and the premises was estimated at more than two million dollars.

The impersonality of the computer and the fact that it symbolizes for so many a system of uncaring power tend not only to incite efforts to strike back at the machine but also to provide certain people with a set of convenient rationalizations for engaging in fraud or embezzlement. The computer lends an ideological cloak for the carrying out of criminal acts. Computer crime, to those who engage in it, is not like stealing a purse from an old lady; it imparts to theft a nice, clean quality. Except in actual physical assaults on computers, computer crime is seldom associated with overt violence. It also holds several other attractions for the potential lawbreaker. It provides intellectual challenge—a form of breaking and entering in which the burglar's tools are essentially an understanding of the logical structure of and logical flaws inherent in particular programming and processing systems. It opens the prospect of obtaining money by means that, while clearly illegal, do not usually involve taking it directly from the till or the cashier's drawer. In most large organizations, money that is kept on the premises is guarded far more strictly than the company computers and their contents are. In our computer-oriented society, however, the use of actual money has become less frequent; instead, its equivalent circulates vicariously, in the form of digital information on tapes or other storage devices. Only the proper application or manipulation of computer logic can convert these signals into real money, by directing them electronically to particular accounts, on which negotiable checks can be drawn. (More likely than not, the checks are made out by a computer.) The attenuation of money into digital impulses has probably contributed to the increasing incidence of waywardness among people who continually process so much of it in such a form.

Other tempting features of computer crime, as distinct from other forms of criminal activity, are that most such crimes are difficult to detect and that when the guilty parties *are* detected not much seems to happen to them. For various reasons, they are seldom intensively prosecuted, if they are prosecuted at all. On top of these advantages, the haul from computer crime tends to be very handsome compared with that from other crimes. For example, the average take in armed bank robberies committed in this country, the Federal Bureau of Investigation says, is currently ten thousand dollars. The average amount from all reports of missing funds from banks, including bank fraud and embezzlement, according to F.B.I. statistics, is about nineteen thousand dollars. Donn B. Parker, a computer-security expert at Stanford Research Institute (now S.R.I. International), in Menlo Park, California, who has made a specialty of gathering information on computer abuse and is the author of a book called "Crime by Computer," carried out a study of forty-two computer-related bank frauds and embezzlements committed in this country between 1962 and 1975, and found that the average take per crime was four hundred and thirty thousand dollars. While some reported computer crimes involve the theft or embezzlement of only thousands of dollars, quite a few involve very large sums; a million dollars from a computer crime is considered a respectable but not an extraordinary score. Still another attraction of crime by computer is the fact that once someone succeeds in breaking the security of a computer system, large amounts of money are not necessarily any more difficult for him to steal or embezzle than small ones. The total sums being stolen or obtained by fraud in this country through the subversion of the computer-processing system are difficult to estimate, but Parker guesses that there may be losses of a hundred million dollars or more annually. Estimates by other computer-security specialists have been as high as three hundred million a year.

Ironically, the largest sum known to have been lost through a single computer crime involved not some disloyal company employee embezzling funds but a scheme directed by the company management itself. The victims were the company's customers. The crime in question was an integral part of the great Equity Funding Corporation of America scandal, which broke in 1973. From the mid-nineteen-sixties until the company's true condition came to light, Equity Funding, which had its headquarters in Los Angeles, was considered one of the hottest stocks on Wall Street. Equity Funding's apparent prosperity was based on the theory that by dealing in both mutual funds and insurance policies the company could make both kinds of investment highly attractive to potential customers; the customers would invest in mutual-fund shares through the company and at the same time buy life insurance issued by the company. Equity Funding itself would then pay the life-insurance premiums, recording the payments as a loan to the customer and using the mutual-fund shares he had bought as collateral for the loan. By this device, the customer was supposed to be able to make good use of cash that he might otherwise have had to tie up in insurance. From 1969 on, the company officer who took complete charge of this apparently successful operation was Stanley Goldblum, the chairman of the board. Under Goldblum's direction the company embarked on a program of corporate expansion and acquisition. According to the report of Robert M. Loeffler, the trustee in bankruptcy, that program began more and more to depend upon fraud and misrepresentation, the main purpose being to raise the company's profitability illegally and so keep its stock—of which Goldblum and some of his associates in the company were major holders—selling at high prices.

The manner in which this scheme was carried out has caused the Equity Funding case to be characterized by some people, including Loeffler, as a securities fraud and by others as a computer fraud. True, it was only in the last few years of the fraud that the company's computer was brought into use as a tool to further—and further conceal—the plot, but the turn that the Equity Funding fraud took in this phase has the quality of a modern corporate reenactment of Nikolai Gogol's novel "Dead Souls." Pavel Ivanivitch Tchitechikov, the novel's wily antihero, travels through the heart of Russia making what are represented as authentic purchases of serfs, who are then supposed to be resettled as workers on an estate that Tchitchikov claims to own in a remote part of the country. However, the serfs, although their names are listed in the most recent provincial census, do not exist except in name, having died since the census was compiled. The scheme devised by Tchitchikov—and eventually uncovered—was to acquire these nonexistent people by formal deed, exactly as though they were alive, and to use these deeds as collateral in obtaining a large government mortgage, available only to serf-owners. With this loan in hand, he dreamed, he could proceed to buy real serfs and live prosperously on an estate bought with the government mortgage.

Had Tchitchikov's adventures taken place in the United States in the early nineteen-seventies, it could very well have occurred to him, as he considered various opportunities, that one way of converting nonexistant souls into hard cash would be to set himself up in the life-insurance business, use a computer to record insurance policies on people who didn't exist, and then sell the supposedly genuine policies to other insurance companies, through a system of reinsurance which people in the business customarily use in order to spread their actuarial risks and obtain ready cash. That is what several officers in charge of Equity Funding did, as an integral part of a vast securities fraud. In order to raise the price of Equity Funding stock, which by the end of the nineteen-sixties had fallen from its spectacular highs, some people in charge of the company began to make wholesale additions to their lists of genuine policyholders, the additions consisting of computerized bogus life-insurance-policy records, which were then sold to reinsurers under an arrangement whereby the reinsurer would bear some or all of the risks involved.

The risks turned out to be only too real. The bogus records were manufactured within Equity Funding by a specially assigned staff and were fed into the company's computer as evidence of its growing salable assets. At first, these records existed only in a computerized summary form—listing, for example, the age, sex, policy number, premium, and coverage for a nonexistent policyholder, along with his invented name. The tapes on which this bogus information was recorded had been compiled from existing tapes that contained basic insurance information on real customers; when the genuine information was transferred, it was doctored by the substitution of fake policy numbers.

And when the bogus business was rerouted in its new form into the computer, it was given the special code sign "Department 99" to identify it to the plotters, and to the computer, as requiring special handling when the occasion required. The computer was then used to process the bogus records in an ostensibily normal way, and the bogus policies, represented by computer printouts of doctored information, were sold—along with legitimate policies, belonging to real customers—to reinsurers. Since the terms of the sales gave the reinsurers the right to receive, after one year of the existence of each policy, the premiums supposed to be paid by the policyholder, Equity Funding required cash to cover these expected premium payments. Much of the cash was raised from sales to reinsurers based on yet additional spurious policyholder records, thereby adding to the pyramid.

However, in order to be able to substantiate such bogus computerized records to auditors or reinsurers, where that should become necessary, the conspirators manufactured "original" paper documents on which the fake computerized information was supposedly based. For some time, these records were manufactured by company executives at what the bankruptcy trustee's report called "fraud parties," lasting well into the night, at the opulent company headquarters. At these sessions, some of the computerized records of the nonexistent insured people were modified to make them appear more genuine. For example, to avoid actuarial anomalies that might be noticed by the reinsurers, a certain number of the insured people had to be shown to have died in the course of a given year, and so, at the fraud parties, the conspirators would deprive various nonexistent policyholders of their supposed lives, converting them into truly dead souls.

That did not bring the computerized existence of the supposed deceased to an end, however, because after declaring them dead the conspirators would then file with the reinsurers death-benefit claims, which were to be passed on to the heirs of the departed. The money received from the reinsurers on the basis of these bogus claims totalled one million one hundred and seventy-five thousand dollars, most of which was put into Equity Funding's own accounts, and showed up in its books as current earnings. And in a computer fraud within a computer fraud, a smaller sum—a hundred and forty-four thousand dollars—was routed into the personal bank accounts of particular conspirators, who took this action without the knowledge of the Equity Funding management people directing the original fraud.

In the spring of 1971, the ramifications of the Equity Funding computer swindle grew to such proportions that the conspirators estimated that there would be a requirement that year for between twenty thousand and fifty housand bogus files, which, as before, would mostly be doctored variations of existing policyholders' files, with new names and policy numbers added—both in computerized form, for eventual sale to reinsurers, and, in selected samples, in the form of supportive documentation for the company's auditors. After the all-night fraud parties grew too onerous, the bogus computerized information was compiled not at the company headquarters but in a separate office, on Maple Drive, in Beverly Hills.

The manual backup operation to support the fictional computerized lists included the manufacture of fake credit reports and fake medical reports on the nonexistent policyholders. When the auditors examining the computer printouts of the doctored tapes asked Equity Funding officers for the raw documentation on policyholders in the computerized file, the conspirators would obligingly promise to provide such documentation in the form of sample policies chosen by the computer at random. They would then order printouts of the samples, but since all the fake policies were tagged with the Department 99 code, they were able to instruct the computer to exclude all Department 99 records.

They would inform the auditors that these particular files were in use at the moment, and would be available the next morning—meanwhile instructing their operatives on Maple Drive to rush them into being. During 1972, the Equity Funding computer readouts on the files of its fictitious policyholders recorded fourteen and a half million dollars' worth of business—which, of course, had never existed. (In terms of the face value of all the life-insurance policies supposedly in force, Equity Funding claimed it to total, during this period, $3.2 billion. But of this alleged face value, the bankruptcy trustee's report calculated that $2.1 billion was fictitious.) Of a total of ninety-seven thousand computer-recorded policies of insured citizens, about sixty-four thousand turned out to be the records of electronic dead souls. All told, the computer-fraud component of the Equity Funding scandal served as a means of furthering a larger fraud, in which, out of seven hundred and thirty-seven million dollars in assets that the company reported in its last financial statement, a hundred and eighty-five million dollars was nonexistent. Besides the reinsurers and institutional investors, tens of thousands of genuine insurance policyholders and investors in the mutual-fund operations of Equity Funding were heavily victimized in the whole operation.

The conspiracy fell apart in March of 1973 after a former employee of Equity Funding reported details of it to the New York State Insurance Department and to a Wall Street insurance analyst named Raymond Dirks, who, it seems, in turn notified some of his commercial clients as well as New York Stock Exchange officials of what he had heard. The worth of Equity Funding shares plunged wildly on the New York Stock Exchange. On March 27th, examiners from the California Insurance Department in the Equity Funding premises took firm security measures to guard records there, after notification from the federal Securities and Exchange Commission (based on word from an informer inside the company) that some incriminating computer tapes had been very recently altered and that other tapes were being systematically erased. Goldblum and several other Equity Funding officers were subsequently arrested, tried, and sent to prison on fraud charges.

For all the huge sums involved, the Equity Funding fraud, regarded only in terms of its computer-crime elements, does not seem to have been a particularly sophisticated affair compared with some other frauds, many of them committed on a less grand scale. It was simply a reckless pyramiding operation, which was bound to be uncoverd sooner or later, and only surprisingly inadequate auditing procedures and downright gullibility and carelessness on the part of big Wall Street institutional investors permitted it to continue as long as it did. It depended on the use of the computer printout merely as a screen to make the detection of a vast amount of deliberate misinformation more difficult by routine auditing, and did not involve astute manipulation of the internal workings of the computer itself to make the traces of the crime extremely difficult to detect, as do the more adroit examples of computer crime. Since the criminal element directing the fraud consisted of management itself, there was no need to conceal the misuse of the computer from company officials. Furthermore, the fraud was carried out by a fairly extensive internal conspiracy. The more effective computer crimes are seldom the work of such conspiracies, for when the thoughtful computer criminal seeks an accomplice he usually prefers to turn to his computer console or his terminal keyboard.

However much management may have come to rely on these super-efficient data-processing systems, the systems inevitably contain certain imperfections, and it is the knowledge of these imperfections which can bring a gleam of temptation to the eye of a supposedly trustworthy bank employee—especially one who happens to feel that he has been treated unfairly by management. Such feelings encouraged a man. I will call Stephen Hattner, the chief teller of the Park Avenue branch of the Union Dime Savings Bank, between 1970 and 1973, to manipulate accounts using a remote terminal at his office so that the bank's com-

puter regularly printed out evidence that the bank's books were in order—which in fact they were, though the accounts themselves weren't. When the fraud was eventually uncovered, in the spring of 1973, it was not because of alertness on the part of the bank management, or because of suspicions held by any of the tellers whom Hattner had been in charge of, or through the supposedly elaborate security safeguards built into the bank's electronic data-processing system, or by vigilance on the part of the bank's own auditors. Rather, it was because of a police raid on the headquarters of a large bookmaking operation, whose members happened to be the subject of a federal, state, and local investigation.

One of the unusual aspects of the Union Dime embezzlement, in terms of computer crime, is that Hattner was able to take away his proceeds in the form of hard cash, directly from the till. A further point of interest is that, for all his ability to conceal his computer-terminal fraud from the bank management and the auditors, he had had no training at all in computer science, having been given only enough instruction in how to operate a terminal to carry out his normal work. He had no special knowledge of the internal circuitry and programming of the computer itself. What he was able to learn about beating the system he learned primarily from his experience behind the bank counter—how instructions were typed into the computer and how the output of the computer, in the form of print-outs, was modified by his input. That and a certain nimbleness, plus his familiarity with bank routine—and, of course, the pressing needs of his gambling activities—were what enabled him to make away with so much money for so long. If his bookmakers had not indiscretely kept his name in their files, he might still be on the job at Union Dime.

On the raided premises, police seized a list of the bookies' customers, in which Hattner's name was included. It appeared from the bookie records that Hattner had been a big-spending customer. The police began an investigation in the hope of tracing the source of his funds, and he was followed to his place of employment. It turned out that Hattner, who was forty-one years old, was earning eleven thousands dollars a year, and lived, with his wife and children, in a suburban community in New Jersey, in a two-bedroom garden apartment, which he rented for two hundred and seventy-five dollars a month. During the years when he had been stealing from the bank, he had been betting as much as thirty thousand dollars a day on the races and other sports events, and was a heavy loser. All the money he dropped came out of the bank in cash. He had embezzled more than a million and a half dollars. None of the money was ever recovered. All of it had been blown, through the bookies, at the race track or on professional basketball. In its place, at the bank, was a set of Union Dime computer printouts that, over the three years of Hattner's criminal activities, indicated that the bank's accounts were in perfect balance.

Basically, what Hattner had done was to exploit his position as chief teller to take advantage of an error-correction routine that was built into Union Dime's computer system. By this means he was able, through a computer terminal he was authorized to use, to modify bank records so that customers who conducted transactions at Union Dime thought they had money in their accounts which they didn't have, and the computer, having been so instructed by Hattner, was moving the phantom sums from account to account in seemingly perfect order. While using the terminal to keep the books neatly in balance, Hattner moved money—or, rather, data representing money—among hundreds of accounts at Union Dime to prevent the discovery of the substantial shortages he was causing. Without any knowledge on the part of his family or his associates, Hattner had been a confirmed gambler for years. Also, he felt that the management was badly overworking and underpaying him.

In 1970, when he began taking money to finance his gambling, one device he used was the looting of accounts in which there was little movement of money. In this he was helped by the fact that Union Dime did not send out monthly statements to its customers. Instead, it issued passbooks to them, and when customers wished to make deposits or withdrawals, or to receive interest on their accounts, they had to appear at the bank with their passbooks.

When a teller put a passbook on the carriage of a registering machine connected to the bank's central computer, a transaction was recorded both in the passbook and in the bank's computer system. Hattner developed a special way of treating certain of these transactions. In the first period of his embezzlement, he concentrated on giving his unusual treatment to accounts having large balances—usually of a hundred thousand dollars or more. At the end of a banking day, he would look over the computer printouts of the day's transactions and pick out any large-balance accounts that had just been opened and recorded in the normal manner in the customer's passbook and in the computer records. If one of the accounts that Hattner picked out showed, for example, a hundred-thousand-dollar deposit, he would sit down at the computer terminal with the account number and, using his authority as chief teller, type out what is known as a supervisor's override—an error-correction instruction—and have the computer change the hundred-thousand-dollar-deposit figure to fifty thousand dollars. (The customer's passbook, of course, would continue to show a hundred thousand dollars.) Hattner would then go into his cash box or the bank vault and pocket fifty thousand dollars in cash.

Unless the customer made a large withdrawal, the chances that the discrepancy would be discovered immediately were relatively small, Hattner reasoned. One thing he had to watch out for was interest payments, which were generally made quarterly. When the date for an interest payment approached, Hattner would take the missing principal from another account and move it, through the computer terminal, to the first account. For Union Dime's day-of-deposit accounts, interest was payable on the last day of each quarter of the year, but its time-deposit accounts were payable two days after that. Hattner used the difference in these due dates to transfer money back and forth so that no irreconcilable discrepancies could be detected either by customers or by bank officials.

As Hattner's embezzlement went on, he had to deal with more and more accounts, until, by means of his instructions through the computer terminal, he was juggling money among some fifty accounts at a time. He kept track of the accounts by notes he made on scraps of paper, which he put in his pockets, and as the fraud continued and the complications increased, his pockets became stuffed with these scraps. However, he appears not to have been much worried about the visits of the bank's auditors; he always had advance notice of their arrival, and he said subsequently that when they came he was well prepared and had little difficulty satisfying them. If the auditors asked him to explain an apparent mistake in an account, Hattner would appear concerned, go through the motions of checking on the discrepancy by telephone, and tell the auditors that he had discovered it to be the result of a data-processing error. On the spot, he would type an error-correction instruction into the computer as an ostensible resolution of the discrepancy. Out of sight of the auditors, however, he would further adjust the computer record by moving sums among accounts in such a way that the computer showed the accounts involved to be in balance. When Hattner was on vacation—he was careful never to take long ones—and discrepancies in customer accounts were brought to the attention of other tellers, they left memos for him so that he could resolve the discrepancies on his return. When he got back, he would sit down at the computer terminal and quickly make the necessary adjustments.

As time went on, and as Hattner grew more experienced in embezzlement, he tried to simplify the paperwork of his manipulations—his pockets were overflowing with his notes, and he was hiding slips of paper in his desk—by concentrating on accounts represented by certificates of deposit that were redeemable, with interest, on a certain date. He felt that he could avoid the complications of adjusting the regular accounts every quarter to reflect the usual interest, and concern himself merely with covering up the disappearance of money when particular certificates reached maturity. When that happened, he would calculate the interest due, add it to the principal, and pay the customer in cash, which he would obtain by altering the computer records of some other account.

In carrying out the fraud—particularly in its later period—Hattner, though he evidently felt no sympathy for the bank, became concerned that if he was caught, individual depositors whose accounts he had been juggling would suffer financial harm. He knew that some of them were elderly people who had invested their life savings in Union Dime, and, out of a sense of responsibility for their situation, he became increasingly careful to see to it that, after a certain amount of juggling, his net defalcations from individual accounts did not exceed twenty thousand dollars—the limit for which individual deposits at all banks were then insured by the Federal Deposit Insurance Corporation. When the F.D.I.C. raised the insurance limit to forty thousand dollars per account, Hattner had no hesitation about raising his fraud limit to the same amount per customer. After his crime came to light, all the losses of individual depositors were, in fact, covered by insurance. In a Manhattan court, Hattner, charged with grand larceny to the extent of approximately a million and a half dollars, pleaded guilty and expressed remorse for his acts. He received a lenient prison sentence of twenty months, of which, with good behavior, he served fifteen. While he was in prison, he acted as a clerk in the assistant warden's office and taught a course in high-school mathematics—with the help, as it happened, of computer-connected instructional terminals. After his release, he found work as a cabdriver in New Jersey. Like the Union Dime management, he prefers not to discuss the case with the press.

While there is a growing trend for people who carry out crimes in banking systems to do so by falsifying data they put into the computer from keyboard terminals, some of the more remunerative frauds and thefts have been committed without the criminals actually touching the keys of a terminal or even going near the computer. What the criminals have employed in such cases is a knowledge of the operating system used and the security flaws inherent in it. Some of the devices used to best the computer are engagingly simple—as in the case of a young man who, obviously knowing something about the ways of computers, applied for and received a twelve-month installment loan from a New York bank. On receiving from the bank, together with the loan, the book of computer-coded coupons he was supposed to send in with his monthly payments, he tore out the last payment coupon in the book instead of the first and sent it in to the bank along

with one month's payment. He then received a computer-generated letter from the bank thanking him effusively for paying off his loan so promptly and assuring him of his excellent credit standing. The young man didn't exactly *steal* from the bank—he just left it up to the computer to make the next move. The bank involved has since fixed that little programming oversight, and the young man—who claimed he simply made a mistake—was not prosecuted.

In another example, this one involving the use of a computer as a tool for collusion with an inside source, a man opened a substantial account at a New York Bank several years ago. In doing so, he informed an officer of the bank that he manufactured furniture on the West Coast. He told the banker that he was about to open a plant in the East, and said he would have his bank on the West Coast transfer a large sum of money into his New York account for that purpose. Soon, as the officer had been led to expect, the sum of two million dollars was transferred from the West Coast bank via a computerized system, such as is regularly used to move funds between major banking institutions. But some time later, the transaction was discovered to have been a fraudulent one. The West Coast manufacturing concern was nonexistent, and so was its West Coast bank account. By the time the fraud was discovered, the shadowy manufacturer had taken the two million dollars and disappeared. The origin of the fraud came to light after an investigation of the West Coast bank employees who were likely to have typed the instructions for the transfer. Normally, the typing of the orders was done through computer terminals by a staff of four women, of whom three were still employed when the investigation was ordered. The fourth woman was said to have resigned her job recently because of an unhappy love affair.

The woman, when she was sought out and interviewed at home, indicated that she had left her job after being dropped by her boyfriend. Her description of him matched that given by the New York bank for the self-described furniture manufacturer. The woman admitted sending the computer message, but said that she had thought it was a joke. The missing boyfriend, who was evidently familiar with the automatic nature of the transfer of banking funds by computer, had prevailed upon her one day to transmit two million dollars to his own East Coast account. He said that he wanted to play a prank on a computer-operator friend of his at the New York end of the line, who would understand that the message was a fake and get a big kick out of it. Since the missing boyfriend, purported depositor, and pseudo-manufacturer was not available for questioning by the police, the two banks involved in the two-million-dollar transfer were left with the computerized message as a souvenir.

Some of the most ingenious computer-aided crimes to date have been pulled off without even the degree of personal interference with the computer exemplified in the case of the phantom manufacturer. A few of these depended on the banks' use of what is called the magnetic-ink character-recognition imprinting system—notably, those blobby-looking numbers that usually appear at the bottom of a bank customer's checks and personal deposit slips, permitting them to be read by computer and automatically sorted and processed. In the Washington, D.C., area some time ago, a new depositor at a bank carried out an almost immaculate computer crime by outthinking the bank on the convenience offered by the magnetic-ink character-recognition system. The method was close to simplicity itself. According to one record of the affair, the depositor opened a new account in the normal way and made a deposit of several thousand dollars, to show himself a man of some substance. And, in the normal way, he received from the bank his personal checks and deposit slips, both bearing at the bottom left, in magnetic-ink computer-readable code, his account number. The slips, however, he did not use. Instead, the depositor visited the bank and went to the desk where customers bringing money or checks in for deposit filled out their deposit slips. For the convenience of customers who had forgotten to bring their own deposit slips, the bank provided stacks of blank slips in trays under the desk. The new depositor picked up a hefty batch of these blank deposit slips, but he did not fill them out. Instead, he took them to a printer specializing in computer-data forms, and there had his account number printed in magnetic ink at the bottom of the blank deposit forms. He then returned to the bank on different occasions and added these magnetically-printed forms to the neat pile of blank deposit slips in the trays. Then he went away and waited for the jackpot.

Other customers streamed into the bank and, dipping into the trays of deposit slips, innocently recorded their own deposits in the usual way. After the deposits and the deposit slips were routinely accepted by tellers, the deposit slips disappeared into the maw of the bank's computer-actuated sorters. The deposit slips that bore no magnetic-ink account numbers were sorted out by the machine for manual handling, and those that did bear magnetic-ink identification were automatically routed for deposit in the accounts represented by the magnetic code. In this way, the computer funnelled the deposits of scores of the bank's customers into the new depositor's account. And by the time the customers began to complain that checks they were issuing against their deposits were bouncing, the new depositor, to whose account other depositors had miraculously added a quarter of a million dollars, had drawn out a hundred thousand of it and disappeared. A similar scheme, also involving the embezzlement of a large sum of money, was carried out in a New York bank several years ago, and, on a smaller scale, the same stunt was pulled on a Boston bank.

An even craftier scheme, this one rather more elaborate than the Washington swindle, also revolved around the use of falsified magnetic-ink characters on checks to confound and defeat the computerized banking system. As in the cases of the other magnetic-code frauds, this one was carried out without anyone's ever laying a finger on the computer itself or any of its keyboard terminals. The fraud began with a new customer opening an account at a New York bank with a substantial amount of money. He received his coded checks and deposit slips from the bank, and he used the coded deposit slips in the usual way—without transforming the deposit-slip desk at his bank into a sort of financial cuckoo's nest, as the Washington-area depositor did. Like the Washington man, the New York man sought out a knowledgeable, and willing, printer, and what he then did was to have some new checks printed on blank-check forms similar to those used by his new bank. With one exception, the printed checks bore the same information as the originals, including the depositor's name and address and the name and address of the bank. The exception was the set of magnetic-ink characters in the lower-left corner of the checks.

There the depositor had printed, in magnetic ink, a set of numbers different from the set the bank had assigned him. The manner in which these numbers was changed was the key to the scheme. The magnetic-ink account numbers used by banks are preceded by a three-digit code, also in magnetic ink, which routinely sent it back to New York, and so on. In the meantime, other large checks from the same depositor were making the rounds in the same way. Because they were not rejected by the Chemical Bank, they were assumed by the corresponding bank to be good. The fraud was uncovered only when checks issued by the depositor became so frayed from mechanical handling in the computer system that they could no longer be read automatically; a clerk in one of the corresponding banks then noticed the discrepancy between the name of the bank as it appeared in plain print on one of the checks and the magnetic-ink numerical code designation. By that time, according to an auditor who told me of the affair, the depositor had disappeared with more than a million dollars in cash.

It seems clear to anyone looking over press reports and other accounts of computer crimes that many of the crimes are variations on certain basic techniques. Yet one cannot help being impressed by the sheer diversity of the efforts. For example, the technique employed by Hattner at Union Dime to juggle accounts around in the computer appears in less spectacular but no less ingenious variations in a number of other computer crimes. One such type of computer embezzlement involves the use of what Donn Parker refers to as the salami, or thin-slice-at-a-time, technique—reliance on tiny increments, sometimes literally only a fraction of a penny at a time. The criminal programs the computer to divert these minute sums to his own account from a number of accounts or transactions, and then patiently lies in wait to collect the steadily growing fruit of his mini-embezzlements. One way in which computer criminals might employ the salami technique is to round down any sums ending in fractions to the nearest whole number—for example, fractions of pennies as these are computed in interest-bearing accounts. In the meantime, the criminal has established a dummy account at the same bank, and he programs the computer to divert the surplus from the round-downs to this account.

Quietly accumulating year in and year out, these fractional sums can mount handsomely, and usually neither the bank nor the depositors know what is going on. Even when the bank does suspect jiggery-pokery, it may not do much about it. The cost and effort involved in tracing and prosecuting any impropriety would be considerably greater than the sums involved.

These three digits inform a computer at a Federal Reserve System bank—through which checks are routed between most banks for clearance—what bank the check is to be returned to so that the transaction can be completed. Suppose, purely for the purpose of illustration, that the computer criminal opening the big account in a New York bank did so at the bank I happen to use, which is the Chemical Bank. In changing the magnetic-ink account number, the depositor altered the orignial account number to one that contained the wrong number of digits. At the same time, he altered the initial three digits to those belonging to a real bank on the West Coast—let us say, again purely for the purpose of illustration, the Bank of America in Los Angeles. He then began opening accounts at other banks, making deposits in these accounts in the form of the altered checks bearing his printed name and the printed name of the Chemical Bank—along with the magnetic code for the Bank of America. These checks were accepted for deposit subject to clearance.

From one of the banks involved, such a check was sent to a Federal Reserve bank for routing to the bank of origin. Although the check bore the name and address of the Chemical Bank in New York, the Federal Reserve data-processing system scanned only the magnetic-ink code on it, identified it as a Bank of America check, and routed it to

Los Angeles. The check remained in transit for perhaps two days. At the end of that time, it was run through the computer mechanism at the Bank of America. The computer, instantly searching its memory for a Bank of America account number matching that of the magnetic-ink strip on the check, rejected the check, which then went into a clerical pool for manual handling. Since the printed logotype on the check clearly identified it as a check that belonged in the Chemical Bank in New York, the clerk handling the machine-rejected check sent it back to the Chemical Bank by mail, assuming that a simple routing error had been made. The check was then in transit for another two days. Back at the Chemical Bank, the check was put into the computerized sorting system for final clearance. But instead of that, it went into motion again: the Chemical Bank computing system passed it on to the Federal Reserve System, which routed it out to the Los Angeles bank again.

Parker told me not long ago that he felt he had almost certain knowledge of one salami-type embezzlement that was still being carried out at a bank whose officers he had talked with. The embezzler, he said, was evidently using the bank's computer to transfer twenty or thirty cents at a time, at random, from three hundred checking accounts at the bank and diverting the money to a dummy account for his own use. The computer criminal was careful never to divert sums from any particular account more often than three times a year. Because a customer was unlikely to notice such a small discrepancy in his monthly bank statement—or, if he did notice it, to find it worth his while to go to the bank and argue over it—the embezzlement was likely to go on and on. Parker suspects that many thousands of bank customers are being fleeced regularly of small sums in this fashion in cities throughout the country, since these people trust the accuracy of the computerized statements, and if there is a small discrepancy they are apt to put it down to their own poor arithmetic.

In another variation of the salami technique, two programmers who were employed by a big New York garment firm instructed the company's computer to increase by two cents the amount withheld from their fellow-employees' paychecks each week for federal taxes. They further programmed the computer to direct the two cents per employee per week to their own federal withholding accounts. The result was that at the end of the year they received the money in the form of refund checks from the Internal Revenue Service, which had been acting as an unwitting bagman for the embezzled sums.

In yet another ingenious variation a programmer working at a mail-order sales company had its computer round down odd cents in the company's sales-commission accounts and channel the round-downs into a dummy sales-commission account he had established under the name of Zwana. He had invented the name Zwana because he knew that the computer processed the company's accounts in alphabetical order, and he could easily program the computer to transfer all the round-downs into the last account in the computing sequence. The system worked perfectly for three years, and then it failed—not because of a logical error on the culprit's part but because the company, as a public-relations exercise, decided to single out the holders of the first and last sales-commission accounts on its alphabetical list for ceremonial treatment. Thus Zwana was unmasked, and his creator fired.

Computer crime does not necessarily involve the direct theft of money. The near-universal use of electronic data processing in accounting systems has made computer programs that record and control the flow of inventories increasingly subject to manipulations whereby the computer is directed to move goods into criminal hands. The records of thefts or suspected thefts of goods by computer-data manipulation include the physical disappearance, in the early nineteen-seventies, of two hundred and seventeen railroad boxcars owned by the bankrupt Penn Central Railroad. The deputy chief of a federal crime force investigating the case concluded that a computer program used by Penn Central to direct the assembly and routing of the company's boxcars had been manipulated to divert the boxcars—which were worth millions of dollars—from Penn Central sidings. F.B.I. agents eventually found them, freshly painted and with the Penn Central markings obscured, on the sidings of the tiny La Salle & Bureau County Railway, in Illinois, which has only fifteen miles of track. The boxcars had apparently been rerouted, with the help of someone who could modify the Penn Central computer input, so that some remarkably sophisticated criminal group could arrange their eventual resale or rental to another railroad system.

According to Lindsay Baird, an independent computer-security consultant, who tries to help large corporations and banks make their data-processing systems tamperproof—or as nearly so as possible—the kind of manipulation that seemed to be responsible for the disappearance of the Penn Central boxcars has also been used to misdirect government supplies of one kind or another into criminal channels. Laird has cited a fraud pulled off in South Korea in the early nineteen-seventies, in which, through manipulation of a United States Army supply-computing program largely operated by Korean technicians, huge quantities of food, uniforms, vehicles, gasoline, and other American supplies were diverted into the hands of a Korean gang for resale. Baird, who participated as an Army provost marshal in an investigation of the Korean affair, told me recently that the swindle was so effective that the theft of about eighteen million dollars' worth of equipment a year was being concealed by the misuse of inventory-and-supply computer programs.

In 1975, in Linden, New Jersey, it was discovered—after the arrest of three men, including a computer-console operator for the Exxon Corporation—that, through the manipulation of an Exxon computer in which records of oil transfers were supposedly kept current, and the alteration of oil gauges, conspirators had been able, in the course of seven years, to make off with about twenty million dollars' worth of Exxon fuel. The fuel had been siphoned from the company's huge Linden refinery into a barge owned by the conspirators. In the first three months of 1975 alone, according to the Union County prosecutor, Exxon lost one and a half million gallons of fuel, worth half a million dollars.

A fourth example of crime involving the physical diversion and theft of supplies by the use of computers is the case of a young man named Jerry Neal Schneider, who was arrested in Los Angeles in 1972 and charged with stealing what police estimated as a million dollars' worth of electronic equipment from the Pacific Telephone & Telegraph Company, by means of rigged computer instructions. Schneider, who was twenty-one years old, had been keenly interested in computers for some time. When he was a high-school student, in Los Angeles, his walk to and from school had taken him past a Pacific Telephone supply storeroom, and he had noticed trash cans outside holding papers of various sorts. Schneider, feeling that rummaging through the trash cans might be, as he later recalled, "kind of a fun thing," did so now and then. Sometimes he would find odds and ends of discarded telephone-company equipment and take it home with him. He also began to take home and read discarded copies of telephone-company operating guides. At the time, most of them were nearly meaningless to Schneider, but he held on to them, and gradually built up something of a technical library, of which these guides and other manuals were a part. Eventually, he said, he added to his library, from the trash cans, management guides . . . dealing with how Pacific Telephone ordered equipment from the Western Electric Company. According to Schneider, the guides also "described the methods through which equipment was ordered to a field-supply location" of Pacific Telephone.

A few years later, Schneider, by then an engineering student at the University of California at Los Angeles, reread the guides and other telephone-company technical publications. It occurred to him then that he had in his possession the key to obtaining a lot of money, and he decided to use it. The details of how he set about doing so are not easy to determine, because Schneider has given different versions of his actions to different interviewers. But even taking the discrepancies into account, one can form a fairly clear picture of his procedure. What Schneider was after was a system that would enable him to safely order by telephone and then sell expensive equipment purchased by Pacific Telephone. In the material he had found in the trash cans, the company had described the fundamentals of its equipment-ordering system, which was programmed into an I.B.M. 360 computer. Within the Pacific Telephone organization, equipment for installers and repairmen was ordered by phone through computers and delivered to convenient locations by truck in the middle of the night. To place such an order, an employee had to use a series of codes. He needed, among other information, an identification code number designating the site from which the order was coming and an account code number. Schneider, by various ruses—including calls in which he impersonated telephone-company employees, and a visit to telephone-company facilities in which he passed himself off as a free-lance writer preparing a technical article on computerized warehouse systems—pieced together most of the information on codes and procedures necessary for placing unauthorized orders. Next, he bought an automatic dialer so that his Touch-Tone telephone's signals would resemble those from the equipment used by the authorized employees. In June of 1971, after several trial runs, he put into the computer an order for thirty thousand dollars' worth of telephone equipment, to be delivered to a company drop-off point he had chosen. The order was automatically registered on a punch card and processed by the I.B.M. computer, and the equipment was duly delivered on the designated night. Schneider hauled it away and ordered more. Soon he had formed a corporation grandiosely called the Los Angeles Telephone & Telegraph Company, through which he sold the stolen equipment to private suppliers and users of such apparatus.

He continued, month after month, to order equipment without incident. He later said that he once had a twenty-five-thousand-dollar switchboard delivered to a telephone-company manhole at two o'clock in the morning. The equipment was picked up by a van that looked like a Pacific Telephone van but was a secondhand job bought at auction. After a while, Schneider had ten people working for his company, and a six-thousand-square-foot warehouse, in which he stored the stolen equipment. In January of 1972, he was undone by an employee to whom he had refused a salary raise. The disgruntled employee went to the police, the warehouse was raided, and Schneider was arrested. He was charged with grand theft. After some plea bargaining and a promise to cooperate with the police, Schneider was sentenced to sixty days at a prison farm. With time off for good behavior, he served forty days. Of the million

dollars' worth of equipment that the police said Schneider had stolen, the prosecution could prove only that he had handled some five thousand dollars' worth. He was able to settle a two-hundred-and-fifty-thousand-dollar civil suit brought against him by Pacific Telephone for eighty-five hundred dollars. After his sojourn at the prison farm, Schneider set himself up in business as a computer-security consultant to various corporations, offering them an insider's knowledge of how to prevent computer crime. The eighty-five hundred dollars that Schneider was obliged to pay Pacific Telephone was far more than offset when, as a result of the publicity surrounding the case, he was able to sell the story of his computer depredations to a movie company for a substantial sum.

It is perhaps an indication of the degree to which the computer has become a vital element of our society that sets of electronic signals stored in computers have in themselves become entities of great value and the targets of numerous attempts at theft. Most thefts of computer tapes are probably not reported to the police, because the victimized owners prefer to arrange for the tapes' return through private negotiations with the thieves—negotiations that in some cases may involve the passing of money and in others assurances that no prosecution will be undertaken. Sometimes such thefts are unremunerative. According to an item that appeared in the weekly *Computer-world* in 1971, thieves operating at the Los Angeles International Airport stole an air shipment from the Bank of America which included two reels of the bank's computer tapes. The thieves assumed that the tapes contained valuable records and demanded ransom, threatening to destroy them if it was not paid. The ransom attempt failed, because the bank had in its files duplicates of the stolen tapes.

Another attempt at ransoming stolen tapes which did take into account the existence of backup records, occurred last January in Europe. According to Interpol, the international police information clearing house, the head programmer of the computer department of the Rotterdam facilities of Imperial Chemical Industries, Ltd., was accused of absconding with computer-tape records relating to the company's extensive European operations—including a duplicate set of tapes that had been stored in a separate and supposedly secure facility. The programmer allegedly attempted to extort two hundred thousand pounds in cash from the company for their return. But the ransom scheme failed when, at a rendezvous in Oxford Street in London, the tapes were about to be traded for the ransom, which had been brought to the scene in ten-pound notes by an Imperial Chemical Industries representative. Scotland Yard men, alerted by the company, were lying in wait. On the spot they arrested the programmer and an alleged accomplice, retrieving the missing tapes as well as retaining the ransom money.

However, another attempt in 1973 at computer-tape hijacking, in West Germany, was more successful. In this affair, a computer operator formerly employed by a German corporation broke into the computer center the corporation used and made off with twenty-two reels of computer tape containing vital information about the company's marketing plans and programs. He demanded that the company pay two hundred thousand dollars for their return. The company had no duplicates of the stolen tapes, and the cost of reconstructing the data would have been greater than the ransom demanded, so the company quietly paid up.

Sometimes electronic penetration of data in a computer system is attempted by a company's competitors, and when it is successful the rewards can be high. An independent computer-security consultant told me not long ago of what appears to be one such case. It concerned prospecting information obtained by a huge oil company that was one of the principal bidders on oil-drilling rights to tracts of government land on the North Slope of Alaska. According to the account I was given, the oil company sent reports from its geologists exploring the field to a central communications post in the area. From a keyboard terminal there, the geological data were sent thousands of miles by telephone line to a computer at the offices of the oil company. Later on, after the data had been transmitted to the computer, the same remote terminal received from the company headquarters financial analyses based on the geological data. The analyses indicated the sums that the company's representatives in Alaska might bid for the drilling rights. After the company lost to its competitors by a suspiciously narrow margin on most of the bids it submitted, it began an investigation into the security of the reporting system. The investigation concluded that someone using very inexpensive rented electronic equipment and representing the interests of the competitors had tapped the oil company's computer communication line, printed out the data, and used the information to the advantage of the competitors. The sums at stake probably ran into scores of millions of dollars.

Not only does a lot of the information in a computer have great value but the programs themselves—the step-by-step instructions incorporated into the computer's memory to direct the complex processing of data—are considered valuable assets by their designers and owners. Designing a computer program for the handling of specific kinds of data can be a tedious and time-consuming affair, often involving the ingenious application of computer logic. Computer programs have therefore been the targets of numerous outside attempts—usually made on behalf of competitors—to pry them loose from the computer's memory and have them duplicated for gainful purposes. This form of industrial espionage or thievery goes on between manufacturing and other corporations possessing their own computers and also between corporations whose business it is to supply other companies with computer-processing services on a time-sharing basis.

One such case involved a man I will call Eli Bart, a young man who was considered the best computer programmer on the staff of a California computer-service company known as the University Computing Company, or U.C.C., in Palo Alto. In 1971, according to court records, Bart masterminded the theft—actually carried out by a computer from a computer—of a program that had been developed by a competing company called Information Systems Design, Inc., or I.S.D., of Oakland. The services provided by both organizations involved the design as well as the processing of computer programs for their customers. As it happened, the two companies were competing to provide specialized services for, among other corporate customers, the Shell Development Corporation, in Emeryville, and Aerojet-General, in Sacramento. U.C.C. was by far the bigger of the two computer-service companies; its sales were about a hundred million dollars a year, while those of I.S.D. were about a million. However, there was one technical area in which the I.S.D. people considered themselves ahead. That was the application of a computer program designed by I.S.D. which made it possible for the company to provide its clients, at their remote sites, with visual engineering information on calculations made by the service company's computer. The I.S.D. people believed that in the design of this special program, which they called PLOT/TRANS, they had a device that would eliminate the need for certain expensive equipment required for complete two-way instant computing services involving graphics between customers' facilities and I.S.D. To this extent, U.C.C., which did not have any such system worked out, was at a competitive disadvantage.

Bart decided to improve his company's position by raiding the memory bank of the I.S.D. computer and getting the secret of its PLOT/TRANS program. (The program itself had not cost I.S.D. very much to develop—possibly about five thousand dollars' worth of time—but the I.S.D. people put its potential value to the company at a million dollars or more.) Bart set about penetrating the I.S.D. computer from a telephone-connected terminal at U.C.C. headquarters. To communicate with the I.S.D. computer, he needed three separate informational keys: the unlisted telephone number of the I.S.D. computer; a number designating the authorized terminal site from which he was calling; and an account number identifying the caller, for billing purposes. Bart was able to obtain the unlisted telephone number by visiting the offices of Shell Development, which was, after all, a client of U.C.C. as well as of I.S.D.

And because of this double connection he already knew the identifying site and account numbers of Shell, as both I.S.D. and U.C.C. had, as a convenience to Shell, given it the same identification numbers for access to their computers. Naturally, Bart also needed the identifying name of the program he sought, and this he received from an acquaintance at Aerojet-General, which was a PLOT/TRANS user. There was a certain hitch to this plan, since the form of data flow at the keyboard terminal employed by Bart did not precisely match that used at the Shell Development terminal site, which was a Univac 1004. However, on January 19, 1971, when Bart attempted access to the I.S.D. computer he was able to manipulate his entry communications to make it appear that his instructions were from the Univac used by Shell. Once he had successfully gained access to the I.S.D. computer by means of his identifying codes, he fed it instructions to send out a set of signals that would allow his computer to duplicate the PLOT/TRANS program on punch cards. This attempt failed, because Bart didn't know that the I.S.D. computer—unlike U.C.C.'s—lacked the capability to punch out cards at a remote terminal. When nothing happened, Bart gave it a command to take a table of contents of the PLOT/TRANS file and asked it to list the symbolic information in that file. This time, the I.S.D. computer responded, and the result was a high-speed printout, on the raider's computer, of the PLOT/TRANS program. The printout took three seconds. In his delight at successfully snatching the program from his competitor's computer, Bart did not consider the possibility that the I.S.D. computer might have responded to his initial, apparently unsuccessful, instruction without his knowing it. But this was what had happened. The I.S.D. computer *had* complied with Bart's instruction to punch out a set of cards representing the PLOT/TRANS program. Since the cards were identified by the I.S.D. computer as having been requested by Shell Development, they were routinely delivered to that company, but nobody there could recall asking for them: An I.S.D. employee visiting Shell Development a few days later recognized the cards as representing an I.S.D. program. Computer records at Shell confirmed that no request for the program had been made. Suspicious about what was going on, the I.S.D. people had the origin of the requesting call to the I.S.D. computer traced, and that led to U.C.C. and to Bart.

On February 19, 1971, police, accompanied by an I.S.D. computer-programming special-

ist and armed with a search warrant, raided the U.C.C. premises. The action had a novel legal feature, in that it was apparently the first time a warrant included specific authority to search the memory system of a computer for evidence of a crime. During the search, which took some nine hours, all the information stored in the computer's memory devices was read out onto tapes, which the police impounded. In Bart's office, the searchers uncovered handwritten notes on how the I.S.D. computer might be penetrated, and also uncovered a computer printout of the stolen I.S.D. program. Bart was charged with the theft of a trade secret, eventually pleaded guilty, and was fined five thousand dollars and placed on three years' probation. As a result of a civil suit brought against U.C.C. for engaging in unfair competition, a jury awarded I.S.D. three hundred thousand dollars in punitive and compensatory damages.

Another computer misuse, and a fairly frequent one, consists in gaining unauthorized entry into a computer to make free use of its data processing facilities. In one case, which was reported in the Los Angeles *Times* in December of 1975, a computer-service organization called Manufacturing Data Systems, Inc., of Ann Arbor, Michigan, was the victim. According to the report, a former employee of M.D.S.I., who was currently employed by a North Hollywood firm, the W. & R. Tool and Manufacturing Company, was charged in Los Angeles with grand theft of computer time for using secret terminal passwords assigned to English and French representatives of M.D.S.I., in order to gain access to the company's computer by long-distance telephone and use it to produce, in Hollywood, a numerically punched tape that was then used to direct the operation of computer-connected tool-manufacturing machines owned by W. & R. Tool. The total amount of computer time consumed in the penetration was a hundred and forty-three hours, with a commercial value of fifteen thousand dollars. Other cases involving theft of computer time range from that of a big Midwestern bookmaker who obtained surreptitious entry into the computer of a university to make his betting calculations to that of a high-school student, an electronics enthusiast, who found in a trash basket the password assigned to an analyst employed by a computer-service company, obtained further information on the logical structure of the service company's computer system, and then used great amounts of computer time to play computer games.

The theft and unauthorized sale of computerized information, in printouts or other forms, appear to have become widespread in the computer industry, and many instances of such illegal trafficking are on record. A number of them concern unauthorized printouts and the sale of lists of one sort or another that are recorded in computer systems. For example, several years ago three computer operators were alleged to have extracted from an Encyclopaedia Britannica computerized list and sold nearly three million customer names; the list was valued by the publisher at a million dollars. In 1973, a computer operator employed at the Illinois Driver Registration Bureau, who had been bribed with ten thousand dollars by outsiders, stole a tape reel of drivers' names and addresses which had a direct-mail value of seventy thousand dollars, and the stolen list was put to commercial use. In a variation of this scheme, employees of the New York Department of Motor Vehicles were charged in 1974 with adding more than a thousand names to computer printouts of lists of approved applicants for drivers' licenses. These names belonged mostly to recent non-English-speaking immigrants who had never had the required eye examinations or taken the necessary written and road tests, but licenses for these people were automatically issued on the basis of the computer printouts. Working in league with a private driving school, the officials responsible collected between two hundred and four hundred dollars for each license thus authorized by the computer. The scheme netted about a third of a million dollars.

To unscrupulous computer employees, all sorts of computerized lists have market value. A computer specialist employed by the Australian Taxation Commission is reported to have sold to people with income-tax forms to fill out copies of documentation, based on highly confidential computer logic, that described the computerized methods used by the commission to check on the legitimacy of taxpayers' claims for deductions. With this information as a guide, the taxpayers could safely exaggerate claims for tax deductions. Computer programmers handling payroll accounts have been known to manipulate the data input of parts of payroll lists to give certain employees, for a fee, unauthorized salary raises.

Police officers have been accused of selling computerized information concerning criminal records for the use of potential employers: in one case, according to a 1974 report in *Computerworld*, a Massachusetts state-police officer was accused of selling computerized police records to a private detective agency, which then allegedly sold the information to retail stores looking over prospective employees. (At the trial, however, the judge found the officer not guilty on grounds of insufficient evidence.) And in Chicago in 1971 a police officer was indicted by a federal grand jury on charges of programming the F.B.I. National Crime Information Center computer to obtain information for private use. In Norway, a computer operator employed by the government health service sold records of people with certain ailments. The patients could then be individually approached by a commercial drug-marketing organization.

Computerized voting lists have sometimes been the object of illegal manipulation. In 1971, a computer-service company was accused, in a civil suit brought by the State of California, of using for commercial purposes a computer tape bearing a list of registered voters. The case was settled out of court. In New York City in 1972, a computer operator employed by the Board of Elections was charged with participating in a vote-fraud conspiracy by illegally feeding into a computerized list of registered voters a hundred punch cards containing the names of unregistered voters. In August of 1973, the syndicated columnist Jack Anderson charged that there was "compelling evidence" that some congressmen were misusing the voting computer in the House of Representatives. The computer is activated when a member inserts his personal card in a terminal on the House floor, and it registers both his presence and his yea or nay on a particular vote. Anderson charged that, in violation of House rules against proxy votes, some congressmen, and even pages, had been seen inserting more than one card in the computer, presumably on behalf of absent House members. And in Sweden two employees at a private data center in Helsingborg surreptitiously borrowed computer tapes compiled by the Swedish census bureau and sold the information on them to assorted customers. One customer for the bootlegged tapes was a political party, which bought information on two hundred and ten thousand voters in a primary election. The thieves were caught when the original tapes were requested for a special computer run and found to be missing.

The functioning of a great part of the modern credit economy revolves around the operation of huge centralized data banks in which computerized information concerning the financial records of consumers and business firms is collected, stored, and sold to clients through commercial credit-reporting networks. So crucial have satisfactory credit ratings become to businessmen and ordinary consumers alike that an underground market in the doctoring of unfavorable credit information has grown and flourished. This situation has proved to offer profitable opportunities to some computer programmers and operators employed by large credit-reporting companies, and also to various people who, although they themselves do not directly handle computers, are knowledgeable enough to beat the computerized credit-reporting system. The largest of the computerized credit-reporting agencies is TRW Credit Data, which is operated by a unit of TRW, Inc., the electronics conglomerate. TRW Credit Data maintains computerized credit files on some fifty million American consumers and provides information on their credit histories to subscribing businesses, such as banks, credit-card companies, oil companies, and retail stores. The data-processing headquarters of TRW Credit Data, in Anaheim, California, seem to have been victimized over a period of years by various well-organized attempts to doctor computerized credit records. A recent article in the *Wall Street Journal* reported that a federal grand jury in Los Angeles charged in an indictment that a credit-fraud ring had employed a TRW Credit Data woman clerk to alter the credit records on several hundred people who were poor credit risks so as to show them to have excellent credit performance; for this service, fees of between three hundred and fifteen hundred dollars were said to have been charged by the ring for each credit record improved. On the basis of these doctored credit records, poor-risk applicants were able to get loans from banks and savings-and-loan associations, to get credit cards from American Express and Master Charge, and to make credit purchases at department stores and other retail businesses. The scheme was said to have been carried out between August of 1974 and March of 1975. Previously, TRW Credit Data, along with other large credit-reporting agencies, had apparently been victimized by members of another criminal gang, who prepared their ground thoroughly in order to create spurious favorable credit reports. Between 1973 and 1974, according to an earlier article in the *Wall Street Journal*, another credit-faking gang went about its business by using as a front a fraudulent business school specializing in credit-reporting procedures.

This "school" turned out "graduates" who, with the bogus credentials supplied them, were able, according to California police, to find employment in nationally known mail-order houses, banks, and savings-and-loan associations that all subscribed to TRW Credit Data. As subscribers, such businesses were required to supply computerized credit information on their own customers to TRW Credit Data. This is what the "graduates" did, but much of what they fed into the TRW computer consisted of doctored information that turned poor credit risks into excellent credit prospects. TRW Credit Data, in turn, fed this information on request to other client businesses, to whom bad-risk customers, in league with the gang, had applied for loans and credit. As a result of these manipulations, a number of businesses were said to have suffered large losses on uncollectible loans and other bad debts.

In a reverse form of this sort of computer abuse, the F.B.I. itself, between 1968 and 1972, was the perpetrator of a number of highly improper acts involving computerized information. According to the results of an investigation subsequently undertaken by the Department of Justice, the bureau planted in the files of credit-reporting agencies false adverse information on radicals and other people whose political views were anathema to the bureau—the idea being to harass those citizens by making it difficult, if not impossible, for them to obtain loans or other forms of credit.

As if all the losses through theft and fraud were not enough, organizations using computers must also contend with the acts of irate employees. The cost of identifying and reconstructing information that has been destroyed is often enormous, and disgruntled computer programmers, operators, and clerks are well aware of the serious blows they can strike against their employers by destroying or deliberately altering data within a system. For example, several years ago, at the headquarters of the Yale Express System, Inc., a trucking firm in New York, an overworked computer operator took home with him billing data he was unable to enter into the system by the end of a working day and simply destroyed them. The billing represented in the destroyed data totalled two million dollars. And in New York some time ago an annoyed computer-room employee of the Irving Trust Company attacked with a sharp instrument the computer tapes of all General Electric dividend accounts being processed in the Irving Trust computers at the time, rendering all the data stored on them unusable.

Belden Menkus, an independent computer-security consultant, told me not long ago of an act of sabotage with particularly expensive consequences that evidently occurred within the computer staff of a large insurance company in Hartford. According to his account, which has been confirmed by several other computer-security people, the incident involved a woman who was a computer-tape librarian at the company headquarters and was having love affairs with two men in the data-processing division. Apparently, these affairs caused so much turmoil and friction, not only among the principals but within the computer staff generally, that after various scenes and confrontations the tape librarian was told by her supervisor to seek employment elsewere, and was given thirty days' notice. Before she left, she found a telling way of expressing her opinion of the insurance company. As computer tapes containing data vital to the company came into the tape library, she either erased them or mislabelled and misfiled them. She similarly erased or mislabelled tapes that duplicated the missing data. The damage was not discovered until the day after the librarian left. The company's computer system was thrown into almost complete chaos, and, according to Menkus, "it cost the insurance company ten million dollars to re-create the data this woman had destroyed." For its own reasons the insurance company decided not to prosecute the offender, who, in any case, was obviously unable to pay the ten million dollars.

Even as relentlessly optimistic an organization as the Girl Scouts of the U.S.A. appears not to be immune to resentment in the computer room. According to Donn Parker's records, a disgruntled employee at Girl Scout Headquarters, in New York, a few years ago expressed her feelings by erasing information on several reels of tape in the computer room, which she accomplished by running a magnet over the reeled tape through flange openings in the sides of the reels.

A French programmer who was dismissed from his job several years ago devised a different scheme for expressing his annoyance with his employer. According to an item in the computer trade publication *Data Management*, the computer program that the employee had been working on at the time of his dismissal was one that would keep his employer's records systematically updated on an annual basis. When he was given notice, he added an instruction to the computer (which, like other systems, has an electronic clock built into its workings) to erase all the company's records as of two years after he departed. Other programmers faced with dismissal have contented themselves with entering instructions into the computer to give them large severance payments or to have their names put on their corporations' pension lists.

Not too surprisingly, the cash-dispensing machines used by banks to provide their customers with cash in remote spots have attracted the attentions of people engaged in computer crimes. Supposedly, these automatic dispensing systems are secure. To get cash from them, a customer must insert his bank credit card in the dispenser and punch out on the machine keyboard a special number assigned to him, along with the sum he wishes to withdraw. The machine then feeds this information into a central computer, which checks it against the customer's correct number and his bank balance or credit balance. If the card is a forgery or is otherwise invalid, the machine clamps down and retains it; if the central computer indicates that the customer has the right identification and the necessary funds in the bank, the machine dispenses the cash—always a limited amount, usually fifty to a hundred dollars—while the computer deducts the withdrawal from the customer's account. The number of withdrawals that the computer allows a customer in any one day is also limited. However, I have been assured by one security man that there are cases in which cash-dispensing machines have been made to give up sums of money to unauthorized users. Another independent computer-security consultant told me recently that he was in the process of proposing to one large bank a test of its automatic cash-dispensing system, because he was convinced that he could outwit the system and withdraw funds unsecured by his bank account.

A newsletter put out by a British data-security organization reported in December of 1974 that a French electronics engineer had been convicted in Tours on a charge of fraudulently obtaining sixty thousand francs from bank cash-dispensing machines in four French cities. What the engineer had done, it seems, was to telephone bankcard customers and, identifying himself as a bank official, tell them that the bank, for security reasons, was giving them a new secret number for use at its cash-dispensing terminals; he also asked them, in an apparently routine manner, what their present number was. In every case, he got the number. He then used the secret numbers together with falsified bank cards to get cash from dispensers. He was caught when a dispenser became blocked by one of his cards and he made the mistake of going to the same place the next day to try again.

In Tokyo, in 1974, a kidnapper chose a bank cash-dispensing-machine system as a means of collecting ransom. To prepare the ground for the actual kidnapping, the criminal opened a bank account under the false name of S. Kobayashi, with a false address. He then began to withdraw small sums from among the three hundred and forty-eight cash-dispensing machines the bank maintained around Japan, and by making telephone calls to the bank after doing so he was able to calculate that it took the bank's central computer about twenty minutes after the actual dispensing of the cash to determine which dispenser a particular withdrawal had been made from. Some time later, he carried out the kidnapping he had been planning, and he immediately telephoned a demand that the ransom money of five million yen—sixteen thousand five hundred dollars—in cash be paid into his account. The kidnapper would collect the ransom when he inserted a bank card bearing the name S. Kobayashi in any one of the bank's cash-dispensing machines. By this means, he reasoned, he would be assured of at least twenty minutes of getaway time after he received the ransom money. His scheme failed, however, because as soon as the bank received his demand its data specialists were able to reprogram the bank's central computer to identify instantly the machine in which S. Kobayashi's card would be inserted. The police stationed radio-equipped men within reach of the bank's cash dispensers, and the criminal was caught as he walked away from one of the machines.

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ANNALS OF CRIME: DEAD SOULS IN THE COMPUTER—II

(By Thomas Whiteside)

It is almost universally conceded in the electronic data-processing industry that, even with the help of auditing teams, it is extremely difficult to detect acts of embezzlement, fraud, or thievery in which computers, or the processing routines employed in their operation, are used as the principal tools of crime. It seems to be also agreed that the number of undetected computer-related crimes is probably far greater than the number of those on record. Of course, a considerable amount of fraud occurs under manual accounting systems, and the computer unquestionably offers, through its instant and wide-ranging memory-search devices, internal controls over data that were not possible in the past. However, manual systems of accounting, although they involve great quantities of slow-moving paper, offer a certain security in that the paper goes through many different clerical and supervisory hands, which means that a successful fraud has to pass the repeated scrutiny of a number of people. But with computerized systems, in which literally tons of paperwork may be compressed into recorded signals on a single reel of magnetic tape, the number of people in the chain is vastly reduced. This tends to put far more information than before into the hands of far fewer people, and the capacity for abuse thus tends to be increased. Furthermore, the manual system requires clerks to sign vouchers, whereas computers impose anonymity. "When I type a computer entry into the record from a keyboard terminal, it looks just the same as if you had typed it," one computer-security man with considerable experience in banking systems said to me recently. "In a multi-terminal computer system, there is simply no way of telling with certainty who is pushing the keys at the other end." Also, because of the extreme complexity of any computer system, it is difficult to check on just what a computer programmer, designer of a particular program, computer-tape librarian, or computer user may have been doing. Certainly, such matters tend to be almost entirely opaque to top management people in many organizations, and they are difficult even for auditors to comprehend fully. As Brandt Allen, a computer scientist at the Colgate Darden Graduate School of Business Administration of the University of Virginia, wrote two years ago in a *Harvard Business Review* article on computer crime, "computer technology tends to confound auditors and managers to the extent that they are rarely in a position to detect or prevent computer-based embezzlement."

Indeed, the number of successful computer frauds that have been committed against companies whose books have been found in order by reputable auditing firms has raised some serious questions in the financial press and in government about whether the auditing profession today is adequately protecting the public interest. These questions were underlined when, last Sep-

tember, after a three-year investigation into the many-dimensioned fraud at the Equity Funding Corporation of America, in Los Angeles—which involved the fraudulent resale to bona-fide insurance firms of faked Equity policies bearing the names of "policyholders" whose sole existence was within the corporation's computers—the Securities and Exchange Commission accused the well-known accounting firm of Seidman & Seidman of negligence when it audited the Equity Funding books and declared them to be acceptable accounts of the company's true financial position. (The firm was also accused of negligence when it audited the books of three other companies in trouble with the S.E.C.) The S.E.C. made clear its belief that although the actual deceptions—primarily the practice of listing fictional dead souls as holders of live insurance policies—had been carried out by Seidman & Seidman's client, the conduct of the accounting firm itself "represented a breach of its ethical and professional responsibilities." The Commission maintained that, contrary to the representations of the accounting firm, the audits of Equity Funding were not carried out in accordance with generally accepted accounting procedures, that critical areas of the audits had been undertaken by inadequately trained people, and that the firm had placed "unwarranted reliance on management representations." The S.E.C. issued a formal administrative order instructing Seidman & Seidman to improve its auditing procedures.

A vice-president handling computer security in one large New York bank has little faith in the idea that the auditing profession can improve its ability to detect computer crimes in the making. "Auditors seldom find a loss," he told me. "They may confirm it after it happens." Other computer-security people are even more skeptical on this score. "The beautiful part about a computer crime is that if you're intent on committing one you can always make Column A equal Column B for the accountants," Lindsay L. Baird, Jr., an independent computer-security consultant, remarked some time ago.

Donn B. Parker, a computer-security expert at SRI International (formerly the Stanford Research Institute), in Menlo Park, California, who has compiled extensive information on computer crimes and is the author of a book called "Crime by Computer," has observed that one basic problem affecting the auditor's detection of irregularities in computerized accounts is that in dealing with digitized material the auditor is at least once removed from the contents of the original record; he is essentially examining data representing the work of computer-terminal operators, computer programmers, magnetic-tape librarians, and electronics engineers. "Dealing with a computerized system tends to destroy the independence of the auditor, since the very people whose work he is supposed to be auditing are standing between him and the documents of record transmitted by these people," Parker has said.

In computer systems, what accountants call "the audit trail," by which auditors are supposedly able to trace transactions backward and forward, is at times inadequately marked. In manual systems, the audit trail consists of journals, ledgers, and other documents, all present before the auditor's eyes. But in a computerized accounting system, as Foster Brown, a computer-systems-development expert, wrote in an article in the *Journal of Systems Management* in April of 1975, "the form, content, and accessibility of records frequently are such that the auditor is unable to follow a single transaction completely through the system." The impediments, Brown wrote, include the problem that source documents, once put into computer-readable form, tend to become relatively inaccessible, and in some computer systems are even eliminated. Brown also noted that "ledger summaries may be replaced by master files that do not show the amounts leading up to the summarized values." Above all, Brown said, the ability of the auditor to take a direct look at the figures involved is hindered by the fact that "files maintained on a magnetic medium can not be read except by use of the computer and a computer program"—and, as Parker, too, pointed out, the computer and its program are generally run not by the auditor but by the people being audited. He has said, "The system is sufficiently complex so that if an auditor of the computerized books of a large corporation were to be truly independent in his examination, he would have to bring with him for the auditing process not only his own team of computer specialists but even his own computer."

Not long ago, I called on Donald L. Adams, managing director of administrative services for the American Institute of Certified Public Accountants, a trade association, about half of whose members are auditors, and asked him to explain his group's position on the problems of auditing computerized company books that might have been tainted by fraud. Adams said that as far as the auditing profession is concerned, "basically, our goal is to come up with a representation of the fairness of the financial statement set forth." He went on, "As a result, we have disclaimed that it is our responsibility to detect fraud. Certainly, many of the things we do in an audit might uncover fraud, and if we do we bring it to the attention of the client." A "Statement on Auditing Standards," issued by the American Institute of Certified Public Accountants, limits the responsibility of the auditor in even more determined language. It states, in part. "The auditor recognizes that fraud, if sufficiently material, may affect his opinion on the financial statements." It goes on, "However, the ordinary examination . . . is not primarily or specifically designed, and cannot be relied upon, to disclose defalcations and other similar irregularities, although their discovery may result." And it insists that the responsibility of the auditor to detect fraud "arises only when such failure [to detect fraud] clearly results from failure to comply with generally accepted auditing standards." Adams said in his talk with me that, with certain exceptions, the financial impact of computer-related fraud is not great. "The sort of frauds that have taken place, while the amounts involved might seem high, have not been what in our parlance we term material; that is, they have not had a major impact on the fairness of a financial statement," he said. This, he made clear, was the official position of the auditors' association. Speaking unofficially, he conceded that it might be difficult to sustain that position in all cases of computer fraud, and certainly in the case of the Equity Funding affair. He asserted that most large accounting firms had people on their staffs who specialized in the auditing of computer systems and who were highly qualified to audit data from computers.

The handling of more and more computerized information—or digitized money, so to speak—by fewer and fewer people and the increase in the inherent risks involved have accelerated a trend toward eliminating the few human beings left in the computer-communication chain. This trend is apparent both in the area of electronic fund transfers, notably between banking institutions, and in government accounting systems, in which many billing and payment functions are carried out almost entirely by computer. One of the largest banks in New York is estimated to engage in computerized fund transfers of about thirty billion dollars a day. A significant part of this traffic has now been completely automated. "We will guarantee to some of our customers that the transactions in which they are involved will not be touched by human hands," a vice-president of this bank told me a while ago. He added, "The reason the customers like the service is that computers don't make errors; people do."

However, a report issued last spring by the General Accounting Office, an investigative arm of Congress, on the automated decision-making by computers in government was not sanguine about heavy reliance on the untouched-by-human-hands approach—at least, on the federal level. According to the report, government computers each year issue, on an automated and unreviewed basis, authorizations for payments or checks (not including payroll checks) totalling twenty-six billion dollars; the computers also issue unreviewed bills totalling ten billion dollars and unreviewed requisition orders, shipping orders, repair schedules, and the like valued at eight billion dollars. Altogether, according to the G.A.O. report, federal computers are involved in more than one and a half billion separate payments and other actions a year "without anybody reviewing or evaluating whether they are correct." The G.A.O. found that designers, programmers, and users of electronic data-processing equipment made numerous errors, which were the cause of millions of dollars of wasted expenditure; it also found that the data being processed were not subject to adequate internal audits. Concerning the latter aspect, the G.A.O. report observed, "We learned that certain internal-audit groups rarely became involved in the [computer] applicants' logic because they lacked the expertise to effectively make such studies."

In a separate report, the G.A.O. noted that "the number of computer-related crimes in government as well as in the private sector is cause for concern about how well systems are being controlled." This report said that the G.A.O. had learned of sixty-nine computer-related crimes or other incidents occurring within the government, and that these crimes had resulted in losses of more than two million dollars, but it emphasized that the sixty-nine episodes were only those that had come to light, and stated that "we cannot be sure whether . . . we simply have not uncovered larger crimes." Concerning the adequacy of internal controls within government agencies, the G.A.O. report said that "federal agencies' internal audit groups vary greatly" in how they review the integrity of computer-processing systems, and that in nine of twelve cases studied "auditors had not reviewed controls in the systems involved. Further, it observed, "Agency internal auditors often had not been informed about computer-related crimes so they could consider their effect on audit procedures. In several of the cases we reviewed, auditors told us our inquiry was the first time they had heard of the crimes."

Like computer-related crimes elsewhere, most of those in government involve the doctoring of data fed into the computer and the manipulation of programs so as to have funds deposited in dummy corporate accounts and checks sent to unauthorized people. Lindsay Baird gave me one such example. "The incident happened a few years ago in a town in southern California," Baird said. "A woman had gone to a bank there to cash an Internal Revenue Service tax-refund check made out to her. She had all the proper personal identification with her, but a bank employee happened to recall from other checks the woman had cashed there that she was on public assistance, and felt puzzled by the federal-tax refund. She told her superior at the bank, the I.R.S. was notified, and the I.R.S. looked into the matter. They found that they had no record of having sent such a check to the woman. An investigation—in which I had a part, followed. It

turned out that the woman had a niece working in California for the I.R.S. as a data-terminal operator. One day, the niece asked her aunt if she would like to have some government money. The woman said she would. So her relative at the I.R.S. got the woman's Social Security number from her, and with that she created in the I.R.S. computer system a fictitious tax record for her. The niece knew the sequence of the I.R.S. computing process. The I.R.S. uses ten regional computers around the country, and maintains a master computer in West Virginia.

Hung on the ten regional computers are terminals. Through one of these terminals, the operator instructed the regional computer that the woman was owed a tax refund for a certain amount. She knew just what she was doing. The instruction was registered in the regional computer and passed on from that computer into the master computer in West Virginia. The master computer wrote the woman a refund check at the appropriate time in the programmed check-writing cycle. Then, after the check-writing cycle had been completed, the operator deleted the record from the regional computer, which then updated the master computer on the change, whereupon the master computer deleted the fictitious record that had been compiled, and also deleted the record of its ever having written the woman a refund check. In this case, the guilty operator was identified in the investigation. But the question remained as to whether this was the only such case of altering I.R.S. records and affecting its check-writing functions. The I.R.S. people had no practical way of finding out how many operators might have been doing the same sort of thing. The cost of auditing and investigating so many people—so many relatives and friends of terminal operators—was so monumental that the I.R.S. people just give up. They wanted to find a way of patching up the system to prevent similar incidents, of course, but I told them that it couldn't be done—that, among other things, the system had not been designed with auditability in mind."

The difficulties of catching up with the people who have committed computer crimes is compounded by the reluctance of corporations to talk about the fact that they have been defrauded and by the difficulties and embarrassments of prosecution and trial. In instance after instance, corporations whose assets have been plundered—whose computer operations have been left shattered by wiped-out memory functions or have been manipulated to churn out fictitious accounting data or to print large checks to the holders of dummy accounts—have preferred to suffer in silence rather than to have the horrid facts about the frailty of their miracle processing systems come to public attention.

Top management people in large corporations fear that publicity about internal fraud could well affect their companies' trading position on the stock market, hold the corporations up to public ridicule, and cause all sorts of turmoil within their staffs. In many cases, it seems, management will go to great lengths to keep the fact of an internal computer crime from its own stockholders.

People who commit computer crimes tend to be aware of management's extreme sensitivity to publicity on the subject, and when their defalcations happen to be discovered they sometimes take advantage of that sensitivity to bargain their way out of serious trouble. One example of the unabashed use of management fear of publicity has been cited in a book on computer crime by Gerald McKnight, a British writer. According to McKnight, a young manager of the sales department of a company in the English Midlands voted with other directors of his company to computerize its accounting operations. He thereafter began systematically looting the company treasury through its computer by establishing dummy companies, to whose accounts he instructed the computer to write a steady stream of checks. His crime was eventually uncovered partly through the resentment of a computer keypunch clerk, whom he had burdened with unpaid overtime work that happened to consist of entering his fraudulent instructions into the company's accounting system. Upon being confronted with the fraud, the criminal calmly admitted his misdeeds, but his fellow-directors pointed out to the chairman of the board that any prosecution would result in publicity that could have serious effects on the company's reputation for efficient control of its affairs. The former sales manager went on to demand coolly that the company give him a letter of recommendation so that he could find satisfactory work elsewhere. Rather than face unpleasant publicity, his employers caved in and gave him the recommendation, whereupon the computer criminal moved to another company as its executive director and, for three and a half years thereafter, steadily manipulated its computer to pay money out into dummy accounts, at the rate of about a hundred thousand dollars a year. After a long internal investigation into inconsistencies that were eventually discovered in the company's accounts, the crime was brought to light. And once again the criminal admitted his guilt, and managed to walk away with a letter of recommendation to his next prospective employer. But the malefactor's boldness tripped him up. Before leaving the second company, he had the effrontery to demand that the second company pay him a lump sum of about six thousand dollars to cover "loss of office"—a separation payment to which, under British law, executives are entitled under certain circumstances. At that the indignation of the directors of the second company simply could not be contained; not only did they refuse to pay but they took legal action against him, though not on criminal charges. They started a civil suit against him, charging breach of contract. The suit is reported to be pending.

The reluctance of corporations to subject themselves to unfavorable publicity over computer crimes is so great that some corporations actually seem willing to take the risk of getting into trouble with the law themselves by concealing crimes or attempted crimes committed against them. Among independent computer-security consultants, it is widely suspected that certain banks, which seem exceptionally reluctant to admit that such a thing as computer fraud even exists in the banking fraternity, do not always report such crimes to the Comptroller of the Currency, in Washington, when they occur, as all banks are required to do by federal law. Bank officers do not discuss the details of computer crimes with the press. Neither do officials at the office of the Comptroller of the Currency, who claim that existing statutes forbid them to do so. Thus the banks seem effectively protected from detailed public examination of the degree to which they really do comply with the law. "The bank doesn't want to look as if its security were bad," one independent computer-security man said to me in explaining the reluctance of some banks to comply with that law. Donn Parker, who believes he has almost certain knowledge of at least one major bank computer crime that was never reported to the federal government, told me that a principal reason for this kind of behavior is the fear on the part of banks that such a record will bring about an increase in their insurance rates; and he explained that the terms of their contracts for insurance against robbery or other crimes are among the most confidential and jealously guarded information in the banks' possession.

Then, there are the difficulties of effectively prosecuting computer criminals. In the first place, the police, if they are to collect evidence, have to be able to understand precisely how a crime may have been committed, and that usually calls for the kind of technical knowledge that is simply not available to most police departments. Even on a federal rather than a local law-enforcement level, few members of prosecutorial staffs know enough about the intricacies of electronic data processing to prepare a case against defendants which will stand up in court. The Federal Bureau of Investigation has developed a course in computer criminology at its agent-training center, at Quantico, Virginia, but, according to commercial computer-security people I have talked with, the training so far offered is not of a very advanced type in relation to all the ramifications of the existing criminal problems. Another difficulty is that not only police and prosecutors but juries and judges must be able to find their way through the mass of technical detail before they can render verdicts and hand down decisions in cases of computer crime, and this alone is a demanding task. In the face of all the complexities involved and all the time necessary to prepare a case that will stand up in court, many prosecutors try to make the best accommodation they can with the defendants' lawyers by plea bargaining, or else they simply allow the cases to fade away unprosecuted. If they do bring a case to trial, they have the problem of presenting evidence that is acceptable to the court.

August Bequai, who is a former member of the enforcement staff of the S.E.C., and who, besides being a practicing lawyer in Washington, was once the chairman of a Federal Bar Association subcommittee on white-collar crime, says that the big stumbling block for prosecutors in computer-crime cases is the introduction of digitized information as acceptable evidence. "Suppose you bring a case involving a crime committted through manipulation of a computer, and you try to introduce a computer printout as evidence of the crime," Bequai explains. "You immediately run into what is called the hearsay rule, which says that at a trial you can't introduce into the court record a statement made outside the courtroom unless it represents a record of an act, transaction, occurrence, or event made contemporaneously with the act at issue, and in the ordinary course of business. Such an acceptable record would be the notation made by a nurse in a doctor's office as to what time a patient came in to see the doctor on a particular day. But when it comes to introducing computer printouts as a record to support a prosecution case, the prosecution has to reckon with the fact that they haven't necessarily been made in the regular course of business or made contemporaneously with the acts at issue—they may have been run off some time after the actual crime. In matters of fraud, you have to prove who falsified what records and when, and produce evidence to that effect, but it's extremely difficult to produce evidence of precisely what happened throughout the whole computing process, with all its stages—the input at entry terminals, the programming of the data, the storage and all the processing that take place in the computer room itself, the production by the computer of punch-card decks representing the processed data, and, of course, the eventual printouts, which might be made in remote spots thousands of miles away. And then you have to contend with how material these electronic signals are considered to be under the law. Suppose someone steals—physically makes off with—paper securities. That's a clear case of theft, or something whose face value is clearly printed on the stolen securities. But what if a thief steals a reel of computer tape bearing the same information as the paper securities but in digitized form? Under many state laws, the prosecution may have a hard time proving in court that the thief has stolen money.

What he has made off with may be downgraded to a reel of magnetic tape so what is actually grand larceny becomes a case of petit larceny."

The status of electronic data impulses as property is as yet so undefined and unclear in many criminal statutes that the findings of a California judge in the case of the man I have called Eli Bart—which involved the theft of a valuable program from the computer of another company—is likely to be a precedent in computer-crime jurisprudence. Bart used his employer's computer keyboard terminal and printout system to extract, via telephone line, the program in question from a competing company's computer. The judge found that, under a California law protecting trade secrets, electronic data impulses that Bart had caused to be transmitted from the competitor's computer did not constitute an "article," or a tangible form, representing a trade secret. What the court did find was that the material in question was essentially "a private library," to which Bart had obtained access without a proper library card, consisting of the secret passwords and so on that were necessary for authorized users. The act of theft, the court found, was not in Bart's stealing electronic impulses over the telephone line but only in his stealing their tangible form; in other words, the theft consisted of Bart's having caused his employer's computer to make a printout of the pirated program and his physically carrying the printout from his employer's computer into his nearby office.

Even when people who carry out computer-related crimes are convicted, they are seldom sent to prison, and even when they are, they usually receive sentences that are remarkably light compared with those imposed on people convicted of commoner forms of larceny. In part, this leniency can be explained by the generally nonviolent nature of the offenses, their sheer novelty to most judges, and, possibly, the impersonal nature of the victims chosen by the defendants. Furthermore, nearly all the defendants are members of the white-collar class, and so are generally deemed to be good risks for rehabilitation; compared with people accused of street larceny, say, most of the convicted people fare well in the presentencing reports prepared by probation departments, whose researchers tend to work within a structure of solid bourgeois values. For a computer embezzlement of a million and a half dollars from the Union Dime Savings Bank in New York, the man I have called Stephen Hattner, the chief teller in the Park Avenue branch of the bank, received a sentence of twenty months in jail. (This sentence led one computer-security man to remark, "If a man takes money from a bank teller and doesn't even use a gun but only shoves a note at the teller, he'll get five years. [Hattner's] haul of a million and a half dollars is the equivalent of his having committed a bank-branch robbery once a day for three years at the rate of the typical branch holdup take, which is about two thousand dollars.")

For his use of the Pacific Telephone & Telegraph Company's computer to steal a million dollars' worth of equipment, a young computer buff named Jerry Schneider was sentenced to sixty days in jail, and was freed after serving a bit more than a month. In the case of Eli Bart, the presentencing report noted, "Computer-program theft is the crime of the future. As such, it has not been referred to this [probation] office at the felony level in prior instances. Thus, there is no ready frame of reference for determining a proper sentence." Bart got three years' probation and a five-thousand-dollar fine. One ringleader of a gang that police charged had, in 1971, recruited insiders at two credit-reporting bureaus—TRW Credit Data and the Computer Credit Corporation—to establish false identities and credit records in the computers of these companies was, after pleading guilty to charges of making false financial statements, placed on probation and fined a thousand dollars. The ringleader of another gang that penetrated TRW Credit Data, between 1973 and 1974, and inserted false credit data in its computers was also placed on probation and fined a thousand dollars on similar charges. A computer-terminal operator inside another credit-reporting bureau, called Equifax, Inc., who was alleged to have participated in a scheme to feed fake credit data into company computers was not even taken to court. According to an article in the *Wall Street Journal* last March, "Equifax actually declined to prosecute its suspected insider," because "prosecution was so difficult," and because the company had fired the terminal operator suspected of having participated in the scheme and considered her dismissal penalty enough.

For the purpose of closing some of the loopholes in existing law that make it so difficult for prosecutors to bring computer criminals to account on the courts, Senator Abraham Ribicoff, of Connecticut, introduced a bill in the Senate in June that would make virtually any unauthorized use of federal computers or computer-processng systems, or similar private equipment or systems used in interstate commerce, a federal offense. The bill is designed to cover improper manipulations within a broad range of activities occurring in computer processing; input activity, involving the translation of data into computerized form and its storage on punch cards, magnetic tapes, or other devices; programming activity, which provides a logical sequence of instructions that direct the computer in solving problems; processing activity, in which data are handled according to the directions of a program; and output activity, where the end results of the data processing are made available to the computer user in printout or other form. The Ribicoff bill is also aimed at improper manipulations of computers or their data from remote locations, via telephone line, such as occurred in the Bart case.

There are certain exceptions to the history of lenient treatment of computer criminals who have been convicted. One such example is the case of a man I shall refer to as James Harlowe. Several years ago, in a northern-California court, Harlowe was convicted of embezzling more than a million dollars from his employer, a large produce-growing and packing company, by manipulating the computer that processed the company's accounts. Harlowe had carried out the embezzlement during a period of six years from a position of trust as the company's chief accountant. In essence, what Harlowe did was to use the computer to play a kind of digitized war game, in which he designed a master program that, when it was integrated into the company's computerized accounting system, would systematically siphon off large sums into dummy accounts and thus into his own pockets—all this in such a way that his crime would be virtually untraceable. And the scheme worked, year after year, without his employers being any the wiser. It worked so well, in fact, that in the end, when Harlowe decided, for his own reasons, to have it known that an embezzlement had been going on, he encountered difficulty in drawing attention to the fact that his company's computerized books had been thoroughly cooked for a long period. When he was finally apprehended and found guilty of grand theft, he could easily have escaped with a light sentence, but before his sentencing he tactlessly displayed such a lack of remorse that the court was angered and he was given a ten-year term in prison. Of that term, he served five and a half years, in San Quentin. He is now in business for himself in northern California.

Some time ago, while I was in California, I met Harlowe and had a long talk with him about his adventures as a computer criminal. I was not able to discuss his case with his former employers, because I had already learned on good authority that they, like the officers of most other corporations that have been victims of computer crime, had no intention of talking with the press. And, of course, what I got from Harlowe is his side of the events in which he became enmeshed.

My initial meeting with Harlowe was over a leisurely lunch in a restaurant. He is a rather short, sandy-haired man in his mid-forties, with brown eyes and horn-rimmed glasses. His manner was brisk and attentive. In arranging the interview, I had assured him that I would not use his real name in writing about his case, and he answered my questions—even those I felt a bit awkward about phrasing, such as "Just when did you begin your embezzlement?"—with a cheerful responsiveness.

Harlowe comes from a ranch-owning family whose roots were established in northern California over several generations; he appears sufficiently proud of the social solidity of his family background to bear himself with a faintly patrician air. In college, in California, he majored in economics and statistical theory. After he graduated from college, in the early nineteen-fifties, he worked for a while as a civil engineer. He spent the summer of 1961 on a leave of absence in an area south of San Francisco, where a friend told him that a large produce company nearby was having administrative and accounting problems, because a couple of employees on whom the company depended had left. On the friend's recommendation, Harlowe went to see the president of the produce company, and he was hired as an administrator and accountant. Harlowe ran the company's packing-shed operations, in which a hundred and fifty people were employed, and took on the responsibility of supervising all the accounting for the company's operations. He told me that the work was demanding but that he was well paid, and that at the end of his first seven-month growing cycle the president of the company gave him a ten-thousand-dollar bonus in appreciation of the order he had brought into the company's operations. However, Harlowe said, he found his employers difficult to deal with; he felt they were "coarse," "insensitive," and "bullying" in their relations with their employees. "They simply lacked gentility," he told me. He decided to leave, in spite of the pay, and with his bonus he bought an interest in a small chemical company. But the following year, he said, the people running the produce company asked him to come back to work, this time on a profit-sharing basis. "The company was grossing about thirty million dollars a year, and I was told that if I would come back they'd give me five per cent of the pretax profit, plus a salary of twenty-five thousand dollars, plus expenses, plus a car and food for my family," Harlowe said. (He is married and has a large family.) He went on, "This was in 1962, and I felt I couldn't refuse the offer. So I went to work for them on that basis—as their chief administrator and accountant."

One innovation that Harlowe induced his employers to adopt was a fully computerized accounting system. For a couple of years before this, Harlowe told me, he had been studying computer technology and had been taking I.B.M. training courses in the subject; he had also developed his own library on electronic data processing. "After a while, I'd rented an I.B.M. 402 accounting machine and some ancillary equipment, such as card-punch equipment," he said, "I kept all this stuff in my garage—the way, I guess, someone else might put in an electric-train layout. I was really involved in computing and data processing." After Harlowe had been back at work with the company for a short time, he began to develop a way of automating the company's accounting system, using the equipment in his garage. "I wrote all the procedures and wired up the panels in the equipment," he said. "When I had the system well worked out, I set up an independent computer-service bureau, moved the data-processing equipment out of the garage, and set up in business—but not in my own name. I hired a few people and managed to get some data-processing work from various clients. This was quite aside from my regular job. In a while, I went to the management of the company and, without telling them what I had done, I persuaded them to automate their accounting system and to have the work done by a computer-service bureau. I recommended that they use the bureau I had set up." At that stage, he said, he had no thought of engaging in anything really wrong; his only reason for concealing his ownership of the service bureau was that he knew, as an accountant, that the auditors would expect the data processing of the company's accounts to be handled by a third and entirely independent party, but he really wanted to get the company's business, which was substantial. He got it, and his sideline computer-service business thrived. "I rented time on an I.B.M. 1401 computer, then got my own I.B.M. 360 on lease at three thousand dollars a month," Harlowe said. He also carried on his official accounting and administrative duties with the produce company.

At the end of the 1962 growing season, Harlowe said, he was in for a shock. The management appeared to be as pleased as ever with his services, but he found that instead of getting the expected five percent of the company's pretax profit as a bonus he got a greatly reduced figure. Before his five-percent share was computed, the rest of the top management people took their shares from the pretax profit, and his share was figured on what remained of the pretax profit after the bonuses of the top management people had been subtracted. "I felt cheated," Harlowe told me. "I was angry. I hadn't had any liking for the people who were running the company in the first place. And I said to myself, 'There's one guy in this organization you shouldn't fool around with.' I was handling the money."

Harlowe decided that he would find his own way of getting back the percentage of the company's profit he believed himself to have been cheated out of. So in processing the company's accounts he ran them through the computer again, subjecting the data to alterations that gave the accounts the appearance of being conscientiously compiled and properly balanced, but, at the same time, diverting funds to himself. The diverted funds were accounted for in the computerized books mostly in the form of various increased costs. Harlowe then began to loot the corporation's gross at what he considered the acceptable rate of three-quarters of one per cent annually. He did this by devising a special algorithm—a set of rules for making calculations—which he used as a master program to alter the company's accounting data in the computer. "The algorithm allowed me to assess true cost variances in the accounts and to inflate these in a way that seemed reasonable," he said. "When you're doing millions of dollars' worth of business it isn't all that difficult to make alterations in increments of pennies or fractions of cents. I would subject the company records to these variances in the computer in such a way as to diffuse the higher costs throughout the system."

Harlowe kept the true computer records of the company's financial position; the company got the altered version in printout form. "What made the elevated cost figures relatively easy to justify was the nature of the produce business, which is subject to many fluctuations," he said. "For example, you have continuous fluctuations in such matters as freight and labor costs. And you have weather. If we had a period of rainy weather, I would build in a little extra to the naturally increased harvesting costs resulting from this, and could always easily justify these increases. After all, who can tell exactly how muddy a muddy condition is? I'd pick other natural phenomena to which, at what seemed the right time, I could attribute some other elevated cost factor. As the chief accountant, I made a weekly report to the managers of the company on the state of their accounts, and I'd take with me a printout of the altered records. I might tell them at one meeting that the cost of carrots was running at, say, twenty-eight dollars a ton. I might have escalated the cost, through the computer processing, by a factor of seventy-five cents a ton, but the algorithm controlling the accounting data had so spread the added cost through the system that it was integrated into a huge variety of very detailed information—so much for row-boss supervision, so much for harvest labor, so much for truckings, so much for tractor overhead, so much for fertilizer and pesticides.

The increased cost shown penetrated into almost every area of the company's operations. Once a week, I reviewed the extra costs that I felt I could safely build into the system. I took the company's true costs, decided on the variances, and, using the algorithm I'd devised, had the computer spread the costs in such a way as to support the total cost figure I had decided on. I had no elaborate figuring to do. It was all in the design. The whole arrangement was built into the computer system. It would be hard for anyone to believe that the cost figures shown in the finished printout could be wrong when they were supported by such a mass of information, in which all the details seemed to relate perfectly to one another. But, believe it or not, I didn't have to do much more than press a few buttons to achieve the effect. The algorithm was the key to the whole thing.

"In the kind of work I do, I happen to visualize cost-accounting problems in geometrical or spatial metaphors. I tend to see figures in the shape of charts and graphs; I tend to see a cost progression as a curve with a certain shape and in a certain motion across a scale. When you see things that way, you don't need to burden yourself with a million details. Once I had visualized how I wanted the cost curve to go in relation to the real costs of the operation, I made the cost adjustments I thought appropriate—two cents a box of produce now, a cent later on—and the computer went through all the details and expanded all the cost minutiae to fit the new cost configuration. I really had what you might call an econometric model of the company's operations, including the whole banking array. As a matter of fact, some of the ideas for the model were based on principles I'd learned while I was a student in college. My professor in statistics then was Kenneth Arrow, who is now at Harvard. He won the Nobel Prize a few years ago. I don't suppose it ever occurred to him that he might be training an embezzler. Well, the computer would tell me how much to spend in each cost category. To receive the difference between the real and the inflated costs, I had opened dummy bank accounts in the names of fictitious corporations that were presumably doing business with the produce company, operating from box numbers—a procedure that is very common in the produce business. All told, there were about fourteen dummy bank accounts having supposed dealings with the produce company.

The difference between the inflated and the real costs would be funneled into these dummy accounts. Suppose I decided at the end of a particular month to create eight thousand dollars of inflated costs. The computer would break this down into cost categories, such as labor costs. I'd have a dummy company that would be a labor contractor, which I'd give a likely sounding name to. I would have a produce-company check of three thousand and sixty-two dollars made out to this company. The same thing with inflated package costs—I had a dummy company that was supposedly a supplier of packaging materials. The computer would move the surplus funds into these dummy accounts by check.

"Not all these dummy companies would receive money all the time, because I wanted to use some of them only at certain times. However, in order to keep up the appearance of activity in these dummy corporations I would have the computer write what was really a series of kited checks between these accounts and between these accounts and the company. It was a sort of perpetual-motion system—a movement of paper for appearance's sake—and to maintain it I would keep about twenty thousand dollars of supposed working capital shifting between the dummy accounts, so that there was always something in the pipeline. The algorithm took care of where to send the money, just as it did in the case of all the money I regularly siphoned off from the company treasury into the dummy accounts. The computer even wrote out the checks to the dummy companies. I had to drop the checks off in the mail, along with the bank-deposit slips."

Harlowe said that he gradually stepped up the embezzlement until it was providing him—on top of his regular salary of twenty-five thousand dollars and his annual bonus of about fifteen thousand dollars—with two hundred thousand dollars a year. During the six-year period of his embezzling, his average annual take was a little over a hundred and sixty-six thousand dollars. He said that although his employers often complained about high operating costs, his accounting appeared to be entirely above suspicion. He told me that sometimes, after inflating the costs of particular types of produce, he would take his fraudulent weekly computer printouts to the management and do some complaining himself. "I'd go into these meetings with my reports and say, 'Look at these costs—you've got to bring down these unit costs in these areas.'" He went on, "And after calling attention to the very conditions I was changing I'd give them a convincing explanation of why the costs were high. Then we'd develop a management plan for correcting these high costs, and the next week I'd let the conditions be corrected. But the week after that the cost of something *else* would go up on the books."

"Innumerable as the sands of the sea are the passions of man," wrote Nikolai Gogol, musing on the life of Pavel Ivanovitch Tchitchikov, the restless hero of his sardonic masterpiece "Dead Souls," "and all are different, and all, base and noble alike, are first under man's control, and afterward cruel tyrants dominating him." Tchitchikov travels about Russia, quietly buying up lists of the names of serfs who have died but whom Tchitchikov intends to represent as living, as part of a devious scheme to obtain a substantial government loan, with these supposedly live laboring souls as collateral. The phantom labor-contracting companies and their electronic dead souls who were registered within the recesses of Harlowe's I.B.M. 360 exerted at times a direct influence on the fortunes of the live souls who actually toiled in the produce company's fields as pickers. Most of the thousand-odd laborers in the company fields were Mexican nationals brought to this country under contract as migratory workers through the so-called bracero program. Although such people might not have known much about computers, they knew a great deal about the rigors of field work, and there were times when they had to work harder than ever to satisfy the kind of Stakhanovite

norms established in Harlow's computerized accounts. As Harlowe described it, the effects of the manipulated contents of his computer on the lives of field hands began to be felt not long after the company switched to computerized accounting, and at first the changes were made on behalf of the company itself. Harlowe recalled, "The braceros had all been on piecework in the fields, and then the U.S. Department of Labor came along and laid down regulations that required each bracero to be paid at a minimum guaranteed hourly rate regardless of his piecework earnings. Naturally, this wasn't to the liking of the produce company, because it meant that the basis of pay was cut loose from the established piecework-production criteria. The braceros didn't understand anything about this guaranteed-wage stuff. One of the functions of the row bosses was to pound away at the idea that they were still on piece rates. The company came to me with the problem. I proposed a remedy. They told me to go ahead. So what I did was to write a computer program that would simulate payroll records. I used this simulation to devise a way in which we could optimize the relationship between hours worked and production achieved, and so make it appear that the braceros were working fewer hours than they actually were, and were thus making more than the minimum hourly wage called for by the Department of Labor regulations.

I worked out such a scheme on the computer. In this scheme, I staggered—in the computer records, anyway—the supposed departure times of the buses that carried workers into the fields and grouped the men in different buses, so that individual workers whom the computer had identified from payroll records as being the best producers would always make up a crew that accounted for the greatest number of hours of work, and that crew's bus, as I caused the records to show, would be sent off into the fields first. Then I'd put the lesser producers into buses with later departure times, thereby reducing the number of hours they worked, and when all the time sheets and production records were computerized and compiled into printouts of payroll records the resulting figures optimized the braceros' piecework earnings per hour and put them over the required federal minimum. In the first season, that program saved the company seventy-eight thousand dollars." Put another way, it evidently cost the braceros seventy-eight thousand dollars. "The braceros weren't aware of the details, of course," Harlowe said. "They weren't so unhappy. Anyway, they were used to what they call a mordida—the bite. It was part of their life."

When Harlowe turned against his employers and organized his embezzlement, the concentration of his energies on this project left him little time to attempt to solve the problems of migratory labor. But as the embezzlement moved along its course, Harlowe was able to use some of his insight into field-working conditions to further his scheme. In explaining how he would rationalize higher costs shown in the books, Harlowe told me, "I'd go into one of these management meetings with my accounts that reflected inflated figures on harvesting costs. If the real harvesting costs for carrots happened to be twenty-five dollars a ton, my figures would show them to be thirty dollars a ton. The row-boss cost figures should come to five dollars and sixty cents a ton, but they would show as five dollars and seventy-five cents a ton. When I presented those figures, management would ask, "How come the costs are so high here?' And I'd tell them that the figures showed they must be paying the field crews for bags of carrots that weren't full. That's the sort of thing you watch out for on piecework, you see. If you figure that your one-unit piece pay is equivalent to a bag of carrots weighing fifty pounds, and you accept bags that have only forty-nine pounds of carrots in them, you're getting only ninety-eight per cent of the product contracted for. And I'd say to management, 'You've got to have these guys fill their bags of carrots.' And management would go out and try to make corrections. They would harass the row bosses, who would harass their crews. The row bosses would tell management, 'We're doing our best.' But they accepted management's explanation. Management would tell them, 'We've got it down here in black and white.' And management itself believed it. The computer figured it out, and who could argue with the facts?"

As Harlowe prospered, he made investments in the cattle business, maintained several cars, and flew his own light airplane, in which he travelled throughout the northern-California valley regions in the course of doing outside, legitimate data-processing business with ranchers and farmers for his computer-service company. He also had two homes, for one of which, on the northern-California coast, he paid ninety thousand dollars. He felt he was making the best of the circumstances he found himself in. He told me, "There was the satisfaction of having the last word where the produce company was concerned. There was a personality conflict between the principals and me, and I'm an egotist and don't like to be treated in a manner in which I'm expected to have a subservient attitude. Then, there was the excitement—it all seemed like a daring thing to do." At the same time, he said, what was happening to him had an unreal character. "Sometimes I had to stop and think that I was really doing all this." But there was also a sense of power. "It was as though I were the one in control of the situation. There was a sort of solitary grandeur."

I asked Harlowe whether he had ever dreamed at night about his embezzlement. He said he hadn't. I asked him if he daydreamed about the future. He said he had done a lot of that. He would imagine himself living a life of financial independence. "I wanted to be respected in my field," he told me. "I could see myself on the California coast in a new house I had built in my mind. It would have a nice library, and I would be getting visits from prominent people—the Under Secretary of Labor, for example—and we would spend half the night arguing about agricultural policy; or a professor of mathematics I happened to respect, and we would sit in the library and discuss econometric models at length." Also, Harlowe thought about how he would greatly expand his legitimate computer-service business, and he saw himself as gaining recognition for computer-programming innovations he felt he could devise.

Harlowe's daydreaming did not prevent him from keeping his eyes open to what was going on around him. At the office where he maintained his commercial data-processing service, he spotted at one point a series of data-processing anomalies not of his own making. "I discovered that one of my employees was stealing from *me*," Harlowe said: "He had been padding expense accounts on our computer, and stealing computer time so he could program and run off some accounts of his own. But I had a pretty good costing system established, and I had written an internal program that reported unit time for programs resident in that computer, and I called the guy in and told him exactly what he was doing. He turned white. That guy thought I was clairvoyant. I couldn't find it in my heart to reprimand him. After all, I was doing the same thing on a much grander scale. Also, I would rather have his gratitude than his resentment. So I worked out what I called a rational solution with him—a bonus arrangement he could draw against, so he'd have a little more ready money coming in. He was astounded by my benevolence."

Harlowe had to keep constantly on the alert to insure that his frauds were so well integrated into the produce company's computer records as to pass muster with the firm of independent auditors whose representatives came to the company offices once a year, in March or April. Usually, Harlowe said, an auditors' inspection took several days to complete. He said that the auditors were unaware that he owned the computer-service company processing the books. The general ledger was in printout form, and Harlowe made a point of being present during the audit. "When the auditors wanted some supporting detail, I would bring it," he told me. He went on, "Being present, I knew at just what stage of the audit they would leave for the night. There were certain parts of the books that I felt I would rather not have a complete audit on. So a couple of times in the course of an audit, when the auditors had gone home for the night, I would go to the data center and run off on the computer new printouts of the whole year of records under review. In the process, I would shift some accounting details—the ones I'd rather not have inspected—from the as yet unaudited part of the accounts and have the computer bury them in printouts that had already been audited. Since the auditors were working from broad totals in their separate work sheets, I kept the new totals in conformity with their figures but changed the supporting details and some subtotals. Then I went back to the company office and just switched the new printouts of the year's accounts with the ones that the auditors were working on. Each time, the auditors would come in the next morning and work on an entirely new set of books without knowing it. At the end of one audit, I went out to dinner with the auditors. They complimented me on the completeness and detail and general quality of the records I was keeping. What they particularly liked was the way in which I had integrated management information into the general records. They thought that it was a comprehensive system, and they even discussed with me the possibility of using my computer applications for another of their clients, who was also in the produce business. After that dinner, I went out to my car in the restaurant parking lot and laughed until tears came down my cheeks."

As the years of successful embezzlement went on, and the total amount of money that Harlowe had diverted from the produce company's treasury approached a million dollars, he began to think of pulling up stakes and moving on. "I had a very tough job at best, organizing the accounts of a company that was run by people I didn't like," Harlowe told me. "And when you're manipulating double accounts a job like that is even more difficult. In 1967, I decided that the time had come to stop this defalcation and to go into the next phase of my life, whatever that might be."

But withdrawing from the produce company, he knew, posed some tough problems. "The principal problem was that in order to leave the job I would have to do a lot of readjusting of the computer," Harlowe said. "I would have to find a way of winding down the inflated cost figures. And I couldn't do this overnight without attracting attention. I couldn't allow the costs to drop suddenly—particularly in a period of inflation. It would take me a couple of years." Also, he said, because of some preliminary inquiries by the Internal Revenue Service, he suspected that several companies—of which the company he worked for was one—were prime candidates for investigation by I.R.S. auditors because of some of their business practices, and this prospect made him very reluctant to leave, since he would then no longer be able to manipulate the company books to keep himself out of trouble. It seemed now that the electronic dead souls

that Harlowe had created had not only assumed a stubborn life of their own but were exerting an increasingly dominating force on their creator's own capacity for action.

The idea came to Harlowe that he might find a way out of his dilemma by having at least some of the defalcations revealed, but without his being blamed for them. He believed he would not be unjustified in making it appear that a couple of the principles of the produce company were themselves siphoning off money from the treasury, in order to escape taxation. "I had a unique position, in that the principals of the company were very impatient about paperwork," he explained. "They had me balance their checkbooks, pay their bills, and keep their personal bank accounts. That made it easy for me to salt their accounts, and that's what I did. I began putting checks from company accounts into their personal accounts, and from there into oblivion via dummy companies. Since I always got their bank statements, I would destroy these checks when they came back. But the transactions were recorded. I didn't do a lot of this. Just enough to suggest some possible culpability—that there was more there than met the eye."

Then Harlowe pondered how the true state of the company's finances might be discovered without his being blamed. He considered going to the chief officer and saying that he was doing so as an act of conscience. "My role would be that of the dutiful employee." But he decided against that. "Instead," he told me, "I decided to overdraw the bank account of one of my dummy companies, and deliberately call the bank's attention to the dummy company the produce company was dealing with."

He had his computer turn out a check from the dummy company for an amount that the company's bank account would not cover, so as to alert the bank to the phantom nature of the company. But, to Harlowe's intense annoyance, the dummy company's bank paid no attention to the bad check. So Harlowe had the computer write another bad check, and then another. Only after about a month, when he had overdrawn the dummy account with checks amounting to seventy-eight thousand dollars, did one of the bank's officers become suspicious. The bank manager called Harlowe, who expressed puzzlement. The bank manager arranged for a meeting with a vice-president of the produce company—one of the people whose personal checkbooks Harlowe happened to be manipulating. Harlowe told me he later learned that the meeting ended in a state of confusion, while he remained the only person who understood what was really going on. At that point, Harlowe told me, he calculated that the people running the produce company—for their own reasons, connected with company finances—would be eager to avoid any intensive examination of its financial affairs. And if by any chance they did press for a thorough investigation, there would be enough evidence around to divert attention from Harlowe's own culpability. But then, as the atmosphere at his company grew tense and suspicious, Harlowe developed apprehension as to how well he had really covered his tracks. He went to a lawyer in the area who was noted for his skill in complicated cases, told him the whole story, and paid him a fee of fifty thousand dollars (a small portion of the funds that Harlowe had embezzled, after all) after being assured, he said, that he had a defensible case. Harlowe told me that, taking his discussions with the lawyer into account, he did indeed consider that if the produce company had him arrested when some of the facts came out he would have a pretty good case in court. "The principals of the company were not entirely blameless," he said. "So far as I'm concerned they really were trying to take money out of the business, overstating expenses to avoid taxes. I'd be testifying as a naive bookkeeper. The accounting was so terribly complex that no layman juror could understand all these computer-programming technicalities.

"I felt I could come out pretty well." But then, after the company management did sign a criminal complaint against Harlowe, and he was arrested and put on trial for grand theft, he had second thoughts about going through with this elaborate plan to shift the blame for his defalcations, and his lawyer persuaded him to plead nolo contendere. "The lawyer had it arranged, he believed, so that with the nolo plea I would get eighteen months," Harlowe said. "I thought that that wasn't so bad." Before being sentenced, he was called in for a probation-department interview. Harlowe, confident that all was settled, not only refused to tell what had become of the million dollars he had embezzled but, he admitted to me, "was pretty curt with the probation officer." In large part because of his generally uncooperative attitude, the probation officer's presentencing report was highly unfavorable, and, in court, the judge grimly gave him not the expected eighteen months in jail but ten years in San Quentin—apparently a record sentence to date in any case of computer crime. While he was in jail, Harlowe worked his way up to become a clerk to the warden ("I was really treated more as a staff member than as an inmate"), and also taught a course in basic computer-programming techniques to fellow-prisoners.

Harlowe was released on parole in 1974. When I talked with him, he said he was on the verge of settling accounts with the I.R.S., as part of the aftermath of his embezzlement. According to Harlowe, the I.R.S. people were somewhat confounded by his case. In spite of the fact that he had admitted embezzling more than a million dollars from the produce company, and in spite of the fact that embezzled funds are subject to taxes, he was allowed to settle with the I.R.S. people for only a few thousand dollars. Harlowe explained the situation to me by saying, "At some point in my financial maneuverings, the income from the embezzlement had become income in a corporation in which I was the principal shareholder. Through various pipelines, I contributed cash from the embezzlement amounting to close to a million dollars to the corporation, and I listed this income to the corporation as though it represented sales. So in fact it was as though I had made a proper accounting of the funds for tax purposes. The I.R.S. man I dealt with found that most peculiar. He'd never come across a case before where embezzled funds had been declared—if under somewhat different colors—as income." Even so, the corporate tax paid on this sum apparently amounted to very little indeed, because Harlowe had been able to demonstrate to the government's satisfaction that the company he had established had kept losing money.

How it supposedly lost it was something I couldn't get any clear idea of from Harlowe. I had the impression that the money just wafted away through a maze of intercorporate dealings and into—to use Hardlowe's word—oblivion. Whatever thoughts Harlowe might have about his embezzlement, he clearly didn't have much time for the sort of remorse that seems to be sought as an ideal by sentencing judges and by probation people. He merely observed at one point that "when you get close to a computer, get really involved with it, you tend to lose track of that humaneness—you become enthralled by the numbers, you generate them endlessly, and your whole life becomes so bound up with them that you lose a qualitative sense."

Lately, Harlowe, no longer on parole, has been acting as a data-processing consultant to a group of construction companies in northern California, for which he has written a series of programs embracing a whole range of accounting procedures, in areas from supplies to accounts payable and receivable. He told me that he also possessed a particular computer program that he had written in prison, and that he thought it had good commercial potential in the area of cost analysis. He said that he had become interested in prison reform, and added that, in part as a consequence of his prison experiences, he was occasionally in touch with some politically radical friends, some of whom had approached him for advice on taking action against computer systems as symbols of the Establishment. "These people consider themselves urban guerrillas, but they are intelligent enough to realize that violence will only bring repression," Harlowe said. "They feel that the best way to further their cause is to screw up major computer systems, such as the big credit-card outfits and the billing systems of major oil companies. They told me they were putting together a technical task force, and invited me to join it. For obvious reasons, I declined. I'm not in favor of sabotaging computers. Might be mine"

The accelerating incidence of computer-related crimes—particularly in the light of the continuing rapid growth of the computer industry and the present ubiquity of electronic data-processing systems—raises the question of what countermeasures can be taken within industry and government to prevent such crimes or, at least, to detect them with precision when they occur.

By far the biggest manufacturer and lessor of computers is, of course, the International Business Machines Corporation, and the I.B.M. people can hardly be expected to ignore the increasing attention that the press and the public are devoting to computer crimes. I.B.M. undertook, some years ago, a forty-million-dollar program to examine the whole problem of data security as it applies to the computers that I.B.M. produces and to the operating systems that it designs and sells or leases. In spite of this, however, and although it is a matter of general knowledge within the industry that I.B.M. has assigned teams of specialists to examine in detail breaches of security occurring in I.B.M. systems (the company is said to have compiled a catalogue of more than three hundred cases of computer crime), the I.B.M. people resolutely refuse to discuss any specifics of computer crimes that may have come to their attention. In fact, they can be brought to concede only with reluctance that the problem exists at all.

Some time ago, when I managed to interview John Rankine, the director of data-security programs for I.B.M., he characterized the incidence of purposeful subversion of computer systems as "minuscule." He politely declined to discuss either particular cases of computer crime of which the I.B.M. people were aware or general types of cases that the company might know about because computer crime, he told me, was not a subject that he followed in detail. Still, he did willingly discuss the overall issue of data security in computer systems, which, he said, was a fundamental one in the entire history of computer science and had to do primarily with the prevention of unintentional destruction or distortion of digitized information in the computer process. "The accountant does not want his system destroyed by the engineer, and the scientist who is working on a problem wants to protect his interim results in the computing process without having the next set of computations destroy them," Rankine said. He went on to say that his company's responsibility was to have data security as a basic design criterion, and that the issue of computer crime was actually only a very small part of the drive to achieve the integrity of computer systems as a whole. Rankine then discussed some of the procedures that his com-

pany had devised or had recommended to organizations using its computers and computer systems.

In addition to tight physical security for facilities, these included such internal checks within a system to insure data security as adequate identification procedures for people communicating with the computer by way of keyboard terminals; elaborate internal audit trails built into a system, in which every significant communication between a user and a computer would be recorded; and, where confidentiality was particularly important, cryptography, or the scrambling of information. He said that, for example, in the matter of data security, to forestall the use of a terminal by someone in such a way that another terminal in a system would appear to be the one used, I.B.M. is now offering computer terminals activated by lock-and-key devices that, when the keys are turned, emit a signal identifying the terminal site to the central computer. Other security devices in the development stage include a pen that will record, for identification purposes, not only the personal signature of a terminal user but also the dynamics involved in writing the signature out, such as the characteristic pattern of acceleration and deceleration used in forming individual strokes; and a device that will oblige the user of a terminal, before he can get a go-ahead from the computer to use it, to press his thumbprint on a special plate in a recess of the terminal for an instantaneous matching of its whorls and loops against an image stored within the computer. But, Rankine said, he didn't want to emphasize the importance of particular devices unduly, for "precautions on behalf of data security are made throughout the system." The fact is, he said, that "the data-security job will never be done—after all, there will never be a bank that absolutely can't be robbed." The main thing, he said, is to make the cost of breaching security so high that the effort involved will be discouragingly great.

In this respect, the I.B.M. people—as the result of a proposal made to computer manufacturers by the National Bureau of Standards that they develop a procedure for secure encryption of digital information—have taken the lead in constructing such a system. The procedures they have produced, after very elaborate work, has recently been adopted, under the name of the Data Encryption Standard, by the bureau as a required algorithm in the cryptographic handling of all federal unclassified information.

As the major manufacturer of computers and the major designer of programs to operate them, the I.B.M. organization, while obviously aware of the increasing problems of data security, is careful to place itself at a cool distance from the consequences of misuses of its equipment and systems.

In a statement on data security issued some time ago, it said, in part, "I.B.M. has developed and is continuing to develop equipment, software, and various techniques and procedures to safeguard computer information. It is the responsibility of the user to see that these data-security measures are applied as needed." Though computer-security specialists I have talked with tend to be sympathetic concerning the somewhat difficult position that I.B.M. finds itself in, particularly as the designer of computer-operating systems that may have been misused by unscrupulous employees of other corporations using the systems, they also tend to speak with a certain, though not necessarily disrespectful, skepticism of the value of some of the countermeasures against computer crime and misuse which the I.B.M. people say they have been developing under their data-security program.

Donald Adams, of the American Institute of Certified Public Accountants, who himself has a background as a computer programmer, told me that he has been unofficially "crusading" for a tightening up of what he considers to be in effect the loose design of commonly used I.B.M. and other computer systems. "The problem is that I.B.M. and other manufacturers try to make their systems so flexible that, in my view, they have made them virtually uncontrollable," Adams said. He added that it was his personal belief that in selling its systems to users I.B.M. tended to appeal to the needs of technicians rather than to what might sometimes be the best interests of top management. The flexibility of I.B.M. computer systems commonly used in business, he explained, was an attractive feature to the technicians of the user companies, especially in terms of program design, but was likely to make for systems that were relatively insecure. But top management people aren't usually aware of the lack of security that goes with flexible systems, he said, because "the management is dependent on what the technicians tell them about computer systems." And one independent computer-security consultant I talked with declared that, as far as he was concerned, most of what I.B.M. has accomplished so far in its forty-million-dollar data-security program has been essentially "to fix the little problems but not the big problems."

To somebody looking at the problem of computer crime as a whole, one conclusion that seems reasonable is that although some of the criminal manipulators of computer systems have certainly shown ingenuity, they have not employed highly sophisticated approaches to break into and misuse computer systems without detection. In a way, this fact in itself is something of a comment on the security of most existing computer systems: the brains are presumably available to commit those sophisticated computer crimes, but the reason that advanced techniques haven't been used much may well be that they haven't been necessary.

Some glimmering of the more advanced techniques of unauthorized entry into and manipulation of computer systems which may lie ahead is perhaps observable in various exercises that have been carried out within the defense establishment for demonstration purposes, their aim being to penetrate some of the most complex and supposedly secure computer systems used by agencies of the armed forces, by civilian agencies, and by government contractors. There is, for example, the experience of a team of computer scientists from the Air Force and the MITRE Corporation—a research-and-development organization that works largely under contract to the federal government, on such projects as the National Military Command System and the Worldwide Military Command and Control System—indeliberately penetrating and manipiulating the contents of what has purported to be a secure computer system. The exercises were carried out, on behalf of the Air Force, by Steven B. Lipner, an information-systems expert at the MITRE Corporation, and Lieutenant Colonel Roger R. Schell, then a computer-security specialist in the Command and Management Systems Division of the Air Force and now a student at the Air War College at Maxwell Air Force Base, in Montgomery, Alabama. The results of their efforts have been described in several Air Force and MITRE internal papers that Lipner and Schell made available to me when I visited them sometime ago at the MITRE Corporation headquarters, in Bedford, Massachusetts. According to Schell, the primary aim of the exercises was not so much to derive technical insights from the penetration of a particular computer system as to demonstrate to defense officials that the penetration could be accomplished without great difficulty. In one paper that Schell and Lipner prepared for the Air Force, they put their views concerning the security of large computer systems in blunt language:

"On numerous occasions, programmers have conducted formal or informal projects aimed at testing the security of operating systems by penetration—by writing programs that obtain access to information without authorization. . . . In each case, the result has been total success for the penetrators. The programmers involved in these efforts have not been "insiders" but simply competent system programmers armed with user- and (sometimes) system-level documentation for the computer and operating system under test."

Both Lipner and Schell had been studying problems in computer security since 1972, and between 1972 and 1975 they undertook a series of exercises involving the security of an advanced computer-time-sharing system called Multics, which had been developed jointly by Honeywell Incorporated and the Massachusetts Institute of Technology, partly with Defense Department funds. According to Schell, security had been a significant consideration in the design of the Multics system. It was designed to provide protection for numerous users simultaneously, and so elaborate were the checks built in to prevent unauthorized access, and to insure that users having authorized access to one level of privileged information within the computer had no way of obtaining access to a higher level, that the Multics system had been proposed by the Air Force Data Services Center at the Pentagon as a means of handling secret computerized defense information. The security precautions included a cryptographic system to encode user passwords, so as to make the passwords meaningless even if they were copied or physically stolen from the computer storage system. The exercise was carried out first on a Multics system at the Rome Air Development Center, at Griffis Air Force Base, in New York, and then it was carried out a second time on a Multics system at M.I.T. For the purposes of these exercises, Lipner and Schell were allowed only the minimal access accorded every user. The penetration attempts were conducted from the basement of Schell's house in Concord, Massachusetts, where he installed a keyboard terminal connected to his home telephone line. He could, of course, have operated the terminal by telephone from Los Angeles or Tokyo or Moscow. Lipner and Schell told me that it took them just half an hour to determine that the Multics security system could be penetrated. It then took them two hours to write the computer program to carry out the actual penetration.

Essentially, what they did, it appears, was to take advantage of the inability of a computer to make qualitative decisions. "We provided ways of making unexpected requests of the computer, and then looked to see how the computer responded to unexpected requests—things that would be non-sensical to a sensible user," Schell said. "We watched to see how the computer might respond by itself doing something unexpected." In this way, they devised a method of entering from their terminal an informational request that the computer accepted as legitimate, and, proceeding from that, they they wrung from the computer compliance with a sequence of other requests.

One of the prize targets of any computer criminal attempting to penetrate a computer system has always been the master list of users' secret passwords stored within the computer's memory system—in files that are usually protected by the most elaborate security that the system can provide. Indeed, the mystique of the secret password is such that even the designers of computer systems may not fully take into account the possible

reasoning of a sophisticated unauthorized user; namely, that if to get at the hidden list of secret passwords he has to break through the toughest security that the computer can provide, he would do better not to worry about the passwords at all. For if he can break into the system, he doesn't need passwords. Another barrier that the computer criminal or unauthorized user of a computer system has to cope with is that of the computer's audit trail—the internal monitoring system that can record all significant actions of the users and is supposed to provide a means of detecting and tracing unauthorized attempts to gain entry. In the Multics system, this audit mechanism was considered, even by Lipner and Schell, to be built in so securely that it was almost impossible for any attempt to obtain the passwords to escape notice. In challenging Multics, therefore, Lipner and Schell chose to ignore the audit-trail mechanism, and to allow it to record their acts as they found their way through the system. Using flaws in the operating system as entry points, they got access to essential programs and to file containing the master list of encrypted passwords. Actually, they did not consider this technically necessary, since they were confident that once they had made the initial penetration of the computer they had established the condition for gaining access to any information they wanted; they extracted the list of encrypted passwords simply by way of demonstrating what they had been doing.

Lipner and Schell didn't deign to use these passwords, since they considered themselves already well into the computer system without them. Instead, they began judiciously inserting in the computer system what are known in the business as trapdoors. In essence, a trapdoor is a special element, or anomaly, inserted in a program or system which allows the person inserting it to bypass or subvert the logical or other protective features safeguarding the secure functioning of the system. The nature of a trapdoor is that, while it is known to and usable by a penetrator, it is unrecognized by and unknown to other users of the system—even to the audit-trail mechanism. Through the use of trapdoors, Lipner and Schell proceeded to modify parts of particular programs and the operating system itself, to their own potential advantage, present and future. In fact, they modified the system so thoroughly that even if the particular flaws which had allowed the original penetration were to be discovered and corrected, the penetrators would continue to have full access to the system.

As if all this weren't enough, Lipner and Schell also employed what people in the business sometimes refer to as the Trojan-horse technique of penetration. This technique has occasionally been used in computer crimes. It consists basically of providing the computer with apparently appropriate and acceptable information that in reality contains secret instructions for unauthorized behavior—instructions that authorized users of the system will unknowingly cause to be carried out at some future time by routinely communicating with the computer. The Trojan-horse instructions that Lipner and Schell fed into Multics system insured that other users and the operating system itself could give them all the unauthorized information and all the control of the computer that they would ever want. As for the supposedly relentless internal-audit-trail mechanism that had recorded their entry into and progress through the computer system, Lipner and Schell, using their control of the system, simply erased from the audit system all trace of their entry. Thus, a complex computer system, which was the product of at least six years of intensive development to make it exceedingly secure, was penetrated and robbed of its internal controls in two and a half hours. Reporting on these exercises, Lipner and Schell observed, "The only sound assumption that can be made about a current computer system concerning information protection is that any program that runs on the system can access any information physically accessible to the [central] processor, and can retrieve, alter, or destroy the information as the programmer wishes."

To attempt to correct that situation, the MITRE Corporation and the Air Force have been developing an innovative system that Schell calls a "security kernel," whose use they say can vastly improve the security of data in computer systems, and Honeywell has since claimed that it has used such a kernel to make significant improvements in the security of the Multics system.

While much of the information stored in the Multics system that Lipner and Schell succeeded in penetrating would be regarded by users of the system as confidential in nature, none of it had any government-security classification. If it had been thus classified, the penetration of the system would obviously have had even greater significance. However, an exercise carried out by three computer scientists at the Naval Research Laboratory, in Washington, D.C., against an advanced computer system used by the armed forces did involve a large amount of classified information, as well as some that was unclassified. The target of this exercise was the executive, or controlling, system employed to run a Sperry Rand Univac 1108 computer for military purposes. The executive system of the Univac was meant to process simultaneously a great number of programs with different levels of security protection, and was considered by its designers to be highly secure and complex. Indeed, a programmers' reference manual issued by the Univac people declared, concerning the system's soundness in respect to any possible intentional or unintentional invasion, "The Executive System has unique features that automatically guarantee absolute protection." The exercise was carried out by David Stryker, Dr. John Shore, and Stanley Wilson, of the Naval Research Laboratory. Because of the stringent physical-security precautions that the armed forces take on behalf of their computer systems, the men attempting the penetration of the Univac 1108 operated not from a remote telephone-connected terminal but from a terminal "hard-wired" to the computer; that is, one connected in what was essentially a closed-circuit system.

A while ago, when I talked with Dr. Shore at the N.R.L., he explained the nature of the exercise and discussed with me a declassified copy of an official report on it, written by Stryker and entitled "Subversion of a 'Secure' Operating System." Dr. Shore was unequivocal on the subject of complete computer security. "If you give someone who knows about computer systems enough time and unrestricted access, he'll find a way to defeat the existing controls," he said.

He observed that the operating system of a large, advanced-model computer, which acts as a master-control program and allocates the resources of the computer to the tasks required of it, is so complex and contains so many instructions that it simply cannot be comprehended by a single person. For example, the number of instructions in the executive system of the Univac 1108 is about half a million, and that figure, even though it is enormous, is a good deal smaller than the totals in certain other operating systems. (One of the operating systems designed for the I.B.M. S/370 computer, I found out from the I.B.M. people, contains about six million instructions; if these were run off on computer-printout sheets, their bulk would be equivalent to one continuous instruction-filled sheet at least fifteen miles long.) A consequence of all this complexity, Dr. Shore said, is that any knowledgeable person attempting to penetrate a supposedly secure computer begins with an advantage, in that he has to find only one significant flaw in order to start working his way into the system, whereas the designers of a system are theoretically afforded no leeway at all in their attempts to make it secure.

Dr. Shore said that the exercise to penetrate the Univac 1108 system by the N.R.L. team took place in late 1973 and early 1974. The particular system against which the exercise was aimed had been modified to improve its security. For example, some of the classified material stored within the computer had been encrypted, and, as a consequence of the design of the system, could be made available to users only under strict security conditions—including, of course, proper identification of each user. In addition to these precautions, the computer system had been given other special modifications in order to increase its security. The three experts involved in the test were allowed only unclassified and unprivileged access to the computer, from a basement terminal. Their specific aim was to demonstate the inability of the Univac operating system to prevent access to certain information by unauthorized users. Their procedure in breaking through the "absolute protection" supposedly afforded users by the Univac 1108 appears to have been similar in some respects to that of Schell and Lipner in penetrating the Multics, for it involved taking advantage of flaws and inserting trapdoors in the logic of the Univac 1108. However, what the N.L.R. experts exploited was not the existence of "bugs" in the executive program—although these certainly existed—but rather features resulting from oversights in the design of the executive program.

The details of the exercise are complex. What the intruders did, in effect, was to modify certain programs that were shared by many users despite a supposed guarantee against such modifications. As a result, a subsequent user of the now modified shared program "fell through a trapdoor," as Dr. Shore put it, which enabled the N.R.I. team to take control and impersonate that subsequent user. When they had succeeded in doing this, they had access to all the information belonging to subsequent users of the penetrated shared system. They were then able to copy classified information that had been stored in an encrypted file onto their own computer tapes, and in the copying process the Univac 1108 decrypted the classified information. They erased virtually all traces of their entry into and subsequent ravages of the system as recorded in the internal-audit mechanism, and were able with impunity to impersonate legitimate users with classified access rights.

Using only thirteen seconds of computer time in a typical subversion of the Univac 1108, they were able to copy all data belonging to other users of the penetrated shared program for a full eight hours or so. During that period, they possessed effective control over a large amount of the data in the entire computer system. "We could have selectively rewritten any of this information or selectively erased it," Dr. Shore told me. They extracted so much information from the computer that, he said, "we found we had an information-pollution problem on our hands." They had to write a computer program of their own to sort out the more significant parts of the information that the computer kept disgorging. Their choice of material amounted to between a million and two million words of text, classified and unclassified. And, as a final insult, the computer time

during which the stolen information kept pouring out was billed to other users; the only computer time billed to the N.R.L. team was the thirteen seconds it took them to subvert the system. (Sperry Rand has pointed out, however, that it has introduced modifications in the design of the Univac programming system so as to improve its security.)

If these men had attacked this particular defense computer system with hostile intent, the results could clearly have been devastating. And yet Dr. Shore and his colleagues at the N.R.L. are convinced, after thorough investigation, that by prevailing standards the staff at this particular site did a "good job" in modifying a standard commercial computer operating system in order to provide better security for users. Whether in the military, in government, or in business the designers of future computer systems seem no more able to promise absolute solutions to problems of data security than chess players are able to foresee games in which White can never be beaten. In the meantime, nobody knows what Trojan-horse programs may be lying in wait in computer systems until, at the appropriate signal, they spill out in acts of disruption and pillage, or what electronic dead souls may be flitting within the recesses of a system until, at the direction of some intent Tchitchikov at a keyboard terminal, they are mustered into ghostly but immensely exploitable legions.

NATIONAL 4–H CENTER DEDICATION CEREMONY

Mr. PERCY. Mr. President, I would like to congratulate the National 4–H Center on the completion of its expansion program. I was pleased to join government and embassy officials, representatives of private industry, friends of 4–H throughout the Nation and 4–H leaders, in dedication ceremonies commemorating completion of the National 4–H Center's expansion program Thursday, September 22, on the 4–H Center's campus at 7100 Connecticut Avenue, Chevy Chase, Md.

The dedication ceremonies marked completion of an expansion program begun in 1969 to help meet the growing educational needs of a steadily expanding 4–H program which now has a membership of nearly 6 million youths between the ages of 9 and 19. The center has been made possible by contributions from the private sector as well as from 4–H members.

Featured in the ceremony was the dedication of three buildings: J. C. Penney Hall, named in honor of the late James Cash Penney, founder of the J. C. Penney Co.; W. K. Kellogg Hall in honor of the W. K. Kellogg Foundation; and McCormick Hall, in honor of the McCormick family and International Harvester Foundation.

As honorary cochairman of the National 4–H Foundation Advisory Council, Mr. Penney took an active role in expansion of the center and attended many functions including expansion groundbreaking on April 20, 1970. Since her husband's death in 1972, Mrs. Penney and the J. C. Penney Co. have continued their active interest and support of 4–H. The support has included not only major contributions to the center expansion program but also funding for regional leader training programs and other 4–H activities.

Mrs. J. C. Penney, widow of the late business leader and vital civic leader, and Donald V. Seibert, chairman of the Board and chief executive officer of the J. C. Penney Co., both of New York, participated in the dedication ceremonies. As a special tribute to her late husband, Mrs. Penney unveiled a mural by Dean Fausett, depicting the close relationship between Penney's life and ideals and the history of 4–H. Mrs. Penney also dedicated a small chapel in memory of her husband's devout and abiding faith. Mr. President, I ask unanimous consent to have the text of Mrs. Penney's remarks at the dedication printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, Russell G. Mawby, Battle Creek, Mich., president of the W. K. Kellogg Foundation, largest single contributor to the 4–H expansion program, also participated in the ceremonies. A former 4–H member and active participant in the development of the expansion program, Dr. Mawby dedicated W. K. Kellogg Hall which contains the dining hall, plus conference and residential facilities.

Brooks McCormick, Chicago, president and chief executive officer of International Harvester Co., dedicated McCormick Hall. International Harvester has supported domestic and international 4–H programs for more than half a century. The hall includes conference rooms, residential facilities and an attractive courtyard.

The expansion program, initiated in 1969, only 10 years after the center first opened as a residential educational facility for 4–H members, leaders and staff, has resulted in contributions of $8,000,000. Of this $6,000,000 has come from corporations, foundations, businesses and individuals. More than $2 million has been contributed by 4–H members, leaders and staff from every State and territory.

Since the center opened in 1959, more than 250,000 young people and adults from across the country and around the world have participated in citizenship and leadership programs designed to help them improve youth development programs in their own communities.

EXHIBIT 1

MRS. J. C. PENNEY'S REMARKS AT DEDICATION

Mr. Voss, Mr. McCormick, Mr. Mawby, Mr. Seibert, Mr. Neilson, Mr. Mindrum, Mr. Shrum, all other members of the Department of Agriculture and National 4–H Council who are present here, distinguished Members of Congress who have honored us with their presence today, and guests:

My husband had a unique way of saying things you couldn't help but remember them. Today I remember one of his sayings particularly, because it fits this occasion so well.

He said to me, more than once—"If one builds for a decade, one should cultivate trees—but if one wants to build for the centuries, one should cultivate men and women."

I just can't imagine a better way to "cultivate men and women", as Jimmy put it, than through 4–H programs, both here and abroad. And, I can't imagine an occasion that he would have enjoyed more than this dedication.

Jimmy was very close to 4–H for many years. Going back as far as the 1920s, he was drawn to 4–H by a mutual interest in agricultural pursuits, particularly cattle breeding. 4–H boys and girls were welcomed visitors to his farms to see his fine purebred herds—and he always took great delight in seeing calves they bred win blue ribbons at state fairs and livestock expositions. He became so impressed with 4–Hers interest in breeding better livestock, that it was not uncommon for him to give diligent 4–Hers some of his purebred calves to encourage them in this endeavor.

In later years Jimmy participated in many 4–H Leader Forums, the first one being the Western Regional Leader Forum in Salt Lake City in 1966. He was honorary co-chairman of the National 4–H Advisory Committee, and it was my great honor to have succeeded him on this committee.

My husband was active in 4–H right up to a few weeks before he passed away. In one of his last public appearances, he and I attended a meeting at Gracie Mansion, residence of the Mayor of New York City, to help launch the 4–H program in New York City. Right here in April, 1970, he participated in the ground-breaking ceremonies for the Center's expansion program. Last year I was proud to be here at the restoration ceremony, which has culminated in this beautiful building we are dedicating today.

It's my great honor to represent my husband and our family at this dedication. We have three generations here today—myself, our two daughters: Mrs. Mary Frances Wagley and Mrs. Carol Guyer, and several of our grandchildren. I would like to present them to you and am asking them to kindly rise.

My family and I are indeed proud to present to the National 4–H Center, in tribute to Mr. Penney, a beautiful mural, a reproduction of which you see here. The original, inside the Hall, was executed by the eminent artist, Dean Fausett. He is here with us today, and I am very pleased to present him to you. Mr. Fausett, would you kindly rise.

And I am more than happy as well to give to the 4–H Center the chapel in the Hall in loving memory of my husband. I can think of no more fitting tribute to one whose life, both personal and business, was intimately bound up with his devout religious faith.

J. C. Penney Hall has a special meaning to our family. This is not a memorial to my husband. This is an extension of his life—a fulfillment of a long-time commitment to 4–Hers everywhere, in whom he had great faith and hope in providing leadership for our great nation in the future. I know he would want me to express his gratitude to everyone who has made possible the completion of this expansion program.

THE OIL CRISIS AND AMERICA'S ALLIES

Mr. PERCY. Mr. President, the scarcity of petroleum in future years may have important repercussions that we have failed to seriously consider. The lack of sufficient oil to go around to all those nations who desire it may place a tremendous strain on American relations with Europe and Japan. Such a situation could cause incalculable political and strategic consequences. America's wastefulness in the use of energy will create resentment throughout the world as nations conclude that one of the reasons for the depletion of oil reserves is the habits of the American consumer.

This facet of the energy crisis merits careful thought and considerations. Its

potential implications are far reaching and affect American security. And it points to a challenge we have only begun to address—energy conservation to delay the day when there will be less oil produced by the oil exporting nations than the total minimum import needs of the industrialized importers. The rest of the world is closely watching the actions of this Nation in our attempts to conserve energy and develop new alternatives to fossil fuels. We can either earn the respect of these nations, or we can destroy their confidence in our ability to be the leader of the free world.

Recently, Prof. Lloyd Humphreys from the University of Illinois at Urbana-Champaign sent me an excellent article which appeared in the New Zealand Herald on May 24, 1977, addressing this very issue. Mr. President, I ask unanimous consent that this article, "Oil Crisis Will Lose Friends for the U.S.," by Gwynne Dyer, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OIL CRISIS WILL LOSE FRIENDS FOR THE US

(By Gwynne Dyer)

Oil is the only lubricant that also causes friction. It has done a bit of that already—remember Dr. Kissinger's hint two years ago that the United States would invade the gulf states in the event of another embargo?—but it will take a real scarcity to show up oil's full potential for trouble-making.

As President Carter recently told the world, that scarcity is coming in less than 10 years, but he tactfully omitted to mention where the friction will be greatest. It will not be between suppliers and customers: Despite serious quarrels about price levels, their relationship is basically a symbiotic one. It will be between competing customers, and especially between the United States, Europe and Japan.

STARTING TO BE AIRED

The grievance that America's allies are going to develop is just starting to be aired in the European press, but when you talk to European energy experts its shape is entirely clear. They define the coming problem not as a shortage of oil, but as American greed and wastefulness. One recently identified the crucial problem as "getting American consumers off the backs of the rest of us."

Once the crisis arrives, that is inevitably also going to be the popular conclusion in Western Europe (and Japan). That sort of resentment directed against the United States cannot fail to have political consequences.

Europeans use about the same energy forecasts that American experts do, and they come to the same grim conclusion as President Carter: By 1985, there will probably not be enough oil to go round. Even if Congress obediently and quickly passes every one of Mr. Carter's energy conservation proposals into law (about as likely as the mass conversion of its members to Zoroastrianism), there may still be an oil famine then.

Exact figures for oil production and consumption eight years in the future are obviously impossible. But the precise date does not matter. If not in 1985, then in 1988 (or 1983) there will be less oil produced by the exporting countries than the total minimum import needs of the industrialised importers.

The United States, which can better afford to pay, however grudgingly, will import most of what it has to have, and Europeans, Japanese and even Russians will have to spend various lengths of time shivering in the dark. They will not like it, especially since it will by then be graven in their minds that the reason for their misery is the habits of the American consumer.

SUBSIDISE WASTE

The United States now imports just under half the oil it uses. If its citizens consumed energy at the same rate as Germans or Japanese (whose countries are equally industrial and nearly as prosperous), it would actually be able to export a bit. That is the key fact: The United States is taking one-third of the total oil exported in the world simply to subsidise its waste.

Even if Mr. Carter's plan is not mangled by Congress, it will do nothing about this fact. He is seeking only to cut the annual rate of growth in United States energy demand from 4 per cent to 2 per cent, and shift the pattern of consumption towards domestic rather than imported energy sources.

But that will still leave the United States consuming half the energy in the industrialised West and Japan, with only about a quarter of its population, and sucking in at the very least six million barrels of imported oil a day in 1985. The Europeans and Japanese (to say nothing of the poverty-stricken oil importers of the Third World) can hardly fail to notice who is causing the problem.

ALTERNATIVE SOURCES

Of course the world will not end. Alternative sources of energy will be developed, and the level of economic activity will eventually adjust to the amount available, whether higher or lower than now. Moreover, the oil crisis which is needed to give enough impetus to the development of new energy sources would come sooner or later, whatever Americans do. People simply are not capable of giving really serious attention to their needs of the day after tomorrow unless they are actually miserable today.

But the crunch and the misery will come a lot sooner because of the profligate American waste of energy, and that is going to be a big, unavoidable political fact at the time. It will place an immense strain on United States relations with Europe and Japan, with incalculable political and strategic consequences. America may end up paying a high price for its energy habits in more ways than one.

COMPREHENSIVE NATURAL GAS POLICY—S. 2104

Mr. ROBERT C. BYRD. Mr. President, apparently there is some doubt or some question on the part of some Members as to whether or not the Senate will be in all night.

So that there will be no doubt, let me say this: This afternoon, after I had said we would be in all night unless we completed action on this bill, I asked the Sergeant at Arms to proceed to make preparations for an all-night session.

So he sent some of the policemen home early, to return at 11 o'clock tonight. He sent some doorkeepers home early to return on the late shift.

He has closed certain galleries here, so that those doorkeepers could go home and be back to relieve the others who have stayed.

Half the pages were sent home so that they could come back later and relieve the half who stayed.

Mr. CULVER. When do we go home? [Laughter.]

Mr. ROBERT C. BYRD. Who asked that question? [Laughter.] Big bad John. [Laughter.]

Cots have been set up in room S-207; cots are set up in the Vice President's Ceremonial Room; cots are in the Marble Room; cots are in the lobby or will be soon; there are cots in the Senate gym which, incidentally, is another good use of the Senate gym.

The gym will be open all night, and blankets and pillows have been supplied by the Army and the Air Force. I hope that there is no Doubting Thomas left among us.

I look upon an all-night session with about as much joy and comfort as does any other Senator here. There are some of you who have stamina and endurance that exceeds the stamina and endurance that I have, and I am sorry that the Senate is being discommoded as it is.

This is the eighth day on which the Senate has been in session on this bill. Five days went by before the leadership offered the cloture motion, during which Senators could have called up amendments and had them voted on.

I suppose there may be, still, well over 400 amendments that can be called up. I realize the deep feelings and emotions that run on both sides of the aisle and on all sides of the question. But may I say to you, my colleagues, that we have to reach a decision on this bill at some point.

We have all worked hard. The Senate has done its job well throughout the year, having gotten off to a late start because of the restructuring of the committees and other things. We had all hoped to go home in mid-October. Every day's delay in completing action on this bill is a day's delay in adjournment.

I am not going to take down the bill. The Senate may vote it down, or my colleagues on this side of the aisle may impeach me. That is, of course, their right. But I feel that it is my duty to do whatever I can to secure final action on this bill. Whatever the Senate does by way of amending it or modifying it is the Senate's business. I am not wedded to either side.

Up to this point, I have supported the administration proposal. I voted to table the Pearson-Bentsen amendment, although in past times I have supported deregulation. But for reasons which I need not go into here, I have chosen to support the administration position.

At this point, I still support Senator JACKSON and his side of the matter. If the Senate votes that down, I am going to vote for Pearson-Bentsen. My interest has been in getting a bill to conference, because there is where the matter will be settled.

I feel it is the responsibility of the Senate to act on an energy program. It does not affect just 100 Senators; it affects 215 million people.

What I am saying is, gentlemen, we are going to have to make a decision on this bill at some point. If Senators want to call up all these amendments and insist that they be voted on, it may mean that the snow will be flying and we will still be here. It may mean we will be

here until Christmas. But the Senate must act on this bill, one way or the other.

I want to see a bill go to conference, because if it does not go to conference, I fear the entire energy program can be imperiled. And the President can, of course, call us back into session.

Let me emphasize again that behind this bill there are other measures awaiting action. The majority should vote its will and let this bill go to conference. I think that is our responsibility.

Speaking for myself, I as a Senator will never attempt to hold up a bill that is called up here for debate, no matter how strongly I may feel one way or the other about its merits, or use the rules to delay Senate action on that bill unduly.

I believe every Senator here has the same dedication to the Senate and to the country that I have. But I cannot leave any doubt in any Senator's mind as to whether or not we are going to finish action on this bill, one way or the other. If we are here in December, we will be here in December. I do not say this as a threat; I simply am stating the facts as I see them.

I would urge Senators who have a great number of amendments to go through those amendments and try to select from those amendments such amendments as the author thereof feels are serious amendments, and he wants a vote on them. If there are amendments which have been offered merely for the purpose of delaying action on this bill, I would hope that the author or authors of such amendments would not call them up.

Let us call up the amendments which are serious. Let us call them up in good faith, and let the Senate work its will on them. But I hope that we will not persist in calling up amendments simply to have a vote, and then, when the vote is wide, when there is a wide margin against the amendment, move to reconsider just in order to get another vote. That is really, I think, being unfair to the Senate and unfair to every Member of this body.

I have seen, time and time again, in the last day or so, amendments that were voted down by wide margins. There could be no hope of changing the vote on a motion to reconsider. No hope whatever. And yet Senators would persist in moving to reconsider, moving to table, getting the yeas and nays, and taking more time of the Senate going through an absolute action of futility.

That is discommoding everyone. It is achieving no purpose. It is making the Senate look bad. Really, it is an outrage.

Every Senator has the right to do that under the rules, but I urge, in the best of good faith, that Senators who have a great number of amendments take a look at their amendments, select out—if they have 200 amendments, select 20 of them, or 25, or 15, or 50, but select those which you think are meaningful and are not being called up merely to get a vote, merely to protract the action of the Senate and keep Senators here, as we are being kept tonight, away from our families.

Some of us, including myself, really cannot stand too much of this staying all night long. But I think, Mr. President, that there is only one way to get action on this measure, and that is for us to stay with it until the Senate casts its final vote thereon.

We are going to have votes all night. Lest there is any doubt about that, if it comes to a point where we are not having votes, I will be forced, against my own desire, to call up amendments myself and quickly move to table those amendments.

There were at least 35 amendments earlier today that had been returned from the Printing Office that are not germane. There are that many that can be ruled out on a point of order because they go to different parts of the bill.

I do not want to call those amendments up one by one and move to table them. I want to avoid that. But eventually, if this persists, against my own will I will simply have to call up amendments, not forgetting Senators who have great numbers of amendments at the desk. I think I owe that to the Senate. I owe it to the Senate.

After awhile, if those Senators do not select the best of their amendments in good faith, believing that they ought to be voted on and that the Senate has a right to consider them and ought to consider them, I will feel compelled, and I do not want to do it, to begin calling up amendments myself, and those amendments, I say to my good friend from Ohio (Mr. METZENBAUM)—he must have at least 250 amendments at the desk—and to other Senators who have great numbers of amendments at the desk, I would hope that they would take a look at those amendments. I plead with them, take a look at the amendments, call up those that the Senate ought to consider, and give up the idea of simply putting the Senate through the discomfort of voting on amendment after amendment after amendment, when Senators have about reached a mind-set here where they will simply vote to table everything.

And if we would do that, I think Senators would be more considerate of the amendments that are being called up.

I just hope that we will return to reason and not put the Senate through the wringer as it is being done here and discommode every Senator.

So, do not push that on me. Do not push that on me.

Eventually, I feel I have no other choice but at some point in time to just call up amendment after amendment myself and move to table them.

Forgive me if I sound as though I am stating a threat. I am not. I know this would not be a very popular thing for me to do, especially with some of my friends. But I am asking them—I am asking them—I am asking all Senators to be fair with all other Senators. Call up the amendments you feel you have to call up, you feel the Senate ought to consider. But obviously, there must be a lot of those amendments that do not need to be called up and will not be called up except for the purpose of putting Senators through needless votes and taking time needlessly of the Senate and making it look worse and worse and worse.

We owe this country an energy bill, so let us get down to business and do the best we can to make our decisions on good faith amendments.

Now, I thank my colleagues for listening. I have spoken too long. But I thought that this might be helpful. I would hope that we can get Senators together and that they will, in the spirit of compromise, try to reach some understanding and compromise on this issue and let us have a vote up or down.

If we lose, we have done our best; and if we do not lose, fine; but let us get this bill over to the conference.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I very much appreciate the position of the majority leader, and I have a concern about my fellow Senators and recognize my own position as being a rather new Member of this body. Yet, I think I also recognize an obligation to my own constituency because I feel very deeply about this legislation.

With respect to the number of amendments that have been laid down, I pointed out before, earlier in the day, that there were 95 amendments offered yesterday by those who were supporters of deregulation.

I have called up, or others have called up on my behalf, approximately 15 amendments. I think at least three and maybe four of them have been adopted.

I would submit to the Members of the Senate that I challenge you to show me any amendment of mine that has been called up that is not a substantive amendment, that does not strike at a significant part of the bill, and I say without any fear of contradiction, you will not find that to be the case.

Mr. DECONCINI. Will the Senator yield?

Mr. METZENBAUM. No, not at this point.

Now, with respect to the question of the length of time and the need to be in session this evening, tonight, if the majority leader wants to be in session tonight, I will be here and I will do what I have to do. If we are in session tomorrow night, I will be here tomorow night and I will do what I have to do.

But I want to point out to the majority leader and to the Members of the Senate, we have been debating this bill for 8 days. That is approximately half the time that the Senate debated this same measure 2 years ago.

I was not a Member of the body at that time. You debated deregulation, the Pearson-Bentsen amendment, for 3 weeks on that occasion and it was not found necessary to stay in session overnight.

But if that be the will of the leader, I respect it and do not wish to take issue with it.

You may be assured of the fact that

the amendments I call up will be amendments that have significance and are meaningful and are not dilatory, and I will, indeed, expect to have a rollcall with respect to each of them.

Less than that, I would feel I would not be doing the job the people of Ohio sent me here to do. Whether it takes 20 amendments, or 30 amendments, or 40 amendments, or something more than that, that is the number of amendments that I will call up. Whether or not the leader might call up any in order to table them, I am not certain that would serve any particular useful purpose, because one way or the other there would be a rollcall on those amendments.

But I will be here to call up those amendments I think are of significance and that I think the Members of the Senate ought to have an opportunity to vote on and that I think are amendments that strike at the substance of this legislation.

That is what I think is my responsibility.

Several Senators addressed the Chair.

Mr. DECONCINI. Mr. President, I challenge the distinguished Senator from Ohio because I believe the fact is we have had at least 12 votes on reconsideration and motions to table, rollcall votes, and quorum calls that do not have anything to do with the necessity of this body in adopting an energy policy.

I believe that they are dilatory and they should be ceased and we should address the particular amendments that are germane.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I recognize that the Senator from Ohio (Mr. METZENBAUM) is dedicated to the service of his constituents. Never would I question that.

I believe, however, that he will do what he said he would do, namely, that he will call up the amendments that he feels are meaningful and useful, and that is what I have asked from the beginning.

I do not mean just to single out Mr. METZENBAUM. The reason I mentioned him is because in going over the amendments I believe he has at least 250 amendments.

Mr. METZENBAUM. Quite a few.

Mr. ROBERT C. BYRD. And there is at least one other Senator (Mr. ABOUREZK) who has a good many.

Mr. METZENBAUM. So does Mr. DOMENICI.

Mr. ROBERT C. BYRD. Very well, I will urge Mr. DOMENICI to look at his amendments and call up those he feels would be meaningful or would add something to the final product, but not call up others.

Mr. President, why do Senators not call up their amendments and have voice votes on them?

Obviously, there is a quorum present. I would suggest that if any Senator who has a great number of amendments would call them up, we could have voice votes on them, and that Senator would still be fulfilling his responsibilities to his people.

But to call up amendment after amendment and have them tabled by wide margins and then move to reconsider the votes, is obviously futile.

So why not let the decision rest in such instances and go on to the next amendment?

A lot of these amendments can be voted on by voice and I would hope we would proceed in that fashion as much as possible.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I listened with interest to the distinguished Senator from Ohio and his statement that we are going to have a rollcall vote on all these amendments and whether the majority leader chooses to bring them up, that we will have a rollcall vote, it seems to me that he is utilizing the rules, and that is his privilege to do so.

I think we are also entitled to utilize the rules. I think the rules allow us, if we keep 51 people on this floor, to avoid quorum calls, and to also avoid yielding to a second if we think there are sufficient Senators on the floor to vote by voice vote, or if he would like people to stand for him to get a record of how people stand on that amendment, that we could take up these votes.

The majority leader well went over how many hours we spent yesterday in quorum calls and in rollcalls, and we certainly spent that much time or more today.

If I have got to be here all night, if I cannot be with my family tonight, then I would just as soon sit on this floor, or see that 51 of us sit on this floor so that we avoid the quorum calls and let us see how many of these amendments we can take up.

If a Senator wants to use his hour, he can use it and discuss it. I guess he could have amendments read, and that is another way of, perhaps, delaying.

But at least we would avoid all the time of the rollcalls and all the time of the quorum calls. If we wanted to, we could get in shifts where somebody goes out and rests and some of us stay in here.

I want to give the Senator his opportunity under the rules, but I want to take my opportunity under the rules, and I think that is that we keep a quorum on this floor.

We can avoid the quorum calls and we can avoid the rollcalls. I think we can help the Senator get a number of recordings on his amendments.

Mr. ROBERT C. BYRD. Mr. President, I will not continue to delay the Senate further. I do have one further suggestion I think might be helpful.

I think there are precedents both ways. The prevailing precedents are that the Chair may not count to see whether or not there is a quorum present. But I believe there is at least one precedent, as I recall reading them, in which the Chair did count.

Now, we are constantly setting new precedents and we can set some more.

I think we have seen demonstrated in this operation of the cloture rule that while it is not so difficult to get cloture, the present rule is not proving effective. As I have said for some time, the real filibuster starts when cloture is invoked.

Why do we not all stay on the floor, those of us who can? If there is a quorum on the floor, I think we may find a way that the Presiding Officer would state the presence of a quorum, he having counted the Senators on the floor.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. If I may complete my statement—and if we maintain a quorum here, Senators could call up a good many amendments. If Senators feel that an amendment is worth discussing, and if they feel there ought to be a rollcall vote on it, they can sustain the request for a rollcall vote by a sufficient show of seconds.

But if a quorum remains present, we could dispose of many amendments by voice vote. I would like Senators to think about that.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor?

Mr. BAYH. I do not want him to yield the floor. I should like to ask a question.

The PRESIDING OFFICER. The Senator from West Virginia may yield only for a question, and by unanimous consent.

Mr. ROBERT C. BYRD. I yield for a question.

Mr. BAYH. I appreciate the courtesy of the leader. I appreciate the double burden that rests on his shoulders—one, as an individual Senator and, two, as a leader.

I think everything he said is certainly well within the responsibilities as well as the rights of the leader. I respect him for it.

The question I pose is this: I assume that any precedent that is established in the wee hours of the night or tomorrow night, as the case may be, relative to a situation such as we have, when we have strongly divided differences of opinion, will be a precedent that will be followed later this year or next year or later on.

Mr. ROBERT C. BYRD. Yes, until it is overturned by the Senate.

Mr. PERCY. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. PERCY. I am sympathetic with what the Senator has stated. I had not planned on spending my 55th birthday this way, but so be it.

Mr. ROBERT C. BYRD. Happy birthday to you.

Mr. PERCY. I have a birthday suggestion. Inasmuch as there is a precedent for 10-minute rollcall votes, is it possible to tighten that down a little? If we have 24 rollcall votes tonight and tighten it down to 10 minutes, that would save us 2 hours.

Mr. ROBERT C. BYRD. Yes, it would.

Mr. PERCY. I do not think anyone

would maintain that we are going to be very far away from the floor. So if there is a precedent for 10 minutes, I ask if the majority leader will consider asking unanimous consent for that, or even 7½ minutes. If we can get it down to that, we would pick up another half hour or 45 minutes tonight.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I seek recognition only to conserve the time of the majority leader.

I am sympathetic, also, with the situation described by the distinguished Senator from Illinois, but I must say that I cannot agree to a 10-minute rollcall vote at this time. If later on, after the next rollcall vote, we seem to be in that frame of mind, I will be glad to consider it; but I have certain Members who are away from the floor, and I cannot agree to it at this time.

While I have the floor, I point out that while I have said nothing to this point, I fully concur with the majority leader in his desire to move this legislation. I do not think we need to prove our dedication on this side of the aisle to that proposition, because the cloture vote was supported by every Senator on this side except one, who, for reasons of principle and to avoid breaking a lifetime precedent, did not vote for cloture. So we cast every vote for cloture.

In every way within the rules and in avoidance of establishing precedents that may haunt us in the future, I intend to do what I can to see that the Senate transacts the country's business on this side.

I do not want to be here tonight, but we are here tonight, and we may be here tomorrow night. But within the purview of the rules, we are going to try to find a way to dispatch this business.

Mr. ROBERT C. BYRD. I thank the Senator, and I thank the Senate for its indulgence.

SEVERAL SENATORS. Third reading.

The PRESIDING OFFICER. If there be no further amendment—

AMENDMENT NO. 967

Mr. KENNEDY. Mr. President, I call up amendment No. 967.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 967.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

On page 11, strike lines 20 through 25, and on page 12, strike lines 1 and 2, and insert in lieu thereof the following: "and which shall be equal to the price for sales under such contract which was determined to be just and reasonable by the Federal Power Commission and was in effect on April 20, 1977.".

Mr. KENNEDY. Mr. President, if I may have the attention of the membership for just a moment, there have been a number of amendments—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, rollcall votes have been asked on a number of amendments that involved just a few cents an Mcf but obviously involved billions of dollars to the American taxpayer. Adjusting a particular date for 1 year or 2 years means anywhere from $10 billion to $20 billion to the American taxpayer, or considering different definitions, which this amendment I offer does, can mean billions of dollars to the American taxpayer.

It seems to me that on a matter that, in its scope, can mean the difference of anywhere from $120 billion to $160 billion to the American taxpayers, when the matter goes to conference there at least should be some indication as to how the membership stands on some of these important issues. So I think it is not unreasonable to request rollcall votes on some of these matters.

The PRESIDING OFFICER. The Senate will be in order. There is too much conversation going on in the Chamber.

Mr. KENNEDY. Mr. President, the amendment I offer at this time applies to the definition which will be used to set a fair rate of return on Outer Continental Shelf gas until 1982.

In this bill, at page 10, there are four different criteria that are used in the Pearson-Bentsen amendment that will set the costs for Outer Continental Shelf natural gas. It talks about prospective costs attributable to exploration. It talks about rates and charges necessary to encourage the optimum level. Who is going to explain to us what the optimum levels are? It talks about the promotion of sound conservation practices in natural gas consumption. It talks about rates and charges that will protect the consumers of natural gas from price increases that, in the absence of a national ceiling during periods of anticipated shortage, would exceed the rates and charges necessary to achieve objectives of paragraphs 1 through 3. What does that mean? No one has defined that, and that is going to result in billions of dollars of cost to the American taxpayer.

The amendment I offer here is to use the tried and tested language of just and reasonable price, and applies the just and reasonable standard to the Outer Continental Shelf. Those words have been tested. Those words have been litigated. They are words of art that are used by various regulatory agencies and have been interpreted to provide a sufficient rate of return to the producer and to provide a degree of protection for the consumer, which I think would be lacking under the Pearson-Bentsen amendment.

So I hope, Mr. President, that this amendment will be accepted and will be used in place of the general, broad, vague, and indefinite language that is included in the Pearson-Bentsen amendment. I believe the result would be a saving of billions of dollars between now and 1982, when that natural gas will be decontrolled.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 52, nays 35, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—52

Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bellmon	Goldwater	Percy
Bentsen	Gravel	Randolph
Burdick	Griffin	Roth
Byrd, Harry F., Jr.	Hansen	Schmitt
Byrd, Robert C.	Haskell	Schweiker
Cannon	Hatfield	Scott
Chafee	Heinz	Stevens
Chiles	Helms	Stevenson
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Durkin	Mathias	Weicker
Eastland	McClure	Young
Ford	Meicher	Zorinsky
	Nunn	

NAYS—35

Abourezk	Culver	Kennedy
Allen	Eagleton	Leahy
Anderson	Hart	Magnuson
Bayh	Hathaway	Matsunaga
Biden	Hollings	McGovern
Brooke	Huddleston	McIntyre
Church	Inouye	Metzenbaum
Clark	Jackson	Moynihan
Cranston	Javits	Muskie
Nelson	Ribicoff	Sasser
Pell	Riegle	Williams
Proxmire	Sarbanes	

NOT VOTING—13

Bumpers	Humphrey	Stafford
Case	McClellan	Stennis
Domenici	Metcalf	Talmadge
Hatch	Morgan	
Hayakawa	Sparkman	

So Mr. SCHMITT's motion to lay on the table Mr. KENNEDY's amendment (No. 967) was agreed to.

Mr. ALLEN. Mr. President, I yield to the Senator from Washington.

Mr. JACKSON. I have an amendment I would like to offer. You go ahead and then I will offer it.

Mr. ALLEN. I did want to have a few words to say to the Senate.

Mr. JACKSON. I have an amendment I wanted to offer.

Mr. ALLEN. I thank the Chair.

Mr. President, I might state while I am not in sympathy with the goal sought to be achieved by this extended debate, yet I do support the right of the distinguished Senator from Ohio and the distinguished Senator from South Dakota to pursue this discussion in the manner provided by the rules.

I want to comment briefly on a statement made—and I yield myself such time as I may use, Mr. President—I wish to comment briefly on the suggestion that later on we might see the Presiding Officer state that there is a quorum present, and I would hate to see the Rules of the Senate changed during a hotly contested issue here on the floor.

On the matter of the Presiding Officer saying there is a quorum present when obviously there is a quorum present, he cannot do that under the Rules of the Senate.

I might state, of course, as we all know the Senate operates on the presumption that a quorum is present, but any Senator at any time can suggest the absence of a quorum, and then after business has been transacted, that is the only condition precedent to calling for another quorum call after a quorum has been established. If business is transacted then another quorum call can be called for.

But on page 641 of Senate Procedure, the 1974 edition—of course, there have been some different years of issue—we find this language at the top of page 641:

The Chair has no authority to count a quorum.[103] There is no rule of the Senate which justifies or authorizes the Presiding Officer of the Senate to count a quorum.[104]

So I hope we will not have that precedent established that the Chair can count a quorum because any Senator has got a right to suggest the absence of a quorum if business has been transacted between calls.

Then on page 1005, at the bottom, it gives the forms where a Senator can suggest the absence of a quorum and, parenthetically, it says:

[Since the Presiding Officer has no authority to count to see if a quorum is present, and the rule provides that once a Senator suggests the absence of a quorum, "the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result," the Chair always after a quorum is suggested makes the following statement:]

So I hope we will not change the rules just by the Chair's announcing that a quorum is present.

I hope also—and I was very much encouraged by the very fine statement of the distinguished majority leader suggesting—that those who have amendments pick out 15, pick out 20, pick out 50, and arrange to offer those. I think that was a real fine gesture indicating that there is not going to be any effort to shortcut the rules.

Mr. STONE. Mr. President, will the Senator yield?

Mr. ALLEN. Just a moment and I will. I think that is very important.

Notice has been filed, I believe, by the distinguished majority leader giving notice that he will, or he has the right to, file a motion to suspend the rules to permit offering a handful of amendments and calling for them to be considered en bloc.

Well, obviously, that would be a ghastly procedure to offer separate amendments here and ask that they be considered en bloc, and I hope we will not amend the rules right here in the heat of battle, because I feel like these rules that we have, that we establish, will come up from time to time and precedents will be established, and the Senate cannot function if we are going to change the rules every time we have a cloture procedure.

So I believe this matter is going to work out, and I will say this: While I am supporting the Pearson-Bentsen amendment, this whole bill is not as important as the Senate rules. I will say that. The whole bill, I would a whole lot rather see the bill go down to defeat, even though I support it, than to make a mockery of the Senate rules. That is the way I feel about it. I think the Senate as an institution ought to preserve the Senate rules and not make a mockery of them, and I commend the distinguished majority leader for his apparent conciliatory attitude in having legitimate amendments considered.

I do hope, and I appeal to our distinguished colleague the Senator from Ohio (Mr. METZENBAUM) and the distinguished Senator from South Dakota (Mr. ABOUREZK), to accept the majority leader's proposal here, and let us consider these amendments. If he tries to do otherwise, I will support his effort along that line, but the rules ought to be preserved.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. STONE. Did not the Senator from Alabama also hear the distinguished Senator from Ohio telling the Senate that his intentions were to offer substantive amendments in a substantive fashion, and that his intention was not to delay the work of the Senate?

Mr. ALLEN. Yes, he stated that, and I know he will live up to it.

Mr. STONE. Therefore, the concern of the Senator from Alabama about quorum calls, although commendable from the point of upholding our rules, may seem not to be relevant, in the light of the remarks of the Senator from Ohio that we are going to go to work on the substance of this bill.

Mr. ALLEN. My remark was relevant in the context of the statement made on the floor that the Presiding Officer might be called on to declare a quorum being present. That is not authorized under the rules.

Mr. STONE. But then the Senator from Ohio said that we are going to be working on amendments of substance, and at least the implication of his remarks was that there would be no procedures that would be dilatory, obviously, visibly, or by inference, such as quorum calls and the like.

Mr. ALLEN. I thank the Senator.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I, of course, have to respond. When I had the floor earlier and remarked about the Presiding Officer's counting to ascertain the presence of a quorum, I said it was my recollection that the prevailing precedents are that he cannot do it.

I did say, however, that I thought there had been a precedent, a few precedents or at least one precedent, to the effect that the Presiding Officer did count for a quorum.

I am very familiar with the language the Senator has read. I have had occasion to read that book a number of times, and I have briefed it. I have my own abbreviated version of it.

I have talked, since I left the floor, with the man who wrote that book—Dr. Riddick, our Parliamentarian Emeritus—and he tells me that he too thinks he remembers a precedent in which the Chair counted the Senators present and announced that there was a quorum. I do not have the book in front of me, but the book also says, if I recall it fairly correctly, that the Chair has, upon one or two occasions, by unanimous consent counted Senators present on the floor to determine whether or not a quorum was present.

I think that book also will say, if the Senator will read it further into the RECORD, that the Chair, at least upon one occasion, counted those Senators who were present but who did not vote, or who had anncunced pairs and did not vote, and the Chair validated the vote because, even though the rollcall did not show a quorum present, the Chair counted Senators who were present and who did not vote, and who, under the rules, can be required to state their reasons for not voting; and the Chair announced that the vote was valid.

This can be discussed ad infinitum and ad nauseam. I am fully aware, as I said at the beginning, that the prevailing precedents are against the Chair's making the count, but the Senate can set new precedents.

I yield the floor.

Mr. ALLEN. Mr. President, answering further as to the power of the Presiding Officer to count toward a quorum the

Senators who have not voted, the precedent book states:

The Senate (in 1910), on appeal, decided that, where less than a quorum voted on an amendment by yeas and nays, the Presiding Officer had no authority, for the purpose of establishing the presence of a quorum and validating the vote, to count as present certain Senators who had announced pairs and withheld their votes; the Senate having decided the vote invalid, the next step was a call of the Senate to establish a quorum.

There were instances back in 1874 when the Chair did count to ascertain a quorum, and there are a number since then, but the most recent precedents state that the Chair does not have the authority to count toward a quorum; and the reading of the authority itself states categorically that the Chair does not have authority to count a quorum.

Mr. ROBERT C. BYRD. Now, Mr. President, I want to say with all the sincerity that I have in my heart that the distinguished Senator from Alabama (Mr. ALLEN) has, in my judgment, been as much a master of the rules and precedents as any other Senator.

I must also say, however, that there was a Senator here who came from the State of Georgia, and whose name one of the Senate office buildings now carries—and I introduced the resolution to provide that that building carry his name—who was also a master of the rules. I asked him, upon one occasion, how he became such a student of the rules, and he told me that more important than the rules are the precedents. The rules only consisted, at that time, I believe, of something like 40 rules, but the book of precedents, of course, contains 900 and some pages—I remember the number of pages in the abridged edition of Webster's dictionary.

With the exception of the forms in the book here, it contains 916 pages. The precedents are very important, and I ask unanimous consent to have printed in the RECORD the pages from the book of precedents on counting for a quorum, the pages under that heading.

There being no objection, the excerpt from "Senate Procedure" was ordered to be printed in the RECORD, as follows:

Counting of Quorum by Chair:

See also "Pairs Counted To Constitute a Quorum," p. 645.

The Chair has no authority to count a quorum. There is no rule of the Senate which justifies or authorizes the Presiding Officer of the Senate to count a quorum.

The Presiding Officer has no right to inform a Senator during a rollcall, whether or not a quorum has voted.

Where the absence of a quorum has been disclosed, a request for unanimous consent to permit the Presiding Officer to ascertain by a count if a quorum is present cannot be entertained.

On one occasion the number of Senators voting on a division being less than a quorum, the Presiding Officer by unanimous consent counted the Senate and announced that a quorum was present. In another instance where on a division, one less than a quorum voted, the President of the Senate stating there was present a Senator who did not vote, held that a quorum of the Senate was in attendance, citing a precedent of June 19, 1879. Less than a quorum, on a division, having voted on a motion to proceed to the consideration of a bill, the President pro tempore held that unanimous consent could not be given to withdraw the motion; and a count of the Senate was made by him and a quorum announced as being present.

In one instance in 1912, a vote by division on a motion to lay on the table being less than a quorum, the Vice President held the vote was valid, inasmuch as the presence of a quorum had been established by a rollcall immediately previous to the vote.

The Senate (in 1910), on appeal, decided that, where less than a quorum voted on an amendment by yeas and nays, the Presiding Officer had no authority, for the purpose of establishing the presence of a quorum and validating the vote, to count as present certain Senators who had announced pairs and withheld their votes; the Senate having decided the vote invalid, the next step was a call of the Senate to etablish a quorum, upon the appearance of which the yeas and nays must again be called on the amendment.

Mr. ROBERT C. BYRD. Then I have in my hand a precedent, and I will read it into the RECORD:

On July 3, 1884 (fn: 48th Congress, 1st session, Record, p. 5038), on the question of agreeing to a motion by Mr. William P. Frye, of Maine, that the Senate proceed to the consideration of the bill (H.R. 3056) to establish a bureau of navigation in the Treasury Department, there were, on a division—ayes 12, noes 24.

The President pro tempore (fn: Mr. George F. Edmunds, of Vermont) said:

"No quorum has voted. If there be no objection the Chair will count the Senate."

Mr. Frye asked unanimous consent to withdraw his motion whereupon the President pro tempore said:

"The Chair cannot allow unanimous consent to be given unless there is a quorum."

Mr. John Sherman, of Ohio, remarked that there was a quorum present.

The President pro tempore said:

"The Chair will ascertain that by unanimous consent without a call of the Senate. (Counting.) A quorum is present."

I have a further precedent. On March 3, 1881, 46th Congress, 3d session, in the Journal, page 388:

While a motion to postpone further consideration of one bill for the purpose of considering another was pending, a motion to proceed to the consideration of executive business was made, on which no quorum voted.

The Presiding Officer (Mr. Cockrell) proceeded to count the Senate, and announced the presence of a quorum. (*See* Cong. Record, p. 2424.)

In the 60th Congress, 1st session, at Journal page 511, on May 29, 1908:

The conference report on H.R. 21871 "to amend the national banking laws," being under consideration,

Mr. La Follette raised a question as to the presence of a quorum.

Mr. Aldrich raised a question of order, viz, that a Senator must be in possession of the floor, and that he can not take the floor by asking a parliamentary inquiry and then make any motion.

The Vice President (Mr. Fairbanks) sustained the question of order.

An appeal having been taken from the decision of the Chair,

On motion by Mr. Aldrich to lay the appeal on the table; yeas 32, nays 14, no quorum voting.

The Vice President (Mr. Fairbanks) counted the Senate and announced that a quorum was present, and so the motion prevailed.

After debate the Vice President again counted the Senate and found no quorum present. (*See* Cong. Record, pp. 7158, 7159, 7166.)

I thank the Senate for its indulgence.

AMENDMENT NO. 1047

Mr. JACKSON. Mr. President, I call up amendment No. 1047.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an amendment numbered 1047: On page 28, line——

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 10, insert the following new section:

NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

SEC. 18. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end thereof the following new section:

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Policy Act, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within sixty days of the date of enactment of the Natural Gas Policy Act, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.".

Mr. JACKSON. Mr. President, this amendment was introduced by Mr. PEARSON. I might say that I had it in one of my other substitutes. Simply stated—and, by the way, I advised Senator PEARSON that I was going to call up his amendment to my substitute, which is amendment No. 1022—simply stated, this amendment provides for certain priorities for essential agricultural uses and for other purposes.

Such uses would follow, in the event of a shortage, after the priority for residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, meaning at that time the Federal Power Commission.

Mr. President, I do not think there is any dispute about the need for this amendment, and I hope it will be adopted unanimously.

Mr. HANSEN. Mr. President, insofar as I know, there is full support on this side of the aisle for the amendment. It conforms with identical language, I believe, or almost identical.

Mr. JACKSON. Well, it is in the original Pearson bill.

Mr. HANSEN. And that is the same language, is it not?

Mr. JACKSON. Yes, it is.

Mr. HANSEN. I would think we might just have a voice vote on it.

Mr. JACKSON. Let us have a rollcall on it.

Mr. HANSEN. Well, if you want a rollcall, that is fine, but there is no objection as far as I am concerned.

Mr. JACKSON. Well, it is fine with me.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JOHNSTON. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. JOHNSTON. Mr. President, I very much support this amendment, but I wonder if the Senator has the words "chemicals and animal feed" in this.

Mr. JACKSON. Does the Senator have the amendment?

Mr. JOHNSTON. No, I do not.

Mr. JACKSON. Which on line 12, refers to "crop," line 11, and the use of natural gas, a raw material feed stock producer fuel.

Is that what the Senator is referring to?

Does the Senator have it?

Mr. JOHNSTON. Yes, I have the amendment now.

Mr. JACKSON. This is a standard amendment that has been offered before. It is in my other substitute. It is also in Senator PEARSON's original amendment.

Mr. JOHNSTON. My question is this, we had this same amendment in the Energy Committee and it had broad support, but we found one correction or addition we wanted to make and that pertains to essential chemical feed stocks and animal feed.

Mr. JACKSON. May I say to the Senator, of course, we cannot change it here under the Senate rules of cloture.

Mr. JOHNSTON. Would anyone object if we added or broadened it to allow that by unanimous consent?

Mr. JACKSON. Is the Senator talking about animal feed stocks or chemical feed stocks?

Mr. JOHNSTON. Chemical feed stocks and animal feed.

Mr. JACKSON. I would suggest, it is in the House bill, the basic language. We can work it out in conference.

Mr. JOHNSTON. If it is in the House bill, I would not be so concerned. I am not sure it is.

Mr. FORD. I am not sure it is, either.

Mr. JOHNSTON. It is very important to some States, particularly those that raise a lot of chickens. It is also very important——

Mr. JACKSON. Well, if the Senator wishes to ask unanimous consent, that is what it would take.

Mr. METZENBAUM. I would object unless there is a general understanding that there are no objections to other kinds of amendments on the floor, and I doubt that would be forthcoming.

I do not know the significance of this amendment that is being offered on the floor and, unless I knew that were satisfied, I would have to object.

Mr. JOHNSTON. I can tell the Senator very simply that in the making of chicken feed, it is made from fish in some areas and they dry the fish with natural gas and apparently that is the only way it can be done. It is a very important part of making chicken feed and the chicken industry in this country, of course, is very big. That is one essential part that we want to make a priority use of natural gas.

The other is for essential chemical feedstocks, petrochemical plants that have no other source of making their petrochemicals and they simply must use natural gas.

Mr. JACKSON. As the author of this amendment, although the amendment was introduced by Senator PEARSON, I would say in response to the question and to make it part of the legislative history that it would be the intention to include such natural gas as might be employed in the production of feeds to support the poultry and chicken business in this country.

I mean, that is the intent, because it is a broad amendment in support of the agricultural industry of this Nation and wherever natural gas is an essential ingredient part of that effort, it is the intent of the proposer of this amendment to include those areas, specifically, the chicken industry.

Mr. JOHNSTON. I had an amendment prepared, but it went to another amendment. It went to Mr. FORD's amendment. We had it all ready to put in. We did not have the appropriate line on this.

Mr. JACKSON. This is the only amendment that runs to my amendment, under Senate rules——

Mr. FORD. Mr. President, no. I believe I have an amendment at the desk that runs and has the support of Mr. JOHNSTON, Mr. TOWER, Mr. DOMENICI, Mr. BARTLETT, Mr. CHURCH, and others. It is at the desk.

Mr. JACKSON. Mr. President, the trouble is, of course, we were looking for it.

Mr. FORD. We have too many at the desk, that is the trouble.

Mr. JACKSON. The trouble is that a lot of the amendments, including my own substitutes, have not been printed. We cannot get it. So I have not seen the Senator's amendment.

But I would ask unanimous consent to temporarily withdraw the Pearson amendment and allow the Senator from Kentucky to offer his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Reserving the right to object, it is not my intention to object, I want to be certain that when we speak about the Pearson amendment, the Senator means the Jackson amendment that incorporates the Pearson language.

Mr. JACKSON. No, I am the proposer of the Pearson amendment. The amendment I proposed was introduced by Senator PEARSON.

Mr. HANSEN. I see.

Mr. JACKSON. Amendment 1047. I just want to be fair to the Senator.

Mr. FORD. Mr. President, may I ask a question of the distinguished Senator from Washington?

The PRESIDING OFFICER. The Senator from Washington has a right to withdraw his amendment.

Mr. FORD. Before he does, let me ask the Senator from Washington, does the Senator's amendment run to 1022?

Mr. JACKSON. That is correct.

Mr. FORD. I have an amendment to 1022.

Mr. JACKSON. The Senator from Kentucky had spoken to me about this earlier. That is why I am stepping aside and allowing him to introduce the amendment.

I just wanted to be sure to include in my substitute, which is amendment 1022, the original Pearson-Bentsen——

The PRESIDING OFFICER. The Senator from Washington has withdrawn his amendment.

UP AMENDMENT NO. 856

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 856.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. Can we get copies of the amendment? Is it fair to ask for copies of the amendment?

Mr. BENTSEN. It is unreasonable.

Mr. ABOUREZK. I do not want to be unreasonable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

On page 16, line , insert the following: between lines 14 and 15:

ESSENTIAL AGRICULTURAL AND NATURAL FIBER USERS

SEC. 12. (a) PRIORITY FOR ESSENTIAL AGRICULTURAL USES.—Notwithstanding

any other provision of law, no pipeline company and no local distribution company may curtail deliveries to any person who uses natural gas for any agricultural use identified as an essential use by the Secretary of Agriculture under subsection (b)(1), unless such curtailment of deliveries to such person does not reduce the quantity of natural gas delivered to such person below the use requirement specified in subsection (b)(2) or is necessary in order to meet the needs of high-priority users.

(b) Identification of uses and determination of requirements.—The Secretary of Agriculture shall, by rule—

(1) not later than sixty days after the date of the enactment of this Act identify those agricultural uses for which an assured supply of natural gas is essential; and

(2) not later than one hundred and twenty days after such date of enactment determine the natural gas use requirements of persons using natural gas for agricultural uses identified under paragraph (1) in order to meet the requirements of full food and fiber production, including irrigation and crop drying, and processing and to otherwise preserve public health, safety, and welfare and for which use requirements alternative fuels are not economically practicable or reasonably available, as determined by the Commission.

The determination of use requirements under paragraph (2) may allow for additional amounts necessary in cases in which essential uses may be interrupted, or production capacities are extended or in cases in which new production facilities are added, but only if such extensions or additions are determined by the Secretary to be necessary in order to meet national food and natural fiber production requirements and to otherwise preserve public health, safety, or welfare.

(c) Definitions.—For purposes of this section—

(1) The term "agricultural use" means, when used with respect to natural gas, a use related to agricultural production or natural fiber production and processing, or food processing, or food quality maintenance, including the use of natural gas—

(A) for irrigation pumping,

(B) for crop drying,

(C) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, or food or

(D) for the preservation of food and food products prior to their distribution for final redistribution to the consuming public.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence;

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

(C) uses natural gas in any other use the curtailment of which the Commission or the State regulatory authority, as the case may be, determines, by rule, would endanger life, health, or maintenance of physical property.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(5) The term "State regulatory authority" means any State agency which exercises ratemaking authority or reviews the conditions for termination of service by any local distribution company located within such State.

(d) The Secretary of Agriculture shall not, for the purpose of restricting production of any crop or crops, limit or fail to make any determination provided for in either paragraph (b)(1) or paragraph (b)(2) of this section.

Mr. FORD. Mr. President, I do not want to get into too much detail. Most of the people who have been interested in agricultural amendments believe this is the best as it relates to the field of agriculture.

I have talked to the distinguished Members on the other side of the aisle and on this side. I believe the distinguished chairman of the Energy Committee is willing to accept this amendment. We have already taken care of the other priority uses.

Now, the agricultural position, I think, comes third, and gives them the opportunity to spell it out, the Commission on Agriculture set the area, the Department of Energy to distribute the gas, and it goes into a broader field than the one the distinguished Senator from Washington proposed.

I think he has seen this language. I think all have agreed to it.

If there is no question, Mr. President, I would be willing to go to a voice vote.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. The Senator from Kentucky had a similar amendment, No. 886, which was identical in all of its substantive parts, and I had an amendment prepared to 886 which would simply add the words "animal feed" to those priority uses, and this would cover chicken feed. Particularly, the processing of fish. these menhaden fish we catch in the Gulf and dry by natural gas and make animal feed out of them.

So, Mr. President, I would ask at this time, and I believe this has been checked with the Senators, under subparagraph (c) entitled "Definitions," subparagraph 1(c), after the word "chemicals" insert the words "animal feed."

Mr. President, I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The amendment is so modified.

Mr. HANSEN addressed the Chair.

Mr. JACKSON. Vote!

Mr. BUMPERS. Mr. President, I am a strong supporter of measures to secure an adequate supply of natural gas for essential agricultural uses. Typically, these uses, including crop drying, irrigation pumping, and food processing, are not readily adaptable to other fuels. If this Nation is to continue enjoying the supply of food and fiber that it needs, the availability of natural gas for agriculture should be safeguarded to the fullest extent possible. For this reason, I support the amendment of the Senator from Kentucky (Mr. FORD) to expand and clarify, largely along the lines of House-passed language in H.R. 8444, provisions of the pending bill, S. 2104, to establish a priority for agricultural uses of natural gas.

I would like to clarify one question that has arisen under the language of the bill. One of the kinds of activities eligible for the priority is food processing. I would like to inquire whether this concept includes the full cyclical process of raising or preparing food for market. In the case of the broiler industry, for example, which is extremely important in my State of Arkansas, feed mills, in which chickenfeed is manufactured, are essential to the growth and marketing of poultry. Natural gas is used to heat these mills. Without it, feed cannot be manufactured, and chickens die before they are ready to be marketed.

Curtailments in feed mills in Arkansas took place last winter with severe financial losses. In February 1977, for example, 4.7 million chickens died in Arkansas as the result of lack of natural gas, either because of feed mills being shut down, or because no gas was available to heat chickenhouses. In March of 1977, 1.8 million chickens died from the same causes.

Mr. President, my question is simply this. Does "food processing" as that term is used in the Ford amendment encompass the full cyclical process of raising broilers, including natural gas essential for the heating of feed mills?

Mr. FORD. Mr. President, the Senator is correct. It is our intention that all activities encompassed within the term "food processing" should be eligible for priority consideration. Use of natural gas to heat feed mills is clearly within this concept.

Mr. JACKSON. Mr President, I concur in the interpretation voiced by the author of the amendment and am indebted to the Senator from Arkansas for raising this important point.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 910

Mr. METZENBAUM. Mr. President, I call up amendment No. 910.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 910:

On page 12, line 17, strike out all after "SEC. 11. (a)" through line 20 and insert in lieu thereof: "The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any price, or rule or order relating to price issued under this Act after an opportunity for hearing on a record.".

Mr. METZENBAUM. Mr. President, I do not believe this amendment is objectionable. It merely provides for proceedings under the Administrative Procedure Act to be applicable to the provisions of this law. I hope that the Members on the other side will find it acceptable.

Mr. STONE. To what is this amendment—to the bill, to the Jackson substitute, or to what?

Mr. METZENBAUM. To the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on the motion to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 51, nays 36, as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—51

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Griffin	Randolph
Burdick	Hansen	Roth
Byrd,	Hatch	Schmitt
Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Heinz	Stevens
Cannon	Helms	Stevenson
Chafee	Huddleston	Stone
Chiles	Johnston	Thurmond
Curtis	Laxalt	Tower
Danforth	Long	Wallop
DeConcini	Lugar	Weicker
Dole	McClure	Zorinsky
Domenici	Melcher	
Ford		

NAYS—36

Abourezk	Hart	McIntyre
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Pell
Church	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Magnuson	Riegle
Culver	Mathias	Sarbanes
Durkin	Matsunaga	Sasser
Eagleton	McGovern	Williams

NOT VOTING—13

Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So the motion to lay on the table Mr. METZENBAUM's amendment (No. 910) was agreed to.

AMENDMENT NO. 911

Mr. ABOUREZK. I call up amendment No. 911.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment 911:

On page 10, line 19, strike "provide reasonable incentives for" and insert in lieu thereof "reimburse producers for actual costs incurred in".

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 57, nays 28, as follows:

[Rollcall Vote No. 449 Leg.]

YEAS—57

Allen	Glenn	Packwood
Baker	Gravel	Pearson
Bartlett	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Haskell	Randolph
Brooke	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd,	Heinz	Schmitt
Harry F., Jr.	Helms	Schweiker
Byrd, Robert C.	Hollings	Stevens
Cannon	Huddleston	Stevenson
Chafee	Javits	Stone
Chiles	Johnston	Thurmond
Curtis	Laxalt	Tower
Danforth	Lugar	Wallop
DeConcini	Mathias	Weicker
Dole	Matsunaga	Williams
Domenici	McClure	Zorinsky
Ford	Melcher	
Garn	Nunn	

NAYS—28

Abourezk	Eagleton	Metzenbaum
Anderson	Hart	Moynihan
Bayh	Hathaway	Muskie
Biden	Inouye	Nelson
Bumpers	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	McGovern	
Durkin	McIntyre	

NOT VOTING—15

Case	Long	Sparkman
Eastland	McClellan	Stafford
Goldwater	Metcalf	Stennis
Hayakawa	Morgan	Talmadge
Humphrey	Scott	Young

So Mr. TOWER's motion to lay on the table Mr. ABOUREZK's amendment (No. 911) was agreed to.

AMENDMENT NO. 914

Mr. ABOUREZK. Mr. President, I call up amendment No. 914.

The PRESIDING OFFICER. The Senator will be in order. The Chair cannot hear the Senator from South Dakota.

Mr. HANSEN. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota has been recognized.

Mr. HANSEN. Was it No. 914?

Mr. ABOUREZK. 914.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 914:

On page 3, strike all of lines 21 through 25, and on page 4 strike all of lines 1 through 5, and insert in lieu thereof the following: "by the Commission.".

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is it not true that this amendment is duplicative of one we have voted on earlier in that it strikes out extension wells?

Mr. ABOUREZK. I do not think so.

Mr. HANSEN. I make the point of order that it goes to two places in the bill.

The PRESIDING OFFICER. The amendment hits two places in the bill, and the point of order is well taken.

AMENDMENT NO. 916

Mr. ABOUREZK. Mr. President, I call up amendment No. 916.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 916:

On page 3, in line 10, delete "15" and insert in lieu thereof "20"; and on line 11, delete "15" and insert in lieu thereof "20".

Mr. ROBERT C. BYRD. Mr. President, I make the same point of order, that it goes to more than one place.

The PRESIDING OFFICER. The motion is well taken; the amendment is to two parts of the bill.

AMENDMENT NO. 919

Mr. ABOUREZK. Mr. President, I call up amendment No. 919.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) offers an amendment numbered 919:

On page 8, line 13, strike lines 13 through 19 and insert in lieu thereof:

SEC. 5. (a) Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries, provided oil price controls contained in the Emergency Petroleum Allocation Act are in effect.

(b) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act, any increase in new natural gas prices shall not exceed the current Btu related price at the time of expiration plus the inflation adjustment.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

Mr. HANSEN. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) and the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 56, nays 27, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—56

Allen	Domenici	McClure
Baker	Ford	Melcher
Bartlett	Garn	Moynihan
Bellmon	Glenn	Nunn
Bentsen	Gravel	Packwood
Brooke	Griffin	Pearson
Burdick	Hansen	Percy
Byrd, Harry F., Jr.	Hart	Randolph
	Haskell	Roth
Byrd, Robert C.	Hatch	Sasser
Cannon	Hatfield	Schmitt
Chafee	Heinz	Schweiker
Chiles	Helms	Stevens
Church	Huddleston	Stone
Cranston	Javits	Thurmond
Curtis	Johnston	Tower
Danforth	Laxalt	Wallop
DeConcini	Lugar	Weicker
Dole	Mathias	Zorinsky

NAYS—27

Abourezk	Hollings	Metzenbaum
Anderson	Inouye	Muskie
Bayh	Jackson	Nelson
Biden	Kennedy	Pell
Bumpers	Leahy	Proxmire
Culver	Magnuson	Ribicoff
Durkin	Matsunaga	Riegle
Eagleton	McGovern	Sarbanes
Hathaway	McIntyre	Williams

NOT VOTING—17

Case	Long	Stafford
Clark	McClellan	Stennis
Eastland	Metcalf	Stevenson
Goldwater	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	

So the motion to lay on the table was agreed to.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Could we have order so the Senator from California can be heard?

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jim Forcier be granted privilege of the floor throughout consideration of this bill in all stages.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Dr. Charles Cohon of my staff be granted privilege of the floor throughout this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 896

Mr. ABOUREZK. Mr. President, I call up amendment No. 896 and ask it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, a point of order.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. Would the Senator state his point of order?

Mr. ABOUREZK. Regular order.

Mr. HANSEN. Point of order.

The PRESIDING OFFICER. Will the Senator state his point of order?

Mr. ABOUREZK. Regular order. The amendment has not been read, Mr. President.

Mr. HANSEN. The amendment is not germane.

Mr. ABOUREZK. I ask for the regular order.

The PRESIDING OFFICER. The point of order is well taken. The Chair understands it was established this morning that under cloture the point of order will lie before the finishing of the reading of the amendment as time is of the essence under cloture.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. I move to table the appeal.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. INOUYE. Mr. President, there is a quorum here.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I object.

Mr. HANSEN. The yeas and nays.

The yeas and nays.

The yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. CRANSTON. The yeas and nays. Let us have the yeas and nays.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. CRANSTON. The yeas and nays.

Mr. INOUYE. Regular order.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. What are the yeas and nays requested on?

Mr. HANSEN. On the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 39 Leg.]

Abourezk	Garn	Melcher
Allen	Glenn	Metzenbaum
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bayh	Hansen	Nelson
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Biden	Hatch	Pearson
Brooke	Hatfield	Pell
Bumpers	Hathaway	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Ribicoff
Byrd, Robert C.	Huddleston	Riegle
Cannon	Inouye	Roth
Chafee	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schmitt
Clark	Kennedy	Schweiker
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McGovern	Zorinsky
Ford	McIntyre	

The PRESIDING OFFICER. A quorum is present.

The question is on the motion to table.

Mr. ROBERT C. BYRD. To table what?

The PRESIDING OFFICER. The motion to table the appeal from the ruling of the Chair.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE), would vote "yea."

The result was announced—yeas 70, nays 13, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—70

Abourezk	Brooke	Church
Anderson	Burdick	Cranston
Baker	Byrd, Robert C.	Curtis
Bellmon	Cannon	Danforth
Bentsen	Chafee	DeConcini
Biden	Chiles	Dole
Durkin	Javits	Proxmire
Eagleton	Johnston	Randolph
Ford	Laxalt	Ribicoff
Garn	Leahy	Roth
Glenn	Long	Sasser
Gravel	Lugar	Schmitt
Griffin	Mathias	Schweiker
Hansen	Matsunaga	Stevens
Hart	McClure	Stevenson
Haskell	Melcher	Stone
Hatch	Moynihan	Thurmond
Hatfield	Muskie	Tower
Heinz	Nelson	Wallop
Helms	Nunn	Weicker
Hollings	Packwood	Williams
Huddleston	Pearson	Zorinsky
Inouye	Pell	
Jackson	Percy	

NAYS—13

Allen	Culver	McIntyre
Bayh	Hathaway	Metzenbaum
Byrd, Harry F., Jr.	Kennedy	Riegle
	Magnuson	Sarbanes
Clark	McGovern	

NOT VOTING—17

Bartlett	Hayakawa	Sparkman
Bumpers	Humphrey	Stafford
Case	McClellan	Stennis
Domenici	Metcalf	Talmadge
Eastland	Morgan	Young
Goldwater	Scott	

The PRESIDING OFFICER. The appeal from the decision of the Chair is tabled, and the judgment of the Chair stands as the decision of the Senate.

AMENDMENT NO. 911

Mr. METZENBAUM. Mr. President, I call up amendment No. 911.

The PRESIDING OFFICER. The clerk will report.

Mr. TOWER. Point of order, Mr. President. Amendment No. 911 has already been disposed of by the Senate.

The PRESIDING OFFICER. The Senator from Texas is correct. The amendment has already been disposed of.

AMENDMENT NO. 912

Mr. METZENBAUM. Mr. President, I call up amendment No. 912.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. TOWER. Amendment 912 has already been disposed of.

The PRESIDING OFFICER. The point of order is not sustained. Amendment No. 912 has not been disposed of.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes Amendment No. 912.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll on the motion to lay on the table. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Ohio.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair will correct himself. The clerk will cease calling the roll. The Chair will notify the Senate that the Chair had been in error before. This amendment had been disposed of.

Mr. ROBERT C. BYRD. Mr. President, for that reason I ask unanimous consent that the rollcall be terminated and vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 919

Mr. METZENBAUM. Mr. President, I call up amendment No. 919.

The PRESIDING OFFICER. The clerk will report.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. TOWER. Amendment 919 has already been disposed of.

The PRESIDING OFFICER. That is correct; the Senator from Texas is correct, and his point of order is sustained.

AMENDMENT NO. 975

Mr. KENNEDY. Mr. President, I call up amendment 975.

The PRESIDING OFFICER. The clerk will report amendment 975.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 975.

The amendment is as follows:

On page 7, after line 18, add a new section 8 as follows, and redesignate the succeeding sections accordingly:

COMPLIANCE BY PRODUCERS WITH CONTRACTUAL AND CERTIFICATION OBLIGATIONS

SEC. 8. (a) Not later than December 15, 1976, and every twelve months thereafter, the Commission shall report to the President and to the Congress with respect to—

(1) compliance by producers of natural gas with terms of any contractual or certification obligation to deliver natural gas to interstate natural gas companies at prescribed or minimum rates, and

(2) the extent to which natural gas companies have pursued administrative and judicial remedies to compel compliance by natural gas producers with the terms of any contractual or certification obligation of such producer to deliver quantities of natural gas to natural gas companies at prescribed or minimum rates.

(b) Any interested person may bring an action against any producer of natural gas to compel compliance by such producer with the terms of any contractual obligation of such producer to deliver natural gas to natural gas companies at prescribed or minimum rates.

(c) The district courts of the United States shall have jurisdiction with respect to any action brought under subsection (b). The court shall have the power to grant such equitable relief as is necessary to redress the effect of any failure by any producer of natural gas to comply with any contractual obligation to any natural gas company, including declaratory judgment, mandatory or equitable relief, and the courts shall further have the power to award—

(1) compensatory damages to any person or class of persons,

(2) costs of litigation including reasonable attorney and expert witness fees, and

(3) whenever and to the extent deemed necessary or appropriate to deter future violations, punitive damages.

Mr. ROBERT C. BYRD. Mr. President,

I make a point of order the amendment goes to different places in the bill.

The PRESIDING OFFICER. The Senator is correct. The amendment does go to different places in the bill, and the point of order is well taken.

Mr. KENNEDY. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The second part—the second reason why the point of order was sustained by the Chair was because the second part—of the amendment was to redesignate the succeeding sections accordingly, and that is a separate amendment.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is there a precedent on that, Mr. President? Because, obviously, there was a series of different measures that were before the Senate that were going to be subject to amendment, and in submitting this we left the particular provisions open. It was relevant to all the different provisions that are before the Senate, and we left it open. It is relevant to each and every one of the different proposals that are before the Senate.

The PRESIDING OFFICER. That does not have to be specified in the amendment. It could have been taken care of by technical and clerical corrections, which will be the usual procedure.

The question is then on the appeal from the ruling of the Chair.

Mr. KENNEDY. Parliamentary inquiry. Is it because it does not technically comply or because it is nongermane?

The PRESIDING OFFICER. The ruling of the Chair is because it hits the bill in more than one spot, of necessity.

Mr. KENNEDY. Well, Mr. President, then I will withdraw the——

Mr. METZENBAUM. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. METZENBAUM. Do I understand if the Senator had offered the amendment to only one section, and if thereafter there had been an amendment proposed to make the technical corrections that would have been acceptable, but because the Senator included the language with reference to renumbering right in the amendment that makes it out of order?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I ask for recognition.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Do I understand that when the amendment has just those words "redesignate the succeeding sections accordingly" to make those conform with the legislation we are trying to amend, that, in and of itself, is going to permit a point of order to be raised?

The PRESIDING OFFICER. That would constitute a series of amendments that hits the bill in more than one spot; so the Senator is correct.

Mr. KENNEDY. Mr. President, I will resubmit it and get a yea and nay vote on it. Before submitting it, I would say that this is absolutely relevant to the proposal which is before us. It basically requires the commission to make a finding on the various gas contracts that are not going to be complied with and fulfilled, on the basis of a very considerable study that has been made by the Federal Trade Commission and the Federal Power Commission. It is absolutely relevant, and it was to accord the renumbering of the sections, to leave that flexibility for technical change, that that language was added.

I think it is important not just for this particular legislation, but I think it will be extremely important in terms of the future. Where you fail to designate the particular sections, it can be effectively struck down as not being revelant, and a point of order will lie. I think that is an extremely important precedent that all the Members of the Senate should understand.

I resubmit the amendment, and ask for a yea and nay vote on the decision of the Chair.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Does the Senator from Massachusetts challenge the ruling of the Chair?

The PRESIDING OFFICER. The Chair was in the process of asking the Senator from Massachusetts if he were appealing the ruling of the Chair.

Mr. KENNEDY. I resubmit the amendment, and I appeal the ruling of the Chair.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 7 after line 18 add a new section 8 as follows and redesignate the succeeding sections accordingly:

COMPLIANCE BY PRODUCERS WITH CONTRACTUAL AND CERTIFICATION OBLIGATIONS

SEC. 8. (a) Not later than December 15, 1976, and every twelve months thereafter, the Commission shall report to the President and to the Congress with respect to—

(1) compliance by producers of natural gas with terms of any contractual or certification obligation to deliver natural gas to interstate natural gas companies at prescribed or minimum rates, and

(2) the extent to which natural gas companies have pursued administrative and judicial remedies to compel compliance by natural gas producers with the terms of any contractual or certification obligation of such producer to deliver quantities of natural gas to natural gas companies at prescribed or minimum rates.

(b) Any interested person may bring an action against any producer of natural gas to compel compliance by such producer with the terms of any contractual obligation of such producer to deliver natural gas to natural gas companies at prescribed or minimum rates.

(c) The district courts of the United States shall have jurisdiction with respect to any action brought under subsection (b). The court shall have the power to grant such equitable relief as is necessary to redress the effect of any failure by any producer of natural gas to comply with any contractual obligation to any natural gas company, including declaratory judgment, mandatory or equitable relief, and the courts shall further have the power to award—

(1) compensatory damages to any person or class of persons,

(2) costs of litigation including reasonable attorney and expert witness fees, and

(3) whenever and to the extent deemed necessary or appropriate to deter future violations, punitive damages.

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

As I understand the Chair's ruling, he has ruled that since there is a provision of the amendment stating that the other sections shall be renumbered accordingly, therefore the amendment seeks to amend the bill at two different parts, and therefore, under the rules, is out of order.

I would be worried about this if I felt that it established a precedent that would make it more difficult to offer amendments and to get them considered. But I believe that this section calling for renumbering the other sections really was not necessary, because the Secretary would have straightened that out anyway. So it is not necessary, really, to have that there. Now that it is there, it does make the amendment out of order.

Mr. SARBANES. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland will state his parliamentary inquiry.

Mr. SARBANES. Is an amendment offered in the nature of a technical amendment to renumber sections throughout a bill, and therefore referring to different sections of the bill, subject to a point of order?

The PRESIDING OFFICER. It is subject to a point of order. But the point of order, of course, has to come from the floor.

Mr. SARBANES. I understand that, but I want to——

The PRESIDING OFFICER. If the Senator will withhold just a moment, nor is it a matter that will be raised by the Chair, or by the present holder, ab initio.

Mr. SARBANES. I understand that. But the precedent that is being established is that such an amendment, when offered, is subject to a point of order, is that correct, or it may be?

The PRESIDING OFFICER. The Senator is correct. The Chair would remind Senators that that is usually done by unanimous consent, through a request to allow the Secretary to make technical and clerical corrections. and not by an amendment standing alone.

Mr. ROBERT C. BYRD. Mr. President, I made the point of order earlier. The point of order was sustained by the Chair.

We do have a very, very nice point here. I would ask unanimous consent that in this instance, the Senator may be allowed to offer his amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection——

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. What is the parliamentary situation?

The PRESIDING OFFICER. The Senator has offered the amendment, and the question presently is on agreeing to the amendment.

Mr. TOWER. The Chair has not, then, ruled on the point of order?

The PRESIDING OFFICER. No point of order has been made. The Chair would remind Senators that the amendment was originally presented, withdrawn, and has been subsequently presented again, and no point of order has been made to the amendment as it presently stands before the Senate. So the question presently is on agreeing to the amendment.

Mr. ROBERT C. BYRD. Mr. President, I made the original point of order. The Chair sustained the point of order.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The amendment was withdrawn, and there was some debate. As I said, it is a very, very fine, thin point.

The amendment is before the Senate. I will not renew the point of order, and I would suggest that we vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move that the amendment be laid on the table.

Mr. KENNEDY. Mr. President, will the Senator withhold that for 30 seconds, so I can explain it?

Mr. TOWER. I withhold, out of deference to the Senator from Massachusetts.

Mr. FORD. Mr. President, a point of information.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. When a Senator addresses the Chair, is he not supposed to be on his feet?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, this amendment provides the authority and responsibility to the commission which is established in the Pearson-Bentsen amendment to make a report to Congress about the compliance with contracts that have been signed, and will continue that function up until the time of decontrol of gas on the Outer Continental Shelf.

It has been the experience of the Federal Power Commission and the Federal Trade Commission that they believe there have been a number of instances where there has been, effectively, a failure of compliance with those contracts, with the collusion of the pipeline companies and other companies, which has inured to extraordinary benefits of the companies themselves.

It is to get the information on that particular practice that this amendment is offered.

I am prepared to vote, and I thank the Senator from Texas for yielding.

Mr. TOWER. Mr. President, I renew my motion to lay on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montaha (Mr. METCALF), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. MORGAN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 42, nays 45, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—42

Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bellmon	Goldwater	Proxmire
Bentsen	Gravel	Roth
Burdick	Griffin	Sasser
Byrd, Harry F., Jr.	Hansen	Schmitt
Byrd, Robert C.	Hatch	Schweiker
Cannon	Helms	Stevens
Chafee	Hollings	Stone
Chiles	Huddleston	Thurmond
Curtis	Johnston	Tower
Dole	Laxalt	Wallop
Domenici	Long	Weicker
Ford	Lugar	
	McClure	

NAYS—45

Abourezk	Hart	Melcher
Allen	Haskell	Metzenbaum
Anderson	Hatfield	Moynihan
Bayh	Hathaway	Muskie
Biden	Heinz	Nelson
Brooke	Inouye	Nunn
Bumpers	Jackson	Pell
Church	Javits	Percy
Clark	Kennedy	Randolph
Cranston	Leahy	Ribicoff
Culver	Magnuson	Riegle
Danforth	Mathias	Sarbanes
DeConcini	Matsunaga	Stevenson
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky

NOT VOTING—13

Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts. The yeas and nays have been ordered on the amendment and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California, (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 57, nays 31, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—57

Abourezk	Eagleton	McIntyre
Allen	Griffin	Melcher
Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Bentsen	Hatfield	Muskie
Biden	Hathaway	Nelson
Brooke	Heinz	Nunn
Bumpers	Hollings	Packwood
Byrd, Robert C.	Huddleston	Pearson
Cannon	Inouye	Pell
Chiles	Jackson	Percy
Church	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Laxalt	Riegle
Culver	Leahy	Roth
Danforth	Magnuson	Sarbanes
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Williams
Durkin	McGovern	Zorinsky

NAYS—31

Baker	Glenn	Sasser
Bartlett	Goldwater	Schmitt
Bellmon	Gravel	Schweiker
Burdick	Hansen	Stevens
Byrd, Harry F., Jr.	Hatch	Stone
Chafee	Helms	Talmadge
Curtis	Johnston	Thurmond
Domenici	Long	Tower
Ford	Lugar	Wallop
Garn	McClure	Weicker
	Randolph	

NOT VOTING—12

Case	McClellan	Sparkman
Eastland	Metcalf	Stafford
Hayakawa	Morgan	Stennis
Humphrey	Scott	Young

So Mr. KENNEDY's amendment (No. 975) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1317

Mr. DECONCINI. Mr. President, I call up amendment No. 1317 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes amendment No. 1317.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk read as follows:

SEC. 10. The Secretary of Energy shall, after the termination of each year following the date of enactment of this Act, report to the Congress—

(1) the amount of new natural gas produced in the United States during such year;

(2) the amount of new natural gas reserves discovered in the United States during such year;

(3) the number of new exploratory natural gas wells drilled in the United States during such year; and

(4) the amounts and number reported pursuant to clauses (1), (2), and (3) compared with the average annual such amounts and number for the five-year period preceding the date of enactment of this Act.

Mr. DECONCINI. Mr. President, this amendment goes hand in hand, in my opinion, with the Pearson-Bentsen amendment.

As a number of my colleagues here know, I supported the Pearson-Bentsen amendment, because I do believe in deregulation.

This amendment would require that the Secretary of Energy report to Congress the amount of new natural gas produced here, and also the amount that is discovered within this country, the number of new exploratory and natural gas wells.

I think if we are going to have deregulation which, of course, is still questionable, but if we do have it, we are entitled to know the amount of gas that is recovered, new gas, and I think it should be a direct report to Congress if this amendment is agreed to. I ask for a voice vote.

Mr. TOWER. Mr. President, I think it is a good amendment and I do not see why it cannot be adopted by a voice vote.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. TOWER. Mr. President, what is the pending business?

AMENDMENT NO. 1039

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1039. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ABOUREZK. What is amendment 1039?

The PRESIDING OFFICER. That is the second Pearson-Bentsen amendment.

Mr. ABOUREZK. Mr. President, I want to call up an amendment.

Mr. President, I move to table amendment 1039, the one that is the pending business, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to lay on the table amendment No. 1039. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 40, nays 47, as follows:

[Rollcall Vote No. 454 Leg.]

YEAS—40

Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Huddleston	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Magnuson	Stevenson
Durkin	Matsunaga	Williams
Eagleton	McGovern	
Glenn	McIntyre	

NAYS—47

Abourezk	Ford	Melcher
Allen	Garn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Percy
Bentsen	Hansen	Randolph
Burdick	Hatch	Roth
Byrd, Harry F., Jr.	Hatfield	Schmitt
Chafee	Heinz	Schweiker
Chiles	Helms	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
	McClure	Zorinsky

NOT VOTING—13

Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So Mr. ABOUREZK's motion to lay on the table amendment No. 1039 was rejected.

AMENDMENT NO. 965

Mr. ABOUREZK. Mr. President, I call up amendment No. 965.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK)—

The amendment is as follows:

On page 12, line 13, strike all of paragraph (e) and redesignate the succeeding paragraphs accordingly.

On page 9, at line 24, strike ", through December 31," and insert in lieu thereof a period;

On page 10, at line 1, strike "1982."

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the amendment is not in order because it goes to different places in the bill.

The PRESIDING OFFICER. The amendment hits the bill in three places, and the point of order is well taken.

AMENDMENT NO. 966

Mr. ABOUREZK. Mr. President, I call up amendment No. 966.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the amendment is not in order, because it goes to two different places in the bill.

The amendment is as follows:

On page 10, line 1, change "1982" to "1992".

On page 12, line 13, change "1982" to "1992".

The PRESIDING OFFICER. The Senator is correct. The point of order is well taken.

AMENDMENT NO. 971

Mr. ABOUREZK. Mr. President, I call up amendment No. 971.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, after line 2, insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

(7) "New natural gas" means natural gas (A) which is produced from a new lease on the Outer Continental Shelf; or (B) which is produced other than on the Outer Continental Shelf from a new well (i) the completion location of which is 2.5 statute

miles or more (surface measurement) from the completion location of any old well, or (ii) the completion location of which is at a depth of 1,000 feet or more in excess of the depth of the completion location of any old well with a completion location that is within 2.5 statute miles (surface measurement): *Provided*, That the completion location of any such new well is not in the same producing zone as the completion location of any such old well.

(8) "New lease" means a lease, entered into on or after April 20, 1977; or which was leased before such date, under a lease which terminated or was abandoned before such date and was not in effect on such date.

(9) "New well" means a well the drilling of which was not begun on or before April 20, 1977, or with respect to which a drilling permit had not been issued on or before April 20, 1977, in the case of a well for which permit is necessary.

Mr. ROBERT C. BYRD. Mr. President, I make the same point of order.

The PRESIDING OFFICER. The Senator is correct. The point of order is well taken.

AMENDMENT NO. 934

Mr. ABOUREZK. Mr. President, I call up amendment No. 934.

The PRESIDING OFFICER. The amendment will be stated.

Mr. TOWER. 934?

The PRESIDING OFFICER. The Senator is correct.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 934:

On page 10, line 3, strike the word "prospective".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered—

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 934. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Arkansas (Mr. BUMPERS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 58, nays 29, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—58

Allen	Garn	McClure
Baker	Glenn	McIntyre
Bartlett	Goldwater	Melcher
Bellmon	Gravel	Nunn
Bentsen	Griffin	Packwood
Burdick	Hansen	Pearson
Byrd,	Hatch	Pell
Harry F., Jr.	Hatfield	Percy
Byrd, Robert C.	Hayakawa	Randolph
Cannon	Heinz	Roth
Chafee	Helms	Schmitt
Chiles	Huddleston	Schweiker
Church	Javits	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Leahy	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	Mathias	Zorinsky
Ford	Matsunaga	

NAYS—29

Abourezk	Haskell	Muskie
Anderson	Hathaway	Nelson
Bayh	Hollings	Proxmire
Biden	Inouye	Ribicoff
Brooke	Jackson	Riegle
Clark	Kennedy	Sarbanes
Cranston	Magnuson	Sasser
Culver	McGovern	Stevenson
Durkin	Metzenbaum	Williams
Hart	Moynihan	

NOT VOTING—13

Bumpers	Metcalf	Stennis
Case	Morgan	Talmadge
Eastland	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1086

Mr. KENNEDY. Mr. President, I call up amendment No. 1086 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1086:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1987".

Mr. KENNEDY. Mr. President, this is a very simple amendment. Under the Pearson-Bentsen scheme, there is a generous compensation for the exploration and finding and production of Outer Continental Shelf gas that provides for a 5-year period for regulation.

This simply extends that for an additional 5 years.

I think any fair reading of the Pearson-Bentsen amendment would show that the criteria which has been established is extremely generous for the development of offshore gas and this would just extend those very generous provisions for 5 additional years.

Mr. President, I ask for the yeas and nays on this particular amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN).

If present and voting, the Senator from Minnesota would vote "nay" and the Senator from North Carolina would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 49, nays 38, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—49

Allen	Glenn	McIntyre
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Pell
Bentsen	Hansen	Percy
Burdick	Hatch	Randolph
Byrd,	Hatfield	Roth
Harry F., Jr.	Hayakawa	Schmitt
Byrd, Robert C.	Heinz	Schweiker
Chafee	Helms	Stevens
Chiles	Huddleston	Stone
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Ford	Mathias	Zorinsky
Garn	McClure	

NAYS—38

Abourezk	Eagleton	Melcher
Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Magnuson	Stevenson
DeConcini	Matsunaga	Williams
Durkin	McGovern	

NOT VOTING—13

Case	Morgan	Stennis
Eastland	Nunn	Talmadge
Humphrey	Scott	Young
McClellan	Sparkman	
Metcalf	Stafford	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 990

Mr. BAYH. Mr. President, on behalf of myself and the distinguished Senator from South Dakota, I call up amendment No. 990.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself and the Senator from South Dakota proposes amendment No. 990:

On page 14, strike all of line 19 through line 15 on page 15, and insert in lieu thereof the following:

PRIORITY ALLOCATIONS

SEC. 26. Section 7 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(1)(1) Whenever the Commission determines that the public health and welfare is endangered due to an actual or imminent shortage in the supply of natural gas the Commission may issue such orders as are necessary to allocate available supplies of natural gas subject to its jurisdiction in order to provide for the following uses in accordance with the priority in which they are listed:

"(A) residential and small commercial or industrial and agricultural uses amounting to less than 50 Mcf on a peak day;

"(B) industrial feedstock requirements and industrial and commercial process uses designated as such;

"(C) industrial and commercial nonboiler fuel uses averaging between 50 and 300 Mcf per day which do not qualify under clause (B);

"(D) any nonboiler fuel use which does not qualify under clause (A), (B), or (C); and

"(E) any boiler fuel use in excess of 300 Mcf per day, except that effective after one year following the date of enactment of the Natural Gas Reform Act of 1977 it shall be a violation of this Act to make any delivery for such use of natural gas subject to the provisions of this Act.

"(2) The Commission may make allocations or exceptions to allocations not in accord wit paragraph (1) in any case in which it determines such an allocation or exception is necessary to prevent irreparable harm to life or property and the beneficiary of such allocation or exception agrees to such adjustments in future allocations as the Commission determines necessary to carry out the purpose of this subsection.".

Mr. FORD. Mr. President, a point of information. Will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. FORD. As I understand it, this is priority use. It relates to agriculture. We adopted an amendment earlier by a voice vote. Does this go to another section of the bill? Does it alter the amendment we have adopted?

Mr. BAYH. This goes to the section on page 14, section 26. It strikes that and supplements the language which deals with how fuel is allocated in the event of a curtailment. We have been very careful and very sensitive to the fact that there are priority uses.

This amendment is designed not only to recognize the need to deal with the problem when we have a situation such as we had last year, but also to deal with it in a way that we maintain prices so that, in addition to allocating, we do not just get the gas by having the price go up.

It seems to me that, with respect to curtailment, it is more important that we let people who own homes and need hospitals and need schools have that gas at a reasonable rate and not force the market up so that they have to get expensive gas.

We had tragedies last year, when old folks could not afford the price of gas and a couple of them died.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana, (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 45, nays 43, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—45

Baker	Goldwater	Muskie
Bartlett	Gravel	Nunn
Bellmon	Griffin	Pearson
Bentsen	Hansen	Percy
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Roth
	Hayakawa	Schmitt
Chafee	Helms	Schweiker
Chiles	Huddleston	Stevens
Cranston	Inouye	Stone
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Ford	McClure	
Garn	Melcher	

NAYS—43

Abourezk	Glenn	Metzenbaum
Allen	Hart	Moynihan
Anderson	Haskell	Nelson
Bayh	Hathaway	Packwood
Biden	Heinz	Pell
Brooke	Hollings	Proxmire
Bumpers	Jackson	Ribicoff
Byrd, Robert C.	Javits	Riegle
Cannon	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Magnuson	Stevenson
Culver	Mathias	Williams
DeConcini	Matsunaga	Zorinsky
Durkin	McGovern	
Eagleton	McIntyre	

NOT VOTING—12

Case	Metcalf	Stafford
Eastland	Morgan	Stennis
Humphrey	Scott	Talmadge
McClellan	Sparkman	Young

So the motion to lay on the table Mr. BAYH's amendment No. 990 was agreed to.

Mr. BAYH. Mr. President, I hate to keep bothering my colleagues with business at this hour, and I think we all realize that some of these amendments are more important than others, but just for the sake of those who may have gone through this vote, we have just refused to provide allocation provisions in the case of an emergency for homeowners, for hospitals, and for schools in an emergency, although we did it earlier today generally across the board.

AMENDMENT NO. 897

Mr. President, I respectfully request on behalf of the Senator from Ohio (Mr. METZENBAUM) that amendment No. 897 be made the order of business, please.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 897 to amendment No. 862:

On page 2, line 15, after the words "new natural gas" insert the following: "except for natural gas produced by companies whose sales in interstate commerce exceed 100 billion cubic feet annually".

Mr. BAYH. Mr. President, what this particular amendment does is in a very few words strike a major blow for the independents and small producers.

Many of us have expressed concern about the need to discover more gas. Anyone who has studied it—some of our colleagues have studied it more particularly than I, but almost all of us are aware of the fact that a very large percentage of all new natural gas supplies are discovered by independents and small individual entrepreneurs.

What this amendment does is say, "All right, if we are going to subject the Nation to the kind of inflationary pressures that will result from a deregulation effort, we will say, in the wording of the Pearson-Bentsen amendment, that we can deregulate new natural gas, and the words of this amendment say, 'except for natural gas produced by companies whose sales in interstate commerce exceed 100 billion cubic feet annually.' "

In other words, we say to those who actually go out and get it, "You are the ones who ought to have the benefit." That is where we ought to have the incentive, not with the majors, who take the gas from those who actually find it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 40 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Huddleston	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Stevens
Church	Johnston	Stevenson
Clark	Laxalt	Stone
Cranston	Leahy	Thurmond
Culver	Long	Tower
Curtis	Lugar	Wallop
Danforth	Mathias	Weicker
DeConcini	Matsunaga	Williams
Dole	McClure	Zorinsky
Domenici	McGovern	
Durkin	McIntyre	
Eagleton	Melcher	
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

Mr. STEVENS. Mr. President, the effect of this amendment would be to cut off a deregulated price for most of the gas produced and sold in the United States. I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 53, nays 31, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—53

Allen	Ford	Melcher
Baker	Garn	Nunn
Bartlett	Glenn	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Burdick	Hansen	Percy
Byrd, Harry F., Jr.	Hatch	Randolph
	Hatfield	Roth
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Heinz	Schweiker
Chafee	Helms	Stevens
Chiles	Huddleston	Stevenson
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Durkin	McClure	Zorinsky

NAYS—31

Abourezk	Haskell	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Proxmire
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Williams
Eagleton	McGovern	
Hart	McIntyre	

NOT VOTING—16

Bumpers	McClellan	Stafford
Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Goldwater	Ribicoff	Young
Humphrey	Scott	
Javits	Sparkman	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Vote!

Mr. PELL. Third reading.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1039. The yeas and nays have been ordered.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Dakota yield the floor?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 954

Mr. BAYH. Mr. President, I ask that the amendment of the distinguished Senator from Ohio (Mr. METZENBAUM) No. 954 be made the pending order of business.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for Mr. METZENBAUM, proposes amendment No. 954:

On page 11, line 21, strike all after "average" through "amended (15 U.S.C. 757)." on page 12, line 2, insert in lieu thereof: "per barrel wellhead price of crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), divided by a Btu conversion factor of 5.8 million Btu's per barrel.".

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. BAYH. Mr. President, did not the Senator from Indiana have the floor?

The PRESIDING OFFICER. Until the clerk reported the amendment and at that point it becomes a new contest for seeking recognition.

The Senator from Alaska sought recognition first.

Mr. STEVENS addressed the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. STEVENS. If I have the floor——

Mr. ROBERT C. BYRD. Yes, the Senator has the floor.

Mr. STEVENS. Does the Senator wish to make a point of order?

Mr. ROBERT C. BYRD. No, perhaps the Senator does.

Mr. STEVENS. Mr. President, it is the Senator from Alaska's position that this amendment amends the bill in two places. Therefore, it is subject to the point of order.

The PRESIDING OFFICER. The point of order is well taken.

The bill is open to further amendment.

AMENDMENT NO. 946

Mr. BAYH. Mr. President, I ask that the amendment No. 946 of the Senator from Ohio be made the pending order of business and I ask that it be stated.

The PRESIDING OFFICER (Mr. LEAHY). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an amendment numbered 946:

On page 3, between lines 12 and 13, insert the following:

"(8) the burden of increased costs must to the maximum reasonable extent be borne by low priority users; and".

Renumber succeeding paragraphs accordingly.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I make the same point of order for this amendment. It deals with two portions of the bill.

The PRESIDING OFFICER. The point of order is well taken.

Mr. BAYH. Would the Chair be more specific about that?

The PRESIDING OFFICER. If the amendment changes two points which are not continuous, thus it amends different parts of the bill, and thus would be subject to the point of order.

The Senator from Indiana.

Mr. BAYH. For the edification of myself, if not the Chair, the amendment reads "on page 3, between lines 12 and 13."

Now, I do not know how many sections we can get in between two lines in a bill on one page.

The PRESIDING OFFICER. The amendment also reads to renumber succeeding paragraphs accordingly. It is the Chair's recollection that at an earlier time this morning, when still in the shank of the evening, the same issue arose.

Mr. BAYH. I pose another question to the Chair.

If one is adding a section between present sections 7 and 8, how does one change section 8 to be section 9 without this very technical amendment?

The PRESIDING OFFICER. The Chair understands that the usual technique would be to rely on the normal procedure of asking for technical and clerical corrections at the end of the bill. The provision is usually made at the end of the bill. The Chair understands, however, the quandary the Senator from Indiana finds himself in.

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. When the rule which has been utilized by other Members of this body, within their right, to prohibit amending a bill in two sections is applied, is not that generally applied under the rules to two sections, not subsections? This is only applied to section 2, which starts on page 2, continues on through page 3, on through the top of page 4. It is the findings and purpose section, I suggest, and the point is raised about changing two subsections.

The PRESIDING OFFICER. All that is required is that the amendment touch the bill in more than one contiguous place.

Mr. BAYH. A parliamentary inquiry. If the definition is a noncontiguous place, I suggest to the distinguished Presiding Officer that this does not apply, because it does apply continuously. It applies to inserting new language between present sections 7 and 8. The very next number in the bill is continuous. It is section 8 which we changed to new section 9.

The PRESIDING OFFICER. Will the Senator indulge the Chair for a moment?

Mr. BAYH. I will be happy to do so. I am sorry to cause this inconvenience.

The PRESIDING OFFICER. The Chair does not mind a bit. The Chair gets paid by the year. [Laughter.]

The Chair feels that the Senator's point is well taken, and it is because of the contiguous nature of the amendment. The Chair reverses its earlier position and maintains that the point of the Senator from Indiana is well taken, and the amendment is in order.

Mr. BAYH. I appreciate the patience of the distinguished Presiding Officer, which is characteristic of his personality and tenure in the Senate.

Mr. President, this matter may not be earthshaking to some, but we have done a lot of discussing in efforts to amend, some successful—one failed by two votes a little earlier—to try to allocate gas to high priority users. Certainly, there should be no place where this should be specified with more specificity and clarity than in the purpose section, and that is what this does. To the maximum reasonable extent, the increased costs are to be borne by low-priority users. It is the business of allocation.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, this is a very difficult problem that deals with the basic bill, not with the Pearson-Bentsen amendment. It deals with the subject of incremental pricing, which is a subject that is not dealt with in that amendment and probably should be dealt with in connection with a discussion on the bill itself, should the Pearson-Bentsen amendment not be adopted finally. This, in effect, is taking up the issue much before its time, in my opinion.

It is probably the most complex subject that could be discussed in relation to the whole problem. Since it is premature and could be raised again in connection with the bill itself, should that event ever materialize, I think it is an amendment that should not be considered by this body prior to the final consideration of Pearson-Bentsen, and for that reason I move to table the amendment at this time.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 50, nays 32, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—50

Abourezk	Domenici	Lugar
Allen	Ford	McClure
Baker	Garn	McIntyre
Bartlett	Glenn	Melcher
Bellmon	Goldwater	Packwood
Bentsen	Gravel	Pearson
Burdick	Griffin	Percy
Byrd, Harry F., Jr.	Hansen	Randolph
Byrd, Robert C.	Hatch	Roth
Cannon	Hatfield	Schmitt
Chafee	Hayakawa	Schweiker
Chiles	Heinz	Stevens
Curtis	Helms	Stone
Danforth	Griffin	Thurmond
DeConcini	Javits	Tower
Dole	Johnston	Wallop
	Laxalt	Zorinsky

NAYS—32

Anderson	Haskell	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Nunn
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Sasser
Durkin	McGovern	Stevenson
Eagleton	Moynihan	

NOT VOTING—18

Case	McClellan	Stafford
Eastland	Metcalf	Stennis
Hart	Metzenbaum	Talmadge
Humphrey	Morgan	Weicker
Long	Scott	Williams
Mathias	Sparkman	Young

So the motion to lay on the table was agreed to.

Mr. CRANSTON and Mr. ABOUREZK addressed the Chair.

Mr. CRANSTON. Mr. President, I ask unanimous consent that T. J. Oden of Senator MCINTYRE's staff have the privilege of the floor throughout all stages of consideration of the pending bill.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

AMENDMENT NO. 944

Mr. ABOUREZK. Mr. President, I call up amendment No. 944 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) for Mr. METZENBAUM, proposes amendment No. 944.

On page 3, line 14, after "the", strike through to "gas", in line 16 and insert: "actual costs associated with finding new supplies of natural".

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, if I may have just a moment to discuss the amendment.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, I have the floor, I think.

Mr. ROBERT C. BYRD. The Senator did not yield for that.

Mr. STEVENS. I have not yielded, Mr. President.

Mr. President, the problem with this amendment is that one of the findings states that a new system of pricing natural gas is required and that is that we must recognize the costs and risks associated with the finding of future supplies of natural gas. The effect of this amendment would make it so that the new costing systems must recognize actual costs associated with the finding of new supplies. This change takes away consideration of future costs and risks connected with exploration and development and would act therefore as a retardant to the conducting of exploration and development of new gas supplies, which would be contrary to the whole purpose, whether it is the bill or Pearson-Bentsen. On that basis, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 56, nays 30, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—56

Allen	Glenn	McIntyre
Baker	Goldwater	Melcher
Bartlett	Gravel	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Burdick	Haskell	Pell
Byrd, Harry F., Jr.	Hatch	Percy
Byrd, Robert C.	Hatfield	Randolph
Cannon	Hayakawa	Roth
Chafee	Heinz	Schmitt
Chiles	Helms	Schweiker
Curtis	Huddleston	Stevens
Danforth	Javits	Stevenson
DeConcini	Johnston	Stone
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Ford	Lugar	Wallop
Garn	Mathias	Weicker
	McClure	Zorinsky

NAYS—30

Abourezk	Eagleton	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Sasser
Durkin	McGovern	Williams

NOT VOTING—14

Bumpers	McClellan	Stafford
Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hart	Scott	Young
Humphrey	Sparkman	

So the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I think it is time we took a breather. I want to state that, assuming the Senator from Alaska can hold the floor, there will be about an hour right now during which Members can take a slight break. We have agreed with the majority leader that it would be no more than an hour.

Mr. President, I am concerned about some of the questions which have been raised about the concept of deregulation. I think it would be well to put into the RECORD at this point some of the arguments which have been made concerning deregulation, particularly the arguments against deregulation, and to try to provide a rebuttal to those arguments.

Mr. President, I ask the Chair notify me when I have used 20 minutes of my time.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. STEVENS. One of the arguments is that this Pearson/Bentsen phased deregulation would result in windfall profits to the producers of natural gas. A standard criticism of any effort to allow higher prices is that it will "swell the profits" of producing companies. But it does not make any sense to look at the gross dollar volume of profits. There is not a Mr. Exxon somewhere who is happier if his profits are $2 billion instead of $1 billion. Instead, you have to look at the profit as a proportionate return on equity. If a company makes a $1 billion profit on $10 billion equity, it is not as profitable as a company that makes only $1 million on $5 million in equity.

If we look at return on equity, we find that gas and oil producers have made a return at or below the figure for all manufacturing, and well below the rate for many other industries and companies. Thus, in 1976, the top 28 oil companies averaged a return of 13.1 percent on stockholder's equity, as against 16 percent for 13 large newspaper firms, and 18.4 percent for the Washington Post.

If higher prices cause industry profits to increase, say 20 percent, while the money they have to invest to get the gas also rises 20 percent, there is certainly no ripoff, even though profits increase.

The counterargument from regulators would be—Dr. Rivlin and others have said this explicity—that no additional expenditures will be made to try to get gas at higher prices. To see how silly this is, we need only look at past history. Many of the supporters of regulation seem to think that gas should still sell for 26 cents/Mcf, and oil for $5.25/bbl.

That might be all right if we had control, really, over the oil market. I think one of the things that the people who argue against deregulation for gas forget is that the alternative supply of energy, if the price of gas continues to be regulated and the supply does not increase, can only be ever-increasing foreign oil which we are importing at an ever-increasing price.

The problem really is—and, Mr. President, this was demonstrated recently in the President's report on the transportation system for Alaskan natural gas—that if a true comparison is made of the cost of new supplies of natural gas, that comparison must be made to the alternative price of imported foreign oil. Imported foreign oil is now in excess of $14 a barrel. That will be somewhere around $2.75 per Mcf for gas. We are talking about a concept of trying to increase the supply of gas. The only thing that I know that will increase the supply of gas is to allow the gas price to float toward the cost of that foreign oil. That will stimulate production, it will stimulate exploration, and it will increase the supply of gas in this country.

In my own State it will mean that we will see exploration in the other 13 basins of Alaska which have not yet been explored for natural gas. We have 15 sedimentary basins in my State. Two of them have been explored in terms of exploration in depth, and those two, in fact, are producing. I believe if we are going to use the economic system in which we all believe, the free enterprise system, the counter-productive effects of continued regulation should be eliminated.

If their logic were correct, company expenses would be no different, so that the decrease in revenue would mean that industry profits would decline drastically or disappear. Yet does anyone really think that if prices were controlled at still lower levels that the oil industry would go merrily on its way losing money. Not at all. They simply would not have drilled much of the gas and oil we are now using.

Do not think that by continuing regulation you are in some way punishing Exxon stockholders. Their dividends and stock price are unlikely to be radically affected by our action. Instead, what we are doing is preventing additional inves-

tors, whether through bonds, stocks or private expenditures, from putting money into production and bringing in additional supplies.

What producer would allow profits to be captured by the Internal Revenue Service. The producer would plow these profits back into further exploration and development and not permit 48 percent of them to be taken away by the Treasury. Realizing, however, that many in Congress were concerned about this notion, the deregulation bill would include a provision calling for the enactment of a windfall profits tax.

Argument No. 2 against deregulation was that it would be too costly to the consumer of natural gas. The administration estimated deregulation would cost $71 billion and the Library of Congress estimated $77 billion. Congressmen STOCKMAN and BROWN, however, in a very careful and conservative study estimated that the administration proposal would cost $48 billion more than deregulation between now and 1990.

Deregulation will go to a very high price. The administration's own studies use a range of $2.35 to $2.50 in real dollars, although at times the administration says the price could go to $4 or $5 per Mcf—the CBO study is based on a $4 price.

I think it is important to recognize the problem is when we compare the cost to the consumer, too. Is the cost to the consumer to be the cost that he or she will have to pay for an alternative fuel, namely foreign oil, or is it the cost to pay for the same existing supply of gas under regulation as compared to deregulation?

The fair comparison is the comparison, as I stated, which the administration used in comparing the cost of gas from the Prudhoe Bay to foreign oil. That is what I base my conclusion on that really deregulation will ultimately cost the consumer less because if new gas supplies are not available the consumer will have no alternative but to move to the more expensive foreign oil as a substitute source of energy.

Little or no additional gas will be produced. Their basic figures assume no increase in supply beyond $1.75. On other occasions, however, the administration will admit to a very modest supply response. However, the three ERDA MOPPS' studies all show increase in supply based upon higher prices.

The administration ignores the cost of alternative fuels that increased supplies would replace. The same effect is achieved by assuming away all increased supplies and not mentioning that alternative energy supplies will be needed and expensive. Finally, as BROWN and STOCKMAN point out, the administration fails to compute the cost of unused pipeline capacity. The Stockman/Brown study found that an additional 25 Tcf of gas would be produced under deregulation.

The argument for deregulation is straightforward and simple. Market prices for natural gas should prevail for the same reason the market sets most prices in our society. Producers have an incentive to find the lowest cost supplies and sell to all consumers who find the product at the market price more valuable than their alternatives. Despite highly publicized crises, it works. The rapid disappearance of the sugar crisis and grain crisis of a few years ago, the easing of the orange juice and coffee crises more recently, show how it works. When a market threatens to get out of balance, due to a change in either supply or demand, prices give the signals to both buyers and sellers. As price rises, producers bring in more marginal and higher cost supplies, and buyers buy less and use alternatives where economical, until balance is restored. If demand slackens, producers will drop their higher cost production, and restrain prices, until balance is again achieved.

We argue that the same thing will happen with natural gas. With deregulation, prices may well rise above the controlled levels. More supplies will be produced. Consumers who have lower cost alternatives will switch, thus freeing additional supplies, and helping to moderate the price rise. People who consume the additional supplies will be spared the cost of using higher cost alternatives.

Again, the rule of other things being equal must be observed. If current production rests heavily on old discoveries, production may fall over time, even though more new discoveries are made under deregulation than would have been made otherwise. The point is that production would have fallen far faster under controls.

Mr. ABOUREZK. Will the Senator yield for a question

Mr. STEVENS. I would be happy to yield after I have finished this next paragraph, Mr. President, assuming that the Senator from South Dakota is willing to use his time.

Mr. ABOUREZK. It is just a question.

Mr. STEVENS. I would be happy to yield if I may finish this one paragraph.

Argument three against deregulation was the price above $1.75 would be unproductive because of the nonavailability of drilling rigs. This fact is clearly not true because the most authoritative source on drilling rigs, Hughes Tool Co., indicates that there are 2,350 rigs in existence, of which only 2,150 are in operation. Furthermore, the U.S. manufacturers possess the current capacity to manufacture 679 additional drilling rigs per year, and they ought to be given the chance to put people back to work making drilling rigs.

I will be happy to answer a question for the Senator from South Dakota.

Mr. ABOUREZK. The Senator said that production would fall faster under regulation than it would under deregulation. By that is the Senator conceding that production will fall under deregulation?

Mr. STEVENS. The Senator from Alaska is of the opinion that under deregulation the supplies will increase and will increase rather rapidly and that for a substantial period of time we will have an increased supply of gas in this country. But since gas is a finite resource, eventually the time will come when our supplies will start to dwindle. At that time, consumers will shift to the lesser expensive fuels that are available.

I happen to believe very strongly in solar and differential thermal energy, for instance. Those two energy sources will not come on the market under our system until the price is more advantageous to the consumer than the price of existing fuels.

I think that the problem with the administration's position is that it intends, for instance, in terms of the production of oil, to impose a $6 tax at the wellhead. That has nothing to do with increased production of supplies. Incidentally, the cost of that wellhead tax will cost the consumer more between now and 1985 than the administration's own projections of increased deregulation will cost the consumer between now and 1990.

I find a strange dichotomy. Perhaps the Senator from South Dakota can tell me how he can possibly support a tax on the wellhead price of oil to increase the consumer cost of oil, which incidentally will not increase the supplies of oil one iota. As a matter of fact, it is designed to decrease consumption and to be a disincentive in the whole area. On the other hand, the problem of deregulation which is associated with an incentive to production is cast aside. It is a real dichotomy for the Senator from Alaska.

Mr. RANDOLPH. Mr. President, will my able colleague yield?

Mr. STEVENS. I am delighted to yield to my friend from West Virginia.

Mr. RANDOLPH. It will be out of my time. That is understood; is it not?

Mr. STEVENS. Under any circumstance the Senator wishes to have me yield under the rules I am delighted to yield to my good friend.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized on his own time.

Mr. RANDOLPH. I appreciate the comments made by the knowledgeable Senator from Alaska (Mr. STEVENS).

He has been talking about the many-sided approach to the deregulation of natural gas as he sees the arguments pro and con and the implications therefrom.

The President 11 months ago, on October 19, 1976, sent a letter to Gov. David Boren of Oklahoma.

I realize that letter, which was to set forth the conviction on energy matters, of the then candidate for President, now our Chief Executive. He defined in essence and some detail, his convictions about the energy problems of this country. That communication has been referred to several times during the debate on the pending subject matter.

In that letter President Carter used these words.

> Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Would my colleague from Alaska indicate whether the portion of the letter I have just read from the President is the position that he advocated earlier this evening in his address?

Mr. STEVENS. That was the position that the Senator from Alaska is attempting to articulate, yes.

Mr. RANDOLPH. I so understood, and

I followed the Senator in his well-reasoned and well-documented discussion of this perplexing problem.

I have never spoken in this Senate Chamber since coming here in November of 1958, until just in the last few minutes at the hour of 3:45 a.m.

Mr. STEVENS. If the Senator would note, the Senator from Alaska takes pleasure in participating because it is now just 10:45 p.m. in Anchorage, and we still have a lot of time to go, by Alaska time. I am happy to have the Senator associated with me even though it is 3:45 a.m.

Mr. ROBERT C. BYRD. The Senator notes for the record that both West Virginia Senators are on the floor at this hour.

Mr. RANDOLPH. Yes, I certainly want the RECORD to indicate that the esteemed majority leader, Senator BYRD of West Virginia, is as always at his post of duty, no matter what hour.

I do recall seeing W. C. Fields in a theater production, of course a long time ago. The famed comedian came out of a log cabin while a snowstorm was raging. He looked out around and as he turned to go back into the cabin, the snow swirling about his head, said, "This night haint fit for man nor beast."

I am sure Senators have reservations about being in a tormenting session during this long night. It is not a pleasant forum as night begins to turn into morning. I shall read a portion of that letter that has not yet been actually quoted in the Chamber, but has been placed in the RECORD.

> . . . I favor a substantial shift from the use of oil and gas—our highest quality energy sources—

I repeat and emphasize:

> I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute.

Is that not true? I ask the Senator from Alaska. We have acted affirmatively in accordance with that portion of President Carter's energy recommendations.

Mr. STEVENS. That is correct, in the coal conversion bill which we have already passed, and we are, I think, acting responsibly with regard to an attempt to bring about an adjustment on gas price also.

I might point out to my faithful friend from West Virginia that our Canadian neighbors have adjusted their prices on gas and on oil. They are allowing the market price to work, and they are in fact stimulating the activity with regard to the use of the exploration of development of their coal reserves. I am sure the Senator knows that Alaska has vast coal reserves, as does his State of West Virginia. Currently there is only one mine left in Alaska that mines coal. Even though during the World War II period we had substantial coal production and most of our people used coal. And we found that because of the arbitrary pricing system starting with natural gas that the price of oil was less than the price of the coal. This is a strange circumstance really when it is a more convenient fuel to use in many instances. I think we are working in that direction, and we should find a way to stimulate increased production in the use of coal wherever possible in this country.

Mr. RANDOLPH. The response of my able colleague is factual. I have visited Alaska several times, and it is a land of vast spaces and great potential. It was my privilege to vote to admit Alaska into our union of States. Yes, also within the mountains of our State there are vast deposits of coal.

From President Carter's conviction on coal, I read as follows:

> Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process.

President Carter indicated that if he were elected President he would give leadership in solving energy problems. I have a high regard for the office itself, and also I cherish a very genuine esteem for its present occupant. Our President has certainly been one of the most ardent advocates of needed conservation of energy program, and conversion from oil and natural gas to coal. The Senate and the House of Representatives have passed coal conversion legislation. It is ready now for conference.

Is that not a fact?

Mr. STEVENS. That is a fact, and as the Senator from Alaska hope that the President of the United States if he is delivered a bill which brings about a concept of phased deregulation as the Pearson-Bentsen amendment proposes might well again reconsider his position and, as he did in the B-1 bomber situation, return to his original statement that he made during the campaign of last year.

Mr. RANDOLPH. And we both recognize that our President has changed his viewpoint on the matter of deregulation of natural gas. He did not change his viewpoint on the subject of coal conversion. Would that be a fair statement?

Mr. STEVENS. I believe that would be a fair statement.

I am not certain, however, the President has completely changed his mind on deregulation. Every President is entitled to a little bit of jawboning as against the action of Congress. We have seen it for a long time, and I have seen all kinds of threats of filibusters that waned away. I have seen threats of vetoes from the administration that did not materialize, and I would think that the President is willing to make some concessions to Congress to enable it to change and shape energy policy in its consideration of his requests.

I think that the Senate has done very well by the President in terms of reacting to his requests so far in the energy field, and I would believe that he would do very well by us if he would consider our recommendations too before making a final decision on whether or not to veto a proposal that contained a phased deregulation concept for natural gas.

Mr. RANDOLPH. My colleague does express the hope that the President may modify his position in reference to this pending portion of the energy package which hopefully we are developing in the Senate. In that connection the front page coverage by the Washington Star, indicated that the majority leader of the Senate (Mr. BYRD) who is in the Chamber at his post of duty at this hour, almost 4 o'clock, that he had reservations on our President's recent comment. I can, in good conscience, disagree with the Chief Executive on the matter of deregulation. The majority leader of the Senate was quoted, according to the Star article, when the President said he would or might veto legislation if gas deregulation was included. Senator BYRD seemed not to take that seriously, that veto threat, as some persons might consider it a veto threat.

I ask unanimous consent to print in the RECORD that portion of the news story from the Washington Star of Tuesday, Septembed 27, which carried the reaction of the majority leader. I am not attempting to set forth the majority leader's position. His course will be determined by his personal belief.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> Senator BYRD, who had met Carter for breakfast along with other congressional leaders, said the President shouldn't expect the Senate to pass his energy program intact. He hinted that Carter's thinly veiled threat to veto legislation that would deregulate gas prices will have little effect on Senate action.
>
> But BYRD said he was ready to hold around-the-clock sessions in an effort to get progress on stalled natural gas legislation.
>
> Speaking from the Senate floor, BYRD said: "We're under no obligation to rubber-stamp anything the President sends up here. I, for one, am not persuaded by advice from the outside on what the Senate should do."

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to comment?

Mr. RANDOLPH. Yes, indeed.

Mr. ROBERT C. BYRD. Mr. President, my reaction at that point was not meant to indicate that I did not take the President seriously. Whatever characterization may have been given to my reaction I think I will have to say that I take the President seriously at his word when he speaks. I simply feel, however, that it is up to the Senate to reach its own decision independently of what comments may be said on the outside.

Mr. RANDOLPH. I am appreciative of this statement of our majority leader. It will clarify what I had stated. But I do remember full well there was a quotation attributed to the majority leader which underscored what he has now said. It is clear he expects the Senate to work its will, and that any outside influence, whatever that might be, the White House or industry, or any type of pressure would not be reflected in the vote in the Senate. It would not be a reaction to an outside influence. It would be the individual de-

cisionmaking process of the Members of the Senate.

Would my colleague from Alaska comment on the responsibility of Senators to reach a determination as we go into the ninth day of debate on this question?

Mr. STEVENS. I say merely that I think that, from my point of view, it is improper for this body to consider what has actually been the vote of the other body or to have comments made in the other body used here. I should think eventually it should be improper for one to bring a threat of veto or promise of support for anybody. I think we should exercise our independent judgment on the basis of the facts before us and our general knowledge. We certainly cannot shut off Senators from knowledge that the President made statements, but I think it is proper to bring a threat of veto to the floor of the Senate.

Mr. RANDOLPH. The President, we agree, and I am sure all Senators, if they were in the Chamber at this hour would agree, have the right, if they so desire, or are so convinced, to change their position on the issue of deregulation of natural gas from prior decisions. We understand that the President has the right to make a decision which now is the exact opposite of the decision of 11 months ago, which, as I continue to stress, was made public.

I am concerned that there seems to be an indication that our President should not speak out and speak out vigorously, as he has done, on three occasions, within the last 24 or 36 hours on this matter.

There has been the implication that Senators would be making their decisions under the influence of certain interests which would perhaps not be concerned with the public interest. That concerns me. I cannot and will not impugn the motives of Members of the Senate when they vote contrary to the vote that I cast. These are times which call for moderation in emotional comment.

I remember a great man who lived in West Virginia, who published a periodical called, The Golden Rule Magazine. His name was Napoleon Hill. He died perhaps a year-and-a-half or 2 years ago. Hill wrote a book called "Think And Grow Rich." He did not refer just to material wealth. It is a volume printed in the millions of copies throughout the world. In that book, he says, "If you must think evil of a person, never speak it; write it on the sands near the water's edge."

Yes, we too must be very careful, in the debate that will continue on this subject, to address ourselves to substantive matters, matters that contribute, hopefully, to an understanding of this particular part of the energy message. I read now the conclusion of the letter of 11 months ago setting forth the then Presidential candidate's thinking on energy items I have not covered:

> I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership has produced.

(Mr. MELCHER assumed the Chair.)

Mr. RANDOLPH. It is my hope that the leadership, not only of the administration, reflected from the White House, but the leadership in the Senate—not a Democratic or Republican leadership, but the leadership of the Senate, members of both parties, recognize that there is not only our understanding of the problem, but also our commitment to complete, in an orderly manner, the consideration of amendments. It is on that premise that my remarks are not being concluded in no rancor or ill intent. Just the opposite; they are made in the firm resolve that within the membership in the Senate, there is a desire and, if possible, a determination, that perhaps this session all night will accomplish a positive result toward bringing a disposition of this matter in the orderly way which I have advocated. I have talked perhaps, rather slowly and without script or notes. I have spoken, however, very earnestly. It is my fond hope that what has been happening here will not continue to take place in the body in the hours when daybreak comes across the Capitol plaza; that we will move—not precipitously, but in the way the Senate should move; with consideration for substantial subject matter, making our individual decision; then, as quickly as is feasible, doing what we have already done. I ask my colleague from Alaska, is it the second of the five energy matters with which we are dealing? Or have we already completed three and are now working on the fourth? I am not sure, but we have acted.

Now we are challenged, I underscore, to dispose of this subject—not to get it behind us; not, as the poet said, to drop it like a shabby old coat in the street and never be put on again; yes, we must come to a conclusion on this particular part of the energy issue.

I say, in no narrow partisan sense, that I am a strong supporter of the President of the United States. I voted for his election. I campaigned in behalf of his candidacy. But I would not want President Carter or any President of the United States to impugn the motives of the Members of the Senate of the United States. Certainly, this is a critical time when we must be very, very sparing of harsh words that cause perhaps deep cleavage.

I believe that that can be the result. But it can only come about if, within each Member of the Senate, there is that sense of proportion which allows us, as I said, day before yesterday, to consider each amendment on its own merits; not attempting to polarize for or against the Pearson-Bentsen subject matter, but to consider it as an amendment, standing alone, if it is offered in substance.

I have been here, on the Hill, since March 8, 1933, except for that 11-year period between laboring in the House of Representatives and then, in 1958, coming to work in the Senate. I have rarely seen the principle of polarization accomplish balanced results which we must achieve to bring about a final determination of vital legislation.

So, let us move forward. Let us try to find some areas of agreement, but let us realize that there is strong support for the proposal which I am now supporting and hope to continue supporting. That is the principle of natural gas deregulation, which was strongly advocated, as the able Senator from New Mexico (Mr. DOMENICI) when he quoted the President. That was the advocacy of deregulation in reference to natural gas. I hope my colleagues will share with me the feeling that there is this individual responsibility of each Member of the Senate. I have been feeling for a long, long time that we need a rebirth of personal responsibility in America. That rebirth or rediscovery of individual responsibility must be exercised in the Senate.

Having been given the opportunity to comment at this hour, I believe that perhaps I have spoken some 25 minutes of the hour allotted to me, since the application of cloture. There are few Members present and very few individuals in the galleries at this hour. Nevertheless, I was impelled to speak as I always would want to speak—cheerfully but from my heart. In the words of the Bible: "Pleasant words are as an honeycomb, sweet to the soul, and health to the bones."

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. President, argument No. 4 is that interstate natural gas prices have risen sharply in the past 11 years, which should have been more than enough incentive to increase production. It is certainly true that interstate natural gas prices have risen sharply, but what this statement does not tell you is that interstate prices have always been substantially lower than intrastate prices. With higher prices in the intrastate market and without the burden of the FPC regulations, producers preferred to sell in that market especially from onshore discoveries. From the Federal offshore lands where gas must by law go into the interstate market producers leased and developed only those reserves that were economic for them under the severe restrictions of Federal price controls while passing up opportunities where profitability was not reasonably to be expected. Reserve additions in the intrastate market averaged 7.8 Tcf during the 5-year period 1971–76.

Argument No. 5 against deregulation is that there is not much more gas from conventional sources left to be discovered. This assumption is clearly contradicted by studies performed by the U.S. Geological Survey, Stanford Research Institute, Potential Gas Supply Committee, and ERDA (MOPPS). The U.S. Geological Survey estimates that there is between 890.7 Tcf and 1,290.7 Tcf of remaining natural gas reserves.

Argument No. 6 against deregulation was that not much new gas would be produced as a result of deregulation because natural gas is not very price responsive. Such a statement ignores the clear and unequivocal evidence of price responsiveness of natural gas in Texas, Ohio, New Mexico, and many other States in response to the higher prices permitted in the intrastate natural gas markets. A particular case in point is the Canyon Sand Gas Play in West Texas where nearly 1,200 new gas wells have been drilled in the last 5 years as

intrastate prices rose from 16.5 cents per Mcf to $1.90 Mcf.

Argument No. 7 against deregulation is that producers have been speculatively withholding gas in anticipation of higher prices and should not, therefore, be rewarded by giving them new gas prices for this withheld gas. Under the deregulation proposal there is a provision disallowing new gas price treatment for this type of "withheld" or "capped" gas that could have been produced but was not. Most shut-in gas is, however, gas that the producer cannot deliver because there is no nearby pipeline. Gas shut in for justifiable reasons could still receive the new price. For instance, the Louisiana Department of Conservation January 1977 report of wells that were shut in indicated that there were 500 of these wells. Of this 500, 474 or 94.9 percent were awaiting pipeline connection, because they were located at some distance from existing pipelines. The remaining 26 wells or 5.1 percent had not yet been production tested in order to determine their potential delivery capacity.

Argument No. 8 against deregulation is that the exploration, development, and production phase of the natural gas industry lacks competition and, therefore, should be forced under Federal price controls. According to the American Association of Petroleum Geologists, independents in 1976 drilled 89.2 percent of the wildcat wells and accounted for 75 percent of the new fields found.

Let me conclude by reading a portion of the conclusion of the President's decision on the Alaska gas transportation systems:

> Even if we achieve the ambitious coal conversion, conservation and production goals outlined in the National Energy Plan, Alaska gas provides us with a needed additional resource for helping reduce oil imports while heating more of our homes and running more of our families with a premium domestically produced fuel. If we fall short of our goals, Alaskan gas is essential in the effort to minimize imports and help fill the gap between natural gas supply and demand.

Again, in justifying the pipeline system selected by the administration, they chose to compare the cost of Alaska gas with oil imports. I feel that if the same principle were followed in connection with deregulation, all Senators would support the deregulation of natural gas.

Does the Senator from Missouri seek recognition now?

Mr. DANFORTH. Mr. President.

Mr. ABOUREZK. Mr. President, I have been seeking recognition.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ABOUREZK. Mr. President, a point of order. I was on my feet and asking recognition and the Senator from Missouri was not. Under the rules, I am entitled to recognition.

The PRESIDING OFFICER. The Senator from Missouri has been recognized and no point of order will lie to the question of recognition.

Mr. ABOUREZK. Mr. President, I submit there is a question of recognition. The rules specifically state that if a Senator is on his feet seeking recognition, he is entitled to recognition.

Mr. STEVENS. Regular order, Mr. President, the Senator from Missouri did address the Chair first.

The PRESIDING OFFICER. Regular order is called for. The Senator from Missouri did seek recognition and he is recognized.

Mr. DANFORTH. Mr. President, first, I want to say to the distinguished senior Senator from West Virginia, who is on the floor, that I have great respect for him and also very great respect for his namesake and son, who resides in St. Louis, Missouri. The Senator has made for himself a splendid reputation in this country. His son, who is known as Jay Randolph, has made a splendid reputation in the St. Louis area and it is also growing throughout the country, as an outstanding sportscaster.

He has broadcast the St. Louis Cardinal baseball games, particularly on television when they had dual broadcasts on radio and television; he has broadcast the St. Louis Cardinal football games, and many other football games, on national networks. He has really been an outstanding credit to his profession and I believe has raised the standard of broadcasting in the sports field well above its usual state. He has added dignity and grace to a field which has given so many people so much pleasure over the years.

I suppose any young man who thinks about the possibility of a future in politics dreams of the possibility of standing on the floor of the Senate and making a speech. Indeed, that was my dream as a boy from the time I was in my preteens. Yet somehow I never dreamed I would be standing on the floor of the Senate at the hour of 20 minutes past 4 in the morning speaking on the subject of the pricing of natural gas.

It is an anomalous situation in that several months ago I wrote a letter, which was also signed by several other Senators, to the very distinguished majority leader, inquiring about the scheduling of our meetings. I might say I fully appreciate and support the fact that the majority leader is keeping us in around the clock because, indeed, the picture is bleak and, indeed, the Senate should eventually work its will. Indeed, it is a circumvention of the voting of cloture to have amendments called up one after another, hundreds of amendments. So there really is no recourse, no hope, for solving this situation, other than for the Senate to continue to be in session hour after hour, presumably day after day, until we come to an end.

Also, it is anomalous for me to be speaking at this time because I voted in favor of cloture and I support deregulation of natural gas. Normally, the people who are speaking in this sort of situation are simply taking up the time of the Senate, postponing the inevitable. I am not speaking for that purpose. I am speaking, very frankly, in order to let some of my colleagues sleep. I think it is pretty clear that not too many people are going to be persuaded by my comments on the natural gas situation, but I believe getting at least a little bit of rest is important, and I am delighted to do my part to try to make it possible for people to get some reasonable recovery from the long ordeal in which they have been involved.

I do not know exactly how I rate in age among the Members of the Senate, but I am confident I am in the youngest 10 percent. It is a grueling pace under the best of circumstance. I do not understand how people who are in their fifties, sixties, or seventies can take this kind of pace, even under the best of circumstances, and these are not the best of circumstances.

It seems to me that in this kind of situation, when the inevitable is before us, when we know that this bill is not going to be taken down, that eventually it is going to be voted upon even if we have to go every night for the next month, what we are really doing is playing with the health and the lives of other people.

Be that as it may, the least I can do is to stand up and talk a little bit—not to persuade anybody but to at least give people a chance to get a little bit of rest.

The State of Missouri is not an energy-producing State. I read in the newspaper a month ago that there was a little tiny oil field in St. Louis County. I had never heard of it before. There is some very nice low sulfur coal that is capable of production in the north central part of our State. To the best of my knowledge, we produce absolutely no natural gas. A lot of the people who have participated in this debate are from States which are producing States, and they obviously have an interest in protecting the particular economic concerns of their own constituents.

Missouri does not produce natural gas and, therefore, windfalls are not going to be reaped by people within our State if the controls go off the price of natural gas.

I do believe that the fundamental issue which is involved in this question is one which the people of my State have faced many times, and which the people of the country face. That simply is, how do we go about solving major problems? Is it true that government has magical properties? Is it true that there are wizards located in Washington who know exactly what to do, and if only we vest them with enough power, if only we gave them enough administrative support, if only we provide them with enough paper they can then pass around to each other and to their fellow citizens, somehow our problems are going to be resolved from above?

I believe that has been a misconception, a kind of a trap which we in our country have gotten ourselves into, the notion that the way to solve problems is to turn over responsibility to Washington and then let the Government regulate us just a little bit more.

This concept is one which increasingly the people of my State have begun to call into question. I do not think they believe there is a Wizard of Oz located in Washington.

There are some people who, in an election year in particular, like to say to the politicians, "What are you going to do about" and fill in the blank, and the

problem will be spelled out upon which we in the Government are supposed to act.

It is very typical for a candidate in a political campaign to present himself to his constituency and to say to his constituency, "If you have a problem, I have a solution."

The solution always involves some program, some law, some agency, some new set of regulations.

That has been what might be called the principle of modern government. There is no challenge that Government cannot solve, and if only we have more government and more regulation we can do the job for the American people.

It is this concept that people are beginning to call into question, and they are right in calling it into question because they are beginning to realize that the purported solutions of the past have not been solutions at all. The programs simply have not worked as well as their advocates have said they will work. I believe this same kind of weariness about the magical properties of government is now being realized by the people of my part of the country with respect to the whole energy program.

The essence of America's present position on energy has been to rely on Government regulation to control the price of oil and to control the price of gas. Some believe that as a result of this approach, instead of making matters better, we have made matters worse. We have limited the price which can be attained from producing oil and gas and, as a result, we have done a couple of things: First of all, we have limited production by reducing the incentive to produce; second, we have lowered the price and, therefore, increased the incentives to use wasting assets at an artificially cheap price.

Now the question is having dug ourselves into this hole by governmental action, by regulation, how do we get ourselves out of the hole?

My understanding of the administration's basic position is that it just wants to keep on digging; that the way to solve the problem of regulation is more regulation; that, in fact, the regulatory system may not have worked too well in the past but we can balance it by creating yet more complexity and more artificiality in our approach to the question of energy.

I happen to serve on the Senate Finance Committee. Therefore, I have been dealing more with the question of the tax aspect of the administration's energy program than with this present bill. My own feeling is that it is peculiar, to say the least, to have a program which at once artificially limits the price of oil and gas and then proceeds to increase the price by the method of taxation.

My children have a game called Blockhead. The game of Blockhead consists of putting blocks up equally so that if the pile of blocks begins to topple over, you put another block on and you try to balance it and keep building it up and up.

I do not mean this disrespectfully at all, but I mean it in a descriptive term based on that game. In my opinion, the administration's energy program is a Blockhead program. It is also a no-growth program.

The administration says, and it was printed in the morning Post of yesterday morning, that our economic situation really is not so bad; we are coming out of our recession; we have a rosy future. Yet a lot of other people look at the economy, and they do not share the administration's optimism. I do not share the administration's optimism.

We are now 2½ years into the recovery from the last recession, and still we have 7 million Americans out of work; still we have inflation on an annualized basis since last January of more than 8 percent.

That is not a rosy picture. When we add to that the fact that for the last 3 months the leading economic indicators have declined in each of the last 3 months, which, in itself, is the definition of "recession," I do not believe we are in good shape in our economy.

Then to place on the present stagnant economic situation the further handicap of a no-growth energy program, shored up by increased taxation, is, I believe, to say that we have given up on getting the economy growing in the months and the years ahead.

It is to say to the 7 million Americans who are now out of work, "Stay out of work."

When we consider the fact that youth unemployment is about 15 to 20 percent, and black youths somewhere between 30 and 40 percent, I do not believe it is fair to say to the young, or fair to say to the minorities who are having such a difficult time getting jobs, "Take your place at the back of the line. There is no future for you."

If we have a no-growth position on our energy policy, I think that is exactly what we are saying.

I would point out that the information I have seen indicates that in the area of natural gas we do have a potential abundance; we do have, in the ground, a substantial amount of natural gas to meet our future needs.

I am told that professionals agree that we have at least enough natural gas from conventional sources to maintain current production rates for 35 years, 700 trillion cubic feet. After depletion of these 700 trillion cubic feet, it will be technologically feasible and financially attractive to turn to 1,500 trillion cubic feet of gas in tight sandstone, Devonian shale, and coalbeds, which would be about another 75-year supply. Thereafter we can turn to 60,000 to 80,000 trillion cubic feet of gas dissolved in geopressured water zones underlying the gulf coast. This is a very substantial quantity of natural gas.

How do we produce it? We produce it by letting the system work. We produce it by creating the kinds of marketplace incentives which make it attractive to get this gas up and out of the ground where it is now. That, I believe, is the fundamental, philosophical question which we have to face. How do we solve our problems as a country? Do we believe that the system itself is basically sound? Do we believe that we should allow it to work? Do we believe that the role of Government is to begin letting up on the system, letting up on the private sector, letting up on the American public? Or, in the alternative, is it our belief that we should continue with the blockhead approach; that we should continue balancing one set of unsuccessful regulations with another set of unsuccessful regulations; that we should, at one and the same time, limit the price of energy by control and raise the price of energy by taxation?

Do we believe that what we need is less government or do we believe that what we need is more government?

That is a fundamental question, and somebody is right and somebody is wrong. That is the judgment that we are called upon to make in the Senate.

Maybe I am wrong. Maybe the way to go is more control, more regulation, more taxes, more artificiality.

On the other hand, maybe the other side is wrong. I do not know. I believe I am right. But time is going to tell.

It seems to me that we are going to have to face the responsibility of deciding one way or another. Either we need more control or we need less control.

Which way are we going to go? How do we solve our problems? Is it more government or is it less government? My position is less. Someone else's position is that it might be more. All right.

Let us make that decision one way or another.

Then a few years from now let us face the consequences like men, and let us go before the American people at election time—that is the forum in which we approach them, and say:

> Here was our problem back in the year 1977. Here was what your Congress did. Here was what my position was, and we were either right or we were wrong, and you can tell me if I was wrong by the way you vote in the election.

That to me is the way the system works. And that is why I think it is so important to proceed with resolving the question that is before us. It is a basic question of economics. It is a basic question of the relationship between the American people and their Government, if they want more or if they want less. It is a question that we have been elected to resolve, and that is why we are here now at 4:45 a.m. in the morning to resolve this question.

Mr. RANDOLPH and Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

BLACK LUNG BENEFITS

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4544.

The PRESIDING OFFICER (Mr. MELCHER) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. RANDOLPH, Mr. KENNEDY, Mr. LONG, Mr. HASKELL, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. CHAFEE, and Mr. LAXALT conferees on the part of the Senate.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER (Mr. MOYNIHAN). Objection is heard.

The clerk will continue.

The rollcall was resumed and concluded.

QUORUM CALL

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 41 Leg.]

Abourezk	Domenici	Moynihan
Allen	Durkin	Nelson
Baker	Ford	Provmire
Bartlett	Garn	Randolph
Bayh	Gravel	Ribicoff
Bellmon	Haskell	Riegle
Bentsen	Hatch	Roth
Burdick	Hayakawa	Sarbanes
Byrd, Harry F., Jr.	Heinz	Sasser
	Hollings	Schmitt
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Jackson	Stevens
Chafee	Johnston	Stone
Chiles	Laxalt	Thurmond
Cranston	Mathias	Wallop
Culver	McClure	Weicker
Danforth	McIntyre	Williams
DeConcini	Melcher	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, I move that the Senate adjourn. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that is the prerogative of the leadership, to move to adjourn. I hope the Senators will not sustain the request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

QUORUM CALL

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The objection is heard.

The call of the roll was resumed.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I move we adjourn.

Mr. ROBERT C. BYRD. Mr. President, this is a prerogative of the leadership. I hope the Senator will not get any seconders.

Mr. ABOUREZK. Mr. President, I move we adjourn, and make the point of order——

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second to adjourn.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota is suggesting the absence of a quorum. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, my question is, How can the question be put——

The PRESIDING OFFICER. The Chair must ask the Senator not to proceed.

The Chair will lay the motion before the Senate. The question is on agreeing to the motion.

The motion was rejected.

The PRESIDING OFFICER. A quorum is not present. The clerk will continue to call the names of the absentees.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 42 Leg.]

Abourezk	Dole	McIntyre
Allen	Domenici	Melcher
Baker	Durkin	Metzenbaum
Bartlett	Eagleton	Moynihan
Bayh	Ford	Nelson
Bellmon	Garn	Nunn
Bentsen	Goldwater	Packwood
Biden	Gravel	Percy
Brooke	Hansen	Randolph
Burdick	Hart	Riegle
Byrd, Harry F., Jr.	Haskell	Roth
	Hatch	Sarbanes
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Helms	Stevens
Chafee	Hollings	Stone
Chiles	Jackson	Thurmond
Clark	Johnston	Tower
Cranston	Laxalt	Wallop
Culver	Leahy	Weicker
Curtis	Lugar	Williams
Danforth	Mathias	Zorinsky
DeConcini	McClure	

The PRESIDING OFFICER. A quorum is present. The question recurs on the motion to adjourn.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that is a prerogative of the leadership. I hope the Senate will not sustain his request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. I have put the question. Will the Senator from South Dakota allow the Chair to continue without interruption?

Mr. ABOUREZK. Mr. President, I just have one inquiry. Was the vote announced?

The PRESIDING OFFICER. I did announce the vote.

Mr. ABOUREZK. Why would the Chair do that when I was seeking recognition?

The PRESIDING OFFICER. The vote had concluded one-half hour ago.

Mr. ABOUREZK. Was the Chair giving the Senator a fast shuffle? Does the Chair want to continue to do that, or does the Chair want to recognize Senators who are legitimately seeking recognition?

The PRESIDING OFFICER. The Chair will conduct its duties properly, and the Senator from South Dakota will do the same.

Mr. ABOUREZK. Mr. President, I move we adjourn.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, if this is the way the Senator expects to gain votes for his side, he had better think again and again. I have been voting with his side. I hope he will consider that fact. I am not impressed by this kind of debate.

AMENDMENT NO. 882

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 882 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the amendment is not in order because it hits at the bill in two places.

Mr. ABOUREZK. Mr. President, may the amendment be read?

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes amendment No. 882:
>
> On page 24, line 22, and on page 25, line 3, insert after the word "Act" the following: ": *Provided, however*, That any sale of natural gas to which the provisions of section (8)(b)(1) of the Natural Gas Policy Act apply shall be subject to the provisions of section 7(b) of the Natural Gas Act during the term of the contract relating to such a sale, upon termination of such a contract, or prior to any subsequent sale from the same acreage".

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 888

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 888, and I make the point of order that it is not in order because it hits the bill in two places.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes amendment No. 888.

On page 19, following line 18, add the following new section:

"ENERGY STAMP PROGRAM

"SEC. 18. (a) Notwithstanding any provision of this Act or any other provision of law, the Administrator of the Federal Energy Administration, or his successor in interest, shall, not later than one hundred and eighty days following the date of enactment of this section, promulgate such regulations as may be necessary to establish an energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

"(b) As used in this section the term—

"(1) 'heating fuel' means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

"(2) 'Director' means the Director of the Community Services Administration;

"(3) 'local agency' means the community action agencies, and State Economic Opportunity Offices which are established pursuant to the Economic Opportunity Act of 1964;

"(4) 'household' means—

"(A) any group of related individuals who are living as one economic unit for whom heating fuel is customarily purchased in common, directly, or indirectly by undesignated payments in the form of rent; or

"(B) any individual living alone who purchases heating fuel, directly, or by undesignated payments in the form of rent;

"(5) 'coupon' and 'stamp' mean any coupon, stamp, or certificate issued pursuant to the provisions of this Act;

"(6) 'retail heating fuel outlet' means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households;

"(7) 'wholesale heating fuel outlet' means any establishment, including a recognized department thereof, which sells heating fuel to retail heating fuel outlets for resale for consumption by households;

"(8) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

"(9) 'bank' means any member or nonmember bank of the Federal Reserve System; and

"(10) 'landlord' means any person who rents a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant.

"(c)(1) If the local agency plan described in subsection (g) is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households deemed eligible pursuant to subsection (d) will be provided with assistance to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

"(A) Any eligible household may receive heating fuel coupon assistance—

"(i) if such household purchases heating fuels;

"(ii) if such household makes undesignated payments for heating fuel in the form of rent, and the landlord to whom such rent is due consents to the making of such payments in coupons.

"(B)(i) Coupons received by any eligible household described in subparagraph (A)(i) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program.

"(ii) Coupons received by any eligible household described in subparagraph (A)(ii) shall be used only for payment of the appropriation portion of such household's rent related to heating fuel costs.

"(d)(1) The Director shall establish uniform national standards of eligibility for participation by households in the energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

"(2) As a minimum, the standards of eligibility shall provide that any household is eligible if such household—

"(A) is eligible for benefits under title IV or XVI of the Social Security Act; or

"(B) is eligible for benefits under the Food Stamp Act of 1964.

"(3) In lieu of, or in addition to, the criteria described in paragraph (1) or (2), the Director shall consider any criteria submitted by a local agency to the Director for determining the eligibility of households in the area serviced by such local agency.

"(e)(1) Pursuant to subsection (g)(4) of this section, energy stamps shall be printed by the Bureau of Printing and Engraving of the United States in $5 denominations and shall be issued by a local agency only to households which have been duly certified as eligible to participate in the energy stamp program.

"(2) Each coupon shall—

"(A) bear the name of the local agency from where it was issued;

"(B) stipulate that its monetary value is $5; and

"(C) include any words or illustrations that are required to explain its purpose and use.

"(3) The Director shall establish standards for determining the number of energy stamps to be issued to an eligible household.

"(4) In establishing standards under paragraph (3) the Director shall consider—

"(A) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency;

"(B) the income of households within the area serviced by such local agency;

"(C) the number of individuals in such households;

"(D) the temperature and other climate conditions in the area in which such households reside;

"(E) the type of heating fuel used by such households; and

"(F) the extent to which such households have participated in weatherization programs.

"(5) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ per centum of the total value of the coupons to be received by such household.

"(6) The value of the energy stamp assistance provided to an eligible household under this section shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

"(f)(1) Coupons accepted by any retail heating fuel outlet or any person described in subsection (c)(2)(A)(i) shall be redeemed through wholesale heating fuel outlets or banks, with the cooperation of the Treasury Department.

"(2) Coupons issued and used in accordance with the provisions of this section shall be redeemable at face value by the Director through the facilities of the Treasury of the United States.

"(g)(1) Each local agency desiring to participate in the energy stamp program shall submit to the Director for approval a plan of operation specifying the manner in which and the effective dates of participation which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

"(2) The Director shall approve any local agency plan of operation which satisfies the provisions of paragraph (1) and which provides—

"(A) that the local agency shall undertake the certification of applicant households in accordance with the eligiblity requirements established by the Director under subsection (d);

"(B) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this section;

"(C) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations, and benefits of the energy stamp program;

"(D) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plan of operation as it affects the participation of such household in the energy stamp program;

"(E) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this section;

"(F) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

"(G) that the local agency shall coordinate the energy stamp program with weatherization projects.

"(3) If the Director determines that in the administration of the program there is substantial failure by a local agency to comply with provisions of this section or with the plan of operation submitted by such agency, he or she shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period, the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such agency until such time as satisfactory corrective action has been taken.

"(4) The Diretcor shall reimburse a local agency for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

"(A) shall finance the printing of energy stamps and the issuing of such coupons to local agencies; and

"(B) shall be obliged for payment of the face value of energy stamps to persons redeeming such coupons in accordance with the provisions of this section.

"(h)(1) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this section—

"(A) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than five years, or both; or

"(B) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(2) If a local agency administering the energy stamp program finds (in accordance with the process described in subsection (g)(2)(F) of this section) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than twelve times the amount of the household's rent increase.

"(i) The Director shall issue such regulations as he deems necessary or appropriate for carrying out the provisions of this section.

"(j) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated, for the fiscal year ending September 30, 1978, the sum of $100,000,000, for the fiscal year ending September 30, 1979, the sum of $100,000,000, for the fiscal year ending September 30, 1980, the sum of $100,000,000, and for each fiscal year thereafter, such sum as may be necessary.".

The table of contents of such Act is amended by adding at the end thereof the following:

"Sec. 18. Energy stamp program.".

The PRESIDING OFFICER. The point of order is sustained.

AMENDMENT NO. 1157

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1157 and make a point of order that it amends the bill in two places.

The PRESIDING OFFICER. The point of order is sustained.

Mr. ABOUREZK, Mr. ROBERT C. BYRD, and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. Mr. President, point of order.

Mr. METZENBAUM. Mr. President, I am entitled to the floor.

Mr. ABOUREZK. We are entitled to have the amendments read.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. We are entitled to have the amendments read. That is the right of the Senate.

AMENDMENT NO. 1245

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1245 and make the point of order that it amends the bill in two places.

Mr. ABOUREZK. Mr. President, I make the point that this railroading may go on for a while but it will not go on forever.

The PRESIDING OFFICER. The point of order in sustained.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, a point of order. The amendment must be read.

Mr. ROBERT C. BYRD. Mr. President, we had two precedents already today to the contrary.

Mr. ABOUREZK. I ask for a ruling.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia is correct. There is ample precedent for an amendment which is not in order not to be read.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. A parliamentary inquiry.

Mr. METZENBAUM. A parliamentary inquiry.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. Senators will kindly show respect for the Chair. The Senator from West Virginia has the floor. They will address questions to the Senator who has the floor.

Mr. ABOUREZK. A parliamentary inquiry.

Mr. METZENBAUM. The Senator from West Virginia loses the floor each time he calls up an amendment under the rules.

The PRESIDING OFFICER. The Chair has stated that the floor is held by the Senator from West Virginia. The Senator who has commented that this ceases to be the case when each amendment is disposed is correct, but on the last occasion on which an amendment was disposed of the Chair thereupon, once again, recognized the Senator from West Virginia.

Mr. ABOUREZK. I seek recognition.

The PRESIDING OFFICER. The Senator from West Virginia is entitled to the floor and entitled to respect.

Mr. ABOUREZK. I seek recognition, Mr. President.

Mr. METZENBAUM. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Senators are not conducting themselves in a manner in which this debate has so far proceeded.

The Senator from West Virginia has the floor.

Mr. METZENBAUM. We seek recognition for a parliamentary inquiry.

Mr. ABOUREZK. I seek recognition.

Mr. ROBERT C. BYRD. If Senators will desist, I will yield the floor.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is the Chair ruling that no amendment has to be reported?

The PRESIDING OFFICER. The Chair has made no such ruling nor has such a question been addressed to the Chair.

Mr. ABOUREZK. I am addressing a question to the Chair of that nature.

The PRESIDING OFFICER. Will the Senator kindly proceed and state his request?

Mr. ABOUREZK. Is the Chair ruling that every amendment need not be read?

The PRESIDING OFFICER. The question is not correctly formulated. The proposition every amendment need not be read——

Mr. ABOUREZK. Will the Chair respond to the question as formulated?

The PRESIDING OFFICER. The Chair states the question is meaningless and can easily be reformulated.

Mr. ABOUREZK. I suggest the absence of a quorum so I can reformulate it, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The rollcall was resumed and concluded.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 43 Leg.]

Abourezk	Ford	Melcher
Allen	Garn	Metzenbaum
Anderson	Glenn	Moynihan
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hollings	Roth
Chafee	Huddleston	Sarbanes
Chiles	Inouye	Schmitt
Church	Jackson	Schweiker
Clark	Javits	Stevens
Cranston	Johnston	Stevenson
Culver	Kennedy	Stone
Curtis	Laxalt	Thurmond
Danforth	Leahy	Tower
DeConcini	Long	Wallop
Dole	Lugar	Weicker
Domenici	Mathias	Williams
Durkin	McClure	Zorinsky
Eagleton	McGovern	
	McIntyre	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 921

Mr. ABOUREZK. Mr. President, I call up amendment No. 921 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 921.

On page 7, line 21, strike all after "(20)" and insert "The term 'inflation adjustment' means the amount that results from dividing—

"(1) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the quarter which immediately precedes such calendar quarter, seasonally adjusted as computed and published by the Department of Labor; by

"(2) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the first calendar quarter of 1977.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move to table this amendment.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (after having voted in the affirmative). Mr. President, on this vote I have a live pair with Mr. MAGNUSON. If he were voting, he would vote "nay." I have already voted "aye." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 53, nays 29, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—53

Allen	Garn	McClure
Baker	Glenn	Metcher
Bartlett	Goldwater	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Brooke	Hatch	Pell
Burdick	Hatfield	Percy
Byrd, Harry F., Jr.	Hayakawa	Randolph
Chafee	Heinz	Roth
Chiles	Helms	Schmitt
Curtis	Huddleston	Schweiker
Danforth	Javits	Stevens
DeConcini	Johnston	Stone
Dole	Laxalt	Thurmond
Domenici	Leahy	Tower
Eagleton	Long	Wallop
Ford	Lugar	Weicker
	Mathias	Zorinsky

NAYS—29

Abourezk	Durkin	Moynihan
Anderson	Haskell	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Proxmire
Bumpers	Inouye	Ribicoff
Cannon	Jackson	Riegle
Church	Kennedy	Sarbanes
Clark	McGovern	Stevenson
Cranston	McIntyre	Williams
Culver	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, for

NOT VOTING—17

Case	Matsunaga	Sparkman
Eastland	McClellan	Stafford
Gravel	Metcalf	Stennis
Hart	Morgan	Talmadge
Humphrey	Sasser	Young
Magnuson	Scott	

So the motion to lay Mr. ABOUREZK's amendment (No. 921) on the table was agreed to.

AMENDMENT NO. 905

Mr. METZENBAUM. Mr. President, I call up amendment No. 905.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 21 and 22, insert:

"(5) through most of its history the natural gas industry stimulated demand for this product by offering especially attractive prices to large consumers on the basis of interruptibility of supplies and special attractions for household space heating;

"(6) natural gas though a superior fuel for heating and as a feedstock is expensive to transport and store and is inferior as a source of power for transportation and most other applications and has generally commanded a lower price at the point of production than crude oil;".

Renumber succeeding sections accordingly.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SCHMITT. Mr. President, a point of order. I believe this amendment goes to the bill in two places.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, a precedent has been set on that subject in connection with the Kennedy amendment before.

The PRESIDING OFFICER. That was not a precedent. This amendment does hit the bill in two places. The point of order of the Senator from New Mexico is sustained.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair, and say to the Members of the Senate that I think it is highly inappropriate to claim that a bill is being amended in more than one section, when the only part of the language that could be used for that purpose, to make that argument, are the words "Renumber succeeding sections accordingly." Other than that, it applies to only one place.

I therefore appeal the decision of the Chair and ask for a rollcall.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I move to lay the appeal on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll on the motion to table the appeal.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (when his name was called). Mr. President, I have a live pair with the Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "no." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Colorado (Mr. HART) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 57, nays 27, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—57

Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Biden	Hansen	Randolph
Burdick	Haskell	Ribicoff
Byrd, Harry F., Jr.	Hatch	Roth
Cannon	Hayakawa	Sasser
Chiles	Heinz	Schmitt
Church	Huddleston	Schweiker
Cranston	Inouye	Stevens
Curtis	Jackson	Stone
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Leahy	Wallop
Durkin	Long	Weicker
Eagleton	Lugar	Williams
Ford	Matsunaga	Zorinsky
Garn	Moynihan	
	Nelson	

NAYS—27

Abourezk	Domenici	McGovern
Allen	Hatfield	McIntyre
Anderson	Hathaway	Melcher
Bayh	Helms	Metzenbaum
Brooke	Hollings	Muskie
Bumpers	Javits	Proxmire
Chafee	Kennedy	Riegle
Clark	Mathias	Sarbanes
Culver	McClure	Stevenson

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, against

NOT VOTING—15

Case	McClellan	Sparkman
Eastland	Metcalf	Stafford
Hart	Morgan	Stennis
Humphrey	Percy	Talmadge
Magnuson	Scott	Young

So the motion to lay the appeal on the table was agreed to.

Mr. BAYH. Mr. President, I do not want to make a Supreme Court case out

of a justice of the peace issue. I confess to my colleagues that I was sitting here unaware of the fact that the issue before the Senate and this question before the Presiding Officer had been decided 3 hours ago in an identical situation with a contrary decision. I say this in no way critical of the Chair, but I would like to ask a question of the Chair. I know it is possible to ask for reconsideration of the previous appeal of the ruling, which I think would be wasted effort. I do not want to do that because of my colleagues and my respect for the Chair. Is it parliamentarily possible for the Chair to reconsider his own position if he is convinced on reflection that it merits being reconsidered?

The PRESIDING OFFICER. The Chair could reconsider if the issue came up again ab initio, but the Senate has, in effect, ruled on the ruling of the Chair and the matter is not before the Senate at this point.

Mr. BAYH. May I ask if it is parliamentarily proper for the same amendment to be sent to the desk again? Let me in point of reference point out that on page 76 this issue is addressed, and from reading the series of examples propounded it appears that the makers and sustainers of the rule quite rightly do not want an amendment going hit and miss like a shotgun at several different portions of appeals of legislation. I rise to bring this to the Senate's attention because I think it is very easy for us to get carried away with the emotion and sort of the automatic voting that we all must confess we go through, when we come in here and establish a precedent which really does not make sense tomorrow, next week, or next year.

The identical question was decided earlier, Mr. President. The Chair had no reason to know that. If I had been on my mettle I would have alerted the Chair, but I was not. What we are saying here is that it is impossible to insert a new subsection—not a section but a new subsection—into a section, material between lines 21 and 22, and then 22 starts out with the next subsection. What we are trying to do is change the number of that subsection. There is nothing substantive about it at all. What we are doing is saying, "If you make an amendment that makes subsequent subsections out of order, you ought to have a chance to houseclean it and change the number of those subsections."

That does not seem to be an unreasonable request. It does not seem to the Senator from Indiana, with all due respect to the Chair and the Senate, to be within the thrust of the rules encompassed on page 76.

The PRESIDING OFFICER. The Chair wants to be clear. This is a close question and a difficult question. It remains the technical and commanding fact that the amendment hits the bill in two places.

Mr. BAYH. A parliamentary inquiry, please.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. How would the Presiding Officer and the Parliamentarian suggest this matter be handled? Just insert a subsection? It does not go to a different section. It is completely contiguous.

The PRESIDING OFFICER. The Chair suggests that this be handled the way the Senate normally and usually handles it when changes are made in a text. At the end of the consideration of the bill, unanimous consent is obtained to make the technical corrections that are appropriate to follow the changes which have been made, including the numbering.

Mr. LEAHY. Will the Senator yield?

Mr. BAYH. I will yield the floor. Frankly, this amendment I am sure is a critical and important amendment. I think it should have passed. But I think it is more critical that we not get ourselves into a situation where we cannot insert a subsection between two lines and then renumber other subsections because the rules of the Senate say that. I do not think that is what the rules of the Senate are designed to accomplish. They are designed to keep us from having substantive matters in one amendment which go to different parts of the bill.

The PRESIDING OFFICER. If the Senator will abide with the Chair for a moment, the rules do not say that. It is precedent which has been established.

Mr. BAYH. Mr. President, the most immediate precedent, with all respect to the present occupant of the Chair, was 180 degrees different. I say that without wanting to put the immediate occupant into an embarrassing position.

The PRESIDING OFFICER. The Chair is impressed with the fascination of the precedents.

The Senator from Vermont.

Mr. LEAHY. Being equally fascinated with the precedents, Mr. President, the Senator from Vermont had the opportunity around 3 a.m. today, I believe it was, to occupy the Chair, to warm it up, as it were, for the present distinguished occupant, when a similar question arose.

The Senator from Vermont gave it some thought with the type of time and reflection that is available at that hour of the morning, time that normally is not occupied doing anything else of significant consequence, and aware of the fact that paid as we are by the year and not by the hour it does give one a chance to reflect on such issues.

The Senator from Vermont ruled to the contrary establishing that precedent for whatever it is worth on the basis that as a matter of pure practicality, if you are going to amend a section which like a lead slug in a printer's stick expands the typeface already there, indeed that is what you are doing here and there is no other way. There is no other way to do it. Indeed, to continue my metaphor, if you put that spacer into the printer's stick, if you put that amendment into section (a), as it were, and it then requires section (b) to become section (c) there really is no other way to logically and correctly do it, notwithstanding our normal catchall phrase at the end allowing the Secretary to make such technical changes and so forth. Indeed, you must do it, and the Senator from Vermont saw that as being something entirely different than coming and and making two amendments to two separate sections.

For what it is worth, the Senator from Vermont ruled that in that very narrow and very particular case of one amendment, which by its nature required other sections to move down, it was not out of order. The Senator from Vermont would point out to the Chair and to his colleagues that the ruling would have been entirely different had the amendment been one that would have been directed very specifically to two different sections.

I mention that only to point out what my deliberations were at 3 o'clock this morning. I do not think they are any more earth shattering at 6:45 a.m. this morning than they might have been at 3 o'clock this morning. But figuring that anything might be of some edification to this body at this time, I pass it on for what it is worth and yield back the floor.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator from Vermont for his illuminating if not necessarily edifying explanation, and the Chair suggests to the Senator from Indiana that there appear to be conflicting precedents with respect to this issue and the Senate might well consider itself, not at this point, bound by either then at some future point when a comparable question arises. Would that be an agreeable thought and acceptable one to the Senator from Indiana?

Mr. BAYH. Mr. President, with all respect to the Chair, I do not. We all know what we are trying to accomplish here substantively and procedurally, and from the standpoint of the law of this country. I do not think that we are really trying to establish this kind of precedent.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. It will be helpful to the Chair. Would it be parliamentarily possible, if you please, for the Senator from Indiana to propose a reconsideration of the appeal of the ruling of the Chair and ask not for the yeas and nays but for a voice vote on the question?

The PRESIDING OFFICER. The Senator may ask for a reconsideration of the vote by which the appeal was tabled.

Mr. BAYH. I do not want to take any more time. We already thrashed this over.

I think everyone knows what the issue is. I do not ask for a yea and nay vote. I do ask my colleagues to contemplate what we may be doing here when someone else wants to do something and gets bottled up on a matter of trivia that I do not think the rule really intends.

I ask to reconsider the last vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the appeal was tabled.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, a brief comment. I do not think we are really dealing with trivia. We are dealing with technicalities of both sides of the discussion and several sides of the discussion

have in fact depended on technicalities in the rules in order to carry their cause.

So, I suggest that we maintain the inconsistencies we have right now and at another point where it is necessary, if it is necessary, then take the matter up again.

Mr. METZENBAUM. Mr. President. Before the Senate votes on the motion to reconsider of the Senator from Indiana, I simply point out that this decision and ruling is not only applicable to amendments made after cloture but is applicable to all motions, all amendments that are offered to the bill, or any other bill. I think it is an extremely bad precedent, and I would hope that we would not go the route that apparently we seem to be going at the moment in an effort to preclude the hearing of amendments which could be disposed of in a much more appropriate fashion.

Mr. SCHMITT. Mr. President, it is also, though, a precedent that is made moot by the normal procedure of the Senate, and I submit that to my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

Mr. BAYH. Mr. President, let me just suggest: The Senator from Indiana has tried the best he can to suggest to his friend from New Mexico, and others, that the question here, as has been said by the Senator from Ohio, goes far beyond the given issue, and if anyone thinks this issue is going to rise or fall on the relatively few amendments that are going to be precluded in this category, he is mistaken. I do not suppose there are five of them, and I have to confess I have not counted them. But I think the Senator from Vermont described exactly what we are trying to do, and not being a printer I certainly have not had that kind of experience. But I would hope that we would not establish a precedent here that is going to last a long, long time perhaps. I mean we spent more time debating this question than perhaps it deserves. But the longer we debate it the more substantive the precedent is going to be later on.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt.

Will the ayes once again state their case? Would those in favor stand and be counted?

Mr. CURTIS. In favor of what?

The PRESIDING OFFICER. In favor of the motion to reconsider.

I thank Senators.

Will those opposed now stand?

It is a tie.

The Chair votes not to reconsider.

AMENDMENT NO. 928

Mr. METZENBAUM. Mr. President, I call up amendment No. 928, so that the Chair may have another opportunity in case someone cares to raise the point of order with respect to this amendment. It is as short an amendment as possibly could be imagined. I ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 928: On page 3, between lines 12 and 13 insert the following:

"(8) there must be assurances that price increases result in increased exploration and development of natural gas;".

Renumber succeeding paragraphs accordingly.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 61, nays 20, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—61

Allen	Byrd, Harry F., Jr.	Danforth
Baker	Cannon	DeConcini
Bartlett	Chafee	Dole
Belimon	Chiles	Durkin
Bentsen	Cranston	Eagleton
Brooke	Curtis	Ford
Burdick	Glenn	Garn
Go.dwater	Johnston	Roth
Gravel	Laxalt	Sasser
Griffin	Lugar	Schmitt
Hansen	Mathias	Schweiker
Haskell	Matsunaga	Stevens
Hatch	McClure	Stevenson
Hatfield	Meicher	Stone
Hayakawa	Nelson	Thurmond
Heinz	Nunn	Tower
Helms	Packwood	Wallop
Huddleston	Pearson	Weicker
Inouye	Percy	Williams
Javits	Proxmire	Zorinsky
	Randolph	

NAYS—20

Anderson	Hollings	Moynihan
Bayh	Jackson	Muskie
Biden	Kennedy	Pell
Church	Leahy	Ribicoff
Clark	McGovern	Riegle
Culver	McIntyre	Sarbanes
Hathaway	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, for

NOT VOTING—18

Abourezk	Humphrey	Scott
Bumpers	Long	Sparkman
Case	Magnuson	Stafford
Domenici	McClellan	Stennis
Eastland	Metcalf	Talmadge
Hart	Morgan	Young

So the motion to lay Mr. METZENBAUM's amendment (No. 928) on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their patience and forbearance. It has been a long, hard day and night. I think that most Senators would probably be able to perform better today if we took a little recess to allow for a bit of breakfast and a shave and shower. There will be votes when we come back in. I think that, based on the experience we have had during the last several hours, we can expect a good many rollcall votes. I therefore suggest that Senators be prepared for votes at any time after 9 a.m., when the Senate comes back in.

Mr. METZENBAUM addressed the Chair.

Mr. ROBERT C. BYRD. I yield before making my motion.

Mr. METZENBAUM. I understand the purpose of the motion of the Senator from West Virginia. It is 10 after 7. It seems to me that some of us—I have no objection to the recess for the purpose of freshening up, but I think we are going to be under very difficult pressure to be back by 9. I am not sure what hour the Senator said.

Mr. ROBERT C. BYRD. 9 a.m.

Mr. METZENBAUM. It seems to me there ought to be adequate time to go home and not be under that pressure. I suggest the hour of 10 a.m.

Mr. ROBERT C. BYRD. The Senator is under no greater pressure than I have been. I have not had a wink of sleep. I had planned to go straight through and have no recess at all. There are some Senators who could speak. I could speak for an hour if I had an hour's time left. But I think we all ought to recess. It seems to me, after having discussed the matter with several Senators, that we should recess for about 2 hours—that would be ample—then get back to our business. If I could see the end in sight, I should be willing to recess for longer than 9 a.m.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. If he will, I should like to make a committee meeting announcement.

Mr. ROBERT C. BYRD. Yes.

ANNOUNCEMENT OF COMMITTEE MEETING

Mr. ALLEN. There will be a meeting of the Subcommittee on Separation of Powers of the Committee on the Judiciary in room 2300 at 10 a.m.

Mr. ROBERT C. BYRD. Would the Senator have it in the Capitol so it will be convenient for me to attend?

Mr. ALLEN. What time does the Senator wish?

Mr. ROBERT C. BYRD. What time does the Senator want it?

Mr. ALLEN. I suggest 10.

Mr. ROBERT C. BYRD. It could be in my office.

Mr. ALLEN. Yes, at 10 a.m.

Mr. ROBERT C. BYRD. We would have to request time for it to meet.

Mr. ALLEN. I thought coming back at 9, we would have 2 hours.

Mr. ROBERT C. BYRD. Yes.

Mr. BROOKE. Will the majority leader consider that we are going to run into heavy traffic trying to get back here at 9 o'clock? It is now 7:15. Would the Senator compromise with the Senator from Ohio so we can get back here at 9:30?

Mr. ROBERT C. BYRD. I have been trying for a compromise for several days. I shall settle for that.

RECESS UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the Senate stand in recess until the hour of 9:30 a.m. today.

There being no objection, the Senate, at 7:12 a.m., recessed until 9:30 a.m., Wednesday, September 28, 1977.

NOMINATIONS

Executive nominations received by the Senate September 27, 1977:

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

THE JUDICIARY

Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky, vice C. Rhodes Bratcher, deceased.

COPYRIGHT ROYALTY TRIBUNAL

The following-named persons to be Commissioners of the Copyright Royalty Tribunal for the terms indicated (new positions):

For a term of 7 years from September 27, 1977:

Thomas C. Brennan, of New Jersey.

Douglas Coulter, of Virginia.

Mary Lou Burg, of Wisconsin.

For a term of 5 years from September 27, 1977:

Clarence L. James, Jr., of Ohio.

Frances Garcia, of Texas.

FEDERAL ELECTION COMMISSION

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1983, vice Neil Stabler, term expired.

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1980, vice Peter D. Walther, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission for the term expiring December 16, 1985, vice Will E. Leonard, Jr., term expired.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code section 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Abbott, Rudolph E., 543-38-5213.
Abt, Irwin E., 123-26-2141.
Adams, Tom, Jr., 233-44-8735.
Adcock, Thomas G., 053-28-8311.
Adkins, Thomas J., 415-52-7691.
Akiyama, Frank M., 522-36-9444.
Alderman, Nathaniel, 256-48-0502.
Alexander, Joseph E., 036-22-5938.
Allen, Teddy G., 244-54-5182.
Allison, Robert H., 018-26-6635.
Alsheimer, Robert H., 152-24-3628.
Alston, Charles A., 427-64-0970.
Anderson, Ralph O., 528-38-7406.
Andreacchio, Nichol, 577-44-1352.
Armstrong, Hart R., 491-32-8678.
Armstrong, James S., 242-50-8239.
Arndt, Terrence L., 506-42-1537.
Badger, William W., 418-40-4498.
Baird, Richard J., 314-34-4570.
Ball, James W., 425-76-0130.
Banner, Thomas A., 411-54-5865.
Barborak, Franklin, 460-64-7083.
Barisano, Louis, 002-22-4565.
Barlow, Donald J., 055-28-5928.
Barnes, John L., 247-52-8596.
Barnum, Robert C., 375-30-9632.
Barrett, Jonathan R., 253-44-7723.
Bauchspies, Robert, 257-46-0328.
Beasley, Benjamin B., 224-40-7241.
Behrenhausen, Richard, 159-32-9677.
Bell, Charles H., 515-28-5116.
Bennett, Ferrell R., 315-30-2832.
Berg, George A., 509-32-6380.
Bernd, Roy B., 533-30-0844.
Berner, John J., 204-28-7559.
Biemeck, John F., 321-32-9661.
Bishop, Robert L., 232-54-4804.
Blanck, John E., 482-32-6635.
Bland, Andrew R., 248-44-8290.
Blascak, Donald W., 155-26-1009.
Bloomfield, John E., 262-40-0669.
Boiani, Peter J., 038-22-3969.
Bokovoy, John E., 502-30-4854.
Bonner, Benjamin J., 509-30-0459.
Borer, Robert S., 409-52-4906.
Bowen, Guy P., 577-46-4386.
Braa, Emery W., 475-32-7033.
Breedlove, Joe J., 256-52-5304.
Britt, Albert S., 444-40-6617.
Britten, Samuel L., 440-30-4123.
Broadaway, Thomas F., 429-52-2820.
Broadus, James C., 424-38-1550.
Broman, Ralph W., 556-32-8913.
Bronson, Richard M., 385-30-1123.
Brooks, Thomas J., 380-30-6935.
Brown, Gene L., 418-34-1869.
Brown, Richard W., 253-46-6331.
Brown, Roy A., 456-46-5056.
Brudvig, Dale K., 547-44-8685.
Bryan, Richard L., 282-26-0359.
Bryant, William L., 238-46-3062.
Bryden, John M., 330-28-6730.
Burcham, Jerry J., 314-32-9079.
Burke, Francis J., 029-26-6302.
Burt, John C., 396-38-0741.
Burton, Dawson L., 419-38-8270.
Bush, Charles E., 508-30-4609.
Buswell, Arthur T., 024-24-8427.
Byers, Rodney C., 240-40-7282.
Caddigan, James L., 021-28-6323.
Caldwell, Doris L., 548-34-6419.
Caldwell, Richard G., 241-48-4006.
Campbell, Donald A., 205-26-3791.
Campbell, James G., 247-44-4692.
Campbell, Joseph R., 209-26-3301.
Cardwell, Kenneth E., 544-30-9084.
Carpenter, William, 196-28-4948.
Carroll, George F., 003-20-4147.
Carruth, George A., 431-72-5815.
Carson, Martin B., 249-48-3120.
Carter, Harold M., 416-40-6223.
Caruso, Michael L., 151-24-3704.
Casey, Franklin J., 354-26-7621.
Cason, James P., 228-42-4128.
Cass, Stanley D., 523-44-2707.
Castelli, Joseph G., 512-30-1448.
Cavezza, Carmen J., 061-30-0777.
Cento, Dahl J., 491-34-2107.
Cercy, James C., 143-28-3159.
Chamberlain, Charles, 506-36-3465.
Chandler, Edward V., 493-38-5621.
Chapman, Joseph M., 412-40-4776.
Chase, Gerald W., 551-42-4666.
Childs, Leo M., 031-28-6257.
Christy, Bobby G., 499-30-4104.
Circeo, Louis J., 029-24-3555.
Clark, Jack T., 415-54-9395.
Clay, Clifford D., 526-42-5893.
Clelan, Joseph R., 205-26-0622.
Clements, Philip J., 438-34-2162.
Clemons, Charles H., 395-26-7467.
Clifford, Peter L., 437-46-6874.
Cline, Donald H., 195-24-3835.
Cofoni, Peter J., 038-24-2989.
Colburn, Edward A., 463-50-0180.
Colket, Charles H., 520-42-6759.
Connell, Terence J., 386-30-0507.
Conrad, Hawkins M., 248-46-5800.
Conroy, Arthur T., 329-24-5707.
Cooper, Frederick E., 262-36-3135.
Cordonnier, David J., 279-30-1290.
Corns, Johnnie H., 234-56-4012.
Cotner, Henry L., 495-34-1132.
Cowles, Phillip R., 501-26-5528.
Crater, John F., 544-34-8172.
Crow, John S., 439-50-8523.
Crowley, Ronald C., 253-48-3061.
Damme, Richard J., 234-50-4350.
Daniels, Harry V., 575-32-4068.
Darrah, James T., 455-48-4381.
Davenport, Charles, 465-48-1415.
Davis, Alice M., 211-26-7027.
Davis, Bobby G., 404-34-2232.
Dean, Richard C., 360-28-1557.
Deel, Arlin, 230-38-8101.
Degeneffe, Delano E., 305-30-4368.
Delany, Daniel J., 082-26-9457.
Delvecchio, William, 183-24-6001.
Denmark, Sumner J., 255-44-7902.
Desimone, Frank P., 027-24-8791.
Detrich, Virgil D., 525-60-1105.
Dewitt, Calvin III, 224-40-5356.
Dickson, Rodney, 528-30-2409.
Dillingham, William, 425-64-1103.
Dilworth, Robert L., 264-52-0517.
Dinkins, Robert L., 437-40-9278.
Dobbs, Herbert H., 476-32-7472.
Dodson, John P., 176-32-2536.
Donovan, Claude B., 525-80-5096.
Dorough, Aaron G., 456-42-7191.
Dottle, James C., 162-24-8227.
Doukas, James W., 023-26-9547.
Drisko, Melville A., 116-26-8241.
Dubbelde, John B., 086-26-6155.
Dunlap, Roger L., 459-52-6291.
Dunn, James W., 104-24-9322.
Dupont, Robert H., 128-24-5103.
Dyson, Harold B., 576-28-1981.
Ebbole, Robert, 370-30-7983.
Eisenbarth, Roland, 518-38-5263.
Elliott, Roy P., 010-26-7273.
Ellis, Gary L., 224-42-0791.
Epperson, Thomas A., 430-58-5058.
Erickson, Darrold J., 473-24-0427.
Eure, Samuel L., 224-38-7622.
Evans, Walter C., 079-26-7132.
Fadel, Richard A., 092-20-4451.
Fancher, Louis C., 352-26-0924.
Fanning, Joseph J., 204-26-3933.

Feaster, Lewis L., 316-34-0077.
Ferguson, Donald W., 182-26-8139.
Ferguson, James C., 428-68-6723.
Ferguson, Michael L., 262-52-8446.
Finch, Arthur L., 383-26-9150.
Fink, Jerry D., 395-30-3019.
Fiske, William S., 263-46-3263.
Fitzgerald, John M., 094-26-8421.
Flanders, Norwood S., 252-48-3877.
Fleming, Jerry L., 435-44-9953.
Forgy, Jack O., 430-58-4202.
Franks, Frederick M., 190-26-5127.
Fritts, William D., 473-36-6587.
Fritz, James E., 520-38-2856.
Fujitani, Donald S., 575-30-8463.
Fuller, James R., 431-62-3655.
Gale, Paul B., 176-28-3399.
Gange, William B., 155-24-3102.
Gantt, John R., 413-50-6015.
Garcia, Eliseo J., 462-40-2078.
Gard, William B., 518-36-8547.
Garigan, Thomas P., 312-30-2060.
Garrison, Edgar C., 507-40-3870.
Gassie, Herbert H., 439-38-6693.
Gates, Norman B., 514-26-2897.
Gayler, Earl D., 258-50-7212.
Gell, Richard W., 479-38-0499.
Givler, Leon J., 178-24-0872.
Glasker, Samuel J., 224-40-6294.
Glick, Stephen A., 514-32-0256.
Goetz, George W., 116-24-5357.
Goetz, John A., 377-34-4744.
Goff, Lee A., 390-22-9280.
Gomon, Charles W., 508-34-1433.
Gordon, Robert L., 489-36-9541.
Grainger, Harold A., 150-26-6304.
Grant, James R., 416-38-2021.
Grant, Michael E., 541-38-2722.
Gray, Frank M., 425-64-2913.
Gray, Thomas A., 035-22-7196.
Grenier, Donald H., 037-24-0815.
Griffin, Clarence M., 265-44-8048.
Griggs, Donald B., 214-32-8492.
Guba, Howard J., 065-26-0789.
Guffey, Connie S., 405-44-2757.
Guillory, Larry G., 435-44-3389.
Habig, Arnold J., 071-26-9269.
Hagan, Jerome D., 542-34-5398.
Hagyard, Warren A., 373-34-7387.
Hallada, Raphael J., 391-32-6956.
Halloway, Kenneth E., 531-32-6425.
Harmon, Marsden A., 561-38-7579.
Harris, Jimmy R., 438-44-6837.
Harris, Robert E., 283-28-0885.
Harris, Robert W., 510-30-3170.
Hatcher, Robert T., 267-44-1995.
Hedgcock, Robert E., 219-34-8498.
Heikkinen, Kenneth, 572-36-4430.
Henry, Charles E., 180-26-0325.
Hickey, Edward I., 029-24-6414.
Higgins, James M., 398-30-1127.
Higgins, Michael S., 305-34-9195.
Hildreth, Edward E., 118-26-5458.
Hill, Robert G., 246-42-8951.
Hill, Theron H., 260-42-9291.
Hocker, John R., 317-34-1818.
Hoff, Rodger L., 545-44-2845.
Hogan, Thomas J., 277-30-4911.
Holladay, Van D., 148-28-7265.
Hollenbeck, Elmer W., 513-26-3492.
Holmes, William P., 220-32-3969.
Holt, Bill V., 517-34-3969.
Holt, Gerald A., 262-48-9640.
Honore, Charles E., 437-42-8432.
Hord, Ben F., III, 400-44-1010.
Horne, Douglas E., 536-28-5245.
Houser, George M., 241-48-9269.
Houser, Richard H., 210-12-7329.
Howerton, William B., 466-44-8147.
Hoyt, Richard E., 120-26-9755.
Huggins, Bobby R., 464-56-1100.
Huggins, Charles B., 249-38-3813.
Hull, Michael H., 256-52-1378.
Hummel, Richard H., 293-28-1476.
Humphreys, George D., 232-48-8326.
Israel, Glenn A., 500-36-9782.
Ivey, Claude T., 225-36-4664.
Jacobson, Howard C., 026-26-8849.
Jenkins, James R., 390-32-0291.
Johnson, Arthur D., 235-50-3049.
Johnson, Donald K., 236-48-2130.
Johnson, Ernest D., 440-28-9752.
Johnson, George P., 030-28-4064.
Johnston, Robert L., 415-46-1973.
Joiner, Carey P., 258-50-6884.
Jones, Alfred P., 424-30-6824.
Jones, Donald W., 401-48-2610.
Jones, Walter R., 139-28-2878.
Joulwan, George A., 093-32-3990.
Karr, Don E., 454-46-0165.
Kavanaugh, William, 223-38-7104.
Kelley, Horace S., 253-48-8953.
Kelly, James J., 119-20-8422.
Kelly, Thomas A., 073-28-3103.
Kendall, Mark C., 257-46-0042.
Keys, Robert W., 250-46-2941.
Kidd, Stewart R., 502-16-4536.
Kielkopf, Edward C., 578-44-9474.
Kinder, Norman W., 525-56-4950.
King, Jerry M., 401-54-5572.
King, William T., 255-50-0233.
King, William T., 038-22-0678.
Kinzel, Arthur J., 396-30-7345.
Kirkwood, John H., 511-28-9921.
Kistler, John S., 357-26-6638.
Kitterman, James H., 443-30-4297.
Knipp, James D., 372-32-8565.
Knudson, Wayne C., 475-44-6124.
Koehnke, Joseph A., 508-36-8356.
Kramer, Ronald T., 149-26-1433.
Kronkaitis, John, 040-28-0737.
Kuykendall, William, 463-42-2488.
Ladd, John P., 571-40-2364.
Landry, Gerard, 037-22-7292.
Lang, William F., 504-16-9701.
Lanham, Michael C., 541-34-8015.
Laporte, Justin G., 215-32-5769.
Larkins, Aaron J., 411-56-2898.
Larsen, Roger G., 528-42-7936.
Latour, Robert D., 284-28-9961.
Latturner, George J., 337-26-3510.
Laverty, Wayne B., 525-54-6309.
Lawson, Robert A., 282-30-0793.
Lawton, Johnnie, Jr., 248-56-9420.
Lee, Curtis D., 470-34-1280.
Lee, William E., 254-46-8653.
Lenderman, William, 417-42-0983.
Lewis, James P., 222-18-5167.
Liles, Michael S., 276-24-5121.
Lindsey, Jerry N., 422-44-2232.
Little, Ronald E., 448-32-9315.
Littlejohn, Thomas, 241-46-8167.
Lomax, Rhoss C., 425-64-9193.
Love, James E., 382-34-7761.
Luck, Gary E., 509-34-8751.
Luck, Harold E., 243-44-9521.
Lumpkins, William J., 456-36-4240.
Lustig, Jacob E., 052-26-7052.
Lyerly, Virgil T., 418-46-2819.
Lynch, Eugene S., 166-26-8305.
Madsen, Arlyn R., 529-42-1370.
Maguire, James E., 137-28-3143.
Manner, Eugene L., 190-28-8511.
Marmaras, Ernest, 030-24-2218.
Mason, Sidney E., 263-60-4246.
Massey, Oran A., 510-26-3563.
Mastro, Franklin D., 176-32-2558.
Maurer, David F., 562-44-1436.
May, Robert M., 428-52-6677.
McBride, Eugene R., 139-30-7554.
McBride, Floyd A., 439-42-8142.
McCaffrey, William, 375-40-8708.
McCann, John R., 556-38-3819.
McClain, Charles S., 508-32-3923.
McConnell, Bruce D., 431-62-2987.
McCracken, Julian W., 250-48-4476.
McCullom, Cornell J., 309-30-3587.
McDonald, Merle A., 447-28-2043.
McDonald, Thomas B., 226-42-6034.
McDowell, Richard L., 023-26-4281.
McGovern, George W., 038-22-2030.
McKinley, Martin E., 066-28-6063.
McKinney, Seab W., 260-60-4756.
McLean, William T., 728-09-5056.
McManus, Booker T., 244-40-9810.
Meehan, William J., 022-30-6589.
Mielke, Karl A., 455-48-3766.
Mills, Lawrence L., 444-32-9782.
Mills, Robert R., 395-30-6513.
Mitchell, Charles H., 033-24-8949.
Mock, Richard W., 188-22-3786.
Montgomery, Ross D., 444-28-8084.
Moore, Herbert W., 009-30-3945.
Moore, Olin J., 255-54-9841.
Moore, William A., 245-44-5812.
Morrison, Kenneth L., 558-42-3769.
Morrison, Robert N., 537-26-7370.
Morton, Richard H., 084-26-5793.
Mosco, Richard A., 135-34-5407.
Moser, William R., 143-28-5710.
Mossellem, John J., 165-26-4621.
Murray, Charles M., 306-32-0954.
Musial, Walter F., 538-28-3537.
Muth, Arnold J., 535-32-7757.
Myers, Samuel L., 555-44-4973.
Myrick, Howard A., 264-44-1804.
Nack, John M., 081-24-0851.
Nagel, Joseph L., 101-26-9403.
Neely, Cecil N., 463-46-5558.
Neighbors, James D., 239-46-3720.
Newman, Joe B., 464-44-7559.
Nock, Jean A., Jr., 278-30-2260.
Nottingham, Jonathan, 579-46-4122.
Nunn, Lee R., Jr., 400-54-7935.
Ogden, Leigh M., 226-42-6790.
Okita, Harold K., 576-26-6699.
Olsmith, Edwin S., 456-52-5205.
Omears, Patrick B., 480-36-1574.
Opstad, Edwin A., 533-30-1519.
Oshaughnessy, James, 438-48-2617.
Owen, Thomas D., 233-54-2086.
Palmer, William T., 137-26-4974.
Palmertree, Tommy R., 427-52-3102.
Palmieri, Guy J., 022-26-9376.
Parker, Ellis D., 409-46-5615.
Parker, Travis M., 423-42-7562.
Patterson, Jerry K., 212-38-8310.
Patterson, John T., 227-38-4836.
Patterson, Raydean, 500-34-0862.
Peden, Ronald L., 458-54-7491.
Penrod, David J., 373-30-2425.
Pepe, Michael J., 201-30-9225.
Perry, Mervin E., 460-64-0863.
Persons, George A., 271-24-9898.
Petty, Robert E., 423-42-9654.
Phelps, John F., 501-26-6160.
Philpott, Lawrence, 307-36-0965.
Pianka, Thomas A., 168-26-8572.
Piatak, John R., 280-30-9106.
Pickens, Homer C., Jr., 525-86-0720.
Pinkston, William R., 260-48-0740.
Pollard, Joseph W., 419-44-5377.
Powell, James D., 035-24-9918.
Powell, William S., 419-44-9679.
Prados, Alfred B., 408-64-3390.
Prescott, Donald P., 032-24-4871.
Proulx, Clovis B., 021-28-6053.
Purdon, Robert W., 289-30-8103.
Quigg, Stuart M., 158-30-0683.
Ramsey, Bobby A., 248-50-0924.
Raynes, Troyce L., 463-44-5523.
Reno, William H., 490-40-5959.
Reynolds, William H., 265-44-0499.
Rhoades, Glen L., 506-40-3473.
Rhoads, David G., 219-28-5482.
Richard, Virgil A., 447-38-9989.
Richardson, William, 191-22-3666.
Riedl, William H., 031-26-5931.
Ring, Taft C., 531-32-3041.
Riovo, Jose A., 211-24-1926.
Roberts, Donald A., 253-46-7709.
Roberts, Grace L., 543-20-7280.
Roberts, Hollis L., 403-44-6788.
Roberts, Rodney K., 337-28-2085.
Roche, William H., 261-48-1858.
Rock, Thomas L., 227-36-3996.
Roddy, Robert E., 547-44-9413.
Rogan, Robert E., 265-44-0933.
Rogers, Gordon B., 186-28-7334.
Rogers, William H., 432-60-5931.
Roosma, William A., 136-32-7006.
Roth, Morton F., 119-26-7481.
Rowen, Edward P., 503-14-5000.
Rowlands, David L., 575-32-8643.
Rozier, Jackson E., 227-44-5741.

Ryan, Robert H., 515-32-7473.
Saffold, Albert T., 467-40-6075.
Salisbury, Alan B., 136-32-7068.
Sanches, Manuel L., 016-28-3044.
Sanchez, James, 576-28-7767.
Schessler, Donald R., 517-36-8327.
Schloesser, Robert, 150-26-4626.
Schneeman, Douglas, 067-26-0956.
Schorr, David E., 245-50-6956.
Schott, Joseph D., 457-52-0439.
Schuler, Bob D., 470-32-2103.
Schwartz, Paul R., 388-34-3345.
Schwoppe, Edwin G., 363-36-0444.
Seago, William K., 262-48-0041.
Seaton, Owen B., 488-40-0873.
Seeberg, Richard S., 343-22-9998.
Seeright, James M., 314-30-3732.
Seitz, Donald E., 389-32-0007.
Shaddock, Carroll W., 434-48-5373.
Shalikashvili, John, 331-30-8495.
Shea, Joseph A., 150-26-6347.
Shoffner, Wilson A., 443-34-5897.
Short, Joseph F., 035-22-7106.
Shrout, Roy B., 235-54-2995.
Sigler, James M., 523-38-0069.
Silva, Theodore S., 013-26-0822.
Sims, John C., 251-42-3638.
Smith, Derald H., 451-48-7373.
Smith, John W., 286-24-1344.
Smith, Richard A., 477-32-6475.
Smith, Walter D., 255-50-3425.
Smolenyak, George C., 144-26-7909.
Snyder, Harold B., 161-30-9194.
Snyder, Ronald E., 090-26-8620.
Sobraske, John E., 476-30-6170.
Solseth, Harold L., 477-40-4291.
Sowers, William R., 220-28-0754.
Spigelmire, Michael, 216-34-2904.
Stadler, Gerald P., 367-38-6939.
Staudenmaier, William, 203-22-9748.
Stearns, Peter D., 543-34-1889.
Stevens, Francis R., 578-48-1540.
Stevens, Ronald B., 516-32-6592.
Stipe, Aquila E., 254-52-5553.
Stokes, John H., 551-44-7015.
Stone, Charles B., 579-46-7120.
Stone, Gordon L., 412-48-1161.
Stone, Hardy R., 428-48-5166.
Stout, Bruce F., 214-32-8842.
Stover, Charles W., 208-26-7351.
Stryker, Harm, 549-48-6724.
Stycos, John S., 059-28-8590.
Swenson, James A., 565-44-1771.
Swindler, Murray G., 073-28-1286.
Szendrey, Charles P., 149-26-3027.
Tabor, Ernest E., 274-26-0345.
Taylor, Harry S., 425-62-3144.
Taylor, Henry S., 423-40-3687.
Temperley, Nicholas, 059-28-7545.
Terry, Richard T., 121-24-0929.
Thompson, William R., 386-32-1218.
Thomson, Robert W., 020-26-5567.
Thornton, Olen D., 500-34-2462.
Timlin, Jerome P., 210-26-1180.
Tippin, Garold L., 508-34-3544.
Tomaka, Karl S., 063-28-9276.
Tompkins, Edward, 278-28-3018.
Townsend, Merton L., 524-40-6697.
Townsend, Robert F., 152-26-2204.
Tucker, Lee W., 541-38-0021.
Turk, Roy M., 252-54-8831.
Tussing, James T., 231-46-4514.
Twilley, Leroy G., 419-40-7545.
Udick, Ralph A., 518-40-4772.
Urbach, Walter, Jr., 309-32-2262.
Vardamis, Alex A., 005-32-3273.
Vargo, John J., 240-40-0092.
Vermillion, Robert, 283-28-9364.
Vickers, John H., 043-28-7587.
Vierra, Victor S., 250-52-7995.
Vitello, Patrick A., 298-16-6135.
Volpe, Joseph J., 136-24-6017.
Vossen, Francis C., 213-32-8175.
Waite, Hugh G., 477-28-5135.
Wakefield, Donald Y., 433-42-8259.
Walker, George J., 253-50-0905.
Walker, Harry D., 433-50-6987.
Walker, James M., 410-58-3147.
Walker, Peter H., 538-30-7511.
Walker, Robert E., 228-38-1268.
Wangenheim, Richard, 115-24-8917.
Waring, Mowton L., 001-24-9777.
Wegley, Frederick L., 181-26-6169.
Weinert, Phillip D., 579-44-9297.
Wells, Donald G., 320-28-2619.
Whatley, Howard G., 464-44-8694.
Whelton, Joseph A., 460-16-0138.
White, Billy T., 436-44-9973.
White, David J., 480-38-3118.
Whitmire, James D., 247-36-5470.
Whitt, Lawrence H., 267-44-7028.
Williams, Alonzo, 463-48-8167.
Williams, Charles L., 466-48-9664.
Wilson, James K., 223-38-1600.
Windsor, James A., 256-48-9261.
Winkel, Paul P., 547-38-8086.
Winn, Frank B., 410-64-3192.
Witt, Everett L., 530-20-1955.
Woods, James R., 445-34-2072.
Woods, Robert P., 024-26-1638.
Wratislaw, Roy E., 459-46-0204.
Wray, Donald P., 139-28-2954.
Wright, Eunice M., 252-38-4718.
Young, Charles D., 428-54-8569.
Young, Lawrence B., 428-42-5345.
Zotcavage, John A., 211-26-5904.
Zychowski, Edward F., 166-24-4627.

CHAPLAIN CORPS

To be colonel

Boyce, David G., 428-44-8490.
Cook, Richard G., 227-32-6579.
Forsberg, Paul O., 475-24-4132.
Hansen, James E., 329-24-3061.
Hentz, Richard J., 228-20-9204.
Kolberg, Oliver E., 376-22-4895.
Mansur, Richard W., 267-22-0427.
McDonnell, Charles, 143-20-6574.
Sams, Horace, Jr., 417-24-2997.
Snyder, John S., 155-24-6806.
Ude, Donald E., 563-40-8220.

JUDGE ADVOCATE GENERAL CORPS

To be colonel

Adamkewicz, Edward, 331-34-5739.
Brown, Terry W., 263-52-5403.
Fontanella, David A., 043-26-0351.
Garner, James G., 457-46-5381.
Green, James L., 509-34-6292.
LaPlant, Earl M., 397-28-2155.
Marden, Jack M., 091-26-9558.
Nicholas, Talbot J., 128-20-3733.
Radosh, Burnett H., 104-28-4501.
Russell, George G., 440-34-3121.
Smith, Robert B., 564-40-9561.

MEDICAL SERVICE CORPS

To be colonel

Barber, Leroy M., 039-22-0211.
Belcher, Lillard F., 444-24-9511.
Bischoff, Neil E., 315-26-3147.
Bizer, James E., 398-26-7858.
Blair, James D., 432-52-7933.
Bowes, Donald J., 568-42-5780.
Clark, Harry H., 723-07-8972.
Crawford, John C., 245-44-3480.
Crites, William R., 505-30-3405.
Danielson, John J., 147-30-9364.
Graydon, Donald M., 568-54-4736.
Hartley, Brodes H., 267-38-4151.
Hayes, James H., 241-46-0006.
Heriot, Richard M., 249-56-6408.
Hudson, James F., 494-30-4244.
Lanier, Jack O., 242-42-1362.
Lowe, John W., 036-22-6062.
Madden, John T., 523-38-4684.
Mealey, John J., 222-20-5198.
Mills, Freddie J., 453-38-0908.
Moran, Homer B., 432-20-4406.
Neitzel, Richard F., 390-28-2925.
Pantalone, Julius D., 235-48-3494.
Powell, Donald N., 217-28-7678.
Pulcini, Dino J., 115-24-2751.
Reddy, John J., 049-22-5846.
Retzlaff, Donald H., 389-30-4190.
Seeley, Sam T., 467-44-4131.
Simpkins, William J., 251-48-3949.
Smith, Creed D., 230-20-2388.
Tate, Charles G., 577-46-4446.
Vigneault, Marcel L., 048-24-8755.
Walls, Neal H., 444-32-8595.
Wangemann, Robert T., 395-28-6543.
Wilburn, James H., 233-54-1383.
Woods, William B., 523-44-8847.

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Brewer, Jessie S., 427-78-8775.
Matthews, Nancy L., 149-26-3601.

VETERINARY CORPS

To be colonel

Bucci, Thomas J., 039-22-4070.
Hildebrant, Paul K., 523-44-2718.
Orthey, George F., 147-28-2332.
Schlinke, Orville C., 464-54-9584.
Spertzel, Richard O., 207-26-1495.
Wyckoff, George H., 202-30-4309.

ARMY NURSE CORPS

To be colonel

Farrell, Joanne T., 030-24-9578.
Girvan, John B., 121-24-4632.
Gior, Beverly A., 064-26-6681.
Hanson, Carol L., 505-32-9599.
Hernandez, Nilza R., 581-20-0695.
Lyke, Elizabeth M., 350-22-7657.
Polz, Eva A., 566-28-3273.
Stephenson, Elizabeth, 179-22-5632.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be captain

Aaron, Alvin D., 263-86-8500.
Abrahamson, Dale M., 519-54-8819.
Ackerly, William G., 018-40-8582.
Ackerman, John M., 429-98-9242.
Acuff, Ronald D., 434-76-9230.
Ada, Thomas C., 586-03-8515.
Adams, Charles J., 048-42-2237.
Adams, Dennis L., 386-46-4116.
Adams, Roosevelt, Jr., 249-80-6902.
Adelman, Joseph A., 223-72-0795.
Aed, George, II, 577-66-4285.
Aguilar, Donald, 462-80-0115.
Albert, Michael R., 312-48-4612.
Albright, Paul M., 536-44-8159.
Alexander, Gary J., 560-82-8687.
Allemeier, Daniel R., 536-48-1522.
Allen, Johnny D., 405-70-5561.
Allison, Barry L., 408-80-0273.
Allison, James B., 429-90-3857.
Allmond, Elgin L., 230-66-5244.
Allum, Philip D., 304-50-7749.
Alvarez, Vincen A., 583-07-3220.
Amacher, Aaron G., 228-68-8417.
Anderson, Israel P., 463-74-9183.
Anderson, John K., 364-50-1196.
Anderson, John L., 250-78-8819.
Anderson, Mark C., 160-38-3599.
Anderson, Phillip R., 227-68-3613.
Anderson, Robert J., 550-74-0505.
Anderson, Ross F., 466-80-6722.
Anderson, William F., 554-80-0872.
Andino, Manuel, 580-98-8223.
Andre, Charles R., 203-38-9373.
Andrews, Richard L., 327-40-9097.
Angwin, John S., 516-60-4411.
Antosh, Raymond H., 265-62-9119.
Archer, William D., 012-42-1306.
Ards, Donald D., 461-86-0398.
Arietti, James T., 043-40-1322.
Armbruster, Robert, 071-42-8136.
Armogida, Charles J., 559-82-7115.
Arndt, Kenneth R., 378-48-4772.
Arney, David C., 124-38-6819.
Arnold, Archibald V., 275-42-8196.
Arnold, Mark W., 281-36-4845.
Arrota, Richard B, 212-54-5446.

Arsenault, Robert J., 552-82-2424.
Arteaga, Roland A., 452-86-5753.
Asher, David S., 409-78-3426.
Ashley, Richard W., 283-48-2755.
Atchley, Larry J., 486-54-0267.
Aurentz, Forrest W., 232-82-6071.
Axson, Harry B., 248-90-8396.
Ayers, Charles M., 403-72-7361.
Baber, Stephen L., 272-44-6559.
Bach, Bruce P., 065-38-2569.
Bacher, James W., 060-42-3431.
Back, William W., 431-90-3518.
Backlund, William V., 381-52-6560.
Bacon, Robert A., 003-36-7913.
Baer, John R., 228-72-3099.
Bailey, David V., 223-76-1439.
Bailey, Peter M., 401-66-0593.
Bailey, Walter J., 225-68-5534.
Baine, William E., 467-80-7980.
Baldwin, William R., 137-44-7364.
Ballard, Bryant L., 517-56-8049.
Ballowe, Thomas L., 511-54-4525.
Banning, Robert F., 255-78-6007.
Bantsolas, John N., 340-40-5421.
Bapple, James W., 571-84-5026.
Barber, Wilfred H., 564-76-9578.
Barbuto, Richard V., 076-40-7044.
Barker, Larry N., 467-76-6851.
Barkovic, William J., 222-28-6440.
Barneby, Stephen A., 530-32-8628.
Barnwell, Walter J., 441-54-5147.
Bartilot, Louis R., 143-42-8025.
Bartolain, Bruce A., 319-44-6976.
Bates, Norman W., 036-32-4496.
Batog, Danny E., 013-42-8639.
Batsky, Thomas E., 295-48-8995.
Batson, Charles F., 431-86-0558.
Bauer, Benjamin, 217-50-4822.
Baumann, Frank A., 439-68-9784.
Baxter, Michael J., 576-52-0245.
Bazzle, Ervin W., 249-86-1955.
Beard, John T., 224-70-2403.
Beard, Lawrence D., 445-48-9991.
Beard, Michael W., 316-50-4961.
Bearden, William A., 455-88-2631.
Beckwith, James L., 511-54-0825.
Beeks, Gary H., 251-72-4999.
Beeson, Terry D., 463-88-0519.
Beisner, James W., 392-48-0417.
Belcher, David W., 233-70-8131.
Belliveau, Philip R., 015-36-9519.
Bell, David R., 379-46-0226.
Bell, Leo, Jr., 460-74-5207.
Bell, Ronald K., 432-90-6207.
Bell, Theodore S., 247-86-0083.
Benardo, Charles J., 149-38-7856.
Bench, Darrell E., 529-66-9303.
Bendele, John L., 459-82-0790.
Benedict, Calvert P., 245-76-8500.
Benedict, William E., 008-34-9371.
Benham, Christopher, 019-38-5722.
Bennett, Ronald L., 404-68-2489.
Beno, Joseph H., 556-82-9795.
Bergantz, Joseph L., 163-40-5893.
Bergeron, George C., 009-36-1927.
Bergman, Michael R., 445-46-4126.
Bergtholdt, Gary B., 561-72-7881.
Berkowitz, James W., 429-84-0923.
Bernard, William D., 464-92-0165.
Berry, Guy A., 470-56-6531.
Berry, Harvey W., 430-92-9238.
Berry, James R., 460-92-2077.
Berry, Luther W., 458-88-2835.
Berry, Thomas P., 530-30-7077.
Bertrand, Gary T., 030-38-3194.
Besser, William S., 567-80-6809.
Beyer, Walter R., 263-96-5780.
Bickel, Carl W., 081-38-2629.
Bifulco, Frank P., 086-42-1876.
Bilbo, Jon F., 228-62-2972.
Bilyj, Myron, 068-40-8994.
Bingham, Henry L., 587-14-7316.
Bishop, George F., 323-40-3283.
Bishop, Robert C., 060-42-8705.
Bishop, Robert H., 073-38-4275.
Black, Donald E., 447-48-4700.
Blackburn, John W., 414-80-9694.
Blaine, Raymond W., 160-38-5810.
Blair, Patrick R., 236-66-5468.
Blake, Robert T., 442-50-4516.
Blanding, Willie L., 249-84-0571.
Blanding, Zenola B., 249-84-0495.
Blankenhorn, Charles, 192-40-1316.
Blink, James A., 530-38-9061.
Blissett, William G., 364-50-2200.
Blount, Kerry A., 522-68-2393.
Boggs, Thomas L., 277-44-4206.
Boice, Lawrence R., 517-54-0364.
Bond, James B., 542-60-7843.
Bonham, Lyle V., 226-72-5471.
Borcheller, Otis D., 212-56-9266.
Borchers, Alan L., 480-54-7961.
Borkowski, Lawrence, 277-40-9891.
Bort, Roger E., 218-52-9608.
Borum, Benton H., 372-54-4475.
Bowab, Joseph W., 227-68-3942.
Bowns, Nicolas D., 169-40-8310.
Boyatt, Mark D., 412-82-0974.
Boyers, William B., 216-50-1659.
Bracey, Hugh M., 263-86-3667.
Bracey, Stephen W., 263-86-3691.
Bradshaw, Arthur L., 532-52-7420.
Brady, Lance H., 445-52-2758.
Brady, Steven J., 475-52-3815.
Brandt, Terry W., 228-68-9257.
Brantley, Andrew M., 246-74-4971.
Bratton, John M., 493-48-9106.
Brayshaw, John E., 262-82-0854.
Brazil, Thomas E., 445-52-4958.
Breithaupt, Michael, 566-72-0784.
Bremer, August W., 231-64-2944.
Brennan, Kevin F., 102-40-0875.
Brent, Charles H., 433-76-6695.
Bridges, Richard M., 302-46-7584.
Britt, Robert E., 093-34-0931.
Broaddus, Gregory D., 227-72-8365.
Brodeur, Donald E., 014-40-5714.
Brooks, James, 569-76-1858.
Brooks, Johnny W., 409-80-4014.
Brooks, Sidney A., 214-54-7035.
Broome, Richard E., 214-50-4629.
Brophy, William S., 574-18-7133.
Brown, David D., 585-32-1473.
Brown, Donald H., 156-42-4461.
Brown, Douglas K., 463-82-5527.
Brown, Fred E., 430-90-5600.
Brown, John S., 223-74-2041.
Brown, Leslie D., 086-36-4192.
Brown, Ralph J., 526-88-4275.
Brown, William C., 406-62-6611.
Browne, Robert W., 499-44-2415.
Bruce, Samuel B., 256-78-8238.
Bryan, William H., 258-76-4906.
Buchanan, John R., 443-42-6479.
Buchanan, William R., 040-44-0551.
Buck, Henry, Jr., 227-72-5903.
Buck, Randolph O., 547-68-4805.
Buckey, Kerry A., 211-40-1933.
Buckles, Tony J., 213-50-3244.
Buehler, Lawrence J., 216-52-8671.
Buettner, Steven L., 451-92-3202.
Bunyea, Walter L., 113-38-1993.
Buono, John T., 555-74-6233.
Burchett, Michael A., 466-72-2843.
Burge, Larry W., 455-70-0966.
Burleson, Jean F., 421-62-7244.
Burnett, John R., 029-40-4153.
Burnham, William C., 237-86-4904.
Burns, Timothy J., 420-66-0943.
Burrell, Thomas F., 565-74-1117.
Busk, Arlan N., 526-74-7805.
Buske, Ronald L., 499-48-5425.
Butler, William D., 296-46-2945.
Butto, Robert J., 125-40-6504.
Calabro, David J., 191-38-9133.
Callaway, David G., 245-76-9172.
Campbell, Clark P., 032-38-6220.
Campbell, James L., 416-70-9858.
Campbell, Thomas A., 575-46-0864.
Cantu, Jose N., 462-88-6378.
Capka, Joseph R., 218-54-7021.
Carden, John M., 257-80-5767.
Carden, William J., 415-78-8247.
Cardine, Christopher, 194-40-0983.
Carey, William F., 093-40-6353.
Carleton, Bruce, 432-84-6440.
Carmichael, Lawrence, 219-46-9882.
Carpenter, Bernard, 008-30-8208.
Carpenter, Ronald W., 116-38-7863.
Carper, William B., 304-54-2995.
Carr, William J., 266-94-8696.
Carter, Jeffrey C., 263-86-8042.
Carter, Jerome N., 420-66-9388.
Carter, Thomas H., 260-82-7129.
Carter, William J., 217-52-3102.
Cartwright, Jess A., 315-52-2255.
Cascini, Michael R., 111-42-3404.
Cascio, Anthony F., 045-42-7773.
Casey, James M., 424-66-5921.
Casey, John L., 420-68-6895.
Cash, Dean W., 506-66-1289.
Castle, Samuel Q., 413-78-7696.
Caswell, Kenneth L., 379-52-6038.
Cater, William P., 489-52-4871.
Cates, Robert B., 585-18-9304.
Catlin, John D., 338-40-6404.
Cerami, Joseph R., 099-40-9432.
Chabot, Joseph L., 260-78-9907.
Chambers, Michael S., 415-80-3235.
Champion, Kenneth L., 026-38-5200.
Chappel, Oscar A., 374-48-9251.
Chatham, Stuart L., 527-80-2586.
Chavara, Joseph S., 198-38-4511.
Chiacchia, Leonard, 011-40-4810.
Chidester, Earl J., 552-68-5182.
Chiles, James W., 429-88-6609.
Chiles, John H., 499-52-7179.
Ching, Ronald S., 422-64-6294.
Choate, Larry L., 446-48-6908.
Chrisco, Larry D., 493-50-1836.
Christianson, Claude, 501-54-1982.
Christopher, Charles, 424-64-6312.
Ciferri, Michael F., 072-40-5522.
Cipolloso, Peter T., 037-30-3632.
Ciriello, Richard J., 455-80-9927.
Clark, James A., 434-82-4151.
Clark, Michael D., 585-18-8504.
Clark, Paul L., 521-64-3331.
Clarke, George C., 231-68-7496.
Clarke, James C., 060-38-3281.
Claxton, George M., 540-56-3893.
Clevenger, Douglas, 143-42-2919.
Clifton, Herbert C., 118-38-8480.
Clubb, Frank W., 010-38-3982.
Coaker, Charles D., 384-44-7347.
Coffin, Richard H., 139-40-8541.
Cogan, Kevin J., 157-42-4152.
Colasanti, James W., 526-68-0192.
Colburn, Duel O., 417-70-9859.
Coleman, Donald J., 015-40-2619.
Coleman, George W., 266-86-0906.
Colley, Jackie W., 459-80-6841.
Collignon, Larry J., 504-54-0898.
Collins, Richard F., 570-70-9595.
Columbus, Allan D., 432-90-0701.
Conner, Larry J., 222-32-7547.
Contrucci, Joel J., 160-42-2516.
Cooksey, Daniel P., 406-62-7900.
Cooper, John W., 496-52-6508.
Cooper, Marcellous, 225-70-2651.
Corbell, Michael K., 464-72-9375.
Corbett, John W., 315-46-0189.
Cornett, Terry L., 456-78-6494.
Coughlin, David S., 114-40-7872.
Cox, Douglas E., 401-64-2814.
Cox, James H., Jr., 221-36-8105.
Crabtree, Donald J., 553-68-3977.
Craddock, Bantz J., 235-78-7782.
Craddock, Lowell K., 232-78-6968.
Craft, Charles W., 101-42-7954.
Craft, Robert L., Jr., 520-48-9545.
Craig, Joseph M., 220-46-6848.
Craven, Douglas R., 231-68-1424.
Crews, Thomas M., 237-80-6283.
Crighton, Gordon C., 010-40-3472.
Cristler, John M., 520-52-7289.
Crossett, Michael L., 478-52-2165.
Crossman, Thomas E., 536-48-5033.
Crosson, Thomas E., 359-38-5477.
Crouse, James T., 245-76-3867.
Crouse, Robin W., 585-24-2940.
Crowe, James A., 503-52-1840.
Cullen, George F., 012-40-2747.

Cullina, William J., 010-40-7176.
Cumberworth, Charles, 291-48-9294.
Cummings, Daniel N., 330-42-5534.
Cummings, William J., 035-32-2482.
Cummins, Gerald E., 090-36-9192.
Cummins, Paul G., 403-72-0610.
Cunningham, Daniel, 533-52-8780.
Cunningham, Harry V., 148-42-1842.
Curran, Stephen B., 116-38-2855.
Currie, William M., 367-54-5711.
Curry, David K., 005-50-1529.
Curry, Joseph J., 340-42-5852.
Curtis, Anthony G., 512-48-1046.
Cushman, George H., 267-04-9134.
Dailey, Dell L., 433-80-3747.
Dandries, Michael I., 191-40-0165.
Daniel, Scott N., 219-60-6664.
Daniels, Robert B., 452-86-9026.
Daniels, Dean L., 534-52-3282.
Danish, Clement, Jr., 483-60-9953.
Dashawetz, Stanisla, 016-36-3661.
Daugherity, Richard, 343-36-8805.
Dauster, Charles L., 453-78-6510.
Davenport, Dewayne, 507-66-3113.
David, Michael W., 164-38-3379.
Davidson, James W., 536-50-0439.
Davis, James H., 223-64-9654.
Davis, Oscar N., 263-96-8916.
Davis, Ronald L., 236-72-6193.
Davis, Scott L., 535-52-8030.
Davis, Thomas C., 418-64-3259.
Dawson, Mark A., 224-74-7259.
Dearmon, Lawrence J., 421-70-0469.
Deas, Alfred, Jr., 246-80-1150.
Deca, James A., 279-42-3180.
Decker, Timothy J., 392-52-0354.
DeCola, Gary T., 454-78-2786.
DeCola, Gerald A., 454-78-2784.
DeHayes, Mark F., 378-54-9135.
DeJesus, Rafael, 259-74-9367.
Delary, James L., 009-36-9736.
Delashaw, James M., 262-86-2390.
Delcorso, Robert E., 268-46-3739.
Dellert, Luis A., 457-90-1501.
Dellorto, Daniel J., 089-42-8302.
Deloatch, Curtis A., 245-72-1065.
Demoya, Richard G., 177-42-1865.
Dempsey, Frederick, 411-82-2456.
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Thom, Brian L., 026-38-0299.
Thomas, Joseph E., 269-48-5075.
Thomason, Terry E., 290-48-6869.
Thompson, Jerald L., 568-60-9097.
Thompson, Jerry W., 288-46-7832.
Thompson, John H., 527-72-6923.
Thompson, Jonathan, 465-82-4980.
Thompson, Richard B., 502-52-8100.
Thompson, Peter W., 019-40-4101.
Tiderman, Michael C., 526-80-6544.
Tierney, Thomas F., 454-86-2212.
Tighe, Terry M., 477-56-6016.
Timinski, Martin S., 152-42-5206.
Tindall, Thomas O., 128-38-4919.
Toler, Garvis W., 223-68-0648.
Tolle, Steven A., 107-38-5078.
Tomasulo, Robert M., 108-42-8306.
Tomita, Russell M., 576-56-8754.
Tone, Brian P., 105-40-5978.
Toone, Steven B., 462-78-3856.
Touchet, Neil H., 266-80-6624.
Townsend, William C., 237-80-4425.
Tozzi, Gerard, 261-86-2730.
Trabue, William C., 083-38-2098.
Trimble, Lee S., 254-82-5128.
Trowbridge, Ronald, 305-54-7437.
Troy, John F., 433-86-9765.
Tsuneta, Jerrold Y., 548-72-8791.
Tucke, Joseph F., II, 259-84-2475.
Turner, Daniel L., 506-60-4148.
Tyo, Joseph M., Jr., 061-40-2167.
Urban, Ronald D., 509-50-8454.
Uselton, Billy D., 410-84-0336.
Valdez, Stephen M., 457-88-8539.
Vanbuskirk, James H., 349-38-4348.
Vanbuskirk, Raymond, 517-52-5854.
Vandal, Steven O., 566-70-0128.
Vander, Laan J., 527-92-5101.
Vanderkarr, Marc A., 358-38-6710.
Vanwinkle, Hans A., 070-40-8718.
Vaughan, Russell P., 546-72-7290.
Vaughn, Stephen D., 461-86-6364.
Verbanick, John J., 183-36-3964.
Villecco, John A., 059-42-9056.
Vines, John R., 416-64-5345.
Vining, Raymond P., 431-90-6547.
Visinski, Joseph R., 049-40-8462.
Vitrikas, Robert P., 129-40-6295.
Vogt, Terry J., 526-90-6332.
Vogelpohl, Edward L., 458-80-8834.
Vogt, Terry J., 526-90-6332.
Vonseggern, Keith V., 505-70-1490.
Vrazel, Gary J., 421-66-5391.
Wade, Raymond F., 104-42-7200.
Wade, Robert R., 102-38-0345.
Wake, Carl K., 262-74-3650.
Walker, Doak H., 457-82-5500.
Walker, Richard L., 548-84-5969.
Walker, Walton H., 027-40-4691.
Wall, Hubert B., 418-60-2063.
Wallace, David R., 432-90-6963.
Wallen, David A., 461-82-2345.
Wallis, Robert A., 140-40-6223.
Walter, James A., 295-46-8676.
Walters, David E., 267-84-1503.
Walters, James R., 490-52-2187.
Walton, Robert A., 240-72-9501.
Wamsted, Michael L., 527-70-5595.
Wank, James A., 382-50-9290.
Ward, William E., 519-50-9159.
Ward, William E., 216-52-9000.
Warnement, Jerry J., 294-42-3666.
Washington, James M., 231-60-6246.
Watkins, Carroll G., 432-82-3614.
Watkins, Howard E., 184-38-0739.
Watkins, James J., 208-42-4563.
Watson, Ramon K., 587-03-8192.
Watson, Tadashi M., 228-72-3259.
Watson, Thomas R., 511-48-7042.
Wattendorf, William, 553-68-4928.
Waugh, Goree E., 228-62-9540.
Weaver, William C., 245-76-5359.
Webb, Duane E., 527-58-3666.
Weddle, Peter D., 216-50-3297.
Weeks, Bruce D., 031-38-5347.
Weersing, Gary M., 275-48-3257.
Weidner, Glenn R., 509-56-7139.
Weinstock, Jeffrey, 213-50-3012.
Weisenfluh, Donald, 078-38-9116.
Welch, John O., 106-38-4288.
Weldon, Claude M., 403-64-1989.
Welling, Richard D., 108-40-3327.
Wells, Burnie D., 463-72-0368.
Wells, Oscar T., 463-72-8820.
Wells, Wayne C., 251-78-6324.
Wendell, Roger P., 228-62-6990.
Wenick, Louis M., 201-40-1145.
Wenker, Dennis A., 184-38-5882.
Wentrcek, Roy C., 449-86-5891.
Wenzloff, Gregory R., 375-50-0893.
Werle, Christopher, 223-72-1749.
Werner, Robert J., 475-54-9272.
Werner, Thomas E., 314-46-9617.
Whitcomb, Roy S., 266-74-7058.
White, George B., 228-62-6940.
White, Stephen J., 540-58-2732.
Whitfield, Donald D., 188-38-3417.
Widboom, Jon G., 474-58-5934.
Wielkoszewski, Arthur, 571-58-4357.
Wilcox, Stephen F., 519-54-5572.
Wilcox, Timothy J., 061-42-6031.
Wilkerson, Glenn D., 423-66-8724.
Wilkes, Robert W., 136-38-2354.
Willenbacher, John, 287-48-2469.
Williams, Charles H., 158-40-1343.
Williams, Charles M., 441-54-7080.
Williams, Emmett F., 258-76-5073.
Williams, Gary L., 561-56-4622.
Williams, Hilary M., 449-82-4227.
Williams, James A., 514-54-3442.
Williams, Karl B., 074-42-5405.
Williams, Randall C., 206-38-1085.
Williams, Richard A., 430-92-0348.
Williamson, Gary N., 405-72-7764.
Williamson, Herbert, 456-72-8744.
Williamson, Joel E., 228-72-4777.
Willis, James H., 555-82-9638.
Wilson, Charles B., 183-40-2466.
Wilson, Edward R., 199-36-2707.
Wilson, Jerre W., 420-62-6490.
Wilson, Ronald W., 282-44-1302.
Wilson, Theodore C., 466-84-3904.
Wilson, Warren D., 520-54-4764.
Wimbish, Calvin B., 217-50-4151.
Winkelman, Colin K., 485-62-7398.
Winslow, Richard L., 006-48-6267.
Witherel, Jeffrey A., 191-40-0499.
Wockenfuss, Clark H., 218-56-1448.
Wong, Alexander B., 080-42-7459.
Wong, Chadwick W., 575-52-7881.
Wonsik, John M., 463-72-1290.
Woods, John B., 198-40-5766.
Woodward, Robert L., 492-54-9281.
Woolfolk, Rogers J., 226-64-7992.
Wooten, Richard E., 251-96-1546.
Worthington, Glen D., 555-72-6509.
Wray, Timothy A., 554-78-0972.
Wright, Barry E., 031-34-4571.
Wright, James E., 308-48-4738.
Wright, Steven J., 320-44-8022.
Wright, Steven W., 585-32-5831.
Wright, Walter J., 160-40-5660.
Wyman, Francis L., 213-50-6773.
Wynn, Donald T., 546-76-8540.
Yakovac, Joseph L., 189-42-1273.
Yarrow, William M., 090-40-8653.
Yatsko, Larry W., 154-38-9615.
Yaws, Neil S., 454-78-9106.
Yee, Bobby, 527-74-0248.
Yesensky, Richard J., 546-74-0905.
Young, Alan R., 571-80-9770.
Young, Daniel E., 453-92-6525.
Youngblood, Richard, 585-44-5548.
Yrazabal, Mark A., 518-54-6109.
Zastrow, Richard G., 392-52-5928.
Zelazny, Robert C., 535-46-9216.
Ziemkiewicz, Frank, 178-38-3615.
Zimmerman, Richard, 190-40-4515.

WOMEN'S ARMY CORPS

To be captain

Brinckmann, Karen A., 229-66-3730.
Conklin, Zelda K., 483-50-0783.
Flye, Patricia A., 571-56-2713.
Horan, Linda M., 563-64-1021.
Jankowski, Lisa T., 393-48-4817.
Peters, Clarice J., 513-50-1441.
Pue, Veronika G., 533-54-0802.

DENTAL CORPS

To be captain

Balloch, Steven M., 174-42-0414.
Benner, Michael D., 539-44-7580.
Calverley, Mickey J., 458-82-3106.
Chamberlin, John H., 014-30-4444.
Davis, Larry D., 262-98-2499.
Dewald, Ernest J., 082-38-3061.
Diazrojas, Pablo, 582-78-9887.
Ellis, Randall W., 552-64-8470.
Green, Joseph M., 228-64-9953.
Johnson, Mark, 242-76-9945.
Jordan, John R., 259-82-8855.
Krautmann, Paul J., 486-52-0711.
Plautz, Henry S., 559-72-143.
Rajniak, John D., 286-46-4249.
Sculley, Patrick D., 067-40-5004.
Smith, Ben E., 410-74-6238.
Striano, Thomas S., 129-36-0847.
Webb, Joseph G., 250-76-9082.
Weller, Gary P., 494-50-0535.
Wheeler, James J., 470-54-6698.
Witker, Robert E., 272-38-4281.

MEDICAL CORPS

To be captain

Andersen, Peter A., 557-80-0638.
Beam, Thomas E., 220-48-2858.
Boyd, James F., 252-82-5178.
Carroll, Dale A., 248-86-7666.
Cornell, Floyd M., 445-54-0413.
Current, John D., 305-56-7825.
Davidson, Howard, 221-32-1278.
Downey, Gordon O., 467-80-3167.
Dye, Scott F., 227-70-5529.
Fogarty, John P., 131-38-9819.
Fortuna, Lawrence J., 504-54-4817.
Gooden, Stephen M., 239-76-0773.
Goodloe, Samuel Jr., 408-72-9016.
Haas, Royce A., 282-44-9757.
Hahn, David B., 264-46-8560.
Harvey, Robert C., 418-68-5403.
Hill, Marvin E., 410-86-3781.
Isenhower, Nelson N., 245-74-3762.
McCabe, James M., 225-70-2176.
Mein, Calvin E., 509-52-1766.
Moore, John W., 577-68-1040.
Muller, Thomas W., 217-48-2180.
Piacente, David A., 147-38-4123.
Pumphrey, Robert S., 524-66-8332.
Rebecca, George S., 148-40-7485.
Reid, Michael L., 431-88-2950.
Roden, William C., 409-82-6690.
Ross, Allan L., 527-86-4776.
Sakas, Edward L., 224-72-0190.
Scavone, John A., 467-84-5794.
Steinweg, Kenneth K., 191-40-0178.
Tramont, Edmund C., 047-30-2280.
Weeks, Kenneth D., Jr., 238-82-1931.
Young, Robert M., 457-78-4963.

MEDICAL SERVICE CORPS

To be captain

Baker, Stuart W., 113-38-4449.
Berry, Jon G., 232-66-1634.
Bouck, Grant S., 456-72-3582.
Brandes, Bruce D., 358-34-9453.
Burton, Lloyd R., 506-56-7264.
Cahill, William R., 533-42-3245.
Chaffee, Dennis L., 195-38-5339.
Charlesworth, James, 502-50-5430.
Cisneros, Guillermo, 455-90-1188.
Coburn, Dale P., 524-66-9686.
Comin, Larry E., 520-46-9193.
Cothran, Thomas L., 248-78-5351.
Dagostino, Michael, 522-64-5145.

Davis, Ford R., 450-84-8931.
Dolan, Kerry B., 534-50-2512.
Driggers, William D., 261-68-7104.
Dukes, Michael W., 534-50-9847.
Egmon, Gary W., 324-38-4645.
Fenlason, Robert W., 523-56-5296.
Fogarty, John M., 109-38-9758.
Fogle, Allen R., 249-88-7038.
Gaschen, Fredrick S., 037-30-6731.
Goodman, Thadious L., 227-72-6457.
Graski, George M., 219-52-7893.
Grassia, Philip G., 146-36-4497.
Guillen, Atanacio C., 454-80-7292.
Gutierrez, Anthony, 244-86-5302.
Hilts, Barry W., 547-66-4859.
Horne, Rodney J., 228-68-5316.
Indrisano, Gerard S., 021-36-2139.
Johnson, Darryl F., 069-42-8471.
Lamarche, Stephen M., 542-48-1521.
Levens, Jack L., 463-78-5355.
Loader, Michael B., 457-88-7640.
Madden, Gary E., 465-74-7486.
Madeo, Peter D., 228-66-8702.
Martin, James A., 020-38-5345.
Martinez, Manuel E., 463-76-2939.
Martinez, Phillip T., 527-84-3786.
McCormick, Roscoe, 241-78-6614.
New, Hector, 431-70-4701.
Nickel, Gary W., 398-48-3925.
Olson, Calvin J., 529-60-3864.
Opio, Roger M., 439-70-3417.
Orme, Terry J., 519-52-1515.
Phillips, Edward P., 218-50-0837.
Pigford, Joe N., 240-76-8526.
Plymyer, David A., 202-36-2600.
Reinsch, Gary L., 495-52-3867.
Reisenleiter, Philip, 495-42-3878.
Rose, Charles A., 536-56-0028.
Sheppard, Anthony J., 578-66-3654.
Smith, Lee T., 463-76-9738.
Stagliano, Richard, 181-36-8298.
Stinson, Karl R., 535-50-4820.
Swenson, Gerald B., 032-34-6847.
Tate, David B., 218-52-6224.
Turner, Gilbert F., 223-66-1887.
Tyler, Geoffrey H., 214-58-0602.
Ursone, Richard L., 047-44-5290.
Wanzer, Christopher, 416-64-7884.
Weiss, Robert D., 163-42-9275.
Wigger, James R., 222-28-0501.
Zurcher, John W., 564-72-6152.

ARMY MEDICAL SPECIALIST CORPS

To be captain

Bracewell, William, 257-82-9619.
Brandenburg, Joe W., 402-72-8483.
Daigle, Wade W., 434-62-8958.
Fullerton, Jack S., 544-58-0225.
Going, James W., 155-34-2663.
Herzberger, James K., 181-36-7706.
Hobson, Karen P., 204-38-7023.
Rousey, James L., 404-64-6062.
Woerman, Allyn L., 518-56-1591.

VETERINARY CORPS

To be captain

Bartz, Curtis R., 517-50-1204.
Hines, Fred A., 447-48-2873.
Rafio, Norman L., 270-42-2617.

ARMY NURSE CORPS

To be captain

Alfino, Joyce, 131-40-7701.
Ball, Bettye H., 467-88-9805.
Barber, Patricia F., 236-68-1922.
Beaty, James M., 540-56-9535.
Beeman, Thomas A., 468-54-5458.
Berry, George E., 163-38-0874.
Boggess, George H., 468-56-6307.
Bolcar, Blinn S., 450-80-5757.
Brink, Dorothy A., 195-40-7640.
Callahan, Michael F., 480-54-0926.
Callan, Thomas E., 120-38-9805.
Carle, Marcia L., 575-58-9914.
Carroll, Vonna J., 209-30-7391.
Carter, Michael R., 519-42-9685.
Christensen, Donald, 503-52-3713.
Corbin, Kathleen C., 351-44-0216.
Darden, Marianne L., 148-42-3008.
Deangelis, Richard, 085-42-1463.
Dell, Edward E., 185-36-4280.
Dillinger, Paul L., 285-42-7134.
Dixon, Ernestine, 228-60-8523.
Dunn, Linda J., 103-42-5297.
Evans, Rosalie K., 400-64-7520.
Flynn, Patricia J., 452-84-2431.
Gilbert, Deri H., 196-36-5172.
Glenn, Alvin E., 431-96-1346.
Hamparian Phyllis, 231-70-0336.
Hardaway, Russell G., 409-80-2632.
Heil, Elizabeth A., 461-90-2501.
Henricson, Lawrence, 110-36-1035.
Heresa, Sadonyia J., 401-74-3327.
Hudson, Sharon R., 265-90-4779.
Jackson, Brendel J., 039-32-7134.
Jameson, Jill C., 279-46-1644.
Kalbfleish, Julia E., 404-68-4786.
King, Mary M., 391-54-3526.
Kinsinger, Daniel A., 481-54-6078.
Lanam, Jon P., 398-40-3131.
Lensing, William A., 334-42-6770.
Levinson, Carolyn H., 517-58-5301.
Martin, Gerald K., 434-68-8614.
Maslowski, Charlott, 504-58-3642.
McCormack, Patricia, 532-40-7037.
McLaren, Mary E., 058-42-4805.
McNeil, Jack L., 456-76-0417.
McQueen, Viola C., 438-56-5175.
Menton, Leta K., 462-80-9024.
Millican, Jerry W., 465-74-1366.
Mills, Sharon I., 185-40-5659.
Mull, Ellen A., 231-58-5414.
Nelson, Sharon J., 474-58-1121.
Newman, Peggy F., 153-30-1778.
Nieves, Wilfredo, 566-72-0689.
Nipps, Marcella A., 503-46-2525.
Owens, Patricia O., 225-72-5503.
Parry, Barbara A., 461-84-1621.
Peterson, Rodney C., 065-42-1655.
Powell, Jerry W., 429-92-2950.
Prucha, James F., 505-60-7101.
Purol, Rose M., 167-38-6379.
Ray, Karen L., 148-40-7894.
Reeves, Carla M., 545-78-9123.
Ross, Patricia A., 242-82-2393.
Sarran, Sue C., 456-76-6525.
Schilhab, Galynn E., 181-34-8822.
Scott, Charlene, 421-72-5125.
Smith, Michael C., 507-56-5762.
Soden, Virginia D., 237-82-5904.
Strzelecki, Lorna R., 216-48-1060.
Sullivan, Candice J., 489-58-6919.
Taddiken, Patricia, 530-42-0001.
Thompson, Charles F., 505-54-7103.
Troop, Michael D., 347-36-9028.
Vanhook, Thomas J., 502-50-4618.
Varney, Kathryn E., 262-76-7357.
Watson, Eileen K., 060-34-3480.
Wells, Dawn L., 395-52-0796.
Williams, Barbara G., 504-56-2280.
Woolsey, Mary M., 467-68-9906.
Youngberg, Barbara L., 064-40-3638.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 8284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Arm, Stephen P., 233-86-8884.
Carroll, Samuel J., 428-96-5252.
Coleman, Aaron R., 421-64-7414.
Hicks, Ancil L., 424-60-9311.
Kirsch, Richard J., 298-42-9903.
Tichenor, Arthur H., 317-52-2634.
Whealy, Michael T., 504-56-2187.

MEDICAL SERVICE CORPS

To be first lieutenant

Heinemann, Warren R., 521-52-7806.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be major

Abercrombie, Thomas, 419-52-3734.
Aberg, Eric T., 474-44-8234.
Abney, Robert O., 373-40-5885.
Adair, William H., 567-50-7450.
Adams, Doye W., 224-50-2719.
Adams, James L., 218-36-8412.
Adams, John B., 562-58-5368.
Adams, Richard M., 247-52-9684.
Ahern, Michael B., 520-40-5580.
Ahrens, Robert E., 566-50-2215.
Alexander, Alfred A., 049-28-0726.
Alexander, William, 230-54-4148.
Allan, William D., 020-26-9189.
Allen, Frank B., 256-54-7285.
Allen, Ralph L., 434-56-1461.
Allen, Richard B., 043-32-5905.
Allen, Robert A., 229-56-3396.
Allen, Troy N., 444-40-2374.
Allison, David B., 480-48-3039.
Allman, Douglas D., 563-54-9231.
Alt, Emile A., 435-56-4819.
Ames, Robert A., 065-34-8196.
Amrine, Robert M., 286-36-9370.
Anderschat, Richard, 327-32-3489.
Anderson, Dean R., 253-64-7558.
Anderson, Martin S., 563-54-0752.
Anderson, Norman L., 474-46-4082.
Anderson, Robert W., 227-48-1862.
Anderson, Stephen M., 527-56-9791.
Andrae, Raymond R., 389-34-5958.
Andrews, Andrew E., 551-58-8258.
Ankrom, Charles B., 283-32-3283.
Annan, William M., 213-40-0685.
Antonoplos, David J., 171-30-3200.
Armistead, Joseph D., 465-66-1097.
Armour, Richard J., 064-34-5083.
Armstrong, Henry J., 417-50-4404.
Armstrong, William, 441-38-8089.
Arnold, Edward D., 416-54-2266.
Arnold, Joseph C., 110-34-9619.
Arnold, Richard L., 343-32-1190.
Arrington, Jimmy S., 419-44-6865.
Arrington, John W., 241-62-1068.
Ashworth, Jimmy P., 459-52-8319.
Askew, Arthur M., 263-64-4226.
Atcheson, Donald W., 139-32-5669.
Atkins, Ronald L., 509-40-5731.
Austin, Andrew L., 263-50-4845.
Austin, Lavern M., 543-48-9920.
Bacheldor, Ned W., 319-34-4563.
Bachman, Howard F., 293-36-5384.
Bachman, James H., 316-40-5176.
Baer, James T., 272-30-6335.
Baggett, John A., 424-40-3332.
Baggot, Francis M., 578-58-4639.
Bailey, Dalene G., 548-54-2498.
Bailey, Robert N., 567-52-407.
Bain, Seavy A., 239-64-4917.
Baisden, Edward D., 267-60-8732.
Baker, Ralph K., 230-44-6599.
Baker, Robert J., 534-36-5235.
Balderson, Robert A., 110-34-9484.
Baldwin, Roger L., 286-36-5972.
Ball, Francisco, Jr., 460-62-1298.
Ballagh, Robert S., 521-44-4388.
Ballard, Stephen D., 513-44-2446.
Baratto, David J., 555-52-4047.
Barcomb, Paul J., 108-32-7786.
Barfield, John R., 254-56-9718.
Barnes, Charles W., 230-54-4302.
Barnhart, Robert N., 514-36-9403.
Barr, Douglas H., 538-38-6590.
Barrera, Fabricio J., 465-66-0666.
Barrett, Robert W., 511-40-4329.
Barrett, Thomas P., 423-52-8382.
Barrie, Jeffrey E., 125-30-9242.
Barrow, Joseph M., 534-38-0337.
Barthmus, Winfried, 173-32-7472.
Bartholomew, Daniel, 171-32-1562.
Bartlett, James A., 451-68-0180.
Bartz, Richard C., 150-32-7385.
Basile, Domenic F., 209-32-6645.
Bassett, Byron E., 549-48-7052.
Bassett, Lionel T., 165-34-3970.
Batchelder, Michael, 491-44-8547.
Bates, Jared L., 060-34-9134.
Battaglioli, Victor, 020-30-0417.
Baucum, Tommy A., 457-58-4430.
Baumann, Charles H., 009-28-2138.
Bawell, Walter A., 182-32-6047.
Bayer, William K., 162-34-2976.
Beale, Richard E., 577-58-3919.
Beall, Marshall D., 529-54-3732.
Beardslee, Harold M., 381-38-4728.
Beasley, Lonnie S., 455-68-2612.
Beaumont, Richard A., 023-32-6093.

Bechtold, Earl E., 201-32-0211.
Becker, Loren L., 505-40-3747.
Bedell, Larry L., 465-62-1510.
Behr, Steven, 069-34-4795.
Beierschmitt, James, 207-32-5931.
Beiler, George W., 175-32-9538.
Beilharz, Kurt O., 098-32-3106.
Bell, David G., 428-78-8153.
Bell, Kenneth D., 189-28-5397.
Bell, William A., 227-52-5791.
Bellamy, Mark L., 494-38-7309.
Bender, Michael J., 228-48-6817.
Bennett, John L., 048-32-6053.
Bennett, Leon L., 247-70-8961.
Bennett, Thomas B., 429-76-8589.
Benton, John G., 214-36-3896.
Bentz, Kenneth, Jr., 447-34-4341.
Bergen, John D., 094-32-1206.
Bergeron, Daniel M., 021-30-8747.
Bergman, David M., 440-40-6658.
Berk, Walter L., 530-24-1316.
Berner, Robert L., 267-60-2725.
Berrong, Larry B., 259-64-9331.
Bezner, Robert Z., 061-34-9705.
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Sisson, David J., 164-32-6632.
Skerker, Alan L., 090-34-6527.
Slayton, A. G., 431-56-4061.
Sligar, Norman F., 519-38-1418.
Smay, Donald R., 185-34-0224.
Smith, Blaine H., 441-40-7014.
Smith, Carlton H., 263-52-6696.

Smith, Cecil C., 248-62-0879.
Smith, David R., 213-38-3113.
Smith, Edward C., 277-32-8804.
Smith, Freddie G., 284-34-2180.
Smith, George F., 436-58-0036.
Smith, Grady A., 497-38-5874.
Smith, James L., 530-22-6979.
Smith, Melvin S., 228-44-0686.
Smith, Ray T., 542-42-5340.
Smith, Richard G., 433-58-9471.
Smith, Thomas G., 259-54-2629.
Smith, William H., 313-40-9436.
Smor, Francis M., 264-56-8287.
Snodgrass, Wilder M., 524-46-1480.
Snow, Joseph T., 015-32-4046.
Soderberg, John D., 144-30-7036.
Solander, Gary G., 511-32-9345.
Sottak, Barry J., 001-30-5143.
Sowell, Norman E., 542-46-9777.
Speedy, John C., 110-34-9626.
Spells, John D., 248-72-7277.
Speranza, Nicholas, 068-34-3176.
Spinosa, Ray D., 021-32-7531.
Sprague, Kenneth E., 528-46-9155.
Spruill, Matthias A., 261-70-4364.
Squire, Willard S., 371-36-5501.
Staley, David H., 567-52-1563.
Stalmann, Bernard E., 188-32-1114.
Stamm, Richard L., 511-40-8251.
Stanfield, Howard S., 319-32-4230.
Stapleton, James B., 093-32-3220.
Starnes, John L., 412-64-0533.
Steadman, Robert P., 411-62-4523.
Stephens, Robert F., 205-28-5773.
Sterling, Douglas F., 518-38-9763.
Sternberg, Ben, Jr., 110-34-9494.
Stevens, Dale M., 473-40-6698.
Stewart, Charles W., 225-52-3022.
Stewart, Donald P., 290-34-3822.
Stewart, Robert L., 427-90-0242.
Stewart, Thomas W., 530-22-2453.
Stisitis, Robert P., 044-32-6676.
Stocker, Ralph F., 363-38-4102.
Stonecipher, Roy L., 526-46-5760.
Strange, Grady L., 248-54-4771.
Stringer, Hugh L., 262-62-1293.
Stroud, Richard M., 263-52-3149.
Stunkard, Larry E., 346-32-2468.
Stupar, Rudolph A., 325-34-9638.
Styer, Norman W., 199-32-6328.
Sullivan, Darr F., 249-68-5966.
Sullivan, David E., 444-40-9528.
Sullivan, David E., 479-38-3554.
Sutherland, Cameron, 226-48-6580.
Sutherland, Garrell, 517-34-7554.
Sweeney, Robert D., 395-38-2505
Sweet, Worth A., 238-58-0121.
Swenson, Peter C., 144-32-5475.
Swink, Terry E., 413-62-6991.
Sylvester, Louis A., 423-50-3097.
Tanaka, Richard M., 518-44-1205.
Taylor, Donald R., 425-66-1909.
Taylor, Frederick C., 005-40-9711.
Taylor, Herbie R., 462-64-0981.
Taylor, John M., 256-52-6506.
Taylor, John W., 140-34-9722.
Taylor, William E., 375-40-4071.
Teal, Donald R., 297-34-5801.
Tedesco, Vincent J., 056-34-1066.
Terrell, Richard H., 454-58-8166.
Terry, Robert B., 253-66-7457.
Tetu, Robert G., 230-54-7411.
Thackston, Bruce L., 089-34-3520.
Theriault, Alfred J., 036-26-0123.
Thie, Harry J., 136-34-6919.
Thomas, John T., 262-64-1550.
Thomas, Joseph D., 084-34-2408.
Thomas, Robert E., 254-60-7326.
Thomas, Thomas N., 391-38-4248.
Thomas, Trent N., 556-62-7016.
Thomason, Jeffrey H., 059-32-6137.
Thorlin, Philip S., 566-54-5672.
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Timian, Robert C., 391-42-9416.
Tingle, Gordon W., 253-56-5797.
Tivol, Edwin A., 495-42-5303.
Todd, Timothy O., 542-38-5211.
Togashi, Theodore T., 576-38-6323.
Tolley, Elmer W., 235-62-9784.
Tomita, Ralph S., 575-36-9406.
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Toney, Elijah, 219-38-3288.
Tonsetic, Robert L., 185-34-5426.
Torrence, Harry L., 238-50-2616.
Totten, Michael W., 008-32-5617.
Tratensek, Milivoj, 327-32-8403.
Trifiletti, Anthony, 272-36-7320.
Tripler, David J., 367-42-4018.
Triplett, Robert L., 232-68-9958.
Truesdell, John C. 149-32-3529.
Tucker, Edwin H., 525-98-5932.
Tudela, John A., 449-68-5074.
Tugwell, Tyler, 220-40-7139.
Turchiano, Nicholas, 067-34-5326.
Turner, Charles E., 250-66-3345.
Turner, Richard W., 494-44-5828.
Turner, William E., 127-32-9829.
Tuttle, Herbert M., 039-24-8475.
Twining, David T., 215-42-6140.
Tyson, Robert K., 166-30-1611.
Tyson, William E., 252-72-2578.
Uecke, John W., 444-40-9416.
Ullmann, Donald F., 113-32-0839.
Underwood, Alan K., 509-40-8855.
Unlaub, Carl G., 450-58-4271.
Unzelmann, Werner O., 167-32-1783.
Utley, Melvin A., 504-46-2198.
Vanbrero, Erik, 043-32-8831.
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Vandernaald, James, 104-32-0082.
Vanmatre, Donald G., 520-42-9992.
Vansciver, Robert B., 100-28-5707.
Vansteenburg, Robert, 267-60-8570.
Vaughan, Herbert G., 551-56-3415.
Vedrani, Ronald W., 020-30-2189.
Velezis, James A., 049-28-1211.
Vencill, Carleton P., 530-24-6017.
Verdier, Douglas L., 172-32-0196.
Vernon, Edwin T., 423-44-0042.
Viall, Charles C., 036-26-6332.
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Vines, Bobby L., 422-50-8866.
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Von Schilling, Lucien, 229-52-4012.
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Wahl, William E., 521-56-4580.
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Walk, Gary J., 110-34-9636.
Walker, Clyde E., 374-40-5112.
Walker, James L., 320-36-8199.
Walker, Lyman J., 478-48-4604.
Walker, Patrick E., 442-44-0691.
Walker, Richard B., 307-38-6738.
Walker, Thomas M., 227-52-4065.
Walters, Robert P., 266-60-5711.
Walters, William P., 214-34-8461.
Ward, Dennis, 446-38-1003.
Ward, Emmett J., 224-48-7328.
Ward, Franklin M., 221-24-0376.
Ward, Robert N., 441-42-7006.
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Warren, Dennis M., 430-68-9437.
Warvari, Harold E., 101-32-1594.
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Watts, James W., 439-58-9966.
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Weaver, Noel L., 450-50-5363.
Weaver, Thomas C., 220-40-7565.
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Weigand, James R., 280-36-0351.
Weisel, Stephen L., 080-34-9672.
Weisman, Donald E., 303-44-5444.
Weiss, Robert M., 159-34-2424.
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Werner, Gerald C., 396-38-4440.
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Westfall, Grover D., 448-38-0116.
Wettack, John T., 510-40-7680.
Wetzel, David C., 166-32-6115.
Wharton, Richard R., 028-28-9713.
Wharton, Richard W., 228-46-6750.
Wheat, Paul A., Jr., 133-28-0310.
Wheeler, Wayne R., 016-32-0477.
Whelan, Richard W., 482-40-9362.
Whitaker, James P., 467-62-6571.
White, David E., 500-40-0699.
White, Steven L., 267-60-1215.
Whitehorne, Joseph, 033-32-0626.
Whitney, Douglas W., 521-46-9185.
Whitney, Roger B., 539-34-3238.
Wikan, Michael E., 110-34-9524.
Wilde, James E., 490-38-4449.
Wildrick, Edward W., 264-56-0655.
Wilkerson, Arthur F., 419-52-5028.
Wilkins, George H., 453-58-8495.
Williams, Gene R., 532-32-9365.
Williams, Norman E., 219-42-0353.
Williams, Oler P., 431-76-3288.
Williams, Roger D., 520-44-1619.
Williford, Sherman, 224-50-3744.
Willis, Edward J., 106-34-5494.
Willis, Mitchell H., 254-70-6832.
Wilson, Charles V., 502-40-8773.
Wilson, Edward E., 244-58-9369.
Wilson, James L., 515-40-8575.
Wilson, Lee H., 538-36-9432.
Wilson, Roy W., 467-54-6944.
Wilson, William F., 206-32-6392.
Winder, Gordon L., 522-54-1447.
Winslow, Wendelin W., 537-36-6622.
Winston, Albert P., 444-36-0813.
Winton, Harold R., 110-34-9629.
Wissinger, Thomas R., 166-34-5740.
Wolfe, Jack W., 185-30-6692.
Womble, Carl C., 425-84-2548.
Wong, Frederick G., 576-38-5227.
Wood, Norman M., 572-52-9362.
Woodbury, Kenneth M., 044-32-8153.
Woods, Alex, Jr., 532-38-3449.
Woods, Jackie W., 234-58-1826.
Woods, Leroy, 099-32-6689.
Woolsey, George T., 110-34-9631.
Woolums, Cecil R., 402-42-9768.
Work, Samuel C., 197-34-6408.
Wright, Richard H., 252-56-7098.
Wrona, Richard M., 349-34-2927.
Wyatt, Lawayne A., 306-40-8868.
Wynn, Robert E., 413-62-8028.
Yamada, Earl M., 576-40-3202.
Yancy, Jimmy B., 428-80-9577.
Yankoupe, Roger F., 050-34-2846.
Young, Richard J., 136-36-9138.
Young, Robert F., 577-54-7740.
Young, Robert H., 137-30-1259.
Youngblood, Norman, 230-54-7499.
Yourtee, Leon R., 223-54-8587.
Yurcaba, John, Jr., 207-28-6531.
Zadrozny, Paul F., 167-32-2067.
Zana, Donald D., 204-32-5904.
Zadrozny, Paul F., 167-32-2067.
Zweig, Richard N., 145-32-7154.

CHAPLAINS CORPS

To be major

Adams, Charles V., 494-46-6414.
Ashurst, Turpin C., 424-50-8763.
Autry, Jerry D., 244-52-6903.
Bailey, Harvey E., 537-34-5458.
Baldwin, Charles S., 408-60-9130.
Berbiglia, James C., 457-52-4305.
Brown, Clyde G., 445-32-2455.
Burgin, Max E., 242-48-7926.
Carroll, Tom A., 458-44-1431.
Fraker, Thomas R., 411-54-7763.
Gantt, Stephen Y., 247-60-0260.
Gunhus, Gaylord T., 531-38-7632.
Hill, Thomas M., 224-50-4282.
Jackson, James T., 255-48-8789.
Johnson, Roger W., 212-38-0623.
Lieving, Bernard H., 236-58-7994.
Luedee, Rene, 046-24-1341.
Mangham, Gerald M., 442-34-3341.
McCarthy, Michael J., 119-24-8270.
Moon, Austin D., 433-46-2404.
Reynolds, Jerry D., 462-62-8316.
Snider, John E., 486-36-7993.
Sullivan, Luke F., 055-28-7527.
Szilvasy, John A., 303-32-7896.

Thompson, Thomas R., 249-58-8308.
Torp, John P., 178-24-8173.
Wasserman, Harold, 142-34-3225.
Zimmerman, Matthew, 250-62-9941.

WOMEN'S ARMY CORPS

To be major

Brajkovich, Catherine, 054-32-6515.
Bransford, Ann H., 129-28-7114.
Cain, Carolyn H., 147-28-5882.
Delora, Jo Ann, 569-56-6021.
Fincher, Betty H., 467-66-2442.
Harris, Betty J., 419-56-0976.
Jackson, Mary E., 230-54-1250.
Larson, Jane S., 229-46-5988.
Redman, Gloria D., 556-56-3367.
Ruth, Marilyn M., 472-46-7773.

DENTAL CORPS

To be major

Bogart, Marc D., 056-32-7423.
Bogue, John P., Sr., 293-36-5579.
Culver, David G., 516-36-5498.
Davis, Albert L., 456-68-7969.
Davis, Stephen S., 268-40-6228.
Divita, Carl L., 098-34-1894.
Drosos, George M., 289-32-7023.
Ferguson, Richard L., 473-48-5496.
Gardner, Furmon M., 429-80-4023.
Gunderson, Ronald B., 220-42-7544.
Ivanhoe, John R., 437-62-9270.
Jeffrey, Gary D., 506-52-7662.
Johnson, Richard L., 446-42-2640.
Krakow, Arthur M., 120-34-5116.
Kraut, Richard A., 071-34-6013.
Labounty, Gary L., 479-42-5247.
Liggett, William R., 456-64-9158.
Lopez, Jesus Jr., 585-10-0117.
McBride, Richard F., 330-34-2173.
Moergeli, James R., 533-40-0341.
Newbry, Everett G., 534-38-6249.
Peters, Donald D., 517-46-2371.
Petrucci, Vincent A., 102-34-7753.
Phillips, Bruce B., 491-50-5526.
Pirk, Frederick W., 499-46-0185.
Pohlmann, Bernard H., 585-05-7875.
Reddy, Thomas G., 089-32-7984.
Stanford, Thomas W., 434-58-8322.
Stankewitz, Charles, 441-36-8882.
Stringer, John L., 439-62-0602.
Svec, Timothy A., 340-34-1444.
Todd, Maylon J., 559-58-7631.
Wallace, Douglas C., 404-58-3945.
Wallace, William F., 274-38-3553.
Wilke, Gary M., 335-36-3293.
Woodruff, Harvey C., 226-54-6371.

MEDICAL CORPS

To be major

Antopol, Michael R., 024-30-1341.
Blanck, Ronald R., 180-32-0666.
Bridenbaugh, Robert, 543-48-9267.
Brinkman, Larry K., 320-34-1646.
Cagle, Donald E., 446-48-6946.
Chaput, Christopher, 457-68-6180.
Coppin, Thomas D., 529-48-4764.
Dunnington, Glenn W., 522-52-6859.
Farr, James E., 249-62-5376.
Giordano, Frank L., 100-32-7894.
Gordon, Donald J., 219-36-9650.
Gruschkus, Gerhard, 449-68-2717.
Haym, Jerome L., 113-34-3067.
Henry, James M., 346-26-7884.
Imonen, Robb E., 380-40-2851.
Kyser, Kay A., 488-48-5327.
Lewis, Ronel L., 242-64-9175.
Marrero, Gualberto, 081-34-2548.
Mazat, Bruce A., 457-62-3064.
McWatters, Jack W., 123-32-6763.
Myers, William D., 231-58-0029.
Mylander, Kenneth W., 280-36-6214.
Plucinski, Theodore, 355-30-8945.
Sisler, Gary L., 277-30-1259.
Thompson, Needham J., 241-52-9342.
Traylor, John A., 252-66-4848.
Walker, John D., 400-62-3639.
Wilson, Robert M., 523-50-3426.
Woodall, John B., 461-60-8513.

MEDICAL SERVICE CORPS

To be major

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Adams, Thomas H., 225-54-9481.
Adams, William D., 526-60-9977.
Addison, Wilbur D., 227-52-6706.
Avery, Ronald L., 457-66-0742.
Bazany, James L., 343-30-2939.
Bennett, James R., 168-34-9706.
Bennett, Roger A., 118-32-5251.
Blankenship, Dumont, 520-44-6604.
Boland, Edward J., 569-54-5926.
Boyd, Raymond D., 219-38-3615.
Brady, Thomas F., 036-24-2035.
Bulla, Bill F., 515-40-2876.
Clark, Jerald D., 445-34-7888.
Cole, Edward G., 161-32-5379.
Conway, John W., 519-38-0565.
Cook, Richard E., 476-40-0704.
Cunningham, Jerry A., 423-50-9984.
Dorsey, Philip L., 485-46-2119.
Duncan, William H., 091-32-5040.
Durand, William B., 137-26-4641.
Eaton, Frederick A., 578-54-8218.
English, Lamont B., 445-42-1269.
Ethington, William, 259-68-5481.
Fechner, Robert F., 499-44-2311.
Foster, James M., 155-30-3130.
Freeman, Harry T., 429-52-5394.
Freeman, Joseph B., 223-48-2598.
Frew, William D., 402-52-4300.
Guinn, Joe L., 467-48-8928.
Hammond, George E., 260-52-8838.
Hart, John S., 241-64-5356.
Helmbold, Richard F., 257-62-7308.
Higbee, James W., 565-42-7430.
Hill, Anthony W., 212-40-6080.
Hilliard, Robert W., 421-46-0729.
Hopkins, Clarence E., 252-60-9103.
Hrubetz, John E., 364-36-6630.
Isgrig, Frederick A., 429-72-4502.
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Jordan, Charles O., 515-38-6026.
Jorlett, Joel, 219-38-3653.
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Lohmiller, William, 397-38-2661.
Lull, George F., 523-50-4369.
Maxwell, Clyde E., 253-58-2202.
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McGibony, James T., 579-56-9484.
McNelis, Peter J., 176-30-7857.
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Mekkelson, Peter W., 391-38-7207.
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Mora, Edward A., 466-64-5681.
Moses, Marris H., 247-66-3035.
Mote, Edgar F., 256-58-4626.
Murry, James H., 438-58-2353.
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Parker, Stanley R., 245-60-8196.
Parmer, Bert E., 261-46-9494.
Patterson, James F., 463-56-8978.
Perkins, Jacob H., 411-62-4845.
Picone, Gaspare P., 082-30-8993.
Pleasants, James L., 238-62-7562.
Poe, Gerald D., 432-64-8752.
Purcell, Jackson D., 375-42-8675.
Redington, Bryce C., 483-48-1350.
Reed, John F., 046-34-3984.
Reed, Podge M., 437-60-7228.
Reichard, Lawrence, 156-30-8028.
Reineck, Theodore C., 398-34-7319.
Richards, Robert E., 181-34-7586.
Rosenberg, Leroy J., 247-62-5625.
Sandidge, William M., 228-50-8415.
Sargent, Martin W., 254-66-2749.
Sawyer, James R., 256-64-1667.
Schlenger, Patrick, 126-32-7182.
Shaffer, William J., 520-40-9879.
Sharp, Fred P., 574-10-9751.
Speer, Wiliam L., 511-42-8135.
Stingle, Norbert A., 399-42-3232.
Stockmoe, Lyle D., 501-28-8187.
Tudor, James H., 157-30-2245.
Turner, Milton E., 403-54-2222.
Valenti, Fred, 261-52-7443.
Vanwagoner, Frank A., 223-50-9325.
Walker, Jimmy, 224-48-7922.
Waters, Henry J., 240-68-1962.
Watts, Olen C., 247-70-9802.
Weeks, Hershel E., 419-54-5451.
Wells, Robert A., 283-36-9154.
White, John R., 100-30-6564.
Williamson, James A., 475-44-0672.
Wilson, Claude L., 446-40-7333.
Wilson, Gary R., 380-40-0257.
Wood, Robert T., 461-34-1701.
Wright, Frederick L., 409-36-0479.

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Fridlund, Karen E., 470-48-9072.
Harper, John A., 328-32-8665.
Mayberry, John D., 566-22-4773.
Monagan, Charles F., 416-52-8295.
Selman, Sherley W., 258-66-7348.
Sudduth, Dora M., 259-60-1422.
Thomes, Linwood J., 267-70-7777.

VETERINARY CORPS

To be major

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Burris, William K., 516-48-1036.
Chapple, Frank E., 466-62-7256.
Cirone, Salvatore M., 339-32-7583.
Debok, Phillip C., 543-44-3514.
Heil, James R., 183-34-8438.
Lafontaine, Daniel, 270-40-3998.
Linn, Jeffrey M., 265-64-7946.
Rafio, Charles P., 291-36-8773.
Varley, James E., 471-44-8135.
Vogel, Lyle P., 468-46-9594.

ARMY NURSES CORPS

To be major

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Ashjian, Ann N., 493-46-8195.
Baca, Richard C., 522-52-7086.
Baker, Thomas D., 368-40-7674.
Blanchard, Josephine, 516-36-9595.
Boaz, Evelyn E., 225-60-3688.
Brodkey, Caroline G., 265-60-4781.
Brown, Mary L., 391-40-2854.
Couch, Kenneth R., 528-48-1496.
Danner, John A., 083-26-6915.
Devin, Kathleen, 572-54-6084.
Edwards, Carolyn L., 266-74-4042.
Ellis, Merlan O., 518-42-8714.
Evert, Richard H., 506-50-6193.
Gensler, Ivonna B., 124-28-6487.
Gouldthorpe, Barbara, 230-48-8801.
Griess, Lorna L., 550-54-9771.
Jaquez, Virginia, 526-48-1539.
Jerney, Charlotte O., 390-40-3475.
Johnson, Sandrah W., 003-28-2238.
Johnston, Zula J., 194-30-6626.
Kramer, Robertajo A., 178-34-5577.
Matson, Erland G., 370-34-9704.
McCasland, Nickey J., 460-58-4000.
Messerschmidt, Mary, 296-32-8018.
Moreau, Donald M., 007-36-0816.
Pearce, Maurice C., 366-36-8163.
Shafer, Kathleen M., 387-40-2881.
Stemm, Patricia A., 301-28-7343.
Tollefson, Marilee, 503-50-2060.
Underhill, Lilburn, 261-52-9747.
Urban, Donald D., 284-34-7853.
Victor, Joseph A., 211-32-9515.
Wolf, Jo Ellen, 272-38-8761.
Zahm, Karen E., 064-34-7767.
Zanto, Raymond L., 394-32-2895.
Zuelke, David H., 393-38-6717.

EXTENSIONS OF REMARKS

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HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. STEERS. Mr. Speaker, the benefits of a highly technical, consumer-oriented society are many, but the dangers accompanying such a system should not be ignored. Television is one of these dangers. It is my belief that the hours of commercially popular, violent programs are distorting the picture that American children get of the role of violence in society.

For that reason, I have cosponsored House Resolution 345, introduced by my distinguished colleague from Illinois (Mr. RAILSBACK), which expresses that it is the sense of the House of Representatives that there exists a sufficient indication of a relationship "between the level of violence depicted on television and a distorted view of social reality held by heavy viewers of television to warrant consideration of such relationship by those persons responsible for television programing and broadcasting in the United States."

I think that the Congress should be extremely cautious in approaching this national problem. We must not impose restrictions on the constitutionally guaranteed rights of expression, but this does not condone congressional inaction. I urge my colleagues to examine this problem. I am therefore inserting into the RECORD the following article that appeared in the Washington Post on September 13, 1977.

CBS STUDY IN BRITAIN LINKS TV, REAL-LIFE VIOLENCE

(By Bernard D. Nossiter)

LONDON, Sept. 12—Does television violence breed violence?

Emphatically yes, answers William Belson, who has just announced the central findings of a six-year study here financed by the American television network, CBS. After prolonged interviews with 1,565 London boys, Belson concludes that those who watch screen violence for long periods commit 50 per cent more rape and other mayhem than those whose viewing is limited.

Unproven, replies Stepehn Brody of the British Home Office, who has coincidentally published a survey of all previous research on the question. These studies suggest at most, he argues, that the violent-prone may enjoy and gain reinforcement from watching violence on the screen, but it is unlikely to affect the behavior of the ordinary viewer.

The $290,000 study was done here rather than in the United States because Belson and his London School of Economics survey team, whom CBS wanted, preferred to do the work here.

It has captured a great deal of attention here, largely because of its blunt conclusions.

One of the most startling for a British society that likes to regard itself as peaceful is the high level of violence among youths aged 13 to 16.

Nearly one in eight of those questioned, 12 per cent, told Belson's interviewers that they had committed 10 or more serious acts of violence in the previous six months. Some examples: knocking a boy off his bike, breaking a telephone in a booth, throwing bricks at a girl, kicking a boy hard in the crotch, burning a boy's chest with a cigarette, attempting rape and bashing a boy's head against a wall.

Of Belson's group of 1,565, only 725 claimed not to have committed a single serious violent act.

To determine television's effect, Belson, a professor at North East London Polytechnic, split his group in two. Those who spent the most time watching more-violent programs were "qualifiers"; those who watched less-violent fare and less often were his "controls."

His most dramatic finding is that the prolonged violence-watchers had engaged on average in 7.48 acts of serious violence in the past six months. The "controls," however, had committed an average of 5.02 such acts.

Skeptics might contend that this simply reflects an extraordinary amount of violence among London's youths. But Belson argues that it shows a serious difference in behavior traceable to violence on television.

Among the more violent shows Belson singled out were several American series that have drawn big audiences here; "Starsky and Hutch," "The Untouchables," "Hawaii Five-O" and "The Man From UNCLE."

The professor makes no distinction between the crime-generating consequences of a violent Western or classincal drama.

What about "Hamlet," he was asked, with its four killings and one suicide on stage, two executions and another suicide off stage?

"'Hamlet' would rate very high" on his violence scale, Belson said in an interview. "The fact that it's art makes no differences. It's pretty violent."

What of the argument that the violence-prone watch violence more than others? Belson conceded that "we do not have a method for unambiguously resolving" this question. But he said that his full report, still unpublished, attempts to deal with it.

His findings give a clean bill of health to violence in cartoons, science fiction, slapstick comedy and sports—except for boxing and wrestling. In fact, much youthful violence here occurs every Saturday when rival soccer crowds assault each other and passers-by. But this lies outside Belson's study.

He readily acknowledges that many other factors besides television can induce violence, including size of family, poverty and environment. But he says he has succeeded in isolating television as a contributing factor and urges a "major cutback in the total amount of violence being presented."

Belson claims that television violence does not affect conscious attitudes, that those who watch much and those who watch little display the same attitudes toward authority and toward violence as a means to solve problems.

But he suggests that his results show that television "disinhibits," unconsciously releasing constraints against violence.

This puts him squarely in contradiction with Aristotle's theory of catharsis: that observing the portrayal of tragedy relieves tension and fear.

The study by Brody for the Home Office, however, rediscovers the wisdom of the ancient Greeks. It notes that catharsis has been out of fashion, but recently an "increasing number of studies . . . show some support for it." They suggest that films "can channel the expression of aggressive feelings . . . serving as a vehicle for the absorption and harmless amelioration of fears, anxieties and hostilities."

"It can be stated quite simple," he writes, "that social research has not been able unambiguously to offer any firm assurance that the mass media in general, and films and television in particular, either exercise a socially harmful effect or that they do not . . .

"The mass media are no different than other forms of cultural expression, which, though they reveal the state of a society or civilization, cannot be said to determine its development."

ROSE-HULMAN PRESIDENT SPEAKS OUT ABOUT BENEFITS OF FREE MARKET

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. JOHN T. MYERS. Mr. Speaker, Dr. Samuel F. Hulbert, president of the Rose-Hulman Institute of Technology in Terre Haute, Ind., recently called attention to the alarming degree of misunderstanding among today's college students about the basics of the economic system that propelled the United States into a position of world leadership.

Dr. Hulbert outlined Rose-Hulman's philosophy in the following comment. I call it to the attention of my colleagues and educators across the country with the hope that his warning will spur others to return to teaching the basics so that future generations will fully appreciate the importance of a "free market" to our way of life.

IT IS TIME SOMEONE IN EDUCATION SPOKE OUT ABOUT THE BENEFITS OF THE FREE MARKET

(By Dr. Samuel F. Hulbert)

A number of recent surveys have shown that the American college students and faculty members do not understand the meaning of basic economic terms like "free market," "mixed economic system" and "collectivistic system." Our educational system is creating an educated class capable of building space ships or transplanting human organs but which is basically composed of economic illiterates. As a case in point, a survey released by World Research *INK* in June noted that only 16% of American college students are consistently pro-free market. Another 28% are consistently anti-free market: 67% of American college students do not believe in a strictly limited government. More than 70% of the students believe it is permissible for the government to force people to belong to a welfare security system. Only 30% of the students think private enterprise can do a better job than government in allocating present energy supplies and in finding new energy resources. Only 47% think that the private enterprise system can deliver gas and electric power more efficiently than government, and 57% of the students want to nationalize the Oil Companies.

There is a decided misconception of the level of profits made by American business. For example, 40% of the students believe that the Oil Companies' profits are greater than 20¢ on each dollar of sales. The real figure is about 5¢. Again, I say American colleges are training a group of economic illiterates.

The faculty and staff at Rose-Hulman Institute of Technology are committed to mak-

ing sure that our students understand the free market system and the dangers of government that is not strictly limited in power and the loss of incentive that accompanies a collective system. It is time that all college students were told:

a. That the government now takes about 44 percent of the nation's total personal income.

b. That government regulations have cost consumers more than $100 billion.

c. That government health programs have driven the nation's spending on health care from 5 percent of the GNP to nearly 9 percent during the past decade.

d. That our present welfare system is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work.

e. That more than $4 billion in known welfare abuse, error and fraud have occurred.

f. That there are nearly $5 full-time dependents or employees of government for every 100 productive taxpayers.

g. That the government's total accumulated long-term debt and obligations are over $5 trillion—more than the total worth of the economy.

h. That the government is printing money at a rate more than twice as fast as the nation's economy is growing.

I believe that if American college students were told the facts by their respective faculties, more than 32 percent would believe in a strictly limited government.

Rose-Hulman doesn't teach that the present economic system is perfect but it does teach that ours is the best system devised to date and that it is not only important to work to constantly improve the system but to constantly defend the system against the constantly growing power of the government and the collectivistic-system philosophy prevalent in the country today.

HON. WILLIAM R. HULL, JR.

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. WHITTEN. Mr. Speaker, I have had the privilege of serving with many able Members of this august body and it was a real blow to learn that one of the ablest in my tenure here—Representative William R. Hull—had passed away.

Much will be said about the many contributions that Bill Hull made to his district, State and country, but I would like to take this opportunity to speak of the man behind the deeds.

Born in the agricultural region of northern Missouri and a farmer prior to entering public service, Bill brought to Congress the knowledge that studies and rhetoric cannot match a good day's work. And to this principle he remained true during his 18 years of devoted service.

I learned, as a member of the Appropriations Committee where I worked closely with Bill, that he was a man who could be counted on to work tirelessly, oftentimes without receiving the credit he deserved, toward making his district and country a better place to live.

For many years, Bill's knowledge of the attitude and atmosphere of Congress served to promote the cause of his rural constituency and that of the agricultural community throughout the country. And as the hard work and planning became reality, Bill would step back and let others whose contributions could not match his, make the headlines, because he was content knowing he had helped his people.

Though he could, and often did disagree with a colleague, he always respected the right to a difference of opinion and would listen to the opposition with an open mind.

It is hard to find men of Bill Hull's character in any walk of life and I, along with all those who knew him, will miss his counsel and friendship.

USE OF PANAMA CANAL BY U.S. GOVERNMENT DURING TIME OF WAR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following figures concerning the use of the Panama Canal by the U.S. Government before, during, and after the Vietnam war. I believe that these figures are significant in that they reveal the importance of the Panama Canal to the United States during a time of war.

U.S. GOVERNMENT USE OF PANAMA CANAL BEFORE-DURING-AFTER VIETNAM

U.S. NAVAL SHIP TRANSIT

1964	86
1965	112
1966	148
1967	145
1968	147
1969	138
1970	125
1971	99
1972	86
1973	61
1974	49
1975	20
1976	26

U.S. GOVERNMENT VESSEL AND CARGO TRANSITS [1]

Fiscal year	Number of transits	Long tons of cargo
1964	285	1,177,269
1965	284	1,923,538
1966	591	3,220,190
1967	879	6,147,479
1968	1,504	8,497,221
1969	1,376	7,210,068
1970	1,068	4,410,451
1971	503	2,236,619
1972	413	1,742,303
1973	373	1,405,428
1974	248	1,748,963
1975	170	526,497
1976	85	177,508

U.S. GOVERNMENT CARGO SUPPORT FOR VIETNAM [2]

	Fiscal year—			Average
	1967	1968	1969	
Via Panama Canal	5.1	7.7	6.1	
Total support provided	12.7	13.0	12.9	
Panama Canal's percent of total	40	69	47	49

[1] Source: Annual report, Panama Canal Company included warships, auxiliaries and Military Sealift Command controlled ships.

[2] Millions of long tons (approximations provided by Military Sealift Command and Military Airlift Command).

BALANCE(S) OF POWER: PART VI (VII) THE NAVAL BALANCE: THE ROLE OF THE MODERN SOVIET NAVY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BRECKINRIDGE. Mr. Speaker, extensive debate in this country continues over the actual goals and priorities which shape the Soviet naval mission. Today's entry in the naval balance is an arresting statement of Soviet naval doctrine by the "Father of the modern Soviet navy," Fleet Adm. Sergey G. Gorshgov, commander in chief of naval forces since 1956 and deputy minister of defense, as well as central committee member of the Soviet Communist Party.

Gorshgov's definitive writing, "The Sea Power of the State," was published last year. The selection here consists of excerpts from the translation by Ruben Ainsztein, published in the January-February 1977 issue of Survival. Numbers in parentheses indicate pages of the original text.

As successive articles will illustrate, different interpretations of Soviet mission are related to different choices among possible scenarios, which in turn affect assessments of naval capabilities relative to the United States. No argument may ignore, however, the doctrine propounded here, in which the primacy of the missile submarines' strategic mission dictates the security role of surface ships and the ASW mission of naval aviation and attack submarines.

Any measure of the shift in the naval balance must take into account those Soviet strategic priorities. The first part of Ainsztein's excerpted translation of Fleet Admiral Gorshgov's "The Sea Power of the State" follows:

THE SEA POWER OF THE STATE

(By S. G. Gorshkov)

(NOTE.—Known by many as the 'father of the modern Soviet navy, Admiral Gorshkov has guided its transformation from the antiquated coastal defence force it was in the 1950s to the global, nuclear-armed fleet it is today. In a celebrated series of essays published in 1972–73, Admiral Gorshkov argued convincingly that, as a super-power, the Soviet Union must possess a strong ocean-going navy. In a lengthy book, The Sea Power of the State, published last year and excerpted below, Gorshkov returns to this theme. The book has been hailed by Soviet reviewers as a major contribution to military thinking, one announcing that "for the first time in our literature, the author formulates the concept of seapower in scientific terms". As in his earlier writings, Gorshkov emphasizes the importance of the oceans to the maintenance of Soviet power and influence. Particularly revealing, however, is his discussion of the impact of nuclear weapons and missile technology on naval strategy. He argues that technology has downgraded the use of navies against other navies, and that the primary tasks of the Soviet navy are to project strategic power ashore and to counter the adversary's sea-borne strategic capabilities. In performing these tasks, according to Gorshkov, submarines and naval aviation are crucial. To provide a short but comprehensive presentation of Gorshkov's views has required substantial abridgement, and only

the highlights of some of his many arguments are reprinted here. Both the translation from the original text and the selection of appropriate excerpts are the work of Reuben Ainsztein of the Sunday Times (London). Morskaya Moshch Gosudartsva (Soviet Ministry of Defence Publishing House), 1976. (Translation by Reuben Ainsztein.))

Among the many factors influencing the development of human society, Marxism includes geographical ones, of which the World Ocean is one of the most important. The World Ocean constitutes almost three-quarters of the surface of our planet and contains colossal biological, energy and mineral resources.

As a result of man's use of the World Ocean over many centuries, there came into existence transport and fishing fleets, which made it possible to expand trade and led to the establishment of numerous bases and ports. As the science of oceanography has developed, the fleets of ships engaged in the exploration and study of the oceans have grown proportionately. There is every ground to state that the totality of the means used for exploiting the riches of the World Ocean and the means used for defending the interests of the state, when rationally combined, constitute the sea power of the state and determine a country's ability to use the military-economic potentialities of the oceans to its advantage.

We are quite justified in treating the sea power of a state as a system which is characterized not only by the interconnection of its naval, transport, fishing, scientific and other fleets, but by an indivisible unity with its dimension, the World Ocean, for it is in its interactions with the World Ocean that sea power is expressed in its integrity. The importance of the individual components making up a state's sea power is not constant. In our own times, when the grandiose scientific discoveries of our epoch are used for military purposes, the technological capabilities of waging war in the oceanic element have grown tremendously.

Naval power played a major role in World War II, which was caused by the international monopolistic capital, and has played since a major role in the local wars which in the last quarter of our century have become an integral part of the policies of the imperialist states. To quote one example, the Pentagon leaders regard the naval might of the United States as the most important component of their strategic nuclear forces, capable of carrying out in the shortest possible time strikes of gigantic might against land objectives situated a long way from the coast and thus decisively affecting the situation in any operational theatre. At the same time, by concentrating their nuclear power in the sphere of naval operations, they calculate that they will be able to divert nuclear strikes from their own territory.

Guided by such views of the role of naval power in the event of another world war, the imperialist camp has adopted an oceanic strategy as the basic conception of its military doctrine. This strategy stems from the facts that practically all land objectives are open to blows from the oceans, and that oceanic nuclear systems are the most mobile and the most difficult to hit because of their ability to use the depths of the seas for their defence and the immense oceanic space for concealing themselves. This is why large areas of the World Ocean have already been turned by the imperialists into launching sites for *Polaris*-type ballistic missiles, which are always ready for action.

It is generally known that the nuclear strategic missiles of the US Navy are directed at our country from various directions. Apart from them, the United States and the aggressive anti-Soviet blocs, NATO, CENTO and others, have set up numerous naval and air bases along the maritime frontiers of the Soviet state. From those bases the members of these blocs can direct their carrier-borne aircraft and their land-based air forces against important targets on Soviet territory and also on the territory of the other countries of the Socialist Commonwealth.

Arming the navies with nuclear missiles has brought much that is novel to naval tactics and operational art. It has forced the naval powers to change the construction of ships and to create new types of naval technology and arms. Side by side with the traditional task of destroying the enemy's ships, the navies of the leading maritime powers have now been given a new task: to destroy the military-economic potential of the enemy by direct assault on his vital industrial centres by nuclear strikes from the sea.

For the Soviet Union, the chief goal of whose policies is the building of a Communist society and the continuous rise of the welfare of her builders, naval power constitutes one of the most important factors ensuring the strengthening of her national economy, the acceleration of her scientific and technical progress and the consolidation of her economic, political, cultural and scientific links with friendly nations and countries.

The material expression of our naval power, which constitutes the realistic potential of our country to fend off aggression from the oceans, is its Soviet Navy, which is continuously growing and improving in quality.

We are witnessing a reorientation in the structure of the US armed forces stemming from the doctrine that in the event of war the fundamental tasks will inevitably be carried out by powerful blows from the sea performed by the three elements of naval power: 1) ballistic missiles launched by nuclear-powered submarines; 2) aircraft carriers; and 3) marines. The destructive power of nuclear strikes is regarded by the American strategists as a novel, complementary extension of naval power applied in its actions against land. This will be assisted by the wide-ranging use of nuclear-powered submarines, thanks to which the traditional dependence of navies on the configuration of strategic positions on the oceans and the seas—on the 'geography' of their bases—has diminished, thus producing opportunities for extending the sphere of aggressive intentions to new areas of the World Ocean.

Among the factors favouring the growth of naval power there are other achievements in the field of scientific and technological progress, in particular the creation of artificial earth satellites, which the imperialist armed forces are already using for the purpose of intelligence, communications and navigation.

An examination of the fundamental aspects of the sea power of the Soviet state leads us to the obvious conclusion that our country, disposing of naval power and constantly increasing it, is acquiring ever new opportunities for developing her economy and science, for improving the living standards of the Soviet nation and for strengthening her defence potential. The constantly growing maritime might of our country ensures our ability to enlarge our exploitation of the colossal natural resources of the World Ocean. The exploitation of the natural resources of the World Ocean combined with the advance of science and technology, making such exploitation possible, open new vistas of economic and political integration for the socialists states, widen the sphere of their international co-operation and heighten the prestige of the Soviet state on the international arena.

The growing maritime might of our country ensures the successful implementation of her foreign policy and allows us to widen our trading, shipping, scientific and cultural links with other countries. It strengthens the constructive co-operation between our country and other countries with differing social systems and gives our nation a most important weapon for realizing her historical mission: the continuous growth of economic assistance to all countries that have chosen the road of independent development.

History teaches us that navies have always played an important role in consolidating the independence of states whose shores are washed by seas or oceans, as well as in their economic and cultural development. Naval power has always been one of the historical factors determining the transformation of states into great powers. Moreover, history teaches us that states without naval power have been unable to maintain the status of a great power for any length of time. And it could not be otherwise, for the element in which navies operate is the seas and the oceans.

This is why both military necessity and economic growth which depends on maritime trade, as well as the political struggle, have always made states build, maintain and modernize their navies. Today, in an era of gigantic scientific discoveries and their application to military purposes, the possibilities of waging war over the surfaces of the oceans have grown incredibly. The oceanic theatres of war, instead of being the traditional areas of warfare between the naval forces of the warring states in their struggle to dominate seaborne communications or to carry out or prevent landing operations, have become the ideal areas for launching ballistic missiles from submerged submarines and for launching aircraft from the decks of assault aircraft-carriers.

While in the past the oceanic vastnesses concealed the threat of seaborne invasions, the chances of which were chiefly determined by the relation of naval power between the warring states, they are now hiding, since the creation of naval strategic missiles, also the threat of devastating nuclear strike. Therefore, naval operations on the oceanic theatres of war constitute today a most important part of the total armed struggle. Finally, the oceans have ceased to be defensive moats, which in the last two World Wars successfully separated the countries of the western hemisphere from the devastating hurricanes of war that did not spare the countries of the European continent.

At the same time one must point out that the vastness of the oceans and the seas constitutes not only the main strategic zone for deploying big naval forces and stationing underwater ballistic missile-launchers, but also provides the Western powers with numerous islands which can be turned into strongholds and bases for their navies and air forces. This has allowed the imperialist states to surround the Soviet Union and the countries of the Socialist Commonwealth with powerful concentrations of land, naval and air forces and launching sites for ballistic missiles on land and at sea. The combat utilization of all these forces is linked with the presence of powerful navies earmarked for waging direct military operations or for providing all-round protection to the other types of forces. Thanks to the vastness of the oceanic theatres of war and the depths of the oceans, the imperialists are capable, at the price of minimal losses, of deploying and manoeuvring their fleets in any direction and to concentrate, in a relatively short time, powerful naval forces in selected parts of the World Ocean, from where they could launch nuclear strikes against the territory of the Soviet Union.

America, being separated from Europe by the vastness of the Atlantic Ocean, has for hundreds of years been secure and escaped the horrors of war. She has grown used, thanks to the shield provided by her powerful navy, to being safe and enjoying impunity. But the situation has changed and

the oceanic vastnesses are now the least secure in the United States system of defense. Should the US imperialists unleash a war against the countries of the Socialist Commonwealth, United States territory may become the theatre of military operations, and the oceanic spaces will become the arena of savage warfare between navies fighting to secure the maximum utilization of their naval power for the solution of crucial strategic tasks.

The post-war development of the Soviet Navy can be divided into two stages. In the first stage, which corresponds to the first post-war decade we built ships and aircraft armed with conventional guns, torpedoes and bombs. The construction of our navy basically followed a programme aimed at giving our country a fleet of surface warships. The Soviet Navy continued to be a navy for coastal operations and remained, in the strategic operational sense, a defensive factor in the totality of our armed forces. In case of war it could have operated only within the framework of massive land operations, helping the land forces to reach their objectives. Our views of what our navy was intended to do were shaped by the experience of World War II and our victory over powerful continental enemies.

About the middle of the 1950s, in accordance with the decisions taken by the Central Committee of the Soviet Communist Party, we set out in our country on a vast programme of building a mighty ocean-going navy armed with nuclear missiles. This was the beginning of the second stage in the development of the Soviet Navy.

In working out our programme we took careful account of the relationship of forces in the world, of the strategic situation on the oceans as a result of the creation of aggressive blocs by the West, of the unchecked accumulation of naval nuclear weapons by the imperialists, of the likely development of naval techniques and weapons, and also of the economic capabilities of our country.

CUTTING DUTIES WILL CUT JOBS

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, some recent statements by spokesmen for the administration indicated that it was proposed that duties on textiles and apparel be considered for reduction in the course of the scheduled meetings in Geneva to deal with tariff and trade problems. I respectfully suggest that such a view is unsound.

To cut duties on imports of clothing and clothing accessories for men, women and children, in my view, is to increase the likelihood that a large number of firms in this country will either go out of business or turn to importing and that employment, so badly needed now, will be further cut down.

To take such a chance with the people who earn a modest livelihood producing apparel in this country and in the process increase the already high level of joblessness is not sound. The United States has to take the fate of these people into account and not jeopardize it any further.

Even if imports were reduced to zero—and I do not suggest that this be done—domestic industry is fully capable of supplying the American consumer with all the needed clothing at reasonable prices. The high degree of competition that prevails in the industry guarantees that. Both plant capacity and labor are available. Production can be easily increased in response to any rise in consumer demand and in response to any curtailment of the inflow of imports.

With unemployment among apparel workers averaging 12 percent of the experienced work force, in addition to large numbers who stopped looking for work temporarily because none was available in the areas where they live, the Nation cannot afford to take chances with even higher levels of joblessness.

This is one of the reasons why the United States must not tamper with existing levels of duties on apparel and for that matter, on textiles. The rate at which imports have grown, even though there were some international agreements designed to limit the flow of imports, has fully demonstrated that the existing duties in no way stand as an obstacle to increased imported apparel and textile products.

After all, the existing agreements with foreign countries, even though they tend to regulate the level of imports to the United States, are far from perfect instruments of control. Even though they are designed to allow imports to grow at the rate of 6 percent a year, far in excess of the rate of growth of domestic production, in fact imports have advanced at a much faster rate.

Should duties be cut, one can anticipate an even further rise in import penetration in our market and in the process, an even greater displacement of workers in this country and an ever-increasing level of unemployment. This is not a picture any of us wants to contemplate. And neither does the administration, I am certain.

PORT OF PHILADELPHIA MOVES TO ATTRACT NEW OCEAN CARGO

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EILBERG. Mr. Speaker, I am exceedingly proud of the fact that the Philadelphia Port Corp. is taking another major stride forward to make our great port city even more attractive to ocean-going commerce than it already is.

Chairman of the board of the Philadelphia Port Corp., R. F. Gilkeson, has just announced that the corporation is purchasing a combination heavy lift/container crane to be erected at Packer Avenue Marine Terminal.

The crane, which will be operational by December 1978, will be the only one of its kind in the world.

To be constructed at a cost of $3,400,000, the crane will be able to lift 375 tons and place it in the center of any ship capable of using the Panama Canal. It will be able to lift heavy cargoes faster, better, and more cheaply than any crane now operating on the Atlantic coast.

It is expected to attract substantial new ocean cargo to the port and provide additional employment for Philadelphia's longshoremen, tugboats, line handlers, pilots, and other marine interests.

In addition to its heavy lift superiority, the crane will handle containers at the same high speed as Philadelphia's four specialized container cranes. From 1970 through 1976, Philadelphia's container business increased ten-fold and there is no end in sight to continued growth.

NO F-15'S TO SAUDI ARABIA

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. STEERS. Mr. Speaker, I insert the following letter to President Carter into the RECORD at this point:

HOUSE OF REPRESENTATIVES,
September 26, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It has been reported recently that your Administration is considering the sale of 60 highly sophisticated F-15 fighters to Saudi Arabia. I would like to take this opportunity to urge you not to make these planes available to Saudi Arabia.

For what reason are the Saudis to need this new weaponry? From what I have read on this matter, it appears that these weapons are being made available to the Saudi government to alleviate their fears about attacks from the Soviet Union, and, possibly, Iran. It is ironic that the United States has provided Iran with the military equipment that aroused Saudi Arabia's concern. Surely, this pattern of arms sales is ill-conceived. If this is allowed to continue, the end result will be profits for American arms manufacturers and war in the Persian Gulf and possibly the Middle East.

While Saudi Arabia has been one of the more moderate Arab states to date, the stability of the Saudi government is such that a new regime could emerge that would choose to deploy these weapons, not in a defensive manner against the USSR or Iran, but rather in an offensive manner against Israel. In light of the fact that Saudi Arabia has supported military engagements against Israel in the past, this possibility is not far-fetched at all.

In examining the tension in the Middle East, it is important to note that the Israelis wish to hold a defensive position to ensure the survival of Israel itself. The Arab countries, on the other hand, wish to acquire territory from the present boundaries of Israel, thereby placing them in a potentially offensive military posture. In fact, some Arab groups wish to strive for the ultimate destruction of Israel. The sale of these highly complex and effective, potentially *offensive* military weapons to Saudi Arabia places Israel in an even more precarious position, and does nothing to lessen overall Middle East tension.

The road to a negotiated, long-lasting peace in the Middle East will be a long and arduous one, and often the disagreements of the opposing sides will appear quite formidable. If each side is convinced that a war cannot be won quickly, or that a war would not facilitate the ultimate goals of that country, then the likelihood of the outbreak of war has been lessened greatly. That is why the United States must be extremely careful in any action it might take that would jeopardize the uneasy peace in the Middle East.

Let me say once again that I feel the United States should not sell 60 F-15's to Saudi Arabia, and I urge you to develop a long-range plan or arms sales to that area of the world which will not result in a disastrous arms race there.

I appreciate the time you have taken to consider this most important matter.

Yours sincerely,

NEWTON I. STEERS, Jr.

PERSONAL EXPLANATION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. NOLAN. Mr. Speaker, I would like to take this opportunity to explain to my colleagues the reason why I was unable to be present on the floor today for consideration of what I realize were a number of particularly important items of business. Over the weekend, a very close friend of mine passed away in Minnesota. I felt a deep and personal obligation to attend her funeral. I thank you for your understanding in this matter.

A COMPARISON OF GAS COSTS OF AUTOMOBILES WITH HIGH FUEL EFFICIENCY AND THOSE WITH LOW EFFICIENCY AS AFFECTED BY PRICE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. VANIK. Mr. Speaker, in May of 1973, I inserted in the CONGRESSIONAL RECORD charts that showed how much extra money persons with fuel inefficient cars could expect to pay compared to those with fuel efficient cars. The figures were startling. They gave us a chance to see quickly the long term disadvantages of poor mileage automobiles.

Those figures were based on a range of then-current gasoline prices and mileage rates. Those assumptions are now outdated and need to be up-dated, especially since we are in the midst of considerations on how to conserve gasoline and other energy forms.

Comparing costs in this latest mileage chart is shocking. If a person drives a 10-mile per gallon automobile for 10,000 miles with gasoline costing 60 cents, he will pay $600. If that same person uses an automobile that gets 28 miles per gallon—the approximate mileage standards required in 1985 by Public Law 94-163, the Energy Policy and Conservation Act—and gasoline costs are the same, his annual costs will be $214. This amounts to an annual savings of $386.

If pump prices of gasoline rise to the $1/gallon level that is mentioned often as "the ultimate" expectation, these results occur: a car with mileage rating of 10 miles per gallon will require $1,000 for yearly gasoline expenses; a car getting 28 miles per gallon will consume approximately $357 of gasoline—a savings of $643. Obviously, if gasoline costs rise above the $1/gallon level, the disparity between total gasoline costs will rise even higher.

The following chart shows the annual gasoline costs of autos with mileage rates ranging from 10 to 50 miles per gallon. The costs are based on per gallon gasoline prices of up to $2. When we purchase an automobile, it is easy for us to disregard the long term costs of ownership. Usually we are concerned with initial purchase prices and not more. I hope that this chart can show the long term repercussions of buying fuel efficient versus fuel inefficient automobiles.

ANNUAL GASOLINE COSTS, WITH VARIABLE GAS PRICES AND MILEAGE RATES, FOR A CAR DRIVEN 10,000 MILES (ROUNDED TO NEAREST DOLLAR)

	Mileage in miles per gallon																				
	50 [1]	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	[illegible]	14	10
Gasoline costs per gallon:																				
$0.56	$112	$117	$122	$127	$133	$140	$147	$156	$165	$175	$187	$200	$215	$233	$255	$280	$311	$350	$400	$560
$0.58	116	121	126	132	138	145	153	161	171	181	193	207	223	242	264	290	322	363	414	580
$0.60	120	125	130	136	143	150	158	167	176	188	200	214	231	250	273	300	333	375	429	600
$0.62	124	129	135	141	148	155	163	172	182	194	207	221	238	258	282	310	344	388	443	620
$0.64	128	133	139	145	152	160	168	178	188	200	213	229	246	267	291	320	356	400	457	640
$0.66	132	138	143	150	157	165	174	183	194	206	220	236	254	275	300	330	367	413	471	660
$0.68	136	142	148	155	162	170	179	189	200	213	227	243	262	283	309	340	378	425	486	680
$0.70	140	146	152	159	167	175	184	194	206	219	233	250	269	292	318	350	389	438	500	700
$0.75	150	156	163	170	179	188	197	208	221	234	250	268	288	312	341	375	417	469	536	750
$0.80	160	167	174	182	190	200	211	222	235	250	267	286	308	333	364	400	444	500	571	800
$0.85	170	177	185	193	202	213	224	236	250	266	283	304	327	354	386	425	472	531	607	850
$0.90	180	188	196	205	214	225	237	250	265	281	300	321	346	375	409	450	500	563	643	900
$0.95	190	198	207	216	226	238	250	264	279	297	317	339	365	396	432	475	528	594	679	950
$1.00	200	208	217	227	238	250	263	278	294	313	333	357	385	417	455	500	556	625	714	1,000
$1.20	240	250	261	273	286	300	316	333	353	375	400	429	462	500	545	600	667	750	857	1,200
$1.40	280	292	304	318	333	350	368	389	412	438	467	500	538	583	636	700	778	875	1,000	1,400
$1.60	320	333	348	364	381	400	421	444	471	500	533	571	615	667	727	800	889	1,000	1,143	1,600
$1.80	360	375	391	409	429	450	474	500	529	563	600	643	692	750	818	900	1,000	1,125	1,286	1,800
$2.00	400	417	435	455	476	500	526	556	588	625	667	714	769	833	909	1,000	1,111	1,250	1,429	2,000

[1] Miles per gallon.

VOTING RECORD OF REPRESENTATIVE JONATHAN B. BINGHAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BINGHAM. Mr. Speaker, over the past several weeks, I have missed, or have not been recorded, on five rollcall votes. I wish to record here what my positions would have been had I been recorded as voting:

Rollcall No. 320, motion to pass S. 521, to authorize funds for repair of leaks at John F. Kennedy Center, "yea."

Rollcall No. 405, motion to pass House Resolution 642, rule to consider H.R. 5023, re claims by United States on behalf of Indians, "yea."

Rollcall No. 527, motion to pass House Resolution 657, rule to consider H.R. 6796 authorizing appropriations for civilian energy research and development, "yea."

Rollcall No. 532, motion to pass H.R. 6683 to reduce hazards of earthquakes, "yea."

A TRIBUTE TO JUDGE C. L. "BUD" SUMMERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. SKELTON. Mr. Speaker, many times we hear the expression that someone is "a pillar of the community," but we do not stop to think about exactly what that means. Webster's Dictionary defines "pillar" as: "a firm, upright support; a chief supporter." In light of this definition, I think it is most fitting to say that Judge C. L. "Bud" Summers was a pillar of the community in Lafayette County, Mo. Bud Summers passed away recently and, with his passing, the local community certainly lost one of its strongest supporters.

Bud Summers was a lifetime resident of Lafayette County and during his life he served the community in a wide variety of ways. At one time or another, he was a member of the school board, president of the Lions Club, a member of the Show-Me Regional Planning Commission, a member of the Missouri Valley Human Resources Development Commission, and president of the Alma Telephone Co. In 1971, he was elected as presiding judge of the Lafayette County Court.

Judge Summers is survived by his wife, Dorothy; one daughter, Janell Summers of Fort Wayne, Ind.; and three sisters Mrs. Lettie Borgstadt of Concordia, Mrs.

Nell Gieseke of Malta Bend, and Mrs. Robyn Payne of Higginsville.

I knew Bud Summers well and the friendship between us was a warm, personal bond. He was one of the best-loved individuals in all of Lafayette County. He was one of those rare people who earn both affection and respect from those around them. His death leaves a void in the lives of his friends and relatives that will be hard to fill.

DR. JOHN L. McDANIEL RETIRES AT REDSTONE ARSENAL WITH A RECORD OF OUTSTANDING ACHIEVEMENTS

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. FLIPPO. Mr. Speaker, on October 1, a leader in the scientific and technical community of our Nation will retire from active Government service. I feel that the recognition of the Congress is fitting in respect to the accomplishments of Dr. John L. McDaniel of the U.S. Army Missile Research and Development Command at Redstone Arsenal, Ala.

Dr. McDaniel was personally involved in the engineering work on the Army's early missile and rocket systems. His has been a career of service since 1942. Since 1960, he has provided the managerial leadership in directing major research and development missile programs for the Army, serving as Technical Director of the Research and Engineering Directorate of the U.S. Army Missile Command and later as Director of the Research, Development and Engineering Laboratory, U.S. Army Missile Command. In January of this year, when the U.S. Army Missile Research and Development Command was created, he was named Deputy and Technical Director of the command.

Dr. McDaniel has demonstrated his technical and managerial capabilities in fielded U.S. Army missile systems such as Pershing, Hawk, Tow, and Dragon; other systems still in the developmental stage are Viper, Stinger, and Hellfire.

In addition to the missile and rocket systems conceived and developed under Dr. McDaniel's direction, his leadership and ingenuity have been demonstrated in the development of a laser target illuminator. This illuminator and the technological concept for laser semi-active guidance, were transferred to the U.S. Air Force in 1965 for initiation of the Paveway guided bomb program.

In 1968, a breakthrough in hypervelocity technology was demonstrated which paved the way for development of a family of hypervelocity weapon systems.

Dr. McDaniel led the task of planning and developing the Army missile plan in 1969 which was adopted throughout the Department of the Army in 1971 as an authoritative reference for management of resources.

A most recent breakthrough by researchers under Dr. McDaniel's management is a new phenomenon of short, stable, and coherent pulses of radiation, greater in intensity than lasers. This effort, called pulse formation by amplification of superradiant emission, was begun in 1976 and is expected to play an important role in the scientific community.

Dr. McDaniel was born September 13, 1918 in Guin, Ala. He holds a bachelor's degree, summa cum laude, in chemistry from Berry College, Mount Berry, Ga., and honorary doctor of science from Auburn University, Auburn, Ala., and an honorary doctor of laws degree from Athens State College, Athens, Ala.

As Redstone Arsenal's top ranking civilian, he has been an Army employee since 1942 except for time spent in the Navy during World War II.

Dr. McDaniel earned many honors including the highest honor awarded by the Secretary of Defense, the Department of Defense Distinguished Civilian Service Award. He has also received the Army Research and Development Achievement Award, the Meritorious Civilian Service Award, and the Decoration for Exceptional Civilian Service, of the Department of the Army. Other awards include Outstanding Service Award, National Society of Professional Engineers; Decoration for Exceptional Civilian Service Award; Alabama Section, American Institute of Aeronautics and Astronautics, Holger N. Toftoy Award.

Dr. McDaniel is past president of the Tennessee Valley Chapter, American Defense Preparedness Association. He is a member of the American Society for Public Administration, the American Institute of Aeronautics and Astronautics, the Alabama Academy of Science, the Society of Logistics Engineers, and the Association of the U.S. Army. He served a 3-year term to the National Advisory Board of Directors of the Association of the U.S. Army. He is a member of the Committee on Federal Laboratories, Federal Council for Science and Technology.

He served on the National American Institute of Aeronautics and Astronautics Technical Committee for Missile Systems. He is past president of the Institute of Electrical and Electronics Engineers; the Alabama Chapter of the American Society for Public Administration; and the Alabama Section of the American Institute of Aeronautics and Astronautics. He is a member of the Madison County United Way board of directors and the City of Huntsville Manpower Area Planning Council.

Dr. McDaniel has been a strong advocate of higher education. He has served as a faculty member of the University of Alabama in Huntsville and of the Florida Institute of Technology in Huntsville. He is an advisor to Auburn University, Athens State College, and the University of Tennessee Space Institute.

He has authored a number of technical publications and has patents in the field of guidance control.

Dr. McDaniel is listed in Who's Who in America, Who's Who in the South and Southwest; the National Register of Scientific and Technical Personnel; and American Men of Science.

THE REPUBLICAN PARTY—DOWN BUT NOT OUT

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. VANDER JAGT. Mr. Speaker, on Friday, September 23, the minority leader delivered what I consider to be the sharpest, most comprehensive and detailed analysis that I have seen yet of the Carter administration.

It is an unrivaled unraveling, thread by thread, of the Carter administration, exposing, as JOHN RHODES has so aptly phrased it, an administration that is marked by "uncertainty and ineptitude, compounded by a moral blindness and a lack of understanding of the processes of government."

Politicians often are accused of saying one thing and meaning another; or of trying to say all things to all people. But, in this speech before the Commonwealth Club of California, JOHN RHODES has called the shots as they clearly are, and they have landed cleanly within the bullseye.

I urge my colleagues to read the minority leader's excellent critique, and ask that it be placed in the RECORD.

THE REPUBLICAN PARTY—DOWN BUT NOT OUT

(By Hon. JOHN J. RHODES)

Last November second a new President was elected. The new Congress that came into office with him reflected the principal reason for the change of Administration. 292 Democrats were returned to the House of Representatives and 143 Republicans joined them on the other side of the aisle. In the United States Senate, 62 Democrats and 38 Republicans were sworn in. This at a time when 17 Senate seats had changed hands; the greatest number in nearly 30 years. If the American people had not voted overwhelmingly for Democrat Representatives and Senators, it is highly unlikely that Jimmy Carter would be sitting in the White House today. Indeed, he lagged behind his ticket in most sections of the Country.

Today—eight months after the President's inauguration—those figures still sting men and women devoted to the Republican cause. According to the latest Gallup Poll, released just two weeks ago, only 20 percent of the American people choose to call themselves Republicans. But I believe that beneath the surface of those somewhat disheartening figures lies a very different story. Although I have to concede that the Republican Party is down—it is very far from out.

The elections in 1974 and in 1976 both reflected the awful impact of the Watergate era on the fortunes of the Republican party. I believe that the Watergate tragedy—and its effects—have distorted the true picture of the Republican Party's basic health.

Indeed, I am convinced that we are in the opening months of a renaissance of national Republican strength. And that strength is based on the vitality of Republican principles. It is also based on the actions of an Administration and a Democrat Congress that underline the dangers for America—of a Democrat Administration and Congress at the controls of our national destiny.

In four special elections to the House of Representatives since the 95th Congress began—three of them have been won by Republican candidates. One of those seats had been held by a Democrat for over one hundred years. I am convinced that these special elections were won because of a combination of factors that imply the basic empathy of the American people with the beliefs of the Republican Party. Each candidate campaigned as an individual. They had little reason—unfortunately—to emphasize their association with the Party itself. But they made no bones—any one of them—about their belief in a balanced budget—in a firm national defense—and a steady reduction of the staggering tax burden borne by American working men and women. They made no bones—any one of them—about their individual beliefs that the American people are entitled to be let alone: That the ever increasing encroachment of government on the way we conduct our daily lives must be brought to an end. These beliefs are shared by men and women throughout this Country, and they are the principles on which Republican candidates have stood for generations.

I think it's also worthy of note that the results of these elections have run parallel to a growing sense in the Country, as recorded in recent national polls, that the Democrat President and the Democrat Congress have failed to instill a national confidence in their ability to do the job. I believe that Republican fortunes are bound to rise as increasing evidence of this Administration's failures continue to be written into the public record.

The President of the United States is the national leader, and it is really no pleasure—even for the leader of a beleagured Republican minority in the House—to criticize him for his actions in that capacity. But eight months of the Carter Administration reveal a pattern of uncertainty and ineptitude, compounded by a moral blindness and a lack of understanding of the very processes of government, that bode no good for the Nation's economic health or for the state of its defenses.

When President Carter was candidate Carter—he was free to make the mistakes of inexperience, and the judgments of self-righteousness. But the bill for those mistakes and for that self-righteousness has come due and the American people are the ones who have to pay.

This Administration has compiled a record in domestic and foreign policy in only eight months that signals four years of difficult times for the American people. I submit to you that in the actions already taken, and in those actions that have not been taken, President Carter has drawn a map of intent with lines drawn by a hand guided by impulses that are a combination of the quixotic, the stubborn, and the uncertain.

As an old Democrat used to say, "Let's look at the record." It is a record that strongly implies an inability to maintain a sense of proportion—to recognize the limitations of governmental action—and most of all—to put first things first.

President Carter came into office at the beginning of a period of resurgence in the national economy. The long recession had bottomed out—in considerable degree because of the courageous actions initiated by the Ford Administration; and there appeared to be in the offing a long and sustained recovery. But the Carter Administration, wishing to put its own stamp on national economic policy, has produced—only eight months later—a situation in which inflation continues to rise at an annual rate of over six percent—and in which the unemployment of black Americans is worse than at any time since the end of the Second World War. Fourteen and one-half percent of those black Americans who wish to work are unable to find jobs. Over forty percent of black youth between the ages of 16 and 24 can't find employment. That—ladies and gentlemen—is social dynamite. And Jimmy Carter has lit its fuse by his refusal to encourage circumstances in which American business enterprise is willing and able to invest in the capital expenditures that will improve productivity—and open up meaningful jobs for those who wish to work.

The President has committed himself to a balanced budget by the end of his first term. But the fiscal magic he's going to have to invoke to make those figures come out his way is no magic at all. It's simply the old shell game.

But this is a shell game in which the stakes are unbelievably high. There are nuggets of useful information to be plucked even from the governmental statistical hand-outs that choke the Washington paper machine. One of those statistics has just been released by the Congressional Budget Office. It's almost impossible to believe—but the Congressional Budget Office projects an increase in the American tax burden that could produce incalculable social and political consequences. According to the CBO—our personal income tax will rise from $130.8 billion to $339 billion by the close of fiscal '82. That means, my friends, that the American working man and woman will pay three times as much in taxes at the end of Jimmy Carter's first—and hopefully last—term, as they paid the day he took his oath of office.

That's no way to balance a budget—indeed it looks to me to be very similar to some of the fiscal gimmickry to which New York City's government has been prone—and look where they are.

Not only is that no way to balance a budget—but it is no way to encourage the surge of economic growth that is required to put the unemployed back to work and to dampen the inflation that threatens to kill the hope of the future.

How in the world can Jimmy Carter and his Democrat colleagues in Congress come to grips with the enormous economic problems which now confront the Nation when they cannot see that one problem must be confronted in the context of another—that solutions cannot be applied like bandaids—but that the body of government and of the national system is one and must be treated as one.

Perhaps the most dramatic illustration of the Carter Administration's failure to understand the system it must govern is the so-called energy conservation plan. The fact is—that the Carter energy package—introduced with such fanfare—and with a call to sacrifice—is simply a disguised tax program—designed to take the money from the pockets of the American people—in order to put it into the U.S. Treasury—and to dole it out for the President's heavily inflated social welfare programs. Why doesn't the President of the United States understand that his energy tax is bound to drive up the costs of production throughout American industry?

Why doesn't the President of the United States understand that his so-called energy program is lighting the fires of renewed inflation?

Why doesn't the President of the United States understand that lower production means fewer jobs and that fewer jobs means pain for the working people who can least afford that inflation?

Why doesn't the President of the United States understand that encouraging the price of fuel to rise to the so-called "world market level" is simply a surrender to the economic power of the OPEC countries?

Since when do the American people wish to surrender their economic well-being—the determination of their Country's future—to a small group of Arab potentates on sandy strips of deserts tens of thousands of miles from our own shores?

I don't believe the American people have come to any such conclusion about whom they want to make their decisions for them. And frankly—I don't believe that Mr. Carter understands that this is exactly the situation that his policies will create.

What Jimmy Carter has accomplished has been to sketch a blueprint of dramatically-growing government—and shrinking American business initiatives and economic growth. I believe that Jimmy Carter—if he keeps up his current policies—will go down in history as our first "no growth" President. And—whatever some extreme environmentalists may believe—most Americans don't want a "no growth" society. They know that this society can't survive as it is with no growth. We simply are not a no growth civilization. And we can't tolerate a "no growth" Presidency.

The entire American story is a story of progress; and if it is to continue—so it must remain.

In the early 1930's, under the desperate conditions of worldwide depression, many American thinkers sounded the note of "the mature economy,"—we had reached "the last frontier"—in other words, we were finished—we had to make do with what was.

If we had listened to the voices of the "mature economists" and the "last frontier experts", the American people would have closed down shop right after the California goldrush.

Well—I'm here to tell you—ladies and gentlemen—that if we listen to the no growth experts of the 1970's—and to the fine tuners of the American economy—we'll wind up in exactly the same place. For the fact is that civilization on the rise is propelled by the exigencies of human nature to explore any and all potential for growth. Government—business enterprise and most of all—the people—are obliged to direct that growth in the most fruitful way and in the most intelligent direction. But to stop it—to make a virtue of its absence—is to create a need for authoritarian institutions that almost inevitably will lead either to social chaos or the ultimate loss of human freedom.

We may seem a long way from those circumstances, my friends, but I believe that the Carter Administration is inadvertently taking the first steps along the road.

Witness the creation of the New Department of Energy, under Dr. James Schlesinger. (I have—by the way—great respect for Dr. Schlesinger's abilities and energy. Indeed—that's part of the problem.) For the new Department of Energy concentrates unto itself enormous power to determine the price and flow of and make market decisions as to the distribution of energy resources that fuel the American economy. Never before—except in war time—has a department of government been given the power that now accrues to the Department of Energy.

Leave aside the fact that in an age of disenchantment with unresponsive government bureaucracy—President Carter and the Democrat Congress have added yet another layer of 20,000 bureaucrats. (Incidentally, if the history of the Department of Health, Education and Welfare is any indication, we'll have 200,000 of them in less than ten years.) Leave aside the blatant interference with personal freedom which must evolve out of such a concentration of power. Think only of the simple fact that the men and women who make these decisions—decisions of economic life and death—are responsible only to themselves.

The fact is that the President and his Congressional cohorts are well on the way to creating a hidden tax mechanism; its sole meaningful function (aside from inhibiting natural growth and progress) is to provide revenues for the Carter coffers.

But even that's not enough for an Administration dedicated to the principle of hidden tax. Under the guise of so-called "tax reform," the President's people have drafted and floated in the press a blueprint for combating the enormous housing shortage. Their solution to the dilemma of millions of Americans who can no longer afford their own homes because of uncontrolled inflation is a simple one. Wipe out the historic mortgage

loan tax deduction. By so doing—you'll make it impossible for the middle income Americans even to dream of owning their own homes. There will no longer be a need to fulfill that dream. When Jimmy Carter talks about filling loopholes—that apparently is what he means. Lower the expectations of the American people and their threshold of aspiration will be lowered, too.

Would anyone in this room—would anyone in this audience—have thought it possible only a few years ago—that an American President and an American Congress would seriously consider driving middle class Americans from the housing market as an act of public policy? I don't believe so—and I do believe that even public consideration of such a tax policy—implies an attitude by this Administration that can only result in its departure from public life—as soon as the American people have an opportunity to open the door marked "Exit."

The President of the United States is an engineer. But—in his first eight months in office—he has behaved more like Mr. Fixit—a tinkerer with public policy—who has produced by his tinkering so many holes in the public dike that it will take far more than ten fingers to fill them.

Mr. Carter's tinkering is nowhere more evident than in his proposal to alter the financing mechanism for our Social Security System. Whatever problems the Social Security System faces, the American people wish it to be treated as a rational—soundly structured—system of insurance—geared to the contributions made by workers over a productive lifetime. But Jimmy Carter has sent legislation to Capitol Hill which would take that first—and believe me, it is only the first—step toward using general revenues to pay the Social Security bill. Instead of remedying the System's ills by attacking its inequities and by making the fundamental changes that are necessary to restore its health—the President simply wants to open up the public treasury and to increase yet again the tax burden of the American people.

It is because of Mr. Carter's first steps in the directions I have so far outlined that I believe the Republican Party is down—yes—but very far from out. For although the American people have exhibited great good will for the President—and the polls indicate it—that good will—even as it expresses approval of Mr. Carter's personal qualities—is accompanied by great dissatisfaction with the President's policies.

The American people don't believe that there is an energy crisis—and they don't believe it because the President's remedies are not in the American spirit—because the President has not demonstrated his commitment to doing everything necessary to tap new and increasing energy resources from every possible source.

It is fashionable among Administration circles to say that self-sufficiency is an illusion—but I remember—and some of you remember—when—during a great crisis another President committed himself to helping American industry build fifty thousand airplanes a year. He was laughed at—it was an impossible dream—it was whistling in the dark. But he pointed the way and American know-how did the job. If it had not been for his vision and for the drive of the American people—if it had not been for our technological ingenuity and our willingness to meet the test—the outcome of the world's greatest war might have been different indeed.

If we are now engaged in the moral equivalent of war—as *this* Democrat President tells us—we must take positive action to win that war. Husband the ammunition, yes—and that is what conservation is all about. But take the offensive;—seize your own destiny and find new resources for American expenditure by American decision. That is the way to conduct a winning war.

Somehow—though—this Administration has in a very short time appeared to lose its moral nerve. A Presidential campaign on the theme of moral rectitude—a President who declared that obeying the law would not be sufficient for officials in his Administration—now publicly declares his "pride" in his closest and most powerful aide simply because a highly critical government report declared that there were no apparent violations of the law in that official's conduct.

A President who received his Party's nomination with the words that the American people are tired of seeing "big shots" evade the consequences of their actions—now appears to millions of his fellow citizens to be singing a very different song.

I very much dislike saying this—but I believe that it needs to be said. If there is one strand of behavior discernible through the fabric of the Carter Administration's policy—it is the strand of duplicity.

Mr. Carter tells us on Tuesday that his welfare program will cost not one dime more than those expenditures now being made:—but on Thursday,—he offers a program that will cost, by his own estimates, 1.2 billion more annually than current expenditures. And by the estimates of impartial observers, the total will actually be over six billion dollars more than we now spend.

Whether or not such a program is justified is a matter for debate, but there can be no debate about the necessity for saying what you mean in public discourse.

Witness another Carter campaign promise and what has happened to its implementation during the "days of wine and roses." The President made the unqualified commitment to see to it, that all appointments to the judiciary will be made solely on the basis of merit and without political consideration.

And now we have the sad spectacle of Mr. Carter's Attorney General squabbling with his Deputy Attorney General over exactly that promise. Some of the most successful prosecutors in the federal system have been removed from office solely because of their membership, and sometimes it is a very nominal membership, in the Republican Party. Witness Jonathan Goldstein, the U.S. Attorney in New Jersey who has made one of the most enviable records in the country as a prosecutor of corrupt public officials of both parties, and who was forced just last week to leave office as a result of pressure from the Democrat machine in his own state.

Witness the Deputy Attorney General who is not even told when his personal recommendation for U.S. Attorney in Western Pennsylvania is vetoed. And why was he vetoed? The New York Times tells us that he has prosecuted friends of Democrat officeholders who apparently have a line—indirect though it may be—to the White House. Is this what Jimmy Carter meant when he promised to insulate judicial appointments from our political process?

On the other hand, it would be unfair to accuse Mr. Carter of breaking all of his campaign promises. At least one promise—made in the context of heavy campaign contributions by the Maritime Union—has been kept.

The President of the United States—despite the advice of the Secretary of the Treasury—of the U.S. Navy—and of his own counsel—has endorsed the principle of cargo preference—a principle that according to the Government Accounting Office will cost the American consumer over 600 million dollars a year in additional energy costs.—This at the very same time when the President has pledged to fight the energy crisis as the "moral equivalent of war."

This President has called repeatedly for a "full employment" economy—but when heavy political contributors asked for special "cargo preference," he backed them up despite a report from the Government Accounting Office that cargo preference—and I quote—"will cause a net loss of employment."

When the Administration's rationale for supporting this give away-rip-off legislation was questioned in the House of Representatives, the Democrat steam roller cut off all debate. That's a splendid example of the Democrat party's commitment to open government.

If the White House is to be perceived as a place of moral leadership, then its occupant, particularly when he has made such leadership his principal rallying cry, must call the shots as he sees them; and if he is to see them as they are, he must take the moral mote from his eye.

Politics, above all, is a process of accommodation. Effective political leadership in this country demands the presumption that one's political opponents are just as committed to the well-being of the American people (no matter how mistaken they may be) as you yourself are. And I certainly think that the President has given every evidence of his desire to make his Administration a benchmark for achievement.

But his politics, guided as they are, by self-righteousness inappropriate to a process of conciliation, threaten the well-being of the very people he wishes to lead to peace and prosperity. Nowhere is this more evident than in the Carter Administration's foreign policy.

The President took office at a time when American interests around the world were in better shape than they had been in many years. The tragic war in Viet Nam had been concluded; the threatened backlash of bitterness had evaporated by the obvious good will of President Ford. The United States was well on the way to a successful conclusion of the SALT talks; the opening to China had opened new possibilities for achieving a stable relationship with the greatest power in Asia, and quiet diplomacy to achieve an end to the bloody anguish in Africa was the watchword for American policymakers. But in eight months the Carter Administration has inadvertently produced a situation in which the SALT talks are threatened with deadlock, and a surge in the arms race may be the inevitable result. We have polarized the situation in Southern Africa by an ongoing and apparently never ending series of ad libs by our Ambassador to the United Nations, who seems to have a mandate from the President himself to conduct foreign policy on the front pages of the world's newspapers.

Sometimes we in Washington wonder who the Secretary of State is . . . Cyrus Vance at the State Department in Washington . . . or Andy Young at the U.N. in New York.

Most tragic of all—we appear to be moving steadily toward a confrontation in the Middle East—which could result in an explosion of cataclysmic proportions. It is a sad fact that the rising tensions in the Middle East can be directly related to the President's off-the-cuff comments about negotiations between the Arabs and the Israelis—negotiations that must be conducted between the parties themselves if they are to have any reasonable chance of success. Only last week the Administration renewed its pressure on Israel to deal with the Palestinians. With its usual exquisite timing—the State Department put the squeeze on—on the eve of Rosh Hashanah—the beginning of the Jewish High Holy Days.

If American pressure is required—it is a pressure that should be exercised in quiet negotiations—not via the avenue of moral preachment.

Our Secretary of State travels to China—and his journey is followed by two successive statements by Premier Teng in which the Chinese leader stated explicity that the Vance trip resulted in a setback to Sino-American relations. This Administration has succeeded in worrying our allies on Taiwan as to whether or not we are preparing to abandon them. This Administration has succeeded in antagonizing an Israeli government because they perceive us as withdrawing slowly but steadily from our commitment to that country's survival.

At the same time as all these developments begin to loom on the horizon, we find President Carter unilaterally withdrawing a key element of American defense (and I mean the B-1 Bomber)—from the national arsenal. We should look at this from the viewpoint of Premier Leonid Brezhnev. He sees an American foreign policy in increasing disarray. He sees the U.S. fall back from its initial negotiating position on SALT simply as a result of a Soviet refusal to accept—its premises. He sees a strong verbal commitment to human rights around the world sharply de-escalate at the first signs of Russian displeasure. And he asks himself the question—Am I dealing with a strong Administration that has an international strategy designed to protect American interests—or am I dealing with an Administration whose right hand has no idea what its left hand is doing? I think I know the judgment that President Brezhnev has arrived at—and I can only hope that he makes no mistake about what the mistakes of the Carter Administration imply about American will and American resolution.

The simple fact is that President Carter's foreign policy—on its face, is non-existent. The President has taken a series of initiatives. He has then publicly retreated as soon as those initiatives came under fire—and he has failed to grasp the global implications of each and every one of his acts. Foreign policy is no policy at all unless it is an interlocking series of attitudes—judgments and movements that are related to an overall global objective. I don't believe that we have such a policy today, because I don't think President Carter has given his subordinates the opportunity to develop such a policy. It's "off the cuff,"—and "shoot from the hip" in Jimmy Carter's Washington.

I've spent a considerable amount of time today discussing the shortcomings of the Democrat President and the Democrat Congress for two reasons:

(1) I believe that we are going through a period in which the high hopes of the majority that elected President Carter are now increasingly shadowed by the reality of his performance. And I believe it necessary for Democrats—Republicans—and Independents alike, to send a message to Jimmy Carter. We want strong and coherent government designed to let us live our own lives here at home and to protect the national interest abroad. We do not wish government to grow ever larger—ever more unresponsive—and ever further removed from the realities of our individual day-to-day lives.

(2) I was asked to discuss the future of the Republican Party. I believe that the performance of the Carter Administration and of the Democrat Congress is the most vivid and powerful illustration of the necessity for the Republican Party to elect officeholders on the local—state and national levels in ever-increasing numbers. I believe that the recent series of special elections to Congress offers the first clue that the American people are beginning to sense the inadequacies of Democrat solutions—based on the history of the 1930's—to the problems we face in the 1970's.

These recent Republican victories are an expression of the commitment of the Republican Party and its candidates to apply those measures that will permit us to maintain and strengthen a system in which individual liberties are the ultimate value. And they are an expression of the rapidly increasing understanding throughout the country that it is indeed time for a change.

The Republican Party in Congress has already begun to demonstrate its capacity to implement that change. In the House of Representatives, the Minority has offered a comprehensive reform of the Social Security Act. Just last week—the Democrat Majority of a key subcommittee lined up on behalf of the Republican initiative to take off the earnings limitations that prevent older Americans from supplementing their income. Just as important—we persuaded the Majority on that Committee that it was time for the Federal bureaucracy to join the rest of the American people by participating in the Social Security System. There is no reason for the ordinary citizen to be obliged to pay Social Security taxes and for Washington's government employees to escape the burden of a tax system they themselves have created.

In the United States Senate, the Republican minority—all 38 Republican Senators—offered a comprehensive program emphasizing new production. I believe it's an alternative that will eventually be written into law.

We Republicans in Congress have succeeded in preventing an overwhelming Democrat majority from imposing a phoney public finance law—big union restrictions in the construction industry—and a host of other Presidential musts. But most important—we have offered alternatives. We have produced models for sober and moderate response to the needs of the American people.

We have repeatedly offered legislation calling for substantial tax cuts and I believe that we have forced the Administration into a position in which it will make at least a tentative and hesitant response. Tax reform may be an abstraction but tax relief is a necessity.

As our numbers grow—and they will grow steadily—our influence on the process will magnify. I hope and trust that when I am next invited to be with you, I will speak as the Speaker of the House—and the title of my talk will be—"The Republican Party—At the Gates of the White House."

Thank you very much.

EAST LOS ANGELES LIONS CLUB CELEBRATES GOLDEN ANNIVERSARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DANIELSON. Mr. Speaker, it has come to my attention that the East Los Angeles Lions Club of the district in California which I represent, is celebrating its 50th anniversary. For half a century the East Los Angeles Lions Club has rendered valuable service to our community and to people needing help everywhere. The East Los Angeles Lions Club has also organized several other Lions Clubs in surrounding areas and through this "seed" effect has broadened its impact.

During its 50 years the club has made generous contributions to people whose homes have been destroyed or damaged by such disasters as fire, flood, and earthquake. It has built youth centers, religious conference buildings, cabins for the YMCA and, during the war, dormitories for servicemen. The East Los Angeles Lions Club has always met the traditional need for food for the hungry and in line with the commitment of Lions everywhere to aid the blind and those with visual problems, it has provided eyeglasses for schoolchildren, braille instruments for the blind and has given seeing-eye dogs to and chauffered the blind. The benevolence of the club has not been limited to its own community but it has also sent contributions in money and in food and clothing to American Indians on their reservations, to the poor of Mexico, the Philippines, and Africa.

It is this type of service to mankind which makes the East Los Angeles Lions Club truly outstanding in its spirit of service. I commend them and wish them well during their next 50 years and wish to bring their contributions to the attention of the Members.

CATTLEMEN PLEAD CASE

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BAUCUS. Mr. Speaker, last week 40 desperate Montana cattle producers traveled over 2,000 miles to come to Washington to plead their case at the International Trade Commission hearing on meat and live cattle imports. These 40 cattle producers represented the following seven State organizations: The Montana Cattlemen's Association—Eugene Walker, president; The Montana Stockgrowers Association—Walter Johnson, president; The Meat Promoters of Montana—Voyle Samuelson, president; Women Involved in Farm Economics—Gay Holliday, president; Montana National Farmers Organization—Phil Olsen, president; Montana State Grange—Jack Iman, master; and Minutemen for Agriculture—LeRoy Musick, president. These 40 cattlemen were joined by Montana's Governor, Thomas L. Judge, and Robert Barthelmess, chairman of the Montana State Board of Livestock.

Montanans understand that beef imports are not the only cause of the prolonged depression of cattle prices, but we do know that more restrictions on beef imports would provide some much-needed relief.

Following is a copy of my testimony before the International Trade Commission hearing describing the plight of the Montana cattle producer:

TESTIMONY OF CONGRESSMAN MAX BAUCUS

Thank you for giving me the opportunity to present testimony on your investigation into the conditions of competition in U.S. markets between domestic and foreign live cattle and cattle meat fit for human consumption.

My testimony will be brief because I shall limit it to Montana's unique situation rather than rehashing the facts and figures of in-

ternational trade in general that will be presented to you by other livestock sources.

To begin with, I was distressed to learn that the Commission recently voted unanimously that beef and cattle imports do not harm the domestic cattle industry. Coming from Montana, I can assure you that imports hurt our state's domestic industry, both directly and deeply.

Montana has the open spaces and rangeland for grazing cattle, but its removal from primary feedlot and distribution centers and its proximity to Canada make it particularly vulnerable to both fluctuations in the import picture for live cattle and the long-term problem of excess imports. When feedlots feel the pinch from increasing imports, our cattlemen feel it first and hardest. When imports cut directly into local markets, the flood of beef across the border from Canada hits us harder than most other states.

Let me assure you that Montana's cattle markets are severely depressed and the economic bind that this places most of our ranchers in is prolonged and disastrous. While imports are not the sole cause of this problem, so much beef is coming into this country and so many soundly managed ranches are on the verge of bankruptcy, that the relationship between imports and economic disaster is hard to miss.

While direct cause-and-effect relationships are hard to pin down, a look at the tables for meat imports subject to the Meat Import Act and the price per hundredweight of slaughtered steers seems to indicate that the dramatic drop in imports due to the imposition of mandatory quotas last December resulted in at least a slight firming of the price for slaughtered steers after the appropriate time lag. While slightly under $42 a hundredweight is far from a price that will keep Montana's stockgrowers from going broke over the long run, it was certainly the highest price we've seen for over a year. Now, with the new influx of imported beef, the price is going back down. Our ranchers cannot adjust their operations over the short, or even medium haul for the effect of imports. They have no control over the world pricing picture, over inflation, or over the many imput costs which almost every other worker or business person in America can pass either "back" or "forward." For our stockgrowers, there is no "back" and no way to pass increased costs "forward." We are stuck with reacting after the fact to decisions or oversights that will determine the market picture for long periods of time.

I hope that your cumulative picture of the harm done to our producers is not unduly limited or colored by general considerations of consumer pricing. It is easy enough to say that statistical measures are difficult to come by and, thus, absent adequate proof, the Council on Wage and Price Stability should be accepted at face value with the warning that consumer prices would be unduly affected by a reduction of beef and meat product imports. Politicians and bureaucrats must always play to the person behind the shopping cart. But the inability to develop adequate proof of harm to our industry may be partially the result of not putting enough resources into looking for the cause and effect and then saying it's not there to be found with the level of analysis we've done so far. If you want to see effect, come to Montana, visit our ranches, and talk to our stockgrowers. If you want to find cause, don't stop with the conclusion that, since beef imports cannot be traced directly as the primary cause of the depressed cattle industry, nothing can or should be done about it. I'm sure that further digging will prove enough evidence of a strong connection between the flood of beef products into America and the problems faced by my constituents.

Thank you very much.

CHILD PORNOGRAPHY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Ms. MIKULSKI. Mr. Speaker, yesterday we passed the reauthorization for the Child Abuse Prevention and Treatment Act. Included in this bill was an expanded definition of child abuse to include sexual exploitation. I think that now is an appropriate time to share an article written by Ms. Gloria Steinem, an editor of Ms. magazine, on the subject of Child Pornography. She addresses several crucial questions: Who are the purchasers of child pornography? What are these men really like? Does child pornography really differ from pornography in general? What conditions in our society allow pornography to thrive? Ms. Steinem's perceptions are full of insight. I think that she is right on target.

The article follows:

Children are being undressed and sexually fondled by adult males; men performing sexual acts on children; "Fathers" having intercourse with "daughters"; These widely available, very profitable films and photographs are the subject of Congressional hearings and TV documentaries as America discovers child pornography, and condemns it as a sexual perversion. In fact, it is neither sexual nor a perversion. It is one logical, inevitable result of raising boys to believe they must control or conquer others as a measure of manhood, and producing men who may continue to believe that success or even functioning—in sex as in other areas of life—depends on subservience, surrender, or some clear tribute to their superiority. If that sounds far-fetched, consider the facts of child pornography. And consider their echoes in our own observations, perhaps even in our own lives.

Who are the purchasers who feed their sexual needs and a nationwide, lucrative industry by buying books, films, and magazines of the humiliation, the brutalization of children? They are, of course, men. That fact is so taken for granted that it's rarely specified, nor is it a surprise that investigations have yet to turn up even a significant few female buyers. (Yes, there have been some women who help produce such pornography, but their need seems to be money or the approval of men they're dependent on, not the personal need for intimate, obscene power that creates the pornography market in the first place.)

And who are these men who purchase pornography? Their biographical facts aren't recorded and rarely are their real names listed, but the clerks and dealers who serve them usually remark on their respectable appearance, their briefcases, white skins, and well-tailored clothes. Whether they are younger and "mod" or older and "Establishment," they seem to be of a group most likely to have been raised to expect power and authority.

The victims of child pornography are, of course, even more powerless and without alternatives than the women who are the subjects of most "adult" pornography. Many of these victims of "chicken porn," as it is known to the profit-making trade, are young boys, and the television exposés have put a homophobic emphasis on them, as if the use of little girls by adult males were somehow less shocking and less worthy of outrage. But much of child pornography is devoted to the undressing, fondling, genital display, and oral or genital penetration of female children. Where there is a description or story, the most popular themes seem to make the man a family friend or even the father.

All of this has been treated like an isolated, mysterious perversion by the Congressional and state hearings, the citizen marches and press exposés currently devoted to "doing something" about child pornography.

But how different are those obsessed, power-hungry purchasers of child pornography from the many "normal" men who are convinced of the need and permission to be violent, to conquer sexually? Once the belief in a false superiority is inflicted on men in order to perpetuate a male-dominant system, surely the question is only one of degree; of how far the individual has to or will go in order to get the drug of male superiority to which society has addicted him.

And how different are the child victims of pornography from the millions who have been sexually approached or molested or continuously brutalized as children, sometimes by men in or close to their own families? How many readers of these words have had one such childhood experience themselves?

And finally, how different are the profiteering producers of child pornography from other socially accepted pushers of the male-dominant drug? From all the media creators who confuse sexuality with a "masculine" need for violence, superiority, and power?

Nonetheless, most of the current legislative, law enforcement, and societal efforts do set off child pornography as a thing apart. Though in most ways, lawmakers are quite comfortable grouping women and children together, in this case children are being singled out. Pornographic violence against women seems to be regarded as an unfortunate but necessary by-product of First Amendment guarantees of free expression; or even as an inevitable, normal part of sexual expression. In any case, the efforts are to create stiffer penalties for the producers of child pornography, to make the transport of boys under 18 across state lines for immoral purposes a federal crime (as the transport of girls has been under the Mann Act), and generally to separate child pornography from the rest of the pornographic empire by categorizing it as child abuse.

If the measures do rescue and protect children, they are obviously worth every effort. But laws have a way of being enforced according to the cultural values of their makers. Antiobscenity statutes seem to be invoked more often against antiestablishment groups than against powerful pornography industries. (Self-help sex manuals produced by and for women have been suppressed, for instance, while *Playboy* and most of its imitators continue unquestioned and free.) One can imagine puritanical judges and communities using such laws, no matter how carefully worded, to suppress the personal, freely chosen expressions of teenagers, while letting commercial violence go free.

The truth is that sexuality itself isn't the source of the almost unbearable feeling of outrage and vicarious humiliation that brings tears to our eyes—and a frightening desire for revenge to our hearts—when we look at pornography, whether the object is an adult or a child. It is the obscene use of power, the physical or psychic violence done to one human being by another, the pleasure of the powerful in the humiliation and dehumanizing of the powerless—that is the source of our outrage. True, it is more obvious in the case of children: they cannot have the power and knowledge to either consent freely or to defy the adult masculine world. But the forces at work are the same in all pornography.

Right now, however, the only popular connection between the pornographic uses of women and children is a patriarchal connection of blame. If women weren't becoming so rebellious, the reasoning goes, we would continue to satisfy man's "natural" need for sexual dominance—and then men wouldn't become desperate enough to turn to children. In other words, child pornography, like so many other social ills, is somehow the fault of women.

It may take even more marches and lawsuits—and as many people jailed for civil disobedience and speak-outs—to affect the "masculine" sexual war as it did to change minds on the war in Vietnam.

Clearly, we have a long, long way to go.—GLORIA STEINEM.

TAXING AND SPENDING POLICY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. GRADISON. Mr. Speaker, when John Maynard Keynes published his book, "General Theory," he set in motion a way for Government to influence the performance of an economy and control the problems of inflation and unemployment. For the last 50 years, Keynesian economic theory has been the foundation for Government economic policy in over 95 percent of the free world countries. Assigning a very minor role to changes in the size of the money supply. Keynesian economics relies on taxation and Government spending to deal with inflation and unemployment.

PART I. THE INADEQUACIES OF KEYNESIAN ECONOMICS

According to the theory, inflation and unemployment should not be increasing at the same time. As prices rise, businesses experience a nominal rise in profits and, in response, increase their production by hiring new workers. As inflation creates the illusion of prosperity in business circles, the unemployed find work and the unemployment rate drops. In the face of this proposed inverse relationship, unemployment can be cured by greater Government spending to bolster aggregate demand and induce business to increase their production and hiring. This can be done, in theory, without triggering further increases in the price level.

But the experience of the last 5 years in the United States has been one of simultaneous increases in inflation and unemployment. Increased Government spending has not had the effect on the employment rate that it should. What has gone wrong? Have the stimulus packages been too conservative? The budget deficits too small? No. The deficits have been enormous. The reason for the ineffectiveness of the stimulus packages lies not in the implementation but in the theory.

Keynesian economic theory draws its policy conclusions from one crucial assumption: wages will always rise at a slower rate than prices. This assumption was accurate in the world Keynes lived in, and remained reasonable up to the last decade. But just as Newtonian physics bowed to Einstein's discoveries on relativity as techniques of measurement became increasingly sophisticated, Keynes must bow to newly emerging wage-price relationships. Many hourly wages and salaries are now indexed to the cost of living. It is no longer true that wages rise at a slower rate than prices, more and more frequently, they move together.

If our larger and larger budget deficits cannot significantly reduce unemployment, what is their effect? I maintain that their direct effect is twofold. First, they give support to sustained and increasing inflation. Second, they crowd out businesses from borrowing money and force up the interest rates for those that do manage to borrow.

PART II. BUDGET DEFICITS AND INFLATION

When the Federal Government spends more than it receives in tax revenue, the deficit must be financed through borrowing money from the public. The Government competes with private business for money. For example, in 1975, businesses borrowed $125.2 billion, the U.S. Government borrowed $85.2 billion. In 1976, business borrowed $202.6 billion as the recovery progressed, the Government borrowed $69 billion. In 1975, two-fifths of all the money available for businesses to use to expand production and employment went instead to the Government. It was used to purchase already existing goods and services. With our rapidly expanding labor force, the need for new capital is crucial.

Government action thus hinders capital formation in two ways. Business acquires money to build and expand by borrowing from private individuals. The problem is that business must compete with the Government to borrow the limited money available. Simultaneously, the money that the Government borrows is used to purchase goods and services, lowering the supply available to the American consumer. The result is that Government borrowing and spending leads to higher prices for both business and consumer.

President Carter should be applauded for his promise to balance the budget by 1981. His method, however, should be scorned. Instead of reviewing all the spending programs that are already taking place and making cuts of the waste, the President intends to spend as usual. How will the budget be balanced? As our wages rise with the cost of living, we will move up into higher tax brackets. Our money would not be worth any more, but more of it will go into the tax revenues.

We must balance the budget, the sooner the better. I say this not because balancing the budget is so right, but rather because prolonged large deficits are so wrong. We have not had a surplus in the budget in over 10 years. Even during the boom times of the early 1970's, when the Government should have been running surpluses, we had deficits. This has gone on too long. Both taxes and spending should be reduced. We are no longer living in a Keynesian society where a nation's economy can be molded by fiscal policy. Clearly, our fiscal policies of the recent past have distorted the labor and financial markets much more than they have reduced inflation and unemployment.

MADAME MARIA JERITZA: SALUTE TO A GREAT DIVA

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. RODINO. Mr. Speaker, earlier this month, a great lady and a dear friend was bestowed a richly deserved honor.

Honors are nothing new, of course, for Madame Maria Jeritza. For four decades, she dazzled the artistic world as a legendary soprano, becoming one of opera's true luminaries in both this country and in Europe. On September 18, Governor Byrne presented her with New Jersey's first annual award of the State Council on the Arts—an award honoring New Jersey residents for distinguished service in the arts and promoting culture in New Jersey.

The occasion was especially meaningful for me as Madame Jeritza has been a close and prized personal friend to me and my wife for more than 25 years. She is godmother to my granddaughter who bears her name. At her home in New Jersey, it has been my great privilege to socialize with some of the great artists of our time, men and women whose brilliance has given so much to the Nation and to the world—Tucker and Farrar, Schipa and Gigli, DeLuca, and Martinelli. And no photograph of the many I value is more dear to me than the one Madame Jeritza gave to me showing Puccini himself presenting her with a complete score of one of his works. It enjoys an important spot in my home in New Jersey.

Jeritza, of course, is more than a great artist; she is a humanitarian whose work and spirit have brought aid and joy throughout the world.

Mr. Speaker, I am pleased to place in the RECORD a copy of the New York Daily News article regarding last week's Governor's award:

[From the New York Daily News]

BYRNE'S BRAVOS FOR AN OPERA GREAT

(By Bruce Chadwick)

Madame Maria Jeritza Seery, 92, a legendary soprano in America and Europe for four decades, was honored by Gov. Byrne yesterday as the first winner of what will be an annual cultural award for the Garden State.

The award, bestowed yesterday at Morven, the Governors mansion in Princeton, was the highlight of the second annual reception for members of New Jersey's cultural community.

Madame Jeritza, who was a sensation at the Court Opera in Vienna before moving to the United States in 1921, was the first choice of the State Council on the Arts, which will recommend the culture award recipient to the governor each year.

"It is appropriate that the very first governor's annual award go to Madame Jeritza," said Gov. Byrne. "She is more than just a great lady of the opera in New Jersey. She is a singer of international stature. We all respect her very much. She has lived in New Jersey for decades and has elevated New Jersey through her distinguished life."

In the future, one or more people may receive the award each year. The purpose of the award is to honor New Jersey residents for distinguished service in the arts field and to promote culture in New Jersey.

"We think the arts are as important as any other field of endeavor. This award will attract attention to what is going on in New Jersey's artistic life. This is a state with some great theaters, concert halls and ballets. Many great New York and international performers live here, as well," said Al Kochka, executive director of the State Council on the Arts.

A rambunctious child by her own admission, Madame Jeritza spent six years in a convent before turning to opera. She made her debut as Elsa in "Lohengrin" in Olmutz, a small Austrian city, when she was 17. Her religious training stayed with her. She always wore several religious medals beneath her gowns during performances.

She later moved to Vienna and became the premier diva at the principal opera house there. She made her debut at the Met in 1921 in Erich Korngold's "The Dead City."

The famed singer, who retired from a full-time opera schedule in the mid-1930s, was famous for her Tosca, Thais, Salome and Carmen. She was generally acknowledged to be the favorite soprano of Puccini and Richard Strauss.

At the height of her career, she was mobbed on the streets, treated like royalty wherever she went and the center of whatever room she was in. It was a little like that yesterday for the aging diva, as dozens swirled around her offering congratulations. It was, well, like a scene out of an opera.

MISREPRESENTATION OF CONGRESS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. TEAGUE. Mr. Speaker, all of us in this body know that Congress as an entity and all of us as individuals from time to time have been criticized and maligned by the fourth estate. Some is brought on by our own actions as individuals and as a body; but there is also much that is not deserved.

Mr. Mike Mask of the Weatherford Democrat wrote an article entitled "Science of Politics" in which he states:

Probably no area of political activity is more misconceived or misunderstood by the ordinary citizen than is the nature of the work which our representatives in the Congress perform.

No truer statement by the press has ever been made; and I wish to include Mr. Mask's article at this point:

THE MISREPRESENTATION OF WORK—THE CONGRESSMAN'S WORK

(By Mike Mask)

Probably no area of political activity is more misconceived or misunderstood by the ordinary citizen than is the nature of the work which our representatives in Congress perform. The typical view of this work is either profoundly cynical or exceedingly naive picturings our elected representatives as either crooks or self-sacrificing citizens engaged in public duty. Of late in response to Watergate and other corruptions the former view has gained predominance and publicity. It should be obvious that the American people have a proper right to examine the job these representatives perform after all they are their employers and the benefits which they bestow on these employees is not insignificant.

Salaries alone for U.S. Senators and representatives is $42,500 a year with substantial additional benefits in the form of prestige, travel pay, administrative pay and pension plans also available. This is not to imply that these benefits are not earned for the truth is that as in any organization there are some earning their salaries while a few noticeable individuals abuse the privileges bestowed upon them. However, because of the position, status, honor and pay which the taxpayer grants to these men it behooves the ordinary citizen to be more aware of the real nature of the Congressman's work so that he may properly evaluate his job performance.

In order to inform the taxpayer, however, a number of myths about Congressional work must first be dispelled. The first and most important myth is the one which holds that the greatest amount of a representatives time is spent speaking, debating and voting on the floor of Congress. Nothing is further from reality. The Congressman's real effort is spent actually in two pursuits: working on committees and dealing with the citizens (constituents) from his region who he at least in theory represents. Committee work is usually dull, dreary, detailed investigation of legislative issues carried out by groups of representatives. The vast majority of this work deals in listening to testimony and investigating the validity of this testimony. Such work constitutes the heart of Congressional performance. Sadly the work is usually obscure, unrecorded to a great extent and not readily known by the public at large. The really crucial votes a Congressman casts will probably fall in committees and yet they are the least noticed by the public and quite often are not recorded in the public records. As a result the citizen too often sees attendance and voting upon the floor of Congress as the essential criteria by which to judge Congressional performance. The facts are that committee votes are much more important and that by the time a bill reaches the floor for a vote the outcome may be obvious. The idea that Congressmen should always be ready to be on the floor to vote is a rather simple one which overlooks the basic fact that a Congressman by meeting in committees, by talking to constituents or by listening to various interest groups may actually be performing his job in a more meaningful manner.

NEXT: The New, New Congress.

PHILADELPHIA SEEKS LANDING RIGHTS FOR EL AL AIRLINES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EILBERG. Mr. Speaker, I have joined my colleagues from Philadelphia, Hon. ROBERT N. C. NIX, Hon. MICHAEL O. MYERS, and Hon. RAYMOND F. LEDERER in requesting Secretary of State Vance to grant El Al Israel Airlines landing rights in Philadelphia. This is an issue that concerns the citizens of our city, and directly involves many of them.

Direct flight between Israel and Philadelphia would facilitate international travel and cultural exchange between the United States and Israel. Philadelphia's International Airport has recently undergone extensive renovation and expansion, and is ideally suited for international arrivals and departures. In addition, it is inconvenient to force visitors from abroad who wish to see the historical sites in this country, many of which are in Philadelphia, to be subjected to an unnecessary side-step in flight. It would be to this country's advantage to welcome visitors from abroad by making their journey here as fast and as easy as possible.

Many members of Philadelphia's Jewish community as well as large numbers of Christian pilgrims and tourists visit Israel frequently. Therefore, we hope that the Secretary of State will rule favorably on our request, which has the enthusiastic support in Philadelphia of Mayor Frank Rizzo, city aviation officials, and our constituents.

I would like to enter in the RECORD the text of a letter sent on September 26 by the Philadelphia congressional delegation to Secretary of State Vance:

WASHINGTON, D.C.
September 26, 1977.

Hon. CYRUS R. VANCE,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to you to ask for your support for a request from El Al Israel Airlines that it be granted landing rights in the City of Philadelphia.

Mr. Secretary, every year thousands of tourists and business people from all across the tri-state Greater Philadelphia region travel to Israel. However, a great inconvenience is added to their trip, because they must travel first to New York City, the only United States city which El Al is allowed to serve.

This inconvenience seems especially unnecessary now that Philadelphia's International Airport has undergone millions of dollars worth of expansion and modernization. The expansion has included construction of an Overseas Air Terminal. We are proud to say that because of this new facility and others built by the City, the airport ranks with the finest in the country as a gateway for international travelers.

Several major foreign airlines now land in Philadelphia—among them Air Jamaica, Alitalia, Lufthansa, and British Airways, along with the American overseas carriers, TWA and Pan American. It would be a great service to our constituents and our region, Mr. Secretary, if El Al were to be added to this list.

In this regard, we fully support the Philadelphia City Council resolution calling for the United States to grant landing rights to El Al. We urge an affirmative response.

Please feel free to call upon us if we can provide further information in support of El Al's request to begin service to our City.

Sincerely,

ROBERT N. C. NIX,
JOSHUA EILBERG,
MICHAEL O. MYERS,
RAYMOND F. LEDERER,
Members of Congress.

FOOD STAMP PROVISIONS OF THE FARM BILL

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAMPLER. Mr. Speaker, while perusing the September 16, 1977, issue of the CONGRESSIONAL RECORD, I was surprised by a comment of my distinguished colleague from New York (Mr. RICHMOND) in regard to the food stamp provisions of the farm bill (S. 275). On page 29578 the gentleman is quoted as saying that—

. . . it is expected that the department would move to implement EPR—elimination of the purchase requirement—as soon as possible, without waiting for the final promulgation of the other eligibility requirements.

As one who followed this provision closely throughout the legislative process, I take exception to the gentleman's interpretation of legislative intent. Section 1303(a) of S. 275 states in part that—

The Secretary of Agriculture shall implement the Food Stamp Act of 1977 as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended, which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977.

Current program regulations are continued in force specifically in recognition of the fact that major change of the food stamp program cannot be accomplished overnight without seriously jeopardizing effective and efficient program administration. Sound program administration obviously includes observance of established procedural mechanisms, such as those prescribed by the Administrative Procedure Act.

The phrase "consistent with the efficient and effective administration of the food stamp program" in the statute itself should therefore be clear enough.

In addition, the gentleman's interpretation is inconsistent with legislative history. For example, cost estimates prepared by House Agriculture Committee staff, the Congressional Budget Office and the Department of Agriculture—which were relied upon extensively during committee and floor deliberations and which are contained in the committee report on the farm bill—House report No. 95–464, pages 427, 464, and 472—assumed that elimination of the purchase requirement would not have effect until April 1978.

It is important to recognize, too, that budget and appropriation allocations for the food stamp program during fiscal year 1978 are based on similar estimates. To proceed down a different course at this point could play havoc with the budget by inflating anticipated Federal costs to the tune of $364 million.

I opposed elimination of the purchase requirement, and still do, because I am convinced that this provision will destroy the nutritional focus of the food stamp program. However, as it soon will be law, I fully expect the provision to be implemented in line with the intent and letter of the law. Unnecessary delay is tantamount to an item veto of the farm bill. And premature implementation of the provision would raise havoc with the budget and fly in the face of sound administrative practice. I hope the Department will use good judgment in this matter.

TRIBUTE TO A GREAT LADY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. SCHULZE. Mr. Speaker, last week marked the passing of one of my district's most active and dedicated committeepeople, a friend who will be missed in no small measure. Mary Semelsberger, of Tredyffrin Township, Chester County, Pa., was a truly unique individual whose long suit was honesty. At times, Mary's devotion to a fair representation of the truth embroiled her in heated controversy. But, with Mary, it could have been no other way.

Her memory is preserved in an editorial which appeared in the September 22, 1977, issue of the Suburban and Wayne Times. For what the editorial communicates about the human virtues of loyalty and honesty, I enthusiastically commend it to the attention of my colleagues:

TRIBUTE TO A GREAT LADY

We have been privileged, over the years, to know TWO great committeepeople—both, incidentally, women.

One of them died the other day, and the Republican Party of Tredyffrin is much the poorer for her passing.

Mary Semelsberger was the quintessential committeewoman—active, energetic, compassionate, helpful—and imbued with long-standing principles of Party and Religion.

How many thousands of voters did she register for the benefit of the Party? How many of them would have registered Democrat, if not for her active interest and persuasion? How many of them appreciated her true and vivid interest in their welfare and their problems?

We can give a clear answer to that last question. In the primary election of 1971, when the Chester County "Independents" gave the Republicans their first big scare, the Independents planned to take Tedyffrin by storm and with it, the whole county.

Their strategy was to win Tedyffrin by capturing its East 5 precinct. That was the key. It was also Mary Semelsberger's precinct—just how much it was her precinct no one ever fully appreciated until the vote was tabulated.

The Independents brought in all their big guns to campaign in East 5. They openly bragged that they were going to "beat Mary Semelsberger." But when the vote was counted, she had racked up an astounding majority that turned Tedyffrin around, and preserved Chester county for the "regulars" for another two years.

The reason? Mary collected every "due bill" she had earned over nearly 40 years by helping the people of the precinct. By no means the least of these was black Mt. Pleasant, in whose homes Mary Semelsberger was a frequent visitor, a solver of quarrels, one who would help with finances or keep a youngster from going to jail. No one thought that the black community would ever turn out to vote in a primary. Mt. Pleasant did—for the one woman who totally cared about its people. It was the key to that election victory—and the triumph was all Mary's.

Despite many and major illnesses, she remained active until about two years ago, when she turned the reins over to her daughter, Mary Alice. But she retained her interest in the Party.

Mary had going for her what too few have today—a sense of total loyalty to the Republican organization which, for a time, had her on its payroll in West Chester. She expressed undying faith in Ted Rubino, right down to the time when he was convicted. It was not the worst virtue for anyone to have.

Part of her conviction that Rubino was an honest man sprang from Rubino's relationship with her devoted husband, Sam, who, after retiring from the State Police, served as a Rubino aide in the Court House. No one ever said a word against Sam Semelsberger's honesty—nor against Mary's.

As in the Nixon administration, the lower echelons kept the faith long after the reason for it had departed.

In many conversations over the years, Mary deplored the disintegration of the Republican Party nationally and locally as an effective organization. We knew then, and we know now, that had Republican leadership kept faith with those who served them so devotedly, the question of party disintegration would never have arisen.

With Mary Semelsberger there were no "Watergate" quibblings with the truth. You knew where Mary stood—and many a Tredyffrin politician felt the lash of her honesty—and unfairly resented it. She wanted an honest, open party—not a devious one. Too often, especially near the end of her active career, she was unable to put across the point that an open, active, concerned party would bring in the voters.

Mary Semelsberger was truly a great committeewoman. She was truly a great friend whose like we shall not see again, whose friendship we cherished.

It's sort of a shame that there was not an evening memorial service or viewing for Mary. We're sure that her constituents would have turned out, once more, to "vote" for her in record numbers, in her final "election."

BOOTLEGGED CIGARETTES II

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. McHUGH. Mr. Speaker, yesterday I noted that the program "Sixty Minutes" had devoted a segment of its telecast on Sunday to the problem of bootlegged cigarettes. As that telecast made clear, the problem is extremely serious because of the involvement of organized crime and the loss of tax revenues to State governments.

What is the present legislative situation? As I indicated in my statement yesterday, several Members of Congress, including myself, have introduced legislation designed to curb traffic in bootlegged cigarettes. To date, however, hearings have not been scheduled.

A more thorough and comprehensive analysis of the present legislative situation was presented by Leon Rothenberg, executive secretary of the National Tobacco Tax Association, in a paper presented to NTTA Administrators on June 20, 1977.

For the benefit of those Members not familiar with this issue, or with what can be done to deal with it, I am inserting a copy of that paper into the RECORD. It is my hope that Members concerned with this issue will support my call for hearings.

The article follows:

STATUS OF NTTA CONTRABAND CIGARETTE BILL

(By Leon Rothenberg)

We began this year with a very good prospect that a major blow could be struck against cigarette bootlegging through the enactment of a federal contraband cigarette law. The principal encouraging prospects may be summarized as follows:

FAVORABLE FACTORS

NTTA had requested and received the technical assistance of the Alcohol, Tobacco and Firearms Bureau in drafting a new contraband bill which met all the requirements of federal enforcement. The NTTA bill which had its origins in the latter 1960's was reviewed and revised by ATF's legal staff to assure that it met fully the requirements for effective federal enforcement. The draft bill had then been submitted to tax administrators of each of the states for their consideration and suggestions and ATF and NTTA representatives further reviewed the bill in light of these suggestions. There was common agreement that the resulting bill was a good bill, which would bring into the fight against bootlegging the much needed resources and talent of the ATF.

Secondly, there was a new awareness in Congress of the significance of bootlegging as a law and order and state revenue problem. No longer was cigarette bootlegging regarded as uniquely a northeastern problem. The evidence of bootlegging throughout the eastern half of the country had become overwhelming. The presence of organized crime in these illicit operations had become a matter of record. It was apparent that the profits of bootlegging had an impact considerably beyond the areas of specific activity.

A third major development in support of a contraband bill was the 1976–77 study and recommendations on the subject of cigarette bootlegging by the Advisory Commission on Intergovernmental Relations. ACIR is a prestigious research group, composed of federal, state, and local officials. It has a deserved reputation for thoroughness and objectivity in its studies on state and local governmental problems. Several years ago, NTTA requested ACIR to consider cigarette bootlegging as an appropriate subject for an intergovernmental tax study. The study has now been conducted and the Commission has listed among its conclusions a specific and strong recommendation for the enactment of a contraband bill.

Another encouraging factor has been the strong support given contraband legislation by the tobacco trade. As Louis Ehrlich, Chairman of the National Association of Tobacco Distributors' Committee on Legislation and Taxation will tell you this morning, the NATD has worked closely with NTTA in support of contraband legislation. Louis Ehrlich's testimony to the Advisory Commission on Intergovernmental Relations contributed importantly to the information provided at that hearing. At that same hearing, the Tobacco Tax Council presented testimony in opposition to the contraband bill. However, it is hoped that the Council will recognize that federal contraband enforcement would benefit all segments of the tobacco industry and give public support to this needed legislation.

Another significant factor has been Congress' increasing awareness of the press coverage of bootlegging. Time magazine, Jack Anderson, and the daily press have given considerable attention to the social evils and consequences of cigarette bootlegging. A few years ago, cigarette bootlegging was a matter of concern to the few who were directly involved in combatting this operation. It is now common knowledge.

Still another factor which has lent encouragement to the prospects for passage of a contraband bill is the interest displayed in such legislation by Congressman Rodino of New Jersey, Chairman of the House Judiciary Committee, the committee which has jurisdiction over such bills. Congressman Rodino had been the sponsor of a contraband bill in 1972, and his bill was the subject of a hearing that year. NTTA President Bob Murphy of New Jersey has worked strenuously for contraband legislation, and in April of this year, he received correspondence from Congressman Rodino, in which the Congressman expressed concern over cigarette bootlegging and strong interest in legislation designed to combat this activity.

Early in May, I visited with the general counsel of the Judiciary Committee in Washington. He reiterated Congressman Rodino's strong interest in contraband legislation and suggested that there was a good likelihood that the Judiciary Subcommittee on Crime would hold a hearing on the bill this year.

CONTRABAND CIGARETTE BILLS IN THE NINETY-FIFTH SESSION

Where do we stand now with respect to the NTTA Contraband bill? As of NTTA's last tally, there are more than a dozen contraband bills before the Ninety-fifth Congress. More than half of these bills are in the form of NTTA bills introduced in past years, the most prominent example of which was the Javits bill of the early 1970's. Predominantly, these bills were introduced in the session before the NTTA–ATF draft was completed. These introductions reflect the continued support of their sponsors for contraband legislation, and we may expect their sponsors to support the 1977 NTTA version when the time arises.

In addition, five bills have been introduced which are either identical to the current NTTA bill or which follow the NTTA bill with small modifications.

The identical bills are: in the House of Representatives,

H.R. 5995—by Representative Patterson of California, and

H.R. 7019—by Representative Railsback of Illinois; and in the Senate,

S. 1487—by Senators Bellmon of Oklahoma and Anderson of Minnesota.

The bills which correspond, but not precisely, to the NTTA bill are:

H.R. 7044 by Representative Duncan of Tennessee, which differs in a few points of language which are minor in nature and

H.R. 7381 by Representative Eilberg of Pennsylvania which has one difference which may be substantive, from the NTTA bill. The current NTTA bill, like its predecessors, identifies contraband cigarettes by the absence of tax indicia and limits the definition of "state" to those which use tax indicia in cigarette tax administration. The Eilberg bill deletes this limitation and redefines a "contraband" cigarette in language which is being examined to determine whether or not the bill would apply in a state, specifically Michigan, which does not use tax indicia.

The NTTA bill would make the absence of tax indicia prima facie evdience of a contraband violation when such cigarettes are in the possession of unauthorized persons. In order to assure specific and effective enforcement, this provision has been an element of the proposed NTTA contraband legislation since its inception, and it is strongly supported by ATF. The Michigan Revenue Division has supported the NTTA Contraband Bill, with this provision, in recognition that the curbing of cigarette bootlegging throughout the country would benefit Michigan directly. (Subsequent to the NTTA Central Region Meeting, the AFT legal staff issued a verbal opinion that the Eilberg bill, H.R. 7381, like the NTTA contraband bill, would make the absence of tax indica on cigarettes in the possession of unauthorized persons evidence of a contraband violation).

PRESENT OUTLOOK FOR LEGISLATION

If prospects for a contraband bill appeared good several months ago, what are they now? The picture is less clear.

We have been advised that Congress will enact a contraband bill only if the states demonstrate unanimous support for such legislation. There have been several developments which may raise some question, at least in the minds of Congress, as to the solidity of that support.

One, considerable attention has been given in recent months to a proposal for a federally-imposed uniform cigarette tax rate as a means for ending bootlegging.

There is no doubt that a uniform rate would remove the profit incentive for bootlegging. There is doubt, however, as to whether such legislation could be passed at this session or, foreseeably at a session in the near future, because of the difficulty in getting high tax and low tax states to agree on a uniform rate. It should be pointed out that the Advisory Commission on Intergovernmental Relations has described a uniform rate proposal as a "radical approach" which might be considered only after contraband legislation and other reasonable enforcement efforts are tried.

Also, we have been told that Congress will not act until it evaluates the results of the $787,500 LEAA grant to the Interstate Revenue Research Center. This came as a surprise to tax administrators, since I am sure that none of the States participating in IRRC has ever viewed the bootlegging problem as involving a choice between IRRC and contraband legislation. The contraband bill is needed because of the recognition that no enforcement effort by the states individually or collectively can match the effectiveness of a federal enforcement agency which would have superior resources and which would not be confronted by the problems created by state borders.

Finally, the states themselves have not been sufficiently aggressive in supporting the contraband bill. The number of such bills now before Congress is not impressive. We have said again and again that cigarette bootlegging is a national problem. The few NTTA bills which have been placed in the Congressional hopper give limited support to that assertion.

It should be stressed that the NTTA and the National Association of Tax Administrators—which like NTTA has adopted a resolution in support of contraband legislation—are making a determined effort to direct Congressional attention to the need for a contraband bill. NTTA President Bob Murphy and Arthur Roemer of Minnesota, Chairman of the NTTA Committee on Contraband Legislation, and his committee have worked continuously toward this objective. Daniel G. Smith, President of NATA, has been personally involved in this effort. The NATA–NTTA headquarters has contraband legislation as a priority item on its current calendar.

In order to demonstrate the national support for contraband legislation, NTTA and NATA call upon each of you to approach your Congressional delegations again:

To indicate your concern over bootlegging.

To indicate your support for the NTTA bill.

And to stress that this bill is a carefully drawn measure and that it reflects the work and the technical expertise of ATF, the agency that would have the responsibility for enforcing the law.

NATO—ENDURING ALLIANCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on NATO and the need for the United States to continue its strong ties with it:

NATO—ENDURING ALLIANCE

(By Henry Huglin)

NATO headquarters, Brussels. NATO has been a viable, effective alliance, linking our country, Canada, and 13 European nations, for more than a generation. It has been highly successful in fulfilling its purpose—to deter war and political coercion by the Soviets in Europe.

NATO, as usual, has deficiencies and problems, but they are being dealt with. And the Alliance is needed as much as ever today, as the Soviets' military strength is greater than it has ever been and their expansionist intentions are evidently unchanged, even though their Cold War bluster has been muted by the siren sounds of detente.

Further, as always since the Alliance was founded in 1949, our country's leadership is essential. And this leadership needs to encompass overall military forces at least equivalent to the Soviets', as well as ideas, example, and leadership to keep the Alliance effective. Wisely, President Carter is committed to this course.

In addressing the NATO Council in May, Mr. Carter renewed the pledge of U.S. commitment to NATO with these words: "We will continue to make the Alliance the heart of our foreign policy. We will remain a reliable and faithful ally. We will join with you to strengthen the Alliance—politically, economically, and militarily. We will ask for and listen to the advice of our allies. And we will give our views in return, candidly and as friends."

He then gave this assessment: "This effort rests on a strong foundation. The state of the Alliance is good. Its strategy and doctrine are solid . . . In the aftermath of World War II, the political imperatives were clear—to build the strength of the West to deter Soviet aggression. Since then East-West relations have become far more complex. Managing them requires patience and skill."

These statements are consistent with the general policy toward NATO of previous administrations, although performance has not always matched the rhetoric.

The cement that holds NATO together is the common concern over the Soviets' intentions to use their great and increasing military strength to overrun western Europe, or to politically coerce us into withdrawal from Europe and the western European nations into neutrality or subservience.

The military strength and political unity of NATO have provided the climate of stability and confidence under which the western Europeans have flourished.

But now serious economic problems of inflation and recession in many NATO European countries, triggered primarily by the quadrupling of foreign crude oil prices four years ago, are being reflected in political uncertainties, especially in Britain, France, and Italy.

These economic and potential political problems could become unmanageable on a democratic basis, if the military threat and potential for political pressure from Soviet Russia were not effectively dealt with by NATO's strength and unity.

These realities, the illusoriness of detente, the disappointing results of the Helsinki accords, and the Soviets' acceleration of the arms race have led our government and those of our partners to cooperate further to improve NATO's military forces, in equipment, standardization, logistics, reserves, and other effectiveness measures. They have also agreed to try to add 3% to their defense budgets in real terms and to project their defense planning to 1990.

Our European NATO partners crucially need our active role. But, also, they continue to be crucial to our security and economic interests. Hence, we have invested a great deal in NATO over 28 years and will continue to do so. But this great investment can be considered as an essential payment of premiums on our national security and economic insurance policies.

Now, the likelihood of war breaking out in Europe is low. But, if the Soviets' strength is not counterbalanced by us and our NATO partners, they can achieve their goals without war. The climate of security and confidence will erode and NATO could break up, as the Europeans vote into power governments which will turn away from their political and economic ties with us to appease the Soviets, as their only perceived prudent way of accommodating to power politics realities.

Military strength is the basic ingredient of the Alliance. But also essential are mutual understanding, trust, confidence, and cooperation among the NATO partners—and collective national wills to meet the challenges and pay the price in troops, arms, and determination.

We can expect that NATO will continue to be the heart of our foreign policy for the foreseeable future. To keep it viable will require our continued strong effort, persistence, and leadership. There is no feasible alternative, as long as our protracted conflict with Soviet Russia is unresolved and unresolvable.

NORTHWEST EXPORT OF LOGS ADDS TO HOUSING COSTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BONKER. Mr. Speaker, on September 19, 1977, the Washington Post carried a front page story about the skyrocketing price of lumber and the severe impact it is having on the cost of housing. According to the article, by Mr. Bill Curry, the prices paid for timber have never been so high, adding "$700 to $1,500 to the cost of an average new home."

While the building surge will help to revitalize the South's forest industry, it is the consumer who ultimately suffers. In the Northwest, the timber supply problem is compounded by the export of unprocessed logs to other countries. Last year, approximately 2.8 billion board feet, more than one-third of that harvested, ended up in Japan.

The continued export of logs greatly affects supply and demand. Local manufacturers must compete with Japanese buyers in bidding for available timber, thus driving the price upward. Small mill owners simply cannot compete with what the Japanese are willing to pay for premium Northwest timber. The higher purchase price, of course, adds significantly to the cost of housing.

And if local mills cannot compete, they have no choice but to drop out or sell to the larger corporations. This practice is much too common in the Northwest which at one time was thriving with small wood and pulp mills. In one community there used to be 20 mills. Today only one remains. This trend can only lead to fewer and fewer multinational corporations totally dominating the wood products industry.

Anyone who flies over the Northwest can look down and see vast areas of clear cutting which threatens reduction of our timber supply. While I concede that there are responsible reforestation programs in effect, particularly in the private sector, the fact remains that the private areas are being seriously overcut. This, in due course, will mean greater pressure on public lands for available timber.

As a Representative of an area that is primarily dependent on timber harvesting and the wood products industry, I want to see this industry healthy and profitable. I also want to see it continue for many years in the future. That is why I take exception to having so many of our finest logs exported to Japan. That country presently has 26,000 mills that are busy cutting up our Douglas fir and hemlock timber.

Mr. Speaker, a few months ago, I introduced a bill to make permanent a ban on the export of logs and place the emphasis instead on sending out finished products. This will get the Japanese out of bidding for domestic logs and revitalize local wood mills in the Northwest. My bill will also close the loopholes, particularly the practice of substitution, that allow the export of logs from Federal timberlands to continue.

The high cost of housing is reason alone to enact this legislation. We need to protect our national resources and stop exporting unprocessed logs and the jobs that go along with them.

Mr. Curry included in the Washington Post article a brief recap on "Lumber: Supply and Demand," which highlights, at least statistically, the case. I draw my colleagues' attention to the fact that Douglas fir timber for the Northwest provides 8 billion board feet—but what is not mentioned is the fact that over one-third of the amount will end up in Japan:

LUMBER: SUPPLY AND DEMAND

(By Bill Curry)

Pine from 12 western states is the single biggest source of timber in the United States—9.9 billion board-feet last year. Douglas fir from western Washington and western Oregon provided another 8 billion board feet in 1976.

Southern states produced 7.9 billion, and these regions combined accounted for more than half of the nation's timber production.

Unlike the South, where individuals own most of the woodlands, the western states are heavily dependent—about 50 percent—on federally owned lands for their supplies. Thus higher prices go more to the U.S. Treasury and less to the local economy.

All told, the United States consumed some 43 billion board feet of wood last year, with 20 percent of that imported, primarily from Canada. One-half of the total went for lumber and plywood, with half of that used in new home construction. (One-fourth of all paper is made from sawdust and leftover wood chips of this production).

In 1973, when the last sharp rise in prices occurred, there were 2.5 million new housing starts. The federal government says the current pace of new housing construction is about 2 million for 1977.

Demand for single-family houses has increased the most, a type of construction that requires some 50 percent more lumber and plywood per unit than multi-family housing.

Between the high-price years of 1973 and

1977, housing starts plunged, as did prices for wood products.

Joe Muench, an economist with the National Forest Products Association, says that while the cost of buying trees has gone up 462 percent since 1970, the average price of finished building materials at the mill has risen only 143 percent. He says that increased efficiency and new technology have allowed the industry to absorb some of the increase in timber prices.

RESTITUTION FOR VICTIMS OF CRIME

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EDWARDS of California. Mr. Speaker, on Thursday, September 29, the House is scheduled to vote on amendments and final passage to H.R. 7010, providing compensation to victims of violent crime. It is my feeling that this bill would be much improved by requiring that States seeking grants under the Victims of Crime Act be required to have on their books a provision allowing judges to require criminals to pay restitution to their victims. I intend to offer an amendment to that effect.

The attached article by Colman McCarthy appeared in the June 21, 1977, issue of the Washington Post and indicates some of the successes which can be achieved under a creative restitution program. I commend the article to my colleagues:

SENTENCES OF RESTITUTION—NOT VENGEANCE

(By Coleman McCarthy)

NEW ORLEANS.—If buildings could heave and groan with despair, the Orleans Parish Prison would be a quaking mass of cement and steel. Built 50 years ago to hold 450 people, it is crammed now with between 900 and 1,000. Its record of squalor, cruelty and turmoil has earned it a reputation as one of the nation's most oppressive prisons.

New Orleans itself, romanticized as a city of fine cuisine and charming customs, festers with crime. Thirty-three per cent of the state's crime is here, but only 16 percent of its population. Major crime has increased 77 per cent since 1965. The human beings suffering in Parish Prison are mostly black or poor, the products of New Orleans' overcrowded low-income housing, understaffed public schools, low per capita income and severe unemployment rate (the state's highest).

Inhumane jails and crime-creating living conditions are not unique to New Orleans. Few large cities, Washington included, are without them; even more bleak, few cities have public officials willing to break from conventional thinking by seeking alternatives to the expensive, useless and brutal system of punishment that is imprisonment.

New Orleans may be different. Owing to the foresight of a few officials of conscience, a group of criminals from Parish Prison is about to be involved in a program based on the sound notion of punishing people without imprisoning them. The idea is that convicted criminals, instead of "paying back" society by languishing in prison (and earning advanced degrees in the school of crime) would be permitted to repay society by making restitution to the victim. In a crime against his property, for example, the victim may enjoy the temporary pleasures of vengeance when the offender is put away for a few months or years, but he is still without whatever was stolen. The New Orleans restitution program seeks to have the property returned or replaced by the person who took it.

As simple as it sounds, the success of the restitution program depends on meeting several challenges. Probation officers need to select the offenders who can accept both the personal freedom and the demands of a daily job. From the job's salary comes the money to pay back the victim. The offender also keeps some of the money himself. Because they are under court order to reduce prison crowding, New Orleans officials are using a restitution shelter to house 30 to 50 persons. Although restitution programs have been working—and succeeding—in other areas of the country, the New Orleans experiment is different because it is dealing with criminals that other programs seldom go near: the unskilled and uneducated.

New Orleans officials dismiss talk that their restitution program is "a bleeding-heart scheme." Calling Parish Prison "a maggot reeking in the middle of the city," one official said that with the institution's being a severe economic drain, the restitution program offers fiscal relief. Figures from the Law Enforcement Assistance Administration about four similar programs in Georgia suggest that the economics of restitution are sound. From 504 offenders who have gone through the Georgia program in the past four years, $62,500 has been paid back to victims, $172,500 has gone to federal and state taxes, $113,000 to the offenders' own families and $61,000 saved as nest eggs.

LEAA, which has been an advocate of restitution as an alternative to prison, recently commissioned a $2-million evaluation of the programs. The agency's endorsement of restitution is based on the concept that "a monetary repayment to the victim by the offender, or the offender's performing service for the community, not only helps the offender on the road to rehabilitation but also saves taxpayers money that would have been spent keeping the offender in jail."

In New Orleans, as elsewhere, officials daring to support restitution programs know that they are the exceptions. Charles C. Foti, the parish sheriff and the force behind the local restitution program, has found that his harshest critics are those who express a "lock'em-up-and-throw-away-the-key" philosophy. Foti, a survivor of the wild style of politics that has made much of southern Louisiana into a political swampland, is betting that his efforts will be seen as making good economic sense rather than "coddling criminals." Foti believes that "those who administer the correctional system in this country must become more concerned with economics of crime and the problems of the victim. In our system of criminal justice, restitution is the only method where society is actually paid back by the criminal. With so many overcrowded prisons, restitution becomes a necessity rather than simply a meaningful alternative to incarceration."

New Orleans is not the only jurisdiction under court order to reduce prison crowding; the District of Columbia is another. But it is among the few, backed by a small LEAA grant of $150,000, that insists on seeing criminals as human beings. From what is known so far, the restitution programs that have been given a chance are proving to be successful. The question now is whether the success will be allowed to spread.

THE UNFORTUNATE HAZARDS OF PUBLIC SERVICE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WALSH. Mr. Speaker, recent events in Washington have added still another unfortunate chapter to the legend of the hazards of life in the public service.

It is an unpleasant story, it does not read well, and it has had a pronounced—and, I think unfortunate—effect on each and every citizen who cares about his Government and the type of person serving them therein.

In conversations with my family, my friends, my constituents and my colleagues, the disturbing theme of a lack of respect and trust in public officials is repeated again and again.

Political pundits, politakers, preachers and the man on the street all will tell you that the level of public confidence in the institution of government—and more particularly in the personal ability, honesty and integrity of government officials—has never been lower. And every new revelation of impropriety, of influence peddling or of suggested scandal brings that confidence even lower still.

Newspapers, news magazines and news broadcasts devote considerable attention to investigations, to opinion surveys, to the intimate details of an agency or its head in difficulty, yet seldom do we hear about—or stop to consider on our own—the infinitely repeated instances of a governmental unit that shines in its performance, or about the official whose personal code is nothing less than quiet, dedicated, deeply honest duty.

What a tragedy, and how unfortunate it is that the institution of government—a government founded and run on the best principles man has ever devised—and the reputations of the very people who uphold these principles should be regarded with scorn with ridicule and with indifference.

I had not intended to make this week's column a forum for my personal beliefs, but I feel strongly you should know that my opinion of our Government, imperfect though that system can often be, is high.

Even more important, I wanted you to know of my unshakable conviction that the vast majority of the men and women who have devoted their lives to public service are numbered among the most deeply committed, unselfishly honest Americans I know.

I have been in public service for nearly 40 years—all my adult life—starting as a welfare caseworker and continuing through my experience in county and State government, as a mayor and now a member of Congress. I don't know that I could be truly happy in any other profession, for following this profession is, in every sense of the word, a privilege.

An even greater privilege for me is the opportunity to work side by side in public service with people of high moral character, great personal ability, and tremendous and loyal dedication to their calling.

When someone tells me, "Government is crooked, and the biggest crooks are politicians." I am saddened—not for myself, but for the vast and overwhelming majority of persons whose entire lives have been given to honest service to others through Government.

By far, they have earned your praise, as well as mine, and I thought this would be an appropriate time to say so.

TOWARD A NEW BEGINNING FOR THE PEACE CORPS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BONKER. Mr. Speaker, on January 22, 1977, I submitted a statement in the RECORD which expressed my concern about the need to revitalize and reshape the Peace Corps; about the need for a fresh start so that once again the Peace Corps can serve as a uniquely creative and vibrant expression of "the best that is in us." I also mentioned my plan to introduce legislation which would reconstitute the Peace Corps as a public corporation along the lines suggested in a study conducted by Harlan Cleveland of the Aspen Institute for Humanistic Studies.

I have refrained from introducing this legislation to allow an opportunity for ACTION officials to develop their thoughts on the future of the Peace Corps. Acting on my request, the Subcommittee on International Development Assistance has been conducting hearings on the future of the Peace Corps.

Thus far, I have not been impressed with the arguments brought forward in favor of retaining the Peace Corps as part of ACTION. I have reason to believe that no more attention has been devoted to the Peace Corps in this administration than in recent administrations. With the exception of appointing an able administrator for ACTION, little has been done to help restore the utility the Peace Corps once had. Consequently, I have decided to proceed with introducing a bill during the next couple of weeks which would establish the Peace Corps as a public corporation. At the same time, I would like to insert in the RECORD an opening statement I made before a recent International Development Assistance Subcommittee hearing, which sets forth an updated expression of my thinking concerning the future of the Peace Corps:

PEACE CORPS: TOWARD A NEW BEGINNING

(By the Honorable DONALD BONKER)

Mr. Chairman, I deeply regret that a conflict between the date set for this subcommittee's first oversight hearing on the Peace Corps and the schedule for my return from the district prevented my being present to hear the testimony of Sam Brown, Director of ACTION, and Gretchen Handwerger, Acting Director of the Peace Corps. I have read a transcript of the proceedings for the first hearing, so I feel reasonably up to date.

As members of this subcommittee know, I have a strong interest in the Peace Corps and its future. I requested these hearings in order to explore ways of revitalizing and reshaping the Peace Corps as an effective expression of American values in helping to cope with essential human needs abroad and promote better international understanding. This is based on the realization that Peace Corps presently is a vestige of its former self, and a belief that a new beginning is necessary.

I use the phrase "new beginning" because I hope there is not any question as to whether the Peace Corps should continue to exist. I know of no other organization which better represents the spirit which the Carter administration is trying to create in its relations with the rest of the world, or which has generated more goodwill and understanding in our foreign relations. The central question before us is how can the Peace Corps be revitalized most effectively, to take more into account the needs of the relatively least developed areas of the world, while retaining the same spirit which inspired the creation of the Peace Corps.

When the Peace Corps was first formed, emphasis was placed on promoting voluntary action among Americans to work abroad in a variety of programs. These programs were aimed primarily at enhancing international goodwill and mutual understanding. Over the years, this mandate was weakened substantially due to the increasing politicization and bureaucratization of the Peace Corps, culminating in its incorporation into ACTION. Ironically, as the Peace Corps was facing virtual extinction primarily because of political pressure exerted under previous administrations, the Agency for International Development was given new life through the "new directions" legislation, which incorporated many key concepts already developed by the Peace Corps in its work.

I believe that major priority should now be given by the Peace Corps to the unique role it can play in reducing human poverty and misery, and promoting equity in human development, particularly in the least developed countries of the world. This means much more emphasis and attention will have to be placed on recruitment and training of volunteers. Likewise, Peace Corps field offices will have to be strengthened considerably to provide more technical and material assistance to volunteers, and help volunteers substantially improve their performance in training host country counterparts. Peace Corps volunteers should no longer be automatically regarded as de facto host government employees. Gone are the days when Peace Corps can send English teachers to areas where the central concern is having enough food to eat, or supplying volunteers to work at universities in central cities when there are no schools, much less teachers, for the majority of the population living in rural areas.

My call for a new beginning for the Peace Corps raises important questions concerning the best organizational arrangement for encouraging and effectively harnessing the creative energies and talents of Americans working abroad which the Peace Corps is seeking to foster. While I am wary of placing trust in some kind of "organizational fix", frankly it is difficult to justify the present organizational arrangement of having Peace Corps within ACTION which was originally designed to de-emphasize Peace Corps' programs and erode its identity. Is Peace Corps within ACTION credible as a non-political entity when budget levels and several essential programs under control chiefs of domestic operations are still established largely by OMB and Peace Corps programs are determined by appointees subject to the political guidance of those who happen to be in power? Is a Peace Corps within ACTION viable when it has taken over seven months simply to nominate a new director, at great expense to program development and support?

Thus far, I have not been impressed with the reasons set forth by Mr. Brown for keeping Peace Corps within ACTION. First, the formidable challenges which confront Peace Corps volunteers working on the village level in impoverished areas of foreign countries are fundamentally different in several respects from those faced by volunteers in the U.S. Second, it has been my impression that in most instances Peace Corps credibility has been damaged not so much because other countries felt that Peace Corps was not involved with problems of poverty and human development in the U.S., but because either the Peace Corps could not adequately perform the tasks it was committed to undertake due to inadequate support to the field, of sloppy programming, or because the Peace Corps was perceived simply as an extension of the U.S. foreign policy establishment. Third, an autonomous Peace Corps would not in itself prevent a high degree of interchange between domestic and international development programs. Former PCV's would still be eligible to work in VISTA and vice versa. Finally, the gains in efficiency through centralized services thus far have not been very noteworthy. To the contrary, these "services" seem to have led to an extremely cumbersome recruitment and personnel system, and discouraged a process by which more support could be delegated to field staff.

In short, Peace Corps' mandate should be strengthened, and its important programs revitalized so that it is once again a uniquely vibrant and creative expression of "the best that is in us", particularly in the way the U.S. relates to the needs of the least developed countries. My comments are designed to provide a constructive stimulus for discussion. We need to address some very difficult questions concerning the future of the Peace Corps and I look forward to learning the views of our witnesses on this matter during the course of these hearings.

SOCIAL SECURITY CHOICES

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. CONABLE. Mr. Speaker, earlier this month the minority leader, Mr. RHODES, joined me and the four Republican members of the Social Security Subcommittee of the Ways and Means Committee in presenting a comprehensive 15-point proposal for social security reform. That package includes provisions to restore the system's financial stability, to remove the longstanding inequities in the system—especially those pertaining to women—to adjust the system to changing American lifestyles and to move closer toward truly universal coverage.

Any major changes in the social security program are controversial, but this proposal has received considerable favorable notice as a comprehensive plan to deal realistically with the long-term problems. I would like to submit three

more editorials, from the New Orleans States-Item, the Chattanooga Times, and the Miami Herald commenting on the proposals. In view of the serious problems confronting the social security system, I would urge that all Members give serious consideration to these editorials:

[From the New Orleans States-Item, Sept. 15, 1977]

SOCIAL SECURITY CHOICES

Congressional Republicans' plan to overhaul the Social Security system seems more realistic than proposals advanced by President Carter and congressional Democrats.

The system is faced with two critical problems. In the short term, its reserves are in danger of depletion. Over the long haul, the system faces a deficit running into the trillions of dollars.

Mr. Carter has proposed shifting money from the General Fund and raising taxes to deal with Social Security's problems. The General Fund proposal has encountered stiff opposition in Congress, as well it should, and the Carter plan appears to be getting nowhere.

A plan offered by Rep. Al Ullman, Oregon Democrat, also would increase the rate of the payroll tax paid by employers and employes. Mr. Ullman also has proposed increasing the maximum wage base on which the Social Security tax is levied by $500 a year for each of the next five years. This would be in addition to the automatic increases now in the law.

The Democrats would ease Social Security pressures in the short term without addressing the incredible deficit, which lies ahead. Current workers, who would be taxed more, would have no real assurance that the system would be solvent when they retire.

The Republican plan tackles major causes of funds depletion: The drain of early retirement on the system, which removes funds faster than they can be restored, and the double indexing of future benefits based on both wage rates and inflation.

The Republicans would increase the source of funds by bringing federal employe pensions under Social Security. They would raise the age for maximum benefits from 65 to 68, but on a graduated scale, beginning in 1990. And they would index benefit increases to inflation only.

Federal workers and those affected by the increase in retirement age will not be happy with the Republican plan. Yet the plan really goes to the core of the Social Security problem. Such hard and uncomfortable choices will have to be made if the system is to become solid again and avoid bankruptcy.

[From the Chattanooga Times, Sept. 19, 1977]

SOCIAL SECURITY: NEEDED CHANGES

Few would argue that the nation's Social Security program is in trouble. The number of persons to whom it pays out benefits is increasing, unemployment and other factors have reduced its income and it is obvious the system cannot continue to absorb more annual deficits.

The government estimates that Social Security payments will exceed revenues by $5.6 billion this year, compared to deficits of $3.2 billion and $1.2 billion for 1976 and 1975, respectively.

If this continues, with no changes in income or benefit levels, the Old Age, Survivors and Disability Insurance (OASDI) trust funds will be depleted; the disability funds could run out by 1979, followed by the retirement and survivors trust fund in 1983.

The Carter Administration has proposed higher employer payroll taxes and the transfer of income tax funds to the system (during periods of high unemployment) for the years 1978–82. On a longer term, the administration would require employers to pay the Social Security tax on each employe's full salary; the latter would pay only on the preset salary base.

Even though some portions of the system are funded from general income taxes, we're leery of expanding the idea. Wide-scale use of Treasury funds for the system would alter it fundamentally, destroying the key concept that benefits are an "earned right." Worse, an "easy" access to general revenue would leave congressmen wide open to pressure to increase benefits, the type of pressure they have been notoriously unable to withstand in other areas.

Similarly, removing the salary ceiling on employers could boomerang by forcing them to cut back on other fringe benefits for their employes.

To rescue the Social Security program, Congress either has to increase the amount being paid in, or reduce the benefits. In this regard, the plan offered by House Republicans, a portion of which has already been approved by a subcommittee, is attractive.

The GOP alternative would make Social Security practically an universal retirement system by including employes of nonprofit corporations as well as government workers. Obviously the latter will fight the proposal. But the GOP plan would stop the present practice of allowing civil servants to retire early, work outside government for five years and then collect a Civil Service pension and a relatively generous Social Security pension.

Further, it would, beginning in 1990, raise the age for retirement with full benefits at age 68 instead of the present 65—but in gradual steps. Earlier retirement would be permitted but with reduced benefits.

Republicans and Democrats are agreed that correction of a faulty inflation adjustment in 1972 is necessary. Under this method, Congress "indexed" the Social Security system to provide adjustments for cost-of-living and inflation automatically. Benefits for persons already retired in 1972 is based simply on increases in the consumer price index; for those currently at work, however, their future retirement benefits are adjusted twice. Because wages—and the payroll tax wage base—will rise to keep pace with inflation, today's workers will be entitled to higher Social Security benefits since they will have higher average earnings at retirement. Thus, their benefits will be computed from a formula already adjusted for price increases.

If the "decoupling" is not accomplished, future Social Security costs could mushroom dramatically—depending on changes in wages and prices; because of the overadjustment, Social Security benefits in some cases could even exceed workers' pre-retirement wages.

With the present multi-billion deficit in the government's regular budget, it is foolish to cure the woes of Social Security with a transfer of income tax funds. The system's "pay-as-you-go" premise can be maintained—but not without some fundamental changes that must be made soon.

[From the Miami Herald, September 19, 1977]

EQUALIZING THE BURDEN

Commerce Secretary Juanita Kreps lofted a trial ballon last month when she suggested the way to solve the money crunch for the (Social Security) system was to raise the retirement age from 65 to 68. That didn't seem to go over very well, but the Republicans in Congress are saying it is not a bad idea if you take it gradually and put off the effective date until 1990 and then take 10 years to inch the retirement age to 68.

That would limit the sharpest protest to the group under 40 and not many people in that age bracket are going to worry about what happens in the year 2000. They have more pressing problems with mortgage payments and kids who aren't learning anything in school.

We doubt the jump to age 68 for retirement will go far in Congress during the Carter years, but we would like to see serious thought given to a parallel Republican recommendation that Soical Security benefit increases be tied more closely to inflation and not, as it is today, double hinged to inflation and wage rates. That has pushed pension benefits up faster than they should have gone, though a lot of senior citizens are sure to tell us they are barely getting by on what they receive.

The basic problem, of course, is the federal government itself which hasn't the political courage to deal with inflation. It is easier to increase retirement benefits and that takes no courage at all.

Another portion of the GOP pension package that intrigues us is the recommendation that the federal retirement program be folded into Social Security. It used to be when federal wages were so low that retirement after 20 or 30 years was considered a fair exchange. But that is no longer true.

Many middle-management federal employes do better than counterparts in the private sector. They get out after 20 years, collect generous retirement benefits and then go back to work to earn another pension. You've heard of "double dipping?"

If this is a good idea for federal employes, then why not fold state and municipal workers into the Social Security system? Here in Miami, we have seen examples of public employe pensions that go far beyond what private employes can hope for even at age 65.

And have you heard that Mayor Abe Beame of New York, defeated for a second term after a career in city government, will retire at $64,000 a year? That's $4,000 more than he has been making.

STEEL CRISIS

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. MOLLOHAN. Mr. Speaker, this Nation is confronted by one of the most serious challenges to our entire economic structure since the Arab oil embargo of 1973. In the long term, it can be even more devastating. I refer, of course, to the crisis in the American steel industry caused by a multiple of factors. Wheeling, W. Va., is a "steel city." Harry Hamm, the editor of its leading newspaper, the News-Register, has stated the situation in clear and unmistakable words. I invite the attention of all my congressional colleagues to his editorial of September 25, 1977:

HOMEFRONT NEGLECT

The nation's steel industry is facing a major crisis today with plants closing, layoffs spreading like wildfire and whole communities and regions facing serious economic setbacks.

Youngstown Sheet and Tube Company's announcement last week that it was laying off 5,000 workers came as a real shocker pointing up in a dramatic fashion the problems faced by one of the nation's most basic industries—steel.

The Youngstown cutbacks are the severest to date, but they are by no means an isolated incident. U.S. Steel and Inland have laid off some 4,000 workers in the Chicago area. Bethlehem Steel announced furloughing 3,500 employees at its Lackawanna, N.Y., plant. Other operations at its Johnstown, Pa., facilities also are being restricted. Jones & Laughlin has dismissed personnel in its research and engineering staffs and Armco last week revealed cutbacks.

In our own area, Weirton Steel has released some 160 workers and the exact number of persons who have lost their jobs with Wheeling-Pittsburgh Steel in what the firm calls a cost-cutting program is open to speculation. Last week U.S. Stamping at Moundsville announced it will shut down its plant in December after 75 years of operation with 300 employees told to find other work.

Cheap steel imports, coupled with stringent government environmental requirements and a slack demand from major steel markets have combined to cause havoc in the steel industry. In July, steel imports accounted for nearly 19 percent of the nation's steel supply—the highest percentage to date. Through the first seven months, the nation's trade deficit in steel mill products stood at nearly $2.2 billion.

A week ago, the American Iron and Steel Institute reported that the industry poured only 2.28 million tons of steel in the week ended Sept. 17, down 0.5 percent from the previous week, meaning the industry was putting to use only 74.9 percent of its total capability.

Total steel output so far this year is 89.75 million tons, down 4.7 percent from the 94.14 million tons poured through Sept. 17, 1976.

Despite these grim statistics, President Carter told a group of worried Senators last week that he sees no immediate need to grant the steel industry's demands for more restraints on foreign imports.

President Carter's reaction to steel's problems is not surprising. Ever since the end of World War II, America's Presidents have been preoccupied with foreign affairs with the result that problems on the homefront often were neglected.

This country's international economic policies under successive administrations, Republican and Democrat, have shown undue favoritism to foreign producers of goods. Presidents and Secretaries of State were prone to use economic favors to persuade foreign countries to adopt policies they believed were beneficial to U.S. foreign policy objectives, many of which were open to question.

Today we are paying for these misdirected policies with thousands of American workers being forced to join the ranks of the unemployed because of unfair foreign trade competition. Steel especially is feeling the pinch although the textile industry is hurting for the same reason.

Even now when the crisis in the American steel industry seems obvious to everyone, President Carter's chief trade negotiator, Robert Strauss, seems to place a higher priority on foreign trade interests than on unemployment at home. Even though there is ample evidence of dumping in the steel industry by the Japanese, Strauss has discouraged U.S. steel companies from seeking justice in the courts. He has told them their efforts to fight unfair competition would be harmful to world trade. Isn't it time our leaders began looking after their own people?

Government officials take the attitude that our steel companies failed to modernize and keep up with their Japanese counterparts. The truth is that while the Japanese Central Bank was arranging for the Japanese steel industry to receive massive loans through large city banks, the government in this country was milking the lifeblood capital from the U.S. steel industry with income taxes alone 419 percent greater than paid by Japanese firms.

Thomas Gorman, president of the Al Tech Speciality Steel Corporation, says that while the Japanese nation was doing everything in its power to create capital for its steel industry, our nation was doing everything in its power to restrict "our industry's growth and its ability to create capital. In many cases, these programs, which had the guise of other more 'noble' causes restricted capital formation by raising taxes, controlling prices or creating more costly government regulations on the industry."

I find it hard to understand at a time when unemployment in the United States hovers close to the 7 percent mark, with millions of workers unable to find employment, our government continues to show undue favoritism to foreign producers of goods. Such favoritism continues to work to the extreme disadvantage of American industry and to the workers which American firms employ. I find it incredible that the administration would continue to permit expansion of foreign imports at a time when this same administration bemoans the nation's high rate of unemployment.

Somewhere in Washington there must be men and women in high government positions with the courage to stand up for America and insist that steps be taken to curb unfair foreign competition that results in state-supported industries dumping their excess production in this country at prices often less than that at which they could sell the goods for a profit in their own countries.

Surely it is time for the administration to consider tax incentives for capital improvements so that would allow our industries to compete with those modern facilities overseas built as a result of massive U.S. assistance. Congress too must take a stand by enacting laws that assure American industry that no unfair competition will be permitted to flourish in this country at the expense of our own workers.

I cannot accept the attitude taken by The New York Times in addressing the steel crisis, when that newspaper concluded, that American steelworkers should be content to discard their jobs on the trash heap because the "burden of protecting the industry from unpleasant realities would be too great."

In response to the position taken by The Times, Mr. Gorman, president of a specialty steel company, who I quoted above says this kind of talk is not only monstrous but immoral. He correctly points out that the "unpleasant reality that should be faced is that it is our total national economy which is competing, not the steel industry alone."

It is discouraging indeed to hear our Senators and Representatives in Washington cry protectionism when the American steel industry even suggests remedies used by the Japanese to protect and expand their own industry. Japan enjoyed all-out unrestricted growth of its industry and especially steel because of the protection of its domestic markets from foreign competition.

For thirty years the United States has poured out $140 billion in foreign aid around the globe. The reconstruction of Japan and Europe in the postwar period was made possible primarily because of U.S. dollars freely given to those countries. It is time to look homeward before all is lost.

RICHARD CLARK ASSOCIATES: 20 YEARS OF ACCOMPLISHMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. RANGEL. Mr. Speaker, this year Richard Clark Associates, minority group recruiting specialists, is celebrating their 20th anniversary of being in business. I would like to honor them for the record today for these years of aiding in the advancement of minority employment.

Through their efforts, thousands of talented people have found executive jobs and hundreds of companies have been helped to tap the great neglected human potential of black college graduates.

In 1957, Richard V. Clark founded the Hallmark Employment Agency which moved to the Rockefeller Center complex in 1962. In 1964. Richard Clark Associates was established. In June of the same year the first minority group Job Opportunity Center was created. This was in the days when it was a rare occasion to see a black executive.

Well that is changed now. Pushed by the law, prodded by their consciences, and doggedly following their own self-interest in hiring qualified talent, many big corporations are now anxious to hire black executives. Often the problem lies in a system that helps corporate personnel people, in letting blacks know what jobs are available, and in bringing the two together.

Looking back we can all see and appreciate the amount and quality of progress made by Richard Clark Associates. The blacks of America are just now beginning to realize their own potential and are also developing the self-confidence needed to adapt to the mainstream of prosperous American living.

Before concluding this statement, I would like to show you some results of this company's efforts in tangible terms. In June of this year the recruiting weekend produced 180 engineers, 150 MBA's, 80 chemists, 75 systems and programing specialists, and a host of other skilled people. Four out of five will have had work experience, the rest were new graduates. All were available for job interviews with major corporations drawn from the Fortune 500.

I am proud to see this great record and I hope you all will appreciate this great work also.

PHILADELPHIA STATE HOSPITAL PAYS TRIBUTE TO FATHER RICHARD FLEMING, FIRST CATHOLIC CHAPLAIN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EILBERG. Mr. Speaker, my very good friend, Father Richard J. Fleming, recently was honored by staff members of the Philadelphia State Hospital, where for nearly 20 years he served as its first Catholic chaplain. The hospital is located in the Fourth District of Pennsylvania, which I am privileged to serve in the House of Representatives.

A very fine article on the tribute paid to Father Fleming, and on his years of

selfless service to the mentally disturbed, appeared in the September 22, 1977, issue of the Catholic Standard and Times, the very fine weekly publication of the Archdiocese of Philadelphia. Out of genuine respect for Father Fleming and the work which he has done, it is a personal privilege and pleasure for me to place this article in the CONGRESSIONAL RECORD:

FATHER RICHARD J. FLEMING—STATE HOSPITAL HONORS FIRST CATHOLIC CHAPLAIN

Father Richard J. Fleming, first full-time Catholic Chaplain at a State psychiatric hospital in Pennsylvania, will be honored on Sept. 23 by staff members of Philadelphia State Hospital.

Father Fleming, earlier this summer, was transferred by the Archdiocese to become pastor of St. Charles Borromeo Church, 1731 Hulmville Rd., Cornwells Heights. He was the original head of the Catholic Chaplaincy at Philadelphia State Hospital, Byberry, having joined the staff in 1958. At that time the hospital's population was overcrowded with well over 7,000 patients.

When Father Fleming started at the hospital, the religious affiliation—whether Catholic, Protestant or Jewish—was unknown for most of the patients. Father Fleming enlisted the help of 15 volunteers to determine the religious faith of all for whom the information could be obtained. This information was recorded on the patient's medical records. During his first four years at Byberry, Father Fleming served without pay from the Commonwealth.

Father Fleming in his 19 years service to the hospital brought a warmth and geniality to patients and staff alike. He knew the patients by name and addressed each one personally. In 1960, the annual patients' Communion Breakfast was established under his guidance by Mrs. Frances Kochut, R.N., who also established the Sacred Heart Guild at the hospital to raise funds for the program. The innovation of these Sunday breakfasts in a large restaurant in the community for patients after attending Mass was a milestone since large groups of psychiatric patients had never been taken outside the institution for a program.

In 1960, when one of the cottages in a group at the south end of the grounds was being converted from a residence to the Catholic chapel and offices, later named Kennedy Hall, Father Fleming personally helped in the manual work. In July 1961, Cardinal Krol dedicated the chapel to St. Dymphna, the patron saint of the mentally ill.

Father Fleming was graduated from St. Charles Seminary, Overbrook, and ordained in 1946. He has been a member of the Association of Mental Health Chaplains since 1959 and is accredited as a Teaching Chaplain by the National Catholic Welfare Conference. He is also a member in the National Association of Catholic Chaplains, the Pennsylvania Hospital Chaplains Association and the Catholic Chaplains of Pennsylvania Hospitals & Schools. He served for several years as chairman of the Planning Committee for Institutional Chaplains on a State-wide basis.

HERE WE GO AGAIN

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BARNARD. Mr. Speaker, the people of this country are painfully aware that social security system is in desperate financial straits.

They are apprehensive, because we are at a point of no return. Within the foreseeable future, the system will go bankrupt if major action is not taken.

The responsibility for overhauling social security rests squarely on the shoulders of Congress. My colleague from Georgia (Mr. LEVITAS) was on record 2 years ago as urging a head-to-toe revision to put the system on a sound financial footing. I commend him and join him in that desire. I request that an editorial from the Atlanta Journal and Constitution which addresses this problem be printed in the RECORD as an extension of my remarks:

HERE WE GO AGAIN

How long ago was it that Rep. Elliott Levitas of Georgia's Fourth District proposed to the U.S. House of Representatives that the Social Security System be revamped and placed on a sound financial basis

He proposed it during his first term in the House. He's now in his second term. And we seem no closer to finding a solution to the mess that characterizes Social Security.

What brings it to mind is that Congress continues to deal with the Social Security System in the same makeshift manner that has been the norm since the system was born. It's the same concept of papering over the holes, of painting over the cracks, of being unwilling to face reality.

Demonstrating a remarkable lack of imagination and a total absence of courage, a House subcommittee has voted to increase the tax base on which Social Security taxes are paid by individuals and by businesses. This would then be followed by increasing the rate of tax paid by individuals and by businesses.

Rather than following the Levitas idea of taking a good hard look at Social Security and coming up with a revamp, the House subcommittee is taking the easy way out by doing what has been done by all its predecessors. The House members are moving toward imposing substantially heavier Social Security taxes on individuals and businesses in a typical makeshift approach.

After all, members of the House don't pay Social Security taxes. So it's no skin off their respective noses.

This makeshift approach is nothing more than an abdication of responsibility by members of the House. We urge Rep. Levitas to renew his compaign to bring reason and logic to the Social Security morass.

SENATOR STEVENS SPEAKS ON MILITARY SERVICE

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DAN DANIEL. Mr. Speaker, last week Senator TED STEVENS of Alaska served as keynote speaker for the annual meeting of the American Logistics Association here in Washington.

As most Members of the Congress are well aware, Senator STEVENS has labored long and hard in the interest of the men and women who serve in the Nation's Armed Forces.

Senator STEVENS lays out plainly the actions which have been taken and contemplated which would make military service even less attractive than it is, but it sums matters up completely in his remarks that since 1973, the cumulative impact of benefit erosion has been to reduce military personnel's real purchasing power by 6.3 percent.

In my judgment, we can all benefit from a study of Senator STEVENS' statement, and I respectfully insert it in the RECORD at this time:

ADDRESS BY SENATOR TED STEVENS

Thanks for the generous introduction and warm reception. I'm honored to be here. I know this invitation reflects your recognition of my efforts on behalf of military benefits. But we all know what we're up against.

Since 1973, we've witnessed erosion in medical and champus benefits; the regular re-enlistment bonus; travel pay upon reenlistment; superior performance pay; terminal leave payments; sick pay exclusions; G.I. bill benefits, the airman education and commissioning programs.

This litany could go on. But you know the list as well as I do. The cumulative impact has been to reduce military personnel's real purchasing power by 6.3 percent during a period when the non-military sector's purchasing power has increased 6.5 percent.

In not keeping its commitments to the military, Congress has all too often proved to be a summer soldier and sunshine patriot. Its record demonstrates, once again, the simple truth of that old verse:

"Our God and soldiers alike we adore
At the brink of danger; but not before:
After deliverance both alike requited,
Our God's forgotten, and our soldiers
Slighted."

In peacetime, with foreign policy focusing on detente and inflation the primary domestic problem, it's easy to forget past priorities and debts. The need to balance the budget takes precedence over all other considerations. All Departments' budgets are subject to renewed scrutiny, and in terms of Defense appropriations, military benefits represent the easy and obvious place to start slashing.

In the FY 1978 Defense appropriations bill, attempts to phase out commissary subsidies for clerk-hires; limit D.O.D. blue collar worker wages; and prohibit dual compensation, exemplify this problem.

As you know, I sponsored amendments to block these actions. We had to go to the floor in all three cases, and we won, by majority vote of the Senate.

The Senate restored the Wage Board amendment by voice-vote; the commissary subsidy by a vote of 59 to 33, and dual compensation by 49 to 46. But even this narrow margin is encouraging.

It shows common sense and common decency can prevail. And while we cannot deny the discouraging trend in erosion of military benefits . . . these recent votes request an encouraging trend in the erosion of anti-defense, military voting.

Given a good case to preserve military benefits—and we have an excellent one—the majority will respond to reason.

The majority supported my amendments because they recognized the proposed actions were unconscionable, unfair, short-sighted, and counter-productive.

It is unconscionable to place the burden for defense budget cuts on those who have committed the best years of their lives to service for their Nation.

It is unfair, particularly in a period of inflation, to reduce the range of benefits which military personnel have counted on when they made their career decisions.

It is short-sighted, for the steady erosion of military benefits will deter recruitment and enlistment in an all-volunteer army. What inducement or incentive exists, if prospective personnel see fringe benefits curtailed and long-term commitments unkept?

It is counter-productive, specifically in the area of the dual compensation prohibition. The net result would have been to deprive the Federal Government of highly qualified personnel.

I don't need to re-hash all the arguments or all the statistics which explained why commissary clerk-hire phase-out, D.O.D. blue collar wage restrictions and dual compensation prohibitions failed, and my amendments prevailed. The point is that Congress recognized a strong peacetime defense depends on a viable, volunteer army. If we do not keep past commitments or provide incentives, inducements and opportunities comparable to and competitive with the non-military public and private sectors, we are not going to be able to sustain this peacetime force.

So what lies ahead? If the past is indeed prologue, what can we anticipate for the future?

Congress, as I have noted, appears to be coming around.

The administration's position is open to question. On the plus side, the President was—for 13 years—a career military man. On the minus side, administration decisions on Defense programs, to date, reflect a tendency to opt for the cheapest—not necessarily wisest—investment.

However, most important, the President has completed appointment of the Military Compensation Commission, and its Chairman, Charles Zwick, in interviews has demonstrated an open mind.

Clearly, revisions in compensations and benefits are inevitable. However, any realignment must respond to the unique situation of the military.

Maintenance of an All-Volunteer Army requires dealing with the issues of comparability and competitiveness in the job market. Specific consideration must be given to these facts:

Military careers presently provide lower lifetime earnings than equivalent civilian positions.

Only 9 percent of enlisted men and 19 percent of officers can expect to achieve retirement eligibility due to the "up and out" policy.

Military retirees must seek post-retirement employment to approximate comparability with the civilian sector's lifetime earnings.

Military employees are subject to hardships and hazards—ranging from weekend duty without overtime to abrupt transfers to remote regions. And while Adak is like home to me, it's a helluva an adjustment for a recruit from South Carolina. Benefits like commissaries are not a convenience in locations like Adak—they're a necessity!

As co-sponsor of Senate bill 274, prohibiting unionization within the Armed Forces, I believe it is incumbent upon Congress to act equitably in the area of salaries and benefits to compensate for this restriction on personal freedom—essential to national security.

Finally, we can't just single out military retirement and cost increases. This situation is applicable to the SSI, CSI and private systems. Over the last decade, General Motors—for example—experienced a $500 million increase in pension costs and IBM's costs have increased 500 percent.

Certainly, there is a legitimate concern about the unfunded liability portions of military, SSI and CSI systems. This must be corrected on an across-the-board actuarial basis to protect future generations . . . but.

Military retirement funds cannot be singled out.

Compensation or comparable benefits must be provided to off-set contributions to retirement systems.

If measures and dual compensation are to be phased out they must be replaced by a system which permits retirees to continue to work and increase ultimate, cumulative benefits.

The Presidential Commission on Military Compensation and Congress are challenged to come up with solutions which accomodate all these considerations—and whatever the new programs, they cannot penalize those presently in or retired under the existing system.

As a member of Subcommittees on Defense and Interior Appropriations, I have a perspective of the conflicting claims upon Congress. We are going to have to make realignments. We continue to revise domestic priorities. We must get a handle on inflation. But we must not compromise national security.

All of us are going to have to live with change. All of us are going to have to make some sacrifices. But we all will do better if we approach the situation in a spirit of cooperation and candor.

Specifically, cooperation means the President's Commission. The military, veterans groups, and Congress should work together, in good faith, to develop a compensation system which achieves equitable revision rather than unfair erosion of military benefits.

Candor means clearly explaining to the American people that they have three alternatives so far as military compensation is concerned:

To bear the costs—no matter how high—of All-Volunteer Armed Forces; or

To return to the draft, compulsory military service; or

To live in constant jeopardy due to a physically and mentally depleted military.

There is no other way around this issue. Americans will have to pay or serve or sacrifice national security. And confronted with this choice, I am confident that they will opt to bear the costs for a strong, peacetime, All-Volunteer Army.

Public opinion polls show that Americans' feelings fluctuate on a wide range of issues—we have never waivered in our commitment to national security. We have never wanted to be second in national defense.

And while we have and will continue to change our positions and programs in many areas, Americans have, for two centuries, held constant to Thomas Jefferson's admonition:

"For a people who are free and who mean to remain so, a well organized and armed militia is their best security."

NATIONAL ENERGY ACT—ANSWERING QUESTIONS RELATED TO PUBLIC UTILITY REGULATORY POLICIES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DINGELL. Mr. Speaker, I have received many inquiries both from my colleagues in the House and from concerned citizens related to part V of title I of the National Energy Act as it passed the House, the part which relates to public utility regulatory policies.

It appears that the basis of these inquiries, in large measure, is a result of an organized effort to kill these provisions. I have seen many "letters to stockholders" which, in my view, do more to misinform than to inform the public.

In any event, I feel that the questions raised should be answered so that my colleagues and the public can better understand these important provisions. With the electric utility industry supplying about 10 percent of this Nation's end-use energy while consuming approximately 25 percent of the primary fuel resources and 33 percent of the new private capital annually, improved efficiency in the generation, transmission, and consumption of electric energy is simply too important for any of us to ignore:

Question. Doesn't Part V provide for a federal takeover of regulatory authority traditionally vested in the states?

No. The minimum federal standards prescribed in the legislation as passed by the House are to be implemented by state regulatory agencies and enforced by state courts (with two exceptions as noted below). Even if the federal government determines that the utilities in a state are not in compliance with the legislation, its power is limited to publishing a finding of noncompliance which is then used in the state court. As noted above there are two exceptions to the exclusive reliance on state courts: in cases where the parties have traditionally been able to go to federal courts, such as when one state sues another, or when the state court refuses to handle the matter.

A further precaution taken by the House to avoid a federal "takeover" was to make the Federal Energy Regulatory Commission the agency responsible for oversight rather than the Department of Energy. Thus an adjudicatory agency rather than an advocacy agency will have responsibility for this program.

It should also be noted that there is no federal rulemaking attached to these federal minimum standards (unlike the Administration's proposal) and no federal rate-setting (except where the state abdicates all responsibility).

Question. Doesn't the bill add another regulatory layer full of red tape to an already burdensome process?

No. As described above, existing state and local institutions and procedures are used rather than providing for a federal review of state decisions (as was suggested by the Administration and rejected in the Commerce Committee).

Question. Aren't the minimum standards specified in Part V new, untried, and unsound rate principles which will lead to chaos in ratemaking and unfair pricing?

No. Every minimum standard in the legislation passed by the House is already in effect in one state or another at this time. Furthermore these standards involve basic principles which have been used in industry for years. An example is time of use pricing which has been a cornerstone of ratemaking in the telephone industry (it costs more to make a call during the busy hours of the day than at the slack periods at night) which is only now beginning to be used in the electric utility industry at an unreasonably slow rate. It should be kept in mind that these minimum standards are only broad guidelines which must be implemented by state regulatory agencies only when they find it cost effective to do so.

The charge that these standards will lead to unfair pricing is also without merit. Unfair pricing exists today in varying degrees throughout the country not only because of overt attempts to subsidize one class of customers to the disadvantage of others but also because utilities and the commissions which regulate them have often failed to collect the necessary data to determine which customers or class of customers are causing what costs. A principal element of this legislation is that prices for electric energy be based on the cost of providing service; no more, no less.

Question. Weren't all these provisions added to the Carter energy program at the last moment, going much further than the

Administration's proposals, and why does Congress feel it necessary to legislate here?

The legislation which the Administration sent to Congress earlier this year had provisions not only for regulation of the electric utility industry but also the gas utility industry. While it is true that the legislation suggested by the Administration wasn't as broad in scope as that passed by the House, the Administration's version had a much greater impact on the degree to which the federal government would participate in state ratemaking. Furthermore electric utility regulation has been of great interest recently in Congress as evidenced by the studies and hearings conducted in both the House and the Senate and by Title II of the Energy Conservation and Production Act which passed both bodies and was signed into law in 1976. In preparation for the public utility regulatory provisions of the legislation now being considered before Congress, 1100 pages of testimony from 70 different witnesses representing all segments of the utility industry and the consuming public was heard. In fact, more time was spent on public utility regulatory provisions in hearings and in marking up of the legislation than for any other single section of the National Energy Act for which the Commerce Committee was responsible. The reason that Congress is deeply interested in this subject can be summarized very briefly: the electric utility industry which supplies the nation with about 10 percent of its energy, consumes annually about one-quarter of the primary fuel resources and one-third of the new private capital. This is too important an area for Congress to ignore.

Question. Doesn't the bill provide for certain loopholes for some customers?

Two exceptions to the cost of service principle are included in the bill, one temporary and one ironically due to state's rights. It has always been a basic principle of ratemaking that rates should not only be fair but also predictable and consistent. If a state with rates which were not based on cost of service were suddenly to change its rate structure, certain customers who had made economic decisions based on the old rate schedule (such as buying an electric hot water or converting an industrial process from gas heat to electric heat) might suffer a severe economic shock. Thus there is a provision in the bill for a gradual 5-year changeover in these cases. Furthermore, several states have made the decision to have "lifeline" rates and the Commerce Committee felt, that while it did not necessarily approve of such rates, it would be improper to override these local decisions. Thus states who wish to have such rates may do so but there is no federal mandate to do so.

Question. Does the legislation mandate marginal cost pricing and, if so, why?

The legislation does not mandate any specific costing methodology and says so explicitly in the report to the legislation. There was very convincing testimony given to the Subcommittee on Energy and Power that marginal cost pricing might be appropriate but the final Committee (and House) decision was to leave the choosing of a costing methodology in the hands of the states.

Question. Why is there a ban on advertising by utilities?

There is no ban on advertising by utilities; that would be a blatant violation of the First Amendment. There is no doubt, however, that certain classes of advertising, such as political advertising (much like that with which we have recently been inundated) is performed for the benefit of the stockholders of the company and not for the ratepayers. Thus, the legislation provides that in these cases costs of advertising cannot be passed to the ratepayer but must be borne by the stockholders. It should be kept in mind that the costs which we are asking the stockholders to pay are minimal: In 1975 privately owned electric utilities spent approximately $15 million on advertising and had a net income of $6 billion. Thus if all advertising expenses were paid out of net income and not recovered from ratepayers (which we do not advocate) the percentage reduction in net income would have been 0.2 percent or a loss of 1¢ for every $5 of net income.

Question. Doesn't the legislation make it more difficult for electric utilities to get competent people for their boards of directors?

It shouldn't. Existing law already restricts who can serve on the board of directors of a public utility and has done so since the 1930's. No person on the board of a firm authorized to underwrite securities for utilities or a firm which supplies electrical equipment to electric utilities can be on the board of the electric utility unless a waiver is obtained from the Federal Power Commission (FPC). Thus there is a presumption that there is a conflict unless proven otherwise. The present legislation says that members of boards of firms which supply fuel to utilities, which are general types of financial institutions, or which are the 20 largest customers must disclose these positions when they join the board of an electric utility. The FPC can remove them only when they find, in a public hearing, that a conflict of interest exists. Thus the presumption is that no conflict exists unless proven otherwise. This measure certainly shouldn't have any adverse effect on a utility's ability to obtain qualified individuals for its board of directors.

Question. In establishing these minimum standards, why were privately owned utilities covered and not publicly owned ones?

Coverage is not controlled by type of ownership but by size: both privately and publicly owned electric utilities are covered. It happens that most of the large utilities are privately owned (and, therefore, covered) while most of the small ones are publicly owned (and, therefore, not covered). The threshold of coverage for the first seven years is annual sales of 750 million kilowatt-hours per year. This threshold captures about 90 percent of total sales in the nation. After the first seven years the threshold drops to 200 million kilowatt-hours per year which captures 95 percent of total sales. This covers about 400 companies. To capture all sales would involve covering 2,000 more companies to get just 5 percent of the sales. This would clearly involve bureaucratic red tape at its worst. Even with the highest limit of 750 million, many public utilities are covered such as those which serve Los Angeles, Anaheim, and Pasadena, California; Jacksonville and Orlando, Florida; Kansas City, Kansas; Austin, Texas; Seattle and Tacoma, Washington; all of Puerto Rico; and many others.

Question. Why give the FPC authority to order interconnections, wheeling of power, and the takeover of similar management prerogatives?

The reliability and adequacy of electric service is no longer a local or even a statewide question. The massive electrical grid which has evolved, has turned this into a regional and a national question. Often what is best for one utility or one state may not be in the best interest of the entire region. Many times the utilities involved are able to address these problems by themselves without any intervention. However there are instances when a parochial attitude prevents the efficient use of fuel and capital resources within an entire region. The House concluded, therefore, that the FPC should be given anuthority in certain areas. However it made sure that this authority would not be abused by requiring that the FPC, in exercising its powers, would have to determine beforehand that orders for interconnection, wheeling, and the like would be of general benefit to all consumers of the affected region, would not cause financial harm or a decrease in the reliability of service to the consumers of the utility affected by the order, and that the utilities requesting the orders were ready, willing, and able to pay for any capital and operating expenses involved in the order so that the utility subject to the order would be made whole. In no way does this involve a "takeover" of management decision-making prerogatives. It is merely an attempt to communicate to those few managers who do not see any value in cooperating with some of their fellow utilities that there may be larger issues at stake.

Question. Even if the measures set forth in the legislation are needed, won't they lead to increased capital financing problems for an industry already plagued with difficulties in raising capital?

No, the exact opposite is true. There are, indeed, certain portions of the Administration's energy program which will require significant capital expenditures. An example is coal conversion which is estimated to cost the utility industry $40 billion by 1985. However, the same computer model which predicts this increase in capital requirements also predicts that there will be a net capital savings of $55 billion by 1985 due to utility rate reform and conservation (even taking into account added metering expenses and the like). Thus Part V dealing with a public utiltiy regulatory policies not only is a saver of capital resources but provides the capital to support other measures such as coal conversion.

THE FTC AMENDENTS AND CLASS ACTION SUITS—I

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAXMAN. Mr. Speaker, a vigorous lobbying campaign has been undertaken by corporate interests across the country to strike section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977. Section 7 provides for citizen suits and other consumer actions to enforce FTC rules prohibiting unfair and deceptive trade practices. This provision is the heart of the legislation. It is designed to give consumers an equitable and effective tool with which they can protect themselves when the FTC is unwilling or unable, due to a lack of resources, to go into court in their behalf.

A number of fallacious arguments have been raised as to the effects this provision would have. It has been contended that consumer class action suits would serve only to enrich attorneys and not to benefit consumers. It is also alleged that class action attorneys would utilize this new opportunity to "blackmail" corporate defendants into settling claims against them.

Both these charges are utterly without merit. In order to refute them fully, I am pleased to insert a memorandum prepared by Beverly C. Moore, Jr., editor of Class Action reports. This is the first of three such memoranda Mr. Moore has prepared on various aspects of this critical legislation. I commend it to my colleagues:

FALLACIOUS ARGUMENT NO. 1: CONSUMER CLASS ACTIONS WOULD SERVE ONLY TO ENRICH ATTORNEYS—NOT TO BENEFIT CONSUMERS

Plaintiff attorneys have long been used as scapegoats to discredit or obscure the deterrent and compensatory benefits of class actions. The truth is that class actions have cut in half the proportion of the monetary recovery consumed by attorney fees. The available data show that attorney fees have accounted for an average 16–17 percent of class action recoveries,[1] compared to 33 percent or more in nonclass litigation such as automobile accident or medical malpractice cases. Thus, 83–84 percent of a class recovery is, in fact, distributed to the members of the class. On its face this performance is superior even to those paragons of distribution efficiency, the modern supermarket or department store, where retail price markups range from 25 to 40 percent.

If attorney fee awards in class actions are considered excessive, that can only be the fault of the judges. For *all* fee awards to the successful attorney for a class are determined by the court. In recent years courts have developed and applied strict standards. The basic consideration is the time spent on the case multiplied by the attorney's noncontingent hourly market rate. The product is then adjusted for contingent risk, quality of performance, benefits conferred, and other factors. Fees are no longer awarded on a percentage basis, although a substantial percentage of the recovery continues to serve as an upper limit regardless of how many hours the attorney may have spent on a case.

It should be noted also that the percentage of a class recovery consumed by fees tends to decline as the size of the recovery increases. This is significant because recoveries in most class actions thus far, and particularly in consumer class actions, have been reduced to a fraction of the actual harm to the class through the requirement that each class member must be identified and located and must ultimately come forward to claim or prove his individual share of the damages. Since H.R. 3816 permits damages to be assessed in the aggregate, based on the actual harm to the class rather than the number of class members who affirmatively submit claims, class recoveries will be substantially larger although the attorney hours necessary to obtain them will remain about the same. Accordingly, the percentage of recoveries consumed by fees in H.R. 3816 class actions is likely to be lower than the traditional 16–17 percent.

To be sure, some attorneys have become wealthy through class action litigation, but at least a few people make a fortune in practically every type of business pursuit. Would the corporate interests who opposed H.R. 3816 be able to live with the limited incomes and incentives they propose for class action plaintiff attorneys? We think not. A fee award of $300,000 or $3 million may seem large, and it is, by class action standards. But such fees are normally just compensation for hundreds or thousands of hours of work by several attorneys over a period of years during which they must forego other, often more profitable legal work and continue to pay their secretaries, office rent, and other substantial overhead. Since such attorneys are paid nothing unless they win, the risk is substantial. Despite the few who have succeeded handsomely, many class action attorneys who have obtained recoveries in a majority of their cases have yet to register an overall profit after five or ten years of litigation.

It may be that lawyers in general make too much money, due in part to various anticompetitive restrictions contained in bar association "ethics" codes. But there is no basis for singling out plaintiff class action attorneys when a solution applicable to the entire profession is called for. In the final analysis, if the earnings of plaintiff class action lawyers are so excessive, why are there so few of them? Why are there several times as many class action defense lawyers—unless defense work is where the big money really is? Why are defense firms manned by 50 or even 200 lawyers, while a "large" plaintiff class action firm may have ten attorneys? Again, the answer is that the earnings of class action defense lawyers exceed those of plaintiff lawyers. In one case a wealthy class action plaintiff attorney, in response to a defense assertion of excessive fees, offered to stipulate that for winning the case he would accept half of what the defense attorneys were paid for losing it.

In sum, H.R. 3816 opponents' contention that class actions merely enrich attorneys is simply defied by all of the available evidence and logic. More than four out of every five dollars recovered does end up in the hands of class members. That large aggregate recoveries can be distributed in small amounts to large numbers of individual consumers has been amply demonstrated by the Antibiotics Antitrust Litigation, where 882,000 households in six western states received refunds averaging $30–$40 for alleged prescription drug price overcharges that had occurred eight to 20 years earlier.[2] The greater benefit for consumers, however, is deterrence of future injuries that effective class action remedies would render unprofitable. Corporate opponents' objective in attacking attorney fees is unmistakeable. By destroying or limiting the incentive for attorneys to prosecute class actions, corporations can escape legal liability for harms perpetrated on the consuming public.

FALLACIOUS ARGUMENT NO. 2: CLASS ACTION ATTORNEYS WOULD BRING "STRIKE SUITS" UNFAIRLY "COERCING" DEFENDANTS INTO SETTLEMENTS UNRELATED TO THE MERITS OF THE PLAINTIFFS' CLAIMS

This is sometimes referred to as the "legalized blackmail" argument. As we shall see, it is really another argument against the class action device per se. Naturally, defendants would rather escape liability to small claimants altogether. The notion here is that a defendant could adequately resist a baseless $10 lawsuit brought by an individual consumer. But when confronted with the aggregation, through a class action, of one million equally baseless $10 claims, defendants complain that they are somehow coerced—perhaps "leveraged" would be the better term—into settling in order to avoid the mere possibility of a $10 million class judgment.

The short answer to this contention is that its proponents have never identified a single one of these class action "strike suits". If they are so prevalent, giving just one actual example ought not to be overly difficult. Yet in 1972, when the Senate Commerce Committee sent a questionnaire to opposing counsel in over 400 class actions, including 127 defense counsel, asking specifically for examples of frivolous or unmeritorious class suits, not a single such example was forthcoming.[3]

To date there have been two major empirical studies of class action litigation, both of which have investigated this legalized blackmail problem. Both found no evidence whatever that it exists. The first study, conducted for the Senate Commerce Committee by the editors of the Georgetown Law Journal, investigated all class actions filed in the U.S. District Court for the District of Columbia during the 1966–1972 period.[4] Personal interviews with opposing counsel in 64 of these cases "disclosed that no more than a handful [of defense attorneys] would label their opponents' cases as frivolous."

Of more central importance to the legalized blackmail argument is whether defendants actually capitulate to settlement demands in such baseless class actions—or, where the case is not "frivolous", whether defendants are forced to settle for more than its merits would justify. Of the 81 final dispositions of class actions in the Senate Commerce Committee sample, defendants prevailed in 47 cases, or 58 percent. In 44 of those 47 cases, defense victories were obtained by summary judgment, denial of class certification, or other dismissal at a preliminary stage of the litigation. In short, defendants do not capitulate. Whether the plaintiffs' case is strong or weak, defense resistance is consistently vigorous—often protracted. Strike suits simply do not pay, and at least by now practically all class action plantiff attorneys know this to be true.

The other study, a phase of the exhaustive and authoritative American Bar Foundation Class Action Project, painstakingly analyzed all antitrust class and nonclass actions filed in the Northern District of Illinois during fiscal years 1966–1973.[5] Conclusion: "The charge that the costs of defending class actions are so high and the potential liability so great as to force defendants to settle irrespective of the merits of plaintiff's claim finds little support in this district." In fact, the study complained that even "successful" class actions had been able to recover only a fraction of single damages, although the law provides for treble damage recoveries. If there is a "blackmail" aspect to the class action process, it is wielded not by plaintiffs but by defendants who can, even under H.R. 3816, avail themselves of an array of artificial legal doctrines to escape full liability for class harms perpetrated. A survey of the reported decisions does not reveal a single consumer class action in which damages approaching 100 cents on the dollar were recovered.

We do not suggest that class action strike suits have never been filed. A few have been, but they represent a tiny fraction of all class actions. More importantly, strike suits clearly are more frequent in nonclass actions than in class actions—more frequent also in small class actions, where less harm can be done, than in large class actions, where, according to the American Bar Foundation study, defendants' willingness to resist rather than to capitulate corresponds with the amount at stake in the litigation. Occasional strike suits are a characteristic phenomenon of every type of litigation. If the Congress is determined to thwart class action remedies because an even tinier percentage of class than nonclass actions may be "strike suits," then perhaps the desirability of our entire civil legal system should be reconsidered.

It is not surprising that there is no empirical evidence of a legalized blackmail problem, since the basic economics of class action litigation pose severe disincentives for strike suits. Any lawyer filing a class action must be prepared to make a substantial investment. He must be willing, over a course of perhaps five years or more, to sacrifice hundreds or thousands of professional hours, to advance perhaps tens of thousands of dollars for notice and other litigation expenses, and to pay out further sums for office overhead—all down the drain unless he ultimately obtains a class recovery. No attorney in his right mind is going to risk having to make and lose that investment because the defendant will not capitulate to the quick settlement of a baseless claim. To file a class action without a strong case on the merits is irrational economic behavior.

Even if the defendant were to capitulate—and the studies discussed above suggest that this rarely occurs—Rule 23(e) provides further safeguards. Any such "strike settlement" would have to be approved by the court as being fair and adequate for the absent class members. Any fees awarded the plaintiff attorney would be related to the number of hours expended rather than the

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Footnotes at end of article.

success in extracting a settlement. And where the settlement fund is relatively modest, being merely a payoff to dispose of the litigation, its size would also be a constraint, since judges are unlikely to award fees consuming more than 30–40 percent of a class recovery regardless of the attorney hours involved. Furthermore, Rule 23(e) prevents the attorney from withdrawing his class claims, settling the claim of the named plaintiff, and privately extracting a fee from the defendant. All such activity is subject to court approval and possible notice to the absent class members.[6]

Strike suits are far more likely to occur in nonclass actions, not only because there is no mandatory judicial scrutiny of settlement and fee payments but also because the "nuisance value" of avoiding further defense costs may exceed the amount even of a meritorious nonclass claim. For example, if an individual plaintiff has a $100 claim, a defendant may be well advised to pay it rather than to incur thousands of dollars of billings from its own attorneys. When confronted with a potential $10 million class claim, however, it is extremely unlikely that the cost of defending will exceed or even approach the value of the claim itself. In that situation the defendant's primary motivation for settling is not "nuisance value" but the fear of being held liable for $10 million. The settlement amount will be somewhat less than $10 million, since it represents a compromise based upon both sides uncertain assessments of the outcome at trial. This is not "coercion"; it is simply the normal settlement process.

It is necessary to make this point because drug companies who were defendants in the epic *Antibiotics* antitrust litigation have been circulating the argument that they were "blackmailed" into a series of settlements totaling $213 million, "of which $42 million [19.7 percent] was awarded in attorney fees,"[7] in order to avoid "the possibilities of protracted litigation in the public eye."[8] Although we do not know what these drug companies' defense costs were, the suggestion that they were willing to pay out $213 million to avoid such costs is absurd on its face. Obviously, the payments of $213 million, representing a modest fraction of the asserted single damages, were made to avoid the possibility that the court or jury would impose a far greater liability, exceeding $1 billion, and that this judgment would be supported by sufficient evidence to be upheld on appeal. That the defendants' willingness to settle for $213 million was based not on "coercion" but on their perceived probability of a greater liability at trial is amply demonstrated by a single fact. When the state of North Carolina held out for more, the defendants did not capitulate to "blackmail". They went to trial—and won.[9]

Finally, it must be emphasized that the proper standard for evaluating the blackmail "leverage" of a class claim is to compare it with a nonclass claim of the same magnitude. As the Ninth Circuit observed in *Blackie v. Barrack*:

"Precisely the same power to coerce a settlement . . . is wielded by any [individual or corporate] plaintiff with a substantial claim. . . . [W]e have no means of deciding whether the present hue and cry of "blackmail" in fact represents an abnormally high incidence of unfairly coerced settlements, or is rather the pained outcry of defendants whose previously advantaged litigating position has been undermined, and who must now confront small claimants (who have been given the capacity to exert pressure proportionate to the magnitude of the total injury occasioned by defendants' alleged violation of the law) on more equal grounds."[10]

When viewed in the context of a nonclass claim of equal magnitude, the class action consistently has less leverage potential. The reason why is quite simple. In the nonclass action, all plantiff parties are by definition already before the court, and if there is a recovery they will definitely receive it. In a class action, no one except the named plaintiffs is before the court until and unless the court allows the case to proceed as a class action. In a substantial proportion of the cases class status is denied on grounds having nothing to do with whether a class exists that has suffered a real injury adjudicable on a classwide basis. That will continue to be so under H.R. 3816, although its aggregate class damage remedy ensures a full recovery where class status is granted and the planitiffs have the evidence to prevail on the merits.

A further consideration is the usually substantial imbalance of litigation resources between the small claim class plantiff and the defendant corporation. A nonclass plaintiff with a substantial claim is more likely to have substantial resources to prosecute it. Indeed, the real danger of "strike settlements" in the class action context comes from the ability of well financed defendants to engage in protracted litigation which depletes the plaintiff's resources and coerces an inadequate class settlement.

FOOTNOTES

[1] See data presented at 3 *Class Action Rep.* 51 n. 77, 162 (1974).

[2] *See* Lebedoff, "Operation Money Back," 4 *Class Action Rep.* 147–168, 228–241 (1975).

[3] *See* data on file with Senate Commerce Comm.; Senate Commerce Comm., *Staff Review of Class Action Legislation*, 92d Cong., 2d Sess. (1972).

[4] Note, "The Rule 23(b)(3) Class Action: An Empirical Study," 62 *Geo. L.J.* 1123 (1974).

[5] DuVal, "The Class Action as an Antitrust Enforcement Device: The Chicago Experience," 1976 *A.B.F. Res. J.* 1021–1106, 1273–1358.

[6] *See, e.g.*, Magana v. Platzer Shipyard, Inc., 14 FEP Cases 561 (S.D. Tex. 1977).

[7] This fee percentage is somewhat higher than the 16–17 percent average for two legitimate reasons. First the *Antibiotics* litigation consisted not of a single case but of a series of cases involving different subclasses and geographic regions. The litigation was highly protracted, spanning a ten year period, involving dozens of attorneys and thousands of hours of their time on both sides. Second, relatively high fees were awarded the plaintiff attorneys because they were the first to obtain a recovery of this magnitude in the history of legal institutions.

[8] This suggested adverse publicity factor can be quickly dismissed, since most members of the public have no idea which corporations are being sued for what. Indeed, at any point in time, most large corporations are being sued for something.

[9] The attorneys representing North Carolina presented little evidence of their own. They merely submitted the transcripts and records from prior government prosecutions. The jury returned a verdict for the defendants.

[10] 524 F. 2d 891 (9th Cir. 1975).

Footnotes at end of article.

NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WEISS. Mr. Speaker, I would like to share the following letters supporting the amendment I will move to H.R. 6566—the ERDA National Security Authorization—deleting all funds for the neutron bomb. I strongly urge my colleagues to examine the views expressed in these letters for their valuable advice.

In addition to these two organizations, the following groups support the amendment: The United Auto Workers, the Americans for Democratic Action, New Directions, the Coalition for a New Foreign and Military Policy, the New Democratic Coalition, the Women's Strike for Peace, and the Women's League for Peace and Freedom.

Twenty-four Members of the House have joined me in introducing this amendment: Representatives HERMAN BADILLO, BERKLEY BEDELL, WILLIAM BRODHEAD, JOHN BURTON, JOHN CONYERS, RON DELLUMS, ROBERT DRINAN, ROBERT EDGAR, DON EDWARDS, DAN GLICKMAN, ELIZABETH HOLTZMAN, ROBERT KASTENMEIER, PETER KOSTMAYER, ANDREW MAGUIRE, EDWARD MARKEY, BARBARA MIKULSKI, GEORGE MILLER, PARREN MITCHELL, RICHARD NOLAN, RICHARD OTTINGER, LEON PANETTA, FRED RICHMOND, FORTNEY, "PETE" STARK, and HENRY WAXMAN.

The material follows:

SEPTEMBER 26, 1977.

DEAR MEMBER OF CONGRESS: Congressman Weiss' amendment to delete funds for enhanced radiation warheads will be on the House floor on Wednesday. SANE urges you to vote in favor of this amendment, for we believe the neutron bomb is an unnecessary and dangerous weapon.

It is unnecessary because our seven thousand tactical nuclear weapons already deployed in Europe present enough of a risk to deter Soviet invasion. Alleged Soviet fearlessness in the face of currently deployed weapons is a Pentagon fabrication with no parallel in reality.

The neutron bomb is dangerous because the Soviets will react by developing one of their own. In a period of tension, each side would be motivated to launch an attack in order to preempt the other side's likely use of neutron weapons. The military standoff in Europe would become more unstable.

If a war were to occur (no deterrent can guarantee that it will not) and neutron bombs were used according to plan, the result would almost certainly be escalation of the conflict to a nuclear world war.

While leaving negotiating tables intact, the neutron bomb would damage American arms control efforts. It would hamper attempts to conclude a comprehensive test ban treaty. It would signal American disinterest in a Mutual Force Reductions agreement. It would, by adding to the forward-based systems problem, make the arms reductions we seek in SALT more difficult to negotiate. And it would worsen the prospects for controlling nuclear proliferation by setting the wrong example for other nations.

SANE believes that a neutron bomb deployment will be viewed in retrospect as a very unfortunate mistake. Your support of the Weiss amendment can help the United States avoid this error.

Sincerely,

VICTOR LLOYD,
Administrative Director.
PAUL R. BENNETT,
Staff Associate.

SEPTEMBER 26, 1977.

DEAR REPRESENTATIVE: NETWORK endorses the Weiss amendment to HR 6566, the ERDA National Security Authorization. This amendment prohibits funds for production, procurement or deployment of any enhanced radiation weapon or for research, development, test or evaluation of same.

Granted there are persuasive military arguments on both sides and religious groups cannot be briefed on the highly sensitive and technical material with which you are familiar, still we felt we wanted to communicate our deep concerns to you.

We pose two questions which we feel are serious because they probe the moral implications behind a decision to proceed with the neutron bomb:

"Will the choice to go ahead with the enhanced radiation weapon increase the likelihood of nuclear weapons use in the future?

"Are the federal dollars best spent in this area?"

With the information we have, we urge you to choose to stop this weapon.

Some of the arguments which we have found persuasive are:

"The neutron weapon is designed to be used in a package; therefore there is comparable damage to existing weapons in Europe.

"European leaders are not urging it.

"Other nations in the future may follow our example or even purchase these warheads from us."

However, the main arguments are our answers to the above questions. Since property has been valued over human life by many nations down through history, we sense such a weapon could, in the hands of some decision makers in the future, be deployed. To the second question our experience with people in rural and urban poverty areas in this country leads us to urge the government to spend money instead on health, housing, and most of all full employment programs.

Peace,

SR. CAROL COSTON, O.P.,
Executive Director.

INABILITY OF PUBLIC EMPLOYMENT AGENCIES TO HELP UNEMPLOYED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. STARK. Mr. Speaker, today I received a letter from a constituent that illustrates the plight of our welfare population with poignant simplicity. The writer is 40 years old, black, and a woman. She is a trained accountant, yet cannot find any employment, either through her own efforts, or through the services provided by the CETA and WIN programs. She comes to the conclusion, and I must say rightfully so, that she is on welfare because she is 40, black, divorced, and the mother of a 7-year-old child.

She eloquently recounts her experiences with the public employment agencies, and their inability to even provide her with a semblance of assistance. It would be advisable for us all to read her letter very carefully, before we plunge into a massive reform of the welfare system. This woman is a living example of the myths of welfare that Secretary Califano is so fond of stressing. She is healthy, able to work, trained, yet there simply are not any jobs for her. The welfare reform proposal does give jobs to recipients, but her doubts as to the effectiveness of the jobs programs, as they are currently administered, must be ameliorated before we create another huge, but impotent, bureaucracy.

I think that the most important thing that we must keep in mind, during this debate on welfare policy, is that we are talking about people's lives. The numbers, statistics, and policies are all meaningless, unless we listen to the people, how they view the system, and whether our noble efforts are truly helping those who need the help. The text of her letter follows:

FORTNEY H. STARK,
Congress Of The United States,
House Of Representatives,
Washington, D.C.

DEAR PETE: Well here I am again. I read with interest, some understanding and very much confusion about your new role with the President's Welfare Reform Law. It's amazing and wonderful to think that most or all people on Welfare will have a job! A job that will pay at least $3600.00 a year!! Finally after many years of struggle the AFDC program and the Food Stamp program will be separate components! Is this letter confusing? Well it is because I am confused.

Well now why do I of all people have the sudden interest in Welfare!! I have this interest because now for the first time in my life I am a welfare recipient. Why! Everywhere I have gone in this city of Oakland has refused me a job. Why? I have come to this conclusion—personal—I am black, 40, divorced and the mother of a seven year old son. My second conclusion—the systems in which the cities, counties and states of this great nation are designed to keep persons on welfare. The stigma that is attached to a welfare recipient is inescapable. The myth is ridiculous!! I am enclosing this article from the September issue of the Reader's Digest as condensed from the Washington Post. An article by Joseph A. Califano, Jr.

Let me tell you what I have been through for the last six months. Five of those months I refused to go to welfare to seek help. I was above such and would not stoop so low. Finally out of desperation I went to seek help. I was unable to get a job thru the various companies and corporations. I enrolled in the WIN program and in the CETA program with the Urban League. (WIN/E.D.D. State of California) Surely I would be guaranteed a job through one of these programs. I am poor. I meet the requirements. Instead of meeting hope in these programs I met apathy. Apathy was evident in all the interviewers of all the programs I went through. Here I am a person on Welfare who wants to get off and I am told day after day call us, come back keep trying surely something will turn up.

In desperation one of the employees of the "state" told me to write my congressman. The programs WIN and CETA are not really meeting the needs of poor people who want to work. I have found that the employed persons of these programs only have a job. It is their job to see as many as possible and do the necessary work the state wants. To them its just a job and no more. They are not allowed to show any empathy to the people whom they serve. To most perhaps this is the best job they have had in their lives and certainly they aren't going to do anything to jeopardize their job. Federal funds and State funds are fed into these programs. The only good that the Federal and State funds do is to see that the employees of the programs have good jobs.

Pete, I am on welfare, not because I want to be. I am here because there was no other source to turn to. I love to work. I am good at what I do. I am an accountant and have been for more than twenty (20) years. Suddenly for the first time in my life I can't find work. More than that I have not been granted the luxury of an interview.

Now back to WIN AND CETA. People are human beings Most people want to work. What happens if you have a system that is designed to keep people from working. Now take a look at the kind of jobs that come through to WIN and CETA. Clerk jobs low paying, part-time, unskilled, jobs that want people in their twenties, jobs that require only one (1) or two (2) years experience. When you are interviewed by one of the program interviewers they know that you have experience that exceed the requirements for a particular job. They are kind enough to tell you. Now you find yourself unable to get a job through WIN or CETA. What's next? I have asked myself this question over and over. I am in good health and I have many working years left and I cannot find a job! What am I going to do? Am I going to remain on welfare for the rest of my life? Must I take a job that is beneath my requirements (providing that I can secure such a job)? What am I going to do?? Now everything seems dark and hopeless. I say to you Congressman Stark that there can be no Welfare reform in this country until there is some reform in these federally funded programs. The programs should be set up to meet the needs of the people of this country and not gather names and numbers for information on the unemployed in this country.

I am not on welfare because I want to be. I am on welfare because I am black, 40, divorced and the mother of a seven year old son!

STEEL INDUSTRY BLAMED FOR ITS WOES

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. REGULA. Mr. Speaker, I would like like to share a recent newspaper article from the Cleveland Plain Dealer with my colleagues. As you know, last week members and representatives of 63 House offices met to establish the steel caucus. Those of us who heard Ambassador Robert Strauss testify before the Subcommittee on Trade were distressed to learn that there is no policy to deal with the current steel crisis. I am hopeful the Congress and the administration can work together to come up with some positive solutions, rather than assessing blame as their article appears to do.

[From the Plain Dealer, September 26, 1977]

STEEL INDUSTRY BLAMED FOR ITS WOES

YOUNGSTOWN.—Some top Carter administration officials claim the steel industry created its own problems, and argue that the government should not rescue marginal steel plants like those in the Mahoning Valley.

Interviews with several administration officials indicate the feeling in Washington is that the steel industry created its crisis by paying too high wages and refusing to modernize, according to a copyrighted story in the Youngstown Vindicator yesterday.

"To raise their wages as much as they have in the face of an economic recession simply shows insufficient regard for the status of the market," said William D. Nordhaus, of the White House Council of Economic Advisers.

"The industry is in a 10-foot hole and it dug five feet of it by itself," Nordhaus was quoted as saying. "We cannot afford to compromise national economic expansion to bring it up."

While expressing sympathy for the plight

of communities hit by steel industry cutbacks, administration policy-makers say the federal government's job is to act in the nation's interests, not the interests of individual communities.

"By propping up an inefficient industry in inefficient ways on the one hand you alleviate some human misery. But, on the other hand, you engender a low standard of living for workers and consumers in the long run," Nordhaus said. "The federal government is not in the business of telling industry not to shut down, when to shut down or where to shut down. Those are industry decisions in this country, and it's only natural that it should begin with marginal facilities."

"We know Youngstown Sheet & Tube, Wheeling-Pittsburgh and Alan Wood Steel are in sad shape, but that's a private sector problem," said Richard W. Heimlich, assistant special ambassador for trade. "Unless there's something specifically illegal going on in the trade area, the way our system works, it's up to the steel industry."

A White House adviser on economic affairs was quoted as saying tax reforms expected to be compiled by mid-October "are almost certain to help the steel industry but only if it decides to modernize."

Two other officials anticipated the Labor Department will designate the Mahoning Valley a trade impact area. That would qualify Sheet & Tube's 5,000 displaced workers for additional unemployment benefits, the newspaper said.

"We know 5,000 people lost their jobs," Heimlich said. "How much of it was due to imports and how much of it was due to inflation of costs? There's a lot more to the Youngstown situation than imports."

OCTOBER IS "FIRE SAFETY MONTH" IN HAMILTON COUNTY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. LUKEN. Mr. Speaker, the month of October has been proclaimed "Fire Safety Month" in Hamilton County, Ohio, by the South Western Ohio Fire Safety Officers Association. The purpose of this proclamation is to expand the activities of "Fire Prevention Week" to a full month and help the public learn how to prevent fires, burns, and loss of life due to fire.

Mr. Speaker, I bring this citation to the attention of my colleagues in the hope that they will see fit to follow suit in their own Districts.

Fire prevention and control in this country is alarmingly lax. The United States has the highest per capita loss of life and property damage due to fire of any industrialized nation in the world.

The Subcommittee on Consumer Protection and Finance has just completed the second day of hearings on my bill, H.R. 7684, which calls for a study to be conducted by the Department of Commerce on the advisability of Federal fire standards. I introduced this legislation in the wake of the Beverly Hills Supper Club fire which occurred May 28, 1977, in Southgate, Ky. This tragic fire took the lives of 164 persons. Mr. Speaker, the subcommittee found at its hearing last week that the building which housed this supper club was rampant with fire code violations, and its patrons became the victims of this neglect.

We must educate the public on fire prevention and control in their own homes as well as what to look for in places of public assembly in case of a fire.

The only mechanism we now have is education, training, and proper enforcement of existing regulations to overcome the horror and tragedy which fire presents.

It is my belief that we should investigate the possibility of enhancement of the Federal role in fire prevention and control. Until such an investigation is complete, I call your attention to "Fire Safety Month" in Hamilton County, Ohio, and urge all Members of Congress to initiate similar efforts in their home towns and counties to educate constituents of the programs and training which is available on fire safety and prevention.

THE FTC AMENDMENTS AND CLASS ACTION SUITS—II

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAXMAN. Mr. Speaker, business opponents of section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977, have seriously misrepresented the provisions in this legislation regarding first, notification of consumers affected by pending litigation, and second, the award of damages, to the extent where their constitutionality has been questioned. The Subcommittee on Consumer Protection and Finance and its chairman, Representative BOB ECKHARDT of Texas, have taken great pains to carefully craft a class action policy that is not only fully consistent with due process requirements of the Constitution but is scrupulously fair as well.

Beverley C. Moore, Jr., editor of Class Action Reports, has prepared a careful and thoughtful review of the constitutional issues raised by this provision. I am pleased to insert it in the RECORD for the benefit of my colleagues:

I. CONSTITUTIONAL CONSIDERATIONS—NOTICE AND "FLUID RECOVERY"

Among the arguments that business opponents have made against § 7 of H.R. 2816 is the following:

The class action section calls for a "streamlined" procedure of class action suits, by allowing limited notice to class members, cost of notice allocation to defendants before trial, and the "fluid recovery" concept of damages. This "streamlined" procedure was rejected by the Supreme Court in 1973 (see Eisen, 417 U.S. 156) as unconstitutional in that it did not provide defendants due process of law. To allow this "streamlined" procedure is not good substantive or procedural law.

This is quite a surprising contention because, as its authors surely knew when they made this statement, the Supreme Court's Eisen decision did not in any way rule upon the "streamlined" class action procedure, the "fluid recovery", or any constitutional issues whatever. Eisen held only that Rule 23 of the Federal Rules of Civil Procedure—the rule governing class action procedures—requires that the named plaintiff give individual notice of the pendency of a class action to all class members who are identifiable with reasonable effort. Since "[t]he usual rule is that a plaintiff must initially bear the cost of notice", that cost (over $315,000 in the Eisen case) could not be shifted to the defendants.

Furthermore, the procedure adopted by the district judge for allocating part of the cost of notice to the defendant—a "mini-trial" on the merits to determine which side probably would win in the end—contravened the basic Rule 23 policy that any decision on the merits must come after rather than before the decision on whether the case can proceed as a class action.

In short, the Eisen decision is nothing more than a literal interpretation of what the language of Rule 23(c)(2) means. "[W]e find the notice requirements of Rule 23 to be dispositive of petitioner's attempt to maintain the class action as presently defined", since petitioner was unable to bear the cost. "We therefore have no occasion to consider whether the Court of Appeals correctly resolved the issues of manageability and fluid class recovery"—i.e., the constitutional and "streamlined" class action issues. The Supreme Court vacated the appeals court decision on these matters.

Rule 23 is not a constitutional provision. It is merely a rule promulgated by the Supreme Court in 1966 to govern class action procedures in the federal courts. The authorization for the Supreme Court to promulgate such rules is contained in the Rules Enabling Act and is subject both to Congressional veto of proposed rules and to Congressional legislation to change existing rules or interpretations with which Congress disagrees. The opponents' blatant distortion of Eisen raises serious questions about the credibility of arguments against this legislation. Certainly constitutional objections to § 7 may be raised by its opponents, but to tell this Committee that the Supreme Court has already sustained those objections smacks of a deliberate attempt to deceive.

SHIFTING NOTICE COSTS TO THE DEFENDANT

One such constitutional objection relates to the provision allowing the court to shift part or all of the cost of notice to the defendant. It has been suggested that the effect of this provision would be a taking of property without due process. Where the defendant ultimately won the case, it would be unable to recover its notice costs from the plaintiff, whose inability to bear those costs initially precipitated their being shifted to the defendant.

The first point to be made in response is that the bill provides only for a fraction of the notice costs to be shifted, proportionate to the likelihood that the plaintiff ultimately will win the case, at which point notice and other costs would be taxable against the losing defendant under existing law. Thus, all of the notice costs can be shifted only if the court finds a 100 percent probability that the defendant will lose. What the probability actually is would be determined by a preliminary hearing into the merits of the case.

Eisen referred to this procedure as being analogous to that for obtaining a preliminary injunction, which obviously is not unconstitutional though the defendant may sometimes prevail in the end and may have suffered unrecoverable losses in the interim. Many examples could be given of costs, such as compliance with discovery demands, that either party to a lawsuit must bear with little hope of recoupment. As in most such instances, shifting notice costs to the probable loser is justified as necessary for the probable winner to avoid the even greater loss of not being able to proceed with the suit.

In any event, shifting notice costs to a defendant will very rarely occur. The bill's major thrust is to limit the extent, and thus the expense, of the notice that the plaintiff is required to give. For classes ranging in size into the ten thousands, the plaintiff (or in reality his attorney) will ordinarily be able to give individual notice to all identifiable class members. At least that has been the experience in post-Eisen federal class action litigation. Accordingly, in perhaps a majority of class actions that would be brought under H.R. 3816, the bill does not necessarily mandate departures from Eisen notice requirements.

In the larger class actions, those with more than 40 or 50 thousand identifiable class members, the plaintiff's resources may be inadequate for giving personal notice to all class members. The bill then directs the court to weigh the interests of class members in receiving personal notice of the lawsuit's pendency against their interest in having the suit go forward in their behalf. What this will mean, in practice, is that where the potential recovery of each class members is relatively small, the court may tailor the notice to the plaintiff's pocketbook, by limiting individual notice to some fraction or sample of the class and providing notice by publication or other means calculated to reach at least some of the class members not receiving personal notice.

Because of these options, shifting notice costs to the defendant need be considered only where (1) the class is so large that the plaintiff (or his attorney) cannot afford the cost of personal notice and (2) the personal stake of each class member is so large that individual notice would be required as a matter of due process. Normally in a large consumer class action individual claims are small, not large. Thus it is conceivable that the need to shift notice costs to a defendant will never arise. It has not yet arisen in California, New York, or New Jersey, where statutes or court rules authorize notice cost shifting. The comparable provision in H.R. 3816 should therefore be viewed as a measure to ensure justice in the extraordinary case.

GIVING PERSONAL NOTICE TO LESS THAN ALL OF THE REASONABLY IDENTIFIABLE CLASS MEMBERS

It has been argued that Eisen required individual notice to all class members because the Court viewed the Rule 23 notice provisions as incorporating the requirements of constitutional due process. This interpretation is foreclosed by the subsequent decision in Sosna v. Iowa. There the Supreme Court observed that the Eisen notice requirements apply to Rule 23(b)(3) class actions for damages but not to Rule 23(b)(2) class actions seeking injunctive or declaratory relief. Since the due process interests of class members in receiving notice may be of equal magnitude in either type of case, Eisen must be viewed merely as a construction of what type of notice the language of Rule 23 itself requires.

It must be kept in mind that the notice at issue here is not the notice that there has been a damage recovery—come get your money. This notice merely advises class members that there is a lawsuit pending in their behalf. If they do nothing in response to the notice they are included in the class. Otherwise, the notice advises that any class member may "opt out"—which few do because of the prohibitive cost of bringing individual suits—or he may come into the class action with his own attorney.

The due process concerns relate solely to this latter function of eliciting the participation of class members who may more adequately represent the interests of the class than the initial plaintiff. For example, the Mullane decision mentioned by the Supreme Court in Eisen was a case in which the party representing the class members had interests clearly adverse to theirs. Furthermore, the class was small and personal rather than publication notice could have been given at mininmal cost. Where the size of the class and the expense of giving personal notice to all members is large, notice to a statistically valid sample of the class is just as likely to ensure the coming forward of adequate class representatives as is notice to the entire class. Requiring more extensive notice than necessary to guarantee adequate representation provides no further benefits to the class.

Due process, a reasonableness concept, surely cannot require an essentially worthless notice effort the expense of which, by preventing the suit from going forward at all, would destroy the very rights of class members that notice to a sample of the class is designed to protect. H.R. 3816 merely adopts the position that personal notice need not be given to all class members if its cost would be prohibitive—a position already taken by such States as California, New York, New Jersey, Florida, and Nebraska and by the drafters of the Uniform Class Actions Act.

THE "FLUID RECOVERY" CONCEPT

The district court in Eisen, finding that it would be prohibitively expensive to compute and distribute small damage awards to millions of individual class members who had paid allegedly inflated brokerage commissions on odd lot securities transactions, determined to use the unclaimed damage funds to reduce the commission rates paid by future securities purchasers. Since many class members were likely to purchase odd lot securities in the future, at least those persons would be compensated for the prior overcharges through the subsidized commission rates.

This type of remedy is commonly known as the "fluid recovery." H.R. 3816 makes no specific reference to the term, but does provide that class damages are to be assessed in the aggregate, as computed by statistical or sampling techniques, with any portion of the recovery remaining after payments to individual claimants to be disposed of as the court in its discretion directs. Presumably the fluid recovery would be one of several distribution alternatives, another being escheat to the federal treasury. The method actually selected would depend upon which would most benefit the actual class members, the costs involved, the nature and composition of the class, etc.

In any case, the overriding objective is to disgorge the defendant of all of its illegal gains, regardless of how many individual class members can be identified, located, and persuaded to submit their personal claims for damages. Only in this manner can the class action remedy achieve its primary objective of deterring violations of FTC rules and orders. Only in this manner can the class action achieve its secondary objective of compensating injured consumers, since without the aggregate class damage fund the plaintiff may lack the resources to carry out an effective program for locating the class members and distributing damage payments to them. Without the aggregate class damage remedy, defendants would continue to escape substantial proportions of deserved damage liabilities for proven harm to consumer classes.

As noted previously, the Supreme Court did not reach the fluid recovery issue in Eisen, but the Second Circuit did. Two of the three appellate judges concluded that the fluid recovery was not authorized by Rule 23, if authorized would in any event violate the defandant's constitutional due process rights, and was generally "illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper."

The only policy reason given for these conclusions was a reference to the allegations of some class action defense attorneys that the large recoveries of actual and proven damages that the fluid recovery would facilitate could be used as leverage to coerce defendants into settling class claims regardless of their merits. This "legalized blackmail" argument, which has been discredited by all of the available empirical evidence, is not even theoretically tenable. See the analysis contained in the H.R. 3816 Memorandum of Congress Watch distributed to the members of this Committe. Otherwise, the Second Circuit's ruling on constitutionality consists of a bare conclusion, unsupported by any reasoning or analysis whatever. The Ninth Circuit and a few district courts have reached the same conclusion, citing the Second Circuit, but again failing to explain how assessing class damages in the aggregate violates a defendant's due process rights.

The overwhelming majority of academic and other independent legal commentators have disagreed with the Second Circuit. It is difficult indeed to discern how a defendant is prejudiced by being held liable on a class-wide basis for an aggregate amount which is no more than the sum of its liabilities to individual class members were it feasible and cost effective to bring each and every one of them before the court. A guilty defendant has no legitimate interest in what is done with its damage payments. If the aggregate class damage remedy and fluid recovery are unconstitutional, then so are the Parens Patriae antitrust provisions enacted last year; so are stockholder derivative suits, since at least some of the stockholders benefiting from a corporate recovery were not stockholders at the time of the corporate injury; so are Federal Energy Administration price rollback orders.

Ironically, after concluding that the fluid recovery would be unconstitutional, the Second Circuit then invited Congress to address the problem. "If penalties are to be imposed upon wrongdoers, at least let the Congress decide how the money is to be spent." This logic is unfathomable. If the aggregate class damage remedy is unconstitutional, Congress cannot by statute make it constitutional. On the other hand, if Congress can authorize this remedy, then certainly it can delegate enforcement to the private sector. It can hardly be questioned that Congress has virtually unlimited constitutional authority to impose almost any civil penalty for harmful economic conduct, however arbitrary the amount may be in relation to the harm and regardless of whether the victims are given notice or are allowed to share the penalty as compensation for their injuries. In that context H.R. 3816, which equates the "penalty" with the actual and proven damage to the class, and which provides for reasonable notice and an opportunity for individual class members to obtain compensation for their losses, is not only constitutional but is also sound as a matter of policy.

II. FTC rules and orders are so vaguely worded that private enforcement would lead to nonuniform judicial interpretations

More specifically, the argument is as follows:

Current TRR's and FTC rules are drawn with a view towards keeping open flexible enforcement options, not with a view of defining wrongs for which consumers will have per se redress. To this end, TRR's are broadly written—and therefore subject to a myriad of judicial opinions. If enforcement of TRR's is left to the creative ingenuity of counsel for class action plaintiffs, muddled interpretations can be expected and the concept of uniform interpretation of the law will almost certainly be lost. To avoid this, FTC orders should be enforced by the FTC, as they presumably have an idea of what was in their mind when the orders were written.

This contention, it should be noted, applies equally to class and nonclass actions. It is an attack on the advisability of any private cause of action for violation of FTC rules.

FTC rules are pictured as "flexible enforcement options" whose actual meanings are "presumably" known only to the FTC.

It is unclear whether this means that the FTC can decide that practically any act or practice violates the language of some rule and is therefore subject to arbitrary $10,000 per day penalties, or that the FTC has arranged for itself the "flexibility" to enforce the rules of its choosing and to ignore violations of other rules, as long as the agency claims to exercise this discretion uniformly and consistently against all violators.

Either situation should be intolerable to business interests, who should welcome potential private class action liabilities as a potent argument to persuade the FTC to incorporate more specificity into its rules. After all, both trade regulation rules and cease and desist orders (which are usually consent decrees) ate the product of negotiation between the FTC and the industry or firm. It is likely that corporations accede to such purportedly broad language mainly because they know that the FTC lacks the resources to detect and litigate sanctions against most violations and therefore must limit its compliance efforts to the most obvious or blatant violations. We can be sure that when faced with the more abundant resources of the private sector, corporations and industries would make sure that they understood the violations of FTC rules and orders that could subject them to class action liabilities.

The basic problem with the opponents' argument, however, is that most FTC rules and orders are far more specific than most of the statutory provisions under which corporations have traditionally been amenable to private lawsuits—not to mention the far more imponderable risks of the marketplace which corporations must face daily. If Congress were to accept this argument as to broad language, the long ago enacted private causes of action under the antitrust, securities, and employment discrimination laws which give rise to most federal class action litigation would not be enacted if voted upon today. Yet each of these areas illustrates patterns of dual public/private enforcement which, if anything, have increased rather than decreased the uniformity of judicial interpretation, a consequence mainly of the large body of legal precedent that private enforcement has generated. No significant legal conflicts have developed through competition between private enforcers and the Antitrust Division/FTC, SEC, or EEOC.

For the litmus test of whether private enforcement would be dysfunctional to FTC enforcement, we need only observe that the FTC itself favors the H.R. 3816 private class action provisions. The jealousy with which government bureaucracies guard their domains from intrusions by outsiders is well known. It is curious that the business interests opposing this legislation are so protective of a government regulatory monopoly which, when left to its own devices, they are so eager to condemn.

III. PRIVATE CLASS ACTION REMEDIES ARE NOT NEEDED

Specifically: Under the Magnuson-Moss Act (the FTC Improvement Act of 1975), the FTC is given authorization to file civil actions "to redress injury to consumers" for knowingly dishonest or fraudulent violations of clearly defined prohibitions, including monetary refunds and damage payments. . . . The FTC should be given a chance to exercise its new authorities—and an evaluation of this exercise should be made—before enactment of new class action type legislation.

After more than two years of exercising "its new authorities", the FTC has obtained "consumer redress" in less than two dozen cases. Monetary relief is seriously sought in a rather tiny minority of prosecutions. They tend to be cases in which the injured consumers are easily identifiable and their damages easily computable on an individual basis.

It is not necessary to suggest that this performance is inconsistent with the best of motives and effort on the part of the FTC. After all, the Magnuson-Moss Act does not grant the FTC the critical aggregate class damage remedy. Furthermore, the agency's redress powers are somewhat constrained by the defense that "we didn't mean to do it"—a defense which the defendant's everyday marketplace, unlike the legal system, seldom recognizes, and for good reason.

More importantly, the FTC could not possibly detect and prosecute even an ideal consumer class remedy against every violator of any rule or order unless the size of the FTC were expanded to Pentagon proportions. Is that what the opponents of this legislation really want when they argue for exclusive FTC remedies? Or does the business community really fear harnessing the superior entrepreneurial virtues of the capitalist system—i.e., private class action enforcement—to reduce harmful byproducts of that very system?

CONSIDERATION FOR THE TEXTILE KNITWEAR INDUSTRY AND WORKERS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. McGUIRE. Mr. Speaker, America's negotiating team recently returned from Geneva where 85 percent of the participating countries agreed to renew the multifiber arrangement (MFA) on December 15. Our negotiators were unable during these talks to reduce the present 6 percent growth rate of imports to one closer to the 3 percent of our own textile market. We must now rely on individual bilateral negotiations to aline import growth closer with the growth of the domestic industry. Many such bilaterals will be renegotiated before the year's end.

Hundreds of thousands of American textile and apparel jobs will be seriously affected by these renegotiations. Unchecked import growth will mean loss of jobs and loss in gross national product.

I am especially concerned about the fate of the many mills and suppliers involved in the textile and apparel industry in New Jersey. Particularly hard hit have been the companies and employees engaged in the knitwear industry. There are over 13,000 people employed in the knitted outerwear industry in New Jersey, many of whom work and reside in my district.

While the entire textile industry has suffered from the astronomical growth of textile imports over the last several years, no segment of the textile industry has suffered as severely as the manufacturing of knitted outerwear. In 1976, knitted outerwear faced over 50-percent market penetration from imports, as the market share of imports in the knitwear industry grew 5 percent from 1975 to 1976 alone. The textile deficit for 1976 was $2.59 billion, but of this total knitted outerwear accounted for $1.29 billion. Thus, although the knitted outerwear segment of the textile industry employs 5 percent of the total labor force in the textile industry, it had to absorb over 50 percent of the entire textile deficit.

Over 300 knitting companies have been forced out of business due to rising imports over the last year. An estimated 60 yarn-dyeing plants which supplied the industry have also succumbed, despite the existence of measures which are designed to prevent this dislocation. The net effect has been an exportation of jobs from the United States to other countries with wage levels and working conditions that are intolerable by American standards.

U.S. knitting mills are the most efficient in the world. But their margin of efficiency cannot be great enough to overcome the gap between foreign and domestic labor conditions. About 90 percent of all imports of sweaters come from three low wage countries: Taiwan, Hong Kong, and Korea. Their imports have not only destroyed job opportunities in the knitting industry, but also in the supply trades. I must ask how we can expect our own companies to compete successfully with foreign manufacturers who pay wages which are so low as to be illegal in the United States.

Recognizing the dangers of protectionism in international trade and this country's traditional and important commitment to furthering the cause of tariff and quota reductions, I am a firm believer in the merits of free trade. However, I must note that it is one thing to espouse the merits of free trade, but it is something quite different when our trading partners overseas play the game under different rules.

Government negotiations will soon be returning to Geneva to undertake further multilateral trade negotiations as part of the Tokyo round. Despite previous assurances that textiles would not be included in the forthcoming tariff negotiations, it seems not only that they will be discussed but that cuts can be expected. It is difficult to understand how U.S. tariffs on textiles and apparel can be cut when imports of these items increased 34 percent in 1976.

Because only 18 countries are participants in the MFA and because the MFA and bilateral agreements negotiated thus far allow imports to grow at more than twice the present growth rate of the domestic industry, textile tariffs cannot be reduced. These bilaterals, indeed, were negotiated in light of the present tariffs. With the bilaterals almost concluded, it would be unfair to the domestic textile industry to remove these tariffs now. The lowering of these tariffs would induce the growth of imports to reach the limit of growth for every category of textiles and would encourage those exporting nations which are not participants in the MFA to increase their exportation of textiles to the United States at an even faster rate. The tariffs must be retained against the kind of unrestrained imports which today threaten to destroy the American textile industry.

OIL CORPORATIONS AND THE FOREIGN TAX CREDIT: TIME FOR A CHANGE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DRINAN. Mr. Speaker, the Internal Revenue Service in the very near future will issue long-awaited guidelines regarding the use of the foreign tax credit by U.S. oil corporations with operations abroad. This regulation, anticipated in October, will have a profound effect on the revenues collected by the U.S. Government from oil companies.

The oil companies have avoided billions in taxes by the use of the oil tax credit; 1976 losses were estimated at $1.2 billion. The oil companies are able to avoid paying these taxes because the huge per barrel taxes levied against them by the oil producing nations are still considered income taxes, rather than royalty payments, by the IRS.

So long as this situation continues, the oil companies can subtract $1 of taxes owed to the United States for every dollar paid in "taxes" to foreign nations. The result, of course, is that some petroleum giants pay as little as 3 or 4 percent of their income to the United States in the form of taxes. Meanwhile, the oil producing nations have reaped a multibillion dollar windfall. Many have characterized the U.S. tax treatment of oil company income earned abroad as "hidden foreign assistance" to the oil producing nations. It would seem more appropriate that we direct such assistance to needy nations, rather than to countries such as Saudi Arabia and Kuwait, which enjoy the highest per capita standards of living in the world.

There is substantial evidence that the Department of State and the Treasury put pressure on the IRS to treat these payments as income taxes rather than royalties. In 1955, the State Department and lawyers for some of the oil giants worked with the Saudi Arabian Government to draft a tax code which would permit such action. The State Department and National Security Council strongly urged that the taxes all go to the oil producing nations, many of whom were felt to be vulnerable to Communist takeover. In 1955, the IRS in a landmark revenue ruling, reversed its position and permitted the oil giants to credit all taxes paid abroad against taxes owed in the United States. They have been taking advantage of it ever since, to the tune of more than $16 billion of U.S. taxes. At present, the huge petroleum corporations account for an astonishing 70 percent of annual tax dollars foregone due to the foreign tax credit.

The massive price increases of recent years, all of them on a straight per barrel basis with no direct relation to income earned, make even less credible the fiction that these payments are income taxes rather than royalties. Now, the Internal Revenue Service and Treasury Department are finally in the process of reviewing this matter.

In connection with that review, the Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations, of which I am a member, is conducting hearings into Treasury and IRS action, or the lack of it, in this regard. Under the able leadership of the subcommittee chairman, Representative BENJAMIN S. ROSENTHAL, we will seek to determine what factors have been taken into account in the formulation of U.S. policy in this area and what factors are now being considered as the review proceeds through several stages.

This issue is a complex one, but it is most important in terms of the nature and direction of U.S. tax policy. The current issue of People and Taxes, published by Public Citizen, contains an excellent summary of the history and present status of the use of the foreign tax credit by oil corporations with substantial operations abroad. The article, by Mr. Robert McIntyre, is entitled "Oil Foreign Credits Under Attack."

I commend Mr. McIntyre's summary to my colleagues:

OIL COMPANIES' FOREIGN CREDITS UNDER ATTACK

(By Robert McIntyre)

Long after the price of oil has sextupled and Arab countries have become among the richest in the world, the U.S. Treasury continues to provide foreign aid to Arab countries and subsidies to the multinational oil companies through the tax system.

The primary form of the tax subsidy involves the foreign tax credit. Designed to avoid "double taxation," the foreign tax credit provides that U.S. residents need pay U.S. taxes on their foreign income only to the extent that foreign rates are lower than U.S. rates. For multinational corporations, this means that where foreign taxes are 48% or more no U.S. tax is due. If the foreign rate were, say, 30% then the U.S. would pick up the 18% remaining (48% − 30% = 18%).

The foreign tax credit is only applicable to foreign *income* taxes. Other assessments, such as sales taxes, are treated as normal business expenses and are *deductable* from gross income, rather than creditable against tax. The difference is significant. For example, suppose U.S.-based Atlantic Corp. has $100 in before-tax income in Luxembourg and it has paid Luxembourg $40 in tax. If the $40 is an *income* tax, then Atlantic's U.S. tax liability is only $8. (U.S. tax of 48% of $100 or $48, minus foreign tax credit of $40, equals $8.) If Luxembourg's tax is *not* an income tax, then Atlantic owes the U.S. Treasury $29 [48% × ($100 − $40)], more than three times as much.

A DISTINCTION WITH A DIFFERENCE

The distinction between a foreign income tax and other taxes is not always crystal clear, but it does make sense. Non-income taxes, such as sales or excise taxes, do not have much of an effect on profits, since they can be passed on to consumers in the form of higher prices. Income taxes, on the other hand, do reduce profits, and from the U.S.'s point of view 48% is enough for a company to have to bear.

The hardest distinctions arise when the foreign country imposing a "tax" is also the seller of the product a company markets. This is exactly the situation which the multinational oil companies are involved in. One not uncommon scenario was recently described by the London Economist (the United Kingdom has a foreign tax credit system similar to the U.S.'s): "Imagine the Sheikhdom of Petrolia has nationalized its oil, but wishes to pay Gigantic Oil Ltd. for managing Petrolia's oilfields. The going rate is 20 cents a barrel. But in a spirit of friendly compromise, the Sheikh pays Gigantic a notional 40 cents a barrel, applies the standard Petrolian corporations tax of 50% to that, and actually hands over 20 cents a barrel. This makes no difference to Petrolia, but Gigantic Oil has 20 cents of tax credit to reduce its British corporation tax."

The result is that Gigantic, instead of paying a British tax of 50% on its 20 cent profit, pays nothing, since its British tax on its nominal 40 cent profit is wiped out by the phony 20 cent "foreign tax credit."

Another typical gimmick involves using a "posted price" several dollars below the market price, the difference being a paper profit on which a "tax" is assessed. For example, Exxon might buy oil from Saudi Arabia at $8 per barrel and then sell to one of its own subsidiaries, or to someone else at $12. They would then pay a tax of, say, $2 on the $4 "profit," giving Saudi Arabia a total of $10 for the barrel of oil.

But the $10 per barrel would just about match the selling price that the Saudi's wanted from the start, and the company would have a $2 "tax credit" to use for lowering its U.S. taxes.

The basic idea behind all these schemes (and there are many more) is to assure the oil producing countries of a fixed return per barrel, while at the same time maximizing the foreign tax credits available to the multinational oil companies. For example, the Petroleum Intelligence Weekly described the OPEC pricing system announced on December 13, 1975, as establishing the rule that "the average 'government take' per barrel of oil would be $10.12. This $10.12 could be made up of any combination of "taxes," royalties, "buy back payments," or other payments, "so long as these various elements always total $10.12 per barrel."

Since the price charged by the Arabs for the oil is fixed and has nothing to do with the oil company's actual profits, it is fairly clear that the Arab "tax" is really a royalty, and certainly not an income tax. Nevertheless, oil companies operating under similar schemes will accumulate $17.6 billion in foreign tax credits in 1977, and will thereby pay virtually nothing in U.S. taxes.

FOREIGN POLICY VERSUS TAX POLICY

Why does the Treasury allow this to happen? The answer to this question is not a simple one. It is rooted in foreign policy considerations which go back at least 50 years, and which crystalized into the current approach in the mid-1950s.

Beginning in the 1920s, the U.S. government actively encouraged U.S. companies to gain access to and control over foreign oil. These efforts culminated in 1956 with an IRS ruling that "taxes" paid by oil companies to Saudi Arabia would be treated as "income taxes" for purposes of the foreign tax credit. This ruling, which was instigated by the State Department, was intended as a back door method of foreign aid. In essence, tax payments which would otherwise have gone to the U.S. were diverted to the Saudis—as they raised their taxes, the U.S. Treasury would collect less. Direct aid was unfeasible at the time, due to the recent Arab-Israeli war. Following the initial ruling, similar allowances were made for other oil producing countries. In addition, other governments, such as Britain and France, made similar credit allowances so that their companies would not be disadvantaged.

There is some evidence that at the time of the original ruling, the Saudis did, in fact, impose what might reasonably be called an income tax. This situation did not last long, however. Within a few years the Arab tax systems had been changed so that they demanded a fixed return per barrel of oil. The foreign policy rationale remained in effect, however, and the ruling was not revoked.

The multinationals, for their part, cooperated by supplying American consumers with cheap oil and gasoline.

In 1973, however, the picture abruptly changed. The Arab oil embargo shattered the 15 year holding action against higher prices, and the cost of oil went up by a factor of six. At the same time oil company profits skyrocketed, going from $5.7 billion in 1972 to $11.3 billion in 1976.

Although the OPEC countries nationalized many of the oil fields held by foreign multinationals, they had no desire to reduce the companies' foreign tax credits, which enhance both the company's profits and the return enjoyed by the OPEC governments.

LIMITING THE CREDITS

It is not clear, however, that the credit will continue to be allowed. So far there has been a split between those who want to look at the industry's narrow technical arguments, and those willing to look at the total picture. Thus, in 1975 the Senate voted to disallow all foreign tax credits for oil income, but the House rejected this approach in favor of limited restrictions on the use of the credits. Emil Sunley, deputy assistant Treasury Secretary for Tax Policy, accurately described the result: "Congress threw up its hands and said 'It's too hard. We can't tell the difference between taxes and royalties. We'll assume that you pay enough taxes abroad, but we'll stop you from using excess credits from oil extraction as a credit against non-oil income'."

Advocates of completely denying the credits have not given up, however, the leader in the fight is Sen. Frank Church (D-Idaho), who heads the Senate Foreign Relations subcommittee on Foreign Economic Policy.

Church has asked IRS to rethink its old ruling, and to reclassify the OPEC "taxes" as royalties. He has also written to President Carter urging him to take action. Church told the President that the rulings are incompatible with the tax laws, extremely costly to the Treasury, and inconsistent with the goal of reducing dependence on Arab oil. He noted that even the tax attorneys for the major oil companies recognize this fact, citing a 1970 cable from an intercompany negotiating team which states that "the artificialty of this system is obvious and well-known."

Because of the touchy foreign policy questions involved it appears likely that any decision in this area will in fact be made by the President himself.

IRS RETHINKS ITS POSITION

Last year, however, IRS seemed to begin to take some steps on its own. In response to a request by Mobil to carry forward its claimed tax credits, IRS put out a press release saying that "income taxes which are part of a scheme to collect a fixed charge per barrel and thus are not arm's length transactions, may, in the future, not be eligible to be credited against U.S. corporate income tax liability." Coming from a Treasury Department where one of the officials was an Exxon employee on leave, this seemed a radical statement. But at recent hearings held by the Foreign Relations Committee on a proposed tax treaty with the United Kingdom, IRS Commissioner Jerry Kurtz was curiously guarded in responding to Church's questions about foreign tax credits.

Kurtz took a narrow technical line with the committee, stating that the distinction between a royalty and an income tax was complicated and subtle and that the unique facts of each situation had to be analyzed. That fact is obviously well known to the oil companies, who constantly conspire with the OPEC governments to change the local tax laws to stay ahead of IRS. In fact, Kurtz admitted that "events move faster than our audits and rulings."

Kurtz's hesitancy was partially explained when Assistant Secretary for Tax Policy Laurence Woodworth told the committee that both he and Treasury Secretary Michael Blumenthal would be involved in the ultimate decision. Kurtz obviously did not want to undercut his boss on whatever decision might be made.

According to Church, Blumenthal currently appears to favor retention of OPEC tax creditability. This is one reason why Church has contacted President Carter directly.

Whatever the ultimate resolution of the issue, it does not appear that it will be made on technical grounds. There is growing agreement that the oil companies will lose if tax policy is the only consideration.

A LOT AT STAKE

The multinationals continue to press their technical arguments, but they also raise the spector of dire consequences to the U.S. if creditability is eliminated. According to a spokesman for Aramco (a partnership of Exxon, Texaco, Mobil, and SoCal), "If someone tried to figure out the best way of driving American companies out of the Middle East, and turning it over to the Dutch, the French, and others, they couldn't find a better way. The whole thing astounds me."

However, the U.S. was the leader in providing for the creditability of OPEC "taxes," and it is not clear that other countries would not revise their tax laws if the U.S. rescinded its favorable treatment. According to Church, the United Kingdom, at least, is likely to follow the U.S. lead.

In addition, Church would like to see American companies move away from Arab oil into other areas. He believes that U.S. security requires more stable sources of energy, and that incentives for the major companies to look elsewhere are therefore in the national interest. In fact, Church has actively supported creditability for a British "tax" on North Sea oil, although IRS has indicated that the tax does not qualify as an "income tax." This concession is likely to be established in a proposed tax treaty between the U.S. and Britain.

What exactly the OPEC governments would do in response to the U.S. denying creditability is a matter of speculation. Some observers worry that the volatile Arabs would retaliate with production cuts and higher oil prices. Even Church's chief aide Jerome Levinson admits that the Saudis would probably decry such a step as "impairing peace prospects in the Middle East."

On the other hand, elimination of the tax credits would not directly affect the OPEC governments immediately, and the most noticeable short term effect would probably be a reduction in the oil companies profits because of increased tax payments to the U.S. Treasury.

Whatever the effects of a decision in this will be, it is clear that such a decision will be made within the next few months. The IRS could revoke its questionable rulings of the 1950s, it could let them stand or it could reevaluate the creditability of foreign "taxes" in each oil producing country separately. At stake is hundreds of millions of dollars for the multinational oil companies or the U.S. Treasury.

THE FTC AMENDMENTS AND CLASS ACTION SUITS—III

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAXMAN. Mr. Speaker, some outspoken opponents of section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977, have argued that the new authority in the bill, providing for consumer class actions to enforce compliance with FTC rules, is arbitrary, punitive, and dangerous.

Nothing could be further from the truth. The FTC does not have the ability in all instances, to file suit to protect consumers even when the agency knows that its rules are being violated at a cost to the American people of over $1.3 billion annually. Common citizens must have a remedy directly available to them to protect their interests against unfair and deceptive trade practices. Section 7 provides this remedy.

At the same time, and in response to the concerns raised by the business community, this tool has been carefully limited in its application under the bill. Specifically—

First, perhaps most importantly, suits can be brought only if the commission, in promulgating rules, has affirmatively decided that a consumer action can be brought for a violation of a particular rule;

Second, the damages contested must be over $25,000;

Third, the court may not award plaintiffs exemplary of punitive damages, which can be awarded, for example, under antitrust law;

Fourth, plaintiffs must bear the cost of notifying all persons affected by the suit;

Fifth, suits regarding any rule violation must be brought within 3 years of the rule's promulgation.

The intent of these provisions is to prevent citizen suits which are frivolous in nature or would have the effect of unduly harassing businesses regulated by the FTC.

In order to more fully respond to the arguments raised by Dears, Beverley C. Moore, Jr., editor of Class Action Reports, has prepared a memorandum on this issue, which I am pleased to bring to the attention of my colleagues.

The memorandum follows:

ANALYSIS OF FALSE AND MISLEADING ARGUMENTS OF SEARS, ROEBUCK & CO. AGAINST SECTION 7 OF H.R. 3816, WHICH WOULD EMPOWER THE FTC TO AUTHORIZE CONSUMER CLASS ACTION LAWSUITS AGAINST VIOLATORS OF FUTURE FTC CEASE AND DESIST ORDERS OR TRADE REGULATION RULES

1. Sears' Argument. The policy of uniformity in law enforcement will be upset because of the great potential for conflicting court interpretations and decisions. A judge in one state or federal jurisdiction may rule that an order or rule has been violated whereas a judge in another state or federal jurisdiction may rule that it has not been violated. Historically, Congress has reserved enforcement power to the FTC—as opposed to private parties—precisely to ensure uniformity of enforcement.

The Truth. The very same potential for conflicting court interpretations already exists. In suits brought by the FTC itself, "[a] judge in one state . . . may rule that an order or rule has been violated whereas a judge in another state . . . may rule that it has not been violated." Such conflicting decisions are ultimately resolved by the appellate courts. Whether a suit is brought by the FTC or by injured consumers themselves pursuant to § 7 of H.R. 3816, the judge must apply exactly the same legal principles in deciding whether a violation has been established. If anything, consumer suits would result in more rather than less uniformity, by increasing the body of judicial precedent

defining which business practices are violative of FTC rules and orders.

If H.R. 3816 class actions really threatened "uniformity of enforcement", the FTC itself would be among the first to complain. But the FTC favors this bill, including the § 7 class action provision. In fact, the bill requires the FTC to specify which provisions of rules or orders may be enforced through private class actions. If dual enforcement of a particular provision would be likely to result in conflicting judicial interpretations, then presumably the FTC would not authorize private enforcement of that provision.

The uniformity of enforcement issue is a false one. Our legal system has traditionally relied upon combinations of public and private enforcement. The antitrust, securities, employment discrimination, civil rights, environmental, and many other statutes have long been enforced by government officials and private plaintiffs. Yet no problems of nonuniformity of outcomes have developed.

The real issues are enforcement resources and prosecutorial vigor. As Sears and other business interests well know, the FTC cannot possibly detect, sue, and recover full civil penalties from every violator of an FTC rule or order. In order to spread its limited resources among the violators that are prosecuted, the FTC must often accept compromise relief having little or no deterrent impact on either the defendant or other potential violators. That is why Sears prefers a more easily dealt with government enforcement monopoly to the vigor and ingenuity of private enforcement. This is merely another example of the bastions of "free enterprise" seeking government refuge from the rigors of a free marketplace for legal remedies.

2. Sears' Argument. The courts could be overwhelmed with a flood of irresponsible litigation because separate suits can be brought in any state or federal court jurisdiction where a company does business. Sears, for example, operates in all 50 states.

The Truth. A plaintiff may bring suit "where a company does business" for the vast majority of harms for which lawsuits can be brought. If class actions were brought against Sears in 50 state courts, it could have all of those suits removed to federal courts. At that point, or if 50 class actions had originally been filed in federal courts, Sears could have them all consolidated before a single court by the Judicial Panel on Multidistrict Litigation. Sears' argument is utter nonsense because the very essence of the class action concept is that similar injuries to large numbers of people are adjudicated in a single suit rather than in "separate suits . . . brought in any . . . jurisdiction where a company does business."

Apart from how many class actions alleging the same violation might be brought in different jurisdictions, Sears also suggests that such suits would be "irresponsible". Studies of class action litigation during the past decade indicate quite the contrary. No attorney desirous of making money will file a major class action suit unless he knows that he has a good case. For in order to earn a court awarded fee, he must win the case. If he does not have a good case, he will lose not only the lawsuit but a very substantial investment of his own time and resources. The evidence is unequivocal that defendants do not settle unmeritorious class actions. Nor may they "buy off" an unfounded case with a payment to the plaintiff attorney, since all class action settlements must be approved by the courts. In short, natural economic disincentives and close judicial scrutiny guarantee much more "responsibility" in the bringing of class actions under H.R. 3816 than can be said of most other types of litigation.

3. Sears' Argument. Individuals could recover damages without actually proving them, because the bill would allow courts to award damages on a fluid recovery basis to all members of the class, on evidence of injury by only a few.

The Truth. Every penny of damages awarded to a class of consumers must represent proven harm. "[E]vidence of injury by only a few" would only produce a damage award for injuries to a few. What Sears really demands is that each of thousands or millions of defrauded consumers be required to come into court individually to present sales receipts and testimony concerning the subjective motivations for their purchases—even though the aggregate damage to the entire class has already been established through statistical methods with equal or greater accuracy than could be achieved by examining each consumer individually. Sears itself relies on some of these sampling and survey techniques in deciding whether to market a new product or in making other vital business decisions. Shouldn't Sears' customers have the same tools to measure the refunds they are entitled to for overcharges or product failures that Sears uses to sell those products to them?

What Sears really wants is for business firms to be able to escape most of their deserved liabilities for proven harm to consumer classes. For few consumers will take the time and effort to press individual claims for $10 or $100. Nor is there any reason why defrauded consumers should have to bear that burden. After all, it is the defendant corporation who was responsible for their losses. Accordingly, H.R. 3816 places the initial focus on measuring the total damages on a classwide basis. Then, with the resources provided by the class damage fund, the court can tackle the problem of distributing the money to the individual class members.

This distribution process starts with individual payments to actually injured members of the class. These individuals will not "recover damages without actually proving them". Indeed, individualized proof will usually be superfluous once it is established that the particular consumer (a) purchased the product in suit, (b) the product failed to perform according to the seller's representations, and (c) the true market value of the product would have been $X less than the actual sales price had its characteristics been accurately represented or an FTC rule or order had otherwise been complied with. The individual consumer need not establish elements (b) and (c) of this formula. These will already have been established for him through the econometric measurement of aggregate class damages. All he need do is show that he purchased the product. This, too, may frequently be done for him by his representatives, the class plaintiffs, using the defendant's own records of purchases or other affirmative means of identifying the purchasers and sending refund checks to them.

To be sure, there may be some imprecision in apportioning class damages among the class members. A recent consumer antitrust class action charging Arizona bakeries with price fixing serves as an example. Obviously, consumers would not have been able to produce supermarket receipts for each loaf of bread purchased during the alleged conspiracy period, but data was available showing the average expenditures on bakery products for Arizona households of different sizes. Based on that data, "average damage" checks were mailed to 250,000 consumers who had demonstrated (a) their Arizona residencies, and (b) the sizes of their households.

Note that the imprecision here relates to each individual's amount of damages. Contrary to Sears' suggestion, the fact of injury, in some amount, had already been established. To have required greater precision in determining which households purchased more or less than the "average" quantities of bakery products would have prevented most consumers from recovering at all—the outcome that potential defendants of course desire. Yet regardless of the imprecision in apportioning damages among consumers who were injured in varying, but actual, degrees, the defendant's total liability remains exactly the same as if absolute individual precision had been attained. The defendant has no legitimate interest in who receives proven damages.

Sears also claims that "the bill would allow courts to award damages on a fluid recovery basis to all members of the class, on evidence of injury by only a few." This statement refers to the second stage of the damage distribution process in which the court disposes of any monies not already distributed to individual members of the class. Again, the residual funds do not represent unproven damages. They represent proven damages to individuals who cannot be identified or located at reasonable cost. The court may distribute the unclaimed funds "for a public purpose which benefits, as closely as possible," the injured but unidentifiable members of the class. The most common application of this "fluid recovery" is to reduce the future price of a product, such as bread, likely to be purchased again by those unidentifiable consumers who had been overcharged or defrauded in the past. It may be that a minority of future purchasers, such as new residents in the area, will not have been actual class members and will receive windfalls from the subsidized prices. But this imprecision is, again, the necessary consequence of affording some compensation to the majority of future purchasers who were previously injured.

Sears neglects to mention that an important purpose of H.R. 3816 is to prevent violations of FTC rules and orders by holding violators liable for the full amount of proven class damages regardless of the feasibility of precisely distributing the entire recovery to the individual members of the class. Of equal importance, Sears neglects to mention that under H.R. 3816 some or all of the unclaimed class damages will ordinarily be returned to the defendant. The amount reverting to the defendant will depend upon the willfulness of the violation, the degree of unjust enrichment, economic hardship, and other factors.

4. Sears' Argument. Section 7 would serve to enrich attorneys and not consumers because attorneys would receive large legal fees whereas individual plaintiffs may receive minor sums where injury is slight and receive no recovery where injured plaintiffs can no longer be identified or are never notified.

The Truth. All attorney fee awards in H.R. 3816 class actions must be determined by the court to be reasonable—based upon actual time expended, skillful performance, contingent risk, and other factors that courts have traditionally considered in class action cases. The fact is that the class action lawsuit, when compared with the nonclass suit, has cut in half the percentage of the recovery consumed by attorney fees. In class actions, 80–85 percent of the recovery is actually distributed to the class members.

It is true that the reasonable fee received by the class attorney, often representing thousands of hours of legal work, will by definition dwarf the amount recovered by any individual consumer. But exactly the same thing can be said about the gross profit of Sears or any other major business corporation, in comparison to the benefit that any single consumer receives from purchasing the firm's product. Like Sears, the class attorney has not a single "customer" but thousands or even millions of them. The reasonableness of the attorney's compensation must be assessed as a percentage of the total recovery, just as

Sears' profits must be assessed as a percentage of total sales. One thing is clear. The 15–20 percent of class recoveries consumed by attorney fees and costs is less than the average retail markups in Sears' own stores.

5. Sears' Argument. Section 7 would further jam the courts by discouraging voluntary resolution of problems through Consent Orders. Many companies consent to F.T.C. orders to save the expense of litigation though they may not be proved guilty of wrongdoing. Companies will be less likely to enter into consent decrees if such action merely opens the door to private class action suits and the potential that massive sums of money may be awarded against them.

The Truth. Signing a consent order "merely opens the door to private class action suits" and "massive" damage liabilities only if (1) the company violates the consent order and (2) the plaintiff can prove that the violation inflicted "massive" damage on the consumer class. Companies have no business signing consent orders unless they intend to obey them. If companies really sign consent orders not because they have violated the law but mainly to save legal fees, why would such law abiding firms be expected to violate the consent orders? Whatever the answer to that question, the threat of class action damage liabilities will ensure that consent orders are not violated.

6. Sears' Argument. The "streamlined" notice procedures of Section 7 are not in the public interest because only a sample number of class members may be notified even though all members are reasonably identifiable. Thus, damages may be awarded to the whole class though some class members might not elect to sue if notified.

The Truth. The notice to which Sears refers is not the notice that there has been a class recovery against which all class members may claim their damage shares. It is merely the notice that a class action suit is pending in their behalf. The main purpose of this notice is to afford other class members an opportunity to actively participate in the litigation through their own attorneys, thus enhancing the adequacy with which the named plaintiffs represent the absent class members. Since at most only a few additional plaintiffs can be necessary for this purpose, and since those few can easily be enlisted through random sampling notice, it is wasteful, and unfairly burdensome to the class plaintiffs who must pay the cost, to send a class action pendency notice to all identifiable members of a large class of small claimants.

A recent study of one major class action case shows that most people who ultimately responded to the notice soliciting their damage claims paid little attention to, did not understand, or did not even remember receiving the class pendency notice. That is understandable. Of the three options provided by the pendency notice—(1) come into the suit as a named plaintiff, (2) "opt out" of the suit and recover no damages, and (3) do nothing and be automatically included in the class—the overwhelming majority of class members choose the latter. Only small percentages "opt out", or "elect [not] to sue", in Sears' words. And the evidence indicates that perhaps a majority of those people "opt out" because they misconstrue the legalese language of the notice as recommending that they do so. In any event, these people can always "elect not to sue" at a later point by affirmatively declining to participate in the class damage recovery. That factor would then be considered by the court in determining what portion of the total unclaimed damages is to be returned to the defendant.

A NEW AIRCRAFT LANDING SYSTEM

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. MILFORD. Mr. Speaker, my Subcommittee on Transportation, Aviation and Weather is presently examining R. & D. efforts of the Federal Aviation Administration.

One program which has been the subject of much interest and concern is that of the microwave landing system—MLS. Because of the importance of this program, and the complexities associated with it, I would like to summarize those aspects of the program that are important to our committee and to Congress as a whole.

The MLS research and development effort has been going on now for over 10 years. During this period, the FAA has appeared before Congress on a regular basis and received congressional approval for their program. This is amply evident in the nearly $100 million in funds that the Congress has authorized and appropriated for the MLS program.

Also during this period, the program has been conducted in full public view. The U.S. program benefited from the oversight of an advisory committee, chartered by the FAA, which represented the Broad interests of the aviation community and the public. This user oriented committee helped to structure the extensive test and evaluation process that led to the selection of the time reference scanning beam (TRSB) system as the preferred technique for the U.S. MLS program.

This decision was obtained with the active participation of foreign experts and was reviewed by senior officials from DOT, DOD, and NASA. I would also reiterate that at this point in time, the U.S. had invested $20 million in developing and evaluating the doppler technique before choosing TRSB.

The United Kingdom chose to continue developing doppler, claiming the superiority of this technique over TRSB.

Because of these British claims and certain accusations directed toward Lincoln Lab simulations of the doppler system, I and the subcommittee staff visited with doppler engineers at their British facility in Bedford, England. We discovered that the engineers had no quarrel with the Lincoln Labs simulations and that only lobbyists and politicians raised arguments questioning Lincoln Lab work.

We reviewed the British program and presented our findings to the committee. Our conclusion was then, and still is, that the British have a fine landing system, that the technical differences between the United States and United Kingdom systems are extremely small. Both systems are deserving of equal and fair opportunity in the international selection process.

Of course this process is now nearly completed. The technical panel of ICAO voted 6 to 1 in favor of the American scanning beam system (TRSB). The Air Navigation Commission reviewed the work of the technical panel and determined that AWOP had fulfilled its mandate and that a worldwide meeting could now be scheduled to vote on the issue.

Some entities in the United Kingdom have not been satisfied with the decision made by the constituted international panel and they mounted a major effort at discrediting the FAA program. A major lobbying effort was instituted wherein key members of Congress and the administration were targeted.

I have been reluctant to enter this fracas for fear of interfering with legitimate international deliberations. However, I feel that I would be remiss in my responsibilities if I did not now speak out.

I believe I was the first Congressman to begin examining, in detail, the Doppler-TRSB argument. And over the past 2 years I have looked at it longer and harder than perhaps any other Member of Congress. During this period of time I have found no evidence of foul play by either the FAA technicians and scientists or those from Great Britain. In the best political fashion, I have heard spirited debates from each nation's politicians. I have also observed some less than commendable lobbying activities.

It is clear to me that TRSB evolved in the open, and has survived in national and international competition in the open. Duly constituted international panels of ICAO have been doing their work and evaluations of these two competing landing system designs are on schedule.

Accordingly, our continued support is appropriate, in the interest of this Nation and in the interest of the worldwide aviation community.

I would like to make one final statement concerning Lincoln Labs data and field test data.

The integrity of Lincoln Labs was cast into question by some lobbyists who, not only misrepresented the situation, but also inferred that their position was also the official United Kingdom position. These allegations caused great concern to the chairman of the full committee, to myself, and to many other members of the committee. In order to clearly place the Lincoln Labs data in proper perspective, let me quote a passage from the AWOP 6 final report—a report signed off by—not only the United Kingdom and the United States—but also the entire technical panel. Paragraph 2.8.1. states:

> . . . It was generally considered that the assessment program could not have been carried out without the Lincoln Laboratory simulation facilities . . . (and) the majority of Panel Members felt that the results of the simulations had been most useful, and that the margins of error applicable to them were such that Members could use them with confidence in arriving at conclusions.

Thus, I think there is little doubt between technical people and responsible officials of the United States and United Kingdom concerning the accuracy or usefulness of the Lincoln Labs data.

In fact, paragraph 6.1.3.1. of the AWOP final report states:

> The computer simulation was verified by a significant degree of field tests and bench simulations. . . .

In spite of all the foregoing, some persons still are insisting on a side by side fly-off between the two landing systems. Any engineer worth his salt knows that such a contest has no technical merit. This is akin to saying that the only way to determine the heavier of two persons is to weight them only when they are at the same location:

That is why paragraph 6.1.3.1 of the AWOP stated:

> Because the Panel agreed that overall multipath performance could not be assessed by testing a system in one situation, computer simulation, using a number of agreed airports, was the primary technical assessment tool.

Thus, it is difficult for me to get overly excited about the results of a TRSB-Doppler fly-off. However, if this is what is needed to satisfy the lobbyists and politicians, then I'll not oppose it. They can, however, take full credit and responsibility for the $300,000 per test, cost to the taxpayer, that will prove nothing and benefit no one.

In summary, I would like to reiterate that both the United States and United Kingdom have developed fine systems. Debating about the differences between them is like choosing between a Ford and a Chevy as a family automobile. It's just that close. The whole argument between Doppler and TRSB has been an engineering debate involving microseconds, when a day or two either way would make no real difference.

Eventually a decision had to be made. The United States made its decision in 1974 in favor of TRSB. The International Air Navigation Commission made its recommendation for TRSB to the ICAO worldwide body for resolution in April. Yet, the debate continues.

Unfortunately, there are some people here and abroad who stand to gain by delaying the final selection process and these interests have developed stalling tactics accordingly.

I, for one, will not sanction such a delay. A delay is not in the best interest of the United States.

The U.S. has three urgent requirements:

The Army needs MLS immediately;

Some large airports in the U.S. have reached the point of ILS frequency saturation and need the additional capabilities of MLS;

Small community airports need MLS because of ILS limitations and the high cost of ILS;

Off-shore oil producers need the precision guidance and accuracy of MLS.

The U.S. has over 600 installed Instrument Landing Systems—over one-half the entire world's total. Many of our main competitors in the landing system business have less than 10. By sheer volume, the problem is most acute here in the United States.

In fact, I have copies of letters from NBAA, ALPA, and ATA that emphasize the requirement for MLS.

NBAA states:

> For reasons of cost-effectiveness, site limitations, governmental support criteria, and co-channel interference due to lack of adequate frequencies, a replacement system must be developed.
>
> Although U.S. research has dictated a choice of the scanning beam (TRSB) microwave technology, the United States should not permit lack of international agreement on technology choices by ICAO to unduly delay the availability of MLS to U.S. operators.

ALPA states:

> ALPA fully endorses the recommendation for TRSB and urges the FAA to move rapidly in its MLS development program.

ATA states:

> We are pleased that the ICAO All Weather Operations Panel has recommended international standardization of the U.S. candidate TRSB MLS.
>
> On the civil side, in order to avoid proliferation of the ISMLS, FAA, should take steps to permit operational use of advanced versions of the TRSB MLS by any civil users who have special needs which cannot be met by ILS.

Thus, it is obvious that the United States has a compelling need for a timely ICAO decision.

The ICAO process has been time consuming and deliberate, but it has also been very fair and thorough. The United Kingdom, the FAA, and the AWOP members have all worked very diligently and are deserving of the highest praise for bringing the program this far under very competitive, very political, and very difficult circumstances.

It is time now to cease the bickering and back-biting and to proceed resolutely forward with a common goal—that of developing and installing an improved instrument landing system—one that may save thousands of lives here, in the United Kingdom and around the world.

MORE ON THE IRS PLAN TO TAX FRINGE BENEFITS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. KEMP. Mr. Speaker, this afternoon the House Ways and Means Committee adopted an amendment to H.R. 6715, the Technical Corrections Act of 1977, which prohibits the Internal Revenue Service from promulgating new rules with regard to the taxation of fringe benefits which would take effect prior to July 1, 1978. The purpose is to delay the effect of any such rules until Congress has had time to study them.

I applaud this action by the Ways and Means Committee because I have been speaking out against the IRS plan to tax fringe benefits since it was first revealed by Commissioner of Internal Revenue Jerome Kurtz in July. Since then, 49 Members of Congress have joined me in a resolution denouncing the IRS plan.

Unfortunately, the basic problem still remains; namely, the ambiguity of the Tax Code with regard to what constitutes income and what does not. Consequently, because the Tax Code clearly specifies that all income is taxable—unless otherwise excepted—there is no doubt that fringe benefits fall into this category. If they did not it would be a simple matter to avoid paying taxes by receiving all income in the form of nonfinancial remuneration.

Therefore, it is not really necessary for the IRS to establish new rules for the taxation of fringe benefits. There is no reason at all why individual IRS agents may not on their own begin implementing the taxation of fringe benefits during individual audits. This has already happened in several cases—most recently with regard to the taxation of demonstrator automobiles used by car salesmen in Missouri—and could continue in spite of the Ways and Means action.

I strongly suspect, at this point, that the fringe benefit issue is not dead. Next week the administration is scheduled to send its tax reform package to the Hill and it may very well contain provisions for the taxation of fringe benefits—an idea which was recently endorsed by the Brookings Institution.

I still believe, therefore, that the Congress ought to move ahead to prevent taxation of fringe benefits. The reasons I have cited earlier are still valid:

First. Taxation of fringe benefits will increase the tax burden on the vast majority of working Americans;

Second. It will cause monumental administrative problems with regard to deliniating fringe benefits from conditions of work; and

Third. It will seriously disrupt all labor/management relations in this country because virtually all union contracts contain fringe benefit clauses which will, in effect, be negated if fringe benefits are taxed.

One of the maxims of a good tax system is that taxation be consistent. I believe that regardless of the ambiguities of the Tax Code with respect to fringe benefits the American people have come to operate their lives on the assumption that such things as free parking spaces, store discounts for retail employees, airline passes for airline employees, and day care centers for working mothers, will not be taxed as income. To do so now would be capricious and counterproductive.

BONN TO ALLOW NEUTRON ARMS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DODD. Mr. Speaker, I will be offering an amendment to H.R. 6566—ERDA national security programs—which is intended to give Congress the time necessary to seriously consider whether or not the United States should produce enhanced radiation weapons. This amendment will further Congress ability to exercise its constitutional responsibility to the American people, and to itself, to participate fully in Government decisions which could have profound national security and foreign policy implications.

One of the critical reasons why Congress should adopt my amendment is the

fact that neither President Carter nor our NATO allies have as yet reached positions on the issue of eventual deployment of enhanced radiation warheads. In this regard, the Washington Post reported today that though West Germany will probably not oppose the stationing of U.S.-produced neutron weapons on its soil, that Government will probably reach no public decision until President Carter states his intent to produce the weapons and the NATO allies agree that they are necessary.

According to the Washington Post report, one top aide to Chancellor Schmidt stated explicitly that the West German Government does not "want to give an answer before it is decided by the President to produce the weapon." Another German official said that—

We are not going to invite deployment before your president has even made that decision and make political fools of ourselves.

Earlier this month Defense Minister Georg Leber cautioned that more discussions are needed before enhanced radiation warheads can be deployed and that such decisions can only be taken by NATO as a whole.

Mr. Speaker, I also believe that we in Congress should not make fools of ourselves by unconditionally approving funds for the production of enhanced radiation warheads in the ERDA national security authorization. Similarly, I do not believe that we should invite the potentially devastating foreign policy effects that might result from a deletion of funds for production of such warheads. Instead, I proposed that we take a reasoned, cautious approach that will put the funds in the bill, but allow Congress full scope to review whatever decision is reached by the President and our NATO allies.

Specifically, the amendment I will propose would require the following actions by the executive branch and Congress before any funds could be expended for production of enhanced radiation warheads in fiscal year 1978:

The President certifies to Congress for each enhanced radiation warhead that its production is in the national interest;

The ERDA Administrator submits a complete arms control impact statement to Congress on each neutron weapon;

The President authorizes production of each neutron weapon, as required by the Atomic Energy Act;

The President studies and reports to Congress on the use of neutron weapons and their impact on the NATO strategies for conventional weapons, on the use of other tactical nuclear weapons, and on the deterrent effect of NATO forces;

The President reports the full reasons for any production decision to Congress; and

Congress does not disapprove of any production decision by concurrent resolution within 45 calendar days of notification.

I would like to share the text of today's Washington Post article with my colleagues by inserting it at this point in the RECORD:

[From the Washington Post, Sept. 27, 1977]

BONN IS EXPECTED TO ALLOW STATIONING OF NEUTRON ARMS

(By Michael Getler)

BONN, September 26.—The West German government probably would not oppose the stationing of U.S.-produced neutron weapons on West German soil.

That is the view of most leading government and political figures here about one of the most politically sensitive defense issues to arise in the postwar era.

The Bonn government, however, has made no final decision on the stationing of these special atomic weapons here.

Nor is it likely to say anything about allowing deployment until President Carter publicly states his intent to produce the weapons and the 14-member NATO military alliance agrees that they are necessary and should be stockpiled on the potential battlefield of West Germany.

In effect, Bonn and Washington, the two most crucial links in West European defense plans, are locked in a "which comes first, the chicken or the egg" situation when it comes to publicly endorsing this controversial new atomic warhead for short-range missiles and artillery shells.

Although President Carter appears to want some public declaration of support from NATO allies before he makes his decision to request production funds from Congress, the West Germans "don't want to give an answer before it is decided by the President to produce the weapons," said a top aide to Chancellor Helmut Schmidt.

"We are not going to invite deployment before your president has even made that decision and make political fools of ourselves," another official said.

The neutron weapons—which are designed to kill primarily by enhanced radiation techniques rather than by the combined blast, heat and shock of existing atomic weapons—have generated sharp controversy and some strong criticism here.

The widespread view after discussions earlier this month in the Parliament, or Bundestag, however, is that West Germany will not prevent introduction of the new weapon if Carter gives the go-ahead.

Although the Parliament did not give a resounding "yes" to the new weapon, "at least no major obstacle was put in its path," an aide to Schmidt said.

A speech by Conrad Ahlers, a member of the Bundestag Defense Committee and of Schmidt's ruling Social Democrat Party, is widely interpreteted as reflecting the coalition government's position. Reciting the pros and cons of the new weapon, Ahlers concluded, "In my opinion, we will have to learn to live with the neutron bomb and to include it in our defense concept."

Defense Minister Georg Leber, also a Social Democrat, rejected as too emotional the most stinging criticism of the weapon that came this summer from his party colleague, Egon Bahr, the executive secretary of the Social Democrats.

Bahr called the weapon's design—which kills people without causing the enormous physical damage of standard atomic weapons—an example of "perverted thinking."

Leber said the new weapon was neither more nor less humane than other atomic weapons.

Leber was also careful to say neither yes nor no to deployment. He cautioned that more discussions are needed and that such decisions can only be taken by NATO as a whole. A Bonn newspaper reported after Leber's speech, however, that "indications are that a basic decision has been taken in favor of the neutron bomb."

Conservative opposition party leaders have generally expressed support for the weapon.

Politicians here make it clear, however, that if the government appears to be enthusiastic about the weapons, the situation could prove to be a minefield because it clearly remains controversial.

Thus, in Bonn's view, the NATO consultations are very important to give an allied, rather than a U.S.-West German, cast to the situation. Bonn-Washington discussions and commitments are apt to remain private until all major positions are worked out, sources here say.

The neutron weapon is likely to be a main topic of conversation here Tuesday night when President Carter's national security adviser, Zbigniew Brzezinski, has scheduled a private dinner meeting with Schmidt.

West German military strategists generally view the neutron warheads as having significant advantages against massed Soviet tank armies. The strong radiation emitted by these weapons, they suggest, could penetrate the heavy shielding against atomic attack that Soviet tanks already carry. Thus, they view the weapon as a major factor in deterring attack.

The argument against these weapons has been that they are seen as being easier to use and control and therefore could lower the threshold at which warring nations might decide to escalate to nuclear warfare.

Leber argued in Parliament that these weapons, in his view, would not lower that threshold and that the guidelines for use of nuclear weapons would not be changed by the neutron weapon.

The issue is especially sensitive here because the basically short-range field army missile and artillery that would carry the neutron warhead would be based in West Germany and undoubtedly would be landing on East German or West German soil when they are fired. The question of when a conventional war becomes a nuclear war is of critical importance to people who live on the battlefield.

Although the trend here at the moment may be to go along with the neutron weapon, there is lingering dismay, as the Frankfurter Allgemeine newspaper noted, at how the Carter administration showed so little skill in allowing such an important, yet controversial, new weapon to be introduced into public and political discussion.

The West Germans believe that the United States blundered by not being more open and informative with its allies and the public.

Right after the neutron weapon controversy developed, portions of a new U.S. strategy assessment were revealed in the press. They suggested that the United States might give up one-third of West German territory in the face of an initial Soviet attack.

Although U.S. officials explained that new administrations always order studies of all possible options, and the flap has since died down, the West Germans viewed it as yet another alarming signal of confused thinking in Washington.

CLINCH RIVER BREEDER REACTOR

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. FISHER. Mr. Speaker, I would like to bring out an important aspect of this issue of whether or not to continue the Clinch River breeder reactor program which thus far has been given little attention. Major, long-term research and demonstration projects like

Clinch River, once begun after careful consideration, should not lightly be discontinued. The burden of proof properly rests on the shoulders of those who would stop the project. Otherwise such a project is always in jeopardy and the organizing and staffing of the work is rendered inefficient and costly. I make this point out of long personal experience in directing research in the energy and related fields.

In my judgment the burden of proof in this case has not been carried successfully by those who would have the Clinch River breeder reactor project stopped. The hope that stopping CRBR would enhance the likelihood that our Government could induce other countries developing breeder reactors to abandon their breeder programs and give up supplying breeders and fuel processing equipment to other countries—the nonproliferation point which President Carter emphasized when he recommended against CRBR—has largely eroded during the past several months. The other "breeder" countries—France, United Kingdom, the Soviet Union—are continuing their programs and Japan has begun a modest effort. West Germany recently has checked further work on its breeder temporarily, but apparently will go forward with furnishing Brazil with a reprocessing plant. Breeder reactors offer prospects so promising to meet the very severe problems of future energy supply facing these countries that they cannot in all good sense give up their own programs.

The environmental and health objections to breeders still exist: an accident could result in radioactive fallout damage. But the health and environmental risks of going to other heat and power sources are as great or greater—sources such as conventional reactors (landscape scarring from much more extensive uranium mining, accidental fallout) and coal (landscape degradation from surface mining, acid mine drainage from underground mining, air pollution from burning of coal). Nuclear waste disposal is a serious problem but is even more pervasive with a conventional reactor program requiring much larger amounts of uranium ore.

The danger of irresponsible, even subversive conversion of plutonium into bombs would be present. This possibility exists with respect to assembling bombs from conventional hot fuel; India already has detonated a bomb manufactured from fuel used in a research reactor and many other countries could do this over a few years' period in a similar way. The full range of risks—health, environmental, diversion of radioactive elements to bombs—has to be dealt with promptly on an international scale whether or not the United States goes forward with Clinch River.

The argument that the CRBR no longer represents a good investment of the large funds it will require, that the benefit/cost estimate is no longer favorable, has more substance and point at this time in my opinion than the other arguments which have been offered against continuing Clinch River. The expected cost has risen considerably because of the general inflation in the cost of construction and of sophisticated industrial equipment as well as because of the redesign of certain portions of the project. Furthermore, it is true that the design would be different in a number of respects if it were done all over again now. Several things can be said about these points.

Return-on-investment and benefit/cost estimates are difficult and uncertain with respect to research and demonstration projects because commercial results are remote and indirect by the very nature of research. If we already knew what would work technically and economically, research and demonstration would not be needed. From my experience in research if 1 project out of 5 or 10 really works out well, you would be lucky. Also, from my own experience, during the course of a large, long-term project like CRBR there will be times when the whole undertaking seems to be going badly, the outcome looks doubtful, personnel become discouraged, and financial backers are tempted to withdraw. At other times, things look good and everyone concerned is upbeat.

This last point brings me back to what I said near the beginning: Because the fortunes and outlook for a great new research or demonstration project will go up and down, the burden of proof that it should be stopped rests on those who would stop it. I do not think that case has been made convincingly, that proof has been presented. Therefore, I come down on the side of continuing the Clinch River project. Those in charge should strive to hold down costs, of course; and they should readjust the project, even redesign portions of it as this can be done within limits of completing the project on a reasonable schedule. Along these lines, I supported a proposal which sought to provide for gradually increasing private financial participation in paying off cost overruns on the Clinch River breeder reactor which exceed $2 billion. This was rejected by the House, however. To stop the Clinch River project now would deny us all the benefits of the lessons that can only really be learned from a careful evaluation of the completed demonstration.

FINANCIAL DISCLOSURE LAW RECOMMENDED BY PRESIDENT HARRY S TRUMAN ON SEPTEMBER 27, 1951

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. KASTENMEIER. Mr. Speaker, today marks the 26th year since President Truman sent a special message to the Congress recommending enactment of conflict-of-interest legislation containing public financial disclosure. Since the House will soon be considering legislation providing for Government-wide public financial disclosure, I would like to call to the attention of my colleagues the special message of President Truman on this issue.

SPECIAL MESSAGE TO THE CONGRESS RECOMMENDING CONFLICT-OF-INTEREST LEGISLATION SEPTEMBER 27, 1951

To the Congress of the United States:

I recommend that the Congress enact legislation requiring officials in all branches of the Government to place on the public record each year full information concerning their incomes from all sources, public and private. I believe this will be an important step in assuring the integrity of the public service and in protecting government officials against false and unfounded charges of improper conduct.

The overwhelming majority of the people who are working for the Federal Government in the Legislative, Judicial, and Executive branches are decent, honest, and upright citizens who are doing their very best in the public interest. I believe that the standards of conduct now prevailing in the Government service compare favorably with those of the past and with the standards now prevailing in business and the professions. Nevertheless, it should be our constant aim to improve these standards. As the burdens of the Government increase during this defense period, and more and more citizens enter into business or financial dealings with the Government, it is particularly necessary to tighten up on our regulatory procedures, and to be sure that uniformly high legal and moral standards apply to all phases of the relationship between the citizen and his Government.

In operations as large as those of our Government today, with so much depending on official action in the Congress and in the executive agencies, there are bound to be attempts by private citizens or special interest groups to gain their ends by illegal or improper means. Unfortunately, there are sometimes cases where members of the Executive and Legislative branches yield to the temptation to let their public acts be swayed by private interest. We must therefore be constantly on the alert to prevent illegal or improper conduct, and to discover and punish any instances of it that may occur.

We must also guard against the danger that the misconduct of a few will result in unwarranted suspicion and distrust of the honesty of all government officials.

In recent months, there has been something amounting to a deliberate effort to discredit the government service. Attempts have been made through implication and innuendo, and by exaggeration and distortion of the facts in a few cases, to create the impression that graft and corruption are running rampant through the whole Government.

To my mind the most disturbing feature of the charges and rumors stirred up by these attempts is their effect on the confidence of the American people in their Government and in all the individuals who make up the Government. I am told that people all around the country are getting a mistaken and a distorted impression that the Government is full of evil-doers, full of men and women with low standards of morality, full of people who are lining their own pockets and disregarding the public interest.

This is a terrible distortion of the true facts about our Government. It would be tragic if our citizens came to believe it. It would be tragic for the American people themselves to have such an idea about their Government, and it would be a terrible tragedy for all those who serve within the Government. None of us can afford to let the whole body of public officials be given a bad name by accusations, rumors, and sensational publicity tending to smear everybody.

I believe the best thing we can do to spike this effort to discredit Government officials is to place all the facts right on the record. The facts themselves are the best cure for public doubts and uncertainty.

I recommend, therefore, that the Congress promptly enact a statute which will require all full-time civilian Presidential appointees, including members of the Federal bench; all elected officers of the Federal Government, including Members of the Congress; and all other top officials and employees of the three branches of the Government—say those receiving salaries of 10,000 dollars or more, plus flag and general officers of the Armed Services—to file annually a statement of their total incomes, including amounts over and above their Government salaries, and the sources of this outside income. Consideration should also be given to requiring other Government employees to file such statements if their outside income exceeds a specified amount—perhaps $1,000 a year. Some items which are not ordinarily counted as income, such as gifts and loans, should be included in the statements filed under this statute. Penalties for willful violation of this statute should be equivalent to those for violation of the laws relating to the filing of income tax returns.

These statements when filed should be made accessible to the public.

Such public disclosure will, in my opinion, help to prevent illegal or improper conduct and at the same time protect Government officers from unfounded suspicions.

The majority of Federal employees have no income of consequence other than their official salaries. Some of our best public servants, on the other hand, do have sizeable amounts of outside income. The great public service that is being rendered today by many men who have been successful in business or other forms of endeavor demonstrates that no distinction can be drawn between these two groups in terms of public good. The disclosure of current outside income, however, will strike at the danger of gifts or other inducements made for the purpose of influencing official action, and at the danger of outside interests affecting public decisions.

A disclosure of all sources of outside income will be of obvious help in tracking down any case of wrongdoing. Furthermore, the mere existence of a requirement that such disclosure be made will act as a deterrent to improper conduct.

If an official of an executive agency knew that he would have to disclose the fact that he accepted a gift or loan from a private company with which he has public business, or if a Member of Congress who is on a committee concerned with a certain industry knew that he would have to disclose the fact that he accepted a fee from a company in that industry, I believe the chances are that such gifts or fees would not be accepted.

Such a disclosure procedure will also serve to protect officials and legislators from widespread misunderstanding on the part of the public. Our citizens will be able to see for themselves that the talk about corruption and enrichment in public office is grossly exaggerated.

As a general rule, I do not like to see public officials, or any other particular group subjected to rules and requirements which do not apply to the rest of the population. But at the same time, public office is a privilege, not a right. And people who accept the privilege of holding office in the Government, must of necessity expect that their entire conduct should be open to inspection by the people they are serving. With all the questions that are being raised today about the probity and honesty of public officials, I think all of us should be prepared to place the facts about our income on the public record. We should be willing to do this in the public interest, if the requirement is applied equally and fairly to the officials of all three branches of our Government. This is the best protection we can give ourselves and all of our co-workers against the charge of widespread graft and favoritism in the public service.

I know of no other single step that will do so much good so quickly in protecting the reputations of our public servants and—at the same time—in producing concrete indications of any really questionable practices.

Much the same considerations apply also, I believe, to those people who hold the principal positions of responsibility in our great political parties. Of course, these offices are not Government positions. But those who hold them are necessarily brought into very close contact with the Government. And our major political parties have traditionally been so much a part of our whole system of government, that those responsible for the conduct of party business are in fact, if not in law, charged with a real public responsibility. For that reason, I would favor including the principal national party officials and employees among those persons required to file annual income statements along the lines I have described.

The legislation I have here recommended should be passed as soon as possible. If action cannot be completed before adjournment of the present session, then I earnestly hope that Congress will finish the task as soon as it reconvenes. We should lose no time in placing all the facts before the country, and in clearing up those false impressions that are injurious to the proper functioning of our Government.

I believe also that both the Congress and the Executive should continue to search for other means, legislative and administrative alike, to reassure the American people about the high standards of their Government and to make sure that those high standards continue to be maintained by every individual who holds public office.

HARRY S. TRUMAN.

HOUSE OF REPRESENTATIVES—*Wednesday, September 28, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be strong, all ye people of the land, saith the Lord, and work, for I am with you.—Haggai 2: 4.

O Thou seeking shepherd of our striving spirits, whose goodness and mercy follow us all our days, we open our lives to Thee that the thoughts of our minds, the attitudes in our hearts, the words on our lips, and the work of our hands may be acceptable in Thy sight as we face the tasks of this day.

Amid the shifting scenes of modern moods we pray for wisdom to solve our problems, for strength to carry our burdens, for good will to relate ourselves affirmatively to others, and for a faith that holds us steady and keeps us steadfast that we fail not man nor Thee.

Bless our President, our Speaker, Members of Congress and those who work so untiringly with them. Give them strength of body and mind that they may fulfill Thy purposes for our country and for all mankind. Do thou shed Thy good on us and crown our good with brotherhood from sea to shining sea. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insisted on its amendment to the bill (H.R. 4544) entitled "An act to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes," disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon. Ordered, that Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. RANDOLPH, Mr. KENNEDY, Mr. LONG, Mr. HASKELL, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. CHAFEE, and Mr. LAXALT be the conferees on the part of the Senate.

LEGISLATIVE PROGRAM FOR WEDNESDAY, SEPTEMBER 28

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to speak out of order for 2 minutes.

The SPEAKER. The gentleman from Texas is recognized for 1 minute.

Mr. WRIGHT. I take this time, Mr. Speaker, to announce the revised schedule for today in order that Members may be informed.

We would begin with House Resolution 70, to establish a Select Committee on Population. When that is concluded, we hope to take up the conference report on H.R. 7554, HUD appropriations. Following that, we will go to House Resolution 760, to authorize the Assassinations Committee to apply to courts. Then, we would go to H.R. 9290, to increase the temporary debt limit.

There will be a vote on the rule and a vote on the bill. It calls for a modified rule of 1 hour of debate.

Then we hope to take up H.R. 8638, the Nuclear Antiproliferation Act of 1977, for vote both on amendments and on the bill.

Finally, we hope to take up H.R. 6566, ERDA authorizations for national security programs, for votes on amendments and the bill.

That would conclude our business for the day. We would hope to finish so that the final vote would be by about 7 o'clock this evening, and in no event would we intend to stay in session beyond 7:30.

ELECTION OF ROBERT L. (BOB) LIVINGSTON AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 797) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 797

Resolved, That ROBERT L. (BOB) LIVINGSTON, of Louisiana, be and he is hereby elected a member of the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSION OF APPRECIATION

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to express my personal appreciation to the Speaker and to the majority caucus for the action they took which made possible the resolution just passed. The Speaker was affirmative in his response to the plea of the minority leader. I think it is quite appropriate that I express my appreciation to him publicly.

SAM BROWN AND HUMAN RIGHTS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, the New York Times, Monday, September 26, 1977, carried a newsstory headline "Thousands Welcome Vietnam Delegates." The story stated, in part:

With an explosion of emotion yesterday, Vietnam's new delegation to the United Nations was greeted by thousands of its American friends and supporters.

Among these friends and supporters of a government notorious for its violations of human rights was Sam Brown, high-level Carter appointee as Director of ACTION. Brown, obviously overcome with emotion at the sight of those whose comrades had brutally tortured helpless American prisoners of war, stated:

I am deeply moved, . . . It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?

Mr. Speaker, quite frankly such behavior is incredible and an insult to every American who fought in Vietnam and to the memory of the over 50,000 who died there. President Carter talks and talks and talks about human rights—but he allows his high-level appointees to pay public tribute to representatives of a government whose infamous "reeducation" camps deny human rights to so many.

Were taxpayers funds used to pay for Brown's transportation to New York? Does President Carter approve of Brown's actions? I would very much like to know.

PANAMA CANAL TREATY

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, recently allegations were reported concerning alleged U.S. intelligence bugging of Panamanian and American officials during Panama Canal Treaty negotiations.

At this time I would like to renew my call for the House Intelligence Committee to hold full public hearings on this matter. It has been alleged that U.S. intelligence in 1975 and 1976 carried out electronic surveillance operations on Panamaian officials and that a former U.S. Army sergeant participated in the bugging and provided Panama's Government with tapes and transcripts made by the Americans.

In light of past intelligence abuses, I believe the American people must be assured that the United States was not coerced or intimidated into an agreement with Panama on the canal. The people are entitled to the whole story, in public and on the record, not behind the closed doors of a congressional committee.

ESTABLISHING A SELECT COMMITTEE ON POPULATION

Mr. MOAKLEY. Mr. Speaker, I call up a privileged resolution (H. Res. 70) to establish a Select Committee on Population, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 70

Resolved, That there is hereby created a Select Committee on Population to be composed of eleven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of—

(1) the major adverse effects of current population growth throughout the world and their implications for the United States;

(2) approaches which have shown to be effective in coping with excessive population growth, with emphasis on those measures designed to reduce the frequency of conception rather than the termination of pregnancy;

(3) means to encourage countries with excessive population growth rates to adopt those methods which have proven to be successful in reducing population growth rates.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

To carry out this resolution, the committee is authorized to employ and fix the compensation of such professional staff and clerical and stenographic assistants as it deems necessary.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

Mr. MOAKLEY (during the reading). Mr. Speaker, since there is a committee amendment in the nature of a substitute which will be considered, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after "*Resolved*," and insert:

H. RES. 70

Resolved, That there is hereby established a Select Committee on Population to be composed of sixteen Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of—

(1) the causes of changing population conditions and their consequences for the United States and the world;

(2) national, regional, and global population characteristics relative to the demands on limited resources and the ability of nations to feed, clothe, house, educate, employ, and govern their citizens and otherwise afford them an improved standard of living;

(3) various approaches to population planning (including the study of family planning technology, with emphasis on measures designed to reduce the frequency of conception rather than the termination of pregnancy, and the relationship of improved economic and social opportunities to family size) in order to ascertain those policies and programs, within the United States as well as other nations, which would be most effective in coping with unplanned population changes; and

(4) the means by which the United States Government can most effectively cooperate with and assist nations and international agencies in addressing successfully, in a noncoercive manner, various national, regional, and global population-related issues.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

The provisions of clauses 1, 2, and 3, rule XI, except the provisions of clause 2(m) relating to subpoena power, shall apply to the committee.

To carry out this resolution, the committee is authorized to employ and fix the compensation of such professional staff and clerical and stenographic assistants as it deems necessary.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House. Any such report shall be referred to the committee or committees which have jurisdiction over the subject matter thereof.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New Jersey.

FEDERAL ELECTION COMMISSION AUTHORIZATION, FISCAL YEAR 1978

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1435) to authorize appropriations for the Federal Election Commission for fiscal year 1978, with a Senate amendment to the House amendments, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Page 1, line 5, of the House engrossed amendment, strike out "$8,123,000" and insert "$7,811,500".

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, I make that reservation for the purpose of inquiring whether or not the Chair would entertain a call of the House. We are starting legislation, and there are not many Members present. Therefore, I would hope we could entertain a call of the House at this point.

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, would the gentleman reserve his request until we complete this matter?

Mr. ASHBROOK. Yes, I will reserve my request and withdraw it at this point.

Mr. THOMPSON. Mr. Speaker, by the adoption of S. 1435, which is a House amendment in the nature of a substitute with a Senate amendment, the House would be concurring with the Senate in authorizing the sum of $7,811,500 for the operation of the FEC for the fiscal year ending September 30, 1978. Further, the House and Senate Appropriations Committees have met in conference and agreed on a fiscal year 1978 appropriation of $7,300,000.

The amount in S. 1435 represents a compromise negotiated between myself, as chairman of the Committee on House Administration, and Senator CANNON, as chairman of the Senate Committee on Rules. This compromise reduces the House authorization by $311,500—by splitting precisely down the middle the difference between the House and Senate authorizations.

The House had authorized the sum of $8,123,000 while the Senate had authorized the sum of $7,500.

I might state to my colleagues that this compromise figure was adopted on the floor of the Senate by unanimous consent.

Further, the ranking minority member on the Committee on House Administration, the gentleman from Alabama (Mr. DICKINSON) is in accord with this reduction and concurs in my unanimous-consent request.

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, I want to congratulate the gentleman on the compromise. Actually it would drop the amount a little bit.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 600]

Addabbo	Fish	Roberts
Anderson, Ill.	Florio	Roe
Applegate	Goodling	Rose
Archer	Harsha	Santini
Badham	Johnson, Calif.	Shuster
Bolling	Kastenmeier	Solarz
Bowen	Koch	Spellman
Brown, Mich.	Le Fante	St Germain
Burton, John	Lehman	Stark
Butler	Livingston	Teague
Cederberg	McClory	Traxler
Chappell	McCloskey	Tucker
Chisholm	Marriott	Udall
Clawson, Del	Mathis	Watkins
Cornwell	Milford	Whalen
Cotter	Moorhead, Pa.	Wiggins
Cunningham	Moss	Wilson, Bob
Davis	Oakar	Wilson, C. H.
Dent	Patterson	Wolff
Diggs	Pattison	Young, Alaska
Drinan	Pepper	
Edwards, Ala.	Rangel	

The SPEAKER pro tempore (Mr. NATCHER). On this rollcall 370 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE REPORT ON H.R. 6954, ETHICS IN GOVERNMENT ACT OF 1977

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service may have until midnight tonight to file its report on H.R. 6954, the Ethics in Government Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

ESTABLISHING A SELECT COMMITTEE ON POPULATION

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, the Committee on Rules ordered favorably reported, with an amendment in the nature of a substitute, the resolution (H. Res. 70) to establish a Select Committee on Population.

ESTABLISHMENT OF COMMITTEE

The resolution, as reported would establish a Select Committee on Population within the House composed of 16 Members, appointed by the Speaker, of whom one would be designated as chairman. The committee would be established upon adoption of the pending resolution and would cease to exist at the earlier of two dates: First, upon filing a final report in the House; or second, at the expiration of the present Congress just prior to 12 noon on January 3, 1979.

No funding is provided by the resolution nor can any become available to the committee except by subsequent action of the full House. Upon its appointment the select committee will meet to adopt a proposed budget. The budget must be presented to and justified before the Committee on House Administration which presents the original request together with any changes that committee makes. Under the customary procedure it is possible to have a separate vote on the original proposal and the amendments of the Committee on House Administration. Only upon adoption of the funding resolution does any funding become available to the select committee.

SCOPE OF THE INQUIRY

Under the resolution as reported the select committee is authorized and directed to conduct a full and complete investigation of:

First. The causes of changing population conditions and their consequences for the United States and the world;

Second. National, regional, and global population characteristics relative to the demands on limited resources and the ability of nations to feed, clothe, house, educate, employ, and govern their citizens and otherwise afford them an improved standard of living;

Third. Various approaches to population planning (including the study of family planning technology, with emphasis on measures designed to reduce the frequency of conception rather than the termination of pregnancy, and the relationship of improved economic and social opportunities to family size) in order to ascertain those policies and programs, within the United States as well as other nations, which would be most effective in coping with unplanned population change; and

Fourth. The means by which the United States Government can most effectively cooperate with and assist nations and international agencies in addressing successfully, in a noncoercive manner, various national, regional, and global population-related issues.

POWERS AND LIMITATIONS

The Select Committee is authorized to sit and act through the present Congress. No geographic limitation is placed on this authority and the select committee is authorized to meet whether or not Congress has recessed or adjourned. Like most committees, it would need leave from the House to meet while any measure is considered under the 5-minute rule.

The provisions of clauses, 1, 2, and 3 of rule XI, except the provisions of clause 2(m) relating to subpena power, are made applicable to the select committee. Most of the procedural reforms of the past decade designed to insure the rights of ideological and party minorities in committee and to insure the press and public access to the legislative process are embodied in these rules. Since clause 2(m), rule XI provides that committees shall have subpena power, the select committee would have acquired the power by simple reference. Since subpena power had not been requested in the original resolution, the committee substitute exempted the power from those conferred by the paragraph.

The select committee is authorized to employ staff but funding for salaries must be obtained in the funding resolution.

The committee is directed to render a final report at or before the end of the present Congress. Such report shall be filed in the House or with the Clerk if the House is not in session. The report will be printed and referred to the appropriate standing committees.

TERMS OF CONSIDERATION

The resolution (H. Res. 70) to establish the select committee is privileged and requires no rule. Under the rules of the House, the floor manager is recognized for 1 hour and, by custom, yields half that time to the minority. Presently pending is the amendment in the nature of a substitute reported by the Committee on Rules. At the appropriate time, I shall move the previous question and the House will proceed to vote on the question, the committee amendment, and adoption of the resolution.

Mr. Speaker, the Committee on Rules and its ad hoc subcommittee have given extensive consideration to this proposal. The committee is persuaded that there is an urgent need for the proposed inquiry and I urge adoption of the resolution to permit this work to begin.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Massachusetts has been involved actively in the subject of this resolution—the creation of a Select Committee on Population. He has explained that he offered a series of constructive amendments to the resolution in the Rules Committee; which you now are being asked to consider together as a substitute to House Resolution 70. No objections to this substitute were raised when the question was before the Committee on Rules, and I know of none on this particular point at this time.

I must object, however, to the closed procedure under which the House is being asked to consider this matter today. House Resolution 70 is being brought to the floor as a privileged resolution, just as was the resolution establishing the permanent Select Committee on Intelligence on July 14. What this means, of course, is that after 1 hour of debate, an up or down vote will occur on the passage of the resolution as it is, with no opportunity whatsoever for amendments of any kind.

I offered an open rule in the Rules Committee under which House Resolution 70 could have been considered. This motion was defeated, and it is difficult for me to understand why. Frankly, I think the members should be a little embarrassed to have a privileged resolution like this for a select committee to come to the floor under what amounts to a closed rule. Certainly in establishing a select committee, all the Members should have an opportunity to offer amendments to make needed changes.

I have been told it is the position of the Democrat caucus and certainly the Republican conference to be for open rules, and yet time and time again, this body is being asked to consider closed or modified closed rules. It is not necessary, in my opinion, to be considering this resolution under such a procedure.

With respect to the establishment of a Select Committee on Population, the substitute to House Resolution 70 provides for a 16-member panel to conduct a full investigation and study of issues related to global population growth and planning. The select committee is authorized to sit and act within or without the United States and to employ and fix the compensation of such professional and clerical staff as it deems necessary. The rules of the House relative to committee procedure are made applicable to the select committee, except that there is no grant of subpena power.

The select committee is directed to report to the House during the present Congress the results of its investigation and study along with its recommendations.

The resolution does not authorize the spending of any funds. Such authorization will have to be provided in a special funding resolution from the Committee on House Administration. I personally object to that. We should specify in these resolutions some sort of ceiling on the amounts of funds that can be spent by a select committee. I think it is very unclear what the cost will be in this instance.

Mr. Speaker, while I generally oppose the proliferation of select committees, I believe a legitimate need exists for creating a Select Committee on Population. The problem of overpopulation is one from which no nation can escape. If this select committee does its job, and I have no reason to think it will not, then we should have a significant amount of useful data assimilated by the end of this Congress from which to consider various legislative remedies.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise today in opposition to House Resolution 70, which would create a Select Committee on Population to conduct a "full and complete investigation and study" of population growth. The select committee would be authorized to meet only during the present Congress, but is given carte blanche to travel "where it deems necessary" and to hire the required professional staff and clerical assistants.

Mr. Speaker, I maintain that this House is already spending substantial sums through the committee system. The creation of a new select committee to deal with a subject already being studied is a gross abuse of the American taxpayer. This body has voted over $62 million to support the various standing, joint, special, and select committees for fiscal year 1978. This is an increase of well over $10 million from fiscal year 1977.

We talk a lot about financial obligations and responsibilities. The creation of a Select Committee on Population would be an unnecessary and wasteful duplication of work that has been done and is continuing to be done by the Subcommittee on Census and Population, House Post Office and Civil Service Committee.

The International Development Subcommittee, House International Relations Committee, has also done extensive work in the area of population and its impact on world problems. Nothing will be accomplished but a needless expenditure.

In addition to House and Senate committee activities, more than 11 research institutions, organizations, and foundations are devoted to population study. The United Nations has an agency for population study. The Federal Government, through the Department of Health, Education, and Welfare and the State Department's Agency for International Development, is involved in population research. Several private foundations, as well as an international organization in Brussels, do extensive work in this field.

It is time to close the door on unnecessary spending. It is time to accept the fact that the creation of one more committee, however laudatory its purpose might be, does not solve problems and will not really provide answers to serious and important questions. It is time to utilize existing structures and if they do not prove effective or efficient, make the necessary improvements.

It is unfortunate that more Members do not listen to their own rhetoric. If they did, I do not believe we would be considering House Resolution 70 today. During our debate on House reform proposals during the 93d Congress, it was considered enlightened legislating to re-

duce the number of committees. What has happened to this spirit of reform and dedication to streamlining this body's activities?

One of my distinguished colleagues, now a cosponsor of this legislation, stated during debate on House Resolution 988 (House Committee Reform legislation):

. . . I think that there is a great deal to be said for keeping the oversight authority together with the authority in both the authorizing committee and the relevant appropriations subcommittees rather than to proliferate a variety of committees that do not have either authorizing or appropriating responsibilities. For these select committees, although carrying out the kind of oversight responsibility that I believe the gentleman's proposal has in mind, do not have the capacity to be effective in terms of modifying the authorizing legislation.

This Member went on to state that:

. . . there is a second reason that it seems to me this amendment should not be passed, why it is unwise. Passage of this amendment could set a precedent for a proliferation of other similar select committees in a wide variety of fields.

For example, we would have proposals to establish a Select Committee on Consumer Products; a Select Committee on Energy; a Select Committee on Inflation; a Select Committee on Transportation. All one has to do is to enumerate the variety of the problems with which we as legislators are faced, and to consider the attention that may at any given moment in the life of the country be focused on a particular area, to understand that by creating this kind of committee in this particular field, we will only set a precedent for making possible one select committee after another.

Mr. Speaker, I submit that the times have not changed so drastically since October 2, 1974. If the creation of one more select committee was a bad idea then, is it not a bad idea now?

More recently, the Commission on Administrative Review has recommended further "committee reform" and a resolution in the number of standing and select committees. It is a widely accepted fact that every Member of the House is very nearly overwhelmed by the multitude of demands on his or her time. The Obey Commission recognizes this fact in its recommendation for a scaling down of the committee system to allow the Members to more fully study the legislative issues which we must deal with in a limited period of time. Surely the creation of a Select Committee on Population runs contrary to the reported findings of the Commission on Administrative Review.

While I know that many sincere, dedicated and conscientious Members have cosponsored this resolution, I must oppose the enactment of House Resolution 70 and urge my colleagues to do the same.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the distinguished gentleman from Wisconsin (Mr. ZABLOCKI), chairman of the Committee on International Relations.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, certainly House Resolution 70 is somewhat of an improvement, with the amendments of the Committee on Rules. However, I join the gentleman in opposing it.

As the gentleman from California pointed out, the proposed select committee would overlap and duplicate other activities already being carried out by this House through other committees, and it risks impairing our relationships and efforts in the population field which are underway in some of the poor countries at the present time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. LONG).

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, House Resolution 70, to establish a Select Committee on Population, as amended by the Rules Committee, is a significant improvement over the resolution as originally introduced. Nonetheless it continues to pose major problems:

The proposed select committee would overlap and duplicate activities already being carried out by this House through other committees.

And it risks impairing our relationships with and efforts in the population field which are underway in the poor countries of the world.

In making this assessment, I am speaking only to the foreign affairs aspects of House Resolution 70. I am not addressing any domestic implications, or such questions as to whether we need to add further to the number of committees of the House at this time.

I originally joined in cosponsoring House Resolution 70 when it was introduced early this year. The idea is appealing—a committee devoted specifically to the population question, unquestionably a prime issue of our time.

But upon further review, and with additional information which has come to me as chairman of the International Relations Committee, I have come to the conclusion that the proposed select committee—from an international affairs standpoint—would be an unnecessary, duplicate expense and could have unintendedly harmful effects.

The International Relations Committee already is deeply engaged in population matters abroad. It has been for many years. We were the first committee to undertake major study missions overseas on population questions, and our concern has continued unabated.

This year, in our consideration of the International Development and Food Assistance Act of 1977, we heard more witnesses on the subject of population than on any other issue. We approved an authorization of $181 million for population planning assistance abroad during the coming fiscal year. We added to the law a policy provision emphasizing the interrelationship between population growth and development in poor countries, and we authorized the President to study the complex factors affecting population growth in developing countries.

Hearings involving population questions continue to be held by the full committee or subcommittees periodically, and we are continuing to assign this subject to staff study missions going overseas. Clearly, the proposed new Population Committee would overlap and duplicate in this field.

Furthermore, it is becoming increasingly apparent that rates of population growth abroad are intertwined with social and economic factors of a very complex nature. This is a major consideration of the International Relations Committee in its authorization and oversight of U.S. development assistance abroad. House Resolution 70, as amended by the Rules Committee, recognizes these linkages in speaking of "the relationship of improved economic and social opportunities to family size."

But one should ask the question—Does the proposed Select Committee on Population really intend or want to get involved in the larger question of economic development of the poor nations of the world?

Last, let us be aware of the sensitivities of the developing countries of the Third World—particularly on the population issue. Experience has shown to date that the low-profile approach to population assistance abroad has been preferable, and in most cases necessary, for successful implementation of these programs.

The Special Committee on Population under House Resolution 70 would be authorized to go anywhere in the world. By its nature, the committee would be of high visibility. Its activities and recommendations would carry a "made in America" image in the eyes of developing countries.

I fear that such a result would be counterproductive in terms of our relationships with these countries and our ongoing efforts to help them on population matters.

For these reasons, Mr. Speaker, I urge the House to vote against House Resolution 70.

Mr. LONG of Maryland. Mr. Speaker, I support the creation of the proposed Select Committee on Population as a signal that this country is seriously concerned with the threatening worldwide problem of uncontrolled population growth. Patience, courage, and wisdom are required for the world community to bring its rapidly increasing population under control. Many economic and political reasons make it imperative to solve the world poverty problem. World poverty is inexorably tied to too many people on this small planet. As long as population continues to grow, our aid to poor countries has to deal with an open-ended problem—like bailing out a pond that is connected to the ocean. The movement of millions of Mexicans across the United States-Mexican border is an example of what happens when a society such as Mexico allows its population to proliferate, then abandons its citizens to unemployment and hunger. Can we in the United States accept the population overflow of another society? Or should we help Mexico contain its population explosion?

These are critical questions that need sound analysis and detached judgments. The population-poverty crisis of this late 20th century demands a sharpening of our sensibilities to the plight of the unemployed and the destitute. It demands

an understanding of why the poor seek large families. And it demands of us in Congress to know whether our foreign assistance efforts, including those in population, have had any measurable impact on the welfare and the population growth rates and policies of those countries seeking and receiving our aid.

I trust that each one of you will support the creation of the House Select Committee on Population. The committee is appropriate. It is timely. Its work will benefit this country and the world. The world community has not done much to register its commitment to a more equitable international economic system. The scramble for resources and energy by national states and the resulting worldwide degradation of the environment tell the story of a civilization with little concern for those yet to be born. Facing as we do this unpromising outlook, we in the House of Representatives can take a first step to find out as much as we can about the grave dilemma humanity faces—exploding human populations living for the most part in squalor, hunger, and fear.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I simply rise in support of this resolution.

I have been doing a good deal of work in connection with some of our illegal alien problems, and, very frankly, some of the things we are running into in our attempt to deal with that problem have to do with the population explosion that is occurring in certain parts of the world, and particularly here in the Western Hemisphere.

I think we are in desperate need of a plan to extend our studies more comprehensively in order to get a better understanding and, hopefully, create more cooperation, not only in this country but throughout the world, if in fact we are going to be able as the human race to survive on this planet. I think time is awasting.

I appreciate the fact there have been other committees from time to time that have made some small contribution in this field, but I think we need a zero in on the problem.

Mr. Speaker, it seems to me that is what we are doing by the creation of this select committee, and, therefore, I support the committee, believing that it could be of substantial help to us.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I rise in support of House Resolution 70, which calls for the establishment of a House Select Committee on Population.

The degree to which the problems created by overpopulation on our planet has risen is in itself adequate reason to create this committee. Legislative jurisdiction is important, of course, but we must begin to deal with our population growth, and this committee will be able to address the problem effectively. Though I am chairman of one standing committee that from time to time has jurisdiction over population matters, I sincerely believe that the time has come to have a select committee, one that can address itself exclusively to population and the problems related to it.

My experiences in this country—and especially the things I have seen during travels to many Asian countries more sharply affected by the problem than the United States—have led me to this conclusion. I remember well the suffering and deprivation I saw when I once visited Indonesia. President Suharto himself told me that overpopulation was his country's number one problem, and I have witnessed the results of overpopulation time and time again. I am firmly convinced, Mr. Speaker, that we here have the capacity to devastate our own country by our own growth.

Mr. Speaker, the House often has been criticized for becoming an unwieldly bureaucracy in itself, and we are all too familiar with the ability of bureaucracies to delay finding solutions to problems. But I believe that this proposed Select Committee on Population will indeed be able to find a solution to this problem before it becomes dangerously acute here in our own country. Careful studies and recommendations in the areas of birth and death rates, birth control, the availability of food resources, and other areas will help find this solution and help plan our wisest course of action. We will be able to plan our growth before we fall victim to the population problems of our friends in other less fortunate parts of the world.

Some may say that our population problem is not acute enough—not important enough to justify the creation of yet another committee and the spending of yet more tax dollars within the legislative branch itself. But this is a subject that we cannot afford to look at in short-sighted fashion. The population problem is a worldwide problem, and the shortages and deprivation experienced in other parts of the world can soon become just as prevalent here.

Mr. Speaker, I give my wholehearted support to the creation of this committee.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, as a cosponsor of House Resolution 70, which would establish a Select Committee on Population, I urge my colleagues to carefully consider the issues involved and to support the creation of this select committee.

The population problem touches every aspect of our lives. Unprecedented and unplanned population growth and distribution have had a staggering impact upon the ability of many nations to cope with some of the most basic needs and wants of their citizens.

Population-related problems have had a tremendous effect upon the world's natural resources, both renewable and nonrenewable. They have seriously jeopardized the social and economic development capabilities of many Third World nations.

The proposed select committee could address domestic population and family planning programs and policies, as well as those pertaining more directly to the international community.

As Members of Congress whose decisions often affect both the American public and the world, we must make informed and rational decisions which will properly address these and other population problems. These issues will range from how to develop better energy and food supplies to the complex problems of world poverty and economic development.

I believe the proposed Select Committee on Population could provide us the necessary information and perspective with which to wisely make these pressing decisions. In the best interests of planning and cooperation, I urge my colleagues to establish the Select Committee on Population.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Mr. Speaker, I want to compliment the gentleman from New York for the work he has done on this resolution to establish a Select Committee on Population.

I believe a 2-year inquiry by a select committee would serve as an additional resource to all the standing committees of the House.

The select committee would be authorized to conduct an investigation and study of population characteristics relative to the demands upon our world's resources of food, energy, land, and fresh water.

In 1973, in my first address in this House, I stressed the need for Congress then to allocate and develop new energy resources and to maintain agricultural productivity in order that we might provide food for the world's steadily increasing population, which is growing at the rate of 170,000 new people every day.

Norman Borlang, father of the green revolution in world agriculture, said:

If a crop failure occurs in any of the large grain-producing areas of the world, tens of millions would die in an international disaster and little could be done to prevent it.

Mr. Speaker, I support the creation of this select committee to help address the problems relating to the world's rapid population growth.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in strong support of House Resolution 70 to create a Select Committee on Population.

Few issues that come before Congress are as complex and difficult as the problem of population control. There is no general consensus on the best approach to the problem; there are still a few who deny the seriousness of the problem itself. Efforts to formulate an effective policy in this area are hampered by two major obstacles. The first is the continued insistence of some Third World leaders that overpopulation is a "false issue" and that the first priority should be on development. The second difficulty is the lack of accurate statistics for many countries where the population problem is most acute, making it almost impossible to evaluate the progress of family planning programs with any degree of confidence. These factors can make the area of population policy one of the most frustrating handled by Congress. Nevertheless, this is not a mat-

ter we can afford either to ignore or to dismiss with an annual cursory review. For as we enter the last quarter of the 20th century, rampant population growth presents a greater threat to the future order and stability of the world than any other danger except that of nuclear war.

This is not a pleasant fact to confront. Nuclear war may be brought on or averted by the decisions of a relatively small number of men in the governments of the United States and the Soviet Union. Most of these officials are well educated, experienced policymakers who understand well the stakes involved in a nuclear confrontation. Their world view must be broad and long term, for the results of their decisions will affect the lives and destinies of millions of their countrymen and others all over the world.

Consider, by contrast, the population monster. It is not subject to control by the decisions of Carter or Brezhnev, Vance or Gromyko. On this matter, the future of the world rests with the individual decisions of a rice farmer in Bangladesh, a nomad in the Sahel, or an unemployed young newcomer to the teeming slums of Lagos, Mexico City, or Djakarta. Their decision to limit the size of their family—or their failure to do so—may well determine the fate of mankind.

It is this factor which makes the population crisis so dangerous. Exponential population growth is not a dramatic, headline-grabbing news item, but a quiet and inexorable process that gathers momentum with each passing day. The longer it continues, the harder it will be to stop. It is already too late to prevent the doubling of the Third World's population within the next quarter-century, a development that may cripple efforts to provide a better life for their desperately poor citizens. The issue today is whether the policymakers of both the developed and the less developed countries will act with the speed and effectiveness necessary to avoid even greater increases. In a world where only one out of every three people has an adequate diet, we should be greatly alarmed by the doubling of our numbers. Any growth beyond that inevitable point is plainly intolerable, for the resulting strains on economic and social systems might well lead to the near or total collapse of governmental structures throughout the Third World. The ultimate result would be millions of deaths from hunger and disease in the developing nations, a prospect we must do everything in our power to prevent.

The last 10 years have witnessed a growing awareness within Congress that the United States has a vital interest in the success or failure of efforts to limit the high population growth rates of the Third World. This concern has been reflected in the authorization of larger and larger expenditures for population programs, increasing from $35 million in fiscal year 1968 to $177 million a decade later. Still, our task cannot be accomplished merely by throwing money at the problem. The most important question we must address is whether these programs are actually having a discernible impact in the field. We have now spent over $1 billion for family planning, but Congress has yet to make a detailed investigation into the results of our programs. We do not really know how effective our efforts have been up to this point, and we need to learn more in terms of which approaches are the most effective.

My own concern about this matter has been stimulated by several reports issued this spring and summer. The reports in question—two from the General Accounting Office and a staff report to the Senate Foreign Relations Committee—analyze our population programs in Ghana, Pakistan, the Philippines, and Indonesia. Their findings are not encouraging. The GAO report on Ghana, which has received some $12 million in population assistance from the United States, notes that the program "has reached only a small proportion of the population, especially in the rural areas where 70 percent of the population lives." Only 7 percent of the women in the reproductive age bracket of 15–42 are currently family planning acceptors, and the number of new acceptors in recent years has averaged around a third of the target levels. The report found that 77 percent of Ghana's family planning clinics were located in urban areas, although Ghana's population is almost three-fourths rural. Nearly a third of those utilizing family planning services were from the two largest cities alone. As a result, our programs have had a minimal impact on Ghana's annual population growth rate of 2.7 percent, and Ghana's crude birth rate remains one of the highest in the world.

AID's population program in Pakistan has been the subject of two recent studies: one by Senate Foreign Relations Committee staffers which was completed in February of this year, and another by the GAO which was issued in mid-July. Both reports agree that Pakistan's family planning program—which has received $59 million in American assistance—has yielded negligible results. According to the Senate report,

> The highest possible percentage of eligible couples currently practicing contraception is no more than 7.3 percent. This rate is the same as it was in 1968–69, before the program began. Most analysts in this field believe that five to seven percent of eligible couples would find a means of preventing conception even without a family planning program because they already had as many children as they wanted.

The GAO study concurs with these findings, stating that "the program has not had the desired impact of increasing the number of couples using contraceptives," and adds that "few elements of the program are working as planned." The failure of the Pakistani program is particularly serious because it calls into question the validity of the "contraceptive inundation" approach to population control—the concept that providing an adequate supply of contraceptive services will in turn create a demand for those services. This theory has been applied in other AID population programs besides that of Pakistan; in light of the study's results, the theory may need revision.

It must be pointed out that not all of AID's programs have been as unsuccessful as those in Pakistan and Ghana. The United States has supplied $30 million in population assistance to Indonesia's family planning program, and the results of a recent census provide strong evidence that the rate of population growth has declined on Java and Bali, the most densely populated areas of the world's fifth most populous country. The population growth rate on these two islands has apparently fallen from 2.5 percent a decade ago down to 2.1 percent last year, with most of the decline taking place in the last 5 years. If these figures are accurate, then Indonesia is making significant progress toward a resolution of its population problem.

Other recipients of AID assistance have also made some progress in slowing their growth rates. Thailand, which has received some $11 million in AID funds, has reduced its growth rate from 3.0 to 2.5 percent since 1965, and Costa Rica has had an even sharper decline—from 3.9 percent down to 2.3 percent. Tunisia has apparently seen a slight decrease in its growth rate, and Colombia has inaugurated an extensive new program, although it is too soon to assess its relative effectiveness.

The picture, then, is one of mixed results. What emerges most clearly from this brief survey is the need for more information on which to base our policies and judgments in the future. At present, no fewer than seven committees have jurisdiction over some aspect of the population problem, and this fragmentation of responsibility is inimical to the development of the kind of expertise this complex issue requires. Existing committees often find themselves forced to give the issue comparatively short shrift.

While the International Relations Committee has performed a useful function in pressing for funds for international population programs, it has not really had the time to examine these programs in detail. We are simply spread too thin. For example, during the last Congress no hearings were held by the International Relations Committee or any of its subcommittees devoted to the population crisis.

Moreover, we cannot overlook the fact that the United States faces a population problem also, and none of the standing committees of the House has given that problem any real attention.

I believe that the proposed Select Committee on Population is the necessary answer to the present state of affairs.

I have tried today to point out the critical importance of this issue. We cannot afford to make the wrong decisions or to opt for the wrong choices. We must ascertain the most effective approaches to population control and discard discredited theories without hesitation. Time is an element of maximum importance where an exponential growth process is concerned, and the decisions we make today—or the mistakes we fail to correct—could affect us greatly in the

future. I urge your support for this resolution.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of this worthy resolution, House Resolution 70, creating a Select Committee on Population and commend the gentleman from New York (Mr. SCHEUER) for his leadership and efforts in bringing this measure to the floor. As one of the 260 cosponsors of this resolution, I note a growth of support for the resolution which is indicative of its importance to my colleagues. This select committee would help gather and insure the availability of information necessary for dealing in a coherent and effective manner with the exponential expansion of the population and the tremendous obstacles overpopulation presents for global and domestic social, political, and economic goals.

Presently, in countries around the world, hundreds of millions of people face starvation or malnutrition; the world's natural resources are being depleted rapidly. Yet current birth rate trends suggest that the world's population will double in 35 years—and will then redouble in less than that. Such unbridled population growth cannot fail to deleteriously affect the attempt to improve the quality of life. Moreover, overpopulation will have severe ramifications for global environmental, health and education concerns, and, as the National Security Council has pointed out, the population expansion may pose the single greatest threat to future domestic security and the hopes for world peace.

While I too share the concern of many of my colleagues about the proliferation of select committees, and believe that we should examine each proposal carefully to prevent duplication and inefficiency, I believe that this proposed select committee can withstand such examination. Presently jurisdiction for population issues is dispersed among at least eight committees. The establishment of the select committee will allow the coordinated, comprehensive study which is so vital if we are to initiate the policies necessary to forestall future disaster.

Accordingly, I urge my colleagues to join me in supporting this important legislation.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of House Resolution 70, which provides for the establishment of a Select Committee on Population.

I am honored to join my colleague and good friend, the gentleman from New York (Mr. SCHEUER), and other distinguished colleagues of mine, in support of this resolution, which reflects a growing concern about the effects of current population growth on the quality of life here and around the world.

The establishment of a Select Committee on Population would remedy a situation that sees jurisdiction over population-related programs scattered among many and varied committees.

A Select Committee on Population would provide a focal point within the Congress from which all problems of population growth can be studied, and from which the implementation of Federal programs in these areas can be more effectively reviewed.

This committee will conduct a complete investigation of the major, adverse effects of current population growth throughout the world and their implications for this country.

It will study approaches which have proven effective in coping with overpopulation including measures designed to reduce a rapidly increasing world birth rate; and will investigate means to encourage countries with excess population growth to adopt methods which have proven successful in reducing population growth rates.

In summary, I feel this proposal is a long-awaited first step toward organizing the efforts of the Congress to deal with the problems caused by a world population that is doubling every three decades.

The considerable support this resolution has received, not only from 235 Members who have cosponsored the proposal, but from individuals and groups across the country, is indicative of a growing, national awareness of the need for this select committee.

I urge my colleagues to support this resolution to create a Select Committee on Population.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, it is my intention today to vote against House Resolution 70, a bill to establish a Select Committee on Population. I am in favor of proposals which would enable the legislative branch to deal more effectively with the issues confronting us. However, House Resolution 70 is not such a proposal.

One responsibility of this House is to assure the American people that duplication of effort and waste do not occur—either in the bureaucracy or in the U.S. Congress. If we pass the resolution before us, we will have failed to fulfill that responsibility.

Many of the Members on the floor today were also present in 1974 when this House spent long hours debating committee reform legislation. At that time, arguments were eloquently made that certain committees were not needed, were superfluous, that jurisdiction was shared by other committees in the House. If those arguments were applicable then, I maintain they certainly apply to the pending resolution.

A subcommittee of the Post Office and Civil Service Committee has traditionally been charged with the study of population and demography. Over the years, this Subcommittee on Census and Population has conducted an extensive series of hearings on population-related issues and has published an impressive set of documents on the subject. This material is available as a resource to all Members who are interested. It is my understanding that additional efforts in this area will be undertaken by the subcommittee during the remainder of the 95th Congress.

Several other committees in the House have jurisdiction over population-related programs; and this approach is not unusual. There is simply little that this proposed committee could do which is not already being done.

Aside from the U.S. Congress, there are approximately 11 research institutions, foundations, and organizations devoted to population study. The U.S. Government has at least two agencies which study world population and the United Nations Fund for Population Activities reports annually on its studies. In addition, several foundations make large grants to independent organizations and universities to examine the implications of population growth. Surely the necessary information can be obtained through these sources.

Finally, Mr. Speaker, we must ask ourselves how our constituents will benefit from the establishment of yet another committee and by the additional funding necessary to support such a committee.

The spirit of true reform compels us to defeat House Resolution 70 and to express confidence in the ability of the House to effectively meet its responsibilities without the continual proliferation of the committees, special committees, select committees, and joint committees.

Mr. Speaker, I realize the good intentions of the Members who support this proposal but, without intending to be facetious, I would like to point out that during the hour this bill is being debated the population of the world is increasing. Do the Members believe for one moment that the existence of this committee for the next 15 months will have any effect on the population growth of the world? If they do, then they are living in a fool's paradise.

Stripped of the issues, and the organized movement behind this proposal, the facts are that this is a total duplication of work now going on in the Congress and in other governmental entities. We have in the Committee on Post Office and Civil Service the Subcommittee on Census and Population. All this new committee need do, if it is created, is to take our records, put their imprint on them, publish a lot of new documents and waste more public money.

The U.S. Government has two agencies studying the issue of population control.

My friend the gentleman from New York (Mr. BINGHAM) in his eagerness to establish this special group has evidently forgotten that the United Nations—and he is a champion of the U.N.—has a fund for population activities and they provide annually and in complete detail reports on the growth of the world's population. Then there

are a number of foundations that are tax exempt, in other words, supported by public funds, that are studying the implications and the problems of population growth.

I repeat, this is a totally unnecessary creation.

Let me remind the Members that 3 or 4 years ago we fought to reform the House and to streamline committees so as to avoid duplicating activities. All we will be doing through this proposal is to perpetrate the abuse this body places upon our taxpayers by creating an unnecessary committee with an unnecessary staff, which will then perpetuate itself starting in January of 1979.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Speaker, I would like to say to the preceding speaker that I am, indeed, one of the folks who live in a fool's paradise because I believe firmly that this committee can have a great effect on what is going to hapoen in the world. We have to acknowledge the fact that we have a real problem with expanding world population. Within the next 30 years, and certainly some of us may well be around at that time, we will see a doubling of the world's population, and if you do not think that is one of the biggest problems that we are going to face then, you are not seeing the problems that we are looking at right now.

Mr. Speaker, I rise in support of the Select Committee on Population. The world population is doubling every 30 years. The political, economic, and social repercussions of this explosion are obvious. Therefore, I feel Congress should have the mechanism to review what population trends mean to this Nation and to our international relationships. The select committee will have jurisdiction over population questions currently examined by over 10 House committees. Population is a factor in unemployment, scarcity of natural resources, housing and other basic issues. It is about time we realize this and make population one of the central concerns in Congress now and for the future.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. COLLINS).

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to express my support for this legislation, House Resolution 70, establishing a Select Committee on Population.

I cosponsored this bill when it was first introduced by Representative SCHEUER in January because I felt that the issue of uncontrolled population growth needed to be addressed by this Congress in a systematic and comprehensive way.

Mr. Speaker, there is no way that we can overemphasize the urgency of this problem. According to the best demographic estimates, the world's present population of 4 billion may reach nearly 7 billion by the end of the century. It is doubling, at the present rate of expansion, every 37 years.

This unprecedented rate of population growth throughout the world is frustrating the efforts of governments of both rich and especially of poor nations in their efforts to provide their citizens with even the most basic elements of existence: food, clothing, shelter, health care, education, and jobs. These deteriorating economic and social conditions have direct and severe consequences for both the internal stability of nations as well as for the prospects for peace among them.

At the present time, jurisdiction over population-related issues is scattered among eight committees of the Congress. This reflects the fact that the population problem is indeed linked to many other everyday concerns. However, by parceling out the issue to various committees we end up with a situation where no one committee or subcommittee has primary responsibility for dealing with population as a central problem of our time. The Select Committee on Population as proposed in this resolution would constitute a first step toward meeting this urgent need.

It would be authorized to conduct a full and complete investigation of the causes of changing population conditions and their consequences for the United States and for the rest of the world. In addition, the committee would study various approaches to population planning in order to ascertain those policies and programs, both within the United States and abroad, which would be most effective in coping with unplanned population growth, was well as the means by which the U.S. Government can most effectively assist other nations in addressing, in noncoercive manner, the population issue.

Certain changes in the resolution, made in the Committee on Rules, reflect and take into account the concerns of those of us with a particular interest in the committee's perspective toward the Third World. As a member of both the Subcommittee on Africa and the Subcommittee on Inter-American Affairs, I am particularly sensitive to the dangers of a population policy that would put an unfair burden on the Third World, while overlooking the relationship between population, resources and development.

While the population problem is more clearly manifest in the Third World, the reasons for the conditions are to be found to some extent in the economic inequalities between nations as well as the inequities within them. For this reason it is essential that the population issue be approached within the larger context of international and domestic development policy as a whole.

Were I not convinced of the select committee's commitment to these principles, I would not endorse its establishment. The resolution before us makes this commitment clear. Among the approaches to population planning that this select committee will study is the all-important relationship of improved economic and social opportunities to family size.

So long as it does not lose sight of this larger perspective, namely, the relationship between population and development, the Select Committee on Population will have my support.

I urge my colleagues to join me in support of House Resolution 70, establishing a Select Committee on Population.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, let me give the Members one illustration why it is important that we move on this thing. We are concerned now about the problem of illegal aliens. Mexico today has a population of 62 million. Mexico has a growth rate of 3.6 percent. If we take 3.5 percent for one century, we have a growth factor of 16—16 times the present 62 million population. Obviously that is not going to happen. It cannot. Catastrophe would stop it. If Mexico by the end of this century reaches the point where one female produces one female, Mexico eventually will have a population of 175 million. If that does not happen until the year 2020, Mexico eventually will have a population of 270 million, or 50 million more than we have in the United States right now.

If we think we can solve the illegal alien problem by ourselves without paying attention to the problems of Mexico and this population problem, we are living in a fool's paradise. Maybe—maybe my colleague, the gentleman from Illinois, Mr. DERWINSKI, is right. Maybe we are just going to waste our time. Maybe this committee will not grab this problem either, as these other agencies and committees really have not done in a fundamental way. But I am willing to take a chance. I think if we look at the kind of a world we are moving into, we have to take that chance to look at one of the most fundamental problems our Nation and our world is going to face.

Mr. Speaker, I yield back the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Speaker, as a cosponsor of House Resolution 70, I would like to urge all of my colleagues to join me in supporting legislation to create a Select Committee on Population.

It is estimated that close to 500 million people are facing starvation or malnutrition. With the world's 4 billion population expected to double within the next 35 years, there is little doubt that we need to take a comprehensive look at the problem of overpopulation. If not, we could eventually find ourselves studying survival in an overcrowded world.

The Select Committee on Population will have the opportunity to examine such far-reaching questions as maternal and child health care, contraception research, and the impact of future immigration upon our entire country. All are issues that touch the lives of every American.

Already, we are feeling the effects of increased congestion, inflation, and scarcities of essential resources. The

United States has the opportunity to take a leading role in finding a solution to the global population problem. I urge adoption of this legislation.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise to make a confession. At the beginning of this Congress I succumbed to the good friendship and the good nature of our friend, the gentleman from New York (Mr. SCHEUER) and joined as a cosponsor of this resolution. Since that time I have had some reservations about that. I think there are a good many other Members in this House who were taken in by the import of what this select committee was to do. Many Members are interested in finding effective approaches in coping with excessive population growth, with emphasis on birth control rather than abortion, the very issue which we are going to be discussing this afternoon in the conference on the Labor-HEW appropriations bill. I submit to the Members, as was so eloquently stated by the gentleman from Illinois (Mr. DERWINSKI), who preceded me, that we really do not need another committee in this House to determine what the problem is and the biological factors that are creating the population explosion around the globe. We probably ought to be concerned more about the doubling and tripling of staff around Congress.

I look at the Democratic caucus decision this morning embracing the Obey Commission's recommendation to create a Select Committee on Committees. The report of the Commission reads in part:

> Members have too many assignments and jurisdictions are too confused for the strains and conflicts Members currently endure to be substantially alleviated by piecemeal and procedural reforms.

It goes on to state:

> The House should create a Select Committee on Committees by the end of the first session of the 95th Congress. The Select Committee should be directed to conduct a complete and thorough study of the House committee structure, including the number of committee and subcommittee assignments per Member, . . .

That is what the Democratic caucus subscribed to this morning, that we have just allowed the committee structure to get completely out of hand around here. I wonder what might happen with a committee like this with 16 members, with a real legitimate justification for foreign travel. I predict that the committee will be in every foreign country in the world since most are experiencing increases in their population growth rate. There has been criticism before about this Congress and the amount of travel that has been taken. I just wonder what kinds of reports we will hear about travel by this committee, whenever it is chosen.

I submit, Mr. Speaker, we would do well to turn down this resolution and abide by the Obey Commission's recommendations and look at the overall committee system before we just add another problem to our woes.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I am pleased to have this opportunity to join others in the House to speak to you today in support of House Resolution 70, which would establish a Select Committee on Population.

Just over 4 billion people now occupy this planet. Despite droughts, wars, disease, and major improvements in methods of birth control, nothing has slowed our steady trek toward the overpopulation of the planet. Experts at the United Nations predict that the number of people on Earth will continue to double and redouble at a faster and faster rate.

The world's population is estimated to have been only 250 million when Christ was born. By 1850, there were 1 billion people in the world, and only 80 years later, there were 2 billion. Current U.N. projections indicate that the world's population in the year 2000 will exceed 6 billion. One of the more disturbing aspects of this situation is that the biggest growths in population are occurring in parts of the world least equipped to deal with the social, political, and economic pressures caused by overpopulation. For example, Mexico's current population is 60 million, and is doubling every 20 years. As a result of the severe unemployment in Mexico, nearly 10 percent of its 60 million people are illegal aliens residing in the United States.

House Resolution 70 directs the new select committee to investigate and study three major areas of concern: First, the adverse effects of world population growth and their implications for the United States; second, approaches to the problem which have proven useful in coping with excessive population growth with the emphasis on reducing conception rather than the termination of pregnancy; and third, means to encourage countries with excessive growth rates to adopt methods which have proven successful in reducing population growth rates.

I address this body most frequently in my capacity as the ranking Republican on the House Energy and Power Subcommittee. The amount of energy used every day by the world's 4 billion people, for everything from heating water to running the most sophisticated computers, is increasing rapidly. Each increment in demand is another drain on limited energy reserves.

Fossil fuels, particularly petroleum, made the economic growth of the industrialized world possible. Nitrogen fertilizers, produced from natural gas, boosted agricultural productivity. As population growth continues, and the amount of land available for cultivation dwindles, additional food needs must be met by cultivating existing farm land more intensively. This maximum cultivation generates heavy new demands for fertilizers, irrigation and other energy intensive methods.

But it would be wrong to assume that population-related energy problems are confined to poor countries. When population growth occurs in societies where either wealth or technology have led to energy-wasting life styles, the added demand on energy supplies is especially large.

Even successful population control policies will not mitigate overnight our increasing demand for energy. But those policies can be an important part of a long-term approach to energy problems. If that is to be the case, and I hope that it will be, it is important to begin now.

Current congressional jurisdiction over population-related problems is spread widely throughout our various committees. While it does not quite extend from A to Z, it does go from A (Agriculture) to W (Ways and Means). This select committee, a single forum, with the broadest possible perspective, is vital if we are to give this issue the overall study that it deserves.

To me, the population problem is most quickly and easily perceived in terms of the increasing demand for energy. To someone on the Agriculture Committee, it may be perceived in terms of the need to provide food for more and more people. For a Member serving on the Committee on Banking, Finance and Urban Affairs, it may mean the problem of providing the necessary housing. A single select committee would provide us a means to benefit from the substantive expertise of our colleagues in these and other areas, and at the same time spare us the tunnel vision that is sometimes the natural product of the committee system.

Again, Mr. Speaker, I urge the favorable consideration of House Resolution 70.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to Mr. BAUMAN.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I say to the gentleman from Maryland, I always wondered how long it would take before the idea surfaced to pass a law against this also.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his decisive and incisive contribution.

Mr. Speaker, an excellent case has been made in many particulars against this resolution by a number of speakers. I know that it is common practice, like Parkinson's law, that in the Congress of the United States when you smell a popular issue, you create a committee to milk it. This is that kind of issue.

The gentleman from New York (Mr. SCHEUER), if nothing else, is to be given great credit for his beaver-like activities in delving around the floor of the House and rounding up 262 Members to cosponsor this legislation over the past 6 months, but the volume of misguided

Members does not make the proposition any better.

As the gentleman from Illinois (Mr. DERWINSKI) said, this is just another example of Congress throwing away taxpayers' money and creating unnecessary bodies. We have been told that this committee will bring the population problem into focus, narrowing the issue, that is all very well; but you do not propose to abolish the Subcommittee on Census and Population of the House Committee on Post Office and Civil Service. You do not diminish the jurisdiction of the Committee on International Relations. You ignore the existence of 11 research institutions, foundations, and organizations that deal with this privately. You forget there are two U.S. Government agencies which study world population and the United Nations fund for population reports annually on its studies. The bill, H.R. 3950, now pending, which the gentlewoman from Colorado (Mrs. SCHROEDER), has sponsored would charge the Census Bureau to deal with this same problem.

We have before us a resolution that could be a blank check for 16 Members of this Congress to gallivant around the world without any limitation. If you look at page 4 of the bill, they can hire as many staff members as they want, to be paid, we know not what; and for what purpose? At the end to file a report that few will read.

Now, I raise the question whether this report is really necessary. I would like to read to you from the Chicago Sun Times of July 18, 1977, which is in large part an article about the activities of the gentleman from New York (Mr. SCHEUER). In this article it refers to the fact that the gentleman from New York last year hired a professional writer, Polly Greenberg, to research and draft a population report. The article says she was paid more than $10,000 to write the report. I have no way of knowing from the content of the article whether or not that was paid by taxpayers or private sources. The article does say that private parties sent Miss Greenberg to Africa on an extensive trip where she did the research, and at the time this was written the report was eventually to be filed as a House document.

If this has already been done, why must we set up a select committee and spend more money in duplication and allow Members to dribble away the taxpayers' wealth?

You are concerned about growing population, but you show no concern about the taxpayers who have to pay for these kinds of inane ideas. There is no concern about the lack of controls over foreign travel, no concern that this resolution authorizes unlimited staff. If the example of other select committees in this House is to be followed, I will predict this committee will come in with a budget anywhere from $200,000 to $800,000, which is an average of most of our select committees.

You have to only look at what this Congress has done with the taxpayers wealth. If we cannot control ourselves in this House any better than this on such useless spending, this waste of taxpayers' money, I do not see how you are going to expect millions of people to control themselves and stop procreating all around this world. This resolution creates still another unnecessary committee of the House to study just what a majority of Congress has been doing to the American taxpayer for years.

Congress ought to try a little bit of self-restraint. That is probably the only way we are eventually going to solve the population problem.

Mr. Speaker, I think small things sometimes tell more about an institution than the larger issues. When the history of the decline of this country is written, one of the issues that the historians will have to address is the total lack of fiscal responsibility on the part of this House of Representatives and of the other body. This is another tragic example, and I say shame on the House.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, the previous Speaker, I think, has articulated what he conceives as the issue rather specifically; that is, are we wasting money or are we not? Are we going to save money by refusing a committee which has taken this long in the history of the Congress to make this important and valuable contribution to a problem that, in my judgment, the time has come for this, the 95th Congress, to address?

What I see in this resolution as redeeming and certainly worth the vote of every Member is that we are now trying to find ways to optimize the chances of life for the greatest number of people in the world. This is an issue to which I am drawn. If this select committee is willing to spend a few more dollars, hire a few more people, and organize the effort and thought that is emanating from other bodies—outside of Congress—I think that this action will fully justify every vote from every Member of this House.

I am a little impatient with those who keep arguing, from an economic point of view, as to whether we can afford a committee to study an international problem of this dimension. We are talking about some 400 or 500 million people in the world who are chronically undernourished—10 million of them children—because of lack of adequate population control measures. We are talking about 12,000 human beings who die of malnutrition every day. To tell me that we cannot afford a committee at this point, I think, suggests a shortsightedness that I prefer not be a part of.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, as a cosponsor of H.R. 70, to establish a Select Committee on Population, I want to urge you to consider this matter carefully and support the resolution. Population problems and related problems of social welfare, natural resources use, and economic development are among the most intractible but important ones facing this country and the world. Without deeper understanding of the causes and consequences of demographic trends, which vary greatly from country to country, most of the world's problems will be more difficult to solve and the future position of the United States will be more uncertain.

Personally I have been involved in population research for many years having directed programs in this field and written a good deal myself. This latter includes an extended paper for the recent U.N. Conference on World Population and the earlier U.S. Commission on Population and the American Future, Rockefeller Commission.

I am especially hopeful that a House select committee will enrich these earlier studies in several ways. The importance of more rapid economic progress in many developing countries as a condition for reduction in population growth requires further investigation as do increasing urbanization, entrance of women into the labor force, extensions of old age security programs, shortages of energy and food, and other factors. Here in this country the rapid drop in birth rates, now perhaps stabilized at less than long-run replacement rates, points to the need for reappraising social security funding, educational expenditures, and the emphasis in health and employment programs.

The results of earlier experiences and reports need to be analyzed and presented in a form that can guide the House as we wrestle with population-related bills dealing with taxes, welfare, foreign aid, housing, education, health, and other matters. A select committee can add significantly to the ongoing work of regular subcommittees concerned with population. I would expect the financial requirements to be modest.

Mr. MOAKLEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, it is with reluctance that I rise to oppose the bill for I think the gentleman from New York is sincerely concerned about population issues and will do all he can to work on them. As the chairman of the Census and Population Subcommittee in the last Congress, I must say the committee is not needed. We had intensive and extensive hearings updating the whole population area. Rarely was more than one other member of the committee present because of the constant conflicts we have here. To take this jurisdiction away from where it belongs coupled to the population statistical gathering branch of the Government, seems utterly insane to me. The last thing we need is more committees and we have the most up to date population information available already set out in hearings. Consequently since the subject matter has already been more than adequately covered leadership would decide to cover it again with yet another committee.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I will not belabor the point. I support the select

committee. But I think that special praise needs to be given to the gentleman from New York (Mr. SCHEUER), who singlehandedly, without question, brought this committee into existence.

Mr. Speaker, I remember him working on this House floor. I do not know how many years he has been here, because I just got here, but he singlehandedly brought this committee into existence, working both sides of the aisle.

I would like to think that I helped him a little bit, but he was pushing and showing me how to get action in this House, and I think the gentleman deserves special recognition.

Mr. YOUNG of Missouri. Mr. Speaker, I am opposed to this resolution for two basic reasons.

The first is that this select committee would needlessly duplicate the work that the Subcommittee on Census and Population is already doing.

This subcommittee has conducted hearings and published numerous reports on various aspects of population. And several other committees have looked into related matters.

Aside from that, our Government has two agencies which conduct extensive studies of world population. And there are a number of organizations in the United States that are entirely devoted to the study of population and population control measures.

If we vote to establish this select committee, it would add fuel to the arguments that Congress is not paying enough attention to waste in Government. This would be yet another committee, with yet another payroll and another set of reports—and probably no new information.

The other reason I oppose this resolution is that this Select Committee on Population would probably end up spending most of its time—and American taxpayers' money—discussing population control in other parts of the world.

Now I am not saying that there are no such population problems. But I am saying that the U.S. House of Representatives is not the proper place for a forum on world population problems.

Let us leave it to the United Nations or to the foundations devoted to population control to deal with these problems. I have said this before and I will say it again: The United States has no right to interfere with sensitive matters such as population control in other nations.

Mr. PEPPER. Mr. Speaker, in recognition of the compelling need to begin developing policies responsive to problems arising from projected changes in our population structure—I am pleased to be recorded as one of the 264 cosponsors of House Resolution 70 as introduced by my distinguished colleague from New York, Mr. SCHEUER. This legislation will provide for the establishment of a Select Committee on Population to conduct an investigation and study of world population growth, and to provide policymakers with more than educated guesses about what lies ahead.

As chairman of the House Select Committee on Aging, I believe that we must improve the ability of the Congress to anticipate potential problems resulting from economic, social, and political changes that will occur in the population over the next 50 years. Just yesterday, our Aging Subcommittee on Federal, State, and Community Services, chaired by Congressman MARIO BIAGGI, held its first in a series of hearings on "Aging in the World of Tomorrow." Testimony provided revealed that the population of over 65'ers will more than double by the year 2025, and that life span extending technologies, probably available after 1990, will permit a person to live an average of 150 years. Life expectancy is and will continue to increase in the foreseeable future. The need to prepare society and individuals for the various kinds and degrees of adjustments that will have to be made before the future becomes the present is obvious. The findings of these foresight hearings will be published in a report later this Congress. Hopefully, at that time, we will have a Committee on Population to review and assess the impact these findings will pose for the larger community in which we all live.

We have experienced in our lifetime continuing progress and remarkable change both in this country and throughout the world. We have suffered through two World Wars, the Depression and periods of domestic strife, but we have always moved toward social improvement at home and peace abroad. There is before us an opportunity to continue our progress both in America and in the international sphere by closely examining the subject of population and its effects on our lives.

We are all familiar with the arguments concerning our finite resources and the limits which they may place on man's ability to grow industrially and to improve socially. We have considered and approved a national energy package that aims to meet production and conservation goals necessary to our increasing energy demands. The agriculture bill was intimately tied to the costs of production, price supports and bumper crops and the effects of each of these on our total food resources. What we now have a chance to address is the issue of those ultimate consumers of these and all resources, people. How does an increase in population change our lifestyle or alter the labor market? Where will the food be produced to feed a burgeoning world population, and what measures will be necessary to meet the development requirements of an ever-growing Third World? These are only a few of the questions which one may raise concerning the overall issue of population growth, both in the United States and in nations across the globe.

House Resolution 70, Mr. Speaker, provides the House of Representatives with a means to grasp the matter in its entirety, and to direct itself to the right questions, if not to arrive at some definitive answers. The select committee will be directed to study the major adverse effects of population growth throughout the world and its probable impact on the United States. The committee will further investigate the most effective means to control excessive population growth, giving priority to efforts to reduce conception, to encourage or assist countries in utilizing those methods proven to be most successful.

Some questions have been raised as to the need for another select committee, particularly one to study population. The issue is of far greater significance than the difficulty our young "baby boom" Americans are having as they begin to enter the job market; it is greater even than the proportional increase of older Americans and the strain on the social security system which we will experience in the near future, although both these subjects are related to the broader population question. National and international population growth is a subject that translates directly into resource use, industrial development, housing, health care, education and nutrition requirements in every country of the world.

The present world population is just over 4 billion, but the next billion will be with us in only 11 years, and our population will double in about 35 years. That is not much time to find ways to clothe, feed, and educate twice as many people as there are today. Energy use, pollution, food production, and the consequent resource depletion will all increase and will continue to increase at a faster rate unless we are able to control population growth to a point where it permits our technologies to catch up with necessary demands.

This can be taken a step further to consider the very structure of the world in generations to come. Our present international system gives us some indication as to likely conflicts of interest in the future if the population question is not considered in light of desired economic growth, modernization and human well-being. The underdeveloped nations are rightly asking for their share of the pie, yet all forms of international assistance are struggling to keep abreast with the aggregate demands of a perennially growing world population. This makes it almost impossible to achieve the true goal of improving the living conditions in the world's poor nations. We do not want to reach a point where international concerns dictate our own domestic policy, yet a confrontation between the developed and underdeveloped world, which could conceivably ensue if development goals are not met, might force decisions at home which impede our own expected progress out of the necessity for international security.

This is, of course, an admittedly undesirable scenario for the future. It is nonetheless possible, and it points to the need to begin to deal with the issue of population. People are the users of energy, people demand food to exist, and it is people who become frustrated if their expectations for an improved standard of living—economic and social—are not met.

House Resolution 70 is our means, therefore, to begin to formulate policy in regard to this very important matter. Through the select committee's efforts, we can pull together the abundance of

available information to arrive at an informed position, and one that is vital not only to the continued success of the United States, but also to the opportunity for all peoples to enjoy an improved quality of life.

Lastly, Mr. Speaker, I would like to extend special appreciation to the gentleman from New York (Mr. SCHEUER) for his kind and thoughtful gesture of postponing consideration of this important legislation until today. Mr. SCHEUER's proposal was originally scheduled to be taken up on Friday of last week. However, he volunteered to permit H.R. 5383, a bill I sponsored to curb forced retirement, to be brought to the floor before his own measure. I strongly support the gentleman's resolution that is before us today, and commend him for his actions on behalf of our Nation's senior citizens last Friday.

Mr. VANIK. Mr. Speaker, I support House Resolution 70, providing for a Select Committee on Population.

There is no question on the need to study the trend of world population and its relationship to the need for food, resources, health education, development, and an improved standard of living.

I believe that it will be also necessary for the study to deal with population trends in America and its relationship to work force, unemployment, and retirement needs.

Earlier this year I have projected a substantial increase in the Nation's work force. The dynamic increase in our work force in the past 20 years reflects the massive movement of housewives into the work force.

The work force of our Nation has grown with every spurt of inflation. As financial pressures increased, millions have moved from the kitchen and the school desk to the job search. Following is a preliminary table I have prepared setting forth the effect of demographic factors on unemployment. Although our economy creates over 2 million jobs per year, there is a widening disparity betweens jobs and employable manpower.

The table follows:

WORKFORCE, 18 TO 64

	1970	1976	1980	1985
Number	115,097,000	124,936,000	131,842,000	139,646,000
Less disabled	11,700,000	12,500,000	13,000,000	13,750,000
Subtotal	104,797,000	112,436,000	118,842,000	125,896,000
Less full-time college students	6,800,000	6,900,000	7,000,000	9,000,000
Subtotal	97,997,000	105,536,000	111,842,000	116,896,000
Less workers in job security program paying into the unemployment fund		89,347,000	91,347,000	93,347,000
Total potential unemployment if all able workers sought jobs		16,189,000	20,495,000	23,549,000

With improved economic conditions and with zero population growth—jobs in America may exceed workers by the year 2000. It may then become necessary to provide incentives for family growth or to consider some programs of immigration to sustain the necessary workforce.

Demographic studies on American population are absolutely essential in planning the economic growth of the country, developing and allocating resources, and preparing for the establishment of adequate educational and retirement facilities.

Mr. BAUCUS. Mr. Speaker, I rise in support of House Resolution 70, a bill to create a Select Committee on Population. I would like to address myself briefly to this issue.

If current trends continue, more than 2 billion persons will be added to world population by the end of the century. This creates a severe problem for all thoughtful policymakers.

Uncontrolled population growth may be the root cause of many of our world's problems. Yet in our approach to the resultant social and economic problems, we are only treating the symptoms, not the underlying cause of our problems. Left unchecked, overpopulation will result in a deteriorating social, economic, and environmental climate. Therefore, we must address ourselves directly to this issue.

It is vital that Congress understand the problems of population growth. We must better understand relationships, not only of our legislative policies to domestic population growth, but also of U.S. foreign policy to population growth abroad.

Exactly what do I mean by relationships? Let me give a few examples. Although overpopulation is not a significant problem in the United States, it should not be ignored. Recently, our population growth has declined, and our positive growth rate is attributed less to birth than to immigration—both legal and illegal. We understand too little about the unique social problems caused by such immigration, and how those problems differ substantially from problems associated with natural population increases. It is important, therefore, for Congress to find out what implications there are for such changes, and how legislation has and can affect population growth through immigration.

A more significant problem is the growth rate in the nations of the Third World. Robert S. McNamara, president of the World Bank, has stated that, "overly rapid population growth in a poor country siphons away resources that are desperately required for reducing economic and social deprivation, and that at the national level, the Government must devote a greater and greater amount of investment simply to provide minimal service to an ever increasing population."

Severe overpopulation problems will create increasing strains on international finance and trade, and these strains pose a number of fundamental policy issues that Congress should contemplate. Namely, can the underdeveloped nations with population problems ever hope to develop self-sustaining economies? Will their economic growth rate permit them to repay extensive international loans—realizing, of course, that the capital which would otherwise go toward development of an economic infrastructure will likely be swallowed by ravenous population growth? Assuming that international loans are not permanently available, at what point will these nations exhaust their credit resources? Moreover, what are the implications of national defaults? And, how will American financial institutions involved be affected? Also, what will be the impact on American trade if overpopulated nations are unable to secure the credits necessary to pay for their purchases from the U.S. market? Finally, can human rights survive in an atmosphere of desperation, which reduces the value of human life, and offers no hope for improvement? These issues are paramount in the formulation of U.S. foreign policy, primarily because they have direct repercussions on world peace and economic stability.

Congress, by creating a Select Committee on Population, could address itself to these issues. I believe we can help mitigate overpopulation problems in the Third World by assessing how our past and present policies have increased—or at least not retarded—population growth in these nations.

In assessing population problems, one must answer a multiplicity of crucial population-related questions. In addressing these questions, it is important to distinguish between nations suffering from overpopulation and those whose economic structures depend upon—and are able to sustain—high levels of imports such as foodstuffs. Moreover, if increased populations are problems, solutions must be considered in the context of human dignity and ethical morality.

The relationship between population growth and economic growth must be ascertained. Is economic growth necessarily tied to population growth? We need to know what impact a stabilizing population in the United States will have on future economic growth. And what areas of the economy will be especially affected by a stable population? Will there be manpower shortages in sectors of the economy such as agriculture which depend on unskilled labor? How will technological advances relieve these shortages if they develop?

Advanced industrial nations with stable populations like West Germany and

France have solved their unskilled labor shortage through immigration. But this has brought about new social problems by creating ghettos of alienated immigrants. Are Western European immigrant problems applicable to the American experience if the U.S. population levels out?

Are the overpopulation problems of one country "exported" to another? To what extent is the problem of illegal immigrants coming to the United States from Mexico due to population pressures in Mexico? Are U.S. attempts to restrict immigration futile, if the real problem is rapid population growth in Mexico? If so, what can the United States do to assist Mexico in resolving the problems of immigration and rapid population increases?

We must have the answers to these critical questions and many others if we are to gain an understanding of what the population problem is, how it affects our lives, and how we may come to terms with it.

The select committee's objectives and its ultimate success or failure in meeting these objectives depend on several factors. Will it be able to sensitize Members of Congress on population issues and will it be able to make Members aware of the impact that legislative policies have or could have on population growth? Can it formalize these "considerations" as an integral part of the legislative process?

While overpopulation is a critical problem facing us today, creation of the Select Committee on Population must be considered within the context of the proliferation of congressional committees. If the proposed select committee does not focus on issues that relate directly to the legislative process, such a committee would, I believe, be superfluous to "specific" congressional needs. Instead, the subject would be best dealt with by an independent study rather than unnecessarily tying up precious congressional resources.

If the primary focus of the proposed select committee were on the influence that legislation has upon population growth, the select committee's creation would be justified. Based upon the committee report (95-516), I believe that this is the focus, so I urge my colleagues to support this resolution.

Underlying the justification for this committee is the assumption that Congress has the tools with which to deal with the issue of overpopulation and is prepared to accept its challenge. We cannot be sure in advance whether Congress actually has the tools to deal with this issue. That is the task of the Select Committee on Population. But I do feel that the answer should be determined within the committee's mandated 2-year charter, and no longer.

Mr. MOAKLEY. Mr. Speaker, at this time it gives me great pleasure to yield such time as he may consume to the gentleman from New York (Mr. SCHEUER), the sponsor of the bill.

Mr. SCHEUER. Mr. Speaker, the hour is late and the Members have heard a great deal of discussion on this measure, so I do not think it needs a lot of elaboration by me. Suffice it to say that our whole civilization is faced with a time bomb. It took nature and the Good Lord about 1 million years—until the year 1830—to populate this Earth with 1 billion people. The second billion was added about 100 years after that, in 1930. The third billion took only 30 years. We reached a population of 3 billion around 1960. The fourth billion took a short 16 years. We reached that last year. As one of my colleagues mentioned, we now have just under a 2-percent rate of population growth around the world, which means that we will double our population sometime in the fourth decade to come, within a few years of 2015. At that point in time, if we do reach a population of 8 billion, we are going to see mass starvation, massive instability, massive unrest, and revolution taking place all over the Earth.

The Committee on Armed Services visited Southeast Asia in January 1976.

I was fortunate enough to be invited to join that group. When one of the members asked President Suharto of Indonesia, "What is the main threat to the economic stability and the military security of Indonesia?" he answered, "Our galloping rate of population growth."

He said to us:

> If we can't provide our kids with food, with clothing, with housing, with health care, with education, and, above all, with jobs, our government and our society are ripe for subversion, infiltration, overthrow, and revolution.

That is the situation facing governments in the developing countries throughout the world—in Asia, in Africa, and in Latin America.

I visited Africa last year. I visited six countries there, and I found that every one of those countries was desperate for our help in slowing their galloping rates of population growth. They realize that population growth is destroying their development program, which our AID program is helping to finance. They understand very well that they cannot build enough homes, they cannot plant enough food, they cannot build enough hospitals, and they cannot build enough schools to feed, clothe, house, educate, and, above all, employ their people. They are unable to cope with this situation which is the result of millions and millions of decisions or nondecisions being made in the dark of night.

As a humanitarian matter, as a matter of the Judeo-Christian ethic, as a matter of the categorical imperative, we owe to the nations around the world a promise to give them the help that they are asking for, that they are begging for, that they are pleading for.

Mr. Speaker, as to our own country, let me quote from an article that appeared in the Washington Star just a week ago, Wednesday, September 21. It cites a Government study that describes how in the last decade, when birth rates fell among older women to almost a replacement level, the birth rate among teenagers went up, "when cheap, effective contraceptive devices * * * became widely available, even to teenagers."

Nevertheless, the article goes on:

> The rate of illegitimacy among these girls, 15 to 17 years old, had nearly doubled in the decade * * * at a time when the rates for older women were dropping.

I continue reading from the article, as follows:

> In both cases, the upward trends occurred only among white girls. The birth and illegitimacy rates of black girls declined, although the rates are still much higher for blacks than for whites.

Even more disturbing is the fact that incidence of pregnancy among adolescents under the age of 15 is increasing.

This is a subject related to the work of many committees of the Congress. It certainly affects the Committee on Education and Labor, because there is something that these young people should know that they do not know.

It affects the Committee on Ways and Means, both for its impact on our welfare programs and for its impact on our welfare programs and for its impact on title XX of the Social Security Act which makes family planning services available.

It clearly affects the Committee on Interstate and Foreign Commerce, which has jurisdiction over both biomedical research programs responsible for producing better contraceptive devices that are perhaps more appropriate for teenagers, and which has jurisdiction over family planning services that are provided under medicaid and title X of the Public Health Service Act.

It certainly affects the Committee on Agriculture, which has responsibility for the food stamp program.

It affects at least a half a dozen committees of this Congress. I wonder if anybody in this audience or any of the Members would like to hazard a guess as to which of these committees have held hearings on the problem of adolescent pregnancy or have seriously discussed the problem during hearings. Not a single one of the committees of this Congress, with the exception of the subcommittee chaired by the gentlewoman from Colorado (Mrs. SCHROEDER), who has helped document the figures I have read this morning, and who has done a diligent job, and has been active in this field.

Yes, the subcommittee of the gentlewoman from Colorado, a subcommittee of the Committee on Post Office and Civil Service, is the only committee or subcommittee in the Congress that has had the time, let us say, to face up to this tremendously critical and important problem.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Speaker, I strongly support the resolution that has been filed by the committee to create a Select Committee on Population.

Truly one of the crucial problems that is facing this country is the fact that Mexico, our neighbor nextdoor, has a serious overpopulation problem which will worsen in the next few years. Mexico City could well become the most popu-

lated urban area in the world, with 50 percent of its population under the age of 25 and growing.

With such overcrowding urban conditions and high unemployment in Mexico, trouble with our good neighbor to the south seems imminent. We already know what a problem we now have with illegal aliens, and it will not improve as overpopulation becomes an increasingly worldwide phenomenon.

I want to commend the gentleman from New York (Mr. SCHEUER) for filing legislation of this type; this proposed Select Committee on Population will serve as a significant resource committee to the existing legislative committees which must cope with the problems of today and the future. We need to examine the causes of changing population conditions in this country and throughout the world.

I do hope my colleagues will support this legislation.

Mr. SCHEUER. I thank the Speaker from the bottom of my heart, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 147, not voting 29, as follows:

[Roll No. 601]

YEAS—258

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Applegate
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Boling
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Caputo
Carter
Cederberg
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
D'Amours
Danielson
Davis
Dellums
Derrick
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Emery
Erlenborn
Evans, Del.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gammage
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Guyer
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Keys
Kildee
Koch
Kostmayer
Krebs
Krueger
LaFalce
Leach
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McEwen
McFall
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mattox
Meeds
Metcalfe
Meyner
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pattison
Pease
Perkins
Pettis
Pickle
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Regula
Reuss
Rhodes
Richmond
Rodino
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
Santini
Sarasin
Sawyer
Scheuer
Seiberling
Sharp
Shuster
Simon
Sisk
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Steers
Stockman
Stokes
Thompson
Thone
Thornton
Treen
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Waggonner
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Zeferetti

NAYS—147

Abdnor
Andrews, N. Dak.
Annunzio
Archer
AuCoin
Baldus
Barnard
Bauman
Beard, Tenn.
Boggs
Breaux
Broomfield
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Carr
Chappell
Clausen, Don H.
Cleveland
Cochran
Coleman
Collins, Tex.
Corcoran
Cornell
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Derwinski
Devine
Dickinson
Diggs
Dornan
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
English
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Flippo
Flood
Flowers
Flynt
Foley
Fountain
Fowler
Gaydos
Gephardt
Giaimo
Goldwater
Goodling
Grassley
Gudger
Hagedorn
Hall
Hansen
Hillis
Holt
Hyde
Jacobs
Jones, Okla.
Kazen
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Lederer
Livingston
Lujan
McDade
McDonald
McHugh
McKay
Mahon
Marlenee
Marriott
Mathis
Mazzoli
Michel
Milford
Miller, Calif.
Mollohan
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Gary
Myers, John
Myers, Michael
Nichols
O'Brien
Obey
Patten
Pike
Poage
Quayle
Railsback
Rinaldo
Risenhoover
Robinson
Rooney
Rousselot
Rudd
Runnels
Russo
Satterfield
Schroeder
Schulze
Sebelius
Shipley
Sikes
Slack
Smith, Nebr.
Snyder
Spence
St Germain
Stangeland
Stanton
Steiger
Stratton
Studds
Stump
Symms
Taylor
Traxler
Treible
Volkmer
Walsh
Watkins
White
Wilson, C. H.
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NOT VOTING—29

Badham
Bowen
Cavanaugh
Clawson, Del
Cornwell
Cotter
Cunningham
Dent
Florio
Horton
Jenrette
Johnson, Calif.
Le Fante
Lehman
McClory
McCormack
Mann
Mikulski
Patterson
Pepper
Rangel
Roberts
Roe
Skelton
Stark
Steed
Teague
Whalen
Wilson, Bob

The Clerk announced the following pairs:

On this vote:

Mr. Stark for, with Mr. Dent against.
Mr. Rangel for, with Mr. Teague against.
Mr. Pepper for, with Mr. Jenrette against.

Until further notice:

Mr. Florio with Mr. Badham.
Mr. Lehman with Mr. Whalen.
Mr. Patterson of California with Mr. McClory.
Mr. Cotter with Mr. Del Clawson.
Mr. Bowen with Mr. Cavanaugh.
Mr. Roberts with Mr. Bob Wilson.
Mr. Le Fante with Mr. Cunningham.
Mr. Steed with Mr. Horton.
Mr. Roe with Mr. Skelton.
Mr. Mann with Mr. McCormack.
Ms. Mikulski with Mr. Cornwell.

Mr. MAZZOLI changed his vote from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW UNDER THE 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may be permitted to sit while the House is meeting under the 5-minute rule tomorrow, Thursday, September 29.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us this is vitally essential legislation?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, I certainly can; and the committee is scheduled to meet at 9:15, and we anticipate to be through Friday at 10 o'clock; but if we ran over a few minutes, I did not in any way want to violate the House rules. I wanted this to protect us.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that the committee will not go beyond 12 o'clock?

Mr. BROOKS. I certainly can.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION ACT, 1978

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, with the remaining amendment in disagreement, and that the House recede from its disagreement to the Senate amendment No. 40 and concur therein.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment No. 40: Page 30, strike out lines 3 to 9 inclusive.

The SPEAKER pro tempore (Mr. THORNTON). Is there objection to the request of the gentleman from Massachusetts?

Mr. BEARD of Tennessee. Mr. Speaker, reserving the right to object, I would like to just reaffirm what has already been stated in the record. As a result of the Roberts-Hammerschmidt bill that was a compromise bill and also the Cranston-Thurmond bill on the Senate side, I have been told and the reason I will not object is it has been said to the Members of the committee that the White House will sign the compromise veterans' bill dealing with the awarding of veterans' benefits to those whose discharges are automatically upgraded under the Carter program.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, I personally am not privy to any such information from the White House myself. My understanding is that the members of the Veterans' Committee do have that assurance with respect to the authorization bill, S. 1307. That bill will be signed. In light of the circumstances. I urge that the House now recede from its insistence on the so-called Beard amendment.

Mr. BEARD of Tennessee. Mr. Speaker, I thank the gentleman and I do want to state the authors of the House bill, SONNY MONTGOMERY, JOHN PAUL HAMMERSCHMIDT and RAY ROBERTS have been assured by the White House that the President would sign it.

Mr. Speaker, I thank the gentleman for his patience.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield further, I thank the gentleman from Tennessee for his patience.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, the minority supports the majority position. This matter has been resolved all the way through.

Mr. BEARD of Tennessee. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING SELECT COMMITTEE ON ASSASSINATIONS TO APPLY TO COURTS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 760 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 760

Resolved, That for the purpose of carrying out H. Res. 222, Ninety-fifth Congress, when authorized by a majority of the committee or subcommittee members voting, a majority being present, the Select Committee on Assassinations, or any subcommittee thereof, is authorized to make applications to courts; and to bring and defend lawsuits arising out of subpenas, orders immunizing witnesses and compelling them to testify, testimony or the production of evidence, and the failure to testify or produce evidence.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MURPHY) for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 760 is a privileged resolution providing for 1 hour of debate in the House. This resolution gives the Select Committee on Assassinations authority to make applications to the courts and to bring and defend certain lawsuits. This authority may not be exercised unless authorized by a majority of the committee or subcommittee members voting, a majority being present.

The select committee was created by House Resolution 222 to conduct a "full and complete" investigation on the deaths of John F. Kennedy and Martin Luther King, Jr. Under House Resolution 222 the committee was given subpena power and the authority to grant immunity.

House Resolution 433 extended the life of the select committee through the 95th Congress. This resolution originally contained language giving the select committee authority "to bring, defend and intervene in lawsuits and make applications to court." However, this portion of House Resolution 433 was struck from the resolution by a floor amendment on March 30, 1977. It was felt that the authority sought by the committee was too broad with no limitations placed on the type of suits in which the committee might become involved.

The current resolution seeks less authority than was originally requested by the select committee in House Resolution 433. This resolution seeks no authority to intervene in lawsuits. Secondly, the authority to bring and defend lawsuits is clearly limited to certain types of lawsuits arising out of subpenas, immunity orders, testimony, or the production of evidence, and the failure of a witness to testify or produce evidence.

House Resolution 760 would clarify the power of the select committee with regard to its authority to go to court. Althought House Resolution 222 granted the committee the power to obtain immunity for witnesses under the appropriate statutes of the United States, the power to "make applications to courts" was deleted from House Resolution 433. There is now some doubt as to whether the committee can still apply to courts for immunity orders. Without this clarification, the committee would be compelled to go to the House on a case-by-case basis whenever the committee needed to apply for a grant of immunity, or for any other authority to go to court such as to obtain access to grand jury minutes or to defend against a motion to quash a subpena. House Resolution 760 should clarify this ambiguity.

House Resolution 760 was unanimously adopted by the Select Committee on Assassinations. The Rules Committee reported the resolution out by unanimous voice vote. This resolution provides the select committee with limited legal authority to conduct its investigation. I urge the adoption of House Resolution 760.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by the distinguished gentleman from Illinois (Mr. MURPHY) about House Resolution 760. The resolution, for example, would make it clear that the select committee may apply to a court for an order of immunity. But it is somewhat more limited than the authority that was sought on March 30, 1977 when the House, by a vote of 223 to 195, deleted certain language from House Resolution 433. The language deleted provided that,

For the purpose of carrying out H. Res. 222, the select committee is also authorized to bring, defend, and intervene in lawsuits and make applications to courts.

Mr. Speaker, I might say the alternative, according to the proponents of this legislation, to the House granting the select committee the limited power at this time to make application to the courts is that the select committee would have to come back to the House each and every time it sought an immunity order.

In the Kennedy assassination investigation alone, the select committee has anticipated calling approximately 200 witnesses, many of whom might request a grant of immunity before they would testify. This could require the House to schedule each of these grants of immunity for floor debate, possibly on 150 separate occasions.

According to the proponents of this resolution, this is what they are attempting to prevent by virtue of the resolution.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from

Maryland (Mr. BAUMAN), for purposes of debate only.

Mr. BAUMAN. Mr. Speaker, on March 30, when the House considered the latest resolution authorizing the continuance of the Committee on Asssasinations, the resolution then before us contained the following phrase:

For the purposes of carrying out House Resolution 222, the Select Committee is authorized to bring, defend and intervene in lawsuits and make applications to courts.

Mr. Speaker, I offered an amendment at that time to strike out that language, and on a rollcall vote, with 223 in favor, 195 opposed, this broad authority was stricken from the resolution.

The reason I offered the amendment at that time—I think most Members will recall, and the majority of the House agreed—was the erratic behavior of the committee and its sensational activities had cast in doubt whether or not the committee could properly handle such wide-ranging authority which at that time was unprecedented in the House of Representatives.

Mr. Speaker, since that time a similar authority for a House committee to go into the courts without full House approval has been granted for the first time to the special Korean investigation that is being conducted. But still no other committee, standing or select, has the power to go into court for these purposes without first coming to the House.

Quite frankly, I discussed this matter with the gentleman from Ohio (Mr. STOKES) at length. I read the remarks he put into the record explaining why he felt this was now necessary. But I would also point out that this committee has already the power under the House rules and the United States Code to issue subpenas and to grant immunity to the witnesses that they may seek to compel to testify.

The thing that concerns me still is that, while this resolution before us, House Resolution 760, is described by the gentleman from Illinois as being limited in its scope, it does authorize the committee to make applications to courts. I have no idea exactly what that means. It does not sound to me to be a legal term of art. The resolution also says, without the committee, or its subcommittees, mind you, ever coming back to the House, they may compel witnesses to testify and to produce evidence.

Many of the Members have expressed grave concern that that kind of authority in the original resolution might lead to the calling of officials from the Attorney General's office, the FBI, the CIA, since at one point the committee was threatening to bring the Attorney General before the committee under subpena to testify.

Although the report says this power is limited to legal proceedings regarding immunity, and the remarks of the gentleman from Ohio indicate it is to be limited to immunity, I still read this as being a very wide-ranging authority for the majority of the select committe on its subcommittees so that there could be two or three Members of the House agreeing to bring contempt citations.

If they have many witnesses that need to be called, let us have them tell us what it is all about, and then we can have confidence that this power is needed. Otherwise we should let them come back to the House, as every other committee of the House must do, save the one conducting the Korean investigation, and seek such authority in each instance.

Mr. Speaker, I am afraid that, although the committee has demonstrated a greater responsibility in the last few months—at least I assume it has, because they are saying nothing—the history of the committee is such that I do not think we ought to change our stand. I, therefore, oppose the resolution.

Mr. MURPHY of Illinois. Mr. Speaker, for purposes of debate only, I yield 10 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, the resolution being debated today would, if adopted, clarify the power of the select committee to use one aspect of the authority already part of the select committee's basic resolution. The new resolution makes it clear that the select committee has the authority to make an application to a court to obtain a grant of immunity under the appropriate statutes of the United States. We are taking this action out of an abundance of caution and out of a desire scrupulously to follow the limitations of our current resolution and the essential requirements of due process. I note, too, that this power is ordinarily at the disposal of other investigative committees of the Congress.

I believe that a brief history of the scheduling of House Resolution 760 is illustrative of the necessity that the House pass it at this time. The committee has a witness who was scheduled to appear, and the committee desires to interrogate this witness at the earliest possible time. To obtain the immunity that this witness requires before he will testify, House Resolution 760 was introduced. The Rules Committee by voice vote reported House Resolution 760 to the House Calendar. Almost 2 weeks have passed since the House first could have taken action on House Resolution 760. It has been scheduled numerous times for action on the floor but due to the press of other urgent business of the House, like the ERDA bill, House Resolution 760 has not been brought up for vote until the present time. Consequently, the committee's investigation into the sensitive area where we believe this witness has information has been completely stopped. As I have indicated, one of the reasons we desire the passage of House Resolution 760 is the precise desire to avoid consuming excessive amounts of time on the floor of the House and to be able to proceed with our investigation without an undue delay due to awaiting action on the floor. The delay in voting on House Resolution 760, due to the other urgent business of the House, is a perfect illustration of the necessity that the House pass House Resolution 760 today.

LEGISLATIVE BACKGROUND

Mr. Speaker, an explanation of the need for this action requires some background. In House Resolution 222, the House placed upon the select committee the duty of conducting "a full and complete investigation and study of the circumstances surrounding the assassination and death of President John F. Kennedy and the assassination and death of Martin Luther King, Jr." The House also empowered the committee to subpena witnesses and grant immunity. In fulfilling this mandate, the committee indeed expects to call a number of witnesses, some of whom may have to be granted immunity from the use of their testimony in a prosecution against them.

But, under 18 U.S.C. 6005(a), to obtain immunity for such witness, a congressional committee, so authorized by its basic resolution, must apply to a Federal district court for an order conferring immunity on the witness. It is probably already the case that the select committee has been authorized to apply to a court for such an immunity order, because the House Resolution 222 explicitly provides that—

The Select Committee shall be considered a committee of the House of Representatives for all purposes of law, including . . . sections 6002 and 6005 of title 18, United States Code, . . .

Since section 6005 requires applications to courts for orders of immunity, it would seem to follow from the inclusion of this language in the select committee's basic resolution that such applications are authorized.

Nevertheless, the special legislative history of House Resolution 433, the resolution that reconstituted the select committee, casts some doubt over the committee's power to apply to a court for such an order. Originally, the committee, in House Resolution 433, sought general authority to "bring, defend and intervene in lawsuits." This portion of House Resolution 433 was deleted on the floor of the House. The effect this particular deletion had on the general immunity provision in House Resolution 222 is what is at issue.

ALTERNATIVES IF HOUSE RESOLUTION 760 NOT PASSED

Were a witness to refuse to comply with a court's immunity order compelling testimony before the committee, as well as defend a contempt charge on the ground that the rejection of the explicit language in House Resolution 433 authorizing the committee to go to court also affected the general authority granted by House Resolution 222 to seek immunity applications under section 6005, the committee would face a difficult and troublesome legal issue. It is likely, too, that an appellate court would not resolve this issue for several months, a period of time coming during the heart of the committee's investigations. Were the resolution of the issue to go against the select committee's power, it would also seriously hinder the course of the investigation. While the lawsuit was pending, moreover, all witnesses appearing before the committee would also be in a position to frustrate the committee's efforts to secure their testimony safe in the knowledge that the committee's authority to proceed was in doubt because of the litigation. Obviously, this is a risk that the select committee cannot afford

to run if we are to fulfill the mandate the House has given us.

If the committee cannot secure this clarification of its power, our work will not, of course, come to an end. But if it is to go forward, it will be necessary for the committee to return to the House floor on a case-by-case basis for each immunity application, something that other committees of the House do not have to do and something that we do not believe that the House intended when House Resolution 222 was amended. We can reasonably foresee that during the most difficult period of our investigation, immunity applications might be a weekly or even biweekly occurrence. Obviously, what is at stake here is more than the power of the committee. The efficient operation of the House calendar is also called into question, since it would be extremely time consuming for the committee to seek specific authority on the floor of the House to go to court to implement each of the committee's individual votes to grant immunity to particular witnesses. Obviously, too, if the House were on recess the investigation would remain in limbo pending the return of the Members.

GRAND JURY ILLUSTRATION

There are additional reasons for requesting the specific authorizing language we seek rather than for a resolution narrowly authorizing the committee to make an application in immunity situations. The committee has already been confronted with a limited number of other situations where it is necessary to make other types of applications to courts. For example, the committee presently needs access to certain grand jury minutes. We do not believe that the prosecutive agencies involved would object, but we know that they would want the committee to seek court permission, too. This is the proper legal way to proceed. It would be unseemly for us to act in any other fashion.

BRINGING AND DEFENDING LAWSUITS

In addition to granting the committee unequivocal authority to make applications for immunity or grand jury transcripts, the new resolution also specifically authorizes the committee to bring and defend lawsuits arising out of subpenas, immunity orders, testimony, or the failure of a witness to testify. This authority is narrowly related to issues touching on testimony or the production of evidence before the committee. For example, it insures that the committee has the authority to defend a motion to quash what may be filed against one of its subpenas. The committee has an absolute defense against such a motion based upon the speech and debate clause; this provision guarantees the committee authority to appear in court to assert that defense.

It would also enable the committee to go to a court to obtain a civil contempt order against a witness who had been ordered to testify by a court, but had not complied with it. The witness would be in violation of a court order, but to obtain the witness' testimony, it may only be necessary to clarify the order or call the judge's attention to the fact that a witness had not obeyed his order. The resolution would give the committee this authority; it would not supplant the role of the House in any criminal contempt proceeding, since pursuant to statute, criminal contempt proceedings would still have to be referred to the full House for certification.

COMPARISON WITH 443

The power to bring suit is not something that could be exercised by staff members without careful committee supervision. No power is sought to roam far and wide conducting our investigation by lawsuit rather than by carefully planned hearings—something that those who voted to delete general litigation authority in House Resolution 433 legitimately feared. For example, under the deleted authority in House Resolution 433, the committee could have intervened in a freedom of information suit brought by a citizen against the Archives for access to the Kennedy autopsy materials. No such power for the committee would be granted by the current resolution.

The authority could only be exercised by a majority of the committee or subcommittee members voting, a majority being present. It is certainly a much more restrictive and controlled authority than that which was deleted from House Resolution 433.

SENATE AND KOREAN PRECEDENT

The authority is necessary because committees cannot go to court to defend themselves unless they are specifically authorized to do so by resolution of the full House. *Reed* v. *County Commissioners*, 277 U.S. 376 (1928). Here it is significant to note that in response to the Reed case, the Senate passed a special resolution authorizing all Senate committees to petition courts for relief. See Senate Resolution 262, 70th Congress, 1st session 1928. There is no comparable resolution that exists for the House. Consequently, each committee must be individually so authorized, as the Korean Committee has been under its resolution. See House Resolution 252. Indeed, the powers granted the Korean Committee in section 6 of its resolution are broader than those we seek. This last point is particularly significant. It was thought that powers such as these were unprecedented when House Resolution 222 was considered. Now that the Korean Committee has found it necessary and helpful to have powers of this character of a general nature, the narrow authority sought by this committee should not be refused.

Mr. Speaker, this resolution will clarify and grant the committee the narrowly drawn legal authority it needs to accomplish what the House has mandated. It is a necessary power for any investigative committee to have to perform a competent and complete investigation. Having authorized the committee, and funded it, the House clearly has demonstrated its commitment to a serious investigation. To deny the committee sufficient legal authority to perform its task would make a mockery out of the "full and complete" investigation mandated by House Resolution 222. I hope it will receive the favorable attention of the House.

Mr. Speaker, as I have stated, the ability of the committee to be able to grant use immunity for a witness is crucial to the success of the committee's investigation. I have a legal memorandum written on the origins of the use immunity concept and its key role in any successful investigation. I include in the RECORD the memorandum which I have referred to.

SEPTEMBER 19, 1977.

MEMORANDUM

To: Select Committee Members.

From: G. Robert Blakey, Chief Counsel and Director.

Re: Use Immunity and the Congressional Investigatory Process.

The congressional fact finding process requires many legal tools. It is not enough that a congressional committee charged with a sensitive and difficult investigation has the power to compel the attendance of witnesses and the production of documents. Although witnesses may be forced to attend, they may not be compelled to testify contrary to their privilege against self-incrimination. Immunity is a means to procure a witness' testimony by guaranteeing that that testimony will not be used to incriminate the witness.

The immunity mechanism has deep historical roots, has been widely used by the Congress, and has proven most useful in untangling complicated conduct involving criminal wrong-doing. The Ervin Committee, for example, in investigating presidential campaign activities and the 1972 Watergate breakin conferred immunity on twenty-seven witnesses. The testimony of two of those immunized, Jean Dean and Jeb Stuart Magruder, may have been the single most important factor leading to the breaking of the Watergate case".[1]

The statute under which immunity was granted by the Ervin Committee was enacted in 1970 as part of the Organized Crime Control Act.[2] It was a "use immunity" statute; it replaced a hodgepodge of fifty separate Federal statutes that provided for blanket or "transactional immunity". The 1970 law provides "no testimony or other information compelled under the (court) order (or any information directly or indirectly derived from such testimony or other information) many be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order".[3]

This statute presently governs the granting of immunity by Congress and its Committees. It also regulates grand juries and administrative agencies. Its legal roots run deep in English and American law. To understand the scope and limitations on Congress' immunity power under the statute, reference must be made to the history behind the concept of "use immunity" and its place in American criminal law.

I. HISTORY OF THE DUTY TO TESTIFY AND THE PRIVILEGE AGAINST SELF-INCRIMINATION

A. The duty to testify

Use immunity is merely a constitutional equivalent of the Fifth Amendment privileges against self-incrimination. The Fifth Amendment states:

"No person shall be . . . compelled in any criminal case to be a witness against himself. . . ."[4]

This right against self-incrimination counterbalances the duty of every witness to provide testimony. The right to maintain silence is best seen as an exception to a general duty to speak. The legal duty to speak is basic to and arose with the modern Anglo-American system of justice. Until the Sixteenth Century "witnesses", as we know them today, were not used in English trials.[5] Jurors were supposed to find the facts based on their

Footnotes at end of article.

own self-acquired knowledge. Indeed, the pure witness—the individual unrelated to either party who merely happened to have relevant information—ran the substantial risk of a suit for maintenance if he volunteered to testify.[6] The situation became unworkable as litigation became more complex and juries became less and less able to resolve factual disputes on their own. Finally, in the *Statute of Elizabeth* in 1568,[7] provision was made for compulsory process for witnesses in civil cases. The enactment of this statute alleviated the risk of a suit for maintenance, for "what a man does by compulsion of law cannot be called maintenance". [8]

The *Stat. of Elizabeth*, by allowing a party to compel a witness to attend a hearing, only made it possible to testify freely; it imposed no duty to testify. Nevertheless, the step from right to duty was short, and it was soon taken. By 1612, Sir Francis Bacon in the *Countess of Shrewsbury's Trial* was able to assert confidently:

"You must know that all subjects, without distinction of degrees, owe to the King tribute and service, not only of their deed and land, but of their knowledge and discovery. If there be anything that imports the King's service they ought themselves undemanded to impart it; much more, if they be called and examined, whether it be of their own fact or of another's, they ought to make direct answer." [9]

For more than three centuries it thus has been a maxim of indubitable certainty that the "public has a right to everyman's evidence".[10] "When the cause of justice requires the investigation of the truth," as Wigmore [11] put it, "no man has knowledge that is rightly private."

This principle, steadfastly adhered to over the past three hundred and fifty years, was resoundingly affirmed by the Supreme Court as recently as the "Watergate case". On March 1, 1974, seven presidential staff members were indicted for conspiracy to obstruct justice and other offenses relating to Watergate. On April 18, the District Court on motion of the Special Prosecutor issued a subpoena *duces tecum* to the President of the United States, directing him to produce in advance of the September 9 trial certain specified tapes and documents. Citing Executive privilege, the President refused.

On July 24, the day the House Judiciary Committee began its final, public debate on proposed articles of impeachment, the Supreme Court held unequivocally that not even the President may eschew his duty to provide evidence. As the Court stated, "The very integrity of the judicial system and public confidence in the system depend on a full disclosure of all the facts . . . To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence . . ." [12]

The Court, in rejecting the President's privilege in this case, reaffirmed the ancient proposition of law, "(T)he public . . . has a right to every man's evidence except for those persons protected by a constitutional, common law, or statutory privilege." [13] Executive privilege was found to be too general and ill-defined a concept to offset the testimonial duty in a criminal case.

B. The privilege against self-incrimination

As the Watergate case reflects, the historical duty to testify is not absolute; it may be qualified by certain distinct privileges, the most important being the privilege against self-incrimination. The origins of this privilege, however, are unclear. The history of the privilege begins with the hated practice of the oath *ex officio mero*.[14] This oath was one abuse characteristic of heresy trials in the ecclesiastical courts and then of the infamous Star Chamber, which took its rules of procedure from ecclesiastical law. The emotional reaction which accompanied abolution of the oath ultimately halted the use of such incriminating interrogation in the common law courts.

Until the early Seventeenth Century, however, when the long battle between King and Parliament began, no serious and successful objection had been made to the oath *ex officio*. Under proper circumstances, the canon law upheld it.[15] Nevertheless, through the influence of Lord Coke, a change occurred. By 1615, the power of the ecclesiastical court to use the oath *ex officio* in any penal inquiry had been ended by decisions of the common law courts.[16] The Star Chamber and its similar practice were the next to go. As a direct result of public indignation at the *Lilburn Trial*,[17] where the defendant was ordered pilloried and whipped for failure to respond to the oath, Parliament abolished both the oath and the Chamber itself.[18]

Before the Star Chamber, Lilburn himself had not claimed a privilege against self-incrimination, but merely that the proper presentment had not been made, a presentment necessary before the oath could be lawfully administered. After the cause had triumphed, however, the distinction was soon lost or ignored. The oath itself had come to be associated with the Stuart tyranny. Details were forgotten.[19] Repeatedly claimed, then assumed for argument, finally by the end of the reign of Charles II, there was no longer any doubt of its general application.[20] No one at any time in any English court could be compelled to accuse himself. It was out of this history and the experience of the colonists with the Royal Governors that the privilege ultimately found its way into our Bill of Rights in the Fifth Amendment.[21]

The modern privilege against self-incrimination applies to both Federal and state proceedings.[22] Any question the answer to which would furnish a link in a chain of evidence [23] which would incriminate the witness need not be answered "unless he chooses to speak in the unfettered exercise of his own will",[24] The privilege applies not only at trial but also in any circumstance of official interrogation.[25] Only testimonial utterances fall within its scope.[26] The privilege is personal; it may not be claimed to protect another.[27] In addition, it protects only natural persons; corporations [28] or unions [29] may not claim its protection. The privilege may be waived by the recitation of incriminating facts; [30] the law requires its waiver when an accused testifies in his own behalf at a criminal trial.[31]

Generally, it must be asserted to be claimed. Otherwise, it is waived. For the privilege is "merely an option of refusal not a prohibition of inquiry".[32]

Like the duty to testify, the privilege against self-incrimination is not an absolute. It is out of the conflict of this privilege with the duty to testify that the concept of immunity developed.

II. HISTORICAL DEVELOPMENT OF THE IMMUNITY GRANT: A SUBSTITUTE FOR THE PRIVILEGE AGAINST SELF-INCRIMINATION

In England, it was only a comparatively short time after the privilege against self-incrimination had matured before various techniques to mitigate its impact on the administration of justice developed. The first reliable example occurred in the *Trial of Lord Chancellor Macclesfield* in 1725.[33] The Chancellor had been guilty of traffic in public offices. An act was passed to immunize present Masters in Chancery so that their testimony could be compelled. Once the present "criminality" legally attaching to their actions was effectively "taken away" by the statute, their privilege against self-incrimination "ceased" to exist.[34] What Parliament found it could thus do with its amnesty powers, the King's prosecutors soon learned they could accomplish by the tendering of Royal pardons. The tradition in English law of permitting the privilege to be thus annulled stands even today unquestioned.[35]

The American colonists not only brought with them the privilege against self-incrimination, but they also adopted these various techniques. As early as 1807 in the treason trial of Aaron Burr, President Jefferson attempted to give an executive pardon to one of the witnesses against Burr.[36] The witness refused the pardon, but testified anyway. The right of a witness to refuse a pardon, and thus defeat the technique, was not clearly established until 1915, when the Supreme Court upheld the right of a grand jury witness to turn down an executive pardon from President Wilson.[37] In the intervening years, the cloud that existed over the pardon technique because of the Burr trial directed the chief attention of the law toward the legislatively authorized immunity grant.

Congress first adopted a compulsory immunity statute in 1857.[38] Legally, no attack was successfully mounted upon it. Nevertheless, its operation was hardly successful, since it automatically protected against prosecution any matter about which any witness testified before Congress. It constituted Congress' first broadscale experimentation with transactional immunity.

"For five years, rascals and scalawags of various stripes journeyed with celerity to Congress to confess and thus receive an 'immunity bath' that cleansed them, if not of their sins, at least of legal culpability for crimes committed." [39]

As Alan Barth described it:

"The investigating committees became, during the brief period the law was in force, a kind of bargain-basement confessional where easy absolution could be secured." [40]

One individual who had stolen two million dollars in bonds from the Interior Department had himself called before Congress, where he testified to a matter relating to the bonds and was immunized.[41] Obviously, this was an intolerable situation, and the statute was soon repealed. In its place the Immunity Statute of 1862 [42] was enacted. The new statute did not grant immunity from prosecution; it merely purported to protect the witness from having his testimony subsequently used against him. Six years later the statute was broadened to cover judicial proceedings.[43] After being upheld by lower Federal courts,[44] relying on an early New York decision,[45] the statutory scheme finally reached the Supreme Court in *Counselmen* v. *Hitchcock* in 1892.[46]

The Court refused to uphold the relevant elements of the 1862 Act. It noted that the statute to be upheld would have to afford a protection coextensive with the privilege.[47] The statute only barred the use of the statements made, not the use of leads derived from those statements. But the Fifth Amendment offered, the Court felt, protection to the witness against not only his testimony being used against him, but also leads or "fruits" of that testimony being so used, since a witness need not testify at all about matters that might incriminate him, even indirectly. To be constitutional then, an immunity statute had to protect a witness to the same degree that the Fifth Amendment protected him, i.e., it had to bar the use of the compelled testimony as well as the fruits of that testimony. The Court recognized this when it stated the protection under the statute in question was inadequate because, "It could not, and would not, prevent the use of his testimony to search out other testimony to be used in evidence against him. . . ." [48]

Nevertheless, there was language in the opinion that went beyond this narrow holding. The Court indicated at one point, "In view of the constitutional provision, a statutory enactment, to be valid, must afford absolute immunity against prosecution for the offense to which the question relates." [49] *Counselmen* was read from thereon to mean

Footnotes at end of article.

that a statutory grant of immunity to be constitutional must be absolute, or in other words, cover the whole "transaction" underlying the testimony, not just the testimony itself or its fruits.

In response to the *Counselmen* decision, Congress amended various immunity provisions in the Federal Criminal Code, so that they provided "transactional" instead of "use" immunity. In *Brown* v. *Walker*,[50] the validity of this device was presented once again to the Supreme Court. The Court, by a closely divided vote, sustained the constitutionality of transactional immunity. The Court held that once the criminality attaching by law to the actions of the witness was removed by another law the privilege ceased to operate. The dissenters suggested that the privilege was intended to accord to the witness an absolute right of silence designed to protect not only from criminality, but also disgrace or infamy, something no legislative immunity could eliminate. The majority, relying on English history, rejected this proposition.

Since *Brown* v. *Walker*, the basic principle of the immunity grant has not been successfully challenged. But it is interesting to note that Congress neglected to alter the immunity provision relating to Congress until 1954, when it provided for transactional immunity to witnesses testifying concerning "attempts to interfere with or endanger the national security or defense of the United States by treason, sabotage, espionage, or the overthrow of its government by force or violence".[51] This and other similar grants were subsequently sustained.[52]

The view that transactional immunity was constitutionally mandated remained until the Supreme Court's 1964 decision in *Murphy* v. *Waterfront Commission*.[53] In that case, the Court held immunity conferred by a state prevented the Federal government from using compelled testimony or information derived from it in a later criminal prosecution. The Court thus implied, contrary to *Counselmen*, that the constitutional privilege against self-incrimination was adequately preserved if the witness was protected against direct or derivative use of his compelled testimony. The Court suggested that the Fifth Amendment privilege would be sufficiently preserved by using the doctrine of suppression of the fruit of the poisonous tree, an analogy borrowed from the test for suppressing illegally obtained evidence in Fourth Amendment cases.[54]

The Court's view in *Murphy* was embodied in the current immunity statute,[55] which the Brown Commission,[56] after an exhaustive and thorough survey of the relevant case law and an analysis of the policy arguments, included in its proposed Organized Crime Control Act. The Act passed by an overwhelming majority of both Houses in 1970.[57] Subsequent to passage in the Congress, similar statutes were passed in Louisiana, Ohio and Arizona.

Even before Federal enactment, states had been experimenting with similar use immunity statutes. Such statutes were sustained by the Supreme Court at the same time as the Federal law was upheld.[58] Such statutes have recently won the recommendation of the National Advisory Committee on Criminal Justice Standards and Goals.[59]

In *Kastigar* v. *U.S.*,[60] the Supreme Court upheld the constitutionality of this use immunity statute. The Court offered a twofold rationale. First, it concluded that "use immunity" was coextensive with the Fifth Amendment since it placed a witness in precisely the same position he would have been in under the Fifth Amendment, i.e., his testimony, even though compelled, could not be used in any way to incriminate him. Thus the Court reasoned:

Footnotes at end of article.

(P)rotection coextensive with the privilege is the degree of protection which the Constitution requires. Transactional immunity which affords full immunity from prosecution for the offense to which the compelled testimony relates, affords the witness considerably broader protection than does the Fifth Amendment privilege. The privilege has never been construed to mean that one who invokes it cannot subsequently be prosecuted. Its sole concern is to afford protection against being 'forced to give testimony leading to the infliction of "penalties affixed to . . . criminal acts".' Immunity from the use of compelled testimony and evidence derived directly and indirectly therefrom affords this protection. It prohibits the prosecutorial authorities from using the compelled testimony in any respect, and it therefore insures that the testimony cannot lead to the infliction of criminal penalties on the witness.[61]

Second, the Court determined that "use immunity" provided a resolution of the conflict between the duty to testify and the privilege against self-incrimination that was more consonant with the realities of law enforcement than was transactional immunity. The Court stated:

"Immunity statutes, which have historical roots deep in Anglo-American jurisprudence, are not incompatible (with the values of the self-incrimination clause). Rather they seek a rational accommodation between the imperatives of the privilege and the legitimate demands of government to compel citizens to testify. The existence of these statutes reflects the importance of testimony, and the fact that many offenses are of such a character that the only persons capable of giving useful testimony are those implicated in the crime." [62]

In short, the Court found that use immunity was not only equivalent to the Fifth Amendment privilege but was also better suited to the aims of the criminal justice system.

When the Brown Commission and the *Kastigar* Court opted for use immunity as a solution to the conflict between the duty to testify and the privilege against self-incrimination, those bodies were not importing a foreign jurisprudential concept. The notion that testimony or statements may be extracted for one purpose to satisfy an overriding principle but may not be used to prosecute the witness is firmly embedded in the American criminal law.

For instance, in the case of a suppression hearing concerning illegally obtained evidence the Court has made clear that any testimony provided by the defendant cannot be used at the subsequent trial. The analogy with the normal immunity situation is apposite. As the Court noted in *Simmons* v. *U.S.*[63] a defendant wishing to establish standing must do so at the risk that the words which he utters may later be used to incriminate him. In this situation, the Court, in order to provide the defendant with an opportunity to testify concerning possibly illegally obtained evidence, grants "use" immunity for any such evidence elicited.[64]

Similarly, Congress and the courts have prevented the use of testimony garnered at incompetency hearings from being used at trial against the defendant.[65] And the Federal Rules have forbidden the use of the withdrawn guilty plea by the prosecution at trial.[66] Again, in these instances, resort was made to a use immunity mechanism to obtain testimony necessary to fulfill a particular policy interest where that testimony might otherwise not have been given because of its incriminating nature.

III. POLICY ADVANTAGES OF USE OVER TRANSACTIONAL IMMUNITY

An effective investigation requires the power to grant immunity. Under the present federal statute, Congress has access to use immunity. Aside from its constitutional rationale, there are several policy advantages of use over transactional immunity. Use immunity more effectively respects inter and intra-government relations. Use immunity does not interfere with administrative regulation by preventing the imposition of civil penalties and forfeitures. Under some circumstances, it promotes the defendant's Sixth Amendment rights to compulsory process of witnesses. And most importantly, it more effectively than its counterpart promotes witness cooperation.

A. Use immunity preserves comity between state and federal jurisdictions

The present immunity statute reconciles federal and state power. The power of state governments to grant immunity only reaches the testimony compelled or its fruits, even if the statute under which it is granted is a transactional immunity statute. *Murphy* v. *Waterfront Commission*,[67] held that the constitutional privilege against self-incrimination under federal as well as state law and a federal witness against incrimination under state as well as federal law. At that time a great majority of state statutes in states which had immunity legislation were "transactional" in nature. The Court held that the constitutional rule required that a state witness may not be compelled to give testimony which may be incriminating under federal law unless the compelled testimony and its fruits could not be used in any manner by federal officials in connection with a criminal prosecution against him. In essence then, the Court found that "use" immunity was constitutionally sufficient to accommodate the interests of state and federal governments in investigating and prosecuting crime. It allowed the states to carry out their law enforcement responsibilities without unduly entrenching on ongoing federal investigations. As Justice Goldberg concluded:

"This exclusionary rule, while permitting the states to secure information necessary for effective law enforcement, leaves the witness and the Federal Government in substantially the same position as if the witness had claimed his privilege in the absence of immunity." [68]

The implication of *Murphy*, of course, is that federal prosecuting agencies should be barred from granting transactional immunity, which would interfere with state prosecutions. One would assume such a result on grounds of comity if nothing else. Nevertheless, an earlier Supreme Court opinion leaves this in doubt. In *Adams* v. *State of Maryland*,[69] the Court allowed a congressional grant of immunity under a federal transactional statute to abort a state prosecution. Under the *Adams* opinion, it is possible for a federal agency, either legislative or executive, to interfere with independent state prosecutions by providing a blanket immunity order to a federal witness. Under the present federal use immunity statute, such a result is not possible since only the federal witness' testimony and its fruits are barred from use in state courts.

B. Use immunity does not interfere with executive and congressional investigative responsibilities

Unlike transactional immunity, which prohibits the government from prosecuting a witness for the entire transaction about which he testifies, use immunity bars only the direct and indirect use of the testimony against that witness. As a result, use immunity does *not* interfere with the executive branch's ability to prosecute the witness so long as the prosecutor can demonstrate that any testimony used against the witness was obtained independently of the immunized testimony.[70] The prosecutor can, of course, meet this burden by sealing all evidence in his possession and delivering that evidence to the court prior to the time that the immunized testimony is to be given. In fact,

this procedure was successfully followed by the Special Prosecutor's Office in advance of John Dean's immunized testimony before the Ervin Committee. Based on the sealed evidence, Dean decided to plead guilty.

Similarly, under the current immunity statute, the executive branch cannot interfere with the activities of its legislative counterpart in granting immunity.[71] Thus, if 10 days notice is given the Attorney General and the appropriate committee of Congress approves the immunity application by a two-thirds vote, the court must grant the legislative request to bestow the witness with immunity regardless of any policy arguments to the contrary made by the executive branch.[72]

Such a proscription could not be maintained under a transactional immunity statute. Transactional immunity operates like a pardon. It prohibits the future prosecution of the individual. Traditionally, the pardon power has been exercised only by the Executive. The executive branch is responsible for investigating and prosecuting wrongdoers. Such a broad-based power to abort prosecution of wrongdoers should only be exercised by the highest official responsible for carrying out the prosecutive responsibility. On a more pragmatic level, only the executive is in a position to know the full implication of a pardon on ongoing or potential prosecutions.

Hypothetically, under a transactional immunity statute, Congress could exercise a power to pardon by granting immunity and effectively aborting criminal prosecutions. To prevent such a transfer of constitutional power and interference with duties of the Executive, the Executive would have to be granted a veto over Congress' deployment of transactional immunity.

The dangers of such a limitation, however, are readily apparent. It is only necessary to recall the Senate Watergate investigation. A presidential veto on the Ervin Committee's use of immunity for John Dean and other witnesses would have prevented the true story of Watergate from coming out. The converse is also true. The possibility exists under transactional immunity for congressional committees acting on corrupt motives to prevent executive prosecutions.

Use immunity, of course, obviates the need for an executive veto. By allowing the Congress to wield immunity power without executive interference, it respects the division of authority and separation of powers between the various branches. With use immunity, congressional investigating committees are free to make important immunity decisions without being dominated by a fear of aborting an independent executive investigation. In addition, by restricting the immunity only to the testimony and fruits compelled, both branches are prevented from employing immunity for corrupt purposes.

C. Use immunity does not interfere with administrative regulation by foreclosing the imposition of civil penalties and forfeitures

Transactional immunity has traditionally been interpreted to prohibit not only criminal proceedings, but also the exaction of civil penalties and forfeitures. For example, in one case, authorities were unable to suspend the license of an inattentive co-pilot after transactional immunity had been granted for testimony relating to an airplane crash.[73] Use immunity does not carry with it such a prohibition. The courts are unwilling to include within the scope of its protection a bar against use of immunized testimony in proceedings to impose civil penalties.[74]

D. Use immunity promotes defendant's Sixth Amendment right to compulsory process for obtaining witnesses

Ironically, there are some circumstances in which not even the defendant's interest is served by transactional immunity. A defendant has a Sixth Amendment right to use compulsory process to produce witnesses in his favor. It has been held under both use and transactional immunity statutes, however, that a defendant has no constitutional right to confer immunity upon a defense witness who exercises his privilege not to give testimony that is self-incriminating.[75] Immunity can only be conferred by those agencies granted that power by statute. A prosecutor or a court would be extremely reluctant to confer immunity on a witness in such a situation if the grant amounted to pardon for all crimes testified to by the witness. Therefore the defendant's interest in compelling a witness' testimony is better served in this case by use immunity. A prosecutor will be less inclined to oppose immunity for the defendant's witnesses if the effect is merely to prevent prosecution based on the testimony or leads derived from that testimony.

E. Use immunity promotes witness cooperation

Immunity is granted solely for the purpose of obtaining testimony. By this criteria, use is preferable to transactional immunity because only use immunity has a built-in incentive for the witness to testify with as much detail as possible.

Since transactional immunity prohibits prosecution for any criminal activities mentioned in the witness' testimony, the witness has no incentive to testify to anything beyond his general involvement in the crimes for which he seeks immunity. The reluctant witness may provide the government with some evidence, but not enough to sustain a conviction. Although the witness would still be subject to the contempt sanction, this remedy is effective only if the government can establish that the witness is still withholding information.[76]

Use immunity, on the other hand, carries an inherent incentive for an immunized witness to furnish the details of his criminal activity. Since use immunity imposes a burden on the prosecution to demonstrate that all of the evidence it introduces against an immunized witness was obtained independently of the immunized testimony, the witness vastly increases the prosecutor's burden by including more and more information in his testimony. In short, a witness' protection under use immunity is only as good as his testimony is detailed. Thus, John Dean, having been granted use immunity by the Senate Watergate Committee, sought to erect a shield against subsequent prosecution by furnishing the Committee with one of the most richly detailed accounts even given a congressional investigative committee.[77]

CONCLUSION

Use immunity gives the Congress an effective investigative tool. It has deep historical roots in Anglo American jurisprudence and in our system of criminal justice. The Congress can be confident that use immunity under the statute, more effectively than any other form of immunity, accomplishes the purpose of the immunity grant—obtaining testimony. It does so not only by fulfilling its constitutional responsibility to be coextensive with the Fifth Amendment privilege against self-incrimination, but also by respecting the separation of power between the Executive and Congress, and the relation between the states and the federal government.

FOOTNOTES

[1] See Hamilton, *The Power to Probe*, Vintage Press, 1977, pp, 22–23.

[2] 18 U.S.C. §§ 6001–6005.

[3] *Id.* at § 6002.

[4] V Amendment, U.S. Constitution.

[5] See generally 7 Wigmore, *Evidence*, § 2190 (3d. ed. 1940); Morgan, *The Privilege Against Self-incrimination*, 34 Minn. L. Rev. 1–45 (1949).

[6] See, e.g., (1450) Y.B. 28 Hen. 6, 6, 1.

[7] St., 1563, 5 Eliz. 1, c. 9, § 12.

[8] Littleton arguing in (1450) Y.B. 28 Hen. 6, 6, 1.

[9] (1612) 2 How. St. Tr. 769, 778.

[10] Cf. *Piedmonte v. United States*, 367 U.S. 556, 558 n.2 (1961).

[11] 8 Wigmore, *Evidence*, § 2190, at 66 (3d ed. 1940).

[12] *U.S.* v. *Nixon*, 418 N.S. 683 (1974) at 691.

[13] *Id.* at 691.

[14] The oath *ex officio mero* was a procedure in which a clergyman was compelled to state under oath whether he committed the crime with which he was charged. 3 *Blackstone's Commentaries*, 99–100, (Wendell ed. 1857).

[15] See Wigmore, supra. at § 2250.

[16] See *Id.* § 2250, at 289 nn. 56 and 57, and cases cited therein.

[17] (1637) 3 How. St. Tr. 1315.

[18] St., 16 Car. 1, cc. 10, 11.

[19] Benthem, *Rationale of Judicial Evidence* (1827), 7 *The Works of Jeremy Bentham* 456, 462 (Bowring ed. 1843), quoted in 8 Wigmore, *Evidence*, § 2250, at 292 (McNaughton rev. ed. 1961).

[20] See cases cited 7 Wigmore, *Evidence* § 2250, at 298–99 n. 105 (3d ed. 1940).

[21] See generally Pittman, *The Colonial and Constitutional History of the Privilege Against Self-Incrimination in America*, 22 Va. L. Rev. 763 (1935).

[22] *Malloy* v. *Hogan*, 378 U.S. 1 (1964).

[23] *Hoffman* v. *United States*, 378 U.S. 1, 8 (1964).

[24] *Malloy* v. *Hogan*, 378 U.S. 1, 8 (1964).

[25] Cf. *Miranda* v. *Arizona*, 384 U.S. 436 (1966).

[26] *Schmerber* v. *California*, 384 U.S. 757 (1966).

[27] *Rogers* v. *United States*, 340 U.S. 367, 371 (1951).

[28] *Wilson* v. *United States*, 221 U.S. 361 (1911).

[29] *United States* v. *White*, 322, U.S. 694 (1944).

[30] *Rogers* v. *United States*, 340 U.S. 367, 373 (1951).

[31] *Spies* v. *Illinois*, 123 U.S. 131, 180 (1887).

[32] 7 Wigmore, *Evidence*, § 2268, at 388 (3d ed. 1940).

[33] (1725) 16 How. St. Tr. 767, 921, 1147.

[34] Cf. *Hale* v. *Henkel*, 201 U.S. 43, 67 (1906).

[35] 8 Wigmore, *Evidence*, § 2281, at 469 (3d ed. 1940).

[36] See generally Wendell, *Compulsory Immunity Legislation and the Fifth Amendment Privilege: New Development and New Confusion*, 10 St. Louis U.L.J. 327, 330–31 (1966).

[37] *Burdick* v. *United States*, 236 U.S. 79 (1915). Cf. *United States* v. *Wilson*, 32 U.S. (7 Pet.) 150, 160–61 (1833).

[38] Act of Jan. 24, 1857, ch. 19, 11 Stat. 155.

[39] Hamilton, supra. at 80.

[40] Barth, *Government by Investigation*, p. 131.

[41] See generally Wendel, *supra*. note 138, at 333–35.

[42] Act of Jan. 24, 1862, ch. 11, 12 Stat. 333. The statute is now found in 18 U.S.C. § 3486 (1964), as amended, 18 U.S.C. § 3486(c) (Supp. I, 1965).

[43] Act of Feb. 25, 1868, ch. 13, 15 Stat. 37.

[44] *United States* v. *Williams*, 28 Fed. Cas. 670 (C.C.S.D. Ohio 1872); *United States* v. *Brown*, 24 Fed. Cas. 1273 (D.C.C. Ore. 1871); *United States* v. *Farrington*, 5 Fed. Cas. 343 S.C.N.D.N.Y. 1881); *In re Phillips;* 19 Fed. Cas. 506 (D.C.D. Va. 1869).

[45] *People* v. *Kelly*, 24 N.Y. 74 (1861).

[46] 142 U.S. 547 (1892).

[47] *Id.* at 565–84.

[48] *Id.* at 564.

[49] *Id.* at 585–86.

[50] 161 U.S. 591 (1896).

[51] 18 U.S.C. § 3486, 68 Stat. 745 (1954).

[52] See *Ullman* v. *United States*, 350 U.S.

422 (1956) upholding 18 U.S.C. § 3486, and *Reina* v. *United States*, 364 U.S. 507 (1960) upholding 18 U.S.C. § 1406 which granted transactional immunity in narcotic and Internal Revenue cases.

[53] 378 U.S. 52 (1964).

[54] See e.g., *Wong-Sun* v. *United States*, 371 U.S. 471 (1963).

[55] 18 U.S.C. §§ 6001–6005.

[56] National Commission in Reform of Federal Criminal Laws, 1970. Members included former Gov. Edmund (Pat) Brown, Chairman, Rep. Richard Poff, Vice-Chairman, Senators Sam Ervin, Roman Hruska, John McClellan, Representatives Robert Kastenmeier, Abner Mikva and Don Edwards.

Use immunity also brings with it the recommendations of scholars. In analyzing the constitutional demands of the privilege against self-incrimination, Wigmore in his treatise noted that the initial judicial analysis before *Counselmen* was sound concerning the constitutional meaning of use immunity statutes:

The constitutional efficacy of (use) . . . statutes . . . was well expounded in . . . early opinions, written at a period nearer to the era of constitution-making, when the cobwebs of artificial fantasy had not begun to obscure its plain meanings . . ." Wigmore, *Evidence*, 3rd Ed., p. 523.

These sentiments were echoed in McCormack in analyzing the rejection by Counselmen of the analysis of use immunity by Judge Denio in *People* v. *Kelly*. As the legal scholar put it:

"Surely (Counselmen) . . . was a wrong turning at a critical point. Perhaps few decisions in history have resulted in freeing more rascals from punishment. Surely . . . protection (from use plus fruits) is all that (should) . . . reasonably be demanded, and the insistence upon complete immunities for punishment is an unjust and unnecessary obstruction to law enforcement." McCormack, *Evidence*, 1954, p. 285–86.

[57] Organized Crime Control Act of 1970, 84 Stat. 922, 18 U.S.C. §§ 6002–3.

[58] *Zicarelli* v. *New Jersey State Crime Commission*, 406 U.S. 472 (1972).

[59] Report of Task Force on Organized Crime, Washington, 1976, p. 154–55.

To date, only the ABA House of Delegates has voiced disapproval over the enactment of use as opposed to transactional immunity statutes. The ABA criticism has revolved around charges that use immunity inhibits witness cooperation and encourages inaccurate testimony, because of the uncertainty about the scope of protection. Further, the ABA points to the "small number of successful prosecutions" of immunized witnesses under use immunity statutes, and that a return therefore to transactional immunity would not remove a significant weapon against organized crime.

The ABA is also troubled by the fact that as they put it, "'Use' immunity represents the most grudging interpretation of the constitutional right against self-incrimination". Perhaps the most fitting answer to such a view is Justice Holmes' opinion in *Heike* v. *U.S.* (227 U.S. 131, 144 (1913)). He called for strict construction of immunity statutes. Giving immunity where it is not necessary, the Justice stated, would be giving an unnecessary gratuity to crime, a step no sane society ought ever to take.

[60] 406 U.S. 441 (1972).

[61] *Id.* at 453.

[62] *Id.* at 459.

[63] 390 U.S. 377 (1968).

[64] *Id.* at 389.

[65] *United States* v. *Alvarez*, 519 F.2d 1036 (1975) and 18 U.S.C. § 4244.

[66] F.R. Cr. P. 11(e)(6).

[67] *Supra.*

[68] *Murphy, supra* at 56.

[69] 347 U.S. 179 (1953).

[70] *Kastigar, supra.*

[71] 18 U.S.C. § 6005.

[72] *Application of U.S. Senate Select Comm. on Pres. Camp. Activities*, 361 F. Supp. 1270 (DDC 1973) (Sirica, Jr.).

[73] See *Lee* v. *CAB*, 225 F. 2d 950 (D.C. Cir. 1955) and hearings before Subcommittee on Criminal Law and Procedure of United States Senate Judiciary Committee. 91st Congress, 1st Session. Hearings on S. 30 and Others, March 18, 19, 25, 26, and June 3, 4, 1969. Testimony of Robert G. Dixon, Jr., p. 298–99.

[74] *U.S.* v. *Capetto*, 502 F. 2d 1351 (1974), *Cert. den.* 420 U.S. 925 (1975).

[75] *U.S.* v. *Allstate*, 507 F. 2d 492 (7th Cir. 1974).

[76] See *U.S.* v. *Bufalino*, 285 F. 2d 408, 418 n.27 (2d. Cir. 1960) (witness to "organized crime convention" able to circumvent transactional immunity by answering evasively).

[77] While the ABA has been critical of the effect of use immunity as an incentive to provide testimony, its criticism is misplaced. Use immunity has proven itself to be a potent weapon against organized crime precisely because of this crucial distinction from transactional immunity. Use immunity does not prohibit prosecutions. It prohibits the use of compelled testimony and its fruits. As such, use, unlike transactional immunity, leaves some uncertainty as to the subsequent vulnerability of the witness to criminal prosecution. Whatever uncertainty is generated about whether a witness can be prosecuted will induce increased cooperation of that witness. The witness must assure that as much testimony as possible is recorded under immunity or risk prosecution based on evidence or leads not referred to or implied by the testimony. The ABA comment that use immunity inhibits witness cooperation is not only inherently illogical, but ignores the Ervin Committee's experience with the federal use immunity statute.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland agrees that this select committee already has power to grant witness immunity, regardless of any past action of the House. The gentleman from Ohio (Mr. STOKES) agrees. In the face of that, however, he seeks to have this resolution passed so as to make sure of that right.

Mr. Speaker, I think the gentleman is correct. I do not think we need this resolution to grant these immunity powers.

Mr. Speaker, what concerns the gentleman from Maryland is that when the gentleman from Ohio first appeared before the Committee on Rules in March, he said:

* * * there may be instances where it may be preferable for the Committee itself to exercise its right to secure evidence from the Executive Branch of Government, rather than having to rely upon the Justice Department to pursue statutory contempt * * *

This resolution is written rather broadly. May I ask the gentleman this question: Have there been any instances in which a witness has refused to testify when the committee has offered to grant immunity; and second, is the gentleman seeking to use these powers to bring citations of contempt, either civil or criminal?

Mr. STOKES. Mr. Speaker, in order to answer the gentleman, may I say first that yes, we have had witnesses who have appeared before the committee and who have refused to testify, asserting their constitutional privilege.

Because of the cloud over this committee and its authority to be able to grant immunity, we have not made any application to any court or come to the floor for authority to grant immunity to a witness. This is precisely why we are before this body today asking for this narrowly prescribed authority.

Fortunately, we have had no difficulty with the executive branch of the Government. We have had excellent cooperation from all of the agencies from whom we have sought any type of testimony or evidence of any type.

So that we might properly deal with those persons who are involved in organized crime or those persons who might be soldiers of fortune who want to avail themselves of the constitutional privilege of not incriminating themselves, we need this authority. If we are going to be able to conduct the type of investigation that has to be conducted here where there are allegations of conspiracy, this is a tool that is absolutely needed. All we are asking for is for this body not to require us to come here conceivably to get 100 or 150 immunity applications from this body.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, I certainly support the gentleman from Ohio (Mr. STOKES) in his advocacy of this resolution and the necessity for it. I do have one inquiry to make. I think the gentleman from Maryland (Mr. BAUMAN) makes a good point regarding the fact that the subcommittee is also authorized to exercise this somewhat extraordinary authority. Does the gentleman from Ohio (Mr. STOKES) feel strongly on that point?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STOKES. Mr. Speaker, I thank the gentleman for yielding me the additional time.

In answer to the gentleman from Nebraska (Mr. THONE), I say that we do feel strongly on that point. But, Mr. Speaker, first let me describe the procedure that is necessary here without this resolution. In order to proceed to the Federal court and request an application of immunity, the full committee would have to vote such procedure by a two-thirds vote of the full committee. The House would then have to give us permission to go to court. If we were to then go to the Federal court and receive the order immunizing the witness and the witness then refused, despite that court order, to testify before our committee, it would then be necessary for us to come back to the floor of the House to get permission to bring the matter to the attention of the court. To go back to the court and say to the court that this witness refused to comply with the court's order, we would have to come back to the floor of the House for authority to go back to tell the court that the witness refused to comply with its order.

Under this resolution, we could avoid these unnecessary trips to the House

floor. But this, of course, is a procedure in civil contempt. In no way can we proceed with criminal contempt without coming back to the floor of the House for full certification under the applicable U.S. statutes.

Mr. THONE. Will the gentleman from Ohio (Mr. STOKES) yield again briefly?

Mr. STOKES. Certainly I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, as I understand it, just to clarify again the statement made by the gentleman from Maryland (Mr. BAUMAN) the only use of immunity contemplated here is strictly in the area of "use" immunity, is that correct?

Mr. STOKES. That is correct.

Mr. THONE. Mr. Speaker, Congress investigative process requires many legal tools, chief among them, after the subpena, is the power to grant immunity. It is not enough that a congressional committee charged with a sensitive and difficult investigation has the power to compel the attendance of witnesses and the production of documents. Witnesses may be forced to attend by a subpena; they may not be forced to testify in derogation of their right against self-incrimination. Immunity, therefore, is a legal means to get a witness' testimony by guaranteeing that the testimony will not be used to incriminate the witness.

In recent years, the immunity mechanism has been widely used by the Congress, and has proven most useful in untangling complicated conduct involving criminal wrongdoing. The Ervin Committee, for example, in investigating Presidential campaign activities and the 1972 Watergate breakin, conferred immunity on some 27 witnesses. The testimony of one of those immunized, John Dean, may have been the single most important factor leading to the breaking of the Watergate case.

The primary reason for the introduction of House Resolution 760 is to insure that the Select Committee on Assassinations, like the Ervin Committee, will not be hampered in obtaining the necessary immunity orders to fulfill its investigatory responsibility.

The type of immunity that the select committee will be seeking under the statute is "use immunity", the same type which enabled the Ervin Committee to effectively compel the testimony of many of its important witnesses without jeopardizing prosecution of these witnesses by the Watergate Special Prosecutor. As I just mentioned, the Members are probably most familiar with the case of John Dean. His story, perhaps more than any other, best illuminates the effective application of use immunity by a congressional committee.

"Use" immunity prevents the use of an immunized witness' testimony in a subsequent criminal trial by any jurisdiction, State or Federal. It also prevents any use being made of leads, inferences, or implications arising out of the testimony. It does not, however, prevent the subsequent prosecution of a witness on matters touched upon in the testimony provided the prosecutors are able to meet the substantial burden of demonstrating that any evidence used in the prosecution was obtained independently of the testimony. Such proof may, of course, as in John Dean's case, be had by the sealing by the prosecution of all testimony in advance of any immunized testimony by a witness. Based on such sealed evidence, Dean decided to plead guilty and was convicted of a crime after his Watergate testimony.

Use immunity should not be confused with "transactional immunity". "Transactional" immunity involves granting a witness complete protection against future criminal prosecutions on all matters touched upon in the immunized testimony. In effect, the witness is allowed to take an immunity "bath" that then cleanses him of all crimes relevant to the testimony. No prosecutions are possible against that witness for those crimes indicated in the testimony, regardless of whether the evidence implicating the witness was obtained independently or even previous to the immunized testimony.

Mr. Speaker, use immunity has not only been found to be constitutionally sufficient, but has proven to be a precise tool for congressional investigations. When all is said and done, the interest in granting immunity is in obtaining testimony. Transactional immunity prohibits prosecution of matters related to a witness' testimony. There is no incentive, therefore, for an individual to testify beyond acknowledging in the testimony the matter sought to be immunized.

In contrast, it is only necessary to remember the testimony given in great and lengthy detail by John Dean before the Ervin Committee. Many attributed it to Mr. Dean's remarkable powers of recollection. I suggest that something else was involved. Like any witness immunized under the present Federal use immunity statute, Dean had a great incentive to develop his powers of recall. A witness is protected under use immunity for all his testimony and its implications given under the immunity grant. But the protection is only as good as the testimony is detailed.

In short, use immunity gives the Congress a device for prompting testimony without preventing future prosecutions by the Government for criminal activities related to the witness' testimony, but for which evidence is independently obtained. It is essential to the work of the select committee.

The current use immunity statute will allow the select committee to conduct its investigation without interfering unduly upon the prosecutive responsibilities of State or Federal officials. The select committee will be able to fulfill its mandate to conduct a full and complete investigation into the assassinations of John F. Kennedy and Dr. Martin Luther King, Jr. We need now to clarify our power to use immunity by the passage of this resolution.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. STOKES) has again expired.

Mr. MURPHY of Illinois. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio has not assured me at all by his statement with reference to my concerns. In fact, I think the gentleman has only magnified them, by saying that this resolution is for the purpose of allowing contempt procedures against witnesses without further action by the House. I do not understand that such power rests with any other committees of the House. If the Congress is to hold in contempt any witness, clearly the House should decide the issue, whether in civil or criminal contempt. The full House should pass on it. I cannot think of any instances where this power has been granted with the possible exception of in the Korean investigation. This committee does not warrant this kind of a broad grant of power.

Mr. MURPHY of Illinois. Mr. Speaker, I yield, for purposes of debate only, 1 minute to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. I thank the gentleman for yielding.

I would just like to say that I admire the chairman. I am not a lawyer on this committee, so some of the Members can get very much over my head. But we have sat on Saturday and Sunday for hours coming up with what we think is the fairest and the most constricted power. It has been given to the Korean Committee, and it would seem to me that the investigation of the murder of one of the Nation's greatest black leaders and the investigation of the murder of a President of the United States would require that we give to this committee, to its chairman, and to the head of counsel, our new counsel, the ability to proceed. We have a limited period of time, and we have limited money. To go back to the House every single time, particularly when we are only talking about civil contempt, would be to me a ludicrous construction of the committee's purpose and the committee's job, which is being done however quietly.

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Connecticut.

Mr. DODD. I thank the gentleman for yielding.

I would like to commend the chairman and the gentleman from Connecticut (Mr. MCKINNEY) for his stand. The point is well taken. We have seen this resolution necessarily delayed for a 2-week period, having come up four different times before we could do what we are doing here this afternoon.

I think if everyone would recognize that if we try to come back to this Congress for permission to proceed in a civil contempt case, we might be here all year on these cases, given the calendar and the pressure we are under.

Mr. MURPHY of Illinois. Mr. Speaker, for purposes of debate only, I yield 1 additional minute to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. I would just like to say to the House that the gentleman from Connecticut has accurately described the situation we have been in the 2-week period since we left the Committee on Rules. We have now been trying for 2

weeks just to be able to get this resolution on the floor of the House. We have identified somewhere in the neighborhood of 100 to 150 witnesses in the Kennedy case alone, for whom we may want to seek immunity applications. If we are seriously to be about this investigation, the Members can understand the problem we would have with the House Calendar and trying to get onto the floor 100 or 150 times pursuant to immunity applications for those witnesses. It would be impossible. No one in this body wants to obstruct this investigation. But I think it would be seriously obstructing the purposes for which we were originally constituted if we were required to come back to this body, case after case, 100 or 150 times or more, to get permission to make immunity applications to a court or to seek citations for civil contempt.

Mrs. COLLINS of Illinois. Mr. Chairman, I stand in support of House Resolution 760, a resolution which authorizes the House Assassination Committee to enter courts and intervene in court proceedings in order to discharge their legislative duties in a complete fashion.

As my colleagues will recall this Assassinations Committee originally had the power to "bring, defend, and intervene" in lawsuits, but this authority was curtailed during House consideration of the status of the committee on March 30, 1977.

It is fitting and proper that this committee and its subcommittees have the power to engage in lawsuits that might be necessary as a result of its use of subpenas, grants of immunity, contempt power, or efforts to see that evidence is produced. Having access to the courts and the judicial process is a fundamental and necessary tool of any congressional investigative body. Without the authorization to seek legal means to carry out an investigation, the possibility of this committee discharging its obligation to investigate the assassinations of President John F. Kennedy and Dr. Martin Luther King is surely curtailed.

In summary, let me remind my colleagues that this committee is a responsible body, chaired ably by Congressman STOKES of Ohio. It appears to me, we ought to give this reasonable request for access to the courts our unequivocal approval.

I urge my colleagues to join me in support of House Resolution 760.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 112, not voting 32, as follows:

[Roll No. 602]

YEAS—290

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clay
Cohen
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornell
D'Amours
Danielson
Davis
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holtzman
Hubbard
Hughes
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
Keys
Kildee
Koch
Kostmayer
Krebs
Krueger
LaFalce
Leach
Lederer
Leggett
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pattison
Pease
Perkins
Pettis
Pike
Preyer
Price
Pritchard
Quie
Railsback
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Rogers
Roncalio
Rose
Rosenthal
Roybal
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
St Germain
Staggers
Stanton
Steers
Stokes
Studds
Thompson
Thone
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Mo.
Zablocki

NAYS—112

Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Butler
Byron
Clausen, Don H.
Cleveland
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Dingell
Dornan
Edwards, Okla.
Evans, Ga.
Findley
Forsythe
Frey
Gaydos
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Hollenbeck
Holt
Huckaby
Hyde
Jones, Okla.
Kasten
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Livingston
Lloyd, Tenn.
Lott
Lujan
McCormack
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Michel
Milford
Miller, Ohio
Moore
Myers, John
Nedzi
O'Brien
Patten
Pickle
Poage
Quayle
Quillen
Rhodes
Robinson
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Satterfield
Sebelius
Shuster
Simon
Skelton
Smith, Iowa
Spence
Stangeland
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thornton
Treen
Trible
Volkmer
Waggonner
Walker
Watkins
Whitehurst
Wydler
Young, Fla.
Young, Tex.
Zeferetti

NOT VOTING—32

Abdnor
Bolling
Bowen
Brown, Calif.
Clawson, Del
Cornwell
Cotter
Cunningham
Dent
Eckhardt
Erlenborn
Florio
Horton
Howard
Johnson, Calif.
Le Fante
Lehman
McClory
Patterson
Pepper
Pressler
Pursell
Rahall
Rangel
Roberts
Roe
Stark
Steed
Teague
Whalen
Wilson, Bob
Young, Alaska

The Clerk announced the following pairs:

Mr. Dent with Mr. Horton.
Mr. Eckhardt with Mr. Rahall.
Mr. Cotter with Mr. Whalen.
Mr. Rangel with Mr. Erlenborn.
Mr. Stark with Mr. Cunningham.
Mr. Teague with Mr. McClory.
Mr. Howard with Mr. Young of Alaska.
Mr. Le Fante with Mr. Del Clawson.
Mr. Lehman with Mr. Bob Wilson.
Mr. Bowen with Mr. Steed.
Mr. Brown of California with Mr. Roe.
Mr. Cornwell with Mr. Johnson of California.
Mr. Florio with Mr. Pressler.
Mr. Pepper with Mr. Pursell.
Mr. Roberts with Mr. Patterson of California.

Messrs. ZEFERETTI and RUPPE changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 9290, INCREASING THE TEMPORARY DEBT LIMIT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 781 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 781

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the Record at least one legislative day prior to consideration thereof, and said amendments shall not be subject to amendment but may be debated by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to my colleague, the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 781 provides for the consideration of H.R. 9290 to increase the temporary debt limit.

The rule provides for 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. It is a modified open rule, providing for amendments to be offered by the direction of the Committee on Ways and Means or by any Member who has caused his germane amendments to be printed in the CONGRESSIONAL RECORD 1 legislative day prior to consideration of the bill. No amendment, however, will be subject to amendment. The rule also provides for one motion to recommit.

The rule contains two waivers of points of order. Clause 5 of rule XXI prohibiting appropriations in a legislative bill is waived. This waiver is necessary because the original Second Liberty Bond Act which the bill amends contained an appropriation, thereby subjecting any further amendment to the act to a technical point of order.

The 3-day rule, clause 2(L)(6) of rule XI, is also waived. Since the authority for the current temporary debt limit expires on September 30, 1977, it is necessary that H.R. 9290 be considered as soon as possible. Without the waiver of the 3-day rule, it would not be possible to consider the bill today since the report on the bill was not filed until September 26, 1977.

Owing to the time constraints, Chairman ULLMAN stated on the floor of the House on Monday (CONGRESSIONAL RECORD, September 26, 1977, 30957) his committee's intention of requesting a rule on the bill which would require germane amendments to be printed in the RECORD 24 hours prior to their consideration. Mr. ULLMAN noted that the bill was scheduled for floor action on September 28, 1977, and that Members would need to have their amendments printed in the RECORD by September 27, 1977.

Mr. Speaker, H.R. 9290 extends the authority for the temporary debt limit through September 30, 1978, and would increase the amount of the limit by $73 billion, from $300 billion to $373 billion. The bill increases by $10 billion, from $17 billion to $27 billion, the amount of bonds which may be issued at a rate of interest higher than 4¼ percent. The bill is similar to the measure which was defeated by the House on September 19, 1977.

Mr. Speaker, I urge my colleagues to adopt House Resolution 781 so that we may proceed to consideration of H.R. 9290.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might point out that the reasons for voting against this resolution and against the bill that the resolution makes in order are just as cogent today as they were when we turned down such a request a few days ago.

Today we are being asked to increase the national debt by $73 billion; a few days ago we were asked to increase it by $75 billion. We can take some pride in the fact that at least we reduced the figure by $2 billion, which, in my way of thinking, is $2 billion of debt reduction that we otherwise would not have had, come September 30, 1978, had the House not acted as it did a few days ago.

I think the American people are becoming concerned and will continue to be concerned with the spending ways of this Congress and what this Congress is being asked to spend by the Carter administration.

I have prepared a chart on the cost of servicing the public debt since 1966, and I would like to call just a few of its costs to the attention of the Members.

Back in 1969, $263 of every personal income tax return was being applied to servicing the interest on the national debt. Today $707 of each individual income tax return will be required to service that debt. So, in the short space of 10 years, that part of the average tax return going to service the debt has increased by 169 percent. This means that even though we are putting off the burden of paying the debt itself and putting it on the backs of our children, our grandchildren, and our great grandchildren, we are not putting off the cost of servicing the debt, and it is increasing very dramatically. I cannot stress this point too heavily. There seems to be some confusion on the part of some Members that an ever higher national debt, and the ever higher levels of spending which raises the debt, are costs which are not borne by today's taxpayers. That is wrong, for it is today's taxpayers who must pay the interest on the debt.

Back in 1969, only 19 percent of the average tax liability per return was devoted to servicing the national debt; we now have 26.7 percent of the average tax return going for the servicing of the national debt. That is a 42-percent increase in burden.

Mr. Speaker, at this point I include the chart to which I referred, as follows:

COST OF SERVICING THE PUBLIC DEBT—1966 THROUGH 1978

Year	Number of personal income tax returns showing tax liability (in millions) A	Interest on the public debt (billions)[1] B	Burden of public debt service per personal income tax return with tax liability (col. B divided by col. A) C	Average tax liability per personal income tax return with tax liability D	Proportion of average tax liability per return devoted to public debt service (col. C as a percent of col. D) E
1966	55.5	$12.0	$216	$998	21.6
1967	58.2	13.4	230	1,057	21.7
1968	60.5	14.6	241	1,136	21.2
1969	63.1	16.6	263	1,384	19.0
1970	61.6	19.3	313	1,468	21.3
1971	60.4	21.0	348	1,427	24.3
1972	59.4	21.8	367	1,594	23.0
1973	62.9	24.2	385	1,641	23.4
1974	65.8	29.3	445	1,809	24.5
1975	63.1	32.7	518	1,940	26.7
1976	[2] 62.2	37.1	596	2,116	28.1
1977	[2] 64.4	42.0	652	2,461	26.4
1978	[2] 66.3	46.9	707	2,640	26.7

[1] Figures shown are total interest paid on public debt and are not net of interest earned by the Government from other accounts. Therefore, figures in this colum do not correspond to net interest figures shown in function 900 of Budget Resolutions.

[2] Preliminary estimates received from U.S. Department of the Treasury.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

I wish to point out that when the gentleman from Ohio (Mr. LATTA) and I came together to the Congress back in 1959, the national debt was $275 billion. Now it is upwards of $700 billion.

I suppose an opponent of ours could say, "Well, it has gotten worse since you have been here," and I would agree. But I know the gentleman from Ohio (Mr. LATTA), who is a member of the Committee on Rules, and this gentleman from Ohio had little to do with the unbalanced portion of this obligation. In fact, I think we both have records that show we have consistently opposed the big, wild, radical spending schemes.

What has happened traditionally over the years is that those Members of this body who could be classified as big spenders have voted for every conceivable kind of spending programs, for experimental socialized programs, and for tinkering with the economy, and then they have run back to their folks and said, "Look what I did for you." Then when the time comes to pay for their excesses, they cast their only conservative vote in this Congress, and that is to vote against the debt ceiling bill. I do not think that is a consistent position.

I think a responsible vote would be to say, "Yes, let's pay for what we have authorized." But I think those of us who are not responsible for these wild, radical spending programs should not be called upon to bail out those Members who have caused the problem.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. DEVINE) for his comments, and I want to commend him for his very conservative voting record over the years and for his high regard for the taxpayers. If this Congress had followed his leadership and voted against some of the excesses over the years of his service in this body, the Ways and Means Committee would not be here today with a proposal to increase the debt to $773 billion.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just want to commend the majority leadership on their scheduling for today.

I think it is appropriate that on the same day on which the House creates a totally unnecessary select committee which is going to cost $500,000 to $800,000 allowing Members to run around the world with unlimited staff, we also vote on the national debt increase.

Mr. Speaker, no doubt some Members will wander around their districts this fall wondering why we have so high a national debt. They might look in the mirror.

Mr. LATTA. Mr. Speaker, I thank the gentleman from Maryland for his comment.

I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I appreciate the comment of my colleague, the gentleman from Maryland (Mr. BAUMAN), because he is justifying his vote. I, in turn, am going to justify mine.

Mr. Speaker, I voted for the creation of that select committee, and I have no apologies to make for it because I believe it is in the best interests of the long-range future of the human race.

I just want to say that I suppose it is a matter of where our priorities are.

At the same time, Mr. Speaker, I think it is necessary that we do pay our bills. I think it is necessary that we follow up and pass this resolution and permit the Committee on Ways and Means to make its case.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, there has been some discussion as to how we come to this tremendous debt.

It has, indeed, increased with the increasing spending of our Government; it has increased with the cost of wars and national defense but it has also increased through the generous tax cuts that have come along since the mid-1960's.

Mr. Speaker, I want to point out that if we had maintained the tax base of the mid-1960's, we would today be in pretty good fiscal position. We have lost a lot of our revenue by a constant procession of tax cuts which have added to our deficits and created a great imbalance between the receipts of this Government and its expenditures.

Therefore, Mr. Speaker, let us analyze the whole issue.

Mr. SISK. Mr. Speaker, I thank the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I yield myself 3 minutes.

I yield myself this time, Mr. Speaker, to call the Members' attention to the committee report because we have heard about the adverse effects of tax cuts of the 1960's. I recall that. That was a Kennedy tax cut.

Let me say in 1960, the national debt stood at $291 billion, and at the end of the 1960's, it was $367 billion. However, during the 1970's, the national debt has risen to $773 billion and still going.

Mr. Speaker, I would like to ask when did this great increase come? Was it in the 1960's or in the 1970's. I think you will soon learn that it came in the 1970's rather than in the 1960's.

I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 96, not voting 26, as follows:

[Roll No. 603]

YEAS—312

Addabbo
Alexander
Allen
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gudger
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Koch
Krebs
Krueger
LaFalce
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Rahall
Railsback
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Solars
Spellman
St Germain
Staggers
Stangeland
Stanton
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thone
Thornton

Traxler	Walgren	Winn
Trible	Walsh	Wirth
Tsongas	Waxman	Wright
Tucker	Weaver	Yates
Udall	Weiss	Yatron
Ullman	White	Young, Alaska
Van Deerlin	Whitehurst	Young, Mo.
Vander Jagt	Whitten	Young, Tex.
Vanik	Wiggins	Zablocki
Vento	Wilson, C. H.	Zeferetti
Waggonner	Wilson, Tex.	

NAYS—96

Abdnor	Frey	Miller, Ohio
Anderson, Calif.	Gammage	Montgomery
Archer	Goldwater	Moore
Armstrong	Gradison	Moorhead, Calif.
Ashbrook	Grassley	Murphy, Pa.
Badham	Hall	Pressler
Bafalis	Hansen	Quillen
Bauman	Harsha	Regula
Benjamin	Hillis	Risenhoover
Broomfield	Holt	Robinson
Brown, Mich.	Huckaby	Rousselot
Broyhill	Ichord	Rudd
Burgener	Ireland	Runnels
Caputo	Jenrette	Satterfield
Cederberg	Kelly	Sawyer
Clausen, Don H.	Kemp	Schulze
Cochran	Ketchum	Shuster
Coleman	Kindness	Smith, Nebr.
Collins, Tex.	Kostmayer	Snyder
Crane	Lagomarsino	Spence
Davis	Latta	Stump
Devine	Leach	Symms
Dickinson	Lent	Taylor
Dornan	Livingston	Treen
Edwards, Okla.	Lott	Volkmer
Emery	Lujan	Wampler
English	Luken	Watkins
Evans, Del.	McDonald	Whitley
Evans, Ga.	Marlenee	Wolff
Fenwick	Marriott	Wydler
Flynt	Martin	Wylie
	Michel	Young, Fla.
	Milford	

NOT VOTING—26

Akaka	Florio	Roberts
Bowen	Horton	Stark
Clawson, Del	Johnson, Calif.	Steed
Cornwell	Le Fante	Stockman
Cotter	Lehman	Teague
Cunningham	McClory	Walker
Dent	Patterson	Whalen
Diggs	Pepper	Wilson, Bob
Eckhardt	Rangel	

The Clerk announced the following pairs:

Mr. Dent with Mr. Horton.
Mr. Cotter with Mr. Whalen.
Mr. Rangel with Mr. Del Clawson.
Mr. Teague with Mr. Cunningham.
Mr. Le Fante with Mr. Diggs.
Mr. Lehman with Mr. McClory.
Mr. Bowen with Mr. Walker.
Mr. Cornwell with Mr. Bob Wilson.
Mr. Florio with Mr. Stockman.
Mr. Pepper with Mr. Steed.
Mr. Roberts with Mr. Eckhardt.
Mr. Patterson of California with Mr. Johnson of California.
Mr. Akaka with Mr. Stark.

Mr. GAYDOS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report pursuant to section 302 of the Congressional Budget Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why do we need unanimous consent for that? How much is the bill going to cost?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield, to answer the gentleman's questions, the bill will cost some $6 billion.

Mr. ROUSSELOT. $6 billion add-on costs to our already inflated expenditure list?

Mr. BEVILL. It is within the budget.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, if there was an objection, what would be the result of that action?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, it is entirely possible we would not get this supplemental through both Houses of Congress before we adjourn sine die.

Mr. ROUSSELOT. What are the constraints? I do not fully understand. Why there is a need for such hurried action? Can the gentleman explain what would occur if we object?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, we need to file this bill tonight in order to accommodate the schedule of the Rules Committee at the House. In other words, we are just asking until midnight tonight in order to file this privileged report.

Mr. ROUSSELOT. Otherwise you would just file it tomorrow?

Mr. BEVILL. That is correct.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill, H.R. 9232, rescinding certain budget authority recommended in the message of the President of July 19, 1977 (H. Doc. No. 95–187), transmitted pursuant to the Impoundment Control Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR THE COMMITTEE ON APPROPRIATIONS TO FILE REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on H.R. 9233, rescinding certain budget authority recommended in the message of the President of July 26, 1977 (H. Doc. 95–197), transmitted pursuant to the Impoundment Control Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

INCREASING THE TEMPORARY DEBT LIMIT

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9290, with Mr. DELANEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill, H.R. 9290, provides for an increase in the temporary limit on the public debt and also will allow the Treasury Department to increase the amount of long-term bonds, with an interest rate above 4¼ percent, that may be in the hands of the public at any one time.

PUBLIC DEBT LIMIT

The last increase in the public debt limit bill was enacted 15 months ago. It increased the debt limit in three stages to the present level of $700 billion. This level consists of a $400 billion permanent limit and a $300 billion temporary limit. The temporary limit of $300 billion expires after September 30, 1977, and must be extended and increased before October 1, 1977, in order to meet the Federal Government's financing requirements for fiscal year 1978.

The administration requested an $83 billion increase in the combined temporary debt limit through September 30, 1978; that would make the combined limit $783 billion. The major part of the increase is derived from the anticipated unified budget deficit of $61.5 billion for fiscal year 1978.

The second budget resolution, which was adopted by the House 2 weeks ago, provided for an increase to $775.45 billion in the combined permanent and temporary limit. This increase is based on an estimated unified budget deficit of $61.25 billion.

The Committee on Ways and Means carefully examined the administration's month-by-month projection of its debt limit needs in fiscal year 1978 in order to determine whether it would be possible to adapt the projections to the $775.45 billion limit set in the last budget resolution. The committee also was acutely aware that the House would prefer a debt limit for next fiscal year that would be set below the upper bound approved in the budget resolution.

The $773 billion limit proposed in the committee bill is sufficient to meet the mid-June seasonal peak with a $15 billion cash balance and allowance for contingencies. It also is a sufficient margin for the end of August and the month of September, even though it will provide the Treasury with somewhat smaller operating cash balances for this relatively short period at the end of the fiscal year.

Although the proposed limit is below the boundary approved in the second budget resolution, it is adequate to accommodate the Federal funds deficit of $68.25 billion and financing for the off-budget credit agencies of $7.7 billion. The difference between these totals and the proposed increase in the debt limit will be made up by adjustments in the operating cash balance.

DEBT MANAGEMENT

The debt management provision of the bill will increase by $10 billion the authority of the Treasury to issue long-term bonds with interest rates above 4¼ percent. Present law allows up to $17 billion of such outstanding long-term bonds to be held by the public. An increase of $10 billion will raise the level to $27 billion. In June, the average interest rate paid on long-term bonds was 6.35 percent.

Since 1971 when the Treasury initially was given limited authority to issue these long-term bonds, it has carefully used the opportunity to develop a market for these issues. As a result, there is a better balance in the maturity distribution of outstanding issues, and the average maturity period of these issues no longer is becoming shorter. In fact, the average length of time to maturity presently is the highest it has been since fiscal year 1973, and it is still just short of 3 years—2 years and 11 months.

The committee has been sparing in its extension of this authority especially during the past 2 years. The committee has tried to avoid too great an increase in long-term issues during the recent recession so that the interest rates on long-term bonds—both corporate and Government—would continue to fall and major, private capital formation would become and remain economically viable.

TEMPORARY LIMIT EXPIRES FRIDAY

The House is considering this bill only 2 days before the current temporary debt limit expires. In past years, there was grave concern that the public debt limit bill might not be passed before the existing limit expired. That situation faces us now, and the House Members may be interested in learning what could happen if the bill is not passed this week.

The Treasury Department anticipates that it will have a large enough cash balance on Monday morning to meet Federal outlays through Thursday, October 6. This balance and estimated tax receipts next week will be enough to cover expenditures for monthly payments to retirees under the social security and civil service programs and beneficiaries of the supplemental security income, VA, public assistance, medicare, unemployment insurance, and revenue sharing and antirecession fiscal assistance programs.

Since there would not be borrowing authority available for any new issues of Federal debt, $5.8 billion in maturing Treasury bills would have to be paid off instead of being renewed. No new savings bonds could be issued after this week. Payments could not be made from the social security trust fund, because the Treasury Department would not have funds with which to redeem the Federal securities in which the reserves are invested. The Treasury would be limited to paying bills with the amounts of tax and other receipts that are received each day. No further payments could be made under the programs I have just named, payrolls could not be met, and payments to Federal contractors would cease.

Mr. Speaker, this bill provides the administration with enough additional borrowing authority to meet fiscal year 1978 needs within the limits set by the second concurrent budget resolution.

Mr. Speaker, I urge the adoption of this bill, today, so that the Treasury Department will be able to make payments on the Federal Government obligations that have already been authorized and for which appropriations have been enacted.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the second time in less than a week that the House has had to consider an extension and increase in the public debt limit.

That the proposal before us today is $2 billion lower than the one we rejected last week is irrelevant to the issues raised by this hoary and outworn ritual. Far from constituting an improvement, this cosmetic reduction only calls attention to the cynicism and duplicity that has long surrounded the debt limit device.

This procedure of setting a limit on the amount of debt the Treasury can incur has been labeled repeatedly and accurately as a charade and a deception.

It is a charade because as a fiscal measure it does nothing to curb the growth of public debt. It merely puffs upward every time the debt expands, much like the cover on a bowl of dough left to rise too long. All the pressure is upward, and the debt limit does nothing to push the size of indebtedness back down.

It is a charade also because of the outrageous implication that only $400 billion of the total is "permanent" while the remaining $373 billion is "temporary." No one in this Nation—in Congress or elsewhere—could possibly be expected to believe that any portion whatsoever of this debt is temporary when there has been a budget surplus which could be applied toward debt reduction in only 1 year out of the last 18. Even the election of a President pledged to balance the Federal budget by 1981 has not diminished the growth of the debt. At a projected $61.2 billion for the upcoming fiscal year, the Nation's indebtedness is spinning merrily along, completely unencumbered by the flimsy restraints of the debt limit. Perpetuating the fiction of a "temporary" debt limit convinces no one of the honesty of Government. Unfortunately, however, it does open the door to various kinds of legislative mischief to which this obligatory legislation can be held hostage.

The debt ceiling is a deception, because although it masquerades as a fiscal control device, the real point of control occurs, as we all well know, much earlier in the legislative process when the votes are taken which mandate Federal Government spending. Once the spending has been agreed to, the majority in Congress has little choice but to permit payment of the resulting bills, even to the extent it means going into debt to do so. For Members of Congress who have promoted and supported an array of expensive programs then to vote against the consequent debt is deceitful, hypocritical or both. The majority in Congress assumes responsibility for the control of the legislative process; it cannot subsequently shrug off responsibility for the costs engendered by its legislative achievements.

In the long run, there are a number of ways to resolve this repetitive and embarassing dilemma. We could abolish the entire debt ceiling, as I proposed in H.R. 9197, so that the Treasury would be permitted to meet whatever levels of indebtedness have been contracted for by Congress. If Congress wishes to maintain a stronger illusion of control over fiscal policy, we could link the ineffective public debt limit to the potentially more effective congressional budget process. The most beneficial but least probable alternative would be for Congress, individually and jointly, to stop enacting measures that result in spending in excess of Federal revenues.

None of these proposals will help us escape the trap in which we find ourselves today. We have only two choices at this point. We can agree to a $773 billion public debt level, only $2 billion less than the objectionable amount voted down last week, and thereby make ourselves accomplices to perpetuating a longstanding fraud on the American people. The practical effect, based on historical realities (and I use the team loosely) is to bring us back a few days earlier next year, to raise the debt ceiling again, rather than to save $2 billion as some will claim in justifying a changed vote today. Or, we can vote against the proposed debt limit once again and thereby share the responsibility for preventing the Government, starting next week, from paying its bills or sending out checks. Neither of these choices is honorable or pleasant. Indeed, confronted with these alternatives, it becomes tempting to vote "present," leaving the responsibility for making the choice to those who ordered the spending in the first place.

Mr. Chairman, regardless of how we resolve this matter today, I urge the Congress, the Committee on Ways and Means and the Rules Committee either

to eliminate this anachronism or to update it by linking it to the budget process. Permitting it to continue any longer amounts to playing russian roulette every year with the credit of the Federal Government at stake. This is an irresponsible risk which ought to be ended.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I support H.R. 9290 to increase the temporary debt limit. This legislation and the process we experience in its enactment is unpleasant but it is necessary.

Our Committee on Ways and Means had to scale the debt limit downward by $2 billion—this reduction was not based on exciting new facts which would establish the basis for a lower debt ceiling. The reduced debt limit will certainly create financing problems as early as June 1978. There is a possibility that these problems might earlier occur. The reduction in the temporary debt ceiling is based upon political expediency, the $773 billion debt ceiling appears to be the maximum acceptable to the House.

The administration would be well advised to note the hostility of the House to further increases in the allowable Federal debt. According to press reports, the President's tax program contemplates an additional deficit of between $15 to $20 billion. This means an additional annual public borrowing of this addition to the public debt.

While Congress will merrily support and embellish any tax cut the President will propose, we can anticipate a corresponding opposition to any increase in the public debt which will be the proximate result of the tax cut proposal.

A tax cut of the dimension suggested by Secretary Blumenthal is certain to create a legislative crisis on the debt ceiling issue.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman and members of the committee, it seems that only yesterday we were here debating this debt ceiling. As a matter of fact, it was just last week.

It appears it was $75 billion last week and this week it is $73 billion. What is a couple of billion dollars among friends?

Mr. Chairman, how did we arrive at the $73 billion figure vis-a-vis the $75 billion figure? We went over to the committee. We had a little meeting at the Committee on Ways and Means. We discussed a few things here and there, and finally the gentleman from Ohio (Mr. VANIK) stood up and said, "Let us drop it $2 billion and see how that flies."

Apparently it will fly, because we are going to be subjected, as we are every time the debt ceiling question comes up, to the horror stories of what is going to happen if we do not pass the debt ceiling. The whole world is going to stop.

Mr. Chairman, we voted for a budget resolution here a week or so ago, and the projected debt or projected deficit was $61.25 billion, or something in that neighborhood.

If that was the case, why do we not simply increase the debt ceiling by that amount; and then if the Committee on the Budget was wrong, we can come back in 2 or 3 weeks and increase the debt ceiling again.

Mr. Chairman, my dear friend, the gentleman from New York (Mr. CONABLE), the ranking minority member on the Committee on Ways and Means, as does my friend, the gentleman from Texas (Mr. BURLESON) favors doing away with this charade; and a charade it absolutely is. However, it is the only game in town by which to call to account those individuals who are willing to vote for more and more expenditures; and then when it comes time to pay the piper, say, "No, I am not going to do it."

Mr. Chairman, in the State of California, for years and years and years, based on our constitution, we must have a balanced budget, which means that by July we must come up with both Houses agreeing on a budget that will balance. If we do not pass the budget, we are subject to the same tales of doom and gloom that we in this body are subject to here today.

One year we decided not to do it. We agreed to disagree with the other body, and the State is still there. It is still there. Nothing happened. We still had a National Guard. The schools continued to operate, and we finally resolved our differences.

Mr. Chairman, I do not believe all the tales of gloom and doom; and I do not think that the Federal Government is going to come to a halt if we vote no on this debt ceiling increase. I do think it is necessary to have this bill come up time and time again to illustrate to the American people that this Congress and its profligate spending are what causes that debt ceiling to rise, and nothing else.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

Mr. CONABLE. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the ranking minority member for yielding me this additional time.

To continue, Mr. Chairman, then when it is time to pay the bills, we can just say, "Gee whiz, we do not want to vote for an increase in the debt ceiling because the taxpayers are not going to like it."

Mr. Chairman, I hope that the taxpayers do not like it. I hope they start talking to all of the Members about this constant increase in the debt ceiling. It is phony, and we are being phony if we vote for all of the marvelous expenditure programs and do not vote to increase the debt ceiling.

Therefore, Mr. Chairman, I would call upon all the Members here today who voted for that new Select Committee on Population to vote for an increase in the debt ceiling because, by doing so, they helped to increase that debt.

Mr. Chairman, we cannot have it both ways. I would sincerely hope that this debt ceiling bill is voted down as it was last week, because there is not any change between this week and last week except $2 billion.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, I agree with a great deal of what the immediately preceding speaker, the gentleman from California (Mr. KETCHUM), said. My credentials are good. I just voted against the Select Committee on Population.

Mr. Chairman, I agree even more with what the gentleman from New York (Mr. CONABLE) has said. He used words like "cynicism," "duplicity," "charade," "legislative mischief," "deceitful and hypocritcal, or both."

I would not dare use words as critical of my fellow Members as that, but since the gentleman used them, I do dare repeat them. But I would like to agree again with the gentleman from California (Mr. KETCHUM) that we should have this operation here from time to time. I do not like his choice of words that it is the only game in town because, in fact, it is a game. We should not make it a game. We do play games with it, however.

Mr. Chairman, I am now going to address myself only to the members of the Committee on Ways and Means whose function it is to bring this legislation to the floor of the House.

There were 13 members of the Committee on Ways and Means itself who voted against increasing the debt ceiling the last time it came up. Of those 13 members, 5 voted for a new pension for World War I veterans and for a new tax credit for people who have their children in college. And they are looking for a miracle to think they can increase the spending and decrease the revenues and not increase the debt. And the miracles do not happen.

I tended to look over to this side of the aisle when I made that statement because that is where most of that came from, not all, but most.

Now, looking over on this side of the aisle, there were 3 members of the Committee on Ways and Means who voted for the budget resolution but voted against increasing the national debt. Well, the budget resolution requires an increase in the national debt. All we are doing is playing games with ourselves when we vote for all of these things and then refuse to vote to increase the debt.

I have no trouble with good, solid conservatives who vote against all of these spending programs and vote against increasing the debt. I have no trouble with good, solid liberals who vote for all of these programs and vote to increase the debt. But I have a lot of trouble with the people who vote for all of these programs and vote against increasing the national debt. They are just playing games.

I wish that we could all just examine our own consciences and our own voting record and go on from there.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I believe I would be happy to associate myself with the remarks of the gentleman from New York (Mr. PIKE). But I would

like to ask the gentleman if he considers my position deceitful in any way since I voted against the budget resolution and for the debt ceiling increase?

Mr. PIKE. Certainly not. I am aware that the gentleman has been a paragon of virtue on this particular issue. I am terribly impressed. I want to make it very clear that I am not talking about the gentleman. But, please, do not too many Members get up and ask me that question because, if they do, the ones who are left will be the people I am talking about.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, I rise in support of the legislation. I wish to associate myself with the remarks of the gentleman from New York (Mr. PIKE) who just spoke before me, but I would like to add something to his comments which, for some reason, he left out, unless I missed it.

Mr. Chairman, we hear a lot from our friends across the aisle about support from this side of the aisle for social programs, spending money as if there was no tomorrow, and then voting against this bill. And I must agree that there is some valid criticism to be directed in that direction. By the same token, it seems to me that the same type of criticism can also be directed just as validly against those Members of this body on both sides of the political aisle who consistently have voted against every defense expenditure, against every expenditure involved in the field of space, for every tax loophole and against the closing of every tax loophole. I must say, in all candor, and maybe I am getting a little too sensitive, and I should not be, that I shudder when I hear one Member commend another Member, as we saw in the case of the debate on the rule, as to how great a service that particular Member has contributed to this legislative body by consistently voting against all the social programs. Very conveniently, however, it was forgotten that that particular Member also has voted consistently for every defense expenditure and for every tax loophole and against the closing of every tax loophole. It seems to me that somewhere along the line we should be a little more consistent.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, when this bill or its counterpart was before us less than a week ago, I voted against it. At that time I indicated that it was the responsibility of those people who had passed the budget resolution which created the enormous deficit, which this deficit financing or borrowing is required to cover, to cast the votes to pass the debt ceiling increase. It is still my position today that it is the obligation of those spenders who voted for the budget resolution to pass this debt increase.

However, Mr. Chairman, it is a matter of some embarrassment, not only to the Congress but to the entire country, that we face an impending crisis in which we may not be able to pay our bills. For that reason and that reason only, I shall vote to support this debt increase bill, with a warning to those on the other side, who continually create further deficits for us to cover, that this is likely to be the last time, and that from now on they are going to have to cover their own excesses; do not come to papa looking for help.

Mr. Chairman, I yield back the remainder of my time.

Mr. ULLMAN. Mr. Chairman, we have no further requests for time.

Mr. CONABLE. Mr. Chairman, I have several more requests. I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, this is one of those debates in which it is so easy to agree with almost everything that has been said. I am terrified to ask the distinguished gentleman from New York (Mr. PIKE) as to where I fit in his scenario, and I suppose I am worried about the gentleman from California's painting of pictures. I am also worried about what happens were we to adopt the Conable strategy, the strategy of my friend, the gentleman from New York, my ranking member—where he says it is so easy to vote "present." Surely, it is easy to vote "present," and that way we can turn around and say, well, that is somebody else's job; that is not mine.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Of course I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I mentioned only the temptation to vote "present." I intend to vote "aye."

Mr. STEIGER. I thank my colleague. That helps me ever so much. The last time I was almost all alone voting "aye," and I did not want to be alone this time.

I am going to vote "aye." I do so because I have become more and more persuaded by my friend, the gentleman from New York (Mr. CONABLE) and my distinguished elder statesman, the gentleman from Texas (Mr. BURLESON) that the whole thing is not worth our fighting and we ought to just get the thing over with. The $2 billion reduction really does not make a "diddley-doggoned" bit of difference but hopefully it is sufficient to convince a few more Members to face up to their responsibility.

Mr. CONABLE. I thank the gentleman for the new word "diddley-doggoned."

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to this resolution H.R. 9290 to increase the temporary debt limit. I believe that the time of accountability for this House was long before we got to this point in time. I tend to agree with my colleague, the gentleman from New York, that those Members who impose all these added expenditures are really the ones who ought to be explaining this debt increase and are the Members who vote for all the big spending bills. But such Members will not do that because in most cases that would not "sell" back in their districts.

The argument is frequently used that if the Congress refuses to increase the debt limit the Government will come to a standstill. No one will get paid, we are told, all Government purchases will halt, and the economy will plunge into a recession. This simply is not so. Tax revenues roll into the U.S. Treasury every day so most bills can be paid.

The question of whether to increase the debt limit boils down to this: Should the Federal Government continuously borrow money to live from day to day, or should it live within its means? Households cannot continuously borrow money to pay for living expenses. Businesses cannot continuously borrow money for their day to day expenses. Even State and local governments cannot continuously borrow money for day to day expenses, or if they do, it does not last long—witness New York. Why then should the Federal Government continue to mortgage the future income of its future citizens to pay for current expenses? Why should the Federal Government ask future generations to pay for benefits being enjoyed today?

Of course the U.S. Government should not. The evils of deficit financing are clear. It unfairly places the burden of present consumption upon future generations. But what is perhaps even worse, it absorbs capital on the open market, drives up interest rates, increases inflation, and discourages investment. Low investment and high inflation brings lower productivity, fewer jobs, and a depressed standard of living.

Today, when the Federal Government attempts to spend more than it receives, it can pay for it two ways: It can print the money, or it can borrow it. The Treasury Department, however, does not have control over the money supply. That belongs to the Federal Reserve System. Beyond the orderly growth in the money supply which the Board of Governors of the Fed directs, the Federal Government cannot print money. Therefore, the only way to pay for its deficit is through borrowing. If we take away the authority of the Government to issue more debt, it has no choice but to spend only what it receives in revenues. Make no mistake about it: If you vote to keep the debt limit where it is, you are voting for a balanced budget. I urge a "No" vote.

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I would like to rise in defense of the great young statesman, the gentleman from Texas, who was misidentified by the gentleman from Wisconsin (Mr. STEIGER). If the great patriot from Texas had his way, there would have to be some other issue which some of the Members who love to demagog on this issue would have to demagog about, because he recognized a long time ago that this is not a very useful fiscal control rod; that if the budgetary process is going to work, it will work, and if it does not, this will not help.

I only regret that the gentleman from Texas (Mr. BURLESON) has chosen to retire before offering what I thought would be a most useful proposal to do away with the debt ceiling device altogether.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I rise in opposition to H.R. 9290. This bill represents an increase of $73 billion over the current temporary debt limit of $300 billion which covers the time period from April 1, 1977, through September 30, 1977.

On Monday, September 19, a bipartisan majority of the House had the wisdom to defeat H.R. 8655, a bill that proposed to increase the so-called temporary debt limit to $375 billion. This responsible action no doubt sent chills through those who believe that an ever-expanding flow of Federal deficit dollars constitutes the ultimate solution to any and all of America's problems. The fact that our national experience of the last 25 years appears to refute this proposition nonetheless seems to have escaped many of them. So now the Ways and Means Committee has stepped into the breach and reported a new and lower temporary limitation which reduces the original $375 billion figure by a whopping $2 billion. Well, at least this is a step, although a very small one, in the right direction. Now, if the committee diligently continues reducing the temporary debt limit at this rate, it will be eliminated in 186½ years.

Appendix IV of the committee report accompanying this bill provides some very depressing statistics from my frame of reference. This schedule, detailing how the national debt has increased since 1917, is replete with the phrase "temporary increase." In reality, there is nothing "temporary" about these legislated temporary debt increases. Such increases are simply added to the public debt total which continually and inexorably moves to ever higher red ink pinnacles. The present debt limitation is thus increased to $773 billion. The permanent debt limitation is $400 billion. To my knowledge, there is no active program anywhere either in Congress or in the executive branch to reduce this huge indebtedness.

As long as the Congress refuses to legislate with fiscal responsibility and continues to annually spend billions in excess tax revenues, the fires of inflation will be fueled by deficit dollars and never go out. There will be further debasement of the dollar's purchasing power, higher prices, reduced capital expenditures by the private sector, retarded economic growth, high interest rates, fewer jobs, and more of the disastrous inflation-recession business cycle.

My vote against this bill and its aforementioned economic effects is a protest I must make and will continue to make until the Congress musters the political courage to put this Government's spending program on a more sound fiscal basis by having as a goal, at least the limiting of Federal outlays to available tax receipts in a given fiscal year.

I would like to help the President achieve his goal of a balanced budget by 1981. In that spirit, I will vote against this bill in the hope it will be defeated and the temporary debt ceiling will be decreased further.

Mr. CONABLE. Mr. Chairman, I yield myself 1 minute.

This is not a moment full of sound and fury signifying nothing. This signifies $73 billion of lost spending. I regret the necessity of paying the country's bills under these circumstances. I think we must do it.

I urge my colleagues to vote "aye."

Mr. THONE. Mr. Chairman, I rise in opposition to H.R. 8655, the temporary increase in the debt limit.

Inflation is the chief worry of the majority of Americans. And the majority in this Congress is the chief cause of inflation. The wild, reckless, deficit spending of the majority in Congress is going to set off yet another round of inflation spiraling out of control.

It now costs the United States $130 million every day of the year just to pay the interest on our national debt. Just the interest on our national debt is now the fourth largest item in our Federal budget.

We have allowed the Federal Government to get completely out of control. Here in metropolitan Washington, the number of Federal employees has increased 25 percent in the past 10 years. In the same period, the amount of office space owned or leased by the Federal Government in the Washington area has increased by 47 percent. The growth of employees is only exceeded by the larger, swankier quarters being provided.

Overall, our Federal spending has quadrupled over the last 15 years. Only once in 17 years has the United States taken in more money than it has spent.

Mr. Chairman, I urge that this bill be defeated. When that is done, I urge that the budget resolution be reconsidered. With only a small across-the-board reduction in all Federal programs, we could make this increase in the debt limit unnecessary.

Today could be the day we turn the tide and turn away from ceaseless deficit spending. To that end, I urge rejection of H.R. 8655.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, no amendments are in order except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day prior to consideration thereof, and said amendments shall not be subject to amendment but may be debated by the offering of pro forma amendments.

The clerk will read.

The Clerk read as follows:

H.R. 9290

A bill to increase the temporary debt limit, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on September 30, 1978, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $373,000,000,000.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of June 30, 1976, entitled "An Act to increase the temporary debt limit, and for other purposes" (Public Law 94-334), is hereby repealed.

SEC. 3. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$17,000,000,000" and inserting in lieu thereof "$27,000,000,000."

Mr. ULLMAN. Mr. Chairman, there are no committee amendments.

The CHAIRMAN. There being no amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DELANEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, pursuant to House Resolution 781, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 213, nays 202, not voting 19, as follows:

[Roll No. 604]

YEAS—213

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Ill.
Annunzio
Applegate
Ashley
Aspin
Badillo
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Danielson
Delaney
Derrick
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Evans, Colo.
Fary
Fascell
Findley
Fisher
Flippo
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Gephardt
Giaimo
Gibbons
Gonzalez
Gore
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Jeffords
Jenkins
Jones, N.C.
Jones, Okla.
Jordan
Kazen
Keys
Kildee
Koch
Krebs
Krueger
LaFalce
Le Fante
Lederer
Leggett
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Markey
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Reuss
Rhodes
Richmond
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
Scheuer
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
St Germain
Staggers
Stanton
Steed
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thornton
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Waxman
Weaver
Weiss
White
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Young, Mo.
Young, Tex.
Zablocki

NAYS—202

Abdnor
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Baucus
Bauman
Beard, Tenn.
Bevill
Biaggi
Blouin
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Coleman
Collins, Tex.
Corcoran
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dellums
Derwinski
Devine
Dickinson
Diggs
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fish
Fithian
Flynt
Forsythe
Fountain
Fowler
Frey
Gammage
Gaydos
Gilman
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harkin
Harsha
Heckler
Hillis
Hollenbeck
Holt
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jenrette
Johnson, Colo.
Jones, Tenn.
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Kindness
Kostmayer
Lagomarsino
Latta
Leach
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
Luken
McDade
McDonald
McEwen
Madigan
Mann
Marks
Marriott
Martin
Mathis
Mattox
Michel
Milford
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Panetta
Pressler
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Regula
Rinaldo
Risenhoover
Robinson
Rogers
Rousselot
Rudd
Runnels
Russo
Santini
Sarasin
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Shuster
Sikes
Skelton
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stangeland
Stockman
Stump
Symms
Taylor
Thone
Traxler
Treen
Trible
Vander Jagt
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Whitehurst
Whitley
Winn
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—19

Bowen
Clawson, Del
Cornwell
Cotter
Cunningham
Dent
Florio
Johnson, Calif.
Lehman
McClory
Marlenee
Patterson
Pepper
Rangel
Roberts
Stark
Teague
Whalen
Wilson, Bob

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Del Clawson against.

Mr. Dent for, with Mr. Bob Wilson against.

Mr. Rangel for, with Mr. Marlenee against.

Mr. Cotter for, with Mr. McClory against.

Mr. Stark for, with Mr. Cunningham against.

Mr. Whalen for, with Mr. Bowen against.

Mr. Florio for, with Mr. Roberts against.

Until further notice:

Mr. Cornwell with Mr. Lehman.

Mr. Pepper with Mr. Patterson of California.

Messrs. BARNARD, THONE, and FORSYTHE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERSONAL EXPLANATION

Mr. KASTEN. Mr. Speaker, last Friday—September 23—I was returning from Wisconsin and missed one rollcall vote that occurred during the session. For the record, I wish to state that had I been present I would have voted "yea" on final passage of H.R. 6796, the ERDA Authorizations for Civilian Research and Development Act.

PROVIDING FOR REPRINTING OF HOUSE REPORT 94-1688 AND HOUSE REPORT 94-1757

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 490) to provide for reprinting of House Report 94-1688 and House Report 94-1757, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 490

Resolved, That there shall be reprinted for the use of the Committee on Government Operations one thousand five hundred copies each of the report entitled "Chemical Dangers in the Workplace", House Report 94-1688, and "Administration of the Federal Employees' Compensation Act", House Report 94-1757.

The SPEAKER. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the reprinting of two House reports distributed by the Committee on Government Operations. The total cost of the printing is estimated to be $884.96.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL ANNOUNCEMENT

Mr. McCORMACK. Mr. Speaker, I would like to inform the Members of the House that we are sponsoring a solar energy exhibition in the Cannon House Office Building at this time. We have had a solar energy seminar going on over there all afternoon. There is a reception scheduled at 5:30 p.m. for all Members of the House.

There is a large number of displays on solar energy collectors and heating systems for the Members to see. I want to remind the Members that we would like to have them come over and visit us. To repeat, that is in the Cannon House Office Building today, with a reception scheduled at 5:30 p.m.

AUTHORIZING PRINTING, AS A HOUSE DOCUMENT, OF A CERTAIN COMMITTEE PRINT OF THE SUBCOMMITTEE ON THE CITY OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 654) authorizing the printing, as a House Document, of a certain committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 654

Resolved, That the committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs entitled "Toward a National Urban Policy" be printed as a House document.

SEC. 2. In addition to the usual number, there shall be printed two thousand copies of such document for use by the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. (Mr. BROWN of California). The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, this resolution provides for the printing as a House document of additional copies of a committee print entitled, "Toward a National Urban Policy", for the Committee on Banking, Finance and Urban Affairs.

The total cost involved is $2,940.23.

The SPEAKER pro tempore. Does the

gentleman from California (Mr. HAWKINS) request additional time?

Mr. HAWKINS. No, Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

May I say to the gentleman from California (Mr. HAWKINS) that I am a member of this committee, and I have not heard any great reasons as to why we have to act concerning this report with such urgency.

Could the gentleman tell me why we need this extra funding for this report?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, the resolution was submitted by the gentleman from Wisconsin (Mr. REUSS).

Mr. ROUSSELOT. Yes. After reading the press release this weekend, I was sure that they would want to put out a lot of material. Does the gentleman know why we need this print so urgently?

Mr. HAWKINS. There are no copies available at the present time. The information that was furnished to the gentleman from Wisconsin (Mr. REUSS) by the committee indicated that they had many requests for the document. Therefore, the committee did unanimously approve it without any opposition.

Mr. ROUSSELOT. The Committee on House Administration does not really have any information as to why this is so important, does it? It has not been discussed with the Committee on Banking, Finance and Urban Affairs, as I understand.

Mr. HAWKINS. If the gentleman will yield further, the committee does not consider the merits of the case or whether or not there is agreement or disagreement with the findings which are published in the report.

We assume that the chairman of the committee is speaking, in effect, for the committee; and that when copies are requested by the committee to be used by the committee, there is no further information that would be contrary to what was presented to the committee.

Mr. ROUSSELOT. Mr. Speaker, I will have to admit to my colleague that this is a lot less money than we normally spend; but there has been no discussion in the committee as to the urgency of this printing. Therefore, I just do not understand why the urgent need for it. I do know that the chairman is very anxious to publicize all his thoughts and ideas on this subject, so I assume this is somewhat of a personal document for him.

Mr. HAWKINS. Mr. Speaker, I can assure the gentleman that this is a very minor mistake, if it is a mistake at all.

We certainly, I think, must assume the integrity of the chairman of the committee. When the committee says that they need the document and that they have many outstanding requests for the document, we assume it is needed. It is on that basis that the committee reported the resolution out. As I say, both in the subcommittee and in the full committee no one presented any opposition to the resolution.

Mr. ROUSSELOT. Mr. Speaker, it was never discussed in committee. We were never informed or alerted to the fact that this matter was coming up. I am sure there is great reason for it, and that if the chairman of the committee was here he would explain to us the urgency.

Mr. Speaker, I withdraw my reservation of objection.

Mr. HAWKINS. Mr. Speaker, I again move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF "OUR FLAG" AS A HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 204) to authorize the printing of a revised edition of "Our Flag" as a House document, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 204

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edition of "Our Flag", revised under the direction of the Committee on House Administration.

SEC. 2. In addition to the usual number of copies, there shall be printed two hundred and seventy-six thousand additional copies, of which two hundred and twenty-four thousand copies shall be for the House of Representatives, and fifty-one thousand five hundred copies shall be for the use of the Senate.

With the following committee amendment:

On line 8, after "sand" and before "copies" insert "five hundred".

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this authorizes the printing as a house document of a revised edition of "Our Flag." This is a document that I believe is familiar to every Member. It is extensively used by the Members. This simply brings it up to date. It is a routine resolution which is authorized in every session of the Congress.

I know of no objection to the resolutions and the amendment.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF REVISED EDITION OF "OUR AMERICAN GOVERNMENT" AS A HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 205) to authorize the printing of a revised edition of "Our American Government" as a House document, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 205

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edition of "Our American Government", revised under the direction of the Committee on House Administration.

SEC. 2. In addition to the usual number of copies, there shall be printed five hundred and fifty-six thousand additional copies, of which four hundred and fifty-three thousand copies shall be for the use of the House of Representatives, and one hundred and three thousand copies shall be for the use of the Senate.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the Committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following: That there shall be printed as a House document a revised edition of "Our American Government," revised under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number of copies, there shall be printed 556,000 additional copies, of which 443,000 copies shall be for the use of the House of Representatives, 103,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this concurrent resolution is again one which is renewed in each session. It simply brings up to date a revised edition of the pamphlet entitled "Our American Government."

I believe that all of the Members are familiar with this document and use it, particularly in distributing it to schools and other groups within their districts. This includes the usual number to be printed, there is no increase in the number to be printed. It is simply a revised edition and provides for its distribution.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

PROVIDING FOR PRINTING OF 100,000 ADDITIONAL COPIES OF SUBCOMMITTEE PRINT OF SUBCOMMITTEE ON CONSUMER AFFAIRS OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS ENTITLED "GIVE YOURSELF CREDIT: GUIDE TO CONSUMER CREDIT LAWS"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 241) providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws," and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 241

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document the report by the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

SEC. 2. In addition to the usual number of copies, there shall be printed 100,000 copies of the report referred to in the first section of this concurrent resolution for use by the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following: That there shall be reprinted for the use of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs one hundred thousand copies of House Document No. 95–167 entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this concurrent resolution provides for a reprint of a House document entitled "Give Yourself Credit: Guide to Consumer Credit Law."

The Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs has distributed its previous supply and is still receiving, according to information received by the subcommittee, about 1,000 requests a day. High schools and universities have been the main distributors of this booklet as a teaching guide for courses in consumer credit. In the subcommittee and the full committee there was no opposition expressed to the resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Maryland for the purpose of discussion only.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, the only reason I take this time is that I want to make a plea to the gentleman from California (Mr. HAWKINS) and the other members of the Committee on House Administration that in the past it has always been the custom here to inform the Members of the House at least a day in advance that these types of resolutions were going to be brought up so that those of us who might care to read them would have the privilege of knowing exactly what is going to be considered. This pending resolution is a good example of the necessity. I have no thought that it would be defeated if I demand a rollcall vote, which I could easily do, but it is for the printing of 100,000 copies of a report that is not a House document dealing with legislation, but some little goodie that the subcommittee dreamed up. The previous printing, it indicates, was 20,000 copies. Now we are going to 100,000 at a cost of $40,000.

For the life of me, I do not know why a subcommittee of the Congress ought to be providing booklets to be used as teaching guides in schools that ought to be paid for by local school systems. So if nothing else, I hope the gentleman would give the House the courtesy of telling us what the heck they are bringing out of this committee. In fact, I had been told that this resolution would not come up, that the gentleman's staff had informed the minority that this would not be called up today.

Mr. HAWKINS. May I say I agree 100 percent with what the gentleman has said. It was my information that suitable notices were given to the other side and that they have been very familiar with our efforts since August 1. The report was filed on August 1. This is about the fifth attempt we have made to bring the resolution up. Suitable notices were given, I think, to everyone who was interested in the resolution each time we attempted to bring it up. This is a further attempt to bring it up today, which we hope will succeed. But I can assure the gentleman that the chairman of this subcommittee has sought to give suitable notices to all of the individuals involved, certainly the ranking minority member of the subcommittee, whose presence I noted a few minutes ago, and also at the staff level. I regret if the gentleman from Maryland was not aware of it. If it is of any importance, I certainly will hereafter include the gentleman from Maryland among those who are notified.

Mr. BAUMAN. If the gentleman will yield further, the gentleman is very kind. I am not asking for any special notice. All I am saying is that the past practice has been that the gentleman's committee would announce such the day before several printings would be considered, or the majority leader would do that, or somebody would tell us what is going on around here. We are getting into an awful lot of trouble around here because they do not. I am sure this printing is a duplication of several other booklets that several other agencies have already printed. But just let us know what the gentleman's committee is doing.

Mr. HAWKINS. Hereafter I will try to comply with the gentleman's request. I deem it something more than mere courtesy. I think it is an obligation for those of us who bring these matters before the House to notify everyone as reasonably as we possibly can.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentlewoman from New Jersey for purposes of debate only.

Mrs. FENWICK. I have just a question. I thank my colleague for yielding. Can the gentleman assure this House that such booklet is not being printed by any other agency of Government, in other words, that the Department of Commerce or the Federal Trade Commission, or any other agency, is not putting out such a booklet?

Mr. HAWKINS. I can certainly assure the gentlewoman that to my knowledge no other agency is printing it. Whether it is being reproduced by someone in the private sector, I have no knowledge of that. So far as I know, this is the only printing that is being done.

Mrs. FENWICK. Were inquiries made so as to assure us of this? Would the gentleman care to respond to this? Would the chairman of our subcommittee respond to this?

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield I will respond.

Mr. HAWKINS. I will be glad to yield to the gentleman from Illinois to respond to this.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 241 calls for the printing of 100,000 copies of the House Document "Give Yourself Credit" which was published by the Consumer Affairs Subcommittee.

This is one of the most important documents that has ever been published by the Congress since it tells both consumers and businessmen alike what their rights are under the various consumer laws.

The publication is printed for the most part in question and answer format, and includes copies of all the consumer credit laws for those who wish to become more technically familiar with the various laws.

Mr. Speaker, this publication has been hailed by consumers and business groups across the country. Originally some 2,000 copies were printed and subsequently a resolution for the printing of 20,000 additional copies was passed. Those copies were quickly distributed to people in every State of the Union who have been writing by the thousands. The Consumer Affairs Subcommittee has been receiving requests for the book at the rate of 700 to 1,000 a day. These are not multiple requests where we would send 100 or even 1,000 to one organization, they are individual requests from your constituents and mine. We have received requests

from most Members of Congress for copies of the book, and a number of newspapers and magazines have reprinted major portions of the booklet on their own.

Mr. Speaker, I would like to point out that this publication only informs consumers and businessmen what their rights are under State and Federal law. We do not attempt to give legal advice nor do we in any way attempt to interfere in State laws. What we are trying to do is make it easier for our constituents to understand some of our laws, and I think this is a most worthwhile function of Congress.

The book has been praised by the media across the country. We have not received a single negative comment about the book. The only problem we have had is keeping up with the demand.

Mr. Speaker, businessmen across the country have expressed concern that there are too many technical lawsuits dealing with consumer laws. One of my hopes is that this book will help prevent such lawsuits since it will explain to consumers their rights before they get into trouble and, thus, should have a great effect on eliminating the technical nuisance suits.

I urge the adoption of the resolution.

Mrs. FENWICK. Mr. Speaker, if the gentleman will yield, this is the first time I have heard of it.

Mr. ANNUNZIO. We sent the gentlewoman copies of the booklet.

Mrs. FENWICK. I thank the gentleman.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just passed and the other previous resolutions on printing reported by the Committee on House Administration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8638, with Mr. PREYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 23, 1977, all time for general debate on the bill had expired.

The Clerk will read the bill by titles.

The Clerk read as follows:

H.R. 8638

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Nuclear Antiproliferation Act of 1977".

STATEMENT OF POLICY

SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive capability poses a grave threat to the security of the United States and to continued international progress toward world peace. Recent events emphasize the urgency of this threat and the imperative need to increase international cooperation to implement effective safeguards and controls on peaceful nuclear activities in order to prevent further proliferation of nuclear explosive capability. Accordingly, it is the policy of the United States to—

(1) pursue actively through international initiatives the establishment of more effective international controls over the transfer and use of nuclear materials or equipment and sensitive nuclear technology for peaceful purposes, including the establishment of common international sanctions to prevent such proliferation;

(2) take such actions as are required to enhance the reliability of the United States as a supplier of nuclear fuel to nations which share our antiproliferation policies;

(3) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date;

(4) aid nations, pursuant to article IV of the Treaty, in identifying and adopting appropriate technology for energy production through conventional, nuclear, and non-nuclear alternate sources, consistent with the resources and environmental protection concerns of those nations;

(5) seek to preserve and enhance the deterrent effect of international safeguards by assuring that the peaceful nuclear activities and exports to which they are applied are such as to permit warning time of diversion comparable to that which has traditionally obtained in the low-enriched uranium fuel cycle without reprocessing; and

(6) assure all nations of the world that the United States, as a matter of national policy, will impose conditions on its own nuclear exports, including international safeguards and physical security guidelines at least as stringent as those collectively adopted by other nuclear supplier nations, and will act in a manner which will maintain and enhance the comprehensiveness and effectiveness of such international safeguards and physical security guidelines.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth in section 2 by—

(1) providing for a full and comprehensive assessment of the risks of proliferation in the negotiation, review, and renegotiation of agreements for cooperation and subsequent arrangements and in the consideration of export applications;

(2) specifying procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments thereto and to review the policies of the United States concerning proliferation;

(3) establishing criteria which will govern exports by the United States of nuclear materials or equipment and sensitive nuclear technology intended for use in peaceful nuclear activities;

(4) specifying United States initiatives to seek the negotiation of international agreements for effective and comprehensive international controls, sanctions, and physical security measures, to establish international arrangements or other mutual undertakings to provide nuclear fuel services to those countries which adhere to stringent antiproliferation policies and practices, and to strengthen the International Atomic Energy Agency;

(5) supporting such actions by the United States as are required for it to assert itself as a reliable supplier of nuclear fuel to nations which share our antiproliferation policies; and

(6) providing incentives to the other nations to join in the cooperative international antiproliferation efforts described above.

TITLE I—UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION

INTERNATIONAL NUCLEAR CONTROL COMMITMENTS

SEC. 101. The United States shall immediately seek to achieve from all nations and groups of nations stronger and more comprehensive commitments to adhere to the antiproliferation principles and the other objectives set forth in this Act, and to develop adequate means and mechanisms for insuring such adherence. Accordingly, the president shall take immediate steps to seek to have all nations and groups of nations, including nuclear supplier nations, commit themselves to international arrangements or other mutual undertakings in furtherance of the following objectives:

(1) Preventing the use of nuclear materials or equipment and sensitive nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear weapon State for nuclear explosive devices for any purpose.

(2) Achieving universal application of International Atomic Energy Agency safeguards to all peaceful nuclear activities in, under the jurisdiction of, or under the control of non-nuclear weapon States.

(3) Establishing and maintaining adequate physical security measures by all nations or groups of nations on all of their activities.

(4) Ensuring that special nuclear material exported by or in the possession of the parties to any such international arrangement or mutual undertaking, and that all special nuclear material produced in or through the use of any nuclear materials or equipment or sensitive nuclear technology transferred internationally by such parties, is subject to adequate physical security measures to ensure their protection against acts of terrorism, sabotage, and theft.

(5) Otherwise preventing the further spread or acquisition of nuclear materials or equipment or sensitive nuclear technology that will assist, encourage, or induce, any non-nuclear weapon State to manufacture or otherwise acquire any nuclear explosive device.

(6) Adopting specific principles and procedures, including common international sanctions, to be followed in the event a nation violates any material obligation with respect to the peaceful use of nuclear materials or equipment or sensitive nuclear technology or in the event that any nation violates the principles of the Treaty, including the manufacture or acquisition by a non-nuclear weapon State of a nuclear explosive device.

(7) Establishing international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or equipment or sabotage of nuclear facilities and for recovering nuclear materials or equipment that have been lost or stolen or that have been obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

(8) Protecting the international environment from radioactive, chemical, or thermal contamination arising from peaceful nuclear activities.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 102. The Administrator of Energy Research and Development, in consultation with the Nuclear Regulatory Commission, shall establish and operate a training program on physical security and national safeguard responsibilities to be made available to persons from nations which have, or may be expected to develop or acquire, nuclear materials or equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

INTERNATIONAL FUEL CYCLE EVALUATION

SEC. 103. The President shall institute an immediate initiative to establish an intensive international fuel cycle evaluation involving other nuclear supplier and recipient countries to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on separation of pure plutonium or the presence of highly enriched uranium and problems related to spent fuel storage. The President shall, in the first annual report submitted to the Congress pursuant to section 601 of this Act, detail the progress of the international nuclear fuel cycle evaluation.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read through title I, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer a series of technical amendments which accomplish the same purpose, that is to substitute the term "Secretary of Energy" for "Administrator of ERDA" throughout the bill, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. BINGHAM: Strike the reference to the 'Administrator' and/or the "Administrator of Energy Research and Development" in the following instances and insert in lieu thereof the following: "Secretary of Energy".

Page 7, lines 12–13,
Page 10, lines 1–2,
Page 17, lines 10–11 and line 17,
Page 18, line 3,
Page 20, lines 14–15,
Page 22, line 13,
Page 23, lines 21–22.
Page 25, line 10,
Page 26, line 4 and line 25,
Page 24, line 3 and lines 22–23,
Page 27, line 1, line 3 and lines 11–12,
Page 28, lines 14–15,
Page 35, lines 5–6,
Page 41, lines 1–2 and lines 21–22,
Page 44, lines 15–16 and line 20,
Page 45, lines 13–14.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York that the amendments be considered as read and considered en bloc?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. BINGHAM).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title I of the bill? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL ATOMIC ENERGY AGENCY

INTERNATIONAL ATOMIC ENERGY AGENCY PROGRAMS AND CAPABILITIES

SEC. 201. The United States is committed to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter further proliferation. Accordingly, the United States will continually seek to act with other nations to strengthen the Agency through contribution of technical resources, support, funding, and by—

(1) continuing to strengthen the safeguards program of the Agency and, in order to implement this initiative, contributing funds, technical resources, and other support to assist the Agency in effectively implementing safeguards;

(2) assuring that the Agency has the resources to carry out the provisions of article XII, relating to "Agency Safeguards", of the Statute of the International Atomic Energy Agency, including support needed to provide for the storage under international supervision of special nuclear material which is sensitive from the standpoint of preventing proliferation;

(3) improving the Agency's safeguards system (including accountability) to insure—

(A) the timely detection of a possible diversion of special nuclear materials which could be used for nuclear explosive devices,

(B) the timely dissemination of information regarding such diversion, and

(C) the timely application of procedures in the event of such diversion;

(4) assuring that the International Atomic Energy Agency receives the data needed for it to administer an effective and comprehensive international safeguards program; and

(5) assuring that the Agency provides to the world community results of Agency inspection and monitoring and timely notice of any evidence of violation of safeguards agreements to which it is a party.

MEASUREMENT STANDARDS STUDY

SEC. 202. The Secretary of Commerce (acting through the National Bureau of Standards), the Administrator of Energy Research and Development, and the Nuclear Regulatory Commission shall, in consultation with the Secretary of State and the Director of the Arms Control and Disarmament Agency, work cooperatively to establish a program to develop reference methods and standards for measuring nuclear materials and other substances with sufficient accuracy to insure that consistent and compatible measurements can be made at all points of the nuclear materials safeguards system. These methods and standards may be made available, in accordance with the Atomic Energy Act of 1954, to the International Atomic Energy Agency for such safeguards purposes and to nations and groups of nations selected for such assistance by the officials and agencies designated in the first sentence of this section.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: Page 9, on line 24, strike all through page 10, line 15.

Mr. McCORMACK. Mr. Chairman, in reviewing this bill we found that section 202 duplicates a program that is already in existence in the Energy Research and Development Administration. The same agencies are involved in all cases: the Nuclear Regulatory Commission, the National Bureau of Standards, the new Department of Energy, the Arms Control and Disarmament Agency and the IAEA. Finding this complete duplication, I offer this amendment to delete section 202 from the bill.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would like to say that the gentleman from Washington has been extremely cooperative in working out agreements on various aspects of this legislation. The gentleman has pointed out this duplication. The section in the bill was originally requested by the administration, but we understand that the administration is now satisfied that it is taken care of in the ERDA authorization.

Mr. Chairman, we have no objection to the amendment.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I have had a chance to examine the amendment and consult with the author and I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—UNITED STATES INITIATIVES FOR ASSURING ADEQUATE NUCLEAR FUEL SUPPLY

ENRICHMENT SERVICES

SEC. 301. The United States shall take such actions as may be necessary to ensure a reliable supply of enriched uranium to those

nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, and which adhere to policies and practices set forth in this Act which are designed to prevent proliferation. Such enrichment services shall be provided under agreements entered into pursuant to section 161 of the Atomic Energy Act of 1954 or as otherwise authorized by law. The United States will strive to assure that it will have available the capacity to carry out this policy on a long-term basis. As a matter of national policy, the United States shall, on a timely basis, issue licenses for, or otherwise authorize the export of, nuclear materials or equipment, when all the applicable statutory requirements are met.

INTERNATIONAL NUCLEAR FUEL DEMAND STUDY

SEC. 302. The President shall institute prompt discussions with other nations or groups of nations to develop multilateral approaches for meeting future worldwide nuclear fuel needs. In the first annual report submitted to the Congress pursuant to section 601 of this Act, the President shall report on feasible options for the establishment of multinational facilities for the provision of nuclear fuel services under international auspices and inspection. Such report shall include—

(1) an evaluation of alternative management and financing arrangements for such facilities, including a specific discussion of the establishment of international storage facilities for weapons-usable material and irradiated fuel elements, and of methods for the acquisition and transportation of irradiated fuel elements located in non-nuclear weapon States;

(2) an assessment of what incentives would be practicable and necessary to motivate non-nuclear weapon States to join in international arrangements or mutual undertakings in lieu of seeking to obtain national nuclear fuel service facilities; and

(3) specific recommendations on steps to be taken by the United States to promote the establishment of such international arrangements or mutual undertakings, including a discussion of the desirability of placing existing and future United States nuclear fuel service facilities under international auspices.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to title III of the bill? If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV—AGREEMENTS FOR COOPERATION

SEC. 401. Section 123 of the Atomic Energy Act of 1954 is amended to read as follows:

"SEC. 123. COOPERATION WITH OTHER NATIONS.—No cooperation with any nation or regional defense organization pursuant to section 53, 54a, 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until the following conditions have been met:

"a. The proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guarantee by the cooperating party that the safeguards set forth in the agreement for cooperation will be maintained with respect to all nuclear materials or equipment transferred pursuant thereto, and with respect to all special nuclear material produced through the use of such nuclear materials or equipment, so long as such materials or equipment remain under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason; (3) in the case of a non-nuclear weapon State, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that International Atomic Energy Agency safeguards be maintained with respect to all nuclear materials or equipment in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere; (4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guarantee by the cooperating party that any nuclear materials or equipment to be transferred pursuant to such agreement, and any special nuclear material produced through the use of any nuclear materials or equipment transferred pursuant to such agreement, and any sensitive nuclear technology transferred pursuant to any such agreement, will not be used for atomic weapons or any nuclear explosive devices, for research on or development of atomic weapons or any nuclear explosive devices, or for any other military purpose; (5) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear weapon States, a stipulation that United States cooperation under the agreement for cooperation shall cease if the cooperating party detonates a nuclear explosive device, terminates or abrogates an agreement providing for International Atomic Energy Agency safeguards, or materially violates an Agency safeguards agreement or any guarantee it has given under the agreement for cooperation; (6) a guarantee by the cooperating party that any nuclear materials or equipment or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91 c., 144 b., and 144 c., any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any nuclear materials or equipment transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the express written consent of the United States; (7) a guarantee by the cooperating party that adequate physical security will be maintained with respect to any nuclear materials or equipment transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any source or special nuclear material or any production or utilization facility transferred pursuant to such agreement; (8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guarantee by the cooperating party that no source or special nuclear material transferred pursuant to the agreement for cooperation and no source or special nuclear material used in or produced through the use of any source or special nuclear material or any production or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed or otherwise altered in form or content without the prior approval of the United States or stored in any facility that has not been approved in advance by the United States; (9) except in the case of an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guarantee by the cooperating party that it will furnish a report or permit the International Atomic Energy Agency to furnish a report to the United States, in accord with a request of the United States, on the status of all inventories of source or special nuclear material possessed by that cooperating party and transferred to it pursuant to an agreement for cooperation with the United States, and in addition, in the case of a cooperating party that is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons, a guarantee by that party that it will furnish a report or permit the Agency to furnish a report to the United States, in accord with a request of the United States, on the status of all inventories of source or special nuclear material possessed by that cooperating party and subject to Agency safeguards; and (10) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guarantee by the cooperating party that any special nuclear material, production facility, or utilization facilities produced or constructed in the territory of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the guarantees specified in this subsection. The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., or 144 c.) from any of the requirements of the preceding sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States antiproliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the assistance and concurrence of the Administrator of Energy Research and Development and with the assistance of the Director of the Arms Control and Disarmament Agency, and shall be submitted by the Secretary of State, after consultations with the Nuclear Regulatory Commission, to the President, together with the views and recommendations of the Secretary of State, the Administrator, and the Director who shall provide to the President an unclassified Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the proposed agreement for cooperation shall be submitted to the President by the Administrator of Energy Research and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense.

"b. The President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security.

"c. The proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approvel and determination of the President, has been submitted to the Congress and a period of 30 days has elapsed while Congress is in session (excluding the days on which either House is not in session because of an adjournment of more than 3 days); except that the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, after submission of such agreement for cooperation, may by resolution in writing waive all or any portion of such 30-day review period.

"d. The proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54a, 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) together with the approval and determination of the President, has been submitted to the Congress, together with any required Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, and a period of 60 days has elapsed while Congress is in session (excluding the days on which either House is not in session because of an adjournment of more than 3 days). Such proposed agreement for cooperation shall not become effective if, during such 60-day period, the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed agreement for cooperation. Prior to the elapse of the first 40 days of any such 60-day period the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate shall submit to their respective Houses a report on their views and recommendations with respect to the proposed agreement and an accompanying proposed concurrent resolution stating in substance that the Congress favors or does not favor, as the case may be, the proposed agreement for cooperation. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within 10 days and shall be voted on within 5 calendar days thereafter, unless such House shall otherwise determine.

"e. Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Congress, the Nuclear Regulatory Commission, the Secretary of State, the Administrator of Energy Research and Development, the Director of the Arms Control and Disarmament Agency, and Secretary of Defense shall, upon the request of either the Committee on Foreign Relations of the Senate and Committee on International Relations of the House of Representatives, promptly furnish to those committees their views as to whether the safeguards and other controls contained in the proposed agreement provide an adequate framework to insure that the export of any nuclear materials or equipment contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.".

RENEGOTIATION OF AGREEMENTS

SEC. 402. The President shall initiate an immediate program to renegotiate agreements for cooperation in effect on the date of the enactment of this Act, or otherwise to obtain the agreement of parties to such agreements, to the undertakings that would be required for new agreements under this Act. The President shall also institute an immediate initiative to seek international arrangements or other mutual undertakings with nuclear supplier nations for the application of the policies contained in section 123 a. of the Atomic Energy Act of 1954, as amended by section 401 of this Act, by such nations as nuclear export guidelines.

SAVINGS PROVISION

SEC. 403. The amendment to section 123 of the Atomic Energy Act of 1954 made by section 401 of this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act. This section shall not affect (1) the responsibility of the President under section 402 of this Act to seek to renegotiate the provisions of such agreements, or (2) the provisions of title V of this Act with respect to exports made pursuant to such agreements.

REVIEW

SEC. 404. No court or regulatory body shall have any jurisdiction under any law to compel the preparation of, or to review the adequacy of, any Nuclear Proliferation Assessment Statement required by this Act.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that title IV of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 15, line 10 strike everything following the semicolon down through the semicolon in line 22 of the same page and insert in lieu the following:

"(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be processed, or (in the case of plutonium, U-233, uranium enriched to greater than 20 percent in the isotope 235, or in the case of other nuclear materials after irradiation) otherwise altered in form or content without the prior approval of the United States; (9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, no U-233, and no uranium enriched to greater than 20 percent in the isotope 235 transferred pursuant to the agreement for cooperation, or recovered from any source of special nuclear material so transferred or from any source or special nuclear material used in cooperation, will be stored in any facility transferred pursuant to the agreement for copoeration, will be stored in any facility that has not been approved in advance by the United States;"

On page 15, line 22 strike the number "9" and insert in lieu thereof the numeral "10".

On page 16, line 15 strike the numeral "10" and insert in lieu thereof the numeral "11".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Chairman, this amendment, like several others that I will offer, was the result of consultations with the administration, both before and after our first appearance before the Committee on Rules. They were submitted to the administration in correspondence which appears on page 30294 of the RECORD of September 22, 1977. On the basis of that correspondence, we were advised by the Secretary of State that the administration supports the bill in every respect, with the exception of provisions dealing with congressional veto by concurrent resolution.

This amendment was requested by the administration to correct an error in the administration's own original bill. It clarifies certain requirements with respect to the U.S. approval for storage facilities and U.S. approval for certain fuel cycle activities. It substitutes two subparagraphs for the one that appears in the bill. It is rather technical. I would emphasize that it is at the suggestion of the administration that we offer this amendment.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I would like to express my support of the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the amendments being offered by the manager of the bill, Mr. BINGHAM, and urge that they be accepted by my colleagues. While I had substantial reservations about the bill as reported, and voiced those objections at the initial meeting of the Committee on Rules, subsequent meetings between the committee, administration, industry and staff have produced a package of amendments and floor dialog which resolve my concerns. I am pleased that in just about 1 week we have transformed a potentially divisive situation into one where I think all Members can rise in support of this bill as amended.

I would like to make clear for the record two important matters regarding the amendments being offered today by my colleague from New York, Mr. BINGHAM. They are absolutely central to my support for the bill and I think they are central to this Nation as well as we begin to implement the kind of nuclear fuel cycle activities contemplated under the bill.

First of all, the committee report language regarding timely warning and how timely warning was to be interpreted was the principal reason I rose in opposition to granting H.R. 8638 a rule when the committee appeared before the Rules Committee. It was my opinion then, and remains so now, that the report language and the bill itself would have prevented critical negotiations between the United States and other nuclear suppliers on how to establish a safe and effective nuclear fuel cycle safeguards system.

The timely warning criterion, while important, should not be the sole criterion. If it were treated as the sole criterion, it would have severely limited the influence the United States could expect to have in the ongoing discussions to renegotiate agreements for cooperations, develop agreements and understandings on nuclear fuel cycle controls within the context of supplier agreements as well as those discussions contemplated under the President's international nuclear fuel cycle evaluation program.

It is my understanding that it is equally important in these discussions for U.S. representatives to consider the nuclear proliferation policies of the recipient country, the risk involved in a particular export, the size and scope of nuclear activities contemplated in the recipient country and the other relationships (including military) which we or other allies may have with that country. While the language of the amendment now contains specific instructions to consider timely warning to be foremost, it is my understanding that in order to develop an export relationship with any country, these other criterion must be addressed in an equally serious way to protect the other legitimate national security, political and economic interests of this Nation.

The second concern that I have, Mr. Chairman, is the lack of a firm statement of the intent of the United States under this legislation regarding ongoing and new commitments to export nuclear material and technology under this legislation. In my opinion, and central to my support for the bill, is the understanding that this Nation will be a reliable and consistent nuclear supplier provided that the terms of this bill have been agreed to or the recipient country has agreed to other more encompassing terms which may be a part of any ongoing nuclear fuel cycle agreement which we may reach bilaterally or multilaterally as for instance, part of a multination nuclear fuel cycle agreement.

It is my understanding that once umbrella agreements have been reached which satisfy the requirements of this bill or other agreements necessary for the exchange, trade can take place without fear of harassment by any agents of the U.S. Government, including the Congress. While the United States will insist on accurate and timely reporting as will be required under law, the U.S. Government will not arbitrarily interfere with nuclear commerce under the terms of the agreement provided that no violations of the agreement have taken place. It is my understanding that prior approval and prior written consent can, and must, include consent written into the formal agreements or mutual undertakings contemplated in this bill and such prior consent or approval should be taken as a serious commitment by the Government of the United States to honor the terms of the agreement. To compromise on that commitment, without good and sufficient reason, would be a serious breach of international confidence in an area which is vital to the energy sufficiency of the free world.

Based on these understandings, Mr. Chairman, I want to congratulate the gentleman from New York, Mr. BINGHAM, on the gentlemanly way he has handled a very complex subject, the courtesy dealt me as an interested Member who is not on the committee, and the stature he has shown in developing a bill which in my view will give our negotiators a very strong reading of the intent of the Congress and the Government of the United States regarding how we intend to act in international nuclear commerce. It is a good bill, I encourage Members to support it, and commend the gentleman, thank you Mr. Chairman.

Mr. BINGHAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 19, line 22, immediately after "Senate" insert "(and, in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate)".

Mr. BINGHAM. Mr. Chairman, this formally recognizes the legislative and oversight responsibilities of the Committee on Armed Services with respect to agreements for cooperation dealing with the military applications of atomic energy. These special defense-related agreements are arranged pursuant to subsections 91c, 144b, and 144c of the Atomic Energy Act of 1954, and pertain to such activities as the transfer, sale, lease, or loan of non-nuclear parts of atomic weapons, as well as utilization facilities and materials for military application. We are offering this amendment at the request of the Committee on Armed Services, and we fully sympathize with the concerns of that committee.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield.

Mr. FINDLEY. I have had the opportunity to examine this amendment, and it has my full support.

Mr. BINGHAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

If there are no further amendments to title IV, the Clerk will report title V.

The Clerk read as follows:

TITLE V—EXPORT LICENSING RESPONSIBILITIES

SUBSEQUENT ARRANGEMENTS

SEC. 501. (a) Prior to entering into any subsequent arrangements under agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954), the Administrator of Energy Research and Development shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration the recommendations of the Nuclear Regulatory Commission, the Director of the Arms Control and Disarmament Agency, and the Secretary of Defense, in order to assure that the subsequent arrangements are consistent with the agreements for cooperation and the policy of preventing proliferation. For purposes of this subsection, the term "subsequent arrangements" includes contracts for the furnishing of nuclear materials or equipment; approvals for the reexport of nuclear materials or equipment previously exported pursuant to an agreement for cooperation; approvals for the retransfer of any special nuclear material used in or produced through the use of any nuclear materials or equipment or sensitive nuclear technology previously exported pursuant to an agreement for cooperation; authorization for the distribution of nuclear materials or equipment pursuant to the Atomic Energy Act of 1954; arrangements for physical security; arrangements for the application of safeguards with respect to United States supplied nuclear materials or equipment; approvals for the reprocessing, alteration in form or content, or storage of any exported source or special nuclear material, or any source or special nuclear material used in or produced through the use of nuclear materials, or equipment or sensitive nuclear technology; or any other arrangement which the President finds to be important from the standpoint of preventing the proliferation.

(b) With regard to any source or special nuclear material exported by the United States and any special nuclear material used in or produced through the use of any exported nuclear materials or equipment or sensitive nuclear technology—

(1) the Administrator of Energy Research and Development may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until the Administrator has provided the appropriate committees of Congress with a report containing his reasons for entering into such arrangements and a period of 15 days has elapsed;

(2) the Administrator of Energy Research and Development may not enter into any subsequent arrangement for the reprocessing of any such material in a facility not in commercial operation prior to the date of enactment of this Act or for the subsequent retransfer to any non-nuclear weapon State of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, unless in his view such reprocessing or retransfer will take place under conditions that are designed to ensure the reliable detection of diversion which would provide timely warning to the United States of such diversion well in advance of the time at which the non-nuclear weapon State could transform the diverted material into a nuclear explosive device; and

(3) the Administrator of Energy Research and Development, in cooperation with the Secretary of State, shall attempt to assure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that was in commercial operation prior to the date of enactment of this Act, that such reprocessing shall take place under conditions comparable to those which he finds satisfy the standards set forth in paragraph (2).

GOVERNMENT-TO-GOVERNMENT TRANSFERS

SEC. 502. Section 54 a. of the Atomic Energy Act of 1954 is amended by inserting immediately after the first sentence the following new sentence: "The authority of the Administrator of Energy Research and Development to distribute special nuclear material under this section, other than under export licenses issued by the Nuclear Regulatory Commission (which the Commission is hereby authorized to issue), shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear material to any recipient) (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

TECHNOLOGY TRANSFERS

SEC. 503. Subsection 57 b. of the Atomic Energy Act of 1954 is amended to read as follows:

"b. It shall be unlawful for any person to engage directly or indirectly in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such activity will not be inimical to the interest of the United States. Any such determination by the Administrator shall be made only after consultation with the Secretary of State, the Director of Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, under mutually agreed to procedures which shall be established not more than 90 days after the date of enactment of the Nuclear Antiproliferation Act of 1977. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

EXPORT LICENSING PROCEDURES

SEC. 504. (a) Chapter 11 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 126. EXPORT LICENSING PROCEDURES.—

"a. No license may be issued by the Nuclear Regulatory Commission for the export of any nuclear materials or equipment, no exemption from any requirement for such an export license may be granted by the Nuclear Regulatory Commission, and the Administrator of Energy Research and Development may not distribute any source or special nuclear material under section 54 or 64 of this Act until the Commission or the Administrator, as the case may be—

"(1) has furnished a copy of the license application or proposed exemption or a description of the proposed distribution, as the case may be, to the Secretary of State and has been notified by the Secretary of State that it is the judgment of the Secretary of State and other concerned Government agencies, including the Director of the Arms Control and Disarmament Agency, the Administrator of Energy Research and Development, the Secretary of Commerce, and the Secretary of Defense, that the proposed export will not be inimical to the common defense and security or that the export belongs to a category of exports determined not to be inimical to the common defense and security because they lack significance for nuclear explosive purposes;

"(2) finds that the recipient nation or group of nations has agreed to adhere to the criteria specified in subsection 127 a. or their equivalent and that any other applicable statutory requirements are met, except that, during the 18-month period beginning on the date of enactment of the Nuclear Antiproliferation Act of 1977, the provisions of paragraphs (4) and (5) of subsection 127 a. shall not prevent continued cooperation under agreements for cooperation authorized by section 124 of this Act if nations or groups of nations bound by such agreements have agreed to negotiations as contemplated in section 402 of the Nuclear Antiproliferation Act of 1977 or while the commitments in such agreements are under negotiation; and

"(3) finds that the recipient nation or group of nations has agreed to adhere to the additional criterion established by subsection 128 a. if such criterion is in effect, is applicable to such receipt, and has not been suspended with respect to such recipient.

In carrying out his responsibilities under paragraph (1) of this subsection, the Secretary of State shall provide to the Nuclear Regulatory Commission or the Administrator of Energy Research and Development, as the case may be, appropriate data and recommendations regarding the proposed export, exemption, or distribution, including any data and recommendations which the Commission or Administrator may request.

"b. The Commission shall act promptly on all applications for export licenses consistent with its statutory duties.

"c. In the event the Commission, after receiving from the Secretary of State the executive branch judgment that the issuance of the proposed export license will not be inimical to the common defense and security, does not issue the proposed license because it is unable to make the determinations required by this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. In its decision, which shall not be a final order for the purpose of section 189 b. of this Act, the Commission shall explain the basis for its decision and shall include any dissenting views of individual Commissioners. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of the United States antiproliferation objectives or otherwise seriously jeopardize the common defense and security, the proposed export may be authorized by Executive order except that any such Executive order shall not become effective until it has been submitted to the Congress, together with the President's explanation of the reasons why the Commission's decision should be overturned, and a period of 60 days of continuous session of Congress has elapsed; and such Executive order shall not become effective then if during such 60-day period both Houses of Congress adopt a concurrent resolution stating in substance that the Congress does not favor the proposed export. Prior to the elapse of the first 40 days of continuous session of any such 60-day period, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate shall each submit a report to their respective House containing their views and recommendations with respect to the proposed export, and an accompanying concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed export. Any such resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within 15 days of continuous session and shall be voted on within 5 days of continuous session thereafter, unless such House shall otherwise determine. Notwithstanding the provisions of section 57 a. of this Act, if no such concurrent resolution is adopted by the Congress during such 60-day period, such Executive order shall constitute full authorization to export the nuclear materials or equipment with respect to which such Executive order applies. For the purposes of this subsection, continuity of session is broken by an adjournment of Congress sine die, and in computing any period of days of continuous session there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days.".

(b) Within 120 days after the date of enactment of this Act, the Nuclear Regulatory Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any license for the export of nuclear materials or equipment; (2) for providing its views to Government agencies on those matters with respect to which it is to be consulted under the provisions of this Act; (3) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by this Act, including such public hearings and access to information as the Commission deems appropriate; and (4) for public notice of Commission proceedings and decisions, recording of minutes and votes of the Commission and, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license or exemption, public written Commission opinions accompanied by the dissenting or separate views of any Commissioner.

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the Atomic Energy Act of 1954, shall not require the Commission to grant any person an on-the-record hearing in such proceedings.

(d) Chapter 11 of the Atomic Energy Act of 1954, as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new section:

"SEC. 127. CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"a. The United States adopts as a matter of policy, the following criteria, which in addition to other requirements of law, will govern its exports for peaceful nuclear uses of source and special nuclear material, production and utilization facilities, and sensitive nuclear technology:

"(1) International Atomic Energy Agency safeguards, as required by article III(2) of the Treaty, shall be applied with respect to such materials or facilities proposed to be exported or previously exported and subject to an agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

"(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to an agreement for cooperation, and no special nuclear material produced through the use of such material, facilities or sensitive nuclear technology will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such materials or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof.

"(4) No such source or special nuclear material or equipment or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this subsection.

"(5) No source or special material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration. Such approval shall be considered pursuant to procedures established by section 501 of the Nuclear Antiproliferation Act of 1977.

"(6) No such sensitive nuclear technology shall be exported unless the conditions specified in paragraphs (1) through (5) are applied to any nuclear materials or equipment which is produced or constructed in the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology. "b. In addition to the criteria specified in subsection a. governing United States nuclear exports, no nuclear materials or equipment or sensitive nuclear technology shall be exported to a non-nuclear weapon State that, at any time after the date of enactment of the Nuclear Antiproliferation Act of 1977—

"(1) detonates a nuclear explosive device;

"(2) terminates or abrogates International Atomic Energy Agency safeguards; or

"(3) is found by the President to have materially violated an International Atomic Energy Agency safeguard agreement or any guarantee it has given under an agreement for cooperation with the United States;

unless the President determines that the cessation of such exports to that nation would be seriously prejudicial to the achievement of United States antiproliferation objectives or otherwise jeopardize the common defense and security. If the President makes such a determination with respect to a nation, a license or authorization for the export to that nation of nuclear materials or equipment or sensitive nuclear technology may be issued if, but only if, the Nuclear Regulatory Commission or the Administrator of Energy Research and Development, as appropriate, submits to the Congress a report with respect to such license or authorization (including a statement by the Secretary of State of the reasons why the President determined that nuclear exports to that nation should be allowed to continue), a period of 60 days of continuous session of Congress elapses, and the Congress does not adopt, during such 60-day period, a concurrent resolution stating in substance that the Congress does not favor the proposed export. For purposes of the preceding sentence, continuity of session is broken only by an adjournment sine die, and in computing such 60 days there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days.".

(e) (1) The President shall seek to achieve adherence by recipient nations and groups of nations to the additional criterion set forth in section 128 a. of the Atomic Energy Act of 1954, as added by paragraph (2) of this subsection.

(2) Effective at the end of the 18-month period beginning on the date of enactment of this Act, chapter 11 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new section:

"SEC. 128. ADDITIONAL LICENSING CRITERION FOR NUCLEAR EXPORTS.—

"a. In addition to the requirements of section 127 and other requirements of law, the United States adopts the following criterion which, unless suspended under subsection b., must be adhered to by any non-nuclear weapon State which, after the effective date of this section, is a recipient of United States exports of nuclear materials or equipment and sensitive nuclear technology intended for use in peaceful nuclear activities: International Atomic Energy Agency safeguards shall be applied with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of the recipient nation.

"b. If the President determines with respect to a specific recipient nation that the application of the additional criterion established by subsection a. of this section would be seriously prejudicial to the achievement of United States antiproliferation objectives or otherwise seriously jeopardize the common defense and security, he may by Executive order, subject to subsection c. of this section, suspend the application of such additional criterion with respect to that recipient nation. In making any such determination, the President shall consult with the Nuclear Regulatory Commission. A suspension of the application of such additional criterion shall not affect the continued applicability of the criteria set forth in section 127 a.

"c. Any Executive order described in subsection b. shall become effective only if (1) the Secretary of State has submitted it to the Congress, together with a detailed statement of the reasons underlying the President's determination, an assessment of when the suspended criterion might be applied with respect to the recipient nation in question; (2) a period of 60 days of continuous session of Congress has elapsed since such submission; and (3) during such 60-day period the Congress has not adopted a concurrent resolution stating in substance that the Congress does not favor the proposed Executive order. Prior to the elapse of the first 40 days of continuous session of such 60-day period, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate shall report their recommendations on the proposed Executive order to their respective Houses accompanied by a concurrent resolution stating in substance that the Congress favors or does not favor, as the case may be, the proposed Executive order. Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate debate shall be limited to 10 hours, to be evenly divided between the proponents and the opponents) within 10 days and shall be voted on within 5 calendar days thereafter, unless such House shall otherwise determine. For purposes of this subsection, continuity of session is broken only by an adjournment sine die, and in computing such 60 days there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days.

"d. The President may by Executive order cancel, in whole or in part, any suspension of the additional criterion which has become effective under this section.

"e. At such time as the program of renegotiation called for by section 402 of the Nuclear Antiproliferation Act of 1977 is completed, or at such time as any international arrangement or other mutual undertaking called for by section 101 of that Act is achieved, the President shall propose to the Congress amendments to subsection a. of this section to implement as additional licensing criteria any one or more of the requirements set forth in clauses (3), (4), (6), (8), (9), and (10) of section 123 a. of this Act.".

(f) The table of contents of the Atomic Energy Act of 1954 is amended by inserting the following new items immediately after the item relating to section 125:

"Sec. 126. Export licensing procedures.
"Sec. 127. Criteria governing United States nuclear exports.
"Sec. 128. Additional licensing criterion for nuclear exports.".

EXPORT OF WEAPONS—USABLE MATERIAL

SEC. 505. No license for the export of 5 kilograms or more of uranium enriched to 20 percent or more in the isotope U-235, uranium-233, or plutonium may be issued unless the Congress is notified, at the same time as the Nuclear Regulatory Commission is so notified under section 126a.(1) of the Atomic Energy Act of 1954, that it is the judgment of the Secretary of State and other concerned Government agencies that such export will not be inimical to the common defense and security.

LICENSING OF COMPONENTS, ITEMS, AND SUBSTANCES

SEC. 506. (a) Section 109 of the Atomic Energy Act of 1954 is amended to read as follows:

"SEC. 109. COMPONENT PARTS OF FACILITIES, ITEMS, AND SUBSTANCES.—

"a. With respect to those utilization and production facilities which are so determined by the Nuclear Regulatory Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not be inimical to the common defense and security.

"b. The Nuclear Regulatory Commission shall determine which component parts described in subsection 11 v. or 11 cc. of this Act and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in subsection 126 c., no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export, after finding that (1) International Atomic Energy Agency safeguards as required by Article III(2) of the Treaty shall be applied with respect to any source or special nuclear material used in or produced through the use of such component, item, or substance; (2) no such component, item, or substance will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, item, or substance will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license will not be inimical to the common defense and security.

"c. The Commission, not more than 120 days after the date of enactment of the Nuclear Antiproliferation Act of 1977, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for prior consultation by the Commission with the Secretary of State, the Administrator of Energy Research and Development, the Secretary of Defense, the Secretary of Commerce, and the Director of the Arms Control and Disarmament Agency.

"d. The Commission may not issue an export license under the authority of subsection b. if it is notified, in accordance with the procedures established under section 126 a. (1), that the export would be inimical to the common defense and security of the United States.

"e. The President, not more than 120 days after the date of enactment of the Nuclear Antiproliferation Act of 1977, shall publish procedures regarding the control by the Secretary of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations, as required, by the Secretary of Commerce with the Secretary of State, the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Administrator of Research and Development.".

(b) The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 109 to read as follows:

"Sec. 109. Component parts of facilities, items, and substances.".

EXPORT OF MATERIALS FOR ENRICHMENT

SEC. 507. In addition to other requirements of law, no source or special nuclear material may be exported under any agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954) for the purpose of enrichment (as described in subsection 11 aa. (2) of that Act) unless such enrichment is specifically permitted by the applicable agreement for cooperation.

TITLE VI—EXECUTIVE BRANCH REPORTING

PRESIDENTIAL REPORTS

SEC. 601. (a) The President shall review all activities of Government agencies relating to preventing proliferation and shall report to the Congress annually in January of each year (beginning in 1979) on the efforts of the Government to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the international arrangements or other mutual undertakings contemplated in section 101 of this Act;

(B) negotiating the initiatives contemplated in sections 103 and 302 of this Act;

(C) promoting adherence to the Treaty on the Non-Proliferation of Nuclear Weapons and discouraging or prohibiting nuclear exports to non-nuclear weapons States that are not parties to the Treaty or have not entered into comparable agreements with respect to safeguards and forsaken the development of any nuclear explosive devices;

(D) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 402 of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the antiproliferation of goals of the United States, an explanation of the precise reasons why progress has not been made on any particular point and specific recommendations with respect to appropriate measures to encourage progress, and a statement of what legisaltive modifications, if any, are necessary in his judgment to achieve the antiproliferation goals of the United States; and

(3) a determination as to whether any non-nuclear weapon State with which the United States has an agreement for cooperation in effect or under negotiation has—

(A) exploded a nuclear device of any kind;

(B) refused to accept the safeguards of the International Atomic Energy Agency on all of its peaceful nuclear activities; or

(C) refused to give specific assurances that it will not engage in the development of any nuclear explosive device.

(b) In the first report required by this section, the President shall include an analysis of each civil agreement for cooperation negotiated pursuant to either section 123 or 124 of the Atomic Energy Act of 1954, including a discussion of the scope and adequacy of the requirements and obligations relating to the safeguards and other controls contained therein.

AGENCY REPORTS

SEC. 602. (a) The annual reports to the Congress by the Nuclear Regulatory Commission and the Administrator of Energy Research and Development which are otherwise required by law shall also include views and recommendations regarding policies and actions of the United States to prevent proliferation which are within the statutory responsibility of those agencies. The report of the Administrator shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques and of breeder reactor and other advanced reactor operation for proliferation and of alternative nuclear fuel cycles which minimize access to weapons-usable materials. This part of the report shall include a comprehensive version which includes classified information to be submitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives and a summary unclassified version.

(b) The reporting requirements of this title are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) The Secretary of State, the Director of the Arms Control and Disarmament Agency, the Secretary of Commerce, the Administrator of Energy Research and Development, and the Nuclear Regulatory Commission, shall keep the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to their activities in carrying out the purposes and policies of this Act and to otherwise prevent proliferation.

(d) Any classified portions of the reports required by this Act shall be submitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

TITLE VII—DEFINITIONS AND SAVINGS PROVISION

DEFINITIONS

SEC. 701. (a) Section 11 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following:

"dd. The term 'nuclear fuel service' means the utilization for peaceful purposes of uranium enrichment services, nuclear fuel fabrication services, or other services relating to the use of source or special nuclear material as fuel in a reactor.

"ee. The term 'nuclear materials or equipment' means source material, special nuclear material, production facilities, utilization facilities, and components, substances, or items determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. or 109 e.

"ff. The term 'physical security measures' means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.

"gg. The term 'safeguards' means a system of controls designed to insure that any nuclear materials or equipment subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.

"hh. The term 'sensitive nuclear technology' means any information (including information incorporated in a production or utilization facility, or in an important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water, and includes any Restricted Data.

'ii. The term 'significance for nuclear explosive purposes' means that the sensitive nuclear technology or nuclear materials or equipment in question would materially assist a foreign recipient in developing a nuclear explosive device.

"jj. The term 'Treaty' means the Treaty on the Non-Proliferation of Nuclear Weapons.

"kk. The term 'non nuclear weapon State' means any country other than a nuclear weapon State.

"ll. The term 'nuclear weapon State' means such term as defined in article IX(3) of the Treaty.

"mm. The term 'Agency' means the International Atomic Energy Agency.

"nn. The term 'proliferation' means the manufacture or acquisition of nuclear explosive devices by non-nuclear weapon States.".

(b) The definitions contained in section 11 of the Atomic Energy Act of 1954 shall apply to the terms used in this Act.

SAVINGS PROVISION

SEC. 702. Nothing in this Act shall affect the validity of any export license issued before the date of enactment of this Act.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that further reading of title V and the remainder of the bill be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 24, strike everything from line 7-21, inclusive, and insert in lieu thereof the following:

"(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of this Act or for subsequent retransfer to a non-nuclear weapon State of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among the factors in making this judgment, the Secretary of Energy will give foremost consideration to whether or not timely warning of any diversion will be provided to the United States well in advance of the time at which the non-nuclear weapon State could transform the diverted material into a nuclear explosive device; and"

Mr. BINGHAM. Mr. Chairman, this is another amendment in the series that I referred to previously, which we are offering as a result of the consultations that we had with the administration.

It clarifies the definition of "timely warning," which we consider to be an essential to the safeguarding of nuclear facilities. If there is no timely warning, there are no effective safeguards. It also approves the agreement that was reached by the administration with the Japanese with regard to the Tokai reprocessing facility, and it grandfathers that facility within the limits of the U.S.-Japan communique regarding Tokai which was released on September 12, 1977. This was an arrangement arrived at since the bill was originally reported out, and it deserves the same treatment as those two facilities already in operation in Western Europe which are likewise grandfathered in the bill.

Mr. FINDLEY. Mr. Chairman, would the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Chairman, this amendment, in my view, is the very heart of the legislation. The phrases have been very carefully drafted, very thoroughly considered. I am pleased with the final product. I know of no objection on this side, and I give the amendment my full support.

Mr. BINGHAM. I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to offer my strong support for this amendment.

As you are aware, the President first promoted the idea of the international nuclear fuel cycle evaluation—INFCE—at the London economic conference May 7. A coordinating committee was established and a number of organizational meetings have been held preparatory to the opening here October 19. Upwards of 40 nations are expected to participate.

The purpose of INFCE is to achieve international consensus as to which fuel cycles offer the best mix of proliferation resistance, economics, and source material availability.

It is vitally important that the standard (Section 501b of the bill) against which retransfer and reprocessing safeguards are evaluated not leave INFCE participants with the impression that the United States has unilaterally and in advance established a standard in defiance of any consensus that may be reached through INFCE.

As Joseph Nye, Deputy Under Secretary at State testified before Senator CHURCH:

> . . . the INFCE program can be successful only with the participation of other nations, and their meaningful participation depends upon their perception that the program is to be an open and objective study.

This amendment is designed to clearly support what is implicit in the bill; namely, to leave the door open to going ahead with the reprocessing of spent fuel by foreign nations under mutually agreed to conditions; and signal to INFCE participants that the United States will fully participate in and abide by the international consensus on the best course to assure maximum proliferation resistance while preserving international ability to extract the valuable residual energy associated with spent fuel.

I am glad to have had this opportunity to work with the gentleman in forming this very constructive amendment.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the floor simply to ask the distinguished chairman of the subcommittee one question. I notice that the language of the amendment—perhaps it is language art—says unless he decides it will not significantly increase the risk of proliferation.

Can the gentleman define "significantly increase the risk of proliferation"?

Mr. BINGHAM. If the gentleman will yield, it is, of course, difficult to be absolutely precise in a matter of this kind.

You will see that in the wording of that sentence we provide that the requisite criteria must be met in the view of the Secretary of Energy. That is to say, it is up to the Secretary of Energy to decide if there is or is not a significant increase in the risk of proliferation.

Clearly any substantial diminution in the technical constraints now limiting the ability of a nonnuclear weapon state to fabricate nuclear weapons would amount to a significant increase in the risk of proliferation.. Providing a major additional source of weapons, usable material, for example, would have this result. It is also the intent of this language to direct that the Secretary not confine his inquiry exclusively to increased proliferation risk in the country concerned, but should also consider the potential impact of his determinations upon other countries, as well.

What we tried to avoid here by the use of the word "significantly" is what we might say would be steps that could be considered de minimis. They are not significant.

Mr. DELLUMS. Mr. Chairman, I thank my colleague.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, the gentleman was on the floor, of course, during the general debate on this legislation and at the time I expressed strong support for including the element of timely warning.

I understand this is the amendment we were discussing at that time; is that correct?

Mr. BINGHAM. The gentleman is correct.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman, and I want to add my strong support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: On page 25, add a new subsection, section 501(c), as follows:

"(c) Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States; to preclude the U.S. from full participation in the International Fuel Cycle Evaluation provided for in Section 103; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the U.S. or any other participation; nor to prejudice open and objective consideration of the results of the evaluation."

Mr. McCORMACK. Mr. Chairman, this amendment is not intended to change the bill. Its purpose is to build a fence around the bill to protect it from future court decisions that might distort its meaning.

This is a complex piece of legislation upon which the subcommittee chaired by the gentleman from New York has worked hard. As has been stated previously, much of the wording in the bill are works of art, trying to define this razor-thin line between arbitrariness and flexibility in relationships between this Nation and other nations, and between the administration and the Congress. In such cases we have in the past seen instances where well intended legislation has been distorted by court decisions long after the legislation was passed.

Mr. Chairman, this amendment is offered to build a fence around this bill, so to speak, to protect it from such court decisions.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to say that we have considered this proposed additional subsection. In our opinion, it is not necessary, but if the gentleman would feel reassured by it, we have no objection to its inclusion.

Mr. McCORMACK. Mr. Chairman, I thank the chairman.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I have exactly the same feeling as expressed by the gentleman from New York (Mr. BINGHAM).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman, who has done so much to help improve this bill.

Mr. Chairman, this amendment is designed to follow, almost verbatim, words used by Mr. Joseph Nye of the Department of State in testifying on this subject before a Senate committee.

With the amendment, the new law will hopefully be protected from distortion in future court decisions. The amendment will help the new law do what we intend, and not something else.

For these reasons, I request support for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

Amendment offered by Mr. BINGHAM: Page 26, line 8 insert the following immediately after the comma: "the Secretary of Defense,".

Mr. BINGHAM. Mr. Chairman, this amendment is also offered at the request of the administration. It simply guarantees that the Department of Defense will be consulted when the Secretary of Energy consults with other pertinent agencies regarding the advisability of sharing technology with other nations.

Specifically, the Secretary of Defense will be consulted under this amendment when a finding that such activity will not be inimical to the interests of the United States must be made.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I wish to express my support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 28, line 6 insert after the semicolon and before the word "and" the following: "*Provided further*, That if the President determines that failure to continue cooperation with any such group of nations after the expiration of such eighteen-month period because the provisions of paragraph 4 or 5 of subsection 217 a. have not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes the above determination;".

Mr. BINGHAM. Mr. Chairman, this amendment is another one in the series that resulted from consultations with the administration.

Originally we had a firm 18-month deadline within which Euratom would have to agree to grant the United States the right to approve or disapprove the retransfer and reprocessing of U.S.-supplied materials and nuclear fuels within Euratom.

The administration felt that this arbitrary deadline might create some problems in their negotiations with Euratom. Therefore, at the request of the administration, we have proposed this amendment, which leaves in the 18 months as a goal. We strongly hope and urge that the negotiations can be completed within that period, but this amendment would permit an extension of 1 year beyond that point if the administration found that that was absolutely necessary and consistent with our antiproliferation efforts after notifying the Congress of that determination, and further extensions of 12 months and increments annually thereafter if, again, the determination was made that those extensions were absolutely necessary.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, the Euratom posed a special problem, as the gentleman recognizes by this amendment.

The amendment does preserve the concept of universal standards for all user states; and yet, at the same time provides a flexible way by which the administration can respond to unforeseen difficulties. It gives the administration a clear direction down the right road and gives it encouragement to wrap it up in a short period of time, but nevertheless does provide for what I think is a very prudent level of flexibility.

Mr. Chairman, I support the amendment.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 39, line 3, strike the word "of" and insert in lieu thereof the following: "of the isotope U-235 contained in".

Mr. BINGHAM. Mr. Chairman, this is a purely technical amendment to clarify the definition of the trigger quantities of highly enriched unanium and plutonium, the export of which over this amount would have to be reported to the Congress before export licenses are issued.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I support the amendment.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

Mr. FRASER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I seek clarification of one of the provisions of the bill from the gentleman from New York. Last session, during consideration of H.R. 15377, extending the Export Administration Act, the House accepted without opposition, an amendment offered by Congressman LONG of Maryland and myself. The amendment directed the President to conduct a study of the extent to which the education and training of foreign nationals in the United States contributes to the proliferation of explosive nuclear devices. As has been mentioned before, H.R. 15377 never became law because the Senate was unable to name its conferees. As a result, the present legislation builds on the nuclear export sections of H.R. 15377. I note that the legislation before us, H.R. 8638 contains a title VI, Executive Branch Reporting. It is my understanding that the reporting requirements are intended to include the report required in H.R. 15377 as passed by the House. Is this correct?

Mr. BINGHAM. The gentleman's understanding is correct. It is expected that the Presidential reports required in title VI will include a report on the relation between nuclear proliferation and the activities of foreign nationals in the United States. I appreciate the gentleman's strong interest in this subject and note that between 1955 and 1974 the Atomic Energy Commission trained over 10,000 foreign nationals in the use of research reactors and other aspects of a nuclear program. These have included hundreds of trainees from countries which we now regard as "near nuclear" such as India, Taiwan, Argentina, Brazil, and Korea. It is our intention to require a report on these matters from the administration, and if necessary, to hold investigations of our own.

Mr. FRASER. Mr. Chairman, I thank the gentleman for his response.

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

(Mr. FINDLEY asked and was given permission to revise and extend his remarks.)

Mr. Chairman, the warning time associated with alternative reprocessing technologies would be hard to quantify but the concept represents a continuum, progressing from undesirably short times associated with processes that involve separated plutonium to longer times for processes that retain uranium and most of the fission products present in irradiated spent fuel.

One needs to have warning times that are ample enough to give supplier states or the international community an opportunity to orchestrate an effective response to an act of diversion and to be able to do this, moreover, before the violator is able to transform his stolen material into bombs.

It has always been the hope of the committee that the Secretary of Energy would insist on a warning period that could be measured, however roughly, in months, not weeks or days. Clearly, we aspire to warning times that are as long as possible.

I should add in this connection, however, that once such warning time has been attained, it may be possible to extend timely warning further but only in a way that adds small additional increments of time at successively higher and perhaps prohibitive levels of cost. Thus, the committee recognizes the need to gage the degree of improvement in warning time that alternative reprocessing technologies provide in light of such considerations.

I would assume that the committee expects the Secretary of Energy to interpret the term "proliferation risk" in a manner consistent with the underlying philosophy of this act. For example, he should not confine his inquiry exclusively to increased proliferation risk in the country performing the reprocessing or receiving the reprocessed product, but should examine, as appropriate under the circumstances, the potential impact of his determinations on other countries as well.

Any substantial diminution in the technical constraints now limiting the ability of a nonnuclear weapon state to fabricate nuclear weapons would amount to significant increases in the risk of proliferation. Providing a major additional source of weapons usable material, for example, would have this result.

The committee's overall goal is at least to preserve, and where possible, enhance, the somewhat fragile margins of security that prevail today.

I assume that we are all agreed that the purpose of this provision is not to outlaw any kind of fuel processing indefinitely, but rather to assure that when U.S. supplied fuel is processed it will be done within a genuinely secure and safeguardable context.

Should reprocessing become necessary, technologies will be on hand that provide greater security; technologies, in other words, in which the entire world can have greater confidence. It seems to me that that is terribly important not just for international stability, but for the nuclear industry as well.

What we are really saying then is that timely warning helps to provide the world with the reassurance that some margin of security would be retained even if peaceful use guarantees and promises were to be broken.

Mr. LEGGETT. Mr. Chairman, from the outset, I would like to make it very clear that our colleague from New York, Mr. BINGHAM, who is also the able chairman of the Subcommittee on International Economic Policy and Trade, along with the cosponsors of this act, are to be highly commended for their diligent efforts in producing a responsible piece of legislation.

In general, I feel that H.R. 8638, the Antiproliferation Act of 1977, succeeds in strengthening and clarifying the procedures which govern the export of nuclear material and technology by the United States. As a result, we are making it less likely that current nonnuclear nations will soon acquire nuclear weapons through the diversion or exploitation of U.S.-supplied materials and technology. Also, for the most part, this bill provides a careful blend of incentives and deterrents designed to induce foreign nations to comply with our new antiproliferation safeguards without depriving them of the means to satisfy their longer term energy needs. Consequently, I feel that this legislation deserves the full support of the House.

However, even though I feel morally obligated to support passage of this legislation, I feel compelled to voice a few concerns with selected amendments, provisions, and sections of this act.

The first concern that I would like to share with you today pertains to the dilution of the timely warning standard implied in the Bingham amendment to section 501. The language that I am particularly concerned with states that—

> The Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel asemblies or been the subject of a subsequent arrangement . . . unless in his view such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested.

From the standpoint of invincible safeguards, it was bad enough that the original language of the section grandfathered all those reprocessing plants which were in commercial operation prior to enactment of this act. The new language we have accepted here today is even more diluted in the extent of its overall control over proliferation since, in effect, it grandfathers all present nuclear weapons nations, all currently operating reprocessing facilities, and all facilities that have ever reprocessed power fuel assemblies in the past or ever entered into subsequent arrangements. Thus, the timely warning standard applies only to facilities which have not yet been constructed.

Mr. Chairman, it appears to me that the exceptions are far greater than the rule.

I would feel much more comfortable if the original language in section 501 were retained and amended so as to define commercial operations as reprocessing any facility which operates at a commercially viable volume. Alternatively, the language contained in section 2(5), the Statement of Policy, would also be acceptable as a timely warning benchmark. The definition contained in the section uses the low-enriched uranium fuel cycle without reprocessing as the benchmark.

In addition, I feel very strongly that the negotiating objectives set forth in section 101 should contain expressed reference to the notions of timely warning. Suggested language might read:

> All nations should limit their nuclear activities to nuclear materials and technologies which satisfy timely warning as articulated in the Statement of Policy and Section 501.

Similarly, we should explicitly make timely warning a precondition for nuclear exports in section 504.

My second concern addresses what I see as a lack of sufficient guidelines for recipient nations. More specifically, this act does not require recipient nations to dispose of spent fuel elements which were originally provided by the United States in a manner acceptable to us. Nor is there anything in the act which requires a recipient nation to permit the International Atomic Energy Agency to release reports of safeguards investigations to the United States.

My third area of concern applies to the extremely limited opportunities for judicial review and public participation provided for in this act. Indeed, judicial review of any nuclear proliferation assessment statement is explicitly precluded in section 404. Moreover, section 504(b) is worded such that the Nuclear Regulatory Commission has been granted unfettered discretion to determine the extent to which public participation will be permitted as a result of the provisions of the Administrative Procedures Act.

My fourth and final concern deals with the fact that ERDA is not bound by the same criteria and procedures for its government-to-government transfers including all subsequent arrangements as is the NRC in its licensing activities. I do not feel that such a loophole is absolutely essential given the gravity of this particular international issue.

Mr. SCHEUER. Mr. Chairman, today I find myself in a most uncomfortable position: wanting to vote for a bill because of its wholly laudable purposes even though I am convinced that it will not meet the desirable objectives for which it was intended and indeed may frustrate them.

My colleagues, Mr. BINGHAM, has done a masterful job drafting the preamble to this bill. The preamble and title espouse the U.S. goal of antiproliferation better than I could hope to do myself. However, close examination of the specifics of this bill shows that passage of the Bingham bill will not lead to nonproliferation: in fact, it may ironically contribute to the very worldwide proliferation we seek to deter.

How does the Bingham bill propose to deal with the problems of worldwide proliferation? Theoretically, H.R. 8638 seeks to reduce the risks that spreading world use of nuclear power will contribute to the proliferation of nuclear weapons among nations that do not now have them. It proposes to offer the incentive that we will "strive" to assure an adequate nuclear enrichment supply in combination with an implied threat to cut off nuclear exports, in order to induce other nations to agree.

Thus, the entire key to the Bingham bill is a proper incentive mix. Ultimately, the key to success of the antiproliferation bill lies in our capacity to impose various limitations on nations which buy reactors and fuel from the United States. And the success of this strategy rests in turn on our capacity to continue selling reactors. The logic of this position is infallible: if nations opt not to buy reactors from us, then of course they circumvent our strict standards.

Yet the Bingham bill does not provide an equal balance of incentives and disincentives. The impartial Congressional Research Service, wrote me yesterday that—

> The incentive or carrot, is small in comparison with the compulsory measures (sticks) proposed.

Furthermore, under the current provisions of the bill, every time a country needs an additional reactor component or nuclear fuel, they have to apply through the labyrinthine mechanism set up in the bill to apply for export licenses.

The restrictions on purchaser nations in the Bingham bill are far stricter than requirements other exporting nations establish. In fact, the U.S. Government approved the more liberal French and German nonproliferation export requirements contained in the London Nuclear Suppliers Group Pact announced last week.

Thus, under this bill, the United States proposes one set of nonproliferation requirements for our own exporters of nuclear reactors and fuel while we endorse a second far less restrictive set for the rest of the world as provided in the London Pact.

There are two critical distinctions between the restrictions we endorsed in London and the restrictions set forth in the Bingham bill. The first difference forces even a friendly nation that buys a reactor from the United States to open up to international inspection all the reactors already in its country regardless of when or from whom they were bought. This distinction might well have the effect of precluding nations friendly to the United States and desperately in need of nuclear power from purchasing a reactor from the United States.

The second distinction is that the United States, under the terms of the Bingham bill, demands an eternal veto on reprocessing. Thus, if a country were to buy a reactor from the United States they would have to agree to give us a veto in perpetuity on any reprocessing

they might want to do with waste from any of their reactors. There is no carrot at all to offset this large stick.

Implementation of the proposed restrictions would result in a swing of nuclear power plant and fuel sales away from the United States toward eagerly waiting and less restrictive foreign suppliers like France and Germany.

The critical need to continue exports of United States nuclear technology has properly been cited by both Representative BINGHAM and the administration. Indeed, the administration has, on several occasions, indicated its firm opposition to imposing a moratorium on U.S. peaceful nuclear exports. Yet the restrictions contained in this present bill would have precisely that effect.

Two examples from our immediate past history where the United States has lost nuclear reactor sales to competing nations because of our overly restrictive requirements suffice to indicate the serious adverse impact on our nonproliferation policy.

In 1975, Brazil bought four reactors from the Germans after extensive negotiations with the United States. As a consequence the United States lost $1.2 billion in exports and roughly 24,000 jobs. We also lost the chance to prevent Brazil from ultimately obtaining the reprocessing and enrichment technology which they acquired over President Carter's objections from the Germans.

In 1975 and in 1977 Iran bought a total of four reactors from the French and from the Germans. One consequence of these sales was a lost opportunity to obtain a United States-Iranian nuclear cooperation agreement with a higher level of safeguards than either France or Germany have committed Iran to. We also lost approximately $1.2 billion in exports and 24,000 jobs. The average export of each reactor to a country such as Iran is conservatively estimated to provide 3,000 direct jobs for 5 years plus 3,000 indirect jobs also for 5 years.

The Iranians have tried for three years to negotiate a bilateral nuclear agreement with the United States, including attempts by a high level diplomatic delegation this past summer. The major remaining concern which they have is the unrealiability and unpredictability of the U.S. export licenses process. Unless the Iranians are satisfied on this point within the next several months the Shah plans to purchase two more reactors from the French or the Germans.

In addition to the vital opportunities lost in these two countries to effect a significant reduction in world proliferation probabilities—opportunities lost because we have insisted on far more than other supplier nations—we have also lost $2.4 billion in U.S. exports and roughly 48,000 stateside jobs. These are revenues and jobs which would be stimulating our slumping economy today, had we achieved a rational balance of rewards and restrictions. We can ill afford continuing losses such as these at a period of time when we have the highest balance of payments deficits in our history and are plagued with continuing high unemployment.

Each reactor lost—and we have lost a total of eight due to the U.S. Government's actions and inactions since 1974—represents a loss of about $30 million worth of steel orders. Each reactor sold to a developed country yields from 40,000 to 70,000 tons of steel orders for American steel companies while each reactor sold to a developing country yields anywhere from 80,000 to 115,000 tons of steel orders for American steel companies. These are orders which today could be reviving our slumping steel industry.

There is a clear Gresham's law at work here: Nuclear suppliers demanding little or no restrictions will drive out of international nuclear commerce nuclear suppliers requiring adherence to harsh limitations in perpetuity. We ignore this elementary rule of economic conduct by now wary nuclear purchasers at our own peril.

What is required are additional U.S. positive incentives to offset the negative aspects of this bill, a harmonizing of our export requirements with those of other suppliers, or both. The first approach probably makes the most sense since it allows us to continue to set a strict example while avoiding the dangers of nuclear isolationism which have been so lucidly described by Senator FRANK CHURCH.

Such a course would also benefit our overall balance of payments, a subject which will continue to demand increasing attention from all of us in the future—if we hope to be able to pay the ever rising annual bill for our oil imports.

If the United States reestablishes its position in the export market we can expect to provide as much as $2 billion to $4 billion in export business each year from this source as well as 40,000 to 80,000 domestic jobs annually.

That nuclear isolationism is a grave danger is evidenced by the gradual erosion of our participation in world nuclear commerce. Increasingly, other governments like Spain, West Germany, and Finland, are purchasing their enriched uranium from Russia and France, thus reducing their dependence on U.S. nuclear fuel. Additionally, Germany and France have made nuclear reactor export sales at an increasing rate since 1975 to countries such as Brazil, Spain, Iran, and South Africa under their less restrictive nonproliferation terms.

Declining U.S. participation in nuclear commerce can only spell a reduced role in shaping global nonproliferation policies. It is transparently clear that additional incentives are required so that other countries will buy from and work with the United States in furthering our nonproliferation goals.

I wish to congratulate my colleague and good friend Mr. BINGHAM on his foresight and skill in elaborating goals with which no one can disagree and I hope that our colleagues in the other body can rectify some of the problems I have identified in this statement. The Congressional Research Service has prepared a memorandum on some proposed changes to improve the incentive mix of the Bingham bill. That memorandum follows:

[The Library of Congress, Congressional Research Service]

SEPTEMBER 26, 1977.

To the Honorable James Scheuer. Attn.: David Cohen.

From Warren H. Donnelly, Senior Specialist in Energy.

Subject: Suggested additional incentives for compliance with the Nuclear Antiproliferation Act of 1977, H.R. 8638.

This responds to your urgent request for quick suggestions on how to increase the incentives provided in the Nuclear Antiproliferation Act of 1977, H.R. 8638, to provide more inducements to other nations to adhere to the non-proliferation conditions laid down in this Act. While of necessity what follows had to be written in haste, it does suggest several ideas which would increase the incentives.

DISCUSSION

H.R. 8638, the Nuclear Antiproliferation Act of 1977 seeks to reduce the risks that spreading world use of nuclear power will contribute to the spread, or proliferation, of nuclear weapons among nations that do not now have them. It proposes to offer the incentive of assured nuclear enrichment supply in combination with the pressure of an implied threat to cut off U.S. nuclear exports to get other nations to agree. The incentive, or carrot, is small in comparison with the compulsory measures (sticks) proposed. The incentives for other nations to voluntarily agree to U.S. non-proliferation conditions could be increased by measures such as the following:

Statement of policy.—Amend Sec. 2 of H.R. 8638 to include a statement that is U.S. policy to assure equal access to U.S. uranium resources and U.S. enrichment services for all nations that adhere to U.S. non-proliferation measures specified in the bill, and to guarantee that the only reasons to break or change this commitment in the future would be violation of a material non-proliferation commitment by such countries. In essence, this would assure other countries that the U.S. will not threaten to curtail access to U.S. uranium or enrichment for reasons such as human rights.

Ownership in U.S. enrichment facilities.—Amend Title III to provide that foreign investor or nations can invest in U.S. enrichment facilities, and can claim a share of the output proportionate to their investment.

Buyback of spent fuel.—Amend Title III to amend Sec. 54 of the Atomic Energy Act of 1954 as amended to broaden the present ERDA authority to repurchase nuclear fuel, or uranium remaining after irradiation. To provide a greater incentive, Sec. 54 could direct the Secretary of State or the ERDA Administrator [Secretary of the Department of Energy] to negotiate repurchase agreements with agreement states. The repurchase agreements could authorize DOE to repurchase spent fuel of U.S. origin and to permanently store such spent fuel. If and when the U.S. may decide to reprocess such fuel, it would pay the using nation for the estimated fuel value of the residual uranium and plutonium, less charges for storage and reprocessing. An alternative would be to authorize DOE to negotiate agreements to take back spent fuel and provide a supply of uranium or slightly enriched uranium with an energy content equivalent to that estimated for residual materials in the spent fuel.

Elevate Section 123 agreements into treaty status.—Amend Title IV, Sec. 402, to provide that upon request of other countries, the President shall renegotiate agreements for

cooperation under Section 123 as full U.S. treaties. This would offer the assurance that conditions of agreements for cooperation would not be altered by future legislation.

Access to U.S. uranium.—Amend Title III to add a section, Access to U.S. uranium, that would have the U.S. take such actions as may be necessary to ensure a reliable supply of uranium to those nations and groups of nations which adhere to policies and practices of the Act, and to assure access to U.S. uranium on the same terms as domestic users. The section could also commit the U.S. to strive to assure that it will develop its uranium resources to assure that it will have enough available to carry out this policy on a long-term basis.

Lifetime licenses.—Amend Title III to add a section which would amend Sections 53 and 62 of the Atomic Energy Act of 1954 as amended to authorize and direct the Nuclear Regulatory Commission to issue single, lifetime licenses to cover the supply of source and special nuclear materials for specific foreign nuclear power plants and to automatically issue licenses for exports under the life-time license upon a finding that the license is in effect and that the nations are in compliance with the conditions of its agreement for cooperation and has not violated any other material non-proliferation commitment. In essence, this would eliminate the licensing of each export with the attendant NRC findings that various statutory conditions are adhered to plus elaborate review and advice procedures for the Executive Branch.

Mr. BEDELL. Mr. Chairman, I want to compliment the gentleman from New York (Mr. BINGHAM) and the members of the International Relations Committee for their efforts over the past months to bring before the House of Representatives legislation which would formulate a truly comprehensive nuclear antiproliferation policy for our Nation. The need for such legislation is critical, for our people and for the people of the world, and I think that it is appropriate that the United States assume a leadership role in promoting nuclear antiproliferation efforts.

The product of the committee's deliberations—H.R. 8638, the Nuclear Anti-Proliferation Act of 1977—is a sound piece of legislation. It establishes understandable and reasonable export standards and procedures for controlling the spread of nuclear weapons. And, beyond that, it recognizes the need to integrate unilateral initiatives with multilateral cooperation in fashioning a workable solution to the dangerous problem of nuclear proliferation.

It is a fact of life that the world is continually in a state of flux and that situations change. Since the Atomic Energy Act was passed in 1954, there have been many developments in the nuclear energy field which necessitate further legislation. Many nations are developing nuclear capability, not only for peaceful purposes, but also for the production of atomic weaponry.

Global nuclear proliferation causes me a great deal of concern. The potential for accidents due to the lack of proper safeguards, or for the misuse of nuclear potential by unstable national leaders or by terrorist groups is all too real. It is imperative that the United States and other members of the international community join forces to develop an effective nuclear antiproliferation strategy.

H.R. 8638 is a positive step in this direction. The bill would amend the Atomic Energy Act of 1954 to apply uniform standards for licensing of nuclear exports, to define specific criteria for the negotiation of new agreements for cooperation in the exchange of nuclear technology, and to promulgate regulations for timely action on nuclear export licenses by the concerned Government agencies. And, in addition, it would spell out numerous multilateral steps to combat nuclear proliferation and direct the President to pursue them.

In the past, because of loose and inconsistent export policies, it has been all too easy for the United States to conclude transactions with foreign governments which were accompanied by no clear assurances that U.S. technology and materials would not be subsequently transferred to third-party nations where they might be converted to military uses. H.R. 8368 addresses this problem by defining specific criteria to be applied to all U.S. exports of nuclear materials, fuels, and technology, without jeopardizing the provision of fuel to those countries which have signed the Non-Proliferation Treaty and which have joined in our antiproliferation efforts. The need for such clarification of the nature of U.S. antiproliferation policy and of the responsibilities of the various executive agencies within the Government for its coordination and implementation is clear, and I am pleased that this bill resolves this problem.

The legislation also directs the President to promote policies which might assist other countries in exploring and developing nonnuclear options and in improving their efforts to insure safety and security in fuel storage. I think that these steps are most valuable, for it is my belief that we should actively seek safe and reliable alternatives to nuclear energy. Many of the alternatives currently being pursued by the United States, such as solar, wind, and biomass, could quite conceivably more effectively meet the energy needs of many of the developing nations than nuclear power.

Finally, it is important to note that this legislation includes a provision which would set up a procedure to insure "timely warning" of efforts by individual nations to convert peaceful nuclear technology to military purposes. I strongly support the timely warning provision of the bill, for, if international antiproliferation efforts are to be effective, it is imperative that attempts to convert such technology for aggressive purposes be detected early enough to allow for an appropriate international response.

Mr. Chairman, I agree with President Carter's statement in his April 27 message to the Congress that, "The need to halt nuclear proliferation is one of mankind's most pressing challenges." It is a challenge which must be met now if we are to leave a liveable world to future generations.

Our society has learned to live with the omnipresent specter of nuclear holocaust. But it need not, and should not, accept it. The legislation which we are considering today constitutes a constructive attempt to deal with the prospect of an international nuclear catastrophe, and I urge its passage by the House and subsequent enactment into law.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 8638, the Nuclear Antiproliferation Act of 1977, and wish to commend all those who have helped bring this landmark legislation to the floor here today. As one who was intimately involved with attempts just a little over a year ago to adopt similar legislation, I know how difficult it is to draft, and pass this type of legislation. Mr. BINGHAM and the Carter administration deserve special praise for their continuous efforts to control nuclear weapons proliferation.

It is with some pleasure that I note many provisions in H.R. 8638 which were considered in the Joint Committee on Atomic Energy in the last Congress as we tried to enact H.R. 15419, the Nuclear Explosive Proliferation Control Act of 1976.

It is redeeming for me to note that the legislation before us is at least as effective as that which we tried to work out in the Joint Committee on Atomic Energy, and is vastly superior to the legislation which was eventually reported by that Joint Committee. I trust that the Senate will also act favorably upon this legislation, and its implementation can begin immediately.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the Nuclear Antiproliferation Act of 1977. This bill, which provides the first comprehensive reform of U.S. nuclear export and nonproliferation policies since 1954, is a notable achievement. In setting forth clear requirements for approval of the retransfer or reprocessing of U.S. supplied nuclear fuel it also demonstrates our overriding concern with the dangers of nuclear proliferation. Safeguards are urgently needed to prevent the spread of nuclear weapons.

This is only a first step, however. We must not stop here. Our main leverage remains the example we set by our domestic energy policy.

The simple fact is that nuclear power, as the solution to the energy shortage, has never made economic sense. Indeed, in the ultimate sense there is no energy shortage. The earth is bursting with energy: the sun, the winds, the tides, the heat within the earth, coal, oil, oil shale, secondary and tertiary oil resources. In what sense then is there a shortage? The shortage is in the capital needed to harness this energy and put it to work.

I could construct a list of U.S. capital shortfalls that would run into trillions of dollars, capital needed for housing, fighting poverty, combating pollution, controlling floods, expanding and improving educational and hospital facilities for the American people. The capital shortage is moreover worldwide. Yet to supply by nuclear power only 25 percent of our officially projected energy needs by the year 2000 would require at least $130 billion in capital investment per year. What a waste to spend billions of dollars on nuclear reactors when more energy can be gotten from other renewable sources, with far less capital investment. On what grounds can we justify making an investment of $235,000 for the energy equivalent of 1 barrel of oil produced by nuclear power when alternative sources of energy such as bioconversion of waste could be made available for less than $20,000?

For the developing countries nuclear power is potentialy inappropriate because:

First. Nuclear power requires excessive amounts of capital and managerial skill both of which are expensive and in short supply in the developing world;

Second. Nuclear power diverts resources from roads, schools, hospitals, irrigation projects, and housing, especially needed in poor countries; and

Third. Nuclear power lures the poor countries, as it does the rich, from the search for the type energy sources which are more appropriate for poor nations and in most cases more easily could be developed.

Both the developing and the developed states do have a choice, however. There are renewable energy sources all around us. Solar, solar electricity, wind are all renewable, less capital intensive and less dangerous to our political and natural environments. These alternative sources of energy could be competitive and environmentally sound solutions to the energy problem if they were not continually discouraged by price policies and heavy subsidies that drain factors of production away to nuclear power. A rural development strategy is needed for the developing countries, which focuses on the use of simple, inexpensive, labor-using tools and techniques that are appropriate to the scarcity of capital and the abundance of labor in poor countries.

We cannot provide all the answers. But we can help nudge the developing states toward light capital technology and away from nuclear power. Our foreign aid program should thus help encourage these countries to explore such alternative energy sources. Moreover, we must set an example by adopting a more imaginative and comprehensive energy program. This could go a long way in helping to alleviate some of the dangers of nuclear proliferation.

We have no time to waste. The House must begin now, by passing the nuclear antiproliferation bill. It may only be a first step, but it is a vital first step without which we will fail in our effort to halt the spread of nuclear weapons.

Mr. UDALL. Mr. Chairman, I rise in support of H.R. 8638 without amendments which would negate the intent of the bill as reported by the International Relations Committee.

I support this legislation because I believe it would constitute an essential element of our effort to halt the spread of nuclear weapons.

As chairman of the House committee having primary jurisdiction over the regulation of domestic nuclear energy, I applaud the efforts of the International Relations Committee in reporting this bill. It establishes standards that, for the first time, would provide a way of judging whether or not proposed nuclear exports are in accordance with our antiproliferation policies.

H.R. 8638 will have several important effects. It will help to define the split between peaceful and military uses of nuclear fission. It will create a climate in which nations perceive it not in their best interest to acquire nuclear weapons. It will demonstrate the resolve of the United States to assist other countries in satisfying their energy needs without helping to put them on the threshold of becoming a nuclear power.

The bill contains the important requirement that any nation receiving nuclear exports from the United States must place all its peaceful nuclear activities under the safeguards of the International Atomic Energy Agency. This will help to guarantee that nations are not producing nuclear weapons using technology and materials not associated with exports from the United States. Of particular significance is that H.R. 8638 reaffirms that we should consistently apply a timely warning standard in judging the adequacy of international safeguards. H.R. 8638 explicitly requires that our Government approve reprocessing of nuclear fuels supplied by us only under strict conditions. Reprocessing of such fuels would be permitted only if the recovered plutonium could be handled and stored in a way so that it could not be diverted to nuclear explosives without there being timely warning of such diversion.

The importance of timely warning should not be minimized. The earlier the warning, the more time there will be to take diplomatic action to dissuade another nation from constructing a nuclear weapon. Timely warning is, in fact, what gives safeguards their deterrent value. Any country considering acquiring nuclear weapons would have to take account of the pressures that would be brought to bear upon it before it actually had the weapons in hand.

There are of course those who say that the success in dissuading the government of South Africa from conducting a nuclear test explosion is evidence of there already being a system which will provide sufficient early warning. I do not accept this argument. We cannot always be sure that we would discover a test site as we did in this instance. I note that we still do not have a firm idea of where the South Africans obtained their nuclear explosive materials. It seems to me, therefore, that this is a case which emphasizes the need for more timely warning of the acquisition of nuclear explosive materials. H.R. 8638 is correct in its emphasis on this concept.

I am of course aware of those who say it is too late; that nuclear antiproliferation policies pursued by our Government will not only be ineffectual, but that they will keep us from gaining the economic benefits from nuclear exports. I do not accept these arguments. We should recognize that other nuclear exporting nations share the objectives of keeping the number of nuclear weapons states at its present level. The nuclear suppliers group agreement achieved last week is but one manifestation of the exporting nations' efforts in this area. I believe, therefore, that our own strong actions are already striking a responsive chord among the nations which engage in nuclear export activities. We should enact H.R. 8638 and then continue with the development of international institutions designed to provide a much more effective safeguards mechanism rather than the one that now exists and which has become obsolete.

For too long, concerns about proliferation were submerged as we focused upon the benefits of the peaceful atom. I look to H.R. 8638 as being an important step toward development of a much saner approach than has been evident in the past.

I urge support for this bill. I hope my colleagues will vote against amendments which would undercut the intent of the legislation as reported by the International Relations Committee.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. FORD of Michigan, having assumed the chair, Mr. PREYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability, pursuant to House Resolution 767, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BINGHAM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 23, as follows:

[Roll No. 605]

YEAS—411

Abdnor	Ambro	Andrews, N.C.
Addabbo	Ammerman	Andrews, N. Dak.
Akaka	Anderson, Calif.	Annunzio
Alexander	Anderson, Ill.	Applegate
Allen		

Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Beyill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—23

Bolling
Bowen
Clawson, Del
Cornwell
Cotter
Cunningham
Dent
Florio
Horton
Johnson, Calif.
Koch
Lehman
McClory
Marlenee
Mazzoli
Patterson
Pepper
Roberts
Runnels
Stark
Teague
Whalen
Wilson, Bob

The Clerk announced the following pairs:

Mr. Teague with Mr. Del Clawson.
Mr. Cornwell with Mr. Bob Wilson.
Mr. Dent with Mr. McClory.
Mr. Cotter with Mr. Cunningham.
Mr. Runnels with Mr. Pepper.
Mr. Stock with Mr. Patterson of California.
Mr. Florio with Mr. Lehman.
Mr. Bowen with Mr. Whalen.
Mr. Koch with Mr. Johnson of California.
Mr. Roberts with Mr. Horton.
Mr. Mazzoli with Mr. Marlenee.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and that I may revise and extend my own remarks during the debate on the bill just passed.

The SPEAKER pro tempore (Mr. MEEDS). Is there objection to the request of the gentleman from New York?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 19, 20, and 26 to the bill (H.R. 6550) entitled "An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes."

And that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 10 to the above-entitled bill with the following amendment:

Page 2, line 6, of the House engrossed amendments to the Senate amendments, after "total" insert: *"Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review".

ERDA AUTHORIZATIONS FOR NATIONAL SECURITY PROGRAMS, FISCAL YEAR 1978

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6566, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Tuesday, September 13, 1977, all time for general debate had expired.

Pursuant to the rule, the Clerk will now read by title the committee amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOR NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. There is hereby authorized to be appropriated for the use of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration") for fiscal year 1978 for operating expenses for national security programs—

(1) for weapons activities, $1,205,000,000,

(2) for nuclear explosives applications, $1,000,000,

(3) for special materials production, $416,-400,000,

(4) for laser fusion, $107,000,000,

(5) for naval reactor development, $211,-700,000, and

(5) for program management and support, $40,800,000,

in all, $1,981,900,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. There is hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, for national security programs the following amounts:

(1) For laser fusion:

Project 78-4-a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, California, $9,000,000.

(2) For weapons activities:

Project 78-16-a, cruise missile production facilities, various locations, $18,100,000.

Project 78-16-b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

Project 78-16-c, high explosive fish radiography facility, Lawrence Livermore Laboratory, California, $10,900,000.

Project 78-16-d, weapons safeguards, various locations, $14,000,000.

Project 78-16-e, new weapons production installations, various locations, $5,000,000.

Project 78-16-f, replace 10-inch water main, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, $12,500,000.

Project 78-16-h, Tonopah Test Range upgrade, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 78-16-i, laboratory support complex, Los Alamos Scientific Laboratory, New Mexico (A-E only), $2,000,000.

Project 78-17-a, production component warehouse, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 78-17-b, surface water control system, Rocky Flats Plant, Colorado, $2,800,000.

Project 78-17-c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California, $12,300,000.

Project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee, $10,000,000.

Project 78-17-e, high explosive machining facility, Pantex Plant, Amarillo, Texas, $5,000,000.

(3) For special materials production:

Project 78-18-a, high level waste storage and waste management facilities, Richland, Washington, $17,000,000.

Project 78-18-b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

Project 78-18-c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

Project 78-18-d, new hydrofacture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

Project 78-18-f, powerhouse emission control improvements, Richland, Washington (A-E only), $500,000.

Project 78-18-g, fanhouse and increased fan capacity, H chemical separations area, Savannah River, South Carolina, $3,400,000.

Project 78-18-h, plantwide fire protection, Savannah River, South Carolina, $6,300,000.

Project 78-18-i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

Project 78-18-j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(4) For project 78-21, General Plant Projects—

(A) for weapons activities, $24,000,000,

(B) for special materials production, $12,000,000, and

(C) for naval reactor development, $2,800,000, in all, $38,800,000.

(5) For project 78-22, construction planning and design, $5,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $81,000,000.

(B) for special materials production, $38,700,000,

(C) for laser fusion, $13,200,000,

(D) for naval reactor development, $15,-150,000,

(E) for program management and support, $300,000,

in all, $146,350,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. There are hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for projects previously authorized additional amounts as follows:

(1) For project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, $47,000,000 for a total authorization of $287,000,000.

(2) For project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $28,500,000, for a total authorization of $65,000,000.

(3) For project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $31,900,000, for a total authorization of $54,500,000.

(4) For project 77-3-a, electron beam fusion facilities, Sandia Laboratories, Albuquerque, New Mexico, $4,400,000 for a total authorization of $13,500,000.

(5) For project 77-11-a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $4,300,000, for a total authorization of $8,300,000.

(6) For project 77-11-b, safeguards and site security improvements, various locations, $7,800,000, for a total authorization of $13,-500,000.

(7) For project 77-11-c, 8-inch artillery fired atomic projectile production facilities, various locations, $12,600,000, for a total authorization of $22,600,000.

(8) For project 77-13-a, flourinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A-E and long-lead procurement), $5,-000,000, for a total authorization of $15,000,-000.

(9) For project 77-13-d, high level waste storage and waste management facilities, Savannah River, South Carolina, $31,000,000, for a total authorization of $56,000,000.

(10) For project 77-13-e, high level waste storage and handling facilities, Richland, Washington, $22,000,000, for a total authorization of $40,000,000.

(11) For project 77-13-f, waste isolation pilot plant (A-E, land acquisition, and long-lead procurement), Delaware Basin, Southeast New Mexico, $22,000,000 for a total authorization of $28,000,000.

(12) For project 77-13-g, safeguards and security upgrading production facilities, multiple sites, $8,700,000, for a total authorization of $16,400,000.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title I of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the first amendment recommended by the Committee on Science and Technology.

COMMITTEE AMENDMENT

The Clerk read as follows:

Committee amendment: Page 12, line 12, strike "$107 million" and insert: "$116,200,-000, provided that at least 60 per centum of this amount shall be used for civilian applications of laser fusion.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments read as follows:

Page 12, line 15, strike out "standing the provisions of section 3617 of the Revised".

Page 12, line 17, strike out "40,800,000" and insert "36,235,000".

Page 12, line 19, strike out "1,891,900,000" and insert "1,774,835,000".

Page 15, line 19, strike out:

"(C) for naval reactor development, $2,800,000, in all, $38,800,000."

Page 16, line 3, strike out "(D) for naval reactor development, $15,150,000".

Page 16, line 6, strike out "in all, $146,350,-000".

AMENDMENTS OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENTS

Mr. CHARLES H. WILSON of California. Mr. Chairman, I offer amendments as a substitute for the committee amendments.

The Clerk read as follows:

Amendments offered by Mr. CHARLES H. WILSON of California as a substitute for the committee amendments: On page 12, at line 12, strike the figures "$107,000,000" and substitute in lieu thereof the figures "$116,200,-000." On page 12, at line 17, strike the figures "$1,981,900,000" and substitute in lieu thereof the figures "$1,991,100,000."

Mr. CHARLES H. WILSON of California. Mr. Chairman, when the Committee on Science and Technology reported H.R. 6566 following its sequential referral to that committee, two amendments were proposed. One amendment would add $9.2 million in additional authorizations for the laser fusion research program. The other would have removed all naval reactor development program funds from the bill.

The Committee on Armed Services and the Committee on Science and Technology have resolved their differences with respect to these two programs which was evidenced in a colloquy between Chairman PRICE and Chairman TEAGUE during the general debate on this bill on September 13. The Committee on Science and Technology has graciously agreed to withdraw its amendment with regard to naval reactors.

In the spirit of the compromise between the two committees, I am offering

this substitute amendment which will add $9.2 million in additional authorization for the laser fusion program. This amendment does not make a division in the use of these funds as was suggested by the Committee on Science and Technology. I have been advised that this amendment is satisfactory to the Committee on Science and Technology.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I support the passage of this bill with the substitute amendment offered by my colleague from the Armed Services Committee. The naval reactor program and the laser fusion program, which were in dispute between Armed Services and the Science Committee, are the legitimate concerns of both committees. Recognizing this, Mr. TEAGUE, the distinguished chairman of the Committee on Science and Technology, and Mr. PRICE, the distinguished chairman of the Armed Services Committee, have arrived at a reasonable compromise and I congratulate them.

The naval reactor program has made a major contribution to the modern Navy. At the same time it has provided the basic light water reactor technology which is the basis of present day nuclear electric power generation. Furthermore, on September 2 of this year, the naval reactor program brought into operation the light water breeder reactor at Shippingport, Pa. This reactor is intended primarily for civilian application. Continued productive interaction between the military and civilian portions of this program are the primary concern of the Science Committee and this has been recognized in the colloquy between Mr. TEAGUE and Mr. PRICE on September 13.

In that same colloquy Mr. PRICE acknowledged and supported the Science Committee's interest in the laser fusion program when he said:

> The Science and Technology Committee which has legitimate concern for the continuation of research that could eventually lead to dramatic civilian applications for laser fusion, has added $9.2 million which we agree is a modest yet appropriate addition to the authorization bill. Laser fusion applications are programs which require additional support although the amount is not great when compared with other forms of fusion and fission energy.

The Science Committee increase reflects its understanding that the development of laser fusion can also be pursued by the private sector. Laser development over the last 15 years has been primarily a product of academic and industrial research efforts. All of these resources must be utilized and developed if the civilian applications of laser fusion are to materialize. At the same time, the committee recognizes that the national laboratories have an important and irreplaceable role to play in developing the civilian applications as well. The program can best be carried forward by increasing the use of private resources and, at the same time insure that the interaction between the national laboratories and the private sector is enhanced rather than cut off. The laboratories are a national resource for technical management and this is particularly true for the development of laser fusion.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Committee on Science and Technology, I think most of us on the Republican side conferred and also agreed to the amendment in the Committee on Science and Technology. I am very pleased that the gentleman from Illinois (Mr. PRICE) and the gentleman from Alabama (Mr. FLOWERS) agreed to compromise to leave in the $9.2 million. I would like to recommend that we adopt the amendment.

Mr. Chairman, I would like to ask at this time a question of the gentleman from Alabama (Mr. FLOWERS) regarding the $9.2 million that is in the bill now as it reads.

Last year the conferees agreed to specify that amount of money to KMS, the only private group, to our knowledge, working in this sector, and I would like to know if the gentleman would care to comment on that at this time.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I will say to the Members that the gentleman from Michigan (Mr. PURSELL) has certainly carried the ball for this technology in our subcommittee and called the attention of the Members to the importance of it.

I think we all concur in the importance of the work KMS has done, and we would like to see it carried on further. I can assure the gentleman that in our capacity as a subcommittee we will track this very closely and try to encourage the Energy Research and Development Administration, our successor, to continue funding for the KMS facility.

Mr. PURSELL. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I think it is important to recognize that many Members of the House are now going along with the administration in considering the laser fusion as a new development in the United States for a new source of energy. I really feel that the dimensions of laser fusion in civilian applications are important.

Although we do not dispute the $106 million going to the military application and weapons systems, I think it is time that Congress began to address itself to some equal funding in the long run for the future. I hope to be working toward that goal of asking ERDA to apply for funding for civilian applications on this particular issue.

Mr. Chairman, I am very pleased to have had the opportunity to engage in colloquy with the distinguished gentleman from Alabama (Mr. FLOWERS).

Mr. Chairman, I rise in strong support of the proposal to increase the authorization for the civilian applications of laser fusion. I speak from the perspective of considerable knowledge of the great potential of laser fusion and familiarity with its industrial role.

Laser fusion has a practically unlimited potential as a clean, safe source of electrical power and synthetic fuels. Scientists actively engaged in research on this concept indicate that developments are proceeding very well, and that this energy source can begin to have an impact on our total energy system much earlier than has been traditionally believed. From there, this alternative energy source can go as far as our determination in Congress, and our scientific ingenuity can take us.

Within the past year, the critical nature of our energy situation has been called to our attention with increasing frequency. Obviously, this is not the time to be limiting the development of new sources of energy—and laser fusion is one of our most promising alternative energy sources.

I have had an opportunity to work with many of the outstanding members of the Science and Technology Committee and the Armed Services Committee on this issue. I have found a rapidly developing appreciation for the potential of civilian laser fusion energy in these discussions, and was most gratified by the agreement reached by the distinguished chairmen, Mr. TEAGUE and Mr. PRICE, whereby research in the civilian applications of laser fusion can move ahead.

Those applications are becoming increasingly exciting. In the energy field we can foresee electric power generation and production of hydrogen for a whole range of synthetic fuels. The most likely application to be used first in the synthetic fuel field would be synthetic natural gas, and our need to supplement natural gas supplies has already become frighteningly clear.

Beyond that, it is possible to develop other hydrogen based fuels, which can be used to power automobiles and other equipment in our society, again with better environmental performance than dwindling conventional fuels. I sincerely believe that laser fusion will grow into a major component of our total effort for energy independence. In fact, it is difficult for me to conceive of an energy independent America without full-scale development of laser fusion, along with other energy sources.

There are other very real and exciting applications in the medical field, such as radiation therapy, as well as in petrochemical feedstocks, which must also be explored.

Based on our knowledge of this vast potential, it has been of considerable concern for us that the energy and other civilian applications of laser fusion be given a large role in the overall government energy effort. We recognize that there are legitimate military-oriented laser fusion applications in simulation and design. It is not, and never has been, our intention to weaken the effort to apply laser fusion technology to defense requirements. We seek only to intensify and strengthen efforts to meet the very different civil energy needs and objectives which are so important to our Nation's future. It is in the national interest to continue both programs.

I believe we are reaching a point where the Congress and the administration recognize the dual validity of this program. It is my hope that the civil energy work in laser fusion will continue to grow and expand and achieve the rank of a separate program, with an appropriate mandate and distinct funding requests, within our Energy Department.

The compromise amendment adding $9.2 million in support of ongoing civil laser fusion R. & D. work is an important step forward in the recognition of the importance of civil energy development, especially in the private sector.

The crucial point, in my opinion, is that if our people are going to realize the benefits to be derived from laser fusion technology, it must come through successful industrial development of laser fusion. If we are going to seize the opportunity before us to have laser fusion energy help heat our homes, run our factories and fuel our vehicles, it can only happen through successful commercial application in the private sector. That must be the focus of the civilian energy aspects of the fusion program. That is why it is important that we continue to fund organizations, such as KMS fusion, which are oriented to meeting the special requirements of successful commercial application, and have both the scientific and industrial know-how to move the civilian energy program toward the goals our nation requires.

In essence, I believe we must bring all the appropriate government and private resources to bear in order to achieve the most rapid and most productive results.

In view of the enormous potential of laser fusion, I urge my colleagues to accept the compromise of the Armed Services and Science and Technology Committees, and approve the amendment to add $9.2 million for civil energy aspects of the laser fusion program oriented toward industrial and commercial energy delivery. Industrial research programs are the base on which we must build future industrial participation and facilitate technology transfer. This industrial program will also allow for an infusion of new concepts, provide a check on quality and intensity of other work, and healthy competition in program progress insuring that only the best work will be funded in public and private sectors.

Mr. Chairman, let us provide some real alternatives that will yield near-term benefits in the civil sector which are equally important as defense effects. This program deserves public support and the attention of our best scientists. It can only receive this essential impetus if a portion of it is out in the open where the Federal Government and industry can engage in a true partnership. This cannot be accomplished if government remains the customer for, as well as the program manager of, the technology development.

I strongly urge my colleagues to vote to increase the funding authorization for laser fusion, and to support continued development of this important component of America's future energy independence.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I enthusiastically support the Science and Technology Committee's desire for a strong civilian program in laser fusion. Laser fusion, like magnetic fusion, offers the route to nearly inexhaustible energy resources. It is an exciting and challenging field of research and development which has moved rapidly in the past few years. However, we must have an identifiable civil program if significant milestones are to be achieved within the next few years toward the demonstration of energy break even.

There is a major difference between civil and military laser fusion programs in terms of requirements for the ignition device. There is no primary need in the weapons program to develop a high repetition rate laser. Yet, the generation of electrical power for the utility grid will require a device which fires anywhere from 1 to 10 times a second on a continuing basis. The major capability for such laser R. & D. is in industry and that is why it is particularly important to involve them in the program at this stage. This can only be done if we carry out a well-defined civilian activity which should grow as the technology matures.

As a constructive critic of nuclear fusion power, I am particularly enthusiastic about the environmental aspects of laser fusion. The major advantages are:

The fusion reactor is inherently safe and there can be no unnecessary accidents.

There will be minimal hazards from nuclear waste products since fusion does not create the wide range of radioactive products created by fission.

The nature of the process allows for varying power levels of the laser reactions to cover a spectrum of process heat and even medical applications beyond central station power.

The fusion fuel cycle involves little handling or shipping of hazardous material.

Fusion plants will be very efficient so there will be considerably less thermal pollution.

Mr. Chairman, I think the potential payoff from a civilian program is great. The energy supply possibilities are simply too far-reaching to allow this civil program to lag behind magnetic fusion simply because of a short-term focus on weapons effects.

I am also concerned that the naval reactor development program should remain a part of the civilian nuclear development program. Naval reactor development has fed valuable technology into the civil reactor since the 1950's. The latest versions of the compact, very reliable reactors which have been developed by ERDA for the Navy offer untold possibilities from ocean floor pumping applications to ultimate use in civilian vessels. This work is not at all tailored to any weapons system, is funded by ERDA as part of civilian nuclear R. & D., and should properly be authorized by the Science and Technology Committee.

Mr. Chairman, I am fully supportive of the efforts of Mr. FLOWERS and Mr. PURSELL and am hopeful that in the near future, there will be independent authorization bills for military and civilian applications for these two vital technologies.

The civilian programs for laser fusion particularly offer great potential and I am hopeful that programs such as that at KMS will be funded at greater levels in the future.

Mr. CHARLES H. WILSON of California. Mr. Chairman, there is an organized effort to persuade Members of Congress that the laser fusion program should be conducted almost totally by commercial organizations at Government expense. This point of view is being pushed by two unregistered lobbyists in the pay of a small company under contract to the Energy Research and Development Administration (ERDA), KMS Fusion (KMSF), Inc., of Ann Arbor, Mich. These gentlemen have visited with various Members of this body pushing the theory that if only a major portion of the $104 million appropriated in fiscal year 1978 for laser fusion were given to KMSF, and other unnamed commercial firms, laser fusion energy would become available on a short-term basis and contribute to the civilian economy by providing energy and/or synthetic fuels. Nothing could be further from the truth. It should be noted that without an ERDA contract, the KMSF annual income would be considerably less than $1 million.

The Director of the Energy Research and Development Administration laser fusion program, in testifying before the Armed Services Committee, the Science and Technology Committee, and Appropriation's Public Works Subcommittee, stressed that:

> Inertial confinement fusion offers distinct advantages as one of several fusion options. It has a near-term, low risk payoff for the nuclear weapons program and a long-term, high risk, very high payoff for civilian energy production.

Long term is defined as several decades into the future, according to page 29 of ERDA document 77–1, "A National Plan for Energy Research, Development and Demonstration."

Mr. Chairman, it is a travesty and a disservice to the American people to raise high hopes for abundant energy soon from a process that, if it is ever successful, will not produce energy until well into the next century.

Our committee has examined the track record of KMS Fusion. From May 15, 1975, to September 30, 1976, under a $12 million contract, KMS Fusion agreed to four tasks. Here are the tasks, achievements, and conclusions:

LASER FUSION PROGRAM

Task 1: Develop, install, test and operate a two terawatt glass laser for fusion experiments. (A terawatt is a million million watts.)

Achievement: KMSF was unable to construct a laser of this power because their laser design did not include sufficient attention to cleanliness and other laser development techniques.

Conclusion: KMS Fusion fell well short of the performance objective of Task 1.

Task 2: Using the laser developed under Task 1, conduct fusion experiments that provide data and define the conditions necessary for achieving a significant number of fusion reactions using three different pellet designs.

Achievement: Fifty percent of the specified data was obtained on the first pellet, one-half of one percent of the required data was obtained for the second pellet, and one two hundreths of one percent of the required data was produced for the third pellet.

Conclusion: KMSF failed Task 2.

Task 3: Conduct research on target pellet fabrication techniques and fabricate pellets for use in the experimental program.

Achievement: KMSF showed considerable innovative technique in the area of pellet fabrication.

Conclusion: The performance in this area exceeded the minimum expected contractual obligations.

Task 4: Diagnose and theoretically analyze the results of the experimental program.

Achievement: KMSF did not fully characterize their laser's properties and thus were limited in their ability to properly analyze the experimental results.

Conclusion: They developed analytical techniques but produced no useful data.

Overall Conclusion: Between 65 and 75 percent of this $12 million contract's objectives were not fulfilled.

A new four task contract is in force from October 1, 1976, to September 30, 1977. The contract period for this $7,246,000 contract is almost over. Here are the tasks, achievements, and conclusions:

Task 1: Continue research on pellet fabrication for use by KMSF and other inertial confinement fusion laboratories.

Achievement: KMSF continues to demonstrate high competence in the art of pellet fabrication.

Conclusion: This task is proceeding satisfactorily and is expected to meet contract objectives.

Task 2: Analyze the performance of the KMSF laser system, maximize performance, and develop plans for improving its performance to the one terawatt level, which is one-half the energy level of the incomplete Task 1 of the previous contract.

Achievement: In late July, KMSF had the laser operating at about one-half terawatt, which is one-fourth the energy they agreed to achieve under Task 1 of the previous contract. KMSF is doing well in theoretical analytical studies.

Conclusion: KMSF is now about 18 months behind in getting the laser to work properly.

Special Note of Interest: KMSF has submitted a new proposal to ERDA requesting more money to get the laser working properly. The proposal is under consideration.

Task 3: Conduct laser fusion experiments using the refurbished laser system from Task 2.

Achievement: Task 3 must await completion of Task 2.

Conclusion: No results.

Task 4: Diagnose and theoretically analyze the results of the experiment program.

Achievement: Task 4 must await completion of Task 2 and Task 3.

Conclusion: No comment is necessary.

Overall Conclusion: KMS Fusion has failed miserably in performing the agreed-to tasks under this $7,246,000 contract.

The Armed Services Committee authorization report on the ERDA fiscal year 1978 budget request noted that KMS Fusion was scheduled to receive another $7 million contract in fiscal year 1978, and questioned whether this award was based upon technical merit. I oppose the idea that the Federal Government should give any private company a contract just for the purpose of preserving that company's financial viability. This seems to have been the case with KMS Fusion for the past several years. I have read letters to Dr. Seamans, the former ERDA Administrator, from several Members of Congress urging that KMS be funded at a higher level. No response has yet been received from ERDA. One must conclude that pressure has been brought to bear on ERDA to support this organization. Promoting the idea that laser fusion power is just around the corner can only hurt the current research program.

I conclude by pointing out that the civilian contractor who got the lion's share of all laser fusion funding not programed for Government facilities, who has failed miserably on two successive contracts, is the organization making the most noise about laser fusion being a civilian application program. It is time that we Members of Congress begin to separate contractor puffery from the facts.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not wish to speak to this amendment, but I do at this time ask unanimous consent to withdraw the other committee amendments recommended by the Committee on Science and Technology.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. CHARLES H. WILSON) as a substitute for the committee amendments.

The amendments offered as a substitute for the committee amendments were agreed to.

The CHAIRMAN. The question is on the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA

Mr. CHARLES H. WILSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES H. WILSON of California: On page 12, at line 10, strike the words and figures "(2) for nuclear explosives applications, $1,000,000," and renumber the following subsections accordingly.

Mr. CHARLES H. WILSON of California. Mr. Chairman, the committee offers this amendment for the purpose of deleting the $1 million which the bill would authorize for operating expenses in connection with the nuclear explosives applications program. The President submitted a budget amendment deleting these funds subsequent to the reporting of H.R. 6566 by the Committee on Armed Services.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. As the chairman knows as a result of exchange of letters an agreement was reached on a provision in the bill which would be within the jurisdiction of the International Relations Committee.

I want to extend appreciation to the distinguished chairman of the House Armed Services Committee and subcommittee chairman for agreeing, at the request of the International Relations Committee, to delete the $1 million earmarked for the nuclear explosives application program. I am indeed pleased by the example of efficient and effective cooperation which our two committees demonstrated in working out our mutual concerns in the complex area of atomic energy policy.

The gentleman's amendment deletes the provision in the bill which was of concern to the International Relations Committee. I thank the chairman for offering the amendment and urge its adoption.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I appreciate the words of the gentleman from Wisconsin (Mr. ZABLOCKI).

I would like to say, Mr. Chairman, that the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE), and the chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI), along with the chairman of the Committee on Science and Technology, the gentleman from Texas (Mr. TEAGUE), did work very closely together in working out the differences among the three committees. Each of them is to be commended for their cooperation, their spirit, and their willingness to work in this respect.

Mr. Chairman, I ask for the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CHARLES H. WILSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: Page 18, after line 3, insert the following new section:

SEC. 104. None of the funds authorized to be appropriated under this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation weapon or for research, development, test, or evaluation with respect to any such weapon.

Mr. WEISS. Mr. Chairman, I know that there is a risk in addressing this issue in that one may be considered to be exaggerating or to be hysterical.

However, I would like to take us back to some 32 years ago when atomic weapons were first used. There was such horror on the part of humanity at large that it was generally agreed that nuclear weapons would be used only as a matter of last resort.

Mr. Chairman, we have gone from that point in 32 years—with the world literally in a balance of terror—to a point where we are suggesting the use of nuclear weapons for what? To be used as an antitank weapon.

I remind my colleagues that during the 16-day Yom Kippur war there were over 5,000 tanks wiped out without the benefit of nuclear weapons. Therefore, it hardly can be argued that we need this weapon for the safety or security of the United States.

The argument has been made that because it is more likely that we are going to be using the neutron bomb, in some way that is going to serve as a deterrent.

I suggest, Mr. Chairman, that we read the statement issued by the National Security Council as an arms control impact statement on this very weapon, in which they state, point blank, that it cannot be considered a deterrent; that it would not reduce collateral damage; that, as a matter of fact, the likelihood was that it would escalate in the same way that the use of any other nuclear weapon would escalate.

Mr. Chairman, the President of the United States on July 12 at a press conference indicated that he guessed that the use of any nuclear weapon, including a neutron weapon, would, in fact, escalate to all-out nuclear war.

Mr. Chairman, I know that sometimes we tend to get so bogged down with the work that we have to do that we think that only what happens from minute to minute is important, but I suggest that the issue that we are concerned with right now is probably more momentous than any other issue with which we could be concerned because it literally talks about the future of humanity. I think that as Members of the U.S. Congress we ought to be concerned with an argument that says that this weapon is all right because we are only going to be using it on so-called friendly soil.

What does that mean, Mr. Chairman? The scenario has been laid out. They are suggesting that if the Russians attack across East Germany into West Germany, in order to stop their tanks we will use the weapon on West German territory, and therefore, the Russians will not respond in kind.

Mr. Chairman, what kind of madness is that?

Again, the very impact statement that I referred to on this weapon says, point blank, that the Russians do not have a neutron weapon of their own—and this is their language—unless we give them neutron warheads, they are going to retaliate with conventional nuclear weapons, and the devastation will be exactly the same. We are on the way to full-scale escalation.

Mr. Chairman, it seems to me that if we really are concerned with our action and the effect and consequence of our action, now is the time to halt. The weapons, to the best of my knowledge, have not yet been deployed. We can still pull back from the nonsense and the madness of shooting nuclear weapons at tanks.

Once we start down the path, we know damn well that the Russians are going to go all out themselves. Further, if it is all right for us to use nuclear weapons to stop tanks, then it is all right for the Russians to use nuclear weapons to stop tanks and people. At that point the next thing you know we will have an all-out nuclear war.

I would hope that we would find it possible to concern ourselves with the peril that we all face.

It has been argued that the neutron bomb in some way is more humane. There will be statements made as we go along that will indicate just how inhumane it is. The facts are that it provides the same kind of lingering death as gas, chemical, and biological warfare, which have been outlawed by a number of the international conventions.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. In my opinion and in the opinion of most experts, one of them a man who was in charge of nuclear planning for NATO, this weapon would simply lower the nuclear threshold, raise the potential for escalation and induce the very thing that we were trying to prevent.

The former CIA deputy director Herbert Scoville said:

> The neutron bomb does not make nuclear war more humane, it makes it more likely.

I hope that we have the good sense, and the sense for humanity, to stop it right here.

Mr. ROBERT W. DANIEL, Jr. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Virginia.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROBERT W. DANIEL, JR., and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, if the gentleman will yield, I have in my hand the National Security Council Arms Control Statement which the gentleman mentioned. Has the gentleman read the entire statement?

Mr. WEISS. Yes; I have. I have it in front of me.

Mr. ROBERT W. DANIEL, JR. I would point out to the gentleman the statement's conclusion. That conclusion states that the decision to cross the nuclear threshold would be the most agonizing decision to be made by any President. These weapons would not make that decision any easier nor any riskier, but by enhancing deterrence they would make it likely that the President would not have to face such a decision.

Mr. WEISS. The gentleman from Wisconsin (Mr. ZABLOCKI) has made a statement which was entered into the RECORD analyzing the entire arms control impact statement. It draws the conclusion that that last sentence is completely illogical and does not follow the earlier statements that they made in which they draw exactly the opposite conclusion.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, with all due regard for the opinion of the gentleman from New York, I give more credence to the statement itself than to an analysis of it that might be made by persons interested in their position.

Mr. WEISS. I am only quoting what the gentleman from Wisconsin (Mr. ZABLOCKI) said concerning the CRS analysis of the arms control impact statement conducted in the subcommittee.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I thank the gentleman for yielding.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, it is my understanding of the statement, and I have it before me, it appears in the CONGRESSIONAL RECORD of August 3, 1977, at page 26561, as to the Neutron Bomb Arms Control Impact Statement in reference to ER, and, for example, it says:

> . . . there is no mention made of the legality of enhanced radiation weapons, or the relationship of such weapons to the U.S. call for a ban on radiological weapons.

Then in the committee's evaluation of the statement, among other things, appearing on page 26561 of the CONGRESSIONAL RECORD, it says:

> The problem with ACIS's conclusion that ER weapons could enhance deterrents but would not affect the nuclear threshold is that one cannot argue the former unless the latter is also believed to be true.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. I just wonder how the gentleman can quote this as being in contravention to what the gentleman from New York has just said?

Mr. WEISS. I thank the gentleman. I agree with him wholeheartedly. Of course, the darned thing about this is that the very people who are proposing it point out that it is not a deterrent in any way; that in fact it lowers the nuclear threshold; that it is more likely that we are going to have a nuclear war, and yet we go on blithely ignoring the most imminent danger and long-lasting and permanent danger to civilization.

Mr. SEIBERLING. If the gentleman would yield further, it is very interesting, further, that the committee report says the principal dilemma for policymakers considering the warhead is whether the perceived gains for a deterrent outweigh the perceived risks of a lowered nuclear threshold. So it seems to me that the committee itself came to the opposite conclusion from what the statement says.

Mr. WEISS. What the last sentence says; that is right.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I congratulate my colleague, the gentleman from New York, on his amendment. As I see it, the real problem here is lowering the distinction between nuclear and nonnuclear weapons and thereby making it more likely that nuclear weapons would be used. This is a danger that it seems to me overrides any possible deterrent. The whole concept of using limited nuclear weapons and their remaining limited is just beyond the ability to fathom.

Mr. WEISS. I agree with the gentleman. Any limited use of nuclear weapons

is bound to escalate into nuclear war and destroy our form of civilization. But this weapon, by lowering that threshold, makes it more likely that nuclear weapons would be used and, therefore, more likely that total destruction would take place.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. It is worth noting also that not only the President of the United States, but the current Secretary of Defense, Mr. Brown, and the former Secretary of Defense, Dr. Schlesinger, said exactly the same thing: that once we start using any kind of nuclear weapon, the neutron bomb included, we are on our way to full-scale, all-out nuclear war.

Mr. OTTINGER. Who prepared the impact statement?

Mr. WEISS. The National Security Council prepared that statement.

Mr. OTTINGER. I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

I just want to correct one of the gentleman's statements, and I will be discussing this matter, hopefully, with him in a little while. But, unfortunately, one of the reasons that I got on the Committee on Armed Services, and one of the purposes for being there, was, as the gentleman is attempting to allege with this amendment, that a nuclear threshold would be at a tremendously high level.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOWNEY. Mr. Chairman, I ask unanimous consent that the gentleman have 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DICKINSON. Reserving the right to object, Mr. Chairman, what was the request?

The CHAIRMAN. The gentleman from New York (Mr. DOWNEY) asks unanimous consent that the gentleman from New York (Mr. WEISS) be permitted to proceed for 1 additional minute.

Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOWNEY. If the gentleman would yield further, Dr. Schlesinger was one of the principal proponents of limited nuclear warfare. He believed that with greater accuracy we could use nuclear weapons selectively and fight a low threshold nuclear war without its becoming a total conflagration. So when the gentleman suggests that Dr. Schlesinger in any way was not interested in lowering the nuclear threshold, I really must correct him. He was the advocate.

Mr. WEISS. Will the gentleman agree that in the report Dr. Schlesinger made to this Congress in 1975, he pointed out that any kind of nuclear exchange is going to in fact escalate into all-out nuclear war?

Mr. DOWNEY. If the gentleman would yield further, I would only suggest to the gentleman that the testimony that Dr. Schlesinger gave to the committee when I was a member contradicts his later statement.

Mr. WEISS. That is not unusual for some of the statements that we have heard in the past.

Mr. Chairman, for the sake of a new antitank weapon, we are about to risk blowing up the world. Put bluntly, the development and deployment of the neutron bomb, intended by its proponents to destroy enemy tanks crossing into West Germany, will be a giant step along the road to world war III. Its actual use will mean the end of civilization as we know it.

As President Carter said at a July 12 news conference—

> My guess is—and no one would certainly know—that the first use of atomic weapons might very well quickly lead to a rapid and uncontrolled escalation in the use of even more powerful weapons with possibly a world-wide holocaust resulting.

Since the atomic bomb was dropped on Hiroshima, the use of nuclear weapons has been regarded as a last resort. The neutron bomb changes all this. It is not intended to be a weapon of the last resort. On the contrary, it is ballyhooed as a nuclear weapon that can be used in a "limited war." It is a way of using nuclear weapons, its proponents claim, without risking a nuclear holocaust. This kind of thinking drops the threshold point for nuclear weapons from a last resort situation to a tactical field situation.

Does anyone in this House really expect an enemy not to retaliate in kind when we use a nuclear weapon? If so, such thinking fails to heed the warning of the National Security Council's "Arms Control Analysis for the Enhanced Radiation Warhead (W-70)." In discussing the potential Soviet reaction, the report states that—

> The neutron bomb would be no less likely than the present warhead to evoke Soviet retaliatory use of tactical nuclear weapons. Unless the Soviet forces are supplied with a comparable warhead, their response would create the kind of devastation that this warhead is designed to prevent.

The analysis concludes by stating that "The escalating potential is the same for this weapon as for any other nuclear weapon."

Others have reached similar conclusions. In a 1975 report to Congress, then Secretary of Defense James Schlesinger points out that the Warsaw Pact strategy is strongly oriented toward employing all "weapons of mass destruction"—nuclear, biological and conventional—in answer to an attack.

Our current Secretary of Defense Harold Brown also concurs. During his confirmation hearings, he said:

> I do not think it at all likely that a limited nuclear exchange would remain limited.

While the risk of an escalating nuclear confrontation, triggered by our use of the neutron bomb, is the biggest moral burden we have to bear on this issue, production and deployment contains another inherent danger—nuclear proliferation. Much of the rationale for the neutron bomb is based on the belief that the United States will use it judiciously. While this may be true, we also need to realize that we will be encouraging other—and in many cases more volatile—nations to develop their own neutron weapons. As the National Security Council's arms control impact statement points out—

> Some governments might couple a decision to deploy ER (Enhanced Radiation) weapons with perceptions that U.S. doctrine has changed so as to make the use of nuclear weapons more likely in a tactical situation; such a coupling could have an adverse effect on U.S. efforts to prevent further nuclear proliferation.

The neutron bomb makes nuclear weapons more acceptable for use in conventional war, thereby eroding the barrier between conventional and nuclear warfare. Maintaining this barrier is a major aim of arms control. In an era when much of the world, including the United States, is struggling to limit the arms race, weakening this barrier would be an ironic and probably fatal development.

The neutron bomb will also hinder our own arms control negotiations with the Russians. A commitment to develop and deploy neutron warheads would necessitate continued nuclear testing. Although this is permissible under the Threshold Test Ban Treaty, to indulge in such testing would forfeit any chance of achieving a comprehensive test ban treaty.

But more importantly, to quote Wolf Count Baudission, a former West German general who is now director of the Hamburg Institute for Peace Research and Defense Policy—

> The main danger is that the neutron warhead makes the Soviet Union aware of its qualitative inferiority in a field in which it seeks equality. Thus one will find it very difficult to establish strategic stability through SALT or mutually balanced force reductions.

In the face of the likely consequences of the neutron bomb, I cannot understand why—in a matter so fraught with peril for all humanity—we would risk being wrong.

It is not as if there were a clear and present threat to our national security. Nor is there any substantial evidence that without the neutron bomb the United States would be in grave danger in the future. Nor has anyone proven that our present arsenal of weapons cannot offer the same protections, albeit in different, most notably safer ways, as the neutron bomb.

No, as far as I can discern, the neutron bomb is just another weapon we think we need—with one big difference; It could lead to the unspeakable horror of a full-scale nuclear war.

In the words of Herbert Scoville, former Deputy Director of the CIA, deployment of the neutron bomb "does not make nuclear war more humane," it "makes it more likely." For the survival of humanity, I urge you to join me in voting for this amendment.

Mr. DICKINSON. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, I think some things ought to be put in perspective and some facts corrected. The speaker who preceded me, my colleague, referred to this as being a tank-killing weapon, the so-called neutron bomb. In the first place, it is not so designed. What we are talking about is not a bomb, but it will be an explosive weapon. It will be a missile warhead. But then the gentleman refers to the six-day war, and that because they did not kill so many tanks, they did not need it. The fact is, Mr. Chairman, the reason the Israeli nation's military apparatus was as successful as it was was because they had air superiority.

They went in there and through the use of air were able to kill tanks. That is why it came as such a surprise to the Israelis in the last war. They had evidenced no particular concern for our TOW missile, which is an antitank missile, and they did not have them in their inventory because they felt they did not need them. Much to their surprise, due to the SAM-7 and other antiaircraft weapons furnished by the Russians, the Israelis were denied air supremacy and could not kill the tanks. So an SOS went out to this country and we loaded up TOW missiles and flew them over there. The Israelis could not kill the tanks without getting the air superiority.

Anybody who knows anything about the statistics of the Warsaw Pact versus the NATO, knows we will not have air superiority because we are outnumbered 3 to 1 in tanks and planes, and 6 to 1 in men.

So what we are trying to do is develop a capability to allow the NATO nations to defend—not attack, not an offensive—but to defend themselves. So let us just get the facts straight.

If we are talking about giving them a capabilitly to defend themselves, then this is a reasonable way to do it. Perhaps the Members of this Chamber are not aware of it, but the Russians and the Warsaw Pact nations have a very real and very threatening capability for gas warfare. They train with it. Poisoned gas units are attached to and are an integral part of all Warsaw divisions and all Warsaw Pact divisions. They have their own antidotes. They have their own capability of cleaning their weapons and tanks. They have their own clothing to protect their troops.

And what does the United States have to defend itself if they decide to use chemical warfare? Nothing. Absolutely nothing. And if I am in error, then perhaps somebody who is more knowledgeable will stand and correct me, because we do not have a capability to defend against chemical warfare.

So the whole purpose of a nuclear deterrent is to deter war, and if it does not deter, if it is not a threat, then it is of no use. It falls of its own weight.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I will not yield now. I want to conclude my remarks. I will yield at the conclusion of my remarks if the gentleman thinks he has something to add to the conversation.

So if all we have is a nuclear weapon that can be deployed defensively where we anticipate the Warsaw Pact troops may be attacking, then we are talking about using the weapon in a friendly country, in areas where the civilian population exists. And it is not a very creditable deterrent if the Russians know that we cannot use the weapon there because we will be killing the West Germans and the people who are friendly to the NATO nations.

That is the purpose of developing a weapon. And we are told in the country that there is approximately 60 percent more area in which this can be used with its limited kill radius than the regular Lance missile or other nuclear devices that have a much larger kill radius because of its blast and even fire.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, so if we do in fact have a weapon that can be used selectively, that can be used in areas where we do not have to worry about how many friendly civilians it will kill, then in fact it is a deterrent, then in fact it is creditable, and that is what this is all about.

Killing people is bad, I do not care whether we kill them by radiation or by a blast or by concussion or by a bullet. But the fact is that we need a creditable deterrent, one that can be used selectively, something that will in fact inhibit the Russians, because we have no counter to their chemical warfare.

For that reason, I would oppose the prohibition on authorization of funds for the development of neutron weapons and I think it should be voted down.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman has pointed out that the Russians have a chemical warfare capability and we do not.

Mr. DICKINSON. That is true.

Mr. SEIBERLING. Of course, they have a lot more tanks in Europe than NATO does. If we have to counter every single item they have in their arsenal in order to deter them from invading Europe, what is stopping them now? Why have they not just gone ahead and invaded Western Europe?

Mr. DICKINSON. I do not think I can explain that to the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would state to the gentleman from Ohio, I think the gentleman probably does not understand that this House in a period of emotionalism, and I think we are dealing with emotionalism now, rather than any rational thought, did lower the threshold of nuclear warfare to turn down binary production, which the gentleman from Alabama is talking about.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(At the request of Mr. ICHORD, and by unanimous consent, Mr. DICKINSON was allowed to proceed for an additional 2 minutes.)

Mr. ICHORD. Mr. Chairman, if the gentleman will yield further, I state to the gentleman from Ohio that in Heidelberg earlier this June I visited with 35 young officers of the U.S. Air Force. There were three full bird colonels, several lieutenant colonels, majors, captains, and lieutenants. I asked this question, "If the balloon went up tomorrow, do you feel that the Russians would use chemical warfare?"

Thirty-three out of the 35 young officers replied in the affirmative. The two that replied in the negative were two of the bird colonels. I asked the bird colonels why did they differ from the other 33?

One bird colonel replied that he did not think the Russians would use unconventional warfare because they thought they could do it with conventional means. The other bird colonel replied, "I don't think the Russians will use chemical warfare because the only means they know that we have to retaliate is with nuclear weapons."

That is the point that I think the gentleman from Alabama is making. When you do not have a chemical warfare offensive and defensive capability, you have lowered the threshold of nuclear war.

Mr. DICKINSON. Mr. Chairman, I would reclaim my time.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding time to respond.

Mr. DICKINSON. I think the gentleman can get his own time.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment. Ever since the Washington Post ran its first article on the enhanced radiation warhead in June, much disagreement has been generated over whether the United States should proceed with its production. I believe that after reviewing the facts concerning this weapon, the necessity for its development and production are obvious.

To begin with, the enhanced radiation warhead, commonly known as the neutron bomb, will primarily be used to strengthen our military forces assigned to NATO. Due to the superiority of the Soviet-bloc military over the NATO forces, particularly in the conventional weapons, our nuclear technology contributes to the balance of world power and therefore the continuation of world peace. Only through the use of nuclear weapons as a deterrent can the NATO countries prevent an attack against themselves. However, in order for nuclear weapons to be an effective deterrent, the NATO countries must be willing to use them in the event of a military attack. Furthermore, the Soviets must be made aware of this fact if the deterrent is to work.

In arguments against the neutron bomb, America's role, and the role of its nuclear weapons, has not been adequately explained. In Europe, the best defense is a good offense. Therefore, if deterrence fails, the NATO nations must be able to respond to any attack quickly and effectively. The backbone of NATO's military is the presence of the United States. For years the presence of U.S. nuclear weapons has acted as a symbol of our commitment to defend Western Europe. Without that presence, our allies in Europe would be extremely vulnerable to attack. With the military strength of the Soviet-bloc nations, any major attack would lead to the quick and total destruction of the NATO forces unless nuclear weapons were used in defense. Deployment of the neutron bomb will make such a defense much less costly in terms of human and property loss.

The need for modernization of our nuclear weapons has been misrepresented in arguments over the production of the neutron bomb. The major purpose of reducing the blast of nuclear weapons is not to protect buildings, as has been stated in many recent articles. The purpose of reducing the blast is to protect against unnecessary loss of civilian life. This can be accomplished by using the radiation caused by the nuclear explosion to eliminate enemy troops. In fact, due to the decrease of civilian casualties, the loss of life might well be reduced if neutron bombs were to replace present nuclear weapons.

Neutron bombs are tactical weapons to be used against specified targets such as massive tank forces. Their range, and long term effects, are considerably limited by comparison. If present nuclear weapons were used against the same tank force, the damage which would result would be much greater due to the extensive blast and thermal effects of these weapons.

The neutron bomb adds to the deterrent capability of the United States which I referred to earlier. It is necessary that the Soviets believe the United States would use its nuclear weapons in the event of an attack against NATO. Since neutron bombs reduce the lasting effect of nuclear explosions, and since the loss to civilian life is also reduced, the probability for use of nuclear weapons during a major attack is increased, thus increasing the deterrent against such an attack.

The neutron bomb is to be used as a complement to conventional forces—not as a replacement. The option to respond to an attack through the use of conventional forces will remain even after the neutron bomb is deployed. Such a military advantage acts as a deterrent to both conventional and nuclear attacks. The neutron bomb can also be used as an option between responding to an attack through the use of conventional forces and an all-out nuclear war. This option increases the deterrent against conflict escalation thus increasing the possibilities of a lasting peace between the two major alliances.

There are some who might argue that the Defense Department attempted to "slip" funding of the neutron bomb by the Congress by "hiding" it in the ERDA authorization request. However, the Atomic Energy Act of 1954 requires that ERDA produce all nuclear weapons including funding for development and production. Except for highly classified details, much information on the neutron bomb has been available to Congress for several years. In 1975, DOD noted the development of the neutron bomb in an unclassified report entitled, "The Theatre Nuclear Force Posture in Europe, a Report to Congress in Compliance with Public Law 93-365." The Army has been forthright and candid concerning development of this new technology.

Since the United States provides the backbone to their defense, it is vital that we continue to meet their military needs. The neutron bomb makes war itself less likely and is therefore an absolute necessity if the United States is to adequately maintain its role in NATO's defense.

Let there be no misunderstanding of the consequences should we fail to defeat this amendment. The stakes are too high, maybe higher than many of us would like to believe or even think about. Maintaining our ability to effectively deter an attack on Western Europe is of the uppermost importance. It cannot be overstated. Although we may be unable to state for certain the possibility of war with the Soviets, even with the development of the neutron bomb, there can be little doubt as to the devastating effects if we lose.

Mr. DELLUMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. MURTHA). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, an "enhanced radiation" warhead is simply an improved type of tactical nuclear weapon. It is no different from any other nuclear weapon except that it produces less blast and heat but more neutrons than a comparable yield nuclear weapon of existing design. There is nothing unique about the "neutron kill mechanism." This is no "form of chemical warfare," as has been suggested. All nuclear weapons generate neutrons, and a large enough dose of neutrons will kill any living organism.

The only unique thing about the "enhanced radiation" weapons is that it produces its neutrons with only a fraction of the blast and heat of other nuclear weapons of comparable yield. Blast and heat turn out to be far more effective in causing civilian casualties than in destroying enemy armored forces—the main threat to NATO. Hence, by the deployment of "enhanced radiation" weapons, we obtain a capability equally effective against Warsaw Pact military forces as are our current weapons, but designed to be much less destructive to civilians and our own troops. We can guarantee that the targets are military forces, with little spillover into population centers and, this is an important point, onto our own forces and those of our allies.

Nuclear weapons that can be used with less civilian damage, weapons designed to operate primarily against enemy troops, will enhance our deterrent to aggression. They will not make the Presidential decision to use nuclear weapons in an emergency any easier or risk-free. Civilian damage is one consideration. The risk of escalation is another.

We should remember that NATO's posture is a defensive one, while Warsaw Pact doctrine stresses an offensive posture which apparently would make use of all elements of warfare, including conventional weapons, chemical weapons, and theater or battlefield nuclear weapons, possible. The authors of the Warsaw Pact's military doctrine draw no fine distinctions between the use of tactical nuclear weapons and conventional programs.

U.S. military forces must have the capability to use nuclear weapons effectively and with the lowest collateral damage possible to civilians and urban areas. It does not make the slightest sense to deliberately continue to procure and store nuclear weapons that will produce unnecessary casualties in the event of a European war, when improvements are available. Our allies have to support our nuclear posture and they will do so, but only if we continuously improve our capability to inflict maximum damage on military targets with minimum effect on nonmilitary areas and our own forces.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, the other day, a columnist in a national daily came up with a phrase which has application to a lot of things being said about the neutron warhead. He called it junk talk.

To set things in perspective, it is important to know just what we are talking about. The neutron warhead is not a bomb. If it can be compared to anything it would be a roman candle. The Lance missile, which presently carries the warhead, is like the cylinder of the roman candle which is ignited; the neutron warhead compares to the tip of the candle, which explodes in a flash of color and light. The analogy can be carried further. Like the tip of the roman candle, the warhead's effect dissipates rapidly. Let it not be misunderstood—the purpose of that roman candle is to entertain, to amuse. The purpose of the neutron warhead is to deter if possible, but to kill or

immobilize, if not. Unfortunately that is the nature of war—to destroy the enemy before he destroys you.

It has been said that the neutron warhead should be classified as a "chemical warfare" weapon. It is not. It is a natural follow-along to development of nuclear weapons, and as such its ancestor was the atom bomb, not the test tube. It does not do anything earlier nuclear weapons did not do, and in two significant respects it does less; its use would confine its damage to an area far smaller than conventional nuclear bombs of comparable size. And it does not result in fallout. The importance of these two facts cannot be overstated.

And there is one final word. The naysayers moan that the possession of a neutron warhead would invite escalation to a holocaust. No battlefield commander, no theater commander could order its use. Only the President of the United States can do this.

The neutron warhead is a reasonable alternative to doomsday.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it is always very difficult to discuss weapons systems in this body because we end up with all sorts of classified information. I dislike having to disagree with some of my colleagues, because I know they have studied these matters very carefully.

As we all look at these things, we have different opinions, and we interpret things differently. One of my biggest concerns is that I honestly believe this is a link to the ultimate deterrents that we all really abhor and want to prevent using at any time. One of the strongest feelings I have always had is to keep that white line between nuclear weapons and conventional weapons very bright, and I think that this weapon is one that really has a great potential of blurring that line for many years.

Why? Here they are talking about deployment. They are talking about deploying at the forward edge of the battle. People are saying, "Yes, we have to get command of the control, just like we do with any other nuclear weapon."

We have had Army manuals as late as 1976 saying that it would take at least 24 hours or longer, and, of course, since the forward edge of the battle would be in European nations, it would also take NATO clearance and clearance from our allies. It is significant to ask the question: How fast could they use this?

One of my concerns has been, as I look at this and talk to the different briefers, that they keep talking about how it could be deployed at the forward edge of battle, and that I should not be worried about the white line being blurred by these weapons systems because it will be the same as all of the other atomic weapons. They say it will require a potential OK before it will ever be used.

Then they proceed to tell me what a clean weapon this is. That is what worries me. That worries me, because if they continue to talk about this as a clean weapon, what does that mean? Why is it clean? How is it clean?

Everything in this world is relative to something else. Granted, relative to the ultimate deterrents, this is a clean weapon if we compare it to the ultimate deterrents, but it is not a clean weapon if we compare it to conventional weapons or conventional warheads.

It depends on what it is compared with. If I were a building, I might think it was a clean weapon, but as a human being, I probably would not think of it as a clean weapon. So I get very worried when we get caught up with this verbiage and try to label weapons. I get worried when we talk about clean weapons, when we say they are surgically clean, they are technically clean, and when we use all those wonderful words and we make it sound like there is more precision and it is easier to use, and so forth.

We are comparing it to the super-big atomic bombs, and we are comparing it to some of the other tactical atomic bombs, and then that begins to blur that line I spoke about a little bit.

I think this will blur the line a little more. What does it do in essence? Let me give the Members a little summary.

In essence, what it does is to increase by 50 percent the radius where they are going to have a more intensive initial reaction and radiation. It cuts down extremely on the thermal and shock value around the extremities. So they increase that radius with that intense radiation inside the radius.

Let us look at the manuals where they talk about this radiation. In the manual it says that if they want to kill a human being or incapacitate a human being—and that means that death comes very shortly, maybe in a couple of hours, but very shortly—that human being has to receive between 8,000 and 18,000 rads in his body from this initial radiation. That is 8,000 to 18,000 rads. Let us just remember that.

We all know that 30 rads, which is a much lower figure and, granted, much further out on the perimeter, will certainly not kill anyone, because we know it takes 8,000 to 18,000 rads to fairly rapidly incapacitate a human being. Thirty rads will not kill a human being by any means, but we do know that a 30-rad dosage, which would be way out on the perimeter, doubles the mutation rate in a human being.

Many doctors have said that that doubling of the mutation rate will mean it stays in the genes for probably at least 10 generations, however they figure that out.

So while we are talking about this, we have to admit, yes, that it will instantly incapacitate and kill, and possibly in a broader radius, but there will not be quite the shock in the broad parameter. Yet there will still be a lot of fallout, and the radiation will still be doubled over the long term.

I think when we call this clean and call it surgical and call it tactical, we have given it a lot of credence.

Mr. Chairman, I also think we have to look at what it is pointed at.

The CHAIRMAN. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. To continue, Mr. Chairman, we are saying that we need this weapon because the Russians have so many tanks. We are saying that if we utilize this weapon in Germany, the Russians will not be so threatening to us.

There are all sorts of reasons for why this is an "advancement" over the other weapons which we now have. I do not think it is. I think it is truly a white line type of thing. I think the President would keep that line very bright.

Mr. Chairman, we are also preparing a weapon that can be used by future Presidents.

When it comes into our arsenal, would we ever use it against a nonnuclear country? We have never discussed that. We do not know the answer to that.

Mr. Chairman, how do the nonnuclear countries which signed the nonnuclear proliferation pact feel about this and about our having it in our arsenal? Will not the Russians immediately want to do this also, and how does that affect the test ban treaty?

All these things need to be considered and considered very, very seriously before we proceed with the development of this weapon.

Therefore, Mr. Chairman, I again commend the gentleman on his amendment and hope the Members will vote for it.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the basic issue with respect to the neutron bomb, whether it is clean, dirty, or whatever, really to me is this: We talk about having it because the Soviet Union has CBR warfare, which I thought we had when I was in the Army. I thought we had it during the recent unpleasantness in other parts of the world.

In any event, we have this weapon to use, and this is a little bit more acceptable than the big bomb, which means that it increases somewhat the possibility, not by that much, maybe just by this much, that we might use it. When we increase the possibility by even this much so that we might get involved in nuclear conflicts, I think it is a bad deal. It is a bad deal.

How do we know how the Soviet Union is going to react to this deterrent, if it is a deterrent, rather than the big deterrent that we have? They are going to follow their own policies and their own doctrines. They have not invaded Western Europe since the peace in 1945.

I do not know whether they are going to start anything now if they have this edge on us where they have this overwhelming mass of tanks and planes and troops. I think we have more troops in America than there are Russian troops in America, just like they have more troops over in Europe than we and NATO have over in Europe.

Why did they not invade when we did not have this neutron bomb which was going to stop them?

Mr. Chairman, I do not think that this is really a deterrent.

Mr. Chairman, I really address this statement to my colleagues on this side of the House who have questions because many of our respected friends support this weapon, saying that we can live with it unless it is used, and that it is not that big when we compare it to other nuclear bombs. It raises the possibility, however slight, that nuclear war can become acceptable. They say that it is not even a bomb—my God—it is only an artillery shell and that that is a little different in and of itself.

Mr. Chairman, that is what we are talking about. If we use one of these artillery shells, what kind of commitment do we have that the other side is either only going to respond with an artillery shell or that they are going to go for the big ones?

Mr. Chairman, that is what is wrong with this bomb. It increases the possibility, ever so slightly, that nuclear war can be acceptable when we use the neutron bomb with smaller collateral effects. We do not use it as a bomb; we use it as a shell. That is what is wrong with the program. It increases that possibility that it can be acceptable or that it might be acceptable. If it is acceptable, then our children and our children's children are not going to have a world to live in.

The reason for that is that once you cross that threshold, bam, it is gone.

In closing I would just like to read from former Secretary of Defense Jim Schlesinger, who has argued that—

> . . . reduction of collateral damage should make it more credible to the Warsaw Pact that the NATO Alliance will use nuclear weapons.

It does not say that we will, but says it makes it a little more credible. So that they had better believe that we might use this. And that is what the gentleman from Alabama (Mr. DICKINSON) has said. That is what our threat is against their CBR warfare, which they have not used.

So I urge the Members to think about the bottom line that it increases the acceptability of nuclear conflict, because it would be limited and it would be in artillery shells.

I know of no individual who really believes that we can have a limited nuclear war and see our society and our children survive and even think of our children having children.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I do not ordinarily involve myself in debates on military subjects, because I really am not particularly knowledgeable in these areas, but this neutron bomb, the idea of it, has given me great cause for alarm. The more I listen and the more I read, the more alarmed I get.

The gentleman from Alabama (Mr. DICKINSON) in his remarks confirmed the fears that I felt when I first learned about this program, because obviously the development of this weapon and the use of it are very similar to gas warfare. The gentleman from Alabama (Mr. DICKINSON) points out that it will be deployed to counter the capability of the Soviet Union in chemical warfare. I guess actually it could be described as a combination. The neutron bomb is sort of a combination of chemical warfare and nuclear weapons. However, there is a catch-22 about it. It is supposed to disable. It is described as disabling people and tanks, fortresses, and so forth, and then it would kill after it disabled, leaving the tanks and buildings intact so that they can be occupied after a few hours by new troops. But the catch-22 is that it neither disables nor kills immediately.

I became interested in the subject early this year in reading in the Manchester Guardian an article by Anthony Tucker, the science correspondent, who described tests that were made in the United States to determine how effective this radition could be.

I will quote from the article. This is a news publication; there is certainly nothing classified about this newspaper. The article said that—

> Scientists watched the dying monkeys—
>
> They were giving monkeys radiation—
>
> to see for how long military personnel could continue to drive tanks and fire weapons after irradiation at various distances from a low air burst. The idea is that a relatively large area of battlefield would be irradiated with very high energy neutrons whose penetrating power would render tank or blockhouse protection useless.
>
> In the U.S. experiments the monkeys were subjected to highly disciplined training in the driving of simulated vehicles, so that their performance after irradiation and burn damage could be accurately measured.

Then the article points out that depending on how large the dose of neutrons would be, and they use the term "rems" and the rem is a measure of radiation damage, some doses are fatal after a few weeks and sometimes the people irradiated, or the monkeys, function for an hour or so.

So what is going to happen when these neutron bombs or roman candles, or whatever they might be described as, are used and they temporarily or for a few minutes disable the enemy?

Then what is the behavioral pattern going to be? Are we going to get a new response? I cannot see how this could possibly work, and I wish some member of the Committee on Armed Services would explain it to me. It does not disable at once; it does not kill at once; it just disables after awhile; it kills after awhile. It certainly does not instantly disable these tanks and whatever machinery or gun emplacements, or whatever might be there.

Mr. Chairman, any discussion of when, where and for what tactical purpose the neutron bomb would be preferable to traditional weapons is an avoidance of the real issue.

The real issue is:

The efforts of the United States in the world weapons arena should be directed to ending this preoccupation with nuclear arms.

If we are capable of developing ever-increasing ways to exotically kill, then we can also develop technology to render these exotic weapons useless.

I could not agree more with my colleague from New York that the neutron bomb is a departure from the defensive policy of the United States.

The neutron bomb is not as devastating as a full-scale nuclear weapon and there could well be less hesitation in using it. Funding for the neutron bomb is a back-door strategy that can only escalate hostilities.

It is impossible to believe that if anyone uses any nuclear weapons that the enemy would not respond in kind—or worse.

How can there be a guarantee that an adversary targeted with a neutron warhead will not retaliate with a full-scale nuclear attack?

If we are attacked with a neutron bomb, we have more than enough nuclear weapons to kill the enemy several times over. And, of course, so does the enemy.

We should not be deluded into thinking this warhead is more acceptable, because it is not a nuclear weapon.

The neutron bomb is designed to kill primarily with radiation. Ordinary nuclear weapons depend on explosions and burns.

We must not take lightly the dangers inherent in expanding the world's nuclear stockpile.

In the arms race, death can be the only victor.

Even if the neutron bomb were the only weapon anyone could use, brick and mortar would be the only survivors—a grim testament that we would rather have won a futile war than have kept a necessary peace.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman in the well because I think he points up a very good point that all of us should recognize.

Mr. Chairman, it cannot be overstated that the radiation from the highly concentrated explosive we call the neutron bomb, which can scurry down city streets killing all living things while leaving the buildings intact, smacks of a special kind of science fiction horror that we all abhor. But it is more a matter of hard-headed military calculation than humanitarianism that brings me to oppose the miscalled "clean" bomb. No arguments emanating from any source, based on information presently available, can justify our Nation including the neutron bomb in our arsenal of weapons.

First of all, our defense strategy is based upon our effectiveness in deterring warfare. The neutron bomb has been heralded as such a deterrent, because it is believed that the United States would be more willing to use a smaller, more accurate nuclear weapon and, therefore, our adversaries would be less likely to launch an attack.

There is no evidence to indicate, however, that we would be more prone to employ this type of nuclear weapon. The risk of a full-blown nuclear holocaust is too great. I believe other powers would simply be provoked to develop and add the neutron bomb to their own weapon caches and, thus, add another ingredient to the arms race.

It is argued that we need the more flexible weapon for use in a limited war when it would be inappropriate to use blockbuster nuclear arms. Since, however, we cannot depend upon the enemy to respond in kind with the same limited weapon, this becomes an untenable argument. And why should they? When an enraged populace, the victim of radiation from the neutron bomb, knows it is going to die in a few days or weeks, it is likely to retaliate with more than an eye for an eye and a tooth for a tooth.

It is extremely dangerous to blur the lines between conventional and nuclear warfare. I perceive the neutron bomb as too tempting to use in a conflict where all other factors call for conventional weapons. Such encouragement for escalating the war to a full-scale nuclear free-for-all could be catastrophic.

The upgrading of NATO's conventional forces to match the Warsaw Pact troops and increasing the number of nonnuclear naval ships would be more effective in deterring attack than moving toward the production of an exotic nuclear weapon.

On the recent anniversary of the destruction at Hiroshima, I inserted a statement into the CONGRESSIONAL RECORD asking that Congress not support another Hiroshima-size bomb compressed into a smaller package with a more discriminating capability to kill. We owe our children something better than that. Perhaps a bomb that would destroy buildings and weapons but leave the people? That is facetious, but I judge it to be just as militarily effective.

Mr. EDWARDS of California. I thank the gentleman for his contribution, and I urge an aye vote on the amendment offered by the gentleman from New York.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I would like to begin by simply commending my distinguished colleague, the gentleman from New York, for having brought this extraordinarily important amendment to the floor of Congress. I wish to point out, not for the purpose of demagoguery or simply for the purpose of dramatizing my point, that there is an insignificant number of Members on the floor of this House to listen to the debate on what I consider to be an extraordinarily important amendment having potentially devastating effects upon the future of this Nation and the future of this world. It is moments like these, Mr. Chairman, when this Member feels extraordinary fear beyond my ability to articulate, not only for myself and my children but for all of us in this room and throughout the world, because it is moments like these, Mr. Chairman, when it is clear to me that the decision is inevitable. This amendment will go down in flaming defeat. In its defeat it seems to me, Mr. Chairman, that we as people are running headlong to meet our destiny to destroy ourselves. It is critically important that those of us who care about human life on the face of this Earth continue to maintain the mind set that nuclear war is unthinkable. But that is not what the neutron bomb does, because if we go forward with this insanity, we make nuclear war thinkable, acceptable, possible, and I would submit to the Members ultimately inevitable. That to me is a great tragedy.

I sat here listening to the debate with my heart palpitating, but I know that it does not matter.

I am frightened to death because I do not choose to die on the basis of the madness that surrounds the thinking that goes into the need to produce this insane weapon.

Some of my colleagues applauded the President of the United States right outside, a few steps from here, who said: "It is my pledge to bring about an end to all nuclear weapons on the face of the Earth." Yet many of those colleagues who applauded that statement now find some weak, ineffective way to justify this continued madness.

A clean bomb? As my colleague from Colorado pointed out, yes, it is cleaner than a rock; it is cleaner than a club; it is cleaner than a blowgun; it is cleaner than a rifle; and it is cleaner than a tank.

Anyone here who indulges in the madness of thinking that we can contain a nuclear war should immediately take a trip to the psychiatrist. There are those on both sides of the aisle who serve with this gentleman who know that there is a considerable body of thought throughout this Government, of persons who have stated unequivocally that once we start down the road toward nuclear war it will result in global strategic nuclear war.

Specifically, many of my colleagues have supported this on the grounds that it would not be used in another Korea or another Vietnam because politically that would be devastating but we can deploy it in Europe I have asked people who are charged with the responsibility of making evaluations: "Suppose a war in Europe started, could we contain it?" The response was that whatever triggered the war in Europe, it would within a relatively short period of time escalate into global strategic nuclear war.

I care about myself; I care about my family; I care about human life on the face of this Earth.

No one on this floor has made an effective argument to continue to use our resources to engage in this madness. I would submit to you, Mr. Chairman, that if any here have any compassion for human life, those who are supporters of the right to life, I would suggest that there are millions of children on the face of this Earth who ought to have a right to live, and by going forward with the principles of this monument to madness we will have killed them, because I repeat: Once one makes nuclear war thinkable and acceptance and possible, it will ultimately become inevitable.

Mr. Chairman, with all the feeling that I have, from no idealogical perspective, but simply the desire to see human life survive and sustain itself on the face of this Earth, I urge my colleagues to vote for this amendment and strike down the madness of this insane weapon.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman from California for his outstanding statement reminding us that we are, after all, telling the world something about our Nation's values, especially the value we place on life, including the lives of civilians, not only soldiers in tanks.

The gentleman appropriately referred to President Carter's inaugural pledge to end all nuclear weapons. I would like to read something to the gentleman and to the people assembled here. Recently a lady from Massachusetts handed me a copy of a letter she received from Major General J. K. Bratton, director of Military Applications for ERDA, dated September 1, 1977. She had written him about the Lance nuclear warhead, and in attempting to justify it he made this statement, citing the President's statement that his goal was to reduce and eventually eliminate all nuclear weapons. This is what the director of Military Applications for ERDA said:

> The President's stated goal is to reduce and eventually eliminate all nuclear weapons. A decision to produce the modified LANCE warhead would only be made to further that goal in that the same military effectiveness can be achieved with fewer weapons of smaller yields and a more modern, safe design.

I am quite sure of one thing—that when President Carter announced his goal of reducing nuclear weapons, he certainly did not have in mind achieving it by the means suggested by General Bratton. I suspect the President would be quite annoyed to see his words used to try to justify a new nuclear weapon. If the ultimate goal of the President, as I hope and believe, is to eliminate nuclear weapons, I fail to see how that goal will be achieved by creating this new category. Indeed, as I shall explain when I am recognized to speak, production of the neutron warhead will far more likely set back and make more difficult his efforts to reach that goal.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I want to pay tribute to my colleague from California who has expressed sentiments that I think are extremely moving and I hope will win support for the Weiss amendment to delete all funds for development and deployment of neutron weapons.

I am perfectly aware that this amendment, even if it were successful, would do little to slow down the overall military machine that spews forth weaponry faster than we can comprehend the consequences of it. It is my considered view, however, that this Congress, were it to

take time to exercise its critical judgment in this matter, the issue of neutron weapons, could well be a turning point in this Nation's choice of priorities—away from the preoccupation with death-serving and unnecessary instruments of war to thoughtful consideration of useful and life-enhancing projects of dignified work and reconstructed communities at home.

The eminent philosopher, Erich Fromm, wrote in a recent book on man's relation to technology:

> The machine man built became so powerful that it developed its own program, which now determines man's own thinking.

I translated this profound insight in the following way:

> We create more and more machines, in this instance military machines, and justify them in the name of national security; but rather than the notion of national security requiring these machines, these terrible machines require a justification, in fact, shape our notion of national security. We are acting on this issue as if we are saying to ourselves, let these new weapons decide for us questions too momentous to decide for ourselves.

As a Member from an urban city, I have to tell you that these weapons will not contribute one iota to the security and well-being of my fellow citizens there. Neutron weapons are no comfort to them. I shudder to think how helpless we have become in relation to the awesome technology we create. In honoring these machines, and that is what we are doing, I believe we are honoring ourselves and the good we could otherwise achieve.

I think if this amendment does not pass, that we will be back on the floor of the Congress in the near future to debate the next revolution in lethal military weapons technology. Both in the United States and the Soviet Union there is work on high energy lasers and charged-particle beam weapons of far greater potential lethality than even the neutron bomb. These bombs may, in fact, be an anachronism before the 95th Congress finally adjourns. The charged-particle beam or directed energy weapons in the R. & D. pipeline will be designed to incinerate whole cites efficiently and at extremely low cost. One day Members of Congress and this Nation will wake up to read in the papers that the whole strategic weapons balance has been completely thrown out of kilter by a new generation of unbelievably deadly weapons. Following that, we in Congress will be asked for a massive investment in charged-particle beam technology and satellite delivery systems.

In the name of all we stand to be reasonable, today is the time for us to stop the neutron bomb before we escalate these exotic weapons into uncontrollably new realms of destruction.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, it is, I suppose, uncharacteristic of me to rise in support of a weapon. In talking to my friends whom I have joined with on so many issues, I find it extremely difficult, because my heart is with them in their opposition to nuclear war and armaments, and the futility of this whole military madness of this particular time in our history. I would like in particular to associate myself with the remarks of the preceding speaker, my colleague from Michigan (Mr. CONYERS). I think, of all the arguments in favor of the Weiss amendment that I have heard, his is really the most persuasive and most logical. But I must disagree, and I must give the Members a slightly different interpretation.

I must tell my colleagues that I think that they are misinformed. That is excusable, because a lot of the information about the neutron bomb that has been available has only been available through the newspapers. I can tell the Members, as a member of the Military Application of Nuclear Energy Subcommittee, one who has studied this with a great deal of care, with a great deal of thought, and has decided with a great real of trauma that this is a morally preferable weapon than those that we already have and which it will replace, that the newspaper accounts of this weapon and what it will do have not been accurate. They have been misleading interpretations of what the neutron weapons are all about.

Furthermore, I think my colleagues who are supporting Mr. WEISS have not seriously thought through what they are saying. The crux of the issue, as I take it from the speakers, is that the neutron weapon is somehow or other going to lower the nuclear threshold. Think about it for a second. Nuclear is nuclear. We cannot lower the nuclear threshold by changing the effects of any nuclear weapon; it is still a nuclear weapon. A nuclear weapon is still a nuclear weapon; its effects do not change the characteristic of the nuclear threshold.

If we are going to change the characteristic of the nuclear threshold, we work on nonnuclear alternatives. Nonnuclear is where we change the nuclear threshold. It is not with nuclear.

Let me take it one step further and point out the absurdity of the philosophy behind the Weiss amendment. If the crux of the Weiss amendment is that the lower the yield, the lower the blast, the cleaner the weapon—I do not use that term, because I agree with my colleague from Colorado in thinking that those are insane kinds of terms—but if those kinds of characteristics of a nuclear weapon lower the threshold, then one may say that those who are supporting the Weiss amendment are cast into the unlikely position—think it through—that if one's purpose is to raise the nuclear threshold, one will be on this floor fighting for weapons of higher megatonnage, more heat, more blast, more radiation.

Do the Members not see the weapons effects, however, altered, have nothing to do with the nuclear threshold; nothing to do with the nuclear threshold? They make it not less likely.

Furthermore, I think the people who are supporting the Weiss amendment have not thought through the fact that the neutron weapons must be considered in relation to existing tactical nuclear weapons. This is not a new layer of weapons which are going to be laid on the nuclear arsenal.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. These are weapons which will replace other weapons, other nuclear weapons which have higher blast, higher heat, higher collateral damage; which are less secure from terrorism, an element of the enhanced radiation weapon that has received too little attention. Believe me, I am far more concerned about nuclear terrorism than I am that the Soviet Union is going to roll over Western Europe.

These nuclear-enhanced radiation weapons will replace weapons, which are already in the arsenal and will result in a step back from the awful, horrible, insane kinds of things that I have been hearing out of the mouths of people who I think are misguided in the support of the Weiss amendment.

It seems to me that as a civilized society we have always preferred weapons—to the extent that we have to prefer weapons—in that we have taken the choice between the lesser of two evils. We say we do not want weapons of high collateral damage. That is one of the main reasons we have been against chemical and biological warfare and dum-dum bullets. Now my liberal colleagues are in a position of favoring weapons, voting for high collateral damage weapons, if you will, by voting for the Weiss amendment. I simply do not understand it.

It was an agonizing decision for me. I studied it carefully, not out of the press, but out of the classified reports; and I came to the decision that the Weiss amendment, simply speaking, is morally wrong.

Mr. Chairman, I ask for the defeat of the amendment.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Let us see if we can agree on a definition. When we use the term "lowering the threshold," does the gentleman agree with me that that means that there is more of a likelihood that nuclear weapons will be used?

Mr. CARR. Exactly.

Mr. WEISS. Will the gentleman agree also that Mr. Schlesinger, among others, has said that one of the strengths of the neutron bomb, the neutron weapon, as a deterrent is that it is more credible that we would use such a weapon? Would the gentleman agree that Mr. Schlesinger made that statement?

Mr. CARR. I would accept the gentleman's statement.

Mr. WEISS. All right. Will the gentleman agree that if it is more credible we would be using the weapon, that in fact we would be lowering the threshold of the likelihood it would be used? Is that what we are saying?

Mr. CARR. I do not agree with Dr. Schlesinger, I have not agreed with him very often, and I do not agree in this instance. I think Dr. Schlesinger is wrong. I am not sure this is a more credible weapon. I do not support it for that reason.

Mr. WEISS. If the gentleman will yield further, I am really trying to get an agreement on the use of English before we get into a technical argument. If in fact the argument has been that it is more credible that we would believe we would use it, then that means lowering the threshold, does it not?

Mr. CARR. I do not accept the gentleman's premise. I do not believe it is a more credible weapon.

Mr. WEISS. Why have they said it is a marvelous, clean weapon? Why does the gentleman agonize over the decision as to whether or not he should come out for or against the amendment?

Mr. CARR. I think deterrent in this respect, credibility in this respect, is irrelevant. I would say to the gentleman from New York there are more serious reasons for opposing this amendment.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, I would say to the gentleman that there are a variety of reasons for supporting this amendment. Mayoe Dr. Schlesinger believes it is more credible. I do not happen to think so.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield to me?

Mr. CARR. I yield to my colleague, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I have three points. First of all, I say to my colleague that there are Members on this floor who are informed as to the issue of nuclear weapons. I think it is an insult to the Members of Congress to say we are not informed. Every Member here on the floor of Congress is aware of the neutron bomb, and I would suggest to the gentleman we are informed. Whether the Members on the floor understand all the technical jargon that appears in documents, they do understand the idea of being blown off the face of the Earth, and I think they understand what these weapons are all about.

The second comment I wish to make is this: The gentleman argued that there is some moral defense for this bomb. I would ask for whatever time the gentleman needs if he is able to tell me what moral defense there can be for the production of a nuclear weapon whose sole purpose is to blow human beings off the face of the Earth. Where is the morality in that?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. Mr. Chairman, if I may answer the gentleman, I would agree with the gentleman from California (Mr. DELLUMS) that if the menu that was to be served up to us today were that we are going to begin the production of the first nuclear weapon, we would probably be in agreement. On this point, I have associated myself with the remarks of my distinguished colleague, the gentleman from Detroit, Mich., Mr. CONYERS.

The problem that faces people like you and me is that we do not have the best of all possible worlds from which to choose. What do we have on the floor of the House? What do we have in Congress today? What is on the menu today?

If the gentleman wants to take the neutron weapon as a symbol and vote on the neutron weapon as a symbol of his endorsement or rejection of nuclear madness, that is up to him. I am merely telling the gentleman that the menu that has been served up today is whether this House is going to vote to continue the high-blast, high-yield, high-thermal radius weapons, the weapons that would have just as deadly a radiation as the weapons we now have or whether we are going to allow the President to choose.

This is an important thing. The President has not decided to produce these things. The issue is whether we are going to allow the President the option of choosing a less destructive weapon. That is the choice before us today unless Members for their own purposes choose to cast their votes in a more symbolic fashion. I choose not to do that.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield to me for one last time?

Mr. CARR. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate the last statement the gentleman made because it is more eloquent than any statement any other Member has made in stating the case. But underneath this entire debate the bottom line is that when we state that we must give the President a more acceptable option, what we are saying is that we have moved to the point where we make nuclear war thinkable.

That is the only point this gentleman is trying to make. Once we move from the unthinkable to the thinkable, then I would fear that it is inevitable.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. Mr. Chairman, I would just say to the gentleman from California (Mr. DELLUMS) that I do not believe that the neutron bomb or the idea of a radiation war makes war more thinkable. In fact, I would tell all my colleagues that I do not believe in limited nuclear war, but I see something morally deficient in those who have the arrogance to say that they are never wrong.

I might be wrong, but I do not believe that we will have a limited nuclear war. I might be wrong, it might be possible. I am not going to self-fulfill my prophecy. I think it would be morally wrong, too, to self-fulfill my prophecy that there would be an escalating holocaust by denying a weapon which might provide a second firebreak. I do not think that would happen, but it might.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman is 100 percent correct. He takes a very, very difficult position as he stands in the well and defends this weapon. Nobody likes to defend weapons, nobody would like to see them built, and if they did not have to be built, that would be fortunate in the case of some of them.

But what I would like to have the gentleman do, as he has done to some extent, is to refocus the discussion of this weapon. We are not talking about strategic nuclear war. That is not in issue. We are talking about the replacement of a tactical weapon with another tactical weapon.

Let us confine ourselves to that discussion, and then I think we will be able to get at the point.

Will the gentleman tell us what advantages there are with the neutron bomb, if there could ever be an advantage in killing people? I submit right away there are never advantages in war or killing people, but if we had to use this weapon in Europe, if it ever came down to that, are there any advantages with the neutron bomb over the KT–2 weapon that we have in existence, with the existing warhead?

Mr. Chairman, I would appreciate the gentleman's answer so our colleagues will be further illuminated about that.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. I think the gentleman knows, obviously, that this weapon is not suited for offensive warfare. True, if one is in a bow-and-arrow society and is running out of arrows, he might throw the bow. If he is running out of spears, a well-aimed shield might do some damage.

I am not willing to quibble about defensive-offensive; but the fact of the matter is that the neutron weapon is not well suited for offensive nuclear tactical use.

The other thing is that it is quite possible, as I think, that there is one scenario among nuclear strategic thinkers that has some credibility.

Again, I restate that I do not believe in limited nuclear war. I do not think it could happen, but there is one credible scenario advanced by Dr. Edward Teller that a well-announced intention to use nuclear weapons on friendly soil against hostile troops might, just might, provide a second firebreak.

I think, for all my conscientious colleagues who are against nuclear war and

nuclear conflict, if there was ever a possibility that we could have a second nuclear firebreak, even though we do not believe it would ever be used, if there was ever a possibility of a second nuclear firebreak, we think we would want to have that in there as a safety valve, and the neutron weapons might do it.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, I want to say that I have not had so many of my liberal friends talk to me all at once in a long time.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I hope the gentleman from Michigan (Mr. CARR) cherishes a moment that might not be repeated.

I would say to the gentleman that I have heard nothing but contradiction after contradiction, the last one being in some ways the most extraordinary.

In answer, I believe, to the gentleman from California, the gentleman from Michigan said that the moral argument in favor of this weapon was that it gave the President the option of using a less destructive weapon. On the other hand, the gentleman has stated at least twice that he does not believe in the possibility of limited nuclear warfare.

Mr. Chairman, I simply do not understand the gentleman's reasoning.

Mr. CARR. Mr. Chairman, let me clear my words up for the benefit of the gentlewoman from New York.

I meant to say that the President would have the option of putting a less destructive weapon in the inventory. I think the record will so indicate, and if it does not so indicate, I would be glad to correct it. I think my remarks do not in any way indicate that these are more likely to be used. They are not more likely to be used.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield further, are they less destructive weapons?

Mr. CARR. They are less destructive weapons.

Ms. HOLTZMAN. Even if they might lead to total warfare, they are less destructive?

Mr. CARR. They are less destructive.

Ms. HOLTZMAN. I appreciate that clarification. I thank the gentleman.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I would like to ask the gentleman to explain further, for my enlightenment, the statement he made because I do not understand how he can justify it.

The gentleman indicated that the neutron bomb would be a defensive weapon, whereas a conventional nuclear bomb would be an offensive weapon, but I did not understand why the gentleman would make that distinction.

Would the gentleman tell us why?

Mr. CARR. The reason for that distinction is that the neutron weapon is suited only as an antipersonnel weapon.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for an additional one-half minute.)

Mr. CARR. To continue, Mr. Chairman, a conventional nuclear weapon destroys by heated blast. If a country is going to go on the offensive, it is going to want to tear up bridges, railroads, and supply lines and a lot of physical assets, which the neutron weapon cannot do.

Mr. BEDELL. I should think it would be the other way around. A country would want the bridges saved in order to have its troops advance.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words.

I take the floor only to state to my colleagues first my commendation for my friend, the gentleman from Michigan (Mr. CARR) on his presentation.

Second, if I thought the caliber of debate on the floor of this beloved body could be at the level I just heard, I could reconsider my retirement next year.

Again, I commend the gentleman.

Mr. DINGELL. Mr. Chairman, the Nation's energy problem is so serious that we cannot afford to neglect any viable approach to the development of new energy sources.

We will be derelict in our duty if we fail to take any legislative action open to us that will move forward the R. & D. work on any project that has the potential of significant and substantial contribution to solution of the energy problem.

It is clear to us now that laser fusion offers one such opportunity. Up to now, the civil energy work has been under the direction of the weapons complex of AEC and ERDA, an organizational assignment which unavoidably makes civil energy laser fusion a secondary effort.

The Committee on Science and Technology has given this program proper status as a civil energy measure in the legislative process. It remains under military management, however, in the executive.

I want to congratulate the able chairmen of both the committee, Mr. TEAGUE, and of the subcommittee, Mr. FLOWERS, for the constructive handling of the civil energy laser fusion issue. Two specific steps have been taken:

First is the addition of $9.2 million added by the Science and Technology Committee to further the work of the industrially initiated ongoing civil energy laser fusion program. Second is the requirement that the funds requested for civil energy laser fusion be separated from those requested for military purposes in the next budget cycle.

This will enable the Congress to deal promptly and constructively in the next session with the question of establishing a civil energy laser fusion program with its own funding and clearly defined goals. When this program is lodged in the civil energy side of the Department of Energy, it will receive the backing and priority it deserves.

The reason civilian applications of laser fusion have been delayed is that under ERDA's leadership the program has been geared so heavily toward military applications. We can no longer treat the civil energy work as a secondary effort.

The most serious drawback to the military domination of the laser fusion work has been the denial of opportunity for true industrial participation. There is no incentive for industry to get into the field. As a matter of fact, secrecy requirements have clearly discouraged any inflow to the government of new and different ideas.

With all due respect to the great Government laboratories where most of the Government's laser fusion funds have been spent, I strongly believe that Government funding of private industry is the best way to insure expeditious development of civilian energy applications.

As long as military applications of laser fusion take precedence over civil energy objectives within the Government laboratories, we can have no assurance that this program will be pushed for civil energy purposes.

Laser fusion is now too important as a potential new energy source to permit it to be treated as a stepchild in the weapons house. It should be managed with far greater attention from topside, greater investment of funds, clearly defined long-range planning, and incentives which will draw talent and new ideas from university and industrial laboratories. It is time for industry to start up the learning curve which is the only path to commercialization.

Mr. CHARLES H. WILSON of California. Mr. Chairman, as the gentleman from Wyoming (Mr. RONCALIO) said, this has been a very worthwhile debate that we have had.

It is not my intention to try and limit time, I have no intention of doing that. It was the hope that we could finish this one amendment this evening. The leadership would like to have the House adjourn at 7:30 at the latest. I am wondering if there is any chance of completing this by 7:15 this evening? If not, then I would be constrained to move that the Committee do now rise.

Mr. Chairman, in view of the number of Members standing, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes, had come to no resolution thereon.

COMMUNICATION FROM CHAIRMAN OF COMMISSION ON ADMINISTRATIVE REVIEW

The SPEAKER laid before the House the following communication from the Chairman of the Commission on Administrative Review; which was read and ordered printed:

COMMISSION ON ADMINISTRATIVE REVIEW,
Washington, D.C., September 22, 1977.

Hon. THOMAS P. O'NEILL,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Commission on Administrative Review, established by House Resolution 1368 and incorporated into law by Public Law 94-440, submits the enclosed report and recommendations on the reorganization of the administrative system of the House and the improvement of day-to-day operations in legislative offices.

The Commission strongly believes that the recommendations it now submits will serve both to modernize the structure of the House's administrative system and to enable Members to make more effective use of their time and resources.

Sincerely,

DAVID R. OBEY,
Chairman.

FURTHER LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I have taken this time to ask if the Speaker, or the leadership, could inform the House what the program for tomorrow will be, or has that not yet been decided?

The SPEAKER. The Chair will state that the first order of business tomorrow will be to continue with the bill we were considering this evening. We would follow that with H.R. 9019, budget authority rescission, after which we will take up H.R. 7010, compensation for victims of crime. That would be followed by H.R. 3816, FTC Amendments of 1977.

Mr. BAUMAN. I thank the Speaker.

A COMPREHENSIVE WATER PROGRAM FOR THE NATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, today I am introducing a package of six bills, all dealing in various ways with the serious water problem facing this country.

The titles of the bills are: The Water Conservation Amendments of 1977; the Public Buildings Water Conservation Act; the Water Supply Act; the Water Efficiency Labeling Act; the Consumer Product Water Efficiency Act; and the Water Conservation in Homes Act.

These bills were, of course, prompted by the severe drought that is plaguing so much of this Nation. Two facts in particular stand out with respect to the drought. The first is that the Federal Government seems to have absolutely no plan or method for dealing with drought, either in advance or while it is in effect. Besides the overwieldy bureaucracy that handles our water resources, there is no single person or purpose behind Federal drought assistance. Certainly, little thought is given to contingency planning. Moreover, the Federal Government, itself a substantial consumer of water, does not make any effort to set an example for the Nation by modifying its consumption and installing watersaving devices, even though it recommends this course for others. In many respects, the Federal Government actually encourages water consumption by handing out billions of dollars for construction relating to water with no effort to bring the growth in consumption under control.

The second fact that strikes me is that the average consumer or homeowner, faced with rising water bills and mandatory conservation measures, gets little help from anyone. Information on the water consumption of basic home appliances such as dishwashers and washing machines is hard to find, out of date, or unreliable. The very high level of water consumption of many of these products leaves him little real choice, even if he does finally find information on the products. This same homeowner, if he chooses to take some meaningful action by having his home retrofitted or built with water conservation equipment such as grey-water filters or home recycling devices, receives no encouragement from the Federal Government in this endeavor. Indeed, he may have a great deal of difficulty in getting financing for the purchase and installation of such equipment, as it is not now recognized by the Federal Government as representing a real improvement upon the value of a home.

This scenario is not an unfamiliar one. To some extent, it is mirrored in all our natural resources. Most recently, we have attempted to reverse this situation with regard to our precious energy resources. We have established a Department of Energy to bring order out of the present Federal chaos, we have set down some mandatory energy conservation requirements for cars and other products, we have given various incentives for the use of innovative energy systems such as solar and wind power.

These actions should serve as a useful model for dealing with other resources and in particular, water. To build on that concept, I introduced the Federal Water Authorities Reorganization Act earlier this year. That bill provides for the formulation of a national water policy to guide all Federal activities in the area of water management. To oversee the implementation of that policy by the more than 30 separate Federal agencies that handle water resources, the bill creates an Office of Water Management within the executive branch serving as a management arm of the President and eliminates unnecessary bureaucracy. To avoid the confrontation we witnessed this spring between the President and the Congress over water project construction and to insure that needed projects are built without undue delay, the bill creates an independent Water Project Review Board to review proposed projects and pass recommendations on construction along to the President and the Congress. It is my belief that independent, expert review would benefit both branches and avoid the distrust that has characterized debate on water projects.

I might note that the cost of running these offices would be more than covered by the savings that would result from the abolition of two Federal water management bureaus, as proposed in the bill.

Reorganization of Federal water policies and management lays the essential groundwork for other actions and programs, as proposed in the bills I am introducing today. A short summary of the provisions of those bills follows:

1. THE WATER CONSERVATION AMENDMENTS OF 1977

The bill amends the Federal Water Pollution Control Act (Public Law 92-500) to build in water conservation incentives. Reduction of unnecessary water consumption is one of the ways of reducing the total flow of sewage, so the bill directs EPA to examine possibilities for water consumption reduction in all areas for which Federal sewage treatment funds are available. Further, the bill ties required Federal sewage treatment plant construction funds to reductions by localities in their water consumption levels, while providing a range of Federal assistance to communities to help them achieve this reduction.

2. THE PUBLIC BUILDINGS WATER CONSERVATION ACT

The bill amends the Public Buildings Act of 1959 for two basic purposes. The first is to revise Federal building codes to insure that all new Federal buildings meet stiff water conservation criteria. The second is to provide for the retrofit of existing Federal buildings with water-efficient equipment. The second goal is to be met by retrofitting at least 500 Federal buildings a year, in the normal course of repair of those buildings. This bill will not only set an example for those in the private sector, but it will provide a much-needed stimulus to the manufacture of water-efficient goods.

3. THE WATER SUPPLY ACT OF 1977

This bill addresses the present and critical lack of planning for the assurance of adequate water supplies. It directs the Administrator of General Services to survey existing federally owned or controlled water storage facilities to determine whether there is any unused capacity that could be converted to municipal use. It asks the Chief of Engineers of the Army Corps to report on the potential for the creation of new water storage facilities, so that the Congress may make appropriations for such purpose. Perhaps most importantly, it directs the Secretary of the Interior to determine future water consumption levels within the United States and come up with a comprehensive plan within one year for meeting such needs, for consideration by the Congress. Development of a substantive program such as this could greatly alleviate the effects of future droughts.

4. THE WATER EFFICIENCY LABELING ACT

The bill provides for mandatory labeling of water-consuming home appliances

as to their water efficiency. The label would contain information on the actual amount of water consumed by the product and the minimum level of water at which such product could be efficiently run. This will enable consumers to evaluate the efficiency of individual products and to compare efficiency of various types of products.

5. THE CONSUMER PRODUCT WATER EFFICIENCY ACT

Based on essentially the same concept as the Water Efficiency Labeling Act, this bill mandates increased water efficiency levels for consumer products, based on a stepped approach over 5 years.

6. THE WATER CONSERVATION IN HOMES ACT

The bill amends the National Housing Act (Public Law 73–479) to provide Federal loan guarantees for the financing of water conservation equipment for homes, including grey-water filters, hot water recirculation systems, fiberglass water pipe insulation, and residential recycling systems. This builds on the present law, which provides such loan guarantees for the installation of fire safety equipment, energy conserving improvements and solar energy systems.

As is the case with energy, there are no easy answers to drought and there is no way to actually increase our supplies directly. What we can do is manage what we have in a more thoughtful, careful manner, recognizing that the days of unlimited supply and reckless use are gone. The bills I am introducing today, along with H.R. 8060, the Federal Water Authorities Reorganization Act, are a first step toward reaching that goal.

Half the bills address the Federal role in our water resources, half provide assistance to the consumer and homeowner. That is more than just a coincidence. Our experiences in many diverse fields have shown that while the role of the Federal Government cannot be ignored in solving many of the problems we face, it is also not enough to expect the Government to solve everything for us; private individuals must be a part of the solution. In the area of water, it has been individuals who have taken the lead in coping with the drought; government has done very little. While there are some who would say that is an ideal situation, I think we cannot afford to forgo the resources and role of the Government in preparing for and dealing with water problems in this Nation.

I urge my colleagues to look very seriously at the tragic drought that is afflicting so much of the Nation and to consider these bills as the starting point of action to avoid a similar situation in the future and to alleviate the effects of the present water shortages as much as we can. We have taken some bold steps recently to protect and manage our energy supplies. Now we must do the same with our scarce water resources.

TITLES OF THE WATER BILLS

1. The Federal Water Authorities Reorganization Act of 1977.
2. The Water Conservation Amendments of 1977 (to PL 92–500).
3. The Public Buildings Water Conservation Act of 1977.
4. The Water Supply Act of 1977.
5. The Water Efficiency Labeling Act of 1977.
6. The Consumer Product Water Efficiency Act of 1977.
7. The Water Conservation in Homes Act of 1977.

VETERANS' BENEFITS FOR WOMEN AIRFORCE SERVICE PILOTS (WASP)

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. HECKLER. Mr. Speaker, I would like to call to the attention of the House the recent editor's report by William Randolph Hearst, Jr., one of the most outspoken and respected journalist of our time, which appeared earlier this week on the front pages of scores of newspapers across the country.

As editor-in-chief of the Hearst newspapers, Mr. Hearst heads a vast and trusted newspaper enterprise whose history is deeply rooted in the history of our Nation.

Mr. Hearst calls upon Americans everywhere to urge Congress to approve full veterans' benefits for the World War II Women's Airforce Service Pilots, universally known as the WASP's.

I would like to publish this excellent article in the RECORD in its entirety. Additionally, I would like to quote one brief passage which eloquently summarizes the WASP cause:

These courageous ladies piloted fighter craft and bombers to all parts of the world. Their role was to relieve male pilots for combat duty because there was a pressing shortage of combat-ready pilots in the war's early days, and they—the women—performed their jobs with courage, dispatch and efficiency. So dedicated were they that 38 of them lost their lives.

Mr. Speaker, as a member of the Committee on Veterans' Affairs and as the sponsor of H.R. 5087—a bill which would grant veterans' benefits to the WASP's—I commend Mr. Hearst for his support of these deserving women.

In addition to Mr. Hearst, the number of distinguished Americans supporting the WASP cause is large and impressive. In the interest of brevity, I shall name but a few.

The distinguished Senator from Arizona, BARRY GOLDWATER, who is a general in the Air Force Reserve and possesses a most distinguished war record, flew with the WASP's and knows first-hand their valuable contribution toward winning the peace. Senator GOLDWATER has testified before the Veterans' Committees of both the House and the other body that the only reason the WASP's have been denied their rightful status as veterans is that they were discriminated against on the sole basis of sex.

Still another champion of the WASP effort is Col. Bruce Arnold, the son of Gen. "Hap" Arnold, who commanded the Army Air Forces during the war and founded the WASP unit. Gen. "Hap" Arnold organized the WASP's with the fullest intention that they be militarized and be made an integral part of the Army Air Corps. Despite the fact that their promised militarization was prevented, the WASP's were, for all intents and purposes, a part of the Air Corps. In fact, the WASP's have been endorsed by and admitted to membership in the exclusive and select Combat Pilots Association of World War II—this distinct honor and privilege further testifies to the validity of the WASP cause.

Mr. Speaker, I hope that each Member of the House will take the opportunity to read Mr. Hearst's perceptive and persuasive column. On its merits alone, the WASP cause is convincing and compelling. I strongly urge enactment of this legislation.

Mr. Speaker, the article to which I referred is as follows:

TO RIGHT 33-YEAR-OLD WRONG

(By William Randolph Hearst, Jr.)

NEW YORK.—Earlier this month a class of 10 women graduated from Air Force Pilot School at Williams Air Force Base, Phoenix, Ariz. They were hailed as the first women to fly military aircraft for the U.S. Air Force.

These young women richly deserve the congratulations of their country, the plaudits of their military superiors and their role in history as the first "commissioned women pilots."

The truth is, these recent graduates are not the first women to pilot military aircraft for the Air Force. Back when the Air Force was called the U.S. Army Air Corps there were 1,074 women pilots who flew every kind of military aircraft then in existence. It was wartime, and the young women belonged to a unit formed by General Hap Arnold called Women Airforce Service Pilots—WASP.

These courageous ladies piloted fighter craft and bombers to all parts of the world. Their role was to relieve male pilots for combat duty because there was a pressing shortage of combat-ready pilots in the war's early days, and they—the women—performed their jobs with courage, dispatch and efficiency. So dedicated were they that 38 of them lost their lives.

WASP was activated in September, 1942, and disbanded in December, 1944, when there were enough male pilots and the women were no longer needed. They were simply discharged—decommissioned, so to speak, without ever having been commissioned as officers.

Now the ladies of WASP, no longer young, wonder why they have never been given customary veterans' benefits and they are asking for them. There are 850 of them still living, according to Col. Bruce Arnold, son of Hap Arnold.

The women of WASP believe they are entitled to the basics—hospitalization when needed in veterans facilities, G.I. insurance rights, time served with WASP in the Army Air Corps should be added to civil service time served subsequently as civilians to count toward their pension programs. Last, but not the least important to many, the right to burial in a military cemetery.

A bill introduced in both houses of congress to give veteran benefits to the WASPS has met with unexpected resistance, mostly from bureaucrats and from the Veterans Administration which adheres to the attitude: "We'd be opening a can of worms."

A Senate committee held a hearing on the bill last May but did not put it to a vote. A House committee will hear witnesses on Tuesday and Wednesday of this week and there appears to be strong opposition building up, mostly as the result of lobbying by the government's own agencies. Chairman of the committee is Rep. Ray Roberts, D., Texas.

Washington correspondent Marianne Means of The Hearst Newspapers has reported that President Carter is opposed to the bill and that Mrs. Carter shares his opposition.

The total cost to the republic to provide full veteran rights to the brave women who served their country so well more than a quarter of a century ago would be a measly $100,000 per year for as long as the 850 survivors remain in our midst. Not a hundred million, nor even one million, but 100 thousand.

To resist this on grounds of its cost is nothing short of incredible for an administration that is requesting $10.6 billion for the first year's budget for its new Department of Energy. But more on that in another column.

We should regard the role of WASP as the rich heritage of the 10 female officers who graduated from the Air Force Pilot School this month—and we should honor the WASPs accordingly. It is simply not proper to deprive them of the military benefits that were bestowed by a grateful populace on all other military personnel.

The members of WASP came forward at a time when they were desperately needed. The idea of equal rights for women simply did not exist then. The problem was simple: There were too few men pilots: the women were eager to help win the war; and in those dark days of 1942 and 1943, the government was grateful to get all the help it could.

Right from the beginning, members of WASP were given to understand if they proved capable they would be made an official part of the Army Air Corps.

Due to congressional red tape, the entire plan went astray.

It did not take long to demonstrate that WASP was valuable to the war effort, but it was not until the summer of 1944 that Congress voted against the bill designed to make WASP part of the Air Corps.

By then, though, there was no longer a shortage of male pilots, and the time had come to get the women back to the kitchens where, in the chauvinist view of the day, they belonged.

Bitterly disappointed at not being allowed to remain in service until victory was assured, the WASPS went their own ways.

Because these were, for the most part, highly motivated young ladies, they did as well in civilian life as they did in the Air Corps—they did not raise the question of veteran benefits until quite recently. They didn't need help, so they didn't ask for it.

The basic objection of the Veterans Administration is that the granting of veterans' status to WASPS would set a precedent and there would then be no way to deny veterans status to the many groups that worked as auxiliaries to the Armed Forces. The Civil Air Patrol is named as one such group.

I contend, however, that they cannot be equated. The CAP, also founded by Hap Arnold, was composed of civilians who flew planes on their days off to search for submarines off the continental shores. It was as social as it was military.

Are we to forget these ladies of WASP, now all middle aged, who gave so much and asked for so little recognition? How ungrateful can a nation become?

Write your senator, write your congressman, write me (c/o The Times-Union).

THE FUTURE FOR UNIVERSAL TELEPHONE SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, one of the most complex issues the Congress faces is the future of the Nation's telecommunications industry. Specifically, the Congress must decide whether the universal telephone concept embodied in the 1934 Communications Act remains valid and whether competition in the interstate transmission market is desirable.

In its August 11, 1977 issue, the Times Recorder in Zanesville, Ohio, carried an editorial describing the basic issues involved.

LISTEN, CONGRESS

The service that enables Zanesvillians to call their doctor, fire and police departments, or friends and relatives, is in danger of being priced beyond the reach of many Americans on fixed incomes.

Why? Because the telephone industry's traditional, proven pricing method is in jeopardy due to federal regulatory policies.

The issue involves two types of so-called "competition" for telephone service—both being fostered by the Federal Communications Commission. One type permits the public to own its own telephones and related equipment and to connect them to the nation's communications network. The other permits non-telephone companies to provide private line long-distance services, primarily for big businesses.

In 1963, the Federal Communications Commission authorized entry of new companies into the telecommunications field. These "specialized" common carriers offer long distance service on known high-usage, low-maintenance cost routes. Slowly, but surely, they are draining revenues needed to help pay that portion of the costs of providing home telephone service not charged in the basic rate.

The price paid now for home phone service is said to not cover the full cost of that service. Ohio Bell says about 55 cents of an average interstate long distance call goes to help pay the additional costs involved. And a portion of the rates charged for business telephone equipment and optional residential services also contributes toward keeping a telephone affordable for nearly every household in the country.

In other words, some telephone company services are more profitable than others. Higher profit on some services allows the telephone company to offer less-profitable services at lower costs than they would if such services had to pay their own way. And often these low-profit services are the ones so vital to private citizens including senior citizens and others on fixed incomes.

Independent equipment suppliers also are offering services that attract large business customers away from telephone company-provided equipment. This money, too, is being lost to residential telephone customers.

The effect of this "skimming," if it becomes widespread, surely will be borne by home telephone users.

AT&T Board Chairman John deButts has said if residential telephone service must become entirely self-supporting, rates may go up as much as 79 per cent. And the increase does not include rises necessitated by inflation.

Competition is good and usually beneficial to the consumers. But it appears unfair and not of benefit to users if competitors are allowed to vie only in selling the high-profit services without having to also be handicapped by some of the less profitable operations.

It would be like a fist-fight with one of the fighters having a hand tied behind him.

If a competitive firm skims off the cream it will be difficult or impossible for the telephone companies to provide less profitable services at prices the public can afford.

The Consumer Communications Reform Act, now being debated in Congress, seeks to keep residential phone rates affordable for all. It would reaffirm the national policy of the telephone industry—universal service—a telephone in every home.

The Act also would restrict federal regulators from undermining price-setting methods agreed upon by Congress in 1934, which have produced the best, most reliable, and reasonably priced telephone service in the world.

One of the basic and important issues is that any change in national policy on telephone service should be made by Congress—by elected representatives answerable to the voters—rather than by bureaucrats of the FCC who apparently answer to no one.

There is already too much government by non-elected agencies with rules, guidelines, regulations and so forth instead of by elected representatives who must respect the ballot box.

All utilities are under constant criticism for making a profit. But all business must make a profit if it is to long endure. And with this profit it is able to continue needed services, produce necessary goods and meet public demands.

Rising utility bills of all kinds in recent years have naturally made everyone edgy about anything that would push them higher. But federal regulations have had an impact on all of the utilities in some instances resulting in higher rates and fees.

This is one reason the Consumer Communications Reform Act is sought to block developments that would result in still higher telephone bills, particularly for the residential user.

However, as the debate continues, the voice of the residential telephone user is being drowned out before congressional committees by vocal opponents of the universal service concept.

One of the most effective ways to counteract being shouted down on this issue is to write elected representatives in Congress and let them know voter feelings on this issue.

Being one of the silent majority on this matter won't help keep a telephone in our homes in Zanesville.

CONVEYANCE OF CERTAIN HOMESITES WITHIN THE CHUGACH AND TONGASS NATIONAL FORESTS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 10 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a bill that would convey certain homesites within the Chugach and Tongass National Forests in Alaska.

After these forests were established in 1907, little land remained available around the population centers in southeast Alaska that the public could use for settlement and development. Recognizing this, the Bureau of Land Management and the Forest Service agreed to provide certain lands for homesites within these forests under the provisions of the existing land laws. Under this agreement, the Forest Service would provide special land use permits to individuals who wanted to establish homesites on these national forest lands. If the individual met the 3-year residency period as required by law, and if it were felt that the homesite was more desirable as

a residence tract than as national forest land, the Forest Service would recommend to the Bureau of Land Management that the homesite should be eliminated from the forest. The Bureau of Land Management would then reclassify the land as public domain and convey the land patent to the homesite resident. Hundreds of homesites were created through this patent system.

When the Alaska Statehood Act was passed and the State of Alaska was created, enough land became available for public usage to lessen the need to reclassify national forest land. The Forest Service therefore stopped issuing permits for residential land use within national forest lands. However, not all of the homesites recommended for elimination from national forest lands had received patents from the Bureau of Land Management when the National Forest Management Act of 1976 was signed into law. Section 9 of the act stated that—

> No land now or hereafter reserved or withdrawn from public domain as national forests . . . shall be returned to the public domain except by an act of Congress.

The result was that those individuals whose patents were in the process of being granted by the Bureau of Land Management could no longer receive those patents through the administrative process. It became apparent that the only method through which the homesites could be conveyed was through special legislation.

This bill would authorize the Secretary of Agriculture to grant patents specifically to those qualified permit holders who would have received patents to their lands through administrative procedure, but were inadvertently denied patents through the general provisions of the National Forest Management Act of 1976. A similar bill, S. 2118, has been introduced by my colleagues from the State of Alaska, the Honorable TED STEVENS and the Honorable MIKE GRAVEL. While there are many land issues yet to be resolved in the State of Alaska, this one can be accomplished quickly and painlessly. I respectfully request that this bill be passed as soon as possible in order that these people can receive their land.

THE LABOR LAW REFORM BILL WOULD REMEDY INADEQUACIES IN EXISTING LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, during August, the Subcommittee on Labor-Management Relations which I chair held a day of hearings in Roanoke Rapids, N.C. The hearing was a continuation of our consideration of H.R. 8410, the labor law reform bill. We selected Roanoke Rapids as the site of the hearings, because there are seven J. P. Stevens plants located there that have become the center of a prolonged labor dispute which has direct relevance to H.R. 8410.

I think nearly everyone present at the hearing would agree that it provided a most interesting look at the inadequacies of the existing labor laws.

We heard witnesses from throughout the region, including workers from many different companies, State legislators, clergy, journalists, academics, and other prominent citizens. Unfortunately, J. P. Stevens and five other companies who we specifically invited to testify decided not to appear. In spite of this absence, the testimony we heard was at times quite moving and perhaps the most compelling we have heard on how the existing labor laws fail to truly protect working men and women.

Also during the recess, a significant event occurred that was closely related to much of the testimony we heard in Roanoke Rapids, and has a very direct bearing on H.R. 8410. The U.S. Court of Appeals for the Second Circuit issued a decision once again holding J. P. Stevens in contempt of court for its flagrant violations of the labor laws.

The court found the Stevens Co. in contempt of orders that had been issued in 1967, 1968, 1973. It strained to find an appropriate remedy for such blatant and sustained violations of the National Labor Relations Act. The court ordered that J. P. Stevens post a violation notice in all its plants and mail to all its employees a copy of the contempt verdict. The company was ordered to file statements of compliance every 6 months and to provide the union access to nonwork areas on company property so that the union could make its case to the employees. Fines will also be imposed upon the company. Thus the board attempted to fashion an appropriate remedy to flagrant violations of the law that began well over 10 years prior to the issuance of the most recent decision.

The key part of the decision, however, was the conclusion. In the opening sentence of the conclusion the court declared:

> This case . . . has been a troubling one not only because of the violations of the rights of the employees involved, but also because it raises grave doubts about the ability of the courts to make the provisions of the Federal Labor Law work in the face of persistent violations.

We thus have an expression of grave doubt from one of the most prestigious courts in the land about the ability of Federal labor law to function as it was intended. The court expresses the same frustration we have heard repeated time and again by the witnesses before the Labor-Management Relations Subcommittee. The court confirms that existing Federal labor laws simply do not work in the face of persistent violations.

After several years of dealing with the Stevens case, and after having strained to find an appropriate remedy, the court's ultimate conclusion was that existing law does not provide an effective remedy against persistent violators such as J. P. Stevens. H.R. 8410 would not only have saved the courts years of deliberations; it would have either deterred a violation in the first place, or if not, provided the effective remedy for persistent violations the court declared lacking under current law.

The Second Circuit Court of Appeals has clearly and unmistakenly called out to us in Congress for passage of a bill that allows the courts to deal effectively with those intent on violating the law.

This is the same message we were told in Roanoke Rapids. It is a message that has been repeated to the Labor-Management Relations Subcommittee over the past several years by working men and women from virtually every State of the Union. I feel most gratified that the courts have now come to recognize the inadequacies in existing law that H.R. 8410 is specifically intended to remedy.

INTRODUCTION OF A CONSTITUTIONAL AMENDMENT ON ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MCKAY) is recognized for 5 minutes.

Mr. MCKAY. Mr. Speaker, today I introduced in the House of Representatives (as Senator HATCH did in the Senate) a human life amendment to the Constitution of the United States. It is termed a human life amendment, because its basic thrust is to protect human life, yet unborn, from the revolting practice of abortion.

Because the Supreme Court has, I believe wrongly decided, that a woman's right to have an abortion is almost absolute, it is essential that the Constitution be amended to forever insure that the unborn have a right to life.

The amendment I have introduced embodies my personal moral conviction that abortion is abhorrent and can be tolerated only in the gravest situations.

If passed, this amendment guarantees to the unborn the same right you and I enjoy under the Constitution, the right to life. The amendment states:

> No person who is unborn . . . shall be deprived of the right to life.

The amendment also articulates my personal religious beliefs as to the very limited situations where an abortion can be allowed. First, a mother may choose to have an abortion if continuation of the pregnancy would result in her death or a permanent and incapacitating impairment of her physical health. If a woman seeks an abortion for these reasons under the amendment, all medical skill must be used to save the child.

Second, under the amendment, no pregnancy which results from rape may be terminated unless the State has passed a law which restricts the termination to the early stages of pregnancy and then only if the highest trial court in the State has determined that the rape did in fact occur and the pregnancy resulted from the rape. The text of the bill follows:

> Joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:
>
> "Article —
>
> "SECTION 1. With respect to the right to life, the term 'person' as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States applies to all human beings, including their unborn offspring in utero after conception.
>
> "SEC. 2. Except as otherwise provided in this article, no person who is unborn and under the jurisdiction of the United States or any State shall be deprived of life by any person.
>
> "SEC. 3. Nothing in this article shall prohibit any medically induced termination of pregnancy if such termination is necessary to prevent: (1) the death of the mother, or (2) a permanent and incapacitating impairment of her physical health, and so long as all reasonable skill and prudence are exercised to preserve the life of the unborn person involved.
>
> "SEC. 4. A pregnancy which is the result of rape may not be terminated except under and in compliance with a law which (1) limits such termination to the first trimester of pregnancy or promptly upon discovery of the pregnant condition, and (2) requires a prior judicial determination in an ex parte, in camera proceeding before a court of general jursidiction that (a) the rape occurred and (b) the pregnancy is the possible result of the rape.
>
> "SEC. 5. The Congress and the several States shall have the power to enforce this article by appropriate legislation.

NATIONAL AIR TRANSPORTATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 60 minutes.

Mr. LEVITAS. Mr. Speaker, on Monday, September 26, 1977, I introduced H.R. 9297, the National Air Transportation Act of 1978. At that time, I discussed generally the purposes of the bill. Today, I would like to explain the bill section-by-section so that the Members will have an opportunity to be acquainted with its provisions.

SECTION 1: SHORT TITLE

SECTION 2: DECLARATION OF POLICY

I. EXISTING LAW

Section 102 of the Federal Aviation Act sets forth the general policy criteria which guide the Civil Aeronautics Board in all of its actions. While this policy statement mandates competition whenever traffic is sufficient to support it, several of the criteria also emphasize the promotion of the industry, and from time to time other criteria have been restrictively interpreted by the Board to limit or delay the development of competition more than might be desirable.

II. NEED FOR CHANGE

The declaration of policy should be modified in order to make even more clear the intent of Congress that the air transportation industry shall be a competitive industry, and that the traveling and shipping public shall enjoy the lowest possible rates and fares and the best possible service. Because the existing policy statement has sometimes been restrictively interpreted with respect to competition, it should be rewritten in order to give the CAB a new set of instructions which will place unmistakably clear, additional emphasis upon both route and price competition.

The CAB agrees that the declaration of policy should be revised, and CAB Chairman Alfred E. Kahn has specifically called for a new set of instructions to guide the agency in helping the industry to become even more competitive.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The National Air Transportation Act of 1978, hereinafter referred to as the "act," eliminates or modifies those criteria of the present policy statement in the Federal Aviation Act which have been restrictively interpreted by the CAB in the past. The act also specifically adds a number of new, highly procompetitive criteria. This increased emphasis on competition is coupled with a requirement for expedition (in section 1010). The new policy statement also recognizes the need for efficient and well-managed air carriers to earn a fair and reasonable return on investment in order that the public will be fully served, as well as recognizing the need for maximum possible energy conservation, the conservation of all national resources, and the need to maintain the highest safety standards. Finally, the new policy statement gives the Board ample opportunity to take into account the distinctions which exist between domestic and international air transportation by U.S. carriers.

SECTION 3: DEFINITION

I. EXISTING LAW

The existing law contains no explicit definition of "charter air transportation" or "charter trip," even though references are made elsewhere in the Federal Aviation Act to that type of air transportation.

II. NEED FOR CHANGE

A definition of "charter air transportation" and "charter trip" should be added to the aviation statute. In addition, there is a need to define a number of new terms used in the National Air Transportation Act of 1978.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The act defines both "charter air transportation" and "charter trip." The definition of the latter term specifies that charter trips must be confined to air transportation in which the entire capacity of an aircraft has been engaged for the movement of persons, property, or mail. This would in no manner restrain the growing volume and variety of charter services, except that it would prohibit "part chartering" (operating part of an aircraft in charter service, while the remainder is simultaneously operated in individually ticketed, scheduled service) by combination carriers.

The act also contains a new definition of "scheduled air transportation" because at various points in the act that type of transportation is treated separately from other types of airline services.

A new definition of "all-cargo air transportation" is added because the act essentially terminates economic regulation of that type of air transportation.

Finally, the act adds a definition of "predatory" so that the CAB will be obligated to prevent predatory pricing.

SECTION 4: CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

I. EXISTING LAW

Under the present law the CAB can authorize new air service only if it finds that the service "is required by" the public convenience and necessity. In addition, certification is required for all types of air transportation for which exemption authority is not granted. Finally, the present statute does not grant all air carriers the right to hold more than one type of certification.

II. NEED FOR CHANGE

The Civil Aeronautics Board should be required to follow a consistent procompetition policy. The agency has done so on many occasions under present law but has taken a restrictive approach at other times. In addition, procedures for processing applications for operating authority should be expedited to the fullest extent possible, and every existing carrier, as well as new entrants in the future, should be eligible to hold more than one type of certificate. Finally, it no longer appears necessary to regulate the economics of all-cargo air transportation, although that type of air transportation should remain subject to the safety features and certain other limited aspects of the present Federal Aviation Act.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

Section 4 of the act makes a number of significant changes in congressional instructions to the CAB concerning air carrier certification. Section 4(a) would continue the certification requirement pending the CAB's expiration under the "sunset" provisions of the act. Section 4(b), however, specifically cross-references the act's new procedural provisions (the new section 1010 of the act), thus emphasizing the need for expedition in the handling of all applications for certificates.

Of equal importance is that section 4(c) changes the present requirement that proposed services be "required by" the public convenience and necessity before an application may be granted. In lieu thereof, the act requires that, in the case of scheduled and supplemental air transportation, the proposed services simply be "consistent with" the public convenience and necessity. This is a most significant change which, coupled with the strongly procompetition statement of policy in the act, will clearly create a presumption in favor of granting new applications and make it much more difficult for the CAB to engage in restrictive and protectionist policies which it has employed from time to time in the past. The new policy, this change in section 401 of the present law, and the new prescriptions for expedited procedures, in combination should prevent the CAB from ever again engaging in the type of "route case moratorium" which it imposed during the early part of this decade.

Under section 4(c) of the act, proposed section 401(d)(3) requires the Board to grant all applications to engage in all-cargo air transportation by companies which are "fit, willing, and able" to perform the proposed air transportation. The act would not even require that all-cargo air transportation be found to be "consistent with" the public convenience and necessity, let alone "required by" those elements. The act would also prohibit the Board from designating geographical areas, or terminal or intermediate points, to be served by operations authorized by all-cargo air transportation certificates. These provisions, together with section 16, which would terminate CAB authority over all rates and charges for air freight transportation will eliminate most economic regulation of all-cargo air transportation. The requirement for grant of a certificate is continued, however, in order to prevent operation for grant of all-cargo service by companies which are not "fit, willing, and able." "Grandfather" provisions are contained in the act for all all-cargo carriers operating under either certificate or exemption authority on the date of enactment of the act.

Also under section 4(c) of the act, proposed section 401(d)(4) clarifies and amplifies the CAB's authority to grant applications for certificates to engage in air transportation for only a temporary period of time. This is deemed necessary because, under the new policy statement and revised section 401 of the existing statute, the CAB will be required to grant more applications from both existing carriers and new entrants than it has in the past even under its most liberal interpretations of the present statute. Because the effect of this increased emphasis on competition and the increased emphasis on expedited procedures will not in all instances be assessable in advance, the agency should be able to authorize experimental or test operations and be able to assess their effects before making a permanent certification.

Proposed section 401(d)(5) would specify that any air carrier may simultaneously hold more than one type and may, in fact, hold all types of certificates specified in section 401 of the existing statute.

SECTION 5: TERMS AND CONDITIONS OF CERTIFICATES

I. EXISTING LAW

Under existing law there is no requirement for the CAB to review periodically restrictions which are deemed necessary in order to secure some public benefit at the time a certificate is granted.

II. NEED FOR CHANGE

Because the CAB currently has no obligation to review restrictions on certificates, many such restrictions have continued to exist after they have ceased serving the purpose for which they were originally imposed. The continued existence of such outmoded restrictions results in arbitrary and unnecessary limitations on the ability of carriers to meet fully the public convenience and necessity, and results in serious inefficiencies and therefore in added costs. While the CAB has recently undertaken a commendable program known as "route realinement" to modify and eliminate many existing restrictions, there is still a need for a clear statutory mandate to keep restrictions under constant review and to modify or eliminate them whenever they become inconsistent with the new policies set forth in section 102 of the act.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

A new section 401(e)(7) would be added to the aviation statute. The section would require the CAB, within 60 days after the filing of an application seeking removal or modification of a term, condition, or limitation attached to a certificate, to commence oral evidentiary hearings or other, expedited procedures where permitted by section 1010 of the act, to eliminate or modify any such term, condition, or limitation which the Board finds is inconsistent with the criteria set forth in the policy section of the act.

In addition, this provision of the act would permit the CAB to grant carriers which operate scheduled flights between points in this country in the course of providing the cities involved with foreign air transportation additional authority to transport persons or property between the domestic points. Because extensive grant of such authority could have an undue economic effect on carriers holding primary responsibility for the provision of domestic air transportation, this section of the act further authorizes the Board to limit the number of such flights per day on which the carrier engaged in foreign air transportation can carry domestic persons or property. Nevertheless, this new provision should be of significant help in strengthening our U.S.-flag carriers providing foreign air transportation.

SECTIONS 6 AND 7: MISCELLANEOUS

Sections 6 and 7 of the act make necessary editorial changes in the existing statute to reflect various substantive changes made by the act.

SECTION 8: CERTIFICATE TRANSFERS

I. EXISTING LAW

Present section 401(h) of the Federal Aviation Act provides that:

No certificate may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

II. NEED FOR CHANGE

Provision for route transfers is thought to be important. There are instances where a certification to an air carrier, sound when made, becomes difficult for that carrier to operate fully as the remainder of its system changes and grows. Under these circumstances, the services involved—which have been found to be required by the public convenience and necessity—can often be operated more efficiently by another carrier. While other provisions of the statute would permit the existing authority to be terminated and a new authorization to be made, it may be more expeditious or otherwise more in the public interest simply to allow the CAB to authorize a route transfer from one carrier to another. This should be permissible, either in the context of a route exchange between two or more carriers, or in the context of a unilateral transfer in return for compensation which will recognize the transferor's past expenditures in generating traffic and otherwise developing the authority in question.

The present statute should be changed in two ways. First, it should state that an existing air carrier which no longer can fully operate the authority in question can transfer it to an entity not then operating as an air carrier. Such a provision will encourage new entrants into the air transportation business. In addition, the CAB should be prohibited from approving route transfers which would be in conflict with the declaration of policy in section 102 of the act, or which would substantially lessen competition or tend to create a monopoly in any section of the country.

III. CHANGES MADE BY THE NATIONAL TRANSPORTATION ACT OF 1978

Revised section 401(h) of the existing law would specifically authorize route transfers to both existing carriers and new entrants unless, after suitable procedures, the Board finds the transfer to be inconsistent with the policy declaration of the Act, or in restraint of trade.

SECTION 9: MISCELLANEOUS

Section 9 of the act makes editorial changes necessary to accommodate various of the act's substantive changes.

SECTION 10: UNUSED AUTHORITY

I. EXISTING LAW

Under existing law there is no requirement that certificated carriers provide nonstop service in every market which they are authorized to serve. The certificates issued by the CAB consist of a series of linear route segments, each of which includes a number of cities, from as few as 2 to 50 or more. Generally, the carriers have authority to provide nonstop service between any two cities on a route segment, unless there is a specific restriction prohibiting this service. There is no legal requirement, however, that the carriers provide nonstop service between every authorized combination of cities on a segment, and in many cases it would not be economically practical to do so. Indeed, many nonstop route authorities have resulted from authorizations made for other purposes, and therefore a number of existing nonstop segments have not been found to be required by the public convenience and necessity.

II. NEED FOR CHANGE

Where a need has been found for nonstop air transportation services, it is clearly contrary to the public interest to allow such authority to lie dormant. This is especially true in markets where the dormant authority is the only existing authorization. But even in markets where other carriers are also certificated, if a need has been found for first, second, or other competitive services, the authorization should not be allowed to lie dormant. If not needed, it should be excised from the national air transportation system under section 401(g) of the existing law. If not excised, and if another carrier is willing to exercise the authority, the latter carrier should be allowed to do so.

In the case of nonstop route segments which have resulted from other authorizations, and for which a specific need has therefore not been found, dormancy is not as serious a problem. Nevertheless, even in these instances the existence of unused authority can inhibit proper growth and development of the national air route structure and can block the provision of desirable services by willing carriers.

Accordingly, a need exists for specific statutory directions to the CAB with respect to unused authority.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

The act would add a new section 401 (k) to the aviation statute. That section would specifically authorize any air carrier holding a certificate issued under section 401 to file an application seeking authority to provide nonstop scheduled air transportation between two points listed in a certificate issued under that section to any other air carrier, but which the latter air carrier does not exercise. In order to assure that the authority in question should still be a part of the national air transportation system, the act requires the Board to find that granting the authority to the applicant would be consistent with the public convenience and necessity. However, where the authority in question is the only nonstop authorization in a market, the Board is required to make this determination through use of expedited show cause procedures, within 90 days after the date that the application has been filed. Even in the case of applications for authority in a market where competitive services are authorized, the Board is enjoined to proceed expeditiously.

The new section also authorizes the CAB to consider simultaneously the reduction, restriction, suspension, or termination of the authority of an air carrier to provide air transportation between the points involved if that carrier's failure to exercise such authority gave rise to the application.

Provision for automatic termination or reduction of the incumbent's authority is thought to be undesirable, because the authority in question may be an essential link in a linear route segment over which the air carrier provides other necessary services. For this reason, specific reference to eliminating or altering the incumbent's authority is contained in the statute, but the CAB is left with discretion in the premises.

SECTION 11: PERMITS TO FOREIGN AIR CARRIERS

I. EXISTING LAW

The present law establishes essentially the same procedures for processing applications by foreign air carriers for permits to engage in foreign air transportation to and from points in the United States that it provides for applications by U.S. carriers for certificates of public convenience and necessity.

II. NEED FOR CHANGE

Under the present statute, applications by foreign air carriers for permits to engage in foreign air transportation are processed in much the same manner as are applications by U.S. carriers for certificates, although most proceedings involving foreign air carriers are conducted more expeditiously than are proceedings with respect to certificates. Oral evidentiary hearings, however, are not necessary with respect to the normal application for a foreign air carrier permit. In the normal case, the foreign air carrier will apply for authority already specified in a bilateral agreement between the United States and another country. In such situations, there is no real issue as to need for the proposed service, and the issue of carrier selection will already have been resolved by the foreign government's designation of the carrier which it wishes to operate the services in question. Unless there is an issue as to United States versus foreign ownership of the foreign air carrier, or some other complex issue, a hearing is not needed in the case of foreign air carrier permit applications. Accordingly, while the hearing process is a valuable one in the case of the normal administrative process, specific statutory authorization should be enacted in this particular instance to permit use of nonhearing procedures at the agency's discretion, when complex and material issues of fact are not involved.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT

Section 10 of the act requires the CAB to promulgate rules establishing simplified procedures for the disposition of applications for permits by foreign air carriers. The section also calls for simplified procedures with respect to the alteration, amendment, modification, suspension or transfer of all or any part of any permit under section 402(f) of the existing statute. The rule is discretionary with respect to oral evidentiary hearings, so that the agency may require hearings in the event there is a complex issue of disputed, material fact.

SECTION 12: NOTICE OF TARIFF CHANGES

I. EXISTING LAW

Existing section 403 of the Federal Aviation Act of 1958 requires 30 days' advance notice of a proposed tariff change but does so uniformly for all changes.

II. NEED FOR CHANGE

There are two problems with the existing law. First, where one carrier has initiated a tariff change and a second carrier merely desires to meet the competition by filing a similar provision, a shorter period of notice should be required of a competitive carrier in order that its tariff may become effective on the same date as the first carrier. Second, the present 30-day notice provision has proved to be insufficient in most instances to permit CAB action on proposed tariff changes in advance of the date of enactment. As a result, last-minute action by the CAB has caused unnecessary confusion for both the public and air carriers.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

The act meets both of the above mentioned problems. First, it provides for competitive tariff filings on 25 rather than 30 days' advance notice. Second, in cases where the CAB would retain a suspension power under the act, the act requires tariff filings on 45 rather than 30 days' advance notice in the case of passenger tariffs, and 60 days rather than 30 days' advance notice in the case of air freight rates. These longer advance notice requirements are coupled with a statutory obligation for the CAB to take suspension action, if a tariff is to be suspended, 15 days in advance of the proposed effective date in the case of passenger service tariffs, and at least 30 days in advance in the case of air freight tariffs. The House has already passed a 45/15-day provision with respect to airline tariffs. Testimony has indicated, however, that a somewhat longer period of time, and even earlier advance action by the CAB, is necessary in the case of air freight rates. Accordingly, the act reenacts the 45/15-day provision with respect to passenger tariffs, and the longer period with respect to air freight rates.

SECTION 13: CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

I. EXISTING LAW

Existing section 408 of the Federal Aviation Act requires CAB approval in the case of most consolidations, mergers, acquisitions of control, property purchases, and other similar arrangements between air carriers.

II. NEED FOR CHANGE

While the CAB has very carefully applied section 408 over the years so as to avoid the approval of mergers or other arrangements which might adversely affect competition, restrain trade, create monopolies, or otherwise be adverse to the public interest, there is need to tighten up the section both to protect and enhance the competitive climate of the industry, and to insure that the Attorney General and the Secretary of Transportation have a suitable voice in CAB proceedings under section 408. Furthermore, under existing law the CAB is required to devote significant resources to reviewing transactions involving carriers which are basically unregulated, such as commuters and air freight forwarders. Although in many cases the CAB is not now required to hold a hearing, it still seems unnecessary for the Board to pass on the transactions if it is not regulating the basic operations of the carriers.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

The act requires notification to the Attorney General and the Secretary of Transportation in the case of most significant transactions subject to section 408. At the same time, the language of section 408(b)(1) is modified to make it clear that the Board may not approve a consolidation, merger, purchase, lease, operating contract or acquisition of control which would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize air transportation in any region of the United States, or the effect of which may be to substantially lessen competition, or tend to create a monopoly, or otherwise be in restraint of trade in any region of the United States, unless the Board finds that the proposed transaction is necessary to meet a serious transportation need or to secure impor-

tant public benefits. The latter provision, permitting some anticompetitive transactions where necessary in the public interest to meet a serious transportation need or secure other important public benefits, is a codification of the CAB's local cartage test which has proved to be a useful standard over the years, one which has accommodated the transportation needs of the public, and which has served the public interest well in a competitive air transportation system. While the CAB normally applies the local cartage test voluntarily, it is believed desirable to include the test in the statute itself. Section 408(b)(1) of the act places a burden on the proponents of the transaction to prove that the transaction meets a serious transportation need or secures important public benefits. This section also places the burden on the party challenging a proposed transaction to prove anticompetitive effects, if alleged.

The act adopts a prior notification procedure for transactions involving uncertificated air carriers such as air freight forwarders and all-cargo carriers, which will be virtually unregulated domestically after enactment of this bill. If the Board takes no action on a notice within 45 days, the transaction may be consummated without further Board action. Any such transaction is subject to prosecution if it violates the antitrust laws.

The act would also require the Board to act on any transaction which is subject to section 408(a) within 1 calendar year after the application for approval is filed. Most transactions subject to section 408 are of a nature that the companies involved are significantly fettered until they know whether the transaction in question will be approved. For this reason, there is a need for the utmost expedition in the case of such applications.

SECTION 14: AGREEMENTS AND CARRIER DISCUSSIONS

I. EXISTING LAW

The present statute requires the filing of most agreements between air carriers and other air carriers, foreign air carriers, or other carriers, and requires the Board to approve or disapprove such agreements. An agreement approved is immune from the antitrust laws under section 414 of the Federal Aviation Act.

II. NEED FOR CHANGE

During the early part of this decade the CAB approved anticompetitive capacity control agreements between a few air carriers, although these agreements ultimately were disapproved as contrary to public policy under the Board's "local cartage test," which permits approval of an anticompetitive agreement only where necessary in the public interest to meet a serious transportation need or secure other important public benefits. The earlier, temporary approval showed a need to strengthen section 412 and to provide for hearings at the discretion of the agency in the case of seriously anticompetitive agreements.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The act's revision of section 412 provides the Attorney General and the Secretary of Transportation with an opportunity to submit written comments on any filed agreement. This provision would also apply to any requests by air carriers to discuss possible cooperative working arrangements. The act further provides that, either on its own initiative or if requested by the Attorney General or the Secretary, the Board may hold a hearing with respect to contracts, agreements, or requests for discussion.

The revised language of section 412 in the act requires the Board to disapprove any contract or agreement which it finds to be adverse to the public interest, or in violation of the act, or which might substantially reduce or eliminate competition, unless the contract or agreement is necessary to meet a serious transportation need or to secure important public benefits. In the latter respect, the act codifies the CAB's valuable local cartage test. Similarly, the act requires the Board to disapprove any requests for authority to discuss possible cooperative working arrangements that the Board finds may be adverse to the public interest or which it finds may substantially reduce or eliminate competition, unless the discussions can be justified under the local cartage test.

SECTION 15: EXEMPTION AUTHORITY

I. EXISTING LAW

Section 416 of the existing Federal Aviation Act has proven to be one of that act's better provisions. It grants the Board the power to exempt air carriers from other provisions of the statute, when that appears to be in the public interest. This has given the act some of the flexibility for which it is noted and has enabled the Board to act expeditiously in many areas.

II. NEED FOR CHANGE

Nevertheless, the present wording of section 416 of the Federal Aviation Act is cumbersome and renders the section somewhat difficult to apply. The law is not clear as to whether the Board may grant an exemption when the operation to be exempted is of "limited extent" or whether it is necessary that the carrier's entire existing operations be limited in extent. The meaning of the current "undue burden" test is also unclear. In addition, there is a need to be specific with respect to exemption for those commuter carriers which will not choose to avail themselves of the certification provisions of the act.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT

The act amends section 416(b) to eliminate the ambiguities and the strained language of the present section. Essentially, it permits the grant of exemption authority to air carriers whenever such relief is not inconsistent with the public interest and whenever use of the exemption process, which does not normally involve a hearing, is required "by special or unusual circumstances or by reason of the limited extent of the activity sought to be exempted." Section 416 of the act also specifically grants an exemption from the certificate requirements to those carriers which operate aircraft with a seating capacity of 56 passengers or less or which operate cargo service with aircraft having a maximum payload capacity of less than 18,000 pounds.

Some have argued that the exemption provision should be expanded to cover any "person," and not just "air carriers." It is not felt that this additional change is necessary, because entry into the air transportation business will be much more simple under the expedited procedures and revised section 401 test prescribed in the act and the new policy statement. Accordingly, the extraordinary procedures prescribed by section 416 should be confined to use for and on behalf of air carriers, and the act so confines that section.

SECTION 16: LOCAL AIR TRANSPORTATION

I. EXISTING LAW

There is no provision in the existing law for other than normal certification procedures in the case of small carriers, most often typified by the larger commuter carriers.

II. NEED FOR CHANGE

Many of the commuter carriers desire, and need, certification by the Government. Certification is an aid in securing needed financial assistance, and in otherwise becoming a full member of the air transportation industry. Nevertheless, because most commuter carriers operate on a limited scale, and often on an area basis rather than point-to-point, a more simplified certification procedure is needed for those commuter carriers which desire to be certificated rather than to operate under exemption.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT

The act adds a new section 418 to the aviation statute, which sets forth a simplified certification procedure for those commuter carriers designed to avail themselves of it, under which such carriers would hold area-type certificates rather than point-to-point routing certificates. Section 418(f) also exempts such carriers from many other provisions of the statute, and sets forth special suspension and revocation, and termination of service provisions for this particular class of carrier. The section also makes clear that such carriers would be eligible for both service-rate and subsidy payments under section 406 in connection with essential small community service.

SECTION 17: PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

I. EXISTING LAW

Present section 801(a) of the Federal Aviation Act provides that the issuance, denial, transfer, amendment, cancellation, suspension or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing a U.S. flag air carrier to engage in overseas or foreign air transportation, or any permit issuable to any foreign air carrier under section 402 "shall be subject to the approval of the President."

II. NEED FOR CHANGE

In the absence of either time or subject matter limitation on the President's right to approve or disapprove CAB international route case decisions, the historic application of section 801 has served to unduly politicize international air carrier route cases. The President does have constitutional powers with respect to international air routes, because of their normal operation under bilateral agreement executed by this country and each other country involved and because international air operations affect both national defense and foreign relations. However, the Presidential review process has also become directly involved with the assessment of the economics of U.S. flag international air carrier operations and in selection of U.S. carriers to operate international routes, subjects which have been assigned by the Federal Aviation Act to the Civil Aeronautics Board as an arm of this Congress.

The effects of politicizing international route cases has led the American Bar Association to conclude that section 801 of the Federal Aviation Act should be amended to withdraw the President's power to review or approval in international route cases "in a manner which will preserve the President's constitutional rights and obligations in the field of national defense and foreign relations, while first, removing economic and domestic political considerations from the decisionmaking process, and second, assuring availability of judicial review." The latter reference refers to the fact than once the President has approved or disapproved a CAB decision with respect to international routes under current section 801, the courts normally will decline to review the matter under the separation of powers doctrine.

In addition, no reason appears for continuing any Presidential role in overseas air transportation routes.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The ABA's Section of Administrative Law was of the opinion that "the President (should be) entirely removed from the (international) certification procedure." On the other hand, the ABA's Standing Committee on Aeronautical Law favored "legislation which would retain a limited role for the President in the certification process itself but would restrict that role to a veto right based exclusively on foreign policy and national defense grounds." It is concluded that the latter is the better approach, and that approach is adopted by the act with respect to certificates and permits involving foreign air transportation. An effort to remove the President completely from the certification procedure might be held unconstitutional, in light of the holding of the Supreme Court in *C&S Airlines, Inc.*, v. *Waterman Steamship Corporation*, 333 U.S. 103 (1948). The act terminates the President's present role with respect to overseas air transportation.

SECTION 18: FARES, CHARGES AND PRACTICES

I. EXISTING LAW

The existing law gives the air carriers the right to initiate all rates, fares, charges, and related practices. All such tariff provisions, however, are subject to complaint by the public or by other air carriers, and sections 1002 (d) and (g) give the Civil Aeronautics Board broad powers, after notice and hearings, upon complaint or upon its own initiative, to determine whether carrier-initiated rates are in fact lawful under the terms of the statute and, if not, to prescribe the lawful rate, fare, charge, or practice, or the maximum or minimum or the maximum and minimum rate or fare, and in the agency's discretion to suspend a carrier-initiated filing pending such investigation and determination of the lawful rate, fare, charge, or practice.

II. NEED FOR CHANGE

Under the existing statutory scheme the carriers not only have the right to initiate rates and fares, and related charges and practices, but in fact have had and have exercised a considerable degree of pricing flexibility and freedom. In the case of normal, basic fares (which are usually considered to be day coach, first class, and off-peak or night coach fares), a number of carriers have for years offered 20 percent reduced off-peak fares, which carry significant volumes of traffic, and which have constituted classic examples of price competition. At the same time, the industry has always used, and been allowed by the CAB to use, the time-honored marketing technique of differential pricing (in the case of the airlines, known as promotional and discounted fares), and large volumes of traffic have been generated and carried at these fares, which carry varying degrees of discount, and suitable restrictions to prevent violation of the unjust discrimination proscription of section 404 of the present Federal Aviation Act, a proscription which is carried over into the National Air Transportation Act.

Nevertheless, in an effort to provide the public with equal fares for equal distances, and otherwise to rationalize an air fare structure which had grown up in a haphazard fashion as the airline industry developed, the CAB—as a result of its comprehensive domestic passenger fare investigation (DPFI) in the early part of this decade—developed a number of formulae which have resulted in extensive control of the normal, basic fares. Despite the pricing freedom to compete with off-peak fares, even though the CAB has recently permitted the introduction of some new basic classes of service which seem generally to be outside the scope of the DPFI, and despite the freedom to engage in discount and other differential pricing, the bulk of the industry's traffic is carried at the day coach fare; and the detailed prescriptions of the Board's current formulae thus constitute a significant restraint upon management freedom and management discretion to price and to engage in pricing competition. While the present statute gives the CAB the power to establish what are called "zones of reasonableness" around the base point fare which the agency has found to be reasonable for any particular type of service at any market distance, the CAB has declined to use its power to grant this sort of pricing flexibility to the airlines (despite strong pleas to the contrary from a number of air carriers, the Department of Transportation, and others). Many observers have noted that the fare structure could be rationalized for the public's benefit in much the manner that this was attempted in the DPFI, while at the same time the carriers could be given a significant measure of pricing freedom (through use of the zone of reasonableness concept). However, observations and the carriers' arguments therefor have not yet been considered persuasive by the CAB. The Congress believes that such pricing flexibility could be very much in the interest of the traveling and shipping public, as well as in the interests of the carriers themselves. While the CAB has recently started a proceeding to consider the grant of more pricing freedom, a legislative direction to the CAB in this connection is still warranted.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT

The act makes a number of significant changes in this respect. First, in line with the act's general deregulation of all-cargo service, the Board's power to find air freight rates unlawful, or to suspend them, is terminated. This proscription applies to all air freight rates, not just those of the all-cargo carriers.

With respect to passenger fares, a zone of reasonableness is prescribed in the statute itself. A reasonable range of plus 10 percent, minus 20 percent, is prescribed. Under the act, this range is related to what is known as the "standard industry fare level" for each basic class of service. The standard industry fare level for each such class commences with the passenger fares in existence at the date the statute is enacted. Changes in each standard industry fare level, or what might sometimes be called the "midpoint fare" of each range, are thereafter to be accomplished on an automatic basis, both up and down, by application of changes in the certificated, scheduled industry cost levels.

Within the zone itself, the carriers are given total freedom to adjust their standard fares up or down within the zone (on both a system and a market-by-market basis). Within that zone, the CAB has neither the power under the act to find such changes unlawful, nor to suspend them. More sizable changes can be proposed reaching outside of the zone either at the top or the bottom, but such proposals would remain subject to the CAB's investigative and suspension powers. This is deemed desirable so that, while significant pricing competition can be attempted, and its effects can be analyzed, the CAB will retain general control to prevent price gouging at the upper end, or wholly unreasonable or predatory pricing at the other end. The act's zone would be applicable to all normal classes of service, day coach, first class, night coach, and other basic classes of service which may be established in the future.

In addition, the act leaves the carriers with their existing, considerable freedom with respect to differential pricing. The act also continues the CAB's present powers to suspend unjustly discriminatory or unduly preferential or prejudicial rate, fare, and practice proposals, and its power to prescribe lawful fares, rates,

or practices in lieu of any such unjustly discriminatory or unduly preferential or prejudicial proposal.

In addition to the foregoing changes, the act also amends section 1002(e) of the Federal Aviation Act, in order to update the standards and criteria which the Board must consider in passing upon rate and fare proposals. In particular, the new standards in the act stress the desirability of a variety of price and service options, such as peak and off-peak pricing and other pricing mechanisms to improve economic efficiency and provide low-priced air service.

SECTION 19. EXPEDITED PROCEDURES

I. EXISTING LAW

The present statute contains few procedural deadlines.

II. NEED FOR CHANGE

Like all administrative agencies, the CAB has been criticized from time to time for unduly slow administrative procedures. Furthermore, in the absence of legislative prescription of deadlines for CAB action, the agency has on one occasion undertaken unilaterally to impose a "moratorium" on the processing of new route applications. This was contrary to the wishes of many air carriers, and in the opinion of the Congress, contrary to the intention of the Federal Aviation Act. Accordingly, existing law should be amended to prevent the agency from imposing any such moratorium in the future, and to direct it to proceed expeditiously with all of its economic regulation.

III. CHANGES PROPOSED BY NATIONAL AIR TRANSPORTATION ACT

The act would add a new section 1010. This section would impose deadlines for action with respect to most applications, petitions, or complaints filed under the economic regulatory section of the act. While imposing these deadlines, the act also recognizes the possibility that the CAB may be unable to process all applications, petitions, or complaints filed with it within the prescribed deadlines, and thus grants the agency the right to dismiss certain such pleadings, either on the grounds that the pleading is inconsistent with standards for priority which the CAB is enjoined to establish, or does not state sufficient grounds for action under the act. Such orders of dismissal will be judicially reviewable in the courts of appeals.

The section legislates power for the CAB to use show cause procedures where material issues of disputed fact are not presented. The CAB from time to time uses show cause procedures today, but it has no firm legislative basis for this type of proceeding. This is considered to be a most significant addition to the CAB's powers to act expeditiously.

Section 16, prescribing these new, expedited procedures, is considered to be one of the more important aspects of the act. This prescription for expedition, together with the strongly procompetition policy statement of the act and the revised certification standards, will constitute strong motivation for the CAB to move the industry to an even more competitive status and to significantly increase the degree of pricing competition within the industry. Expedition of the administrative process alone will go a long way toward achieving the goals of increased competition, increased pricing flexibility, replacement of unused authority, and the like.

SECTION 20: SUNSET PROVISIONS

I. EXISTING LAW

The present Federal Aviation Act contains no "sunset" provisions.

II. NEED FOR CHANGE

For two primary reasons, "sunset" provisions are needed in the new act. First, because the act will result in significant changes within the industry, particularly in terms of the degree of competition and the degree of pricing flexibility and freedom for air carrier managements, the impact of such changes on the public and upon the airline industry itself should be assessed within a reasonable period of time. The best way to insure such review is to provide for "sunset" provisions, with prior review before the expiration provisions take effect.

Second, if the increase in competition within the industry, the increase in pricing flexibility and pricing competition, and the many other changes prescribed by the act, should result in significant improvement in the industry and thus in benefit to the traveling and shipping public, further changes along the lines prescribed in the act will perhaps be desirable in the future, including the possibility of terminating the CAB altogether. This, also, can best be accomplished by including a "sunset" provision. At the same time, implementation of the "sunset" provision will permit the Congress to reverse the course of action prescribed in the act, should the changes prove to be detrimental to the public and the airline industry which serves that public.

III. NEED FOR CHANGE

The act provides that the CAB's existence shall terminate 7 years after enactment of the act. It also provides that a comprehensive analysis of the CAB's implementation of the act, and the effect thereof on the traveling and shipping public and the industry, shall be presented to the Congress 5 years after enactment of the act, so that a full review by Congress can be accomplished before the termination provisions take effect.

THE 19TH CAPTIVE NATIONS WEEK AND THE BELGRADE CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the recent 19th Captive Nations Week observance throughout this country centered in part on human rights and the Belgrade Conference. Speakers and participants emphasized that the captive nations and human rights are virtually opposite sides of the same coin. And they also stressed during the week that we Americans expect our representatives at the Belgrade Conference to recite openly and strongly the denial of all types of human rights in Czechoslovakia, Lithuania, Ukraine, Georgia, and all other captive nations in Eastern Europe. This we shall see next month.

Continuing the selective reports compiled by the National Captive Nations Committee on the 19th week, I submit the proclamation by Mayor A. Bilandic, of Chicago, reports in America on the New York, and Boston events, along with an article, "Has Moscow Scared the President?" and editorials, letters and reports in the Pilot of Boston, News World, Jamaica Plain Citizen, Free China Weekly, the Ukrainian Weekly, and the Shenandoah Herald:

PROCLAMATION OF THE CITY OF CHICAGO

Whereas, our city's annual observance of Captive Nation's Week will be highlighted by a State Street parade at noon on July 16th; and

Whereas, under auspices of the Captive Nation's Friends Committee, the week's activities will direct public attention to the plight of people whose homelands are under Communist control; and

Whereas, many citizens of these countries are linked by family ties to residents of this community, and it is commendable that United States citizens, in appreciation of their freedoms, should extend sympathy and the hope of freedom to their fellow-men and women whose liberty has been denied:

Now, therefore, I, Michael A. Blandic, Mayor of the City of Chicago, do hereby proclaim the period of July 11 through July 16, 1977, to be Captive Nations Week in Chicago, and urge all citizens to take cognizance of the special events arranged for this time.

Dated this 3rd day of June, 1977.

MICHAEL A. BILANDIC,
Mayor.

CAPTIVE NATIONS WEEK OBSERVANCE IN NEW YORK CITY

NEW YORK, N.Y.—On Sunday, July 17, 1977 the 19th annual observance of "Captive Nations Week," sponsored by the Captive Nations Week Committee of New York, a member of the National Captive Nations Committee (NCNC), headed by UCCA President Prof. Lev E. Dobriansky took place. Among the 38 cosponsoring organizations were the Ukrainian American Organizations of Metropolitan New York, a branch of the UCCA and the Ukrainian Liberation Front.

Some 1,000 worshippers attended the Ukrainian-Rite Liturgy at St. Patrick's Cathedral, celebrated by the Most Reverend Basil H. Losten, Apostolic Administrator of the Ukrainian Catholic Archeparchy of Philadelphia, who was assisted by Rev. L. Lawryniuk of St. George's Ukrainian Catholic Church in Manhattan. An *ad hoc* choir consisting of Ukrainian choristers sang the responses during the Liturgy.

Bishop Losten also delivered a penetrating sermon, dedicated to the captive nations and their untold suffering under Communist regimes.

PROGRAM IN CENTRAL PARK

After the Liturgy some 300-400 formed marching columns and proceeded up Fifth Avenue to 72nd Street, and then to the Central Park Mall, where a brief program was held. After the playing of the American national anthem and the pledge of allegiance by Jerry Bianchi, Commander of Catholic War Veterans from Queens, N.Y., Dr. Ivan Docheff, chairman of the New York Committee, briefly addressed the gathering and called on Mr. Horst Uhlich, representing East

Germans, to act as master of ceremonies at the program.

Addressing the commemorative rally were Congressman Mario Biaggi, New York State Secretary of State Mario Cuomo and Barry Farber, the latter two being mayoral candidates in the City of New York from the Democratic and Conservative Party, respectively.

Folklore entertainment included the Estonian Folk Dance Group, the Turkestan National Folk Group and the Crimean Tartar National Folk Dancer.

Dr. John Kosiak, president of the Byelorussian Congress Committee of America, read a resolution which was adopted by acclamation while Miss Elizabeth Chartoryska-Sydor, in Ukrainian national custume read the "Captive Nations Week Proclamation," issued by Governor Carey. Mr. Cuomo read a proclamation issued by the Secretary of New York State.

RECEPTION IN HONOR OF DR. DOCHEFF

Later in the afternoon the Association of Crimean Tartars gave a reception in Honor of Dr. Ivan Docheff who is retiring as chairman of the Captive Nations Committee of New York. Among several speakers who praised Dr. Docheff's work was Dr. Alexander Sokolyszyn, of the Ukrainian group, who is chairman of the press section of the Committee.

Attending the reception were also Dr. and Mrs. Walter Dushnyck, Mr. and Mrs. Volodymyr Hladky, Mrs. Daria Stepaniak and Mr. A. Zaplitny, a young librarian.

CAPTIVE NATIONS WEEK IN BOSTON

BOSTON, MASS.—The week of July 17–23, 1977, was designated by Governor Michael S. Dukakis as "Captive Nations Week" in Massachusetts. The proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Governor Dukakis issued the proclamation on July 14, 1977, in the presence of representatives from the Boston Chapter of the Ukrainian Congress Committee of America, American Lithuanian Council of Boston and American National League of Boston. The Boston UCCA was represented by: Very Rev. Myron Pacholok, pastor of St. Andrew Ukrainian Orthodox Church, Joseph Charyna, vice president, Mrs. Olga Sczudluk, secretary, and Orest Szczudluk, vice president and director of public relations. Mr. Szczudluk presented to the Governor a book, "The Bicentennial Salute to the Captive Nations 1976," in "appreciation for proclaiming Captive Nations Weeks in Massachusetts."

COVERAGE BY NEWS MEDIA

The news media in Boston and in Massachusetts received a special press release and copy of governor's proclamation. The press release related this year's CNW observance to the Belgrade conference, from which the captive nations were excluded.

Pilot, the official newspaper of the Boston Archdiocese, carried on July 22, 1977, a timely editorial, "Lithuanians, Ukrainians and Georgians wish to exercise their rights to preserve their culture and their language and to govern themselves. The Captive Nations desire a restoration of their human rights, be they personal, civil or even national. It remains our duty to insist on their rights," concluded the editorial.

On July 21, Jamaica Plain Citizen, Hyde Park Tribune, Dorchester Argus—Citizen and Mattapan Tribune carried a letter, written by Orest Szczudluk, Boston UCCA vice president, president, which informed readers about the present situation in captive countries.

HAS MOSCOW SCARED THE PRESIDENT? MYSTERY SURROUNDING PRESIDENTIAL PROCLAMATION OF CAPTIVE NATIONS WEEK OF 1977

(By Peregrinus)

"President Jimmy Carter, who has made 'human rights' a centerpiece of his diplomacy, beat a spectacular retreat last week that left many foreign policy observers stunned. 'He almost duplicated Ford's snub of Solzhenitsyn,' remarked one amazed critic."

This is the opening sentence of a front-page editorial, "Carter's Desperate Moves to Maintain Détente," which appeared in the July 30, 1977 issue of Human Events, an American conservative weekly published in Washington, D.C.

The story is so shocking that a person has a hard time to believe it happened in Washington, capital of the free world.

Since 1959 every President of this great country has issued a Presidential Proclamation, urging all Americans to observe this significant week.

A brainchild of Dr. Lev E. Dobriansky, Public Law 86–90 has become a symbol for millions of Americans of Central and Eastern European ancestry who have seen their countries of origin swallowed up by Russian armies. Because of the deep current of feeling among a vast segment of the American people, not only Presidents, but governors, mayors and other public figures, U.S. legislators and other officials from around the country have paid homage to Captive Nations Week.

The law explicitly specifies that "The President of the United States is authorized and requested to issue a proclamation designating the third week of July, 1959 as 'Captive Nations Week.'"

The law further states the President is "authorized and requested" to issue similar proclamations each year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

"But for reasons which are still wrapped in something of a mystery, Carter, though ultimately reversing himself under pressure, had planned to become the first President since passage of PL 86–90 to ignore the event," said the editorial.

Prof. Dobriansky, President of the UCCA and Chairman of the National Captive Nations Committee (NCNC), who has raised the issue every year with whoever is President, wrote to President Carter early in May. He received a reply—oddly enough—from the Office of Management and Budget, saying the matter would be handled by the State Department. Later Dr. Dobriansky was directed to Greg Treverton, a staffer on the National Security Council (NSC). On July 14, three days before the Week, Treverton's office informed Dobriansky that the NSC was still working on the President's statement.

Since Dr. Dobriansky had to fly to Cleveland to take part in a panel discussion on detente, he asked Lee Edwards, executive director of the NCNC, to follow up on the Presidential Proclamation. When Mr. Edwards called the NSC, Treverton said that there wasn't going to be any proclamation as it was "not required" by the law. Treverton also said that the proclamation wasn't necessary because of the President's well-known stand on human rights. Mr. Edwards was taken aback, but told Treverton that a "lot of people" were going to be surprised, shocked and disappointed.

On July 18 Prof. Dobriansky wrote a sharply-worded letter to President Carter, in which he said, in part:

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your predecessors, you chose to ignore this traditional annual observance of Captive National Week. . . . We are appalled by this indifference. . . ."

Meanwhile, the White House was under pressure from various sides to issue the Presidential Proclamation.

"Republican leaders—many of whom, in fact, had ignored the 'human rights' issue when President Nixon and Ford were in office—began making some noises," continued the editorial.

Sen. Robert Dole (R.-Kan.), contending that Americans were "distressed" because the President had failed to issue a proclamation, introduced a resolution that would have directed the Administration to bring up the subject of "captive nations" at the Belgrade conference this fall on the implementation of the Helsinki document.

DEMOCRATS GO INTO ACTION

But Democrats also got into action, when a number of Democratic legislators appealed to the White House for the Presidential Proclamation. Mr. Andrew Valucek, director of the Minority Divisions at the Democratic National Committee, issued a special plea to the White House, appealing for the Presidential Proclamation.

By Wednesday, July 20, 1977, the President had yielded to political pressure at home. Before the House went into session on its special order, with many members primed to blast the President, Carter issued a token proclamation, thereby avoiding some harsh condemnations.

What alarms foreign policy specialists about this entire episode is that in the confrontation between Carter and Brezhnev on human rights, Carter "appears to have blinked first."

While the Russians used to look upon Captive Nations proclamations as an offensive intrusion into their affairs, they now tend to view the issuance of such statements as ritualistic exercises, primarily because U.S. Presidents in recent years have kept watering down these proclamations. But Carter was so worried about offending the Russians, he initially decided to cancel a *pro forma* proclamation, even if it would arouse the ire and alienate a great number of ethnics loyal to the Democratic party, as well as others.

Some experts believe this step by Carter was one of a series of appeasement moves accommodating Moscow. Others are the cancellation of the B–1, the scrapping of the production of the Minuteman II, the end of the hard-line Foreign Intelligence Advisory Board, and a move to end the Jackson-Vanik amendment limiting trade with the USSR.

Also, recently a special committee to coordinate all government policies involving the USSR was created under the chairmanship of Prof. Marshall D. Shulman, who reportedly takes pretty much of a dovish position when it comes to formulating foreign policy.

Some of President Carter's advisers, especially former Secretary of State Dean Rusk and former U.S. Ambassador to the USSR, Averell Harriman, are known to be against "Captive Nations Week." And there are many U.S. businessmen who crave increased U.S.-

Soviet trade, and don't care a hoot about persecution in the USSR.

It is regrettable that President Carter, who began his Administration with a relatively tough stance toward the USSR, appears to be scurrying in retreat before Brezhnev's ire.

What are we to think about future moves of Jimmy Carter?

CAPTIVE NATIONS

To the editor:

Congratulations and thanks for your magnificent editorial "Let My People Go" (7/22/77) in which you remind readers of our duty in social justice to insist on the rights of the captive nations: the Lithuanians, Ukrainians, Georgians and others, to self-determination.

In certain circles it has become unchic to recall the rights of captive nations, even though it has become fashionable to speak up for human rights. We are given to understand, for instance, that the Soviet occupation of the Baltic states, which the U.S. has never formally recognized, is not to be brought up at the Belgrade Conference on the observance of the Helsinki accord.

Some even speak condescendingly the "captive nations syndrome," as though there were something wrong with self-determination for nations which were until World War II or later, full-fledged members of the family of nations, and insist on being such again.

Often, those who cannot understand the aspirations of the captive nations are the greatest champions of the developing nations. Would it not be more consistent to advocate the right of all nations to self-determination?

FR. CASIMIR PUGEVICIUS,
Lithuanian Human Rights Commission.
Glen Dale, Md.

SELF-DETERMINATION OF NATIONS

If you take into consideration the simple fact that there live in the U.S.A. about 25–30 million descendants of Eastern European captive nations and several million who originated from nations enslaved behind the Bamboo Curtain, you perform a great service to the American public in presenting the causes and aspirations of those unfortunate nations.

During the Captive Nations Week you published several articles, and recently an interview with Professor Eugen Loebl concerning some of the enslaved nations. Every member of these nations should appreciate your interest and concern for their human and national rights and your excellent anti-Communist stand.

We Slovaks fully support the statement of the former high official of the Czech government (1945–49), Professor Loebl who, in the News World (August 11–12th), presented the "concept of self-determination of nations and nationalities, which he believes to be one of the strongest political forces in the world and a potential weapon against Soviet imperialism too long neglected by the West."

It is well known fact that the Russian Bolsheviks are intensely afraid of nationalism (self-determination) in nations residing in the orbit of U.S.S.R. On the one hand the Soviets and their satellites support each movement toward self-determination which florishes in the Western world, but on the other hand, they brutally suppress each such movement which occurs in the sphere of Soviet influence. The clearest pictures of how the Soviets know to liquidate the right of self-determination and how they use to their aim their natural ally—the chauvinism of other nations—is illustrated in Czecho-Slovakia.

This multinational state consists of two separate nations—the Slovaks and the Czechs—and of some minority groups: German, Polish, Hungarian and Ruthenian. Both the Slovaks and the Czechs have different national and political aspirations. The Slovaks want to be an independent nation, and the Czechs like to keep Slovakia as their colony in the framework of Czecho-Slovakia. And the Soviets know well how to manipulate in such cases.

THOMAS J. VETESKA,
for Free Slovakia.

SUPPORT CARTER'S POLICY ON RIGHTS, READER SAYS

To the Editor:

The week of July 17–23 is observed nationally as "Captive Nations' Week" in accordance with Public Law 86–90, which was passed by the U.S. Congress in 1959. President Jimmy Carter and Governor Michael S. Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byleorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric and border on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed.

Recently, two Ukrainian dissidents, Mykola Rudenko and Oleksiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. Now in Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychinyi, Sviatoslav Karavanskyi, Stefania Shabatura, Nina Strokat-Karavanska, Ivan Hel, to name just a few out of the hundreds of Ukrainian political prisoners.

This year's Captive Nations' Week is observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementations of the Helsinki Accords of 1975. However, the captive nations in the Russian communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations Week serves as the appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Soviet Russian domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress Committee of America, Boston Chapter.

PRESIDENT YEN WARNS UNITED STATES ON PEIPING DEALING

President Yen Chia-kan on July 22 reaffirmed the Republic of China's stand of never compromise with the Chinese Communists and warned the United States of the grave consequences of "normalizing" relations with the Peping regime.

Addressing a Captive Nations Week rally at the Sun Yat-sen Memorial Hall, the President said "there is no possibility of detente and no means of coexistence" between the Republic of China and the Chinese Communists.

"History proves," President Yen said, "that there can be no genuine cooperation and no coexistence between two entities with basic concepts, political systems and ways of life diametrically opposed."

Democratic nations, he said, "should hurry to free the enslaved people from their agony and not exacerbate their sufferings."

"Should the democratic nations harbor the illusion that the Chinese Communists might become moderate, enlightened and rational, and should they then go on to normalize relations with the Chinese Communists for the sake of momentary peace, they would be (as the Chinese saying has it) foolishly drinking poison to quench their thirst. The ensuing tragedy could last for a hundred generations."

Describing the Chinese Communist regime as "the root of the threat to Asia and of world turmoil," the President urged the world over to help destroy it.

The Republic of China observed the 1977 Captive Nation's Week in Taipei July 17 through 23, with more than 3,000 government and civic leaders, representatives of all walks of life, members of the diplomatic corps and foreign dignitaries and anti-Communist fighters attending.

The participants denounced the Chinese Communists as destroyers of Chinese culture and called on the world's free countries to stand united in the struggle against Communist tyranny and for freedom and human rights.

William Dickinson, member of U.S. House of Representatives, told the meeting that as it has been proved in history that no dictatorship can last long, and that the Chinese Communists will meet the same fate as the doomed tyrannical rulers of the past.

Im Lam, former premier of the defunct Khmer government, reported that the anti-Communist movement in his country is mounting.

Anusorn Yukol, secretary-general of the Sweden Chapter of the World Anti-Communist League, said that free China on Taiwan is the true representative of the entire China.

Suvit Chi-nachote, secretary-general of the Thailand Chapter of the World Anti-Communist League, said that his country has stood and will stand firmly to devote its efforts to the task of safeguarding world peace and freedom and helping the enslaved people of the Communist countries.

Dr. Jeno Platthy, president of a worldwide poets' organization, who fled Hungary several years ago, told the gathering that since the Second World War, his country has been under the boots of Soviet soldiers. He warned that what happened in Hungary can happen elsewhere.

"I have realized the indifference of the West, its preoccupation with business and material things. The real perils of a nation are not material, but always spiritual," Platthy said.

He predicted that the Communist empires will crumble one day and that those who keep millions as their slaves will pay for the sins and the misdeeds they committed.

Freedom is inevitable, he said, "It cannot be denied forever."

Meantime, about 300 freedom seekers, members of their families, overseas Chinese and foreign guests joined in a meeting to observe Captive Nation's Week at the hall of the Free China Relief Association in Taipei.

DE-COLONIZATION OF USSR IS THEME OF CN WEEK OBSERVANCE

NEW YORK, N.Y.—On Sunday July 24, the 19th annual Captive Nations Week observance, sponsored by "Americans to Free Captive Nations, Inc.," was held at the Statue of Liberty here. The participants were the representatives of the captive nations organizations such as: Ukrainians, Byelorussians, Lithuanians, Bulgarians, Georgians, Jews, Chinese, Azerbaidzhanians, Turkestanians, North Caucasians, Kazan and Crimean Tatars, Germans, Czechs, Russians and others; also a large group of Americans, representing the conservative movement; and the members of the American Council of Captive Nations.

The official program began with the pledge of allegiance led by Albert Guarino, an American war veteran. After the American anthem was sung by the participants, Dr. Valentina Kalynyk greeted the audience on behalf of ATFCN and spoke on the topic "Freedom Through De-Colonization," stressing the urgency of decolonization of the Moscow colonial empire under the name of the USSR.

She stated that "since 1945 over 45 former colonies became independent states, whereas some 120 nationalities in the USSR remain oppressed. The fact is that the plight of the 14 non-Russian republics in the USSR is incomparable in the history of all colonial empires. Ukraine alone, since 1917 through genocide and Russification lost some 40 million of her potential population."

She pointed out that "the free Western world, with its decaying moral principles, is more concerned with human rights for subversive, perverse and destructive elements of society than with promoting the rights of enslaved nations."

Dr. V. Kalynyk pledged to support the dissidents in and out of the USSR, among them the recently sentenced Rudenko and Tykhy for the activities in the committee concerned with promoting the implementation of the Helsinki Accords.

Other speakers were: Konsin C. Shah, Consul General of the Republic of China; Paul Keren, chairman of the Constitutional Party of New York State; Alexander S. Yessenin-Volpin, representative of Amnesty International; Barry Farber, a well-known radio talk show host, candidate for Mayor in New York; Vern Mitchels, representative of the Azerbaidzhanians, Turkestanians and the Crimean Tatars; Shalaudin Bey Bulta, representative of the North Caucasian nations; Dr. Joseph Sheftick, chairman of the American Council of Captive Nations. Igor Sinjavin spoke on behalf of the newest Russian political emigres who support self-determination and national independence of the captive nations and de-colonization of the USSR.

Dr. Roger Horoshko, secretary of ATFCN, read the proclamations of President Jimmy Carter, Mayor Abraham Beame, Governor of New Jersey Brendan Byrne; he also read messages from Senator Bob Dole, Congressman Daniel J. Flood; Bill Brock, chairman of the Republican National Committee.

LOOKING AROUND

Steve Postupack, who has been speaking out on human rights long before President Jimmy Carter made it the term of the day, did so again in his usual eloquent style recently before the county commissioners for the observance of captive nations week.

In his manner of speaking about things some might at times consider too "right-wingish," Postupack provides refreshing listening.

He was talking about the deplorable conditions in captive nations of Europe where the Soviets, not satisfied with clamping an iron fist on these countries alone, continue to seek control over the individual minds of the populations.

Postupack's talks are backed up by personal testimony of other Schuylkill Counians who have visited these countries to return with pure horror stories of the conditions imposed on friends or relatives living there. Even here they dare not speak too frankly or too much in public for fear of retaliation to those loved ones behind the iron curtain should the word get back to their communist captors.

One area man told of delivering aspirin to relatives which reduced them to tears on receiving this taken-for-granted drug here, which hardly exists over there.

Another area student on a trip to Moscow could find no one who smiled openly. She was shocked at that.

Postupack noted how the wrong words, or reading the wrong book, can get one in serious trouble in those captive nations. The "wrong attitude" toward conditions imposed by the communists can get one a term in a primitive "insane ward" where torture and beatings are common.

Things are as bad or worse in Cambodia and Viet Nam where we decided the price of freedom was not worth the cost and left the wasted deaths of some 40,000 Americans as a tribute to that defeatist belief. When the communist leaders, many of whom don't have the brains of some of our fifth graders, moved in they decided murder and torture are the only good tools of order.

And with all of this going on around us we sit dismantling military bases, without a military draft, flirting the Castros and getting ready to surrender the Panama Canal. Where is that "clear purpose of direction" candidate Carter talked so much about before he was President Carter?

If there is anything that is becoming clear—to the communists at least—it is that we are abandoning our belief, founded in truth of experience, that America remains as the last guardian of freedom.

The communist brand of freedom, that the individual is subservient to the state, has never changed. Their "clear purpose of direction" is an outright guarantee that it never will. Our dedication to just the opposite, that the state is subservient to the individual, should be just as clear, to ourselves, as well as the communists.

THE NEW FACES IN CONGRESS ONLY LOOK LIKE DEMOCRATS

The SPEAKER pro tempore, Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

Mr. CAVANAUGH. Mr. Speaker, I would like to bring to the attention of my colleagues in the freshman class, as well as all the Members, a column that appeared in the Tuesday, September 27, 1977, edition of the Washington Star. The article was written by Mr. Michael Novak. The article follows:

THE NEW FACES IN CONGRESS ONLY LOOK LIKE DEMOCRATS

(By Michael Novak)

Interviews with old-time leaders in Congress disclose something the public has not caught onto yet, because even the press has been bamboozled. As their voting records now show, those new "Watergate Democrats" in the Congress are hardly Democrats at all but, rather, elephants in donkey dress.

The new class of Democrats has been beloved of the press for their clean, youthful, independent look. Many in the press dislike party discipline, loyalty, and respect for institutions. Praise is heaped on "independents." Television journalists seem to love the lone guns, handsome candidates with boyish smiles and the articulateness only an expensive schooling furnishes.

The Watergate Democrats in the House, according to those who have to deal with them, think serenely that they are better than the old-timers. They believe they have been "saved" by being in the generation they inhabit. They have not known sin. They do not feel "dirtied" by the rules or laws or practices of politics. They owe nothing to nobody. They spend much effort cultivating their self-image as "outsiders."

They think of themselves as handsome, telegenic, articulate, independent, incapable of wrongdoing or wrongthinking. Whatever they vote for, however crazy-quilt their voting records, they know that, as distinct from the older hacks, they are guided by conscience. They believe in Inner Light. They project serenity.

They are a suburban mother's dream. Earnest. Serious. Informed. Their articulation is neither rough like that of the old labor left, nor elegant like that of the old silk-stocking left. They talk like assistant professors, or salesmen just out of Yale Law, Stanford Business, an IBM training program in human relations, or a "Psychology Today" seminar at a Methodist summer camp. All their pieties have been approved of by the universities.

Most of them come from Republican districts. In their effort to please their constituents—and the new class of Watergate Democrats is nothing if not eager to please—these disguised Republicans have little interest in labor issues or Democratic party discipline. They get their signals from the Great Moral Beyond.

From Mugwumps of the 19th century to "consumer advocates" and "concerned citizens" of today the line to the Almighty is unbroken. They speak for what is Good for their fellow citizens, a serious obligation nobly carried.

The Watergate Democrats are the main reason why labor is taking a drubbing in Congress. With the Watergate Democrats at their side, the small band of Republicans is able to win crucial economic votes. In order to make Republican visions prevail, the Republicans do not need to win back new seats in the House in 1978. They have nearly 90 votes inside a Trojan donkey.

In 1977, however, youth and energy and organization are no longer running on the suburban liberal side. Liberal organizations like the Sierra Club and Nader's Raiders have been gutted. Their most talented staff-workers are now in government. In the field, the new energy is conservative—smooth, articulate, technically proficient, young, and eager for blood.

The tide is running against environmentalism, zero growth, and obscure species of tadpoles and worms. The conservatives are seizing the issue of jobs. Meanwhile, the Watergate Democrats, handsome and tailored, smile their independent smiles, the best friends the Republicans have had since the old Southern Democrats.

THE DEMAND FOR A SELECT COMMITTEE ON POPULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

Mrs. MEYNER. Mr. Speaker, we are living in a finite world with finite resources. Yet, each day, with each increase in the world's population, we place an even greater demand upon those limited resources.

Unchecked, world population growth could, quite frankly, smother the world in the next century and lead to the darkest of visions: Death, pestilence, famine, and starvation.

Despite this vision, the United States of America remains one of the few major

democracies in the world without an overall policy on the stabilization of population. As the leaders of the free world, we have a moral charge to establish standards, and to encourage peace among nations and the relief of human misery.

We can take a small step toward meeting this charge by approving today this resolution establishing a select committee on population.

The need—first, for a Select Committee on Population and, second, for a national policy on population stabilization ought to be obvious.

First, the legislative responsibility for coping with the problems of population is scattered among seven standing House committees. We cannot expect a cogent policy with a voice to articulate it. The Select Committee on Population will do this.

Second, an overall population policy will help us to address the questions begged by the dark vision of overpopulation I have spoken of.

The world already has problems meeting the demand for food. A third of the world's population goes to bed hungry every night. You do not have to be a professional demographer or nutritionist to realize that feeding 7 billion people by the end of the century is not going to be any easier than feeding the 4 billion people who now populate the Earth.

You do not have to be a medical expert to realize that water and air pollution, provoked by the demands of a large population, is going to be any less of a problem by the year 2000 than it is now.

You do not have to be a professional ecologist to know that encroachment of our beaches, our wildlife preserves, our lakes, and our woodlands is going to expand as our population expands.

You do not have to be a sociologist to know that increased population means greater competition for jobs, living space, and material needs, and this means a greater incidence of violence and crime.

An American approach to population stabilization will not, of course, diminish the prospects of the expected increase in population by the end of the century, but it will help.

Moreover, a well-defined approach to population stabilization would help to address some of the sensitive political problems here at home. Consider, for instance, the problem of illegal immigration into the United States. Authorities seem to have thrown up their hands in trying to cope with the problem and suggest that amnesty for illegal aliens may be the only answer.

Would it not be better to encourage other nations to change the demographic patterns that contribute to the desire of others to leave their homelands and come to the United States than to throw up our hands and authorize amnesty?

I recognize the problem some of my colleagues and some Americans face when we propose something like population stabilization. And it is a serious one. People fear that they will be forced or coerced into population control. Fears of forced sterilization and mandatory birth-control practices are murmured.

Let me say this. That is exactly what will happen in countries where less scrupulous leaders and less respect for democratic principles prevail.

Now is the time; this is the place; and here is the legislation that should prompt us to act so we can prevent such a course of events from ever taking place.

Our proposal stresses the word, "encourage." Through development of guidelines, a Select Committee on Population can propose legislation that will rely on democratic virtues—voluntary action, free will and choice—to encourage our own Government and those of other nations to develop programs that will help stabilize the world's population.

Let us act now, while we have time, while we have a chance, and while we have a choice.

I most wholeheartedly encourage my colleagues to support this resolution.

CONGRESSIONAL ACCESS TO SENSITIVE SECURITY DATA

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, I recently made an informal check of the access of committees of Congress to classified security information. To obtain an indication of the degree of the proliferation of sensitive security information in the Congress, I limited my review to the distribution of "Restricted Data" amongst the various committees. The concept of "Restricted Data," as defined in the Atomic Energy Act, concerns very sensitive defense and national security material related to nuclear energy and provides for a unique system of Government control of the dissemination of the information.

I must admit that my informal check into the matter revealed a disturbing trend. I found that about 15 individual committees and subcommittees of the House and Senate have access to restricted data and maintain individual files of varying amounts of such information. I also found that 256 staff members have been cleared to have access to this sensitive information. Since the 1960's, the number of staff people cleared for access to restricted data have increased by nearly a factor of 10.

A fundamental principle of maintaining the security of sensitive information is to limit its distribution. In its simplest terms, this means limit the access to the information to the minimum number of people consistent with getting the job done. I am concerned that this principle is being violated with the growth in access to this one type of specially sensitive security information to 15 separate organizations in the Congress alone.

I fully appreciate the need for a certain number of committees and subcommittees to have direct and ready access to information and files on sensitive security information. My plea is for the reduction of this access to the essential minimum. I believe this access could be reduced considerably by stricter compliance with the committee system of organization wherein specific responsibilities are assigned to individual committees. Strictly limiting access to the committee with the prime responsibility for the classified data involved will, I am sure, reduce the proliferation which is occurring.

Although I have not looked into the handling of other areas of sensitive national security information than restricted data, very probably similar unfavorable trends have developed in the treatment of such areas in the Congress. I firmly believe that we can greatly improve our treatment of these matters by reducing the number of congressional organizations handling such sensitive security information without relinquishing any congressional responsibilities or losing any legislative control in these areas.

I do not think we can overemphasize the importance of doing everything possible to safeguard sensitive security information. Loss of certain information could well result in the grave endangerment of our national security. Without consideration of the nature of the specific matter involved, it is not possible to estimate the seriousness of the consequences which could ensue. Losses of certain sensitive security information in the past has, in my view, resulted in the nullification of literally billions of dollars of investment in our defense forces. Obviously there is probably no graver matter that we have to contend with than the proper handling and safeguarding of such security information.

The protection of sensitive security information is also directly related to the proliferation of nuclear weapons which is now such a great concern to many Members of this body. The availability of nuclear weapons technology, and in some cases only an incidental piece of information concerning our weapons program, could make it possible for a striving dissident or other foreign national group to attain nuclear weapon capability. The forces for such harmful diffusion of sensitive information are proportional to the number of sources of such information. We should, accordingly, reduce the number of organizations and people to whom such information is distributed.

The tightening up of how the Congress handles sensitive security information is also important relative to the carrying out of oversight responsibilities of the Congress. Simply put the only way we can be effective in exercising effective oversight responsibilities over the safeguard functions performed by the executive agencies is by the conduct of the same functions in an exemplary manner.

The newly created Select Committee on Intelligence may provide the best route for improving the procedures for safeguarding sensitive security information in the House. I would hope that the committee would give this matter consideration. I would be happy in helping in any way that I can on this problem.

SALT I AGREEMENT CONSIDERATIONS

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, on October 3, 1977, the "Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms" technically expires. This agreement, commonly referred to as Salt I, has been in effect for 5 years. In our consideration of future strategic arms limitations we should take into account what has developed in these 5 years.

A good starting point in appraising the effect of the 5 years of Salt I on peace and security is to review section 3 of the joint resolution we passed which outlined the views and conditions under which the Congress approved the Salt I arrangement—Public Law 92-448, 92d Congress, House Joint Resolution 1227, September 30, 1972. This section is quoted below.

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

Each of us must reach our own decision on the worth of Salt I in advancing the cause of peace and security. The 5 years of experience we now have should be a primary source of guidance in determining our future course of action.

My own evaluation of this record gives me concern about the posture of our security as a result of the past 5 years under Salt.

One area is related to the reference in section 3 of the joint resolution to the need to assure the survivability of our strategic deterrent forces. Several witnesses, including the Secretary of Defense, have expressed the view that in the past 5 years the threat to the survival of these forces has increased.

Section 3 of the resolution, you will also note, recognizes the importance, in this fast-developing field of technology, of maintaining "a vigorous research and development and modernization program." Here again the Secretary of Defense's announcement that the Soviets have developed a fourth generation of missile systems in this period. Such technological modernizations are, of course, permissible under the SALT I agreement. I am concerned over what has happened to our relative position in this technological field.

I intend to continue examining very closely what has actually transpired during the 5 years of SALT I. We must all give this matter our most critical attention.

NEUTRON WEAPONS STOCKPILE MODERNIZATION

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, some years ago Lynn Montross, who was an historian for the Marine Corps, wrote a book titled, "War Through the Ages." The book does a remarkable job detailing man's inhumanity to man from about day 1 of recorded history through Korea. From it I learned that the quislings, those who sold out to the enemy, were known in the days of Genghis Khan. Montross relates how the Pope in the 11th century outlawed a new terror weapon which was wreaking havoc on the armored cavalry. The new weapon, the crossbow, would knock the knight off his horse. Flat on his back on the ground, he was an easy victim for the infantry if, in fact, the blow from the bow's projectile did not kill him. The crossbow was ineffective against buildings. Compared to previous bows, however, it had enhanced blast against knights in armor.

The current fuss about the so-called neutron bomb is without merit. The warhead should have been called the "reduced blast/thermal" warhead instead of the "enhanced radiation" warhead. This would have brought forth kudos for the developers of this new humanitarian approach to saving the lives of innocent civilians, should nuclear war erupt in Europe.

George F. Will had an excellent article in the July 7, 1977, Washington Post. I recommend it to those who wish to understand why a weapon with high neutron output, but low blast and thermal output, was developed. Mr. Will very clearly points out why those who oppose this new weapon do so:

In other words, a weapon must be so indiscriminately destructive in blast and fire effects that we will be deterred from using it. Similarly, Hatfield objects to neutron weapons because, being precise, they "invite" use.

The article follows:

THOSE BLASTS AGAINST NEUTRON WEAPONS

(By George F. Will)

Sen. John Heinz (R-Pa.) says a neutron warhead for battlefield missiles or artillery is "dehumanizing" because it "singles out people for destruction, choosing to preserve buildings instead." Newspaper reports have said that neutron weapons destroy people "rather than" property, or "while sparing" property.

In fact, neutron weapons do not "preserve" or "spare" property. But this kind of rhetoric has stimulated intemperate and uninformed outcries against such weapons. So before the debate boils to an irrational climax, this should be noted:

The principal objection to neutron weapons is not that they destroy people. Rather, the objection, made in the name of moral sensitivity, is that they do not destroy people and property as indiscriminately as the less precise tactical nuclear weapons that neutron weapons would replace.

All nuclear explosions produce four lethal effects: blast, heat, radiation and fallout. Neutron weapons produce only about one-tenth of the blast, heat and fallout produced by regular nuclear weapons.

Radiation from neutron weapons is more intense, but more confined; it can be confined to a radius of 300 yards. And it is short-lived; an area hit by a neutron weapon can be occupied the next day.

One newspaper reports that neutron weapons are "more detrimental to humans than to buildings," a description that also applies to bullets. Sen. Mark Hatfield (R-Ore.) says neutron weapons are "in the realm of such devastation that it is difficult to comprehend."

Not really. Nuclear weapons that neutron weapons would replace would destroy civilians and homes far beyond the battlefield area to which the effects of neutron weapons would be confined.

Since industrial organization became the basis of military power, and especially since the development of air power, the theory and practice of war has blurred the distinction between combatants and noncombatants. Neutron battlefield weapons are a step back from the indiscriminateness of modern war technologies: They make possible reduced collateral damage to civilians.

And that is why they are opposed.

Paul Warnke, President Carter's arms-control adviser, once said, with characteristic excess, that new tactical nuclear weapons capable of more controlled devastation would be "an absolute disaster." Weapons "with lower yield and greater accuracy and presumably few collateral consequences" would undermine the self-deterrence of nations that possess them.

In other words, a weapon must be so indiscriminately destructive in blast and fire effects that we will be deterred from using it. Similarly, Hatfield objects to neutron weapons because, being precise, they "invite" use.

Sen. Sam Nunn (D-Ga.) rightly notes that opponents of neutron weapons fear that the United States might not be sufficiently reluctant to use them. But as Nunn argues, a deterrent is credible only to the extent that it is usable:

"Those who oppose the warhead apparently believe in self-deterrence . . . that we should keep the weapons so destructive we would never use them or if we did use them, it would only be under the most desperate of conditions. . . . By deterring ourselves from using tactical nuclear weapons, except weapons which would destroy the territory we are pledged in NATO to protect, the advantages which the Soviets now maintain in conventional arms are greatly magnified. . . . I remind my colleagues that the purpose of deterrence in Europe is to deter Soviet aggression, not to deter ourselves from responding to that aggression."

Rejection of clean, precise neutron weapons would be destabilizing in two senses. On the one hand, the Soviets would be given reason for doubting that the United States would use existing tactical nuclear weapons, with their devastating collateral effects, while fighting on allies' soil. On the other hand, while NATO forces are equipped only with such imprecise weapons, NATO will be

under pressure to use them early against attack, before superior Soviet conventional forces move the battlefield from the border into the heart of Western Europe.

The basic objection to neutron weapons constitutes an objection to tactical nuclear weapons in general. Neutron weapons do not involve a departure from established principles for defending Europe with tactical weapons.

Opponents should calculate the cost—in money and, in the event of war, in allied and civilian lives—of alternative means of coping with the Soviet advantage in conventional forces. They should, but they won't.

WHO COMPOUNDS YOUTH UNEMPLOYMENT?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the many organized labor lobbyists that hang around the east door to the Chamber during debate and critical votes in which they have an interest wore long faces last week as a result of action in this body on the fair labor standards bill.

They were appalled at the success of the "opposition" when we were able to remove the indexing feature, which they wanted so badly, as well as retain the tip credit. They were, however, pleased with their success in killing the effort to have a youth differential which would have helped keep and create jobs for young people at a figure below their new minimum wage.

You will recall, Mr. Speaker, that as the time expired on the vote on the youth differential, the "tote boards" on each side of the Chamber showed it had passed by four votes. However, the voting was kept open until such time as a couple of Members were persuaded to reverse themselves, whereupon a tie vote was revealed, which, of course, defeated the amendment. You then, Mr. Speaker, took the unusual, although perfectly legal, step of casting your vote, which finally tabulated a defeat of the amendment by 211 to 210.

This has not gone unnoticed, at least by a portion of the media, and I am enclosing with my remarks, a copy of the editorial which appeared in the Columbus, Ohio, Dispatch on Saturday, September 24:

HOUSE SPEAKER BLOCKS YOUTH JOBS

Youth unemployment seems certain to remain a serious national problem now that U.S. House Speaker Thomas O'Neill and his colleagues have rejected a minimum wage formula that would save teenage jobs.

The proposal would have enabled businesses to pay workers under age 19 less than the minimum wage during their first six months of employment.

In a key House vote, members deadlocked, and Mr. O'Neill himself cast an unusual final ballot against the youth wage differential.

This was a sad moment for American teenagers.

Economists generally agree that increases in the minimum wage harm inexperienced and unskilled workers most of all. Over the last decade increases in the minimum wage may have ended 25 percent of teenage jobs.

But, the youth differential would have provided an incentive for employers to hire less-skilled workers, enabling them to learn on the job.

A black economist, Dr. Walter Williams of Temple University, argues that blacks and other minorities have lost most from widespread application of minimum wage laws.

As late as 1948, when these laws had limited effect, black youths had a lower unemployment rate than white youths, but today the situation has reversed. Joblessness among black youths currently exceeds 40 percent.

"I would guess," says Mr. Williams, "that if we abolished the minimum wage, reduced licensing restrictions, changed labor legislation and reorganized the delivery of education, in 20 to 30 years there would be no 'black problem,' as there is no Japanese, Chinese, Jewish or other earlier immigrant problems."

The minimum wage differential for teen workers was a step to generate youth jobs for all. It is a shame that Speaker O'Neill blocked that initiative.

HON. OLIN E. TEAGUE RESPONSIBLE FOR MODERN DAY VETERANS PROGRAMS

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, although TIGER TEAGUE needs no defense from me, I rise to reply to the unprovoked attack by Colman McCarthy in yesterday's op-ed page of the Washington Post. Ordinarily, I do not engage in debate with newspaper articles because it generally is an exercise in futility.

In articulating veteran issues, I have found that the Washington Post in general seems more concerned about the concept of the wrongness of the Vietnam war than about helping Vietnam veterans.

I am reminded of Thomas Gray's words, "Where ignorance is bliss, 'tis folly to be wise." The article heaps considerable scorn on the distinguished chairman of the Subcommittee on Education and Training of the Veterans' Affairs Committee who chaired hearings on September 15 on two proposals which would authorize the Veterans' Administration to pay more money to certain veterans who attend high-cost schools or want to accelerate their entitlement by getting more GI bill money in a shorter period of time. The author of the article seems to feel that because the Congress has not acted on these proposals, there is a great indifference which permeates this body. The blame is placed at the feet of OLIN E. TEAGUE, the one Member of this body who has been continuously involved in consideration of legislation for all veterans since the end of World War II—the one man responsible for writing the modern day veterans' programs.

I have taken the liberty of checking with the Veterans' Affairs Committee in reference to some of the allegations in this article. I learned that the chairman scheduled a 1-hour hearing on September 15 on a bill introduced by Congressman QUIE to pay extra tuition to individuals who attend high cost schools and another bill to accelerate GI bill entitlement introduced by Congressman WOLFF, a distinguished member of the subcommittee. Because of the number of witnesses scheduled to testify, it was impossible to hear them all on September 15 even though the hearing began at 8 a.m. Mr. TEAGUE listened to witnesses for several hours so that all parties could be heard, then scheduled hearings to continue on September 16. None of the proponents of the legislation were in attendance on September 16 when the Veterans' Administration and other very important witnesses testified.

Mr. Speaker, the Vietnam era GI bill was enacted in 1966. Over the last 11 years, there have been a number of substantive amendments to the program with special consideration being given the so-called disadvantaged Vietnam veteran. While a few editorial writers engage in blandly stating that the World War II GI bill was much better and more generous than the Vietnam era GI bill, this simply is not true. On the contrary, the Congress in its appreciation of the contribution made by the Vietnam veteran to the Nation has approved a number of programs which not only makes the current GI bill comparable in assistance to the World War II GI bill, but has added other program assistance unheard of 30 years ago.

TIGER TEAGUE has helped establish an education program for Vietnam veterans that now provides almost $14,000 in cash assistance for educational assistance to an individual who served only 18 months on active duty. A married veteran with one child is now entitled to about $18,000 for 18 months of service. In addition the veteran may receive:

First. VA educational loan of up to $1,500 per year.

Second. Work study allowance of up to $625 per school year.

Third. Tutorial assistance of up to $65 per month for a maximum of up to $780 per school year.

Fourth. Full monetary benefits without charge to entitlement while the disadvantaged veteran trains to complete high school or takes courses which are prerequisite to his selected program.

Fifth. Forty-five months of benefits for 18 months of service compared to 28 months of training for 18 months of service for World War II veterans.

Sixth. A delimiting period of 10 years compared to the World War II program in which training had to be initiated within 4 years of discharge and completed within 8 years.

In other words, a single veteran going to school full time may now receive almost $5,000 per school year in benefits from the Veterans' Administration for 18 months of service.

Mr. Speaker, it should also be noted that the Vietnam veteran has participated in the current GI bill at a much greater rate than veterans in previous wars. Sixty-four percent have already used their GI bill as compared to 50 percent of the World War II veterans and about 43 percent of the Korean veterans.

It comes as a surprise to me that the author of the article in yesterday's Washington Post is so ill advised and misled as to believe that tuition assistance is somehow going to help the type of veteran he is pleading for—namely, the disadvantaged, alienated Vietnam veteran. The bills to which he has referred would help schools who have high tuition costs. Any other test of need such as being an unemployed veteran would not necessarily be benefited by the legislation. The GI bill is not structured to help educational institutions. The GI bill is intended to help veterans. To me, it is ridiculous to say that a veteran who lives in a certain State or who plans to go to a certain college is disadvantaged because the Federal Government is willing to give him "only" $2,700 a year toward his attendance.

Another fact worth mentioning is that after World War II most veterans did not have a job; therefore, he was not on the same economic footing as the veteran today, notwithstanding the fact that the unemployment rate for veterans remains relatively higher than for nonveterans. More than 80 percent of veterans going to school under the GI bill also work. More than 70 percent of these work full time with a median income of more than $13,000.

The charge leveled in yesterday's article in the Washington Post leaves the conclusion that Mr. TEAGUE automatically backs veterans' organizations' legislative proposals because he attends their conventions and socializes with leaders of the veterans' organizations. This is sheer nonsense. OLIN E. TEAGUE, like all true statesmen, has over the years sat on legislative proposals advocated by some veterans' organizations which have questionable merit. The reason that we have a good effective comprehensive veterans' program today is because the House Veterans' Affairs Committee under the leadership of OLIN E. TEAGUE for 25 years has been able to favorably consider and recommend meritorious legislation which is not only in the best interest of veterans and their families but for the good of the Nation.

Mr. Speaker, the facts I have outlined are easily obtained by simply checking the records available through the Veterans' Administration. But apparently Mr. McCarthy decided that he would have no story if he got the facts. This is the problem with this kind of reporting. I have no problem with any newspaper through its editorial pages, expressing a different point of view. I have always defended the right to do so. Nonetheless, one should have and report the facts in any case before attacking Mr. TEAGUE or any other member of the House Veterans' Affairs Committee. I think the committee has done a tremendous job in providing educational benefits for veterans of World War II, Korea, post-Korea, and Vietnam. I need not defend the current policy since it has been fully supported by six Presidents—three Republicans and three Democrats.

Mr. Speaker, I have nothing but praise for TIGER TEAGUE, RAY ROBERTS, RON MOTTL, and others who have done so much for our veterans and their dependents. I only wish we had more so dedicated. The majority of Congress, and TIGER TEAGUE in particular, are concerned with the Nation's obligation to all veterans and this includes Vietnam veterans. With a deficit in excess of $60 billion, we must maintain priorities; and we must try to fund all veterans' programs to the best of our ability.

TIGER TEAGUE is a legend to American veterans. His contributions are in legislative deeds not demagogic words.

PUBLIC URGES GRAND JURY REFORM

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, I have previously inserted into the RECORD the American Bar Association's recommendations on grand jury reform, which recommendations parallel the provisions of H.R. 94, which I have introduced, to reform the Federal grand jury system.

In response to the American Bar Association's recommendations, numerous newspapers and others have urged prompt action by Congress to enact essential grand jury reform legislation. For the use of the Members, I would like to insert in the RECORD at this point a number of articles describing and discussing the ABA action and the need for the reforms detailed in my bill:

[From the Chicago Tribune, Aug. 7, 1977]

LAWYERS WARNED OF GRAND JURY ABUSE

(By Lee Strobel)

Grand juries are in danger of being abolished or having their power cut severely unless major changes are made to curtail abuses by over ambitious prosecutors the chairman of an American Bar Association committee said Saturday.

Richard E. Gerstein, state's attorney in Dade County, Fla., for more than 20 years, said state and federal grand jury systems must be revamped to prevent them from being what critics have called "a rubber stamp of prosecutors."

The ABA's Grand Jury Committee, headed by Gerstein, is proposing a 26-point plan to overhaul grand juries, to help expand the rights of witnesses, and to try to protect reputations of innocent persons.

The proposal, brought after three years of study, is among the more controversial issues under debate at the weeklong ABA convention in the Palmer House.

The 360-member House of Delegates, the policy-making arm of the 218,000-member association, will decide early next week whether to adopt the proposals as official ABA policy.

"Unless changes are made soon, the grand jury will be in danger of being bypassed or abolished around the country," Gerstein said in an interview.

"We want to preserve the system because, when it functions as it was intended, it can be an effective buffer between innocent people and the state and it gives citizens a chance to participate in the criminal justice system."

Under major provisions of the plan, grand juries would:

Permit witnesses to have a lawyer present during questioning, although the attorney could only act as an adviser and not address the jurors.

Be barred from issuing reports criticizing the qualifications or moral fitness of a person to hold a public office.

Allow anyone mentioned in a grand jury report to ask a judge in secret to have his name removed before the report is made public.

Give targets of grand jury investigations the right to tell their side of the story to the panel if they wish.

Require prosecutors to disclose to the jurors any evidence tending to negate the guilt of a target of an investigation.

Block prosecutors from making statements or arguments to influence grand jury action in a manner that would not be permissible in a courtroom trial.

Although the ABA cannot implement such changes, adoption of the plan as ABA policy would be a potent lobbying force in seeking new grand jury legislation, Gerstein said.

He said laws setting up safeguards as proposed by his committee are needed even though some proposals are part of the standards of the ABA or the National District Attorneys Association, of which Gerstein is a former president.

Gerstein's committee proposed several changes at the ABA midyear meeting in February, but the group decided to put off the plan at the request of Atty. Gen. Griffin Bell, who objected to some of the proposals.

Since then, several of the proposals have been reworded to eliminate most of Bell's objections, Gerstein said.

"The calls for reform started because of abuses under the Nixon administration and they've been increasing, not only from individual witnesses but from major corporations such as General Motors," Gerstein said.

He noted that, although the grand jury system was created in the 12th century in England to serve as a shield between citizens and the crown, England abolished the institution in 1933.

[From the Washington Star, Aug. 7, 1977]

LAWYERS FIGHTING OVER GRAND JURY REFORMS

(By David Pike)

CHICAGO.—Noting that the grand jury system is under increasing attack as being "riddled with abuse" and a "shield for the government" rather than for the citizen, the Criminal Justice Section of the American Bar Association is urging the organization to approve 26 proposals for reform.

While everyone here at the ABA's 100th annual convention agrees that abuses must be prevented, the proposals are drawing strong opposition from federal prosecutors.

Most controversial are recommendations that grand jury witnesses be allowed to have their lawyers join them during questioning instead of sitting outside the grand jury, that courts supervise the granting of immunity from prosecution, that only the broader form of immunity be allowed and that everything said before the grand jury, including comments to jurors by prosecutors, be recorded.

Such changes have been advocated by such diverse groups as the National Council of Churches, the American Law Institute and corporate officials called recently to testify in federal antitrust cases. Most recently the Founding Church of Scientology in Washington charged that the federal government's grand jury investigation into allegations of illegal actions by church members is merely an attempt to harass the church, and one minister has decided to go to jail rather than testify.

The issues being discussed are important mainly for the federal court system, where most charges are brought through grand juries. In most state and local systems, prosecutors merely file charges themselves and only occasionally use a grand jury for investigative purposes. However, the positions adopted by the ABA are certain to have a wide impact nationally and could influence grand jury reform bills pending before Congress.

ABA President Justin Stanley said Friday that grand jury reform is one of the top issues confronting the 8,000 lawyers meet-

ing here, and the issue certainly has drawn top-level attention from the Justice Department and the National District Attorneys Association.

The ABA had been scheduled to act on 23 reform proposals at its winter meeting last February in Seattle, but action was delayed at the request of Atty. Gen. Griffin Bell. Since then, the Justice Department and federal prosecutors have had considerable impact in modifying the proposals and increasing them to 26, the criminal justice section's report noted.

But the changes have not totally satisfied some federal prosecutors, and the heated lobbying and debate are expected to continue up to the time the ABA's House of Delegates votes on the proposals Tuesday. Bell is scheduled to address the convention tomorrow, but it is unknown whether he will comment on the grand jury issue to gain support for the Justice Department positions.

Most attention is being focussed on whether grand jury witnesses could bring their lawyers with them into the grand jury room to advise them on how to answer questions. The ABA two years ago supported such a move, but that position could be reversed if the current batch of reform proposals runs into trouble, sources said.

The issue is the one that reportedly most concerns Bell because the presence of defense lawyers within the sanctuary of the grand jury is seen as delaying and possibly obstructing a grand jury's investigation into criminal conduct, especially in organized crime and conspiracy cases.

Once lawyers are permitted inside the grand jury, the opponents contend, they will be able to repeatedly raise objections that will have to be taken before judges for a resolution, which could result in a "mini-trial." And in conspiracy cases, where one lawyer may represent several witnesses, the attorney would be able to see which witnesses are cooperating with the grand jury and even learn the identities of grand jury members, opponents argue.

The report notes that the grand jury process is the only part of the criminal justice system in which defendants do not have a right to have counsel present. And it argues that forcing a witness to go outside the grand jury room to consult with an attorney merely delays the process and "places the witness in an unfavorable light before grand jurors."

The report also points out that nine states including Virginia allow lawyers inside the grand jury and that none have reported any serious problems.

Another proposal that has brought strong opposition from prosecutors would provide that witnesses who are given immunity from prosecution in return for their testimony should only be granted "transactional immunity." Such protection covers any crime referred to in the testimony unlike "use immunity," which only protects the witness from use of his testimony in a future criminal prosecution.

The proposal is linked to another that would provide a further check on the granting of immunity by requiring a judge to determine that immunity is necessary, rather than the current practice of allowing prosecutors to determine whether immunity is in the public interest.

Opponents, in a statement that has been circulated to the 94 U.S. attorneys around the country, contend that: "The commentary by the ABA that use immunity encourages perjury and chills cooperation is totally unpersuasive. To the contrary, it is transactional immunity that discourages detailed truth telling since the individual is fully protected only by superficial testimony. The more detail a person (with use of immunity) provides, however, the greater is his protection."

As to giving the court a broad role in determining who can be granted immunity, the statement argues that it would "usurp the function of the executive (branch). It is not a proper judicial function to determine who should be prosecuted. It is equally not a proper judicial function to determine who should NOT be prosecuted, whether as a result of being granted immunity or otherwise."

Among the other controversial proposals is one requiring the recording of all matters before the grand jury, except their deliberations. Such a requirement, which is now in effect in only a few federal courts and not in the Washington area, is aimed at restraining prosecutors from exercising "undue or improper influence on the grand jury," the ABA report said.

[From the Washington Post, Aug. 9, 1977]

HOW TO MAKE GRAND JURIES WORK

Legislation pending in Congress to change the rules under which federal grand juries operate got a helping hand Wednesday when the American Bar Association approved a set of principles for grand-jury reform. Chief among them is a recommendation that a witness be allowed to have a lawyer present when being questioned in the grand-jury room. This recommendation, if accepted by Congress—and we hope it will be—should go a long way toward eliminating the abuses by prosecutors that have made the grand-jury system suspect. In doing so, it may save the grand jury from extinction.

Originally created in England as a mechanism for protecting citizens against an overbearing government, the grand jury has been used instead by many prosecutors as an instrument for harassing witnesses and browbeating defendants before they are indicted. The Nixon administration was especially skillful at using grand juries for political rather than law-enforcement purposes.

While the Department of Justice has recognized the need for new rules to end such abuses, it is not prepared to go as far as the Bar Association in fundamental reform. Attorney General Griffin Bell, in fact, argued before the lawyers against giving witnesses the right to have a lawyer with them—at present, witnesses' lawyers are required to wait ontside the grand-jury room. His fear, and that of many prosecutors, is that grand-jury proceedings will come to resemble those of a trial, thus making the task of law-enforcement officials even more formidable than it is now. We think such fear is exaggerated. But even if it were not, this basic change in the law would be needed to preserve the grand jury's intended function.

Grand juries have been much criticized in the past few decades. They were abolished in England in 1933 and have been eliminated in several states. Their life expectancy in the remaining states and in the federal system was not considered great a few years ago because of the ways in which the juries had been abused. But that has changed. The Watergate affair provided a striking example of their usefulness in investigating and bringing indictments in situations where no other technique could have enjoyed public confidence. They are worth saving—but only if they are restored to the function intended by the Bill of Rights. The best way to do that would be for Congress to pass legislation along the lines suggested this week by the nation's lawyers.

[From the New York Times, Aug. 10, 1977]

BAR GROUP PROPOSES HELP FOR WITNESSES BEFORE GRAND JURIES

(By Warren Weaver, Jr.)

CHICAGO, August 9.—The American Bar Association urged Congress and the states today to adopt a broad program of grand jury changes aimed at curbing abuses by prosecutors and providing more protection for witnesses.

Over objections by the Department of Justice in two instances, the association's House of Delegates approved a 24-point program that would permit witnesses to have their attorneys in the grand jury room and require the government to inform witnesses who are possible targets of the inquiry of that fact.

The proposed code for criminal investigation would also limit the circumstances under which grand juries can grant a witness immunity, while broadening the area of such immunity once granted. It would strongly uphold the principle of grand jury secrecy but attempt to prevent the use of grand juries for political purposes.

DEBATE OVER LEGAL ADS

The House of Delegates, policy-making body for the 218,000 lawyers in the association, passed a watered-down resolution on President Carter's institution of a merit system in appointing Federal judges but deferred decision on the question of whether winners in civil lawsuits should recover their legal costs from losers as a matter of general policy.

The A.B.A., the single most powerful force in the legal profession, is holding its 99th annual meeting here. The convention is scheduled to close tomorrow with a debate over restrictions on legal advertising and the installation of William B. Spann Jr. of Atlanta as president.

At present, there is no requirement that Federal or state grand juries provide any legal information to witnesses subpoenaed to testify. Under the code adopted by the A.B.A. today, the witnesses would be told of their privilege against self-incrimination, their right to counsel and the possibility that any false testimony could lead to a perjury indictment.

Under current practice in all but nine states, witnesses may not have lawyers with them in the grand jury room, although they can go outside after a question and consult their lawyers in the corridor.

Richard E. Gerstein of Miami, a veteran prosecutor, called this "a ludicrous situation that can cast doubt on a witness' veracity" when he may be telling the truth but is uncertain of his legal rights at the moment.

Under the A.B.A. proposal, an attorney could advise his client in the grand jury room but could not address the grand jury or participate otherwise in the proceedings. If he violated these rules, the prosecutor could ask the court to remove him.

Appearing briefly, Attorney General Griffin B. Bell argued that this was "overkill," a move that would either make the grand jury system unworkable or else constitute a "lawyers' relief act" providing "plenty of work" for the profession.

The Department of Justice won two victories on grand jury reform, however persuading the House of Delegates to vote down proposals that would have made it easier for witnesses summoned before a grand jury to challenge and perhaps invalidate their subpoenas.

One supporter of legal representation within the grand jury room, Gilbert S. Rosenthal of New York, told the association that a number of indictments obtained by Maurice H. Nadiari, the former New York special prosecutor, had later been dismissed because of his "badgering of potential defendants" before the grand jury.

A proposed resolution "commending" President Carter for establishing nonpartisan commissions to proposed candidates for the United States Court of Appeals was amended to say that the A.B.A. "recommends" that the President establish this kind of commission in the future.

The move was made after complaints that the commission established for the 10th Circuit of the Court of Appeals included a number of political appointees and apparently unqualified members. That circuit is composed of Colorado, Wyoming, Utah, Kansas, Oklahoma and New Mexico.

By a vote of 142 to 141, the House of Delegates voted to postpone action indefinitely on a proposal to add 14 lawyers under 36 years old, one from each A.B.A.

[From the Wall Street Journal, Aug. 10, 1977]

BAR ASSOCIATION ENDORSES GRAND JURY SYSTEM REFORM

Grand Jury system reform was endorsed by the Bar Association.

Over opposition from Attorney General Bell, the nation's largest lawyers' group voted to support bills pending in Congress that would allow witnesses to bring attorneys to the jury room and broaden criminal immunity. Backers of the measures argued the changes were necessary to stem abuses of power by prosecutors, charging the grand jury system had failed to shield the innocent. The group's stance is expected to carry considerable weight in Congress.

Bell had warned the lawyers: "You are proposing a remedy that is much broader than the wrong you have found."

[From the Washington Post, Aug. 10, 1977]

ABA DELEGATES URGE REVISIONS IN GRAND JURIES

(By Stuart Auerbach)

CHICAGO, August 9.—The American Bar Association's policy-making House of Delegates today recommended sweeping changes in the grand jury system—including allowing defense lawyers in the jury room—that the Justice Department strongly opposed.

The proposals are aimed at ending what an ABA committee called "abusive" elements of the 800-year-old grand jury system, which developed under English common law to protect citizens from the king but which has now become a tool of the nation's prosecutors.

While ABA's action has no force of law, it has influence with Congress and state legislatures, which can pass measures revising the system.

An aide of Rep. Joshua Eilberg (D-Pa.) who has introduced a bill in Congress to revise the federal grand jury system along the lines recommended today by the ABA, said the measure would have no chance of passing without the support of the organized bar.

Attorney General Griffin B. Bell, who led a Justice Department team opposing parts of the recommendations before the ABA delegates, promised that the next battle would be in testimony to Senate and House-committees considering changes in the federal grand jury system.

Bell especially opposed the provision that would allow witnesses to have their lawyers in the grand jury room. He called it "a lawyer's relief act" that would "generate plenty of business for lawyers."

Most grand juries, including those in federal courts, now allow witnesses to consult with their attorneys in an anteroom after every question.

Allowing a lawyer in the grand jury room with his client would fundamentally change the system, and federal prosecutors who lobbied ABA House of delegate members here all week said it would hamper their investigations of white-collar organized crime.

"Putting a lawyer in the grand jury room will invariably lead to impeding the investigation," Benjamin R. Civiletti, head of the Justice Department's Criminal Division told the delegates.

Richard E. Gerstein, however, who has had experience on both sides of the grand jury in his 21 years as chief prosecutor in Dade County (Miami), Florida, replied, "It's the only stage of the criminal proceeding where a person does not have a right to counsel."

Gerstein, who headed the ABA efforts for grand jury revision against the opposition of most of his fellow state and federal prosecutors, gets much of his political support from an association of grand jury members. But he was also the subject of corruption investigation by a special grand jury called by former Florida Gov. Claude Kirk. He was cleared.

Gerstein said the grand jury needs to be changed if it is to remain a vital part of the criminal justice system. He said it was especially misused during the Nixon administration when grand juries were set up in cities far from the scene of a crime and used to harass antiwar dissidents. He noted that a Seattle grand jury, for example, investigated the bombing of the Capitol in Washington, D.C.

The ABA also took another action opposed by the Justice Department: The legal organization recommended that prosecutors be barred from invoking a device called "use immunity." That device allows witnesses to be given immunity from prosecution for answers they give to a grand jury, but they still can be prosecuted on the basis of other evidence.

The ABA recommended that prosecutors instead be allowed to grant only a broad immunity, called "transactional immunity," under which a witness could not be prosecuted under any circumstances for the crime being investigated. Under the ABA proposal, prosecutors would be required to prove to a judge that such broad immunity is necessary before it could be granted.

[From the Washington Star, August 10, 1977]

GRAND JURY WITNESSES HAVE RIGHT TO LAWYER, ABA SAYS

(By David Pike)

CHICAGO.—Despite a last-minute personal appeal by Atty. Gen. Griffin Bell, the American Bar Association's House of Delegates has adopted by a 2-1 majority a position stating that citizens called as witnesses before a grand jury have the right to have their lawyer with them inside the grand jury room to give advice on answering questions.

The proposal to change the current practice, in which witnesses must leave the grand jury to consult with their attorneys, was recommended by the ABA's criminal justice section. The section report noted the increasing clamor from corporate officials and religious and political groups over alleged abuses of the grand jury system by prosecutors.

But yesterday Bell said the proposed change was "overkill . . . a remedy much broader than the wrong involved". He told members of the ABA's policy-making body that it would provide a "lawyers' relief act" by encouraging all grand jury witnesses to bring lawyers with them when they are subpoenaed to testify.

Instead, Bell said, a system should be adopted under which the courts would provide a lawyer who would sit inside the grand jury and provide advice to any witness who asked for it. He called this idea "more reasonable".

The delegates, by a vote of 186 to 93, approved the proposed change after lengthy and heated debate. And they did so despite the unusual plea from Bell, who has great respect here, and an intense lobbying campaign by the Justice Department, the National District Attorneys Association and others.

One prosecutor who had lobbied hard against the proposal just shook his head and said, "They murdered us."

Bell said later he was "disappointed" by the vote but that his department will continue to oppose legislation that would adopt the change.

The focus of the battle now will be in Washington, where a House Judiciary subcommittee headed by *Rep. Joshua Eilberg, D-Pa.*, is considering a number of grand jury reforms, including the lawyer issue. Justice has testified against the change there, while the ABA, acting on a 1975 vote to support it, has also testified. The vote yesterday is seen by many in the ABA as providing increased weight for its position.

Richard E. Gerstein, the Miami, Fla., state's attorney who presented the report containing 26 grand jury reform proposals, was "delighted" with the vote. He noted that after the Justice Department won some changes, they had agreed to 22 proposals and fought only four.

Of those, the department yesterday won on two—giving persons subpoenaed the right to fight it in their home city rather than where the grand jury sits, and placing the burden on prosecutors to show the court the testimony is necessary. And they lost two—the lawyer issue and a policy to require prosecutors who grant witnesses immunity from prosecution in return for testimony to give only the broadest type of immunity, covering any crime covered in the testimony.

Bell said he was not as concerned about losing on the last issue, "because they would have to overturn a law in Congress and Supreme Court rulings . . . I don't believe we'll have a problem there."

The debate lasted for 90 minutes and began with Gerstein's statement that "we have no desire to eliminate the grand jury . . . but it must be reformed to eliminate abuses and to prevent it from being a rubber stamp for prosecutors." He added that the abuse occurred mainly during federal investigations carried out during the administration of former President Richard M. Nixon.

Deputy Atty. Gen. Benjamin Civiletti, who heads the criminal division argued that all four proposals would "delay" and "shackle" grand jury investigations especially in conspiracy and organized crime cases. Some of the proposals he said would give judges authority over areas that must remain with prosecutors and said they were "unsound, unwise and shouldn't be adopted."

The most stirring pro-reform speech came from Chicago attorney Barnabas Sears, who quoted Supreme Court Justice Lewis Powell: "The rights of the best of men are protected only as long as the rights of the worst of men." He argued that "this is no time" for the ABA to reverse its past support of grand jury reform.

In other action yesterday the ABA passed a resolution calling for "swift and effective implementation" by the federal government of various laws and regulations aimed at extending and protecting the rights of mentally handicapped persons.

The ABA delegates noted that much federal legislation had been passed in this area in recent years but that "unfortunately, implementation of these rights often lags years behind the enacting legislation and falls short of legislative expectations."

A related resolution urged that "exclusionary zoning restrictions" prohibiting the establishment of "small-group homes for the mentally ill" in residential areas be eliminated, with a provision that the homes not be clustered in certain parts of a community.

[From the Chicago Sun-Times, Aug. 10, 1977]

ABA BACKS GRAND JURY WITNESS RIGHT TO COUNSEL

(By Michael Zielenziger)

Witnesses before a grand jury should have the right to be accompanied by an attorney,

the policy-making arm of the American Bar Assn. decided here Tuesday.

Over the dissent of U.S. Atty. Gen. Griffin B. Bell, who spoke against the proposal, members of the ABA's House of Delegates voted 186 to 93 to recommend that grand jury witnesses be given the right to counsel.

The recommendation, part of an over-all package of grand jury "reforms" approved by the ABA, would allow attorneys to advise their clients privately during any grand jury appearances, but would prohibit lawyers from addressing the jurors or from "otherwise taking part" in the proceedings.

Bell told the delegates attending the ABA's annual meeting at the Palmer House that the "remedy proposed is much broader than the wrong you have found" and said the recommendation amounted to "overkill" that would damage the grand jury process.

Under current practice in most states, a witness appears alone before a prosecutor and the grand jury. Should he desire to consult with his lawyer, he must leave the grand jury room. But, as pointed out at the delegates' session, the shuffling in and out of the grand jury chamber tends to make a witness look less honest, and can increase the likelihood of his indictment if he is a target of investigation.

The ABA recommendations do not carry the force of law. To become effective, states must revise their legal codes to reflect the new proposals.

Benjamin Civiletti, chief of the U.S. Justice Department's criminal division, told the delegates the proposal would make prosecution of drug abusers, white-collar and organized criminals more difficult. "Putting a lawyer in the grand jury room as a counsel to witnesses will impede fact-finding by the grand jury," he said, adding that it also would create potential new sources for grand jury leaks.

But the ABA delegates sided with Miami prosecutor Richard Gerstein, chairman of the grand jury reform committee, who asked: "If the courts have ruled that suspects must have a right to counsel when being quizzed by police in the stationhouse, why not before the grand jury?"

The reform package was proposed after mounting criticism that grand juries, designed to protect citizens from needless harassment, had become "rubber stamps" of zealous prosecutors.

The delegates also voted, after lengthy debate, to recommend that prosecutors use "transactional immunity" rather than "use immunity" when seeking to get witnesses to testify before grand juries.

Under "transactional immunity," witnesses are granted a blanket guarantee they will not be prosecuted for any crimes they may have committed. Under "use immunity," however, a witness can still be prosecuted for his offense if the prosecutor independently learns of incriminating evidence against him. Civil libertarians consider the concept of "use immunity" an infringement of the Fifth Amendment, which protects against self-incrimination.

The 26-point reform package approved Tuesday included these other features:

Prosecutors should not present evidence to the grand jury that would be inadmissable at trial.

They should recommend a grand jury not indict if they believe the evidence is not strong enough.

Every witness before a grand jury should be informed of his right to counsel, protection against self-incrimination, and that if he answers questions falsely he can be charged with perjury.

Targets of a grand jury investigation should be told they are potential indictees.

[From the Chicago Tribune, Aug. 10, 1977]

BAR ENDORSES GRAND JURY REFORMS

(By Lee Strobel)

A package of grand-jury reforms was endorsed Tuesday by the American Bar Association despite U.S Atty. Gen. Griffin Bell's strong objections to a provision allowing defense lawyers inside grand-jury chambers.

Bell and his criminal division chief, Benjamin Civiletti, warned that allowing defense lawyers to advise witnesses during grand-jury questioning would both shackle and lengthen the juries' investigations.

Civiletti said the proposal "will inevitably lead to impeding the fact finding" by grand juries and would generate more hearings to take up the already limited time of judges.

Bell said the idea "would generate plenty of business for lawyers" but is an unnecessarily strong action to take.

The ABA's house of delegates, which sets policy for the 218,000-member association, voted 186 to 93 to endorse the plan, which would let lawyers advise witnesses but would give them no other role inside grand-jury chambers.

An ABA committee on grand juries proposed letting defense lawyers into the chambers after a three-year study of federal and state grand-jury systems.

Richard E. Gerstein, committee chairman and state's attorney for 21 years in Dade County, Fla., told delegates that grand-jury reforms are urgently needed if abuses like those under the Nixon administration are to be prevented.

He likened letting lawyers into grand-jury rooms to letting attorneys advise arrested persons during questioning at police stations. He contended proceedings would be shortened by the change.

Bell and Civiletti objected to four proposals in the 26-point package on grounds that, taken together, they would hamper grand juries, lengthen proceedings, and make investigations of organized and white-collar crime more difficult.

The delegates went along with the Justice Department by rejecting two points but insisted on endorsing another provision that reasserts the ABA's endorsement of the broader of two kinds of immunity.

Although the ABA has no power to enact grand-jury changes, its endorsement of reform is expected to be a potent force for congressional action in that area.

At Bell's suggestion, the delegates rewrote a committee proposal that witnesses who refuse to testify before a grand jury and are held in contempt should be jailed for not more than six months. This was amended to call for a maximum of one year in jail. Current law provides up to three years in jail.

As part of the package, the ABA endorsed new laws prohibiting prosecutors from knowingly failing to disclose to the grand jury any evidence that would tend to substantially negate the guilt of a person under investigation.

GRAND JURY SYSTEM WOULD GAIN FROM ABA REFORM PACKAGE

[From the Salt Lake Tribune, Aug. 12, 1977]

If American Bar Assn. (ABA) policy is eventually reflected in law, and it often is, the grant jury system is in for some long overdue change.

The association's House of Delegates took the position this week that witnesses before grand juries should be allowed to have an attorney at their side to advise them. Some two dozen other changes designed to provide greater protection for individuals in grand jury proceedings were also approved, sometimes over the protest of Atty. Gen. Griffin Bell.

On too many occasions grand jurors have been reduced to little more than a rubber stamp for the prosecutor, the only lawyer permitted to address an advise them. There also have been frequent charges that grand juries used a new limited immunity grant weapon as an instrument of intimidation. And some critics believe grand juries have been employed as an investigative arm of established law enforcement agencies.

The ABA acted to stem these and other flaws in the face of a warning from Mr. Bell that the lawyers were destroying the grand jury and making law enforcement in some fields impossible. The attorney general's objections smacked of regret over the prospect of losing the government's overwhelming advantages under present grand jury procedures.

If the ABA recommendations become law an overly zealous prosecutor would no longer find it easy to browbeat a witness into possibly inadvertently incriminating himself or associates. Instead of having to leave the jury room to consult with a lawyer after each question put to him, a witness would have counsel with him.

Proposed limitations on grants of use-immunity would force prosecutors to develop evidence through investigation rather than extract it from an unwilling possible suspect under threat of contempt sentences.

The ABA recommendations came about because the grand jury system is being subverted and individual rights ignored or circumvented much too often. If, as Mr. Bell predicted, adoption of the reforms destroys the grand jury, then it deserves destruction.

If a cog in the criminal justice machine must rely on infringement of the very rights the system is designed to uphold, then the machine would run better without that cog. But it won't come to that.

If the ABA reforms are enacted into law the grand jury will survive and be better for them. Prosecutors may even find rewards in the return to traditional methods of case building sane questionable grand jury shortcuts.

[From the Dayton Daily News, Aug. 13, 1977]

NOT-SO-GRAND JURIES

It's too bad Attorney General Griffin Bell does not like the idea of letting witness take lawyers with them when they testify before a grand jury. But that ought not deter those who believe the grand jury system is in need of serious reform.

The proposal comes from a committee of the American Bar Association that also recommended 25 other changes in the system to make it more just.

Mr. Bell calls the idea "the lawyers relief act" because it would mean more business for the pinstriped folks with briefcases. He has a point, but virtually every governmental change these days means more business for lawyers. Before the century is out everyone may be a lawyer because we won't be able to sneeze without filling out a form or getting sued.

But that is not sufficient reason to avoid correcting a situation that has gotten out of hand. The federal government itself is one of the biggest abusers of the grand jury system, using it in the 1960s and early 1970s to barger dissidents and investigate their doings even when there was little likelihood of obtaining convictions or even indictments.

Witnesses before a grand jury are thrust into an unfamiliar and threatening situation and questioned by trained prosecutors who can spring evidence on them without warning. If they don't answer they can be held in contempt and jailed.

Mr. Bell says lawyers to help the witnesses could prolong matters and slow down the judicial process. But that risk, and it is real, is not as important as preventing miscarriages of justice.

[From the New York Times, Aug. 14, 1977]

A.B.A. TAKES ITS STAND ON GRAND JURY REFORMS

The right to the presence of counsel during legal proceedings is widely viewed as basic to the American criminal justice system, yet at one stage in the criminal process, before a grand jury, that right and others equally basic are generally denied. For that reason, many thoughtful persons have long been considering ways to remedy the situation.

Last week, the American Bar Association's policy-making House of Delegates proposed several reforms, including recommendations that witnesses be allowed to have their lawyers beside them in the jury room and that they be informed of their privilege against self-incrimination.

The ultimate fate of the proposals is in doubt. A bill incorporating some of them is before Congress, and the views of the House Delegates carry considerable weight because more than half of the country's lawyers belong to the bar association. However, there is a second powerful voice, that of Attorney General Griffin B. Bell. He opposes most of the suggested changes on the ground that they could make the grand jury system unworkable.

Historically, the grand jury has been considered a safeguard against arbitrary prosecution. Today, in the opinion of Federal Judge William J. Campbell and others, "the grand jury is the captive of the prosecutor, who can indict anybody, at any time, for almost anything, before any grand jury."

Another issue taken up by the lawyers last week at their 99th annual meeting was legal advertising.

In June, the Supreme Court struck down prohibitions against such advertising without ruling on questions of "time, place and manner." To fill the gap, the association adopted a set of nonbinding guidelines for its members. They may advertise their education and military records, the code provides, along with their legal specialty, bank references, fees and willingness to accept credit cards.

Although the guidelines have no legal force, they are expected to serve as models for codes promulgated by state bar associations and by courts that oversee the activities of lawyers. Members of the profession disciplined for violating such codes could challenge them in court.

[From the Milwaukee Journal, Aug. 21, 1977]

THE NOT-SO-GRAND JURY SYSTEM

Americans may yet win the same legal protection in the grand jury room that they properly enjoy in the courtroom.

Recently the American Bar Association voted to support legislation pending in Congress that would allow witnesses in grand jury proceedings to be accompanied by attorneys in grand jury rooms.

The past decade has seen shocking abuse of the grand jury system, with investigations turning into political persecutions. Having an attorney present to advise a witness could help stem such government high handedness.

Moreover, the present practice of allowing witnesses to consult their attorneys only outside the grand jury room is a silly inefficiency. This time-consuming consultation procedure should be eliminated.

Ignorance of legal rights and complexities could never be to the advantage of a witness whose liberty may be threatened. Passage of the grand jury bill would help clear the legal air for all concerned.

[From the Wilmington News Journal, Aug. 21, 1977]

GRAND JURIES IN OUR TIMES

No person shall be held for a capital, or otherwise infamous crime, except on a presentment or indictment of a Grand Jury . . . U.S. Constitution, amendment V.

Despite that constitutional injunction, the grand jury is in danger of becoming the vermiform appendix of the criminal justice system, a useless or abused organ that constantly presents the danger of infection to the body politic.

Abandoned by many states, accused of being a rubber stamp of federal prosecutors, and generally misunderstood by the public, there is good reason to believe that the grand jury, as an institution, is going to be excised from the system unless it is seriously reformed.

That's a historical irony. The institution dates back to medieval England, where the grand (or large) jury of freemen was established as a control on the tendency of the royal courts to push other freemen around. The grand jury, as it developed in English common law (and was transferred to the United States) was to be a protection for citizens against malicious or frivolous prosecution, in that authorities or prosecutors had to convince the grand jury that they had a sufficient case against a citizen to cause his indictment and trial.

Today, the most serious charge being brought against grand juries is that they do exactly the opposite, that they are a tool and device of prosecutors, who control the grand juries and can get anything out of them they wish.

The reform proposals have now come from no less a body than the American Bar Association which, at its recent convention in Chicago, made two proposals affecting federal grand juries: that witnesses before the grand jury be allowed counsel inside the jury room, and that the rules governing grand juries be modified so that it would be more difficult for the jury to grant a witness immunity to force him to testify—that is, giving him the choice of accepting immunity or going to jail for contempt.

The ABA also made some secondary suggestions that would halt the growing trend of abuse of grand jury powers to put news reporters and lawyers in danger of contempt if they refuse to testify on matters they consider confidential.

These reforms should be considered minimal. They would afford at least a thin coat of protection for witnesses (who are very liable to end up as the accused or indicted) in the federal jurisdiction. It is only speculative whether they would accomplish any substantial reform. And, note well, even these reforms are opposed by the U.S. Department of Justice, which uses the grand juries to its best advantage in prosecutorial roles, and sees itself in an adversary role with the private lawyers in this argument.

More practically, the federal government could minimize or even eliminate the role of the grand jury and proceed on the "information" of a prosecutor to a court that a crime has been committed and that a certain person could have committed it. It could, that is, if it were not for the italicized quotation that heads this column.

As for the states, those who do not have constitutional inhibitions have long since taken end runs around grand juries, usually by proceeding on information and skipping the *pro forma* indictments. Some states keep the institution of a grand jury on standby, for use in special investigations of corruption or wrong doing in government. In those instances, the mere convening of a special grand jury can have a chilling effect on official hanky-panky.

Delaware, alas, is among the states which require by constitution the grand jury process. A footnote on the Delaware Code in the state's 1897 constitution says that the grand jury is "enshrined" in our legal process, and the word is apt. Over the years, there has been a constant drumbeat of criticism to and from the grand juries, which are convened by counties, but constitutional reform would be necessary to operate in a less clumsy fashion, and constitutional reform is not a politically popular cause in Delaware today.

[From Newsweek, Aug. 22, 1977]

REFORMING THE GRAND JURY

In all of the U.S. legal system, no person stands more alone than a witness before a grand jury: in a secret hearing he faces an often hostile prosecutor and 23 strangers with no judge present to guard his rights, no lawyer present to counsel him and sometimes no indication of why he is being questioned. Enshrined in the Bill of Rights as a protection against unfounded prosecutions, the grand jury has instead become a powerful tool for government investigators. But last week at its annual meeting in Chicago, the American Bar Association, resisting opposition from the U.S. Department of Justice, approved a set of principles that could help reform the grand-jury system.

For years, antiwar activists and other political dissenters have argued that the Federal government used grand juries to stifle protest. Then businessmen and high government officials found that they, too, could be trapped. General Motors lawyers charged recently that they were being "treated like gangsters" in a tax investigation by the Internal Revenue Service, which was using the "grand jury as its sword." Former Treasury Secretary John Connally, acquitted after a bribery trial, complained that his indictment resulted from pressure applied against a former associate in a grand-jury hearing. Richard Gerstein, the prosecuting attorney in Miami for 21 years and chairman of the ABA reform panel, compares grand-jury change to decriminalization of marijuana. "When it becomes a problem for the middle class and not just the poor, everyone wants to do something about it," Gerstein says.

CAPTIVE

The fundamental change recommended by the ABA is to allow a witness to have counsel with him in the grand-jury room. As the official legal adviser to the grand jury, and usually the only lawyer in the chamber, a prosecutor now has almost complete control of the hearings. U.S. District Judge William J. Campbell says, "Today, the grand jury is the total captive of the prosecutor who, if he is candid, will concede that he can indict anybody, at anytime, for almost anything, before any grand jury." Under present rules, a witness may leave the room to consult his lawyer, but that leaves a bad impression with a grand jury. Most lawyers contend that if they are allowed in, they can not only protect their clients from a prosecutor's bullying, but also keep the prosecutor from manipulating the jurors.

Attorney General Griffin Bell, who extended his stay in Chicago last week to argue against admitting lawyers to grand-jury chambers, said the change in practice would turn the proceedings into a mini-trial and further slow the already molasses pace of criminal justice. "You'll make it unworkable," he predicted. The final ABA version compromised by recommending that a witness's lawyer not be allowed to speak to the jurors; but delegates stuck to the proposal by Gerstein's panel to let the lawyer sit with his client.

The Justice Department also objected to another proposal that the ABA adopted, this one to change the rules governing immunity granted grand-jury witnesses to force them to testify. Under a Nixon-era law, the government can require a witness to surrender his privilege against self-incrimination by giving him "use" immunity—that is, he can be prosecuted only if investigators could find evidence against him independent of his own testimony. But the ABA recommended that a witness receive "transactional" immunity—meaning that he could not be prosecuted for any possible crime he mentioned in his testimony.

The ABA wants to change several other grand-jury practices that most Americans don't even know exist. For instance, it recommended that all proceedings be stenographically recorded except the jurors' actual deliberations; currently, in many districts a prosecutor can tell a grand jury almost anything without anyone outside the room ever learning what he said. The association also suggested that grand juries stop a "growing" trend toward infringement on

freedom of the press and the attorney-client privilege. Now, almost always at the urging of prosecutors, reporters can be forced to testify about their confidential news sources and defense lawyers can be forced to surrender clients' business records—or face contempt charges.

GO TO JAIL

A recalcitrant witness has the option, of course, of going to jail for as long as the grand jury sits, up to eighteen months. If he then refuses to answer questions from a new grand jury, he can be sent to jail again. In 1972, five Irish-Americans from New York were ordered to tell a Federal grand jury in Fort Worth, Texas, about their alleged ties to the Irish Republican Army. The Nixon Administration never explained why it chose Fort Worth, and the grand jury took no action. But when the five refused to testify, they all served two terms totaling ten months for contempt. The ABA has recommended a single maximum term of one year.

The proposals of the bar association bind no one, but as the leading force in the legal profession its action will influence every state as well as the Federal government.[1] Seven bills are now pending in Congress to reform grand-jury procedures. The measure introduced by Democratic Rep. Joshua Eilberg of Pennsylvania, which follows the ABA plan closely, is considered most likely to pass, although the Justice Department will continue to oppose such provisions as allowing counsel in the jury chambers. "The whole point of grand-jury reform," says lawyer Gary Naftalis, who recently co-authored a book on the subject, "is to ensure that the proceedings are as fair as possible to the witness—while allowing the institution to function."

[From the Philadelphia Bulletin, Aug. 23, 1977]

THE ABA CALLS FOR: GRAND JURY REFORMS

The American Bar Association has called for some major changes in the grand jury system. In the interest of justice, Congress and state legislatures would do well to see that the ABA recommendations become reality.

At a recent meeting in Chicago, the ABA recommended, among other things, that witnesses be allowed to have a lawyer with them when they appear before a grand jury and that witnesses who are possible targets of a grand jury investigation be warned.

The proposal to allow lawyers in the grand jury room is opposed by the Justice Department. Prosecutors maintain that allowing a lawyer into the grand jury room would hamper investigations, particularly of organized crime. Most grand juries, including federal ones, now allow witnesses to consult lawyers outside the room after every question.

Certainly no one wants to make it overly difficult for prosecutors to build legitimate cases against criminals. But the fact is that the grand jury system has at times been abused, with witnesses brow-beaten by aggressive prosecutors.

It certainly makes sense for lawyers to sit in with clients before a grand jury to maintain on-the-spot vigilance in protection of clients' rights. Under the ABA proposal the grand jury proceedings would not become a minitrial because witnesses' lawyers would be allowed only to advise their clients, not to address the grand jurors or otherwise participate.

Grand juries were set up in England to protect citizens from capricious monarchs. Unfortunately, some prosecutors have twisted the system and used it for political gain.

Our system of criminal justice requires that the rights of witnesses or potential defendants constantly be weighed against the right of the state to obtain evidence and build a case. Under the present grand jury rules, that balance has been tilted; some individuals' rights have been infringed upon. The ABA's ideas for changing the grand jury system seem reasonable and fair.

[From the Long Island (N.Y.) Newsday, Aug. 24, 1977]

GETTING BACK TO BASICS WITH THE GRAND JURY

The grand jury, conceived as a protective shield between citizens and the awesome powers of their government, has increasingly evolved into a prosecutor's tool. The use of grand juries to obtain indictments for routine offenses in New York and 20 other states adds little by way of safeguards for defendants even as it makes the process of bringing criminals to justice unnecessarily cumbersome.

The latest step in the evolution was the passage in 1970 of the Organized Crime Control Act, which rewrote the rules governing witness immunity and came dangerously close to nullifying Fifth Amendment rights against self-incrimination. As predicted by critics at the time, the act has been used not only to combat organized crime but to harass and intimidate potential witnesses and suspects in a wide variety of cases.

Demands for reform have been fueled by the fact that witnesses must appear before grand juries without legal representation. Even though the American Bar Association could be accused of trying to get more work for its members, it makes a good case for allowing a lawyer to be present in the grand jury room.

The Bill of Rights says, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury," with some exceptions involving military service or public danger. But the Supreme Court has ruled the states exempt from the provision, and 29 states now allow indictments on the basis of prosecutors' information and preliminary hearings—a system that seems to work well for all parties. New York would do well to follow that example, reserving grand juries for special investigations or cases where a witness might be endangered if his or her identity became known.

The problem is more complicated on the federal level; Congress is wary of tampering with the Bill of Rights. An attempt by Representative Joshua Eilberg (D–Pa.) to reform the system stands a far better chance. In essence, Eilberg would reverse the tilt toward the prosecution by allowing the presence of lawyers and restoring the immunity rules employed before 1970. His bill would also make grand juries more independent of prosecutors and attempt to prevent leaks of grand jury proceedings, which are supposed to be kept secret.

Attorney General Griffin Bell opposes the two key provisions on the ground that they may hamper the grand jury's work. But the safeguards in the Bill of Rights weren't intended to make the law enforcement system more efficient. And when those safeguards become largely meaningless, as has happened with the grand jury system, it's time to search for alternatives.

[From the Christian Science Monitor, Aug. 24, 1977]

GRAND JURY REFORM

The grand jury system in the United States is in dire need of reform. The American Bar Association's adoption of 25 proposed changes in grand jury procedures reflects a growing recognition within and outside the legal profession that the current system has become rife with abuses. The grand jury no longer adheres to its original intent—to be an impartial search for truth, carefully balancing the rights of the individual against the state's duty to uncover criminal activity.

Instead of serving as a buffer against undue prosecution, the grand jury in practice has often become the captor of overzealous prosecutors anxious to secure an indictment for political or other reasons. Under the current system, a witness called to testify before a grand jury appears alone, without a lawyer, to encounter a hostile prosecutor and 23 jurors. He does not know if he is the target of the investigation, nor even the scope of the probe. There is no impartial judge to serve as referee. The session is conducted in secret, and many states do not even require that records be kept. However, a witness's testimony can be used against him in a later trial. He may leave the jury room to consult an attorney, but in doing so he is apt to leave the impression on the jurors that he has something to hide.

In short, a grand jury witness is virtually defenseless. And many experienced lawyers say that a prosecutor can indict anybody, at any time, on almost any charge—so complete is his control in the grand jury room.

The ABA's proposals—most of which are included in seven bills that will be before Congress when it reconvenes next month—would provide greater protection for witnesses. One major proposal would allow a witness to have an attorney with him in the grand jury room; the lawyer could not address the jurors but only advise his client. He would also serve as a witness to the questioning, and his mere presence would restrain prosecutors from badgering witnesses.

Other proposed reforms would provide limited immunity to a witness, would require that he be told if he is the target of the investigation and the general scope of the probe, and would require that a record of the proceedings be kept.

Attorney General Bell has objected to the ABA recommendations as "overkill," moves he feels might make the system unworkable. The U.S. Justice Department in recognition of the problem is revising the manuals for U.S. attorneys to spell out what is and is not proper conduct. Among encouraging changes, the manual will state that prosecutors should present exculpatory evidence that might bear on a witness's innocence as well as incriminating evidence. The manual will also require a prosecutor to recommend that a jury not indict if he thinks the evidence so warrants.

Some law enforcement officials understandably are wary of reforms which they fear will further obstruct their efforts to bring criminals to justice; the criminal justice system already is too cumbersome and time-consuming, they rightly argue.

However, too many innocent victims of ambitious and sometimes unscrupulous prosecutors have had their reputations and lives irreparably damaged under the current system. A number of top prosecutors across the U.S. helped formulate the proposed reforms, attorneys strongly committed to the grand jury system—but all too familiar with its abuses.

We heartily concur with these prosecutors and the ABA's House of Delegates and urge that Congress and the states not delay in returning fairness and justice to the grand jury room.

[1] Many states have largely abandoned the use of grand juries. In Los Angeles County, Calif., for instance, only about 40 of 21,000 criminal cases last year went to a grand jury. Ordinarily, a prosecutor will charge a defendant by a process known as "information," the equivalent of an indictment, bringing an official complaint to a judge with the defendant present.

[From the Greenwood (S.C.) Index-Journal, Aug. 29, 1977]

REFORMING GRAND JURIES BIG JOB FOR CONGRESSMEN

When Congress returns to Washington next month, one of the many issues it will have to face will be revamping the grand jury system of the courts in the United States.

The grand jury system is a constitutionally guaranteed right of the U.S. court system and was intended to protect citizens from repressive government, placing a shield between the prosecutor and the accused.

Lawyers, legal scholars as well as many laymen have been critical of the system in recent years, however, and have said that the function of the grand jury system has become obscure. The American Bar Association has made some recommendations that will appear before Congress when it returns from the month-long recess. These recommendations are far reaching and would greatly alter the way the grand jury system is run.

The ABA charges that the grand jury system, instead of serving as a buffer against undue prosecution, has in practice often become the captor of overzealous prosecutors anxious to secure an indictment for political or other reasons.

Under the current system, a witness called to testify before a grand jury appears alone, without a lawyer, to encounter a hostile prosecutor and 23 jurors. He does not know if he is the target of the investigation, nor even the scope of the probe. There is no impartial judge to serve as referee. The session is conducted in secret, and in many states do not even require that records be kept. However, a witness' testimony can be used against him in a later trial. He may leave the jury room to consult an attorney, but in so doing he is apt to leave the impression on jurors that he has something to hide.

The ABA's proposals—most of which will be in the form of bills in Congress—would provide greater protection for witnesses. One major proposal would be to have an attorney in the grand jury room. Other proposed reforms would provide limited immunity to a witness, would require that he be told if he is the target of the investigation and the general scope of the probe would require that a record of the proceedings be kept.

ABA says lawyers would be present only as advisers to their clients, not as active participants. But prosecutors are afraid that lawyers will disrupt the proceedings by raising objections of all kinds.

Other worries of law enforcement officials are that a lawyer could be particularly damaging in racketeering cases because it might cause a witness to clam up, knowing his statements were being relayed back to the mob. Opponents also say it would be harder to expose conspiracies if a lawyer were able to sit in on grand jury testimony and prevent nervous witnesses from contradicting each other.

Attorney General Griffin Bell has called the bill a "lawyer relief act." Bell and other members of the Carter Administration have announced their opposition to some of the bill's key provisions, contending that grand jury abuse is rare. All these factions have agreed they will fight the proposed changes in the law.

While there is evidence that some elements of the grand jury system need to be changed, there are equally forceful reasons for leaving it the way it was originally written into the Constitution.

It is hard to say how widespread grand jury abuse may be, and the present system, along with providing a valuable service, has a lot of loopholes for abuse. When Congress takes up the debate on the question this fall, congressmen will be listening to a lot of people with a lot of diverse opinions. However, we hope they will give a lot of study to the questions of:

Should witnesses be denied the constitutional privilege against self-incrimination because a judge grants them immunity from prosecution for anything they might tell a grand jury? Under federal law, a grand jury witness can be forced to testify if the judge promises immunity.

Should witnesses be denied the presence of a lawyer in the grand jury room?

Should grand juries be allowed to seek help from independent lawyers and investigators to provide impartial advice that is a necessary part of the grand jury process?

The grand jury system is one of the most vital parts of the U.S. judicial system and we want to make sure that it remains the best available.

CONSOLIDATION OF THE EMPLOYMENT SERVICE AND CETA

(Mr. STEIGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STEIGER. Mr. Speaker, today I am introducing legislation which would, after a 3-year transition period, repeal the Wagner-Peyser Act and the Comprehensive Employment and Training Act and combine the employment and training programs operated by the Employment Service and the CETA system into a consolidated Comprehensive Employment Service.

Let me state at the outset that I realize reorganization will not solve the employment problems facing this country. This approach is simply one possible way to improve the delivery of employment and training services throughout the country.

Let me also explain here that the bill I am introducing today contains no public service jobs title, Job Corps or Young Adult Conservation Corps or provision for the continuation of the National Manpower Policy Commission. This is not because these programs lack my support. They are omitted for two reasons. First, my intention in this piece of legislation is to concentrate primarily on improving the basic delivery of employment and training services and programs to people throughout the country. The bill concentrates on that goal—the services and programs to be provided and the method for providing them. One of the bill's main purposes is to stimulate discussion of how we are now providing employment and training services; how well we do it; and how we might improve performance.

Second, the issue of how a public service jobs program should be structured has been highlighted by the jobs buildup as part of the economic stimulus package, the jobs component of welfare reform, and persistent employment problems among certain groups, most notably, unemployment among young people, and particularly black youth. Questions to be addressed include whether to target our resources on specific groups or have a broad-based guaranteed jobs program; whether to have programs to relieve structural unemployment as CETA title II was initially intended, supplemented by countercyclical programs to deal with downswings in the economy; whether public service jobs should be used to provide fiscal relief to hard-pressed communities for supplementing their work force or payrolls, or be strictly limited to creating new jobs for the unemployed in areas of service not generally undertaken by States and municipalities; or whether there should be a combination of approaches, and if so how should the mix be determined and by whom. This, it seems to me, requires a good deal of discussion and debate in Congress and throughout the country and is a subject I am not prepared to deal with in terms of new or revised programs or legislation at this time.

Further, the administration has indicated it has many amendments to offer to the Job Corps title of CETA, thus I decided to wait for these recommendations.

The Young Adult Conservation Corps is brand new and not as yet in operation. It has just been enacted by this Congress, and it did not seem necessary to repeat the provisions in this bill at this stage in its development.

Finally, the National Commission for Manpower Policy is not mentioned. Again, I think we need to look at the mandate of the Commission and its accomplishments and determine if there needs to be revision in its role, but I am not prepared to address this question as yet.

BACKGROUND OF THE PROPOSAL

My interest in employment and training goes back about 10 years. When I first came to Congress in 1967, I became a member of the Education and Labor Committee. This was 5 years after the passage of the Manpower Development and Training Act and 3 years after passage of the Economic Opportunity Act—two of the major pieces of legislation in which Congress tried to improve employment opportunities for the unskilled, the unemployed, and the socially and economically disadvantaged.

In May 1969, I introduced the Comprehensive Manpower Act, designed to consolidate the categorical employment programs of MDTA and the Economic Opportunity Act under the direction of the State Governors and to build legislatively on the experiences of the concentrated employment program (CEP) and the Cooperative Area Manpower Planning System (CAMPS).

Four years after this bill was introduced, CETA was enacted. The intent of title I of CETA was essentially the same as that of the Comprehensive Manpower Act—a major difference being that local governments and combinations of local governments were given an opportunity to bypass State governments and deal directly with the Federal Government for the operation of employment and training programs.

The Employment Service, of course, was in operation long before CETA came into existence and long before I came to Congress. It was created by the Wagner-Peyser Act of 1933.

At the time CETA was enacted there was uncertainty as to what to do about its relationship with the Employment Service. As I indicated, in the Comprehensive Manpower Act I had originally proposed that job preparation and training programs be organized and directed at the State level by the Governors. Since the Employment Service is largely directed at the State level, I felt coordination with the Employment Service could be handled effectively by the Governor.

However, at the time CETA was under discussion there was much concern that the Governors were not ready to handle these types of programs and that they might not adequately provide for the large metropolitan or certain rural areas or for those in society most in need of services. As mentioned, localities were eventually given an opportunity to essentially bypass the States and work directly with the Federal Government.

There was much discussion as to how the Employment Service should be coordinated with such a system. Should the Employment Service be designated the presumptive deliverer of services for which they had traditionally been established, job placement in particular? Could the Employment Service effectively handle such responsibility in some areas? Did the Employment Service lack credibility with and the confidence of the disadvantaged? Finally, the committee chose to let time and the Labor Department deal with the problem and fudged the question stating in section 105 of CETA that prime sponsors should provide for:

> Utilizing those services and facilities which are available with or without reimbursement of the reasonable cost, from Federal, State, and local agencies to the extent deemed appropriate by the prime sponsor, after giving due consideration to the effectiveness of such existing services and facilities, including, but not limited to, the State employment service . . ., but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise more quickly unemployment or current prospective manpower shortages.

In the 4 years since the enactment of CETA, the coordination between it and the Employment Service has varied. In some areas there has been steady improvement, in others continued problems. There seems to be general agreement at this time that administrative and legislative improvements to existing programs are needed to facilitate a better working relationship between the two programs. The added issue of welfare reform, with its eventual promise of a job or job training for all who can work with the proposed operation through the existing CETA system, has again raised the question: What is the role for the Employment Service?

In 1975, I left the Education and Labor Committee and became a member of the Ways and Means Committee. There I became more familiar with the operation of the Employment Service, particularly with its relationship to the unemployment compensation program. Rarely has Congress taken a look at the overall role and mission of the Employment Service.

In 1976, however, the Subcommittee on Manpower and Housing of the House Committee on Government Operations and the Subcommittees on Manpower and Unemployment Compensation of the Education and Labor and Ways and Means Committees held hearings on the operation of the Employment Service and its relationship to the CETA system. This was the first time since 1964 that the Employment Service had been the subject of extensive investigation by Congress.

It was during these committee hearings that I began to consider the advisability of combining the two systems.

WHY CONSOLIDATION

The main reason to consider consolidation or any change, for that matter, in the existing delivery systems is to get better, more effective services for people who need the help.

What would consolidation accomplish? First, one-step shopping for those in need of employment, training, and related services. One identifiable public agency at the local and State level responsible for helping people prepare for and get jobs and for helping employers find workers. Second, a mechanism to plan for local employment needs on a coordinated basis, providing an opportunity to more effectively link counseling, training, and supportive services to jobs and job development activities and to activities of other related local and State programs and services. Third, an identifiable point of responsibility for providing employability development and job placement for individuals in need of work and for employers in need of workers, as well as for Congress and the executive branch for assuring that national needs are being met and funds well spent. Fourth, a reduction in overlapping services, duplication of effort, and an opportunity for better utilization of monetary and human resources.

It is logical to ask whether any or all of these benefits could be obtained without consolidating the two systems, and I think the answer is probably. There are a number of alternatives to consolidation. One would be to continue the systems pretty much as they are now leaving local and State governments to continue to pursue better coordination on their own, with help from the Labor Department. Another alternative would be to improve the Employment Service by updating and improving the Wagner-Peyser Act to give local employment service offices an opportunity to do more planning and assessment of local needs and more flexibility to administer their offices to meet those needs and to work better with CETA prime sponsors and to provide a clearer definition of roles, better funding mechanism, relief from enforcement and compliance activities and more flexibility for State offices to contract out some functions to local prime sponsors or other agencies or organizations. A big step could be made administratively by the Labor Department through coordination of Employment Service and CETA regulations, terminology, planning cycles, reporting requirements, evaluation criteria and funding cycles and distribution. Another alternative is to give the States a larger role in CETA for coordinating activities of local prime sponsors and those of the balance of State, thus opening up a better opportunity to coordinate CETA programs with Employment Service activities. The administration's better jobs and income program sets forth one way to do this through their new CETA title IX. The Labor Department has also circulated some other possibilities in working draft form.

So clearly, there are alternatives. Doing nothing is one extreme, consolidation is probably the other. As I pointed out earlier, one of the major purposes in setting forth a proposal for consolidation, besides to focus on the benefits and drawbacks to such a move, is to get some discussion going on all the alternatives.

I first proposed the idea of consolidation about 18 months ago. Then, in April of this year, I circulated a more detailed version of my proposal to State employment security directors, Governors' manpower offices, local prime sponsors, the National Governors' Association, the National Association of Counties, the U.S. Conference of Mayors, and other individuals and organizations interested and concerned with employment and training programs and policies.

In the memo I outlined a general structure for consolidation, as well as some of the problems associated with the Employment Service and CETA. The following is an excerpt from that memo:

THE PROBLEMS IN BRIEF

EMPLOYMENT SERVICE

1. Through the years Congress and the Executive branch have layered new responsibilities on old and shifted priorities without reviewing or evaluating the Service's mission.
2. Some enforcement and compliance activities appear to have hampered job development efforts.
3. The federal-state relationship is not as effective as it could be. It has sometimes permitted Employment Service administrators to avoid responsibility to either the federal or state government.
4. Federal technical assistance, guidelines, reporting requirements and evaluation have often been confusing, burdensome, inflexible and ineffective.
5. Some states are persistent poor performers, but methods to correct this have been ineffective and sometimes counterproductive.
6. The Service has sometimes suffered from a poor community image. Employers have expressed a lack of confidence resulting in non-use. Unqualified referrals, unreliability of referrals, lack of proper screening and follow-up, delays in getting referrals have been cited as problems by employers. Some job seekers see the Service only as a source of lower-skilled jobs. Others, particularly minorities and disadvantaged, have criticized the Service for being ineffective and insensitive.
7. Computers are not always being used to their best advantage.
8. Labor market information functions need improvement.

CETA AND CETA/ES LINKAGES

1. State and local prime sponsors feel there is too much federal control of CETA.
2. There has been inadequate state coordination of CETA with related programs. The State Manpower Planning Councils have not fulfilled the legislative expectation.
3. CETA and the Employment Service have worked well together in some areas, but in others there has been little cooperation resulting in overlapping and duplication of efforts.
4. Inconsistencies in definition and regulations make it difficult to compare and evaluate CETA and the Employment Service.

RESPONSE TO THE MEMO

The comments and suggestions received to date have been extremely well thought out and helpful and some have been incorporated into the legislation I am introducing today.

I would like to summarize the major points raised in the letters and comments to me, because these factors very much need to be included in any congressional discussion of how to improve delivery of employment and training programs.

First, let me state an overall impression. There seems to be a good deal of feeling on behalf of Employment Service representatives that they do not want the employability development responsibilities for the hard to place. There are some groups, youth for example, that the Employment Service feels confident of serving well, but for the most part the employability development functions cut down on their effectiveness in performing what they see as their most important responsibility—serving as a labor exchange. And they feel CETA clients and public assistance recipients should be plugged into the Employment Security system when they are job ready.

CETA representatives, on the other hand, do not in most cases seem to want all the labor exchange functions and labor market information development functions which the Employment Service has. CETA would like to develop jobs for some of its clients, but doesn't really want the responsibility for all citizens.

Many of those who communicated with me expressed real concern that there was and is a valid reason for separating employability development, focusing on the disadvantaged and unemployed, from employment services to job ready individuals and employers. To quote from one letter:

> I view the ES primarily as an institution operating in the labor market to facilitate the optimal matching of workers and jobs. This service, as a matter of public policy, should be available without cost, to all persons—the unemployed seeking work as well as those seeking a change in employment. The present arrangement for providing those services is the Federal-State Employment Security system.
>
> The central mission of CETA, on the other hand, is to provide services which enhance the employability of those who are at a disadvantage in the labor market; and in periods of high unemployment, to create public service jobs for the jobless. Although the CETA legislation is broad enough to enable prime sponsors to do much of what the ES does, in the main the missions of the two systems are reasonably distinct. The gray area is of course placements.

The argument is that the types of services and programs for the job ready and nonjob ready are often very different, that the focus of the personnel serving these two groups often requires different skills and approaches, that there is a chance that the needs of the hard to employ will be overlooked in a system where employers are looking for individuals to immediately fill jobs and where there are job-ready individuals available to take those jobs. In addition, the experience of the 1960's when Employment Service policy was weighted heavily toward serving the disadvantaged was often cited, and Employment Service representatives particularly asked: Can an agency who must concentrate on job preparation and training for the hard-to-employ, do a satisfactory job of serving the general public? Will employers utilize an agency who has a combined mission of serving the job-ready and the disadvantaged or will they shy away from such an agency feeling they will be forced to take unqualified applicants?

I might point out here that I am not really convinced that the human resources development policy of the 1960's was an attempt at a balanced approach to employment services. A balanced approach is what I have tried to take in the consolidation bill in order to be responsive to some of these concerns. The bill mandates programs of basic services to all those seeking work and to employers, but sets forth suggestions for special programs targeted at those most in need of help to secure and retain employment and stipulates that special consideration in the provision of services must be given to persons receiving unemployment compensation, persons receiving public assistance, veterans, the economically disadvantaged, and persons whose age, race, sex, physical or mental handicaps make it difficult for them to achieve employment. Whether this is adequate, of course, should be subject to debate.

Another feeling expressed by many was that much more could be accomplished through improvements to the existing systems than through a consolidation of the two. As I pointed out in my initial memo, the Employment Service has been plagued by shifting roles and missions, and the layering on of functions, some only vaguely related to its original purpose. If the Employment Service continues as a separate system, there is a very real need for Congress to spell out exactly what it expects it to do and then to provide adequate funding levels and mechanisms to insure that this mission can be achieved.

With regard to more effective coordination between the Employment Service and CETA, without consolidating the two, the suggestions were diverse. Generally, Employment Security people felt a role should be spelled out for them in legislation mandating use of the Employment Service by CETA, particularly for job placement services. Some people felt beefing up the Employment Service would increase its attractiveness to CETA prime sponsors, and thus mandating use would not be necessary. Some felt increasing the role of the States over CETA local prime sponsors would improve coordination. All felt there were many administrative steps the Department of Labor could take to improve the operation and coordination of the two systems, such as better staff training and technical assistance, development of a common data base, reporting requirements, terminology, and coordinated planning and funding cycles, automated information systems, monitoring and evaluation procedures.

There was some sentiment expressed that politicizing the job preparation and training programs by giving them to the Governors and local elected officials to operate has been a mistake and that to extend this concept to labor market exchange functions would be disastrous. On the other hand, there was criticism from some that the entrenched bureaucracy of the Employment Service made it difficult for them to be responsive to changing conditions and local needs.

Some said they felt the competition between the two systems, while posing some problems, was essentially healthy and had stimulated the Employment Service to undertake long overdue examination and updating of its services.

Finally, it was noted that while the employability development functions can be carried out on a local level in local communities, jobs usually exist in a larger labor market area which does not respect political boundaries. It was felt that the Employment Service as presently constituted can serve these needs because it is a statewide system, but in a consolidated system with an opportunity for local control of both job preparation and job placement, this labor market perspective would be lost.

I have tried to address this last concern by providing in the bill that each local prime sponsor shall, as part of its annual plan, describe how its programs will be coordinated with those taking place in jurisdictions adjacent to the prime sponsor area when the prime sponsor is part of a larger functioning labor market area, including agreements with neighboring jurisdictions for reciprocal use of services for residents within either area. In addition, each State must provide for the coordination of local prime sponsor plans and must describe how coordination will be achieved among geographic areas.

Many people expressed a desire to examine the consolidation concept in legislative form. Thus, I have spent time over the summer working and reworking various aspects of the proposal which I introduce today. This is not a perfect bill. It is a first effort. As was the case with my initial memo, I hope to receive suggestions for improvement.

Mr. Speaker, at this point I would like to summarize the legislation.

THE STEIGER BILL

In October 1981, the bill would end the Employment Service and the comprehensive employment and training system as we know them today. In their place will be a Comprehensive Employment Service to provide the services and programs operated today by the Employment Service and CETA.

TRANSITION

There is a 3-year transition period provided in the bill. As presently writ-

ten, the transition runs from the date of introduction of the bill. Of course, should this proposal be adopted, I would envision a 3-year transition period beginning with the date of enactment. The transition period is extremely important to the success of consolidation.

During this time the Secretary of Labor is directed to develop:

First. A common intake system, data base, terminology, reporting requirements, automated information system, referral procedures and evaluation system, as well as coordinated job development and solicitation;

Second. Coordinated planning at the local and State level including the coordination of planning cycles and planning activities and the delegation of the planning authority at the local level necessary for the Employment Service to adequately coordinate its activities with those of its Comprehensive Employment and Training Act of 1973 prime sponsor counterpart; and

Third. Coordinated funding cycles and formulas, including a phaseout of the resource allocation formula used by the Department of Labor as a basis for distributing funds to the Employment Service.

In addition the Secretary is directed during the transition to make necessary improvements in the operation of existing programs operated by CETA and the Employment Service. There is a provision for training and technical assistance to aid the transition and directions for the Secretary of Labor to undertake a very necessary and important 18 month investigation of ways to consolidate the personnel of the two organizations and suggest ways in which the personnel and personnel system of a consolidated program could be upgraded and made more effective.

FUNDING

There are three important aspects to the funding of the new system.

First, during the transition period funding for title I of CETA will be substantially increased from its present level of $1.8 billion to $2.75 billion for fiscal year 1981.

Second, the funds coming to the Employment Service out of general revenues will be increased from the fiscal year 1978 level of $53.6 million to $135 million in fiscal year 1981. At present approximately 15 percent of funds for running the Employment Service come from general revenues, 85 percent from the Federal unemployment tax.

Third, the use of FUTA moneys by the consolidated system would be limited to recipients of unemployment compensation, but the consolidated system could charge the cost of all services provided to persons receiving unemployment compensation to the Federal unemployment tax account.

SERVICES TO BE PROVIDED

As explained earlier in this statement, the bill provides for two types of services and programs: A basic level of services to be provided throughout the country to persons seeking jobs and to employers and supplemental programs and activities designed to meet local needs and to result in employment for those most in need.

The basic services will be available to all persons, but with particular emphasis on securing employment for persons receiving unemployment compensation, persons receiving public assistance, veterans, the economically disadvantaged, persons whose age, race, sex, or physical or mental handicaps make it difficult for them to achieve employment.

The basic services to be provided to persons seeking jobs are: Outreach to make persons aware of the availability of employment and training services; intake; assessment of the individual's needs, interest, and potential; aptitude, interest, and occupational performance testing; job and career counseling; job development; job referral and followup; development and dissemination of labor market information.

The basic services to those seeking workers are: Personal contact with employers in order to ascertain their employment needs and the quality of service provided to them under the act; timely referrals of qualified job applicants; technical assistance to employers to help them to increase and improve job opportunities; job development; information on the services and programs available under the act; and labor market information and analysis.

Supplemental services are to be designed at the local and State level to meet the most pressing needs and may include such activities as programs to help young people stay in school; programs to teach persons how to prepare for and get their own jobs; programs to help displaced homemakers and persons with limited English-speaking ability; programs to help middle age and older persons; programs, often called supported work, which help persons such as the mentally or emotionally handicapped, ex-addicts, or long-term welfare recipients, make the transition from unemployment to employment through temporary, highly structured, and supervised work experience; and transitional public service employment. There are also also many supplemental programs which might be run to increase employer's use of the system and the number, availability and quality of jobs.

ADMINISTRATIVE STRUCTURE

Perhaps the key factor in a consolidated program, and the most controversial, is how should the program be administered and who should have responsibility and control.

THE FEDERAL ROLE

This bill proposes that most programs be planned and operated at the State and local level. Programs over which the Secretary would have the most direct operational control would be those of a national nature—programs for Native Americans, seasonal and migratory farmworkers, and summer employment for youth, and a program, which I consider very important, which we have had some very limited experimentation with in this country, but which I feel has much greater potential, to assist unemployed individuals, who are unable to obtain employment in the area in which they reside, and their families to voluntarily move to new communities in order to obtain employment.

The Labor Department would put its major effort into insuring that State and, through States, local programs do what the Congress intended and what their plans said they would do. The Labor Department through the Secretary is given considerable tools to accomplish this through training and technical assistance; authority to directly run programs or parts of programs that do not measure up; authority to fund parts of programs which do meet the requirements of the act and withhold funds from parts which do not; authority to establish procedures for and to conduct monitoring and evaluation of all programs and require reports on program performance from States and local prime sponsors; authority to develop by actively working with States and local governments the components and standards necessary to provide for the basic level of services to persons looking for work and to employers; authority to withhold all or portions of funds when plans have been changed so they no longer comply with the act or where there is evidence of discrimination or failure to serve those most in need.

However, the Secretary is directed to make sure that rules, regulations, and guidelines promulgated under the act are published in the Federal Register 60 days in advance, give State and local governments adequate time to implement them, take into consideration the need for program continuity and effectiveness, are written in clear, understandable language and will not create an undue burden of paperwork.

Four other important responsibilities of the Secretary of Labor are: First, establishment of a system for the collection and dissemination of labor market information—a task for which the bill provides a separate source of funding; second, fostering coordination and cooperation between and among States; third, establishment of an effective system of job information, retrieval and matching; and fourth, development of an information clearinghouse to aid State and local governments learn about other employment training and related activities being carried on throughout the country.

THE STATE ROLE

The State role is substantially increased in this legislation. The Governor is given responsibility for review and approval of local prime sponsor plans and for distributing funds to local prime sponsors. The Governor is also ultimately responsible to the Secretary for the performance of local prime sponsors. The Governor is responsible for providing services in areas of the State not served by prime sponsors. The Governor may do this in a number of ways, including dividing the State up into prime sponsor areas or through contract to public or private nonprofit agencies and organizations or through State agencies.

Three important tools are contained in the bill to help the Governor provide for improved services and programs:

First. A 5-year plan and an annual employment review statement, with employment as the organizing focus, requires the State to examine in a long-term and short-term basis such factors as the characteristics of its present and potential work force, the special needs of particular segments of that work force present and future employment opportunities, and actions which the State could take to alleviate or prevent employment problems.

Second. The provision of an advisory council, whose duties are changed somewhat from the duties of the Manpower Planning Councils under CETA in an attempt to make them more effective. The councils are given funds for separate staff and are required to meet at least four times a year.

Third. Provisions designed to enhance cooperation and coordination between related State agencies and programs, particularly the vocational education programs, and between various geographic areas of the State.

THE LOCAL ROLE

While the States are given increased responsibilities over local units of government in this bill. There is, I feel, still substantial control and flexibility available for local prime sponsors. The big gain for local prime sponsors in this bill is authority for and control over job development and placement functions. All CETA prime sponsors serving at the time of enactment of this bill will be eligible to serve as prime sponsors in the Comprehensive Employment Service. In addition, units of local government with population of 100,000 or more or combinations of units of local government containing a unit of general local government of 100,000 or more, who may not be serving as prime sponsor on the date of enactment, will still be eligible to apply for prime sponsorship under the new system. In addition, the Governor may designate as prime sponsors units of general government or combinations thereof, without regard to population, or any community based organization which serves a substantial portion of a functioning labor market and has the capacity for carrying out the programs.

The major question with regard to local prime sponsors is: "How can local governments' rights under this bill be protected from an unfriendly Governor or one who is perceived to be unfriendly?" First, the bill says the Governor must provide approval of plans if they meet the criteria set forth in the act. Second, if a Governor does not approve a plan from a local prime sponsor, the Governor must explain to the Secretary in the annual State plan why an alternate system was chosen. This assures an opportunity for the Secretary of Labor to determine if the reasons are valid and if not, to reject that portion of the State plan.

There is no formal mechanism established for direct appeal to the Secretary of Labor in cases where a prime sponsor's application and/or plan are disapproved, but the provisions mentioned above and the always available remedy of a prime sponsor making its position known to the Secretary, are supplemented by provisions for judicial review in the the Federal courts. The Federal courts were specifically chosen because this is a federally established and funded program.

ALLOCATION OF FUNDS

This particular section of the bill is part guesstimate, and I welcome suggestions for improvements. Essentially, the funding formula under CETA was retained and the Secretary is directed to report to Congress on how this will affect the distribution of funds under the Comprehensive Employment Service as compared to funds distributed under CETA and the Wagner-Peyser Act. The Secretary is also directed to report on the effect the funding formula will have on the ability of States and local prime sponsors to achieve the purposes of the act.

The bill provides that funds must be distributed to local prime sponsors and other local areas on the same formula as is used to distribute money to the States and that 90 percent of the money coming to the State under the formula shall be spent on the operation of programs at the local level either by prime sponsors or other authorized mechanisms.

Two very important provisions of the bill which I will mention before concluding are:

First. The study of the enforcement and compliance activities now preformed by the Employment Service. I certainly feel a good number of these activities belong somewhere besides in a Comprehensive Employment Service or an Employment Service operation, but if some must exist as part of such operation then thought should be given to creating a separate unit for carrying them out.

Second. The provisions for congressional and executive coordination and review. As I point out previously, Congress has been lax in its oversight of employment and training programs in the past, and we have often layered program on top of program with little regard to effects on existing programs and policies. Similarly, the executive branch has been guilty of this, and in addition, it does have in its present power the ability to take some administrative actions to improve the existing systems and cooperation and coordination between related programs at the Federal level. The bill sets forth a number of ways to achieve better congressional and executive results. I might add that in looking at civilian employment and training needs, we rarely consider the role of military recruitment and training programs. This is an unfortunate oversight, particularly now that we are operating an All-Volunteer Force. Thus, I have provided for such consideration in this bill.

There are provisions in this bill which are controversial to say the least, but some which I feel can be utilized regardless of whether we consolidate the two programs into one or not. These include mechanisms to foster coordination of data base, terminology, planning, funding, and reporting; provisions to foster cooperation between various levels of government and related services of government; the study of ways to improve personnel and personnel systems; the study of enforcement and compliance activities of the Employment Service; a revised funding system for the Employment Service, including the proposed revision in the use of the Federal unemployment tax funds; an improved labor market information system and provision for separate funding of this activity; provisions for improved executive and congressional coordination and review; improvements in Federal rules, regulations, and guidelines, and better recruitment with military recruitment and training programs.

I began looking at this issue well before welfare reform became part of our agenda, in fact well before we were sure Mr. Carter would be President. But the President's welfare reform package, like perhaps no other issue could, has focused congressional attention on the delivery of employment and training programs and services. This, combined with the expiration next year of the CETA authorization will, I hope, provide the opportunity for Congress to take a thorough look at how we are presently providing employment, training, and related services and to examine in detail ways in which the delivery of these services might be improved.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous matter:)

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. YOUNG of Alaska, for 10 minutes, today.

Mr. STEIGER, for 30 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous matter:)

Mr. THOMPSON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. MCKAY, for 5 minutes, today.

Mr. LEVITAS, for 60 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mrs. MEYNER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EILBERG, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,771.

Mr. STEIGER, and to exclude extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,127.

Mr. SCHEUER, to revise and extend his remarks and to include extraneous material at the end of the debate, immediately preceding the vote in final passage of H.R. 8638, Nuclear Antiproliferation Act of 1977.

(The following Members (at the re-

quest of Mr. MARKS) and to include extraneous material:)

Mr. ARMSTRONG.
Mr. GOLDWATER.
Mr. DON H. CLAUSEN in three instances.
Mr. FORSYTHE in three instances.
Mr. YOUNG of Alaska.
Mr. MADIGAN.
Mr. CRANE.
Mr. STEIGER in two instances.
Mr. BROYHILL.
Mr. FINDLEY.
Mr. ERLENBORN.
Mr. KASTEN.
Mr. SARASIN.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. MCDONALD.
Mr. STUMP.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. EILBERG in three instances.
Mr. HAMILTON.
Mr. BINGHAM in five instances.
Mr. CARNEY.
Mr. AUCOIN.
Mr. YOUNG of Missouri.
Mr. BALDUS.
Mr. BAUCUS.
Mr. MILLER of California in two instances.
Mr. ALEXANDER.
Mrs. SCHROEDER.
Mr. DE LUGO.
Mr. YATRON.
Mr. MOSS.
Mr. MINISH.
Mr. ROGERS.
Mr. RODINO.
Mr. RUSSO.
Mr. FOWLER.
Mr. HANNAFORD.
Mr. WAXMAN.
Mr. BEDELL.
Mr. WOLFF.
Mr. NOLAN.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 213. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, September 29, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[*Omitted from the Record of Sept. 27, 1977*]

2461. A letter from the Chairman, Select Committee on Congressional Operations, transmitting the report of the select committee on the conduct of the 90-day test of broadcast coverage of the daily floor proceedings of the House, together with recommendations for the future of broadcast coverage (H. Doc. No. 95-231). Ordered to be printed.

[*Submitted Sept. 28, 1977*]

2462. A letter from the Secretary of Defense, transmitting the Department's annual report on Reserve Forces for fiscal year 1976 and the transition quarter, pursuant to 10 U.S.C. 279; to the Committee on Armed Services.

2463. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period September 15, 1977, to December 15, 1977, pursuant to 10 U.S.C. 139; to the Committee on Armed Services.

2464. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during August 1977, to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

2465. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of proposed final regulations for vocational education programs, pursuant to section 431(d) of the General Educational Provisions Act, as amended by section 509(a)(1) of Public Law 93-380; to the Committee on Education and Labor.

2466. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting a report entitled "Title I Funds Allocation: The Current Formula", one of a series of six reports on compensatory education programs, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2467. A letter from the Under Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for the Virgin Islands, for fiscal year 1976, pursuant to section 17(h) of the Revised Organic Act of the Virgin Islands, amended (48 U.S.C. 1599(h)); to the Committee on Interior and Insular Affairs.

2468. A letter from the Deputy Assistant Secretary of the Interior, transmitting a recommendation proposing modification of desalting equipment for the Yuma desalting plant, pursuant to section 104 of the Colorado River Basin Salinity Control Act (Public Law 93-320); to the Committee on Interior and Insular Affairs.

2469. A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management; to the Committee on Interior and Insular Affairs.

2470. A letter from the Assistant Secretary of State for Congressional Relations, transmitting Presidential Determination No. 77-20 that the sale of defense articles and services to the Government of Chad will strengthen the security of the United States and promote world peace, pursuant to section 3(a)(1) of the Arms Export Control Act, as amended; to the Committee on International Relations.

2471. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of major defense equipment sold commercially to Greece (transmittal No. MC-58-77), pursuant to section 36(a) of the Arms Export Control Act; to the Committee on International Relations.

2472. A letter from the Director, Northeast Corridor Project, Federal Railroad Administration, Department of Transportation, transmitting a draft environmental impact statement on the Northeast Corridor Improvement Program, pursuant to 42 U.S.C. 4332 (2)(c); to the Committee on Interstate and Foreign Commerce.

2473. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend chapter 40, title 18, United States Code, to require the addition of tracer elements to explosive materials and to correct the reference to drugs; to the Committee on the Judiciary.

2474. A letter from the Chairman, Commission on Administrative Review, U.S. House of Representatives, transmitting a report pursuant to section 5 of House Resolution 1368, 94th Congress (H. Doc. No. 95-232). Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Public Works and Transportation. Report on suballocation of spending authority from the Second Concurrent Resolution for fiscal year 1978; (Rept. No. 95-639). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3815. A bill to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, and for other purposes; with amendment (Rept. No. 95-640). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 6782. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; with amendment (Rept. No. 95-641). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 6954. A bill to preserve and promote ethical standards throughout the executive branch, and for other purposes; with amendment (Rept. No. 95-642. Pt. I). Ordered to be printed.

Mr. MAHON: Committee on Appropriations. H.R. 9375. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; (Rept. No. 95-644). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NIX (for himself, Mr. UDALL, and Mr. DERWINSKI):

H.R. 9354. A bill to amend the act of August 25, 1958, with respect to staff allowances for former Presidents; to the Committee on Post Office and Civil Service.

By Mr. ANDREWS of North Dakota:

H.R. 9355. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation of a potential water resource development; to the Committee on Interior and Insular Affairs.

By Mr. MADIGAN (by request):

H.R. 9356. A bill to provide a voluntary self-help program designed to assist producers of agricultural products against loss of farm income when natural or uncontrollable conditions adversely affect the production and will be meaningful in assuring the consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture.

By Mr. RAILSBACK (for himself, Mr. ARMSTRONG, and Mr. QUAYLE):

H.R. 9357. A bill to amend title 18, United States Code, to prohibit the sexual exploitation of children; jointly, to the Committees on Education and Labor, and the Judiciary.

By Mr. STEIGER:

H.R. 9358. A bill to consolidate the programs provided under the Wagner-Peyser Act and the Comprehensive Employment and Training Act of 1973, to amend certain provisions of the Social Security Act, and to provide for the implementation of employment policy through the operation and coordination of State and local employment programs; jointly, to the Committees on Education and Labor, Rules, and Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 9359. A bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 9360. A bill to amend the Federal Water Pollution Control Act to include the reduction of unnecessary water consumption as a part of the national policy for the control of water pollution, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 9361. A bill to establish minimum water efficiency standards for public buildings and to provide for the procurement and installation of efficient water supply and removal equipment in public buildings; to the Committee on Public Works and Transportation.

H.R. 9362. A bill to assure more adequate supplies of water to the Nation and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

H.R. 9363. A bill to require that certain consumer products be labeled to specify the rate of water consumption of the consumer products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9364. A bill to require that certain consumer products achieve minimum water efficiency standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9365. A bill to amend section 2 of the National Housing Act to provide for a guaranteed loan program designed to encourage the acquisition and installation of water conservation equipment and systems in dwelling units; to the Committee on Banking, Finance and Urban Affairs.

H.R. 9366. A bill to provide that housing benefits available to a veteran, under title 38 of the United States Code, shall not be considered in determining, under title 5 of the Housing Act of 1949, whether such veteran is able to obtain credit for housing from sources other than the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CAVANAUGH (for himself, Mrs. SPELLMAN, Mr. BROWN of Michigan, Mr. GRASSLEY, Mrs. COLLINS of Illinois, Mr. CORNELL, Mr. CARR, Mr. GLICKMAN, Mr. NOLAN, Mr. BEDELL, and Ms. MIKULSKI):

H.R. 9367. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by depository institutions to governmental agencies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ERLENBORN (for himself, Mr. DON H. CLAUSEN, Mrs. PETTIS, Mr. DUNCAN of Oregon, and Mr. STUMP):

H.R. 9368. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. FINDLEY:

H.R. 9369. A bill to provide for uniform standards for trucks carrying freight in interstate commerce, and for other purposes; to the Committee on Public Works and Transportation.

Mr. LEGGETT (for himself, Mr. FORSYTHE, Mr. BREAUX, Mr. MURPHY of New York, Mr. BIAGGI, Mr. DE LA GARZA, Mr. PRITCHARD, Mr. GINN, Mr. STUDDS, Mr. YOUNG of Alaska, Mr. DE LUGO, Mr. BONKER, Mr. BAUMAN, Mr. AUCOIN, Mr. ZEFERETTI, Mr. OBERSTAR, Mr. LENT, Mr. HUGHES, Mr. EMERY, Ms. MIKULSKI, Mr. EVANS of Delaware, Mr. AKAKA, Mr. TRIBLE, Mr. CHAPPELL, and Mr. DICKS):

H.R. 9370. A bill to provide for the development of aquaculture in the United States, and for the other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MITCHELL of New York:

H.R. 9371. A bill to amend title 38, United States Code, to include insomnia within the list of chonic diseases for which compensation may be provided under such title for a service-connected disability; to the Committee on Veterans' Affairs.

By Mr. MOTTL:

H.R. 9372. A bill to grant priority in payment from the estate of a bankrupt railroad to tax claims of local school districts, other units of local government, and States; jointly, to the Committees on the Judiciary, and Interstate and Foreign Commerce.

By Mr. SISK:

H.R. 9373. A bill to establish the Crime Victim Assistance Fund, and to permit victims of certain crimes under Federal law to sue perpetrators of such crimes who profit from publicity related to such crimes; to the Committee on the Judiciary.

By Mr. MCKAY:

H.J. Res. 606. Joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

270. By the SPEAKER: Memorial of the Legislature of the Territory of Guam, relative to allowing the government of Guam to purchase the Guam Memorial Hospital from the United States; to the Committee on Interior and Insular Affairs.

271. Also, memorial of the Legislature of the State of California, relative to incendiary fires; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STRATTON introduced a bill (H.R. 9374) for the relief of Algirdas Brazinskas; which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

263. By the SPEAKER: Petition of the Western Governors' Conference, San Francisco, Calif., relative to Federal agricultural policies; to the Committee on Agriculture.

264. Also petition of the Western Governors' Conference, San Francisco, Calif., relative to the proposed commercial fishery station of Midway Island; to the Committee on Armed Services.

265. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to vocational rehabilitation service; to the Committee on Education and Labor.

266. Also, petition of the Americus and Sumter County Chamber of Commerce, Americus, Ga., relative to labor reform legislation; to the Committee on Education and Labor.

267. Also, petition of Western Governors' Conference, San Francisco, Calif., relative to implementation of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

268. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to expanding export markets for U.S. agricultural commodities; to the Committee on International Relations.

269. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to the administration of the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

270. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to allocation formulas for projects under the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

271. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to energy research and development; to the Committee on Science and Technology.

272. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to social security; to the Committee on Ways and Means.

273. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to aid for energy-impacted communities; jointly, to the Committees on Banking, Finance and Urban Affairs, and Government Operations.

274. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to national welfare reform; jointly, to the Committees on Education and Labor and Ways and Means.

275. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to transporting Western crude oil to the rest of the country; to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

276. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to health care costs; to the Committees on Interstate and Foreign Commerce, and Ways and Means.

277. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to solar energy development; to the Committees on Ways and Means, and Banking, Finance and Urban Affairs.

278. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to energy conservation; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3816

By Mr. KRUEGER:

On page 35 strike out line 14 down through line 5, page 44.

Redesignate following sections accordingly.

H.R. 7010

By Mr. GUDGER:

Page 6, line 18, strike out "$50,000" and insert "$25,000" in lieu thereof.

SENATE—*Wednesday, September 28, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. JAMES R. SASSER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God whose grace is sufficient for all our needs, breathe upon us Thy renewing power. Take our tired bodies, worn minds, frayed nerves, and tested wills and restore them by Thy presence. Strengthen our bodies, sharpen our minds, put love in our hearts and steadfastness in our purpose.

Grant us grace to speak prudently when we must speak; to remain silent when we have nothing to say; to learn by listening; to be unafraid of the hard decision; to act insofar as we are able in accord with Thy will; and to leave the consequences to Thy providence. Reward our faithfulness with souls at peace with Thee.

We pray in His name who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 28, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES R. SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday and Tuesday be approved.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, be approved.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

REQUEST FOR CONVENING HOUR THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, and Friday, it stand in recess until Thursday, Friday, and Saturday at 9 o'clock a.m., respectively.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER FOR RECESS TODAY UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are certain nominations on the Executive Calendar that have been cleared. I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar and that, immediately upon the disposition of those nominations, the Senate return to legislative session.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, there is no objection to proceeding to the consideration of the Executive Calendar. I inform my friend, the majority leader, that the three nominations on that calendar for the National Science Foundation and the one for the Department of HEW are cleared on this side of the aisle.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to executive business, and, without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

George Claude Pimentel, of California, to be Deputy Director of the National Science Foundation.

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation.

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to reconsider the vote en bloc by which the nominations were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which the various nominations were confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately advised of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now resume legislative session.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, the two leaders have their recognition, I believe, under the standing order.

The ACTING PRESIDENT pro tempore. The Senator is correct. There is an order for the Senator from Alabama for 15 minutes.

Mr. BAKER. Mr. President, may we have order?

Mr. ROBERT C. BYRD. Mr. President, I have no need for any time this morning. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama is recognized for not to exceed 15 minutes.

PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, when I first initiated this series of speeches on the proposed Panama Canal Treaty and on the proposed so-called neutrality treaty—and this is the ninth speech in the series—I had some concern that my speeches might tend to become redundant, inasmuch as apparently these proposed treaties will not be presented to the Senate for some months; but, Mr. President, the more I study these proposed treaties, the more defects I discover and the more I realize that I will be at no loss for topics to discuss over the coming weeks and months. I have no

desire to bore the Members of the Senate with redundancy, so I will on each occasion discuss a separate aspect of the proposed treaties in a manner which I sincerely desire to be illuminating and informative rather than repetitive.

Today, Mr. President, I intend to discuss the environmental impact of the new treaty.

We hear a lot in Congress about the environmental impact, and we have environmental impact statements for almost everything. This new treaty has an environmental impact. Let us study it a little bit.

I will use as the basis for my remarks the draft environmental impact statement for the new Panama Canal Treaty prepared by the Department of State and published on August 30, 1977. That is a new publication. This proposed environmental impact statement is now open for comment, and I would encourage anyone wishing to comment thereon to correspond with the Office of Environmental Affairs in room 7820 at the offices of the Department of State here in Washington.

There is much to be learned from this draft environmental impact statement which cannot be learned from a cursory reading of the proposed treaty itself. And incidentally, Mr. President, this draft statement applies only to the proposed Panama Canal Treaty and does not apply to the proposed neutrality treaty. Presumably a draft statement on the proposed neutrality treaty will also soon be forthcoming.

As I said, Mr. President, much can be learned about the proposed canal treaty from this draft environment statement, and although obviously the Department of State is lobbying heavily and heartily for ratification of this treaty, nevertheless, the author of this draft statement should be commended for his candor in stating at least some of the more obvious environmental problems which are likely to ensue if the proposed canal treaty is ratified.

Under the heading "Unavoidable Adverse Impacts," the statement reads as follows:

> The principal unavoidable adverse impact resulting from actions under the proposed Treaty will be the loss of jobs of certain American and non-American employees of the Canal Company and the Canal Zone Government. There are also two other possible adverse impacts: increase in Canal tolls with a consequent increase in transcontinental rail traffic in the U.S. (section III B. 7.); and extensive deforestation in the Canal Zone, if protective measures are inadequate.

The environmental statement then proceeds to discuss in some 100 pages or more the details of this sobering conclusion. The statement further considers major alternatives to the proposed treaty including, "taking no action on the proposed treaty."

I do not favor that. I want to take action, up and down action, against giving advice and consent to the ratification of the treaty.

Then, it states, "postponing further action on the treaty, implementing the treaty's provisions (including those on environmental protection), and the possibility of a new treaty with stronger environmental safeguards."

Mr. President, I doubt if there is ever going to be another treaty. I believe this one will be defeated so badly that they are not going to come back with another treaty. I believe, too, that substantial amendments must be made to this treaty. Some definitely must be made in the area which forbids us to even negotiate with another nation for a sea level canal for this 23-year period without the consent of Panama. That must be changed.

Then there has to be an amendment giving us the right to determine whether the neutrality of the canal is in danger and giving us the right to send in troops.

The failure to give us priority on our warships going through the canal is amended.

Once these amendments are made, Mr. President, it is treaty law that the treaty would become a nullity and would have to be renegotiated and submitted again as a treaty ab initio.

I want to see an up and down vote defeating this treaty. Before we have that up and down vote, I want to see substantial amendments offered. One amendment I am going to offer, Mr. President, and I would be willing to vote for the treaty if this amendment is made, would be to raise the annuity that Panama receives from the Panama Canal Company out of the tolls, to raise it substantially—and it is around $2.3 million now—and leave all other provisions of the present treaty in full force and effect.

That is, that we would continue to have sovereignty over the Canal Zone; that we would continue to have the power to operate and maintain the canal, and that we would continue to have the right to defend the canal.

Another thing we are certainly going to have to amend is the American presence we have there. I believe under the treaty and executive agreements, we are supposed to cut down our bases there from 14 to 4. That will have to be changed.

The whole treaty will have to be redrafted by the Senate, in my judgment, which would be another way of saying it is dead because it would then have to be renegotiated.

The reservations are not going to do any good, mere reservations. That is merely a unilateral statement of how we interpret the treaty. It would not be binding on Panama, as I see it. It is not sufficient to say, "We make this reservation, that we feel the treaty means" this. That is not worth anything. We have to amend the treaty in the particulars I am talking about. Then to be absolutely safe, not only amend it but then defeat it after it has been amended as best we can.

As I say, I would be willing to substantially raise the amount of the tolls which Panama receives, the amount of annuity payments Panama receives, because I know they need the money, possibly raising the figure tenfold. That would not shock me. We could raise it up to $25 million annually, provided all of the provisions of the present treaty remain in full force and effect.

Mr. President, how much time have I remaining?

The ACTING PRESIDENT pro tempore. The Senator from Alabama has 5 minutes remaining.

Mr. ALLEN. I thank the Chair.

So, Mr. President, as far as the Office of Environmental Affairs at the Department of State is concerned this matter is still open to discussion—but, I might add, a limited amount of discussion inasmuch as the 30 days for comment will expire on September 30. In other words—the day after tomorrow. I would like to make my comments on the environmental impact of this treaty now, and I do feel after reviewing the draft environmental statement that the proposed new treaty will have adverse environmental impact sufficient to warrant rejection of the treaty in its present form unless substantially amended to include stronger environmental safeguards.

Let me get back to the subject from which I digressed a moment ago. As I stated, if this is a substantial amendment to the treaty that would vitiate and nullify the treaty because it would not be sufficient then for Panama to accept the treaty in its amended form we would have to renegotiate and submit a new treaty to the Senate. We would have to go through the same process that this present treaty has gone through or is going through.

But the value of the amendments would be that it would be a guideline, Mr. President, to what the Senate would probably accept in the subsequent negotiations between the two countries having to do with a Panama Canal Treaty. So if we amend this treaty in these substantial forms that I have suggested, even though that would nullify and hold for naught the entire treaty, it would serve as a guideline for the negotiators to have a treaty that would be acceptable to the Senate.

In my judgment, Senators should listen carefully to the recommendations of environmental groups and consumer groups and business groups in assessing the unavoidable adverse impacts of the proposed treaty in its present form on the environment, the rate of inflation, unemployment, and commerce generally.

Chief among the immediate adverse environmental impacts of the proposed canal treaty will be the short-term use and deforestation of the land in the Canal Zone turned over to the Panamanians. In considering this problem, the environmental impact statement reads as follows:

> Short-term use of the forest resources in Panama involves slash and burn practices by squatters to clear fields for corn and other crops. Given population pressures and rural poverty, these subsistence crops are very important to the nutrition and welfare of the numerous squatters engaged in these practices. This is the reason for the widespread deforestation around the Canal Zone and the threat to the Zone's forests. However, within a year or two the soil is exhausted, the squatters move on to new forest areas,

and erosion sets in with resultant damage to the entire ecosystem of the Canal watershed. Wildlife disappears, reforestation is difficult or impossible, and silting of the Canal may increase. Over the longer term and in combination with droughts, the level of the lakes may even diminish to the point of limiting the operation of the Canal and the Panama City water supply. Archeological sites and artifacts exposed during cultivation may also be lost.

There is, therefore, Mr. President, apparently some considerable concern that once the zone is thrown open to the Panamanians, Panamanian farmers will rapidly deplete the natural forest resources of the zone. This concern is expressed under the heading "Irreversible and Irretrievable Commitments of Resources" in the following fashion:

If the environmental protection measures in the draft treaty and the supplementary watershed management project should prove ineffective, the forests and associated cosystem in the Canal Zone could disappear.

We are trusting an awful lot to chance, Mr. President, if even the Department of State recognizes the danger that the forests and associated ecosystem in the Canal Zone could disappear and presumably be ruined for the foreseeable future—that is if, of course, this proposed treaty is in fact ratified.

Other considerations which come to light are the various laws, regulations, and policies now is force in the Canal Zone which would be supplanted by Panamanian law, regulations, and policies affecting environmental matters, if any. Among the U.S. laws which would apparently cease to operate after implementation of the treaty are the following:

1. National Environmental Policy Act of 1969 (NEPA).
2. Section 311, Federal Water Pollution Control Act of 1972 (FWPCA) regulating the discharge of oil and other hazardous substances into the navigable waters of the U.S.
3. Section 312, FWPCA regulating marine sanitation devices.
4. Marine Protection, Research and Sanctuaries Act (Ocean Dumping Act).
5. Section 4, Noise Control Act.
6. Executive Order 11514.
7. Occupational Safety and Health Act (OSHA) where it regulates the environment.
8. Environmental Control Policy for Canal Agencies (published in Federal Register Vol. 37, No. 204, October 20, 1972.)
9. Guidelines for the Preparation and Coordination of Environmental Impact Statements for Canal Agencies, dated December 15, 1972.
10. Title 35, Code of Federal Regulations (CFR):
a. Chapter 1, Part 61 Health Sanitation and Quarantine (includes controls on use of pesticides, herbicides, and rodenticides).
b. Chapter 1, Part 103.21 Precautions against sparks, smoke, etc. from vessels.
c. Chapter 1, Part 103.22 Vessels at Fuel Berths.
d. Chapter 1, Part 113, Subparts B, C and D: Handling Explosives, Hazardous Liquid Cargos and other Hazardous Materials (noxious chemicals, radioactive materials).
e. Chapter 1, Part 125 Sanitary Requirements: Vessel Wastes, Garbage, Ballast.
11. Canal Zone Administration and Regulations (CZAR):
a. Chapter 5, Part 167.111: Transporting Explosives, Flammable Liquids and Liquefied Petroleum Gases.
b. Chapter 5, Part 167.85: Mufflers; prevention of noise.
12. Regulations Governing the Storage and Handling of Petroleum Products in Bulk at Canal Zone Terminals. (This document has a different primary purpose but a major environmental secondary effect.)

The above list is not exhaustive and regardless of efforts to guarantee adequate environmental safeguards under the proposed treaty, I doubt that the measure of protection now afforded by U.S. law could ever be achieved in any arrangement with the Panamanians which included supplanting U.S. legal jurisdiction with Panamanian jurisdiction.

Tab F of the draft environmental impact statement is a study entitled, "Environmental Assessment of Proposals to Increase Tolls." You know, Mr. President, a major consideration in the proposed treaty is the increase in tolls proposed in order to cover promised payments to the near-bankrupt Government of Panama. But what effect will this increase in tolls have on commerce with the United States and on prices charged to consumers in the United States? Well, Mr. President, the effect is not going to be salutory.

The author of this study on the proposal to increase tolls, William Whitman of Kensington, Md.—and, I might add parenthetically that his study has been approved by the Canal Zone Environmental Quality Committee—Mr. Whitman's study is based on projected traffic through the Panama Canal in 1985 and assumes no increase above the rates in effect prior to July 8, 1974 except a 50 percent across-the-board increase in those rates. In fact, Mr. President, two increases have occurred since that time and a major jump in toll rates is still envisioned by the proposed treaty. Yet even discounting the two toll increases which we have already seen, Mr. Whitman finds the following unavoidable environmental effects: "A minimal increase in air pollutants over the United States; and an unquantifiable loss of employment and employment benefits in U.S. Atlantic ports." These environmental impacts are unavoidable effects of the toll increases which have already occurred and do not even take into account to any significant degree the major new increases which we are being asked to ratify in this proposed treaty.

You see, Mr. President, when these tolls go up, the inevitable effect is going to be to burden ocean-borne commerce and, as a result, to inflate the costs of basic raw materials shipped through the canal. Those materials will either be shipped at a higher cost through the Isthmus of Panama or will be transported by other means, chiefly rail, with the result both of higher prices and increased atmospheric pollution.

Lest there be any doubt that a toll increase could have a very serious adverse effect on U.S. commerce, I ask unanimous consent to include in the RECORD a table of major trade routes and tonnage carried on those routes through the Panama Canal in 1975.

Mr. President, I ask unanimous consent that a table entitled "Major Trade Routes in Panama Canal Traffic" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Major trade routes in Panama Canal traffic: 1975

Trade route	PC net tons	Long tons cargo
East Coast United States-Asia	41,970	55,402
Europe-Asia	13,779	10,028
Europe-West Coast United States/Canada	10,186	10,561
East Coast U.S.-West Coast South America	9,792	8,417
Europe-West Coast South America	7,642	5,481
U.S. Intercoast (including Alaska and Hawaii)	4,627	4,386
Europe-Oceania	4,484	3,590
East Coast United States/Canada-Oceania	4,112	4,130
East Coast Canada-Asia	3,891	3,461
South American Intercoastal	3,532	4,675
West Coast South America-West Indies	2,474	1,985
West Coast U.S.-East Coast South America	2,277	2,934
Subtotal	108,766	115,050
All other routes	26,288	25,051
Total	135,054	140,101

Mr. ALLEN. Mr. President, this table shows pretty conclusively that the United States is quite dependent on ocean-borne commerce through the Canal Zone and that the principal beneficiary of traffic through the zone is, contrary to some reports, the United States.

But let us look at the type of commerce moving through the canal. I ask unanimous consent that a table entitled "Panama Canal Traffic by Commodities" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PANAMA CANAL TRAFFIC BY COMMODITIES, 1975

Commodity:	*Percent of total cargo*
Coal and coke	18.8
Petroleum and products	17.1
Grains	12.7
Ores and metals	9.5
Manufacturers of iron and steel	8.0
Nitrates, phosphates, and potash	6.7
Miscellaneous agricultural products	5.1
Lumber and lumber products	4.1
Canned and refrigerated foods	3.0
Chemicals and petrochemicals	1.9
Machinery and equipment	1.8
Miscellaneous minerals	1.7
All other	9.6

Source: Annual Report, Panama Canal Company, fiscal year 1975.

Mr. ALLEN. Mr. President, this table shows that a substantial amount of cargo moving through the canal is energy-related or bulk shipment of raw materials required in the manufacture of consumer goods here in this country. The major increases in Panama Canal tolls are bound to have a multiplier effect in raising the cost of raw materials and thereafter raising the cost of consumer goods.

Mr. President, I ask unanimous consent that a third table entitled "Effect of 50 Percent Tolls Increase on Commodity Manufacturers" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EFFECT OF 50 PERCENT TOLLS INCREASE ON COMMODITY MOVEMENTS THROUGH PANAMA CANAL IN 1985

[Thousands of long tons]

Commodity	No increase	50 percent increase	Difference	Percent change
Bananas	2,342	1,710	632	27
Iron Ore	3,300	2,508	792	24
Crude petroleum	19,900	17,512	2,388	12
Petroleum products	13,600	11,968	1,632	12
Coal	14,000	12,460	1,540	11
Phosphates	4,700	4,277	423	9
Coarse grain and wheat	26,237	24,343	1,894	7
Soybeans	12,345	11,604	741	6
Iron and steel manufactures	11,543	10,966	577	5
Sugar	6,127	5,943	184	3
Miscellaneous ores	4,655	4,562	93	2
General cargo	30,659	30,046	613	2
Cargo not affected	35,534	35,534		
Total	184,942	173,433	11,509	

Mr. ALLEN. Mr. President, this table shows significant percentage reductions in the transportation of iron ore, crude petroleum, petroleum products, and coal through the Canal Zone if a 50-percent increase over pre-June 1974 tolls would be permitted. I want to emphasize, Mr. President, that a 50-percent increase over pre-June 1974 tolls has just about already occurred with the two increases put into effect to date. We can expect, therefore, reductions in energy products transiting the Isthmus of Panama if the further increases contemplated by the new Canal Zone Treaty are permitted. This at the very time when we are spending days here in the Senate working on legislation designed to solve energy problems. Let us not put any more burdens on the energy industry, Mr. President. Let us not drive up the cost of coal and petroleum products by a wholly unjustified increase in Panama Canal tolls.

There is another aspect of this environmental impact statement which I would call to the attention of the Senate and in particular to the members of the Committee on Agriculture, Nutrition, and Forestry. This one item appears under the heading "United States-Japan Via Cape of Good Hope." It discusses the bulk movement of coarse grains and wheat and soybeans between New Orleans and Japan. The report reads:

The distance between New Orleans and Yokohama is 9,126 miles via the Panama Canal and 15,762 miles via the Cape of Good Hope, a difference of 6,636 miles. The movement of 2,635,000 tons of soybeans and coarse grains and wheat via the Cape of Good Hope would entail about 16 voyages by a bulk carrier of 183,570 deadweight tons lifting approximately 170,000 tons of cargo. Each voyage would require about 42.4 days and fuel consumption at 15 knots would be 101.5 tons a day.

Senators ought to consider the possible impact on our farm exports if commercial shipping is diverted from the Panama Canal either because of the economics of increased tolls or because of other reasons beyond our control. Will farm exports be decreased because of a decrease in our ability to compete in world markets? Yes, in my judgment, much study should be given to the real world consequences of these proposed toll increases which have been given to us as part and parcel of this disastrous treaty. Mr. President, I ask unanimous consent that five additional tables from Mr. Whitman's study dealing with diversion of commodities from the canal route be printed at this point in the RECORD for easy reference by Senators and staff members.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Rearrangement of sources and markets resulting from 50 percent tolls increase

[By commodities]

Commodity:	Long tons (thousands)
1. Bananas	632
2. Iron ore	627
3. Petroleum	2,388
4. Petroleum products	1,632
5. Iron and steel manufactures	195
Total	5,474

The reaction to a tolls increase by rearranging sources and markets in effect eliminates the necessity for moving the cargo involved from one ocean to the other thereby reducing energy consumption that otherwise would be used for that purpose. Obviously, in this aspect, the effect of the proposed increase in tolls is beneficial to the environment.

DIVISION OF COMMODITIES FROM PANAMA CANAL TO SUEZ OR CAPE OF HOPE RESULTING FROM 50 PERCENT INCREASE IN PANAMA CANAL TOLLS (1985)

Commodity	Tonnage	Trade route	Via
General cargo	[1] 1,201	Europe-Japan-Australia	Suez.
Miscellaneous ores	93	Europe-Australia	Cape of Good Hope.
Iron and steel manufactures	186	Europe-Japan	Suez.
Phosphates	423	Africa-Japan	Suez.
Coal	1,540	United States-Japan	Cape of Good Hope.
Coarse grains and wheat	1,894	United States-Japan	Cape of Good Hope.
Soybeans	741	United States-Japan	Cape of Good Hope.
Sugar	116	Philippines-New York	Cape of Good Hope.
Total	6,194		

[1] Europe-Far East & Oceania. Because of the shorter distances involved, the movements of general cargo, miscellaneous ores, iron and steel manufactures, and phosphates, aggregating 1,315 tons, between Europe and Japan, Africa and Japan, and Europe and Australia, via Suez or the Cape of Good Hope, will result in less fuel consumption than would movement of the cargo through the Panama Canal.

CARGO DIVERSIONS INVOLVING VOYAGES OF DECREASED LENGTH VIA SUEZ CANAL OR CAPE OF GOOD HOPE

Commodity	Tonnage	Trade route	Decreased distance on diversion route
General cargo	[1] 1,201	Europe-Japan (Suez)	1,251
Miscellaneous ores	93	Europe-Australia (Cape)	1,558
Iron and steel manufactures	186	Europe-Japan (Suez)	1,251
Phosphates	423	Africa-Japan	4,126
Total	1,903		

[1] Includes 588 tons assuming full impact of cumulative increase on reefers and general cargo ships without consideration of shift of cargo to container ships and bulk carriers. See pp. 7, 8.

DIVERSION OF CARGO TO FAR EAST MINIBRIDGE BY 50 PERCENT INCREASE IN PANAMA CANAL TOLLS (1985)

[Thousands of tons]

Commodity: Route	Tons diverted	Total through PC
Sugar: Hawaii—United States	68	5,943
Iron and steel manufactures: Japan—United States	196	10,966
Total	264	16,909

Ships carrying cargo between Japan and East Coast United States ports may proceed directly from Japan to East Coast U.S. via the canal, or move from Japan to the West Coast U.S. and thence to East Coast U.S. via the canal. Cargo moving by the minibridge route moves from Japan to the West Coast U.S. by water and from there to the East Coast by rail. Movements from the East Coast U.S. to Japan follow the reverse pattern. Whether the all-water movement is direct between the East Coast and Japan or via intermediate West Coast ports, the shorter distance involved in the intermodal movement using rail transportation across the United States, results in a substantial saving in energy consumption in the use of that route in comparison to the all-water routes. The distance between Yokohama and New York on the all-water routes indicated is shown in the following table:

Distances Yokohama to New York on all-water routes via Panama Canal

Route:	Statute miles
Direct Yokohama-New York	11,115
Yokohama-San Francisco	5,361
Yokohama-Los Angeles	5,565
San Francisco-New York	6,053
Los Angeles-New York	5,671
Total Yokohama-New York (via SF)	11,269
Total Yokohama-New York (via LA)	11,236

(Source: H.O. Doc 151, with nautical miles converted to statute miles at ratio of 1:1.15.)

I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

Mr. METZENBAUM. Mr. President, what is the pending order of business?

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the unfinished business, S. 2104, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1039

The ACTING PRESIDENT pro tempore. The pending business is amendment No. 1039 in the nature of a substitute.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Will the Senator withhold that request temporarily? I wonder if the Senator would. He has numerous amendments. I wonder if he would mind calling up one of his amendments and let the Senate get started to work on an amendment.

Mr. METZENBAUM. As an accommodation to the majority leader in this instance I will be happy to do so.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. METZENBAUM. I will find occasion to call for a quorum at a later point because I believe it important that Members of the Senate know what is being discussed.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. METZENBAUM. As an accommodation to the majority leader, I do so.

AMENDMENT NO. 904

Mr. METZENBAUM. Mr. President, I call up amendment No. 904 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposed an amendment No. 904.

On page 2, lines 23 and 24, strike "the continuation of cost-based regulation of natural gas and".

Mr. BAYH. Mr. President, will the Senator yield?

Mr. METZENBAUM. Not on my time, if the Senator does not mind.

Mr. BAYH. If the Senator will yield, I am glad to do it on my time, I advise him, our distinguished leader, the Presiding Officer, and colleagues who might get the word at some time that appears appropriate today I wish the Senate to take just a very few minutes, and it should not take long, to reopen and hopefully to reconsider that action that was taken earlier relative to what that separation attack by amendments that is prohibited in the record really means.

I think that we have established a very bad precedent. I do not want to occupy the Senate's time unnecessarily, but I do not want us to leave this very heated debate after an all-night session with the record that could come back to haunt us when the matter is much more critical than is the case right now.

Mr. METZENBAUM. I am in an accommodating mood this morning. Whenever the Senator from Indiana wants to do that, I have no objection.

Mr. STEVENS. Mr. President, will the Senator yield for comments on the comments of the Senator from Indiana?

Mr. METZENBAUM. On the Senator's time.

Mr. STEVENS. On my time. I think that the ruling could lead to a misunderstanding. I call the attention of the Senator from Indiana to the fact that we are being rapidly propelled toward something which would amount to a change in the rules and that is an interpretation of the existing law and the time to change that interpretation is in dealing with the basic rule itself and not with any attempt to change the precedents of the Senate by persuasion, notwithstanding the fact that we are all getting a little bit frayed.

I happen to raise a serious question about the ruling, also, but I do believe that it is proper and it is a proper interpretation of the existing rules. Under the circumstance the only way to change it is to look forward to being more articulate in framing the rules as we seek to amend them to alleviate the situation that we are in now.

Mr. BAYH. Mr. President, with all respect to my good friend and colleague from Alaska, I do not think that is a reasonable interpretation of the rule. I am in the process now of studying those precedents that we were relying on. I do not want to change the interpretation of the rules but the situation we have ourselves in now is that the only alternative for cleaning up this what amounts to technical trash out of the bill is for a unanimous-consent request to permit the Secretary of the Senate to do so at which time one U.S. Senator can say, "I object." I just do not think that is what we mean.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. METZENBAUM. On the Senator's time.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator may be permitted to yield to me on my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope that we will not continue to discuss the conflicting precedents which have left the subject matter really inconclusive. There will undoubtedly be other amendments called up on which the same point of order can be made. At that time let the Senate work its will. I see nothing to be gained, however, because the precedents that we are talking about are in conflict, and as I see it they pretty much wash one another out. If there is another amendment on which the same point of order can be made, or is made, let the Senate then consider the matter more carefully. But I hope that we would not talk about going back now and reconsidering those precedents. I would have to object to it. That subject matter is not before the Senate. It was reconsidered. As I see it now, I just urge that we get on with our business and if the matter comes up again let the Senate take action on it at that time.

Mr. BAYH. Mr. President, if the Senator will permit me 1 minute on my own time, I concur with the leader that this matter should not be dredged up once again, but I do anticipate that a similar resolution will come forth, and by that time I hope to carefully study the precedents. If I come to the conclusion that our distinguished Parliamentarian ruled accurately then I may on reflection change my position.

But the position we have ourselves in now is untenable from a standpoint of how we run the Senate in cleaning up its housekeeping business. We should be able to change the section numbers and the subsection numbers. We are not even talking about section numbers.

Mr. ROBERT C. BYRD. I think the Senator has certainly a good point, and it may very well be that if the point of order is made that the Parliamentarian would rule in his way or the Senate would rule his way. But I hope we just forget yesterday—there is too much about yesterday that we ought not to try to remember—and try to look toward the rest of today and hopefully a conclusion to the present problem that confronts the Senate.

I thank the Senator.

Mr. STEVENS. Will the Senator yield to me? And I do not mean to be offensive in my remarks to the Senator from Ohio.

Mr. METZENBAUM. On the Senator's own time.

Mr. STEVENS. On my time.

I point out to the Senator from Indiana that the only reason that we have used the technicality is to attempt to eliminate the massive burden of amendments that were on the desk at the time cloture was voted. I am certain that the Senate would not condone the use of that very technical interpretation under any normal cloture circumstance. But I do not consider this to be a normal cloture circumstance. I hope that he would take into account, as the Senator from Tennessee said and reminds us, that bad cases lead to hard law, and that is what we got last night, and this is a bad case, and it is going to lead to harder law before we are through.

Mr. BAYH. Mr. President, I concur that we had some bad cases and ended up with bad law. I hope my friend from Alaska will recognize the fact that there were some things the Senator from Indiana could have done in discussing this question last night as far as rollcalls and further appeals that he did not pursue, because he did not want to unnecessarily prolong the Senate beyond what was necessary to resolve this get-out-of-the-bad-law situation. I am hopeful we will have another chance to do that very quickly, expeditiously, without taking a lot of time.

Mr. STEVENS. I tell the Senator from Indiana so long as the situation persists we have no alternative but to attempt to try and eliminate some of this backlog of amendments, and under any normal circumstance I do not think we would be compelled to raise that point of order. But again the Senator from Indiana was successful in limiting the scope of that ruling last night, and I hope that he will not pursue it under the situation that we are in now because I think if he pursues it we are going to establish a precedent that will be very difficult to overcome even with a change of the rules.

Mr. ROBERT C. BYRD. Mr. President, I hope we will get on with the Senator's amendment.

I thank him for his indulgence.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I move to lay the motion on the table.

Mr. METZENBAUM. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. DURKIN), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 23, as follows:

[Rollcall Vote No. 464 Leg.]

YEAS—59

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Hansen	Randolph
Brooke	Haskell	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Case	Heinz	Sparkman
Chafee	Helms	Stennis
Chiles	Huddleston	Stevens
Cranston	Javits	Stevenson
Curtis	Johnston	Talmadge
Danforth	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eagleton	Mathias	Weicker
Ford	McIntyre	Young
	Meicher	Zorinsky

NAYS—23

Anderson	Hart	Pell
Bayh	Hathaway	Proxmire
Biden	Hollings	Ribicoff
Bumpers	Jackson	Riegle
Church	Leahy	Sarbanes
Clark	McGovern	Sasser
Culver	Metzenbaum	Williams
Eastland	Moynihan	

NOT VOTING—18

Abourezk	Inouye	Metcalf
Cannon	Kennedy	Morgan
DeConcini	Magnuson	Muskie
Durkin	Matsunaga	Nelson
Griffin	McClellan	Stafford
Humphrey	McClure	Stone

So the motion to lay Mr. METZENBAUM'S amendment (No. 904) on the table was agreed to.

The PRESIDING OFFICER (Mr. STENNIS). The bill is open for further amendment.

Mr. METZENBAUM addressed the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Let us have quiet, please. Certainly this amendment, to command an all-night session, deserves special attention this morning so all can be heard.

The Chair is in doubt as to who addressed the Chair first.

Mr. METZENBAUM. The Senator from Louisiana has asked me to yield.

The PRESIDING OFFICER. I recognize the Senator from Louisiana.

Mr. METZENBAUM. I yield without losing my right to the floor.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Bob Szabo of my staff may have the privilege of the floor at all times during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Somebody put before the Presiding Officer a little note that says—this applies to rollcall votes; I think it applies anyway—that staff people that are admitted to the floor are welcome, but their place is back there in those seats unless called forward by a Senator for their personal attention. Then, they do not sit in Senator's chairs.

The Senator from Ohio is recognized.

AMENDMENT NO. 907

Mr. METZENBAUM. I call up amendment No. 907. Before doing so, I ask unanimous consent that members of my staff, Roy Meyers and Tom Hall, have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. Along the same line, yes.

Mr. BELLMON. I ask unanimous consent that Hugh Watson of my staff may have the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays in connection with my amendment 907.

The PRESIDING OFFICER. Let us have the amendment stated first.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment.

On page 2, line 13, strike all after "and" and insert in lieu thereof "to limit interstate pipelines and natural gas producers to a fair rate of return;".

The PRESIDING OFFICER. The yeas and nays are requested on the amendment. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. HANSEN. I rise to make a point of order. The findings sections of the bill has already been amended. It is my understanding that we cannot go back and amend that same findings section a second time.

The PRESIDING OFFICER. Senators will have to indulge the Chair for a moment.

Mr. METZENBAUM. There are 12 seperate sections, I point out to the Parliamentarian.

The PRESIDING OFFICER. Under the counsel of the Parliamentarian, the Chair finds that that section referred to has not been amended. Therefore, the point of order is not sustained.

The Senator from Ohio is recognized.

Mr. HANSEN. Mr. President, I move to lay the amendment on the table.

Mr. METZENBAUM. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay the amendment of the Senator from Ohio on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New

York (Mr. MOYNIHAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 19, as follows:

[Rollcall Vote No. 465 Leg.]

YEAS—64

Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Randolph
Brooke	Haskell	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Heinz	Sparkman
Case	Helms	Stennis
Chafee	Huddleston	Stevens
Chiles	Javits	Stevenson
Church	Johnston	Stone
Curtis	Lavalt	Thurmond
Danforth	Leahy	Tower
DeConcini	Lugar	Wallop
Dole	Mathias	Weicker
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Nelson	Zorinsky
	Nunn	

NAYS—19

Anderson	Hollings	Proxmire
Bayh	Inouye	Ribicoff
Biden	Jackson	Riegle
Bumpers	Kennedy	Sarbanes
Clark	McGovern	Sasser
Cranston	Metzenbaum	
Hathaway	Muskie	

NOT VOTING—17

Abourezk	Humphrey	Metcalf
Culver	Long	Morgan
Domenici	Magnuson	Moynihan
Durkin	Matsunaga	Stafford
Gravel	McClellan	Talmadge
Griffin	McClure	

So the motion to lay on the table the amendment of Mr. METZENBAUM (No. 907) was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

VISIT TO THE SENATE BY THE PRESIDENT OF THE SENATE, THE REPUBLIC OF THE PHILIPPINES

Mr. INOUYE. Mr. President, we are most fortunate to have in the Senate Chamber this morning a very distinguished citizen of the world. With the leave of the Senate, I would like to present him to you. He is the Honorable Gil Puyat, the President of the Senate of the Republic of the Philippines. [Applause.]

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so that Senators may greet our distinguished visitor.

(There being no objection, the Senate, at 10:40 a.m., recessed until 10:42 a.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STENNIS).)

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

AMENDMENT NO. 1058

Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants.

Mr. JOHNSTON. Mr. President, I call up my amendment No. 1058 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment No. 1058.

Mr. JOHNSTON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk read as follows:

Add a new section 28 as follows:

TO ENCOURAGE VOLUNTARY CONVERSION FROM NATURAL GAS TO HEAVY PETROLEUM FUEL OILS IN MAJOR FUEL-BURNING INSTALLATIONS AND ELECTRIC POWERPLANTS

SEC. 28. (a) In order to assure that electric powerplants and major fuel-burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than 90 days after the date of enactment of this Act, promulgate regulations which:

(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel-burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

(2) provide, for a period of not to exceed 5 years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel-burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters, or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to—

(A) the cost of heavy petroleum fuel oil substituted for natural gas,

(B) the cost of fuel transportation, handling, and storage,

(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however*. That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further*. That, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service, and

(3) provide that—

(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline, or

(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

(b) The rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(c) In order to implement this section only, any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

(d) For purposes of this section—

(1) The term "heavy petroleum fuel oil" includes number 4, 5, or 6 fuel oil, petroleum pitch, and other similar heavy petroleum refined products.

(2) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(3) The term "pipeline company" means any person engaged in the transportation of natural gas in commerce.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I yield myself 4 minutes. If my colleagues will give me their attention. I think I can explain very simply an amendment which is being introduced on behalf of myself and the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Let us hear the Senator from Louisiana.

Mr. JOHNSTON. This is a very, very far-reaching amendment, which is very important for the energy crisis—and it is very simple. It is the kind of amendment about which one might think, "Why did

we not think of it before?" Here is the situation.

We have in the States of Louisiana, Oklahoma, Texas, and New Mexico, some 12,636 megawatts of electric generating capacity which is burning natural gas, but has the capacity to burn residual fuel oil. That is over 12,000 megawatts of electric generating capacity. Translated into natural gas, that capacity consumes about 1.3 trillion cubic feet of natural gas per year. Under the coal conversion bill, that we have passed earlier in this session, those plants do not have to convert to coal until 1990. In the meantime they will continue to burn natural gas. Coincidentally we have some 500,000 barrels of (unused) Alaskan heavy crude arriving off the west coast each day. We have a glut or a surplus of heavy crude which is uniquely suited to the production of residual fuel oil. The President has said we cannot exchange this Alaskan crude with Japan, so we must use it in this country. Yet we presently have no use to which this heavy crude may be put. To give you an example of what this Alaskan heavy crude excess can mean, a barrel of South Louisiana sweet, light crude, when refined in a normal gasoline-type refinery yields about 5.5 percent of the barrel as residual fuel oil. When west Texas intermediate crude is used, you get about 10 percent of the barrel as residual fuel oil. But Alaskan heavy crude, when used in an ordinary gasoline refinery, yields 26 percent of the barrel as residual fuel oil. If you configure a refinery to yield a maximum amount of heavy crude, a barrel of Alaskan crude will yield 55 percent residual fuel oil.

Mr. BUMPERS. Is the Senator using heavy crude and residual fuel oil as being synonymous?

Mr. JOHNSTON. Excuse me. Residual fuel oil is produced from heavy crude. Heavy crude is a thick viscose oil such as we have in Alaska. I might add that an excess of Alaskan crude will be greater when we go to full capacity on the Alaskan pipeline. So here we are. We have almost 1.3 trillion cubic feet of natural gas being used where residual fuel oil could be used and we have a surplus of the type of crude oil which is uniquely suited to residual fuel oil production. All this amendment does is authorize those industries which have a supply of gas but can use residual fuel oil, voluntarily to sell that gas for the replacement cost of the residual fuel oil.

That gas is going to be expensive because buying and transporting the residual fuel oil to their factories or to their generating plants is going to cost probably in excess of $3 per thousand cubic feet of gas sold. Hence, we have made our program entirely voluntary. But the proposal can release enough gas to make the difference between shortages in future winters and no shortages. Specifically, shortages in the winter of 1977 were 936.4 billion cubic feet, and we have 1.3 trillion cubic feet which could be released under this proposal.

Mr. President, I also point out that this amendment is very environmentally sound. It is much cleaner to burn this residual fuel oil than it is to burn coal. This amendment, however, is not going to retard the conversion to coal because, first, coal conversion is not mandated until 1990, and, second, this amendment authorizes the sale of gas only for a period of 5 years. This amendment is aimed at the short-term problem and the next 5 years is going to be the most critical in terms of natural gas.

Mr. NELSON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes. Let me say one thing before I do, and then I will yield to my distinguished colleague from Wisconsin.

I must tell you that we have been in contact with the new Chairman of the Federal Power Commission, which will change because the Federal Energy Regulatory Commission—FERC for short—and we are advised that the amendment needs some fine tuning. We are perfectly willing and anxious and happy to do that. The fine tuning will be made when we get to conference on this amendment. We will have to make it clear that the gas that could be sold under this amendment cannot be that gas which is subject to FPC curtailment orders because this in turn would conflict with the problems of the FPC or with FERC. We are perfectly happy to do that.

We also want to make perfectly clear that the incremental pricing scheme under this amendment is limited to the gas released under the amendment.

So, Mr. President, I think that this can be one of the most significant amendments that we have considered during this whole gas bill. This provides a way to permit gas to be released voluntarily to those who need the gas—and hopefully avoid the problems we had last winter.

I will yield to my distinguished colleague from Wisconsin.

Mr. NELSON. I just had two questions.

Mr. JOHNSTON. Yes.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator has used his time. Each Senator now is charged with the time he uses in answering questions; is that right? Is that the procedure?

Mr. JACKSON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I think it is charged to the Senator.

The PRESIDING OFFICER. All right. The Chair understands it better now. All right.

Mr. JACKSON. Mr. President, what price would be allowed for the released gas? Could the Senator give an indication?

Mr. JOHNSTON. Yes; the price is not specifically stated, but rather is to be fixed by the FPC based upon the cost of burning that individual fuel oil. The price will include the cost of buying the resid, the cost of transporting the resid, and minor modifications to the oil-burning capacity.

Mr. JACKSON. But not capital, large capital investment?

Mr. JOHNSTON. Not capital expense, no. Absolutely not.

Mr. JACKSON. Are we talking about $3, or what is the ball park figure?

Mr. JOHNSTON. The ball park figure would be over $3 and less than $4. I would guess $3.50.

Mr. JACKSON. Let me ask. Would interstate pipelines be able to buy the released gas?

Mr. JOHNSTON. Yes.

Mr. JACKSON. This becomes very important. If so, what impact would this have on the curtailment plans? The Senator started to allude to that.

Mr. JOHNSTON. We want to make perfectly clear, and I am willing to fine tune the amendment to make it perfectly clear, that the amendment has no impact on curtailment plans. In other words, we would not want to allow an industry that is going to be subject to curtailment next month to sell its gas at this premium price when next month it would not have the gas because it would be curtailed. So we are perfectly willing and anxious to fine tune it accordingly.

Mr. JACKSON. The whole purpose of the Senator's amendment is to provide an incentive and an inducement for the large utilities and iindustrial users, as I understand it, who are now burning natural gas, to turn to resid.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. This is especially true in connection with the large amount of oil that will be coming down from Alaska by way of the canal. Is this not correct?

Mr. JOHNSTON. That is correct.

Mr. JACKSON. And the Alaskan oil is a heavy oil and the resid content runs percentagewise very large. Is that correct?

Mr. JOHNSTON. That is right. We have to do something to get some incentive for domestic refiners to obtain the capacity to refine this heavy crude. Over two-thirds of our domestic refiners cannot now do so. One of the great things about this amendment is that it will help create a market for the heavy crude.

Mr. JACKSON. Is this limited to intrastate users that are now using intrastate gas, or is it both? What gas would be eligible?

Mr. JOHNSTON. In its present form it is not limited to intrastate gas. But we want to fine tune the amendment in conference to make sure that it is either limited to intrastate gas or, if we include interstate gas, then that gas is not subject to curtailment because it is not the intent of this amendment to avoid any curtailment jurisdiction.

Mr. JACKSON. As I understand it this would not have an adverse impact on curtailment plans as I understood the response earlier.

Mr. JOHNSTON. Absolutely not.

Mr. JACKSON. Is that correct?

Mr. JOHNSTON. That is the intent of the amendment.

Mr. JACKSON. There is a rather large amount of gas, so we all understand, I think we are talking here—I do not know whether the figure includes interstate, or just intrastate—but it is close to a trillion cubic feet.

The PRESIDING OFFICER. Let us

have quiet. Senators go outside and carry on their business.

Mr. JACKSON. What is the approximate estimate of the gas that would be eligible under this amendment?

Mr. JOHNSTON. We calculate 1.3 trillion cubic feet is eligible. It is a voluntary program.

Mr. JACKSON. That is out of a total of about 20 trillion cubic feet or at least that is the demand factor.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. At least the use factor last year or this year has run about 19 point something.

Mr. JOHNSTON. That is right. If all eligible gas is released under this amendment, more gas would be released than was curtailed in 1977.

Mr. JACKSON. Mr. President, because of the restrictive rule that we are operating under, it is not possible to modify the Senator's amendment here on the floor. I would be willing, if this matter is in conference, to see if we could not work out a solution which will provide the incentives that we seek in moving from gas to the residual oil, which will appear in substantial quantities over and above what is now in the Gulf State market area, I would be willing to accept the amendment.

Mr. METZENBAUM. Will the Senator yield?

Mr. EAGLETON addressed the Chair.

Mr. JACKSON. I understand the same matter impacts on the State of Missouri.

Mr. EAGLETON. Mr. President, I am pleased to join the distinguished junior Senator from Louisiana (Mr. JOHNSTON) in sponsoring this amendment.

Last winter, industries across this country, including some in my own state of Missouri, were forced to shut down or eliminate shifts because of shortages of natural gas. Regardless of what Congress does about the pricing of gas, shortages of this kind are going to continue for many years to come. I think it is imperative to take advantage of every cubic foot of gas that can be diverted from non-essential use to help meet such shortages. It has been estimated that more than a trillion cubic feet of gas could be made available to the interstate market by the amendment now before the Senate, more than the total of last winter's shortages. The companies that have this gas under contract cannot be expected to give it up out of altruism, even though they have the capability of switching to heavy heating oil. It has to make cents—dollars and cents—for them to do so and that is what this amendment provides.

Briefly, it would allow utilities and other major users which have supplies of natural gas under contract but which have the capability of burning heavy fuel oils to offer that gas in the market place at a price calculated to offset the added cost of burning oil. Without such an assurance of covering conversion costs these companies will certainly take advantage of the low-cost gas available to them even for such wasteful practices as firing boilers.

A second benefit of this amendment is that it would create a market for heavy residual fuels which are the unavoidable byproduct of refining gasoline and diesel oil. In many parts of the country today these residual oils are in surplus. That surplus will grow in the years ahead as a larger and larger proportion of domestic oil production will be made up of sour crude. Usually, the higher the sulfur content of oil, the heavier the gravity of that oil and thus the greater the amount of residual oils produced. Alaskan oil, for example, is expected to produce 25 percent residuals compared to less than 10 percent for low sulfur Louisiana sweet crude.

Mr. President, I think this is an excellent amendment which will help us weather the gas shortages that are inevitable in winters ahead. It is not an answer to our energy problem, but it can buy us time while we seek to provide those long range solutions. I urge adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. SCHMITT. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I do not have the floor, but I shall be happy to yield for a question only, if the Senator can get the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Will the Senator from Louisiana say again what the inducement is for the utility or any other user to shift to the use of residual fuel oil?

Mr. JOHNSTON. These utilities or other users have a supply of natural gas now, but also have the ability to burn oil. Under the amendment, they can sell that natural gas at the replacement cost of residual fuel oil. In other words, let us say it costs the utility or user the equivalent of $3.50 a thousand cubic feet of gas to burn the residual fuel oil. Then, an amendment would allow him to sell his gas for $3.50, buy residual fuel oil, and burn it in his oil-burning boilers.

Mr. SCHMITT. I just wanted to be sure that incentive was clear.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I understand that the proposal by the distinguished Senator from Louisiana would provide that the Federal Energy Regulatory Commission would make these different computations that are called for on pages 2 and 3 under A, B, C, and D, among other factors, in arriving at the replacement cost of the natural gas that might be released if an alternate fuel were to be burned.

My question is, suppose the clerk went through that exercise and concluded that the replacement cost of natural gas would be $3.50 a thousand. Let us assume further that no interstate pipeline is willing to pay that amount. My question is, May the utility, or whatever it is that is switching over from one fuel to another under this proposal, negotiate whatever sort of price might be mutually arrived at between the fuel-burning installation and the pipeline company?

Mr. JOHNSTON. Well, so long as they negotiate this price below $3.50, if that is the price that the FPC has determined.

Mr. HANSEN. That is in my question, of course.

Mr. JOHNSTON. Yes, they can do that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I raise a point of order. I do not believe this amendment is germane. It covers a different subject than that which is covered in the original amendment.

The PRESIDING OFFICER (Mr. ZORINSKY). The Chair reads the amendment as having the prime purpose of converting from natural gas to residual fuel oil. There is nothing in the bill or either of the substitutes dealing with conversion. Therefore, this amendment introduces a new subject and the point of order is sustained.

Mr. JOHNSTON. Mr. President, this is a pricing amendment. It deals with the price of natural gas and the deregulation of the price of gas sold by industrial users because they switch to residual fuel oil.

Mr. METZENBAUM. Regular order, Mr. President. The Chair has ruled.

Mr. JOHNSTON. Mr. President, I ask the Parliamentarian to reconsider. I think the ruling is just dead wrong.

Mr. METZENBAUM. Mr. President, regular order. The Chair has ruled.

The PRESIDING OFFICER. The Chair will read the purpose of the amendment as stated by the drafter himself. "Purpose: To encourage voluntary conversions from natural gas to heavy petroleum fuel oils by electric powerplants." The point of order is sustained.

Mr. JOHNSTON. Mr. President, I ask for the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Ohio may think he has accomplished something very nice by having this amendment ruled out of order. The State of Ohio suffered more, I guess, than any other State by last winter's curtailments. Mr. President, we are trying in the Senate to achieve a natural gas policy and an overall energy policy. The rules of the Senate can be stretched all over the lot if we want them to be. But I suggest to the Senator from Ohio that he ought to start thinking about the State's supply of natural gas and how he is going to get natural gas in Ohio. This is one way he could have gotten it from people in Louisiana.

I am not going to seek to overrule the Chair, although I think the Chair was dead wrong. But I can say that if we do not do something, people are going to be unemployed in Ohio. I do not know whether the Senator saw the New York Times article of yesterday. It shows that 20 to 40 percent curtailments in Ohio are predicted for next winter. I do not know what the Senator is going to do about that. I had an amendment here that was designed to help. It may not have been a perfect amendment, but it was designed to help. I offered to go to conference and try to fine-tune it if there were some objections to it.

I think it is time for the Senator from Ohio to think about what he is doing

here and what he is trying to accomplish. I think it is time to accomplish something for natural gas supply in this country and not just a time to stretch the rules to try to stop any legislation.

Mr. EAGLETON. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NUNN. Mr. President, will the Chair state the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Shall the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment?

Mr. HANSEN. Will the Chair repeat that, please?

The PRESIDING OFFICER. Should the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment, which the Chair held was not germane?

Mr. BUMPERS. Mr. President, before the rollcall starts, for the edification of all Members, will the Chair state what the ruling is and what it is based upon?

The PRESIDING OFFICER. The Senator from Ohio made the point that the amendment of the Senator from Louisiana was not germane and, therefore, not in order under rule XXII, since cloture has been invoked.

Mr. BUMPERS. Will the Chair state what the ruling was that is being appealed?

The PRESIDING OFFICER. The Chair held it was not germane because of the primary purpose of the author of the amendment, himself, which is stated as "To encourage conversion by powerplants." There is nothing in the bill or either of the substitutes dealing with conversion.

Mr. EAGLETON. One further question: An aye vote would sustain the ruling of the Chair; a nay vote would reverse the ruling of the Chair.

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 22, nays 70—as follows:

[Rollcall Vote No. 466 Leg.]

YEAS—22

Abourezk	Brooke	Byrd, Robert C.
Bayh	Byrd, Harry F., Jr.	Cannon
Biden		Case
Culver	Long	Ribicoff
Hatfield	McGovern	Talmadge
Huddleston	Metzenbaum	Wallop
Inouye	Moynihan	Weicker
Kennedy	Proxmire	

NAYS—70

Allen	Gravel	Packwood
Anderson	Griffin	Pearson
Baker	Hansen	Pell
Bartlett	Hart	Percy
Bellmon	Haskell	Randolph
Bentsen	Hatch	Riegle
Bumpers	Hathaway	Roth
Burdick	Hayakawa	Sarbanes
Chafee	Heinz	Sasser
Chiles	Helms	Schmitt
Church	Hollings	Schweiker
Clark	Jackson	Scott
Cranston	Javits	Sparkman
Curtis	Johnston	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Lugar	Stone
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Muskie	Zorinsky
Garn	Nelson	
Glenn	Nunn	

NOT VOTING—8

Goldwater	McClellan	Morgan
Humphrey	McClure	Stafford
Magnuson	Metcalf	

So the ruling of the Chair was rejected.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Louisiana, amendment No. 1058.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 25, nays 67, as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—25

Abourezk	Javits	Ribicoff
Brooke	Kennedy	Riegle
Case	Mathias	Sarbanes
Clark	McGovern	Sasser
Culver	McIntyre	Scott
Durkin	Metzenbaum	Talmadge
Hathaway	Moynihan	Weicker
Hollings	Muskie	
Inouye	Proxmire	

NAYS—67

Allen	Bentsen	Byrd, Robert C.
Anderson	Biden	Cannon
Baker	Bumpers	Chafee
Bartlett	Burdick	Chiles
Bayh	Byrd, Harry F., Jr.	Church
Bellmon		Cranston
Curtis	Hayakawa	Percy
Danforth	Heinz	Randolph
DeConcini	Helms	Roth
Dole	Huddleston	Schmitt
Domenici	Jackson	Schweiker
Eagleton	Johnston	Sparkman
Eastland	Leahy	Stennis
Ford	Long	Stevens
Garn	Lugar	Stevenson
Glenn	Magnuson	Stone
Gravel	Matsunaga	Thurmond
Griffin	Melcher	Tower
Hansen	Nelson	Wallop
Hart	Nunn	Williams
Haskell	Packwood	Young
Hatch	Pearson	Zorinsky
Hatfield	Pell	

NOT VOTING—8

Goldwater	McClellan	Morgan
Humphrey	McClure	Stafford
Laxalt	Metcalf	

So the motion to lay on the table Mr. JOHNSTON's amendment (No. 1058) was rejected.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. JOHNSTON. Mr. President, I suggest that the call for a quorum is dilatory in view of the fact that a quorum was just established by the past vote.

Mr. LONG. It is dilatory to suggest the absence of a quorum.

The PRESIDING OFFICER. The point of order of the Senator from Louisiana is well taken.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table that appeal.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the motion to lay the appeal on the table.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. There has been intervening business since the last quorum call.

Mr. LONG. Mr. President, a quorum is present. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. LONG. Mr. President, we have voted on this previously. When there is clearly a quorum present, and we have voted on this, then it is dilatory to suggest the absence of a quorum.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The point of order is well taken.

The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I seek recognition on this.

The PRESIDING OFFICER. It is not debatable.

Mr. ABOUREZK. The point of order is debatable.

Mr. LONG. A point of order is not debatable.

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt and requests a division.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Those in favor will stand.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 74, nays 18, as follows:

[Rollcall Vote No. 468 Leg.]

YEAS—74

Allen	Ford	Nelson
Anderson	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Randolph
Biden	Haskell	Roth
Bumpers	Hatch	Sarbanes
Burdick	Hatfield	Sasser
Byrd,	Hayakawa	Schmitt
Harry F., Jr.	Heinz	Schweiker
Byrd, Robert C.	Helms	Scott
Cannon	Huddleston	Sparkman
Chafee	Jackson	Stennis
Chiles	Javits	Stevens
Church	Johnston	Stevenson
Clark	Lavalt	Stone
Cranston	Leahy	Talmadge
Curtis	Long	Thurmond
Danforth	Lugar	Tower
DeConcini	Magnuson	Wallop
Dole	Matsunaga	Williams
Domenici	Melcher	Young
Eagleton	Moynihan	Zorinsky

NAYS—18

Abourezk	Hollings	Metzenbaum
Brooke	Inouye	Muskie
Case	Kennedy	Proxmire
Culver	Mathias	Ribicoff
Durkin	McGovern	Riegle
Hathaway	McIntyre	Weicker

NOT VOTING—8

Eastland	McClellan	Morgan
Goldwater	McClure	Stafford
Humphrey	Metcalf	

So Mr. JOHNSTON's amendment (No. 1058) was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. (ANDERSON). The Senator from West Virginia is recognized.

COMMITTEE MEETING DURING SESSION OF SENATE TODAY

Mr. ROBERT C. BYRD. Mr. President, in accordance with the rule the distinguished minority leader and I join——

Mr. METZENBAUM. Mr. President, I do not wish to object, but I just cannot hear the majority leader.

The PRESIDING OFFICER. May we have order.

Mr. ROBERT C. BYRD. Mr. President, in accordance with the requirements of the rules, the distinguished minority leader and I join in granting consent to the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary to meet this afternoon at 2 o'clock in the office of the Senate President pro tempore.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. METZENBAUM. Mr. President, I call up an amendment.

Mr. CRANSTON. Will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. Is it in the nature of staff on the floor?

Mr. CRANSTON. Yes.

Mr. METZENBAUM. Yes, I yield.

Mr. CRANSTON. I ask unanimous consent that Kathryn Files of my staff may have the privilege of the floor throughout consideration of this measure and for all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 922

Mr. METZENBAUM. Mr. President, I call up amendment No. 922.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment on page 3, line 4, strike lines 4 through 7 and insert:

"(6) estimates of the proven reserves of natural gas by the gas trade association have declined to a substantial degree because of downward revisions while demand for this premium heating fuel and relatively inexpensive fuel has increased;".

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. In doing so, I want to make it clear to the Members of the Senate that I only do so by reason of a failure to obtain a sufficient second and would prefer not to use that procedure.

Mr. TOWER. Will the Senator withhold that request for a moment?

Mr. METZENBAUM. I will.

Mr. TOWER. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Idaho (Mr. MCCLURE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 25, as follows:

[Rollcall Vote No. 469 Leg.]

YEAS—64

Abourezk	Ford	Packwood
Allen	Garn	Pearson
Baker	Glenn	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Sasser
Burdick	Haskell	Schmitt
Byrd,	Hatch	Schweiker
Harry F., Jr.	Hatfield	Sparkman
Byrd, Robert C.	Heinz	Stennis
Cannon	Helms	Stevens
Case	Huddleston	Stevenson
Chafee	Javits	Stone
Chiles	Johnston	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
DeConcini	Lugar	Wallop
Dole	Magnuson	Weicker
Domenici	Mathias	Williams
Durkin	McIntyre	Young
Eagleton	Melcher	Zorinsky
Eastland	Nunn	

NAYS—25

Anderson	Hart	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Sarbanes
Cranston	Matsunaga	
Culver	McGovern	

NOT VOTING—11

Goldwater	McClure	Riegle
Hayakawa	Metcalf	Scott
Humphrey	Morgan	Stafford
McClellan	Nelson	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have a few remarks I wanted to make, and I shall yield myself so much time as I may use.

I was hoping the majority leader would be here.

Mr. ABOUREZK. May we have order in the Chamber, Mr. President?

The PRESIDING OFFICER. May we have order, please?

Mr. BUMPERS. Mr. President, I believe my position on this whole subject of deregulation is well known. I am not going to address issues, pros and cons, because they were debated before cloture. But I do want to say that I have told everybody that I would not vote for a

suspension of the rules; that I feel the Senator from South Dakota and the Senator from Ohio are operating within their rights under the rules of the Senate, which I have always considered an anachronism. I am not willing to change the rules of the game in the middle of the game. I do hope that we will be able to break this impasse sometime in the next 24 to 48 hours so that we can get a bill.

I think everybody understands the difficulty of working out a compromise when there are so many amendments. It is a fact that once cloture is voted you can no longer mix up the amendments, you cannot put them together, you cannot offer new compromises. I invite attention to the four options which I see exist.

First of all, we have Pearson-Bentsen No. 2, which is at the bottom of the list; the Jackson substitute, which is just above that; then Pearson-Bentsen No. 1, just above that, and then finally I suppose the bill is the fourth option. Those are the only things this Senate will have an opportunity to vote on if we are to break this impasse.

Unhappily, as I say, there is no in-between.

I am hoping that somehow or other lightning will strike this body and we will be able to come up with a bill.

There are those who say, "I would rather have nothing than either the administration bill or Pearson-Bentsen." I am inclined that way myself. I personally feel that $1.45 is adequate. As I said, I do not want to get into that. I am willing to support the administration measure. I am reluctant to commit myself firmly, but I believe I would vote for the Jackson substitute, which puts the cap at $2.03.

Mr. CURTIS. Will the Senator yield for a question?

Mr. BUMPERS. If the Senator will permit me to finish, I will yield to him on my time.

So that is where we are. If we do not come out with a bill, I remind my colleagues that we are consuming about 19 trillion cubic feet of gas a year in this country and between 7 trillion and 8 trillion cubic feet of that total is being used in intrastate commerce in the States of Oklahoma, Texas, and Louisiana.

The distinguished Senator from Texas (Mr. BENTSEN) said in the beginning of debate, "You will not hurt my feelings if we do not have a bill."

I did not really understand what he was saying at the time, but I do now because all the electricity in Texas, is being generated in a wasteful way—using gas.

Unless we come up with some kind of bill which we can take to conference with the House, that intrastate market is going to stay isolated from anybody's control. That gas will not ever move in interstate commerce to solve the problems of some of the States that are going to suffer inordinately this winter if we have anything like the harsh winter we had last winter.

Finally, Mr. President, I honestly believe that the Senate can operate in a more productive way than we have been operating for the last 24 hours. I do not think we have to prove our masculinity to the American people by working 24 hours a day.

I can say I have heard the term "outrage" used here to characterize almost every action of the Senate in the past 3 or 4 days. In my opinion, if the American people have a right to be outraged by anything, it is all the news reports I heard this morning about Senators walking onto the floor in their house shoes, groggy, and not knowing what they were voting on.

My constituents have a right to expect me to walk in here with a clear mind and to vote intelligently on all the 33 or 34 votes we have had in the last 24 hours.

I know the majority leader has a duty. I respect him, and I will do everything I can to assist him in carrying out his responsibilities.

I do not believe there is a Senator in this body who will admit to getting over 1 hour of sleep last night. I have not heard anybody say they have had more than that. One does not have to be broken out with brilliance to know the mental condition of this body right now.

Mr. President, I hope that the majority leader would seriously consider recessing this afternoon for 4 or 5 hours to allow us a little respite or, if he chooses in the alternative, to go to 7, 8, 9 or 10 o'clock tonight, and let us go home and sleep until in the morning. I believe the American people will respect us just as much for a 16-hour day as they will for a 24-hour day.

Mr. President, I have used up some time that maybe is not very productive. I do not have any amendments. I just wanted to get those things off my mind for whatever they are worth. As I say, I will give the same sentiments to the majority leader personally. I was hoping he would be in the Chamber. I hope other Members of the Senate will do likewise.

I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished friend. The time may be charged to me.

Is it not true that there have been at least two test votes on Pearson-Bentsen and a clear majority of the Senate favored that proposal each time? Is that true?

Mr. BUMPERS. I believe the Senator is correct. I cannot verify his statement because there have been so many votes in the last few days.

Mr. CURTIS. If that be true, then someone is throwing a roadblock in the majority of the Senate's working its will, and if a majority is agreed upon a proposal, what right, by tactics, delays, begging, oratory, or any other method, does the minority have to demand a compromise when there is a clear majority favoring a proposal which could be passed in the next hour?

Mr. LEAHY. Mr. President——

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I would like to associate myself with the remarks of my good friend from Arkansas.

I think one of the problems with the city of Washington is that we are so parochial here and so insular, we actually believe that the rest of the country is interested in some of the things in which we seem to be interested. I have the feeling the national news media go around interviewing each other. We end up trying to develop the consensus around the country by simply talking to each other instead of going out there.

I noticed one of the local papers had a huge headline about the Senate being in an all-night-long filibuster. I daresay that in 90 percent of the newspapers upon which the people of this country read and determine their own opinions, the story would probably rate a page 8, 10, 15, or so forth, depending upon the size of the newspaper.

The point is this: We can sit here and it is sort of like marching up and down the hill. We go ahead and vote on a word here and a word there, and vote whether we will reconsider or table, or vote to find the Sergeant at Arms, or maybe the Sergeant at Arms is supposed to find us. Whatever, it is about that significant. The American people will sit back wondering are we going to vote an energy policy, vote one up or vote one down.

I do not happen to favor deregulation, but I do not favor in any way steps which are going to stop us from reaching a vote one way or the other on that question. I do not think we prove anything by being able to say, "We were in session for 30 hours yesterday," or whatever it might be. It really makes about that much sense. We can talk about the hundreds of rollcall votes we have had. We can talk about all the Saturdays and all the evenings and all the days we have been here. I can tell you, Mr. President, the one question I will get from my constituents back in Vermont, whom I visit once a week will be, "OK, Pat, what did you pass in the way of energy legislation?"

Mr. DOLE. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. DOLE. I believe I can demonstrate the point made by the Senator. I was walking around last night and a lady who happened to be a tourist was very happy the Senate was open because the zoo was closed.

[Laughter.]

Mr. LEAHY. I am not willing to concede it is quite that bad. In fact, I have an enormous respect for this body. From as long as I can remember even as a child I wanted to be in the U.S. Senate. I ran for this body with the first election that came up in our State after I reached the constitutional age of 30. I am extremely proud and I am extremely pleased to be here. There is no greater honor I could ever receive than to represent the people of Vermont in this body.

Having said that, Mr. President, I think all of us should sit back and question just exactly what it is we are doing here; to what extent are we reflecting our own personal biases, our own personal gratification, our own personal whim, and to what extent are we representing the constituents from our individual States; to what extent are we representing the national interest which we must represent when we hold the highest legislative office in this country?

Mr. President, maybe it might be wise for all of us to step back from the whole

scene for a short while, as my good friend from Arkansas has suggested, and ask just what are we going to do to represent the national interest that might be created among some of us within the cloakrooms, within the marble rooms, not an interest that might be because particular newspapers can fill up space by going back and forth talking about how many Senators came in with ties on or off.

I do not mind the long hours. I can go several days without sleep and it does not bother me. But I question again whether that answers the problems of this country, or whether they are not better answered by us stepping back, taking a fresh look, and then coming in and voting specifically on the issue before us, win or lose.

Mr. STEVENS. Mr. President, I ask unanimous consent that Dick Getzinger be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, in the wee hours of this morning I commented upon the Alaska gas situation and what it means in this current debate. Briefly, I would like to repeat that.

When the Alaska gas from Prudhoe Bay reaches the south 48, as we call it, that will be about 10 percent of our supply. The cost of bringing it down here, just in terms of the transportation cost alone, will exceed the price that the administration and those who are opposing Pearson-Bentsen are willing to permit gas produced in the south 48 to be sold for here.

This is taking place notwithstanding the fact that we are buying gas from our Canadian neighbors in excess of the limitation the administration seeks to impose; notwithstanding the fact that the new gas from Mexico will come in at a cost exceeding that price; notwithstanding the fact that the alternative sources of energy, such as imported LNG or SNG, both exceed this price which could be paid.

We talk about stimulating an increase of supplies from the south 48. I happen to believe that there is no way that the investor's dollar is going to be used in the south 48 to stimulate the development of the remaining gas resources in the south 48 unless the price is somewhere near that which we are presently paying Canada, which we have indicated we are willing to pay to Mexico, and which we are in fact paying to Indonesia and Algeria for imported LNG.

My State faces the proposition of trying to develop the vast gas and oil resources of an area that is one-fifth the size of the United States in a period of extreme regulation. We face the question of financing the cost of building this transportation system the President has recommended, which will exceed $14 billion, in a period of time when uncertainty as to pricing caused by arbitrary Government action fails to bring into balance supply and demand in accordance with normal free enterprise concepts under our system.

Unless we are willing, as the Canadians in fact have already done, to allow the price of natural gas produced in the south 48 States to drift toward the cost of alternative fuels, particularly foreign oil or foreign LNG or SNG, we will not see the production of the vast gas resources of my State. No one in his right mind is going to put money into exploration and development in the frontier and OCS areas if, in fact, he can participate in the development of gas in Mexico, in Canada, in Indonesia, or in Algeria, and sell that gas to the same United States customers without the regulation which is imposed by an arbitrary Government fiat coming from an erroneous Supreme Court decision in the Phillips case.

Again, my friend from Arkansas says that some of us may be too tired and some of us may not realize what we are doing. I happen to think that honorable compromise is the logical goal of participation in the legislative process.

I am sorry that my friend from Kansas repeated that comment made by a tourist about this body because no matter what anyone says, I join the Senator from Vermont in being very proud to be here. I do not care whether it is 24 hours a day or 24 minutes a day, but whatever is necessary to accomplish the goals which bring about enactment of sound legislation, to develop sound policy, to provide a national energy policy for this Nation, we must do.

To lose sight of the fact that we are paying foreign producers much more than we are willing to pay our own producers, the fact that that in and of itself is bringing about a situation where our supplies are ever diminishing and our demand is ever increasing, and we are now going toward the point where we will not only be relying upon foreign oil but we will be relying on foreign gas to the detriment of the development of the frontier and Alaska gas resources as the end result, I think, is unfortunate.

This is not a battle of futility, so far as I am concerned. It is a battle of real reality. Is the Senate going to restore the free enterprise system of the United States as far as energy supplies are concerned. If it is, we must pass at least the Pearson-Bentsen amendment. That, in and of itself, is a compromise over what I would seek.

I would seek a restoration of market forces. This is a transitional amendment which leads toward the ultimate goal that many of us seek. But it is not as immediate and it is not as abrupt as might occur if we were to bring about the immediate result of deregulation.

But I say in answer to my friend from Arkansas that I hope those of us who believe in the free enterprise system will stand steady.

I do not care, for one, whether we pass this bill on December 31. I am prepared to stay here as long as we must stay here to see to it that we restore the free enterprise system in the development of the oil and gas resources of this Nation so that my State can participate in that system and not face the ultimate question—and this is my last comment. The ultimate question is, if we continue on the policy that we are pursuing now, whether we want to nationalize the oil and gas industry? The worst thing that could happen to my State would be to see that the oil and gas resources of Alaska are developed by the Federal Government and not by the system that developed the total supply of the south 48 over the whole history of the oil and gas industry in this country.

Mr. HOLLINGS addressed the Chair.

Mr. STEVENS. I am glad to yield for a question if the Senator has one. I see my friend from South Carolina seeks the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the words of the Senator from Arkansas prompted me to just momentarily join back into the debate that began in this Senator's experience some 10 years ago when as a member of the Commerce Committee Senator MAGNUSON asked that I conduct hearings for the brownouts and the black-outs up East in 1965 and 1966.

If the Senator from Alaska will stay and listen, we are going to talk about American free enterprise and get away from this Algerian cartel controlled issue. That is government control that the Senator from Alaska is asking us to compete with. When he talks of the Canadian gas he is talking about a $7 wellhead tax. When he talks about Saudi Arabia, and all the rest, he is talking about the OPEC cartel.

Mr. STEVENS. Mr. President, is the Senator asking a question or making a statement?

Mr. HOLLINGS. I am making a statement to the Senator from Alaska that in the name of American competitive free enterprise let us be honest with ourselves. We have not been granted the luxury. That is one lesson out of the 10 years' experience.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HOLLINGS. We are not granted the luxury of actually decontrolling and deregulating, and that crowd knows it. And the issue is greed. They are intelligent enough to know that if the U.S. Congress does not control it the Arabs' Congress is going to control it. Now, that is the issue.

I am not going to yield because I have listened to the Senator from Alaska and he is going to have to listen to me unless he leaves the Chamber.

Mr. STEVENS. I want to say that I am not going to leave. I am glad to respond to questions if the Senator wishes me to do so.

Mr. HOLLINGS. Mr. President, I am going to bring this into focus.

As to welfare, to fairness, and to free enterprise—all that is sloganing.

As to the statement "going to nationalize gas," that is the biggest bunch of nonsense in the world.

As far as "We are going to get back to the American free enterprise system," that choice is not before us.

The news media has taken up the singsong of decontrol, deregulate versus regulate. They never have gotten to the heart of the matter. It is absolutely impossible in this day and age, as long as that OPEC cartel continues, to get decontrol. That has been the tail wagging the dog in this whole issue, and that is why over the last 10 years we have looked to see if we were really being punitive. Are we being blind or butt-headed with respect to our national policy? Or do they really want a national policy?

I guess if I were one of the gas company owners—and I know many of them—I would confirm it is the greatest bonanza that has ever hit the American business development in the history of this country, it has grown under regulation to the sixth largest industry, and perhaps now the fifth, in stocks, returns, and dividends.

All one has to do is look to the most recent reports. Last month in a report from Business Week, on page 60 of the August 1 edition, natural gas rather than oil is capturing most of the investors' attention lately. Rapid price increases have made exploration for natural gas in the United States the most profitable area in the energy business. That is from Kurt Wulff, vice president of Donaldson, Lufkin & Jenrette.

"There's very little chance that gas prices could fall."

I refer to Bear Sterns and all the rest.

But they have painted a picture. The choice is between regulation and no regulation.

As to the statement that we could get really to a free market, that was stated knowing absolutely it is a total myth. They paint a picture of a weak, limping, gagged, strangled, stulified industry that cannot move due to the intransigence of Congress.

I can tell Senators here now it is moving. It is moving as fast as it can go. Their own facts show it.

They all leave the Chamber. Where did they all go, that oil and gas crowd, the Phillips 66 team. I want to get to them. Most of them have left.

I can tell Senators what it says. Unfortunately, the most recent report is only July. I wish we had August's report.

But under regulation, under this so-called strangulation, look at what occurred to rotary rigs in operation, as reported by Hughes Tool Co. and as reported by the American Petroleum Institute. Look at what has happened.

I say to the Senator from North Carolina one only has to go down the list. The average from 1972 was 1,107 rotary rigs in operation. By 1973 they had gone up to 1,194. By 1974 it had gone to 1,475, after the October 1973 Arab cartel's fixing of prices which forbids you and me from the private competitive free enterprise and market forces. Then in the same breath they talk about Algeria and talk about Saudi Arabia and all the other places that have fixed prices, and they talk about this, returning it to market forces. That is returning it to cartel forces.

In 1975 the average was 1,660. They are drilling more every year.

They would have us believe in the national media that they are going out of business. But they are gearing up and going, and they are going and they are going.

It is not a question, Mr. President, of taking a strangled, stultified, arrested industry, but taking the most prosperous there is, and translating a good operational mechanism into a greedy operation. That is all this is. It is just outright greed.

They have seen the vote, and they are trying to blame the 40-some Senators here who have been trying to save the American Congress.

Why do we continue to debate? We continue to debate because the majority of this Senate, if we are going to look at the majority, have constantly voted against inflation, and will hopefully do so, this year. That is why I am against my own gas guzzler tax.

I introduced the automobile fuel economy bill 4 years ago, and we had a carrot and a stick—the gas guzzler tax. I told the administration long ago to just forget about the gas guzzler tax, and the increase in gasoline prices, and the wellhead equalization.

How can I talk with any kind of persuasion that we should avoid $71 billion in inflation in one breath and get crude oil equalization of $23 billion worth of inflation in the next breath?

So Congress is going to save, in a sense, the White House and the administration, and maybe business, the free enterprise system and the American stock market if we can adjourn before all of these new taxes, social security, energy tax, and on down the line are enacted.

We talk about tax reform. I have been around here for five of them. That means more taxes. There is no mystery. There is no mystery who we have on board. The business community is awaiting free market forces to be regenerated by Congress to give them a fair chance to operate.

We are not talking here in the last 24 hours for a fair chance.

In 1976 they went up to 1,656, and the average in the year 1977 of rotary rigs in operation is 1,915.

The morning Post will have all the dry wells under the wet board. They know where and how to run their ads. We have seen that crowd operate over the years in this body.

It was inundated with bribes in 1955 when President Eisenhower had to veto it.

Bless old Carter. He is going to veto. That majority might as well get it through their heads.

That is why they are still talking. We are going to be saved perhaps by the White House, the House of Representatives, and the decent fair judgment of the majority of this body.

We think this present 41 votes can pick up another five, six, or seven votes, and get a majority so that we can get into the realm of fairness.

I never forget in having this hearing some 3 years ago, and we were talking at that time about bringing this picture into perspective. The Senator from Kansas was there and we were dealing at the time.

The average price of natural gas per Mcf is a little over 61.8 cents today in America. Many of the contract deliveries are really at or below 32 cents. Why are they talking about holding the line and not letting it go at $1.75? It is because if I am delivering with 32 cents, in many instances I can pay $4. I can pay $4.50. I can blend it into a $2.50 or $2.60 level and be competitive.

What is it going to do talking about sitting up here late nights? What are the people going to be able to do? They are not going to be able to sit up late at night. They are going to be huddling in some cold corner of America where they cannot stand the inflation and cannot pay the price. And the greedy crowd is going to spin it off into costs.

I came from a country that did just that. I wonder about it. I got back from Argentina, which is the richest country in the world in natural resources. They have hydroelectric power, water, cattle raising, the greatest fields in agriculture one has ever seen, and uranium. They have a wonderful ethnic and cultural heritage, a high intellectual and educational level, with every advantage in the world, except the consciousness on the part of the business community—greed. That is what they have.

The economic minister sat there and said, "Senator, every time they came and demanded more, they said give it to them. They would give them a 300-percent increase in benefits and they ended up with 600-percent inflation. In March of last year they ended up with a 970-percent inflation rate per month. That was in March of last year. And the country has just come down in heaps. That is why they are struggling, trying to reengender a consciousness within the various elements and institutions of society to accept some responsibility to build their society.

Now you have got it. When I asked that question 3 years ago, trying to get where they were going, gas was 30 some cents at that time. We got them up to 52 cents. About that time, the Federal Power Commission made their ruling. We argued 60 cents. I have talked with the Senator from Kansas about 65 cents, 70 cents, maybe 75. A majority of this body—everybody is talking about a majority.

Finally, I turned to the witness and I said, "I am like the Mafia. I would like to make you an offer you cannot refuse. What about a buck?"

He said, "Man, that will bring in all the gas you can use." Now the greeds will not settle for $1.75. They are like the sheep dog that has tasted blood, in the form of Pearson-Bentsen, and they are headed for it. They want to chastise everybody, trying to hold them up, saying, "Wait, look at what you are doing."

You have plenty for gas. You are drilling it all over the place. You have gotten it to the $1.75 level with all the incremental costs and increases. You are bringing in more gas right now.

There is not any problem with the energy policy of America. The problem is what the Senator from Alaska wants us to do, join Algeria and the cartel. I can tell you that inflation in these nations is rampant: 43 percent in Colombia, 41 percent in Brazil, all round. We are helping the countries, like Peru, get through the month of September. That is what their problem was, just to get through the month economically.

This thing is an international problem. Somewhere, sometime, a good majority has to say, look, man, we are way ahead. Pearson-Bentsen came out, 16 to 1, in May of last year and early June at $1.60. That is where they were. I was in the Commerce Committee. We had the responsibility. We said, this is gold. We will have a majority of the Senate at $1.60 and maybe if we can get it working over on the House side, then we will finally have a policy, because we understand that industry cannot operate with a questionmark.

Now the President has gone up too high again, in my opinion, but it did pierce that veil of inter-intra. I would pay another 15 cents to get that done. So he has done it and we tried to support it.

Instead of that, they come around deriding a substantial group of Senators who have worked on this problem and know what it is and know that the gas companies know what it is. And they are oozing wealth all over the lot and talking about a little pickup industry and how are we going to get the gas from Alaska?

My heavens above. If the Senator were only here. I could describe that economy up there and its wealth. We do not have aid to dependent children in front of us. We have one of the richest industries in the United States today to deal with. And we are doubling, taking that average cost of 60 cents and putting it up more than double to $1.75 per Mcf.

If you want to know what they are doing, go to their Oil and Gas Journal. I am reading from the April 1977 Oil and Gas Journal.

Gulf of Mexico. Transco Exploration Co., Houston, is among a growing number of interstate pipeline affiliates competing for gas reserves on the Outer Continental Shelf off Texas and Louisiana. Transco says its parent company, Transcontinental Gas Pipe Line Corp., is "gas-hungry," and higher interstate prices are helping to feed it.

Transco says development of High Island-South Block A-492 would have been barely a breakeven proposition at 52¢ Mcf. But at $1.44 Mcf, the company is drilling ahead.

This is the Oil and Gas Journal for these moaning tales about oil welfare here and free enterprise and nationalizing gas. But at $1.44 an Mcf, the company is drilling ahead.

That is now, that is not conjectural. That is what the Oil and Gas Journal says:

New Mexico. One of the more dramatic responses to the rise in interstate natural-gas prices has come in the Morrow and other Pennsylvanian sands of southeastern New Mexico. The absence of a strong intrastate market there has left most of the gas available for interstate consumption.

Drilling in Eddy County, N.M., heart of the gas play, soared from less than 20 wells in 1968 when gas was sold at 14.6¢/Mcf to 360 in 1974 when gas was selling for 55¢/Mcf.

With current higher prices, drilling there has virtually doubled again.

Doubled. They are not waiting on this bill. They have great profits in this thing:

The rotary-rig count for all of New Mexico in early March totaled 73, compared to only 39 the year before, Hughes Tool Co. figures show.

One independent says reserves of several trillion cu. ft. were needed to make production economic in the Indian basin of southeastern New Mexico in 1963–64 when prices were running 12–15¢/Mcf.

At $1.42/Mcf, production becomes economic with reserves in the low billions of cubic feet. The result has been the drilling of hundreds of Morrow and Cisco Canyon wells.

That is what is going on in this country today. Not this aid to dependent children.

Rockey Mountains. Higher interstate prices in the Mountain States, where the intrastate market is small, have triggered a gas-drilling boom there.

"We saw a considerable upswing in gas development after the $1.42 price was granted, but operators continue.

That is not HOLLINGS. That is the Oil and Gas Journal.

We say a considerable upswing in gas development after the $1.42 price was granted. But operators continue to be interested in many other areas.

We can go right on down to every particular area here. I am reading now from the top of that page, 51:

Edwin L. Cox in Oklahoma City and now of Weber-Fennell consulting geologists there, is a long-time student of the Arkoma. "If the gas price should go to $2–2.25/Mcf," he says, "you can count on seeing the Arkoma basin flow wide open.

There you are. It is going to do that under the administration's bill, starting off with $1.75 and going right on up. Within 4 years it will be $2–2.25 with the boom blowing it wide open.

Now they come with hat in hand and pleading, "Please help a little industry that is so strangled that we cannot complete with the OPEC cartel in Algeria.". We cannot compete—for goodness sake. What in the world are we doing? Are we going to let a bunch from the cartel meet in a tent in Vienna or down in Abu Dhabi or down in Venezuela, wherever they meet—Panama City, I think, is a secret place—are they going to meet in secret and set the price or is this Congress going to meet for 24 hours around the clock and in the open to ask ourselves what is the right thing to do in this country?

We need to settle policy. You have a good policy submitted by the President. Perhaps that cannot pass. I would then have to go along with the Jackson amendment. But we are not going to deregulation.

I hope Senator ABOUREZK, Senator METZENBAUM, and the rest are not looked upon as obstructionists. I have seen this thing develop before. Historically we have to look back as to just where we were as Senators who met in committee a year ago agreeing. Republican and Democrat—the Senator from Kansas agreed with the Senator from South Carolina; the Senator from Illinois agreed with the Senator from Arizona, and around that table we came up with $1.60. Today we are talking about $1.75 and talking about free enterprise when we are faced with a cartel. It is absolute sham and outright greed.

I ask from them some tolerance and understanding for somebody to stand up here and begin to represent the overall interests of business and the consumer in America with a policy, a set level under the particular circumstances at this time, so we can save America's economy, on the one hand, from $71 billion worth of inflation; and, on the other hand, continue the boom that has been described here in my comments. I am willing to embellish upon, but I hold back the remainder of my time, Mr. President.

Mr. MELCHER. Mr. President, when we started this useful dialog an hour ago with the remarks of the Senator from Arkansas we were discussing the dilemma we were in on getting a final vote on the bill before us.

Now I, like about a third of the membership of this body, had the opportunity last year to spend most of the time campaigning with people in my State. The dialog on energy that transpired during that campaign was an important aspect of the campaign. People wanted to know about an energy policy for this country; they wanted to know what we had done, why we had done so little, and what we were going to do in the future that would assure this country a better energy policy.

During the course of that dialog, although I had voted against deregulation in the House, I informed the people of my State I thought it was time that we had some form of deregulation of natural gas, and that should be a part of our policy for the future on energy here in this country.

But in discussing it with them I cautioned, and they agreed, that a policy of deregulation for natural gas should not be too abrupt so as to not upset the budget of homes and hospitals and schools and agriculture.

So I was somewhat disappointed in the President's recommendation on the aspect of what he recommended for natural gas in his energy policy for the country.

It seems to me to continue too long, Government redtape and Government involvement to too high a degree. But, nevertheless, when the committee considered if they had no solution of anything else but a 9-to-9 vote, a tie vote, and to leave it up to the Senate to work its will.

The Pearson-Bentsen amendment is a rather modified form of gas deregulation. We are now on the second Pearson-Bentsen amendment. It does work in this incremental pricing system so as not to make on the homeowners, their budgets, too hard an impact on them. It recognizes hospitals and public buildings. It looks at agriculture and treats it separately, and it seeks to gradually get into some form of natural gas deregulation.

I have supported it on that basis.

But the fact is Pearson-Bentsen, if it passes here in the Senate, will be modified in conference. The House has passed the administration portion, has accepted the administration's recommendations on this.

The conferees representing the Senate on this from the committee will probably reflect a majority viewpoint of those conferees in opposition to Pearson-Bentsen. We can each of us set up

our own lists of conferees, and some list might be tied representing the Senate. Other lists will show a majority who have voted for the administration's position on this or a position close to the administration's position and against Pearson-Bentsen.

If the remarks of previous speakers have been to the point of "Let us get a bill," then I concur wholeheartedly. But I would like to make it clear that I, as one who has voted with Pearson-Bentsen, knowing full well it will not survive in that form in conference, am not in any way seeking to hold up final action on this bill but to get it to conference, and to allow the conferees then to make the adjustments with the House, which would undoubtedly be much less than the Pearson-Bentsen proposal we are voting on now. But we would have a bill.

I think that is the wisest course for the Senate to follow, and I would hope our rigorous session here of the past several days and during the night last night will lead us quickly to a final vote on the series of amendments we have.

If it is Pearson-Bentsen, let it go to conference, and let the conferees then resolve what will be the final compromise on the natural gas pricing.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from South Dakota.

AMENDMENT NO. 930

Mr. ABOUREZK. Mr. President, I call up amendment 930.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 930:

On page 3, strike lines 8 through 12 and insert in lieu thereof:

"(7) while proven reserves as estimated by the gas association have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market.".

Mr. TOWER. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from South Dakota.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Michigan (Mr. RIEGLE), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 27, as follows:

[Rollcall Vote No. 470 Leg.]

YEAS—61

Abourezk	Garn	Pell
Allen	Glenn	Percy
Baker	Gravel	Randolph
Bartlett	Griffin	Roth
Bellmon	Hansen	Schmitt
Bentsen	Haskell	Schweiker
Burdick	Hatch	Scott
Byrd, Harry F., Jr.	Hatfield	Sparkman
Chafee	Hayakawa	Stennis
Chiles	Heinz	Stevens
Cranston	Helms	Stevenson
Curtis	Huddleston	Stone
Danforth	Johnston	Talmadge
DeConcini	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Durkin	Mathias	Weicker
Eagleton	McIntyre	Williams
Eastland	Nunn	Young
Ford	Packwood	Zorinsky
	Pearson	

NAYS—27

Bayh	Culver	Matsunaga
Biden	Hart	McGovern
Brooke	Hathaway	Metzenbaum
Bumpers	Hollings	Moynihan
Byrd, Robert C.	Inouye	Nelson
Cannon	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Sarbanes
Clark	Leahy	Sasser

NOT VOTING—12

Anderson	McClellan	Morgan
Goldwater	McClure	Muskie
Humphrey	Melcher	Riegle
Magnuson	Metcalf	Stafford

So the motion to lay Mr. ABOUREZK's amendment (No. 930) on the table was agreed to.

AMENDMENT NO. 931

Mr. ABOUREZK. Mr. President, I call up amendment No. 931.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 931:

On page 3, line 4, strike "as a result," and insert in lieu thereof "producers have claimed that".

Mr. TOWER. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 931. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 63, nays 27, as follows:

[Rollcall Vote No. 471 Leg.]

YEAS—63

Abourezk	Eastland	Pearson
Allen	Ford	Pell
Baker	Garn	Percy
Bartlett	Glenn	Roth
Bellmon	Gravel	Schmitt
Bentsen	Griffin	Schweiker
Bumpers	Hansen	Scott
Burdick	Haskell	Sparkman
Byrd, Harry F., Jr.	Hatch	Stennis
Byrd, Robert C.	Hatfield	Stevens
Cannon	Hayakawa	Stevenson
Chafee	Heinz	Stone
Chiles	Helms	Talmadge
Cranston	Huddleston	Thurmond
Curtis	Johnston	Tower
Danforth	Laxalt	Wallop
DeConcini	Long	Weicker
Dole	Lugar	Williams
Domenici	Mathias	Young
Durkin	Melcher	Zorinsky
Eagleton	Nunn	
	Packwood	

NAYS—27

Anderson	Hathaway	McGovern
Bayh	Hollings	Metzenbaum
Biden	Inouye	Moynihan
Brooke	Jackson	Muskie
Case	Javits	Nelson
Church	Kennedy	Proxmire
Clark	Leahy	Ribicoff
Culver	Magnuson	Sarbanes
Hart	Matsunaga	Sasser

NOT VOTING—10

Goldwater	McIntyre	Riegle
Humphrey	Metcalf	Stafford
McClellan	Morgan	
McClure	Randolph	

So the motion to lay Mr. ABOUREZK's amendment (No. 931) on the table was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 932

Mr. ABOUREZK. Mr. President, I call up amendment No. 932.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 932: On page 11, strike lines 20 through 23 and insert in lieu thereof the following: "and shall determine an interim ceiling based on the costs of finding, developing, and producing natural gas, as deter-".

Mr. WEICKER. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to

lay on the table the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 31, as follows:

[Rollcall Vote No. 472 Leg.]

YEAS—59

Abourezk	Ford	Nunn
Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Percy
Bellmon	Gravel	Roth
Bentsen	Griffin	Schmitt
Burdick	Hansen	Schweiker
Byrd,	Haskell	Scott
Harry F., Jr.	Hatch	Sparkman
Byrd, Robert C.	Hatfield	Stennis
Cannon	Hayakawa	Stevens
Chafee	Heinz	Stevenson
Chiles	Helms	Stone
Curtis	Hudd'eston	Talmadge
Danforth	Jackson	Thurmond
DeConcini	Johnston	Tower
Dole	Laxalt	Weicker
Domenici	Long	Williams
Eagleton	Lugar	Young
Eastland	Melcher	Zorinsky

NAYS—31

Anderson	Hart	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Javits	Pell
Bumpers	Kennedy	Proxmire
Case	Leahy	Ribicoff
Church	Magnuson	Riegle
Clark	Mathias	Sarbanes
Cranston	Matsunaga	Sasser
Culver	McGovern	
Durkin	Metzenbaum	

NOT VOTING—10

Humphrey	McIntyre	Stafford
Inouye	Metcalf	Wallop
McClellan	Morgan	
McClure	Randolph	

So the motion to lay on the table Mr. ABOUREZK's amendment (No. 932) was agreed to.

Mr. METZENBAUM. Mr. President, during the pendency of this debate I ask unanimous consent that Roger Berliner be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 44 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Hart	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Proxmire
Brooke	Hatfield	Ribicoff
Bumpers	Hathaway	Riegle
Burdick	Hayakawa	Roth
Byrd,	Heinz	Sarbanes
Harry F., Jr.	Helms	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Inouye	Schweiker
Case	Jackson	Scott
Chafee	Javits	Sparkman
Chiles	Johnston	Stennis
Church	Kennedy	Stevens
Clark	Laxalt	Stevenson
Cranston	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Durkin	McGovern	Young
Eagleton	McIntyre	Zorinsky
Eastland	Melcher	
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 1366

Purpose: New natural gas, ploughback, and data.

Mr. KENNEDY. Mr. President, I call up amendment No. 1366.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1366:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977, and is produced and sold by a qualified producer.

"'(8) 'Reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) Qualified producer means a producer which has publicly disclosed such items related to costs, expenses, taxes, natural gas production and discovered reserves for the past ten years and annually for every year thereafter according to rules and regulations as the Commission may promulgate, and which invests each year in exploration for natural gas in areas not yet proven to contain natural gas by drilling, an amount equal to the highest amount expended for such purposes in any of the past ten calendar years, plus all net receipts accruing to it as a result of natural gas sales at prices in excess of $1.45 per MCF.

"'(10) "Old natural gas" means natural gas other than new natural gas.

"'(11) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(12) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(13) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(14) "Intrastate Commerce" means commerce within the United States other than interstate commerce.'"

Mr. KENNEDY. Mr. President, very briefly, this amendment contains three provisions, the first defining new gas along the lines of previous amendments that I have offered, that it will refer to only new reservoir gas.

Second, it requires the publication of data so we will have correct information.

The most important provisions are the plow-back provisions. It seems we voted on a similar plow-back provision yesterday, but I think that for those who have read the Wall Street Journal this morning, another vote might be in order. I ask unanimous consent to have printed in the RECORD an article entitled "Philadelphia Life Gets Sweetened Tenneco Offer," published in today's Wall Street Journal.

Mr. KENNEDY. I thought we would just have it read, since there seemed to be a question of whether it was in order. We had considered it before, and I was trying to expedite the matter, but since there is a question, I ask that the amendment be read.

The PRESIDING OFFICER. The Clerk will state the amendment.

The second assistant legislative clerk read as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" mean natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977, and is produced and sold by a qualified producer.

"'(8) 'Reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) Qualified producer means a producer which has publicly disclosed such items related to costs, expenses, taxes, natural gas production and discovered reserves for the past ten years and annually for every year thereafter according to rules and regulations as the Commission may promulgate, and which invests each year in exploration for natural gas in areas not yet proven to contain natural gas by drilling, an amount equal to the highest amount expended for such purposes in any of the past ten calendar years, plus all net receipts accruing to it as a result of natural gas sales at prices in excess of $1.45 per MCF.

"'(10) "Old natural gas" means natural gas other than new natural gas.

"'(11) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(12) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(13) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(14) "Intrastate Commerce" means commerce within the United States other than interstate commerce.'"

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. BENTSEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. BENTSEN. I make the point of order that the amendment is directed to two sections of the bill, if I heard it correctly.

Mr. KENNEDY. Mr. President, I withdraw the unanimous-consent request to dispense with the reading of the amendment, and I ask that the amendment be read.

The PRESIDING OFFICER. The point of order is not well taken. The amendment would amend the substitute in only one place.

Mr. BENTSEN. All right; I misunderstood the reading.

Mr. KENNEDY. Mr. President, I am trying to have the amendment read, if there is any question. If not, I withdraw the second request and ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BELLMON. Mr. President, reserving the right to object, will the Senator explain the amendment?

PHILADELPHIA LIFE GETS SWEETENED TENNECO OFFER

PHILADELPHIA.—Faced with a competing bid from American Express Co., Tenneco Inc. yesterday sweetened its offer to purchase the approximately 76% of the common stock of Philadelphia Life Insurance Co. it doesn't already own.

Tenneco offered to swap 0.25 share of a new issue of $7.40 voting preference stock with a liquidation value of $100 for each share of Philadelphia Life it doesn't already own.

The offer differs from Tenneco's first proposal in several respects. That plan had Tenneco offering 0.22 share of a 7% voting preference stock, also with a liquidation value of $100, for each Philadelphia Life share it doesn't own.

Thus, under Tenneco's original proposal, each Philadelphia Life share would have been exchanged for Tenneco securities yielding $1.54 a year; under the new proposal, that figure will be $1.85 a year.

Dollar Value

In New York, American Express said it doesn't plan any change in the terms of its offer. "We contemplate no change in the Sept. 7 proposal to acquire all the outstanding shares of Philadelphia Life Insurance Co.," an official said. He added that the American Express proposal carries an Oct. 15 expiration date.

Neither Philadelphia Life nor Tenneco would assign a dollar value to the proposed stock swap. Tenneco in August said its first proposal to acquire the Philadelphia Life stock was valued at $170.6 million.

Philadelphia Life agreed in principle to the first Tenneco bid but that agreement was disrupted when American Express Co. offered securities it said were valued at $230 million for all of Philadelphia Life's outstanding shares.

David Cornell, executive vice president of Philadelphia Life, said the company's board will meet shortly to consider the competing offers. He added that American Express has shown "continuing interest" in acquiring Philadelphia Life and that officials of American Express and Phidalephia Life will meet "so that we can see if they have anything further to offer."

The American Express spokesman in New York said the company doesn't have any meeting scheduled with Philadelphia Life but added: "We will, of course, be glad to meet with them if they think it is desirable."

Both the 7% preference stock offered earlier by Tenneco and the $7.40 preference stock offered yesterday would be noncallable for 10 years. Thereafter it would be subject to a sinking fund that will retire the issue for cash by the end of the 20th year at a redemption price equivalent to $25 a share of Philadelphia Life stock.

AMERICAN EXPRESS OFFER

As previously reported, the American Express offer calls for the exchange of one share of American Express $1.50 convertible preferred voting stock for each share of Philadelphia Life. The American Express stock would be convertible at the option of the shareholder at any time into 0.39 share of American Express common.

The offer stipulates that after three years, American Express would have the right to require conversion at the 0.39 ratio provided that the market price of American Express common was at least $64. After 10 years, the market price limitation would expire. The stock would have an involuntary liquidation preference of $25 a share.

Both the Tenneco and American Express offers are in the form of tax-free exchanges.

Tenneco is a widely diversified company with interests in pipeline, manufacturing, oil, packaging, agriculture and land management. American Express is involved in insurance, credit cards, travel service, travelers' checks, money orders and banking.

Mr. KENNEDY. One of the largest gas companies in this country is using its profits, not to find new natural gas, but to buy up life insurance companies. My amendment would require that they plow back the profits under the Pearson-Bentsen provision, so that those profits will be used to find new gas to meet our national energy requirements.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the motion to lay on the table the amendment (No. 1366) of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 473 Leg.]

YEAS—48

Allen	Glenn	Pearson
Baker	Goldwater	Roth
Bartlett	Gravel	Schmitt
Bellmon	Griffin	Schweiker
Bentsen	Hansen	Scott
Burdick	Hatch	Sparkman
Byrd,	Hatfield	Stennis
Harry F., Jr.	Hayakawa	Stevens
Chafee	Heinz	Stone
Chiles	Helms	Talmadge
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eastland	McClure	Young
Ford	Melcher	
Garn	Packwood	

NAYS—46

Abourezk	Cranston	Jackson
Anderson	Culver	Javits
Bayh	DeConcini	Kennedy
Biden	Durkin	Leahy
Brooke	Eagleton	Magnuson
Bumpers	Hart	Mathias
Byrd, Robert C.	Haskell	Matsunaga
Cannon	Hathaway	McGovern
Case	Hollings	McIntyre
Church	Huddleston	Metzenbaum
Clark	Inouye	Moynihan
Muskie	Proxmire	Stevenson
Nelson	Ribicoff	Williams
Nunn	Riegle	Zorinsky
Pell	Sarbanes	
Percy	Sasser	

NOT VOTING—6

Humphrey	Metcalf	Randolph
McClellan	Morgan	Stafford

So the motion to lay on the table amendment No. 1366 was agreed to.

The PRESIDING OFFICER (Mr. HASKELL). The question is on agreeing to amendment No. 1039. The yeas and nays have been ordered, and the clerk will call——

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK addressed the Chair.

Mr. President, I have an amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1078

Mr. ABOUREZK. Mr. President, I call up amendment No. 1078.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1078 to amendment numbered 862:

On page 11, line 21, strike everything after "average" through "(15 U.S.C. 757)" on line 2, page 12; and insert the following: "per barrel wellhead price of crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954)".

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. BELLMON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana, (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 474 Leg.]

YEAS—58

Abourezk	Garn	Packwood
Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Schmitt
Burdick	Hart	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stennis
Chiles	Heinz	Stevens
Church	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
Eagleton	Mathias	Weicker
Eastland	McClure	Young
Ford	Melcher	Zorinsky
	Nunn	

NAYS—36

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Pell
Byrd, Robert C.	Javits	Proxmire
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Sasser
DeConcini	McGovern	Stevenson
Durkin	McIntyre	Williams

NOT VOTING—6

Humphrey	McClellan	Morgan
Long	Metcalf	Stafford

So the motion to lay on the table amendment No. 1078 was agreed to.

AMENDMENT NO. 1132

Mr. KENNEDY. Mr. President, I call up amendment No. 1132.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1132:

On page 5, line 23, after the word "company" add the following: "for the sale of nonassociated gas by a natural gas company whose production exceeds 100 BCF per year.

"The term 'nonassociated natural gas' means free natural gas not in contact with crude oil in the reservoir.".

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, this is a very simple amendment, and I believe it is a very sound one.

A third of all the natural gas that is discovered is associated natural gas, that which is associated with the drilling for oil.

This amendment provides that associated natural gas will be compensated for at a just and reasonable price. Obviously, the exploration is for the profit that is going to be made on crude oil, but that which falls below the billion cubic feet a year will effectively be decontrolled associated gas because of the paperwork and the administration for that particular item.

It seems to me, Mr. President, that since associated gas only results when there is oil exploration and the benefit for that oil exploration results in the incentive for crude oil, we do not have to give the additional incentive of a decontrolled price. That reaches approximately a third of all natural gas which is developed in the course of the year, and this will have a dramatic impact on the cost to the American consumer.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I cannot yield on my time. I believe I have only 3 minutes remaining.

Mr. WALLOP. It will be on my time, if the Senator will answer.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I ask the Senator from Massachusetts if it is not true that the nonassociated gas is closer to 20 percent, rather than 30 percent, as he stated.

Mr. KENNEDY. Well, I believe it is closer to 30 than it is to 20. But if it is 20 or 30, whether it is a third or a fifth, it is still a substantial amount, and it is going to be billions of dollars a year to the consumers.

Mr. Presdent, I ask for the yeas and nays on this particular amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I move to lay on the table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 53, nays 36, as follows:

[Rollcall Vote No. 475 Leg.]

YEAS—53

Abourezk	Eagleton	Laxalt
Allen	Eastland	Long
Baker	Ford	Lugar
Bartlett	Garn	Mathias
Bellmon	Glenn	McClure
Burdick	Gravel	Melcher
Byrd, Harry F., Jr.	Griffin	Nunn
Chafee	Hansen	Packwood
Chiles	Haskell	Pearson
Curtis	Hatch	Percy
Danforth	Hatfield	Randolph
DeConcini	Helms	Roth
Dole	Huddleston	Schmitt
	Johnston	Schweiker
Scott	Stone	Wallop
Sparkman	Talmadge	Weicker
Stennis	Thurmond	Young
Stevens	Tower	Zorinsky

NAYS—36

Anderson	Durkin	McIntyre
Bayh	Hart	Metzenbaum
Biden	Hathaway	Moynihan
Brooke	Hollings	Muskie
Bumpers	Inouye	Nelson
Byrd, Robert C.	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Ribicoff
Church	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Matsunaga	Sasser
Culver	McGovern	Williams

NOT VOTING—11

Bentsen	Heinz	Morgan
Domenici	Humphrey	Stafford
Goldwater	McClellan	Stevenson
Hayakawa	Metcalf	

So Mr. HATFIELD's motion to lay on the table Mr. KENNEDY's amendment (No. 1132) was agreed to.

AMENDMENT NO. 1072

Mr. ABOUREZK. Mr. President, I call up amendment No. 1072.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1072 to amendment No. 862:

On page 5 between lines 2 and 3 insert the following new section:

SEC. 5. (a) Within 30 days after the date of enactment of this Act and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price.

(b) Such Btu related price shall be computed by dividing—

(1) the average wellhead price for domestic crude oil currently in effect and established pursuant to the provisions of section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), by

(2) a Btu conversion factor of 5,800,000 Btu's per barrel.

(c) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), the Btu related price shall be computed by multiplying the current Btu related price then in effect by the inflation adjustment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1072) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN, the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 57, nays 36, as follows:

[Rollcall Vote No. 476 Leg.]

YEAS—57

Abourezk	Ford	Pearson
Allen	Garn	Percy
Baker	Glenn	Randolph
Bartlett	Gravel	Roth
Bellmon	Griffin	Sasser
Bentsen	Hansen	Schmitt
Burdick	Hart	Schweiker
Byrd, Harry F., Jr.	Haskell	Scott
Byrd, Robert C.	Hatch	Sparkman
Chafee	Hatfield	Stennis
Chiles	Heinz	Stevens
Church	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Tower
DeConcini	Long	Wallop
Dole	Lugar	Weicker
Domenici	McClure	Young
Eagleton	Melcher	Zorinsky
Eastland	Nunn	
	Packwood	

NAYS—36

Anderson	Hathaway	McIntyre
Bayh	Hollings	Metzenbaum
Biden	Inouye	Moynihan
Brooke	Jackson	Muskie
Bumpers	Javits	Nelson
Cannon	Kennedy	Pell
Case	Laxalt	Proxmire
Clark	Leahy	Ribicoff
Cranston	Magnuson	Riegle
Culver	Mathias	Sarbanes
Durkin	Matsunaga	Stevenson
Goldwater	McGovern	Williams

NOT VOTING—7

Hayakawa	Metcalf	Thurmond
Humphrey	Morgan	
McClellan	Stafford	

So the motion to lay on the table amendment No. 1072 was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 945

Mr. ABOUREZK. Mr. President, I call up amendment No. 945.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 945.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HATFIELD addressed the Chair.

Mr. ABOUREZK. I ask unanimous consent——

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike out lines 13 through 16 and insert in lieu thereof:

"(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas without causing unnecessary burdens to the economy and without needlessly assuring the indefinite continuation of world oil prices at cartel levels.".

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN) the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 477 Leg.]

YEAS—61

Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Percy
Bellmon	Gravel	Randolph
Bentsen	Griffin	Roth
Burdick	Hansen	Schmitt
Byrd, Harry F., Jr.	Haskell	Schweiker
Byrd, Robert C.	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stennis
Chiles	Heinz	Stevens
Cranston	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	Mathias	Williams
Eastland	McClure	Young
Ford	Melcher	Zorinsky
	Nunn	

NAYS—34

Abourezk	Hathaway	Moynihan
Anderson	Hollings	Muskie
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Brooke	Javits	Proxmire
Bumpers	Kennedy	Ribicoff
Case	Leahy	Riegle
Church	Magnuson	Sarbanes
Clark	Matsunaga	Sasser
Culver	McGovern	Stevenson
Durkin	McIntyre	
Hart	Metzenbaum	

NOT VOTING—5

Humphrey	Metcalf	Stafford
McClellan	Morgan	

So the motion to lay on the table amendment No. 945 was agreed to.

TERRITORIES AUTHORIZATIONS

Mr. JOHNSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6550.

The PRESIDING OFFICER (Mr. MELCHER) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 6550), to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

Mr. JOHNSTON. Mr. President, H.R. 6550 is an omnibus measure which has been considered extensively by the Committee on Energy and Natural Resources. Both the majority and the minority are in agreement to accept the House amendments with a further amendment.

This measure contains authorizations which must be enacted prior to the end of the fiscal year.

The PRESIDING OFFICER. Will the Senator withhold?

Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The clerk will report.

The legislative clerk read as follows:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States to amend certain Acts relating thereto, and for other purposes".

UP AMENDMENT NO. 856

Mr. JOHNSTON. Mr. President, for the reasons stated, I move that the Senate concur in the House amendments to the amendments of the Senate to the House bill, with an amendment, and I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 856:

At the end of Sec. 105 insert the following new proviso:

"*Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

Mr. JOHNSTON. Mr. President, the distinguished Senator from Idaho (Mr. MCCLURE) and I have gone over this matter very carefully with members of the majority and minority staffs as well as members of the subcommittee.

Mr. MCCLURE. Will the Senator explain the purpose and intent of the House amendments as well as the proposed Senate amendment to them?

Mr. JOHNSTON. I would be happy to provide an explanation. As the Senator from Idaho knows, each of these subjects was fully discussed in committee and in various hearings before the committee. The first amendment proposed by the House would restore authorization for full payment of awards made by the Micronesian Claims Commission to date under the Micronesian Claims Act of 1971.

Mr. McCLURE. As I understand the House amendment, it includes a proviso which requires the Government of Japan to contribute 50 percent of the award total pursuant to title I on the 1971 act.

Mr. JOHNSTON. That is correct. That proviso retains the present percentage contribution for payment of title I award claims as is contained in the original act. I would like to emphasize that the U.S. contribution is strictly ex gratia. The United States has absolutely no liability, no responsibility, nor any obligation whatsoever to make any contribution in any manner for awards under title I. The title I awards arise out of damage and loss which occurred during Japanese occupation of these islands.

Mr. McCLURE. As I recall the original report language on the 1971 act, the committee clearly stated that title I payments were ex gratia and to that extent that the $10 million shall constitute full amount, and I quote:

. . . constitute the whole of the *ex gratia* contributions in the Micronesian special fund.

The purpose for providing additional sums at this time is, as I assume, only to satisfy the aspirations of those Micronesians who would otherwise only receive partial payment.

Mr. JOHNSTON. The Senator is correct, but I would like to emphasize that it is not the intent of this amendment to open the door for the United States to cover the entire amount of the additional awards above the original $10 million level. No payment will be made until and unless the Government of Japan agrees to contribute no less than 50 percent of the additional award total.

Mr. McCLURE. I notice in the amendment that the Japanese contribution may be in goods and services as was the original Japanese contribution and that the Secretary of the Interior will determine the value of the goods and services. I think this is a useful provision. The amendment which the Senator is proposing and which I fully support would add a further proviso to this section to require the Secretary of the Interior to review the individual awards and exclude from any payment such amounts as would constitute interest. Would the Senator comment on the reasons for this additional proviso?

Mr. JOHNSTON. I would be happy to comment. The Senate report on this legislation provides an analysis of the problems of interest, but it brief what occurred was that in the original act, the Congress placed certain restrictions and limitations on the procedures which the Commission was to follow in determining those awards. The committee stated specifically that, and I quote,

The Committee wishes to make clear that the Special Commission shall only consider the valuation placed on these claims as the value of the property at the time of its loss or destruction. The payment of interest on awards is not authorized.

It was the intent of the Congress that the Commission determine a value for property and award that amount. The Commission in the Tagabuel case developed a formula to determine property valuation which included interest as an element of the formula. The formula, unfortunately, was not the standard valuation method which the Senator and I are familiar with, that is, what a willing buyer and a willing seller would agree to as a price at the time of the loss or destruction, but rather involved a complicated determination of annual rental payments. It would appear that the Commission did award interest on the valuation but the proviso leaves that determination to the Secretary of the Interior.

Mr. McCLURE. What the Senator is saying, and I am in full accord with his statement, is that the Secretary of the Interior could determine that the actual propery valuation is the actual amount of the award or he could determine that it is something less and that the Commission erred in providing what can only be considered to be an interest payment.

Mr. JOHNSTON. The Senator is correct. I see no other way to fulfill the intent of the Congress than to have the Secretary of the Interior review the awards and make such a determination. I do not want to deny any award recipient under title II the full amount to which he is entitled, but neither do I think it proper for us to include an ex gratia contribution of interest which was not authorized.

Mr. McCLURE. I agree with the Senator and support the adoption of the amendment which he has proposed. I would like to clarify the intent of the additional House amendments if I may. The House has inserted some additional language in the section which authorizes the District Court of Guam to review and render judgment on land claims in Guam. I think it is important that we have a clear record on the intent of the amendments. One amendment further clarifies the role of res judicata by removing from consideration prior judgments of the District Court of Guam in which the issue of compensation was adjudicated in a contested trial in the District Court. Would the Senator comment on that provision?

Mr. JOHNSTON. It is the intent of the Congress to do justice to those in Guam whose lands were acquired by the United States. It is not the intent of the Congress to reopen all claims nor to imply that the compensation which had been paid previously was not just. What we are doing is recognizing an element of procedural fairness in that many people who should have had the opportunity to have an impartial judiciary determine what constituted just compensation could not have such a determination until the establishment of the district court. This is not to say that military proceedings were unfair or unjust nor that the values which were placed on land at that time were unfair. All we are saying is that a person should have had the right to have proceedings within the context of a civil court.

Mr. McCLURE. I understand and I agree with the Senator. The Senator is not implying that only those judgments which were a result of full scale litigation shall remain res judicata.

Mr. JOHNSTON. No, I am not. What I am saying is that unless an individual had the opportunity for such a trial he should be able to contest the value. But if in fact he had the opportunity to contest the value whether or not the value itself was contested, then he has had his day in court. It is essential for procedural fairness that the opportunity was afforded for an individual to have an impartial determination.

Mr. McCLURE. The amendments add additional language providing that any claimant must prove some inequitable action by the United States which resulted in his not receiving full fair market value for his land. I agree wholeheartedly with the House amendment which softens the burden of having to prove fraud or duress. Does the Senator agree?

Mr. JOHNSTON. I do agree. It is not sufficient for the purposes of this section for a claimant to merely allege that he should have received more than he received. If he sold his land for less than he could have received had he been a better bargainer, he nonetheless was a willing seller and was not induced to make a bad bargain. What we are talking about is equity. Given the period of time which has elapsed. I think it would be unreasonable to expect any claimant to meet the high standards which are required to prove fraud or duress; but he must prove not only that he received less than fair market value but that he received less because some action or actions by the United States which just were not proper. I think that we should always require the United States to act with fairness and propriety in its dealings with individuals. If, in fact, the United States did take advantage of the situation or orchestrated a situation, then I believe that justice should be done.

Mr. McCLURE. I fully agree with the sentiments expressed by the Senator and to that extent I support the language in the original Senate amendment providing that awards made by the district court shall stand as judgments against the United States and the language in the committee report liberalizing the rules of evidence and the authorization for the appointment of special masters in order to effect justice. I do not want to imply, however, that we are prejudging any prior award or payment nor that by implication we are asserting that the United States in fact acted improperly.

Mr. JOHNSTON. No, that is not the case nor should that be the implication. Controversy does exist in Guam and the appropriate forum to resolve the controversy is in the courts. Each claim should be evaluated on its merits and within its own special circumstances.

Mr. McCLURE. I note that as with the war claims no interest will be allowed on the difference between the price originally received and actual fair market value from the date of acquisition to the date of award.

Mr. JOHNSTON. That is correct, but interest will accrue, of course, on any judgment until time of payment of the judgment.

Mr. McCLURE. I think it would be useful to note that these amendments liberalizing the rules of evidence and insuring that procedural fairness will be accomplished are a result of the efforts of Congressman WON PAT.

Mr. JOHNSTON. That is true. It is a direct result of his concern and long efforts that this provision will be enacted. He first expressed concern that a requirement for claimants to meet the high standards of proof required to show fraud or duress could frustrate actual justice. I think this entire section stands as a tribute to him and his deep concern that justice be accorded the people of Guam.

Mr. McCLURE. I note that the House has suggested direct authorization for the health care needs for Guam rather than the loan guarantee which the Senate had originally provided. Would the Senator comment?

Mr. JOHNSTON. The situation in Guam is nearing a crisis stage and I believe it is important that the funds be made available as quickly as possible to meet the real health care needs of the people in Guam. This language, as the Senator knows, is designed to provide the Government of Guam with sufficient resources to purchase the Medical Center of the Marianas and prevent an unnecessary duplication of acute care facilities. This language will provide that authority.

Mr. McCLURE. I am concerned that the House amendment which would add a section 403 to the bill sets the stage for uncontrolled extension of Federal programs to all territories regardless of the appropriateness of such programs or their utility to the individual territory.

Mr. JOHNSTON. That is not the case and I wish to make that as clear as I possibly can. The Senate included a provision requiring a study by the Secretary of the Interior which will list Federal programs, their costs, and any necessary changes. As we indi ated in our committee report, that information should have been available to the Congress long before now and I regret that it is necessary to mandate a study every time we require some information. However, I believe that it is in the long-term interest of both Guam and the Northern Marianas, that they be treated alike to allow them to resolve internally those political issues which separate them from reunification.

Mr. McCLURE. I thank the Senator and I appreciate your continuing efforts on behalf of the various territories of the United States.

Mr. JOHNSTON. I appreciate the Senator's remarks and would like to extend my appreciation for his assistance and constant attention and concern for these people.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur with an amendment.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the remaining amendments.

The legislative clerk read as follows:

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill with the following amendment:

Page 3, line 2, of the Senate engrossed amendment, strike the period and insert: , and insert in lieu thereof:

SEC. 105. In addition to amounts heretofore authorized pursuant to the Micronesian Claims Act of 1971 (85 Stat. 96), there are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to satisfy all adjudicated claims and final awards made by the Micronesian Claims Commission to date under title I and title II of said 1971 Act, for full payment of such awards: *Provided*, That no sums appropriated pursuant to this section may be paid on awards pursuant to title I of said 1971 Act until, subsequent to the date of enactment of this section, the Government of Japan has provided to the Government of the Trust Territory of the Pacific Islands a contribution, which contribution may be in goods and services, which has a value as determined by the Secretary of Interior equivalent to not less than 50 per centum of the total awards made pursuant to title I of said 1971 Act less $10,000,000 from such total.

Resolved, That the House agree to the amendment of the Senate numbered 19 to the aforesaid bill with the following amendments:

Page 4, line 8, of the Senate engrossed amendments, after "proceedings," insert: in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,

Page 4, line 11 of the Senate engrossed amendments, after "result of", insert: (1)

Page 4, line 12, of the Senate engrossed amendments, strike the period and insert: or (2) unfair, unjust, and inequitable actions of the United States.

Page 4, line 14, of the Senate engrossed amendments, after "proceedings", insert: in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,

Page 4, line 20, of the Senate engrossed amendments, after "paid.", insert: Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section.

Resolved, That the House agree to the amendment of the Senate numbered 20 to the aforesaid bill with the following amendment:

In lieu of the matter proposed by said amendment, insert:

SEC. 205. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary for grants to the Government of Guam to meet the health care needs of Guam, but not to exceed $25,000,000: *Provided*, That no grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

Resolved, That the House agree to the amendment of the Senate numbered 26 to the aforesaid bill with the following amendment:

Page 10, after line 4, of the Senate engrossed amendment, insert:

SEC. 403. Effective on the date of enactment of this Act, those laws, except for any laws administered by the Social Security Administration and except for Medicaid which is now administered by the Health Care Financing Administration, which are referred to in section 502(a)(1) (except for the reference to the Micronesian Claims Act of 1971 (85 Stat. 96)) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263), and 502(a)(2) of said Covenant shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Commonwealth of the Northern Mariana Islands.

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receivng benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

Mr. JOHNSTON. Mr. President, one further word. We have agreed by this legislation to the extension of Federal programs to Guam and the Virgin Islands.

It is expressly understood between the Senate Members, both majority and minority, and our counterpart on the House side, Representative PHILLIP BURTON, that this shall not institute a precedent for extension of these programs to Puerto Rico and, indeed, it is our express intention not to do so.

For the benefit of my senior colleague from Louisiana, I add that those programs under the jurisdiction of his committee have not been extended to either Guam or the Virgin Islands—that is, those under the Social Security Administration.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 947

Mr. ABOUREZK. Mr. President, I call up amendment No. 947.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 947:

On page 3, between lines 12 and 13, insert: "(8) an independent data system for natural gas, including reserves, is being instituted because of questionable reliability of available data;".

Mr. HATFIELD. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 35, as follows:

[Rollcall Vote No. 478 Leg.]

YEAS—59

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Griffin	Randolph
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Schmitt
Byrd, Robert C.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Sparkman
Cranston	Helms	Stennis
Curtis	Huddleston	Stevens
Danforth	Johnston	Stone
DeConcini	Laxalt	Ta madge
Dole	Leahy	Thurmond
Domenici	Long	Tower
Eagleton	Lugar	Wallop
Eastland	Mathias	Weicker
Ford	McClure	Young
	Melcher	Zorinsky

NAYS—35

Abourezk	Hart	Moynihan
Anderson	Haskell	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Pell
Brooke	Jackson	Proxmire
Bumpers	Javits	Ribicoff
Cannon	Kennedy	Riegle
Case	Magnuson	Sarbanes
Church	Matsunaga	Sasser
Clark	McGovern	Stevenson
Culver	McIntyre	Williams
Durkin	Metzenbaum	

NOT VOTING—6

Humphrey	McClellan	Morgan
Inouye	Metcalf	Stafford

So the motion to lay on the table amendment No. 947 was agreed to.

AMENDMENT NO. 1206

Mr. BAYH. Mr. President, I ask that the clerk report amendment No. 1260, and that it become the pending order of business, if you please, sir.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 1260 to amendment numbered 862:

On page 15, between lines 15 and 16, insert the following:

(c) The Commission shall have the power to compel interstate pipelines to expand their certified storage capacity in order to adequately meet their systems peak demand day requirements.

Mr. BAYH. Mr. President, let me just say very quickly what this amendment is trying to accomplish. First of all, it recognizes we are not going to solve the problems like we had last winter by simplified solutions. It is a multicomponent shopping list of ingredients that are going to be required if we are going to keep from being confronted with this kind of situation again.

This amendment deals with adequate storage facilities. It gives the FPC the authority to compel integrated pipelines, only those pipelines that produce, transport and distribute natural gas—it would give the FPC the authority to compel those pipelines to expand their storage capacity to meet the systems' greatest need.

One thing we should not have is a shortage of storage, which can mean the closing of schools and inadequate gas for homes.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. Is there a sufficient second? Will Senators who wish to second the request for the yeas and nays raise their hands? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1260) of the Senator from Indiana (Mr. BAYH). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CHILES assumed the chair.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Colorado (Mr. HART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 479 Leg.]

YEAS—53

Abourezk	Garn	Packwood
Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Hansen	Roth
Bentsen	Hatch	Schmitt
Burdick	Hatfield	Scott
Byrd, Harry F., Jr.	Hayakawa	Sparkman
Chafee	Helms	Stennis
Chiles	Huddleston	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Talmadge
Dole	Leahy	Thurmond
Domenici	Long	Tower
Eagleton	Lugar	Wallop
Eastland	McClure	Weicker
Ford	Melcher	Young
	Nunn	Zorinsky

NAYS—41

Anderson	Haskell	Morgan
Bayh	Hathaway	Moynihan
Biden	Heinz	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Church	Magnuson	Sarbanes
Clark	Mathias	Sasser
Cranston	Matsunaga	Schweiker
Culver	McGovern	Stevenson
DeConcini	McIntyre	Williams
Durkin	Metzenbaum	

NOT VOTING—6

Griffin	Humphrey	Metcalf
Hart	McClellan	Stafford

So the motion to lay on the table amendment No. 1260 was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAYH. Mr. President, will the Senator suspend?

Mr. METZENBAUM. I am sorry.

Mr. BAYH. Will the Senator yield just briefly?

Mr. METZENBAUM. To the Senator from Indiana, any time.

The PRESIDING OFFICER. The Senator from Indiana.

UNANIMOUS-CONSENT REQUEST—H.R. 5645

Mr. BAYH. Mr. President, I am about to propose a unanimous-consent request asking the Senate to consider and permit the Senator from Indiana, and perhaps the Senator from Maryland, or anybody else that wants to participate in a very brief discussion of this matter dealing with the extension of the Civil Rights Commission.

Mr. President, I ask unanimous consent that the Chair lay before the Senate

a message from the House on the bill H.R. 5645, an amendment of the House to the Senate amendment to the extension of the Civil Rights Commission, and that the discussion of this matter not be charged under rule XXII to any Senator during the consideration of this matter.

Mr. DOMENICI. Mr. President, reserving the right to object, I say to the distinguished Senator from Indiana that I have not checked with the ranking Republican on this side, nor with our leader.

I object.

The PRESIDING OFFICER. Objection is heard.

QUORUM CALL

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed and concluded the call of the roll and the following Senators answered to their names:

[Quorum No. 45 Leg.]

Abourezk	Garn	Muskie
Allen	Glenn	Nelson
Anderson	Goldwater	Nunn
Baker	Gravel	Packwood
Bartlett	Hansen	Pearson
Bayh	Haskell	Pell
Bellmon	Hatch	Percy
Bentsen	Hatfield	Proxmire
Biden	Hathaway	Randolph
Brooke	Hayakawa	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Wallop
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Eastland	Metzenbaum	Zorinsky
Ford	Morgan	
	Moynihan	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 908

Mr. BAYH. Mr. President, I ask that amendment No. 908 be made the pending business and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an amendment numbered 908 to amendment 862:

On page 8, after the word "consumption" on line 7, insert the following: *"Provided*, That in the case of exploration, the Commission shall determine separately the exploration expenditures by project and the ultimate recoverable reserves by project;".

Mr. BAYH. Mr. President, I say to the floor manager of the bill on the other side, an amendment very similar to this relative to information that was offered in another area by the Senator from Massachusetts (Mr. KENNEDY) was accepted on a voice vote.

I do not necessarily want to put the Senate through a vote on this, but it seems to me if we are asked expenses and expenditures and information, it ought to be on a project-by-project basis.

Mr. DOMENICI. Will the Senator from Indiana state again what the comparable amendment was? We have to locate it.

Mr. BAYH. It had to do with reserve data. It was offered by Senator KENNEDY. It was accepted by a voice vote.

I have to say to my colleague that I do not know what it is. If he does not think that makes good sense, I am prepared to put it to a rollcall vote. I just thought it might save the Senate some inconvenience if he was willing to accept it. If not, I understand.

Mr. DOMENICI. I say to the Senator from Indiana that I am informed that there is a substantial difference between the two amendments. On that basis, I cannot agree to accept the amendment or agree to a voice vote at this time.

Mr. BAYH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move to lay the amendment on the table.

Mr. BAYH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Colorado (Mr. HART), the Senators from Montana (Mr. MELCHER and Mr. METCALF), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 35, as follows:

[Rollcall Vote No. 480 Leg.]

YEAS—56

Abourezk	Byrd, Harry F., Jr.	DeConcini
Allen	Byrd, Robert C.	Dole
Baker	Chafee	Domenici
Bartlett	Chiles	Eagleton
Bellmon	Curtis	Eastland
Bentsen	Danforth	Ford
Burdick		Garn
Glenn	Lugar	Scott
Goldwater	McClure	Sparkman
Gravel	McIntyre	Stennis
Hansen	Morgan	Stevens
Hatch	Nunn	Stevenson
Hatfield	Packwood	Stone
Hayakawa	Pearson	Talmadge
Heinz	Percy	Thurmond
Helms	Randolph	Tower
Huddleston	Roth	Wallop
Laxalt	Schmitt	Weicker
Long	Schweiker	Zorinsky

NAYS—35

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Ribicoff
Church	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Mathias	Sasser
Culver	Matsunaga	Williams
Durkin	McGovern	

NOT VOTING—9

Griffin	Johnston	Metcalf
Hart	McClellan	Stafford
Humphrey	Melcher	Young

So the motion to lay on the table amendment No. 908 was agreed to.

Mr. BAYH and Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. ALLEN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. Yes.

Mr. ALLEN. Mr. President, I ask unanimous consent that Mr. Tom Hagan of Senator BENTSEN's staff be given the privilege of the floor during the consideration of this bill and during rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. BAYH. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 968

Mr. ABOUREZK. I call up amendment No. 968.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 968:

On page 11, line 6, strike "or the interim ceiling established pursuant to subsection (d)".

On page 11, line 11, strike all of paragraph (d), through page 12 at line 12, and redesignate the succeeding paragraphs accordingly.

On page 13 at line 1, strike "or interim ceiling".

Mr. DOMENICI. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. The amendment amends the bill in more than two places.

The PRESIDING OFFICER. It clearly does, and the point of order is sustained.

AMENDMENT NO. 969

Mr. ABOUREZK. Mr. President, I call up amendment No. 969.

The PRESIDING OFFICER. The clerk will report.

The amendment is as follows:

On page 11, line 13, strike "which is no longer subject to judicial review".

On page 12, line 4 strike "Which is no longer subject to judicial review".

Mr. DOMENICI. Point of order. The amendment amends the bill in two places.

The PRESIDING OFFICER. It clearly does, and the point of order is sustained.

AMENDMENT NO. 984

Mr. ABOUREZK. Mr. President, I call up amendment No. 984.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 984:

On page 4, beginning with line 17, after the word "person", strike out all through line 19 and insert "has the same meaning as such term has under section 2(1) of the Natural Gas Act.".

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. WEICKER. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Is the question on the motion to lay on the table?

The PRESIDING OFFICER. On the amendment.

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Have the yeas and nays been ordered on the motion to table?

The PRESIDING OFFICER. Only on the amendment.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second on the motion to table.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut to lay on the table amendment No. 984. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 481 Leg.]

YEAS—79

Abourezk	Byrd, Robert C.	Domenici
Baker	Case	Eagleton
Bartlett	Chafee	Ford
Bellmon	Chiles	Garn
Bentsen	Church	Glenn
Biden	Cranston	Goldwater
Brooke	Culver	Hansen
Bumpers	Curtis	Haskell
Burdick	Danforth	Hatch
Byrd, Harry F., Jr.	DeConcini	Hatfield
	Dole	Hayakawa
Heinz	Melcher	Schmitt
Helms	Metzenbaum	Schweiker
Huddleston	Morgan	Scott
Jackson	Muskie	Sparkman
Javits	Nunn	Stennis
Johnston	Packwood	Stevens
Kennedy	Pearson	Stevenson
Laxalt	Pell	Stone
Leahy	Percy	Talmadge
Long	Proxmire	Thurmond
Lugar	Randolph	Tower
Mathias	Ribicoff	Wallop
Matsunaga	Riegle	Weicker
McClure	Roth	Williams
McGovern	Sarbanes	Zorinsky
McIntyre	Sasser	

NAYS—14

Allen	Durkin	Inouye
Anderson	Eastland	Magnuson
Bayh	Gravel	Moynihan
Cannon	Hathaway	Nelson
Clark	Hollings	

NOT VOTING—7

Griffin	McClellan	Young
Hart	Metcalf	
Humphrey	Stafford	

So the motion to lay on the table amendment No. 984 was agreed to.

AMENDMENT NO. 1016

Mr. ABOUREZK. Mr. President, I call up amendment No. 1016.

The PRESIDING OFFICER. The amendment will be stated.

Mr. DOMENICI. Mr. President, I did not hear the number of the amendment.

The PRESIDING OFFICER. Will the Senator from South Dakota repeat that?

Mr. ABOUREZK. 1016.

Mr. DOMENICI. I thank the Senator.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK proposes an amendment numbered 1016:

On page 8, line 25, after "5" insert "(a)".

On page 9, between lines 4 and 5, insert the following new subsection 5(b) as follows:

"(b) Prior to making any first sale pursuant to section 5 of this Act, the producer shall provide the Secretary the following information for each of the five years immediately preceding the date of such first sale, and annually thereafter:

"(1) total expenditures for each of the following:

"(A) exploration,

"(B) development, and

"(C) production;

"(2) new reserve additions from each of the following:

"(A) extensions,

"(B) revisions, and

"(C) new well discoveries, including any negative revisions;

"(3) the cost of producing gas and the net income (or loss) including the rate of return earned on gas operations (or loss); and

"(4) interstate and intrastate sales and revenues of natural gas.".

Mr. DOMENICI. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from New Mexico will state it.

Mr. DOMENICI. The amendment is out of order because it amends the bill in two places.

Mr. ABOUREZK. Mr. President, it is a continuous amendment.

The PRESIDING OFFICER. The point of order is sustained.

AMENDMENT NO. 1079

Mr. ABOUREZK. Mr. President, I call up amendment No. 1079.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1079:

On page 3, line 16, strike line 16 and insert "be considered have".

Mr. DOMENICI. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1079) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 63, nays 30, as follows:

[Rollcall Vote No. 482 Leg.]

YEAS—63

Allen	Goldwater	Pearson
Baker	Gravel	Percy
Bartlett	Hansen	Randolph
Bellmon	Hart	Roth
Bentsen	Hatch	Sasser
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Schweiker
	Heinz	Scott
Byrd, Robert C.	Helms	Sparkman
Cannon	Hollings	Stennis
Chafee	Huddleston	Stevens
Church	Johnston	Stevenson
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Eagleton	Melcher	Weicker
Eastland	Morgan	Young
Ford	Moynihan	Zorinsky
Garn	Nunn	
Glenn	Packwood	

NAYS—30

Abourezk	Durkin	McIntyre
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Pell
Bumpers	Javits	Proxmire
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Mathias	Sarbanes
Culver	McGovern	Williams

NOT VOTING—7

Chiles	Magnuson	Stafford
Griffin	McClellan	
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1079 was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New Hampshire yield me 5 minutes by unanimous consent?

Mr. DURKIN. Yes.

Mr. ROBERT C. BYRD. I thank my friend from New Hampshire.

Mr. President, I shall shortly move to recess for about an hour so as to give Senators an opportunity to get some dinner, or get some work done in their offices, or have a little bit of respite, and, in the meantime, I will be continuing to try to work with Senators.

I think I should state that we will be here a while yet today, but I do not anticipate an all-night session 2 days in a row.

But I do think Senators should be aware of the possibility of our being here for some time yet today.

RECESS UNTIL 6:41 P.M.

Mr. ROBERT C. BYRD. Mr. President I, therefore, ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 5:41 p.m., recessed until 6:41 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAVEL).

QUORUM CALL

Mr. ABOUREZK. Mr. President, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 46 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stone
Culver	Lugar	Talmadge
Curtis	Magnuson	Thurmond
Danforth	Mathias	Tower
DeConcini	Matsunaga	Wallop
Dole	McClure	Weicker
Domenici	McGovern	Williams
Durkin	McIntyre	Young
Eagleton	Melcher	Zorinsky
Eastland	Metzenbaum	
Ford	Morgan	

The PRESIDING OFFICER. A quorum is present.

Mr. GOLDWATER. Mr. President, I yield myself such time as I will need, and it will not be much.

I became very interested in how much it is costing the taxpayers to have this extracurricula going on every night. So I asked our good friend, the Sergeant at Arms, Mr. Hoffman, to put together some expenses I asked him for, and this what he told me.

In response to your request for an itemized list of extraordinary expenses incurred by the Senate between the approximate hours of 9 p.m last evening and 7:15 a.m. this morning as a result of the all-night session, with the assistance of the Architect of the Capitol we have been able to prepare the following list. Sums listed here represent costs over and above those normally incurred for services provided during these evening hours.

Police overtime compensation, $5,556.

Air conditioning, $459.

Senate restaurants, $1,312.

Capitol physician's office, $503.

Library of Congress, $150.

Senate engineers, $400.

Electricians, $100.

Laborers, ground crew, and speech reinforcement support, $423.

Other Capitol maintenance personnel, rough estimate, $600.

Extra Senate office building maintenance expense, $400.

Extra Sergeant at Arms expense, $200.

We were not able to get an exact figure for the electricity we consume, because this is handled in a rather unusual way, and I did not know it. We do not have meters in this building, as we all have at home. But the total to run this place all night is $10,130.

I suggest that that will pay for one hell of a lot of energy.

Mr. ABOUREZK. Mr. President, I yield myself 1 minute.

I express my agreement with the Senator from Arizona, that I, too, think it is somewhat outrageous that we had to stay in all night last night. I wish we had not, and I wish the Senator from Arizona would have supported my motion to adjourn. We would not have had all that extra expense.

AMENDMENT NO. 1076

Mr. President, I call up amendment No. 1076.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1076:

On page 11, line 20, strike everything after "be" through "(15 U.S.C. 757)" on line 2, page 12; and insert the following: "$1.45 per thousand cubic feet.".

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. The amendment apparently amends the bill in two places, and a ruling should lie against it.

Mr. President, I think the statement I made is incorrect. Apparently it starts making some changes on one page and carries over to the second page. Is that the opinion of my friend from South Dakota?

Mr. ABOUREZK. That is correct.

The PRESIDING OFFICER. Does the Senator withdraw his point of order?

Mr. HANSEN. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to Mr. HANSEN's motion to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 29, as follows:

[Rollcall Vote No. 483 Leg.]

YEAS—64

Allen	Goldwater	Pearson
Baker	Gravel	Pell
Bartlett	Hansen	Percy
Bellmon	Hart	Randolph
Bentsen	Haskell	Roth
Byrd, Harry F., Jr.	Hatch	Sarbanes
	Hatfield	Sasser
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Heinz	Schweiker
Chafee	Helms	Scott
Chiles	Huddleston	Sparkman
Church	Johnston	Stennis
Curtis	Laxalt	Stevens
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Mathias	Thurmond
Domenici	McClure	Tower
Eagleton	McIntyre	Wallop
Eastland	Melcher	Weicker
Ford	Morgan	Young
Garn	Nunn	Zorinsky
Glenn	Packwood	

NAYS—29

Abourezk	Culver	McGovern
Anderson	Durkin	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Proxmire
Burdick	Javits	Ribicoff
Case	Leahy	Riegle
Clark	Magnuson	Williams
Cranston	Matsunaga	

NOT VOTING—7

Griffin	McClellan	Stevenson
Humphrey	Metcalf	
Kennedy	Stafford	

So the motion to lay on the table amendment No. 1076 was agreed to.

EXTENSION OF THE CIVIL RIGHTS COMMISSION

Mr. BAYH. Mr. President, for the information of my colleagues, what I am about to propose is not germane to the issue before us, and will require unanimous consent. It involves the extension of the Civil Rights Commission. It involves the acceptance of a conference report which we have just received from the House of Representatives.

I have been advised by my distinguished friend and colleague the ranking Republican member of the Constitutional Rights Subcommittee of the Committee on the Judiciary that he is

prepared to accept this report, and the objection that is put to this——

Mr. SCOTT. Mr. President, will the distinguished Senator yield?

Mr. BAYH. Could I just finish alerting the Senate? We had an objection a moment ago.

Mr. SCOTT. We are going to have another objection unless I know what is in the thing, and that is why I wish you would withhold it until you and I confer about it, since I am the ranking Republican member of the subcommittee.

Mr. BAYH. I had been advised the Senator from Virginia had been told what was in it.

Mr. SCOTT. Nobody told me about it. That is why I asked the Senator to withhold.

Mr. BAYH. The Senator from Indiana has no alternative, and would not have brought it up had he not been told the Senator from Virginia knew about it.

Mr. SCOTT. The distinguished Senator did not confer with me personally.

Mr. BAYH. I had hoped our staffs were in communication.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. ROBERT C. BYRD. Will the distinguished Senator allow me to confer with him about this matter?

Mr. BAYH. I will be more than happy to. It is a conference report, as the majority leader knows.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 1222

Mr. METZENBAUM. Mr. President, I call up amendment No. 1222.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1222:

On page 7, line 21, strike paragraph (20) and insert the following:

(20) The term "inflation adjustment" means the amount that results from dividing—

(1) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the quarter which immediately precedes such calendar quarter, seasonally adjusted as computed and published by the Department of Labor; by

(2) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the first calendar quarter of 1977, seasonally adjusted, as computed by the Department of Labor.

Mr. WEICKER. Mr. President, I move that the amendment be laid on the table.

Mr. METZENBAUM. Mr. President, will the Senator from Connecticut be good enough to withhold that for a moment? I think that the Senator from South Dakota would like to address himself to the subject before debate is cut off.

The PRESIDING OFFICER. Does the Senator withdraw his motion to lay on the table?

Mr. WEICKER. I am glad to withhold it.

Mr. McGOVERN. I yield myself 5 minutes.

Mr. President, I rise to pay my respects to my colleague from South Dakota (Mr. ABOUREZK) and the Senator from Ohio (Mr. METZENBAUM), and the others who carried the heaviest burden on this so-called filibuster. I do so reluctantly, but I do it because I have come to the conclusion that the filibuster in this case is in the public interest.

I personally have never liked filibusters. I am not temperamentally suited to participate in one, and very frankly, last week when my own amendment to this bill became the subject of a filibuster, when it was divided into 20 sections calling for 20 separate votes, I was irritated about it.

But the truth that has been gradually making itself apparent, I think, over the last few days, is that the architects of this filibuster are using the only instrument that is available to them to block action on a bill that I am convinced will have devastating consequences on the American consumer. It is a bill that, if passed, will pick the pockets of every consumer in this country. So, in a very real sense, this filibuster is a people's filibuster. It is a filibuster in the interests of the American consumer. And however much it might inconvenience me, which it has, or any other Senator, as has been pointed out on this floor before, it is being conducted not for our convenience but to protect the interests of the American people.

If it had not been for this blocking procedure, irritating as it has been, we would already have voted to remove public regulation of natural gas.

I think the Senator from South Carolina (Mr. HOLLINGS) earlier today put this issue in better perspective when he said that the issue is really not so much whether we are going to have regulated gas prices, but who is going to do the regulating: whether the prices are going to be set by a public commission named by the President and confirmed by the Senate, or whether they are going to be set by the international oil cartel, which is precisely the way they will be set if the bill now pending before the Senate is passed.

Every estimate that I have seen, whether from the Congressional Budget Office, from the Library of Congress, or from some other objective source, indicates that if we take off public guidelines and public regulation on natural gas, it is going to cost somewhere in the vicinity of another $10 billion to the American people for the purchase of natural gas.

The former chairman of the public utilities commission in my State estimated last year that in terms of its impact on South Dakota, the removal of public regulation of natural gas would cost every South Dakota family an additional $250 or more per year.

So, Mr. President, while it has been very painful for me to come to this conclusion, as I have watched the Senate work here the last few days, and as I have watched the courage and the tenacity with which Senator ABOUREZK, Senator METZENBAUM, and their colleagues, Senator KENNEDY, Senator BAYH, and others participated in this effort, I have been more and more convinced of the wisdom of what they are doing; and I just want to add my voice to this effort. If I can help in any way to insure its success, I want to volunteer my services to the architects of the effort, to serve in any way I can. I am convinced that it is in the public interest, and I hope it will result in a better piece of legislation than the one now pending before the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. SCHMITT. Mr. President, will the Senator from Connecticut withhold his motion to lay on the table for a few more minutes?

Mr. WEICKER. I yield the Senator 2 minutes.

Mr. SCHMITT. Just very briefly, the Senator from South Dakota, the Senator from South Carolina, and the Senator from Massachusetts, at various times today and on other days, have suggested that the proponents of some form of scheduled deregulation are against the people. I do not know about other Senators, but I personally resent that. We are as much concerned about the people of the United States as are the good Senators who have suggested otherwise.

Our principal concern is two-fold: first, that the people of the United States, as rapidly as possible, have sufficient supplies of energy to provide for their needs without undue dependence on foreign supply. Our deregulation procedures will indirectly provide that supply. Also, in doing so, we hold out the very real promise, if mineral economics are at all justified in history as well as in theory, of having enough supply in a very few years to begin to lower the price to the American consumer. That has been the standard practice in this kind of activity in the past, and I have every expectation it will happen in the future.

Two things that they tend to forget are that without increasing the supply of natural gas, and with the curtailments facing us not only this winter, but in the future, if we do not increase supplies the inconvenience to the people will far outstrip the cost figures we have heard thrown around here in the last few days. The people, instead of cheap, clean, convenient natural gas, will have to buy expensive foreign oil, or switch to relatively polluting coal supplies, or purchase electricity for the same purposes, all of which are vastly more expensive than even the wildest estimates of the opponents of deregulation of natural gas.

Finally, Mr. President, there is this business of the OPEC cartel.

The OPEC cartel is not a cartel in the true sense. The one way in which this country is going to break the back of that cartel——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHMITT. One more minute.

The one way that the people of this country are going to break the back of the OPEC cartel is to increase the domestic supply of energy. That will break their back faster than anything else we can do. This is only one step, but it is a major step in that direction.

To deregulate the price, the supply of domestic natural gas will begin to increase, utilizing the vast resources of all aspects of the American economy, not

only the energy industry, but also other aspects of the economy and the initiative of the American people.

If we will follow suit in oil and begin to look to the future in other energy sources, the OPEC cartel will very rapidly become a thing of history.

I thank the Chair.

Mr. WEICKER. Mr. President, I move to lay on the table the amendment of the distinguished Senator from Ohio.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. METCALF), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 484 Leg.]

YEAS—61

Allen	Garn	Pearson
Baker	Glenn	Percy
Bartlett	Goldwater	Randolph
Bellmon	Gravel	Roth
Bentsen	Hansen	Schmitt
Burdick	Haskell	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
Byrd, Robert C.	Hatfield	Sparkman
Cannon	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stevenson
Church	Hollings	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	McClure	Williams
Eastland	Melcher	Young
Ford	Nunn	Zorinsky
	Packwood	

NAYS—32

Anderson	Hathaway	Morgan
Bayh	Inouye	Moynihan
Biden	Jackson	Muskie
Brooke	Javits	Nelson
Bumpers	Leahy	Pell
Case	Magnuson	Proxmire
Clark	Mathias	Ribicoff
Cranston	Matsunaga	Riegle
Culver	McGovern	Sarbanes
Durkin	McIntyre	Sasser
Hart	Metzenbaum	

NOT VOTING—7

Abourezk	Kennedy	Stafford
Griffin	McClellan	
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1222 was agreed to.

Mr. METZENBAUM obtained the floor.

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Ralph Oman, of my staff, have the privilege of the floor during the debate on this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 894

Mr. METZENBAUM. Mr. President, I call up amendment No. 894.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 894:

On page 16, line 10, strike "$10,000" and insert in lieu thereof "$25,000".

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I should like to receive the comments of the Senator from Ohio on a letter from the Oil & Gas Association to his colleague, Senator GLENN. This letter is signed by Mr. E. A. Smith, president of the Ohio Oil & Gas Association, and Berman J. Shafer, treasurer. It pertains to a situation in Ohio regarding its gas reserves. I think that the situation in Ohio is very similar to the situation in Louisiana, Texas, and Oklahoma, but at a little different stage of development and decline. I will read the letter, and I would like the Senator's comments:

The Ohio Oil & Gas Association has recently completed a comprehensive analysis of production histories of nearly 8000 independently owned wells in Ohio as part of a study to determine the impact of vintage pricing—

I sort of like that phrase, "vintage pricing."

levels on the continued economic production of natural gas in this state. The wells encompassing this study represent approximately 80 percent of the wells producing marketable gas in the state and all of the wells studied are being operated by small independent producers.

Concisely, our study concludes the following points:

(1) Ohio is in the grave circumstance of losing 30 percent of their total gas reserve due to the unprofitability of producing marginal wells to their maximum extent.

(2) The loss to Ohio is estimated at 127 billion cubic feet for the wells under study, representing the amount of natural gas required to heat 70,000 homes over an eleven year period.

(3) These wells, constituting 70 percent of the wells studied are currently marketing gas at the lowest pricing tier of 58 cents to 65 cents per MCF and while they are marginal, these reserves are not only dependable but they are available to the consumer of Ohio.

(4) Unless the price of "old" natural gas is raised to $2.00 per MCF, these wells will soon be abandoned as unprofitable and the reserves lost will be permanent because replacement by new wells even at higher tier prices will be economically unsound at today's costs.

(5) The cost to the consumer for this increase on old natural gas prices will be an additional 1.32 percent of his existing monthly gas bill.

(6) On an annual volume basis, 96 percent of the wells under study produce less than 60 MCF per day, the BTU equivalent of a 10 barrel stripper well. It was further found that 76 percent of the wells under study produce less than 30 MCF per day.

(7) Historically, the production histories of wells drilled in Ohio has steadily worsened because of various factors. Ultimate gas reserves of wells drilled today are 50 percent lower on the average than those completed 10 years ago and 25 percent lower on the average than those drilled 25 years ago. The accompanying curves illustrate the character of these production declines over the years and at the same time traces the pattern of price increases. The third relationship reflects the spiral of increased drilling and completion costs. The conclusion is that gas prices have not kept pace with ebbing gas production or the higher costs of drilling.

Statistical data and a summary of the various elements of this report follow this letter. Included are our (1) computer analyses illustrating the economics of an average gas well in two separate areas of Ohio and reflecting the economics at various pricing levels. (2) A graphical illustration of additional gas available at higher wellhead prices for "old" gas. (3) A graphical illustration of the varying decline rates experienced over the past 25 years, the varying degree of pricing levels and the costs of drilling and completing wells over the past 25 years.

Should you have any further questions regarding this study, please feel free to contact this office.

Very sincerely,

E. A. SMITH,
President, Ohio Oil & Gas Association.

BERMAN J. SHAFER,
Treasurer, Ohio Oil & Gas Association.

Mr. President, I ask unanimous consent to have this report in its entirety printed in the RECORD, with the figures from the graphs. I understand that the graphs may not be reproduced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OHIO OIL AND GAS ASSOCIATION:
SUMMARY OF ECONOMIC REPORT

Number of Wells in this Study: 7,750 Wells.

Percent of Total Gas Wells in Ohio: 80 percent.

Estimated Future Reserves as of December 31, 1976 of Wells in this Study: 419.14 Billion Cubic Feet.

Estimated Future Reserves receiving "Old" Natural Gas Prices (58¢–65¢ Per MCF): 289 Billion Cubic Feet.

Percent "Old" Gas Priced Reserves of Total: 69%.

Remaining "Old" Natural Gas Reserves Estimated Unprofitable below current Economic Limit: 127 Billion Cubic Feet.

Percent of Total Reserves: 30.3 percent.

Percent "old" Gas Production of 1976 Production: 53 percent.

Average Daily Delivery (all Wells in study) as of December 31, 1976: 20.70 MCF per day.

Number of Wells Producing Less than 30 MCF per day: 5,898 Wells.

Number of Wells Producing Less than 60 MCF per day: 7,428 Wells.

Percent of Total Wells—

Less than 30 MCF per day: 76 percent.

Less than 60 MCF per day: 96 percent.

Percent of Total Reserves—

Less than 30 MCF per day: 53 percent.

Less than 60 MCF per day: 85 percent.

Analysis of 3,716 Wells—

Average Life at Current "old" Natural Gas Prices: 9 years.

Additional Life at $2.00 per MCF: 11 years.

Additional Reserves: 89.035 Billion Cubic Feet.

Analysis of 2,258 Wells—

Average Life at Current "Old" Natural Gas Prices: 15 years.

Additional Life at $2.00 per MCF: 5 years.

Additional Reserves: 38.25 Billion Cubic Feet.

OHIO OIL & GAS ASSOCIATION—ECONOMIC ANALYSIS OF CLINTON GAS PRODUCTION

[WI estimates include cost of operations at $150 per month]

ANALYSIS OF 2,258 WELLS, AUG. 1, 1977, 200 MMCF RECOVERY

Year	Percent total recovery		Estimated annual recovery (MMCF)	Remaining reserve (MMCF)	Rate per day (MCF)	Income per month at $0.85	WI estimate at $0.85	Income per month at $0.65	WI estimate at $0.85	Income per month at $1	WI estimate at $0.85	Income per month at $1.32	WI estimate at $0.85	Income per month at $1.50	WI estimate at $0.85	Income per month at $1.75	WI estimate at $0.85	Income per month at $2	WI estimate at $0.85
	Per year	Accumulated																	
1	21.85	21.85	43.70	156.30	121.39	2,112	1,645	2,367	1,852	3,642	2,946	4,807	3,936	5,463	4,494	6,373	5,267	7,283	6,041
2	12.41	34.26	24.82	131.48	68.94	1,200	870	1,344	992	2,068	1,608	2,730	2,171	3,102	2,487	3,619	2,926	4,136	3,366
3	9.44	43.70	18.88	112.60	52.44	912	625	1,023	720	1,573	1,187	2,077	1,615	2,360	1,856	2,753	2,190	3,146	2,524
4	7.59	51.29	15.18	97.42	42.17	734	474	822	549	1,275	925	1,670	1,270	1,898	1,463	2,214	1,732	2,530	2,001
5	6.48	57.77	12.96	84.46	36.00	626	382	702	447	1,080	768	1,426	1,062	1,620	1,227	1,890	1,457	2,160	1,686
6	5.55	63.32	11.10	73.36	30.83	536	306	601	361	925	636	1,221	888	1,387	1,029	1,619	1,226	1,850	1,423
7	4.80	68.12	9.60	63.76	26.67	464	244	520	292	800	530	1,056	748	1,200	870	1,400	1,040	1,600	1,210
8	4.22	72.34	8.44	55.32	23.44	408	197	457	238	703	448	928	639	1,055	747	1,231	896	1,406	1,045
9	3.70	76.04	7.40	47.92	20.56	358	154	401	191	617	374	814	542	925	636	1,079	767	1,234	899
10	3.33	79.37	6.66	41.26	18.50	322	124	361	157	555	322	733	473	833	588	971	675	1,110	794
11	2.96	82.33	5.92	35.34	16.44	286	93	321	123	493	269	651	403	740	479	863	584	986	688
12	2.66	84.99	5.32	30.02	14.78	257	[illegible]	288	95	443	227	585	347	665	415	776	510	887	604
13	2.40	87.39	4.80	25.22	13.33	232	47	260	71	400	190	528	299	600	360	700	445	800	530
14	2.18	89.57	4.36	20.86	12.11	211	29	236	51	363	159	480	258	545	313	636	391	727	468
15	1.96	91.53	3.92	16.94	10.89	189	[1] 11	212	30	327	128	431	216	490	267	572	336	653	405
16	1.77	93.30	3.54	13.40	9.83	171	5—	192	13—	295	101	389	181	442	226	516	289	590	352
17	1.62	94.92	3.24	10.16	9.00	157	17—	176	0—	270	80	356	153	405	194	473	252	540	309
18	1.48	96.40	2.96	7.20	8.22	143	28—	160	14—	247	60	326	127	370	165	432	217	493	269
19	1.37	97.77	2.74	4.46	7.61	132	38—	148	24—	228	44	301	106	342	141	400	190	457	238
20	1.26	99.03	2.52	1.94	7.00	122	46—	137	34—	210	29	277	85	315	118	368	163	420	207

[1] Economic limit reached. Future unprofitable reserves equals 16.94 MMCF per well times 2,258 wells equals 38.25 billion cubic feet.

OHIO OIL & GAS ASSOCIATION—ECONOMIC ANALYSIS OF CLINTON GAS PRODUCTION

[WI estimates include cost of operations at $150 per month]

ANALYSES OF 3,716 WELLS, AUG. 1, 1977, 100 MMCF RECOVERY

Year	Percent total recovery		Estimated annual recovery (MMCF)	Remaining reserve (MMCF)	Rate per day (MCF)	Income per month at $0.58	WI estimate at $0.85	Income per month at $0.65	WI estimate at $0.85	Income per month at $1	WI estimate at $0.85	Income per month at $1.32	WI estimate at $0.85	Income per month at $1.50	WI estimate at $0.85	Income per month at $1.75	WI estimate at $0.85	Income per month at $2	WI estimate at $0.85
	Per year	Accumulated																	
1	21.85	21.85	21.85	78.15	60.69	1,056	748	1,183	856	1,821	1,398	2,403	1,893	2,731	2,171	3,186	2,558	3,641	2,945
2	12.41	34.26	12.41	65.74	34.47	600	360	672	421	1,034	729	1,365	1,010	1,551	1,168	1,810	1,389	2,068	1,608
3	9.44	43.70	9.44	56.30	26.22	456	238	511	284	787	519	1,038	732	1,180	853	1,377	1,020	1,573	1,187
4	7.59	51.29	7.59	48.71	21.08	367	162	411	199	632	387	835	560	949	657	1,107	791	1,265	925
5	6.48	57.77	6.48	42.23	18.00	313	116	351	148	540	309	713	456	810	539	945	653	1,080	768
6	5.55	63.32	5.55	36.68	15.42	268	78	301	106	463	244	611	369	694	340	810	539	925	636
7	4.80	68.12	4.80	31.88	13.33	232	47	260	71	400	190	528	299	600	360	700	445	800	530
8	4.22	72.34	4.22	27.66	11.72	204	23	229	45	352	149	464	244	527	298	615	373	703	448
9	3.70	76.04	3.70	23.96	[1] 10.28	179	2	200	20	308	112	407	196	463	244	540	309	617	374
10	3.33	79.37	3.33	20.63	9.25	161	13—	180	3—	278	86	366	161	416	204	486	263	555	322
11	2.96	82.33	2.96	17.67	8.22	143	28—	160	14—	247	60	326	127	370	165	432	217	493	269
12	2.66	84.99	2.66	15.01	7.39	129	40—	144	28—	222	[illegible]	293	99	333	133	388	180	443	227
13	2.40	87.39	2.40	12.61	6.67	116	51—	130	40—	200	20	264	74	300	105	350	148	400	190
14	2.18	89.57	2.18	10.43	6.06	105	61—	118	50—	182	5	240	54	273	82	318	120	364	159
15	1.96	91.53	1.96	8.47	5.44	95	69—	106	60—	163	11—	215	33	245	58	286	93	326	127
16	1.77	93.30	1.77	6.70	4.92	86	77—	96	68—	148	24—	195	16	221	38	258	69	295	101
17	1.62	94.92	1.62	5.08	4.50	78	84—	88	75—	135	35—	178	1	203	23	236	51	270	80
18	1.48	96.40	1.48	3.60	4.11	72	89—	80	82—	123	45—	163	11—	185	7	216	34	247	60
19	1.37	97.77	1.37	2.23	3.81	66	94—	74	87—	114	53—	151	22—	171	5—	200	20	229	45
20	1.26	99.03	1.26	.97	3.50	61	98—	68	92—	105	61—	139	32—	158	16—	184	6	210	29

[1] Economic limit reached. Future unprofitable reserves equals 23.96 MMCF per well times 3716 wells equals 89.035 billion cubic feet.

(Graphs not reproducible in the RECORD. The printed material from the graph is as follows:)

Economic study: Ohio Oil and Gas Association.

Composite production decline curves: Ohio gas wells.

Production History of Wells: 400 MMCF, Drilled 25 years Ago. Typical Well Costs equal $6.50 per foot; Market price equals 24 cents MCF.

Ten Years Ago (200 MMCF) Typical Well Costs equal $10.00 per foot; Market Price equals 27 cents MCF to 58 cents/65 cents MCF.

Two Years Ago (100 MMCF) Typical Well Costs equal $25.00 Ft.; $1.55 to $1.70 per MCF.

Annual net volumes (MCF).

Years.

ECONOMIC PRODUCTION COMPARISON AND ANALYSIS

[Average Ohio gas well at "Old" natural gas prices assuming complete recovery of reserves]

Estimated cumulative production (25 years ago):400 MMCF			Operating costs	$36,000	
Gross proceeds (at 24¢/MCF)		$96,000		$76,000	
Average small producers interest (85%)		$81,600	Net loss		($18,200)
Well investment (4,000 feet)	$26,000		Percent of reserves in this study=67%		
Operating costs	$24,000		Estimated cumulative production (2 years ago):100 MMCF		
	$50,000		Gross proceeds:		
Net revenues		$31,600	(At $1.C0/MCF for 35% of reserves)	$35,000	
Percent of reserves in this study=3%			(At $1.60/MCF for 65% of reserves)	$104,000	
Estimated cumulative production (10 years ago):200 MMCF				$139,000	
Gross proceeds:			Average small producers interest (85%)		$118,000
(At 27¢/MCF for 80% of reserves)	$43,200		Well costs (4,000 feet)	$100,000	
(At 62¢/MCF for 20% of reserves)	$24,800		Operating costs	$72,000	
	$68,000			$172,000	
Average small producers interest (85%)		$57,800	Net loss		($54,000)
Well investment (4,000 feet)	$40,000		Percent of reserves in this study=18%		

Mr. METZENBAUM. Mr. President, I would be very happy to respond to my distinguished friend from Oklahoma, provided it is on his time. I do not have enough of my own time remaining.

Mr. BARTLETT. Not on my time. I would expect my comments and my reading to be on my time.

Mr. METZENBAUM. I will be happy to respond by communication, because I cannot afford time on the floor.

I will add one thing. I met in the Capitol with the people from that group, and they indicated that they would be delighted if they could get $1.75 per thousand cubic feet, which is the President's price. They also indicated that had they had the opportunity to do so, they would have urged the Senator from Oklahoma and the other Members of the Senate to support the amendment that this Senator from Ohio offered as an amendment to the pending measure.

Mr. BARTLETT. It is very clear, I say to the distinguished Senator from Ohio, that the Oil and Gas Association has shown, by its president and its treasurer, that they are interested in a free market and a higher price that would be based on supply and demand, one that would reflect the higher costs of drilling, the lower production and reserves available, as well as a proper price for the gas, to make it all worthwhile.

I think it shows very clearly that the price control approach is one that does provide the quantities we need and the quantities we can have from known reserves if the marginal wells are given an opportunity to produce, rather than to plug or abandon a well that is capable of providing the best energy of all—gas—and at a price far less than the replacement price of the OPEC, imported, high-cost crude oil.

Mr. President, I move to lay on the table the amendment of the Senator from Ohio, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 485 Leg.]

YEAS—50

Allen	Ford	Packwood
Baker	Garn	Pearson
Bartlett	Glenn	Percy
Bellmon	Goldwater	Randolph
Bentsen	Gravel	Roth
Burdick	Hansen	Sasser
Byrd, Harry F., Jr.	Hatch	Schmitt
	Hayakawa	Scott
Cannon	Helms	Sparkman
Chafee	Huddleston	Stennis
Chiles	Javits	Stevens
Curtis	Johnston	Stone
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	McClure	Wallop
Eagleton	McIntyre	Young
Eastland	Nunn	Zorinsky

NAYS—41

Abourezk	Hart	Metzenbaum
Anderson	Haskell	Morgan
Bayh	Hatfield	Moynihan
Biden	Hathaway	Muskie
Brooke	Heinz	Nelson
Bumpers	Hollings	Pell
Byrd, Robert C.	Inouye	Proxmire
Case	Jackson	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Schweiker
Culver	Mathias	Stevenson
DeConcini	Matsunaga	Williams
Durkin	McGovern	

NOT VOTING—9

Griffin	McClellan	Stafford
Humphrey	Melcher	Talmadge
Laxalt	Metcalf	Weicker

So the motion to lay on the table amendment No. 894 was agreed to.

Mr. ABOUREZK addressed the Chair.

Mr. SCHMITT. Will the Senator yield for a unanimous-consent request?

Mr. ABOUREZK. On your time.

Mr. SCHMITT. Mr. President, I request unanimous consent that Diana Griffin, of my staff, be accorded floor privileges during debate.

The PRESIDING OFFICER (Mr. MCINTYRE). Without objection, it is so ordered.

Mr. SCHMITT. I thank the Senator for the use of my time.

[Laughter.]

AMENDMENT NO. 1124

Mr. ABOUREZK. Mr. President, I call up my amendment No. 1124.

The PRESIDING OFFICER. The clerk will report the amendment.

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 1124:

On page 10, strike lines 11 through 14.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay that amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Oklahoma to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 63, nays 29, as follows:

[Rollcall Vote No. 486 Leg.]

YEAS—63

Allen	Garn	Pearson
Baker	Glenn	Pell
Bartlett	Goldwater	Percy
Bellmon	Gravel	Randolph
Bentsen	Hansen	Roth
Brooke	Hart	Sasser
Bumpers	Hatch	Schmitt
Burdick	Hatfield	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
	Heinz	Sparkman
Byrd, Robert C.	Helms	Stennis
Cannon	Huddleston	Stevens
Case	Javits	Stone
Chafee	Johnston	Talmadge
Chiles	Laxalt	Thurmond
Curtis	Long	Tower
Danforth	Lugar	Wallop
Dole	Mathias	Weicker
Domenici	McClure	Young
Eagleton	Morgan	Zorinsky
Eastland	Nunn	
Ford	Packwood	

NAYS—29

Abourezk	Haskell	Metzenbaum
Anderson	Hollings	Moynihan
Bayh	Inouye	Muskie
Biden	Jackson	Nelson
Church	Kennedy	Proxmire
Clark	Leahy	Ribicoff
Cranston	Magnuson	Riegle
Culver	Matsunaga	Sarbanes
DeConcini	McGovern	Williams
Durkin	McIntyre	

NOT VOTING—8

Griffin	McClellan	Stafford
Hathaway	Melcher	Stevenson
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1124 was agreed to.

AMENDMENT NO. 1125

Mr. ABOUREZK. Mr. President, I call up amendment No. 1125.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1125:

On page 10, strike lines 15 through 20.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1125) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 67, nays 28, as follows:

[Rollcall Vote No. 487 Leg.]

YEAS—67

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Hansen	Randolph
Brooke	Hart	Roth
Bumpers	Hatch	Sasser
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Schweiker
Byrd, Robert C.	Heinz	Scott
Cannon	Helms	Sparkman
Case	Huddleston	Stennis
Chafee	Javits	Stevens
Chiles	Johnston	Stevenson
Curtis	Lavalt	Stone
Danforth	Leahy	Talmadge
DeConcini	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young
Ford	Morgan	Zorinsky
	Moynihan	

NAYS—28

Abourezk	Hathaway	Muskie
Anderson	Hollings	Nelson
Bayh	Inouye	Pell
Biden	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Magnuson	Riegle
Cranston	Matsunaga	Sarbanes
Culver	McGovern	Williams
Durkin	McIntyre	
Haskell	Metzenbaum	

NOT VOTING—5

Griffin	McClellan	Stafford
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1125 was agreed to.

AMENDMENT NO. 1126

Mr. ABOUREZK. Mr. President, I call up amendment No. 1126.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 1126:

On page 10, line 2, strike "and only these factors".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 34, as follows:

[Rollcall Vote No. 488 Leg.]

YEAS—58

Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Hansen	Roth
Bentsen	Hart	Schmitt
Burdick	Haskell	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Heinz	Stennis
Chiles	Helms	Stevens
Cranston	Huddleston	Stevenson
Curtis	Javits	Stone
Danforth	Johnston	Talmadge
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
Eagleton	McClure	Wallop
Eastland	Melcher	Weicker
Ford	Morgan	Young
Garn	Nunn	Zorinsky
	Packwood	

NAYS—34

Abourezk	Durkin	Moynihan
Anderson	Hathaway	Muskie
Bayh	Hollings	Nelson
Biden	Inouye	Pell
Brooke	Jackson	Proxmire
Bumpers	Leahy	Ribicoff
Byrd, Robert C.	Magnuson	Riegle
Case	Mathias	Sarbanes
Church	Matsunaga	Sasser
Clark	McGovern	Williams
Culver	McIntyre	
DeConcini	Metzenbaum	

NOT VOTING—8

Griffin	Kennedy	Metcalf
Hayakawa	Long	Stafford
Humphrey	McClellan	

So the motion to lay on the table amendment No. 1126 was agreed to.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:27 p.m. a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed S. 213, to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms, without amendment.

The message also announced that the House has passed S. 1060, to amend the Act of February 9, 1821, to restate the charter of The George Washington University, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 1331, to provide for the establishment of a Center for Books in the Library of Congress, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to H.R. 5645, to raise the limitation on appropriations for the U.S. Commission on Civil Rights, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 7132. An act to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the United States Postal Service;

H.R. 7747. An act to amend title 23 of the District of Columbia Code with respect to the release of detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes; and

H.R. 7766. An act to authorize the Mayor of the District of Columbia to enter into an agreement with the United States Postal Service with respect to the use of certain public air space in the District of Columbia.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 60. A concurrent resolution authorizing a bust or statue of Martin Luther King, Junior, to be placed in the Capitol; and

H. Con. Res. 277. A concurrent resolution expressing the sense of the Congress that the United States Postal Service should not reduce the frequency of mail delivery service.

At 4:15 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that

the House agrees to the amendment of the Senate to the amendments of the House to S. 1435, a bill to authorize appropriations for the Federal Election Commission for fiscal year 1978.

The message also announced that the House recedes from its disagreement to the amendment of the Senate numbered 40 to H.R. 7554, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, and concurs therein.

The message further announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25 to H.R. 6550, to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

The message also announced that the House has passed H.R. 6692, an act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (S. 213) to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

The enrolled bill was subsequently signed by the President pro tempore.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 28, 1977, he presented to the President of the United States the enrolled bill (S. 1322) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

HOUSE BILLS ORDERED PLACED ON THE CALENDAR

The following bills were read twice by title and ordered placed on the calendar:

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes; and

H.R. 6693. An act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes.

HOUSE BILLS AND RESOLUTIONS REFERRED

The following bills were each read twice by their titles and referred as indicated to the Committee on Government Operations:

H.R. 7132. An act to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service;

H.R. 7747. An act to amend title 23 of the District of Columbia Code with respect to the release of detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes; and

H.R. 7766. An act to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia.

The following concurrent resolutions were each read by title and referred, as indicated:

H. Con. Res. 60. A concurrent resolution authorizing a bust or statute of Martin Luther King, Junior, to be placed in the Capitol; to the Committee on Rules and Administration.

H. Con. Res. 277. A concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Robert W. Fri, of Maryland, to be Representative of the United States to the 21st Session of the General Conference of the International Atomic Energy Agency;

The following as Alternative Representatives:

Richard T. Kennedy, of the District of Columbia;

Louis V. Nosenzo, of Virginia;

Nelson F. Sievering, Jr., of Maryland;

Gerard C. Smith, of the District of Columbia;

Galen L. Stone, of the District of Columbia;

Robert D. Thorne, of California; and

Robert S. Rochlin, of Maryland.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

John D. Negroponte, of New York, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, with the rank of Ambassador.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John D. Negroponte.

Post: Deputy Assistant Secretary of State for Oceans and Fisheries Affairs.

Nominated: Not yet.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Names: Not applied.

4. Parents Names: Dimitri and Catherine Negroponte, none; wife's parents—Sir Charles and Lady Villiers, none.

5. Grandparents Names: Helen Coumantaros, none.

6. Brothers and Spouses Names: Nicholas and Elaine Negroponte, none; George Negroponte, none; Michel Negroponte, none.

7. Sisters and Spouses Names: N/A.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Ralph Earle, II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations.

(The above nomination was reported with the recommendations that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONSTRUCTIONS STATEMENT

Nominee: Ralph Earle II.

Post: Ambassador-Designate.

Nominated:

Contributions, amount, date, and donee.

1. Self: Ralph Earle II, none.

2. Spouse: Eleanor F. Owens Earle, $10, April 1976, James Symington (U.S. Senate, Mo.).

3. Children and Spouses: Eleanor F. Earle, none; Ralph Earle III, none; Duncan O. Earle, none; Amanda W. Earle, none; Caroline E. McK. Earle, none.

4. Parents and Spouses: Mrs. Huberta P. Sheaffer (mother), none; Mr. T. C. Sheaffer, $25, January 1973, Republican National Finance Committee; Mr. T. C. Sheaffer, $100, October 1973, Republican National Finance Committee; Mr. G. H. Earle III (father), none; Mrs. Jacqueline S. Earle, none.

5. Grandparents and Spouses: (All deceased prior to January 1, 1973).

6. Brothers and Spouses: Mr. George H. Earle IV, none; Mr. Hubert P. Earle, none; Mrs. Elizabeth W. Earle, none; Mrs. Lawrence W. Earle, none; Mrs. Sylvie P. Earle, none; Mr. Anthony W. Earle, none.

7. Sisters and Spouses: Mrs. Jacqueline Earle-Cruickshanks, none; Mrs. Paul Earle-Cruickshanks, none.

I have listed above the names of each member of my immediate family, including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Frank J. Devine, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to El Salvador.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Devine, Frank J.

Post: United States Ambassador to El Salvador.

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Esteban Edward Torres, of Virginia, for the rank of Ambassador during the tenure of his assignment as the U.S. Permanent Representative to the U.N. Educational, Scientific, and Cultural Organization at Paris, France.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Esteban E. Torres.

Post: U.S. Representative to UNESCO.

Nominated: July 14, 1977.

Contributions, amount, date, donee.

1. Self, $3,000.00, March 10, 1974, Esteban Ed Torres, Candidate for Congress, 30th Cong. Dist., California.

2. Spouse, $3,500.00, March 10, 1974, Esteban Ed Torres, Candidate for Congress, 30th Cong. Dist., California.

3. Children and spouses, none.

4. Parents (mother), Mrs. Rena G. Bay, $1,000.00, March 10, 1974.

5. Grandparents, none.

6. Brothers and spouses, Gus Provencio, $450.00, March 10, 1974; Roger Provencio, $666.00, March 10, 1974.

7. Sisters and spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Carolyn R. Payton, of the District of Columbia, to be an Associate Director of the ACTION Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATCH:

S.J. Res. 84. A joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S.J. Res. 84. A joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, today I am introducing a joint resolution which calls for a constitutional human life amendment to protect the right to life of unborn children. Congressman GUNN McKAY of Utah has introduced the joint resolution in the House of Representatives today.

In recent years, one of the most emotion-filled issues to face the American people has been the question of abortion. The joint resolution I am introducing is intended to protect human life by protecting the unborn from the revolting practice of indiscriminate abortion. However, the amendment I propose does not prohibit termination of a pregnancy if such termination is necessary to prevent the death of the mother or to prevent permanent and incapacitating impairment of the mother's physical health.

This amendment would also permit termination in the first trimester period of a pregnancy resulting from rape if State law does not prohibit such termination and if a judicial determination in a confidential ex parte proceeding prior to such termination indicates that the rape occurred and the pregnancy resulted from that rape. While this amendment reflects my personal moral commitment, I feel that the approach presented in this joint resolution is one of reason and sense. The amendment provides a solid meeting ground for responsible citizens and religious organizations who are so concerned about the indiscriminate abortions now permitted in our society. This is a valid way to guarantee the right to life to unborn children while also protecting the rights of mothers in our society.

ADDITIONAL COSPONSORS

S. 818

At the request of Mr. WILLIAMS, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 818, a bill to end the use of steel-jaw leg-hold traps.

S. 991

At the request of Mr. RIBICOFF, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 991, a bill to establish a separate Department of Education in the Federal Government.

S. 1178

At the request of Mr. THURMOND, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1178, a bill to amend the Communications Act of 1934 in order to prohibit the television broadcasting of programs portraying nudity, obscenity, explicit sexual activity, gross physical violence or morbid torture, any of which is offensive to the public taste and morals.

S. 1783

At the request of Mr. ANDERSON, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1783, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes.

S. 1983

At the request of Mr. GRIFFIN, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 1983, the Labor-Management Reform Amendments of 1977.

S. 2011

At the request of Mr. SCHMITT, the Senator from Arizona (Mr. GOLDWATER), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2011, the Regulatory Reduction and Congressional Control Act of 1977.

S. 2017

At the request of Mr. HELMS, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 2017, the Freedom of Choice in Education Act.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. HASKELL), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Resolution 264, authorizing additional and continuing expenditures by the Committee on Nutrition and Human Needs.

SENATE RESOLUTION 273—ORIGINAL RESOLUTION REPORTED WAIVING SECTION OF THE CONGRESSIONAL BUDGET ACT

(Referred to the Committee on the Budget.)

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 273

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1863, a bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, tests, and evaluation for the Armed Forces, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

On July 12, 1977 the President submitted an amendment to the Budget for fiscal year 1978 as a result of his decision to terminate B-1 production and to pursue instead development and deployment of cruise missiles using air launched platforms. The amendment decreased the amounts requested for appropriations in certain accounts of the Department of Defense and increased others. Some of these increased amounts require fund authorization pursuant to section 138 (a) of Title 10, United States Code.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to S. 1863, as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

PIPELINE COMPETITION ACT—S. 1879

AMENDMENT NO. 1397

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. HASKELL. Mr. President, today I am submitting an amendment to S. 1879, a bill which I introduced on July 18 of this year dealing with the ownership of petroleum pipelines. The amendment is in the nature of a substitute. I ask unanimous consent that the text of my amendment be printed in the RECORD at the conclusion of my remarks.

S. 1879 would prohibit the Secretary of the Interior from granting or renewing rights-of-way over, upon or through Federal lands for pipelines transporting petroleum if the applicant for the right-of-way, or his affiliate is also in the business of producing or refining crude oil. It would also prohibit pipeline ownership by crude oil refiners or producers.

The amendment which I offer today would make it unlawful for any person who owns or controls any interest in a refinery asset, production asset, or marketing asset to own or control any interest in a petroleum pipeline. It would also prohibit any person who controls a pipeline from receiving for transport, storing, transporting, or delivering any petroleum in which such person or his affiliate holds an interest. A procedure is established to accomplish these goals.

An exemption from this prohibition is possible upon a determination by the Federal Energy Regulatory Commission that a pipeline is so integral a part of other assets that no public purpose would be served by divestment or prohibition of use and that the retention or use of the pipeline would not be injurious to competition.

Each person subject to the prohibitions of the act would be required to submit a plan to the Federal Energy Regulatory Commission for the divestment of the prohibited assets within 1 year of the date of enactment. The divestment plans are to provide for the formation of a separate corporation. Shares in the new corporation are to be distributed to the stockholders of the divesting corporation in proportion to the stockholders holdings in the divesting corporation. Divestment must be accomplished within 3 years from the date of enactment of the act.

The newly formed Federal Energy Regulatory Commission, which has, under the Department of Energy Organization Act, jurisdiction over the transportation of oil by pipeline, will have the responsibility for carrying out the purposes of the act. The Securities and Exchange Commission will play an advisory role in the proceedings.

Mr. President, this is not a new concept. A similar provision, the "commodities clause" of the Interstate Commerce Act, has been in effect since 1906. In that same year, the Roosevelt administration backed a bill introduced by Representative William P. Hepburn to expand the powers of the ICC. Two amendments relevant to pipeline divestment were proposed. Senator Lodge offered an amendment which would have made petroleum pipelines common carriers, subject to ICC regulation. Senator Elkins of West Virginia added a "commodity clause" to the bill. The provision would have prohibited common carriers from shipping commodities in which they had an interest. The Elkins amendment was deleted in the conference committee. Senator Lodge had the following to say about its deletion:

> I can see no possible reason why the men controlling these great trunklines of pipe should not make a carrying business and be content to carry oil for all producers at a reasonable rate. We make the railroads do it, and I do not see the slightest reason for this change.

I agree with Senator Lodge. In the 71 years since he had the foresight to advocate such an amendment, developments have shown just how much it was needed.

The ability of pipeline owners to control the crude oil supplies has been well documented through the years. This control has been exercised through the ownership of two systems: First, crude gathering systems, and second, crude oil trunklines.

The anticompetitive aspects of ownership of both these systems by major oil companies was recognized in reports by Attorney General William P. Rogers pursuant to section 2 of the joint resolution of July 28, 1955, consenting to an Interstate Compact to Conserve Oil and Gas. The 1958 report stated:

> The anticompetitive possibilities inherent in the control of transport facilities by major components of an industry have long been recognized. The peculiar conditions surrounding pipeline operation a half century ago were the justification for excepting these carriers from the operations of prohibitions against carriers dealing in the goods they transported. Recurrently since that time, proposals have been made to impose on pipelines the same prohibition. There are at least some indications that pipeline operation has since developed true common carrier capabilities, perhaps sufficient to permit independent operation. However, any recommendation in this respect must await full and careful investigation.

The 1959 report said:

> A different problem, however, is posed by the present pattern of pipeline ownership and operation. Only one possible pipeline connection is usually available to a well, and, considering its cost, is likely to endure for the life of the well. The economies of size and trunk-line operation logically impel building one large diameter line to a field or area, sufficient to carry anticipated production and therefore preclusive of economical operation of other lines.
>
> The position of each pipeline owner is greatly magnified by reciprocal use of pipelines among the select group of integrated companies owning pipelines. Logical and efficient operation of pipelines as a transportation system urges cooperation between lines and avoidance of duplication and cross-hauling. But the pipeline system is more than a transport agency, it is the crude oil market. *And cooperative use of pipelines has a grave potential for control of crude oil markets.* (Emphasis added.)

> Antitrust litigation can perhaps deal with particular cases of pipeline abuse. But the problem is more far-reaching, covering the broad spectrum of this industry's transportation and buying operations, and *singularly suited to legislative action*. Precise definition of the problem requires compulsory process to insure complete information; *and any policy decision on the appropriate solution seems best suited to legislative determination.*" (Emphasis added.)

A producer typically sells his crude oil at the wellhead to the owner of the gathering system which services the field. The gathering lines move the oil to a trunk-line. Extensive ownership of crude gathering systems has enabled major companies to control a large amount of independently produced oil.

In 1973, the FTC's "Investigation of the Petroleum Industry" found that "* * * once gathering lines are erected, there are few other buyers of crude from that particular field." For the years 1967–71, the FTC staff found that the eight largest majors alone purchased over 40 percent of the independent crude production. The FTC report concluded:

> Control of these gathering lines, in addition to ownership of approximately 52 percent of crude sources, gives the eight largest firms substantial control of domestically produced crude oil.

It is possible to trace this history of this problem since the year following the failure of the Elkins amendment to the Hepburn Act. In 1907, the Bureau of Corporations in its report on the petroleum industry made the following observation:

> It is true that the Standard Oil Company does not control a majority of crude oil production by actual ownership of the wells, but its control of the pipelines, the only effective means of marketing most of this oil, gives it just as complete a control of crude production as by direct title to the fields, and the result is that the Standard is almost the sole purchaser, and its daily quotations for oil and the "official price" in most of these fields.
>
> The indirect control is practically as effective as direct ownership would be.

The situation has remained the same since that time. In 1948, an economist with a major oil company was able to write:

> Ownership of a pipeline outlet from a producing region is second only to ownership of proven and developed acreage as a means of supplying crude.

In the late 1950's an official of Humble—now Exxon—expressed in the same view about the inflexibility of the producer-gathering line relationship when he told the Texas Railroad Commission:

> . . . down through the years I think actual experience has dictated that it's been a pretty certain fact that Humble, if it's the purchaser or Cities Service, or anybody else whom we serve in an area, that they pretty well have control of that production.

In 1967, the report of the Attorney General concluded that once the relationship between the producer and gatherer is established, the connection is rarely broken:

> . . . the field market for crude oil displays all of the indicia of a monopoly market. The physical pipeline connection and the basic division order may be the subject of competition initially, with occasionally real

rivalry as to which purchaser-pipeline is to be chosen for the initial connection. But once installed, the expensive physical connections and the complex legal arrangements are long enduring, not easily responsible to supply-demand fluctuations or to price behavior.

More recently, Mr. Charles Siess, president of Apco Refining Co. testified before the Subcommittee on Antitrust and Monopoly as to the difficulties his company encountered when attempting to use the gathering lines of another refiner as a common carrier. Apco offered General Crude Corp. 40 cents a barrel over the posted price for the purchase of approximately 22,000 barrels of crude a day. Until then the oil had been purchased by Sun Oil which owned the gathering lines in the field. The following exchange between Senator Tunney and Mr. Siess illustrates the problem dramatically:

Senator TUNNEY. After you purchased the crude from General Crude did you have any difficulty moving that crude from the point of the wellhead to your refinery?

Mr. SIESS. Yes, sir, we did. We were initially advised by Sun Pipeline, after we had General Crude send telegrams to all the prior purchases about the amendment on such and such a date, that Apco Oil would be the purchaser of crude and we in turn then advised Sun Pipeline that we would move that crude for our account—that they could not move the crude for us.

This was their intrastate gathering line in west Texas.

Senator TUNNEY. This was their common carrier line?

Mr. SIESS. It is an intrastate common carrier, I believe, sir. I think that in the State of Texas common carriers are almost any lines. The restrictions are pretty severe with respect to common cariers. . . . So I am sure that it was a common carrier.

Senator TUNNEY. What reason did they give you that they could not move your crude?

Mr. SIESS. They said that it didn't meet the vapor specifications for their system.

Senator TUNNEY. But they had been moving that same crude with the same vapor characteristics up until that point; is that correct?

Mr. SIESS. Yes, sir; they certainly had, and we discussed that point with them for several days. And very honestly we got down to the point where we were advised that—I believe it was 1 o'clock on Saturday morning—the tanks would be full and they would have to advise General Crude that they were going to shut the leases in.

And of course, our deal with General Crude was such that we would have had to pay for the crude even though the leases were shut in, if we expected to keep it.

So we, on a Friday morning very early, contacted the president of Sun Pipeline Co. in Tulsa, advising him that we had reviewed the situation in depth, and indeed had spent the night reviewing it, and that if they did not advise us by noon that they were going to move the crude we were going to file suit.

About 10:30 that morning, they called back and said that they would move the crude.

* * * * *

Senator TUNNEY. If you had not been able to move that crude on the Sun pipeline, what would that have meant to your company?

Mr. SIESS. Well, we would have had to, if we wanted to keep that crude, continue to purchase 23,000 barrels of crude at $3.90 a barrel, which roughly, I believe, turns into about $100,000 a day, approximately, for whatever period of time we couldn't move the crude—if we expected to keep it.

And with our balance sheet we would not have lasted very long.

Crude gathering systems carry oil to trunklines, which in turn transport the oil to refineries. In 1974, 87 percent of all domestic crude was carried by pipeline. Ownership of crude trunklines further extends the control of the major oil companies over crude supply. The following table is taken from a 1974 report by the Interstate Commerce Commission:

Shipments originated in major oil company pipelines, 1973 [1]

	Million barrels	Percent
Crude oil lines:		
8 Largest majors	1,897.4	64.3
8 Other majors	442.5	15.0
Joint venture lines [2]	385.3	13.1
Total, 16 majors	2,725.2	92.4
U.S. total	2,949.9	100.0

[1] ICC reporting lines, except Lakehead, Trans-Mountain, and Portland pipeline companies. Volumes exclude shipments received from connecting carriers.

[2] Lines owned or controlled by groups of 2 or more major companies.

In 1973, over 92 percent of the crude oil pipeline shipments reported by the Interstate Commerce Commission originated in lines that were owned or almost ompletely controlled by the integrated majors.

In 1967, a report by Attorney General Ramsey Clark on the Interstate Oil Compact pointed out the strategic importance of the majors' crude pipeline system:

> Physically, the pipeline network presents a surprisingly flexible transportation pattern in terms of geography . . . . But, as a practical matter, this flexibility is only available to oil owned by an integrated company. The entire crude oil pipeline system is so dominated by the integrated companies that virtually all shipments, even if handled at origin or near destination by one of the few independent lines, must have intermediate access to an integrated company line.

Under the Hepburn Act, interstate pipelines have common carrier obligations. These are as a practical matter largely determined by the legal form of the pipeline's organization. The organization forms usually fit into one of three categories. The first and simplest is the pipeline owned and operated by a single company. The second, frequently used for larger lines, is the joint venture. This is a separate corporation formed by a group of firms which own shares in the line in proportion to their equity interest. The third form is the undivided interest line. These lines are constructed by a group of firms which operate under the legal fiction that they have not built one line, but that each member has its own line proportionate in size to its investment in the actual line. Each member, therefore, gets exclusive use of its share of line just as if it were a separate pipeline.

The chairman of the Interstate Commerce Commission has testified that pipelines which are owned by a single company and transport only their own oil are common carriers only for reporting purposes. They have no obligation to file rates or to transport oil for others. Although the ICC chairman did not say so, the logic of his position would probably exempt undivided pipelines from common carrier obligation to the extent the owners shipped only their own oil. A joint venture pipeline, however, even when carrying only the oil of its owners, is considered by the ICC to have full common carrier obligations.

The practical effect of this common carrier status, however, is quite limited. The 1967 Attorney General's report found that nonowner shippers—typically independents—face serious obstacles in gaining access to such common carrier facilities:

> * * * outsiders simply are unable to use these lines as they could other types of common carriers. This is probably due less to direct refusal to accept outside shipment as to the multiple inconveniences which an outsider would encounter in attempting shipment over a line designed and geared almost entirely to handle the refiner-owner's own shipments.

The 1973 FTC report listed a number of devices short of outright refusal which are available to a pipeline operator who seeks to deny an independent access to its line. These include:

> Requiring large "minimum tenders" (i.e., the least amount which the carrier will accept for shipment);
>
> Granting irregular shipping dates;
>
> Limiting available storage at the pipeline terminal; and
>
> Imposing unreasonable commodity quality specifications.

The 1967 Attorney General's report went on to describe the practical effect of this pipeline control:

> * * * virtually all crude oil passing through a pipeline carrier system is oil owned by the carrier's refining affiliate. Some exception is made where the "outsider" is also an integrated company whose lines elsewhere the carrier's refining affiliate may wish to use. Even in this situation, however, the appearance of discrimination is avoided by the exchange and re-exchange of the oil involved, or its "sale" and "repurchase."

In 1973, the FTC found the situation unchanged:

> The opportunity to require the independent to enter into an agreement to sell his produce at the well head in order to obtain regular sale and transportation of crude clearly exists for majors.

Mr. President, I think that the evidence which has been accumulated over the years, as illustrated in testimony by representatives of independent oil companies, Government reports and representatives of the major oil companies themselves, indicates clearly that control over both pipeline gathering systems and crude trunklines greatly expands the ability of the major oil companies to control the Nation's supply of crude oil. Moreover, I think that this control has been exercised in restraint of trade and that its very existence is contrary to the competitive ethic that has made this country great.

As I have explained, this is not a new issue. It is one which has confronted legislators for seven decades. Nor is this issue unfamiliar to me. On June 14, 1973, I introduced an amendment to the Alaska pipeline bill which would have required that the pipeline be independently owned. On June 26 of that year, I introduced a divestiture bill. The Senate was apparently not ready to favorably consider such legislation in 1973. I think I can say with some justification, in light of recent events in connection with the rate setting proceedings for the TAPS line, that "I told you so."

If it were not for the fact that the royalties and severance taxes collected by the State of Alaska are dependent upon the wellhead price of oil, which is the sale price minus transportation, the rate requests filed by the owners of the pipeline with the ICC might never have been challenged. Clearly a higher rate would place those companies having an interest in the pipeline at a considerable competitive advantage over those not owning an interest. The fact that the ICC eventually reduced the tariff by an average of 20 percent is an indication of the monopoly advantage which might have accrued to the owners of the pipeline. Since an independent pipeline owner would not have had this incentive to pad construction costs for the purpose of establishing artificially high tariffs, this situation might never have arisen if my amendment had been adopted in 1973.

I would also like to cite the report of the Attorney General pursuant to section 7 of the Deepwater Port Act of 1974 on the applications of Loop, Inc. and Seadock, Inc. for deepwater port licenses. The report was issued on November 5, 1976, and has relevance to the question of pipeline ownership, because deepwater ports, like oil pipelines, are subject to regulation by the ICC. The report concludes:

> The major conclusion to be drawn from our antitrust analysis is that the integrated oil company owners of the proposed ports have attempted to maximize their profits through various overt and subtle requirements which will have the effect of restricting port throughput by limiting port capacity and access, thus enhancing the owners' profits in downstream product markets. Our economic analysis indicated that the port owners have the incentive to act in this manner, since port profitability is limited by rate regulation. We believe that the evidence demonstrates that the owners propose to operate the ports in a restrictive and anticompetitive manner, and that this will result in a misallocation of our nation's resources. In light of this, we have drawn up and herewith submit a set of competition rules to reduce the incentives of the owners to act in an anticompetitive manner. The procompetitive policy reflected in these rules underlies the specific recommendations we make in Subpart B below.
>
> In one respect it is unfortunate that a detailed set of competition rules seems necessary, given that the proposed ports, like pipelines, will be subject to ICC common carrier regulation. Indeed, the oil companies are fond of citing this fact to allay fears of antitrust abuses. A cursory examination of the ICC's present powers, however, and an understanding of past ICC regulatory efforts in this area reveal that the ICC simply cannot effectuate any of these competition rules. The ICC's powers are severely circumscribed, being limited to rate regulation, valuation and assuring nondiscriminatory application of the tariffs (both rates and shipping conditions). The ICC has no power over the form of corporate organization; it has no power to order the elimination of restrictive provisions in the various underlying agreements; it has no power to order frequent share redistribution; it has no power to order expansion of facilities. Accordingly, in order to effectuate the Congressionally mandated goal of open and nondiscriminatory access to the ports, and to eliminate the evils associated with port ownership by integrated oil companies, resort must be had to means outside the scope of ICC regulation. We have already noted that the Secretary has the necessary power to condition the licenses in the manner we recommend. We conclude here that most of the inherent anticompetitive problems associated with integrated oil company ownership of deepwater ports should be eliminated or severely curtailed if our proposed recommendations are adopted.

Although the Attorney General concludes that the nonintegration approach is not necessary in the case of deepwater ports, the problems described in the report are analogous to those existing for oil pipelines, and the report is careful to point out that while it is concluded that these problems can be handled by regulation in the case of deepwater ports, it does not follow that this same conclusion will apply to oil company crude and product pipelines.

Finally, Mr. President, I would like to cite a letter from Acting Assistant Attorney General for Antitrust, Mr. John H. Shenefield, to Senator KENNEDY. The letter, dated June 30, 1977, indicates that a regulatory approach to requiring pipelines to operate in approximation of independent operation is a "second-best alternative to divestiture." Mr. Shenefield goes on to state that—

> The problems arising out of vertically integrated ownership of pipelines . . . do, as a general matter, suggest the wisdom of divestiture . . .

In spite of these conclusion, the Carter administration has yet to commit itself on this policy question. I suggest that the time for timidity is past. For the last 70 years governmental studies have warned against the ownership of pipelines by those involved in other aspects of the petroleum industry. If these reports and conclusions have any meaning, if they suggest any policy direction at all, it is that this situation should no longer be permitted to exist. I call upon the Carter administration to make it its policy to separate pipeline ownership from ownership of other activities of the petroleum industry.

It is to this end that I am introducing my amendment today. I intend to chair hearings on this legislation later this year. I urge all of my colleagues to examine this matter closely for such examination will. I believe result in the conclusion that this legislation is absolutely essential.

PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977—1585

AMENDMENT NO. 1398

(Ordered to be printed and to lie on the table.)

Mr. ROTH (for himself, Mr. HATCH, Mr. ALLEN, Mr. BARTLETT, Mr. BELLMON, Mr. DANFORTH, Mr. DOLE, Mr. GOLDWATER, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LAXALT, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MORGAN, Mr. NUNN, Mr. PERCY, Mr. SCHWEIKER, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG) submitted an amendment intended to be proposed by them, jointly, to S. 1585, a bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

ELECTRICAL LIFELINE FOR THE ELDERLY—S. 1364

AMENDMENT NO. 1399

(Ordered to be printed and to lie on the table.)

Mr. HART. Mr. President, today I am submitting an amendment to S. 2114, the Public Utilities Regulatory Policy Act of 1977, which would extend a subsistence quantity of electricity to elderly residential users at the lowest cost that it charges to any class of consumer. It would also require the new Department of Energy to study an alternate electric costing methodology—long-term incremental costing—which would generate revenues sufficient to permit utilities to extend a subsistence quantity of electricity to all principal residences at significantly reduced rates.

This amendment is an immediate, easily-administered response to a well-documented problem faced by seniors. Home fuel costs have risen astronomically over the past several years, far outstripping increases in social security payments or other retirement income sources. Studies released since last year's bitter winter reveal that higher home energy costs forced many seniors to exchange food for essential home energy needs.

Recent forecasts by the U.S. Weather Service predict another cold winter for 1978. Mr. President, we cannot in good conscience permit the elderly to endure another winter of cold and economic hardship. My electrical lifeline amendment addresses this critical need while Congress devises a comprehensive national utility rate reform policy.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at this time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1399

On page 2, line 2, strike out "and".

On page 2, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 2 between lines 4 and 5, insert the following new subsections:

"(d) to provide an interim solution for the subsistence residential electrical needs of the elderly while Congress attempts to construct an equitable electric utility structure which adequately meets the needs of all classes of consumers;

"(e) to promote equity in electrical costing; and

"(f) to demonstrate the effects of lifeline costing on electric utility rate structures,

consumption patterns and the operation of electric utilities, and to demonstrate the feasibility and desirability of action by Congress to extend lifeline costing to other segments of our society.

On page 16, between lines 17 and 18, insert the following new sections:

LIFELINE RATES

SEC. 15. (a) No rate of an electric utility shall provide for a rate under which the charge per kilowatt-hour to an elderly residential consumer for a subsistence quantity of electric energy in any month for such consumer's principal place of residence exceeds the lowest charge per kilowatt-hour to any other electric consumer to whom electric energy is sold by such utility (or any electric utility which controls, is controlled by or under common control with, such utility). Such rates shall not exceed the average of residential rates in effect on the date of enactment of this Act. The relevant regulatory authority shall consider seasonal and climatic variations as they affect electric consumption in determining the subsistence electric needs of elderly residential consumers.

(b) For purposes of sections 15, 16, 17, and 18 of this Act, the term—

(1) "subsistence quantity" means the number of kilowatt-hours per month which the relevant regulatory authority determines is necessary to supply the minimum subsistence electric needs of elderly residential electric consumers at their principal place of residence for the following end uses: Heating, lighting, cooking, cooling, food refrigeration, medical, or other essential purposes as determined by the relevant regulatory authority;

(2) "elderly residential electric consumer" means an individual who demonstrates to the supplying electric utility for such individual that such individual is—

(A) (i) at least sixty-two years of age; and

(ii) the head of a household or principal income earner; or

(B) (i) is receiving social security benefits from the Social Security Administration; or

(ii) is receiving railroad retirement benefits from the Railroad Retirement Board;

(3) "relevant regulatory authority" means the regulatory body which has ratemaking authority with respect to electric rate schedules within its jurisdiction.

ENFORCEMENT

SEC. 16. (a) No electric utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved, or allowed to go into effect by a regulatory authority. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 15 of this Act.

(b) If any person alleges that a regulatory authority's action, or failure to act, violates subsection (a)—

(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State court of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

(B) if there is no such statutory review proceeding applicable to such action or failure to act, by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

(A) may be reviewed by any State court of competent jurisdiction, and

(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) Any individual found guilty of fraudulently misrepresenting his or her status as a residential electric consumer shall be punished by a fine not to exceed $5,000 or imprisonment for not more than three months or both.

FEDERAL ASSISTANCE

SEC. 17. (a) The Secretary shall provide technical assistance, including grants, or such other financial assistance as he deems necessary and appropriate to State and municipal regulatory authorities to assist these bodies in the establishment of subsistence electrical standards for the elderly.

REPORTING REQUIREMENTS

SEC. 18. (a) The Secretary shall submit a report to Congress within eighteen months after the date of enactment of this Act on the effects of this Act on electric utility rate structures, electric consumption, and the operation of electric utilities.

(b) Additionally, the Secretary shall study the extent to which cost-justified changes in rates will require incremental pricing (including but not limited to long-term incremental costing, peakload pricing, and so forth) whereby the incremental costs will exceed the average costs of electricity. In cases where the incremental costs will exceed the average cost of electricity, the Secretary shall study the extent to which subsistence quantities of residential electric consumption may be priced at lower levels, so that total revenues and costs are brought into balance.

(c) The Secretary shall also study the extent to which such a pricing schedule would alleviate the difficulties which low-income residences experience in paying electricity bills.

(d) The Secretary shall also study the impacts of such a pricing schedule on conservation efforts of all classes of consumers.

LIMITED AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Sections 15, 16, 17 and 18 of this Act.

EFFECTIVE DATE

SEC. 20. The provisions of sections 15, 16, 17 and 18 of this Act shall take effect ninety days after the date of enactment and shall remain in force for a period not to exceed three years thereafter.

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 21."

On page 16, line 20, immediately after "out" insert the following: "sections 1 through 14 of".

NATIONAL PUBLIC UTILITIES REGULATORY POLICY ACT

AMENDMENTS NOS. 1400 THROUGH 1404

(Ordered to be printed and to lie on the table.)

Mr. BROOKE (for himself, Mr. CRANSTON, Mr. PERCY, Mr. ANDERSON, Mr. RIEGLE, and Mr. HART) introduced five amendments intended to be proposed by them, jointly, to S. 2114, the National Public Utilities Regulatory Policy Act of 1977.

Mr. BROOKE. Mr. President, I am filing today a package of amendments on behalf of myself and Senators CRANSTON, PERCY, RIEGLE, and HART, which are designed to strengthen S. 2114, the National Public Utilities Regulatory Policy Act of 1977.

The Energy Committee bill provides only that the Secretary of Energy may intervene in certain State ratemaking proceedings to advocate energy conservation, efficient use of energy facilities and rates to consumers.

We recognize the committee's concern that no State regulatory powers be preempted by the Federal Government and our amendments would not permit any such preemption. Instead, we propose that the Secretary establish advisory guidelines which States might voluntarily adopt, in part or in whole but which will, in any case, provide a model for regulators interested in energy conserving, equitable rate designs. These model guidelines will cover such areas as cost of service and time of day pricing, procedures for fuel adjustment charges, and restrictions on master metering. We will also propose that the Secretary have the right to appeal regulatory commission decisions, although without having the power to seek injunctive relief.

Our amendments also expand funding for State regulatory agencies which are undertaking to reform their rate structures which was originally authorized under ECPA.

Mr. President, these amendments have not only the support of the Carter administration but also of labor and public interest groups. I ask unanimous consent that letters from the United Auto Workers, the Sierra Club, the Environmental Action, and the National Wildlife Federation, be printed in the RECORD following my remarks. I also ask unanimous consent that the full text of the amendments and accompanying explanations be printed as well.

There being no objection, the amendments and material were ordered to be printed in the RECORD, as follows:

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, D.C. September 26, 1977.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: We understand you may be offering a series of amendments to S. 2114, known as Part E of the National Energy Act dealing with utility rates. The UAW was sorely disappointed that the Senate Energy Committee recommended deletion of the key provisions of the House-passed utility rate reform legislation, and we support your amendments to strengthen the legislation reported to the Senate.

There is no question that restructuring the traditional manner in which utility rates are set will do a great deal to achieve the important goal of energy conservation. Your proposal to have the Department of Energy establish minimum guidelines for the manner in which utility rates are set will at least restore to S. 2114 a framework in which the states can act wisely to achieve energy savings and fair pricing through their control of utility rates.

The goals of the legislation will also be enhanced through your amendments to provide grants to states for developing innovative rates structures and to permit the Department of Energy to intervene at the state level in the review of utility rates.

These and your other amendments to S. 2114 represent a modest, yet valuable, effort to give life to the idea of utility rate reform. This is an area in which the House acted decisively and which the Senate would be unwise to ignore. The UAW supports your effort in this regard and hopes your colleagues respond affirmatively to the important initiative you have undertaken.

We commend you for undertaking this important battle.

Sincerely,

HOWARD G. PASTER,
Legislative Director.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., September 28, 1977.

The National Wildlife Federation strongly supports utility rate structures that promote conservation. The establishment of minimum national guidelines for retail electric rates, so that the price charged for electricity is more sensitive to levels of consumption, is an essential part of the National Energy Plan. The utility rate reform measure reported out of the Senate Energy & Natural Resources Committee must be strengthened to encourage energy conservation and trim the wasteful use of electricity in the future.

We urge you to support a package of floor amendments to be introduced this week with the backing of the Administration which will include the following modest improvements:

1. Minimum guidelines (not standards with legal force) for energy conserving rate structures, to be developed by the Department of Energy and which encompass a general discussion of cost of service pricing but do not mandate any particular methodology.

2. Enforcement procedures which require a state to simply consider the federal guidelines and which allow the Department of Energy to seek judicial review, if necessary, of the state regulatory agency decision in state courts.

3. Grants for state regulatory authorities to upgrade staffing and assist in the improvement of such state program areas as innovative rate structures, consumer participation, and electric demand forecasting.

4. Consumer protection measures such as standards for the use of fuel adjustment clauses, minimum procedures for the termination of electric service, and rules designed to eliminate master metering in new buildings.

SIERRA CLUB,
Washington, D.C., September 24, 1977.

DEAR SENATOR: The Sierra Club urges you to support the Brooke and Hart-Sasser Amendments to S. 2114, the Public Utility Regulatory Policy Act of 1977. Electric utility rate reform is a critical element of the national energy plan. S. 2114, as reported, fails to address the need for major changes in utility rate structures to promote energy conservation and fairness to consumers.

In almost every state, the existing regulatory system fosters waste and inequity. Small consumers pay high prices while large commercial users are given lower rates for increased use. Peak loads grow, necessitating use of oil- and gas-fired generators and construction of more powerplants, but peak load users pay no more for the expensive strain they place on generating capacity. Residential bills skyrocket, boosted by poorly monitored and devised fuel adjustment clauses. Regulatory constraints and anti-competitive practices discourage cogeneration.

Electric utilities consumed 29% of all primary energy in 1976, including 16% of oil and 10% of natural gas—fuels too valuable to waste boiling water. Although utilities use more energy than any other sector of the economy, they have taken no meaningful steps to promote conservation in the use of electricity and lessen the peak demands which require massive use of inefficient oil and gas generators.

Sensible approaches to rate reform are well understood; they include such measures as cost of service pricing, elimination of declining block rate and promotional rates, time of day, seasonal and interruptible rates, and other load management techniques. Yet, despite the fact that the crisis in electricity supply and utility rates has been deepening for nearly a decade, almost none of these steps have been adopted by any state regulatory body. These reforms have been vigorously opposed by utilities and their large industrial customers with consistent success.

S. 2114 rejects utility rate reform in the name of "states rights." It leaves virtually untouched a system which has repeatedly failed. Its response to the potential savings from rate reform is cosmetic—appearances by the Department of Energy in ratemaking proceedings without even a right of appeal. It provides inadequate support for cogenerators of electricity and is silent about protecting consumers from well-documented abuses connected with the fuel adjustment clause and termination of service. It must be amended to meet the need for federal action on these matters.

The Brooke Amendment provides a workable approach to conservation-inducing rate reform without federal pre-emption or mandatory requirements. It creates an important federal role within the established state regulatory framework. It will actually protect those states whose attempts at innovative ratemaking have been thwarted by thinly veiled threats of industrial blackmail from major consumers loath to lose the hidden subsidy contained in declining block rates.

The key to the proposal lies in the development of guidelines by the Secretary of Energy—after full and open rulemaking procedures—on cost of service pricing, declining block rates, time of day, seasonal, and interruptible rates, and other load management techniques.

State utility regulators would *not* be bound by these general guidelines, but they would at least be required to consider them when making rate decisions and to face squarely the issues in the context of a formal rulemaking. They would be free to reject the guidelines or adapt them to their particular circumstances when the record developed in the state proceedings indicated that to be the appropriate course.

The Secretary could not force any regulatory body to adopt the guidelines. Where the record revealed that a state regulatory body had improperly refused to take justified reform measures, the Secretary could make that contention through an appeal in the *state court* system. Any final decision would be made by state courts on the basis of state law and the record developed by the regulatory body. In other words, the Secretary would prevail only where a state court ruled that on the basis of state law that reform was required.

Carefully-drawn limitations of the Secretary's appeal rights further minimize the likelihood of disruption of the state regulatory process. Appeals are limited to issues involving conservation-related rate reforms. Rulings of a regulatory body will not be stayed during the pendency of an appeal brought by the Secretary and any relief granted will be prospective in nature only.

The Brooke Amendment would set minimum federal standards in the following specific areas: the use of the fuel adjustment clause, termination of service, and citizen participation in ratemaking where federal funding has been provided to a state. These standards represent minimal intrusion in state affairs designed to protect residential consumers who have little real opportunity to seek redress or protection through cumbersome and expensive regulatory proceedings.

The Hart-Sasser Amendment insures cogenerators that they will be fairly treated by the utilities upon whom they depend to supply supplementary power and purchase the cogenerated power. There can be no doubt that the primary reason for the failure of this nation to take advantage of the immense potential for cogeneration is the combination of financial and regulatory disincentives placed on cogenerators and countenanced by most state regulatory schemes.

Utility rate reform can conserve energy, end the inequities in rates and reduce the need for expensive and environmentally harmful capital construction. The intense opposition to rate reform by large industrial consumers is understandable. Equitable cost of service pricing will bring an end to the special low rates large consumers now enjoy at the expense of the average residential consumer.

Your support for the Brooke and Hart-Sasser Amendments is needed to put rate reform back in the national energy plan.

GREGORY A. THOMAS,
Washington Representative.

AMENDMENT NO. 1400

On page 6, line 7, strike out ", except that nothing in this Act shall authorize him" and substitute "and is authorized".

Page 6, line 10, before the period insert: ", except that the Secretary may not—

"(1) seek or obtain any injunctive relief respecting the effectiveness of any rate in any such appeal or other proceeding for judicial review of any such decision, or

"(2) seek or obtain any relief respecting the effectiveness of any rate which would apply for any period before the final determination of such appeal or other proceeding.

SECRETARY'S APPEAL RIGHTS

Under the bill, as reported by the Senate Energy Committee, the Secretary is empowered to intervene in utility rate proceedings. However, the Secretary or his designee is not empowered to appeal the decision of the state regulatory commission.

The amendment will allow the Secretary to appeal. However, it will protect against some of the concerns raised during the Committee hearings on utility rate reform. For example, the Secretary is not entitled to obtain or request injunctive relief, even if State law would allow an intervening party to do so. Additionally, if the Secretary is found to be correct on the appeal, the relief he might seek could only be prospective. With these added protections, the utility would experience negligible problems with delay or receipt of added revenues necessary for its continued healthy financial standing.

Furthermore, the Secretary is not authorized to bring appeals in federal court and must prove, as would any other state intervenor, that the state regulatory authority did not comply with applicable state rules and statutes or did not properly rule based on the record before it. The Secretary could not therefore enforce any federal guidelines per se.

AMENDMENT NO. 1401

On page 6, line 20, insert the following:

ADVISORY GUIDELINES ON MASTER METERING

SEC. 6B. The Secretary may, after notice and opportunity for public hearing, prescribe guidelines applicable to retail utility sales which would prohibit or restrict the use of bulk or master meters in buildings to the extent the Secretary deems necessary to carry out the purposes of this act. Such guidelines shall provide that in determining whether or not to prohibit or restrict such meters in any building, such authority may consider the potential energy savings of cen-

tral heating, cooling, domestic hot water systems in buildings in which the output of such systems to separate units is measured separately and charged to such units and which shall be considered by State regulatory authorities and nonregulated utilities in utility rate proceedings.

AMENDMENT No. 1402

On page 6, line 20, insert the following:

ADVISORY GUIDELINES ON AUTOMATIC ADJUSTMENT CHARGES

The Secretary may, after notice and opportunity for public hearing, prescribe advisory guidelines applicable to retail utility sales which shall include:

(a) a model fuel adjustment clause which effectively provides incentives for efficient use of resources, and

(b) model procedures which provide opportunity for consideration of an automatic fuel adjustment charge in an evidentiary hearing prior to the date such increase takes effect and such procedures as are necessary to insure equitable refunds when necessary and shall be considered by State regulatory authorities and nonregulated utilities in utility rate proceedings.

AMENDMENT No. 1403

On page 6, line 20, insert the following:

ADVISORY GUIDELINES

SEC. 6A. The Secretary may, after notice and opportunity for public hearing, prescribe advisory guidelines applicable to retail utility sales which shall contain methods for determining costs, load management systems, and ratemaking methods as described in section 7 and which shall be considered by State regulatory authorities and nonregulated utilities in utility rate proceedings.

ADVISORY GUIDELINES

A. Under this amendment the Secretary is empowered to issue advisory guidelines which would be recommendations by the Department of Energy on appropriate methods for determining costs, load management systems, and rate-making methods described in section 6. They are guidelines, an indication of the approach of the Department and a possible model for states which want to reform their rate structures. No state is bound by them. However, the State Commissions are required to consider the guidelines and ascertain whether they may be appropriate.

B. A similar amendment empowers the Secretary to issue advisory guidelines related to reducing or eliminating master metering in multi-unit buildings. Otherwise, the amendment is identical.

C. A third similar amendment empowers the Secretary to issue advisory guidelines regarding model fuel adjustment clauses. Otherwise the amendment is identical.

AMENDMENT No. 1404

On page 8, line 22, insert the following:

FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION

SEC. 7A. (a) Title II of the Energy Conservation and Production Act is amended by adding the following new paragraph at the end of section 202:

"(8) The term 'nonregulated utility' means a utility which is a public agency or privately organized cooperative not subject to the ratemaking authority of a utility regulatory commission.".

(b) Such title II is amended by amending section 204(1) to read as follows:

"(1) assist utility regulatory commissions and nonregulated utilities in improving rate design, load management and related energy conservation practices by providing (A) financial assistance, through contracts and grants, and (B) technical assistance, including voluntary guidelines.".

(c) Such title II is amended by amending section 207 to read as folows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for each of the fiscal years ending September 30, 1978, and September 30, 1979, not to exceed $45,000,000 of which not more than $5,000,000 may be used for purposes of section 204 (2) and (3).

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $10,000,000.".

(d) Such title II is amended by adding a new section 208 to read as follows:

"APPLICABILITY TO GAS UTILITIES

"SEC. 208. The provisions of this title, with the exception of section 203, shall apply to the activities of any person, State agency, or Federal agency, with respect to the retail sale of natural gas in the same manner as such provisions apply to activities relating to the retail sale of electricity by electric utilities.

FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION

This amendment continues authority given the Secretary under ECPA to make grants to assist utility regulatory commissions in improving rate design, encouraging load management, and developing other related energy conservation measures and practices. It also clarifies the Secretary's authority to provide technical assistance directly from the Department of Energy. It confers new authority for making such grants and providing nonregulated utilities as well as natural gas utilities.

This measure extends the ECPA grant making authority from its present expiration date of September 1977 to December 1980.

The amendment authorizes appropriations of up to $45 million per fiscal year of which $40,000,000 goes directly to the states and non-regulated utilities, instead of the $12,056 million currently authorized, and $5,000,000 for the intervention program of the Department before state regulatory commissions instead of the $1 million currently authorized. In addition, $10,000,000 is authorized for consumer representation at the state level instead of the $2 million currently authorized.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs, will hold a 2-day hearing on recent increases in lumber prices and their effects on the Nation's housing industry.

The hearing will be held on October 20 and 21, 1977 in room 5302, Dirksen Senate Office Building and will begin at 10 a.m.

The committee would welcome statements for inclusion in the hearing record.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, I wish to announce the Committee on the Judiciary will hear testimony on Tuesday, October 4, 1977, at 10:30 a.m. in room 2228 Dirksen Senate Office Building, on S. 2149, a bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

JOINT COMMITTEE ON DEFENSE PRODUCTION

Mr. PROXMIRE. Mr. President, the Joint Committee on Defense Production will be holding hearings on Department of Defense Procurement Practices on Thursday and Friday, September 29 and 30, 1977.

The witnesses on Thursday will be Thomas V. Jones, chairman of the Northrop Corp., and Fielding M. McGehee of the military audit project.

On Friday, the witnesses scheduled to appear are: the Honorable Dale Church of the Directorate of Defense Research and Engineering, Department of Defense; Jacques Gansler, former deputy assistant secretary for Defense/Materiel Acquisition; the Honorable HOWARD METZENBAUM, Senator from Ohio; and Dr. James Kurth of the department of political science at Swarthmore College.

The hearings will be held in room 5302 of the Dirksen Senate Office Building and will begin each day at 10 a.m.

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold a hearing on October 7 on the Exchange Stabilization Fund and floating exchange rates. Testimony will be heard on S. 2093, a bill to require that Treasury Department administrative expenses be covered by regular appropriations, not by the Exchange Stabilization Fund, and on the use of the Exchange Stabilization Fund to support international monetary policy objectives.

The Exchange Stabilization Fund was established in 1934 with the gain from the devaluation of the dollar. The ESF was originally used to intervene in the foreign exchange market in order to stabilize the value of the dollar. Since the advent of floating exchange rates in 1973, the United States has not attempted to maintain a fixed value for the dollar relative to gold or other currencies, and has assumed that there was little need for official exchange market intervention. Last year the statutory authority for the ESF was amended to require that the ESF be used in support of U.S. obligations in the International Monetary Fund. The subcommittee hearing will be the first review of ESF operations under this new mandate.

Congressional oversight of ESF operations is especially timely. Concern is widespread that floating exchange rates are not working as they should. Inflation and payments imbalances have not yielded to exchange rate adjustment, in part because many governments have refused to permit market forces to determine exchange rates. The current system of "dirty floating" may be contributing to a worsening of world economic conditions. Mr. President, I ask unanimous consent that an article entitled "Floating Exchange Rates: The Calm Before an Economic Storm" which appeared in the October 3 issue of Business Week be reprinted in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Floating exchange rates can help or hinder the world economy, depending upon the willingness of governments to abide by fair exchange rate policies. The amendments to the Bretton Woods Agreements Act, which were ratified by the United States last year, would require member countries to abide by IMF guidelines. Last April the executive board of the IMF adopted a set of principles to be used in surveillance over exchange rate policies. Unfortunately, those principles have not taken effect because an insufficient number of member countries have ratified the amendments to the IMF charter.

Surveillance over the floating exchange system cannot await the dilatory IMF amendment process. Accordingly, the hearing will address the following questions:

First. Is the present floating exchange rate system contributing to a worsening of global trade and payments imbalances, inflation and unemployment?

Second. Are the IMF guidelines adequate and are they presently being observed by foreign countries and by the United States?

Third. What exchange rate policy should the United States follow?

The hearing will begin at 9 a.m., in room 6226, Dirksen Senate Office Building. Persons desiring additional information should contact Robert W. Russell at (202) 224-0891.

EXHIBIT 1

FLOATING EXCHANGE RATES: THE CALM BEFORE AN ECONOMIC STORM

The International Monetary Fund will open its 32nd annual meeting in Washington next week in an atmosphere of relative—and quite false—financial tranquility. In fact, the floating-rate monetary system is in trouble after only four years: overwhelmed by economic turmoil and in danger of subversion by governments that are spending billions of dollars—much of it borrowed from private banks—to keep international exchange rates from floating freely as they are supposed to. Yet the only alternative to floating rates would seem to be a total breakup of the world economy, with nations hiding behind the sort of protectionist trade and economic policies that last existed in the early 1930s.

Little of that tension may show through in Washington. The foreign exchange markets appear calm after a summer of wild gyrations. West Germany and Japan have now promised to stimulate their economies—promises that, if carried out, will lessen the danger that the less successful economies will soon slide into deep recession. The IMF itself has gained both capital and stature now that Managing Director H. Johannes Witteveen is about to bring an additional $10 billion in lendable money into the fund. Behind all that will be said in Washington next week, however, is this cold, harsh reality:

The world economy, while increasingly fragmented, is as a whole in serious trouble. Hardly any of the countries of the world have fully emerged from the last great recession of three years ago, and most are in need of far more stimulation than anything that either Germany or Japan is likely to provide. The outlook is for continued slow growth for the industrial powers generally in 1978, with most key economies beset by high unemployment, nagging inflation, and vast international trade deficits.

Germany and Japan, while committed to new economic stimulation, may actually provide very little. Each faces rising unemployment rates that cry out for action, and Germany reported virtually no real economic growth in the second quarter of 1977. Yet each country remains sufficiently leery of inflation to hold stimulation to the minimum.

The U.S. economy, whose record $25 billion-plus international trade deficit this year has kept much of the world from being more economically depressed than it is, is clearly slowing down, and this country will be buying less from abroad than it has been buying. And if that record U.S. trade deficit is horrendous to behold, it has also been the staff of life to a great many economies.

World trade, despite Japan's huge surplus and the record U.S. deficit, is suddenly slowing again at a point in the world economic cycle when it still should be expanding. Growth in world trade came to 11½ percent in 1976. This year it will dwindle to 6 percent—well below the annual average of 9 percent over the past decade—and Chase Manhattan Bank reckons it could fall to 5 percent in 1978.

The strains within the world economy are reflected graphically in the way exchange rates have drawn dramatically apart since all currencies were set afloat early in 1973. So great are these strains today that a decided move away from international economic and monetary cooperation and coordination is under way. The belief is growing that the floating-rate international monetary system, which has worked tolerably well in the four years since the last vestiges of fixed exchange rates were erased, is now being overwhelmed by the world's economic ills. Indeed, as nations seek to protect their economic position in a world of shrinking trade, the floating-rate system is today being subverted by degrees of government intervention in the currency markets that dwarf anything seen under the fixed-rate Bretton Woods system, when nations were required to intervene.

VARYING DEGREES OF HAZARD

Even intervention at levels now being practiced has potentially serious hazards for the industrial powers, the international banking system, and the international lending agencies. Nations are borrowing heavily to finance their payments deficits, and this growth in credit from private banks that are awash in funds is pumping liquidity throughout the world at an alarming rate. Since the fourfold increase in oil prices, world monetary reserves have jumped by about 13 percent annually, and this surge in liquidity is sure to increase inflationary pressures around the globe and make it that much harder to rein in price rises.

The Organization for Economic Cooperation & Development, including all the industrial powers, believes that much of this reserve asset growth represents borrowing by governments from the private banking system. In fact, the once-clear line between the official monetary system and the private banking system has blurred so completely today in the face of vast, oil-fed capital movements that it is hard to tell where one of them ends and the other one begins. Nor is there much evidence that things are going to change any time soon. Not merely is the world economy in trouble, but governments have had to admit that the traditional remedies do not seem to be effective and that public confidence in the ability of governments to deal with their problems seems to be fading.

"We have tried gradual disinflation through applications of tight money and floating exchange rates, and these have not worked," says Nicholas Krul, who is director of the Geneva-based investment advisory service Gulf & Occidental Investment Co. "We have tried gradual reflation, and this has not worked. The lack of confidence in traditional monetary and fiscal policies means that additional stimulus immediately destabilizes expectations."

There is also the spreading belief that even if governments knew what to do, few today are sufficiently in command to apply necessary remedies. Professor Robert Triffin of Yale University, a leading international economist, is particularly pessimistic. "At economic summits and international conferences," he says, "national governments repeatedly pay obeisance to the holy trinity: high levels of employment and production, stable prices, and balance in external accounts. But after the rhetoric dies down, the problems persist, if not worsen." As Triffin, one of the first to predict the collapse of the Bretton Woods system of fixed exchange rates, sees it, "There is a much deeper institutional crisis, especially within the international monetary system."

There are now at least five distinct economic categories in the world. In a class by themselves are the U.S., West Germany, and Japan. Because of economic vitality, vast national wealth, and other special factors, these three powers play titanic roles in the world economy. There are a number of marginal economies, not exactly sick but not really well either. In this group are France, the Benelux countries, and the Scandinavian countries. Britain seems on the verge of joining this group, France and perhaps Holland on the verge of falling out of it. Then there are the economies that appear quite sick today, with little hope of a near-term cure: obviously there is Italy but probably Spain and Portugal as well.

The fourth group includes the developing countries, running huge trade deficits, so deeply in debt to the Western banking system that it is hard to see how they can ever make it back to even a modicum of health. Finally there are the members of the Organization of Petroleum Exporting Countries, mostly rich and, through their ability to control the world oil price, holding what amounts to a veto over world economic recovery.

IN DEFENSE OF THE SYSTEM

It is easy to grow too pessimistic. After all, the world economic system and monetary order have gone through grave trials in the past decade—many of them so severe that they were widely believed to be lethal—and yet survived them all. The death of the Bretton Woods system in 1971 did not divide the world into warring camps, and it certainly did not touch off the international trade and money wars so widely feared at the time. The quadrupling of world oil prices helped push the world economy into the worst recession since the Great Depression of the 1930s. Not one or two but all the world's key economies slipped into depths of recession that at times seemed to have no bottom. Yet, to one degree or another, every one of these economies came back—if not to great, good health, then at least to the status of walking wounded.

All this evidence tends to support the optimism that officials of the Carter Administration publicly voice for the present international monetary system—a system they support with the fervor of the converted. "The system is basically working well," says C. Fred Bergsten, Assistant Secretary of the Treasury for international affairs. "Try to go back to 1970-71 and envisage the shocks that have occurred as they would have been met under Bretton Woods. The answer is obvious. Anyone can look at the present system and pick at its faults, but the true test is to

compare it to the alternatives. The old system would not have worked."

There is reason for Bergsten's optimism, though it is hard to find at first glance. While international monetary cooperation is at an ebb, the 11th-hour ability to deal with issues that kept the Bretton Woods system alive for so many years has been lacking in recent years. The hurriedly called conference that brought haggard ministers jetting into Washington or Bonn or Basel has faded into the folklore of the monetary system. Not since a new set of exchange rates was hammered out at the Smithsinian Institution in Washington in December, 1971, has there been any broad international monetary agreement.

Although the desire to cooperate survives today, no real effective action has been taken in years. No fewer than three times in the past three years—at Rambouillet, France, in 1975, at Jamaica in early 1976, and in London last spring—nations have gotten together and tried to agree on rules that would keep the economic and monetary systems from breaking up.

But while negotiations have not accomplished much, economic reality is forcing changes. It has been hard to sell German officials on the argument that they must reflate their economy, and thus risk a higher rate of inflation, to keep other nations from sinking into recession. But now the German economy has nearly ground to a halt, the German unemployment rate will hit a stunning 6% this winter—the nation's highest since the early postwar years—and, like it or not, the Germans will have to reflate. Moral suasion may not be sufficient to force Japan to rein in exports and admit more imports. Now the message to Japan is blunter and less easy to ignore: Do something about the vast trade surplus or face drastic trade retaliation from other nations. Put on that basis, the argument won Japan's agreement to cut back sales of color television sets to the U.S. market.

The best hope for the world economic order would be for the floating-rate system to function well since, in theory, the markets should automatically force countries to act sooner than they might otherwise want to, for political or other reasons. Under fixed rates, many nations could chart their own courses and stick to them as long as they could muster enough international reserve assets to defend their own exchange rates.

HOW CLEAN THE FLOAT?

Thus the U.S., able at will to create the world's premier reserve asset—the dollar—could defend a greatly overvalued dollar for a decade. And Germany, because it kept gaining assets, could maintain a deeply undervalued mark for at least that long. The beauty of floating rates is that market forces, and not a nation's reserve holdings, should automatically determine appropriate exchange rates, and a nation that did not play by the rules would soon be forced into line. The alternative would be to see its currency driven down out of sight or driven up to the point where no other nation could any longer afford to buy its goods.

No one ever really assumed that nations would float their currencies absolutely "cleanly"—with no intervention and with market forces alone determining a currency's value. Each nation has been practicing its own version of the "dirty" float, intervening to keep a currency reasonably close to a desired level. But the most disturbing element today is the extent to which floats are no longer merely dirty but are downright filthy.

The wide disparities among the various key economies have produced strains in the foreign exchange markets on an unprecedented scale. This summer's turmoil in the exchange markets is just a tiny taste of how things can go—as much money raced across frontiers as during the monetary crises that accompanied the death throes of the Bretton Woods system. The almost inevitable result has been central bank intervention in these markets to a degree beyond anything in the days of fixed rates, when nations had to intervene.

In the third quarter of 1973, just after the start of the free-floating-rate system, central banks pumped in $2.7 billion to control currency movements in the exchange markets. By the second quarter of this year, intervention had soared to a record $22 billion. It may have gone still higher in the third quarter, had market turmoil been at its worst, and it could go still higher as the divergence among key economies becomes even more pronounced.

A high U.S. monetary official observes: "The British are intervening to check the rise of the pound. The French are controlling the value of the franc. The Germans and Japanese have let their currencies move some, but the Japanese continue to restrain the value of the yen through their control over their banks. If others do not float cleanly, then others will determine the value of the dollar. That's the position we were in before 1971, and we are being pressed back into it. We may be getting back to a position where we lose the value of floating rates."

Each nation, of course, has its own reasons for intervening in foreign exchange. A more expensive German mark, for instance, would make it easier for other countries to undersell the Germans in world markets. It would also cut into the earnings of German companies at a time when German industry is under profits pressure and the level of industrial investment is at a shockingly low level.

Meanwhile, Britain is steadfastly refusing to let the pound rise despite huge inflows of capital attracted by North Sea oil riches. But a higher pound would undercut the competitiveness of British exports and thus exacerbate unemployment, now at 6%. By undervaluing the pound, Britain is in effect exporting its unemployment. "What we are now seeing is more and more manipulation of currencies to gain a trade advantage," says Johannes Weitenberg, director of the Dutch central planning agency.

Such countries as France and Italy, with no oil reserves to fall back on, intervene in the exchange market in a deliberate bid to keep their currencies overvalued. They are managing their currencies to try to break their vicious cycle of depreciating currencies, higher import costs, higher inflation, and thus more currency depreciation. They could apply tough domestic austerity measures and permit their currencies to float freely, as the international rules suggest. But with unemployment in most of Europe at postwar peaks, few governments are willing to pay the political price. "The question is how much short-term costs a system can bear, and that obviously is a political question," says Alexandre Lamfalussey, chief economist for the Bank for International Settlements.

Perhaps the strangest case of a nation's breach of the international monetary rules is that of the U.S. this summer, when Treasury Secretary W. Michael Blumenthal seemingly launched a campaign to increase the value of the German mark and the Japanese yen by talking down the dollar. The exercise drew fire from abroad—from the Germans and the Japanese especially. At home it produced a counterattack by Federal Reserve Chairman Arthur F. Burns, who began talking the dollar up as vigorously as Blumenthal had been talking it down. To Burns, Blumenthal's handling of the dollar was clumsy and naive, and he has said so privately. Blumenthal, in turn, was infuriated by what he saw as backbiting criticism by Burns, and he has been lobbying against his reappointment when Burns's term as Fed chairman ends early in 1978.

THE U.S. BREAKS THE RULES

The explanation at the U.S. Treasury today is that Blumenthal did not really intend to talk down his own currency, that his aim was to force Germany and Japan to reflate their economies as they had promised to do at the London summit meeting in May. "Blumenthal got exasperated with the Germans and Japanese," says one U.S. monetary official. "Despite all their promises to join with the U.S. in reflating, acting as 'locomotives' to pull the world out of the economic doldrums, they procrastinated—even after their promises in London. Blumenthal just used the foreign exchange markets as a weapon to force Germany and Japan to get going."

Blumenthal simply repeated on several occasions that he thought the dollar was overvalued relative to the mark and the yen, and the exchange markets did the rest. In just a few weeks, for instance, the dollar fell 5 percent against the mark in exchange markets that were becoming increasingly chaotic. One Federal Reserve official said, "The markets had an air of unreality about them then." At that point Burns jumped in, defending the integrity of the dollar in terms so forceful that the dollar's skid halted at once. High-level Washington meetings preceded the Burns statement. Whatever really happened, Blumenthal in turn hastily came out in support of a strong dollar and, whatever his precise aim was at the time, the dollar has now made up virtually all of the ground it lost last summer—helped in no small measure by higher U.S. interest rates introduced by the Fed.

The U.S. action marked the first step toward actively managing the dollar since the floating-rate system began in 1973. Yet U.S. officials remain ideologically committed to a free and clean float. Says Anthony M. Solomon, Under Secretary of the Treasury for monetary affairs: "By definition, any movement away from a clean float is a movement toward greater rigidity in exchange rates. I don't see what would make that advisable."

In fact, however, while the U.S. still eschews the massive central bank intervention in the currency markets that is used by European governments and Japan, Washington may still be willing to "jawbone" the dollar around in the future to nudge other currencies to the levels it deems appropriate.

NEW CURRENCY TACTICS

In the end, floating rates may actually make it easier for countries to use their currencies to export such internal economic problems as inflation and unemployment. Most observers feel that it is almost impossible to determine when a nation is acting in the foreign exchange market to smooth out shortrun fluctuations and when it is acting to grab a competitive advantage. "It is very hard to tell when smoothing stops and intervention begins," says Robert Solomon, a Brookings Institution economist who formerly headed international research at the Federal Reserve. "The current situation is further clouded because the oil deficit makes it difficult to differentiate the foreign currency transactions involved in financing an oil deficit from old-fashioned intervention. The French have borrowed very heavily, for example, and it is very hard to tell exactly what is happening."

The massive intervention by foreign central banks in the floating exchange system has been made possible and perhaps even inevitable, by the tremendous liquidity that has developed in the private banking system in recent years. Borrowing to increase reserves is a favorite tactic of European governments intent on managing their currencies. The mere presence of large and growing reserves is often enough to stop speculation against a currency—which is what has preserved the value of the French franc all year. The French government and various state-owned industries have borrowed well over $1 billion so far in 1977.

The enormous liquidity in the private banking system is also one reason why the floating exchange system has not forced the automatic adjustments in balance-of-payments surpluses and deficits that it ideally should be dictating. Country after country has been able to borrow huge amounts of money to cover deficits, putting off the day when internal austerity measures would have to be taken. For countries such as Spain and Portugal, the ability to offset deficits by borrowing has fended off political pressures that might have blighted their nascent democracies.

THE ROLE OF PRIVATE BANKS

One of the most intriguing developments in the whole international monetary arena has been not merely the growth of the private banking system but the changing role that it is playing. Since the rise of floating rates, the private banking system has become a central feature of the whole international monetary system. In fact, some observers see the system slipping away from the control of central banks.

Says Yale's Triffin: "The internationalization of the capital markets, especially with the growth of the Eurocurrency markets and the growth of multinational corporations, has made it increasingly difficult for governments and international institutions to manage the world economy. The private sector has adjusted to the growing interdependence of the world economy, but the public sector has not."

The key to the shift, of course, is the huge increase in oil prices—beyond what it is doing to the world economy per se. For one thing, since oil contracts are traditionally denominated in U.S. dollars, the enormous increase in the price of oil has further increased the pivotal role of the dollar all over the world. Far from waning after the Bretton Woods system died, the dollar—thanks to oil—is even more the "numeraire" reserve currency than ever before.

The billions of dollars "taxed" out of the industrial and developing countries by OPEC are flooding the international private banking system. With loan demand from corporate customers still extraordinarily low, the banks are only too happy to lend to national governments. The quality of some national borrowers has already raised questions about the impact of all these loans on the health of the international banking system. Only last month, India, one of the world's poorest nations, borrowed seven-year money for only one percentage point above LIBOR (the pivotal London Interbank Offered Rate). Not only was the interest rate on a par with rates normally reserved for the likes of Germany, but the maturity of the loan was also two years longer than usual in banking circles. Just this week Mexico announced that it would borrow $1.2 billion from a syndicate of international banks. This loan, too, is for seven years, with the rate 1¾ percent over LIBOR.

European countries, of course, can borrow money for even less—say one-half to three-fourths of 1 percent over LIBOR. Where a nation once had to defend its currency with its holdings of gold and foreign exchange, a nation with a bent for intervening in the exchange markets can now borrow vast fortunes in the twinkling of an eye.

An irony is that while inflationary strains are themselves putting pressure on exchange rates, the very growth of the private banking system may be contributing to those inflationary pressures. "The problem," says a high official of the International Monetary Fund in Paris, "is that the U.S., British, Swiss and Germans are unwilling to put controls on their banks because they are competing for a bigger share of the world market." But this lack of controls is permitting a gigantic growth in world liquidity beyond what is needed for solid economic growth. The banks themselves simply note that as long as the oil money continues to pour in, they have little choice but to find borrowers.

To Triffin, however, it is a potentially explosive situation. "We continuously concoct salvage operations that avoid the worst but do nothing to combat inflation," he says. "In fact, they add to inflation in two ways. They allow countries to continue to live beyond their means, and they are leading to a depreciation of the U.S. dollar that is inflationary because so much of the world's trade is dollar-denominated."

Some sort of grand realigning of world economies, eliminating widely divergent inflation and growth rates, would help solve the problem. Currencies would tend to track more closely together and the pressure on nations to intervene to keep currencies in line would diminish. A dramatic resolve by nations to permit exchange rates to float cleanly, come what may, would also reduce strains in the world economic system, hence in the international monetary system. In reality, neither is a likely solution. There is nothing on the horizon that suggests that the growing differences in rates of growth and inflation and in the ability of nations to absorb higher energy costs will be smoothed out. Clean floating makes theoretical sense, but to the politicians who make such decisions, it appears potentially lethal—threatening massive political damage.

In fact, the most sanguine outlook—no matter what soothing words are uttered in Washington next week—is for continued tension as international trade patterns grow increasingly eccentric and as nations continue to battle both recession and inflation. And while intervention is supposed to be against the rules of the monetary system, the political pressures on governments, and the billions of ready cash just waiting to be borrowed, make it nearly certain that the cost of maintaining a floating-rate system will soar far beyond what it cost to maintain the now-defunct fixed-rate system.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that a hearing will be held on October 14, 1977, on S. 690. The bill would permit the Jefferson County, Colo., mental health center to obtain a refund of social security taxes paid for 100 and 300 of its employees for the period beginning January 1, 1972. Nonprofit organizations are ordinarily not subject to social security taxation on behalf of their employees unless they file a certificate waiving their immunity to such taxation. The subcommittee understands that the Jefferson County mental health center believes that it was incorrectly informed by the Internal Revenue Service that no waiver had been filed and that it refunded taxes to the employees involved in reliance on that information.

The sponsor of the legislation is Senator FLOYD HASKELL.

The hearings will begin at 2 p.m. in room 2221 Dirksen Senate Office Building.

The bill before the subcommittee is a private relief measure dealing only with the particular situation of the Jefferson County mental health center. The subcommittee intends to examine the issues and equities involved in this situation but is not, at this time, examining any broader issues which may be involved concerning the taxation for social security purposes of nonprofit organizations.

Witnesses who desire to testify in the hearings should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510 by no later than the close of business on October 6, 1977. Treasury comments on the proposed legislation are requested.

ADDITIONAL STATEMENTS

TUITION TAX CREDIT ACT OF 1977

Mr. MATHIAS. Mr. President, I am happy to cosponsor the Tuition Tax Credit Act of 1977, S. 2142, introduced by the Senator from Oregon (Mr. PACKWOOD), and the Senator from New York (Mr. MOYNIHAN). This bill embodies the principle that I adopted in the first bill I introduced in Congress in 1961 and have supported ever since—the principle of tax recognition of investment in education. It provides tax relief to parents who are themselves paying for their children's education and thereby contributing to the future of the Nation. This has become increasingly difficult as the costs of education, like other costs, have risen inexorably over the past several decades.

Since the founding of this country, we have consistently placed a high value on education, based in part on the belief that an informed populous is the best guarantor of a healthy democracy. As James Madison said:

> Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

I believe Madison's words are still relevant. The present strength of America is derived in large part from the dynamic nature of our system of private and public education.

The Federal Government has supported this dynamism by giving generous monetary support to public school systems. It is reaffirming that commitment even today as the Congress considers the improvement and reentitlement of the Elementary and Secondary School Act. Regarding support for higher education, the Congress has in recent years moved away from institutional grants in favor of broad student aid packages. It was the aim of Congress that this be a means of supplying indirect aid to the higher education community while, at the same time, increasing the accessibility of post-secondary education to lower income families.

Unfortunately, many middle-income students have discovered that the combined effect of increased costs and the unavailability of financial aid has limited their access to higher education. The fact is that most middle-income students cannot qualify for anything beyond financial aid in the form of a loan. This has occurred at a time when other economic pressures have combined to further limit the amount of discretionary

income that is available for educational expenses.

The Bureau of the Census produces figures that corroborate a decline in college enrollment for middle-class students. Defining middle-income as between $10,000 to $15,000 per year, the Bureau found that college enrollment for middle-class 18- to 25-year-olds had experienced a 7 percent reduction between 1970 and 1973. In the same period, students from families with income levels below $5,000 experienced a 1 percent decline. Students from families earning above $15,000 dropped from 56 percent in 1970 to 54 percent in 1973. What these figures reveal is that a series of economic forces has dramatically reduced college accessibility to middle-income students. Today, the average cost per year for a public college is $2,790 and the average cost for a private institution is $4,568.

The Tuition Tax Credit Act of 1977 gives the Congress a splendid opportunity to rectify some of the more unfortunate aspects of the conditions I have just cited. This act provides for the direct substraction of tuition expenses from the amount of owed taxes by an individual, his spouse, or his dependents. The amount of this credit will be 50 percent of the tuition payments up to a total credit of $500 per student. It is noteworthy that this tax credit is applicable to part-time or full-time students whether they are attending elementary schools, secondary schools, or any post-secondary educational institution. This type of tax relief begins to give substantive help to a group of students whose families make too much money for traditional types of financial assistance, but not enough money to pay the costs of a modern education. Lower income taxpayers too can take advantage of this measure as the tax credit will actually be refundable.

This is a good bill. It will provide some much needed economic relief to all families which want to invest in the educational futures of their children. The cost of this bill in lost revenues is less than 1 percent of the projected $550 billion 1980 budget according to the Joint Committee on Taxation. I consider this type of investment in the future of American children to be an efficient investment in the Nation itself.

THE STEEL INDUSTRY AND JOBS

Mr. METZENBAUM. Mr. President, the situation with respect to the U.S. steel industry is grave. The cutback on Monday of last week by Youngstown Sheet & Tube Co. in my own State of Ohio leaves 5,000 persons jobless.

But Youngstown is neither the beginning nor the end. As far back as March 1,000 steel jobs were already lost in Scioto County, Ohio. By mid-August, the Bethlehem Steel Corp. said it was laying off 3,500 employees at its Lackawanna, N.Y., plant and would severely restrict future operations at flood-ravaged Johnstown, Pa. So far this year, more than 4,000 steelworkers in the Chicago area have been laid off by United States Steel and Inland. And just this weekend, Armco Steel announced that it will eliminate permanently by October 1, 600 jobs at steelmaking installations in Middletown and New Miami, Ohio.

According to the Board of Labor Statistics, Buffalo, N.Y., with a work force of 554,000, averaged 9.8 percent unemployment this year; Detroit, Michigan's work force of 1,896,600 registered 9.2 percent unemployment; and Youngstown/Warren, Ohio suffered an 8.8 percent unemployment rate on a work force of just over 230,000.

Today, tens of thousands of remaining jobs in steel cities of the Northeast and Midwest stand threatened. A whole region lies vulnerable to a crippled industry. New York, Michigan, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia all contain hundreds of communities that depend on steel for their existence.

What is at issue here is not the creation of new jobs, but the retention of existing jobs. In the name of one or another fiscal policy, we continue to sacrifice jobs. Either we claim sanctity for balancing the budget, or checking inflation; but in any case jobs pay the freight for carrying our fiscal philosophies on—reductio ad absurdum. And now we are further extending questionable justifications for erasing American jobs to include the need to keep world trade open, unfettered by any restrictions on our part.

But what about restrictions already imposed on the part of Japan and the European Community? First of all, while in our country jobs are often sacrificed to this or that fiscal policy, both Japan and Europe view unemployment as unacceptable. Therefore, contrasting, and even incompatible, economic philosophies underlie a trade arrangement which is inherently damaging to the United States.

In the name of full employment, Japan and Europe, working together through the European Community in 1975, agreed to limit Japanese exports to Europe. This is certainly not "world trade, open and unfettered by any restrictions." In the meantime, as American job after American job evaporates into the maze of imports, and industry after industry becomes obsolete, the void is filled by millions of workers employed in other countries who have "open season" on the ripe American market.

Clearly, then, the subject of imports is central to any discussion of the steel problem. Based on imports into the United States already this year, the volume will reach a record 18 million net tons in 1977, up from 14 million in 1976, an increase of 28.6 percent.

Even in the specialty steel industry—where relief was granted in the form of import quotas for a period of 3 years beginning in June 1976, the President has requested a review of the order before it has even had a chance to become effective. In May, I, and a number of my colleagues from Ohio's congressional delegation, wrote to President Carter requesting that he retain the import quotas for specialty steel commodities. I repeat that request today, and ask unanimous consent that the Ohio delegation letter to the President, dated May 17, 1977, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 17, 1977.

Hon. JIMMY CARTER,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Once again the complex question of the impact on a domestic industry of foreign imports requires special attention. But this time, the issue reflects a unique feature: that of retaining, rather than imposing, import quotas.

On June 14, 1976, based on the recommendations of the United States International Trade Commission, relief was granted in the form of import quotas to the domestic specialty steel industry. That relief was to remain in effect for three years unless terminated by evidence of improved market conditions. To date, those conditions have not improved; on the contrary, due to the ironic twist resulting from the expectation of quotas, the first half of 1976 saw a sizeable increase in the volume of imports, making the first year's totals exceed by 25,000 tons of steel, the prior year's imports.

Mr. President, the first year of a three-year quota imposition is hardly over, and the specialty steel industry has experienced increased, not decreased, imports from foreign countries. As this program represents a test, the three-year testing period must be preserved in order to gauge the effect of import quotas on the industry.

The reduction on import levels was admittedly low to begin with:

In year 1975–1976, before quotas—155,000 tons of steel were imported.

1976–1977, 1st year of quotas—165,000 tons of steel were imported.

1977–1978, quota limits imports to 151,500 tons.

1978–1979, quota limits imports to 155,700 tons.

If what little relief was granted were to be eliminated now, not only would the effects of the three-year quota imposition be aborted prematurely, but ill-effects on the whole industry would have been the sole result of the original three-year recommendation.

Little more than two years remain to offer to the specialty steel industry sufficient relief just to maintain growth and jobs. We of the Ohio Congressional delegation urge you to consider carefully these unique features, and to retain the import-quotas so recently imposed on specialty steel commodities.

Warm regards,

Howard M. Metzenbaum, John M. Ashbrook, Clarence J. Brown, Thomas A. Luken, Tennyson Guyer, John Glenn, Douglas Applegate, Charles J. Carney, Thomas N. Kindness, William H. Harsha, Delbert L. Latta, Ronald M. Mottl, Ralph S. Regula, Clarence E. Miller, Mary Rose Oakar, J. William Stanton.

METZENBAUM SAYS HE MAY SUPPORT IMPORT QUOTAS TO AID STEEL INDUSTRY

WASHINGTON.—Senator Howard M. Metzenbaum (D–Ohio) said today that he is leaning toward advocating quotas on imported steel if the Administration is unable to "jawbone" foreign producers into cutting back the volume of their imports to this nation.

"In the wake of the closing of steel plants in Ohio and the loss of more than 6,000 jobs, I have urged Trade Negotiator Robert Strauss to use his influence on large steel producers such as Japan and West Germany to cut back on their imports to America," said Metzenbaum.

"I am hopeful that this 'jawboning' can be effective and stem the tide of steel plant layoffs. But if it is not, then I am prepared to ask the Administration to institute immediate quotas on foreign-produced steel.

"The import question is one of the most difficult and challenging ones facing the nation. There is always the danger that other nations will react unfavorably and ban our exports, which could lead to still more problems here.

"But, in the steel industry, I feel we have come to the point where definitive action must be taken to protect the thousands of families who depend on this basic industry for their livelihood. Faced with a crucial situation such as this, possibly import quotas are risks we must take," concluded Metzenbaum.

Metzenbaum and other Senators from steel-producing states are meeting today to discuss the steel problem and hope to go to the White House sometime this week to carry their message to President Carter.

Mr METZENBAUM. Mr. President, certainly, there are more causes behind the steel problem than imports alone. It is essential that the industry recognize its failure to modernize facilities and utilize new technology. It is essential that the industry recognize world market conditions, and not raise prices as if the domestic steel industry existed in a vacuum. It is essential that the industry recognize the importance of both customers and consumers.

But first there must be a viable and vital industry to recognize these failures. And that means saving the jobs that already exist—jobs which employ about a half million Americans directly.

Some restrictions on the level of imports into the United States can, for the present, afford us the means of checking the dangerous trend of recent shutdowns in the U.S. steel industry, and avert the movement toward dependence on foreign steel. Steel remains vital to every industrialized nation in the world. But not one of them would welcome exclusive reliance on foreign sources for its needs. We have only to remind ourselves, with respect to the energy crisis, what dependence on foreign sources means.

Emergency measures are in order lest we find ourselves out of the steel business. Import quotas, imposed temporarily, provide two essentials: jobs and time.

There is no need to explain the importance of retaining existing jobs in an industry which employs one-half million Americans, when a priority of the Federal Government is to find new jobs for the 6.9 million unemployed. And there is no need to estimate what the demise of the U.S. steel industry would cost the steel States in unemployment payments.

The glaring and painful symptoms of the U.S. steel industry's present condition are layoffs and plant shutdowns. Treating these symptoms must be the first order of business; addressing the long-term factors—the second.

Limitations on imports can be imposed in a number of ways. The President can impose import quotas unilaterally, or by agreement with trade nations. The Congress can legislate some form of quantitative limitation on steel imports. And, finally, trading nations can enact restrictions on imports under the rules of the General Agreement on Tariffs and Trade (GATT). As a forum for preliminary discussion, trade nations also can utilize the Organization for Economic Cooperation and Development (OECD) to analyze situations, air problems, and propose solutions.

What is needed first are short-term solutions which can be imposed only by the President and/or Congress. The Congress should plan to enact legislation should the President fail to act within the next few weeks.

Concurrent with these temporary measures must come a willingness by the OECD to discuss proposals which can ultimately be ratified by the GATT to provide restrictions on imports whenever a country's domestic industry needs protective measures in order to adapt to its competitors. The international agreement could compute import quotas based on unemployment, imports percentage increase, and other measures which expose the need for relief.

Time is a crucial factor. Almost daily, the news media blare the bad news of additional cutbacks and shutdowns in the United States Steel industry. If relief is not granted soon, whole cities—steel towns—may become ghost towns.

OIL PRICE WILL NOT RISE IN THE EVENT OF DECONTROL

Mr. HATCH. Mr. President, there are two important articles in today's Wall Street Journal which bear on the subject of our energy debate. Since the Senate was in session all night, not many of us are likely to have read the Journal this morning. The articles point out that oil price decontrol simply means the end of the profit transfers. It does not mean a rise in price to the consumer. I ask unanimous consent that the two articles be printed in the RECORD for the benefit of the Senate in its important debate on energy.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

REVIEW & OUTLOOK—FACING THE BOGYMAN

The U. S. Senate is saving us from President Carter's tax increase energy plan. It has been an admirable display of common sense. Now if the Senate can sort out correct economics from prevailing economics, it could take a giant step toward solving our energy problems.

After the Senate broke the filibuster against natural gas deregulation and the Finance Committee sidetracked the proposed wellhead tax, Mr. Carter exhorted it to "act responsibly" and ward off "special interest attacks." Well, the special interests that we worry most about are those that want some $35 billion in new tax revenues with which to buy votes. Mr. Carter got his plan through the House, for instance, by loading it up with handouts to New England fuel oil consumers. Speaker Tip O'Neill's constituents would not have to pay replacement costs for the energy they burn. Happily, the Finance Committee has its own notions of responsibility, and had been chopping down the taxes and handouts one after another.

The Finance Committee is still bedeviled, though, by a set of widespread but incorrect notions: That the wellhead tax would increase prices and thus promote conservation; that U.S. consumers are not currently paying the world price for energy; that removing price controls from crude oil would result in new "windfall profits" for the oil companies; that decontrol would be costly for the consumer. None of these things is true, for reasons cogently outlined nearby by Charles E. Phelps and Rodney T. Smith of the Rand Corp.

Prices are set on the margin. All of the above misconceptions result from the failure to understand or apply this simple and universally accepted rule of economics. The price of a commodity will be the cost of producing the last unit necessary to bring supply and demand into balance. What counts is not the average cost of production, but the cost of the most expensive unit. Throughout the energy debates, even most economists have suffered an apparently congenital inability to apply this simple lesson to petroleum.

In the U.S. market, the marginal barrel of oil is imported, at the world price. The marginal price is the world price. The price of energy is the world price. Price controls on refined products have now been eliminated or made ineffective, simply because it eventually became apparent to nearly everyone that product prices could not be set by controls, but only by world market forces.

Price controls remain on domestic crude oil. But the effect of the controls, and the accompanying entitlements program, is merely to transfer profits from one oil company to another. This is why the "special interests" have in fact been deeply divided. Specifically, the current program transfers profits from domestic producers to importers. In its folly, the United States government has been subsidizing the purchase of OPEC oil.

The effect of Mr. Carter's wellhead tax would be to capture these profit transfers for the politicians. With the money in hand, the politicians can divvy up the largess, so much for Mr. O'Neill's homeowners, so much for Senator Long's energy research quasi-corporation. Meanwhile, the wellhead tax receipts of $12 billion a year would be drained out of the energy companies. Incentives to produce in the U.S. would be further diminished, and reliance on imports would further increase.

Once you understand that prices are set on the margin and consumers are already paying the world price, though, a painless solution emerges. If you decontrol the price of crude oil the world price of refined products will not go up. The consumer won't have to pay an extra penny.

If you decontrol, you simply will end the profit transfers. The rewards for producing oil in Texas will no longer have to be divided with the sheiks, nor will they go to the politicians. The incentives will be in the right place. People will be able to explore for oil and develop energy alternatives with less fear that Washington will expropriate the rewards of a successful venture. Production will be maximized. Imports will be minimized. Alternative energy sources, of which there are plenty at the right price, will be brought on as they become economically competitive. Once the government stops making the problems worse instead of better, we can all applaud Mr. Carter for building up a strategic petroleum reserve to minimize the national security problem.

The Senate is timidly edging toward this solution, trying to find a way to phase in the imagined costs. It is willing to pay a price to avoid Mr. Carter's Rube Goldberg devices. There will be a stampede the day enough Senators recognize that the costs of decontrol are a child's bogyman.

THE FLAW IN THE CRUDE OIL TAX

(By Charles E. Phelps and Rodney T. Smith)

The U.S. Senate has been grappling with the crude oil tax proposed by President Car-

ter. So far the debate has centered on whether the revenue should be rebated to consumers or used for development of new energy sources. Inability to agree on that issue led the Senate Finance Committee to vote againt the tax Monday, but because it's the centerpiece of the administration's energy plan immediate efforts were begun to resurrect it.

Aside from arguments about how to spend the revenue, there are important economic questions that need to be raised about a crude oil tax.

The stated purpose of the Carter plan is to raise the cost of petroleum products to the "world price." By conventional calculations this would mean an increase of five cents to seven cents a gallon, and thus would promote conservation. In fact, however, U.S. consumers already are paying the world price for refined products. The chief effect of the tax would be to extract some $12 billion a year from the oil industry, in the process increasing U.S. dependence on imported oil.

A simple way to understand why the U.S. consumer is already paying the world price is to look at the world trade in refined products. U.S. price controls do hold down the price producers receive for domestic crude oil. But at the same time the U.S. is importing gasoline and fuel oil, principally from refineries in the Western Hemisphere. The exporting countries, especially the Netherlands Antilles and Venezuela, also ship refined products to the European market.

Naturally, these refineries sell their goods to the highest bidder. If the U.S. market were not paying the world price, all of their products would flow to Europe instead. In fact, the U.S. has continued to import all types of refined products throughout the period of the controls, although the volume of trade has fluctuated during the period. In a vain attempt to discredit the primacy of world market forces, government studies have calculated that the cost of importing European products into the U.S. exceeds domestic prices. Actually, the pattern of world product trade already shows such a transaction could be uneconomic because Europe is a net importer of refined products from the Western Hemisphere.

MISFOCUSED DEBATE

The U.S. government, in its attempt to influence refined product prices, has consistently failed to understand the importance of the world-wide pricing mechanism. Because the crude oil tax would affect only U.S. refiners, it would have no noticeable effect on product prices, which are set in world markets. Thus the debate on the crude oil tax is misfocused because of the mistaken belief that consumers will bear the major burden of the tax. Instead the proposals would set up huge fund transfers without affecting the final cost. This can be seen by simply assessing the impact of various petroleum regulations.

The price of domestic crude oil is held below the world level by controls initially imposed in 1971 and extended by the 1975 Emergency Petroleum and Conservation Act. These controls reduce U.S. crude oil production below what it otherwise would be because producers receive less than the world price for their product. For vertically integrated firms such as the "majors" this is not too important, because the production of oil for their affiliated refiners allows them to offset imports of foreign oil at the world price. Instead of taking the profit in producing subsidiaries, they take it in refining subsidiaries. In effect they get the world price for domestically produced oil, and thus have no incentive to artificially increase imports.

Another regulation, called the Allocation Program, estabished the rights of refiners to the lower-priced, domestic crude oil on the basis of historical contracts for deliveries in the base year of the program (1972). This forced crude oil producers to sell oil to refiners for $5 per barrel, while comparable oil was valued at $12 to $14 per barrel on the world market. Because the market for refined products operated at the world level, this was a transfer of funds from producers to refiners. These transfers can be calculated at $16 billion in 1975 and $19 billion in 1976, though due to vertical integration much of this was a bookkeeping transfer of profits from production subsidiaries to refining subsidiaries.

However, prices of refined products were unaffected, since these transfers didn't alter the marginal cost of refining, and according to conventional economic theory prices are set by the marginal costs of production.

Next, the government attempted to control market prices by establishing price ceilings on refined products. This proved totally ineffective because the conditions of the market dictated *lower* prices for products than the regulations required. This again confirms that prices of refined products were being set by market forces.

In late 1974 the government inaugurated the entitlements program. Under it, refiners using more than the national average of "old oil"—oil from existing domestic fields at their 1972 rate of output—were required to purchase monthly "entitlements" from refiners that use less than the average. The purchase price of the entitlements reflected the difference in cost between the price-controlled old oil and the world price.

The idea, of course, was to provide a financial cushion for the companies that didn't have much "cheap" domestic oil. But a corresponding impact was that refiners promptly began to import more foreign oil to run through domestic refineries, thus increasing their volume of crude oil and their share of the entitlements. In effect, the entitlements program now subsidizes imported oil to the amount of $2.50 to $3 a barrel. The expansion in domestic refining replaced imports of refined products but domestic consumption and domestic product prices were virtually unchanged.

Finally, the inability of the U.S. government to overcome the world pricing mechanism in refined products was further evidenced in January 1976, when President Ford removed a $2 a barrel supplemental tariff on imports of crude oil. This reduced the price of crude oil to U.S. refiners by nearly five cents a gallon. But once again the prices of refined products in U.S. markets did not change when the tariff was removed. The price was set not in the U.S. but in the world market, which was not affected by the change in U.S. government policy.

EFFECT OF CRUDE OIL TAX

On the basis of this experience, what will happen if the Senate enacts the crude oil tax? The profit transfers that take place under current regulations from crude oil producers to refiners will terminate. The tax will capture these transfers for the U.S. government, which will receive $12 billion per year when the tax is fully implemented in three years. Refiners will not be able to recoup lost profits by charging higher prices for their products because prices will continue to be determined primarily by the world market. This transfer, like the earlier ones, will not affect consumer prices. And if it does not affect consumer prices, it will create no new incentive for conservation.

After the imposition of the crude oil tax, all domestic oil will be valued at the controlled price, not the world price. Consequently, domestic oil production by the vertically integrated corporations will decline. Since there will be no incentives to increase conservation and reduce demand, this shortfall wil have to be made up by imported oil. U.S. dependence on foreign oil will increase.

If the crude oil tax is adopted, it will have significant economic effects, primarily income transfers. The government will receive about $12 billion in tax revenues, implying that after-tax net revenues of petroleum corporations will fall about $6 billion. This transfer will be noticeable to stockholders of these corporations, since after-tax net revenue of U.S. petroleum corporations was about $15 billion in 1976.

The price of refined petroleum products will continue to be set by forces at work in the world market and not by current efforts of our government to regulate consumer prices. The price of products will not change, and consumers will be essentially unaffected, unless the Senate decides to rebate to them a portion or all of the tax. The goal of encouraging further energy conservation will not be achieved, and the U.S. as a country will increase its income transfers to OPEC as a result of the increased dependence on foreign oil.

THE FUTURE OF PEACE IN THE MIDDLE EAST

Mr. MOYNIHAN. Mr. President, I address my colleagues on a matter affecting the future of peace in the Middle East and, more fundamentally, the integrity of the foreign policy of the United States. It is potentially a grave matter and I should like to provide some background.

In 1974 and 1975, the U.S. Government took major initiatives in securing what have since become known as the Middle East disengagement agreements. Those agreements, which remain the basis for what can best be described as the armed truce which currently obtains in the Middle East, derive their effect in no small measure from the good name of the United States and the specific U.S. contribution to the maintenance of those agreements. The second of these agreements, the so-called September 1975 disengagement agreement, provided for the introduction of U.S. monitoring personnel in the Sinai, and for certain other U.S. undertakings designed to secure the confidence of the parties, especially of Israel.

My colleagues will recall that a major substantive and not inexpensive concession made by the Israelis as part of the agreement involved the abandonment of the oilfields at Abu Rudeis. The production from those oilfields allowed not only a substantial savings in hard currency otherwise expended for imported oil, but provided a measure of energy self-sufficiency in the face of rapidly growing international hostility toward Israel.

The United States made it plain that U.S. economic assistance would provide the additional hard currency necessary to compensate Israel for the loss of the oil. More important, it was understood that the United States would act to insure Israel a reliable supply of imported petroleum. The source of that petroleum would be Iran, as it had been in the past.

It would be a grave matter if the United States were now to attempt to manipulate Israel's energy dependence as a way of extracting further Israeli diplomatic concessions. More than grave, it would be dishonorable. Israel's virtually total dependence on imported petroleum grows directly out of U.S. initiatives, and was incurred, presumably, because of some fundamental belief in the integrity of U.S. undertakings and commitments.

Accordingly, I am deeply distressed by information that has come to me from sources that I consider reliable. Indeed, I would not raise this matter on the basis of one report alone; the multiplicity of such reports makes this matter simply too urgent to ignore. In essence, I am informed that American diplomats have broached to Israel's principal supplier of petroleum that it undertake to cut off oil shipments to Israel unless Israel agrees to certain U.S. proposals for the future conduct of Mideast negotiations.

These are reports which I do choose not to believe, for their truth would imply that the United States was acting in the worst of faith toward our traditional friend and ally—perhaps our only friend and ally—in the Middle East, the State of Israel. I must, therefore, call on the Secretary of State to state forthwith and wholly without ambiguity, whether the United States has suggested or urged such a course on the Government of Iran. And if the Secretary of State cannot lay the matter to rest in such fashion as to remove any doubt, the implications for our peacemaking efforts in the Middle East will be severe indeed.

Mr. CASE. Mr. President, we too have reports that the administration has asked Iran to cut off oil supplies to Israel in order to pressure Israel to go along with Arab demands for Israeli withdrawals from territory and in support of a Palestinian "entity" connected with the PLO.

If these reports are true such action would be outrageous. I find it difficult to believe them. Yet the reports persist and Senator MOYNIHAN is right in his demand that the Secretary of State answer specifically whether they are true. I support Senator MOYNIHAN wholly.

In addition, since such drastic and hostile steps could not have been taken without consultation with the President, it is essential that the President himself clarify immediately whether he authorized or allowed any such attempt. If others acted without the knowledge of the President then they should be brought to task for it.

All my colleagues are aware that under the 1975 Sinai accords—which were approved by the Congress—the United States entered into a series of bilateral agreements with Israel concerning the terms and conditions under which further negotiations with the Arab countries might go forward.

In addition, we entered into arrangements guaranteeing oil supplies to Israel. Any effort by the United States to cut off Israel's oil supplies would not only be an imprudent and unfriendly act but would be a breach by us of an international agreement under which we are bound.

NEW OMB DIRECTOR

Mr. PERCY. Mr. President, one of the tragic aspects of Bert Lance's resignation from his post as Director of the Office of Management and Budget is the loss not only of a close personal friend and confidant of President Carter's, but also of the man who so quickly provided a valuable link for the President to the business and financial communities of our Nation. Without question he was devoted to achieving the President's campaign pledge to balance the budget—a goal which has been reaffirmed with the enthusiastic support of many on both sides of the aisle in Congress.

Both the President and the Senate Governmental Affairs Committee must give serious consideration to the qualifications of the person chosen to replace Mr. Lance. We must insure that the nominee is dedicated to the goal of achieving a balanced budget and to the sound fiscal policies needed to bring this about. That person should also be able to reach out to business and financial leaders, and be knowledgeable about the Federal Government and our national needs and resources. The new Director of OMB must have sufficient force of personality and intellect to command the respect of fellow Cabinet officers, congressional leaders, and national interest groups with whom he or she must work intimately.

There is no need for a hasty decision in filling this important post, considered by many to be the second most powerful position in the Federal Government. We have in Mr. McIntyre a fine Acting Director, who can administer the office capably until a new Director is confirmed. Moreover, representatives of the private sector should have a full opportunity to participate in this process. I urge members of the business roundtable, the business council, the chamber of commerce and labor leaders to come forward with their recommendations. The Nation, the President, and the Congress deserve the very best this country can offer.

THE COMMISSION ON PAPERWORK ENDS ITS 2-YEAR JOB

Mr. McINTYRE. Mr. President, the Commission on Federal Paperwork established by the 93d Congress went out of business today. It finished its 2-year job and made its recommendations to Congress and the President.

Its final recommendations should drastically cut the hidden $100 billion paperwork tax that all Americans pay for their Government.

As cochairman of the Commission, I would like to let the Senate know that it has been one of the most successful commissions ever set up. We have made over 770 recommendations to Government agencies, States, localities, and even the Senate. As a result of the work of the Commission, we have changed the Senate rules to require paperwork impact statements as an early warning to us about excessive Government paperwork.

Despite these successes for this congressionally established Commission, we now need to reassess the way Government operates. The Commission's final recommendations are designed to do just that. We have gone beyond what Representative TOM STEED called the lawnmower cutting down the weeds of paperwork. Our final recommendations are the weedkiller that will stop useless paperwork at its roots.

It is my hope that the Senate will consider the recommendations we made. I hope that each Senator will take the time to read our final report. It is a different kind of document.

Rather than give you a massive book full of material that few would ever read, we have designed a type of memorandum, full of terse recommendations that I hope you and members of the Senate's staff will keep handy.

Our final recommendations are three:

First, we would like to centralize administrative responsibility for Government paperwork, stopping forms pollution before it starts. This will require help from all of us. We will need to strengthen the forms clearance office at the Office of Management and Budget, set up paperwork clearance offices in some agencies, consolidate various programs, often changing the laws that set them up, and possibly even give some agencies lead authority to control the programs of other particular offices—mainly to keep down the paperwork.

Second, we need to provide better communication routes between the average American citizen and his Government to end the frustration, fear, confusion, and anxiety so that he can make sure the Government knows when a form is onerous, duplicative or useless.

Third, we need to establish a national program to change the way Government operates to make service to the American people our national goal. "Service management" is the concept developed by the Commission as a goal for us all. This would provide for better run programs where the hidden tax of paperwork would not be pushed off to the consumer of Government services, which often are those least able to bear the cost.

It is only by changing our way of running the country, making sure that we know the burdens we place on the American people in return for the services we provide, that we will ever remove the hidden and frustrating costs of paperwork that we all pay.

I would just like to add a word of praise for the diligence and hard work of the Congressman from the 34th District of New York, FRANK HORTON, who chaired the Commission on Federal Paperwork. He and the other members of the Commission should all receive the thanks of the Senate, the House of Representatives and the people of the United States.

THE ADMINISTRATION'S FRAUDULENT ENERGY PROGRAM

Mr. HATCH. Mr. President, the Senate is expending great efforts over a fraudulent energy program that the administration has brought to us over the protests of its own experts and very nearly every expert in the Nation. Dr. Knudsen was removed from his position as Chairman of the Energy Supply Study Committee to ERDA because the facts of the ERDA study did not support the administration's energy mythology. The

same has happened to the very distinguished Dr. McKelvey, who has been removed from the directorship of the U.S. Geological Survey because he also refused to go along with the administration's grave deception of the American people. Even the CIA has been used politically and led to fabricate a false report that the Russians were running out of oil.

Mr. President, as I have said before, the Carter energy program is nothing but a tax grab and a power grab, and we should debate its merits on these terms as such and cease pretending that it has anything to do with the energy needs of the American people.

I ask unanimous consent to have printed in the RECORD three investigative reports from the Boston Herald American by the distinguished columnist Warren T. Brookes.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

CARTER'S NATURAL GAS COVER-UP

(By Warren T. Brookes)

President Carter is apparently engaged in a very sophisticated "cover-up." His administration is attemping to suppress or downplay a government ERDA study which shows that this nation is not running out of natural gas, but may in fact only have begun to tap the huge potential of this safe, clean fuel.

Indeed, if the ERDA study is correct, the nation should be embarked on an aggressive natural gas development program instead of putting so much of its focus on coal and nuclear power.

The "cover-up" started on April 6, 1977, just two weeks before President Carter launched his now-famous energy message to the American people and Congress.

In that message, you will remember, he warned the American people that we were "running out of natural gas" and that no amount of price changes could alter that fact.

But, on April 6, a team of top energy supply experts from ERDA (Energy Research and Development Administration), under the direction of Dr. Christian Knudsen, told the White House, in effect, that if the price of natural gas were turned loose—de-regulated—the nation would be literally awash in natural gas.

In more detail, Dr. Knudsen's study, which is summarized in the attached table, showed that:

At a cost of $2.60 per MCF (compared with the present top price of $1.42), this nation could expect to see its conventional natural gas reserves rise to 923 trillion cubic feet (TCF)—over four times the present total reserves of 216 TCF.

At a price of between $2.50 and $3, another 1000 TCF of hitherto un-economic new sources would be tapped, including 300 TCF of Devonian Shale in Appalachia, 300 TCF of Coal Seam Methane, and 300–400 TCF of Western Tight Sands.

This means that at a price range of between $2.50 and $3.50, this nation's total immediate gas reserves could effectively be multiplied by eight to 10 times—rising to 60–80 years of total usage (compared with the 12 years Mr. Carter has warned about).

In addition, Dr. Knudsen told the White House that at costs about $3 the nation could begin to tap the 20–50,000 TCF known to exist in the form of geopressured methane in the entire Gulf Coast region, both on and off shore.

In sum, Dr. Knudsen's committee told the White House that contrary to popular myth, promoted both by the major energy companies and the administration, this nation's natural gas potential is immense, a supply that would last from 100 to as much as 2000 years.

Indeed, when we talked to Dr. Knudsen ourselves last week, we got the distinct impression that he felt, based on his months of study on this subject, that this nation might well look to natural gas as a fundamental energy source in the next 40–60 year transition period rather than lean so heavily on coal and nuclear.

This plainly was the implication of the first ERDA-MOPPS study (Market Oriented Program Planning Study).

We say "first" because the study was such a devastating indictment not only of the entire Carter energy program, but of past government natural gas pricing policy, that it had to be redone.

It was obvious that Mr. Carter could not tell the country it was "running out of natural gas," if a study like this was floating around.

So, Dr. "Chris" Knudsen was suddenly relieved of his position as chairman of the energy supply study committee of ERDA, and a new MOPPS study was ordered—one that would be more "realistic," which is shorthand for more "pessimistic."

The second study was, indeed, somewhat more pessimistic, but still not enough to suit the Carter folks. It showed that present technology could still more than triple present gas reserves if the price were to rise to about $2.50, and at $3.25 these reserves would still reach over 800 TCF.

In the meantime, however, the first study "leaked out" to the Wall Street Journal and the Washington Post.

In an editorial on April 27, just one week after Carter told the nation it was almost out of natural gas, the Journal told its readers that there were 1000 to 2000 years of natural gas waiting to be discovered in the U.S., and at least 40 to 60 years in easily recoverable resources at a price of between $2.25 and $2.50.

Not surprisingly, the Journal wondered why Mr. Carter was arbitrarily setting a price ceiling on new natural gas at $1.75 when his own experts were telling him that, at just 75 cents more, the nation would be awash in natural gas.

It was then that Mr. Carter ordered a third, still more pessimistic, study on the natural gas situation, a study that was presented at a meeting in Reston, Virginia, on June 3.

This third version was nothing more than a cosmetic revision of the first two studies designed to make Mr. Carter's program and message more credible.

Even so, it told the President that at prices of about $3.50 to $4 the nation's total gas reserves would triple, and at prices of $2.50 they would more than double.

Unfortunately, by this time, the cat was well out of the Carter bag. On June 14, in an editorial entitled "Carter on the Run," the Wall Street Journal published its own synthesis of the three studies and told its readers just how these studies came about, inferring that the Carter administration was involved in a peculiar kind of economic and scientific revisionism.

In this editorial, the Journal pointed out that "Even at the worst the good people of ERDA have found us 55 years' worth of natural gas at a reasonable price."

And it pointed out that two of ERDA's top people, Harry Johnson and Philip White, had both told the Washington Post that the original first study figures developed by Dr. Christian Knudsen were "probably correct."

Because of all this, Dr. Knudsen was asked to testify before Senator Henry Jackson's Energy and Natural Resource Committee on June 23. He was asked point blank whether he thought he had lost his chairmanship of the supply committee because his first study didn't agree with the President's own thinking. He cautiously admitted there might have been some connection.

He was somewhat less cautious in a lengthy telephone interview with this columnist.

We asked Dr. Knudsen, "Doesn't your study suggest that with de-regulation this nation might well have a surplus of natural gas?"

He replied, "You could infer that, but I am not at liberty to do so at this time for obvious reasons. One thing seems clear. As the price goes up, it will become more and more economic to recover more and more gas. That is clear from our graphs."

In other words, the natural gas shortage is not a problem of supply, but of price. And this, of course, goes to the jugular of the Carter thesis which affirms the opposite.

Recently Jody Powell told the press, "President Carter believes that even if we increase the price of oil to provide an additional $20 a barrel, there would be little if any increase in production—and the same holds true of natural gas."

This statement is a direct contradiction of all three ERDA studies. That's why the President is trying to cover up their real meaning. In the next column we will show why.

CARTER'S CONTINUING NATURAL GAS COVER-UP

(By Warren T. Brookes)

It is an article of faith with the Carten administration that price de-regulation will do little or nothing to stimulate the expansion of natural gas reserves.

Yet the ERDA-MOPPS presented to the President on April 6 demonstrates that natural gas is very price responsive, that as prices rise to $2.60 to $3 it is likely, according to Dr. Christian Knudsen, that our total reserves will multiply from four to tenfold.

Dr. Knudsen's conclusions are not unique. They are amply supported by sophisticated economists and petroleum experts from coast to coast. Professor Robert S. Pindyck of MIT, writing in the Public Interest Quarterly in April, 1977, said, "It is of primary importance to move quickly toward the de-regulation of natural gas prices."

"Past and present controls," he wrote, "have resulted in shortages, increased imports, and higher than necessary prices. Policies in effect today depress the domestic price of energy, on the average, by 30 percent below the world price. Consumption then is 8 percent higher than it would be otherwise and supply is 6 percent lower."

The effect of de-regulation, according to Dr. Pindyck, would be to open up for exploration tremendous new reserves that are now being blocked out by present price control policies.

On May 2, 1977, one month after the first ERDA study the Colorado School of Mines estimated that there is between 923 and 973 TCF (trillion cubic feet) of conventional natural gas remaining to be discovered in the U.S., or from 40 to 50 years of consumption at present rates.

This agrees with the estimate of primary natural gas reserves of 929 TCF by Dr. Knudsen in the first ERDA-MOPPS study, the one Mr. Carter now wants to suppress.

This study also suggests that at prices of upwards of $3 the nation could well be looking at a natural gas potential of from 2000 to as much as 50,000 TCF, or from 100 to as much as 2000 years of supply.

The question is, will price alone generate the recovery of these reserves? Mr. Carter doesn't think so, and apparently is trying to down-play those folks at ERDA who think it will. Yet actual experience supports the ERDA-MOPPS study and refutes Mr. Carter's theory completely.

For example, in 1973 the FPC raised the price for new natural gas to 50 cents, and then in 1975 to $1.42. As a result of these two moves, belated as they were, the nation's drilling for natural gas (which had fallen steadily for 15 years under tight FPC price controls) has suddenly reversed itself (as the attached table shows).

In the last two years alone, total drilling has risen more than 40 percent and is now reaching above the 1964 highs. All because the price of FPC ceilings have moved up, and the price of unregulated intrastate gas is now above $2 per MCF.

Even so, the Wall Street Journal, in a survey done on February 3, 1977, reported that thousands of substantial natural gas leases, some very large, are still going untouched as producers play the "waiting game."

Typical was one producer named Tilman McIntyre who had "proved out" a 2000-acre lease with a single 14,000 foot, $1.3 million well.

McIntyre estimated that there was at least 60 billion cubic feet of gas under that single lease, enough to supply the entire nation for a single day. But, he told the Journal that at those depths he could not afford to bring that lease into full production for prices less than $2 per MCF—because of the enormous drilling costs at those depths.

So Mr. McIntyre's lease, like more than 5000 others in the Gulf region, lay idle during the nation's recent horrible natural gas crisis, a crisis brought on entirely by government pricing policies.

"There are 7000 natural gas producers out there waiting for the signal that will provide them with the incentive to get the rigs and lease the land," David Foster, Executive Vice President of the Natural Gas Supply Committee, told the Journal.

And, Barrie M. Damson of New York, an oil and gas operator, told the Journal that he would "move rigs into Louisiana within 24 hours of de-control and could put new gas on the market in about 45 days.

What makes this situation more ludicrous than ever is the fact that the FPC is now warning the public that next year's natural gas shortage could be even more severe than this winter's.

This is why, right now, the nation's major gas buyers are, with FPC permission, making contracts with Canadian producers to buy natural gas from them at $2.25 per MCF, fully four times the average wellhead price being paid to U.S. producers, and almost $1 above the regulated price for new gas.

What makes this interesting is that while U.S. production of natural gas is declining, Canadian gas production is suddenly booming.

According to a story on June 17, 1977, in The Christian Science Monitor, Canada is expecting to have a surplus of from three to five trillion cubic feet to get rid of next year—equivalent to about 15–20 percent of total annual U.S. production.

The significance of this is that just three years ago Canada was so worried about her natural gas shortages that she put an embargo on shipments to the U.S.

But, the combination of much higher prices offered to Canadian producers and rising U.S. demand has sent the Canadian gas producers into an exploration spree, into areas formerly considered too costly to yield.

According to the Monitor report, "Hordes of small and medium-sized producers all over Western Canada are scrambling for prospective acreage and drilling rigs. Within two years, they have transformed Western Canada's leisurely petroleum industry into a fast moving vehicle that is still accelerating."

The result is that Canada is now piling up a one to two trillion cubic foot surplus of natural gas every 12 months—a surplus that Canada is only too happy to sell to us at nearly 85 cents above the present regulated price of new gas in the U.S., and fully 50 cents above Mr. Carter's proposal.

When you talk to our own independent producers they say the same situation could take place in the U.S. Reserves that have been uneconomic to drill at old prices would suddenly look good with de-regulation.

One Houston independent producer told us that he could cite at least 300 major prospective fields he could drill and open at a price of from $2 to $2.25, and could be in full production within six to fourteen months.

But right now, it isn't worth his while to go after these reserves because all of them are at depths of from 9000 to 16,000 feet, and the wells will cost over $1.5 million each.

So, this coming winter when this nation will again be "short" of natural gas, American consumers will again be forced into purchasing $2.25 natural gas from Canada, $4 LNG gas from Algeria, and $5 SNG and $6–9 propane from domestic producers, all because we are apparently unwilling to de-control new natural gas and let U.S. producers go after the enormous but costly reserves that ERDA and the USGS tells us are there.

It is an outrageous, foolish situation. It may explain why Mr. Carter and his energy advisers seem more interested in downplaying and covering up Dr. Knudsen's report, than in pursuing its logical implications.

These implications go far beyond just natural gas. The Wall Street Journal observed. "De-regulation of natural gas would bring in so much of the stuff that it would soon force down the price of its nearest substitute. Number 2 fuel oil, which now sells at the equivalent of about $3 per MCF for natural gas. Which is to say that de-regulation of natural gas prices could very well break the OPEC cartel."

More important, the ERDA-MOPPS study suggests that the nation's immediate energy and heating needs could well be better and more cleanly met by more aggressive natural gas development than by risking the pollution of coal, or the uncertainties and complexities of greatly expanded nuclear power.

In other words, if Dr. Knudsen and ERDA are right, the entire Carter energy policy is wrong, and that is apparently why they are trying so hard to cover this study up.

CARTER'S ENERGY PROGRAM A MASSIVE AND COSTLY DECEPTION

(By Warren Brookes)

In politics, as in sports, winning is not only the most important thing, it is the only thing.

Unfortunately, when politicians win, the public usually loses—with higher taxes, more inflation and more government interference in their lives.

This certainly is true of President Carter's energy program which, much to the consternation of most serious energy economists, has passed through the House of Representatives almost unscathed.

It was an impressive victory for Carter and for "Tip" O'Neill, but it will prove to be an even more impressive $60 billion loss for the American consumer—and the nation's fragile economy.

We could fill this entire page with negative appraisals of this program by top economists of all ideological persuasions, including the prestigious and liberal Brookings Institution. The essence of these appraisals is that the Carter plan will accomplish little but to raise prices, and to dampen the production of energy.

As Nobel-Prize-Winner Professor Milton Friedman told the Boston radio audience of WMEX recently, "The Carter energy program is a monstrosity—a potentially devastating blow to the economy—and a tremendous new invasion by government bureaucracy in the market place."

What troubles this columnist most, though, is that the entire plan seems to be based on such a high degree of deception—and downright intellectual dishonesty.

The prime example is the whole thorny issue of natural gas deregulation.

For the past three months, President Carter has waged an all-out scare campaign trying to convince the public of the danger of deregulating new natural gas—warning that it would cost the consumer about $60 billion more over the next seven years, and would do little to stimulate new production of gas.

Yet, while he was carrying this attack to the media, his own energy professionals at ERDA published a study that showed that the nation could have all the natural gas it wanted, if new natural gas were deregulated. (See our columns of July 5 and 8, 1977.)

What makes this whole thing even more deceptive, though, is that, at the very time Mr. Carter was warning the American people about the evils of high priced unregulated gas, his own people at the FPC and the FEA were negotiating with no less than five foreign countries for huge supplies of new natural gas at prices far, far above Mr. Carter's own proposed ceiling of $1.75/MCF.

For example: The Federal Energy Department is right now concluding a deal for Mexican natural gas from PEMEX (the socialist oil cartel in Mexico) for two billion cubic feet of gas a day from the vast new Reforma Fields on the gulf of Mexico.

The price? $2.50/MCF. 75 cents above the Carter Energy Plan ceiling for American producers.

The amount? Over the next four years, the Mexicans are expected to expand their shipment of this high-priced gas to American consumers from two billion cubic feet a day in 1979 to as much as five to six billion cubic feet a day for a total sale to the U.S. of up to 2 TCF per year.

This means that the Mexicans by 1982 could be supplying the U.S. with as much as 5 to 10 percent of our present total gas consumption—all at prices 75 cents above the maximum in the Carter plan.

In other words, U.S. consumers will be paying a premium for new gas. They'll just be paying it to Mexico, not to U.S. producers. This deal, alone, could add from $2–5 billion per year to our trade deficit.

Apparently it is all right for the U.S. consumer to be gouged by Mexico's PEMEX at $2.50, but it is not all right to allow the consumer to help pay for the expanded U.S. development of its own huge (600–900 TCF) natural gas reserves at the current $2.00 unregulated, intrastate price.

But this isn't all.

Shortly after the House vote to keep the price ceiling on new domestic natural gas, the Federal Power Commission concluded another deal—this time with Indonesia, for a total of four trillion cubic feet (TCF) of their gas over the next 20 years.

The price of this Indonesian gas to start: $3.59/MCF—that's $1.84 above the ceiling price in the Carter plan. Total addition to our long-term trade deficit? More than $14 billion.

In other words, it is all right for U.S. consumers to pay the Indonesians $3.59, but it is evil to pay the U.S. producers any more than $1.75.

But, there's much more.

In July, the FPC concluded arrangements with Algeria to buy all the liquid natural gas they can ship for $3.37/MCF, or $1.62 more than we will allow U.S. producers under the Carter plan.

Again, it's all right to have the U.S. consumer pay a huge premium to an Algerian dictator, but not all right to encourage U.S. development of our own more difficult to drill but vast reserves.

Finally, in June, Mr. Carter's energy people made a deal with the Canadian government

for the shipment of about 1 TCF/year (about 5 percent of U.S. production) of their own excess natural gas at a price at $2.16 for 1977–78, or about 41 cents above the Carter proposed ceiling.

It is okay, apparently, to send Canada about two billion American dollars a year for natural gas at high prices, but not okay for these consumers to pay the same prices for the development of U.S. reserves.

What does all this mean?

It means that the Carter Energy Plan, far from saving the consumer money, will simply force U.S. consumers to pay foreign countries a premium for natural gas to make up for sliding U.S. production—a premium Mr. Carter won't allow to be used to stimulate the development of U.S. Reserves.

Several economists estimate that as a result of this crazy policy, by 1980 the U.S. will be importing as much as 15–18 percent of its total natural gas, all at prices vastly above even the present unregulated intrastate U.S. price.

Our own analysis shows that this alone could increase our natural balance of payments deficit by more then $7–10 billion a year—and further increase our dependence on others for our energy.

What is puzzling about this is that even James Schlesinger was recently forced to admit to the Senate Finance Committee that the U.S. "probably has over 100 years of natural gas reserves in this country—waiting to be developed."

Another deception: President Carter told the nation on April 20 that we had "less than 15 years of natural gas left." Unfortunately the ERDA–MOPPS study, from his own agency, shot that particular lie right out of the water.

We could go on and on about this, with myriad examples of this kind of dishonesty. But surely any thinking American can well wonder about an administration which on the one hand is warning against the high prices of unregulated gas, and on the other hand is making rapid-fire deals for foreign gas at prices up to 105 percent above the U.S. ceiling.

It is also a big tax raiser. On Public TV recently, FEA administrator John O'Leary admitted that the total tax bill of the Carter Energy Program is $136 billion between now and 1985—and that only $46 billion of that will actually be rebated. This means about $1,300 more taxes for every American family. (The Wall St. Journal estimates that the total cost of the Carter energy Program to the American consumer will be $500 billion, between now and 1985, or $7,000 per American family.)

The program represents nearly a 10 percent increase in the total taxes paid by the American public, but most of them are being hidden as taxes against industry to be passed along to you later.

In short, the American people are being massively deceived by the Carter Energy Program—and if they do not wake up soon to this deception and tell the Senate to clean the mess up, they will deserve what they get.

THE GENOCIDE CONVENTION AND THE CONSTITUTION

Mr. PROXMIRE. Mr. President, during the 29 years that the Genocide Convention has been before the Senate, the argument has repeatedly been raised that its ratification would limit or undermine the rights and protections guaranteed U.S. citizens by the Constitution. This argument has absolutely no merit.

This treaty is very carefully designed to let each nation govern its own internal affairs, and to come into effect only when there has been a clear attempt to perpetrate an act of genocide without appropriate attention or punishment.

Those who oppose this convention emphasize the inherent good judgment and unsurpassed protections already outlined in our own Constitution and claim that it should remain the single embodiment of supreme law recognized by our Government. This is a good point but our faith in the Constitution is a reason not to oppose, but to support the Genocide Convention. If we firmly believe that it stands for universal justice, we can be assured that America will continue to reach competent settlements of her internal affairs. Seen in this light, the treaty poses no threat to the United States, but does represent a strong threat to those nations whose systems of justice are based on prejudice, hypocrisy, and expediency.

Mr. President, if we believe in our Constitution in theory, we must support it in fact, and trust it to continue to provide a firm foundation for our Nation. As Mr. Herbert J. Hansell, legal adviser to the State Department said in May of this year:

> . . . we are in the process of developing a body of international criminal law that is important to the United States and to a peaceful world order. The Genocide Convention is one of the missing pieces in U.S. adherence to such a pattern of international criminal standards and it is my hope that this situation will be corrected.

Mr. Hansell is absolutely right, and I urge my colleagues to stop using the Constitution as an excuse, and instead understand that it is our absolute safeguard and strong incentive for ratification of the Genocide Convention.

AMERICAN BALTIC RALLY FOR HUMAN RIGHTS

Mr. SCHMITT. Mr. President, it was my privilege to share a speaker's platform Saturday with such distinguished individuals as Pavel Litvinov and Andrei Amalrik who understand and appreciate the meaning of freedom so much better than most of us ever could. To speak out for freedom here is noble; to speak out for freedom while in the Soviet Union, as they have done, is both noble and courageous. I commend both of these men for their actions.

I also want to commend all the people who have worked long and hard to bring the issue of human rights to the forefront of American and world attention. Many of these people left their homeland fleeing oppression and came to the United States because of her greatness—a greatness that is based on freedom and human rights. And when they came, they brought their cause. Today, that cause is our cause.

I congratulate President Carter for his firm stand on human rights, and I urge him to continue to pursue a policy based on human rights balanced only by the long-term perspective of how to best assure such rights. This is especially important with regard to the Soviet Union, one of the greatest violators of human rights in the history of mankind.

Two years ago in Helsinki, the Final Act of the Conference on Security and Cooperation in Europe was signed. The famous "Basket Three" provisions were to guarantee basic human rights: the right of free travel, both internally and externally; freer communication among citizens of various countries; reunification of families; and other basic rights. Now, 2 years later, as we are about to convene the followup meeting in Belgrade, we see that there has been no obvious change in the policies of the Soviet Union. In fact, the situation may have worsened.

Inspired by the Helsinki Accords, committees of citizens were formed throughout the Soviet Union to monitor the Kremlin's compliance with the act. The State Department has confirmed the existence of the committees in the Baltics, in Ukraine, and in Moscow, and we have heard that other committees exist in other areas of the U.S.S.R. These committees have been harassed and many of the members imprisoned. Is this the Kremlin's understanding of human rights?

Recent press reports indicate that the Soviet Union invited American publishers to a book exhibit but with the stipulation that Soviet authorities would have the right to veto, that is censure, any book which they felt was unsuitable. Is this the Soviet Government's understanding of free communication?

The administration has confirmed the reports that the Soviet Union has been monitoring telephone conversations of American citizens in the United States. Is this their understanding of the observation of human rights?

The blatant disrespect and violation of human rights which has characterized the Soviet Government since its beginning even touches American citizens in their homeland.

But I did not have to tell the Baltic Rally about the Soviet Union. Estonians, Latvians, and Lithuanians are well acquainted with the tactics and policies of the Kremlin. It was the Soviet leadership which destroyed Baltic independence in 1939. The democratic republics which existed in Latvia, Lithuania, and Estonia were wiped out by Soviet military aggression. And in the years that followed, thousands of the Baltic people were forcibly deported to other areas of the Soviet Union from where many never returned.

The issues before us are even broader than human rights; they also include national rights—the rights of each nation to exist and to determine its own destiny. For without national rights, there are no human rights. The Soviet Union, the last colonial empire, has destroyed the national rights of the Baltics, Ukrainians, Byelorussians, Armenians, and many, many more. The Kremlin did not even try to set-up puppet governments, claiming them to be independent, as they did in Poland, Hungary, and other East European countries.

I am, however, proud that the United States has refused to withdraw her recognition of the independent, democratic governments of Lithuania, Estonia, and Latvia. Just last year, the U.S. Senate reaffirmed its commitment to the continued recognition of these legitimate governments.

While the Soviets destroyed freedom in the Baltics almost 40 years ago, they have been unable to extinguish the hope and light of freedom that still lives on in the hearts of all Baltics. Today, people like Gunars Rode are still fighting for freedom and human rights. Throughout the Soviet Union there are people like Rode, Sakharov, Moroz, and countless others who are willing to undergo imprisonment and torture for the cause of freedom. They and others have brought world attention and opinion to bear on the Soviet Government.

The Helsinki Accords, with its human rights provisions, have given these people renewed strength in their fight. They believe that we in the United States and the West will support and help them. We cannot afford to betray that trust. It is imperative that at Belgrade the United States take a firm stand on the compliance with the human rights provisions of the Helsinki Act. In dealing with the Soviet Union, we must not tone down or temper our commitment to the observance of basic human rights. I ask my colleagues in the Senate to continue their support for the just aspirations of freedom-loving people in the Soviet Union and throughout the world.

Once again, I command all the participants in Saturday's rally for coming from distant cities to bring the attention of the White House and the Congress to this noble cause of freedom. I know that at times it may seem to them that no one is listening and that their cause is hopeless. Let me reassure them that we all take strength from their brothers and sisters in the Baltics; and let me urge them and us not to ever give up and not to let the United States ever give up on our mutual commitment to freedom. The light of freedom still burns in Lithuania, Estonia, Latvia, and throughout the Soviet Union—it is becoming brighter each day. The question is not whether the Baltic countries will one day be free; the question is when.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the following nomination has been referred to, and is now pending before, the Committee on Rules and Administration.

John Warren McGarry of Massachusetts to be a member of the Federal Election Commission for a term expiring April 30, 1983.

On behalf of the Committee on Rules and Administration, notice is hereby given to all persons interested in this nomination to file with the committee in writing, on or before Friday, October 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their desire to appear at any hearing which may be scheduled.

THE NEED TO BALANCE COSTS AND BENEFITS OF REGULATION

Mr. SCHMITT. Mr. President, recently I introduced S. 2011, the Regulatory Reduction and Congressional Control Act of 1977. This bill would provide, among other things, for congressional oversight over major rulemaking activities of the executive branch. At this time I request that Senators GOLDWATER, BARTLETT, and ZORINSKY be added as cosponsors of S. 2011. I welcome their interest in insuring the separation of powers and reducing the regulation of the economy.

One of the unfortunate trends observed in our economy today is the rapidly increasing regulation of individual decisionmaking in the business community. There are many areas in the economy where regulation by Government can be justified; however, it is essential that there be clear gains to the introduction of such regulation.

The Congress recently addressed the question of the need to regulate third party debt collectors at the Federal level. On balance, the legislation which we are sending to President Carter is probably one of the better "consumer" bills to come out of the Banking Committee in recent years. It is directed at the elimination of abusive practices by third party collectors; however, the potential for actually increasing the burden to consumers by overregulating the collection of debts by third parties is considerable. Recent experiences with legislation directed at truth-in-lending have shown that some common sources of credit can be eliminated by the careless design of "consumer" legislation.

It is, therefore, important to note the extent to which abusive practices occur in the collection of debts. Fortunately, some information is available to us from a study conducted of the Puerto Rican economy (Consumer Credit in Puerto Rico, by the Puerto Rico Development Group, January 1975). In fact, this is the only comprehensive study of its type available to date. Interestingly enough, of 600 households sampled, using a statistically scientific sampling method, none of the respondents indicated that abusive threats were employed by banks, loan companies, savings and loans, finance companies, or private debt collectors.

As we pursue legislative initiatives designed to protect the consumer from various forms of abuse, we should always balance our desire to eliminate the undesirable conduct with a recognition of the costs imposed on innocent consumers and business persons by the regulations which we write. This rule should apply not only in the writing of consumer legislation, but also in the consideration of other legislation to come before the Congress.

ART KRAUS, SR., "THE CONSULTANT"

Mr. CRANSTON. Mr. President, the July 1977 edition of Soundings magazine, published by Pacific Mutual, featured an article on a good friend of mine, Art Kraus. Art is an extraordinary individual, Mr. President. He's creative, energetic, and is always looking out for those around him. I am only one of many, many Californians whose lives have been enriched by his work and his kindnesses. Mr. President, in tribute to Art, I ask unanimous consent that the text of the feature article, "Art Kraus, Sr., the Consultant", be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ART KRAUS, SR., THE CONSULTANT

In the office in his Laguna Hills home, Art Kraus, Sr.'s telephone rings constantly. Watching Kraus set up free business counseling appointments, discuss consumer problems, and debate Orange County politics, it's difficult to believe that for 13 years he has been among the ranks of the "retired."

During the 25 years he was General Agent of one of Pacific Mutual's Los Angeles agencies, Kraus lived for his work. When a coronary insufficiency necessitated his retirement in 1964, he found he enjoyed the freedom from his daily business anxieties and the leisure time retirement promises. But after a year or two, Art sat back and began to twiddle his thumbs.

"I was feeling sorry for myself," he says. "I had been very active in the agency and enjoyed the business tremendously. Suddenly I felt that I was no longer needed, that I wasn't contributing to my community.

Just in time, Kraus was approached by the IESC (International Executive Service Corps), an organization which assists businesses in the developing countries of the world. Several months later, Art was in Thailand, teaching managers of the Southeast Asia Insurance Company western methods of recruiting and lecturing on business administration at Bangkok University. "That was the turning point of my retired life," he says. "I was highly respected there—the Orientals have an elevated regard for age. Thus I was able to regain my self-esteem and the feeling I was doing something important."

When he returned to California, Kraus felt revitalized, and it was then that his involvement with SCORE began. Sponsored by the Small Business Administration of the Federal government, the Service Corps of Retired Executives conducts counseling seminars for small businesses in need of sound business advice. Elected to represent the 15 SCORE chapters in the western United States, Kraus often made trips to Washington, D.C., where he established the beginnings of a close relationship with U.S. Senator Alan Cranston. Later he worked as a volunteer on Cranston's Los Angeles staff, providing counseling to people with Medicare, Social Security, and pension problems.

Art's enthusiasm didn't end there. For a short time, he appeared on a Leisure World television program called "The Squawk Box," offering consumer advice, and later wrote a consumer column for the *Laguna Hills News Post*. Presently, Kraus serves on the Emeritus Council at Saddleback Community College. Established by the school's Gerontology Division, the council's function is to assist Saddleback in developing programs specifically geared to older adults. The program's curriculum includes courses on consumerism, health and nutrition, finances, insurance, and the role of aging.

A perpetual student in these classes has been Art's wife, Alice. Says Kraus: "Alice has developed a self-assertiveness she didn't have before—she's a changed woman. Before the classes, she had never balanced her checkbook. Now she's taken over all my bookkeeping and has even joined the Leisure World orchestra, playing the violin she hadn't touched since we were married."

In his involvement in community and educational affairs, Art Kraus always introduces himself as a retired Pacific Mutual executive. "I've been representing the company in the community for 13 years," he says, "and I don't intend to stop. I'm frightened

to death of becoming one of those bench-warmers—people who are half asleep, looking over their shoulders for the undertaker. It's going to be quite some time before that old fella shows up for me."

IMPORT QUOTAS ON SPECIALTY STEEL

Mr. SPARKMAN. Mr. President, I am pleased to join with my colleagues in urging President Carter to retain the quotas on imported specialty steel.

Specialty steel represents a distinct segment of the steel industry. It is significant that, shortly after enactment of the Trade Act of 1974, this industry availed itself of the new provisions of the law in seeking relief from the flood of imports. The International Trade Commission, following extensive hearings and a complete investigation, recommended the strongest possible form of import relief—quotas for 5 years. President Ford agreed with the ITC's findings and implemented import quotas for 3 years.

These quotas have been in effect for less than a year and a half and their beneficial impact is just beginning to be felt. This is not the time to reduce or terminate this relief—particularly when the industry is just beginning to recover its economic health.

Mr. President, the Trade Act should be permitted to work as Congress intended. I have written a letter to President Carter about this matter, and request unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., August 12, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing concerning your review of the import quotas on specialty steel. I urge you to retain these vitally-needed quotas without change. A lifting of the quotas could adversely affect the jobs of 65,000 American steelworkers, including thousands in Alabama.

Last year, after a comprehensive investigation with the International Trade Commission and a thorough review by the previous Administration, the President granted three years of import relief to the domestic specialty steel industry. This industry had effectively shown that it was suffering serious injury as defined by the Trade Act of 1974. This was a unique case in view of the fact that it marked the first time that any President had granted the relief recommended by the International Trade Commission.

Now, after one short year of relief, the quotas are being reviewed with hearings before the International Trade Commission scheduled for August 23, 1977. The relief is just beginning to become effective. The economic health of the industry is starting to improve—as is supposed to happen under the Trade Act as an injured industry adjusts to foreign competition. But, the recovery has a long way to go.

If the quotas are terminated or modified, the domestic specialty steel industry will be back where it was before relief was granted. Foreign producers, heavily subsidized by their governments, are ready to flood our market again.

I understand that you will reach a decision on this matter in early October.

I am concerned that if these quotas are removed, many members of Congress may support new, more restrictive trade legislation. I respectfully urge you to let the Trade Act of 1974 operate as contemplated by Congress.

In your evaluation, I hope that you will consider the following points, which the specialty steel industries and the United Steelworkers Union feel are of importance.

The domestic industry is essential to the civilian and military economy.

More than 65,000 jobs in the specialty steel industry are at stake.

The industry has suffered serious injury as a result of unrestrained imports and although some beneficial effects are just beginning to be realized full recovery remains uncertain unless import relief is continued.

With the multilateral trade negotiations now in progress, our trading partners must be shown that the United States will not abandon an industry where relief is so clearly justified.

One year of import restraints is inadequate. The three-year period found to be necessary by the President of the United States should be given a chance to work. So must the Trade Act of 1974.

As one who has always been sensitive to the employment needs of our country, I am distressed to note that employment in the specialty steel industry remains at substantially depressed levels. Average total employment in 1976 for these products was 14 percent below 1974 levels and substantially below 1973 levels. For production and related workers, the situation was even worse, with employment 19 percent below 1974 levels. Furthermore, although employment has recovered some since 1975, the number of man-hours worked has not risen proportionately. Accordingly, production workers worked almost 30 percent fewer man-hours in 1976 than in 1974. This means that workers in the industry who have been recalled face shorter work weeks.

As you know, a large segment of our economy is involved in this situation, including 19 specialty steel companies, two of them in Alabama, and the United Steelworkers of America (AFL-CIO).

With kindest regards,
Sincerely,

JOHN SPARKMAN.

IMPORT QUOTAS ON SPECIALTY STEEL IMPORTS

Mr. BAYH. Mr. President, I want to take this opportunity today to express my strong concern about the continuation of temporary quotas on specialty steel imports. The specialty steel industry is an important part of the steel producing community. Specialty steel accounts for 1.5 percent of the industry's tonnage, but represents 9 percent of the dollar value of total domestic shipments. The stainless sheet, strip, bars, rods, plates, and tool steel which are produced by this "industry within an industry" are essential in the manufacture of aircraft, automobiles, consumer durables, and machinery required to make more steel. Specialty steel is utilized in everything from ball point pens to cardiac pacemakers.

Out of a total steelworking force of approximately 71,000 in Indiana, steel companies such as Allegheny-Ludlum, U.S. Steel and Joslyn employ about 1,500 workers in the specialty sector; 65,000 are employed nationwide. Importantly, many of these laborers had been certified for trade readjustment assistance before the quotas which took effect on June 14, 1976, allowed them to return to their jobs.

Mr. President, at the present time there is some question whether the import quotas will be maintained for the full 3 years decided upon by the previous administration. Based on the evidence to date, especially the fact that lost jobs are being reclaimed, and the difficulties facing the steel industry, I think they should. The continuation of these temporary curbs on specialty steel imports would provide evidence that Congress and the administration are responsive to dislocation of domestic industries caused by foreign imports and will act appropriately to help assure recovery.

As my colleagues recall, the remedy duly prescribed by the U.S. International Trade Commission for the specialty steel industry were import quotas for a 5-year period. The decision to limit the restrictions to 3 years could have been blocked by Congress in favor of the 5-year curbs. Nevertheless, this modification of the recommendations by the USITC was accepted.

President Carter has now asked the USITC to undertake a reexamination of the condition of the industry and the present level of imports. Mr. President, I think it is extremely important that we express our strong feelings to the President and his trade advisers to make certain that the specialty steel industry will have a sufficient opportunity to recover with the benefit of this carefully constructed remedy.

The specified quota level of 151,500 tons of specialty steel imports is only about 16,000 tons less than the record import level of calendar year 1976. This figure is reported to make up about 15 percent of the U.S. market. While it is clear that the U.S. market must not be closed to our trading partners, these quotas were carefully tailored so as not to unfairly restrict competition from abroad.

THE DOMESTIC STEEL INDUSTRY: THE LARGER PROBLEM

While the reason for this discussion today concerns a vital part of the U.S. steel industry we must not lose sight of the larger picture. Recent statistics concerning U.S. steel production reveal a basic industry clearly in trouble. Despite the boom of a few years ago, the outlook for the entire industry is now bleak. Profits are down 42 percent for the first half of this year. The Central Intelligence Agency tells us that the worldwide steel market will be listless through 1980. Here at home, capacity utilization was recently reported to be a sluggish 75 percent. These factors and others are of little consolation, however, to the working man or woman whose livelihood has been imperiled because of a company cutback. A "things are tough all over" attitude in this case just would not do if we want to see the recovery of an industry producing vital basic material and directly employing over half a million Americans.

As industry spokesmen have noted, the problems of the domestic steel industry have been "studied to death." The issue of productivity has been prominent in such studies. However, it is clear that the U.S. steelworker can be every bit as productive as his best foreign counterpart. Bethlehem Steel's Burns Harbor Works in northern Indiana is an outstanding example of how capital wisely invested can produce a facility as efficient and modern as any in the world. However, even the Burns Harbor plant which can compete on a cost basis in the U.S. market with any steel producer anywhere in the world is at a decided disadvantage if imported steel is "dumped" on U.S. markets at an increasing rate.

It has been estimated that for every 1 million tons of foreign steel that comes into this country 5,000 steelmaking jobs for American workers are lost. Against this estimate we must not lose sight of the important fact that one out of every six jobs in manufacturing are directly related to international trade. Clearly we cannot allow the psychology of "protectionism" to obscure the importance of maintaining markets for finished and agricultural goods with our best foreign customers. Neither should any vague notions of "free tradism" diminish our aggressive pursuit of a trading policy aimed at preventing unfair pricing practices. Tomorrow, our representatives will be present at a meeting of the Organization for Economic Cooperation and Development to discuss the problems plaguing the world steel market. I have indicated directly to Ambasador Strauss my own interest in his efforts to make sure that our trading partners have a firm understanding of the difficulties faced by our home industries.

Despite a widely shared commitment to "fair trade" policies, this slogan is not substitute for a fair and workable program to help the steel industry compete on an equal footing with its foreign competitors. Nor is it of any tangible assistance to the thousands of men and women whose jobs and livelihoods are threatened or lost by the closing of marginally profitable steel plants throughout the country.

Congress will be taking a hard look at proposals designed to assist in the long term solutions to the ills of the steel industry. One of the paramount objectives of such an effort is to insure job security for the people engaged in this most basic industry. Failure to succeed in developing a comprehensive approach to the problem will only mean recurring short-term difficulties measured in lost jobs and a decline in economic well-being for all Americans.

Mr. President, at this point I ask that my letter to Ambassador Strauss of September 26 be printed in the RECORD. I also ask unanimous consent that a letter I have written to Secretary of the Treasury Blumenthal also appear in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 26, 1977.

Ambassador ROBERT STRAUSS,
Special Representative for Trade Negotiations, Washington, D.C.

DEAR MR. AMBASSADOR: It is my understanding that United States representatives will be present in Paris this Thursday, September 29, at a meeting of the Organization for Economic Cooperation and Development. The topic of that meeting will concern problems within the world steel market.

There are indications that a strong inclination exists on the part of the countries of the European Economic Community for some type of agreement on steel import and pricing practices, and I would like to emphasize the importance of any such agreement.

Projections of the shape of the world steel market over the next few years are not encouraging. Plant closings and layoffs in this country are directly linked to international factors. Your testimony on September 20 before the House Ways and Means Trade Subcommittee reflected a sensitivity to the present situation. I am sure that you or your representative will clearly and candidly convey this concern to our OECD trading partners, but I would also encourage you to continue in your efforts to bring the problems associated with the world steel market into context of present multi-lateral trade negotiations.

The problems facing the steel industry are complex. Complexity, however, is of little consolation to the man or woman whose livelihood is lost because of a company cutback. Just as we begin work here in Congress to provide legislative support to this basic but beleaguered industry, I am confident that we can count on your continued efforts to assure that the trade practices of our major trading partners are fair and our own trade policies are sound.

Thank you for taking the time to consider my concerns. I look forward to staying in close touch with you on this important issue in the days ahead.

Best personal regards.
Sincerely,

BIRCH BAYH,
U.S. Senator.

WASHINGTON, D.C.,
September 27, 1977.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: On September 20, our Special Representative for Trade Negotiations, Ambassador Robert Strauss, urged the makers of steel in this country to seek relief through your Department from what many believe to be unfair and predatory pricing practices by foreign competitors.

It is my understanding that there are three major antidumping complaints now before your Department involving over $2.1 billion in steel trade. A preliminary decision affecting $175 million of this total is due by September 30. There are indications that other petitions will be filed within the coming weeks and dumping duties have already been assessed against several foreign producers. Because I represent a State with the third largest number of steel workers in the entire nation, I am willing to express my strong interest in your expeditious consideration of these petitions.

At a time when we are confronted with the largest trade deficit in our history, I believe we must make every effort to protect our own industries from suffering because of unfair trade advantages exploited by their foreign competitors. While I share with you the desire to maintain an open trading system, I believe the American people will support such a system only so long as we demonstrate the determination to make sure that it is a fair one.

The concern which I feel about this important issue is, as you know, widely shared by other Members of Congress. I recognize that the issues involved extend beyond matters of trade policy in the strict sense. It is, therefore, important that we make a joint and vigorous effort to develop an industrial policy that will provide short-term relief and address the long-term difficulties affecting this most basic industry. I look forward to working closely with you in the days ahead.

Thank you for taking the time to consider my comments.

Sincerely,

BIRCH BAYH,
U.S. Senator.

NATURAL GAS POLICY ACT

Mr. BROOKE. Mr. President, the length and complexity of the Senate's deliberations have no doubt made it clear to the Nation that it is no easy matter to frame a natural gas policy. We are trying to assure ourselves of an adequate gas supply and to pay no more for that assurance than is absolutely necessary. And we are trying to protect our economy from sudden inflationary shocks. We have become involved in a clash of economic theories and principles partly because we lack any sense of certainty about what the impact of any one of these legislative packages will be.

The proponents of deregulation argue that, for some additional cost, the Nation can be assured of significantly more gas supplies than the President's program will produce. The administration and the Congressional Budget Office, on the other hand, have projections showing that in 1985 deregulation would cost consumers over $12 billion and yet produce only 0.9 Tcf more new gas than the President's proposals.

I have reviewed virtually every major study on this subject and I have carefully followed the debate in the Senate over what exactly these studies show. In my view, every one of these has some major flaw that makes the exact figures projected for either the costs or the benefits of deregulation invalid. Each of the congressional and administration studies makes some assumptions which lead to an overestimate of deregulation's cost.

But on the other hand, the industry and MIT studies make the mistake of assuming that there are virtually unlimited supplies of readily identifiable new gas reserves. Our recent dismal experience which accelerated gas exploration efforts is that we find less and less gas per exploratory foot drilled. This should lead us to realize that geology simply may not conform to a pure econometric model in which supply expands with prices. Yet the proponents of deregulation cling to this pure theory to justify permitting unlimited prices in pursuit of new supplies.

The most serious questions concern

what the economic impact of these bills on our already troubled national economy's future will be. And I have not been satisfied by the attempts of the "deregulators" to refute the CBO and administration contention that the shortage prices paid to producers over the next 7 years would cause an extra 0.05 percent of inflation per year without producing new gas. There is every reason to believe this is a reasonable estimate, Mr. President, we cannot afford another one-half of 1 percent inflation.

There is no question in my own mind that we will find additional gas supplies if we increase the price of new gas somewhat. Gas is and has been underpriced, for it is worth at least as much as oil as a fuel and more than oil as a feedstock for major industrial uses, of which the most obvious are the manufacture of plastics and fertilizers. But, the question is what gas "should" cost. Both those who favor deregulation and those who support the President's plan agree that, under either policy, by 1985 gas will cost about $2.50 per Mcf. Everyone thinks producers are going to respond to the long-term returns on their investment and to the new predictability and certainty for energy prices which these investors have so long awaited. This seems to me to be yet another strong argument for continuing regulation. Indeed, it is hard to find a justification for paying producers the $3 to $4 per Mcf that gas is predicted to bring in between now and the time enough new supplies come on line, when there is every indication that the incentive of about $2.50 in the long run will produce virtually the same supplier response.

But the question remains as to exactly how high the cost of new onshore gas should go today. And I have long maintained that the "correct" price is at least the Btu equivalency of oil. It signals gas users both a more accurate impression of the value of the commodity they are using and it is high enough to provide incentives for conversion to coal over the long run. Of course, the $1.75 proposed by the President is not the true Btu equivalent of oil. New gas should be at least as valuable as new domestic oil, not "average" oil costs. It is arguable that it should be priced as high as the imported residual oil that our industries in New England have been forced to rely upon because we have never had the access to industrial gas supplies. In either case, the current price per Mcf would be closer to the $2 proposed in Senator JACKSON's substitute. Thus, Mr. President, I would argue for a higher price than the FPC's current ceiling of $1.42 in order both to accelerate new production and also to reintroduce a measure of realism into our energy pricing policies. But I remain unconvinced that the new revenues producers would get under deregulated prices can be justified in terms either of their efficiency in generating new supplies or of their impact on the American economy.

There is no question this debate has become a battleground on which some larger ideological issues are being fought. Somehow the proponents of deregulation have tried to make this decision a test of support for the "free enterprise system" and opposition to encroaching Government interference.

Mr. President, Americans must face the fact that there is no "free" market for energy. The leaders of the OPEC nations are setting prices and controlling production in much the same way as would regulatory officials in this country, but with a few important differences. Their deliberations are not open and they are not accountable to their customers. We have a clear choice before us today—either we pay a price for new domestic gas set by American regulators, or we pay the price set by Arab and Latin America regulators. We are certainly being offered the possibility of having an "unregulated" new gas market system. But we should see very clearly that we are not being offered a "free" gas market system. The world's energy economy has become too interrelated and complex for that ever to be possible again.

Mr. President, I will vote for a new set of more realistic regulations for new natural gas because I believe that we have to manage resources in our mixed economy in the best way we know how to maximize the benefits and minimize the costs to consumers. And, I think the proposal before us is a reasonable and long overdue way to get more gas at a fair price.

STATEMENT OF ROBERT CHARLES SMITH, NATIONAL COMMANDER OF THE AMERICAN LEGION

Mr. THURMOND. Mr. President, today the Senate Committee on Veterans' Affairs was presented the priority legislative goals of the American Legion for the 2d session of the 95th Congress by that organization's recently elected national commander, Robert Charles Smith of Louisiana.

Accompanying Commander Smith before the committee were the president of the American Legion Auxiliary, Mrs. Alvin Moltzen of North Dakota; Frank Hamilton, chairman of the National Legislative Commission; Bill Lenker, chairman of the National Veterans Affairs and Rehabilitation Commission; Al Keller, chairman of the National Economic Commission; Miss Pat Higgins, legislative chairman of the auxiliary, and Mrs. Bernard Kennedy, chairman of the veterans affairs and rehabilitation committee of the auxiliary.

In his remarks, Commander Smith expressed the immediate concerns of the Nation's largest veterans organization, including the American Legion's vital interest in maintaining the strength and integrity of the VA health care system. Commander Smith also emphasized the need for immediate reform of the veterans pension program and the importance of adjusting the compensation and readjustment benefits programs to reflect increases in the cost of living. In most emphatic terms Commander Smith expressed the opposition of the American Legion to the recent recommendation of the Chairman of the Civil Service Commission to change the present Veterans Preference Act in title 5, United States Code, by modifying present benefits to veterans under the act.

Finally, Commander Smith made an eloquent plea for the Congress not to turn its back during a time of peace on those to whom our Nation turned in time of war.

Mr. President, in order that my colleagues may have the benefit of the timely and stirring remarks of the commander of this great veterans organization, I ask unanimous consent that Commander Smith's statement be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT CHARLES SMITH

Mr. Chairman and Members of the Committee: It is a personal honor and privilege to appear before you this morning to discuss the priority legislative goals of The American Legion for the second session of the 95th Congress. Before I address myself to these issues I would like to introduce some of the men and women who have accompanied me today. The President of the American Legion Auxiliary, and my counterpart, Mrs. Alvin Moltzen from the State of North Dakota, Miss Pat Higgins, Legislative Chairman of the Auxiliary and Mrs. Bernard Kennedy, Chairman of the Veterans Affairs and Rehabilitation Committee. Also joining me is Frank Hamilton, Chairman of the National Legislative Commission, Bill Lenker, Chairman of the National Veterans Affairs and Rehabilitation Commission, Al Keller, Chairman of the National Economic Commission, Mylio Kraja, our Legislative Director, Bob Lyngh, our recently-appointed Director of the National Veterans Affairs and Rehabilitation Commission, and Austin Kerby, Director of the Legion's National Economic Commission. Mr. Chairman, I would be remiss if I did not pay a special tribute to the members of the various National Commissions, and members of the Auxiliary and Legion Departments of Maryland and the District of Columbia who are also with me this morning.

VA BUDGET—FISCAL YEAR 1978

The first matter relating to veterans benefits programs which I must address is that of VA appropriations for Fiscal Year 1978. According to the last figures we have, including adjustments recommended by the new Administration, the proposed VA Budget for the new Fiscal Year, stands at 20 billion dollars. This includes cost-of-living increases in the programs of compensation, pension and education and training allowances. We support the proposed budget at these figures.

Of importance to us also, is the fact that the proposed budget and outlays provide funds for construction of two of the proposed eight replacement hospitals that VA has planned. I cannot emphasize too strongly to this Committee, the importance The American Legion attaches to progress toward the completion of these hospitals. Our strong conviction is that the continued success of the VA medical care program depends upon the timely renovation and replacement of medical facilities.

Of additional concern to us are the following programs which we consider to be of overriding importance:

1. The establishment of a physicians' and dentists' pay scale that will enable VA to recruit and retain the services of highly qualified professionals.

2. Expansion of the alcohol treatment units throughout the VA system, where a need for them is apparent. This is a program to which the Administrator has committed himself, and The American Legion associates itself with that commitment.

3. Continued emphasis on the VA's ongoing research programs. The research programs within the VA medical care system are an essential factor in placing the VA in a preeminent position in the field of health care delivery. Veterans gain a tremendous advantage in the care they receive, and indeed all Americans and the peoples of the world benefit from the research done within the VA system.

I would offer just a word about one negative recommendation in the proposed budget as it was sent to the Congress. I refer to the renewed proposal to eliminate what the Administration chooses to call "duplicate burial benefits." A definition of "duplicate burial benefits" is that the survivors of a veteran are entitled to the death and burial benefits provided under VA programs, and, in many cases, also to the Social Security death benefit. The proposal to deprive veterans' survivors of one or the other of these benefits has been sent to Congress by Administration after Administration. There has been no indication that Congress would entertain the proposal, but The American Legion is unhappy about the proposal being suggested by more than one Administration. We have patiently pointed out, through the years that these are not, in fact, "duplicate benefits." The Social Security death benefit is an earned benefit to which all citizens are entitled who have paid Social Security taxes. The VA death and burial benefits are grants from Congress, made to insure that every veteran who has honorably served this nation in time of war shall not lie in a pauper's grave. It is a simple benefit, and one that is entirely within the context of the concern the American people have always shown to their veterans.

NATIONAL ACADEMY OF SCIENCES' REPORT

In this presentation it is, of course, necessary for me to address myself to the recently released National Academy of Sciences' Report entitled "Study of Health Care For American Veterans."

What I will submit at this time is a current American Legion reaction, as it is expressed in Resolution No. 77 (South Carolina), adopted by The American Legion National Convention in August, in Denver, Colorado. That resolution expresses the opposition of our organization to those recommendations that would destroy the present Veterans Administration hospital system.

The NAS report includes a detailed study of a number of elements of the VA medical care program, leading to a series of recommendations. It is not our intent to quarrel with everything that is in the report. Where an evaluation of factual data leads to recommendations that would in fact improve the operation of the system, and result in improved health care for veterans, we will support recommendations. However, the bottomline question that we of The American Legion have for the esteemed members of the National Academy is how the language of Section 201(c), of Public Law 93-82 leads to the most definitive conclusion that is in the report.

The pertinent language of Section 201(c) says that the Academy "will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provision to eligible veterans of high quality care in all hospital, medical, domiciliary and nursing home facilities."

It seems to us that the quoted language is quite clear, and we would like to know how such language reconciles with the following recommendation in the report: "VA policies and programs should be designed to permit the VA system ultimately to be phased in to the general delivery of health service in communities across the country." The discussion of this recommendation goes on to suggest, and again I quote, "Ultimately it is expected that these integrated-care programs will become part of the community system of medical care accessible to nonveterans, as well as veterans."

There can be no question that what is recommended here is the phasing of the VA system into a plan for national health care for all Americans—in other words, the inclusion of VA hospitals into National Health Insurance.

A recommendation of that kind is not what Section 201(c) asks of the National Academy.

The VA medical care program has been carefully developed through the years, with the full support of The American Legion, to do what Congress intended it to do—provide high quality medical care to the nation's veterans. This is a basic policy of our government. No authority except Congress can change that policy, and nothing in Public Law 93-82 indicates any intention to make such a change.

When we have had the opportunity to complete our evaluation of the report, within the context of the VA response, we will seek to appear here again, on this most important subject.

The American Legion does not intend to stand idly by while sources, from whatever level of expertise in the field of health care, move toward dismantling the VA medical care program as one to be maintained exclusively for the care of the nation's veterans.

PROPOSED REDUCTION IN NUMBER OF ACUTE CARE BEDS

The next matter I would like to discuss is the announcement, in June, by VA Administrator Max Cleland, that the VA plans to reduce the number of acute care beds in the VA system by 5,000 over the next five years. This announcement was reinforced in a letter written by VA Chief Medical Director, Dr. John D. Chase, to the Washington Post newspaper, later in June. In his letter, Dr. Chase confirmed the Administrator's statement, and indicated the reduction is to be made by reason of new standards for privacy, and fire and safety insurance set by the Joint Commission on Accreditation of Hospitals. Dr. Chase also pointed out what we already know—that the VA system has accomplished a 20,000 bed reduction during the past 10 years.

Other figures show that for Fiscal Year 1978, VA is projecting an increase of 51,602 in total number of inpatients to be treated. So, what VA is saying is that, with improved techniques and procedures, VA will continue to treat more patients in less beds.

There is also available data showing that as of May, 1976, VA was operating 44,879 acute care beds. Diminished by the number of special care type beds throughout the system, there were actually 30,049 acute care beds available in the VA system at that time. And it is from this number the Administrator now plans to take an additional 5,000 beds.

Collateral to these figures I can mention that the National Academy of Sciences' report projects that the VA medical care program is currently serving an active clientele of 3 million veterans. And, of course, we know that the veteran population that may be considered eligible to seek care within the VA system now approximates 30 million from all wars. I am sure it is not necessary for me to elaborate on the fact that the average age of the 13 million surviving World War II veterans has now passed 58, which means that this generation of veterans is beginning to be afflicted with disease and disability at an increasing rate.

Mr. Chairman and Members of the Committee, it is my duty to tell you that in the judgment of The American Legion this proposed reduction in acute care beds is intolerable, if the VA is to continue to fulfill the mission given it in its mandate from the Congress. What will happen if this plan is allowed to proceed is that more and more veterans will be turned back to the private sector. Their needs will reinforce the arguments for national health insurance, and when the goal has been achieved, the need for care outside the system for increasing numbers of the veteran population will be added to the arguments for the phase-in of the VA system into a national health insurance plan. So, the VA system will ultimately lose its identity. And the recommendation included in its report by the National Academy will have been achieved. If that happens, what Congress has mandated, and what The American Legion has worked for during 58 years, will be gone.

We of The American Legion hereby petition the Congress to not let the VA proceed with this planned reduction.

It is possible to meet the standards of the Joint Commission, and to still provide an adequate number of beds to treat veterans—certainly no less a number of beds than there are today. If Congress tells the VA to do that, the VA can and will do it. We ask the Congress to do so.

NATIONAL HEALTH INSURANCE

My presentation to the Committee leads me to comment on the continuing national debate on the subject of National Health Insurance. Since the debate continues, and since a legislative vehicle to establish national health insurance has not yet made its appearance, I will confine my remarks on this subject to a simple reiteration of what The American Legion perceives to be necessary in the event of a national health insurance plan. Our position on this subject is encompassed in Resolution No. 30 (North Dakota), adopted by our National Convention in August. This resolution asks that national health insurance legislation include the following provisions:

1. That the medical care program operated by the VA be recognized in the legislation as one providing health care services exclusively for veterans, and that it shall continue to be so maintained and operated.

2. That a veteran applying for medical care from the VA, to which he is otherwise entitled, and who, in accordance with existing law and regulations, is required to state his inability to pay for his own care, shall not be required to consider, in making such statement, any medical benefits that would accrue to him under the provisions of a Federal Health Care Act.

3. That if the above provisions are included in a Federal Health Care Act, then The American Legion shall make no objection to any section of the Act providing for reimbursement to the VA for cost of treatment rendered the veteran for nonservice-connected disabilities, of benefits to which the veteran may be entitled under a Federal Health Care Act.

We hope we will have the support of the members of this Committee when we submit these proposals to the Congressional Committees that will be considering legislation looking to the establishment of national health insurance.

DEATH AND DISABILITY PENSION PROGRAM

For several years, The American Legion has been petitioning Congress for a restructuring of the death and disability pension program. The present program is manifestly inadequate to the needs of the beneficiaries it is intended to serve. With inflationary pressures, and continued escalation of the cost of living, it is necessary each year for Congress to enact stop-gap legislation, to make the program responsive. There are inevitable lags. The automatic increases in Social Security benefits, which are attached to the cost-of-living index, result in decreases in the amounts of pension payable. In an-

swering the floods of complaint mail from veterans and widows, that we get on this subject, it has been impossible to explain to them, in a satisfactory manner, why their pensions decrease when their Social Security benefits are increased.

To provide a definitive solution to this genuine problem, The American Legion has submitted a restructuring proposal that we have earnestly recommended to the attention of Congress. Our proposal, very simply, would establish an income floor for all eligible beneficiaries of the program. Between their available income from all sources, with certain restricted exclusions, and their pension allowance, it would guarantee them an annual income fixed at a level that is above the officially designated poverty level. The intent is to allow all eligible beneficiaries to live with some degree of comfort and dignity—which is what the pension program was established for in the first place. Our plan would also attach the income floor to the cost-of-living index, to float upward with it. This would assure a complete pass through of all Social Security increases, and would obviate the continuing need for remedial legislation, to make the pension program effective.

We are well aware that this Committee, has introduced specific legislation that has been drawn in such a way, as to accomplish the objectives that I have mentioned. We know too, that similar legislation, emanating from this Committee was enacted by the Senate during the 94th Congress. We are grateful for the action that has been taken, and that recognizes the need to do something substantial to improve the death and disability pension program. It is our sincere hope that the 95th Congress will proceed to consider the legislation that is now before this Committee, and that action will now be taken to solve this serious problem. After all, we are dealing here with the problems of people who are, for the most part, old and unwell. These people need help now—not some time in the future.

We commend the Senate Committee for the action taken thus far, and we will support efforts to achieve early enactment of this much needed legislation. Of the various legislative proposals to which this statement addresses itself, may I say, that, in our judgment, none is of greater urgency in requiring legislative action.

COMPENSATION AND EDUCATION AND TRAINING ALLOWANCES INCREASES

Since the founding of The American Legion, the first priority commanding the attention of this organization has been the needs of the service-disabled. Legislation enacted during the present session will respond to cost of living increases, and for this The American Legion is most appreciative. I can say that, based on past experience, we know Congress will do what is necessary to see that the nation's obligation toward those who have sacrificed life or health will be met.

Similarly, we of the Legion share with Congress a continuing concern to see that the returned veterans of the war in Southeast Asia shall have the opportunity to complete their readjustment, and to achieve those educational and training goals that were lost or delayed by reason of their service during the late war. We know that legislation is in process to provide unward adjustment in the education and training allowances provided for veterans in training. The American Legion supports that legislation.

VETERANS PREFERENCE IN CIVIL SERVICE EMPLOYMENT

I feel that I should here mention a subject that, while it is not the direct responsibility of this Committee, is nevertheless important to all who are interested in veterans affairs. I refer to the matter of Veterans Preference in Civil Service employment.

The recently appointed Chairman of the Civil Service Commission has made clear to The American Legion that it is his intention to submit legislation to change the Veterans Preference Act as it is now set down in title 5 of the United States Code. We understand from the Chairman that the intent will be to modify the present benefits to veterans under the Act, namely, a limited point preference in securing employment, and retention rights in reductions in force. We are told that these changes will be proposed in the name of increased employment rights for minorities and women—a statement that does not seem to recognize that minorities and women have served the nation in war.

The American Legion supported the Veterans Preference Act of 1944. We believe this legislation was well conceived, in that it gave preference in gaining civil service employment to those who had served the nation in World War II. The benefits from the Act as presently administered are limited and modest in scope. And it might be said here that any modification of the current preference will not for the most part adversely affect the veterans of World War II, who, in many instances are approaching retirement age. Those most affected will be the recently returned Vietnam veterans, who are also having the most difficult time finding decent employment.

The American Legion defers to none in its concern for the rights of minorities and women. But, as I said a moment ago, women and members of minorities are veterans, too—and why should their needs and problems be dealt with at the expense of those who have just finished serving during a war that nobody wanted? That is a question the Chairman of the Civil Service Commission has not answered.

When legislation is submitted that will in any way diminish the limited advantages veterans now have in obtaining and keeping jobs in the Civil Service, The American Legion will seek to be heard in opposition to it.

HOME LOAN PROGRAM OF THE VETERANS ADMINISTRATION

We have another problem at this time, relating to the Home Loan Program that has been successfully administered by the Veterans Administration since 1944. In that time almost ten million GI loans have been guaranteed by the VA, totalling $136 billion. And, since the beginning of the direct loan program in 1950, more than 327,000 veterans have received direct loans, amounting to $3.3 billion.

The American Legion is very proud of the part it had in the passage of this landmark legislation and in subsequent amendments, such as those for mobile homes and condominiums, to meet changing conditions, and we are gratified the program has been so successful.

In spite of its excellent record, we understand that a proposal to remove the veterans home loan program from the VA to another agency, possibly Housing and Urban Development (HUD), may be included in the report of the President's Task Force on Reorganization. Our most recent National Convention mandated us to express vigorous opposition to any such proposal, and we shall do so.

SPECIAL DISCHARGE REVIEW PROGRAM

With reference to President Carter's Special Discharge Review Program, my purpose at this time is to express to this Committee, on behalf of The American Legion, our appreciation for the legislative response to that program. I will not discuss it in detail, since that has been done in other presentations. I will take this opportunity to say again that The American Legion believes the Special Discharge Review Program was not well conceived. Its effect on essential military discipline could only be bad. The American Legion for more than thirty years has been in the forefront of those who have provided counsel and assistance, without charge, to all veterans who desired to petition for relief from the effects of a discharge unjustly issued. In that time we have assisted thousands of veterans to have their discharges upgraded or to have their records corrected. Our best judgment is that the current policies of the Boards of Review and Correction are fair and equitable. Any actions to expedite and to enhance the efforts of petitioners to present their cases have been welcomed by the Legion.

Our point is: we wish to see justice done in all instances—and the application of justice should be equally applied to all former members of the Armed Forces.

WELFARE REFORM

Another matter I wish to mention is a recent move, quickly abandoned though it was, to include veterans' compensation and pension programs in studies looking toward welfare reform.

The members of The American Legion, along with all other citizens, applaud any effort to reform the structure of welfare programs. We were shocked and dismayed, however, when those designated to undertake that task indicated an initial intention to include in their studies veterans compensation and pension. The fact that they would do so, indicates a total lack of understanding of the basis for these veterans programs. Compensation and pension are not, and never have been, welfare, and they were never intended by Congress to be considered as such. Including them under the umbrella of welfare programs would, in our judgment, be a breach of faith between veterans and their government. At this point it hasn't happened, and we trust that it will not be allowed to happen.

THE ADMINISTRATION'S VIEW OF VETERANS PROGRAMS

In conclusion, Mr. Chairman and Members of the Committee, I would like to make just two points.

The first is that several developments during 1977 have caused deep concern within the ranks of The American Legion, and we believe, among all veterans. Some of those developments I have addressed in this presentation. It appears to us that it is now going to be necessary for veterans' organizations to move positively to defend the programs of veterans benefits that have been developed through the years, and that we had thought were completely accepted throughout the government. Recent events indicate that our assumption may have been mistaken. It appears possible that there are those in positions of influence and responsibility who believe that veterans' programs should be modified—perhaps diminished.

It is a thought that was not expressed during the ten years of the war in Vietnam, but, of course, that war is now over—and no more war veterans are being created. There is, indeed, strong competition for the Federal dollar, and veterans know that their programs are being evaluated along with all other benefit programs.

Which leads me to my second point—which is that The American Legion has always known that the best repository of concern for the needs and problems of veterans is in the Congress of the United States. In these halls we have always been given opportunity to tell our needs, and our problems have always been considered with the same degree of compassion and concern that was manifested when those who are now veterans, were asked to don the uniform and to defend the national interest.

If a challenge is now to be presented to the continued maintenance of veterans programs as we now have them, then it is to Congress that The American Legion will turn, in the full trust and confidence that Congress, representing as it does the will of the American people, will not turn its back in peacetime on those to whom the nation turned in time of war.

Thank you, Mr. Chairman.

SENATOR CANNON RECEIVES AIR FORCE ASSOCIATION AWARD

Mr. ROBERT C. BYRD. Mr. President, last week Washington played host to a convention of the Air Force Association, a well known and highly regarded organization dedicated to support of our Nation's air defenses.

Following several days of meetings, displays and briefings, the convention wound up its business by presenting its highest honor—the H. H. Arnold Award. I am sure my colleagues share my pride that this honor went to one of our own, the distinguished senior Senator from Nevada, HOWARD CANNON.

H. H. "Hap" Arnold is an almost legendary figure in military history. A pioneer in the Army Air Corps, he was the man President Roosevelt turned to after the Germans revealed their devastating air power early in World War II. He became commanding general of the Army Air Forces and led that once-struggling branch of the service to a predominant place in our system of defenses.

His dictum, "The difficult we do immediately: the impossible takes a little longer," has become part of our heritage, a symbol of the "can do" attitude that is an enduring source of American pride.

The Air Force Association obviously chooses carefully who will be the recipient of an award in "Hap" Arnold's name. But those of us familiar with HOWARD CANNON's record in the Senate as a forceful and respected voice for air defense know the association chose well. As its president, George M. Douglas, said in announcing the award's recipient:

> Senator Cannon is being honored for his enlightened leadership in Congress on defense issues based on hard-won air combat experience, on his currency in weapon systems technology and on his intimate knowledge, as a pilot, of the most advanced fighters.

Mr. Douglas pointed out that Senator CANNON has chaired the Tactical Air Power Subcommittee of the Armed Services Committee since its inception and added:

> He has played an indispensable role in the modernization of U.S. tactical aircraft and missiles. In so doing he has enhanced national security and that of the entire free world.

Some of you may remember a few years back when the National Aeronautic Association presented the Wright Brothers Memorial Trophy—considered the most prestigious award in civilian aviation—to Senator CANNON. Thus, our colleague has received the highest honors for his leadership and expertise in both civilian and military aviation.

I congratulate Senator CANNON for the awards he has received and know he will continue to bring honor both to himself and the Senate for his work in aviation matters.

S. 143—MEDICAID FRAUD

Mr. HATHAWAY. Mr. President, I am pleased to offer my support for S. 143, a bill to strengthen the capability of the Government to detect, prosecute and punish fraudulent activities under the medicaid and medicare programs. In particular, I would like to draw attention to S. 17 which provides Federal assistance for State medicaid fraud control units. This provision, which I supported in committee, is designed to curb the fraudulent practices in the administration of medicaid by encouraging vigorous investigation and prosecution of alleged offenders.

More and more we hear reports of medicaid fraud, costing us all billions of dollars per year. This illegal behavior can only exacerbate the already severe problem of rising health care costs. It has been shown that the existence of a statewide investigative agency, separate from the medicaid agency, results in a substantial increase in the number of prosecutions and convictions for fraudulent practices. This can mean millions of dollars for the States in criminal restitution. In New York State, for example, a successful fraud control program has more than paid for itself.

S. 143 is intended to encourage States to establish independent units to prosecute medicaid violations other than recipient fraud, which is the responsibility of the State medicaid agency. Consequently, the original bill and the House version required the units to be within the State Attorney General's office or another State department with statewide prosecutorial authority, with the exception of units in States with a constitutional prohibition against prosecution by a statewide authority. Such a requirement, also contained in H.R. 3, the companion House bill, would clearly prevent an agency from investigating itself, surely a desired goal.

However, it could also unduly restrict eligibility. For example, in the State of Maine, the attorneys prosecuting fraud cases are appointed by the attorney general and are directly responsible to him. However, the investigators are housed within the State's Human Services Department, the designated medicaid authority. Though these investigators work directly with the attorneys, this State structure would have been barred by the House language. Therefore, in committee I offered an amendment intended to provide greater flexibility in the eligibility requirements, while insuring the overall independence of the fraud control units. As a result of this amendment and subsequent Finance Committee deliberations, the Senate bill now permits fraud units to be eligible which are not directly a part of the State attorney general's office, provided they are independent of the medicaid agency and have a close working relationship with the attorney general.

While this solution may not guarantee the continued eligibility of each State as presently organized, it provides for the greatest administrative flexibility without sacrificing the intent of the law. With some administrative reorganization within the currently unqualified States, eligibility should be attainable with relative ease. I look forward to working toward retention of the Senate language in conference and toward its enactment into law.

A MIDWESTERN CITY WHERE FINE ARTS FLOURISH

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and ask unanimous consent that it, together with an article, be printed in the RECORD.

There being no objection, the statement and article were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

I have, throughout my life, both public and private, sought to further the spread of culture to all of the American people, not just those living near the traditional centers of culture on the east and west coasts.

It always pleased me to hear of the cultural achievements of cities and towns in the American heartland, expecially when, as in this case, the city is one I know well.

An article by John J. Ryan in the Wall Street Journal of September 15, 1977 gives Minneapolis the credit it is due as a cultural center par excellence in the Midwest.

A MIDWESTERN CITY WHERE FINE ARTS FLOURISH

(By John J. Ryan)

MINNEAPOLIS.—Modern America resembles the old Austrian empire in the cultural vitality of its regional urban centers.

Beyond the major metropolitan axis of New York-Philadelphia-Chicago-Los Angeles lies a generous scattering of Prague-like places where the fine arts flourish. Of such cities Minneapolis is an outstanding example. This capital of the upper Midwest, together with neighboring St. Paul, supports a world-renowned symphony orchestra, a cluster of exciting art museums, an innovative opera company and the best repertory theater in the country.

Several factors fuel the renaissance. The state's major university, for example, is in the heart of the city. The people of the Twin Cities are a fundamentally happy, economically secure, well-balanced, friendly lot who like living where they do. Somewhat less sophisticated than, for example, New Yorkers, they provide an audience that's enthusiastic and open to new ideas. And relative isolation of the area (Chicago is 400 miles away) stimulates home-grown cultural institutions.

In Minneapolis, 33 companies allocate a full 5% of their pretax profits to civic projects, many of them in the arts (150 corporations buy blocks of tickets to the Guthrie Theater). The long tradition of corporate backing of culture here stems from the personal involvement of many of the business community's old families. The Pillsburys built up a famous collection of jade, and the Daytons of Dayton-Hudson Corp. are noted art collectors. General Mills' corporate headquarters still houses the art collection begun by the company's founder, James Ford Bell, and continued by his son Charles.

The visitor, then, is assured a cultural feast. Audiences at the famed Guthrie Theater can often see three plays in two days with opportunities to study the actor's craft in repertory. The theater itself is a gem—none of the 1,437 seats is more than 52 feet

from center stage. During September, Goldsmith's "She Stoops to Conquer" and Hungarian playwright Istvan Orkeny's "Catsplay" alternate with John Webster's "The White Devil" and Eugene O'Neill's "A Moon for the Misbegotten." The coming season also brings Noel Coward's "Design for Living," Dickens' "A Christmas Carol" (a Guthrie tradition) and "Pantagleize," by Belgium's Michel de Ghelderode.

For new plays as well as touring productions try the Cricket Theatre downtown. A season from Oct. 21 through June 10 will include the world premiere of Oliver Hailey's "Red Rover, Red Rover" and William Whitehead's "And If That Mockingbird Don't Sing." The Whitehead work tells the story of a has-been country-western singer reduced to running a diner.

Change is afoot at Minneapolis' new Orchestra Hall. After 17 years in the conductorship, previously filed by Ormandy, Mitropoulos and Dorati, Stanislaw Skrowacewski has given notice that the 1978–79 season will be his last. The new leader will inherit an orchestra generally ranked sixth or seventh nationally and an auditorium with stunning acoustical engineering by Cyril Harris.

The Minnesota orchestra's 75th season opens Sept. 23 with "In Praise of Music," an orchestral work by Minnesota's Pulitzer Prize composer, Dominick Argento. Eugene Ormandy returns in early November for three concerts marking his 78th birthday, and January will bring Isaac Stern and the American premiere of a Krystof Penderecki violin concerto.

The St. Paul Chamber Orchestra is marking its 10th anniversary with a season extending from mid-September into June 1978. The 28-member group is the only full-time chamber orchestra in the United States and ranks among the best in the world.

Consider the new works the Minnesota Opera Company is offering its residents this season: the world premiere of Robert Ward's "Claudia LeGare," a resetting of Ibsen's "Hedda Gabler" in the Reconstruction South; an American premiere of "The Knott Garden," by England's Michael Trippett, and an unusual "new" offering of Jacques Offenbach's "Christopher Columbus." Offenbach's work, commissioned for the U.S. centennial in 1876 but left unfinished, received a new libretto in London last year.

Twin Cities folk dote on the fine arts, too. Playgoers at the Guthrie often double their cultural dose by strolling the galleries of the adjacent, ultramodern Walker Art Center. The Walker's orientation is contemporary and a recent show, Calder's Universe, which New Yorkers will remember from the Whitney last winter, drew record crowds. At the more traditional Minneapolis Institute of Arts the principal treasure is Rembrandt's "Lucretia."

For dining before a show or concert here one can't do better than the elegant Rosewood Room of the Northstar Inn. After the theater, Minneapolitan's, as they have for decades, head for Charlie's Cafe Exceptionale, where the visitor is well advised to sample what surely must be the creamiest potato salad in the world.

Whoever partakes of this city's cultural delights—including, for architecture buffs, a futuristic downtown where many buildings are linked by enclosed high-level passageways—is likely to agree with Charles N. Kimball of the Midwest Research Institute in Kansas City. Minneapolis, he says, is one of a new breed of American cities likely to supersede the "fading dowagers of the Northeast."

THE NATION'S MORAL PRIORITY: A FULL EMPLOYMENT ECONOMY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY) I ask unanimous consent that a statement by him entitled "The Nation's Moral Priority: A Full Employment Economy," be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

THE NATION'S MORAL PRIORITY: A FULL EMPLOYMENT ECONOMY

Millions of American workers are demanding that Congress and the Administration make achievement of a full employment economy the first priority of government.

This is a concerted and determined effort being made by representatives of church, organized labor, civil rights and community action organizations throughout the nation.

The renewed campaign for full employment, aimed squarely at enactment of the Full Employment and Balanced Growth Act of 1977, was launched during Labor Day Week earlier this month.

The message these groups are sending to Congress and the White House says, in effect, that the nation's worst recession since the Depression has not ended for nearly 10 million Americans who are either out of work, forced into part time work, or who are so discouraged that they have dropped out of the labor force altogether.

Ten million Americans, Mr. President. That's nearly 10 percent of the country's entire labor force. Ten million Americans who are victims of the government's failure to establish the procedures and the framework by which we can achieve and sustain a full employment economy.

The right to a decent job opportunity is more than a major economic and political issue. It is a paramount moral issue as well. Recognition of this point is forcefully made by the Catholic Bishops of the United States who have issued a statement to the entire Catholic community of the nation. I ask unanimous consent that the following excerpts from that statement be printed at this point in the RECORD.

UNEMPLOYMENT: THE DATA

The United States is experiencing very high levels of joblessness with enormous economic and human costs. In June, nearly 7 million Americans were out of work, according to official government measures. These official figures do not include the one million persons who have given up looking for work or the approximately 3.3 million who are working part-time although they desire full-time jobs. Unemployment declined slightly in the first part of 1977, but in June it rose again to over 7 percent. Clearly, the United States has a very serious unemployment problem. This problem is intensified by the inequitable distribution of jobs in our society. Joblessness disproportionately affects minorities, youth, women and blue collar workers.

The following table, drawn from Labor Department data, documents the tragic dimensions of our unemployment situation.

UNEMPLOYMENT

	1st quarter 1977	2d quarter 1977	June 1977
Unemployment	7,058,000	6,816,000	6,967,000
Discouraged workers [1]	929,000	1,061,000	NA
Part-time workers for economic reasons [2]	3,345,000	3,277,000	3,368,000
Unemployment rates:			
All workers	7.4	7.0	7.1
Adult men	5.6	5.1	5.0
Adult women	7.1	6.9	7.2
Teenagers	18.6	18.1	18.6
White	17.0	16.0	16.1
Black and other	37.8	38.2	39.4
White	6.7	6.3	6.3
Black	12.8	12.8	13.2
White collar	4.6	4.3	4.2
Blue collar	8.5	7.8	7.7

[1] Dropped out of labor force; have given up looking for work
[2] Desire full-time work, but cannot obtain it.

Source: Bureau of Labor Statistics, U.S. Department of Labor

The Church's involvement in unemployment issues flows from its consistent teaching on economic justice and the human and spiritual suffering resulting from joblessness. Joblessness is not simply an economic condition or political matter; it is a moral issue as well. It has profound human, social and ethical dimensions. It affects not only the individual out of work, but also his or her family, the community and society as a whole. It involves basic issues of human dignity and social justice and, therefore, requires a response from Christians and all people of good will.

Catholic social teaching has consistently maintained that work is more than a way to earn a livelihood. It is an expression of the human person and an exercise of God-given talents. A person's work is a gift to the whole community and a way of participating in God's plan for the world and our own salvation.

Over the last one hundred years, the Church has taught that people have a right and a duty to work and that denial of employment is a form of injustice. The Popes, as well as the Councils and Synods, have pointed out that society and government have a responsibility to find employment for their people and that economic life should serve human needs, respect human rights and reflect the principles of social justice and morality.

Unemployment represents a form of oppression for those who suffer its impact. Beyond its obvious economic consequences, it can harm family and community life and contribute to a loss of confidence and hope as well as increased anxiety, alcoholism and mental illness. Joblessness can threaten basic human dignity and create conditions where a decent quality of life becomes exceedingly difficult, if not impossible. Human life is diminished where people cannot find creative expression for their talents and provide for themselves and their families through work and the income which it provides.

Our response to joblessness cannot be limited to assistance to its individual victim, although such aid is clearly required. Individual help is inadequate when so many families suffer with serious consequences for our community, nation and globe. The unemployed for the most part are not the cause of their problems. Rather, economic forces, attitudes of discrimination and insensitivity, as well as misplaced priorities are the causes of joblessness. Our response must include action to change the policies and structures which permit and even require the idleness of so many persons.

As the Catholic Bishops of the United States said in their 1975 statement on economic justice:

"Our concern is not with technical fiscal matters, particular economic theories or political programs, but rather the moral aspects of economic policy and the impact of these policies on people. Our economic life must reflect broad values of social justice and human rights.

"Our own rich heritage of Catholic teaching offers important direction and insight. Most importantly, we are guided by the concern for the poor and afflicted shown by Jesus, who came to 'bring good news to the poor, to proclaim liberty to captives, new sight to the blind, and to set the downtrodden free'" (Luke 4:18).

The current levels of unemployment are unacceptable and their tremendous human costs are intolerable. Unemployment represents a vast and tragic waste of our human and material resources. We are disturbed not only by the present levels of joblessness, but also by official government projections of massive unemployment for the rest of this decade. We sincerely hope that these figures do not represent resignation to the human and economic waste implied in these rates of unemployment. As a society, we cannot accept the notion that some will have jobs and income while others will be told to wait a few years and to subsist on welfare in the interim. For work is more than a way to earn a living. It represents a deep human need, desired not only for income, but also for the sense of worth which it provides the individual.

Fundamentally, our nation must provide jobs for those who can and should work and a decent income for those who cannot. An effective national commitment to full employment is needed to protect the basic human right to useful employment for all Americans. It ought to guarantee, through appropriate mechanisms, that no one seeking work would be denied an opportunity to earn a livelihood. Full employment is the foundation of a just economic policy; it should not be sacrificed for other political and economic goals.

We pledge our best efforts in support of these goals. We call on local parishes, dioceses, Catholic institutions and organizations to undertake education and action programs on issues of economic justice. We renew our commitment to assist the needy and victims of economic turmoil through programs of financial assistance and active participation in the dialogue over the formulation and implementation of just economic policies. We call on our people to pray for our country in this time of need and to participate in the difficult decisions which can still fulfill the promise of our land.

OCEAN MANAGEMENT

Mr. ROBERT C. BYRD. Mr. President on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him entitled "Ocean Management" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

OCEAN MANAGEMENT

In January of this year I introduced S. 447, a bill to provide for a comprehensive, long-range and coordinated national program of marine science through creation of a National Council on Marine Science, Engineering and Resources Development, and an advisory panel.

As you know, such a Council was established in 1966 to serve as a focus for national ocean policy. The authorizing legislation for the Marine Science Council, as it was known, was allowed to lapse in 1971, and ocean policy reverted to subcabinet coordinating bodies. These interim bodies have played a useful role in chronicling federal government activities, in promoting program development, and in exchanging information. They were not, and are not, equipped to provide the leadership, direction, coherence and impact of an overall policy and planning agency.

The original Marine Science Council created by Congress reflected its recognition of the need for comprehensive and integrated federal ocean policy. The Stratton Commission, created by the same legislation, issued a report which set forth objectives that have continued to guide Congressional work and progress. But the process has been an uphill struggle, impeded by inadequate executive leadership and support, and persistent fragmentation and even rivalry among executive agencies with respect to the operation of various parts of the ocean program.

Time after time, members of the Senate have made heated and eloquent pleas for the establishment and implementation of a national ocean policy. My purpose in calling attention to the proposal to recreate a Marine Council is to identify and underline important developments that suggest the time is ripe, and that our current administration is receptive to this goal.

Indeed, there has never been a more opportune moment to shape national ocean policy, nor a more imperative necessity to do so. We have delayed too long. Promises not realized, and leadership abdicated, have aggravated problems and permitted some needs to balloon to crisis proportions.

A fragmented, improvisational approach to marine affairs is certainly a factor in the unsatisfactory performance of our fishing industry, which produces a meager four percent of the world catch. Imports totaling 60 percent of fish consumption in the United States impose a tremendous drain on our balance of payments.

The same weaknesses contribute to a merchant fleet that, despite subsidies, carries only five percent of our shipping, and is inadequate to either national security or commercial goals and needs. Moreover, decisions with far-reaching consequences will be made somewhat arbitrarily until we can weigh their political, economic and social costs and benefits based on the role and function of our merchant marine in overall ocean policy.

We require technological and management tools and authority to halt abuse and pollution of our fragile coastal waters, to protect the living resources of the sea and to develop rapidly its energy potential. Complex and crucial international negotiations that will determine our access to vitally necessary oil and mineral resources, and research opportunities, require a firm and unified national policy.

Efforts to develop a rational and effective planning mechanism have advanced sluggishly against a tide of indifference. That we have moved forward at all is due in large measure to the vision and determination of ocean advocates such as Senators Magnuson, Hollings and Pell. But at last our efforts appear capable of achieving the force and momentum required to reorder government structures and priorities. Such reorganization is a vital requisite to meeting the challenge of international and domestic marine management and use.

Let me review briefly some of the developments that signal a turning point for ocean policy.

President Carter has committed his Administration to "comprehensive reorganization of the federal Executive Branch to achieve an efficient, economic, purposeful and manageable government." The recently passed Reorganization Act provides the authority to propose the necessary plans to Congress.

A major initial step has been taken, with the creation of the Department of Energy. This important measure laid the foundation for a national energy policy. By consolidating energy functions and agencies, it will reduce duplication, overlap, fragmentation of responsibilities and conflicting mandates that have restricted this nation's ability to devise, implement and enforce a consistent national energy policy.

Various options have been considered in the past to give ocean policy comparable Cabinet stature, including proposals to combine energy, natural resources and oceans in a single department. The immediate and urgent need for a coherent energy policy momentarily eclipsed, but has not eliminated, the need for an ocean policy. In fact, it has set a valuable precedent. A logical next step in realigning government functions to work better is to apply with foresight similar principles to ocean policy in time to avert a crisis and before our position as a major sea power has been irrevocably compromised.

This does not require lumping all marine operating agencies into a single department. For instance, the Navy and the Department of State can be expected to retain functions that relate directly to the implementation of defense and foreign policies. It is clear that no matter how the Executive Branch is to be reorganized, responsibility for implementing some portions of our national ocean policy must reside in more than one agency. Thus, the need for a Marine Council with interagency coordinating responsibilities and with overall policy making responsibilities or some other mechanism to accomplish these functions will remain a vital objective.

Inevitably reorganization reflects, rather than creates, the importance attached to certain activities. Priorities of the past ten years have not supplied the incentive for a rational ocean organizational structure. What is required is perception of the critical and imminent need to integrate national ocean policy, and the nature and extent of the dependence of the U.S. on the use of ocean resources.

In 1974, the National Advisory Committee on Oceans and Atmosphere (NACOA) recommended a broadly-based ocean agency, possibly an expanded National Oceanic and Atmospheric Administration. Repeated hearings on this subject by Congress have failed to yield legislative action.

Created to centralize responsibility for federal civil marine affairs, NOAA was initially engaged primarily in research and development. While it brought together nine existing programs, it still controls only a fourth of federal ocean program funding. Eleven other departments and agencies continue to exercise major responsibilities.

Partly as a result of the absence of clear authorizing legislation, NOAA has fallen far short of the lead agency mission conceived for it by the Stratton Commission. However, Congress has added significant new regulatory management and developmental responsibilities through the Coastal Zone Management Act, the Deepwater Port Act, the Marine Mammal Protection Act, and the Fisheries Conservation and Management Act.

In an encouraging recent development, Administrator Richard A. Frank has proposed, and Secretary of Commerce Juanita Kreps has approved, a reorganization of NOAA which will strengthen NOAA's capacity to carry out its mission, with the increased emphasis on ocean management and policy development.

Whatever its success in conducting a growing range of individual programs, it cannot provide the comprehensive ocean policy that integrates scientific, social, economic, legal and political priorities in support of operational goals.

These added responsibilities, sometimes shared by several agencies, have highlighted the need for an overall ocean policy to insure that all ocean activities are consistent and compatible with our national objectives.

In its July 1977 report to the President and Congress, NACOA stressed that consolidation of marine programs cannot alone create an oceans policy. It recommends that Congress or the President establish in the White House a Cabinet-level Marine Affairs Council to develop a national marine strategy and to coordinate Federal agency programs for its implementation. In an atmosphere of intense international competition, we can ill afford an ocean policy which is the accidental, incremental result of scattered, narrowly focused programs whose functions overlap, or even conflict, and the jockeying of special interests.

Proposals to strengthen NOAA as the lead agency, to consolidate ocean functions as an element of a separate natural resources department, or to create improved coordinating mechanisms are at best a partial solution, neither essential to, nor incompatible with, the Council I have proposed.

A top echelon coordinating and policymaking body does not require immediate consolidation of all domestic and international marine programs, but would permit an inclusive definition of marine functions, needs, objectives and priorities. The Council would develop, execute and oversee ocean policy without exercising operating responsibilities.

While we may differ on the details of forging an effective ocean policy, Senators Magnuson and Hollings have provided vigorous, enlightened and persistent leadership toward this goal since Congress first became, almost by default, the primary advocate of an adequate marine policy.

I strongly support their request to the President for a new ocean initiative, symbolized and synthesized in an ocean policy message. I urge my colleagues and the President to consider the need for ocean representation, direction and leadership at the highest level.

The President has asked the Secretary of Commerce to undertake a study of current ocean policy and options for reorganization of other federal marine programs. The National Ocean Policy Study in the Senate and the House Ocean Policy Advisory Committee must be major participants in the creation of national policy and strategy. I urge that the council I have proposed be carefully reviewed in this context. I have no doubt that constructive modifications can be suggested with respect to its mission, its composition, and its operation. I welcome the thoughtful suggestions of NACOA to expand and improve this concept.

The basic issue is not whose bill becomes law, but this nation's readiness to respond to the concerns expressed by the original Marine Science Council and Stratton Commission and in every major marine initiative since that time.

These concerns and needs have been accentuated by the passage of time, and domestic and global developments. Three decades have made abundantly clear the nature and elements of the needed solution. What is required is a forthright presidential commitment to a program of sound conservation and management, equitable use, and wise development of this nation's, and the world's, last frontier.

VICTIMS OF CRIME

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him entitled "Victims of Crime" together with an article from the Wall Street Journal, be printed in the RECORD.

There being no objection, the statement and article were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

VICTIMS OF CRIME

Earlier in this session I introduced S. 551, a bill which would go a small way toward compensating victims of crimes.

In the House similar legislation has already been reported out of committee and taken up on the floor.

Of course we cannot undo the harm suffered by the victims, but we should and must ease the financial burden they suffer.

An article by Earl C. Gottschalk, Jr., in the Wall Street Journal of August 22, 1977 describes how much similar programs, funded through LEAA grants, have been able to offer some relief to victims of crime.

Mr. President, I ask that this article be printed in the Record.

[From the Wall Street Journal, Aug. 22, 1977]

VICTIMS OF CRIMES GET COUNSELING, OTHER AID IN MANY AREAS OF UNITED STATES

(By Earl C. Gottschalk Jr.)

TUCSON, Ariz.—Last November, a 34-year-old auto mechanic was working in his service garage here when a mentally disturbed neighbor entered and, for no apparent reason, pumped two bullets into him. The mechanic staggered into an adjoining office and died in his father's arms.

He left a young wife and two children. Ordinarily, they would have been ignored by a criminal-justice system concerned only with the killer. In Tucson, however, the family got special treatment.

Gary M. Downs, a counselor working for the Pima County victim-witness advocate program, was notified. In the following months, he met with the widow often and helped her cope with psychological problems common in such cases, problems she couldn't discuss with her in-laws—rage at being left alone with two children, and guilt that she hadn't, she thought, been a better wife.

Meanwhile, Mr. Downs slashed through governmental red tape and arranged for the woman's parents to immigrate to the U.S. from Canada. Now they live with her and provide financial and emotional support.

MANY SUCH PROGRAMS

After decades of neglect for crime victims and courtroom witnesses (who often also suffer economic and psychological damage at the hands of the law), programs like Tucson's have spread through the U.S. Currently, there are at least 114 of them; 67 are operated from district attorneys' offices. Most have been largely financed by $40.3 million in grants from the Law Enforcement Assistance Administration, which has been supporting these experiments since 1973. In addition, about 20 states (though not Arizona) now offer some cash compensation to victims, and federal legislation to provide states with more such money now stands a fair chance in Congress after three years of rejection.

"The criminal-justice system is on the threshold of a new era," says Richard P. Lynch, head of the National District Attorneys Association's commission on victim-witness assistance. "But we aren't there yet. Victims are still treated in a callous, perfunctory manner, like so many pieces of evidence."

In most jurisdictions, victims and witnesses still must endure a heartless, mechanical process in which police agencies extract information from them without much thought to the shock, sorrow or physical harm that they may have suffered. They spend hours or days waiting for interviews or legal proceedings that are then capriciously postponed. Often they are harassed or insulted by defendants sitting only a few feet away in courthouse corridors. "Victim-witness intimidation is epidemic in the system," one judge says.

WIDE VARIATION

The new programs, dependng on their focus, have been strikingly successful in reducing or eliminating such abuses. However, the programs vary widely in scope. For example, Los Angeles County, the nation's most populous, has a relatively modest program. It provides free parking or transportation for witnesses and victims to court proceedings in downtown Los Angeles, as well as child care and a lounge and service center separate from the defendants' area.

Fort Lauderdale, Fla., goes further. There, two victim-witness advocates, attached to the police department, monitor police radio traffic and drive to the scenes of crimes to aid victims on the spot. Later, advocates may arrange transportation to welfare or doctors' offices, intervene with landlords for delays in rent payments by burglary victims and do other chores. "I even go grocery shopping for elderly victims who are afraid to go out of their apartments anymore," advocate Shelley A. Bauman says.

In New York's borough of Brooklyn, a project operated by the Vera Institute of Justice zeroes in on a major problem: the inconvenience and economic damage often suffered by people called to court appearances and then confronted with one postponement after another.

"We judges cost people their jobs all the time," says Eric E. Younger, chairman of the American Bar Association's Committee on Victims and a municipal court judge in Los Angeles. "Judges are sometimes rigid folk; they close the court at 4:30 and make a witness, ordered to testify by subpoena, come back the next day. Often this guy's not a lawyer, or a newspaper reporter. He washes cars for a living, and if he isn't there two days in a row, the boss will fire him."

COMPUTERIZED SYSTEM

The Brooklyn program mitigates this problem through a computerized notification system that processes 50,000 notices and subpoenas a year for 12 criminal courts there. Witnesses aren't forced to come to court on a given day; instead, they are put on "telephone alert" and are called only when actually needed, with half an hour to get to the courthouse. The system has also helped policemen, who had wasted time sitting around waiting to testify. They, too, are put on alert status and go to court only when called by phone or police radio.

"We've found that a police officer is really needed to testify in only 10% to 15% of the cases," says Mark B. Feinstein, executive director of the victim-witness project. "We're saving the city $3 million a year in police officers' time." Officers also have more time for patrol work because they no longer have to deliver subpoenas, which now are mailed.

Tucson's program, which serves a metropolitan area of 450,000 people, is considered a model one by legal authorities because of its extensive range of services and the manpower available—a paid staff of seven augmented by 40 trained volunteers. The program is tied in with the Tucson police, the Pima County attorney's office and the sheriff's department. Among other things, victim-witness advocates try to keep lawyers, witnesses and police alerted to court-appearance dates, mediate with employers to get time off for witnesses to testify and tell burglary victims where and how to recover stolen property.

The heart of the program, however, is its "crisis counseling" service. Operating telephones around the clock, advocate-counselors respond to an average of 45 calls a month from police and deputies when a victim or witness is in need of help that the officers can't readily provide. As the mechanic's widow discovered, the assistance doesn't stop with an initial visit; counselors make at least two follow-up calls and often refer clients to social-service agencies.

Counselors sometimes devote a great deal of time to clients. "We'll drive a victim to the hospital, stay all night with someone who's afraid because her home has been broken into, or even provide some emergency food and shelter," says David Lowenberg, the 27-year-old director of the project.

Tucson is a major entry point for smuggled Mexican heroin, and advocates often hide narcotics-case witnesses who fear that defendants or their associates will try to kill them. Recently, for example, Gary Downs installed one such witness in a small house in the desert and placed her children temporarily with a social-service agency. Then, he drove her to and from the courthouse in his own car, with the witness crouched down in the back seat under a blanket. She gave damaging testimony, and the defendant was convicted.

Now and then, advocates have intervened successfully on behalf of victims when offenders are sentenced. In April, for example, two escapees from a juvenile home here stole a 1971 Toyota belonging to Gerald Plunkett, a partially disabled Vietnam veteran whose family was living on welfare. The thieves were apprehended, but only after they had run the car off a cliff and destroyed it.

To Mr. Plunkett, his wife Carmine and their two young children, the loss of the car was a heavy blow. His insurance had expired, and he was broke and jobless; problems with his back had forced him out of construction work. But he had been driving to school to take accounting courses in an attempt to get himself retrained. "Things were just starting to look up a little when they stole the car," he says.

ROLE IN SENTENCING

Now Mr. Plunkett had to hitchhike to school, the doctor's office and the grocery store; public transit is poor in spread-out Tucson. Ordinarily, his loss and the attendant hardships would have little effect on the court. The pleas of victims, if mentioned at all, are usually summarized in a probation officer's report to the judge. Victims generally aren't even told the sentencing date.

In this case, however, Yvonne Tellez, the victim-witness advocate, intervened. She secured permission for Mr. Plunkett to tell his story to the judge sentencing the offenders. The judge then ordered the thieves to repay Mr. Plunkett for the car. He put them in another juvenile home with instructions that they get the chance to earn enough money to pay the debt.

Most of the time, advocates simply try to ease the pain and shock felt by crime victims. The paid professionals handle the most sensitive cases, including rape and child molestation; they also try to dissuade would-be suicides. Volunteers ranging from 19-year-old college students to retired businessmen do the rest.

Most get a deep sense of fulfillment from the work. Volunteer Jean Phillips, a junior at the University of Arizona, recalls a typical job: helping a 63-year-old widow, who lost all her money in a burglary, by convincing her landlord to postpone rent collection, drop plans to evict her, and put new locks on the doors. "I got a lot of satisfaction from that," Miss Phillips says.

PRAISE FROM POLICE

The Tucson police, who contend with one of the highest street-crime rates in the U.S., praise the project. "It's saved us money and saved us hours," Capt. Peter Ronstadt says. "You can't measure the value of getting a patrol omcer back in service quickly instead of staying five or six hours with a terrified victim." Counselors now teach police recruits crisis-intervention skills and how to handle victims and witnesses humanely. About 80 veteran officers, too, have completed a similar course.

Pima County prosecutors also praise the counselors. "All our overloaded criminal attorneys can do—with 120 cases each per year—is prosecute," says Stephen P. Neely, county attorney. "Without a special program to aid victims, it's a tremendously insensitive process."

Victim-witness projects across the country generally get similar compliments, but a small number are in danger of being cut back or eliminated by cost-conscious local governments. That's because the Law Enforcement Assistance Administration, the principal funding agency in the experimental phase of these projects, is withdrawing in favor of local funding. But in a few areas, local money isn't materializing.

CUTBACK IN MILWAUKEE

Milwaukee, for example, has declined to pick up the cost burden once carried by LEAA for its Project Turnaround, one of the biggest and most expensive of the victim-witness programs. This refusal has forced a cut of more than two-thirds in the staff and reductions in the program's scope. Says James Schiller, former program administrator who lost his job in the cutback: "Victims and witnesses aren't organized, and the county felt the program wasn't something it just had to fund, like mandatory maintenance of the jail."

The Tucson project's $164,000 annual budget is still financed primarily by the LEAA, but that support is scheduled to stop next year. However, Conrad Joyner, a county supervisor and professor of political science at the University of Arizona, expects the victim-witness project to be continued, with local authorities picking up the bill.

"My only question is this: Why did we wait so long to finally give some help to the victim?" Mr. Joyner asks. "After all, he's the guy who pays the taxes."

COMPREHENSIVE NATURAL GAS POLICY

(The VICE PRESIDENT assumed the chair.)

MOTION TO RECOMMIT

Mr. ROBERT C. BYRD. Mr. President, first let me say I am delighted to see the distinguished Vice President of the United States gracing the Senate Chamber tonight. [Applause.]

Mr. President, we have now debated this bill for 9 days. I have heard that the world was created in 7. [Laughter.]

These 9 days and 1 night have been long, and they have been hard for all of us. Strong convictions have been expressed on all sides of the issue. Sometimes our deepseated differences created tension situations. I feel a little tense right now myself. That is understandable, considering the controversial and emotional nature of the issue.

For my part, I hope my colleagues understand that my actions over the last several days have been governed by a desire to find a way to get this bill to conference, find a way to break the impasse.

The question we now face is whether we are going to obtain a worthwhile compromise, a worthwhile compromise which will fulfill our duty to the public, even though it may not satisfy each of us, or any of us, completely.

I believe that such a proposal may be in the making if we are able to consider it in a cool and dispassionate manner.

I urge each of my colleagues to consider the proposition, and I seek your careful consideration of the motion which I shall make because we need to solve our natural gas problems in a timely manner, not next winter or this winter but now.

I also urge all of us to consider how energy market forces have changed since enactment of the Natural Gas Act in 1938, particularly since October 1973 when OPEC first exercised cartel pricing power. These forces have changed, and no matter how much we would prefer a different energy marketplace, we must adjust to this one in which we find ourselves.

Now, Mr. President, I have sought throughout the day and before today to get people together, to get Senators to reason with one another, to see if we could find some compromise that would appeal to a majority of the Members of this body so that we could reach a final conclusion on the bill that is before us, send it to conference, and get on with other business. That is the purpose of the motion that I am about to make.

Before I make the motion, may I say that it is debatable; it is subject to a tabling motion; and so if Senators wish to debate it for a while tonight that is all right with me. If they want to debate it tomorrow, we will go out soon, come back tomorrow, and debate it then.

After I make the motion, I will be glad to answer any questions, if I have enough time left, concerning the procedural aspects.

Mr. President, I move that the bill be recommitted with instructions, that it be reported back forthwith with an amendment in the nature of a substitute for amendment No. 862 embodying the language of amendment No. 1022 as amended, and including therein the language of amendment No. 1043 as a definition of new natural gas.

Mr. President, what this means is this: That if the motion is adopted the bill would be recommitted and reported back forthwith, and when it is reported back forthwith, it would embody the language of the Jackson substitute, and the Pearson-Bentsen substitutes No. 1 and No. 2 would be wiped out. The Jackson substitute would remain, and the Jackson substitute would carry with it an amendment which is amendment No. 1043 at the desk which defines new natural gas.

Mr. PEARSON. Mr. President, will the Senator yield so that I might make a parliamentary inquiry?

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I would like to yield, if I may, so that the Senator from Kansas can gain recognition for the purpose of making a parliamentary inquiry.

Mr. PEARSON. Mr. President, I inquire as to what is now the pending business before the Senate.

The VICE PRESIDENT. The pending question, before the Senator made his motion was amendment No. 1039 to amendment No. 1022 to amendment 862 to S. 2104.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PEARSON. I will be pleased to yield to the leader.

Mr. ROBERT C. BYRD. Mr. President, the pending question immediately before the Senate is my motion; am I not correct?

The VICE PRESIDENT. The Senator is correct. The Parliamentarian so advises me.

Mr. PEARSON. The Chair has answered my inquiry.

I understand the motion by the majority leader is the pending question, but prior to that the pending matter before the Senate, as the Chair has stated, was amendment No. 1039, which is popularly known as Pearson-Bentsen No. 2.

Mr. President, I make the following inquiry: Would it not have been possible for any Member, including the Senator from Kansas who drafted amendment 1043, to offer the definition of new gas embodied in 1043 to the Jackson substitute No. 1022 at this present time?

The VICE PRESIDENT. The Senator is correct.

Mr. PEARSON. Mr. President, the following additional parliamentary inquiry: If the Senate agrees to the motion made by the majority leader, and the Jackson amendment embodying the Pearson definition of new gas is returned forthwith to the Senate, is it amendable?

The VICE PRESIDENT. It is amendable in two degrees.

Mr. PEARSON. But the amendment as returned subject to the motion of the majority leader is then amendable by the Senate?

The VICE PRESIDENT. That is correct, in two degrees.

Mr. PEARSON. The following parliamentary inquiry: If the amendment is returned forthwith consistent with the motion of the majority leader, is it then subject to the provisions of the cloture rule?

The VICE PRESIDENT. It is subject to the cloture rule.

Mr. PEARSON. The only amendments thereby which can be offered to the Jackson amendment at that time would be those amendments which have been filed and qualified prior to the cloture vote?

The VICE PRESIDENT. The Senator is correct.

Mr. PEARSON. Mr. President, I want to first compliment the majority leader for his efforts. He is correct. He has tried very hard to have those who have opposing views in a very difficult subject meet and have some accommodation, some compromise. At times not only was the issue difficult, but there were times when minds and wills were frayed and fatigued.

The majority leader approached me today in that manner, and I appreciate his courtesy in that regard.

What this motion does is to remove what was the pending business, the Pearson-Bentsen proposal or amendment, which was subject on last evening to a tabling motion which was defeated at that time.

There is nothing askew, nothing improper by the procedure offered here tonight. As a matter of fact, it might constitute a shortcut to some resolution of this matter.

But I do want to indicate that those of us who still hold to the provisions as to the best possible alternative to a long-range energy program in this country still feel and maintain that the provision we have, and which was the pending business, is the correct approach on which to proceed, and which it was the judgment of the Senate up to this evening to be the proper vehicle to operate on.

It is in that regard, and not without respect for the efforts of the majority leader to seek some compromise, that I indicate I would hope the recommendation and the motion of the majority leader would be defeated.

Mr. BAKER. Mr. President, I join with the distinguished Senator from Kansas in extending my congratulations to the majority leader.

In the course of the last few days we have gone through a torture that the Senate has seldom encountered, including not just an all-night session, but an all-night session that was unique and different from others, as we all painfully know, because the rollcalls and quorum calls came at 15, 30, and 45-minute intervals.

The temptation was great, Mr. President, to torture, to change, to force the rules and precedents of the Senate into a configuration that would yield a quick result and disposition of the issues before this body.

But the proposal made by the majority leader at this time has avoided all of those pitfalls. It is indeed fair, honest, equitable, and straightforward, and I congratulate him for it.

Mr. President, this motion is fully debatable, and I suppose the first issue that addresses all of us here is whether or not, at this hour of 9:15 p.m., we wish to debate the issue now or try to establish an orderly procedure for doing it tomorrow or at some other time.

My own personal preference—and I reiterate this is just a personal preference—my personal preference would be not to try to bring this matter to a conclusion tonight, but to let it sleep—which will be a unique experience for some of us—to let it sleep overnight, and to begin our debate on this motion tomorrow, to come in at a reasonable hour—I would even suggest that we might consider a modification of the unanimous-consent order that is already entered providing for a 9 o'clock convening time tomorrow; we might make it just a little later—that we come in and address ourselves to the intricacies of this matter.

All of us here know this is an accepted precedental technique that will permit us to join issue on the fundamental concern of the Senate; that is, whether we are going to have a form of natural gas deregulation or not. That will be determined as a result of this debate.

Mr. President, before I yield, and before I direct my questions to the majority leader—and by the way, I will be glad to yield on my time for his responses, if he cares to respond—I have one or two parliamentary inquiries to address to the Chair.

The VICE PRESIDENT. The Senator will state his inquiries.

Mr. BAKER. I believe I understood the Chair to say, and I now propound an inquiry to this effect: Would the bill, if reported back under the resolution if adopted, be amendable in two degrees?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. A further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Would the amendment at the desk, or even the amendment now pending, prior to the pendency of the motion by the distinguished majority leader, which is what I refer to as Pearson-Bentsen No. 2—would all of the amendments after this be available as qualified amendments under rule XXII for offering to the measure that would be reported back?

The VICE PRESIDENT. If they were so drafted.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Would the Pearson-Bentsen amendment No. 1 qualify to be offered to this measure if the motion were adopted?

I am sorry; I did not hear the Chair's response.

The VICE PRESIDENT. Nothing was said.

Mr. BAKER. Then that very clearly explains why I did not hear it. I must say to the Chair that after 36 hours on this floor, I find it reassuring that nothing was said.

The VICE PRESIDENT. The answer is no, for the amendment would have to be properly drafted as a substitute to the substitute to be in order.

Mr. BAKER. Mr. President, I call the Chair's attention to a fact that I am sure he is aware of, and that is that cloture was invoked against Pearson-Bentsen No. 1, not against the bill.

The VICE PRESIDENT. Amendment No. 862.

Mr. BAKER. May I propound a further parliamentary inquiry?

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. I ask whether or not, when this measure is reported back, in case this motion is adopted, is it necessary to qualify amendments at the desk in order to offer them to the bill reported back?

The VICE PRESIDENT. Cloture still obtains, and the Parliamentarian advises me the amendment No. 1039, Pearson-Bentsen No. 2, to which the Senator referred would be eligible to be offered.

Mr. BAKER. A further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Is any revision or change of the amendment necessary to qualify it, under the circumstances that would obtain after this measure were reported back, if it were reported back?

The VICE PRESIDENT. It could be offered without being subject to a point of order as presently drafted.

Mr. TOWER. Mr. President, will the Senator from Tennessee yield for a parliamentary inquiry?

Mr. BAKER. I am happy to yield for that purpose.

Mr. TOWER. It is my understanding, then, that cloture would lie, again should the motion of the Senator from West Virginia be adopted and the bill be immediately reported with the Jackson amendment, then cloture would lie only against the Jackson amendment and not against the bill; is that correct?

The VICE PRESIDENT. It would lie against amendment 862, all amendments thereto, and amendments to the bill, but not against the bill.

Mr. TOWER. Therefore, once the amendment in the nature of a substitute is disposed of, there would still be unlimited debate on the bill until such time as cloture might be invoked against the bill?

The VICE PRESIDENT. The Senator is correct, and no further amendments would be in order.

Several Senators addressed the Chair.

Mr. BAKER. I have the floor, Mr. President.

The VICE PRESIDENT. The Senator from Tennessee has the floor.

Mr. JOHNSTON. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. BAKER. Let me put one more; then I will be happy to yield to my friend from Louisiana.

Mr. President, would the bill itself be amendable after the third reading of the measure contemplated by the motion of the distinguished majority leader?

The VICE PRESIDENT. No.

Mr. BAKER. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSTON. Is there not a unanimous-consent agreement that involved all energy bills, to the effect that when they reach third reading, they shall proceed immediately to vote, the only debatable motion being the motion to proceed to consider? Is that correct?

The VICE PRESIDENT. There is a unanimous-consent order in place which provides that on all the energy measures, when they have reached third reading, the manager of the bill is authorized to proceed, without debate or intervening motions, to an appropriate vehicle, a House bill, and add the text of the Senate bill and the appropriate parts of the House energy package, H.R. 8444, as amendments thereto.

Mr. JOHNSTON. As I understood the answer of the Chair, the answer to my question was, in effect, yes, that the only thing that can be debated once third reading is had is a motion to proceed to the consideration of that bill, and once we proceed to the consideration of the bill, then the manager of the bill may immediately substitute the text without further debates; is that correct?

The VICE PRESIDENT. There would be no motion to proceed. It would be automatic, at the discretion of the manager.

Mr. JOHNSTON. So it is not debatable, then?

The VICE PRESIDENT. The Senator is correct.

Mr. JOHNSTON. If the Senator will yield for one more parliamentary inquiry, did I correctly understand the answer to be that if an amendment were drafted as a susbtitute for amendment 1039 or a perfecting amendment for 1039, it would not be in order, or if it were drafted as a substitute or perfecting amendment for amendment 1022 it would not be in order, or if it were drafted as a substitute or perfecting amendment to the bill, S. 2104, it would not be in order; the only way an amendment would be in order would be either as a substitute or a perfecting amendment to Pearson-Bentsen amendment No. 862; is that correct?

The VICE PRESIDENT. Amendment 1022 as amended becomes No. 862, Pearson-Bentsen No. 1, and it would have to be drafted as an amendment to that or to the bill.

Mr. JOHNSTON. Or to the bill?

The VICE PRESIDENT. Or to the bill.

Mr. JOHNSTON. In other words, a substitute for the bill would be in order before amendment 1022 is disposed of?

The VICE PRESIDENT. Not a substitute, but a perfecting amendment.

Mr. JOHNSTON. Only a perfecting amendment and not a substitute; so if you have an amendment at the desk which was drafted as a substitute for S. 2104, it would not be in order?

The VICE PRESIDENT. Not at that point, but if Pearson-Bentsen, as changed by amendment No. 1022, were defeated, it would then be in order.

Mr. JOHNSTON. I thank the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will not be much longer. I want to reserve my time until a little later so I can have a brief colloquy with the majority leader on housekeeping details, and let other Senators propound whatever parliamentary inquiries they wish.

Mr. President, I want to make sure I understand the situation that will obtain if the motion of the majority leader is adopted, and if the bill is reported back forthwith.

It is my understanding, then, that that bill would be amendable in two degrees. It is my further understanding that that bill would be subject to the provisions of rule XXII as in cloture, meaning, in this case, that the amendments, to qualify for offering to the bill as reported, would have to be at the desk and qualified.

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. But notwithstanding that they could be drafted to the amendment which is pending now before the Senate, which is Pearson-Bentsen, just prior to the making of the motion by the distinguished majority leader, they also would qualify?

The VICE PRESIDENT. That is correct, if properly drafted.

Mr. BAKER. Notwithstanding that it had been called up and reported, it would still qualify under the rule?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And no further revision or doctoring of the amendments would be necessary in order to comply with the provisions of rule XXII or any other rule, in order to offer them as amendments to this bill?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And, Mr. President, the bill itself, as amended if amended, would be subject to debate without restriction except as to any restriction that might be implied by subsequent invocation of cloture under rule XXII?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Would a motion to recommit the bill, as amended if amended, be in order at that point?

The VICE PRESIDENT. Will the Senator repeat his question?

Mr. BAKER. Would a motion to recommit the bill with instructions, the bill as amended if amended with instructions to report back forthwith, on whatever basis, be in order at that point?

The VICE PRESIDENT. That would only obtain up to third reading, because of the unanimous-consent order previously entered.

Mr. BAKER. Yes; but any time prior to third reading, would it be in order to make a motion to recommit with further instructions?

The VICE PRESIDENT. The answer is yes, unless it were an attempt to do indirectly what could not be done directly by the instructions.

Mr. BAKER. I thank the Chair. A final question at this point, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Under the terms of the unanimous-consent order entered previously to permit the Senate to deliberate on these energy measures and to attach them to appropriate House numbers, is it in order to move to proceed to third reading of the bill at the appropriate time?

The VICE PRESIDENT. Is the Senator referring to the appropriate vehicle, or the——

Mr. BAKER. Mr. President, I am referring to that time just prior to our going to third reading under the terms of the unanimous-consent order, or otherwise, is it not in order then to move to third reading of the bill?

The VICE PRESIDENT. The bill being in front of us now, S. 2104?

Mr. BAKER. The bill as reported back with amendments and as subseqeuntly amended, if amended.

The VICE PRESIDENT. A motion at the proper time to go to third reading and engrossment would be in order.

Mr. BAKER. In accordance with the precedent established by this body only a few days ago in respect to another bill?

The VICE PRESIDENT. And the Parliamentarian tells me, and much prior to that.

Mr. BAKER. And is that motion to proceed to third reading debatable?

The VICE PRESIDENT. Yes. It would be debatable because cloture would be off once amendment No. 862 is agreed to.

Mr. BAKER. Mr. President, would a cloture motion lie against such a motion to proceed to third reading and engrossment?

The VICE PRESIDENT. Yes, it would.

Mr. BAKER. Mr. President, I reserve the remainder of my time and I thank the Chair.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, I want to commend the majority leader for undertaking to make the motion now pending before the Senate.

I think those of us who have been involved in the negotiations and discussions can fairly say that there has been an ongoing dialog between the majority and the majority, between those who have offered one plan versus another plan. This has been going on now for quite a while.

If I understand the mood, Mr. President, of this body, it is that the Senate would like to have before it a specific motion, a specific course of conduct that we can follow in connection with the pending measures—and they are measures for all practical purposes—before the Senate.

I refer specifically to the original bill, which was the administration bill. I refer further to the first Pearson-Bentsen substitute. Then, my compromise substitute and the second Pearson-Bentsen substitute, Mr. President.

I want to commend the minority leader as well as the majority leader—who have brought us together—Senator PEARSON; Senator BENTSEN; Senator HART, who has his own proposal relating to independent producers; and Senator HANSEN, the ranking minority member on that side, and his colleagues. All of us, Mr. President, have advanced our views. We have made suggestions and recommendations.

Now, what the distinguished majority leader has tried to do is to give us a measure of where we stand at this point. I think the Senate wants to move on because this is only a part of the journey to the conference between the House and Senate.

Mr. President, it will be in that forum where the ultimate differences between the House and Senate can be resolved.

I want to compliment the leadership on both sides who have proceeded to act on this matter without rancor, without any animosity. I think we all are in the mood to vote. Let us define the issues, so that we can get this behind us and get on with the other bills that are pending before this body.

We have, indeed, a lot of legislation in the energy area as well as in the other areas.

Mr. STONE. Will the Senator yield for a question?

Mr. JACKSON. Certainly.

Mr. STONE. Would the Senator from Washington express the understanding that if the majority leader's motion carries and that Jackson substitute is debated and voted on, that if the Jackson substitute is either further amended or not further amended, there will not be dilatory amendments or tactics used, and that if the Jackson substitute does not carry a majority, that those who want to vote on Pearson-Bentsen No. 2 will have an opportunity to do it, assuming that the vehicle that we are talking about now is not satisfactorily amended—it might be—but is that the understanding?

In other words, are we going to get to the vote on the substance and meat of this coconut, or are we going to vote on the Jackson substitute, but that is all?

Mr. JACKSON. Mr. President, I can only answer the question for myself. I know what I am going to do. I am supporting the efforts of the majority leader to act on specific substitutes and amendments.

Mr. STONE. I think——

Mr. JACKSON. May I just finish?

Mr. STONE. Yes.

Mr. JACKSON. Mr. President, I would only observe that we have made some movement here and we can get a better feel as to where the Senate stands vis-a-vis Pearson-Bentsen, vis-a-vis the Jackson compromise, vis-a-vis other important and I think very earnest and sincere amendments. I refer to the Senator from Colorado who has an amendment pending.

As the Senator knows, we were locked in when the Presiding Officer announced the vote on cloture, and only those amendments specifically addressed to the bill or to the amendments can be offered.

But this is an effort to expedite the proceedings of the Senate.

Mr. STONE. Under this compromise, this motion of the majority leader, we get to vote up or down, presumably, on the Senator's substitute proposal, possibly with perfecting amendments.

Mr. JACKSON. And indirectly you are voting, also, may I say——

Mr. STONE. At least on part.

Mr. JACKSON. I mean, you are indirectly voting also on Pearson-Bentsen No. 1, Pearson-Bentsen No. 2

Mr. STONE. At least as to the definition of new gas.

Mr. JACKSON. I am talking about—because that would fall. They would fall in the process of the motion offered by the distinguished majority leader.

I think that is clearly what the Chair has previously indicated in connection with the parliamentary inquiry.

Mr. STONE. If the Senator will yield for one last point, it was not the understanding of the Senator from Florida that Pearson-Bentsen No. 2 would fall automatically, but that, rather, under the cloture rule it still is eligible as a substitute to the Senator's substitute.

Mr. JACKSON. Well, let me be very candid. The motion would not leave Pearson-Bentsen No. 862 in its present form, which is the first Pearson-Bentsen.

Mr. STONE. That is the first.

Mr. JACKSON. No. The number would be there, but substituted in lieu of the language of 862 would be the language of the pending instructions——

Mr. STONE. That is clear. But is it not also clear that 1022——

Mr. JACKSON. Including the additional amendment originally introduced by the distinguished Senator from Kansan (Mr. PEARSON) known as amendment 1043, defining new natural gas.

Mr. STONE. But is it not true, Pearson-Bentsen No. 2, which was all along drafted as a substitute for your substitute, would under the cloture rule still be eligible as a substitute?

Mr. JACKSON. You can offer it.

Mr. STONE. The Senator said it will fall.

Mr. JACKSON. It falls, but the Senator is not prevented from offering it again to the reported substitute when it comes before the Senate.

Mr. STONE. That is what I meant.

Mr. JACKSON. Which will be 862.

Mr. STONE. That is what I meant.

Mr. JACKSON. I want to make it clear, in voting for this motion, that the two Pearson-Bentsen substitutes are involved.

That is just the reality of the thing.

But amendments can be offered, indeed. And the substance of the Pearson-Bentsen No. 2 could be offered.

Mr. STONE. If I may ask one more question, the Senator does not mean it automatically is canceled, made ineligible, the second Pearson-Bentsen?

Mr. JACKSON. I did not say that. I said it would fall. I said it would not prevent it from being reoffered.

Mr. STONE. OK.

Mr. STEVENS. Will the Senator yield to me for one question?

Mr. JACKSON. Yes.

Mr. STEVENS. It is the Senator from Alaska's understanding there are no amendments to the Jackson amendment which could add the concept of deregulation to the Jackson amendment.

Is it the Senator from Washington's understanding that if this motion carries, the bill is recommitted and comes back in the form described by the majority leader's motion, that there is any amendment that qualifies under the cloture motion that is before us now, or the cloture procedure we are under now, that could restore to the Jackson amendment any concept of deregulation?

Mr. ROBERT C. BYRD. Mr. President, could I answer that?

Mr. JACKSON. I yield to the Senator, the distinguished majority leader.

Mr. ROBERT C. BYRD. If the motion carries, the bill would be open, when reported back, to amendment in two degrees and the Jackson amendment would be open to amendments in two degrees, provided those amendments were qualified and were properly drafted and at the desk at the time cloture was invoked.

Mr. STEVENS. Does that include Pearson-Bentsen No. 2 as being an amendment to the Jackson amendment as described by the majority leader's procedure so that deregulation could still be considered by a majority vote as an addition to or a substitute to the Jackson amendment, as amended?

Mr. ROBERT C. BYRD. If that amendment was properly drafted to the Jackson amendment and at the desk at the time cloture was invoked, the answer is yes, and I assumed that was the case because I think the Chair already indicated that and it was already an amendment to the Jackson substitute.

Several Senators addressed the Chair.

Mr. JACKSON. I yield the floor.

Several Senators addressed the Chair.

Mr. BAKER. Was that not included in the parliamentary inquiry I made previously? That is, specifically, would Pearson-Bentsen No. 2, without further modification, be eligible to be offered to the bill as reported back under this motion?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. I thank the Chair.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished majority leader for his ingenuity and resourcefulness in suggesting this motion to recommit with instructions to report back forthwith.

I hope that the motion will carry because I believe that it does move us on a great distance toward a final resolution of this impasse.

I feel, however, that this motion to recommit with instructions is, in effect, an amendment itself and it seems to me that it does enlarge the scope of rule XXII as to the permissible amendments that may be filed to a bill which has been clotured, without this amendment having been filed at the desk as required by rule XXII.

The motion, as I say, is in effect an amendment not filed at the desk prior to the invoking of cloture, and if this motion is accepted without a point of order being raised, it would not serve as a precedent for future consideration of bills under cloture; whereas, if the Chair does hold that the motion is in order, it will have a profound effect on future consideration of bills under cloture, because it will make this vehicle available for amendment without the amendment having been filed at the desk.

I hope the Chair will rule that the motion is in order. It will set a precedent for the future. Without the point of order being raised, no precedent will have been established.

Therefore, Mr. President, I raise the point of order as to the motion, that the motion is itself, in effect, an amendment, and that it is not in order because it has not been filed at the desk prior to the invocation of cloture. I hope the Chair's ruling will be that the point of order is not well taken. It will establish a good precedent.

[Laughter.]

The PRESIDING OFFICER. The point of order is not well taken, for the following reasons: A motion to recommit is permitted under these terms, under cloture, with instructions, under the precedents and the rules, and the amendment to be reported back under this motion, which includes other amendments, have all been qualified under cloture.

Mr. ALLEN. Did the Chair, then, rule that the motion is in order?

The PRESIDING OFFICER. The Chair so rules.

Mr. ALLEN. I thank the Chair for the ruling. It can be used in the future.

[Laughter.]

Mr. BENTSEN. Mr. President, I think the Senator from Alabama, the Senator from Florida, the Senator from Tennessee, the Senator from Washington, and the others who have made parliamentary inquiries have shown us some of the complexities of this problem and one of the reasons why I think that, whereas we have had this Jackson amendment as the first order of business for a very minimal period of time, we should debate this tomorrow, make our decision tomorrow.

I certainly do not intend to participate in any dilatory actions. That has been evidenced by my demeanor during this entire debate for these several days.

I join in commending the majority leader, because he has tried to bring about a resolution of the differing viewpoints.

I have discussed it with the Senator from Washington, Senator PEARSON has, and many others, but we have one irreconcilable difference, and that is the question of the extension of regulation totally into the free market system in the States where you do not have regulation—the free market system, which has brought on supplies of gas in Texas, for example, and that has given us a surplus.

We have had people tell us that they are concerned about the homeowner. The Senator from Washington has said that he has compromised his plan and moved it some, and I agree with him, but so have we. When you talk about a compromise proposal, the one we introduced is one that had been debated for weeks on end in 1975. The end product, after all the amendments from the many Senators involved, was, in effect, what we introduced this time.

After that, we had people say, "What about the homeowner? Utility rates are too high already." I could not agree more. "The homeowner can't put in a coal chute. Who is going to pay for this price of new gas?"

We changed our amendment. We compromised it. We put in an incremental pricing provision to see that, in the main part, industry picks up the tab. Industry has the ability often to convert to other types of energy, alternative kinds of fuel. It would be an economic decision for them, and the homeowner was protected with the old gas so long as it might last. That was a major move by compromise.

Then it was said that some of these people cheat; some withhold gas. Some cap gas that should be produced. There are times when there are legitimate reasons to cap gas, to hold it for a while. They find a new reserve way out in the boondocks. There is the question of drilling enough wells to be able to build a pipeline to bring it to the markeplace.

So we wrote in a provision to try to get the cheaters, to say that the Energy Commission could decide if it was wrongfully withheld; and if it was wrongfully withheld, they would not get the price for reregulated gas.

The statement was made, "Well, you Texans are going to withhold all that gas. You're going to build a big barrier around your State and we will be able to get it."

We put a provision in the compromise, Pearson-Bentsen, to say that you could come and compete, that you could bid above what you were bidding on your interstate rollover contracts—a major concession.

Those are the things we have been discussing. I think we should address ourselves to the Jackson amendment. It is a major amendment and a major proposal. That should be the focal point of attention. But we should be discussing that one when we have the time to cover the subject. I am not talking about a filibuster, and I am not talking about dilatory tactics. This Senator will not participate in such. I would like to see us have an opportunity to discuss this tomorrow morning.

The Senate has been in session for a long time. I say to my colleagues that with all of the frustrations of last week, with all the possible irritations, with all the delays and the differing opinions and the emotions, I think the Senate and its membership behaved remarkably well. I am very proud to be a Member of this body. They did a great job.

[Applause.]

Mr. HART. Mr. President, a parliamentary inquiry. The Senator from Colorado understands the Chair to have ruled that what the majority leader called the bill itself will be open to amendment. I take that to mean the basic bill reported by the committee, S. 2104.

The question that the Senator from Colorado asks is whether amendments must be at the desk at the present time to qualify as amendments acceptable to the bill itself, S. 2104?

The VICE PRESIDENT. The answer to that is "yes," the amendments must have been at the desk at the time cloture was invoked.

Mr. HART. So only amendments at the desk now will qualify to be added to the Jackson amendment or the bill itself—no other amendments?

The VICE PRESIDENT. The Senator is correct.

Mr. HART. I thank the Chair.

Mr. JOHNSTON. Mr. President, I think we have established a little earlier, by the parliamentary inquiry, that by this device we do not get rid of the filibuster. We do not get rid of the device of bringing up amendments. Indeed, with the new precedent, we can bring up additional amendments by virtue of the new device of referring it back. Once it comes from the committee, it can be referred back by motion apparently directed to bring back a new bill.

We do not get rid of the filibuster. Indeed, we undo cloture, as I understand it, once we get past Pearson-Bentsen No. 1.

My question is this: If we go with this motion, which is sponsored by the leadership do we then get the support of the administration on the package, or do we merely establish the top line, not the bottom line, with which to go to conference?

I wonder whether the distinguished Senator from Washington can answer that question.

Mr. JACKSON. Mr. President, at this point I can only speak for myself.

The so-called compromise substitute was drafted by my staff. We worked quite some time on this. The administration was not involved in the drafting of it. I think we will have a better idea shortly as to the administration's position regarding a compromise amendment.

It is my understanding that they do not oppose it, but I have not had anything in writing saying that they support it.

Mr. JOHNSTON. I appreciate that answer. I asked the question for this reason: Whatever compromise we come up with, if there is any compromise, in my view, to be considered by the Senate, if we are going to get anything from what we already passed in the Pearson-Bentsen amendment, it has to have the backing of the White House all the way through the House and through the conference committee. Otherwise, we are just bargaining with ourselves. I suggest that we would simply be buying a pig in a poke.

Frankly, I do not like this compromise, for reasons which I will state tomorrow. Whatever it is, I think we need the backing of the White House.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. METZENBAUM. I first understood that if the Jackson amendment came out of committee, it would then be subject to amendment by the Pearson-Bentsen amendment, No. 1039. It is my understanding that at that point cloture would not have been invoked. Am I correct about that?

The VICE PRESIDENT. Cloture has been invoked against amendment No. 862 and would stay in force.

Mr. METZENBAUM. Did I correctly understand the Chair to rule that cloture was not invoked with respect to the bill itself?

The VICE PRESIDENT. That is correct.

Mr. METZENBAUM. Therefore, is the Chair saying that if the Jackson amendment comes out of committee as a substitute, no further amendments may be made to the basic bill because there is then a substitute before the Senate?

The VICE PRESIDENT. The basic bill, as the Chair earlier ruled, is amendable in two degrees, and the amendments to the basic bill would take precedence over amendments to the substitute.

Mr. METZENBAUM. I am unclear as to the Chair's ruling that if it is subject to amendment in two degrees, the basis on which it would be necessary to have the amendments at the desk prior to cloture having been invoked.

The VICE PRESIDENT. Cloture having been invoked against the substitute, No. 862, under the precedents, it applies to amendments thereto and to amendments to the original bill. Otherwise, invoking cloture would be meaningless.

Mr. METZENBAUM. And cloture has been invoked with respect to the original bill as well. Is that what the Chair is saying?

The VICE PRESIDENT. It has not been.

Mr. METZENBAUM. If it has not been invoked, then why is it necessary to have amendments at the desk at this point?

The VICE PRESIDENT. Under the precedents, that has been the traditional ruling.

Mr. METZENBAUM. I thank the Chair.

Mr. TOWER addressed the Chair.

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER. Mr. President, but for the redeeming feature that the bill as reported by instruction can be amended by the address of Bentsen-Pearson to it, then this motion would have proven the efficacy of post-cloture filibuster. This is indeed not a compromise. It is certainly more to the liking of those who have delayed these proceedings for days and days with dilatory amendments. That point should be made clear that the fact that the instruction requires that the committee report the bill with the Jackson amendment is indeed a concession to those who have prolonged these proceedings. If it were not with a redeeming feature of its amendability it would indeed be tantamount to capitulation.

I commend my distinguished colleague from Texas, and I am proud of him for his steadfastness throughout this, for the wise remarks he made here this evening. It is apparent that a majority of the Senate agrees with the position taken by him and with my equally distinguished colleague from Kansas (Mr. PEARSON).

So let us understand what we are about. We are considering now a measure that is a concession to a minority, willful, talented, and dedicated, who have prolonged these proceedings thus far, and I hope that we will have a good and spirited debate on this matter tomorrow.

Mr. ALLEN. Mr. President, in order to further define the parameters of the parliamentary situation, I wish to propound another parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. As the Chair well knows where without cloture a motion is made to recommit a bill with instructions to report forthwith under which the members of the committee do not even touch the bill, do not even leave their seats, and making the motion in effect an amendment, under such conditions the motion itself is amendable. Therefore, I make the parliamentary inquiry, inasmuch as this motion is filed and accepted by a ruling of the Chair as being in order without having been filed at the desk prior to the invoking of cloture, would not it necessarily follow then that amendments could be offered to the very motion itself without having been filed at the desk prior to the invoking of cloture?

The VICE PRESIDENT. In the first place the motion is not amendable. The instructions are, in two degrees.

Mr. ALLEN. Yes.

Very well. Instructions are what I am talking about. The instructions. Instructions to report back certain divisions.

The VICE PRESIDENT. And the instructions in this case contain amendments that were filed and do qualify.

Mr. ALLEN. Then as to amendments that were filed and are filed could they be offered to the instructions prior to a vote on the motion?

The VICE PRESIDENT. As the Chair has earlier stated the instructions are amendable in two degrees as long as they are not attempting to do indirectly that which cannot be done directly.

Mr. ALLEN. The instructions could be amended then prior to the vote on the motion.

The VICE PRESIDENT. That is correct.

Mr. ALLEN. I thank the Senator.

Mr. MELCHER addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, the motion of the majority leader requires that the language of amendment No. 1043 be attached to amendment No. 1022, as amended.

Parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. MELCHER. Could not that amendment be offered to amendment No. 1022 at any point?

The VICE PRESIDENT. Will the Senator restate his question?

Mr. MELCHER. The majority leader's motion is that amendment No. 1022, as amended, be brought back after recommittal with only one addition and that is amendment No. 1043. My parliamentary inquiry——

The VICE PRESIDENT. But it comes back in the form of amendment No. 862.

Mr. MELCHER. I did not hear that.

The VICE PRESIDENT. However, it is important to note that it would come back in amendment No. 862 carrying that number.

Mr. MELCHER. My question, Mr. President, is cannot amendment No. 1043 be offered at any time to amendment No. 1022 without a recommittal motion or without anything being done, just offer it?

The VICE PRESIDENT. That is correct, unless there were other amendments pending that took precedence to that amendment.

Mr. ALLEN. I ask for the yeas and nays on the motion, Mr. President.

Mr. MELCHER. I had not finished with my parliamentary inquiry.

Mr. ALLEN. I am sorry. I thought the Senator had and the Chair responded.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, then in effect the mere offering of amendment No. 1022 would accomplish everything that the recommittal motion would do except what?

The VICE PRESIDENT. Is the Senator asking what the effect of the recommittal motion is?

Mr. MELCHER. Yes, other than attaching amendment No. 1043 to amendment No. 1022 what is accomplished by the recommittal motion?

The VICE PRESIDENT. For one thing, it puts amendment No. 1043 in place without having to be separately offered.

Mr. MELCHER. Without having to be separately offered.

The VICE PRESIDENT. That is correct.

Mr. ROBERT C. BYRD and Mr. MELCHER addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. There is something that has escaped me here. Perhaps I could, while I have the floor, inquire of the majority leader why a simple offering of amendment No. 1043 to amendment No. 1022 would not accomplish what the recommittal motion would accomplish?

Mr. ROBERT C. BYRD. I would hope that would pick up some votes.

Mr. MELCHER. Mr. President, I only want to say that if amendment No. 1022 is more attractive by adding amendment No. 1043 which is the "new gas" definition of Pearson-Bentsen to it, that opportunity is available for anyone who has the floor, and we could find out then how attractive amendment No. 1022 has become at that time without a recommittal motion.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 a.m. under the order that has been previously entered. I ask unanimous consent that that time be changed to 10 a.m.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess under the order——

Mr. STEVENS. Mr. President, will the Senator withhold that?

Mr. ALLEN. Will the Senator yield until I ask for the yeas and nays?

Mr. ROBERT C. BYRD. I will not yield for that purpose.

Mr. STEVENS. Will the Senator hold that for clarification of the previous ruling of the Chair?

Mr. ROBERT C. BYRD. As long as I do not lose my right to the floor and for that purpose only.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, there has been a previous inquiry about the status of the Pearson-Bentsen amendments, and I would like a specific ruling of the Chair as to whether amendment 1039 to amendment 1022, amendment 1041 to amendment 862, and amendment 1042 to the basic bill S. 2104—these are the Pearsen-Bentsen versions that are before the body and were at the desk when cloture was adopted—specifically will be in order as amendments to the bill when it is reported back to the floor if the majority leader's motion is agreed to.

The VICE PRESIDENT. If the motion is agreed to, amendment No. 1042 would be in order at the proper time as a substitute for the bill, and amendments numbered 1039 and 1041 would both be in order as substitutes for the so-called Jackson substitute.

Mr. STEVENS. I wish to make one further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. STEVENS. To clarify for the Chair, when the bill returns from the committee it will have new page and lineage proportions because we will have combined amendment No. 1022 and amendment No. 1043, and by doing so some of the lines in particular and the pages will be changed because there is additional material in amendment No. 1022. What will be the status of amendments that were filed to amendment No. 1022 that would be affected by the adoption of amendment No. 1043 in order to make it a clean bill as it comes back from the committee under this recommittal motion?

The VICE PRESIDENT. They can still be offered to amendment No. 1022, if they fit properly. They cannot be changed, except by unanimous consent.

Mr. STEVENS. Let me clarify that a little further. By having filed at the desk an amendment to amendment No. 1022 with specific pages and lines such as the amendment No. 1059 of the Senator from Alaska, to page 9, line 20, the adoption of amendment No. 1043, which adds four lines to the bill on page 6, will change the lineage of all succeeding pages. Do the amendments that were on the desk to amendment No. 1022 even though they were not affected by amendment No. 1043 automatically become disqualified because they refer to the original page and line number of amendment No. 1022?

The VICE PRESIDENT. It is unlikely that will happen because the bill is not being reprinted, and the same pagination would hold. The prior amendments, however, might rule out an amendment.

Mr. STEVENS. I understand that where it would touch the same.

The VICE PRESIDENT. But that would be the case anyway.

Mr. STEVENS. But the bill as it comes back as the original text subject to two amendments in two degrees and amendments at the desk if they refer to amendment No. 1022 or amendments to amendment No. 1043 will be subject to consideration on the basis of their submission to the original page and lineage of the amendments that they seek to amend.

The VICE PRESIDENT. The Senator is correct.

Mr. STEVENS. I thank the Senate and I thank the Chair.

The VICE PRESIDENT. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, with further reference to Mr. MELCHER's inquiry of me, amendment No. 1043 would significantly expand the definition of "new gas." Gas from newly discovered resources would qualify as new gas.

Gas from extensions of existing reservoirs would qualify as new gas.

It was felt that by including this amendment in the motion to recommit, it would further liberalize the Jackson amendment and, therefore, would be worthy of the support of those Members who believe that there should be an expanded definition of new gas.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I am prepared to move that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 10:16 p.m., the Senate recessed until tomorrow, Thursday, September 29, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 1977:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Barry M. Blechman, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, vice Robert M. Behr, resigned.

THE JUDICIARY

Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit, vice Wade H. McCree, Jr., resigned.

FEDERAL ENERGY REGULATORY COMMISSION

Don Sanders Smith, of Arkansas, to be a member of the Federal Energy Regulatory Commission for a term of 2 years (new position).

PEACE CORPS

Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

PUBLIC PRINTER

John J. Boyle, of Maryland, to be Public Printer, vice Thomas F. McCormick, resigned.

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abbott, Wilfred K., 564-44-9746.
Abernathy, John B., 451-52-4739.
Ackerlund, Walter E., 535-30-7192.
Ackermann, Carl A., 390-28-9651.
Ackerson, Robert D., 482-36-7098.
Acree, George W., II, 216-32-6299.
Adam, Wallace B., 507-42-0914.
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Valen, Richard D., 474-38-9659.
Vaneaton, William G., 413-46-4225.
Vanhemert, Dudy L., 480-36-4796.
Vanbulla, Kenneth J., 393-24-6922.
Varley, Franklin C., 528-46-1705.
Varnum, James W., 242-50-2837.
Vaughan, Gerard G., 010-30-1251.
Vazquez, Francisco, 581-56-1572.
Venable, John C., 440-34-6811.
Verna, Joseph B., Jr., 209-26-3142.
Vidal, Lloyd J., 552-44-6897.
Viehmann, Henry W., Jr., 498-34-5043.
Villanis, Stanley E., 037-22-3452.
Vine, Norman R., 516-34-8085.
Vineyard, John R., 233-50-8887.
Vinzant, Vernon V., 520-34-2722.
Violett, Russell L., 524-46-5062.
Vogel, Frank C., Jr., 216-28-3940.
Volz, David E., 444-32-1326.
Vonbargen, Gerald C., 298-28-7245.
Voorhees, John H., 152-30-8385.
Voss, John H., 455-52-0273.
Vreeland, Harry E., 135-30-1530.
Vreeland, Russell E., Jr., 081-32-6118.
Wade, James E., 509-36-2430.
Wade, James R., 329-24-7233.
Wadman, Robert S., 230-40-3494.
Waggoner, Hal F., 460-52-7721.
Wagner, David L., 273-26-7379.
Wagnon, Bobby D., 455-44-9989.
Waldman, Henry W., 027-28-1118.
Waldron, Kirk T., 529-40-3919.
Waldrop, Thomas L., 543-36-7009.
Walker, David L., III, 405-42-4910
Walker, Donald N., 048-28-5322.
Walker, Roy A., 184-28-9795.
Wallace, Billy J., 462-46-1058.
Ward, Donald T., 455-56-1014.
Ward, Johnny M., 492-38-2451.
Wargo, William J., 146-28-3755.
Washburn, John T., 032-26-3975.
Watkins, Church, Jr., 410-60-3885.
Watrous, David S., 043-28-1105.
Watson, Jerome A., 502-20-9468.
Watts, Clarence F., 500-34-1424.
Watts, Claudius E., III, 245-52-1354.
Watts, George L., 525-64-6518.
Weatherby, Jerry R., 462-58-5448.
Weatherson, James G., 037-24-2856.
Webb, Robert A., 223-42-3418.
Weeks, Calvin G., 509-36-2019.
Weenig, Jay F., 529-30-2352.
Weihe, David A., 510-36-5628.
Wellman, Larry N., 238-56-6448.
Wells, John L., 159-28-7369.
Wells, John T., Jr., 241-48-1649.
Wempe, Robert W., 510-30-7241.
Wendorf, Charles J., 228-42-4018.
Wenger, Richard D., 534-32-0144.
Wenlock, Charles E., Jr., 262-48-2553.
Westrand, Arlo P., 550-46-6341.
Wescott, Gary R., 518-36-9464.
West, Dale G., 450-54-4805.
Westergaard, Frederick C., 438-50-0608.
Wettlin, Joseph, 129-28-1972.
Whisenant, Bennette E., 242-52-2875.
White, John H., Jr., 097-28-5394.
White, Joseph W., II, 192-24-6711.
White, Leslie M., 110-26-8672.
Whiteside, Don M., 294-28-9636.
Whitford, James D., 510-30-4482.
Whitney, Jay A., 118-26-3052.
Whitney, Willis C., 443-36-1347.
Wilde, David M., 555-44-6827.
Wilhelm, Charles F., 485-34-8029.
Wilhelm, John D., 547-44-1344.
Wilkinson, Kenneth D., 368-34-9505.
Wilkinson, Robert E., 296-30-8086.
Wilkinson, Thomas J., 465-54-0561.
Willett, James G., 482-34-6916.
Williams, Alfred L., Jr., 460-54-9948.
Williams, Arnold, 403-38-9518.
Williams, Billy G., 453-54-5163.
Williams, Charles M., 487-40-8979.
Williams, Clyde S., Jr., 375-30-7325.
Williams, David H., Jr., 466-48-6918.
Williams, Harold J. M., 258-52-3625.
Williams, James L., Jr., 262-42-1699.
Williams, Jerry F., 260-50-7015.
Williams, Joe A., 412-50-0383.
Williams, William A., 425-60-5723.
Williamson, Larry G., 465-48-7122.
Williamson, Robert D., 450-46-8112.
Wilshire, Robert M., 007-30-1432.
Wilson, Bobby J., 257-32-2283.
Wilson, Harold F., 452-28-7581.
Wilson, James L., 433-48-9694.
Wilson, James W., 466-48-1647.
Wilson, Robert J., III, 184-24-1528.
Wilson, Ronald E., 129-28-1511.
Wingo, Gerald V., 488-36-5831.
Winkler, Larry D., 509-30-1274.
Wise, Glenn E., 454-52-7355.
Wise, Wesley T., 392-32-6412.
Wiseman, Jerry F., 317-34-4876.
Witherspoon, Ralph P., 183-28-4630.
Wohlfeil, Gordon L., 505-50-1275.
Wolff, William A., 473-44-5700.
Womack, Bond M., Jr., 331-28-0959.
Woner, James M., 486-36-5092.
Wood, Larry W., 430-62-2484.
Wood, Marinda, J. C., 327-32-1069.
Woods, Franklin L., 127-28-0853.
Woods, James C., 020-26-3805.
Woodward, Charles C., Jr., 526-44-4139.
Woolard, Henry H., Jr., 259-38-2850.
Worden, Stephen F., 572-44-8946.
Wright, Francis M., Jr., 338-28-9303
Wright, Ivan C., 528-42-0287.
Wright, James H., III, 422-40-4958.
Wycoff, William J., 493-34-1512.
Yancey, William S., 409-54-5493.
Yarr, Daniel J., 532-30-8501.

York, Guy P., 254-50-7332.
Yoshinaka, Jimmy, 531-32-1025.
Young, David G., 303-36-0976.
Young, Gerald O., 524-32-0771.
Young, Glenn W., 565-42-1118.
Young, Joe H., 241-62-0781.
Young, William M., 241-46-4656.
Yount, John F., 408-56-4025.
Yowell, Robert J., 277-30-7796.
Zaborowski, Albert V., 064-26-5175.
Zalmanis, Andris, 304-36-3440.
Zamkoff, Leonard J., 109-28-6462.
Zaner, Howard W., 280-30-6867.
Zemlicka, Frank K., 103-28-7988.
Ziegler, Allen A., 204-26-2234.
Ziegler, Daniel H., 567-44-5541.

CHAPLAIN CORPS

Bieberbach, John V., 149-26-7795.
Buice, Willie E., 259-36-3110.
Chace, Alston R., 022-28-4157.
Clarahan, Michael R., 483-24-0949.
Crosby, George K., 426-54-2319.
Eisemann, Richard G., 110-20-0765.
Getts, Harland R., 223-38-1376.
Gower, Robert G., 354-20-4274.
Greene, Richard H., 147-36-8361.
Hill, Raymond J., 117-24-0452.
Johnson, Arnold G., 473-36-5690.
Kucharski, Richard J., 374-24-0292.
Landman, Nathan M., 112-22-5284.
Martin, Christian H., Jr., 185-22-0266.
Martin, John J., 205-20-0988.
McManus, Thomas, 450-72-6525.
Minton, Dean L., 242-38-5372.
Schuelein, Virgin L., 445-30-2103.
Shea, John F., 003-12-1480.
Truitt, John G., Jr., 231-34-3668.
Utley, Vernard T., 437-34-9093.
Zumwalt, Vasten E., 430-50-2904.

DENTAL CORPS

Block, Philip L., 082-30-8404.
Bloss, James L., 521-44-7852.
Blumenfeld, Walter L., 106-26-1936.
Boke, Bruce R., 503-32-3192.
Buzenas, John A., 360-26-5199.
Carroll, Daniel F., 541-32-3908.
Cooper, Harvey E., 519-34-6411.
Davis, Jerry N., 262-52-2808.
Deyampert, Porter L., 421-42-1764.
Forrest, William R., 444-34-2853.
Freestone, James T., 374—34-4304.
Hartman, Garrett E., 516-36-9853.
Hellier, Charles E., 406-46-5305.
Hoffman, David L., 475-36-4956.
Hubbuch, Behrle W., Jr., 406-48-6542.
Jarvis, Raymond J., 019-28-7342.
Keuper, Jack B., 396-34-4511.
Kirby, David B., Jr., 171-30-6154.
Loughlin, Dan M., 535-34-4553.
McCormick, James E., 319-24-6673.
Nemchick, Harold E., Jr., 544-39-4608.
Parttridg, John C., 266-48-6157.
Polte, Hanswalter W., 269-30-3102.
Rhea, Joseph C., Jr., 139-26-1005.
Sandoval, Elivinio, 521-40-6985.
Scott, Andrew S., 265-52-2239.
Shaver, Bruce E., 184-28-1546.
Spencer, Leonard J., 342-30-2911.
Stepler, Ronald G., 145-28-4665.
Sudinsky, Theodore R., 337-30-4411.
Thompson, Michael W., 506-38-0830.
VanVooren, Claude P. G., 038-24-2899.
Vogue, Harvey L., 569-36-5498.
Wampler, Henry W., 401-58-2570.
Wilensky, Alan J., 251-52-1460.
Wilson, Aaron H., Jr., 236-50-2380.

JUDGE ADVOCATE

Alfsen, Thomas C., 264-34-4786.
Anderson, Gene H., 514-32-5929.
Arrowood, William D., 244-54-6307.
Blanks, Clifton D., 442-26-9411.
Brunton, Rodney F., 382-30-1045.
Cain, John J., 514-28-2056.
Campisi, Peter I., 112-24-7372.
Cole, Floyd, Jr., 411-44-0005.
Copperman, Seymour, 130-28-9889.
Crowley, James E., 508-32-8474.
Dickman, Verlin D., 478-36-7125.
Dorman, John T., 462-50-0488.
Filkins, Merton F., 220-32-8472.
Finch, Mark T., 419-40-3478.
Fuller, Joseph L., 464-66-6001.
Hoben, Danford L., 513-34-0471.
Holdaway, Donald M., 520-32-2960.
Howey, James Z., 249-58-3528.
Ingrao, Anthony P., 099-24-1158.
Jordan, Theodore F., Jr., 095-28-6685.
Knutson, Milford H., 471-44-9919.
Lawrence, James E., 725-10-8618.
Lewis, David M., Jr., 307-38-2819.
Lueders, Tommy W., 452-56-9520.
McDade, James D., 514-32-0782.
Mowery, Charles F., Jr., 487-38-4385.
Nakano, George M., 575-34-7196.
Perkins, Robert H., 418-38-3400.
Persky, Arnold I., 041-26-8389.
Pierson, Samuel M., III, 415-44-5898.
Pitus, Thomas G., 336-28-1114.
Porter, James P., 249-46-3730.
Ptacek, Anthony W., 391-28-5226.
Ruddock, Donn M., 180-28-1710.
Rudland, William P., 127-28-0229.
See, Marion J., Jr., 405-44-6493.
Semeta, Ramutis R., 005-30-6063.
Sergi, Leo L., 209-22-3276.
Sessoms, Philip C., 239-36-7855.
Simonalle, Eugene, 023-22-3189.
Sirgo, George L., Jr., 437-52-2931.
Springob, Thomas J., 398-34-9005.
Steenstra, Henry J., Jr., 143-28-0614.
Steerman, Vernon L., 513-16-8170.
Stephens, Larry G., 261-38-5996.
Stevens, George R., 335-26-5301.
Strickland, Donald B., 237-36-3130.
Teeter, Harold A., 482-34-5632.
Thomas, Robert W., 331-20-1492.
Ward, Clarence D., 454-34-4052.

MEDICAL CORPS

Belk, William F., 501-34-3198.
Brunstetter, Frank P., 088-26-4263.
Buckley, Clifford J., 146-28-9181.
Corcoran, James F., 122-30-8984.
Dake, Theodore, Jr., 537-26-4720.
Dorang, Louis A., 179-28-9447.
Faries, James L., 496-32-9368.
Fleming, Bryan W., Jr., 255-54-3089.
Fontenelle, Larry J., 434-52-8178.
Gleason, Paul D., 014-26-1352.
Green, Ronald S., 324-30-1460.
Haaland, James A., 543-36-6184.
Hailey, Stanley W., 557-42-4084.
Hancey, Richard C., 564-48-1906.
Joye, Martin J., 507-46-0227.
Kinnard, Paul G., 453-38-6911.
Lathrop, George D., 339-34-3765.
Lordon, Robert E., 095-28-7170.
Lubin, Arnold N., 125-28-5228.
Massey, Freddy M., 428-72-0682.
Moore, William B., 488-40-3780.
Nassif, Thomas J., 233-56-8503.
Nelson, Manfred R., 556-34-6525.
Palma, William E., 050-30-7669.
Root, David E., 530-20-3242.
Rudd, Ronald E., 300-28-9914.
Runkle, William M., 228-40-6325.
Smith, Darryl D., 572-42-2849.
Stevenson, Onex D., 238-52-8624.
Takamoto, Robert M., 575-34-5127.
Townsend, Amos R., 003-24-1596.
Young, Robert L., 516-38-1561.
Yount, Ira M., 518-30-9801.

NURSE CORPS

Anderson, Darlene A., 472-32-2934.
Baker, Lois J, 516-34-0324.
Bareford, Betsy J., 214-28-2144.
Bolitho, Joann H., 273-30-0438.
Boone, Reba, 239-48-4899.
Boyd, Mary R., 251-52-1729.
Brinkmann, Joanne M., 327-24-0253.
Chalifour, Mary L., 242-48-2111.
Cleveland, Shirley L., 272-28-8540.
Donnelly, Grace E., 129-22-9673.
Doriski, Helen, 120-26-9794.
Downey, Gertrude A., 371-30-8974.
Farrar, Catherine L., 264-46-1912.
Forster, Mary R., 397-30-0642.
Heiser, Sharon C., 492-30-2568.
Hopkins, Edna M., 284-26-0382.
Keene, Ruby, 225-36-6611.
Kernan, Ellen M. B., 350-26-0267.
Liebeck, Maye L., 535-34-5971.
Makauskas, Loretta A., 333-26-9584.
Mullin, Margaret M., 197-26-1526.
Nicholson, Estella J., 213-24-6234.
Prusko, Joan R., 395-32-1077.
Remmes, Elizabeth J., 479-38-1864.
Sanders, Barbara I., 219-34-6551.
Schimmenti, Carmelita, 525-72-2429.
Shalenko, Paul C., 162-26-0769.
Showers, Avis R., 423-54-9861.
Sumner, Joan A., 565-34-5007.
Thomas, Mary M., 002-22-5286.
Uldrich, Ruth H., 233-62-2007.
Walsh, Claire, 026-24-5289.

MEDICAL SERVICE CORPS

Adams, Gary L., 553-36-2323.
Archie, Julius C., 455-40-5890.
Brown, Raymond A., 482-32-6360.
Brown, Ross C., 045-22-8166.
Dickes, David W., 143-28-0373.
Holley, Robert C., 420-36-8613.
King, James M., 164-28-1239.
Murphy, John E., 485-36-5294.
Smith, Robert D., 474-32-5705.
Walker, Kenneth C., 505-40-3679.
Wassmund, James A., 292-28-4991.
Wilhelm, Bruce D., 526-38-7308.
Willging, James B., 570-24-4043.

VETERINARY CORPS

Brooks, Frank T., 414-64-0158.
Caraway, Bobby L., 433-30-8869.
Jones, Sidney R., 474-38-7018.
Mattsson, Joel L., 566-42-5587.

BIOMEDICAL SCIENCES CORPS

Ainsworth, Clayton A., III 510-28-7143.
Bailey, Ronald B., 536-32-1539.
Barrett, Quentin T., 228-42-3876.
Bassett, Bruce E., 549-44-8378.
Bayer, Johan E., 348-26-0805.
Breeskin, John, 104-28-4971.
Carter, Donald I., 428-68-2787.
Coleman, Frederick E., III 048-26-0113.
Furtado, Victor C., 143-28-8870.
Humerickhouse, Marlan J., 315-30-2281.
Kush, George S., 359-28-1294.
Maio, Domenic A., 579-46-2858.
Parkhurst, Michael J., 121-24-7774.
Seager, Brent C., 369-40-7853.
Sears, William J., 485-32-7742.
Smead, Phillip E., 019-30-5937.
Titzel, Gene E., 533-30-1884.
Wallace, James D., 246-42-5346.
Wasserzieher, Gilbert D., 471-38-5174.
Williams, Carlton R., 189-26-5025.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 1977:

NATIONAL SCIENCE FOUNDATION

George Claude Pimentel, of California, to be Deputy Director of the National Science Foundation.

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation.

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

POOR HEALTH FORCES RESIGNATION OF PHILADELPHIA'S DIRECTOR OF FINANCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. EILBERG. Mr. Speaker, it is with a great deal of personal regret that I announce that Mr. Lennox L. Moak, who has served for 5 years as Philadelphia's director of finance, has been forced to resign for reasons of poor health.

Len Moak, who is recognized as one of the world's leading authorities on local government finance, has been under a physician's care ever since last June, when he suffered a heart attack while attending a meeting of a U.S. Securities and Exchange Commission Board in Portland, Maine.

He has been convalescing at his home, but his health has not returned as any of us would have liked. And it is typical of Len Moak that, rather than leave the city without the services of a full-time director of finance, he has chosen instead to resign.

An administrator, teacher, researcher, and author, Len Moak has been intimately involved in political science and public finance for 37 years, starting with his first assignment as a budget officer in 1940 for the State of Louisiana.

Len Moak came to Philadelphia in 1949 as head of the Bureau of Municipal Research—a private, nonprofit agency for sound governmental practices. He previously served as city director of finance from 1952 to 1954, when he rejoined the Bureau of Municipal Research and became director of the Eastern Division of the Pennsylvania Economy League when it merged with the bureau.

He is the author of numerous books concerning various aspects of municipal financing, including budgeting, taxation, capital, and operating programming, and local government debt administration. He has also contributed to professional journals and participated in over 350 research projects in connection with consulting assignments throughout the United States and Canada.

On special assignments, he has helped guide many U.S. cities in forming new charters, financing local government systems and administering taxation programs.

Len Moak has held several teaching assignments, including senior lecturer at the Fels Institute of State and Local Government at the University of Pennsylvania. He taught political science and public finance courses at Tulane University from 1942 to 1949. He also has taught at the Wharton School of Finance and the School of Fine Arts at the University of Pennsylvania.

He was born in Boque Chitto, Miss., on December 14, 1912, and attended public schools in Lincoln County, Miss., and Port Arthur, Tex. He earned his bachelor degree at Southwest Texas State University in 1932, and his master from Texas University in 1940.

Len Moak was a research assistant in the Citizens Planning Committee for Public Education in New Orleans, La., in 1938. He became executive director of the Bureau of Governmental Research of New Orleans in 1938, and executive director of the bureau in 1942, where he remained until he became director of the Bureau of Municipal Research in Philadelphia in 1949.

The retiring finance director is a member of the American Political Science Association, the American Society for Public Administration, a member and past president of the Municipal Finance Officers' Association of the United States and Canada, and past president of the Governmental Research Association.

His skills will be sorely missed by the city and people of Philadelphia, Mr. Speaker. My wish is for his speedy and full recovery. In this wish, I am certain that all Philadelphians join me wholeheartedly.

ONE ANSWER TO OUR COYOTE PROBLEM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BROWN of California. Mr. Speaker, since the Federal Insecticide, Fungicide, and Rodenticide Act will soon be up for House consideration, it seems an appropriate time to call your attention to a new type of electric fence that protects sheep against coyotes and at the same time is environmentally safe. It is being tested by the Agricultural Research Service of the U.S. Department of Agriculture. There has been quite a bit of controversy in the past over Federal laws on the use of certain poisons used to kill coyotes due to the environmental and wildlife hazards, and this fence may prove one answer to the problem.

The fence has proven 100 percent effective in all tests so far in keeping coyotes away from sheep. It should be acceptable to the environmental and wildlife interests since it does not kill the coyotes. The fence only repels coyotes and causes no injury. This feature also makes it safe for sheep or dogs that accidentally touch the wires.

The Agricultural Research Service has been seeking a way to protect sheep against coyotes that also would be acceptable to other interests since the ban on the use of poisons on Federal lands several years ago. Previous efforts, including the use of electric and conventional fencing, have provided only limited protection. Failure of standard electric fences to deter coyotes resulted from lack of grounding. The new fence alternates charged and ground wires from top to bottom making it impossible for the coyote to avoid simultaneous contact with a charged and ground wire. An added benefit of the new fence is that it costs considerably less to install than conventional fencing.

Perhaps we are beginning to see the light at the end of the tunnel on this issue which has created much controversy in recent years and has cost sheep producers and consumers millions of dollars a year.

The following press release on this subject by the Department of Agriculture further summarizes this research:

NEW COYOTE-PROOF ELECTRIC FENCE TESTED BY USDA:

WASHINGTON, August 12.—A new type of electric fence has proven 100 percent effective in protecting sheep from coyotes in tests by scientists of the U.S. Department of Agriculture (USDA).

This fence, developed by USDA's Agricultural Research Service (ARS), succeeds where past efforts have failed because the new fence grounds and shocks coyotes no matter where on the fence the animal makes contact.

Coyotes are responsible for 35 percent of all lamb deaths, plus a sizeable percentage of adult sheep deaths, according to estimates by USDA's Economic Research Service.

Previous electric fencing featured all charged wires. The new one alternates electrified and ground wires from top to bottom—making it impossible for the coyote to avoid simultaneous contact with a charged and a ground wire.

The shock from the fence—generated by either a 110 volt or 12 volt battery energizer—repels, but does not injure coyotes. Thus, the fence is safe for dogs or sheep that accidentally touch the wires.

An added benefit of the new experimental fence is that it costs considerably less to install than conventional fencing.

ARS' Sheep Experiment Station, Dubois, Idaho, brought Robert Piesse of Melbourne, Australia, who invented the new fence, to this country to demonstrate his work. ARS scientists have modified and refined Mr. Piesse's invention to repel coyotes.

IMPRESSIVE DEDICATION OF OESCHGER FIELD

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, the city of Ferndale is noted for many things not the least of which is its location as the most westerly city in the Continental United States.

One of its most famous citizens is Joe Oeschger who pitched the longest game in baseball history, 26 innings, for the Boston Braves on May 1, 1920, against the Brooklyn Dodgers. In addition, Joe Oeschger and the Congressman from that area have something in common—we were both born in Ferndale, Calif.

The Ferndale Enterprise has written an interesting article telling how the citizens of Ferndale have demonstrated their

admiration for Joe Oeschger by dedicating the local ballpark as Joseph A. Oeschger Field.

The article follows:

IMPRESSIVE DEDICATION OF OESCHGER FIELD

Sunny skies greeted a large group of Ferndalers and visitors on Sunday for the dedication of Oeschger Field at Firemen's Park in Ferndale. The grand marshal of the "Horse and Buggy" parade arrived in a horse-drawn carriage with Tom Brown as his driver. Waiting and ready to take part in the impressive ceremonies arranged by Ferndale Parlor, Native Sons of the Golden West, were members of the Grand Parlor, Native Sons; City Officials; members of the family of the honored Joseph Oeschger; local Native Sons and Daughters and their families; plus many friends, infants, young people and adults.

The Dedication and Plaque placed in honor of Joseph Oeschger was in commemoration of his remarkable career in baseball, for the "longest game in history" in which he pitched on May 1, 1920, a 26-inning game for the Boston Braves against the Brooklyn Dodgers.

The plaque and flag-pole were projects of Ferndale Parlor, Native Sons of the Golden West.

Mr. Oeschger's fame also reflects from his many years as physical education teacher and as coach in San Francisco High Schools, and his association with so many youthful athletes there and throughout the United States during his long athletic career.

Clem Lautze of Ferndale, a longtime friend of Mr. Oeschger, served as Master of Ceremonies at the Dedication, opening his remarks with a letter written by another long-time friend, George Waldner, who was unable to be present. The letter follows:

"I regret not being present for this great occasion honoring my friend, Joe Oeschger. As a boy in Eureka I knew of the Ferndale kid with the mighty arm and super athletic ability. I admired his career at St. Mary's and on into Big League Baseball. His longest game pitching duel in May 1920 thrilled us and was the talk for days on my own U. campus at Berkeley . . . a master ball player who hit as well as he pitched.

"Yet today he is more pleased with his career as a coach and physical education instructor in San Francisco than with his baseball career. In San Francisco he gave purpose and directions to hundreds of young men who today are guided by the examples he set for them.

"Joe, in my opinion, is the epitome of opportunity in the United States . . . a child of immigrant Swiss parents, he earned his way at home, at school, in adult life. When rewarded by success, he never lost sight of his old friends, his family, or his former home.

"My congratulations to Joe and to the Native Sons of the Golden West for recognizing him in this most appropriate and permanent manner.

"I am deeply gratified in being numbered among Joe's host of friends."

George Waldner

The Invocation was given by the Rev. Father Thomas Devereaux of the Church of the Assumption. A color guard from Naval Facility Centerville Beach led the parade. They included S. A. Vera Miguez, B.U.C.N. Charles Stout, S.N. Lisa Johnston and O.T3 Gary Blanton. Raising the flag of the United States and the Bear Flag of California were S.A. Vera Miguez and OT3 Gary Blanton. The Ferndale Union High School band, directed by Miss Marsha Silpola, played the Star Spangled Banner.

Remarks were given by Richard L. Barnes, Grand President of the Native Sons of the Golden West, and by Charles Lakin, a member of the Ferndale Recreation Commission. Other members of the Native Sons, taking part in the ceremonies were Joseph Geer Oeschger of San Carlos, son of Joseph Oeschger of Ferndale, took the place of second vice president of the Grand Parlor. He is a Past Grand President and a native of Ferndale. Also participating were Robert Jensen of Redwood City Parlor, who took the part of first vice president of the Grand Lodge, Jerry Miller of Ferndale, Junior Past President of Ferndale Parlor, Native Sons of the Golden West, also took part in the rites; and Bernard Katri of Ferndale Parlor, who acted in place of the third vice president of the Grand Lodge.

Stan Dixon, Mayor of the City of Ferndale, spoke in acceptance of the Plaque.

Mr. Oeschger, in his response, credited much of his success through life to his early training and the influence of his pioneer parents, their deeply religious home life and dependence upon God, and Christian training. He expressed appreciation to all his neighbors and friends, to members of his family, to the Native Sons of the Golden West, and to the many organizations and people of the community who helped to make the dedication possible.

At the close, the band played "Take Me Out to the Ball Game". Immediately following was an exhibition baseball game by the Red Sox and the Cardinals, Ferndale Little League teams. The final score was 10–7, in favor of the Red Sox.

Players of the two teams are listed as follows/ for the Red Sox, coached by Bob Martella and Kevin Frey, are Mariette Dwight (only girl on the team); Scott Fournier, Marty Polasek, John Paul Martella, John McManus, Kevin Micell, Mike Leonardo, Brian Doward, Greg Gomes, Stanley Mansfield, Robert Martella, Grant Pedrotti and Adam Tate.

On the Cardinals team were Kent Lourenzo, Joel Toste, Pat Nunes, Bobby Bertelsen, Chris Wagner, Daniel Millich, Johnny Gomes, Shannon Dixon, John Nichols, Ivan Enos, Tony Lewis, Rogan Davis and Steven Borges. They are coached by Tom Cox and Bill Becker.

Many gathered for a Beef Barbecue provided by members of the Native Sons of Ferndale and visited at the picnic tables in Firemen's Park. Beef, beans, salad, bread and coffee were served with Native Sons doing the serving and providing utensils for the long lines of visitors.

NOAA REEMPHASIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ANDERSON of California. Mr. Speaker, I would like to take a moment today and commend Secretary of Commerce Juanita M. Kreps on the proposed rorganization of the National Oceanic and Atmospheric Administration (NOAA). This action is likely to produce the most significant improvement in the civilian oceanic field in recent years.

Since its creation in 1970, NOAA has been emphasizing the atmospheric sciences, according to those in the oceanographic field. The new organizational structure does not in any way downgrade the importance of the atmospheric sciences, but in Secretary Kreps' words, "addresses a growing concern for this country to have a national ocean policy which reflects the emerging importance of the oceans."

This philosophy and type of action will greatly help the legislative drive by Chairman MURPHY of the Merchant Marine and Fisheries Committee, and by Chairman BREAUX of the Subcommittee on Oceanography, to form a coherent national ocean policy for today and the years to come.

This reorganization, as outlined by NOAA Administrator Richard A. Frank will:

Create within NOAA an Office of Ocean Management, reporting to the Administrator, "to develop plans for the wise and productive use of ocean areas and to evaluate proposals by others for ocean projects. The office will engage in the marine analogue to land use planning."

Upgrade the Office of Marine Mammals "to report directly to the Assistant Administrator for Fisheries, in light of the increasingly significant impact of marine mammal and endangered species protection regulations."

Establish an Office of Ocean Minerals "to work with Congress, the executive branch, industry, and environmental and other concerned organizations in moving forward with and managing a national program for deep ocean mineral resources development."

This reorganization, which will go into effect on October 1, if approved by the OMB reorganization project, furnishes proof that President Carter, the Commerce Department, and NOAA itself now share the long-held belief on Capital Hill that the solution to many of our country's and the world's most urgent problems can be found on, in, and under the oceans of the Earth.

TWO BOMBERS BEHIND AND TRAILING—POSTSCRIPT TO THE B–1

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. McDONALD. Mr. Speaker, in my view, one of the biggest mistakes that has been made by President Carter was the cancellation of the B–1 bomber. We not only lost a leg of our triad for defense, but we threw away the millions of taxpayer dollars that went into the most tested and researched plane of our time. Now we are in the midst of trying to decide whether to upgrade a bomber of the fifties—the B–52, with Scotch tape and paper clips, or whether to hang a lot of flashing lights and tinsel on the F–111—a plane of the early sixties and call it a strategic bomber.

While this futile debate gots on and we fumble with the cruise missile, the magazine International Defense Review, August 1977, reports that the Soviets are developing a successor to the Backfire, a strategic bomber it already has in squadron strength. This new plane appears to be a supersonic version of the Soviet Tu-144—the "Concordski." Thus, whatever decision we make, our bombers will be two generations behind the Soviets. Perhaps what is needed at this point is for a new "Billy Mitchell" to come forth and expose our glaring weakness in the air. However, given the precedent of the

"Singlaub affair" and the present obsession of most senior officers today with covering their political flanks, no new Billy Mitchell is likely to appear.

QUESTIONNAIRE

HON. RALPH H. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. REGULA. Mr. Speaker, more than 18,000 of my constituents in the 16th District of Ohio responded to my most recent questionnaire.

Their responses, and the comments which accompany them, are always very informative. They provide considerable insight as to the views of the people on the major issues before the Congress. These results always are helpful to me and I would like to share them with my colleagues.

The yes-or-no questions and the responses in percentages follows:

[Percentage of Vote]

1. Do you agree with President Carter that the federal government should achieve a balanced budget by 1981, even if it means not increasing spending for programs you might favor?

Yes---------- 84
No---------- 16

2. Should control of the Postal Service be returned to the Congress?

Yes---------- 57
No---------- 43

3. Are you in favor of using tax dollars to help finance campaigns of candidates for Representative and Senator?

Yes---------- 21
No---------- 79

4. Do you believe environmental controls should be relaxed to ease the energy shortage?

Yes---------- 69
No---------- 31

5. Should wage and price controls be reimposed?

Yes---------- 48
No---------- 52

6. Do you favor permitting the armed services to be unionized?

Yes---------- 4
No---------- 96

7. Should the government spend more tax money to create public service jobs for the unemployed?

Yes---------- 38
No---------- 62

8. Are you in favor of a permanent reduction in income tax rates to stimulate the economy?

Yes---------- 71
No---------- 29

9. Should Congress establish a national health insurance program, federally administered and tax financed?

Yes---------- 30
No---------- 70

10. Do you favor an increase in the minimum wage?

Yes---------- 38
No---------- 62

11. Would you support an amendment to the Constitution that would prohibit abortions except when an abortion is necessary to save the life of the mother?

Yes---------- 50
No---------- 50

13. Do you favor federal legislation to encourage energy conservation by raising fuel prices through taxation?

Yes---------- 13
No---------- 87

13. Do you favor federal legislation which would levy a tax on large, low-gas-mileage cars to encourage conservation?

Yes---------- 44
No---------- 56

14. Should the United States intervene in the internal affairs of other nations to preserve peace?

Yes---------- 21
No---------- 79

15. Do you favor the enactment of federal laws to further restrict the sale or possession of firearms?

Yes---------- 36
No---------- 64

16. Should the federal government require states to allow voters to register and vote at the same time?

Yes---------- 24
No---------- 76

BOYERTOWN BEARS IN AMERICAN LEGION BASEBALL WORLD SERIES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. YATRON. Mr. Speaker, it is unfortunate that, too often, in our achievement-oriented society, the accomplishments of our young people go unnoticed. I derive a great sense of encouragement and optimism from the many unpublicized examples of youthful industry and spirit.

Such an example is the recent accomplishment of the Boyertown, Pa., American Legion Post 471 baseball team. Earlier this month, the Boyertown Bears advanced to the American Legion Baseball World Series after winning both the 1977 Pennsylvania State Championship—for the second season in a row—and the 1977 Middle Atlantic Regional Championship. The Bears combined an overwhelmingly potent hitting attack with consistently powerful pitching on their way to the World Series in Manchester, N.H. While they ultimately fell victim to teams from South Bend, Ind., and Trumbull, Conn., the Bears put up a spirited fight in representing Pennsylvania and the Middle Atlantic Region.

Throughout the season, the play of the Boyertown Bears was characterized by team effort and an overpowering taste for the competition which is the essence of success in America. At the same time, their sense of sportsmanship brought them still greater credit: in winning, they always have been courteous, and even humble; in losing, they have dedicated themselves to future victory. The members of the team and coaching staff, as well as their sponsors, American Legion Post 471, are deserving of the highest praise and recognition.

The members of the 1977 Boyertown Bears include: Charlie Baer, Jeff Benyo, Ricky Erb, Denny Frain, Kevin Frain, Steve Gehringer, Den Girton, Pete Hiryak, Bob Kish, Mike Kline, Roger Kolarz, Tony Lambert, Mark Lessig, Brian Moatz, Barry Moyer, Mark Nuscher, Rich Rush, Ed Schiavo; head coach Dick Ludy; assistant coaches Ribby Houck, Buck Rhoads and Dave Specht; business manager Pidge Kepner; assistant business manager Don Specht; treasurer Ken Ellis; trainer Reverend Max Nuscher; batboy Allan Gehringer; and batgirl Janel Mest.

NATIONAL BARRIER AWARENESS WEEK

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. RUSSO. Mr. Speaker, I am pleased to add my name to a growing list of cosponsors of the House concurrent resolution to proclaim the third week of July 1978 and 1979 as "National Barrier Awareness Week." The purpose of the resolution is to bring greater public awareness to the day-to-day obstacles handicapped persons face in activities which most all of us take for granted. Another goal is to publicize the tax provision, passed by Congress last year, which encourages private individuals and businesses to make improvements on their property to aid the handicapped. Money spent on such improvements as building ramps into curbs, widening doorways, and installing special restroom facilities would all be tax deductible—$25,000 per year limit.

In recent years our Nation's handicapped citizens have shown exceptional energy and dedication in their efforts to organize and bring about political and environmental changes which improve their status. The National Architectural Barrier Awareness Week would reinforce these pioneering efforts by spreading awareness of handicapped needs and rights among the general population.

The provision of a tax incentive for renovation of old properties is certainly very important, but another goal is to imprint an awareness of barrier free design in the minds of those people and organizations engaged in the design and construction of new buildings and facilities. Simple and inexpensive ideas, such as lowered control panels in automatic elevators and extended handrails to the bottom and top of stairwells for the blind and elderly can be easily implemented. Other original ideas such as the use of nonslip flooring in lobbies and other public access areas, braille on elevator control panels, and strategically placed rest areas for the elderly should be incorporated into building designs as a general rule.

I am sure that the rest of my col-

leagues have noticed the excellent work being done by the Architect of the Capitol in building ramps at all building entrances to the Capitol, lowering curbs at most crosswalks, and converting public restrooms. Passage of this resolution would further encourage all sectors of the public to formulate and execute similar plans.

Passage of the barrier awareness resolution will represent an important expression of support for the needs and rights of the handicapped. We need approximately 100 more cosponsors in order to have the resolution brought before the full House for final action. I urge all of my colleagues, who are not yet cosponsors, to consider lending their support to this worthy resolution.

GLAUCOMA ALERT WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. RODINO. Mr. Speaker, I would like to bring to the attention of my colleagues a very special and important week, Glaucoma Alert Week. The purpose of designating Glaucoma Alert Week in September of each year, is to draw to the attention of the American people this insidious disease that affects those precious organs of sight, the eyes. Unless it is detected and treated, glaucoma can lead to blindness.

Today, in this country alone, there are between 2 and 4 million of our fellow citizens suffering from glaucoma. Half of these people have had their eyes examined by medical specialists and, therefore, have had the disease detected. They are now under treatment and if they continue to follow their physicians' recommendations and their prescribed medication, their eyesight will be saved. I know this from experience. As many of you know, I have had glaucoma for a number of years, but I have brought it under control with medication.

The health problem is the fact that there are at least 1 million people, perhaps another million more, walking around with undetected glaucoma. A visit to an ophthalmologist, a physician specializing in the eye, can check the deterioration of vision. Glaucoma is a condition caused by a buildup of fluid pressure in the eyeball. This pressure affects the optic nerve, which is the main connector between the eye and the brain. That damage is irreversible, but the damage can be stopped by medication, which the ophthalmologist will prescribe.

So I urge my fellow citizens, particularly those over 40 years of age, since glaucoma is primarily a disease of aging, to have their eyes examined regularly; perhaps every year or two at the physicians' recommendations.

I also want to publicly acknowledge those organizations that are making a special effort to communicate to the public the facts about glaucoma and the need for regular eye examinations. They are the National Committee of Glaucoma Education, which was sponsored by the National Society for Prevention of Blindness and by Lederle Laboratories, and the American Society of Contemporary Ophthalmology.

TEEN CHALLENGE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. GOLDWATER. Mr. Speaker, an organization known as the Southern California Teen Challenge is the largest private sector drug rehabilitation and drug education prevention program in southern California. It is designed to help the drug user, delinquent and troubled youth, while communicating in a total program physically, mentally, socially, and spiritually to both youth and adults.

Southern California Teen Challenge has been very successful in its rehabilitation efforts at the Teen Challenge Christian Life School in Riverside, Calif., as well as at the Los Angeles Teen Challenge Center for males and the Ventura and San Diego Centers for females. Recently, in a national evaluation and research project sponsored by the National Institute of Drug Abuse, Southern California Teen Challenge was found to have a 70 percent cure rate on a national level.

A drug addict may visit a Teen Challenge Center, at no cost, and voluntarily participate in a total program of detoxification, rehabilitation, and reentry, receive counseling, go into group discussion, work assignments, education, recreation, spiritual therapy, and participate in community outreach programs.

There are 24-hour Helplines, with counseling available to both parents and youth, with professional staff members as consultants.

It is not difficult to see why the Southern California Teen Challenge has been the recipient of many awards, including the Disneyland Outstanding Community Service Award, which carried an honorarium of $10,000.

I, personally, am proud to be associated with this group, and to serve on their board of reference, along with Pat Boone, Herb Ellingwood, Paul Crouch, Dr. Millard Sall, Dean Jones, and William F. Wenke.

Teen Challenge is not new. It has been effectively helping people for 19 years. This year, the week of November 13 through November 20, has been designated "Southern California Teen Challenge Week."

I would encourage everyone in southern California to attend the many functions and to visit the many Teen Challenge facilities throughout the southern California area during that special week. Mr. Jene C. Wilson, the director, and Richard Fort, the administrator, would welcome and encourage all those interested to attend.

I hope my colleagues will take a moment to join me in honoring those who have made the Southern California Teen Challenge what it is today—a strong and effective organization committed to helping our young people.

DELIGHTFUL DISCIPLINE

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, I am sure that in my years within these halls I have talked to countless Members of my colleagues about the wonderful forests of northern California. I am not sure that I have ever mentioned that in addition to redwood and redwood products, we are also well known for our woodshed wisdom.

Louis R. Goodgame, a history teacher in the Del Norte school system and a long-time personal friend has written an entertaining book entitled "Delightful Discipline." The Del Norte Triplicate in Crescent City has reviewed the book adding biographic sketches of Louis Goodgame to show how his background and upbringing influenced his life.

In this permissive society my colleagues may find it refreshing to recall how discipline was handled in the "old days." As we constantly search for people dedicated to "quality education" objectives, I suggest to my colleagues that this outstanding educator has something of great significance to offer:

DEL NORTE TEACHER PUBLISHES BOOK ON DISCIPLINE

(By Bridget M. Yarbrough)

When one reaches the age of 50 years, one is usually well settled into a life-time career, and may even be thinking about the coming of retirement and a life of leisure. Fifty years is probably also as good a time as any to embark upon a career.

That is what Del Norte teacher Louis Goodgame has done. After 17 years in education, Goodgame is now a published author. Two years in the making, "Delightful Discipline: Humorous Stories of Woodshed Wisdom and Biblical Principles" is now on bookstore shelves.

TRUE STORIES

This 184-page paperback volume is a collection of true stories from Goodgame's early years. Each story is based on a childhood experience, and is chosen because it taught the author something about discipline. Some illustrate aspects of self-discipline while others will be useful to parents in disciplining their children.

Each episode is followed by sections on "Discipline Principles, Practices, and Proverbs". While many of these maxims are selections from various translations of the Bible, or from other sources, most of them are the original thoughts of the author.

In the introduction to the book, Goodgame states:

"My purpose in writing this book is to present discipline in an atmosphere of delight and pleasure. Life, even at its worst, should be enjoyed. I have not attempted to explain everything at the end of each story, and the reader is invited to make up his own conclusions.

"There are several ways this book can be read: for entertainment, gaining what humor and laughter is available from the experiences of others; to discover insights, concepts and ideas which will enable the reader

to become more effective in discipline techniques; or as a read-aloud sharing time with a child.

"The reader would be ill-advised to accept everything I have written and attempt to practice it. What works for one may fail for another. David, after trying on Saul's armour, wisely took it off before facing Goliath (1 Samuel 17: 38, 39)."

WEALTH OF MATERIAL

Goodgame has a wealth of background material to draw upon in his writings. Born into a Polish family, he spent his earliest years in Chicago.

As soon as he was able to crawl, a Polish custom was enacted whereby young "Jack" was to choose his destiny. He was set on a bedsheet in the middle of the living room floor. Around the edges of the sheet were placed a piece of fresh baked bread, a bright silver dollar, and a Polish prayer book. Lurching forward to grasp his guiding star, Goodgame clutched the sacred book.

His relatives saw various meanings in this—a lover of books, a college student, a priest, a teacher. Years later he became the first college graduate of the family, as well as becoming a teacher—in a Christian school as well as public. (Story taken from chapter one of the "Delightful Discipline").

While working as a waitress at the Chicago World's Fair in 1933, Goodgame's mother met a man from the state of Washington. Next to the cafe where she worked was a logging exhibition. The man whom she met was the World's Champion Log Roller for three years, which is why he was part of the logging show.

It is to this man, Pete Hooper, that Goodgame partially dedicates his book, because he "taught me that a stepfather can love a boy as his very own, took time to be a real friend, taught me how to shave with a straightedge razor".

The book is also partially dedicated to the author's grandparents, with whom he stayed for a while while his parents were on the road.

Being a construction worker, Hooper and his family were often traveling to where the jobs were in those days. They spent the Depression years in Baker, Washington, and in 1939 the family moved to California.

Goodgame graduated from high school in California, put in a stint in the army during World War II, and attended Stanford University in Palo Alto for a while. He graduated from Pacific Union College, has a Master's Degree from Andrews University, and has done graduate work in education.

His job experiences through the years have varied from painting creosote, working as a carpenter's helper and as part of a crew laying railroad track in an ammunition dump to being an orderly in a state hospital for emotionally disturbed children and teaching for four years in Christian day schools.

DEL NORTE YEARS

Pulling green chain was Goodgame's first job in Del Norte County. That was in 1959. He later worked as chief appraiser in the county assessor's office before deciding to go back into teaching.

While trying to decide whether or not to go back to college to obtain enough credits to teach in a Christian school, he discovered that he had already met the requirements for a state teaching credential on the elementary and junior high levels.

It was then that Goodgame began teaching at Redwood School, in 1964. He first taught in a self-contained sixth grade class, and now teaches seventh and eighth grade history in the departmentalized system. He enjoys working in the public school system, where he feels there is a need for Christian teachers.

CHRISTIAN FELLOWSHIP

Newly-elected president of the Del Norte chapter of the California Teachers Association, Goodgame is also a member of the National Educators Fellowship, Inc., an organization of Christian professional educators. He will be attending one of their conventions in Portland later this summer. The group meets for fellowship as well as to exchange ideas about the position of being a Christian educator.

It was the Executive Secretary of the National Educators Fellowship, Pat Patchen, who prompted Goodgame to write this book, "Delightful Discipline". The original idea was to write a book on discipline which would be helpful to both parents and teachers. Finding that to be too much for one volume, this first book deals mostly with discipline in the home and in life in general.

Goodgame is now working on a second book, designed primarily for teachers, which will be based on his experiences in the classroom. He says he has no discipline problems in his room. Not only has he never had to send a student to the principal to be taken care of, many times other teachers will send their students to him.

The book will be of the same format—a story followed by discipline principles, practices, and proverbs. While some of the episodes will relate methods of dealing with discipline problems as they occur, most of the book will be devoted to how to avoid such problems from occurring at all.

A parent himself, with five children and two grandchildren, Goodgame feels there should be more parental involvement in the schools. Despite the two scheduled conference times and open house night during Public Schools Week, there are still many parents who do not visit the schools or meet their child's teachers until a discipline problem arises. Goodgame feels this is a sad thing because those are usually exactly the parents who should be involved sooner.

Although the educational reports and articles for religious magazines which he has written in the past may not constitute a career as a writer, the publication of one book with another in the works is a definite sign that Louis Goodgame has indeed embarked upon a new career. Maybe there was even more meaning than the relatives saw in a baby's grasping of a Polish prayer book.

("Delightful Discipline: Humorous Stories of Woodshed Wisdom and Biblical Principles" by Louis R. Goodgame; 184 pages; published by Mott Media, Milford, Mi.; copyright 1977 by Louis R. Goodgame)

NO NEED TO SWEETEN THE POT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. FORSYTHE. Mr. Speaker, on Friday, September 23, I was not able to be present on the floor of the House due to congressional business in Philadelphia and in my district. If I had been here, I would have taken strong exception to consideration of H.R. 9262 and in particular to section 2(a):

For purposes of computing the annuity under section 8339 of title 5, United States Code, of any Member resigning on or after October 1, 1978 and before January 3, 1979, the term "final basic pay" shall be substituted for the term "average pay."

There was no notice that this measure was to be brought before the Members; if there had been, I am sure the consideration would not have been as swift as it was.

I do not believe it is necessary to sweeten the pot to encourage Members to retire; our retirement program is adequate. We are once again taking it out of the hides of the taxpayer, who has been gouged enough recently.

SLUM PRIEST LOOKS BACK ON 50 YEARS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, some people commit the Golden Rule to memory, others commit it to their lives. A splendid example of the latter is the Reverend Alfred Boedekker of St. Boniface's Church in San Francisco, who recently observed the 50th anniversary of his ordination as a Roman Catholic priest.

Father Boedekker, among many other things, has attempted to recognize the special problems of the elderly, and has developed two informational publications for their use.

Mr. Carl Irving of the San Francisco Examiner has written a moving article on many of Father Boedekker's accomplishments. In these days when we are constantly bombarded with stories of high crime and moral decay, when the contemporary philosophy is "looking out for No. 1," my colleagues may find it comforting and reassuring to be reminded that we still have people like Father Boedekker with us—dedicated to carrying forward and living the Christian ethic.

[From the San Francisco Examiner, June 13, 1977]

SLUM PRIEST LOOKS BACK ON 50 YEARS

(By Carl Irving)

The old priest, heaped in a wrinkled Franciscan robe that needed cleaning, sat in a second-hand chair and spread big hands on a second-hand desk.

"No use fooling anybody. There are links in the chain. You can pray to God in heaven and all that. Yet it's the do proximate—whatever we can for our neighbor."

The Rev. Alfred Boedekker, 74, trained as a scholar, born less than a mile from where he sat at a time when people spoke German around there, was marking an anniversary in a San Francisco slum.

Next week, Father Boedekker will be among nine national recipients of the 1977 Jefferson Award, given by the American Institute for Public Service.

This week Father Boedekker will have been a priest 50 years, the last 27 of them here, where he was baptized, at St. Boniface—something of a circle, although the neighborhood has changed quite a lot around the 100 block of Golden Gate Avenue.

In the late 1940s, Boedekker had been all set to go off to the Far East, after studies at UC-Berkeley, to do missionary work when the Communists forbade Christian missionaries.

He found himself with his family back at

St. Boniface, which he'd left when the earthquake leveled it in 1906.

After a while, he closed down a school, and expanded St. Anthony's free lunch program. St. Anthony's prospered, in its way. With no overhead to speak of, it was a private enterprise kind of charity for the very poor.

"I figured 200 the opening day. We started with 380, on the feast of St. Francis. Then, it went to 2,000 during the recessions. Now we get 4,000 on Thanksgiving."

Father Boedekker has been termed publicity hungry, what with all the attention he's received, together with his dining room. But the project prospers, without government or church aid, with volunteer help from people without thought to creed or background.

Father Boedekker looks back on a satisfying life.

"We seek goodness and love all the time, I think. But when we have to give something first, that seems to make the difference. We have to give love to get it. I think people who won't give themselves remain stagnent and sterile."

He slams a big first on the desk for emphasis. Big, vigorous, warm, systematic, Father Boedekker has become known one of the best San Francisco clerics.

He's a product of the German immigrants who had settled around St. Boniface, named after the patron saint of Germany. They left decades ago, but some of their descendants still return occasionally for Mass.

He was one of eight children. He was ordained at the Santa Barbara Mission in 1927, at age 24. In the early 1930s he studied in Rome, and then taught at Santa Barbara for 15 years.

Over the years, he learned Latin, Italian, French, Spanish, Chinese and Japanese and continued to speak the rough German he had learned at home.

In 1949 he came to St. Boniface, "when the Tenderloin was nothing like this. There was a school for 300 children, but as the years went by there were no more children."

He has strengthened the dining room with lease of 500 acres in Sonoma County, where some who come to St. Anthony's go to "restore themselves."

Their duties include milking 400 cows, tending to 1,200 pigs and farming crops. He estimates 8,200 men have spent an average of 30 days there over the years.

He receives $150 a month as pastor and no more. He and his five priests make do. "If we'd taken salaries, we'd have collected a million and a half by now," he says.

There's St. Anthony Thrift Shop, St. Anthony Clinic, St. Anthony Employment Office, St. Anthony Residence and St. Anthony Farms.

In his old age, Father Boedekker has developed two publications for the elderly, Second Spring and Adult Information Digest. He's planning for a Union Square rally later this summer for the aged, the people he calls the "new breed of poor."

St. Anthony's is what he comes back to thought in reminiscing. "Twelve million, two hundred thousand meals in 26 years. Mostly donated by individuals. No public relations man, no campaigns. We go from month to month and never figure out what it will cost.

"It has to be divine providence, trust in almighty God."

NATIONAL MEDICAL PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MILLER of California. Mr. Speaker, I wish to direct the attention of my colleagues to this article on the current status of an national health care system in the United States. It is an excellent summary of the various proposals before this Congress, and also discusses the various benefits and costs associated with a national health plan. While we await President Carter's expected proposal for a national health plan, it is imperative that we read all the available information on this important subject:

HIGH BILL OF HEALTH: NATIONAL MEDICAL PLAN—ITS TIME MAY BE HERE

(By Paul E. Steiger)

WASHINGTON.—For nearly 60 percent of Americans, medical bills are not a worry. Private insurance or government health programs provide ample coverage for most costs they are likely to incur.

But for many other citizens, the ability to pay for needed medical care is far from assured.

By next year, according to projections by the Congressional Budget Office, 18 million persons, or 8 percent of the population, still will have no coverage at all under private or government programs. Another 74 million, or 34 percent, will have coverage that is inadequate for some significant contingency: major surgery, a prolonged hospital stay, long-term nursing care.

Over more than six decades, advocates of national health insurance have struggled to enact federal coverage for this unprotected or poorly protected group, several times getting close to their goal only to have their hopes dashed by the White House or Congress.

Now, however, proponents of such a program believe their time has come—even though the number of unprotected or poorly protected citizens bulks nowhere near as large in the total population as when their efforts began. In fact, many of the proponents are betting Congress will enact a national health insurance program in some form soon, perhaps before the end of next year.

Among the reasons for such optimism:

FAMILIARITY

Since the 1960s, when they were enacted, experience with the Medicare program of federal insurance for the elderly and disabled and with the Medicaid system of federal-state cost sharing of health care for the poor has made the idea of national health insurance seem less revolutionary than it once might have.

SOFTENING OF SOME OPPOSITION

Many once adamant opponents of national health insurance have grown more flexible. The American Medical Assn., the U.S. Chamber of Commerce, and the National Assn. of Manufacturers, for example, all endorse some form of national health insurance, although they still resist the more sweeping proposals.

OBVIOUS GAPS AND INEQUITIES IN THE PRESENT SYSTEM

Creation of Medicare and Medicaid has exacerbated disparities in insurance protection between various groups in society, compared to what they were when the crazy-quilt system was a product entirely of decisions by individuals and private companies.

Thus, where once nearly all the poor lacked any significant insurance protection, now 24 million of the very poorest citizens—primarily welfare recipients—have substantially all their health care costs paid by the government under Medicaid, while the families of those with somewhat higher incomes (those working in jobs at or slightly above the minimum wage) remain almost totally exposed.

Meanwhile, workers for small companies tend to have less insurance protection than those at big ones, retirees under age 65 often have no coverage while those above it receive the relatively broad benefits of Medicare, and the self-employed have to pay more for what insurance they can get than those eligible for Company-paid group plans.

SUPPORT FROM THE WHITE HOUSE

Of all the factors contributing to optimism among national health insurance's proponents, this is the most important.

Despite his announced determination to balance the federal budget by 1981 and his fiscal conservatism with respect to a number fo the pet domestic spending programs of his fellow Democrats in organized labor and the big cities, President Carter has proclaimed firm support for a "comprehensive" national health insurance program. He did so before his election and also since taking office, most notably in a speech to a United Auto Workers convention in Los Angeles in May.

"Teddy Roosevelt was right," said Max W. Fine, executive director of the Committee for National Health Insurance, a lobbying group financed by all four major labor organizations: the AFL–CIO, the Teamsters, the UAW, and the United Mine Workers. "The White House is the bully pulpit. You never get any social legislation that is worth a darn without the active participation of the President. And this time we're going to get that participation."

For most of its eight years of existence, Fine's committee has directed its efforts primarily toward the Democratic Congress, where sympathy for national health insurance was generally greater than in the Republican White House of Presidents Richard M. Nixon and Gerald R. Ford. Both Nixon and Ford devised health insurance proposals but did not push them.

Carter, for his part, was ambiguous on the issue after taking office until his May speech to the auto workers. But there and in subsequent statements and actions, his commitment had been unequivocal.

He has promised to submit a proposal to Congress by early next year, and according to Department of Health, Education and Welfare officials working feverishly to develop options for him to consider, the target is a lot closer to January than to May.

At the same time, Carter has set up an Advisory Committee on National Health Insurance Issues composed of physicians, hospital officials, insurance specialists and others to obtain testimony and cull research on advantages and disadvantages of various types of plans.

The committee has held hearings in Los Angeles and San Francisco already, and will hold another one soon in San Antonio. Sessions elsewhere in the country will follow.

Carter and his advisers will have plenty of measures from which to choose. More than a dozen separate national health insurance bills have been introduced in Congress already this year, and numerous others, introduced in previous years, are waiting in the wings.

The various approaches range from the Kennedy-Corman plan, named after sponsors Sen. Edward M. Kennedy (D-Mass.) and Rep. James C. Corman (D-Calif.), which would have the government pay nearly all of the nation's $139 billion in annual medical bills, to the Long-Ribicoff plan, proposed by Sens. Russell B. Long (D-La.) and Abraham A. Ribicoff (D. Conn.), which would cover only catastrophic illnesses costing more than $2,000 in any year for a family.

The variations also include how the money is to be raised: half from special payroll taxes on employers and employes and half from general federal revenues, under the Kennedy-Corman plan; insurance premiums whose cost is divided 65 percent to 35 percent or 75 percent to 25 percent between employers and employes under several of the other plans; a choice for employers between buying approved private insurance plans or paying a 1-percent tax on each employe's earnings under the Long-Ribicoff proposal.

Other funding approaches involve the use of income tax credits (or cash payments from the Treasury to people who owe no tax) to offset all or part of the cost of either insurance premiums or actual medical bills.

Another variation among the numerous proposals concerns how the program would be administered: directly by the federal government as under the Kennedy-Corman plan; by the federal government using private insurance companies as agents for paying bills, as is now done with Medicare; or by the insurance companies, guided by federal regulation.

In addition, there in the question of whether participation would be mandatory. Some proposals would require employers to provide their workers with a specific, government-designed insurance plan, while others call for the employer to offer a plan at least as generous as the government model. A few call for optional participation but with government subsidies designed to spur enrollment.

Finally, the proposals differ in the extent to which they would require "cost sharing" by the beneficiaries. This includes use of deductibles, under which the first $50, $100, $200 or so per year in medical costs is not covered; coinsurance, under which patients must pay perhaps 10 percent or 20 percent of the costs they incur; and copayments, under which individuals must pay a flat amount for certain specified services (such as $2.50 for each visit to a pediatrician).

The last issue is part of a major problem no cost sharing. Most of the others would require some.

This last issue is part of a major problem that proponents of national health insurance must face, one that poses the greatest single threat to their achieving their long-sought goal in the next few years. That problem is cost.

Part of the cost problem is cosmetic. To the extent that under a national health insurance program some or all of the nation's medical cost would be paid by or through the federal government, and the funds to pay them raised through some form of tax, the reported size of the federal budget would grow.

In itself, such a change would have little real significance. The size of the deficit would not be altered. Individuals would be paying more money in taxes each year, but less in insurance premiums or in direct payments to hospitals and physicians.

Nevertheless, the reported size of the federal budget is something that few members of Congress—and few Presidents, for that matter—can afford to take lightly these days. And a proposal like the Kennedy-Corman one, which would essentially transfer the financing of the entire $139-billion-a-year medical industry to the federal government, would boost the size of the budget by about 20 percent.

For this reason, many members of Congress are reluctant to accept direct government financing of health care costs, and lean toward systems that would work through the private insurance industry instead. Carter's advisers are seen as leaning that way, too.

Under such approaches, relatively small increments would be added to the federal budget.

Another way of avoiding any staggering jump in the size of the budget would be to enact a national health insurance program on the phased basis, such as by beginning with coverage of children and adding other segments of society over a period of years. The Administration also is considering that approach.

The other part of the cost problem is more significant, and is far more difficult to handle. Any national health insurance program is going to give people who do not now have it the ability to pay for medical care that they currently are not getting. Such a change, as occurred for the aged and the very poor after Medicare and Medicaid were enacted would cause a sharp new expansion of the nation's already ballooning annual medical bill.

Estimates of the potential expenditure increase range from $10 billion to $25 billion a year, depending on the type of program enacted.

Moreover, that could be just the beginning. The public's eagerness for more and more medical care evidently is boundless, and is matched by an apparently infinite willingness of physicians and hospitals to provide such care in ever bigger and technologically more sophisticated doses.

Thus, to some members of Congress, enacting national health insurance soon would present them with a Hobson's choice: either to ratify progressively massive increases in federal outlays or subsidies for health care, or get into the business of putting limits on the amount of such care Americans could buy each year.

In the view of proponents of national health insurance, there is no escape from this challenge anyway. Medicare and Medicaid already are showing such huge cost increases each year that the federal government will have to take steps to control medical costs even if it does not enact a comprehensive national insurance program, they contend. In addition, they argue, establishing such a program would give federal regulators greater leverage over medical costs.

Mindful of the cost problem, the Carter Administration has proposed a plan to set a ceiling on annual charges by hospitals—the biggest single source of expanding costs—and has said it may propose limits on physicians' fees or incomes, a smaller but still significant element of the cost picture.

In addition, Carter has indicated that his health insurance proposal will place heavy emphasis on encouraging use of health maintenance organizations, or HMOs. These organizations tend to reduce costs because participants pay a fixed fee set in advance to cover all care that may prove necessary. Physicians therefore have a certain incentive to avoid unnecessary surgery or other costly medical procedures not actually required.

But whatever devices are used, the government ultimately will find itself between an irresistible force and an immovable object in its efforts to limit medical expenditures, some analysts contend.

Some fat—in the form of pure waste such as duplicative tests, hospitalization when home care would be adequate, and administrative red tape—undoubtedly can be found and cut out. At some point, however, efforts to control costs will mean decisions to ration the amount of medical care available, and such judgments are not likely to be popular.

"If you decide the nation can only afford X number of kidney machines, and X plus 1,000 people need to use them, you've got yourself a problem," an Administration official conceded.

Besides the cost problem, proponents of national health insurance face the problem of having to steer a bill—any bill—through a tortuous legislative labyrinth.

In addition to a massive number of interest groups—patients, physicians, unions, companies, hospitals, insurers—whose views will need to be balanced and reconciled, they must deal with the prejudices and prerogatives of the key figures on four separate congressional committees.

These include Reps. Dan Rostenkowski (D-Ill.), chairman of the Ways and Means Committee's health subcommittee, Paul G. Rogers (D-Fla.), chairman of the House Commerce Committee's health and environment subcommittees and at least two other Ways and Means members, Corman and the committee's chairman, Al Ullman (D-Ore.).

On the Senate side, the list includes Kennedy, who chairs the health and scientific research subcommittee of the Human Resources Committee; Long, who heads the Finance Committee, and Sen. Herman E. Talmadge (D-Ga.), who chairs the Finance Committee, health subcommittee and has firm ideas on how best to control hospital costs.

Despite this large and daunting array, Carter's advisers are hoping they can anticipate most of the key congressional views and reflect them in the bill the President is due to propose early next year. That way, the advisers believe, legislative delays will be minimized.

But no one is betting the process will be smooth. "A lot of people are going to have their say before national health insurance becomes law," one Administration official said.

ALTERNATIVE TO LAMMENNAIS' SYNDROME

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mrs. SCHROEDER. Mr. Speaker, we have been barraged with consumer legislation this session. While some of these proposals have stressed style over substance, the FTC Amendments Act, which we will vote on tomorrow, offers us a real opportunity to help consumers.

Section 7 of the bill removes some of the procedural barriers created by the Supreme Court in the last few years and allows private citizens to bring class action suits against companies that violate FTC cease-and-desist orders or FTC rules. Rather than centralizing more authority in one overloaded and often slow-moving agency (remember Lammennais' observation that centralization breeds apoplexy at the center and anemia at the extremities), these two proposals will open up the consumer protection process to more and more citizens.

I urge your support of H.R. 3816, the FTC Amendments Act. I want to share with you a letter from the National Association of Veterans Program Administrators:

JULY 28, 1977.

Hon. BOB ECKHARDT,
Chairman, Committee on Consumer Protection and Finance, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the complete membership of the National Association of Veterans Program Administrators, I strongly urge your support of H.R. 3816, particularly the language contained in section 7. NAVPA is the professional organization representing 1400 institutional and community programs serving veterans. Section 7 has direct bearing on veterans. Specifically, it gives consumers injured by unfair and fraudulent practices in the marketplace a chance to help themselves.

The section authorizes consumer suits for damages against persons who violate FTC cease and desist orders or FTC rules. Injured consumers can ask the court to require the defendant to refund money, return property, rescind a contract, or take any other action necessary to compensate the consumer for his losses.

NAVPA believes this section to be especially important for veterans because they

have been and continue to be the target of deceptive advertising practices by unscrupulous trade and vocational schools. The schools promise excellent training, high job-placement rates, etc., to persuade veterans to enroll in their courses. Only after the veteran has signed a contract and paid enrollment fees does he discover that the training is inadequate and that there is little or no hope of getting a job as a result of the training.

Enactment of section 7 of H.R. 3816 would give veterans cheated by such methods a chance to get their money back. FTC has proposed a rule to require vocational schools to furnish prospective students with such information as the drop-out rate and the number and percentage of course graduates who got a job as a result of the school's training. If the FTC rule becomes effective, under H.R. 3816 veterans who are cheated by a school which does not make the necessary disclosure could sue to get their money back. Private legal action is necessary because the FTC's record as well as its own testimony on H.R. 3816 indicates it doesn't have sufficient resources to obtain redress for most injured consumers.

NAVPA believes that section 7 is very definitely in the best interest of the American consumer in general and veterans in particular. We very strongly urge your support of H.R. 3816 and especially section 7 when the bill comes to the floor for the full House vote.

Thank you for your attention and consideration on this important matter affecting veterans.

Sincerely yours,

THOMAS J. WINCEK.

FARM INCOME PROTECTION ACT OF 1977

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MADIGAN. Mr. Speaker, today I am introducing, at the request of the National Crop Insurance Association, the Farm Income Protection Act of 1977. This bill was developed and written by the National Crop Insurance Association, a voluntary, nonprofit organization representing 104 insurance companies who write hail, fire, and multiperil coverage on growing crops.

Although I earlier introduced an expanded crop insurance bill, H.R. 5011, on March 14, I believe that it is in the interest of developing good legislation that as many differing views and aspects of this most difficult subject be brought to light.

Like most members of the Agriculture Committee, I do not have a closed mind as to what an expanded "all risk" crop insurance program should encompass.

Therefore, I submit this bill as one of many possible solutions to the problem of providing increased risk protection to this country's farmers.

The essential features of the proposed legislation are as follows:

A. FARMERS INCOME PROTECTION PLAN

Uses federal income tax farm schedule as the vehicle for guarantee base and the determination of contribution, indemnity incurred, and the recovery of benefit.

Provides guarantee options of 35 percent, 40 percent, 45 percent, 50 percent (maximum) of average annual income from sale of farm produce, for contribution of 1 percent, 2 percent, 4 percent and 6 percent thereof, respectively.

Eligibility extends to all producers of all crops, irrespective of how marketed, but does not apply to such specialty operations as feedlots.

Would be administered by Farm Credit Administration.

Limits premium subsidy to forgiveness of contribution for years of or/and following year of benefit received.

B. FEDERAL CROP INSURANCE CORPORATION

Authorizes and mandates collection of actual yield data from policyholders to be used in establishing individual risk underwriting criteria for level of guarantee.

Requires that rate structure include the direct and indirect costs of administration except reinsurance.

Provides premium subsidy only for the years of or/and following a year for which indemnity is paid.

C. REINSURANCE FACILITY FOR PRIVATE INDUSTRY CROP INSURANCE

Would reinsure private industry companies or groups of companies writing all risk crop insurance under forms and rates approved by the respective state regulatory bodies, presumably sufficient over time to meet all costs.

At no cost for reinsurance, in recognition of tax effects or limitations on reserving for catastrophe years.

Would be administered by Farm Credit Administration rather than FCIC (whose employees naturally regard industry as "competitors").

Would provide that whatever premium subsidy is granted to policyholders of FCIC would also be granted to the policyholders of the private insurers. (Assumes that subsidy would be restricted to the years of or/and following years in which indemnity is received.)

HOSPITAL COST CONTROLS—THE BRITISH EXAMPLE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. CRANE. Mr. Speaker, the Ways and Means and Interstate and Foreign Commerce Committees are presently conducting subcommittee markup sessions on H.R. 6575, the President's hospital cost containment proposal. On several occasions before this body I have made my objections to this proposal quite clear.

One of my greatest concerns has been that by limiting hospital revenues and capital expenditures, H.R. 6575 will inhibit the development and availability of new medical technology, to the detriment of all Americans. The savings in human life and suffering that can be realized as the result of such technology cannot be measured in terms of dollars and cents, yet the President's proposal attempts to do just that. When health care is rationed because of shortages of personnel or equipment, the quality of medical care must inevitably decline. Americans have a right to expect that the best medical care will be available to them when they need it—care which should not be denied because of a waiting list for surgery or the lack of diagnostic equipment, as is often the case in other countries.

If there are some who doubt my fears that hospital cost controls will adversely affect our health care system, I would advise them to study the British National Health System very closely, as I have done. When the Government decides how much the Nation will spend for health, it is inevitable that this figure will be far too low to serve the needs of the public. After three decades of the NHS, it is readily apparent that socialized medicine is a failure, with long waiting lists for surgery, inadequate facilities, and huge administrative expenses.

Recently, the Birmingham Post reported that due to a very tight budget for medical and scientific machines, a local hospital could not even afford a revolutionary diagnostic machine costing only £17,000 ($30,000). This machine, which is used to detect cervical precancer, vastly reduces the time, expense, and pain involved in such testing. Its cost is well within the budget of even the smallest American hospital, yet its use will be denied to British physicians and their patients because of bureaucratic decisionmaking.

Before we impose burdensome cost controls on our hospitals with all their adverse effects, we must decide whether we really want to put a price tag on our Nation's health. Granted, there are many ways in which costs can be reduced without affecting the quality of care, but mandatory controls can only lead to disaster for our health care system and those in need of medical care.

For the benefit of my colleagues, I am inserting the full text of the British example cited herein:

[From the Birmingham Post, Sept. 8, 1977]

HOSPITAL CANNOT AFFORD £17,000 LASER MACHINE

(By Christopher Bond)

A machine using lasers which has revolutionized the treatment of cervical pre-cancer has been flown more than 5,000 miles from San Francisco for patients at the Birmingham and Midland Hospital for Women.

It is the first time the machine has been used in Europe, and in the last ten days has treated more than 50 women from all parts of the West Midlands.

The women are all suffering from cervical pre-cancer, a condition which, if untreated, can lead to cervical cancer, a potential killer.

Treatment with the machine which utilises laser beams is painless and takes only three minutes. Women undergoing traditional treatment for cervical pre-cancer have to stay in hospital for up to a week.

But because no funds are available to buy the £17,000 laser machine, it will be returned to America next week.

Now, Mr. Joseph Jordan, a consultant gynaecologist at the hospital, is attempting to raise the money to buy one. He said yesterday: "When I first saw the machine, it seemed almost a miracle.

CHEAP TO RUN

When the traditional or laser treatment against cervical pre-cancer has been completed, Mr. Jordan said, the danger of the women developing cervical cancer could be virtually ruled out.

At present, cervical cancer kills about one per cent of the women in Britain.

Mr. Jordan said that the laser machine could pay for itself in a year from the saving on hospital time.

It is cheap to run and has the added advantage of possibly eliminating occasional complications in the treatment of younger women which could lead to difficulty in conceiving.

Mr. Jordan said: "I will make a formal report and request for money to buy the machine after this testing period to the West Midlands Regional Health Authority.

PUBLIC APPEAL

"But I have been led to believe that there is very little hope of getting the money, so I have been attempting to raise funds privately and I am considering a public appeal."

Younger women have become more prone to cervical pre-cancer, possibly because of a change in sexual habits over the last 15 years, Mr. Jordan said.

A spokesman for the Regional Health Authority said yesterday that latest figures showed that the number of cases of cervical cancer had fallen by about 10 per cent in the West Midlands between 1965 and 1974.

He said: "The budget for all medical and scientific machines in the region is very tight."

TRUCKERS NEED UNIFORM STATE REQUIREMENTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. FINDLEY. Mr. Speaker, American truckers, especially the independents, deserve a better shake from their Government than they are getting. It is popular today to complain about the tons of Government paperwork and miles of redtape that confuse and confound private citizens. Truckers have the same problem—times 50.

Not only must they conform to the rules and regulations issued by the Federal Department of Transportation and the Interstate Commerce Commission, but they must also adhere to the different regulations and laws of each of the 50 States. For example, each State has its own regulations governing height, weight, length, maximum axle load, and licensing requirements for trucks. A truck driver making a cross country run, then, is confronted with a bewildering and almost insurmountable task as he tries to adhere to the requirements of the various jurisdictions.

There is certainly no logic to the system that has grown up like topsy. In fact, it is hard to imagine one which could be more contrived to the disadvantage of those who make their living jockeying the big rigs down our Nation's highways. Incredibly, there is a belt of States stretching from Wisconsin on the north to Mississippi on the south with unrealistically low weight limits for single and tandem axle loads and maximum gross weight. Thus, a trucker beginning a cross country trip cannot load up to the legal limit in an east coast State and set out on his long journey to California, Oregon, or Washington because when he gets to Indiana, Illinois, Tennessee, or Mississippi he will find he is greatly overweight. Thus, the maximum standards established by the few Midwestern States in many cases become the maximum national standards for all the States. The alternative, which all too often happens, is that truckers disregard the unreasonable standards and, when their violations are discovered, accept fines and other penalties.

Even a truck driver who hauls grain from the fields in Nebraska to a grain elevator in Iowa has two different sets of standards to meet.

The situation makes no sense at all, undermines public confidence in the Government, and desperately needs to be changed.

In fact, it is without a doubt one of the most serious problems facing truck drivers today. The Federal Highway Administration, in its report on the effects of current State licensing, permits, and fee requirements on trucks involved in interstate commerce, concluded that truck drivers complained that "The most frequently mentioned problem was truck size and weight. * * * Most of the comments related to the need for uniformity among such regulations, both between States and between road types within a State."

The report also found that—

> The second most common complaint [was] about the difficulty of keeping informed of the states' requirements.

Ironically, truckers are as upset by the wide variety of rules, regulations, fees, and restrictions which confront them as they are about the fees and restrictions themselves.

According to the report—

> The third most important problem, in the mind of many drivers, related to size and weight limits—their uniformity among states and within states, as well as the value such limits should take.

Finally, the report found that—

> Multiple licensing, and a desire for a single license which would be accepted in all states, was the fourth most commonly mentioned problem.

There is simply no justification for the Congress of the United States to continue to permit such an illogical system to operate. It benefits no one, neither trucker, nor consumer, nor manufacturer. The United States is truly one nation. Many truck drivers make weekly round trips from coast to coast. They should have one clear standard to adhere to, not 50 different ones.

To achieve this goal, I am today introducing legislation to require the Secretary of Transportation to set uniform standards for trucks carrying freight in interstate commerce. The standards would include maximum limits on weight, both gross and per axle, height, width, and length. Under my bill, the Secretary is also directed to prescribe standards for State taxation and regulation of trucks.

Since I first introduced similar legislation in 1974, many of the truckers I have talked with have told me that the different standards they must meet for each State cause them as many problems as the energy shortage of several years ago and the constantly spiraling price of diesel fuel. The Congress of the United States can at least do something about the problem caused by the lack of uniformity. I hope that the House Interstate and Foreign Commerce Committee will schedule hearings on this legislation at an early date.

AMTRAK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. PICKLE. Mr. Speaker, the Congress is presently considering whether or not to give Amtrak a $50- to $60-million supplemental appropriation.

Personally, I have not committed myself on this request by Amtrak. Many Members, myself included, have been supporters of Amtrak. At the same time, we are growing leery of pouring more and more money into Amtrak without seeing better service. For example, the train running through my district was recently cut back from daily service to thrice weekly service. Connecting schedules have been horrendous.

So we look at this appropriations request objectively. The facts of our train service are going to have to speak for themselves.

Recently, I came across an article in the Round Rock Leader of Round Rock, Tex., which describes a train ride in my area, warts and all. The article is well written and right on target with its observations. The article neither condemns Amtrak nor lauds the service now being offered, but it does describe the overall problems.

I place this article in the RECORD at this point:

AMTRAK: THE SILVER STREAK IT'S NOT

(By Larry Jackson)

If you call something new and improved, maybe people won't notice that it's really worse.

That, at least, seems to be the way Amtrak is handling its Inter-American line.

Twice a day now, a shiny new Amtrak locomotive hurtles through Round Rock, pulling behind it the highly touted Amfleet cars introduced to this route just last week.

And they are improved. Manufactured by the Budd Corporation, the Amfleet coaches ride smoother, quieter and more comfortable than the older day coaches did. They have air-conditioners that really work. There's plush new carpeting to walk on and wider, more comfortable reclining seats to relax in.

Amtrak has added new drop-down trays behind the coach seats. You can eat, drink or even get some work done while you watch the miles go by through the slightly more tinted windows. In the old coaches, there was a shade you could pull down to adjust the brightness, but now there's a uniform bus-like illumination. Introduced only three years ago on the Boston-Washington corridor, Amfleet is modern in every way.

That's the good news.

The bad news can be guessed when you hear what they call their Amfleet food service car—an "Amdinette." And that since the coaches have been upgraded, they have discontinued sleeping car service. That may not make much difference to the weekender off to Laredo, but to Mrs. W. S. Giorda, who was headed from Austin to St. Louis with her daughter Marie, it was important indeed.

It meant that she and her little girl would sit in the coach from 3:50 Sunday afternoon

until 2 p.m. Monday when it pulled into St. Louis. If she had gone a week earlier, there was a sleeping car with compartments and roomettes on the "old" equipment.

She said she had already routed her return through Oklahoma City on the Lone Star route instead of the Inter-American. The Lone Star runs from Chicago to Houston, so husband Bill will have to pick her up at Temple, but the Lone Star does provide complete dining and beverage service, lounge service, sleeping car service and Hi-Level Coach service.

Until the Amfleet came, the Inter-American also had complete dining and beverage service. Now it has an Amdinette.

Two weeks ago, the southbound Inter-American had two coach cars, a sleeping car, a baggage car and a dining-lounge car. Don Poy, a four-year Amtrak employee from Chicago, was the steward in charge of the food service unit. At one end of the car was a bar, which he tended, at the other was a galley-style kitchen under the supervision of an old-time railroad cook.

In between were tables. The back half of the car was set up lounge style, with comfortable seats for card playing or conversation. In the front half, eight tables were each set for four, covered with a white linen cloth and sporting a vased carnation.

The waiter had begun his career in 1934 with the Pennsylvania Railroad, working out of Chicago. He transferred to Amtrak after the National Railroad Passenger Corporation (NRPC) took over virtually all inter-city rail transit on May 1, 1971.

With Amfleet, the whole operation has been reduced to a single man running a snack bar. Instead of a full meal served by a 40-year professional, you get a cellophane sealed sandwich heated in a microwave oven.

There are compensations, of course. A hamburger costs a dollar instead of $2.35. Coffee is only 30 cents instead of 75. A soft drink is 40 cents.

The snack bar itself is located in the center of the car. To one end is nearly half a car of coach style seating, leaving only the other end for booths to eat in.

Still, it's a pleasant way to travel. People talk on the trains—it's hard not to get acquainted. The passengers are almost universally friendly and easy going. If they weren't, they'd never ride a train. And the crews are courteous and helpful, too.

The personnel in the dining and sleeping cars, incidentally, are about the only Amtrak employees on the train. The operating crew, including conductors, work for the railroads on whose tracks the train runs.

The Inter-American, for example, runs basically on Missouri-Pacific tracks from Laredo to Taylor, then on MKT (Katy) tracks from Taylor to Temple, and on Sante Fe tracks as far as Fort Worth. The distance from Fort Worth to San Antonio is about a day's work (trainmen get paid by the mile, not by the hour, which blew up one theory about why Amtrak runs so late all the time). The railroads divide up the jobs between them on the basis of amount of tracks used. A MoPac crew works from Laredo to San Antonio and back, for example, while MoPac and Santa Fe alternate on the San Antonio to Fort Worth section.

For the most part, even though they don't work for Amtrak directly, they enjoy their jobs and support passenger service. Many other employees on the railroads don't share this view, however.

The passenger trains have priority on the rails, causing the freight personnel problems. As one commented, "Here I've got a mile-long train and I've got to find a siding to get on because a blankety-blank passenger train is coming. And I hear they're talking about putting another route through here. If they do, I'm transferring to the yards for sure."

That attitude, of course, goes back long before Amtrak, when both freight and passenger service were run by most every railroad. The freight people won, and now the government runs the passenger service, contracting with the same old railroads to actually do the work.

Back in 1971, before Amtrak began, MoPac had passenger service from Laredo to St. Louis. The typical train leaving Laredo was one locomotive and one coach. A second coach and, if you were lucky, a diner were added at San Antonio. The air conditioning never worked, the toilets wouldn't flush, there were unbelievable, unexplainable delays.

With Amfleet, the air conditioning works, the toilets flush, and two out of three ain't bad.

Who rides the trains? Children do.

Trains are much cheaper than airlines, and they offer attractive family plan fares. Buses are generally faster and just a little cheaper, but a long bus journey with children is a nightmare.

Weekenders ride the trains, too. You can go to Laredo, for example, for $18. If you come back within five days, you can go round trip for $31.50.

Retired folks ride the trains. "I'm not in any big rush to get anywhere, anyway," one man said. "We used to ride trains back East all the time, so now when we can, we take Amtrak."

Even railroaders ride the train. Jimmy Tieman, a track maintenance man with MoPac was getting off at Taylor. He and Joe Alaniz of Laredo had been to San Antonio for the weekend. Joe was headed to MoPac offices farther up the line.

"Taylor next stop," calls out the conductor. The timetable says we should be in Taylor at 4:45 p.m. My watch says 4:50 as I get off. The first 268 miles of its northbound run were over and the Inter-American was only five minutes late.

It could never happen again

CHILD ABUSE AND PORNOGRAPHY MUST STOP

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ARMSTRONG. Mr. Speaker, today I am pleased to join in sponsoring legislation to halt the growing use of children in pornography. So-called child pornography is one of the most degrading and inhumane practices in any culture, and its elimination should be a top priority.

Last Monday, September 26, when the House considered H.R. 6693, the Child Abuse Prevention and Treatment Act Amendments, I was one of a few Members who opposed the bill.

Like the other Members of the House, I totally support the aims of the legislation, and indeed would have supported the bill as it was originally recommended to the House.

Unfortunately, we considered the bill under a suspension of the rules of the House with the included amendment on child pornography. Like all right-thinking Americans, I am also opposed to the sexual exploitation and abuse of children and looked forward to supporting an amendment which I understood would curb this heinous practice. But as the debate on the amendment, the proposed section 9, continued, I realized that the antipornography amendment was not only badly drafted legislation, but probably unconstitutional.

A series of Members of the Judiciary Committee announced to this body that the bill as presented would be declared unconstitutional in its first court test, and even the chairman of the Judiciary Committee was "troubled by the constitutional questions raised by this particular committee amendment."

The proposed section 9 of H.R. 6693 would amend the Public Health and Welfare section of the U.S. Code, title 42, by providing that any person who "receives for the purpose of selling or knowingly sells" films or photographs of children under the age of 16 engaged in certain specified sexual acts will be punished by fines of up to $25,000 and jail sentences of up to 15 years, or both.

While I applaud the purpose of this section, it is just not a workable law . . . neither the Justice Department witnesses nor the Judiciary Committee found this language constitutional in the hearings on the matter. All the laws on obscenity, including the Supreme Court decisions, require that the material be evaluated as a whole.

Yet this bill, strictly applied, could probably apply to a number of films recently released, such as "The Exorcist," "Taxi Driver," and others which contain as little as a single minute of the material which section 9 prohibits.

Under the question of balance, the Supreme Court has ruled that such overbroad prohibitions on free speech are unconstitutional. As a result we are likely to have passed a bill which will end up protecting the producers of smut because the courts will throw it out . . . and this is bound only to delay workable and legal legislation.

Another point to be considered is that H.R. 6693 places this criminal penalty, not in title 18, the Criminal Code, but in with the health statutes, which is scarcely the place for a criminal violation. This could also lead to problems.

The Judiciary Committee has been working long and diligently on legislation which would curb child pornography and remain constitutional. H.R. 6693 ignores these efforts in an attempt to come up with an "instant solution," despite the fact that the Judiciary bill is likely to be ready in a few weeks.

For these reasons, and to support the work of the Judiciary Committee in its efforts to recommend a workable and legal bill to stop child pornography, I am pleased to join in sponsoring this legislation to halt the use of children in sexually exploitive materials.

I would like to commend the gentleman from Illinois, Mr. RAILSBACK, for his efforts to clarify the situation, and I am pleased to support his legislation. Child pornography should and must be stopped.

THE PANAMA CANAL TREATY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for

Wednesday, September 28, 1977, into the CONGRESSIONAL RECORD:

THE PANAMA CANAL TREATY

The fight over ratification of the Panama Canal treaties may have taken on a symbolic value far more consequential than its intrinsic value. Nonetheless, there are many Americans who are expressing grave doubts and patriotic concern about the proposed treaties and they are entitled to a full, honest, and responsive answer.

Two separate treaties are involved. Under one treaty, which lasts until the end of the century, the United States will retain control of operations and defense, with Panama taking part in both activities. When this particular treaty expires, the United States will still retain very important rights. Another separate treaty commits the United States and Panama to maintain the neutrality of the Canal indefinitely. This treaty places no limitation on our ability to take such action as may be necessary in the event the Canal's neutrality is threatened or violated, and insures that no foreign country can operate the Canal or station troops in Panama after the year 2000.

Under the terms of the treaties, the United States will pay Panama $40 to $50 million annually for revenue from canal tolls, with an additional payment if canal revenues permit. In addition, there is a package of loans, loan guarantees and credits, which are subject to existing statutory procedures. With one small exception, none of these arrangements will require appropriations from the Congress. The treaties will involve little, if any, additional expense for the American taxpayer.

The United States has two principal foreign policy interests at stake in the fight over ratification of the new treaties: 1) the continued efficient operation, security and neutrality of the Canal and 2) the maintenance of cooperative and productive relations with the countries of Latin America.

In my judgment a new treaty is the most practical way of protecting and promoting these American interests. If a new treaty is not negotiated, our interests will be jeopardized. The choice for the United States is not between a new treaty and the present treaty, but between a new treaty and the consequences if we insist on maintaining the status quo. Without a new treaty we run grave risk of harm to a broad range of American political and economic interests in Latin America, including damage to, or even closure of, the Canal.

The Canal is not simply a problem between the U.S. and Panama. The Panama Canal issue involves far more than our relationship with Panama. All of the countries of Latin America are urging a new treaty and they will judge the outcome of the negotiations as a test of our relationship with them. Without a new treaty which properly provides for the Panamanians' just aspirations and which takes into account our national needs, the U.S. may well find itself in the position of having to defend the Canal by force against a hostile population and in the face of widespread, if not universal, condemnation.

Several arguments against the treaties, and the responses, are as follows:

1. The new treaties signify a surrender of U.S. sovereignty and ownership of the Canal: The simple answer is that the U.S. never had either sovereignty or ownership of the Canal. Unlike the purchase of Alaska and Louisiana, the U.S. in Panama was given certain rights "as if it were the sovereign." Obviously these words would not have been necessary if the U.S. were intended to be sovereign.

2. The new treaties prejudice our national security: The greatest threat to our national security in the Canal Zone would be an insistence on maintaining the status quo. The Canal is clearly no longer as vital or as useful as it once was. Our top military leaders have agreed that the new treaties not only preserve, but enhance, our security interests.

3. The new treaties will harm our economic interests: While the Canal is still significant economically, its importance has diminished. Larger vessel cannot use it. Only 8% of U.S. exports-imports pass through the Canal each year.

4. We should not negotiate with the present government of Panama: The present government is fully supported by the people of Panama, and every government of Panama since 1903 has agreed with the present government's position, irrespective of any ideological differences.

The support for the new treaties is impressive. Four Presidents of both political parties have recognized that our nation's interets require reform of the present treaty. The top military leaders, all the nation's diplomats, responsible conservative business interests and organized labor all support the treaties. In my judgment the new treaties ensure the efficient operation of the Canal, and enable the U.S. to protect the Canal and to guarantee its neutrality permanently. The new treaties also provide an economic settlement that is fair and reasonable, and establish a firm foundation for long-term cooperation between the United States and Panama.

PHILADELPHIA CATHOLIC ARCHDIOCESE OFFERS PRESCRIPTION FOR PORNOGRAPHY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. EILBERG. Mr. Speaker, the problem of pornography continues to plague America, raising serious concerns among thoughtful parents and religious organizations about the permanent damage which pornography can do to the individual, to the family unit, and to society as a whole.

The September 15, 1977, issue of the Catholic Standard and Times, the weekly newspaper of the Roman Catholic Archdiocese of Philadelphia, contains a very thoughtful editorial on this subject. Because I am anxious to share these views with my colleagues in the Congress, I am placing the full text of that editorial into the RECORD. I commend it to all Members of the Congress:

[From the Catholic Standard and Times]

PRESCRIPTION FOR PORNOGRAPHY

The proliferation of pornography has become a cancer in our cities. Citizens are corrupted and city centers are defaced by X-rated movies, "adult" book stores and massage parlors.

The ordinary citizen, however, is not helpless in the battle against filth.

First, of course, the ordinary citizen can and should avoid places of business which are dangerous to his moral well-being just as carefully as he avoids places dangerous to his physical health.

Second, he can take advantage of his right of privacy and of existing laws and postal regulations to make sure that no pornographic materials are mailed to his home by unscrupulous dealers who send random mailings to corrupt the unwary. Any person can enter a prohibitory order with the U.S. Postal Service requiring the mailer of offensive materials not to send such items again. Even better, any person can have his name placed on a computerized list maintained by the U.S. Postal Service of those persons who do not wish to receive pornographic materials in the mail. This list must be purchased by those who engage in the mailing of pornography so that they may purge their own mailing lists of the names of those who have explicitly requested to keep their homes free of mailed pornographic literature. Both these methods put the purveyors of pornography to trouble and expense—and they provide an economic deterrent to the pornography trade.

Third, all persons can urge civil officials to adopt laws forbidding the public display of salacious advertising or pornographic materials in public places where they could easily be seen by minors. Public authority has the right and the responsibility to act for the common good on behalf of parents in taking measures to prevent the corruption of the young.

Fourth, citizens can encourage the adoption of zoning regulations which would prevent the grouping of pornography shops and which would restrict the types of signs and displays such stores could have.

Fifth, as a last resort, concerned citizens could peacefully protest the presence of such stores in their neighborhoods by picketing designed to discourage patronage and manifest moral outrage at the existence of smut stores.

Finally, parents, teachers and all those concerned with the formation of young people should not only attempt to inculcate good reading habits in children but should also give them a reverence for the human body as the sacred temple of God which is to be respected and nurtured, not exploited and debased. Such an attitude of regard for God's law, respect for the human body, concern for human rights, awareness of personal responsibility and concern for the welfare of the community can eventually overcome evil with good.

RELIGIOUS FREEDOM OF CHOICE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ERLENBORN. Mr. Speaker, a significant step to reaffirm this Nation's belief in individual freedoms—human rights, if you will—took place yesterday. The Education and Labor Committee approved H.R. 3384, a measure which says that people whose religious beliefs prohibit union membership need not choose between their religion and their jobs.

To my knowledge, seven religious groups in America prohibit joining or financially supporting labor unions. The Seventh-Day Adventists, with more than 500,000 members, is the largest; so we are not talking about millions of people. Yet, it has not been uncommon for these good people to be denied jobs, because they hold conscientious objections to participation in unions.

The drive to correct this sad situation began more than a decade ago. The congressional standard bearer then was the gentle lady and our esteemed former colleague Edith Green. She and another Northwesterner, then Congressman Floyd Hicks of Washington, continued the struggle throughout their congressional careers.

Finally, in 1974, a measure of progress was made when the Congress passed legislation bringing health care workers

under the National Labor Relations Act. That law included my amendment to exempt those workers who have such religious convictions from joining unions and, instead, to pay the equivalent of union dues to a charitable organization. Now a law is needed to protect the rights of all of these people, regardless of their jobs, because not all unions are amenable to accomodating religious beliefs.

Our colleagues (Mr. DON H. CLAUSEN, Mrs. PETTIS, Mr. DUNCAN of Oregon, and Mr. STUMP), and I applaud the gentleman from New Jersey (Mr. THOMPSON), the author of H.R. 3384, for taking this action to respect the religious convictions of but a comparative handful of people. As authors of similar bills and the moving spirit behind the quest for this legislation, we are joining today in introducing an identical bill. We call for the support of our colleagues in making this religious freedom of choice a reality.

WISCONSIN CITIZEN SPEAKS OUT ON SOCIAL SECURITY

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. KASTEN. Mr. Speaker, I would like to share with my colleagues a letter written by one of my constituents to the Waukesha Freeman, a daily Wisconsin newspaper.

Mr. Ray Wendland, a resident of Waukesha, explains the injustice of a proposal before Congress to withhold full social security benefits until people reach age 68, instead of 65.

He also argues effectively against an existing injustice to senior citizens that, as he notes, has lasted too long already—the social security outside earnings limitation.

Mr. Speaker, we have a commitment to millions of Americans who have contributed to social security all of their working lives, believing they would receive benefits at age 65. While we must keep that commitment—we must also remove the limitation on how much senior citizens can earn and still keep their benefits.

As Mr. Wendland says:

We must fight for the right to receive a full Social Security pension when it is earned and due . . . and any additional earnings should be the the full credit of the worker.

The letter follows:

NEW ECONOMICS: WITHHOLD SS UNTIL 68

To the Freeman:

From Washington, D.C., that amazing wonderland inhabited by controllers, directors, regulators, enforcers and investigators, has come a clever scheme from Juanita Kreps, the Countess of Commerce.

It seems Juanita had been reflecting on paying pensions of $200 to $400 per month to Social Security persons, 65 or older.

So, guess what? The Countess proposes that the Social Security pensioners should have to wait a little longer to get their pensions. She said, "If we were to extend work life to 68, and not start SS benefits until 68, you would reduce enormously the Social Security burden."

Now, Juanita could have gone further. She could have proposed that work life should extend to age 70, 75, or beyond, thus saving Washington a greater bundle of money for more essential purposes, like Congressional pay raises, foreign aid, and bigger bombers. It is to her credit and to her dear generous soul that she stopped at 68 years. (Too bad some people can't work anymore even at 65, and of course they'll be very hungry and cold by 68—if they last that long. But that's life, you know.)

We should fight for the right to receive a full Social Security pension when it is earned and due. This means no deductions for earnings that a person receives if he works after age 65. A pension once earned should be received in full, and any additional earnings should be to the full credit of the worker. I.R.S., needless to say, will impose taxes depending on the size of the extra earnings.

A successful business or banking executive retires at 65, and he receives three incomes ("unearned" according to I.R.S. rules):

His company pension of $10,000 to $100,000 per year,

Dividend income from corporation stocks acquired during his active years, in amounts ranging from $10,000 to $500,000 per year,

His Social Security pension, probably $440 per month.

The latter is drawn in full. Reason: He does no outside work because he needs no additional income, and managing his investments, and profits, if any, does not interfere with his Social Security income.

Persons retiring from the Armed Forces after 20 or more years of duty. (Many will be less than 45 years old!) They take another job, as able-bodied men under 60 should. Their extra earnings do not affect their military pensions which are drawn in full.

The injustice of penalizing an old man or woman for working beyond retirement age by reducing his or her benefits has lasted too long already. The time to stop is now.

Congress and the President must get this message loud and clear. But we cannot expect from them the sympathy of a common cause; they are safe and secure in their own lush pensions, which, of course, are free of penalties on extra earnings! It is clear that we citizens have a lot of persuading to do.
—Ray Wendland, Waukesha

THOSE FANTASTIC PHILLIES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. EILBERG. Mr. Speaker, as a native Philadelphian who has had the honor of being part of the city's congressional delegation for 11 years, it gives me great pleasure to express to my colleagues the pride that my constituents and I feel on the victory yesterday which gave the Philadelphia Phillies their second consecutive title in the National Baseball League's Eastern Division.

This year, the Phillies have thrilled more than 2.5 million fans in Veterans Stadium. On several occasions I have had the opportunity to be part of the crowd, and have witnessed the exciting brand of baseball which has brought this team to victory.

With all due respect to my colleagues from California, I would like to take this opportunity to offer my best wishes to manager Danny Ozark and his players as they prepare to face the Los Angeles Dodgers in the playoffs for the world's series. I hope they will be successful and that we will see, for the first time since 1950, a world's series in Philadelphia.

Mr. Speaker, I believe the pride that Philadelphians feel in the Phillies is illustrated by the following editorial in the Philadelphia Inquirer of September 28, 1977:

THOSE FANTASTIC PHILLIES, AGAIN

In their first 93 seasons — 1883 through 1975—the Philadelphia Phillies finished first only twice, in 1915 and 1950. Now they have captured first place twice again in two consecutive years, 1976 and 1977. It is getting to be a delightful habit.

While toasting the '77 Phillies for winning another National League East division title we include words of praise for Pennsylvania's other major league baseball team, the Pittsburgh Pirates, who made a valiant run against the Phillies. The tenacity of the Bucs, hanging in there with win after win, forced the race into the final week of the season before the Phillies could clinch.

Chicago, as it turned out, was an appropriate place for the Phillies to finally nail it down and break out the champagne. It was those resilient Cubs in the Windy City, let us remember, who held first place most of the season until the Phillies overtook them.

The Phillies, off to a moderately slow start, moved into high gear as spring turned to summer and were magnificent in the stretch. It was a team effort, including superb support from the bench and the bullpen. Singling out individuals for special praise on such a team is difficult, but surely Greg Luzinski and Steve Carlton rate honorable mention of the highest order.

Bake McBride, acquired from St. Louis in an early season trade, gave the Phillies a big lift. So did newcomers Dave Johnson, Ted Sizemore and Richie Hebner. And, it was another sterling season for old hands Mike Schmidt, Garry Maddox, Larry Bowa, Bob Boone, Tim McCarver, Larry Christensen and Jim Lonborg. Tug McGraw, Gene Garber and Ron Reed led a super relief corps.

Then there's Danny Ozark—manager of the year in 1976 who guided the Phillies through another outstanding season with skillful use of an abundance of talent.

Phillies fans were great too—setting another home attendance record on top of last year's record.

Next: Bring on the Dodgers and then the American League champs.

RAND CORP. REPORT ON THE ALL-VOLUNTEER FORCE: A SUMMARY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. STEIGER. Mr. Speaker, Dr. Richard V. L. Cooper has just published his report for the Rand Corp. on "Military Manpower and the All-Volunteer Force."

Dr. Cooper is widely respected for his expertise in military manpower policy. He is a senior analyst for Rand, a California-based nonprofit research firm.

Rick Cooper's conclusion, after 4 years of studying the All-Volunteer Force

(AVF) is that it "has worked." He found it is representative economically and geographically, and the quality of new recruits has actually increased since the end of the draft.

Criticisms of the cost of the AVF are totally unfounded, Dr. Cooper said. The AVF has added less than $300 million to the cost of defense manpower, about two-tenths of 1 percent of the defense budget. Factors leading to the growth in manpower costs can in fact be traced to events that began nearly three decades ago, he said.

Rick Cooper found that removal of the draft has been beneficial in causing the Pentagon to look for cost-effective solutions to manpower problems. He found that nearly three decades of post-war conscription encouraged the military to develop and maintain patterns of manpower use and management that may be neither cost-effective nor equitable, and, as a result, may add needless constraints and costs to the manpower system.

There is a wealth of information in this superb study. So that all who read the RECORD can have the benefit of his insights and analyses, I am placing into the RECORD his well-stated summary. It deserves the closest, most thoughtful attention. The summary follows:

SUMMARY

The advent of the All-Volunteer Force (VF) in 1973 marked the beginning of a new era for the United States military and, indeed, for American society in general. Without the pressure of the draft, the Armed Forces would be forced to rely on true volunteers as their sole source of military manpower for the first time in more than three decades.[1]

Although the AVF has been viewed since its inception almost entirely in terms of its ability to attract the desired numbers and types of recruits, the implications of the volunteer force are clearly much larger, touching on virtually all aspects of the defense effort. Moreover, and whether intended or not, the draft and its removal were and are an integral part of U.S. economic and social policy, with effects going far beyond the narrower confines of defense.

THE DECISION TO END THE DRAFT

Although the demise of the draft has generally been credited to the Vietnam War, the AVF was actually the result of far more fundamental concerns. The concept of the volunteer force emerged in the late 1960s as one of the very few alternatives for dealing with the growing inequities of the Selective Service draft. The number of young men reaching military age each year was increasing, while force sizes were remaining constant (or were decreasing), which means that a smaller proportion would have to serve in the military. Since the pay for junior military personnel was substantially below that of comparably aged and educated civilian workers, those who were not forced to serve—about 80 percent of the military-age male population—benefited substantially, while the other 20 percent carried the full burden

The issue of draft versus volunteer manpower procurement policies was debated extensively during this period, and several advisory groups were commissioned to consider the problem. The debate culminated in 1970 with the report of one of these groups, the President's Commission on an All-Volunteer Armed Force (named the Gates Commission, after its chairman, former Secretary of Defense Thomas S. Gates, Jr.). The Gates Commission argued persuasively that those forced to serve should not have to pay a large financial price in addition to the other burdens of involuntary servitude, and it recommended that first-term military pay be raised to a level commensurate with earnings of comparably aged and educated civilian workers (i.e., 18 to 21 year old male high-school graduates). The Congress concurred with this recommendation and raised first-term pay in 1971. Interestingly, this pay raise meant that the Services would be able to attract enough volunteers so that a draft would no longer be necessary. In other words, achieving an all-volunteer military would not require any extraordinary measures; it basically meant the payment of a "market wage" to new recruits.

The substantive debate having taken place two years earlier, the end of the draft came rather quietly in 1973. Because of the rapid force reductions following the disengagement from Southeast Asia, Secretary of Defense Melvin Laird announced the end of draft calls in January 1973, six months before the expiration of draft authority.

EARLY AVF EXPERIENCE

Perhaps the most important conclusion to emerge from the first four and a half years of experience without the draft (i.e., since January 1973) is that the volunteer force has worked. It has been shown that the military services can attract a socially representative mix of the desired quantity and quality of new recruits without the pressure of the draft and at a cost substantially lower than commonly assumed. Moreover, the success of the volunteer force is not due to high unemployment rates, although unemployment certainly aided the recruiting effort, but rather can be attributed to the fact that military service is apparently seen as an attractive employment option by a broad cross-section of American youth.

With the exception of modest Army and Marine Corps recruiting shortfalls during the first year of the AVF, and again during the summer of 1976, the Services have successfully met their quantitative recruiting objectives since the removal of the draft. Moreover, these recruiting shortfalls can be shown to be largely the result of shortages of recruiters in the field, unnecessarily restrictive quality standards, and unusually large enlisted accession requirements. These difficulties thus do not seem to be indicative of longer-run recruiting problems, but they do show that recruiting problems can occur if the force is not properly managed.

The key AVF issue is therefore not manpower supply; it is enlisted accession requirements. Service policies such as limiting the flow of manpower into the career force (which is due in part to Congressional limitations on the numbers of personnel in the senior pay grades) have resulted in enlisted accession requirements that are actually higher under the volunteer force than they were under the draft, relative to force sizes—just the reverse of what would be expected. The long-run success of the volunteer force therefore depends upon reducing enlisted accession requirements—and, hence, reducing personnel turnover rates. This, in turn, is the means to more cost-effective management of enlisted manpower.

The quality of new recruits, as measured by such indicators as mental aptitude and educational attainment, has actually increased since the removal of the draft, and substantially so since about 1975. The real quality issues therefore concern whether the Services' current quality-maximizing philosophy yields standards that are too restrictive (rather than too lenient) and whether the right balance is being maintained among individual quality criteria such as mental aptitude and educational attainment. Specifically, the evidence suggests that current quality standards are too strict, that the Services should accept more Category IV high-school graduates (i.e., those who score in the 10th to 30th percentile on Service-administered mental aptitude tests), and that some of the medical standards should probably be relaxed.

The question of social representation has frequently been raised by those who are opposed to the concept of a volunteer force, as black participation in the Armed Forces has increased significantly during the past 15 years. However, this increase is largely unrelated to the volunteer force; it is instead due mainly to the increasing numbers of blacks found eligible for military service and to the unusually high unemployment rates experienced by black males of military age (relative to whites). Although blacks continue to score lower than whites on mental aptitude screening tests, the proportion of blacks failing to qualify for military service has decreased significantly over the past 20 years. Because of this, the black proportion of the prime manpower pool—that is, military-age males of average and above-average mental aptitude—has increased from a little under 3 percent in 1960 to more than 7 percent in the mid-1970s, a more than two-fold increase.

Moreover, the increasing proportion of blacks in the force does not indicate that the AVF has resulted in an Army of the poor; there are as many new recruits from middle- and high-income areas under the volunteer force as there were during the lottery draft, which was presumably the most socially representative period of peacetime conscription. Also, the regional composition and the urban/rural makeup of the volunteer force are remarkably similar to what they were under the draft. In other words, the military continues to draw a socially representative sample of American youth.

Another major issue raised by critics of the AVF is that of costs. Indeed, it is easy to see why manpower costs in general and the presumed cost of the volunteer force have become so important. Manpower costs have increased from about $25 billion in 1964 to the more than $60 billion projected for 1978. However, the attribution of these increased costs to the volunteer force is plainly incorrect. The factors leading to the considerable growth in manpower costs can in fact be traced to events that began nearly three decades ago. For example, whereas the military career has historically consisted of 30 years of service, the immediate post-World War II period saw the widespread implementation and use of the 20-year military career—a policy that would come to have a dramatic effect on defense manpower costs about 25 years later.

Similarly, the 1960s marked the implementation of comparability pay for civilian employees of the DoD, the beginning of annual pay increases for military personnel, the so-called "catch up" pay increase for career military personnel, and the "one-percent kicker" for adjusting Federal military and civilian retired pay.

In short, the only increases in manpower costs that can be even remotely related to the volunteer force are the large pay increase for first-term personnel implemented in 1971 and the increased recruiting and bonus costs for these individuals. And even the pay increase cannot properly be viewed as an AVF cost, since the Gates Commission argued vigorously that pay discrimination against junior military personnel ought to be eliminated for equity reasons alone, irrespective of the decision to end the draft.

The end result is that the volunteer force has added less than $300 million to the cost of defense manpower—about two-tenths of one percent of the defense budget. The reason why the proportion of manpower cost

[1] With the exception of a short 18-month hiatus following World War II, the U.S. military was not without the authority to conscript young men between 1940 and 1972.

growth that can be attributed to the AVF is so small is that the draft provides very little leverage over total manpower costs. That is, whereas the basic effect of the draft is to reduce budget outlays for those in their first two years of service, the total cost of these personnel amounts to only about $6 billion—just a little over 10 percent of the total defense manpower outlay.

For the most part, then, the story of the volunteer force has been one of success. To be sure, there have been problems, such as the first-year recruiting shortfalls experienced by the Army and the Marine Corps, but these have been laregly problems with the way the transition was managed, not with the fundamental concept or policy. Other problems remain, such as those of reserve forces manning and first-term enlisted attrition. However, these problems probably have more to do with finding the right management and/or force structure solutions than with the implementation of the volunteer force per se.

For example, although the reserves have historically been structured as a "mirror image" of the active forces, common sense would seem to argue for alternative solutions, such as a more experienced force (where capability is maintained but not developed). These problems with the reserves should not, of course, be oversimplified. Nevertheless, the fundamental problem is that the reserve forces are showing the effects of more than 25 years of neglect. As a result, far closer attention must be paid to determining the appropriate manning configurations and personnel policies for maintaining an effective reserve force, instead of viewing the problem as a simple one of draft versus volunteer procurement policies.

MANPOWER MANAGEMENT AND UTILIZATION IN A VOLUNTEER ENVIRONMENT

Although conscription has not been used for more than four and a half years, to assume that the draft is entirely history would fail to recognize the imprint that it has left throughout the defense establishment, especially on the way the military manages and uses its personnel. Dealing effectively with this legacy will be one of the most formidable obstacles that the Department of Defense and the Congress must face during the next decade.

In a managerial sense, the elimination of the draft was a major shock. The immediate effect of ending the draft was to substantially increase the budget cost and scarcity of new recruits. The full impact, though, is clearly much larger. In a draft environment, the military could afford to be dominated by policies and traditions that ran counter to the general thrust of change in the civilian world—the draft insured an adequate supply of manpower, almost no matter what personnel policies the Services followed. In a volunteer environment, however, the Armed Forces must be responsive to the conditions of change in the civilian world.

The removal of the draft has thus altered the entire philosophy under which the military must manage its human resources. The nearly three decades of post-war conscription encouraged the military to develop and maintain patterns of manpower utilization and management that may be neither cost-effective nor equitable and, as a result, may add needless constraints and costs to the manpower system. But manpower, which was once plentiful and seemingly cheap, is now scarce and expensive. Policies adopted for reasons of convenience and equity must therefore be evaluated in terms of efficiency as well. In short, manpower is important, so cost-effective solutions to the management problem must be developed and implemented.

The possible efficiency gains that could result from new policies of manpower management and utilization—and the corresponding cost savings—have so far gone largely unrealized. These improvements will require greater understanding of the AVF, since the AVF provides the context for improved management; but more important, it is essential to address the major areas in need of reform: manpower requirements; compensation, retirement, and tenure policy; and military training.

To illustrate, the cost of manpower has risen substantially relative to the cost of capital equipment—about 40 percent—during the past decade, yet there has been little or no change in the mix of manpower and equipment used in the defense mission. Consideration should therefore be given to finding ways of substituting equipment for manpower, especially in the support areas.

Similarly, the costs of military personnel have risen substantially relative to the cost of DoD civilian employees since the removal of the draft. The DoD has in fact responded to much of this increase, but primarily by substituting direct-hire civilian employees for military personnel. Alternatively—and this is an issue that is only beginning to receive much attention—analysis indicates that cost savings of up to $1 billion per year might be realized by contracting out for 250,000 direct-hire and in direct-hire civilian positions. Thus, the cost-effective solution may lie not in substituting direct hires for military personnel, but in substituting contract hires for direct hires.

Perhaps the most important, but least recognized, type of resource-allocation issue raised by the removal of the draft, however, concerns the experience mix of the force. Because of first-term pay increases and recruiting costs, the costs of first-term personnel have increased dramatically relative to the costs of career personnel. Yet the Services continue to rely on approximately the same mix of first-term and career personnel as they did during the pre-Vietnam draft era. The substitution of experienced personnel for first-termers would not only help to reduce enlisted accession requirements, it could result in substantial cost savings as well. Shifting from the current mix of 60 percent first-termers and 40 percent careerists to a 55/45 mix or a 50/50 mix could lead to better utilization of junior members by having them serve in jobs for which they are better suited and, as a consequence, could yield cost savings of up to $1 to $2 billion per year.

These are only three examples of the ways in which resources can be allocated within a given force structure to achieve cost savings or increases in capability. But they illustrate how manpower requirements ought to be a function of the cost of particular inputs to the defense mission.

Equally important with these questions of resource allocation are those concerning the ways the DoD manages its uniformed personnel. Individual military training, with costs amounting to more than $6 billion per year, is clearly one of the key policy problems and is recognized as such. However, attention in this area has focused almost exclusively on improving the efficiency of the training establishment in the narrow sense—that is, on designing better courses, reducing the student/staff ratio, and so forth. Equally important is the impact of today's manpower requirements system on the magnitude of first-term enlisted training, the single largest component of the training establishment.

First-term enlisted training costs are determined largely by the numbers of personnel receiving training and by course length. Shifting to a somewhat more career-intensive force could dramatically reduce the number of personnel who receive basic and skill training and could also lead to shorter courses. Thus, what at first appears to be a training problem is in reality a requirements problem.

With respect to promotion and tenure, the personnel policies developed over the last 30 years reflect a management orientation frequently geared more toward structuring an internally coherent personnel system than toward achieving the desired force structure in terms of requirements. They are based largely on the provision of predictable career patterns followed by early retirement.

Fundamental changes in the system should be considered, but there is a persistent tendency to focus on symptoms rather than causes. For instance, the up-or-out promotion system helps to prevent the military from encountering many of the problems associated with the Civil Service system, yet it is continually questioned. The problem with up-or-out is not the basic concept, but rather the ways in which it has come to be applied over the years. A recent survey shows that nearly 50 percent of all enlisted personnel would prefer to remain technical specialists rather than assume supervisory responsibilities, but the promotion system forces them either into supervisory positions or out of the military altogether. A personnel management system that would allow senior service members to be promoted into either technical or supervisory positions would enable the integrity of the up-or-out system to be maintained while simultaneously meeting mission requirements.

The military compensation system is likewise in need of a major overhaul. It was developed for the needs of a basically different environment, and although marginal adjustments have been made in the system to solve specific problems over the years (e.g., the introduction of bonuses and flight pay), there has been no systematic or thorough revamping of the system. The result is that the current system is a patchwork of separate legislative and regulatory changes that may be ill-equipped to deal with the needs of the post-draft environment.

The current system was originally intended to keep Federal pay (both military and civilian) competitive with wages in the civilian sector, but it has evolved to the point where far more than necessary is paid. Summing all the components of the compensation package reveals that military officers, for example, earn about 70 percent more, and enlisted personnel about 30 percent more, than comparably aged and educated civilian workers. This did not happen by design, but by accident.

Military retirement is part of the compensation system that is particularly in need of thorough review. Retirement costs are among the largest and fastest growing components of manpower spending, having increased from $477 million in 1956 to the more than $9 billion projected for 1978. The present retirement system is also based in many ways on conditions that no longer prevail, such as having a small standing military, a heavy concentration in the combat arms, and limited pay. Originally, retirement compensation was intended more as a form of deferred payment than as old-age sustenance. Now that military pay equals or exceeds civilian pay, the retirement system should be reexamined in terms of its basic purposes.

The reason for today's enormous retirement costs can be seen in the fact that the actuarial cost of the current system adds between 40 and 55 percent to the military pay (regular military compensation) of those who retire; in contrast, the contribution for standard private retirement programs is between 5 and 20 percent of salaries and wages. Yet the Services have little incentive under current policy to economize on retirement costs, both because the costs do not appear in the Services' own budgets and because they appear in the DoD budget when paid rather than when incurred. Equally important, the current policy of retirement vesting after 20 years of service but not before means that there is very little turnover between the

8th and 20th years, but there are large losses at the 20-year point. Consequently, the DoD has little flexibility in adjusting career personnel to meet requirements. At the same time, strong financial incentives for early retirement mean that many outstanding officers and enlisted personnel are lost to the Services just as they are entering their most productive years.

CONCLUSIONS

The removal of the draft presents an opportunity to make better use of defense resources—an opportunity that was not always present under or encouraged by the draft. The importance of this point is dramatically underlined by the fact that the relatively modest changes that have been suggested here could yield long-run cost savings of from $5 to $10 billion per year.

To summarize, the AVF can be made to fail. But it can also be made to work—and perhaps much better than its draft-dependent predecessor. Whether or not the potential of the AVF is realized will depend critically on the policies that the DoD and the Congress adopt during the next ten years, for the true test will occur in the 1980s. If this potential is not realized, society may not be willing to pay the escalating costs emanating from the current approach and, as a consequence, may simply cut forces.

H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MOSS. Mr. Speaker, the House of Representatives will soon vote on H.R. 3816, the Federal Trade Commission amendments. This measure corrects some of the problems remaining after we passed the Magnuson-Moss Act in 1974. I strongly support H.R. 3816, because I believe that a tough and efficient FTC can do a tremendous amount to protect American consumers.

One of the reforms brought about by the Magnuson-Moss Act was that the FTC was specifically granted authority to promulgate trade regulation rules which would govern an entire industry. This reform was sought largely by the business community, because many companies felt that the traditional cease and desist order, which runs against a single corporation, put that company at a competitive disadvantage. Industrywide trade rules would allow all firms in a market to compete under the same basic ground rules.

Since the passage of the Magnuson-Moss Act, the FTC has commenced work on a number of trade regulation rules. These rules are designed to fulfill the statutory mandate of the Commission to prevent persons, partnerships, and corporations from using unfair or deceptive acts or practices in or affecting commerce. Some examples of types of rules which the FTC is considering are:

Used car rule—Through an investigation, the Commission found that many used cars were sold with mechanical defects which were not disclosed to the customer. The investigation found that many dealers reconditioned the appearance of the car to make the customer think that the engine was in similarly good shape. Dealers were also found to refuse to describe the previous use of the car from customers and to make oral representations about warranties which were useless, because the car was sold with a written disclaimer of warranty. The rule seeks to prevent used car dealers from fraudulently misleading consumers in these ways.

Estimating the savings to consumers from such a rule is, of course, very inexact. However, such an estimate can be made by looking at the Wisconsin experience. For the past 2 years, Wisconsin has had a narrower rule, one just requiring the disclosure of the mechanical condition of the used car at the time of sale. The neighboring State of Minnesota has no similar regulation. A study of the regulation's effect on the purchase price of used cars and on the cost of repairs in the first year after the purchase yields these results:

	Wisconsin	Minnesota
Purchase price of used car (using a $1,000 vehicle as the basis)	$977.50	$1,008.26
Repairs needed during 1st yr	10.04	96.69
Total	987.54	1,104.95

Hence, the Wisconsin regulation saves a used car purchaser $117.41 on a $1,000 car. Assuming that this difference holds for the Nation, the total annual savings to consumers (using the 1973 figures of 12.5 million used cars sold by dealers at an average price of $1,288 less trade-in) would be $1.89 billion. This figure is likely to be low, because the Wisconsin rule is narrower than the FTC rule, because both the number and price of used cars sold has surely increased since 1973 and because the value of the trade-in is not included.

The savings to consumers is startling. The Wisconsin rule is enforced by a 12-person unit in the department of motor vehicles. For the FTC to enforce its rule by itself, an additional 700 employees would be needed, or a 40-percent increase in the size of the FTC. Far more efficient would be to allow individual consumers who are cheated by the violation of this rule to sue on their own behalf to enforce the rule. In this way, the size of the Federal payroll does not have to be increased while, at the same time, the rule can reach its full potential of saving consumers money.

Hearing aid rule—An FTC hearing examiner, after receiving the testimony of over 200 witnesses during 58 days of public hearings, concluded that the sale of hearing aids was rife with consumer fraud. He noted that the hearing aid industry preys on the vulnerability of individuals losing their hearing for the first time by using supposedly "expert" sales personnel, who in actuality have no qualifications to administer or analyze hearing tests. The FTC also found that sales persons routinely overstate the benefits of amplification. All this was found to result in the "dresser drawer syndrome," where purchasers simply stop wearing their hearing aids after finding that they receive no benefit from it. A 1962 Public Health Service study found that 36.6 percent of persons who had bought a hearing aid had stopped using it. The proposed rule would mandate the right to cancel for a limited period of time, require certain disclosures about the hearing aid, and prohibit certain false representations about both the qualifications of the sales person and the capabilities of the hearing aid.

Again, it is difficult to estimate the exact savings that will flow to consumers as a result of this rule. The hearing aid industry reports an annual production of 600,000 units at an average cost of $350. A witness from the hearing aid industry conference estimated that 4.5 percent of all units are returned. While this figure is likely to be very low—because it is industry supplied, because many hearing aid sellers do not give refunds for returns, and because those sellers who do make refunds tend to be those who give comprehensive audiological examinations prior to purchase—such a return rate suggests a total savings to consumers of around $9.5 million per year. This savings would go disproportionately to elderly citizens on fixed or limited incomes.

Funeral industry rule—The FTC found that the funeral industry takes advantage of the particularly vulnerable class of consumers, the bereaved. Practices found to be prevalent include obtaining custody of and embalming corpses without the family's permission, requiring the use of a casket for immediate cremation, profiting on cash advances, and concealing the availability of less expensive caskets. It has proposed a rule to ban certain exploitative practices and misrepresentations as well as require disclosure of service options, merchandise availability, and prices.

The savings from a rule prohibiting each of these practices has been estimated based on 1976 figures of 1,592,000 deaths, 1,560,160 embalmings, 79,800 cremations, and 1,464,640 ground burials. For example, an estimated 78,000 people were embalmed without permission at an average cost of $125 for the embalming and $1,000 for other goods and services purchased as part of the embalming. If the figure of 5 percent is used for those who would be cremated if they had the choice (this is the figure for the general population), the total cost to consumers is $87.8 million. Many experts, however, estimate that 30 percent of the deceased would choose cremation if the options were fully disclosed. If this figure is used, instead, the total savings to consumers would be $526.6 million. Assuming that only 5 percent of consumers will comparison shop for a less expensive casket, the total savings to consumers from casket price lists would be $63.7 million. Requiring caskets for immediate cremations cost consumers $8 million in 1976. Although it is impossible to estimate the total consumer savings from the funeral industry rule, it is clear that many hundreds of millions of dollars are involved.

These savings can be fully realized only if the rules are widely complied with. When the economic incentives for noncompliance are as high as they are in trade regulation, compliance can best be increased by strict enforcement. The FTC lacks the resources to serve as the lone

policeman of the marketplace. This problem is ameliorated by section 7 of H.R. 3816 which establishes a private right of action for consumers to enforce FTC rules when they have been injured. Class action mechanisms are provided to facilitate efficient enforcement. Without the possibility of a class action, firms could systematically violate the FTC rules so long as the amount of money which they cheat any one consumer out of is less than the cost of a lawsuit. Section 7, by providing private consumer actions and class action procedures, assures that systematic violations of FTC rules will be very expensive for any company.

H.R. 3816 seems to me to be an essential element of the strong FTC which Congress reaffirmed with the Magnuson-Moss Act. I urge my colleagues to support the Commerce Committee's bill.

ABORTION

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. STUMP. Mr. Speaker, as we again consider the language concerning abortion in the Labor-HEW appropriations bill, I would like to share the following excerpts from an article appearing in These Times, published by the Southern Publishing Association of the Seventh Day Adventists:

ABORTION

Many issues face modern man in the late 1970's that previous generations never even anticipated. Abortion is one of these issues, and merely to ignore it won't cause it to go away. In order to be able to discuss this issue meaningfully, many of the confused notions that are accepted practically as legal tender in our society today must be clarified. Among these are the following:

1. The 1973 Supreme Court decision has solved the moral issue of abortion. Shortly after that famous decision a radio announcer began his broadcast by saying, "Now that the Supreme Court has solved the moral issue of abortion, what will be the next big moral issue?" Obviously he was confusing a legal solution with a moral one. There are many things that are legal which ministers refuse to do because of moral principles. In many places prostitution and gambling are legalized, but such laws do not soften the Christian opposition to these acts. It is legal to kill in war, but Christians sometimes ask to be excused from bearing arms.

The state must make laws on pragmatic grounds, often as a compromise between an ideal and the stark realities of life in a society which is not governed by moral ideals. The distinction between legal and moral becomes greater and greater as countries that once claimed to be Christian surrender their religious inheritance. We cannot accept a court decision as a moral absolute.

2. A woman should be free to do what she wants with her own body. This seems to clinch the decision for many people. A woman should have the right to control the use of her body as she wishes. She should not be forced to have sexual intercourse with people who are repugnant to her. That is why rape is such a heinous crime. A woman should not be forced to conceive merely to gratify a husband's virile ego, as is the case in many parts of the world. A woman's body should not be an object that can be handled, mutilated, purchased, or used as if it were a possession of someone who is stronger than she. This point will be readily granted by Christians, but the real issue with abortion is whether the fetus is the woman's body or not.

If it can be proved that the fetus is merely a bit of the woman's flesh, the problem can be solved rather readily. But it is very difficult to admit that a fetus is "the woman's body" in the same way that we say the head or the arms are "the woman's body." The fetus is implanted in a woman's uterus, but it has its own genes, its own DNA; it cannot remain a part of its mother's body. In fact, to survive in the uterus the fetus has to induce important physiological changes without which it would be rejected as a foreign body.

3. Abortion should be granted on demand in order to be fair to the poor. This argument is used extensively. It is well known that where abortion is illegal rich women can have abortions under safe conditions while women with low economic resources must face butcherlike, unsafe procedures. Where abortion is a crime, there is no recourse for the patient who has not received proper care. Thus, for the sake of economic justice at least, many will argue abortion should remain legalized. We are obviously talking of legal considerations here rather than moral principles.

Besides, there is an amount of sophistry in playing up so much the plight of poor people when calling for abortion on demand, for abortion statistics show that abortion clinics do much of their business with well-to-do or middle-class women.

Actually liberalization of abortion has done little to cut down the number of births among the poor. Ignorance must be taken into consideration, of course, but we must also recognize that family bonds among the poor are just as significant as among the rich, perhaps even greater. Beyond this, there are, of course, other ways to control the size of the family that are far less questionable.

4. Unwanted children will be unloved children. This argument also touches a responsive chord in Christian hearts. We hear more and more about brutal child abuse in America and feel like supporting anything that might stop or at least lessen that social horror. It is, however, a fallacy to generalize and assert that "unwanted" children will be unloved children. All of us know cases of "unwanted" children who have been dearly loved. I know of a charming minister's wife, mother of five children, who has added much radiance to her husband's ministry. But she was an "unwanted" child if ever there was one. Her mother had been advised not to have any more children and had to stay in bed for the entire time of the pregnancy. On several occasions that mother's life seemed to be in peril, but no baby could have been loved more than the baby girl was when she was born. I know, because she is my own sister.

5. A fetus is a subhuman form of life. Consciously or unconsciously this idea is held by all proponents of abortion on demand. Obviously the fetus cannot live independently from its mother for many months, but does that make it a subhuman being anymore than the person who must rely upon a pacemaker or a kidney machine? Can self-sufficiency become the criterion of human dignity? Besides, fetologists have learned that the fetus is a very remarkable being. A recognized New Zealand fetologist writes:

"Biologically, at no stage can we subscribe to the view that the foetus is a mere appendage of the mother. Genetically, mother and baby are separate individuals from conception. Physiologically, we must accept that the conceptus is, in very large measure, in charge of the pregnancy, in command of his own environment and destiny with a tenacious purpose. . . .

"Most of our studies of foetal behavior have been made later in pregnancy, partly because we lack techniques for investigation earlier and partly because it is only the exigencies of late pregnancy which provide us with opportunities to invade the privacy of the foetus. We know that he moves with a delightful easy grace in his buoyant world, that foetal comfort determines foetal position. He is responsive to pain and touch and cold and sound and light. He drinks his amniotic fluid, more if it is artificially sweetened and less if it is given an unpleasant taste. He gets hiccups and sucks his thumb. He wakes and sleeps. He gets bored with repetitive signals but can be taught to be alerted by a first signal for a second different one. . . .

"This then is the foetus we know and indeed each once was. This is the foetus we look after in modern obstetrics, the same baby we are caring for before and after birth, who before birth can be ill and need diagnosis and treatment just like any other patient. This is also the foetus whose existence and identity must be so callously ignored or energetically denied by advocates of abortion."

The basic issue. Any denial that the fetus is a real life evades the basic issue, which is this: Are there certain circumstances in which a human life should be terminated?

An editorial in the journal of the California Medical Association stated: "The process of eroding the old ethic and substituting the new has already begun. It may be seen most clearly in changing attitudes toward human abortion. In defiance of the long-held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition, or status, abortion is becoming accepted by society as moral, right, and even necessary. It is worth nothing that this shift in public attitude has affected the churches, the laws, and public policy rather than the reverse.

"Since the old ethic has not yet been fully displaced, it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death.

"The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected." The editorial concludes with the prophecy that death selection and death control by the individual or society will inevitably follow.

CALIFORNIA ADOPTS 0.4 NO_x FOR 1982 PASSENGER CARS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ROGERS. Mr. Speaker, we have just been through a summer of the dirtiest air ever recorded in the Washington area.

The Metropolitan Washington Council of Government between May 20 and September 3 announced a record 30 days in which air pollution alerts were in effect, and a record 47 days in which the air quality index reached the very unhealthy mark of 100 or more.

The Washington Star recently carried reports from physicians at area hospitals that the record air pollution was accompanied by an increase in respiratory ailments.

The air was dirty this summer because we faced a combination of sunlight and auto exhaust similar to that which California discovered years ago. Since it is recognized that this is a transportation caused problem, the D.C. area governments are seeking to change transportation patterns—construction of the metro system, opening of priority bus lanes, and institution of commercial parking rates at Federal agencies. These are all desirable steps, but the bottom line is that people are not going to give up the convenience of their cars, and they need not.

California has long recognized that to make any progress against this increase in air pollution and its attendant bad health effects, the pollution must be attacked at its source—the automobile itself.

And so California has now adopted the nitrogen oxide standard of 0.4 grams per mile which Congress wrote into the Clean Air Act of 1970, but which unfortunately was weakened by this year's Clean Air Act amendments. The standard will be applicable to 1982 model year passenger cars. The move is significant, because we have recently empowered other States to adopt California's standards with 2 years' notice.

Mr. Speaker, I insert at this point in the RECORD an article from the September 12, 1977, Automotive News magazine which I believe will be of interest to my colleagues and to any State which is considering the use of its new authority to adopt California's approach.

The article follows:

[From Automotive News, Sept. 12, 1977]

CALIFORNIA ADOPTS 0.4 NO_x FOR 1982 PASSENGER CARS

SACRAMENTO.—California's Air Resources Board has settled a 10-year debate over car manufacturers' most difficult air pollution problem by adopting an oxides of nitrogen standard reducing emissions by 90 percent as required by Clean Air Act amendments of 1970.

The new California standard, according to ARB Chairman Tom Quinn, is more than twice as strict as required by amendments to the act adopted by Congress for application in other states.

"Other states," Quinn said, "are now empowered to adopt the California auto emission standards after providing the car makers two years' advance notice."

The new NO_x standard adopted by the ARB is 0.4 gram per mile. It will apply to 1982-model passenger cars and to some 1983-model light-duty trucks and medium-duty vehicles.

The ARB also has adopted an optional standard of 1.0 GPM for vehicles certified for 100,000 rather than 50,000 miles.

"That standard," Quinn said, "is expected to encourage development of more durable emission control systems while providing approximately the same degree of pollutant control for 100,000 miles as does the 0.4-GPM standard for 50,000-mile cars."

California's current NO_x emission standard of 1.5 GPM will be reduced to 1 gram per mile by 1980. Cars sold in other states now must meet a standard of 2 GPM standard until 1981 after which it will remain indefinitely at 1 GPM.

AIR FORCE CHIEF OF STAFF ADDRESSES AIR FORCE ASSOCIATION CONVENTION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ALEXANDER. Mr. Speaker, it was my privilege last week to attend the annual convention luncheon meeting of the Air Force Association. Addressing the group was Air Force Chief of Staff, Gen. David C. Jones. I think my colleagues will be interested in General Jones' observations on where the Air Force has been in its 35-year history and where it should be going and I commend General Jones' comments to my colleagues:

REMARKS BY GEN. DAVID C. JONES

Mr. Secretary, members of the Air Force Association, ladies and gentlemen.

On of the highlights for the Chief of Staff of the Air Force each year is the annual convention of the Air Force Association. I always welcome this opportunity to get together with many friends and to say thanks to the great supporters of the Air Force and of a strong national posture.

As you know, this year's convention, marking the Air Force's 30th birthday, will be my last as Air Force Chief. I would like to use this opportunity to share with you a few summary observations about how far we have come and some judgments about where we should be going.

As I look back at events over the 30 years of our history, the phenomenon that strikes me most is the tremendous explosion of technology. The progress has been revolutionary and new opportunities are emerging almost daily.

The same year AFA was formed, scientists at the University of Pennsylvania unveiled the first practical digital computer. It contained 19,000 vacuum tubes, sprawled over 15,000 square feet, weighed 30 tons. That same computing power is available today in an integrated circuit the size of a suger cube!

Technological changes have permeated our entire society, and because ours is such a highly technical service, the impact on the Air Force has been continuous and dramatic. Moreover, the rate of technological breakthrough in the days ahead will increase almost exponentially.

One of the key challenges of the future—for the Air Force and for the nation—is to continue to act responsibly and wisely as we soar up the technological curve.

For, when I see man's giant strides in technology in only a few years—from being totally earthbound to walking on the moon—and compare this to the lack of progress man has made in dealing with man, I am struck by the stark contrast. The ideals of human dignity, charity, brotherhood, and justice have been recognized for thousands of years. Yet we are little closer to achieving them on a global scale than when Christ preached the Sermon on the Mount. To this day, man abuses man. There is hostility, false pride, inability to work with each other. This was brought home to me very clearly two weeks ago when I was in Korea. At Panmunjon, I looked at the hostility in the eyes of the North Korean soldiers, then went by the stump of the tree where the two American Army officers were so tragically and brutally murdered just a year ago. The experience caused me to reflect once again that we live in a world with far too many fences and not enough bridges.

Thirty years ago, there were barely 50 nation states on the earth, and now there are more than three times that many. This growth in the family of nations has many good aspects, for it is a consequence of eliminating many of the vestiges of colonialism. But there are many old and some new frictions. Many of these states are not economically viable and face great difficulty in the days ahead. We have finite resources on this beautiful planet. Appetites are growing and the resources are diminishing. A rise in terrorism and the threat of nuclear proliferation pose continuing problems for man in his dealings with man—competition, hostility, continuing tension—even if we did not have differences between the Soviet Union and the United States.

The key consideration for us, and perhaps for this planet, is the relationship between our two countries. There are very fundamental differences—differences that will continue regardless of cooperation and negotiations. We are an open society; they are a closed society. When we try to exercise influence, it is to maintain access, to work on a cooperative basis; their influence is typically used to gain control. We generally want stability in the world so we can encourage international progress and improvements in an evolutionary way. The Soviets often promote instability, except in their own sphere of influence—instability where vacuums could be created allowing them to gain a foothold. Cooperation between our societies has seldom been unequivocal.

So, unfortunately, we must anticipate continuing differences—different ideals, different goals and means, different priorities. It is important that we understand the Soviets, that we not mirror image, and not assume that they think as we do.

In order to prevent this in the Air Force, we formed a group in the Pentagon called CHECKMATE. We have a "Red" team and a "Blue" team. The "Red" team has been told to "think Soviet"—study the history, read everything available in classified and open literature, get inside the Soviet mind. We try to get the Red team thinking from the Soviet perspective, examining what they might do, what options are feasible and appealing. Then the Blue team, faced with this simulated confrontation, reacts to see how we and the West should respond.

I would like to put on the "Red" hat for just a few moments and invite you to imagine yourself in the Kremlin to see how the world might look from that perspective. The view is mixed—some minuses and pluses.

On the one hand, we face some serious problems. Our GNP growth is slowing and there are many who predict that it will be almost stagnant in the 1980s. We face chronic problems in our agriculture—some good crop years but in general a need to use hard currency to import foodstuffs. There is reason to believe we could have an energy problem and move from being a net exporter to net importer of petroleum. We have a vast oil reservoir in Siberia, but it is imprisoned in permafrost and to exploit this resource will demand tremendous capital investment. Tapping that oil and transporting it West of the Urals will be a very difficult and expensive undertaking.

There is some restlessness in our Soviet republics and in our East European nations. We have a lid on it now, but we have long memories: our experiences in Poland, East Germany, Hungary, and Czechoslovakia have taught us that, if we do have problems in the economy or with our agriculture, or if we

relax our vigilance and controls, there are seeds of great dissension ready to sprout overnight.

We look beyond our borders and see the pressure of a billion Chinese at our back door. In the Middle East, we took two steps forward and three back, with scant political return on decades of military investment. In Africa, it is a mixed bag. We see opportunities, involvement, footholds—but with Soviet arms clashing with Soviet arms in Ethiopia and mistrust elsewhere, we face difficulties and uncertainty as to where we will stand in the long run. Overall in our diplomacy, we find some bargain hunters, some hangers on, but few friends.

As we look across the ocean at our principal adversary, the United States, we see a very resilient society. It has bounced back from the body blows dealt by Watergate, Vietnam, and riots in the streets. It has climbed out of the depth of recession and the economy is on the upturn, though at an uncertain pace. After 60 years we are still compelled, in so many ways, to look up to America—and things are looking up in America.

Despite all these minuses, there are some pluses in our Kremlin tally sheet. I won't try to enumerate all, but will touch on some key ones. First, America's dynamic chain of economic and social vitality has some fragile links. One is a self-inflicted dependence on foreign sources of oil—sources not far from my borders. Another is an excessive social and economic intricacy, in which a power failure in her largest city spawned virtually a shutdown of the city and widespread looting. A third is a uniquely American ingenuousness, sometimes bordering on the naive: a tendency to become complacent, to expect the best from others because they wish it so, to be caught off guard and less than ready if attacked. They always respond when the signals are unmistakable or the first blow has been received, but the response often takes a long time. Finally, I see a nation never completely at ease with the power—especially the military might—it has so patiently built.

Meanwhile, the biggest plus that I see from the Kremlin is my own military capability. For the first time in our history, there is no serious threat of invasion of Mother Russia. We have now matched the United States in the strategic field. (Even the Americans admit this, and there are some who say we have surpassed the Americans in this all-important area of strategic power.) We have the largest ICBM force in the world—the most megatonnage, the most destructive capability. We have the largest army in the world, well equipped, mobile, and heavily armored. We have a new navy—not long ago a coastal force and now a true blue water fleet—modern, well equipped, with range almost worldwide. And we have a new air force. Formerly, our aircraft were limited by very short range, small payload and not much sophistication in their avionics. All that has changed and our equipment is modern and highly capable. In sum, we're strong at home and in our neighborhood, but we have also achieved a substantial and growing capability to project that strength to many parts of the world.

Despite the great production capacity in the United States, we in the Soviet Union outproduce our opponent in military hardware in almost every respect. And during a crisis or buildup, we could continue to outproduce them in hardware for many months and in some cases for years.

From the Kremlin, I see a mixture—constraints and options and opportunities. And I may hear voices—voices on the one hand saying, "We face problems in our economy, in tapping the oil in Siberia, many challenges, a need for Western capital and technology. It would be best if we cut back on our investment in military hardware and expanded cooperation with the West—that course would provide the greatest opportunity for the Soviet Union in the days ahead."

On the other hand, I may hear other voices, likely to be louder, saying, "That is not the path. It is only our military power that gives us influence abroad. We are not a superpower from an economic standpoint; we are not a superpower from a technological standpoint. Our political influence in the world stems from our military capability, and our opportunities may come externally. There will be vacuums and confusion in the world—there will be opportunities, and we must continue to expand this military might."

Which voices will prevail is hard to predict, but as we step out of the Kremlin, we have to ask ourselves what all this means in terms of U.S. security interests.

The mix of technological power and unpredictable mankind puts a premium on military vision and readiness. Today we have an uneasy balance of forces. Tomorrow's challenges will be greater.

We need vision not only in the sense of military hardware and skills, but also in the impact our initiatives have on the broader dynamics of international relations. We must follow the avenues of stability in SALT and other arms negotiations. We must always keep an eye cocked to margins, to restraint, to weapons and programs that stabilize the chemistry of strategic deterrence.

It is essential for the future of our country that we continue to pursue negotiation rather than confrontation, with strategic negotiations as a first priority.

But in these negotiations, we must assure that the equal sign in the deterrent equation does not become blurred. I am in wholehearted agreement with the position of the current administration—reiterated by Secretary Brown last week—that essential equivalence is the policy of this nation—that we will maintain a strategic balance with the Soviet Union. We should support negotiations and reductions on both sides, with an eye to sustained parity. This presents a special challenge to us in the United States Air Force, for we are the keepers of the majority of the nation's strategic weapons and the country looks to us for innovative strategic concepts and well-managed strategic programs.

We were naturally disappointed with the decision on the B-1. However, no single weapon system spells the difference between success or failure of strategic deterrence. The key is in the aggregate TRIAD capability and we are working on alternatives to the B-1—cruise missiles as well as other initiatives—to keep the TRIAD modern and impregnable.

We believe it is important that this country continue to have a manned penetrating aircraft. The B-52 can continue in this role for many years, and we advocate an option for an FB-111H—a much improved version of the current FB-111 using B-1 engines and other B-1 technology features.

We are not faced with "all or nothing" issues in our programs. We have a menu of options for the years ahead. I am confident that national wisdom will maintain a rough strategic balance and an overall military balance. To that end, the Secretary of Defense has said that, "we plan to raise the level of U.S. defense spending by approximately three percent a year in real terms."

We need vision, and in the face of technology's indifferent power we also need readiness—for today's forces and tomorrow's. If someone years from now writes a history of the Air Force, I hope when he comes to my name he'll say, "He helped to make readiness our watchword."

What we have lost in military matters in this generation is time. Time has been our solvent, our teacher and our friend in all the wars of our history. It's no longer there and, in its place, we must substitute a readiness composed of several ingredients.

First, contemporary readiness requires modern weapons—new systems like the F-15, new kinds of systems like the AWACS. It also takes parts and supplies on hand, a taut posture, realistic training—the kind we have at Red Flag, where our crews go to mock war day after day against the kind of forces and tactics they are most likely to face.

We must be able to respond any place in the world quickly, in some places with stationed forces, in others with autonomous mobility.

However, we must recognize that, except in the realm of strategic warfare, we do not have a go-it-alone capability for major conflict. This applies particularly in Europe, but the point is valid for most other areas in the world where our national interests are at risk.

Therefore, readiness requires coalition—a concept we have not always emphasized in our thinking and planning. We could have done better in Southeast Asia, for example, as we shaped a coalition fighting force. We left the South Vietnamese excessively dependent upon our "calling the shots" and did not do enough to develop their own capability and confidence. We have a chance now to do it right in Korea—to share our arms and training in a way that will assure a strong and confident deterrent and defense.

We have to think hard in this area—about interoperability, rationalization, standardization. It has to take on renewed meaning and be translated into real initiatives. There is great emphasis here in the Pentagon. Ambassador Bob Komer, Advisor to the Secretary and Deputy Secretary of Defense for NATO Affairs, with Assistant Secretary of Defense rank, has been charged to zero in on the NATO issues. He is working with the Services to ensure that all our programs take into account the need to cooperate with our NATO allies across the whole spectrum of R&D, procurement, and employment. The Department of Defense and the Services are seeking new ideas, new incentives, new techniques to foster a fresh climate of cooperation and mutual benefit with the Alliance, and to make NATO standardization a two way street. To you in industry, that poses a special challenge: to fit corporate and technical priorities into this broader framework.

Finally, and perhaps most important of all, readiness takes strong professionalism—from the top down. People are the key. Today, we have the best in our history—the best commanders, the best discipline, the best esprit, the cream of our country's youth and talent. Deputy Secretary of Defense Duncan visited one of our bases not long ago and came back delighted with the Air Force men and women he saw. "Give me half a dozen of those young people for any business," he said, "and I'll guarantee success before the start."

That's a spirit and advantage we must preserve. The Soviets do not have it—their discipline, in general, is based on fear and locked into rote patterns, their initiative is the kind that wears blinders and collapses with disruption, their morale is low. The people's contrasts are startling.

We have a good thing going—a great nation moving down an open road, and a great Air Force helping to defend it. You in this audience have helped to make that true.

We'll have changes ahead—shifts and challenges far greater than you and I have seen in 30 years—new weapons, new tensions, new questions.

Somewhere out in the Air Force this afternoon there are young people who will be our senior leaders 30 years from now—somewhere the officer who will stand where I'm standing and look back with a feeling of gratitude and awe over our future and his past. He'll talk of change and concern, and I'm confident that he'll talk with pride.

In conclusion, I'd like to borrow something Bill McBride, our Vice Chief, said last night: "The U.S. Air Force of today is second only to one—the U.S. Air Force of tomorrow."

AIR BAG RULE OPPOSED

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BROYHILL. Mr. Speaker, the House Interstate and Foreign Commerce Committee, on which I serve, will soon Consider House Concurrent Resolution 273 which disapproves Secretary of Transportation Brock Adams' passive restraint order of June 30, 1977. I strongly believe this is a critical issue which merits the full and undivided attention of the Members.

Recently, the Subcommittee on Consumer Protection and Finance, on which I serve as the ranking minority member, completed hearings on the Secretary's rule which orders automobile manufacturers to provide front seat passive restraint protection—air bags—in all passenger cars beginning in model year 1982. On September 21, 1977, the subcommittee reported to the full Commerce Committee House Concurrent Resolution 273 with a recommendation that it not be approved.

After lengthy and careful consideration of this complex issue, I decided that the Secretary's decision is clearly premature due to the lack of definitive answers to the many questions and criticisms which have been raised over the passive restraint order. Therefore, I disagreed with the recommendation of the subcommittee. I am taking this opportunity to submit in the RECORD an explanation of the reasons why Mr. RINALDO and I oppose the subcommittee's action. I hope that the Members will carefully study these views and feel free to ask us or our staffs any questions with respect to our decision:

MINORITY VIEWS OF JAMES T. BROYHILL AND MATTHEW J. RINALDO ON HOUSE CONCURRENT RESOLUTION 273

On September 21, 1977, the Subcommittee on Consumer Protection and Finance reported to the full Committee on Interstate and Foreign Commerce H. Con. Res. 273 with a recommendation that it not be approved. This concurrent resolution provides that the passive restraint standard (commonly referred to as the air bag standard) transmitted to Congress on June 30, 1977, be disapproved. We disagree with the recommendation of the Subcommittee that the Resolution not be approved.

On December 6, 1976, Secretary of Transportation, William T. Coleman, issued a decision concerning motor vehicle occupant crash protection. In that decision, the Secretary called for a nationwide demonstration program to obtain more experience with air cushion restraint systems, to familiarize the American people with the benefits of air cushions, and to foster the continued development of passive restraint technology. The Secretary proposed to carry out this demonstration program by entering into agreements with automobile manufacturers to produce and sell, over a two-year period, 500,000 passenger cars equipped with an air cushion restraint system on a nationwide basis. The Department of Transportation later entered into agreements with Ford, General Motors, Mercedes-Benz, and Volkswagen of America to carry out the objectives of this demonstration program.

However, on June 30, 1977, Secretary of Transportation, Brock Adams, rejected the Coleman approach and mandated a new occupant restraint standard which requires that front seat passive restraints be phased in all new cars between the 1982 and 1984 model years. We feel constrained to oppose that decision and to assist in such efforts as are necessary to assure that the standard is disapproved by the full House. We will here attempt to detail various factors and considerations which we believe clearly indicate that the decision of Secretary Adams is both premature and unwise as a national policy decision.

DATA SUFFICIENCY

The National Highway Traffic Safety Administration began gathering data on air bag experiences in the real world traffic environment in early 1973 with 831, 1972 Mercurys, and 1,000, 1973 Chevrolets. These air bag equipped vehicles were used in the manufacturers' test fleets. To these were added 75, 1975 Volvos, and 10,000 Buicks, Cadillacs, and Oldsmobiles between model years 1974 and 1976. The General Motors fleet of 10,000 vehicles is unique in that it is the only group of air bag-equipped cars which were sold to the public. Together, these vehicles make up the total of 12,000 vehicles from which NHTSA has derived its assessment of air bag performance in the field. As of September 1, 1977, these vehicles had travelled in excess of 480 million miles, 390 of which are attributable to the GM fleet. It is generally agreed that real world data is the soundest indicator of a safety device's performance. As Dr. Lawrence Goldmuntz testified before the Subcommittee, "we have come to the conclusion that there is a variety of data sources and that most reliably by far is real world data."

However, out of 12,000 vehicles which have travelled over 480 million miles there have been only 165 air bag crash deployments. In her letter dated July 21, 1977, responding to a request for comments from Honorable John E. Moss, Ms. Joan Claybrook, NHTSA Administrator, stated that "[a]lthough this field experience provides valuable information as to the practicability and reliability of air bags, all knowledgeable parties agree the fatality data are insufficient to permit drawing statistically supportable conclusions."

In its "Summary of Air Bag Experience 1973–1977", dated May 31, 1977, NHTSA admitted it was true that "there are simply not enough cars in the field to permit statistically significant estimates of their effectiveness." The need for more data is obvious. This need is reinforced by the fact that there have been 15 non-crash deployments as of September 1, three of which occurred on the road.

As noted by DOT in its discussion of considerations underlying the standard which accompanied the proposed FMSS 208, "[t]he frequency of inadvertent deployment is . . . of special concern." They state that "[t]here is little question, however, that inadvertent actuation could cause loss of control by some segments (aged, inexperienced, distracted) of the driving population, and it must not be viewed as a small but real cost of air bag protection." While DOT argues that the causes of the inadvertent deployments are known and can be eliminated, they continue to occur. The need for further design improvements to eliminate this occurrence is obvious, particularly since DOT estimates 7,000 on-the-road inadvertent actuations annually, or one for every 15,000 vehicles.

EFFECTIVENESS

The DOT has estimated that approximately 9,000 lives could be saved each year if all cars are equipped with air bags. This estimate is based on the use of assumptions, adjustments, and effectiveness factors, all of which have become critical in light of the very limited real world data. Other groups, such as GM, Economics and Science Planning, Inc., and the Cornell Aeronautical Laboratory have reached differing conclusions on the air bag's effectiveness. Even the DOT reached the paradoxical conclusion (Docket 74–12, Notice 10) that the air bag is more effective in all modes of impact (front, side, rollover, rear) than it is in frontal impacts, the crash mode for which the air bag system was designed.

GM took issue with the DOT effectiveness estimates, because they are based on not only data from laboratory tests but also the subjective judgment of evaluators who have direct knowledge of how the value of their estimates will affect the overall outcome. The potential for bias is great. GM used a "matching case" technique with a case selection procedure which substantially reduced the chance for bias and found that the DOT estimates for air bag effectiveness appear to be significantly overstated. GM asked DOT to commission an independent group to review the basic data and analyses of both the DOT and GM in order to determine the validity of each.

In an independent study conducted by the Cornell Aeronautical Laboratory, a nonprofit research organization, automobiles were crashed in offset front end collisions in a manner that simulated real world auto accidents. These tests, which used dummies and cadavers in the driver and passenger seat positions, were designed to determine the effectiveness of air bags as compared to seatbelts for drivers and right front seat passengers. In all of the tests, with both dummies and cadavers seated as drivers and passengers, the seatbelt restraint systems did a better job in protecting the test subjects than did the air bag. None of the four occupants wearing seatbelts sustained gravitational forces above the standard for fatality. But three of the four air bag cases showed fatal forces. To our knowledge, DOT has never issued a substantive comment or analysis regarding these tests.

A discussion of air bag effectiveness should include some discussion of seatbelts and their relative merits in light of their availability and economy. Seat belts are present in over 90 percent of the cars on our highways today. A set of 5 seatbelts (2 lap/shoulder harnesses in the front seat and 3 lap belts in the back seat) costs $85 on the average in a new car today. In the testimony before the Subcommittee, all parties, including the DOT, agreed that a seatbelt usage rate of between 50 percent and 65 percent (usage percentages vary somewhat) would result in comparable, if not greater, protection for auto occupants. While air bags only provide protection in frontal and angular frontal collisions, seatbelts provide protection in these collisions as well as in rollovers and side and rear collisions. All of these factors constitute a solid argument for the seatbelt which, if combined with substantial effort to promote greater usage, could save more lives than the air bag.

SODIUM AZIDE

Sodium azide is currently being used by all of the major air bag suppliers as the solid propellant for inflation of the air bag. Each air bag is equipped with a canister containing approximately 1¼ pounds of sodium azide. This compound has been found to be a potent mutagen in a wide variety of organisms by two Washington State University geneticists, Professors Nilan and Kleinhofs. This finding has been confirmed by Dr. Bruce Ames, Chairman of the Genetics Department at the University of California at Berkeley. No genetic tests have been made on humans or human cell cultures but the likelihood of its being mutagenic in humans is high in view of the compound's mutagenicity in a relatively wide variety of organisms. The possibility also exists that sodium azide is a carcinogen since most mutagens are carcinogens. The carcinogenicity tests have not been exten-

sive, however; and this aspect requires additional testing.

The Toxic Substances Control Act, which was approved by this Committee and by the Congress in 1976, not only granted authority to EPA to restrict or prohibit the production and sale of chemical substances for which there were insufficient data regarding their toxicity, but also encouraged the Administrator to take actions promptly to keep such substances out of commerce. Now, another government agency, the Department of Transportation, has mandated an automobile safety standard which it knows will result in widespread use of a known mutagen and possible carcinogen, sodium azide. The agency has not mandated the use of this substance, but it is fully aware that the substance will be used extensively as a propellant for the air bag and has taken no action to restrict its use. This substance may well be banned by EPA at a later time for this particular use on the ground that it presents an unreasonable risk to our environment and to the health of our citizens.

Before the Federal Government mandates an action which it knows will result in an increased use of a known mutagen, it should engage in an extensive effort to clarify the risk and the long-term effects of this substance, determine if adequate and effective alternatives are available, and obtain proper assurances that alternative substances will be available in amounts necessary to meet the large demand of the automobile manufacturers. We have seen no evidence that the agency undertook such an analysis prior to its issuance of the regulation, nor have we seen such an effort since the regulation has been issued, even though strong and numerous concerns have been expressed regarding the use of sodium azide.

This is one more area in which we firmly believe more data and information is needed before we reach a final decision concerning air bags.

COST TO CONSUMERS

While we are concerned about the effectiveness of air bags as projected from the limited data presently available, we are also concerned about unnecessary costs to consumers for a device which may prove to be a disappointment from a safety standpoint. Cost estimates for the air bag system vary substantially. Although NHTSA estimates the installation cost at $112 and the replacement cost at $325, their estimates are the lowest. (Ford Motor Company in its petition dated August 4, 1977, to DOT for reconsideration of the air bag standard indicated that DOT has in its possession supplier data which shows that the cost of air bag components alone exceeds the $112 DOT estimate.) Estimates from the auto manufacturers range from $193 to $250 for installation and from $300 to $600 for replacement. These estimates should be viewed as additional costs to consumers who have been paying for lap and shoulder belts in all cars manufactured since 1968 and who will continue to pay for 5 lap belts on the average (2 in the front seat and 3 in the back seat) under the mandate.

NHTSA's argument that air bag costs will be offset by savings which will be realized by car owners of the 1980's from the fuel economy standards announced by Secretary Adams in June, 1977, must be countered with the fact that the air bag system will add a minimum of 38 pounds to the car which will increase, by DOT's calculation, the annual consumption of fuel by automobiles by 0.71 percent (about 521 million gallons annually).

CONCLUSIONS

There is little question that the data and experience regarding air bags are totally insufficient to make a meaningful evaluation of their effectiveness. As we mentioned earlier, the data base used by DOT is so sparce that its conclusions from the data indicate that air bags offered a greater degree of protection in those types of crashes in which the air bag was not designed to deploy (non-frontal crashes) than it did in those types of crashes in which the air bag was designed to offer protection to automobile occupants (frontal crashes). These conclusions alone should indicate that the data used by DOT to evaluate the effectiveness of the air bag is totally incomplete and inadequate.

However, despite the fact that its conclusions are completely inconsistent, DOT chose to ignore General Motors' extensive evaluation of basically the same data using different methodologies in which serious questions were raised as to the air bag's effectiveness. Not only did DOT take the incredible action of dismissing the GM study, without substantive comment, on the grounds that "General Motors is a vastly interested party in these proceedings", but it also rejected GM's request to have independent and disinterested experts review the basic data and analyses of both DOT and GM in order to determine the validity of both. In addition, the potentially serious questions raised by the Cornell Aeronautical Laboratory regarding the safety and effectiveness of air bags have not been addressed by DOT in any substantive manner.

While we do not take the position that the studies conducted by General Motors and Cornell provide the correct analysis regarding the effectiveness of air bags, we do firmly believe that these studies taken in conjunction with the obvious inconsistencies in the DOT study make it abundantly clear that much more data and experience are needed before the Federal Government mandates the use of air bags.

The testimony before the Consumer Protection and Finance Subcommittee from both proponents and opponents of the passive restraint standard makes it clear that if seatbelts were used more extensively by the public they would provide comparable, if not greater, protection than air bags. Also, the very critical fact that air bags would not be available in our overall automobile population for at least 14 years, while seatbelts are now contained in over 90% of the cars now on the road should not be overlooked.

We should certainly not, as a matter of national policy, mandate the substitution of a proven restraint system for one that may well prove to be less effective once sufficient data and experience is available. The lack of wisdom of the DOT decision becomes even more apparent when taking into account the fact that the implementation of this standard will cost the American public in excess of $2 billion a year and place into our environment large quantities of a known mutagen which will be distributed geographically throughout all regions of our country. In addition, such an action may well have the adverse effect of casting public suspicion on the effective belt system and thereby discourage its use.

If the air bag proves to be ineffective or if the toxic chemical sodium azide proves to present a substantial risk to our citizens, it will be years before we can fully correct the situation.

We sincerely believe that the wiser and more sensible approach would be to expeditiously reinstate the Coleman decision and enact such legislation with such funding as may be necessary to carry out extensive, intense, and comprehensive programs to educate the American public as to the value of seatbelts and strongly encourage their use. Unfortunately, a program of the magnitude necessary to accomplish this objective has never been undertaken by the Federal Government and is well overdue.

The decision of DOT to mandate the use of air bags in our automobiles is clearly premature, and we ask the support of our colleagues in our efforts to disapprove this action.

THE 1977 PRODUCT ADVANCEMENT AWARD

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MINISH. Mr. Speaker, recently the Apollo Chemical Corp. of Whippany, N.J., was awarded the 1977 Product Advancement Award for developing a unique, low cost, pollution control system.

I want to commend the officers and employees of Apollo for this achievement and to commend them for their outstanding contribution to environmental quality.

At this point, I insert a news release detailing the award:

APOLLO CHEMICAL WINS 1ST PLACE AWARD FOR AIR POLLUTION CONTROL

UNIQUE SYSTEM TO CONDITION FLUE GAS FROM BURNING COAL IMPROVES OPERATING COSTS

WHIPPANY, N.J.—Apollo Chemical Corp. was selected as 1st Place Award Winner in the 1977 Product Advancement competition sponsored by Pollution Engineering. The award recognizes Apollo's unique flue gas conditioning system for its unique contribution to low cost air pollution control. This system makes it possible for coal burning power plants to use its existing precipitators to meet current EPA requirements for emissions without having to spend any significant sums of capital investment for new precipitators or other capital-intense collection systems.

According to Dr. Ira Kukin, president of Apollo: this flue gas conditioning system which already is in use at over 30 major power plants in the United States, from coast to coast, has now been tested with smaller industrial coal burning plants and is available for immediate wide scale usage. It makes it possible to burn low sulfur coal, and in many cases even higher sulfur coal where allowed by statute. It also saves the power plants money because they don't have to derate the boilers to meet the emission requirements. In many cases the improved power gain by using this system results in direct savings to the utility or the refinery or the industrial plants faced with the problem of meeting particulate emissions.

Dr. Kukin further adds that this flue gas conditioning system can save the power generation industry in excess of $1 billion in capitalization costs and adds that, "This is a conservative estimate".

Commenting on the award that was presented to Dr. Ira Kukin, president and founder of Apollo, and to Dr. Robert Bennett, research director of Apollo, Richard Young, editor of Pollution Engineering, said: "Congratulations to your company for its efforts in the development of a product in 1977 which is truly a major state of the art advancement to our industry". A special marble award plaque to Apollo was presented at an awards luncheon at the Army-Navy Town Club in Washington, D.C.

The selection was made by a distinguished panel of 36 engineers and scientists from the pollution control industry, government and the electric utility industry. Among the organizations represented on the panel were the Energy Research and Development Administration (ERDA), Occupational Safety and Health Administration (OSHA), California Department of Health, Illinois Gas and Electric, Mobil Chemical Company and Shell Oil Company.

The award recognizes Apollo's flue gas conditioning system for its valuable contribution to low-cost air pollution control.

In summarizing how this unique flue gas conditioning system works, Dr. Bennett explained that it conditions the fly ash formed when burning low sulfur coal. The chemicals supplied by Apollo are sprayed into the exit outlet of the boiler. They cause the particles to be collected more completely and readily by electrostatic precipitators and mechanical collectors. Its successful use at both utilities and industrial plants has significantly reduced the overall amount of particulate emissions in the atmosphere, improving the air quality, yet providing substantial savings to the users. It further was noted by Dr. Kukin that this system already has gained acceptance by the State and EPA regulatory agencies.

It is significant that in many cases the EPA agencies have recommended to operators of power plants that they actually try the Apollo flue gas conditioning system because it permits them to meet the existing regulations for emissions immediately. This provides more than adequate breathing spell for the utilities and industrial power managers because it takes the immediate pressure off them and permits them to plan more carefully their power and pollution control requirements for the 1980's.

Today, Apollo is the only company to offer a full-service treatment approach to meet a utility's needs: site surveys; professional stack testing and fuel sampling; design, fabrication and installation of equipment; manufacture of chemicals; program optimization for maximum performance and emissions compliance; and follow-up testing and service.

SHARE-A-MEAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MILLER of California. Mr. Speaker, companionship is cited as the most important ingredient in the share-a-meal program of Catholic Charities, one of some 1,100 privately operated meals-on-wheels programs in the United States. Such dedicated groups would receive a much-needed boost if legislation I, along with over 100 cosponsors, becomes law. My legislation would amend title VII of the Older Americans Act to include a national meals-on-wheels program for the homebound.

The following article from the Christian Science Monitor outlines some of the problems and solutions for the homebound:

[From the Christian Science Monitor, Sept. 15, 1977]

"MEALS-ON-WHEELS" GET PUSH FROM U.S. FOR SHUT-INS

(By Edward R. Walsh)

Blanche is blind. Locked indoors, she seldom ventures out for fear of falling. Pierre, nearly 90 now, is lonely, restive, discouraged. Marilyn, bright, blond, and 60 years Pierre's junior, has been confined to a wheelchair since an auto crash.

These three, residents of Westbury, New York, have one thing in common: They lack companionship. Trapped by disability and declining expectations, they have become part of a silent minority known as the homebound handicapped. And America has some 5 million more like them.

Most are poor and elderly and live in rural areas, says a recent report of the U.S. Senate Select Committee on Nutrition and Human Needs. About 60 percent are over 60 years old. Too often they become "isolated, lonely, and malnourished," with such basic needs as adequate nutrition and companionship going unmet.

NATIONAL PATTERN?

To help meet the nutritional needs of these neglected Americans—and provide them some companionship—Congress has appropriated funds for a number of "meals-on-wheels" pilot projects by which local volunteers will bring food and friendship to shut-ins. These few pilot projects, which will operate on grants from the Department of Health, Education, and Welfare, would give way to a nationwide program if legislation now before the Senate's Nutrition and Human Needs Committee becomes law.

Already, private organizations operate some 1,100 meals-on-wheels programs in the United States, reports Joseph Brown, president of the National Association of Home Delivered and Congregate Meal Programs.

Under the new national pilot program, federal grants will be given to private groups. One of the few federally funded pilot projects is on Long Island, New York. It starts this fall in Suffolk County, to be operated by the Roman Catholic Diocese of Rockville Centre.

FIVE-MEMBER TEAMS

Diocesan Catholic Charities phased out its own Meals-on-Wheels program in January, 1975, when it organized its Share-A-Meal venture. Local Share-A-Meal teams consisting of five volunteers adopt a homebound person and provide a hot meal once a day for five days. So far, more than 600 volunteers have served 132 shut-ins in Nassau and Suffolk Counties—people such as Blanche, Pierre, and Marilyn.

"It's really beautiful," says Mary Bannon, Share-A-Meal coordinator for Catholic Charities. "You should see their faces when they know someone cares." Maureen McKew, a team coordinator from Malverne, New York, concurs. "The meals are one thing, but the companionship is more important."

Along with 24 other public and private agencies servicing the homebound, the diocese has formed a coalition to foster public awareness and to ensure fair treatment for Long Island's 60,000 shut-ins. The Council of Agencies to Coordinate Homebound Services, founded in 1970, assists member agencies in locating shut-ins and in recruiting, training, and placing volunteer visitors. The nonprofit group provides information, referral, consultation, and advocacy services. Its primary purpose is to persuade more local officials to commit financial and manpower resources for new homebound programs.

SPECIAL WEEK

To spur such commitment the council's member organizations plan a week-long campaign to identify hard-to-reach shut-ins and sign up volunteers. Long Island Shut-In Week will be ushered in by National Shut-In Day on Sunday, Oct. 16. Homebound hot lines will be activated and special promotions will be launched by participating agencies.

National Shut-In Day, started seven years ago, was established by presidential decree to be set aside as a special occasion for visiting the sick, elderly, disabled, and incarcerated.

EDITOR OF JANE'S CALLS U.S. VOLUNTEER FORCE ASSET

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. STEIGER. Mr. Speaker, Jane's Fighting Ships is considered the authoritative guide to the world's warships. The 80-year old publication has been recognized over the years for its accuracy in assessing the strengths and weaknesses of naval forces throughout the world.

The latest edition of Jane's then, should give heart to those who have been concerned about the quality of the U.S. Navy. In his forward to the publication's 1977–78 edition, its editor, Capt. John Moore, has words of praise for U.S. naval forces.

He sharply criticizes those who compare fleets on the basis of numbers or tonnage of ships. There are qualitative factors too, he says.

"Only when capabilities, training, and a dozen other factors are included in the argument is there any hope of making a sensible comparison," writes Captain Moore, "Let us get off the adding machine and think about men. It is here that the All-Volunteer U.S. Navy has the edge on so many rivals."

Captain Moore's words are a strong endorsement for the U.S. All-Volunteer Force. Following are a New York Times story and a Chicago Tribune editorial giving greater detail on his assessment of our volunteer Navy:

[From the New York Times, Aug. 25, 1977]

EDITOR OF JANE'S CALLS U.S. VOLUNTEER FORCE ASSET

LONDON, August 24.—The new edition of Jane's Fighting Ships says the all-volunteer United States Navy has the edge over conscript rivals. The book also has high praise for what it calls the Soviet Union's "very powerful and well-knit fleet" and for France's achievement of global sea power.

The editor of the 80-year-old authoritative guide to the world's warships opens the new volume with sharp criticism of the practice of comparing fleets on the basis of numbers or tonnage of ships.

"Only when capabilities, training and a dozen other factors are included in the argument is there any hope of making a sensible comparison," wrote Capt. John Moore in a foreword. "Let us get off the adding machine and think about men. It is here that the all-volunteer U.S. Navy has the edge on so many rivals."

The editor also said recent increases in American shipbuilding helped give the United States Navy its advantage.

"Despite carping," he wrote, "the plain fact is that after a slump in building, available numbers in the active [American] fleet are rising, and this is vital for a navy with worldwide commitments."

Tonnage comparisons prove little while obscuring other factors, he said, adding: "What it can obscure is that 91,400 tons of Nimitz [the American aircraft carrier] can be in only one place at a time, despite the range of her aircraft, while 18 5,000-ton ships can be in 18 places."

"MOST DRAMATIC OF UNVEILINGS"

Comparing numbers of ships in rival fleets can mean little more, he wrote.

Captain Moore said that Soviet builders were steadily improving the quality of their ships and submarines, and "the overall picture is of a very powerful and well-knit navy whose capabilities, if not numbers, are increasing month by month."

He described as "the most dramatic of unveilings" in the last 12 months the commissioning of the 54,000-ton Soviet aircraft carrier Kiev, which Moscow calls an antisubmarine cruiser.

He speculated that the Kiev might carry 500 soldiers if need be, providing "a powerful intervention force should the use of surrogate troops in a crisis, real or engineered, be impracticable or inefficient."

The editor had high praise for the home-built French fleet and what he called its "brilliant designers." He said France could

now claim worldwide sea deployment along with the United States and the Soviet Union.

"Already its capabilities have been recognized abroad in the considerable orders for French ships and craft from other navies," he wrote.

Captain Moore said that despite the Soviet Navy's strength—including the ability to strike American Pacific Coast cities, Hawaii, Brazil, Mozambique or Indonesia with missiles launched from the Barents Sea—the Russians had manpower problems stemming from centralized control. He did not elaborate.

He also questioned whether the new American nuclear-powered cruisers of the Virginia and Californa classes were worth their high costs.

"Costs of the former, for many reasons, almost trebled over the years," he said. "Is the return on $300 million really cost-effective for a ship whose only surface-to-surface capability is currently a pair of five-inch guns?"

[From the Chicago Tribune, Aug. 26, 1977]

A KIND WORD FOR VOLUNTEERS

No one can accuse the publication Jane's Fighting Ships of being a Polyanna. Through the years it has issued candid and early warnings about increases in Soviet military power, and in general its warnings have proved right. Away back in 1950 it was saying the Soviet Union was rushing to build a navy "far in excess of the normal requirements of defense." Now that some Americans have discovered Russia has accomplished this, they are wondering why they weren't warned.

Occasionally the authoritative British publication has some encouraging words. In 1943, while the Japanese military forces seemed to be riding high, Jane's said that Japanese naval losses in the battle of Midway might "well prove fatal." This, too, proved true.

So we can take some comfort from the fact that the new issue of Jane's says the all-volunteer status of United States Navy personnel is a big plus for our fleet. The editor, Capt. John Moore of the Royal Navy [retired], deplores purely quantitative comparisons of fleets on the basis of numbers of ships or tonnage. There are qualitative factors, too. "Only when capabilities, training, and a dozen other factors are included in the argument is there any hope of making a sensible comparison," writes Capt. Moore. "Let's get off the adding machine and think about men. It is here that the all-volunteer U.S. Navy has the edge on so many rivals."

We have long believed that military organizations in a time of so-called peace should be composed of people who really want to be in them. But we've had doubts from time to time that a voluntary system attracted enough well-equipped personnel. Capt. Moore does not share those doubts. In fact, in an interview last year with The Tribune's Robert Merry, he said that a conscript force was one of the great weaknesses of the Soviet navy.

"The Soviet fleet suffers from the enormous task of having to train 100,000 new conscripts every year," he said. "That's one-fifth of the total force. After three years' service, most draftees return home."

Because of the high rate of turnover, he said, draftees are not trained broadly enough to be innovative and flexible in their jobs: "The conscript is trained to look at one dial and twiddle one knob and that's about it."

Our volunteers tend to serve longer and become more widely competent. A "free" Navy, like a free society, undoubtedly operates more effectively than a captive one.

With this encouragement, we can face the new warnings that accompany Capt. Moore's compliments. He reminds us that the Soviets are steadily improving the quality of their ships and submarines, and that "the overall picture is of a very powerful and well-knit navy whose capabilities, if not numbers, are increasing month by month." Couple those facts with what is known about Soviet global ambitions and one must hope that Congress will do its job as well as the volunteers in service.

SURVIVAL OF THE BOWHEAD WHALE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. FORSYTHE. Mr. Speaker, at its last meeting, the International Whaling Commission voted unanimously to end, temporarily, all taking of a long protected species of great whale, the bowhead whale. This species has been excluded from commercial harvesting for years but has been open to subsistence taking by Natives in Alaska and in the Soviet Union. In recent years, however, the number of bowheads killed by Natives in Alaska has jumped considerably. Most of those killed by the exploding harpoons now used in the hunt are never landed.

I am appalled that at this late date there are a small number of people who are still pushing to have the United States file an objection to the IWC's ruling on the bowhead quota. I have made my position in opposition to the filing of any objection to the zero quota on bowheads very clear. I feel that a recent letter sent to Secretary of State Cyrus Vance by Project Monitor on behalf of numerous environmental groups sets forth the facts of the bowhead situation in a form which will aid my colleagues in their understanding of the problems involved.

I am therefore including a copy of the letter to Cyrus Vance by Project Monitor for the attention of my colleagues. I hope that those Members concerned with the survival of this species and of the International Whaling Commission itself will make their concern known to the Secretary of State.

The letter follows:

MONITOR, THE CONSERVATION, ENVIRONMENTAL AND ANIMAL WELFARE CONSORTIUM,
Washington, D.C., September 22, 1977.

Hon. CYRUS VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The Monitor member organizations listed below endorse the contents of this letter:

Defenders of Wildlife
Humane Society of the United States
The Fund for Animals
Connecticut Cetacean Society
Animal Welfare Institute
International Fund for Animal Welfare
Audubon Naturalist Society of the Central Atlantic States
Committee for the Preservation of the Tule Elk
Let Live
International Primate Protection League
Washington Humane Society
American Littoral Society
Chesapeake Chapter American Littoral Society
Society for Animal Protective Legislation
Rare Animal Relief Effort

There are reports that the State Department is considering recommending that the United States file an objection to the zero quota set on bowhead whales by the International Whaling Commission.

We strenuously oppose such action by the State Department. An objection would destroy U.S. credibility in the IWC and other international fora. An objection would likely precipitate objections to other whale quotas from Japan, the Soviet Union, and other whaling nations. The hard-won whale conservation measures adopted over the last five years would be wiped out by such ill-considered action.

The State Department would make President Carter look like a hypocrite if an objection is filed to the bowhead quota.

President Carter has been a leader in the whale conservation campaign since 1971. During the 1976 Presidential campaign, he issued a position paper stating:

"I have a longstanding commitment to protect the oceans and the animals that live therein. The United Nations Conference on the Human Environment took place in Stockholm, Sweden, in 1972. I was a member of the advisory commission to the United States delegation. At that time, I worked to make preservation of whales a major issue at the conference. Since then, I have been concerned about the destruction of many stocks of marine mammals and fish.

"I have supported the Marine Mammal Protection Act of 1972 since its passage. So far, implementation has been slow and timid. Under the Carter Administration that will not be the case. We must join together with other nations to preserve the species in the oceans that are endangered or threatened."

On May 23, 1977, President Carter issued his environmental message. "In order to provide additional protection for whales," the message stated, "the Secretary of Commerce, with the foreign policy guidance of the Secretary of State, have been directed to pursue negotiations within the International Whaling Commission for a stronger international conservation regime for whales and other cetaceans, affording protection for them throughout their range."

In a personal message to the opening session of the annual meeting of the IWC, at Canberra, Australia, on June 20, 1977, President Carter stated: "Whales have become symbolic of our environmental problems as a whole. No longer are they viewed as a product from the sea available to those with the technology for their harvest."

The President called for a ten-year moratorium on commercial whaling and issued a clear warning to nations "which diminish the effectiveness of the conservation regime of the IWC."

The IWC acted to set a zero quota and remove the native exemption after it was apparent that the U.S. government has failed to regulate the Eskimo killing. As far back as 1972, the IWC expressed concern over the increasing hunting of the bowhead. Of all the ten species of great whale, the bowhead is the most endangered. Its population is estimated to be just 6 percent to 10 percent of original size. Other whale stocks are given full protection by the IWC when they reach 54 percent of original population.

In 1976, the IWC adopted a strong resolution calling for the U.S. to institute regulations to reduce the bowhead kill. When the IWC scientific committee this year learned that the spring hunt in Alaska had been the largest in history, the 31 scientists unanimously called for a halt to the killing for one year.

Rep. Paul N. McCloskey, a U.S. delegate to the IWC meeting, commented that "the Executive Branch of the U.S. Government has been delinquent" in controlling the bowhead kill. Indeed, it was only in June of this year that the National Marine Fisheries Service moved to declare the bowhead population depleted, the first step toward imposing regulations on the Eskimos. Three years ago, Monitor groups petitioned the NMFS to find the bowhead depleted.

The chairman of the IWC scientific committee, Dr. K. Radway Allen of Australia, warned that the biological survival of the bowhead was at stake, and therefore "all exploitation should stop."

The U.S. delegation sat in embarrassed silence as the Danish whaling commissioner Einar Lemche, observed acidly: "The United States has been conservative in all whaling matters except its own whaling."

The U.S. has the opportunity to raise the bowhead issue in December when the IWC holds a special meeting in Tokyo. If the U.S. can present a credible proposal for a strictly-controlled bowhead take, based upon historical kill-rates and without the atrocious waste of recent years, then we believe the IWC will agree to reinstate the aboriginal exemption, possibly for the 1978 spring hunt.

The IWC sets whale quotas for one year at a time. Next June, if not in December, the IWC will again reconsider the status of the bowhead and aboriginal whaling.

Even if the December meeting should reject a spring hunt, it would be no great tragedy for the Eskimos to halt the killing for just one year. Every Eskimo village has had several years this century when no whales where caught. This was caused by ice and weather conditions and the inability of the Eskimos to kill and secure the whales.

The Eskimo villages were not wiped out in those years when there was no whale kill. Indeed, the largest whaling village by far, Barrow, has had seven zero-kill years, including a three-year stretch (1957–59). Barrow has grown steadily despite those years of no whales.

The one hard truth in this controversy is that the bowhead whale population cannot survive the uncontrolled and increasing destruction by the Eskimo whalers.

There is very little tradition left in modern Eskimo whaling. The real traditional kill of bowhead whales averaged less than 10 whales per year between 1942 and 1969. Since 1970, the level of hunting has expanded several times. The average kill has been almost 30 per year, with three times that number struck but lost.

This extraordinary increase has been caused by the rising affluence in Eskimo villages. Young men working in oil and construction had money to buy boats, outboard motors, and bombs. Totally inexperienced in the skills of harpooning and securing a whale, these new whalers have decimated the bowhead stocks.

The natural growth rate of the bowhead stock is believed to be about three or four percent per year. The Eskimo take in recent years has far exceeded this rate. We must therefore assume that the already-endangered species is becoming more endangered each year. Eskimo society will suffer far more if they extirpate this marine mammal, around which so much of their culture revolves, than if they are forced to reduce or temporarily halt the killing.

We must recognize that tens of thousands of other peoples around the world have suffered heavily because of the strong whale-conservation measures adopted under U.S. leadership. The major whaling industries in Japan and the Soviet Union have been forced to lay off thousands of workers, most of them older employees who have spent a lifetime in whaling. The President's Council on Environmental Quality estimates that the reduced IWC quotas have cost the foreign whaling industries more than half a billion dollars in gross value of whales.

If the U.S. were to file an objection to the bowhead quota—an insignificant cutback compared to the tens of thousands of whales cut from Japanese and Soviet quotas—then we would be telling the world that there is a double standard in whale conservation.

The credibility of the United States and our sorely-needed leadership in protecting our planet's escosystem would be severely damaged by an objection.

Respectfully,

CRAIG VAN NOTE,
Executive Vice President.

FARMERS HOME ADMINISTRATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. AuCOIN. Mr. Speaker, I would like to enter into the RECORD today a set of correspondence between me, the President, and the Office of Management and Budget that bears upon the staffing levels of the Farmers Home Administration.

The purpose of laying out this exchange of letters is to convey my discouragement that the advent of a Democratic administration apparently has not resulted in new outlooks at OMB.

The exchange also serves to alert my colleagues to a fight we may be facing not only in connection with FmHA but with other vital programs that serve valid and important needs for the people of this Nation:

WASHINGTON, D.C.,
September 26, 1977.

Hon. JAMES EARL CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Few federal agencies are as important to the well-being of rural America as is the Farmers Home Administration. This agency provides direct services to millions of rural people and countless communities. Operating out of 1,762 county offices, plus district, state and national offices, Farmers Home Administration is the largest direct lending federal agency. FmHA is responsible for servicing $18 billion in loans for all of its various programs that range from housing and home rehabilitation to community facilities such as water and sewer systems.

Beyond this, FmHA is more than a conventional lending institution. For many rural people, including small farmers and poor families, it represents the only financial resource available to them. FmHA provides technical assistance when nobody else can or will provide it.

In short, Mr. President, Farmers Home Administration is an integral part of life in rural areas, much more so than the majority of federal agencies. Its employees work and live in the communities they serve. They have a stake in those communities and their work reflects that.

For these reasons, I have been unswerving in my support for the Farmers Home Administration, not because I believe it is without fault, but because I believe it is a valuable resource that must be cultivated for the good of rural America.

I recently wrote a letter to Congressman Jamie Whitten, Chairman of the Appropriations Subcommittee on Agriculture, in which I described some of the rural families who are receiving the assistance they desperately need through one of FmHA's programs. That letter underscores that abject poverty still exists in rural areas today just as it does in urban areas, and to emphasize my commitment to do something about it.

This brings me to the point I want to raise with you in this letter. During consideration of the Fiscal Year 1978 appropriations bill for the Department of Agriculture, I offered an amendment on the House Floor to provide additional funds to enable the hiring of 500 additional full-time employees for FmHA. This was in addition to the 40 which were proposed in the House bill and would have been closer to the 1,000 new employees recommended in the corresponding Senate bill.

I withdrew my amendment before a vote was taken and subsequent to that, House/Senate conferees agreed to a 300-employee increase for FmHA.

I cite this legislative history so you can understand my concern and displeasure upon receipt of a letter from the Office of Management and Budget on this very point. The letters I sent to OMB and their responses are enclosed for your inspection.

In my correspondence with OBM, I drew a comparison between the functions of FmHA and the U.S. Forest Service, noting that both are involved in productive ventures. The Forest Service manages timberlands that return a handsome dividend for each dollar invested. FmHA does, too, in that it stimulates housing and community development. The byproducts of both agencies' work are the creation of jobs, the generation of taxes for local, state and federal governments and the satisfaction of critical needs of our citizenry. Their work is good for the economy, and at the same time meets important social needs for the country.

There should be no question of their priority when it comes to allocating funds necessary for these agencies to perform as we expect them to perform. But apparently there is. And for that reason I find the OMB response to my letters absolutely unacceptable.

While OMB has given temporary relief to the Forest Service by agreeing to 1,500 "other than full-time employees," its game plan for FmHA is disgraceful. OMB, if it would have its way, wants FmHA to retreat from its traditional and essential role as a direct insured lender of last resort in rural areas. Instead, OMB would have FmHA move more into guaranteeing loans that conventional lenders are willing to write.

I believe the FmHA guaranteed loan program has value. But, Mr. President, it is meaningless to the literally hundreds of thousands of low-income, poverty-level rural residents, many of them elderly or disabled, who cannot qualify for a loan even with the enticement of a federal government guarantee.

There are few Members of Congress more uneasy about federal spending than I am. I do not believe we can solve every problem in the country or the world by throwing money at it. Nor do I believe we can support every program that we can think of just because it would do good. We must recognize our spendable resources are finite just like our natural resources such as oil and natural gas are finite.

Thus, I wholeheartedly support your pledge to balance the federal budget by 1981 and your zeal in cutting away the fat in the federal government. In that, I will be your constant ally.

But I cannot stand by and watch vital programs that help people and help communities suffer at the hands of a management agency that does not fathom this issue. I opposed this when James Lynn was head of OMB under your predecessor and I will oppose it now.

In addition to the exchange of correspondence between OMB and me, I am also enclosing a memorandum to head of department agencies within the Department of

Agriculture that is most revealing. It shows that not only is OMB resisting hiring the new employees Congress authorized in the FY 1978 appropriations bill, it is plotting to axe as many as 825 full-time positions in the department.

I am advised, Mr. President, that the figure may actually be closer to 1,600 and that half of those may come from FmHA alone.

If this comes about, it will be a staggering turn of events. It would represent the most short-sighted sort of thinking. At a time when genuine voices of concern are being raised about conditions in rural America, this action would appear as an uncaring, insensitive act of betrayal.

Mr. President, you grew up and prospered in a rural area in Georgia. I come from a rural area of Oregon. Both of us know the pressures facing rural areas—the squeeze on the small family farm, the decay of rural cities, the deterioration of rural economies, the flight of the dispossessed to big cities—creating the urban problems others are now pressing your administration to address. I would make this point as an advocate of a vigorous urban policy: to solve the urban crisis, we must keep rural communities decent places to live. The alternative is further population impaction on the cities.

Let's end capricious spending. But let's not substitute a Scrooge-like economic philosophy that scrutinizes every expenditure without looking up to see what good it does.

FmHA is entering a new era. It has expanded its vision. It has many new programs to administer. Those of us who have fought for those new programs did so because we had faith in FmHA's tradition and ability to give direct service to the most needy persons in rural areas.

Increasing the staff of FmHA will not solve all the problems in rural America. But cutting the staff, impairing FmHA's ability to carry out its duties and responsibilities in the most responsive way possible, will exacerbate already existing problems.

Rural America is a valuable resource. But like big cities, the existing investment we have made needs to be enhanced and enriched. These are costs we must agree to make if we are to keep these areas viable.

With warmest personal regards,

Sincerely,

LES AUCOIN,
Member of Congress.

WASHINGTON, D.C.,
July 11, 1977.

Mr. BERT LANCE,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LANCE: On March 4, I led a delegation of representatives of the forest products industry, homebuilders, and construction trade unions who came to talk with you about the importance of viewing monies spent on federal timberlands as an investment that will yield rich dividends in the future. I was convinced then and remain convinced now that, given your business background, you had a firm grasp of the point the delegation and I attempted to make.

Thus, it is disturbing for me to learn that the Office of Management and Budget has refused to increase the personnel ceilings for the U.S. Forest Service in Fiscal Year 1977 despite a clear indication of support from Congress in the FY 77 Supplemental Appropriations bill.

This action severely undermines the efforts of Congress to carry out the goals of the Forest and Rangeland Renewable Resources Planning Act and to bring about common sense management of the vast natural resources in the West. Its implication for FY 1978 is quite troubling.

I presume OMB's action is predicated on the Administration's pledge to hold the line on growth of the federal bureaucracy. However, in this instance, this is short-sighted economy. In the case of the Forest Service, we are talking about a productive area of the federal government that has control over what is virtually a treasure house of natural wealth. It is not good business to hamstring this agency, preventing it from carrying out management functions such as timber sale preparation, reforestation and recreation development. The price to be paid if we do hamstring this agency is further uncertainty over timber supply, lumber shortages, rising prices for building materials and housing and, ultimately, more unemployment in a sector of the economy that has suffered enough.

I cannot help but compare this situation to another agency within the Department of Agriculture—the Farmers Home Administration. As perhaps you know, I proposed an amendment on the House floor to provide monies to enable FmHA to increase its full-time permanent personnel level by 500 positions. My reason was that as I viewed the $18 billion outstanding principal of FmHA and the unfathomable jury-rigged nature of the agency's staffing, I became alarmed. I said to myself that if the president of a corporation doing business on this scale tried to run his operation with permanent part-time, temporary full-time and CETA and VISTA workers in the field, his stockholders would fire him in a minute. They would rightly argue that good economy is one thing, but short-cuts like this are dangerous and lead to trouble.

I am sympathetic with curbing the growth of the federal government and bridling federal spending. But I do not construe that to mean we ought to run a ship that is Scotch-taped together. That's particularly so in areas that are productive and so vital to the public's welfare, including the activities carried out by the Forest Service and Farmers Home Administration.

I urge your personal attention to these issues which while not glamorous in the eyes of some, are sound, sensible ways the federal government can contribute to a table economy and an improved standard of living for our citizens.

With warmest personal regards,

Sincerely,

LES AUCOIN,
Member of Congress.

JULY 12, 1977.

Mr. BERT LANCE,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LANCE: Since sending my letter to you dated July 11, 1977, it has come to my attention that the Office of Management and Budget has agreed to permit the U.S. Forest Service to hire 1,500 less than permanent employees, thus allowing the agency to use most, if not all, of its additional FY 1977 supplemental appropriation.

While I am encouraged by that, I still feel it is important for Members of Congress such as myself to reinforce our strong feelings on the importance of equipping the Forest Service so it can operate effectively toward intensely managing our national timberlands.

As I indicated in my first letter, I have confidence you have the issues at hand in this matter firmly in mind and will act accordingly, as you have shown by the step to increase the Forest Service's personnel level for this year.

With warm regards,

Sincerely,

LES AUCOIN,
Member of Congress.

WASHINGTON, D.C.,
September 2, 1977.

Hon. LES AUCOIN,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN AUCOIN: This is in response to your letters to the Director concerning personnel ceilings for the Forest Service and the Farmers Home Administration.

As you are aware, the Forest Service ceiling for other than full-time permanent employees has been increased by 1,500 positions for fiscal year 1977. In addition, the President has asked the Secretary of Agriculture to carefully review Forest Service personnel requirements ". . . to determine the minimum adjustment in your Department's employment ceiling for fiscal year 1978 required to implement the funded programs."

With respect to the Farmers Home Administration, a number of steps have been taken and are being coinsidered to assure effective administration of this agency's loan and grant programs:

Legislation has been proposed by this Administration to authorize loan guarantees for many of the loan programs. Enactment will enable private lenders to assume a major share of the loan origination and loan servicing functions presently performed by FmHA under its direct loan programs.

Financial management systems serving FmHA field offices are being improved and augmented by additional data processing capacity.

The Department of Agriculture is exploring opportunities for utilizing staff resources in other USDA agencies to assist FmHA during peak workload periods.

The Administration shares your concern that appropriate resources be made available to assure effective and efficient management of these programs. We believe that this objective can be attained together with the objective of controlling the growth in overall Federal employment.

We appreciate knowing of your concerns on these matters and assure you that they will be carefully considered.

Sincerely,

HUBERT L. HARRIS, Jr.,
Assistant to the Director.

MEMORANDUM TO HEADS OF DEPARTMENT AGENCIES

REDUCTION IN EMPLOYMENT CEILINGS

WASHINGTON, D.C.,
August 26, 1977.

The Office of Management and Budget has reduced the Department's ceiling for permanent full-time employees by 825 from the ceilings previously given to you. The Department is expected to be at or below this ceiling by September. Further, the President has indicated his personal interest in maintaining effective controls over employment and has asked to be advised of any agency which exceeds its ceiling.

We have been given the following guidelines to be followed in maintaining employment controls:

Ceilings should not be circumvented by temporary layoffs or other actions to attain ceiling levels only for the date that the ceilings are effective.

Unavoidable increases in workload should be absorbed.

Contracting should be used only in accordance with policies established in OMB Circular No. A-76.

Reallocations should be made to meet highest priority programs, especially those vital to human health and safety.

Attention should be given to management improvements, more productive workload arrangements, and organizational changes in order to meet the ceilings.

Reductions should be accomplished through attrition and reductions-in-force used only if required by program considerations.

Discussions with agency officials indicate that several agencies will be below their ceilings for various reasons in September. Therefore, rather than imposing a new set of ceilings this late in the fiscal year, I am asking that you voluntarily exercise restraint in the hiring of new employees through the remainder of the fiscal year. Only those positions absolutely necessary to carry out your highest priority program responsibilities should be filled, even though your agency may currently be below its previously established ceiling. If we exercise such voluntary restraint, we will be able to meet the President's goal for 1977. On this basis, I am lifting the three-for-four hiring limitation imposed by my memorandum of March 9.

Mr. Lance's letter also establishes a further reduction in our employment ceiling for 1978. I am asking Director Hjort and the Office of Budget, Planning and Evaluation to work with you in reevaluating your 1978 personnel requirements based on the 1978 Appropriations Bill as approved by the Congress. I expect this evaluation to reveal areas where we can make reductions in personnel without eliminating necessary ongoing services. When this review has been completed, we will establish our ceilings for 1978.

JOHN C. WHITE,
Acting Secretary of Agriculture.

COMMON AUDIT

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. HANNAFORD. Mr. Speaker, I have been working for almost a year to extend the Department of Health, Education, and Welfare's experimental hospital common audit program. This voluntary program consolidates Federal and State hospital audits conducted under the medicare, medicaid, and maternal and child health programs into a single, Federal audit. It means less harassment of participating hospitals, less bureaucratic overlapping, better auditing of Federal health programs, fewer audits, and substantial economy in both bureaucratic expenses and Federal health disbursements. I hope that for these reasons my colleagues support this program.

There will be several opportunities in the 95th Congress to mandate an extension of this program to all hospitals in all States. For the benefit of the Members of the House, I submit for the RECORD a letter from HEW Secretary Califano which concisely places the common audit program into historical perspective. The enclosures mentioned in the letter are available for examination in my office:

WASHINGTON, D.C.,
July 21, 1977.

Hon. MARK W. HANNAFORD,
House of Representatives, Washington, D.C.

DEAR MR. HANNAFORD: Thank you for your letter regarding consolidation of hospital audits for Medicare, Medicaid, and associated private intermediaries. I appreciate your interest in the potential savings which a consolidation program of this type might effect.

You have asked who conducts program audits and to what extent the information requested overlaps between the two programs. You have also asked how much duplication exists in these audits. I would be pleased to describe the audit activities currently pursued under these programs.

As you know, Medicare reimburses hospitals for reasonable costs. Hospitals submit cost reports which represent their statement of costs to be reimbursed by the program. These are settled on the basis of annual audits which are conducted, in most cases, by the private insurance organizations which serve as Medicare intermediaries.

The procedures used under Medicaid are slightly different, since Medicaid is administered by States. Some States conduct these audits themselves. In others, the State's intermediaries (called fiscal agents) conduct the audits, using their own staff and resources, or that of outside audit firms.

The area of greatest potential overlap between Medicare and Medicaid audits is in the review of providers' indirect operating expenses. This accounting category includes general administrative, plant operation, maintenance, repair, and laundry or linen service costs. Overlap in this area may result from two factors: (1) duplicative program audit requirements to review allocation of indirect operating expenses; (2) possible differences of opinion between the programs on the allocation rates established for these costs.

Recognizing that some economy was possible, the Department has developed and implemented a common audit program on a voluntary basis for any State wishing to participate. The purpose of this effort is to minimize program overlap and to reduce the cost of provider auditing under Medicare and Medicaid

Through the coordination of Medicare regional offices, we have urged Medicaid agencies to negotiate common audit agreements between the two programs. State or Medicare intermediary staff and other resources are used to conduct audits for all or a subgroup of providers participating in the two programs. States and the Federal government, through Medicare fiscal intermediaries, share audit costs based upon the ratio of benefits or reimbursements paid by the respective programs.

Thirty-seven Medicaid State agencies have initiated common audit programs, with 61 Medicare intermediaries. Similar arrangements have been developed between 26 Maternal and Child Health State agencies and 42 Medicare intermediaries. A few intermediaries are also participating with respect to their private business.

This common audit approach has already resulted in substantial administrative economies for hospitals and for the Medicare and Medicaid programs. We are considering issuing a notice of proposed rulemaking that would, if adopted in final form, mandate State agency participation. We will continue to encourage intermediaries to participate voluntarily on a full cost sharing basis for their private business. However, legislation would be required to mandate private sector participation in common audits.

I enclose a copy of the common audit program instructions and a copy of the most recent status report on this initiative for your review. I have also requested Robert Derzon, Administrator of the Health Care Financing Administration, to arrange a briefing meeting on this program for you and your staff if you seek additional information on this subject.

Sincerely,

JOSEPH A. CALIFANO, Jr.

SICKENING SIGHTS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BAUMAN. Mr. Speaker, the Baltimore News-American has commented editorially on the scene which occurred at the recent opening of the United Nations 32d General Assembly. They have my agreement in their revulsion against the unwarranted and insulting actions of Ambassador Andrew Young when he publicly went out of his way to welcome the Vietnamese butchers into the U.N. Of course, had not Mr. Young's boss, Mr. Carter, permitted it, the Red Vietnamese would never have gained entrance to the U.N. The selective Carter human rights policy, however, allowed the administration to overlook the current death and brutality occurring in Vietnam as well as the fact that more than 50,000 Americans gave their lives in this struggle. Mr. Young, in his U.N. remarks, even went so far as to boast about his opposition to the war in Vietnam while he was in Congress, an opposition which helped to make the no-win policy succeed.

Mr. Speaker, not to be outdone, the Director of ACTION, Mr. Sam Brown, equaled Ambassador Young's sickening performance. The radical Mr. Brown showed up the following night at a New York rally heavily weighted with Communists and fellow-travelers to welcome the Red Vietnamese into the U.N. He smiled his approval as the enemies of America attacked the country he has sworn an oath to uphold.

Mr. Speaker, both of these so-called public servants should be dismissed from office by President Carter. Their pro-Communist, anti-American actions far outweigh any activities engaged in by Bert Lance and the President should not tolerate them any longer.

The article follows:

SICKENING SIGHTS

Two sights which should give sore eyes to many Americans marked the opening last Tuesday (Sept. 20) of the 32nd United Nations General Assembly session in New York City.

One was the hoisting of the bloody red flag of the Socialist Republic of Vietnam, the Communist tyranny admitted to UN membership this year with the tacit consent of the Carter administration.

There it was, flapping triumphantly in the breeze on United States soil along with the flags of the other 148 UN members whose emblems are displayed in front of the UN great glass Palace of Palaver.

Some 50,000 U.S. servicemen who lost their lives in the badly directed attempt to merely restrain Communist aggression in Vietnam, instead of smashing it in a war to win (along with their families and the hundreds of thousands who were wounded) henceforth are to have their sacrifices denigrated by that flapping red flag.

The second and equally distressing sight took place inside the glass palace.

Before taking his seat at the opening General Assembly session, U.S. ambassador Andrew Young made a point of seeking out the

new Vietnamese delegation and warmly shaking hands with all of them.

He didn't have to do that. He shouldn't have done that.

But this black racist, who has been stirring up the hornet's nest of racial conflict in southern Africa, was only acting true to form as a sneerer at his country's major convictions and attitudes.

Andrew Young, in spite of his admitted brilliance and presentability, is another serious appointive mistake by President Carter. He has been keeping his big mouth under reasonable control recently, obviously under White House orders, but that is quite unnatural for him. Eventually, whether in the UN or outside it, he is going to reopen his mouth and say something that will make the furor over Bert Lance look like peanuts.

SMALL HEATING OIL DISTRIBUTORS

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BALDUS. Mr. Speaker, the Small Business Subcommittee on Energy, Environment, Safety and Research held hearings today on the problems of small heating oil distributors. Their specific problems center around a package of incentives that the major oil companies offer to these small heating oil distributors to market heating oil in the off-season.

Three major refiners of the four that the subcommittee requested to testify appeared, and were cooperative in providing a candid discussion of the issues involved. One did not. Texaco informed us that they would not be coming, and did not come.

I insert in the RECORD at this point the correspondence surrounding the request sent to Texaco to testify before our subcommittee. I believe it might be of some interest to our colleagues in the Senate, as they consider the energy bill, to take note of various levels of cooperation Congress receives from these energy companies:

SEPTEMBER 7, 1977.

Mr. WILLIAM K. TELL, Jr.,
Vice President, Texaco, Inc.,
Washington, D.C.

Re Hearings, Summerfill 1977, September 28, 1977, 10 a.m., 2361 Rayburn HOB.

DEAR MR. TELL: Please consider this an invitation and request to testify at the above hearings on Summerfill 1977.

Your company has been co-operative recently in bringing the Subcommittee to a fuller understanding of the reasons for certain changes in Summerfill terms, and their effects on small business. We would like to continue that dialogue in hearings on the above date.

It is my hope at that time that you will have a more complete set of figures on numbers of jobbers participating in the 1977 Summerfill program and the gallons involved. We would like to discuss these figures with you, as well as representative figures of several other companies.

Committee policy requires me to request forty copies of your written testimony to be submitted at least forty-eight hours in advance of the hearings to the Subcommittee, 2361 Rayburn House Office Building, Washington, D.C. 20515.

Thank you in advance for your testimony; if you have questions regarding the above, please feel free to contact my Subcommittee Counsel, David Metzger, at (202) 225-5525.

Sincerely,

ALVIN BALDUS,
Chairman.

TEXACO, INC.,
Washington, D.C., September 16, 1977.

Hon. ALVIN BALDUS,
Chairman, Committee on Small Business, Subcommittee on Energy, Environment, Safety and Research, Washington, D.C.

DEAR MR. BALDUS: This is in response to your letter of September 7, 1977, requesting that a Texaco representative appear at your subcommittee hearings September 28 concerning the summerfill 1977 program.

Texaco is very much aware of the interest which your subcommittee has shown in studying the effects of petroleum marketing activities on small businessmen, and we are most willing to provide appropriate data and information to assist you in your review of this matter. I think this is borne out by the appearance of Mr. Annon M. Card, a Senior Vice-President of Texaco, at your subcommittee hearings on April 30, 1977 and by the detailed answers to questions on the summerfill program which we submitted on July 27, 1977.

I regret, however, that previous commitments and the press of business will make it impossible for Mr. Card or any other qualified Texaco marketing executive to appear personally at the September 28 hearing. At the same time, we in no way wish to be uncooperative in your search for additional information. We would be pleased to submit a written statement or provide answers to any specific questions which you or subcommittee members might have on this subject.

I hope you will understand our position and advise me of what data or information you would like us to provide.

Very truly yours,

WILLIAM K. TELL, Jr.

SEPTEMBER 23, 1977.

Mr. WILLIAM K. TELL, Jr.,
Vice President, Texaco, Inc., Washington, D.C.

Re Hearings, Summerfill, 1977, September 28, 1977, 10 a.m., 2359 Rayburn House Office Building.

DEAR MR. TELL: This letter is in response to your September 23, 1977 telephone conversation with my Subcommittee Counsel, Mr. David Metzger, wherein you declined this Subcommittee's September 7, 1977 written invitation and request to Texaco to testify before this Subcommittee on September 28, 1977.

I am extremely disappointed by your inability to arrange for an appearance on September 28, 1977. As I have informed you in my letter of September 7, this Subcommittee does appreciate your cooperation in testifying before our Subcommittee on matters relating to the Impact of Weather Related Energy Shortages on Small Business in April of this year. We also appreciate your July 27th and July 5th letters, supplying information to the Subcommittee, in response to our inquiries, on the situation of Summerfill, 1977. In view of that past cooperation, I thought it would be appropriate to make one additional attempt to obtain your voluntary cooperation in this matter.

The Subcommittee feels justified in requesting the testimony of Texaco, and in particular, Mr. Annon Card. The importance of having Mr. Card appear rests on the discrepancy between his testimony before the Subcommittee on April 20, 1977 regarding Texaco's promised Summerfills policies, and the subsequent actual policies. Specifically, Mr. Card advised the Subcommittee that no major changes would be forthcoming on the Summerfill program for 1977. Yet, one month later, Texaco joined every other major oil company that we know of in eliminating the one percent discount. This Subcommittee naturally has questions about whether it interpreted Mr. Card's testimony correctly in April, and are eager to allow Texaco the opportunity of a full explanation of these and other matters.

It is my feeling that the public has a right to know that its interest in having sufficient early storage of heating oil for the winter is being protected. Consumers have a right to know why prices are likely to increase for their heating oil. Those are the reasons we are holding these hearings. Given the complexity of the issues, they do not lend themselves to simple discussion in a letter. There is a need on the part of the public to air the matter thoroughly.

In light of these circumstances and your past cooperation, I wish to express my personal desire to resolve this difficulty voluntarily. I shall therefore, extend to you again the Subcommittee's request to testify; We appreciate your consideration of the Subcommittee's strong desire and ultimate determination to obtain Mr. Card's testimony.

In your discussion with my Subcommittee Counsel, you mentioned your letter of September 16 to me declining my request for Texaco to testify at the hearing. I am not in receipt of that letter. However, in the event that you have found the September 28 date inconvenient to testify before the Subcommittee, I am willing to offer alternative dates for the purpose of having Mr. Annon Card testify alone before the Subcommittee.

Thank you for your cooperation in this matter.

Sincerely,

ALVIN BALDUS,
Chairman.

VILLAGE OF GREAT NECK IN NEW YORK WINS AAA PEDESTRIAN SAFETY AWARD

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. WOLFF. Mr. Speaker, I am pleased to announce that the Village of Great Neck in the Sixth Congressional District of New York, has been presented with the "AAA Pedestrian Safety Citation Award" for not having a pedestrian fatality during the past 5 years.

The award was presented to village representatives on September 19, 1977, at special ceremony sponsored by the Automobile Club of New York.

I take this opportunity to inform my colleagues of this award and particularly to congratulate the Village of Great Neck for their superlative efforts in maintaining a safe pedestrian environment for its residents.

ABORTION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. NOLAN. Mr. Speaker, it is with deep regret that I presently address the

House regarding the Hyde amendment which was voted upon yesterday. A close and very dear friend passed away and it was necessary for me to be with the family. My return to Minnesota precluded my vote on the Hyde amendment, an amendment which was extremely important to me. Only the most serious circumstances prevented my being present for the vote on this crucial matter and had I been here I would like to make it known that I would have voted in favor of a strict proposal preventing the use of public funds for abortion with the sole exception of when the mother's life is endangered. My constituents know that I have taken a very strong pro-life stand and because of this commitment it is important for me to now publicly state my position on the Hyde amendment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 29, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 30

8:00 a.m.

Energy and Natural Resources

To resume hearings on the following Department of Energy nominations: John F. O'Leary, of New Mexico, to be Deputy Secretary; Dale D. Myers, of California, to be Under Secretary; Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary for Policy and Evaluation; Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary for International Affairs; and Phillip S. Hughes, of Maryland, to be an Assistant Secretary for Intergovernmental and Institutional Relations.

3110 Dirksen Building

9:00 a.m.

Judiciary

Separation of Powers Subcommittee

To resume hearings on the disposition of U.S. holdings in the Panama Canal Zone.

1318 Dirksen Building

Select Nutrition and Human Needs

To resume oversight hearings on food quality in the Federal food program.

Until 1 p.m. 6202 Dirksen Building

9:30 a.m.

Foreign Relations

To receive testimony on economic considerations from Executive branch officials on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).

318 Russell Building

Human Resources

To mark up S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers; S. 2108, to amend the Indochina Migration and Refugee Assistance Act of 1975; S. 1328, to encourage the implementation of career education programs; and the nomination of Bertram R. Cottine, of the District of Columbia, to be a Member of the Occupational Safety and Health Review Commission.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To resume hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.

5110 Dirksen Building

Joint Defense Production

To continue to receive testimony from DOD officials and defense contractors on defense procurement practices.

5302 Dirksen Building

Finance

Business meeting to consider pending calendar business.

2221 Dirksen Building

Veterans' Affairs

To hold hearings on a study by the National Academy of Science on health care for American veterans.

Until 12:15 p.m. 4221 Dirksen Building

Select Intelligence

Special Investigations Subcommittee

Closed business meeting.

S-407, Capitol

OCTOBER 3

9:30 a.m.

Judiciary

Administrative Practice and Procedure Subcommittee

To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.

2228 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.

5302 Dirksen Building

Energy and Natural Resources

Business meeting to consider pending calendar business.

3110 Dirksen Building

Select Small Business

To review title I of S. 1815, Small Business Venture Capital Act of 1977.

424 Russell Building

OCTOBER 4

9:00 a.m.

Select Indian Affairs

To mark up S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.

4202 Dirksen Building

9:30 a.m.

Foreign Relations

To receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N. 95th Cong., 1st sess.).

318 Russell Building

Human Resources

Aging Subcommittee

To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.

1224 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Nutrition Subcommittee

To hold hearings on the role of the USDA in nutrition research.

322 Russell Building

Banking, Housing, and Urban Affairs

Rural Housing Subcommittee

To hold hearings on S. 1150, Rural Housing Act of 1977.

6226 Dirksen Building

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.

5302 Dirksen Building

Commerce, Science, and Transportation

To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.

3110 Dirksen Building

Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.

4232 Dirksen Building

Select Indian Affairs

To resume hearings on Federal Indian Domestic Assistance programs.

6202 Dirksen Building

OCTOBER 5

9:30 a.m.

Environment and Public Works

Transportation Subcommittee

To hold hearings to review a report by the Congressional Budget Office on energy conservation through public transportation.

4200 Dirksen Building

Foreign Relations

To continue to receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).

318 Russell Building

Human Resources

To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.

5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

9:00 a.m.
*Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

9:30 a.m.
Armed Services
General Legislation Subcommittee
To hold oversight hearings on the Defense Civil Preparedness Agency.
224 Russell Building

Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building

Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building

Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
357 Russell Building

Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

OCTOBER 10

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

OCTOBER 11

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building

Human Resources
Labor Subcommittee
To hold hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until noon 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearing on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Governmental Affairs
To hold hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 14

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
*Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

10:00 a.m.
*Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 18

9:30 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
*Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

9:30 a.m.
*Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receieve testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvement in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 30

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

OCTOBER 11

10:00 a.m.
Foreign Relations
To hold hearings on H.R. 7810, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS

FIRST SESSION

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Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, September 29, 1977*

The House met at 10 o'clock a.m.

Rev. William R. Harvey, Woods Memorial Presbyterian Church, Severna Park, Md., offered the following prayer:

O Gracious and Loving God, in these quiet moments of faith and love, we look beyond ourselves to You from whom comes our help and our strength. Thanks to You O God for the heritage and the hope You have given us in this great republic.

As another day of work begins, we take these moments to remember we cannot go this way alone. In the formality of this moment, permit us to know the intimacy of Your spirit. Hear our prayer:

We pray for truth! Give us minds to discern it.

We pray for justice! Give us wills to do it.

We pray for peace! Give us determination to build it.

We pray for courage! Give us the arena in which to live it.

We pray for healing! Give us patience to permit it.

O Lord, help us to be whole so that what we do may be more than what we say.

And to You, O God, be all honor and glory. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

TRIBUTE TO REV. MR. WILLIAM R. HARVEY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, I am pleased to introduce the Reverend Mr. William R. Harvey, who delivered the stirring opening prayer. Mr. Harvey is the pastor of Woods Memorial Presbyterian Church in Severna Park, Md., where he has served his community for the last 12 years.

Woods Church has a well-deserved reputation as an active and community-oriented church. Involvement is a key word where Woods Memorial is concerned—no community issue is too small or too large for the church to get involved in. Besides a busy regular church program, Woods Memorial also operates an adult day center, a child development center, and a daily food service operation.

Leading the way and assisting in the coordination of these activities is Reverend Harvey. He also has served as president of Youth Sanctuary, Inc., a program offering group homes for youth, and he is currently the president of the board of directors of St. Andrews House, Inc., a corporation providing housing for the elderly in Baltimore City.

Mr. Harvey graduated from Muskingum College in New Concord, Ohio, and he completed his studies with two masters degrees from Pittsburg Seminary. Here with him today are his mother, Mary Snyder; his wife, the former Lynn Eyrich, and his four children.

VYRON W. MITCHELL, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with both pride and sadness that I speak today in the House of Representatives regarding a longtime friend and supporter of mine, Vyron W. Mitchell, Sr.

Mr. Mitchell, publisher of the Fulton Daily Leader, serving both Fulton, Ky., and South Fulton, Tenn., died last Monday at age 55 and his funeral is today. His unexpected and untimely death saddens thousands of his friends who admired Vyron Mitchell.

Mr. Mitchell served as president of the Fulton Lions Club, as a dedicated leader of the administrative board and chancel choir of Fulton's First United Methodist Church and as an active member of the American Legion.

The Fulton Daily Leader, a respected newspaper edited by Mrs. Vyron M. Mitchell, Sr., was the first newspaper to endorse my candidacy for State senator in 1967 and again the first to support me editorially in my initial campaign for Congress in 1974.

I extend my sympathy to Mr. Mitchell's widow, Eunice, and their 6 children—Vyron Mitchell, Jr., Mary Elizabeth Mitchell Tomlin, Becky Mitchell Brush, William Mitchell, Cindy Mitchell Boyd, and John Mitchell—and also to their 11 grandchildren.

The family and friends of Vyron W. Mitchell, Sr. can be justly proud of this great American whose love for his God and country was evidenced by his life's activities.

TRAGIC DEATH OF SON OF REPRESENTATIVE MARLENEE

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I think it is appropriate to state to my colleagues in the House that we share a terrible tragedy this morning in having learned that the son of our colleague from Montana (Mr. MARLENEE), a 19-year-old son, died last night in a terrible accident and that will undoubtedly bring about the sorrow that such an incident brings to the family of one of our hard-working colleagues.

I know all of us here sympathize with this tragedy.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO CONTINUE DELIBERATIONS UNDER THE 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to continue its deliberations while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING AND SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING THE 5-MINUTE RULE TODAY

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Subcommittees on Mines and Mining and on Indian Affairs and Public Lands of the Committee on Interior and Insular Affairs may be permitted to sit during the 5-minute rule today for the consideration of the Coal Pipeline Act of 1977, H.R. 1609.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RONCALIO. Mr. Speaker, reserving the right to object, has the Journal of yesterday been approved?

The SPEAKER pro tempore. It has been. The gentleman from Wyoming could make a motion for a call of the House.

CALL OF THE HOUSE

Mr. RONCALIO. Mr. Speaker, I would like to make a motion for a call of the House. I had hoped to make a call on the approval of the Journal.

Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 606]

Abdnor	Foley	Moss
Akaka	Frenzel	Nolan
Ambro	Gephardt	Oakar
Ammerman	Giaimo	Patterson
Anderson, Ill.	Glickman	Pepper
Archer	Guyer	Poage
Ashley	Harkin	Pressler
Baldus	Harris	Price
Beard, R.I.	Harsha	Quayle
Bellenson	Heckler	Richmond
Bingham	Jenkins	Rose
Bowen	Johnson, Calif.	Santini
Brown, Calif.	Jones, N.C.	Sarasin
Burton, John	Jones, Tenn.	Satterfield
Cederberg	Kastenmeier	Scheuer
Chappell	Kemp	Sebelius
Chisholm	Koch	Skelton
Clausen, Don H.	Lehman	Smith, Nebr.
	Lent	Steed
Clawson, Del	Long, La.	Taylor
Coleman	McClory	Teague
Conyers	McCloskey	Thone
Cornwell	McDonald	Tucker
Cotter	McEwen	Volkmer
Crane	McKinney	Whalen
Cunningham	Marks	Whitten
de la Garza	Marlenee	Wiggins
Dent	Marriott	Wilson, Bob
Derrick	Mathis	Wilson, Tex.
Diggs	Meeds	Wolff
Dornan	Mikva	Young, Alaska

The SPEAKER pro tempore. (Mr. WRIGHT). On this roll call 342 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING AND SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING THE 5-MINUTE RULE TODAY

The SPEAKER pro tempore. At the time of the call of the House, the pending business was a unanimous consent request that was offered by the gentleman from Arizona (Mr. UDALL).

Will the gentleman restate his request?

Mr. UDALL. Mr. Speaker, I had requested permission for the Subcommittee on Mines and Mining and the Subcommittee on Indian Affairs and Public Lands of the full Committee on Interior and Insular Affairs to meet today, notwithstanding proceedings under the 5-minute rule, on the bill, H.R. 1609, the Coal Pipeline Act of 1977.

Mr. RONCALIO. Mr. Speaker, I had reserved the right to object.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) had reserved the right to object.

Mr. RONCALIO. Mr. Speaker, I would like to yield to the gentleman from Arizona (Mr. UDALL).

PARLIAMENTARY INQUIRY

Mr. SKUBITZ. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SKUBITZ. Mr. Speaker, does it not take 10 Members to support a reservation?

The SPEAKER pro tempore. It does not. The Chair would respond to the gentleman from Kansas that it does not take anyone to support a reservation of objection.

The gentleman from Wyoming (Mr. RONCALIO) on his own is reserving the right to object.

It would take the objection of 10 Members to deny the request made by the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I would say to my friend, the gentleman from Kansas (Mr. SKUBITZ), if he will give me just a moment, that I think we have worked out a compromise here, during the quorum call, with the gentleman from Wyoming.

Mr. SKUBITZ. Reserving the right to object, Mr. Speaker, I do not know anything about a compromise. If the gentleman is going to withdraw his request, then I will object.

Mr. UDALL. Mr. Speaker, I can explain the situation if the gentleman will permit me to do so.

Mr. SKUBITZ. Mr. Speaker, I withhold my reservation of objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) has the time under a reservation of objection. Therefore, the gentleman from Wyoming is recognized.

Mr. RONCALIO. I thank the Speaker.

I would like to ask the Members of the House to please permit me to yield to the gentleman from Arizona (Mr. UDALL), the chairman of the Committee on Interior and Insular Affairs, so that all of us in this august body can be apprised of what is taking place.

After the gentleman's explanation, the time will be mine; and we may want to proceed with the understanding that any Members may take exception or make objection to the gentleman's request.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I propose, in a moment, to withdraw my request for permission to sit; but I would like to say that I am doing so because of an arrangement that I have made with one of the principal persons involved, the gentleman from Wyoming (Mr. RONCALIO).

This bill involves his State and involves him very directly. He is one of the most conscientious Members of this House; and we have agreed that on Wednesday next, when the full Committee on Interior and Insular Affairs meets, we will support a motion to withdraw this bill from the joint subcommittees and put it in the full committee. We will further agree that there may be a markup if we should have a markup session in November in the full committee, but that we will not complete the markup. We have agreed that in January there will be hearings at which witnesses will appear, perhaps including the Governor of Wyoming and others who may wish to be heard.

There will be no reporting of the bill until after January 20, 1978.

With that understanding, Mr. Speaker, I am prepared to withdraw the request to mark up the bill in both subcommittees today. I think we have worked out a very good arrangement.

Mr. RONCALIO. Mr. Speaker, I understand that and will abide by the agreement, providing the markup in January will be open to any amendment at any point in the bill.

Mr. UDALL. That is correct. That is my intention.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I will be happy to yield to the gentleman from Texas (Mr. KAZEN), my cochairman on the two committees.

Mr. KAZEN. Mr. Speaker, I thank the gentleman for yielding.

It it my understanding, Mr. Speaker, that the 1-day hearing in January will be just that, a 1-day hearing, and that we will not open up the hearing continuously since we have already had hearings in the past?

Mr. UDALL. If the gentleman will yield further, Mr. Speaker, that is my understanding and that is the agreement.

Mr. KAZEN. Is that the understanding of the gentlsman from Wyoming?

Mr. RONCALIO. The understanding of the gentleman from Wyoming is that we will have 1 day of hearings in January. We will be holding a markup session in January.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Speaker, referring to the gentleman's statement, he indicated that there would be a markup session in January, on the 20th of that month.

Does that mean that we anticipate having the Office of Science and Technology Assessment study in by that date, or are we going to move ahead on January 20 regardless of whether we have the report or not?

Mr. RONCALIO. It is my understanding that the report will be printed and distributed far before that date; but this is not conditioned upon completion of the report. If it is not ready by that time, we will go ahead nevertheless.

Mr. RUPPE. It seems odd to wait until the report is just about due and then say that we will mark up the bill regardless of whether it is prepared. It would appear that the proponents of the bill are a little bit nervous about the findings of the report.

Mr. RONCALIO. We have given them sufficient time for the report. It has been promised for us in November. It is bound to be there in December. We cannot hold this up.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my request.

The SPEAKER pro tempore. The Chair will state that the gentleman from Arizona does not need unanimous consent for that.

Mr. UDALL. I thank the Speaker.

Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) withdraws his request.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE TODAY

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit during the 5-minute rule today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TORRIJOS FRIENDLY DICTATORSHIP

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, it is not often that people in public office speak with the candor displayed by Omar Torrijos, Panamanian dictator, during a news conference reported by columnist Robert S. Allen.

On Monday, September 26, the News of Lynchburg, Va., printed an excerpt from this news conference, without editorial comment.

None was in fact needed. General Torrijos leaves no doubt on where he stands with regard to political freedom. What happened on the road to and goal of human rights for all people.

The excerpt follows:

TORRIJOS: "FRIENDLY DICTATORSHIP"

(By Robert S. Allen)

Sure, my government is a dictatorship, but it's a friendly one. We try to be nice about it. Political parties were dissolved, but what of it? They were just the tired leftoyers of old oligarchist regimes . . .

We maintain tight censorship for the very good reason that there is a big difference between cosmetic freedom and fundamental freedom. In Panama, people aren't muzzled. You can hear plenty of complaints and grumbling. We don't object to that.

But we do not permit any dissent about how we go about getting things done and getting the Canal. That embarrasses me and I don't tolerate it.

Because of distortions in the international media, people have gotten the idea I'm a sort of Latin Idi Amin. Well, I am tough, but not that way.

We want the Canal because it belongs to us and we never gave up our rights. If the U.S. doesn't turn it over, I can assure them the Canal and the Zone will be without water, without lights, and without a canal and without gringoes in very short order.

ERDA AUTHORIZATIONS FOR NATIONAL SECURITY PROGRAMS, FISCAL YEAR 1978

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON).

The question was taken; and on a division (demanded by Mr. SYMMS), there were ayes 163, noes 28.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 7, not voting 66, as follows:

[Roll No. 607]

YEAS—361

Addabbo	Burleson, Tex.	Eilberg	Hansen	Metcalfe	Sawyer
Alexander	Burlison, Mo.	Emery	Harrington	Meyner	Scheuer
Allen	Burton, Phillip	English	Harris	Michel	Schroeder
Ambro	Butler	Erlenborn	Harsha	Mikulski	Schulze
Ammerman	Byron	Ertel	Hawkins	Milford	Seiberling
Anderson, Calif.	Caputo	Evans, Colo.	Heckler	Miller, Ohio	Sharp
	Carney	Evans, Del.	Hefner	Mineta	Shipley
Anderson, Ill.	Carr	Evans, Ga.	Hightower	Minish	Shuster
Andrews, N.C.	Carter	Evans, Ind.	Hillis	Mitchell, N.Y.	Sikes
Andrews, N. Dak.	Cavanaugh	Fary	Holland	Moffett	Simon
	Cederberg	Fascell	Hollenbeck	Mollohan	Sisk
Annunzio	Chappell	Fenwick	Holt	Montgomery	Skubitz
Applegate	Clausen, Don H.	Findley	Holtzman	Moore	Slack
Archer		Fish	Horton	Moorhead, Calif.	Smith, Iowa
Armstrong	Clay	Fisher	Howard		Snyder
Aspin	Cleveland	Fithian	Hubbard	Moorhead, Pa.	Solarz
AuCoin	Cochran	Flippo	Huckaby	Mottl	Spellman
Badham	Cohen	Flood	Hughes	Murphy, Ill.	Spence
Badillo	Collins, Ill.	Florio	Hyde	Murphy, N.Y.	St Germain
Bafalis	Collins, Tex.	Flowers	Ichord	Murphy, Pa.	Staggers
Barnard	Conable	Flynt	Ireland	Murtha	Stangeland
Baucus	Conte	Ford, Mich.	Jacobs	Myers, Gary	Stanton
Bauman	Corcoran	Ford, Tenn.	Jeffords	Myers, John	Stark
Beard, R.I.	Corman	Forsythe	Jenkins	Myers, Michael	Steed
Beard, Tenn.	Cornell	Fountain	Jenrette	Natcher	Steers
Bedell	Cornwell	Fowler	Johnson, Colo.	Neal	Steiger
Bellenson	Coughlin	Fraser	Jones, Okla.	Nedzi	Stockman
Benjamin	Crane	Frenzel	Jordan	Nichols	Stratton
Bennett	D'Amours	Frey	Easten	Nix	Studds
Biaggi	Daniel, Dan	Fuqua	Kastenmeier	Nowak	Stump
Bingham	Daniel, R. W.	Gammage	Kazen	O'Brien	Symms
Blanchard	Danielson	Gaydos	Kelly	Oakar	Thompson
Blouin	Davis	Gephardt	Ketchum	Oberstar	Thornton
Bolling	Delaney	Giaimo	Keys	Obey	Traxler
Bonior	Dellums	Gibbons	Kildee	Ottinger	Treen
Bonker	Derrick	Gilman	Kindness	Panetta	Trible
Brademas	Derwinski	Ginn	Krebs	Patten	Teongas
Breaux	Devine	Goldwater	LaFalce	Pattison	Tucker
Breckinridge	Dickinson	Gonzalez	Lagomarsino	Pease	Udall
Brinkley	Dicks	Goodling	Latta	Perkins	Ullman
Brodhead	Diggs	Gore	Le Fante	Pettis	Van Deerlin
Brooks	Dingell	Gradison	Leach	Pickle	Vander Jagt
Broomfield	Dodd	Grassley	Lederer	Pike	Vanik
Brown, Mich.	Dornan	Gudger	Leggett	Preyer	Vento
Brown, Ohio	Drinan	Hagedorn	Levitas	Price	Waggonner
Broyhill	Duncan, Oreg.	Hall	Livingston	Pritchard	Walgren
Buchanan	Duncan, Tenn.	Hamilton	Lloyd, Tenn.	Pursell	Walker
Burgener	Eckhardt	Hammer-schmidt	Long, La.	Quie	Walsh
Burke, Calif.	Edwards, Ala.	Hanley	Long, Md.	Quillen	Wampler
Burke, Fla.	Edwards, Calif.	Hannaford	Lott	Rahall	Watkins
Burke, Mass.	Edwards, Okla.		Lujan	Railsback	Waxman
			Luken	Rangel	Weaver
			Lundine	Regula	Weiss
			McCormack	Reuss	White
			McDade	Rhodes	Whitehurst
			McDonald	Rinaldo	Whitley
			McEwen	Risenhoover	Wiggins
			McFall	Roberts	Wilson, C. H.
			McHugh	Robinson	Winn
			McKay	Roe	Wirth
			McKinney	Rogers	Wright
			Madigan	Rooney	Wydler
			Maguire	Rosenthal	Wylie
			Mahon	Rousselot	Yates
			Mann	Roybal	Yatron
			Markey	Rudd	Young, Alaska
			Marriott	Runnels	Young, Fla.
			Martin	Ruppe	Young, Mo.
			Mattox	Russo	Young, Tex.
			Mazzoli	Ryan	Zablocki
			Meeds	Santini	Zeferetti

NAYS—7

Ashbrook	Kostmayer	Mitchell, Md.
Burton, John	Lloyd, Calif.	
Edgar	Miller, Calif.	

NOT VOTING—66

Abdnor	Harkin	Pressler
Akaka	Heftel	Quayle
Ashley	Johnson, Calif.	Richmond
Baldus	Jones, N.C.	Rodino
Bevill	Jones, Tenn.	Roncalio
Boggs	Kemp	Rose
Boland	Koch	Rostenkowski
Bowen	Krueger	Sarasin
Brown, Calif.	Lehman	Satterfield
Chisholm	Lent	Sebelius
Clawson, Del	McClory	Skelton
Coleman	McCloskey	Smith, Nebr.
Conyers	Marks	Stokes
Cotter	Marlenee	Taylor
Cunningham	Mathis	Teague
de la Garza	Mikva	Thone
Dent	Moakley	Volkmer
Downey	Moss	Whalen
Early	Nolan	Whitten
Foley	Patterson	Wilson, Bob
Glickman	Pepper	Wilson, Tex.
Guyer	Poage	Wolff

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6566, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House on Wednesday, September 28, 1977, title I had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from New York (Mr. WEISS).

(By unanimous consent Mr. BAUCUS was allowed to speak out of order.)

THE UNTIMELY DEATH OF THE SON OF REPRESENTATIVE MARLENEE OF MONTANA

Mr. BAUCUS. Mr. Chairman, it is with deep regret that I join with the gentleman from Wyoming (Mr. RONCALIO) in informing the House of the death of the 19-year-old son of our colleague from Montana, RON MARLENEE.

RON's son Mike has been handicapped for several days. He was involved 2 years ago in a swimming accident. Two nights ago, he fell out of his wheelchair and, due to complications, he died just last night.

It is with deep regret and sorrow that I inform the House, and I know that all of us in the House wish to extend our deepest sympathies to RON and to his family for this tragic loss.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman and members of the committee, I thought we had an excellent debate yesterday, and I hope we can maintain that quality. The gentleman from New York (Mr. WEISS) made a very important point, which is that we already possess very effective nonnuclear weapons such as the TOW missile, which for the same amount of money would be just as effective in knocking out tanks without any of the bad side effects of nuclear weapons. Now, on that point he may be right and he may be wrong. However, I would suggest that we try to discuss this in the overall context, which is not the just military aspects. There is an old axiom that says that war is too important to be left to the generals. It recognizes that there are political aspects of warfare.

I suggest that some of our most thoughtful and conscientious colleagues on the Armed Services Committee may have become so immersed in the military and tactical aspects that they have overlooked important political and diplomatic aspects.

For a fleeting tactical advantage—and it would be fleeting because the history of warfare is that every weapon produces a countervailing defense—the administration, if it goes ahead with neutron bombs, and if this Congress supports them, will be supporting another technological escalation in the strategic arms race. The implications of that, with respect to the Nuclear Nonproliferation Treaty, the proposed Comprehensive Test Ban Treaty, SALT itself, as well as our general political posture versus the rest of the world, will be devastating.

Mr. Chairman, we have recently experienced difficulty in our SALT negotiations with the Russian Government because they had some doubts as to our Government's sincerity with respect to SALT. Let me analyze a little bit the effects on the Comprehensive Test Ban Treaty. A high neutron emitting warhead is one of the easiest types of atomic weapons to construct. Every atomic warhead produces neutrons. Basically, all you have to do to produce a neutron warhead is to eliminate some of the shielding that ordinarily goes into a warhead.

Let us take a look at the effects on the Nuclear Nonproliferation Treaty. And I am now going to read from the arms control impact statement. It says:

> Some governments might couple a decision to deploy ER—
>
> That is enhanced radiation weapons—with perceptions that U.S. doctrine has changed so as to make the use of nuclear weapons more likely in a tactical situation; such a coupling could have an adverse effect on U.S. efforts to prevent further nuclear proliferation.

If we are going to develop cheap and easily used tactical nuclear weapons, other countries are going to say they would like to have them too. For one thing they are going to realize that if we can use them tactically in Western Europe, we might well use them in other situations in other parts of the world.

Such a decision could also have an adverse effect on our efforts to negotiate a Comprehensive Test Ban Treaty. While it is possible that the Soviets have been pursuing enhanced radiation techniques, it is almost certain that they will do so if the United States goes forward with the production and the testing of these weapons.

The history of our experience in the arms race today shows that every time we come up with a new weapon, the Russians insist on doing that, too. And any idea that it will make Russia more amenable to reasonable SALT agreements runs in the face of all of our experience. Our experience is that when we act tough, they act tough.

So it does seem to me that if the President—and I believe him—is sincere in saying he wants to move ahead with a Comprehensive Test Ban Treaty, this goes in the opposite direction.

Another point that was made was that the people did not have all of the facts since there are military facts that we cannot make public. And I suggest to the Members that that in itself is an important fact. From the standpoint of our relations with the rest of the world, what is important is not whether they have all the facts but what are they going to perceive? They are going to perceive that the United States is embarking on a policy which, first, escalates the nuclear weapons race and, second, involves a purely antipersonnel weapon.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, the population density in Germany is 650 people per square mile, one of the highest in the world. We are now asked to tell the people of Germany that we are going to develop a weapon for deployment in their country that is more effective in killing people, including civilians, who cannot escape the effects of the neutron even as well as people in tanks.

Mr. Speaker, yesterday I inadvertently referred to the report made by the Congressional Research Service on the arms control impact statement on this weapon, which the committee on International Relations obtained and which its chairman placed in the RECORD, as a report of the committee. This is on page 31367, and I hereby correct the RECORD.

Now let me read again from the report by the Congressional Research Service to the Committee on International Relations. It states:

> The Arms Control Impact Statement stresses that, in the long run, interpretations of U.S. intent in deploying ER weaponry will be more significant than "judgments based on hard analytical criteria or weapons characteristics." Thus regardless of U.S. efforts to emphasize ER weaponry's positive contribution to deterrence, the Arms Control Impact Statement suspects that a large body of public opinion within the United States, Allied nations, and the third world (as well as the Soviet government) will perceive an intent to change U.S. doctrine "so as to make the use of nuclear weapons more likely in a tactical situation."
>
> The arms control impact statement (ACIS) enumerates several adverse effects of such perceptions, including gains for Soviet propaganda, a lessened NATO receptivity to the weapons, and increased difficulty in preventing further nuclear proliferation.

This is why the point made by the gentleman from California in yesterday's debate about the humanitarian aspects of this becomes so important. People relate to people and effects on people, and this is a weapon aimed at killing people in very large quantities.

Finally, I made the point, when the gentleman from Alabama (Mr. DICKINSON) was speaking, about how we ought to be debating the question of how we can insure that NATO is going to deter by conventional weapons. The problem is how to give NATO sufficient nonnuclear deterrent capability, and this weapon does not add one iota to that capability.

So on all those counts, it seems to me—the humanitarian, the political, and our goals in preventing nuclear proliferation—this proposal is counter to everything we are trying to do.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I thank the gentleman for yielding.

I feel very strongly that most of this debate has been based upon a misunderstanding of just what the neutron warhead is. When the gentleman from Ohio (Mr. SEIBERLING) used the term, "neutron warhead," I thought he had an understanding of the weapons system.

The gentleman from New York (Mr. WEISS) definitely does not have an understanding of the system, because his letter states, "production deployment of the neutron bomb."

We are not building a neutron bomb.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield further to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I wanted to correct the gentleman from Ohio (Mr. SEIBERLING) when he stated that we are developing a weapons system that will more effectively kill people. That is not the case, I would state to the gentleman from Ohio.

Any nuclear weapon has three killing effects. We can visualize, first of all, a small circle, which is the initial radiation area. That has a damaging effect. Outside that area, there is another circle which extends a greater distance, a greater radius, and that is the blast area. Then outside that circle, there is even a greater area, and that is the heat area.

All three areas will produce damaging effects. All we are doing with a neutron warhead is to enhance the first inner circle and decrease the blast and the heat circles. What we are doing is reducing collateral damage.

I cannot understand how the gentleman from Ohio, who I know deplored all the collateral damage in the bombing in Vietnam, could be against the development of a weapons system which can only be used as a defensive system.

Mr. SEIBERLING. I understand the technical points the gentleman has made, and I agree with them.

Mr. ICHORD. Then why did the gentleman say this will more effectively kill people? It will not effectively kill more people.

Mr. SEIBERLING. I did not say it will kill more people. I said its primary purpose is to kill people rather than destroy facilities, and that is obviously the intent of it; is that not correct?

Mr. ICHORD. Unfortunately, I must agree with the gentleman, because the purpose of war is obviously to kill people. I hate war and the killing of people just as much as the gentleman from Ohio does.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, would the gentleman agree with me, that the word "bomb" has been used interchangeably in this situation with the words "weapons" or "weapons system," as it relates to the neutron bomb or neutron weapon?

Mr. SEIBERLING. Yes. Actually this warhead will be equally adapted to use in bombs or cruise missiles, as well as other weapons.

Mr. WEISS. Yes. That may include bazookas and artillery shells or whatever else we may be talking about.

Second, the gentleman from Missouri (Mr. ICHORD) may not have read some of the material on this subject himself, because the fact is that the effects of irradiation are much broader in the use of this weapons system, the neutron weapons system, than they are with the use of the so-called dirty bomb.

There is, in fact, a clear description as to the difference in the nature of the attack and the effect that it has on individuals who are subjected to this irradiation. Indeed, it has been compared by many, in very many ways, to chemical and biological warfare because what it does, in fact, is to affect the cellular system.

Finally, it should be remembered—and this is from the National Security Council's own impact statement—that even if one assumes there is less blast and less collateral damage by the neutron weapon, it is not intended to be fired as a single warhead but in "packages" of 30 or 50 at a time.

The National Security Council says that the Russians do not have these weapons and therefore they are going to retaliate with the conventional blast tactical nuclear weapons. They say that anyone who thinks otherwise about collateral damage should forget it because those conventional tactical nuclear weapons are going to bring about the same devastation as would be brought about if we had started using the dirty nuclear weapon.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I just rise to simply say that I think the argument is valid on both sides.

I think we should not say that because my friend, the gentleman from Ohio (Mr. SEIBERLING), is not a member of the Committee on Armed Services, that he does not know what he is talking about; he does know what he is talking about. There are few Members in this Chamber whom I respect more than I do the gentleman from Ohio.

We may not agree on this particular subject, but I respect his position in the matter, and his expertise.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I believe the gentleman conceded too much when he said that he agreed with the statement made by the gentleman from Missouri (Mr. ICHORD), because there is nothing, is there, in this bill or in the nature of this weapon or missile or warhead that would limit it to defensive use; isn't that correct?

Mr. SEIBERLING. That is correct, but I agreed with his technical description of the effects of the weapon. He is right on that, but that is beside the point.

Ms. HOLTZMAN. Mr. Chairman, I would say to the gentleman from Ohio that the gentleman from Missouri said in effect that this is a clean weapon. However, the actual radiation certainly depends on the size of the bomb; is that not correct? The square mileage that would be affected immediately by radiation depends on the size of the weapon; is that correct?

Mr. SEIBERLING. That is correct.

Ms. HOLTZMAN. The gentleman also knows that the detonation of a neutron weapon creates a radioactive cloud of carbon 14; is that correct?

Mr. SEIBERLING. That is correct.

Ms. HOLTZMAN. And that the size of that radioactive cloud is dependent on the number of neutron weapons exploded; is that correct?

Mr. SEIBERLING. Obviously.

Ms. HOLTZMAN. The gentleman is also well aware that this radioactive carbon 14 cloud, which is lethal, has a half life of 5,700 years; is that not correct?

Mr. SEIBERLING. That is correct.

Mr. HOLTZMAN. The gentleman would also agree, would he not, that it is certainly possible for this radioactive carbon 14 cloud, depending on the direction of the winds, to be blown right back on our troops who are firing this weapon is that correct?

Mr. SEIBERLING. Of course.

Ms. HOLTZMAN. And it could be blown back on cities within Germany, France, and other parts of Western Europe; is that correct?

Mr. SEIBERLING. That is true of any nuclear weapon, that it has fallout effect.

Ms. HOLTZMAN. I am not discussing fallout effect. That is created by radioactive Earth particles thrown into the air by the bomb's explosion on the ground. That is another probable effect of the neutron bomb. I was just discussing the lethal effect on our own troops and on Western Europe of a radioactive carbon 14 cloud.

Mr. SEIBERLING. That is fallout also.

Ms. HOLTZMAN. This is not a clean weapon. Nor are its "collateral effects" limited.

Mr. SEIBERLING. It is not a clean weapon. It is just not as "dirty" as some.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentlewoman from New York (Ms. HOLTZMAN) is putting words in my mouth. I did not state that it was a clean weapon, and I think the record will so indicate.

Mr. SEIBERLING. Mr. Chairman, I agree that that was not really the gentleman's point, but my point is this——

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has again expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. To continue, Mr. Chairman, let us concede, just for purposes of argument, that this weapon will not lower the nuclear threshold. Let us concede that tactically it may give us an advantage, however fleeting that may be or however long it may be. Nevertheless, the proponents of this weapon are totally disregarding the effect of it on our political posture in the world, on our image as a nation, on the proposed comprehensive ban on further nuclear testing, on our efforts to get a treaty through the SALT talks, and on the effect on other people as far as the nuclear nonproliferation treaty is concerned.

Those are effects which go far beyond all the arguments about the tactical and nuclear strategy aspects of this weapon, and those are the things we ought to be talking about.

Mr. Chairman, I yield back the balance of my time.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there have been very few issues in this House that have given me more trouble than this one. And my friends—and I use that word cautiously, and I hope they are after my arguments are over—are opposing this weapons system strongly and vigorously. I cannot help but feel that the gentleman from New York (Mr. WEISS) is correct in one plane of thought. I think the argument that somehow the mindless effort of our defense establishment to create weapons of destruction, has taken us just one step further, that it has managed to produce a weapon that reduces collateral damage that really, in many ways, can and would be used in a war and is more than likely that that weapon would be used. On that plane of thought his logic is clear and equitable, and the critics of the weapon are correct.

I serve on the Committee on Armed Services and have served 3 years there, with my colleague, the gentleman from Michigan, BOB CARR. I think we run the risk in serving on that committee of looking at the technical arguments, and forgetting some of the points that my friend the gentleman from Ohio (Mr. SEIBERLING) has used, and that is that when you learn, as technicians, what weapons will work and what weapons will not work, that you tend to obfuscate the broader questions that are involved, such as the way the world will view this country when we take this arms race one step further.

But, let me, for a moment—and I suspect that I will be subject to some criticism as I proceed, and I welcome it—let me offer my technician's argument as to why this weapons system should be introduced into our arsenal.

We have had a history in Europe of attempting to achieve some balance of power with the Soviet Union. I do not subscribe to the view that is commonly held by my friends on the Republican side that the Russians are poised and waiting to attack us across the border. That is timorous prattle at best. What the Russians attempt to do with their buildup of troops and putting more tanks on the border, is to exercise some sort of political leverage and we respond to that game by countering it with additional tanks, and additional TOW missiles and additional troops.

Within that framework of gamesmanship that we both play with one another, we continue to add to our arsenal and they continue to add to their arsenal. It is not because the Russians are going to launch an attack on West Germany and engage the world in nuclear conflagration because we know that is ridiculous, they are not going to do that. But we have got to respond to a certain extent, on that same level, and argument our forces and increase our arsenal so that we can insulate ourselves to a Soviet political advantage in that section of the world. And the neutron bomb, like the A–10, like the F–14, and like the F–15, makes our arsenal stronger and more credible, not only in the eyes of the Soviet Union, but in the eyes of the world. This weapon helps maintain that balance of power.

Let me continue with the need for the neutron bomb. It will be placed on our Lance missile, and in the 8-inch shell, and the howitzer; it will replace the existing tactical kiloton warhead. The neutron bomb is a damage limiting, to the extent that any weapon is damage limiting, warhead.

The gentleman from Michigan (Mr. CARR) wanted to make the point yesterday, and I think he did, but fleetingly, and I want to emphasize it again, with the theory of the second fire break—and I hope that I am not considered in the same school with Robert MacNamara or Henry Kissinger, with their theory that you can have a limited nuclear war, because their theory of limited nuclear war and mine are completely different.

But yet this theory of the second firebreak at least merits criticism, and merits the anvil of criticism in the hammering out, if you will, of a position, and I want to offer it to the Members. That position is, very simply, that given the games of the battlefield and the technicians' argument, and given this theory of the second firebreak, we could contain nuclear war and the neutron bomb plays a significant role in that theory.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DOWNEY was allowed to proceed for 4 additional minutes.)

Mr. DOWNEY. It goes something like this—and I might add parenthetically before I begin to explain it that I hope that we can have a dialog, because I am not sure I am right, and I am not sure the others of the neutron bomb are. But I am going to offer it to the Members. It is important. That theory is that if the Russians invaded West Germany, we could by either tacit or formal understanding explain to them that the introduction of nuclear weapons, in this instance low collateral nuclear weapons, would be introduced on our soil, and that if they did not in turn introduce nuclear weapons, the weaponry, the battle—the nuclear war—could be limited to the battlefield. I know that probably shocks and makes many Members recoil, the suggestion that we could wage such a war. It is a theory. Within the context of that theory, the neutron bomb makes sense, because if you decide only to use it on your soil against invading enemy troops, and that they understand that, and that the introduction of them precludes the concomitant use of nuclear weapons on their soil, it is conceivable that the firebreak could be contained, however remote. In that sense the neutron bomb does make some sense, because it reduces the collateral damage to the Western population.

If the Members reject that theory of the second firebreak, then, of course, they should oppose this weapon. If they believe it is possible to do something as I suggest, then in that sense the neutron bomb makes a little bit of sense.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding. I have the greatest respect and affection for him, although we do disagree on this issue.

I have one question that I would like to ask the gentleman. He uses the term "credible" as far as this weapon is concerned. To me that means it is more credible because we are more apt to use that than one of the big nukes. What does it mean to the gentleman?

Mr. DOWNEY. I think it probably means the same thing. The Schlesinger theory propounded before our committee on many occasions—and remember where the former Secretary of Defense came from; he was a product of the Rand Corp., an expert on nuclear tactics and a brilliant man—was that if you talked about the use of nuclear weapons, the other side had to think to themselves and say, "Here they are, the United States, talking about using these weapons. We do not know what their doctrine is."

The more credible your weapons become and the more we talked about using them, the more of a deterrence—whether we use them or not—it becomes for the other side, because, you see, we are in their minds, going to use them, and we are going to reduce the damage. So the other side knows that this theory, by those words and by those actions and by the fact that this country has used nuclear weapons before and might be likely to use them again, provides a deterrent, a very strong deterrent.

Mr. JOHN L. BURTON. It is more likely we will use these weapons. I believe the gentleman will agree that is the credible thing, and we will use the weapons we have. That is why I am against it.

Mr. DOWNEY. It is more likely that we would use a weapon like this on the battlefield than to launch a Minuteman from our silos against the Soviet Union, absolutely.

Mr. JOHN L. BURTON. Again, and

then I will not take any more time, it would be more likely we would use this on a battlefield. In my judgment, it would be more likely we would have to wash the Minuteman, because I do not think we can limit the war.

Lastly, I do not know that if we had had these weapons available, when the big push for tactical nuclear weapons was on, in Southeast Asia, we may not have used them. I do not think there is anything that is going to limit this to Warsaw and NATO.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. DELLUMS. I appreciate the gentleman's yielding, and I appreciate the nature and quality of the gentleman's debate, although we are in total opposition on this particular issue.

I would like to enter into colloquy with my colleague. First of all, will the gentleman agree with me that war is too important to leave to the generals?

Mr. DOWNEY. I agree with the gentleman.

Mr. DELLUMS. Therefore, the question of military issues needs to be perceived within the framework of our total politics, foreign policy.

Mr. DOWNEY. That is correct.

Mr. DELLUMS. We are talking about deploying this weapon in Europe. Let us now discuss the reality of Europe. Will the gentleman agree with me that at present there is a gross imbalance in the nature of conventional forces with respect to NATO and the Warsaw Pact?

Mr. DOWNEY. If I might take just one second back of my time that I have given to the gentleman from California, let me just say that I think there is an imbalance. I am not so sure as to the grossness of the imbalance.

Mr. DELLUMS. Would the gentleman agree that the balance favors the Warsaw Pact nations at this point?

Mr. DOWNEY. I believe so.

Mr. DELLUMS. Would the gentleman agree with me that there is a considerable body of thought in this Government that if the Warsaw Pact nations, if the Soviets came across Europe we could not repel them?

Mr. DOWNEY. It is difficult to answer that question yes or no. It depends on two situations. If they were to respond from a maneuver and come across by surprise, I think they would be able to gain more of an advantage than if they were to amass their troops and give us more opportunity to prepare.

Mr. DELLUMS. The gentleman and I serve together on the Armed Services Committee. Would the gentleman tell me on a scale of 1 to 100 at this moment what does the gentleman see as the possibility or the probability of the United States and the Soviet Union coming to conventional war in the foreseeable future?

Mr. DOWNEY. From 10 to minus 7 to 1.

Mr. DELLUMS. Which means that the possibility or probability at this moment is miniscule.

Mr. DOWNEY. Yes.

Mr. DELLUMS. Since there is no potential danger of assault or confrontation at this moment, even though we have agreed that there is an imbalance favoring the Warsaw Pact nations, then my question is this. If the MBFR—the mutual balance of force reduction—talks, which ostensibly are designed to gain some parity with respect to conventional forces, are not taking place in that the issues in Europe are presently so complicated we cannot move the talks off dead center, I would ask my distinguished and learned colleague from New York this question.

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

(On request of Mr. DELLUMS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield further, do we not complicate that situation even further by the introduction of a so-called clean nuclear weapon while we at this moment do not even have the ability to come together to figure out the withdrawal of our own conventional forces? How does the gentleman argue that with this weapon we somehow enhance the probability of peace in Europe, when we cannot even do it with the conventional forces? Does it not complicate the situation further?

Mr. DOWNEY. Let me try to respond to the gentleman. I mentioned before that in the broadest context the White House and others have argued that this is a new weapon that essentially shows the rest of the world that we are interested in and involved in making better weapons for future use. I cannot argue with that. All I am suggesting to the gentleman and the Members of the House is that unfortunately there is another reality. I am not talking about the two truths which existed in Galileo's time.

I am talking about the game of who is ahead and who is not ahead. The gentleman may say to me: "Why do you bother yourself with that?" Certainly again the fact is that in Europe and the rest of the world that game is the biggest game in town. Hopefully some day we will be able to argue on the gentleman's terms about the meaning of nuclear war and the reduction of nuclear weapons. Until we do reach that point, the neutron bomb gives us an advantage over the existing nuclear warhead, which is just another edge in which we excel so that the Russians do not get the edge. The possibilities are we will gain an advantage and we want to maintain our advantage, not only to prevent war but to maintain the balance of forces in that part of the world.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair would advise the Members it is against the rules to use first names and would advise the Members not to further use first names.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. DOWNEY) be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DOWNEY. Mr. Chairman, I thank the Chair and I stand corrected.

I yield further to my friend, the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, just one additional thought. Within the framework of the NATO structure at this very moment leftist governments are emerging.

Question: How then does the continued escalation of a military presence in Europe, playing these kinds of so-called political games the gentleman mentioned, how does that influence friends for the United States, when I see country after country in Europe moving to the left, having nothing to do with the deployment of neutron bombs, dirty bombs, clean bombs or anything else, having to do with the fact that governments are emerging in those nations where people feel there is a different course that needs to be taken in order to deal with the quality of their lives?

I have the notion we are here playing all these military games, stacking weapons on top of weapons, and people are living desperate lives in Europe and they are embracing political views and philosophical perspectives that have nothing to do with these neutron bombs. It has nothing to do with the firing of weapons. We have not fired a shot in Europe in 20 years, but governments are not becoming democratic and that is what we ought to be debating and not this inane neutron bomb.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for an additional 2 minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding and I appreciate the gentleman's patience and the patience of all the other Members; but I hope another 15 or 20 minutes will not matter, when we are talking about the fate of the world.

Mr. DOWNEY. I could not agree with the gentleman more.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's tone in this debate. I think the gentleman has kept it at a very, very high level.

I also appreciate the fact that he has expressed his agreement with those of us who support this amendment, that deployment of the neutron bomb will probably lower the threshold of nuclear war.

May I ask a question directed to the

one possibility the gentleman raises that the gentleman says he is not convinced of but is just throwing it out; the so-called second fire break argument.

I would like to see if I can get from the gentleman a scenario as to how this would work. Let me put my hypothesis. I assume the gentleman is projecting a situation where the Russians crossed from East Germany into West Germany. The allied and American forces would at some point conclude there is no way to stop the advancing enemy tanks and rather than use conventional weapons, they decide they want to use neutron weapons; for whatever reason, to impress the Russians with their credibility or whatever, and they then apply for permission to the President of the United States, "Can we use the neutron weapon?"

The President wires back, "Yes, go ahead and use it."

How much time this takes, I do not know. I will allow the gentleman to answer that question.

In the meantime, assume the enemy tanks keep moving forward. Finally, the word comes and in Germany or Belgium or someplace else, the neutron weapon is used by us. At that time the Russians know we have only used this on friendly soil and will have the good sense to think about this.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for an additional 2 minutes.)

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, at that point I assume that we are now going to rely on the Russian's good sense in recognizing that we really do not mean their ground any harm. All we mean by using these neutron weapons is to kill their troops and stop the tank attack.

Will the gentleman agree that the very use of those neutron weapons draws another consequence, that it totally disrupts the communication system that the enemy has and perhaps even the communications we have. If that is so, given the confusion and the chaos that then exists on the field of battle, how do we expect the field commander of the Russians to be in a position to decide to use the kind of restraint that the teller theory asks them to accept?

Mr. DOWNEY. Mr. Chairman, the gentleman raises an excellent point. I hesitate to try to offer the answer, not because I do not want to, but because I see my friends that want to speak. I am afraid I have outworn my welcome. It would take me no less than 7 minutes to even begin to answer the question. I want to answer it thoroughly.

Mr. WEISS. Mr. Chairman, if the gentleman will yield further to me, I am sure the gentleman agrees that we need to debate this serious question on nuclear war. I would hope the House would yield the gentleman the 7 minutes that it will take.

Mr. DOWNEY. Let me just begin to reply to that question.

Mr. WEISS. Mr. Chairman, I ask unanimous consent that the gentleman from New York be allowed to proceed for an additional 7 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. CHARLES H. WILSON of California. Mr. Chairman, reserving the right to object, and I will attempt to qualify it in every way possible, there are eight other Members here who have been waiting for the opportunity to speak. I think the gentleman from New York has exceeded the time. I would say that until the other Members have had their opportunity—and I want everyone to have his opportunity—that the gentleman has had more than his share in comparison with others. I am just as interested as he is in hearing everyone.

I will withdraw my reservation of objection, but I hope we can give others their opportunity.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. SEIBERLING. Mr. Chairman, reserving the right to object, since this would be a very involved answer, I would like to ask the gentleman from New York (Mr. WEISS) if he would agree simply to ask that the gentleman from New York (Mr. DOWNEY) have the opportunity to respond by making a response in the RECORD, since this is a rather involved and elaborate matter, one that most of the Members are not going to hear in person anyway. I think it would be an appropriate way to get it in the RECORD, and not try to take up further time. I would ask the gentleman from New York if he will agree to that.

Mr. WEISS. If the gentleman will yield, my good friend from Ohio raises an important question, and I appreciate the Chairman's concern about time.

The CHAIRMAN pro tempore. The time of the gentleman from New York has again expired.

Mr. SEIBERLING. Mr. Chairman, I have reserved the right to object.

The CHAIRMAN pro tempore. The gentleman from Ohio is recognized.

Mr. SEIBERLING. I would just like to ask the gentleman from New York if he would agree to handle it as I have suggested.

Mr. WEISS. With all due respect, I would not.

Mr. SEIBERLING. I will not object, but I do feel that is a more appropriate way to answer that kind of question.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, just let me say under my reservation of objection at this point—and I will not object—I cannot help but feel as the Chairman does, that everyone should be given an opportunity to be heard within some reasonable limitation. I would hope that in deference to other Members and those of us who would like to conclude this particular amendment, that we would constrain ourselves to a reasonable time and stop the interminable requests for continuation of time.

If we do not get some reasonable restraints, then I am going to start objecting on every one.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MILLER of California. Mr. Chairman, reserving the right to object, I do not think the 400 Members who are not here are terribly disturbed that we are taking up time. I would like to hear the answer to the question. Many Members on the floor who are not members of the Armed Services Committee are deeply concerned about this issue and would like to hear the answer to this question and to other questions. I would hope that both the proponents and opponents would not move to call for time.

I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request for 7 additional minutes for the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. DOWNEY) is recognized for 7 additional minutes.

Mr. DOWNEY. Mr. Chairman, let me try to frame an answer without using the whole time. The gentleman from New York (Mr. WEISS) has asked me whether or not, in the confusion on the battlefield, whether rational decisions can be made.

As I mentioned before, there are a number of situations in which a European war might start. One of them might be a massive grouping of troops of the Warsaw Pact nations and then swinging across northern East Germany against the British forces, which are the weakest forces, weaker than those of the United States. Let us assume that the Russians do not do that, but choose to land a surprise attack.

We have an understanding, either formally or informally, with the Soviet Union that if they are interested in coming across and invading West Germany—which, by the way, are our allies, and our NATO allies, and this would put us in a state of war—if they were to do that, to invade with tanks, other armor and troops, that we would use all the weapons we have in the theater in this instance in West Germany. That would be our tactical nukes, tanks, what soldiers we could, and that using a weapon such as the neutron bomb or tactical nuclear weapons in that theater should be understood that as long as they are fighting on our territory and we are using a weapon, nuclear or otherwise, on our territory, that should not mean that a nuclear war, either global or strategic or limited tactical, should happen; that, in fact, they do not respond to a use of a nuclear weapon, even a neutron bomb.

We decide, for instance, that this tentative understanding should remain. There is a tremendous amount of confusion, obviously. There is a war going on. There is a city. The Russian troops are

advancing upon the city. The President of the United States is told, "Mr. President, it looks as though there are several breaks in our ranks, we are moving back, we request the use of tactical nuclear weapons."

I would think at that point that the President of the United States would say that not until they get to the Rhine are they going to use these things.

Let us assume that the President says, "Go ahead and use it." Against an advancing Russian force you would deploy the neutron weapon, you would destroy, hopefully, if you had to, the advancing forces, do a little damage to the town, and you would be able to deter them.

Teller's theory is very simply this, that the attacking side has absolutely no advantage in the introduction of nuclear weapons against hostile territory because the response would be nuclear weapons against the Warsaw Pact nations or the Soviet Union, and if one side or the other can gain the advantage on the battlefield with a limited nuclear strike, that that in itself can become a self-contained entity, that you might wage a war on the battlefield with nuclear weapons without the other Warsaw Pact nations being struck or with other European nations being struck.

That is the theory. And I know the gentleman from New York has a great deal of trouble understanding that because the gentleman talks about the confusion of nuclear war. So do I. But I am not ready to admit that the theory is not without merit, and I am not willing to say that we should discount it. It is as the gentleman from California so eloquently stated yesterday, nuclear war, strategic, tactical, or otherwise, is unthinkable. And if this theory of a second fire break makes any sense, and I believe, it does make some sense, and it could preclude a global war, then it is certainly an option we cannot ignore.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, I think this House owes a great debt of gratitude to the gentleman from New York (Mr. DOWNEY) and to his colleagues on the Committee on Armed Services who have consistently tried to approach every issue of this sort from a rational, objective point of view, to really understand the issue instead of just having a simplistic reaction to every issue which usually boils down to arguing, "We cannot let the Russians get a jump on us," without any effort to ask whether the weapon is in the overall national interest. This is a good example of the depth and clarity and the cogency of the gentleman's thinking. He has done, as always, an outstanding job. However, I think it does bring out that the comment, in the International Relations Committee's Congressional Research Service study of the arms control impact statement, on this weapon is correct. I want to read it again.

The problem with the Arms Control Impact Statement's conclusion that ER weapons could enhance deterrence but would not affect the nuclear threshold is that one cannot argue the former unless the latter is also believed to be true.

What the gentleman says seems to confirm that; is that right.

Mr. DOWNEY. Not really, I will say to the gentleman from Ohio. I think the theory of the second fire break has been propounded, and I know the gentleman from Ohio does not agree with the theory, but let me leave it at this. I really think there are other Members who want to speak, and I really overstayed my welcome.

Let me simply say that all weapons of destruction merit this sort of criticism and concern that we have expressed today, but the realities of the situation, I think, merit that we take a harder look at this as an additional item to our arsenal, because, to me, what we should be concerned with is that it does not import the same kind of concern the gentleman has expressed.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I would simply like to say to my colleague that once we make the assumption that the theory he discussed is credible, then I would say the gentleman's logic and rationale are impeccable. I would not argue with that.

The gentleman from New York is probably superior to any other Member of this Congress on this subject. The gentleman will probably go down in history as knowing more about military weaponry than any other Member who has served. I do not challenge the fact that my colleague has reached that high level.

I would simply bring the Members back to seeking an answer to my question with respect to the issue of risk, which is also involved in the issue of credibility. I ask the Members, what do we perceive as the possibility or the risk of the United States and the Soviet Union going to war in Europe? Within the framework of the gentleman's statement, he said that the probability of that is very low.

I say that once the gentleman takes that position, his argument floats away. That is all I have to say on that matter.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise to speak for the amendment and against the neutron bomb.

When I began to study this issue, I was struck by words that seemed rather abstract and did not convey much of a picture of its effects on people. It was referred to as a "clean bomb." Words such as "tactical limitations" were used.

So what I wanted to ask was this: What does this really mean to a human being when one is struck by a neutron bomb? Again words were used that seemed abstract—words such as "severe leucopenia," "disturbance of electrolyte balance," and "collapse of circulatory systems."

Again, that did not give me the picture. It was my firm conviction that the more abstract the language, the more cavalier we will be in our decisionmaking. So I wanted to know in plain, everyday terms, when one is irradiated by this bomb, what does it mean?

The source of the material to which I referred is Dr. Edward Buddemeyer, a nuclear physicist of the University of Maryland Medical School, and this is what he says:

If you are irradiated by a neutron bomb, it "will kill you in any of three ways. If you are very close, you are lucky because you will die by quick kill."

He said that the neutron bomb explodes and blows so many holes in your nerve cells that your brain ceases to function. If it does not, you will collapse and you will lose control of your body functions; you may get violent. You will die within minutes or perhaps hours, and while you are lying there waiting for death to call, you lie in your own waste, in your own feces, with rapid convulsions and shaking, just waiting for death.

This is how this humane bomb will affect you.

The second cause for death, if you are a little further away, will come from something called the GI syndrome. The GI syndrome refers to the gastrointestinal tract. The tissues that line your mouth, throat, stomach, and intestines are made of a complex genetic system. This will be destroyed by the neutron. At first you will retch and then vomit. Then the nausea will pass, but you will not feel like eating because the cells in your digestive tract, extending from your mouth, down through your throat and down into your stomach and into your intestines, will continue to divide and die, and by that time your digestive tract will become an open sore. Your heart will weaken, your kidneys will fail, your fever will climb, and you are going to hallucinate. Then you will die within a second. As you lie there dying, the very insides of your body will be rotting.

The third way to death will be from the blood syndrome. If you are lucky, you will die of anemia. That will be the most peaceful option, because the neutron will attack the blood cells so that they will no longer be able to reproduce. Your system will be defenseless against disease; you will not have those white corpuscles coming to your defense. A mere hangnail will become a green ulcer. Your gums will bleed and your mouth will hemorrhage. Microbes will grow in your lungs, and they will lose their elasticity. Fluid will begin to gather, and in effect your own lungs will become a swamp within your own body. As you gasp and struggle for breath, your liver will fail and your skin will turn yellow. You will then perhaps die or drown from your own contaminated body fluids contained in your lungs and your liver. This will take 4 to 5 weeks while you are lying there.

Is this price we are willing to pay to devise a "clean bomb," a more "humane bomb," one that will not destroy buildings but only destroys people?

Mr. Chairman, I think it is inhumane to support this type of amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think what the gentlewoman has just outlined is extremely important for the Members of this body to hear, because this is what the German people are going to be hearing and this is what other people who live in the area immediately affected by a confrontation between NATO and the Soviet Union will be hearing. They are going to be told that we are planning to save them by destroying them, and destroying them in the horrible manner the gentlewoman described.

I suggest that this further dramatizes the political stupidity of a decision to go ahead with this weapon.

Ms. MIKULSKI. Mr. Chairman, I thank the gentleman.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am particularly glad to follow the gentlewoman from Maryland (Ms. MIKULSKI), not only because of my respect for her, but because of her remarks.

The gentleman from California (Mr. DELLUMS) yesterday made a very impassioned, emotional statement, most of which I agreed with. However, one of the things the gentleman said was that this particular bomb, if approved, would make it thinkable, possible, and ultimately inevitable that we would have nuclear war.

Mr. Chairman, the reason I disagree with that statement, I would say to the gentleman—and I have told him this since the speech—is because it seems to me that almost every day in this Chamber or at least every week, and certainly in the Committee on Armed Services, we make decisions and approve projects for weaponry and make it thinkable, possible, and this Member believes ultimately inevitable that we will have a nuclear war and destroy ourselves. We do it in a most dispassionate way. We do it in a most unemotional way.

Mr. Chairman, I might say that this does not diminish my respect for the members of the Committee on Armed Services. Further, as an aside, I must say that I appreciate the fact that the distinguished chairman and the gentleman from Alabama have been so tolerant in not asking for a limitation of time on this debate. It has been a very important debate.

Mr. Chairman, what I usually do—and I think this may come as no surprise to anyone—is to rely on our friends on whom I think we can rely for knowledge in these areas. I rely on the gentleman from New York (Mr. DOWNEY) and on the gentleman from Michigan (Mr. CARR) and on others to advise me on defense matters.

Generally I think they are right, but they are involved in this dispassionate, unemotional attempt to be architects of a defense policy.

What this debate has done, Mr. Chairman, it seems to me, is to remind some of us that we cannot rely on the gentleman from New York (Mr. DOWNEY), the gentleman from Michigan (Mr. CARR), and the other Members as much as we have been relying on them in the past. I do not mean that with any disrespect.

All I am saying, Mr. Chairman, is this: These issues are too important to be left to what Theodore Roszak called the "regime of experts." They are much too important for us to go about our committee business and come in and ask the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR) how they would suggest that we vote.

Mr. Chairman, I speak to my progressive friends. I know there are others here who would not ask the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR) for advice on how to vote.

In any event, what has happened in the last 2 days is that we have talked about the insanity of this weapon. We have talked about this weapon not being a weapon of power but a reflection of powerlessness and not of security, but of insecurity, not of strength, but of weakness.

We have talked about things, as the gentlewoman from Maryland (Ms. MIKULSKI) has just demonstrated, like its effect on people.

Mr. Chairman, I do not remember a debate like this in this House.

I hope that not only will we support this amendment because this layman Member feels the weapon would represent an escalation and that we could accomplish the same ends by beefing up conventional forces. Also, symbolically, it goes backward with respect to what the President has been trying to do in sending a message around the world that we are not going to rely primarily on our big-bully image and that our main aim is to show compassion and humanity.

Mr. Chairman, it seems to me that the adoption of this amendment, in the perception of the world, would represent a turning back on the kind of symbol we like to represent and the kind of message we want to send.

What will happen here, Mr. Chairman, is that we will get 70 or 80 votes. I think everyone in the Chamber knows that. We will have 70 or 80 votes in favor of this amendment, and we will send that signal that once again the United States is moving to develop yet another new weapon.

I say this in recognition of the fact that in technical terms, Mr. Chairman, this weapon might be quite routine especially when other factors are considered. However, the nice thing about this debate, if we can find some solace and comfort from it, is that we will also send another message. That message is, hopefully, that those of us who are elected to come here and to try to represent a half million people or so are not going to be so casual, so routine, so dispassionate, and so unemotional in the future about putting our stamp of approval on weapons of war.

Mr. Chairman, we should urge the Russians and the Chinese to follow the example of the greatest democracy on Earth and its people in giving close attention to these kinds of matters which are of overwhelming importance.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman from Connecticut (Mr. MOFFETT) has put it exactly right. This weapon is totally counter to the one thing that the President of the United States said when he became President that involved a greater favorable response in this country and abroad than anything else he said, and that is that he wants to start moving the world toward a reduction and eventual elimination of nuclear weapons. This flies in the face of that. In the words of another famous quotation—

It is worse than a crime, it is a a blunder.

Mr. MOFFETT. I thank the gentleman.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a falling out, of course, of the "birds" obviously in this amendment, and it comes about not by design, but because many of us have arrived at a conclusion that a so-called neutron bomb is not as lethal or as diabolic or a change in position as some might think.

To begin with perhaps, as has already been pointed out by our colleagues, the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR) this is not a bomb. What we are talking about is a tactical weapon in the field, that is, it is a shell, it is a mortar shell. It goes into a Lance missile capability, it goes into a cannon. The W70–3 Lance missile warhead and the W79, 8-inch artillery-fired atomic projectile also under development have been considered by many military strategists for some time now as development alternatives to existing high-yield tactical nuclear weapons for deployment in such civilian-congested potential areas as Europe.

There are all kinds of things going on all over Western Europe. We do not know exactly what they are, but we do know that both sides currently possess large numbers of tactical nuclear weapons. If the Department of Defense were to come in and say that we can reduce our megatonnage from ten to half a kiloton, it would raise no fuss or fanfare on this floor at all. But because some reporter having reviewed the testimony that has come before the Committee on Appropriations and the authorizing committees for a number of years, and the Committee on Foreign Affairs early this year has come up with a so-called scare headline. And what they said, and I think this was in June of this year, was:

Neutron killer warhead buried in ERDA budget.

The second was:

Pentagon hopes to keep neutron bomb a secret.

So, we picked up that challenge and that set the parameters of this debate.

It looked like, therefore, that we had moved with the hydrogen bomb and we had moved with some other equally important MIRVed vehicles and therefore we were moving into a totally new field.

It so happens that thermonuclear fusion which is the nuts and bolts of enhanced radiation warheads, was first exploded in 1952. It has been the warhead of the Nike X which was developed in late 1950, and it has been the warhead to the Spartan and it has been the warhead to the Sprite. There has been an enhanced radiation device on the ABM missile all through the years, when many of us were making the argument on the floor of this Congress that led to the détente which we currently have on the ABM's.

The question really comes down to what are we trying to do? Are we getting involved in a radically new overall system? We have got to keep in mind exactly what we are doing.

The bottom line in all of this really is a thing called "balance of power."

We have got to keep a balance of power in the world between potential adversaries. At one time we thought that the Red Chinese were our adversaries. Now we find out that the Red Chinese cannot even penetrate the Formosa Strait that is totally dominated by the so-called Republic of China on Taiwan, and we do not really look for much from the Red Chinese anymore. But the Soviets, until we reach that millenium that was talked about by President Kennedy in his American University speech better than 15 years ago, are our potential enemy.

Today we have chosen not to provide a balance with the Soviets in conventional weaponry. Mark that. This was a conscious decision. We have decided we do not want 58 divisions. We cannot support it. We do not want 30,000 tanks. To begin with, we could not build them. We do not want 5 million men under arms in the central theater of Europe. We cannot afford it and neither can our NATO allies.

So what we decided to do is to confuse the defense. We have said it is our national policy not to start a war. The Soviets have said it is their national policy not to start a war. Some people revert back to Khrushchev's statement that "We will bury you," and they draw all kinds of diabolical conclusions from that so-called threat.

It remains a fact that the Soviets today do have 30,000 tanks. They are the ones that build all the pontoon bridges that cross all the rivers; we are not. They are the ones developing all the mechanized vehicles; we are not. If it comes to another World War III or IV, we are not going to be able to have the support line of ships we had during World War II, because all of the ships are going to be sunk in just about the first 3 to 6 months of any kind of war.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 2 additional minutes.)

Mr. LEGGETT. So what we need, then, is a credible balance of power.

I brought the folks in to find out what they were doing with this so-called crazy new nuclear neutron bomb weapon. I found out what they are doing is merely for the last 300 Lance launchers that they are developing, instead of putting the big bang in where we can only use the bottom third of the nuclear blast as part of the K factor, they are developing a limited nuclear capability. We determined that they are going to put them in, and the question is, "Are you going to put in a big warhead, or are you going to put in a small warhead? Are you going to put in the big kilotonnage in the cannon, or are you going to put in something smaller?"

There is no effort on this floor in any of the appropriations bills or authorization bills to limit nuclear warheads going into cannons, or to limit nuclear warheads going into our Lance missiles—nothing like that at all. They are going in.

Next, I would like to explore with you for a moment the often-heard proposition that a weapon designed solely for killing people while minimizing collateral damage to property is morally indefensible. On the surface, such a statement is irresistible. However, let us face it, all nuclear weapons can kill; all wars and indiscriminate killings for political ends are morally repugnant.

But let us look at this issue more closely. Published statements indicate that we have about 7,000 conventional tactical nuclear warheads forward deployed in NATO, primarily along the central front in West Germany. Most of these warheads are within the 10- to 50-kiloton range. Although these tactical nuclear weapons represent immense striking power, grave doubts exist over whether or not these weapons could ever be used to accomplish their mission. It is true that our existing tactical nuclear weapons have the power to stop a Soviet thrust along the central front if used in quantity; however, even if our own response were limited to 10-kiloton artillery projectiles, the collateral damage to friendly territory, troops, and civilian population would be immense. Cities and towns would be destroyed or badly damaged. Large and persistent radioactive zones would be created, rendering a piece of territory uninhabitable for months afterward. And civilian casualties would most certainly run into the millions. What we contemplate, then, is throwing a large medicine ball over our shoulder when all that is actually required is a well-aimed dart. In effect, we would be destroying NATO in order to save it. Thus, our tactical deterrent does not appear credible in Europe today.

While existing tactical nuclear warheads kill primarily by blast and heat with downwind radioactive fallout as an unwanted byproduct, enhanced radiation warheads kill by generating a sudden intense pulse of high-energy neutrons. Blast and heat effects are limited to a relatively small area. In addition, since these improved warheads achieve their effects by airburst, there is little significant fallout, and harmful radiation dissipates in a matter of hours. In the case of the W–79 artillery-fired atomic projectile, this very low yield warhead is being designed specifically to maximize its tactical counterforce role with an 80-percent reduction in collateral damage along with a 50-percent increase in capability to destroy enemy armor battlefield units with approximately one-tenth the yield of existing tactical nuclear warheads. This has the obvious advantage of making it particularly effective against military targets while minimizing unintended damage to nearby civilian areas and population centers.

Many critics of the enhanced radiation warhead would have us believe that a cleaner, more precisely targetable nuclear weapon that kills fewer civilians is somehow less moral than our present dirtier and more indiscriminate tactical nuclear warheads. This strikes me as sheer idiocy. In another sense, though, it is all madness since there appears to be little comfort or kindness in the manner of killing with nuclear weapons—whether with dirty weapons that kill indiscriminately over wide areas or clean weapons that incisively kill battlefield troops with a lethal bombardment of high energy neutrons. At issue, however, is which weapon presents the most credible threat to an enemy contemplating a surprise attack. I do not think there is any serious disagreement over the fact that the enhanced radiation warhead is clearly the greater deterrent to Soviet and Warsaw Pact planners. After all, this warhead is designed to make it possible for NATO forces to defend Western Europe against a Soviet or Warsaw Pact invasion without having to destroy Europe in the process.

In turn, this leads to my next discussion area which concerns the charge that enhanced radiation devices are more useable, and therefore increase the likelihood and possibility of all-out nuclear war. On the surface, this appears to be true. It is a part of the classic deterrence dilemma. By minimizing deadly nuclear effects on civilian populations, we make tactical nuclear weapons more readily useable and increase their deterrent value. On the other hand, according to critics of the enhanced radiation warhead, this very attractiveness tends to lower the nuclear threshhold, thereby making strategic holocaust that much more possible.

This possibility warrants closer scrutiny and examination. Admittedly, it is entirely within the realm of human possibility that the temptation to unleash enhanced radiation devices which appear less frightening is greater than with high-blast tactical nuclear weapons. However, we must not lose sight of the fact that these are purely defensive weapons which make NATO's threat to use tactical nuclear weapons that much more plausible. This is their real value since in so doing, they make it less likely that we will ever use nuclear or conven-

tional weapons in the first place. In addition, it must be borne in mind that the decision to use any nuclear device—including the enhanced radiation warhead—can only be made by the Commander in Chief. The permissive action link can be unlocked only by transmission of appropriate codes from headquarters above field commanders after explicit approval by the President.

Moreover, while it has been argued that enhanced radiation warheads tend to blur the distinction between conventional and nuclear warfare, they in fact provide us with greater flexibility along with increased deployability and decreased vulnerability. At the present time, we lack credible options between the use of conventional forces and existing high-blast tactical nuclear weapons. However, the highly surgical nature of improved battlefield nuclear systems like the W–79 artillery-fired atomic projectile and the enhanced radiation Lance missile offer the possibility of controlling escalation and terminating the conflict quickly at terms acceptable to both the United States and its allies with a lower level of collateral damage.

The enhanced radiation warhead can be a flexible defensive weapon. If deterrence fails, its availability in inventory can permit us to respond with a smaller incremental increase in the overall level of violence and damage. Furthermore, its clearly limited capabilities cannot be perceived by the Soviets or Warsaw Pact as a potential direct strategic threat.

In addition, and more importantly, it is not clear to me that we reduce the overall probability that nuclear weapons will ever be employed by reducing our options without similar or concurrent Soviet reductions.

This quite logically leads me to another area that I would like to discuss with you today, and that is the mistaken notion that development of enhanced radiation weapons will render ongoing and future SALT talks meaningless. Again, this is simply not true. To begin with, this weapon is a tactical—as opposed to strategic—nuclear weapon which is purely defensive in nature. It is only effective against massed troops, tanks, and artillery in the theater of operations. The only time that Warsaw Pact forces will be susceptible to such weapons is if they are actually amassing an offensive or attempting to break through the central front of NATO in places like the Fulda Gap.

Additionally, since enhanced radiation warheads will be deployed as tactical nuclear weapons, they do not fall within the present scope or definition of SALT-related weapons. The only international forum for considering proposals to reduce theater nuclear forces is the presently bogged-down MBFR negotiations which have been more or less in progress in Vienna since November of 1973. And even if SALT should be expanded to include longer range tactical nuclear weapons, it appears unlikely that any such expansion would encompass battlefield nuclear weapons such as the W–79 artillery-fired atomic projectile. The range of this weapon is just too short to offer realistic strategic potential.

Moreover, it is doubtful that continuation of the Lance missile program and W79 warhead would ever influence the Soviet or Warsaw Pact position at MBFR. And actual deployment of enhanced radiation weapons hardly creates a significant disadvantage to Warsaw Pact members since their ultimate use would in all likelihood be on NATO territory. Similarly, because of their limited range, neither proposed weapons system presents a direct nuclear threat to the Soviet homeland.

Regarding our likely deployment, these weapons will not add to the existing inventory of tactical nuclear weapons. Rather, weapons designed to substantially reduce collateral damage are intended as replacements for such existing tactical nuclear weapons as the Army's M422, 8-inch projectile first deployed in the 1950's. Thus, it appears the bottom line is that we will be replacing existing indiscriminate tactical nuclear weapons with more accurate and less destructive devices. I find it hard to believe that such action will have a destabilizing or adverse impact on SALT talks as so many critics of these weapons would have us believe.

Finally, enhanced radiation warheads are not new devices which, in and of themselves, will accelerate the arms race. In reality, this weapon is merely a hydrogen weapon based upon a thermonuclear fusion reaction rather than a fission reaction as in the case of existing tactical nuclear warheads. It is interesting to note that our first fusion weapon was test detonated on October 31, 1952. With respect to the enhanced radiation technology itself, as a matter of fact, the Sprint missile developed in the 1960's for our now terminated ABM system contained an enhanced radiation warhead designed to destroy enemy ballistic missiles by a burst of neutrons. Thus, the technology involved is not new; only the miniaturized packaging is new. Lastly, it goes without saying that the Soviets have also possessed a fusion capability for some years now.

In concluding my remarks today, I would like to list for you what I feel are the key arguments in favor of continued development and eventual deployment of the enhanced radation warhead. Do not misunderstand me though. I am not extolling the virtues of enhanced radiation devices. The use of all nuclear weapons is, in the final analysis, reprehensible in a civilized world. However, this weapons concept possesses some distinct advantages over existing tactical nuclear arrangements. These are:

Its warhead design will provide for a significant reduction in collateral damage of nonmilitary structures and unintentional killing of civilians, while at the same time increase the lethality against personnel in tanks and armored personnel carriers.

It significantly increases the potential geographical area of employment in the European theater since it can be employed within 2,000 meters of friendly troops and civilian villages.

Its clinical, surgical advantage over less controllable and more widely destructive warheads makes it a more plausible threat and therefore a more credible deterrent.

It provides additional options and permits greater flexibility in planning our defensive posture in Western Europe.

It has improved security against unauthorized use by terrorist groups and overly ambitious Allies.

It offers the chance of building up our nonstrategic NATO capabilities at less cost both in a resource and political sense than that which would result from securing the same military capabilities from conventional forces alone. Thus, it can be considered a cheap technological substitute for an expensive, politically unpopular conventional military buildup.

It makes possible a future reduction in the total number of tactical nuclear warheads in the U.S. inventory due primarily to increased battlefield lethality. In addition, reduced numbers will diminish the storage and security problems associated with both maintaining and deploying tactical nuclear warheads in Western Europe.

Lastly, it will produce tactical nuclear weapons which are less destructive overall than those in current inventory, thereby satisfying the arms control objective of reducing the destructiveness of a war into which tactical or theater nuclear weapons have been introduced.

Consequently, I strongly oppose any amendment which would delete authorization of the enhanced radiation warhead at this time.

Thank you.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Weiss amendment to delete funding for the neutron bomb. I do so with the hope that this body will not simply defer to others on the fate of this weapon but will examine and debate the matter and decide for itself whether producing this new family of nuclear weapons is in the interest of world peace.

We live today with the rhetoric of peace. World leaders profess peace. We advocate and extol it. Indeed, the basis of our foreign policy is the pursuit of peace in an age in which "mutually assured nuclear destruction" is a terrifying reality. But behind the rhetoric of peace is a double standard. On the one hand we are told that to have peace we must "remove nuclear weapons from the face of the Earth" while on the other hand we build more nuclear weapons ostensibly to preserve peace.

I invite my colleagues to closely examine what our new era of peace will be like. Will it be a time during which more nuclear weapons are built placing greater strain on the slender thread that holds the sword of Damocles over our head or will it be a time of reduction and dismantling during which we eliminate nuclear weapons and create a true and lasting peace?

We must realize that we are not talking about merely a new technical development in military weaponry. We are talking about the development and deployment of a new family of nuclear weapons and we must take into consideration the military, diplomatic, and moral ramifications of our decision.

The neutron bomb is an enhanced radiation device that releases upon detonation an incalculable number of high-energy subatomic particles able to penetrate and destroy living organisms while doing little damage to physical structures. These bombs are to replace the nuclear fission warheads on 7,000 Lance missiles and it is rumored that 8-inch artillery shells which will allow the use of neutron bombs in howitzers are under development.

The fundamental military question is whether these new weapons will make nuclear war less likely. Only if it can be clearly demonstrated that they will should we agree to their production. The burden of proof must rest with the proponents of the weapons.

It is argued by some that less destructive nuclear weapons are more creditable and therefore greater deterrents to full-scale nuclear war. But they achieve their credibility and hence their deterrent effect by the ease with which they can be used. But I submit that it is this very ease of use that increases the risk of nuclear holocaust. Deterrence is based on fear—not on comfort of using nuclear weapons.

It has also been argued that the nuclear threshold will not be lowered because the President has emphasized that he regards the neutron warhead as a nuclear weapon and that he realizes its use would carry with it the gravest risk of escalation. This assertion may well be true for the moment, but it fails to take into consideration shifting realities. Who can devine how changing alliances and perceptions of future world leaders will affect the likelihood that neutron bombs will be used and whether their use will lead to a nuclear holocaust? If we accept the assertion, then the deterrent advantage resulting from its greater credibility of use is lost.

While the neutron bomb undoubtedly causes less collateral damage than a conventional nuclear bomb, it has certain effects that may prove more destructive, of ourselves and our allies than we have yet anticipated. For instance, outside the central zone in which neutrons would kill almost immediately, there is a large area in which the radiation dose will cause a slow lingering death. Consider for a moment the possible behavior of those troops and tank operators who survive the initial neutron explosions knowing that they will die within a few hours or days.

In addition to its many military faults, the neutron bomb poses serious diplomatic problems as well. The imminent expiration of our 1972 strategic arms limitation agreement with the Soviet Union as well as reported reluctance on the part of our NATO allies to officially condone or condemn our development of the neutron bomb are factors that must be taken into consideration. In addition, we must gauge the effect our actions will have on the efforts of Euro-Communists who are seeking popular support by condemning the U.S. development of this weapon.

The specter of a full-scale nuclear arms race is a very real threat at every turn. With our arms limitation agreement drawing to an end with no new treaty in sight and with our new commitment to the development of the cruise missile, we would be extremely foolish to pile on top of all this a decision to proceed with the production of a whole new family of nuclear weapons. We have the opportunity to demonstrate clearly to the world our willingness to curb the arms race. Indeed, at the very moment negotiations on SALT II seem to be improving, the United States would be plunging ahead on arms escalation. It is that kind of double standard that would undermine the trust necessary for agreement.

Last Thursday a 92-page study prepared by a group of experts from 13 countries belonging to the United Nations and including the Soviet Union and many of our allies as well suggested that more energy could be applied in reversing the arms race and thus sustaining détente. I believe this report signifies a willingness on the part of other nations to recognize and applaud affirmative actions toward arms reduction. Let us take advantage of this opportunity to demonstrate our commitment to ending the arms race.

Finally we must address the moral ramifications of the decision we are about to make. At the beginning of this year we undertook as a nation a new commitment to human rights. We have voted in this Chamber on more than one occasion to deny aid to various regimes that have demonstrated a lack of concern for the human rights of their people. If we are to hold others to such a high standard, is it not also true that we strive to hold ourselves to those standards as well?

The neutron bomb is the very antithesis of human rights. It is analogous to the inhuman devices of war that have already been banned by international treaty. There is reason to believe that the neutron bomb may well constitute a violation of the 1925 Geneva protocol which prohibits both biological warfare and the use of "asphyxiating, poisonous, or other gases, and of all analogous liquids, materials, or devices." Certainly the neutron bomb is analogous to a poisonous device. There is little doubt that the 1907 Hague Convention on the rules of land warfare rules out the employment in war of "materials calculated to cause unnecessary suffering."

The fundamental moral question is whether we are willing to bear responsibility for taking one more step down the road toward Armageddon. For that is where the inevitable escalation of risk and uncertainty inherent in the production of neutron bombs will lead us.

It is for these reasons that I oppose plunging ahead with the production of this weapon. It will represent a tragic signal to the world—a signal that regardless of our moral commitment to peace and arms control, we are willing to add another senseless chip in the gamble for war. It is "brinkmanship" at its finest.

Let us draw the line now—for the world, for ourselves, for our children.

Mr. EDGAR. Mr. Chairman, I move to strike the last word and I rise in support of the Weiss amendment. As you know, I made some comments yesterday for the record. I think the debate has been articulate. It has been well developed. People on both sides have had an opportunity to make their points.

No one in this Congress has made their points better than the gentleman from California (Mr. DELLUMS). Certainly he captured in his statement yesterday the human dimension of what we are about. I believe that while we can raise the question of the balance of power, we also have to raise the questions of the balance of human dimensions, of the balance of brotherhood, and of the balance of commitment to how we react in the international community in the rest of the world.

So I would like to urge my colleagues to support the Weiss amendment and to stand firm in that commitment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for yielding.

Mr. Chairman, I would first like to thank my colleague for his compliment and I am deeply appreciative.

I will not reecho the arguments that I made last night. I think those arguments are clear.

I would now like to take a different tack and to simply challenge the several arguments that have been made in the intervening speeches.

One of the arguments implicit in this debate is the "good guy" argument. I would like to speak to that. The "good guy" argument goes in this fashion: We need to build this bomb because the Soviets are building their bomb. Those bad guys are threatening us. Therefore we ought to escalate.

Consider for a moment what we would do if we were a nation with the resources and intellectual capacity to build the bomb when another nation of great power and great capacity not only built the bomb but, I would remind my colleagues, we are the only nation on Earth that has actually used that bomb. So whatever we say, that will hang in the minds of the rest of the world: That the United States not only developed the bomb but it actually dropped that bomb and killed tens of thousands of human beings.

No other nation in the world has dropped a nuclear bomb, only the United States; so I would suggest perhaps we ought to begin to rethink the "good guy" concept.

I would suggest that the Soviet Union is running to catch up with us. It is not the reverse. We were the first to have it and that is perhaps the darkest day in the history of this Nation and we ought to be reminded of it.

The second issue is that this, in fact, does not reduce the nuclear threshold. The gentleman from New York conceded that it does; for those that still believe that it does not reduce the nuclear threshold I offer this response. With the Soviet Union on the one hand and us on the other, each with awesome nuclear power, with the combined explosive capability equaling between 10 and 12 tons of TNT for each man, woman, and child on the face of the Earth, together, we now have enough destructive power to destroy all life on the face of the Earth. And they tell us they are dirty bombs; therefore, they are useless. Each nation has developed an arsenal so awesome they cannot even use it because they are dirty bombs.

The interesting thing is we are not lobbing bombs back and forth across the water.

I would suggest we already have deterrents. Why would one decide to build another generation of bombs?

"Well, Mr. DELLUMS, we have dirty bombs that are useless. Therefore, we ought to build clean bombs."

Logic would imply in building clean bombs, we are building more useful bombs. We are lowering the nuclear threshold, which means we are making nuclear war more thinkable, more possible and, I believe, more inevitable.

Now, I would like to go to the third argument that this is, in fact, useful. As I said to the gentleman from New York (Mr. DOWNEY), the gentleman argued with eloquence and extraordinary intellectual capability, if you accept the assumption of his argument of credibility to the scenario, but I remind you, based on the gentleman's service in the Committee on Armed Services and all the information we have access to, what do you believe is the potential risk of the United States and the Soviet Union going to war? I forget the number used, but it was minuscule.

I would point out, how can you start with the premise that the risk is almost nonexistent and then build a very powerful urgent argument for the development of a weapons system to deal with the scenario of building a weapons system for a war that will never happen?

I simply believe that the logic is, in fact, irrational.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. EDGAR, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield further?

Mr. EDGAR. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, if we look at the issue of credibility and balance of power, we already have it. The bombs are so dirty they are useless. If we want to preserve life, we ought to keep the bombs dirty and useless, and work toward moving back from the brink of destruction.

We should say to the President of the United States, because I have been critical of the President on many domestic questions, I would like to say, whatever one feels about President Carter at this moment, there is one real point we need to understand. He has, indeed, sent a message throughout the world that all of us feel makes some possible difference. I believe with all the breath in my body that it is possible for this President to move the world closer to a safer place to live.

I would simply suggest that you think very carefully about the statement made by my colleague, the gentleman from New York. The gentleman made the point very eloquently, raised the issue of symbolism. Can we saddle the President of the United States, the first President in modern times who appears to have the potential for gaining confidence to move us back from the brink of disaster and move us to some place where peace is real, that if we gave him this neutron bomb it will endanger it?

So if we look at the argument, is it necessary? My answer is no.

Does it give us a more credible balance of power? We already have it.

Are we the good guys and they the bad guys? I would like to point out that we are the only ones that dropped the bomb.

Let us give the President some credibility. Let us help the President move away from these bombs. It is the height of absurdity to create a new generation of acceptable bombs that again have to be negotiated. Let us not complicate the problems of the world. Let us simply correct them.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this is one of the most disturbing debates I have heard since I was first elected to the House of Representatives. I say this because the words the supporters of the neutron bomb use in no way accurately communicate or describe what we are really talking about, namely the possibility of destroying not only ourselves, not only our enemies, but life itself.

We already have, I am told by the Library of Congress, 10,000 weapons that have a nuclear capacity—10,000 nuclear weapons. We have the ability to destroy the world many times over. So, why do we need these neutron bombs?

Almost everyone has agreed that the neutron bomb can create the added possibility of nuclear war, that it lowers the nuclear threshhold. The so-called "Teller" doctrine was raised as an argument against that view. Dr. Teller, a physicist whose expertise in European history, politics and human behavior have yet to be demonstrated, claims that in the midst of a war we are going to reach an understanding whereby the Russians will allow us to use nuclear weapons first, and they will not use them. The irrationality of that argument is immediately evident.

Is it not ironic that we, the United States—the country that for the past 200 years has been the symbol of human opportunity, the symbol of human liberty—are going to be the first ones to use nuclear weapons in a war. That is what we are endorsing here. The neutron bomb is to be used only as a response to an attack with conventional, nonnuclear weapons. Thus, we, the United States, are claiming and insisting on the right to be the first ones to use nuclear weapons.

What is even more astounding—and horrifying—is that we want to use this nuclear weapon to fight a tank.

Nobody has really talked on this floor about the other problems, about the security of these weapons, about whether they are safe from terrorists. Nobody has even addressed, much less refuted, the point I raised earlier about the lethal impact that these weapons may have on our own troops. We may be exposing our very own troops to radioactive clouds of carbon-14 which result from the detonation of the neutron warhead. We may well kill the advance enemy soldiers, but we may have none of our own alive to continue the fight.

People say this is a "clean" weapon, but there will also be fallout because some of these warheads will hit the ground, explode and cause radioactive dust particles to collect in the air. When this happens, we will poison the air in Europe and poison the air over our own country.

And, in any case, the argument that this weapon is "clean" is absurd. If we use it, the Russians will attack with their "dirty" nuclear bombs and the destruction these bombs were designed to avoid will happen anyway.

The question is not whether the neutron bomb is better or worse than what we already have, but why, at this time, there is any reason for us to reaffirm, reendorse, and recommit ourselves to a policy of nuclear holocaust.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I hope that we would not bring this debate to an end too soon. I know that Members are impatient to vote. One of the problems I have encountered since coming to the House of Representatives only 9 months ago is that we really do not pay sufficient attention to the subjects we deal with, that we tend to move too quickly, too speedily, and not to become acquainted with legislation to the extent that we should. This is a serious question not only for my own constituents in Pennsylvania, not only for the people of this country, but for people all around the world; some who never heard of us, who do not speak our language.

I am not a member of the committee and I am not an expert in this subject, but I do feel compelled to rise on behalf of the amendment offered by my friend, the gentleman from New York (Mr. WEISS). It seems to me that despite the lengthy debate, that the basic question still remains unanswered.

And that is: Why build the bomb? We are told: Because it will do less damage and, therefore, it becomes a more acceptable alternative to all-out nuclear war and it is, therefore, a deterrent to nuclear devastation.

I think the opposite is true.

Because it is somewhat less horrible than all-out nuclear war, it seems to me it is more likely to be used by those who seek to rationalize its use. And once it is used, Mr. Chairman, all bets are off. Who has the audacity to say that once this bomb is used, nuclear war does not immediately become a much more immediate possibility? I think it does.

The neutron bomb increases, not decreases, the chances of war in which there will be only losers. And while it increases the chances of war, it actually diminishes our own security by spurring the arms race once again. In our effort to deter nuclear war, we actually bring it closer.

The gentleman from New York (Mr. DOWNEY), who has spoken so eloquently today on behalf of his point of view, suggests the bomb has some advantages because it could be used by NATO powers, perhaps Germany or France, that it could be dropped on enemy troops invading their territory. I think once this bomb is introduced into the international arsenal of weapons, who knows who will gain control of it and who will use it? The gentleman from California (Mr. LEGGETT) suggested that because there are more Soviet troops in Western Europe, this bomb is required as part of the balance of power. The gentleman may be right that the Soviets have more troops and tanks there, but the United States has very sophisticated antitank weapons there and I do not think he has justified the neutron bomb in Western Europe. I think the bomb presages a very dangerous escalation in the arms race. I think we must assume that the Soviets will feel compelled to counter the development of neutron weapons with enhanced radiation weapons of their own.

The gentlewoman from Maryland (Ms. MIKULSKI) has spoken eloquently on the terrible nature of the weapon and how it kills. It does cause a painful death by blowing microscopic holes in the cells of the human body. Death is not always immediate. Mr. Chairman, this weapon counters the leadership our country has shown in prohibiting worldwide the use of chemical and biological weapons. The neutron bomb affects its victims in much the same way as chemical or biological warfare. I think our approval of the enhanced radiation weapon could be interpreted as a betrayal of our commitments never to engage in these types of warfare.

The neutron bomb should be eliminated from the ERDA budget. We have enough weapons—weapons which have a destructive force greater than we could ever need or use. This weapon is not needed for our security and, in fact, actually reduces our security and our standing in the international community.

Mr. Chairman, I ask my colleagues to join the gentleman from New York (Mr. WEISS) in supporting the amendment.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Weiss amendment.

Mr. Chairman, I have been somewhat amazed in the use of the English language, or should I say the abuse of the English language, as it relates to this debate. I have heard a bomb or shell or warhead, whatever term one prefers, being described as moral, efficient, clean, and civilized. But the term that has struck me as most ironic is the term "humane," when describing the neutron bomb. Where is indeed the humanity of a weapon that preserves buildings but kills people?

My colleague, the gentlewoman from Maryland, described specifically the effect of the so-called humanity of this weapon on people. It systematically causes the destruction of a person's body and causes considerable suffering. The writer, George Orwell said, and he is being proved to be more and more prophetic every day, that when language diminishes, so too do ideas; when ideas diminish, so too does civilization.

I think that we could add three examples of "doublethink" to George Orwell's book, "1984," based on this discussion: Killing equals humanity; morality equals war; the neutron bomb equals civilization.

I find that we are in a state now where those kinds of equations are becoming for some people realities, and I find that this is a sure sign of what is happening in Congress. If we do not approve the amendment offered by the gentleman from New York (Mr. WEISS), we in this Congress will show the American people that we are indeed not interested in improving the human condition, not interested in America's paving the way toward a civilized world, and certainly not interested in life. I support the Weiss amendment which would prohibit the use of moneys to produce the neutron weapon.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, the gentlewoman has posed a question: Where does the humanity lie in this weapon?

To me it is very clear where the humanity lies. It lies in limiting the destructive capability of the weapon to its use against the enemy forces toward whom it is directed, and it lies in its limited destructive capabilities against the forces of our allies and innocent civilians.

Ms. OAKAR. Mr. Chairman, I wonder if it ever occurred to my distinguished colleague that the manner in which our country can most help the world is certainly not to produce weapons of this devastating nature and authorize taxpayers' dollars to destroy people or to assume we are going to be engaged in warfare, but to act positively for a change and set an example for the world.

Our example to the world should be that we are interested in peace and we will no longer produce these "humanitarian" weapons that have as a direct motive the destruction of people.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, if the gentlewoman will yield further, I share the gentlewoman's desire for peace. Peace in the world is something for which I pray, it is certainly what I want, but if war should be forced upon us, I believe we should have weapons that will operate with some effectiveness against the enemy.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentlewoman from Ohio (Ms. OAKAR) for stating her point. What she is saying in effect is that at some point, if we are ever going to get out of this nuclear nightmare the world is in, we are going to have to stop the continued escalation of nuclear technology in the strategic nuclear weapons race.

This is just as good a place to start as any. We do not have this weapon now, and yet the Russians have not attacked Western Europe. We might as well start here and see if we cannot get somewhere with freezing the development of new nuclear weapons, instead of having one more round and saying to the world that despite all the President's proclamations of his goals, when it gets right down to action, we are going to go in the opposite direction.

Mr. DODD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to join with those of my other colleagues who have stood here in the last 4 hours in debate on this amendment, and I compliment the Members of this House for the caliber of debate that has been conducted. I think it is certainly the highest I have seen during the 3 years I have served in this Congress.

I would also like to underscore a point that was made earlier, and that is that we are here truly as a stroke of fortune—journalistic fortune. Had it not been for the reports of some of the media, we would not even be debating this issue. This issue would probably have passed right on through, as so many of the amendments do that arise from this particular budget. So it is fortuitous that we are even discussing this issue.

I would also like to compliment my colleagues who serve on the Committee on Armed Services. I have been told—and this may not be completely accurate—that I am the only nonmember of the Committee on Armed Services who has spent 2½ to 3 hours trying to plow through the classified information that surrounds this particular issue.

I was overwhelmed by the voluminous material that exists concerning just this one issue. I do not know how the members of the committee could possibly, within the time constraints within which we practice here, deal with these sophisticated issues. There is so much material to consume.

I do want to associate myself with the remarks of the gentleman from Michigan (Mr. CARR), the gentleman from New

York (Mr. DOWNEY), and the gentleman from California (Mr. LEGGETT). I think what really is at stake here in the Weiss amendment is not a question of at least providing some option in the future. We are foreclosing the option.

I will be offering an amendment after this amendment has been dealt with, assuming it does not pass—if it is passed, I will obviously not be offering the amendment—which I feel will at least allow for some option to exist until the President and our NATO allies make some decisions themselves about whether or not they want to go forward with this particular kind of weapon. I think that is far more responsible than just making a decision here today, considering the level of rhetoric and argument that has been made.

I think we must look at this not just over the long term. I think the debate on this issue is certainly meritorious and worthwhile, but realistically, we have to look at exactly what this weapon is, what it is capable of doing, and what its ultimate effect will be on Armageddon, because that is what we are talking about.

So I would suggest that this pending amendment be defeated, although I appreciate the intention of the offeror of the amendment, the gentleman from New York (Mr. WEISS), that we should not go ahead at this particular time. I support that conclusion, but the amendment itself would preclude the opportunity or the option for going ahead if it is determined by the President or by our NATO allies that this is a vital element in our arsenal to protect against that which we all fear the most, and that is another world war.

I believe the Weiss amendment signals the wrong approach at this time for several reasons, and I urge support instead for the amendment I will later offer to title II of this bill.

Mr. Chairman, I believe that the House should defeat the amendment offered by the gentleman from New York for two major reasons. First, his amendment goes too far by cutting out all funds for research and development of enhanced radiation warheads. Although I agree with the gentleman that we should not give the go-ahead at this time for full production of enhanced radiation warheads, I strongly feel that we should not preclude that option by deleting R. & D. funds. I for one would not want to deny us or our NATO allies any military or deterrent advantages possibly offered by production and eventual deployment of these tactical nuclear weapons, if it is reasonably established that such advantages are obtainable. I believe the gentleman's amendment would foreclose an option that we should leave open. Instead, I believe we should continue research and development while at the same time we closely examine the impact that production and deployment of enhanced radiation warheads would have on both our war fighting and deterrent posture in Europe.

Secondly, I believe that passage of the gentleman's amendment while consultations are proceeding with our NATO allies might have a devastating impact on the sensitive negotiations that are taking place today. On the other hand, I also believe that we should not give the appearance of full support for production and deployment of these weapons until we have had the opportunity to study this decision thoroughly in light of additional information which I think the Congress requires.

For these reasons, Mr. Chairman, I will be offering an amendment to title II which will allow our Government to proceed with research, development, and testing of enhanced radiation warheads while it requires that the executive branch provide Congress with additional information concerning the utility of these weapons prior to a final production decision. I urge my colleagues to defeat the amendment offered by the gentleman from New York and support my amendment at the appropriate time.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New York.

Mr. WEISS. Am I right in understanding the gentleman's proposed amendment, which he would offer if this amendment were defeated; would it in essence, say that the production of these neutron weapons could not proceed unless the President certified that it was in the national interest that it be done, and that when he makes such a certification, he would then forward that to the two Houses of the Congress, and that if within 45 days both Houses replied in the negative or passed a resolution not approving the certification, that then the President could not go ahead because there would be a two-House veto?

Mr. DODD. That is correct.

Let me respond, if I may just reclaim my time, by saying this to the gentleman: This debate here for the last 2 days, I think, should once and for all obliterate the argument that we in this Congress are not capable of discussing the most sophisticated and delicate issues that face the future of this country and the world. I think it is vitally important that this institution and the Members of this institution be allowed to participate in the debate.

As I mentioned earlier to the members who serve on this committee, I am somewhat hesitantly standing here because after reading some of the classified information, I have trepidation that I am about to make some catastrophic mistake by mentioning some innocuous number or acronym that would force me to stand before the Committee on Standards of Official Conduct.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from Connecticut (Mr. DODD) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. DODD was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield further?

Mr. DODD. I yield to the gentleman from New York.

Mr. WEISS. Is it not a fact that those two provisions which I cited before, which the gentleman had agreed were the substance of the first two provisions of his proposed amendment, are, in fact, appended now to the appropriations measure on this item?

Mr. DODD. That is correct.

Mr. WEISS. And that, in fact, it is a body of law as far as the appropriations are concerned?

Mr. DODD. I would suggest to my colleague one thing. First of all, I do not think that the language which the gentleman correctly cited as being in my amendment really belongs in an appropriation bill. In fact, it has been suggested by some that had a point of order been raised against that language, it would have been sustained.

What I am suggesting is that this language ought to be in the authorizing legislation.

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, is it not a fact, though, that, it is possible that if my amendment is defeated and production goes forward without the negative response of these two Houses, by the time the study which the gentleman's amendment calls for is completed, we may, in fact, see the use of the neutron weapon and the nuclear war which we hope to avert?

Mr. DODD. I would not go so far as to suggest that that would be the natural conclusion.

We have asked here—and I have no reason to suspect that the President would provide otherwise—for him to outline specifically his reasons for going into production of these weapons. That certainly is a step that he would have to take before he could get to the deployment stage.

Therefore, even before we could get to that point, this institution would be involved in that debate if my amendment were to be sustained.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, because of my duties in the Committee on Rules this morning, I have not been privileged to attend the debate. However, I was here during all of the debate that took place on this issue yesterday.

I think that the gentleman from Connecticut (Mr. DODD), in making the suggestion that he just has made of an alternative procedure for dealing with this very difficult and complex problem, has suggested something that would be very helpful in getting us out of the dilemma in which we find ourselves.

It has been suggested that really all that we would be doing in arming the Lance missile with a neutron warhead is to substitute one tactical weapon in the inventory for another tactical weapon. I think that the question, however, goes somewhat deeper than that. True, we are dealing with a tactical weapon, and, as the gentleman from Michigan (Mr. CARR) correctly pointed out, a weapon that is suited for defensive rather than offensive purposes. Yet it seems to me that very fundamental questions of

strategic policy are involved in the determination that we make on this issue.

Does it lower the threshold of nuclear war? Will it be more efficient or will it improve the deterrent capacity of this country to keep the Russians from launching a nuclear war?

Those are fundamental, strategic questions that are certainly not just subsidiary but they are at the very heart of the decision that we make on this issue.

There is one other issue that has been raised. Perhaps it was commented upon earlier in the discussion: Would a comparable expenditure be more effective in using conventional capability to deal with the threat of the Soviet tanks in Western Europe in the event of an attack on Western Europe? I am not an expert in this field, but I am informed, without having all of the precise guidelines, that the Soviet tanks are becoming more vulnerable than they once were to high explosive munitions, and the neutron bomb budget could add more than 100,000 precision antitank weapons to the NATO arsenal. And that those weapons, if they were deployed in place of the neutron warhead for the Lance missile would avoid some of the operation difficulties that might obtain in the case of the deployment of nuclear weapons.

So I think we do have some very important questions that we must answer before we make a final decision in this matter.

In the requirements that are contained in the amendment that will be offered by the gentleman from Connecticut (Mr. DODD)—and those were raised and fully set forth in the "Dear Colleague" letter of September 14, 1977, which was sent to each Member of the House, which I cosigned with the gentleman from Connecticut (Mr. DODD) along with the gentleman from Wisconsin (Mr. ASPIN). And in there is a procedure by which Congress would require a Presidential certification for each neutron warhead, accompanied by an arms control impact statement submitted by the ERDA Administrator for every such weapon that the President personally directs that those weapons be produced.

I think it should be pointed out that there was, very definitely, an oversight on the part of the administration when it came time to look over the fiscal year 1978 budget for ERDA and send it to the Congress. Admittedly they were in some rush to do so after their advent to power on the 20th of January. But there was an oversight of this extremely important matter. I have the very uncomfortable feeling that the administration has not fully considered the magnitude of the decision confronting them on the neutron weapon.

We cannot go back and rewrite history. There is no point in rearguing or relitigating, as the gentleman from California (Mr. DELLUMS) did in his speech yesterday, as to whether or not we should have nuclear weapons. The decision to go ahead with the Manhattan project was made back in 1942.

Nobody likes to stand in this well and advocate that we produce yet another destructive weapon. But the gentleman from Alabama (Mr. DICKINSON) pointed out yesterday that the Soviets do enjoy this 6-to-1 advantage in military manpower in Western Europe. They have, I believe, tripled their megatonnage in the last 10 to 15 years as far as stratigec weapons are concerned, so we have a right to be concerned that in the arsenal of weapons that this country has, we do have the sophisticated technology, the capacity to deal with this Soviet threat, particularly as it might be directed against Western Europe.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. ANDERSON of Illinois. Mr. Chairman, I am not going to take the position that the gentleman from New York (Mr. WEISS) has taken that we should simply cut out these funds. But I think that it makes significant sense, indeed, to vote down that amendment and then adopt the amendment that will be offered by the gentleman from Connecticut (Mr. DODD).

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think it is time in the House for us at this time to acknowledge the patience of the chairman of this committee. I think it is tremendous the way he has let this debate proceed. In my opinion, it has been the finest debate I have heard. I think we have earnestly tried to find answers to this problem, and I find no effort to pursue the parochialism that I frequently see in our debates.

I was tremendously impressed by the gentleman from Michigan as he spoke last night, and I went back to my office and told my people about how well I felt he had presented his arguments. Then as I went home last night I became more and more troubled as I thought about what we had talked about, and, as the gentlewoman from Ohio said, I had a harder time trying to accept the fact that we would say this is morally preferable, as we talk about some of this weaponry. I came back convinced that I had to say something here on the floor of the House.

Then when my friend, the gentleman from New York, (Mr. DOWNEY) spoke—I thought so eloquently and so well—he acknowledged that there are, indeed, arguments both ways on this issue. Further than that, when he acknowledged that experts do not necessarily have a monopoly on logic, I felt that we heard one of the better talks that we have heard here.

I would like to speak a little bit on the statement that the last speaker made which was that this is a defensive weapon. I have great difficulty with that, because it appears to me that most advancing armies would want to preserve what is in front of them and the property they expect to take. I think it is readily acknowledged that most retreating armies want to destroy the bridges and to destroy that which the advancing armies are going to take. I think the mistake we make in this debate is assuming that only one country, America, is going to have this particular weapon. I think we have seen from history how when we get something, indeed, the other nations follow suit as they do.

I would like to talk a little bit about what was mentioned by the gentleman from Ohio as he talked about our perception in the world. Rightly or wrongly, as the world looked at chemical warfare, the world agreed that we should have a treaty which would prohibit the use of chemical warfare. Chemical warfare is warfare which does not destroy the collateral; it is warfare that kills people—sometimes quickly, sometimes slowly. Now we are debating whether we should go ahead with the neutron bomb, which is a bomb that does not destroy collateral to any great extent but which destroys people—sometimes quickly, sometimes slowly. It would appear to me that if we move forward with this, what we are saying to the world is we agree we should not have chemical warfare, but we are going to develop a bomb that does roughly the same thing, even though it is not a chemical weapon.

I believe that we do need to worry about our perception in the world. I believe the perception in the world is looking at our next vote, and I hope that we will not think that by voting down the Weiss amendment and voting for the Dodd compromise that we are telling the world that we do not believe we should have a neutron bomb. I believe we would be telling the world we should go ahead with that. I believe it is going to affect our image in the world. I believe we have to be concerned about that image.

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. NOLAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. There are those here today who have said—and who are going to say again—that this neutron bomb is just a little bomb. A limited bomb for limited wars. I submit there is never going to be a limited nuclear war. The very notion is unthinkable and horrifying. The only limitation on the next nuclear war is going to happen when the last citizen of the world is dead and there is no one else to continue. Should there be a few survivors, they will look back and see that a world perched on the brink of nuclear annihilation—a world which had used up all its other options—had chosen to settle its problems by killing a few people with a few nice, clean, limited little bombs. How does a limited war end? Let me ask my colleagues who support this neutron bomb—when do we decide—in the midst of a limited nuclear war—that enough people have been burned and radiated to death? What will constitute a limited war in the end—Washington for Moscow? Des Moines for Peking?

There is never going to be a limited nuclear war!

Now there are also those who say that this is a good bomb because it kills only people. Think about that, people, families, are we really saying that we have come to a point here on Earth when human beings are the most expendable commodities we have? Are we really saying that after a war it's going to be more desirable to have a world full of empty buildings? Let me ask you this. Who is going to live in these buildings we are so delighted about preserving with these smart bombs? Who are we leaving them for? If we are thinking that we are leaving a legacy for the survivors of a limited war, we are tragically mistaken.

Ladies and gentlemen—what we need is not a neutron bomb. What we need in this country and in this world is a commitment to the kind of sensible, humane policies which will assure peace and dignity and justice. I say we put an end to the neutron bomb here today and get on with human development not human destruction.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like briefly to respond to the gentleman from Iowa about the defensive nature of the enhanced radiation weapon. He seemed to concentrate on bridges. When you fire an offensive weapon, you want to destroy the enemy's factories, railroad yards, and structures that provide the capability to make war, to generate war. A defensive weapon you would use on your own cities in those areas that would be occupied by the enemy, to kill their personnel but not to destroy your own buildings.

In West Berlin or in Paris when the Nazis marched in, a nuclear weapon would have killed Nazis but not destroyed the Louvre, whereas if you were going to use a bomb on the enemy—if you were lucky enough to penetrate their territory—you would want to destroy their structures as well as their personnel. So in that sense it is a defensive weapon, not an offensive weapon.

I also want to compliment the gentleman from Michigan (Mr. CARR), because I think we have seen a very rare thing here. We have seen a keen intelligence overcome a strong ideology, and that is rare. I think it is very creditable when that happens. I do not mean that the other disputants in the debate were not keenly intelligent, but I think they succumbed to ideology rather than opposing it.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

I would simply point out that there is one flaw in the gentleman's logic. He says it is a defensive weapon, that offensively you want to destroy buildings and factories. I would suggest to the gentleman that if you kill all the people, you can have all the buildings and factories that you want, but there will be nobody there to run them. That is the point, and that is the flaw in the gentleman's agreement.

Mr. HYDE. I would respond to the gentleman that we may not want to kill all the people, but we might want to destroy their capacity for making war. I think that is the response to the gentleman's statement.

Let me continue with my statement, please.

I just returned from Hungary, and I drove in the vicinity of Budapest, and I learned that there are 40,000 Soviet troops surrounding that beautiful city. I just returned from Czechoslovakia, and I learned there are 70,000 Soviet troops occupying Czechoslovakia. I just returned from Rumania, where if one speaks to a stranger on the street he has to report it to the police department.

With that background, let me read to you briefly from a Washington Post article of the 16th of this month, September:

> Defense Secretary Harold Brown disclosed last night that U.S. intelligence had discovered four new intercontinental ballistic missile systems under development in the Soviet Union.
>
> Pentagon officials confirmed that he was referring to a completely new generation of ICBM's, not the presently strategic nuclear missiles going into Soviet underground silos.
>
> ". . . To give you just one indication of the effort and of the momentum behind it, the Soviets are now deploying a fourth generation of ICBMs at a rate of 100 and 150 a year. These missiles are almost uniformly first class iu terms of accuracy and payload.
>
> ". . . Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain."

In connection with this weapon we have heard phrases about insanity. I submit in the fact of mounting Soviet offensive weapons capability that in awesome and fearsome, when do we get a gesture from the Soviets that our eagerness to kill them with kindness will deter them from weapons production, from nuclear weapons production, from intercontinental nuclear weapons production?

In the face of this sort of thing, for us to cease and to desist from developing what is essentially a defensive weapon, what is essentially a weapon that would lack the collateral damage capability that the intercontinental ballistic missiles have and that the Soviets are building generation after generation while they smile at us in the SALT talks, it seems to me that has a little touch if not of insanity then of unreality.

William Bullitt, our first Ambassador to the Soviet Union wrote a book years ago called "The Great Globe Itself," in which he said:

> To beat our swords into plowshares while the spiritual descendants of Ghengis Khan stalk the earth is to commit national suicide.

He served as Ambassador in 1933.

Then just last week we have the developments revealed by Secretary Brown. I think we owe it to our children and to our children's children at least to be in a posture to resist successfully and credibly the advances of the Soviet Union.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I must yield to the gentleman from Iowa (Mr. BEDELL) first.

Mr. BEDELL. Mr. Chairman, the gentleman probably saw World War II from the same advantage I did. Would the gentleman feel we were fighting an offensive or a defensive war as far as our participation in that war was concerned?

Mr. HYDE. In World War II, the last war we won, it was an offensive war. In the last 2 wars, it was defensive.

Mr. BEDELL. The gentleman thought we were in an offensive war in World War II?

Mr. HYDE. Yes.

Mr. BEDELL. It took a long time.

Mr. HYDE. We did not start it. I really do not understand what the gentleman means. But we ultimately fought offensively in that war. That is why we won.

Mr. SEIBERLING. Mr. Chairman will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. The gentleman from Illinois is a leading proponent of protecting the unborn. I do not believe the gentleman from Illinois was here when the gentlewoman from Maryland (Ms. MIKULSKI) gave her description of the biological effects of this weapon. Not only would this weapon injure people who are now born, not only would it destroy their unborn fetuses, but it would have genetic effects producing deformed human beings for at least ten generations.

I ask the gentleman how that is compatible with his position on protecting the unborn.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, in response to the gentleman from Ohio, let me say that I am against all weapons. I fought in World War II. I have been under combat fire, but I just want to say this. The surest way to get killed and the surest way to start a fight is to be weak in front of an aggressive enemy. In my judgment, having in our arsenal weapons that are credible and effective is the way to protect life and not to kill it.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I suggest if the gentleman is against all weapons, this is a good place to start.

Mr. HYDE. I am also for preserving America.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, does the gentleman believe if we use the neutron weapon that the Russians would not retaliate with another nuclear weapon?

Mr. HYDE. When the time comes that a nuclear war begins the eggs will have hit the fan and the war will have begun. It is not, "You punched me and I will punch you" when that times comes. They will have started an invasion and for that reason we have to use every weapon we have.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the Weiss amendment.

Mr. Chairman, on many occasions I have strenuously opposed the development or deployment of new types of lethal weapons. In this particular case, I have listened carefully to the arguments presented in favor of the Weiss amendment, and I have also listened carefully to the arguments presented in opposition to the amendment by the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR). While the choice is an agonizing one, I come down on the side of Messrs. DOWNEY and CARR.

The arguments in support of the Weiss amendment fall generally into two categories, which are, to some degree at least, inconsistent.

On the one hand, we have heard vividly portrayed the horrors of death by exposure to neutrons, and the implication is that the neutron bomb represents a new and more-than-ever horrible form of nuclear weapon which we should reject because it is so horrible and because we do not need it.

On the other hand, supporters of the Weiss amendment have argued cogently that the neutron bomb is less destructive and less horrible than the tactical nuclear weapons hitherto deployed, that therefore a President would be less reluctant to use it and so the nuclear threshold is lowered.

With regard to the first argument, clearly no lethal weapon is benign. Weapons used in all wars have caused untold agony and horrible, lingering death. Because of their long-range effect, nuclear weapons may achieve a level of horror more obscene than their predecessors. The world well knows the sufferings of the nuclear bomb victims of Hiroshima and Nagasaki. To argue that the sufferings of neutron bomb victims would be even worse seems to me to be arguing the immeasurable.

Hence. I am more impressed by the second line of argument, to the effect that the availability of neutron bombs may lower the nuclear threshold, because they are less destructive and less horrible than previous nuclear weapons.

However, to the extent that this argument is valid, it also supports the conclusion that the deployment of neutron bombs in Western Europe will provide a more effective deterrent against a Soviet attack. And the more effective that deterrent, the less the likelihood of war in Western Europe and the less the likelihood of a nuclear holocaust growing out of such a war.

I agree with those who have argued that a Soviet attack in Europe is unlikely. But who among us can be sure? Can we guarantee that such an attack will not be seriously considered by the present or some future regime in Moscow? Obviously we cannot.

That being so, I believe that any step that will make such an attack seem more unattractive as an option for the Soviets, and hence less likely, is a step that we should take. And I believe that the deployment of neutron bombs in Western Europe is such a step.

Mr. WHITE. Mr. Chairman, not too long ago Members of the House Armed Services Committee had the occasion to visit the Fulda Gap, which is the traditional entry point for invaders into Europe. We talked to those troops of the American forces there about what their fears were relating to the opponents facing them and they stated very clearly that they understood the opposing artillery tubes outnumbered them 10 to 1 and the tanks 4 to 1, plus vast chemical warfare capability by the opposing forces.

The facts are the Russians rely on mass. If the attack begins, it will begin by mass, massive artillery and massive attack by armor.

Why the neutron bomb? Whether or not you use the neutron bomb, the neutron bomb effectively neutralizes mass, because in the event they should mass their troops to make that punch through to try to get to the English Channel in 2 weeks, as some predict they could, the neutron bomb can impede them and stop them in their tracks.

The last point is there is minimum fallout. It principally affects the offenders and not the defenders. So I say, whether you use it or not, this will compel the Russians to change their tactics, for with the danger of the neutron bomb those tactics of mass will not accomplish the objectives and can easily and technologically be nullified.

Those today who talk about the alternative of developing our conventional forces, often are the very ones that would vote against the necessary funds in order to bolster our conventional forces, to offset that 4-to-1 ratio in tanks and 10 to 1 in artillery.

So the facts are this neutron bomb is a very wise investment in an effort to alter the thinking of the enemy.

I hope the House will reject this amendment and adopt the development of the neutron bomb.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment. Many of my constituents have asked me to voice their deep moral revulsion against the neutron weapon on the floor of the House of Representatives. I do so willingly, because I am deeply and morally in opposition to such a concept, because I believe that it goes against man's deepest nature. If, indeed, such a weapon came out of man's deepest nature, then we are all doomed and damned, for eventually such a nature will use this weapon.

I serve in the Congress because I believe man's nature is different. I serve here because I believe that man can survive and live well. If I did not believe that, then I certainly could not make the effort that we all need in this Congress to make this world a better place to live.

Mr. CAVANAUGH. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I have not often been in the well in my 9 months as a Member of this House, but after witnessing the debate last evening and today, I felt that I would be extremely remiss in my responsibilities to my constituents in the Second Congressional District of Nebraska if I did not rise and express my views on this issue. I came to this House last evening to listen to this debate undecided on how I would vote on this issue and willing to listen to the arguments on both sides.

I must take issue with those of my colleagues who have complemented the debate on this issue. I have found the discussion of this issue in this House extremely deficient in terms of what is relevant, important to this country and to the world. It is on that basis that I rise in support of the Weiss amendment.

It seems to me that given the consequences of the development of this weapon it should be approved only upon demand by the American people; after rich debate and thorough examination in which the people have concluded that there was a necessity for this weapon to protect and preserve this society. I think we often forget why we have come here, why we were elected here. We probably forget it because it is so simple. We were elected to protect the life, the liberty, and the property of those who chose us. This weapon does none of that. In fact, it is a threat to all of that.

The arguments that have been put forward are the arguments against it. It is a replactment for our deficiency in conventional forces in Western Europe, and all concede, that its employment could only result in total nuclear holocaust. So, we delude ourselves into a deployment of a conventional weapon that is usable, that is thinkable, the result of which is total nuclear holocaust. We all agree on that, and yet we have not discussed it in those terms. I do not think that we really understand it in those terms or the consequences of those terms.

Probably my greatest disappointment is the participation of the Members of this House in this debate. I can remember the pay raise, when the House was full and the galleries were full and the press were all here. But, when we talk about a weapons system whose deployment can only result in the destruction of this world, it is empty. Where are the lions of the House? They leave it to the young Members to raise the issue and talk about the issue. I think we all should have been here; I think we all should have been participating, and it is a shameful day for this House when we

authorize a weapons system without that full discussion.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word, and rise in support of the amendment.

Mr. Chairman, members of the committee, I rise to add my voice to those who are in support of the effort by Mr. WEISS to knock out the neutron bomb. I cannot argue it on the basis of the technological studies and implications, as many have here, but I appreciate their argument because I think it gives a growing understanding of the complexities of the problem. But, I can only argue it from very deep in my stomach, because for the first time since I decided to enter public life I find myself somewhat pessimistic about our future.

I sat here last night reading the recent Carnegie study on the future of our children and what is happening to the children of this country, and what we might do to reverse that. Today, I convened a colloquy downstairs in the Speaker's dining room on the future of our children, and for the first time I had to tell people with whom I have worked for many, many years that here in the House Chambers we were doing something that was probably far more detrimental to the future of our children than any of the positive things those of us who are concerned about them could do. For the first time, I am pessimistic that we have now created the ability to make nuclear war thinkable, to make it possible, to make it probable.

Whether it is on a tactical basis, whether it is on a defensive basis or on an offensive basis, I suggest to the Members that it makes no difference to the victims of that war. I think for the first time we made the possibility. Somebody said that the last two wars we won. I suggest that after the next one, that statement will not be made by anyone. There will be no winners. There will be no survivors.

Whether we start with clean or dirty ones, we are going to end up with dirty ones and we are going to end up with the total destruction of the populace. I am very concerned about what that says about our future, about our capability, because it does make it easier. I remember when this program first came to light and the San Francisco Examiner had on the front page on Sunday morning the headline which said, "The Neutron Bomb, The Nuclear Weapon That Makes It Easier To Start Nuclear Warfare But Gives You Time To Kiss Your Loved Ones Goodbye." And I thought that was somewhat funny, until my son asked me what it meant.

I think one of the great pressures that we place on our children—and I believe the people of my generation grew up under those pressures—is the thought that somewhere out there there is a weapon that, with no warning, could blow you off the face of the Earth. I think now we are bringing a new generation of people up with the thought that it is even more sophisticated now. I read this story to my son, about people wiggling for a number of hours. They had a map of downtown San Francisco, and where we live you had a chance, if you get to some medicine within 3 days, or something, but the people down at the Transamerica Building, it was all over with them. But the building does not pay property taxes, so I do not know why you would want to save it. But I think we place that pressure on the children, the grating pressure, that somehow their lives can be wiped away, that somehow they will be relieved of life by people they do not know and with such swiftness that they will not have a chance to protest.

I remember the discussions, when I was small, about what was going to happen in Korea, were they going to use the bomb. And I believe that is what we are doing again. We are exposing a whole new generation to the possibility that all we have created can be annihilated, all of those who you love can be devastated in one fell swoop. I think that is an incredible burden to ask the people of the world to carry.

When the gentleman says we cannot go back and litigate, we cannot go back to the Manhattan project, I submit he is right. But what we can do is say "No more." Sometimes you have to say, "Enough is enough."

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. We have to be able to wind it down. We have to be able to disarm it. As the President said, you have to be able to rid the world of nuclear weapons.

I am not terribly convinced by the argument that this weapon will leave a building standing. I do not give a dam about the buildings. I do not give a dam about the holes in the ground. Maybe Caterpillar Tractor or John Deere, and others, will make the machines to put the dirt back in the holes. I care about the people and I care about the psychological burden that we are going to place on future generations in trying to contain this menace once we have created it. I do not think we will be able to. I think the logic the gentleman from New York makes in his argument about the battlefield denies political realities. It denies the fact that many of us will make the decision of war and peace and we will not understand that logic.

That is what scares me. I stand in this well in front of the Members, 255 pounds and 6 feet 4, scared—scared to death about what we are doing here with this weapon.

I think this is a quantum leap toward the loss of containment in nuclear weapons. I think the signal that has been sent by so many people and that we are sending around the world is a devastating one in light of the President's statement on the day he was inaugurated. I think people have only to look at the United States and remember that at one time we used these weapons when they were dirty.

Now we have a rationale that they are clean, and when other people look at us, when the rest of the countries around the world look at us, they remember that we used it once. We used it once.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to take the well. I am going to be extremely brief, because we have had, I believe, a very thorough and exhaustive discussion of the neutron bomb issue. And so we should.

I want to join with one of my predecessors in the well who complimented the chairman of the committee for the patience he has demonstrated during this debate. This issue is extremely important, and I share the concern that has been expressed here today on both sides of the aisle.

My colleague, the gentleman from California, indicated that he is concerned about people. Every Member in this Chamber is concerned about people. I do not think we have a colleague who is not concerned about the potential threat to mankind, and I think we all pretty much fully appreciate the ramifications of the decision that we are about to make. It is a troubling matter. This is perhaps the first of a series of decisions that will be made relating to the neutron bomb. I pray we make the right decision.

I will oppose the Weiss amendment because I am satisfied in my own mind that we are not lowering the threshold. I am satisfied that we made nuclear war a possibility thinkable when we engaged ourselves in the Manhattan project. The bottom line, as far as I am concerned, in trying to protect our children, our country and mankind is that we have the option available to us so we can meet any threat. That, in my judgment, is the overriding consideration.

A number of my predecessors have come to the well and talked about what some other person or what some other country would do or react under a given set of circumstances. I submit to my colleagues that we cannot predict what sometimes irrational people will do. Human behavior is just not fully predictable. That is why I think it is so important that we preserve the option that is available to us with this weapons system.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I take this moment, having spoken yesterday, only to say that there are a number of us in this Chamber who deeply appreciate the decision of the managing leader of this bill, the gentleman from California (Mr. CHARLES H. WILSON), who determined that there should be full debate and an opportunity for all the Members to participate in this debate that took place here yesterday and is taking place today. I for one am deeply grateful to the gentleman for making his decision, and I know that there are many other Members who feel the same way.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, I will not take a full minute. I just want to say that in the some 2 years and 9 months I have been privileged to be a Member of this House, I have never heard a more enlightening debate. We have seen a very fine, high-level discussion of the issue and I compliment all my colleagues for keeping it on such a plane.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have had a long but, I think, a very worthwhile debate on this matter. It was my intention to allow every Member who had something to contribute to the subject to express himself or herself and to do so as freely as possible. I think we have accomplished that.

I would agree with the Members who have questioned some of the language in the descriptions of the weapons systems we are talking about. I do not think it is so important as to whether it is a dirty bomb or a clean bomb, and I do not think it makes any difference whether we call it a bomb or an artillery shell. I would agree that any weapon cannot be regarded as humane. I doubt if there are any weapons that could be referred to as moral.

I think that the fears that have been expressed here by those who support the Weiss amendment are certainly valid and worthwhile.

However, I think that what we come down to is the sincerity of the strong belief of those of us in this body who oppose any use of nuclear power, whether it be for weapons systems or for energy resources, plus the strong feeling that many of us have that the defense and security of our country and of our allies are dependent, in part, upon the most sophisticated, the most advanced weapons systems that can be made available, and that the health and vitality of our country and the solution of many of our energy problems can be made possible by the use of nuclear energy or even by the development of nuclear weapons.

Mr. Chairman, I think this is a sincere belief in the minds of those Members who have their respective views about this very serious problem.

The President has been mentioned on several occasions, and he has been commended for the statement he made about the elimination, eventually, of all nuclear weapons. He enunciated his hope in that respect at the end of his inaugural address.

Mr. Chairman, we have expressed concern here today and last night about the effect of the further development and possible production of the neutron bomb and the enhanced radiation weapons system on the President and whether it would be putting him in a position that would be unfair to him in view of the position he took on inaugural day.

Mr. Chairman, let me read a letter from the President dated July 21, 1977, to the chairman of the committee, the gentleman from Illinois (Mr. PRICE), in which the President expressed complete support for this program. Let me preface that by saying that the President has reviewed and amended the budget request that is now before us on two different occasions since it was first submitted to the Congress by the administration.

Mr. Chairman, in the President's letter he says as follows:

The Honorable MELVIN PRICE,
Chairman, The Armed Services Committee, House of Representatives, Washington, D.C.

THE WHITE HOUSE,
Washington, July 21, 1977.

TO CONGRESSMAN MEL PRICE: I would like to express my appreciation to you for your efforts in support of the enhanced radiation weapons program which was recently approved by Congress. Even though I have not yet made a final production decision, the supportive Congressional action in which you were so instrumental ensures that I will have the flexibility to make that decision based on my analysis of the benefits and liabilities of the weapons system.

I believe that tactical nuclear weapons have strongly contributed to deterrence of conflict in Europe and that we must retain the option they provide. Further, we must ensure that our theater nuclear forces are appropriately structured to support NATO's deterrent strategy of flexible response. Although the enhanced radiation concept has generated a great deal of controversy, I believe it is imperative that we retain and modernize our theater nuclear capabilities.

I am grateful for your continued support on the enhanced radiation weapons program and would deeply appreciate any future help that you might be able to give when I make my final production decision.

Sincerely,

JIMMY CARTER.

Mr. Chairman, I think this letter expresses very fully how the President feels about this matter, including the fact that he would like to have the option himself to determine the production and, if necessary, the deployment of the weapons system.

There is no deployment of the system in this bill. ERDA cannot deploy weapons systems.

In the history of our country, Mr. Chairman, six or seven Presidents, I believe, have had control over our nuclear weapons systems. At no time in any of the previous administrations has the Congress taken action to deny the President the authority to make the decisions on these nuclear systems.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. CHARLES H. WILSON) has expired.

(By unanimous consent, Mr. CHARLES H. WILSON of California was allowed to proceed for 1 additional minute.)

(On request of Mr. DON H. CLAUSEN and by unanimous consent, Mr. CHARLES H. WILSON of California was allowed to proceed for 2 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from California (Mr. CHARLES H. WILSON) is recognized for 3 additional minutes.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California (Mr. CHARLES H. WILSON), and in particular, to commend him for reading the contents of the President's letter. I too have a copy of that letter, and if my colleague had not read it, I intended to do so.

The neutron bomb is a highly emotional issue. However, I would ask my colleagues to consider that it represents some tactical advantages which are not commonly considered. Both conventional and tactical nuclear weapons have a blast effect which destroys everything within range, and in so doing creates a tremendous amount of rubble. This rubble is a very real handicap to advancing forces. Destroyed bridges, trees knocked across roadways, buildings falling into streets, huge craters in roads and highways all slow down an army on the the move. As a result the ability to quickly capitalize on a tactical advantage is lost. And the loss of that advantage gives the enemy time to regroup, and to delay the ultimate end of the fighting, and in the long run means even more suffering.

This new weapon is being attacked, not because it causes damage that other weapons do not, but because it is highly selective in its target. I would suggest to my colleagues that we need more weapons which are selective, instead of those which inflict wholesale destruction of entire communities.

Mr. Chairman, I yield to no one when it comes to having a concern and a Christian conscience about the whole question that is involved here. Most of the debate thus far has been essentially on the basis of the emotional issues involved. Many Members in this Chamber have had military service, many of them before some of the other Members were here in Congress. However, I would like to put this on a different plane.

First of all, let us put this in the context of what the people in the Soviet Union do to put forth their views at the SALT negotiating table: They do not have to adhere to public opinion. There is no opportunity for debate when they come to make a decision. Then let us analyze the process here in the United States: We have an authorization process, we have an appropriations process and an allocation and a deployment process.

Let me refer the Members back to the ABM decision. There the same emotional debate took place on the AMB issue when it was before us for authorization. The ABM system was not fully deployed as was authorized, if I remember correctly. As a consequence, those of us who believed very strongly in peace through strength hoped we would never have to use it. We have not had to use the ABM system and we hope we do not have to use the neutron bomb.

Nevertheless we must continue to keep our defense forces modern and up to date, so that we are always able to go to the negotiating table in a position of strength.

But the key issue here is whether or not Congress and the executive branch in

dealing with defensive posture and policy can provide the necessary options at the negotiating table at some point in the future.

Mr. UDALL. Mr. Chairman, I think that the proposed neutron weapons program would be ill-advised for the following reasons:

First, it would lend credence to the idea that nuclear war can be limited to the battlefield without escalation to destruction of strategic targets;

Second, it would give undue prominence to those parts of the national security establishment which believe in the usefulness of nuclear weapons; and

Third, it would tend to legitimize nuclear weapons when we should be going in the other direction.

In sum, in buying off on the argument that neutron weapons increase the credibility of our deterrent, we move toward acceptance of the proposition that nuclear war does not necessarily equate with disaster. A vote against this program would be a statement by the Congress that we believe security lies in arms control and not in a never-ending spiral of weapons and counter weapons.

Mr. CONYERS. Mr. Chairman, I want to take this opportunity to express my deep appreciation to my colleagues who have indicated in the last 2 days of debate on the neutron bomb that they are concerned about the possible annihilation of Western society. I have heard genuine expressions of fear and mortification about the incredible potential of this weapon for triggering nuclear holocaust. The conclusion that many of my colleagues have reached is that a decision to proceed with the neutron bomb moves us another major step toward a no win situation. We seem to be prepared to create a future for ourselves and our children where there will be no winners—no survivors—no options for recovery—no imaginable future. A debate about the relative merits of the clean or dirty annihilation of Europe and this Nation can be characterized as the strategic insanity debate. The fact that the same kind of debate took place on the ABM only means that we continue to escalate the cycle of insanity with recycled rationalizations about establishing strategic weapons superiority. The fact that the House Chamber was largely empty during this debate on the future of the world only accentuates the grotesque unreality of it all. As my colleague from Nebraska pointed out, if the discussion had involved congressional pay raises, the floor would have been packed as well as the balcony. The emptiness of the Chamber and the overwhelming rejection of the Weiss amendment signify how far those of us have to go to produce a consensus on new priorities that lead away from amassing weapons of destruction and toward using our national resources for establishing peace in the world and well-being in this Nation.

Mrs. HOLT. Mr. Chairman, I am frequently surprised, and often distressed, by the opinions expressed by some of our colleagues regarding our national security programs and our efforts to maintain a common defense with our allies. In my remarks in the RECORD of September 20, I pointed out why and how conventional weapons systems sales to our allies benefited this country militarily, and questioned how such sales could be considered immoral.

I have listened carefully to my colleagues. I have shared their unhappiness at even discussing new and more sophisticated weapons systems, their sense of horror at the potential use of these systems. I have also thought of the many letters I have received from Members of this House to ask for my signature on petitions to foreign governments to honor the human rights of their citizens.

We have all received thousands of letters from people who have lived under governments that do not respect those rights. We have been loyal to our heritage of supporting the human quest for freedom against despotism.

But just how effective would we be if we had no military strength? As the gentleman from Alabama (Mr. DICKINSON) said: "Where would our friends the Israelis be today if we had not been able to draw weapons from our own arsenal and air lift them to Israel during the Yom Kippur war?"

I believe we must continue negotiating to discontinue the arms race, but civilization has not advanced to the stage at which nations can resolve disputes by having their leaders Indian wrestle, 1-on-1.

Now we have an amendment which opts for weapons that will not harm people or other living things. Should we call these unweapons? Perhaps it will be helpful to recall the history of warfare.

In the beginning, only people were involved in battle and only people were damaged. From the days of 1 on 1—Cain versus Abel, David versus Goliath—cutting tools and slingshots were the inweapons. Only in the case of Samson and Delilah do we note extensive property damage. Homer and Caesar, and subsequent authors, have led us from the phalanx of Greek warriors through the Gallic wars, in which increasingly sophisticated weapons were used. In the time of Richard the Lionhearted there was the catapult, the bow, hot oil and hot lead, the battering ram, as well as improved cutting weapons. Except for the battering ram, as well as improved catapults, which destroyed property, most inventions were prompted by new ways to eliminate the enemy. Fire was the only good weapon against most structures, but it did not work well against stone.

The Chinese solved that problem. They invented gunpowder. Shakespeare pointed out another use of the "stone breaker." I quote:

"And it was a great pity, so it was,
This Villainous saltpetre should be digg'd
Out of the bowels of the harmless earth,
Which many a good tall fellow had destroy'd
So cowardly."

One of our colleagues now wants to invent the "unweapon" which cannot destroy things, only property. He would proceed to the era of the unweapon, an era that has never existed in the history of mankind. A fiction as ludicrous as the Orwellian "unperson."

I share the compassion for human beings and for the flora and fauna of the world. But, as was demonstrated in Czechoslovakia and Hungary, the Soviets do not equip their army in Central Europe with rubber bullets. I would have my colleagues extend their compassion for humans to those who are trying to maintain a peaceful and free existence in Western Europe; people who would have long ago been overrun had it not been for the protection of the NATO alliance and the deterrent effect of nuclear weapons.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 297, not voting 28, as follows:

[Roll No. 608]

AYES—109

Addabbo	Fraser	Obey
Akaka	Glickman	Ottinger
Anderson, Calif.	Goodling	Panetta
AuCoin	Hannaford	Pease
Badillo	Harkin	Pursell
Baldus	Harrington	Rahall
Baucus	Hawkins	Rangel
Beard, R.I.	Hefner	Reuss
Bedell	Heftel	Richmond
Bellenson	Holtzman	Rodino
Blouin	Jacobs	Roe
Bonior	Kastenmeier	Rosenthal
Bonker	Keys	Roybal
Brodhead	Kildee	Schroeder
Brown, Calif.	Kostmayer	Seiberling
Buchanan	Krebs	Sharp
Burke, Calif.	Leach	Simon
Burton, John	Lundine	Skubitz
Burton, Phillip	McHugh	St Germain
Cavanaugh	McKinney	Stark
Chisholm	Maguire	Stokes
Clay	Markey	Studds
Collins, Ill.	Mazzoli	Thornton
Conyers	Metcalfe	Tsongas
Corcoran	Mikulski	Udall
Cornell	Mikva	Van Deerlin
Dellums	Miller, Calif.	Vanik
Diggs	Mineta	Vento
Drinan	Mitchell, Md.	Volkmer
Early	Moakley	Walgren
Eckhardt	Moffett	Waxman
Edgar	Moss	Weaver
Edwards, Calif.	Myers, Gary	Weiss
Ellberg	Nolan	Wirth
Ford, Tenn.	Nowak	Wylie
Forsythe	Oakar	Yates
	Oberstar	

NOES—297

Abdnor	Bingham	Cederberg
Alexander	Blanchard	Chappell
Allen	Boggs	Clausen, Don H.
Ambro	Boland	Cleveland
Ammerman	Bolling	Cochran
Anderson, Ill.	Brademas	Cohen
Andrews, N.C.	Breaux	Coleman
Andrews, N. Dak.	Breckinridge	Collins, Tex.
Annunzio	Brinkley	Conable
Applegate	Brooks	Conte
Archer	Broomfield	Corman
Armstrong	Brown, Mich.	Cornwell
Ashbrook	Brown, Ohio	Coughlin
Ashley	Broyhill	D'Amours
Aspin	Burgener	Daniel, Dan
Badham	Burke, Fla.	Daniel, R. W.
Bafalis	Burke, Mass.	Danielson
Barnard	Burleson, Tex.	Davis
Bauman	Burlison, Mo.	de la Garza
Beard, Tenn.	Butler	Delaney
Benjamin	Byron	Derrick
Bennett	Caputo	Derwinski
Bevill	Carney	Devine
Biaggi	Carr	Dickinson
Dicks	Jones, Okla.	Quie
Dingell	Jones, Tenn.	Quillen
Dodd	Jordan	Railsback
Dornan	Kasten	Regula
Downey	Kazen	Rhodes
Duncan, Oreg.	Kelly	Rinaldo
Duncan, Tenn.	Kemp	Risenhoover
Edwards, Ala.	Ketchum	Roberts
Edwards, Okla.	Kindness	Robinson
Emery	Krueger	Rogers
English	LaFalce	Roncalio
Erlenborn	Lagomarsino	Rooney
Ertel	Latta	Rostenkowski
Evans, Colo.	Le Fante	Rousselot
Evans, Del.	Lederer	Rudd
Evans, Ga.	Leggett	Runnels
Evans, Ind.	Levitas	Ruppe
Fary	Livingston	Russo
Fascell	Lloyd, Calif.	Santini
Fenwick	Lloyd, Tenn.	Satterfield
Findley	Long, La.	Sawyer
Fish	Long, Md.	Scheuer
Fisher	Lott	Schulze
Fithian	Lujan	Sebelius
Flippo	Luken	Shipley
Flood	McCormack	Shuster
Florio	McDade	Sikes
Flowers	McDonald	Sisk
Flynt	McEwen	Skelton
Foley	McFall	Slack
Ford, Mich.	McKay	Smith, Iowa
Fountain	Madigan	Smith, Nebr.
Fowler	Mahon	Snyder
Frenzel	Mann	Solarz
Frey	Marks	Spellman
Fuqua	Marriott	Spence
Gammage	Martin	Staggers
Gaydos	Mathis	Stangeland
Gephardt	Mattox	Stanton
Giaimo	Meeds	Steed
Gibbons	Meyner	Steers
Gilman	Michel	Steiger
Ginn	Milford	Stratton
Goldwater	Miller, Ohio	Stump
Gonzalez	Minish	Symms
Gore	Mitchell, N.Y.	Taylor
Gradison	Mollohan	Thone
Grassley	Montgomery	Traxler
Gudger	Moore	Treen
Hagedorn	Moorhead, Calif.	Trible
Hall	Moorhead, Pa.	Tucker
Hamilton	Mottl	Ullman
Hammer-schmidt	Murphy, Ill.	Vander Jagt
Hanley	Murphy, N.Y.	Waggonner
Hansen	Murphy, Pa.	Walker
Harris	Murtha	Walsh
Harsha	Myers, John	Watkins
Heckler	Myers, Michael	White
Hightower	Natcher	Whitehurst
Hillis	Neal	Whitley
Holland	Nedzi	Whitten
Hollenbeck	Nichols	Wiggins
Holt	Nix	Wilson, C. H.
Horton	O'Brien	Wilson, Tex.
Howard	Patten	Winn
Hubbard	Pattison	Wright
Huckaby	Perkins	Wydler
Hughes	Pettis	Yatron
Hyde	Pickle	Young, Alaska
Ichord	Pike	Young, Fla.
Ireland	Poage	Young, Mo.
Jenkins	Pressler	Young, Tex.
Jenrette	Preyer	Zablocki
Johnson, Colo.	Price	Zeferetti
Jones, N.C.	Pritchard	

NOT VOTING—28

Bowen	Lehman	Sarasin
Clawson, Del	Lent	Stockman
Cotter	McClory	Teague
Crane	McCloskey	Thompson
Cunningham	Marlenee	Wampler
Dent	Patterson	Whalen
Guyer	Pepper	Wilson, Bob
Jeffords	Quayle	Wolff
Johnson, Calif.	Rose	
Koch	Ryan	

The Clerk announced the following pairs:

On this vote:

Mr. Lehman for, with Mr. Dent against.

Mr. Koch for, with Mr. Thompson against.

Mrs. COLLINS of Illinois, Mr. AKAKA, and Mr. ROYBAL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committees on Armed Services and on Appropriations of the House of Representatives and the Senate of notice given by the Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administrator") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, and each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Administrator is authorized to start any project set forth in sections 102 (1) through (3) which has an estimated cost of $5,000,000 or more only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project in justifying documents provided the Congress. In addition, the total cost of any such project shall not exceed by more than 25 per centum the estimated cost set forth for such project in the justifying documents provided to the Congress for such project unless and until additional appropriations are authorized.

SEC. 203. The Administrator is authorized to start any project set forth under section 102(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Administrator determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 per centum.

SEC. 204. Subject to the applicable requirements and limitations of this Act and when so specified in appropriations Acts, amounts appropriated for the Administration under section 101 or 102 of this Act may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

SEC. 205. When so specified in appropriations Acts, amounts appropriated under section 101 or 102 of this Act may remain available until expended.

SEC. 206. Subject to the provisions of section 201(2), amounts appropriated pursuant to this Act for activities under sections 102 (4) and 102(5) are available for use, when necessary, in connection with all national security programs of the Administration.

SEC. 207. Subject to the provisions of section 201(2), the Administrator is authorized to perform construction design services for any Administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administrator determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 6, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 209. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued to read title II.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I will make the request again. I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of title II.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 21, after line 19, insert the following new section:

SEC. 210. (a) None of the funds authorized to be appropriated under this Act shall be obligated or expended for production of any enhanced radiation weapon, unless and until—

(1) the President certifies to Congress that production of such weapon is in the national interest;

(2) the Administrator submits to the Congress a complete statement analyzing the impact the production and deployment of such weapon would have on arms control and disarmanent policy and negotiations;

(3) the President, in accordance with section 91 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)(2)), personally directs that such weapon be produced;

(4) the President studies (A) the overall concept for use of tactical nuclear weapons, including particularly enhanced radiation weapons, in Europe, (B) how the use and deployment of such weapons, and particularly enhanced radiation weapons, relates to deterrence and to a strong conventional defense, (C) how deployment of such weapons, particularly enhanced radiation weapons, relates to the development of a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with appropriate emphasis on conventional defense forces; (D) the feasibility and desirability of reductions in the number and type of nuclear warheads which would not be essential for the defense structure of Western Europe because of the deployment of enhanced radiation weapons, and (E) any steps that can be taken, because of the deployment of enhanced radiation weapons, to develop a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with appropriate emphasis on conventional defense forces;

(5) the President submits a detailed report to the Congress (A) stating the reasons for his decision under paragraph (3) that the enhanced radiation weapon involved be produced, and (B) reporting the results of the study required under paragraph (4); and

(6) a period of 45 calendar days passes after the report referred to in paragraph (5) is submitted to Congress during which Congress does not adopt a concurrent resolution disapproving the obligation or expenditure of such funds.

If before January 1, 1978, the President does not expressly direct that an enhanced radiation weapon be produced, a report stating the complete reasons for not directing production of such a weapon shall be submitted to the Congress not later than January 31, 1978.

(b) In conducting the study referred to in subsection (a)(4), the President shall review and take into consideration the results of the study conducted by the Secretary of Defense pursuant to section 302(d) of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365; 88 Stat. 402), and shall include in the report referred to in subsection (a)(5) any modification of the study conducted by the Secretary of Defense as may be necessary to bring the results of such study up to date.

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read the amendment.

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read the amendment.

Mr. McKINNEY (during the reading). Mr. Chairman, as a courtesy to my colleague, the gentleman from Connecticut (Mr. DODD), I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk concluded the reading of the amendment.

Mr. DODD. Mr. Chairman, before I begin a discussion of the particulars of this amendment, I would like to suggest to my colleagues, those who were not able, for whatever reason, to be present during the past 4 or 5 hours of legislative activity on the floor, that they missed a unique opportunity to hear one of the finest debates I have heard in the 2 years I have been in the House. It was certainly a debate on the highest level. It was the debate surrounding this issue that is best known as the neutron warhead or neutron bomb.

This is an issue that has evoked very strong emotional responses on the part of many people. I can truly appreciate the significance of this issue. I can truly understand and appreciate the hesitancy on the part of many Members of this body in not wanting to make a decision that would appear to our allies and our friends in the world that we are in some way escalating nuclear armaments in the world at a time when world peace and peace in so many places in the world seems in jeopardy.

I hope it will not be necessary for us, in the consideration of this amendment, to go through the elaborate and long debate that occurred at the time of the offering of the amendment by the gentleman from New York (Mr. WEISS).

Having said that, let me try as clearly and concisely as I can, to explain exactly what my amendment is intended to do. This amendment has six parts to it. Some of the parts in this amendment are already law. Some have been included already in the appropriations bill on this matter.

The effort of this amendment is to try to consolidate all these things, not only to protect our interests and to protect the interests of those who are so concerned—and I think every Member of this institution is concerned with this matter—with the questions involving the production and the deployment of this kind of weapon, but also to try to emphasize to the President and to the administration our concern in this institution for decisions that are as monumental as this one is.

Let me say once again, as I said at the time of the offering of the last amendment, that if anyone has any question or any doubt about the ability of this institution and the Members of this institution to conduct a debate as sophisticated as the one that surrounds the production and deployment of a nuclear warhead, then I would commend the attention of that person to the RECORD of yesterday and today to see how sophisticated and how intelligent the Members of this institution can be when it comes to discussing an issue of this magnitude.

This amendment in effect gives us the opportunity to continue in the future our further consideration when this issue surfaces again. Let me just spell out the parts of this particular amendment and explain what it does.

My amendment is not intended to express congressional opposition to neutron warheads. I believe such opposition is premature at this time, because the pros and cons involving these tactical nuclear weapons do not now present us with a clear and convincing choice as to whether to approve or halt production of this weapon.

Congressional opposition or support should be the outcome of intensive hearings and debates. We have not had those hearings, and although the debate we have had the last 2 days, has been illuminating, I do not believe we are ready yet to reach a final decision.

My amendment is designed to give us the opportunity to deal with these weapons in that most responsible manner. It is intended to focus congressional debate on these warheads and to allow proper time for a full airing of the issues on both sides. It is intended to signal to President Carter that we are concerned with what appears to have been this administration's initial superficial examination of these weapons.

I might add at this point that the distinguished gentleman from Illinois (Mr. ANDERSON) made reference to this in the previous debate, and I think rightfully so. I do not mean by this that there was some malfeasance on the part of the present administration. I think this was merely a question of a new administration and this kind of a decision slipping by without receiving the proper attention it deserved.

My amendment is intended to demonstrate that the Congress expects to be a full and equal partner in our Government's decisionmaking process.

Mr. Chairman, my amendment also is intended to allow us to correct the many misimpressions on both sides of the issue, misimpressions which, unfortunately have appeared in the news media and which only serve to frighten the public rather than leading to enlightened debate.

Specifically, my amendment would require the following actions by the executive branch and the Congress before any fiscal year 1978 funds could be obligated or expended for production or long-lead procurement for production of neutron warheads.

The CHAIRMAN pro tempore (Mr. SIMON). The time of the gentleman from Connecticut (Mr. DODD) has expired.

(By unanimous consent, Mr. DODD was allowed to proceed for 5 additional minutes.)

Mr. DODD. Mr. Chairman, to continue, first of all, the President must certify to the Congress each type—and I emphasize the word "type"—of enhanced radiation warhead whose production is in the national interest. This provision is similar to that placed in the Senate and House fiscal year 1978 ERDA-Public Works appropriation bill.

I think this provision should be reiterated in the authorization act which, I would submit to my colleagues, is the far more appropriate place for it.

Second, ERDA's Administrator must submit a complete arms control impact statement to Congress for each type—and again I emphasize the words "each type"—of neutron warhead to be produced with fiscal year 1978 funds.

Mr. Chairman, as my colleagues, I am sure, are well aware, an impact statement was submitted in July of this year. However, I would suggest to my colleagues that that impact statement was only submitted as a result of pressures brought to bear after stories about this particular weapons system surfaced in the news media. I place this requirement in here so that there will no longer be any question in this administration's mind as to the requirement or necessity for an arms control impact statement. It is not clear whether ERDA had originally intended to do so, but I emphasize that we should put that kind of language in.

Mr. Chairman, let me go on to point 3. My amendment requires that the President or a President personally direct the production of enhanced radiation warheads if he decides they should be produced.

This provision reiterates a requirement already in law, and it might be suggested by some that this is unnecessary, but I think it is important to put this kind of language in here so that there is not any doubt that this is an essential requirement for the President to comply with in this kind of development of a weapons system.

Mr. Chairman, I am hopeful that this will serve to calm many of my colleagues who have been concerned that a decision involving this particular weapon would be made by staff and not by the President himself, as it should be.

Therefore, my amendment requires that the President study and report to the Congress how production and deployment of neutron weapons fit into our overall policies regarding tactical nuclear weapons with respect to NATO and in our strengthening NATO's possibility of reducing the number of tactical weapons in Europe.

Mr. Chairman, the last time policy questions about tactical nuclear weapons were addressed in a comprehensive manner was in fiscal year 1975 in what is known as the Nunn report, which was mandated under Public Law 93-365 in the 1975 Defense Authorization Act. Many Members have seen this report. This report is now going on 3 years old, and I would suggest that this report be updated. In fact, it has been suggested by some that it should be done either annually or bi-annually.

In any event, Mr. Chairman, this amendment would require the updating of this report, which I understand is to some extent going on already.

With respect to the language in the amendment, Mr. Chairman, some may raise questions as to where this language comes from. All that language is, is the language that is to be found in the preface of this report, with the added language of particular reference to be made to the enhanced radiation weapons. This is not some language concoted by my staff. It is language that comes from this report, including specifically the conclusions or the items discussed in this so-called 1975 Nunn report.

Fifth, Mr. Chairman, if the President decides to produce neutron warheads, my amendment further requires him to fully inform Congress as to the reasons for this decision. This provision makes this reporting requirement much more specific than the information-sharing arrangements which presently exist under current laws or agreements between Congress and the Executive.

If the President decides not to produce such weapons, my amendment also calls for him to explain the reason for that decision as well.

Lastly, Mr. Chairman, my amendment would require that Congress have 45 days after being informed about a new neutron warhead production decision to decide whether to disapprove of such production by a concurrent resolution.

This provision, I might also add, is similar to that contained in the ERDA public works bill. And I might suggest the same argument I offered earlier that an appropriation bill is not the proper place for that language to be located, it belongs in the language of an authorizing bill. This would allow the Congress to have a say and to make its decision when more information becomes available to it.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. DODD was allowed to proceed for 2 additional minutes.)

Mr. DODD. Mr. Chairman, I might point out to the Members for their information that in trying to deal with this issue, back in the early part of this summer when this issue began to surface, I decided it was important to find out as much information as I possibly could about this entire issue. One of my concerns was the reaction of our NATO allies, and how would they respond. I personally wrote to every single NATO country, to their respective defense departments, asking for their analysis and decision on this weapon. Approximately half of them responded and, despite the press reports to the contrary in the last several weeks, there is not yet a decision by our NATO allies. The Dutch provided a typical reaction. Their reaction was that "We need more information. We would like to discuss it more."

The British were the same way. Canada said, "We would like further consultation before we would make a decision on this."

I think this amendment will allow the President to make his decision, discuss it with our allies in NATO, because, believe me, it is in their countries, their territories that this weapon would be used. They should have the right to have full consultation and decisionmaking in this process in this important area.

Given these responses by NATO, they have not made their decision, they are not against it and they have not come out publicly for it, either.

I think my colleagues should know all of this information in reaching a decision to go forward with this particular weapon.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding. I am somewhat troubled with the gentleman's amendment. How would this work? As I see this, it is not a privileged resolution, which means it could be called up by any Members of the House for a vote of disapproval, but it is a resolution that would go through the sponsoring committee, the Committee on Armed Services, from which I am reasonably sure it would probably not be reported out. Therefore, I do not think this is much of a control.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. DODD was allowed to proceed for 3 additional minutes.)

Mr. DODD. Mr. Chairman, I would suggest to my colleague, in having far more tenure here in the House than I do——

Mr. JOHN L. BURTON. Six months.

Mr. DODD. Six months. That the procedure to be followed here would be the normal procedure with a resolution of disapproval. It is my understanding, and I will stand corrected, that this resolution would go to the Commitee on Rules and would not have to go through the normal legislative committee in order to be considered here on the floor.

Mr. JOHN L. BURTON. If the gentleman will yield further, all I am doing is reading the resolution. I remember that with the President's reorganization plan, you can have a resolution of disapproval, then after 45 days it can be taken up by any Member of the House. This does not say it is a resolution of privilege. I am just afraid that it is not going to do anything. I mean, we had a vote the last time, that we could have said we do not know enough about it. Let us not spend any money until we find out the facts, do not do anything until it is reported back.

Mr. DODD. Just on that one point, I am not saying that. I feel, even despite the fact that I have spent time with the Committee on Armed Services looking over classified information, and despite the fact that my staff has spent the last few months on this, I do not feel fully qualified to stand before this body today and say I think absolutely, uncategorically, we ought to go forward with this weapons system.

Mr. JOHN L. BURTON. That is how I felt.

Mr. DODD. The reason I opposed the Weiss amendment is because the Weiss amendment foreclosed the option to go forward with production if after that study we decide we would like to go forward. I think we ought to have that option, despite the fact that the 45-day requirement may require some procedural maneuvering in order to get it here on the floor. I think it is deeply in our interest to have that right.

Mr. JOHN L. BURTON. The result would be a majority vote by the com-

mittee to disapprove a weapon that they spent more time and had more classified documents on than the gentleman and I and our staffs combined. We cannot parliamentarily maneuver something out of a committee. It is not a privileged resolution. It does not say that the committee will be discharged for 45 days and any Member of the House could take it up so at least we would have a vote. Under the worst of circumstances, we could have a majority of the committee not favoring a disapproval and everybody else in the House favoring it, and we still cannot have it. For that reason, although I understand the motives and I think they have merit, I would be constrained to oppose the amendment because it really does not do anything except have the President tell us why he went ahead with it. As far as his telling us why he did not go ahead with it, I will take him for his word on that because I know he is going to.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

I wonder if the gentleman from Connecticut (Mr. DODD) would answer my question. It relates to the supposition that if war breaks out tomorrow—God forbid—or the day after we pass the bill with this amendment in it, as I read it, there is no particular exemption for wartime. Could the gentleman comment on that?

Mr. DODD. If the gentleman will yield, I would probably suggest two things to my colleague. One, if war breaks out tomorrow, the President probably would not sign the bill.

Mr. STEERS. Suppose the day after he signs the bill war breaks out?

Mr. DODD. There are already provisions in this amendment which are requirements of law. We can create a frightening scenario, I suppose, that would necessitate obviating a lot of things that we feel are important. But I do not think that creating a hypothetical situation which does not seem to have much likelihood is a good rationale or reason to defeat an amendment which is designed to include, as constitutionally I think we are required to, our being directly included in the decisionmaking process over something as monumental as the production and deployment of a nuclear weapon. So despite the fact that war could potentially—and I will not bicker over that point—break out at any time, I do not think that is a good reason for not including this kind of language in this legislation in order to protect our rights in this institution and ultimately, I think, the rights of the people of this country, who are deeply concerned about the ultimate decision whether to go forward.

Mr. STEERS. If I understand the gentleman correctly—and we both agree that war is remote in this short-time period, nevertheless, it cannot be ruled out—it seems to me that the gentleman is saying that I am creating a hypothetical situation. But it seems to me that the gentleman's amendment—I am not saying that this is any reason that it should be defeated, but it might be a reason why it should be further amended—creates the hypothetical situation whereby it might well be that the President of the United States would find his hands tied preparing a report that the gentleman has called for, and then waiting for 45 days before he could respond to nuclear bombs being dropped on Washington.

Mr. DODD. Will the gentleman yield?

Mr. STEERS. I yield to the gentleman.

Mr. DODD. I thank the gentleman for yielding.

First of all, we are at a particular stage now where we are talking about research and development, and we are talking about, if war breaks out the, fact that we do not have the capability to really deploy at any rate this kind of system as it is. So we are talking about a production decision, and when that production decision is made, the President would have at the same time to comply with what is required in the amendment so that if, God forbid, that scenario arose, we are already talking about this language of the amendment being complied with by the executive branch. Therefore, if war did break out, we would not have to go through all of these steps, other than within that period the Congress could respond.

Mr. STEERS. I thank the gentleman. I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DODD. Mr. Chairman, I am constrained—I hesitate to do it—to demand a recorded vote on this.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: Page 21, after line 19, add the following new section:

SEC. 210. None of the funds authorized to be appropriated under section 101 of this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation (neutron bomb) warhead, or for research, development, testing, or evaluation with respect to any such warhead, unless such warhead is designed to destroy property without causing harm to human beings and other living things.

Mr. JOHN L. BURTON. Mr. Chairman, this Congress has long been concerned about the depressed state of our construction industry. Earlier this week we have shown our profound concern with the right to life, the right of things to exist and have life. This amendment addresses both problems. It says that neutron bombs, instead of preserving property and killing human beings, will destroy the property and let the people live.

One of my colleagues, the gentlewoman from Maryland, whom I do not see on the floor, said she thought this was kind of a stupid amendment. My only comment is that it is not as stupid as the bomb itself.

I ask for an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

The question was taken; and on a division (demanded by Mr. JOHN L. BURTON) there were—ayes 6, noes 31.

So the amendment was rejected.

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Obviously a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. SIMON). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to vote against this authorization, and I urge all those who voted for the amendment to delete all funding for the neutron bomb to do the same.

I would like at this time to place the debate that took place yesterday and today on this measure into historical perspective. But first, I want to express my deep appreciation to the chairman, the gentleman from California (Mr. CHARLES H. WILSON), for the gentleman's patience and cooperation, and his insight in determining at the outset that this was such an important matter that the debate ought to be allowed to go the full length.

The vote itself was very encouraging. There were 109 votes cast in favor of the amendment. When the debate started, those of us offering the amendment did not believe we would get more than 50 votes. We were content to raise an issue that we believed was, without exaggeration, crucial to the future of mankind. But the final tally shows we did more than merely raise an issue; we showed the President, the Congress, the American people and the world that there is considerable sentiment against the neutron bomb. I hope this sentiment will continue to grow and result in a final decision against this horrible weapon.

To the best of my knowledge, the 5 hours of debate we devoted to this issue was the first time the House has ever openly debated the use of tactical nuclear weapons. I am proud of this achievement, but I think it is a sad commentary that this subject has never before been debated. I hope the strength we demonstrated in the vote will insure that it will not be the last time such a discussion takes place.

My positive feelings must, unfortunately, be tempered by the knowledge that the House today authorized a weapon that will inevitably result in the terror of a nuclear holocaust. In doing so, this body has drifted into the militarily and morally vacuous position of equating conventional and nuclear weapons. I shudder at the thought of what the next step in this direction will be.

Fortunately, this weapon can still be stopped. Under the appropriation measure, the President has to come back to both Houses with a certification that production of the neutron bomb is a necessity and that it is in the national interest. At that point, each House has the right to consider a resolution of disagreement.

Mr. Chairman, this is simply the beginning of an educational and legislative effort to take us back from the point of being perilously close to an all-out nuclear war. I hope this debate will encourage us to take a second look at the neutron bomb and move away from the brink of a nuclear holocaust.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I would like to commend the gentleman for taking the leadership on this issue. I think he has done an excellent job. I hope the educational benefits of the debate will continue to grow until we are in the majority.

Mr. PRICE. Mr. Chairman, I want to commend the gentleman from California (Mr. WILSON) for the effective manner in which he managed this legislation on the floor.

Mr. WILSON, in the three sessions during which this issue was under consideration exhibited great skill and patience and I am certain every Member of the House will join me in complimenting him.

He was extremely considerate in allocating time for debate. At no time did he seek to limit debate and I am certain the membership join me in commending him for his leadership.

The CHAIRMAN pro tempore. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore (Mr. SIMON). Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. STUDDS) having assumed the chair, Mr. SIMON, chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration a bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes, pursuant to House Resolution 640, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. FENWICK. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. FENWICK moves to recommit the bill H.R. 6566 to the Committee on Armed Services.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 78, not voting 26, as follows:

[Roll No. 609]

YEAS—330

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badham
Bafalis
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gooding
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Mann
Marks
Marriott
Martin
Mathis
Mattox
Meeds
Meyner
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Patten
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—78

AuCoin
Badillo
Baldus
Bedell
Beilenson
Bonior
Brodhead
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Caputo
Cavanaugh
Chisholm
Clay
Conyers
Cornell
Dellums
Dodd
Drinan
Early
Edgar
Edwards, Calif.
Eilberg
Fenwick
Forsythe
Fraser
Harrington
Hawkins
Holtzman
Jacobs
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
McKinney
Maguire
Markey
Mazzoli
Metcalfe
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Moss
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Pattison
Pease
Quie
Rahall
Rangel
Richmond
Rosenthal
Roybal
Schroeder
Seiberling
St Germain
Stark
Steers
Stokes
Studds
Thompson
Tsongas
Volkmer
Walgren
Waxman
Weaver
Weiss
Wirth
Yates

NOT VOTING—26

Boggs	Lehman	Santini
Bowen	Lent	Sarasin
Clawson, Del	McClory	Skubitz
Cotter	McCloskey	Teague
Cunningham	Marlenee	Vander Jagt
Dent	Patterson	Whalen
Guyer	Pepper	Wilson, Bob
Johnson, Calif.	Quayle	Wolff
Koch	Rose	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Del Clawson.
Mr. Teague with Mr. Guyer.
Mr. Koch with Mr. Marlenee.
Mr. Lehman with Mr. Bob Wilson.
Mr. Pepper with Mr. Lent.
Mr. Cotter with Mr. McClory.
Mr. Dent with Mr. Whalen.
Mr. Wolff with Mr. McCloskey.
Mr. Bowen with Mr. Cunningham.
Mr. Patterson of California with Mr. Sarasin.
Mr. Santini with Mr. Skubitz.
Mr. Rose with Mr. Vander Jagt.
Mr. Johnson of California with Mr. Quayle.

Mrs. SPELLMAN and Mr. HEFNER changed their vote from "nay" to "yea."

Mr. YATES and Mrs. BURKE of California changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize appropriations for the use of the Energy Research and Development Administration for national security programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes."

A motion to reconsider was laid on the table.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Research and Development Administration Authorization Act of 1977 and 1978—Military Applications".

TITLE I—NATIONAL DEFENSE PROGRAMS—FISCAL YEAR 1977

AUTHORIZATION OF FUNDS

SEC. 101. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for operating expenses and plant and capital equipment as follows:

OPERATING EXPENSES

SEC. 102. For operating expenses for the fiscal year beginning October 1, 1976, $1,363,535,000 as follows:

(1) Weapons Activities, $999,500,000.

(2) Special Materials Production, $362,735,000.

(3) Nuclear Explosives Applications, $1,300,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 103. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition, and acquisition and fabrication of capital equipment not related to construction, $379,401,000 as follows:

(1) Weapons Activities:

(A) Project 77-11-a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $8,300,000.

(B) Project 77-11-b, safeguards and site security improvements, various locations, $13,500,000.

(C) Project 77-11-c, 8-inch artillery fired atomic projectile production facilities, various locations, $22,600,000.

(D) Project 77-11-d, tritium confinement system, Savannah River, South Carolina, $3,500,000.

(E) Project 77-12-e, fire and safety project, Lawrence Livermore Laboratory, California, $2,300,000.

(F) Project 77-12-b, life safety corridor modifications, Bendix Plant, Kansas City, Missouri, $3,100,000.

(G) Project 77-12-c, modifications to comply with the Occupational Safety and Health Act, Y-12 Plant, Oak Ridge, Tennessee, $6,400,000.

(H) Project 77-12-d, upgrade reliability of fire protection, Bendix Plant, Kansas City, Missouri, $7,800,000.

(I) Project 77-12-e, sludge disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $3,000,000.

(2) Special Materials Production:

(A) Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A-E and long-lead procurement), $15,000,000.

(B) Project 77-13-b, improved confinement of radioactive releases, reactor areas, Savannah River, South Carolina, $6,000,000.

(C) Project 77-13-c, seismic protection, reactor areas, Savannah River, South Carolina, $3,000,000.

(D) Project 77-13-d, high level waste storage and waste management facilities, Savannah River, South Carolina, $56,000,000.

(E) Project 77-13-e, high level waste storage and handling facilities, Richland, Washington, $40,000,000.

(F) Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico (A-E, land acquisition, and long-lead procurement), $28,000,000.

(G) Project 77-13-g, safeguards and security upgrading, production facilities, multiple sites, $16,400,000.

(H) Project 77-13-h, personnel protection and support facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $10,500,000.

(3) Project 77-14, General Plant Projects, $31,210,000.

(4) Capital Equipment Not Related to Construction, $102,791,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 104. Section 101(b)(1) of Public Law 93-276 as amended, is further amended by striking out "$27,500,000" in the item relating to project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, and inserting in lieu thereof "$65,000,000".

TITLE II—NATIONAL DEFENSE PROGRAMS—FISCAL YEAR 1978

AUTHORIZATION OF FUNDS

SEC. 201. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for operating expenses and plant and capital equipment, as follows:

OPERATING EXPENSES

SEC. 202. For operating expenses for the fiscal year beginning October 1, 1977, $1,578,800,000, as follows:

(1) Weapons Activities, $1,161,400,000.

(2) Special Materials Production, $416,400,000.

(3) Nuclear Explosives Applications, $1,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 203. For plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, and for acquisition and fabrication of capital equipment not related to construction, $411,344,000 as follows:

(1) Weapons Activities:

(A) Project 78-16-a, cruise missile production facilities, various locations, $18,100,000.

(B) Project 78-16-b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

(C) Project 78-16-c, high explosive flash radiography facility, Lawrence Livermore Laboratory, California, $5,000,000.

(D) Project 78-16-d, weapons safeguards, various locations, $28,000,000.

(E) Project 78-16-e, new weapons production installations, various locations, $2,000,000.

(F) Project 78-16-h, Tonopah Test Range upgrade, Sandia Laboratories New Mexico $4,000,000.

(G) Project 78-17-d, Steam Plant Improvements, Oak Ridge, Tennessee, $2,000,000.

(2) Special Materials Production:

(A) Project 78-18-a, high level waste storage and waste management facilities, Richland, Washington, $27,000,000.

(B) Project 78-18-b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

(C) Project 78-18-c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

(D) Project 78-18-d, new hydrofacture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

(E) Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

(F) Project 78-18-f, powerhouse emission control improvements, Richland, Washington, $6,500,000.

(G) Project 78-18-g, fan house and increased fan capacity, H chemical separations area, Savannah River, South Carolina, $3,400,000.

(H) Project 78-18-h, plantwide-fire protection, Savannah River, South Carolina, $6,300,000.

(I) Project 78-18-i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

(J) Projects 78-18-j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(3) Capital Equipment Not Related to Construction, $113,124,000.

(4) Project 78-21, General Plant Projects, $36,000,000.

(5) Capital Improvement Planning Program, $30,520,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 204. (a) Section 101(b)(9) of Public Law 91-273, as amended, is further amended by striking out "$240,000,000" in the item relating to project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, and inserting in lieu thereof "$280,000,000".

TITLE III—GENERAL PROVISIONS

PROJECT COST VARIATION PROVISIONS

SEC. 301. (a) No project authorized in section 103 (1) or (2) or section 203 (1) or (2) may be started if the current estimated cost of such project exceeds by more than 25 per centum the amount authorized by law for such project.

(b) At any time the current estimated cost of any project under construction exceeds by more than 25 per centum the total amount authorized by law for such project, the Administrator of the Energy Research and Development Administration shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed unless and until additional funds for such projects are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

AUTHORITY TO MERGE FUNDS

SEC. 302. Subject to the applicable requirements and limitations of this Act and to the extent specified in appropriations Acts, amounts appropriated to the Energy Research and Development Administration pursuant to this Act for operating expenses or for plant and capital equipment may be merged with any other amounts appropriated for operating expenses or for plant and capital equipment, respectively, pursuant to any other Act authorizing appropriations for the Energy Research and Development Administration.

FUNDS TO REMAIN AVAILABLE UNTIL EXPENDED

SEC. 303. To the extent specified in appropriations Acts, amounts appropriated pursuant to this Act for operating expenses or plant and capital equipment may remain available until expended.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 304. The Administrator of the Energy Research and Development Administration is authorized to perform construction design services for any construction project of the Energy Research and Development Administration in support of military applications in amounts not in excess of the amount specified in section 203(5).

AUTHORITY TO USE CERTAIN MONEYS AND FEES

SEC. 305. To the extent specified in appropriations Acts, any moneys received by the Energy Research and Development Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 (42 U.S.C. 2031) and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98) and fees received for tests or investigations under the Act of May 16, 1910 (30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

AUTHORITY TO TRANSFER FUNDS TO OTHER AGENCIES

SEC. 306. To the extent specified in appropriations Acts, funds appropriated to the Energy Research and Development Administration for operating expenses may be transferred to other agencies of the Government for the performance of work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which transferred.

MOTION OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA

Mr. CHARLES H. WILSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES H. WILSON of California moves to strike out all after the enacting clause of the Senate bill S. 1339 and to insert in lieu thereof the provisions of H.R. 6566, as passed, as follows:

TITLE I—FOR NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. There is hereby authorized to be appropriated for the use of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration") for fiscal year 1978 for operating expenses for national security programs—

(1) for weapons activities, $1,205,000,000,

(2) for special materials production, $416,400,000,

(3) for laser fusion, $116,200,000,

(4) for naval reactor development, $211,700,000, and

(5) for program management and support, $40,800,000,

in all, $1,991,100,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. There is hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, for national security programs the following amounts:

(1) For laser fusion:

Project 78-4-a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, California, $9,000,000.

(2) For weapons activities:

Project 78-16-a, cruise missile production facilities, various locations, $18,100,000.

Project 78-16-b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

Project 78-16-c, high explosive flash radiography facility, Lawrence Livermore Laboratory, California, $10,900,000.

Project 78-16-d, weapons safeguards, various locations, $14,000,000.

Project 78-16-e, new weapons production installations, various locations, $5,000,000.

Project 78-16-f, replace 10-inch water main, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, $12,500,000.

Project 78-16-h, Tonopah Test Range upgrade, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 78-16-i, laboratory support complex, Los Alamos Scientific Laboratory, New Mexico (A-E only), $2,000,000.

Project 78-17-a, production component warehouse, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 78-17-b, surface water control system, Rocky Flats Plant, Colorado, $2,800,000.

Project 78-17-c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California, $12,300,000.

Project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee, $10,000,000.

Project 78-17-e, high explosive machining facility, Pantex Plant, Amarillo, Texas, $5,000,000.

(3) For special materials production:

Project 78-18-a, high level waste storage and waste management facilities, Richland, Washington, $17,000,000.

Project 78-18-b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

Project 78-18-c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

Project 78-18-d, new hydrofacture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

Project 78-18-f, powerhouse emission control improvements, Richland, Washington (A-E only), $500,000.

Project 78-18-g, fanhouse and increased fan capacity, H chemical separations area, Savannah River, South Carolina, $3,400,000.

Project 78-18-h, plantwide fire protection, Savannah River, South Carolina, $6,300,000.

Project 78-18-i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

Project 78-18-j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(4) For project 78-21, General Plant Projects—

(A) for weapons activities, $24,000,000,

(B) for special materials production, $12,000,000, and

(C) for naval reactor development, $2,800,000, in all, $38,800,000.

(5) For project 78-22, construction planning and design, $5,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $81,000,000,

(B) for special materials production, $36,700,000,

(C) for laser fusion, $13,200,000,

(D) for naval reactor development, $15,150,000,

(E) for program management and support, in all $146,350,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. There are hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for projects previously authorized additional amounts as follows:

(1) For project 71-9 fire, safety, and adequacy of operating conditions projects, various locations, $47,000,000, for a total authorization of $287,000,000.

(2) For project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $28,500,000, for a total authorization of $65,000,000.

(3) For project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $31,900,000, for a total authorization of $54,500,000.

(4) For project 77-3-a, electron beam fusion facilities, Sandia Laboratories, Albuquerque, New Mexico, $4,400,000 for a total authorization of $13,500,000.

(5) For project 77-11-a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $4,300,000, for a total authorization of $8,300,000.

(6) For project 77-11-b, safeguards and site security improvements, various locations, $7,800,000, for a total authorization of $13,500,000.

(7) For project 77-11-c, 8-inch artillery fired atomic projectile production facilities, various locations, $12,600,000, for a total authorization of $22,600,000.

(8) For project 77-13-a, flourinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A-E and long-lead procurement), $15,000,000, for a total authorization of $15,000,000.

(9) For project 77-13-d, high level waste storage and waste management facilities, Savannah River, South Carolina, $31,000,000, for a total authorization of $56,000,000.

(10) For project 77-13-e, high level waste storage and handling facilities, Richland, Washington, $22,000,000, for a total authorization of $40,000,000.

(11) For project 77-13-f, waste isolation pilot plant (A-E, land acquisition, and long-lead procurement), Delaware Basin, Southeast New Mexico, $22,000,000, for a total authorization of $28,000,000.

(12) For project 77-13-g, safeguards and security upgrading production facilities, multiple sites, $8,700,000, for a total authorization of $16,400,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committees on Armed Services and on Appropriations of the House of Representatives and the Senate of notice given by the Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administrator") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, and each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Administrator is authorized to start any project set forth in sections 102 (1) through (3) which has an estimated cost of $5,000,000 or more only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project in justifying documents provided the Congress. In addition, the total cost of any such project shall not exceed by more than 25 per centum the estimated cost set forth for such project in the justifying documents provided to the Congress for such project unless and until additional appropriations are authorized.

SEC. 203. The Administrator is authorized to start any project set forth under section 102(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Administrator determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 per centum.

SEC. 204. Subject to the applicable requirements and limitations of this Act and when so specified in appropriations Acts, amounts appropriated for the Administration under section 101 or 102 of this Act may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

SEC. 205. When so specified in appropriations Acts, amounts appropriated under section 101 or 102 of this Act may remain available until expended.

SEC. 206. Subject to the provisions of section 201(2), amounts appropriated pursuant to this Act for activities under sections 102(4) and 102(5) are available for use, when necessary, in connection with all national security programs of the Administration.

SEC. 207. Subject to the provisions of section 201(2), the Administrator is authorized to perform construction design services for any Administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administrator determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 6, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98th; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 209. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

Amend the title so as to read: "An Act to authorize appropriations for the use of the Energy Research and Development Administration for national security programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for the use of the Energy Research and Development Administration for national security programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6566) was laid on the table.

APPRECIATION TO HON. MELVIN PRICE

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, the only reason I have taken this time is so that I may express my appreciation to the members of the Committee on Armed Services who served on the subcommittee having to do with the ERDA authorization bill. In particular, I want to express my appreciation to the chairman, the gentleman from Illinois (Mr. PRICE) who, as chairman of the full committee and the subcommittee, permitted me to handle this bill in his stead. The gentleman from Illinois (Mr. PRICE), as the Members of the House know, is probably the only real expert we have on nuclear energy as a result of his many years on the Joint Committee on Atomic Energy. I feel that it was a very gracious thing for him to have given me this great privilege.

GENERAL LEAVE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill H.R. 6566, just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4297, MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT AUTHORIZATION, 1978

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-646) on the resolution (H. Res. 798) providing for consideration of H.R. 4297, to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8410 TO AMEND THE NATIONAL LABOR RELATIONS ACT

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-647) on the resolution (H. Res. 799) providing for consideration of H.R. 8410 to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9354, STAFF ALLOWANCE FOR FORMER PRESIDENTS

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-648), on the resolution (H. Res. 800) providing for consideration of H.R. 9354 to amend the act of August 25, 1958, with respect to staff allowance for former Presidents, which was referred to the House Calendar and ordered to be printed.

MESSAGE FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 3199, FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1977

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

The Chair hears none, and appoints the following conferees: Messrs. JOHNSON of California, ROBERTS, ANDERSON of California, ROE, BREAUX, GINN, OBERSTAR, NOWAK, STUMP, HARSHA, CLEVELAND, DON H. CLAUSEN, and SNYDER.

THIRD BUDGET RESCISSION BILL, FISCAL YEAR 1977

Mr. MAHON. Mr. Speaker, I call up the bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95-188), transmitted pursuant to the Impoundment Control Act of 1974, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority proposed in the message of the President of July 19, 1977 (H. Doc. 95-188), are made pursuant to the Impoundment Control Act of 1974, namely:

CHAPTER I

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY CREDIT SALES

Of the funds appropriated under this head in the Foreign Assistance and Related Programs Appropriations Act, 1977, $21,090,000 are rescinded.

CHAPTER II

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

ALTERATIONS AND MAJOR REPAIRS

Of the funds appropriated under this head in the Supplemental Appropriations Act, 1977, $75,000,000 are rescinded.

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill contains two rescissions. The items total $96,090,000, the same amount as recommended and proposed by the President in his message of July 19, 1977, to which reference has already been made. Two appropriations subcommittees have been involved in this legislation, the Foreign Operations and Treasury—Postal Service—General Government. The committee recommends a rescission of $21,090,000 in foreign military credit sales and $75 million in the General Services Administration Federal Building Fund. Insofar as I know, there is nothing controversial about the proposed rescissions, which were approved last Friday by the full Committee on Appropriations on a voice vote.

The chairman of the Subcommittee on Treasury—Postal Service—General Government, the gentleman from Oklahoma (Mr. STEED), and the chairman of the Subcommittee on Foreign Operations, the gentleman from Maryland (Mr. LONG), are here and will explain the items in the bill under the jurisdiction of their respective committees. I would suggest that the House listen to an explanation of the bill from these two gentlemen.

Mr. Speaker, I reserve the remainder of my time.

Mr. STEED. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the item that I am in charge of has to do with the General Services Administration. Earlier this year in the supplemental we had included $125 million for the alterations and major repairs of Federal buildings. There were some delays, and as a result the General Services Administration has only been able to obligate a portion of that amount. Starting on October 1, which is immediately before us, they will have $200 million for this same purpose in their regular fiscal year 1978 budget. They do have a big backlog in alterations and major repairs and there is a 5-year cycle of maintenance and repair on Federal buildings. The $50 million they have available from the supplemental, plus the $200 million in the new bill starting October 1 will keep them on base with their work. We are assured that in the 1979 budget there will be another substantial amount to continue this work until the backlog is significantly reduced. So there is no longer any need for this $75 million, and our subcommittee is unanimous in agreeing to the rescission.

Mr. LONG of Maryland. Mr. Speaker, I move to strike the last word.

The committee recommends the rescission of $21,090,000 in budget authority available to the foreign military credit sales program. The $21,090,000 in excess budget authority results from changes in program plans that place increased reliance on guaranteed loans rather than on direct credits during fiscal year 1977.

Under the guarantee program, funds equal to 10 percent of the face value of the loans are obligated to guarantee loans provided to foreign aid recipients by the Federal Financing Bank or private lending institutions. In contrast, the full face value of the loans is obligated by the U.S. Government in direct credit transactions. The program would still operate at its full authorized level ($2,022.1 million) if the rescission is accepted because the proposal is concerned only with a change in the method of financing the loans and not in the level of loans.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Florida (Mr. YOUNG), the ranking minority member of our subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, I would like to say the chairman has explained this rescission bill very well. The Members of the minority support the rescission. It certainly would have no effect on this program. It really was excess budget authority. It would have no effect whatsoever on the program. We are certainly in support of the resolution.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, I would like to explain that as far as the section of this bill which says that $75 million are rescinded from GSA, we on the Republican side only wish it could be $500 million. But at least it is money being turned back into the Treasury. We have no objection.

Mr. LONG of Maryland. I thank the gentleman from Ohio (Mr. MILLER).

Mr. BEDELL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, as a result of some of the visits I made to the agencies I have come upon a problem I would like to point out to the committee. If I might have the attention of the gentleman from Oklahoma, I would like to be sure that he understands the problem as I see it. I am a little disturbed about the bill in that the report says:

> In view of these conditions, the Committee reluctantly agrees to the proposed rescission, but with the clear understanding that the Administration will continue a high rate of funding for the alteration and repair of public buildings sufficient to bring this problem under control within the foreseeable future.

I find that the contracts entered into with building owners by the GSA provide that all changes that are made will be made by the building owner. There is no opportunity whatsoever for the occupant, if he wishes to make those changes or if he wants to contract with some other party to make those changes, that there be any competitive bidding. So always these repairs go to the owner. If then the agency feels the bill is noncompetitive or unreasonable they can go back to the GSA and negotiate, but there is never a competitive, bid taken to check to see whether the changes are correct or not.

So it is only natural that the building owner would always submit a high bid for the changes that are to be made, because all that would happen is that he would have to renegotiate it downtown. I would hope that the committee would look into this matter and give consideration to the possibility of requiring that there be a provision where we could make it possible, whenever it seemed that the charge was unreasonable, that there be competitive bids. Certainly the checks I have made would indicate there are many cases when these charges are considerably greater than they would be if they abided by the normal practices of competitive bidding within the industry.

Mr. STEED. Mr. Speaker, if the gentleman will yield, of course, I agree with the gentleman in the gentleman's purposes; but as I understand, this program is just now beginning. They have permitted this backlog to pile up over the

last several years. We have tried to insist that they stay on the current basis, but for budgetary reasons they never did; so now we have a backlog of need of about 10,000 buildings that the Government occupies and over $900 million for maintenance and repair. They have reduced this to what they call a priority list on a 5-year cycle and at the $200 million level as we are going into for the new fiscal year, they ought to be able to acquire the maintenance and repair that they want in that 5-year cycle.

Now, the detail the gentleman goes into is a matter that will be of great interest to the subcommittee when we have our new hearings. If the gentleman would like to, we would be delighted to have the gentleman join with us when the Public Building Service comes before the committee and perhaps the gentleman can help us establish an even more thorough record than we would otherwise make.

I think we will find that the new program down there is going to be on the money and very well run. Of course, we are anxious to have it come out right, because a lot of this maintenance and repair has to do with changing the property we have so that it can be better utilized for the needs of space and save a lot of money. Also, it means that we can do a lot of insulation and other things that will make it more efficient; so we are anxious to have this program succeed and go on to fruition so that we get rid of this backlog.

In a lot of ways we are losing more money instead of making repairs than it costs to make them.

Mr. BEDELL. Mr. Speaker, I thank the gentleman and support the gentleman in making repairs. As I understand, there will be an opportunity to come before the committee to consider whether or not these repairs should allow for competitive bidding, at least in those cases where it seems the quotation is unreasonable.

Mr. STEED. Mr. Speaker, if the gentleman will yield further, we will be able to give the gentleman all the details the gentleman wants, plus a spread-out of the work underway and the next work coming in.

Mr. BEDELL. I have the information. I have the printouts. The concern I have is the policy followed by GSA, which is a policy that it will not have competitive bidding, that there will be no effort to see that those costs are held down in those cases where there is no bidding or in cases where it appears unreasonable.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, is the gentleman speaking of buildings owned by the Federal Government, owned by GSA, or speaking of buildings owned by private individuals and leased by the GSA?

Mr. BEDELL. I am speaking of the latter.

Mr. MILLER of Ohio. Of the latter?

Mr. BEDELL. Yes.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

At the request of Mr. MILLER of Ohio, and by unanimous consent, Mr. BEDELL was allowed to proceed for an additional 2 minutes.)

Mr. MILLER of Ohio. Mr. Speaker, if the gentleman will yield further, the gentleman is requesting that the bidding procedure for the Federal Government would control it on private buildings; is that what the gentleman is saying?

Mr. BEDELL. No, sir; I am saying when the occupant of a building wants to hang a picture or wants to put up a temporary partition in a building, that if it appears that the building owner is overcharging, the only way they can get the picture hung is contract with the building owner to hang the picture; I am saying if it appears the building owner is charging what appears to be several times the normal charge to do that work, then there should be an opportunity to get competitive bids, so that we do not, indeed, give the building owner a lock on everything that is done and remove the competitive pressure to hold down the costs to the Government.

Mr. MILLER of Ohio. Mr. Speaker, if the gentleman will yield further, I am sure the answer is, and as the chairman of the committee stated, we will look into it; but at least we have identified the problem.

Mr. MITCHELL of Maryland. Mr. Speaker, I am strongly opposed to the rescission contained in chapter II of this bill. I believe it is highly unwise.

There has been one common thread running through the actions of the Congress during the recent period of economic distress. We are concerned about unemployment. Many of us are concerned about unemployment among blacks and other minority groups. Many of us are concerned about unemployment among young adults and teenagers.

Every budget resolution that has come before this House has focused on the need for stimulating the economy and creating jobs for the 7 million unemployed. We included economic stimulus in each of our budget resolutions—probably not enough stimulus to reach the truly desperate and disadvantaged, but as much as we could get—and, by and large, we have enacted the authorizations and appropriations to make that economic stimulation and job-creation really effective.

Now, we are asked to backtrack. We are asked to rescind a large portion of the appropriation we made only last spring to create jobs.

Mr. Speaker, the appropriation for alteration and major repair of public buildings was a particularly attractive proposition when it was presented to us by the Appropriations Committee in the spring supplemental. Repair jobs are most useful in putting people to work in a hurry; the time-consuming planning phase is substantially reduced, most contracts are relatively small and hence get under way quickly.

Mr. Speaker, I invite your attention to the statements about the condition of public buildings in the committee report accompanying this bill. On page four of House report 95-625 the Appropriations Committee states that the backlog or required alterations and major repairs has reached $1.1 billion. There is no lack of demand for this work; there is no lack of people to do the work.

There apparently is, however, a lack of will to do the job.

I cannot see, Mr. Chairman, with national unemployment still hovering around the 7-percent rate and with minority unemployment almost 15 percent, how we can rescind these funds in the face of a backlog of $1.1 billion of needed repairs and alterations.

Far better that we send a clear message downtown that Congress meant what it said when we appropriated an additional $125 million last Spring for job-creating repairs and improvements to public buildings.

The need is there. The unemployment workers can be put to work. Let us get on with it.

Mr. MAHON. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 403, nays 1, not voting 30, as follows:

[Roll No. 610]

YEAS—403

Abdnor	Bennett	Carney
Addabbo	Bevill	Carr
Akaka	Biaggi	Carter
Alexander	Bingham	Cavanaugh
Allen	Blanchard	Cederberg
Ambro	Blouin	Chappell
Ammerman	Boggs	Chisholm
Anderson, Calif.	Boland	Clausen, Don H.
Anderson, Ill.	Bonior	Clay
Andrews, N.C.	Bonker	Cleveland
Andrews, N. Dak.	Brademas	Cochran
Annunzio	Breaux	Cohen
Applegate	Breckinridge	Coleman
Archer	Brinkley	Collins, Ill.
Armstrong	Brodhead	Collins, Tex.
Ashbrook	Brooks	Conable
Ashley	Broomfield	Conte
Aspin	Brown, Calif.	Conyers
AuCoin	Brown, Mich.	Corcoran
Badham	Brown, Ohio	Corman
Badillo	Broyhill	Cornell
Bafalis	Buchanan	Cornwell
Baldus	Burgener	Coughlin
Barnard	Burke, Calif.	Crane
Baucus	Burke, Fla.	D'Amours
Bauman	Burke, Mass.	Daniel, Dan
Beard, R.I.	Burleson, Tex.	Daniel, R. W.
Beard, Tenn.	Burlison, Mo.	Danielson
Bedell	Burton, John	Davis
Bellenson	Burton, Phillip	de la Garza
Benjamin	Butler	Delaney
	Byron	Dellums
	Caputo	

Derrick	Kazen	Rangel
Derwinski	Kelly	Regula
Devine	Kemp	Reuss
Dickinson	Ketchum	Rhodes
Dicks	Keys	Richmond
Diggs	Kildee	Rinaldo
Dingell	Kostmayer	Risenhoover
Dodd	Krebs	Roberts
Dornan	Krueger	Robinson
Downey	LaFalce	Rodino
Drinan	Lagomarsino	Roe
Duncan, Tenn.	Latta	Rogers
Early	Le Fante	Roncalio
Eckhardt	Leach	Rooney
Edgar	Lederer	Rosenthal
Edwards, Ala.	Leggett	Rostenkowski
Edwards, Calif.	Levitas	Rousselot
Edwards, Okla.	Livingston	Roybal
Eilberg	Lloyd, Calif.	Rudd
Emery	Lloyd, Tenn.	Runnels
English	Long, La.	Ruppe
Erlenborn	Long, Md.	Russo
Ertel	Lott	Ryan
Evans, Colo.	Lujan	Santini
Evans, Del.	Luken	Satterfield
Evans, Ga.	Lundine	Sawyer
Evans, Ind.	McCormack	Scheuer
Fary	McDade	Schroeder
Fascell	McDonald	Schulze
Fenwick	McEwen	Sebelius
Findley	McFall	Seiberling
Fish	McHugh	Sharp
Fisher	McKay	Shipley
Fithian	McKinney	Shuster
Flippo	Madigan	Sikes
Flood	Maguire	Simon
Florio	Mahon	Sisk
Flowers	Mann	Skelton
Flynt	Markey	Slack
Foley	Marks	Smith, Iowa
Ford, Mich.	Marriott	Smith, Nebr.
Ford, Tenn.	Martin	Snyder
Forsythe	Mathis	Solarz
Fountain	Mattox	Spellman
Frenzel	Mazzoli	Spence
Frey	Meeds	St Germain
Fuqua	Metcalfe	Staggers
Gammage	Meyner	Stangeland
Gaydos	Michel	Stanton
Gephardt	Mikulski	Stark
Giaimo	Mikva	Steed
Gibbons	Milford	Steers
Gilman	Miller, Calif.	Steiger
Ginn	Miller, Ohio	Stockman
Glickman	Mineta	Stokes
Goldwater	Miniah	Stratton
Gonzalez	Mitchell, N.Y.	Studds
Goodling	Moakley	Stump
Gore	Moffett	Symms
Gradison	Mollohan	Taylor
Grassley	Montgomery	Thompson
Gudger	Moore	Thone
Hagedorn	Moorhead, Calif.	Thornton
Hall	Moorhead, Pa.	Traxler
Hamilton	Moss	Treen
Hammer-schmidt	Motti	Trible
Hanley	Murphy, Ill.	Tsongas
Hannaford	Murphy, N.Y.	Tucker
Hansen	Murphy, Pa.	Udall
Harkin	Murtha	Ullman
Harrington	Myers, Gary	Van Deerlin
Harris	Myers, John	Vanik
Harsha	Myers, Michael	Vento
Hawkins	Natcher	Volkmer
Heckler	Neal	Waggonner
Hefner	Nedzi	Walgren
Heftel	Nichols	Walker
Hightower	Nix	Walsh
Hillis	Nolan	Wampler
Holland	Nowak	Watkins
Hollenbeck	O'Brien	Waxman
Holt	Oakar	Weaver
Holtzman	Oberstar	Weiss
Horton	Obey	White
Howard	Ottinger	Whitehurst
Hubbard	Panetta	Whitley
Huckaby	Patten	Whitten
Hughes	Pattison	Wiggins
Hyde	Pease	Wilson, C. H.
Ichord	Perkins	Wilson, Tex.
Ireland	Pettis	Winn
Jacobs	Pickle	Wirth
Jeffords	Pike	Wright
Jenkins	Poage	Wydler
Jenrette	Pressler	Wylie
Johnson, Colo.	Preyer	Yates
Jones, N.C.	Price	Yatron
Jones, Okla.	Pursell	Young, Alaska
Jones, Tenn.	Quie	Young, Fla.
Jordan	Quillen	Young, Mo.
Kasten	Rahall	Young, Tex.
Kastenmeier	Railsback	Zablocki
		Zeferetti

NAYS—1

Mitchell, Md.

NOT VOTING—30

Bolling	Johnson, Calif.	Pritchard
Bowen	Kindness	Quayle
Clawson, Del	Koch	Rose
Cotter	Lehman	Sarasin
Cunningham	Lent	Skubitz
Dent	McClory	Teague
Duncan, Oreg.	McCloskey	Vander Jagt
Fowler	Marlenee	Whalen
Fraser	Patterson	Wilson, Bob
Guyer	Pepper	Wolff

The Clerk announced the following pairs:

Mr. Dent with Mr. Del Clawson.
Mr. Teague with Mr. Marlenee.
Mr. Koch with Mr. Lent.
Mr. Lehman with Mr. McClory.
Mr. Pepper with Mr. Cunningham.
Mr. Cotter with Mr. Whalen.
Mr. Wolff with Mr. McCloskey.
Mr. Bowen with Mr. Kindness.
Mr. Patterson of California with Mr. Guyer.
Mr. Rose with Mr. Pritchard.
Mr. Johnson of California with Mr. Quayle.
Mr. Duncan of Oregon with Mr. Skubitz.
Mr. Fraser with Mr. Bob Wilson.
Mr. Fowler with Mr. Vander Jagt.

So the bill was passed.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 9019.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REQUEST FOR COMMITTEE ON JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain what the great necessity is for meeting tomorrow?

Mr. DANIELSON. Mr. Speaker, if the gentleman will yield, I will be glad to.

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, tomorrow the Committee on the Judiciary will be considering general debate on a bill relating to the subject of financial disclosure.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, financial disclosure of what?

Mr. DANIELSON. On the part of the executive branch and the judicial branch of the Government.

Mr. ROUSSELOT. Is this the ethics in Government bill similar to the one that was sequentially referred to the Committee on Post Office and Civil Service and the Armed Services Committee? I have forgotten?

Mr. DANIELSON. It is the bill which has been referred to that committee as well as to the Committee on the Judiciary.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Chair will advise the gentleman from California (Mr. ROUSSELOT) that it takes 10 Members to object. The objectors will have to remain standing.

(Messrs. HANSEN, SYMMS, BAUMAN, ROUSSELOT, MARTIN, KEMP, SNYDER, JOHNSON of Colorado, CONABLE, and MCEWEN also objected.)

The SPEAKER pro tempore. A sufficient number have objected. Objection is heard.

VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 33, noes 19.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 17, not voting 40, as follows:

[Roll No. 611]

YEAS—377

Abdnor	Breckinridge	Coughlin
Addabbo	Brinkley	D'Amours
Akaka	Brodhead	Daniel, Dan
Alexander	Brooks	Daniel, R. W.
Allen	Broomfield	Danielson
Ambro	Brown, Calif.	Davis
Ammerman	Brown, Mich.	de la Garza
Anderson, Calif.	Brown, Ohio	Delaney
Anderson, Ill.	Broyhill	Dellums
Andrews, N.C.	Buchanan	Derrick
Andrews, N. Dak.	Burgener	Derwinski
Annunzio	Burke, Calif.	Devine
Applegate	Burke, Fla.	Dickinson
Armstrong	Burke, Mass.	Dicks
Ashbrook	Burleson, Tex.	Diggs
Ashley	Burlison, Mo.	Dingell
Aspin	Burton, John	Dodd
AuCoin	Burton, Phillip	Dornan
Badham	Butler	Downey
Badillo	Byron	Drinan
Bafalis	Caputo	Duncan, Tenn.
Baldus	Carney	Early
Barnard	Carr	Eckhardt
Baucus	Carter	Edgar
Bauman	Cavanaugh	Edwards, Ala.
Beard, R.I.	Cederberg	Edwards, Calif.
Beard, Tenn.	Chappell	Edwards, Okla.
Bedell	Chisholm	Eilberg
Bellenson	Clausen, Don H.	Emery
Benjamin	Cleveland	English
Bevill	Cochran	Ertel
Biaggi	Cohen	Evans, Colo.
Bingham	Coleman	Evans, Del.
Blanchard	Collins, Ill.	Evans, Ga.
Boggs	Conte	Evans, Ind.
Boland	Corcoran	Fary
Bonior	Corman	Fascell
Breaux	Cornell	Fenwick
	Cornwell	Findley
		Fish

Fisher	Long, La.	Rodino
Fithian	Long, Md.	Roe
Flippo	Lott	Rogers
Flood	Luken	Roncalio
Florio	Lundine	Rooney
Flowers	McCormack	Rosenthal
Flynt	McDade	Rostenkowski
Foley	McHugh	Rousselot
Ford, Mich.	McKay	Roybal
Ford, Tenn.	McKinney	Ruppe
Forsythe	Madigan	Russo
Fountain	Maguire	Ryan
Fraser	Mahon	Santini
Frenzel	Mann	Satterfield
Frey	Markey	Sawyer
Fuqua	Marks	Scheuer
Gammage	Marriott	Schroeder
Gaydos	Martin	Schulze
Gephardt	Mattox	Sebelius
Giaimo	Mazzoli	Seiberling
Gibbons	Meeds	Sharp
Gilman	Metcalfe	Shipley
Ginn	Meyner	Sikes
Glickman	Michel	Simon
Goldwater	Mikulski	Sisk
Gonzalez	Mikva	Skelton
Goodling	Milford	Smith, Iowa
Gore	Miller, Calif.	Smith, Nebr.
Gradison	Miller, Ohio	Snyder
Grassley	Mineta	Solarz
Gudger	Minish	Spellman
Hagedorn	Mitchell, Md.	Spence
Hall	Mitchell, N.Y.	St Germain
Hamilton	Moakley	Staggers
Hanley	Moffett	Stangeland
Hannaford	Mollohan	Stanton
Harkin	Montgomery	Stark
Harrington	Moore	Steed
Harris	Moorhead, Calif.	Steers
Harsha	Moorhead, Pa.	Steiger
Hawkins	Mottl	Stokes
Heckler	Murphy, Ill.	Stratton
Hefner	Murphy, N.Y.	Studds
Heftel	Murphy, Pa.	Stump
Hightower	Murtha	Taylor
Hillis	Myers, Gary	Thompson
Holland	Myers, John	Thone
Hollenbeck	Myers, Michael	Thornton
Holt	Natcher	Traxler
Holtzman	Neal	Treen
Horton	Nedzi	Trible
Howard	Nichols	Tsongas
Hubbard	Nix	Tucker
Huckaby	Nolan	Udall
Hughes	Nowak	Ullman
Hyde	O'Brien	Van Deerlin
Ichord	Oakar	Vanik
Ireland	Oberstar	Vento
Jacobs	Obey	Waggonner
Jeffords	Ottinger	Walgren
Jenkins	Panetta	Walker
Jenrette	Patten	Walsh
Johnson, Colo.	Pattison	Wampler
Jones, N.C.	Pease	Watkins
Jones, Okla.	Perkins	Waxman
Jones, Tenn.	Pettis	Weaver
Jordan	Pickle	Weiss
Kasten	Pike	White
Kastenmeier	Poage	Whitehurst
Kazen	Pressler	Whitley
Kelly	Preyer	Whitten
Kemp	Price	Wiggins
Ketchum	Pritchard	Wilson, Tex.
Keys	Pursell	Wirth
Kildee	Quie	Wright
Kostmayer	Quillen	Wydler
Kreba	Rahall	Wylie
Krueger	Railsback	Yates
LaFalce	Rangel	Yatron
Lagomarsino	Regula	Young, Alaska
Latta	Reuss	Young, Fla.
Le Fante	Rhodes	Young, Mo.
Leach	Richmond	Young, Tex.
Lederer	Rinaldo	Zablocki
Leggett	Risenhoover	Zeferetti
Levitas	Roberts	
Livingston	Robinson	
Lloyd, Tenn.		

NAYS—17

Bennett	Hansen	Shuster
Collins, Tex.	Kindness	Symms
Conable	Lloyd, Calif.	Volkmer
Crane	Lujan	Winn
Erlenborn	McDonald	
Hammer-schmidt	McEwen	
	Rudd	

NOT VOTING—40

Archer	Brademas	Cunningham
Blouin	Clawson, Del	Dent
Boiling	Clay	Duncan, Oreg.
Bonker	Conyers	Fowler
Bowen	Cotter	Guyer
Johnson, Calif.	Moss	Stockman
Koch	Patterson	Teague
Lehman	Pepper	Vander Jagt
Lent	Quayle	Whalen
McClory	Rose	Wilson, Bob
McCloskey	Runnels	Wilson, C. H.
McFall	Sarasin	Wolff
Marlenee	Skubitz	
Mathie	Slack	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7010, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 14, 1977, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 7010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RAILSBACK: Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Elderly Victims of Crime Act of 1977".

ADMINISTRATION

SEC. 2. (a) The Attorney General of the United States (hereinafter in this Act referred to as the "Attorney General") shall administer the provisions of this Act. The Attorney General shall not delegate primary responsibility for administering the provisions of this Act unless such delegation is made to an individual who is compensated at the rate provided for level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5 of the United States Code.

POWERS OF THE ATTORNEY GENERAL

SEC. 3. (a) Subject to the availability of amounts appropriated and subject to the limitations imposed by section 5 of this Act, the Attorney General shall make an annual grant and may make supplemental grants to each qualifying State program, and the total of all grants made to a qualifying State program under this Act with respect to a Federal fiscal year shall equal an amount which includes 100 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for qualifying crimes which are described in section 7(8)(B), and 25 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for other qualifying crimes. Grants under this section may be made in advance or by way of reimbursement. The Attorney General shall not have the power to modify the disposition of any individual claim which has been processed by any State program.

(b) The Attorney General shall, for the purpose of carrying out this Act, have the power to do the following:

(1) Make such rules as are necessary to carry out this Act.

(2) Deny, revise, or agree to any request for an annual or supplemental grant under this act.

(3) Promulgate rules and regulations regarding the data to be kept by State programs receiving funds under this Act and the manner in which this data shall be reported to the Attorney General.

SEC. 4. A State program for the compensation of elderly victims of crime qualifies for grants under this Act if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year with respect to which grants are to be made and that such program meets the following criteria:

(1) The program offers—

(A) compensation to eligible elderly individuals for injury resulting from qualifying crimes; and

(B) compensation to the surviving dependent or dependents of eligible elderly individuals whose deaths were the result of qualifying crimes; and

(C) compensation to eligible elderly individuals who suffer loss of, or damage to, any item of necessity as a result of a qualifying crime, except that such compensation shall not exceed a total amount equal to $1,000 for each incident of related qualifying crimes, nor shall such compensation be subject to any minimum amount.

(2) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

(3) The program requires as a condition for compensation that elderly claimants cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought.

(4) There is in effect in the State a requirement that appropriate law enforcement agencies and officials inform elderly individuals who are the victims of qualifying crimes of—

(A) the existence in the State of program of compensation for injuries or losses sustained by such victims; and

(B) the procedure for applying for compensation under that program.

(5) There is in effect in the State a law or rule that the State is subrogated to any claim the elderly victim, or a dependent of such victim has against the perpetrator of the qualifying crime for damages resulting from the qualifying crime, to the extent of any money paid to such victim or dependent by the program.

(6) The program does not require an eligible elderly claimant to seek or accept any benefits in the nature of welfare, unless such claimant was receiving such benefits prior to the occurrence of the qualifying crime which gave rise to the claim.

(7) There is in effect in the state a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim, or victim's surviving dependent for that crime.

LIMITATION ON FEDERAL GRANTS

SEC. 5. In computing the annual cost of a qualifying State program for the purpose of establishing the amount of Federal grants under section 3, there shall be excluded from such cost, except as provided in section 3(a)(3), any amount for administrative expenses incurred in carrying out the program and any amount representing State compensation awards—

(1) for pain and suffering;

(2) to the extent the amount of any award to a victim, or the aggregate amount of any awards to the surviving dependents of a victim with respect to such victim, exceeds $25,000:

(3) to any claimant who has received or who is entitled to receive compensation from any source, other than a compensation program under this Act or the perpetrator of the qualifying crime, up to the amount of that compensation.

(4) to any claimant who failed to file claims under the State program within one year after the occurence of the qualifying crime, unless good cause for such failure to file has been found by the appropriate State agency: and

(5) to any claimant who failed to report the qualifying crime to law enforcement authorities within seventy-two hours after the occurrence of that qualifying crime, unless good cause for such failure to report has been found by the appropriate State agency.

(6) for lost earnings of more than $200 per week per individual.

REPORT OF THE ATTORNEY GENERAL

SEC. 6. Within one hundred and thirty-five days after the end of each Federal fiscal year in which State programs were given financial assistance under this Act, the Attorney General shall publish a report and submit such report to the House and Senate Judiciary Committees. The report shall contain as a minimum the following information:

(1) Information in regard to each qualifying State program:

(A) The number of elderly persons compensated.

(B) A statistical presentation with regard to such elderly persons of—

(i) the kinds of loss compensated;

(ii) the range in monetary value of claims awarded;

(iii) the reason for denial of claims, including the number of claims denied for failure to qualify under a State-imposed means test; and

(iv) the types of crimes which resulted in claims.

(C) A description of the administrative mechanisms and procedures used by the State program in processing claims by elderly individuals, including claims for emergency assistance.

(D) The time required for the State program to process claims by elderly individuals, including claims for emergency assistance.

(E) Efforts taken by each State to publicize its program.

(F) Administrative expenses attributable to elderly individuals.

(G) The number of qualifying crimes described in section 7(8)(B) which are compensated under the State program.

(2) Information in regard to the activities of the Attorney General in carrying out this Act as follows:

(A) An itemized statement of expenditures.

(B) Copies of rules made under section 3(b).

(C) Projected expenditures for the Federal fiscal year in which the report is required to be submitted.

DEFINITIONS

SEC. 7. As used in this Act—

(1) the term "claim" means a written request for compensation made by or on behalf of a victim or any surviving dependent of a victim.

(2) the term "dependent" means, with respect to any State compensation program, dependent as defined by that State for purposes of such program;

(3) the term "eligible elderly individual" means any individual who has attained age sixty-two;

(4) the term "item of necessity" means any item which the State determines for the purposes of a program assisted under this Act is a necessity for an individual who has attained age sixty-two and shall include items relating to communication, health, and safety;

(5) the term "personal injury" means actual bodily harm and includes mental distress and nervous shock;

(6) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory of the United States;

(7) the term "compensation for personal injury" means compensation for loss which is the result of personal injury, including—

(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the State.

(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

(C) loss of past and anticipated future earnings;

(8) the term "qualifying crime" means—

(A) any act or omission occurring in a State which is criminally punishable therein and which such State designates as appropriate for compensation under its program; and

(B) any act or omission which would be a qualifying crime under subparagraph (A) except for the fact that such act or omission is subject to exclusive Federal jurisdiction; and

(9) the term "administrative expenses" includes any fee awarded by the State agency administering the program to any claimant's attorney if such fee is paid in addition to, and not out of, the amount of compensation.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated for the fiscal years ending September 30, 1978, 35 million dollars; September 30, 1979, 38 million dollars; September 30, 1980, 42 million dollars; and September 30, 1981, 47 million dollars.

EFFECTIVE DATE

SEC. 9. Grants may be made under this Act with respect to the fiscal year which ends September 30, 1978, and succeeding fiscal years.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois may withhold the amendment in the nature of a substitute while we consider the committee amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. RAILSBACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RAILSBACK. Mr. Chairman, in offering the amendment in the nature of a substitute, do I lose my right to offer that substitute if the gentleman from South Carolina (Mr. MANN) has the opportunity to deal with the committee amendments first?

The CHAIRMAN. No; it could be offered at the end of the bill once the entire bill has been read.

Mr. RAILSBACK. But it could not be offered after the committee amendments are dealt with?

The CHAIRMAN. The committee amendments would not change the whole bill, so an amendment in the nature of a substitute could be offered.

Mr. RAILSBACK (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment in the nature of a substitute.

Mr. RAILSBACK. Mr. Chairman, at the outset may I make it very clear that I have only the greatest respect for the chairman of this subcommittee which reported out the bill under consideration. I have a great deal of respect for the gentleman from Illinois (Mr. HYDE), who, I understand, is supportive of the bill, and I have great respect for all the members of the Committee on the Judiciary who supported the bill before us.

I offer an amendment in the nature of a substitute, however, to accomplish the following things: First, the substitute would apply only to the elderly, those who are 62 years of age or older, who are the victims of crime. The Mann bill is unlimited as to the class of eligible crime victims.

Second, the substitute would require that States have some form of offender restitution programs available as a sentencing alternative before they qualify for Federal funds. The Mann bill has no such requirement.

Finally, the substitute does provide compensation for stolen or damaged items of necessity. The Mann approach only applies to personal injury expenses such as medical bills and wage losses. This is the one area where my substitute would go further than the Mann bill.

Why am I introducing this substitute? First, and, I think, very significantly, H.R. 7010 fails to recognize that criminals create victims and, therefore, should bear some responsibility for alleviating the consequences of their wrongdoing. Instead, this legislation would go in exactly the opposite direction. It would provide a rather onerous burden on the general taxpayer for criminal injuries to the victims of crime.

In my view, the focus of the bill should be altered to encourage the further development of restitutional programs that not only recognize offender responsibility but have positive rehabilitative value as well.

Why not do what some States and local jurisdictions are doing and have the offender who commits the offense make some kind of restitution?

Right now the Law Enforcement Assistance Administration is currently involved in developing and expanding the kind of restitution programs which I believe should be a part of this legislation. LEAA is now spending almost $2 million to help fund and evaluated seven projects in California, Georgia, Colorado, Connecticut, Oregon, Massachusetts, and Maine. These programs have provided an innovative and useful approach toward victim compensation. In Georgia, for example, 504 offenders have participated through fiscal year 1976 in a work program that has produced not only $62,500

for their victims but nearly $1 million for society in the form of taxes, family support, and contributions to the local economy.

By shifting the emphasis almost exclusively to public taxpayer compensation, as H.R. 7010 would do, I fear that we are preempting a field of promising alternatives such as the programs that I have mentioned.

My amendment would precondition Federal funding of State compensation programs on the existence of some provision for offender restitution which would be available as a sentencing alternative within the State.

Mr. Chairman, the second deficiency which I see in the concept underlying this legislation—and I think this is most important—relates to its cost. In my opinion, the potential for drastically spiraling costs under any crime-victim compensation program warrants a more cautious initial entry by the Federal Government in this area than that which is mandated by H.R. 7010.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. To continue, Mr. Chairman, even the committe's high cost estimate is based upon the precarious assumption that only 3.4 percent of all violent crime victims would receive compensation.

Certainly, whatever statistics are used, a federally funded compensation program has the potential for increasing the number of persons receiving awards far beyond the figures used in the committee's cost determination. In view of this unknown potential for spiraling costs, my amendment would initially limit the Federal Government's involvement in this area to those victims who are 62 years of age or older.

Mr. Chairman, once victimized, older Americans suffer more than any other group because they are the least able to cope with the financial loss or injury that results from a crime. By limiting the Federal Government's participation in State crime compensation programs to the elderly, we can gain valuable data concerning the actual cost of such potential Federal involvement. As the taxpayers' trustee, we have a duty to proceed carefully with their money. I think that a pilot program relating to the elderly would provide extremely valuable experience in determining just exactly what the potential cost would be were we to expand it to coverage of those other than the elderly.

Mr. Chairman, I sincerely hope that the substitute will be adopted.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from South Carolina.

Mr. MANN. Mr. Chairman, does the gentleman have any cost estimates from any reliable source as to the cost of this bill?

Mr. RAILSBACK. As far as I know, the cost estimates under either the committee bill or under the amendment that I am offering right now are extremely conjectural and speculative. Therefore, I think the answer, even though I have some high-cost and low-cost figures, is that we really do not have anything that I would want to say has any great degree of accuracy.

Mr. MANN. Mr. Chairman, I rise in opposition to the substitute amendment.

I would address a further question to the gentleman from Illinois (Mr. RAILSBACK).

Would the gentleman agree that the highly conjectural cost estimates made with reference to the committee bill and the highly conjectural cost estimates that the gentleman might have with reference to the coverage of the elderly only are almost exactly the same?

Mr. RAILSBACK. If the gentleman will yield, I would ask him to repeat the question.

Mr. MANN. I will give the gentleman the figures. The Congressional Budget Office estimated the high cost of the committee bill as being $29 million for 1978. It estimated the high cost for the substitute, which would cover that very small segment of the population known as the elderly, at $28.2 million.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MANN. I certainly will yield to the gentleman.

Mr. RAILSBACK. Mr. Chairman, I wonder if I have made it clear, and I believe I did not, that we have reduced both the percentage and the maximum dollar figure from $50,000 to $25,000, reduced it down to 25 percent. I do not know if the gentleman knew that. The other thing is there was one witness that submitted a statement that indicated, according to my recollection, that the cost of your bill could be as much as $200 million.

Mr. MANN. The gentleman is correct. Actually I think it was $400 million.

Mr. RAILSBACK. I will tell the gentleman right now what it says. It says, at the conclusion of his figuring—and this is a statement of Dr. Roger E. Meiners of the University of Miami—he comes to the conclusion that, multiplying the figures above, would yield a total compensation bill of $400 million annually.

Even cutting that in half, I believe that we really do not have a handle on it at all.

Mr. MANN. It just so happens that we certainly do not have a handle on the cost on household goods and property, which we do not allow in the committee bill.

I will make another rather unusual assertion, and that is, what a blessing it would be if this bill did cost $200 million because that might mean that we will have accomplished our whole purpose that we set out to accomplish, and that is that the rest of the 50 percent of the violent crimes that are not reported in this country will now be reported, and think what a blessing to convict all of the other 48 percent of the violent crimes committed in this country. That would be a great blessing to have 90 percent of the people brought to justice who are not now brought to justice because of the loopholes in our criminal justice system.

Mr. RAILSBACK. Will the gentleman yield?

Mr. MANN. No, I will not yield at this point.

I do not say that this bill is the solution. It is a bandaid to the entire criminal judicial system that is not now adequately attending to the problem of violent crime in this country.

We have tried to prepare here a modest bill, one that protects, as much as we can, the principles of federalism. One that deals only with violent crime. One that compensates only for loss of wages and medical expenses, across the board, from infancy to death. And one that does not compensate for property loss, the cost of which surely might go out the roof.

Concerning the elderly, of all the classes of people, they suffer the least. And that is a statement that my friend, the gentleman from New York (Mr. BIAGGI) will not agree with because he is interested in the elderly, but he is also interested in this bill.

This bill, as designed originally, is going to take care of those people who now fall through the cracks of the many proliferating social programs that exist in this country. The elderly do not fall in that category of people who fall through the cracks. They, more than any others, are covered by the medical programs for the elderly, and by retirement or continuing type incomes.

But we have designed a bill that is, in its narrow parameters, attempting to try to eliminate in this country some of the disenchantment with the law enforcement system, some of the disenchantment with being a witness, some of the disenchantment of being involved.

A witness does not want to go to court and sit there and lose his wages, in spite of the fact that he lost 2 or 3 weeks pay at the time he was hurt.

That is the kind of situation we are trying to take care of.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MANN was allowed to proceed for 2 additional minutes.)

Mr. MANN. We have provided certain minimum qualifications on the States. As to whether or not they have to change their laws and do things of that sort, we try to avoid that.

Regarding restitution, do the Members think that a State is going to pay 60 percent of the cost—and that is roughly what they are going to have to pay? I might as well say that this bill provides for payment of 50 percent of the claims only. It pays no cost of the administration by the State, which traditionally is considered to be about 15 percent. So if we broke it right down, that would be 57.5 percent being paid by the State, or if we take it another way, as much as 65 percent by the State and 35 percent to 50 percent by the Federal Government in this matching program. Restitution is a highly desirable technique. It is so highly desirable that everybody seeks a way to do it, and they seek to do it by way of rehabilitating the criminal; they seek to do it by way of compensation to the victim; but how effective is it?

In California they were able to recover by restitution one-third of 1 percent. In New Jersey they are saying it is hardly worthwhile.

We are dealing with two different ideas here, the idea of victim compensation and the idea of restitution as a sanction or rehabilitative technique toward the defendant. They are really two different principles, and it is inappropriate and unnecessary for the Federal Government in assisting State victim compensation programs to tell the States that we must go into other parts of the criminal justice system and tell them how to run it. That is Federalism. I believe in it. I want to protect it. I do not want to direct the States to do any more than is absolutely necessary under simple rules and bookkeeping to prevent excesses under this program.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

First of all, Mr. Chairman, might I state that I believe that what the gentleman who preceded me in the well stated is very important and is something that apparently many of us have lost sight of. The gentleman called attention to the fact that one of the purposes of this legislation is to insure that those citizens who are useful members of society but who are presently turned off because of the Government's inability to deal with crime, are protected. We rightly and justly insure the rights of every criminal defendant but we sometimes ignore the fact that there are people who are victimized by these crimes. And when we neglect the individual who is an innocent victim, we badly alienate that citizen. We signal, in effect, that society is completely unconcerned with whether or not a useful, productive member of society, who wants to make a contribution, suddenly gets victimized, becomes disabled, is no longer able to contribute to his family and to its welfare, and may ultimately find himself having to go to the welfare rolls. Naturally, that individual is turned off. That person, along with others, no longer even reports crime, and as a result we find more and more people who say, "It does not matter. I don't want to become involved."

Let me go beyond that point, however, and ask the gentleman why is not a victim a victim in any case where a crime is committed and a citizen is assaulted and disabled, whether or not the person is a minor or an adult.

I would like to ask the gentleman from Illinois if he would then exclude the individual such as—and I refer him to the recent case—the Son of Sam. In one of those crimes, unfortunately, an individual was victimized, lost the sight of his eyes and is no longer able to be a productive, contributing member of society. Will his case be covered by the gentleman's proposal?

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. It would depend on his age.

Mr. RODINO. His age is much under 62, so the gentleman would exclude him?

Mr. RAILSBACK. Mr. Chairman, If the gentleman from New Jersey would yield for just a second, I would like to explain why.

Mr. RODINO. I yield to the gentleman.

Mr. RAILSBACK. A member of the Committee on Aging I believe is going to seek recognition to really explain the results of a study that they made about the tremendous effects that victimization can have, particularly on the elderly.

Mr. RODINO. I recognize that, and that is precisely why the legislation I have introduced over the years is designed to help victims of crime, whether they be young victims or older victims. We do know that the elderly are victimized in great numbers. But I would like to call attention, too, to another recent case that occurred in New York only some time ago. Another innocent victim happened to come to the aid of an officer while an attack was taking place. That individual was injured, injured to the extent that he was disabled. He will have to look to society for some help, probably go onto the welfare rolls.

Let me refer to the newspaper report. "Crime does pay if you are the criminal," the victim came away saying. But this victim actually came to the assistance of an officer to prevent a crime and he is disabled; and the gentleman's proposal turns its back on him.

I just cannot possibly understand what the philosophy is behind wanting to protect only the rights of the person who is a criminal, who becomes a defendant, and surely we must protect his every right, and insure that if convicted he goes to a humane prison, and insure that everything is just, and yet, when we have a person who is a good contributing member of society, we turn him off by ignoring his plight.

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am not enamored of this program at all, but I do rise in support of the Railsback amendment, because it is better than the bad bill now pending before us. The choice is the substitute or the present bill. The substitute is the better of the two choices, and this is why.

The Railsback amendment is clearly a limited program, much more limited than the committee bill. Mr. Chairman, so long as we are about to embark upon a new Federal adventure of uncertain cost, I suggest we proceed cautiously and that we proceed on a limited basis, at least at first. That is the primary virtue of the Railsback substitute.

The substitute, of course, does not affect the rights of any State to go forward with any program that they see fit. If a State compensation program wish to cover youngsters as well as oldsters, the State are fully permitted to go forward with those programs. However, in the substitute we say at the Federal level that we are only going to involve ourselves to the extent of compensating the elderly.

Because it is limited in its scope, it is limited in its cost. As was pointed out in the colloquy a moment ago, the cost of the committee's program is very uncertain. The figures in the bill authorizing sums for appropriation are taken from the Congressional Budget Office estimates, and I want the Members to know that the Railsback proposal also adopts estimates from the Congressional Budget Office. Both have the same source for their information.

But it is also true, as was admitted by my friend, the gentleman from South Carolina, that witnesses before the committee in estimating the cost of the committee bill spoke in terms of hundreds of millions of dollars.

I think the Railsback proposal is even less costly than appears on the surface because many of the medical expenses of senior citizens are covered now under medicare regardless of whether that medical expense is incurred as a result of criminal or noncriminal conduct.

The Railsback proposal has the virtue of restitution as one of its principles. I realize that the subcommittee chairman spoke in terms of restitution being immaterial, but I do not agree with that assessment. Compensation is restitution. The Railsback substitute points to the cause of the trouble and says that the perpetrator should bear a part of the load in providing that restitution.

Mr. Chairman, I want to correct a statement made by my friend, the gentleman from South Carolina, that the committee bill is addressed to violent crime. The words "violent crime" do not appear in the bill. The key words are "qualifying crimes" and a qualifying crime is any crime which the States determine are subject to compensation. The States may, if they wish, include nonviolent crimes; they may, if they wish, include violent crimes. I notice counsel shaking his head and if I am in error, I would be happy to have him point out my error, but I know that I am not in error with respect to this point.

The argument has been made, and I will touch on it only briefly, that the committee bill intrudes very gently into State prerogatives because of our faithful allegiance to the principle of federalism. If we are true federalists, we will not enact the bill at all. We will leave compensation programs up to the States. If we are going to surrender part of the principle of federalism, let us do so grudgingly and let us do so on a limited basis. That, too, is a virtue of the substitute recommended by my friend, the gentleman from Illinois.

Finally, Mr. Chairman, I want to speak to the argument of compassion. That was an argument made by the chairman of the full committee, the gentleman from New Jersey (Mr. RODINO). The gentleman was critical of the approach taken by the gentleman from Illinois (Mr. RAILSBACK) because it would exclude certain victims for whom we all have an infinite compassion. But the bill itself excludes many for whom we have compassion. It covers only victims of

crime. Now, if a beautiful young lady were to lose the use of her arms or legs as the result of a skiing accident and becomes a vegetable as a result of the accident, have we no compassion for her? Of course we do, but the committee bill does not touch her injuries.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, does it make much difference what caused the injury when we speak in terms of compassion? I can be compassionate for a person who slips and falls and loses the sight of his eyes as the result of brain damage. But I do not regard it to be an absence of compassion to fail to enact a special Federal program geared to that unique cause of injury. That argument really goes to the heart of the irrationality of this bill. It is irrationally selective in its application.

Mr. Chairman, I want to conclude by saying, however, that we are a compassionate Government. There are any number of Federal programs that provide for the sick and the disabled without reference to age and without reference to the cause of their illness or their disability. We are a compassionate society and we do not need an additional program to prove it.

Mr. Chairman, I urge that we accept the Railsback substitute.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the arguments that have just been made by the proponents of the amendment, really miss the point. First of all, let us get one thing straight. The large numbers that have been discussed may be hypothetical costs of this program, but this is not an open-ended entitlement program. This is a program that has specific authorization limits and the program exists for only 3 years. So I say to my friends here, there is nothing in this bill that would require or allow, authorize or permit, the Federal Government to pay 1 cent more than the amounts specifically contained in this bill.

This is not an open-ended entitlement bill and there simply cannot be any boomeranging costs of the program.

Second, this program has extensive reporting requirements. At the end of 3 years we will have a good sense of how well this program has worked or not worked. Many of you on the floor have supported sunset legislation. This bill gives you the opportunity to get the facts and figures on how well it works before it is authorized again 3 years from now.

Let me talk finally to the point about the scope of the substitute amendment. The motivation for this is not just compassion. The Committee on the Judiciary, as well as other committees and other Members of this House have compassion. But, this program has a criminal justice purpose as well.

This program is designed to fight crime in two respects; first, by encouraging the reporting of crime, and we know very well that crime is not always reported. The States are hindered in their ability to fight crime because many crimes are not reported; so this bill will help the fight against crime by encouraging the reporting of crime.

Second, we have heard testimony time and again that there are witnesses who will not cooperate in the prosecution of crimes. To the extent that this program requires that cooperation, we will be assisting the States in fighting crimes. We will be giving the victim a sense that he or she has a stake in the prosecution of crime.

It makes no sense at all, I say to my friends in the House and to my very respected colleague from Illinois, to restrict the scope of the program to the elderly people alone, and thereby undermine the criminal justice implications of this program and severely restrict the ability of States to fight crime.

Mr. RAILSBACK. Mr. Chairman, will the gentlewoman yield for a quick clarification?

Ms. HOLTZMAN. I am delighted to yield.

Mr. RAILSBACK. I just want to point out that our bill also contains all the reporting cooperation requirements.

Ms. HOLTZMAN. Yes, but only for a certain segment of the population. I wish my colleague would tell me how a police officer is supposed to determine the age of the victim.

Mr. RAILSBACK. I wanted to make it clear that our bill does track that language.

Ms. HOLTZMAN. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I take second place to no one in my respect and admiration for the author of this amendment, the gentleman from Illinois (Mr. RAILSBACK). He is not only a useful member of the Judiciary Committee; he is almost an indispensible member. But, I reject his amendment, and I would like to explain briefly why.

The gentleman from California used an interesting term, "selective compassion." I find selective compassion all over the place when I think of Son of Sam. He will get psychiatric care; he will get counseling; he will get rehabilitation; if he needs some methadone, the taxpayers will pay for that, too, but some of his victims will sit there, and if they are blinded, in the dark, maybe a volunteer neighbor will read from the Reader's Digest to them in the evening. If he has no insurance, he will sit there without any attention being paid to him.

This society has selective compassion for the criminal. The criminals get counseling and halfway houses. LEAA is going to fund a $5,000 grant for poetry seminars in jail and to teach some of the criminals finger painting. That is wonderful. I say, right on, but let us look at their victims as well and let us concern ourselves slightly with them.

Now, the gentleman from California talks about an accident where somebody loses his limbs, and why do we not have compassion for that person. It would be nice if we could, if we could afford to take care of every one of society's dispossessed, people who have no insurance, and whose lives are touched by a tragedy, whether it is an automobile accident or a boat accident or as the victim of a crime. The difference, I submit, is that society, the Government, has an obligation to promote domestic tranquility, to protect its citizens as much as possible from crime, from the ravages of criminality. We have police departments to do that, and when we have failed, maybe we owe a slight obligation to the victim, because we certainly have undertaken a great obligation to the criminal.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I want to congratulate the gentleman for his comments, because they are exactly my thoughts. We have for too long ignored the victim and have opened the coffers of Government to the perpetrator of crime. This bill, on balance, after much deliberation, provides what I think is an answer to a serious problem. Society has a debt to the victim. Society has failed to protect the lawful person who has been victimized.

Yes, I address myself to the elderly, and I am delighted that the gentleman from Illinois has also done that. I have done that, but not in the same fashion. But as a form of compromise, the committee has responded by providing emergency procedures so that there can be an immediate part payment to the elderly, or to those crime victims generally, including the elderly, to pay for the temporary discomfort.

But I simply have to compliment my colleague for his most salient and significant remarks.

Mr. HYDE. I thank the gentleman for his remarks.

Mr. Chairman, I simply say that if you are victimized and you are poor, whether you are young or old, you need some help.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of Mr. RAILSBACK's amendment in the nature of a substitute for H.R. 7010.

In the debate on H.R. 7010, 2 weeks ago, there was clearly some reluctance to begin Federal legislation in the area of victim compensation—particularly fears of runaway costs caused by rising crime rates. I am therefore, suggesting that instead of H.R. 7010 we consider Mr. RAILSBACK's amendment in the nature of a substitute.

This amendment, applying only to the elderly, will give the Federal Government a chance to enter into this area in a smaller and more manageable way. This bill will also allow us to impact on the group of people most severely affected by criminal victimization—older Americans. As the ranking minority member of the Housing and Consumer Interests Subcommittee of the Select Committee on Aging, I am proud to say that the subcommittee has just completed the first national study on elderly crime victimization. The major findings in that study entitled "In Search of Security: A National Study on Elderly Crime Victimization," are directly related to the issue of victim compensation. I would like to briefly mention these relevant conclusions:

First. Although available data do not establish that the elderly are victimized disproportionately to their population, the elderly have a significant crime problem. One out of ten will be the victim of a crime in a 1-year period.

Second. The rate of crime against the elderly is increasing. Americans over 65 experienced the greatest overall increase in crimes of violence except for males 16 to 19.

Third. Persons over 65 have an increase in more kinds of household crimes (burglary, household larceny, and motor vehicle theft) than any other group in the population except the small number of households headed by persons 12 to 19.

Fourth. There is substantial evidence that older Americans suffer more than any other group in qualitative measures of victimization. Physically and emotionally they are the least able to cope with losses or injury that result from a crime.

Fifth. The elderly are more frequently the victims of property crimes (burglary, robbery, and larceny with contact) than they are victims of violent crimes. A national survey undertaken by the Law Enforcement Assistance Administration disclosed that the elderly are victims of violent crimes at a rate of 8 per 1,000 (robbery, rape, assault, and personal larceny), they are victims of theft at a rate of 22 per 1,000 and household crimes at a rate of 107 per 1,000.

H.R. 7010 has many commendable features and, I laud the chairman, Mr. RODINO and Mr. MANN, for the efforts they have put into this legislation. My problems with this bill are primarily in three areas:

First. Because this is a new area of Federal involvement I believe that we should enter into it slowly so that we might assess the needs, the accruing costs, and any problems that arise in its application.

Second. This bill does not adequately address the needs of the group most severely debilitated by criminal victimization—older Americans. H.R. 7010 reimburses for loss of income—but the majority of the elderly are unemployed. H.R. 7010 compensates for medical losses but the majority of medical expenses of the elderly are subsumed by medicare and medicaid. H.R. 7010 does not compensate for property losses—and those are the primary crimes experienced by the elderly. Only 8 in 1,000 are the victims of violent crimes. Whereas 129 in 1,000 are the victims of property crimes. Almost half of the population 65 and over are retired, and live on a fixed income at or below the poverty level. In 1973, the poverty threshold for a couple was set at $2,505 and at $1,974 for an individual. In all older families, 12 percent were below the poverty level: for the older person living alone or with nonrelatives, 37 percent were below the poverty level. The theft of $20 from an elderly person on a fixed income can represent a much greater relative loss than the same amount stolen from an employed person. Many older people have no bank accounts from which they can withdraw funds in an emergency; for example, if robbed. They must often wait until their social security, pension, or supplemental security income checks arrive in the following month. This protracted loss also occurs when an older person's property is stolen or damaged. The elderly generally do not have the financial capability to replace or repair the property.

Third. My third concern is that cost projections for this bill are based on questionable evidence. Even the committee report states that the costs are "difficult to project due to several unknown variables." The estimate is based on the experiences of three States, New York, New Jersey, and Maryland. The average grant made in these States is to 1.7 percent of the actual violent crime victims. The high estimate is based on a 100-percent increase in claims with 75 percent of the States participating. The low estimate is based on a 25-percent increase in the claims and 60 percent of the States participating. A 100-percent increase actually means that only 3.4 percent of the eligible crime victims would apply for compensation. National legislation would give greater exposure to the State programs and could therefore, increase the number of claims far beyond the projected amount. I believe that one reason that the costs to the States have been as low as they have been is that most States have given their programs a "low profile." Most States have not attempted to reach the eligible victims. I do not believe that any level of Government should create pro bono programs and then minimize their exposure to keep the costs down. If we establish a program because we believe that it provides a necessary social benefit, then we must not conceal it.

The substitute amendment offered by Mr. RAILSBACK speaks to many of the concerns brought up by my colleagues during the earlier debate. It reflects our desire to assist the victim in a concrete, substantial way. It addresses itself to the most needy. It also requires that each State begin some type of restitution program so that the cost can be borne, to some degree, by the offender.

I know that there are a variety of social programs but there are none that focus on the innocent victims of crimes. Seventeen billion dollars are spent each year in the criminal justice system but less than 1 percent is utilized to assist the victims. The convicted offender may receive psychological counseling, education, and vocational training. The victim, who may have lost his health, his valued possessions, his job, and suffer emotional damage, receives nothing.

I do not believe that we can base victim compensation legislation on the concept that the taxpayer owes restitution to the victims of crimes. We should recognize this legislation for what it is—an act of social justice. Social justice, although subject to various interpretations, includes "equity in the distribution of benefits and obligations of society, and compensation for losses and injuries for which one cannot be held personally responsible." The essence of social justice is equality. This must not be confused with the concept of "identical treatment" for that fails to take into account important differences in individual needs and capacities. Justice, therefore, requires that differential treatment be dependent upon the needs and capabilities of the individual or group. Modern industrial society requires a variety of services as first-line supports to enable individuals to cope successfully with our unpredictable and frequently precarious environment.

I recognize that there are dynamic tensions between what is economically and politically feasible and what is morally desirable. As you know I am a man who is very concerned about balancing our ledgers, but I would not wish to be associated with a social policy that ignored the cry of the injured and needy victims of crimes.

I include the cost estimates for the Railsback substitute except it is based on 50 percent Federal contribution rather than 25 percent proposed in the now pending amendment:

PRELIMINARY COST ESTIMATE OF AMENDMENTS TO RODINO BILL H.R. 3663

The table below presents the five year costs for the proposed amendments:

	Thousands
Fiscal year 1978:	
High costs	$35,000
Low costs	7,500
Fiscal year 1979:	
High costs	38,000
Low costs	8,400
Fiscal year 1980:	
High costs	42,000
Low costs	9,500
Fiscal year 1981:	
High costs	40,000
Low costs	10,600
Fiscal year 1982:	
High costs	45,000
Low costs	12,000

BASIS OF ESTIMATE

The cost estimate is based on the following assumptions:

All elderly victims of crime will be compensated for property loss and those victims of non-violent crimes will be compensated for property loss, medical expenses and loss of wages.

All elderly victims would be eligible to qualify for compensation since the amendments imply no minimum loss requirements for the elderly victim.

Between 60–75 percent of the states will participate in such a program.

Between 25–75 percent of the eligible elderly victims would apply for compensation.

These four assumptions are the crux of the cost estimate. Compared to the Rodino bill the scope of coverage of crimes is significantly greater and the amendments restrict the state's qualifying criterion, i.e. limits on property loss or medical damages.

The costs of the bill were based on an elderly eligibility pool of 11,679,000 individuals and 5,965 elderly households. These estimates were obtained from Sources and Structure of Family Incomes[1] and income adjusted to exclude non-taxable income, i.e. social security benefits. The elderly victims crime rate was based on the LEAA survey. An average property loss of $150 was assumed for personal crimes with injury and $200 for personal crimes without injury ($50 for other types of coverage, i.e., medical bills, etc.). The average property loss for burglary and household larceny victims was assumed to be $400. The high costs were based on 75 percent coverage of all elderly crimes and 75 percent state participation while the low costs were based on 25 percent coverage of

[1] U.S. Department of Commerce, Social and Economic Statistic Administration, Bureau of Census.

all elderly crimes and 60 percent state participation.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I would like, very briefly, to make some significant reference to the statements made by proponents of the amendment. One of the strongest arguments made is that there will be a limitless or extraordinary expenditure by the Government. The estimates are as high as $400 million. The gentlewoman from New York made this point very clear.

The authorization here is limited. It is as simple as that. Hence it clearly negates the argument made by the proponents of the amendment.

With relation to restitution, in some areas that policy is in place, but in my judgment it is a fanciful recommendation. It is still in the laboratory stage. It is not sufficiently productive to be worthy of consideration at this point. We should wait until we have additional experience with it.

With relation to the elderly, the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. RAILSBACK) confines compensation only to the elderly, whereas the committee bill deals with all the victims of crime. The elderly are included among them, and in fact they comprise a greater percentage or if in fact they are victimized to a greater degree than their younger counterparts, then it reasons that they will benefit to a greater extent by simply submitting more claims.

These are the very significant points that were made. But I think it is essential that all of us know that the $200 million and the $400 million argument is really a strawman that has no place in these deliberations, because the limitation, according to the bill, is a $40 million authorization in 1978 and no more.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the chairman of the committee.

Mr. RODINO. Mr. Chairman, the gentleman from New York (Mr. BIAGGI) is pointing out rather clearly what some of the defects are in the substitute. The gentleman, however, should point out as well that the substitute provides not only that the elderly may be compensated for injuries, but that they may also be compensated for loss of property. That is not contained in our bill, because assuredly what we seek to do is to be considerate of the disability suffered by the individual. We are talking about simple compassion, helping compensate an injury resulting from whatever assault is committed on an individual by the criminal, exclusive of whatever property losses there may be.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BIAGGI. The issue of property recovery was one that was under serious consideration by the committee; and although it might appeal to advocates of crime-victim compensation, the realistic approach was that the cost would skyrocket completely out of bounds. Even the most vigorous advocate of crime-victim compensation could not countenance that.

However, more importantly, we are dealing with a criminal justice piece of legislation, one that has many components and should be enacted. Society has failed in its responsibility to protect its citizens, society has an obligation to measure up to that responsibility. It does it in some small measure in this legislation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and on a division (demanded by Mr. RAILSBACK) there were—ayes 10, noes 25.

Mr. RAILSBACK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from Illinois (Mr. RAILSBACK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 253, not voting 48, as follows:

[Roll No. 612]

AYES—133

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bevill
Blouin
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Butler
Byron
Carter
Cederberg
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corcoran
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Emery
Erlenborn
Evans, Ind.
Flynt
Foley
Forsythe
Frenzel
Frey
Giaimo
Goldwater
Gradison
Grassley
Hagedorn
Hammer-schmidt
Hansen
Harsha
Holt
Huckaby
Ichord
Kastenmeier
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Leach
Leggett
Livingston
Lloyd, Tenn.
Lott
Lujan
McDade
McDonald
McEwen
McKinney
Madigan
Marriott
Martin
Meeds
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, John
Nichols
O'Brien
Pettis
Pickle
Pike
Pressler
Pritchard
Quillen
Railsback
Regula
Reuss
Rhodes
Robinson
Rousselot
Rudd
Runnels
Ruppe
Satterfield
Schulze
Sharp
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Treen
Waggonner
Wampler
White
Whitehurst
Whitley
Wiggins
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—253

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boland
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clay
Coleman
Collins, Ill.
Conyers
Cornell
Cornwell
Coughlin
D'Amours
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Diggs
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Ellberg
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ireland
Jenkins
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kemp
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Lederer
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCormack
McFall
McHugh
McKay
Mahon
Mann
Markey
Marks
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Poage
Preyer
Price
Quie
Rahall
Rangel
Richmond
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Spellman
St Germain
Staggers
Stark
Steed
Steers
Stokes
Studds
Thompson
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Watkins
Waxman
Weaver
Weiss
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—48

Boggs
Bolling
Bowen
Broomfield
Burke, Calif.
Clawson, Del
Corman
Cotter
Cunningham
Delaney
Dent
Dicks
Dodd
Flood
Gammage
Guyer
Heckler
Hillis
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.

Koch
Lehman
Lent
McCiory
McCloskey
Maguire
Marlenee
Nolan
Patterson
Pepper
Pursell
Quayle
Rinaldo
Roberts
Rose
Sarasin
Sawyer
Sebelius
Solarz
Teague
Vander Jagt
Whalen
Wilson, Bob
Wolff

Mr. UDALL and Mrs. FENWICK changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Victims of Crime Act of 1977".

ADMINISTRATION

SEC. 2. (a) The Attorney General of the United States (hereinafter in this Act referred to as the "Attorney General") shall administer the provisions of this Act. The Attorney General shall not delegate primary responsibility for administering the provisions of this Act unless such delegation is made to an individual who is compensated at the rate provided for level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5 of the United States Code.

(b) There is established an Advisory Committee on Victims of Crime (hereinafter in this Act referred to as the "Committee") which shall advise the Attorney General with respect to the administration of this Act and the compensation of victims of crime. The Committee shall consist of nine members one of whom shall be designated the Chairman, all appointed by the Attorney General. Seven members of the Committee shall be officials of States with programs qualifying under section 4. The Committee shall meet at least two times a year, and at such other times as the Attorney General may direct. The term of office for each member of the Committe shall be one year. The Committee shall remain in existence as long as this Act is in effect.

(c) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel and transportation expenses, including per diem allowance, in the same manner and to the same extent as persons employed intermittently in the Government service are allowed travel and transportation expenses under subchapter I of chapter 57 of title 5 of the United States Code.

Mr. MANN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk completed the reading of section 2.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, beginning in line 19, strike out "The Committee shall remain in existence as long as this Act is in effect." and insert in lieu thereof "The Committee shall remain in existence until September 30, 1980."

AMENDMENT OFFERED BY MR. MANN TO THE COMMITTEE AMENDMENT

Mr. MANN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. MANN to the committee amendment: Page 2, line 21, before "shall", insert the following: "shall not come into existence until on or after October 1, 1977 and".

Mr. MANN. Mr. Chairman, section 2(b) of the bill establishes a committee which, if the Attorney General so desired, could be appointed before the start of the next fiscal year. It is highly unlikely that this would occur, but it is theoretically possible. If it were to be appointed before then and if it were to meet prior to the start of Federal fiscal year 1978, its members would be entitled to be reimbursed for travel, transportation, and per diem expenses.

Section 401(1) of the Congressional Budget Act of 1974 prohibits consideration of any new spending authority to take effect prior to the start of the next Federal fiscal year. My amendment provides that the committee established by section 2(b) of the bill shall not come into existence until on or after the start of the next Federal fiscal year, October 1, 1977.

I am offering this amendment in compliance with House Resolution 601, the rule adopted for the consideration of H.R. 7010. House Resolution 601 contains a waiver concerning section 401 (b)(1) of the Congressional Budget Act of 1974. and that waiver was conditioned upon the offering of an amendment to cure the technical defect giving rise to the need for the waiver. My amendment, which was drafted with the assistance of the Legislative Counsel's Office and the staff of the Budget Committee, will cure the technical defect.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, today I rise in support of the Victims of Crime Act of 1977. In 200 years our country has run the spectrum of criminal law, going from a system of punishment for punishment's sake to one where the goal of punishment is rehabilitation. I suspect that neither extreme is a solution. However, that problem is still to be solved.

For too long we have neglected to assist those who, in many cases, have had their lives ruined by violent crime. It is a shame that people who have been victimized have been forgotten and left to become victims once again, this time of our system. I look upon this bill as a positive step toward solving our crime problem, one which will help to ease the traumatic experience accompanying a violent attack. In addition to the financial assistance it will provide to crime victims, there will be a small measure of comfort in realizing that their Government cares about their well-being.

Mr. Chairman, for over a decade now Congress has considered victim compensation legislation in various forms. Yet a bill has not been passed. Last year Pennsylvania enacted a victim compensation program. I am pleased to say that Delaware County, which includes my district, has recently begun to participate in that program. However, the States are strained financially and need help from the Federal Government. It is essential that we pass this bill, for our actions here today will not only assist states with existing victim compensation programs, but I believe they will encourage those States that do not, to establish their own.

Mr. RINALDO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is sometimes said that our laws tend to help the criminal but do nothing to help the victims of crime.

That observation may not be entirely accurate. But it reflects the way many Americans are thinking and it underscores the need for changes in our system of criminal justice.

My esteemed colleague from New Jersey (Mr. RODINO) is to be commended for introducing H.R. 7010.

This bill encourages compensation for victims of crime by authorizing Federal grants to qualified State-operated crime victim compensation programs. The Federal grants would equal 50 percent of outlays to State crime victims and 100 percent of compensation to victims of analogous Federal crimes.

Mr. Thomas Kaczmarek, a member of the New Jersey Violent Crimes Compensation Board and a constituent of mine, has repeatedly pointed out the necessity for Federal grants to aid victims of violent crimes, and we have an opportunity today, Mr. Speaker, to acknowledge society's responsibility for those victims by voting for a meaningful compensation program.

I urge my colleagues to join me in supporting this very worthwhile legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. MANN) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

Mr. MANN. Mr. Chairman, I ask unanimous consent that the remaining committee amendments to the bill be considered as read, considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there further amendments to section 2?

Mr. PATTISON of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me start off by telling the Members where I come from and where I stand on this legislation. We have a program of this nature, a victims of crime program, in New York, so this legislation would financially assist New York State.

First, let me state that the chairman of that program is Edward Morrison, and he is a very good friend of mine. He is a person for whom I have great respect. He is also a constituent of mine, and he is one of the major figures in the Liberal Party of New York. I might add that in my election last year the margin of my victory was less than 5,000 votes, and I received 5,000 votes, or perhaps a little more than that, on the liberal line.

In spite of all that, I oppose this legislation because I think it is not wise. Let me make it very clear that I do not deal with the merits of this legislation. I deal only with the process.

Mr. Chairman, I am an advocate, as some Members might know, of the notion of appropriate technology. Quite simply, appropriate technology says that one should use a tack hammer when he is driving a tack and not a pile driver.

The same principle is relevant in government, particularly in a federal system. In other words, in the federal system each problem we face has a theoretical appropirate level of government to which that problem should be addressed. That is not to say that that is always easy to determine. Sometimes it is difficult to determine what that appropriate level is. Further, it is not to say that we are always consistent about choosing that appropriate level. Certainly, we are not always consistent. To make it more complicated, that appropriate level is different at different times, depending upon different circumstances. In the past, there were some things that ought to have been done in this country, which the States ought to have done, but which it was clear the States would not do. They were, therefore, done at the national level because they had to be done. However, Mr. Chairman, that is no longer the case. The States and the localities do have the ability to act today. They do have the wherewithal. We provide through the general revenue sharing system no-strings money for the States and localities to do what they want, setting their own priorities, depending upon their own circumstances.

Mr. Chairman, it is very clear to me in this particular case where the appropriate level is. Regardless of the merits of the program, whether we believe there should be a victims of crime program or should not be a victims of crime program, and even if we think a victims of crime program is a very good program, it is clear to me that the funding, the decisions, and the administration should be done at the State level. We are, through this legislation, essentially saying to every State in the Union, "You really have to have a victims of crime program." We are not mandating it, but we are saying that they are going to get 50 percent from us and the other 50 percent will come from them, which means that if Oklahoma does not want to do it, then Oklahoma is really sort of a sucker because Oklahoma is going to pay for the New York program.

Mr. Chairman, I think that is a mistake. I think it is wrong. I think that this is exactly the kind of program that simply is driving local officials to distraction.

Mr. Chairman, I am part of a group funded by the German Marshall plan. We met just the other night, and the topic that we were discussing was this very topic: What is the appropriate level of government for various programs to be conducted?

I can say, Mr. Chairman, that those local officials who were there could not agree with me more that it is time—even though they themselves sometimes come to us and are forced by their constituencies to come to us to ask for help—to say no, and they would appreciate it if we did say no.

The CHAIRMAN. The time of the gentleman from New York (Mr. PATTISON) has expired.

(By unanimous consent, Mr. PATTISON of New York was allowed to proceed for 1 additional minute.)

Mr. PATTISON of New York. To continue, Mr. Chairman, in my judgment, whenever we are moving a program from one level of government to another level of government, there is a burden of proof to be established, to be overcome, before we move it upward. I simply do not see what argument can be made to even begin to satisfy that burden of proof in this case; but even if one thinks that this is a reasonable program, that burden has to be satisfied.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. PATTISON of New York. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I thank the gentleman for yielding.

I would like to say to the gentleman in my opinion I think the State of Oklahoma should do all it can without the help of the Federal Government.

Mr. PATTISON of New York. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to say "Hear, hear" to the remarks of the gentleman from New York (Mr. PATTISON) and I think it is appropriate for me to follow him because I come from a State which does not have any such compensatory laws and I am just as strongly opposed to this measure as the gentleman from New York.

At the risk of sounding hard-hearted, Mr. Chairman, I just cannot believe that this absurd piece of legislation on the Federal level is brought to us for vote. The Government's duty is to promote lawfulness, pursue and punish criminals, and prevent crime. Instead, H.R. 7010 proposes more bureaucracy, more strains on State budgets as well as our own budget, and an interminable compensation program, whose costs we do not know, and, without a doubt, I do not think there is anyone in this Chamber who thinks we are going to keep this program to $150 million.

Does this bill do anything to prevent people being victims of crime? Does it serve any purpose toward furthering our goal of crime reduction? The answers to these questions, Mr. Chairman, are no.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I will not yield at this time, I will yield later.

The bill merely sweeps the problem of crime prevention under the rug. It only serves as a sop to our conscience by plugging in another never-ending tap at the Federal fountain. When will it stop, Mr. Chairman? At the edge of national bankruptcy when everyone will be a victim of crime—the crime, perhaps, Mr. Chairman, of an overly compassionate Congress, unable, I would state to the gentleman from California, to manage public funds at the risk of having to make tough decisions?

I am seriously disturbed, Mr. Chairman, about our spending actions. We can pass all of the budget management and control bills we want and speak loftily of priorities, but where we are failing is at the basic level of decisionmaking. We cannot right every wrong. Members of the House, given the limited resources of this Nation, we must select priorities and we must make decisions. However much we would like, we simply cannot continue to expand our public largesse to encompass everyone.

H.R. 7010 is one small example of a serious problem which this body must confront. Are we to continue to play the benevolent provider, capitalizing every cause but leaving the concern of fiscal management to future generations of Congressmen? Or will we wake up in time and recognize our true responsibilities to the American public?

Mr. Chairman, we treat our constituents like expansive parents. Give all. Never say no. Meet every need and whim. But, like the expansive parent, it is our children who will pay and, quite simply, they cannot afford this bill and I doubt if they can afford us.

Now, Mr. Chairman, I yield to the gentleman from California (Mr. JOHN L. BURTON) for, I hope, one of his humorous commentaries.

Mr. JOHN L. BURTON. No, I am very serious. I remember the gentleman on several occasions talking about our society as always being too concerned with the rights of the criminals that we never worry about the rights of the victims. And yet here is something in which we are trying to correct that situation and compensate the victims of the crimes, crimes caused many times because of the judges who let the rapists and the murderers run rampant in society. This is to compensate those victims.

Mr. ICHORD. I will state to the gentleman from California in reply that there are areas in this Nation today where we might be promoting crime by merely setting up compensation for the crime.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. ICHORD was allowed to proceed for 1 additional minute.)

Mr. JOHN L. BURTON. If the gentleman will yield further, there are some people who are talking about putting together a nonprofit corporation to encourage people to perpetrate crimes on victims so that they can come under this program.

Mr. ICHORD. I do not doubt that.

Mr. JOHN L. BURTON. But I do not really believe that, and the gentleman

does not believe it either. We are talking for once about taking care of the victims. That is something that everybody believes in. Regarding crimes and penalties, we always say we worry about the criminals and not the victims, and here we are trying to do something for the victims.

Mr. ICHORD. The gentleman served in a State legislative body.

Mr. JOHN L. BURTON. For 10 years with the State.

Mr. ICHORD. We do have State governments.

Mr. JOHN L. BURTON. Our Government has this program.

Mr. ICHORD. What is the gentleman trying to do, then, let the Federal taxpayer pay for the program?

Mr. JOHN L. BURTON. The State of California contributes more money to the Federal Treasury than any State in the Union.

Mr. ICHORD. I am sure the gentleman's State would spend more of this money, too.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

POWERS OF THE ATTORNEY GENERAL

SEC. 3. (a) Subject to the availability of amounts appropriated and subject to the limitations imposed by section 5 of this Act, the Attorney General shall make an annual grant and may make supplemental grants to each qualifying State program, and the total of all grants made to a qualifying State program under this Act with respect to a Federal fiscal year shall equal an amount which includes 100 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for qualifying crimes which are described in section 7(7)(B), and 50 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for other qualifying crimes. Grants under this section may be made in advance or by way of reimbursement. The Attorney General shall not have the power to modify the disposition of any individual claim which has been processed by any State program.

(b) The Attorney General shall, for the purpose of carrying out this Act, have the power to do the following:

(1) Make such rules as are necessary to carry out this Act.

(2) Deny, revise, or agree to any request for an annual or supplemental grant under this Act.

(3) Promulgate rules and regulations regarding the data to be kept by State programs receiving funds under this Act and the manner in which this data shall be reported to the Attorney General.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 3, line 16, strike out "50" and insert "25" in lieu thereof.

Mr. WIGGINS. Mr. Chairman, it is my rare privilege at this time to carry and sponsor an amendment which is proposed and endorsed by the administration. The administration is not happy with this bill because it pays 50 percent of State claims up to a maximum of $50,000. The administration, speaking through the Attorney General, favors instead a 25-percent Federal involvement, with a $25,000 limitation.

My amendment coming at this time in the bill addresses itself only to the 25-percent limitation. I do not think it is necessary to expand on the amendment greatly, but I want all of the Members to know that the whole purpose of this bill is to limit the Federal contribution from 50 percent of the claims to 25 percent of the claims. It obviously impacts the cost of the bill, and it is wholly consistent with the notion that a new Federal categorical social program unrelated to crime should be one upon which we should embark very cautiously and very tentatively. This is, therefore, a tentative approach and one which I hope will enjoy the support of the Members.

Mr. Chairman, I will be happy to yield to the gentleman from North Carolina (Mr. GUDGER) who I believe wanted to indicate his support for my amendment, if the gentleman would like to have me yield to him.

Mr. GUDGER. If the gentleman will yield, I feel that the gentleman in the well is misinformed as to my support on his proposition. I do support an amendment which I will shortly advance. I do acknowledge that the Attorney General had indicated that a 25-percent contribution was deemed adequate by that office. Beyond that I cannot speak.

Mr. WIGGINS. I am sorry that I put the gentleman on the spot and I am disappointed that evidently the cause of the administration is worth only 50 percent rather than 100 percent support.

In any event, I think the amendment is understood and I urge an affirmative vote on the amendment.

Mr. MANN. Mr. Chairman, I rise in opposition to the amendment.

For those Members who were not here earlier, I explained that the Federal Government is to pay 50 percent of the claims under this program, with the States bearing the cost of their own administration. Administration costs being calculated as roughly 15 percent, it would mean that the Federal contribution would run somewhere in the neighborhood of 40 percent and the State contribution somewhere in the neighborhood of 60 percent under the 50-percent matching formula.

Now if we drop down to the 25-percent level and with the qualifications and conditions we have put on the States for paying their administrative costs, and every time we add a qualification it will increase that administrative cost, we now have the States down to the point where they will get perhaps 15 percent or 20 percent of the program from the Federal 25 percent match.

If this program is worth anything, it is worth having a viable program that is attractive enough to either cause States to opt for it or to encourage continuance in those States that have developed programs to date.

So, if we want to kill the program, the way to do it is to adopt this amendment. If we want to make the program ineffective, the way to do it is to adopt this amendment.

There has been a good bit of talk about whether or not this program has any criminal justice contribution to make. If the Members are satisfied with the alienation of the public with reference to our law enforcement system, if they are satisfied with the lack of reporting of over 50 percent of violent crimes in this country, if they are satisfied with the roughly 1 percent of convictions for crimes in this country, if they are satisfied with the sentencing processes in this country, if they are satisfied that the criminal justice system is working well, then do nothing, do not adopt this program, because after all this is only one plan to make it better, only one plan to cause witnesses to cooperate, only one plan to bring justice to this system.

In a poop sheet not long ago I saw this cartoon. It has got what looks like a thug standing here and a prosperous looking businessman. And the caption over the thug says:

Mr. A: feeling deprived by society, decides to lash out by mugging Mr. B in a dark alley.

The caption over Mr. B says:

Mr. B: as a result of the beating loses his health, his job, his family and takes up window washing and begging.

Then in the next scene of the cartoon, Mr. A, the thug, is dressed well and the caption says:

Mr. A: is caught and sentenced to business management courses that enable him to become independently wealthy.

And then the cartoon shows Mr. B as ragged and the caption over him says:

Mr. B: is waiting for Mr. A in a dark alley.

How satisfied the citizens of this country feel when they go to court and involve themselves, when they sit there and lose their jobs because of the scheduling we do in our courts, when they are subjected to all kinds of problems because they have cooperated in the criminal justice system. If we do nothing but send them a signal that we are interested in them, we are interested in their involvement, we are interested in their testimony, we are interested in their cooperation, then we have done them and the criminal justice system a service.

I have talked to many district attorneys in this country. I have experienced this witness neglect problem as a prosecuting attorney. We can have an effective program if we will stop breast-beating and do something affirmative, do something that will bring more criminals to the bar of justice, do something to insure that they are subject to the greatest of all deterrents, getting caught, and funds for that effort can well be taken from the hundreds of millions being expended in the failing effort to rehabilitate the few that are caught.

Now, you will not find a States rights man in this Hall any more dedicated than I am. I sometimes in half jest say let the Federal Government guard the coastline and deliver the mail; but we know the Federal Government has assumed major responsibility to insure domestic tranquility and has accepted by its programs, such as LEAA, what Cicero has said:

The safety of the people is the highest law.

Now, is that a Federal nexus? If law enforcement is not a Federal nexus, I do not know what is; so let us not let

the disenchantment with other programs make us overlook our responsibility for the Federal Government to take care of its citizens.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I thank the gentleman from Virginia for yielding.

I simply could not sit here without taking the well once again to respond to arguments which have no basis in fact or reality in terms of this bill. It has been said on several occasions that this bill has something to do with the criminal justice system. It does not. It has nothing to do, clearly, with the prevention of crime, since the bill is not invoked at all until after a crime occurs. The only possible argument that might be made with some legitimacy is that it will encourage citizens to come forward; but there has never been a problem about the bloody victim coming forward. The problem is with respect to the bystander who is not covered by this bill, the one who does not wish to become involved and is not already involved as a victim. With respect to that innocent bystander, what we do here is create another administrative burden to him by compelling his attendance at an administrative hearing, besides the criminal trial, to adjudicate the compensation claim. It is a further interference with those who do not wish to become involved. It is truly counterproductive with respect to the criminal justice system, rather than supportive of it.

Mr. Chairman, I thank the gentleman from Virginia for yielding.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I would like to say that the gentleman from California, with all his eloquence, cannot in any way obscure the fact that this bill has mandatory crime reporting requirements. States, in order to obtain funds, must advise the victims of crime in this program and the victims in order to obtain funds have to report their crimes to the police.

There is also no question that one of the most serious handicaps to the prosecution of crimes is that they are not reported.

Another serious handicap is that many victims will not cooperate in the prosecution and will not testify. This bill will make an enormous difference in that respect.

Mr. Chairman, I yield to the gentleman from South Carolina in this respect.

Mr. MANN. Mr. Chairman, I think the gentlewoman has expressed it well. You know, the National District Attorneys Association has a witness program that is a creature comfort type program, whereby in paying just a little bit of attention to witnesses they have enhanced their prosecutorial ability. They have stopped the cases from dropping through the cracks, which happens to a large portion of those cases that are reported.

In many cases the witnesses would become disenchanted. They had no hold on them. They do not come back, or they are subject to job problems or something of the sort. This program will tend to eliminate that and, as I say, if we are willing to do nothing, then we can talk about symptoms and revision of criminal law all we want to, but the criminal justice system will continue to deteriorate.

I urge the rejection of the amendment.

Mr. PIKE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would vote for this bill and against this amendment if it were not for a vote that we had here yesterday. On the vote that we had here yesterday, 202 Members of this body voted against increasing the debt ceiling. We have awful problems with our Federal budget. We are here embarking on a new program, another new program.

I do not believe the statistics which have been given us about what this program is going to cost. I think that more crimes are going to be reported. I think crimes that may not even have happened are going to be reported. I think there is going to be a tremendous increase in the reporting of crimes. But, I think that this is going to develop into a terribly expensive new program.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentlewoman.

Ms. HOLTZMAN. I would share with the gentleman his concern about the cost of the program, if this were an entitlement program. But I would say to my friend that this is not an entitlement program. It is not an open-ended program. There is a specific limit on the size of the program.

Mr. PIKE. This I understand, and those who report those crimes first are going to get the money, and there will be a rush to get in and report their crimes. I simply say to the 202 Members of this body who yesterday voted against increasing the debt ceiling—I voted to increase the debt ceiling, do not get me wrong—but for those who voted against it, this is what they are doing if they vote to start this new program on top of the pension for the World War I veterans, on top of the tax credits for college students. At least, if they vote for this new program, the next time the debt ceiling comes around, they should be willing to vote to increase the national debt.

Mr. BINGHAM. Mr. Chairman, I am pleased to rise in support of H.R. 7010 which would provide grants to the States for the payment of compensation for crime victims. I have long supported this concept and have worked for passage of this type of legislation for 4 years.

Under the program established by this bill, the Federal Government would contribute 50 percent of the cost of a State's compensation to a victim of crime up to $50,000. In cases where the crime occurs on Federal property, the Federal Government will pay 100 percent of compensation up to $50,000.

New York State, which has its own compensation program, will be eligible for funds under the Federal aid program. The Federal aid will make it possible for New York's program to reach far more people than it does today. Although the committee did not accept my suggestion that this bill authorize payment for administrative costs of State programs so that processing time of applications for assistance could be reduced, it is clear that Federal assistance will greatly increase the impact of this assistance program.

For too long we have shirked our responsibility to the victims of crime who suffer our inability to protect them from harm. I hope that in this Congress the Senate, which has never acted on this legislation, will finally approve a similar measure and this new source of aid to victims of crime can finally be established.

Mr. SCHEUER. Mr. Chairman, in considering this very important piece of legislation, we are addressing one of the most urgent questions in our criminal justice system: What we are prepared to do for the victims of the thousands of violent crimes that are committed each year in the United States.

The victims of crimes are the forgotten heroes of our justice system. I applaud and endorse my colleagues for introducing this much needed piece of legislation.

While the compensation of violent crime victims will fill a void in our criminal justice system, this is only a short-term, stopgap measure. Only by truly appreciating what motivates individuals to go out and commit violent crimes can we ever hope to deter and prevent the ever-rising rates of crime and violence in the United States.

The Committee on Science and Technology's DISPAC Subcommittee, of which I am chairman, plans to hold hearings early next year on the causes of violent behavior in America. Topics to be considered include rape, crime against the elderly, household violence including child abuse and wife beating, treatment of mentally disordered offenders, and violent crime deterrence.

I urge my colleagues to pass this bill, this critical first step in the fight against violent crime in the United States.

Mr. GONZALEZ. Mr. Chairman, I am very pleased that the House is considering the Victims of Crime Act of 1977 which I have cosponsored. A little over 4 years ago, I first introduced a similar measure and have continually worked for the passage of this bill.

Unfortunately, we have seen a tremendous increase in crime over the last decade and with it a huge expenditure of public funds to apprehend, imprison, rehabilitate, and study the criminal, while problems confronting the victims of crime have been overlooked. For him society has failed in its duty to protect him, and a Government which pledged to protect its citizens cannot disavow all responsibility when it fails in its job.

Ancient history shows us that as far back as 4,000 years ago there existed the concept that society has an obligation to help meet the needs of victims of criminal violence. The Code of Hammurabi evoked communal responsibility for certain crimes and, surely in this 20th century, we should be able to include in our code of justice some relief for those victimized by crime.

I believe the measure we have before us today is an equitable one. The States will share in the cost, as well as administer and shape their own program the best way they see fit. Today there are 20 States that have their own programs compared with less than half that number 4 years ago when I first introduced my bill.

The main purpose of the legislation before us today is to aid the innocent victim of a crime, but there is the possibility that we might also be helping to reform our correctional institutions. As the English penal reformer Ms. Margaret Fry has said:

> A rational system of correction can only be achieved when victims, satisfied financially, no longer press for revenge but rather favor rehabilitation.

Nothing would be more satisfying to many of us, I am sure, than to be able to help both the victim and the accused.

I strongly urge my colleagues to support this bill as reported by the Judiciary Committee and hopefully before too long show our concern for those victimized by crime. While we cannot pass legislation that will remove the shock and trauma associated with a criminal attack we can help to ease the victim's economic losses.

Mr. KOSTMAYER. Mr. Chairman, I rise in support of H.R. 7010, the Victims of Violent Crimes Act of 1977.

This legislation would extend Federal funds to States that have instituted programs providing payments to the victims of violent crimes. These payments include compensation for hospital and related expenses not covered by insurance, and for loss of income not otherwise compensated. My own State of Pennsylvania, along with 20 other States, has already instituted programs to help victims of violent crimes. To have an effective compensation program the Federal Government must also contribute.

For too long the victims of crime have been neglected by government. Mr. Chairman, H.R. 7010 is designed to alleviate the suffering of so many Americans. It seems ironic that while a criminal may receive Government-funded rehabilitation treatment oftentimes his victim may suffer severe economic hardship as a result of the crime and receive no help at all.

The situation is especially serious for senior citizens, most of whom are on fixed incomes. According to a report by the Select Committee on Aging a significant number of the elderly are victims of violent crime, the victimization rate is rising, and older citizens in urbanized areas are victimized more than any other group. If government can provide aid to the criminal in the form of rehabilitation, it can surely provide aid to the innocent victim.

Some form of legislation relating to victims of crime has been introduced in every Congress since the 92d, but this is by far the most workable.

One important aspect of H.R. 7010 is its requirement that victims give full cooperation to the police. This will encourage citizen-police cooperation. In this way two aims are served, the citizen is helped by receiving necessary financial aid, and law enforcement officials benefit from the resulting information and support.

Mr. Chairman, I urge my colleagues to vote in favor of H.R. 7010, the Victims of Violent Crime Act of 1977.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 7010, the Victims of Crime Act of 1977 and urge my colleagues to join me in support of this important piece of legislation.

This measure will establish a source of Federal grants to be made available to States in their operation of programs to provide compensation to victims of crime. The bill authorizes a total of $150 million in grants over the next 3 fiscal years. These grants are to pay up to 50 percent of the compensation amounts of up to $50,000 paid by States to crime victims.

Currently, there are 20 States with compensation programs; each of which has details somewhat different from the other; but seeking to compensate a victim for personal injury and loss of wages resulting from criminal activities.

The idea of Federal involvement in programs of this sort is supported by the American Bar Association, the National District Attorneys Association, and the U.S. Conference of Mayors, and many other respected groups. Indeed, the President's Commission on Law Enforcement and the Administration of Justice endorsed Federal support of these compensation programs.

I, like my colleagues from urban surroundings, feel strongly about this program because we often see first-hand the suffering experienced by the victims. Older urban communities have great difficulties, not the least of which is the problem of safeguarding those who may fall victim to criminal actions. It is a sad occurrence to learn of a citizen who has suffered a loss of money and costly, traumatic injury as the result of a ruthless attack. It seems that no matter how hard we try we cannot, as a society, offer those who are the easy targets of crime the assurance that they will be spared this victimization. Therefore, in addition to our efforts to curtail violent crime we must, I believe, offer some compensation for those who suffer such tragedies.

I urge all my colleagues to join in supporting H.R. 7010, the Victims of Crime Act of 1977, as a reasonable measure to aid the helpless victims of criminal activity.

Thank you.

Mr. FRASER. Mr. Chairman, I would like to take this opportunity to express my support for the Victims of Crime Act, H.R. 7010. I am cosponsoring this measure which would provide aid to victims of crime.

In 1974, my home State of Minnesota established the Minnesota Crime Victims Reparations Board. The board is empowered to pay up to $25,000 to compensate victims for personal injury, medical expenses, lost wages, and death. The maximum benefit in Minnesota was increased from $10,000 to $25,000 last July 1. The same coverage applies to a person who is injured or killed preventing a crime or assisting in the apprehension of a person suspected of engaging in a crime. With enactment of this legislation, Minnesota would be able to award crime victims up to $50,000 without increasing the cost to the State.

H.R. 7010 establishes a Federal grant program to States, like Minnesota, which have instituted programs to benefit victims of crime. There are presently 20 States which have such programs. The Federal Government, under this bill, would be allowed to provide up to 50 percent of the cost of State awards to victims. In other words, a victim in Minnesota could receive up to $50,000 for injuries sustained or death. Each State would have discretionary authority to set maximum benefit levels, but this bill would only reimburse States for 50 percent of an award up to $50,000. Thus, the Federal share limit is $25,000.

The bill does not compensate for pain and suffering, property loss, cost for which the victim will be reimbursed from another source, and States' administrative costs are not covered. Also, compensation begins after the victim has absorbed an initial loss of $100 or 5 days' loss of wages.

Too often, victims of crime are those who can least afford to be—the elderly, poor, blacks, native Americans, and Chicanos. The Federal program established by the measure we are debating today relates to need. Victims are reimbursed for out-of-pocket expenses which are not otherwise reimbursed by medical insurance or disability payments.

Mr. Duane Woodworth, executive director of the Minnesota Crime Victims Reparations Board, outlines the need for the program in a recent letter to my office. Mr. Woodworth explains:

> I am writing this letter not only on behalf of the Minnesota Crime Victims Reparations Board, but also on behalf of victims of crime everywhere who, as you know, suffer sometimes most grievously at the hands of criminals. Murder victims who leave families behind in emotional and financial disaster, rape and assault victims who suffer not only the effects of the assault but sometimes have staggering medical bills that are not covered by insurance, and elderly victims who often end up in extended care nursing homes because of injuries received from purse snatchers and muggers. Medicare and Medicaid do help some, but for the most part these elderly suffer dire financial hardship.

A year ago, Congress passed the Public Safety Officers' Benefits Act which provides a $50,000 tax-free Federal payment to specified survivors of State and local public safety officers killed during the line of duty. This law covers police, firefighters, and corrections, probation and parole officials.

I believe passage of this legislation will go a long way toward strengthening the States' role in providing protection and compensation for victims of crime. In Minnesota, passage will mean an increased level of benefits for victims. I support passage by the House to insure that this step toward lessening the burdens innocent victims bear is realized.

Mrs. MEYNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia (Mr. BUTLER) and to urge its acceptance.

The sensationalism of modern criminal activities has led to windfall profits by the very people who commit heinous crimes against individuals and society. The fault lies not with the publishing and motion picture industry, but with a

society that is obsessed with the gruesome details of mental illness and violence. This obsession leads to the financial exploitation of criminal behavior in a manner that not only continues the publicity of a specific crime, but that works to perpetuate the high degree of violence that we are exposed to when we turn on our television sets, browse through bookstores, and spend an evening at the movies. The degree of violence alone is disturbing, but the fact that convicted criminals are benefiting financially from this exploitation is unconscionable.

A well established common law maxim dictates that one should not benefit from his wrongdoing. While the courts labor to uphold this principle, the "entertainment world" continues to market counterproductive appeals to the public's appetite for sensationalism. Financial benefit for the deviant behavior of mass murderers should not be condoned by this House. Defeat of this amendment before us today would not only permit the perpetuation of this practice, but it would serve as a congressional signal of endorsement. I do not believe that this is the posture that the House of Representatives should assume in this situation. Rather, as we consider this bill to provide compensation to the victims of violent crime, I find it only proper that we include in this legislation an amendment that would finance further compensation at no increased cost to the taxpayers. This is precisely what Mr. BUTLER's amendment would successfully accomplish. A tangential and natural consequence of this amendment would be the successful deterrence of publication by criminals. The fact that the resulting revenues will be held in escrow in order to compensate further the victim of the crime, would serve as a disincentive to the writing of a book, or the selling of motion picture royalties. Perhaps my colleagues share my belief that this effect is as attractive as the primary result—further compensation to victims or their survivors.

Mr. Chairman, defeat of this amendment aids only convicted criminals. Acceptance of the amendment makes an important financial, legal, and moral commitment to the victims of violent crime and to society. I urge my colleagues to carefully consider the implications of condoning this behavior and to join me in my support for this amendment.

Thank you.

Mr. ZEFERETTI. Mr. Chairman, over the years the Federal Government has poured billions of dollars into programs designed to prevent crime. While this effort has been partially successful in reducing the number of serious crimes in some areas of the country, it is apparent to me that the crime problem is foremost in the minds of the American people, particularly those residing in urban areas.

What happens to the victims of these crimes? The offender—the criminal—has the benefit of free legal representation, counseling and job training, but in most cases the victim is pitied and then simply ignored. In addition to the physical and mental anguish suffered, the victim must also face up to the fact that he or she is confronted with hospital and medical bills as well as time lost from work.

This economic hardship is particularly severe for our senior citizens, most of whom live on a fixed income. I know that in my hometown of Brooklyn, and in other urban centers around the country, crime against the elderly is on the increase. When these victims are bodily harmed, as is often the case, they face enormous hospital and medical costs. Although medicare and medicaid cover much of the expense, these bills can deal a staggering blow to their already stretched budgets.

Several States have taken the initiative in setting up programs to provide some financial assistance to these victims by reimbursing these innocent people for medical expenses and lost wages. However, most of these State programs are both underfunded and understaffed and, as a result, the overwhelming majority of victims eligible for assistance are unaware that such programs even exist.

Mr. Chairman, this compensation for victims of crime legislation would not handcuff these State agencies with burdensome regulations and redtape but would merely require them to meet seven basic requirements in order to qualify for Federal funds. In fact, it is designed to encourage diversity in the various programs so that each State retains the flexibility to design its own crime compensation program.

Hundreds of people are killed and injured each day as a result of violent crimes, and many of these innocent victims suffer not only physically but also economically from their misfortune. While we must continue with an all-out effort to crack down on crime and criminals, it is time for the Federal Government to direct its attention to the victims as well.

Mr. MANN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, had come to no resolution thereon.

REQUEST TO CONCUR IN SENATE AMENDMENTS WITH AN AMENDMENT ON H.R. 6550, AUTHORIZING APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment numbered 10 thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 19, 20, and 26 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes."

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 10 to the above-entitled bill with the following amendment:

Page 2, line 6, of the House engrossed amendments to the Senate amendments, after "total" insert: ": *Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER pro tempore. The Clerk will report the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: ": *Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest not authorized to be awarded under the said 1971 Act and shall exclude from his payment such amounts as he determines constitute such interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman explain this? This is a rather complicated-sounding chain.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question, the Senate accepted the omnibus bill with the amendments that we sent over to them the other day, with one exception, and the exception was to refine, as I viewed it, changes as they viewed it, the proposal that we had, and which had been in the bill all along, on title II regarding award claims. We reconciled this apparent difference by stating that the Commission could award no claims. The Commission already finished its work a couple of years ago. They could award no claims that were not authorized under the law. That is no more than we had

intended. I do not understand why the Senate thought it was any different, because we were merely restating the premise upon which the House acted in the beginning.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, in other words, the gentleman is satisfied that the position of the House is still preserved?

Mr. PHILLIP BURTON. If the gentleman will yield, yes. It is inexplicable to me as to what the quarrel was in the first instance. We did not change the law at all, and they wondered if we had or had not. We agreed, finally, by just restating what the current base law was. So I am satisfied that the House's view is sustained, and I think that is the view of my colleagues.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I would like to agree with what the gentleman from California (Mr. PHILLIP BURTON) is saying. Although this is not too clear, apparently the Senate or the Senate managers of this bill did not know what the law was with regard to interest on these particular claims that were taken care of in the bill.

Both sides agree that the law should be that there should be no interest on the award.

Mr. PHILLIP BURTON. That is correct.

Mr. LAGOMARSINO. That is the law that has been in effect since 1971, and the amendment the gentleman is offering to the Senate language merely states the law will remain what it was in 1971.

Mr. PHILLIP BURTON. The gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I wish to yield to my colleague, the gentleman from California (Mr. DON H. CLAUSEN), who, I know, has had a substantial interest in this legislation.

Is the gentleman satisfied that the House position is basically preserved?

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. The House position is preserved, I might first state one of the reasons for this unusual procedure. We would normally work these things out in conference, but as the gentleman knows, the Senators who are involved in this are presently involved in very extensive debate on the energy bill.

So in consequence the gentleman from California (Mr. PHILLIP BURTON) has been communicating with the principals involved on the Senate side, and in their communications with me and the gentleman from California (Mr. LAGOMARSINO), the conferees on the House side have been kept informed. So we are in concurrence with the objectives, and I think we have sustained the House position.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's comments, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object let me ask this: Has this been printed in the RECORD?

I am under the understanding, with the Committee on Rules bringing out new rules, that we have a new way of handling things and we are going to require these things be printed in the RECORD. Has this been printed in the RECORD?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield so that I may respond to the gentleman?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I must first observe that we have appropriations contingent on this legislation, and the fiscal year ends on September 30, and we have some hope that the bill can be signed into law by September 30.

On the gentleman's point, I would share the gentleman's concern that it should have been printed in the RECORD, but this amendment does no more than restate the current law. If it were not for that, I think I could concur with the observations I might anticipate from my colleague, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I must say that I am really shocked at what the Committee on Rules did today, and if that is the way the rules are going to be conducted, as far as I am concerned, this gentleman is not going to make any concessions on the rules.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REPORT ON COMPARABILITY ADJUSTMENT ORDERED FOR FEDERAL STATUTORY PAY SYSTEMS IN OCTOBER 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–233)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

In accordance with the provisions of section 5305 of title 5 of the United States Code, I hereby report on the comparability adjustment I am ordering for the Federal statutory pay systems in October 1977.

The Secretary of Labor, the Director of the Office of Management and Budget and the Chairman of the United States Civil Service Commission, who serve jointly as my agent for Federal pay, have proposed a 7.05 percent across-the-board increase in pay rates for the Federal statutory pay systems. The Advisory Committee on Federal Pay has concurred with this recommendation.

While the Federal Employees Pay Council recommended a larger increase, I have decided that the 7.05 percent increase fully satisfies the principles set forth in the Federal Pay Comparability Act of 1970 that Federal salaries be comparable with those in private enterprise for the same levels of work.

I am transmitting herewith the reports of my Pay Agent and the Advisory Committee, as well as a copy of the Executive order I have promulgated to put this pay adjustment into effect.

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

ADJUSTMENTS IN LEVELS OF COMPENSATION FOR MEMBERS OF UNIFORMED SERVICES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–234)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, without objection, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

In accord with 37 U.S.C. 1009(c), I am hereby advising the Congress that I plan to exercise the discretionary authority provided by 37 U.S.C. 1009(c), as added by section 303 of the Department of Defense Appropriation Authorization Act, 1977 (Public Law 94–361), with respect to adjustments in the levels of compensation for the members of the uniformed services.

The amendments to 37 U.S.C. 1009 made by that act provide discretionary authority to apply the adjustments (based on the overall average percentage increase in General Schedule rates of basic pay, in accord with 37 U.S.C. 1009 (a)) to the basic pay, quarters allowances and subsistence allowances of the uniformed services on a percentage basis other than an equal percentage basis. Those amendments also provide discretionary authority to pay a partial quarters allowance to bachelors in government quarters, on field duty and on sea duty.

The current levels of the military allowances for quarters and for subsistence are less than the costs of the services they are intended to procure. Because of this deficiency in the current level of these allowances, it is my considered judgment that a reallocation of the October 1, 1977 military basic pay increase is appropriate. However, in consideration of the negative impact of reallocation on some military members, I am not going to reallocate the full 25 percent which I am authorized by law to do. I plan to reallocate 12 percent of the basic pay increase, by grade, all to the basic allowance for quarters, and to increase the partial quarters allowance to bachelors in government quarters, and to those on sea duty or on field duty, by an amount equal to that reallocated from the basic pay increase. This action takes a positive step toward improving the current relationship of the quarters allowance to the costs of off-post housing and, at the same time, recognizes the adverse impact of reallocation on some military members by limiting it to a moderate amount.

Specifically, the amount allocated to

the element of monthly basic pay for each grade shall be 88 percent of the amount that would have been allocated to that element under 37 U.S.C. 1009 (b)(3); the elements of monthly basic allowance for subsistence and monthly basic allowance for quarters for each grade shall be increased by an amount which is of the same percentage as the overall average percentage increase in the General Schedule rates, except that the element of monthly basic allowance for quarters shall be increased by an additional amount by grade equal to 12 percent of the amount that would have been allocated to the element of monthly basic pay under 37 U.S.C. 1009(b)(3). Members without dependents, who, under 37 U.S.C. 403(b) or (c), are not entitled to receive a basic allowance for quarters, shall be paid an increase in the monthly partial basic allowance for quarters in an amount equal to the additional amount allocated by grade to the element of monthly basic allowance for quarters under 37 U.S.C. 1009(c).

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

DAY OF BREAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, next Tuesday, October 4, is the International Day of Bread. I will again deliver to each of my colleagues a complimentary loaf of bread provided to you by the National Day of Bread Committee, made up of wheat growers, millers, and bakers.

For the past 8 years, we have delivered bread to each Member of Congress on this Day of Bread. Many States are also sponsoring Day of Bread activities. This observance has as its purpose to bring the people of the world together in spirit and to express thanksgiving for the annual harvest and to continue the commitment to win the war against hunger and malnutrition.

We have come full circle since I first advised my colleagues in this House as a freshman Member, in less than eloquent language, to let their appetite help us out of our wheat surplus problems. At that time we were burdened by costly surpluses and farm production was being curtailed. Then we entered into a short lived era in which the American farmer produced at full capacity, harvested record breaking crops, and received what many considered to be a fair return from the marketplace.

Today, however, we find ourselves once again back down that road to over-production, surplus, depressed prices and curtailing crop production through Government controls. It seems to me there is a lesson to be learned from all of this. The importance of a fair price for farm production is no less important today than it was then. The only way we will achieve the necessary production levels to feed a hungry world is to be fair to the farmer in the pricing and marketing of his products.

The President has now signed the farm bill into law. Let me point out, however, that wheat producers are still in the midst of an economic crisis that doubtlessly will have serious repercussions throughout our entire economy. This year, many young farmers who found it economically feasible to get into the business of family farming during the good years, will see their dreams shattered. The question remains on the Day of Bread in 1977, who will produce the food and fiber for our Nation and a hungry world? Who will take their place?

Let me also point out to my colleagues that contrary to what many think, bread represents an excellent choice for nutrition and calorie conscious consumers. A whole kernel of wheat contains all but six of the 40 essential nutrients, and wheat fiber plays an important role in preventing colonic cancer, the second most frequent cause of cancer mortality in this Nation.

One final word for weight watchers such as myself. Those prominent in the nutrition field recommend an increase in bread consumption in the American diet. Again, contrary to what many think, bread represents our best chance to lower the fat content of the American diet and take an effective step in lowering cholesterol levels.

I ask my colleagues to join me in breaking bread in thanksgiving and in commiting our resources to world peace, understanding and a better tomorrow for all mankind through agriculture.

CONGRESSIONAL BLACK CAUCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, last weekend, September 24, 1977, it was my pleasure to attend the Congressional Black Caucus dinner at the Washington Hilton Hotel. Gathered there were the leaders of the Nation's black community and those of us who join with them in the struggle for racial, economic, and social justice both at home and abroad.

I would like to share with my colleagues a speech that was delivered at the banquet by our distinguished colleague, the Honorable PARREN MITCHELL, who has served as chairman of the Congressional Black Caucus for the past year.

His eloquent words speak for themselves but they were given added force by the stature of the man who delivered them. A distinguished member of an equally distinguished American family, PARREN MITCHELL gave voice to the hopes and aspirations of black America as he has done so effectively and forcefully so many times in the past.

I am pleased to associate with those remarks and to share them with my colleagues.

REMARKS OF THE HONORABLE PARREN J. MITCHELL

It has been my honor to serve as Chairman of the Congressional Black Caucus for almost one year. I wish I could convey to you tonight the deep appreciation I have for the work of the Caucus Members. I wish I could convey to you in adequate fashion, their unyielding commitment to make life better for those whose lives are miserable. The staff of the Caucus and the Caucus Members work impossible hours, sacrifice time, yes, even money, and their personal lives.

You who are here, and the thousands who are not present, have made sacrifices to support, undergird, and sustain this Caucus. We are profoundly grateful to you.

Such sacrifices will more and more be required. We are surrounded by the clear signs that efforts are underway to block the forward progress of Black Americans. "Preferential treatment;" "quotas;" and reverse discrimination are the ugly slogans of those who are unwilling to accept the fact that Blacks in America have yet to gain full equality.

Of course there has been progress, but I submit to you tonight that the lives of the masses of Blacks have not undergone any significant, positive change in the last decade. If you doubt me, walk but a few blocks from this Hotel, where we dine and celebrate in luxury, and you will find Black citizens living out their lives in hopelessness, alienation and despair.

Of course there has been progress. But, in reality, Secretary Patricia Harris cannot really be separated from the woman on welfare, held in contempt as she desperately tries to hold her family together on less than a poverty income.

Of course there has been progress. But, in reality, our beautiful Black Ambassador, Andrew Young, cannot be separated from the more than 400,000 men in America's prisons, most of whom are young, most of whom are Black; and most of whom are desperate.

Of course there has been progress. But, Parren J. Mitchell, Chairman of the Black Caucus cannot, in reality, be separated from that Black father, unemployed for months, despite his everyday search, who sees his manhood, his fatherhood, even his personhood destroyed because he has no work.

The poet, Benét, writing against slavery, defined our present condition when he wrote:

> That great slave driven bark
> Full-oared upon the dark
> With fetters for the crew
> And spices for the few
> The passion that is dead
> The pomp we never knew
> Bury this too.

There cannot and must not be an artificial separation of "Black Elites" and "Black Masses." Our destiny is one. There must not be and cannot be an imposed division between Black "haves" and Black "have nots." Our destinies are inextricably entertwined.

Yes the time for sacrifice on the part of all who care is at hand.

We cannot permit joblessness to remain as a massive rock around the necks of Black communities dragging us down into the depths of frustration, bitterness and anger.

I pray that our leaders would plan and execute, massive, regional employment rallies around this country in the fall and in the winter. I would hope these massive regional jobs rallies would be put in preparation for an enormous rally for jobs to take place in Washington in the spring.

It is immoral to keep people out of work. A moral society should permit no person able to work to suffer the stigma and the degradation of joblessness.

We cannot permit the attacks on affirmative action to continue without launching our counterattack. All are needed in this counterattack—the youth, the Black Church and the Black Press. Those who embrace the slogan "reverse discrimination" refuse to admit, refuse to see that racism is not dead in America. Its insidious touch hits every aspect of our lives. It denies us jobs. It denies us business opportunities. It denies us upward mobility on our jobs. It denies us the freedom to live where we want; to go to

school where we want; to even pray where we want.

And for as long as racism is deep and endemic in this Nation, affirmative action programs must be required for the physical and psychological survival of Black Americans.

I believe we shall come together in unity and strength as we move to achieve social and economic justice and we shall do this not just for ourselves but also for our children. We shall do this in order to build a society that offers every child a chance to imagine a decent and fulfilling future, irrespective of color or inherited life situation.

We shall leave this place and return to our homes, our jobs, our private lives. But as we leave let us once again commit ourselves to the struggle. Let us never conciliate with discrimination. One does not conciliate with evil. Let us never compromise with racial discrimination. One does not compromise with venality. Let us never capitulate to racism. To do so would be to bow to wickedness.

If, if indeed the children of Soweto dare against naked racism, dare we do less against the American style racism?

JUDGE DANIEL BRANNEGAN RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I would like to take this opportunity to officially note the retirement, after 29 years of public service, of a dear friend of mine and of the people in my district, Probate Court Judge Daniel Brannegan of Stonington, Conn.

I have known Judge Brannegan all my life. He is one of the finest people I have ever known. A tremendously popular and respected figure, admired by all who know him, "the Judge," as he is known, has served his community in both public and private life. He has had a tremendous career, helping anyone in whatever way he could.

Judge Brannegan was elected nine times as probate judge. The fact that he was routinely endorsed by both political parties is testament to the high esteem and regard in which he is held by all. Despite the fact that he is not a lawyer, not one of Judge Brannegan's decisions was ever overturned by a higher court—a truly remarkable record—and the envy of any judge. Judge Brannegan applied his decisions with a great sense of equity, guided by a deep compassion and understanding for his fellow man. He let his conscience be his guide, and his human instincts never once failed.

Judge Brannegan's service to people extended far beyond the courtroom to all aspects of life. Often, people went to his office following the death of a loved one. He always found the extra time to try to make people feel a little better in difficult circumstances.

Judge Brannegan is a credit not only to himself and to his community, but the way in which he lives should be an inspiration to all of us.

We will miss "the Judge" around the town hall. He has hung a "gone fishin'" sign on the door. But even though we will miss him, we are happy that he is taking some time to enjoy himself, and whether a public official or not, Judge Brannegan will always be our friend.

PLUS CA CHANGE, PLUS CA RESTE LA MEME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, Dumas Malone, the famous biographer of Thomas Jefferson spends several pages in his second volume, "Jefferson and the Rights of Man," describing Jefferson's difficulties as Ambassador to the French Monarchy. Jefferson worked for nearly a year to conclude a commercial treaty with France to provide more favorable tariff treatment for the export products of the various new American States. After a great deal of work, he obtained agreement from the French Court for lower tariff rates on a number of items such as tobacco, whale oil, et cetera. Jefferson wrote home to his countrymen, telling them of the good news, and urging that they begin increasing shipments to France.

Unfortunately, when the cargo vessels began arriving, the local French customs agents at the various ports had not received the word from the French Court about the new, liberalized trading rules. Jefferson's hard work at the French capital was sabotaged by the redtape and bureaucratic delays, which may have been intentional, at the French Customs Service.

In recent months, some American exporters, particularly textile and apparel manufacturers, have encountered similar problems. French customs agents, through insistence on redtape procedures and the requirement that every "t" be crossed and every "i" dotted, have stranded large shipments by a number of manufacturers. It appears to be more than coincidence that this sudden "vigor" at the French ports coincides with a series of unilateral actions by the French to cut off imports of textiles and apparel from developing countries in North Africa and Asia. American shipments are not being prohibited; however, they are being nitpicked to death.

The French should be advised that two can play this game—and I would hope that our exporters would receive more polite consideration in the future. The only other explanation is that the French bureaucracy is no better now than it was in the days of Louis the XVI.

Following are some interesting quotes from Malone's masterful biography.

Jefferson summed up the possibilities as follows:

> . . . We can furnish to France (because we have heretofore furnished to England), of whale oil and spermaceti, of furs and peltry, of ships and naval stores, and of potash to the amount of fifteen millions of livres; and the quantities will admit of increase. Of our tobacco, France consumes the value of ten millions more. Twenty-five millions of livres, then, mark the extent of that commerce of exchange, which is, at present, practicable between us. We want, in return, productions and manufactures, not money. If the duties on our produce are light, and the sale free, we shall undoubtedly bring it here, and lay out the proceeds on the spot in the productions and manufactures we want. . . . The conclusion is, that there are commodities which form a basis of exchange to the extent of a million of guineas annually; it is for the wisdom of those in power to contrive that the exchange shall be made.[9]

* * * * *

The duty on fish oils was reduced, for one thing, and Jefferson was hopefully considering the prospects of new trade in furs and rice.[21] The activities of the committee had broadened out so as to include the whole subject of American commerce, and Jefferson continued to arm Lafayette with facts and figures. The American gave his friend and willing helper an estimate of the exports and imports of the United States, based partly on such figures as had been made public, partly on information he himself had collected in many of the states—especially during his trip (1784) to the seaports of New England.[22] The net result of these continuing activities was a letter from Calonne to Jefferson, dated October 22, 1786, in which the various dispositions taken to favor American commerce were summed up.[23]

This letter did not embody all the recommendations of the committee, such as the entire removal of all duties on oils, but Jefferson described it as almost a verbal copy of one drafted by the committee. It repeated past promises about free ports and the reduction and simplification of port charges, reaffirmed the decision about tobacco, and granted for ten years the temporary privileges already given to whale oil, spermaceti, and other products of the sort, while removing entirely the heavy duty on fabrication. It removed the considerable duties on potash, beaver skins and raw leather, and on all woods used for shipbuilding as it did on some other things which were of special interest to Jefferson—shrubs, trees, and seed, and all kinds of books and papers.

* * * * *

Calonne's letter was duly reported to the States and well received there, and Jefferson scattered copies of it in France, but no instructions seem to have been sent by the French authorities—because of bureaucratic stupidity, Lafayette thought.[24] American ships arrived, only to find that the supposed changes in regulations had not gone into effect, and they bore back to their own country the news that French promises had not been kept.

EXIM'S COTTON CREDIT TO JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, on September 7 the Eximbank submitted to me, as chairman of the Banking Committee Subcommittee on International Trade, Investment and Monetary Policy, a proposed transaction to assist in the purchase of U.S. raw cotton by Japan which I would like to insert in the RECORD at this point:

DEAR MR. SPEAKER: Pursuant to Section 2 (b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to provide financing to assist The Bank of Tokyo, Ltd. in purchasing from the United States $75,000,000 worth of raw cotton.

2. Identity of parties

The Bank of Tokyo is Japan's ninth largest commercial bank and was established in 1947 as successor to the Yokomama Specie Bank, Ltd.

By a law enacted in 1954, the Bank of Tokyo was specifically authorized to special-

ize in foreign trade financing. Although other Japanese banks are authorized to engage in foreign transactions, the 1954 law established the Bank of Tokyo as the official foreign exchange bank of Japan.

In Japan, the Japan Spinners Association, under the administrative guidance of the Ministry of International Trade and Industry, allocates foreign loan funds available for cotton imports to mills wishing to purchase cotton. Thereafter, loan funds are made available to the mills through Japanese commercial banks acting as agents of the Bank of Tokyo.

The indebtedness of the Bank of Tokyo to Eximbank will be evidenced by twelve month drafts drawn on and accepted by the Bank of Tokyo. The Bank of Tokyo will hold the obligations of the Japanese foreign exchange banks issuing letters of credit at the request of the mills which purchase the cotton, and these banks in turn will hold the obligations of the mills.

3. Nature and use of goods

The Eximbank Credit will finance the purchase of raw cotton of all grades and staples for use in the Japanese spinning industry.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reason

Since the early 1950's, Japan has been a steady purchaser of U.S. cotton, and each year since then Eximbank has provided loans to Japanese banks to enable Japanese cotton spinning mills to finance a significant portion of their U.S. cotton requirements. In the past five years, Japan has imported an average of approximately 3,447,000 bales of cotton each year from all sources. Thirty percent of this total has come from the United States, making the United States the largest supplier of cotton to Japan. It is anticipated that the proposed Eximbank credit for the 1977–1978 cotton year will support between 20 percent to 35 percent of Japan's cotton imports from the U.S. As has been the case in the past, these exports will have a favorable impact on many important sectors of the U.S. economy such as cotton growing, processing and transportation. Eximbank perceives no adverse impact on the United States economy from this transaction.

Eximbank's proposed credit is especially appropriate in view of developments anticipated in the world cotton market over the next few months. During the 1977–78 crop year total world production is expected to increase by 10 percent, from 58 to 64 million bales. As a result, competition among cotton exporting nations for sales to Japan, the world's largest importer, should be intense. The Soviet Union, the world's largest cotton grower and second largest exporter behind the United States, is expected to harvest 12.5 million bales—a 3.3 percent increase over their 1976–77 output. Due to this increase, the Soviets are expected to strengthen their marketing efforts in Japan. Substantial production increases in Mexico, Japan's third largest cotton supplier, could produce the same result. The offer of continued Eximbank support could avoid giving the Japanese any reason to decrease the purchases of United States cotton in the light of mounting international competition.

It should also be noted that the United States has been experiencing a trade balance deficit of unprecedented magnitude throughout 1977. For the first six months of this year, the deficit amounted to some $12.5 billion; a full-year deficit of $20–25 billion has been predicted. Our trade deficit with Japan was some $1.4 billion during the first quarter alone. The proposed Eximbank credit will have a favorable impact on the United States' trade balance with Japan.

2. The financing plan

The Eximbank Credit of $75,000,000 will bear interest at a rate of 8 percent per annum. The credit will be repaid one year from each respective drawdown. Drawdowns will take place periodically during the 1977–78 cotton year through July 31, 1978.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman, Export-Import Bank.

Section 2(b)(3) of the Export-Import Bank Act of 1945, requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case, since many questions were raised regarding the appropriateness of the proposed credit and since Chairman Moore of the Eximbank was out of the country, Eximbank extended the 25-day consideration period for 2 additional weeks, at our request, until October 14.

After meeting with Chairman Moore last week, and with my colleagues in the other body—Senators PROXMIRE, STEVENSON, and HEINZ, and discussing this proposed transaction with the members of our subcommittee, including Representative STANTON, our ranking minority member and others of the minority, I would like to report on what I have found to be a consensus opinion of this transaction.

The proposed credit of $75 million to assist Japanese cotton mills in the purchase of raw cotton from the United States is not the type of transaction we believe the Bank should be supporting. It represents a very recent, and rather abrupt, change of heart by the Bank itself, which originally denied the credit when first approached last year. As of June 23 of this year, Eximbank had concluded that this loan did not meet the general criteria that should govern the granting of Eximbank credit. Its reasons were set forth in a fact sheet it prepared, which I would like to insert in the RECORD at this point:

FACT SHEET: EXIMBANK'S COTTON CREDIT TO JAPAN

History of the Japanese Cotton Credit

Beginning in 1948, Eximbank has authorized 29 separate loans to finance U.S. cotton sales to Japan. The first credit of $29 million was authorized pursuant to a decree by the Joint Chiefs of Staff in 1948. The next cotton loan was independently authorized by Eximbank in 1951 and similar loans have been authorized consecutively since 1953. (Two credits each were authorized in 1953, 1957 and 1966.) Prior to 1963, the value of these loans never exceeded $60 million annually. Thereafter, the amount of the credit increased to $75 million until 1976 when the amount was reduced to $50 million. Except for three credits authorized in the early 1950's, these credits have carried a one year repayment term with interest rates ranging from 2½ to 9 percent. The loans have all been promptly repaid.

In 1976, after comprehensive analysis and discussion, Eximbank concluded that direct credit support for U.S. agricultural exports could not be justified on the basis of identifiable market imperfections—e.g. need for long-term financing, relative transaction size or exaggerated perceptions of risk by private lenders—or because of foreign government export credit competition. Furthermore, Eximbank could determine no basis on which to exclude the Japanese cotton credit from this general policy conclusion.

Based on its comprehensive analysis, Eximbank reduced the amount of the Japanese cotton credit from $75 to $50 million and advised the Japanese that this credit would not be renewed for the 1977–78 cotton year. In reaffirming last year's decision to terminate this credit, Eximbank considered the factors set out below.

Factors Influencing Eximbank's Decision To Terminate The Japanese Cotton Credit

Cotton sales to Japan can easily be financed in the private market; U.S. banks are willing and eager to increase their Japanese exposure primarily because Japan's economy is so strong. Moreover, a recent Bureau of Census survey on how U.S. exports are financed revealed that 68 percent of U.S. agricultural exports are purchased for cash and most of the remaining 32 percent are financed on terms of less than one year. Consequently, U.S. cotton sales to Japan do not encounter the risk, maturity, or volume problems that Eximbank direct credits typically overcome.

Japan's other major cotton suppliers—USSR, Mexico, El Salvador, Nicaragua, and Guatemala—do not provide official export credit financing to facilitate their cotton sales to the Japanese. Hence, there is no known significant export credit competition for Eximbank to meet.

Despite last year's notice to the Japanese that Eximbank would not extend its credit in 1977, this year's forward-sales of U.S. cotton to the Japanese are 75 percent ahead of last year's. This trend would appear to contradict the claim that availability of Eximbank support is essential to the Japanese decision to purchase U.S. cotton. Moreover, U.S. cotton exporters have increased their share of the Japanese market without any increase in Eximbank credit. Since 1969, the value, volume, and market share of U.S. cotton exports to Japan have all increased while the proportionate share of Eximbank financing has consistently decreased.

The Department of Agriculture has responsibility for export support and market stabilization actions for U.S. agricultural products. There is no economic basis for cotton, or Japan, to benefit from the additional support of an Eximbank credit. To the extent that Eximbank activity overlaps with that of the Agriculture Department, inefficiency and government duplication of effort are promoted.

Other agencies of the United States Government—especially the U.S. Treasury and the Office of Management and Budget—have consistently opposed the Japanese cotton credit.

I found the reasoning in this factsheet to be compelling. It seems to me that normal trade credit, of only 1 year maturity, to an exceptionally creditworthy client, is precisely the kind of loan the private credit market of the United States can and should provide. Indeed, I know that commercial lenders in the United States would be eager to make this kind of loan to Japan, some at rates below Exim's 8 percent. We must remember that the Export-Import Bank is required by law to "supplement and encourage, and not compete with, private capital." This cotton loan to Japan is clearly in competition with private capital.

The Eximbank initially offered the Japanese an unconditional guarantee on private financing to cover up to $75 million of sales in the cotton year 1977–78. I believe this offer was quite appropriate, as it clearly "encourages" private capital, and does not compete with it. The Japanese did not, however, accept the offer and indicated they wanted nothing

less than direct Eximbank credit. They relied on a provision of their own law which allows their importers a 12-month repayment period if the credit is a direct Eximbank loan and only 4 months for repayment in all other cases—including an Eximbank guarantee.

Relying on Exim's own factsheet, I felt this transaction was simply not appropriate for the Bank, nor in its best interest in the long run. Most of my subcommittee colleagues were prepared to join me in a bipartisan resolution objecting to this transaction. Similar action was planned in the Senate.

After speaking with Chairman Moore, however, we decided to withhold our objection to this particular cotton credit, with the understanding that we will oppose any future cotton credits to Japan similar to this one. We are withholding our objections at this time partially because of predictions of a substantially increased U.S. and worldwide cotton crop and a weakening demand which could cause Japan to decrease its purchase of U.S. cotton if no Eximbank credit were available. In part we are not objecting now because foreign competition for the Japanese market is expected to intensify. Primarily, however, we are not objecting to this transaction only because we do not want to take an abrupt unilateral action that might cause economic hardship to those who have planned for so long on this particular credit. But we want it clearly understood that we will not look favorably on any future cotton credits for Japan or other loans which are similarly inconsistent with the Eximbank charter.

PERSONAL STATEMENT

(Mr. ALLEN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ALLEN. Mr. Speaker, as I was not in attendance on the floor of the House on September 26, 1977, due to a meeting with a constituent organization in my district. I would like to indicate in my would have voted had I been here. My votes would have been cast in the following fashion:

S. 1060, George Washington University charter, "yes."

H.R. 5813, Federal payment for District of Columbia water and sewer services, "yes."

H.R. 7766, airspace use in District of Columbia, "yes."

H.R. 6530, borrowing authority for District of Columbia, "yes."

H.R. 7747, pretrial release or detention, "no."

H.R. 6693, child abuse prevention, "yes."

H.R. 6214, Center for the Book, "yes."

House Concurrent Resolution 60, Martin Luther King, Jr., statue, "yes."

Senate Concurrent Resolution 25, Senator Gruening statue, "yes."

House Concurrent Resolution 277, Saturday mail delivery, "yes."

H.R. 7132, Postal Service Arbitration Board, "yes."

TOWARD CURING PARAPLEGIA

(Mr. FRENZEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, the scientific advancements which have come to light just in the past year toward curing paraplegia has greatly shortened the timeframe to which an actual cure can be realized.

As some of my colleagues know, on May 3 of this year, Senator WARREN MAGNUSON and I hosted the fifth annual paraplegia luncheon which was sponsored by Paraplegia Cure Research. In attendance this year, were 125 persons, comprised of eminent scientists, lay leaders, and Members of Congress each with a demonstrated concern for liberating paraplegics from their wheelchairs through neuroscientific research. This year, we were all stunned by the results of Dr. Kao's work with peripheral nerve grafts to the central nervous system; Dr. Grossman's work with electronic bypass; Dr. Aguayo's work with glial cells transplanted to peripheral nerves of the central nervous system; Dr. Young's work with nerve growth factor and Dr. Sidman's new plan to integrate the results of the basic research discussed here, and others' work, and to properly provide the resources and organizational setting which would bring about an early solution to the problem.

It was a pleasure to see these major advancements that were considered by the Appropriation Committee's deliberations on the fiscal year 1978 budget for the National Institute of Neurological and Communicative Disorders and Stroke. Both the House and Senate indicated their support for expanding research on central nervous regeneration and neuroprostheses with the ultimate goal of curing paraplegia.

Because these findings, discussed in detail at the luncheon, represent such importance in the fight to liberate paraplegics from their wheelchairs, the attention of each Member of Congress is invited to them:

The first speaker, Donald B. Tower, M.D., is Director of the National Institue of Neurological and Communicative Disorders and Stroke (NINCDS), the Federal agency charged with leading the basic research. Dr. Tower has a distinguished background in medicine, scientific research, and administrative leadership.

Dr. Tower's report follows:

A BRIEF PROGRESS REPORT ON THE IMPLEMENTATION OF RECOMMENDATIONS BY THE NINCDS ADVISORY COUNCIL SUBCOMMITTEE ON REGENERATION IN THE CENTRAL NERVOUS SYSTEM

(By Donald B. Tower, M.D.)

At Mr. Frenzel's kind invitation, it is again my pleasure to bring you up to date on our progress in implementing the various recommendations by the ad hoc Subcommittee of the NINCDS Advisory Council in the field of central nervous system regeneration. You will recall that these recommendations are of three types: funding of high priority research areas; meeting increased needs for research manpower; and improving planning and coordination efforts in these areas. Within the usual constraints on budget and manpower that continue to confront us, solid progress is evident in each of the three groups of recommendations.

Research on central nervous system regeneration and related fields is one of the most rapidly growing areas of investigation. Last year I gave you some figures for the whole spinal cord research program. Now I can focus more specifically on the targeted regeneration subprogram. In FY 1976 the NINCDS funded 39 such research grants for a total investment of $2.55 million. We expect that figure to increase to $2.93 million in this fiscal year (FY 1977) and to an estimated $3.37 million in FY 1978. These figures do not include a roughly equal number of research grants on development or plasticity of the nervous system with varying degrees of relevance to central regeneration.

The number of funded grants will not go up proportionately to the dollar increases noted because inflation factors have significantly raised the costs of each grant. For the same reason our ability to fund grants recommended for approval as a result of scientific merit review by NIH Study Sections has not improved, despite modest increases in the NINCDS appropriations. Currently we are able to fund only about 28% of the total approved competing grants. Thus, last year there was $0.5 million worth of approved grants on central regeneration which we were unable to fund and this year we anticipate the figure will be close to $0.9 million. Nevertheless, every grant application recommended for approval which deals with central regeneration is regularly brought to the attention of the NINCDS Advisory Council for special consideration in this high priority program area.

One important additional note deserves mention here. The NINCDS has awarded a contract to repeat the enzyme-therapy regeneration studies reported to us last year by the Soviet scientist, Dr. Levon Matinian. In addition through our research grant program, several other investigators are utilizing Dr. Matinian's concepts for additional studies.

In the area of research manpower, the NINCDS has been able to initiate this year a modest beginning once the authorization for training programs was renewed by the Congress. There are presently 16 institutional fellowship awards (training grants) in the program areas of developmental neurology (7 awards), neurobiology (5 awards) and neuropathology (4 awards), providing opportunities for postdoctoral training in these scientific disciplines directly relevant to problems of central nervous system regeneration. In addition the NINCDS is currently supporting 65 individual fellowships and 17 research career development awards (RCDA) that are related to this research area. The NINCDS gives high priority to such training and proposes to add a specific program for training in central regeneration and plasticity if additional training funds become available.

The NINCDS intramural regeneration research program in our Bethesda laboratories continues to be active. At a recent review by the NINCDS Board of Scientific Counselors this program received high marks on the types and progress of research projects being carried out. However, training opportunities in this program are still limited because of the continued constraints on personnel ceilings.

With regard to planning and coordination, the NINCDS has set up a program advisory committee for the Stroke and CNS Trauma Program to monitor the progress of research on problems of acute spinal cord injury and on central regeneration. As research progress indicates the needs, special task forces can be considered for help in planning special targeted efforts. With the establish-

ment during the past year of the NINCDS Office of Program Planning and Evaluation (OPPE) it is now possible and in fact mandatory for each program activity of the Institute to develop annual budget projections, describing in detail minimal and optimal requirements for each of its areas of responsibility. Projections in the area of central regeneration developed for FY 1978 and formulated for FY 1979 have been forwarded to the Director, NIH, for submission to the DHEW.

NINCDS staff meet regularly with the leaders of national organizations concerned with paraplegia and with central regeneration. Among these are the Paralyzed Veterans of America and the National Paraplegia Foundation and the Society for Neuroscience. In addition through research workshops and technical reports, the NINCDS regularly supports state-of-the-art analyses. A recent example is the workshop held last May in Columbus, Ohio by the directors of the acute spinal cord injury clinical research centers supported by NINCDS at which the Soviet experts on clinical management of acute spinal cord injury and on central regeneration research presented and discussed their work.

Another example is the current survey on incidence, prevalence and cost estimates for head and spinal cord injury in the United States being conducted by probability sampling techniques for the NINCDS Office of Biometry and Epidemiology. Preliminary results indicate nearly half a million new cases each year of central nervous system trauma (head and spinal cord) requiring hospitalization in the United States. Some 70 percent of these cases are less than 36 years old, and two-thirds are males. In 1974 there were almost 1.1 million patients with central nervous system trauma alive in this country, most of them victims of automobile accidents. For spinal cord injuries alone these patients represent at least a $1 billion economic loss to society. From data like these, more effective planning and setting of priorities can be developed.

At this stage research progress in the very difficult area of central regeneration is understandably slow. However, rather than limit discussions of progress and new approaches to a selected few meetings, the NINCDS is encouraging research symposia on central regeneration, development, plasticity and related subjects as part of the regular scientific sessions of the many relevant societies and groups. Thus, scientists from many disciplines are encouraged to give attention to these problems.

Clearly the report and recommendations of the NINCDS Advisory Council *ad hoc* subcommittee have been very helpful to the Institute in identifying and implementing needed activities. The NINCDS response has perforce been tempered by the research opportunities available and by limitations of resources. Nevertheless, these recommendations serve as a solid basis for an active research program on central nervous system regeneration.

Again I must thank Bill Frenzel and the many good people gathered here today for the opportunity to discuss our program and our progress with you. This must be a concerted effort of all of us together to solve this most challenging and important problem.

Beginning the discussion of new scientific approaches is Chun C. Kao, M.D. Dr. Kao is chief of the neurology service at Veterans' Administration Hospital in Madison, Wis. He is also assistant professor at the University of Wisconsin. It is unfortunate that Dr. Kao's film and slide presentation could not be duplicated for the RECORD.

Dr. Kao's report follows:

SPINAL CORD REPAIR USING NERVE GRAFTS

(By Chun C. Kao, M.D.)

At the paraplegia research laboratory at the Madison VA Hospital, we have pursued the possibility of spinal cord repair since 1972. The entire mission is based on the belief that the spinal cord axon will regenerate if conditions permit. Today, we have enough convincing evidence to say that this hypothesis, in which we see our hope, is in fact correct.

If a spinal cord is transected, the cut ends become quite far apart and are difficult to bring together. In order to repair the spinal cord, we have implanted many varieties of tissues into the gap. After a long period of trial-and-error, we found that the peripheral nerve is the best material to use. The intrinsic axons and myelin of the nerve disappear in two weeks. By the end of the second week, the implanted nerve will contain millions of Schwann cells lined up in thousands of tiny chains, through which the regenerating axons may pass.

The idea of using the peripheral nerve to repair the spinal cord is about 70 years old. Cajal first suggested it. Many researchers have done it. They have transected the spinal cord including its covering membranes and placed pieces of nerve in between the spinal cord stumps. Months later, when the spinal cord was examined, they found the nerve had been expelled or was separated from the spinal cord by scars, cavities, muscles or even bones.

When we addressed the problem, we found the surgical technique can be improved. With the aid of a surgical microscope, the spinal cord can be transected without cutting across the membrane. The membrane so remaining will help retain the nerve graft. With this new technique, the nerve grafts were nicely held in place. We thought we had it made!

Examination one week later told another story. There were two cavities, one above and the other below the grafted nerve, separating the nerve from the spinal cord! We saw a layer of Schwann cells at the end of the nerve, but they couldn't reach the spinal cord because of these cavities. What can we do about this? Simple! Just reverse the sequence. This time, we put the horse in front of the wagon. Instead of transection and grafting, which would be followed by cavitation, we transected the spinal cord, allowing the spinal cord to deteriorate for one week, then grafted the spinal cord. By then the dead tissue had separated from the viable spinal cord and the nerve could be approximated to the viable portion of the spinal cord. This time, since no further spinal cord necrosis took place, there was a rush of Schwann cells into the spinal cord. It could be seen, under electron microscopy, the Schwann cells wrapped around the regenerating axons. Later, the axons became myelinated.

At one month after the repair, the nerve had fused to the spinal cord. As I pointed out previously, the intrinsic axons and myelin of the grafted nerve were completely degenerated in two weeks. Therefore, if one subsequently finds axons within the grafted nerve, these axons obviously invaded from elsewhere, are therefore regenerated axons.

Electron misroscopic examination showed that indeed there were many axons present within the grafted nerves. As the axon bridged the spinal cord and the grafted nerve, a junctional node of Ranvier was formed. On the spinal cord side, the axon was myelinated by an oligodendrocyte, whereas across the node, the same axon was myelinated by a Schwann cell.

Are these axons spinal cord axons? The answer is yes, or at least a portion of them are. Myelination of the axons in the grafted nerve precludes their origin as autonomic nerve fibers accompanying the blood vessels of the spinal cord. Furthermore, because the pia-arachnoid membrane was closed, there was a continuous sheath of the pia-arachnoid membrane separating the spinal cord from the dorsal root. A dorsal root contribution to the grafted nerve was never seen in serial sagittal longitudinal sections.

In conclusion, what the grafted nerve has provided was a chain of Schwann cells. It appeared that the axons were myelinated by these existing Schwann cells while they traveled within the grafted nerve. After that, as the axons left the grafted nerve, they were myelinated by the oligodendrocytes of the spinal cord.

The next step in our research was to simulate the spinal cord injury to the type of injury seen in civilian life. For this purpose, we simply crushed the spinal cord by the blades of a pair of hemostatic forceps. Because the spinal cord is more extensively destroyed by subsequent necrosis following the injury, it really doesn't matter whether the spinal cord was cut or crushed in the first place, as long as the injury produces complete anatomical transection of the spinal cord.

Indeed, forceps-crushing does produce a complete, immediate, anatomical transection of the spinal cord. If the spinal cord was not repaired, an even larger cavity would form. Thick connective tissue scar may extend into the cavity.

The control dogs in this series were unable to stand or to walk at 1 year. Their legs were, however, constantly twitching and frequently ended in mass spasm with defication and urination. Absence of functional recovery in the control dogs suggests that forceps-crushed spinal cord injury is complete.

Functional recovery was seen in repaired dogs. Physiological study showed both motor and sensory conductions across the repair. No mass spasm was observed. Re-crushing of the spinal cord proximal to the repair resulted in the loss of the ability to stand and to walk. The fact that re-crushing eliminates the function suggests that the functional recovery was not due to reflex walking. One important observation from this preliminary experiment was that there was a repaired dog who had no functional recovery but physiological study showed conduction. It seemed that in this dog there was axonal regeneration, but the dog did not know how to use these axons to walk.

In short, we have spent five years just to bring the spinal cord axons across the injury into the other side of the spinal cord. We now see another ever challenging problem ahead of us. And that is: How are we going to tell the dogs to use the regenerated axons to walk again? I would be happy to spend the next 100 years of my life on this problem.

Thank you!

The next speaker, Robert G. Grossman, M.D., is professor and chief of neurosurgery at the University of Texas in Galveston and the University of Texas in Houston.

NEURAL SUBSTITUTION IN OVERCOMING PARAPLEGIA

(By Robert G. Grossman, M.D.)

For paraplegics and those who care for them—care in the sense that their families and friends care for them—and in the medical sense as well—there is no more urgent problem than finding a cure for paraplegia. There have been two major approaches to achieving a cure—inducing regeneration in the nervous system and building neural prostheses to bypass the damaged area of the spinal cord. It is very likely that the application of both regenerative and prosthetic techniques when applied to individual patients will be the key to successful treatment of paraplegia.

The concept of applying electrical signals to muscles, spinal cord, and the brain to control them is a very old concept. The first interface of the dawning sciences of electricity and biology was the experiment of Galvani about 300 years ago in which a frog's leg was made to twitch when the nerve and muscle were brought into contact with metals that formed a primitive battery. When, in this century the nervous system was found to generate electrical signals, scientists began to think of harnessing these signals to control functions, and applying signals to the brain and spinal cord to control motion.

However, the technical problems were formidable, and the conceptual problems were even greater. They might be compared to trying to activate a modern computer by applying shocks to its circuit boards, instead of current through its normal circuits. Many neurophysiologists, myself included, were sceptical of the value of trying to interface electronic circuity with the spinal cord and brain.

However a number of very encouraging findings have been reported this year, representing the fruition of many years of work by many investigators, which illustrates the truth of the proverb quoted by Alan Reich at last years lunchion, "all things yield to patience and persistence". I would like to tell you about some of these developments. Although not all deal directly with paraplegia their relevance is obvious and provides a very exciting prospect. I must say that most of the work I'm going to tell you about has been supported by the National Institute of Neurological, Communicative Disease and Stroke, and the fundamental neuroscience program directed by Dr. Karl Frank has been particularly important in this regard.

The first problem to be in part solved is that of miniaturing electrodes, coupling them with tissue and preventing tissue reaction and rejection. Miniature electrodes have been developed that "float" in tissue and remain in proximity to single neurons for many months. For the deaf, electrodes have been developed that can be implanted in the inner ear, resulting in improved recognition of sounds and, interestingly, in the quality of the individuals voice. For the blind, stimulation of the visual brain, resulting in sensation of light, has been accomplished. For spastics, stimulation of the cerebellum, a part of the brain controlling muscle tone and balance, that improves freedom of movement. For paralyzed patients, stimulation of the spinal cord and nerves to control pain; stimulation of the phrenic nerve to the diaphram that controls breathing; stimulation of any muscles under computer control to produce useful movements, and stimulation of the spinal centers controlling bladder emptying.

At the University of Texas Medical Branch, my colleagues, Doctor William D. Willis, Jr., Doctor Richard Coggeshall, Doctor Robert Feinstein, and I have embarked on a program of investigation of regeneration and neural substitution in paraplegia. What encourages us are recent findings that in some paraplegic patients there is residual transmission across the area of damage, although voluntary activity and conscious sensation may not be supported by the reduced activity. In addition, we now know that certain activities such as bladder and bowel emptying and sexual activity are organized on a segmental basis. These segments are generally preserved distal to the site of injury, and only a releasing stimulus is required for the execution of these activities. Therefore, it appears reasonable that for certain functions amplification of residual function, or even direct bypass of the injured area of the spinal cord may be achieved.

We must accelerate the pace of these research efforts. The Paraplegia Cure Research affiliate of the National Paraplegia Foundation has been acting as a catalyst to integrate the advances of individual research groups. Interaction of basic scientists and clinicians, and training of individuals who have both scientific and clinical ability is the key to application of basic research to cure individuals with paraplegia. We must try to develop the environment that will accelerate these research efforts.

For spinal injury research as for all medical research, the impetus springs from a desire to cure and a desire to understand nature. Close association of basic neuroscientists with medical personnel caring for paraplegic patients is the best way to stimulate this attitude. If basic research is to be used for paraplegia cure, clinicians caring for paraplegics must also be trained as basic neuroscientists to be willing and able to understand and use the findings of basic research. The goals of basic research, of training, and of application of medical knowledge to cure can best be fostered by the development of comprehensive CNS trauma centers. The proper elements of a comprehensive center for the cure of paraplegia should include basic neuroscientists, an acute treatment center staffed by neurosurgeons, orthopedic surgeons, neurologists and psychiatrists, and a rehabilitation facility.

The basic scientific and clinical services must be large enough to provide the needed clinical experience for evaluating therapy, and, to provide scientific training. It would require only a small additional effort to develop truly comprehensive centers. The understanding of the nervous system that could be gained and the alleviation of human suffering that could be achieved are the types of achievement that are the goals of our national effort in biomedical research.

The fourth speaker, Albert J. Aguayo M.D., FRCP (C), is a professor of neurology at McGill University of Montreal. He is also a member of the Neurosciences Committee of Medical Research Council of Canada. Dr. Aguayo's slide presentation could not be reproduced for the RECORD.

STUDIES OF NERVE REGENERATION AND TRANSPLANTATION: POTENTIAL SIGNIFICANCE FOR HUMAN DISEASE

(By Albert J. Aguayo)

The nervous system is composed principally of two types of cells: nerve cells and glial cells. Nerve cells are capable of generating electrical signals. Information in the form of these electrical impulses is transmitted within the peripheral and central nervous system along axons, which are branches of nerve cells. All axons are surrounded by glial cells (oligodendrocytes in the brain and spinal cord and Schwann cells in the peripheral nerves).

Alterations in the normal relationship between axons and glial cells cause important disturbances of the function and structure of nerve fibers. It is well known, for instance, that cutting a nerve fiber will lead to the breakdown of the axon and of the myelin sheath in the portion of the injured fiber that has been separated from the cell body. Because injuries to the spinal cord or to peripheral nerves result in a similar degeneration of nerve fibers, surgeons and biologists have attempted to assist fiber regeneration by bridging gaps or scars caused by injury by means of nerve tissue grafts.

One of the major problems in nerve tissue grafting is that we know so little about the fate of the transplanted tissue and also that we are so ignorant of the tissue matching requirements between the donor that provides the graft and the host that receives it. Information and techniques relating to nerve tissue transplantation lags certainly far behind what is known on the replacement of other organs and tissues; blood, kidney, heart, skin etc.

Because I have been asked to talk about my own research I shall attempt to outline some of the studies that my associates and I have carried out at the Montreal General Hospital Research Institute of McGill University.

The aim of these studies has been to investigate problems related to: (1) the selection of glial cells for transplantation, (2) the behaviour of glial cells in the host and grafted nerve and, (3) methods to assure the survival of glial cells within the graft.

For technical reasons our experiments have centered on the study of axons and glial cells in grafted animal peripheral nerves. However, some of the methods used are presently being extended to the investigation of spinal cord regeneration.

One of the questions we initially investigated related to the fate of the glial cells transplanted within a segment of a peripheral nerve grafted between the two stumps of a cut nerve. Did the cells from the donor nerve remain within the graft and become the bridge for the regenerating axons growing from the proximal stump towards the distal end of the injured nerve or, did other structures in the nerve, the basal membrane tubes for instance, provide the pathways for migrating Schwann cells originating in the host?

Using radioactive and natural markers we were able to show that the cells transplanted within the graft at the time of grafting did not disappear but survived, multiplied and myelinated the axons from the host. This observation of the survival and persistence of the transplated Schwann cells provided background knowledge needed for subsequent investigations on possible sources of glial cells for purposes of nervous tissue replacement and repair. It was possible to demonstrate that Schwann cells from muscular, sensory, or autonomic nerves could be grafted to axons in nerves of a different structure and function than those of the donor nerve. Also, any one of the two types of fibers (myelinated or unmyelinated) had Schwann cells, that, when grafted, were capable of myelination when they ensheathed axons from the recipient nerve. The demonstration of such multipotentiality in Schwann cells makes unnecessary the precise surgical matching of myelinated to myelinated fibers or of unmyelinated to unmyelinated fibers at the time of grafting. The need for such a fine matching would have been a difficult, if not impossible, technical problem for the surgeon.

It has been known for some time that nerve grafting can be a successful aid to regeneration if the graft is obtained from the same individual. Because this kind of graft requires sacrificing other nerves, efforts have been made to find alternative sources for nerve grafting. In experimental animals this can be done by using animals of different strains (allo-transplantation) or from other species (xeno-transplantation). The main limitation with either of these types of transplantation techniques is that the immune system in the host recognizes the grafted cells as foreign and will destroy them within a few days. Rejection may be avoided in two ways: (a) the most convenient manner would be to have a proper system of tissue matching between donor and host nerves, similar to the kind that is used for blood transfusion typing or in organ transplantation (kidneys, heart, etc.), but unfortunately we know next to nothing about the cell surface factors (antigens) responsible for nerve tissue compatibility; (b) the second way of circumventing the problem of tissue rejection is by depressing the immune response of the host against the transplanted cells. There are several forms of immuno-suppression—the one we have chosen to use is to administer anti-

lymphocytic serum, twice weekly to the host animal.

Under these experimental conditions, regenerating axons successfully bridge the graft of both allo- and xeno-transplants and are ensheathed by the donor's Schwann cells. In allo-transplants the Schwann cells in the graft that ensheath the axons of the host originate in a different strain of mice while in the xeno-transplants human Schwann cells have been shown to ensheath mouse axons. The demonstration that we can transplant human Schwann cells into experimental animals and that these cells behave very much as they did originally in the human, provides a promising tool to help us define better some of the properties of human Schwann cells and their responses to a number of experimental manipulations that would be difficult or impossible to do while these cells are still in the human nerve.

Finally, do glial transplants serve only to bridge gaps in injured nerves and guide axons across into a peripheral field of innervation, or could transplants of normal glial cells also help correct abnormalities in nerve fibers that result from injury or disease: in other words, could glial transplants be used for replacement of abnormal glial cells?

To attempt to find an answer to this question we used experimental animals with a hereditary neuropathy that affects Schwann cells: a strain of mice called Trembler. In this strain of mice there are two striking abnormalities in peripheral nerves: (1) most Schwann cells fail to produce myelin in normal quantities and (2) the axons in their nerves have a calibre which is nearly half normal. When segments from the sciatic nerve of normal mice were transplanted to sciatic nerves of Trembler mice with this deficiency, both the myelin deficit and the axonal size were corrected along the segment where axons from the host (Trembler mouse) were ensheathed by transplanted normal mouse Schwann cells.

This observation in this and other strains of mutant mice as well as more recent studies of Schwann cells from human peripheral nerve diseases grafted into normal host mice demonstrate that the transplanted Schwann cells in regenerated grafts reproduce the features these cells had while in the donor's original nerve. Thus, transplated Schwann cells may help correct segmental peripheral nerve disorders, not only by providing Schwann cells for the bridging of traumatic gaps but also by replacing abnormal segments of nerve.

The objective of the experiments I have described has been to develop methods for the transplantation of animal and human Schwann cells. These combinations of transplanted Schwann cells and host axons, each originating from a different animal or from human and animal sources, together with the techniques developed for the in vitro separation of pure glial cells and neurons reported recently by Wood and Bunge (1975) and McCarthy and Partlow (1975) should help delineate more precisely the individual role of nerve and glial cells in regeneration as well as to improve our understanding of the transplantation requirements for the use of glial cells in the treatment of nerve and spinal cord injuries.

Recent accomplishments in the experimental transplantation of mammalian nerve cells and in the characterization of cell markers for glial cells and other cells, as well as a better understanding of factors that influence glial cell division are steps which should be important in the development of a scientific approach to the problem of nervous tissue repair and replacement.

Major areas of clinical and basic research into development and regeneration of the nervous system must be encouraged and supported in order to fulfill this role. To suggest a few important areas I would like to mention those related to the study of (a) cell interdependence in the nervous system; (b) the development of better techniques for the culture and storage of glial and nerve cells; (c) nerve transplantation immunity and nerve tissue matching techniques; (d) factors that influence the growth of axons and guide them towards their target organs; (e) carefully designed and controlled experiments on Schwann cell and central glial transplants in the spinal cord of experimental animals.

As a physician and as an investigator, one is often faced with a mixture of frustration and hope. The frustration arises from the realization, as a physician, that there are so many human beings who remain permanently disabled by neurologic damage after spinal cord or peripheral nerve injury. Hope on the other hand, comes from the awareness that never before have there been so many advances in the clinical and basic neurosciences studying regeneration and functional restitution of the nervous system.

Completing the discussion of new scientific approaches is Michael Young, M.D., head of the Laboratory of Biochemistry at Massachusetts General Hospital:

REMARKS BY DR. MICHAEL YOUNG ON MAY 3, 1977

Nerve growth factor (NGF) is a protein, discovered nearly thirty years ago, which has the capacity to stimulate the growth of sensory and sympathetic nerves. A major source of NGF is the mouse submandibular gland (for reasons unknown), and recent studies in one laboratory have shown that many different kinds of cells also secrete NGF. This finding led us to compare the chemical properties of cell-secreted NGF with those forms of the protein (from submandibular gland) which have been well-known for many years. The results of these studies indicate that the naturally occurring, naturally secreted form of NGF has not been heretofore recognized. We have now succeeded in purifying this protein, and it may well be that it possesses biological actions on elements of the nervous system which have so far not been appreciated. Experiments to test this possibility are currently underway in our laboratory.

Discussing the balance between cooperating and competition in research begins with Richard L. Sidman, M.D., Bullard professor of neuropathology at Harvard Medical School. Dr. Sidman is also chairman of the Department of Neuroscience at Children's Hospital Medical Center.

BALANCE BETWEEN COMPETITION AND COOPERATION IN RESEARCH, RICHARD L. SIDMAN, M.D., HARVARD MEDICAL SCHOOL AND CHILDREN'S HOSPITAL MEDICAL CENTER, BOSTON

First, let me deal briefly with the "competition" theme. The research policy of the National Institutes of Health, the National Science Foundation, and even the Veterans' Administration has been quite deliberately *not* to direct research, but to receive more or less passively what the individual scientists around the country choose to propose, and then to judge their proposals in competition with one another by peer review. *This is free-enterprise competition at its best.* It has given the NIH an unparalleled record in the annals of government for disbursement of large sums of money for more than a quarter century without scandal and with immense positive results in terms of improved health of U.S. citizens.

This very success has made the NIH sometimes uncomfortable with line items in its budget or even with guidelines from its own advisory groups to the effect that this pressing medical problem or that pressing problem needs special attention. But the public and the Congress come at this from another angle; they *know* what ails them, or think they know. Their concern stems from the fact that there are 5 to 10,000 new cases of major spinal cord injury per year in this country. The direct cost for the first 200 days averages about $40,000 ($200 per day) per patient. Thus, the acute care *for new cases alone* is about $3,000,000/year. Members of the public who live with or near a quad or paraplegic, and the patients themselves, recognize that a cure is far off, but that every month of delay in implementing a research program is a tortured month longer for all patients. It is time for *cooperation*, in addition to competition.

All of us at times tend of think of research as "basic versus applied," "non-directed versus directed" (or even "good guys versus bad guys"—which is which depending on where one sits). Yet we all know that biomedical science is a continuum. Toward one end of this continuum, basic non-directed Neuroscience research is vital. Unless it goes on, we might as well all quit now; we simply do not yet have all the fundamental information we need to crack this problem of regeneration in the central nervous system. Fortunately, basic Neuroscience is one of the healthiest wavefronts in all science today. For example, at this summer's 27th International Congress of Physiological Sciences in Paris, of the 71 topics with broad perspective titles, 38 (56%) address problems in Neuroscience. At the annual meetings of the Society for Neuroscience in 1975 there were no papers in the Spinal Cord category, and in 1976 there were 45.

On the key topic of Plasticity, the number of reports increased from 19 in 1975 to 58 in 1976. From all this vigorous activity, we have gained a handle on the shape of the research problem. Powerful methods are available for a cooperative attack on what initiates growth of a nerve fiber, what sets its direction of growth, how does it recognize an appropriate target cell and make functional connections with it, and what are the chemical and physical properties of cell surfaces that allow selective cell recognition. These issues are somewheres toward the middle of the continuum of non-directed and directed research, and are now ripe for special emphasis and financial support.

Who and where are the scientists trained and willing to work on these and related problems? Some are in this room, and each of us working on the topic easily could name another 30 or more. One of the facts of life is that very few of them currently work directly in Clinical Trauma Centers or Spinal Cord Injury Centers. Clinical Centers have not been very successful, historically, in producing new ideas; they serve a different and extremely valuable function of setting high standards of clinical care. So we have to take the support money, and lots of it, to where the key investigators work—in university, hospital, and industrial research departments that are capable and willing to mount a major research attack on CNS growth and regeneration. My informal opinion is that between $15 and $20,000,000 could be used with profit right now, and that by planned increases over the next three years the figure would plateau at about $35,000,000. This figure is more than Dr. Tower's current estimate, but is less than 10% of the annual cost of new cases alone.

Cooperation should be fostered on two additional levels. One of these is between universities and industrial technology. It is my belief that industry offers an untapped reservoir of skill that could contribute immensely to therapeutic progress for the handicapped at many levels—from computer graphics technology that we need to extract useful data from our pictures of the very complex interior of the spinal cord, to materials technology that could provide new

biodegradable substances for prosthetics that might guide regenerating nerve fibers toward the described targets within the spinal cord.

The final area of cooperation I should like to suggest, and here I am a layman simply posing an issue beyond my competence to discuss in any depth, is cooperation with and from the accident insurance, automobile, and small firearms industries. Each of them has a considerable stake in reducing the costs of the chronic care consequent to nervous system trauma. Let me close with a question. Since even Congress cannot go on creating new funds out of thin air for worthy medical causes, I wonder if Congressional wisdom and leadership could generate a sensible and practical formula that the pentinent industries—with their own futures in mind—would agree to as a means of partially underwriting the cost of this research effort?

The final speaker, Donald H. Yarborough, is vice president of Paraplegia Care Research. Mr. Yarborough has had several years of experience in mobilizing scientific research in compressing time between the development of an idea and the application of other scientific endeavors in a number of health areas.

REMARKS BY DONALD H. YARBOROUGH ON MAY 3, 1977

Today, May 3, 1977, can represent a turning point in regeneration and neuroprostheses research as they relate to finding a cure for the chronic condition of paraplegia. I say this not based solely upon what you and I have heard today as exciting as that has been, but also because of the way it has affected us. Without question, all of us have a new awareness that neuroscience has transcended a subtle but significant threshold and emerged at a new plateau. A plateau when realistically we can hope, where realistically we should expand our efforts to stimulate and energize the lay and scientific members of the community to a greater mutuality of commitment toward curing the condition of paraplegia.

But what is it about this new stage of the science, or as scientists say the "state of the art" that makes things so potentially different? I would say it is because we are entering, if I perceive correctly, the "competitively stage"—that point where knowledge begins its self generating phase, where the interplay of the practical and the theoretical cause functions of insights. It is the turning point where time which often seems to stand still in basic research begins to move rapidly under the impetus of new realizations. Today, when the competitive point is reached in science, numbers of people begin to realize a new horizon of possibilities, and the scientists perceive that the limiting factor remaining in their own willingness to seek out colleges whose capabilities will enhance their own. In that sense, it becomes as much a function of personality inclination as scientific perception.

The competitive stage is frequently the preclude to a breakthrough. In the instance of the regeneration research today, a critical mass is forming because of the predecessor scientists like: James B. Campbell, who demonstrated in the 1950's that fibers could grow across an injury in the spinal cord and could transmit stimuli; and Leslie Freeman, who with bacterial polysaccharides and enzymes demonstrated partial recovery of function. For the last 20 years the search has continued for the clues, the pieces of knowledge, vital to provide an intellectual grasp of the field. This work has supplied a beginning foundation. Now independent investigators are taking steps to not only demonstrate what a single approach can do but are looking toward collaborative efforts with the justified expectancy of greater effectiveness through combined research. Inevitably, as a science sophisticates, the outlines of the larger problems with multifactorial aspects become clear.

Therefore, through necessity it becomes increasingly critical for scientists to work together on a specific piece of the larger problem. The competitive stage, despite ushering in the atmosphere of a race, often gives rise through necessity to many jointly conceived and jointly pursued projects. It is often realized that it is necessary to collaborate to win. The competitive stage had been reached for example when Watson and Crick collaborated to make the collossal discovery of the structure of D.N.A., which over-night converted biology into the potentially dominating scientific force of this century.

Yes, the time for highly significant breakthroughs quite possibly has arrived. Sometimes it takes years to realize when a breakthrough has occurred. In the case of penicillin, it took approximately 15 years. We have heard about experimental findings today, that when looked at by future scientific historians, may be classified as major breakthroughs. What have these candidates for major breakthroughs told us?

We heard Dr. Kao say, and exhibit through film, things that seem incredible. Obviously, if his experiments are again successfully performed with monkeys (Dr. Ommaya of NINCDS is performing these operations now), and then in a higher order of simians, such as chimpanzees, then we can look at the central nervous system nerve graft program as having unquestionably achieved a major milestone on the way to curing paraplegia in the near, rather than distant, future. To a layman, the very fact that you could have regeneration occur by taking a piece of peripheral nerve from the leg of a dog and implant it in the central nervous system, and that after an appropriate recovery period (two months) the dog could walk in the manner in which you saw today and have restored function, is truly remarkable.

The question remaining for the scientists is whether this is actually regeneration we have seen or the action of the highly developed reflexes of the lower spinal column of the dog. Dr. Kao said today, that using sophisticated techniques of observation at the point of graft showed obvious and considerable regeneration. He further indicated to me that he has performed highly sophisticated neurological experiments which involve appropriately placed stimulation of the brain by electrodes and thereby excited responsive muscular action in the subject dogs. This would seem to be very persuasive proof of regeneration.

Obviously, the nerve graft field may be on the threshold of a major breakthrough—certainly we would all agree that it deserves great emphasis and support to move this vital research along as rapidly as possible. Hopefully, Dr. Kao will find new collaborative opportunities where he can work with other scientists whose work can enhance the chances for success. Here is a golden opportunity for time compression in the search for a cure to paraplegia.

Another fascinating area of research that we heard about today was glial transplants (these cells surround the nerve cells). Glial cells probably play a key role in regeneration and guidance of nerve fibers back to the point of reconnection where a break has occurred. Here again we heard a most impressive success story. The glial cells of the peripheral nervous system (in the limbs) based upon recent discoveries seem to be none too specific and therefore can be transplanted from one point to another in the peripheral nervous system. Dr. Aguayo's work has now reached the point where he is taking central nervous system glial cells and attempting to transplant them into the peripheral nerves of animals. It is my impression that if this current series of experiments is successful, then the reverse could probably have a realistic chance of being successful. Dr. Aguayo, I hope you will attempt the transfer of peripheral glial cells into the central nervous system as soon as possible. Dr. Aguayo, if you are successful in your experimental steps, perhaps this is a rare opportunity to establish collaborative efforts between yourself and other groups in this country whose work could advance and speed up your own. Hopefully, the NINCDS would respond favorably to this kind of trans-institutional type of proposal that would have the promise of consolidating the findings of several groups in a manner that would lead effectively toward restored function.

Dr. Michael Young, from Harvard, stated that nerve growth factor as we have known it for the past 30 years is only a small remnant of what the real nerve growth factor as it occurs in of what really consists the natural state. When you take an entire molecule (of which you previously had only 1/10), as is in effect the case here, and then consider by virtue of this increased surface area the possibility of other active sites being discovered on the molecule, it could quite possibly have enormous impact in terms of motor nerve regeneration. Up to the present time, there has been no success in using nerve growth factor (as we previously knew it) to stimulate motor nerves despite its obvious and demonstrated effect on sensory nerves. The explanation could be that the smaller remnant of the naturally occurring large molecule only contained the active site for sensory nerves. Now that the new molecule has been fully defined, it is quite plausible that the active site for motor nerve regeneration may be identified—thus making extensive motor nerve regeneration a distinct possibility.

The suggestion that Dr. Grossman made concerning the possible by-pass of injury through electrical devices, perhaps is one of the most important health research developments which has been advanced in this decade. If such a by-pass of injury is attempted, it will probably involve six to eight disciplines. In essence what is involved is an insight into our present capacity to interrelate capabilities of two great areas of science—electronics and neurobiology. The relationship could not be more obvious but the subtle ability to join the two has only become a possibility in the last year. Now the question is whether the pieces to be assembled from diverse disciplines are sufficiently hard and their outlines definable enough that the assembly can be appropriately and effectively made.

Examples of these disciplines are: mini computers (a field which is exploding currently), new transduction techniques, biologically compatible chronic implants, nerve mapping, gate analysis, and amplification of nerve signals. Now if such a pilot type program is launched in the near future, and it certainly appears that the time has come to seriously consider such a program, then, we can gather the essential information necessary to decide the feasibility of a NASA type integrated program. This program would be designed to interface technology and neurobiology in a major undertaking to solve the problems of paraplegia through an electronic cure.

Obviously, to launch such a program we must be convinced that the time is ripe. To make the correct decision we need to begin exploring the possibilities for effective interfacing of disciplines and ferreting out the problems in pilot project trials—locating where intensified basic research should be concentrated, and where targeted applied research should effectively commence. The action steps leading toward such a decision seem obvious and I shall set forth a few, but first there must be an overview management component provided capable of dealing with the interrelated facets of the problems which will arise.

The HEW and the NIH (and its respective institutes) have not yet utilized the high management capability to move basic into applied research programs. This capability has emerged as a major force in the business, defense, and the other sectors of our government and economy to full advantage. Hopefully, now, under a new technology transfer approach they are beginning to move in the proper direction. But, if this lack of managerial utilization continues, it will be extremely unfortunate for the country because the stakes, as they are in the case of defense, are life and death.

So, what we have witnessed here today, is several outstanding scientists who have come before us, including Dr. Sidman, telling us in effect that we are perhaps farther along than we thought—that there are possibilities on the horizon that can make significant differences in paraplegia cure research in a relatively short period of time.

I have found that things happen quickly or slowly based upon the degree of determination involved. I remember asking a West Texas black dirt farmer once how he had made such an incredible fortune in farming. I will share his answer with you. He said "a sign I read changed my life. When I was a boy sitting in a dentists chair, I saw a sign on the wall that was written in old English script and it said 'to him that sitteth it cometh, but to him that goeth after it, it cometh a darn sight faster'." As simple as that truth is, often our brightest educated people forget to apply it.

The time can be compressed enormously. I was recently told by one of America's most eminent neuroscientists that the time frame in regeneration research can be squeezed down to one fifth of the present time frame if the proper measures are taken immediately, such as the proper financial support, the proper leadership, and if the proper scientific energies are focused collaboratively (program project grants) on the problem in a realistic way. In science circles, there is a dictum called "Clarks law" which states, "if the most eminent scientist in a field, whose age is over 50, comes forward and states a particular problem is insolvable, then, without exception, within a surprisingly short time, that will be the next big problem solved. There is not one scientist here that is eminent enough or smart enough to tell whether the problem of paraplegia will be solved in the next six months or the next sixteen years. Perhaps the greatest challenge of science is this uncertainty, the chance of the big breakthrough around every corner. No one here is sure who might announce tomorrow a breakthrough of momentous proportions.

There is one more scientist who we heard from today who should be particularly mentioned, Dr. Richard Sidman of Harvard, one of the true leaders on paraplegia cure research. He heads up the only program project grant investigating regeneration (several scientists in a collaborative effort) funded by the NINCDS and he was also a member of the 1975 Task Force which reported its findings to NINCDS. The Task Force report called for intensified expanded efforts in eight fields of research which related to regeneration. The report also stated the field is "now ready for a push"—obviously such a major push has not occurred despite very exciting developments in the field. The present level of regeneration research support has been wholly inadequate to comply with the mandate of the task force. It now stands at approximately $2,146,000 per year. Dr. Sidman has called for a realistic expansion of this sum. He states that regeneration research should be financed to the tune of $15 million annually, and in the beginning, it should be expanded to approximately $35 million annually within the next three years. Obviously, if the Task Force report is to have any meaning, the present program must be significantly expanded and I feel Dr. Sidman has made a great contribution by setting forth his views that the time has come for action in this critical field.

I am sure all of you were most interested to hear from Dr. Tower, the Director of NINCDS, who provided us with figures which highlight the seriousness of the paraplegia problem to the entire nation. In this connection, I would like to comment that in recent testimony before the Senate Labor H.E.W. subcommittee Dr. Tower testified that he could effectively use an additional $6,000,000 for paraplegia research.

At this time some acknowledgements are in order. First let me express the thanks of Paraplegia Cure Research to these scientists who have traveled long distances to tell us of their exciting work. Second, I would like to thank our host Congressman Bill Frenzel. Bill, you have been magnificent, your selfless efforts to make this luncheon a magnificent success has gone far beyond any commitment you assumed to co-host this affair. I think, Bill, you would agree, we are all exceedingly fortunate that Pat Browne is a member of your staff. She has made this occasion run smoothly and efficiently. She has been a delight to work with. Pat, you have done a grand job and, we are all deeply appreciative.

I would like to also commend Steve Thomas and Nancy Haynes of P.C.R. for helping so selflessly in the arrangements and certainly I would like to express our particular appreciation to Bill Auberger, who made the financial arrangements that made this luncheon possible.

You know that time and time again, once the light of emphasis shows upon a particular field, then that field will move forward. I think we have great and good reasons to see to it that the condition of paraplegia is cured. Together, we will see to it that it happens in the shortest possible time.

In closing, I would like to paraphrase from the words of Robert Frost "We have promises to keep and miles to walk before we sleep."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WOLFF (at the request of Mr. WRIGHT), for an indefinite period, on account of serving as U.S. Representative to the U.N. General Assembly session.

Mr. MARLENEE (at the request of Mr. RHODES), for today and the balance of the week, on account of a death in the family.

Mr. MONTGOMERY, for the balance of the week, in connection with Missing in Action, when 22 more Americans' remains will be returned to the United States on October 1 in Hanoi.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) and to revise and extend their remarks and include extraneous matter:)

Mr. SEBELIUS, for 10 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous material:)

Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. NEAL, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCHEUER, to revise and extend his remarks at the end of the debate and immediately before final passage.

Mr. FRENZEL, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,690.50.

(The following Members (at the request of Mr. MARKS) and to include extraneous material:)

Mr. ARCHER.
Mr. SARASIN.
Mr. DERWINSKI.
Mr. WHITEHURST.
Mr. GILMAN in two instances.
Mr. SNYDER in two instances.
Mr. GRADISON.
Mr. SHUSTER in two instances.
Mr. RINALDO.
Mr. COHEN.
Mr. REGULA.
Mr. DORNAN.
Mr. SYMMS.
Mr. STEERS.
Mr. HYDE.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. MINETA.
Mr. DE LUGO.
Mr. ROBERTS.
Mr. LUNDINE.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. KILDEE.
Mr. BLOUIN.
Mr. EILBERG.
Mr. WEISS.
Mr. RICHMOND.
Mr. PHILLIP BURTON.
Mr. VANIK.
Mr. WOLFF.
Mr. MATHIS.
Mr. MILFORD.
Mr. MITCHELL of Maryland.
Mr. MAZZOLI.
Mr. MOTTL in two instances.
Mr. SOLARZ in two instances.
Mr. SIMON.
Mr. DE LA GARZA.
Mr. DODD.
Mr. LEVITAS.
Mr. BAUCUS.
Mr. LEDERER.
Mr. ALEXANDER.
Mr. NEDZI.
Mr. RANGEL.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1435. An act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Friday, September 30, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2475. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Emergency Livestock Credit Act; to the Committee on Agriculture.

2476. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by O. Rudolph Aggrey, Ambassador-designate to Romania, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2477. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the period April–June 1977 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories, pursuant to section 11(c)(2) of Public Law 93–319; to the Committee on Interstate and Foreign Commerce.

2478. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to make certain technical amendments with respect to the pretrial services agencies established under title II of the Speedy Trial Act of 1974; to the Committee on the Judiciary.

2479. A letter from the Administrator, General Services Administration, transmitting a report on the feasibility and need for construction of a courthouse and Federal office building (CT-FOB) in Springfield, Mass., in response to a resolution of the House Committee on Public Works and Transportation; to the Committee on Public Works and Transportation.

2480. A letter from the Secretary of Commerce, transmitting the sixth annual report of the National Advisory Committee on Oceans and Atmosphere, pursuant to section 4 of Public Law 92–125; jointly, to the Committees on Merchant Marine and Fisheries, and Government Operations.

2481. A letter from the Comptroller General of the United States, transmitting a report on the agreement reached between the Department of the Treasury and the General Accounting Office to facilitate GAO reviews of international monetary and trade matters by providing for access to information relating to certain uses of Exchange Stabilization Fund resources; jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

SUBSEQUENT ACTION ON A RESOLUTION INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following action was taken by the Speaker:

The Committee on House Administration consideration of referred portions of the resolution (H. Res. 766) for providing the reform of the administrative organization and legislative management services of the House of Representatives extended for a period not later than September 30, 1977.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of Sept. 28, 1977*]

Mr. MAHON: Committee on Appropriations. A report on subdivision to subcommittees of budget totals agreed to in Second Concurrent Resolution on the Budget (H. Con. Res. 341) for fiscal year 1978 (Rept. No. 95–643).

Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Sept. 29, 1977*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 7320. A bill to revise miscellaneous timing requirements of the revenue laws, and for other purposes; with amendment (Rept. No. 95–645).

Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 798. Resolution providing for the consideration of H.R. 4297. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978. (Rept. No. 95–646). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 799. Resolution providing for the consideration of H.R. 8410. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act. (Rept. No. 95–647). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 800. Resolution providing for the consideration of H.R. 9354. A bill to amend the act of August 25, 1958, with respect to staff allowances for former Presidents. (Rept. No. 95–648). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 266. An act to amend Public Law 92–314 to authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes; with amendment (Rept. No. 95–649, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Omitted from the Record of Sept. 28, 1977*]

By Mr. MAHON:

H.R. 9375. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

[*Introduced Sept. 29, 1977*]

By Mr. APPLEGATE (for himself, Mr. GUYER, Mr. BOWEN, Mr. PRICE, Ms. MIKULSKI, and Mr. YOUNG of Alaska):

H.R. 9376. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. PEPPER, Mr. AKAKA, Mr. BADILLO, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. FRASER, Ms. HOLTZMAN, Mr. HUGHES, Mr. GLICKMAN, Mr. LE FANTE, Mr. LEHMAN, Mr. MIKVA, Mr. MOAKLEY, Ms. OAKAR, Mr. OTTINGER, Mr. OBERSTAR, Mr. PANETTA, Mr. SCHEUER, Mr. TRIBLE, Mr. VENTO, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, and Mr. KOCH):

H.R. 9377. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop and provide for the enforcement of standards relating to the rights of patients on certain medical facilities; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DENT (for himself, and Mr. ERLENBORN):

H.R. 9378. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans; to the Committee on Education and Labor.

By Mr. KEMP:

H.R. 9379. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for amounts contributed to certain organizations the primary purpose of which is the support of the arts and humanities, and to allow an additional deduction for certain charitable contributions; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 9380. A bill to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities; to the Committee on Ways and Means.

By Mr. METCALFE (for himself and Mr. LEGGETT):

H.R. 9381. A bill to amend title 18 of the United States Code to establish an Office of the U.S. Correctional Ombudsman; to the Committee on the Judiciary.

By Mr. MOAKLEY (for himself, and Mr. CHARLES H. WILSON of California):

H.R. 9382. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. ROE (for himself and Mr. LE FANTE):

H.R. 9383. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. ST GERMAIN (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. ALLEN, Mr. BADILLO, Mr. CONYERS, Mr. CORMAN, Mr. CORRADA, Mr. DRINAN, Mrs. FENWICK, Mr. GORE, Mr. HAWKINS, Mr. HOWARD, Mr. KOCH, Mr. LE FANTE, Mr. MATTOX, Mr. MCCLOSKEY, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MUR-

FRY of Pennsylvania, Mr. MURPHY of Illinois, and Mr. RAHALL):

H.R. 9384. A bill to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WEISS:

H.R. 9385. A bill to amend the Hazardous Materials Transportation Act of 1975 to prohibit the transportation of radioactive materials in densely populated areas; jointly, to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. WINN (for himself and Mr. COLEMAN):

H.R. 9386. A bill to amend the National Gas Act to provide certain limitations on gas curtailment plans; to the Committee on Interstate and Foreign Commerce.

By Mr. GOODLING:

H.J. Res. 607. Joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on Post Office and Civil Service.

By Mr. MINISH:

H.J. Res. 608. Joint resolution requesting the President to proclaim the second week of May as Municipal Clerks' Week; to the Committee on Post Office and Civil Service.

By Mr. APPLEGATE (for himself, Mr. STRATTON, Mr. MILLER of Ohio, Mr. WALSH, Mr. FLOOD, and Ms. MIKULSKI):

H. Res. 801. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

279. By Mr. QUILLEN: Petition of J. R. Bowman, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

280. Also, petition of Joe Horton, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

281. Also, petition of Sammy K. Keesecker, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

282. Also, petition of S. Lee Vance, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8309

By Mr. BLOUIN:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty day of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System, (b) the long- and short-term systemic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (4) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cario, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(1) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

H.R. 3816

By Mr. LEVITAS:

Page 36, line 9, insert ", subject to paragraph (3)(B)," after "then".

Page 36, line 25, insert "(A)" after "(8)".

Page 37, line 1 ,insert ", other than a class action," after "action".

Page 37, line 3, insert the following:

"(B) Any person, partnership, or corporation which intends to commence a class action under paragraph (1) shall notify the Commission in writing of such intention. No such action may be commenced if the Commission, during the 60-day period following the receipt of such notice—

"(i) commences a civil action, based upon the rule violation or cease and desist order violation which is alleged by the person, partnership, or corporation giving notice to the Commission, against the person, partnership, or corportion which would be the defendant in the action which the person, partnership, or corporation giving such notice intends to commence; or

"(ii) transmits notice to the person, partnership, or corporation giving notice to the Commission that the class action which such person, partnership, or corporation intends to commence would interfere with, or would be inconsistent with, any policy or activity of the Commission in enforcing or otherwise carrying out the provisions of this Act.

H.R. 7010

By Mr. ICHORD:

Page 3, line 19, strike the period in said line and insert the following: "*Provided*, That such grants shall not be made if the Federal revenue sharing funds received or to be received by the state during the fiscal year in which the grants are to be made exceed the amount of the grants for which the state qualifies under this section.".

SENATE—*Thursday, September 29, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Our Father-God, we come to Thee, not in our merit but in our need of Thy grace, wisdom, and strength. We pause to renew our vows that we may lift our service beyond ourselves to the higher order of Thy kingdom.

We are burdened by problems yet unsolved, by duties yet to be performed. Shed Thy light upon our pathway.

Take from us, O Lord, all pride, all self-seeking, all pretensions to perfection, all false piety. Take away all that blocks finding and doing Thy will. Put truth on our lips, joy in our hearts, and on our faces put the radiance of divine grace. May goodness and mercy follow us all our days that we may abide in Thy kingdom forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 29, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, September 26, 1977; Tuesday, September 27, 1977; and yesterday, Wednesday, September 28, 1977; be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONVENING HOUR OF SENATE TOMORROW AND SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow, it stand in recess until the hour of 10 o'clock a.m. on tomorrow and 9 a.m. on Saturday, respectively, it being understood that both times may be changed later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes of my time to Mr. ABOUREZK.

Mr. ABOUREZK. Mr. President, I shall use my own time.

Mr. ROBERT C. BYRD. The Senator does not have any at this moment. I was thinking of yielding from the majority leader's time under the standing order.

Mr. ABOUREZK. Yes, I would appreciate that.

Mr. ROBERT C. BYRD. Mr. Allen has a 15-minute order backed up behind the two leaders.

I yield 2 minutes to Mr. ABOUREZK and 2 minutes to Mr. METZENBAUM.

COMPREHENSIVE NATURAL GAS POLICY

Mr. ABOUREZK. I thank the majority leader.

Mr. President, I asked for the time merely to clarify my position and that of Senator METZENBAUM—and he will speak for himself—on the compromise proposal that was offered last night by the distinguished majority leader. We have discussed this overnight and have come to the conclusion that, even though it is not the kind of compromise that we would ordinarily agree with, we think that it is time that the stalemate in the Senate come to an end in a satisfactory manner to most people. It may not make all of us happy. It will not make me happy; I know it will not make HOWARD METZENBAUM happy. But I think most people will be happy with it.

Not with any great degree of enthusiasm, I wish to state that I am able to support the compromise offered by the distinguished majority leader if it remains intact. I do want to say that, if there are efforts made to put deregulation amendments on that and revert the situation back to where we have had it, then it is understandable that I personally would not be able to support it and will use whatever means are available to me to prevent the deregulation of natural gas, as I have announced earlier.

I thank the majority leader for giving me this time. I want to congratulate him, incidentally. I think the majority leader is due a tremendous amount of congratulation for his tremendous leadership in breaking out of a very difficult parliamentary and issue situation that we have been in. I think he is due a great deal of thanks and congratulations on the part of all of us.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished friend from South Dakota for a very generous compliment.

Mr. METZENBAUM. Mr. President, I think it has been evident for a number of days that the only person who could possibly bring some resolution of this issue is the majority leader of the Senate, because only he, with the prestige and respect and affection that the Members of the Senate have for him, would be able to resolve—hopefully—the strong differences that presently exist between the various factions on this subject.

Senator ABOUREZK and I have made our views known. We really do not approve of the $1.46 price that is presently in the law. We do not approve of the increase to $1.75 that the administration proposes. But we went along with that in committee in an effort to bring the matter to a resolution and also to include intrastate gas.

We certainly do not agree and do not approve of the $2.03 figure that is included in Senator JACKSON's proposal, the leadership for which is being provided by

the majority leader. We do not agree with the new definition of natural gas, which I am told will cost the American people something in the area of $6 billion between now and 1985. We do not agree with the exclusion from regulation of exotic fuels, which is provided for under the compromise.

Having said all of that, as Senator ABOUREZK has so well stated, we are prepared to support the compromise in an effort to break the stalemate—not because we approve of it, but because we think that it is far better than total deregulation.

I wish the majority leader well and wish him success in his efforts, because not I, nor Senator ABOUREZK, nor any of the rest of us really has the enthusiasm or desire to continue to make the battle over total deregulation. But absent a compromise, I am certain our resolve would be no different than that we have evidenced in the past couple of days.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Ohio for his very kind and good remarks.

Mr. BAKER. Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I think this is an important time. I think that what we have just witnessed is a statement by the distinguished Senator from Ohio and the distinguished Senator from South Dakota saying that if the Jackson amendment, as proposed in the motion on yesterday, is adopted, they will not filibuster any more.

As I understood their remarks, they said that if the Jackson amendment as proposed in the motion to recommit with instructions is amended to include Pearson-Bentsen, they will filibuster some more.

But I do not know if that really changes things too much, and I am not sure that beyond the good work of the majority leader in bringing us to a place where we can get at these issues without going through the remaining 400 amendments at the desk, we have done much.

But I think it is worth looking into, Mr. President. I think all of us owe the Senate and ourselves that responsibility. We will take a look at it and see where we are going and how it might develop.

While I have this time, and I see the majority leader on the floor, I would like to explore a possibility.

We are in cloture, of course, and we have limitations on time for speeches and on the procedural aspects of the amendments at the desk, but we also have a very new element, and that is the question of dealing with this motion.

I have people who have deep, vital interest in this matter, as there are on the other side.

I wonder what the majority leader would think of trying, notwithstanding the restrictions of cloture, to set a time late this afternoon, say, to consider this matter, to give us all time to work through it.

Maybe by unanimous consent to abrogate just the debate provisions of the situation as it relates to this motion, not change the amendment situation, we can have some general debate on this motion during the day. Later this afternoon we can try to decide upon a time certain to vote on amendments, if there are amendments to the instructions, on the motion itself, or on the motion to table the motion, if there is one, and other dispositive matters we would need to consider.

Mr. ROBERT C. BYRD. Mr. President, I am delighted that the distinguished minority leader has asked this question.

I would be equally delighted to work with him and others on both sides of the aisle in attempting to reach an agreement as to a time on tomorrow for a vote or votes on the motion, on the instructions, on amendments to the instructions, and so on. I believe that we ought to do that because, as the distinguished minority leader has accurately stated, there are Senators on both sides who are vitally interested in this whole question, and if we can arrive at those times for votes, then all Senators will know when such votes are going to occur.

So, let us strive to work out an agreement.

Mr. BAKER. Mr. President, I thank the majority leader for that general expression.

It is 10:15 now. I wonder then, for the time being, until 12 o'clock, if we could agree as a preliminary matter that the restrictions on time limitations for general debate for individual Senators would be abrogated as to debate relating to this motion.

That would give us time to try to get together to see what we can do.

Mr. ROBERT C. BYRD. I would be very agreeable to dividing the time between the hour of 10:30, or some such, when Senator ALLEN completes his statement under the order, having the time under the control of Mr. JACKSON and Mr. PEARSON for general debate only until 12 o'clock, if this is agreeable to those Senators, and others.

Mr. BAKER. With the understanding that at 12 o'clock, all that would happen is that the abrogation of the time limits would end and be back where we started.

Mr. ROBERT C. BYRD. Exactly.

Mr. BAKER. And by then we could know if we could establish a time certain on the motion or any amendments to it.

Mr. ROBERT C. BYRD. Exactly.

TIME ALLOCATION AGREEMENT

Mr. President, I ask unanimous consent that upon the conclusion of Mr. ALLEN's remarks under the order that has previously been entered and when the Senate resumes consideration of the unfinished business, that no motion, amendment, point of order, or appeal, be in order whatsoever until the hour of 12 o'clock; that that intervening time be open only to debate on the motion to recommit with instructions to report back forthwith, or on the general subject matter of the bill which we have been discussing; and that the time be under the control of Mr. JACKSON and Mr. PEARSON, and equally divided, and not charged against any Senator under the cloture rule.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the majority leader.

I yield to the Senator from Kansas.

Mr. PEARSON. Mr. President, the first few minutes of this day have been devoted, to some extent, to a declaration of intentions. I do welcome the statement of the distinguished Senator from South Dakota and the distinguished Senator from Ohio indicating that they would cease a filibuster after cloture if the Jackson amendment, as it is now, would be adopted by the Senate.

Let me just say that I do not have to exhibit my dedication to a concept, or what I think to be the long-range solution to a very critical energy problem in this country, through any use of the rules, or dilatory tactics, or a filibuster, whatsoever. I have not done so in the 16 years in the Senate and I shall not do so in my remaining days here.

As a matter of fact, a great deal of the controversy that I have been involved in has been seeking to do something about rule XXII and the alleviation of unlimited debate where the minority rights are protected, but the majority have a right to make a judgment, and where we have free debate, but where we have the right to make a decision at some time.

The Senate in 1975 gave some expression to what it thought ought to be the solution to the regulation or deregulation of natural gas. A free expression, a good expression.

Today, we have been involved in that same process. If one will look back through the record votes we have had heretofore, while the margin is narrow as a result of the kind of lobbying that is going on from the White House and the Secretary of Energy—proper in every respect—the indications still favor those who have a conviction that the long-range, best interests of this country are in the ultimate deregulation of natural gas. Thus, to accommodate that, the distinguished Senator from Texas and I, once again, introduced a measure which is phased in nature, and then introduced a modification which is phased in nature, both for domestic onshore and for offshore gas.

I do not mind getting beat, Mr. President, but I do not have any intention of giving up.

It will be my intention either through the vehicle of the motion to recommit, or at some other time in the proper way, to continue to push what I think is in the best interests of this country.

Mr. BAKER. Mr. President, I thank the Senator from Kansas.

I think we have made progress since yesterday, and that the procedural device suggested by the majority leader has extracted us from the filibuster that kept us here all night, all day yesterday, and all the previous day.

Wholly aside from creature comfort considerations of health and welfare of the Senate, I think that is great.

I think that the temptation to torture the souls, or to suspend the rules, or to create new precedent, has been avoided.

I think the parties are in a position to exercise their full rights and opportunities to express their points of view. I believe that by the unanimous-consent agreement that was entered into this morning, we have time to decide calmly and dispassionately how to proceed next, without diminishing any right of any Senator.

I should like to say for my own part at this point—and it is not meant to be anything other than my own statement—that within that framework, it seems to me that we are faced with the prospect that the Jackson amendment, as amended, may indeed give us the worst of both worlds; that it may cause high prices and no incentive; that it may give us the price but not the product.

I agree with the Senator from Kansas that we are dealing here with a principle and not just a price.

That is not my final judgment, Mr. President, I am a practical man, and I intend to meet with my colleagues who support this point of view, and we are going to discuss it between now and noon. However, I think the Senate should be on notice that there are many matters to be discussed, many heads to be counted, many risks to be evaluated, and many prospects and potentials to be realized. I think there is a real chance that finally we will prosper and succeed in this argument.

The ACTING PRESIDENT pro tempore. The time of the two leaders has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that each leader be allowed an additional 3 minutes before the order for the recognition of Mr. ALLEN begins.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Texas (Mr. BENTSEN) wishes to say something. I yield to him.

Mr. BENTSEN. I thank the Senator.

Mr. President, I wish to add to what my distinguished friend from Kansas—inasmuch as I am a cosponsor with him of this piece of legislation—has said as to what we see as a basic philosophical difference.

We have tried from time to time to work out a compromise between the forces that we have seen at work in the U.S. Senate. We have seen the free market system work in Texas. We saw the price go to $2.25. We saw it bring on additional drilling. We saw it bring on a surplus of natural gas. Then we saw the price ease and get down to $1.60 on new contracts.

Frankly, the fact that prices have gone to $2.03 is really not what we are striving for. We are trying to see the free market system prevail in this kind of situation.

We see a situation in which we are going to have a deficit in trade of $25 billion to $30 billion this year and a further attack on the dollar. Yet, we say that we are not going to let the market system work in developing the incentives for bringing on the new supplies of gas in this country; that we are going to visit on the producing States the kind of regulation that has led to the problems and the shortfalls we have seen in natural gas; that has seen the incentives to utilize a finite resource instead of some of the alternative types of energy that are available.

This all goes back to 1952 or 1953, when we saw the natural gas bill vetoed at that time over an extraneous matter, not really on the issue, and that is where this kind of shortage began to develop. That is when they cut back on utilization of coal, when they could have brought coal on full stream if it had been a competitive fuel in price.

Now a continuation is what is proposed, a bad regulation, a determination that Washington could make a better decision than the marketplace as to where we should commit our resources. I certainly will continue to oppose it on the basis of that principle.

Mr. BAKER. Mr. President, do I have 3 minutes?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes.

Mr. BAKER. I yield such part of that time as the distinguished Senator from Wyoming may require.

Mr. HANSEN. Mr. President, I am sorry that I could not be in the Chamber earlier this morning. We are having a markup on social security in the Committee on Finance.

As I have reflected and had an opportunity earlier today to talk with those persons who were on the floor yesterday—and that includes almost everyone—I do not really think that we have found the way out of the containment in which we put ourselves when we started this argument. I appreciate the good efforts of everyone who participated and worked hard to try to see if there was a way out. But, basically, I am constrained to believe that the issues are still these: Are we going to let free enterprise operate in this area, to provide answers and to supply gas for the American people? Or are we still going to play around with the system that keeps a control pricewise on natural gas, despite the fact that the price may have gone up?

I think the issue still is that we still will have control. I see nothing to incline me to believe that this offers any permanent solution.

Certainly, we do want to get on with some votes, and I hope we can; but I have to think that basically the issue still is this: Are we going to let the free enterprise marketplace system work in order to give the incentive that has been pointed out time after time will be there and can provide more gas and will generate the sort of activity that can bring this about?

On that basis, I salute those who have worked hard and assiduously in trying to get us out of the problem we are in, but I do not think that the amendment offered by the distinguished majority leader last night gives us that way out.

I yield back the remainder of my time to the minority leader.

Mr. BAKER. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute.

Mr. BAKER. I yield 1 minute to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, in the 1 minute available, I should like to add my words of commendation to the others that have been expressed for the efforts the leadership has made to resolve this problem.

I come down to exactly the same place that others who have spoken earlier have arrived at, and that is that we are making a basic decision, as we deal with this legislation, as to whether or not the politicians and the bureaucrats are going to set gas prices and thus assure continuing and worsening shortages so far as the Nation's fuel supply is concerned.

The other route that is open to us is to find a system of turning loose American ingenuity so that we can begin to develop the abundant natural resources we still have in this country and put an end to shortages, so that we will have plenty of fuel for those who need it, not only for our generation but also for generations to follow.

To me, this is one of the most important decisions Congress is going to be called upon to make in this century, and we should make it to the very best of our ability. We should look not only at the political attractiveness of trying to hold down prices temporarily for consumers, but also, we should take into account the long-range needs of consumers.

We are going to leave a legacy of constant shortages and ultimately drastic increases in price, or we are going to find a way to bring on more supplies. I am not going to be in favor of taking the short-range path, even though it may be politically attractive at the moment.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Alabama is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, I appreciate the distinguished majority leader and the distinguished minority leader arranging for me to speak from time to time, at the start of the Senate hearings, on the subject of the Panama Canal treaties.

This is the 10th speech I have given in the Senate on the Panama Canal treaties since the announcement was made that an agreement had been reached between our negotiators and the Panamanian negotiators, and from time to time in the future while this issue remains before the Senate I do plan, with the acquiescence and assistance of the distinguished leaders, to make speeches here in the Senate pointing out the defects, as I see them, in the Panama Canal treaties.

Mr. President, I am obviously greatly troubled with the substantive provisions of the proposed Panama Canal Treaty and the proposed so-called Neutrality Treaty—since there are two treaties—but beyond my strong objection to the substance of both treaties, I am also greatly concerned that the treaty drafters saw fit to include so much of the meat of these proposed arrangements not in the body of the treaties themselves—by the way, which is not a very voluminous document—but rather in the associated executive agreements, protocols, and minutes. We have agreements and annexes to agreements and annexes to annexes; we have minutes; we have exchanges of

notes between the negotiators; we have protocols, and all of these form a part of the treaties. But the catch is, Mr. President, that these executive agreements can be modified from time to time by executive agreement requiring no assent by the Senate.

So once the treaties are approved, the provisions of the treaties can be greatly altered by executive agreement over which the Senate has no control whatsoever. I am particularly concerned, Mr. President, that the major substantive defense provisions are not actually set forth in the canal treaty in its article IV, which is entitled "Protection and Defense," but appear instead in the proposed executive agreement in implementation of article IV—which is several times as large as the entire treaties themselves. I have that in my hand. Article IV itself does not cover a complete printed page, yet the agreement in implementation of article IV is some 53 pages long excluding annexes and an additional 22 pages of agreed minutes, the minutes themselves having their own annexes.

So if we are going to find out what the Panama Canal treaties really provide, we are going to have to do a whole lot of research, because it is not contained just in the body of the treaties themselves.

Admittedly, some of the provisions contained in these very lengthy documents implementing this very short article IV are provisions which ought not to burden the treaty itself. But, Mr. President, much is in these additional pages which in my judgment should have been set forth in the treaty text rather than in these executive agreements. The Canal Treaty reads:

> The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date.

Mr. President, recognize that the rights that are being talked about here are rights to move, station, and train military forces within what is now the Canal Zone. By this one sentence, if ratified, the Senate would turn over entirely to the executive department all future arrangements regarding our defense rights in the Canal Zone, even during the duration of the treaty.

So, Mr. President, in its present form, what does this agreement in implementation of article IV now provide? Already, the executive department proposes in this executive agreement to surrender 10 out of 14 bases—we have 14 bases down there and we are going to surrender 10 of them right at the outset and to have our forces hemmed in at four relatively small enclaves—and I would encourage Senators, if they have not done so already, to have a look at some of these maps that are contained in the annexes to these executive agreements to get some idea of just how hemmed in our forces are going to be if this treaty is agreed to and implemented.

But, Mr. President, beyond this immediate surrender of 10 military bases, what lies down the road? If we turn to article I of the executive agreement in implementation of article IV of the canal treaty, under the heading "Definitions" is the following explanation:

> Defense Sites: Those areas, and the installations within them, which the Republic of Panama by this Agreement permits the United States Forces to use for the specific purposes of the Panama Canal Treaty, and as the two Governments may otherwise agree, a list of which is set forth in paragraph (1) of Annex A of this Agreement.

In other words, they can wipe it all out by subsequent agreement. So these defense sites are already on pretty tenuous ground. If this thing is ratified, a couple of years from now or sooner, the Department of State could agree—and they seem to be pretty agreeable with this dictator down there in Panama—the Department of State could agree that it was time to shut down another base. Would they have to come to the Senate for ratification of that decision? No. Would they go to Congress for permission to turn over some more U.S. property to a foreign government? Well, Mr. President, they have shown no inclination to do that with this proposal to give away virtually the entire Canal Zone, notwithstanding the Constitution, so I doubt congressional authorization would be sought for simply shutting down one more base. After all, we would have already closed down 10.

I cannot understand, Mr. President, why it is thought if we have 14 bases now to defend the canal and the Canal Zone, why 4 would be sufficient. Is the thought that we no longer have to defend it from the Panamanians and, therefore, we can cut down from 14 to 4 bases? Why is it that the defense of the canal will be so easy after the treaty is implemented? Why does it become so easy unless the bases are there for the defense of the canal against the Panamanians?

I would assume they are not the ones we are defending the canal against, that is, the Panamanians. But under the agreement, the bases would be cut from 14 down to 4.

Now, Senators may not think that this process is contemplated, but I would call attention to executive agreement article IV, entitled "Use of Defense Sites," which is not a part of the treaty but is a part of this proposed executive agreement in implementation of article IV of the canal treaty. Paragraph (1) of this executive agreement article IV reads this way:

> The United States Forces may use the defense sites listed in paragraph (2) of Annex A of this Agreement. . . .

So we have permissive use of these four defense sites, but let us not be fooled into thinking that that use is contemplated throughout the term of this proposed treaty. Paragraph (2) of this article IV of this executive agreement contains the following language:

> Annex A of this Agreement shall be examined every two years or upon the request of either Government, and shall be revised to reflect any agreed elimination or change in areas. The United States Forces may notify the Republic of Panama at any time that the use of a defense site or a military area of coordination or of a specified portion thereof, or other right granted by the Republic of Panama is no longer required. Under such circumstances, said use or right shall cease on the date determined by the two Governments.

This is astonishing, Mr. President. We have already agreed in the body of the executive agreement that we are going to renegotiate it every 2 years or at the request of either government. This treaty is for a proposed term of 23 years. We are going to need negotiators to negotiate this deal if we want to hang onto these defense sites for a term of 23 years with our Government already proposing to negotiate the matter on a biennial basis or upon request.

Would Congress have any say in this matter? No, Mr. President, we will have relinquished effectively any say whatsoever in our military operations in defense of the canal. The Department of State could simply with the stroke of a pen more or less at will wipe out what little they propose to retain.

You know, Mr. President, I am amused by this language in this paragraph (2) in which we are given permission to notify Panama at any time that the right they have granted us to use one of our defense sites is no longer needed. Apparently, someone down at the Department of State thought it was necessary to give us the option to renounce this so-called right of use given to us by the Panamanians in the event pressure was on to move out before the anniversary date of a biennial renegotiation. Of course, on the other hand, it is conceivable with the political turbulence in the Republic of Panama that some new government in Panama might at a future date wish the United States to stay, but the Department of State has been careful to retain the unilateral right to leave anyway.

The more I review this material that is in the treaty and a whole lot more that is not contained in the treaty, but would nevertheless bind our Government the more I am of the opinion that the Department of State is seeking both to obtain ratification of this proposed treaty and at the same time get absolute control of all future dealings with the Republic of Panama inasmuch as the real substance of our relations with Panama can be modified simply by amending these executive agreements with no need for consultation with Congress and no need for approval by the Senate.

But, Mr. President, another motive of the Department of State may have been to bury in these executive agreements some of the more embarrassing terms of this proposed arrangement with Panama. I think that also could well be the case. For example, do the American people know that we would renounce forever the right to place any type of nuclear armament in what is now the Canal Zone? I doubt that they do know that, Mr. President, because that particular provision—this critical major provision—is buried away in paragraph (6) of article IV of the agreement in implementation of article IV of the Panama Canal Treaty.

So it takes some pretty careful reading to find out just what is afoot. Fortunately, we do have time to give complete study to these proposed agreements, and I am confident that the Senate will discharge its responsibilities in ferreting out fully the substance of this proposed deal regardless of how fine the print.

Mr. President, I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The ACTING PRESIDENT pro tempore. Under the previous order there will now be debate until the hour of 12 noon.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to make that 12:15 p.m., because we are starting about 15 minutes later than I think even the minority leader and I had anticipated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The time for control of this debate will be equally divided between the Senator from Washington (Mr. JACKSON) and the Senator from Kansas (Mr. PEARSON).

No motions, amendments, appeals, or points of order are in order during this period of time.

Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a quorum call with the time to be equally divided between the parties.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I yield such time as may be required by the distinguished Senator from Wyoming.

Mr. WALLOP. I thank the Senator.

NATIONAL WATER POLICY

Mr. WALLOP. Mr. President, earlier this month the Interim Joint Agriculture Committee of the Wyoming State Legislature held hearings concerning the issue papers recently published by the Water Resource Council in pursuit of a national water policy. My good friend and distinguished colleague, the senior Senator from Wyoming, while unable to appear personally before the committee, did prepare and submit to the State legislature a statement concerning national water policy.

In his statement, Senator HANSEN eloquently and succinctly detailed the fears and concerns of the people of Wyoming and the West with regard to the options proposed by the Water Resource Council as published in the Federal Register. I find his presentation an excellent one, one well worth the time and consideration of the Members of this body. I ask unanimous consent that the statement of Senator HANSEN be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CLIFFORD P. HANSEN

Mr. Chairman, Committee members, people of Wyoming: It is indeed a privilege for me to be permitted this opportunity to join with the Wyoming State Legislature's Interim Joint Agriculture Committee in commenting on the five issue papers prepared by the Water Resource Council in pursuit of the National Water Policy. I wish to extend to the Committee and to the Legislative Service Office, my appreciation and congratulations for providing to the people of Wyoming a forum before which they might present their views concerning the 110 options contained within the Water Resource Council's July 15 and July 25 publications in the Federal Register.

While hearings were conducted and testimony taken in late July and early August in Denver and Seattle and a number of other cities, I am afraid that the short period between publication and those hearings as well as the time constraints on those presenting testimony may have made a full, complete delineation of the fears and concerns of Wyoming's citizens an impossibility.

Fortunately, this forum, by permitting a more detailed examination of those issue papers as well as coming a few thoughtful weeks after the scheduling of the original hearings, will deliver a clear message to the President and his advisors on water policy.

I must admit that there were few of us who, on hearing the President's May 23 Environmental message, suspected the manner in which those words would be interpreted by the President's advisors or the extent to which they would carry their examination and recommendations.

On July 6, some 40 days after the President's statement, Secretary of the Interior Cecil Andrus announced that a major revision of national water policy was under way, that issue papers reviewing the options available would be prepared upon which comments would be accepted, that hearings would be held across the nation for the presentation of such comments, and that on November 1 the President would announce his final decisions.

On July 15 and then again on July 25, the five issue papers were published in the Federal Register. Contained within these papers were some 21 perceived problem areas and 110 possible options. For the first time, it became very clear that the Water Resource Council was considering massive revisions in the Federal-State relationship in treating our nation's water.

On July 27 and 28 and again on August 1 and 2, a very short time indeed following the publication of such revolutionary recommendations, hearings were held in Denver, Seattle, and other cities. The comment period was to remain open until August 20, permitting those unable to appear to have some impact upon the option papers as published.

Or would it? According to the time table as announced on July 6, the Policy Committee of the WRC was to begin to redraft the option papers on August 1. On August 16, the members of the Task Forces were to select preferred options and preliminary agency positions. Between August 17 and September 1, the final option papers were to be drafted.

It became very apparent to many of us that the WRC would have little time to read, let alone examine and consider the testimony and comments that it was to receive.

On August 3, members of the U.S. Senate's Western Coalition met to discuss the thunderous speed with which the Administration was developing a National Water Policy. A letter was drafted for delivery to the President requesting a 90 day extension to the comment period. In excess of twenty Senators, both Republican and Democrat, signed that letter. On August 26 Secretary Andrus announced that the current period was extended.

I am greatly pleased by the unity and quick action evidenced by the Western Senators. I am sure that the solidarity demonstrated over this issue will not go unnoticed in the continued development by the WRC of a National Water Policy.

I sincerely believe that this extended comment period, combined with the type of forum provided by this committee today will allow more and more Western citizens to comment upon and hopefully influence the direction taken by the WRC. I must say, that since the days of the publication of the issue papers in the Federal Register, my office has been inundated with cards and letters expressing the greatest concern over the objectives of the President's study. I hope that Wyoming people will continue to articulate their attitudes concerning water policies for submission to this committee as well as to the WRC.

Mr. Chairman, today, I would join with Governor Ed Herschler and other distinguished Wyoming leaders who have expressed their objections to and concerns over the very thrust of this proposed National Water Policy.

Ever since gold was panned in California, the concept of prior appropriations has been the system upon which the West has relied in the utilization and development of its water. Based upon this system and the State Water laws developed around it, farms and ranches were created from the frontier. Based upon this system, industry developed. And based upon this system, cities and towns grew up. For over one hundred years the arid West has relied upon this system and developed in accordance with it and grown strong and economically prosperous because of it.

Of the positions advocated and advanced in these issue papers, the one of the most concern to me is the one which appears to advocate a federal takeover or at least the imposition of a heavy federal hand to alter the system of prior appropriations as it exists in the West.

Despite the success which we as a State and as a region have enjoyed with our system of water law, and despite the constant improvements which we have made to that system, the WRC finds our system somehow deficient, somehow lacking, filled with, in the words of issue paper number three, "inflexibility, inefficiencies and inequities."

Governor Herschler, in his testimony in Denver on July 28, gave an excellent point by point refutation of rather general imprecise and inaccurate conclusions drawn in the issue papers concerning the state of western water law. It is not necessary to engage in further discussions on that subject. Suffice it to say that, Wyoming water law does take cognizance of the relationship between ground and surface water, does allow for an expanded definition of beneficial use in order to meet public policy, does prohibit waste, does encourage conservation in the marketplace, does permit transfer of water rights and does provide for instream flow needs.

Ignoring these matters, the WRC proposed that, notwithstanding the fact that these issues be within an area over which "there is not direct federal control," the United States government make use of its many water rights as "proprietor and trustee" in order to oversee the advances of state water law. Additionally, it is proposed that the federal government purchase rights to water and reallocate them to the "most socially desirable and economically productive" use. Another available tool to the thinking of the WRC is that denial of certain water related federal programs to those states whose water law has failed to meet the federal standard.

It is my belief that the concern of the WRC is less with the adequacy of state water laws than with the likelihood or ability of various states to achieve the objectives considered desirable by those in the Administration.

My gravest concern is the threat I see implicit within these policy papers, the threat that, should state governments fail to undertake the changes recommended by the WRC, the administration will, by means of an ever expanding Reservation doctrine, enforce such changes. Thus, by means of the reservation doctrine, it would appear to be the intent of the WRC to bring the West to its knees in forced compliance with these policies or objectives favored by the Administration. Its

ability to do so seems clear, since 61 percent of the flowing water in the 11 western states originates on National Forest and National Park reservations.

It would appear that the reservation doctrine, described by some as a purely "financial doctrine" since it permits a federal taking of water without compensation, is to become a "political doctrine" used by the federal government, as a means of achieving federally desirable objectives.

Professor Frank J. Trelease, writing of Federal-State relations in water law in a paper released six years ago tomorrow, described the scope of state water law:

"State water law is primarily concerned with local conditions, with water rights held by individuals and corporations for commercial purposes, with public water supplies for cities and in general with promotion of state prosperity. State water law is adapted to locate water supply, climate, and demand. Although there is much variation in the laws of different states, there is a uniformity of purpose behind all state water law and all seem directed toward the same goal—a system of certain and secure water rights that will promote and protect investments and provide through the market the flexibility needed to accommodate growth and change, and that are subject to state control to protect the interests of the public. . . . This is the traditional and unquestionable proper sphere of state action."

To my way of thinking, this is the proper area of state action and must continue to be so. I believe that a spirit of cooperation between the federal government and the states should exist and that efforts should be made in an attempt to achieve even greater cooperation. Yet the most fundamental starting point is that of allowing to the states stability of state water rights and the undisturbed administration by each state of its water.

There is another related matter of equally grave concern to Wyoming, that of the status of the reservation doctrine as discussed in issue paper number five.

I am greatly pleased that the WRC feels that there is a need to quantify the amount of water allocated under the reservation doctrine. It is imperative to western states that this sword of Damocles which now hangs above us be at last removed in order that the certainty which is a hallmark of the prior appropriation system may be returned to western water law.

In order that state water law may be carefully administered, in order to achieve the objectives so earnestly sought in issue paper number three, it is imperative that the matter of unquantified and unrecorded reserved water rights be finally resolved.

Yet while I fully support such efforts, I object to an abrogation of the McCarran Amendment, an amendment which since its enactment in 1952 has permitted the adjudication in state courts of the extent of federal reserved waters. The best means of quantifying such rights is to have them determined by state judges and administrators to whom such a process is a routine business. To those who would say that the state courts would subject the federal government to discriminatory treatment, I would answer that the United States Supreme Court has warned specifically that it will permit no unsympathetic or discriminatory treatment of the federal rights by the State Court.

There is one other matter of concern on which I feel comment is necessary at this time although this discussion by no means disposes of all my concerns regarding this Water Resource Policy Study.

That additional matter relates to Section 404 of the Federal Water Pollution Control Act and the proposal that phase II and phase III be turned over to State administration when the State's Water Pollution Control program is found adequate.

It is my position that Section 404 has been taken far beyond the original intent of the Congress. I believe that given that Congress should amend the P.L. 92-500 to return Section 404 to its original application to only "navigable" streams.

With this in mind I supported and cosponsored Senator Bentsen's amendment to the Clean Water Act, an amendment which failed by a vote of 51 to 46.

However, it should be noted that the language of the Bentsen amendment was adopted by the House and that this entire matter must yet be resolved in conference.

Once again, I wish to thank the Wyoming State Legislature for the opportunity to present my testimony today. It is my hope that the comments which this body and others forward to the Water Resource Council will cause President Carter's policy makers to recommend the adoption of those options which will preserve the most fundamental aspects of the federal-state relationship—the ability of each state to govern its own water.

I would also hope that the comments received by the Administration will allow the beginning of a new spirit of cooperation between the federal government and the states in dealing with one of our most precious natural resources.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. WEICKER. Mr. President, I yield myself such time as I may require.

Yesterday a factsheet was placed on my desk by Senator KENNEDY which showed the alleged State and regional costs of the Pearson-Bentsen amendment.

The figures used by the Senator from Massachusetts are only the latest in a series of misleading computations that opponents of deregulation have tried to palm off on the Senate. The Kennedy factsheet appears to be based on a study recently done by the Congressional Research Service which is derived from assumptions that simply are not true.

I would like to point out that all of the State figures being quoted derive their validity only from the study's national figure of the $69 billion cost to consumers over the next 7 years. Let us look at the specific errors. The specific study from which these numbers are apparently taken, which Senator METZENBAUM placed in the CONGRESSIONAL RECORD on September 24, has only the sketchiest explanation of how these numbers are arrived at. In fact, the study notes that:

> Given the time available for our response, we must caution that the analysis is not as complete or comprehensive as it could otherwise be . . . Calculation of the differential economic impacts of the Pearson-Bentsen plan versus the Administration plan should be carried to lengths of sophistication and detail which time does not permit us.

In any study, the details of computation and a clear statement of the method is extraordinarily important. As an example, I recently received a purported study from my own State which contained a flat arithmetic error of $20 million, thereby wildly inflating the alleged cost of deregulation.

As nearly as one can gather from the statement in the RECORD, the study does allow for the assumption that considerable additional gas will be produced under deregulation. However, it assumes that the cost of alternate fuel is $3/Mcf, while the price of deregulated gas will be greater than that under either of the two price studies, the CBO and AGA, it purports to follow. Therefore, according to this study, the more we produce under deregulation, the worse off we will be. This is, of course, preposterously counter to all of our knowledge. It simply shows how important it is to examine carefully the details of any such purported study. In truth, the cost of alternatives in the form of synthetic gas is likely to be in the range of $5/Mcf, and the cost of electricity is far, far more.

I would like to make an additional point on the effects of deregulation on the different regions. We in the Northeast are likely to have the highest costs of alternative energy. We do not have extensive deposits of fossil fuels. Our electric costs are the highest in the Nation and transportation costs mean that oil and coal are more expensive for us. Thus, we have the most to gain through deregulation. Yet, to illustrate the ludicrous lengths to which the document of the Senator from Massachusetts goes, his study attempts to allocate all of the national costs that he cites to States that do not produce gas. He assumes that despite the vast price increases that his studies erroneously assume, none of these will affect the gas being consumed in the producing States. For this to be true, we would have to assume that none of the consuming States will purchase new natural gas. This is, of course, ridiculous.

Finally, Mr. President, I would simply point out to all those who may be confronted by studies from other sources that every study that has attempted to assess the full range of costs and benefits from deregulation in a careful and consistent manner has found a large benefit to consumers from the additional supplies to be produced by deregulation. Any similar scare stories that are being floated should be discussed and examined, and when they are, their fallacies will, I believe, be glaringly apparent.

Mr. President, I would also like to make further comment on this matter of cost as it relates to energy in this country. The Kennedy study and, indeed, those of any Senator on this floor, are speculative in nature as to what will occur, either with or without deregulation. But I will tell you what is not speculative. It is the record of the last 4 years without deregulation, with controls, and without mandatory conservation. One might have been able to float these scare stories in Connecticut, because I come from a consuming State, not a producing one, 4 years ago, before we had any track

record. But it is now 4 years later, 4 years basically lived under controls and without mandatory conservation. So one can speculate as to what will happen with deregulation, but I know what has happened without it, and so do the people of my State and the United States.

What has happened in the past 4 years in the sense of employment in the United States of America since the Arab oil boycott? Soaring unemployment due to the failure of this Nation to resolve the crisis presented to it in the terms of that OPEC boycott. I stated, at the time that the embargo was lifted, that sure, the gasoline lines will go away, but the unemployment lines will start. And they started, and they have grown and grown, and, indeed, now, with a $25 billion to $30 billion deficit in balance of payments facing us for this year, probably more for next, they will continue to grow. Because that is $30 billion that is not going to American firms but, rather, to foreign firms. They do not employ Americans. It is $30 billion that will not be in the pockets of Americans to spend to create jobs for other Americans.

That is a fact. All this has been achieved under controls.

Let us talk about the cost on energy. What has happened to the cost of energy in the United States under controls for the last 4 years? It soared. The fact is that we cannot control what is not within our grasp to control. The price has been forced upon us by the OPEC cartel and we cannot respond, in terms of production, and we certainly have not responded in terms of consumption.

I understand the toughness of what is involved with deregulation. It is not a popular cause to espouse in the Northeast, where we are consuming States. But sooner or later, in terms of production and conservation, an honest answer has to be given to the American people, which honest answer, if it takes hold, yes, will have a price to be paid but which, eventually, will get us out of the woods of continually soaring prices, soaring unemployment, and shortage of supply.

I noticed the other day a comment made by the President of the United States that those of us who are for deregulation are in the hands of special interests. I was a little bit more than saddened to see that the arguments on this issue had taken that kind of turn. It is quite well known, I think, and nobody needs a geography lesson to see, that the State of Connecticut does not produce any gas or any oil. We are strictly a consuming State. So, indeed, I would say that my own motivation in this is to try to eliminate the problems that are ours, that is, unemployment, staggering energy costs, and shortage of supply. That is what motivates me. But if we are going to start to point fingers, I think it is very necessary to point out to the President of the United States that what he advocates in the way of taxation is, in its impact on the consumer—on the consumer—whom my friend from South Dakota spoke so eloquently for last night—is exactly the same as deregulation.

But there is one big difference: The money thus gathered, rather than going to exploring for and discovering more oil and gas, goes into the hands of the politicians here in Washington to dispense among the people of this country, as they see fit or as suits their political cause. I do not care whether it is a Democratic President who advocates such a system or a Republican President that advocates it, I stand on this floor and say, "No."

I could understand the President wanting to advocate such a tax if he saw to it that those moneys guaranteed alternate forms of energy and Federal research and development of solar and nuclear energy. All of this would make sense. But, no, this money which is to be collected by the President's wellhead tax is to go into the coffers of the Treasury of this country, to be dispensed by Congress and by the President as they see fit.

Indeed, then, I look upon his advocacy of this program not merely as deceptive, which it clearly is, but directly against any possibility of freeing ourselves from total dependence on the OPEC cartel for our energy.

There are only two ways that I know to achieve a competitive position to the OPEC cartel: Use less and produce your own. But the United States, when it comes to the consumption of energy right now, is not unlike a drunk walking into a whiskey store and asking for a discount on a bottle of booze. I realize deregulation is an unpopular stand in the Northeast, and my oil- and gas-producing State colleagues appreciate that the position I take on it is taken in order to achieve greater production; but they, as everybody else does, run away from my advocacy of mandatory conservation such as gasoline rationing. But, unless these unpopular acts are done, there will be no meaningful resolution to the energy crisis which confronts us now.

As unpopular as my deregulation vote might seem in terms of traditional political contest insofar as it relates to the State that I represent, the State of Connecticut, like the United States, Connecticut also will come out of this problem when, indeed, we are producing American oil and gas and, indeed, when we cut down our present consumption, which is disgusting and which has proven the worthlessness of a voluntary conservation program by Americans.

I know we are great in responding to crises as a Nation. But, believe me, we are no darn good just by the prospect of being down on the deck. We have to be down on the deck before we start coming back up.

People such as those on a fixed income are the ones who have had to conserve thus far. Because oil and gas prices are so high, they are unable to heat and cool their homes and unable to drive. But the rest of America sits there, in the most piggish possible way. They consume more and more, drive more and more, and so our dependency on the OPEC cartel is all the greater.

However, conservation is a subject for another day. I lost that fight on reaching the floor 2 weeks ago. We ended up with a "nothing" conservative package. But I do not want to end up with a "nothing" production bill. That is why I am out here. Having lost the fight for conservation, I have hopes of at least winning the fight in producing more of our own energy.

But what is not fair is to cloud the real position with demagogery. We are in a position of leadership. What we say here very definitely forms opinion in this country.

So I am not going to fight this demagogery with speculation of my own. I ask every American to tell me what the price of gasoline was 4 years ago, tell me what it is today. There is only one answer. It has gone sky high.

Then understand, that has all been achieved under controls.

Tell me what the unemployment was 4 years ago in this country. Tell me what it is today in our own States. It is running around 8 or 9 percent in Connecticut. That has all been achieved under controls and the failure to deal with the energy crisis.

Tell me what the balance-of-payments deficit was 4 years ago when we had a surplus, and today when $30 billion is going offshore, most of which is attributable to our purchase of foreign energy. That is not speculative. That is a matter of record. We cannot live with that record very much longer.

I hope that all this demagoguery and, as I say, speculation and scare tactics, is achieving some local success, in terms of allegations for those within and without this Chamber. But sooner or later it seems to me, the greater interest lies in the people we represent, not our own election.

This is not directed, I might add, at those on the other side of this particular issue because, believe me, the entire Senate, Republican and Democrat, showed their lack of guts on the conservation issue. There were seven of us that voted for any form of conservation.

But I know nothing that is going to work that is not going to be a bitter pill to swallow, and the more comfortable everybody feels with what is resolved on the floor of this Chamber, believe me, the worse the disaster that lies ahead.

Mr. President, I yield the floor.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from South Dakota?

Mr. ABOUREZK. Mr. President, I am the designee for Senator JACKSON at this time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. WEICKER. I say to the Senator from South Dakota, Senator JACKSON and I have agreed the time will be divided. In other words, on both sides. So the Senator can take whatever time he needs.

Mr. ABOUREZK. Mr. President, I yield myself whatever time I might consume on Senator JACKSON's share of the time.

Mr. WEICKER. Also Senator PEARSON's share. In other words, all time is equally divided.

Mr. ABOUREZK. Yes.

Mr. President, I want to respond to the remarks made by the Senator from Connecticut (Mr. WEICKER). Before I do that, I want to make a couple of disclaimers.

First of all, I am not one who believes that my colleague from Connecticut is in the pockets of the oil and gas industry, and if he took whatever the President said to mean that he was, I think, that is probably wrong.

I happen to know Senator WEICKER is not from a gas-producing State. So for whatever reasons he supports deregulation of natural gas, they are reasons that come from the conviction of his conscience and I believe they do not come from anywhere else.

But the fact is that it makes it all the more strange if he is neither from an oil- and gas-producing State, nor is he allied with any oil and gas interest, which I believe he is not, that makes it very strange that he would support a proposal to deregulate natural gas.

I want to make one other disclaimer, if I might. He described whatever "speechifying," on the natural gas issue on our side there is as demagoguery in an effort to help somebody get reelected.

I want to answer right now, I am not going to run for reelection next year, so that wipes out that part of it. So we are even on both scores.

Now, I want to get to the issue of deregulation or regulation of natural gas.

The Senator said that prices have gone up, unemployment has gone up, that we have suffered all kinds of economic travesties as a result of regulation of natural gas. He said that we are bent on our knees to the OPEC oil cartel, that they forced the price of gasoline, oil, and natural gas up, and that is why we are in the tragic economic condition that we are in today.

Let us just examine everything that he has said in that regard. If we go back to 1973 when the Arab oil embargo—and we should call it the OPEC oil embargo because it was done by all of the OPEC nations—the embargo was imposed at a time when we were importing less than 30 percent—less than 30 percent—of our oil and about 8 percent of that oil came from the Arab oil-exporting countries. About 8 percent at that time. I do not think the Senator would argue with those figures.

But let us talk about the embargo and the price increase at that time. The 400-percent price increase came from all the OPEC nations and, in addition, the non-OPEC nations from which we imported oil. That includes Canada and some others that do not belong to OPEC.

Now, if we imported 30 percent and that price went up 400 percent per barrel—by the barrel—what happened to the price of the other 70 percent that was being produced by the domestic American oil companies?

Why did the price of gasoline and petroleum products in this country have to go up overall?

Why did the 70 percent that is produced in this country that was not subject to the Arab oil embargo go up 400 percent? I will answer my own question. The reason why it went up 400 percent in this country was that the oil and gas industry operates on a basis of greed and greed and more greed, and it has absolutely nothing to do with shortage of oil, with the Arab oil embargo, or anything else.

If we can take the second part of his argument, concerning natural gas itself, the argument on behalf of the proponents of deregulation is that we have lost our reserves, that we are unable to produce natural gas because the price is regulated and it is not high enough. Aside from admitting—and they all have admitted it one way or the other—that the oil and gas companies are going to withhold the production of natural gas unless they get the price they want, that is an absolute confession and admission on the part of the proponents of deregulation. They say it over and over again.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ABOUREZK. I do not want to yield until I am finished, and then I will be happy to yield.

They continue to say that they will withhold production until they get the price they want.

If you go back 5 years, natural gas was regulated, under the Federal Power Commission, at 22 cents per thousand cubic feet. At that time, there were statements by people in the oil and gas industry that if they got as high as 32 cents per thousand cubic feet, they would be deliriously happy. So the Federal Power Commission kept increasing the rates. They went from 22 to 52 to 72. Now they are up to $1.45 or $1.46, and that is not enough.

The oil and gas people want total deregulation so they can get the price of gas up to $4 or $5 per thousand cubic. They do not want $1.45, which is twice as much as they said was more than sufficient 5 years ago. In that 5-year period what has happened to the production of natural gas in the location of known reserves? In the 5-year period that natural gas prices at the wellhead went up 500 percent, production increased. It went down. It did not go up.

So what does that do to the argument that increasing prices will increase production? It cuts the ground right out from under it.

What has happened to known reserves in that time? Known reserves have gone down in the 5-year period. What does that mean? That means that the oil and gas boys are saying, "We're going to wait until we get deregulation, which is promised to us by people in Congress and by people in the White House, in the Nixon and Ford administrations, and the people in the Federal Power Commission, who were appointed by Nixon, who kept promising Nixon that they were going to get deregulation."

So they have waited, and they would be crazy not to. If I were in the gas or oil business, I would say, "You bet your life I'm going to withhold the reserves. I'm not going to sell that gas cheap. I'm going to wait until I can sell it high. I'm going to wait until I can get in and pass a law and legitimize the plunder I want to perpetrate on the American people."

I wish the Senator would quit staring at me; he is making me nervous. He is much bigger than I am. [Laughter.]

If the Senator is going to continue that, I will bring JOHN CULVER here. [Laughter.]

Mr. President, I will summarize, and then I will yield, because we want to try to share the time for debate this morning.

The argument that we need to take the lid off prices, to assist in the rape and plunder of the American consumer's pocketbook and bank account, is totally fallacious. It has been demonstrated, with statistic after statistic, that increase in prices has done nothing but hold down production and hold down the known reserves, so that the oil and gas boys can come back later on and take everything they want and take it at will.

One other thing: What would you expect the oil and gas boys to do, being in the business for profit, as they are? I do not think we should call profit a dirty word. Every time I say that they are doing it for too much profit, one of the defenders of the natural gas industry says, "Just a minute." Why are they so defensive about profits? There is nothing wrong with making profits. There is only something wrong with exorbitant profits. So you would expect those people to operate on the basis of profit and on the basis of greed as well.

I fully understand what they are trying to do to the country, and I think the country is beginning to understand it. But what I do not understand is why the U.S. Senate would go along with it and aid and abet it. It is totally unreasonable for those of us who represent the American consumer to go along with it and support deregulation of nautral gas.

The costs of that measure have been repeated time and again in this body: $162 billion to the American consumers by 1990. That does not include the rippling effect of inflation that will be visited upon the economy if natural gas deregulation takes effect. I cannot imagine that the economy of this country would be able to recover from a blow of that nature.

What is it for? Is it to increase production? We can amply demonstrate that it will not increase production. Is it to increase the known reserves? We have demonstrated that it will not increase the known reserves. Do Senators know what it is for? It is for nothing more than to transfer $162 billion and the additional sums from the pocketbook of the American consumer into the bank accounts of the oil and gas industry. Is it worth it? Is it worth it at all? I do not think anybody who has examined this issue carefully could ever answer that, "Yes."

Mr. President, I reserve the remainder of my time.

Mr. McCLURE. Mr. President, will the Senator from Connecticut yield me 5 minutes?

Mr. WEICKER. I yield 5 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Mr. President, I say to my good friend from South Dakota that I have examined the facts and I have come to the conclusion that what he says is impossible to arrive at.

I do appreciate that my good friend the Senator from South Dakota has not shared in the personal attacks upon those who may have reached a conclusion different from his.

I appreciate the fact that he would set the record straight that, in spite of

what the President of the United States has said about the Senator from Connecticut or any of the rest of us who happen to take a different view, we are not controlled by some special vested interest. We have reached a different conclusion as to how is the best way to serve the interests of the consumers of this country.

Mr. ABOUREZK. Mr. President, will the Senator yield for 30 seconds, for a comment?

Mr. McCLURE. I yield for 30 seconds.

Mr. ABOUREZK. I have to say to my good friend and colleague from Idaho that I say the same thing about him. If there is an accusation of being in anybody's pocket, I would reject it. But I have to say that his side has not helped very much by the stories that appear in the Washington Post this morning, which tells about a bench being laid out here for the gas lobbyists. They set aside a $600,000 lobbying fund, and they have their books and papers and a computer in the office to feed their friends on the floor. It does not do a lot of good for the side of the Senator from Idaho, and I do not think he has much to do with it.

Mr. McCLURE. I say to the Senator from South Dakota that occasionally it helps to have some facts from which to argue. I know he has never been burdened by that problem.

[Laughter.]

Some of the rest of us would like to have some facts from which to argue. Sometimes, emotions are not enough, and we do have strong feelings concerning how to protect the consumers of this country, just as other people do.

There is only one other way to rip off the consumers of this country and that is to artificially create a shortage. If you artificially create a shortage, the price in the long run will go up. I know we have argued that ad infinitum, and I do not mean to go through all these facts again.

I think we can show that increased price brings about increased drilling activity, and increased drilling activity eventually will bring about increased supply. The fact that the price has gone up and the reserves have gone down is simply a result of 22 years of price control that cannot be turned around in 2 months or 6 months or 8 months or even a year.

It takes time to discover reserves and get them to the market, and it is only after the reserves have been discovered that you can then get ample supply with reasonable prices.

One thing that my friend from South Dakota and others have forgotten is that what they are really doing is indulging in an exercise in nostalgia. They want to turn back the clock to the good old days when they could waste all the energy because it was cheap and abundant. That day is over. Whether we like it or not we cannot go back to horsepower. Maybe they can in South Dakota, but I doubt it. I suspect out there the farmers use gasoline and diesel in their tractors in producing the great abundance of produce that comes off the farms. They do not do it with horses any more no matter how nostalgic that might be, no matter how we might like the idea of the good old days of the times when we could do things the easy way, when times were different, when natural gas was abundant. It was a throwaway fuel. It was flared, it was wasted, and it is still wasted. It is wasted because compared to other energy it is cheaper than they are, and, therefore, its use is stimulated, and the conservation of that commodity is not stimulated.

Now others may be comfortable with the idea that Government can control, will control, the price, will control the use, will control the production, will control the distribution, and will control the utilization; and yet a great many of the people who are on this floor making that argument now are precisely the same people who joined in what may have been only the political demagoguery of an election year, calling for reform of the Government and reduction of bureaucratic oppression.

If you are going to get away from the control by Government, and get away from bureaucratic oppression, you are going to have to recognize that the Government cannot do it all. If we are going to meet our needs in energy in the less than a decade from now until 1985 we somehow have to find investment capital to produce energy, and those needs have been estimated over the next period from now until 1985 as $1.350 trillion, and no matter how you run the printing presses of the Government, the Government cannot provide that kind of investment capital. You have to find ways to generate that activity in the private sector—$1.350 trillion, and I do not think there is anybody on the other side of the aisle who is really prepared to have the Government try to do all that.

I see my good friend, the Senator from North Dakota (Mr. YOUNG) who reminded me just a moment ago of the arguments that were made in 1946 when OPA was going to be extended. There were people who were saying "You can take off price controls, and the prices will go up exorbitantly," and there was a bitter debate in the Congress of the United States at that time on that issue.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to my friend.

Mr. YOUNG. The big issue in 1946 election campaign was OPA, the Office of Price Administration. Many wanted to keep it on, they claimed prices would go up if ceilings were removed. We kept running into more and more shortages. I built a house in 1946 when my sons came back from the service, and I had to have a house. Much of the material that went into that house was bought from the black market by the dealer I bought from.

They used exactly the same argument argued on the floor now that if you took off price controls prices would go up. But they took off controls, and production increased, and everyone was satisfied.

History has a way of repeating itself. From the liberals I heard the arguments on this floor almost exactly the same as they are now, that if you take off controls prices will go way up and everybody will be unhappy. But the reaction of the whole thing in the election of 1946 was that the Republicans gained control of the Senate and the House solely on that one isse of OPA. That may happen again.

Mr. McCLURE. I thank the Senator for that contribution, and I hope some of the people on the other side of this issue will listen to that in terms of politics as well as in terms of this particular issue because the people of this country are sick and tired of the idea that Government alone has the answer to all our problems. I think they are seeking a leadership that has confidence in the free enterprise system and in the freedom of institutions in our country rather than in Government-controlled institutions.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. McCLURE. Will the Senator yield me 5 additional minutes?

Mr. WEICKER. Mr. President, how much total time is there? I am here, as is the Senator from Arkansas instructed to allocate time on behalf of the Senator from Washington, and I want to be fair. How much total time is left?

The PRESIDING OFFICER. There are 31 minutes remaining. The Senator from Connecticut has 12 minutes; the Senator from Washington has 19.

Mr. WEICKER. I yield 3 additional minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

We are presented this morning with what is said to be a "compromise." We are told by the administration that it is a compromise. We are told by the morning papers and the electronic media that it is a compromise. But is it?

A compromise should mean that each side is going beyond its previous position. And the Jackson proposal certainly does not do that on the pricing issue. The members of the media may simply have been duped by the shiny tinsel surrounding the new proposal, but I am sure that the members of the administration know that this is no improvement, but are content to spread the word that it is.

Let us look at the facts.

When anyone looks at a possible investment—whether it is you or me or an independent gas driller—he wants to know first, what is the cost, second what is the risk, and third, what is the probable return. No one will invest a dollar if he does not expect to get the dollar back plus a return that is equal to what he could get elsewhere at a comparable risk.

And you have to look at that comparison over the whole life of an investment. Suppose you had a 15-year bond that paid 5 percent. And a sharp salesman comes to you and says, "I can do better for you than that. I've got a bond that pays 6 percent under the same conditions." You might think this was a good deal. But if you read the fine print, and find out it pays 6 percent for the first 5 years, and then falls to 4 percent for the last 10 years, what would you do?

Well, you would go to your financial tables and calculator, and see what is the

present value of what you would get under the two alternatives. And if you found that the present value of your current investment was actually higher, you would give the sharpie the bum's rush.

Well, this is exactly what is involved here. This so-called compromise does offer a higher price for the first several years, but a lower price thereafter. So, when a driller is evaluating whether to explore a certain area he will know that he is no better off, and usually worse off under the new plan.

A person who is investing his own money will not be fooled by the news coverage in the Washington Post, or by the statements of proponents of regulation. He will look at the facts, and look at the words of the bill and the conditions in the world. Let us do the same.

When the Senator from Washington moved his amendment, and placed supporting material in the RECORD you were told what the ceiling price would be under the Carter plan, and under the new Jackson plan. Unfortunately, there were a few things he did not tell you.

The prices given under the Carter plan are from material sent to the Energy Committee, and reflect accurately the expected Btu-related price through 1990, assuming 5½ percent inflation. The Carter price rises both with the rate of inflation, and because of the changing mix of oil in the national inventory.

The price under the Jackson plan begins at $2.03, but rises only with the rate of inflation. But the figures put in the record for the Jackson ceiling price escalate at 6 percent as the assumed rate of inflation, not 5½ percent, and so overstate the price under Jackson.

This is, of course, a flat error. I assume that this mistake was made in good faith at the staff level, but you cannot compare plans unless the inflation adjustments are the same. So, first we have to do that.

Second, the investor wants to look at the whole time span of the investment. In all recent FPC proceedings, that common term of evaluation, stemming from the average life of a well, is 15 years, and 15 percent rate of return is used as the appropriate discount rate.

So, just as in the case of the bond we talked about earlier, we have to look at the current value of what you would get over the whole term of the investment. And when you do all the arithmetic, you find that the Jackson plan gives a lower return for any well that starts to flow gas after January 1, 1979, and is only 4 cents an mcf better for a well that starts to flow on January 1, 1978. So, anyone who is watching what the Congress will do on pricing to increase drilling will be discouraged, not encouraged, by the Jackson price.

Why is this? As the proponents of the new plan admit, their price ceiling rises less rapidly than Carter's. After the early 1980's, the producer is receiving less every year under Jackson. I include at this point in the RECORD a complete table showing the prices per year, and on a current value basis, for wells drilled through 1981.

In short, this "compromise" on pricing is a mathematical hoax. They may fool the reporters with it, and they may fool the television with it, but it certainly will not fool the people who are putting their own money on the line. And I am confident that it will not fool the Senate.

SUMMARY

The Jackson plan allows a slightly higher price today, but lower prices for every year after 1983. When you look at the overall return from a new well, Jackson provides less incentive than the Carter plan.

Even the average Jackson price for all of 1978 is below the price right now, on 30 percent of all new intrastate contracts, and 50 percent of all new intrastate contracts in Texas.

Finally, the Carter plan is at least pegged to a known physical quantity—all domestic oil purchased. The Jackson plan is tied to a legal construct "upper tier oil," which may be altered by decree.

So, any way you look at it, Jackson's plan is inferior to Carter. For the same reasons the Senate did not endorse the Carter plan then, reject this even less satisfactory alternative today.

ROLLBACK OF INTRASTATE PRICES

Any ceiling price has the potential to outlaw some of the contract prices that have produced the gas that has come forth in the intrastate market.

At first glance, a ceiling price of $1.75 as in Carter's plan, would outlaw the 56 percent of new contracts now above that price in the intrastate market from April to June 1977. A price of $2.03 would outlaw about 30 percent of all new contracts, including 53 percent of new contracts in Texas, our strongest intrastate market. So, the Jackson substitute will still be a rollback for much of the intrastate market.

Even more importantly, any analysis of price and incentive must look at the price, not just in one year, but over the life of the well or contract. As an example, the latest FPC pricing decision set an initial price of $1.42, rising evenly to to $2.02 after 15 years.

Thus, the potential producer is not looking at a price of $1.42 when he decides to drill. Nor is he looking at a price of $1.72, which would be the average of the prices over the 15 years. This is because $1 today is not the same as $1 15 years from now. Using the 15 percent discount rate used in most calculations, including FPC decisions, the current value of the stream of payments over 15 years with the $1.42 to $2.02 price rise is equivalent to a constant price of $1.63. To compare different pricing schedules, they must be reduced to a common denominator of the current-value equivalent constant price.

Turning now to the comparison of the Jackson substitute and the original Carter bill, we see that the Jackson substitute offers very little more incentive for wells drilled in 1978, and less incentive for all wells drilled thereafter:

First, there is an error in the chart presented yesterday by the Senator from Washington. The analysis of the price trajectory under the Carter plan—labeled amendments No. 868 on chart—is copied from table 1 supplied to the Energy Committee on July 30, 1977 by FEA, which goes through 1990. It assumes 5.5 percent inflation. However, the chart shown by the Senator from Washington assumes 6 percent inflation. Thus, the "substitute" chart must be adjusted to a 5.5 percent inflation rate to make a fair comparison. With this correction, the figures for the chart are shown below, also taken out to 1990.

In order to assess a full 15-year well life, we need to project figures out to 1995. Because the Jackson plan price only increases by inflation, we simply continue the 5.5 percent increase postulated. The Carter plan will continue to escalate a bit more rapidly as the domestic oil mix changes. To be conservative, we took a 6.5-percent increase, which is lower than the increase in any year through 1990.

Mr. President, I ask unanimous consent to print in the RECORD a table containing these projected figures.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Average price for year	Carter price trajectory (present value in 1978 of this year's price at 15-percent rate of return)	Jackson price trajectory (Present value in 1978 at this year's price at 15-percent rate of return)
1978	1.86 (1.86)	2.14 (2.14)
1979	2.02 (1.72)	2.26 (1.92)
1980	2.20 (1.59)	2.38 (1.72)
1981	2.39 (1.47)	2.51 (1.54)
1982	2.58 (1.35)	2.65 (1.38)
1983	2.79 (1.24)	2.80 (1.24)
1984	3.01 (1.14)	2.95 (1.11)
1985	3.23 (1.04)	3.12 (1.00)
1986	3.48 (.95)	3.29 (.90)
1987	3.72 (.86)	3.47 (.80)
1988	3.97 (.78)	3.66 (.72)
1989	4.24 (.71)	3.86 (.65)
1990	4.52 (.64)	4.07 (.58)
1991	4.82 (.58)	4.30 (.52)
1992	5.13 (.53)	4.53 (.47)
1993	5.46 (.48)	4.78 (.42)
1994	5.81 (.43)	5.04 (.37)
1995	6.19 (.39)	5.32 (.34)

We now take the stream of payments under each plan, and discount to present value and find the constant price equivalent:

For wells beginning to flow Jan. 1—	Carter schedule is equivalent to a constant price of—	Jackson schedule is equivalent to a constant price of—
1978	2.70	2.74
1979	2.85	2.83
1980	2.99	2.92
1981	3.14	3.01

And the disparity gets steadily worse for the Jackson schedule.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Mr. President, I thank the Chair.

Mr. BELLMON. Mr. President, will the Senator yield me 5 minutes?

Mr. PEARSON. Yield the Senator 10 minutes.

Mr. WEICKER. No, I have to make sure there is sufficient time remaining at the disposal of the Senator from Arkansas.

How much total time remains?

The PRESIDING OFFICER. There are 28 minutes remaining. The Senator from

Connecticut has 9 minutes remaining and the Senator from Arkansas, as a designee of the Senator from Washington, has 19 minutes remaining.

Mr. WEICKER. I yield 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BELLMON. I thank my friend from Connecticut.

Mr. President, I begin my remarks by saying for the record that the Senator from Oklahoma has never been in the gas or oil business but in spite of that fact, coming as I do from a State which produces abundant quantities of both oil and gas, I have probably had about as long an association with these industries as anyone else. As a matter of fact, I grew up in the oil and gasfields of northern Oklahoma and have watched oil and gas being produced for as long as I can remember.

I recall vividly when hundreds, probably thousands of natural gas flares burned every day of the year disposing of natural gas which no one wanted.

This was associated gas produced with oil. There was no way to haul it. There was no way to market it. There were no pipelines. So the gas had to be burned at that time in order to make production of the oil possible.

It was back in the mid-1930's when an Oklahoma Governor, a Democrat, by the way, named Bill Murray, better known as Alfalfa Bill, recognized that natural gas burning was an unconscionable waste of a valuable and precious natural resource and took action to bring this burning to a halt.

Under Governor Murray's urging Oklahoma adopted the Nation's first complete body of oil and gas conservation laws. These laws put an end to natural gas wasting and made it necessary for the producers of oil to find a market for the gas before they could produce the oil which they could sell.

So in order to find a market for natural gas, these producers desperately sought for anyone who would take the gas and put it to any kind of a productive use. At that time producers were not in any way concerned with the cost of gas. The production of gas was an accident because it came in with the oil. The gas was worthless. No one wanted it. It was sort of a dangerous nuisance. It was oil that people were after, and it was the oil that they could market and for which they could get some kind of a price.

So at that time when the natural gas marketing first developed no one was concerned with the pricing of gas. A producer would take any price he could sell in any market just to get rid of the gas. Gas then began to be used heavily for boiler fuel. In fact, even at this time practically all the electricity produced in our State is produced by burning gas under boilers.

It was used as a substitute for coal in many parts of the country, including, of course, the east coast.

Pipelines were built to any place where gas could be sold, and gas prices at the wellhead were of no consequence since the objective was to dispose of the gas and make it profitable to produce the oil.

It was at this time, of course, that the Federal Power Commission got into the picture. They set prices for natural gas which both producers and consumers considered to be fair at first and certainly this control was needed. But as time went on, the production of associated gas ended, and it became necessary to drill gas wells to find gas, then the FPC prices were found to be inadequate to bring on new supplies.

At that time, the commission realized it was necessary to raise the prices of gas to reflect the true cost of production, and they tried to take these actions, but when they did they were stopped by court actions and as a result natural gas prices have been held down to far below cost of other fuels on a Btu basis.

The result is that the cheap gas, the gas that is found with oil, the gas that is inexpensive to produce, the shallow gas, has all been or practically all been produced and consumed. Now in order to find more natural gas we have to go into the deeper zones, we have to drill wells that produce only gas and no oil, and many of these wells have to be drilled to great depths.

It is not at all uncommon in our State and in most of the gas-producing area to find wells that are being drilled down to 20,000 feet. This is something like 4 miles. That gas is being produced for the intrastate market since few producers can afford to drill those wells and sell them for the controlled prices on the interstate market. In fact we have wells in Oklahoma now that go down to 30,000 feet, which is more than 6 miles, and some of these wells cost millions of dollars. They all cost millions of dollars. Some of them cost between $5 and $10 million at the present time.

Then there are no investors who can afford to take the risks involved in drilling those kinds of wells and expend millions of dollars unless they have the opportunity to earn a fair return on their investment.

Those investors have a choice. They can invest in many things, and gas and oil production is only one. If there is no chance for a return on their investment they simply will turn elsewhere.

So the fact is, then, that if we are going to have gas we can not any more expect that we are going to get it accidentally or cheaply from the wells that produce oil and gas but rather we are going to have to turn to drilling for gas and pay the cost of producing this one product.

It is also, I believe, inescapable that we are going to need to accept the time when the production of natural gas will be inadequate to meet our requirements and that our pricing is going to have to be adequate to make it possible to produce gas from coal and in that way to supplement the gas that comes from wells.

The PRESIDING OFFICER. The 5 minutes of the Senator from Oklahoma have expired.

Mr. BELLMON. Mr. President, will the Senator yield me 1 additional minute?

Mr. PEARSON. Mr. President, I will yield the Senator additional time.

Mr. BELLMON. Will the Senator yield 1 additional minute and then I will be willing to yield the floor.

Mr. PEARSON. Mr. President, I yield the Senator 2 additional minutes.

Mr. BELLMON. Mr. President, the question has been raised here repeatedly as to who is more concerned about consumers. The fact is there are only two courses open to the Senate. First is the political course, which is to go on with controls to provide temporarily cheap gas and produce some kind of feeling of well-being among consumers, but if this course is followed it is only a few years until the country will face chaos. We have only had curtailment. Curtailments will certainly get worse if this course is followed. We will have blackouts, increased unemployment, and tremendous hardship on a lot of people who will be without fuel.

On the other hand, I believe this is the wiser course: The Senate can face reality. We can have an orderly decontrol program that will make it possible to bring on more production first from deeper wells and later from coal, liquefaction and gasification, and some perhaps other fuel sources that are not yet known.

I believe that we can strike a balance between supply and demand that consumers can make the rather minor adjustments that are going to be required if we do go in for orderly decontrol and that we should face the fact that we have a choice not between cheap gas and high-cost gas but between gas that reflects its cost of production or do without gas of any kind.

I think the Members of the Senate should remember that we do not have in this country States that produce gas and States that consume gas. We all consume gas and those from the intrastate market know that we can make these adjustments. We have made them successfully, and we have gas.

I believe the time has come to expect the rest of the country to do no less.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use. I understand I have 19 minutes remaining; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Mr. President, there are two or three facets to this whole problem of deregulation that have not been discussed on this floor. That is always regrettable, because there are probably only half a dozen Senators here who can really vote either way on it. As always, it is regrettable that we do not have more Senators present for the debate.

About 3 days ago, I said on this floor that I thought the arguments that are being made for deregulation are the typical specious arguments that are always made when you want to distract somebody's attention.

Last winter, the oil and gas companies fell into a real demand situation. We had the hardest winter in history, and a large number of industries had to be

curtailed. As a result, a lot of people were thrown out of work. What a wonderful opportunity that was for the gas companies to point out to the American people that it was that terrible Congress that had brought this whole thing on. You would have thought Congress gave them the weather.

So what did they do? They said, "If you want to keep your job, if you do not want to be laid off any more, write your Senator and Congressman and tell them you are for deregulation, and we will produce all the oil and gas you want—no more economic dislocation."

So small businesses in my State, and the employees of small businesses, began to write me and say, "I wish you would vote for deregulation, so I will not lose my job next winter." That is an emotional appeal that any politician is going to be responsive to, unless commonsense and statistics dictate otherwise.

As I said the other day, this whole thing reminds me of Lucy and Charlie Brown. Every fall when the football season starts, Lucy holds the ball for Charlie to kick, and Charlie Brown always says, "I know at the last minute you are going to snatch the ball away, and I am going to fall down again," and Lucy always says, "No, I am not going to do it this year." But every fall, as long as I have been reading Peanuts, Lucy always pulls the ball away.

Mr. BAKER. Mr. President, will the Senator yield to me for an inquiry as to the status as to time?

Mr. BUMPERS. I can answer that. The time on that side is all gone.

Mr. BAKER. I admire the Senator's prescience, but that was not the question I had in mind. Will the Senator yield for that purpose?

Mr. BUMPERS. I yield.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. There was a unanimous-consent agreement this morning, as I understand it, for uncontrolled time to end at 12 o'clock; that until that time the debate of Members would not be charged against the time allocated under rule XXII.

I understand now that may have been extended to 12:15; would the Chair advise me whether that is correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Sometimes I think my colleagues interrupt me when I am making my best points. I know that the Senator from Tennessee would not deliberately do that, but I thought that was a great story about Charlie Brown.

Mr. BAKER. All the Senator's points are good points. I do not expect the interruption to diminish the impact of his statement.

Mr. BUMPERS. Mr. President, I will make a prediction on the floor of the U.S. Senate right now that under deregulation or under controlled prices, and for the foreseeable future, if we have another winter like last winter, there will be curtailments and economic dislocations, and people will lose their jobs. But these oil and gas producers seem to think people will believe in, and buy their argument the way Charlie Brown buys Lucy's every fall: "If you will just believe in us, everything is going to come up roses."

Mr. President, we have to make certain assumptions in order to debate this issue, because no one knows how much gas there is remaining under the ground.

Mr. STEVENS. Mr. President, will the Senator yield at that point?

Mr. BUMPERS. I yield.

Mr. STEVENS. What happened to the football this year?

Mr. BUMPERS. I have not seen it this year, but I am sure it will be coming out, and Lucy will pull the ball out from under him again.

Mr. STEVENS. Is that what you are about ready to do to me?

Mr. BUMPERS. Hopefully.

We have to make certain assumptions, and the only statistics we have to live with are the ones we have asked for from the services we rely on most: first, the Congressional Budget Office, and second, the Congressional Research Service.

The CBO says, "If you deregulate gas completely right now, by 1985 we will have 5 percent more than we would otherwise have."

It does not say we will find 5 percent more that we would not have found otherwise. It simply means we would be accelerating production, but not really accomplishing anything. Everybody here knows it is a finite resource. There is just so much of it. God in his infinite wisdom just put so much there, or allowed so much to develop there. "That's all there is, and there ain't no more."

We all also know that we have just been lucky to stay even in gas production, even with the exorbitant prices we have right now. Oil production has been declining by 500,000 barrels a year, and I see no reason to expect that that could be reduced materially for any period of time.

What did the Congressional Research Service say? They forecast a cost of $162 billion out of the American consumers' pockets by 1985, right into the pockets of a very few major gas companies which happen to own these reserves.

Do you think if I were a gas company, I would not be championing the same thing they are? Why are they for deregulation? Because they own it. They own it.

If deregulation were to occur, there would be the most insidious, massive transfer of wealth from middle-class America into a few select pockets ever to occur in the history of this country.

Mr. President, I happen to be one of those people who feels that this body, in a sense, owes a debt of gratitude for what I see in today's Washington Star referred to as the "gruesome twosome," the Senator from Ohio (Mr. METZENBAUM) and the Senator from South Dakota (Mr. ABOUREZK). I think it is really interesting. I think we ought to send those two to Geneva, to help break the Middle East deadlock. When we can have a Jewish-Arab coalition in the U.S. Senate that has worked effectively as those two have, they would have to be good at the Geneva Conference.

I know that the American people and most of the Members of this body deplore filibusters, and they probably deplore the techniques that have been used here. But I will tell you something else the American people are getting out of this. They are being taught there is a lot more here than they had been led to believe, if they understood anything about it at all.

They are bound to begin to wonder, "Why is the U.S. Senate meeting around the clock, 24 hours a day, and why are these two Senators leading this crusade?" And it is causing them at least to inquire what is at stake.

What is at stake is their pocketbooks. There is not a soul in this body who would suggest for a minute that if it would increase the supply of gas and if it would give the oil and gas companies a fair return which they were not now getting, there is not a soul in this body who would be contesting this bill. But the facts just happen to be 180 degrees from that. The returns are exorbitant.

If we had told the gas companies in this country a year ago that the U.S. Senate would be seriously considering a cap of $2.03 on gas prices, they would have thought they had died and gone to Heaven. I can remember 2 years ago when they said, "Senator we have got to get the price of gas up to a dollar," and that sounded exorbitant at the time. Now they have a price, under the present law, of $1.46. The President said $1.75; I had a difficult time choking that one down. I finally agreed to it, and now here we are, in order to get a bill out of here, saying we think they are entitled to $2.03.

One of the most specious arguments I have heard in this body about this whole subject is, why in the world do I want all these American dollars to go to Canada, Mexico, and Arabia; had I not rather that these American dollars stay in American hands?

Why should we want to deprive our own poor embryonic oil and gas industry of the amount of money we are willing to pay Mexico and Canada?

Well, the Senaator from South Carolina yesterday hit it right on the head. What does the price they charge us have to do with what is a fair return on gas found in this country? What does the price in Mexico have to do with what we are going to charge the Ameircan consumer for gas in the United States?

Mr. STEVENS. Will the Senator yield to me to answer that question?

Mr. BUMPERS. Not yet.

Mr. STEVENS. I will be glad to answer it for the Senator.

Mr. BUMPERS. I heard the Senator's answer yesterday. He talked about the free enterprise system. The only thing about the free enterprise system as the oil and gas industry sees it is that they are afraid competition will interfere with it.

The whole question is are we going to control the price of oil or are the Arabs going to control the price? That is what we are talking about.

We are right now keying the price of gas to the price of oil. When we key the price of gas to even the composite domestic prices of oil, we are moving right into the hands of what the cartel

says it is worth. It is a fixed price. We do not hear the oil companies condemning the OPEC nations. Why would they? The OPEC nations have made the oil companies filthy rich. They have raised the price four times. Oil companies in in this country have enjoyed protective tariffs for years under the name of free enterprise.

Now they are getting rich on fixed prices, and they say, "We have to let these prices reach the supply and demand level in the free market process because we believe in free enterprise."

If one wants to find out how cogent somebody's argument is just listen to the little jingo, knee-jerk words. Sure, everybody is for free enterprise, but the cornerstone of free enterprise is competition, and there just is not much of that in the gas industry.

I might add, incidentally, that the Canadian oil coming into this country has a $7 a barrel tax on it. It is the OPEC price, but $7 of it is going into the pockets of the Canadian Government.

Concerning Mexican gas coming into this country, if we were going to export gas to Mexico I would want $10 an Mcf for it. I would not even consider exporting to any country a finite resource, I do not care what it was, copper, bauxite, name it, without getting a premium for it, because we would be taking it away from the American people.

The Mexican Government does not charge their people $2.50 an Mcf for gas. The Canadians do not charge their people $15 a barrel for oil. They charge the United States because they know we will pay it.

I am simply saying this body has an absolute, high responsibility and duty to be evenhanded in deliberations on subjects such as this. We have the obligation in the minimum wage bill to consider the rights of small businesses, especially when we raise the minimum wage, which we are going to do. We have the highest duty to protect the American people, even though they may not understand detailed arguments made in this body. They may not understand that they are being distracted and diverted with some of these arguments so that the oil and gas companies can finally get what they have wanted ever since the OPEC embargo in 1973.

I want to be objective about it. I want the oil and gas companies to have enough incentive to drill. They have, because there has not been a drilling rig idle in this country for 2 years. If we deregulate the price of gas today and it goes to $20 an Mcf, they could not drill one well because there is not another rig available to drill one with. At the end of August there were 2,350 rotary rigs in this country, and the only ones not working were the ones in the shop for maintenance or in transit to another city.

Talk about incentive? How much incentive do they have to have?

If we deregulate the price of gas, we will be responsible for one of the most outrageous betrayals ever perpetrated on the American people.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. NELSON). The Senator from Arkansas has 2 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, would it be agreeable to the other side to extend the debate for another half-hour? That would be 15 minutes to a side.

Mr. STEVENS. Would the Senator extend it 15 minutes until I check and find out? I understood our leader has a proposal to make to the majority leader. It is my understanding that 2 minutes are left on either side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HART. Will the majority leader yield?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the previous issues be extended 20 minutes, with 10 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Reserving the right to object, the Senator from Colorado merely wants to find out if we are under the cloture time.

Mr. ROBERT C. BYRD. Not at the moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Has the Senator from Arkansas yielded the floor?

Mr. BUMPERS. I yield the floor, Mr. President.

Mr. STEVENS. Mr. President, I find it very interesting to have the Senator from Arkansas join my good friend from South Carolina, whom I wish were here so that I might answer some of the comments he made yesterday.

I will say this: The policies that we have followed since the 1950's have led to an ever-decreasing supply of natural gas, and an ever-increasing import position with regard to oil and natural gas. The people of this country will realize that when the price they pay for energy goes up, following this long filibuster, because they will have to buy more foreign oil and gas. I am realistic enough to understand that when the administration announces its position, the House announces its position, and the total position comes from the other side that it is unlikely that we will see very much deregulation, if any at all.

The American people are going to have to pay more for gas due to the fact that the people who have opposed deregulation have opposed the restoration of the free enterprise system. The American people will pay more because they will have to turn to Canadian gas at two to three times the amount they would pay to get more American gas.

They are going to get Mexican gas at an equivalent higher price. As the Senator from Arkansas says, if he were a Mexican official, he would sell it to us at $10. I would not be surprised if we are not paying $10 for Mexican gas in a few years, particularly after the invitation to do so from the floor of the Senate.

We are already paying in excess of $3.50 an Mcf for LNG from Indonesia and Algeria. The price of gas is going to continue to go up and up and the supply in this country is going to go down and down. The bills which are going to be paid by the American consumer for foreign natural gas or for foreign oil will increase because even the LNG which comes into this country is limited by the facilities which are available to liquefy the natural gas to bring it in—in the ultimate we are going to pay more for energy from abroad than we would ever pay if we developed our own sources, particularly the sources from my great State.

Will this Senate propel us further and further toward socialization of the oil and gas industry, as it already has started in my State? Only the Federal Government can explore the former Naval Petroleum Reserve No. 4; only the Federal Government may be able to explore the Outer Continental Shelf of my State if the Senate has its way.

Incidentally, 70 percent of the Outer Continental Shelf is off my State and only the Federal Government can explore it under the proposition this Senate has already announced. That is nationalization. It is socialization. It is a step toward absolute Government decision in the risk-taking areas.

My good friend, the Senator from West Virginia, and I happen to serve on the Appropriations Committee where these matters will be submitted and I would ask the Senator from Arkansas if he can imagine a bureaucrat from the Department of Energy coming before us for the 15th time to get another $40 million to drill a wildcat well on the same lease in the Outer Continental Shelf? How many times are the taxpayers going to take the risks of exploration? Are we really going to put up the money for risk capital from the Treasury? Are we going to take those risks of exploration?

Does he know that the last well that was just capped in the Outer Continental Shelf off Alaska cost $42 million and it is dry? How many wells are we going to drill with taxpayers' money?

Does the Senator know that in the Powder River Basin they drilled again because one geologist had the idea in his mind that there was hydrocarbon capacity for that structure to produce?

And it became, after, I think, somewhere around the 26th well, the third largest producing reservoir in the south 48 States.

Now, when that bureaucrat came before me, as a member of the Appropriations Committee that considers the requests for money for these purposes, for about the 20th time, how long do you think I would remain in the Senate if I went home and told my people that I put up another $40 million to drill on some isolated tract in Montana for the 20th time?

The taxpayers of this country are not there to take risks; they pay taxes to maintain Government. It is a process of

the free enterprise system to take risks. But we have so stifled the free enterprise system that it is no longer productive in the oil and gas areas. Are we going to stifle it more and squeeze it more, until we get to the conclusion, as I think many people want to come to, that only the Federal Government can do it better?

Mr. HART. Will the Senator yield for a question?

Mr. STEVENS. I am happy to yield.

Mr. HART. Does the Senator believe that the world price of oil has been established by free market principles?

Mr. STEVENS. No, it is an edict price. I have tried to fight it. It has nothing to do with supply and demand. But I say it is the only alternative supply available today because we are not producing more oil, we are not producing more gas. We have no reason to be involved in this. I say to the Senator, had the Alaskan oil pipeline not been delayed, the oil embargo would not have resulted in this massive increase in prices in foreign oil. I do not at all support the concept that our prices ought to be equal to the OPEC price. I never have and I do not believe in the OPEC price.

Mr. HART. Will the Senator yield for a further question?

Mr. STEVENS. Yes.

Mr. HART. Would not the result of total and immediate deregulation of natural gas have that effect?

Mr. STEVENS. No.

Mr. HART. Why not?

Mr. STEVENS. It would not because, if the market price were established by supply in this country, we would have more exploration, more discovery, and more production. If we have more supply, the OPEC people have to compete with us for our markets. We are taking steps now, and we are all trying, to decrease our consumptive demands. We are going to succeed in that.

The demand in the United States is going to go down. But the supply in the United States is not going to go up unless the pricing system changes. That demand that remains is going to be met by foreign sources unless we do something to restore the productive capacity of the United States.

I firmly believe that the policies being announced by the Senators from Ohio and South Dakota will lead us more toward total dependence upon the OPEC pricing system than away from it.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. BENTSEN. The Senator from Texas is on the Committee on Finance. The other day, I supported a subsidy for the conversion of coal to gas for gasification. That subsidy will amount to about 20 percent, because I want to see us develop the supplies in this country when we are facing a $25 to $30 billion deficit in trade. I understand that, economically, it costs more to accomplish that, but I think that is important in retaining the soundness of the dollar.

The question is, how can we justify doing that on the one hand and then, on the other hand, cutting out the marginal drilling requirements, cutting out the deep wells, cutting out the expensive wells, in the production of our own oil and gas? Should we not be having the same kinds of incentive to find oil and gas as we try to bring on coal and other alternative sources of energy? Is there any reason why we should discriminate against the increased production in the marginal supplies of oil and gas, the expensive production? Should we not bring that in line with the Senator from Texas support for a coal subsidy, where we might put a 20-percent subsidy on in the Finance Committee to try to bring it in line?

Mr. STEVENS. I agree with the Senator from Texas and his policy.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. What is the time frame now?

The PRESIDING OFFICER. The Senator from Alaska has 1 minute remaining. The Senator from Arkansas has 10 minutes remaining.

Mr. STEVENS. I thought we started off with 12 minutes on each side and that was at 15 minutes, 16 minutes after the hour. How could I possibly have used 10½ minutes in 9 minutes?

Did we start with a new agreement for 10 minutes on each side at quarter after?

The PRESIDING OFFICER. That is correct. The 2 minutes were subsumed in the original 10.

Mr. STEVENS. I realize that now. I yield the control to the Senator from New Mexico.

Mr. DOMENICI. I shall use our minute, then yield to the Senator from Arkansas.

I want to answer for the record Senator HART's question. I hope that the Senator from Texas will verify what I say.

If I understand his reasoning in his question, he is saying that, under deregulation, our natural gas would follow the market price dictated by the cartel price of crude oil. Mr. President, I submit that we do not have to speculate about that, because we have a market. We have a huge intrastate market. It has been unregulated and the truth of the matter is that, in the normal intrastate market, the Btu price equivalent for natural gas in that market has not followed and has not reached the price of the cartel. I think it is logical to assume—that is a supply-demand market to be imposed upon by the cartel prices as some kind of equivalent to shoot at, and it just did not reach that.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself as much time as I may use.

Mr. President, I was looking through the committee report. The Senator from Alaska, a while ago, took rather silent issue with the statement that I made that all the rotary well drilling rigs in this country were busy. As I say, we have to rely on somebody for information, and all I know is what some of our informational sources say. But the Federal Energy Administration says exactly what I said a moment ago, that the Senator took issue with. It is very precise. It says 2,350 rotary well drilling rigs were in existence in this country in the last week of August.

It further says that all but 305 of them were actively engaged in drilling on that day. It further says that the only reason those 305 were not in operation and drilling is that they were either in the shop for maintenance or they were in transit from one site to another. I just wanted to be sure of my figures, but that is what FEA says, and that is the only information I have.

When it comes to incentive, I just made a little calculation a while ago. The calculation is based on the figures of the Federal Energy Administration, which say when you are drilling in what they call proven reservoirs, the rate of find is 1 chance in 2, or 50 percent. For every two wells you drill, you hit one. The percentage for wildcatting is 1 in 5—1 in 5, 20 percent.

Now, if we want to go a little further and get into the specifics, let us assume that you drill five wells and it costs $1 million apiece. You can drill, in some areas in this country, between 10,000 and 15,000 feet for $1 million. But if you did that, and you had four dusters and one find and that find was good for 10 million cubic feet—which is not a barn burner by any stretch of the imagination. Little old Franklin County, where I come from, struck gas in 1947. It was not uncommon for us to hit 30 and 50 million cubic foot wells. That is a heck of a good well, but it is not uncommon.

Out in the Anadarko Basin, it is not uncommon to hit 50 to 100 Mcf wells. But I am talking about a well that hits 10 million cubic feet, and you invest $5 million in hitting one well. Mr. President, under the proposed Jackson substitute, do you know what the rate of return on that well is the first year? Almost $7.5 million. Why, you get all your money back and then some the first year. I consider that a fair return.

What are we talking about for the consumers of America? The Congressional Budget Office, Mr. President, says that the impact of deregulation is an inflation rate of one-half of 1 percent. One item, just natural gas, will raise the inflation rate in this country, which the President is trying to get down to 4 percent—natural gas deregulation alone is going to raise the inflation rate by one-half of 1 percent annually, at least for the first 2 or 3 years of deregulation.

And how about cost? Even the President's proposal raising the price of $1.46 to $1.75 will raise the price of the home heating gas bills in this country by 20 percent in the winter of 1978.

And what will those bills be increased by under deregulation? Raised another 30 percent.

Mr. President, I was back in my hometown, Charleston, Ark., population 1,751, 3 weeks ago. I went up to the coffee shop, as I used to do before I became famous. [Laughter.]

To sit with all those people I used to sit with and solve the world's problems that were so simple. We never had trouble back then settling problems. We solved them all around that coffee table every morning.

The other morning when we were there, I said, "I can't believe that in my home here in Arkansas, that I am not in more than 4 or 5 days a month, I get an electric bill for $111." A fellow across the table from me who makes just about one-fourth of my Senate salary said, "Senator, I'll trade with you."

I said, "You've got to be kidding." I knew his house is not as big as mine, and mine is a fairly modest one. He said that his was $157.

Mr. President, I submit that if we continue in this vein we are demonstrating, we are manifesting, a disdain and an insensitivity toward middle America, which is the backbone of this country.

I never agreed very much with the Governor of Alabama, but when he says that the middle class in America is being wiped out, I could not agree with him more.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be extended for an additional half-hour under the same conditions.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BUMPERS. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BUMPERS. As I said earlier, if it were a question of the oil and gas companies in this country failing, if it were their inability to raise capital to drill wells, if it were a question of actually running out of gas if we did not give them these monumental increases in their prices, I would try to be as fair with them as I have been—I think I am being fair with them.

I think all those people who are going to support the Jackson substitute are leaning over backwards to give more than they think is good politics or policy.

Mr. President, I have been chagrined from time to time in this body about some of the legislation that passes through here virtually unnoticed. I remember not too long ago when we debated the strip mining bill. I am sorry we did not have some 24-hour-a-day sessions while that was going on.

There was a very good bill that, in my opinion, is so seriously flawed, the President should have vetoed it, sent it back, and so started all over again.

There was not one soul in the press gallery while that veto provision was being debated on that bill.

Mr. President, I made a prediction then, I say again today, unless we reverse that provision in that bill, the American taxpayer, the American consumers, are going to get ripped off by having to buy their own coal, the coal that belongs to them.

Over the next 30 years, it will cost them $50 billion to $1 trillion, depending on what the price of coal does.

It slid through the House of Representatives and the Senate in its good wisdom defeated it and said they would not buy it, but we lost in conference, and on a motion to recommit we lost again.

The President does not like the provision and he said so the day he signed it. But I have not seen one word, one voice raised, even the great consumer advocates in this city, and they are abundant, not a one of them was over here saying that this was a monumental ripoff of the American people.

Then, less than a month ago, there slid through the Agriculture and Energy Committees and there came on this floor, a provision to provide for oral bidding in the national forests—oral bidding.

In Arkansas, which has 2½ million acres of national forests, and Tennessee, Louisiana, Mississippi, and States like that that have millions and millions of acres of timber in the national forests, we never heard of an oral bid.

When I was Governor of my State, if somebody suggested to me that to do something about oral bidding, I would assume I would wind up in the slammer. We took sealed bids on everything.

It is the only sensible, correct way to sell any public property. There might be some isolated exceptions somebody could think of.

But that bill slid through here despite my efforts and the efforts of the Senator from Massachusetts (Mr. KENNEDY) in a 3-hour debate. We got beat 2 to 1, and why? Because the timber industry was all over this place, wall-to-wall, saying that the cost of houses will go up some fantastic amount.

The only time I ever visited with the President of the United States, Lyndon Johnson, was after he left office. But in the long conversation with him, he said:

> I called in all the members, the bigger members of the National Association of Manufacturing, and said, "You people have been paying $200,000 a year for these high-priced lobbyists to keep you scared to death.

And he said:

> I'll save you a lot of money. You can fire them all. From now on I'll keep the hell scared out of you.

That is what happens in this body almost daily. They come in here with all these scary stories and the herd instinct sets in, it is pervasive, and the first thing we know, like Henny-Penny, up and down the corridors, calling that the sky is falling, and that is what has been happening on this bill we are now debating.

The oil and gas companies have been unbelievably successful in scaring this body into believing that next winter and the winter after that when these curtailments occur, if we do no deregulate, there will be a march on Washington and we are going to be blamed because people lost their jobs. What will happen next year and the next year and the next year and the next year?

And from now on, no matter what this Congress does, if we have a winter like last winter, or one close to it, there will be curtailments, economic dislocations, but nobody is going to remember the promises.

They are not promising anything. They are not promising to solve all these problems. Do we hear anybody saying, "You'll have all the gas you want next winter, or the following winter"?

Of course we have not, because they cannot. They are just saying, "Deregulate, deregulate."

They say, "If you don't give us more money, which would you rather have, freeze to death because the price is too low and there is not any gas, or would you rather have gas?"

The sequel to that story is that we can freeze to death because there is not any or we can freeze to death because it is too high to buy. I do not think it makes any difference as long as we freeze to death.

Mr. HART. Will the Senator yield?

Mr. BUMPERS. I yield to the Senator from Colorado.

Mr. HART. The Senator from Arkansas has talked about scare tactics. I think he is absolutely right.

But what interests and even amazes the Senator from Colorado is the ability of the petroleum industry to scare itself.

We have heard a lot around here about competition and how many companies are producing oil, and that is all right. There are 9,000 or 10,000 companies. About a dozen or a dozen and a half of them control that through a whole variety of ways that some of us have tried to point out through the years.

But I think I have seen it demonstrated in the last couple of weeks around here more than I ever have before.

The dominant elements of this industry have terrified the other elements. The 9,000 or 9,500 or almost 10,000 companies are terrified of doing anything separate from those top dozen or two dozen companies. I have documentation of that which I will share with the Senate at the appropriate time.

I have an amendment here that I have not had a chance to bring up yet, but I hope I will, which would do what those 9,000 or 10,000 companies say they want. It takes them off the price controls, the regulated price, for those companies, those so-called independents. That is what they have told me for 2 years, they wanted, since I have been in the Senate.

Do you think I can get them to support that? No. Do you know why? Because the major elements of the industry that would continue to be regulated have terrified them.

There is a bill that takes the price controls off for 99 percent of the companies in the industry or more. Do you think they will support it? No. They are terrified. They are terrified of the majors and the misinformation that has flowed out of this town by the majors and by their trade associations. They have mischaracterized it and lied about it. They say, "If you buy this bill, it is going to ruin the industry. It is going to destroy the relationships we have had over the years." It has terrified them.

They do not have the access to the Senate of the United States that the major oil companies have. The major oil companies wave them at us like this: "There is competition in our industry. Look at the independents."

If you give the independents what they have been asking for, do you think they will take it? They run for cover.

The Senator from Arkansas has rightly talked about scare ta tics. But I think we should talk about the scare tactics going on inside the so-called free enterprise petroleum industry in this country.

Mr. BUMPERS. I thank the Senator from Colorado.

Mr. President, I should like to make two other points, and then I will sit down.

Sometimes, when I become a little overexuberant in my oratory, it would be easy to conclude that I am antibusiness, anti oil company. I was a small businessman. One of the reasons I sold my business was not that it was losing money but because I could see the handwriting on the wall. It is going to be difficult to compete with Sears and Walmart and the other big chains. Yet, I honestly believe that the people of this country are enjoying the benefits of competition and the free enterprise system so far as retailing in this country is concerned.

However, when you start comparing that kind of competition with the kind of free enterprise that the Senator from Alaska alluded to a minute ago, you are talking about apples and oranges. He said that he wanted us to get into the free enterprise system with natural gas and oil, and the Senator from Colorado asked the salient, cogent question: Do you feel that the price of oil in this country has been set by the free enterprise system? He honestly answered "No", of course it has not.

We all know why we are in this pickle right now. It is because of that embargo in 1973 and the OPEC cartel, the most insidious economic unit the world has ever known. Not that particular one—any cartel.

The oil companies have enjoyed the benefits of that, and they want the Arabs to be able to set the price of oil in this country, regardless of what kind of return it gives, regardless of what it does to the American taxpayer and the American consumer.

What do you think would happen if Mexico or Canada raised the price of gas to us to $10 an Mcf? I promise you that the arguments still would be made over and over that we should be getting $10 an Mcf for American gas, even though nobody could afford to buy it.

Of course, the free enterprise system is not at work in this field. Nobody suggests that it is. It is a patronizing, deprecating argument of people who have the slightest knowledge. For anybody who ever had college economics 103A, it is an insult to their intelligence.

There was some mention a little earlier about how in the world we ever are going to get the price of synthetic natural gas up. The Jackson proposal and the Burton proposal do not control synthetic natural gas. It is deregulated.

Exxon, to their eternal credit, have a great program going for making oil from coal, and I am glad to know that ERDA is going to assist them with it. I think that is fine. When you have Government and industry working on research and development for the benefit of the people of this country, who could deplore that? I do not.

All I am saying is that if we are going to pay Mexico $2.50 or $3.50 for gas, or pay Algeria $3.50 for liquid natural gas, and there is no control on SNG under this bill; is that not enough incentive? I certainly hope so.

All the synthetic natural gas we can produce in this country at $3 or $4, or whatever, will just be that much less we will have to buy from Canada, Mexico, Algeria, Indonesia, or wherever.

All I am saying, Mr. President, is this: For God's sake, let us be sensible and let us talk about this matter in sensible, intelligent, and objective terms and call it and see it for what it is.

Mr. President, how much time does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes remaining.

Mr. BUMPERS. And how much time does the other side have?

The PRESIDING OFFICER. The other side has 15 minutes remaining.

Mr. BUMPERS. Mr. President, I do not see anybody on this side of the aisle to yield to, and I am about out of steam, so I suggest the absence of a quorum.

The PRESIDING OFFICER. To be charged to whose time?

Mr. BUMPERS. I ask unanimous consent that, unless there are speakers on the other side who wish to be heard, it be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. WALLOP. I yield.

RECESS UNTIL 1:45 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the time expires for debate under the arrangements by which we have been moving forward all morning, there then be a 30-minute recess.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that no Senator wishes to get recognition for debate at the moment.

I ask unanimous consent, therefore, that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 12:49 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

RECESS UNTIL 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 o'clock p.m. today.

There being no objection, the Senate, at 1:45 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MOYNIHAN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

10-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 3:04 p.m., recessed until 3.14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MOYNIHAN).

Mr. ZORINSKY. Mr. President, I sug- the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ZORINSKY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO CALL OF MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the majority leader.

There being no objection, the Senate, at 3:54 p.m., recessed subject to the call of the majority leader. The Senate reassembled at 4:54 p.m. when called to order by the Presiding Officer (Mr. ZORINSKY).

THE PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I do not seek the floor at this time.

AUTHORIZATION FOR GOVERNMENTAL AFFAIRS COMMITTEE TO FILE REPORT BY NOVEMBER 1, 1977

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have until November 1, 1977, to report the results of its review together with a recommendation on the desirability of establishing rules and regulations for the establishment and maintenance of blind trusts under section 311 of Senate Resolution 1959.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, during the time we were in one of our numerous recesses today, I am told by my staff that the President of the United States went on television and castigated those people in this Congress and in this Senate who are in favor of deregulation of wellhead prices. He stated, in effect, that this building was creeping with oil lobbyists; that those of us who favored deregulation were under the control of the oil lobby.

Mr. President, I have been used to some dirty politics in my life. In fact, some people, if they stay in this business long enough, seem to think that is the only way to run it. I know both the distinguished Senators from Georgia. I know them to be perfect gentlemen. I would suspect that in Georgia the tendency is to raise gentlemen in the jobs calling for politicians. But I am beginning to have my doubts, Mr. President, when the President of the United States goes on national television to deride those of us who favor deregulation. This is dirty politics and I resent it.

Mr. President, in the campaign, the then candidate for election said to the Governor of Oklahoma, Gov. David Boren, and I am reading from a letter dated October 19, 1976:

> First, I will work with the Congress, as the Ford Administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital.

I do not know who is double-crossing who, Candidate Carter double-crossing President Carter or President Carter double-crossing Candidate Carter.

Mr. President, we do not have an oil well in Arizona. I wish we did. We do not have a gas well in Arizona. I wish we did. We have a little helium gas, but it leaks out all by itself and does not need some politician standing around telling it whether to go up or down.

Mr. President, I personally resent the attack by the President on my honesty, and I think I represent many people in this body. I would not know an oil lobbyist if I saw one. I do not know many people in the oil industry. I happen to have been a businessman during a large part of my life, and I know a little bit about the marketplace, and I know a little bit about this free enterprise system, which is a lot more than some of my colleagues can say.

So when I say that I am for the deregulation of natural gas, it stems from years of experience in the business field that says the only way you can get cheaper prices to the American people, the only way you can get production of anything in quantity to the American people, is to allow the free marketplace an opportunity to operate.

I have heard the oil industry castigated on this floor today. I have heard of the tremendous profits they make, that we ought to vertically divest the oil companies and horizontally divest.

Let me say, Mr. President, in this country whether we like it or not when you get successful you get big. We have made over 2,500 different kinds of automobiles in this country and we only have four or five automobile companies left.

All I am asking my President to do is to play fair. I want to play fair with him, but I do not want my President going on the tube making dishonest statements about Members of this Senate.

Mr. ROBERT C. BYRD. Mr. President, I did not hear what the President said, nor have I been able to watch the press conference on television. I have been very busy for the last 5 hours trying to talk with Members on both sides of the aisle, and on all sides of this question, to see if we could reach some kind of agreement.

I do not know that the President castigated the Members of the Senate. I would suggest to my friend, the Senator from Arizona, that if he knows this to be a fact that he read the transcript into the RECORD. I do not say this, Mr. President, in a spirit other than that of seeking the truth.

For the President to say something about the oil interests, gas interests, coal interests, or whatever it may be, is one thing. But I would be surprised if the President castigated Members of the Senate. I would be shocked and I do not want to believe that the President has played "dirty politics" by "castigating" Members of the Senate until I see it in writing. I want to see the transcript of where he said this. I want proof of it. When I see that proof, then there will be plenty of time to react to that. But simply to get up on the floor and say that I have been informed that he did this or that, I am not quite willing to say that the President has played "dirty politics."

Now, if the Senator from Arizona has the transcript and that is true, then let us read what the President said. Let us lay it all out here precisely as the President said it and let all Members see it and read it, and they can react in their own way by silence or they can say whatever they wish.

Mr. GOLDWATER. Will the Senator yield?

Mr. ROBERT C. BYRD. But I personally think that when we charge the President of the United States with playing dirty politics, let us see the proof.

Yes, I yield.

The PRESIDING OFFICER. Does the Senator yield on his time?

Mr. GOLDWATER. This is not the first time, I might say to the majority leader. I have just been on the phone, and I am trying to get a transcript of what he said this afternoon. I said it was reported to me, but I heard him before it was reported to me.

I am getting a little tired of it. If I am wrong, I will be glad to apologize.

Mr. ROBERT C. BYRD. Mr. President, there is no bigger man in the Senate, as far as principle and integrity are concerned, than the Senator from Arizona. There is no man in the Senate who is more willing to stand up and say he is wrong if he is wrong than is the man from Arizona. I have the utmost respect for the Senator from Arizona.

I also believe that we ought to see in writing—I want to see in writing the transcript, because I did not hear the news conference. I have no way of knowing what the President said. But I am not going to be willing, myself—Mr. President, I ask unanimous consent that this colloquy not be charged to anybody.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I am not willing, at this point, to stand silent when the President of the United States is charged with playing dirty politics and castigating the Members of the Senate without something as proof of it.

Mr. President, I suggest the absence of a quorum, because I think that Members ought to know that we are back in session and they have no way of knowing it.

The PRESIDING OFFICER. Out of whose time?

Mr. ROBERT C. BYRD. There is no time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Objection. I object only because I did not hear what the unanimous consent was.

Mr. ROBERT C. BYRD. I asked unanimous consent to proceed for 1 minute.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that certain Senators have gone to the desk to inquire as to how much time I have left under the cloture rule.

Now, I have been told this has occurred two or three times. I was told it yesterday, and I am pretty sure I now have no time left. But I am willing to abide by the cloture rule.

The PRESIDING OFFICER. The Senator has 6 minutes remaining. It was yielded to him by the Senator from New Hampshire.

Mr. ROBERT C. BYRD. But that 6 minutes is gone, I took that last night.

So what I want to say to those Senators is, you do not need to go to the desk and inquire as to how much time I have left, just ask me. I do not have any time left and I am willing to abide by the cloture rule.

I am a little bit surprised, I must say, a little amused, as fair as I have been to Members on both sides of the aisle. Time after time I have stood up here and I have stood up for the minority—their right to be recognized when they were not recognized.

I have bent over backwards to be absolutely fair with every Senator, and with both sides, and I am really amused when I am told that Senator So-and-so and Senator So-and-so and Senator So-and-so came to the desk and asked how much time the majority leader has left.

Now, Mr. President, I do not have any time left and the only way I can get any time is by unanimous consent under the cloture rule, and I am prefectly willing to abide by the cloture rule because I expect everybody else to do so.

So there it is. Do not go to the desk any more and ask whether the majority leader has any time left. I do not, and that is all right with me.

I talked too long when I had a little time; else I probably would have had some time now.

Enough said on that subject.

Mr. MATHIAS. Will the Senator yield on that subject?

Mr. ROBERT C. BYRD. Yes.

Mr. MATHIAS. I just want to say to the majority leader that I have observed that he has been very careful in protecting the rights of all Members, and, as far as I am personally concerned, if there is a way under the rules that I can yield some of the time that I have under the cloture procedure to the majority leader, I would be glad to do so.

Mr. ROBERT C. BYRD. The Senator has always been more than fair, and I appreciate it. This is typical of him. I appreciate it more than I can say.

I wonder if the Senator who for 16 years was an outstanding majority leader, and whose fairness and integrity were never questioned, if he were majority leader in my place today, I wonder if those same Senators would have gone to the desk to inquire, "How much time does Senator Mansfield have left?"

Now, what else can I do than what I have done to bend over backwards to protect the rights of the minority, time after time after time? And I expect to continue to do it when I think their rights are not being observed.

The other night, I put the Vice President of the United States in a very embarrassing position. I did not intend to embarrass him. I was upset because I thought that the minority leader had not had his rights observed under the customs and traditions and practices of this Senate. After I talked to the Vice President, he said, "Well, I had recognized Mr. MCGOVERN and I was in a tough spot. I didn't know how to derecognize him after I had recognized him."

So I said, "Well, this is what I would suggest in a future instance."

Mr. LONG. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Just a second.

The more I thought about it, I thought I had the Vice President at a disadvantage, and after I went home that night, I called him and I said, "I want to tell you how sorry I am for what happened, and I didn't want to go to bed tonight until I had called you to say so. The next time a similar situation occurs, if it ever does, I will ask unanimous consent that the Vice President of the United States be allowed to address the Senate so that he can defend his position."

I want to be absolutely fair with every individual, even sometimes to my own disadvantage.

The PRESIDING OFFICER. The majority leader is out of order right now. The Presiding Officer has no choice except to tell the majority leader to sit down or have some other Senator yield to him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator from Tennessee has 47 minutes remaining.

Mr. BAKER. Mr. President, is it in order to yield all that 47 minutes to the majority leader?

The PRESIDING OFFICER. It takes unanimous consent to do it.

Mr. BAKER. Mr. President, I ask unanimous consent——

Mr. ROBERT C. BYRD. I would object to that.

Mr. BAKER. Well, I am not going to do that.

Mr. President, I ask unanimous consent that I can yield to the majority leader so he can continue with his presentation to the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I have finished, and I compliment the Chair on enforcing the rules under cloture.

Mr. GOLDWATER. Will the Senator yield?

Mr. BAKER. If I could for just a minute—yes.

Mr. GOLDWATER. I ask unanimous consent that the colloquy that took place between the majority leader and myself be all charged to my time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his generosity.

Mr. BAKER. Mr. President, I was not here at the beginning of this colloquy, this presentation, so I missed the opening adjectives and verbs, and I do not know how it started.

Let me simply say, on the basis of my incomplete understanding of it so far, that I gather that some inquiry is made from time to time about how much time the majority leader has remaining under his hour allocated under rule XXII.

Speaking for every member of the minority, I am sure that inquiry, if it was made, was only to ascertain that there was still ample time for us to hear the good advice the majority leader gives. [Laughter.]

I am sure that it was in no way calculated to reduce or diminish his opportunity to conduct the operations of the Senate.

The majority leader is right: He always has been jealous of the prerogatives of the minority and has guarded them as if he were guarding his own life, and we are grateful for that. I reciprocate in kind: I will never, as long as I have the opportunity to speak and act, permit anything to occur that will impair his opportunity to present his views to the Senate and arrange and schedule the activities of the Senate.

From time to time, we necessarily are in conflict. Frequently, we are not, and sometimes the joint leadership can produce a good result. We try to achieve that goal, with varying success.

Mr. President, there never has been a man I have dealt with in public life who has been more fair, more devoted to the concept of equity, or with whom I have found it easier to work. I admire him and value the opportunity to work with him.

Mr. HANSEN. Mr. President, speaking on my own time, let me say that although no one else may admit it, I was the one who made the inquiry of the Parliamentarian as to how much time the distinguished majority leader, my very dear friend, had.

I also made the statement that no one would ever hear a word from me. The reason I made this inquiry was that other people had asked me about it.

It seems to me that if we are going to conduct the business of the Senate in an orderly fashion, it is absolutely imperative that the majority leader and minority leader each have an opportunity, whenever they choose to avail themselves of it, to speak on any subject. I find no reason to say that that privilege—if it is a privilege; I do not think it should be—has been abused.

It probably could be said of me that it takes me much longer to make a point than it would take others in this Chamber. But that is not the point.

Obviously, the majority leader and the minority leader, as the two persons in whom we have reposed confidence, to whom we have given authority, must have the opportunity and the ability to respond to questions, to point out situations that may occur. I hope that if we get around at some later date to revising the rules of the Senate, recognition will be given to the essentiality of their being able to speak on any subject under cloture, with no restrictions on time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wyoming yield me 1 minute?

Mr. HANSEN. I yield whatever time I may have remaining.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized for 1 minute.

Mr. ROBERT C. BYRD. Mr. President, I merely rise to thank the distinguished Senator from Wyoming and to say that it takes a big, big man, in my judgment, to say what he has said. I have always considered him to be fair and scrupulous in his dealings, a man of integrity, a man who has the courage to stand up for what he believes in, and a man who affords the same privilege to those who differ with him.

Mr. President, I will abide by the cloture rule. I do not think I will have any difficulty getting time, but I want it to be yielded to me only by unanimous consent.

Mr. MATSUNAGA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATSUNAGA. Is it not proper, if I wish to do so now, so as to eliminate all questions as to how much time the distinguished majority leader may have, to yield by unanimous consent 30 minutes of my time, to be used at any time the majority leader sees fit?

The PRESIDING OFFICER. The Senator from Hawaii may do so, but only by unanimous consent.

Mr. MATSUNAGA. Then, I ask unanimous consent that I may yield 30 minutes of my time to the majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may yield 30 minutes of my time to the distinguished minority leader, Mr. Baker.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, for the record, I should like to make the point that we have sought under cloture not to yield time to other Senators or to have other Senators yield to other Senators so that the filibuster may be carried on in that method. That, obviously, is not the purpose of this yielding.

Whatever precedent has been set by this action, we should note for the record the fact that this only related to transferring time to the majority leader and the minority leader for the orderly conduct of the Senate business and to give them the opportunity to provide the very fine leadership both these leaders provide to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii for his thoughtfulness and generosity to me, and I thank the distinguished Senator from Nebraska for his thoughtfulness and generosity to the minority leader, because I think that was only fair, also.

Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The motion to recommit, with instructions.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Is there any rule of the Senate that requires the Parliamentarian or others at the desk to log requests that have been made of them and report to people who are involved in those requests?

Mr. ROBERT C. BYRD. Mr. President, that is a fair question.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. There is no rule.

Mr. McCLURE. I thank the Chair.

Mr. ROBERT C. BYRD. I will take 1 minute.

Let me say, on behalf of the Parliamentarian, that the people who told me were my own aides. I would expect them to tell me. I would be disappointed if they did not.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit.

Mr. BAKER. Mr. President, I do not wish to gain recognition if someone else has business to transact in this respect. I want to make sure, as I look around the Chamber, that we are present and here and know that we are about to take an important step, either by voice vote or rollcall vote.

There is a quorum called for, and I assume that all interested parties are here and speak for themselves.

Mr. LONG. Mr. President, will the Senator yield at that point? I want to make a brief statement.

Mr. BAKER. I yield.

Mr. LONG. I yield myself 5 minutes. Mr. President, I believe I shall vote against the motion for the simple reason that I do not want to be regarded as being committed to the course of action that the motion suggests.

If the motion is agreed to, Mr. President, it will be my intention to offer every one of these amendments that is at the desk, other than the Pearson-Bentsen amendment, before we come to a final vote on the Pearson-Bentsen proposal.

So far as I am concerned, I would be perfectly willing to agree as of now that the Senate will have its choice between the Robert C. Byrd proposal and the Pearson-Bentsen proposal, and that the Senate can do whatever it wants to do about that.

But I am not willing, when I favor one proposal over another proposal, to agree to a situation whereby if the proposal I favor should be agreed to I will then be subject to the kind of torture this Senate has gone through during the course of this filibuster; but, on the other hand, if the other side prevails, I am not expected to filibuster.

I am willing to play by any rulebook someone wants to hand me, provided it is reciprocal, provided I have the same rights as the other fellow.

In days gone by, Mr. President, I proved my ability in a filibuster, and I think I have the same ability as the other fellow in a filibuster, and I would say if the Robert C. Byrd motion carries, we then ought to arrive at a parliamentary situation where we agree that both sides will leave their pistols outside the room so that we will not be in a situation where those who vote on my side have a pistol to their temples, if the side I agree with should prevail, that they will be pushed through more nights of around-the-clock voting every 15 minutes on rollcall votes, but the other side will not.

In other words, I can play it either way. I am somewhat like that fellow who tried to get a job down at Dry Prong, La., teaching geography. He went before the school board and they said, "This school board is equally divided. Half of us think the Earth is round and half think the Earth is flat. We want to know what is your opinion." He said, "Gentlemen, I came prepared to teach it either way."

[Laughter.]

So I want to arrive at a parliamentary situation where both sides have the same chance, the same advantage, and before we arrive at a final vote between the two contending positions, I want to arrive at a parliamentary situation where either both sides have the right to filibuster or neither has the right to filibuster.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield to the Senator for a question.

Mr. HART. I understand the proposal made by the Senator from Louisiana to have certain logic and fairness. Unfortunately, there are some of us here who do not consider themselves on either side who have their own proposals.

I hope in his judgment and wisdom if he is prepared to do that he would protect some of us who would like to see some of our amendments brought up and considered on their merits, amendments by those who are not part of the filibuster or the antifilibuster.

Mr. LONG. I am willing to play the Hart game by the Hart rule, and the Metzenbaum game by the Metzenbaum rule. I do not want to be in the situation of a fellow who is out trying to fight by the Marquis of Queensbury rules while the other fellow is fighting by the rule of tooth and nail.

It just seems to me we ought to have the same chance, and we ought to all be on the same footing. I just think it would be unwise and, frankly, I do not like to feel that those represented by the Senator from Louisiana are represented by persons of less capability or dedication than those represented by Senators from other States.

That being the case, if the motion carries, and I assume it will, I will seek to work out an agreement with the Senator from Colorado whereby he gets his chance to have his vote on his proposition and the other fellow gets a chance to have a vote on his proposition. But in any event I would like to arrive at a situation where if the other guy is going to be a poor loser, I want to be a poor loser.

[Laughter.]

If he wants to be a good loser I am willing to be a good loser, but I do not want to, having heard what a decent guy the majority leader is, and how poorly he is appreciated—I do not like to be that way. A filibuster is by definition an act of piracy, and I do not want to be a gentleman doing business with pirates. So if I am going to trade with pirates I want to be a pirate, too.

So I want to make it clear that my intentions are that we all play by the

same rulebook after this vote is over, and I want the majority leader to understand that.

I will yield to him for such time as he requires. [Laughter.]

Mr. ROBERT C. BYRD. I heard what the Senator said, and I know when I am put between the rock and the hard place.

Mr. BAKER. Mr. President, last night I indicated that I thought the majority leader's parliamentary device for bringing us closer to a resolution of this problem had great merit, and I think the parliamentary technique does, and I think so today.

I would like to say when the motion to recommit with instructions is presented for a vote I intend to vote for it. There are some on this side who will vote against it, and I understand their point of view.

Mr. President, I also share a desire to see this matter treated fairly. I would hope then, Mr. President, that without any further extensive debate we could proceed to a vote on this motion.

I, for my part, would just as soon see it disposed of without the necessity of a rollcall vote. I do not intend to ask for the yeas and the nays, and I am ready at this time to proceed.

Mr. JACKSON. Mr. President, will the Senator yield? I think we can dispose of this matter on a simple voice vote, and I would hope we could proceed without delay. There will be ample opportunity, Mr. President, for all points of view to be expressed under the rules in connection wtih the various amendments and substitutes that will be offered. I would hope we would go right to a vote.

Mr. ROBERT C. BYRD. Mr. President, if I may be recognized, in fairness to other Senators, I think we ought to put out hot lines saying that a vote is going to occur on the motion and is about to occur by voice vote, and we will put in a short quorum call, and if any Senator wants a rollcall vote, and will notify the cloakrooms, we will get it, otherwise we will call for a voice vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has the minority leader had any word from any Senator of his side requesting a rollcall?

Mr. BAKER. I have no requests on this side for a rollcall vote.

Mr. ROBERT C. BYRD. I am not aware of any indication from our cloakroom that we have had any requests for a rollcall vote. Of course, this does not deprive any Member who is here from yet asking for one if he wishes to do so before the Chair announces the results of the voice vote.

VOTE ON MOTION TO RECOMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit the bill with instructions to report forthwith.

[Putting the question.]

The ayes appear to have it.

The ayes have it.

The motion was agreed to.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion to recommit the bill with instructions was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I report the bill back to the Senate forthwith as instructed by the motion just adopted by the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) reports the bill back to the Senate as instructed by the motion of Mr. BYRD of West Virginia.

AMENDMENT NO. 1073

Mr. LONG. Mr. President, I call up amendment No. 1073.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1073.

On page 11, line 1, strike "annually" and insert "biannually".

Mr. LONG. Mr. President, it does not make the slightest bit of difference whether the Senate votes yea or nay. I just want the Senate to vote on it.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

Mr. CRANSTON. Mr. President, if the Senator will withhold, why do we need to go through the yeas and nays at this point?

Mr. LONG. Mr. President, as far as I am concerned we can have the yeas and nays on all of them.

Mr. ABOUREZK. OK.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Hold on, Mr. President, I want to make this clear. We can have the yeas and nays on every one of them. If Senators want to take that much time, it is perfectly all right with me. Let us vote.

Mr. JACKSON. What is this?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, if I am wrong I hope someone will correct me, but I think the Senator from Louisiana announced that at some point he is going to call up the Bentsen-Pearson deregulation amendment and attempt to attach it on to the clean bill that was just reported back from the committee. If he wants to go ahead and call up the several hundred amendments that are printed at the desk, that is fine with me. I think we should go through that if he wants to. However, I suggest we attempt to work our way out of this parliamentary situation that we were in by the majority leader's recommittal motion to bring back out a clean bill, but if he wants some sort of a vote on the deregulation amendment I think we should do it now.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ABOUREZK. I do not yield yet. I will when I am through here.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. ABOUREZK. Mr. President, as I started to say, it is fine with me if he wants to do it. He can just go on and on and on.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ABOUREZK. I will yield in a minute.

If we are going to come to some kind of a final decision on this, I suggest that he call up the deregulation amendment now and let us get a vote on it and see what happens.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana is not in order. The amendment is not in order. It is imperfectly drafted.

Mr. LONG. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. The vote recurs on the appeal of the ruling of the Chair.

[Putting the question.]

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. JACKSON. Wait a minute. Wait a minute.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, a quorum is here. We established that precedent twice already.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, we established that already twice that when a quorum is here the Senator is not entitled to have that.

The PRESIDING OFFICER. No quorum has been established.

The clerk will call the roll.

Mr. LONG. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. [Putting the question.]

Mr. ABOUREZK. Mr. President, a quorum is in progress. That is out of order.

Mr. LONG. No one answered.

The PRESIDING OFFICER. The first name had not been called and responded to, so a quorum was not called.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, I appeal

from the ruling of the Chair and I ask the Chair to put the question.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The question is on agreeing to the appeal. There has not been a response to a call for a quorum. The question is on the appeal.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, point of order. One cannot suggest the absence of a quorum when there is clearly a quorum present. That has been decided twice by the Senate. The Chair can rule however he wishes to. In any event, I suppose, there will be an appeal.

Mr. CHILES. Mr. President, if the Senator will yield, I understand the point of order is that the request for a quorum is a dilatory motion.

Mr. LONG. That is my point.

The PRESIDING OFFICER. Under the precedents of the Senate the Chair has no right to count a quorum to ascertain the presence of a quorum.

Mr. LONG. Mr. President, I make the point of order.

QUORUM CALL

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. I make the point of order that a quorum is clearly present, which there is, and this has been voted on before.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 47 Leg.]

Abourezk	Hansen	Melcher
Allen	Hart	Metzenbaum
Baker	Hatfield	Moynihan
Bartlett	Hathaway	Nelson
Bellmon	Hayakawa	Packwood
Bentsen	Heinz	Pearson
Burdick	Huddleston	Proxmire
Byrd,	Inouye	Ribicoff
Harry F., Jr.	Jackson	Roth
Byrd, Robert C.	Javits	Schmitt
Case	Johnston	Stennis
Chiles	Kennedy	Stevens
Cranston	Laxalt	Talmadge
Curtis	Leahy	Tower
DeConcini	Long	Wallop
Domenici	Mathias	Young
Garn	Matsunaga	
Goldwater	McClure	

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. DANFORTH) the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the appeal from the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, there is obviously not a quorum present. I suggest the absence of a quorum.

The PRESIDING OFFICER. There is a quorum. The clerk has just ascertained the presence of a quorum. The question is on the appeal from the ruling of the Chair by the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, has there been intervening business between the ascertainment of a quorum and the request for a quorum call?

The PRESIDING OFFICER. There has been—the denial of the yeas and nays.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. CHILES. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Florida will state his point of order.

Mr. CHILES. The request for a quorum call is a dilatory motion.

The PRESIDING OFFICER. The Senator from Florida is correct. The point of order that a quorum is not present is a dilatory proceeding at this point. We have just ascertained the presence of a quorum.

Mr. LONG. Mr. President, I want to make it clear that I do not disagree at all with the ruling of the Chair that this amendment is not in order, but I appeal because I want to dispose of the amendment. I hope the Senate will vote my appeal down.

The PRESIDING OFFICER. The question is on the appeal from the ruling of the Chair. [Putting the question.] The "nays" appear to have it.

The decision of the Chair stands as the judgment of the Senate.

Mr. LONG. Mr. President, I thank the Chair.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. I withdraw my inquiry at this point.

AMENDMENT NO. 1116

Mr. LONG. Mr. President, I call up amendment No. 1116.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1116.

Mr. LONG read as follows:

On page 10, line 1, strike "1982" and insert "1983".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Dakota has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The call of the roll was resumed and concluded and the following Senators entered the Chamber and answered to their names:

[Quorum No. 48 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Hansen	Moynihan
Baker	Hatch	Muskie
Bartlett	Hatfield	Nunn
Bayh	Hathaway	Packwood
Bellmon	Hayakawa	Pearson
Bentsen	Heinz	Proxmire
Burdick	Inouye	Ribicoff
Byrd,	Jackson	Roth
Harry F., Jr.	Javits	Sparkman
Case	Laxalt	Stennis
Chiles	Leahy	Stevens
Cranston	Long	Talmadge
Curtis	Mathias	Tower
DeConcini	Matsunaga	Wallop
Domenici	McClure	Young
Durkin	McIntyre	
Ford	Melcher	

The PRESIDING OFFICER. A quorum is present.

The amendment is not in order.

Mr. LONG. I appeal the ruling of the Chair.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the appeal of ruling of the Chair.

The PRESIDING OFFICER. The yeas and nays are requested on the appeal of the ruling of the Chair that the amendment was not in order. Is there a sufficient second? There is not a sufficient second.

The question is, Is the appeal well taken——

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. There is obviously not a quorum on the floor, Mr. President. I suggest the absence of a quorum.

Mr. CRANSTON. Mr. President, it would just establish that there is a quorum.

The PRESIDING OFFICER. The Chair will rule that the point of the Senator from South Dakota is not well taken. It is a dilatory motion. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

(Putting the question.)

The ayes appear to have it. The ayes have it.

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, that disposes of amendment 1116, is that correct?

The PRESIDING OFFICER. The appeal was sustained. Therefore, the amendment is in order. That was established by the Senate vote.

Mr. LONG. I do not think the appeal was sustained. The question should be whether the Chair should be upheld, but I want to vote with the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is correct. The Chair was in error. The Chair overrules the Chair. The Senator from Louisiana is correct. The amendment is not in order.

Mr. LONG. Then it has been disposed of.

AMENDMENT NO. 1087

Mr. LONG. Now, Mr. President, I call up amendment No. 1087.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1087.

The amendment is as follows:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1988".

The PRESIDING OFFICER. The Chair will state the amendment is not in order.

Mr. LONG. I appeal the ruling of the Chair.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, that is dilatory. A quorum is present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentee Senators.

The call of the roll was resumed and the following Senators entered the Chamber and answered to their names.

[Quorum No. 49 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Glenn	Morgan
Anderson	Goldwater	Moynihan
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stennis
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
DeConcini	Matsunaga	Wallop
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ford	Melcher	Zorinsky

The PRESIDING OFFICER (Mr. MATSUNAGA). A quorum is present.

The question is on the ruling of the Chair that the pending amendment is not in order.

Mr. ABOUREZK and Mr. METZENBAUM addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on that appeal.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BAYH. A parliamentary inquiry, Mr. President. I am sorry to inconvenience the Chair, but how many Senators have to be present under the present situation in order to get a rollcall vote?

The PRESIDING OFFICER. Eleven will have to second the request for a rollcall.

Mr. BAYH. For the edification of the Senator from Indiana, how many were present this last time?

The PRESIDING OFFICER. Nine had their hands up.

Mr. METZENBAUM. I think the Chair missed a couple on that side.

Mr. ABOUREZK. May we ask for another count?

The PRESIDING OFFICER. If the request is made, the Chair will count again.

Mr. ABOUREZK. I renew the request.

Mr. STEVENS and Mr. BARTLETT addressed the Chair.

Mr. LONG. Mr. President, I say it is dilatory.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS addressed the Chair.

Mr. ALLEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, I was under the impression that while 11 votes were sufficient to get the yeas and nays on the first vote of the day, thereafter, it took 20 percent of those voting on the last vote.

The PRESIDING OFFICER. There was no vote.

Mr. METZENBAUM. Regular order.

Mr. ABOUREZK. Regular order.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CULVER. Regular order.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Under the procedure that the majority leader has just brought about, the bill has been reported back from committee and has been reprinted as a new bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. The amendments that were at the desk at the time cloture was voted were amendments that were addressed to a bill with a different page and lineage as far as the content is concerned, is that correct?

The PRESIDING OFFICER. The Chair will state that it is not a bill, it is an amendment in the nature of a substitute, which has been recommitted to the committee and returned to the Senate.

Mr. STEVENS. Mr. President, is it not the prior precedent of this body that, in order to be considered, an amendment would have to be at the desk and would have to be in order as far as the matter before the Senate is concerned? That is, it would have to be an amendment which would be in order, addressed to the line and page of the text of the subject before the body.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I make the point of order that it is the duty of the Chair to determine whether or not the amendments that are before the desk at this time are, in fact, in order.

The PRESIDING OFFICER. Does the Senator mean en bloc?

Mr. STEVENS. No, I mean it is the duty of the Chair to examine each amendment presently before this body to determine, under the circumstances that we are now operating—with a new provision, a new bill in effect, although in the form of an amendment—that each of those amendments must be examined now to determine, assuming they were offered, whether those amendments would be in order, and to so rule.

The PRESIDING OFFICER. The amendments have no status until they have been called up, and, as the Senator well knows, amendments are called up and reported one at a time. At that time, the Chair will determine.

Mr. STEVENS. Mr. President, rule XXII says "No dilatory motion, or dilatory amendment, or amendment not germane shall be in order."

I again make the point of order that it is the duty of the Chair to determine what amendments before the body would, in fact, be in order under rule XXII.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. The Chair will respond to the Senator's parliamentary inquiry by saying that an anticipatory point of order is not in order.

Mr. STEVENS. I appeal the ruling of the Chair.

The PRESIDING OFFICER. There is an appeal pending.

Mr. ABOUREZK. Yeas and nays, Mr. President.

Mr. STEVENS. Mr. President, I state, as a point of order, that it is the duty of the Chair to determine whether or not an amendment before the body is in order after cloture has been invoked.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. STEVENS. I appeal the ruling of the Chair.

Mr. ABOUREZK and Mr. METZENBAUM. Regular order.

The PRESIDING OFFICER. Regular order has been called for and the regular order is the taking of the yeas and nays on a prior appeal. The clerk will call the role.

The legislative clerk called the roll.

Mr. FORD. Mr. President, may we have order? May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The clerk is unable to hear the response of Senators.

The Senate will be in order. Senators will please take their seats. Senators will please cease conversations. The Senate will be in order.

The clerk will proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—95

Abourezk	Curtis	Hollings
Allen	Danforth	Huddleston
Anderson	DeConcini	Inouye
Baker	Dole	Jackson
Bartlett	Domenici	Javits
Bayh	Durkin	Johnston
Bellmon	Eagleton	Kennedy
Bentsen	Eastland	Laxalt
Biden	Ford	Leahy
Brooke	Garn	Long
Bumpers	Glenn	Lugar
Burdick	Goldwater	Magnuson
Byrd, Harry F., Jr.	Gravel	Mathias
	Griffin	Matsunaga
Byrd, Robert C.	Hansen	McClure
Cannon	Hart	McGovern
Case	Haskell	McIntyre
Chafee	Hatch	Melcher
Chiles	Hatfield	Metzenbaum
Church	Hathaway	Morgan
Clark	Hayakawa	Moynihan
Cranston	Heinz	Muskie
Culver	Helms	Nelson
Nunn	Sarbanes	Stone
Packwood	Sasser	Talmadge
Pearson	Schmitt	Thurmond
Percy	Schweiker	Tower
Proxmire	Scott	Wallop
Randolph	Sparkman	Weicker
Ribicoff	Stennis	Williams
Riegle	Stevens	Young
Roth	Stevenson	Zorinsky

NAYS—0

NOT VOTING—5

Humphrey	Metcalf	Stafford
McClellan	Pell	

So, the ruling of the Chair was sustained as the judgment of the Senate.

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. LONG obtained the floor.

Mr. LONG. It occurs to me that later on this evening or tomorrow or next week, some of us might not be happy about the way things are going and might decide that they would like to reoffer some of the amendments that have been voted down, but rather than offer them as amendments, simply offer them as a motion to recommit and report back. In my opinion, that might be ruled dilatory, but that would give a person the opportunity to anticipate 450 more rollcall votes. So, in order to find out whether I have that right or not, I am going to test it, and I am going to move that amendment No. 1073, which was ruled out of order, might achieve that same purpose by moving to recommit the bill as it stands and report it back with the substance of amendment 1073 in the bill. That would be to strike the word "annually" where it appears and insert the word "biannually."

I move to recommit it and report back forthwith.

The PRESIDING OFFICER. The Chair requests that the Senator from Louisiana put that motion in writing and send it to the desk.

Mr. LONG. I appeal from the ruling of the Chair. Here is the amendment. I am talking about amendment 1073. I move that the bill be recommitted, with instructions to report back forthwith, incorporating amendment 1073.

The PRESIDING OFFICER. The Chair calls the attention of the Senator to the fact that rule XXI provides that any motion shall be reduced to writing, if desired by the Presiding Officer or any other Senator. The Presiding Officer is going to withdraw his request that the motion be in writing, but the Presiding Officer was acting within the provisions of rule XXI when he made that request.

Mr. LONG. All I want to do is to make a request and find out if it is dilatory. I want to move that the bill be recommitted and that the bill be reported back forthwith, with amendment No. 1073 incorporated at the appropriate place in the bill.

Mr. ABOUREZK. I ask for the yeas and nays on the motion.

Mr. LONG. First, I would like to have a ruling on it.

The PRESIDING OFFICER. At this time, the Senator has made a motion. No point of order has been raised, so the Chair would put the motion—no one having raised the point of order.

Several Senators addressed the Chair.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. HANSEN. Mr. President, I make a point of order.

The PRESIDING OFFICER. State the point of order.

Mr. GRAVEL. Mr. President, this motion is dilatory.

Mr. HANSEN. I make the point of order that the motion by the Senator from Louisiana is dilatory.

Mr. ALLEN. Mr. President, a point of order. The point of order against the motion, of course, is that you cannot do indirectly by this method what can be done by offering an amendment separately. It would be out of order for that reason.

The PRESIDING OFFICER. The point of order is well taken.

Mr. LONG. I appeal.

The PRESIDING OFFICER. The motion is out of order.

Mr. LONG. I appeal from the ruling of the Chair.

The PRESIDING OFFICER. The question occurs on the motion appealing the ruling of the Chair.

Mr. GRAVEL. I ask for the yeas and nays.

Mr. LONG. The question is, Shall the ruling of the Chair be sustained?

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question recurs: Shall the ruling of the Chair be sustained? (Putting the question.)

The PRESIDING OFFICER. The ruling of the Chair is sustained.

Mr. LONG. Mr. President, that saves us 450 rollcall votes. [Laughter.]

AMENDMENT NO. 1077

I now call up amendment No. 1077.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1077.

The PRESIDING OFFICER. That amendment already has been tabled, so it would not be in order to call it up at this time.

AMENDMENT NO. 1103

Mr. LONG. I call up amendment No. 1103.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1103:

On page 9, line 24, strike "January 1, 1977" and insert "the date of enactment".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair rules that that amendment is out of order and is not properly keyed to the bill.

Mr. LONG. I call up amendment——

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG. A quorum is present.

The PRESIDING OFFICER. The Senator will state his point.

Mr. LONG. A quorum is present.

The PRESIDING OFFICER. The Chair will state the request for a quorum is dilatory.

Mr. METZENBAUM. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. METZENBAUM. Do not the rules provide there has been intervening business?

The PRESIDING OFFICER. The rules do provide that. But the rules also provide under rule XXII once you are in cloture a proper point being placed, dilatory motions will not be in order, and the Chair has ruled that is a dilatory motion.

Mr. ABOUREZK. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. State the inquiry.

Mr. ABOUREZK. How does the Chair determine whether it is dilatory or not if he does not know, if he cannot observe the presence or absence of a quorum, and if he does not know there is the presence of a quorum how can it be dilatory?

The PRESIDING OFFICER (Mr. CHILES). It is kind of like the umpire. Until he calls it "it ain't nothing." After he calls it, that is what it is.

[Applause and laughter.]

The question is on the appeal of the ruling of the Chair.

Mr. ABOUREZK. Mr. President, a further parliamentary inquiry. Does that mean it is always in the judgment of the Chair as to whether or not a quorum is present or a motion is dilatory?

The PRESIDING OFFICER. No; it means that under rule XXII the Chair has the right to rule as to whether motions are dilatory or not.

Mr. ABOUREZK. I am curious to know, Mr. President, under rule XXII, under a cloture situation, if all quorum requests are dilatory or are some of them dilatory, and which one does the——

The PRESIDING OFFICER. Only dilatory quorum requests are dilatory.

Mr. ABOUREZK. What is dilatory?

[Laughter.]

The PRESIDING OFFICER. I wonder if the Senator is aware that the time of the parliamentary inquiries is being charged to him on his time?

Mr. ABOUREZK. Yes. I am trying to determine from the Chair if we are seeking the presence of a quorum to do business here, how can we do business when there is not a quorum obviously in this Chamber? How can we do business, and how can the Chair continue to do business in the absence of a quorum?

The PRESIDING OFFICER. It seems to me that what the Senator is saying is because he cannot get the yeas and nays, there is not a quorum present.

Mr. ABOUREZK. The Senator did not say that. The Senator said it is obvious the Chair cannot observe it according to the rules. So, therefore, how does he know that a quorum is present? The only way to determine it is to call the roll.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The question is whether the motion is dilatory or not, and that is within the judgment of the Chair. The Chair has rendered that decision.

Mr. LONG. Mr. President, the Senate has twice in the course of this debate voted that with a quorum present it is dilatory to suggest the absence of a quorum, and we have a quorum present.

The PRESIDING OFFICER. The appeal of the Chair is not debatable. The question recurs on the appeal of the ruling of the Chair, the previous appeal from the ruling of the Chair.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Should the appeal from the ruling of the Chair be sustained. Is there a sufficient second? There is not a sufficient second. (Putting the question.)

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. HART. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HART. The Senator from Louisiana raised a point of order, I believe, or a parliamentary inquiry earlier about amendments that have already been offered.

I would like the Chair to restate the Chair's ruling on that question or that point of order.

The PRESIDING OFFICER. The ruling of the Chair was that amendments that had previously been disposed of could not be placed as an instruction to the committee to report back forthwith with that amendment in it.

Mr. HART. A further parliamentary inquiry. The ruling of the Chair, of course, does not affect any amendments that have not been disposed of; is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1057

Mr. LONG. I call up amendment No. 1057.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1057:

On page 3, line 13, after the comma after the word "chemicals" insert the following: "animal feed,".

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. LONG. I believe that has already been voted on, Mr. President. That has already been agreed to.

All I want the Chair to do is to say that it is dilatory to offer an amendment that has already been offered.

Mr. HART. Parliamentary inquiry. I think the Chair has already ruled on that issue.

The PRESIDING OFFICER. There is another amendment, and we have to look at it.

Mr. LONG. It was disposed of.

The PRESIDING OFFICER. This amendment was in a modified form——

Mr. LONG. I want to get shut of it.

The PRESIDING OFFICER (continuing). Agreed to in another matter. It was not in its present form. But it is out of order because it is not properly tied to the bill.

AMENDMENT NO. 1113

Mr. LONG. Mr. President, I call up amendment No. 1113.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1113:

On page 4, line 6 after (8), strike through line 13 and insert the following: "'Old natural gas' means natural gas other than new natural gas.".

The PRESIDING OFFICER. The amendment is out of order.

AMENDMENT NO. 1119

Mr. LONG. Mr. President, I call up my amendment No. 1119.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as folows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1119:

On page 10, line 3, strike everything after "(1)" through line 20, and insert the following: "This national ceiling shall not exceed the average per barrel domestic refiner cost of acquiring domestic crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaskan pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended) divided by a Btu conversion factor of 5,800,000 Btu's per barrel.".

The PRESIDING OFFICER. The amendment is out of order.

AMENDMENT NO. 1074

Mr. LONG. I call up amendment No. 1074.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1074:

On page 11, strike lines 5 through 10.

The PRESIDING OFFICER. The amendment has already been disposed of.

AMENDMENT NO. 1299

Mr. METZENBAUM. Mr. President, I call up amendment No. 1299.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1299:

SEC. 8. (a) Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract shall be:

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977—

(A) the product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or,

(B) the current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG. That is dilatory.

The PRESIDING OFFICER. The point of order has been made that the suggestion for a quorum call is dilatory, and the Chair so rules.

Mr. METZENBAUM. Mr. President, will the Chair be good enough to explain how he arrives at the conclusions that most quorum calls are dilatory, and what are the precedents he uses? Merely saying because he is the umpire and because it is dilatory makes it dilatory is not in accordance with the precedents of the Senate.

The PRESIDING OFFICER. Under the rules of the Senate, under rule XXII any motion, amendment, or other matter that is put that is dilatory can be ruled out of order. The Chair makes that judgment.

SEVERAL SENATORS: Vote! Vote!

Mr. ABOUREZK. That is not the answer.

Mr. METZENBAUM. That is not the answer. On the Chair's time I would like to have the answer.

I yield the floor so the Chair may answer.

The PRESIDING OFFICER. The question recurs on agreeing to the motion to table.

The motion was agreed to.

AMENDMENT NO. 1134

Mr. LONG. Mr. President, I call up amendment No. 1134.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1134.

The PRESIDING OFFICER. The amendment is out of order.

AMENDMENT NO. 1259

Mr. ABOUREZK. Mr. President, I call up amendment No. 1259 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1259.

The PRESIDING OFFICER. The amendment is out of order.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Will the Chair when ordering amendments out of order state the reasons why they are ruled out of order?

The PRESIDING OFFICER. The Chair will. The last amendment, amendment No. 1259, was out of order because it is not properly keyed to the bill.

Mr. HART. I thank the Chair.

Mr. LONG and Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. MUSKIE addressed the Chair.

AMENDMENT NO. 1102

Mr. LONG. Mr. President, I call up amendment No. 1102 and ask for its immediate consideration.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. The Chair said if an amendment is not "keyed." What does that mean? I have just moved in here and what I see in operation here is a steamroller of a kind I have not seen in the 19 years I have been in the Senate. I do not know what arrangement has been struck but I do not like the smell of it.

I wish to know what it means when the Chair rules this amendment is not "keyed." I wish to have that spelled out.

I have not used a second of my hour, since I have sat here for the last 3 days listening to this discussion. But what I see here is not my idea about the way the Senate should be operating. I am not going to be part of the steamroller, and I am not going to let it go over me without protesting and asking what does the Chair mean when the Chair says that the amendment is not "keyed" to something. I have heard the word "keyed" used in football. When somebody keys in on somebody in football it means somebody is being rolled over.

[Laughter.]

That is what I see going on here, and I would like the Chair to explain.

The PRESIDING OFFICER. The Chair rules that by saying "It is not keyed," amendment 1259 was drafted to amend 862. All the references, all the paragraphs are set with that amendment. We are now working on amendment No. 862 but with a different text as reported out of the committee pursuant to the motion to recommit which the Senate agreed to. So this amendment does not fit the new text, and, therefore, it is out of order.

Mr. MUSKIE. Mr. President, I remember very well a parliamentary inquiry put by the distinguished Senator from Alaska, Senator STEVENS, in which he raised this risk, that the motion of the Senator from West Virginia, the majority leader, might result in a different pagination, which would then make some amendments which had qualified under the cloture rule out of order. I want to know whether or not the answer that the Senator from Alaska got last night is no longer relevant and whether or not the conditions which the Senator from Alaska put as the basis of his question are now being used by the Chair to rule amendments out of order.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. MUSKIE. Yes, I yield to my good friend from Alaska.

Mr. STEVENS. The Chair's ruling today is the same ruling stated last night: that if amendments are still keyed to the same pages and lines, they are in order. If they are not, then they are not in order. If the Senator will yield to me just 1 further minute without losing his right to the floor? The effect of changing amendment No. 862 so it incorporates the language of amendment No. 1022, as amended by amendment No. 1043, is to so change the pages and lines that I venture to say that 99 percent of the amendments at the desk could be ruled out of order.

Mr. MUSKIE. So if I understand the Senator what he is saying is that he did not get a straight answer last night.

Mr. STEVENS. No, I got a straight answer last night.

Mr. MUSKIE. But not applicable today.

Mr. STEVENS. No; the Senator checked amendments and checked with the desk and only one of them is still in order.

Mr. MUSKIE. I will say to the Chair, and I guess I will have to put it in the form of a parliamentary inquiry, if this is the kind of precedent we are going to set to operate, once cloture is imposed, I will never again vote for cloture. I have been against filibusters from the day I first came in this Senate. I do not like dilatory tactics, and I voted against some of those that I thought were dilatory in the course of this debate. But now what I see is a determined majority—and it is not a big majority—using one of the most astute parliamentarians that I have known in my experience in the Senate, Senator LONG, to convert this operation into a steamroller.

I heard it said last night that because the tabling motion was carried by 52 to 46, and I think it was my good friend from Texas, Senator TOWER, who said that, somehow those 52 had rights fixed in concrete which eliminated the rights of the 46 to have any influence on the final legislative result. That was an amazing concept of the legislative process. I did not rise to challenge it at that point, but the Senate is an institution where one Senator has a right to influence the final legislative results.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. May we have order?

Mr. MUSKIE. I see the steamroller in operation.

I yield.

Mr. ABOUREZK. Regular order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maine has the floor.

Mr. HANSEN. Is the Senator from Maine posing a question or making a speech?

The PRESIDING OFFICER. The Sentor from Maine has the floor at this time.

Mr. MUSKIE. I think I have an hour under the cloture motion, may I say to my good friend from Wyoming. I have not said a word for the 9 days of debate, and suddenly the Senator thinks I am talking too much. That is the kind of majority arrogance of which I have heard the Senator from Wyoming criticize my side of the aisle for the years he has been in the Senate. But now that he is in a majority he finds it a tempting kind of arrogance to embrace.

That is what I heard last night. That tabling motion, may I say to my friends, was interesting if you analyze it. There were 39 Democrats who voted for that tabling motion; there were 2 Republicans who voted for it. There were 30 Republicans who voted against the tabling motion and 15 Democrats who did. So on a party division, this side of the aisle voted overwhelmingly for that tabling motion.

The Senator from Texas said that the 52, which included the 15 Democrats, had a right, in effect, to demand that these stalling tactics, as they described them, these stalling tactics should be terminated so that their will could determine the final legislative results.

All this session I have watched my good friend and distinguished minority leader protect the rights of what—a minority of Republicans. And if we were to embrace the philosophy expressed by the distinguished Senator from Texas last night they would not have a voice in the shaping of legislation on this floor. Yet on that tabling motion the real division of forces in this Senate was disclosed.

It is not the Democratic majority that is writing this legislation; it is the Republican minority, and so it does not speak well for one of that Republican minority to complain that a minority of 46 on this issue is taking the time to make its voice heard.

What are we talking about? I had hoped that the distinguished majority leader had found a way to convert the legislative process that was in disarray to a legislative process that would, in an orderly fashion, move to a final result. If he had succeeded in doing that—and it is obvious that he did not—I would have accepted Pearson-Bentsen as the final result, provided we could do it in an orderly fashion, and I would have opposed dilatory tactics.

But I am just as ooposed to steamroller tactics as I am to dilatory tactics, and I rise to protest; and I do not like the kinds of rulings that are being made here to implement that kind of tactics. That is the only reason why I rise.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I wish to make a parliamentary inquiry, if I may.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator will state it.

Mr. FORD. Under the present situation, if an amendment has been propounded to amendment No. 1022 to amendment No. 862; is that amendment in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, in line with what the Senator from Maine has been saying, I would like to refer to the RECORD of last night, and the discussion of a question raised by the Senator from Alaska and the response by the Vice President.

SEVERAL SENATORS. What page?

Mr. HART. On page 31471 of the RECORD. It reads as follows:

> Mr. STEVENS. Let me clarify that a little further. By having filed at the desk an amendment No. 1022 with specific pages and lines such as the amendment No. 1059 of the Senator from Alaska, to page 9, line 20, the adoption of amendment No. 1043, which adds four lines to the bill on page 6, will change the lineage of all succeeding pages. Do the amendments that were on the desk to amendment No. 1022 even though they were not affected by amendment No. 1043 automatically become disqualified because they refer to the original page and line number of amendment No. 1022?
>
> The VICE PRESIDENT. It is unlikely that will happen because the bill is not being reprinted, and the same pagination would hold. The prior amendments, however, might rule out an amendment.

It is clear from the ruling of the Chair that the Vice President contemplated the pages and lines would not be changed. That is extremely important to this proceeding.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HART. I yield on the Senator's time.

Mr. STEVENS. On my time. We are all debating on our time.

I did not necessarily agree with that ruling, but what happened was that the matter was reprinted, and I have it here in my hand. So what I predicted and the Vice President ruled on in fact happened. I tried to protect against it, but it has happened.

Mr. HART. Are the pages and line numbers the same, or not?

Mr. STEVENS. In very few instances.

Mr. HART. The Vice President's ruling in response to the inquiry of the Senator from Alaska was based on the fact that those pages and lines would be the same. If they have been changed in reprinting, I think the ruling is wrong, and the Senator from Maine is actually eorrect when he states what is happening here is a steamroller.

Mr. MATSUNAGA. Mr. President, will the Senator from Colorado yield for a question?

Mr. HART. I yield.

Mr. MATSUNAGA. Was the Vice President referring to the original bill, not a word of which has been changed by the reprinting of the amendment, or the Jackson amendment which is now before the Senate?

Mr. HART. I would suggest that the Senator from Hawaii direct that question to the Chair.

Mr. MATSUNAGA. May I put that question to the Chair, Mr. President?

The PRESIDING OFFICER. Will the Senator from Hawaii direct his inquiry to the Chair?

Mr. MATSUNAGA. Mr. President, a question has been raised by the Senator from Colorado relative to the ruling of the Vice President, while he was presiding last night, based on the questions of the Senator from Alaska. The reference is to the statement made by the Vice President that it was very unlikely that the wording of this bill, or whatever it is, whether you use the term "amendment" or the term "bill," the question I am reaching is that it seems to me that the Vice President was referring to the original bill, not a word of which has been changed since last night.

Mr. STEVENS. Since the comments of the Senator from Alaska are being referred to, will the Senator yield?

Mr. MATSUNAGA. I am happy to yield to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Hawaii for yielding. Let me refer further to what went on last night. The colloquy continued:

> Mr. STEVENS. But the bill as it comes back as the original text subject to two amendments in two degrees and amendments at the desk if they refer to amendment No. 1022 or amendments to amendment No. 1043 will be subject to consideration on the basis of their submission to the original page and lineage of the amendments that they seek to amend.
>
> The VICE PRESIDENT. The Senator is correct.

Again, if the Senator from Colorado, the Senator from Hawaii, and the Senator from Maine are raising the question that the Vice President's answer to me has been violated by what has gone on here so far, I have been watching very closely, and it has not been. But I say, what we feared might happen did in fact happen. However, none of the amendments raised so far have been ruled out on the basis of what I said last night, in my opinion, effectively.

Several Senators addressed the Chair.

Mr. MATSUNAGA. If I may make my final comment, then——

The PRESIDING OFFICER. The Chair would like to make a statement. The Chair wonders whether it would be relevant to the concern of the Senator from Hawaii and other Senators to know that that there are, in round numbers, some 385 amendments pending, of which a very large portion are in order, and, of course, before the Senate in the course of this debate.

Mr. HART. Would the Chair read which amendments are in order?

The PRESIDING OFFICER. The Chair will read them by classification, if you will.

All perfecting amendments to S. 2104 are in order.

All amendments drafted to amendment No. 1022 are in order.

And any amendment to amendment 862 which is in the nature of a substitute, or which is designated "at the end of the amendment" or "at the appropriate place," or, finally, which has a page and line citation—all such amendments to amendment 862 are in order.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is my understanding correct that the Chair just ruled that amendment 1022 was out of order because the page and line were wrong? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HART. That ruling is out of keeping with what the Chair just stated.

The PRESIDING OFFICER. Will the Senator suspend for a moment while I consult with the Parliamentarian?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Will Senators suspend while the Chair consults with the Parliamentarian?

The Chair wishes to state in response to the parliamentary inquiry of the Senator from Colorado, that amendment 1259, which proposes to strike all on page 13, line 6, through page 14, line 19, is in order.

Mr. HART. Then the Chair's ruling on the last amendment was wrong; is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator might have chosen to say that the Chair's ruling had changed. [Laughter.]

Mr. HART. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. HART. Will the Chair review all previous rulings which have been made this evening to find out how many others are incorrect?

The PRESIDING OFFICER. The Chair does not review rulings. Senators may request such.

Mr. HART. I am just requesting the Chair to review the rulings made that amendments have been out of order.

The PRESIDING OFFICER. The Senator's request is denied. The Chair will review any specific ruling that the Senator desires to be reviewed. The Chair cannot entertain a class action. [Laughter.]

Mr. HART. May we have order?

The PRESIDING OFFICER. The Senate is in order.

The Senator from Colorado.

Mr. HART. Will the Chair rule on the amendment just previous to the one it ruled upon?

The PRESIDING OFFICER. I am informed by the Parliamentarian that while there is an amendment pending; namely, 1259, any review on a previous ruling would not be appropriate.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is it the understanding of the Senator from Colorado that the Chair has just ruled that amendments to the bill S. 2104, amendment No. 1022, regardless of whether the page and line references are accurate or not, are in order?

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

The Chair restates the previous comment upon those amendments which are now in order, to wit, all amendments to S. 2104, perfecting amendments, but to 862 only those amendments which fall into one of four categories: Amendments in the nature of a substitute; second, amendments at the end; third, amendments at the appropriate place; and finally, amendments by page and line. This, may I say, is precisely what was stated.

Mr. HART. Would the Chair restate the last qualification?

The PRESIDING OFICER. This is with reference to amendment 862. Amendments which have a page and line citation.

Mr. HART. Which have a page and line citation?

The PRESIDING OFFICER. Where the amendment attempting to amend has that page and that line.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SARBANES. What other amendments, in addition to amendments to the bill and amendment 862 which meet the criteria just stated by the Chair, are in order?

The PRESIDING OFFICER. As previously stated, all amendments to 1022.

Mr. HART. And 1043?

The PRESIDING OFFICER. Not 1043. I am informed by the Parliamentarian not to 1043.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from Colorado is recognized for a parliamentary inquiry.

Mr. HART. Are amendments to either S. 2104 or S. 1023, which are inaccurate as to page and line and otherwise qualify at the desk, substitutes or perfecting amendments, in order? Yes or no?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from North Carolina wish to comment?

Mr. MORGAN. This is relative to the Chair's decision.

Mr. President, I sat here last night and thought about this very problem being discussed. I listened very intently to the several parliamentary inquiries. From the rulings of the Chair, I concluded it would be all right. For the Chair's benefit in ruling on this parliamentary inquiry, I would like to refer——

The PRESIDING OFFICER. Does the Senator from North Carolina have a substitute parliamentary inquiry? That will be agreeable, and then the Senator from Colorado can restate his inquiry.

Mr. MORGAN. If he would withhold his parliamentary inquiry, I would comment that last night a number of the Members of the Senate raised parliamentary inquiries which I thought related to this very question. I would like to call the Chair's attention to the RECORD on page 31467, where the distinguished Senator from Tennessee (Mr. BAKER) raised this question:

> Mr. BAKER. Mr. President, I will not be much longer. I want to reserve my time until a little later so I can have a brief colloquy with the majority leader on housekeeping details, and let other Senators propound whatever parliamentary inquiries they wish.
>
> Mr. President, I want to make sure I understand the situation that will obtain if the motion of the majority leader is adopted, and if the bill is reported back forthwith.
>
> It is my understanding, then, that that bill would be amendable in two degrees. It is my further understanding that that bill would be subject to the provisions of rule XXII as in cloture, meaning, in this case, that the amendments, to qualify for offering to the bill as reported, would have to be at the desk and qualified.
>
> The VICE PRESIDENT. The Senator is correct.
>
> Mr. BAKER. But notwithstanding that they could be drafted to the amendment which is pending now before the Senate, which is Pearson-Bentsen, just prior to the making of the motion by the distinguished majority leader, they also would qualify?
>
> The VICE PRESIDENT. That is correct, if properly drafted.
>
> Mr. BAKER. Notwithstanding that it had been called up and reported, it would still qualify under the rule?
>
> The VICE PRESIDENT. The Senator is correct.
>
> Mr. BAKER. And no further revision or doctoring of the amendments would be necessary in order to comply with the provisions of rule XXII or any other rule, in order to offer them as amendments to this bill?
>
> The VICE PRESIDENT. The Senator is correct.

I may not have understood properly what the question was or the Vice President's ruling, but I interpreted it to mean that if the amendments were at the desk, and if the substitute were reported back and recommended by the majority leader, those amendments at the desk would qualify. That was my interpretation.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will note that "if properly drafted" was the qualification.

The Senator from Tennessee.

Mr. BAKER. I thank the Chair for recognizing me. I will not take but just a moment, I will say to the Senator from Colorado, who wishes to pursue this point further. I am not sure that what I have to say adds much to the legislative history, so to speak, of this debate.

I want to confirm what the Senator from North Carolina said. I think a fair reading of the colloquy, I had last night and the parliamentary inquiries propounded to the Vice President, clearly show that it was the intention to establish that notwithstanding the rule that page and paragraph numbers must correspond and affect a single part of the bill, and notwithstanding that they might be changed in this recommittal and reporting back, that if they qualified under cloture in the first instance when they were reported back, they would still qualify.

Mr. President, that was the intention of the speaker when that question was put. It was the understanding of the Senator from Tennessee that that was the ruling of the Vice President.

Mr. HART. Mr. President——

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I thank the distinguished Senator from Tennessee. I would call to the Chair's attention again the subsequent question and an-

swer after the Vice President made the statement, "If properly drafted." When he said that, the distinguished Senator from Tennessee was not satisfied. He pursued it further. He said:

Mr. BAKER. Notwithstanding that it had been called up and reported, it would still qualify under the rule?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And no further revision or doctoring of the amendments would be necessary in order to comply with the provisions of rule XXII or any other rule, in order to offer them as amendments to this bill?

It certainly was the theory that I had, and for that reason I had no objection to the bill being rereferred.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. I will restate my parliamentary inquiry. Are amendments at the desk which are otherwise in order still in order even though they do not refer to the proper page and line?

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

To the Senator from Colorado's question the answer is that they are.

Mr. HART. Was the Chair's ruling on amendment No. 114 proper? That is a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The question is on amendment 1259. While action on amendment 1259 is pending, it is not proper to inquire as to previous rulings. Subsequent to action on 1259 it will be.

Mr. HART. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. If the Chair had ruled incorrectly on previous amendments, is it in order for the Senate to take up other amendments until those amendments incorrectly ruled upon are corrected?

The PRESIDING OFFICER. That is what President Roosevelt called an "iffy" question. [Laughter.] The fact of the matter is that we are where we are and the issue before us is amendment 1259.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I do not think this will affect the Chair's ruling that he does not intend to rule retroactively or to rule prospectively. For the guidance of anyone who wishes to raise the question for reconsideration from past rulings, I propound this parliamentary inquiry to the Chair: Mr. President, if an amendment at the desk and qualified as under rule XXII relating to all of its provisions, including pagination, was in order at the time of the recommittal and reporting back, is that amendment still in order with respect to the provisions of rule XXII at this time, subsequent to reporting back?

The PRESIDING OFFICER. It is still in order.

May the Chair take the liberty to say that at this point he has tried his best to make it clear.

Mr. HART. Mr. President, the point of order of the Senator from Colorado is if it is correct to take up business if, in fact, the Chair has ruled, in fact, incorrectly that previous amendments were out of order.

The PRESIDING OFFICER. The Chair wishes to state that it has not been determined that the Chair has ruled incorrectly, nor yet that it has ruled correctly. The presumption ought to be that the Chair has been correct, and there is an amendment before the Senate that no doubt we should proceed to.

Mr. ABOUREZK. I temporarily withdraw 1259 and reserve the right to reoffer it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota has withdrawn the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield myself 3 minutes.

I would like to discuss with the Members of the Senate where we are at this moment. The Members of the Senate are well aware of the fact that a small group of us have indicated strong opposition to the deregulation measure, the Pearson-Bentsen bill. We have indicated that we do not support the $1.75 proposal of the President, but we indicated in committee we would go along with it.

Then, after much discussion and debate having previously indicated we were opposed to the Byrd-Jackson compromise, we indicated that we would support the leadership in order to bring this matter to a conclusion.

Now, I say without any fear of contradiction that I think $2.03 is too much. I think the new definition of new gas which picks up $6.5 billion for the gas industry is wrong. I say that the release from regulation of so-called exotic fuels is wrong.

But we indicated a willingness to support the leadership in order to bring this matter to a conclusion, and so when the proposal was made to recommit the bill and bring it back with those amendments in it, we said we would support it, although yesterday we had said we would not.

The fact is that what has been proposed and suggested to us is this: "If you can't get the Byrd-Jackson amendment, the Byrd-Jackson compromise, then will you agree not to offer any new amendments?" And we said, "No," we would not.

Now, the Senator, who is a very able Member of this body, and a very well-respected one, whom I consider to be my good friend from Louisiana, has started to call up a group of amendments because he says, "Well, if they won't agree not to continue the debate, then I'm not going to agree not to continue the debate."

I respect him for that. But I want to say to the distinguished Senator from Louisiana that I think he is out of order, not really from the rules, but I think from the standpoint of when he makes his point.

Nobody has suggested to the Senator that if the compromise is approved that he not have the right to call up these amendments, which he still would have the right to do, and we would have the right to do it if Pearson-Bentsen is adopted.

But there is not any reason under the sun for the distinguished Senator from Louisiana to be calling up my amendments and bringing them before us to be ruled out of order by some decisions that were made on a willy-nilly basis and maybe have to be reconsidered.

I think we all want to bring this matter to a conclusion, and I would not care, for myself, if we voted down the whole bill, because I think $1.46 is more than enough for the gas industry.

Mr. President, I yield myself 1 more minute.

But if we really want to follow the leadership, follow the majority leader, who has attempted to resolve this matter, then I think we ought to bring up the Pearson-Bentsen amendment to the Byrd-Jackson compromise and see whether or not the votes are or are not there.

After that, if the distinguished Senator from Louisiana then wants to offer amendments, that is his privilege. But why now? And if I want to offer amendments thereafter, that is our privilege. But why now?

I believe if the Senate is not to continue upon this road of just bringing up amendments and arguing parliamentary procedure and getting some rulings we have to change 15 minutes or a half-hour later, that we ought to get on about our business and vote for the Pearson-Bentsen amendment to the Byrd-Jackson compromise and see who has the votes, and each respective side can make their own decision at that time.

Mr. LONG. Mr. President, let me make clear why I did it. Point 1 is that I was not consulted about the Byrd-Jackson compromise, nor was Mr. PEARSON consulted about the Byrd-Jackson compromise, nor a great number of us who support the Pearson-Bentsen amendment.

We thought we were in the majority at that time. Maybe we were not. But we were not consulted about that Byrd-Jackson compromise.

Mr. BYRD compromised Mr. JACKSON, and I thought they were both on the same side. [Laughter.]

I came in to hear them say, "Here's the compromise, the Byrd compromise," and that is one I did not know we had to begin with.

I thought I made it clear I was not going to vote for it, even to vote to recommit, although I thought it would help.

I want everybody to understand I was not committed to all that.

I wish Mr. MUSKIE had been here to hear this. Well, I understand he is available to hear me. I appreciate that.

Here is my point. I want the same advantage Mr. METZENBAUM has. I want the same advantage Mr. ABOUREZK has. I want it to be one way or the other. I do not want people to vote and think, "Well, gee, I can't agree with Senator LONG because if I do I've got a pistol at my temple; if I agree with Mr. LONG and vote for the Pearson-Bentsen position, then that means that I'm going to have to go through 24 hours of torture. I'm not sure I can survive that."

That would be a very unfair advantage over anybody when we vote on something.

Mr. METZENBAUM at this moment has filibustered and Mr. ABOUREZK has filibustered. Everyone respects their threat to do more filibustering. That is something those of us on the other side do not have. They have something we do not have—credibility.

They have proved they would filibuster and they have blessed well done it until fair thee well. They have developed new techniques and, as new Senators, they are to be congratulated, especially the Senator from Ohio. I never saw a man become an ace filibusterer so fast.

But I just want to establish, Mr. President, it ought to be one way or the other way. As far as I am concerned, I have not yet established my credibility to offer all these Metzenbaum amendments. But I propose to do it, and we can dispose of it then one way or the other.

I want my friend Mr. MUSKIE to understand this, that I do not care whether we rule the amendment out of order, vote it up or down. As far as I am concerned. I merely want the Senate to dispose of them up or down.

Here is the next one I want to offer, to limit this thing to small companies, only the very small producers of gas would get any benefit out of it.

I am not for the amendment, but I hope it is agreed to because it will further louse up the Byrd compromise. So if we agree to it, that is great, because while it makes it better for Mr. METZENBAUM'S point of view, it would hurt the chances for the Jackson amendment which I do not favor. It is perfectly all right, too. I merely want to vote it up or down. Just vote.

Now, may I offer an amendment now, Mr. President?

The PRESIDING OFFICER. The Senator may offer his amendment.

AMENDMENT NO. 1134

Mr. LONG. Mr. President, I offer amendment No. 1134 that I just mentioned.

Mr. METZENBAUM. Mr. President, did I not understand that 1259 was pending?

The PRESIDING OFFICER. It was withdrawn.

Mr. METZENBAUM. I am sorry.

Mr. LONG. I offer——

The PRESIDING OFFICER. The Chair is having difficulty hearing.

Mr. LONG. As far as I am concerned, Mr. President, this is not dilatory. I would be willing to let the Senator modify it so that it would fit inside the Byrd-Jackson substitute.

Mr. McCLURE. Will the Senator yield before offering the amendment, just briefly?

The PRESIDING OFFICER. Would the Senator from Idaho suspend?

Is the Senator from Louisiana offering his amendment, in which event, the clerk will state the amendment?

Mr. LONG. Yes.

The PRESIDING OFFICER. The amendment will be stated.

Mr. LONG. I will read it, Mr. President:

On page 5, line 23, after the word "company" add the following: "(C) in any case where a natural gas company's annual production exceeds 200 BCF per year.".

The PRESIDING OFFICER. The Chair thanks the Senator for his patience.

The question has elicited whether this has not been previously—this amendment which had been previously offered and was ruled out of order.

Mr. LONG. It has been ruled out of order?

The PRESIDING OFFICER. Since it attempts to put in after the word "company," on page 5, line 23, and no such word appears on page 5, line 23.

Mr. LONG. It has been ruled out of order?

The PRESIDING OFFICER. It has been correctly ruled out of order.

Mr. LONG. Is it ruled out of order now?

The PRESIDING OFFICER. The Chair repeats——

Mr. LONG. I now call up amendment——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The amendment will be stated.

Mr. METZENBAUM. Mr. President, was that ruling made on the basis of pagination?

The PRESIDING OFFICER. Not on the basis of pagination, but on the text of the amendment. The text did not exist to which the amendment referred.

Mr. METZENBAUM. That sounds like a good reason.

The PRESIDING OFFICER. Well, the Chair——

Mr. LONG. I will give consent to modify that amendment, if the Senator would like to modify it. I will give consent so that the Senate can agree to it. It is perfectly all right with me for the Senate to agree.

Mr. METZENBAUM. I do not intend to help the Senator with his filibuster. It is his filibuster.

Mr. McCLURE. Mr. President, will the Senator yield briefly?

Mr. LONG. I yield the floor.

Mr. McCLURE. Mr. President, I understood the Senator from Ohio (Mr. METZENBAUM) to indicate that he had expressed a willingness earlier to expedite what the majority leader had attempted to do by way of getting a resolution of the issue.

It had been my understanding that at some point in the consultations that have been going on in various little groups all day, an attempt had been made to arrive at a time certain when we could vote on the Pearson-Bentsen substitute, up or down.

Did I correctly understand the Senator from Ohio to indicate that he would be willing to enter into such an agreement, so that we could get to the Pearson-Bentsen substitute?

Mr. METZENBAUM. I would be willing to do more than that. I would be willing to vote on it.

Mr. LONG. I object.

Mr. METZENBAUM. I am ready to vote now.

Mr. LONG. I have explained, Mr. President, that I do not want a filibuster that might favor my side. I would like to filibuster when both sides have the same advantage. So far as I am concerned, do whatever you want to do with these amendments, but do it.

AMENDMENT NO. 1102

I call up amendment No. 1102.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1102:

On page 4, line 11, strike "January 1, 1977" and insert "the date of enactment".

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Chair regrets that this amendment attempts to strike a date on page 4, line 11, which is not there and does not exist. Therefore, the amendment is not in order.

Mr. FORD. A point of information, Mr. President. Is that in order?

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Is this an amendment of a certain line on a certain page?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. And the line and page are not there?

The PRESIDING OFFICER. The line is there and the page is there, but the date is not there.

Mr. FORD. Is that because of the recommittal and coming back to the floor—that changes the line and the date?

The PRESIDING OFFICER. The recommittal and coming back to the floor changed the wording of the amendment.

Mr. FORD. It changes the wording of this amendment?

The PRESIDING OFFICER. The Chair observes that any amendment addressed to the wording of 862 very likely will not be in order because of the changes having been made.

Mr. FORD. This refers to 862 or 1022?

The PRESIDING OFFICER. Any amendment drafted to 862.

Mr. FORD. The Senator's amendment which he offered—which one does it go to, 862 or 1022?

The PRESIDING OFFICER. 862.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. LONG. I do not have the floor at the moment.

Mr. STEVENS. Mr. President, is the Senator from Ohio still here?

Mr. METZENBAUM. I am here.

The PRESIDING OFFICER. The Senator from Alaska is recognized. The Chair understands that the Senator from Louisiana yielded the floor.

Mr. STEVENS. Is it possible that the Senator from Ohio and those who are with him would now agree that we would list a series of amendments which would be voted upon, including the Byrd-Jackson and the Pearson-Bentsen and such other amendments that the Senator from Ohio selects at this time, and have a unanimous-consent agreement which would give us a time certain to vote on this bill tomorrow?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum, in order that the matter may be discussed.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1167

Mr. LONG. Mr. President, I was going to call up another amendment. I do not want to prejudice the sponsor of the amendment, the principal sponsor, and in view of the fact that he is not here at this point, I would suggest someone else who might have an amendment offer his amendment.

Here is one, Mr. President. I call up amendment No. 1167.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment numbered 1167:

On page 19, line 12, strike "$40,000" and insert "$100,000".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection. Objection. Objection.

The PRESIDING OFFICER (Mr. LEAHY). Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1367

Mr. LONG. Mr. President, I call up amendment No. 1367.

The PRESIDING OFFICER. May we have order? The Chair is finding it impossible to hear the Senator from Louisiana.

Will the Senator use his microphone?

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Is amendment No. 1367 the pending business?

The PRESIDING OFFICER. Amendment No. 1167 is the pending business.

Mr. LONG. I thought I called up amendment No. 1367.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1367.

The amendment is as follows:

In lieu of the language thereof insert the following:

"TITLE I—NATURAL GAS"

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act'.

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop all natural gas and oil resources on Federal lands to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation' which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

"(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

"(e) Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

"(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

"(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation, or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

"(h) The Board shall direct the exercise of all the powers of the Corporation.

"(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

"(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further to assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

"(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

"OFFICERS AND EMPLOYERS OF CORPORATION

"SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

"(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

"(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employees and employers.

"(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title.

"(d) In the appointment of officials and the selection of employees for the Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given, and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal, State, foreign, or private lands: *Provided*, That exploration on State lands shall be in accord with leasing or other State land disposition or utilization program;

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal statute relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

"(13) shall have the power to sell commercially valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

"(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

"(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

"(c) The Corporation shall maintain its principal office at a place determined by it.

"(d) Section 101 of the Government Corporation Control Act is amended by inserting 'Federal Oil and Gas Corporation;' after 'Tennessee Valley Authority;'.

"(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

"TRANSMISSION PIPELINES

"SEC. 206. In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

"OBLIGATIONS

"SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*, That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate or yield no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(e) The Board may—

"(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C.

835), shall not apply to obligations guaranteed under this section.

"(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

"(h) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"MISCELLANEOUS PROVISIONS

"SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(d) The provisions of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limitations of the Corporation under section 203 of this title.

"LEASES

"SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"SALES OF NATURAL GAS

"SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other suppliers.

"(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

"TAXATION

"SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"ROYALTY

"SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

"(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in summary, shall be made available to any interested person upon receipt of a specific and indentifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"STATE AND LOCAL STATUTES

"SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

"ENVIRONMENTAL IMPACTS

"SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinity and the region.

"(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

"(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

"(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

"(1) public interest and environmental groups having a regional or national scope; and

"(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

"(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall provide the committee with an adequate staff.

"(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

"ANNUAL REPORT

"SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting

all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

"(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report. Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

"OFFENSES; FINES AND PUNISHMENT

"SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"CONDEMNATION PROCEEDINGS

"SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled 'An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain', approved February 26, 1931 (46 Stat. 1421).

"SEVERABILITY

"SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

"AUTHORIZATION OF APPROPRIATION

"SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

"(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

"REVIEW

"SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title.".

Mr. LONG. That is an amendment by Mr. ABOUREZK to strike all in the substitute and to——

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. This amendment is to an amendment which is not before the Senate and, therefore, it is not in order.

Mr. METZENBAUM. Mr. President, the amendment has not been read at the desk. The amendment has not been read at the desk. The regular order of the Senate calls for the amendment to be read at the desk.

The PRESIDING OFFICER. The Chair rules that the amendment is out of order and, as the amendment is out of order on its face, the Chair has to rule it out of order, if it is out of order on its face, and the Chair has ruled this is an amendment to an amendment not before the Senate. Therefore, it is out of order.

Mr. METZENBAUM. Mr. President, I appeal the ruling of the Chair.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. CRANSTON. Mr. President, I would like to suggest to Senators that the yeas and nays be given at this point. We have refrained from giving them when quorums were present. If we do not give them now, we are going into a quorum call which could go live.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, would the Chair tell us what the issue is before the Senate?

The PRESIDING OFFICER. The vote is in progress, debate is not in order during a rollcall.

Mr. METZENBAUM. I am not asking for debate. What are we voting on?

The PRESIDING OFFICER. The vote is whether the ruling of the Chair should be sustained.

Mr. METZENBAUM. I thank the Chair.

The PRESIDING OFFICER. As the decision of the Senate.

The clerk will continue to call the roll.

The legislative clerk resumed and concluded calling the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 490 Leg.]

YEAS—90

Abourezk	Ford	Metzenbaum
Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Sarbanes
Case	Huddleston	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Sparkman
Clark	Johnston	Stevens
Cranston	Kennedy	Stevenson
Culver	Laxalt	Stone
Curtis	Leahy	Talmadge
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	Magnuson	Wallop
Domenici	Mathias	Weicker
Durkin	Matsunaga	Young
Eagleton	McGovern	Zorinsky
Eastland	McIntyre	
	Melcher	

NAYS—1

McClure

NOT VOTING—9

Griffin	Metcalf	Stafford
Humphrey	Packwood	Stennis
McClellan	Scott	Williams

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The judgment of the Chair stands as the decision of the Senate.

Mr. METZENBAUM. Mr. President, what is the pending business?

AMENDMENT NO. 1167

The PRESIDING OFFICER. Amendment No. 1167 is the pending business.

The question is on agreeing to the amendment.

Mr. HANSEN. Has the amendment been stated?

The PRESIDING OFFICER. The amendment has been stated.

The clerk will report the amendment again for the benefit of the Senate.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1167:

On page 19, line 12, strike "$40,000" and insert "$100,000".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the amendment? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to lay on the table? There is a sufficient second on the motion to lay on the table.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay on the table amendment No. 1167. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 34, as follows:

[Rollcall Vote No. 491 Leg.]

YEAS—58

Allen	Ford	Morgan
Baker	Garn	Muskie
Bartlett	Glenn	Pearson
Bellmon	Goldwater	Percy
Bentsen	Gravel	Randolph
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Haskell	Schmitt
Byrd, Robert C.	Hatch	Schweiker
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stevens
Chiles	Heinz	Stevenson
Cranston	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	McClure	Young
Eastland	McIntyre	Zorinsky
	Melcher	

NAYS—34

Abourezk	Culver	Leahy
Anderson	Durkin	Magnuson
Bayh	Hart	Mathias
Biden	Hathaway	Matsunaga
Brooke	Hollings	McGovern
Bumpers	Inouye	Metzenbaum
Case	Jackson	Moynihan
Church	Javits	Nelson
Clark	Kennedy	Nunn
Pell	Riegle	Williams
Proxmire	Sarbanes	
Ribicoff	Sasser	

NOT VOTING—8

Griffin	Metcalf	Stafford
Humphrey	Packwood	Stennis
McClellan	Scott	

So the motion to lay on the table amendment No. 1167 was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

COMPARABILITY ADJUSTMENT FOR FEDERAL EMPLOYEES—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the provisions of section 5305 of title 5 of the United States Code, I hereby report on the comparability adjustment I am ordering for the Federal statutory pay systems in October 1977.

The Secretary of Labor, the Director of the Office of Management and Budget and the Chairman of the United States Civil Service Commission, who serve jointly as my agent for Federal pay, have proposed a 7.05 percent across-the-board increase in pay rates for the Federal statutory pay systems. The Advisory Committee on Federal Pay has concurred with this recommendation.

While the Federal Employees Pay Council recommended a larger increase, I have decided that the 7.05 percent increase fully satisfies the principles set forth in the Federal Pay Comparability Act of 1970 that Federal salaries be comparable with those in private enterprise for the same levels of work.

I am transmitting herewith the reports of my Pay Agent and the Advisory Committee, as well as a copy of the Executive order I have promulgated to put this pay adjustment into effect.

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

ADJUSTMENT OF COMPENSATION FOR UNIFORMED SERVICES—P.M. 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committeee on Armed Services:

To the Congress of the United States:

In accord with 37 U.S.C. 1009(c), I am hereby advising the Congress that I plan to exercise the discretionary authority provided by 37 U.S.C. 1009(c), as added by section 303 of the Department of Defense Appropriation Authorization Act, 1977 (Public Law 94-361), with respect to adjustments in the levels of compensation for the members of the uniformed services.

The amendments to 37 U.S.C. 1009 made by that act provide discretionary authority to apply the adjustments (based on the overall average percentage increase in General Schedule rates of basic pay, in accord with 37 U.S.C. 1009 (a)) to the basic pay, quarters allowances and subsistence allowances of the uniformed services on a percentage basis other than an equal percentage basis. Those amendments also provide discretionary authority to pay a partial quarters allowance to bachelors in government quarters, on field duty and on sea duty.

The current levels of the military allowances for quarters and for subsistence are less than the costs of the services they are intended to procure. Because of this deficiency in the current level of these allowances, it is my considered judgment that a reallocation of the October 1, 1977 military basic pay increase is appropriate. However, in consideration of the negative impact of reallocation on some military members, I am not going to reallocate the full 25 percent which I am authorized by law to do. I plan to reallocate 12 percent of the basic pay increase, by grade, all to the basic allowance for quarters, and to increase the partial quarters allowance to bachelors in government quarters, and to those on sea duty or on field duty, by an amount equal to that reallocated from the basic pay increase. This action takes a positive step toward improving the current relationship of the quarters allowance to the costs of off-post housing and, at the same time, recognizes the adverse impact of reallocation on some military members by limiting it to a moderate amount.

Specifically, the amount allocated to the element of monthly basic pay for each grade shall be 88 percent of the amount that would have been allocated to that element under 37 U.S.C. 1009(b)(3); the elements of monthly basic allowance for subsistence and monthly basic allowance for quarters for each grade shall be increased by an amount which is of the same percentage as the overall average percentage increase in the General Schedule rates, except that the element of monthly basic allowance for quarters shall be increased by an additional amount by grade equal to 12 percent of the amount that would have been allocated to the element of monthly basic pay under 37 U.S.C. 1009(b)(3). Members without dependents, who, under 37 U.S.C 403(b) or (c), are not entitled to receive a basic allowance for quarters, shall be paid an increase in the monthly partial basic allowance for quarters in an amount equal to the additional amount allocated by grade to the element of monthly basic allowance for quarters under 37 U.S.C. 1009(c).

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:30 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bill.

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

At 12:28 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the bill (S. 904) to provide for the efficient and regular distribution of current information on Federal domestic assistance programs, with an amendment in which it requests the concurrence of the Senate.

At 3:26 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. ANDERSON of California, Mr. ROE, Mr. BREAUX, Mr. GINN, Mr. OBERSTAR, Mr. NOWAK, Mr. STUMP, Mr. HARSHA, Mr. CLEVELAND, Mr. DON H. CLAUSEN, and Mr. SNYDER were appointed managers of the conference on the part of the House.

The House has passed the following bills and joint resolutions in which it requests the concurrence of the Senate:

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes;

H.R. 7744. An Act to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes;

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietam, Laos, or Cambodia;

H.R. 8638. An act to provide for more efficient and effective control over the proliferation of nuclear explosive capability;

H.R. 9290. An act to increase the temporary debt limit, and for other purposes; and

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789.

The House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 204. A concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document;

H. Con. Res. 205. A concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document; and

H. Con. Res. 241. A concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

S. 1435. An act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act.

The enrolled bill was subsequently signed by the President pro tempore.

COMPREHENSIVE NATURAL GAS POLICY

Mr. LONG and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana, having observed the Senator from Louisiana on his feet first.

AMENDMENT NO. 1380

Mr. LONG. Mr. President, I call up amendment No. 1380.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1380.

Mr. METZENBAUM. Regular order, Mr. President. May we have the amendment read?

The legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order. If the amendment is going to be read in its entirety, the Senate is going to hear it. We will have order in the Senate while it is being read, or we will suspend.

The clerk may proceed.

The legislative clerk continued the reading of the amendment.

The PRESIDING OFFICER. The Senate is not in order. The clerk will suspend. The regular order has been called for, and we will have the regular order. The Senate is still not in order. Senators are conversing in the Chamber.

The Senate is in order; the clerk may proceed.

The legislative clerk continued the reading of the amendment.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed and concluded reading the amendment.

On page 1, delete all after the enacting clause and insert in lieu thereof the following:

TABLE OF CONTENTS

Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Calculation of the current Btu related price.
Sec. 5. Sales of new natural gas.
Sec. 6. Sales of old natural gas under existing contracts.
Sec. 7. Sales of old natural gas from new wells under new contracts.
Sec. 8. Sales of old natural gas under rollover contracts.
Sec. 9. Effective dates of rules with respect to maximum lawful prices.
Sec. 10. Special pricing provisions.
Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedures, enforcement and judicial review.
Sec. 13. Intrastate contracts and transactions.
Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 years the market for natural gas has changed considerably, principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers;

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2) (A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discoverd reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

SPECIAL PRICING PROVISIONS

SEC. 10. (a) The Secretary may, by rule, prescribe one or more maximum lawful special prices, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special prices may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special prices are necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing liquefaction, or transportation of such natural gas, the Secretary may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distributing company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority use" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or ordered issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful

price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" whenever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

Mr. LONG addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Louisiana.

Mr. LONG. Mr. President, I am perfectly willing to vote on this amendment. In fact, I will be happy to vote for the amendment if we can have unanimous consent to have a direct vote on it. Otherwise, I would be compelled to move to table the amendment.

I ask unanimous consent that we now proceed to vote on the amendment.

Mr. METZENBAUM. Objection. Just a moment. I do not really know what the Senator asked. I did not understand what he said.

Mr. LONG. I asked unanimous consent that we now proceed to vote on the amendment.

Mr. ABOUREZK. Which amendment?

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I move to table the amendment.

Mr. CRANSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1380. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. LEAHY assumed the Chair)

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is called for.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 62, nays 30, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—62

Allen	Garn	Melcher
Baker	Glenn	Morgan
Bartlett	Goldwater	Moynihan
Bellmon	Gravel	Muskie
Bentsen	Griffin	Nunn
Burdick	Hansen	Pearson
Byrd, Harry F., Jr.	Hart	Percy
Byrd, Robert C.	Haskell	Randolph
Cannon	Hatch	Roth
Chafee	Hatfield	Schmitt
Chiles	Hayakawa	Schweiker
Cranston	Heinz	Sparkman
Curtis	Helms	Stevens
Danforth	Huddleston	Stone
DeConcini	Johnston	Talmadge
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Eagleton	Lugar	Wallop
Eastland	Mathias	Weicker
Ford	Matsunaga	Young
	McClure	Zorinsky

NAYS—30

Abourezk	Durkin	McIntyre
Anderson	Hathaway	Metzenbaum
Bayh	Hollings	Pell
Biden	Inouye	Proxmire
Brooke	Jackson	Ribicoff
Bumpers	Javits	Riegle
Case	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Magnuson	Stevenson
Culver	McGovern	Williams

NOT VOTING—8

Humphrey	Nelson	Stafford
McClellan	Packwood	Stennis
Metcalf	Scott	

So the motion to lay on the table amendment No. 1380 was agreed to.

AMENDMENT NO. 866

Mr. METZENBAUM. Mr. President, I call up amendment No. 866.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 866:

On page 19, after line 16, insert the following new section:

SEC. 18. Section 8 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended to read as follows:

"OIL PRICING POLICY

"SEC. 8. (a)(1) Not later than the first day of the second calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of the Act which regulation, as amended, shall provide that the ceiling prices applicable to first sales of old crude oil and new crude oil shall be the prices specified by the Federal Energy Administration in crude oil price schedule numbered 8 issued September 1, 1977, for first sales of such crude oils for the month of November 1977, as adjusted pursuant to paragraph (2) of this subsection.

"(2) The amendment promulgated pursuant to paragraph (1) of this subsection shall further provide for adjustments to the prices specified therein for first sales of old crude oil and new crude oil beginning November 1, 1977, and continuing each month following, which adjustments shall increase the ceiling prices applicable to first sales of old crude oil and new crude oil at the rate of 10 per centum per annum or the rate of inflation as measured by the adjusted GNP deflator, whichever is greater.

"(3) For purposes of this subsection:

"(A) The term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce.

"(B) The terms 'old crude oil' and 'new crude oil' mean those terms as defined in section 212.72 of title 10, Code of Federal Regulations, as in effect on September 1, 1977.

"(b) If the President finds that an amendment to the regulation promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) to allow first sale prices higher than the ceiling prices specified in subsection (a) of this section would provide positive incentives for—

"(A) the development of high cost and high risk properties (including wildcat properties and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of tertiary enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells; the President may amend the regulation under section 4(a) to provide such incentives except that the effect of any such amendment shall not, in any calendar year, result in first sale prices higher than the ceiling prices specified in subsection (a) of this section for a volume of crude oil production in excess of 5 per centum of total crude oil production in the United States.

"(c)(1) The first sale price of new crude oil produced from a property from which new crude oil was first produced after April 20, 1977, shall be exempt from the regulation promulgated under section 4(a) of this Act, as amended.

"(2) For purposes of this subsection, the terms 'new crude oil' and 'property' mean those terms as defined in section 212.72 of title 10, Code of Federal Regulations, as in effect on September 1, 1977.

"(d)(1) The first sale price of stripper well crude oil shall be exempt from the regulations promulgated under section 4(a) of this Act, as amended.

"(2) For purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1972, does not exceed ten barrels.

"(3) To qualify for the stripper well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.".

Mr. CRANSTON. Mr. President, I make the point of order that the amendment is not germane because it is an amendment to the Emergency Petroleum Allocation Act.

The PRESIDING OFFICER. If the deputy majority leader will indulge the Chair for a moment the Chair will rule on his motion.

The Chair would note parenthetically that the time is not running against any Senator.

There is nothing in the bill or in the substitute about the price of oil. Therefore, the point of order is well taken. The amendment is not germane.

AMENDMENT NO. 1104

Mr. LONG. Mr. President, I call up amendment No. 1104.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1104:

On page 9, line 24, strike ", through December 31, 1982".

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. If the Senator will withhold, the Chair would note that the amendment seeks to strike words which are not there, and thus the Chair would rule that the amendment is out of order.

AMENDMENT NO. 1082

Mr. LONG. Mr. President, I call up amendment No. 1082.

The PRESIDING OFFICER. The amendment will be stated.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will report the amendment, and then the Senator can make that observation.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1082:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1983".

The PRESIDING OFFICER. The Chair would observe that the figure "1982" does not appear, and therefore the amendment is not in order.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 50 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Glenn	Morgan
Anderson	Goldwater	Moynihan
Baker	Gravel	Muskie
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Sarbanes
Case	Huddleston	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Scott
Clark	Johnston	Sparkman
Cranston	Kennedy	Stevens
Culver	Laxalt	Stone
Curtis	Leahy	Talmadge
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	Magnuson	Wallop
Domenici	Mathias	Weicker
Durkin	Matsunaga	Williams
Eagleton	McClure	Young
Eastland	McGovern	Zorinsky
Ford	McIntyre	
	Melcher	

The PRESIDING OFFICER. A quorum is present.

The Senator from West Virginia.

May we have order in the Chamber?

Mr. ROBERT C. BYRD. I just wondered if Senators who may be near the Chamber would come in for a moment.

The PRESIDING OFFICER. The Chair will state that if there are Senators within the area they may very well want to attend the session here in the Chamber.

Mr. ROBERT C. BYRD. Mr. President, as Senators know, efforts were made all through the early afternoon over a period of 4 or 5 hours to see if we could come to an understanding that would allow us to vote on the Pearson-Bentsen amendment at a time certain. It became obvious that consent would not be given. So I decided to proceed to see if the Senate wished to adopt a motion I offered last evening, and then if that motion were agreed to, to let the Senate proceed to work its will.

It has been a long evening already. Some amendments have been disposed of. I expect to be coming in in the morning at 9 a.m. It is certain now that we have to have a Saturday session unless this bill is disposed of between now and Saturday. At the moment, that does not appear to be worthy of much hope, but sometimes it is darkest before dawn.

Mr. President, sooner or later I do not have any doubt that the Senate is going to be asked to vote on the Pearson-Bentsen substitute, whether it is tonight or whether it is tomorrow.

Mr. President, I ask unanimous consent that a vote occur on the Pearson-Bentsen substitute, up or down, at 11 o'clock tomorrow morning.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I have not cleared this with anybody, I have tried all afternoon and I failed, I have not cleared any of these requests with anyone.

I ask unanimous consent that a vote occur up or down at 4 o'clock tomorrow afternoon.

Mr. ABOUREZK. Reserving——

Mr. ROBERT C. BYRD. On the Pearson-Bentsen amendment.

Mr. ABOUREZK. Reserving the right to object, would the majority leader yield for just a question?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. Is there a special reason why the majority leader by his request seeks to foreclose a motion to table on the Pearson-Bentsen substitute?

Mr. ROBERT C. BYRD. If the Senator will allow me to proceed, I think this may all be cleared up.

Mr. ABOUREZK. I object to that request.

Mr. ROBERT C. BYRD. Or become clearer.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that at 11 o'clock tomorrow morning the Senate proceed to vote on the Bentsen amendment with the rights of Senators to move to table to be observed.

Mr. LONG. Reserving the right to object, Mr. President, and to be just as unreasonable as the other side, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Mr. President, would——

Mr. ROBERT C. BYRD. Well, the Senator objected a moment ago.

Mr. LONG. I want to keep pace. I do not want to fall behind.

The PRESIDING OFFICER. Indeed, the objection is heard.

The Senator from West Virginia.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that we vote on the Pearson-Bentsen substitute tonight.

Mr. ROBERT C. BYRD. Well, now——

Mr. LONG. I object.

Mr. ROBERT C. BYRD. Just leave this up to the man who is between two rocks and who has tried all afternoon to get some kind of agreement.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. If the Senator has a proposal, I will be glad to talk to him and then attempt to present it. But I believe that I will proceed as I am attempting to do.

Is there a time tonight or tomorrow, that we can agree upon tonight, at which time we would vote on the Pearson-Bentsen amendment, either up or down, or with the right to move to table——

Mr. LONG. Reserving the right to object.

Mr. ROBERT C. BYRD. Is there a time?

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I am perfectly willing to vote on the Pearson-Bentsen amendment after we dispose of another 200 amendments. I am not willing to agree to give anybody any advantage one way or the other.

Now, the Senator knows how to get a unanimous-consent agreement. He knows he can make any sort of a reasonable proposal where both sides agree to vote on the amendments which to both sides agree to be fair, and he will find this side to be the one that is more accommodating, because this has been the one that has been accommodating and willing to take our chances on these rollcalls. It has been the other side that is determined to have an unfair advantage in holding to the threat of the filibuster. Two can play that game.

It was not my intention to engage in this kind of activity. I just resent being one-sided when I come to a filibuster party and come without ammunition. I am compelled to use the other man's ammunition.

But I am willing to enter into a unanimous-consent agreement to vote on the Pearson-Bentsen amendment, to vote on anybody else's amendments he wants to offer, and then vote on the bill.

The majority leader is fair. He is a great leader. He is trying to do what is right. But he knows as well as I do what we really ought to do with that consent request is see if we can get Mr. ABOUREZK and Mr. METZENBAUM to agree to something that those on the other side would agree to and, as far as I am concerned, anything that is fair, we are willing to agree to. But to have a game between two evenly matched teams and spot one side 20 points is ridiculous.

That is what those on the other side have been insisting on and I, for one, will not agree to it.

Or where certainly, both sides have a common purpose, to have the Senate decide which side is going to go this way and which side it wants to vote, without one side or the other putting a pistol to the temple of opposing senators.

In my judgment, they are claiming that.

I am not willing to agree in that situation where it would work out that way.

Mr. ROBERT C. BYRD. Mr. President, may I say in response to my distinguished friend from Louisiana, I have been working out time agreements now for over 10 years and I have learned a long time ago to try to work out, as he says, reasonable time agreements. I learned a long time ago to try to get representation from both sides, and I did that today.

I talked with Mr. METZENBAUM, I talked with Mr. ABOUREZK not once, but a number of times, and I have talked with others.

I have done everything I know to try to reach some kind of an agreement—and I have been unable to do it—and I will continue to try to reach an agreement.

But I thought that before I recessed for the evening that at least I ought to lay it out in the Senate and let Senators have a right, if they want to object, and let everybody know who is objecting; and if they do not object, we can get on with our business and vote up or down on this amendment, or vote to table it. Either way is fine with me.

Mr. LONG. Mr. President, if the Senator wants to ask unanimous consent for 10 o'clock, let us say 11 o'clock tomorrow, or at any point during the working hours on Monday, or on Tuesday, or Wednesday, or Thursday, if he wants to ask unanimous consent at any point along that line, that we vote simply on the Pearson-Bentsen substitute for the Jackson amendment, as it stands at this moment, and that we then proceed to vote on the amendment, as amended, or as not amended, to the bill, I would have no objection, because, as I understand it, that would mean we would have then settled it, would we not?

If he wants to move we do that tomorrow, the day after, the day after, the day after, that is all right with me, but I do not think we will find the other side willing to agree to that.

That would be reasonable. If they are not willing to agree to something reasonable then we should not either. We are willing to take our chances. They should be willing to take theirs.

Mr. ROBERT C. BYRD. Why not approach it like this?

There may be Senators here who want to offer some perfecting amendments to

the Byrd-Jackson substitute. Why do we not include them? Give them a chance to perfect that, if they seek to, and let us find out what those amendments are. There may be two, or three, or half a dozen. Perhaps Mr. JOHNSTON would want to bring up his phased deregulation amendment.

But I do not think I would be treating everyone fairly if I suggested that we vote just on the Pearson-Bentsen amendment and then immediately on the bill.

That is all right with me. I will ask that unanimous consent right now.

I ask unanimous consent that on tomorrow at 4 o'clock p.m. the Senate proceed to vote on the Pearson-Bentsen substitute, or amendment, whatever it is, up or down, or leaving rights open to move to table, and that immediately after that amendment is disposed of, the Senate then vote on the Byrd-Jackson substitute, as amended—it is already amended, so as amended—whether or not it is amended further by the Pearson-Bentsen substitute.

Mr. HART. Reserving the right to object.

Mr. ROBERT C. BYRD. Yes.

Mr. HART. Would the leader rephrase the request to permit a certain period of time for possible amendments to the Jackson-Byrd, or Byrd-Jackson, compromise, between those two votes.

Mr. ROBERT C. BYRD. Well, yes. I would be very agreeable to that. But I wanted, first of all, to try in the way that Senator LONG himself has suggested. I think it is a fair suggestion.

I felt that the Senators might want to have a chance to perfect the substitute, and they can do that, in the meantime.

They can do it still tonight, and they can do it tomorrow up until 4 o'clock.

But first make that request because the Senator from Louisiana suggested it, and I am trying to be a mediator here in working out some agreement that will get us on to some other bill.

Mr. ABOUREZK. Is that made in the form of a request or is the Senator suggesting it?

Mr. ROBERT C. BYRD. I made the request.

Mr. ABOUREZK. Reserving the right to object.

Mr. ROBERT C. BYRD. But one thing, I think I better do that, I will put it in the alternative, either up or down or tabling. I should not make a request like that.

So, Mr. President, I ask unanimous consent that tomorrow at 4 o'clock p.m. the Senate proceed to vote on the Pearson-Bentsen substitute, up or down, no tabling motion, and upon the disposition of that amendment the Senate proceed immediately, without further amendments, debate, intervening motions, points of order, or appeals, to vote up or down on the Byrd-Jackson substitute, as amended, if amended.

Mr. METZENBAUM. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. Let me take the next step.

Mr. President, I make the same request, except for including the right to table each of the two amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HART. Reserving the right to object, I missed the first part of the request. Will the leader repeat that?

Mr. ROBERT C. BYRD. In this instance, I ask unanimous consent that tomorrow at 4 p.m. the Senate proceed to vote on the Pearson-Bentsen substitute, with the rights of Senators to move to table reserved, and that immediately upon the disposition of the amendment, the Senate then vote on the Jackson substitute, with the rights of Senators to table reserved.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, let me try two other courses.

I ask unanimous consent that beginning at 9 o'clock tomorrow morning, Senators begin voting on perfecting amendments to the Jackson substitute——

Mr. LONG. I object.

Mr. ROBERT C. BYRD. Let me finish my request. Let me at least try. I do not want the Senator to get so much in the habit of objecting that he is not open to anything. [Laughter.]

Mr. President, can Senators give me an indication of what perfecting amendments they would like to call up? For example, Mr. JOHNSTON, if he has a perfecting amendment, or Mr. HART.

Mr. HART. I have a substitute which I may want to call up, depending upon the disposition of other amendments, but I do not know that until I see how the other amendments go.

Mr. ROBERT C. BYRD. How many other Senators have amendments?

Mr. JOHNSTON. Mr. President, I am supporting the Pearson-Bentsen amendment. My substitute amendment is to the main bill and would be in order. It would not only be in order, but also it would be desired to be brought up by me only in the event that Pearson-Bentsen should fail, but I do not believe it will. I am supporting the Pearson-Bentsen amendment completely. However, it would be in order, and only upon defeat of both Pearson-Bentsen and the Jackson substitute.

Mr. ROBERT C. BYRD. So the Senator would not call it up, except in the event that both of those went down to defeat?

Mr. JOHNSTON. That is correct.

Mr. ROBERT C. BYRD. When would Senator Hart wish to call up his amendment?

Mr. HART. On the disposition of Pearson-Bentsen.

Mr. ROBERT C. BYRD. Is there any other Senator who has an amendment he wishes to call up upon the disposition of the Pearson-Bentsen amendment, if it is disposed of, and before a vote on the Jackson substitute?

Mr. LONG. Mr. President, I have about 200 I would like to call up. They do not bear my name.

Mr. ROBERT C. BYRD. The Senator knows I am not talking about the 200. I am talking about serious amendments that we in good faith—

Mr. LONG. Mr. President, I resent that inference about my friend from Ohio. [Laughter.]

Mr. JOHNSTON. I am advised that Senator FORD is on his way over, and he has eight serious perfecting amendments to 1022.

Mr. ROBERT C. BYRD. I apologize to the Senator from Ohio.

Mr. METZENBAUM. The Senator need not do that.

Mr. ROBERT C. BYRD. Senator Ford has how many?

Mr. JOHNSTON. I understand he has eight perfecting amendments to 1022.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, then, that tomorrow at 4 p.m. the Senate proceed to vote on the Pearson-Bentsen amendment. Say, from 9 o'clock until 4 o'clock, Senator HART and Senator FORD may call up their perfecting amendments or others. Other than the 200 that Senator LONG has in mind, are there other amendments Senators wish to call up?

Mr. BARTLETT. I have a perfecting amendment.

Mr. ROBERT C. BYRD. Senator BARTLETT and Senator STEVENS.

Mr. STEVENS. I have an amendment to the Byrd-Jackson amendment in the event the other amendment fails.

Mr. BENTSEN. I have five amendments to 1022.

Mr. ROBERT C. BYRD. Senator BENTSEN has five, and Senator GLENN has one.

Let us do it this way: Obviously, one in my position cannot say at this time where those amendments are geared to—to which amendment they would be offered by the perfecting amendments to the Jackson substitute, so I would suggest that tomorrow morning at——

Mr. HANSEN. Mr. President——

Mr. ROBERT C. BYRD. I am not going to make a request now.

That tomorrow morning, at 9 o'clock, the Senators who have indicated that they have perfecting amendments or substitutes meet in my office with the minority leader and others whom he may wish to bring, and the majority whip and minority whip, and let us see if we can arrive at some agreement in connection with the sequence of bringing up these amendments, and get some time agreement overall that at least will see us get through the Jackson substitute.

Mr. ABOUREZK. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ABOUREZK. First of all, there were a lot of half-hanging requests, and I make a general objection to whatever is left hanging—just in case.

Second, I ask this—I tried to do so a few minutes ago: Why is it that we cannot vote on Bentsen-Pearson tonight on tabling? We do not need an agreement. We can just vote. Let them call it up, and we will move to table, and we will vote.

Mr. ROBERT C. BYRD. That suits me.

Mr. ABOUREZK. Why do we need time agreements?

Mr. CURTIS. We have done that twice.

Mr. ABOUREZK. Try doing it a third time.

Mr. ROBERT C. BYRD. Let me be just as fair to the Senator from North Dakota as I was to the Senator from Louisiana.

I ask unanimous consent that at 11:30 p.m. tonight, so that Senators will get notice in due time, the Senate proceed to vote on the Pearson-Bentsen amendment. That leaves all rights reserved. That the Senate proceed to dispose of the Pearson-Bentsen amendment——

Mr. LONG. I object.

Mr. ROBERT C. BYRD. That the Senate proceed to vote on the Pearson-Bentsen amendment, with rights to table reserved.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. At 11:30?

Mr. ROBERT C. BYRD. At 11:30 tonight.

I make the same request that at 11:30 tonight the Senate proceed to vote on the Pearson-Bentsen amendment, up or down.

Mr. LONG. I object.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. Will the leader be willing to phrase the question to indicate the request for unanimous consent to vote on the Pearson-Bentsen amendment, with the right to table at 4 o'clock tomorrow afternoon, which would be satisfactory to those who do not wish to vote tonight at 11?

Mr. ROBERT C. BYRD. I think I did that.

Mr. METZENBAUM. No.

The PRESIDING OFFICER. It is the Chair's recollection that the majority leader did make that request earlier.

Mr. LONG. It will be objected to. If it has not been objected to, it will be.

Mr. METZENBAUM. We are willing to vote this evening at 11:30 or tomorrow at 4 o'clock.

Mr. ROBERT C. BYRD. Up or down?

Mr. METZENBAUM. Up or down, with the right to table reserved.

Mr. ROBERT C. BYRD. I have asked before, but I will ask again.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I think I have made a good faith effort to try to arrive at an understanding as to when we could vote tonight or tomorrow.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I think I sense the mood of the Senate quite correctly at this point. I also have been able to ascertain the identity of certain Senators who want to call up amendments tomorrow.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PEARSON. Does the Senator intend to still have a meeting tomorrow morning at 9, to try to find out what substantive, good amendments are going to be offered, and try to get an agreement on that?

Mr. ROBERT C. BYRD. I am just coming to that, I say to my good friend from Kansas.

Instead of setting a time at the moment, the minority leader and I, in the morning, will converse about it. We have a pretty good idea now of the Senators who do have amendments, other than the 200 that the distinguished Senator from Louisiana is talking about. I hope that by the morning, all of us will have profited by our experience tonight and will be in the mood to sit down and reason together and see if we can reach some agreement, in an orderly fashion, as to voting on the amendments which Senators have indicated they desire to call up. Those Senators will be asked to visit with me; and if we get a general agreement among them, we will proceed to see what the Senate wants to do about it.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Did the distinguished minority leader wish me to yield to him?

Mr. BAKER. I would prefer that the Senator yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I just wanted to indicate that with the situation as uncertain as it is, and obviously as difficult to get a unanimous consent as it is, I wanted to say that I too may have some amendments that I would like to offer.

Mr. ROBERT C. BYRD. All right.

If any other Senator who is not here, and reading the RECORD, knows we are going to have such meeting and wishes to come to the meeting, why, I will be glad to have him do so.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. SCOTT. Mr. President, I appreciate the Senator's yielding. I do not intend to object to anything at all that the Senator is going to offer, but I do want to make this suggestion to our distinguished majority leader.

He speaks of a meeting at 9 o'clock in the morning. I would like for us to vote during the daytime and sleep during the nighttime. That seems like a reasonable thing to do. [Laughter.]

We have had meetings all day today among people trying to work out some sort of an agreement. Why cannot those who want to argue and to work out an agreement meet now while the rest of us go home and go to bed? [Laughter.]

I say that with this in mind: I had a speaking engagement. The distinguished minority leader asked me to forgo a speaking engagement 100 miles or so from here in Virginia that I had made more than a month or so ago. I went home at 8:30 when it appeared there were not going to be any votes. I was called to come back here and vote tonight. Why can you not meet now and have these people who want to fight with one another try to resolve their differences and then tomorrow we will be here and vote and discuss this matter on the floor during the daytime and go home tomorrow night and sleep? It just seems like a reasonable request to make.

Mr. ROBERT C. BYRD. Mr. President, in the morning I will meet with Senator BAKER and we will attempt to set up a meeting at which Senators who have indicated they have amendments they want to call up will either be asked to come or to notify their respective leaders as to what their wishes are, and the minority leader and I will get in touch with them, and we will go from there.

I thank all Senators for their indulgence tonight. I regret that we have had another long evening. I do not think that much would be accomplished by going longer tonight because I would like to explore the possibilites I have outlined in the morning. I wanted to go home tonight and think about it and sleep on it.

Mr. HANSEN. Mr. President, if I could ask the distinguished majority leader to yield, the distinguished minority leader has indicated for some several minutes past that he would like to make some observations. I regret that Senators have been leaving the floor. It seems to me as though we are sort of imposing on him just a little bit when we started drafting away and do not have the benefit of his observations. I would hope the Senators might stick around.

Mr. McCLURE. Mr. President, will the Senator yield very briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I thank the Senator for yielding.

I take the time only to comment. I think the effort of the distinguished majority leader tonight is an illustration of the way he has been operating all day. He has been trying in fairness to achieve some agreement between the parties, and I think we all owe him a vote of thanks even though it did not work.

Mr. BAKER. Mr. President, does the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. BAKER. I thank the majority leader.

I watched with great eagerness the development of events tonight and the unfolding circumstances.

I have been party to most, I guess all, of the negotiations today, and I just report to everyone they were energetic negotiations and done in good faith, and I am sorry they have not worked out.

To be frank with you, this morning I thought they had worked out. Toward midday the majority leader and I, I believe both, thought we had an arrangement to get us quickly to a joinder of issues and a determination of the major amendments. But that did not work out that way, and all for good reasons.

I must say, Mr. President, that as the day wore on and other points of view were expressed, it was clear there were other and divergent positions that had to be taken account of, and that is the reason the negotiations broke down.

I do not know anybody who tried harder than Senator ROBERT C. BYRD did to bring them together, but there were just too many complex factors to deal with.

I am still hopeful we can deal with them. I am sure the Senators will recall we voted with near unanimity for the procedural device to recommit and report. I think that is good and sufficient evidence that the Senate wants to deal with the issue at hand.

I have nothing else to say except I think it is worthwhile to try again tomorrow, and I will be glad to participate.

Mr. GLENN. Mr. President, will the majority leader yield just for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. On the amendments to be considered tomorrow, these apply to all the substitutes and the original bill across the board, any amendments, all of these now?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. The ones already at the desk, of course.

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. The Senator was not referring just to Pearson-Bentsen, which was the main subject matter?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GLENN. I thank the Senator.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with the understanding there will be no rollcall votes, and Senators who wish to stay may stay, and those who wish to go may go.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not object. There is not anything going to occur during the period for the transaction of routine morning business that will affect the Senator, I can assure him of that. But we need to have a period for the transaction of routine morning business. The Senator can stay.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a brief period for the transaction of routine morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. ROBERT C. BYRD. I thank the Senator.

Now, Mr. President, if the Chair will indulge me, I will wait until there is order in the Chamber.

The PRESIDING OFFICER. The Chair reminds Senators the Senate is still in session, and the Chair would remind the galleries also that the Senate is in session, and we will have order.

JOINT REFERRAL OF A BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from New York (Mr. MOYNIHAN), to amend the Employee Retirement Income Security Act, be jointly referred to the Committees on Finance and Human Resources. This has been cleared with Mr. LONG and Mr. CURTIS on the Committee on Finance, and Mr. WILLIAMS and Mr. JAVITS on the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF A BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from Washington (Mr. JACKSON), for himself and others, to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation, be jointly referred to the Committees on Energy and Natural Resources and Banking, Housing, and Urban Affairs.

This has been cleared with the chairman and ranking members of those committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

S. Res. 274. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1582. Referred to the Committee on the Budget.

By Mr. LONG, from the Committee on Finance:

With an amendment:

(H.R. 3387. An act to continue until the close of June 30, 1979, the existing suspension of duties on synthetic rutile (title amended) (Rept. No. 95–456).

By Mr. LONG, from the Committee on Finance:

A special report entitled "Allocation of Budget Totals for Fiscal Year 1978—Third Concurrent Resolution of the Budget" (Rept. No. 95–457).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 29, 1977, he presented to the President of the United States the following enrolled bill:

S. 213. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were each read by title and referred to the Committee on Rules and Administration:

H. Con. Res. 204. A concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document;

H. Con. Res. 205. A concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document;

H. Con. Res. 241. A concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were each read twice by title and referred as indicated:

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from the Federal procurement relationships, and for other purposes; placed on the Calendar.

H.R. 7744. An act to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; to the Committee on Environment and Public Works.

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia; held at the desk.

H.R. 8638. An act to provide for more efficient and effective control over the proliferation of nuclear explosive capability; held at the desk.

H.R. 9290. An act to increase the temporary debt limit, and for other purposes; held at the desk.

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789; to the Committee on Banking, Housing and Urban Affairs.

BILL PLACED ON THE CALENDAR

The bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, was ordered placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE:

S. 2154. A bill for the relief of Anita Tavares Dy; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 2155. A bill for the relief of Jose Mendes Duarte, Maria Duarte, and Paula Maria Duarte; to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. NUNN, Mr. WEICKER, and Mr. TOWER):

S. 2156. A bill to amend the Small Business Investment Act of 1958 to increase the availability of venture capital for small businesses owned by economically and socially disadvantaged individuals, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Select Committee on Small Business.

By Mr. NELSON (for himself, Mr. MCINTYRE, and Mr. WEICKER):

S. 2157. A bill to amend the Small Business Investment Act of 1958 to increase the availability of equity capital to small business; to the Select Committee on Small Business.

By Mr. INOUYE:

S. 2158. A bill to amend section 4311 of the Revised Statutes, relating to and prescribing the privileges of vessels of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. EAGLETON, Mr. RIEGLE, Mr. STAFFORD, and Mr. HATCH):

S. 2159. A bill to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–1979 as a condition to medical schools' receiving capitation grants under section 770 of such act; to the Committee on Human Resources.

By Mr. MOYNIHAN:

S. 2160. A bill to amend the Employee Retirement Income Security Act of 1974 to provide additional time to study salary reduction and cash and deferred option profit-sharing plans; to the Commitee on Finance and the Committee on Human Resources jointly, by unanimous consent.

By Mr. JACKSON (for himself, Mr. MOYNIHAN, Mr. JAVITS, Mr. RIBICOFF, Mr. WEICKER, Mr. PELL, Mr. CHAFEE, Mr. WILLIAMS, Mr. CASE, Mr. STAFFORD, Mr. SCHWEIKER, Mr. HEINZ, Mr. RIEGLE, and Mr. KENNEDY):

S. 2161. A bill to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; to the Committee on Banking, Housing and Urban Affairs and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. NUNN, Mr. WEICKER, and Mr. TOWER):

S. 2156. A bill to amend the Small Business Investment Act of 1958 to increase the availability of venture capital for small businesses owned by economically and socially disadvantaged individuals, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Select Committee on Small Business.

Mr. NELSON. Mr. President, when S. 1815, the Small Business Venture Capital Act of 1977, was introduced, I noted that a blue ribbon panel had been convened by the Small Business Administration to evaluate the condition of venture capital markets for small business. It concluded that—

> It is alarming that venture and expansion capital for new and growing small businesses has become almost invisible today.

While the venture capital situation is grim for all small business, it is especially grim for minority small businesses, those owned by socially or economically disadvantaged individuals. MESBIC's first came into being in 1969 by administrative regulation. Legislation introduced in 1971 and enacted in 1972 gave organic recognition to the program by adding section 301(d) to the Small Business Investment Act of 1958 to provide special help for MESBIC's and in turn, minority firms. Unlike regular SBIC's, MESBIC's are restricted to making venture capital available only to minority owned small businesses.

Recognizing the special problems involved in making venture capital investments in minority firms, MESBIC's have been provided certain borrowing advantages over regular SBIC's. The first 5 years of a MESBIC's 15-year debenture receives an interest deferment. Instead of paying at a rate equal to the cost of money to the Federal Government, as SBIC's do, they pay the higher of 3 percent or 3 percent below SBA's cost of money. After 5 years, the MESBIC's pay interest equivalent to the cost of money to SBA and are also obligated to repay that portion deferred earlier.

SBA can also purchase preferred stock of the MESBIC's which bear a 3 percent cumulative dividend rate. But this dividend also represents a deferred cost of money to the MESBIC's as SBA has the option to require the MESBIC's to pay a dividend equaling the Government's full cost of money prior to retirement of the preferred stock or payment of dividends to the MESBIC's shareholders.

MESBIC's have fared none too well under these provisions. At the end of 1976, only $48 million from the private sector had been invested in MESBIC's. SBA had invested about $54 million in them, most of which was in the form of preferred stock.

Of 66 reporting MESBIC's in 1976, there was an average net loss of $38,461 or 4.1 percent of total capital. Of 29 reporting MESBIC's in 1975, there was an average net loss of $23,220 or 2.2 percent of total capital.

In light of President Carter's recent official statements calling for a major expansion of opportunities for minority small businesses, such poor performance should not be accepted. To improve the environment in which MESBIC's operate and to substantially enhance the availability of venture capital for minority firms, I am introducing the Minority Enterprise Venture Capital Act of 1977.

An important purpose of this bill is to provide improved borrowing terms for MESBIC's to create a favorable venture capital investment environment for minority small businesses. Instead of providing an interest deferment on debentures. MESBIC's would pay a 3-percent interest rate for the entire term of the debenture. With regard to preferred stock, the dividend rate would remain at 3 percent, but SBA will be precluded from ever requiring MESBIC's pay the differential between the 3-percent dividend and the actual cost of money to the Federal Government.

The measure will also permit MESBIC's having more than $1 million of private paid-in capital and surplus to sell up to three times the amount of their capital and surplus in preferred stock.

While MESBIC's will enjoy improved borrowing terms, this bill also will assure that only financially strong MESBIC's will be formed in the future. All MESBIC's and SBIC's licensed after December 31, 1977 will be required to have a minimum private paid-in capital and surplus of $500,000. This figure compares to the present minimum capital base of $150,000.

This bill also clarifies the resposibilities of the Associate Administrator for Investment as provided for in the Small Business Investment Act of 1958. Upon enactment, the Associate Administrator's sole duties will be to develop, execute, and administer the SBIC and MESBIC programs.

It is my belief that this bill will increase the viability of the MESBIC program through a combination of improved borrowing terms, stricter eligibility requirements, and better management.

And in the process of improving conditions for MESBIC's, it will also make much needed additional venture capital available for minority firms. Mr. President, I ask unanimous consent that a copy of this bill and a section-by-section analysis be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Enterprise Venture Capital Act of 1977".

SECTION 1. Section 201 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "The Associate Administrator so appointed shall be the Associate Administrator for Investment and he shall be responsible to the Administrator solely for the development, execution, and administration of the investment program specified in title III of this Act.".

SEC. 2. Section 303(b) of the Small Business Investment Act of 1958 is amended by striking the period after the words "toward covering other costs of the program as the Administration may determine to be consistent with its purposes" and adding the following: ", or, in the case of small business investment companies operating under authority of section 301(d) of this Act, such debentures shall bear interest at a rate of 3 per centum per annum.".

SEC. 3. Section 303(b) of the Small Business Investment Act of 1958 is amended by inserting before the sentence beginning with the clause "The debentures shall also contain such other terms as the Administration may fix," the following new sentence: "The Administration is directed to apply the interest rate of 3 per centum per annum retroactively to any debenture previously purchased by the Administration from a small business investment company under authority of section 303(c) and to apply any interest in excess of 3 per centum per annum previously paid to the Administration by such company prior to the effective date of this section, to interest payable after such effective date.".

SEC. 4. (a) Section 303(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities (or other securities having similar characteristics) of any small business investment company operating under authority of section 301(d) of this Act, and to purchase, or to guarantee the timely payment of all principal and interest payments, as scheduled, on debentures issued by any small business investment company operating under such authority. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase from such companies shares of nonvoting stock (or other securities having similar characteristics): *Provided,* That—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and any unpaid such dividends to the extent retained earnings shall permit;

"(iii) the purchase price shall be at par value; and,

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company licensed on or before October 13, 1971, 200 per centum of such capital and surplus, (B) from any company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus, and (C) from any company having a combined private paid-in capital and paid-in surplus of $1,000,000 or more, 300 per centum of such capital and surplus.

"(2) The Administration may purchase from or guarantee for any such company debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)): *Provided,* That—

"(i) such debentures are issued for a term of not to exceed fifteen years,

"(ii) the interest rate is determined pursuant to sections 303(b), and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having a combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of such capital and surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection (c).".

(b) Section 317 of the Small Business Investment Act of 1958 is amended to read as follows:

"The authority heretofore vested in the Administration to require payment of the difference between the dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) is hereby rescinded.".

Sec. 5. Section 302 of the Small Business Investment Act of 1958 is amended to read as follows:

"(a) Each company authorized to operate under this Act before January 1, 1978 shall have a combined private paid-in capital and paid-in surplus in an amount (1) not less than $150,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles. Each company authorized to operate under this Act on or after January 1, 1978 shall have a combined private paid-in capital and paid-in surplus in an amount (1) not less than $500,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and prudently in accordance with its articles.

"(b) Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Company Act of 1956, shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event may any such bank acquire shares in any small business investment company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed 10 percent of its capital and surplus.

"(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.".

SECTION-BY-SECTION ANALYSIS

Section 1. This section clarifies the duties of the Associate Administrator for Investment, a position which is already provided for in Title III of the Small Business Investment Act of 1958. The Associate Administrator for Investment will be responsible solely for the development, execution, and administration of the small business investment company program.

Section 2. This section sets at 3 percent per annum the interest rate payable on debentures purchased by SBA from section 301 (d) small business investment companies.

Section 3. This section directs SBA to apply the debenture interest rate of 3 percent retroactively and to apply any excess interest previously paid to interest payable after enactment of this section.

Section 4. This section sets at 3 percent per annum the dividend rate on the preferred securities purchased by SBA from section 301 (d) small business investment companies. It also sets the limits on the amount of preferred securities that SBA can purchase from section 301(d) small business investment companies. If a 301(d) company was licensed by SBA before October 13, 1971, SBA can purchase preferred securities equaling up to 200 percent of the company's private paid-in capital and surplus. If a 301(d) company was licensed after that date and has a combined private paid-in capital and surplus of over $500,000, SBA can purchase preferred securities equaling up to 200 percent of such capital and surplus. If a 301(d) company has a combined private paid-in capital and surplus of $1 million or more, SBA can purchase preferred securities equaling up to 300 percent of such capital and surplus.

This section also establishes limits on the amount of debentures that may be purchased by SBA from 301(d) small business investment companies. If a company has less than $500,000 of private paid-in capital and surplus, SBA can purchase debentures equaling up to 300 percent of such capital and surplus. If a company has a private paid-in capital and surplus of $500,000 or more, SBA can purchase debentures equaling up to 400 percent of such capital and surplus.

For any 301(d) small business investment company, the combination of debentures and preferred stock purchased by SBA cannot exceed 400 percent of the company's private paid-in capital and surplus.

Authority previously given SBA to require a 301(d) small business investment company to pay the difference between the 3 percent dividend on the preferred securities and the actual cost of money required by SBA to purchase the preferred securities is rescinded.

Section 5. This section requires that any small business investment company authorized to operate under the Small Business Investment Act of 1958 after December 31, 1977 have not less than $500,000 of private paid-in capital and surplus.

In addition, up to 10 percent of a bank's capital and surplus may be used to purchase shares in small business investment companies.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. EAGLETON, Mr. RIEGLE, Mr. STAFFORD, and Mr. HATCH):

S. 2159. A bill to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–1979 as a conditioin to medical schools' receiving capitation grants under section 770 of such Act; to the Committee on Human Resources.

Mr. KENNEDY. Mr. President, I rise on behalf of myself and my distinguished colleagues from the Committee on Human Resources, Senator JAVITS, Senator EAGLETON, Senator RIEGLE, Senator STAFFORD, and Senator HATCH to introduce legislation to amend a provision of the Health Professions Educational Assistance Act of 1976.

That act attempts to use the leverage of Federal dollars to encourage the Nation's medical schools to improve their social priorities without compromising their integrity or impairing the traditon of academic freedom. The premise of the legislation is that the American people, who pay the bulk of medical school bills, have an interest in the priorities and direction of health manpower policy. The legislation is complicated and, I believe, in the main, successful. However, there are some notable failures.

In the closing days of the joint House-Senate conference on the legislation, the House of Representatives insisted on a provision requiring U.S. medical schools, as a condition for receiving capitation grants, to enroll U.S. citizens who have completed 2 years of training in foreign medical schools and who have passed part I of the National Board of Medical Examiners' Examination.

The Senate initially opposed this provision. However, a decision was made to agree to it upon the realization that the only alternative was the death of the entire legislation. At that time, no one, including the Association of American Medical Colleges, anticipated the full impact of the provision on the Nation's medical schools nor the flood of criticism that it has produced. Critics believe that the provision is an unwarranted intrusion by the Federal Government into academic medicine. After close and careful examination, I agree that the provision violates a basic academic freedom—the freedom of a medical school to select its own students in a nondiscriminatory way according to its own publicized standards. It also discriminates against every American student who failed to be admitted to an American medical school, but who could not, for whatever reason, enroll in a foreign medical school.

The purpose of the legislation that I am introducing today is to modify this provision to correct its major failing. Basically, the amendment requires that all U.S. medical schools increase their third-year enrollments by 5 percent for the 1978–79 school year. The bill allows the medical schools to choose among competing students for these positions. However, by placing some restrictions on those who are eligible to be considered for these positions, it allows most of those students who have qualified to transfer under the existing law to do so. Thus, a delicate balance is achieved—the ability of the schools to make choices is restored and, at the same time, the majority of those U.S. citizens studying abroad who have qualified to transfer under the present provision, can do so.

There are other deficiencies in the manpower legislation. These include technical problems with the student loan program and with the formula for determining places in primary care residency programs. I would like to see these other areas addressed next spring, when the Subcommittee on Health and Scientific Research reevaluates the entire manpower legislation.

I believe the legislation I am introducing today is needed to correct a mistake in a basically sound piece of legislation. I urge my colleagues to support it.

Mr. JAVITS. Mr. President, today I am introducing with my distinguished colleague, Senator KENNEDY, an amendment to the Health Professions Educational Assistance Act of 1976.

The amendment pertains to a provision which requires medical schools as a condition of capitation to enroll students who are U.S. citizens in foreign medical schools, who have completed 2 years of training in such schools—and were enrolled by October 12, 1976—and who have passed part I of the National Board of Medical Examiners' Examination. By including this provision in the law, it was believed that the quality of care in the United States could be significantly upgraded if this particular group of students was provided with the opportunity of finishing their medical education in U.S. schools where, it is believed, the quality of education exceeds that of schools anywhere else in the world.

This provision, however, has met with severe criticism by the medical schools on the grounds that it violates the principle of academic freedom which guarantees the right of these institutions to determine without interference who shall be admitted to study. This objection is well substantiated, since the law does not allow the schools to use their own academic standards or admissions policies to determine which of these students shall be admitted. In my opinion, it was not the intent of Congress to vitiate this principle; consequently, I believe the law should be modified to conform to the individual standards of the educational institutions.

In this way the proposed amendment has the effect of addressing the medical schools' concerns while still providing an opportunity for many of the students to transfer. Basically, the amendment requires that all medical schools increase their third year enrollments by 5 percent of their first or third year classes, whichever is less, during the 1978–79 school year. Furthermore, it places some restrictions on who is eligible to be counted under the enrollment increase in order to insure that most of these newly created slots are filled by young men and women who are students in foreign medical schools. I believe this approach has the effect of removing the objectionable provisions in the current law while still allowing many of the students who have already qualified under the existing law to transfer.

Also I believe the amendment will be useful in addressing the original concerns of the Congress relating to quality of care. I urge my colleagues to support this amendment.

Before closing, I would like to add that several special problems relating to programs in preventive medicine, preventive dentistry and dental public health, and nutrition have been brought to my attention—problems which directly affect established programs and appeal to my judgment of need. Because prevention and nutrition are vitally important to the health of Americans, I feel it is particularly important to address these problems as soon as possible. Therefore, I will be evaluating alternative solutions to these problems with the purpose of offering the appropriate amendments to this bill as it progresses through the subcommittee and committee stages.

By Mr. JACKSON (for himself, Mr. MOYNIHAN, Mr. JAVITS, Mr. RIBICOFF, Mr. WEICKER, Mr. PELL, Mr. CHAFEE, Mr. WILLIAMS, Mr. CASE, Mr. STAFFORD, Mr. SCHWEIKER, Mr. HEINZ, Mr. RIEGLE, and Mr. KENNEDY):

S. 2161. A bill to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; to the Committee on Banking, Housing, and Urban Affairs and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. JACKSON. Mr. President, on behalf of myself and Senators MOYNIHAN, JAVITS, RIBICOFF, WEICKER, PELL, WILLIAMS, CASE, STAFFORD, SCHWEIKER, HEINZ, RIEGLE, and KENNEDY, I am introducing today legislation to establish the Energy Corporation of the Northeast.

Mr. President, the concept of a regional energy corporation has been developed by the Coalition of Northeastern Governors under the leadership of Governor Hugh Carey of New York.

The purpose of such a corporation is very simple. It is designed to bring together the States, the Federal Government, and private industry in a creative effort to deal with the energy problems of the Northeast.

Mr. President, the increasing dependence of the Northeast on imported oil is a problem of critical importance, not only for the Northeast, but for the Nation. The security implications of this dependence are national in scope. The economic consequences of the largest trade deficits in our history—caused mainly by oil imports—run nationwide. The national interest dictates that the Northeast region make a concerted effort to reduce its need for energy imports as soon as possible.

The Energy Corporation of the Northeast would provide technical and financial assistance to projects designed to increase the supply or promote more efficient use of energy in the Northeast. Using State and private financing, backed by Federal guarantees of its obligations, the Corporation could help support: facilities for the production of energy including, for example, coal gasification plants or hydro-electric facilitits; energy transportation or distribution projects; facilities for the manufacture of equipment or materials necessary for energy production and conservation.

Mr. President, the proposed new Corporation is not a revolutionary concept. It builds on our experience with the Bonneville Power Administration and Tennessee Valley Authority. It borrows from the approach of the Reconstruction Finance Corporation.

It is increasingly clear that we will not solve our economic or energy problems through conventional, marketplace solutions. We need to be creative in devising new mechanisms that will foster energy investment. The Energy Corporation of the Northeast could enlist the public and private sectors to achieve energy development which will otherwise not occur.

The President, I ask unanimous consent that a brief summary of the bill be included in the RECORD together with an article supporting the concept of such a corporation by Felix G. Rohatyn and John C. Sawhill. The concept was put in national perspective by Prof. W. W. Rostow in a New York Times earlier this month. I ask unanimous consent that this article, entitled "A Fusion Solution," be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGIONAL DEVELOPMENT ACT

SUMMARY

I. Purposes (Sections 1–3).

Congress authorizes the creation of a regional energy development corporation to provide technical and financial assistance to projects designed to increase the supply or promote more efficient use of energy in the Northeast and to promote regional cooperation on energy problems. The corporation is conceived as an entity capable of joining the federal government with the states and private sector in meeting the energy problems affecting the region.

The Corporation is to be known as the Energy Corporation of the Northeast.

II. Organization, Management, Powers (Sections 4–14).

The Corporation will be established by incorporators appointed by the President, who will also appoint five directors. CONEG states may join by enacting state legislation for that purpose, and contributing initial capital in the amount of $1 per capita. The Governor of each member state will appoint one director. Private investors will jointly select two additional directors. All directors serve part-time.

The Corporation becomes operational if at least three states become members before December 31, 1978. States may withdraw as members by subsequent legislation. States contiguous to member states are also eligible to join the Corporation in the same manner.

The Board selects its chairman, and appoints a President who shall serve at its pleasure as Chief Executive of the Corporation. A quorum consists of at least two Federal Directors and ⅔ of the State Directors.

The Corporation is authorized to participate in joint ventures with public or private groups and to operate through subsidiaries. Its own activities, as opposed to projects it finances, are tax-exempt. It does not have powers of eminent domain, but must request that the State consider the exercise of its powers of condemnation.

The Corporation is required to submit annual reports and audits to the President, Congress, Governors and Legislatures of member states. In addition, the Governors, on a rotating basis, shall designate independent persons to evaluate the performance of the Corporation every two years.

III. Projects (Sections 15–22).

The bill authorizes a regional corporation

The Corporation may participate in financing any project related to solving the energy needs of the region including projects relating to coal development or transportation, energy conservation or storage; power production or transmission; manufacturing new energy-related products or equipment necessary to energy production or conservation.

The Corporation may assist projects by loans, guarantees or equity investments. Before any financial assistance is provided, the Board must find that the project is expected to have a beneficial impact on the energy problems of the region; the investment together with other Corporation activities will not materially impair the credit of the Corporation; private capital is unavailable or insufficient; and, unless this limitation is specially waived, the Corporation will not operate the project on a continuing basis or invest more than 50 percent of the total cost.

Each project may also be rejected by the Governor of the Member State in which it is located. The Board is charged with reviewing periodically the allocation of Corporation resources among the Member States to assure a measure of equity in the distribution of benefits. To further this end the Corporation may not concentrate its *total* assets—its investment in any one project is limited to the greater of 10% of its borrowing authority or $200 million.

IV. Financing (Section 23–32).

Capital subscriptions from the States ($1 per capita initial contribution) and private investors determine the borrowing authority of the Corporation according to a formula of $15 borrowing backed by federal guarantees for each $1 capital contribution. After the initial subscription, additional state capital is authorized but not mandatory. Thus, the Corporation's capacity will expand to the extent its performance justifies additional subscriptions from any source.

Capital securities may be issued both to States and private investors in a form determined by the Board.

The Corporation may issue its own obligations which shall be general obligations payable out of any revenues. In general the specific terms of Corporation borrowing are left to the Board. Similarly, the security and priority for Corporation loans and other financing will be determined by the process of market negotiation. The Corporation's obligations are limited in term to a maximum of 40 years.

Neither the credit of the United States nor the credit of Member States can be pledged by the Corporation.

V. Federal Guarantee (Sections 33–39).

The Secretary of Treasury is authorized to guarantee obligations of the Corporation. The Secretary may review and approve the terms of any financing before providing the guarantee. In the event of default, a holder of Corporation obligations may seek payment from the Secretary after 30 days and the Secretary must pay within 60 days after such demand. This is the standard procedure for federal bond guarantees. Income on guaranteed obligations are taxable to the holder.

The Secretary is also authorized to agree with the Corporation that the United States will purchase the product of its projects, if necessary, in the event market conditions preclude private sale. This type of agreement offers an alternative form of federal backing for the Corporation's activities.

VI. Other Provisions.

Upon joining the Corporation, the Member State is required to pass legislation assuring expedited (90 days) decisions on permits required for Corporation projects. The Governor may except specific types of permits from this schedule. In all respects, the Corporation projects will be subject to federal, State and local laws and regulatory procedures, including environmental standards, zoning and planning laws and rate-making procedures.

for the Northeast. The findings, however, make clear the Congressional intent to authorize similar regional entities for other regions.

URGENTLY NEEDED—A NORTHEAST ENERGY DEVELOPMENT CORPORATION

(By Felix G. Rohatyn and John C. Sawhill)

Each day the states in the Northeast corner of the U.S. burn up more than 3 million barrels of oil and gasoline on an annual basis. Most of it is purchased in the Middle East. It costs more than $17 billion and equals two-thirds of America's mounting trade deficit.

These are the key figures that make us believe that Congress should act now on a proposal to establish a special public corporation that would work as a catalyst to cut the energy knot that is particularly damaging to the economy of the Northeast and threatening the economy of the country.

The proposal, which originated with Governor Carey of New York, has become a cornerstone of the program of the Coalition of Northeastern Governors which includes, in addition to New York, the governors of Connecticut, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and Vermont. The proposed authority, the governors would call it the Energy Corporation of the Northeast (ENCONO), would be a partnership among the states, private industry, and the federal government.

The major focus of ENCONO would be financial: It would provide federally guaranteed start-up loans to energy development and conservation projects that for, one reason or another, are not being tackled.

The governors—witnesses to four years of economic erosion since the start of the energy crisis and the rise of OPEC oil—say that it will take enormous investments of capital to do the kind of things that will have to be done to find and use alternatives to oil and gas. They know that investors' dollars—like water—do not run uphill.

The governors are right. At present there are very few investors willing to put up the sums that will be necessary to meet the country's objective for conversion of plants to coal or to build the required nuclear power plants, even if we assume all technological and environmental questions can be resolved quickly.

We are talking about at least $70 billion just to convert utilities to coal between now and 1985, a target date in President Carter's National Energy Plan. The Edison Electric Institute recently estimated that conversion costs would push up capital requirements of utilities to $416 billion from $346 billion. (That figure assumes a seven percent annual inflation rate over the nine-year period.) Virtually all of the additional capital for conversion would have to be raised outside the normal funding areas of the utilities if present rate and regulatory practices are maintained.

We do not believe that the financial marketplace, given the confusion of conflicting voices heard on any issue involving both energy and the environment, can be expected to come up with such sums without governmental prodding or guarantees.

The governors understand this. They know that their states cannot by themselves or even together bring in the necessary infusions of capital.

Beyond this, there is the race against time. The date 1985 is significant. Several recent world oil supply and demand analyses have concluded disturbingly that there will be no major supply shortages and sharp, unmanageable oil price increases, unless all governments act quickly to reverse existing production and consumption trends. Specifically, a recently published report from the Workshop on Alternative Energy Strategies noted that the supply of oil will fail to meet increasing demands, most probably between 1985 and 1995, even if energy prices rise 50 percent above current levels in real terms. The long lead times on energy projects require that work on these projects begin now to meet that 1985 deadline.

We can understand the skepticism with which the Northeast governors' proposal might be met in other parts of the country. Why should the federal government be a party to a scheme that on the surface appears to benefit only one region, albeit one that includes a quarter of the nation's people? If even sound bankers will not step in, why should the government?

There is a good reason. The Northeast's dependence on foreign oil—while it lasts—is costing the entire nation a fortune. Not in taxes. In the inflated costs of everything. Inflation is the silent partner of the nation's foreign trade deficits. And, inflation hurts the people of Los Angeles, Seattle, Chicago, and Atlanta, as well as the people of New York, Boston, Philadelphia, and Baltimore.

President Carter recently noted that the U.S. would have a positive trade balance of $20 billion this year, were it not for oil imports. Instead, the country will import an estimated $45 billion worth of oil and the trade deficit will hit an unprecedented $25 billion. That deficit holds alarming inflationary potential.

What the governors of the Northeast want—and need— is a mechanism that will help them end what one can only call a Catch-22 situation. High energy costs in the region drive away industry and jobs which erode the Northeast's tax base. That makes the investment community less and less willing to commit the capital to convert the Northeast to lower cost energy. And, all the while, the nation's trade deficits keep mounting and everyone's cost of living goes up.

A recent Brookhaven National Laboratory study predicted that the Northeast—which gets 70 percent of its energy from petroleum-based fuels, two-thirds of which are imported—will use twice as much oil by the year 2000, if present consumption trends continue.

The financial woes these oil deficits impose on the region are compounded by the complexities of substituting coal and nuclear power for oil; conflicting procedures of state, local, and federal regulatory agencies with firm, but narrow mandates; and, of course, the public's blind faith—or hope—that, as in the past, American technological ingenuity will come up with some new and miraculous substitute for oil.

Nothing we have seen to date allows us to share the public's optimism. There are only tough and costly choices ahead, and the American lifestyle is going to have to adjust itself dramatically and quickly.

The question the Northeast governors raise is this: if and when all the disputes over energy and the environment are settled, who will pay for weaning the nation away from foreign oil? It is a basic question. And, it is there that the governors see a role for the federal government as a guarantor of ENCONO loans. ENCONO, which could serve as a model for similar corporations elsewhere in the country, would be the middleman to bring together all the interested parties and prod them into action.

ENCONO's top draw would be its ability to go into the money markets to get the loans that are essential to retooling the Northeast for oil substitutes. A federal guarantee of such loans would make for better prospects and lower costs.

While no one really can predict the amounts of money that must be found to realize this massive conversion away from Arab oil, money must be obtained to begin. The leaders of the seven states feel that they might be able to raise as much as $1 billion themselves from the taxpayers and industries in their region. To get more—they estimate a potential of as much as $15 billion—they will need federal guarantees. That start-up money, they believe, would be the lever

to induce the private sector to invest the rest.

The governors are not asking for blank checks or even handouts. The guarantees would cost the federal government nothing and the governors will even forfeit exclusive local control. We can imagine an ENCONO-style public corporation working through a board of directors representing all interested parties—the federal government, state governments, and the private sector.

The financial carrot, however, should not be ENCONO's only lure. It is also important, we feel, that ENCONO have the power to screen prospects for funding. While this would be a protection for investors and the public, it also would accelerate and coordinate the efforts to come to grips with energy problems.

ENCONO financial clout will give it the leverage needed to end the paralyzing din of disputes between all the interested agencies, the varying organizing groups, the money market, the public and private power producers, and the states themselves. For instance, licensing nuclear power plants and other energy facilities today may require the okay of up to 50 different regulatory bodies. Getting all these approvals takes inordinate amounts of time; time that ultimately costs consumers vast sums of money and that drives investors to alternative opportunities. ENCONO—if it could speed things up—would reduce construction costs. Its tripartite board must have the financial clout to encourage regulators to cooperate more effectively than they have in the past and get energy projects moving.

But, ENCONO should not be a "lender of last resort" to promoters of projects with little or no chance of becoming profitable. Safeguards are necessary. For instance, the corporation's participation in any one energy project should be limited to no more than 50 percent. The U.S. Secretary of the Treasury, who would issue the federal guarantees, would review financial operations to insure corporate integrity. The governors are mindful of this: They are proposing that the Treasury Secretary and the chief executive of each member state have veto power over every project to be funded.

ENCONO would provide obvious benefits to the Northeast by attracting the massive capital investment to create reliable energy sources that would in turn attract industry and provide jobs. By doing so, it would obviate the need for more expensive—and we believe less effective—public employment programs, and thereby save the nation's taxpayers several million dollars. And, the nation would gain in other important ways as well. There are three strong national arguments for special federal involvement in an energy corporation for the Northeast:

It would decrease the national trade deficit and inflationary pressures in the U.S. by reducing the Northeast's reliance on imported oil.

It would make the country less vulnerable to sudden price hikes and supply disruptions of foreign oil.

It would enable the nation to pursue a more independent foreign policy, not one dominated by concern for OPEC oil.

Furthermore, if major projects are directed through ENCONO, we just might create a unique investment vehicle to recapture petro-dollars from OPEC countries, which to date have refused to make long-term investments in projects unrelated to the energy sphere. Some of these nations now say they want to invest in the development of alternative energy sources to prolong the life of their own petroleum reserves. ENCONO would give them a way to do it.

Without an ENCONO-like mechanism to stimulate investment, we regard the goal of energy self-sufficiency as an impossible dream. Consider the costs of meeting just one of the National Energy Plan's objections: increasing the nation's use of coal by more than 400 million tons per year by 1985. Just who will spend the untold billions to reactivate and expand the nation's coal mines? Who will rehabilitate the rail and barge transportation systems to move that coal? Who will build new coal-fired utility and industrial boilers and convert existing ones to use that coal? Who will take the risks of putting new technologies such as coal gasification and desulphurization processes into commercial use so that the switch to coal does not do irreparable damage to the nation's environment? These are the types of projects we envision ENCONO tackling in the Northeast.

Europe and Canada have recognized already that quasi-public entities are necessary to supplement private capital in developing energy sources. The European Coal and Steel Community, for instance, has been successful in financing and coordinating energy projects there. It also has given member governments expertise in the energy business as well as a means for making government priorities part of the private sector decision-making process.

There are precedents here, too, for federal participation in regional development. Most notably, the Tennessee Valley Authority in the South and the Bonneville Power Authority in the Northwest, are both federally-backed regional energy projects. The federal government also has lent a hand to other regions such as Appalachia by establishing regional commissions to solve the economic problems of those areas. The Marshall Plan even provides an example of such federal involvement on an international level.

Those precedents must be applied to the Northeast. Other regions in the country will benefit from the current and proposed energy investments of government and the private sector, but not the Northeast. Most of the funds that will be spent on coal development are targeted for development of Western reserves. The Western part of the country also gains from massive investments that will be made in oil shale and synthetic fuel technologies, and in large solar thermal and geothermals sites. The West Coast reaps the benefits of the Alaskan oil and gas fields.

The Northeast clearly needs the innovative approaches that ENCONO offers. It does not spend so much for fuel because it is profligate. On the contrary, the high energy cost in the region makes it one of the most energy efficient areas in the country. But the area lacks indigenous lower cost fuels and the capital to convert to those fuels even if they were available.

The Northeast cannot control the cost of foreign oil, but it can control its dependence on it through conservation measures, the development of coal reserves within its own states and the conversion of plants and utilities to coal. To do so, it needs capital. ENCONO, at no cost to the federal government, may be the link to provide capital for implementing the National Energy Plan at the regional level.

Washington must provide incentives at once. Not to do so will lead to even greater costs a few years down the line. The nation's oil deficits create trade deficits which keep the inflationary pot boiling. On a global scale that chain reaction is even more frightening for, coupled with the concentration of the world's money supply in the hands of a few OPEC nations, it threatens to bring down the international financial system like a gigantic house of cards.

We hope that President Carter and the leadership of Congress will give Governor Carey and his fellow Northeastern governors serious and thoughtful consideration of this vitally needed proposal. The predicament of the Northeastern states, as the governors by their joint action recognize, is not political. Their energy needs are real, and the price of inaction on the governors' proposal—or something very much like it—will be paid not just by the people of these states. It will be borne by the entire nation.

A FUSION SOLUTION

(By W. W. Rostow)

AUSTIN, TEX.—Since their meeting last November, the Northeastern governors have been pressing forward the concept of a Northeast Regional Energy and Development Corporation. It may be useful to put that concept into a national perspective.

On Aug. 8, the Midwestern Governors Conference passed a resolution supporting such public/private investment institutions for all the regions.

The governors all suggested extending the scope of such regional banks beyond energy-related investment to the "modernization of the transportation system, water resource development, land rehabilitation, rural development, and other tasks."

On Aug. 19, the National Conference of Lieutenant Governors passed a resolution supporting regional development banks to perform the same array of tasks.

Clearly, the Northeastern governors' leadership has had a major national impact. There are three reasons this concept is gathering momentum.

First, an awareness is growing, around the country that the United States is in a rather desperate race to bring its oil imports under control before the Organization of Petroleum Exporting Countries' production capacity peaks out in the 1980's.

We are already feeling the pressure of a weakened balance of payments. If we fail to accelerate investment in energy production, conservation, and conversion to coal, our oil-import requirements will continue to grow and we shall find ourselves competing with Western Europe and Japan for limited supplies. This would have explosive economic and strategic consequences. Studies done at the Massachusetts Institute of Technology and by the Organization for Economic Cooperation and Development in Paris confirm this broad conclusion of a Central Intelligence Agency report released by President Carter in April.

The acceleration of energy-related investment requires intimate public and private collaboration, which the regional banks could foster.

Second, with the slowdown of the national economy, it is increasingly apparent that we shall not achieve full employment by the conventional devices of fiscal and monetary policy operating alone.

Full employment in the 1970's and 1980's will have to be triggered and sustained by the enlarged investment required to solve the resource problems that have moved in recent years to the center of the stage—that is, investment in the directions listed by the Midwestern governors, to which I would add the control of air and water pollution and enlarged outlays for research and development.

It is an important fact that practical men and working politicians are making a connection that has not yet penetrated the redoubts of academic or bureaucratic economists—namely, the solution to our resource problems is also the solution to our problem of excessive unemployment and slow growth.

Third, sustained full employment and rapid growth is the only context within which we are likely to make a dent in the hard-core problem of central-city unemployment and render viable the kind of reforms in the national welfare system that President Carter has proposed An America wallowing along with 7.1 percent unemployment is unlikely to be able to sustain its existing welfare commitments, let alone enlarge them.

Two caveats:

The danger inherent in regional development banks is that funds might be used for low-productivity projects under short-run political impulse or to provide jobs at any cost.

On the other hand, somewhere in the nation, there must be as able bankers like

Jesse Jones, found by Franklin D. Roosevelt, who ran the Reconstruction Finance Corporation for many years, to the public profit.

If we get the hang of how to weave public/private enterprise together by regional banks and other devices, we shall not only enjoy full employment but also have to face up squarely to the problem of inflation. The current steady, corrosive rise in unit labor costs is likely to accelerate if we move to full employment.

Business, labor and government would, therefore, have to come together to design an equitable system that would accommodate wage increases to the average increase in the nation's productivity in ways that do not bring about an excessive shift to profits.

Mr. JAVITS. Mr. President, I am pleased to introduce today the Regional Energy Development Act of 1977, which is the culmination of almost 1 year's work by the Coalition of Northeastern Governors and their Senate counterparts. This bill that addresses the energy needs of the Northeast region in the context of the Nation's energy program. It is a bill that must be enacted if the Northeast region is to be able to attract and utilize the enormous amounts of capital needed to supply our future energy needs.

The Northeast region imports almost all its energy from other regions of the country and from abroad. This objective fact is no fault of the Northeast region. With the possible exception of offshore finds or reserves, the Northeast region is not rich in energy resources. It has very limited amounts of oil and gas, and somewhat more of coal. If the region is to become more energy independent, and therefore help the Nation toward energy self-sufficiency, it must develop the facilities to produce energy from regional sources, utilize energy more efficiently, and conserve energy wherever possible.

It is the purpose of this act to ease the transition of the region from an oil and gas economy, to an economy fueled by coal, nuclear power, and renewable new energy sources. It is also its purpose to aid in financing the enormous conservation and retrofit costs that are associated with energy transition. The transition from wood to coal and from coal to oil took about 60 years. We do not have those 60 years to move from gas and oil to alternative sources. We must move quickly, and this takes coordinated action, planning and large capital investment. The Regional Energy Development Corporation, established by this act, would facilitate all of those actions.

The Corporation would work in the interests of all of the member States; hopefully all of the States of the Northeast region. Once a State joined, by enacting appropriate legislation and making its initial capital contribution of $1 per capita population, it would be eligible to participate in and benefit from all Corporation activities. Such activities could include: First, project financing for coal conversions, and development of new industry related to coal; second, financing of industrial cogeneration projects for the combined production of electricity and process steam; third, stimulation of waste energy recovery projects; fourth, infrastructure investments related to long-term coal supply, such as commercialization of new environmental technology for coal; coal transportation, handling and storage investments as well as aggregation of coal demand to secure large long-term contracts that generate new mine openings; fifth, financing of residential insulation programs and development of an integrated retrofit industry, capable of supplying the region's retrofit materials and services; sixth, stimulating the construction of resource recovery facilities; and seventh, coordinating the support activities for a growing regional solar energy industry.

In all of these areas, the Corporation could provide financing as well as data, commercial marketing assistance and aid with regulatory requirements at the State and Federal level. It is my belief that a Regional Energy Development Corporation could cut in half the time it will take to get many of these projects going.

The Corporation would function exclusively for the benefit of the member States. All significant projects would be subject to a veto of the Governor of the affected State. Moreover, the Corporation's projects are required to be allocated proportionately among all of the member States, although many projects could be multi-State in nature.

Why must the Federal Government be involved in such a regional undertaking? For two reasons: First, the establishment of this Corporation amounts to an interstate compact, which must be approved by Congress; and second, the Corporation needs the support and backing of the Federal Government.

The sole Federal commitment in this bill is a guarantee of the Corporation's obligations. There is no Federal equity money requested or envisioned; all equity will come from the member States. The maximum level of obligations is about $5.8 billion, barely a drop in the bucket of the Nation's capital needs in the energy area, sometimes estimated at near $1 trillion over the next decade. But this relatively modest effort could provide the spur needed to provide regional needs which are different from national priorities.

While the bill as drafted is based on the Northeast region's needs, I believe it can serve as a model for similar efforts by other regions of the country which have common energy needs. We simply cannot expect that national administrations running national programs will meet all regional needs. The regional corporation idea is a cost effective mechanism for supplementing national efforts with regional planning, cooperation and development. It is a concept that returns power to the area closest to where it will be applied, so that it can serve needs that might otherwise go unfulfilled. It complements our national energy program both qualitatively and quantitatively, and has already been warmly received by the administration. I commend it to the Senate and hope my colleagues will act promptly and favorably upon it.

Mr. MOYNIHAN. The Regional Energy Development Act of 1977 was introduced today by my distinguished colleague the Senator from Washington, chairman of the Energy and Natural Resources Committee. This proposal, of which I am a cosponsor, represents a truly constructive and innovative step toward a solution of the Nation's energy problem.

The bill contains enabling legislation for regional energy corporations, for-profit entities which will initiate planning and development to meet the energy needs of the various regions. I want to emphasize that the Federal involvement in this corporation is minimal: The directors of the corporations will be appointed by the President, with the advice and consent of the Senate; and, a portion of the obligations of the corporations will be guaranteed by the Federal Treasury. Other than for these limited ties, the corporations will be on their own.

The legislation is also drafted to limit the control that the corporations can exert over private energy development projects. Specifically, the corporations are prohibited from operating any of the energy development projects which it supports financially. This is important: we are not advocating governmental control of energy development; rather, we are establishing a partnership whereby publicly established, but privately owned, corporations will work with private enterprise to promote solutions to regional energy problems.

There have been other proposals for energy financing corporations and for energy development banks. The regional corporations established by this bill are, however, unique. First, the obvious distinction is that the focus of our proposal is on the region, while the other proposals would have established national energy banks. This concentration on regions is important since energy problems vary appreciably from one region to another. The Northeast, for example, is a region that lacks sufficient energy sources of its own. The Northeast's energy corporation would, therefore, strive to increase its sources of energy and to plan for their optimal use on a regional scale. Energy rich regions, such as the Southeast, the Northern Mountain States, and the Appalachian States, have problems of their own: the impact of intense resource development and exploitation on the region's economy and environment. In all of these cases, the regional energy corporations could address those energy problems that are most important to the particular region.

Another aspect of the proposal which I feel is of particular significance is its emphasis on planning and on a development process which is consistent with that plan. To be truly effective, to be a positive force in the resolution of the region's problems, the corporations' activities must be coordinated with a plan for the region's energy future. The legislation specifically requires that a systematic analysis of the region's energy problems, leading to a plan for action, be conducted, and that all investments of the corporation be consistent with that plan.

Governor Carey of New York and his colleagues in the Coalition of Northeast Governors deserves our thanks for their efforts to develop this proposal. I am enthusiastic about the potential of regional energy corporations, as a blend of planning and financing and as a cooperative effort by the public and private sectors. I am hopeful that this legislation will quickly be passed by Congress and will, when implemented, contribute greatly to

the solution of energy problems the Nation now faces.

Mr. RIBICOFF. Mr. President, I am pleased to join with the distinguished chairman of the Senate Energy and Natural Resources Committee, Senator JACKSON, and several of my colleagues from the Northeast in introducing a measure which marks an important step in helping this Nation meet its energy challenges.

For over a year the Governors of Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont have focused on the energy problems and opportunities which are unique to our region. Particular attention has been given to the available energy resources, the residential, commercial and industrial energy demands, the soaring cost of all forms of energy and the impact of the National Energy Plan on the Northeast. Several studies revealed that the Northeast's energy position is marked by:

The lack of indigenous energy sources, with the possible exception of coal from the Appalachian section of the region;

A significant dependence on imported petroleum;

High and rising energy cost; and,

Energy consumption patterns which mirror the economic structure of the area, climatic conditions (which are often severe), the number of high-density urban areas, and the age of capital stock.

Once the dimensions of the region's energy problem were clearly identified, the seven Northeastern Governors proceeded to develop the framework of a regional energy corporation—the Energy Corporation of the Northeast (ENCONO)—to tackle the many aspects of our section's energy condition.

The regional energy corporation seeks to promote both the production and conservation of energy. It can play an important and integral role in carrying forward the National Energy Plan by helping to forge a public/private partnership on a regional basis, by bringing together regional resources and talent, and by more effectively focusing on the special needs of our region on a continual basis. Through its various programs ENCONO can help to alleviate the shortages and high costs of energy which have contributed to serious economic dislocation and the lack of economic growth and development in the Northeast.

The proposal for a regional energy corporation has already gained widespread support. In Connecticut, for example, Gov. Ella Grasso assembled a distinguished panel of citizens from the public and private sector to review the ENCONO proposal and to submit recommendations. Governor Grasso's entire advisory task force on the creation of the energy corporation of the Northeast agreed that ENCONO has merit for our State and the entire Northeast.

Last month the Midwestern Governors' Conference and the National Conference of Lieutenant Governors passed resolutions supporting the development of regional agencies to focus on the many and varied energy problems which confront the United States. These actions reflect the growing realization that we must accelerate investment in energy production, alternative energy sources and conservation, especially in light of future OPEC price increases and diminishing worldwide reserves of oil and natural gas.

Although I have discussed this legislation in the context of the Northeast, it has applicability to all sections of the country. The bill would permit States in other regions to develop similar corporation charters and present them to the Congress for approval. It would enable these other regional bodies to receive limited Federal aid through guarantees of their obligations. With this backing, the Northeastern and other regional energy corporations could proceed with increased coal utilization and energy conservation programs, the active development of alternative energy sources, the design and implementation of regional marketing programs, and projects to insure that the quality of the environment is not impaired and that renewable resources are utilized to the most practicable extent. Mr. President, the potential for these regional energy corporations is virtually limitless, both in terms of meeting the specific needs of the particular areas in which they are established as well as in aiding in the national effort to resolve the energy crisis.

Governor Grasso has observed that:

> The creation of a regional energy corporation is the keystone to our efforts to revitalize the economy of the Northeast.

The enactment of this legislation and the creation of ENCONO can also have an important impact on the entire nation. The ENCONO concept recognizes the fact that our current energy sources, in most instances, are not limitless. It urges the cooperation of public and private capital in resolving the energy dilemma and its impact on the entire economy.

I commend the Northeastern Governors for taking the initiative in proposing the regional energy corporation concept and for the considerable amount of effort which went into this undertaking. I am honored to join in sponsoring the Regional Energy Development Act and will do all that I can to expedite its enactment.

ADDITIONAL COSPONSORS

S. 2144

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2144, to establish a program for drug benefits for the aged.

AMENDMENT NO. 876

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of amendment No. 876, intended to be proposed to S. 2108, to amend the Indochina Migration and Refugee Assistance Act.

AMENDMENT NO. 986

At the request of Mr. PERCY, the Senator from Idaho (Mr. MCCLURE) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 986, to be proposed to H.R. 8444, the energy tax bill.

AMENDMENT NO. 1018

At the request of Mr. WILLIAMS, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of amendment No. 1018, to be proposed to S. 1871, to amend the Fair Labor Standards Act.

AMENDMENT NO. 1399

At the request of Mr. HART, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of amendment No. 1399, to be proposed to S. 2114, the Public Utility Regulatory Policy Act.

SENATE RESOLUTION 274—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 1582

(Referred to the Committee on the Budget.)

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution:

S. RES. 274

Resolved, that pursuant to section 402(c) of the Congressional Budget Act of 1972, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1582. Such waiver is necessary because it would provide relief for the emergency water crisis facing the Ak-Chin Indian Community. The waiver would only be required for the sum of five hnudred thousand dollars for the engineering and hydrological studies. It is crucial that the studies start in fiscal year 1978 to begin the process in time to deliver water to the Ak-Chin reservation before their aquifer is depleted.

The Ak-Chin rely on farming for their economic sustenance. The farming is dependent upon ground water from wells. Non-Indians surrounding the reservation are pumping from the same water basin. Because of the extensive pumping, the aquifer cannot sufficiently recharge itself, and the water level is declining at a rate which will prohibit farming on the reservation within the next few years. Starting now it will take at least two years to undertake the proper feasibility studies and construct the federal well-field and water delivery system needed by the Ak-Chin Indians.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1405

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, on behalf of myself and the distinguished Senator from Florida (Mr. STONE) I am sending to the desk, for printing, an amendment to S. 1871, the Fair Labor Standards Amendments of 1977. This amendment would establish a "youth opportunity wage" set at 85 percent of the existing minimum wage.

I would ask unanimous consent, Mr. President, that the text of this amendment and an accompanying fact sheet be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1405

On page 12, between lines 17 and 18, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth opportunity an employer may employ any youth who has not attained 20 years of age for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 percentum of the wage rate in effect under section 6(c)).

"(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or for a period of time longer than that specified by this subsection, or is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to section 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.".

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary under section 14 or in accordance with the provisions of section 14(b), or"

On page 12, line 11, substitute "SEC. 6." for "SEC. 5.".

FACTSHEET: YOUTH OPPORTUNITY WAGE AMENDMENT TO S. 1871

The amendment would:

Establish a "youth opportunity wage" of 85 percent of the minimum wage during a six-month "training period" for young job seekers 19 and under.

Prohibit the substituting of teenage workers covered by this amendment for older employees earning the minimum wage or above.

Encourage the use of the existing full-time student rate (also 85 percent) by simplifying the procedure.

The rationale for the amendment:

1.8 million (24 percent) of the 7½ million individuals currently unemployed in this country are between the ages of 16 and 19.

345,000 young would-be job seekers have become discouraged and are no longer actively seeking employment.

Since 1975, 6,300,000 new jobs have been created but only 700,000 of these new slots went to teenagers.

40.2 percent of non-white teenagers are currently unemployed.

Lack of job opportunities creates an environment that is conducive to crime and social unrest.

Economic growth alone is incapable of significantly reducing youth unemployment. It would take an economic growth rate of 10.1 percent to reduce the minority teenage jobless rate 1 percent.

In 1966, the minimum wage was increased from $1.25 to $1.40 per hour and teenage employment declined 3.3 percent.

In 1974 the minimum wage was increased by 25 percent which led to an estimated 13-percent rise in youth unemployment.

AMENDMENT NO. 1406

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER. Mr. President, together with Senators CHAFEE, GARN, HATCH, HAYAKAWA, HOLLINGS, MCCLURE, SCHMITT, and TOWER, I submit an amendment for printing which we intend to propose to S. 1871, the Fair Labor Standard Amendments of 1977, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1406

On page 12, between lines 17 and 18, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth employment an employer may employ any youth who has not attained 20 years of age for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 75 per centum of the otherwise applicable wage in effect under 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"(2)(A) To encourage youth employment, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

"(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or at a wage rate lower than the applicable wage rate under section 6 after the period of time specified by this subsection, or is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.".

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(b); or".

On page 12, line 11, substitute "SEC. 6." for "SEC. 5.".

PUBLIC UTILITIES REGULATORY POLICY ACT—S. 2114

AMENDMENT NO. 1407

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (S. 2114), the Public Utilities Regulatory Policy Act of 1977.

NOTICES OF HEARINGS

NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, October 6, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky vice C. Rhodes Bratcher, deceased.

Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York vice Orrin G. Judd, deceased.

Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York vice John F. Dooling, Jr., retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

NOMINATION

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Thursday, October 6, 1977, at 8 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of:

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor;

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board; and

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

Persons wishing to testify or submit statements, please contact: Martin Jensen of the committee staff, room 4230, Dirksen Senate Office Building.

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce a change in the scheduled hearing of the Committee on Human Resources on the cost, management, and utilization of human resources program evaluation.

The hearing will be held from 9 a.m. until 12 noon on Thursday, October 6, and Friday, October 7, 1977. Witnesses will include the Office of Management and Budget, the General Accounting Office, the Urban Institute, the Departments of Health, Education, and Welfare and Labor, and representatives of the private and academic communities.

Persons wishing to submit statements or obtain information may call Franklin Zweig of the committee staff at (202) 224-9285.

ADDITIONAL STATEMENTS

OUR HOMETOWN BOY MAKES GOOD

Mr. PERCY. Mr. President, we all like success stories and we had a success story published in the September 25 issue of the Chicago Tribune which I think should particularly please my Senate colleagues. One of our "hometown boys" is making good. Our former colleague Mike Mansfield, now serving as U.S. Ambassador to Japan, has brought to his new diplomatic career the same acuteness of judgment, capacity for hard work, forthrightness, and dry sense of humor that he displayed during his long and distinguished Senate career. We are proud of him. I ask unanimous consent that the Chicago Tribune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Sept. 25, 1977]

NOW, AMBASSADOR MANSFIELD

(By Andrew Malcolm)

TOKYO.—Mike Mansfield, the new United States ambassador to Japan, was presiding over a recent staff meeting here when one embassy bureaucrat began pontificating.

"Mr. Ambassador," he said, "it would take me several hours to adequately outline the full detailed ramifications of this policy."

The ambassador from Montana puffed on his pipe once or twice and replied, "I don't think you could do it if you had several years."

The remark, spoken plainly without rancor, demonstrated the new tone that the 74-year-old former Senate majority leader has brought here in his diplomatic saddlebags.

"He has a very low tolerance," an embassy officer said, "for uh, how can I say it politely, barnyard bunk."

In his first hundred days in this new career he has also had a number of adjustments to make. During recent informal conversations and a meeting with resident American correspondents, Mansfield said that he had less personal freedom as an ambassador than as a Senator, but that he and his wife, Maureen, now had more time together although she was busy managing the large embassy household.

Mansfield added that he felt that leaving the Senate last January was a wise move. "It was the best decision I ever made," he declared. "I don't miss it one bit."

Commenting on his duties, the ambassador said that there were many problems in United States-Japanese relations, and he added: "I'm finding they are mostly economic."

The seeds of another problem, a potentially serious one, rest in the fame and prestige that Mansfield has among the average Japanese. The appointment of a well-known congressional elder, with vast Asian experience, to the Tokyo post was widely interpreted here as recognition by President Carter of Japan's importance to the United States.

In the Japanese mass media Mansfield is known as an "omono taishi," or a "big-name ambassador." The implication is that his basic sympathies and understanding rest with Japan.

Mansfield has sought at times since his arrival on June 7 to explain sympathetically the Japanese side to Americans—how vulnerable they feel over natural resources, for instance.

In recent weeks he used his personal relationship with President Carter to explain the seriousness of an American rejection of Japan's nuclear reprocessing plans.

And on the question of trade difficulties with Japan, it was a speech by Mansfield on July 19, in which he lectured the Japanese on the realities of American politics and growing protectionism, that led up to an intensifying United States assault on Japan's whopping trade surpluses.

Asahi Shimbun, Japan's most influential newspaper, even cautioned editorially that overestimating Mansfield's sympathies would lead to disillusion and disappointment.

The Ambassador's basic interest in Asia springs from a 1920–21 tour of duty in China as a marine. "I've always felt," he says, "that while the pull on Americans was toward Europe, the push has always been westward across the continent and the Pacific. The future of the U.S. lies in the Pacific and in the rim of Asia."

As ambassador, Mansfield presides over the largest American embassy in the world. It has 700 employees in a modern 12-story structure next door to a palatial ambassador's residence.

Mansfield, always with pipe in hand, has stuck fairly close to the embassy during his first three months. He does less entertaining than previous ambassadors and arrives at his ninth floor desk sharply at 7:30 a.m.

"I'm just feeling my way around and getting my toes wet," he says. But he appears well briefed and has a wealth of facts and figures in mind for any conversation, except those idle ones about the weather, which seem to cause his eyes to glaze.

He says he now has less control over his own time. "I feel a compulsion to meet with so many people," he says. "It's a compulsion I didn't feel in politics except in campaign years."

But he and his wife do have more time together. "She doesn't have to cook anymore," the ambassador said. "But she's turning into a certified public accountant keeping more household accounts than you can shake a stick at."

"I've never been busier in my life," Mrs. Mansfield tells visitors.

Mansfield was asked whether she liked the life of an ambassador's wife. He puffed twice on his pipe. "I think so," he replied.

"And do you like it?" Two more puffs. "I think so."

COMPETITIVE PRACTICES IN THE COMMUNICATIONS INDUSTRY

Mr. JACKSON. Mr. President, it has been brought to my attention that a large number of public and private organizations have taken formal positions expressing concern that the Congress should review recent FCC decisions introducing certain competitive practices into the communications industry to assure that they do not have any adverse impact on residential and rural telephone users.

I ask unanimous consent that the list of organizations which has been brought to my attention be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Association of Washington Counties.
Washington Association of Wheat Growers.
Washington Collectors Association.
Washington State Grange.
Washington State Labor Council.
Western Conference of Governors.
American Association of Retired Persons, Port Angeles.
Asotin County Senior Citizens Gerontology Council.
Auburn Area Chamber of Commerce.
Castle Rock Chamber of Commerce.
Cathlamet Junior Women.
City of Aberdeen.
City of Auburn.
City of Hoquiam.
City of Issaquah.
City of Renton.
Clallam County Democratic Club.
Clallam/Jefferson Counties Advocates for the Aging.
Clark County Board of Commissioners.
Clayton Senior Citizens Club.
Cowlitz County Co-ordinating Council of Senior Citizens.
CWA, Local 9107 of Aberdeen.
CWA, Local 9109, Centralia.
CWA, Local 9110, Olympia.
CWA, Local 9112, Vancouver.
Ephrata Senior Center.
Foundation for Chicano Education.
Golden Age Club, Port Angeles.
Good Housing for Low Income Citizens, Bellingham.
Grays Harbor Central Labor Council.

H.E.L.O. Club of Centralia.
High Point Senior Citizen Center, Seattle.
Kent Chamber of Commerce.
Kitsap County Board of Commissioners.
Kitsap County Pomona Grange No. 21.
Kiwanis Club of Central Seattle.
Lacey Area Chamber of Commerce.
Lacey Jaycees.
Lewis County Credit Womens Association.
Lewiston-Clarkston Kiwanis Club.
Longview Senior Center Operating Committee.
Lower Elwha Tribal Council, Port Angeles.
Madison-Jackson Economic Development Council, Seattle.
Moses Lake Chamber of Commerce.
NAACP–Seattle Chapter.
Newcastle Grange No. 1100, Renton.
Okanogan Senior Citizens Center.
Older Citizens Inc., Longview.
Port Angeles Central Labor Council.
Port Angeles Senior Citizens Drop-in Center.
Randolph Carter Industrial Workshop Association, Seattle.
Seattle City Council.
Seattle Jaycees.
Senior Opportunity and Services, Moses Lake.
Shoreline Jaycees, Seattle.
South King County Multi-Service Center.
Tacoma Area Task Force for the Needs of the Handicapped.
Tacoma Credit Women.
Thurston County Credit Women International.
Town of Ridgefield.
Wedgewood Community Club.
Whatcom County Board of Commissioners.
Whatcom County Opportunity Council.
Whatcom County Washington Central Labor Council.
Yakima Chamber of Commerce.

Mr. JACKSON. Mr. President, I simply want to state my support for the efforts of the Senate Commerce Committee to review FCC policies in this area and to determine whether legislation is necessary or appropriate. These efforts are reassuring to the many individuals and groups which have expressed interest in the subject.

RAYS OF HOPE: A NEW BOOK ON ENERGY POLICY

Mr. PERCY. Mr. President, a recently published book by Denis Hayes of the Worldwatch Institute proposes solar power as the best alternative for our dwindling supply of petroleum. In "Rays of Hope: The Transition to a Post-Petroleum World," Hayes suggests that nuclear power and coal will play no long-term energy role, due to adverse economic and environmental factors. He advises us to turn to the clean and renewable resources of sunlight, wind, falling water, and green plants to maintain our energy supply.

Social change inherently accompanies energy transition. Such changes must be taken into account in planning our energy strategies. Mr. Hayes argues that a solar-powered world would be more equitable and more culturally pluralistic than a world centered around ever larger and more complex nuclear and coal generators. "A solar society would be thrifty, decentralized, simple and safe," he says. Mr. Hayes then demonstrates the practical potential for a solar transition.

In less than one generation world petroleum production will peak, then begin to decline. An energy transition will take place. It will be productive or destructive, depending on our foresight and commitment. According to Mr. Hayes, there is enough waste in the current U.S. energy budget to permit continued economic growth during the transition to reliance on energy from the Sun. Strong commitments to energy conservation and development of solar power will enable us to proceed smoothly into the post-petroleum era. Mr. Hayes' advice is timely and thought provoking. I recommend his book as challenging reading.

Mr. President, I ask unanimous consent that the Worldwatch Institute's news release of September 10, 1977, on "Rays of Hope" be printed in the RECORD at this point.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

RAYS OF HOPE

"Two years ago the world appeared to have three energy alternatives on which to build a sustainable post-petroleum world: coal, nuclear power and solar energy. Today we have one clear-cut option: the sun," says Denis Hayes, author of the new book "Rays of Hope: The Transition to a Post-Petroleum World," published by W. W. Norton, September 12, 1977.

Developments over the last 24 months suggest there is no long term role for atomic power or coal. The nuclear dream is fading fast, due to environmental, economic and national security concerns, Hayes says. In the United States new reactor orders plunged from 36 in 1973 to 2 in 1976, and official projections of nuclear power capacity by the end of the century have been reduced by nearly two-thirds. The obstacles facing coal are equally intractable. A study by the National Academy of Sciences warns that continued heavy reliance on coal could lead to profound and irreversible alterations in global climate.

"Within two decades, world oil production will begin to decline, as American production already has," notes Hayes. "By that time society must be well on the road to reliance on sunlight, wind, falling water and green plants, to minimize the inevitable economic and social disruption caused by the end of the oil era."

Historically, social change has accompanied each energy transition. In the eighteenth century, the substitution of coal for wood as a power source brought on the industrial revolution. The later shift to a petroleum-based economy made possible the jet plane and the automobile, shrinking the planet and reshaping its cities. The choices between solar and non-solar energy development being made today in Washington, Paris and New Delhi will similarly describe society's shape and limit its possibilities.

"In spending research dollars and in building new energy facilities, we must be guided by a vision of what we want in the decades ahead," Hayes comments. "Above all, we must strive to achieve a society in which average citizens will have a greater opportunity to participate in the making of energy decisions which affect their everyday lives."

"A solar-powered world would permit such a society to blossom, one with greater equity, freedom from cultural pluralism. A solar society would be thrifty, decentralized, simple and safe. Continued reliance on ever larger, more expensive and technically complicated nuclear and coal facilities would make a better world far more difficult to achieve."

In *Rays of Hope*, Hayes, a Senior Researcher with the Washington-based Worldwatch Institute, documents the potential for a solar transition. About one-fifth of all energy used around the world now comes from the sun. Forty percent could come from renewable solar resources within twenty-five years.

Sunshine is already in use for much heating and cooling. More than two million solar water heaters have been sold in Japan and thousands are in use in Israel. The Solar Energy Industries Association estimates that 11 million heaters could be installed in the United States by 1985. The towns of Mejannes-le-Clap in southern France and Jubail in Saudi Arabia plan to obtain most of the energy they use from the sun. There remains an untapped potential for use of solar heating in agriculture to dry crops and in industry, where about half of all industrial heat could be provided by solar collectors, says Hayes.

Sunlight is also being harnessed directly to produce electricity through photovoltaic cells. In remote settings, photovoltaics are already the cheapest form of electrical generation.

"If solar cells received a total investment equal to the cost of just one nuclear power plant, production costs should fall to 50 cents per watt," according to Hayes. "At this price, photovoltaic cells would enable many buildings to become energy self-sufficient."

The wind is one of the world's largest renewable energy resources. More than 150,000 old windmills still spin productively in the United States, and new windmill sales have increased 500 percent since 1974. The Danes, the Canadians and groups in a number of developing countries are engaged in innovative wind power research.

The potential of harnessing falling water has long been underutilized, Hayes says. The U.S. Army Corps of Engineers reported in 1977 that more power than the U.S. gets from nuclear energy could be generated at existing dams. New interest in hydroelectric development is focusing on small turbines of the sort employed extensively by Japan, Switzerland, Sweden and China at dams built for flood control or agricultural irrigation.

The energy that could be harvested around the world each year from organic sources probably exceeds the energy content of all fossil fuels currently consumed annually. Brazil is investing $400 million in an effort to convert sugar cane and cassava into ethanol for fuel. In many developing countries, firewood accounts for more than three-fourths of all commercial energy, and this valuable resource is generally used with dreadful inefficiency.

Fuel from waste powers a number of cities in Europe and industries in the United States. Sweden now obtains 7 percent of all its energy from the waste of its forest products industries. Anaerobic digestion, which can be used to convert human excrement, cow dung and inedible agricultural residues into methane gas is now widely used throughout the developing world. The Republic of Korea has 30,000 small digesters, India has more than 60,000 and China claims to have over 4,000,000.

Energy conservation provides the base upon which a solar economy can be built, says Hayes. There is enough waste in the current U.S. energy budget to permit continued economic growth while the transition is made to reliance on energy from the sun. In other countries, efficient use of energy is critical, whether it be in the selection of building materials for homes in Latin America or in the design of industrial projects in Asia.

"By the year 2000 the petroleum era will be ending," concludes Hayes. "Nuclear power and coal will not be able to replace oil. The timetable for the solar transition is already far behind schedule. Current short-sighted energy policies will only make that transition more costly, difficult and socially disruptive."

GOOD-BYE, DR. McKELVEY

Mr. DOMENICI. Mr. President, as we debate the pros and cons of deregulation of new natural gas, we frequently find ourselves at odds over the basic question of how much natural gas remains to be found.

We know that independent studies, like that done by the Colorado School of Mines, shows that trillions of cubic feet of gas remain to be exploited for the Nation.

However, the charge is frequently made by opponents of deregulation of new gas that very little gas is still under ground.

Independent geologists, working as scientists at universities or with their own firms, have always been interested in this question. They have often worked for, or with, the U.S. Geological Survey in attempting to find answers.

The USGS has an excellent reputation for independent, objective analysis. And, now, in a move that greatly disturbs these independent scientists in the field of geology, the head of the USGS, Dr. Vincent McKelvey has been removed from office.

Geologists in my State, ranging from independent businessmen to scholars at our State's universities have protested this move with obvious political overtones. They see it as an attempt to do away with independent scientific thought at USGS and to substitute, during this inflamed emotional debate over energy for the future, a political appointee who will be less independent and more sensitive to the political stance of the administration in power.

Mr. President, the removal of Dr. McKelvey will not be noticed by most Americans. But, to those of us who depend upon the USGS for independent analysis, he will be sorely missed, indeed. And, for those thousands of scientists who in the past have had great confidence in the precision of the work of the USGS, and its dedication to sound scientific principles, there will always be that nagging doubt about the validity of its future projections about natural gas and oil reserves and resources.

I have asked President Carter to review the decision to remove Dr. McKelvey and I hope he does so. I know that I speak for the many geologists in this Nation who also wish an extension of the kind of independent, nonpolitical analysis that the USGS has provided under Dr. McKelvey's leadership.

At this time, Mr. President, I ask unanimous consent that a Wall Street Journal editorial, "Good-Bye, Dr. McKelvey," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 16, 1977]

GOOD-BYE, DR. McKELVEY

Dr. Vincent E. McKelvey for the last six years has been the director of the United States Geological Survey. The 61-year-old career scientist has been with USGS since 1941. In the tradition of the 98-year-old agency—which has had but 9 directors in that time—Dr. McKelvey was nominated by the National Academy of Sciences and appointed, pro forma, by President Nixon.

Now, in an unprecedented move, Dr. McKelvey has been bounced by the White House. Technically, Interior Secretary Cecil Andrus pulled the trigger, USGS being an Interior line agency. The administration, he was told, "wanted its own team." But it is inconceivable that Mr. Andrus would take this step without orders from above, any more than we can imagine the Attorney General deciding on his own hook to replace the FBI Director.

In a way, it makes even less sense to fire Dr. McKelvey, because the administration will not replace him with one of its own team anyway, unless it violates tradition and does not accept the nominee of the National Academy of Sciences. Nor is he being fired for incompetence, being too distinguished for that charge to stick. In fact, he's getting back his old desk down the hall.

What's it all about? Plainly, this is Washington: Behind Closed Doors. Dr. McKelvey does not now and never has suited the Malthusian regulators who designed Jimmy Carter's energy plan. While you are trying to bulldoze a $100 billion tax/energy conservation program through Congress, it does not help to have the government's top expert on such matters running around talking about the vast resource base in the United States.

In his early years as USGS director, Dr. McKelvey incurred the displeasure of Rep. Morris Udall, who last year ran for the Democratic presidential nomination on the Club of Rome platform, i.e., the planet is doomed. Mr. Udall and his friends carried on a running debate with USGS over its estimates of natural-gas reserves, insisting that USGS was too optimistic.

In July, just as the Carter energy people were bulldozing the energy bill through the House, Dr. McKelvey was giving a speech in Boston, observing that as much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the geopressured zones underlying the Gulf Coast region. That's 3,000 to 4,000 times the amount of natural gas the United States will consume this year.

"This is an almost incomprehensibly large number," said Dr. McKelvey, noting that "even the bottom range represents about 10 times the energy value of all oil, gas and coal reserves of the United States." In the same speech, he also observed that "a large amount of oil is still to be found in the United States."

Tsk, tsk. Dr. McKelvey does not understand politics. Had he not seen what happened when the scientists of the Energy Resources Development Administration came to similar conclusions in April? The MOPPS I team estimated that if natural gas was deregulated, the nation would be drenched with the stuff at $2.50 per thousand cubic feet. The MOPPS I team was promptly dismantled and their findings adjusted posthumously.

At the same time, the White House thumped up a report of the Central Intelligence Agency that forecast the Russians would run short of energy in 1985 and have to import it from the Middle East. This, we were told, is further reason why Americans must conserve in a hurry by paying a lot more taxes.

Once again, Dr. McKelvey did not know enough to keep his mouth shut. The Russians, he said, are floating on a sea of oil. The Washington Post now reports that Energy Secretary James Schlesinger, who used to run the CIA, privately pooh-poohs the CIA report, saying the Russians wouldn't let themselves get boxed into a position where they'd have to buy oil from anyone.

The Carter people insist that the USGS will not be politicized. They will take just about anyone the National Academy of Sciences nominates, but withhold the right not to do so. Which means the NAS had better come up with a geologist who understands politics. If only Galileo had not been so impolitic as to insist that the earth revolves around the sun, think of the trouble he would have spared the Inquisition.

MEMORIAL TO CONGRESS BY THE MAYOR AND CITY COUNCIL OF TUCSON, ARIZ., URGING ACTION TO RELIEVE THE PLIGHT OF THE COPPER INDUSTRY

Mr. GOLDWATER. Mr. President, it is disappointing for me to have to lay before you a memorial approved by the mayor and council of the city of Tucson relative to the depressed state of the U.S. copper industry. I am greatly disturbed that conditions have reached such a stage that it is necessary for our local governments to petition Congress for help.

But help we must. For the unfortunate truth is that the copper industry is in its worst plight in many decades. In Arizona alone, there are almost 9,000 unemployed mine workers in an industry that provides 1 out of every 8 jobs in the State.

Mr. President, the major source of this condition is the foreign glut on the copper market caused by essentially Government-owned or Government-operated mines that are producing at maximum capacity without regard to market conditions.

This means our private companies are not facing traditional free enterprise competition. The excess foreign production overhangs the market by about 1 million tons above the normal inventory level. Although domestic consumption is on the rise and may equal the fourth best year on record this year, the foreign excess inventory is so enormous it has forced copper prices below the point where our mines can be operated profitably.

Now, I would ask, Mr. President, why must the entire burden of reducing the overhang, which they did not cause, be put on American mines? Our industry has cut production back to about 60 percent of capacity. Yet, foreign producers, who supplied 22 percent of refined copper in the United States last year, are running at or near 100 percent!

On top of foreign government competition, which is severely distorting normal market conditions, our industry is saddled with the costs of compliance with environmental controls and employee safety regulations which do not exist abroad. Since our Government is responsible for these costs, which add about 8 cents a pound to the cost of smelting and refining copper, it is only logical that our Government help to restore the American industry to the competitive position it has lost on account of those regulations.

Now, I am not saying existing environmental and safety rules are all bad. I am suggesting that the Government should assume part of the burden of expensive new environmental requirements that give a great cost-of-production advantage to foreign producers.

And I believe it is proper that our Government should react to practices of other governments which endanger the health of a vital domestic industry. Private U.S. companies alone can hardly be expected to prevail in uneven competition with foreign governments.

Mr. President, in order that my colleagues may be better informed on this issue, which is gaining greater and greater importance, I ask unanimous consent that the memorial adopted by the mayor and city council of Tucson, Ariz., be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

A MEMORIAL

To the President and Congress of the United States of America:

Your memorialist respectfully represents that:

Whereas, numerous copper mining enterprises have been closed in Pima County and in other portions of Arizona resulting in the laying off of thousands of copper mining company employees; and

Whereas, the closure of these mining activities and the layoff of thousands of copper mining company employees constitutes a serious threat to the economy of the City of Tucson, Pima County, and the State of Arizona; and

Whereas, the layoff of thousands of copper mining company employees is dramatically increasing unemployment in the City of Tucson, Pima County and the State of Arizona:

Wherefore, your memorialist, the Mayor and Council of the City of Tucson, Arizona, prays:

That the President and the Congress of the United States take all appropriate and necessary steps to cause the mining companies to re-open their operations in Pima County and other portions of Arizona affected by the shutdowns.

That the President and the Congress of the United States take all appropriate and necessary steps to relieve the growing unemployment burden being placed on Pima County and the State of Arizona through emergency jobs programs, or by whatever means lawful and proper.

That the City Clerk is hereby directed to send copies of this Memorial to Jimmy Carter, the President of the United States, all members of Arizona's delegation to the United States Congress, the Secretary of the Department of Labor, the Governor of the State of Arizona, the President of the Arizona State Senate, and the Speaker of the Arizona State House of Representatives.

NORTHERN IRELAND—MEETING BETWEEN THE PRIME MINISTERS OF GREAT BRITAIN AND THE REPUBLIC OF IRELAND

Mr. KENNEDY. Mr. President, a significant current development on the situation in Northern Ireland took place yesterday—the first meeting between Prime Minister James Callaghan of Great Britain and Prime Minister Jack Lynch of the Republic of Ireland since Mr. Lynch's recent election.

At the conclusion of their talks in London, the Prime Ministers issued a joint statement reflecting their areas of agreement. Perhaps the most significant portion of the statement is the third paragraph, which sets out their views on the political situation in Northern Ireland.

In their statement, the Prime Ministers emphasized their commitment to seeking the earliest possible peaceful settlement. They also spoke of their desire for a devolved system of government in Northern Ireland which would include the fair participation of all sections of the community and in which the rights of all citizens would be protected.

As President Carter's statement of August 30 on Northern Ireland makes clear, the Government of the United States wholeheartedly supports this effort to reach a peaceful settlement, and stands ready to help encourage job-creating investment in Northern Ireland once a settlement is achieved.

Of particular significance is the suggestion in the Prime Ministers' statement that, if it is acceptable to both the majority and the minority in Northern Ireland, progress toward such a system of government might be reached in stages, with partial powers of government devolved at this time to an elected assembly in Northern Ireland.

Mr. President, I welcome the progress represented by the joint statement. This early meeting between the two Prime Ministers was essential to a continuation of the search for peace, and I am pleased that they were able to reach these broad areas of agreement on a common policy toward Northern Ireland. I welcome their joint statement, and I look forward to a new and successful effort toward a peaceful settlement.

Mr. President, I believe that the joint statement of the Prime Ministers will be of interest to all of us who share the desire for peace in Northern Ireland, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the joint statement was ordered to be printed in the RECORD, as follows:

MEETING BETWEEN THE TAOISEACH AND THE PRIME MINISTER: AGREED COMMUNIQUE, SEPTEMBER 28, 1977

1. The Taoiseach, Mr. Jack Lynch accompanied by the Minister for Foreign Affairs Mr. Michael O'Kennedy had talks at No. 10 Downing Street today with Prime Minister Mr. James Callaghan. The Prime Minister was accompanied by the Secretary of State for Northern Ireland, Mr. Roy Mason and the Minister of State at the Foreign and Commonwealth Office, Mr. Frank Judd.

2. The talks took place in the context of Anglo-Irish relations, the European Community and international developments generally. The Taoiseach and the Prime Minister discussed the world economic situation and in particular the problems of inflation and unemployment. They agreed that the growth of world trade was disappointing and that more should be done to secure a higher rate of growth and reduce unemployment. A further stimulus to the world economy was required and both countries must continue to work for stabilization and for growth. The European matters discussed included the application of Greece, Portugal and Spain for membership of the E.E.C., direct elections, the common fisheries policy, the common agriculture policy and the future of J.E.T. The talks also covered bilateral matters including economic prospects of the two countries and the Continental Shelf.

3. The Taoiseach and the Prime Minister were united in reaffirming their commitment in the immediate future to achieving the earliest possible restoration of peace and political stability in Northern Ireland. The Taoiseach welcomed the Prime Ministers statement that the British Governments policy was to work towards a devolved system of government in which all sections of the community could participate on a fair basis and in which the rights of all citizens are fully safeguarded. In the meantime, if there was a general desire, the British Government would be ready to devolve a range of powers to a locally-elected body under arrangements acceptable to both sides of the community.

4. The Taoiseach and the Prime Minister emphasised the importance which they attached to security co-operation between the authorities on both sides of the border and expressed satisfaction at the degree of co-operation under the present arrangements. They agreed that in the context of further Anglo-Irish meetings, there should be continuing consultation about how this co-operation could be developed and improved.

5. It was agreed by the Taoiseach and the Prime Minister that it would be of mutual advantage to improve practical co-operation between the Republic and the United Kingdom on economic matters. Officials of the two governments, would, therefore, meet in the near future to review the arrangements and opportunities for economic co-operation with particular reference to Northern Ireland. They would review current and proposed cross-border studies and identify subjects and areas for further examination, with EEC assistance where appropriate.

6. The talks took place in a friendly and relaxed atmosphere. The Taoiseach and the Prime Minister agreed to maintain contact on a regular basis.

PUBLIC TELEVISION TO AIR STORY OF FATHER DAMIEN

Mr. MATSUNAGA. Mr. President, there stands in Statuary Hall a moving tribute by famed artist Marisol Escobar to a truly remarkable man, Father Damien de Veuster. Commissioned by the State of Hawaii as one of its two statues in the U.S. Capitol, Marisol's statue of Father Damien has been admired by millions of visitors. Inquiries about the statue were so numerous that, in 1973, at my request, a plaque was added to tell the story of the Belgian missionary's work with victims of leprosy on the Hawaiian island of Molokai.

Now, at last, Americans all over the country will be inspired by the story of Father Damien. In January, the Public Broadcasting Network will air an original television drama based on his life by playwright Aldyth Morris of Hawaii. Directed by Nino Martin, of Hawaii's public television station, KHET, "Damien" will be shown for the first time in Hawaii tonight. It promises to become a television classic. A monolog, the play depends primarily on actor Terence Knapp, of Hawaii, who plays the title role. He and director Martin, according to early reports, have achieved unusual success in bringing the audience into the play.

The production of "Damien" at this time is particularly significant in that a decree citing the "heroic virtues" of Father Damien de Veuster was approved in July by Pope Paul VI. It is believed to be the first step on the road to sainthood for the Belgian priest who gave up his own life in the service of others.

With the thought that my colleagues will find it of interest, I am submitting for inclusion in the RECORD an interest-

ing article about the KHET production of "Damien" which appeared in a recent edition of the Honolulu Advertiser. I ask unanimous consent that the text of the article be printed in the RECORD following the inscription from the plaque on the Father Damien statue. The inscription reads as follows:

"Greater love has no man than this, that a man lay down his life for his friends."—John 15: 13.

Born a farmer's son at Tremeloo, Belgium, on January 3, 1840, Damien joined the Missionary Congregation of the Sacred Hearts and was ordained a Roman Catholic priest at the Cathedral of Our Lady of Peace in Honolulu in 1864. In 1873 he volunteered to serve alone at the leprosy settlement on the Island of Molokai. For sixteen years, he lived and worked among leprosy victims of all faiths and races. He ministered to their doomed bodies and, by his presence, gave them the reassurance they so desperately needed that they had not been forsaken either by God or by men. On April 15, 1889, Damien died among his people, of leprosy.

The sculptress Marisol Escobar, working from photographs of the dying priest, saw in Damien "the mystery of physical transformation—as if he had become what he wanted to become."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUTTING DAMIEN ON TELEVISION

(By Mary Cooke)

Nino J. Martin, KHET-TV director of the soon-to-be premiered "Damien," started the interview with a flashback to early this summer:

Martin pondering his production problems.

"How," he asked himself, "do you put one man on the screen and leave him there for 90 minutes?"

Aside to reporter: "It's a hell of a thing you face."

Cut to studio preview of the finished show:

"Damien" is a winner. Probably an award winner.

The telefilm, Hawaii Public Television's most ambitious project to date, will have its first airing Sept. 29 at 8 p.m. on Channel 11.

It will be shown on national public television channels beginning in January.

The "one man on the screen" is Father Damien, the leper priest of Molokai.

The playscript is a monologue through which Damien re-enacts his life story from childhood to the grave—and beyond—and ponders the meaning of it all.

The actor, Terence Knapp, and the playwright, Aldyth Morris, have worked together before.

Both got rave reviews when the University Theatre staged "Damien" last summer.

Martin, who has never directed a TV drama before (he's done mainly musicals and documentaries), converted the script to a teleplay, produced and directed it.

"With a stage play," he said, it's the responsibility of the actor to take the play out from the proscenium, out into the audience.

"What we've done with television is just the opposite. We've brought the audience into the play.

"The entire production is choreographed. It's designed very, very carefully in such a way that it takes you into every sequence and allows you to fantasize.

"That's why we use very sparse sets."

The drama of Damien flows continually between four sets, each of which is symbolic of the motivating forces of his life.

When he retreats to his humble study, the monologue reflects his inner self.

A small black crucifix, which Damien held when he died, hangs on the wall of his study.

The host maker he used for communion services at the leper settlement is propped up in a window casement.

We see him kneel at the prie dieu he built for himself on Molokai.

The cathedral set, manifestation of Damien's religious passion, is marked by a 14-foot sculptured crucifix.

Antagonistic, authoritative forces are represented in set pieces symbolizing the bishop's office (a bishop's chair, cope and miter) and the Board of Health of the Hawaiian monarchy (a stained glass crown).

The sets themselves become "characters," as when Damien's image becomes distorted when viewed through the stained glass crown.

Or when Damien, pleading for food and shelter for the lepers, is seen through the ribs of chairs and railings, symbolic of the barriers set up by indifferent officialdom.

"Camera movement, acting, lighting, set pieces, props, music and sound effects were absolutely vital forces to bring out the essence of the drama," Martin said.

"If this thing were staged with full sets and a location, I don't think it would have the drama, the impact, the involvement.

"In a fully dressed television show you don't have to use your imagination. It's all there.

"This whole production is 'feeling' as opposed to "intellectualizing."

* * * * *

"It was as if we were isolated there and did not know of anything else that existed.

"Because of space limitations, we could set up only one position at a time. So we shot all the sequences for a particular set at one time, wherever they might be in the script.

"We didn't have the luxury of running in sequence. I had to remember most of the energy levels in my head. Terry (Knapp) had to do the same thing.

"Probably the most important element in the entire production is that all the people involved were together from an artistic point of view."

Martin said the "Damien" telefilm is the work of all local artists, technicians and students, with one exception: Lighting specialist Mikel Neiers from Hollywood.

Underwriters for the project were the Hawaii Committee for the Humanities, Bank of Hawaii, Foodland Super Market Ltd. and Meadow Gold Dairies.

"I think this is going to open up a great many doors," Martin said, "We can do high caliber productions in Hawaii.

"It's something I've always pushed for, because quality lasts. This telefilm will be a classic in Hawaii."

NATIONAL CATHEDRAL DAY

Mr. MATHIAS. Mr. President, today in Washington there is cause for rejoicing. It is the Washington Cathedral's 70th birthday. On September 29, 1907, with President Theodore Roosevelt participating, the foundation stone of that great edifice which plays such a significant and creative role in the spiritual and cultural life of this city, was laid. Today, with the nave complete and the great rose window in place, only the twin west towers remain to be built.

Credit for the miracle of this magnificent edifice being so near to completion belongs to many devoted men and women. But, for the past 25 years, The Very Reverend Francis Bowes Sayre, Jr., has been the driving force behind this great work. Because Dean Sayre has done so much to make this a happy birthday for the cathedral, I would like to include here thoughts evoked by the celebration earlier this year of Dean Sayre's 25th anniversary as dean of the Washington Cathedral.

When the great building bishops of the Middle Ages created their magnificent monuments to God, enormous fortunes were at their disposal. William of Wykeham had King Edward III as his patron when he embarked on Winchester Cathedral. When Fulbert, bishop of Chartres, was rebuilding that cathedral after it had been destroyed by fire, we are told that: "Many kings, princes, barons, and gentlemen, vied with each other in their contributions to this cathedral * * *.

It has been quite otherwise for Dean Sayre. He has depended in his great work on small contributions from thousands and thousands of ordinary people. They came slowly, sporadically; sometimes not enough, sometimes not at all. Still, he persevered and his achievement is the more extraordinary.

Today the National Cathedral, like its medieval prototype, is a vibrant, living institution. There Cesar Chavez finds equal welcome with the Archbishop of Canterbury; there the late Jose Limon danced his final "Moor's Pavane" and there the first notes of Gian-Carlo Menotti's "The Unicorn, the Gorgon and the Manticore" were heard. There too the late Dr. Martin Luther King, Jr., preached his last inspired sermon.

I ask now that my colleagues join me in wishing the Washington Cathedral a very happy birthday and many happy returns of the day. And I invite them to join with thousands of other celebrants at the Cathedral Open House on October 1 which will feature, in addition to tours of the usually off limits central tower, puppet and mime shows, demonstrations of flower arranging and stone carving, peal bell ringing, carillon concerts, and music of organ, choirs and large choral groups.

This festive open house is the Cathedral's annual gift to the city. But this year, in honor of the Cathedral's birthday, the city has given something in return. The City Council of the District of Columbia has proclaimed October 1, 1977, as "National Cathedral Day." It has invited all citizens of all faiths "to take note of this great structure and its meaning to the religious life of our community and the Nation, and of the significance of our common belief in Almighty God".

Mr. President, I ask unanimous consent that the text of the City Council proclamation of "National Cathedral Day" be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

NATIONAL CATHEDRAL DAY: OCTOBER 1, 1977

Whereas, two hundred years ago, President George Washington called for the establishment of a great national church in the Nation's Capital; and

Whereas, in 1893 Congress of the United States authorized the establishment of the Protestant Episcopal Foundation of the District of Columbia; and

Whereas, President Theodore Roosevelt assisted at the laying of the Foundation Stone on September 29, 1907; and

Whereas, the seventieth anniversary of that event will be celebrated at Washington National Cathedral on October 1, 1977, with prayers offered for the work and welfare of all peoples of this great city and of the nation; and

Whereas, it is appropriate that the nation have a visible symbol, prominent on the skyline of its capital, calling the people to God:

Now, therefore, we the City Council of the District of Columbia, do hereby proclaim October 1, 1977 as "National Cathedral Day" in the Nation's Capital and invite all citizens of all faiths to take note of this great structure and its meaning in the religious life of our community and the nation, and of the significance of our common belief in Almighty God.

FOREIGN RELATIONS COMMITTEE: DIRECT SPENDING ALLOCATIONS

Mr. SPARKMAN. Mr. President, in compliance with section 302(b) of the 1974 Congressional Budget Act, I am submitting on behalf of the Committee on Foreign Relations its report on direct spending allocations under the committee's jurisdiction as provided by the second concurrent resolution on the budget for fiscal year 1978.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SENATE FOREIGN RELATIONS COMMITTEE

FISCAL YEAR 1978 ALLOCATION

	Budget Authority	Outlays
Full Committee:		
National Defense (050)		
Liquidation of foreign military sales		—$4,500,000
Advances, foreign military sales	$6,916,499,000	8,800,000,000
Subtotal, full committee, national defense	6,916,499,000	8,795,500,000
International Affairs (150)		
Technical assistance trust funds	11,200,000	11,200,000
Subcommittee on International Operations:		
International Affairs (150)		
Payment to the Foreign Service retirement & disability fund	66,000,000	66,000,000
Dept. of State, conditional and unconditional gift fund	837,000	837,000
Gifts & bequests, Nat'l Commission on Education, Scientific and Cultural Cooperation	50,000	45,000
Int'l Center, Washington, D.C.	3,254,000	2,507,000
Other educational exchange trust funds	225,000	254,000
USIA trust funds	76,000	76,000
Subtotal, Subcommittee on Int'l Operations, int'l affairs	70,442,000	69,719,000
Commerce and Transportation (400)		
Educational & cultural exchange trust fund	4,909,000	5,064,000
Income Security (600)		
Foreign Service retirement and disability fund	161,187,000	98,834,000
Subcommittee on International Development:		
International Affairs (150)		
Peace Corps trust fund	195,000	195,000
Total allocation to Senate Foreign Relations Committee [1]	7,163,832,000	8,980,512,000

[1] All of the items allocated to the Foreign Relations Committee are trust funds or other permanent budget authority items which do not require periodic reauthorization. Under the terms of the Congressional Budget Act of 1974, such amounts are "uncontrollable."

NOTE.—On September 16, 1977, the Department of the Treasury submitted draft legislation to authorize U.S. participation in the Supplementary Financing Facility of the International Monetary Fund in an amount not to exceed the equivalent of $1,450 million Special Drawing Rights (approximately $1,700 million). According to the Department, no appropriations are required for such participation.

COMPREHENSIVE NATURAL GAS POLICY

Mr. GARN. Mr. President, it is easy to see why Senators METZENBAUM and ABOUREZK are willing to accept the so-called compromise proposal of the distinguished majority leader: It gives them practically everything they want. What they consistently fail to understand is that the Pearson-Bentsen bill is a compromise. It is not what we consider desirable. We have already given up far more than is justified in the public interest. Let me just list the things a satisfactory natural gas policy should include, so that Senators can see for themselves how far we have already gone in compromising.

First, new natural gas should be decontrolled. All proposals under consideration recognize that the price of new natural gas should be allowed to rise, but many do not permit a free market. The price of new gas would be tied to some other figure, either a real one, such as in the old Jackson amendment, or an artificial construct, as in the new Byrd proposal. There are proposals for setting an "average" price of new and old gas, which implies some sort of cap on the price of new gas.

Second, the decontrol should be immediate. There is a great desire to cushion the impact of deregulation, and so there are proposals to "phase-in" the decontrol. I am very sympathetic to the plight of homeowners who have been lied to by the Government for so many years, and who have installed gas furnaces, relying on those lies. Such homeowners are going to catch it in the neck, as prices shoot up, but that is the fault of the Government's policy, and not the fault of the gas producer or pipeline. I would like to protect the homeowner from sudden increases, and so I am willing to support a phased deregulation, even though I fear that phasing in higher prices will encourage some withholding of gas from the market. Even President Carter recognized that there is an incentive to withhold in expectation of a higher price, and that yielding to that incentive was only natural. That problem can be solved by moving to a free-market price immediately.

Third, the price of old gas should be decontrolled. I am well aware that in many cases "old" gas is produced as a byproduct of oil production, and that there are essentially no "costs of production." Under those circumstances, it is a very tempting course of action to say that such gas should be sold at essentially no cost. It is unfashionable to do it, I know, but let me remind the Senate that the idea of cost-related pricing was one of Karl Marx's favorite notions, expressed as "the labor theory of value." Incidentally, it was an idea that Marx may have gotten from Adam Smith, directly or indirectly, but no one can be perfect.

Unfortunately, the labor theory of value, and its cousin, cost-related pricing, does not produce good economic results. The fact is that however cheap that gas is to produce now, when it is exhausted, as it surely will be, it must be replaced, or homeowners will go cold. Gas to replace it will not be produced as a byproduct of oil production. That gas is all gone. New gas to replace it will have to be searched for, and searched for with great care and at great cost. In order for a company to have the capital to make that search, not only must he have the promise of a higher price for that new gas, he must have money derived from the sale of his existing gas. That means that old gas should be decontrolled, immediately as well.

Now it should not be thought that such

decontrol of old gas would immediately result in higher prices to consumers. To begin with, production costs are not the only component of retail gas prices, and decontrol would not affect these other components. More importantly, gas contracts are long-term contracts, as long as 40 years. Decontrol of old gas would affect the price only gradually, as contracts expire and are renegotiated.

Fourth, a rational gas policy should include the dismantling of the Federal bureaucracy which has grown up to smother the industry. The administrative costs involved in dealing with the Federal Government are great, and are increasing.

Fifth, an acceptable policy would have to include the preservation of the one strong component of the gas market, the intrastate market. The only segment of the industry that is operating properly now is the intrastate market. It seems to me to be madness to suggest that the blessings now afflicting the interstate market be visited on the intrastate market. That is a perversion beyond belief.

Now any reasonable analysis of the Pearson-Bentsen proposal, and a comparison with the new Byrd-Jackson compromise ought to make clear that we have already compromised from what is desirable. Pearson-Bentsen decontrols new gas, but only gradually; old gas remains controlled; the Federal bureaucracy is not dismantled; the intrastate market is left free of Federal meddling.

By contrast, none of these things is accomplished by the Byrd-Jackson "compromise." Now I ask the Senate: What kind of compromise is it when one side gets everything it wants, and the other side gets absolutely nothing? It is not a compromise, and what is incredible, is that we had the votes. The Pearson-Bentsen amendment is supported by a majority of the Senate. Well, this Senator will not support the Byrd-Jackson "compromise," and he urged all Senators to join in defeating it, and assuring real decontrol of natural gas prices, as promised by President Carter during the campaign.

VOLUNTEER CONCEPT WORKS IN THE ARMED FORCES

Mr. MATSUNAGA. Mr. President, the All-Volunteer concept is working in the Nation's Armed Forces, according to a report prepared by the highly-respected RAND Corp. and published this week.

The report leaves no doubt that volunteer military forces are better military forces in every way. Today's volunteer is both better educated and more able than the draftee of the 1960's.

Fears that the All-Volunteer Force would be all black or all poor should be dispelled once and for all by the RAND report. RAND concluded that the Volunteer Force is a socially representative mix. Young people from middle and upper income brackets are enlisting in numbers equal to those drafted during the early 1970's.

Perhaps most importantly, the RAND report establishes conclusively that the cost of the Volunteer Force has been practically negligible. Reliance on volunteers instead of draftees has added only two-tenths of 1 percent to the defense budget. Moreover, the report points the way to substantial savings through improved military personnel management policies.

Mr. President, the RAND report merits the attention of all my colleagues who, 4 years ago, decided to restore the American tradition of volunteer military service. An excellent summary of the report's conclusions was published in the Washington Post on September 26, 1977, and I ask unanimous consent that the Post article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOLUNTEER MILITARY SAID WORKING

(By George C. Wilson)

The great American experiment of filling the ranks of the military with volunteers rather than draftees "has worked," the Rand Corp. said yesterday.

The all-volunteer force, said Rand in its 407-page report, has proved in its first 4½ years to be at least as fair to young people as the draft.

The services have attracted smarter people through recruiting than the draft brought them, the study said. Fears that ending the draft would mean a poor, black Army have not been realized, it added.

"The military services can attract a socially representative mix of the desired quantity and quality of new recruits without the pressure of the draft," it concluded.

The nonprofit research firm, based in Santa Monica, Calif., said the extra cost of relying on volunteers has been modest, adding only two-tenths of 1 per cent to the defense budget.

While "for the most part, the story of the volunteer force has been one of success," Rand said, it warned that the experiment "can be made to fail" if Pentagon and congressional leaders do not improve the way they manage military and civilian personnel on the defense payroll.

The study was commissioned by the Defense Department's Advanced Research Projects Agency.

Other conclusions in the report, entitled "Military Manpower and the All-Volunteer Force," included:

The shortage of jobs for teenagers is not the main reason people have been volunteering for the military since the draft ended, "but rather the fact that military service is apparently seen as an attractive employment option by a broad cross-section of American youth."

Today's black young people are better educated than those of 20 years ago and thus more can meet military entrance requirements, one of two main reasons for the increased number of blacks in the services. The other reason is "the unusually high" unemployment rate among young black men.

There are just as many youths from middle- and high-income areas enlisting as were taken in under the lottery draft system late in the Vietnam war. (The draft ended in 1973.)

The proportions of country and city youths volunteering "are remarkably similar" to what they were under the draft.

It "is plainly incorrect" to blame the volunteer experiment, which started in January, 1973, for the biggest increases in military manpower costs. Higher pay and better benefits preceded the experiment.

Looking ahead, the Rand study said that "the key all-volunteer force issue" is not the size of the manpower pool for the military but the number of people the services will need to sign up each year.

Because the services limit the number of enlisted people that can enter the senior pay grades, partly in response to congressional restrictions, the flow of people entering and leaving the military is faster today than it was under the draft.

Yet, said Rand, "the long-run success" of the volunteer force hinges on reducing this personnel turbulence through better management of enlisted manpower.

"Shifting from the current mix of 60 per cent first-termers and 40 per cent careerists to a 55–45 mix or a 50–50 mix," said the report, would result in a better matchup between people and jobs and reduce the need for new volunteers. The combination could save "up to $1 billion to $2 billion per year," said Rand.

Additional automation an more reliance on civilians within the military establishment would save significant sums, according to Rand.

The study faulted the military's system of requiring a person to advance or leave the service, even though "a recent survey shows that nearly 50 per cent of all enlisted personnel would prefer to remain technical specialists rather than assume supervisory responsibilities."

The report said pay and related compensation for the military have risen to the point that officers "earn about 70 per cent more and enlisted personnel about 30 per cent more than comparably aged and educated civilian workers."

HIGHWAY SPEED LIMITS RELATED TO TRAFFIC DEATHS AND INJURIES

Mr. MATHIAS. Mr. President, the Maryland Institute for Emergency Medicine was set up in 1961 to treat the critically ill and injured. Initially funded through Federal grants, the center is now funded by the State of Maryland.

The institute operates out of a building constructed in 1969 on the campus of the University of Maryland Medical Center in Baltimore.

Staffed by 400 medical personnel, 350 of whom are at the institute in Baltimore, the Maryland Institute for Emergency Medicine is the hub of shock and trauma treatment throughout the State. There a staff of highly qualified medical professionals, dedicated to efficient, effective emergency medical care, provide expert treatment.

My colleagues may have read from time to time in local newspapers of car accident victims being helicoptered to the Shock Trauma Center at the institute for emergency medical treatment. Over 80 percent of the patients treated by the institute are highway accident victims.

For this reason, the doctors at the institute are exceptionally well qualified to discuss the subject of highway accidents and national speed limits. I have recently received a letter from three doctors on the staff of the Institute for Emergency Medicine in which they express their growing concern over magazine articles encouraging motorists to ignore the national speed limit of 55 miles per hour.

I think their point of view should be heard and I would like to share it with my colleagues. Therefore, I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARYLAND INSTITUTE
FOR EMERGENCY MEDICINE,
Baltimore, Md., September 1, 1977.

Senator CHARLES McC. MATHIAS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: Motor vehicle accidents caused 46,000 deaths and 1.8 million injuries in 1975.[1] In the last two years (1975 and 1976), 1,681 critically injured victims of automobile accidents were treated at the Maryland Institute for Emergency Medical Services, Shock Trauma Center, The Regional Trauma Center for Maryland.[2] Mortality exceeded 20 percent. Recently, two cover stories in magazines, one with local and one with national circulation have ridiculed the 55 mile per hour speed limit and have offered advice on "Getting on Top of Old Smokey"[3] and "The State of Beating the State of the Art",[4] i.e., how to avoid police speed detection devices. They outline driving techniques designed to mask speeding from speed detection devices. In addition, equipment to detect speed traps and facilitate communication between drivers to avoid being caught by "smokies", "bears", and "county mounties" are described and promoted.[5]

These driving "tips" are offered in one article that also acknowledges that, "as nationwide speeding arrests nearly doubled from pre-55 mph days in 1973 to 1975, fatalities dropped better than 17 percent", and, "during Maryland's 1975 no-holds-barred war against speeders, there was a 'very significant reduction' in the actual accident rate versus what had been projected."[4]

The National Safety Council states that "in fatal accidents, the principle driving error is speed."[1] And, the 55 mile per hour speed limit "affected traffic accidents and fatalities in two ways. First, by reducing speed, the chance of death or serious injury, if involved in an accident, was lessened. Second, by causing traffic to flow more uniformly, the chance of being involved in an accident was also reduced."[5]

We view with alarm irresponsible journalism which portrays a cat and mouse type of game between speeders and police officers with the loser supposedly receiving only a ticket. Loss of life and physical disability, often suffered by innocent victims who are not "playing the game" is ignored. Concerned lay and professional persons, organizations, and media must devote greater effort to informing the public of the real dangers of speeding.

CARL A. SODERSTROM, M.D.
KAZUHIKO MAKKAWA, M.D.
ROBERT W. DUPRIEST, Jr., M.D.

TESTIMONY ON PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued its hearings today on the Panama Canal treaties. The witnesses today were the Honorable Griffin B. Bell, Attorney General, Department of Justice; the Honorable Herbert J. Hansell, Legal Adviser, Department of State; the Honorable Clifford L. Alexander, Secretary of the Army; Maj. Gen. H. R. Parfitt, U.S. Governor of the Canal Zone; and the Honorable William J. Jorden, U.S. Ambassador to Panama.

I ask unanimous consent that the prepared statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE
GRIFFIN B. BELL

Mr. Chairman: I am pleased to appear before your Committee to testify on and discuss with you a problem arising in connection with the Panama Canal Treaty. The question is whether the treaty-making power of the United States vested by the Constitution in the President, by and with the advice and consent of two-thirds of the Senate, can dispose of the proprietary interests of the United States in the Panama Canal Zone by treaty alone, or whether such action requires in addition legislation authorizing, approving, or actually effectuating such transfer.

The principal provisions governing the rights of the United States in the Panama Canal Zone are to be found in Articles II and III of the Hay-Bunau Varilla Treaty of 1903. Pursuant to those Articles, the Republic of Panama granted to the United States—

"* * * in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed." Art. II.

And—

"* * * all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." Art. III.

Additional provisions relating to the interests of the United States in the Canal Zone are to be found in Articles VI, VIII and XXII of the 1903 Treaty, which concern the rights of private landholders in the area granted to the United States by the Republic of Panama, and the property of the Panama Railroad Company and the New Panama Canal Company.

It is recognized that under these provisions the Republic of Panama retained titular sovereignty over the Canal Zone. The United States is not the sovereign, but it has jurisdiction over the Canal Zone, that is to say that the United States has all the rights, power, and authority which it would possess and exercise if it were the sovereign of the Canal Zone. In addition, the United States has title to substantial lands, buildings, and facilities in the Zone.

According to Article II, section 2, clause 2 of the Constitution, the President has the power to make treaties by and with the advice and consent of the Senate provided two-thirds of the Senators present concur, and Article VI, clause 2 provides that such treaties shall be the supreme law of the land. It has been established since *Foster* v. *Nielson*, 2 Pet. 253, 314 (1829), that whenever a treaty operates of itself and does not merely constitute an undertaking to enact legislation it is the equivalent of an act of the legislature.

Geofroy v. *Riggs*, 133 U.S. 258, 266–267 (1890), and *Asakura* v. *Seattle*, 265 U.S. 332, 341 (1924), have taught that the treaty-making power of the United States extends "to all proper subjects of negotiation between our government and other nations * * *," although it does not extend "so far as to authorize what the Constitution forbids." To the same effect are *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 204, 320 (1936); *Reid* v. *Covert*, 354 U.S. 1, 5–10, 16–19 (1957). Foremost, among those constitutional provisions are those designed to protect rights of citizens from enroachment by the Government (*Reid* v. *Covert*, *supra*).

The question raised in the present context is whether a treaty would do something "prohibited by the Constitution" if it seeks to be self-executing in an area in which Congress has legislative jurisdiction. Here the problem posed is whether a treaty can dispose of the territory and property of the United States in the face of Article IV, section 3, clause 2 of the Constitution, which gives the Congress power to do so.

Even brief reflection shows that the application of the supreme law of the land clause in Article VI to treaties would be extremely limited, if it were restricted to those areas in which Congress did not have power to legislate. The courts have concluded that this is not so and that the mere existence of a congressional power to legislate in the field does not preclude a treaty from being self-executing. *Foster* v. *Nielson*, *supra*, recognized this by equating a treaty to an act of legislature. The courts have given self-executing effect to a number of treaties which dealt with matters over which Congress has legislative jurisdiction under Article I, section 8, such as claims against the United States, customs inspection, and trademarks.

On the other hand, it is generally assumed that the specific powers granted to the House of Representatives and the Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriation power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings.

It is our conclusion that this consideration does not apply to Article IV, section 3, clause 2 of the Constitution. In other words the power of Congress to dispose of the territory and property of the United States does not have the same unique and prominent status as the fiscal powers of Congress.

To begin with, Article IV, section 3, clause 2 uses the same phraseology "Congress shall have power" as does Article I, section 8, and we have shown above that the legislative powers vested in Congress under that section do not preclude the making of self-executing treaties. The conclusion that this clause is not designed to foreclose the conclusion of self-executing treaties disposing of the territory and property of the United States gains strong support from the records of the proceedings of the Constitutional Convention. The pertinent debates indicate that the members of the Convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States. Much of the opposition to the treaty power of the United States and the requirement of a two-thirds majority in the Senate were based on fears that the Senate might give away territorial right of the United States.

I wish to mention a few of the pertinent remarks. Thus, Col. Mason observed "that the Senate by means of a treaty might alienate territory, etc. without legislative sanction." Farrand, *Records of the Federal Convention* Vol. 2, p. 297. Later, Messrs. Williamson and Speight moved "that no Treaty of Peace affecting Territorial rights should

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[1] National Safety Council (Chicago, Illinois): *Traffic Accident Facts*, 1976 Edition.

[2] *Annual Report*, 1975–1976. Maryland Institute for Emergency Medicine. (Baltimore, Maryland).

[3] Taylor, R: "Getting on Top of Old Smokey", *Car and Driver* 23: 41–51, 1977.

[4] Peddicord, L: Gotcha Chump!, *Baltimore* 70: 23–29, 1977.

[5] National Safety Council (Chicago, Illinois): *Traffic Accident Facts*, 1975 Edition.

be made without the concurrence of two-thirds of the [members of the Senate present]." *Id.* at p. 543. Mr. Gerry felt that—

"• • • in treaties of peace, a greater rather than less proportion of votes was necessary than in other treaties. In treaties of peace, the dearest interests will be at stake, as the fisheries, territories, etc. and there is more danger to the extremities of the Continent of being sacrificed than in any other occasion." Warren, *The Making of the Constitution* 656.

Sherman and Morris proposed but did not formally move the following proviso:

"But no treaty (of peace) shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the U.S. may be contracted, or by which the common rights of *navigation* or *fishery* recognized to the United States by the late treaty of peace, or accruing to them by virtue of the laws of nations may be abridged." Warren, *op. cit.*, p. 657, Farrand, *op. cit.* Vol. 4, p. 58.

The awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States also appears from the following amendment to the Constitution proposed by the Ratifying Convention of Virginia:

"7th. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the members of the Senate; and no treaty ceding, contracting, restraining, or suspending, the territorial rights or claims of the United States, or any of them, on their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both houses respectively." Elliot, *Debates on the Federal Constitution* Vol. 3, p. 660.

A letter from Hugh Williamson, a delegate to the Convention from North Carolina dated June 2, 1788, reminded James Madison of the background of the treaty clause and the requirement of a two-thirds majority in the Senate:

"• • • It is said that some antifed in Maryland on the last Winter fastened on the Ear of Genl. Wilkinson who was accidentally there and persuaded him that in case of a new Govt. the Navigation of the Mississippi would infallibly be given up. Your Recollection must certainly enable you to say that there is a Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate or of the States which is considered as the same thing from giving up the Mississippi. It is provided that two thirds of the Members present in the Senate shall be required to concur in the making Treaties and if the southern states attend to their Duty, this will imply ⅔ of the States in the Union together with the President, a security rather better than the present 9 States especially as Vermont & the Province of Main may be added to the Eastern Interest and you may recollect that when a Member, Mr. Wilson objected to this Proviso, saying that in all Govts. the Majority should govern it was replyed that the Navigation of the Mississippi after what had already happened in Congress was not to be risqued in the Hands of a meer Majority and the Objection was withdrawn." Farrand, *op. cit.*, vol. 3, pp. 306–307.

The text of the Constitution and its history thus support the proposition that a treaty disposing of the territory and property belonging to the United States can be self-executing.

I am aware of a number of decisions of the Supreme Court holding that Article IV, section 3, clause 2 of the Constitution is of an exclusive nature, and that some have argued from those decisions that treaties disposing of property of the United States must be implemented by legislation enacted under that clause of the Constitution. It should be noted, however, that the decisions declaring Article IV, section 3, clause 2 to be exclusive related to the authority of the Executive and Judicial Branches to dispose of the territory or property of the United States. None of them dealt with the question here involved, the power of the treaty-making authority to make such disposition. To the contrary, as shown in my opinion, there is a substantial body of Supreme Court decisions dealing with Indian treaties which holds that a treaty may dispose of territory belonging to the United States without implementing congressional legislation under Article IV, section 3, clause 2.

Of those cases, *Holden* v. *Joy*, 17 Wall. 211 (1872), appears the only one in which the question was raised whether Article IV, section 3, clause 2 of the Constitution precludes such a treaty from being self-executing. The Court conceded that the question was immaterial in the case at bar because Congress had actually implemented and ratified that particular treaty. Nevertheless, it rendered the following strong dictum:

"• • • [S]till it is insisted that the President and Senate, in concluding such a treaty, could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political. Much reason exists in view of those authorities and others which might be referred to, for holding that the objection of the appellant is not well founded, but it is not necessary to decide the question in this case, as the treaty in question has been fully carried into effect, and its provisions have been repeatedly recognized by Congress as valid." At 247.

In addition to the Indian treaty cases, in *United States* v. *Percheman*, 7 Pet. 51, 88–89 (1833), the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory. Those provisions of the treaty thus came within that part of Article IV, section 3, clause 2 which gives Congress power to make all needful rules and regulations respecting the Territory of the United States. If a treaty which deals with that part of Article IV, section 3, clause 2 can be self-executing, the same reasoning applies to a treaty coming within another part of that clause.

The final point which I wish to make is that throughout our history Presidents acting with the advice and consent of the Senate have made numerous self-executing treaties transferring territory or property belonging to or claimed by the United States. One example, cited in the Opinion, is the 1819 Florida Treaty with Spain. Under that treaty the United States ceded all its territory beyond the Sabine River in Texas to Spain in return for the cession of the Spanish territories of East and West Florida. While there had been some dispute over some of the relevant boundaries, the congressional debates, as well as President Monroe's annual message to Congress, make it clear that many considered the action to be an outright cession of American territory in exchange for Spanish territory. 36 *Annals of Congress* 1719–38, 1743–81; 2 J. Richards, *Messages and Papers of the Presidents* 55 (1896). There was no statute authorizing this cession of American territory. There have been numerous other treaties which have transferred U.S. territory or compromised U.S. claims. See, e.g., United States-Great Britain Treaty of 1842 (Webster-Ashburton), 8. Stat. 572, T.S. No. 119; United States-Great Britain Treaty in regard to limits westward of the Rocky Mountains of 1846 (Oregon Treaty), 9 Stat. 869, T.S. No. 120.

In conclusion, the text and history of the Constitution, as well as the decisions of the Supreme Court and historical treaty practice all support the opinion I recently rendered that property of the United States may be transferred by treaty absent statutory authorization.

Thank you, Mr. Chairman. If you or the members of this Committee have any questions, I shall be pleased to answer them.

STATEMENT OF HERBERT J. HANSELL

Mr. Chairman, Members of the Committee: I appreciate the opportunity to appear before you today to discuss the new Panama Canal Treaties.

Judge Bell's statement has explained the Administration's view with reference to the Constitutional issues that have been raised concerning transfer of property by treaty. The State Department is in full accord with the view expressed by Judge Bell. If the Committee wishes any additional information or expression of views from the Department of State on this subject, we will be happy to provide it.

I believe that it would be helpful to you if I focus on four additional aspects of the Treaties:

1. The timing and manner of transfers of U.S. property to Panama;
2. The legal structure that will replace the Canal Zone;
3. The organization of the new Canal Commission; and
4. The necessary implementing legislation.

1. PROPERTY TRANSFER

First, as to property transfers, Article XIII of the Panama Canal Treaty provides for the transfer of property by the United States to the Republic of Panama in stages.

Upon entry into force of the Treaty, the United States will transfer to the Republic of Panama its interests in real property, including non-removable improvements, not to be used by the United States under the Treaty. This transfer includes the Panama Railroad and some of our facilities in the port areas of Balboa and Cristobal.

Title to housing owned by the Panama Canal Company prior to the entry into force of the Treaty will also pass to the Republic of Panama at the outset of the Treaty. However, the United States will retain, without cost, the use of the housing deemed necessary for the accommodation of United States citizen employees of the Canal Commission during the life of the Treaty. Housing occupied by United States Armed Forces will not be transferred at that time, except a few units which are made available to the Panamanian forces.

Real property not transferred to Panama upon the entry into force of the Treaty will pass to Panama during the term of the Treaty, if the United States agrees to discontinue the use of the area in which the property is located. During that period specified military housing units will likewise be transferred to Panama.

Upon termination of the Treaty, the Panama Canal shall be turned over to Panama in operating condition and free of liens and debts, except as may be otherwise agreed upon by the Parties. At that time, all remaining United States interests in real property and non-removable improvements used by the United States under the Treaty and related agreements, and all equipment remaining in Panama related to the management, operation and maintenance of the Canal, will pass to the Republic of Panama.

2. THE NEW LEGAL SYSTEM

Mr. Chairman, I now turn to the new legal system that will supplant the Canal Zone.

A. General structure

Upon entry into force of the Treaty, the Canal Zone will cease to constitute a separate area governed by the United States, and the Canal Zone Government will end its operation in Panama. The Republic of Panama reassumes plenary jurisdiction throughout its territory, subject to the privileges, immunities and arrangements established pursuant to the Panama Canal Treaty to protect the interests of the United States Government and American citizens serving the Panama Canal. Special provisions will apply during the first 30 months to ensure a smooth transfer of the various jurisdictional functions to the Republic of Panama.

B. Criminal jurisdiction

During that 30-month transition period, the United States will have primary jurisdiction over criminal offenses committed within areas used by the United States by United States citizen employees of the Panama Canal Commission, members of the United States Armed Forces, the civilian component of the Armed Forces and dependents of those groups. During the transition period, the U.S. police and courts continue to exercise criminal jurisdiction and U.S. criminal law continues to be applicable. During that period, the United States may continue to incarcerate individuals in the areas used by the United States or to transfer them to penal facilities in the United States to serve their sentences.

Upon the end of the transition period, while Panama will acquire primary criminal jurisdiction over United States citizen employees regardless of the place of the offense within Panama, Panama will, as a matter of general policy, waive its jurisdiction at the request of the United States in cases of offenses committed by United States citizen employees or their dependents that are punishable under the laws of both nations. In cases of waiver of its jurisdiction by Panama, the accused must be tried outside Panama, since the U.S. courts in Panama will cease to function in all cases after the expiration of the transition period.

Upon the end of the transition period, the United States retains primary jurisdiction over criminal offenses committed by members of the United States Armed Forces, including civilian component and dependents, within the defense sites, and over offenses committed by such persons outside the defense sites arising out of performance of official duty and in certain other cases.

An accused United States citizen employee, a member of the United States Forces or its civilian component or a dependent tried by Panama is entitled to special rights, specified in detail in the Implementing Agreements. Among these are the right to a prompt and speedy trial, the right to be informed in advance of trial of the charges made, the right to confrontation and cross-examination of witnesses, the right to legal counsel and the privilege against self-incrimination.

C. Privileges and immunities

Installations owned or used by agencies and instrumentalities of the United States operating in Panama, and their archives and documents, are to be inviolable. The Parties are to agree upon procedures to be followed in the conduct of any criminal investigation by Panamanian authorities at such locations.

Agencies and instrumentalities of the United States operating in Panama pursuant to the Treaty are immune from the jurisdiction of the Republic of Panama. In addition, the United States may designate up to twenty officials of the Panama Canal Commission who with their dependents shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice.

D. Continuation of activities and ownership rights

The Treaty contains provisions protecting established business enterprises and non-profit activities, and private ownership rights. Business and non-profit activities conducted in the Canal Zone for at least six months prior to the signing of the Treaty may be continued. They will have 30 months to come into compliance with Panamanian law. Thereafter they will be subject to all Panamanian laws applicable to similar enterprises in Panama, without discrimination.

Existing private ownership rights in buildings and other real property improvements located in the Canal Zone will be recognized in conformity with Panamanian law. The Treaty assures to the owners of improvements the use of the land upon which the improvements are located, upon specified terms.

If Panama requires persons protected by the Treaty to discontinue their activities or to vacate their property for public purposes, they shall be compensated by Panama at fair market value.

E. Exemption from Panamanian taxes

The Implementing Agreements provide exemptions from Panamanian taxes for United States agencies and their personnel, including dependents, and contractors.

3. ORGANIZATION OF THE PANAMA CANAL COMMISSION

Next, Mr. Chairman, I want to provide to the Committee a brief summary of the basic organization of the new Canal Commission. As the Committee members know, the operation of the Canal will be transferred from the Panama Canal Company to a new U.S. Government agency to be known as the Panama Canal Commission.

The Commission is to be supervised by a Board composed of nine persons, of whom five will be nationals of the United States and four nationals of the Republic of Panama proposed by their government.

Until December 31, 1989, the Administrator will be a national of the United States and the Deputy Administrator a national of the Republic of Panama. After that date, the Administrator will have Panamanian nationality and the Deputy Administrator will be a U.S. national. If the Republic of Panama requests the removal of a Panamanian national from membership on the Board, the United States shall honor the request and the Government of the Republic of Panama shall propose the replacement. If the United States wishes to remove a Panamanian national, the two governments shall consult in advance to reach an agreement on such removal. The United States has the right to remove an Administrator or Deputy Administrator of Panamanian nationality. In such case, Panama shall propose another Panamanian national to replace the removed official.

In addition to the participation of Panamanian nationals at the top management level just described, there shall be an increasing participation of Panamanian nationals at all other levels and fields of employment.

A Panama Consultative Committee, composed of an equal number of high-level representatives of both nations, shall be appointed to advise both governments on matters on matters of policy affecting the Canal's operation.

4. IMPLEMENTING LEGISLATION

Finally, Mr. Chairman, I am pleased to have this opportunity to report to this Committee on the proposed legislation to implement these Treaties that is being prepared for submission to Congress in the near future. That legislation of course will be an essential component of the overall program of implementation of the Treaties. Among the subject matters on which legislation will be needed are:

A. Organization and activities of the new Panama Canal Commission, including arrangements for establishing and collecting tolls and payment of the stipulated sums to Panama;

B. Employment practices of the Panama Canal Commission, and the special retirement program envisaged in Article X of the Treaty;

C. Adjustments of the jurisdiction of U.S. courts and law enforcement authorities during the transition period; and

D. Certain diplomatic aspects of United States-Panama relationships under the Treaty, and other matters relating to Panama's assumption of various governmental functions.

The Executive branch looks forward to working with both houses of Congress on this important legislation.

In conclusion, Mr. Chairman, I would like to assure the Committee of our conviction that these treaties establish the legal structures and relationships necessary to assure fair and just treatment of United States citizens, a smooth and effective transition to Panamanian authority and continued efficient and peaceful operation of the Canal.

STATEMENT BY HONORABLE CLIFFORD L. ALEXANDER, JR.

INTRODUCTION

Mr. Chairman, members of the Committee on Foreign Relations, I appreciate the opportunity to appear before you today as you receive testimony regarding the impact of the proposed new Panama Canal treaty on future Canal operations.

As you know, my primary responsibility as Secretary of the Army is the head of the Department of the Army. However, the Secretary of the Army has also a major responsibility for overseeing the effective and efficient operation of the Panama Canal. Specifically, the Secretary of the Army has been designated by the President:

"As the officer of the United States to Supervise the administration of the Canal Zone Government . . . and to act as stockholder of the Panama Canal Company. In performing his functions . . . the Secretary of the Army shall act as the direct representative of the President of the United States, and not in his capacity as head of the Department of the Army."

I want to assure you that I do not take this duty lightly. I firmly believe in the importance of the Canal to our country and will be the first to identify myself with those who believe that the Canal will continue to be a valuable asset in the foreseeable future. However, I am equally firm in my support for restructuring our treaty relationship with Panama.

By negotiating a new treaty relationship with Panama, our country has shown that it can be sensitive to and respectful of Panama's needs and desires as a sovereign state, while continuing to insure United States interests and the continued effective use of the Canal by world commerce. I believe that through these treaties our country can insure that protection of its vital interests while, at the same time, put to rest the old conflicts and frustrations that have impeded the development of a cooperative partnership between our country and Panama.

The Canal treaties provide our country with an excellent opportunity to do justice to our real accomplishments in Panama, correct past inequities, protect the legitimate needs of the United States and international shipping, and rightly take into account the aspirations of the people of Panama. We can

achieve all this in a spirit of cooperation and accommodation that has previously been known on few occasions in the history of US-Latin American relations.

I would like to present a short opening statement outlining my views with regard to th future operation of the Canal, after which Governor Parfitt will provide additional and more detailed data. We will then be glad to answer any questions which you might have regarding current and future Canal operations.

GENERAL

Over the past 63 years the Panama Canal enterprise has provided a valuable service to world shipping. This exceptional performance by the Canal organization has often been recognized by members of Congress as well as by the users of the Canal. Under the new treaty we will continue to operate the Canal utilizing, to the greatest extent possible, tried and proven procedures—those which have been accepted by the users and the Congress. Required deviations from proven practice and established managerial procedures will be held to the minimum necessary to conform to the letter and spirit of the treaty. In my view this is most desirable, and certainly achievable under this new treaty.

I would like to comment briefly on three general aspects of Canal operations under the proposed new treaty: activities of the Panama Canal Company, the functions of the Canal Zone Government, and finally caring for our employees.

THE PANAMA CANAL COMPANY

The treaty calls for the Panama Canal Company to be replaced by a successor agency to be known as the Panama Canal Commission. The Commission will be a self-supporting United States Government agency with the same broad mission as the Panama Canal Company: The movement of ships between the oceans and the conduct of supporting functions incident thereto.

While the Commission, will control the lands and waters necessary to the transit of ships and will not be precluded from conducting any activities which are directly related to that function, it will not perform certain supporting activities which are now conducted by the Canal Company. Examples of the latter are: commercial port operations, commercial bunkering, commercial ship repair and retail sale of goods and services.

Although the existing Panama Canal Company retail store system will be discontinued, Commission employees will be authorized use of military exchanges and commissaries for the first five years of the treaty. I will propose that after that period an additional compensation be provided to employees in order to offset the associated increase in their cost of living.

There will be an increase in toll rates at the beginning of the treaty period as a result of the increased payments to Panama. This toll increase will insure that adequate revenues are available to cover additional costs at the outset of the new relationship. We are now conducting a detailed analysis to determine the exact toll increase which will be necessary to meet expenditures. In subsequent years we would hold tolls to the minimum necessary to meet costs, as has been past practice.

I recommend that the future Canal organization continue to be operated under the provisions of the Government Corporation Act thus enabling us to utilize business and management practices which will best provide efficient operations at minimum costs to the user.

THE CANAL ZONE GOVERNMENT

Under the new treaty the Canal Zone and its Government will cease to exist six months after the exchange of ratifications. Nevertheless, in those cases where a Governmental service is essential to the well being of our employees we have retained the necessary rights for the United States to provide the needed service. Thus, health and educational functions now provided by the Canal Zone Government, which include over 67% of the Canal Zone Government's employees, will be transferred to the Department of Defense. United States citizen employees of the Commission will, of course, retain the right to use these facilities for the life to the treaty.

The Governmental functions of police, courts, customs and immigration will be assumed by the Republic of Panama on the effective date of treaty. It should be noted; however, that for United States citizen employees and their dependents, police and court activities will be continued by the United States for a period of three years after the exchange of ratifications.

While the Canal Zone postal system will be discontinued, its services will be assumed in part by the U.S. military post offices in Panama. The fire protection division will be reduced in strength and transferred to the Commission.

RIGHTS AND BENEFITS OF EMPLOYEES

One of the most important issues to be considered regarding the new treaty is how the rights and benefits of current employees of the Canal enterprise will be protected. Let me list just a few of the many actions which we will take or propose be taken in order to adequately deal with this matter.

Provision of a priority job placement program.

Provision of an early optional retirement program which would be designed to ease the impact of necessary force reductions while at the same time providing an incentive for employees with essential skills to remain with the Commission.

Assurance of the continued availability of adequate housing.

Provision of adequate educational and medical services.

Terms and conditions of employment no less favorable than those existing on the effective date of the treaty.

In short, Mr. Chairman, the treaty will provide us with all the rights necessary to adequately care for both the Panamanian and United States citizens of our dedicated work force.

CONCLUSION

Mr. Chairman, under the new treaty we would retain all of the specific rights necessary to efficiently operate the canal and adequately care for our employees.

Governor Parfitt will now provide you with more detailed information on Canal operations.

PRESENTATION BY H. R. PARFITT

Mr. Chairman and members of the Foreign Relations Committee, you have asked that I outline to you my impressions on how the Panama Canal organization will operate under the new treaty, and I will attempt to do so.

First, however, I should note that my remarks are based on an initial review of the recently signed treaty documents. Considerable further analysis must be made before precise implementation plans can be developed. This effort is underway.

A prime consideration in the determination of method of operation under a new treaty should be an assessment of how well the existing organization has functioned. On that score, one need have no reservations. From the completion of the canal in 1914, and continuing today, the canal has been operated efficiently, safely, and has provided excellent service at reasonable cost.

CURRENT SITUATION

At this point it might be helpful to briefly review the current situation. The agencies known as the Panama Canal Company and the Canal Zone Government have existed since July 1, 1951, when Public Law 811 became effective. Business operations, including operation of the waterway, are separated from the functions associated with civil government, but both organizations function as an integrated enterprise. By law, the Panama Canal Company is required to finance its operating costs, and in addition, to pay annually to the U.S. Treasury, the following: (1) interest on the net direct investment of the U.S. Government in the Company; (2) the net cost of the Canal Zone Government; and (3) a portion of the annuity to Panama. Thus the Company is required to be self-sustaining. Although appropriations are authorized to cover operating losses or for capital improvements, this has not been necessary to date.

Major contributing factors toward this success have been: (1) a stable and well qualified workforce; (2) sound preventive maintenance practices; and (3) the financial and operational flexibility of this Government corporation.

Some measure of the success of the Panama Canal Company since its formation in 1952 can be gleaned from the few highlights of FY 1952 through FY 1976 results which follow:

A. Although transits increased 70 percent and Panama Canal tonnage increased 274 percent during the period, the full-time workforce was reduced 35 percent.

B. Net revenues of $90 million were generated.

C. Capital investment of $284 million was made from internally generated funds.

D. Although general, inflation indexes increased 230 percent over the period, tolls were in effect raised only 50 percent. It should be noted, however, that this increase has been required in the last three years.

Operating losses during the past four years due to rampant inflation, worldwide recession, and the reopening of the Suez Canal have been overcome by management improvements, cost cutting, and the recent adjustments to tolls. As a result we are again in the black in FY 1977.

Traffic growth is expected to continue, but at a moderate rate; and even without treaty impacts, periodic increases in tolls may be necessary to absorb the increase in costs resulting from inflation. In the short run, North Slope oil movements through the Canal could temporarily alter our growth pattern and need for tolls increases. However, these movements are not expected to last more than a few years as pipeline alternatives appear to be more economical.

Given the success of the present agency, it seems logical to model the Canal Commission after it, making adjustments consistent with the requirements imposed by the new treaty but avoiding unnecessary change in the interest of operating stability.

TREATY PROVISIONS

With this in mind, I will now briefly review the most significant provisions of the treaty likely to influence the structure of the new organizational entity and its ability to perform the basic mission of transiting ships safely and efficiently through the canal.

The dominant and all encompassing change under the treaty is immediate recognition of Panamanian sovereignty and general territorial jurisdiction over the present Canal Zone. This provides a back drop against which all other changes must be viewed.

Given this basic change, the status of the new Canal Commission takes on the semblance of a business enterprise operating in a foreign country. Obviously, it is somewhat more than that since the new operating agency, the Panama Canal Commission, will be a United States Government agency and will be granted extensive rights, particularly as they pertain to the management, operation and maintenance of the Panama Canal.

More specifically, the treaty would eliminate the Canal Zone Government and the Panama Canal Company and substitute therefor the Panama Canal Commission. This agency will have no authority to perform most governmental or commercial functions. Many of these functions will be performed after the effective date of the treaty by Panamanian government agencies or private interests in Panama. These include: the operation of the ports of Balboa and Cristobal; the operation of the railroad; provision of bunkering services; licensing of vehicles, vessels, and aircraft; customs and immigration services; and partial police and fire protection; street maintenance; and garbage collection. The total police function, the operation of the prison system, and the provision of postal, commissary and post exchange services (available initially from the U.S. military) will likewise be provided by Panamanian sources after prescribed phase-out periods. Other functions—the operation of schools and hospitals—will be transferred immediately to the U.S. military forces.

Aside from these changes in functional authority and responsibility, there are major changes in areas and facilities made available to the commission. These are identified in great detail on maps and in descriptive language in the agreement in implementation of the treaty. Briefly they fall into three categories: the Canal operating area consisting of a continuous area following the Panama Canal and generally contiguous to it, plus certain limited non-contiguous areas; specific installations and facilities; and housing areas for U.S. citizens.

The housing areas are to be administered in accordance with a regime of civil coordination, that is, a set of rules established in the implementing agreement. This regime provides that title to this housing will pass to Panama with the Commission having rights, without cost, to use, manage, maintain, improve, and rent such housing. Houses not required for U.S. citizen employees will pass exclusively to Panama and must, as a minimum, be relinquished in accord with a prescribed schedule.

The reduction in functions, activities, and area of responsibility of the Commission will have a significant financial impact. There will be substantial reduction in expenses although this will be offset in part by a reduction in revenues from transferred activities. It is also anticipated that the Commission will be relieved of the requirement to pay interest on the net direct investment of the United States in the Canal.

On the other hand, the Commission will be obliged to pay $10 million per annum to Panama as reimbursement for certain specified public services to be provided in canal operating areas and housing areas. At the same time, the Treaty imposes obligations to pay Panama the following out of revenues: 30¢ per Panama Canal net ton transiting the canal, to be adjusted periodically for inflation; a fixed sum of $10 million annually; and an additional $10 million per year to the extent revenues exceed expenditures. The latter $10 million has a provision that in the event canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed. The resulting difficulty in accumulating surpluses for application in lean years would appear to significantly restrict the flexibility of the new organization.

In net, these additional obligations are certain to necessitate an immediate toll increase of an as-yet-uncertain amount. A new study of toll economics is now underway, with results due by mid-January. This study will update traffic projections, including the likely extent and duration of North Slope oil movement, and will provide an analysis of the sensitivity of canal traffic to various levels of toll increase. The initial toll increase might range from 25% to 40% depending on several variables, key among which is the amount of revenue realized from transits of North Slope oil through the canal. If no such oil were to materialize—the worst case—the toll increase required to cover costs could be about 40%. If $25 million in annual revenue materialized from North Slope oil—the most optimistic current projection—then tolls might only have to be raised by about 25%.

The Treaty provides that the Panama Canal Commission will be supervised by a Board of Directors comprised of five United States nationals and four Panamanian nationals. Until 1990 the Canal Administrator (the Chief Executive Officer) will be a United States national and the Deputy Administrator will be a Panamanian national. There will be a Consultative Committee comprised of an equal number of representatives from the United States and Panama which will advise the two governments on such questions as general tolls policy and on employment policies aimed at increasing Panamanian participation in canal operation. There will also be a Coordinating Committee which will establish rules and procedures necessary to implement a number of provisions of the Treaty and their related agreements.

The conditions of employment are of paramount importance, and in recognition of this, the Treaty and Implementing Agreements contain considerable detail on this subject. Unfortunately, there is no way that a change as major as the one contemplated can be accomplished without some adverse impact on employees and their families. Thus, efforts are being made to ameliorate any hardships. Those individuals displaced from employment will be placed, to the maximum extent feasible, in other appropriate jobs. Those employees continuing with the Commission will have, in general, terms and conditions no less favorable than those existing just prior to the Treaty effective date. Furthermore, an early-optional retirement program will be provided for all persons employed by the Company/Government immediately prior to the entry into force of the Treaty.

As a final point, the Treaty enters into force six calendar months after exchange of instruments of ratification and terminates at noon, December 31, 1999. The major effects are felt on the effective date of the Treaty; however, there will be changes through the life of the Treaty with the most important taking place during the 30-month transition period. At the end of this period the limited jurisdictional authority granted to the United States will cease.

ENABLING LEGISLATION

The impact discussed so far has been limited to that which would result from the Treaty terms themselves. In addition, enactment by Congress of implementing legislation will be necessary. Such legislation will also have a definite impact on our operations, and we have been assisting in its preparation. In my view, the legislation should incorporate changes in the Canal Zone Code, so as to:

Establish the Panama Canal Commission as the successor to the Panama Canal Company and the Canal Zone Government with respect to whatever property and functions of the government are retained;

Generally conform the toll provisions and other fiscal provisions of present law to the new Treaty;

Conform present personnel laws to the Treaty and provide special benefits to those affected by the Treaty, including liberalized retirement; and

Amend provisions concerning court jurisdiction and related law enforcement matters to conform to the treaty provisions that would govern the 30-month transition period following the effective date of the treaty.

PLANNING FOR THE FUTURE

Thus far our participation in the Treaty process has primarily been in the area of providing to our negotiators detailed technical information as well as our views on Treaty initiatives. Now that the Treaties have been made available, our first task, which we are well into, is to review and analyze the lengthy and complicated Treaty documents. We have briefed the employees and the general public in the Canal Zone on the Treaties; are identifying areas that need clarification and problems that will require resolution; and have begun detailed planning to position ourselves to implement provisions of the Treaty at the appropriate time.

More specifically, we are identifying activities which must be shed on a specific timetable and estimating their cost and revenue impacts; further identifying in the same terms the secondary impacts of shedding functions and facilities; considering required organization changes; and planning for the myriad of personnel actions that will ensue to include establishment of reduction-in-force and bumping rights and procedures, extra efforts to aid displaced employees and their families, and development of plans and programs for priority placement and training of Panamanians; planning for modification of capital programs consistent with changed responsibilities; and planning for financial changes with major emphasis on the extent to which toll rate increases are required and projected traffic sensitivity to any such increases. We are planning to pattern the new organization as closely as possible after the existing one. We are, of course, very mindful of the fact that all of this work must be done without adversely impacting on current mission accomplishment.

I want to emphasize that these essential planning efforts are only that, and no pre-implemenation is involved. Finalization of plans would follow Senate approval of the Treaties. Implementation of such plans will proceed in accord with the Treaties and the related implementing legislation.

FUTURE OUTLOOK

As indicated previously, we have not yet had adequate opportunity to identify and fully address the myriad of matters involved in implementing the Treaty. We have, however, accomplished much and have a good start on the job at hand. Based on our evaluation to date, the tentative conclusions are as follows. Minimum change needs to be made in staffing and operation of activities involved directly in the operation of the waterway. There are some potential problems here stemming from interface with port operations and certain general support activities transferred to others. Some erosion in efficiency can be expected, particularly in the early days, but this can be minimized by close coordination and the wholehearted cooperation of Panama. There is no doubt, however, that transfer of support services from the direct control of the canal administration will create some problems in obtaining services at the same level that we enjoy now.

On the basis of force projections, it appears that the shedding of activities is likely to reduce the size of the work-force by between 5,000 and 6,000 employees on the effective date of the Treaty, of which between 2,100 and 2,400 will be transferred to the Department of Defense. A further reduction of approximately 500 will occur by the end of the 30-month transition period.

SUMMARY

To summarize, the treaty eliminates the Canal Zone and recognizes sovereignty and

jurisdiction of Panama. The new agency (Panama Canal Commission) will operate within a reduced area, with reduced assets and functions, but with extensive rights related to the movement of ships through the Panama Canal. The transitional period will be especially challenging. The key to success, especially at that time, but as well throughout the Treaty period, will be the ability to maintain a technically qualified and highly motivated workforce, as well as successful efforts to establish and nurture a spirit of cooperation with Panamanian officials. Legislation consistent with the spirit of commitments made to employees will be critically important. Equally important will be the ability to provide for the financial needs of the Commission, including capital requirements whose cost is apt to increase continuously due to inflation.

Mr. Chairman, in the short time available, I have only been able to touch generally on those major areas where I feel there will be a significant impact on the way the canal would be run under the Treaty. As we proceed with our large task of planning to dischange major responsibilities for the operation of the canal until the year 2000, we are mindful of the extraordinary strength of the existing canal organization—of its sound flexible financial structure and, most importantly, its personnel. We are blessed with employees who feel a deep relationship to the canal; their dedication to keeping it well maintained and smartly run, and their willingness to go the extra mile in any emergency are truly extraordinary. To the extent these strengths can be retained, our ability to meet the challenges in the months and years ahead will be enhanced. We shall lend our every effort to insure that our performance will not falter and that we shall conclude that chapter of history of U.S. presence on the Isthmus of Panama on a high note.

STATEMENT BY THE HONORABLE WILLIAM J. JORDEN

Mr. Chairman and distinguished members of the Foreign Relations Committee: It is a pleasure and an honor to appear again before this Committee. The Panama Canal treaty which you have before you for your advice and consent is a document of historic importance. I hope I will be able to provide information and insights that will be of use to you in your momentous deliberations.

A few brief biographic notes might be in order. I have been the U.S. Ambassador in Panama since April 1974. Before that, I was a senior member of the staff of the National Security Council dealing with Latin American affairs in general. Before that, I was a special assistant to former President Lyndon Johnson, helping him to organize his presidential library and write his memoirs. I have been in the foreign affairs area of government for 16 years, in the Department of State and the White House. Before that I was a newspaperman, for 14 years, almost wholly in the foreign policy area—first for the Associated Press and then for the New York Times.

Let me say at the outset, Mr. Chairman, that I have followed the course of the treaty negotiations fairly closely over recent years. I am also generally familiar with the history of our relations with Panama over the years since the 1903 treaty was adopted. Based on my own observations of the situation in Panama and my awareness of our deep interest in the Canal, I wish to say that I am wholeheartedly in favor of the proposed treaty and the related treaty concerning the permanent neutrality and operation of the Panama Canal. I believe they represent the best, the wisest, the most statesmanlike course we can follow at this juncture of history.

When I was invited to appear before this Committee, I asked myself what I could provide that would be most useful. I knew you would have heard from the Secretary of State regarding the foreign policy implications of the new treaties. You would have heard a detailed report on the treaties themselves from my two distinguished colleagues who negotiated the agreements, Ambassadors Bunker and Linowitz. You have explored the security and military implications of the treaties with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. As for the technical operations of the Canal itself, now and in the future, my colleagues at this session—Secretary Alexander and Governor Parfitt—can provide more detailed information than I can.

What I would like to do is to look at this matter from the vantage point of the Isthmus of Panama. How did we get where we are? Where do we go from here? What course best serves our fundamental interests? How do Panamanians look at all this? What are the prospects for a reasonable working relationship between our countries? These are some of the questions I would like to address with you.

I am sure the members of this Committee are familiar with the dubious history of the treaty of 1903 which the present agreements would replace. That treaty, written and signed in unseemly haste, is what Panamanians call "the treaty no Panamanian ever signed." As you know, it was developed and approved by a Frenchman who—it is fair to say—had little interest in the future of Panama, but a great interest in salvaging what he could of the financial interests of the defunct French Canal Company. It gave the United States rights it would have "if it were sovereign of the territory"—and it gave us those rights "in perpetuity." We agreed to pay Panama $10 million and the munificent sum of $250,000 a year and in the debate in the Senate which followed, one member of this august body said: "We have never had such a concession so extraordinary in its character as this. In fact, it sounds very much as if we wrote it ourselves." Incidentally, the payment to the French Company was $40 million—four times what we paid Panama.

It was an arrangement, Mr. Chairman, greatly advantageous to the United States, and vastly profitable to the French Canal Company. But it was not much of a deal for Panama. It was an arrangement which—as the Secretary of State admitted at the time—was "we must confess, with what face we can muster, not so advantageous to Panama."

"You and I know too well," he wrote his senatorial friend, "how many points there are in this treaty to which a Panamanian patriot could object." And object they did. There is a notation widespread among our fellow Americans that Panamanian resistance to the 1903 treaty is something of recent origin, a development of the last few years. And some have portrayed opposition to the 1903 treaty as merely a product of "leftists" and "extremists." That, Mr. Chairman, is the wildest kind of distortion of history. If one takes the trouble to go back to the files of the Panamanian press of the period, you quickly find that resistance to the 1903 treaty began in 1903. And it has never ceased since.

This is an issue—probably the only issue—which brings Panamanians together in a kind of national unanimity that is rare in history. Some members of this Committee have been in Panama; I urge those who have not to make the trip. Talk with Panamanians. You will find that whether they are rich or poor, city men or campesinos, university graduates or day laborers, they are as one in their dream of a Panama that is unified and sovereign, a country that is no longer divided in half by a foreign enclave.

And this brings me, Mr. Chairman, to one of the central points I wish to make today. For us Americans, the key goal in this situation—it seems to me—is to assure that the Panama Canal is open and efficient, available to us and to world commerce, and that it be properly protected against external attack. I believe the treaties before you give us that assurance. Opponents of those treaties would have you believe that Panama's key role is to take over the Canal. That, I submit, misses the whole point, the whole explanation of Panamanian attitudes. They want a canal that works well as much as we do. They have pride in it; they benefit from it. The issue, as seen through Panamanian eyes, is not the canal at all. Rather it is the presence in a friendly country of a zone governed by the United States. It is an area over which Panama—the country in which it is located—has absolutely no control of any kind. If a Panamanian is caught speeding or is involved in an accident, he gets a ticket from a foreign policeman. If the offense is serious enough, he is tried in a foreign court, under a foreign code of laws.

You and I can well imagine what the reaction would be of Americans faced with such a situation. Suppose, for example, that history had dictated that the Mississippi River and a strip of territory on each side were controlled by a foreign power. Suppose that in going from Illinois to Missouri, or from Louisiana to Texas you had to cross that strip. And imagine, if you will, that you broke the law in some fashion—by speeding or having a tail light out, or whatever—and you were arrested by a French gendarme or a Mexican policeman. It does not take great imagination to know what our reactions would be. Yet that is the situation that our Panamanian friends have found themselves in for the past 70 years.

That is what they have for so long wished to see changed. That is what the treaty now before you will change. And I for one say that it is high time for such change.

What is our central interest in Panama? I submit that it has not changed essentially since President Theodore Roosevelt's day. It is to maintain between the two great oceans a passageway that is open, efficient, safe and neutral. Our commercial interest in that waterway continues to be significant—though in a world of changing trade patterns and changing technology, it is less than it once was. Our military interest, too, continues—though, again, it is not what it once was. I think that all of us are agreed that the maintenance of the Canal in an efficient and open way is a great advantage—to us and to the other nations of the world.

How do we best achieve that end? Not, I think by being inflexible and bull-headed. Not by simplistic formulas like "it's ours and we're going to keep it." No waterway or road, no military base or business can long remain open and efficient if it is surrounded by a sea of public hostility and resentment. But, you may well ask, don't the Panamanians realize that the Canal is a major resource that produces great benefits for them? Of course they do. They want to have the Canal open and operating well just as much as we do, perhaps more. They know better than we do what it means to them and their country.

Their feelings—and I share it—is that the best guarantee of a canal that is working well and serving us all is one in which the American people and the Panamanian people are working as partners. And that is precisely the goal of the treaty that is before you. There can be no better security for the Panama Canal than to have the people who live around it, who work on it feel that it is part of them—and that any effort to attack it or disrupt its operation is an attack on them and on their best interests.

I am sometimes asked, Mr. Chairman, whether we can "do business" with Panama? My answer is Yes"—at least if in dealing with this small country we try to understand what it is really like and if we treat it as a powerful yet fair nation must treat a neighbor. I believe it is fair to say that Panama has deeper and closer ties with the United States than has any other country in Latin America. In large part that is because of the presence of the Canal and because of the many ties that have developed between us stemming from that fact of geography.

Thousands of Panamanians have attended our colleges and technical schools. They have come to know us well and to develop a respect for our way of life, for its freedom and its fairness. And if they feel some bitterness over the historical record, it is, in part, because they see such a gap between what we have sometimes done and what we have professed.

Despite some rhetorical outbursts and occasional incidents and demonstrations, there is remarkably little anti-Americanism in Panama. The vast majority of Panamanians harbor warm and friendly feelings toward our country and our citizens. They want us as friends, not enemies.

Nonetheless, I realize that some Americans living in the Canal Zone feel otherwise. They are nervous and concerned. I think we can all understand that. For they see in a new treaty an end to the very special and protected way of life they have enjoyed. They have gone through a very trying period in which they felt their future was being changed, and they were not at all sure in what direction. In the absence of hard information, many of them imagined the worst. They became vulnerable to every rumor and exaggerated prediction. And there has been no shortage of rumors and exaggerations!

Now, I think, the situation is changing drastically. With the publication of the text of the treaties, Americans in the Canal Zone realize they have not been sold down the river. They understand that their basic employment rights, job security and the like are preserved. Thanks to the efforts of Governor Parfitt and Secretary Alexander, there is a vastly better perspective as to what a new treaty means—and will not mean.

One thing that has greatly bothered many people in the Zone is the prospect of being subject to Panamanian laws and jurisdiction. To meet this concern, the treaty negotiators reached agreement on certain procedural guarantees—set forth in an annex to the treaty—that assure certain special protections to any American who, in the future, may face prosecution. Those protections include the right to a speedy trial, to a lawyer of choice, to full disclosure of charges, to have a representative of the U.S. Government present at any trial, etc., etc., down a very long list. I believe the Government of Panama has every intention of living up to these guarantees. I am sure they would not have agreed to these special features at all if they had no intention of abiding by them. Moreover, it is clear that the Panamians want as many Americans as possible to remain in their country for some time—to provide the skills needed to keep the Canal operative and to train Panamanians to do those jobs.

My clear impression is that, as these various features of the new treaty have become known, the outlook among Americans in the Zone has moderated. I believe that the vast majority—are ready to see how such a treaty works in practice, to give it a fair chance.

In this connection, I should point out to this Committee that there are some 3,000 American employees of the Canal Company who will be affected by a change in their life style and in the rules of the game. At the same time there are some 6,000 Americans living and working peacefully in Panama—in banks and businesses, selling and buying, teaching and preaching, in short doing all the things that Americans are doing in most other countries around the world, day in and day out—without special privileges or special rules. With time—and with good will on both sides—I think our citizens now in the Zone will find that it is not that difficult to live and work in another country.

I have been asked by friends here and in Panama how the various joint boards and committees provided for in the treaty will work out. As you know, there is provision for a consultative committee to act as a kind of policy advisory board to the Panama Canal Commission. There will also be a coordinating committee of both Americans and Panamanians to help see that the provisions of the treaty are carried out in an orderly and reasonable fashion. Similarly, on the military side, there will be a combined board of senior military representatives as well as a joint committee to help carry out the military provisions of the treaty. I cannot say, of course, how these various bodies will conduct their business. They will be breaking new ground and carrying out functions that have not previously existed.

What is clear, of course, is that the working of any body of men and women depends on the quality of people selected to do the job—and on the spirit in which they undertake their tasks. I have been assured by the highest levels of the Panamanian Government that they want these various groups to be efficient and to work in harmony. For that purpose, they have told me, they intend to pick the best possible and most highly qualified people available. Given that spirit, I see no reason why these joint groups should not work in harmony and in the best interest of both countries.

A related question is whether the Panamanians will ever be able to run the Canal. There is a kind of arrogance in the very question that I do not like. It reminds me of the way some people used to talk of the impossibility of Egyptians ever running Suez. In an earlier period, you will recall how unthinkable it was in London that a bunch of ragtag colonists could ever run their own affairs. The short answer, Mr. Chairman, is that of course Panama will be able to run the Canal. 70 percent of the work force now operating the Canal is Panamanian.

They could doubtless fill many of the administrative and technical jobs tomorrow. As for some of the more highly developed skills, there is no reason why Panamanians cannot acquire them in a reasonabe time. And we can help greatly in providing the necessary technical training.

One final question that is frequently asked: In giving the Canal to Panama, wouldn't we be turning it over to a left-wing military dictatorship? My answer to that loaded question is, first, to note that under the treaty we are discussing, the United States retains the responsibility for operating and the primary responsibility for defending the Canal for the remainder of this century. The government that finally will take control of Canal operations will not be the present government. And we cannot know precisely what form of government that will be—any more than we know what our own condition will be in the year 2000.

But more than that, I would say that the American people have been given a quite distorted picture of the present Government of Panama. It is not a full-blown democracy as you and I understand that term. Frankly, there are things I would like to see changed in the system. But I am not a Panamanian and it is not for me to prescribe what is good or bad for others. That is a judgment only the Panamanian people can make—as they will over time. We can perhaps explore these matters more fully if you like. One thing I do know, Mr. Chairman: if we wish to encourage change in what we regard as a positive and constructive direction—in Panama or in any other country—we can only do so in an atmosphere of friendship and trust, of cooperation and mutual advantage. We cannot hope to see our valus flourish, we cannot expect to have our suggestions heeded, we cannot work effectively with others toward the goals we cherish if we try to do so in an atmosphere of bitterness and frustration.

It is to the goal of eliminating the bitterness of the past and the frustrations of the present that the treaty now before you is so largely aimed. I hope it will receive your thoughtful and favorable consideration.

ILLEGAL ALIEN EMPLOYMENT AND SMALL BUSINESS; WHERE DO WE STAND AND WHERE DO WE GO FROM HERE?

Mr. PACKWOOD. Mr. President, in November of 1976 the Senate Small Business Committee held 2 days of hearings on the question of illegal alien employment legislation and how it would affect small business. The hearings were based on studies done by the committee staff meeting with small businessmen in California, Ohio, and New York. Further meetings have been held in my home State of Oregon and there has been significant interest by groups throughout the country concerning the way that legislation banning the employment of illegal aliens, often referred to as undocumented workers, would be implemented.

This statement today, drawn from the hearings, is designed to show what the effects will be if we pass a form of legislation to stop illegal alien employment; what I believe is the best way to do it; and further work that needs to be done before the Senate takes up such legislation.

THE PROBLEM OF ILLEGAL ALIEN IMMIGRATION

Illegal immigration into the United States is increasing dramatically. There are estimated to be between 6 and 12 million illegal alien residents of the United States today, according to studies done for several Government agencies, including the General Accounting Office and the Immgiration and Naturalization Service of the Department of Justice. INS currently estimates the figure at over 6 million but is working on a revision. About 400,000 illegal immigrants enter the United States every year.

Illegal immigrants can be divided into two categories: Those who enter the Nation without Immigration and Naturalization Service inspection, generally by avoiding the Nation's ports of entry; and those who overstay tourist visas or work with a visa which does not provide for employment, such as some types of student visas.

The cost to the U.S. taxpayer for the illegal alien population has been estimated by a Washington, D.C., consulting firm at $13 billion annually. This estimate, which is very rough, includes money lost by nonpayment of taxes, welfare costs, and adverse flows in the balance of payments, because U.S. dollars are often sent to the alien's home country.

Most aliens come to the United States in search of employment. While many hold jobs that are low-paying by U.S. standards, others, in significant numbers, hold jobs that pay in excess of

$10,000 per year, according to several Government and private studies.

Illegal aliens do hold some jobs which could be made available to U.S. citizens and legal residents. Substantial cuts could be made in the U.S. unemployment rate if the numbers of illegal aliens could be stabilized or cut.

Several methods can be used to cut or stabilize the illegal alien population of the United States. They include better surveillance of the Nation's borders and our visa issuance process; better surveillance of areas of high concentration of illegal aliens; issuance of cards which provide for the right to employment in the United States, or use of existing identification methods used by Government agencies; and, finally, enforcement by the Nation's businesses, labor unions, and government agencies of new laws designed to make it an offense to employ illegal aliens.

In hearings which I chaired, the Small Business Committee examined the use of existing identification and enforcement by the Nation's private and public institutions of proposed laws designed to make it an offense to employ illegal aliens.

Enactment of legislation to stem the increase in illegal aliens could cut national unemployment, cut the national welfare costs, and end a drain on the Nation's balance of payments. However, insuring compliance by the Nation's private institutions, including small business, could be difficult. The costs of a national program to insure that those employed in the United States are legally entitled to employment will fall heavily on the Nation's business community.

Therefore, any system devised to identify illegal aliens in the United States must include provisions to make it easy for businesses to comply with the law. Examination of the Social Security Administration account card, which already is used as one form of identification for employment purposes, could provide one compliance method. But the Social Security Administration will need to upgrade its identity card issuance procedures. Businesses may also need to use other identification in tandem with the social security card to provide reasonable assurance that businesses employ only those legally entitled to live in the United States.

THE EFFECTS OF PROPOSED LEGISLATION PROHIBITING EMPLOYMENT ON SMALL BUSINESS

It is not a breach of existing Federal statutes to employ illegal aliens. But several bills have been introduced in recent Congresses, including the 94th and 95th, which would place restrictions or outright bans on the employment of illegal aliens. Some States, such as California, have already forbidden the employment of undocumented workers, a term applied to illegal aliens. Other States are considering similar moves in light of a recent U.S. Supreme Court decision upholding the California law as constitutional in the absence of preemptive Federal legislation.

Bills introduced in the Senate and the House of Representatives during the 94th and 95th Congresses would place the responsibility for not employing illegal aliens on the Nation's employers, including the 13 million small businesses in the country. Such a responsibility would impose substantial burdens on small business inasmuch as there is no truly reliable way of checking the legality or illegality of an alien's identity, immigrant status, or place of birth, nor in some cases his or her citizenship. This sometimes includes American citizens who may have no record of birth.

Despite the clear advantages in cutting the $13 billion annual national loss, the Small Business Committee staff estimated that the U.S. business community could possibly spend in excess of $225 million per year screening the 3 million applicants for jobs who appear every day.[1]

Because of the heavy burden facing small business, I looked for some practical way to assess the effects on the American business community that passage of bills limiting or prohibiting employment of undocumented workers would have.

In a series of meetings in New York City, Cleveland, Ohio, and Orange County, Calif., the Small Business Committee staff and my staff met with groups of businessmen to discuss and implement a short study of how legislation would work.

The staff divided all the various bills before the Senate and the House into three different types:

First. The first would provide that an employer could not hire an illegal alien, but would provide no method for checking on a job applicant's right to employment. The method an employer would use would be developed by the employer himself, probably in consultations with Federal, State, and local bodies governing employment and employee rights, including various commissions concerned with the rights of minorities such as the Equal Employment Opportunity Commission.

Second. The second would provide that every job applicant sign a statement that he or she has the right to employment in the United States, either as a resident alien, an immigrant with appropriate documents, including documents for temporary employment, or United States citizens.

Third. The third type of legislation would provide that an employer check specific pieces of identification, including the social security card, before employment could be granted.

The specific purpose of the study was to try to find out how an employer could discover who illegals are; in effect, screen his job applicants, and what would be the best way for an employer to do this. I wanted a "real world" test of how illegal alien employment legislation would affect business.

THE "REAL WORLD" FIELD TEST

The first test began in New York City on August 23, 1976. The second began in Cleveland, Ohio, on October 5. The third began in Orange County, Calif., on October 7, 1976. Each test or study ran for approximately 1 month.

For purposes of the study, committee staff consolidated different legislative proposals into three categories:

First. Those which would prohibit the employment of illegal aliens without further instructions to the employer as to how that employer should demonstrate good faith compliance with the law.

Second. Legislation establishing a presumption of legality for any employee who signed a statement that he or she was legally entitled to employment in the United States.

Third. Proposals permitting an employer to hire employees after conducting a specific identification screening process.

Each field study tested employer experiences with these proposals under actual hiring conditions. Employers were selected with the help of national and regional business groups. Those who participated met with committee staff prior to the study's initiation. At these meetings, employers were divided into three groups which corresponded to the three types of legislative proposals outlined above. Each employer assumed that the proposal assigned to that employer's group had been enacted into law and he/she designed the firm's hiring practices accordingly.

At the conclusion of each study, experiences of the employer-participants were tabulated by the committee staff. Employers were then invited to present their comments and findings to the Small Business Committee either in person, through their representative associations, or in writing at a November 22–23, 1976 hearing in Washington, D.C.

PROPOSAL A

Employers working with proposal A were to assume that Congress had passed a law making it unlawful to knowingly hire illegal aliens or those not entitled to employment in this country. The legislation made no guidelines available as to what affirmative acts, if any, might be necessary to satisfy the implied responsibility to screen applicants for their legal right to employment in the United States.

Since the law neither required nor suggested affirmative action, an employer on one hand could choose to do nothing at all. Other employers, on the other hand, could choose to implement affirmative secreening action to demonstrate good faith should actions be brought against them by the Government for hiring employees found to be not legally entitled to employment.

PROPOSAL B

Employers in this group were to assume the Congress had passed a law making it unlawful to knowingly hire illegal aliens or those not entitled to employment in this country. However, the legislation provided that an employer could show good faith toward compliance with the law if he obtained a statement from a job applicant that the applicant is entitled to work in the United States. Practically speaking, this legislation would require an employer to ask each employee such a question as part of a formal employment application process.

For purposes of the study, employers in this group were to prepare a form to be signed by each job applicant that stated the applicant's legal right to employment. These forms were to be retained by the employers for use by the committee at the end of the study.

The following sample form was provided to group B participants:

To applicant:

This form is furnished as a part of the application process for the position for which you are applying. If you do not understand it, please inquire further before signing your name.

Do you have the legal right to employment in this country?

Yes _____ No _____

_____ _____

Date Applicant's Signature

PROPOSAL C

Employers working with Proposal C were to assume that Congress had passed a law making it unlawful to knowingly hire illegal aliens or those not entitled to employment in this country. However, the legislation further provided that an employer could show good faith compliance with the law by completing the attached form for each job applicant. The form would be completed either by viewing the required identification or certifying that the employee or applicant was unwilling or unable to present the identification.

Group C employers were instructed to retain their forms for use by the committee at the end of the study. The following form was provided to the employers:

_____

Name of Applicant

To Employer:

Please check the applicant's social security card and any two of the following documents if the applicant is willing to submit them:

Social Security number_____

Driver's License (state and number)_____

Birth Certificate (state)_____

Voter's registration (state)_____

Draft card or military ID_____

U.S. passport (number)_____

Other identification_____

I, the undersigned employer, certify that:

— the above-referenced applicant presented the foregoing identification.

— the above-referenced applicant was unable or unwilling to present any of the foregoing identification.

_____

Employer

To Applicant:

You have no legal obligation to participate in the completion of this form. You will not be refused employment if you are unable or unwilling to present the foregoing identification. This form is intended to provide evidence of an applicant's legal right to employment in the U.S. If you wish to complete this form, please submit the required identification and sign your name in the space provided below:

I, the undersigned applicant, certify that I am legally entitled to employment in the U.S. and that the foregoing identification which I have presented is valid and has been issued to me.

_____

Applicant

RESULTS OF THE STUDY

The results of each field test were assessed by the staff. Although the tests were not carried out under conditions which would permit a detailed statistical analysis of the findings, they have provided us with knowledge about the practical effects on the business community of complying with legislation to prohibit the employment of illegal aliens.

NEW YORK STUDY

The New York City experiment was coordinated by the committee staff with the assistance of the New York Chamber of Commerce and Industry. Five large employers, including Macy's and Consolidated Edison, participated in the test.

Each employer chose to operate under Proposal A, devising their own methods of screening for undocumented workers. Most, in fact, already had questions on their application forms asking for a social security number, citizenship of the jobseeker, and alien registration or visa information if not a U.S. citizen.

Among the five New York employers, 6,732 job applications were submitted over a month's period. Although it was not difficult for these firms to adjust to the task of requesting a social security number, citizenship information and evidence of alien status (if pertinent), a total of 666 job applicants—10 percent of the total—could not or would not provide acceptable identification or documentation. Only one such applicant was identified by the employer as an "illegal alien."

In a report from Macy's personnel office, which provided the most thorough, analytical information in the New York study, it was found that—

Less than 10% of the applicants during this period were not U.S. citizens; 16% of that group could not produce documentation of their legal right to work in this country. That number represented 1½% of the total number of applicants during the period.

CLEVELAND STUDY

In order to implement legislation to prohibit illegal alien employment that would not result in discrimination against minority citizens, such a law would have to be applied equally with each job applicant in each part of the country. Because the Cleveland area is representative of many areas in this country which are not considered to have illegal alien "problems," it was selected as the site for the second field test as a form of control area. The test was conducted with the cooperation of the Council of Smaller Enterprises of the Greater Cleveland Growth Association.

A total of seven small businesses agreed to participate in the month-long experiment. Thirteen job candidates were interviewed, and three (or 23 percent) were unable to present satisfactory identification.

The difficulties experienced by smaller firms in complying with a hypothetical law prohibiting the employment of illegal aliens surfaced early in the test. Mr. James Schattinger, president of Pioneer Manufacturing Co., volunteered to participate under Proposal A requiring him to establish his own method of guarding against the employment of illegal aliens. Mr. Schattinger reported:

As a small firm we do not have the legal staff to determine the exact hiring requirements of each of the individual 30 states in which we operate. As a result, we are unable to determine a general questionnaire that might be helpful to us in identifying "illegal aliens," and be assured that we are not violating a state law . . . If such a law is to be passed anyway, I would strongly recommend that the legislation specifically state what kinds of information have to be requested from the prospective employee and that this legislation pre-empt any other legislation that exists.

Mr. Daniel W. Rutledge, president of another small Ohio firm, Pumps, Inc., volunteered to participate under Proposal B requiring that an employer should show good faith compliance with the law by obtaining a statement from each job applicant that he or she is legally entitled to employment in the United States. Despite the fact that Pumps, Inc., did not have the occasion to interview any job hunters during the study period, Mr. Rutledge made pertinent comments to the committee which echo the sentiments of many other employers. He wrote:

We, frankly, do not feel that a form such as this would provide us with adequate protection against the possibility of our unknowingly hiring illegal aliens, and feel that the burden somehow should be placed upon the Federal Government and not upon employers, especially small businessmen who do not normally employ full-time personnel directors.

In Cleveland, five firms participated under Proposal C requiring that a form be filled out verifying that the employer has seen the applicant's social security card and two other pieces of identification, such a driver's license or voter registration card. Two of these firms were unable to provide results, because they interviewed no applicants during the study period. Of the others, one reported that the identification requirements took an additional 5 to 7 minutes of interview time, that two pieces of identification were easy to obtain, but that the third was more difficult. Another employer comments on the paperwork involved in complying with Proposal C:

For record keeping purposes, my own method would be to keep a current applicant file. However, if I were forced to compile the data for reports to Washington such as OSHA, etc., I am not sure just how accurate we could be with a limited staff.

CALIFORNIA TEST

The final field test, conducted in Orange County, Calif., had the active participation of seven small business employers. The committee had the assistance of the National Federation of Independent Business in soliciting participants for the experiment. Among the seven firms, 188 job applications were filed—107 of which contained insufficient identification.

One firm opted for Proposal A. The employer's method for determining each applicant's right to work consisted of requiring the presentation of a birth certificate or an alien "green card." Because of the ease with which such documents can be forged, the employer contacted the Immigration and Naturalization Service for verification of green cards and the home county clerk at the applicant's place of birth for verification of

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birth certificate records. This cumbersome, time-consuming process proved less than 50 percent successful in confirming the validity of such documents—out of nine job applications, identity could be confirmed in only four cases. In the other cases, three different obstacles were encountered:

First. One State (New York) prohibits release of a person's birth certificate information to a third party without notarized authorization from that person.

Second. Another State (California) requires a $2 fee be paid before birth records can be searched and confirmed.

Third. The U.S. Immigration and Naturalization Service, in response to a request for verification of green card information, sent back to the employer a one-page form to be filled out, with one page of instructions and a $5 fee to be paid.

Between the two Orange County employers operating under Proposal B, there were 26 job applications made and four instances of applicants refusing to sign the statement claiming the right to employment in the United States.

Among the firms working under Proposal C, there were 153 applications made—98 of which lacked the required three pieces of identification. Nearly all jobseekers were able to present two, however, usually a social security card and a driver's license.

CONCLUSIONS

The study has shown that many regulations already affect the hiring processes of the Nation's small businesses. They must comply with regulations from Federal, State, and municipal, and county governments which assure equality of employment, and in many cases businessmen cannot ask certain questions which could be considered discriminatory.

In the study, the committee had the support of the New York State Division of Human Rights, the U.S. Equal Employment Opportunity Commission, and the Orange County and California State agencies concerned with equal employment.

HEARINGS

On November 22 and 23, 1976, I convened hearings[3] and called in witnesses who had participated in the study from California, New York City, and Ohio. Government witnesses came from the U.S. Equal Employment Opportunity Commission, the New York Division of Human Rights, the Orange County, Calif., Human Rights Commission, the Social Security Administration, and the Immigration and Naturalization Service. The New York City Human Rights Commissioner was invited to appear but did not testify nor submit a statement. Several interested parties also submitted statements for these hearings.

BUSINESS WITNESSES

Generally the business community witnesses, from both small and large concerns, recommended that any legislation proposed in Congress prohibiting the employment of illegal aliens should spell out in detail what steps should be taken by an employer to ascertain the right of prospective job applicants to employment.

Without specific guidance, they noted, many businesses would be faced with compliance problems exacerbated by State and local regulations.

Charles A. Brewer, Jr., president of Charles A. Brewer Co., Anaheim, Calif., a member of the group of employers who used Proposal A and checked for illegal aliens without specific guidance, said he assumed for the purposes of the study that he would face a $5,000 fine and 3 months in jail for each apprehended illegal alien he employed.

Mr. Brewer outlined the steps he took when faced with such a law:

> I returned to my plant. I told my secretary and my supervisors that there was going to be a $5,000 fine if we hired an illegal alien, and that they were to set up a system; the only thing is that they could not use a person's surname, sex, or age for discriminatory purposes.
>
> Two days later I went back and found out that we had hired no aliens. We also hired no one that even looked like an alien.[3]

I asked Mr. Brewer to describe an illegal alien:

> Mr. BREWER. We think of the Mexican American as being an alien, so we would be discriminated against in our area. He is the one most likely to be illegal.
>
> We set up certain rules and requirements for employment.
>
> A detailed form was to be filled out by all applicants, which included age, birth date, birth place, and grammar and high school attendance. Persons born within the United States were asked to supply birth certificates. Naturalized citizens were asked to present the naturalization papers. Photocopies of these were made and filed. After approximately 3 days we suddenly realized that we did not know for sure what a "legal" green card looked like. We contacted the Immigration Service office in Los Angeles approximately eight times. Finally, on the 15th of October, we were told to contact Mr. Seitz, regional officer at (213) 548-2375. Mr. Seitz was out of town at that time. His secretary said that she would send us a booklet that would show us what a "legal" green card looked like. On October 19, 1976, the booklet, "Documentary Requirements for Aliens in the United States" M 97 (rev. 1-1-74) arrived at our plant. After inspecting the booklet, I was still uncertain how a "legal" green card should look. I contacted a fellow businessman, who was known to regularly hire Mexican-Americans. He showed me a legal green card. He also showed me a forged green card. It was hard to decipher the difference between the two. He stated that he had five persons working for him whom he knew were illegal aliens. That is how he was able to show me forged green cards. Yet, so long as they possess green cards, illegal or not, he hires them. After this bit of research, I realized that the courts would have no way of proving whether the employer was aware of the validity of the green card or not.[4]

Mr. Brewer also encountered difficulties in verifying the information contained on a green card:

> We then sent a letter to the Immigrations Service asking them to verify a green card submitted to us by a job applicant. They replied that they could not verify from the copy enclosed; but if the prospective employee would fill out form No. OMB 043-R0570 and pay a fee of between $3 and $5 they would certify his green card. The fee was unclear on the form. This seemed an inefficient method to us. If a legal alien was job hunting and applied several different places, this could cost him anywhere from $30 to $50 just to apply. It could take up to 2 months for his certifications to be returned, just so the employer was certain of the legality of it and could hire him.[5]

Another witness, Robert Neville from the National Restaurant Association, noted that some employers faced with the prospect of hiring a person who could be an illegal alien, would back away and avoid hiring anyone who could be questionable:

> He would be reluctant to hire applicants who do not have clear documentation and would be particularly wary of applicants with foreign accents and racial characteristics. . . . The inevitable result would be discriminatory hiring practices against those who could not easily prove that they are legally entitled to work. This, of course, would be totally unfair to the groups being discriminated against, but it would also place the small businessman in a precarious position. In his effort to comply with his responsibilities in the illegal alien area, he would find himself facing charges by those government agencies charged with enforcement of our laws prohibiting discrimination in employment. It is simply not fair to place our small businessmen in this Catch 22 predicament.[6]

Charles MacDonald, speaking on behalf of the Cleveland-based Council of Smaller Enterprises, noted that there are problems associated with all types of legislation prohibiting the employment of illegal aliens. He noted that as a member of Group C of the study, which required presentation of documents to provide right to employment, some prospective job applicants had trouble providing documents. He said:

> All applicants had a driver's license, because it was necessary for them to drive to our location as there is no public transportation. One person had to return home to obtain a social security card.[7]

He also noted that proposed legislation could put an employer in the position of policeman and pseudo-law enforcement officer.

MacDonald further noted that his area of the country had few illegal aliens. Therefore, he suggested that a trigger mechanism come into place when the number of illegal aliens estimated to reside in such a locale increases. He noted that there could be recordkeeping associated with screening that used any form of identification, because businessmen are reticent about leaving themselves open to any prospective problems. However, under questioning, he did agree that if a fraudproof social security card could be developed it could be used as a screening mechanism and would not provide an excessive burden to businessmen.

George J. Piccoli, vice president of the New York Chamber of Commerce and Industry, testified on behalf of the New York City employers who participated in the committee study.

He observed that New York faces several illegal alien problems.

Piccoli noted that employers in New York not only face Federal difficulties if they screen for illegal aliens, but also State and city regulations. He suggested that Federal legislation consider the use of universal social security registration at birth, and correlation of deaths and

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the removal of such numbers from records to prevent fraud.

At the present time, Piccoli said:

> Employers with the best of intentions have no way of knowing if a prospective employee has legitimate identification or not. While control has been tightened in the issuance of new social security cards, the only way to establish absolute control is through universal registration at birth and cancellation at death.[8]

Mr. Piccoli recommended that labor organizations also be required to employ a screening process which may be enacted for businesses.

GOVERNMENT WITNESSES FROM AGENCIES REGULATING EMPLOYMENT

Three witnesses at the hearing on November 23 came from agencies regulating equal employment opportunity at the Federal, State, and local levels.

They included Abner Sibal, general counsel of the U.S. Equal Employment Opportunity Commission; Werner H. Kramarsky, Commissioner, New York State Commission on Human Rights; and James Sanchez, executive director of the Orange County Human Relations Commission in California. Mr. Sanchez's organization enforces regulations issued by the State of California.

I noted that the witnesses from these three organizations would dramatize the tremendous amount of Government regulation that already exists regarding employment discrimination, showing that an employer who attempts to look for illegal aliens has the potential for violating the regulations of Government agencies at Federal, State, and local levels.

In general, the witnesses from the equal employment opportunity agencies testified that what an employer requires of one prospective employee he must require of all prospective employees. Passage of much legislation designed to stop the employment of illegal aliens, noted Mr. Sanchez of Orange County:

> Will have a direct discriminatory effect on minority persons seeking employment, whether they are citizens or aliens authorized to work in the United States.[9]

Other concerns were voiced by Mr. Kramarsky. He wondered whether or not use of an identity card for prospective employees would not be an infringement of a citizen's rights, or would lead to excessive invasions of privacy.

The witnesses, however, agreed that use of a card, such as the social security card, issued to everyone, and not specifically used for identification but merely to show right to employment, could provide a method for screening that would be amenable to both the commissions and the employers.

However, all three witnesses from the equal employment opportunity commissions stressed that there must be stringent safeguards that the social security card not be used for identification other than right-to-employment if such a system were to be adopted.

IMMIGRATION AND NATURALIZATION SERVICE WITNESS

Leonard Chapman, then Commissioner of the INS, testified on the number of illegal aliens, the geographic distribution, and attempts that the INS has made to reduce forged alien registration cards by use of new coded electronic cards for aliens.

Commissioner Chapman in his statement supported the position that an employer need only ask a prospective job applicant to sign a written statement that he is legally entitled to work in the United States. I asked specifically whether anything would stop illegal aliens from signing that kind of statement. James Greene, INS Deputy Commissioner, answered that—

> I returned to my plant. I told my secretary lying when they realize this is an official procedure and it would psychologically, I think, induce them to be honest. This would not work 100 percent of course.[10]

But illegal aliens have broken the law in getting into this country, so serious questions remain whether just the signing of a form would be a sufficient deterrent, encouraging any of them to go back to where they came from.

Commissioner Chapman said he thought so:

> Experience has shown that that has happened, and of equal importance, maybe more important is that it would deter the millions and millions who are intending to come in the future.[11]

Commissioner Chapman noted that the INS is currently updating its alien registration cards, showing a magnetic strip-encoded alien registration card with picture. He claimed that the card was virtually forgeproof. The total cost to the Government of issuing the cards for the 5 million legal aliens and 400,000 newcomers every year, is estimated at $15 million over a 5-year period.

SOCIAL SECURITY ADMINISTRATION WITNESS

The Social Security Administration, according to Walter D. Rubinstein, Director of the Division of Retirement and Survivors Policy, Office of Policy and Regulations, revealed that the social security card is used for identification in a number of cases. But, he noted that a social security number is issued for more reasons than employment. Several categories of students, and transient aliens are also issued cards for tax purposes.

While Mr. Rubinstein was not familiar under questioning with the Social Security Administration master plan, a copy was made available and included in the record of the hearings.[12] In its master plan, the SSA, which has heretofore not endorsed the concept of use of the social security card for identification purposes, specifically declares that one of the goals of the plan is to provide "use of the social security number as the primary identification and reference number."

CONCLUSIONS

As a result of the hearings held on November 22 and 23, 1976, I have reached several conclusions concerning the need to limit the employment of illegal aliens, or undocumented workers, in the United States. However, conclusions reached as a result of these hearings show that special care must be shown to insure that Government paperwork required of any screening process to limit employment of illegal aliens must take into consideration the problems that could be encountered by the 13 million small businesses in the United States.

As we develop our legislation, I hope we will keep these points firmly in mind:

First. Because illegal aliens are entering the United States at a heavy rate, the United States should institute a system to end the employment of illegal aliens and to increase the employment possibilities of American citizens and legal resident aliens.

Second. The United States needs to institute a system that would provide that every prospective employee provide for employers evidence of his right to employment in the United States.

Third. Because the social security card is currently the most widely circulated Government form and is issued under existing laws to American citizens and legal aliens, with few exceptions, the card could become the basis for a national right-to-employment card to be shown at time of employment.

Fourth. Issuance of fraud proof social security cards could be undertaken within the next 5 years to those who have bona fide rights to live in the United States. Such cards could be similar in makeup, but limited as to specific information, to the new alien registration cards currently being issued by the Department of Justice. Such cards would be compatible with the Social Security Administration master plan provided planning is undertaken now. Such cards could also show that holders who do not have the right to employment may not be employed; that is, social security numbers issued for tax purposes.

Fifth. The Federal Government needs to implement this system quickly. However, as an interim measure, it could provide that a person's right to employment could be provided beyond reasonable doubt if more than one type of identity card is shown at time of employment.

Sixth. The U.S. State Department offices abroad will need to mount a major campaign to inform prospective travelers to the United States that such cards will be needed before employment can be gained, and that such cards will be issued only to those with permission from the U.S. Government to reside permanently in the United States or are U.S. citizens.

Seventh. Small businesses, currently harassed by numerous government regulations concerning employment, will need to see such types of right-to-employment cards and retain statements that such cards have been examined, but need only hold the information for examination in employment files rather than transmit such information to Washington, except in cases where an illegal alien applies for a position.

Eighth. An agency of the U.S. Government will need to set up a system for examining such employment files from time to time to insure that businesses, unions, and government offices do not employ illegal aliens, and that employers have not circumvented a law enacted to end illegal alien employment.

Ninth. The U.S. Immigration and Naturalization Service will need to increase

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its surveillance of the U.S. borders to dissuade illegal immigrants.

Tenth. The United States, State, and local agencies concerned with the rights of minorities to employment in the United States will need to work closely with employers to encourage them to screen all prospective employees, thereby ending a bias against those who may appear "foreign" or do not speak English.

RECOMMENDATIONS

Nothing that any legislation enacted to prohibit the employment of illegal aliens in the United States could have a significant effect on small business, I hope that whatever legislation passes the U.S. Congress and is signed into law, should consider that small businesses often do not have the ability to enforce complex employment screening mechanisms.

Therefore any system of screening illegal aliens should provide in detail exactly what steps an employer must take to enforce any law of the United States dealing with the problem.

The social security card and two supporting pieces of identification should be used to provide beyond reasonable doubt that a prospective employee has a right to employment in the United States until such time as the Social Security Administration issues fraudproof cards to show right to employment.

The Social Security Administration, as noted in its master plan, if it moves quickly to change the social security card to a form of identification, should place strict limits on the information which is contained in the files or on a magnetic strip, if such a strip is used on a newly designed card, to protect the privacy of American citizens and residents.

The Immigration and Naturalization Service should strongly increase its control of the American borders to insure that aliens entering the country do so with proper documentation.

The Department of State should better use its public information capabilities abroad—especially in countries that are the greatest source of illegal aliens—to discourage aliens from seeking jobs in the United States. This effort should be coordinated with continuing U.S. economic aid programs to developing countries to stimulate labor-intensive projects; and to provide population education programs to countries that request them.

Paperwork required for the employment screening process should be kept to a minimum by insuring that employers have examined right-to-employment documentation and recording the information on existing Government forms, such as those issued by the Internal Revenue Service of the U.S. Department of the Treasury. Such forms should be held for examination in an employee's file at place of employment. Such a provision would eliminate the need to transmit such information to Federal agencies except in cases where a prospective employee is known to be an illegal alien, because he does not possess appropriate identification or cannot sign an affidavit that he is legally entitled to employment in the United States.

Whatever system is enacted into law must provide for the protection of an individual's rights and also provide for the protection of employers who have complied with the specific screening steps as laid out in the laws of the United States as enacted by Congress.

The recommendations I have made in this statement, however, show that much remains to be done. For instance, in discussions I have had with some of Oregon's orchardists and farmers, there are clearly serious problems with the Labor Department's alien labor certification program. At various times this year, our fruit crops came perilously close to going unharvested completely or in part for a lack of field help. The problem is not peculiar to the Northwest by any means, but has the same implications for the Southwest and several States in the East.

I am hopeful that whatever legislation we enact will be sensitive to these problems. We cannot just forbid the entrance of short-term labor into the country, but must tailor our programs to insure that the unscrupulous who knowingly hire illegal aliens and deprive Americans of jobs are punished. We also must not penalize American citizens and resident aliens who look "foreign," nor slam the door against our farmers and ranchers who may have to look outside our borders for the workers they need at harvest times. I simply urge every Member of the Senate to consider these issues carefully and thoughtfully as we decide what course we will take.

FOOTNOTES

[1] Twenty-Seventh Annual Report of the Select Committee on Small Business, United States Senate, for the 94th Congress, Second Session, S. Rept. 95–30, 95th Congress, First Session (1977), p. 73.

[2] Hearings before the Select Committee on Small Business, United States Senate, on "The Effects of Proposed Legislation Prohibiting the Employment of Illegal Aliens on Small Business," 94th Congress, Second Session, November 22 and 23, 1976. (Hereinafter cited as *Hearings*.)

[3] *Hearings*. Statement of Charles A. Brewer, Jr., President, Charles A. Brewer Co., Anaheim, Calif., pp. 14–15.

[4] *Ibid.*, p. 15.

[5] *Ibid.*

[6] *Hearings*. Statement of Robert B. Neville, Washington Counsel, National Restaurant Association, Washington, D.C., p. 20.

[7] *Hearings*. Statement of Charles R. McDonald, President of The McDonald Equipment Co., Willoughby, Ohio, on behalf of the Council of Smaller Enterprises, p. 3.

[8] *Hearings*. Statement of J. George Piccoli, Vice President of Human Relations of the New York Chamber of Commerce and Industry, p. 9.

[9] *Hearings*. Statement of James Sanchez, Executive Director, County of Orange Human Relations Commission, Santa Ana, Calif., p. 63.

[10] *Hearings*. Statement of James Greene, Deputy Commissioner, Immigration and Naturalization Service, p. 35.

[11] *Hearings*. Statement of Leonard F. Chapman, Jr., former Commissioner, Immigration and Naturalization Service, Department of Justice, Washington, D.C., p. 35.

[12] *Hearings*. Position paper, "The Social Security Administration's Master Plan for the Development of the Future SSA Process," Commission on Federal Paperwork, September 24, 1976. See Appendix, p. 371.

THE GENOCIDE CONVENTION AND THE DEVELOPING NATIONS

Mr. PROXMIRE. Mr. President, because the United States has just celebrated 200 years of successful and stable democracy, I feel that we in the Senate sometimes forget that we do not live in an unchanging world of global politics, and that there are many nations which are either actively seeking greater selfrule or have recently achieved this freedom. Many of these nations are located in Africa, and in particular on the southern part of the continent. These are nations which are constantly in the news because of wars, revolutions, and protest, and in which widespread unrest is now normal.

Mr. President, whether we like it or not, the United States as a superpower is inevitably involved in the future of these nations. Our behavior is closely watched, and it is seldom that an act of our Government does not exert an influence somewhere overseas. This is a weighty responsibility, and one which we, as the Senate, have not always lived up to. One example of this is our failure to ratify the Genocide Convention, which leaves a glaring gap in our announced policy of upholding human rights.

All in all, only one-fourth of the African nations have ratified this convention, and none of these are located south of the Equator. This is by far the worst percentage of compliance anywhere in the world. Regardless of how my colleagues view the political situation in Africa, I am confident that not one of them would ever condone genocidal acts by any party.

Our failure, as an influential world power, to take a strong stand opposing such acts and to emphasize that the protection of such basic human rights is an international responsibility for which there is wide concern encourages mindless acts of emotional terrorism and undermines the calmer voices which should prevail. I urge my colleagues to take seriously our role as a world power and call for the immediate ratification of the Genocide Convention.

THE BATTLE TO SAVE LORING AIR FORCE BASE

Mr. HATHAWAY. Mr. President, many Members of the Senate are aware of the reservations I have expressed about the wisdom of the Air Force's intention to reduce the strength of Loring Air Force Base in Limestone, Maine.

In the October 3 issue of the Times Magazine—a supplement to Army/Navy/Air Force Times—the cover story is devoted to the questions involved in the Future of Loring AFB.

Because it provides a useful summary of the issues in this matter, I believe that Members of the Senate would be interested in reading it.

I should also point out, Mr. President, that it is high time we in the Senate took a closer look at Department of Defense procedures on domestic—not to mention foreign—base closings and reductions.

Even the threat of such a unilateral action of the Department amounts to the cruelest form of unwarranted economic punishments to the citizens of the affected communities.

Too often savings that the Department of Defense estimates shall result from base reductions fail to materialize. What does result is frequently increased costs to other departments in welfare payments, unemployment compensation, and so forth, which far exceed the estimated savings to the Department of Defense.

I do not believe that the Air Force has made a responsible case, on strategic or economic grounds, for reducing Loring and so I ask unanimous consent that "The Battle to Save Loring AFB," by Marianne Lester, be printed in the RECORD at this point as significant background on this and other base reductions.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BATTLE TO SAVE LORING AFB

(By Marianne Lester)

It seems ridiculous now. Sirens screamed, and while the men raced to their alert posts, dependents scurried to evacuate the base. The school doors were flung open, and we'd hurry home, half running past the security policemen stationed along the paths to the housing areas. There, our mothers would be waiting by the cars, hastily throwing suitcases full of food and survival gear into the trunks. And within minutes, the long convoy of dependents would stream out the base gates, running away from the nuclear holocaust.

We had a head start on the Cold War. It would be a few years before every one else in the country began building bomb shelters and hoarding canned goods in case of attack. But at Loring AFB, Me., in the mid-1950s, we learned early about the threat of nuclear war.

Huge stockpiles of nuclear weapons were stored just outside the main base. It was a common platitude that Loring, with its B–52s poised so close to targets in Europe and the Soviet Union, was the second enemy target scheduled for extinction in the event of war—second only to New York City.

People in New York, of course, weren't preparing by racing out to Connecticut to escape simulated destruction. But at Loring we practiced. Each time "Operation Alert" came around—it was always in summer; no one was foolish enough to schedule a mass evacuation during the freezing winters in northern Maine—we poured off the base, heading in a long convey for the nearby Canadian border.

The line of more than 1000 cars was an unbroken chain 20 miles long, crawling along the 126-mile two-lane route to the border town of Fort Kent, Me. Inside the cars, it was a nightmare of screaming babies, fighting children, vomiting dogs.

I sat in the back seat, my mother and a neighbor up front. We drove for hours to reach Fort Kent, then parked in a field in front of a small timber blockhouse, built in 1840 during a border dispute with Great Britain over the Maine-New Brunswick border. There, the evacuation became a base picnic, and we kids would clamber inside the old blockhouse, peering out the musket holes where federal soldiers once watched for Redcoats. Some of our names are still faintly scratched in the smooth wood.

There was something wonderfully ironic about it—running away from the atom bomb to hide in a 19th century pine fortress. It's hard to imagine what those Maine frontiersmen would have thought if they could have seen the carloads of Air Force families, munching tuna sandwiches on the fortress grounds until the signal to return to the base, while overhead the B–52s, loaded with nuclear weapons, had already soared toward their targets.

There are no more dependent evacuations at Loring now, though its Strategic Air Command crews are still on alert 24 hours a day. And soon, if the Air Force has its way, there will be very little left of what once was considered one of the most strategically important military bases in the world.

The Air Force came to this remote corner of northern Maine in 1946. Until then, the economy of Aroostook County had rested solidly on a single foundation—potato farming. It was a sparsely populated area, and it still is—less than 100,000 people in a county larger than Connecticut. In fact, today base personnel and their dependents make up 20 percent of the total population in the surrounding area.

Limestone, where the Air Force decided to build its big SAC base, is less than two miles from the Canadian border, almost as far north as you can go within the continental United States. The area's largest town, Presque Isle, with a population of 12,000, is 23 miles from the base.

Winters in northern Maine are long and severe. Temperatures of 30 and 40 degrees below zero are not uncommon. Last year's snowfall amounted to 188 inches, and base residents sometimes had to go upstairs to their second floors to be able to see out the windows over the snow. For obvious reasons, Loring was never a popular place to be stationed. "Boring Loring," they called it when I was growing up there.

But whether or not the Air Force families liked it, the base was considered necessary. Precisely because of its remote location—the northeastern-most base in the country—Loring had strategic importance. An old base guide summed up the AF view:

"Today, Loring is SAC's right hand covering a direct path to an aggressor over the polar regions or across the Atlantic. It is 300 miles closer to targets in Communist Europe than any other base in the United States. At present speeds, 300 miles nearer the target means the target can be obliterated 30 minutes earlier . . . 30 minutes that may decide our fate."

It took seven years to carve a base out of the thick virgin forest near Limestone. Loring would be the first air base different in layout from the older converted Army posts—an Air Force base designed for jets, with runways more than two miles long. The B–36s arrived in 1953, were replaced by B–52s in 1956.

The tanker fleet of KC–135s, designed to refuel the bombers in flight, was doubled as recently as 1968. When the SRAM (Short Range Attack Missile) was introduced in 1972, Loring's 42d Bomb Wing was selected as the first in SAC to receive the new weapon. These actions, the people of Maine were told, were taken because Loring was still perhaps the most indispensable base in SAC.

That's why, just four years later, when the Air Force announced it planned to reduce Loring to a small "forward operating base" and pull out the B–52s, the local people were in shock. Suddenly Loring was superfluous.

LORING, THEN AND NOW

Damon Elementary School was a great place for recess. Loring averages 114 inches of snowfall a year, and a lot of it seemed to fall on the school parking lot. Snowplows came every day to clear it away, piling it in a long mound at the end of the asphalt. By midwinter, it must have been 10 or 12 feet tall and packed hard as a rock. It was perfect for playing King of the Mountain.

Better yet, someone discovered that you could carve out caves in the high embankment. We worked feverishly every day at recess, noses running in the cold, snow caking our gloves. Each of us made our own house cut into the side of the frozen snow. The rooms were tall enough to stand up in. Inside it was stunningly white. We were Eskimos. We smoothed the interior walls with our hands, like plaster, and cut doorways from room to room until it became a connecting village like the towns the Pueblos carved into the cliffs.

It was at Damon Elementary School that Dexter found out his father was dead. Dexter was my boyfriend in third grade. He was a Cub Scout and he played the accordion in all the school programs.

I think they just came into the classroom and got him one afternoon. Nobody had to ask why. When they came and yanked you out of school in the middle of the day it meant your father had been in a plane crash.

I saw Dexter one more time. I stood in the doorway facing out on the playground and watched him. He sat down by himself next to a tetherball pole and cried. I can see him now, a small blond figure hunched over on the concrete. His mother moved to California that week and I never saw him again.

I don't know if Loring had an unusual number of plane crashes in those days. Maybe so, because in the mid-1950s the B–52s were new to SAC. To me, it seemed as if my father or a neighbor were always coming home, shaken, from an accident investigation. I remember one night when my father came home late from a crash site, looking sick. Out of his pocket he took all that was left of some guy—a few scraps of burned ID card and a wedding ring. I think my mother gave the ring to his wife.

We took all this for granted. One quiet winter afternoon we were sitting in school when a loud explosion shook the windows. We looked outside. There were three huge balls of flame falling to the ground. The B–52 had exploded several miles from the base, but from where we sat it seemed to be right outside the window. It took forever for the fiery balls to float down out of sight.

We were very quiet. The teacher, knowing that chances were it was one of our fathers, was determinedly calm. "That was probably a missile," she lied. "A Nike missile, practicing shooting something down."

Her voice sounded cheerful but strained. We couldn't look at each other. We knew better.

There hasn't been a fatal B–52 crash at Loring since 1969, though the base's mission has been relatively unchanged over the past 20 years. B–52 and KC–135 crews are on ground alert 24 hours a day, ready to sprint to their planes in case of an alert. For a week at a time, the crews must remain in the alert facility, a modern, barracks-like building which can house dozens of men. Like firemen, the crews have things organized methodically so they can be in their aircraft within minutes of the Klaxon warning; even their flight jackets are hung on specific hooks, so a man can reach unthinkingly for his coat as he races for the door.

It is a difficult life for the crews and their families. Though there are small rooms where husbands and wives can have private visits, the men can make only infrequent scheduled trips outside the building, always within earshot of the Klaxon. The base hospital is too far from the flight line for the men to go there; one crewman recently missed the birth of his son because he was on alert.

Most of the crews will be glad to leave Loring if the AF's proposed reduction takes place. A few men believe the action is long overdue. Twenty years later, they still call it "Boring Loring."

WHY WAS LORING PICKED?

On March 11, 1976, the Air Force announced its plans for Loring AFB. The service would study a plan to disband the 42d Bomb Wing at Loring and transfer its 14 B–

52s to other SAC bases. The 30 KC-135s would be relocated and transferred to the Air Force Reserve.

Loring would be reduced to a "forward operating base" for the tankers in case of an emergency deployment to Europe or the Middle East. A few KCs would rotate through the base on regular exercises. But manpower would be reduced by 83 percent—from more than 3,000 military and 600 civilians to about 600 military and 200 civilians.

The reason for the proposed reduction was clear, the Air Force said, Congress repeatedly had told the service to reduce expenses and streamline its support forces. With the Vietnam War over and a smaller Air Force, the service simply had too many bomber and tanker bases. Millions of dollars could be saved by consolidating SAC's forces, while combat capability would be maintained.

But why Loring? How is a base selected for closure or reduction? According to the Air Force, all SAC installations in the continental U.S. were screened initially. But the greatest savings could be realized at "single mission bases"—bases which had *only* a B-52/KC-135 mission. Bases with fighter units, training centers or other major missions in addition to their SAC wings would still require people and money for support, so little would be saved by moving out just their SAC wings.

There were only four such "single mission bases" in SAC. Blytheville AFB, Ark., Kincheloe and Wurtsmith AFBs in Michigan, and Loring. Kincheloe had already been singled out for closure. Blytheville was a possible alternative. But of the remaining three bases, the Air Force had decided, Loring was the best choice.

Ironically, the reason was the base's location—the same location which had made it so valuable when it was built. The severe winters and heavy snowfall in northern Maine made the base extremely expensive to operate. The base's location made it a great place for an emergency deployment overseas, but an awful place for day-to-day missions.

Base commander Col. Russell Morton says, "The cost of operating this base is approximately twice that at some other bases because of the climate—the costs of snow removal, of utilities, even additional clothing for our people." It costs roughly $250,000 a year to heat just one large arch hangar at Loring, another $300,000 for another large hangar.

Base closings or reductions used to be a relatively simple matter. But the process has been more complicated since the enactment in 1969 of the National Environmental Policy Act. That law requires the Pentagon to submit a detailed report (called an Environmental Impact Statement) of the effects any major base closing or reduction would have on the surrounding civilian community.

A draft of the Environmental Impact Statement (EIS) must be sent to all interested parties for public comment before a final EIS is made. Then the service secretary, in consultation with the Secretary of Defense, can make a final decision.

The Air Force's first draft of the EIS for Loring was released in the fall of 1976. As required, it asked for public comment. And the Air Force got it.

The study had used only statistics available for Aroostook County as a whole. It was normal procedure. What it overlooked was the fact that Aroostook County is a huge county, the largest county east of the Mississippi, consisting mostly of trees. According to the draft EIS, a reduction at Loring would have only minimal effect on the economy of the county.

But what about the immediate area around the base, the towns of Limestone, Caribou, Presque Isle, which would be affected most by the proposed reduction? Howls went up from citizens around Loring and from the Maine delegation to the U.S. Congress. Maine's Democratic Sen. WILLIAM D. HATHAWAY called the EIS an "erroneous and fatally flawed document."

By November 1976, when public hearings on the EIS were held in Maine, the Air Force itself admitted the first draft of the statement was incorrect. Embarrassed AF officials promised to start from scratch and submit a new one.

A revised draft of the Environmental Impact Statement was released in April 1977. This time, the Air Force study considered only the area immediately surrounding the base—the "primary impact area." And the AF conclusions now supported what the people of northern Maine had been saying all along—that the local economy would be devastated by a reduction at Loring.

Without Loring's annual payroll of more than $40 million, dozens of businesses would be forced to close. Unemployment, already 12 percent in the rural area, would skyrocket to 22 percent. Tax losses from revenue sharing and sales taxes would be severe. The real estate market would be hopelessly depressed, flooded with hundreds of vacant houses and no buyers.

The Limestone School District would lose most of the $850,000 it receives from Federal Impact Aid for the military children in the district; at lease 58 teachers would be laid off. People who owned apartment houses, restaurants, shops would be ruined. In sum, the Air Force admitted drily, "the economy would suffer severely."

THE CIVILIANS GO INTO SHOCK

Statistics, no matter how shocking, don't tell the story. The people of northern Maine are in shock, frightened that their already fragile economy will be shattered. As one farmer's wife wrote in a letter protesting the cutback, "Life was a real struggle before Loring came here and that's no lie."

At the shopping centers in Caribou, in the restaurant in tiny Limestone, every conversation turns to the possible disaster of a pullout at Loring. With anguished faces, storekeepers and salesmen, waitresses and teachers talk about what will happen if their only "industry" in the area suddenly vanishes.

At Plourde's Furniture in Caribou, Dan Plourde manages a business started 50 years ago by his father. Seventeen years ago Plourde's showroom was moved to the Caribou shopping center to be closer to Loring. "A minimum of 50 percent of our business is from the base," Dan Plourde says. "The base is the reason we moved to this location, the reason we expanded our showroom, even changed our merchandise somewhat to appeal to the military families.

"I've got 10 employees now; if the base closes I'll have to cut that in half. Still, I hope I'll be able to stay in business, which is more than a lot of small shops and restaurants will."

Abraham Etscovitz, owner of Northern Car Sales in Caribou, tells a similar story. "We never dreamt anything could happen to Loring," he says quietly. "We assumed—we'd always been told by the Air Force—that this was one of the most permanently needed bases in the U.S. A reduction like they're proposing would cut our sales volume by at least 30 percent. I've got close to 38 employees, and I'll have to lay off at least a dozen. Oh yes, people are frightened."

Already the proposed cutback is having an effect on the local economy. The housing market is dangerously depressed. "Who the hell is going to buy a house around here now?" asked one realtor.

Even the local potato farmers say they would be affected by an 83 percent reduction of Loring's personnel. John Chapman is a Limestone potato farmer who owns nine farms totaling 700 acres. It's a harsh life, and like many other farmers Chapman supplements his farm income by working at the base every winter.

"I've worked in snow removal for three to five months there every year since 1959," he says. "I don't know what we farmers would do without that extra income. And in the busy seasons, I employ a lot of military wives and moonlighters from the base to plant and harvest. Of course, if they leave I guess I'll be able to replace them—unemployment will be so high I can hire some of the people who'll be laid off.

"You know, before the base came here, all we knew was potatoes. Now the base is so much a part of our lives. I know lots of people who left their farms and went to work at Loring. What will they do? Seems like the Air Force just comes in, changes our lives, and then leaves when it suits them. I guess we expected something better."

THE SAVE LORING COMMITTEE FIGHTS "CITY HALL"

The people of northern Maine are not the kind of people to sit back and quietly allow their livelihoods to be ruined. They are a proud, hardy people, and their first reaction when the proposed reduction was announced was to fight back. Almost immediately, they formed a Save Loring Committee, and selected Paul Haines, a Limestone realtor and insurance saleman, as chairman.

The committee was determined not to be just another bunch of unsophisticated citizens launching ineffective protests against their government, the local businesses and city governments, and hired top-notch Washington lawyers and a respected consulting firm of their own to counteract Air Force arguments.

Haines is a thoughtful man who is surprisingly efficient for someone who says he's never before "fought city hall." Like most of the people in northern Aroostook County, he has a personal stake in keeping Loring as it is. "If the reduction went through, I'd be happy if I lost only 25 percent of my business," he says bluntly.

The Save Loring Committee had three main arguments against the Air Force proposal: (1) the disastrous economic impact on the local economy, (2) evidence that a cutback at Loring, rather than saving money, would actually cost the government money, and (3) the belief that Loring is as strategically important as ever.

"The Air Force itself has finally agreed with us on the first point," Haines says. But the latter two questions have been subjects of intense debate between the Air Force and the Save Loring forces. The service claims its proposed reduction at Loring will save an estimated $12 million the first year, $19 million each year after that.

But the committee's Washington, D.C., consulting firm, BKW Associates, did its own study of the cost effectiveness and came up with some startling figures.

For the first year, the study claims, the cost of the reduction to the Air Force will be $24 million—mainly in relocation costs, and increased fuel costs from flying aircraft to deployments from bases farther away from their targets. For the following five years BKW says these and other costs to the Air Force will be $15 million.

Then there's the question of total taxpayer dollars. According to the BKW analysis, any savings the Air Force realizes by a cutback at Loring will be more than offset by increased costs to other sections of the federal government. It doesn't make sense to Paul Haines.

"What good does it do for the Air Force to save some money if the rest of the government has to pay out more—in increased unemployment benefits, and food stamps and defaults on Small Business Administration loans and mortgages? BKW estimates the total cost to the federal government for these and other programs if Loring is reduced would be at least $105 million over the next five years.

Haines and others wonder how the service

can save money by keeping the base partially operational. "It hasn't gotten any colder here since they built the base in 1946," he says indignantly. "The base is still sitting in the same place—it hasn't moved farther from its targets. Will reducing the manpower by 83 percent reduce the snowfall? They admit they'll still have to plow the runways just as often for the tankers to rotate through. So where are the savings?"

But saving money was not the only consideration in proposing the cutback of the base, according to the Air Force. Strategic factors also played a part. "When this base was built," says base commander Col. Russell Morton, "our aircraft were more range-limited. The closeness to potential enemies was more important.

"Today, the closeness is still valuable, but now we rely on what's called a 'triad' concept of defense—a three-pronged defense of bombers, land-based ICBMs, and submarine-launched missiles. And with the advent of an all-jet fleet, the location is not as important as it once was."

"To a layman," answers Save Loring chairman Paul Haines, "their points don't make much sense. To have the same amount of bombers on fewer bases? It sounds like reverting to the old Pearl Harbor concept of putting all your weapons in one place. Doesn't that make it easier for an enemy to knock them out?"

Other experts on defense agree with Haine's layman's assessment. BKW Associates has two directors with expertise in defense strategy.

One is Albert W. Blackburn, a Naval Academy graduate who was principal consultant to President Nixon's Blue Ribbon Defense Panel in 1969 and 1970. He also has served in top-level jos in the Defense Department where he dealt with issues and policies involving strategic and tactical weapons. A former Navy test pilot, Blackburn also has worked on the Polaris missile and the B-70 bomber.

A second director of BKW is Dr. Robert Kilmarx, who is also director of business research for Georgetown University's Center for Strategic and International Studies. Kilmarx is the author of several books and studies on Soviet air power and arms control. "I served the Air Force as an officer and a consultant for 20 years," laughs Kilmarx, "and all the arguments I'm throwing at the Air Force they taught me!"

Both Blackburn and Kilmarx strongly oppose any reduction of the bomber-tanker force at Loring AFB. Their study for BKW has been the committee's strongest strategic argument against the AF proposal.

Simply put, the BKW study makes the case that a cutback at Loring would seriously hamper the U.S. nuclear deterrent. "Despite the 'triad' concept," Kilmarx told the Times Magazine, "bombers remain uniquely important. They offer flexibility. They can be used in limited wars as well as a major conflict. They can be used to signal intent. And, unlike a missile, a bomber can be called back."

Particularly without the B-1 in our arsenal, BKW's analysis argues, the B-52 fleet's closeness to targets is more important than ever, because the bombers would be the launch platforms for the proposed cruise missile. "All other SAC manned bomber bases are at least 200 and as much as 2000 miles more distant than Loring from SAC's most important target areas," Blackburn testified at public hearings on the subject in July.

What about the AF argument that Loring's location is no longer as vital as it once was? "I've seen the war plans—there are still routes going across the North Atlantic," answers Kilmarx.

"Look, we've had an all-jet fleet for 20 years, but as recently as February of 1976 [a month before the proposed reduction was announced] the AF brass were still saying how important Loring was. You want bombers to be as close as possible to targets because it gives more flexibility in selecting penetration routes, a better chance of reaching the targets, and lower fuel costs."

From a defensive posture, Loring poses significant problems for potential enemies, argue the BKW experts. "Closing of Loring simplifies an enemy's strike plan and increases its probability of success by eight percent," according to the BKW study.

"You could put all your bombers at SAC headquarters at Offutt AFB, and all your tankers somewhere nearby," says Kilmarx. "And you'd probably realize some cost savings. But you'd so simplify Soviet targeting that you'd defeat the purpose of the SAC fleet. There are only 20-odd bases with B-52s left. We still need to disperse our aircraft."

IS THE PROPOSED CUTBACK JUST POLITICS?

The arguments have gone on for months, with the Air Force and the Save Loring forces each producing its own set of contradicting statistics and analyses. In the minds of many observes, there are still unanswered questions about the economic and strategic advisability of a cutback at the base.

And unless these questions are put to rest convincingly by the Air Force, the people of northern Maine will remain suspicious that the real reason for the AF proposal is political. Throughout the communities around Loring, citizens talk with almost paranoid intensity about a "vendetta" against the Northeast.

The facts give their belief some credence. The proposed cutback at Loring is just the latest in a series of Pentagon reductions in New England in recent years. Among the installations closed or drastically reduced have been the Boston Navy Yard, Westover and Otis AFBs in Massachusetts, the Navy prison in Portsmouth, N.H.

"There is an unduly heavy concentration of military installations, personnel and DoD spending in the South and Southwest," says Sherwood Boehlert, executive assistant to Rep. Donald J. Mitchell (R.-N.Y.), who is one of a coalition of 104 House members concerned about the problem. Between 1964 and 1974, military spending across the country increased by about 92 percent, but it increased by only 27 percent in New England, the smallest gain in any region.

As military people may have noticed, there are more and more assignments in the so-called "Sun Belt"—the South and Southwest—and fewer bases in the Northeast. There has been an increasing sense of alarm over the trend among Northeastern governors and legislators, and the fight over Loring is an example of that political reality.

Though few military people give much thought to the matter, where they are stationed can be as much a political decision as a strategic one. Says Sherwood Boehlert, "During the big build-up period for military installations, Southerners and Westerners controlled the Congress.

"In 1961, for example, two-thirds of the Senate committee chairmen and half of the House chairmen were from the South or West." When Rep. L. Mendell Rivers (D.-S.C.) was chairman of the House Armed Services Committee, a fellow congressman once remarked, "If you build one more military installation in Charleston, it's going to sink into the harbor."

Civilian communities and politicians routinely object when a base closure or cutback is announced. But in northern Maine, the objections go beyond economics, revealing the people's close emotional tie to Loring.

In the little towns and farms around Loring, people speak proudly of their friends from the base, noting the contributions the military families make to charities and churches, the cultural impact Loring has had on this remote corner of the country.

"Having the base here has given us the opportunity to meet people from all over the country," says Paul Haines. "It's given our kids a chance to grow up in a different atmosphere. Loring has made us feel like a part of the country, not just an isolated region.

"We like the Air Force and its people. People from the base have told me they've never been welcomed into a community like they have here. We want them here. I just hope they want to stay."

THE QUICKER THE DECISION, THE BETTER

"Boring Loring." Nothing has changed much in 20 years. You can go home again, if you're going back to a military base. Civilians who visit the cities where they grew up find high-rise apartments where they once played baseball, their favorite Dairy Queen razed for a shopping center. Bases change little.

344 Duncan Court, where I lived for almost four years, is still the same green and white Wherry housing, still in need of a coat of paint. The long row of garages behind the houses are a shambles of sagging roofs and peeling shingles.

Some people I met at Loring complain the base should be classified as an "isolated tour." They should have seen it in the mid-1950s. There wasn't even commercial TV in Aroostook County then. The Air Force established its first military television station at Loring in 1954, a five-watt channel with broadcast studios in a 10 by 12-foot shack on top of the base hospital. The TV station was a much-needed morale booster. RCA built it and provided free technical assistance after SAC Commander Gen. Curtis LeMay begged help from RCA chairman David Sarnoff.

When the base station, Channel 8, went on the air, there were no TV sets for sale in the entire county. Almost immediately, a new industry was born in the surrounding towns—selling and repairing TV sets. It's an example of how drastically Loring has changed life in northern Maine.

Adults may have bemoaned their isolation, but it was a fine place to grow up. Each September, schools closed down for a few days during the potato harvest, and we swarmed into the fields to pick potatoes. We learned to say "ba-day-das" like the natives.

In winter, our fathers flooded the back yards with hoses, making huge ice rinks. We skated until our toes were nearly frozen. When my family got a piano, the truckers delivering it had to haul it 200 feet across the snow on a toboggan. It was a ludicrous sight, and people on Duncan Court laughed about it for days.

On Duncan Court today, and all over the base, Loring residents are filled with uncertainty. "When the proposal was first announced, the initial reaction was humorous," says base commander Morton. "People assumed the 'candidate action' meant they would definitely close the base. Everyone was asking, 'When will we get orders?' But the schedule has changed so much, the general population is apprehensive. They need a decision. Should they buy a carpet, a stereo?

"Morale has been pretty poor since this thing's dragged on so long," says a young airman. "People get their hopes up that they'll be leaving, and then the decision is postponed again. No one knows whether to take out a loan, move in and decorate. And of course there's the uncertainty about who will be left behind."

The Air Force hopes to announce a final decision about Loring's fate sometime this fall, but no one familiar with the situation has much hope that the schedule can be kept. People in Limestone and Caribou are holding their breaths, hoping their arguments will prevail.

There's a wooden sign on the highway as

you enter Limestone: "Welcome to Limestone. Home of the world's best potatoes, largest bombers, fastest fighters and mightiest tankers." The townspeople want to keep the sign as it is.

PANAMA CANAL ISSUE

Mr. MATHIAS. Mr. President, we are in the process of posing questions to the Carter administration on its proposed Panama Canal Treaty. Whether or not we ratify this treaty will depend largely on how effective the President is in making his case to us and to the country. As a very useful contribution to the ongoing debate, I should like to insert in the RECORD an editorial by the Cleveland Press together with the very useful response written by one of my constituents, Reed I. Irvine of Silver Spring, Md. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PANAMA CANAL ISSUE

After bloody riots in the Canal Zone that left 25 dead in 1964 and after tortuous negotiations since then, the United States and Panama at last have agreed "in principle" on the future of the Panama Canal.

In a historic and sensible step toward decolonialism, the Carter administration wishes to yield control over the waterway and the 533 square mile Canal Zone to Panama in the year 2000.

The negotiators no doubt feel they have accomplished a difficult feat, but the hardest part lies ahead: to convince the required 67 U.S. senators that it is in the national interest to ratify a new canal treaty.

While we may change our mind after a word-by-word reading of the treaty—it has not yet been written—the outlined agreement seems fair to both sides and we hope the Senate approves it.

The Panamanians made major concessions: Letting the Americans run the canal for 23 more years; accepting a U.S. military presence until 2000; agreeing that U.S. forces could return after that date to defend the canal, and scaling down their annual rental demands to $50 million, which can be covered by canal tolls.

Unfortunately the canal issue is an emotional one in this country and a violent debate can be expected. Ronald Reagan and other conservatives are fond of declaiming, "We bought it, we paid for it, we built it and we ought to keep it."

In fact, "we built it" is about the only accurate part of the statement. We didn't buy it; Teddy Roosevelt used to admit proudly that he "took" the Canal Zone and all but blackmailed Panama into ratifying the one-sided 1903 treaty giving the United States rights there "in perpetuity."

However, it's pointless to argue about ancient history. What this country got away with in an era of imperialism is not what it should practice today. It makes more sense to argue about the canal's value, which is much exaggerated by its admirers.

Diplomatically it is a handicap. It is seen throughout Latin America as proof of "Yankee imperialism" and thus harms the nation's interests in the hemisphere.

Strategically it is obsolete. Big aircraft carriers, large naval vessels and modern tankers cannot fit through it. That is why this country built a two-ocean Navy. Also, the canal is indefensible; in wartime one Soviet submarine could close it with one nuclear missile.

Economically the canal is overrated. It now carries only 2 percent of this country's coast-to-coast trade. And by the year 2000 its military and economic value will be less than today's.

Americans ought to try to look at the canal through Panamanian eyes. It was stolen from them. It is an open wound dividing their country, diminishing their nationhood. It is their main natural resource—held by foreigners.

There are only 1.7 million Panamanians but they are united in their determination to regain the Canal Zone. If the Senate succumbs to demagoguery and jingoism and defeats the treaty, one can expect guerrilla warfare and sabotage of the canal.

In their struggle the Panamanians will have the backing of all Latin America. Should this country risk a nasty little tropical Vietnam over a waterway that isn't worth much anymore?

SEPTEMBER 3, 1977.

EDITOR,
The Cleveland Press,
Cleveland, Ohio

SIR: Your editorial on the Panama Canal on August 12 was flawed by several factually inaccurate statements.

1. You said that we "built" the Panama Canal but we didn't "buy" it. Of course, the United States paid both for the construction of the canal and for the territory through which it was built. We built the canal at a cost of $375 million, a figure which would amount to some $2.5 billion at today's prices. We paid Panama $10 million for the rights to the Canal Zone and we paid individual landowners nearly $5 million for title to their property in the zone. We subsequently paid $25 million to Colombia to compensate it for its claims on the zone. In addition we paid $40 million to the private French company that had tried and failed to build the canal for its rights and equipment. The Canal Zone has been called our most expensive territorial acquisition.

2. You state that the Panama Canal is obsolete strategically, arguing that "large naval vessels and modern tankers cannot fit through it." Two former chairmen of the Joint Chiefs of Staff and two former chiefs of Naval Operations have sent a joint letter to the President in which they say: "As long as most of the world's combatant and commerical tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States . . . Under the control of a potenial adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense capability, with enormous potential consequences for evil." These experts note that all naval vessels except the largest (13) carriers can transit the Canal. Modern tankers carrying Alaskan oil are now transiting the Canal. Only huge supertankers cannot make the passage, and the U.S. does not have ports that can accommodate supertankers.

3. You say that the Canal is overrated economically. The New York Times says that it saves $1.5 billion on the prices of American imports and exports. Higher prices for our exports caused by higher transportation costs could drive our already excessive trade deficit even higher, as our ability to compete with other countries weakened. The Canal is of even greater economic importance to several Latin American countries, who use the Canal for the majority of their shipping.

4. You say the Canal "was stolen" from the Panamanians. Rubbish! How could we have stolen the Canal when it was we who built it? As noted above, we paid a high price for the land, and Panama was delighted that we built the canal there and not in Nicaragua. They have reaped enormous benefits from it, including the attainment of a per capita GNP of over $1,000 a year.

REED IRVINE.

EGYPT'S ECONOMIC SITUATION

Mr. CASE. Mr. President under the headline "Sadat's Rule Has Seen Little Material Gain for Egypt," the Washington Post today carried a rather gloomy background article on Egypt's economic situation.

I cannot endorse all the findings or observations in this article. But I do support the view that it remains in the interest of the United States to assist Egypt in ways which will really bring about a better way of life for the people of that country and thus lead to political and ideological stability in Egypt and in the Middle East.

Over the past 3 years the point has been made that if a peace agreement is somehow reached in the Middle East it will give a major boost to countries like Egypt. This is true—but on certain conditions.

Improvement in the political climate in the area will help a great deal in stimulating the economic recovery of states like Egypt. But the peace must be a real peace and one that can last and must be a web of mutually beneficial relationships between the parties so it is not in anyone's interest to break the peace.

The Sinai agreements produced momentum and progress and some confidence was built up in the Middle East. But this confidence was insufficient to overcome the dreadfully difficult economic conditions within Egypt or to stimulate an overhaul of the structure of Egypt's economic apparatus sufficient to attract foreign investment. In real terms, little Western capital has been put into Egypt's business structure or into services that can stimulate the business and industrial sectors and provide more jobs. Western capital, by and large, comes either from private investors or from the international banking institutions. Both have so far balked at large-scale investments in Egypt.

Egypt is a nation with inadequate resources and with a spiraling population growth. Money alone will not solve Egypt's difficulties since it would be quickly consumed by its expanding population. Yet, many of us, among them Senator HUBERT HUMPHREY, chairman of the Subcommittee on Foreign Assistance of the Foreign Relations Committee, believe that, with the variety of resources we have, we can do a better job in demonstrating to Egypt that real help can be given.

To accomplish this, we have to shift the emphasis of our economic assistance program, which has already amounted to over $5 billion. We have to get away from aid to Egypt chiefly in the form of consumer goods which are quickly used up and forgotten and also from aid to failing government-run industries which are inefficient and unproductive. What we know best how to do, as Senator HUMPHREY has pointed out, is to help develop the private sectors of a country—industrial, business, and agricultural. It is that endeavor we should pursue here.

Under the Humphrey amendment to this year's foreign assistance bill we have asked the Agency for International Development to get outside experts from

the private sector to come up with firm suggestions on how we might bring this about. We have in mind people with real, on-the-job experience; people who have been successful in the United States and in developing countries. It is well to bear in mind that Egypt suffered through over 10 years of Russian socialism which wreaked havoc on its economy. It is in our interest to turn the situation around, and to show the people of Egypt we have a better way. If we fail in doing this then I have serious doubts about the future and about Egypt remaining committed to the West.

In this respect I am worried that AID is off to a bad start in carrying out the Humphrey amendment. We are trying to work out our differences with the Agency, but so far there seems to be an institutional bias running against us. Their current approach in Egypt still seems too concerned about large-scale, long range public projects which will not do the immediate job at all.

For example, we understand that AID is considering spending one-third of the limited funds available under the Humphrey amendment for a "macroeconomic study" which is unrelated to the specific goals we have set. We already have a good idea of what is wrong in Egypt—what we want to do is to set it right. I doubt whether we should spend such a large part of the study funds to show to be true what we already know to be true. Instead, the focus ought to be the working out of new and more effective ways to help Egypt.

There remains great good will in the Congress, and certainly among the members of the Foreign Relations Committee of the Senate, toward Egypt and its needs. We want to help to bring real prosperity to Egypt. But the effort and the cause of peace is not helped if the United States continues on the current path which has yet to bring affirmative results in Egypt. It would be a great shame, given our strenuous efforts to bring stability and peace to the Middle East, if we should fail because some officials are too frightened of tomorrow to break out of the bureaucratic habits of yesterday.

I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SADAT'S RULE HAS SEEN LITTLE MATERIAL GAIN FOR EGYPTIANS

(By Thomas Lippman)

CAIRO, September 28.—The seventh year of his presidency has not been a good one for Anwar Sadat or for Egypt.

On the anniversary of his accession to power at the death of Gamal Abdel Nassar, Sadat presides over an impoverished, disease-ridden nation beset by political turmoil and religious strife.

Despite grand promises, he has delivered neither prosperity at home nor peace abroad to his 39 million people. His abrupt change from the inept socialism of the Nasser era to a half-hearted capitalism has done little to alleviate the poverty or ignorance of the masses, whose numbers continue to grow by a million persons a year.

Sadat's rupture with the Soviet Union has cut off his military supplies and broken the country's well-established trading patterns but has not brought the American-sponsored Middle East peace on which he has been counting.

Today, in a major speech, Sadat intensified the rupture, making clear that he plans to postpone repayment of $4 billion that Egypt owes the Soviet Union for military equipment purchased in the 1950s and 60s. "I am asking the Soviet Union for a 10-year grace during which we repay nothing," he said, indicating that no money would be paid even if Moscow objects.

The euphoria that followed the successful crossing of the Suez Canal in the 1973 war has given way to restive grumbling in a year when the armed forces have been used to put down food price riots in the cities and to administer a spanking to Muammar Qadaffi's Libya.

The economic and political ineptitude of Sadat's government, headed by a former police officer, is a constant source of worry to Sadat's supporters, Egyptian and foreign. They fear that if the situation deteriorates further he might be ousted by an extremist of the left or the right.

Yet, in the view of Egyptian intellectuals, foreign diplomats, government officials, journalists and other observers here, there appears to be no immediate danger that the government will fall. Circumstances that would bring down any government in Western Europe, they argue, mean little in a country where the president can suppress opposition with a stroke of his pen.

None of the dissident elements taking advantage of Sadat's political liberalization to oppose him has the strength to bring him down, these observers agree.

Only the army could do that, they say, and Egypt's armed forces have one of the best records in the Third World of keeping hands off government. Under the command of the rigidly apolitical Gen. Mohammed Abdel Ghani Gamassi, a Sadat loyalist, the army has so far followed orders and stayed out of politics.

Sadat has not yet given the armed forces reason to withdraw their support, informed observers say. The question is whether the failure to achieve peace, the flickering hopes for economic prosperity and the mushrooming, overt political opposition throughout the country might induce the military to act.

"The longer the situation goes on this way without any solution, the longer Sadat's American connection fails to produce a peace settlement, the greater the chance that something will happen," said Boutros Boutros-Ghali, head of the potential science faculty at Cairo University.

"All these dissident elements, the Moslem Brotherhood, the leftists, could create an atmosphere in which the army would feel obliged to step in," he said.

"It's been two years since Sadat has had a policy success," said a concerned diplomat from a friendly country, referring to the Sinai peace accord that involved a pullback of Israeli troops from the Suez Canal and return of captured oil fields to Egypt.

"He needs something or the situation will continue to deteriorate. When you have the appearance of a political vacuum, you get people moving to protect their own interests first and you risk chaos."

One possibility feared by political activists, students and intellectuals here is that the armed forces might act not in opposition to Sadat but in concert with him, restoring order by the imposition of military rule, as happened in the Philippines—ending the country's "democratic experiment." Sadat has repeatedly pledged that this will not happen.

He renewed that pledge in his speech today commemorating Nasser's death. As he has before, he acknowledged the difficulties facing the country and errors of the past. He promised better times if the people work hard and end their divisions. He said Egypt had passed the "bottleneck" from economic stagnation toward progress that would give Egypt "breathing room" by 1980.

Many Egyptians argue that in the Egyptian context, the situation is not as bad as it seems to Western eyes. Corruption, poverty, disease, religious tensions and political extremism have existed in Egypt for centuries, they argue, and are no more likely to bring upheaval now than they did in the past.

Sadat, however, does often seem like one of those besieged swordsmen in the costume epics—no sooner does he skewer one foe than three others appear behind him, and by the time he finishes them off, the first is back on his feet.

In January, under pressure from the International Monetary Fund and other lenders concerned about Egypt's mammoth balance of payments deficit, the government slashed subsidies that held down the prices of basic commodities. After two days of bloody riots, the subsidies were restored.

Yet, the problem will not go away. An IMF team is due here next month and it is expected to demand an end to the subsidies as a condition for the granting of standby credits that Egypt needs to pay its existing debts. The government is looking for ways to make the inevitable price increases more palatable to the citizenry.

Today he said that the subsidy system would be reorganized so that the aid would reach only "those who really need it." But he also promised that "subsidies for bread and basic commodities will never be touched," a balancing act that the government will find difficult to bring off.

Sadat blamed the Communists for the January riots, which most observers believe attributed far more power to the Communists than they really have. As an antidote the government began quietly encouraging the activities of Moslem conservatives and fundamentalists.

In quick succession, a fanatic band of Moslem extremists kidnapped and murdered a former religious affairs minister and launched a antigovernment terrorist campaign in the name of Islam; fundamentalist legislators in the People's Assembly sought enactment of an Islamic code, frightening the country's 2.5 million Christians, and the outlawed Moslem Brotherhood reemerged in public with a prayer rally in a downtown square.

The attempt to rewrite the country's laws to conform with Islamic code, as in Saudi Arabia, was finally cut off by the prime minister, but only after it led to violent clashes between Moslems and Christians, mostly in upper Egypt. At least five church burnings and one death were reported. Last week Sadat arranged for prominent press coverage of meetings he held with leaders of both faiths in an effort to halt the religious feuding.

In an attack that some saw as aimed at the Soviet Union, Sadat said today that the religious conflicts were the product of a conspiracy hatched in some dark corner and were "alien to our nation, shunned by people who know their national responsibility." He warned that "those who want to fish in troubled waters are the enemies of freedom" and said he would have "no mercy on anyone trying to spread chaos."

Behind all these events are the continuing rumors about personal corruption by the president, his family and his political friends. It has reached the point where one Cabinet minister is openly described

at diplomatic receptions as the prime minister's "bagman."

Sadat and his wife, Jehan, certainly live very well in their many houses, but then the upper classes in general are prospering under Sadat's economic "open door" policy. After years of circumspection under Nasser they are again flaunting their fancy cars and European clothes and expensive appliances in full view of the masses scraping by on a diet of beans and bread.

"It is a dangerous thing, in a country like this, for any leader to cast his lot with the bourgeoisie," a sophisticated political analyst said. "But who is going to push him out? The government is weak, but would another one be any better? Unless there were someone who could offer immediate solutions to the question of the Sinai and the economy, things are likely to go along as they are for a few more years."

SEA CADETS AT 15

Mr. MATHIAS. Mr. President, I wish to commend to my colleagues an excellent article by Adm. John S. McCain, Jr., USN (ret.) entitled "Sea Cadets at 15" which recently appeared in the Veterans of Foreign Wars magazine. Admiral McCain is a former Commander in Chief Pacific and a Washington area resident. As a former Navy liaison officer he has many friends and admirers on Capitol Hill. He describes the very valuable contribution that the U.S. Naval Sea Cadet Corps has made in training American youth over the past 15 years since its establishment. I ask unanimous consent that this excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEA CADETS AT 15

(By Adm. John S. McCain, Jr., USN (Ret.))

This year the United States Naval Sea Cadet Corps is marking its 15th anniversary as a federally-chartered training program for American youth from 13 through 17 and officially supported by the United States Navy.

In this 15th year of the Sea Cadets more than 6,000 young men and women across the nation are learning to be sailors. But that is not all they are learning. They are being steeped in the heritage and traditions of our 200-year-old nation.

They are learning the many disciplines needed for all Americans to serve their nation either in the military forces or as civilians.

Legislation incorporating the Naval Sea Cadet Corps was passed by Congress in 1962, expressing its objects and purposes, "through organization and cooperation with the Department of the Navy, to encourage and aid American young people to develop an interest and skill in basic seamanship and in its naval adaptations, to train them in seagoing skills and to teach them patriotism, courage, self-reliance, and kindred virtues."

I served for 45 years in the United States Navy and I believe the United States Naval Sea Cadet Corps (NSCC) is providing the naval service and the nation with young people whose vital interests are in their nation and in keeping its free heritage strong and viable for future generations.

You have never seen a more dedicated group of young people than those of the Sea Cadet Corps. Their 153 units for seniors meet at naval bases and Naval Reserve centers across the nation.

The Navy League, which sponsors NSCC through its local councils and within the corporate structure of the Sea Cadets, has established a junior training program for youths 11 through 13, the Navy League Cadet Corps. It is a supportive program for the NSCC, with its regulations and curricula designed to provide a foundation for NSCC training.

The secretary of the navy has authorized naval activities across the nation to provide maximum cooperation and support in training Sea Cadet units.

Sea Cadet training parallels that of the Navy itself. Many of the cadets after their 18th birthday begin lifetime careers in the Navy, the Marine Corps, the Coast Guard and other national services. During the past several years approximately 70% of age eligible cadets have either enlisted or entered a training program leading to active service in a branch of the Armed Forces. So far, some 100 cadets have gone on to the Naval Academy at Annapolis. Considering NSCS objectives and the results achieved, the program warrants the full support of all Americans.

General administration of the NSCC is vested in its board of directors, appointed by the president of the Navy League. Day-to-day administrative duties of the national organization are conducted by an executive director, Capt. Nicholas Brango, USN (ret.), and his staff at national headquarters in Washington, D.C. Local administration of NSCC units is vested in a committee which represents the local Navy League council and in unpaid civilian volunteer NSCC officers, men and women who provide guidance, training and supervision. Local Navy commanding officers are urged by the secretary of the navy and the chief of naval operations to provide full cooperation and assistance to NSCC units in their areas. Close liaison is maintained at all times between NSCC units and the Navy, which provides cadets with training aboard naval vessels and shore facilities.

The cadet wears a modified Navy enlisted uniform during active-duty sessions, which usually are held on weekends. They use the same texts, classrooms and training aids and are given the same written examinations offered Regular Navy personnel. All cadets are eligible to attend a two-week training period at naval facilities and participate in summer cruises abroad ships of the Atlantic and Pacific Fleets as well as aboard Naval Reserve ships.

The young people and the nation gain an advantage when these youngsters graduate from the Sea Cadets. They are, upon graduation from the NSCC, eligible to enlist in an advanced pay grade in the Navy, Navy Reserve and Coast Guard.

During their time in the program they are made thoroughly familiar with the educational opportunities available through the Navy, such as the Naval Academy, the Naval Reserve Officers Training Corps, the Reserve Officer Candidate program and Officer's Candidate School.

By training with Regular and Reserve Navy personnel, the young Sea Cadet is able to determine from exposure the desirability of choosing the Navy as a career.

The cost of becoming a Sea Cadet is at most minimal. Annual $15 enrollment fee includes accident insurance. The uniform deposit fee of $10 is returned when the cadet graduates or leaves the program and returns his or her uniforms. Expenses incurred in cruising and summer training are the responsibility of the cadet and parents, the Sea Cadet unit and the sponsoring Navy League council.

Sea Cadet Corps officers are active duty and retired. Navy, Coast Guard and other military service personnel and civilian volunteers, who must be American citizens, over 21, and of good character. Midshipmen are between 18 and 21.

As a former commander of men in war and peace, I know firsthand the value to our nation and its future in our young men and women. NSCC is teaching our future military and civilian leaders the disciplines they will need to lead our nation in the years to come. The corps is training them to know about themselves and other young men and women.

It is teaching them that duty and honor are still basic to growing to the responsibility and the uncertain future they are facing. Through their Sea Cadet training, they are learning to face fully the problems of today and more importantly, the problems that will face them tomorrow and the day after. There can be no greater training for our nation's young people. They go with an advantage, God bless them.

REFORM OF THE FEDERAL CRIMINAL CODE

Mr. KENNEDY. Mr. President, during the next few weeks the Senate Judiciary Committee will consider S. 1437, the Criminal Code Reform Act of 1977, introduced by the distinguished Senator from Arkansas, Mr. MCCLELLAN, and myself. This comprehensive legislation is an attempt to reform, modernize, and streamline the entire Federal Criminal Code, a code characterized today as "archaic," "unfair," and "confusing." The bill is a major undertaking, of critical importance to the American people, and I am hopeful that it will promptly be reported to the Senate floor so that the full Senate can consider it early next session.

Mr. President, with the decision of the House Subcommittee on Criminal Justice to begin hearings last week on the companion bill, H.R. 6869, we find the Congress considering the first major piece of substantive criminal law legislation in almost a decade. This fact should not go unnoticed. For too long the Federal Government has been unable or unwilling to turn its attention to the national problem of crime and the crisis confronting our criminal justice system. S. 1437 signals a change in this attitude, an attempt by the Federal Government to put its own house in order. The legislation is bipartisan and has the complete support of the administration. Attorney General Bell in particular has played a major role in the fashioning of the bill.

In urging enactment of S. 1437, it is also important to point out what the legislation does not accomplish. It is not a cure-all for crime in America. No one should labor under the misapprehension that the passage of S. 1437 will eliminate the violent crime which plagues our local communities. The distinguished and highly respected chief judge of the District of Columbia Federal Court of Appeals, David L. Bazelon, has reiterated this fact in recent months. He has pointed out that S. 1437 will not deal with the social causes of crime in American society, causes well known to all of us—a troublesome unemployment rate, especially among the young and minorities; inferior housing and education for too many of our citizens; the breakdown of the family unit; a criminal justice system which, inundated by a mounting caseload, tells the would be criminal that "crime pays." I agree with Chief Judge Bazelon that S. 1437 will not solve these

problems—problems which must not, cannot be ignored. I will continue to fight for better education, improved health care and equal opportunity for all Americans.

But, although S. 1437 will not have a major impact in reducing local crime, it can be an important vehicle for reducing injustice. And, to the extent that S. 1437 acts as a model, to be considered by local legislatures in enacting new laws to deal with criminal injustice, its impact will be felt at the local level.

Mr. President, in recent months newspapers throughout the Nation have commented on the importance of S. 1437. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Sept. 7, 1977]

KENNEDY BILL: IMPROVEMENT IN CRIMINAL JUSTICE

(By Louis B. Schwartz)

One of the most important bills of the decade is Sen. Edward Kennedy's S. 1437, now being put into final shape in the Senate Committee. The bill is a major advance in civil liberties and law enforcement.

It prevents arbitrary sentencing and paroling. It repeals threats to free discussion such as the Smith Act (penalizing advocacy of overthrow of the government).

It moderates existing law in the area of sex offenses. It cuts back on prosecution of petty marijuana offenses. It provides effective sanctions against the crimes of big business, and makes the penalties for tax and other frauds proportionate to the size of the illegal gain.

It facilitates prosecution of criminals who leave the country. These are only samples among hundreds of improvements.

This excellent bill, which would give us a magnificent improvement of the criminal justice system, is endangered, paradoxically, by the unthinking and petulant opposition of certain civil liberties groups who should be its friends. These groups have taken an all-or-nothing position.

Disregarding the hundreds of civil liberties reforms embodied in the Kennedy bill, the civil liberties establishment wants to kill any bill that does not include every single amendment they've ever conceived.

I speak as a long-time active member of some of these groups. My lifetime career in criminal law has been identified with advocating civil liberties positions.

I am therefore all the more appalled at the short-sightedness of their opposition to the Kennedy bill, and the misleading character of opposition propaganda. Members of the public may find it helpful to bear the following points in mind in coming to their own conclusions.

(1) "Son of S. 1". This catchy phrase is intended to smear the Kennedy bill by association with the infamous and tyrannical S. 1, which was fortunately defeated in previous Congresses. The Kennedy bill could more properly be labelled "Son of the Brown Commission."

The Brown Commission, a bipartisan statutory reform agency appointed by President Johnson and dominated by liberals, drafted a reform code on the basis of four years' study. The Kennedy bill largely tracks the Brown Commission recommendations and even adds civil liberties features that conservative members of the Brown Commission resisted.

(2) "Defects of the Kennedy Bill." The opposition falsely attributes to the Kennedy bill shortcomings of existing law. Defeat of the Kennedy Bill would leave these defects in force without the improvements which, even in these areas, the Kennedy bill offers.

Wiretapping is an example. Many of us believe that wiretapping should be abolished. It is an abominable un-American intrusion on privacy. Experience shows that it yields virtually nothing to aid law enforcement against the crimes of violence by which we are terrorized.

But the politically powerful groups which legalized wiretapping only a few years ago, like the politically powerful groups that prevent adoption of effective handgun control, will block any change in the present legal situation. That the Kennedy code defers the struggle over such issues for separate later political battle is realism.

To condemn the Kennedy code for failing to achieve every conceivable reform is self-defeating paranoia. The civil liberties establishment has no power to bring about the enactment of its own "ideal" code. It has only the power to defeat a splendid though incomplete set of improvements.

(3) First Amendment and the Press. One of the greatest threats to freedom embodied in the now defunct S. 1 were the provisions penalizing "leaks" of news from government sources. And, of course, the Kennedy bill eliminates those provisions.

Nevertheless, the intense fears generated by the S. 1 attempt and the natural preoccupation of the press with that subject have produced a rash of far-fetched legal imaginings of dangers to the press which might be found in existing law or the Kennedy bill. There is absolutely no basis for opposing the bill on these grounds.

Congress' intent in the Kennedy bill to protect the press is clear from its action deleting the anti-press provisions and from the committee reports to accompany the bill. If any fear persists, it can be assigned by very minor verbal changes in the text.

In any event, the First Amendment, as part of the Constitution, would override any infringement of freedom of the press that can be dreamed up from the language, of existing law or any reform bill.

All criminal law has potential for abuse, and the price of liberty is eternal vigilance. But, as Alexander Hamilton wrote in The Federalist of opponents to the constitutional proposal for an independent judiciary, the guardians of liberty should not give themselves up to "the rage for objection which disorders their imaginations and judgments."

[From the Boston Sunday Globe, Sept. 18, 1977]

PROGRESS ON THE CRIMINAL CODE

With the opening of a new round of hearings Thursday, the House has now joined the Senate in addressing one of the most complicated, controversial and important pieces of legislation on Capitol Hill, the redrafting and codification of the present cumbersome and outmoded Federal criminal code. The bill before the Congress is not perfect, but its strengths clearly outweigh its deficiencies and it offers an unprecedented opportunity to streamline the criminal code, to abandon some of the most abhorrent features of the current law and to undertake some truly laudable reforms of the nation's legal system.

The bill now under consideration is a successor to last year's Senate Bill 1 (S. 1), a bad piece of legislation that was appropriately buried. It is not fair to characterize the current legislation as the "Son of S-1." It is in the same family, but it more resembles a second cousin twice removed than a direct descendant of last year's abomination.

Missing—and laudably so—from the current version are expansions of the applicability of the death penalty, elimination of the insanity defense, inclusion of an official-secrets act and authorization of a so-called "Ehrlichman defense" by which government officials excuse commission of illegal acts on grounds they were ordered by higher authority.

Included in the current bill is a banquet of reforms: repeal of the Smith Act, which penalizes the mere advocacy of overthrowing the government; repeal of the Logan Act, which prohibits private communications with foreign governments; expansion of the Civil Rights Act of 1968 to make it a crime to discriminate on the basis of sex; extension of rape laws to cover homosexual rape; decriminalization of possession of small amounts of marijuana.

And, in what is potentially the most important reform in the whole 360-page package, the bill establishes a Federal sentencing commission to establish standards for sentencing, end the disparity in sentences for seemingly similar crimes and phase out the parole system, with its inequities.

Moreover, of course, the bill accomplishes the purposes of codification, an ordering of the nation's criminal law. Some 80 different standards of culpability—ranging from "lasciviously" to "corruptly"—are reduced to four and defined. Eighty separate theft offenses and 70 for counterfeiting and forgery are simplified. And archaic laws—such as the one making it a crime to seduce a woman (but not a man) on a riverboat—are removed.

Of course, any member of Congress can draft a bill and submit it. What makes this legislation remarkable is that it is sponsored in the Senate by two senators on the opposite ends of the political spectrum, Kennedy of Massachusetts and McClellan of Arkansas. For Kennedy it is an opportunity to take a leadership position on the crime issue; for McClellan, it is an opportunity to cap his Senate career by authoring a monumental piece of criminal legislation. And in the artful negotiating and compromising over the past year, McClellan has clearly given up the most. Almost every modification tilts toward Kennedy.

It is not, of course, an ideal bill. Some liberal groups see the whole codification issue as a once-in-a-bicentennial opportunity for wholesale redrafting and reorienting of Federal criminal law. That position was stated forthrightly by officials of the American Civil Liberties Union in testimony earlier this year: "Our approach is to seek the best criminal code that can be conceivably obtained."

A worthy objective. But hardly the stuff of politics, which is the art of the possible, not the conceivable.

As the ACLU correctly contends, use of immunity ought to be repealed. Various "speech crimes" ought to be stricken from the books. Federal obscenity laws should not include a "community standard." Certain conspiracy statutes would still be subject to prosecutorial abuse. Wiretapping in all cases ought to be sharply restricted, if not, as the ACLU advocates, outlawed. Yet, the fact is the Kennedy-McClellan bill either leaves intact, or slightly improves, the current law in most of these areas. And, of course, each of these areas can be further considered—and many are now under review—in separate legislation.

The Kennedy-McClellan bill has also drawn fire from some segments of the press, notably the Reporters Committee for Freedom of the Press. Given the press's experience under the Nixon Administration, fears that various general provisions of the bill on the handling of government records and the protection of suspected criminals could be turned against the press are understandable. However, the same First Amendment rights that could justify special treatment for the press in the legislation will provide its ultimate protection before the courts.

And on what is maybe the key issue on

court-press relations, the press's obligation to honor "gag orders" that are later ruled invalid. Kennedy has included provisions which he believes give more protection to the press than is now available by law, a position supported by the American Newspaper Publishers Association.

The Kennedy-McClellan bill could be improved, and we hope amendments will be accepted—amendments that ensure that a wide range of views are represented on the Federal sentencing commission, secure more iron-clad protections for the press and strengthen the right to assemble peaceably to protest government policy.

But as it is now written, the bill is wholly laudable legislation. It has produced the first broad consideration of Federal criminal laws in more than a decade, the first politically realistic attempt ever to codify the nation's laws, and the potential for major reforms and improvements. A well-conceived bill should not fall victim to the "best that is conceivable."

[From the New York Times, Sept. 23, 1977]

CRIMINAL LAW AND THE OTHER 5 PERCENT

Some liberals, President Carter observed drily last spring, are hard to please: "If they get 95 percent of what they want, they can only remember the other 5 percent." That problem seems to be afflicting the patient effort to revise and reform the Federal criminal laws.

This major undertaking would streamline into 350 pages the 1,500 pages of law that have piled up, with no more logic than coral, since 1789. It would chip away some of the worst encrustations and introduce some progressive provisions—notably a sensibly designed system of criminal sentencing. And, after a checkered 11-year history, the undertaking looks practical. It has, after all won support from spokesmen for such divergent views of crime as Senator McClellan, Senator Kennedy and Attorney General Bell.

And yet, just as the criminal law reform bill has at last begun to make headway in Congress, some rifle fire is heard. Lawyers sensitized by the protests of the 1960's fear some of the new provisions. Civil liberties advocates express concern about others. Our colleagues at The Los Angeles Times have come out against the reform bill, arguing that it "directly threatens and potentially threatens many areas of American freedom."

Such hard words surely applied to the law reform bill that preceded the present one. The 800 pages of the old "S. 1" were studded with repressive inspirations from the Nixon years; that bill deserved to die. But we find ourselves puzzled by the heat of some of this criticism of the new reform measure, S. 1437. The new bill is needed and deserves to be enacted.

S. 1437 is not perfect; that's impossible in an undertaking of such size and complexity. We have our own doubts about some provisions, such as a benignly intended limitation on press gag orders. Or a new provision requiring obedience to the public safety orders of any Federal employee in time of fire, flood or riot. Fires and floods are rarely political, but alumni of, say, the New Mobe are entitled to wonder who decides what is a riot. The Senate Judiciary Committee is now marking up the bill, and ample time remains for such detailed objections to be heard and addressed.

But not even attentive concern to such details can meet a different kind of objection raised by some critics. This might be called the "lost opportunity" objection: That is, since criminal code revision is rare, objectionable current laws should not be allowed to pass into a new code without improvement.

Civil liberties lawyers criticize S. 1437, for example, because it provides for overbroad prosecutions for conspiracy; and because it creates an ostensibly new offense called "criminal solicitation." But these provisions are similar to present law—deliberately so. The bill's sponsors believe the only way its benefits can be enacted is to bypass as many other controversies as possible.

What are these benefits? There are many specific ones, such as the enlightened proposal to narrow judges' discretion in sentencing so as to minimize gross disparities in prison terms. Other provisions would abolish the Smith Act, which still makes it a crime merely to advocate overthrow of the Government, and improve laws dealing with rape, civil rights, sex discrimination and the mentally ill. More important than any specific provision is the overall revision. S. 1437 would for the first time give the Federal Criminal Code a logical format with consistent definitions, a uniform scale of sentences and a clearer array of offenses.

Some may deprecate the whole reform effort as an exercise in empty, perhaps even risky, tidiness. We disagree. S. 1437 is not ideal. By all means let the critics and Congress seek to eliminate problems that cause even 5 percent concern. But let that concern not obstruct achieving the other 95 percent.

[From the Washington Star, Sept. 23, 1977]

LET US REFORM THE CONTRADICTORY CRIMINAL LAWS

(By Carl T. Rowan)

Would you believe it is illegal to trap or detain a federal carrier pigeon?

Or that you can rob a bank in one city and be sentenced to one year in prison, but get 20 years if you commit precisely the same crime in another place and are sentenced by a different judge?

Or that there are 80 different federal forgery and counterfeit statutes, 70 varieties of theft and 80 definitions of criminal culpability, ranging from "wantonly" and "lasciviously" to "maliciously" and "corruptly"?

All of this—and a lot more—is the result of outmoded, duplicative, contradictory and unfair federal criminal laws. These statutes have been passed piecemeal over two centuries and have never been overhauled in that time.

Two years ago an attempt was made to update, reform and tie them all together into a new federal criminal code—the famous (or infamous) S.1. But the bill ran into trouble with civil libertarians who objected to several repressive provisions, and it never got out of the Senate Judiciary Committee.

A new version, dubbed "Son of S.1," was introduced this year under the joint sponsorship of an unlikely twosome, Sens. Edward M. Kennedy, D.-Mass., and John L. McClellan, D.-Ark.

Many of the provisions which troubled liberals in 1975 have been eliminated from the Federal Criminal Code Reform Act of 1977—expansion of the death penalty, prison terms for publishing classified government information such as the Pentagon Papers, protection of public officials who commit crimes in the name of "national security."

In addition to the not insubstantial task of pulling together federal criminal laws, ending duplication and contradiction, the measure would:

End all punishment for mere possession of up to 10 grams of marijuana.

Repeal the Smith Act (which prohibits advocating violent overthrow of the government), the McCarran Act (requiring registration of "Communist front" organizations) and the Logan Act (limiting a citizen's diplomatic contacts with foreign governments).

Give the government new tools for fighting organized crime and white collar crime and increase fines for white collar crimes.

Outlaw "dirty tricks" in political campaigns.

One of the major reforms deals with sentencing in federal courts. The present system has been called a "national scandal" by Sen. Kennedy and "barbaric," "erratic" and "unprincipled" by other critics. It is neither fair nor effective.

Because most sentences are indeterminate, judges have vast leeway in imposing punishment. For example, the judge who sentenced Lynette Fromme for attempted assassination of President Ford could have given her anything from probation to life in prison (she got life). Moreover, parole authorities decide in the end how long a person actually stays in prison.

Judges and parole boards are not entirely to blame for the inconsistencies. They have few guidelines to follow.

The result is that sentencing in federal courts is imposed in an arbitrary, unfair manner. To a large extent a sentence depends on a defendant's color, wealth, age, sex, appearance, the geographic location of the court, and the whims, biases and quirks of the judge.

And so you find that offenders found guilty of robbery get an average sentence of three years, three months in one federal judicial district and 20 years in another. Within a single district in New York, one judge sends all 10 convicted defendants in Selective Service cases to prison while another judge sends none of six.

In addition to being unfair—or perhaps because of it—our sentencing system is also ineffective. Would-be criminals look at the likelihood of going to prison and regard punishment as a game of chance in which they might as well gamble.

What is needed, say penal authorities, is certainty of punishment. The new criminal cade would stress this. It provides for fixed or narrow-range sentences that must be imposed, and for a sentencing commission to set guidelines. It would also establish appeal and review of federal sentences (the U.S. is the only free-world country in which sentences cannot be appealed). And the present parole system would be phased out.

The aim of sentencing reform is to achieve a process that is fair and efficient. On a larger scale, that is also the goal of the entire criminal code revision.

The new version is not perfect. It still contains provisions which trouble civil libertarians. But it is virtually impossible to come up with a code that will please everyone and get past Congress.

The reform bill of 1977 at least promises to improve law enforcement and increase respect for our entire system of justice.

[From the New York Times, June 7, 1977]

SENTENCES TO FIT THE CRIME

(By Tom Wicker)

The Senate Judiciary Committee is about to begin hearings on a bill that would all but eliminate the parole system, with its demonstrated inequities, while providing an innovative means of giving fixed but fair sentences to Federal criminal offenders.

Sure to serve as a model for similar reforms in the more progressive states, the parole reform is part of S. 1437, the lineal but much-purified descendant of that bugaboo of past Congresses, S. One. The aim of the new bill is still to recodify and bring up to date the entire Federal criminal code, but the new bill has been shorn of the hard-line excesses—an Official Secrets Act, for instance—that produced so much liberal opposition to S. One.

Strange-bedfellow sponsorship, with liberals like Senators Edward Kennedy and Gaylord Nelson joining conservatives like Senators John McClellan and Strom Thurmond, suggests that the new version has an excellent chance for passage by this Congress. Attorney General Griffin Bell is expected to

lend Administration support and the director of the Federal prison system, Norman Carlsen, will strongly back the parole reform in testimony later this week.

The legislation would establish a Federal Sentencing Commission, which would be instructed to develop and promulgate criminal sentencing guidelines for Federal judges. In most cases, these guidelines would make no provision for parole; instead, they would provide, say, "four to six years" for a specified crime.

For that crime, judges would then hand down a sentence within the specified range, stating in writing their reasons for the sentence selected. That sentence would have to be served in full, but the offender would know from the start precisely how long his term would be, and that it would be approximately the same as that of anyone else convicted of the same crime.

In some cases, the sentencing guidelines might provide, say, "four to six years, with parole after four." The offender still would know that he would be out in four years, assuming only his good conduct while in prison. He would not have to qualify in any other way, or persuade a parole board that he was "rehabilitated." Even if he got into disciplinary trouble while in prison, he would still know that he would get out in six years—a far cry from the broadly indeterminate sentences (such as four to twelve years) and the uncertainties and arbitrary decisions of today's parole system.

If a sentencing judge departed from the guidelines, he would have to state his reasons in writing and the offender could then obtain appellate review of the sentence—an important safeguard against the kind of sentencing inequities that are now commonplace.

Under this system, the Federal Parole Board would be almost entirely removed from the chancy business of determining when inmates should be released—functioning in that way only in cases where judges imposed a sentence within the guidelines but still indeterminate, such as "four to six years," with no mention of parole.

The Parole Board also would retain counseling functions for the relatively few inmates who would occasionally be paroled, as well as the power to return parole violators to prison for the remainder of their terms. For the most part, however, after the new system is phased in, Federal criminal offenders would serve fixed terms within the limits set by the guidelines.

The aim is not only to limit, without altogether removing, the sentencing discretion of judges. It is also to eliminate the uncertainties and inequities of Parole Board action, which are the cause of much hardship and bitterness among inmates; to reduce the necessity for judges and parole officers to "predict behavior," and to remove from inmates the burden of proving themselves "rehabilitated" to unsympathetic prison and parole officials.

The Sentencing Commission, moreover, would take the provision of sentences for crimes out of the hands of legislators, who tend to overreact to pressures from a frightened public. Thus, the makeup of the commission is crucial; S. 1437 now provides that it would be appointed by the Federal Judicial Conference, which might limit membership mostly to judges; and an effort will be made to insure a more varied commission by having it appointed at least partially by the President.

"De-criminalizing" the possession of small amounts of marijuana, another feature of the bill, may get more headlines; but the parole and sentencing reform—especially if emulated by the states—might prove the longest step yet toward a sensible and equitable American corrections system.

TUITION TAX CREDIT ACT

Mr. PACKWOOD. Mr. President, on Monday, Senator MOYNIHAN and I along with 41 other Senators introduced S. 2142, the Tuition Tax Credit Act of 1977. Since then, I am happy to report that similar legislation (H.R. 9332) has been introduced in the House of Representatives by Congressmen FRENZEL, RAILSBACK, and JAMES BURKE.

Mr. President, at this time, I would like to ask unanimous consent that the text of S. 2142 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tuition Tax Credit Act of 1977."

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the sum of the amounts paid by him during the taxable year to eligible educational institutions as tuition for the attendance of the taxpayer, of the taxpayer's spouse, or of any dependents with respect to whom he is entitled to a personal exemption under section 151(e).

"(b) LIMITATIONS.—

"(1) AMOUNT PER INDIVIDUAL.—The amount of the credit allowed under subsection (a) to all taxpayers for the taxable year with respect to amounts paid on behalf of any single individual as tuition shall not exceed $500.

"(2) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for the education of the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(3) PRORATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS TUITION.—If the tuition of an individual is paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) with respect to that individual shall be the same portion of the sum of the amounts of the credit of each such taxpayer with respect to that individual determined under subsection (a) (subject to the limitation of paragraph (1) which the amount of tuition of such individual paid by the taxpayer during the taxable year is of the total amount of the tuition of such individual paid by all taxpayers during the taxable year.

"(c) DEFINITIONS.—For the purpose of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTIONS.—The term 'eligible educational institution' means—

"(A) an institution of higher education;

"(B) a vocational school;

"(C) a secondary school; or

"(D) an elementary school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in sections 1201(a) and 491(b) of the Higher Education Act of 1965 and includes such similar institutions for graduate study as are certified by the Commissioner of Education for purposes of this section to the Secretary.

"(3) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational school as defined in section 195(2) of the Vocational Education Act of 1963 (as in effect on and after October 1, 1977).

"(4) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary school' and 'secondary school' mean, respectively, any elementary or secondary school (as defined in section 801 (c) and (h) of the Elementary and Secondary Education Act of 1965)—

"(A) of a local educational agency (as defined in section 801(f) of such Act); or

"(B) which is privately operated but only if it is—

"(i) accredited or approved under State law, and

"(ii) exempt from taxation under section 501(a) as an organization described in section 501(c)(3).

"(d) DISALLOWANCE OF EXPENSES AS SECTION 162 DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any tuition which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to any tuition incurred by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year."

(b) REFUND OF EXCESS CREDIT. (1) Section 6104(b) of such Code (relating to amount treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof", 43 (relating to earned income credit), and 44C (relating to tuition credit)", and

(B) by striking out "and 43," and inserting in lieu thereof", 43, and 44C,".

(2) Section 6201(a)(4) of such Code (relating to assessment authority) is amended—

(A) by striking out "39 and 43" in the caption and inserting in lieu thereof "39, 43, or 44C", and

(B) by striking out "or section 43 (relating to earned income)," and inserting in lieu thereof", section 43 (relating to earned income), or section 44C (relating to tuition credit),".

(c) The table of sections for such subpart is amended by inserting immediately before the item relating to section 45 the following:

"SEC. 44C. Taition.".

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after December 31, 1979.

SENATOR HOWARD CANNON SPEAKS ON AIRLINE REFORM TO THE NATION'S AIRPORT OPERATORS

Mr. KENNEDY. Mr. President, Senator HOWARD CANNON has been in the vanguard of the movement to modernize and reform the way in which the Federal Government regulates commercial airline service in the country. I have the privilege of cosponsoring with Senator CANNON the Airline Regulatory Reform Act of 1977 which has been the subject of extended consideration by the Senate Committee on Commerce, Science and Transportation. Under HOWARD CANNON's leadership, the committee has met on several occasions to decide the precise direction reform legislation should

take. His painstaking efforts have piloted the reform bill through the various markup sessions so that the legislation is now ready for final committee action.

Last week, Senator CANNON spoke about the legislation in his own hometown of Las Vegas, Nev. He spoke before a skeptical and questioning audience comprised of the Nation's airport operators. The Airport Operators Council International has followed the reform issue for several years. Senator CANNON's remarks to the airport operators deserve careful consideration by my colleagues, Mr. President. Senator CANNON explained how the proposed legislation will relax some of the stifling controls now imposed on airline pricing and market entry. These controls have restrained competition unnecessarily and have not benefited the country's travelers, airports or even the airlines themselves. It is interesting to point out that the Airport Operators Council International voted to endorse reform legislation shortly after considering Senator CANNON's statement on the Senate bill.

I ask unanimous consent for Senator CANNON's remarks to be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE REMARKS OF SENATOR HOWARD W. CANNON

It is a real pleasure to see and meet with the Nation's aviation leaders here in my own home town of Las Vegas today. I hope your visit here will be both instructive and entertaining.

As you know, the Congress is now in the last 30 days or so of the first session of the 95th Congress with a scheduled recess date for between the 8th and 22nd of October. In the field of aviation policy and law it has been a year of excitement, change, and for many, considerable concern. The year 1977 has seen the creation of a bold, new Civil Aeronautics Board which appears to be welcoming the challenges of the next decade in commercial air transportation. We have also seen a host of new policy makers take the stage in the executive branch of government following the Carter election victory and the change from a Republican to a Democratic Administration. The Nation, through a special Ambassador, has reached a far-reaching and in my opinion unsatisfactory bi-lateral air transport agreement with the United Kingdom which signals some major changes in both world and U.S. international aviation policy.

The airlines, enjoying robust traffic and strong vacation travel demand, have in many instances been acting as if the domestic air transportation system had been deregulated, due in part to the pressures imposed by the regulatory reform proposals to permit the carriers to compete in the arena of lower fares. A plethora of new low cost air fare experiments have been initiated in 1977, and in some of the major travel markets, prices have never been so low.

In Congress, the two Aviation Committees of the House and Senate have been moving ahead throughout the year developing major new legislation in the field of aircraft noise control and in the economic regulation of the airline industry.

In my own Subcommittee we have been developing, since April, a new piece of legislation designed to create a more competitive environment for air transportation services and to provide the airlines with a much greater degree of flexibility, absent regulatory constraints, in managing their own affairs. I would be less than honest if I said that getting this legislation out of Committee has not been a struggle.

The House Aviation Subcommittee has devoted nearly a year of effort to the question of revising U.S. law and policy on the aircraft noise question as well as holding preliminary hearings on the issue of regulatory reform. Both that committee and my own have also announced plans to begin an investigation into international aviation affairs because of interest developed after the U.S.-U.K. bi-lateral agreement. In short, it has been a busy and productive year with the foundation having been laid for important and far reaching changes in U.S. aviation policy.

I have devoted considerable effort to spearheading the Congressional interest in regulatory reform. When I addressed this group last fall, I outlined my views on the need for major changes in the airline regulatory structure. Since that time, after long hearings and considerable discussion in the Committee, we have developed a comprehensive piece of legislation for a phased and gradual relaxation of the airline regulatory structure. I am hopeful that our Committee will meet on Thursday to give the bill its final approval.

The key features of the new bill deal with entry into the airline business and pricing. On entry we have provided a formula for automatic market entry which will allow a phased, moderate approach for new entry with adequate protections against precipitous entry or against excessive entry on the system of the smaller air carriers.

As you have heard, many of the airlines have contended that the automatic entry feature of the bill would result in a dog-eat-dog world where carriers would seek to cut each other's throats on the dense routes while abandoning less traveled routes. They have also contended that traffic overall would diminish.

I believe the contrary is true. I believe, as do all the independent economists who have testified on this matter, that traffic under such a system will increase as new and existing carriers come up with innovative and low priced services that will attract a wider portion of the traveling public. In addition, I believe that the airlines will act as prudent businessmen in seeking to strengthen and round out their route structures in a businesslike way and they will not, willy-nilly, start flying all sorts of adventures which don't make business and competitive sense.

In the area of pricing, the airlines will have a pricing zone of freedom within which they make pricing decisions free of CAB intereference. The zone will extend 35 per cent below today's fares and up 5 percent.

In developing the final draft of this legislation we have been particularly mindful of the problems of airport operators and have worked with the AOCI staff in Washington to seek areas of compromise which will ease airoort concerns with the new regulatory structure.

I know one of your principal concerns has been that the federal preemption section of the new bill not affect or nullify the historical proprietor rights of airport operators. Working with Senator Ed Zorinsky of Nebraska and your staff we have fashioned new language making it clear that the federal preemption of economic regulation of the airlines will in no way diminish or obviate the proprietary rights of airport operators.

Another issue of concern to airport operators has been the dormant authority held by a number of airlines which often serves to prevent new air carrier services. While in general my bill provides very expedited procedures requiring the CAB to deal with dormant authority when applications are made, I will support an AOCI amendment which provides nearly automatic action on applications for new authority in markets which a carrier is serving on a monopoly basis or in markets where no service is being provided by any air carrier.

The question of air carrier exit has also concerned airport operators in that in some cases, service between two points might be suspended or abolished by an airline without any advance notice to the communities affected.

While under present law or regulation there is no requirement that the airlines give notice on schedule changes, I will agree to an amendment on exit which will require that if an airline proposes to abandon services between any two communities that it provide 60 days notice in advance to the CAB and the communities so that both will have an opportunity to seek replacement services by another air carrier.

The current draft bill contains extensive provisions for the guarantee and improvement of service to small communities. The bill creates a new class of certificated air carriers that will come from the ranks of today's commuter airlines. These carriers will be free of most of the restrictions which burden today's public convenience and necessity certificates, but these carriers will be limited to small—36 seat—aircraft. These new certificated airlines will, and I know this is important to airport operators who have seen commuters come and go in the past, be required to prove to the CAB that they are fit, willing, and able.

The bill will also change the federal subsidy system. Today's subsidy system provides funds based on the carriers system needs, rather than on the communities' needs. Under today's system, airlines are actually paid to provide scheduled service at midnight and 5 a.m. because that is the pattern which the airline wants to provide. Under the proposed bill's new subsidy system the CAB, community, and state will decide a community's essential air service needs, and subsidy will be provided if those needs cannot be met without federal payments. Subsidy will be provided based upon the needs of the individual community for good, reliable air service.

Subsidy will be paid under the proposed system for the operation of whatever size aircraft the CAB, community, and state determine is appropriate for that community.

Finally, all communities currently listed on a certificate will be guaranteed service for the next 10 years under this bill. In addition, new communities will be eligible for federal subsidy in appropriate instances. Compared to the record over the last 10 years in which our certificated airlines have deleted service to more than 70 cities, I find it difficult to swallow the carriers' claims that the regulatory reform bill would be disastrous for small community air service.

In short, I and the Committee have devoted a great deal of effort to solving the legitimate problems associated with a transition to less regulation and more airline initiative governed by market forces rather than regulatory forces. We believe we have achieved a fair and balanced bill which will provide for an orderly, methodical and well-timed transition to less regulation.

We feel that in particular we have been responsive to the problems and concerns expressed by airport operators, both big, medium and small. I know that in the past many of you have been either unwilling or uncomfortable in supporting regulatory reform, but I hope that now that we have put forth our best efforts to meet your concerns, you will join forces with us in seeking Senate passage of our bill. As you know, our opponents on many fronts have been focal and shrill in their opposition to new legislation because of unfounded fears or because they prefer the cozy predictability of regulation.

You as airport operators can do much to dispel the misinformation and sometimes hysteria that we have heard from communities across the nation as you are looked upon as the aviation experts at the local level. I hope that you will assist us as we have tried to assist you in moving to a more modern, a more fair and a more responsive air transportation system. I look forward to your help in assuring that the Senate pass a regulatory reform bill this year and I thank you very much for inviting me here to speak with you today.

MISS CONSERVATION FOR NORTHEAST IOWA

Mr. CULVER. Mr. President, over the last decade every American has become more aware of the strong need to have conservation of our natural resources play a key role in our way of life. Though we remain one of the most fortunate nations in the world, we now realize that our natural endowment is not infinite and that we must strive to live more in harmony with nature.

Many of my fellow Iowans have long felt that resource protection is among our highest priorities and one of the best known conservationists in Iowa today is Sara Smerud of New Albin. An exceptionally active individual who carries the unofficial title of "Miss Conservation for Northeast Iowa," Miss Smerud is deeply devoted to helping others as well as to her interest in conservation. In this regard, she has been past president of her county historical society, helped establish a nursing home in Lansing, Iowa, and is a member of the Iowa State Advisory Committee for Adult Education.

Miss Smerud, whom I have known for many years, believes that conservation is the "correct utilization of resources" and has been seriously promoting the need for sound conservation of our natural resources.

Mr. President, Sara Smerud is an outstanding citizen, and I wish to commend her for the active role she has undertaken to protect many of Iowa's beautiful and unique natural resources. The article in the Des Moines Register by Larry Stone describing her activities is a worthwhile testament to Sara Smerud's dedication, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"MISS CONSERVATION OF NORTHEAST IOWA"—SHE FIGHTS BACK

(By Larry Stone)

NEW ALBIN, IOWA.—Frustration. It's the conservationist's constant companion.

What word can better describe the feeling when one sees the loss of a wetland or other natural area before the march of "progress"?

Sara Smerud knows the feeling better than most. She regularly mourns the resource abuse occurring around her.

But Sara doesn't just grieve—she fights back. She knows the cause of the problem: Ignorance. She's convinced the cure is education.

"The more you learn about resource conservation the more you understand it and the more you love it, and the more it fits right in with your life," she said.

Sara has been learning about and understanding and loving her natural surroundings ever since she began fishing with her father and picking up Indian artifacts on his farm more than half a century ago.

Conservation now is such an inseparable part of her life that she's earned the unofficial title of "Miss Conservation for Northeast Iowa."

But her conservation work doesn't eliminate other interests, Sara notes. She's also a social worker, historian, mineralogist, amateur carpenter and foster parent. (Her foster son, Billy, 10, has lived with her for seven years. He's part Winnebago and Chippewa Indian.)

Officially, Sara is social worker for the Eastern Allamakee Community School District. But in that position she manages to "do a little bit of everything."

Her list of credentials in service to people and natural resources is so long as to be almost unwieldy:

Served on planning groups for the Upper Mississippi and Upper Iowa Rivers;

Worked (futilely) to establish Allamakee County Conservation Board;

Past president of county historical society;

Aided efforts to establish a nursing home in Lansing;

Vice-president of area association for handicapped;

Member of state advisory committee for adult education;

Established computerized list of resource people and places for teachers to use in conservation education;

Member of area consumer agency;

Member of recreation committee for regional planning commission;

Holds memberships in numerous education and conservation groups.

But Sara's behind-the-scenes efforts—writing letters, prodding government agencies, gathering information—probably contribute as much as her "official" duties.

"That's how a conservationist works—through every angle there is," she chuckled.

One "angle" Sara hopes to pursue is to persuade the school district to establish an outdoor education center. The school took a small step in that direction last year when an outdoor study area was set aside.

The one-acre tract had almost been abandoned to an adjoining farmer before Sara discovered the school owned it and convinced officials to preserve it.

Sara pleads for more money for environmental education and wishes for the day when conservation courses will be required for teachers and administrators to maintain certification.

She feels environmental education is being slighted.

"If we spent one-half the time on environmental education, with one-half the setup, that we spend on physical education, we'd have the problem licked," she declared.

But environmental education shouldn't just be tacked onto the curriculum, she cautioned. It should be integrated with other subjects, to stress its importance in everyday life.

When she talks of conservation, Sara is careful to talk of "correct utilization of resources" as opposed to strict preservation. But she also stresses the need for preservation in some cases.

"We've got to save some things, like our soil—every precious inch of it," she said.

Northeast Iowa's timber resources also must be protected, she said, though this does not preclude wise harvest.

The Mississippi River is especially dear to Sara's cause. The river valley in northeast Iowa is unique because it is a transition zone between several different ecosystems: northern and southern species overlap here as do eastern and western species.

The plants and animals also change from the river bottom to the bluff tops. The result, she said, is an incredible variety of plants and animals.

"The Upper Mississippi is a wilderness resource we should keep this way. I'd like to see it declared a national wilderness," she said.

She would not keep people out of the area, however.

"After all," she said, "the people are here, too.

"As far as I'm concerned, conservation is people living with the air and water and plants and animals. It doesn't do any good to lock it away."

Conservation is more than just preserving a natural area—it's also a lifestyle. And Sara lives conservation. She's of the don't-throw-anything-away ethic a trait that might relate to her upbringing with 10 brothers and sisters, when frugality was essential.

Sara yearns that the time will come again when people are frugal and share her concern for the environment, though she admits that day is still in the future.

"Sometimes people almost think I'm subversive when I suggest some of these things," she laughed. "Change is very, very slow."

But she's confident that environmental education will produce the change she's seeking.

"If you know it, you like it," she said, "and if you like it, you want to take care of it. You don't spoil the things you love."

HANDGUN CONTROL

Mr. KENNEDY. Mr. President, Nelson "Pete" Shields and his family have felt the pain caused by handgun violence. As a result of this personal tragedy, Pete organized the National Council to Control Handguns and has in a relatively short period of time enrolled a national "grassroots" membership of 11,000.

On Sunday evening, September 25, Pete Shields was featured on "Sixty Minutes" program on guns. Also, in the September 18, 1977, Parade magazine, there was an article on Pete. I believe that his story will be of interest to my colleagues and readers of the RECORD and I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE FATHER'S CRUSADE AGAINST HANDGUNS

(By Robert Bender)

Late one night in April 1974 someone fired a .32 caliber pistol and 22-year-old Nick Shields, a visitor to San Francisco, died. Like 21 other previous random targets of the city's Zebra Gang, he just happened to be in the wrong place at the wrong time.

"At first it was difficult to comprehend our loss," his father, Pete Shields, recalls. "Nick was so sensitive, so peaceful, so very special. How could such a thing have happened?"

In their grief Pete Shields and his wife Jane reacted much like other families struck by senseless tragedy. During the first bad days they considered how they could pick up the familiar pieces of their comfortable suburban lives again. The cocktail parties, the formal dinners and even the executive job with E. I. duPont in Wilmington, Del., became meaningless.

All the time the button-down businessman—his square name is Nelson T. Shields III, Hotchkiss School and Yale University—sat brooding about his son's death, he kept asking himself the same bleak question:

Why? Finally, he decided on a course of action.

If there was no really effective influential organization capable of waging a persuasive campaign for national handgun controls, then Pete Shields might do something about it himself. There wasn't. He did.

After discussing the matter with his family and friends, Shields went into the spare-time business of lobbying for hard-hitting federal handgun legislation. Operating out of a little office in Washington, D.C., strapped for money, its goals far beyond the capacity of limited personnel, the National Council to Control Handguns (NCCH) was emphatically in business all the same.

"It was a beginning," Shields said not long ago. "It was only a beginning—nothing more. But we were marketing a concept the great majority of Americans agree with."

In letters and pamphlets, in speeches and radio appearances, the 53-year-old Shields and a growing number of converts hit the same powerful notes: well over a million handguns are manufactured in America every year, more than 40 million handguns are in our homes and on the streets, handguns account for more than half the nation's murders. Yet we remain the only developed country without an effective national handgun control law, despite a hodge-podge of some 20,000 city and state statutes.

"It's not long guns we're rallying against, remember," Shields says. "After all, I'm a hunter with three shotguns. Nick had a merit badge in marksmanship. We, all of us, are working to bring some realistic controls to the sale of handguns—cheap, available over-the-counter in many parts of America, easy to conceal, pocket-sized murder machines."

GAINS SUPPORT

After only a few months the potluck lobby began to pick up grass-roots support. A Chicago man signed up 12 friends for membership at dues of $15 a year. In Baltimore a mother whose son was murdered offered to join the staff as an unpaid volunteer. In California an elderly couple went right through the Congressional Directory writing persuasive letters to Representatives and Senators. And two women raised more than $10,000 in contributions.

Meanwhile, Shields realized that it wasn't enough merely to take an unpaid leave of absence from his $40,000 a year job as marketing manager for duPont. Once he saw the potential of the movement he left the company.

NEW LIFE-STYLE

Forced to live almost entirely on savings, Shields, a wartime Navy fighter pilot, resigned from the country club, cut back on dinner parties and other entertainment, took the family on modest vacations instead of holidays abroad. If his wife and three surviving children ever felt short-changed, they never showed it.

For all his interviews, his talks with people in government, and speeches, however, Shields saw that what was essentially a one-man band wasn't sufficient—especially with the powerful, well-financed National Rifle Association (NRA) beginning to take notice of his efforts. So the letterhead of the National Council to Control Handguns filled with names of prominent directors, advisers and sponsors: Dr. Milton Eisenhower, Arthur Ashe, former Gov. Pat Brown of California, William Ruckelshaus, Ann Landers, Will Rogers Jr., Steve Allen, Margaret Mead, Neil Simon, and former police commissioners of Boston and New York City.

The council stepped up its fund-raising and recruiting efforts, scheduled more and more close-up meetings with executives from the White House, the Treasury and Justice Departments. The crusade gained momentum.

The number of dues-paying Americans signed up at last count came to more than 11,000, which exceeds the most optimistic early forecasts. Better still, new members are now coming in at a rate of 500 each week.

STAFF OF FIVE

Shields, who now has a total staff of five, works with missionary zeal. Fortified with an abundance of alarming facts and figures—another new handgun is sold in America every 13 seconds, for example—he is willing to speak wherever he can draw a crowd. And he often reaches an eloquence that touches the nerve ends.

Hear him: "An 8-year-old girl was shot dead with a handgun because she refused to come down out of someone's peach tree. A man with a .45 caliber killed two men trying to lift his television set. Was a trespass worth an 8-year-old's life? Was a TV worth two lives?

"But death need not be just an ending." Shields paused briefly. "To me, it can be and has been a beginning. In contrast to many, Nick's death acted to catalyze a complete change in my life. I didn't bury my feelings with the dead. Instead I went public with our loss—to make it America's loss, in the hope that through this I might reduce the probability of some other young man suffering his same fate."

What Shields and his grass-roots lobby eventually want are federal laws that will restrict the possession of handguns to police, the military, licensed security guards, licensed pistol clubs and registered collectors. Yet he has scaled that long-term dream down to realistic dimensions by campaigning for more modest interim objectives.

Generally, he favors any measures that will slow down the increasing number of handguns being produced, assembled and sold in America. Specifically, he wants national registration of handguns, a ban on multiple sales to individuals, tough screening procedures for every purchaser.

REVERSE THE TREND

Nobody, not even Shields, is under any illusion that legislation will magically keep criminals from acquiring guns. He is sure, however, that "effective new laws can reverse the trend" of a serious national problem.

While the NCCH's goal is to create a national climate favorable to such legislation, it already has helped bring about two dramatic victories. It was a major factor in a handgun control bill passed by the House Judiciary Committee in the last session of Congress—and it defeated the NRA in court in defending the constitutionality of handgun control legislation in the District of Columbia.

The growing impact of Shields and his lobby has not been lost on bureaucrats and elected officials. White House aides are working closely with NCCH people, while an encouraging number of legislators are considering how forceful a law can be put to Congress.

"Your organizational efforts of a national constituency for handgun control will go far to help fill the void that has been a hindrance to positive legislative efforts," Sen. Edward M. Kennedy wrote Shields recently.

Meanwhile, an increasing volume of material pours out of Shields' small office at 810 18th Street N.W. in Washington. He emphasizes that handguns are used in 150,000 robberies, 100,000 serious assaults and nobody knows how many accidental deaths—loved ones mistaken for prowlers, children who find loaded guns in bureau drawers—every year.

Progress? Yes and no. Pete Shields is pleased at how well his campaign has done, frustrated that it hasn't done better still. But he's optimistic about the future and proud of his role.

"This wasn't intended as a memorial to my son," he says. "But if some people want to look at it that way, well, I can't think of a finer tribute to our Nick."

NATIONAL SCIENCE FOUNDATION

Mr. KENNEDY. Mr. President, as chairman of the Subcommittee on Health and Scientific Research, it is my view that these candidates are well qualified for the positions to which they have been nominated. I have reviewed the materials they submitted to the Committee on Human Resources, together with their past records.

I have also contacted a number of scientists and representatives of institutions which will be directly affected by the policies the nominees will develop. There is enthusiastic agreement that they come to the Foundation with unquestioned professional credentials and with a fresh perspective on the programs they will direct.

It is my further understanding that the nominees were selected with the full participation of the National Science Board, the Director of the Foundation, and the Director of the Office of Science and Technology Policy. This coordinated approach is an important step toward the development of a coherent Federal policy for science and technology.

I believe this approach will serve the best interests, not only of the Nation's scientists and engineers, but of all our citizens who will be affected by the policies and programs in which the Federal Government plays such an important role.

I recommend their confirmation and look forward to working closely with the nominees throughout their tenure at the Foundation.

KISSINGER ON FOREIGN POLICY

Mr. PERCY. Mr. President, on September 19, 1977, at New York University, former Secretary of State Henry A. Kissinger delivered an important and thought-provoking speech entitled "Continuity and Change in American Foreign Policy." His comments on the relationship between human rights and foreign policy are of special interest and are worthy of careful study by all who are interested in American foreign policy.

I ask unanimous consent that the text of Dr. Kissinger's speech be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Distinguished guests, ladies and gentlemen: Your request that I deliver a "major appraisal" of current American foreign policy presents me with a dilemma—a difficult choice between your interest in the subject on the one hand and the imperatives of responsibility on the other. Despite my notorious humility, it would be tempting for me to speculate with you about how I might have dealt with this or that tactical situation if I had been in office these past eight months. But those who have borne the responsibility of high office know too well the complexities, the ambiguities and the anguish of charting our nation's course in a turbulent period. The new Administration deserves the opportunity to develop its policies without harassment or second-guessing. Eight months is after all but an instant in the life of nations.

President Carter and Secretary of State Vance are on the verge of several weeks of delicate and important negotiations—with the Soviet Union on strategic arms limitation, with the Middle East foreign ministers on peace in that crucial area, and with other leaders attending the United Nations General Assembly on a variety of complex issues. The hopes of all Americans go with them. The success of the Administration in promoting peace and progress will be a success for the nation. Any setbacks of the Administration would affect the lives and prosperity of all Americans. When a performer is taking careful and complicated steps on a high wire, it is profoundly inappropriate, not to say dangerous, for a spectator in a seat far below to shout at him that he is putting his toe in the wrong place.

So I would like to speak to you today about some of the philosophical underpinnings from which tactical decisions derive: the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage.

THE NATURE OF BIPARTISANSHIP

The world marvels at America's extraordinary rebound from the agony of Vietnam and the constitutional crisis of Watergate. We have emerged from these traumas with our democratic institutions flourishing, our public debates vigorous, our economy expanding, our pride in our country intact. Our friends around the world were heartened by this, for they know better perhaps even than we do how vital a stake they have in America's confident leadership.

That leadership is not—nor should it be—the esoteric concern of specialists; it is the means by which the nation serves its interests and pursues its highest goals and it affects all other nations. For thirty years the world balance of power, the cohesion of the democracies, the health of the world economy, the prospects for growth in Africa, Asia and Latin America, and the hopes for freedom everywhere have been sustained by the United States.

We have learned through many crises that upheavals thousands of miles away can threaten American lives or jeopardize American prosperity. The 1973 Middle East war ultimately forced us into a military alert. The oil embargo, lasting six months, cost half a million jobs and ten billion dollars in national output; it set the stage for a serious recession, in this country and worldwide. And the abrupt quadrupling of oil prices which followed added at least five percentage points to the price index, contributing to our worst inflation since World War II. We have not yet returned to the high growth rate and relatively low inflation which we enjoyed before 1973.

Now that the bitter passions of the foreign policy debate of the last ten years are hopefully behind us, it is time for thoughtful deliberation on what are, or should be, our basic premises about the world in which we find ourselves today.

Our foreign policy difficulties are often described as the legacy of Vietnam. But the Vietnam ordeal was not a cause but a symptom. The late 1960's, coinciding with Vietnam, marked the end of the period when America was overwhelmingly more powerful than any other nation, when we could assault problems alone and entirely with our own resources, when American initiatives were accepted without serious debate, when we could believe that our own domestic experiences, like the New Deal, were the automatic blueprint for economic development and political progress abroad. It marked above all the end of the era when we could imagine that any problem could be resolved once and for all and that solutions once achieved would permit us to end our international exertions.

Vietnam was a catharsis. It taught us that our power while great is finite, that our influence though crucial can be effective only if we understand our priorities and the world in which we live.

For a century and a half geography and resources combined to give us the luxury of waiting until threats became almost overwhelming before we committed ourselves. We always had the opportunity to compensate for our tardy involvement by the massive deployment of physical power. We could largely leave to others the burden of the day-to-day decisions that over time spelled war or peace, security or fear, for the global system and even for ourselves. We were spared the continuing agony of inescapable decisions that other nations always faced to assure their survival and their values. More than any other nation in history, we could avoid the dilemma of reconciling the ideal with the practical, of accommodating to limited means and contingent ends.

The post-World War II era was a remarkably creative period of American foreign policy. But our initiatives were explicitly justified as temporary measures to restore an underlying equilibrium. The Marshall Plan, our alliance commitments overseas, our international economic programs were all conceived as dealing with temporary emergencies which once overcome would excuse us from permanent direct involvement abroad.

The world of today is not the world of a generation ago. Geography no longer assures security. The American nuclear monopoly has given way to nuclear balance and to proliferating weapons capabilities. The United States is now as vulnerable as any other nation; indeed nuclear weapons confront all peoples everywhere with a threat to their survival unknown to any previous generation.

The world economy has become interdependent; our prosperity is to some extent hostage to the decisions on raw materials, prices and investment in distant countries whose purposes are not necessarily compatible with ours.

And the structure of relations between nations has fundamentally altered. In 1945, fifty-one nations joined to create the United Nations; today it comprises nearly 150 nations—many ideologically hostile. Just as two world wars shattered the Europe-oriented order of the last two centuries, so the postwar system of Cold War bipolarity has come apart—and a new pattern of world order must be shaped to take its place.

An increasing responsibility has fallen upon the United States. Without our commitment to international security, there can be no stable peace; without our constructive participation in the world economy there can be no hope for economic progress without our dedication to human liberty the prospect of freedom in the world is dim indeed.

For the first time in American history we can neither dominate the world nor escape from it. Henceforth this country will be engaged in world affairs by reality and not by choice. America must now learn to conduct foreign policy as other nations have had to conduct it—with patience, subtlety, imagination, and perseverance.

The most fundamental challenge is thus not to our physical resources but to our constancy of purpose and our philosophical perception. Precisely because we can no longer wait for dangers to become overwhelming, they will appear ambiguous when they are still manageable. The case for ratifying the Panama Canal Treaties, for example, is not an immediate present danger in Panama but the need to forestall a united front of all the countries of Latin America against what they consider an American attempt to maintain inequity by force. The issue in Angola two years ago was not a direct threat to our security, but the long-term danger of allowing Soviet surrogate forces to intervene globally to tip the scales in local conflicts. The argument for a forthcoming American attitude in the North-South Dialogue is not to yield to the admittedly limited strength of the less-developed nations but to prevent the polarization of the world into a small minority of the rich isolated in an ocean of poverty and resentment.

It is a paradox of the contemporary world that if we wait until these dangers become realities we will lose the chance to do anything about them. At the moment when we still have great scope for creativity the facts are likely to be unclear or ambiguous. When we know all the facts, it is often too late to act. This is the dilemma of statesmanship of a country that is irrevocably engaged in world affairs—and particularly of one that seeks to lead.

America, therefore, can no longer afford the luxury of oscillating as it once did between brooding isolation and crusading intervention. Our biggest foreign policy challenge is to shape a concept of our international role that the American people will support over the long term; we must avoid dramatic swings between exuberance and abdiction. Our responsibility is unending; our accomplishments are likely to be ever-tenuous. We must change our approach to international affairs from the episodic to the permanent; from the belief in final answers to the realization that each "solution" is only an admission ticket to a new set of problems.

In such an environment the conduct of foreign policy requires a fine balance between continuity and change. This is not easy for our democracy. Our two-party system, our constitutionally mandated balancing and separation of powers, our open political process create temptations for the simplified answer, the nostalgic withdrawal, or the moralistic sense of superiority.

Yet this free and open political process is also our greatest source of strength. The alternation of parties in office by free elections guarantees constant renewal, the infusion of fresh ideas and new blood into our national life. It presents a striking contrast with the gerontocracies that run the Communist world. These systems have no lawful regular process for replacing leaders; it is no coincidence that the stagnation of their ageing leadership goes hand in hand with plodding bureaucracy and intellectual sterility, punctuated by periodic crises over succession.

The problem which our society faces is on the whole a far happier one. Insuring continuity amidst the constant process of renewal turns bipartisanship from a slogan into an imperative.

To be sure, all Administrations sooner or later appeal to the spirit of bipartisanship. This is partly because they come to share much the same perception of the nation's permanent interests as their predecessors and partly because bipartisanship can be a useful shield against excessive criticism. There is a natural tendency for the party in power to consider any criticism as excessive. I know these tendencies from experience, having indulged them myself. But the fact that there are also tactical benefits to the appeal to bipartisanship does not change the reality that to the world at large we are one nation which can have only one government.

And we are not just any nation. Our country cannot uproot its whole foreign policy every four or eight years—or imply that it is doing so—or else America will itself become a major factor of instability in the world. We must understand that foreign leaders who design their programs around our policies are staking their domestic posi-

tions on our constancy. Radical shifts in our course inevitably affect the stability of especially friendly governments. If these changes are seen to occur largely for domestic effect, if our elections come to determine as well the stability of foreign governments, no nation that has a choice will readily cooperate with us.

Of course a foreign policy that stresses continuity above all else would be stultifying and would in time be overwhelmed by events. A new Administration is obviously not elected to carry out all the policies of its predecessor. But change in our policy should be seen as reflecting new circumstances and not change for its own sake. By the same token, critics have an obligation to see to it that our foreign policy debates reflect disagreements on major substance, not a quest for partisan advantage or tactical second-guessing.

If our foreign policy is well conceived, it must reflect fundamental national purposes and not personal idiosyncrasy. Neither the Administration nor the opposition should nurture differences to score debating points. Both have an obligation to make clear that our foreign policy is a shared national enterprise. I might add parenthetically that bipartisanship would come easier if each new Administration resisted the quadrennial temptation of implying that conceptual insight, creativity and moral awareness begin anew every four years on January 20. Nor should history be rewritten in ways more suitable to faculty debates than to serious national dialogue.

The Administration, when it pursues the national interest, is entitled to the full measure of support from all who cherish the future of the country. For its challenges are great. The new Administration assumed responsibility when hopeful progress was being made in most areas of foreign policy—the Middle East, SALT, relations with both the industrialized and the developing world. But it faces a tremendous task in each, and in continuing to shape the new international order. We are on a journey no single Administration can possibly complete, whose beginning is an understanding of reality and whose goal is a better and more peaceful life for future generations.

MORALITY AND PRAGMATISM IN AMERICAN FOREIGN POLICY

In this spirit, I would now like to turn to one of the basic challenges of foreign policy, the perennial tension between morality and pragmatism. Whenever it has been forced to wield its great power, America has also been driven to search its conscience: How does our foreign policy serve moral ends? How can America carry out its role as humane example and champion of justice in a world in which power is still often the final arbiter? How do we reconcile ends and means, principle and survival? How do we keep secure both our existence and our values? These have been the moral and intellectual dilemmas of the United States for two hundred years.

From the time of the Declaration of our Independence, Americans have believed that this country has a moral significance for the world. The United States was created as a conscious act by men and women dedicated to a set of political and ethical principles they held to be of universal meaning. Small wonder, then, that Santayana declared that "being an American is, of itself, almost a moral condition."

At the same time, since Tocqueville, it has been observed that we are a pragmatic people, commonsensical, undogmatic, undoctrinaire—a nation with a permanent bent to the practical and an instinct for what works. We have defined our basic goals—justice, freedom, equality, and progress—in open and libertarian terms, seeking to enlarge opportunity and the human spirit rather than to coerce a uniform standard of behavior or a common code of doctrine and belief.

This duality of our nature is *not* at war with reality. For in international politics, our morality and power should not be antithetical. Any serious foreign policy must begin with the need for survival. And survival has its practical necessities. A nation does not willingly delegate control over its future. For a great power to remit its security to the mercy of others is an abdication of foreign policy. All serious foreign policy therefore begins with maintaining a balance of power—a scope for action, a capacity to affect events and conditions. Without that capacity a nation is reduced to striking empty poses.

But equally, our nation cannot rest its policy on power alone. Our tradition and the values of our people ensure that a policy that seeks only to manipulate force would lack all conviction, consistency, and public support.

This is why America has been most successful in our relations with the world when we combined our idealism and our pragmatism—from the days when our Founding Fathers manipulated the monarchical rivalries of Europe to secure our independence and launch the great democratic experiment to the creative American initiatives after the Second World War such as the Marshall Plan. Our modern efforts to achieve strategic arms limitation, peace in the Middle East and Southern Africa, the opening to China, recasting international economic relations based on the principle of interdependence—have also served both moral and practical ends and can be sustained only by a combination of moral conviction and practical wisdom.

THE ISSUE OF HUMAN RIGHTS

These considerations come to bear powerfully on the question of the relationship between human rights and foreign policy. The world needs to know what this country stands for. But we cannot rest on this; we must know how to implement our convictions and achieve an enhancement of human rights together with other national objectives.

Neither the issue nor the concern are new: It was under the two previous Administrations that Jewish emigration from the Soviet Union was raised from 400 a year in 1968 to 35,000 by 1973. This resulted from a deliberate policy, as a concomitant to the process of improving US-Soviet relations.

The release of the courageous Soviet dissident Bukovsky in exchange for the Chilean Communist leader imprisoned in Chile was arranged in 1976 through American intercession. It was but one of many such acts which were not publicized in order to be able to continue to assist hardship cases.

American diplomatic action in the same period brought about the release of hundreds of prisoners from jails all over the world.

American foreign policy of the past decade helped enshrine basic principles of human rights in the Final Act of the Helsinki Conference on Security and Cooperation in Europe—providing the indispensable political and legal basis for pursuing the issue of human rights in East-West relations.

We also worked to improve the efforts of the United Nations Human Rights Commission; to upgrade the Commission on Human Rights of the Organization of American States. Common human rights policies were forged with the other democracies, and steps were taken to improve the institutional response of the international system to the challenge of human rights.

The accomplishment of the new Administration is not that it originated the concern with human rights but that free of the legacy of Vietnam and Watergate it has seized the opportunity to endow the policy with a more explicit formulation. The aim of the Carter Administration has been to give the American people, after the traumas of Vietnam and Watergate, a renewed sense of the basic decency of this country, so that they may continue to have the pride and self-confidence to remain actively involved in the world.

Having had to conduct American foreign policy in a period of national division and self-flagellation, I applaud and support this objective. The President has tapped a wellspring of American patriotism, idealism, unity, and commitment which are vital to our country and to the world. He has focused public concern on one of the greatest blights of our time.

The modern age has brought undreamt-of benefits to mankind—in medicine, in scientific and technological advance, and in communication. But the modern age has also spawned new tools of oppression and of civil strife. Terrorism and bitter ideological contention have weakened bonds of social cohesion; the yearning for order even at the expense of liberty has resulted all to often in the violation of fundamental standards of human decency.

The central moral problem of government has always been to strike a just and effective balance between freedom and authority. When freedom degenerates into anarchy, the human personality becomes subject to arbitrary, brutal, and capricious forces—witness aberrations of terrorism in even the most humane societies. Yet when the demand for order overrides all other considerations, man becomes a means and not an end, a tool of impersonal machinery. Human rights are the very essence of a meaningful life, and human dignity is the ultimate purpose of civil government. Respect for the rights of man is written into the founding documents of almost every nation of the world. It has long been part of the common speech and daily lives of our citizens.

The obscene and atrocious acts systematically employed to devalue, debase, and destroy man during World War II vividly and ineradicably impressed on the world the enormity of the challenge to human rights. It was to end such abuses and to provide moral authority in international affairs that new institutions and legal standards were forged after that war—globally in the United Nations and in this hemisphere in a strengthened inter-American system.

The fact remains that continuing practices of intimidation, terror, and brutality, fostered sometimes from outside national territories and sometimes from inside, mark the distance yet to be travelled before the community of nations can claim that it is truly civilized. This is why the distinguished junior Senator from New York, Senator Moynihan, is surely right in stressing that human rights should be not simply a humanitarian program but a political component of American foreign policy.

For the difference between freedom and totalitarianism is not transient or incidental; it is a moral conflict, of fundamental historical proportions, which gives the modern age its special meaning and peril. Our defense of human rights reminds us of the fundamental reason that our competition with totalitarian systems is vital to the cause of mankind. There is no reason for us to accept the hypocritical double standard increasingly prevalent in the United Nations where petty tyrannies berate us for our alleged moral shortcomings. On this issue we are not—and have no reason to be—on the defensive. "The cause of human liberty," the poet Archibald MacLeish has written, "is now the one great revolutionary cause. . ."

And yet, while human rights must be an essential component of our foreign policy, to pursue it effectively over the long term we must take the measure of the dangers and dilemmas along the way.

First, any foreign policy must ultimately

be judged by its operational results. "In foreign relations," Walter Lippmann once wrote, "as in all other relations, a policy has been formed only when commitments and power have been brought into balance."

To be sure, the advocacy of human rights has in itself a political and even strategic significance. But in the final reckoning more than advocacy will be counted. If we universalize our human rights policy, applying it undiscriminatingly and literally to all countries, we run the risk of becoming the world's policeman—an objective the American people may not support. At a minimum we will have to answer what may be the question for several friendly governments: How and to what extent we will support them if they get into difficulties by following our maxims. And we will have to indicate what sanctions we will apply to less well-disposed governments which challenge the very precepts of our policy.

If, on the other hand, we confine ourselves to proclaiming objectives that are not translated into concrete actions and specific results, we run the risk of demonstrating that we are impotent and of evoking a sense of betrayal among those our human rights policy seeks to help. Such a course could tempt unfriendly governments to crack down all the harder on their dissidents, in order to demonstrate the futility of our proclamations—this indeed has already happened to some extent in the Soviet Union.

Nor can we escape from the dilemma by asserting that there is no connection between human rights behavior and our attitude on other foreign policy problems—by "unlinking," as the technical phrase goes, human rights from other issues. For this implies that there is no cost or consequence to the violation of human rights, turning our proclamation of human rights into a liturgical theme—decoupled, unenforced, and compromised. Or else we will insist on our values only against weaker countries, in Latin America or Asia, many of which may even be conducting foreign policies supportive of our own. This would lead to the paradox that the weaker the nation and the less its importance on the international scene, the firmer and more uncompromising would be our human rights posture.

Second, precisely because human rights advocacy is a powerful political weapon we must be careful that in its application we do not erode all moral dividing lines. We must understand the difference between governments making universal ideological claims and countries which do not observe all democratic practices—either because of domestic turmoil, foreign danger, or national traditions—but which make no claim to historical permanence or universal relevance. In the contemporary world it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men.

In recent decades, no totalitarian regime has ever evolved into a democracy. Several authoritarian regimes—such as Spain, Greece and Portugal—have done so. We must therefore maintain the moral distinction between aggressive totalitarianism and other governments which with all their imperfections are trying to resist foreign pressures or subversion and which thereby help preserve the balance of power in behalf of all free peoples. Our human rights policy owes special consideration to the particular international and domestic setting of governments important to our security and supportive of free world security interests. There are, of course, some transgressions of human rights which no necessity—real or imagined—can justify. But there are also realities in the threats nations face, either from terrorism at home such as in Argentina or aggression across borders such as Iran or Korea. And we must keep in mind that the alternative to some governments that resist totalitarianism with authoritarian methods may not be greater democracy and an enhancement of human rights but the advent of even more repression, more brutality, more suffering. The ultimate irony would be a posture of resignation towards totalitarian states and harassment of those who would be our friends and who have every prospect of evolving in a more humane direction.

We must take care, finally, that our affirmation of human rights is not manipulated by our political adversaries to isolate countries whose security is important for the future of freedom, even if their domestic practices fall short of our maxims. The memberships of the UN Human Rights Commission, composed as it is of a number of nations with extremely dubious human rights practices, does not augur well for an objective approach to this issue in the United Nations. Cuba and other Communist governments as well as the more repressive regimes of the less developed world have no moral standing to bring other nations to international account. We should not hesitate to say so.

Third, there is the ominous prospect that the issue of human rights if not handled with great wisdom could unleash new forces of American isolationism. This could defeat the Administration's goal of using it to mobilize support for continued American involvement in world affairs. That the human rights issue could develop a life of its own, regardless of the Administration's prudent sense of its aims and limits, is already evident from some developments in the Congress.

A distorted or misunderstood human rights policy can become the basis and justification of a modern isolationism. What appeals to many as a useful impetus to resistance to the Communist challenge can be used by others to erase all the distinctions between totalitarians and those that resist them, to induce indifference to European Communist Parties' accession to power, or to disrupt security relationships which are essential to maintaining the geopolitical balance. Excuses can be found to deny help to almost any friendly country at the precise moment when it faces its most serious external challenge. If conservatives succeed in unravelling ties with nations on the left and liberals block relations with nations on the right, we could find ourselves with no constructive foreign relations at all, except with a handful of industrial democracies. The end result ironically could be the irrelevance of the United States to other nations of the world. A policy of moral advocacy that led to American abdication would surely condemn countless millions to greater suffering, danger or despair.

Fourth and most fundamentally, we should never forget that the key to successful foreign policy is a sense of proportion. Some of the most serious errors of our foreign policy, both of overcommitment and withdrawal, have occurred when we lost the sense of balance between our interests and our ideals. It was under the banners of moralistic slogans a decade and a half ago that we launched adventures that divided our country and undermined our international position. A few years later young people were parading in front of the White House carrying coffins and candles and accusing their government of loving war; the national leadership was denounced as excessively, indeed imperialistically, involved in the internal affairs of other nations. A few years later still, the government was attacked for sacrificing our ethical values on the altar of détente and being insufficiently concerned with the domestic behavior of other nations. Neither we nor the rest of the world can any longer afford such extreme fluctuations.

Human rights policy in this period of American responsibility must strengthen the steady purpose and responsible involvement of the American people. It can do so only if it is presented in the context of a realistic assessment of world affairs and not as the magic cure for the difficulties and shortcomings of mankind's contemporary experience.

The Administration is surely right in insisting that human rights is a legitimate and recognized subject of international discourse; it is an object of international legal standards—importantly as a result of American initiatives by Administrations of both parties. At the same time we must recognize that we serve the cause of freedom also by strengthening international security and maintaining ties with other countries defending their independence against external aggression and struggling to overcome poverty, even if their internal structures differ from ours.

We cannot afford to subordinate either concern to the other. Morality without security is ineffectual; security without morality is empty. To establish the relationship and proportion between these goals is perhaps the most profound challenge before our government and our nation.

There is every indication that within the Administration rhetoric and capacity for action are being brought increasingly into balance. In an important speech in Athens, Georgia on April 30, 1977, Secretary Vance has wisely pointed out that "a decision whether and how to act in the cause of human rights is a matter for informed and careful judgment. No mechanistic formula produces an automatic answer."

THE LINKAGE OF FOREIGN POLICY ISSUES

The inescapable relationship of our human rights objectives with other foreign policy goals is an example of a broader, virtually universal phenomenon of our contemporary world. Foreign policy issues are interrelated—"linked"—as never before. A consistent, coherent and moral foreign policy must be grounded in an understanding of the world in which we pursue our goals.

The concept of linkage—the suggestion that we should design and manage our policy with a clear understanding of how changes in one part of the international system affect other parts—was first put forth in 1969 in the context of US-Soviet affairs. We proceeded from the premise that to separate issues into distinct compartments would encourage the Soviet leaders to believe that they could reap the benefits of cooperation in one area, using it as a safety valve, while striving for unilateral advantages elsewhere. We considered this a formula for disaster.

So strong is the pragmatic tradition of American political thought that linkage was widely debated as if it were an idiosyncrasy of a particular group of policy makers who chose this approach by an act of will.

But linkage comes in two forms: first, when policymakers relate two separate objectives in negotiations, using one as pressure on the other; or by virtue of reality, because in an interdependent world the actions of a major power are inevitably interrelated and have consequences beyond the issue or region immediately concerned.

Of these two concepts of linkage, the latter is by far the more important. It says, in effect, that significant changes of policy or behavior in one region or on one issue inevitably affect other and wider concerns.

Our policy toward the Soviet Union cannot be treated in isolation from our relations with China; our relations with China, in turn, cannot be effective except to the extent that we maintain the geopolitical balance around the world, by which the People's Republic of China measures our ultimate relevance. Displays of American impotence in one part of the world, such as Southeast Asia or Africa, have a direct effect on our credibility in other parts of the world, such as the Middle East. Our policy toward Rhodesia and Namibia will inevitably deter-

mine the prospects of a peaceful evolution in South Africa, and vice versa. Our posture toward Korea cannot be separated from our interests in Japan and China, and the measures we adopt for one inevitably affect the other. The decision on the B-1 bomber resulted from complex and painful budgetary and technical considerations. I am not here arguing the merits of these considerations, but in the context of the Strategic Arms Limitation talks, the B-1 bomber decision did represent a unilateral unreciprocated concession. Finally, either our human rights policy has relevance to other areas of national policy—or it has no meaning at all.

Perception of linkage is, in short, synonymous with an overall strategic view. We ignore it only at our peril. It is inherent in the real world. The interrelationship of our interests, acoss issues and boundaries, exists regardless of the accidents of time or personality; it is not a matter of decision or will but of reality. And it cannot be ended by an act of policy. If we are to have a permanent conception of American foreign policy there must be an appreciation of the fact that merits of individual actions can be judged only on a wider canvas.

As you know I strongly support President Carter in his fight for ratification of the Panama Canal Treaties. I do so on their merits but also because of the profound consequences of a failure to ratify far beyond Panama. A defeat of the treaties would weaken the President's international authority at the beginning of his term. It would suggest to friends and foes around the world that the United States could not deliver on an agreement negotiated by four Presidents of both political parties over a period of thirteen years, that it could not perceive its own interests in Western Hemisphere cooperation, and that shifting emotions and institutional stalemates produced erratic behavior in the most powerful country in the world.

Linkage is not a natural concept for Americans, who have traditionally perceived foreign policy as an episodic enterprise. Our bureaucratic organization, divided into regional and functional bureaus, and indeed our academic tradition of specialization, compound this tendency to compartmentalization. And American pragmatism produces a penchant for examining issues separately: to deal with issues individually as if they existed as abstractions without the patience, timing, or sense of political complexity which are so often vital to their achievement; to display our morality in the proclamation of objectives rather than in a commitment to the operational consequences of our actions in an inherently ambiguous environment.

A recognition of the importance of linkage—of the significance and role of the strategic vision to our future foreign policy—thus brings us back to where we began—to the need for patience, continuity, and, above all, for national unity in the conduct of international affairs. This responsibility must be shared by the Administration, the opposition, and the public. Modern foreign policy, by its very complexity, does not lend itself to instant successes. In domestic affairs the timeframe of new departures is defined by the legislative process; dramatic initiatives may be the only way to launch a new program. In foreign policy the most important initiatives require painstaking preparation; results may be months and years in becoming apparent.

Therefore, we should not demand of the new Administration instant results or an unbroken string of early successes; nor should the Administration seek such goals if it wishes to avoid a series of stalemates or worse. Foreign policy, if it is to be truly an architectural endeavor, is the art of building for the long term, the careful nurturing of relationships, the elaboration of policies that enhance our options and constrain those of potential opponents. It requires the coherence that can only come from national unity, a strong leadership and a political process that reflects the recognition that we are all—the Administration as well as its opponents—part of a permanent national endeavor.

This country has no greater contribution to make in the service of its ideals than to help the world find its way from an era of fear into a time of hope. With our old idealism and our new maturity, we have the opportunity to fulfill the hopes as well as the necessities of a peaceful world. A century ago, Abraham Lincoln proclaimed that no nation could long endure "half slave and half free" and stirred the conscience of the nation. With a combination of lofty idealism and tough pragmatism, he saved the freedom of this nation. With a similar dedication—in a world that is "half slave and half free"—we in this era can be the champion and defender of the cause of liberty.

CRUDE OIL TAX

Mr. CURTIS. Mr. President, I ask unanimous consent that an article and an editorial that appeared in the Wall Street Journal on September 28, 1977, be printed at the end of my remarks.

There being no objection, the editorial was ordered to be printed.

(See exhibit 1.)

Mr. President, the article, authored by Mr. Charles E. Phelps and Mr. Rodney T. Smith, economists with the Rand Corp., points up the basic flaw in Mr. Carter's so-called energy program. The crude oil equalization tax, admittedly the heart of the President's program, will not accomplish any of the publicized objectives, but will result in over $12 billion a year being drained out of the energy companies.

The crude oil tax is nothing but a huge transfer of funds from the only ones who can find new sources of oil, to the politicians who could not find a barrel of oil if they were sitting on it.

This feature of the President's program has been noted before. But now it appears that this transfer of funds is destined not to solve the energy crisis, but to be an integral part of the President's tax reform package.

This is not an energy plan but the first half of a tax reform plan. If the Senate is to act intelligently on tax reform, it must be able to consider the plan as a whole. It makes no sense to approve a revenue measure like the crude oil tax until we know how this money will be spent. The Senate should delay further consideration on this tax until the President presents the rest of his tax package.

EXHIBIT 1

THE FLAW IN THE CRUDE OIL TAX

(By Charles E. Phelps and Rodney T. Smith)

The U.S. Senate has been grappling with the crude oil tax proposed by President Carter. So far the debate has centered on whether the revenue should be rebated to consumers or used for development of new energy sources. Inability to agree on that issue led the Senate Finance Committee to vote against the tax Monday, but because it's the centerpiece of the administration's energy plan immediate efforts were begun to resurrect it.

Aside from arguments about how to spend the revenue, there are important economic questions that need to be raised about a crude oil tax.

The stated purpose of the Carter plan is to raise the cost of petroleum products to the "world price." By conventional calculations this would mean an increase of five cents to seven cents a gallon, and thus would promote conservation. In fact, however, the chief effect of the tax would be to extract some $12 billion a year from the oil industry, in the process increasing U.S. dependence on imported oil.

A simple way to understand why the U.S. consumer is already paying the world price is to look at the world trade in refined products. U.S. price controls do hold down the price producers receive for domestic crude oil. But at the same time the U.S. is importing gasoline and fuel oil, principally from refineries in the Western Hemisphere. The exporting countries, especially the Netherlands Antilles and Venezuela, also ship refined products to the European market.

Naturally, these refineries sell their goods to the highest bidder. If the U.S. market were not paying the world price, all of their products would flow to Europe instead. In fact, the U.S. has continued to import all types of refined products throughout the period of the controls, although the volume of trade has fluctuated during the period. In a vain attempt to discredit the primacy of world market forces, government studies have calculated that the cost of importing European products into the U.S. exceeds domestic prices. Actually, the pattern of world product trade already shows such a transaction could be uneconomic because Europe is a net importer of refined products from the Western Hemisphere.

MISFOCUSED DEBATE

The U.S. government, in its attempt to influence refined product prices, has consistently failed to understand the importance of the world-wide pricing mechanism. Because the crude oil tax would affect only U.S. refiners, it would have no noticeable effect on product prices, which are set in world markets. Thus the debate on the crude oil tax is misfocused because of the mistaken belief that consumers will bear the major burden of the tax. Instead the proposals would set up huge fund transfers without affecting the final cost. This can be seen by simply assessing the impact of various petroleum regulations.

The price of domestic crude oil is held below the world level by controls initially imposed in 1971 and extended by the 1975 Emergency Petroleum and Conservation Act. These controls reduce U.S. crude oil production below what it otherwise would be because producers receive less than the world price for their product. For vertically integrated firms such as the "majors" this is not too important, because the production of oil for their affiliated refiners allows them to offset imports of foreign oil at the world price. In effect they get the world price for domestically produced oil, and thus have no incentive to artificially increase imports.

Another regulation, called the Allocation Program, established the rights of refiners to the lower-priced, domestic crude oil—on the basis of historical contracts for deliveries in the base year of the program (1972). This forced crude oil producers to sell oil to refiners for $5 per barrel, while comparable oil was valued at $12 to $14 per barrel on the world market. Because the market for refined products operated at the world level, this was a transfer of funds from producers to refiners. These transfers can be calculated at $16 billion in 1975 and $19 billion in 1976, though due to vertical integration much of this was a bookkeeping transfer of profits from production subsidiaries to refining subsidiaries.

However, prices of refined products were unaffected, since these transfers didn't alter the marginal cost of refining, and according to conventional economic theory prices are set by the marginal costs of production.

Next, the government attempted to control market prices by establishing price ceilings on refined products.

In late 1974 the government inaugurated the entitlements program. Under it, refiners using more than the national average of "old oil"—oil from existing domestic fields at their 1972 rate of output—were required to purchase monthly "entitlements" from refiners that use less than the average. The purchase price of the entitlements reflected the difference in cost between the price-controlled old oil and the world price.

The idea, of course, was to provide a financial cushion for the companies that didn't have much "cheap" domestic oil. But a corresponding impact was that refiners promptly began to import more foreign oil to run through domestic refineries, thus increasing their volume of crude oil and their share of the entitlements. In effect, the entitlements program now subsidizes imported oil to the amount of $2.50 to $3 a barrel. The expansion in domestic refining replaced imports of refined products but domestic consumption and domestic product prices were virtually unchanged.

Finally, the inability of the U.S. government to overcome the world pricing mechanism in refined products was further evidenced in January 1976, when President Ford removed a $2 a barrel supplemental tariff on imports of crude oil. This reduced the price of crude oil to U.S. refiners by nearly five cents a gallon. But once again the prices of refined products in U.S. markets did not change when the tariff was removed. The price was set not in the U.S. but in the world market, which was not affected by the change in U.S. government policy.

EFFECT OF CRUDE OIL TAX

On the basis of this experience, what will happen if the Senate enacts the crude oil tax? The profit transfers that take place under current regulations from crude oil producers to refiners will terminate. The tax will capture these transfers for the U.S. government, which will receive $12 billion per year when the tax is fully implemented in three years. Refiners will not be able to recoup lost profits by charging higher prices for their products, because prices will continue to be determined primarily by the world market.

After the imposition of the crude oil tax, all domestic oil will be valued at the controlled price, not the world price. Consequently, domestic oil production by the vertically integrated corporations will decline. Since there will be no incentives to increase conservation and reduce demand, this shortfall will have to be made up by imported oil. U.S. dependence on foreign oil will increase.

If the crude oil tax is adopted, it will have significant economic effects, primarily income transfers. The government will receive about $12 billion in tax revenues, implying that after-tax net revenues of petroleum corporations will fall about $6 billion. This transfer will be noticeable to stockholders of these corporations, since after-tax net revenue of U.S. petroleum corporations was about $15 billion in 1976.

The price of refined petroleum products will continue to be set by forces at work in the world market and not by current efforts of our government to regulate consumer prices. The price of products will not change, and consumers will be essentially unaffected, unless the Senate decides to rebate to them a portion or all of the tax. The goal of encouraging further energy conservation will not be achieved, and the U.S. as a country will increase its income transfers to OPEC as a result of the increased dependence on foreign oil.

FACING THE BOGYMAN

The U.S. Senate is saving us from President Carter's tax increase/energy plan. It has been an admirable display of common sense. Now if the Senate can sort out correct economics from prevailing economics, it could take a giant step toward solving our energy problems.

After the Senate broke the filibuster against natural gas deregulation and the Finance Committee sidetracked the proposed wellhead tax, Mr. Carter exhorted it to "act responsibly" and ward off "special interest attacks." Mr. Carter got his plan through the House, for instance, by loading it up with handouts to New England fuel oil consumers. Speaker Tip O'Neill's constituents would not have to pay replacement costs for the energy they burn. Happily, the Finance Committee has its own notions of responsibility, and had been chopping down the taxes and handouts one after another.

The Finance Committee is still bedeviled, though, by a set of widespread but incorrect notions: That the wellhead tax would increase prices and thus promote conservation; that U.S. consumers are not currently paying the world price for energy; that removing price controls from crude oil would result in new "windfall profits" for the oil companies; that decontrol would be costly for the consumer. None of these things is true, for reasons cogently outlined nearby by Charles E. Phelps and Rodney T. Smith of the Rand Corp.

Prices are set on the margin. All of the above misconceptions result from the failure to understand or apply this simple and universally accepted rule of economics. What counts is not the average cost of production, but the cost of the most expensive unit. Throughout the energy debates, even most economists have suffered an apparently congenital inability to apply this simple lesson to petroleum.

In the US. market, the marginal barrel of oil is imported, at the world price. The marginal price is the world price. The price of energy is the world price. Price controls on refined products have now been eliminated or made ineffective, simply because it eventually became apparent to nearly everyone that product prices could not be set by controls, but only by world market forces.

Price controls remain on domestic crude oil. But the effect of the controls, and the acocmpanying entitlements program, is merely to transfer profits from one oil company to another. This is why the "special interests" have in fact been deeply divided.

The effect of Mr. Carter's wellhead tax would be to capture these profit transfers for the politicians. With the money in hand, the politicians can divvy up the largess, so much for Mr. O'Neill's homeowners, so much for Senator Long's energy research quasi-corporation. Meanwhile, the wellhead tax receipts of $12 billion a year would be drained out of the energy companies. Incentives to produce in the U.S. would be further diminished, and reliance on imports would further increase.

Once you understand that prices are set on the margin and consumers are already paying the world price, though, a painless solution emerges. If you decontrol the price of crude oil the world price of refined products will not go up. The consumer won't have to pay an extra penalty.

If you decontrol, you simply will end the profit transfers. The rewards for producing oil in Texas will no longer have to be divided with the sheiks, nor will they go to the politicians. The incentives will be in the right place. People will be able to explore for oil and develop energy alternatives with less fear that Washington will expropriate the rewards of a successful venture. Production will be maximized. Imports will be minimized. Alternative energy sources, of which there are plenty at the right price, will be brought on as they become economically competitive. Once the government stops making the problems worse instead of better, we can all applaud Mr. Carter for building up a strategic petroleum reserve to minimize the national security problem.

The Senate is timidly edging toward this solution, trying to find a way to phase in the imagined costs. It is willing to pay a price to avoid Mr. Carter's Rube Goldberg devices. There will be a stampede the day enough Senators recognize that the costs of decontrol are a child's bogyman.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa for the term of 4 years vice Allen L. Donielson, resigned.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years vice Richard N. Moore.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years vice Evan L. Hultman.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, October 6, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

PRESS CONFERENCE OF THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a transcript of the press conference of the President of the United States which was held earlier today be printed at this point in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

PRESS CONFERENCE NO. 16 OF THE PRESIDENT OF THE UNITED STATES

The President: Good afternoon, everybody.

After the last press conference I had an uneasy feeling that I had not adequately covered the question about energy and some foreign affairs, so I thought we would have another press conference fairly soon after that one.

About five months ago, in April, I spoke with the American people and with the Congress about one of the most pressing national needs, to develop a comprehensive energy policy. The reason that we have to act is not because we have crises or emergencies at this present time, but because they are imminent and we need to begin preparing now to protect our own economic and our national security well-being for the future.

With every passing day our energy problems become more severe. We have almost

unbelievably spent $23 billion so far this year on imported oil, and we are likely to spend almost $45 billion before the year is over. This is by far more than we have ever bought before. Gasoline consumption was higher this summer than it has ever been before, and now half of the oil that we use, much of it wastefully, came from foreign countries.

No matter how hard we try to ignore it, our energy problem is not going away. There is no easy way to establish a comprehensive energy policy. No interest group or organization can be totally satisfied with every part of our plan. But the House of Representatives has met this very difficult and controversial issue courageously and has adopted almost all of the program that was proposed to them last April.

This proposal is balanced, fair and comprehensive. It contains incentives for adequate production and also protects the interests of consumers.

By relying on incentives rather than prohibitions and regulations, it keeps to a minimum the direct government involvement that would otherwise be necessary to control our energy problems and which exist at the present time.

Oil producers will receive the equivalent of the world price for newly discovered oil, and between now and 1990 oil and gas profits from domestic exploration and production, under my own program, will exceed $430 billion.

We accept these incentives knowing that they are necessary to guarantee future supplies of oil and natural gas. What we do not accept is the argument that we hear from the oil and gas companies that we need to provide incentives for wells that were drilled in 1970 or 1972 or even earlier when oil prices were about one-fourth of what they are now. We do not accept windfall profits for efforts that the producers have already made and for oil and gas already discovered.

I do not support complete deregulation of natural gas prices which would provide windfall profits without significantly increasing supply. Deregulation would cost consumers an extra $70 billion by 1985 but would increase supplies very little, if any. Gas prices have already risen by 500 percent over the last six years, but we are producing less natural gas than we did in 1972, six years ago.

Along with production incentives, the national energy plan also contains vital measures to conserve energy and to replace our precious oil and gas with more abundant fuels, such as coal. Let me mention quickly in closing three of the most important of these conservation measures.

Unless we pass the oil equalization tax, we will in effect continue to subsidize, with an extremely complicated Government program, imports of oil. The gas-guzzler tax is crucial because it provides a continuous economic incentive for consumers to buy, and automobile makers to produce more efficient automobiles.

The large industrial users of oil and gas must be persuaded to convert to coal and to other fuels. This effort alone could account for about 40 percent of the total oil savings that we project in the energy program.

And, finally, the rate structure for electric power must be modified to discourage waste. We are now at a turning point in establishing a comprehensive energy program. The House of Representatives has acted. The Senate is still in the process.

I would like to take this opportunity to thank the Majority Leader and many of the Senate leaders for their work toward resolving the difficult questions that now face the Senate. It is a difficult job, I know, and at times an unpleasant one, but the price of failing to enact a comprehensive energy program is just too high for our Nation.

I think the American people are expecting their government, the Congress and the President, to establish an energy program. And I sincerely hope that the Senate will not let the American people be disappointed.

Thank you very much.

Mr. Cormier?

QUESTION. Mr. President, the Senate hasn't obviously completed action but on the basis of their votes in committee and elsewhere so far the difference between them and the House is so marked, how do you account for it?

Are they less representative? Are they more susceptible to lobby pressures? How do you figure it?

THE PRESIDENT. First of all, I would like to point out that no final action has been taken by the Senate and there were times several weeks ago when we were quite disappointed at the progress that had been made in the House.

As the Members of the House of Representatives began to realize the enormity of the consequences of their timid action and as the Speaker and other leaders moved forward to assert their influence, the House acted responsibly after giving us a disappointing time for a few weeks.

I think the Senate is now in that posture. I think the Senate realizes that this is the major domestic legislative product that we expect this year. And for us to devote a full year of work and come out with an inconsequential or inadequate energy program is something that I don't believe the Senate will face. They have their own reputations to protect.

I think they want to act responsibly and I think that it is obvious in my own experience in the Legislative Branch in Georgia that the focusing of the powerful lobby pressure is always on the second legislative body that has to act, the final body that has to act.

So there is a tremendous pressure on the Members of the Senate now from the lobbyists, many of whom are well-meaning people.

I am not criticizing them necessarily but I think as they hear the voice of the American people as they realize the consequence of the absence of courageous action, then I think they will move to adopt the major parts of the program.

The last thing I would like to say is that when the Senate acts, we still have what is in effect the third branch of government to consider and to exert its will and that is the Conference Committees. And I think the House is going to be very adamant in maintaining their position and the likelihood now is that I would be much more inclined to support the House position which is compatible with my own.

So we still have a long way to go. I am not discouraged but I think my own voice is helpful in encouraging the American people to let the Senators know what their duties are and to encourage them to act objectively and I am sure they will.

QUESTION. There have been a lot of confusing statements from the White House and from leaders who have seen you recently on where exactly the United States stands in terms of Palestinians, PLO participation in a Geneva Peace Conference if one comes about. Can you really clarify this point?

THE PRESIDENT. I doubt it. (Laughter) But I would be glad to try. What we are trying to do now is, as a first and immediate goal is to bring all the parties in the Mideast dispute to Geneva for a conference. We are dealing with Israel directly; we are dealing directly with Lebanon, Syria, Jordan and Egypt. We are trying to act as an intermediary between Israel and each one of those Arab countries that border their own country.

There are some differences among the Arab nations which we are trying to resolve concerning a unified Arab delegation or individual Arab delegations, and the format which might be used to let the Palestinian views be represented.

At the same time, we have a further complicating factor in that we are joint chairmen of the Geneva Conference along with the Soviet Union. So in the call for the conference and the negotiations preceding the format of the conference we have to deal with the Soviet Union as well. So on top of all that, and perhaps preeminent in my own mind, is we are not an idle observer or bystander, we are not just an intermediary or mediator. We have a vital national interest in the ultimate peace in the Middle East. It is obvious to me that there can be no Middle Eastern peace settlement without adequate Palestinian representation.

The Arab countries maintain that the PLO is the only legitimate representative of the Palestinian interests. The Israelis say they won't deal with the Palestinians, certainly not the well-known PLO members, because they have been identified in the past as committed to the destruction of the nation of Israel.

So we are trying to get an agreement between the Israelis and the Arab countries with widely divergent views about the format of the meeting, and also who would be welcomed to the conference to represent the Palestinians.

This is something that is still in the negotiating stage. And I cannot predict a final outcome. We have no national position on exactly who would represent the Palestinians or exactly what form the Arab group would take in which the Palestinians would be represented. I just can't answer that question yet because the question has not been answered in my mind.

QUESTION. Does the United States recognize—"recognize" is the wrong word—but accept the PLO as a representative of the Palestinians?

The PRESIDENT: We have pledged to the Israelis in the past, and I have confirmed the pledge, that we will not negotiate with, nor deal directly with the PLO until they adopt United Nations Resolution 242 as a basis for their involvement, which includes a recognition of the right of Israel to exist. We have let this be known to the PLO leaders through various intermediaries, through intermediaries through the United Nations, leaders in Saudi Arabia, Syria, Egypt, Jordan, and so forth. They know our position.

If the PLO should go ahead and say, "We endorse UN Resolution 242," we don't think it adequately addresses the Palestinian issue because it only refers to refugees and we think we have a further interest in that. That would suit us Okay.

We would then begin to meet with and to work with the PLO. Obviously they don't represent a nation. It is a group that represents, certainly, a substantial part of the Palestinians. I certainly don't think they are the exclusive representatives of the Palestinians. Obviously there are mayors, for instance, and local officials in the West Bank areas who represent Palestinians. They may or may not be members of the PLO. So we are not trying to define an exact formula that we would prescribe for others. We are trying to find some common ground on which the Israelis and Arabs might get together to meet in Geneva.

I think, by the way, that both groups, the Israelis and the Arabs, have come a long way. They are genuinely searching for a formula by which they can meet. They want peace. I think they are to be congratulated already because in the past number of years they have made very strong and provocative statements against one another. And now to move toward an accommodation is a difficult

thing for them and we are trying not to make it any more difficult.

QUESTION. Mr. President, what are the assurances given to the PLO in the event of accepting 242?

The PRESIDENT. If they accept UN 242 and the right of Israel to exist, then we will begin discussions with the leaders of the PLO. We are not giving them any further assurance of that because we are not trying to prescribe, as I said, the status of the PLO itself in any Geneva Conference. But it would give us a means to understand the special problems of the Palestinians. And, as you know, many of the Israeli—some of the Israeli leaders have said that they recognize that the Palestinian question is one of the three major elements. But I can't and have no inclination to give the PLO any assurances other than we will begin to meet with them and to search for some accommodation and some reasonable approach to the Palestinian question if they adopt 242 and recognize publicly the right of Israel to exist.

QUESTION. Mr. President, this morning a group of Republicans who came over here to meet with you reported that you told them that on certain matters you perhaps worked with them even more closely than the Democratic majority. I wonder if, noting what has been happening to some of your programs in the Congress, that you feel more comfortable with the Republicans now and what effect do you think those words this morning will have on the eventual outcome of certain energy matters in the Senate which, of course, must receive support from the Democrats?

The PRESIDENT. Energy was not one of the examples I used. I did point out the almost unanimous approval of the Republicans, for instance, for the AWACs sale to Iran, which I think is important and advisable, and I pointed that one out.

I also pointed out the extreme inadvisability of the Congress trying to put tight controls over our international financial institutions allotments. For instance, the Congress has said, in a very serious mistake, that we could not contribute to the World Bank or to the international regional banks if any of the money was to be used in a country that produces citrus fruits or palm oil or sugar, or if it was to be used for loans to, I think, eight different nations.

This is an unprecedented encroachment on the independence of the World Bank and it would mean that our contribution to the World Bank could not be made. This is another item where the Republicans see the matter much more clearly in my opinion than do some of the Democrats.

But in general, of course, I am a very loyal Democrat. I appreciate what the Democrats have done, but in some areas the Republicans have helped me more.

I would say another example would be the reorganization effort. I think as a matter of philosophy the moderate to conservative Members of the Congress and I see compatibly a need for strict Government reorganization, but this means certainly that many Democrats have cooperated just as well.

QUESTION: Mr. President, you have been underscoring of late how very important the Vice President—very important role he is playing in your Administration. And I was just wondering whether the Vice President has become in actuality as well as in effect your deputy, the Deputy President or Assistant President?

The PRESIDENT: I probably meet with the Vice President on a daily basis more than all the other staff members that I have combined. He brings to my own inner circle of advisers an experience in the Congress and in Washington. He, obviously, has a stature, political stature inherent in his office itself and his wide-ranging interest that I have welcomed and encouraged include domestic politics, our relationships with the Congress, domestic matters like tax reform, and sensitive civil matters like the Bakke case; international matters like Southern Africa or the Middle East. He has a detailed knowledge of the SALT negotiations now and the history of the SALT negotiations in the past.

So there is no aspect of my own daily responsibilities as President that are not shared by the Vice President. He has a unique background in the Congress of having been both a Member simultaneously of the Senate Finance Committee and also the Senate Budget Committee. So here again he has had a broad range of experience.

I would say without derogating the other members of my staff that there is no one who would approach him in his importance to me, his closeness to me and also his ability to carry out a singular assignment with my complete trust.

QUESTION. Mr. President, it is said we have modified our SALT position somewhat and on the basis of that we may be very near an agreement. And on the basis of that you may be meeting with Mr. Brezhnev in a few weeks or months.

Is any or all of that true? [Laughter.]

THE PRESIDENT. I will resist the temptation to comment on the accuracy or veracity of past comments made in the news media and by you, I understand. [Laughter.]

I think some of those statements are fairly accurate. We have been encouraged recently by the cooperative attitude of the Soviets. I have met several hours on two occasions with Foreign Minister Gromyko, and they have been fairly flexible in their attitude and we have tried to match their cooperative stance.

There has been no decision made about a time or place for meeting between me and Mr. Brezhnev. In fact, the meeting itself is certainly not a sure thing at all. It is, as a matter of record, his time to come to the United States, if and when a meeting does take place, and he has that permanent standing invitation which he can accept as he sees fit.

Our purpose in the SALT negotiations this year has been generally two-fold. One is to reduce the overall level of nuclear armaments; and secondly, to have an assurance that there is an equivalent capability in the future to give a reasonable sense of security to both nations. And I think at the same time, integrally with this is to let the Soviets know that we are negotiating in good faith; that we are not trying to pull a trick or take unfair advantage over them.

At the same time, I recognize that progress on SALT leads to further progress on comprehensive test ban, on the matter of nonproliferation on general reductions in armament sales around the word. And I think it would lessen tensions between us and the Soviets that have existed historically.

So we are making some progress. An immediate agreement is not in prospect. We have narrowed down the differences to a relatively small number which could take quite a long time to resolve. Our negotiators are now going back to Geneva to try to eliminate as many of the differences as possible. So reasonable progress has been made.

I wouldn't be too optimistic about an early settlement. And there is no plan at this time for a meeting with Mr. Brezhnev.

QUESTION. Mr. President, important segments of the steel and television manufacturing industries have been laying off thousands of workers recently because of foreign competition, some of which they allege is unfair. What, if anything, do you plan to do about that?

The PRESIDENT. We have already negotiated in the television industry a voluntary constraint on the Japanese who are the major exporters to us. This was worked out this year by Robert Strauss, working even directly with Prime Minister Fukuda. I think this will alleviate the increasing imports of color televisions which were causing a problem.

The steel question is one that is obviously a highly complex question. I would not be willing to lay all the blame on imports. We have obviously some elements in the steel industry where the plants themselves are older; they are not quite as efficient as some of the more modern plants overseas. We have a problem that the steel industry points out frequently in compliance with fairly strict environmental quality standards which I certainly would not change.

But I think it is fair to point out the Japanese and the West Germans have the same degree of quality constraints now on air pollution and water pollution. So this is not an unnecessary advantage for them.

I might add quickly that we are addressing the steel industry with a multi-departmental approach. This is under the control of an Assistant Secretary in the Treasury Department, Mr. Solomon, who is an expert in the steel industry. He is working with Robert Strauss, our Special Trade Representative, and with Charles Schultze, my Council of Economic Advisers Chairman, with the Secretaries of Commerce and Labor, where large unemployment has been a factor with the closing of at least one steel mill.

We have already moved to provide retraining and economic assistance for those workers involved. And within the next few weeks, I plan to receive the report of this group whose work was begun several weeks ago and then to meet with labor and industry leaders in the steel industry and also with Congress Members who have large steel interests in their own areas.

But we believe that the problems are chronic. I don't think any basic changes need to be made in our import laws or the national statutes, and I think perhaps my own involvement in it can cause some alleviation of the problem, but some of the problems are chronic.

The worldwide economic structure is not growing as rapidly as it has in the past. Ours is better off than most of the other nations'. And when the growth rate in our country drops down to 6 percent this year and many other major nations' drop to 4 percent or less, there is just not as many orders for steel. It is complicated. We are moving on it and when I receive this report and decide what to do, I will make it public.

QUESTION. Mr. President, Admiral Turner of the CIA did a speech this week at Annapolis in which he said that the Attorney General would have to make a decision as to whether it would further the national interests to prosecute the case of Mr. Richard Helms, or whether it would be better to waive the case in order to save the secrets.

But the Attorney General said that he was going to consult you on this. I wonder if you can tell us your views on how you are reaching this decision as to whether certain material should be declassified for a possible trial in this case?

THE PRESIDENT. He has not consulted with me, nor given me any advice on the Helms question. I am familiar with it through reading in the press. I have no way to know yet the strength of the possible indictment or charges. I have no way to know yet the seriousness of the offense with which he will be charged (instead of "he will be charged", the President meant "may be charged".) And I have no way to know yet the seriousness of possible damage to our own national security if massive revelations of intelligence techniques and documents are made either to ourselves or to our friends and allies.

When I get all of this information, then I would certainly consult with the Attorney General as to what action should be taken. I think it is a very serious thing for anyone to commit perjury (instead of "commit per-

jury" the President meant "commit alleged perjury") before a Congressional committee or anywhere else, and the matter would not in any case be treated lightly.

My understanding is that the Attorney General is now going over the data that has been presented to him. I think he will make a report to me and possibly a recommendation fairly soon, but until this moment he has not yet done so.

I promised Marty.

QUESTION. Mr. President, pardon me, I would like to go back to the subject of last week's press conference. You told us twice that you had learned on December 1st, which was just two days before you appointed Mr. Lance, nominated him—

THE PRESIDENT. Yes.

QUESTION. That aspect of the Lance case had been referred to the Justice Department. Jody Powell has told us that you didn't know at that time, you didn't learn until much later. Who is right, is Jody right, or are you?

The PRESIDENT. I don't recall—I did say it in the last press conference and when Jody asked me about it afterwards, I told him I was mistaken—I don't recall at all ever knowing that the Justice Department itself was involved in the Bert Lance overdraft or other problems last year. Bert Lance told me that he did not know that the Justice Department was involved in it until December the 1st. The information that I got from Bert Lance—I now know that it was November 15th—was derived from Lance himself and he stated to me—and my memory confirms it, that he only referred to me the problem with the Comptroller's Office.

My guess is that on December 1st they did not specifically point out to me that the Justice Department was also involved. My memory of it is that they said that the problem that had been described to me had been resolved, and that a press statement would be made then.

So I would believe—certainly my memory confirms—that I did not know anything about the Justice Department itself anytime in 1976 and that Bert Lance did not know anything about the Justice Department being involved until the 1st of December.

If you have a follow-up, you can ask it.

QUESTION. Just to follow up on that—

The PRESIDENT. Please.

QUESTION. Would it have made a difference to you if you had known at that time that there had been a Justice Department investigation?

The PRESIDENT. No.

QUESTION. Would you have delayed your appointment perhaps to see what the investigation had been about?

THE PRESIDENT. No. I doubt it because on the 1st of December when Lance himself found that the Justice Department was involved, it was also to learn that same day or the day after that the Justice Department had determined that there were no grounds for a further pursuit of the case.

QUESTION. Mr. President, on the strategic arms situation.

THE PRESIDENT. Thank you.

QUESTION. In the absence of an agreement as of next Monday, could you tell us what your attitude will be toward major American weapons systems that have been under research? For example, where do we stand now after this five-year agreement expires on the MX missile, what is your attitude toward it, and how about on the cruise missile? During the period after the agreement expires, will you be observing any constraints or do you think contraints ought to be reserved, for example, on the range of the cruise missile, the air-launched cruise missile?

The PRESIDENT. We are proceeding with our research and development program on the items that you described. As you know, under the present agreement with the Soviets, there is no restraint on the mobile missiles nor on air-launched or ground- or sea-launched cruise missiles. Pending an agreement with the Soviets, we are free to proceed with those matters.

We are continuing to conduct active tests with the cruise missile. And I might say, the tests have been very successful so far. We have not proceeded that far along with the MX. We are negotiating with the Soviets on those two items for the so-called SALT II agreement. We have not completely resolved those two questions yet.

QUESTION. Mr. President, may I ask you something about your energy program? When you started talking about a wellhead tax, as I understood it, virtually all the money collected on that tax would be rebated back to consumers.

The PRESIDENT, That is correct.

QUESTION. Do you think, given Senator Long's attitude, that kind of a wellhead tax is possible if you still give that tax? Or are you going to have to put part of that revenue into government programs to spur energy exploration and development?

THE PRESIDENT. This was a matter that was debated very thoroughly among my own advisers and myself before we presented our proposal to the Congress on April 20. Our judgment was that the tax ought to be rebated directly to the American consumer. It is a fair and equitable way to dispose of that money. It would lessen greatly the American Government involvement in the oil industry. It would remove the very complicated entitlements program and also it would not withhold large sums of money from an already kind of dormant economy.

If you gave the money immediately back in reduced payroll taxes, then the money would be circulated and you would not hold it in the reserve fund. I would have to retain some flexibility on that subject.

The thing I don't want to do is to take the money from the American consumers in the increased price of gasoline and other products and give it as a reward to the oil companies. Now, matters that might relate to better transportation systems or mass transit or better insulation of homes, combined with tax rebates to consumers, I would consider all those as options.

QUESTION. So, in other words, it wouldn't all be coming back to the consumers now?

THE PRESIDENT. My preference is it would all come back to the consumers. And, as you know, that is the version that was passed by the House of Representatives. If I had my preference and could write the bill without Congressional involvement, that would be my choice.

But I can't say that I would veto or fail to support any alternatives. There are some alternatives that I could accept without too much reluctance.

FRANK CORMIER (AP). Thank you.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the calendar that have been cleared for passage. I ask unanimous consent that the Senate proceed to the consideration of the following Calendar orders numbered 406, 407, 409, 410, and 411.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, before the Chair rules, could the clerk read which items those are?

Mr. ROBERT C. BYRD. They are on the calendar. Calendar order numbers beginning with 406, 407, 409, 410, and 411.

Mr. BAKER. Mr. President, I am sorry; would the majority leader read those again?

Mr. ROBERT C. BYRD. Yes, indeed. Calendar order numbers 406, 407, 409, 410, and 411.

Mr. BAKER. I thank the majority leader. Mr. President, there is no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROLLED SUBSTANCES ACT EXTENSION

The Senate proceeded to consider the bill (H.R. 5742) to amend the Controlled Substance Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 6, strike through and including page 2, line 4, and insert in lieu thereof:

(2) by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979,", and

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–444), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

The amendment changes the period of reauthorization from 3 to 2 years and reduces the amount authorized by $2 million.

SUMMARY OF LEGISLATION

H.R. 5742, as reported, would extend the authorization of appropriation for the Drug Enforcement Administration for 2 years through fiscal year 1979. It provides for an authorization of $188 million for fiscal year 1978 and $215 million for fiscal year 1979. The proposed legislation would also repeal the additional $6 million annual authorization under section 103 of the Controlled Substances Act.

BACKGROUND

The committee reported a similar bill, S. 1232—Report 95–151—May 12, 1977, which provided for a 2-year extension of the Comprehensive Drug Prevention and Control Act. Prior to Senate passage of this bill, June 6, 1977, the House passed H.R. 5742, May 17, 1977, which provided for a 3-year extension of the Act.

As amended, this Act conforms with the Senate-passed version.

The committee recognizes that the new administration is currently carefully examining the Government's activity in drug control. It is felt that the 2-year reauthorization, which has been urged by the administration, will provide time for it to fully develop goals and standards for a comprehensive drug control and prevention program.

Upon introduction to the administration bill, its sponsor, Senator Bayh, commented as follows:

The President has called for sound drug prevention and control policies. In his February message to the United Nations Commission on Narcotic Drugs he stressed that while we must curb traffic "we must combine deep compassion for the victim of addiction with a vigorous attempt to eliminate the world supply of illicit drugs through international cooperation. Toward that end, I am making the curtailment of drug abuse a high priority in my administration."

I was especially pleased by the President's sensitivity to the special impact on our young people. He said:

"Much of this abuse occurs with young people and with this increased drug use comes the attendant family disruption and the sapping of strength from our youth."

Public Law 91–513, the Controlled Substances Act of 1970, which is being extended by this bill, was designed to improve Federal efforts toward the elimination of illegal drug traffic and the reduction of drug-related crime. At that time, the primary enforcement rule was under the aegis of the Bureau of Narcotics and Dangerous Drugs (BNDD) within the Department of Justice.

Reorganization Plan No. 2 of 1973 expanded substantially the role of BNDD. The plan was designed to place primary responsibility for Federal drug law enforcement in a single, new agency, the Drug Enforcement Administration (DEA), in the Department of Justice.

At that time, 10 Federal agencies in five Cabinet departments performed drug enforcement functions. Budgeting for these agencies in fiscal year 1974 was proposed at $257 million, a sevenfold increase in funding from $36 million in fiscal year 1969. Several other agencies had related functions. There was no overall coordination.

As specified in the reorganization plan, the new DEA assumed responsibility for the following activities:

(1) All functions of the Bureau of Narcotics and Dangerous Drugs (BNDD), which was abolished as a separate entity in Justice;

(2) All functions of the Customs Bureau related to drug investigations and intelligence, which were transferred from the Secretary of the Treasury to the Attorney General;

(3) All functions of the Office of Drug Abuse Law Enforcement (ODALE), which was abolished in Justice by Executive order; and

(4) All functions of the Office of National Narcotics Intelligence (ONNI), which was abolished in Justice by Executive order.

The Drug Enforcement Administration (DEA) of the Department of Justice is the primary agency to which is assigned the enforcement of the Federal satutes as contained in the Controlled Substances Act.

The initial period following DEA's creation was marked by the rapid development of illicit opium cultivation and processing in Mexico. Within 2 years heroin from Mexico was supplying 90 percent of the U.S. illicit market. The average retail purity of heroin reached 6.6 percent with a price of $1.26 per milligram pure recorded early in 1976. But since early 1976 several major changes have been instituted in DEA which are having a successful effect:

1. Implementation of more stringent criteria for classifying violators was accomplished to assure that the agency directed its efforts at the most important violators. While total arrests declined in 1976 over 1975, the arrests of class I and II violators, the major traffickers, increased 43 percent.

2. Centralized control of major investigations has been established. Operation Heroin B was a centrally directed effort targeted at six cities which had been identified as key distribtuion centers for brown heroin. These cities were Detroit, Chicago, San Antonio, Phoenix, Los Angeles, and San Diego. Five months of investigation resulted in the arrest of approximately 1,900 individuals, of which 30 percent were class I or II violators and the seizure of 600 pounds of heroin.

3. Interagency working relationships have been strengthened. Through mutual agreements with the Bureau of Customs and the Internal Revenue Service, and the creation of various interagency working groups, better utilization of resources and a reduction in duplication of effort has resulted.

The key indicators of heroin availability are reflecting the results of DEA efforts over the past year. By the end of December 1976, the average retail purty of heroin was down to 6.1 percent as compared to the 6.6 percent of March 1976. Interim reports indicate that the March 1977 figure will continue the trend of decreasing purity. At the same time price has increased from $1.26 per milligram pure to $1.40.

Most important has been the dramatic decline in heroin-related deaths. In the most recently reported quarter, heroin-related deaths numbered 392 as compared to 546 for the previous quarter. This is a sharp decrease of 28 percent. This data is provided to DEA and the National Institute on Drug Abuse from reports of the chief medical examiners of 21 major metropolitan areas. The continuation of the present enforcement directions of DEA should further these accomplishments.

The Controlled Substances Act created mechanisms by which the legitimate commerce of controlled substances could be regulated to assure the availability of these substances for medical need and to prevent their diversion for abuse. DEA's administration of these regulatory provisions has proven to be most vigilant and effective. Since May 1971, DEA has controlled 28 drugs, moved 9 drugs to another schedule and has decontrolled 5 drugs. The most recent action, effective March 14, 1977, placed dextropropoxyphene under schedule IV controls.

DEA presently has registered more than 540,000 legitimate handlers of controlled substances in the United States. DEA has a specialized force of compliance investigators who preform on-site investigations of each registered manufacturer and distributor at least once every 3 years. During calendar year 1976, 1,643 compliance investigations were completed, 638 administrative actions of varying degrees were imposed, as well as 22 arrests. Because of DEA's efforts in the administration of the regulatory provisions of the act, diversion of controlled dangerous drugs at the manufacturing and wholesale levels has been virtually eliminated.

As a result of the Narcotic Addict Treatment Act of 1974, DEA conducted in-depth investigations of methadone clinics to assure their compliance with the regulations of that act. Approximately 875 methadone clinics are registered by DEA and each of these clinics is reaudited every 3 years.

DEA is also directing considerable effort to increase the abilities of the States to police the practitioner level of distribution. The total elimination of diversion of legitimate dangerous drugs will depend on the results of these efforts.

The committee is of the belief that the DEA should be continued in existence. It recognizes that a new administration is currently carefully examining the Government's activity in drug control. This bill which is now being reported by extending the life of the DEA for only 2 years will provide appropriate time for the administration to fully develop its goals and standards for a drug control and prevention program.

PUEBLOS LAND TRANSFER

The Senate proceeded to consider the bill (S. 1509) to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico and for such land to be held in trust by the United States for such tribes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 2, line 23, strike "range/west" and insert "right-of-way";

On page 3, line 5, strike "south/west line" and insert "south right-of-way";

On page 3, line 17, strike "states and such" and insert "States. Such land shall be held in trust jointly for such Indian pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian country" as defined in section 1151 of title 18, United States Code";

On page 4, line 4, strike "Nothing in this Act shall terminate or otherwise alter the rights or interests, if any," and insert "Nothing this Act shall terminate or diminish the rights or interests";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duly authorized officials of each of the Indian pueblos of New Mexico are hereby authorized to convey to the United States all the right, title, and interest of such pueblos in the land located in Albuquerque, County of Bernalillo, State of New Mexico, which was conveyed to to such pueblos on behalf of the United States and the Secretary of the Interior by the quitclaim deed executed on June 17, 1969, by the Acting Commissioner of Indian Affairs, and by the correction quitclaim deed executed July 30, 1970, by the Commissioner of Indian Affairs, and which is described as follows:

Tract "C"

A tract of land lying and being situated in section 7, township 10 north, range 3 east of the New Mexico principal meridian, within the city of Albuquerque, County of Bernalillo, State of New Mexico, said tract being more particularly described as follows:

Beginning at a point on the west right-of-way line for 12th Street and the north right-of-way line for Indian School Road, said point also being corner No. 2 of tract herein described and from whence the New Mexico Highway Department Triangulation Station 1–40–15 having established coordinates of Y–1494103.76, X–378204.72 of the New Mexico coordinate system, central zone, bears S. 16 degrees 02 minutes 03 seconds E., 989.43 feet.

Thence north 59 degrees 58 minutes 22 seconds west, 281.29 feet along the north right-of-way of Indian School Road to the point of curvature and corner No. 3 of said tract.

Thence in a nbrthwesterly direction 212.69 feet along the range/west curve concave to the northeast having a radius of 1,393.27 feet to corner No. 4.

Thence north 8 degrees 49 minutes 05 seconds east, 865.60 feet to corner No. 5, a point on the south right-of-way of Menaul Boulevard extension.

Thence in a northeasterly direction 493.42 feet along the range/west curve concave of the south having a radius of 716.20 feet to corner No. 1, a point on the west range/west line for 12th Street.

Thence south 8 degrees 16 minutes west, 1,255.45 feet along said range/west to corner No. 2, the point and place of beginning, said tract containing 11.2857 acres, more or less.

Corner Coordinates of Tract "C"

Corner:	Y—Coordinate	X—Coordinate
1	1496295.97	378116.98
2	1495054.70	377931.43
3	1495196.41	377688.55
4	1495316.87	377513.58
5	1496171.41	377649.72

(b) Upon approval by the Secretary of the Interior, the Secretary shall accept such conveyances on behalf of the United States. Such land shall be held in trust jointly for such Indian pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian country" as defined in section 1151 of title 18, United States Code. The Secretary shall cause a description of such trust land to be published in the Federal Register.

(c) Nothing in this Act shall terminate or diminish the rights or interests of the Indian Pueblo Cultural Center, Inc., as an assignee or sublessee of the lease of such land to the All Indian Pueblo Council, Inc., approved on August 27, 1974, by the Bureau of Indian Affairs.

(d) Nothing in this Act shall alter the rights or interests, if any, in the adjacent lands previously conveyed to the County of Bernalillo for Four-H Club use by deed dated March 22, 1960.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-445), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

S. 1509 would authorize each of the 19 Indian Pueblos of New Mexico to convey to the United States all of their rights and interests in 11.6 acres of land located in Albuquerque, N. Mex. Upon receipt of these conveyances, the Secretary of the Interior is to accept the land and hold it in trust jointly for the Pueblos.

BACKGROUND

The 19 Indian Pueblo groups in New Mexico now hold as tenants in common the fee title to an 11.6 acre tract of land in the City of Albuquerque, N. Mex. This land used to be part of the federally owned site of the Albuquerque Indian School, administered by the Bureau of Indian Affairs. After several years of negotiations with Federal officials, the land was conveyed to the 19 New Mexico Pueblos under a quitclaim deed executed by the BIA on June 17, 1969. A corrected deed was executed by the BIA on June 30, 1970, to correct an error in the land description in the original deed.

The Indian Pueblo Culture Center, one of the most popular public facilities in the city of Albuquerque, is located on this land. The Center is dedicated to the preservation of Pueblo culture and arts and crafts and will serve to enhance business opportunities for the Indian people.

The purpose of the conveyance in 1969 and 1970 was to enable the Pueblos to develop the Indian Pueblo Cultural Center on the land which was no longer needed for BIA school purposes. The All Indian Pueblo Council, Inc. (AIPC), an umbrella organization for the 19 Pueblos, subsequently sought and received a grant from the Economic Development Administration (EDA) to construct and equip the Indian Pueblo Cultural Center. As a condition to approving the grant, the EDA required AIPC to obtain a lease from the 19 Pueblos covering the tract of land. The 19 Pueblos leased the land to AIPC on February 6, 1973, but this lease was never approved by the BIA. Subsequently, AIPC assigned its interest in the least to the Indian Pueblo Cultural Center, Inc. (IPCC), a non-profit corporation wholly owned and controlled by the 19 Pueblos.

It is the position of the Interior Department, however, that the title to the land conveyed by the BIA to the 19 Pueblos in 1969 and 1970 is subject to restrictions on alienation imposed by certain statutory provisions. This position casts doubt upon the validity and extent of the lease of the land to AIPC and its subsequent assignment of the lease to IPCC.

The present title situation is further compounded by a quitclaim deed executed by the Pueblo of Santo Domingo to the other 18 Pueblos on July 22, 1974. Notwithstanding Santo Domingo's efforts to legally divest itself of its interest in the land, there appears to be no existing statutory authority for the BIA to approve such action. If Santo Domingo's quitclaim deed executed in favor of the other 18 Pueblos has no legal basis, it would appear that neither AIPC nor IPCC has the one-nineteenth undivided interest owned by that Pueblo under the lease.

On March 11, 1977, the Aubuquerque City Council unanimously adopted Resolution No. R-290 supporting AIPC's request to have the Pueblo Cultural Center site taken in trust by the United States for the 19 Pueblos.

The administration testified before the committee in support of the legislation and stated that in their opinion the conveyances would not raise questions of Federal, tribal, and state jurisdiction. As trust lands, they are exempt from state taxation, but otherwise subject to state police and judicial authority.

NEED

Enactment of S. 1509 would clarify the status of the title to the land involved and eliminate any question or ambiguity concerning prohibition against alienation or encumbrance of the land.

Extending trust title to the 11.6 acres would make the Pueblos eligible to seek loans and grants from Federal agencies authorized to assist Indian tribes in the development of projects and activities which are based on the tribe's ownership of such lands. Trust status would also enable the Pueblos to utilize the land for a variety of other purposes.

LEGISLATIVE HISTORY

S. 1509 was introduced by Senators Domenici and Schmitt on May 13, 1977. A hearing was held on the proposed measure before the Senate Select Committee on Indian Affairs on August 4, 1977. Testimony was received from Senator Domenici, the Administration, and tribal representtaives, all of whom supported enactment of S. 1509.

A companion measure, H.R. 8873, was introduced in the House on August 5, 1977, by Congressmen Runnels and Lujan.

EFFECTIVE DATE FOR PUBLIC FINANCIAL DISCLOSURE

The resolution (S. Res. 265) amending Senate Resolution 110, 95th Congress, to establish January 1, 1978, as the effective date for public financial disclosure by Senate Members, candidates, officers, and certain employees, and for other purposes, was considered and agreed to, as follows:

Resolved, That section 313 of S. Res. 110, Ninety-fifth Congress, agreed to April 1, 1977, is amended by deleting subsection (b) and inserting in lieu thereof the following:

"(b)(1) Rule XLIV of the Standing Rules of the Senate (as such rules existed prior to the amendments made by title I) shall remain in effect for the period through December 31, 1977, except that a statement containing the information covering calendar year 1977 and required to be reported under that rule shall be filed on or before May 15, 1978.

"(2) Rule XLII of the Standing Rules of the Senate (as amended by title I), relating to public financial disclosure, shall take effect on January 1, 1978.

"(3) Individuals required to file a report during calendar year 1978 pursuant to paragraph 1(c) of rule XLII of the Standing Rules of the Senate (as amended by title I) shall only have to file a report containing the information (as of January 1, 1978) required by subparagraphs (e), (f), (i), (j), and (k) of paragraph 2 of that rule. In filing such report, all of the provisions of paragraphs 3, 4, 5, 6, and 7 of that rule shall be applicable.

"(4) In addition to the reports, if any, required by rule XLII of the Standing Rules of the Senate (as amended by title I) and rule XLIV of such rules (as such rules existed prior to the amendments made by title I), each individual (1) who for a period in excess of sixty days between January 1, 1978, and May 1, 1978, is a Senator, or an officer or employee of the Senate who is compensated at a rate in excess of $25,000, or (2) who, at any time during the period beginning January 1, 1978 and ending May 1, 1978, is an employee designated under Rule XLIX to handle campaign funds, shall, on or before May 15, 1978, file a report pursuant to paragraph 2 of rule XLII containing information (as of January 1, 1978) required by subparagraphs (e), (f), (i), (j), and (k) of paragraph 2 of that rule. In filing such report, all of the provisions of paragraphs 3, 4, 5, 6, and 7 of that rule shall be applicable.".

SEC. 2. Rule XLII of the Standing Rules of the Senate (as amended by S. Res. 110, Ninety-fifth Congress, agreed to April 1, 1977) is amended by striking paragraph 3(d) and inserting in lieu thereof the following:

"(d)(1) Except as provided in clause (2), each reporting individual shall report, in accordance with the provisions of paragraph 2, the identity of the holdings of and the identity of the source of income from a trust or other financial agreement from which income is received by, or with respect to which an equity interest is held by, such individual, his spouse, or any of his dependents.

"(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

"(A) any qualified blind trust (as defined in clause (3)); or

"(B) a trust—

"(i) which was not created directly by such individual, his spouse, or any of his dependents,

"(ii) with respect to which such individual, his spouse, and any of his dependents have no knowledge of the holdings or sources of income of the trust, and

"(iii) with respect to which such individual has requested the trustee to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information,

but such individual shall report the category of the amount of income received by him, his spouse, or his dependents from the trust under paragraph 2(a)(3).

"(3) For purposes of this subparagraph, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any of his dependents has a beneficial interest in the principal or income, and which meets the following requirements:

"(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

"(i) is independent of any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

"(ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or

involved in any joint venture or other investment with, any interested party, and

"(iii) is not a relative (as defined in paragraph 7(j)) of any interested party.

"(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Select Committee on Ethics.

"(C) The trust instrument which establishes the trust provides that—

"(i) except to the extent provided in subclause (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

"(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

"(iii) the trustee shall promptly notify the reporting individual and the Select Committee on Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

"(iv) the trust tax return shall be prepared by the trustee or his designee and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return) shall not be disclosed to any interested party;

"(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by paragraph 2(a)(3) of this rule but such report shall not identify any asset or holding;

"(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset and which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

"(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

"(D) The proposed trust instrument and the proposed trustee shall be approved by the Select Committee on Ethics.

For purposes of this subparagraph, the term "interested parties' means a reporting individual, his spouse, and dependents if the reporting individual, his spouse, or dependent has a beneficial interest in the principal or income of a qualified blind trust and the term 'broker' is used as defined in section 78 of title 15, United States Code.

"(4) An asset placed in a trust by an interested party (within the meaning of clause (3)) shall be considered a financial interest of the reporting individual, for the purposes of any conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

"(5)(A) The reporting individual shall file within thirty days after a qualified blind trust is approved by the Select Committee on Ethics a copy of—

"(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

"(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under paragraph 3(a), with the Secretary of the Senate.

"(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Select Committee on Ethics of the identity of each such asset and the category of value of each asset as determined under paragraph 3(a).

"(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

"(i) notify the Select Committee on Ethics of such dissolution, and

"(ii) file a copy of a list of the assets of the trust at the time of such dissolution and the category of value under paragraph 3(a) of each such asset with the Secretary of the Senate.

"(D) Documents filed under subclauses (A), (B), and (C) of this clause shall be made available to the public in the same manner as a report is made available under paragraph 5 and the provisions of paragraph 5, as appropriate, shall apply.

"(E) A copy of each written communication with respect to the trust under clause (3)(C)(vi) of this subparagraph shall be filed by the person initiating the communication with the Select Committee on Ethics within five days of the date of the communication.

"(F) Any trust which is in existence prior to the effective date of this rule shall be considered a qualified blind trust if—

"(i) the Select Committee on Ethics determines that the trust was a good faith effort to establish a blind trust;

"(ii) the previous trust instrument is amended, or if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of clause (3)(C) of this subparagraph and a trustee is (or has been) appointed who meets the requirements of clause (3) of this subparagraph; and

"(iii) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party, and the category of value of each such asset at the time it was placed in the trust is filed and made available to the public as provided under clause (5) of this subparagraph.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-448), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Senate agreement to this resolution would accomplish the following:

1. Rule 42, public financial disclosure would "take effect" on January 1, 1978 (rather than October 1, 1977).

2. Each person covered by old Rule 44 would make financial reports under its provisions for all of 1977 (rather than the first three quarters of 1977).

3. Each person covered by Rule 42 would disclose by May 15, 1978, the same information required for the first filing under title III of S. 555 as passed by the Senate, namely, as of January 1, 1978, real property holdings, personal property holdings, personal liabilities, patent rights or interests in patent rights, outside positions held and post Government employee agreements.

4. Senators and others who become in 1977 or 1978 candidates for nomination or election to the Senate as defined in rule 42 would disclose the same information a Senator or other covered person who is not a candidate is required to disclosure (rather than disclose for all of 1977—or all of 1976 in some cases) under rule 42.

5. In addition to a person who is a candidate after January 1, 1978, rule 42 also would apply to a Senator, officer, or employee (compensated on any day at a rate in excess of $25,000) who is employed for 60 days between January 1 and May 1, 1978, and any employee designated under rule 49 to handle campaign funds between January 1 and May 1, 1978. Such persons would file by May 15, 1978, the same disclosure of property and liabilities required by S. 555 as it passed the Senate. S. 555 requires a covered person to file such a statement within 30 days of taking the covered position unless the person made such disclosure in his previous position. Senators, officers, and employees (compensated on any day at a rate in excess of $15,000) for 90 days or more in 1977 and employees designated for political fund activity in 1977 also would file a financial report for 1977 with the Comptroller General, under rule 44. But persons not employed 90 days or more in 1977 would not file under old rule 44. This definition of persons covered under rule 42 prior to the May 15, 1978 reporting date is required because the effective date is moved from October 1 to January 1. It also closes a possible gap in the application of the disclosure rule which might result in an employee hired late in 1977 or early in 1978 filing no disclosure until May, 1979.

6. The blind trust provision (Danforth amendment) adopted in S. 555 pursuant to S. Res. 110 would be incorporated in Senate rules, stating requirements of a "qualified blind trust" which if met would remove the need to dissolve a blind trust in order to comply with rule 42.

NEED FOR THE RESOLUTION

The Senate in this session has agreed to both a Senate rule and a bill providing for public financial disclosure by Senate Members, candidates, officers, and certain employees. The different effective dates established for the two similar disclosure measures have created uncertainties, ambiguities and complexities for those charged with implementing disclosure and those required to disclose.

On June 27, 1977, the Senate approved S. 555, title III of which provides for Government-wide financial disclosure. It set January 1, 1978, as the effective date for the disclosure act. Earlier, on April 1, 1977, the Senate agreed to S. Res. 110 which establishes a new Senate rule 42 on public financial disclosure. S. Res. 110 sets an effective date of October 1, 1977, for rule 42, and for the initial year of transition from the old disclosure rules to new ones requires a report under old rule 44 for at least the first three quarters of 1977 and another report under rule 42 for at least the last quarter of 1977.

Enactment of the disclosure statute this year would resolve the difficulties addressed by this resolution, but it is uncertain whether S. 555 or a similar statute will be enacted before the adjournment of this session. It is impossible for such to be enacted before

October 1. Senate adoption of this resolution would establish the same effective date for public financial disclosure under rule 42 as the Senate agreed to for the statutory provision, namely, January 1, 1978, and thus would:

1. allow the Select Committee the time needed to develop and pretest the reporting form, procedures, regulations and bookkeeping system required to implement financial disclosure;

2. give adequate notice to covered persons just what reporting procedures will be followed;

3. simplify the public report required during the period of transition; and

4. resolve an ambiguity in rule 42 which appears to require Senators and others who qualify as candidates in 1977 and 1978 to file public disclosure reports which are not required of Senators who are not candidates.

In addition, Senate adoption of the resolution would clear up the present uncertainty regarding the status of blind trusts, allow time for the Select Committe to issue regulations on blind trusts, and give to those who must take action with respect to blind trusts time to dissolve or amend them.

ESTATE OF PATRICIA A. MORTON

The resolution (S. Res. 266) to pay a gratuity to the First National Bank of Nevada, Las Vegas, Nev., as guardian of the estate of Patricia A. Morton, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to the First National Bank of Nevada, Las Vegas, Nevada, as guardian of the estate of Patricia A. Morton, daughter of Jean N. Morton, an employee of the Senate at the time of her death, a sum equal to five months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

ERNEST G. CATUCCI; ENRICO G. CATUCCI; PETER G. CATUCCI; GERARD CATUCCI; ANGELO CATUCCI; ANTHONY CATUCCI; KENNETH N. CATUCCI; GERALYN HUMPHREYS; CHRISTINE REAVES; AND TINALYNN CATUCCI

The resolution (S. Res. 267) to pay a gratuity to Ernest G. Catucci; Enrico G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci; Kenneth N. Catucci; Geralyn Humphries; Christine Reaves; and Tinalynn Catucci, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ernest G. Catucci; Ernest G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci; and Kenneth N. Catucci, sons of Pietro G. Catucci and Geralyn Humphries; Christine Reeves and Tinalynn Catucci, daughters of Pietro G. Catucci, an employee of the Senate at the time of his death, a sum to each equal to one-tenth of nine and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may move to reconsider, en bloc, the votes by which the various measures were passed.

Mr. BAKER. I am sorry; I was involved in another conversation.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may be permitted to move to reconsider, en bloc, the votes on the various measures that have been passed.

Mr. BAKER. I have no objection.

Mr. ROBERT C. BYRD. I make that motion.

Mr. BAKER. I move to lay that motion on the table.

The motion was agreed to.

TRANSFER OF MEASURES TO THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, Calendar Order Nos. 414 and 415 have been cleared for transfer to the Unanimous Consent Calendar. I ask the clerk to make those transfers.

The PRESIDING OFFICER. They will be so transferred.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

EXECUTIVE SESSION

Mr. CRANSTON. Mr. President, several nomiantions are pending on the Executive Calendar which have been cleared on both sides. I move that the Senate proceed to the consideration of those nominations.

Mr. BAKER. Mr. President, reserving the right to object, I have no objection. I note on my calendar that we have cleared for consideration and confirmation one nomination in the Department of State, one nomination for Arms Control and Disarmament Negotiations, eight nominations for International Atomic Energy Agency Conference Representatives, two more for the Department of State, and one for ACTION Agency.

Mr. METZENBAUM. Mr. President, are we talking about Mr. John D. Negroponte, Mr. Ralph Earle, II, and Mr. Fri?

Mr. CRANSTON. Yes, plus some more on the back.

Mr. METZENBAUM. At this point I would ask the majority leader if he would mind holding up the name of Robert Fri.

Mr. BAKER. Then, Mr. President, I withdraw my agreement to their confirmation, if we are going to hold up one of them.

LEGISLATIVE SESSION

Mr. CRANSTON. Mr. President, I move the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT ON NOMINATIONS

Mr. CRANSTON. I wish to express my regret that we did not confirm the nomination of Esteban Torres, a valued friend and former constituent of mine, and that we did not proceed to confirm the nomination of Ralph Earle of Pennsylvania, who is doing outstanding work at Geneva in the SALT negotiations. I have observed his careful and capable work, having personally met with him recently.

Mr. METZENBAUM. Mr. President, may I make an inquiry of the minority leader? I did not quite understand why he made a further objection to all of the nominations.

Mr. BAKER. I did not state a reason.

Mr. METZENBAUM. All right. I had the feeling we ought to withhold just this one temporarily.

Mr. BAKER. I have no objection, Mr. President, ever to proceeding in the normal and ordinary way to the consideration and disposition of the Executive Calendar, but I do not like particularly to single out either one who may be on the calendar, or to remove one from the calendar. So I would like to suggest that we defer the matter until later, and then return tomorrow to the consideration of the Executive Calendar.

Mr. METZENBAUM. I understand the Senator from Tennessee.

INCREASE OF THE DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the House of Representatives on H.R. 9290 be held at the desk pending further disposition.

Mr. ABOUREZK. Reserving the right to object, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. What is the status of H.R. 9290 at this point?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, this is an extension of the debt limit, and it is something that the national interest requires that we extend right away; otherwise the Government will be fiscally embarrassed.

The Senator from Virginia (Mr. HARRY F. BYRD, Jr.) wants to offer an amendment, which he explained to the Finance Committee, which would make this a 6-months extension rather than a 1-year extension, and in view of the fact that he is not here at this moment to offer his amendment, I think we ought to hold it.

But I would like to ask unanimous consent that we might call that up whenever the leadership is ready to call it up.

Mr. ABOUREZK. Mr. President, I object to whatever requests were made concerning that legislation.

Mr. LONG. It does not require unanimous consent to hold it at the desk; is that not correct?

The PRESIDING OFFICER. It does require unanimous consent to hold it at the desk. However, it does not require unanimous consent to have it placed on the calendar.

Mr. LONG. On the what?

The PRESIDING OFFICER. It does require unanimous consent to hold it at the desk, but it does not require unanimous consent to have it placed on the calendar.

Mr. LONG. I move that it be placed on the calendar.

Mr. ABOUREZK. I object.

Mr. LONG. Well, it does not require unanimous consent.

The PRESIDING OFFICER. If the Senator wishes to have it placed on the calendar, it would have to have first reading.

Mr. LONG. I ask for first reading.

The PRESIDING OFFICER. The clerk will read it.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. ABOUREZK. For any business to be conducted during cloture requires unanimous consent. I object to anything being done with that piece of legislation.

Mr. LONG. I object to the bill going to the committee.

The PRESIDING OFFICER. We are now in a period of morning business, and the clerk will report the bill.

Mr. METZENBAUM. Mr. President, a point of order. I call for the regular order.

The PRESIDING OFFICER. If the Senator will withhold for a moment, the Chair would remind Senators that we are in morning business by unanimous consent.

Mr. METZENBAUM. That is the point that I wish to raise.

The PRESIDING OFFICER. The Chair will now recognize the Senator from Ohio.

Mr. METZENBAUM. We went into morning business by unanimous consent for a period of 5 minutes. The 5 minutes have expired.

Mr. ABOUREZK. That is right; regular order.

Mr. LONG. A point of order, Mr. President.

Mr. METZENBAUM. Regular order.

The PRESIDING OFFICER. The Senator's point is well taken. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from Louisiana that I recognize the importance of this legislation, and the Senator has stated its importance to the Nation. I would hope that the Senators would allow the House message to be left at the desk, at least.

I ask unanimous consent that it be held at the desk pending further disposition.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. It is my understanding that a bill does not ordinarily go to a committee if there is objection to it going to a committee.

The PRESIDING OFFICER. The Senator is incorrect. If there is objection to it being held, and it cannot be read the first time, then it goes to a committee.

Mr. LONG. Mr. President, it is my impression, and I have been through some of this before, that if there is objection to a bill going to a committee, the bill is held at the desk.

Mr. ROBERT C. BYRD. That is correct.

The PRESIDING OFFICER. If there is objection after second reading.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the House message be read the first and second times.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Now, Mr. President, it will lie over, will it not, until it has been read twice?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 110

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate agree to the following modifications of sections 307 and 308 of Senate Resolution 110, which was agreed to by the Senate on April 1, 1977: First, that the time for filing the reports required to be made by the Committee on Rules and Administration pursuant to sections 307 and 308 of Senate Resolution 110 be extended from September 28 to October 17, 1977; second, that the reports filed on October 17 consist of the committee's review of existing law in the areas delineated in sections 307 and 308; and third, that the report serve as the basis for a continued review of these matters, with a view toward subsequent hearings and consideration of specific proposals and recommendations by the Committee on Rules and Administration as one of its priority items at the beginning of the 2d session of the 95th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent that the letter from Senator CANNON addressed to me on this subject be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR BOB: As you are aware, the Committee on Rules and Administration was requested by Sections 307 and 308 of Senate Resolution 110 to:

(a) "Study laws relating to contributions solicited from or made by officers and employees of the Senate, and report the results of their review, together with their recommendations," and

(b) "Report proposals to prohibit the misuse of official staff by holders of public office in campaigns for nomination for election, or election, to Federal office."

Although the Committee is required to report the results of this review by September 28, 1977, it does not appear that we will be able to discharge our responsibilities in a constructive manner by that deadline.

The Committee has received testimony and written statements on these issues from only a few Senators, and these have been most constructive and informative. Regrettably, however, we have not received the views of the Department of Justice, nor have we received statements from many Senators who have indicated they would like to share their opinions with the Committee at a later date. The Senate's commitment to the consideration of the pending energy legislation, among other matters, has made it extremely difficult for Members to give the items referred to in Sections 307 and 308 of S. Res. 110 the careful attention they deserve.

Consequently, the Committee, at its meeting today, decided to request your support for its continuing review of these issues in the following manner: First that unanimous consent be requested for the Committee to file a report, pursuant to Sections 307 and 308 of Senate Resolution 110, no later than October 17, 1977, setting forth the results of its review of existing law in each of these two areas, and reflecting the positions of the Department of Justice and the Federal Election Commission. Second, this report would also review recent actions of the Senate, and identify areas of uncertainty or confusion in either statute or agency interpretations. Such a report would be of valuable assistance to Senators who may wish to submit recommendations to the Committee, and would serve as a helpful guide to Senators and staff in these areas.

Technically, such a report, taken together with this Committee's recommendations reflected in Senate Resolution 188, could be considered a discharge of the Committee's responsibilities under Senate Resolution 110. The report, however, would serve as the basis for the Committee's continued review of these matters, with a view toward holding subsequent hearings and considering specific proposals and recommendations as one of the priority items on the Committee's agenda at the beginning of the second session of the 95th Congress.

The Committee believes that this approach will permit a more constructive review and resolution of the issues before it, and hopes you will be able to support its request.

With every good wish, I am

Sincerely,

HOWARD W. CANNON,
Chairman, Committee on Rules and Administration.

AUTHORIZATION FOR COMMITTEE ON GOVERNMENTAL AFFAIRS TO FILE REPORT BY FEBRUARY 28, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs may have until February 28, 1978, to report the results of its study, together with its recommendations, of the subject of handling employment discrimination complaints under section 310 of Senate Resolution 110. 95th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 7769 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7769 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 361

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 361. This House concurrent resolution would provide for the correction of the enrollment of the juvenile delinquency bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 361) was considered and agreed to.

ORDER VITIATING THE ORDER TO HOLD H.R. 7769 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order entered into earlier, to hold H.R. 7769 at the desk pending further disposition, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INTERNATIONAL LABOR ORGANIZATION AND HUMAN RIGHTS: ONE STRONG REASON WHY THE UNITED STATES SHOULD STAY IN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. HUMPHREY, that his statement on the International Labor Organization and human rights be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY ON THE INTERNATIONAL LABOR ORGANIZATION AND HUMAN RIGHTS: ONE STRONG REASON WHY THE UNITED STATES SHOULD STAY IN

The United States is nearing its critical decision as to whether or not it should remain in the International Labor Organization. News accounts covered the disappointing vote of the ILO June Conference on a key report from one of its main committees. In the wake of our frustration over that vote, talk of withdrawal has been rife.

However, little effort has been made to call to public attention the significant, constructive accomplishments and potential of this organization. These accomplishments warrant the most serious consideration by the public and those officials of government, labor and business who will draw up the balance sheet of assets and liabilities in determining the U.S. decision on this matter.

On the asset side of the ledger is one of the organization's least publicized, but most timely, continuing activities—the ILO's record on human rights. A review of current examples of the organization's operation and potential in this area seems to me not only relevant, but also essential to an intelligent decision. One must ask whether our attachment to human rights will be considered merely rhetoric if we abandon the most effective international enforcement machinery for certain of our central human rights objectives. Here, then, is a review of the recent ILO record as seen against the background of our announced goals.

In his Inaugural Address, President Carter said that "Our commitment to human rights must be absolute." In June he reiterated that this emphasis was "central to our foreign policy." Secretary of State Cyrus Vance has stressed that the Administration is eager, in view of this concern, "to strengthen the human rights machinery within the United Nations."

Yet, nowhere in the U.N. system are there procedures comparable in scope, experience and impact to those of the ILO. Whereas the U.N. Covenants on Human Rights were adopted a decade ago and have just begun to operate, the ILO has, over the half century of its existence, developed a series of human rights conventions and a system for promoting their implementation which would be impossible to duplicate elsewhere. Not only are these instruments specific in spelling out the rights of workers, in outlawing forced labor practices, and in defining job discrimination, but union and employer representatives also are fully associated in the ILO's efforts to detect and eliminate violations of the rights and freedoms which fall within its sphere of competence.

Rather than describe in detail the system of reporting, supervision, complaints, and special inquiries whereby the ILO carries out its human rights mandate, the operation of its procedures can best be illustrated by a few concrete examples taken from the cases examined during the current year. These cases cover the major areas of ILO concern and involve countries from all parts of the world.

FREEDOM OF ASSOCIATION

The ILO Committee on Experts on the Application of Conventions—which celebrated the 50th anniversary of its establishment this year—reported in its March meeting on the infringements of the Freedom of Association and the Right to Organize Convention by almost 40 countries which have ratified this instrument. When the experts' report was submitted to the ILO's annual meeting in June, the conference committee responsible for monitoring compliance with conventions singled out for "special mention" five of these countries, thus indicating that it deemed these violations to be particularly serious. The findings in each of these cases were based on discussions, often lasting several hours, in which the governments were questioned in detail, primarily by the workers and employers in the committee.

In the case of Argentina, the committee "expressed its concern at the present situation," i.e., the suspension of the activities of labor and management organization in the country in an effort to bring them under government control. The Committee urged that "measures to rectify the situation and to bring it into conformity with obligations under the Convention be taken as rapidly as possible." Echoing this strong appeal, the Colombian, West German, and British workers' delegates at the Conference lodged (on behalf of the International Confederation of Free Trade Unions) a formal complaint under the ILO Constitution, asking for the appointment of a commission of inquiry into Argentina's violations of the international labor conventions Freedom of Association. This demonstrates how, under the ILO system, exceptionally serious violations can be dealt with, both through the regular supervisory procedure (periodic examination by the experts and conference committees), and through other constitutionally available means.

In the case of another Latin American country, Bolivia, the conference committee noted "some improvement" as well as a government promise of new labor legislation to comply fully with ILO requirements. As stressed by the workers' members on the committee, here also regular supervision is reinforced by other ILO procedures: in this instance the ILO's machinery for dealing with violations of trade union rights has been and will continue to be closely involved (through meetings of a special committee on freedom of association several times a year, through on-the-spot contacts with the government, etc.).

In the case of Ethiopia, the committee expressed its "grave concern" at the domination of the labor movement by the new regime, and decided in a record vote to bring this to the special attention of the Conference.

In the case of Liberia, the committee voiced "extreme disappointment" that new legislation on trade union rights, long pending, had still not been adopted.

One of the longest discussions in the conference committee related to violations of the ILO's freedom of association convention by the Soviet Union. In March, the experts committee had noted that members of collective farms were now permitted to establish and join unions of their own (a result of previous ILO criticism); but the experts had found no evidence of progress on two other related issues: workers are unable to set up unions of their choice and the Soviet Constitution makes existing unions totally subservient to the Communist Party. After detailed questioning in the conference committee, the USSR government member did not oppose a formal expression of "concern" by the committee that changes were needed in the new draft Constitution of the USSR "to bring the legal position more closely into conformity" with the ILO's freedom of association convention. Where else in any international forum has the Soviet Union ever subjected itself to critical comments and demands such as these?

FORCED LABOR

In regard to the two major ILO conventions outlawing forced or compulsory labor, the experts committee had this year made critical comments to some 30 countries. Three of these cases were given special mention by the conference committee after its discussed them with the governments concerned.

In the case of Liberia, the committee noted "slight progress," but urged that "the legislation promised over many years should be expedited," in order to prevent compulsory labor for public works and to introduce penal sanctions for the illegal exaction of forced labor.

In the case of Uganda, the committee appealed to the government to maintain and respect its obligations under the ILO's Abolition of Forced Labor Convention through "urgent measures to bring its law and practice into conformity with it."

In the case of the Soviet Union, two major sets of violations were documented by the experts and discussed at length in the conference committee: the use of anti-parasite and vagrancy legislation to silence political dissenters; and the denial of freedom of movement and of choice of employment to the members of collective farms. In response the Soviet representative pleaded translation and interpretation difficulties (a defensive technique used when no substantive arguments are available); gave assurances that collective farm legislation would be brought "formally into line" with ILO requirements; and promised that his government would supply fuller information for examination next year. Here again, this low-keyed response contrasts with the sharp way in which the USSR has increasingly rejected human rights criticism elsewhere, whatever the source.

JOB DISCRIMINATION

In March, the experts committee had addressed comments to 20 countries in regard to the ILO convention against discrimination in employment. The two major violations of these requirements highlighted by the conference committee involve discrimination on the basis of political opinion practice in Chile and in Czechoslovakia. Though at opposite ends of the ideological spectrum, both regimes have been equally guilty of dismissing workers on the sole grounds of their political views and independence.

In the case of Chile, some workers fired after the military coup of 1973 have since been rehired, but the conference committee voiced "grave concern regarding the further action required" and called for "further evidence of real progress."

In the case of Czechoslovakia, dismissal of political dissenters has been a major tool of control during the post-Dubcek era. Following severe ILO criticism, some repressive features of the labor legislation were changed in 1975, but the government has failed to supply information on actual cases of dismissal and reinstatement. The experts committee had also referred to Penal Code provisions which define "incitement . . . against the Socialist State and social system" as "a crime against the Republic."

The conference committee concluded in June that this raised doubts as to the government's promises and practice. As if in substantiation of such doubts, the International Confederation of Free Trade Unions formally filed with the ILO earlier this year a constitutional "representation" containing a list of persons whose civil and political rights have been violated and "who have been discriminated against in their employment." Immediately after the June conference, the ILO decided to establish a committee to examine these allegations, a further illustration of how the ILO human rights machinery can combine regular supervision with special investigative action, whenever this is requested by its constituents.

U.N. COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Over the 50 years of its existence the ILO's machinery has dealt with literally thousands of cases where the social and human rights of workers have not been respected, and in a significant proportion of these cases remedial measures have been documented. With the entry into force last year of the U.N. Covenant on Economic, Social and Cultural Rights, a functional extension of ILO action has now become possible.

Under the terms of the Covenant, the Economic and Social Council of the U.N. is to receive from the ILO information on the observance, by the 40-odd ratifying countries, of such key provisions as those dealing with freedom of association, trade union rights and the safeguarding of fundamental political and economic freedoms to the individual, when full employment policies are pursued. The ILO decided in November 1976 (over the determined opposition of the Soviet bloc) to entrust this new task of examination to its experts committee, beginning in March 1978.

HELSINKI AGREEMENT

In the Declaration of Principles, which is part of this Agreement, participating States promise "respect for human rights and fundamental freedoms" and undertake to "fulfill their obligations as set forth in the international agreements in this field."

As a result, the findings of the ILO in regard to its human rights conventions could afford a unique and comprehensive basis for determining compliance or otherwise with the terms of the Helsinki Agreement.

WHAT ARE THE PROSPECTS FOR THE FUTURE?

The ILO's record on human rights has taken decades to build up. It has required the framing of meaningful instruments, action to secure their ratification (each of its major human rights conventions now binds from 80 to 100 countries) and the gradual emergence of comprehensive arrangements to supervise and promote their implementation.

No tangible results would, however, have been possible without the patient, often painful, repetition year after year of expert scrutiny and tripartite discussion. In all this, the role of labor and management has provided an added dimension and an element of strength, unmatched in any other global context; without a doubt, the active participation of employers' and workers' representatives in the International Labor Conference has been decisive in getting governments to come and discuss alleged violations and steps for their elimination.

But the crucial element of effective human rights action has been the persistent support given to this aspect of the ILO's work by the United States, by its fellow democracies and, indeed, by labor and employer representatives from a surprisingly broad range of other countries. The Conference's failure this year to give its formal endorsement to an admittedly first-rate report of its committee on conventions was due not to a breakdown in the human rights machinery but to an alliance of various forces centered on an extraneous political issue (the application of conventions in the territories occupied by Israel. This failure will not cause the ILO's machinery to grind to a halt, since the same machinery easily survived a similar mishap three years ago.

It is a more sinister scenario which could pose a serious threat to the ILO's human rights activities: attempts by the Soviet Union to seize control could prove successful when—and only when—the United States is no longer present and able to throw its unequalled weight behind a system which, though 50 years a building, could be turned into an empty shell in a fraction of that time.

COMPREHENSIVE NATURAL GAS POLICY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. HUMPHREY, that a statement by him on Senate action on S. 2104, a bill to establish a comprehensive natural gas policy, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY ON COMPREHENSIVE NATURAL GAS POLICY LEGISLATION

Due to my recuperation from recent surgery, I have been necessarily absent from the Senate during consideration of S. 2104, a bill to establish a comprehensive natural gas policy. However, I have endeavored to remain informed on the substance of Senate floor action on this highly important legislation. Moreover, I have been periodically in telephone contact with the President, the Majority Leader, the floor manager of this legislation, and other Senators in an effort to assist in the resolution of Senate action on this bill.

Numerous votes have been recorded on this measure and on parliamentary procedure, including 80 votes over a three-day period, once a motion to close further debate on the Pearson-Benteen amendment No. 862 was agreed to by the Senate on September 26. Whenever possible, on the basis of sufficient information at hand on the immediate issue to be resolved in these votes, I have requested that my position be announced. Moreover, I have greatly appreciated the courtesy extended to me on certain key votes by Senator John Stennis in withholding his vote on the other side of the issue on my behalf, under the procedure commonly referred to as a pair vote.

The substantial majority of amendments called up after cloture was invoked have been tabled, leaving the basic issue of natural gas pricing regulation versus deregulation still to be resolved.

I strongly support a compromise substitute amendment developed by Senators Robert C. Byrd and Jackson, in lieu of the Pearson-Bentsen amendment and other substitute amendments, and on which Senate floor action is anticipated on September 29 or shortly thereafter.

I believe this compromise amendment provides a sufficient price incentive to producers to increase critically needed natural gas supplies, particularly with the further provision in this amendment relating to the definition of so-called "new" gas.

Of great importance to Minnesota is the fact that this compromise amendment also provides that agriculture requirements, as well as the needs of schools and hospitals, will be given allocation priority in the event of natural gas supply curtailments.

It is essential that the Senate pass, without further delay, comprehensive natural gas policy legislation that basically maintains the principle of price regulation in the public interest, adequately protecting consumers at the same time that gas supplies are increased and made readily available across the nation.

In the absence of this action, it will be impossible to achieve agreement in House-Senate conference on the final version of this legislation to be sent to the President. And without the enactment into law of legislation along the lines of the Byrd-Jackson compromise substitute, the existing and totally unacceptable situation with respect to natural gas supply availability will be continued throughout the nation into the coming winter.

POSITION ON VOTES ON S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. HUMPHREY, that a statement by him announcing his position on certain rollcall votes in the Senate on September 28, 1977, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY: POSITION ON VOTES ON S. 2104

Regretfully, through inadvertence, my position on several RECORD votes on Sept. 28, 1977, relating to S. 2104, a bill to establish a comprehensive natural gas policy, was not announced. Had I been present and voting, I would have voted as follows:

Rollcall vote No. (Leg.)	Position
469	nay
470	nay
471	nay
474	nay
475	nay
476	nay
477	nay
478	nay
479	nay

H.R. 7769

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a House message on H.R. 7769 be read the first and second time.

Mr. BAKER. Mr. President, reserving the right to object, I can say at this hour and under these circumstances I am not sufficiently familiar with the subject matter of this bill to agree, and it is with great reluctance and having no bearing on the merits of the proposal that I must now interpose an objection.

The PRESIDING OFFICER. Objection is heard.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. It has been closed.

Mr. ROBERT C. BYRD. It has been closed.

Mr. President, before we recess, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question before the Senate is amendment No. 862, as amended.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, first, thanks to all Senators, let me say that.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to, and at 11:27 p.m. the Senate recessed until tomorrow, Friday, September 30, 1977, at 10 a.m.

EXTENSIONS OF REMARKS

FROM NORWALK WITH LOVE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SOLARZ. Mr. Speaker, for nearly 3 years now, I have been actively involved in the effort to publicly pressure and privately persuade Soviet officials to release Leib Khnokh from Vladimir Prison.

Mr. Khnokh is but one of the multiude of Jews who have been sentenced to lengthy terms in labor camps, because he attempted to freely execute his religion and sought to emigrate to Israel. He is currently serving a 10-year sentence on a number of trumped up charges. I was deeply honored when the Greater New York Conference on Soviet Jewry asked me to adopt Mr. Khnokh as my prisoner of conscience.

Unbeknownst to me, however, 12 couples who reside in Norwalk, Conn., began their own efforts recently for the release of Leib Khnokh and his fellow prisoners. At this time, I would like to insert in the RECORD their story which appeared in the New York Times August 7:

FROM NORWALK WITH LOVE

(By Anne Anable)

NORWALK.

If Leib Khnokh, a Soviet Jew, is released from Vladimir Prison, where he has spent the last seven years, he may owe his freedom, in part, to the efforts of 12 couples in Norwalk he has never met.

The core of the group was formed six years ago when 12 couples who were dissatisfied with the leadership of their local synagogue decided to strike off on their own.

"We've met every Tuesday and Friday night since that time," said Ellen Donen. She and her husband, Charles, are one of the original couples involved. "On Tuesdays we have a discussion or study group, and on Fridays, the Jewish Sabbath, we form our own prayer group. At whatever house we meet, that couple leads the services. We celebrate religious holidays together, go to the weddings of each other's children and take courses together. We are very good friends."

"Eventually we decided we were meeting our own needs, but wanted to help others," said Ruth Miller. Mrs. Miller and her husband Philip are also one of the founding couples.

The group decided to adopt two children in Israel through Save the Children Federation of Westport, and donated money for an old people's home. Last winter they learned of Leib Khnokh and his plight through the New York Conference on Soviet Jewry.

"I have a friend who is a vice chairman," said Mrs. Donen, "and we became interested in the plight of these people. There are about 50 prisoners of conscience in Soviet jails. The most famous is probably Anatoly Shcharansky, who is truly a leader, and is facing trial for treason.

"We chose Leib Khnokh because we were impressed by his heroism. He is an Orthodox Jew and even in prison wouldn't eat unsuitable food. It was surely very difficult to practice his religion in the Russia of today. We are not Orthodox ourselves, but we don't feel this is just a Jewish problem. The issue is human rights. We are all involved."

In 1968, Mr. Khnokh and his wife, Meri, began applying for exit visas to Israel. In June 1970, together with two friends and his pregnant wife, Leib Khnokh tried to escape. They were arrested within 40 miles of the Finish border. Mrs. Khnokh was allowed to emigate to Israel, where she lives with her son, Yigal, 6 years old, and is studying to be a hospital technician. Mr. Khnokh's brother, Pinchas, a doctor, was also given permission to leave and he practices in Israel.

As the organizer of the escape attempt, Mr. Khnokh was sentenced to 13 years in prison, but the term was later reduced to 10 years. Word has filtered out that he is dangerously ill with a stomach ailment.

"We have been told our letters and cards are a sort of insurance policy on his life," said Mrs. Donen. "We've no way of knowing if he sees our correspondence, but we do know the Soviet Government reads every word. They are very sensitive to pressure from the outside world."

Every Friday after the evening prayers, the group sends letters—to Mr. Khnokh himself, to his wife and son, to President Carter and to Connecticut senators and congressmen.

"We are trying to get friends outside Norwalk—even in other parts of the country—who will write, so the geographic distribution will be wider," said Mrs. Miller.

The group has compiled a letter-writing fact kit, distributed through the Jewish Community Council of Norwalk, establish communication with Mrs. Khnokh in Israel, and managed to interest Mayor Jennie Cave of Norwalk, who declared April 8 Leib Khnokh Day.

Through some friends from Norwalk who were going to Israel, Irving and Rita Schwartz, they sent money to Mrs. Khnokh and some presents for Yigal, who has never seen his father. "We wanted to send the money through an intermediary so we wouldn't offend," said Mrs. Donen. "She understood completely and wrote us what a help it would be to be able to buy things for Yigal's school year."

The meeting was particularly emotional, largely because Mrs. Khnokh had no idea such efforts were being made on her husband's behalf by a group of strangers thousands of miles away.

"We aren't seeking publicity for ourselves," said Mrs. Donen with evident sincerity. "We are acutely aware we may not see the results of our efforts for a long time. It's easy to get people involved in short-term projects where their work is rewarded. We know our campaign helps, but there's no way of being certain whether Lieb Khnokh will serve a shorter prison sentence because of these efforts.

"We can only hope and pray we are keeping him alive, so he'll be reunited with his family one day."

Those who wish to write are invited to contact Mrs. Donen or Mrs. Miller in Norwalk, or write to Leib Khnokh, Vladimir Prison, POB. OD 1. ST 2, Vladimir, U.S.S.R.

BETTER PREVENTIVE HEALTH CARE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. ARCHER. Mr. Speaker, a good friend of mine in Houston, Dr. R. O. Brennan, chairman of the board of trustees of the International Academy of Preventive Medicine, has proposed a series of measures he feels will stimulate better health care.

While there is room for discussion about these specific proposals, the need for better preventive health care is indisputable:

BETTER PREVENTIVE HEALTH CARE

The International Academy of Preventive Medicine presents the following proposals as innovative policy changes for the consideration of President Carter:

Proposal: A graduate school of preventive medicine must be established to assist doctors in practice to become interested and oriented into a total, holistic, preventive medical health care program. A curricula should be established to allow the shortest possible time that could be given to training the average practitioner. (This would include how many attendance hours and how many correspondence hours would be needed, as well as setting up an International Preventive Medicine Board, so that certificates and diplomas could be given to those physicians who have studied and become proficient in the preventive medicine approach.) An International Institute of Preventive Medicine could provide short seminars, and offer cassettes and written instructions by mail. The Institute could then conduct Board Examinations that would enable those who qualified to receive an International Board of Preventive Medicine Certification that would make them an International Diplomate.

Proposal: A meaningful nutritional program must be instituted for the dietitians who are in charge of the feeding of patients in hospitals, residents in rest homes, inmates of correctional institutions, members of the military, school children, and employees who eat in company cafeterias, so these dietitians could establish adequate programs to give all these people optimum nutrition for a better state of health.

Proposal: A better Food Stamp Program must be initiated so that food stamp recipients will receive the foods they need to rebuild their bodies and re-establish better mental acuity, so that they would have the ambition to work and lift themselves up out of their present condition. Stone-ground whole grain flours should be a basic food with milk products and soybean products stressed.

Proposal: A special program must be initiated for junior and senior high school students so that they will learn enough meaningful nutrition that they can learn to eat as they should. They must learn the components of food, and recognize the fact that they will have to take extra concentrated nutrients to keep their bodies healthy enough to stay slim and have a healthy baby when they get married and pregnant. Proper pre-natal nutrition can prevent so many of the problems seen in so many children today—birth defects, poor health, hyperactivity, and learning disabilities.

Proposal: Special emphasis should be placed on foods which contain the nutrients necessary to sustain health.

Proposal: Special awards and considerations should be given to people who remain healthy and do not use up a lot of "hospital credits." We are seeking, in other words, an incentive for staying well, and a penalty for becoming sick.

Proposal: The direction of the insurance companies should be changed to provide emphasis on preventive health care, providing a method of catching and dealing with overweight and the early stages of the chronic degenerative diseases. Insurance companies must be made to realize that preventive medicine is far less expensive than crisis medical and hospital care.

Proposal: A gigantic informational campaign must be instituted to inform the citizens of our country of the critical crisis that confronts us all in the sick-care area. It must be pointed out that our personal energy and internal environmental problems are more dangerous and appalling than the so-called "fuel energy crisis." It must be pointed out that everyone is essentially responsible for his own health and, eventually, his own sickness. Then it will become every person's duty to keep himself healthy by doing the things that are necessary to supply the cells of his body with what they need to maintain good health. Only the maintenance of good health can keep down the escalating medical and hospital bills.

PANAMA CANAL TREATY—A GIVEAWAY

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SHUSTER. Mr. Speaker, many arguments have been espoused by many sources on both sides of the Panama Canal Treaty. However, I commend to my colleagues an excellent article written by Anthony Harrigan of the Parkersburg, W. Va. Sentinel.

I sincerely hope that the American people are aware of the absurd nature of this treaty, which in effect has the United States paying a dictatorship to take territory that is legally part of the United States. Mr. Harrigan's comments clearly point out the administration's serious error in giving away what is considered a key strategic zone for our national defense:

[From the Parkersburg, W. Va. Sentinel, Aug. 15, 1977]

A PANAMA CANAL GIVEAWAY

Much to the surprise of the American people, it now appears that the Carter administration is very close to concluding a treaty that would relinquish a great part of the U.S. position in the Panama Canal Zone.

Though the administration has sought to present itself as an "open door" administration, negotiations with the dictatorial regime in power in Panama have been conducted in great secrecy. Only recently did Congress learn that the principal remaining issue in the negotiations is the amount of money the United States will provide as an annual payment to Panama between now and the year 2000.

Though the Carter administration is on the point of concluding a treaty satisfactory to the Panamanian strongman, Gen. Torrijos, the domestic struggle over the treaty is only beginning. More than 30 senators have gone on record as opposing a new treaty that would involve relinquishment of a sovereign control by the United States. U.S. Sen. Strom Thurmond (R-S.C.) is the leader of Senate opposition to a Panama Canal giveaway. Sen. Thurmond recently declared: "I intend to fight the treaty with all my strength."

As the new treaty would involve a transfer of U.S. property, the House of Representatives also will have an opportunity to block the giveaway.

The Panamanian treaty debate in Congress is likely to be one of the most important and intense debates in the history of the United States made the Louisiana Purchase or the treaty of 1867 which formalized the purchase of Alaska from Russia. If U.S. control of the Canal Zone is invalid, as an outdated act of colonialism, then America's title to Alaska is equally invalid.

The fact is, however, that the U.S. Supreme Court, in the case of Wilson vs. Shaw, handed down the ruling that the 558 square miles of the Panama Canal Zone is United States territory. This is the law of the land.

There is much more to the Panama Canal situation than legal issues, to be sure. Firm control of the canal by the United States is vital to U.S. Security and the well-being of friendly nations in this hemisphere and the world. Fourteen thousand ships transit the canal each year, making the waterway a key element in the global maritime lifeline.

Advocates of a canal surrender argue that the waterway is outmoded in terms of the needs of the U.S. Navy. In point of fact, fewer than 15 U.S. Warships are too wide to use the canal. The canal easily accommodates the remainder of the fleet."

Furthermore, continuing U.S. control of the Panama Canal is essential in view of America's energy requirements. In the event of another Arab oil embargo, the Eastern seaboard would have great need of oil from Alaska. Much of this oil would be transported in small and medium-size tankers.

In trying to sell the idea of a new treaty, the Carter administration promotes scare talk about a violent upheaval in Panama if America fails to yield.

It's possible that the Torrijos regime may stage riots to engender fear of a mini-Vietnam at the Isthmus. The U.S. public should recognize such riots, if they occur, as political theater, designed to weaken the resolve of the American people.

A TRIBUTE TO MR. RICHARD "DICK" HUBER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. WOLFF. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. Richard "Dick" Huber of company No. 2 of the Mineola, N.Y., Fire Department. Mr. Huber will be honored on October 14, 1977 at a dinner given by his colleagues for 50 years of distinguished and loyal service to the department.

Mr. Huber began his career of dedicated assistance to the department and community in October 1927 when he was accepted as a fireman by the village of Mineola. In 1930 he was elected as treasurer of company No. 2. From that point on he continually rose in the ranks of public service, from treasurer, second lieutenant, first lieutenant, captain, warden, first assistant chief, chief of the department in 1957, and ultimately to president of company No. 2 in 1964.

In addition to Mr. Huber's service to the fire department as an officer, he has also been a member of numerous committees and supportive affairs in the department. He is a charter member of the Exempts Benevolent Association where he has served as past president and presently holds the position of trustee.

Mr. Huber's career has been highlighted by his dedication and leadership in the fire department and the community. I extend my heartiest congratulations to an outstanding public servant on this his golden anniversary.

JAPANESE PARLIAMENTARIANS SHOW CONCERN ON POPULATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SIMON. Mr. Speaker, a number of us in the House and Senate met with a delegation of Japanese parliamentarians in the Capitol on September 15, 1977, to formulate plans for an informal international working group of parliamentarians concerned with population and development issues.

In a luncheon session I cochaired with Senator BOB PACKWOOD, we agreed on plans to visit some of our counterparts from Canada, Great Britain, and Germany later this year as a first step toward this goal.

The proposed group was initiated by the Japanese legislators, led by the distinguished former Prime Minister of Japan, Mr. Nobusuke Kishi. A member of the Japanese Liberal Democratic Party and president of the Japanese Parliamentary Federation for Population, Mr. Kishi headed the delegation we met with on September 15.

At the conclusion of our meeting, we issued a statement expressing our concern about population and development issues and outlining proposals for enlisting the support of other parliamentarians from around the world in dealing with problems in these areas.

We would like to share that statement with other Members. The complete text follows:

As individuals who are members of national legislative bodies, we share a common interest in problems of economic and social develop-

ment and a concern for the role of population factors in development. We recognize that world population has been increasing at an unprecedentedly rapid rate and that this increase threatens many national and international goals which our governments endorse. We believe there is undisputed recognition of the need to address population and development problems at the local, national and international level, through a variety of voluntary health, education, family planning and rural development programs, and with the active assistance of private organizations, governments and international agencies.

In order to promote humanitarian solutions to the problems of population and development and to carry out and to emphasize the spirit of voluntarism and international interdependence, we propose to take the following measures:

(1) To encourage more communication among interested legislators in order to foster greater understanding and support of population programs and development needs.

(2) To encourage the establishment of informal and unofficial working groups of parliamentarians who will meet and confer from time to time on population and development issues.

(3) To propose and work for adoption of policies and regulations which will assure the basic human rights of all individuals and couples "to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so", as agreed upon at the 1974 Bucharest World Population Conference.

(4) To stimulate interest of national governmental bodies in increased support for bilateral and multilateral population assistance programs designed to assist developing countries in socio-economic development.

(5) To work for increased research by private and government agencies in reproductive biology to develop and test improved methods of voluntary fertility regulation.

(6) To encourage cooperative programs between governments in training, medical research and technical assistance.

(7) To invite interested legislators from all nations to participate in population and study visits to learn about and review population and development policies in other nations.

(8) To consider an international conference for legislators on population and development where current data, issues and programs could be discussed in depth with national policy makers and internationally recognized experts.

Through these measures, we hope to contribute to the common goal of social and economic development to improve the well-being of all peoples throughout the world.

Also participating in the luncheon meeting at the Capitol Thursday were House Speaker THOMAS P. O'NEILL and Patsy Mink, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Hosting the Japanese delegation were former Senators Joseph Tydings and Robert Taft, Jr. Tydings is cochairman and Taft is a director of the Population Crisis Committee.

In addition to Kishi, the Japanese delegation included: Mr. Takashi Sato, secretary of the Japanese Parliamentary Federation for Population (JPFP) and a member of the Liberal Democratic Party (LDP); Mr. Shogo Abe, chairman of the Committee on Family Planning, Maternal and Child Health and Contraception of the JPFP and a member of the Socialist Party (SP);

Mr. Yoshito Fukuoka (SP), of the Construction Committee of the House of Representatives; Mr. Eisaku Sumi (LDP), of the Social and Labour Affairs Committee of the House of Representatives; Mr. Hiroshi Kodera, of the Social and Labour Affairs Committee of the House of Representatives and a member of the Komeito Party (KP); Mr. Kosaku Wada, of the Social and Labour Affairs Committee of the House of Representatives and a member of the Democratic Socialist Party (DSP);

Mr. Kazuo Tamaki (LDP), of the Social and Labour Affairs Committee of the House of Councillors; Mr. Tokicho Abiko (LDP), of the Foreign Affairs Committee of the House of Councillors and exdirector general of Food Agency;

Dr. Saburo Ohkita, president of Japan Economic Research Center; Mr. Nihachiro Hanamura, vice chairman of the Federation of Economic Organizations; Mr. Hisatsune Tokunaga, vice president of Nippon Steel Corp.; Mr. Kazutoshi Yamaji, chairman of the Japanese Organization for International Cooperation in Family Planning, Inc. (JOICFP);

Dr. Eiichi Wakamatsu, chairman of the Japan Public Health Association; Prof. Masaaki Yasukawa, professor of Keio University; Prof. Shuzaburo Takeda, professor of Tokai University; Mr. Shozo Koyama, secretary, Ministry of Finance; Mr. Katsuhiko Tsunoda, director of the Immigration Division of the Ministry of Foreign Affairs; Mr. Ichitaro Tamatani, chief-director of the Culture Department of NHK (Japan Broadcasting Corp.);

Mr. Chojiro Kunii, executive director, JOICFP; Mr. Tameyoshi Katagiri, director, JOICFP; and Mr. Shigeyoshi Yoshida, project manager, JOICFP.

HON. WILLIAM R. HULL, JR.

HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. FLYNT. Mr. Speaker, I join with the gentleman from Missouri (Mr. COLEMAN) in paying tribute to the life and service of our deceased, former colleague, Hon. William R. Hull, Jr., of Missouri.

It was my privilege to have served with Bill Hull from the beginning of his service in Congress on January 3, 1955, until his voluntary retirement at the end of the 92d Congress. During much of this period, he and I served on two separate committees together. The first committee on which we served together was the Committee on Interstate and Foreign Commerce on which he served with distinction. He was a valuable member of the committee and his contributions to the work of the committee were manifold. Upon the death of the chairman of the Committee on Appropriations in 1964, Mr. Hull was elected to fill the vacancy on the Committee on Appropriations. We served on that committee from 1964 until the end of the 92d Congress.

We knew Bill and his family well and we especially remember the pleasant friendship between Susan and Billy with our own children. Bill's sister, Mrs. Margaret Hull Lynch, came to Washington when Bill, Billy, and Susan came and made her home with them during the period of Mr. Hull's service to this body.

There are many good things which I remember with great pleasure about my friendship with Bill Hull. He was an able Member of this body and a dedicated public servant of the people of his district and State. He was a man who possessed the very highest moral principles, character, and reputation. From his first election he was overwhelmingly reelected to the eight succeeding terms for a period of 18 years. He served his district, State, and Nation honorably, capably, and well. He was my warm and close personal friend and one by whom I felt privileged to be called a friend.

Patty and our children join me in extending our affection and heartfelt sympathy to his sister, Mrs. Lynch, and his children, William R. Hull, III and Mrs. Susan Hull Hudson.

WELFARE REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. GRADISON. Mr. Speaker, on September 19, 20, and 21, administration officials appeared before the Welfare Reform Subcommittee, of which I am a member, to testify on the President's proposed welfare reform package. From their testimony and the ensuing questions from committee members, it appears to me that there exists sharp disagreement as to the meaning of "welfare reform."

It is my impression that most First District residents and citizens across the country view meaningful welfare reform primarily as providing income producing employment or job training, if needed, to able welfare eligibles. Such an approach would stimulate independence from a growing welfare system, providing more equitable income opportunity for the recipient and lessened program cost to an already overburdened American taxpayer.

For too long, the hodgepodge of welfare programs has been wrought with fraud and abuse while many truly needy families were frustrated at the inequities in benefit entitlements. Lack of job opportunity coupled with the difficulty of providing for a family on fixed income has created a situation of entrapment for too many. President Carter's plan, entitled, "Better Jobs and Income Act," promised to address these concerns at a net cost increase of $2.8 billion over existing expenditures. After these preliminary hearings, I am not convinced that the President's program is truly directed at these goals.

It is my belief, from cost figures provided by administration officials, that the net increase in program cost will be closer to $14.5 billion over present expenditures rather than the $2.8 billion increase outlined by the President in August. This $14 billion figure, in my estimation, is conservative and could go higher still.

Rather than reducing the number of those dependent on welfare benefits, the plan now before the subcommittee seeks to cover groups of people never before

eligible for welfare benefits: single individuals, childless couples, and two-parent families with a current wage earner.

The earned income tax credit (EITC) would be expanded under this proposal to reach families at the national median income level and higher. For a family of four, a graded credit against tax due should be applied up to a family income of $15,400. For a family of seven or more, the phaseout point would reach $22,000. While I feel that tax relief is badly needed for middle-income families, by providing such relief as part of the welfare package rather than through meaningful tax reform, our country would be in a position where close to 50 percent of all families in America would be receiving assistance, in whole or in part, under this plan. Frankly, I am troubled by the implications to our society if we accept the notion that half the American people are going to take money out while the other half puts in.

The adequacy of the jobs component of this bill most certainly needs to be questioned further. Under the President's plan 1.4 million jobs would be provided by the Federal Government for those with dependent children who cannot find employment in the private sector. The 1.4 million figure, designed to meet job opportunity demand, is based on computer projections which attempt to define economic conditions in 1981, the year in which this bill would take effect. That computer projection includes an unemployment figure of 5.6 percent. I certainly hope that such a figure or one even lower is possible. However, should the 5.6-percent figure prove to be incorrect, creating 1.4 million jobs will not provide enough employment opportunities to reduce the dependence on direct cash assistance in the manner which I think the American people, both jobseeker and taxpayer alike, are looking for this plan to provide.

Our State and local governments are badly in need of assistance with present welfare programs. Needy families are seeking simplification of program eligibility guidelines and meaningful job opportunities. The American taxpayer is looking for relief from the financial and social burden of a costly, self-defeating system of welfare dependence. All of these concerns need to be met in any comprehensive welfare reform package.

The Subcommittee on Welfare Reform will continue to work on the President's program through December. I am hopeful that many of these very serious problems can be fully addressed and a welfare reform package which meets the standards of the American people can be agreed upon.

LET US PROTECT OUR OWN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MOTTL. Mr. Speaker, in my area of Ohio we have been severely impacted by many kinds of imported goods. Many of my constituents are employed in the steel industry, in the auto industry, and also the knitted outerwear industry.

More than 250 domestic knitting mills have gone out of business in the last 2 years. Just recently in the Cleveland area, a company which employed over 450 people, was liquidated due primarily to trade displacement from cheaply manufactured garments.

I have received numerous letters from constituents of mine who work for knitted outerwear industries. The companies cannot compete with cheap imported goods. This poses a severe threat to our economic well being.

I would further point out that the domestic companies must pay social security, have established pension plans, and comply with U.S. Government regulations. Although they pay substantially higher wage rates than our minimum wage, their foreign competition has little or no wage or work condition regulations.

In the best interest of our country, of our knitted outerwear industry, and of the workers in that industry, I urge my colleagues in the House to take a long, hard look for possible remedies to this import problem.

OIL FUND SHIFTS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. WHITEHURST. Mr. Speaker, the following three items were sent to me by Rear Adm. C. C. Andrews, USN, retired, and I am pleased to take this opportunity to share them with my colleagues.

The first two items, entitled "West 'Fails To Cope' With Oil Fund Shifts" and "Arms Shopping," appeared in the September 19, 1977, issue of Kayhan International; the third, an editorial by Publisher Julian S. Lake, comes from the August 1977 issue of Military Electronics/Countermeasure. Having just returned from the meeting of the North Atlantic Assembly in Paris, to which I was a Delegate, and having been a member of the Military Committee and its subcommittee on weapons standardization, I can attest to the accuracy of many of Mr. Lake's comments, particularly with regard to the concept of the "two-way street."

As Admiral Andrews pointed out in his cover letter to me, "These people are anxious to return our oil dollars but, if we don't want them, others do." I hope that my colleagues will find an opportunity to read these three articles.

[From Kayhan International, Sept. 19, 1977]

WEST "FAILS TO COPE" WITH OIL FUND SHIFTS

WASHINGTON.—Industrialised countries have shown no evidence they are prepared to tackle seriously their total dependence on OPEC, a Senate staff report said Saturday.

Reviewing problems of international debts resulting from the six-fold increase in the price of oil, the report said the fact that the world was coping with disequilibrium "does not mean that is has countergrips with the ultimate economic, social and political consequences of this massive transfer of resources, which is only now beginning to be felt."

It added there was no evidence that the U.S. Government or the governments of other industrial major countries were prepared to tackle seriously dependence on the Organisation of Petroleum Exporting Countries.

It said oil-producing states now held about $50 billion in assets in the United States and in overseas branches of U.S. banks.

The surplus states, it said, had so far been careful not to destablise Western capital markets in disposing of their surplus funds.

But in another major outbreak of hostilities in the Middle East "can one be sure that they will continue to act in the best interest of the Western financial system?" the report asked.

It said there was no guarantee that Saudi Arabia, which did not hestitate to use the oil weapon against the United States in the last Middle East war, would not wield the money weapon in a new war.

The report, prepared for the Senate Foreign Relations Subcommittee on Foreign Economic Policy, expressed concern at the role of major American banks in making loans to the less developed countries which found themselves in desparate need of money because of oil payments.

In a "doomsday scenario," the report said the banks are worried those nations are so broke they "will find it more in their interest to simply default or repudiate their external debts rather than to have to continue borrowing just to repay old loans," the report said.

"And if this happens, a domino effect could take place in which other debtor countries follow suit, the banks panic and start calling in their international loans, the stock market drops precipitously, and the international capital market collapses," the report said.

"This doomsday scenario may be extreme in its pessimism, but it is being taken seriously enough by responsible officials that a concerted international effort is now underway to prevent that first domino from falling," the report said.

"Not only developing nations are hard pressed by the oil price increase. Such American allies as Britain, France, Italy, Turkey, Greece, Mexico and Brazil also are under severe financial strain," the report said.

"The United States can hardly afford to stand by and watch the economies of these countries collapse, or to have their governments undermined politically by financial difficulties," it said.

ARMS SHOPPING

KUWAIT, Sunday, AFP.—A military delegation from Kuwait will begin a tour of France, Britain and Italy on Wednesday to negotiate the purchase of sophisticated weapons with leaders of these countries, well-informed sources said here today.

[From Military Electronics/Countermeasures, August 1977]

THE REAL MOOD OF PARIS

(By Julian S. Lake, Publisher)

Despite the platitudes and glowing reports on the success and excellence of the Paris Air Show, many reports fail to describe the true mood of the international marketplace represented by this biennial event. While the flight demonstrations were precise and excellent, the display of weaponry awesome, the accomplishments of technology stimulating, the weather much better than it could have been and the chalet cuisine superb, the real mood of the international participants was one of stark contrast.

Most of U.S. industry was confused and discouraged, brought about by contradictions and inconsistencies in U.S. policy. Guided by moral principles which do not

seem to have universal application, these naive and idealistic policies ignore the fundamental issues of situations and work against the best interests of our country. In contrast, European manufacturers, particularly British and French, are encouraged and revitalized as they prepare to step into the vacuum caused by the forced withdrawal of U.S. firms. The pattern of "Yes" to some and "No" to others is accompanied by vascillations before every decision. This creates a lack of confidence in the eventual outcome of every U.S. proposal, and places our industry in a difficult selling climate. This understandably extends into a reluctance by European firms to accept or continue with U.S. firms as partners in joint ventures.

It is an unfortunate coincidence that the politically motivated decision not to accept the Leopard tank for the U.S. Army and dropping the badly managed PHM has produced a new level of outrage and sales resistance to U.S. weapons programs. There is increased resentment to the U.S. version of the "two-way" street between the U.S. and Europe. As one official puts it, "One-way, a super highway to Europe for the U.S. goods and the other way, a foot path by which the money is carried back." He further states that "Our politicians have to look credible. They want to be re-elected just like yours. When joint programs are not stable or dependable, they will not take the risk of cooperating with you. Our factories and workers must be kept busy, with or without you." The reality of this situation is that it would occur regardless of the President's current policies. The U.S. has long dominated the Western world in weapon systems. Usually the only competition is among the several U.S. systems under consideration. There is bound to be a strong motivation to reverse this subordinate role.

One clear fact comes out of Paris: the U.S. technology lead is stronger than ever. The Europeans have again failed to keep pace in cost or system effectiveness. It is a bitter prospect that the U.S. will relinquish by default a position of leadership in this marketplace.

A further manifestation of the erosion of the international market for U.S. industry is in the growing difficulty in obtaining export licenses. Although the administration is generally interested only in major programs, the trend of these decisions now pervades the bureaucracy in the Departments of State and Defense. Left to its own devices, any bureaucracy tends to be cautious and conservative, but in the face of the present leadership, this attitude is becoming increasingly nit-picking and negative. Low level "interpretation" of administrative policy abounds and licenses are almost impossible to obtain.

One hears frequent references to the dangers of exporting U.S. technology by overseas sales. "We will give away the store," is the familiar comment. Mere possession of an advanced technology article in no way gives its owner the ability to duplicate it. Anyone familiar with the "intelligence process" knows the formidable task of reverse engineering.

Even drawings and blueprints are frequently not enough; witness the trials and tribulations of co-production or second source transfer within U.S. industry. It is hard to do even when everyone wants it to happen. Yet secrets and knowhow do slip away—usually a key individual is responsible. One design engineer or production expert is worth a room full of blueprints. Have we forgotten the Free World dilemma of the past two decades: the "brain drain?" The flood of scientific and technical talent to the U.S. from abroad has greatly benefitted our industry and has contributed immeasurably to our present leadership. What happens when one of these talented gentlemen decides to return home?—worse than a hundred export licenses. The fact is, our technology leadership is due to a strong and vigorous industry which will continually progress and advance when it is constantly stimulated by a strong market for its products.

Nevertheless, the realities of world economics create a severe challenge to the U.S. in international trade given the best of White House policies. It is ironic that—because of the continuing stream of blunders and bloopers on export policy, human rights and aggressive challenge to the Communists—the highly sought moral issues are going begging. We are interested in human rights in certain countries only, and our refusal to be the "world's arms merchant" does not stop the arms race, it only gives business away. Eager suppliers from other countries gladly fill the gaps we leave. Not only do we lose business, but our industry will be weaker because of a diminished demand while that of other countries will be strengthened. The damage to our present position of leadership may well be irreversible, for already we are hearing pronouncements that Europe will buy European systems of lesser capability and higher cost regardless of the availability of better and cheaper U.S. systems.

Aerospace industry is vital to the world's economy, apart from the contributions it makes to the arms race. In the face of the competition this generates, why must we cut our own throats?

A CASE OF OVERKILL ON GAS-GUZZLERS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DERWINSKI. Mr. Speaker, as the Senate continues the debate over the various provisions of the energy bill, we recognize that this legislative conflict will require a vote in both bodies before the issue is totally resolved.

I commend an editorial, appearing in the Chicago Daily News of September 14, to the attention of the Members. I believe this community accurately reflects practical judgment rather than the bureaucratic scheming too prevalent in Washington:

A CASE OF OVERKILL ON GAS-GUZZLERS

The Senate has voted a fiat ban on the manufacture of gas-guzzling autos and, while we admire its zeal for conservation of energy, we question its judgment. To us the action looks like another case of federal overkill.

President Carter's approach to the problem of the gas-guzzlers was to tax them toward oblivion, and the House went along. The energy bill it passed would continue to require that manufacturers maintain specified fuel consumption averages in the fleets they produce. Big cars would keep coming off the lines so long as enough fuel-efficient cars were manufactured to maintain specified, annually rising averages—27.5 miles per gallon by 1985.

This approach tended to appease those who insist they need big cars because they have big families or because they do a lot of hauling—those who might otherwise be driven to buy unregulated vehicles with truck chassis, which guzzle even more gas. But they would have to pay dearly for the privilege. The House bill calls for taxes of $553 on cars averaging less than 13 m.p.g. in 1979, rising to $3,856 in 1985. And these proceeds would go to a fund to reduce the national debt where, heaven knows, it could be used.

Now the Senate wants to forbid the production in 1980 of any car that can't do 16 m.p.g.—21 by 1985.

Was this trip really necessary? From our vantage point, all it does is impose an unnecessary regulation on the auto industry and, at the same time, confound the legislative process. The conference committee that will have to deal with the House-Senate differences in an already complex piece of legislation now will have one more problem to deal with.

ST. THOMAS-ST. JOHN CHAMBER OF COMMERCE COMPLETES 50 YEARS OF SERVICE

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DE LUGO. Mr. Speaker, the St. Thomas-St. John Chamber of Commerce in my District of the Virgin Islands has reached the ripe old age of 50. It was founded just 10 years after the United States took control of the Virgin Islands from Denmark.

The growth of the Virgin Islands over these 50 years is tied directly to the good work done by the Chamber. Given the history of the Chamber, I am confident that it will be able to meet future needs as it has conquered past problems.

Its anniversary has not gone unnoticed in the islands, as the following editorial from the September 23d Virgin Islands Daily News shows. I commend this article to my colleagues as an example of the civic mindedness of some of America's businessmen.

50 YEARS OF SERVICE

This week marks the 50th anniversary celebration of one of this community's most outstanding organizations, the St. Thomas-St. John Chamber of Commerce. The actual anniversary occurred on March 21, 1977.

We are proud to have had a long association with this group and to have observed it grow along with the business of the islands, taking an active role in this increasing prosperity.

From the very beginning there was a small group of businessmen who had faith in the future of the islands—and, happily, some of them are still with us—and their faith proved to be justified.

From the very beginning, they took an active part in the affairs of the islands and, although there were times when interest in the organization waned for various reasons, it always came back, stronger than before.

Before there was a Chamber, the men who formed it were doing their utmost to promote tourism in the islands. The organization would retain this interest but would also expand its interest in recognition of the need to diversify the economy.

Through the years, they have taken an active interest in such matters as the minimum wage, taxation, the environment and investment incentives. The Chamber has founded the Humane Society, the Junior Chamber of Commerce, a hotel training program, scholarships and the U.S.V.I.-B.V.I. Friendship Day. Chamber members have branched out to form such organizations as the V.I. Taxi Association, the Hotel Association and the Gift and Fashion Shop Association.

The original small group grew into the organization we know today with almost 400 members and a voice that commands respect in the councils of the territory.

Often, we hear that Chambers of Commerce are merely exclusive clubs composed of the more prosperous members of the community banded together only for the purpose of furthering their own prosperity.

Such is not the case with the St. Thomas-St. John group for, when it takes a position, we have noticed that this position is arrived at with full consideration of the good of the community as a whole.

In addition, there have been occasions when our government, either through penury or apathy, has failed to do the research necessary to arrive at conclusions relating to changes in our laws—made either here or in Washington—and the Chamber members have generously given of their time and talents to perform this service to the good of all of us.

Fortunate is the government and the people who have a body of public-spirited businessmen and women to draw on and foolish is the government and people which ignores such citizens.

So long as the Chamber consists of people who are willing to devote their time to the greater good and the government consists of people willing to seek their counsel, we will all have a better, more prosperous life.

THE CURIOUS MARRIAGE OF OSAKA AND ARKANSAS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. ALEXANDER. Mr. Speaker, earlier this month the Washington Post published an article dealing with the adjustments of Japanese and Americans to each other's lifestyles in Forrest City, Ark., in my district. The "curious marriage of Osaka and Arkansas" as the Post terms it, has come about as a result of the Japanese purchase of a color television factory in this east central Arkansas city. I commend the articles to my colleagues:

[From the Washington Post, Sept. 2, 1977]

OSAKA-ARKANSAS SUCCESS

(By T. R. Reid)

FORREST CITY, ARK.—In every way but one, the color television factory in this pleasant country town is a classic American success story.

A year ago, the Warwick Electronics Co. plant, faced with falling sales and rising losses, cut its force to fewer than 400, adding more than 1,000 names to the unemployment rolls in this low-income region of rice and soybean fields.

Then a new management team took over, bringing innovative techniques and strict quality control. Today, the same plant has 1,300 full-time workers, productivity is at an all-time high and sales and profits are growing monthly.

All of which sounds like a standard chapter in the textbooks of American business acumen. In this chapter, though, the acumen came from Sanyo Denki Kabushki Kaisha, the Japanese firm that bought out Warwick late last year, and the small squadron of Japanese managers and technicians sent here to set things straight.

In addition to the promising financial figures since Sanyo's takeover, the curious marriage of Osaka and Arkansas seems to be a striking social success.

Despite severe language problems, the Japanese newcomers say they have been overwhelmed by the country hospitality (but not the country cooking) of this quiet community.

They have been assiduously studying Southern culture and visiting the region's leading tourist spots. "We had a wonderful trip through Mississippi and Tennessee," said Kazuko Watanabe, wife of a Sanyo vice president. "The best part was Memphis—it was Elvis' home, you know."

The Watanabes had difficulty on their trip, however, deciphering the Deep South's particular brand of English, and their own pronunciation of the language. "We had a terrible time finding Biloxi," Mrs. Watanabe says. "We kept asking people how to get to 'Burokshi,' but nobody seemed to know."

The easy-going Arkansans here seem equally pleased with their new neighbors. "Even if they weren't giving us all jobs, I'd have to say they were real good people," a leader in the union local at the Sanyo plant said.

Although the Japanese takeover came as something of a thunderbolt here in the northeastern corner of Arkansas, the Forrest City situation is hardly unusual. In the past five years Japanese firms have taken over or built dozens of factories in the United States, producing everything from airplanes to zippers for American and foreign markets.

The new pressure for import quotas against foreign goods—as reflected in the "orderly marketing agreement" on Japanese color television sets that went into effect last month—may well lead more Japanese manufacturers to seek American plants.

The impending television quota largely prompted Sanyo to buy the Forrest City plant from Warwick which was a subsidiary of Whirlpool Corp.

Warwick for years had held a lucrative contract to produce private label sets for Sears, Roebuck & Co., the nation's largest television retailer. But in the early 1970s Warwick ran into serious quality problems. Its rate of rejected sets went far over the industry average, and Sears asked Sanyo to provide technical help.

But Sanyo officials, guessing that a quota system was in the offing, offered instead to buy Whirlpool's interest in the Warwick plant—and its Sears contract. The sale was consummated in December, 1976.

Sanyo quickly dispatched a team of technical experts from its Osaka headquarters, and the Japanese set out to tighten work standards in Forrest City.

"They're pretty picky people, you know?" says Shirley McGuire, a long-time forewoman on a final assembly line. "They want everything done their way."

"They just stand there," says Dennis McGuire, a hefty high school football veteran who lifts 70-pound picture tubes into sets coming down the line.

"They stand there and look over your shoulder—except they're too short to see over my shoulder. They get about one inch away and don't move. I mean, I like them, they gave me my job back, but sometimes it gets to you."

In addition to regular observation along the assembly line, Sanyo installed numerous inspection stations to check sets moving through the plant.

The factory boasts its own broadcasting booth, to send test signals, and a "tumbler" device that flips completed sets 360 degrees through the air. If a screw falls out, it is traced back to the worker who was supposed to install it.

In the Japanese corporate style, Sanyo set out to create a "big happy family" atmosphere to enhance morale at the plant.

Among other things, the management brought along a variation of the Japanese concept of lifetime employment. Unlike U.S. television firms, which lay off most of the work force when production for the Christmas rush is finished, Sanyo says it will not cut employment in slack seasons.

In the paneled offices just off the sprawling factory floor, Sanyo is struggling to institute another Japanese tradition—management by committee.

In Japan, where group consciousness is a transcendent social value, corporate decisions are normally made by concensus among a team of top managers.

Sanyo has transferred that notion to Forrest City by establishing a six man "operating committee," half American and half Japanese, which is supposed to resolve business decisions ranging from where to buy millions of dollars worth of parts to the weekly salary of an interpreter to aid Japanese employees at the plant.

"For some people, it's been a hard adjustment," says Tanemichi Sohma, an Osaka native who is one of three Japanese on the committee.

"These people in Arkansas are pretty independent. Some of them couldn't stand making decisions in the committee. Of course, they had to leave."

Although the six committee members are supposed to have equal authority, several observers have concluded that Sohma is more equal than the rest. Language is his secret; he is the only person here who is fluent both in Japanese and English.

The amiable, energetic Sohma first came to the United States in 1951 to take a job in Hollywood as Hedda Hopper's butler. (He recently published a memoir, "The Hollywood I Knew," that is selling briskly in Japan.) As a result, he speaks a clear, if somewhat nondiplomatic, English ("If people mess up, I will tell them hell" he says).

The other Japanese, most of whom have come to America for the first time, are doing their best to adjust despite two ubiquitous problems: language and food.

Although Arkansas is justly proud of its home-grown hogs, the Japanese here have not enjoyed the local bounty. Forrest City butchers don't cut meat in the slim pieces needed for Japanese cooking. The local delicacy, pork barbecue, finds little favor with the Japanese palate.

The Japanese, who eat fish daily at home, complain that they can't get seafood here, either. That seems strange to Arkansasans, who can point out a cat fish emporium on almost every major corner. The Japanese, though, universally say they find the taste of "catofishu" repulsive.

Those problems have been outweighed, however, by the friendly greeting the Japanese have received from the people of Forrest City.

"People here smile all the time," says a surprised Sumo Nakamura, a young electronics engineer.

"In the grocery store, people I've not met wave and say 'Hey—how's everything?' "

Forrest City natives have clearly been impressed with the Japanese devotion to the job. "They're in' there before the shift starts in the morning," says Dennis McGuire, "and even when I work another half [shift] they're there after me."

VOTE NOT RECORDED

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. KILDEE. Mr. Speaker, it has come to my attention that somehow my vote was not recorded September 27 on the motion to suspend the rules and pass the Senate bill S. 213. I have a clear recollection of having voted "aye" on rollcall 599 on that bill, despite the computer-tabulated tally having no record of my vote. I was advised today by members of the House of Representatives staff that the voting machines do occasionally malfunction, and I must conclude that I have lost this round in the

battle of man against machine. The staff also advised me that I should always verify the recording of my vote by inserting my computer voting card into a second voting station. I shall certainly do that in the future.

UPDATE ON ROCKDALE APARTMENTS MESS—CONGRESS-HUD BEGIN TO MOVE

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. LEVITAS. Mr. Speaker, last week on September 19, I called to the attention of the Members the sad tale of a HUD-subsidized public housing project in Atlanta which had to be razed less than 6 years after its construction. I have been following this story since I first read about the demolition in August 1976. As I explained last week, the Inspector General of HUD has written a report on the investigation of this case, which I have just received.

To keep the Members up to date, I would like to insert a copy of my letter to the chairman of the Appropriations Subcommittee on HUD/Independent Agencies, Congressman EDWARD BOLAND, and the chairman of the Housing and Community Development Subcommittee, Congressman LUD ASHLEY; a copy of the letter I received from the Under Secretary of HUD, Jay Janis, and a copy of an active memorandum from Mr. Janis to the regional administrator of HUD:

SEPTEMBER 16, 1977.

Hon. EDWARD P. BOLAND,
Chairman, Subcommittee on HUD-Independent Agencies, Washington, D.C.
Hon. THOMAS L. ASHLEY,
Chairman, Housing and Community Development Subcommittee, Washington, D.C.

DEAR ED AND LUD: This is in reference to our earlier correspondence and conversations about the Rockdale Apartments project in Atlanta, Georgia. As you will recall, the Department of HUD, Office of the Inspector-General, has conducted an in-depth investigation concerning the HUD subsidized project which had to be torn down less than six years after its construction at great loss to the American taxpayers and to the detriment in living conditions of over 1000 tenants.

The Office of the Inspector-General has completed its investigation and prepared an extensive report which has been reviewed by the U.S. Attorney in Atlanta. While I have not as yet received a complete copy of the Inspector-General's report, I have received a copy of a letter prepared by the U.S. Attorney who analyzed this report in great detail. I enclose a copy of this letter for your information and consideration. I expect to receive a copy of the full Inspector-General's report very shortly.

It is clear from the analysis of the U.S. Attorney that very serious problems and violations occurred in connection with this project. Had it not been for the fact that the U.S. Attorney determined that the statute of limitations had run, the letter indicates that there were prosecutable offenses involved. (I should point out that I initially called this matter to the attention of the former Secretary of HUD on August 24, 1976, and perhaps if prompt action had been taken, the statute might not have expired on all of the violations.)

I believe that a perusal of the U.S. Attorney's letter will bring you to the same conclusion I have reached, that, at the very least, a thorough and complete Congressional investigation of the entire matter is warranted, with the hope that problems of this sort can be avoided in the future so that the taxpaying American public is not victimized again in this way.

I personally believe the letter of the U.S. Attorney is an excellent and compelling document and, together with the full report of the Office of the Inspector-General, should form the basis of the necessary hearings which I believe should be initiated as soon as possible.

Your consideration of this request would be greatly appreciated.

With best personal regards, I am,

Very truly yours,

ELLIOTT H. LEVITAS,
Member of Congress.

WASHINGTON, D.C.,
September 20, 1977.

Hon. ELLIOTT LEVITAS,
Cannon House Office Building,
Washington, D.C.

DEAR MR. LEVITAS: This letter is to bring you up to date on the results of the investigation of the circumstances surrounding the construction and, four years later, the demolition of the Rockdale Apartments in Atlanta.

This is the multi-family assisted-housing project which was originated, through this Department, in October, 1968; completed in July, 1972, and demolished, by this Department, in December, 1976.

The Department received a letter from you on September 16, 1976, which was the basis on which Mr. James L. Young, then Assistant Secretary for Housing in the previous Administration, asked the HUD Inspector General, on November 24, 1976, to make an investigation, which was begun immediately and continued over the next six months.

In June of 1977, the Inspector General, in keeping with standard Departmental procedures when there are possible criminal violations, submitted the report of its completed investigation to the United States Attorney for the Northern District of Georgia.

On Friday, September 16, my office received a copy of a September 14 letter from the United States Attorney, Mr. William L. Harper, to the HUD Regional Inspector General for Investigation in Atlanta, Mr. R. R. Reusche, a copy of which you also received.

In that letter, the United States Attorney said he would have prosecuted certain HUD employees and architects if the statute of limitations had not run out and called on this Department to take appropriate administrative steps.

I cannot speak for those responsible for the conduct of this Department prior to this Administration's advent, but I want you to know we appreciate your having taken such a helpful interest in this matter.

As you are further aware, we could take no administrative steps which might have jeopardized any possible legal prosecution until the Department of Justice, through the United States Attorney in Atlanta, had determined what legal recourse was open to the Government.

In keeping with those procedures, the Inspector General's report was not distributed to anyone within the Department but was sent directly to the United States Attorney, who determined no criminal prosecution could be taken because the statute of limitations had expired. It was only at this point that the Inspector General's investigation files could be—and, indeed, were—made available to us in the Department.

We are moving as swiftly as we can to take the appropriate administrative steps indicated by the facts uncovered, now that we have received the determination, in the United States Attorney's letter of September 14, and have been able to review the Inspector General's report. I have, effective Monday, September 19, instructed that the following Department actions be taken immediately:

1. The Assistant Secretary for Administration and the General Counsel (who is responsible for Departmental standards-of-conduct enforcement) are reviewing the files to see what disciplinary and other actions may be appropriate to initiate regarding HUD employees;

2. The Assistant Secretary for Housing is reviewing the files to see what actions may be appropriate regarding debarment of those contracting to do business with HUD, and

3. The Assistant Secretary for Administration, the Assistant Secretary for Housing, the General Counsel, and the Inspector General as a team are to recommend to me within two weeks, specific procedures the Department may put into effect to prevent such abuses of the public trust and waste of taxpayers dollars from taking place again in this Department.

Again, let me thank you for your timely interest in this problem and for bringing it to the attention of the proper authorities.

Sincerely,

JAY JANIS.

WASHINGTON, D.C.,
September 29, 1977.

Memorandum for Alfred R. Marane, Regional Administrator, Region IV, Atlanta.

Subject: Rockdale Apartments—Atlanta, Georgia.

This will confirm our conversation of yesterday concerning the steps you should take with respect to the Rockdale Apartments matter.

As you are aware, a HUD Inspector General Report of Investigation has identified certain employees from our Atlanta Regional and Area Offices who may have acted improperly in connection with the construction and management of the Rockdale Apartments Project.

I have convened a Task Force consisting of the Assistant Secretaries for Administration, Housing and Legislation and Intergovernmental Relations; the Deputy Under Secretary for Field Coordination; the General Counsel; and the Inspector General. That Task Force will be responsible for recommending to me specific corrective procedures to prevent the reoccurrence of abuses such as those revealed by the Rockdale situation. Also, I am asking the General Counsel to recommend legal action which can be taken against those involved—whether they are employees of HUD or are doing business with the Department. Copies of my charge to the Task Force members will reach you shortly.

I am asking you to serve as my personal representative in this matter. You will have a special outside team to assist you in accomplishing the following:

Take immediate steps to assure that there is no further participation in approving or disapproving Department actions by those HUD employees implicated in the Rockdale matter by the Inspector General's investigation. Should you find later that others are implicated, please take similar measures.

Immediately cease referral of further Department business to fee inspectors, fee architects or others who are involved in the Rockdale Investigation. This should include those paid directly by the Department and those paid by others.

You should take the steps necessary to assure that until we have determined that debarments are in order all work of individuals in the preceding category is fully reviewed and is to your satisfaction. This should occur immediately.

Investigate and propose to me any adverse actions you believe are warranted against HUD employees. This should include violations of standards of conduct (as determined by the General Counsel). These proposals should be in my hands, with substantiating background materials by October 7, 1977. You should call for the assistance of the Office of the Inspector General as may be necessary to accomplish this task.

Provide me with your overall assessment of the Rockdale Apartments matter and your recommendations for corrective action. Please send this to me by October 5, 1977.

Assess all projects in the Atlanta Region involving those HUD employees who were implicated by the Inspector General's report. Conform to all Department policies, procedures and regulations. This review should begin no later than October 7, 1977.

To assist you in this undertaking, I am assigning a team of Headquarters staff specialists from the Housing Program, General Counsel's Office, and the Personnel Office.

I believe it essential that we move immediately in this matter. Concurrently, however, you must be certain that your review is complete and impartial and that we provide full due process for all involved.

It is essential that we remain in close and constant contact on your progress. Therefore, I would like a daily report on your status.

I know I need not stress the importance of this critical assignment. I am determined that we do all that is necessary to take action against those responsible and to assure that there are no such future abuses.

JAY JANIS.

A FINE VETERAN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MOTTL. Mr. Speaker, as a member of the Committee on Veterans' Affairs, I have had the privilege and honor to serve with a most distinguished Member of this body who served as chairman of the House Veterans' Affairs Committee for 25 years before he took over as chairman of the Science and Technology Committee. I am referring to OLIN E. "TIGER" TEAGUE of Texas, a highly decorated veteran of World War II who came home from that war on a stretcher. In fact, he campaigned for Congress in 1946 while still confined to a hospital bed.

For the majority of veterans, war wounds healed and the bad memories faded. For TIGER TEAGUE it was to be a different story. His right leg was badly shattered in 1945 by gunshot wounds inflicted by the enemy in Europe. This was the third time that TIGER TEAGUE was wounded, and it was so serious he was no longer fit for military duty and was subsequently separated.

Over the years, TIGER TEAGUE learned to live with his shortened leg, but the malady never went away. When I came to Congress in 1974, I learned his leg was causing increasingly acute pain and that drastic surgery would be necessary. I was flattered when TIGER TEAGUE asked me to chair some oversight hearings because he was physically unable to attend to all his congressional duties because of his worsening leg condition. This year he finally consented to having his leg amputated at Bethesda Naval Hospital. I am pleased that he has returned and is more active than ever in all veterans' legislation.

I mention all this because of a recent article in the local media which made an oblique attack on TIGER TEAGUE's war record by indicating it was something that happened in the distant past—long forgotten. To the contrary, TIGER TEAGUE can never forget—he will always be reminded of that day an enemy shell hit him during World War II.

Mr. Speaker, I have the highest regard for OLIN E. TEAGUE who has done so much for his country in both war and peace. Some may not know he was awarded three Purple Hearts, the Silver Star with two clusters, Bronze Star with two clusters, Combat Infantryman Badge and a number of other decorations. This is a most impressive record which should provide a basis for understanding what war is about from the standpoint of a person who took up arms against the enemy far from his homeland in Texas.

Mr. Speaker, the tenor of the comments on TIGER TEAGUE's war record in the article referred to previously is unfair and unjustified and serves to malign the reputation of a great American.

COMMEMORATION OF THE 70TH ANNIVERSARY OF THE BIRTH OF GEN. ROMAN SHUKHEVYCH-TARAS CHUPRYNKA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. GILMAN. Mr. Speaker, on September 4, thousands of Ukrainian Americans from the Eastern United States assembled at the Ukrainian American Youth Association estate near Ellenville, N.Y., to commemorate the 70th anniversary of the birth of the commander in chief of the Ukrainian Insurgent Army, Gen. Roman Shukhevych-Taras Chuprynka, and the 35th anniversary of the formation of the Ukrainian Insurgent Army, as well as to mark the tragic events of 1972 when over 200 Ukrainian intellectuals were arrested in the U.S.S.R.

I had the pleasure of participating in this event—not only a commemoration of those courageous individuals, but an effort to promote and protect international human rights and to nurture the spirit that emerges when free people commit themselves to change the repressive policies in totalitarian governments in other parts of our world. Though the nations of Eastern Europe have refused to change their policies on the freedom of information and human rights activists, the momentum reflected by the 10,000 young people gathered near Ellenville was illustrative of this Nation's commitment to internal human rights and a sincere concern with the development of peace and security in the nations outside of the free world.

As the leader of the Ukrainian Insurgent Army, General Chuprynka sought to reinstate those rights to freedom and independence every nation inherently deserves, just as our own Revolution's objective was to free the 13 colonies living under colonial subjugation.

But unlike our own Nation, the freedom of the Ukrainian people was destroyed by the tyranny of the Soviet Union. Today, Ukrainia, under Soviet domination, is not free nor do its citizens enjoy the blessings of freedom and independence. On behalf of the 47 million citizens of the Ukraine—the inhabitants of the largest and, economically, most important captive non-Russian nation in Eastern Europe—I urge my colleagues to join me in observing the plight of these people and their hope of one day expelling the yoke of Soviet domination.

It is hoped that the commemoration held on September 4 served as an inspiration to the Ukrainian people and as a reminder that their descendants in the United States have not forgotten them and that at some future date their right of self-determination will be restored. Although in theory the Ukraine is an independent state, in reality, it is a colony of the Soviet Union. The so-called government is a puppet government imposed upon the Ukrainian people; it has no separate army or foreign policy, nor its own financial or intellectual freedom. The Ukraine, once an independent state, has been reduced to a colonial dependent of Communist Russia.

It is imperative that at the time of an upsurge of public expression and moral support for human rights abroad, which is strongly supported by our present administration, that we pay tribute to those who have sacrificed too much to Communist tyranny, those who have resisted the oppression of a totalitarian regime for almost three generations, those who must bear the burden of trade and travel restrictions, internal religious persecution, and literary and press censorship, those who can only look with hope to the future for those liberties which we in this Nation take for granted.

This assembly of Ukrainian-Americans was only another example of the new revolution on the condition of human rights which has arisen during the past year, exposing to the conscience of the world those patterns of repression which violate internally accepted standards of human thought and action. This Nation has publicly denounced the repressive forms of government which exist in other nations and stated that a respect for basic human rights must be woven into our foreign policy as an integral part of its diplomatic fabric. Contrary to what the Soviet Union or other totalitarian regimes may charge—that human rights is now being used as a carrot dangling on a stick in front of "good" or "bad" countries—the United States has been reinstating human rights as a basic part of any international framework of agreements, with the same import in decisionmaking as trade, foreign aid, arms control, defense, and monetary policies. It is illustrative of the great concern in Congress and throughout this country of that double standard in the international community in which individuals enjoy inherent rights and privileges in one

country, but not in another. Certainly, genuine and constructive channels of communication between the East and West cannot long remain open when governments attempt to keep entire peoples locked inside ideological ghettos, fearing an honest exchange of ideas and persons between nations.

The suppression of the citizens of the Ukraine is merely a reflection of an absence of freedom which exists on a much larger scale throughout the world. As Walter Lippmann so aptly observed:

> The deepest issue of our time is whether the civilized people can maintain and develop a free society or whether they are to fall back into the ancient order of things, when the whole of men's existence, their consciences, their science, their arts, their labor, and their integrity as individuals were at the disposal of the state.

This was the central question that I faced during the commemorative ceremonies at Ellenville—the question which every nation and every individual must face as we seek to correct those transgressions men commit against men, not only among our adversaries, but among ourselves and our friends.

LT. SAL FEDUCIA RETIRES

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SARASIN. Mr. Speaker, Lt. Sal Feducia of the Seymour Police Department is retiring after serving the citizens of that town for over 40 years. He began his career with the force in 1937 as a constable and as the town and the police force grew, he was made a regular patrolman. In 1965, with the creation of a detective division in the Seymour Police Department, he was made detective sergeant, and 1 year later became lieutenant of the division. This final position made him second ranking officer on the force, next in line after the chief of police.

In addition to his duties on the police force, "Sam," as he is affectionately know by his friends and colleagues, is an active member of many organizations in his community. He is a member of the Masonic Lodge, the board of deacons of the First Baptist Church of Ansonia, and several associations related to his police activities, such as the Seymour and the State of Connecticut Police Associations.

There is probably no task more difficult, yet more necessary to a stable society than that of police service. As a close friend of both Sal and his wife, Claudia, I am aware of the many long, difficult, and often lonely hours of dedicated effort he contributed to law enforcement in his town. It takes a maturity acquired through years of experience to deal with the problems encountered in police work, and Sal Feducia developed his abilities on the streets of Seymour.

Society invests billions of dollars in law enforcement; yet it is the single agent of the law who must utilize personal judgment and skill and courage in carrying out the will of the people. Lieutenant Feducia has always demonstrated those qualities in his work.

Seymour will sorely miss Sal Feducia's valuable contributions, both as a member of the community and as a public servant.

AMENDMENT TO H.R. 8309

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. BLOUIN. Mr. Speaker, I have joined three of my colleagues in sponsoring an amendment to the House bill calling for the replacement of Mississippi River locks and dam No. 26 at Alton, Ill.

I would like to say right from the start that this amendment in no way alters the bill's provisions calling for a replacement lock and dam nor in its provisions setting up a barge fuel user tax.

What it does do is attempt to strike a balance between the many forces concerned about the future and the use of the Mississippi River.

The Mississippi is vitally important to many diverse groups of people as commercial waterway, as a recreational area and as a wildlife area.

What we are attempting to do in this amendment is strike a balance between these people.

Briefly, the amendment expressly forbids any deepening of the Mississippi River's 9-foot channel above Cairo, Ill., and prevents any Federal agency from even studying the idea without express congressional approval.

It also establishes an Upper Mississippi River Systems Council to come up with a comprehensive masterplan for the management of the upper Mississippi River system to be presented to the Congress.

I would like to add that both of these provisions in amendment have already been approved by the Senate.

Therefore, Mr. Speaker, I would like to submit the text of the amendment my colleagues and I will offer to title I of H.R. 8309.

AMENDMENT TO H.R. 8309

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such process. Approval of the fianl master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System,

(b) the long, and short-term systemic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (4) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendatoins to the Congress and the Secretary of the Army.

(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and continguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deemes necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

CHARLES GRASSLEY OF IOWA—YOU KNOW WHERE HE STANDS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. HYDE. Mr. Speaker, our distinguished colleague, Congressman CHARLES GRASSLEY of Iowa, is well-known for his ability to sift through the pros and cons of any issue and come out foursquare on the side of commonsense and decency. We always know where CHARLES GRASSLEY stands, and that he is a man willing to fight for his beliefs.

Congressman GRASSLEY's support of the highly controversial Hyde amendment to prohibit the use of Federal funds to pay for abortions has been unwavering and courageous, and of great encouragement to me. For the past 2 years, he has helped wage a successful battle in the House to keep the Hyde amendment alive and preserve the lives of hundreds of thousands of innocent unborn children.

In an article published in the Des Moines Register recently, CHARLES GRASSLEY states the case for my amendment in his usual thoughtful and sensitive manner. I am proud to count him among the supporters of this important movement in the House, and I take great pleasure in sharing his article with our colleagues:

MEDICAID FOR ABORTIONS?

(BY CHARLES GRASSLEY)

The question raised by the Hyde amendment is not whether abortions should be permitted. That matter was resolved, at least temporarily, in 1973 when the Supreme Court ruled that, under certain circumstances, pregnancies may be prematurely terminated. The issue is not whether some women will be prohibited from having an abortion because they can't afford it, since the 1973 decision has largely pushed abortion out of the back alley and into low-cost, if not free, clinics which openly compete for the business.

The question is whether the taking of preborn life ought to be encouraged and financed by the federal government. I think it should not. A majority of my colleagues in Congress agree. And recent public opinion surveys indicate that a majority of the American people feel the same way.

Prior to enactment of the Hyde amendment, the federal government was spending approximately $50 million a year to pay for nearly 300,000 Medicaid abortions. Last year, more than a million unborn children were aborted in the United States. In Washington and in New York City the number of abortions exceeded the number of live births. It would appear that a great many people are using abortion as a method of birth control—hardly the intent of the 1973 Supreme Court ruling.

When a pregnant woman, the sole protector of her unborn child, instead becomes its potential adversary, then a decision must be made as to what action the government should take. Should it remain neutral, as some have suggested? Or should the duty of the government be to assist the mother in seeing to it that her wishes are carried out, no matter how spurious or temporary those wishes might be? Or should the government intervene on behalf of the innocent unborn?

Until the law is changed, by constitutional amendment or otherwise, the only option open to persons opposed to abortion on personal, philsophical, or religious grounds is to discourage it and to deny government sponsorship and sanction. Every abortion funded by Medicaid carries with it an invisible stamp of approval by the American people.

The Constitution could no more be interpreted as providing a right to a federally-paid abortion than it could be argued that the First Amendment guarantee of free speech means taxpayers must buy printing presses for those too poor to purchase their own.

Some argue that the Hyde amendment deprives poor women of something that more affluent women can pay for. That imbalance, it would seem, applies in almost all matters except that of abortion. The number of clinics now available to poor women at extremely low cost, on a deferred-payment basis, or at no cost, argues against the assertion.

The Supreme Court in 1973 did not automatically make abortions safe—it only made them legal. Dr. Mathew J. Bulfin, a Florida gynecologist and president of the American Association of Pro-Life Obstetricians and Gynecologists, reports a remarkable increase recently in the number of his own patients suffering from severe medical complications following legally-obtained abortions.

A vote for the Hyde amendment is a vote against the proposition that life is only for the planned, the privileged, the perfect. Despite the Supreme Court's 1973 ruling, it is not the responsibility of the federal government to ensure that only those children whose arrival will not conflict with their parents' wishes or social convenience will be permitted to be born.

ENERGY TRANSPORTATION SECURITY ACT OF 1977

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. PHILLIP BURTON. Mr. Speaker, one of the major problems facing this country is jobs. Particularly hard hit are the young and members of minority groups.

With the Energy Transportation Security Act of 1977, we have a chance to expand the role of the maritime industry as employer and to expand and protect jobs associated with that industry.

By reserving to U.S.-flag tankers 4.5 percent of incoming oil—rising to 9.5 percent in 5 years—it is estimated that some 2,500 new seagoing jobs will be created. The impact on industries which support our maritime will be corresponding.

To our people, this will mean more jobs

and to our economy, more stimulus. To the port cities of the Nation, it will mean relief from pressing unemployment and the social ills which unemployment breeds.

There is no agreement on what the cost of cargo preference will be but against that price tag, the creation of jobs and the high price in terms of human resources and dollars that we are paying for unemployment must be weighed.

This legislation has been studied carefully by the House Committee on Merchant Marine and the Senate Committee on Commerce and reviewed by the administration. It is a thoughtful proposal and a modest approach which contains reasonable safeguards should there be an adverse impact on shipping rates.

The task of creating jobs has been a repeated goal of this body and it is a most worthwhile goal. The opportunity to meet this Nation's energy import needs in greater part on U.S.-flag tankers is also a worthwhile goal.

THE PLIGHT OF THE BOWHEAD WHALE

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. STEERS. Mr. Speaker, in recent years the United States has taken a commanding role in the International Whaling Commission with respect to the preservation and protection of whales. The United States has been instrumental in getting the IWC to become a more viable international organization and to lower its quotas on the number of whales that can be harvested. At the present time, however, the United States is in real danger of having all of these gains virtually nullified by our filing an objection to the IWC zero-quota on the harvest of bowhead whales. This action would severely tarnish our image as a world conservation leader.

Because of my concern for the bowhead's plight, I have signed a letter written by Congressman PETE MCCLOSKEY to Secretary Vance calling for the administration to refrain from filing such an objection. I am including, for the benefit of my colleagues, an article from the Baltimore Sun from Sunday, September 25, 1977, which clearly elucidates the problem of trying to save the bowhead from extinction:

PUT IT ON THE PRESIDENT'S LIST: THE BOWHEAD WHALE

(By Ernest B. Furgurson)

WASHINGTON.—While the President has been bedeviled by Bert Lance, Ronald Reagan, Leonid Brezhnev, Menachem Begin and others who dominate the nightly news, his own appointees are toying this week with a recommendation that could hurt Mr. Carter's international credibility as much as any more noticeable move he has made to date. It deals not with bank overdrafts, canal treaties, the west bank or cruise missiles.

The subject is whales. Bowhead whales.

Before Mr. Carter was elected, he had a consistent record of opposing the hunting of the increasingly endangered great whales. He said in a campaign position paper that he supported the 1972 act protecting them, but that, "so far, implementation has been slow and timid. Under the Carter administration that will not be the case."

Even under the preceding administration, the United States had taken the lead in limiting whale hunting around the world. American economic muscle forced the Japaness and Russian fleets to cut their take so deeply that it has cost both countries hundreds of millions of dollars and thousands of jobs. South Africa is now phasing out of the whaling industry. Peru and South Korea are under heavy U.S. pressure.

Our weapon has been a threat to end American imports of seafood from those countries. The effect has been a heartening reprieve for whale species that have been hunted for centuries, but whose reproduction rate could not match the mechanized efficiency of modern whaling fleets.

This has been a cheap exercise for the United States, itself no longer a major whaling power. It has taken a high moral stand in leading a world environmental awakening, and has been able to make its sermons stick because it is the best customer for many of the nations involved.

But now the International Whaling Commission has moved to protect the most seriously endangered great whale of all, the bowhead. And that will wipe out the exception to international commercial whaling agreements which has been allowed for native Alaskans. That exception came into being because the Eskimos of Alaska's northwest coast always had taken bowheads, for their own subsistence, by primitive means. Their take was considered unimportant in the international scale.

However, since oil was drilled in Alaska many Eskimos have the cash to buy modern power boats, explosive harpoons and other equipment never contemplated by their elders. They also have the time to put into whaling. What many of these new whalers do not have is the skill to do the job cleanly, or the inclination to take only what they need.

Last year's take of bowheads in Alaska went up to 48 animals, from only a handful each year before 1970. Conservationists say three times as many were wounded but escaped to die under the ice.

So scientists of the whaling commission, to protect a species already decimated to less than 10 per cent of its original numbers, voted unanimously for a flat ban this year on bowhead hunting. The Eskimos have reacted loudly, their leaders declaring that they will go right on hunting bowheads and dare any authorities to stop them. And at the State Department, there is serious consideration of filing a U.S. objection to the bowhead ban, opting this country out of its coverage.

The Eskimos' tactic of making this a native-rights issue has won the sympathy of Patsy Mink, the former congresswoman from Hawaii, now assistant secretary for oceans and environment, although her own staff is said to oppose her. If she recommends filing an objection and her position prevails, it will put the State Department in direct contradiction of its own historic reverence for the sanctity of treaties.

Before any U.S. move is made officially, it will have to be approved by Cyrus R. Vance, secretary of state, and Juanita Kreps, secretary of commerce. If they should concur in filing an objection, the issue might be bucked up to the President himself. And if that happens, Mr. Carter and his advisers should be mindful of the unequivocal statements he has made earlier about whale hunting, as recently as this summer.

A turnabout on a position taken so clearly and publicly not only would destroy the base from which the United States has led the effort to save the world's whales, sending other countries back to sea to resume their wholesale slaughter. It also would say clearly and publicly that when domestic arguments intervene, the President's word on international matters does not amount to a pound of blubber.

MEDICAID MONEY FOR ABORTIONS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SOLARZ. Mr. Speaker, as a member of the New York State Assembly and now as a Member of this body, I have been actively involved in the fight to give all women the right to obtain abortions under safe and sanitary conditions. The Supreme Court has ruled that women have a clear constitutional right to terminate pregnancy by abortion, at least through the first 3 months. In addition, it has handed down a decision that the Government cannot stop any woman from having an abortion for any reason she may judge valid in her case. But the Court's decision is somewhat ambiguous as to whether a government can deny funds and facilities that make abortions financially possible for many women.

Due to a recent court ruling by Judge John Dooling of the U.S. District Court in New York the 9-month-old injunction against the Hyde amendment has ended. As a result of this decision, the Secretary of Health, Education, and Welfare, Joseph Califano, has ordered the immediate implementation of the 1976 law. For over 30 years, the Citizens Committee for Children of New York has been an active advocate for this Nation's younger generation. In a letter I recently received from them, they address the highly volatile issue of medicaid money for abortions. I commend this letter to my colleagues' attention:

CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK, INC.,
New York, N.Y., August 29, 1977.

DEAR CONGRESSMAN SOLARZ: Citizens' Committee for Children, which has been an active children's advocate for over 30 years, challenges the view of President Carter and Secretary Califano that eliminating Medicaid money for abortion maintains the government's neutrality on this sensitive issue. Genuine neutrality means a free choice, based on the availability of service. Clearly, no choice is possible for poor women who are denied Medicaid money for abortion. (We note that such federal subsidies are available for other elective medical treatment, including sterilization.)

Ours is not a theoretical position. We deal on a daily basis with the tragic problems faced by children who are not wanted by their parents; who are neglected and abused; who must receive care outside their homes; who are dependent on public support of all kinds. We know first-hand the almost insurmountable hardships facing children born into families that lack the financial and personal resources to support and nurture them. We therefore re-emphasize our long-standing policy in support of free access to abortion for all women, rich and poor, who decide they do not wish to bear a child.

The Administration's policy means:

That a 2-class system of medical care will be perpetuated at the very time serious consideration is being promised for a long-overdue national health insurance program that is designed to insure quality health care for *all* Americans.

That poor women who know, through prenatal tests, that their babies will be born with serious diseases or birth defects, such as mongolism, Tay Sachs, and spina bifida, will have to bear those children, many of whom will spend a lifetime in institutional care.

That the numbers of children born to teenagers—currently 600,000 babies each year—will increase. Many of the one million teenagers who become pregnant each year lack their own financial resources, and will effectively be denied abortions if Medicaid money is not available.

The immediate consequences of the Administration's policy are grim indeed. But even more tragic is the President's astonishing abdication of responsibility for promoting social equality. The President has observed that life is unfair. The question is, who will fight to right the wrongs of inequality? If President Carter truly believes that the "buck stops here," he will reverse his policy of eliminating Medicaid funds for abortion, and uphold the right of free choice for all women, rich and poor.

We call on all New York Representatives and Senators to vote to allow Medicaid funds to be freely available for abortions.

Very truly yours,

MRS. JESSE D. WOLFF, *President.*
FRANCES LEVENSON, *Chairwoman of the Board.*
LAROLD K. SCHULZ, *Executive Director.*

BUREAUCRATIC DELAYS, INDECISION DEPRIVE PHILADELPHIA OF VISTA PROJECT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. EILBERG. Mr. Speaker, last May the city of Philadelphia submitted an application for VISTA for a project that would have put VISTA volunteers to work, at a cost to the city of $57,863 and a cost to the Federal Government of $80,500.

The interesting thing about this application, Mr. Speaker, is that it was solicited by ACTION's Philadelphia district office. These Federal employees went to the city of Philadelphia, proposed the project and asked the city to submit it for Federal funding. The city, of course, readily complied.

In the ensuing months, the city went to considerable time and trouble to write, revise and rewrite this application. During that time, they were assured by ACTION that the project was worthwhile, that money was available, and that funding would be forthcoming. Somewhere along the line, though, somebody changed signals on the city. Someone in the bureaucracy decided that applications of community groups would take preference over applications from the communities, themselves.

After the passage of 4 months, the city withdrew its application. It was disgusted with the way ACTION had handled the application, and there simply was not time, before the expiration of the current fiscal year, for the city to encumber its share of the funds.

So the project is dead, Mr. Speaker, killed by the delays and indecision of the bureaucrats who urged Philadelphia to get into this picture to begin with. Obviously, it is too late to do anything to revive the Philadelphia application; hopefully, it is not too late to instill in the bureaucrats at ACTION some sense of efficiency and effectiveness in the way they do their job.

It is in this interest of spurring the bureaucrats to be more responsible and responsive, Mr. Speaker, that I am placing in the RECORD a copy of a letter which I have received from Mr. Hillel S. Levinson, managing director of the city of Philadelphia, a copy of Mr. Levinson's letter to the Honorable Sam Brown, Director of ACTION; and a copy of a letter which I, too, have sent to Mr. Brown on this subject.

I commend this correspondence to my colleagues. It is just one more example of the problems with which we, in the Congress, must wrestle because the bureaucrats downtown don't, won't or can't do their jobs.

The correspondence follows:

PHILADELPHIA, PA., *September 15, 1977.*

Hon. JOSHUA EILBERG,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE EILBERG: Four months ago the City of Philadelphia applied to ACTION, at their request, for VISTA volunteers for a total project cost of $137,863.00, $80,000.00 of which would be Federal funding. Since then, we have had delays in the review process, changes in the guidelines, and indecision about whether to award the grant. The problems are outlined in the attached letter to Sam Brown.

The amount of time spent writing, revising and re-writing this application was as great as that required for much larger projects. For ACTION to remain undecided to the point of making it impossible for us to encumber the money before the end of the fiscal year, even if a grant were awarded, is unacceptable. At this point, we are no longer interested in the project and are withdrawing our application. I urge you to prevent ACTION from treating our nation's other cities in this manner.

Thank you for your interest in this matter.

Very truly yours,

HILLEL S. LEVINSON, *Managing Director.*

PHILADELPHIA, PA., *September 15, 1977.*

Mr. SAM BROWN,
Director, ACTION,
Washington, D.C.

DEAR MR. BROWN: After submitting an application to VISTA in May, my office still has not had official word of whether the proposal has been approved or rejected. Considering that the money must be encumbered by the end of this fiscal year (September 30) and that we must recruit and hire 17 VISTAs before that date, time has run out.

The application sat in the regional office until mid-July, when it finally was reviewed before being sent to the national office. After the reviews in the district and region we were told that our program was worthwhile, that there was money available, and that all they thought would be needed was clarification of a few points. We knew there would be a review in Washington, but we did not know that the guidelines would be changed in mid-stream.

It now appears that preference will go to community groups over cities. Our application was *solicited* by ACTION's Philadelphia district office. If they did not want applications from cities, they should have decided that before requesting our application. We invested much time and money in this project only to have it handled in a completely uninterested manner.

We no longer want this grant, but we do think you should be aware of the situation so that you may avoid it in the future.

Sincerely,

HILLEL S. LEVINSON, *Managing Director.*

WASHINGTON, D.C., *September 27, 1977.*

Hon. SAM BROWN,
Director, ACTION,
Washington, D.C.

DEAR MR. BROWN: On September 15, 1977, Mr. Hillel S. Levinson, Managing Director of the City of Philadelphia, wrote to you withdrawing the City's application for 17 VISTA volunteers for a project which would have involved $80,500 in Federal funding and $57,363 in City funding. A copy of Mr. Levinson's letter is enclosed for your reference.

The purpose of my letter is to protest, in the strongest possible terms, the manner in which this application was handled. The application was originally solicited by your Philadelphia District Office; it was filed with your agency more than four months ago; and in the interim the application apparently was not only submitted to interminable bureaucratic paper shuffling, but was also subjected to changes in the guidelines somewhere along the way.

On the basis of the solicitation by your District Office, the City of Philadelphia invested a large amount of time writing, revising and rewriting the application—the amount of time involved was, in fact, just as great as would have been required for a much larger project.

ACTION's indecision made it impossible for the City to encumber the money before the end of the fiscal year, even if a grant were to be awarded. It was for that reason that the City lost interest in the project and withdrew its application.

I find it most regrettable that bureaucratic indifference and inefficiency made it impossible for 17 VISTA volunteers to contribute their services through the program put forth by the City of Philadelphia. I find it intolerable that an agency of your size should be so mired in its own paperwork that it could not expeditiously handle a project of this nature.

Philadelphia has withdrawn its application, and I am asking for nothing on the City's behalf. I am asking you, however, for some reasonable assurances that situations like this will not occur again. Our nation's cities deserve better treatment at the hands of their Federal government.

Sincerely,

JOSHUA EILBERG.

MEDICAL PROFESSION HAS CAUSE TO COMPLAIN

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MILFORD. Mr. Speaker, at a time when the public esteem of the American Government is at an all-time low, it would seem imperative that every committee, agency, and holder of public office be impeccable in the gathering of

information, the compilation of statistics, and the reporting of data. Facts on Government operation—even when scrupulously gathered—are still rather skeptically received by a cynical people. Even when the governmental body has been meticulous in its investigation, data is subject to being misinterpreted, mishandled, and misquoted.

A letter from Dr. John Smith of the Texas Medical Association containing a news article and an editorial from the Houston Chronicle arrived in my office. Dr. Smith points out that the report of the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee contained statistics that within the Texas medicaid program the surgical procedures on medicaid participants in Texas was 91,430 procedures per 100,000 eligibles for the medicaid program. According to the Texas Department of Human Resources which administers the program in the State of Texas, the figure is 9,932 per 100,000 eligibles. In other words, the subcommittee's report exaggerates the rate by nine times the Texas experience.

I will concede that errors are frequently made through no mal-intent. But I would question the credibility of an entire report in which such significant and flagrant errors exist. Certainly, I would hope that there would be full publication of the corrected data in order that the Texas program's good name be vindicated and whatever misunderstandings and ill-will that have resulted, absolved.

Mr. Speaker, I would like for a copy of the letter from Dr. Smith and the news article and editorial from the Houston Chronicle to appear in the RECORD:

AUSTIN, TEX.
September 20, 1977.

HON. DALE MILFORD,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE MILFORD: It is quite possible that you have received a copy of the report of the House Subcommittee on Oversight and Investigation, Interstate and Foreign Commerce Committee, which states that the rate of surgical procedures under the Medicaid program in the United States is 23,100 per 100,000 eligibles—more than twice the rate of surgery for the general population. The report has received nationwide news coverage as reflected by the enclosed article written by Richard D. Lyons for the New York Times News Service and published in the Houston Chronicle.

The report states that the surgical procedure rate in Texas is 91,430 procedures per 100,000 eligibles for the Medicaid program. Those figures are grossly inaccurate according to officials of the Texas Department of Human Resources, which administers the program in our State. It seems evident that the Texas experience has been exaggerated by nine times.

Actually, the rate of surgical procedures in Texas is 9,932 per 100,000 eligibles under the Medicaid program. That is appreciably below the national average. We have a good program in Texas. We are proud of it and the physicians who render that care to Medicaid beneficiaries.

Officials of the Texas Department of Human Resources have explained that the inaccurate total cited in the Subcommittee Report represented not only surgical procedures by physicians, but the number of hospital days, procedures by assistant surgeons, and services by anesthesiologists.

Understandably, Welfare Officials have expressed concern that the misuse of the data in the Subcommittee Report will cause undue criticism of the Medicaid program in Texas. They also have raised questions about the validity of the entire report.

You also may be interested in an editorial published just recently by the Houston Chronicle. It emphasizes that the "medical profession has legitimate cause to complain about some of the apparently unwarranted black eyes it has been getting from federal studies and statistics."

In the interest of fair play, we hope that you will help us to set the record straight, and very importantly, to lend your influence to the publication of authentic studies and accurate statistics by those in government. We will be most grateful for your assistance.

Best wishes.

Sincerely,

JOHN M. SMITH, JR., M.D.,
President.

MEDICAL PROFESSION HAS CAUSE TO COMPLAIN

The medical profession has legitimate cause to complain about some of the apparently unwarranted black eyes it has been getting from federal "studies" and "statistics."

In three cases within the past year someone in government has released information with quite damaging impact on doctors.

In one case it was a study which purported to show a large amount of unnecessary surgery was performed in the country each year. In another it was a listing of doctors who received enormous fees from the government's medical-care programs. In the latest it was a survey which showed more surgery being performed on poor people (where the taxpayers footed the bill) than the national average of such operations.

Within varying periods of time after their initial highly publicized release, it turned out that each of these cases was, to say the least, badly flawed.

The congressional staff report on more-surgery-on-poor-patients was just flat not true because of use of bad statistics. It even claimed, and partially admitted, that the authors knew they were dealing with suspect statistics.

A careful check on the huge individual Medicare fees shows a wholesale foul-up with such things as payments listed to long-retired doctors and many big fees paid individuals when in reality they went to large groups of doctors or to hospitals.

The report on unnecessary surgery turned out to be an extremely suspect survey from which a prudent person would not have tried to extrapolate such conclusions.

Three instances, one on top of the other and each following the same general pattern, are a little strange. That this sort of thing is unfair and irresponsible is obvious.

What makes it all the more irresponsible is the well known fact that much of the bureaucracy—in both the executive and legislative branches—is engaged in an effort to convince Congress and the public that the medical profession needs to be controlled by the federal government. Under such circumstances it is elementary fairness to the public that the government should be careful and sure of the information it releases.

Honest debate on the nation's health-care problems and their solution is ill-served by "facts" which turn out not to be facts after all.

SURGERY ON POOR TWICE NATIONAL RATE, STUDY SAYS

(By Richard D. Lyons)

WASHINGTON.—A study made by a House investigations subcommittee of people receiving Medicaid benefits has found that surgery is performed on the needy and near poor at twice the rate of the general population.

With some forms of elective surgery that involve operations for conditions that are not life-threatening, the disparity was found to be even greater.

Conducted by the investigations subcommittee of the House Commerce Committee, the study also found wide differences in the rates of surgery and types of operations in the various state Medicaid programs.

Rep. John E. Moss, D-Calif., subcommittee chairman, noted that the current cost of Medicaid surgery is $7 billion a year to the federal government, and urged that the Department of Health, Education and Welfare place tighter controls over the types of operations performed and their cost.

Medicaid uses a mix of federal, state and local governmental funds to cover some of the health-care expenses of the poor and the near poor. The cost this year will be about $38 billion, of which the federal share will be about $20 billion.

The study is expected to rekindle charges that surgeons are performing thousands, if not millions, of unnecessary operations in the United States each year at tremendous financial cost and some loss of lives.

A similar study made public by the subcommittee last year caused controversy when it charged that the American public had spent $3.92 billion on unnecessary surgery in 1974. This figure was assailed as absurd by officials of the American Medical Association and other organizations representing doctors.

But the subcommittee's new report, a copy of which was made available to The New York Times, concluded that the surgical rates among Medicaid beneficiaries were even higher than had been previously reported.

The new study was based on data on 3.3 million operations paid by Medicaid collected by the subcommittee from 22 states, the District of Columbia and the Virgin Islands in 1976.

In a companion conclusion, the subcommittee's study reiterated that the date varied widely in quality with some states, such as Connecticut, failing to provide any statistics at all.

One of the main conclusions of the study was that:

"The surgical procedures rate per 100,000 eligibles from reporting Medicaid programs was 23,100, more than twice the rate of surgery for the United States as a whole. The 23,100 rate per 100,000 eligibles reported in 1976 was an increase over the 18,700 reported in 1975. However, the inconsistencies in the data compiled by states make conclusions about the precise rate of surgery tentative only."

Both Moss and his subcommittee aides shied away from extrapolating from the data what amount of governmental funds might have been wasted because of unnecessary surgery.

Instead, the study sought to document that some elective surgery procedures were much more frequent among Medicaid beneficiaries than among the general population.

Dealing with hysterectomies, as an example, the study said that data supplied by 17 states had yielded a rate of 436 hysterectomies per 100,000 women eligible. This, according to subcommittee aides, was twice the national rate.

HOUSE NUTRITION HEARINGS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SYMMS. Mr. Speaker, Congressman FRED RICHMOND, chairman of the House Subcommittee on Domestic Marketing and Nutrition, is focusing on a subject that is important to all. Americans have access to the best quality and quantity of clean, healthful food in the world, yet health problems related to poor nutrition are rampant. Americans often eat too much of the wrong kinds of foods. Mr. RICHMOND is trying to shed some light on the problem of poor nutrition education and acknowledging a prbolem is the first step toward finding a solution.

Chairman RICHMOND of food stamp fame and I have many philosophical differences; however Mr. RICHMOND is now heading in a direction that should be encouraged. As the hearings continue, it is my hope that both the producer and the processor are allowed their day in court, just as consumers are given their's. It is entirely possible that no new Government agencies on spending will be advocated—only increased emphasis—as a result of awareness.

I commend to my colleagues, Mr. RICHMOND's opening remarks from the House Nutrition Committee hearings now underway.

FRED RICHMOND'S STATEMENT ON NUTRITION

Six out of ten of the leading causes of death in this country have been linked to the way we eat. Our diet, over-rich in fat, cholesterol, refined sugars and starches, salt and alcohol is associated with epidemic rates of heart disease, cancer, high blood pressure, stroke, hardening of the arteries, and cirrhosis. In the United States today, one out of three men and one out of six women can be expected to die of heart disease or stroke before the age of 60. Twenty-five million adults suffer from high blood pressure. Approximately five million others are victims of diabetes. At least one-fourth of all adults in the United States are overweight to a degree that jeopardizes health and longevity.

The American way of eating has undergone dramatic change in the last 50 years. Nutrition and health experts consider these changes poorly suited to a national lifestyle which is typically sedentary and filled with emotional stress. The pattern of breakfast on the grab, lunch on the run, drinks and snacks, and late dinners of meat, starches and sweets is in sharp contrast with the way Americans lived and ate in the early decade of the century. The average consumer of this period ate a simple diet with few rich frills, only occasional meat and heavy reliance on fresh fruits, vegetables and grains. Last year, however, we consumed an average of 125 pounds of fat, 129 pounds of beef, 100 pounds of refined sugar, 5 pounds of additives, and the equivalent of 295 twelve ounce cans of soft drinks.

Foods in the marketplace have undergone a technological revolution in the last decade. An average of 7,000 new food products are introduced into our markets annually. Unlike conventional foods, these processed items tend to contain excessive amounts of fats, sugar, and salt.

Changes in the food marketplace parallel changes in our social environment. One out of five American meals are now eaten out of the home. By 1980, the industry predicts that it will be one out of every three.

The nutritional impact of television commercials on the food habits of children is devastating! Forty million children under 12 watch an average of 8,500 to 13,000 food commercials each year. Instead of containing nutrition information, these commercials promote sweet, sticky, gooey, fun-foods and drinks that have serious consequences on the health of our children. The most heavily advertised foods are the least nutritious. Research conclusively shows that children 7 years and younger subjected to junk food ads cannot discriminate advertising "fancy" from fact, and tend to believe that "Happiness is eating a sweet cereal or snack."

Consumers, assaulted by a barrage of commercial food claims, dire health warnings, and conflicting and contradictory advice, are either falling victim to panic or throwing their hands up in utter befuddlement. In the absence of reliable guidance, they are spending $10 billion a year on fad diets which may do more harm than good. Billions more are spent on vitamin supplements and so-called "health" foods. Anxious homemakers study newspapers and magazines for advice and food columns are as avidly scanned as "advice to the lovelorn."

Turning away from the loud shrill voices of hucksters, vendors, and unhealthy persuaders, consumers are looking to the Federal Government as a reliable, unbiased source of knowledge about the food they are eating.

And what is the Federal Government doing to respond to these consumer needs? Ladies the Gentlemen, it is exactly this question that I asked the Library of Congress to investigate last year. After conducting a landmark study of the entire Federal Government, do you know what they found?

We are spending more than $70 million a year on a patchwork of more than 30 uncoordinated and unfocused programs administered by 11 different agencies which are going blithely about their business in splendid isolation from each other and the contemporary world in which we live.

If one were to judge by some of the pamphlets we print and the lectures and demonstrations we support on canning and home freezing, we could conclude we have not changed in the past two genertions. What an illusion! We are, of course, living in the age of electronic media. Instant replay brings us from one corner of the globe to the other.

Yet when we want answers to our nutrition questions from the Federal Government, we must wait six weeks or more to receive a pamphlet from the Government Printing Office. Or even worse, we may have to suffer through a demonstration on cake decorating from our county agent before we can learn how to reduce fat and sugar in our diet.

Today we are doing something unique in the history of this Committee. Instead of having producers, technocrats and marketers tell us what is good for the consumer—we are going to hear consumers and their representatives tell us directly of their concerns, demands and needs.

In our survey of federal activities in nutrition education, not once did we find that consumers had been consulted in shaping the programs which are so vital to their health and well-being. I can understand how consumers cannot hear the whispered voice of the government in the marketplace but for the life of me I cannot comprehend how bureaucrats can so completely ignore the rising voice of consumers.

Today and tomorrow this voice shall prevail in our Committee room. In fact, it is not one voice we shall hear, but many voices. Although these voices like our population are diverse representing middle class and poor, young and old, majority and minority, rural and urban, the concerns are remarkably similar.

Be assured that this Subcommittee shall deliver your message next week to the Government policymakers whom Congress has mandated to inform and counsel the public. This Subcommittee takes its jurisdiction very seriously. Our charge is to protect the interests of the consumer in matters pertaining to food and nutrition. You have the right to receive answers to your questions when you want them, where you want them, and how you want them. We promise you who have come to participate in our hearings that your words will guide us.

THE "MEESTERS" LIKES TO KEEP IT SIMPLE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DE LA GARZA. Mr. Speaker, dedication to your fellow man is a recognized virtue. Mr. Frank Ferree of Harlingen, Tex., has been helping his fellow man for more years than anybody can remember.

Recently USTED—a publication financed through funds provided by State and Federal grants from HEW's Administration on the Aging and the Texas Governor's Committee on Aging—carried an article on this gentleman, because the Nation should know about men like Frank Ferree. I want to share this article with my colleagues:

THE "MEESTER" LIKES TO KEEP IT SIMPLE

HARLINGEN.—Frank Ferree, a tall slender man, has had no time to let senility catch up to his age. He has been called a holy man, Santa Claus and the Albert Schweitzer of the Rio Grande Valley. But to the thousands of poor people he has helped in the Mexican border towns of Reynosa and Matamoros, he is simply "Meester."

Ferree, 82, lives in a shack in Harlingen and administers the Border Volunteer Relief. Without a thought to his own needs, he asks for food, medicine, clothing and other supplies which he delivers and distributes to poverty-stricken families on both sides of the border.

Guadalupe Gonzalez de Rosia, 20, of Reynosa has known Ferree since she was six years old.

"He helped my family with medicine and many other things," said Guadalupe, "and he was a father to us. Though we are not in need now, we did not forget that he once helped us. Now we help him to help others."

Ferree was born in Valley, Neb., 24 miles from Omaha. Previous to coming to the Rio Grande Valley, he lived in Denver, Colo. Though old and weathered by many standards, he is not dominated by time, as evidenced by his remarkably erect posture.

"I've been doing this type of thing for 30 years," he said.

Ferree came to the Valley 35 years ago and bought a 20-acre tract of land on the north side of Harlingen. Then he saw some Mexicans picking up banana peelings from the street and eating them.

"I thought something ought to be done about that," he said.

So he did something. He sold his 20 acres and gave the money away to help the poor. One thing led to another, and now he's into it over his head.

"It's a big job," he admits, "but I just do what I can and try not to worry about the tremendous needs which I can't get to."

Ferree's right hand, interpreter and helper is Julia Rodriguez, 15, of Matamoros. She has been making the rounds with him for a year and a half. Her mother before her, Esperanza Hernandez, had done the same thing for 19 years.

Dionicio Barba of Reynosa is another of Ferree's faithful helpers. He says he has been with Ferree for about 23 years. He remembers when Ferree operated immediately across the bridge on the Mexican side of the river, then later located himself in front of a cold storage building.

"About 20 years ago, Samuel Tijerina saw him come and make his deliveries out in the open and let him use his place," Barba said.

Ferree operates in Reynosa from an old

site of what was once a women's hospital, now his health and relief center.

The van in which he delivers food and clothing strains and groans at each bump and seems to keep functioning only because it has a commitment to those needy people. Each day Ferree makes the rounds through back alleys of Harlingen, loading wilted fruit, day-old bread and miscellaneous medicines from merchants.

Six days a week, after loading assorted cardboard boxes, end rolls from newsprint and pieces of discarded lumber, he heads for Reynosa and Matamoros where he is anxiously awaited.

He has also located and obtained medical attention for hundreds of children. When he finds persons who need operations, Ferree takes them to three or four wealthy benefactors he has located along the border and obtains funds for their surgery.

During 1974, five children who were totally blind received their sight, along with another dozen who were partially blind, thanks to Ferree's efforts. More than 100 harelipped children have received corrective operations, along with dozens with other facial defects.

Ferree's work has not gone unnoticed. He has been honored by having an article about him introduced into the Congressional Record by Sen. George McGovern. Each month he receives bread, candy and medicine from several grocery and medical chains in the United States which are convinced of the value of his work.

As Meester lurches into the courtyard at the Reynosa center around noon, the people who have been waiting since 9 a.m. greet him in their sincere warm manner.

A hustle and bustle starts climaxing into murmurs and greetings. A first time observer might occasionally hear fragments of the great deeds the Meester has done.

"Remember during Hurricane Beulah when he helped us get supplies and medicine and clothing . . . ?"

"Remember how at Christmas the Meester gave candy to all the children?"

But Ferree keeps it simple.

"I don't try to be a big deal or anything like that," he says. "I simply know the teachings of the Bible and apply the teachings of Jesus. It's that simple."

TESTIMONIAL AGAINST AIR BAGS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SHUSTER. Mr. Speaker, the air bag lobby has seen fit to cite personal testimonials from individuals "saved" by air bags as evidence of their effectiveness. While testimonials may be illustrative to a point, they should not be confused with hard statistical evidence and should not form the basis for mandating one system over another.

Nevertheless, we have heard stories, in print and in film, about people walking away from a crash involving an air bag. It may come as a shock to the air bag lobby, but there are ample testimonials against the air bag as well.

I commend my good friend and colleague, Congressman CHARLES E. GRASSLEY of Iowa, for bringing one such case to the attention of the Congress through a "Dear Colleague" dated September 27, 1977; I ask that it be reprinted in the RECORD at this point:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 27, 1977.

DEAR COLLEAGUE: A number of testimonials from persons who have been "saved" by airbags have received considerable attention. There is another side to the coin and I would invite you to consider the case of one airbag car owner who opposes the device.

Dorothy R. Schuler of Jesup, Iowa, whose 1974 Oldsmobile is equipped with an airbag, wrote me recently, "I'm certainly one who says 'thumbs down' on those darned airbags."

On August 18, 1976, Mrs. Schuler's car, traveling 40–50 mph, ran off an Iowa highway into a ditch, bounced twice, and slid to a stop. The airbag did not deploy. Said Mrs. Schuler, "I hit dead center, my license plate is proof enough . . . I felt that I was the one who deployed." She broke three ribs and her clavicle, chipped her teeth, and numbed her face. A year later, she is still under doctor's care. "I have a permanent injury, just because I had faith in the airbags," she wrote.

An investigation of the crash for the Department of Transportation revealed that the bag failed to inflate either because "the longitudinal forces in the accident were not large enough to cause deployment" (but still large enough to cause serious injury) or "there may have been a malfunction in the system." (Mrs. Schuler said her car dealer had been unable to figure out why the bag's warning light was on continuously. Will every garage mechanic and dealer know what to do with those millions of airbags DOT wants on our highways?)

In any event, Mrs. Schuler wrote, "I was fooled once, but not again. My deceased husband and I paid $250 extra for what we thought was protection. Baloney."

Mrs. Schuler concluded her letter with a plea against mandated airbags which I hope all of Congress will hear: "Please, Chuck, try not to let it happen." That seems an appropriate way of concluding this Dear Colleague.

Sincerely,

CHARLES E. GRASSLEY,
Member of Congress.

ADEQUACY OF THE GI EDUCATION PROGRAM

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. ROBERTS. Mr. Speaker, I am sure most Members of the House read the article by Colman McCarthy that appeared in Wednesday's Washington Post in reference to the adequacy of the current GI education program.

Mr. McCarthy personally attacked the distinguished gentleman from Texas, TIGER TEAGUE, a man who has worked harder for veterans than any single Members of this body. He criticized the current program and directed most of his criticism at the chairman of our Subcommittee on Education and Training. There is no basis for this attack and I will not take the time of the House to respond to the article except to say had Mr. McCarthy attempted to get the facts either from the Veterans' Administration, our own Subcommittee on Education and Training or any number of other sources, he might not have written the article. For reasons of his own, he apparently decided not to put forth any effort to get the facts.

Mr. Speaker, there have been several Post editorials in reference to the "inadequacies" of the current GI education program. All have a familiar ring. The argument is always the same. The inequities as seen by the Post editorial writer are the same as those being pedaled around Capitol Hill in a document apparently endorsed by the National League of Cities. The same line has been pedaled by another veteran well known to many members of our committee, and certainly every member of our committee staff. Hardly a day passes when he is not by the committee office. I am beginning to wonder who is writing the editorials for the Post. On at least two occasions, the above-mentioned individual has informed the committee staff that the Post would soon be "coming out" with an editorial against the committee leadership. Sure enough, the next morning there it appears. On September 14, he informed us that the Post would have an editorial critical of Mr. TEAGUE and myself prior to a subcommittee hearing scheduled on September 15. He was on target again. When it comes to predicting publication of a Washington Post editorial in opposition to the current education program, this particular Vietnam veteran is almost as accurate as Jeane Dixon.

Mr. Speaker, I would remind Mr. McCarthy that the policy and structure of the current GI program has been strongly supported by several administrations during the past 25 or 30 years, including the present administration.

CONTRIBUTIONS IN AID OF CONSTRUCTION TO REGULATED ELECTRIC AND GAS UTILITIES

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. LEDERER. Mr. Speaker, in the Tax Reform Act of 1976, Congress recognized that regulated public utilities have for many years received substantial amounts of capital needed for the construction of facilities in the form of contributions-in-aid-of-construction. Traditionally, under long standing case law, these amounts have been treated as contributions to capital and not included in income of the utilities. Because these contributions are not income, the utilities have not claimed depreciation or investment tax credit on these amounts. In section 118(b) of the Code, Congress confirmed that this treatment would continue to apply in the case of utilities providing water and sewerage disposal services. The same situation, however, also exists in the case of regulated natural gas and electric utilities.

Mr. Speaker, this bill would extend the application of the rules provided by Congress in section 118(b) for water and sewerage utilities to natural gas and electric utilities. In so doing, it would merely continue the treatment of contributions-in-aid-of-construction that has existed for over 50 years.

In the case of natural gas distribution and transmission companies, the contributions of concern principally involve contributions by customers for gasoline extensions and contributions by governmental units for gasline relocations in connection with urban renewal and road relocations. They do not include normal customer connection fees and other service fees, which as a general practice have been included in income by the industry.

It is important to note that this bill would not result in a revenue loss. The Government is not now collecting and never has collected taxes on contributions in aid of construction of regulated public utilities. To forego the collection of new taxes is not a revenue loss.

Moreover, if these contributions were to become taxable, the utilities would have to charge their customers additional amounts to cover the income taxes on the contributions—in some cases up to $2 for every $1 needed for construction—$1 for actual construction and $1 to pay the tax. This further increase in customer rates would be most unfortunate.

ELDERLY QUESTIONNAIRE RESULTS

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. LUNDINE. Mr. Speaker, in late July of this year, I sent questionnaires to senior citizens throughout the southern tier of New York State in an effort to learn their opinions about a number of issues and problems confronting the elderly. Over 2,000 senior citizens responded, with many people enclosing helpful information about specific problems they have encountered. Ninety-five percent of the people who responded to our questionnaire indicated that they are retired. Of those, 64 percent had retired voluntarily and 36 percent were mandatorily retired.

On August 17, 1977, the House Select Committee on Aging held a special regional hearing in Jamestown, N.Y., primarily to examine the special housing needs of senior citizens. Although the results of this questionnaire will be included in the record of those proceedings, I would like to also enter these findings into the CONGRESSIONAL RECORD, for I am confident that my colleagues will find these results interesting and useful.

Among the issues raised in the questionnaire, I asked for opinions about H.R. 5383, legislation which would abolish the mandatory retirement rule for all Federal employees and extend the Age Discrimination Act to cover persons up to age 70. Of the respondents, 66 percent indicated their support for H.R. 5383, while 34 percent disagreed with the provisions of this bill. H.R. 5383 was recently passed by the House, and I voted in favor of this legislation because I believe it will provide a useful test to help us more adequately evaluate the possible effects of an overall ban on mandatory retirement which may be enacted at a future date.

I would like to express my sincere appreciation to all of those who took the time to complete and return the questionnaire. The information obtained as a result of this effort will enable me to be a more effective advocate for the interest of senior citizens in the southern tier.

Following are the results of the questionnaire broken down by percentages:

1. During this past winter, what was the biggest problem you faced due to the heavy snow and extreme cold weather?

Increased utility rates—63 percent.

Insufficient insulation/inadequate heating—16 percent.

Transportation difficulties—10 percent.

Damage to your home/problems in making repairs—9 percent.

Delays in receiving Social Security checks or nutritional assistance—1 percent.

2. Which of the following options would provide the most useful financial relief from soaring energy costs?

Emergency assistance plan to provide help to the elderly during times of crisis and severe weather conditions—39 percent.

A fuel stamp program similar to the food stamp program which would provide assistance in paying utility bills—35 percent.

A special weatherization program for use in elderly housing—17 percent.

Other—10 percent.

3. Have you ever encountered difficulty in obtaining any of the following medical appliances or services because of limited Medicaid or Medicare coverage?

Dentures—23 percent.

Eyeglasses—22 percent.

Prescription drugs—20 percent.

Hearing aids—18 percent.

Preventative medical check-ups—12 percent.

Hypertension screening—4 percent.

4. Do you find transportation a problem when going from your residence to doctors, shopping facilities or other services normally in the central business district?

No problems—73 percent.

Transportation usually available—20 percent.

Transportation rarely available—6 percent.

Never leave residence—1 percent.

EQUAL TREATMENT FOR PREGNANT WORKERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. FRASER. Mr. Speaker, the Employment Opportunities Subcommittee of the House Education and Labor Committee has completed hearings on H.R. 6075, a bill to amend title VII of the Civil Rights Act to specify that discrimination on the basis of pregnancy is sex discrimination. Mark-up is planned, but not scheduled, for early October.

This legislation is a direct response to the Supreme Court decision in G.E. against Gilbert, December 7, 1976, in which the Court ruled that employers could choose to deny disability payments to pregnant workers.

The Senate passed S. 995, its version of the bill, on September 16, by a vote of 75 to 11. In speaking for the bill, Senator WILLIAMS noted:

The entire thrust behind the litigation which led to the Gilbert decision and behind this legislation is to guarantee women the basic right to participate fully and equally in the workforce, without denying them the fundamental right to full participation in family life.

Twenty-five States now prohibit sex discrimination based on pregnancy. Minnesota is one of these States. A bill to amend our State human rights act, introduced by State Representative Ann Wynia, was passed in May. However, Minnesota's new law has been challenged on the grounds that it is superseded by ERISA, the Pension Reform Act of 1974. Similar challenges have occurred in other States with similar laws. These challenges point to the need for passage of H.R. 6075, to protect the rights of pregnant workers.

At this point I would like to share a recent letter from Representative Ann Wynia:

MINNESOTA HOUSE
OF REPRESENTATIVES,
September 23, 1977.

Hon. DONALD M. FRASER,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN FRASER: The United States Congress now has under consideration legislation which would nullify last December's Supreme Court decision in *G.E. versus Gilbert*. That decision, you may recall, permitted employer disability insurance plans to deny benefits for disabilities to pregnant women.

That decision, which has been widely criticized, stated "that an exclusion of pregnancy is not a gender-based discrimination at all." The court's reasoning came as a shock to many government agencies, civil rights groups, and other organizations which have been working to secure equal treatment for women.

In Minnesota the response was swift and clear. Last May legislation was approved changing the State Human Rights Act to clarify that sex discrimination included discrimination on the basis of pregnancy. This change in the state law was approved overwhelmingly by a vote of 127 to 1 in the House and 44 to 3 in the Senate.

It is vital, however, that Congress now enact such legislation as well if the equal rights of pregnant women are to be protected. The Minnesota law has been challenged on the grounds that language in ERISA, the pension reform act of 1974, may supercede state requirements of non-discriminatory treatment and workers disability insurance plans. Only Congress can now clearly and uniformly provide protection for all women in the United States. I ask your support at the national level.

If you have questions about this matter please contact me.

Sincerely,

ANN WYNIA,
State Representative.

REFLECTIONS OF A WASHINGTON REPORTER

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. NEDZI. Mr. Speaker, a few days ago I read a candid and refreshing newspaper column which drew an apt parallel between the job of a Congressman and

the job of a Washington correspondent for a back-home paper.

The author was Al Blanchard, a veteran newspaperman and new chief of the Washington Bureau of the Detroit News. Those of us who deal with him know Al as a solid, straightforward professional who displays a refreshing frankness. He is free of the affected airs and know-it-all attitude sometimes found in the Washington press corps.

Accordingly, I am pleased to set forth in the RECORD the following column from the September 16, 1977, Detroit News:

CAPITAL REPORTER: UPS AND DOWNS

WASHINGTON.—A reporter who has since departed The Detroit News Washington Bureau used to philosophize that "happiness is in direct proportion to the distance from the home office."

While the other six newsmen in the present bureau may occasionally be enraptured by that thought, they are brought sharply to earth by the admonition that "the diner who is farthest from the kitchen is a nervous eater."

Those two bits of homily illustrate the mixture of euphoria and depression that are part of a distant correspondent's baggage.

But the larger problem for those of us who serve in the field is journalistic. We live in Washington, our friends are in Washington, our kids go to school in Washington, we shop and entertain ourselves in Washington. Yet, like the politicians, we serve a constituency that is distant and whose needs and interests may vary from our own.

Our job is to constantly project our efforts to that distant constituency. What is hometown news in Washington is national news everywhere else. And it has to be sorted out, properly digested and then turned into understandable, meaningful reports for readers in Michigan.

The magnitude of that job becomes quickly apparent when one arrives as a correspondent in Washington for the first time, as I did two years ago when I became Washington Bureau chief. The first impression—and a lasting one—is that no one really knows what is going on here. The place is an international as much as a national capital. It swarms with events. Some sub-agencies are larger than whole local governments back home. Within each of these pieces of government and the industries bordering government, there is talent and expertize as well as untalent and ineptness. It's all grist for news.

The News Washington Bureau serves only one newspaper, and it is small compared with the bureaus of large news chains. There are seven of us—not enough even to pretend to cover all that happens here. So why then a Washington Bureau?

The Detroit News subscribes to several news services, including that provided by the Washington Post. Thus, daily coverage is well provided. What we in the bureau try to do is to step beyond daily coverage to provide insightful stories which anticipate major developing events or help to illuminate and explain the issues of the moment.

Because we write for a single paper, we are able to address ourselves to a single constituency, complement its reading habits and its particular needs for information. For example, we may do more energy news because Detroit, as an automobile city, is so affected by the actions of government in that area; the same goes for news. We, as one would expect, pay special attention to the work of Michigan's congressmen and senators.

In a sense, because we live at the scene, we are editors, as well as reporters, sifting through the torrent of "news" generated in this town each day in search of those things that improve, rather than confuse, our readers' understanding of government workings. In the sorting process, a lot is discarded—or put aside for later scrutiny.

My own roots are at Wayne State University, where after a beginning career as a trombonist, I fell under the spell of the journalism school and the late W. Sprague Holden, who was a guiding hand to many byliners on The News.

Twenty-five years ago I began at The News as a copyboy, which many of my peers consider to be the most productive period of my life. I then did some police reporting and traveled the courts circuit, evolving eventually into a general feature writer and, in the 1960s, into a correspondent, both national and foreign.

Late in the decade, I became a columnist, sharing the back page with Doc Greene. One of the blessings of my life is that I am not well remembered as a columnist, except for an innocent creation of the imagination called the Last of the Zug Indians, which brought more fame to Zug Island than it deserves.

After my pubescent columning period, I disappeared behind a desk as national editor of The News. When I emerged five years later, I was shipped off to Washington, to succeed Jerry terHorst as bureau chief. Jerry went off, you will recall, to become President Ford's press secretary when Mr. Ford replaced Mr. Nixon. terHorst resigned a month later in protest of the Nixon pardon and returned to the bureau as The News national columnist.

This is a town in which greatness is always just around the corner and, though it has eluded me so far, I am not discouraged. Anyway, after watching the rise and decline of Bert Lance, and knowing my own problems with overdrafts, I've decided that it's more comfortable being a chronicler of events than a maker of them.

CHANCES FOR A LATIN NUCLEAR AGREEMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. GILMAN. Mr. Speaker, in August a congressional delegation led by Chairman GUS YATRON, Inter-American Affairs Subcommittee, Committee on International Relations, visited six countries in Latin America—in Colombia, Peru, Chile, Ecuador, Brazil, and Argentina. Our delegation discussed with top government officials a variety of issues of vital interest to the Western Hemisphere. One of the more compelling of concerns and, indeed, perhaps one of the most critical was nuclear proliferation and the potential impact on Latin America of uncertain national nuclear aspirations.

Recognizing the importance of a cooperative approach to dispel the threat of nuclear proliferation, Congressman PAUL FINDLEY, a colleague of the International Relations Committee and a member of our delegation, fashioned a proposal for a bilateral nuclear verification agreement between Argentina and Brazil. The crux of the agreement would be mutual onsite monitoring of the nuclear facilities of each country. Designed to reduce suspicion and hostility between neighbors, this proposal is intended to supplement rather than supplant other ongoing arrangements.

In further meetings in Washington with President Videla of Argentina and Vice President Adalberto Pereira dos Santos, Congressman FINDLEY has continued to generate interest in an idea whose acceptance would greatly benefit international tranquility.

For the benefit of my colleagues in the House, I am placing in the RECORD Congresman FINDLEY's proposal as it was reprinted by the Washington Post on September 1, 1977:

CHANCES FOR A LATIN NUCLEAR AGREEMENT

(By Paul Findley)

A bilateral, on-site, nuclear verification agreement betwen Argentina and Brazil could help to arrest mounting suspicion over the ultimate nuclear aspirations of these two important states. There is no reason to believe that such a proposal would not be rejected out of hand, and there are many reasons why both sides should find such an arrangement in their best interest.

I reached that conclusion during a congressional study mission that included discussions with top officials in Brazil, Argentina, Chile, Peru, Ecuador, and Colombia.

The agreement I envisage would be one in which Brazil and Argentina renounce any intention of developing a nuclear explosive device and agree to accept continuing, mutual, on-site monitoring of their respective nuclear facilities. Each nation would let nuclear officials of the other move freely throughout its nuclear facilities.

Argentina and Brazil have been natural competitors on many planes over the years and probably will remain so in the future. They have a long common border. Each has a great diversity of resources, technical competence and a burgeoning economy.

Argentina is presently the most advanced nuclear power in Latin America, with several natural-uranium-fueled power plants in operation and under construction. Its technology includes a laboratory-size plant for reprocessing spent fuel.

Brazil, although behind Argentina in nuclear development, has contracted with West Germany to buy a complete nuclear fuel technology based on the use of enriched uranium and including equipment for reprocessing spent fuel. The latter, of course, will yield substantial quantities of plutonium usable for weapons.

Neither country is currently a party to the non-proliferation treaty, though both have taken some steps toward entering into the Treaty of Tlateloco. However, this treaty, important as it is, accepts the distinction between peaceful and military nuclear explosive devices, a distinction that the United States and other supplier states now prudently recognize to be artificial and meaningless.

Both Brazil and Argentina have frequently renounced any intention of building or otherwise acquiring nuclear weapons, but apprehension persists that, in the absence of solid safeguards, future circumstances might impel one of them to go the weapons route. If so, the other would surely follow. With the giants of South America armed with nuclear weapons, a chain reaction might bring them swiftly to other Latin nations.

A Latin America bristling with nuclear weapons is hardly a pleasant prospect.

The bilateral pledges and inspection arrangements I have described would not be a substitute for International Atomic Energy Agency safeguards nor for specific individual supplier-state provisos, but rather would provide an important additional element of assurance and protection between two states whose past relations have at time been quite troubled. The agreement in question would strengthen the web of checks and decrease any incentive for abuse and diversion. The agreement by rivals to check themselves should be doubly reassuring to neighboring states and to the world at large. There are other situations in other parts of the world where tensions among regional powers are so great as to require checks beyond those inherent in customary safeguard arrangements. This kind of bilateral verification could serve as a model for such situations, helping, by means of the added protection it would provide, to assure that traditional safeguards are not subjected to intense or unbearable strain.

The agreement would have these advantages:

It would elicit worldwide applause for the two neighboring counties whose governments would consummate the agreement entirely on their own without participation or pressure by the nuclear-weapons states.

It would be the first major agreement between the countries in many years and might create an atmosphere that would be supportive of agreements in other fields as well.

It would not involve concessions or cost by either state. Brazil and Argentina already have a cordial, informal, cooperative relationship among their nuclear officials and, inasmuch as both have renounced nuclear weapons, neither would be disadvantaged by accepting continuing on-site inspection.

It would help to restore an atmosphere of cordial nuclear cooperation that likely would spread beyond Argentina and Brazil. Hopefully, it would generate a mutually beneficial spirit to the advantage of supplier states, including the United States, West Germany and Canada.

No single method exists for dealing with the threat of nuclear proliferation. Agreements can always be broken in times of stress, and safeguard inspectors sent packing. That is why it is still of the greatest importance to create fuel cycles in which ready access to weapons-usable materials is denied. Still, the institutional arrangements described here, coupled with other controls and hoped-for technological advancements, could be an important breakthrough in the quest for a truly secure development of nuclear power.

OIL CARGO PREFERENCE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. VANIK. Mr. Speaker, the House will soon consider H.R. 1037, the Energy Transportation Security Act of 1977, more commonly and indeed more appropriately known as the cargo preference bill. I am very concerned about this bill because of its inflationary impact and its implications for U.S. foreign economic policy. I am also concerned that the White House strongly supports this bill in spite of widespread controversy among executive branch agencies. For example, although the prime rationale for H.R. 1037 is national security, neither the Department of Defense nor the State Department has supported the bill on those grounds. Though the bill purports to create additional jobs, the Council of Economic Advisers has indicated that it would reduce both national employment and the gross national product. The State Department has voiced opposition on grounds that the bill's language will violate approximately 30 treaties of friendship, commerce, and navigation with our trading partners. The bill is also not supported by the National Security Council, the Office of Management and Budget, and the President's special adviser on energy.

Mr. Speaker, H.R. 1037 is unjustifiably expensive to the American economy at a time when the Congress and the administration are agonizing over important economic decisions, such as how to reduce inflation, how to cut unemployment, and how to reduce the tax burden on the middle-class citizens of our country.

The General Accounting Office, the Federal Trade Commission, and the Commerce Department, have come up with some very startling cost estimates. These agencies conclude that a 9.5-per cent cargo preference would cost consumers a minimum of $240 million a year. Looking ahead, if oil imports are 10.3 million barrels per day as expected by the mid-1980s, a 9.5-percent cargo preference requirement is more likely to cost from $550 to $610 million annual. In estimating its adverse impact on GNP and employment, the CEA concludes that total costs—including a wellhead tax increase—in 1985 at the above levels will be $640 to $884 million. What would these astronomical costs mean to maritime industry employment costs? The Commerce Department—where the Maritime Administration supports this bill—estimates that the annual cost per seagoing job would be in excess of $100,000.

Mr. Speaker, in addition to the obvious inflationary impact of H.R. 1037, as chairman of the Subcommittee on Trade of the Committee on Ways and Means, I am particularly concerned about the bill's implications for our international trade relations because it is completely contrary to longstanding policy of the United States to promote an expansionist trade policy worldwide based on fair and equitable rules. I certainly agree with the Treasury and Commerce Departments in their statements that cargo preference legislation would be totally contrary to the London Summit pledge to reject protectionism. It is therefore inconsistent with U.S. objectives in the current Multilateral Trade Negotiations in Geneva. It would also reverse U.S. policy favoring free competition for commercial cargoes. Further, preference legislation would probably trigger the adoption of similar or more stringent measures by other countries. Currently, cargo preference imposed by other countries applies to only 5 percent of world oil trade. Finally, as I have noted, U.S. treaties with at least 30 countries would be contravened.

Mr. Speaker, for the reasons I have outlined. H.R. 1037 is even less meritorious today than in 1974, when President Ford had the courage to veto a similar bill.

A TIME TO REASSESS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. RANGEL. Mr. Speaker, the situation in the Middle East has now reached a critical stage where compromise is inevitable if further bloodshed is to be avoided. The latest peace initiative of Secretary Vance leads me to believe that the Arab States are now willing to begin serious talks with Israel on how both can live in peace in that corner of the world. Certainly not all the principals in the conflict have set aside their differences which have caused the Middle East to be the center of many violent acts over the last three decades.

However, I think the United States and Israel would be missing a golden opportunity for exploring a potential avenue of peace if we both did not recognize that the statement by the Foreign Minister of Egypt to the effect that Arab nations are now willing to accept Israel and live in peace may signal an important shift in Arab policy towards their neighbor.

I have always been one of the most vocal supporters of Israel and have recognized the need for her to be secure in a traditionally hostile environment. However, I do not believe that the cause of peace is served by clinging stubbornly to concepts that may no longer hold. We must recognize the need to move forward and seize any opportunity to bring about peace.

Anthony Lewis has written what I believe is a very fair and concise statement of the need for Israel and her friends to comoromise and meet the Arab States halfway, especially when the latter signals that they may want to lay aside their differences. As one who is committed to the survival of Israel and who has voted consistently with Israel here in Congress, I believe that she must cautiously begin to explore just how much the Arabs have changed. The conditional agreement reached to allow Palestinian representatives to participate at Geneva was a first step. Another indication is needed in order to make certain that the conference in Geneva does move off center and thereby enhance the cause of peace.

I would hope that my colleagues would review the column written by Lewis in today's New York Times and consider carefully his views. The Congress will continue to deal with this question and therefore his views are quite timely. His remarks follow:

AMERICANS AND ISRAEL

(By Anthony Lewis)

Sympathetic public opinion in America has always been vital to Israel, and never more so than in her diplomatic near-isolation these days. The sympathy is natural: It is right that Americans should care about a country of shared ideals and so compelling a history. But the support should reflect not only human feelings but a realistic sense of Israel's long-term interests.

The question of American public attitudes is made acute by the growing possibility that the Geneva Conference on the Middle East will be reconvened before the end of the year. That prospect emerges from Israel's agreement, albeit with prickly conditions, to a Palestinian presence at the conference. There is a momentum for Geneva.

Considering all the brickbats thrown at President Carter and Secretary of State Vance for their Middle East policy—the charges of muddling and amateurism—they could take considerable satisfaction in a Geneva meeting. But of course that would only be the beginning: of negotiation and of American responsibility. For everyone recognizes that only U.S. leadership has any chance of closing the still enormous dis-

tance between Israel and the Arabs on substantive issues.

That is where public opinion, its understanding and its steadiness, will matter. It is no secret that American supporters of Israel have been extremely sensitive to any suggestion of U.S. pressure on Israel—sometimes more sensitive than the Israelis. President Carter has not yet applied any significant pressure. But when he has spoken aloud on something as evident as the necessity for a Palestinian homeland, he has been denounced as "provocative."

It is Menahem Begin, not Jimmy Carter, who has been provocative. Since becoming Prime Minister he has taken the unyielding position, at least publicly, that the West Bank territory occupied by Israel in 1967 is hers by right going back to the Bible. Until an ambiguous halt this week, he has allowed further Jewish settlements in the area. His Minister of Agriculture, Ariel Sharon, has produced a grandiose plan to settle 2 million Jews in the occupied territories.

Those positions are fantasies: dangerous fantasies. Ancient history is deeply meaningful as a source of Israel's vision, but it is entire inadmissible as a definition in international law or diplomacy. What would happen to the peace of the world if every nation insisted on biblical boundaries or its own scriptural equivalent?

The Begin Government has suggested that the problem of the West Bank can be solved by improving the Arab's social and economic conditions and giving them a degree of local autonomy. That is another fantasy. Paternalism, however beneficial, will not work there any more than, it did for the French in Algeria. Even the most moderate Palestinians want to run their own society.

Americans who visit Israel often speak of the vulnerability of the country's pre-1967 waist: the narrow area between the Mediterranean and the West Bank. That is a fact, but it was also a condition of the compromise that allowed the creation of Israel in 1948 with world support. The world as it is today cannot accept unilateral boundary changes for reasons of perceived security.

In any case, territory is not security for Israel in the light of modern weapons systems. Minor adjustments to the 1967 borders are imaginable. But can it really increase Israel's security to hold on to the West Bank and thus assure continuing hostility from the Arabs and disapproval from the rest of the world?

In our concern for Israel's survival, we tend to forget an important part of the dream that accompanied her creation and development. That was the dream of peace with her neighbors. Israelis and American supporters both envisioned a time when people with so much in common could live together, and Israel would no longer need to be an armed camp.

After the 1967 war, that vision of peace was the declared reason for holding on to the occupied territory. Apart from such particular areas as Jerusalem, the land would be held temporarily, it was said, as a lever to bring the Arabs to genuine peace. But now security is sought in territory, not peace.

The Arabs are talking of peace now in terms that would have been regarded as astounding in 1967. Secretary Vance came back from his last Middle East tour with undertakings by the neighboring Arab states to conclude peace treaties with Israel. The Foreign Minister of Egypt, Ismail Fahmy, said the other day that "the Arab countries are ready for the first time to accept Israel as a Middle Eastern country to live in peace."

Words can deceive, and it is wise to be wary after the bloody history of Arab opposition to Israel's existence. But it is foolish to pretend that there has been no change in Arab attitudes. There has been a significant change.

Americans must remain committed to Israel, but not in the blinkered vision of survival in hostility. The aim is a stable relationship with her neighbors, and that requires the mutual abandonment of extravagant claims. We help Israel by supporting American leaders when they point out the price of fantasy.

YUGOSLAV TERRORISM IN THE UNITED STATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DORNAN. Mr. Speaker, on July 21 and July 27, I inserted in the CONGRESSIONAL RECORD the published reports of a murder which has frightening implications.

This murder took place on Sunday, June 19. The editor of the anti-Communist newspaper Liberty and his 9-year-old daughter were brutally tortured and murdered. Horrible as this murder is, there are far-reaching ramifications which should cause additional concern among all Americans who treasure their liberty and the safety of our society.

As Dr. Slobodan M. Draskovich, internationally noted author and professor of economics, stated:

> There can hardly be any doubt that the murder was politically motivated and that the perpetrators are the agents of the Communist regime of Josip Broz Tito.

More of the story has come to light in recent weeks. The News World newspaper published two articles on August 8, which detail the facts discovered up to that time and which trace Tito's ruthless rise to power. The first article was written by Mr. Miles Costick and the second by Mr. Hal McKenzie. I insert both in the CONGRESSIONAL RECORD:

TITO'S AGENTS LEAVE TRAIL OF BLOOD IN AMERICA

(By Miles Costick)

On Sunday, June 19, 1977, about 4:00 a.m., an editor of the Serbian anti-Communist newspaper Liberty and his 9-year-old stepdaughter were found beastially murdered in the Chicago newspaper office.

According to the police officers investigating the murder, sometime after 11:30 p.m. on Saturday, June 18, Dragisa Kasikovich, 45, and Ivanka Milosevich, 9, were murdered by use of blunt instruments and by being repeatedly stabbed with a sharp object.

The girl's mother arrived at 4:00 a.m. on Sunday, June 29, finding the door to the editor's office open, with Mr. Kasikovich's body in the chair behind his working desk, his face bludgeoned beyond recognition; the dead child with the slashed throat was on his lap. The little girl's gouged eyes and lower ear lobes with earrings in them were in the ash tray on the desk. Several human teeth were under the desk chair. The murderers, apparently, used the office scissors, to cut and torture the victims. There were signs of struggle around the office; the desk lamp and the ceiling were covered with blood spots.

According to Dr. Slobodan M. Draskovich, one of the most eminent members of the Serbian community in the United States, "There can hardly be any doubt that the murder was politically motivated and that the perpetrators are the agents of the Communist regime of Josip Broz Tito."

POLITICAL MURDERS

A spokesman for the Serbian National Defense Council of America—the publisher of the anti-Communist weekly Liberty—Col. Voya Pantelich, also blamed the deaths on Yugoslav agents. The newspaper has been a harsh antagonist of the Communist regime of Tito.

A Chicago Police Department spokesman said that the murders are suspected of being politically motivated.

Ever since the Communists came to power in Yugoslavia—owing to Stalin who sent the Red Army divisions under command of Soviet Marshal Tolubhin to install Tito in power in October of 1944—the free Serbian anti-Communist emigres in the West have been an embarrassment and a thorn in the side of the Yugoslav Communists. They are this simply by reason of their opposition to Tito's Communist dictatorship and by reason of their activities to inform the free world of the true nature of the Yugoslav Communist regime.

According to the former U.S. Deputy Attorney General and former U.S. Ambassador to Yugoslavia Laurence Silberman (see his study "Yugoslavia's 'Old' Communism: Europe's Fiddle: on the Roof," in Foreign Affairs, No. 26, Spring 1977), "Perhaps the most sensitive of all bilateral issues (between the U.S. and Communist Yugoslavia) involves Yugoslav emigres in the United States." Ambassador Silberman further writes, "Indeed, for Yugoslav purposes, an occasional incident provides a useful lever to press in pursuit of the larger objective—the marshaling of U.S. government efforts against political activity (violent or not) aimed against the present regime."

For this report, however, the most pertinent pronouncement by Ambassador Silberman is that ". . . Tito gives the Interior Ministry [ministry of police] unchecked power to root out all real or imagined enemies in Yugoslavia and to pursue them in European cities . . ."

WORK OF THE SDB

In the past decade, the agents of the Yugoslav secret police, the SDB, have been accused of more than three dozen assassinations and kidnapings of political opponents in Western Europe. To name only the most prominent ones:

(1) Andra Loncaric, murdered with an ax in Paris, France, on March 6, 1969. His killer—a former convict recruited by the SDB—Bosko Paraskijevic, lives today in Yugoslavia under a different name.

(2) Sava Cubrilovic, murdered in Sweden on December 25, 1969. His assassin—Milan Sop Djokic—lives in Yugoslavia. Djokic has been clearly identified by Swedish authorities as an agent of the Yugoslav secret police, the SDB.

(3) Miroljub Lazic, kidnaped by Yugoslav agents from Austria on July 2, 1970. Later tried in Yugoslavia and sentenced to 12 years of hard labor.

(4) Ratko Obradovic, editor of the Yugoslav emigre newspaper, Iskra, shot to death in Munich, Germany, in 1970. The perpetrators escaped to Yugoslavia.

(5) Borivoje-Bora Blagojevitch, former officer of Gen. Dragja Mihailovich's Chetnik guerrilla force, maimed by Nazis in 1943, shot to death on March 8, 1975 in Brussels, Belgium. Assassins escaped to Yugoslavia. A year prior to Blagojevitch's murder, one Slavko Trbic was sought in Paris by SDB agents and recruited to assassinate Blagojevitch. He was given a Yugoslav passport in a fictitious name, a Walther 7.65 mm pistol with ammunition and a silencer. Trbic, however, turned himself in to the French police authorities.

(7) Pierre Valitch, editor of the Serbian emigre newspaper, Vaskrs Srbije, shot to death in his apartment on May 13, 1975 in Brussels, Belgium. Valitch was 72 years old.

(8) Slobodan-Bata Todorovic, prominent economist, was kidnaped from Milan, Italy, in December 1975. Now in Yugoslav prison.

(9) Col. Vladimir-Vlado Dapcevic, leader of the anti-Tito Communists. Belgian citizen. On visit to Bucharest, Rumania, last August, he was kidnaped by SDB agents, brought to Yugoslavia and sentenced to 20 years of hard labor.

(10) Miodrag Boskovic, a prominent antique dealer in Brussels, Belgium, considered to be one of the Serbian leaders in Western Europe. He was also a president of the Association of the Free Entrepreneurs in Exile. Boskovic was shot to death in his office on August 6, 1976 in Brussels, Belgium.

(11) Uros Milicevic, Boskovic's bodyguard (former bodyguard to the French actor Alain Dallon) was murdered together with Boskovic.

(12) Yvan Tuksor, 42 years old, secretary general of The Croatian Federalist Union. A bomb was planted in his car. The bomb exploded as the car was halted at a traffic light in Nice, France; Tuksor was trapped in the blazing vehicle and burned to death. Seven other persons, unrelated to Tuksor, were injured by the same blast. The perpetrator of the crime returned to Yugoslavia and ended up in a lunatic asylum.

A SELF-DEFENSE CASE

On June 15, 1976, the district court in Amsterdam sentenced *Slobodan Mitric*, a professional karate teacher from Yugoslavia, to imprisonment for 15 years. His crime: murder of three Yugoslav secret agents and wounding of another two in a restaurant in Amsterdam. His sentence was relatively a light one, because the court established that he acted in self-defense. Mitric himself was a trained SDB assassin who did not carry out his latest assignment, since he found out that upon completion of this task the other SDB assassins were ordered to liquidate him. His trial in Amsterdam revealed a wide net of Yugoslav terrorist and assassins network in Western Europe.

The cases of assassinations and kidnapings differed from another in important details. However, the common trait and purpose seemed to be to silence the political opposition of Serbs and other Yugoslavs throughout the world and especially in Western Europe.

Dr. Draskovich, former professor at the University of Belgrade, and president of the Serbian Cultural Club St. Sava of Chicago, Ill., made a statement to us: "I had the occasion several years ago to bring this to the attention of then Attorney General John Mitchell, predicting that unless these criminal activities of the Yugoslav secret police, the SDB, were stopped, they would spread to the United States."

Dr. Draskovich also said, "I think that the most important aspect of the murder of Dragisa Kasikovich is precisely that—emboldened by the unconditionally friendly policies of our State Department—the Communist regime of Josip Bros Tito has decided to cross the ocean and to silence by terror the anti-Communist Serbs in the United States.

CHURCH ALSO INFILTRATED

Dr. Draskovich continued, "For not only that no attention at all was paid to the machinations of Tito's agents in the United States, but their infiltration into the Serbian Orthodox Church has gone unhindered and was even facilitated."

The Yugoslav Communists caused a split in the Serbian Orthodox Diocese of the United States and Canada in May 1963. The diocese was opposed to the Communist rulers in Yugoslavia.

The free Serbs in the United States rallied in defense of their diocese against the dictates of the Religious Commission (the arm of the Yugoslav Communist regime for religious affairs).

The litigation before various U.S. courts of justice lasted for 14 years.

The most damning single event was the majority opinion of the Supreme Court of the United States of June 21, 1976, which deprived the American Serbs of protection under the First Amendment of the U.S. constitution, and forbade U.S. courts even to examine and pass judgment on the rulings of the ecclesiastical courts under Communist control in Yugoslavia.

In a letter to Chief Justice Warren Burger on July 19, 1976, Dr. Draskovich predicted that such a majority opinion would entail very grave consequences, among which would be to give the green light to the Communist terrorists from Yugoslavia.

This has now come to pass.

What Dr. Draskovich did not know, while writing Chief Justice Warren Burger, was that, last year in Washington, D.C. a hired Yugoslav agent surrendered to the Federal Bureau of Investigation, turned over the special poison which she received from the counselor in the Yugoslav embassy in Washington and admitted that her assignment was to poison five Serbian political emigres in Washington, D.C.

REGIME AIDED BY U.S. FRIENDSHIP

Whatever the details of the murder of Dragisa Kasilovich, the most ominous aspect is that the Communist regime of Josip Bros Tito was emboldened by our unconditional friendship and the obsequious attitudes of Vice President Mondale.

Only a few days before the Belgrade Conference on Human Rights, Mondale praised Tito and expressed the admiration of the United States government for this Communist tyrant. This gave another mighty shot in the arm to the Yugoslav regime's subversion and terrorism in the United States.

At this point a Serbian editor and his stepdaughter were bestially murdered in free America. The Serbs feel that behind this ominous event is the Communist regime of Tito.

The Yugoslav policy towards the United States, both multilaterally and bilaterally, is obviously asymmetrical. The recent events have demonstrated it. This, in turn, calls for reassessment of American policy towards Tito's Yugoslavia as suggested by the former Ambassador Silberman.

It was George Kennan, a distinguished former ambassador to Yugoslavia, who states, "Yugoslavia sees the United States as a milk cow rather than a bull—all teats and no horns." And this cannot be tolerated any longer.

TITO'S RUTHLESS RISE TO POWER

(By Hal McKENZIE)

In the Western press, Yugoslavian President Josip Broz Tito is depicted as one of the "good guys" on the international scene because of the independent line in regards to the Soviet Union he adopted in 1948, and some domestic economic policies which seemed to moderate the harsher aspects of Communist rule. However, in achieving and maintaining his power, Tito has been as ruthless and bloody as any Communist dictator ever.

The population of the rugged country of Yugoslavia consists of a number of distinct peoples with kindred but separate languages and cultures, causing age-old ethnic rivalries which have complicated the process of nation-building and remains a problem even under Tito. These nationalities, according to the 1971 census, include the Serbs (40 per cent), Croats (22 per cent), Slovenes and Bosnian Muslims (8 per cent), Macedonians and Albanians (6 per cent each), Montenegrins and Hungarians (2 per cent), and Turks (one per cent).

SERB-CROAT RIVALRY

Yugoslavia first emerged as a unified state in 1918 called the Kingdom of the Serbs, Croats, and Slovenes under the Serbian house of Karadjordjevic. However the Croats became an increasingly disaffected minority in this Serb-dominated state. Their rivalry with the Serbs continued even after the Fascist Germans and Italians invaded and occupied the country in 1941. Some Croations (called Ustasi), collaborated with the Nazis and adopted the facist ideology in order to gain autonomy for their region.

Resistance to the German-Italian occupation was led by two rival groups—the Serb nationalist Chetniks under Gen. Draza Mihailovic, and the Marxist Partisans led by Tito. Tito himself is a Croat, but called for unification of the various Yugoslav nationalities.

BETRAYAL OF MIHAILOVIC

In the earliest stages of the resistance, Tito's Partisans launched a campaign of terror and assassination against Chetnik leaders in order to insure their dominance of the resistance movement. In the ensuing civil war, the Partisans were temporarily defeated. However, through a combination of world-wide Communist propaganda and faulty Allied intelligence, the Allied forces began to accept the fiction that the Partisans were the only ones carrying out active resistance against the Nazis, and that Mihailovic's forces were collaborating with the Germans. In fact, captured German intelligence indicated that they considered the Chetniks to be by far the worst threat to the German occupation. Tito's forces launched some sabotage operations and ambushes which led to frightful reprisals and massacres of the local population, sometimes involving the killing of 100 Yugoslavs in reprisal for a single German death. Mihailovic's forces refrained from such activities in order to protect the lives of the people, but as a result the word spread abroad that Tito was the most active against the Germans.

The effect of this propaganda was that the Allied forces gave its full support to Tito, and Mihailovic was denied Allied assistance. This, together with the depradations of Nazi, Ustasi, and Partisan killings of Chetniks, allowed Tito to emerge the dominant force after the Germans were driven out. Mihailovic's Chetniks were defeated by the Partisans, rounded up and most were executed. Mihailovic himself was executed in July 1947 after a highly publicized trial in which he was condemned as a "Nazi collaborator."

The Serbs who escaped to the United States still keep alive the memory of Mihailovic. They continue to be a thorn in the side of Yugoslavian communism, and a prime target of Tito's international intelligence agents. Also Croat nationalists continue to carry out terrorist activities against the Tito regime, some of which took place recently in New York.

WHY INFLATION PERSISTS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MITCHELL of Maryland. Mr. Speaker, all of us are cheered by the fact that inflation has tapered off in recent months. But underlying monetary developments indicate that this may be the lull before we are hit with still another inflation storm later next year or early in 1979; and if recent history is any guide, another recession will follow shortly after. The problem building up

beneath the surface is another explosion of money growth as in 1971, 1972, and 1973. For the past 6 months, the Federal Reserve has caused or allowed our basic money supply (M1) to grow at an annual rate exceeding 9 percent, which is 40 percent above the 6½-percent upper limit of the target range set by the Federal Reserve itself for 1977.

In this regard, I would like to call my colleagues' attention to an article by Milton Friedman on "Why Inflation Persists" which appeared in the October 3, 1977, issue of Newsweek. Dr. Friedman, a Nobel Laureate in economics, states that there is "one and only one basic cause of inflation: too high a rate of growth of money," and "one and only one basic cure for inflation: slowing monetary growth." He points out, as I did in a hearing my Subcommittee on Domestic Monetary Policy held on September 27, that Chairman Arthur Burns and other Federal Reserve Board governors have many times stressed the importance of moderating money growth. Dr. Burns and other members of the Board also have given many reassuring statements about lowering monetary growth, but their performance has been in the opposite direction.

I concur with Dr. Friedman's fears that the Federal Reserve's performance will lead to another bout of inflation and subsequent recession. I am personally anxious to prevent, to the greatest extent possible, this scenario from occurring, as I am sure all of my colleagues are. I ask my colleagues to read Dr. Friedman's timely and provocative article:

WHY INFLATION PERSISTS

(By Milton Friedman)

Nearly three years ago, I wrote in this space: "Four times in the past fifteen years we have started on a cure for inflation. Three times we have abandoned the cure before it had time to complete its task—in 1963, 1967, 1971. Each time, the result has been a higher plateau of inflation, producing a new attempt at a cure. Will we make the same mistake the fourth time in 1975? Or this time, will we have the courage and the wisdom and the patience to see the cure through?" (NEWSWEEK, Nov. 4, 1974.)

ABANDONING THE CURE

As of today, the answer is that we have made the same mistake a fourth time. Once again, we have paid the cost of a recession to stem inflation, and, once again, we are in the process of throwing away the prize. From a high of more than 12 per cent in 1974 (from December 1973 to December 1974) inflation fell to less than 5 per cent (December 1975 to December 1976). It has now risen sharply, may temporarily recede as we work through the bulge produced by the special problem of the hard winter, but then, I fear, will resume its upward march, not to the "modest" 6 per cent the Administration is forecasting, but to at least several percentage points higher and possibly to double digits again by 1978 or 1979.

There is one and only one basic cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. These days, that cause is produced in Washington, proximately, by the Federal Reserve System, which determines what happens to the quantity of money; ultimately, by the political and other pressures impinging on the System of which the most important are the pressures to create money in order to pay for exploding Federal spending and in order to promote the goal of "full employment." All other alleged causes of inflation—trade union intransigence, greedy business corporations, spendthrift consumers, bad crops, harsh winters, OPEC cartels and so on—are either consequences of inflation, or excuses by Washington, or sources of temporary blips of inflation.

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. The Fed is supposedly independent. But, as Dooley said of the Supreme Court, "It follows the election returns." Its behavior reminds me of nothing so much as the remark attributed to a U.S. Army officer in Vietnam, "We destroyed the village in order to save it." Similarly, the Fed refrains from using its independence because it is afraid of losing it.

Listen to Chairman Arthur F. Burns in testimony to the House of Representatives (July 29, 1977):

"The trend of growth in monetary aggregates, I regret to say, is still too rapid. Even though the Federal Reserve has steadily sought during the past two years to achieve lower ranges for monetary expansion, the evolution of its projections has been extremely gradual; indeed, at the pace we have been moving [*note; with respect to projections, not behavior*] it would require perhaps a decade to reach rates of growth consistent with price stability. I must report, moreover, that despite the gradual reduction of projected growth ranges for the aggregates during the past two years, no meaningful reduction has as yet occurred in actual growth rates."

Meaning: promises have been in the right direction but too modest; performance has been in the wrong direction.

THE PERFORMANCE OF THE FED

The following table documents Chairman Burn's description of performance: the high rates of monetary growth from 1971 to early 1973 fostered the inflation that peaked in 1974. The sharply lower monetary-growth rates from 1973 to 1975 produced the serious recession of 1974–75 and the subsequent tapering off of inflation. The sharp rise in early 1975 sparked the recovery; the slowdown in late 1975 produced the economic pause in the second half of 1976 that played such a prominent role in the Ford-Carter election battle. Since then, monetary growth has been rising, not falling, and is now about back where it was in 1972.

Recent rates of monetary growth

	Per cent per year	
December 1971 to January 1973	M_1 9.3	M_2 11.4
January 1973 to February 1975	4.5	7.7
February 1975 to June 1975	9.5	12.0
June 1975 to December 1975	2.8	7.0
December 1975 to June 1976	5.8	10.5
June 1976 to August 1977	7.1	10.9

M_1=currency plus adjusted demand deposits; M_2=M_1 plus commercial bank time deposits other than large CD5's

Inflation will not be stopped by words, only by actions. At the moment, we have the worst of two worlds. Nominal independence of the Federal Reserve without its effective exercise permits Congress and the President to evade responsibility for the creation of money to finance large government deficits. The power of Congress to legislate and of the President to approve such deficits without explicit responsibility for the resulting monetary growth gives the Federal Reserve an excuse for its inflationary behavior.

Again, let me quote Chairman Burns, this time from a speech on Aug. 13, 1977, proclaiming "The Importance of an Independent Central Bank":

"Theoretically, the Federal Reserve could thwart the non-monetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government. The fact that such actions may in combination be wholly incompatible with moderate monetary expansion is seldom considered by those who initiate them."

FISH OR CUT BAIT

It matters little whether the Federal Reserve is unable or unwilling to exercise its independence in deeds as well as words. In either case, let us be done with the fiction that "independence" is somehow or other a bastion against inflation. Let us put the responsibility for the rate of monetary growth—and therewith for the subsequent rate of inflation—squarely and openly on the Administration and Congress. Instead of simply requiring the Federal Reserve to *report* its "projections" or "targets" for monetary growth, let the Congress require the Fed to *achieve* specified rates of monetary growth (or specified levels of the quantity of money) within specified ranges of tolerance. That would combine responsibility and power. It would also enable the ordinary citizen to know whom to hold accountable for inflation.

PANAMA CANAL ISSUE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MATHIS. Mr. Speaker, with both sides of the Panama Canal issue presenting knowledgeable and renowned experts on international policy to express the pros and cons of the controversial treaty, I feel that my colleagues should share the thoughts of one of my constituents on this issue. Hopefully, Cuckoo Harry's remarks will blunt a little the sharp edge of the highly emotional issue and lend a little homefolks humor to the controversy. I think we all agree it is needed:

ATLANTA, GA., *August 26, 1977.*

Hon. DAWSON MATHIS,
Congressman, Second District of Georgia,
Cannon House Office Building,
Washington, D.C.

DEAR DAWSON: The other night you asked for advice on the Panama Canal Treaty. With this in mind, I sought out the sound socio-psychological analysis of the wiregrass philosopher, Cuckoo Harry, on this important question of national concern.

I don't know whether you know Harry or not, but he is a fellow unencumbered with the rudiments of education and so poor that he is completely devoid of any influences of the special interest in big business. All in all, he is a knowledgeable, interesting, delightful and completely charming fellow whose advice is not to be taken lightly or ill-advisedly.

Cuckoo said that he had no reservations at all that the treaty was in the best interest of the nation, but he did have deep and serious reservations as to what nation and whose best interest.

The sage philosopher of South Georgia pointed out that a lot could be learned by examining the nature of the author of the treaty. In the case of Mr. Ellsworth Bunker, he noted that the slang of bunk is humbug or talk that is misleading; hence, Mr. Bunker, as his name indicates, is a person, by definition, who practices the art of misleading talk or humbug.

Our dear friend, Mr. Harry, alleged that the Panama Canal treaty of 1977 would set a bad precedent inasmuch as we had stolen it fair and square 73 years ago. (Quote attributed to Senator Hayakawa). He visualized the Russians demanding Alaska be returned; the French suing for Louisiana; the Spanish pleading for Florida and Puerto Rico; the Indians wanting either Manhattan or another $24.00; the Mexicans demanding New Mexico and California; the English entreating for New England: the Portuguese urging the return of the Philippines; and the descendants of Captain Cook clamoring for Hawaii. In short, someone would be claiming all of the United States with the exception of Texas which nobody wants and Alabama which is already owned, in fee simple, by George Wallace.

Cuckoo Harry said, further, and I believe him, that no trade should be made that would not pass the scrutiny of the loan officer of a small loan company. He further alleged that General Torrijos of Panama was either a loan shark himself, or a descendant of a long line of loan sharks.

You can imagine that at this stage of the conversation, I was in a state of hysteria bordering on apoplexy at the seriousness of the situation. Having the utmost confidence in this friend known as Cuckoo, I asked him to prepare a summary of what was in the treaty. This is what he said:

We give them the canal;

We loan them $75,000,000 for housing investments;

We guarantee a $200,000,000 Export-Import Bank;

We loan them $20,000,000 to start the bank;

We continue to pay $20,000,000 annual rent;

Our ships continue to pay to use the canal;

We continue to subsidize the $7,500,000 yearly operating loss;

We consider building another sea level canal.

This seems to be an unbalanced agreement in a world that recognizes that possession is nine parts of the law, mused my associate.

Cuckoo is also astute enough to have recognized that General Torrijos is a non-elected official who came to power through force, and that the average life of a Banana Republic dictator is only ten years, so after he moves on to Switzerland, there will be another strong man wanting us to give them the Canal again. This could go on forever. I gently suggested to my philosopher friend that his observations, to this point, had been those of criticism, and that before you criticize, you should suggest constructive alternatives.

He was full of them. They are as follows:

Dove Approach—Give them the zone and place it in its original condition. (To do this would require the destruction of locks, filling in the Gillard Cut and reintroducing the anopheles mosquito.)

Hawk Approach—Move out with all personnel and not let any ship move through the canal until the Panamanians agree to keep their bargain.

Lawyer Approach—Ask for a continuance and keep putting the resolution day off. (This seems to me to be the most sensible approach. A good lawyer could get us another hundred years.)

Business Approach—Sell it to them for what we gave plus cost of improvement and interest. They could go up on the rates by 1000% and still be competitive with the alternate routes. This would bring them in $1,343,000,000 less $136,900,000 yearly cost of operation or $1,207,000,000 yearly profit. This would be a guaranteed annual income of $600.00 per capita for the 2,000,000 population or one billion dollars annually to the General, according to who got the money.

I kept plying him for more suggestions, but at this point, my good friend had dropped off to sleep, and I couldn't rouse him.

I feel confident that if you need additional information, you can request it through me, and Cuckoo Harry will be glad to advise you after his nap.

Sincerely,

FRANKLIN SUTTON.

(P.S. I understand that Columbia had filed suit claiming that they were the original owners, and their claim supersedes that of Panama, but this claim is being contested by Chief Pain in the Posterior (a direct descendant of Emperor Montezuma) who contends that his people, the Aztec Indians, have a legal claim that predates that of General Torrijos, Panama, Columbia or Spain. He claims that when the Aztecs ceded that region to Spain in 1519, they excepted the hunting, fishing, mineral and canal rights for perpetuity.)

CIVIL SERVICE PERSONNEL REFORM URGENTLY NEEDED

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. UDALL. Mr. Speaker, I am increasingly concerned about the harm being done to the thousands of dedicated Federal employees by our present civil service rules and regulations.

As the following article illustrates, the cumbersome procedures and redtape involved in attempting to remove an incompetent employee make it almost impossible to rid our system of those who do not perform their assigned functions and who make it impossible for others to do their jobs as well.

By contrast, conscientious employees who speak out against waste and malfeasance are ignored, or reprisal action is taken against them. This article illustrates vividly the crying need for reform of Federal personnel procedures. We do not need to return to the spoils system, but we can and must find an effective way to weed out incompetents from the Federal service and to reward those who are courageous and dedicated:

The article follows:

[From the Wall Street Journal, Sept. 26, 1977]

CIVIL SERVICE RULEBOOK MAY BURY CARTER'S BID TO ACHIEVE EFFICIENCY

(By Karen Elliott House)

WASHINGTON.—As things go in the bureaucracy, the confrontation was particularly grim.

A top Carter appointee at the Department of Housing and Urban Development discovered that a $25,000-a-year economist was actually doing no work and called him in for a dressing-down. The economist blandly admitted doing nothing except writing personal free-lance articles, but warned his new boss that civil service regulations make it almost impossible to fire him.

"I'll spend whatever time it takes," the HUD official recalls saying. "You'll see," the economist confidently replied, "I'll wait you out just like I did all the others."

Whether he does or not, the dialogue is a vivid illustration of why government experts believe President Carter's promise to reorganize the bureaucracy faces deep trouble.

Reorganization, the President has said, will mean a wholesale shifting of the 2.8 million federal workers to eliminate duplication and to make the best use of their talents. Yet tangled civil service regulations almost prevent reassignment of employees according to talent. Indeed, so complex are the regulations that a manager seeking to reduce his staff often must use a computer to sort out who is entitled to stay and who must go.

MASSIVE REGULATIONS

As the regulations have ballooned to fill 21 volumes some five feet thick, government managers have found it increasingly difficult to fire employees. At the same time, promotions and merit pay raises have become almost automatic. The result is a bureaucracy nearly devoid of incentives and largely beyond anyone's control—even the determined Jimmy Carter.

"The civil service system makes managing government very difficult," says Jule Sugarman, vice chairman of the Civil Service Commission, which writes the regulations and oversees their administration by other government departments and agencies. "We must simplify the system."

But that won't be easy. Underlying the regulations are 400 laws enacted by Congress and an unknown number of executive orders, possibly 600. Any major changes in the system aren't likely to breeze through Congress, where federal workers' unions are influential.

To complicate reorganization further, President Carter has promised to do the job without firing or demoting anyone, a promise that leaves government managers aghast. "If reorganization means reducing duplication and inefficiency, someone has to get hurt," says Raymond Jacobsen, executive director of the Civil Service Commission.

ASKING THE IMPOSSIBLE

Adds one Commerce Department official: "The President is asking the impossible. He wants efficiency, but he's tied our hands by saying no one can be demoted."

Considering these shackles, the only way to reorganize experienced government managers say, is to go around the system—a practice already common. For instance, almost every department has a "turkey farm," a special division created to pool many of the department's incompetent workers where they can do minimum damage.

"You have to know how to legally circumvent the system to get anything done," says Albert Dimcoff, Deputy Executive Director at the Consumer Product Safety Commission, who has worked in five other government agencies. "People like myself have built careers on knowing how" to do this, he says.

White House officials concede reorganization is going to be much tougher than President Carter imagined when he campaigned against the "horrible, disorganized and wasteful bureaucracy in Washington."

Privately, these officials say Mr. Carter may be able to do little more in his current four-year term than reshuffle organizational boxes. "We can move the boxes," says a member of the Carter reorganization team, "but getting rid of the incompetent or unwilling workers will be very difficult without major reforms in the system, and those could take years to push through Congress."

IRONICAL HISTORY

Ironically, the civil service system was created 94 years ago to bring merit to federal hiring. Previously, each new President swept out federal workers and replaced them with his own cronies. But over the years, regulations grew until workers not only are protected from the spoils system but from almost any managerial direction.

Today, life is pleasant in the bureaucracy, the average annual salary is $15,348, and most employes are due to get a 7.05 percent pay raise in October. Of the one million people eligible last year for merit raises, only 600 didn't receive them. Almost no one is fired; less than 1 percent of federal workers lost their jobs last year. In fact, firing isn't even in the government vocabulary: The term is "removal action."

To this bureaucracy, reorganization is nothing new. Managers constantly are reshuffling people, often in an effort to work around unsatisfactory employes they can't fire. What's new is President Carter's promise that his reorganization will result in more efficient and responsive government. That would mean, officials say, weeding out bad employes and rewarding good ones. But the civil service system now thwarts such efforts.

In recent weeks, the White House and the Civil Service Commission have begun ways to overhaul the system. One of the few proposals made so far is aimed at getting around the President's promise of no demotions. The administration has asked Congress for authorizing to downgrade jobs during a reorganization yet guarantee employees their present salaries for the duration of their government service.

Overpaying some federal workers is a small price to pay for more flexibility to reorganize, says Alan Campbell, the Carter-appointed chairman of the Civil Service Commission.

Even if Congress goes along with this plan, hulking obstacles to efficient reorganization will remain.

Many government administrators, anxious to preserve their power, prestige and pay, will resist any remodeling that threatens to shrink their empires. Civil service seniority rules and special preferences for veterans also will interfere with change for the better. If a reorganization results in fewer jobs, the most senior employes get those jobs, and veterans have priority over non-veterans. Talent counts little: An outstanding rating from a supervisor is worth only four years' experience in counting seniority.

So, if an agency head wants to reorganize one of his bureaus to reduce the number of workers from 300 to 250, an employe who loses his job may displace someone less senior in another job of the same rank. That employe in turn may "bump" another more junior employe and so on until possibly everyone in the bureau is changing jobs—a giant game of musical chairs. In the process, the bureau may lose some of its best workers and end up with others in important jobs for which they aren't suited. A recently completed reorganization of the Environmental Protection Agency's Research and Development Office took two years to carry out, and all 300 employes wound up changing jobs, some of them several times.

ENDLESS APPEALS

Beyond the headaches of seniority is the that begins in his agency and may proceed agony of appeals of government personnel decisions. Almost any decision by a manager may be challenged in a lengthy process through two Civil Service Commission units and wind up in federal court. Among other things, a worker may appeal his supervisor's decision to fire him, to rate his performance unsatisfactory or to deny him a merit pay increase. Because these appeals take months or even years, most managers simply work around incompetent employes, rate everyone satisfactory and hand out the pay increases.

The case of Albert G. Tase Jr. indicates how nightmarish the appeals delays can be. Mr. Tase was fired in December 1974 for allegedly mishandling his job as a personnel officer for a U.S. Navy office in Norfolk, Va. Nearly three years later, his case still isn't resolved.

With a lawyer's help, Mr. Tase charged numerous violations of civil service regulations surrounded his dismissal. Among other things, he said he wasn't given time to make an adequate answer to his supervisor's charges, which were supported by a 2,000-page record. The hearing before the commission's Federal Employe Appeals Authority dragged on for 29 days, creating more than 4,000 pages of transcript. In April 1976, the FEAA ruled he shouldn't have been fired. The Navy asked the commission's nine-member appeals board to review the decision. After another year of delay, the board decided in June to remand the case to the FEAA for reconsideration on several issues. Now Mr. Tase is asking the three civil service commissioners to review the appeals board decision.

"To fire an employee you've got to be willing to spend most of your time for several months documenting and defending your decision," say Don Wortman, Deputy Commissioner of the Social Security Administration. "If it's a woman or black, you have to be extra-careful because of the suspicion you're a white chauvinist honky. And there's always a risk of procedural error."

For example, former Federal Energy Administrator Frank Zarb last year demoted his chief press spokesman, Robert Nipp, for among other things, allegedly fabricating a document given to a congressional subcommittee. Recently, the commission's appeals authority upheld Mr. Zarb's findings but reversed his decision on a procedural technicality: Notice of the effective date of Mr. Nipp's demotion arrived 12 hours too late to comply with civil service rules. The energy agency is appealing the decision.

Because civil service regulations make personnel management so difficult, many managers resort to subterfuge to get rid of incompetent employes. Trading them to other agencies is a favorite technique. For instance, the general counsel of one major department has prevailed upon two former assistants now in other agencies each to take on for one year a lawyer whom he believes is incompetent but who would be difficult to fire.

USING USELESS JOBS

Kicking unsatisfactory employes upstairs is another device for getting them out of the way. If a bureaucrat in a key position can't handle his job, his boss may promote him to "special assistant," where he may have little if any responsibility. Or he may be given a year off for training. "It's far better for the taxpayer if I abuse the system by sending a nonperformer to school for a year than allow him to foul up an important job," says a top official at the Department of Health, Education and Welfare.

The Carter administration almost certainly will have to resort to such subterfuges to reorganize the bureaucracy for more effective performance. It may find the task eased slightly by Chairman Campbell's promise that his agency will review reorganization plans with an eye toward helping an administrator carry them out rather than telling him why the regulations make them impossible.

"But," Mr. Campbell says, "there are inhibiting rules, and neither we nor the President can change them."

PROBLEMS WITH ATTRITION

President Carter also hopes the natural attrition in the federal work force—due to deaths, retirement and other departures—will further ease reorganization problems. But the number of employees leaving the government each year amount to only about 10% of the total. "Attrition can't be the universal solvent," Mr. Jacobsen says, "because it occurs unevenly at various levels of government."

Even if Mr. Carter does achieve some success in reshaping the machinery of government, he may well find that no magical gains in efficiency result.

"There is so much that reorganization doesn't accomplish," says John Cole, director of the Civil Service Commission's Bureau of Personnel Management. "It creates new boxes on organizational charts and new stationery, but the history of reorganization is simply reshuffling."

THE AMERICAN DIET

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. RICHMOND. Mr. Speaker, the American diet has changed in recent years. We are becoming more and more adjusted to processed foods of questionable nutritional value. Barraged with conflicting commercial food claims, the consumer is often frustrated when searching for reliable, unbiased nutrition information. I would like to share with my colleagues the last article in a series that recently appeared in the Wall Street Journal.

[From the Wall Street Journal, June 30, 1977]

THE WAY WE EAT: TOO FAT? THIN? TIRED? FAD DIETS ARE PUSHED FOR CURES FOR OUR ILLS—DISILLUSIONED WITH "EXPERTS," MORE PEOPLE EXPERIMENT; CAUTION FROM THE AMA—LET'S HEAR IT FOR THE YUCCA

(By Joseph M. Winski)

Over here, seated before a dish of mashed lentils and corn bread, we find Nellie Shriver. The gentle-voiced Miss Shriver is the vegetarian movement's chief lobbyist. She wants everybody in the world to be a vegetarian.

And over here, sitting down to a thick steak oozing blood-red juices, we find David Stroud. He is president of the National Live Stock and Meat Board, an organization striving to preserve meat's good name and sales. "She goes around telling everybody, 'Don't eat meat, meat is killing you,' and that's hogwash," Mr. Stroud says. "That's all there is to it."

We seem to have a slight disagreement here. But considering the subject, that isn't surprising. Besieged by claims about the value of this food or the harm of that one, many Americans these days are taking a hard second look at what they have been eating. In a Gallup poll conducted for Redbook magazine last year, 88% of those surveyed said they wanted to know more about nutrition. A Harris poll earlier this year Chicago's Mount Sinai Hospital found that only 14% of those questioned thought Americans ate properly

No doubt some of this skepticism stems from the frequent disagreements on nutritional matters among the "experts" themselves: The science of determining food's relationship to health is still, it seems, an evolving one. In any case, many people now feel free to follow the dietary advice of their own choosing, seeking that combination of foods that will reduce weight, nourish the psyche as well as the body, or cure everything from impotence to cancer.

Catering to this market for alternatives to conventional eating habits is a multibillion dollar industry that includes book publishers, health-food emporiums and fasting clinics. Leading the way are the specialty-diet advocates themselves. "For millions of Americans," says Dr. Frederick J. Stare of Harvard University's School of Public Health, "the road to utopia is paved with fad diets."

There is, for example, Adelle Davis, who believed that no one who drank a quart of milk daily ever got cancer. Miss Davis, author of books such as "Let's Get Well," died of bone cancer in 1974. There are the folks at Rodale Press Inc., who through their Organic Gardening and Farming magazine and other publications have persuaded thousands to eat only "organic" foods—even though many food scientists say there's no evidence that foods grown with chemical fertilizers are more dangerous or less nutritious than "organically grown" foods.

SARDINES VS. WRINKLES

Among the newcomers to the field is Dr. David Reuben, who a few years ago told us everything we wanted to know about sex. Now, in a book entitled "The Save-Your-Life Diet," Dr. Reuben advises that many of the "dread diseases of civilization" can be prevented by eating more fibrous foods and having large and easy bowel movements. Another physician, Dr. Benjamin Frank, in a book called "Dr. Frank's No-Aging Diet," suggests that sardines and other foods high in nucleic-acid content can erase wrinkles.

Vegetarianism is a more traditional alternative eating philosophy based both on the belief that meat is harmful to health and the personal conviction that animal life including that of cattle and hogs is sacred. As Nelli Shriver sometimes tells followers, "We must never rest. Every day the slaughterhouses grind out their victims. Every day people die of cancer."

The 34-year-old Miss Shriver heads American Vegetarians Inc., a group she helped form and which now devotes its efforts to lobbying politicians on behalf of the vegetarian cause. "The movement is exploding," Miss Shriver says. She estimates there may be as many as 15 million vegetarians in the U.S. today compared to less than five million a decade ago. (The Meat Board's Mr. Stroud says those figures are greatly exaggerated.)

BOOM IN DIET BOOKS

Being a vegetarian is also supposed to help one lose weight. Others, however, offer easier ways to reduce, usually in both paperback and hardcover editions. These are the diet books, a phenomenon that probably began with the 1961 publication of Dr. Herman Taller's "Calories Don't Count."

Dr. Taller's book, which advocated heavy doses of polyunsaturated fats, sold two million copies. It also earned him the nearly universal disapproval of the medical establishment (calories do count, many doctors say) and a 1967 mail-fraud conviction in a Brooklyn federal district court for promoting a safflower product that was among the fats that the diet recommended. Other weight-loss books, offering different prescriptions from their authors followed. One of them, Dr. Irwin Stillman's "The Doctor's Quick Weight Loss Diet," describes 63 quick-loss diets; it's now in its 42nd printing.

There are a number of diets that stress foods that, because of the enzymes in them, supposedly burn up more calories than they contain. The food usually called for is grapefruit, with eggs added for nutrition's sake. Fifty-one grapefruit and eggs diets were turned up in a 1973 Senate committee hearing on fad diets. These regimens often circulate as "mayo" diets. The reason isn't clear, but keeps the prestigious Mayo Clinic busy denying there is a connection.

Nutritionists say a lot of the popular diets do work, at least for a while. But they also warn that because many of these diets often require either too much or too little of the foods that the human body needs, otherwise healthy individuals can't—and shouldn't—stick to them for long.

Others suspect that diet-book promoters time the publication of books purporting to reveal new nutritional "finds" to coincide with the waning popularity of the previously published "discovery." One who does is Philip A. White, director of the American Medical Association's Department of Foods and Nutrition, which keeps up with new diets and alerts the public to the ones it believes are dangerous. "We can't get involved with every diet that comes along," he adds, "or we'd do nothing else."

The AMA did take issue with "Dr. Atkins' Diet Revolution," a book that has become a publishing-industry legend. It didn't appear until October, 1972, but it still made the Publishers' Weekly annual best-seller list both for that year and for 1973. Demand at one point was so great that five printers were involved: nearly a million hardcover editions were sold, and another four million paperback copies have been printed thus far.

In the book, Dr. Robert C. Atkins wrote he had developed a diet that lets "you eat as much as you want, as often as you want," including "heavy cream, butter, mayonnaise, cheese, meats, fish, fowl." Such claims prompted the AMA to issue a press release calling the diet "a bizarre regimen" that was "neither new nor revolutionary" and "without scientific merit."

Dr. Atkins says he is "chagrined" by the "savage" attacks from his peers. (He successfully sued the New York County Medical Society when it tried to censure him for "self-laudation.") And he disagrees with physicians who say he has made a fortune in the diet-book business.

DISCOVERING THREE CHINS

"I would say I made, at most, two hundred and some thousand on that book," Dr. Atkins says. A cardiologist by training, he explains he became interested in diet when he saw a picture of himself and realized, apparently for the first time, that he had three chins. Indeed, undaunted by the criticism his first book provoked, Dr. Atkins has written a second, "The Superenergy Diet," which advocates eating to gain energy (though one who follows it can supposedly lose weight, too) and advises megavitamin therapy, or the regular consumption of large doses of vitamins.

Joan Lappin, Dr. Atkins' assistant, is a believer in the "superenergy" diet. She takes five vitamin pills a day, each of which contains, among other ingredients, 1,388% of the recommended daily allowance of vitamin B6. She says this has given her not only a lot more energy, but also a "phenomenal memory" and resulted in "not a stretch mark on my body." (Physicians who eschew megavitamin therapy say it may be harmful to internal organs such as the kidneys.)

One thing neither "Diet Revolution" nor "The Superenergy Diet" promises is nirvana. The so-called Zen Macrobiotics diet literally does. First popular among food cultists in the early 1960s, Zen Macrobiotics calls for gradually reducing one's daily diet to brown rice, supposedly the "perfect" food.

In addition to leading the user to progressively higher stages of mental serenity, this diet also has been touted as a cure for cancer. "No illness is more simple to cure than cancer," George Ohsawa, developer of the diet, wrote. "Simply return to the most elementary and natural eating and drinking," as called for in one of Zen Macrobiotic diets.

According to the AMA, at least three people have starved to death on the Zen Macrobiotics diet. One woman was a 24-year-old New Jersey woman who died in November, 1965, of what the official autopsy report said was "emaciation due to starvation." Even today, nutritionists say, this diet is attracting devotees, some of whom urge the diet on their children. Last March, the American Academy of Pediatrics listed the diet among "the recent increase in nutritional practices that are potentially hazardous to the health of children."

Sandy Goldberg never tried Zen Macrobiotics, but she concedes she tried dozens of other diets before finding one that, she says, really works. Here she is in a meeting room of Chicago's Palmer House Hotel, telling about 100 people, mostly large women, about her discovery:

"My name is Sandy Goldberg, and I am a member of the Weight Watchers organization. I lost 115 pounds on the Weight Watchers program, and that was four years, one month, two days and 37 minutes ago." Loud applause follows.

Miss Goldberg is a "lecturer" for Weight Watchers International Inc., a publicly held company that earned more than $2 million last year by conducting thousands of weekly meetings like this one. What Weight Watchers sells, nutrients say, is a good low-fat diet (it calls for a lot of fish) packaged in the tenets of group motivation pioneered by Alcoholics Anonymous.

CLAPPING FOR ROSEANN

The highlight of Miss Goldberg's presentation is what she calls "cards," the reading from index cards of the name and weekly progress of each student. "Eileen . . . five and a quarter pounds lost last week! Let's all clap for Eileen." But Roseann has gained two pounds. "What happened, Roseann?" "My daughter baked me a surprise birthday cake." "Let's all clap for encouragement for Roseann!" They do.

Weight Watchers says it has registered nine million students in its 13 years of existence. Many of them have shed pounds, although Dr. William Sebrell, the company's medical director, concedes. "You simply can't get anybody to lose weight if they aren't really motivated to." An example of motivation, Dr. Sebrell says, is the man who joined the program after having trouble getting out of a telephone booth.

There are, of course, many people who don't adhere to anyone's diet except their own. One is Bonnie Swearingen. Right now, she tells a visitor to her Chicago apartment, she is fasting on tea and honey to correct recent "excesses." More typically, Mrs. Swearingen simply makes substitutions in her diet, using fresh lemon juice as a flavoring instead of salt, whole-grained bread instead of white, and "absolutely no sugar." Occasionally, she also substitutes champagne for hard liquor and low-calorie caviar for red meat. (The caviar comes from Iran, "where my husband's company has a plant." Her husband is John E. Swearingen, chairman of Standard Oil Co. of Indiana.

These habits, Mrs. Swearingen says, have given her good health. "But vanity comes before the health considerations," she adds. "I eat the way I do because I am too vain to let myself go." Chicago society columnists frequently assure the 43-year-old willowy blond that she hasn't let herself go.

Although some of Mrs. Swearingen's alternative foods may be only for the well-to-do, others, such as honey, have long been popular among health-food buffs everywhere. There's also Korean ginseng, whose rumored aphrodisiac qualities have helped boost U.S. imports to $3.5 million last year from only $67,000 in 1971. Yogurt continues to sell well, and bee pollen has become popular among athletes because it supposedly increases endurance. Nobody knows what tomorrow's big sellers will be, but some health-food advocates are predicting a welcome reception for the yucca plant.

HOUSE OF REPRESENTATIVES—*Friday, September 30, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Seek good and not evil, that you may live; and so the Lord will be with you.—Amos 5: 14.

Almighty God and Father of us all, we come before Thee with words of praise and the worship of grateful hearts for the guidance Thou hast given us in the present time and to our fathers in times past. May the blessings Thou hast so abundantly bestowed upon us be used for the welfare of our people and the well-being of all Thy children. Sustained by Thy presence may we do our work this day and moved by Thy Spirit may we realize anew that right is stronger than wrong, good is better than evil, love will overcome hate, and truth will triumph over falsehood. Grant that moral values may live in our hearts and strengthen us to be truehearted and wholehearted in our endeavors on behalf of our land, and other lands, and all lands; for Thine is the kingdom and the power and the glory forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 11, answered "present" 1, not voting 105, as follows:

[Roll No. 613]

YEAS—317

Abdnor
Addabbo
Akaka
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Clausen, Don H.
Clay
Cleveland
Cochran
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Derwinski
Devine
Dickinson
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gephardt
Gibbons
Ginn
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Latta
Leach
Lederer
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
Lundine
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pettis
Pickle
Poage
Pressler
Price
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—11

Aspin
Bonior
Broomfield
Forsythe
Glickman
Jacobs
Lloyd, Calif.
Pike
Reguls
Steiger
Traxler
Walker

ANSWERED "PRESENT"—1

Mazzoli

NOT VOTING—105

Alexander
Anderson, Ill.
Applegate
Archer
Ashbrook
Badillo
Bedell
Beilenson
Boggs
Bolling
Bowen
Breckinridge
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Caputo
Cederberg
Chappell
Chisholm
Clawson, Del
Cohen
Collins, Ill.
Conyers
Cotter
Coughlin
Crane
Cunningham
de la Garza
Dent
Derrick
Dicks
Diggs
Dingell
Dodd
Duncan, Oreg.
Eckhardt
Evans, Ga.
Findley
Ford, Mich.
Gammage
Gaydos
Giaimo
Gilman
Goodling
Guyer
Hammer-schmidt
Harrington
Harsha
Hillis
Holland
Jeffords
Johnson, Calif.
Johnson, Colo.
Kemp
Koch
Krueger
LaFalce
Le Fante
Leggett
Lehman
Livingston
Long, Md.
McClory
McCloskey
McEwen
Madigan
Marlenee
Metcalfe
Mitchell, Md.
Moffett
Moss
Murphy, Ill.
Nolan
Patterson
Pattison
Pepper
Preyer
Pritchard
Pursell
Quayle
Railsback
Rinaldo
Roe
Rose
Roybal
Sarasin
Sawyer
Scheuer
Sebelius
Spellman
Stark
Teague
Tsongas
Vander Jagt
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wolff
Wydler
Young, Alaska
Young, Mo.

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 361. Concurrent resolution authorizing certain corrections to be made in the enrollment of H.R. 6111.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5742. An act to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for today and next week, if he is in a position to inform the House.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield.

Mr. WRIGHT. Mr. Speaker, it is the plan immediately to resume and complete consideration of H.R. 7010, providing compensation for victims of crime.

When that bill is completed, we hope to bring to the House H.R. 9354, the former Presidential staff allowance bill, which applies only to former President Ford and members of his staff.

Following that, there is scheduled a joint resolution, House Joint Resolution 573, providing a Kosciuszko Memorial Plaque, which should not take a great deal of time.

Then we plan to go to the consideration of H.R. 6951, Council on Wage and Price Stability, under an open rule, with 1 hour of debate.

In the time remaining, we would go to the consideration of H.R. 3816, the FTC Amendments of 1977, with the rule and general debate only on that bill.

Then, if time remains, we will take up H.R. 2176, the Federal Banking Agency Audit Act, with votes on the amendments and the bill. We plan to rise at 3 o'clock this afternoon.

On Monday next, the House will meet at noon. There are no bills scheduled on the suspension calendar for Monday.

We will have perhaps two bills to complete on Monday: H.R. 695, the Council on Wage and Price Stability, and H.R. 3816, FTC Amendments of 1977.

Then we will go to H.R. 8309, the Navigation Development Act involving locks and dams and taxes on the use of navigable waters.

On Tuesday the House will meet at noon again. The Private Calendar will be taken up on that day, but there are no bills on the Suspension Calendar.

Tuesday will also be devoted to the consideration of H.R. 8410, the Labor Reform Act. It is under an open rule, with 2 hours of general debate.

On Wednesday the House will meet at noon, with two bills scheduled, H.R. 9375, supplemental appropriations, subject to a rule being granted, and H.R. 1037, the Energy Transportation Security Act of 1977. That is the Cargo Preference Act, which will come up under an open rule, with 2 hours of general debate.

On Thursday the House will meet at 10 o'clock. If we have not already reached it, we will first take up H.R. 2176, the Federal Banking Agency Audit Act, with votes on the amendments, and H.R. 4297, the marine protection authorization providing a prohibition against ocean dumping, with an open rule and 1 hour of general debate.

The House will adjourn at the close of business on Thursday, October 6, until noon on Tuesday, October 11.

We will adjourn by 3 p.m., if possible, today. We will adjourn by 5:30 p.m. on all other days except Wednesday.

Of course, conference reports and privileged matters of that type can be brought up at any time.

Subject to change, this is our plan and schedule for the next week.

Mr. RHODES. May I ask the distinguished majority leader if he is proposing a new definition for "open rule."

As I understand it, the rule on H.R. 8410, the so-called Labor Law Reform Act, is not an open rule in accordance with the usual definition. As I understand the definition of an open rule, it is a rule in which any amendment which is germane may be offered. It is my understanding that that is not the rule which the Committee on Rules proposes on H.R. 8410.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, I think it is quite probable that I inadvertently misstated the situation. It is not precisely an open rule. It might best be described as a modified open rule.

Mr. RHODES. For the information of the majority leader, and the House, the minority is not pleased with the rule which is proposed by the Committee on Rules on H.R. 8410. We think that it is a gag rule. We think that the proposed substitutes which would be offered, if they were made in order by the minority, should have been made in order, and we will do all we can, mustering whatever power we can, to defeat this rule.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield still further, it is my understanding, although this may be in error, but I think it is not, that the proposal is that any germane amendment if it were printed in the RECORD one day prior to consideration, would be eligible.

Mr. RHODES. I agree with the gentleman that is a provision of the proposed rule which we think is not necessary and not desirable in this situation.

THREATS RECEIVED ON INDEPENDENT TRUCKERS LEGISLATION

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise, regretfully, to make it a matter of public record that this week I have received a series of threats attempting to coerce me into supporting H.R. 2443, the independent truckers bill. Anonymous telephone calls were received in my Washington office, my Altoona office and by my friends. We were informed in crude and abusive language that if I did not support H.R. 2443 we could expect retribution.

This matter has been turned over to the FBI and the police, along with evidence indicating the identity of one of the persons involved.

I have previously stated that as ranking member of the Surface Transportation Subcommittee and Chairman of the National Transportation Policy Commission, I believed it was proper for me to keep an open mind on this legislation until our transportation hearings were completed. In the past I have vigorously supported efforts to give independent truckers a fair shake. I know that these incidents in no way reflect the attitude of the vast majority of independent truckers. It is unfortunate that these coercive attempts by a few individuals will make it more difficult for me to justify my support of H.R. 2443 should the merits of the legislation lead me to a positive opinion at the conclusion of our hearings.

ORWELLIAN ERA IS UPON US

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I dare say the Orwellian era is upon us. It was George Orwell, you will remember, who gave us "1984" and those descriptive examples of how history was constantly being rewritten to suit the whims of Big Brother.

Orwell's State of Oceania is alive and well within our shore. History is being rewritten by the White House. How else can you account for President Carter's proclamation, quoted in the Washington Post the other day, which decrees that Leif Ericson was not in fact a Norseman. The President has declared that Ericson and all his countrymen, excuse me, countrypersons, were Norsepersons.

If this is indeed a sign that history is being rewritten, I must express grave concerns. What is it going to cost to rewrite all those history books and reprogram those of us already educated in the old-fashioned way of doing things?

I think our President ought to explain this new application of his power. He is ultimately responsible. One of his first actions as President was to proudly display on his desk a reminder that "the buck stops here," a reminder first made famous by that great leader and great President, Harry S. Truperson.

VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The SPEAKER pro tempore (Mr. MOAKLEY). The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7010, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 29, 1977, the Clerk had read through line 8 of page 4, and pending was an amendment offered by the gentleman from California (Mr. WIGGINS).

The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 144, not voting 74, as follows:

[Roll No. 614]

AYES—216

Abdnor
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Blouin
Boland
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran

Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Coughlin
Daniel, Dan
Daniel, R. W.
Davis
Derwinski
Devine
Dickinson
Dodd
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Ind.
Findley
Fish
Fithian
Flowers
Flynt
Foley
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gore
Gradison
Grassley
Hagedorn
Hall
Hamilton
Hannaford
Hansen
Harkin
Harsha
Heckler
Hefner
Hightower
Hillis
Holt
Horton
Hubbard
Huckaby
Ichord
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kindness
Kreba
LaFalce
Lagomarsino
Latta
Leach
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McDonald
McHugh
McKay
Madigan
Mahon
Marriott
Martin
Mathis
Meeds
Michel
Milford
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Motti
Myers, Gary
Myers, John
Natcher
Neal
Nedzi
Nichols
O'Brien
Obey
Panetta
Pattison
Pease
Pettis
Pike
Poage
Pressler
Pritchard
Quie
Quillen
Rahall
Regula
Rhodes
Roberts
Robinson
Rogers
Rousselot
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Schulze
Sharp
Shuster
Sikes
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Traxler
Treen
Trible
Tucker
Udall
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOES—144

Addabbo
Akaka
Allen
Ambro
Ammerman
Andrews, N. Dak.
Applegate
Baldus
Baucus
Beard, R.I.
Biaggi
Bingham
Blanchard
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Mass.
Burton, Phillip
Caputo
Carney
Carr
Chisholm
Clay
Conyers
Corman
Cornwell
D'Amours
Danielson
Delaney
Dellums
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Del.
Fary
Fascell
Fenwick
Fisher
Flippo
Flood
Florio
Ford, Tenn.
Fraser
Gonzalez
Gudger
Hanley
Harrington
Harris
Hawkins
Heftel
Hollenbeck
Holtzman
Howard
Hughes
Hyde
Jacobs
Jenrette
Jones, Tenn.
Jordan
Kasten
Kildee
Kostmayer
Le Fante
Lederer
Long, La.
Long, Md.
Luken
Lundine
McCormack
McDade
McFall
McKinney
Maguire
Mann
Markey
Marks
Mattox
Mazzoli
Meyner
Mikulski
Mikva
Mineta
Minish
Moakley
Moffett
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Michael
Nix
Nowak
Oakar
Oberstar
Ottinger
Patten
Pickle
Preyer
Price
Rangel
Reuss
Richmond
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Schroeder
Seiberling
Shipley
Simon
Sisk
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steers
Stokes
Studds
Thompson
Thornton
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weiss
Wirth
Young, Tex.
Zeferetti

NOT VOTING—74

Alexander
Anderson, Ill.
Aspin
Badillo
Bellenson
Boggs
Bolling
Bowen
Breckinridge
Burke, Calif.
Burke, Fla.
Burton, John
Clawson, Del
Cohen
Collins, Ill.
Cotter
Crane
Cunningham
de la Garza
Dent
Derrick
Dicks
Diggs
Dingell
Duncan, Oreg.
Erlenborn
Evans, Ga.
Ford, Mich.
Gammage
Gilman
Goodling
Guyer
Hammer-schmidt
Holland
Jeffords
Johnson, Calif.
Johnson, Colo.
Kemp
Koch
Krueger
Lehman
Livingston
McClory
McCloskey
McEwen
Marlenee
Metcalfe
Mitchell, Md.
Moss
Murphy, Ill.
Murphy, N.Y.
Nolan
Patterson
Pepper
Perkins
Pursell
Quayle
Railsback
Rinaldo
Rose
Sawyer
Scheuer
Sebelius
Teague
Tsongas
Vander Jagt
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wolff
Wright
Wydler
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Florida for, with Mrs. Boggs against.

Mr. Quayle for, with Mr. Mitchell of Maryland against.

Mr. Del Clawson for, with Mr. Lehman against.

Mr. Crane for, with Mr. Koch against.

Mr. Erlenborn for, with Mr. Pepper against.

Mr. Gudger for, with Mr. Murphy of New York against.

Mr. Marlenee for, with Mrs. Burke of California against.

Mr. McClory for, with Mr. Dent against.

Mr. Bowen for, with Mr. Wolff against.

Mr. Sebelius for, with Mr. Metcalfe against.

Mr. Teague for, with Mr. Badillo against.

Mr. Dingell for, with Mrs. Collins of Illinois against.

Mr. BEARD of Rhode Island changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 3, line 19, strike the period in said line and insert the following: *"Provided*, That such grants shall not be made if the Federal revenue sharing funds received or to be received by the state during the fiscal year in which the grants are to be made exceed the amount of the grants for which the state qualifies under this section."

Mr. ICHORD. Mr. Chairman, as I believe I conveyed yesterday, I am deeply, adamantly and irrevocably in opposition to the underlying philosophy of this piece of legislation. I must be frank to admit to the members of the Committee that I will not vote for the legislation even if this amendment passes. Mr. Chairman, although I am just about the average age of the membership of this body, I was born and reared in an era when the law and the punishment that was more certain to follow did constitute somewhat of a deterrence to the commission of crime against the person of our fellow man. Although I have just as much compassion, I believe, for the victims of crime as any Member of this body, I sincerely believe, I will say to the members of the Committee, that we cannot solve the problem by sweeping it under the rug. We cannot solve the problem by soothing our consciences, so to speak. Somehow, some way we must restore the credibility of the law.

Mr. Chairman, I remember one time as a small lad leaving my home with my mother for a 2-week period of time. She decided that, since we were going to be gone for 2 weeks, we should lock the house. After a long search for the key to the house, she finally found it, because it had not been in use.

I remember very vividly walking down the walk of the front yard and my mother turning around and saying, "I think I should go back and unlock the house, because the neighbors might think that we do not trust them if we lock the house." That she did.

Today I state to the members of this Committee that we are in serious danger of losing the freedom and the liberty which we all cherish so much, regardless of our philosophies, because there are too many people today who feel a sense of loss and wonder—what does liberty mean?

Does freedom really mean anything? Does liberty or does freedom mean anything to those people who have to lock themselves in at night in order to protect themselves from the animals in the streets? Does it really mean anything to them when they are denied the streets after dark?

This is why we should not be taking the approach we are taking today in this legislation. We should be taking steps to restore the deterrence of the law.

Even with a limitation of 25 percent, Mr. Chairman, there is no Member in this body who can get a reasonable handle on what this bill will cost. The $150 million that is authorized is just a beginning. As the gentleman from New York (Mr. PIKE) stated yesterday, there will be crimes reported about which we would have no records at the present time.

Mr. Chairman, how can we possibly go into a program of this type when we do not know what it is going to cost and when we are approaching a national debt of $775 billion?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. Mr. Chairman when I first came to this body in 1961, I remember the tremendous fight we had when we increased the national debt in excess of $200 billion. Now, only 16 years later, we are in the area of 800 billions of dollars.

Are we going to solve our problems of crime in this country by in effect merely printing up more money in order to sooth our consciences?

This amendment, Mr. Chairman, will, I believe, effectively kill the bill.

As the former Speaker of a State legislature, even I have made this argument many times: "Oh, we have got to pass this bill in order to get the Federal money." And I am sure, if we pass this bill, those arguments will be made on the floors of many State legislatures, just as I made the same argument many, many years ago.

But this language says in effect to the States: "If you want this program, take it out of your Federal revenue-sharing funds, because as long as the Federal revenue-sharing fund program continues in effect, there will be no States getting any Federal money under this legislation."

Mr. Chairman, I hope the Members of the House will adopt the amendment.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this bill, 11 pages in length, represents the work product of a very serious and earnest subcommittee chaired by a very dedicated member. It is a bill introduced by the chairman of the Committee on the Judiciary after serious thought and deliberation. It has had some work in the preceding session, and it has had intensive work in this session. It is a carefully thought out document.

Now we confront an amendment which proposes to relate to this bill the revenue-sharing receipts of a State, and that is something totally irrelevant to the concept which the bill addresses.

The concept of the bill is to bring into existence some system, some standard, some uniformity in the approach to the various States to the awarding of compensation to victims of violent crime.

Mr. Chairman, it will require that for any State to participate, there must be three characteristics in its program. One is that the victim of crime must cooperate. The second is that the State must have a system of subrogation so as to go after the offender and recover its contribution. And the third is a provision whereby the innocent victim of crime alone can benefit.

Mr. Chairman, these concepts need to be drawn into the statutes of the 20 States that already have such programs, and certainly these concepts need to be a part of any approach of new States hereafter undertaking the development of systems to provide this form of compensation.

I am a former district attorney, and I know how hard it is to get cooperation from witnesses. I am also one who does not believe in compensating someone who has participated in any way in a criminal offense. This bill takes care of these problems.

Mr. Chairman, I submit that we can impose reasonable limitations upon the amount of the Federal contribution. This was done in an amendment which I introduced to put a threshold or a floor on the amount which the Federal Government would contribute so that in small claims the State would carry the burden.

Mr. Chairman, there is a provision in this bill that the States must bear all administrative costs. There are also provisions here which limit to $50,000 now the maximum single-claim recovery, which I propose to amend hereafter when we reach that section of this bill. However, I do submit to the Members that this is a good bill. It deserves the Members' consideration.

Mr. Chairman, in view of the comment of the gentleman from the "Show me" State, I think he is not yet convinced. He needs to read and study the bill more closely and more carefully. But I submit that he has conceded that the purpose of this amendment is to defeat the legislation, and no such purpose should be honored by the vote of this assembly.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, first of all, I want to commend the gentleman from North Carolina (Mr. GUDGER), who is a member of the Committee on the Judiciary, for his very enlightened remarks.

I would like to point out that as diverse a group of people as any of those I know have endorsed this bill after serious consideration over a period of time.

Those organizations include the National Conference of State Legislatures, the National District Attorneys Association, the National League of Cities, the U.S. Conference of Mayors, the American Bar Association, the National Council on Crime and Delinquency, the National Retired Teachers Association, the American Association of Retired Persons, the International Conference of Police Associations, the Fraternal Order of Police, the United Automobile Workers, Americans for Democratic Action, the International Association of Chiefs of Police, the National Moratorium on Prison Construction, and Americans for Effective Law Enforcement, plus an individual who I know served for a period of time as Administrator of the Law Enforcement Assistance Administration.

Mr. Chairman, that individual, Mr. Donald E. Santarelli, had this to say:

> We are now feeling, at this time in our history, the terrible pains of an alienated society—a society that feels the institutions are not being responsive to its needs—and one that overwhelmingly believes the criminal justice system not to be responsive to its needs . . . people who become victims of crime or who are potential victims don't participate in reporting or preventing crime; they stay home behind their locked doors, do not testify, will not appear, and feel helpless and alienated, a problem that this legislation is specifically directed to deal with.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. GUDGER) has expired.

(By unanimous consent, Mr. GUDGER was allowed to proceed for 1 additional minute.)

Mr. GUDGER. Mr. Chairman, in response to the statement of the gentleman from New Jersey (Mr. RODINO), I would like to say that I chaired the criminal justice committee of the State senate of my home State, and I served as a prosecuting attorney. I look upon this act as sincerely directed toward the improvement of the enforcement of criminal laws in America.

Mr. Chairman, the very list of associations that has been read by the gentleman from New Jersey (Mr. RODINO) indicates positively that the force, the strength, and the support of this bill lie in the bar associations, the law enforcement agencies, and those who are dedicated to enforcement of law throughout this land.

Mr. Chairman, I yield back the balance of my time.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I was told yesterday and today by Members that they do not think much of this legislation but are a little bit reluctant to vote against it since it has the politically appealing title of "innocent victims of crime."

This amendment provides an opportunity to vote against the bill by supporting this tiny and perhaps obscure amendment. Make no doubt about this; if this amendment is accepted, it guts the bill, it kills the bill. It performs what I would regard as a therapeutic abortion on this bill and since I regard such a medical procedure to be warranted in this case, I support the gentleman's amendment.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I am somewhat surprised and chagrined at the attitude of the opponents of this bill because I have witnessed their contribution to the legislative process over the last number of years without relation to law enforcement and criminal fighting and I share their sentiment. I am just a little bewildered at their present positions and the logic and reasoning that brings them to their present position.

As most of the Members know, I have had several careers in my lifetime. One of those was 23 years spent in the police department of the city of New York and I shared many heartbreaking moments with my colleagues in law enforcement when we looked at the victims who were left oftentimes desolate or despairing, certainly agonizing through the trauma of the situation, we said, "What can we do?" At the time nothing could be done. That was a sentiment shared by all law enforcement officials.

When I arrived here in the Congress, I heard time after time, even including the gentleman who is the maker of this amendment, rise in stalwart criticism of the inadequacy of our criminal justice system and rightly so as it relates to our law and justice efforts. And I was delighted to hear and to receive that support.

But now I wonder if these were simply words that were said for political profit or were merely timely in our Nation's troubles with the criminal procedure? Because now we have an opportunity, at long last, to deal with the victims of crime. You just heard the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), recite a litany of responsible organizations who support this legislation. To support this amendment which effectively guts the bill is to say the least, shocking, and most surprising, because of the strongly established law enforcement position of its maker. For years I have listened to the gentleman advocate effective law enforcement proposals, and I shared his sentiment and then continue to share that sentiment which included concern for the victim. Here we have the first real opportunity to deal with this problem. This legislation does several things, one, it places a limit on the amount of money that can be spent. Disabuse yourselves of the notion that this has an unlimited entitlement, there is a $40 million authorization, which could

be cut down through the appropriation process if necessary. Second, it encourages the victim to stay with the prosecution. We in law enforcement know that many victims become discouraged and will have no part in the prosecution, permitting the perpetrator to go out unpunished.

Mr. ICHORD. Mr. Chairman, will the distinguished gentleman yield?

Mr. BIAGGI. I will be glad to yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I have the greatest respect for the gentleman from New York. I know of his long career, a distinguished career, in law enforcement, but I would point out to the gentleman that my amendment does not prohibit the States from going into such program. I think it is quite certain that the revenue-sharing program will continue for some time to come, and they can go into the program and use the revenue-sharing funds for the purpose of supporting the particular reimbursement program they have.

Mr. BIAGGI. I understand the nature of the gentleman's amendment, and he understands the nature of his amendment. We all understand the nature of his amendment and why object to it. It is clearly his stated objective to effectively kill the bill via this amendment.

If the gentleman is genuinely concerened—and I have no doubt in my mind that he is—about the wherewithal to provide the funding, let me suggest that we would do better to review the disposition of the funds with LEAA. I will tell the gentleman I do not believe that all the moneys in LEAA are being properly spent.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I thought for a moment, but rather frivolously I must admit, that the gentleman from Missouri had his priorities right. I agree that States should be spending more of their revenue funds on law enforcement. I am sure that they probably will not agree that they should take those capital improvements and those fire stations and those garbage trucks and those other social-type programs and exchange them for what you and I might consider the highest duty of local government, and that is law enforcement. But because they do not do that, we adopted another revenue-sharing type of program, LEAA, and that is what it is. It is a revenue-grant type program. It sought to put the greenback poultice on part of the problem, and so does this.

The gentleman says, or he implies, that he thinks that if this money were spent to take steps to enforce deterrents to crime, that is where the money should be spent. That is where the money should be spent, and I agree 100 percent. The greatest deterrent is getting caught. Nothing beats it. The way the rehabilitation program is—the television day room—the chances are only about one percent of getting convicted even after one is caught—maybe they are a little bit better than that after being caught. But certainly the overall is not any better. Getting caught, that's the stigmatizer, that's the deterrent.

So what happens in 1975? Forty-seven point two percent of the victims of violent crime reported the crime to the police. I repeat, 47.2 percent of the people reported to the police. The 52.8 percent of the perpetrators hardly ran the risk of getting caught. So we have that over 50 percent erosion of the system immediately. Then the remainder, after being subjected to a little delay and waiting on a court, jeopardizing their jobs, and maybe receiving compensation from some other source—and we know how that works—a large portion of the remainder kind of faded away.

The two biggest problems of law enforcement—and this is from a former prosecutor's viewpoint—are catching the defendant and then having the witness cooperate. Those are the two biggest problems.

I would like to know of the gentleman's program to do those two jobs. I would love to know of the gentleman's program to do those two jobs. I would love to know of the gentleman's program to do 1 percent of those two jobs. If this program does 1 percent of those two jobs—and I submit it will—then we are going to see some improvement. We are going to see some enforcement of deterrents.

We are going to see what we fail to see now, someone doing something, somebody making some change, somebody taking some initiative, somebody doing something to try to bring about less alienation and more involvement.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, from what reports do we get the statistics that 57.8 percent of crimes are not reported?

Mr. MANN. I will hand the report to the gentleman.

Mr. PIKE. I accept that. I do not say that I accept the findings, but I accept that the gentleman has handed it to me.

What are the present State programs costing in total?

Mr. MANN. The figure is really much more modest than we might assume. California has the most expensive program. It is $9 million.

Mr. PIKE. It is how many million?

Mr. MANN. $9 million.

Mr. PIKE. $9 million?

Mr. MANN. Yes.

Mr. PIKE. And California represents about 10 percent of the population of the United States of America?

Mr. MANN. Correct.

Mr. PIKE. Mr. Chairman, I thank the gentleman. As the gentleman knows, at least I have tried to make clear my concern about this is that, like revenue sharing, it is a growth program and I think it is going to encourage the reporting of crime.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

(At the request of Mr. PIKE, and by unanimous consent, Mr. MANN was allowed to proceed for an additional 3 minutes.)

Mr. MANN. Mr. Chairman, I share the gentleman's conern. I am glad the gentleman brought up this subject. Let me make a few comments about it. The estimates we had, contrary to the implications of the gentleman from Missouri, are not so inaccurate or unreliable. The Congressional Budget Office has been fairly satisfactory in its projections for most of our purposes and they estimate that the cost could run as low as $16 million and as high as $29 million for the first year of the program, 1978.

An independent study, an independent estimate using different methodology, by the Department of Justice came up with a figure slightly less than that. The entitlement feature of the program, let us make it very clear, is not built in. This is not an entitlement program. This is a funded program on a matching basis and next year or the year after we can cut that 50 to 40, to 25.

Mr. PIKE. Mr. Chairman, if the gentleman will yield further, we could do these things, but we do not do these things.

Mr. MANN. But in this case, we also require an annual report, an evaluation. I know about the problem of evaluation of LEAA programs. It is my biggest beef.

Mr. PIKE. Mr. Chairman, will the gentleman yield further?

Mr. MANN. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, is there any program in which there is not, or the gentleman does not require an annual report and nobody agrees and we do not do anything about programs that are worthy, like LEAA?

Mr. MANN. If there is anything wrong with LEAA, it is that we did not require evaluation reports. That is what is wrong with LEAA. The committee recognized it and did something about it last year.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, the gentleman has made a telling point. The two main problems in the criminal justice system are apprehension of the criminal and for his successful prosecution by the cooperation of affected witnesses.

I want to observe that the Federal Government is aware of those problems and has made a massive commitment to their solution. We are spending now approximately $600 million each year given to the States to enhance their criminal justice capability. The fact that the States given that money have not chosen to utilize it for the purpose of a victims' program is an implication of their own sense of priorities.

Mr. MANN. Mr. Chairman, the gentleman is absolutely correct, and it is very understandable that until they have what they consider to be adequate radio systems and adequate automobiles and adequate hardware and adequate programs for their own mutual use, that they are not going to think in terms of more philosophical and necessarily innovative approaches to the restoration of faith, confidence, and effectiveness, in

the law enforcement system, and this is the approach we need, and one that I think we are taking in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was rejected.

(3) The program requires as a condition for compensation that claimants cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought.

(4) There is in effect in the State a requirement that appropriate law enforcement agencies and officials take reasonable care that victims of qualifying crimes be informed about—

(A) the existence in the State of a program of compensation for injuries sustained by victims; and

(B) the procedure for applying for compensation under that program.

(5) There is in effect in the State a law or rule that the State is subrogated to any claim the victim, or a dependent of the victim, has against the perpetrator of the qualifying crime for damages resulting from the qualifying crime, to the extent of any money paid to the victim or dependent by the program.

(6) The program does not require claimants to seek or accept any benefits in the nature of welfare, unless such claimants were receiving such benefits prior to the occurrence of the qualifying crime which gave rise to the claim.

(7) The program requires denial or reduction of a claim if the victim contributed to the infliction of the death or injury with respect to which the claim is made.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

QUALIFICATIONS OF STATE PROGRAMS

SEC. 4. A State program for the compensation of victims of crime qualifies for grants under this Act if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year with respect to which grants are to be made and that such program meets the following criteria:

(1) The program offers—

(A) compensation for personal injury to individuals who suffer personal injuries which were the result of qualifying crimes; and

(B) compensation to the surviving dependent or dependents of individuals whose deaths were the result of qualifying crimes.

(2) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

Mr. MANN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD at this point and open to amendment at any time.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded reading section 4.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 3, strike subsection (8).

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 6, immediately after line 5, insert the following:

(8) There is in effect in the State a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim or victim's surviving dependent for that crime.

Mr. EDWARDS of California. Mr. Chairman, I wish to offer an amendment to section 4 of the bill adding the qualification that States receiving funds under the Victims of Crime Act have on their books a provision allowing their courts to require that the perpetrator of the crime be made to pay restitution to the victim or the victim's survivors.

This additional qualification does not place a heavy burden on States participating in this program. States are asked merely to give their judges the option of requiring that some payment be made from the criminal to the victim. I want to stress that this amendment is intended to give maximum flexibility to the States regarding how they wish to apply the principles of restitution.

A great many States already have laws allowing their courts to require restitution in appropriate cases. In addition, all judges have the implied authority to grant restitution under the common law. In fact, the practice of requiring criminals to make reparations to their victims has been in use ever since civilization progressed beyond brute retaliation and blood revenge as a means of settling disputes. The ancient Babylonians practiced restiution as did the Hebrews under the Mosaic Dispensation.

More recently, many of our own States have found that restitution, where properly utilized in the correctional process, can contribute significantly to the rehabilitation of the offender. In several States where these programs are part of the correction process, authorities have found that participants not only pay restitution to their victims, but are also able to support their own families, pay State and local taxes, and even build savings toward the time they are completely released.

I want to emphasize, Mr. Chairman, that my amendment would not interfere with or delay the payment of compensation to victims of crime as provided for in this legislation. Payments under this bill by the governments concerned will be paid pursuant to the laws involved.

In those States which presently have provisions for restitution, no delay in medical payments or other payments results from the restitution provision. Payments are made promptly by the Government, and the arrangements for restitution follow.

Encouraging States to adopt a provision whereby criminals may be required to pay restitution is an important addition to the Victims of Crime Act. Hopefully States which have not already adopted such a provision will be encouraged to do so. I also hope that in 3 years, when this act comes up for reauthorization, the Members reviewing the effectiveness of the program will examine to what degree the State courts have ordered restitution in appropriate cases.

I have discussed this amendment with the distinguished New York criminologist and philosopher, Thomas Rand, and am grateful to him for advice and wise counsel.

I urge approval of the amendment.

Mr. GUDGER. Mr. Chairman, I rise to speak very briefly in opposition to the amendment.

I have the greatest respect and admiration for the gentleman from California (Mr. EDWARDS), and I know the sincerity of his motives. But I know of no State in the Union that does not have in its common-law tort concepts or in its statutory law concepts some method whereby recovery can be realized for injuries sustained by any individual as a result of an assault or other criminal conduct on the part of another. It seems to me that this concept which the gentleman's amendment addresses is implicitly involved in subsection (5) of section 4 of the act, which appears on page 5. In that language which is in the Act there is, I think, inherent acknowledgement of the fact that there is a right of recovery for tort injury. That language contains a requirement that, for a State to qualify to participate in the program, there be in effect in the State a law or rule, not only creating a right of recovery, but which goes beyond that and provides that the State is subrogated to the claim of the victim or the dependent of the victim when that individual claimant or his dependents have a right of action against the perpetrator of the qualifying crime.

It may be that I misunderstand the sense of the amendment, but if it is the sense of the amendment to require the State to create a right of action, such right of action we suggest already exists and the subrogated right of the State, to stand in the shoes of the claimant and recover back what the claimant would otherwise be entitled to recover in his own name and in his own right, is already written into the act. Therefore, I look upon the proposed amendment as surplusage.

I submit, Mr. Chairman, that the bill has been very carefully drawn and scrutinized by the subcommittee of the Committee on the Judiciary which presents it, and I believe that this was thought to be encompassed in the language of the bill as it is now drafted.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, I certainly have great respect for what the gentleman from

North Carolina said, but I must say that this is a new idea that he espouses, because certainly neither the chairman of the subcommittee or any member of the staff indicated to me that the subcommittee had my amendment in mind when it wrote this particular section. So I would suggest that what the gentleman is saying is that it is already in the bill. My amendment is going to make it much clearer as to what the intentions are, so I would think that the gentleman would support the amendment.

Mr. GUDGER. I am afraid I cannot respond to the gentleman's suggestion other than to say that I cannot support what I think is unnecessary. Therefore, I must vote against the amendment.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I want to join in commending and saluting my distinguished colleague, the gentleman from California (Mr. EDWARDS), for his concern about this problem. Everybody, I think, is interested in the notion of restitution and the theory of having the perpetrator of the crime account to the victim for his misconduct.

But let me say that there are serious problems, in my judgment, with this amendment, not the least of which is that programs on restitution are still experimental. Yesterday the gentleman from Illinois (Mr. RAILSBACK) had a restitution component in his amendment, and he frankly conceded that under LEAA a variety of restitution programs were being tested and evaluated in a number of States.

It seems to me it would be wrong to impose a requirement on States that they actually adopt some specific kind of restitution programs until we know whether or not these programs can work.

I also think that this amendment does violence to the notion of federalism which is at the heart of this bill. It would force States—which are not in favor of such programs or ready to adopt them in their still experimental state—to enact them in order to obtain Federal funds under this program. The Federal Government, as a result of the recently adopted amendment, is contributing only 25 percent—a minor contribution—to the cost of State programs to help victims of crime. The small share we contribute makes it additionally inappropriate to adopt it.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is somewhat troublesome to me. On the surface, restitution—the concept that offenders ought to repay their victims for the losses caused—is appealing. But this surface appeal tends to mask things somewhat, so I think it important to set forth exactly what is involved.

To begin with, it is necessary to recognize that restitution and victim compensation are different in theory. Each serves fundamentally different social objectives. As Prof. Burt Galaway, one of the leading authorities on restitution, noted in a statement submitted to the Subcommittee on Criminal Justice—

> Victim compensation is victim oriented and designed to provide reimbursement to victims of selected classes of crime who have experienced financial loss resulting from the crime. Eligibility for victim compensation does not depend upon apprehension and conviction of an offender. Restitution is offender oriented and is a sanction which can be imposed upon offenders. . . . Victim compensation is addressed to meeting the needs of the crime victims, restitution is addressed to sanctioning the offender.

Restitution and victim compensation are also different in practice. Victim compensation programs address themselves to the innocent victims of violent crimes. Restitution is primarily directed at property crimes. See Edelhertz, "Legal and Operational Issues in the Implementation of Restitution Within the Criminal Justice System," in Hudson & Galaway, editions, "Restitution in Criminal Justice" 63, 69–70, 1977.

Since restitution and victim compensation differ in theory and differ in practice, they are not alternatives that a criminal justice system must choose between. They are complementary concepts.

It has been suggested by some that restitution is a substitute for victim compensation. The sad fact, I am afraid, is that restitution is unable to help a significant number of crime victims. Most offenders are not caught. Not all of those who are caught get convicted, and most of those who get convicted do not have the resources to pay restitution. The notion that restitution will substitute for victim compensation has been rejected not only by academic experts but also by those actively involved in law enforcement. Three experts, for example, have stated that—

> Restitution is generally not an effective mechanism for providing compensation to crime victims because most crimes are not solved by an arrest, and many do not result in convictions. Even when convictions are secured, restitution may not be an appropriate sanction. In short, restitution is likely to provide compensation for only a very limited number of crime victims. (Hudson, Galaway & Chesney, "When Criminals Repay Their Victims: A Survey of Restitution Programs," Judicature, February 1977, p. 314.)

Their conclusion was echoed by the Attorney General of New Jersey, who testified before the Subcommittee on Criminal Justice, that—

> In our experience . . . only one in 10 criminals are caught and only one-quarter to one-half of those are convicted Thus, restitution would be available from less than 5 percent of offenders, and most of them would turn out to be judgment proof.

This legislation deals only with victim compensation. Since restitution and victim compensation serve fundamentally different social objectives, it is inappropriate and unnecessary for the Federal Government, in assisting State victim compensation programs, to tell the States what they must do in other parts of their criminal justice system.

There has recently been a renewed interest in restitution, and this amendment no doubt has popular appeal. I would like to issue a cautionary note about restitution. Some people believe that the benefits of restitution are so great and so obvious that it is incomprehensible why restitution has not been more widely used. It seems to me that the fact that it has not been more widely used indicates that the matter is not as simple, logical, and uncomplicated as it seems.

In primitive society, criminal acts were punished by the victim by means of personal retaliation—inflicting personal injury upon the wrongdoer and taking from him whatever he wanted. As primitive society developed, personal retaliation was replaced by a process called "composition." The victim and the wrongdoer would negotiate and agree upon the payment of a certain amount of goods or money that would make the victim whole.

In addition to the amount paid to the victim, the wrongdoer also has to pay a sum of money or goods to the king or the lord—more broadly, to the community, since the king or lord was the sovereign. This sum constituted a recognition that the sovereign had an interest in the resolution of the matter. In return for this payment, the offender received the sovereign's protection from attempts at personal retaliation by the victim.

Over the course of time, the sovereign's share grew. Finally, the victim's right to recover from the offender became largely separated from the criminal law and was made a part of the civil law.

What all of this indicates is a growth in the notion that crime is not simply a personal matter between two individuals. Society as a whole has something at stake whenever a criminal act is committed. For one thing, we make it Government's obligation to apprehend and prosecute wrongdoers, and we establish instrumentalities—police, prosecutors, and courts—to do this. Even more important, society as a whole has an interest in protecting itself from further criminal wrongdoing.

Because people in general, as well as the victim, have an interest at stake whenever a crime is committed, society has developed sanctions for criminal acts. These sanctions are imposed to achieve certain ends—such as deterrence of further criminal conduct by the offender—"specific" deterrence—and by others—"general" deterrence; rehabilitation of the offender; and incapacitation of the offender so that he is unable to commit other offenses. There is, of course, no unanimity as to what ends should be served by criminal punishment. In particular, rehabilitation has been undergoing some rethinking, but it is still fair to say that rehabilitation is one of the ends as far as some people are concerned.

The concept of restitution, therefore, cannot be evaluated solely from the standpoint of the individual's interest. It must also be evaluated from the standpoint of society. Restitution must not be used in such a way as to be destructive of other ends that society is trying to achieve. In concrete terms, a judge, in determining whether to order restitution, must consider a whole range of factors, not just whether the victim will benefit.

For example, the judge would have to consider the impact that ordering restitution would have on the offender's family. It may be unwise to order an offender to make restitution where doing so would result in putting the offender's family on welfare. It may also be unwise to order restitution where it is clear that the offender would pay it only by going out and stealing.

The judge also has to consider habitual offenders. Society is responsible for apprehending. prosecuting, and trying them. Should society permit an habitual offender to avoid other sanctions by repaying a victim each time he is caught? Should the police and prosecutors become collection agents? If the offender cannot make the payment, is he put in prison, and if he is, have we not set up a debtor's prison?

The judge also has to consider the wishes of the victim. Not all victims want restitution from the offender. Here is a report from Time magazine about a rape/murder case:

> Watson will be eligible for parole in 15 years, but whenever he is released, said the judge, he must pay 40 percent of his income for the rest of his life to the two sons of the housewife he killed. [The husband] said the payments could only serve to remind his sons of their mother's murder, and might even put them in physical danger from Watson or his friends. [The husband] was going to be forced into the . . . position of hiring a lawyer to have the payment of reparations removed from the sentence of his wife's killer.

Restitution is deceptively appealing and seems to be a simple concept. The reality, however, is that restitution is not so simple a concept and for that reason is not widely imposed. A survey of 850 California superior and municipal court judges conducted by the Joint Legislative Audit Committee of the California Legislature disclosed that while 94 percent of the judges would consider imposing restitution—or a special fine to benefit that State's victim compensation program—a majority of the judges saw problems in doing so. The problems most cited were the inability of defendants to pay and collection and enforcement problems. In the period 1967 to 1976, the California victim compensation program has paid some $9.7 million to victims. In that same period, restitution recoveries by victims that went to the victim compensation program totaled only $28,250. The conclusion seems clear that while California judges will consider imposing restitution, the problems involved with imposing it in actual cases are such that restitution is not widely ordered.

I think the amendment is largely unnecessary. It will have no significant impact on what courts can now do. Most, if not all, States have statutes specifically authorizing restitution, and I suspect that every judge believes that he possesses a common law right to impose restitution. It should be remembered that it is in the interests of the State to impose restitution whenever possible, for when restitution is used in crimes of violence it means that the victim cannot recover from the State's victim compensation program.

The amendment adds another qualification that a State must meet in order to be eligible for Federal reimbursement. I am fearful that some ingenious bureaucrat might be able later on to use it to compel a State to change its restitutionary practices in order to continue to be eligible for Federal reimbursement. I am a realist, however, and expect the amendment to carry. Of all of the restitution amendments I have heard about, it is the least dangerous and meddlesome and, therefore, is preferable to them.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I find that I agree with much of what the gentleman from South Carolina has said about restitution. Nevertheless, I believe that this amendment is worthy and deserving of support.

I will not repeat what the gentleman has said about the history of restitution. As society has developed, the idea that a criminal wrongdoer owes a debt only to the victim of his misdeed has disappeared. The wrongdoer also owes a debt to society. The gentleman from South Carolina is entirely correct in observing that while restitution may discharge the wrongdoer's debt to the victim, it does not necessarily discharge the wrongdoer's debt to society. There may be circumstances when restitution would be inconsistent with other important social policies.

This does not mean however that restitution is never appropriate or that a criminal wrongdoer can never discharge his debt to society by discharging his debt to the victim. What it means is that restitution must be used carefully recognizing the interests and needs of the victim and society, and recognizing as well that the interests of society may include some concern for the rehabilitation of offenders and the well-being of their dependents.

I have heard it asserted that victim compensation and restitution are incompatible—that if we enact Federal crime victim compensation legislation we will preclude States from utilizing restitution as a criminal sanction. Nothing could be further from the truth.

The fact of the matter is that victim compensation and restitution are entirely compatible. The best evidence of this is to look at a State like Minnesota, which not only has a fine victim compensation program but is also a modern pioneer among the States in the use of restitution.

The focus of victim compensation programs is on the crime victim. Victim compensation programs are designed to help innocent crime victims pay for unreimbursed medical expenses and lost wages. The focus of restitution programs is on the criminal offender. Restitution is a sanction for crime, a type of punishment—a criminal offender is compelled to make payments or provide some form of service to the victim of his crime or, in some instances, the community at large. As such, restitution is imposed to achieve one or more of the various social ends served by criminal sanctions—such as deterring further crimes by the particular offender or by others, rehabilitating the particular offender, or imposing a "just" sentence.

Victim compensation programs operate whether or not an offender is caught—they will compensate innocent crime victims in situations where the offender is not apprehended. Restitution programs are operable only when the offender is apprehended and convicted. Victim compensation programs are limited to crimes that injure people. Restitution programs are nearly always limited to crimes against property.

Since victim compensation programs serve different social policies from those served by restitution programs, neither program is a substitute for the other. We cannot expect a victim-oriented program to serve any of the social purposes behind imposing criminal penalties. Similarly, we cannot rely upon a restitution program to do an adequate job of compensating innocent victims of crime. To begin with, most reported crimes are not solved. Further, not everyone arrested and tried is convicted, and many of those who are convicted are judgment-proof. In his testimony or H.R. 7010 before the Subcommittee on Criminal Justice, the attorney general of my own State noted that—

> In our experience . . . only one in 10 criminals are caught and only one-quarter to one-half of those are convicted. Thus, restitution would be available from less than 5% of offenders, and most of them would turn out to be judgment proof.

Mr. Chairman, I do not view restitution as a panacea for our criminal justice system. A restitution program will not lead to a dramatic increase in the number of offenders who are rehabilitated, nor will it provide a systematic means of assisting innocent victims of crime. A restitution program is good to have available and to use when the circumstances warrant it.

The amendment of the gentleman from California amends section 4 of the bill, which sets forth the qualifications that a victim compensation program must meet in order to be eligible for Federal assistance. His amendment adds an additional qualification that there be "in effect in the State a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim."

This amendment recognizes that restitution can, under appropriate circumstances, be an effective criminal sanction and serve socially useful ends. At the same time, however, the amendment recognizes that a state ought to have maximum discretion to shape its own restitution program. A State can comply with the qualification by means of a statute, administrative regulation, or court practice and procedure. The restitution requirement can be imposed at the time of sentencing, in addition to or in lieu of any fine or term of years imposed; it can also be imposed after sentencing, as a condition of parole, for example.

The amendment will not give unnecessary emphasis to restitution and encourage its widespread use in unwarranted circumstances. It will serve as a reminder that restitution, in appropriate circumstances can be a useful criminal sanction.

The gentleman from California is to be commended for his interest in this mat-

ter, and I am happy to join him in supporting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 18, noes 17.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to this section?

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 6, after line 2, add the following new paragraph:

(8) There is in effect in the State a law or rule requiring any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, or article, relating to such crime to deposit any proceeds owing to such individual under the terms of the contract into an escrow fund for the benefit of any victims of such qualifying crime or any surviving dependents of any such victim, if such individual is convicted of that crime,

to be held for such period of time as the state may determine is reasonably necessary to perfect the claims of such victims or dependents.

Mr. BUTLER. Mr. Chairman, this amendment inhibits criminals from profiting from crimes which leave their victims wards of State compensation programs.

My concern arises from the recent experience of New York's so-called "Son of Sam" slayer, where it was reported that an attorney representing the accused attempted to sell interviews with his client to the media. Fortunately, a statute had previously been enacted in New York requiring any payment under such an agreement to be deposited with the State Victim Compensation Board to be held in escrow for the benefit of the victim or victims of the crime.

Since the notoriety occasioned by that case, I am pleased that other States have undertaken to follow New York's example. However, it is not the purpose of this amendment to enshrine New York language or procedure. My purpose is to implement the well-settled equitable principle that a man cannot profit by wrongdoing at the expense of others.

Due process for the accused, of course, motivates the requirement that he must be convicted of the crime before the money in question can be actually applied to the victim.

It is anticipated that a civil judgment against the criminal will have to be obtained, but the language of the amendment is drafted generally enough to accommodate the criminal and civil procedures of individual States. The amendment is also intended to permit the use of literary proceeds for the legal defense of the accused, as is provided for in the New York statute.

It may be true now that a victim can file a tort action against the criminal. However, the action may take many years to resolve and by that time, the criminal's assets most likely have been depleted. This amendment attempts to preserve ill-gotten gains so at least these will be available for the victim. It can thus be analogized to the filing of lis pendens—only with more efficacious results.

Due process has never recognized an unqualified property right in ill-gotten gains. On the contrary, Professor Scott's authoritative treatise on thrusts is replete with examples of the law summarily parting a wrongdoer from his evil riches.

There are those who might object to the inclusion of another requirement for States to meet in order to qualify for Federal funds. But, ladies and gentlemen, now is the time to establish the shape of the Federal program. After enactment of Federal legislation, States will have an adequate opportunity to conform their individual programs. We might just as well tell them now what we expect rather than adding requirements piecemeal at a later time when they cannot so easily conform. You do not wait until a house is built to tell the contractor where you want the windows.

We are not talking here about an insignificant benefit to the Federal Government. Remember that under the provisions of H.R. 7010, the Federal Government could be liable for as much as $25,000 for every crime committed in America. A single mass slayer thus could conceivably cost the Federal Government hundreds of thousands of dollars in victim benefits alone. Since society seems to bestow its curiosity on the bizarre and the infamous, the story of a notorious felon can be a highly sought after possession. It, therefore, is unconscionable for the Federal Government to pick up the tab for a criminal's victims while permitting him to become a millionaire with the movie rights to his crime.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before I state my reason for opposition, I would like to make it clear that the gentleman's amendment would operate, if adopted, prospectively only, and would apply to contracts entered into after the effective date of the State law or rule which is required by this amendment. Is that true?

Mr. BUTLER. If the gentleman will yield, that is true, yes, sir.

Mr. WIGGINS. Yes. Let me tell the Members what troubles me about this whole matter of restitution, of which this amendment is an aspect. I want to begin by saying that I think that the perpetrator of a wrong should bear a part of the compensation which may be paid under some formula to the victim of that wrong, but it is troublesome to me to utilize the concept of restitution, in a legal sense, to reach that result.

The victim of crime is the State. It is incidental that there is an individual who may also be victimized. Restitution is a civil concept, personal to the individual victim rather than the State. It represents a right to recover such damages as may have been sustained as a result of tortious conduct. Any time that we give to a judge in a criminal trial the power to award an unliquidated sum representing perhaps pain, suffering, and other matters, to an individual victim at the expense of another person, we surely are denying that other person property without due process, unless the State law that we conceive provides for that process. Of course, an individual can waive his fifth amendment right under the coercive pressure of an offer of probation, that is to say, he may consent to the payment of a sum of money in order not to go to jail, although I wonder about the constitutionality of the waiver under the circumstances I am describing.

This whole problem of restitution, although well intended, has a lot of problems in it that ought to be thought through. This particular amendment is one narrow aspect of restitution. It says that if the perpetrator of a wrong enters into a contract by the terms of which the wrongdoer receives money, the money that would come under that contract to the wrongdoer will be impounded by the State in escrow.

The amendment was helped a great deal by the addition of a last line which permitted the claimant to perfect his claim, and I take that to be in a civil action. This is better than the vague general restitution amendment proposed by my friend, the gentleman from California (Mr. EDWARDS). But I am troubled by confusing civil remedies in a criminal proceeding, and that is what we are doing. The coercion present in a criminal sentencing proceeding is inherent and presents a fair consideration of the civil issues involved in restitution.

I am not sure of the extent to which we may be exacting a forfeiture from the defendant, over and above that which the State can require for the commission of his crime, without a due process procedure to protect him. That issue has not been thought through.

I think the better part of wisdom is to vote down these restitution amendments at this time. In order, however, to be faithful to my support of the principle that the criminal ought to do something, the bill should require that a fine, not a damage sum but a fine, be imposed and contributed to the general victim's fund. That approach is constitutional. I suggested in the committee that we start with $5. Unfortunately, the committee rejected the proposal. But this amendment has nothing to do with a fine; rather it deals with a right of action by a criminal victim. I think it is inappropriate to put such considerations into a criminal trial.

Mr. MANN. Mr. Chairman, I urge rejection of the amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield the 5 minutes to my colleague, the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I thank the gentleman for yielding.

I will not take up the time of the House for very long, but I simply want to suggest that all we are trying to do here is to do what New York has already done and other States are doing. We do not want a person to profit from his crime and not have the proceeds of that profit be made available for the victims of his crime. I must confess that I have a great deal of difficulty worrying about the due process rights of a criminal to profit from his crime.

As a lawyer and a Member of Congress I realize we have to respect the rights of everyone. Therefore, I have very carefully tried to cast this amendment in as broad language as I could to give the States the broad discretion to meet a general guideline that to me is clearly constitutional. If a State government is going to participate in a Federal victims of crime program, we ought to have some way to tie up the criminal's profit from his crime so the victim of the crime can get at the profit before it is dissipated. It was done by statute in the State of New York. It kept "Son of Sam" from profiting by $150,000 before his victims could get at the money. I think that is the appropriate, logical, and constitutional approach.

Mr. ASHBROOK. Mr. Chairman, I rise in strong opposition to H.R. 7010, the Victims of Crime Act of 1977. This bill would cost the American taxpayer millions, perhaps billions, of dollars every year.

We all know how Federal programs have a tendency to grow beyond all expectations. Expenditures for the food stamp program, for example, have undergone a 30-fold increase in only a decade.

H.R. 7010 is especially susceptible to this problem. One can only guess at how high expenditures might go. Cost estimates run all the way from $20 million to $1 billion or more. This is hardly reassuring.

The Congressional Budget Office, for instance, predicts an annual cost between $32 million and $64 million within the next 5 years. Other predictions go far higher.

I want to emphasize that I am deeply concerned about the problem of crime in America. Every year millions of our citizens are the victims of criminal acts. Congress has a responsibility to find solutions to the crime problem.

H.R. 7010, however, is not crime control legislation but another piece of social welfare legislation. The real victims of this bill will be the American taxpayers.

Instead of paying out millions of dollars to crime victims, our efforts should be aimed at reducing crime. One such approach is mandatory sentencing of criminals. We need to get the repeat offender—the career criminal—off the street.

Another legitimate crime control measure is capital punishment. Unfortunately the death penalty has remained virtually unused for about a decade because of adverse court rulings. That is why I am sponsoring a constitutional amendment specifically unholding the power of a State or Congress to impose the death penalty for any crime involving the deliberate taking of human life.

These are the types of anticrime measures we should be talking about here today, not H.R. 7010. I urge the defeat of this legislation.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must say to my good friend, the gentleman from Virginia, that I appreciate the gentleman's kind words about the State of New York. Such words are very rare these days.

But, I must nonetheless oppose the amendment.

Mr. Chairman, I yield to the subcommittee chairman, the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Chairman, the gentleman indicated that States are responding to this situation, and they are. The work of this committee has been with an emphasis on preserving State autonomy. We had a concern with the States' flexibility to shape their own programs. Surely the 75 or 85 percent contribution by the State will give them the necessary incentive to promote programs for the recovery of funds in which they are subrogated for any claims arising.

Now, one can think of a thousand ridiculous situations where this act would be very difficult to apply; but, you know, in the first place, due process would require that he be convicted before he is deprived of his property, which this does not require.

The opinion of the Congressional Reference Service on the constitutionality of this was requested by the minority and this report raises serious constitutional questions of due process under the 14th amendment and the 1st amendment protection of freedom of speech. If the States want it, fine; it is a worthy objective; but I think it is just as unworthy that the Federal Government should seek to impose this thing affecting other parts of the judicial system and that the questionable constitutionality should bear the seal and requirement of the Federal Government. Of course, as we know, 49 States would have to enact such legislation before they become qualified, if they so participate. It is just an unnecessary and no doubt unconstitutional requirement.

Mr. Chairman, I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken: and on a division (demanded by Mr. BUTLER) there were—ayes 12, noes 17.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 113, not voting 76, as follows:

[Roll No. 615]

AYES—245

Abdnor
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bedham
Bafalis
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Blanchard
Boland
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Delaney
Derwinski
Devine
Dickinson
Diggs
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fish
Fithian
Flippo
Florio
Flowers
Flynt
Foley
Forsythe
Fowler
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gradison
Grassley
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heckler
Hefner
Hightower
Hillis
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jones, N.C.
Jones, Tenn.
Kasten
Kazen
Kelly
Ketchum
Keys
Kildee
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McDade
McDonald
McHugh
McKay
Madigan
Markey
Marriott
Martin
Mathis
Meeds
Meyner
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
Nowak
O'Brien
Oakar
Ottinger
Pettis
Pickle
Pike
Poage
Pressler
Pritchard
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schroeder
Schulze
Sharp
Shuster
Sikes
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Stangeland
Stanton
Steed
Steers
Steiger
Stratton
Studds
Stump
Symms
Taylor
Thone
Treen
Trible
Udall

Vanik	Weiss	Wylie
Waggonner	White	Yatron
Waggren	Whitehurst	Young, Alaska
Walker	Whitley	Young, Fla.
Walsh	Whitten	Young, Mo.
Wampler	Winn	Young, Tex.
Watkins	Wright	Zeferetti

NOES—113

Akaka	Fountain	Natcher
Ammerman	Fraser	Nedzi
Aspin	Gonzalez	Nix
Badillo	Gore	Oberstar
Bellenson	Gudger	Panetta
Biaggi	Hall	Patten
Bingham	Hamilton	Pattison
Bonior	Hannaford	Pease
Brademas	Harrington	Perkins
Brodhead	Harris	Preyer
Brown, Calif.	Hawkins	Price
Burke, Mass.	Heftel	Richmond
Burton, John	Holtzman	Rodino
Burton, Phillip	Howard	Rooney
Carney	Hughes	Roybal
Carr	Jenrette	Ryan
Cavanaugh	Jones, Okla.	Seiberling
Chisholm	Jordan	Shipley
Clay	Kindness	Simon
Conyers	Kostmayer	Stark
Corman	Leggett	Stockman
Cornwell	Levitas	Stokes
Danielson	Lundine	Thompson
Dellums	McCormack	Thornton
Dodd	McFall	Traxler
Downey	McKinney	Tucker
Drinan	Maguire	Ullman
Eckhardt	Mann	Van Deerlin
Edgar	Marks	Vento
Filberg	Mattox	Volkmer
Evans, Colo.	Mazzoli	Waxman
Fary	Mikulski	Weaver
Fascell	Miller, Calif.	Wiggins
Fenwick	Mineta	Wilson, Tex.
Findley	Mitchell, Md.	Wirth
Fisher	Moffett	Yates
Flood	Moore	Zablocki
Ford, Tenn.	Murtha	

NOT VOTING—76

Alexander	Ford, Mich.	Murphy, N.Y.
Anderson, Ill.	Gammage	Myers, Michael
Badillo	Gilman	Nolan
Blouin	Goodling	Obey
Boggs	Guyer	Patterson
Bolling	Hammer-schmidt	Pepper
Bonker	Holland	Pursell
Bowen	Jeffords	Quayle
Breckinridge	Johnson, Calif.	Railsback
Burke, Calif.	Johnson, Co.o.	Rinaldo
Burke, Fla.	Kastenmeier	Rose
Clawson, Del	Kemp	Rosenthal
Cohen	Koch	Sawyer
Collins, Ill.	Krueger	Scheuer
Cotter	Lehman	Sebelius
Crane	Livingston	Skubitz
Cunningham	McClory	Staggers
de la Garza	McCloskey	Teague
Dent	McEwen	Tsongas
Derrick	Mahon	Vander Jagt
Dicks	Marlenee	Whalen
Dingell	Metcalfe	Wilson, Bob
Dornan	Mikva	Wilson, C. H.
Duncan, Oreg.	Montgomery	Wolff
Edwards, Calif.	Murphy, Ill.	Wydler
Evans, Ga.		

Mr. LE FANTE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. PIKE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the debate yesterday and during the debate this morning we were told that one of the reasons for this bill was that it would cause crimes which have not been reported to be reported. I agree that it will cause some crimes which have not been reported to be reported, but we were given a statistic that 52.8 percent of all crimes of violence were not reported.

I asked the distinguished chairman of the subcommittee where did the gentleman get the reports that show that crimes are not reported. The gentleman gave it to me. It is a document titled "Criminal Victimization in the United States," done through the LEAA and the U.S. Department of Justice. The trouble is that the document does not substantiate what the gentleman said.

Mr. Chairman, I now have had an opportunity to read the document. It just does not indicate that that number of crimes of violence are not reported. Of crimes which would be reimbursed under this legislation, robbery with injury is 65 percent reported.

For serious assault under that category, it is 66.8 percent.

For minor assaults, it is 62.5 percent.

Aggravated assault with injury, 65.1 percent.

So the statistics seem to indicate that about two-thirds of all of the crimes which would be reimbursable under this legislation are already reported.

Of all of the crimes listed in the so-called crimes of violence, only one falls under the average of 47.2 percent, which the gentleman referred to.

This one so-called crime of violence which drags the average down to that figure is under the category of simple assault, and it is defined as attempted assault without a weapon. Well, what does attempted assault without a weapon mean as a violent crime? It means that I swing at somebody and I miss him, or he swings at me and he misses me.

It is because crimes of this nature are not reported that the statistics which the gentleman gave us earlier about all of these crimes of violence not being reported are so low. Now, frankly, there have been times in my more tempestuous youth when I might have committed that crime of swinging at somebody and missing, and I am glad that it was not reported; and I know there have been times when people have swung at me, and sometimes they have missed and sometimes they have not, but I did not report those crimes. I just think that to use that kind of a crime as the basis for a statistic that only 47.2 percent of all crimes of violence are reported in this country is trying awfully hard to sell this bill.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield to me?

Mr. PIKE. I am happy to yield to the gentleman from Illinois.

Mr. FINDLEY. Just for clarification, may I assume from the gentleman's comments that in his latter days, when he swings, he swings only to hit, not miss?

Mr. PIKE. In my latter days I have had sense enough never to swing at all. I am afraid I am too old to be a swinger.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LIMITATIONS ON FEDERAL GRANTS

SEC. 5. In computing the annual cost of a qualifying State program for the purpose of establishing the amount of Federal grants under section 3, there shall be excluded from such cost any amount for administrative expenses incurred in carrying out the program and any amount representing State compensation awards—

(1) for pain and suffering;

(2) for property loss;

(3) to the extent the amount of any award to a victim, or the aggregate amount of any awards to the surviving dependents of a victim with respect to such victim, exceeds $50,000;

(4) to any claimant who has received or is entitled to receive compensation from any other source up to the amount of that compensation;

(5) to any claimant whose award would be for an amount less than $100 or for lost earnings computed on the basis of less than five work days;

(6) for lost earnings of more than $200 per week per individual;

(7) to any claimant who failed to file a claim under the State program within one year after the occurrence of the qualifying crime, unless good cause for such failure to file has been found by the appropriate State agency; and

(8) to any claimant who failed to report the qualifying crime to law enforcement authorities within seventy-two hours after the occurrence of that qualifying crime, unless good cause for such failure to report has been found by the appropriate State agency.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 20, strike out "other source" and insert in lieu thereof "source other than a compensation program assisted under this Act or the perpetrator of the qualifying crime,".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDGER

Mr. GUDGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDGER: Page 6, line 18, strike out "50,000" and insert "25,000" in lieu thereof.

Mr. GUDGER. Mr. Chairman, ladies and gentlemen. I commend Congressman MANN for his effective presentation of this important bill and for the judicious and effective manner in which he conducted the hearings and directed the markup which presents to the 95th Congress a very carefully thought out and well designed proposal to provide Federal support to the States for the payment of compensation to persons sustaining personal injury in consequence of qualifying crimes as defined in the act. I also commend Congressman RODINO, chairman of the Judiciary Committee, for introducing this bill and for the effective way in which he has developed, explained, and supported it in committee hearings. I am persuaded that H.R. 7010 is a good bill and that it should pass. I do feel, however, that the amendment that you have just heard read improves the bill and that it should be adopted.

Wednesday, we issued to Members a brief "Colleague" letter providing a list of the 20 States which presently have statutes providing for compensation to victims of violent crimes and listing the maximum amounts presently recoverable under each of these State programs. I call to your attention that Alaska, North Dakota and Pennsylvania authorize a maximum single claim recovery of $25,000; that California's maximum is $23,000; that Kentucky and Michigan provide for only $15,000; and that in Delaware, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, Tennessee, Virginia, and Wisconsin the maximum amount recoverable is $10,000, whereas the State of Nevada allows only $5,000. The State of Ohio is the only State in the union which specifies a maximum recovery in excess of $25,000, although, as

shown on the list mailed to you, three States (Maryland, Washington, and New York) provide no specific limits on portions or all of the amounts recoverable. New York, for example, allows $20,000 recovery for loss of earnings, but has no limit on medical payment recovery. As suggested in the material mailed out to you, the amendment which I offer proposes a maximum limitation of $25,000, which I contend is reasonable and adequate and consistent with the experience and the limitations imposed by the vast majority of the States which has victims of crimes compensation systems.

I suggest that their experience is our best chart and guide and to establish a much higher maximum than those States presently approve suggests a largess which this Congress cannot indulge without public criticism.

In the Criminal Justice Subcommittee which marked up H.R. 7010 I offered and secured adoption of the amendment which sets the threshold limitation contained in section V, subparagraph 5 of the bill. That is the provision in the bill which excludes Federal participation in awards of less than $100. And in the full Judiciary Committee I offered the amendment now before you which was rejected there by our vote. I believe that many people in this land will look upon H.R. 7010 as liberal, extravagant, and irresponsible if we authorize here more than double the recovery now authorized by the vast majority of existing State systems without any more evidence than has been offered to show that their limits are unreasonable.

In addition to the proof of the adequacy of the $25,000 maximum provided by the legislative judgment of the 20 States now having compensation for victims of crime programs, I suggest to you that the 30 States which have not yet adopted a program to compensate victims of crime will be more strongly encouraged to establish similar programs if the Federal guidelines in H.R. 7010 are moderate and practical and clearly provide a sound and logical minimum threshold and a maximum ceiling consistent with the State compulsory automobile liability insurance maximums, and the maximum recoveries allowed by the workman's compensation acts with which they are familiar. I remind you that H.R. 7010 is wisely drawn so as to allow the States to administer their victims of crimes compensation programs either through their courts, through their industrial commissions, or through other State administrative agencies. I point out that H.R. 7010 does not compensate for loss of earnings in a fractional amount as do most workman's compensation acts, but will not prohibit the States from doing this if so advised. I feel that imposing a total maximum recovery of $25,000 as provided by this amendment will assure that the States now providing compensation for victims of crimes will have adequate inducement to conform their statutes to the standards H.R. 7010 will require if they are to share in Federal funding and that those States which enact crime victims compensation plans hereafter will look upon this bill as providing financial limitations which are practical, reasonable, and sensible, as will be the case if this amendment is adopted.

Mr. Chairman, I am aware, of course, that the adoption of the Wiggins amendment earlier has perhaps weakened the necessity of this amendment, but the thrust and the purpose and the justification for the amendment is still present, in that there is no valid reason for our going far beyond the present plan of existing systems which now by and large impose a $25,000 or less limitation.

Mr. Chairman, it is for this reason that I offer this amendment, and I urge adoption of the amendment.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before I take up the substance of the amendment, I want to reemphasize the policy that underlies the structure of this bill.

The major goal and the prime facet of this legislation would permit each State the maximum amount of flexibility to shape its own program. This approach is based in part on the notion of federalism. Each State should be able to experiment with different systems and methods in order to find the program that best meets its needs and conditions. This approach is also based on a recognition of the fact that the State will be paying for most of the program. The State would certainly be paying in excess of 75 percent.

This amendment will affect five States with existing programs. It will result in a modest savings to the Federal Government of about $2 million, but its impact on the idea of giving maximum flexibility to the States and its adverse impact on the various States that have higher levels will be substantial.

Moreover, this adverse effect will be felt in situations where the need for help is most acute, for example, in situations where the victim is rendered paraplegic and incurs huge, unreimbursed hospital and medical expenses.

Mr. Chairman, for those reasons, I urge the defeat of the amendment.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this is the second part of an amendment which was suggested by the administration. As I stated earlier, the administration requested that the subcommittee amend its bill to limit the Federal participation to 25 percent, and that it impose a maximum cap of $25,000 on the size of any individual claim.

The subcommittee rejected that advice and, instead, provided for a 50 percent contribution by the Federal Government and a $50,000 cap.

Earlier today an amendment was approved overwhelmingly by the House to accept the 25 percent contribution limitation. I now ask the House to adopt the balance of the administration's recommendation and reduce the maximum amount payable to any claimant from the $50,000 sum represented in the bill to $25,000.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition on the amendment.

Mr. Chairman, I rise to speak in opposition to this amendment, which would limit the maximum payment for victims of crime to $25,000.

What is $25,000 today? What self-respecting damage lawyer would take a case for $25,000?

I was surprised at this. I thought the gentleman from South Carolina (Mr. MANN), being a member of the majority party, would speak for the majority or for the administration, not the distinguished gentleman from California (Mr. WIGGINS), who is a member of the minority party. But, of course, the way things are going around here, I do not know.

This is a new concept in taking care of people. When I was in the Ohio Legislature a number of years ago, we determined that to keep one prisoner in the Ohio State Penitentiary cost at that time—and this is 10 or 15 years ago—in excess of $6,000. That is considering all costs. At that time one could send a child to any Ivy League college in the country for $6,000.

We have got to live with the times. If we do not want to go along with this, the Members should vote against the bill, but let us not kill this by adopting silly amendments.

My State has a $50,000 amendment. I am proud of that. I think we should go even higher in the future. But let us not limit States that are fairminded, if we believe in the principle.

If Members believe in this principle, they should vote for the bill, and if they do not, they should have the guts to vote against it, but let us not kill the bill by adopting silly amendments.

Please vote no on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. GUDGER).

The question was taken; and on a division (demanded by Mr. GUDGER) there were—ayes 27, noes 18.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 5? If not, the Clerk will read.

The Clerk read as follows:

REPORT OF THE ATTORNEY GENERAL

SEC. 6. Within one hundred and thirty-five days after the end of each Federal fiscal year in which State programs were given financial assistance under this Act, the Attorney General shall publish a report and submit such report to the House and Senate Judiciary Committees. The report shall contain as a minimum the following information.

(1) Information in regard to each qualifying State program:

(A) The number of persons compensated.

(B) A statistical presentation of—

(i) the kinds of loss compensated;

(ii) the range in monetary value of claims awarded;

(iii) the reason for denial of claims, including the number of claims denied for failure to qualify under a State-imposed means test; and

(iv) the types of crimes which resulted in claims.

(C) A description of the administrative mechanisms and procedures used by the State program in processing claims, including claims for emergency assistance.

(D) The time required for the State program to process claims, including claims for emergency assistance if the State program provides for such assistance.

(E) Efforts taken by each State to publicize its program.

(F) Administrative expenses.

(G) The number of qualifying crimes described in section 7(7)(B) which are compensated under the State program.

(2) Information in regard to the activities of the Attorney General in carrying out this Act as follows:

(A) An itemized statement of expenditures

(B) Copies of rules made under section 3(b).

(C) Projected expenditures for the Federal fiscal year in which the report is required to be submitted.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 12, after "assistance" insert: "if the State program provides for such assistance."

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 6? If not, the Clerk will read.

The Clerk read as follows:

DEFINITIONS

SEC. 7. As used in this Act—

(1) the term "claim" means a written request for compensation made by or on behalf of a victim or any surviving dependent of a victim;

(2) the term "dependent" means, with respect to any State compensation program, dependent as defined by that State for purposes of such program;

(3) the term "personal injury" means, with respect to any State compensation program, personal injury as defined by that State for the purposes of such program;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory of the United States;

(5) the term "compensation for personal injury" means compensation for loss which is the result of personal injury, including—

(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accorance with a method of healing recognized by the appropriate State agency;

(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

(C) loss of past and anticipated future earnings;

(6) the term "property loss" does not include expenses incurred for medical, dental, surgical, or prosthetic services and devices;

(7) the term "qualifying crime" means—

(A) any act or omission whch is criminally punishable and which the State designates as appropriate for compensation under its program; and

(B) any act or omission which would be a qualifying crime under subparagraph (A) except for the fact that such act or omission is subject to exclusive Federal jurisdiction; and

(8) the term "administrative expenses" includes any fee awarded by the State agency administering the program to any claimant's attorney if such fee is paid in addition to, and not out of, the amount of compensation.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, line 14, insert "occurring in such State".

The committee amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to make a reference in support of the committee amendments that are now being reported, and would like to address an inquiry to the gentleman from California (Mr. WIGGINS).

During consideration of H.R. 7010 by the Committee on the Judiciary, the gentleman from California (Mr. WIGGINS) offered an amendment to add language to section 7(7)(A) and section 7(3) of the bill. That amendment was agreed to, and the language added appears on page 10, lines 16–17, and page 9, line 14, of the Union Calendar version of the bill.

Since the committee's adoption of the amendment and filing of its report (House Report 95–337), two questions have been raised about the meaning of section 7(7)(A) and 7(3) as amended by the committee. These questions, I might add, were raised by persons involved in the administration of the California victim compensation program. For the sake of the legislative history of this bill, I would like to indicate the answers to the questions and ask the gentleman from California if he concurs in them.

The first question is whether section 7(7)(A) and 7(3), as amended, require a State to compensate victims of crime who are otherwise eligible for assistance where the victims are in the country illegally. The answer is "No." A State must offer compensation to victims without regard to the victim's residency, but it need not offer compensation to victims who are in the country illegally.

The second question is more complicated. Some State programs will follow State residents and compensate them when they are the victims of crimes occurring outside of the State. As made clear in the committee report, this is permissible and the State may include such awards in its cost of paying compensation for the purpose of calculating the Federal grant. California is a State that will compensate its residents when they are victimized outside the State. When a California resident is victimized outside of California, but in another State with a victim compensation program, which State—State of residency or State where the crime occurred—is responsible for paying compensation?

Sections 7(7)(A) and 7(3) make it clear that a State may not discriminate in its program between residents and nonresidents. A State, to have a qualified program, must offer compensation without regard to the victim's State of residency, although as I indicated earlier, it is not required to compensate victims who are in the country illegally. There is no language in the legislation that permits the State to escape this obligation because a victim is from a State that has its own victim compensation program. Thus, the State where the crime occurred, not the State where the victim resides, is responsible for paying compensation.

Does the gentleman from California (Mr. WIGGINS) concur in the answers to these two questions?

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. WIGGINS. Yes, I concur in the answer to the first question that a State need not provide compensation to a victim who is illegally in this country.

With respect to the second question, the answer is "yes," the intent of the amendment was to prevent States with compensation programs from making arbitrary distinction based upon the residency of the victim. In the criminal law, it is established that generally it is the lex loci delicti that applies to criminal acts, rather than the lex loci domicilii. Since H.R. 7010 depends upon the existence of criminal conduct, it would only be logical to assess primary compensation responsibility as among two States by applying this accepted principle of criminal law. The problems inherent in a contrary interpretation only reinforce this conclusion. For otherwise, the State of residency would be saddled with the burden of extra-territorial investigation.

Some States choose now to "follow" their citizens; but their choice should not relieve the State of the crime from its superior responsibility, consistent with the general principle of criminal law, which my amendment sought here to effectuate.

I thank the gentleman for yielding.

Mr. MANN. I thank the gentleman from California for his answers.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Committee amendment: Page 10, line 4, strike out "appropriate State agency" and insert "law of the State;"

The committee amendment was agreed to.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The clerk read as follows:

Committee amendment: Page 10, line 15, strike out "which is criminally punishable and which the" and insert "occurring in a State which is criminally punishable therein and which such"

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7?

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 10, after line 23, insert the following new subsection:

"(c) any act or omission which would be a qualifying crime under subparagraph (A) except that where such crime is any robbery, assault, rape, burglary, kidnaping or homicide (other than involuntary manslaughter) and the commission of which involves the use of a firearm, the offense be punishable by a term of imprisonment of not less than five years and the execution or imposition of the term of imprisonment cannot be shortened by suspension, probation or parole, and which such State designates as appropriate for compensation under its program; and".

And, reletter the succeeding subsection accordingly.

Mr. GOLDWATER. Mr. Chairman, one of the nicest things we can do for the victims of violent crime is to reduce their numbers.

And, one of the nicest things we can do for the taxpayers in connection with this bill is to do something about stunting the program's growth at the beginning.

Mr. Chairman, we can accomplish both of these lauditory purposes with my amendment. It merely stipulates that certain crimes which are committed with a firearm cannot qualify for Federal compensatory money for the victims unless such crimes are punishable by at least 5 years in prison, without possibility of suspension of sentence or parole, except in the case of involuntary manslaughter. Thus, we reduce crime and the dollar amount which will be appropriated for this program in the future, since there will be fewer people who need payments.

For those of my colleagues who are concerned over 10th amendment implications, I would point out that my amendment is no more a limitation on State programs or a dictation of State laws than those seven provisos set down in section 4 of the bill.

Additionally—and in anticipation of possible concern over hapless victims who may not collect benefits because State law does not comply with the Federal qualifier—I would observe that any State which fails to punish criminals whose intention toward the victim is obvious since they used a gun, by at least 5 years behind bars, does not deserve Federal tax dollars to relieve their State tax burden because they are not doing enough at their end to solve the real problem—the perpetrators of violent crime.

My amendment would encourage States to do something about this obvious oversight in their criminal law—although it certainly does not dictate that the States must do so.

In this regard, I do not believe we would be dictating criminal statutes any more than we would be dictating tort liability statutes through the passage of the bill, itself. Participation is not mandatory.

In fact, the committee has already noted in its report that we would encourage States which have not enacted victims compensatory programs to do so. I see my amendment as a logical extension of this sort of Federal encouragement program.

Finally, and most importantly, I believe we are all aware of the shocking percentages of repeat offenders, and the situation in Washington is illustrative of the problem. Consider the following:

One out of every three persons arrested for a serious crime in Washington is convicted;

And if that is not bad enough, only half of those convicted serve any time in prison; and

Yet, 60 percent of those arrested for felonies in Washington have prior criminal records and 25 percent of those arrested for felonies are, at the time of arrest, free on probation, parole, or pretrial release on a pending charge.

Mandatory penalties offer a realistic and much needed solution to such problems, and the records of States which have enacted mandatory penalties bear out my contention. For example:

Florida has enacted a mandatory penalty for the use of a firearm in the commission of a crime. That law is credited by enforcement officials with a 38 percent drop in armed robberies in its first year. Murders involving handguns dropped 21 percent in the same period, and aggravated assaults involving handguns fell 14 percent. In Dade County, murder dropped 36 percent, and the police credited this to the fact that the law removed armed robbers from the streets.

In Arizona, a mandatory penalty for armed robbery committed with a firearm resulted in a 27-percent decrease in gun robberies in Tucson in the first 6 months.

These statistics give us ample reason to believe that mandatory sentencing helps reduce crime and thus its victims. Therefore, if we are going to encourage States to help the victims of crime through compensatory programs, then we ought to really help them by encouraging the States to get their criminals off the streets by adopting my amendment.

Mr. MANN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is a State's right and responsibility to define State crimes and provide punishments for them. I realize that all wisdom resides in Washington and that we have got all the answers to mandatory sentences and probation and parole and the size of sentences and the like. But if this bill is used as a vehicle to impose that wisdom upon the States and to rewrite their criminal laws, then it is a monster, indeed, and this Committee will have striven in vain to limit the requirements of this bill to qualifications that are directly related to the operation of victim compensation programs. It represents a minimum of Federal intrusion into the State's criminal justice systems. But this amendment would destroy that feature of the bill and deeply involve the Federal Government in the operation of the State criminal justice systems.

I can appreciate the gentleman's remarks about the need for strong penalties when a firearm is used in the commission of certain offences. However, these arguments are better addressed to the State legislatures which are rightly charged with providing punishment for such crimes or that committee which is involved with Federal jurisdiction in rewriting the Federal criminal code.

I strongly urge defeat of this amendment.

Mr. WIGGINS. Mr. Chairman, I rise in brief opposition to the amendment.

I will not repeat the Federalism arguments. They are all clear.

This does involve a very significant intrusion into the normal authority of a State to define and punish crimes committed within its own jurisdiction. It is an attempt to move toward mandatory sentences. As a matter of policy I have a certain aversion to mandatory sentences and do not support them in general. But if this Congress were so ill advised as to proceed in that direction, a statute must be carefully drawn. This amendment raises many questions which are unanswered.

What is a firearm? It is not defined.

What may be its use in the commission of a crime is not defined.

Whether or not the firearm was visible to the victim, whether it was used to injure the victim, and whether it was loaded or not are all questions which are quite revelant with respect to sentencing if we seek to do justice, and a mandatory sentence denies a judge the opportunity to consider those factors.

I urge a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 7? If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION

SEC. 8. There are authorized to be appropriated to carry out the purposes of this Act $40,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, and $60,000,000 for the fiscal year ending September 30, 1980.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER. On page 11, strike section 8 in its entirety, and insert in lieu thereof the following:

"SEC. 8. There are authorized to be appropriated to carry out the purposes of the Act $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980."

Mr. VOLKMER. Mr. Chairman, briefly, after the amendments of the gentlemen from California and North Carolina have been adopted, basically all this amendment does is now reduce the program authorization in half, while leaving the administration costs intact. That is the basic purpose of the amendment.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from South Carolina.

Mr. MANN. Mr. Chairman, I think the gentleman's point is well made. I recommend adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 8? If not, the Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE

SEC. 9. Grants may be made under this Act with respect to the fiscal year which ends September 30, 1978, and succeeding fiscal years.

Mr. BLANCHARD. Mr. Chairman, I am pleased today to note the passage by the House of Representatives of H.R. 7010, the Victims of Violent Crime Act of 1977. This act helps States that have programs to compensate the innocent victims of crime by providing financial assistance to the States, and thus crime victims.

As a cosponsor of this bill, and as the author of a similar victim compensation bill introduced in December 1975, I believe this legislation is a significant step toward dealing with a problem which affects many, many individual citizens.

Most importantly, of course, H.R. 7010 marks a shift in the focus of our thinking about crime—a shift toward concern about the innocent victim, and toward the question of what we can do to help him deal with the injustice he has suffered. Over the years, we have seen much attention and theorizing about the motives and problems of criminals; a new emphasis on the problems of their victims is long overdue, and I welcome it.

Because of this shift in focus, H.R. 7010 has a symbolic importance far beyond its immediate practical effect. It is evident that Congress, and the Federal Government, can and will respond to the problem of crime with constructive legislation.

H.R. 7010 contains a number of safeguards to insure good use of the funds it provides. It is limited to actual, out-of-pocket expenses or loss incurred by those who have suffered physical injury or death as a result of a crime; and it does not provide payment to those who are compensated from some other source, such as insurance. Nor does it provide for property loss.

Not only does it provide some remedy for the victim of a violent crime, or his family, but it contains provisions to require those who have been victimized to cooperate fully with the authorities. Hopefully, this will have a positive effect on the actual crime rate as well.

The concept of compensation to victims of crime is one which has already proven workable at the State level. H.R. 7010 seeks to build on that success by funneling Federal funds through the working State programs rather than setting up a duplicative, bureaucracy-ridden Federal program. In all likelihood, it will therefore result in swifter and more efficient help for the people it is designed to serve.

My own State of Michigan is one which will benefit from the assistance H.R. 7010 provides. Michigan has a crime compensation program which will go into effect next week and which, because of the State's problems with unemployment and crime, it will very likely have difficulty in funding fully. The funds which H.R. 7010 will supply may well make the difference for hundreds of families who would otherwise be left helpless, even destitute, through no fault of their own.

I am hopeful that with this legislation moving toward enactment, Congress will be able to turn to other proposals in the area of crime which I have introduced or cosponsored, and which I support.

It is my view that Federal efforts to stop crime should be sharply upgraded, and that they should focus on swift, certain, and stiff punishment of criminals.

To that end, I have supported measures to:

Help States and major local units of governments speed up the trial and disposition of criminal cases.

Restrict bail to those convicted who are awaiting sentencing or appeals, particularly when a violent crime or a repeat offender is involved.

Enact mandatory minimum sentences for certain serious crimes, including the commission of a crime with a firearm and the selling, exporting, or importing of drugs.

Increase funding for the Law Enforcement Assistance Administration, which is the Federal Government's one unique contribution to the fight against crime.

Mr. Chairman, we will not solve the crime problem unless we are willing to invest time and money. Let us follow H.R. 7010 with a tough, balanced series of measures designed to take the initiative away from the criminal element in our society and make our neighborhoods and streets safe again.

Mr. FRENZEL. Mr. Chairman, H.R. 7010, the Victims of Crime Act, is a bad idea carried to ridiculous lengths.

First, it puts unbearable pressure on States to adopt such legislation, or increase existing limits, when they really don't want to do so. If they do not adapt them, the States put their own citizens in the position of paying for other States benefits, but not their own. If the States do adopt such laws, they must conform to federally inspired conditions, and bureaucratically inspired regulations to qualify for those Federal grants.

One of the very worst of all our mistakes here is that what we continually succumb to the temptations to enact legislation that is forced on the States. They know their problems and their resources better than we do. Let us stop being heros for a while, and leave the States alone.

Second, it redistributes wealth in a haphazard or whimsical manner. Victims of accidents or sickness or recessions or droughts do not get these benefits. I believe the Federal Government has a responsibility to protect its citizens from catastrophes beyond their control, but I believe that protection should be afforded on a uniform basis. If a member of our society cannot pay his or her medical bills, we have a program to help. If a wage loss is sustained, there is in most cases a Federal remedy. I think it a grievous mistake to set up another in a series of special interest remedies to special classes.

Third, H.R. 7010 would be unfairly described as an incentive to crime, but it surely is no deterent. The bill will generate more money only if there is more crime. Would it not be better to spend our Federal resources on preventing crime. I believe it would.

Fourth, it ties a Federal grant program to a problem over which we have no control. Most of the crimes are against State and local laws which are supposed to be enforced by State and local governments.

Fifth, it puts another large hunk of Federal money, contributed by all the taxpayers, into the large cities. It is essentially a regional, or, at worst, a big city grant program.

Sixth, H.R. 7010, even though it has some limits, establishes what will come to be an open-ended program subject to annual or biennial increases depending on how popular our members want to be with crime victims. As the committee's dissenting views state: "Clearly, this is a growth program . . ." Estimates of costs range up to $64 million annually after 5 years. There is no way our constituents would want us to vote for this program at a time of high taxes and higher deficits.

In conclusion, it is difficult to find good reasons, other than sympathy to the victims, for this bill. It is the wrong idea, at the wrong level of government. The needs of victims can be handled in other more rational ways. I hope it will be defeated.

Mr. RUSSO. Mr. Speaker, I rise in support of the victims of crime bill, H.R. 7010. The House of Representatives has delayed passage of this important legislation much too long. Our colleagues in the Senate have passed victim compensation proposals before only to watch them languish and die in our Chamber. But this session the House will act first and show the Senate our concern for the innocent who have suffered financial loss from excessive medical bills because of some criminal activity.

Since entering the House of Representatives at the beginning of the 94th Congress, I have actively promoted victim compensation legislation. As a freshman Member of Congress I was the original sponsor of a combined victim compensation/witness assistance proposal. Today's measure differs from mine in its method of distributing financial assistance to the States for their programs. But, the goals both proposals attempt to reach are the same—helping the innocent victim meet his financial obligations and encouraging citizen participation in the criminal justice system.

Victims of crime often suffer much more than the physical pain associated with a knock on the head, a gunshot or knife wound. Medical bills pile up while the victim receives doctors' care and recuperates from his attack, especially when he lacks adequate insurance coverage. The elderly are many times placed in the most financial jeopardy because they have only a little money put away and the cost of a hospital visit will severely cut into their funds, even if they are covered by medicare or medicaid.

Doctor bills and hospital costs are not the only financial problems facing a victim. Time off from work costs money also, the more so when the victim is an hourly wage earner. The greatest loss, though, occurs when the victim dies. How can the surviving family carry on if it loses one of the parents, particularly if the deceased was the breadwinner? The need for a victim compensation law is truly there.

This bill should also encourage citizen participation in the criminal justice system. Before a victim becomes eligible for compensation, he must fulfill two important qualifications—report the crime within 72 hours and cooperate with the law enforcement authorities. Immediate reporting of all crimes would greatly assist police in apprehending criminals. As we have all been told, the hotter the trail, the more likely the police will arrest a suspect. But merely reporting an attack is not where the victim's responsibility stops.

Cooperation with law enforcement authorities after a suspect is arrested is also vital. Suspects must be brought to trial and the guilty convicted if the criminal justice system in this country is to again deter criminals. Only citizen cooperation with the police and the district attorney's office will accomplish this goal.

The bill establishes a fairly simple mechanism to distribute Federal money to qualifying State victim compensation programs. A nine member committee, composed of at least seven people from qualifying State programs and two others, chosen by the U.S. Attorney General will oversee the program. These committeemen will serve without pay but will be reimbursed for travel expenses connected with their work.

As the bill was reported from the Judiciary Committee, the Federal Government would have paid 50% of any award made by a State, up to a maximum of $50,000. Thus, the highest Federal payment to any victim would have been $25,000. However, the House adopted an amendment on the floor which reduced the maximum award to $25,000 and, thus, the Federal share to $12,500. Some Members might view this as fiscally responsible but, in my view, Congress may be saving a few cents now only to spend much more to attack crime through conventional, but not always the most productive, methods. A $50,000 award is a lot of money, but this would be the rare case, the exception, but the case that also requires the higher sum.

I would like to emphasize that the program is not an insurance program. Windfall claims whereby a victim would collect compensation from a private organization and also a State program are eliminated. Any other source of compensation will serve as an offset against a State award. In addition, States may not compensate a victim for "pain and suffering" but only provable out-of-pocket expenses. Property losses are not covered either. This is not an open pocket program but one designed to assist the unfortunate who also help the police.

I know my colleagues will show their support for this proposal and give it the backing it so richly deserves.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have now concluded consideration of this bill and in a moment or two we will be asked to vote upon its adoption. I have maintained from the outset that this bill reflects bad governmental policy; but now as the result of an amendment adopted by the House with respect to a special category of restitution, it also contains some bad law, in my opinion.

I have two reasons now for opposing the bill.

I contrast my concern with that, for example, of the chairman of the full committee. The gentleman from New Jersey (Mr. RODINO) has told us that this bill reflects good policy and sound governmental principles; but if I understood the gentleman correctly, the gentleman felt that the Butler amendment was unconstitutional; so the gentleman now, too, has a reason for opposing the bill.

In short, Mr. Chairman, everybody has a reason now to oppose this bill and on the vote which will occur in just a few moments, I urge that the bill be defeated.

The CHAIRMAN. Are there further amendments to section 9? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, pursuant to House Resolution 601, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 173, not voting 69, as follows:

[Roll No. 616]

YEAS—192

Addabbo
Akaka
Allen
Ammerman
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Boland
Bonior
Bonker
Brademas
Breaux
Brodhead
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Chisholm
Clay
Coleman
Conyers
Corman
Cornwell
Coughlin
Danielson
Davis
Delaney
Dellums
Derwinski
Diggs
Dodd
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Evans, Del.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fraser
Gaydos
Gibbons
Gonzalez
Gore
Gudger
Hagedorn
Hanley
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Howard
Hughes
Hyde
Jacobs
Jenrette
Jordan
Kasten
Kazen
Keys
Kildee
Kostmayer
Le Fante
Lederer
Leggett
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCormack
McDade
McFall
McKinney
Madigan
Maguire
Mann
Markey
Marks
Mattox
Mazzoli
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Moss
Mottl
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Neal
Nix
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Perkins
Preyer
Price
Pritchard
Quie
Rangel
Regula
Richmond
Rodino
Roe
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Schroeder
Schulze
Seiberling
Shipley
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Stark
Steers
Stokes
Studds
Thompson
Thornton
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walker
Walsh
Waxman
Weaver
Weiss
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Tex.
Zeferetti

NAYS—173

Abdnor
Ambro
Andrews, N.C.
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Blouin
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Collins, Tex.
Conable
Conte
Corcoran
Cornell
D'Amours
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Downey
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Ind.
Fithian
Flynt
Ford, Mich.
Fountain
Fowler
Frenzel
Frey
Gephardt
Giaimo
Ginn
Glickman
Goldwater
Gradison
Grassley
Hall
Hamilton
Hannaford
Hansen
Harsha
Hightower
Hillis
Holt
Hubbard
Huckaby
Ichord
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Ketchum
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Lesch
Levitas
Lloyd, Tenn.
Lott
Lujan
McDonald
McHugh
McKay
Mahon
Marriott
Martin
Mathis
Meeds
Michel
Milford
Miller, Calif.
Miller, Ohio
Mollohan
Moore
Moorhead, Calif.
Myers, John
Natcher
Nedzi
Nichols
O'Brien
Panetta
Pattison
Pease
Pettis
Pickle
Pike
Poage
Pressler
Quillen
Rahall
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Roncalio
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Sharp
Shuster
Sikes
Skeen
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Traxler
Treen
Volkmer
Waggonner
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Winn
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—69

Alexander	Gammage	Nolan
Anderson, Ill.	Gilman	Patterson
Boggs	Goodling	Pepper
Bolling	Guyer	Pursell
Bowen	Hammer-schmidt	Quayle
Breckinridge	Holland	Railsback
Brown, Mich.	Horton	Rinaldo
Burke, Calif.	Jeffords	Rose
Burke, Fla.	Johnson, Calif.	Rousselot
Clawson, Del	Johnson, Colo.	Sawyer
Cohen	Kemp	Scheuer
Collins, Ill.	Koch	Sebelius
Cotter	Krueger	St Germain
Crane	Lehman	Staggers
Cunningham	Livingston	Teague
de la Garza	McClory	Tsongas
Dent	McCloskey	Vander Jagt
Derrick	McEwen	Whalen
Dicks	Marlenee	Wilson, Bob
Dingell	Metcalfe	Wilson, C. H.
Dornan	Montgomery	Wolff
Duncan, Oreg.	Murphy, Ill.	Wydler
Evans, Ga.	Murphy, N.Y.	
Fuqua		

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Burke of Florida against.

Mr. Koch for, with Mr. Del Clawson against.

Mrs. Boggs for, with Mr. Crane against.

Mr. Dent for, with Mr. Cunningham against.

Mr. Murphy of New York for, with Mr. Dornan against.

Mr. Pepper for, with Mr. Guyer against.

Mrs. Burke of California for, with Mr. Livingston against.

Mr. Lehman for, with Mr. McClory against.

Mr. Gilman for, with Mr. Quayle against.

Mr. Jeffords for, with Mr. Rousselot against.

Mr. Rinaldo for, with Mr. Sebelius against.

Mr. Whalen for, with Mr. Teague against.

Mr. Gammage for, with Mr. Montgomery against.

Mr. Metcalfe for, with Mr. Bowen against.

Until further notice:

Mr. Cotter with Mr. Sawyer.

Mr. Fuqua with Mr. Anderson of Illinois.

Mrs. Collins of Illinois with Mr. Brown of Michigan.

Mr. de la Garza with Mr. Pursell.

Mr. Holland with Mr. Wydler.

Mr. Murphy of Illinois with Mr. Hammer-schmidt.

Mr. Nolan with Mr. Goodling.

Mr. Patterson of California with Mr. Horton.

Mr. Rose with Mr. Marlenee.

Mr. Scheuer with Mr. Krueger.

Mr. St Germain with Mr. Bob Wilson.

Mr. Staggers with Mr. McCloskey.

Mr. Tsongas with Mr. Railsback.

Mr. Charles H. Wilson of California with Mr. Vander Jagt.

Mr. Alexander with Mr. Crane.

Mr. Breckinridge with Mr. McEwen.

Mr. Johnson of California with Mr. Duncan of Oregon.

Mr. Dicks with Mr. Derrick.

Mr. Evans of Georgia with Mr. Dingell.

Mr. HILLIS and Mr. CAVANAUGH changed their vote from "yea" to "nay."

Mr. HUGHES changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 7010, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment No. 10 thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the Senate amendment to the House amendment to the Senate amendment No. 10.

The Clerk read the Senate amendment to the House amendment to the Senate amendment numbered 10, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 19, 20, and 26 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes."

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 10 to the above-entitled bill with the following amendment:

Page 2, line 6, of the House engrossed amendments to the Senate amendments, after "total" insert: ": *Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall preview such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER. The Clerk will report the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: ": *Providing further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest not authorized to be awarded under the said 1971 Act and shall exclude from his payment such amounts as he determines constitute such interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and I shall not object, I just wanted to ask the gentleman in the well whether this particular amendment, as introduced, is the one worked out with the gentleman from Louisiana, Senator JOHNSTON?

Mr. PHILLIP BURTON. That is correct.

Mr. LAGOMARSINO. Mr. Speaker will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding, and I would like to ask whether this is exactly the same provision as we explained last night.

Mr. PHILLIP BURTON. That is correct, with the addition of the clarifying word "such."

Mr. Speaker, this amendment authorizes the full payment of the awards of the Micronesian Claims Commission under title II of the 1971 act with the exception that the Secretary of the Interior shall exclude from payment that part, if any, of an award which constitutes interest which the Commission was not authorized to award under the 1971 act.

The Commission in determining the amount of its awards in those claims for the taking, use, and damage to privately owned land by the United States, exhaustively reviewed and weighed a multitude of evidence, records, appraisals, and reports to determine the value of the loss as of the date that the loss occurred. It rejected use of present day values which would have been much higher. To these values it added interest from the date of the loss to the date of the award to determine the amount of just compensation to which claimants were entitled.

This method of arriving at a just award was not only authorized by the Micronesian Claims Act, but was required by the act.

The act by its terms authorized the Commission to adjudicate claims and render final determinations" in accordance with the laws of the Trust Territory of the Pacific Islands and international law."

So that there could be no doubt as to the import of this language in the act, House Report 92-226 accompanying the bill stated:

A reference in the bill to international law is useful in furnishing guidance to the Commission on the measure of damages to be applied in meeting claims; . . .

This was a clear directive from the Congress to the Commission to be guided by trust teritory law and international law in determining damages.

At the time this act was passed it was the established law of the trust territory that interest from the date of taking to the date of award or judgment had to be included in determining just compensation where private property had been taken by the trust territory government. The high court had so ruled in 1969 in the leading case of *In re Ngiralois*, 3TTR 303, affirmed 4TTR 517.

It was equally well established under international law that interest is a necessary part of a just indemnification for taking private property. This rule of international law is supported by all the authorities and is universally accepted throughout the free world.

Therefore the law to which the act directed the Commission, required the Commission to include interest in determining just compensation in its awards.

Nowhere within the statute was any contrary direction given to the Commission.

Reference has been made to two sentences contained in Senate Report 92-76. No language, no matter how strong in any congressional report, can be relied upon to rewrite and change the specific language contained within a statute as passed. Only by amendment may a statute be changed.

However, examination of these two sentences confirms that the Commission carried out to the letter the recommendation of each sentence.

The first sentence reads as follows:

The Committee wishes to make clear that the Special Commission shall only consider the valuation placed on these claims as the value of the property at the time of its loss or destruction.

This the Commission clearly did. Its leading decision shows that the Commission painstakingly sought out evidence of the value of property at the time of its loss or destruction. It rejected contentions made to it that present day replacement costs should have been used as a basis for its awards.

The final sentence in the Senate report to which reference has been made reads:

Payment of interest *on awards* is not authorized. (Emphasis added.)

This sentence refers to the duty of the Secretary of the Interior, whose role was defined throughout the act, as being responsible for the payment of the awards determined by the Commission.

The respective roles of the Commission and the Secretary were clearly and consistently defined in the act. The Commission was given authority to determine the amount of awards in accord with trust territory and international law, and was given no authority over the payment of its awards. The Secretary was given the duty and authority to pay the awards of the Commission and was given no authority to interfere or be involved in the determination of the awards.

This last sentence in the Senate report referring to payment in no way can be construed to affect the authority given in the statute to the Commission to adjudicate and determine the awards.

Furthermore, and extremely important to the issue, are the precise words used by the Senate which specifically refer to interest "on awards." No reference is made to the inclusion of interest in determining just compensation in an award. Yet this is a distinction universally recognized in the law.

Use of interest from the date of taking or loss to the date of award is termed "compensatory interest" and its inclusion is required to determine just compensation.

Interest running on an award from the date the award is issued until the date of payment is termed "moratory" interest. The leading authority on the international law of claims makes this unequivocal statement:

It is necessary to differentiate between interest as a part of an award and interest on an award. The cases show a marked difference in the handling of these situations. *III Whiteman, Damages in International Law, pp. 1913.*

The same authority has pointed out that even where a treaty expressly states that interest shall not be payable on awards, this does not preclude the allowance of interest to affix just compensation as a part of the award.

The Commission followed this rule of international law and properly differentiated the two classes of interest. The Commission in its leading decision on the issue quoted the language in the Senate report verbatim, and on the basis of that language ruled that interest was not to be paid on its awards.

The Commission carried out its mandate given by the 1971 act to follow the law in determining the amounts of its awards. This required the inclusion of interest in its awards on claims where private property had been interfered with by the Government. It followed to the letter the recommendation of the Senate and denied interest on its awards.

The Commission's formula in determining just compensation by using the values of property at the time of the loss and adding interest to the date of the award followed its authorization under the act. Therefore this amendment allows the Secretary to determine that no unauthorized interest was actually awarded because the formula used—which included interest—actually represented just compensation based on fair value at the time of loss.

There is no rational basis to conclude otherwise.

In 1971, it was the Foreign Affairs Subcommittee on International Organizations and Movements which held the House hearings on the Micronesian Claims Act and approved what ultimately was the final language in the bill. My colleague, DON FRASER, chaired that subcommittee and it was he who also served as floor manager in the House for the bill. He has written to me a letter which sets forth his view of the issue at stake here. I concur with his conclusions and insert into the RECORD at this point a copy of his letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 30, 1977.

Hon. PHILLIP BURTON,
Chairman, Interior Subcommittee on National Parks and Insular Affairs, Longworth House Office Building, Washington, D.C.

DEAR PHIL: I am informed that a question has arisen concerning the intended authorization given to the Micronesian Claims Commission in determining its adjudication and final determinations.

The Act by its terms gave specific authorizations to the Commission to adjudicate and render final decisions, "in accordance with the laws of the Trust Territory of the Pacific Islands and international law . . ."

In the House Report 92-226 accompanying the resolution, we made the following recommendation concerning this: "A reference in the bill to international law is useful in furnishing guidance to the Commission on the measure of damages to be applied in meeting claims; . . ."

It is clear from this language that we directed the Commission to be guided by trust territory and international law in determining damages.

The law of the Trust Territory is clear that interest from the date of taking to the date of judgment must be included in determining damages where private property was taken by the Trust Territory Government.

The rule of international law has been summarized as follows: "Interest according to the usage of nations is a necessary part of a just national indemnification." This is universally recognized in the Free World.

Therefore the law to which the Commission was directed for guidance clearly required the inclusion of interest from the date of loss to the date of award in those cases where government interference with private property was at issue.

Neither the Act itself nor the House Report made reference to whether the Secretary of the Interior should compute and pay interest on the awards issued by the Commission from the date the award was issued until payment was finally completed. Under 28 USCA 2411 such interest does run on judgments against the United States. In Senate Report 92-76 a recommendation was included that "Payment of interest on awards is not authorized." The Commission quoted this statement and based on this language determined that interest would not be paid on the awards, and, in fact, no interest has been paid on any award issued by the Commission.

As pointed out clearly by the authorities on international law, interest included in an award to fix just compensation is very different from interest paid on an award, and these two matters have consistently been differentiated and treated differently.

Therefore, it is clear that the Commission followed the law to which it was directed by including interest in its determination of the amounts of its awards; and it followed the direction of the Senate Report in denying payment of interest on awards.

Sincerely,

DONALD M. FRASER.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

A motion to reconsider was laid on the table.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 800 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 800

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9354) to amend the Act of August 25, 1958, with respect to staff allowance for former Presidents. After general debate, which shall be confined to the bill and shall continue

not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 800 provides for the consideration of H.R. 9354, to amend the Former Presidents Act of 1958, with respect to staff allowances for former Presidents. It is an open rule providing for 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. The rule is noncontroversial and it was reported from the Committee on Rules by a voice vote.

The purpose of H.R. 9354 is to increase the authorization for staff assistance for the 30-month period immediately following the expiration of Transition Act funds from the present $96,000 per year to $150,000 per year. According to the Committee on Post Office and Civil Service, the authorization for former President's staff assistance was last increased in 1970 to the present $96,000 from $80,000. Recently, former President Ford communicated to the House leadership the need for this additional funding pending the expiration of the Transition Act funds on September 30, 1977.

An earlier bill, H.R. 9278, which would have provided annual comparability pay increases for staffs of former Presidents as well as the increased staff allowance for 30 months, failed on September 27, 1977 to receive the necessary two-thirds votes needed to suspend the rules.

Mr. Speaker, I urge the adoption of House Resolution 800 so that the House may proceed to the consideration and passage of the bill, H.R. 9354. I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman has stated that this is a straight 1-hour, open rule permitting the consideration of H.R. 9354, legislation providing staff allowances for former Presidents.

The bill increases the funds authorized to pay salaries for staff of former Presidents for the 30-month period following expiration of Transition Act funds from $96,000 per year to $150,000 per year. Since the General Accounting Office has determined that funds under that act for former President Ford are available only until September 30, 1977, this bill becomes effective October 1, 1977.

A similar but, I emphasize, not identical measure, H.R. 9278, failed to pass under suspension of the rules on September 28, earlier this week. That legislation contained a cost of living escalator clause for the Presidential staff which has been deleted from the bill we are about to debate, H.R. 9354.

Mr. Speaker, we are only talking about, as I figure it, $81,000, and if we get into a protracted debate, it will cost us more money to talk about it than to provide funds for the former President in order to answer his letters. There are no funds in this bill for former President Nixon. For the life of me, even if the President were to respond to inquiries on something like the Panama Canal I cannot understand why, when he has not been out of office for 1 full year, he should not have these funds.

Therefore, I urge the adoption of the rule and the ultimate passage of the legislation.

Mr. YOUNG of Texas. Mr. Speaker, I concur with the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman has said that there are no funds in this bill for former President Nixon. Was the staff of the former President, Mr. Nixon, taken out of this legislation for the simple purpose of getting votes to get this passed?

Mr. LOTT. I cannot say for sure that that was or was not the case. However, that was one of the objections that was raised, as I understand it, in discussion on the floor on the 28th. So it was felt that it would be necessary to make this change to get the necessary funds for the former President to have a staff to answer the mail, and that maybe there should not be this escalator clause for cost-of-living increases for staff, for either staff. It is not discriminatory because it applies equally to all former Presidents.

Mr. BAUMAN. I tend to agree with the gentleman that if either former President, or any former President, has a right to these additional funds for their staffs based upon a cost-of-living increase, they all should get it. I think it is the height of politics to single out one former President and make a political judgment about whether he should be treated differently. If that was the basis for Mr. Nixon's staff being removed, it seems to me Mr. Ford's activities dealing with the Panama Canal are also a relevant political consideration.

Mr. LOTT. I personally regret that it was done, but it was my understanding that it would apply equally to both, so I think there is no discrimination to these two former Presidents and to future former Presidents. So it is equally applied to all of them.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9354) with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. UDALL. Mr. Chairman, earlier this week a similar bill obtained a majority on a record vote here in the House, 211 to 203, but did not have a two-thirds majority under the suspension-of-the-rules procedure, so we bring the bill back today with one minor change.

Let me put this in perspective, if I may. Until the Kennedy, Johnson, and Nixon years, there were not even any transition funds for former Presidents. Prior to that time, when Presidents left office, with all of the burdens and all of correspondence and all of the contacts to keep up, they were on their own.

Late in the 1950's, we passed transition legislation which gave some money, some funds, both to the incoming President to make arrangements before he took office, and to the outgoing President for a period of time. The transition funds available to former President Ford expire today. He is our ex-President. He is a former member of this House. He is an outstanding American, and he has a right to have some kind of reasonable staff support.

There is existing in the law today a provision which gives all former Presidents $96,000, not for themselves but for staff. So effective tomorrow, President Ford would get, as former President Nixon now gets, $96,000 a year for staff.

This bill makes one minor change. It says that for 30 months from the time transition money runs out for any ex-President, the period when the demands are most severe, the period when the most correspondence is coming in, we will increase that from $96,000 to $150,000. That is all this bill does.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

I read in the paper that the former President was getting a good deal of mail in recent weeks. Could the gentleman give me some information on how much mail he is receiving?

Mr. UDALL. I do not have the precise information, but we were told that President Ford today is handling about 250 pieces of mail a day, plus 25 invitations, and has had other requests, and that the postage used in the transition period amounted to about $11,000.

Mr. STRATTON. Does the gentleman know what percentage of that increase in mail is due to the stand that the former President took on the Panama Canal?

Mr. UDALL. I would suppose that a considerable part of it is due to that. But I would hope that we would view our ex-Presidents as outstanding citizens and that we would not judge this legislation, or the necessary staff allowances, on what controversies might be current today or in 6 months or in a year and 6 months.

Mr. STRATTON. If the gentleman would yield to me 1 minute further, the practical effect would be, would it not, that we would be financing his replies in support of the Panama Canal treaty, which I believe is contrary to the views of most of the Members of this body.

Mr. UDALL. The gentleman can take a different position from the views expressed by former President Nixon or former President Johnson, when he was alive, and say each year that we are going to look very carefully at the positions they have taken or the things they have said and then, based on those positions, we are going to deny them or not deny them their staff allowances. I think it would be ridiculous, but we can take the same position here. Where there are Members we do not agree with, such as on the Panama Canal treaty, we should cut off their allowances. I think it is equally ridiculous to take that position with the ex-Presidents.

Mr. STRATTON. I think in this case we are financing propaganda on this particular subject. It is not the kind of mail a former President would ordinarily get. It is because he has injected himself into this particular controversy.

Mr. UDALL. I do not know an ex-President in my memory who did not take a position on current issues. I think it would be an appalling precedent to say that any time funding or staff support for a former President is to be considered, we are going to raise the question whether his positions are in accordance with our own.

We give former Members of this House the franking privilege for 90 days after they leave the House. We provide that in closing out his business, including handling of his mail, he should have some franking privileges. Should I ask, when the gentleman from New York leaves this House, that he should have this privilege only if his views are in accordance with mine?

Mr. STRATTON. The gentleman just indicated that the limitation runs out in 90 days. The time has run out, and I think we have met our obligations to the ex-Presidents.

Mr. UDALL. There is a law on the statute books, which has been there for more than a decade, which says that any former President gets funds for staff. We are seeking to change that in one respect and create an initial period of 2½ years right after the transition act funds expire in which we give them a little extra staff support.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I would like to have the gentleman's opinion. There has been a considerable question about the ownership of a President's papers after he has left his office. Does that still apply when public funds are used to administer that correspondence, or what is the position of the House with respect to this correspondence which has been financed by Federal funds?

Mr. UDALL. I cannot respond to the gentleman except to say this legislation has nothing to do with that separate and important problem. We simply say to an ex-President:

> You may have a reasonable amount of extra staff within 30 months after your transition money runs out.

I do not think it has anything to do with the question the gentleman from Pennsylvania raises.

Mr. GARY A. MYERS. If the gentleman will yield further, it seems to me the House has not adequately addressed that problem in that a former President was dealt with much differently than other former Presidents recently with respect to property rights, and perhaps or maybe we are not on firm ground in not indicating to the Presidents as they move out what the implication is of their accepting these funds.

Mr. UDALL. The House may want to address that problem. What I am saying is I do not think this is the forum in which we should do so.

Let me quickly make one other point. The other day there was great confusion and we had only a few minutes in which to vote on this matter. Some of my friends thought we were doing something to solve the Panama Canal problem by kicking Jerry Ford.

The other thing I heard was we were rewarding former President Nixon somehow. Thus, we made one change. In that earlier bill the $96,000 allowance to former President Nixon was augmented by the annual cost-of-living allowance all Federal employees will receive tomorrow.

In this bill that has been removed, so we can say flatly that former President Nixon, however we might feel about him, will not get a dime of extra staff support or postage or anything else out of this legislation; so I hope that old bogey can be put to rest today.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I congratulate the gentleman from Arizona on what I consider to be a very enlightened statement. His view reflects my position on this issue.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. BRODHEAD. Mr. Chairman, it seems to me that the argument that Mr. Ford might use some of this money to answer his mail about the Panama Canal is probably the best argument in favor of the bill, because if that is what the case is, then clearly he is continuing the business that he carried on when he was President. As President, Mr. Ford played a leading roll in bringing this treaty to a conclusion but, he was not able to finalize it as he wished; but it really was his effort and he is carrying on that effort, as we would expect him to do as an honorable man who carrys out his commitments. Since that is the case, I am going to vote in favor of the bill.

Mr. UDALL. Mr. Chairman, I commend the gentleman for that.

Mr. Chairman, I think there is a time for partisanship and certainly all of us go through those periods and stages when partisanship rears its head and that is necessary in our system; but this is not the time nor the place. President Ford is an honorable man. He was chosen President of the United States and for his former colleagues to be vindictive and deny him an adequate staff allowance, really, would be a poor decision for us to make.

Let me put it in perspective. Each Member of this House has a staff allowance, something like $255,000 to $260,000 a year. Here for a former President of a nation of 215 million people, we are going to give him for the next 2½ years an annual staff allowance of less than two-thirds of what a Member of the House of Representatives has. I think it would be a shame if we did not vote this through today. It is strongly supported by the Speaker and by the leadership on both sides.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I was going to inquire as delicately as I know how why the bill was not referred to the committee and why it did not have proper committee action on it before it was brought to the floor.

Mr. UDALL. Mr. Chairman, I say to my friend, I agree that it is a lousy procedure. I have said in the past that I do not like to bypass committees.

We had a time problem. The transition money runs out today, so we are trying to act quickly, because the former President continues to need an adequate staff. That was the purpose of bypassing the committee.

I also thought this was noncontroversial and no one would raise that issue.

Mr. HARRIS. Mr. Chairman, will the gentleman yield further?

Mr. UDALL. I yield to the gentleman.

Mr. HARRIS. Mr. Chairman. I would note for the record that the full committee was, in fact, having its full committee meeting on Wednesday, the same day the revised bill was introduced. I just wonder why it was not brought to the full committee.

Mr. UDALL. There is a further complication. The passage of a bill does not do a bit of good unless you get an appropriation. There is a supplemental bill in process and we wanted to get this passed so it would be included in the appropriation bill.

Mr. HARRIS. Mr. Chairman, I will cast my vote against H.R. 9354 today, a bill to increase the funds for retirement, clerical assistance, and free mailing privileges for former Presidents. I am not necessarily opposed to the bill, but I am very much opposed to the way this bill has been brought before the House.

We have in the House of Representatives a well-established deliberative procedure that has proved itself over many years to be a responsible way of developing public policy. Quite simply, that is the hearing, markup, reporting process of our House committees. As we all know, this bill was not the subject of hearings in the House Post Office and Civil Service Committee, on which I serve, or any other committee. The bill was not marked up; it was not reported.

An almost identical bill, H.R. 9278 was introduced on September 23. Last Tuesday, September 27, it was brought before the House on the suspension calendar. It failed on a 211-to-203 vote—not the two-thirds majority required under the suspension calendar's expedited procedures. Then, just 2 days ago, H.R. 9354 was introduced. The Post Office and Civil Service Committee met that very day, but there was no discussion of this bill. It was not on the committee's agenda.

I understand that today's bill differs from the previous bill because it does not include comparability allowances for staff. Quite frankly, I am not sure how it is different because I just got the bill this morning. And now today, we are being asked to vote on it again.

I do not know whether this bill is meritorious or justified. Since there have been no hearings, since there is no committee report, I, as a member of the committee and the House, do not have sufficient information to make a judgment. I understand that the last time the former Presidents' allowance was increased was in 1970 because I have read the debate of last Tuesday. But I do not know how many staffers our former Presidents have or need, what their salaries are, whether those salaries are appropriate; what our former Presidents' mailing expenses are and whether they are justified. According to the House debate on Tuesday, former President Ford will receive $64,600 and former President Nixon will receive $6,800, that is, under the bill we considered Tuesday, H.R. 9278. Very simply, I cannot vote for this bill until some of my questions are answered in the committee forum.

I am not opposed to compensating former Presidents and their staffs. And I am sure that had an emergency been presented to the committee, we could have had a hearing and acted promptly. Our system is such that we are able to handle emergencies; we can act quickly if need be.

Former President Ford's request is probably reasonable. The bottom line here, however, is that this is no way to legislate. The legislative process is orderly, careful, sound, and responsible. I am disappointed it has not been adhered to today.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in view of the dissatisfaction shown Tuesday with legislation to update the staff allowance for former Presidents, it was obvious some adjustments had to be made. The bill before us, H.R. 9354, is a streamlined version which deserves the prompt approval of the House.

This bill amends the former Presidents Act of 1958 in one simple manner: It provides an increase in the staff allowance of former Presidents from $96,000 to $150,000 for a 30-month period, whereupon the staff allowance reverts to its current level of $96,000.

As written, the bill amends the staff allowance for only one former President, that is President Ford. The official duties attendant to him and the demands which require adequate staff assistance for his official functions were well detailed earlier and I will not dwell upon them.

This bill amends the Former Presidents Act for the first time in 7 years. It is obvious the $96,000 staff allowance written into law in 1970 has depreciated through inflation to the point where it does not sufficiently provide the necessary staff assistance. An increase of $54,000 at this time is I believe justified in terms of current Federal salaries.

It should be clearly understood that none of these funds are used for the personal benefit of the former President. It is for staff assistance only. And, further, this sum is authorized only for a 30-month period, at which time it will drop back to $96,000.

I therefore urge my colleagues to accept this modest adjustment in the law.

Mr. Chairman, I have one or two more statistics for the Members. Ex-President Ford's staff will be reduced from 14 to 11 members effective October 1. I am also advised that in addition to the funds in this bill, it is necessary for the former President to underwrite expenses of approximately $60,000 over and above what is allocated under this measure. So, it is not a situation where we are providing an exorhibitant sum of money which is wasted. As a matter of fact, the five secretaries employed by Mr. Ford receive a salary of $8,300 per year each. I would daresay that it would be difficult to find a secretary on Capitol Hill earning less than $8,300.

Mr. Chairman, I also wish to commend the gentleman from Arizona (Mr. UDALL) for his great statesmanship this afternoon. As far as I am concerned, he is always one of the great statesmen of the House. If he had been less of a statesman and more of a partisan he probably would have done better in Democrat primaries and would today be our President, but because of his great statesmanship he is merely one of the unsung leaders of the House of Representatives.

Now, in a spirit of bipartisanship, I yield to another great Member of this body from the State of Arizona, the distinguished minority leader (Mr. RHODES), for whatever time he may consume.

Mr. RHODES. I thank the gentleman from Illinois.

Mr. Chairman, I certainly hope and I trust that this bill will be adopted. The former President of the United States, Gerald Ford, has been in contact with me and with the Speaker, and he assures us, No. 1, that the money is needed; and No. 2, that the staff is not excessive.

I would like to inform the House as to just what this money would be used for by reading information which has been provided by the President's staff. The budget for the President's transition office and his personal staff is as follows:

Robert Barrett, chief of staff, $47,500;

Richard Wennekamp, $39,600;

Two staff people, one of which is office manager at $26,600 and one of which is staff assistant at $22,800;

Five secretaries at $8,300 each;

Assistant office manager, $12,100;

And one staff person to handle liaison with archives, logistics and scheduling, $16,000.

The total staff compensation is $206,000.

Mr. Wennekamp has budgeted $145,700 beginning October 1 out of Former Presidents Act funds. The remaining $60,000 would come from Mr. Ford's funds. The $4,000 remaining of the $150,000, should this bill be enacted, would be set aside for appropriate staff pay increases.

Mr. Wennekamp will stay on another 6 months, so that the fiscal year 1978 annual payroll expense is $186,400.

I thought it important to put these amounts in the RECORD so that the Members of the House will be aware of the pay schedule of these individuals. I think we will see that the former President is no more willing to spend the taxpayers' money willy-nilly now than he was as a distinguished member of the Appropriations Committee of the House. Any Member who served with him when he was a member of that committee will certainly recall, as I do, that he was far from being a big spender; in fact, he was often thought to be rather penurious. I think he probably still is.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. KREBS. I appreciate the gentleman yielding to me.

Mr. Chairman, let me say that I will vote for this legislation. I think it is only fair, and I am basing it, frankly, as a Member of this House to which the distinguished former President referred to as a "billion-dollar Congress." I really would hope that, in light of the former President's own experience, in the future he might want to think twice before he criticizes this Congress as being a billion-dollar Congress, because we have some problems too.

Mr. DERWINSKI. I thank the gentleman for his contribution.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, I certainly hope this bill is adopted. The former President was in town quite a few days ago, and we talked about this great problem. He told me that he is averaging 8,000 letters a week.

He is the former President of the United States. The office of President of the United States is the highest position in the world today. There are many

things that we do not do for our former Presidents. We should keep up the prestige of the Presidency.

We should not be influenced by the statements that the gentleman from California (Mr. KREBS) just mentioned. These were made at the height of political activity.

Let us consider the individual, and the office of the Presidency. We are only dealing with a matter of 6 months during this transition period.

I certainly urge that the bill be passed.

Mr. DERWINSKI. Mr. Chairman, it is a pleasure to listen to the tender Irish brogue of the Speaker.

I now yield to the possessor of a Midwestern melodious voice, the gentleman from Illinois, (Mr. MICHEL) the distinguished whip.

Mr. MICHEL. Mr. Chairman, I rise in support of this bill and hope to allay any feelings that may rest in the mind of the gentleman from New York (Mr. STRATTON) as a result of the exchange he had earlier with the gentleman from Arizona (Mr. UDALL). I took the occasion to phone Mr. Dick Wennekamp to find out for sure just how many letters the former President has received with respect to the Panama Canal. I did this because it just so happens that this gentleman is at odds with the former President's position on this issue. It would concern me, too, if taxpayers' money in great amounts were being used to influence unduly the general public.

I discovered as a result of our conversation that there have been only 600 letters that the President has received concerning the Panama Canal issue. Ninety percent of them came within the 14-day period immediately following his announced support of the canal treaty, which suggests that it has trailed off considerably since then.

I would think that the argument that these funds would be used to sell the treaty certainly would not hold water as reason to oppose this bill. I am sure the gentleman from New York, as reasonable as he is, would also have to concede that our former President's position on the Panama Canal Treaty ought not be a factor here today.

Mr. DERWINSKI. Mr. Chairman, I have no further requests for time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 9354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of the first section of the Act of August 25, 1958, entitled "An Act to provide retirement, clerical assistance, and free mailing privileges to former Presidents of the United States, and for other purposes", as amended (3 U.S.C. 102 note) is amended by inserting after "$96,000 per annum" the following: except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum".

SEC. 2. The amendment made by the first section of this Act shall take effect October 1, 1977.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, that the text be printed in the RECORD, and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have come a long way from the days when Ulysses S. Grant sat on the front porch of his home in New York, dying of throat cancer, writing out his memoirs in longhand so that his family would not be left in poverty.

I do not think any of us disagree with upholding the honor of former Presidents and the office that they once held. Nor do we disagree with providing them with sufficient funds that they may need to conduct their legitimate public activities. In a different context, I think this legislation is a case history in something that the leadership of this House never seems to learn; that if you try to sneak something through, you usually get into trouble.

The gentleman from Virginia raised the question why, if a former President had legitimate need to increase his official expenditures, he could not have a bill introduced by whomever he wished, have hearings, if necessary, and treat it in the usual manner with the subcommittee action, committee action, and floor action, all with due notice. But every time you try to sneak a goody through here, something like this happens.

The other day when it was brought up, without notice, the gentleman from Arizona (Mr. UDALL) said, and I quote:

> For instance, I understand that President Ford has received and will respond to tens of thousands of letters on the issue of the Panama Canal Treaty alone.

Now the gentleman from Illinois (Mr. MICHEL) has just corrected that. I assume that the latest information, as in a court of probate, is the best information, and I will accept that. But it did give pause to a great many of us to know that that might be the sole purpose for increasing the funding. I do not believe the former President's stand is either consistent with the Panama Canal position of the Republican Party's national platform nor do I think it is proper for us to finance propaganda on this issue, however much others might feel that way.

I might add that I hope the former President understands any opposition that any of us may have expressed was not directed at him personally nor in any way impugns the loyalty we have for him or the friendship we have for him.

Mr. Chairman, I hope the former President will adopt the attitude that he had toward another former President, and I can only ask him to pardon me.

The CHAIRMAN. Are there any amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents, pursuant to House Resolution 800, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 95, not voting 77, as follows:

[Roll No. 617]

YEAS—262

Abdnor	Delaney	Le Fante
Addabbo	Dellums	Leach
Akaka	Derwinski	Lederer
Ambro	Devine	Leggett
Ammerman	Dickinson	Lent
Andrews, N.C.	Dodd	Levitas
Andrews, N. Dak.	Downey	Lloyd, Calif.
	Drinan	Long, La.
Annunzio	Duncan, Tenn.	Long, Md.
Archer	Eckhardt	Lott
Armstrong	Edgar	McCormack
Ashley	Edwards, Ala.	McDade
Aspin	Edwards, Calif.	McFall
Badham	Eilberg	McHugh
Badillo	Emery	McKay
Bafalis	Erlenborn	McKinney
Baldus	Evans, Colo.	Madigan
Baucus	Evans, Del.	Mahon
Beard, Tenn.	Fary	Mann
Bedell	Fascell	Marks
Bellenson	Fenwick	Marriott
Biaggi	Findley	Martin
Bingham	Fish	Mattox
Blanchard	Fisher	Mazzoli
Blouin	Flippo	Meeds
Boland	Flood	Meyner
Bonior	Flowers	Michel
Bonker	Foley	Mikva
Brademas	Ford, Mich.	Milford
Breaux	Ford, Tenn.	Miller, Calif.
Brodhead	Forsythe	Miller, Ohio
Brooks	Fountain	Mineta
Broomfield	Fowler	Minish
Brown, Calif.	Fraser	Mitchell, N.Y.
Brown, Mich.	Frenzel	Moakley
Brown, Ohio	Gephardt	Moffett
Broyhill	Giaimo	Moore
Buchanan	Goldwater	Moorhead, Calif.
Burgener	Gonzalez	
Burke, Mass.	Gradison	Moorhead, Pa.
Burleson, Tex.	Gudger	Murphy, Pa.
Burton, John	Hagedorn	Murtha
Burton, Phillip	Hamilton	Myers, John
Butler	Hanley	Myers, Michael
Carney	Hannaford	Natcher
Carter	Harrington	Nedzi
Cavanaugh	Hawkins	Nix
Cederberg	Heckler	Nowak
Chappell	Hillis	O'Brien
Chisholm	Hollenbeck	Oakar
Clausen, Don H.	Howard	Oberstar
	Huckaby	Obey
Cochran	Hyde	Ottinger
Coleman	Ichord	Panetta
Conable	Jenrette	Patten
Conte	Jones, N.C.	Pattison
Conyers	Jordan	Pease
Corcoran	Kasten	Perkins
Corman	Kastenmeier	Pettis
Cornell	Kazen	Pickle
Coughlin	Ketchum	Pike
Daniel, Dan	Kindness	Poage
Daniel, R. W.	Krebs	Preyer
Danielson	LaFalce	Price
Davis	Lagomarsino	Pritchard

Quie	Sharp	Vento
Quillen	Shipley	Waggonner
Rangel	Sikes	Walker
Regula	Simon	Walsh
Reuss	Sisk	Wampler
Rhodes	Skubitz	Waxman
Risenhoover	Slack	Weaver
Robinson	Smith, Iowa	Weiss
Rodino	Solarz	White
Roe	Spence	Whitehurst
Rogers	Stanton	Whitten
Roncalio	Stark	Wiggins
Rooney	Steed	Wilson, Tex.
Rosenthal	Steiger	Winn
Rostenkowski	Stokes	Wirth
Roybal	Taylor	Wright
Rudd	Thompson	Yates
Runnels	Traxler	Young, Alaska
Ruppe	Treen	Young, Fla.
Russo	Tucker	Young, Mo.
Ryan	Udall	Young, Tex.
Sarasin	Ullman	Zablocki
Schulze	Van Deerlin	
Seiberling	Vanik	

NAYS—95

Allen	Grassley	Mottl
Anderson, Calif.	Hall	Myers, Gary
Applegate	Hansen	Neal
Ashbrook	Harkin	Nichols
AuCoin	Harris	Pressler
Bauman	Hefner	Rahall
Beard, R.I.	Heftel	Richmond
Benjamin	Hightower	Roberts
Bennett	Holt	Santini
Bevill	Holtzman	Satterfield
Brinkley	Hughes	Schroeder
Burlison, Mo.	Ireland	Shuster
Byron	Jacobs	Skelton
Caputo	Jenkins	Smith, Nebr.
Carr	Jones, Okla.	Snyder
Cleveland	Jones, Tenn.	Spellman
Collins, Tex.	Kelly	Stangeland
Cornwell	Keys	Steers
D'Amours	Kildee	Stratton
Early	Kostmayer	Studds
Edwards, Okla.	Latta	Stump
English	Lloyd, Tenn.	Symms
Ertel	Lujan	Thone
Evans, Ind.	Luken	Thornton
Fithian	Lundine	Trible
Florio	McDonald	Volkmer
Flynt	Maguire	Walgren
Gaydos	Markey	Watkins
Ginn	Mikulski	Whitley
Glickman	Mitchell, Md.	Wylie
Gore	Mollohan	Yatron
	Moss	Zeferetti

NOT VOTING—77

Alexander	Fuqua	Montgomery
Anderson, Ill.	Gammage	Murphy, Ill.
Barnard	Gibbons	Murphy, N.Y.
Boggs	Gilman	Nolan
Bolling	Goodling	Patterson
Bowen	Guyer	Pepper
Breckinridge	Hammer-schmidt	Pursell
Burke, Calif.	Harsha	Quayle
Burke, Fla.	Holland	Railsback
Clawson, Del	Horton	Rinaldo
Clay	Hubbard	Rose
Cohen	Jeffords	Rousselot
Collins, Ill.	Johnson, Calif.	Sawyer
Cotter	Johnson, Colo.	Scheuer
Crane	Kemp	Sebelius
Cunningham	Koch	St Germain
de la Garza	Krueger	Staggers
Dent	Lehman	Stockman
Derrick	Livingston	Teague
Dicks	McClory	Tsongas
Diggs	McCloskey	Vander Jagt
Dingell	McEwen	Whalen
Dornan	Marlenee	Wilson, Bob
Duncan, Oreg.	Mathis	Wilson, C. H.
Evans, Ga.	Metcalfe	Wolff
Frey	Moorhead, Pa.	Wydler

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Sawyer.
Mr. Wolff with Mr. Anderson of Illinois.
Mr. Bowen with Mr. Goodling.
Mr. Montgomery with Mr. Horton.
Mr. Koch with Mr. Marlenee.
Mr. Dent with Mr. Bob Wilson.
Mr. Murphy of New York with Mr. McClory.
Mr. Pepper with Mr. Railsback.
Mr. Lehman with Mr. Vander Jagt.
Mr. Teague with Mr. Crane.
Mr. Cotter with Mr. McCloskey.
Mr. Fuqua with Mr. Burke of Florida.
Mrs. Collins of Illinois with Mr. Cohen.
Mr. de la Garza with Mr. Dornan.
Mr. Nolan with Mr. Frey.
Mr. Patterson of California with Mr. Gilman.
Mr. Rose with Mr. Sebelius.
Mr. Staggers with Mr. Del Clawson.
Mr. Evans of Georgia with Mr. Rousselot.
Mr. Dingell with Mr. Pursell.
Mrs. Burke of California with Mr. Cunningham.
Mr. Derrick with Mr. Stockman.
Mr. Diggs with Mr. Quayle.
Mr. Murphy of Illinois with Mr. Wydler.
Mr. Alexander with Mr. Whalen.
Mr. Breckinridge with Mr. Guyer.
Mr. Clay with Mr. Hammerschmidt.
Mr. Dicks with Mr. Harsha.
Mr. Gammage with Mr. Livingston.
Mr. Gibbons with Mr. McEwen.
Mr. Holland with Mr. Barnard.
Mr. Hubbard with Mr. Johnson of California.
Mr. Mathis with Mr. Kemp.
Mr. Metcalfe with Mr. Krueger.
Mr. Charles H. Wilson of California with Mr. Tsongas.
Mr. St Germain with Mr. Scheuer.
Mr. Duncan of Oregon with Mr. Rinaldo.

Messrs. MARKEY, COLLINS of Texas, and NICHOLS changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 9354

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the bill, H.R. 9354, be authorized and directed to make such technical corrections as may be required.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COMMEMORATING GEN. THADDEUS KOSCIUSZKO BY PRESENTATION OF A MEMORIAL PLAQUE TO POLAND

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 573) commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, I rise in support of the resolution. This is a worthy undertaking, long overdue, and historically accurate. I commend the gentleman of the House Committee on International Relations for bringing the measure to the floor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I was going to ask my friend, the gentleman from Illinois, how large a delegation would be required to take this plaque to Warsaw, in view of the fact that it took a rather large delegation to go to England to receive the Magna Carta. Does the gentleman have any information on that?

Mr. DERWINSKI. All I can say to the gentleman from Ohio is that the delegation that went to England excluded our illustrious Speaker and he deserved that trip. Any of us who make the trip to Warsaw deserve the same courtesy.

Mr. ASHBROOK. I thank the gentleman from Illinois for his usual very lucid reply.

Mr. BOLAND. Mr. Speaker, I strongly support the authorization of the presentation of a plaque honoring Gen. Thaddeus Kosciuszko as a gift to the people of Poland from the people of the United States. The selflessness and devotion to the principles of freedom and honor which so characterized the life of this gallant soldier have long served as an inspiration to many of our citizens.

During the Revolutionary War, when the needs of our Nation were so great, General Kosciuszko volunteered to leave his native Poland and join the Continental Army. His important contribution to the victory over the British at the battle of Saratoga was a significant factor in the ultimate triumph of the Continental forces. It seems appropriate that as the 200th anniversary of that battle approaches, we who have enjoyed the fruits of victory should honor those who were its architects.

Just as General Kosciuszko is a symbol of freedom in the United States, so too is his memory an expression of that ideal in Poland. Twice taking up arms on behalf of Polish liberty, he attempted by word and deed to lead his people in their struggle against domination by other nations. His humanitarian actions on behalf of serfs in Poland and slaves in the United States is further proof that his belief in the freedom of men was deeply held.

Mr. Speaker, as a cosponsor of the legislation authorizing the presentation of this gift, I want to commend the American Council of Polish Cultural Clubs for reminding us of our debt to General Kosciuszko. I hope that the plaque expressing our appreciation to him will serve not only to honor his memory but to further strengthen the bonds of friendship which he forged between the people of Poland and the people of the United States.

Mr. HOLLENBECK. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 573. This resolution authorizes a commemorative plaque for the people of Poland on behalf of the people of the United States in memory of Gen. Thaddeus Kosciuszko.

General Kosciuszko fought bravely in our Revolutionary War. As a 30-year-old engineer, he was engaged to help fortify the city of Philadelphia immediately upon his arrival in America in 1776. His engineering genius was soon noticed and he was requested to build fortifications along the Hudson River that held off the British for Maj. Gen. Horatio Gates at Fort Ticonderoga.

But, Mr. Speaker, the American people owe our greatest tribute to General Kosciuszko for his fortification of Saratoga, N.Y. The defeat of British Gen. John Burgoyne there on October 17, 1777, represented the turning point in the war, for it was then that the American defense was recognized as secure by the French who entered the war in our support.

For 6 years Thaddeus Kosciuszko strengthened and fought side by side with American troops. He was shot several times and did not receive a promotion to general until after the war.

Mr. Speaker, General Kosciuszko played an important role in our struggle for independence. In passing House Joint Resolution 573 we are recognizing his memory on behalf of the people of Poland and all of us Americans who are free people today because of the efforts of Thaddeus Kosciuszko.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 573

Commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

Whereas October 17, 1977, marks the two-hundredth anniversary of the historic battle of Saratoga;

Whereas General Thaddeus Kosciuszko served in the Continental Army from 1776 through 1783, and played a vital and significant role in the battle of Saratoga;

Whereas the American people are indebted to Thaddeus Kosciuszko for his role in American independence; and

Whereas the American Council of Polish Cultural Clubs has made the arrangements for the erection of a memorial plaque near the sarcophagus of Thaddeus Kosciuszko in the Wawel Cathedral in Krakow, Poland, commemorating his dedication to the principles of freedom, and has obtained the approval of the Governments of Poland and the United States and the appropriate Polish ecclesiastical authorities for the erection of the plaque bearing the words both in Polish and in English: "On the Bicentennial Anniversary of the victory at Saratoga October 17, 1777, grateful America remembers General T. Kosciuszko fighter for your freedom and ours"; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in an expression of esteem and gratitude by the American people, the plaque to be erected in the Wawel Cathedral in Krakow, Poland, on October 17, 1977, in the memory of General Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland.

Mr. ZABLOCKI. Mr. Speaker, House Joint Resolution 573, commeorates Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

As the Members know October 17 marks the bicentennial anniversary of the Battle of Saratoga. The contributions of Gen. Thaddeus Kosciuszko in this battle are enormous, and as Americans we are indebted to his service in our revolution.

Thaddeus Kosciuszko fought for American independence for 6 years without a furlough. On October 17, 1977, he courageously held off the British Army at Saratoga causing their surrender and the turning point of the American Revolution.

The American Council of Polish Cultural Clubs under the able leadership and direction of its president, Mr. Walter Zachariasiewicz, has offered a memorial plaque to be erected at the tomb of Gen. Thaddeus Kosciuszko at the Wawel Cathedral in Krakow, Poland, commemorating his role in our independence.

Americans are indebted to General Kosciuszko for his role in preserving the principles of freedom, and the American Council of Polish Cultural Clubs wish this gift to be deemed a gift of the American people to the people of Poland.

House Joint Resolution 573 would provide that, in an expression of esteem and gratitude by the American people, the plaque to be erected in the Wawel Cathedral in Krakow, Poland, on October 17, 1977, in the memory of Gen. Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland.

Therefore, in order that this memorial may be presented as scheduled, I urge my colleagues in the House to approve the joint resolution pending before them.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 573) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 703 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 703

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 703 provides for the consideration of H.R. 6951, a bill to amend the Council on Wage and Price Stability Act, extending it as amended for 2 years. The act is currently due to expire today, and H.R. 6951 would extend its provisions until September 30, 1979.

The Council on Wage and Price Stability, created by this act, monitors inflationary price and wage movements in the private sector of the economy. The Council also monitors inflationary activities of the agencies and departments of the Federal Government.

The Council on Wage and Price Stability has been given a key role in the administration battle against inflation, and it is most important that the act be extended for 2 years since it is instrumental in warning against inflationary developments in our economy.

The rule before us is an open rule which would provide 1 hour of debate. I know of no opposition to the adoption of this rule, and I urge its adoption.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this rule is to provide for the consideration of H.R. 6951, the Council on Wage and Price Stability Extension. The rule provides for 1 hour of general debate. The bill will be open to all germane amendments under the 5 minute rule. There are no waivers of points of order included in this rule.

Mr. Speaker, the purpose of the Council on Wage and Price Stability is to monitor inflationary price and wage movements in the private sector of the economy, as well as inflationary activities of the agencies and departments of the Federal Government.

This act is due to expire on September 30, 1977. H.R. 6951 extends the act until September 30, 1979.

The bill authorizes $2,210,000 for fiscal year 1978 and $2,210,000 fiscal year 1979. This represents an increase of approximately $500,000 per year.

Mr. Speaker, it would appear that there has been some inflation in the cost of monitoring inflation.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6951, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

In view of the time, Mr. Chairman, I will be very brief.

I urge support and a favorable vote on H.R. 6951, which merely extends the Council on Wage and Price Stability for an additional 2 years, a very necessary part of the President's overall anti-inflation package.

The bill was reported by the Committee on Banking, Finance and Urban Affairs, by a vote of 36 to 2. In the other body, it was reported by the committee 15 to 0 and passed by a voice vote.

It is part of the President's reorganization plan number one. I believe that the issues are well known to the Members.

Mr. Chairman, I urge a favorable vote on H.R. 6951, a bill to amend the Council on Wage and Price Stability Act, to extend its termination date for 2 years and for other purposes.

The passage of this legislation will assist us in our efforts to fight the inflation that keeps extracting its toll on our economy and our society. H.R. 6951 would extend the life of the Council on Wage and Price Stability for 2 years, authorize a modest level of funding for the Council, and provide additional congressional direction to the Council.

In previous legislation in 1974 and 1975, the Congress has provided authority to the Council to monitor and analyze inflationary activity throughout the economy. In the past, the Council has carried out this authority through comprehensive studies of selected major industries as well as investigations of specific price and wage increases. The Council also reviews the activities and programs of the departments and the agencies of the Federal Government to discover if they have any inflationary impact.

The administration has made the Council on Wage and Price Stability an essential part of the President's anti-inflation program. The Council has three important responsibilities in that program. First, the Council will be expected to provide an early warning of potential bottlenecks and shortages or other inflationary developments in the private sector. Second, the Council will analyze and evaluate trends in prices and costs. Third, the Council will analyze the inflationary implications of specific Government regulatory and legislative actions.

Indeed, Mr. Chairman, by letter to me dated April 29, 1977, Messrs. Blumenthal, Lance, and Schultze made the point that the Council is the only agency of the Federal Government that is in a position to provide the information necessary to implement the President's anti-inflation program. I quote a portion of their letter:

> The Council has, over a period of time, developed extensive knowledge of the workings of industry and markets that are most important to price stabilization and other factors that affect our economy. That expertise is not duplicated elsewhere in the government and would take years to rebuild if the Council were disbanded.

They went on to say:

> No other agency or agencies of government are in a position to perform the role of the Council. It is an independent agency. It is free from political and bureaucratic pressures that would face bureaus within other agencies, if they tried to perform similar tasks.

Mr. Chairman, the Subcommittee on Economic Stabilization, of which I am chairman, conducted 3 days of oversight hearings on the Council last fall and this past winter, and 6 days of hearings in April on bills to extend the Council on Wage and Price Stability and for related purposes. A wide range of witnesses appeared before the subcommittee or submitted written views. Each of these witnesses documented the need for an effective anti-inflation program.

One concern was that extension of the Council could foreshadow price and wage controls. Mr. Chairman, in this connection, I wish to emphasize that the Council on Wage and Price Stability Act specifically precludes the imposition of price controls through the act, which states:

> Nothing in this Act (1) authorizes the continuation, imposition or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends or any similar transfers . . . (section 3(b)).

In response to another concern which has been expressed—that the administration may be considering the adoption of wage/price guidelines or standards—Mr. Stuart E. Eizenstat recently wrote to me on behalf of the President that—

> A program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy of inflation.

The authorization proposal, $2.210 million, is a modest one and represents only a very small increase over the funds appropriated to the Council to the present time. In accepting the conference report on H.R. 7552, the Treasury, Postal Service appropriations bill, the Congress appropriated $2.1 million to the Council for fiscal year 1978. It is, however, contingent upon this authorization being enacted before September 30, 1977.

In the Committee on Banking, Finance and Urban Affairs, a total of 36 votes were cast for reporting favorably on H.R. 6951; only 2 votes were cast against reporting the bill. Support in the committee for H.R. 6951 was bipartisan. In the other body the Banking Committee voted in favor of the bill 15 to 0 and it was subsequently passed on the floor by voice vote. In his message transmitting Reorganization Plan No. 1, the President stated:

> The Council on Wage and Price Stability (COWPS) is a necessary weapon in the continuing fight against inflation and will be retained.

Reorganization Plan No. 1 was approved by the House Government Operations Committee on Thursday, September 29.

Mr. Chairman, I have discussed several reasons for an approving vote on this legislation. Let me quickly review them once more: First, hearings have been held, by which it was determined to be clearly in the public interest that the life of the Council be extended for 2 years; second, the administration, from the President directly through his chief economic advisers, has made it very clear that this is a critical part of its anti-inflation program; third, the Committee on Banking, Finance and Urban Affairs, in an overwhelming bipartisan vote, has reported this legislation favorably; fourth, both the House and the Senate, in accepting the conference report on appropriations, have appropriated for the Council's extension; and finally, fifth, the Senate has passed S. 2056, which contains the language of H.R. 6951 and extends the authorization for the Council on Wage and Price Stability for 2 years.

I urge the passage of H.R. 6951.

Mr. Chairman, I attach the following for the information of the House:

THE WHITE HOUSE,
Washington, D.C., September 26, 1977.

Hon. WILLIAM MOORHEAD,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOORHEAD: On behalf of the President, I would like to inform you that recent newspaper accounts suggesting a favorable Administration attitude toward formal numerical guidelines or standards as an anti-inflation tool were misleading and inaccurate. You will recall that the White House press office immediately denied the stories.

The Administration formally opposes mandatory wage and price controls including standby controls. Moreover, it is our judgment that a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy for inflation. Instead, the President has stressed the importance of meeting with business and labor leaders and other groups in the private sector to seek voluntary ways to deal with the serious problem of inflation. Members of the Cabinet and presidential advisors have been doing so. That effort, of course, will continue.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman from Ohio (Mr. LATTA) referred to the fact that the Council is increasing its authorization by approximately $500,000; is that correct?

Mr. MOORHEAD of Pennsylvania. The figure in the authorization bill is $2,200,000. In the appropriation bill already passed by both Houses of Congress, the appropriation is $2,100,000.

Mr. BAUMAN. That is an increase from last year of approximately $500,000?

Mr. MOORHEAD of Pennsylvania. I believe it is not that much of an increase. In real terms, it is actually a reduction in the amount of money for this Council.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, the gentleman says that this is a simple extension. Having just read the bill I notice it expands the area in which the commission may review matters that include, among other things, short- and long-term weather changes in the world. We just passed a bill the other day that costs half a million dollars that accomplishes the same thing.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, let me assure the gentleman this is not to get the Council into the weather business. It is merely to permit them to use data prepared by other agencies in making their predictions; for example, on farm prices and the like.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. MCKINNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, considering the time of the day, I will insert my remarks; but I would simply say, this is one tool we found very handy to check on the inflationary trends within the economy and where they are coming from.

I am particularly interested in the fact that we allow the Council to move into the regulatory agencies of our Government to show Congress and report to Congress on the inflationary impact of regulatory movements on the part of the executive branch.

Mr. Chairman, recently the Economic Stabilization Subcommittee has held hearings on a variety of issues that have had a common issue consistently surfacing in our discussions. Whether the hearings focused on the food price outlook, capital formation or international trade, a most serious problem that we found ourselves addressing was inflation. New polls indicate that rising prices have also become the main concern for most Americans. This uncertainty about our economy is driving the stock market down to levels not seen in 2 years.

The House of Representatives has today an opportunity to demonstrate to the American people that we share their concerns about inflation. We have before us a bill, H.R. 6951, which extends for 2 years the Council on Wage and Price Stability. COWPS, as it is known, is unique in the executive branch of our Government. It is the only Federal body authorized to monitor, analyze, and identify the inflationary aspects of our economy.

Our subcommittee hearings demonstrated the important role that the administration has assigned to the Council in pursuing an anti-inflationary policy. In recent weeks COWPS has been called upon to investigate steel pricing practices and the basis for several increases in plywood prices. When wages or prices go up abnormally, the instinctive reaction is to ask the Council on Wage and Price Stability to review the increase. COWPS' role as inflation watchdog has been recognized throughout the Federal Government as well as in business and labor circles.

A major benefit of the 2-year extension will be the ability of the Council to focus on analysis of the inflationary potential of anticipated private sector price and wage decisions rather than respond with after-the-fact analysis. This does not imply a policy of guidelines, but a case by case examination of the facts and public notification of the role an increase would play in the economic scheme. Public response to unreasonable increases is the best weapon, but the public needs to be informed. That is the role played by the Council.

A committee amendment to this bill directs the Council to focus on the effect on the U.S. economy of several factors such as our participation in international trade, world commodity developments, American capital invested in foreign countries, world energy developments, interest rates and capital formation. I support this amendment which underlines numerous areas of increasing importance and concern within our domestic economy. Although their international character may have resulted in less attention in the past, the world's trading relationships require us to include these elements in our consideration of economic developments.

I understand that a technical amendment to the act may be introduced at the request of the Council. That amendment would relate to the voluntary submission of data and the confidentiality of information given to the Council. The amendment would reduce the amount of bureaucratic involvement which, by itself, makes it appealing.

Mr. Chairman, now is not the time for Congress to retreat from fighting inflation. The Council on Wage and Price Stability represents the strongest weapon for fighting inflation in the Federal Government's arsenal. If the American economy is going to regain its strength and if American and world confidence in the free enterprise system is going to be restored, Congress must pass H.R. 6951 and extend the term of COWPS for 2 years. A syndicated cartoon appeared recently in newspapers showing three bureaucrats in a meeting. One is telling the others: "The good news is the war on inflation is over * * * the bad news is we lost." If we fail to pass this bill today, the House will be surrendering to inflation.

I believe that we can win this war and I urge my colleagues to make that same statement by voting for H.R. 6951.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I express my gratitude to the gentleman from Pennsylvania (Mr. MOORHEAD) and to the gentleman from Connecticut (Mr. MCKINNEY) for their leadership on this measure.

I pronounce my full and utter support for it.

Mr. Chairman, I join my colleague, Chairman MOORHEAD of the Subcommittee on Economic Stabilization, in urging Members to continue the Council on Wage and Price Stability for 2 more years.

The administration has strognly requested this authorization. Spokesmen for the executive branch—particularly those who are most closely involved with the development of overall economic policy—have impressed on us the importance of the role of the Council in flagging potentially inflationary developments in both the private and public sectors of the economy.

No other agency of Government performs the functions of the Council on Wage and Price Stability. Its reviews and reports represent a key tool in educating the public and the administration on the causes of rising prices. This information enables the various sectors of our economy to deal voluntarily with the causes of inflation.

Mr. Chairman, the House Banking Committee reported H.R. 6951 by a vote of 36 to 2. The committee is convinced we should retain this integral part of the administration's anti-inflation program. I urge my colleagues in the House to support H.R. 6951.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, the bill before us extends the Council on Wage and Price Stability for 2 years and broadens slightly the scope of the Council's powers to research and analyze the causes of inflation and to publish their findings so that the public and governmental policymakers can concentrate their attention on inflationary forces.

While the Council's powers have been limited to "jawboning," it is a watchdog agency which alerts the country through published reports and public filings on situations which it has closely reviewed. Its task is to educate the participants in the economy as to the causes of increasing prices and to get the public involved in the process of voluntary restraints on factors which feed inflation.

I think the amendments which the House Committee on Banking, Finance and Urban Affairs and the Senate have adopted, will give the Council a new important dimension in that the new provisions would include full employment as one objective of the anti-inflation program. They would emphasize the control

of inflation and would direct the Council to review data about and analyze the effects on the U.S. economy and its role in the world economy.

I am sure I do not have to remind my colleagues of the impact of the world petroleum situation or the coffee shortages on the American household budgets. Our newspapers and the electronic media are filled with reports of international commodity supplies and prices and the effects of the exportation of American capital.

Rising interest rates and their influence on capital investment are no longer just the arcane concerns of pin-stripe financiers, but of all of us who need housing, automobiles, or any big-sale-tag items.

The Council for the first time will be directed to examine these economic matters from a perspective that will highlight the inflationary effects.

The Senate, with the approval of the administration, has also added provisions to the House version of the bill which protect the confidentiality of proprietary and other private information. I am sure no one has serious objection to the addition.

I believe H.R. 6951 will make it possible to get important economic information with which we will be better able to shape policies to combat inflation and its causes in the crucial days ahead.

I strongly urge the adoption of this bill.

Mr. McKINNEY. Mr. Chairman, I yield such time as he may require to the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Chairman, today I rise in support of H.R. 6951, which extends the life of the Council on Wage and Price Stability until September 30, 1979, and incorporates several relatively minor provisions into the act. This bill was considered by the Economic Stabilization Subcommittee in 6 days of hearings with an impressive array of witnesses. Four of the administration's top economic officials—Charles Schultze, Chairman of the Council of Economic Advisers, Robert Crandall, the then-Acting Director of the Council on Wage and Price Stability, Treasury Secretary Michael Blumenthal, and Secretary of Labor Ray Marshall—testified about the need for a strong anti-inflationary policy and the importance of the role CWPS plays in implementing that policy.

This bill extends the life of the Council by 2 years. This represents a significant step for the Council. This alone strengthens the ability of the Council to combat inflationary pressures. The suggested 1-year extension would severely hamper the Council's ability to attract the highly qualified people required to perform the technical analyses requested by Congress and Federal agencies. In many cases where prospective implications are being analyzed, the work may require a full year or more before completion.

A Banking Committee amendment also amends the original act to underline the Council's role in controlling inflation and reducing unemployment. In addition, the Council is directed to review information about, and to analyze the effects on, the U.S. economy of U.S. participation in international trade and commerce, the changing patterns of supplies and prices of commodities in the world market, the investment of U.S. capital in foreign countries, short- and long-term weather changes in the world, interest rates, capital formation and changing patterns of world energy supplies and prices.

We need not dwell upon the impact these points play in the direction of our economic well-being. The Council on Wage and Price Stability has the responsibility to monitor inflationary wage and price movements in the private sector as well as inflationary activities of Federal agencies and departments. The committee amendment would simply underline the importance of these factors in addressing our inflationary problems.

There is one fear that haunts most supporters of the free enterprise system: the specter of wage and price controls. I share those fears, but I emphasize that this bill is not a precursor of controls. In fact, when similar legislation was being considered by the other body, the senior Senator from Texas, Senator TOWER, included in the debate correspondence between himself and the White House reiterating the administration's formal opposition to mandatory wage and price controls. I understand that the same reassurance has been given to the Economic Stabilization Subcommittee by the administration. I am satisfied that we are not about to return to a controls policy which history has proven ineffective. Government-mandated controls are not the solution to our problem and I am encouraged by the rejection of this approach by the President. In recognizing that there are no simple solutions to this problem, the least we can do is reject previous failures.

Inflation is beating down the will of the average American. He is finding it more and more difficult to keep up and thinks it is impossible to get ahead. As the administration's inflation watchdog, the Council on Wage and Price Stability has a unique role to play if confidence is to be restored. If this Congress is going to play its part in winning the battle against rising prices, it should pass H.R. 6951 as amended and give its support to every effort to bring inflation under control.

Mr. McKINNEY. Mr. Chairman, I have no further requests for time.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, we have heard a series of speakers address the subject matter of this legislation, and it would lead one to believe that there is only good that can follow from our adoption of this bill. I would like to suggest to the Members that this is not only an unnecesary piece of legislation and an unnecesary council, but indeed that this is a very bad piece of legislation.

What we should do is let this council, this so-called Council on Wage and Price Stability, which is costing the taxpayers more than $2 million, go out of existence because it has no purpose, it serves no function, and indeed is a sham and a fraud to let the American people think that we are doing something about inflation when we are not.

The Council on Wage and Price Stability also sits there as the promising skeleton on which wage and price controls can soon be pinned, an idea reprehensible to both labor and management.

Now, what is the history of this organization? Well, in August of 1974, just before the elections, Congress and the administration at the time, in an effort to tell the American people that they were going to do something about double-digit inflation, created a high-sounding organization called, a Council of Wage and Price Stability. Of course, prices and wages have continued to go up since that time, but nevertheless this organization was intended to have an impact on inflation. It is staffed with some very able people, but it cannot do anything. It does not do anything. It has never done anything.

As the economy has recovered, inflationary pressures have grown. Although the rate of inflation remained fairly high, but stable, during the recent recession in February of this year, the Consumer Price Index rose 1 percent, or an alarming 13 percent annual rate. Although this rapid rate of increase dropped off during the summer months due primarily to farm prices, the substantial increase of last winter indicates that we may be heading in the direction of double-digit inflation that persisted during 1974.

In April, President Carter outlined an 11-point program aimed at reducing inflation. I commend the President for taking prompt action to address this problem before it is exacerbated. One of the proposals President Carter made was a 2-year extension of the Council on Wage and Price Stability. The President requested that the Council's authority be extended in the same form with a modest increase in funding so that it could fulfill an enlarged analytical role in the price stabilization effort. H.R. 6951, the bill we are considering today, responds to the President's request of a 2-year authorization and increases the funding level for the Council by $0.5 million.

Mr. Chairman, even with the proposed increase in appropriations, the Council on Wage and Price Stability will not be able to fulfill its mandate, as described in Public Law 93-387, the original law creating the Council. Section 3 of that act sets forth seven duties for the Council to perform:

First, reviewing and analyzing industrial capacity, demand, supply, and the effect of economic concentration and anticompetitive practices and supply in various sectors of the economy;

Second, working with management and labor, as well as with appropriate Government agencies, to improve the structure of collective bargaining and the performance of those sectors in restraining prices;

Third, improving wage and price data bases;

Fourth, conducting public hearings;

Fifth, focusing attention on the need to increase productivity in both the public sector and the private sector;

Sixth, monitoring the economy as a whole by acquiring reports on wages, costs, productivity, prices, sales, profits, imports and exports; and

Seventh, reviewing and appraising the various programs, policies, and activities of Government agencies for the purpose of determining the extent to which those programs and activities are contributing to inflation.

In brief, the Council has the responsibility of monitoring and impacting upon all decisions in the private sector and all decisions in Government which may have an inflationary consequence.

This is a pretty tall order, but it borders on being ridiculous when you look at the Council's budget and the size of its staff. To support the Council's activities, $1 million was originally appropriated in fiscal year 1975. This was later increased to $1.7 million by Public Law 94-78 which reauthorized the Council with no major changes in its original mandate until September 30, 1977. H.R. 695 again increases the funding level to $2.2 million. Given the limits of this appropriation, the Council operates with a permanent staff of 40 persons, of which only 30 are considered professionals, including research assistants. There are 12 professional staff persons for monitoring all wage and price decisions in private business, 10 for monitoring all Government activities and 8 for other responsibilities, such as general counsel, public affairs, and the Director's office. From time to time, the Council has employed the services of outside consultants, though in one 10-month period only 6 such consultants were used.

This, Mr. Chairman, is the total capability of an agency that is supposed to watch over the total activities of Government and the entire private sector to determine their inflationary impact in an economy whose GNP last year was $1,691.6 billion. When one considers that 535 Members of Congress with over 3,000 staff members cannot even keep up with the Government end, not to mention the private sector, can you really believe that the Council is doing its job—that the Council checks into all those Government and private sector decision which may be inflationary? How can they really do this?

I must point out here that the Council has some excellent people on its staff, including the present and past Directors. They are able, dedicated and articulate men, but they could never and can never accomplish the task that was set out for them. It is not their failure I condemn; it is the failure of the Council's statutory charter. They were beaten before they were started.

Despite the impossibility of their legal task, the Council has issued several excellent reports. I understand that their recent report on health care costs has met with much favor and has resulted in innovative approaches being taken by both labor and management to stem the rising tide of health care costs. Yet for every report the Council issues or every comment it files with Federal agencies, thousands of other inflationary decisions go unnoticed.

During the last Congress, my Subcommittee on Commerce, Consumer, and Monetary Affairs of the Government Operations Committee conducted oversight hearings on the Council on Wage and Price Stability. At that time, representatives of the Council stated that the work of the Council was initiated by reading newspapers, reviewing the Federal Register, and receiving letters from the public and Members of Congress, all on a haphazard, catch-as-catch-can basis. I was assured by the Acting Director of the Council this year that a more systematic approach has been devised to determine what areas of the economy need to be focused on and studies made, though the criteria or scientific system now supposedly used for making such determinations was not spelled out to me. Nevertheless, in the face of constraints of staffing and funds, the Council has no choice but to be highly selective—indeed arbitrary—in performing its monitoring functions and in most instances can only give cursory glances to inflationary developments.

As of last April, the Council had conducted 36 studies of wage and price monitoring and filed approximately 102 formal comments with Federal agencies in the then over 20 years of its existence, all in the name of stopping inflation. Who is kidding whom? Though Council activities may have had some impact on some few of the millions of price decisions in certain industries and on some few of the thousands of certain Government activities considered inflationary, the Council has not had and cannot be expected to have a major impact on the behavior of wages and prices.

Any respite we have experienced from the ravages of double-digit inflation has not been because of the existence of the Council on Wage and Price Stability, but because of the economic downturn. Now that the economy is on an upswing, so is inflation and continued soaring Federal budget deficits adding fuel to these fires which the Council cannot do one darn thing about.

What have we succeeded in doing by creating the Council on Wage and Price Stability? We have succeeded in beguiling the public into believing that something significant is being done by some Government agency about inflation. The public may feel better knowing that the Council is monitoring inflation and the politicians certainly are happy to have the Council on Wage and Price Stability to point to as an example of what is being done to fight inflation, but it is the prices at the supermarket that are telling the truth.

The Council, with its few accomplishments among the millions of problems, is basically an image or a mere symbol worthy of the creation of Doonesbury's Secretary of Symbolism.

The Council has obviously not been able to do its statutory job. Yet, we continue to spend the taxpayers' money on it. In correspondence with me, the Acting Director of the Council asserted that in the area of making Federal agencies more aware of the costs of Government regulations, the Council saved the taxpayer far more than the $1.7 million a year it cost to operate the Council.

That is very good, and I am pleased that the Council has at least attained that success. But, is this what we are trying to do—merely recoup operating expenses? I think that we should be trying to stop inflation.

I suggest that the existence of this Council with its high-sounding mission of monitoring the entire economy for inflationary impact is nothing more than a sop to the public to make people think that the Government is doing something, when, in fact, the Council is inherently incapable of any meaningful functions. It is a cosmetic agency. It should be terminated as a useless body. It is like disguising the pain with an opiate and letting the cancer go untreated. As long as we have this merely symbolic Council, we will not have to face the real and difficult task of fighting inflation since we can point to this agency as a solution. As long as we have this Council, we have the skeleton on which wage and price controls could be pinned, an idea reprehensible to both labor and management.

In all fairness, the Council has never claimed to be the be-all and end-all cure to inflation. Yet, the statutory responsibilities of the Council are just that. To continue to let the public believe that the Council is capable of doing what its statutory charter provides is misleading and counterproductive.

Many of the useful functions of the Council are easily transferrable to other Government agencies. Indeed, each of these functions is already being performed elsewhere. The Justice Department and the Federal Trade Commission monitor economic concentration and anticompetitive practices; the Department of Labor, the National Labor Relations Board, and the Department of Commerce work with labor and management to improve collective bargaining and restrain prices; the Bureau of Labor Statistics, the Federal Trade Commission, and the Federal Reserve Board work to improve wage and price data bases; all Federal agencies conduct public hearings for public scrutiny; the National Commission on Productivity was specifically created to focus attention on the need to increase productivity; all Federal agencies monitor the economy as a whole through reports on wage and price costs and the Departments of Commerce and Labor do so by statutory requirement; and the Office of Management and Budget is already required by the President to collect information on the inflationary impact of Government programs and policies.

If there should be some sort of special inflation monitoring group, then it would seem to me to be more appropriately done as a division of the Council of Economic Advisors, not as a separate "inflation-fighting" agency. The present staff of the Council, properly utilized elsewhere, could be a great help in a meaningful fight against inflation.

Now, who is on this wage and price council? The chairman at present is Mr. Schultz; Secretary Blumenthal; Secretary Vance; Secretary Krebs; Secretary Marshall; Secretary Harris; Presidential Advisor Eisenstadt. Advisory members are Attorney General Griffin Bell; Secretary Andrus; Secretary Califano, and Ambassador Strauss.

I would like to ask the gentleman from Pennsylvania how many times in the last

year has this august council met and discussed the matters for which it is responsible.

Mr. MOORHEAD of Pennsylvania. Will the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. MOORHEAD of Pennsylvania. I know of some of the actions taken by the Council which I think have been very effective. One was a rollback of 20 percent in an increase in steel prices. I come from a steel community, so I remember that very well.

Mr. LEVITAS. I have no information that this council has ever met. Looking at its members and the many other responsibilities they hold, I would, indeed, be surprised if they met often. So, why do we have this council? If we have staff people trying to do the job, gathering data, that is one thing, but we do not need a phony council to mislead the American people into thinking that we are doing something about inflation.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the gentleman's remarks.

As the gentleman well knows, this is the only separate office which was left in the President's Reorganization Plan No. 1. I am wondering if the gentleman has any information as to why this office was left by itself, when certainly other offices, such as the Office of Drug Abuse Policy, which has indicated it is doing an excellent job, was brought under the Domestic Policy Council.

Mr. LEVITAS. Mr. Chairman, I have no idea what the answer to that question is, except I feel it should have been reorganized out of existence. Indeed, I am going to offer an amendment under the 5-minute rule which will let the Sun set upon the Council at the end of this 2-year period and have its functions, if they are useful, transferred to those other agencies of Government which can perform them just as well. I think it should have been reorganized out of existence.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. McKINNEY. Mr. Chairman, I yield 3 additional minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would suggest that since the gentleman has asked a question as to why this agency was left standing in the President's reorganization plan, I would refer the gentleman to the White House communique of April 15 of this year on inflation. In that it very clearly states the President intends to use this agency as an early warning signal on inflation and as a check on inflation.

Far more important than that, this is the only agency—and I will talk about this further when we discuss the gentleman's amendment—the only independent agency that can interfere with or protest about actions of other agencies, and can appear in front of other agencies when they pass regulations that are inflationary to the economy.

On the question of merging this agency into another agency, the President's own statement, as well as statements by the Secretary of the Treasury and OMB, point out that they want this agency to be uniquely independent so it can criticize the other agencies, even OMB, if need be. If it is folded into the OMB or CNB or anything else, how is it possibly going to protest the actions of its own counterpart?

We have seen this happen before when we tried to set up control boards before the different agencies. They have been a total failure because they do not criticize their bosses. One of the main reasons why we should keep this is so we may have an effective independent agency that can have a voice against the Government's own inflationary tendencies.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would simply like to point out to the gentleman that he is making a very good point, and it is one which some of us have supported in the field of narcotics abuse.

I think this is a point that should be made in the near future so that this body will have an opportunity to work its will with regard to Reorganization Plan No. 1. I think certainly a much better use can be made of the Office of Drug Abuse Policy than can be made with an agency that is not meant for that purpose.

Mr. LEVITAS. Mr. Chairman, I would like to respond to the gentleman from Connecticut (Mr. McKINNEY) in this fashion.

The effectiveness of this Council in intervening in the private sector or in public bodies, as far as inflationary effects are concerned, really does not exist. Their effectiveness only exists because it speaks with the authority of the President himself.

The reason steel prices were rolled back was because it had the backing of the President, not because this Council did anything.

I happen to believe this: that if OMB or the Department of Commerce or any other agency in Government identifies a regulation that is inflationary, I would hope that the President of the United States, who is supposed to be running the administration, could call this to the attention of the appropriate department and do something about it without having Dr. So-and-So, who is the director of this agency, take the credit for it. It is the President who is going to be able to do this, and not this Council.

Mr. Chairman, we ought not to get ourselves in this confusing situation. My position addresses two matters that have become increasingly important during the past several years: first, the credibility of Government to deal with vital national problems, in this case, inflation; and, second, the creation of an ineffective bureaucracy despite the best intentions surrounding its creation.

Let us stop kidding the public into believing that something is being done about inflation by the Council on Wage and Price Stability. Let us begin instead to do something about inflation by reducing the Federal bureaucracy and wasteful Government spending.

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield further, I suggest to the gentleman that we ourselves cannot keep hold of the Federal Register, let alone keep hold of the monitoring of agencies, since the tendency is for Federal agencies and the administration to grow. This is one agency that can monitor these matters, keep us abreast of the situation, and bring it to our attention.

Mr. ROUSSELOT. Mr. Chairman, a little more than 2 years ago, in dissenting views on a bill to extend the Council on Wage and Price Stability Act, I made the following statement:

> The time has come to say goodbye to the Council on Wage and Price Stability. If the Council were to continue to exist and to play the role which its title implies, it would be working to keep prices up, for the economy is now displaying an unmistakable trend toward a lower rate of inflation. There will certainly be temporary breaks in this trend, such as that which occurred in June, but unless Congress and the Federal Reserve depart more drastically from responsible fiscal and monetary policies, the rate of inflation should decline to the 5%–6% range by the latter part of this year.
>
> Rather than add subpoena power and the power to require periodic reports by product line to the Council's authority, Congress should allow the Council on Wage and Price Stability Act to expire on August 15, 1975, and it should not permit wage and price controls to survive in any form or guise. There is no justification whatever for imposing controls upon the general economy when the cause of inflation is not to be found there but rather is to be found right here in the Congress, and at the Federal Reserve.
>
> When Congress persistently runs huge deficits, these deficits must be financed by Federal borrowing, which creates upward pressure on interest rates, and, in periods of expansion, tends to crowd out private demand for funds. Pressure then builds for the Federal Reserve to "accommodate" these competing demands by increasing the money supply. In 1972 and 1973 the Federal Reserve yielded to this pressure and increased the money supply at record peacetime rates.
>
> A rapidly increased money supply causes inflation. Inflation is not created by citizens making their daily economic decisions. These decisions affect the allocation of resources, but they cannot raise prices generally. Inflation has its genesis in the Congress; therefore, any action to control inflation must come in the form of meaningful control over our own profligacy. It is a cruel trick to play on the victims of the irresponsible fiscal and monetary policies of the Federal government to use the natural consequences of these policies, including inflation, as an excuse to increase governmental control over their activities.
>
> Nor should there be any mistake as to the basic nature of the "monitoring" and "jawboning" activities which are supposed to be the primary functions of the Council. There is a distinction only in degree between economic controls on the one hand and "monitoring" and "jawboning" on the other. All such activities constitute attempts to influence economic events by the application of varying degrees of governmental coercion.

> If the "sunset" concept, that agencies should be disbanded when their usefulness has ended, means anything at all, then it is now past time to put the Council out of business. If the research capability of the Council staff is deemed to be unique and indispensable, we should adopt the amendment of my distinguished colleague from Georgia (Mr. LEVITAS), which sets a deadline, March 31, 1978, by which another place must be found for the staff and another deadline, September 30, 1979, by which the switch must be implementned.
>
> As long as the Council continues to exist, it will continue to divert the attention of the American people from the real causes of inflation. The committee report on this bill contains a section entitled "Nature of the Inflation Problem" which calls for "a comprehensive anti-inflation program that operates directly on prices, costs, supplies, and expectations." The fact is that we do not need a complicated, "comprehensive" program to combat inflation. The program can be quite simple—keep the growth of the monetary aggregates within bounds which are commensurate with the ability of the economy to increase production. What seems to be difficult is to summon the will to implement this program.
>
> The great monetary economist, Milton Friedman, described our present economic predicament very succinctly in a column entitled "Why Inflation Persists," which appeared in the October 3, 1977, edition of Newsweek:
>
> > There is one and only one cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. . . .
> >
> > There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. . . .
>
> Fortunately, it is possible to cure inflation without perpetuating the existence of this bureaucracy and without sacrificing our economic and political freedom, if we have the will to do so. If we do not have the will to cure inflation, all of the bureaucracies that we can establish to put out press releases saying nasty things about inflation will do no good at all.
>
> WHY INFLATION PERSISTS
>
> (By Milton Friedman)
>
> Nearly three years ao, I wrote in this space: "Four times in the past fifteen years we have started on a cure for inflation. Three times we have abandoned the cure before it had time to complete its task—in 1963, 1967, 1971. Each time, the result has been a higher plateau of inflation, producing a new attempt at a cure. Will we make the same mistake the fourth time in 1975? Or this time, will we have the courage and the wisdom and the patience to see the cure through?" (Newsweek, Nov. 4, 1974.)
>
> ABANDONING THE CURE
>
> As of today, the answer is that we have made the same mistake a fourth time. Once again, we have paid the cost of a recession to stem inflation, and, once again, we are in the process of throwing away the prize. From a high of more than 12 per cent in 1974 (from December 1973 to December 1974) inflation fell to less than 5 per cent (December 1975 to December 1976). It has now risen sharply, may temporarily recede as we work through the bulge produced by the special problem of the hard winter, but then, I fear, will resume its upward march, not to the "modest" 6 per cent the Administration is forecasting, but to at least several percentage points higher and possibly to double digits again by 1978 or 1979.
>
> There is one and only one basic cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. These days, that cause is produced in Washington, proximately, by the Federal Reserve System, which determines what happens to the quantity of money; ultimately, by the political and other pressures impinging on the System, of which the most important are the pressures to create money in order to pay for exploding Federal spending and in order to promote the goal of "full employment." All other alleged causes of inflation—trade union intransigence, greedy business corporations, spendthrift consumers, bad crops, harsh winters, OPEC cartels and so on—are either consequences of inflation, or excuses by Washington, or sources or temporary blips of inflation.
>
> There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. The Fed is supposedly independent. But, as Dooley said of the Supreme Court, "It follows the election returns." Its behavior reminds me of nothing so much as the remark attributed to a U.S. Army officer in Vietnam, "We destroyed the village in order to save it." Similarly, the Fed refrains from using its independence because it is afraid of losing it.
>
> Listen to Chairman Arthur F. Burns in testimony to the House of Representatives (July 29, 1977):
>
> "The trend of growth in monetary aggregates, I regret to say, is still too rapid. Even though the Federal Reserve has steadily sought during the past two years to achieve lower ranges for monetary expansion, the evolution of its projections has been extremely gradual; indeed, at the pace we have been moving [*note: with respect to projections, not behavior*] it would require perhaps a decade to reach rates of growth consistent with price stability. I must report, moreover, that despite the gradual reduction of projected growth ranges for the aggregates during the past two years, no meaningful reduction has as yet occurred in actual growth rates."
>
> Meaning: promises have been in the right direction but too modest; performance has been in the wrong direction.
>
> THE PERFORMANCE OF THE FED
>
> The following table documents Chairman Burns's description of performance: the high rates of monetary growth from 1971 to early 1973 fostered the inflation that peaked in 1974. The sharply lower monetary-growth rates from 1973 to 1975 produced the serious recession of 1974–75 and the subsequent tapering off of inflation. The sharp rise in early 1975 sparked the recovery, the slowdown in late 1975 produced the economic pause in the second half of 1976 that played such a prominent role in the Ford-Carter election battle. Since then, monetary growth has been rising, not falling, and is now about back where it was in 1972.
>
> *Recent rates of monetary growth*
>
> [*Percent per year*]
>
> | | M_1 | M_2 |
> |---|---|---|
> | December 1971 to January 1973 | 9.3 | 11.4 |
> | January 1973 to February 1975 | 4.5 | 7.7 |
> | February 1975 to June 1975 | 9.5 | 12.0 |
> | June 1975 to December 1975 | 2.8 | 7.0 |
> | December 1975 to June 1976 | 5.8 | 10.5 |
> | June 1976 to August 1977 | 7.1 | 10.9 |
>
> NOTE.—M_1=currency plus adjusted demand deposits; M_2=M_1 plus commercial bank time deposits other than large CD's.
>
> Inflation will not be stopped by words, only by actions. At the moment, we have the worst of two worlds. Nominal independence of the Federal Reserve without its effective exercise permits Congress and the President to evade responsibility for the creation of money to finance large government deficits. The power of Congress to legislate and of the President to approve such deficits without explicit responsibility for the resulting monetary growth gives the Federal Reserve an excuse for its inflationary behavior.
>
> Again, let me quote Chairman Burns, this time from a speech on Aug. 13, 1977, proclaiming "The Importance of an Independent Central Bank":
>
> "Theoretically, the Federal Reserve could thwart the non-monetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government. The fact that such actions may in combination be wholly incompatible with moderate monetary expansion is seldom considerd by those who initiate them."
>
> FISH OR CUT BAIT
>
> It matters little whether the Federal Reserve is unable or unwilling to exercise its independence in deeds as well as words. In either case, let us be done with the fiction that "independence" is somehow or other a bastion against inflation. Let us put the responsibility for the rate of monetary growth—and therewith for the subsequent rate of inflation—squarely and openly on the Administration and Congress. Instead of simply requiring the Federal Reserve to report its "projections" or "targets" for monetary growth, let the Congress require the Fed to achieve specified rates of monetary growth (or specified levels of the quantity of money) within specified ranges of tolerance. That would combine responsibility and power. It would also enable the ordinary citizen to know whom to hold accountable for inflation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

Mr. McKINNEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Council on Wage and Price Stability Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1979".

SEC. 2. Section 6 of the Council on Wage and Price Stability Act is amended by inserting "not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal years ending September 30, 1979," immediately after "October 1, 1977.".

SEC. 3. Section 3(a)(5) of the Council on Wage and Price Stability Act is amended by inserting "and focus attention on the need to move toward full employment" immediately before the semicolon.

SEC. 4. Section 3(a)(4) of the Council on Wage and Price Stability Act is amended by inserting "for the purpose of controlling inflation" immediately before the semicolon.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SYMMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of section 4.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 9, insert:

SEC. 5. Subsection (a) of section 3 of the Council on Wage and Price Stability Act is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) review information about and analyze the effects on the United States economy of—

"(A) the participation of the United States in international trade and commerce;

"(B) the changing patterns of supplies and prices of commodities in the world market;

"(C) the investment of United States capital in foreign countries;

"(D) short- and long-term weather changes in the world;

"(E) interest rates;

"(F) capital formation; and

"(G) the changing patterns of world energy supplies and prices.".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of Pennsylvania: Page 3, immediately after line 6, insert the following:

SEC. 6. Section 4(f) of the Council on Wage and Price Stability Act is amended—

(1) by inserting in paragraph (1) after voluntarily pursuant to a Council request "section 2(g)" the following: "or submitted and judged by the Council to be confidential";

(2) by striking out all that follows "United States Code" in paragraph (1) and inserting in lieu thereof a period and the following sentence: "Neither the Director nor any member of the Council may permit anyone other than sworn officers, members, and employees of the Council to examine such data."; and

(3) by inserting after "section 2(g)" in paragraph (2) the following: "or submitted voluntarily pursuant to a Council request".

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment is a simple and noncontroversial amendment which strengthens the confidentiality provisions of the Council on Wage and Price Stability. It is included in the bill passed by the other body.

Presently, Mr. Chairman, the Council can obtain information by subpena or by ordering periodic reports; and the law is quite clear that this information must be kept confidential. It is not so clear under the law what should be the case, for example, when a corporation voluntarily submits information.

Mr. Chairman, the purpose of this amendment is to make it clear that this information voluntarily submitted is protected by the confidentiality procedures under the act. It will also expedite the work of the Council. It is much less expensive to deal on a voluntary basis than on a subpena or on a periodic-report basis.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I will be happy to yield to the gentleman from Connecticut, the ranking minority member of the subcommittee.

Mr. McKINNEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I urge my colleagues to support this amendment offered by Mr. MOORHEAD, the chairman of our subcommittee. The amendment was requested by the Council as a means of reducing the paperwork and bureaucratic involvement that often accompanies attempts of COWPS to gain information from the private sector.

Much of the analytical work done by the Council depends on the voluntary submission of data by businesses. Understandably, these companies are concerned about their records becoming available to their competitors; and they, therefore, seek the protection of a legal subpena to provide them with confidentiality.

The obvious expense, delays, and inconvenience to all concerned can be eliminated by the adoption of this language which will give the business data voluntarily submitted at the Council's request the desired confidential nature. Improving the ability of the Council to function more efficiently and in a manner that is more agreeable to the private sector can hardly be deemed controversial.

A final consideration in adopting this amendment is the fact that it has been included in the Senate version of the bill which was passed by that body on September 21. This language amended to H.R. 6951 will make the bills identical and expedite the completion of our work on this matter.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, in listening to the amendment, it sounds as though it goes a little bit against the concept of openness, the Sunshine Act, and so forth.

Could the gentleman dissuade me of any concern I have in that area?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment does not amend any Sunshine Act or the Freedom of Information Act. As the gentleman knows, I am very much interested in that, but it does say that if a corporation, for example, has a trade secret which has some bearing on wages and prices under existing law, if the Council subpenas that material, it must be protected.

If the corporation voluntarily submits that trade secret the law is a little unclear and this is a clarifying amendment.

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I would say that the real secret to many of us seems to be what the Council has accomplished over the years. Are they going to make that more open or is this going to be further plunged down into the recesses of this particular committee?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have in my hand a report of the Council listing some nine pages, just by title, of the reports that have been issued. These are, of course, available publicly to any Member of the Congress or any member of the public who would like to read those reports.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. MOORHEAD) for his reply.

This reminds me of the old alligator story where the guy keeps drinking and drinking to keep the alligators away. Maybe this is what they have done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 32, noes 4.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote, and, pending that, make the point of order that a quorum is not present.

PARLIAMETARY INQUIRY

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, would it be in order to move that the House do now rise?

The CHAIRMAN (Mr. SEIBERLING). The Chair will state that it would be.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if that is the case, then I am prepared to so move.

The CHAIRMAN. The Chair will state that the rights of the gentleman from Idaho (Mr. SYMMS) will, of course, be protected on his request.

Mr. SYMMS. Mr. Chairman, on the statement and agreement of the gentleman from Pennsylvania (Mr. MOORHEAD) I would withdraw my request for a recorded vote.

So the amendment was agreed to.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, do I understand that the amendment has been agreed to?

The CHAIRMAN. The gentleman is correct.

Mr. MOORHEAD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MCFALL, having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes had come to no resolution thereon.

REQUEST TO DISPENSE WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO MONDAY, OCTOBER 3, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COAL AND THE COURTS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I want to call to my colleagues' attention a very important editorial in the Washington Post this morning.

This editorial brings into sharp focus the disturbing decision of a Federal judge to delay Federal coal leasing at least 18 more months. Frankly, I would not be surprised to see a 3-year delay unless something is done.

Mr. Speaker, this decision could have severe impact right in my congressional district as it will on many, many Americans. If one assumes that the coal conversion tax as passed by the House survives the Senate, then the consumers in my district would pay about $35 to $50 million dollars more for electricity unless we can lease some Federal lignite.

Mr. Speaker surely the American people are going to wonder what is going on when the Government makes them pay a steep tax for not burning coal while another branch of the Government does not let them get the coal or lignite to avoid the tax.

The Washington Post editorial is not strident in tone; it does not demagog; it recognizes legitimate concerns on the part of all parties. But the Post does say to the Congress—our national energy policy cannot be decided in courts where narrow issues are the focus. Congress has to take the necessary steps to insure coal is available without having court delays. In the meantime, I would like the courts to recognize that the ivory judges' chambers are not the place to say lightly that plenty of private coal is available when the ability to mine much of this coal is not feasible and getting it to the right places is impractical. Besides the Federal coal is the people's coal, and it would seem we could agree that the people get to use that coal to avoid stiff Federal taxes.

I ask that the Washington Post editorial be placed in the CONGRESSIONAL RECORD, as follows:

COAL AND THE COURTS

Contrary to the belief of the judge who wrote it, this week's decision on federal coal leasing is a serious setback to President Carter's energy plan. Under the plan, the country is to double its coal production by 1985. That target was unrealistically high to begin with, and now Judge John H. Pratt of the Federal District Court here has forbidden any more coal leases until the environmental-impact statement is rewritten. The Interior Department foresees a delay of one to two years.

The courtroom is the wrong place to settle these broad issues of energy and the environment. That is increasingly clear. The collision of values is real, and the questions being pressed by environmental advocates—like the four organizations who brought the coal-leasing suit—are important. They need to be heard and resolved. But the procedures of a civil suit are not well adapted to do it. They are designed to narrow the issues down to a few points, very often excluding, as in this case, matters of great national interest. The courts, in any event, are not well equipped to deal with the range of technical and economic controversy that environmental cases typically generate.

This disruption of the plans for coal leasing means that the country will have to import more oil over the coming years. Importing more oil means, in turn, increasing the country's dangerous dependence on foreign sources. Neither national security nor the omnious size of the U.S. trade deficit was an issue in the case before Judge Pratt. But they are certainly issues, and pressing ones, before President Carter as he develops American energy policy.

The evidence presented to Judge Pratt seemed to him to prove that the government has already leased more than enough coal-rich federal land to mining companies. That's why he concluded that an 18-month delay in leasing, to permit further environmental studies, would have no significant effect on actual coal production. He was counting tons of "potentially recoverable" coal, and the trouble is that some of it is inaccessible. Some is in checkerboard patches of leaseholds that will have to be filled out with new leases before it can be mined economically. Some of the old leases were granted under poor environmental controls, or none at all, and mining them would threaten far greater damage than the government today considers tolerable.

It's wrong, certainly, to heap all of the blame for this decision on the judge. Congress wrote the National Environmental Protection Act loosely, in a fashion that invites endless litigation. Government agencies—in this instance, the Interior Department—have not been uniformly skillful in responding to these suits. There has been a tendency to carry on the defense of department prerogatives rather than national interests. If this decision reflects no sense of the injunction's consequences as the Carter administration sees them, that is the administration's fault.

The new Department of Energy—which, incidentally, opens for business on Saturday—has an urgent responsibility to take hold of these suits and see to it that judges at least understand the President's purposes. The trade-offs are sometimes difficult. There is no such thing as strip mining without environmental damage. But there are good reasons to keep mining where the damage can be limited. Some of these reasons involve foreign policy and the protection of the American economy from foreign disruption, although you won't find mention of that kind of thing in an environmental-impact statement. A further 18-month delay now in leasing coal reserves is not a necessity but a luxury—to be bought at a price that no one can predict.

SALT I AGREEMENT CONSIDERATIONS

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE. Mr. Speaker, on October 3, 1977, the "Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms" technically expires. This agreement, commonly referred to as Salt I, has been in effect for 5 years. In our consideration of future strategic arms limitations we should take into account what has developed in these 5 years.

A good starting point in appraising the effect of the 5 years of Salt I on peace and security is to review section 3 of the joint resolution we passed which outlined the views and conditions under which the Congress approved the Salt I arrangement (Public Law 92-448, 92d Congress, House Joint Resolution 1227, September 30, 1972). I quote this section:

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

Each of us must reach our own decision on the worth of SALT I in advancing the cause of peace and security. The 5 years of experience we now have should be a primary source of guidance in determining our future course of action.

My own evaluation of this record gives me concern about the posture of our security as a result of the past 5 years under SALT.

One area is related to the reference in section 3 of the joint resolution to the need to assure the survivability of our strategic deterrent forces. Several witnesses, including the Secretary of Defense, have expressed the view that in the past 5 years the threat to the survival of these forces has increased.

Section 3 of the resolution, you will also note, recognizes the importance, in this fast-developing field of technology, of

maintaining "a vigorous research and development and modernization program." Here again the Secretary of Defense's announcement that the Soviets have developed a fourth generation of missile systems in this period. Such technological modernizations are, of course, permissible under the SALT I agreement. I am concerned over what has happened to our relative position in this technological field.

I intend to continue examining very closely what has actually transpired during the 5 years of SALT I. We must all give this matter our most critical attention.

PANAMA—ANOTHER BAD DEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 10 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, I would like to call to the attention of my colleagues some items of interest regarding the Panama Canal and the treaties being proposed by the President to alter our control of the canal and the Canal Zone. The Foreign Affairs and Defense Subcommittee of my Congressional Advisory Committee, in their report to me, compiled much of this information.

Before I begin, though, let me say that I am aware that the other body has the primary jurisdiction in this matter. The Constitution requires that the Senate ratify any treaty to which the United States is a party. We, however, have a role in this affair as well. Since the treaty calls for payments of several billion dollars to the Government of Panama, we will be required, if the treaties are approved, to consent to this expenditure. Additionally, the Constitution requires that:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

More important, though, is our duty to express the opinions of those we represent. On a matter of such great national import, we cannot be silent while the interests of the United States are debated, and while the will of the people is ignored. For that reason, and the others which I mentioned, I am joining those of my colleagues who wish to express their views and those of their constituents on this matter.

Mr. Speaker, the Carter administration has argued that it is important to the United States that these treaties be ratified. I suggest that the opposite is true. The administration says that if these treaties are not approved, the canal will be open to sabotage and terrorist attacks. The administration says that this will result in an unstable situation in the Canal Zone, and that traffic through this waterway will be disrupted. It seems to me, Mr. Speaker, that this is a specious argument for two reasons. First, there is no greater chance for disruption if the present system continues than there would be if the canal is turned over to a military dictator with strong ties to Cuba and the Soviet Union. What sense does it make to give these nations, which are our opponents in international affairs, proxy control over the Panama Canal through a Marxist government? Second, this argument is faulty because such sabotage, on the part of General Torrijos, would be like cutting off one's nose to spite one's face. Much of Panama's gross national product is related to the canal. In 1974, for example, 21 percent of the Panamanian GNP was directly attributable to the canal. For the United States to accept this treaty for these reasons would be submitting to international blackmail on a grand scale.

Another argument raised in support of the new treaties is that American control of the Canal Zone brands the United States as a colonial, imperialistic power, and that the nations of South and Central America hate our presence in the Canal Zone. If this is true, then why after attending the Inter-American Conference on Freedom and Security in September 1975, did our distinguished colleague from Pennsylvania (Mr. FLOOD) say:

> The overwhelming views expressed during the sessions of the Conference were in opposition to surrender of the Canal Zone to Panama and a general desire for the United States to continue its undiluted sovereign control. (CONGRESSIONAL RECORD, 9/29/75.)

In addition, Lt. Gen. V. H. Krulac, USMC (retired), in an article called "Panama: Strategic Pitfall" in the 1976 edition of Strategic Review, says:

> At a recent meeting of the Inter-American Press Association . . . the attitude of Latin American editors and publishers was cold and clear. It was best expressed by a Chilean who said, "You would be doing yourself and us a major disservice if you were to back off one centimeter from your present position in Panama."

A third argument is that the Panama Canal is outdated, outmoded and militarily unimportant. The facts dispute this contention, though. An average of 14,000 ships a year travel through the canal, saving billions of dollars worth of fuel and other transportation costs. The operation of the canal is especially important to the economies of Latin American nations. Seventy-seven percent of Nicaragua's trade goes through the canal, as does 50 percent of Ecuador's trade and 80 percent of Peru's and Chile's. As far as the military value of the canal, the loss of the Panama Canal would add approximately $20 million in fuel costs and 35 days' transit time in moving ships from the Atlantic to the Pacific. In addition, as of 1976, only 13 of the Navy's 470 active ships were too large to use the canal. Finally, as Adm. Thomas Moorer, former Chairman of the Joint Chiefs of Staff, so pointedly reminded us,

> In military affairs, there is no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace.

It is this control which gives me the greatest cause for concern. The Carter administration claims that article 4 of the Neutrality Treaty gives the United States the right to protect the neutrality of the canal after the year 2000. The administration may believe that, but Panamanians most certainly do not. Panamanian Foreign Minister Dr. Romulo Escobar Bethancourt has been quoted as saying,

> The treaty does not establish that the United States has the right to intervene in Panama.

In addition to the discrepancies between the claims of the administration and the facts, there are other factors which weigh against ratification of the treaties. Chief among these is the administration's stand on human rights. This stand is admirable in its intent, but in practice it is an arbitrarily applied standard. While violations are condemned in Chile, the Philippines and other friendly nations, the Government of Panama, to which we plan to turn over the canal and Canal Zone, is listed in the "Comparative Study of Freedom" as being outdone in repression only by Idi Amin's Uganda. According to this study, published by Freedom House in New York, even Cuba and the Soviet Union are less repressive than Panama.

In summary, Mr. Speaker, this is the situation we face with these treaties. The United States is being asked to give control of an important economic and military waterway to an unfriendly military dictator with ties to Cuba and Russia, a man who has nearly driven his country into bankruptcy. We are being asked not only to give up this control, but also to pay for the privilege—to the tune of $2.3 billion! We are asked to ignore the danger of covert Communist control of this waterway, and to ignore the feelings of our Latin American neighbors. Most importantly, we are being asked to ignore the will of the American people who, in a June opinion poll by Decision Making Information of Santa Ana, Calif., oppose the treaties by more than 3 to 1.

Mr. Speaker, the people in my district do not want appeasement in American foreign policy; they do not want to go ahead with this treaty to give away the Panama Canal. The members of my Congressional Advisory Committee who prepared the report on this issue put it this way:

> It is the considered opinion of the subcommittee on Foreign Affairs and Defense . . . that from every conceivable point of view—be it financial, political, military, historic, or strategic—there is no justification for our country to relinquish control and ownership of the Panama Canal to the Government of Panama.

I can only add that I agree wholeheartedly with that conclusion.

CONGRESS BAILS OUT THE BIG BANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, each and every year this body and our sister body are responsible for disbursing and allocating hundreds of billions of dollars collected from citizens of America as taxes.

The men and women of this country work hard for their money and do not like to part with it. Frankly, I do not blame them. And when the truth is told, as it was in a recent Wall Street Journal editorial which described the proposed Witteveen Facility as a big bank bail out, I am surprised that the American people do not get even angrier about how their hard-earned taxes are spent by a profligate and fickle Congress.

This year we in Congress appropriated $5.2 billion as the American "contribution" to various international development banks. Where do these tax dollars go? They go to countries in Africa and South America and elsewhere as loans, some with interest rates as low as three-fourths of 1 percent. Thus, about $25 for every man, woman and child in America is channeled out of this country.

Was there much of an outcry when this bill was passed? Hardly any.

Now we are being asked to contribute to a new "International Credit Company" called the Witteveen Facility. This pool of money would be used to help countries pay their short term debts for oil and other deficits. However, because one of the major cash flow problems in the Third World is paying their loans from big banks like the New York City banks, this "facility" would allow governments to meet the interest payments they could otherwise not meet, and bail out the banks. The fact is that these banks should never have lent these countries money in the first place because they simply were not credit worthy. Still the Third World has almost $200 billion in debt that must be repaid, or else, we are told, something horrible will happen. What is that? Simply that some banks will lose money they never should have risked at all, become a little smaller, and a little smarter.

This is exactly what the Wall Street Journal of September 26 says in an editorial. It suggests further that Congress address the problem directly and pass a bill called the "Bankers Relief Act of 1977" and let the American taxpayer know exactly what his tax dollars are paying for. The editorial is reprinted below.

We all want to help the poor around the world help themselves. But the proposed Witteveen Facility would not do this. Instead it would continue to help the big banks help themselves to big profits as the result of unreasonable loans made partly because they knew the Federal Government would bail them out, just as it bailed out New York City 2 years ago. Who are the losers in such a situation? Both the citizens of these underdeveloped countries who are overburdened with debt, and the American public whose tax dollars are yanked out of this country.

Perhaps the most gruesome aspect of this deception is the hypocrisy of this Congress. In appropriating such large sums for such questionable purposes there was as was mentioned before virtual silence. Yet, when the farm bill came to the floor, objections were heard as to how much this bill was going to cost and even the chairman of the Budget Committee urged caution on the cost of the farm bill.

It seems that we really do not appreciate our farmers, their productivity and efficiency and our reliance upon them. Their debt financing is high partly because so much capital has gone overseas. Their land prices are inflated, and their profits are the lowest in years. The capriciousness of commodity prices forces them to live in a world of financial insecurity unmatched by any other class of employed people in America. Money that could help them goes by the billions overseas, and much of it to salvage the mistakes of powerful groups here in America.

It would seem that we have a pressing responsibility to help the American farmer. That we could do so without unwarranted complaining seems only reasonable since this Congress has spent so many billions more in aid abroad which has obviously benefited America's big bankers more than helpless poor in less developed countries.

Though some of my colleagues do not seem to believe it, Congress only has so much money to spend. Therefore decisions have to be made about where we can best spend that money and in what amounts. I have not always been happy about the budget, but never have I been more sad than when I am forced to listen to complaints about relatively small budget allocations to help this Nation's farmers whose efficiency and productivity are being rewarded with disinterest and neglect while at the same time a multi-billion-dollar bailout of the big banks is deceptively mislabeled and breezes through Congress without even minor objection.

It is no wonder that the activities of Congress are questioned by the American people.

The Wall Street Journal editorial follows:

THE WITTEVEEN FACILITY

The annual meeting of the International Monetary Fund starts today in Washington, D.C., which gives us an opportunity to lecture the whole gang of finance ministers all at once. The plain fact is, the IMF is among the chief sources of the planet's economic problems and it shows no sign of reforming.

The main topic of mischief this week no doubt will be the care and feeding of the Witteveen Facility, named after its creator, Johannes Witteveen, the IMF chairman. What is the Witteveen Facility? First we will tell you the problem the W-F seeks to correct.

Over the last 25 years, a lot of poor countries around the world came to the IMF and asked what they had to do to get ahead. The IMF advised them to borrow lots of money in the world's capital markets—the big New York and London banks, mainly—and use this capital to build "infrastructure." Dutifully, the little countries did so, but this has not proved the key to development.

So today, throughout the Third World, there is an abundance of rusting infrastructure, creaky steel mills, potholed roads. The cumulative debt now ranges around $200 billion, and the little countries have had to jack up their taxes to pay the debt service.

From time to time a team of IMF economists drops by to recommend "austerity," mostly meaning higher taxes. By now the little countries have raised taxes on their miserable citizens to levels that can only be called "grinding." How can they now be further squeezed so the banks can be paid off?

Enter, the Witteveen Facility. The industrial countries should put $5.2 billion into the W-F, and the Arab oil sheiks will put up $4.8 billion. American taxpayers, in other words, will be asked to cough up a few billion for the IMF to loan to the poor countries so that they can pay off the banks.

This indirect approach is necessary in order to fool the taxpayers into thinking they are really helping the poor. Imagine the flap if the problem were solved honestly and directly: The Bankers Relief Act of 1977. How much more heartwarming it is to hear Sen. Jacob Javits, who represents Manhattan, including lower Manhattan, warning that there will be an economic collapse unless we bail out the Third World (banks).

We doubt that such terrible things will happen if we fail to bail out the banks, though the big banks with the most infrastructure loans will no longer be quite so big unless they and the IMF can figure out another way to salvage their loans. We note that their problems can be solved by economic growth in the Third World, and see no reason why the IMF economists couldn't tell the little countries that what they need is not infrastructure but lower taxes, lower government expenditure, lower taxes, freer markets and lower taxes.

DEMOCRATS SAY STAY IN ILO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, the American Democrats abroad in Switzerland have joined the increasing number of groups and individuals that are committed to the United States staying in the International Labor Organization. In their critical Issue Review Paper on the Future of American Membership in ILO they point out the ILO's important relation to the upcoming Belgrade Conference to American business, and to U.S. human rights posture in the Carter administration.

I include the issue paper and the cover letter from Mr. Andrew P. Sundberg, chairperson, to be inserted in the RECORD:

DEMOCRATIC COMMITTEE,
Switzerland, September 5, 1977.

Hon. DONALD M. FRASER,
U.S. House of Representatives,
Washington, D.C.

DEAR FELLOW DEMOCRAT: Within the next few weeks, the United States faces a very serious decision. What shall we do about continued American membership in the International Labor Organization, a specialized agency of the UN located in Geneva?

We of American Democrats Abroad in Switzerland feel that we have a unique perspective on this issue. We feel that it is of such importance to the United States and the entire free world that we have a responsibility to speak out and inform you what we feel is at stake. We have therefore prepared a brief Critical Issue Review Paper on the Future of American Membership in the ILO which we are enclosing with this letter.

We feel that it is in the great tradition of the Democratic Party to consider leadership a collective process, and to want to work together to solve problems, defend our ideals and promote the general welfare of our fellow man. We therefore invite you to reflect with us for a few moments about how important and complicated this ILO issue is. If, as we hope, you will agree with us that the United States should not abandon the ILO, we urge you to communicate your concern directly to the White House, as well as to the Departments of State and Labor.

Our kindest regards and best wishes.

Most sincerely,

ANDREW P. SUNDBERG,
Chairperson.

CRITICAL ISSUES REVIEW PAPER

THE FUTURE OF AMERICAN MEMBERSHIP IN THE INTERNATIONAL LABOR ORGANIZATION

A policy decision of major importance to the Democratic Party, the United States, and the entire free world

Within the next few weeks, the United States will have to decide whether or not to remain a member of the International Labor Organization in Geneva. In November 1975, the ILO was informed by letter that the United States was dissatisfied with certain perceived developments at the ILO, and if there was no progress in these matters the United States would withdraw from membership effective November 6th, 1977.

The ILO in a nutshell

The International Labor Organization, almost totally unknown in the United States, is the oldest of the specialized agencies of the United Nations. It dates back to the end of the First World War when it was established as a vehicle for international cooperation in seeking an improvement in the rights and the standard of living of working people throughout the world.

Almost automatically the ILO became the most important major international organization working in the field of human rights. It has been universally recognized in this role and has received many international honors. On its 50th birthday in 1969, the ILO was awarded the Nobel Peace Prize for its contributions to human rights.

The ILO consists of three basic components. There is an annual conference at which delegates assemble from all over the world to: adopt international standards protecting the rights, health, safety and welfare of workers, vote resolutions on various matters, and to set the overall policy guidelines for the ILO. There is a governing body, composed of governmental, worker and management delegates, which gives general executive direction to the organization throughout the rest of the year. Finally, there is the secretariat which serves the annual conferences and governing body, carries out research, and supervises a vast array of activities in the field in countries throughout the world.

The ILO provides practical training to workers in many skills, to trade-union leaders, to government officials, to managers, and even to entrepreneurs, the latter much criticized by the Soviet Union. It provides essential data on world employment, searches for new methods of creating employment, seeks harmonious adaptation to technological change and new approaches to development. It works closely with other UN agencies to promote improvements in human welfare.

The Charges Against the ILO

The letter sent by the United States in 1975, signed by Henry Kissinger, expressed dissatisfaction with four points. These were that there had been a drift away from tripartism, selective concern for human rights, abandonment of due process, and too much politicization at the ILO. However, the letter also stated that the United States did not want to leave the ILO, and did not expect to leave the ILO. It finally promised that the United States would make every possible effort to promote conditions which would facilitate our continued participation.

Events Since the Kissinger Letter

The American threat to leave the ILO was taken seriously. Many efforts were made to find out what exactly the United States wanted to see done at the ILO by way of improvement. No fully satisfactory response was ever given to these requests, many of which came from our closest friends and allies.

Part of this failure to give an adequate response stems from a continual problem that the United States has had in taking the ILO seriously. In 1970, and again in 1977, the GAO reported to the Congress that the Executive branch had not been acting responsibly toward the ILO. The 1977 report of the GAO stated:

"U.S. participation in the Organization has been one of crisis management alternated with periods of low interest levels." The report further stated: "Today, more than 1 year into a 2-year waiting period before withdrawal becomes final, and having stated the United States will do all it can to resolve its problems with the Organization, the Federal agencies responsible for U.S. participation have not developed an overall statement of U.S. objectives for the Organization."

Without the benefit of knowing what exactly the United States wanted to see done, the ILO has taken steps to meet each of the American criticisms.

The first issue is tripartism which addresses the fundamental uniqueness of the ILO in the UN. Each member country is represented at the ILO by three separate voices, that of labor, management and the government. It has been charged that the universality of membership in the ILO embraces countries whose political philosophies do not allow independent voices to labor and management. This of course is true. Nevertheless, the tripartite principle is still the major ideal of the ILO.

To reaffirm its commitment to tripartism, the ILO in June 1977 voted a unanimous resolution concerning the Strengthening of Tripartism in ILO Supervisory Procedures of International Standards and Technical Cooperation Programmes. Tripartism is alive, active and working well at the annual conferences, the governing body and the secretariat.

The other three issues of the Kissinger letter, selective concern for human rights, failure of due process, and the politicization of issues, were largely based upon actions perceived to have been inimical to Israel.

During the last two years, major efforts have been made to dispute the validity of these charges and demonstrate that to the extent that there was any validity that progress was indeed being made. During the last 15 months, the ILO has hosted 4 world conferences, 2 annual conferences, a World Employment Conference and a World Maritime Conference. At no time did any of these conferences adopt a resolution attacking Israel, or any other member state, nor did they mention Zionism, racism or the Middle East.

Ironically, it is at the ILO that Israel has been given the most favorable treatment by any of the UN family organizations. An Israeli worker delegate was elected to the governing body in 1975 continuing a long tradition of Israeli participation in the leadership of the ILO. Israel has not given any notice of intention to withdraw from the ILO.

To further meet the American criticisms, the ILO at the June 1977 conference voted unanimously to adopt two resolutions, the one previously mentioned on tripartism and a second concerning the promotion, protection and strengthening of freedom of association, trade union and other human rights. To meet the U.S. points one by one the resolution on tripartism stated:

The Conference "Invites the Governing Body of the International Labor Office to consider all measures—constitutional as well as informal to ensure not only full compliance with ILO instruments but also promotion of the application in all countries of standards concerning human rights."

This same resolution also stated: "political issues outside the competence of the ILO shall not be a proper subject of inquiry by the ILO, and that member States shall cooperate fully in all investigations of allegations of violations under this section, and the ILO shall conduct such investigations, according all parties due process."

In June 1977, the governing body established a tripartite committee to investigate charges made against Czechoslovakia that it had violated an ILO convention prohibiting discrimination in employment by having dismissed persons who signed the "Charter of 77".

The ILO has taken the American charges seriously and has made a significant attempt to meet the charges, and to reply in a responsible manner.

Arguments in Favor of American Withdrawal From the ILO

Proponents of withdrawal from the ILO state that there has been no progress on the four points in the Kissinger letter and that we must therefore leave the ILO or lose credibility in the eyes of the world. They further contend that the United States is maligned at the ILO and we should not have to tolerate this.

Arguments Against American Withdrawal From the ILO

A very good case can be made for the fact that there has been substantial response by the ILO to the four points of the Kissinger letter.

But, beyond this question of the adequacy of progress on the four points, there are many other considerations which should make the United States want to remain a member of the ILO. American withdrawal from the ILO now would complicate our commitment to human rights, embarrass us at Belgrade, weaken the UN, be a disservice to American business, disappoint our allies, given an undeserved gift to our foes, and be totally out of character with decades of tradition of the United States and the Democratic Party.

Our Commitment to Human Rights

The credibility of the American commitment to the cause of human rights is directly related to the actions we take in their behalf. The ILO is universally recognized as one of the most useful vehicles there is today for observing how well human rights are being observed throughout the world. For example, the 1977 ILO report on the applications of standards cited human rights violations in the Soviet Union, Czechoslovakia, Cuba and elsewhere.

During the 1977 June conference of the ILO there was a noticeable shift in the behavior of the Soviet Union. Responding to their evident vulnerability to the effectiveness of the ILO machinery in the supervision of human rights, the Soviet Union started taking initiatives to force the United States to leave the ILO.

Embarrassment at Belgrade

The Belgrade Conference starts soon to discuss how well the agreements signed at Helsinki are being applied, and how well human rights are being protected. Here again, the ILO report on the application of standards will provide much useful information on how the Soviet Union and other totalitarian countries have been fulfilling previous such agreements.

An American decision to withdraw from the ILO at the same time that ILO documents are being shown to be of prime importance can only lead to major embarrassment of the United States. Furthermore, if the United States leaves the ILO, what guarantees will we have that there will be such useful reports in the future?

The Future of the UN

The charges made against the ILO could be easily repeated in a similar form against all of the other bodies in the UN system. Indeed, if credibility, logic and consistency are at stake these charges must be made. Since the charges against the ILO relate to abuse of Israel we should now be planning our withdrawal from the WHO, FAO, UNESCO and even the UN itself since at all of these bodies Israel has been more badly abused than at the ILO.

Disservice to American Business

The ILO is now drafting a voluntary code of conduct for multinational companies in their social and labor practices throughout the world. It would be a disservice to American business to have the United States leave the ILO while this code is being debated. Contents of the code could have a major impact on the future operations of American business overseas for many years.

Research on multinational companies carried out by the ILO has been seen to be fair and balanced, particularly when compared to similar research carried out by other organizations. In keeping with the tripartite principle, ILO reports allow American companies to speak up in their own behalf, in their own words.

Abandonment of Our Allies

The allies of the United States want very much for us to remain in the ILO. They have repeatedly said so in public and in private. They pointedly ask, on the credibility imperative to withdraw, "Credible in whose eyes?"

A Victory to Our Foes

The Soviet Union and other countries vulnerable on human rights issues would like to see us leave the ILO. It would relieve them of much of the threat that the ILO could be used to make their life very uncomfortable. Our withdrawal gives them a totally undeserved reprieve from this threat. What we really need to do is to start taking advantage of the ILO instruments and to use them responsibly to move forward toward progress on human rights.

Against the Traditions of America and the Democratic Party

One of the great traditions of the United States and of the Democratic Party is the continual recognition of our obligation to play a responsible role as a world leader. Withdrawal from the ILO goes against this tradition.

In 1934, Franklin Roosevelt told the ILO in his letter thanking the ILO for its welcome of American participation: "I share with you the hope that American participation will assist both in giving an impetus to general social progress and in speeding economic recovery in all countries."

In 1963, John Kennedy stated at American University, "World Peace, like community peace, does not require that each man love his neighbor, it requires only that they live together with mutual tolerance, submitting their disputes to a just and peaceful settlement."

In 1976, the Platform of the Democratic Party claimed: "We can't give expression to our national values without continuing to play a strong role in the affairs of the United Nations and its agencies."

In 1977, Jimmy Carter stated at Notre Dame, "We can no longer expect that the other 150 nations will follow the dictates of the powerful, but we must continue, confidently, our efforts to inspire, and to persuade, and to lead."

What Must Be Done?

We, American Democrats Abroad, share Jimmy Carter's sentiments from the Notre Dame speech. We think they are particularly appropriate in relation to our present decisionmaking on the ILO. What the world deserves, and the ILO desperately needs is a responsible American effort to inspire, and to persuade, and to lead.

We ask you to reflect upon the profundity of the importance of the ILO decision. If you agree with us that it would not only be unwise, but irresponsible for the United States to abandon the ILO, we urge you to join us in communicating this conviction to the President.

We believe that not only should the United States withdraw the letter of 1975, but should also at the same time make a bold new declaration of intent to work with renewed vigor at the ILO.

MEMBERS OF CONGRESS TO CONDUCT VIGIL FOR FAMILIES DIVIDED BY SOVIET UNION'S DISCRIMINATORY EMIGRATION POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

Mr. HANLEY. Mr. Speaker, I am pleased to join my distinguished colleague, Representative DRINAN, in a project he inaugurated entitled "Helsinki's Unfulfilled Promise." The 35 nations which signed the Helsinki Final Act, in August 1975, pledged to facilitate the reunification of families separated by political boundaries. It would appear, however, that the Soviet Union's promise is virtually meaningless as evidenced by the number of families who have been divided because of the Soviet's harsh and discriminatory emigration policies. For the second consecutive session, Members of Congress are conducting a vigil on behalf of the families which remain separated to show that the free world does sympathize with the plight of these people and will forge ahead in a positive direction to insure human rights for all.

Mr. Speaker, I would like to call your attention to the tragic story of two brothers—Alexander and Arkady Yampolsky—who have spent 4 years in limbo, alternating between hope and frustration in their efforts to obtain permission to emigrate to Israel. The Yampolsky brothers have repeatedly applied for visas since 1973, and they have repeatedly been refused even though they have never been given a valid reason for the refusals. Arkady who is an economist by trade is unemployed now because he found it impossible to work at his job after applying for permission to emigrate. This oppression is obviously retaliation by the Russian authorities as a result of the Yampolsky's request to emigrate.

My colleagues and I want to make known to the Soviet Union and to the rest of the world that we strongly oppose oppression of this nature. As Representatives in a nation which is dedicated to the principle of freedom to pursue life, liberty, and happiness, we hope that our opposition will be noted and will lend impetus to a change of philosophy on the part of the Soviets toward those wishing to begin life anew in another land. I encourage every Member of Congress to express his concern by participating in this vigil.

STATEMENT ACCOMPANYING THE INTRODUCTION OF H.R. 9395, AN ACT TO IMPROVE THE ADMINISTRATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND FOR OTHER PURPOSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, it is now 7 years since the establishment of the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce. It began as an agency whose primary mission was to provide scientific and technical services relating to the oceans and the atmosphere. Since then its statutory responsibilities have been considerably enlarged by the enactment of such statutes as the Coastal Zone Management Act of 1972, the Mammal Protection Act of 1972, the Endangered Species Act of 1973, the Fisheries Conservation and Management Act of 1976, and the Coastal Zone Management Act Amendments of 1976.

Today NOAA has responsibilities that are far wider than the provision of weather services and the mapping of our coasts. It is active in fundamental ways with the management of our marine fisheries, which are vital for our Nation and for the world at large, and with the management of the environment of the coastal zone of the United States, which contains half of the American population and 40 percent of its industrial complex. It has new responsibilities for the protection of the oceanic environment and is actively concerned with the development of new uses of the oceans for the benefit of the American people.

Unfortunately, the administrative structure of NOAA has—because of statutory limitations—not been modified to keep pace with NOAA's enlarged role. The bill I am introducing today is designed to redress the balance. Its purpose is to establish policy-level positions for the top administrative positions of NOAA and a number of new civil service positions at the highest level. With this statutory authorization. the Secretary of Commerce will have the flexibility to recruit for NOAA the kinds of experienced and able people needed if NOAA is to carry out its statutory responsibilities efficiently and imaginatively.

In summary, the bill I am introducing would do the following:

First, the bill abolishes the three existing civil service level positions and replaces them with five new policy-level positions. This will assure the administrator of the agency that he has the flexibility to form a team capable of vigorously confronting the challenges NOAA now faces. This change is consistent with the trend exemplified in the Coastal Zone Management Act Amendments of 1976 to exempt these types of policy positions from the classified civil service. Persons occupying the present level V positions, if not appointed to one of the new positions, would have the rights granted by title 5 of the United States Code to persons in the classified service effected by the abolition of an existing position.

Second, the bill would make a technical change in the Coastal Zone Management Act Amendments of 1976 to alter the title of the head of that program to match the title of others of the same rank.

Finally, the bill would authorize the Secretary to appoint eight new positions in NOAA at pay rates not to exceed GS-18. While NOAA has been able, by

virtue of special legislative provisions, to add high-level scientific personnel, it is unable to add top-level career personnel with backgrounds in fields like economics, political science, resource management, law and regulatory policy. These skills are essential if NOAA is to respond to its increased responsibilities for enforcement, management, and policy development under the new legislation of the last 4 years.

NEW HOUSE FINANCIAL DISCLOSURE REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, as chairman of the Select Committee on Ethics, I recently sent a Dear Colleague letter to the personal attention of each Member to remind them that the new House financial disclosure requirements take effect October 1, 1977.

Some Members apparently believe that the first filing under the new rules must be made by October 1, 1977. This is not the case. The first disclosure statement under new House Rule XLIV must be filed by May 1978 to cover the time period from October 1, 1977 through December 31, 1977.

I will not take the time here to repeat the text of my letter of September 21, but I would like to reply to a few of the concerns which have been brought to my attention. First, some Members are concerned with the possible difficulty in placing an accurate value on their business or investment holdings. The rule requires that the fair market value of holdings be disclosed only by "category of value," rather than by specific dollar amounts.

These categories of value are: less than $5,000; between $5,000 and $15,000; between $15,000 and $50,000; between $50,000 and $100,000; and over $100,000. Therefore, one would not have to obtain an expert appraisal in order to ascertain exact values of holdings. Rather, the value of a holding need only be listed, for example, as between $50,000 and $100,000. Let me also remind you that securities transactions and capital gains are exempted from the first filing.

Additionally, there has been some concern about determining the exact value of those gifts that need to be disclosed. Let me point out again that with respect to the specificity of the information required to be disclosed, a "rule of reasonableness" should apply. It is not necessary that exact dollar figures be reported in every case. Often the exact value of gifts may not be readily ascertainable. In such instances, a good faith estimate, along with a brief description of the gift, would be sufficient for disclosure purposes.

I am sure that Members will continue to have many questions concerning applicability of the new disclosure rules before they make the first filing next spring. But let me assure you that the requirements of the new rule can be met for the most part with information that Members already keep for other purposes. Please do not hesitate to talk to me personally, or to call the select committee staff on extension 58461. Additionally, the Clerk's office will be making available a sample disclosure form to Members within the next few weeks, so that you will be able to "graphically see" what will need to be done next year.

RENT-A-TEEN PROGRAM—SOUTH BEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I would like to bring to the attention of Members of the House a remarkably effective job referral program, in the congressional district that I represent, which has meant constructive summer employment for hundreds of young people eager for work.

The program is called Rent-a-Teen, and, in 3 years of operation, it has helped more than 450 teenagers in the South Bend, Ind., area find part-time jobs. Rent-a-Teen has also provided a valuable service to local homeowners and to commercial firms seeking workers on a short-term basis.

Rent-a-Teen was formed in 1975 as a summer employment service for several neighborhoods in South Bend. Sponsored by the Portage Avenue Youth Group and the National Bank and Trust Co. of South Bend, and directed by Jim Klemczewski, it is a completely voluntary program which receives applications from teenagers age 13 or older and matches them with prospective jobs near their homes. It is that simple, Mr. Speaker. The jobs usually involve handyman-type chores such as window washing or lawn mowing. The prospective employer and the job seeker get together and make their own arrangements with respect to salary and other details of the work.

Rent-a-Teen has become so popular in South Bend that it is being expanded into surrounding communities and hopes to extend operations beyond the summer. The manager of the program often receives 20 to 30 calls a day with job offers for local youths. The administrative costs are minimal—only $190 for an entire summer, with most of that going for telephone rentals and application forms.

Mr. Speaker, Rent-a-Teen is in the best tradition of American initiative and innovation in finding a solution to a difficult problem—how to bring jobs and workers together. It is a significant stimulus to the employment of young people, who often have little experience in locating part-time jobs and sometimes give up out of frustration.

I strongly believe that voluntary programs of this type, which involve no Government expense and provide great benefits to a community, should be widely encouraged. I hope that other Members will want to encourage similar programs in their own districts.

I insert in the RECORD two articles from the South Bend Tribune on the achievements of the Rent-a-Teen program:

[From the South Bend (Ind.) Tribune, May 3, 1977]

PORTAGE AVENUE TEENS READY TO PUSH BROOMS

(By Wayne Falda)

Once again this year, the Portage Ave. Youth Group will be arming its members with brooms, shovels, rakes, washrags and hedge clippers to resume its annual summer war in South Bend against unkempt lawns, weed-choked gardens, dirty windows, cluttered basements, and the like.

And equally important, these teens will be waging the battle against a nemesis of a more personal nature—an empty pocketbook.

Launched in 1975, this teen-age summer employment program, called Rent-A-Teen, was an immediate success in providing jobs for hundreds of youths willing to work over the summer, according to James Klemczewski, adult adviser and founder of the group.

"In the two years we have operated the program, we have found approximately 500 jobs for over 200 kids," he said. "Some were temporary jobs, like cleaning basements or taking down storm windows, but others evolved into jobs that lasted throughout the summer."

The program is so successful that Klemczewski envisions organizing similar youth employment programs in other parts of South Bend and Mishawaka.

"The concept is really very simple," he said. "The Rent-A-Teen program is, in effect, a referral service. People needing work done call the program's telephone number, leave their name, address and telephone number and the kind of work to be done. All we do is try to match that job with a kid who can qualify for it."

"Then we give the kid the person's telephone number and from that point on all the arrangements—including the pay involved—are made between the person and the kid," Klemczewski added.

But the youth group's founder said that a great deal of help will be needed to organize many such neighborhood programs. So he is calling upon individual neighborhood organizations or churches to sponsor similar Rent-A-Teen-type programs in their areas. Based on what he has observed over the past two years, the demand for this kind of program is great everywhere.

Though the Portage Ave. Youth Group concentrates its activities in the northwest part of South Bend, some of its members have been put to work as far away as Lakeville or Osceola. "If anyone has any questions about organizing a program, all he or she has to do is to contact me or an adviser of the group," Klemczewski said.

In re-establishing the Portage Ave. program, youth group members have distributed employment forms in schools within the Washington-LaSalle high school districts.

Youths 13 years and older will be put on file for employment, he said.

One of the strengths of the program, he noted, was its success in providing youths with an opportunity to take part in something constructive over the summer while given money.

At the same time it provided residents a source of youths eager to help with whatever job that needed to be done, he added.

Klemczewski said the cost of the program for the two years was amazingly low, with most of the cash outlay provided out of his own pocket or through the PAYG.

The greatest cost is that of installing a telephone, he said. Youth group members man the phones and keep the books.

Klemczewski pointed out with pride that not a cent of public money has been used to run the program. "It's a private program and will remain that way. We will not be used for personal or political gain," he said.

One item that still remains on the Rent-A-Teen agenda is the location of the phone, but Klemczewski said the headquarters and the telephone number will be made public prior to the end school.

[From the South Bend (Ind.) Tribune, July 14, 1977]

SUCCESS BREEDS EXPANSION FOR JOB SERVICE

(By Wayne Falda)

Rent-A-Teen has gone citywide.

Based on the overwhelming response to the job referral service for teenagers, the program is expanding from its headquarters at the National Bank and Trust's Postage Banking Center to all National Bank branches in the city.

According to James Klemczewski, advisor to the Portage Ave. Youth Group which initiated the program, applications will be available at the branches to all youths wanting work for the summer.

The National Bank is sponsoring the program this year and so far the response has been tremendous, Klemczewski said. "We've put over 150 kids to work so far—and we've been in business for less than a month," he said. "Some of the kids have already made over $300 working on a steady basis pumping gas," he said.

About 250 applications have been turned in by teenagers looking for work.

Klemczewski is hoping to receive other applications in other parts of the city to handle requests that have been coming in from everywhere. "We've been getting calls from places like Mishawaka, Granger, New Carlisle and even as far as North Liberty," Klemczewski said.

Since more than half of the teenage applicants now on file are from the Portage Ave. and Northeast Side, the uneven distribution has caused some placement problems, Klemczewski said.

Many of the jobs called in by homeowners are of the "around-the-house" variety, Klemczewski said. "We've had a lot of calls to wash windows, trim hedges, mow lawns, babysit, wash cars, and the like," he said. "But we're also getting some calls from businessmen who are looking for temporary help of one kind or another. Anyone seeking help should call 289-5446.

"In the first few days we had so many calls, our telephone answering recorder couldn't handle the load. Now we've got a larger machine to take care of the calls," he said.

Applications will be available starting today at the National Bank's branches in New Carlisle, at 1711 S. Micyhigan, 2317 Western, 4490 S. Miami, 2926 Mishawaka Ave., 16489 Cleveland, 112 W. Jefferson, and 127 W. Wayne.

JERRY L. PETTIS MEMORIAL VETERANS HOSPITAL DEDICATED

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker. I can think of no more fitting memorial to the life and work of our late, much-respected colleague, Jerry L. Pettis, than to dedicate in his name the magnificent new Veterans Hospital in Loma Linda, Calif.

Last Sunday, Jerry's dream of a hospital to serve the health needs of veterans in the area he represented with such dedication and vigor became a reality. Jerry had played a key role in building two hospitals in his hometown to meet the medical needs of its citizens. He used his talents as an inventor to assist in the education of needy medical students throughout the country and to help doctors expand their knowledge of modern medical techniques. The Jerry L. Pettis Memorial Veterans Hospital will serve as a training and research center to expand medical knowledge that may someday save lives and restore the health of future Americans.

Jerry Pettis would have been proud to know that his name will be forever linked to such a worthwhile and needed facility.

It was a privilege for me to have served with him in numerous capacities in Congress. We worked together on the Science and Astronautics Committee. Later, we served together on the Ways and Means Committee and on the Health Subcommittee. His concern in the areas of health matters, as well as all his other areas of interest, sprang from a deep and sincere desire to be of service to his fellow man in whatever way he could.

We traveled together on many occasions, and I got to know Jerry well. He was the kind of man that makes one proud to say about him: "He was my friend."

I know that his wife, SHIRLEY, who accepted the challenge of continuing his work in Congress and has gone on to earn the respect and admiration of this body by her own dedication to high principles and hard work, is as proud of the tribute as we are. Our dear friend and colleague, RAY ROBERTS, was at the dedication and characterized Jerry Pettis in a few words we all know to be true:

Jerry Pettis was truly a remarkable individual, a humanitarian with strong Christian ideals.

I insert the full text of Congressman ROBERTS' statement following my remarks:

STATEMENT OF THE HONORABLE RAY ROBERTS

Thank you Mr. Ross. My Dear Friend, Congresswoman Pettis; distinguished guests; distinguished veterans; ladies and gentlemen.

Today is a very special day for me. It brings to fruition a long period of planning and construction of this magnificent institution that looms so impcsing behind this platform. It also culminates in the dedication of this splendid hcspital in the name and memory of the late Congressman Jerry L. Pettis, who fought so long and valiantly in concert with the veterans' organizations of this area, to bring about its construction.

I would be remiss if I did not also mention the unstinting support of this entire community for this new VA hospital.

Let me at this point mention for those who are now or will become involved in the operation of this hospital, the road ahead is not going to be an easy one. There are forces abroad that would destroy this fine hospital and the other 170 similar institutions operated by the Veterans' Administration throughout the Nation. A good example of such forces is the recent 6 million dollar study produced by the National Academy of Sciences entitled, "Health Care for American Veterans."

The conclusions and recommendations of this study, if carried out, would completely destroy the entire veterans' medical program. Even worse than these recommendations was the press release put out by the Academy. It was replete with untruths and half-truths calculated to destroy this program that has not only done much for veterans but has been unequaled since the end of World War Two in its contributions to medical education and medical research in this country.

As chairman of the House Committee on Veterans' Affairs, I want to go on record that we will do everything in our power to see that this VA hospital, as well as all others, are not only maintained as a separate and distinct program for the American veteran, but that they are strengthened in every way possible.

Jerry Pettis, if he were alive today, would join in this fight with us.

I am sure that Jerry Pettis requires no eulogy among the members of this community which he loved and held in such high regard. His contributions to public service, business and education, building and supporting Loma Linda University—especially the school of medicine—are well known. It was his foresight, untiring energy and driving force that brought this veterans' hospital to this community to heal and restore to health the sick and disabled veterans of the area.

He also had the foresight to realize that such an institution would provide educational and research opportunities to young physicians and allied health professionals in affiliation with the Loma Linda University school of medicine—one that not only would improve the level of health care in this area but a much broader geographical base in the Nation.

Jerry Pettis was truly a remarkable individual, a humanitarian with strong christian ideals. He was dedicated to making this great Nation a better place in which to live. He never asked of his fellow man more than he was willing to give of himself.

He served this great university in many capacities including vice president and chairman of its board. He and his charming wife managed several successful business enterprises, one of which was donated to the California Medical Association for the support of needy medical students throughout the State of California. He and his wife accomplished all of this while raising a fine family.

Immediately following World War Two, in which he was a pilot and a flight instructor with the Air Transport Command in the Pacific theater of war, he became a commercial airline pilot for United Airlines.

He later served as a special assistant to the president of that airline.

By this brief sketch of this man's active and varied background, one readily sees that he stood tall in every endeavor he undertook. Yet in every venture he was motivated to help his fellow man in any way possible. Truly this man's accomplishments throughout his life more than justify the label, if you will, as a "giant among men."

Many of you may not know that to name a Veterans' Administration hospital in memory of an individual requires an act of Congress.

So popular was Jerry Pettis among his colleagues in the House of Representatives that four identical resolutions were introduced to name this hcspital after him as a lasting memorial. These resolutions were sponsored by no less than 87 individual Members of the House. In my memory of service in that body, I cannot recall a measure so widely sponsored. Of course when it was considered on the floor of the House, it passed unanimously. The Senate passed the bill in a similar manner.

Thus, when the President signed it into Public Law 94-246 on March 25, 1976, this institution became only the sixth to be named in memory of an individual. I felt a sense of personal fulfillment in introducing one of the four bills and to have been the floor manager in the House of the bill that finally became law.

With the loss of this great Member in the tragic accident on February 14, 1975, the 37th District of California and the American veteran came up with an equally strong advocate in the election on April 29, 1975 of Jerry Pettis' widow—the Honorable Shirley Pettis—to fill his vacancy in the Congress. As you know, she was reelected to the 95th Congress last November. In this election Congress-

woman Pettis received 71 percent of the vote in this, the 37th District of California. Very few elected officials at any level of Government can boast of receiving such an overwhelming majority of the vote. It expresses in a very tangible way the confidence and affection the electorate has for this most capable and charming lady.

I can assure you that the voters of this district are not the only ones who have affection for her, as well as admiration for her outstanding ability as a legislator. She is serving with distinction on the Committee on International Relations and the Committee on Education and Labor as well as representing the 37th District of California in an exemplary manner.

It is indeed an honor for me to be chosen to introduce this outstanding lady to you on this momentous occasion—the dedication of this great VA hospital as a memorial to her late husband, Jerry L. Pettis.

Ladies and gentlemen, the Honorable Shirley N. Pettis.

DEREK WEDDING WINS NATIONAL TITLE

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, one of my young constituents recently achieved a great honor, both for himself, his family, and for the State of Texas, by being crowned the Grand National Champion of the National Motorsport Association; 14-year-old Derek Wedding, competing as the youngest entrant in the expert division against racers up to 18 years of age, won the 250cc stock expert class and placed high enough in other categories to win the overall title. I include at this point an article from the Marshall News Messenger of September 4 which describes the work and perseverance displayed by Derek as an example to all of what can be accomplished by a small town youngster with drive, determination, a dream of excellence, and 100-percent backing of his entire family.

DEREK WEDDING WINS NATIONAL TITLE

(By Ferrell Foster)

A 14-year-old Marshall youth saw a dream come true in August when he was crowned Grand National Champion of the National Motorsport Association (NMA).

Derek Wedding proved he was No. 1 by winning the 250cc Stock Expert class at the national moto-cross championships of the largest youth racing association in the United States.

Wedding competed in three categories at the nationals in Houston, but in the most prestigious class of the competition he achieved the best overall record after three separate races through the mud of Rio Bravo moto-cross track to bring home the title.

The "Texas Dynamo," as the young champion is known on the racing circuit, said the national crown has been his goal for four-and-a-half years, but admitted it took a lot of hard work in getting there.

Derek's mother, Sue Wedding, said, "Derek is not a natural, he has had to work to acquire the skills.

"It shows that any kid can do it if he will work hard enough and sacrifice and has the support of his parents," she added.

Wedding's victory was even more rewarding considering he was the youngest entry in the expert division which had competitors ranging up to 18 years of age.

James Wedding, father of the champ, said Derek's ability to win can be attributed 60 per cent to the rider and 40 per cent to the bike.

However, he said, "It comes down to the rider at the championship."

The father pointed out that his son studies the other riders. "He knows most of the riders, their quirks and weaknesses," he said.

Derek added that in the expert class he trusts the guy in front of him.

He said he has to trust the other fellow when they are racing along only a few feet apart and many times even bumping into one another as they go through the turns.

Mrs. Wedding agreed and said, "They have a tremendous respect for one another. It is a very mature type relationship these kids have," she added.

Derek's father also said his son knows exactly where he is going from turn to turn.

"He has a knack for picking lines on a track that are the fastest and smoothest," Wedding said.

The proud parents emphasized Derek's ability by pointing out that many professional riders ask for their son's advice in determining where the best lines are in the track.

Derek said motor-cross racing requires total concentration, both physical and mental.

Although it may come down to the rider during the championship, the 14-year-old takes pride in doing all his mechanic work.

According to his dad, "Derek has an advantage because he does his own work. If something goes wrong, he knows what it is immediately," he said.

As a matter of preventive maintenance, Derek tears each bike down after racing it.

When he breaks the engines down we find little things that might have cost us a race if they had gone unnoticed, Wedding said.

Although Derek is "alone" as he goes through the rigors of a motor-cross race track, he and his parents insist that it is strictly a family sport.

James Wedding said that the sport has brought their family much closer together as they have traveled across the country.

"Everyone goes along, Derek, Brant (the youngest Wedding), their mother, myself and even the dog," Wedding said.

Marshall attorney added that he probably has more fun at the races than Derek.

Over 1,100 regional NMA champions from across the country converged on Rio Bravo to compete in 33 riding categories.

Wedding achieved the best overall record in his winning 250cc class by posting two second place finishes and one first in the three individual races.

The Marshall amateur beat out a professionally licensed rider from California, who came in second overall with two first place finishes and a fourth in the three races.

In other activity, Derek finished 10th in the 100cc Modified Expert class after suffering a fall and engine problems.

The young rider did not place in the 125cc Modified Expert class after an opening day accident that resulted in his being carried off on a stretcher.

He said he went down in the mud and riders kept piling into him from behind until he thought he was going to choke.

Wedding said he didn't expect to do as well in the 250 as in the 100 and 125.

However, his mother said, "After they threw the pro in that is the one (the 250) we really wanted to win."

But even though he has a national title under his belt, life for Derek Wedding continues on much as it did before. He still goes to school each day, plays football and races on the weekend.

Mrs. Wedding summed it up this way, "Every little kid dreams about it, but never thinks he will do it. But when it does happen it doesn't really make that much difference."

GENERAL LEAVE

Mr. MARKS. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may be permitted to revise and extend their remarks and include extraneous material on the bill H.R. 6951, Council on Wage and Price Stability.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RAILSBACK (at the request of Mr. RHODES), for today, on account of official business.

Mr. GUYER (at the request of Mr. RHODES), for September 30, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN of Illinois, for 10 minutes, today.

Mr. SYMMS, for 60 minutes, today.

Mr. GRASSLEY, for 10 minutes, today.

(The following Members (at the request of Mr. VENTO) to revise and extend their remarks and include extraneous material:)

Mr. FRASER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HANLEY, for 5 minutes, today.

Mr. MURPHY of New York, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MOORHEAD of Pennsylvania, to revise and extend his remarks and include extraneous matter during consideration of H.R. 6951.

(The following Members (at the request of Mr. MARKS) and to include extraneous matter:)

Mr. SHUSTER in two instances.

Mr. ASHBROOK in two instances.

Mr. COLLINS of Texas in two instances.

Mr. CORCORAN of Illinois.

Mr. BURGENER.

Mr. QUIE.

Mr. FINDLEY.

Mr. WALKER.

Mr. LAGOMARSINO in three instances.

Mr. HOLLENBECK.

(The following Members (at the request of Mr. VENTO) and to revise and extend their remarks and include extraneous matter:)

Mr. EDWARDS of California in two instances.

Mr. SIMON.

Mr. VANIK in two instances.

Mr. GORE.

Mr. MAZZOLI in two instances.

Mr. RICHMOND.

Mr. ST GERMAIN.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. SKELTON.

Mr. BEARD of Rhode Island.

Mr. CARNEY in two instances.

Mr. STUDDS.

Mr. BLANCHARD.

Mr. SOLARZ.

Mr. SISK.

Mr. ZABLOCKI in two instances.

Mrs. MEYNER.

Mr. OBERSTAR.

Mr. WAXMAN.

Mr. BONKER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6111. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

ADJOURNMENT

Mr. VENTO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 1 minute p.m.), under its previous order, the House adjourned until Monday, October 3, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2482. A letter from the General Counsel, Commodity Futures Trading Commission, transmitting notice of proposed changes in the Commission's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2483. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of International agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2484. A letter from the Chairman, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, transmitting a report and recommendations concerning research involving children, pursuant to section 202(a)(2) and section 204(d) of Public Law 93-348; to the Committee on Interstate and Foreign Commerce.

2485. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend section 3006A of title 18, United States Code relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States; to the Committee on the Judiciary.

2486. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on the Central Oklahoma Urban Study, pursuant to resolutions of the House and Senate Committees on Public Works; to the Committee on Public Works and Transportation.

2487. A letter from the Secretary of Health, Education, and Welfare, transmitting a plan of implementation for the Indian Health Care Improvement Act, pursuant to section 703 of Public Law 94-437; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means.

2488. A letter from the Comptroller General of the United States, transmitting a report on the inefficiencies of the supply operations of the District of Columbia; jointly, to the Committees on Government Operations, and the District of Columbia.

2489. A letter from the Comptroller General of the United States, transmitting a report on the effects that veterans' preference and apportionment is having on job opportunities available for affirmative action plan goals under the Equal Employment Opportunity Act; jointly, to the Committees on Government Operations, Education and Labor, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NEDZI: Committee on House Administration. H.R. 8358. A bill to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications (Rept. No. 95-650). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 766. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; with amendment (Rept. No. 95-651, Pt. I). Ordered to be printed.

Mr. BOLLING: Joint Economic Committee. A report on the 1977 midyear review of the economy. (Report No. 95-652). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota (for himself, Mr. STANGELAND, Mr. FINDLEY, Mr. BROWN of California, Mr. KINDNESS, Mr. DUNCAN of Tennessee, Mr. BUTLER, Mr. YOUNG of Alaska, Mr. LOTT, Mr. KILDEE, Mr. WINN, Mr. KETCHUM, Mr. SEBELIUS, Mr. TREEN, Mr. BALDUS, Mr. MINETA, Mr. HORTON, Mr. SISK, Mrs. SPELLMAN, Mr. CORNWELL, Mr. ROE, Mr. ABDNOR, Mr. REGULA, Mr. JOHN T. MYERS, and Mr. RONCALIO):

H.R. 9387. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide persons who own farm operations and businesses with more equitable compensation when they are displaced from such farm operations and businesses by the Federal Government; to the Committee on Public Works and Transportation.

By Mr. BEARD of Rhode Island:

H.R. 9388. A bill to establish a program whereby the Secretary of Housing and Urban Development shall make payments for the purpose of assisting certain low-income homeowners in meeting increasing costs related to the operation of their homes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BEARD of Tennessee (for himself and Mr. ICHORD):

H.R. 9389. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes; jointly, to the Committees on Armed Services and Post Office and Civil Service

By Mr. BREAUX:

H.R. 9390. A bill to provide a voluntary self-help program which is designed to assist producers of agricultural products to protect themselves against loss of cost of production when natural or uncontrollable conditions adversely affect production and which will assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture.

By Mr. CONABLE (for himself, Mr. ANDREWS of North Dakota, Mr. EVANS of Delaware, and Mr. STANGELAND):

H.R. 9391. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself, Mr. AKAKA, Mrs. COLLINS of Illinois, Mr. EILBERG, Mr. FAUNTROY, Mr. LE FANTE, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. MOLLOHAN, Mr. MURPHY of New York, Mr. MICHAEL O. MYERS, Mr. PRICE, Mr. ROONEY, Mrs. SPELLMAN, Mr. VENTO, Mr. WAXMAN, Mr. WEISS, Mr. CHARLES H. WILSON of California, and Mr. WON PAT):

H.R. 9392. A bill, Full Employment and Balanced Growth Act of 1977; to the Committee on Education and Labor.

Ms. MIKULSKI (for herself and Mr. BYRON):

H.R. 9393. A bill to repeal the changes made by the Tax Reform Act of 1976 in the exclusion for sick pay; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. AMMERMAN, Mr. BROWN of Ohio, Mr. COHEN, Mr. HYDE, Mr. ROUSSELOT, Mrs. SPELLMAN, Mr. TREEN, and Mr. VENTO):

H.R. 9394. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for certain amounts paid to a reserve for payment of product liability losses; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself and Mr. BREAUX):

H.R. 9395. A bill to improve the administration of the National Oceanic and Atmospheric Administration and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 9396. A bill to amend title 5, United States Code, to revise civil service retirement provisions as they apply to Federal mine inspectors; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE:

H.R. 9397. A bill to amend the Tariff Act of 1930 with respect to the marking of wearing apparel assembled abroad from U.S. products exported for purposes of such assembly; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. ROONEY):

H.R. 9398. A bill to amend the Department of Transportation Act and the Regional Rail Reorganization Act of 1973 to extend the eligibility for financial assistance under the rail service assistance programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALKER (for himself, Mr. MOAKLEY, Mr. LENT, Mrs. LLOYD of Tennessee, Mr. PRICE, Mr. CONTE, Mr. RAHALL, Mr. MURPHY of Pennsylvania, Mr. LEHMAN, Mr. DUNCAN of Tennessee, Mr. HYDE, Mr. LAGOMARSINO, Mr. EILBERG, Mr. WINN, Mr. CAPUTO, Mr. EVANS of Georgia, Mr. HARKIN, Mr. RAILSBACK, Mr. BADILLO, and Mr. NOLAN):

H.R. 9399. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. DANIELSON, Mr. DRINAN, and Mr. RAILSBACK):

H.R. 9400. A bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States; to the Committee on the Judiciary.

By Mr. BONKER:

H.J. Res. 609. Joint resolution to authorize the President to enter into discussions and negotiations with Canada concerning the transportation of crude oil by pipeline through Canada to markets in the United States, and for other purposes; jointly, to the Committees on International Relations, Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. CORRADA (for himself, Mr. MCDONALD, Mr. LAGOMARSINO, Mr. AKAKA, Mr. MOAKLEY, Mr. WHITEHURST, Mr. PEPPER, Mrs. SPELLMAN, Mr. YOUNG of Alaska, Mr. LEDERER, Mr. KETCHUM, and Mr. LLOYD of California):

H. Con. Res. 366. Concurrent resolution expressing the sense of Congress that the value of military exchange and commissary privileges should not be considered by any Federal agency in determining the entitlement of any retired or former member of the Armed Forces to any other Federal benefit or in determining the amount of any other Federal benefit; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Con. Res. 367. Concurrent resolution objecting to proposed sales to Egypt of certain defense articles and services (transmittals 77-80 and 77-83 submitted by the President); to the Committee on International Relations.

By Ms. KEYS:

H. Res. 802. Resolution relating to use of funds made available for district office space for Members of the House of Representatives; to the Committee on House Administration.

By Mr. LUKEN:

H. Res. 803. Resolution relating to the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. ZEFERETTI introduced a bill (H.R. 9401) for the relief of Patrick A. and Wayne L. Thomas; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. BREAUX:

Strike all after the enacting clause and insert the following:

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of petroleum and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of the Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of more and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local government, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) ensure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) deposits of oil, natural gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any coastal State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the Outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the Outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or as a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the Outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the Outer Continental Shelf of the United States;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring in the Outer Continental Shelf of the United States;

"(j) The term 'Governor' means the Governor of a State, or the person designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the Outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the Outer Continental Shelf off Southern California, including the Santa Barbara Channel.'

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the Outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the Outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the Outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the Outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States,

and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the Outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the Outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other deivce."

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the Outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this approach with the Secretary of the department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operations, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragragh shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 et seq.) is amended to read as follows:

SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the Outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in delays in the exploration, development, or production of resources unless the Secretary publishes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits, or to the marine, coastal, or human environment. In the enforcement of safety, environmental and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph

(other than a lease canceled for reasons of national security or defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this paragraph, or a lease canceled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with clause (I) of subparagraph (ii) of this paragraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the United States Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State; and

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the Outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial, shrouding, and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator for the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provisions of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the Outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the Outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

"(i) In the case of joint leases which are canceled due to the failure of one or more partners to exercise due dilligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question.

REVISION OF BIDDING AND LEASE ADMINISTRATION

"SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the Outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at no less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule

on the record after an opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(1) The bidding systems authorized by subparagraphs (B) through (I) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region in a frontier area.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection;

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph; and

"(vii) any recommendations, accompanied by detailed justifications, for additional legislation which would further revise the bidding system used under this Act.

"(6) (A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after the Secretary has determined the tracts to be included in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracks selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J).

(b) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.".

"(c) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973."

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds after notice and hearing that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. In his notice of each lease sale the Secretary shall identify each lessee who has been notified by the Secretary that he, at the time of such notice, is not meeting due diligence requirements on one or more of his oil and gas leases. All other lessees not identified in such notice shall be conclusively presumed to be meeting due diligence requirements for the purposes of this subsection.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of, and subject to renegotiation by, the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the Outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall impound in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the Outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and on the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

"SEC. 11. (a)(1) The Secretary or any other agency of the United States and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the Outer Continental Shelf which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment: *Provided, however*, That budget requests for any funds to be used by any agency of the United States in conducting geological and geophyscial explorations shall be displayed as a separate line item and appropriately justified, as part of such agency's annual budget request: *Provided further*, That no funds shall be appropriated for such explorations prior to the fiscal year beginning October 1, 1978.

(2) In order to obtain more accurate and adequate information regarding the oil and gas resources of the Outer Continental Shelf, prior to the first lease sale in each frontier area the Secretary shall publish in the Federal Register a request that potential permittees apply for a permit to participate in a conventional offshore stratigraphic test or other such economically feasible off-structure test drilling operations as are authorized by regulation. Should no potential permittee apply for such a permit within sixty days of the publication in the Federal Register of the Secretary's invitation to participate, the Secretary may contract for such off-structure drilling: *Provided*, That no funds shall be appropriated for such drilling prior to the fiscal year beginning October 1, 1978: provided further, that budget requests for the funds necessary to implement this subsection shall be displayed as a separate line item and appropriately justified, as part of the department's annual budget request.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the Outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

ANNUAL REPORT BY SECRETARY TO CONGRESS

"SEC. 15. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the Outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of Outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized: tion 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) is amended by adding at the end thereof the following new sections:

OUTER CONTINENTAL SHELF LEASING PROGRAM

"SEC. 18. (a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be reared and maintained in a manner consistent with the following principles:

"(1) Management of the Outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the Outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the Outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the Outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed,

including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the Outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination.

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative environmental sensitivity and marine productivity of different areas of the Outer Constinental Shelf; and

"(J) relevant baseline and predictive information for different areas of the Outer Continental Shelf.

"(3) The Secretary shall elect the timing and location of leasing, to the maximum extent practicable, so as to obtain a paper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1967 (42 U.S.C. 4332(2)(C); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same amount as originally developed.

"(f) The secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the Outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5)(A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Management Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. (Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested.) The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information and may provide the Secretary with any proprietary information he requests to assist him in preparing the leasing program. Information of a proprietary nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

COORDINATION AND CONSULTATION WITH AFFECTED STATES

"SEC. 19. (a) Any Governor of any affected State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or sixty days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor if he determines, after having provided the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act, and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both on and offshore.

BASELINE AND MONITORING STUDIES

"SEC. 20. (a)(1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary may, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duities in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(e) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

SAFETY REGULATIONS

"SEC. 21. (a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production, and development of natural resources, with respect to the Outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, production, and development of natural resources of the Outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety standards and regulations."

"(d)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the head of other appropriate Federal agencies and departments for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"(e) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

ENFORCEMENT OF ENVIRONMENTAL AND SAFETY REGULATIONS

"SEC. 22. (a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to regulations issued pursuant to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility to conduct an on-site inspection; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single tweny-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

CITIZEN SUITS, COURT JURISDICTION, JUDICIAL REVIEW

"SEC. 23. (a)(1) Except as provided in this section, any person having a valid legal interest which is adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act; and

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary, any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary, or his authorized representatives, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter or right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, any other appropriate Federal official or, the Attorney General, if not a party, may intervene as a matter or right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if

a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) all suits challenging actions or decisions, allegedly in violation of, or seeking enforcement of the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the Outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the Outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of the Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the Secretary and to the Attorney General of the United States.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

OIL AND GAS DEVELOPMENT AND PRODUCTION

"SEC. 25. (a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the Outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing or refining of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any confidential or privileged information (as such term as is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carred out in accordance with a plan which complies with the requirements of this session.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed:

"(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the Outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once, prior to approving a development and production plan in any frontier area declare approval of a plan for a lease or set of leases to be a major Federal action. For the purposes of this section, such approval shall be deemed to be a major Federal action.

"(2) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate entity for review, and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State shall have sixty days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modification of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraphs (8) and (9) of section 5(a) of this Act. Any modification required by the Secretary which affects land and water uses shall be consistent with the coastal zone management programs of affected States which have been approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455) unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii), of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph and of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat to harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2) If a plan is disapproved under clause (A) of paragraph (1), or if a lease was issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), and a plan is disapproved under clause (B) of paragraph (1), the lessee shall not be entitled to compensation because of such disapproval. If the plan is disapproved under clause (C) or (D) of paragraph (1), or under clause (B) of paragraph (1), where a lease was issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, as amended, and after the lessee submitted to the Secretary a development and production plan, the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease issued after the date of enactment of this section, the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (A) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease, or (B) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all considerations paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement). In the case of any lease issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (A) of this paragraph. The Secretary may, at any time within the five-year period describe in this paragraph, require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, cancelled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(k) An oil and gas lease issued or maintained under this Act which is located in any area which is not a frontier area shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest.

OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION ACT

"SEC. 26. (a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and a representative interpretation of such data, which the Secretary may request. Such data and interpretation shall be provided in accordance wtih regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequences of the use of or reliance upon such intepretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permitee, the Secretary shall pay the reasonable cost of processing and reproducing such data, pursuant to such regulations, as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and in-

terpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the possible location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defense set forth in subsection (f)(2) of this section.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of this employment in revealing such information.

"(g) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS

"SEC. 27. (a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) Except as otherwise provided in section 12(b) of this Act, the Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish note of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with provision of law or regulations.

"(C)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1978 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

LIMITATION ON EXPORT

"SEC. 28. (a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

RESTRICTIONS OF EMPLOYMENT

"SEC. 29. No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties of responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.

FISHERMAN'S GEAR COMPENSATION FUNDS

"SEC. 30. (a) As used in this section, the term—

"(1) 'commercial fishermen' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the Outer Continental Shelf for the purpose of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lesse for a tract in an area of the Outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this Act.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which such fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas explorations, development, and production activities, including all obstructions on the bottom throughout the water column, and on the surface; and

"(C) establish regulations for the materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from any fishermen's gear compensation fund established for any area of the Outer Continental Shelf ot compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment—

"(i) may be made by any fishermen's gear compensation fund when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) shall not exceed $10,000 per claimant for any incident; and

"(iii) shall be made to the extent that damages were caused by negligence or fault of the commercial fishermen making such claim.

"(d)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance of testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest cir-

cuit, or in the United States Court of Appeals for the District of Columbia.

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government, or to any foreign government, or to their contractors or subcontractors, of (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenances related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))) and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary" means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, which cause or pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Production Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b)(5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the explanation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damage from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw uopn the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditious settlement of claims, in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, or a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2)(A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in connection with a discharge of oil shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were

the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of a vessel shall be pointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) or (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, or (2) the negligent or intentional act of the damaged party or of any third party (including any government entity).

(e)(1) To the extent that liability is not imposed, pursuant to subsection (d)(2) of this setcion, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligence or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogation all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless (1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (b), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to any State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308 (b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount, at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(e) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purposes he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000, whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo or fuel) shall establish and maintain, under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and demages by any claimant or by the Fund may be

brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subject to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. (a) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. (a) The Secretary shall prescribe, and may from time to time amend, regulations for filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b)(1) Whenever the Secretary receives information from any person alleging the discharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five days after receiving such notification, deny such allegations, or deny liability for damages for any of the reasons set forth in section 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c)(1) If a denial is not made pursuant to subsection (b)(1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages may occur, the procedures under which claims may be presented to such owners and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as may be necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d)(1) Any claim presented to any person under subsection (c)(1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any damages for which such claim is made, except that no such claim may be presented after the end of the five-year period beginning on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be slated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e)(1) Except as provided in subsection (j) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b)(1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e)(1) of this section, and which may be presented to the Secretary under subsection (f)(2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dispute shall be submited to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b)(1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308 (b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines would be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attorney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other department, agency, or instrumentality of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorney, appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributing in the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 305(b)(4) of this title, to make disbursements pursuant to section 309 (a) of this title, to issue notes of other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any department, agency, or instrumentality of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

TITLE IV—MISCELLANEOUS PROVISIONS

DISPOSITION OF REVENUES

SEC. 401. Section 9 of the Outer Continental Shelf Land Act (43 U.S.C. 1338) is amended to read as follows: (a) beginning June 5, 1950, and ending September 30, 1977, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b)(1) For the period beginning October 1, 1977 all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts; and of the amounts so deposited, in each fiscal year, 20 percentum shall be paid by the Secretary or the Secretary of the Treasury in annual grants to affected states in accordance with the provisions of this subsection; *provided*, that any monies paid to any State shall be used by such State and its subdivisions as the legislature of a State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities and (C) provision of public services; except that the State shall first apply any monies received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 306(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 145A(d)(1)) as amended.

"(2) The amounts granted to affected states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) An amount which bears, to two-fifths of the amount granted to affected States under this section for each fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such State and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continental Shelf acreage which is newly leased by the Federal Government in the immediately preceeding fiscal year.

"(B) An amount which bears to one-fifth of the amount granted to affected States for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such State and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-fifth of the amount granted to affected States each fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such State in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected States in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected States each fiscal year, the same ratio that the number of individuals residing in such State in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal States in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

"(3)(A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary of the Treasury such assistance in collecting and evaluating such information.

"(B) For purposes of making calculations under paragraph (2)(i) 6000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any state may not exceed 30 percent of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected states in accordance with paragraph (2). No state in the area in which outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than one per centum of the total amount granted to affected states in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1978 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1978, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and denominator of which is the Consumer Price Index of October of 1977.

"(c) Any funds paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), to whether the lands with respect to which payment of such funds are paid constitute part of the outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section, and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purposes of such distribution such sums shall be deemed to have been deposited in the Treasury in the fiscal year in which they were paid to the Secretary or the Secretary of the Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit, or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the outer Continental Shelf.

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 402(a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 403. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 404. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 405. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Amendments of 1964.

SUNSHINE IN GOVERNMENT

SEC. 406. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function of duty under this Act or the Outer Continental Shelf Lands Act, or amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of MER (maximum efficient rate) and MPR (maximum production rate in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas in terms of end-use markets so as to ascertain the consumption by different classes and types of end users;

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall include cost estimates for the separate component of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this Act, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 408. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1436(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such State with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or."

RELATIONSHIP TO EXISTING LAW

SEC. 409. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Acts.

H.R. 8410

By Mr. BUCHANAN:

Beginning on page 5, beginning with line 20, strike section 4 which includes lines 20–24 on page 5 and lines 1, 2, and 3 on page 6.

Renumber the subsequent sections of the bill accordingly.

By Mr. GLICKMAN:

Amends section 3 of the bill to delete the word "twenty-one" on page 17 line 23 and to insert in its place the word "thirty-six". Amend section 5 of the bill to delate the word "fifteen" on page 20 line 15 and to insert in its place the word "thirty," and to delete the word "forty-five" on page 20 lines 22 and 23 and to insert in its place the word "sixty".

SENATE—*Friday, September 30, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Bless the Lord, O my soul: and all that is within me, bless His holy name.

Bless the Lord, O my soul, and forget not all his benefits:

Who forgiveth all thine iniquities; who healeth all thy diseases;

Who redeemeth thy life from destruction; who crowneth thee with loving kindness and tender mercies;

Who satisfieth thy mouth with good things; so that thy youth is renewed like the eagle's.—Psalms 103: 1–5.

O Thou King of Kings and Lord of Lords come upon us this day to heal our brokenness, to renew our strength, and to save us from self-destruction. The gravity of the problems and the enormity of the task drives us to Thy everlasting arms. Hold us firmly in Thy embrace that we fail Thee not. By Thy pervasive presence give us the light which removes obstacles, clarifies the vision, brings an anodyne to the spirit, and moves us to accomplish great deeds for the people of this Nation.

And to Thee shall be the thanksgiving of our hearts. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 30, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee, Mr. BAKER, is recognized.

JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, September 29, 1977, be approved.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BAKER. Mr. President, I seek recognition under the standing order.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

COMPREHENSIVE NATURAL GAS POLICY

Mr. BAKER. Mr. President, we have, of course, a situation today that is as difficult as it was on yesterday and the day before. My purpose in rising at this time is simply to say I am still hopeful that we can find a way to arrange to present a schedule of activities that will lead us to a resolution of the situation before us.

I must say, in all candor, that I am not totally optimistic in that respect, but I am hopeful.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BAYH). The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I, too, am hopeful; one always has to be hopeful, looking up and looking ahead, and optimistic. I have seen these times come and go. I join with my distinguished friend, the minority leader, in expressing the hope that today will see good reason for new hope.

Mr. ABOUREZK. Mr. President, will the distinguished majority leader or the distinguished minority leader yield just a minute or two of their time?

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from my time.

Mr. ABOUREZK. I thank the Senator.

Mr. President, I appreciate the words of the leadership this morning that they are hopeful some break will come in the apparent stalemate that exists now over the issue of natural gas prices. I agree with them.

I thought that on yesterday or starting the day before when the compromise was developed and when it was brought out on the Senate floor and when seemingly everybody had agreed to a compromise, one that I was not perfectly happy with, one that my colleague, Senator METZENBAUM, was not happy with, one that the other side was not happy with, we thought that would break the impasse.

But that has not happened. Now what we are seeing is a filibuster proceeding from the other side of the issue. Our colleague from Louisiana, Senator LONG, announced that he is going to do exactly the same thing that he perceived our side doing which is fine. But what it does it comes on the heels of an ostensible compromise. I think the world ought to know that we were ready to vote last night, we are ready to vote today on this issue.

But I just think the world also ought to know that the other side is not ready to vote. What they ought to do is to get time agreements to foreclose the rights of Senators and then they say they will vote under those conditions.

But we have not asked them to foreclose their rights. They are asking us to foreclose our rights. I think that is wrong.

I would hope that also the world would know that the filibuster that is now being conducted is being conducted in behalf of the oil and gas interests. The filibuster is being conducted so that the gas bills of homeowners will be increased. The filibuster that has been conducted by those who agree with us was conducted in behalf of lowering the gas bills of consumers and trying to keep them low to try to protect their interests because if we cannot protect them there is nobody left to afford that kind of protection.

I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, there will be ample time to debate this matter later today.

I think I should at this moment reserve the remainder of my time, and I hope the Chair will recognize the distinguished minority leader.

The PRESIDING OFFICER (Mr. CULVER). The Senator from Tennessee.

Mr. BAKER. As under the standing order I yield now to the distinguished assistant minority leader.

WHALING IN ALASKA

Mr. STEVENS. Mr. President, I noticed with some anguish a full page ad in a local paper that urged our citizens to write the Department of State to protest against taking action to protect the rights of our Alaskan Eskimo people who conduct subsistence whale hunting. These are people who live on the remote coastline of Alaska in very small villages who still follow the traditions of their predecessors and hunt for bowhead whales annually.

Those people who put out this ad are those who support the concept that all whaling should stop, which is wrong. We do support the total cessation of commercial hunting for whales. But for the people whose ancestors and all of those who have come before them from since time immemorial still hunt for bowhead whales for the purpose of subsistence, it is entirely wrong to turn loose the total propaganda machine of the environmental organizations to destroy the rights of a very few people. Those people at Point Hope, Point Lay, Wainwright, and Barrow, cannot come down here and take full page ads. I certainly hope that our good friends from the Department of State and the Department of Commerce will take that into consideration as the onslaught of mail generated by these expensive full page ads starts hitting their desks.

COMPREHENSIVE NATURAL GAS POLICY

Mr. STEVENS. Mr. President, on a separate subject, I must take exception to the statement by the Senator from South Dakota. There is no filibuster being conducted and no one has asked them to agree to anything that the proponents of deregulation would not agree to and if he heard the radio as I did this morning when I was shaving he would have heard that the bills of all Maryland gas consumers will go up at least $2 next month. Those bills are going up because of actions taken by the Senator from South Dakota and his predecessors in tinkering with the economic systems of the United States.

Those bills are going to go up even further if they win.

They are going to go up because the supply of gas is going down, and the utilities must rely more and more upon expensive foreign oil. As we get into this situation, I am certain that the homeowners who have to pay more for their individual gas to heat their own homes will realize what is happening.

But there is no filibuster and Senator LONG, to my knowledge, is not filibustering. What he is trying to do is to eliminate all of the roadblocks that could be raised by the opponents of deregulation. We intend to get every one of those amendments off the desk and then vote on the two principal issues.

If it is at all possible to do it. If the Senators from Ohio and South Dakota are unwilling to enter into an agreement to prevent this dilatory delay, this total delay, then there is no alternative but to find a way to vote on the principal amendment and to assure that once those votes are taken there will be no post-filibuster delay. I think that the American people ought to realize that we ended the filibuster last week. We voted cloture. We said the Senate intends to limit debate. And under those circumstances, those Senators who are prolonging this at this time are in fact abusing the rules. They are using the rules in a way they they were not intended for dilatory tactics in delay after the Senate has announced its intention to the country that this debate would terminate and terminate in an honorable and gentlemanly way with every Senator having equal right of 1 hour.

Mr. METZENBAUM. Mr. President, will the Senator from Alaska yield at this time?

Mr. STEVENS. No. I do not intend to yield.

I intend to use up the remainder of the leadership's time and leave it go at that because I do not intend to speak too much on this today. But I do take umbrage at the fact that the Senator from South Dakota has said there is a filibuster going on here. There is no filibuster because under the rules of the Senate there cannot be a filibuster now. The filibuster was terminated.

Mr. ABOUREZK. Mr. President, will the Senator yield since he mentioned the Senator from South Dakota.

Mr. STEVENS. The Senator has plenty of time when the time comes.

I reserve the remainder of the leadership's time.

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. STEVENS. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. No, do not do that.

Mr. STEVENS. I withdraw that.

Mr. ABOUREZK. Mr. President, will the majority leader yield to me just 30 seconds?

Mr. ROBERT C. BYRD. How much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. I yield to the Senator for 1 minute.

Mr. ABOUREZK. I thank the majority leader. We are under the 1-hour limit, and I think that if the distinguished Senator from Alaska is going to use leadership time to debate the issue, we ought to be entitled to additional time as well. That is the only thing I am asking.

CORRECTIONS IN ENROLLMENT OF BILL TO EXTEND AND AMEND THE EXPORT-IMPORT BANK ACT OF 1945

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator PROXMIRE of the Committee on Banking, Housing and Urban Affairs, I send to the desk a concurrent resolution to instruct the Clerk of the House of Representatives to make certain corrections in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945. The correction is necessary because a provision not in dispute between the House and Senate was inadvertently included in the conference report on H.R. 6415. If the bill were to be enrolled as it stands, two identical and duplicative provisions would appear in the statute. I ask unanimous consent for the immediate consideration of this resolution.

I have cleared it with the distinguished minority leader and people on his side

and with the staff of Mr. ABOUREZK and Mr. METZENBAUM on my side.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The second assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 46) providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 46) was agreed to.

The concurrent resolution reads as follows:

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, shall make the following corrections:

At the beginning of the bill, strike out "That".

At the end of the bill, strike out "8 of the Export-Import Bank Act of 1945 is amended by striking out 'June 30' and inserting in lieu thereof 'September 30'.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—H.R. 9005

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and again this agreement has been cleared all around, that at such time as the District of Columbia appropriations bill, H.R. 9005, Calendar order No. 399, is called up and made the pending business before the Senate—of course, that will not occur under the cloture rule except by unanimous consent, I have no intention of attempting to bring that up without unanimous consent and no intention of bringing it up until we complete our business that we are on, but at such time as it is called up and made the pending business—I ask unanimous consent that there be a 1-hour limitation on the bill, to be equally divided between Mr. LEAHY and Mr. WEICKER; that there be a time limitation on any amendment in the first degree of 30 minutes, with these exceptions: That on an amendment by Mr. MATHIAS, there be 2 hours; on an amendment by Mr. WEICKER, there be 2 hours; that on an amendment by Mr. HOLLINGS, there be 2 hours—in each case, of course, to be equally divided, and, in the case of the amendments, of course, the time on this side would be under the control of Mr. LEAHY; and that there be a time limitation of 20 minutes on any second degree amendment, debatable motion or appeal or point of order; and that the agreement be in the usual form with respect to the control and division of time.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. ALLEN. Reserving the right to object.

Mr. BAKER. I shall not object, Mr. President. The request is fully cleared on this side and, with the information of the majority leader, the time, except in the case of amendment, will be generally under the control of the Senator from Maryland (Mr. MATHIAS).

Mr. ALLEN. Reserving the right to object, and I shall not object, does the Senator know whether the Hollings amendment is the amendment regarding SBA?

Mr. ROBERT C. BYRD. That is correct. I am informed it is from the Budget Committee.

Mr. ALLEN. The Senator's name having been mentioned in the unanimous-consent agreement, that would make the agreement in order, would it not?

Mr. ROBERT C. BYRD. Yes, it would.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I have cleared this request with Mr. ABOUREZK and Mr. METZENBAUM.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 9005 (Order No. 399), the District of Columbia Appropriation Bill for 1978, debate on any amendment in the first degree (except on three amendments to be offered by the Senator from Maryland (Mr. Mathias), the Senator from Connecticut (Mr. Weicker), and the Senator from South Carolina (Mr. Hollings), respectively, each of which shall be in order and on each of which there shall be 2 hours) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Vermont (Mr. Leahy) and the Senator from Connecticut (Mr. Weicker): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I thank all the Senators for their cooperation. I yield back the remainder of my time.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, there is an order, I believe, for the Senate to come in at 9 o'clock tomorrow morning following a recess, is there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. BAKER. Mr. President, I yield back the remainder of my time under the standing rule.

COMPREHENSIVE NATURAL GAS POLICY

The Senate resumed consideration of S. 2104.

The PRESIDING OFFICER. The clerk will state the pending business.

The second assistant legislative clerk read as follows:

Amendment No. 862, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that that action be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, in the first place, without any reflection on the Chair, it is always, I think, the understanding here that the Chair, in announcing the vote, will say, "The ayes appear to have it; the ayes have it." That gives any Senator, who may be distracted by thinking about something else for the moment, an opportunity to ask for a division or to ask for the yeas and nays. I protected my friends the other day when they were caught in a similar situation and I ask—again with no disrespect for the Chair. The Chair does his duty when he puts the question. If nobody seeks to get recognition, he did his duty. Sometimes it catches some of us a little unawares, but the Chair ought to do his duty in that respect.

Mr. METZENBAUM. Will the leader yield his time for a moment, please?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I have no objection to vitiating this ruling. I understand full well what the Senator is saying. It is a fact that the leader protected our side on this issue in a similar situation the other day.

I would like to say, however, that I think it is important that the leadership advise those who are presiding, on all sides, because people do have opinions, that that is not, really, what either side wants to have transpire. I actually had one of the Members of the Senate who was sitting in the chair yesterday indicate to me, "You had better be on guard or that is what may occur."

I do not want to win that way and I do not want to lose that way. I am sure that the Members of the Senate want us to proceed in an orderly manner. I, therefore, hope that whoever takes the chair is advised that a quick call should not be the order of the day.

Mr. ROBERT C. BYRD. Mr. President, I do not want to be put in the position of advising the Chair. Any of us has recourse. Even if the vote had not been vitiated, somebody could move to reconsider. It is not that there is not recourse. Of course, on a motion to reconsider, and a motion to table, one has to have, sometimes, a vote to carry.

I am glad the matter has been resolved if the Chair can now put the question.

Mr. METZENBAUM. I thought he had ruled.

Mr. HANSEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending busines is a unanimous-consent request to vitiate the previous ruling of the Chair, an announcement of a vote by the Chair. The Chair is now going to put the same question once again.

All those in favor of the amendment, vote "aye"; all those opposed, vote "no."

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on behalf of both sides.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. A parliamentary inquiry: How many seconds are needed for the yeas and nays at this point?

The PRESIDING OFFICER. One-fifth of those present.

Mr. ABOUREZK. I ask for the yeas and nays on the question.

Mr. ROBERT C. BYRD. Mr. President, 11 are needed at this time.

The PRESIDING OFFICER. A quorum is presumed. Therefore, 11 are required.

Mr. BAKER. Mr. President, a parliamentary inquiry. Is there a quorum call in progress?

The PRESIDING OFFICER. A quorum call has been called for and it begins when the Chair directs the clerk to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself 10 minutes.

THE PANAMA CANAL TREATIES—11

Mr. ALLEN. Mr. President, Senators are always glad to receive letters from constituents. This morning I received a most interesting letter from a constituent from Guntersville, Ala., a long-time friend, now some 85 years of age. In his letter, he gives some interesting history about the financing of the Panama Canal.

At the suggestion of the distinguished majority leader, I do ask unanimous consent that I may speak, irrespective of the rule of germaneness.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALLEN. I thank the Chair. I thank the distinguished majority leader.

This is some information that I did not have on the early financing of the Panama Canal. This letter comes from Mr. J. P. Willis, Sr., who was formerly the president of the First National Bank of Guntersville, Ala. He is retired from that position, though he and his family still own the bank. He speaks of Senator John T. Morgan, one of Alabama's greatest Senators, who served for a period of 30 years in the U.S. Senate, and who has been called the father of the Panama Canal.

The prominent part that Senator Morgan played in the planning of the Canal and the great work that he did over the years in advocating an Isthmian Canal is related pretty fully in a most interesting book that has recently been published. It is called the "Path Between the Seas," published by Simon and Schuster this year, written by McCullough. I think it ought to be required reading for everyone who is interested in the proposed Panama Treaties. It is a most interesting book, going back to the early days of the concept of the Isthmian Canal. It speaks of the De Lesseps efforts, taking it on down to the completion of the canal.

It tells about the great work of three great Alabamians in the planning of the canal and the advocacy of the canal. Of course, Senator John T. Morgan took, possibly, the leading part in the entire Congress in pushing for the Isthmian Canal. He recommended Nicaragua, by the way, rather than Panama. We might have to go the Nicaraguan route yet, but we cannot do it if we approve this treaty, because it provides that we cannot even negotiate with another country about an Isthmian Canal without the permission of Panama. So we are going to have to defeat the treaty if we are ever going to have a sea-level canal anywhere other than Panama in this century.

Dr. William Crawford Gorgas and Colonel—later General—William L. Sibert were the two other Alabamians that played important roles in the great story of the building of the Panama Canal.

Going on about the financing of the canal, Mr. Willis writes:

> As I remember the United States sold $200 million 2 percent consoles (sic) to the National Banks of that day to use in the construction of the canal. That is they issued the amount in National Bank notes and only paid 2 percent interest on the bonds In turn the banks had to maintain 5 percent of the amount with the Government—

I guess we would call that a compensating balance today——

> to guarantee the assurance that they would repay for the bills destroyed and reissued, and would have to pay all costs of reissue and postal expense for shipment to the banks. So most of the 2 percent interest was taken up in expense, but gave some measure of publicity to the National Banks. We would receive about two shipments of renewal bills all in tens and twenties each month. We had to sign the bills as Presidents and cashiers of the banks, then cut them apart ready to put in circulation. That was no small job itself. Thousands and thousands of those bills are now in the hands of former bank officials and friends who hold them as keepsakes. I have one myself.

I am quoting Mr. Willis, not speaking for myself:

> I have one myself with my name on it, and I gave some to friends. I think our bank still has a few of them. All this means the government is in that much as it is just a piece of paper but the government will have to redeem them if ever presented.
>
> But Mr. Roosevelt redeemed the bonds—

I am sure that is Teddy Roosevelt——

> and they have not have any more 2 percent money bonds. And now all currency is issued by Federal Reserve Bank.

There is a postscript to his letter, a little sheet attached. This former president of the First National Bank of Guntersville said:

> I do not owe any money. I have not paid any interest in 20 years. They could not use me in Washington.

I think probably that is correct.

An interesting feature of the letter is reference to the word "consols." I must admit that my familiarity with Government securities or my lack of familiarity did not cause me to be familiar with the word "consol" as being a security. I ask unanimous consent that an excerpt marked here from the Webster's International Dictionary, second edition, which is in the Marble Room, be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> con'sols (kŏn'sŏlz; kŏn-sŏlz'), *n. pl.* [Contr. of *consolidated* (annuities).] The British funded government securities. In 1751 a considerable part of the public debt of Great Britain, consisting of various public securities, chiefly representing debt contracted in the form of annuities at various rates of interest on the sum borrowed, was consolidated into one fund at 3 per cent interest, the account of which is kept at the Bank of England. Since 1903 the interest has been 2½ per cent. Before the World War consols constituted more than half of the national debt, and the market price was regarded as a gauge of the national credit. *pl.* *Consols* is also sometimes applied to obligations of the United States government which may legally be deposited to secure national-bank notes.

Mr. ALLEN. It is a very, very interesting bit of information. I am indebted to Mr. Willis for making me familiar with this word. Possibly other Senators are familiar with it, "consol," or the plural c-o-n-s-o-l-s, a contraction of the word "consolidated":

> The British funded government securities. In 1751 a considerable part of the public debt of Great Britain, consisting of various public securities, chiefly representing debt contracted in the form of annuities in the various rates of interest on the sum borrowed, was consolidated into one fund at 3 percent interest, the account of which is kept at the Bank of England.
>
> Since 1903, the interest has been 2½ percent. Before the World War, consols constituted more than half the national debt, and the market price was regarded as a gauge of the national credit.

Then the second definition:

> Consols is also sometimes applied to obligations of the United States Government, which may legally be deposited to secure national bank notes.

Since national banks no longer issue bank notes, this type of security apparently has gone out of use. I call that to the Senate's attention as an interesting sidelight of the Panama Canal issue.

I might say, also, that the Panama Canal was built at less than the estimated cost, even though they ran into

all sorts of difficulties in the construction of the canal. That could not happen today in this day of cost overruns.

I ask unanimous consent that this letter from Mr. Willis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FIRST NATIONAL BANK,
Guntersville, Ala., September 10, 1977.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: It is Great to note that you expect the Panama Canal to have your best effort to prevent the Give Away.

Glad that you have brought the name of John T. Morgan back to the memory of our people.

I think I am correct that his very early home was just over the Clay County line in Talladega County near Clairmont Springs. My visit to the old home place probably some 70 to 75 years past. A very small three or four room house such as so many people lived in at that time.

John T. Morgan deserves the name ascribed to him as father of the Canal. As I remember that the United States sold $200, Million 2 percent Consoles to the National Banks of that day to use in the construction of the Canal. That is they issued the amount in National Bank notes and only paid 2 percent Interest on the bonds. In turn the banks had to maintain 5 percent of the amount with the Government to Guarantee the assurance that they would repay for the bills destroyed and re-issued, and would have to pay all costs of reissue and postal expense for shipment to the banks. So most of the 2 percent interest was taken up in expense, but gave some measure of publicity to the National Banks. We would receive about two shipment of renewal Bills all in 10's and 20's each month. We had to sign the bills as Presidents and Cashiers of the banks, then cut them apart ready to put in Circulation. That was no small job itself. Thousand and Thousands of those bills are now in the hands of former bank Officials and friend who hold them as keepsakes. I have one myself with my name on it, and I gave some to friends. I think our bank still has few of them. All this means the government is in that much as it is just a piece of paper but the Government will have to redeem them if ever presented.

But Mr. Roosevelt redeemed the bonds and they have not had any more 2 percent money Bonds. And now all currency is issued by Federal Reserve Bank.

I hope you are successful in defeating the give away. I tell all my friends that your conservative stand is natural as it is the Allen families that I always knew. Chesley B. Timothy and John all of Clay County. Also, Columbus C. of Gadsden. I attended court a number of times when he was attorney on the cases. However I never knew him as I did those who continued to live in Clay County.

I spoke to you a few days ago when you visited at the courthouse and as I said then I have no complaint of your record as our Senator. I know I can depend on you taking the right stand.

I am now 85 and most of all the organizations I belong to have issued life Membership.

Just this moment 2 fellows came by and will take my picture for the VFW Hall of which I am a life member.

If I am wrong on the birthplace of John T. Morgan I would like to know as my Memory is not too good anymore.

Sincerely,

J. P. WILLIS, Sr.

Mr. ALLEN. I reserve the remainder of my time.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 1141

Mr. HANSEN. Mr. President, I call up amendment No. 1141 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment:

On page 10, line 12, strike "April 20, 1977" and insert "the date of enactment of this Act".

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. Amendment No. 1141.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, just before the rollcall is called, I ask unanimous consent that Margo Carlisle and Sylvia Castellanos, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, if the Senator will yield, I ask unanimous consent that Ben Dixon be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Wyoming, amendment No. 1141.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 56, nays 32, as follows:

[Rollcall Vote No. 493 Leg.]

YEAS—56

Allen	Ford	Pearson
Baker	Garn	Percy
Bartlett	Glenn	Proxmire
Bellmon	Goldwater	Randolph
Bentsen	Griffin	Roth
Burdick	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Cannon	Hatfield	Scott
Chafee	Hayakawa	Sparkman
Chiles	Helms	Stennis
Cranston	Huddleston	Stevens
Curtis	Johnston	Stevenson
Danforth	Laxalt	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Tower
Domenici	Melcher	Wallop
Eagleton	Morgan	Weicker
Eastland	Nunn	Young
	Packwood	Zorinsky

NAYS—32

Abourezk	Hart	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Heinz	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Pell
Bumpers	Javits	Ribicoff
Byrd, Robert C.	Leahy	Riegle
Case	Magnuson	Sarbanes
Church	Matsunaga	Sasser
Clark	McClure	Williams
Culver	McGovern	

NOT VOTING—12

Durkin	Humphrey	McIntyre
Gravel	Kennedy	Metcalf
Haskell	Mathias	Stafford
Hollings	McClellan	Thurmond

So the motion to lay on the table Mr. HANSEN's amendment (No. 1141) was agreed to.

Several Senators addressed the chair.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Louisiana is recognized.

AMENDMENT NO. 1082

Mr. LONG. Mr. President, I call up amendment No. 1082 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HANSEN. What was the number?

Mr. LONG. Amendment No. 1082 by Mr. METZENBAUM.

The PRESIDING OFFICER. The amendment attempts to strike a figure on a page and line which is not there. Therefore, the amendment is not in order.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG addressed the Chair.

Mr. METZENBAUM. Mr. President, a point of order.

Mr. President, I appeal the point of order.

AMENDMENT NO. 1122

Mr. LONG. Mr. President, I call up amendment No. 1122 and ask for its immediate consideration.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has been recognized.

Mr. METZENBAUM. Mr. President, there is a point of order on the floor. The Senator cannot call up another amendment while a point of order is on the floor.

Mr. LONG. I just did.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1122.

On page 10, strike lines 3 through 5.

Mr. ABOUREZK addressed the Chair.

Mr. LONG. Mr. President, I move to lay that amendment on the table.

Mr. ABOUREZK. Mr. President, I am seeking recognition.

Mr. LONG. I move to lay that amendment on the table.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has been recognized.

Mr. LONG. I move to lay that amendment on the table.

Mr. ABOUREZK. He lost recognition when he called up the amendment. I sought recognition before he did.

Mr. LONG. I move to lay that amendment on the table.

The PRESIDING OFFICER. The Chair will conclude the ruling on this amendment that is before the Senate.

I recognize the Senator from Louisiana.

Mr. LONG. I move to lay that amendment on the table.

Mr. BUMPERS addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BUMPERS. Is a point of order in order at this point?

The PRESIDING OFFICER. Does the Senator seek recognition?

Mr. BUMPERS. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, has this amendment not been previously ruled out of order?

The PRESIDING OFFICER. The previous amendment was ruled out of order. This amendment No. 1122 has not been.

Mr. BUMPERS. It has not been previously considered by the Senate?

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. The clerks will check for an answer to the question of the Senator from Arkansas.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota has not been recognized.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. In answer to the question of the Senator from Arkansas, the amendment has not been previously ruled out of order.

Mr. BUMPERS. I thank the Senator.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, a point of order. That is dilatory.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll.

Mr. BAYH. Mr. President.

The PRESIDING OFFICER. We are in a quorum call.

Mr. LONG. I object, Mr. President.

Mr. HANSEN. Mr. President, there was objection.

The PRESIDING OFFICER. The objection was heard.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators answered to their names:

[Quorum No. 51 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Lavalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
	Morgan	

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BENTSEN. I object.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion to table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF), are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 76, nays 17, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—76

Abourezk	Griffin	Nelson
Allen	Hansen	Nunn
Baker	Hart	Packwood
Bartlett	Haskell	Pearson
Bellmon	Hatch	Pell
Bentsen	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Roth
Byrd, Robert C	Helms	Sasser
Cannon	Huddleston	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Curtis	Kennedy	Stennis
Danforth	Lavalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Long	Stone
Domenici	Lugar	Talmadge
Eagleton	Mathias	Tower
Eastland	Matsunaga	Wallop
Ford	McClure	Weicker
Garn	McGovern	Williams
Glenn	McIntyre	Young
Goldwater	Melcher	Zorinsky
	Morgan	

NAYS—17

Anderson	Cranston	Moynihan
Bayh	Culver	Muskie
Biden	Durkin	Ribicoff
Brooke	Inouye	Riegle
Church	Magnuson	Sarbanes
Clark	Metzenbaum	

NOT VOTING—7

Gravel	McClellan	Thurmond
Hollings	Metcalf	
Humphrey	Stafford	

So the motion to lay on the table amendment No. 1122 was agreed to.

Mr. ABOUREZK. Mr. President.

Mr. LONG. Mr. President.

The PRESIDING OFFICER. On my previous recognition, the Chair was questioned as to the validity of the recognition. In recognizing the Senator this time, I want to point out that, at 11:41, the Senator from Louisiana rose to his feet in preparation for seeking the floor. It was not until 11:46 that the Senator from South Dakota rose to seek the floor. At 11:47, the Senator from Louisiana placed the microphone in his lapel in preparation for seeking the floor. The voices were simultaneous, therefore the Senator from Louisiana is recognized.

Mr. LONG. I call up amendment No. 1101.

Mr. ABOUREZK. Point of order, Mr. President.

Mr. LONG. I do not yield for a point of order.

The PRESIDING OFFICER. The Senator is recognized for a point of order.

Mr. ABOUREZK. On the amendment previous to this one, the Chair made a ruling that it was out of order. I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. LONG. Point of order, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. If one is going to make a point of order on an amendment, he has to make it before the amendment is disposed of.

Mr. ABOUREZK. I ask for the yeas and nays on the appeal.

The PRESIDING OFFICER. The question that the Senator from South Dakota raises at this point is moot.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. HANSEN. Regular order.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

AMENDMENT NO. 1101

Mr. LONG. Mr. President, I call up amendment No. 1101.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment,

On page 3, line 25, strike "January 1, 1977" and insert "the date of enactment".

Mr. BUMPERS. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. According to the information I have in front of me, the amendment which has just been called up, 1101, says "On page 3, line 25." There is no line 25 in the bill. Therefore, the question is, is this amendment in order?

The PRESIDING OFFICER. This amendment does attempt to strike a date, January 1, 1977, which is not in the version numbered 862. Therefore, the amendment is not in order.

Mr. ABOUREZK. Point of order, Mr. President.

Mr. LONG. Mr. President.

Mr. ABOUREZK. I appeal the ruling of the Chair.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. A quorum is present. We have had four precedents on that now. It is dilatory.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. The point is dilatory.

The PRESIDING OFFICER. The Chair is ruling that we have just had a rollcall and a quorum is present. This would be dilatory.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. How can the Chair determine whether or not a quorum is present in the absence of a record call at this time?

The PRESIDING OFFICER. From the rollcall vote which has just been had.

Mr. ABOUREZK. Does that presume that everybody stays in the Chamber immediately after a rollcall?

The PRESIDING OFFICER. There is presumption that a quorum is present in the Senate at all times.

Mr. ABOUREZK. Is there any way for a Senator to attempt to overcome that presumption?

The PRESIDING OFFICER. He may suggest the absence of a quorum.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. LONG. Point of order.

The PRESIDING OFFICER. The Chair has ruled that a quorum is present.

Mr. LONG. There is a quorum present, Mr. President.

The PRESIDING OFFICER. The Chair has so ruled. The question is on the appeal, on sustaining the judgment of the Chair.

Mr. ABOUREZK. I ask for a division.

The PRESIDING OFFICER. The division request has been heard.

Those Senators in favor of sustaining the judgment of the Chair will stand until counted.

Mr. ABOUREZK. I ask that the Chair announce the vote.

The PRESIDING OFFICER. This is on the judgment of the Chair as to the amendment being out of order.

(After a pause.) Those opposed will now rise and stand until counted.

On a division, the judgment of the Chair was sustained.

Mr. ABOUREZK. Mr. President, I ask for a count. How many Senators were voting?

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. It is not in order to ask for a count.

Mr. ABOUREZK. Mr. President, are we not entitled to know what the count was on the vote on the division?

Mr. INOUYE. No.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator is correct. We are not allowed to know what the count was.

[Laughter.]

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ABOUREZK. Mr. President, a point of order.

AMENDMENT NO. 1086

Mr. LONG. Mr. President, I call up amendment No. 1086.

Mr. ABOUREZK. A point of order, Mr. President. I ask for a point of order.

The PRESIDING OFFICER. The amendment will be stated.

The Senator has not been recognized.

Mr. ABOUREZK. A point of order, Mr. President.

Mr. LONG. I ask the clerk to state the amendment.

Mr. ABOUREZK. A point of order.

Is the Chair saying I cannot make a point of order?

The PRESIDING OFFICER. That is correct.

Mr. CURTIS. Regular order.

Mr. ABOUREZK. Mr. President, this is the best railroad job I have ever seen, one of the best. It probably is the best.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ABOUREZK. Mr. President, I make the point of order and I ask for recognition.

The PRESIDING OFFICER. The Senator from Louisiana has called up an amendment, and the regular order is for the clerk to state the amendment.

Mr. ABOUREZK. Mr. President, is it not the regular order to recognize a Senator who has made a point of order?

The PRESIDING OFFICER. The regular order is not to recognize a Senator who has made a point of order.

Mr. ABOUREZK. Mr. President, are we going to throw out the rule book? That is my next question.

Mr. CURTIS. Regular order.

The PRESIDING OFFICER. Regular order has been called for. The amendment will be stated.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The amendment called up has been tabled previously and is not in order.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will be heard on a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, my parliamentary inquiry is this: Does the Chair intend to just abandon the rules of the Senate altogether in an effort to shut me off?

The PRESIDING OFFICER. The Senator from South Dakota has been recognized for a parliamentary inquiry and the Chair awaits the inquiry.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

AMENDMENT NO. 1285

Mr. ABOUREZK. Mr. President, I call up amendment No. 1285 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1285.

(b) The term "Commission" means the

Federal Power Commission prior to October 1, 1977, and thereafter the Federal Energy Regulatory Commission.

Mr. BUMPERS and Mr. ABOUREZK addressed the Chair.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK addressed the Chair.

Mr. BUMPERS. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table the amendment?

There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask for a division.

The PRESIDING OFFICER. Senators in favor of the motion to table the amendment will rise and stand until counted.

[After a pause.] Those opposed will rise and stand until counted.

On a division, the motion to lay on the table amendment No. 1285 was agreed to.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 1121

Mr. LONG. Mr. President, I call up amendment No. 1121 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1121.

On page 9, line 24, after "1977", strike the remainder through "1982" on line 1, page 10.

The PRESIDING OFFICER. The amendment attempts to strike language which is no longer in the amendment and therefore is not in order.

Mr. LONG and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1109

Mr. LONG. Mr. President, I call up amendment No. 1109.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1109:

On page 3, line 7, strike "January 1, 1977" and insert "the date of enactment".

The PRESIDING OFFICER. The amendment attempts to strike matter no longer in the amendment and is not in order.

AMENDMENT NO. 1288

Mr. ABOUREZK. Mr. President, I call up amendment No. 1288.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1288:

Strike section 3(1) and insert in lieu thereof the following section 3(1):

(1) The term "new natural gas" means natural gas—

(i) which is produced from a new lease on the Outer Continental Shelf; or

(2) which is produced from a new well the completion location of which—

(i) is 2.5 statute miles or more (horizontal distance) from any old well; or

(ii) is 1,000 feet or more deeper than the deepest location of an old well, if any, which is within 2.5 miles (horizontal distance) of such new well; or

(iii) is in a newly discovered reservoir.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. A point of order, Mr. President. That is dilatory.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 52 Leg.]

Abourezk	Ford	McClure
Allen	Glenn	Melcher
Baker	Griffin	Morgan
Bartlett	Hansen	Muskie
Bayh	Hart	Nunn
Bentsen	Haskell	Randolph
Biden	Hatch	Ribicoff
Brooke	Hayakawa	Schmitt
Bumpers	Heinz	Schweiker
Byrd, Harry F., Jr.	Helms	Scott
	Huddleston	Stennis
Cannon	Inouye	Stevens
Case	Jackson	Stevenson
Chiles	Johnston	Stone
Culver	Leahy	Talmadge
Curtis	Long	Tower
Danforth	Lugar	Weicker
Durkin	Magnuson	Young
Eastland	Mathias	Zorinsky

The PRESIDING OFFICER (Mr. HASKELL). A quorum is present.

Mr. McCLURE. Mr. President, I move to table the pending amendment.

Mr. BAYH. Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. (Putting the question.)

So the motion to lay on the table amendment No. 1288 was agreed to.

AMENDMENT NO. 1144

Mr. McCLURE. Mr. President, I call up amendment No. 1144 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes amendment No. 1144:

On page 6, line 2, strike "April 20, 1977" and insert "the date of enactment of this Act".

Mr. McCLURE. Mr. President, I move to lay the amendment on the table.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. BAYH. Mr. President, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 53 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Griffin	Muskie
Bayh	Haskell	Nunn
Bumpers	Hayakawa	Percy
Burdick	Inouye	Randolph
Byrd, Robert C.	Laxalt	Ribicoff
Cannon	Leahy	Scott
Chiles	Long	Stennis
Curtis	Mathias	Stevenson
DeConcini	McClure	Tower
Ford	Melcher	Young

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 81, nays 10, as follows:

[Rollcall Vote No. 495 Leg.]

YEAS—81

Abourezk	Clark	Heinz
Allen	Cranston	Inouye
Anderson	Curtis	Jackson
Baker	Danforth	Javits
Bartlett	Dole	Johnston
Bayh	Domenici	Kennedy
Bellmon	Durkin	Laxalt
Bentsen	Eagleton	Leahy
Brooke	Eastland	Long
Bumpers	Ford	Lugar
Burdick	Garn	Mathias
Byrd, Harry F., Jr.	Glenn	Matsunaga
	Griffin	McClure
Byrd, Robert C.	Hansen	McGovern
Cannon	Hart	McIntyre
Case	Haskell	Melcher
Chafee	Hatch	Metzenbaum
Chiles	Hatfield	Morgan
Church	Hathaway	Moynihan

Muskie	Riegle	Stevens
Nelson	Roth	Stevenson
Nunn	Sarbanes	Stone
Packwood	Sasser	Tower
Pearson	Schmitt	Williams
Percy	Schweiker	Young
Proxmire	Scott	Zorinsky
Randolph	Sparkman	
Ribicoff	Stennis	

NAYS—10

Biden	Helms	Wallop
DeConcini	Huddleston	Weicker
Goldwater	Pell	
Hayakawa	Talmadge	

NOT VOTING—9

Culver	Humphrey	Metcalf
Gravel	Magnuson	Stafford
Hollings	McClellan	Thurmond

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have a few comments to present on this matter.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that a motion to table is pending and is not debatable.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1144. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 496 Leg.]

YEAS—61

Abourezk	Chafee	Goldwater
Allen	Chiles	Hansen
Anderson	Cranston	Haskell
Baker	Curtis	Hatch
Bartlett	Danforth	Hatfield
Bellmon	DeConcini	Hayakawa
Bentsen	Dole	Helms
Brooke	Domenici	Huddleston
Burdick	Eagleton	Johnston
Byrd, Harry F., Jr.	Eastland	Laxalt
	Ford	Leahy
Byrd, Robert C.	Garn	Long
Cannon	Glenn	Lugar

Mathias	Roth	Stone
McClure	Schmitt	Talmadge
McIntyre	Schweiker	Tower
Melcher	Scott	Wallop
Packwood	Sparkman	Weicker
Pearson	Stennis	Young
Percy	Stevens	Zorinsky
Randolph	Stevenson	

NAYS—31

Bayh	Inouye	Nelson
Biden	Jackson	Nunn
Bumpers	Javits	Pell
Case	Kennedy	Proxmire
Church	Magnuson	Ribicoff
Clark	Matsunaga	Riegle
Culver	McGovern	Sarbanes
Durkin	Metzenbaum	Sasser
Hart	Morgan	Williams
Hathaway	Moynihan	
Heinz	Muskie	

NOT VOTING—8

Gravel	Humphrey	Stafford
Griffin	McClellan	Thurmond
Hollings	Metcalf	

So the motion to lay on the table amendment No. 1144 was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Ohio.

AMENDMENT NO. 1289

Mr. METZENBAUM. Mr. President, I call up amendment No. 1289.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1289:

Strike section 3(m) and insert in lieu thereof the following new section 3(m):

(m) The term "new well" means a well which was completed after April 20, 1977.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. Mr. President, is this amendment in order?

The PRESIDING OFFICER. A point of order has been raised.

This amendment is to the bill and is in order.

Is there a sufficient second?

Mr. LONG. I move to table the amendment.

The PRESIDING OFFICER. There is not a sufficient second.

The motion has been made to table the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BARTLETT. Point of order.

QUORUM CALL

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Point of order.

Mr. METZENBAUM. Mr. President, regular order, a rollcall has commenced.

Mr. LONG. Nobody answered that.

Mr. METZENBAUM. Regular order, Mr. President.

Mr. LONG. That is dilatory.

The PRESIDING OFFICER. The Senator from Louisiana will state his point of order.

Mr. LONG. The motion is dilatory, Mr. President. The last vote established a quorum.

Mr. METZENBAUM. Mr. President, there is not a quorum present.

The PRESIDING OFFICER. The Chair ruled with regard to ascertaining whether a quorum is present. The clerk will call the roll.

Mr. BARTLETT. Point of order.

The PRESIDING OFFICER. The Senator from Oklahoma will state his point of order.

Mr. BARTLETT. Mr. President, it is my understanding this amendment was misdrafted. It is not drafted correctly.

Mr. METZENBAUM. Mr. President, that point of order is not in order at this point because a quorum call has been called with respect to whether or not a quorum is present.

The PRESIDING OFFICER. The Chair has already ruled the amendment is in order. The quorum call has been sought and the clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. What is the purpose of the Senator from Oklahoma?

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 54 Leg.]

Abourezk	Domenici	Lugar
Allen	Durkin	Magnuson
Anderson	Eagleton	Mathias
Baker	Eastland	Matsunaga
Bartlett	Ford	McClure
Bayh	Garn	McGovern
Bellmon	Glenn	McIntyre
Bentsen	Goldwater	Melcher
Biden	Griffin	Metzenbaum
Brooke	Hansen	Morgan
Bumpers	Hart	Moynihan
Burdick	Haskell	Muskie
Byrd, Harry F., Jr.	Hatch	Nelson
	Hatfield	Nunn
Byrd, Robert C.	Hathaway	Packwood
Cannon	Hayakawa	Pearson
Case	Heinz	Pell
Chafee	Helms	Percy
Chiles	Huddleston	Proxmire
Church	Inouye	Randolph
Clark	Jackson	Ribicoff
Cranston	Javits	Riegle
Culver	Johnston	Roth
Curtis	Kennedy	Sarbanes
Danforth	Laxalt	Sasser
DeConcini	Leahy	Schmitt
Dole	Long	Schweiker

Scott	Stone	Williams
Sparkman	Talmadge	Young
Stennis	Tower	Zorinsky
Stevens	Wallop	
Stevenson	Weicker	

The PRESIDING OFFICER. A quorum is present.

Mr. BARTLETT. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state the point.

Mr. BARTLETT. Amendment 1289 which amends Senate bill 2104 strikes section 3(m). There is no section 3(m).

The PRESIDING OFFICER. The Senator is correct. On further reflection, the amendment is not in order.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1090

Mr. BARTLETT. Mr. President, I call up amendment 1090.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes amendment No. 1090:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1991".

Mr. CULVER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BARTLETT. I yield.

ENVIRONMENTAL PROTECTION AGENCY AUTHORIZATIONS

Mr. CULVER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5101.

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CULVER. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CULVER, Mr. MUSKIE, and Mr. WALLOP conferees on the part of the Senate.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. BARTLETT. Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will advise the Senator that this amendment is not in order. There is no such date in the bill.

AMENDMENT NO. 1091

Mr. BARTLETT. I call up amendment No. 1091.

The PRESIDING OFFICER. Will the Senator from Oklahoma repeat his request?

Mr. BARTLETT. I would then call up amendment 1091 to amendment 862.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment 1091:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1992".

The PRESIDING OFFICER. This amendment is out of order for the same reason as the previous one. The date is not in the bill.

AMENDMENT NO. 1092

Mr. BARTLETT. I call up amendment No. 1092 to amendment 862.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes amendment 1092:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1993".

Mr. METZENBAUM. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio will state the parliamentary inquiry.

Mr. METZENBAUM. Does the Senator from Oklahoma continue to hold the floor for a series of amendments or does he not lose it each time he calls up an amendment?

The PRESIDING OFFICER. The Senator from Oklahoma loses his position on the floor after each amendment, but he can get it back by seeking recognition.

Mr. BARTLETT. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The Chair will advise that this amendment is out of order because there is no such date.

AMENDMENT NO. 1297

Mr. METZENBAUM. Mr. President, I call up amendment 1297.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment 1297:

Strike section 7 and insert in lieu thereof the following new section 7:

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas sold under a new contrast shall be $1.45 per million Btu's multiplied by the inflation adjustment.

Mr. HART. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state his parliamentary inquiry.

Mr. HART. Mr. President, since it is important, I think, for the record when amendments are ruled out of order the record clearly reflect the reason why, I think it would be extremely helpful for the record and for the Senators to know in each case the reason why the amendment is out of order.

The PRESIDING OFFICER. The chair has so stated in each case.

Mr. HART. Except the last one.

The PRESIDING OFFICER. In each of the last three cases the amendments sought to amend something, a date, which was not in the bill.

Mr. HART. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay the amendment on the table.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1297. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 497 Leg.]

YEAS—89

Abourezk	Danforth	Javits
Allen	DeConcini	Johnston
Anderson	Dole	Kennedy
Baker	Domenici	Leahy
Bartlett	Eagleton	Long
Bayh	Eastland	Lugar
Bellmon	Ford	Magnuson
Bentsen	Garn	Mathias
Biden	Glenn	Matsunaga
Bumpers	Goldwater	McClure
Burdick	Griffin	McGovern
Byrd,	Hansen	McIntyre
Harry F., Jr.	Hart	Meicher
Byrd, Robert C.	Haskell	Metzenbaum
Cannon	Hatch	Morgan
Case	Hatfield	Moynihan
Chafee	Hathaway	Muskie
Chiles	Hayakawa	Nelson
Church	Heinz	Nunn
Clark	Helms	Packwood
Cranston	Huddleston	Pearson
Culver	Inouye	Percy
Curtis	Jackson	Proxmire

Randolph	Schweiker	Talmadge
Ribicoff	Scott	Tower
Riegle	Sparkman	Wallop
Roth	Stennis	Weicker
Sarbanes	Stevens	Williams
Sasser	Stevenson	Young
Schmitt	Stone	Zorinsky

NAYS—3

Brooke	Durkin	Pell

NOT VOTING—8

Gravel	Laxalt	Stafford
Hollings	McClellan	Thurmond
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1297 was agreed to.

AMENDMENT NO. 1305

Mr. ABOUREZK. Mr. President, I call up amendment No. 1305.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1305:

Strike section 11 and insert in lieu thereof the following new section 11:

SEC. 11. (a) It is the intent of this section to provide for the establishment of incremental pricing of natural gas covered by the pricing provisions of this Act to low priority users (1) to reflect more clearly the commodity value of natural gas (2) to spread the impact of such incremental pricing in as fair and equitable manner as possible among the same categories of natural gas users, and (3) to achieve maximum conservation of natural gas sold to low priority users without undue disruption of the balance of market revenue for the distribution of natural gas to high and low priority users.

(b) As soon as practicable after the date of the enactment of this Act, but in no event later than 60 days after such date, the Commission shall institute proceedings to determine the feasibility of an incremental pricing plan under which increases in the average cost of natural gas covered by the pricing provisions of this Act can to the maximum extent practicable first be allocated to low priority users until the rates or charges for low priority users equal the reasonable cost of substitute fuels to such low priority users. In conducting such proceedings, the Commission shall publish notice of the proceeding and shall afford all interested parties an opportunity to participate therein and shall invite regulatory agencies having jurisdiction over local distribution company sales of gas to low priority users to participate.

(c) Within 180 days after the date of enactment of this Act, the Commission shall file a report with both Houses of Congress containing the results of the proceedings conducted under subsection (b) hereof and the Commission's recommendation to the Congress as to the feasibility of an incremental pricing plan and the appropriate method for implementation of such plan, if determined to be feasible.

Mr. BUMPERS. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1305) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 498 Leg.]

YEAS—90

Abourezk	Garn	Muskie
Allen	Glenn	Nelson
Anderson	Goldwater	Nunn
Baker	Griffin	Packwood
Bartlett	Hansen	Pearson
Bayh	Hart	Pell
Bellmon	Haskell	Percy
Bentsen	Hatch	Proxmire
Biden	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd,	Helms	Sarbanes
Harry F., Jr.	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stennis
Church	Leahy	Stevens
Clark	Long	Stevenson
Cranston	Lugar	Stone
Culver	Magnuson	Talmadge
Curtis	Matsunaga	Tower
Danforth	McClure	Wallop
DeConcini	McGovern	Weicker
Dole	McIntyre	Williams
Domenici	Melcher	Young
Eagleton	Metzenbaum	Zorinsky
Eastland	Morgan	
Ford	Moynihan	

NAYS—1

Durkin

NOT VOTING—9

Gravel	Laxalt	Metcalf
Hollings	Mathias	Stafford
Humphrey	McClellan	Thurmond

So the motion to lay on the table amendment No. 1305 was agreed to.

CONSIDERATION OF A CERTAIN MEASURE ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is an item on the calendar which should be disposed of. It would only take 5 minutes, in the opinion of the distingushed chairman of the committee (Mr. TALMADGE). I ask unanimous consent that the Senate proceed to the consideration of H.R. 3, with a time limitation thereon of not to exceed 5 minutes.

Mr. BAKER. Mr. President, reserving the right to object, just for a moment.

Mr. President, I have a notation here on my calendar that I would like to check. If the majority leader will bear with me for just a second, I may be able to expedite the proceedings.

Mr. TALMADGE. According to Senator JAVITS, he has withdrawn that, I inform the distinguished minority leader.

Mr. BAKER. I thank the distinguished Senator from Georgia. If he will give me a moment on it, I can check the notation on my calendar.

Mr. President, I am happy to say that the two notations on my calendar have been cleared, and we have no objection to proceeding with consideration of this item.

The PRESIDING OFFICER (Mr. MORGAN). Is there objection? Without objection, it is so ordered.

MEDICARE AND MEDICAID ANTI-FRAUD ABUSE AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Presiding Officer of the moment if it is understood that the time limitation is 5 minutes—no more than 5 minutes.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. BAKER. It is also understood that this 5 minutes is not charged to anybody's time under the rule?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. With that understanding, the bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The PRESIDING OFFICER. Is there any objection to the present consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Committee on Finance: Jay Constantine; Mr. DOLE, Shiela Burton; Mr. CURTIS, David Swope.

Mr. TALMADGE. Mr. President, H.R. 3 is the House counterpart of the Medicaid-Medicare Antifraud and Antiabuse Amendments, cosponsored by several Senators. S. 143 has been considered and reported by the Committee on Finance and appears on the calendar as No. 416. On behalf of the committee, I move to strike all after the enacting clause of H.R. 3 and to substitute therefor a single amendment for consideration as an original text, the text of S. 143 as reported.

UP AMENDMENT 357

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an amendment in the nature of a substitute.

The amendment is as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977".

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES; CLAIMS PAYMENT PROCEDURES FOR MEDICAID PROGRAM

SEC. 2. (a)(1) Section 1842 (b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B) (ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(2) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(3) Section 1902(a)(32) of such Act is amended to read as follows:

"(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

"(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

"(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon, the actual collection of any such payment;".

(4) The amendments made by this subsection shall apply with respect to care and services furnished on or after the date of the enactment of this Act.

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (35);

(B) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and";

(C) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide for claims payment procedures which (A) ensure that 95 per centum of claims for payment made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program."; and

(D) by inserting at the end thereof the following paragraph:

"The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.".

(2) The amendments made by paragraph (1) shall apply to calendar quarters beginning on and after July 1, 1978, with respect to State plans approved under title XIX of the Social Security Act.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 3. (a)(1) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1123 the following new section:

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

"SEC. 1124. (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

"(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, XIX, and XX, or

"(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII, XIX, and XX,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity.

"(2) As used in this section, the term 'disclosing entity' means an entity which is—

"(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, or a renal disease facility;

"(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX;

"(C) a carrier or other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX;

"(D) a health maintenance organization as defined in section 1301 of the Public Health Service Act; or

"(E) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services with respect to which payment may be claimed by the entity under a State plan or program approved under title XX.

"(3) As used in this section, the term 'person with an ownership or control interest' means, with respect to an entity a person who—

"(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

"(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

"(B) is an officer or director of the entity, if the entity is organized as a corporation; or

"(C) is a partner in the entity, if the entity is organized as a partnership.

"(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.

"(c) A disclosing entity shall also include in the information supplied under subsection (a)(1) full and complete information as to the identity of each person with an ownership or control interest in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 per centum or more ownership interest.".

(2) Section 1861(j)(11) of such Act is amended to read as follows:

"(11) complies with the requirements of section 1124;".

(b) Clause (C) of section 1866(b)(2) of such Act is amended by inserting "(i)" after "failed", and by adding after "to verify such information," the following: "or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such provider and any subcontractor,".

(c)(1) Section 1902(a) of such Act (as amended by section 2(b)(1) of this Act) is amended—

(A) by amending paragraph (35) to read as follows:

"(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1124;";

(B) by striking out "and" at the end of paragraph (36);

(C) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (37) the following new paragraph:

"(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 1903(i)(2) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38)".

(d)(1) Section 2003(d)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding after subparagraph (I) the following new subparagraph:

"(J) provides that any entity (other than an individual practitioner or a group of practitioners) receiving payments for the provision of health-related services complies with the requirements of section 1124, and supplies (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (i) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (ii) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) No payment may be made under this section with respect to any expenditure for the provision of any health related service if such service is provided by an entity which has failed to comply with a request made by the Secretary or State agency under section 2003(d)(1), for so long as such entity remains in noncompliance with such request.".

(e) The amendment made by subsection (a)(1) shall apply with respect to certifications and recertifications made (and participation in the programs established by titles V, XVIII, XIX, and XX of the Social Security Act pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act. The remaining amendments made by this section shall take effect on the date of the enactment of this Act; except that the amendments made by subsections (c) and (d) shall become effective January 1, 1978.

PENALTIES FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 4. (a) Section 1877 of the Social Security Act is amended to read as follows:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including kickbacks, bribes, or rebates) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(d) Whoever knowingly and willfully, after having accepted any assignment described in section 1842(b)(3)(B)(ii), charges an amount in excess of the reasonable charge with respect to services furnished to individuals on whose behalf payment is made under any such assignment, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both.".

(b) Section 1909 of such Act is amended to read as follows:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this title is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this title or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including kickbacks, bribes, or rebates) directly or directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(c) Section 204(a) of Public Law 94-505 (42 U.S.C. 3542) (relating to annual reports of the Health, Education, and Welfare Inspector General) is amended by adding at the end thereof the following sentence: "Such report shall also include an evaluation of the performance of the Attorney General in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII and XIX of the Social Security Act, and shall include any recommendations with respect to improving the performance of such activities.".

(d) The amendments made by subsections (a) and (b) shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act.

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied.".

(b)(1) Section 1154(b) of such Act is amended—

(A) by striking out "(which may not exceed 24 months)" in the first sentence and inserting in lieu thereof "(which may not exceed 48 months except as provided in subsection (c))";

(B) by inserting ", in addition to review of health care services provided by or in institutions," after "perform" in the first sentence; and

(C) by striking out "or ordered by physicians" and all that follows through "and organizations" in the second sentence and inserting in lieu thereof "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require".

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.".

(c)(1) Section 1155 of such Act is amended—

(A) by striking out "directly or indirectly involved in" in subsection (a)(6)(A) and inserting in lieu thereof "directly responsible for";

(B) by striking out "any financial" in subsection (a)(6)(B) and inserting in lieu thereof "a significant financial";

(C) by inserting after "to such organization" in subsection (f)(2) the following: ", in a manner similar to that provided for under section 1816(c),";

(D) by inserting after subsection (f)(2) the following new paragraph:

"(3) Any such agreement with an organization under this part may be in the form of a grant or an assistance agreement."; and

(E) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g)(1) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

"(2) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not later than two years after the date the organization has been designated as a Professional Standards Review Organization (other than under section 1154), but any such services on and after a date not later than two years after the date the organization has been designated as a Professional Standards Review Organization (other than under section 1154), but any such designated Professional Standards Review Organization may be approved to perform such review responsibility at any earlier time if such organization applies for, and is found capable of exercising, such responsibility. However, the Secretary may not require such an organization to perform such review responsibility prior to the date the organization is designated as a Professional Standards Review Organization (other than under section 1154).".

(2) Section 1101(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

"(9) The term 'shared health facility' means any arrangement whereby—

"(A) two or more health care practitioners practice their professions at a common physical location;

"(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

"(C) such practitioners have a person (who may himself be a practitioner) —

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners; and who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding $5,000 for any one month during the preceding 12 months, or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301 of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.".

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX.".

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)".

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) During the development and preparation by an organization of its formal plan under subsection (b)(2) or of any modification of such plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b)(2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

"(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings become effective.".

(C) Section 1154 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding after subsection (d) the following new subsection:

"(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governor of the State in which the organization is located).".

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS GENERALLY

"SEC. 1171. (a)(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum if the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

"(1) the State agency formally requests the performance of such additional responsibilities, and

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accordance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the quality of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, make a determination as to the reasonableness of the allegation by the State agency. If the Secretary determines that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the quality of care received by individuals under the State's plan approved under such title, he may immediately suspended such organization's authority in whole or in part under section 1158(a) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) pending a reevaluation of such organization's performance of the responsibilities involved and any appropriate action the Secretary may take as a result of such reevaluation. Any such action taken by the Secretary shall be final and shall not be subject to judicial review.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e)(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connection with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and

such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.".

(3)(A) Section 1155(e)(1) of such Act is amended by striking out "of a hospital or other operating health care facility or organization" and inserting in lieu thereof "of a hospital (including any skilled nursing facility, as defined in section 1861(j), or intermediate care facility, as defined in section 1905(c), which is also a part of such hospital) or other operating health care facility or organization (other than a skilled nursing facility which is not a part of a hospital)".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1)) only if the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, except that the provisions of this paragraph shall not apply with respect to an intermediate care facility which is also a skilled nursing facility (as defined in section 1861 (j)).".

(c) Section 1160(b)(1) of such Act is amended by striking out "practitioner or provider" each time it appears therein and inserting in lieu thereof "health care practitioner or hospital, or other health care facility, agency, or organization".

(f) Section 1163(a)(2) of such Act is amended to read as follows:

"(2) Members of the Council shall be appointed for a term of three years, except that of the members appointed in 1977, four shall be appointed for a term of only two years, and three for a term of only one year. Members of the Council shall be eligible for reappointment.".

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

(1) by striking out "or (2)" in subsection (a) and inserting in lieu thereof ", (2)";

(2) by inserting the following immediately before the period at the end of subsection (a): ", or (3) in accordance with subsection (b)";

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a):

"(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such Organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse;

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information."; and

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

"(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.".

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member or employee related to the performance of any duty or function of such organization, member or employee (as described in section 1155).".

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make payments to the Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.".

(k) Part B of title XI of such Act (as amended by subsection (d)(2)(D) of this section) is further amended by adding after section 1171 the following new section:

"ANNUAL REPORTS

"SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(4) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(5) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(6) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(7) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(8) recommendations for legislative changes.".

(l)(1) Title XI of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS REVIEW PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101 (a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(m) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(n) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b)(1) after "Review Organizations"; and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS".

(o)(1) Section 1152(b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)"

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

(p) Section 1155(a)(5) of such Act is amended by striking out all that follows "Professional Standards Review Organization" and inserting in lieu thereof a period.

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act is amended by inserting after section 1124 (added by section 3(a) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1125. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General shall be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by section 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of a State plan approved under title XIX is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in its plan under this title for not less than the period specified in such notice, and no payment may be made under its plan with respect to any items or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for items or services furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of a State plan approved under title XIX such plan submits a request to the Secretary for such waiver and if the Secretary approves such request.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) (as added by section 407 of the Health Professions Educational Assistance Act of 1976) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendments made by this section shall apply with respect to determinations and designations made on and after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on January 1, 1978.

DISCLOSURE BY PROVIDERS OR OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1126. (a) As a condition of participation in or certification or recertification under the program established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1126(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such institution, organization, or agency,

is a person described in section 1126(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (j) of this section); and, notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1126(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act (as amended by section 3(d) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(16) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a), and may terminate any such contract, arrangement, or approval if it determines that the provided did not fully and accurately make any disclosure required of it by section 1126(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements intered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION ON FEDERAL MEDICAID PAYMENTS; ASSIGNMENT OF RIGHTS OF PAYMENT; INCENTIVE PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsections:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(p)(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1912, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of any amount collected which is attributable to such rights of support or payment.

"(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"ASSIGNMENT OF RIGHTS OF PAYMENT

"SEC. 1912. (a) For the purposes of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan approved under this title, a State plan for medical assistance may—

"(1) provide that, as a condition of eligibility for medical assistance, each applicant or recipient who has legal capacity to execute an assignment for himself, or on behalf of another individual who is eligible to receive medical assistance by reason of the requirements of this title and lacks such legal capacity to make an assignment for himself, will be required—

"(A) to assign the State any rights to support which is specified as support for the purpose of medical care by a court or administrative order, and any rights to payment for medical care from any third party, which such applicant or recipient may have (i) on his own behalf or in behalf of such eligible individual lacking such legal capacity, and (ii) which have accrued at the time such assignment is executed; and

"(B) to cooperate with the State (i) in establishing the paternity of the eligible individual lacking such legal capacity if such eligible individual is a child born out of wedlock, and (ii) in obtaining such support and such payments for himself and for the eligible individual lacking such legal capacity, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and "(2) provide for entering into cooperative arrangements with any appropriate agency or appropriate organizational unit of any agency of the State, or of another State, and with appropriate courts and law enforcement officials (i) to assist the State or local agency, including the entering into of financial arrangements with such agency, organizational unit, courts, and officials in order to conduct or assist in the conducting of the enforcement and collection of rights to support or payment assigned under this section, and (ii) with respect to any other matters of common concern to such agency, organizational unit, courts, or officials and the State or local agency.

"(b) Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made to such individual on whose behalf such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.".

(c) The amendment made by subsection (a) shall apply with respect to medical assistance provided under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

STUDY AND REVIEW OF MEDICARE CLAIMS PROCESSING

SEC. 12. The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act, for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

(1) by reducing the number of participating intermediaries and carriers;

(2) by making a single organization responsible for the processing of claims, under both part A and part B of such title, in a particular geographic area;

(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

(4) by providing incentive payments for the most efficient organizations; or

(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto.

ABOLITION OF PROGRAM REVIEW TEAMS UNDER MEDICARE

SEC. 13. (a) Section 1862(d) of the Social Security Act is amended by striking out paragraph (4).

(b)(1) Section 1862(d)(1)(B) of such Act is amended by striking out ", with the concurrence of the appropriate program review team appointed pursuant to paragraph (4),".

(2) Section 1862(d)(1)(C) of such Act is amended to read as follows:

"(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(3) Clause (F) of section 1866(b)(2) of such Act is amended to read as follows: "(F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care".

(4) Section 1157 of such Act is amended by striking out the last sentence.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

FISCAL INTERMEDIARIES

SEC. 14. Section 1816 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) The Secretary may not disapprove a proposed agreement under this section, terminate an agreement under this section, or make a determination with respect to whether an agreement or proposed agreement is consistent with the effective and efficient administration of this part under subsection (b)(1)(A) or (e)(2)(B), solely on the grounds that the agency or organization requesting such agreement, or having such agreement, serves providers located only in a single State, or on the grounds that any provider in such single State is served, or could be served, by another agency or organization which serves providers located in more than one State.".

DISCLOSURE BY PROVIDERS OF THE HIRING OF CERTAIN FORMER EMPLOYEES OF FISCAL INTERMEDIARIES

SEC. 15. (a) Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title) with respect to the provider.".

(b) The amendments made by subsection (a) shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 16. (a) Section 1833(f) of the Social Security Act is amended to read as follows:

"(f)(1) In the case of durable medical equipment to be furnished an individual as described in section 1861(s)(6), the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need), whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this title or would create an undue financial hardship on the individual who will use it.

"(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of the used equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

"(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

"(4) The Secretary shall encourage suppliers of durable medical equipment to make their equipment available to individuals entitled to benefits under this title on a lease-purchase basis whenever possible.".

(b) The amendment made by subsection (a) shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977.

FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 17. (a) Section 1903(a) of the Social Security Act is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) subject to subsection (b)(3), an amount equal to 100 per centum of the sums expended during each quarter of the fiscal year beginning October 1, 1977, 90 per centum of the sums expended during each quarter of the fiscal year beginning October 1, 1978, and 75 per centum of the sums expended during each quarter of the fiscal year beginning October 1, 1979, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (p)); plus".

(b) Section 1903(b) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(7) may not exceed the higher of—

"(A) $125,000, or

"(B) one-quarter of 1 per centum of the sum expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title."

(c) Section 1903 of such Act is further amended by inserting after subsection (p) (added by section 11(a) of this Act) the following new subsection:

"(q) For the purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

"(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal proceedure, approved by the Secretary, which (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) is an entity which has formal procedures and a formal working relationship, approved by the Secretary which provide effective coordination with the Office of the State attorney general with respect to activities toward detection, investigation, and prosecution of suspected criminal violations relating to the program under this title, including referral of such suspected violations to the Office of the State attorney general.

"(2) The entity is separate and distinct from the title XIX operating agency or (if different) single State agency that administers or supervises the administration of the State plan under this title.

"(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

"(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments made under the State plan to health care facilities and discovered by the entity in carrying out its activities.

"(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.".

(d) Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92-603) is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (I) the following new subparagraph:

"(J) to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act.".

(e)(1) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1977.

(2) The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act, as are necessary to carry out the amendments made by this section.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

SEC. 18. (a) Not later than one year after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act.

(b) Such report shall include an evaluation of the coordination of such services provided under the different titles, and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

(2) the requirements for an individual to be eligible to receive such services under such titles;

(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certification of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by providers of such services in order to determine the reasonableness of such costs and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act; and

(6) the prevention of fraud and abuse in the delivery of such services under such titles, the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services

and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services.

ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS FOR DIFFERENT TYPES OF HEALTH SERVICES FACILITIES AND ORGANIZATIONS; MAKING OF REPORTS UNDER MEDICARE AND MEDICAID PROGRAMS IN ACCORDANCE WITH SUCH SYSTEMS

SEC. 19. (a) Part A of title XI of this Social Security Act is amended by inserting after section 1120 the following new section:

"UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

"SEC. 1121. (a) For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this Act, the Secretary shall establish by regulation, for each such type of health services facility or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

"(1) The aggregate cost of operation and the aggregate volume of services.

"(2) The costs and volume of services for various functional accounts and subaccounts.

"(3) Rates, by category of patient and class of purchaser.

"(4) Capital assets, as defined by the Secretary including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

"(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative system for producing comparable and uniform health information and statistics described in section 306(e)(1) of the Public Health Service Act. However, hospitals shall employ the chart of accounts, definitions, principles, and statistics, prescribed by the Secretary, in order to reach a uniform reconciliation of financial and statistical data for specified uniform reports to be provided to the Secretary.

"(b) The Secretary shall—

"(1) monitor the operation of the systems established under subsection (a);

"(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

"(3) periodically revise such systems to improve their effectiveness and diminish their cost.

"(c) The Secretary shall provide information obtained through use of the uniform reporting system described in subsection (a) in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 1515 of the Public Health Service Act) and State health planning and development agencies (designated under section 1521 of such Act), as may be necessary to carry out such agencies' and organizations' functions.".

(b)(1) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.".

(2) Section 1902(a) of such Act (as amended by sections 2(b), 3(c), and 7(b) of this Act) is amended—

(A) by striking out "and" at the end of paragraph (38);

(B) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (39) the following new paragraph:

"(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.".

(c)(1) The Secretary of Health, Education, and Welfare shall establish the systems described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) only after consultation with interested parties and—

(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

(B) for other types of health services facilities and organizations, not later than the end of the two-year period,

beginning on the date of enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply, with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) for that type of health services facility.

(B) The amendments made by subsection (b) shall apply, with respect to the operation of a health services facility or organization which is neither a hospital, a skilled nursing facility, nor an intermediate care facility, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization

(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) shall apply, with respect to State plans approved under title XIX of the Social Security Act, on and after October 1, 1977.

DELAY IN, AND WAIVER OF, IMPOSITION OF REDUCTION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE DUE TO A STATE'S FAILURE TO HAVE AN EFFECTIVE MEDICAID UTILIZATION CONTROL PROGRAM

SEC. 20. (a) Section 1903(g) of the Social Security Act is amended—

(1) by striking out "With respect to" in the first sentence of paragraph (1) and inserting in lieu thereof "Subject to paragraphs (5) and (6), with respect to";

(2) by striking out "by 33⅓ per centum thereof" in paragraph (1) and inserting in lieu thereof "as determined under the provisions of paragraph (3)";

(3) by inserting "timely" in paragraph (2) before "sample onsite surveys"; and

(4) by adding after paragraph (2) the following new paragraphs:

"(3) In the case of a State with respect to which a reduction in the Federal medical assistance percentage is required under the provisions of paragraph (1), such Federal medical assistance percentage shall be reduced by a percentage equal to 33⅓ per centum multiplied by a fraction, the denominator of which is equal to the total number of patients with respect to whom the provisions (as contained in paragraph (1)) relating to the making of a satisfactory showing are applicable, and the numerator of which is equal to the number of such patients with respect to whom such a showing was not made in accordance with such paragraph (after application of paragraphs (4) and (5)).

"(4) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

"(5) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

"(A) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning prior to January 1, 1978;

"(B) unless a notice of such decrease has been provided to the State at least thirty days before the date such decrease takes effect; or

"(C) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after December 31, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

"(6) The Secretary is authorized to waive the application of all or part (as is appropriate) of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) in any case in which the Secretary determines that the unsatisfactory or invalid showing made by the State is of a technical nature only, or is due to circumstances beyond the control of the State.

(b) Section 1902(a)(26) of the Social Security Act is:

"(7) The Secretary shall submit to Congress, not later than sixty days after the end of each calendar quarter, a report on—

"(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

"(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

"(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under paragraph (1) of an unsatisfactory or invalid showing.".

Section 1902(a)(26) of the Social Security Act is amended by inserting after "social service personnel" the following: ", or, in the case of skilled nursing facilities, composed of physicians or registered nurses and other appropriate health and social service personnel".

(c) The amendments made by this section shall be effective on October 1, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Security Act to reflect the changes made by such amendments.

PROTECTION OF PATIENT FUNDS

SEC. 21. (a) Section 1861(j) of the Social Security Act is amended by striking out "and" at the end of paragraph (13) and inserting immediately after such paragraph (13) the following new paragraph:

"(14) establishes and maintains a system which shall assure a full and complete accounting of patients' personal funds, including the use of a separate account for patient funds which shall preclude any commingling of such funds with facility funds or with the funds of any person other than another such patient; and".

(b) The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under the provisions of title XVIII, or under a State plan approved under the provisions of title XIX, of the Social Security Act, and those costs which are to be included in the reasonable cost or reasonable charge for extended care services as determined under the provisions of title XVIII, or for skilled nursing care or intermediate care as determined under the provisions of title XIX.

(c)(1) The amendments made by subsection (a) shall be effective on the first day of the first calendar quarter which begins more than six months after the date of enactment of this Act.

(2) The Secretary of Health, Education, and Welfare shall issue regulations as required under subsection (b) within ninety days after the date of enactment of this Act.

PAYMENT FOR INSTITUTIONAL CARE BEYOND DATE DETERMINED MEDICALLY NECESSARY

SEC. 22. (a) Section 1158 of the Social Security Act is amended—

(1) in subsection (a), by inserting "and subsection (d)" immediately after "section 1159"; and

(2) by adding after subsection (c) (as added by section 5(d)(1) of this Act) the following new subsection:

"(d) In any case in which a Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services or posthospital extended care services, payment may be made for such services furnished before the second day after the day on which the provider received notice of such disapproval, or, if such organization determines that more time is required in order to arrange postdischarge care, payment may be made for such services furnished before the fourth day after the day on which the provider received notice of such disapproval.".

(b) The amendment made by subsection (a) shall be effective on the date of enactment of this Act.

PROSECUTION OF CIVIL FRAUD BY INSPECTOR GENERAL

SEC. 23. (a) Section 203(a) of the Act of October 15, 1976 (Public Law 94-505), relating to the Office of Inspector General is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) to bring civil actions on behalf of the United States in cases of alleged civil fraud relating to any health related program established or totally or partially funded under any provision of the Social Security Act, if no such civil action has been initiated by the Department of Justice within a period of six months following a formal referral of such case of alleged fraud by the Department to the Department of Justice and when such action is appropriate in the opinion of the Inspector General.".

(b) The amendments made by this section shall be effective on the date of enactment of this Act.

UTILIZATION REVIEW DEMONSTRATION PROJECTS

SEC. 24. (a)(1) The Secretary of Health, Education, and Welfare is authorized and directed, upon application of any eligible State, to establish in such State a demonstration project for the purpose of evaluating the effectiveness of Professional Standards Review Organizations (as defined in part B of title XI of the Social Security Act) in comparison with the effectiveness of alternative State methods for utilization review of providers under the State's plan approved under title XIX of the Social Security Act.

(2) In order to be eligible for demonstration projects established under this section a State must—

(A) have had in operation on August 5, 1977, one or more Professional Standards Review Organizations (including an organization conditionally designated under sectio 1154 of the Social Security Act) within such State;

(B) have had in operation on August 5, 1977, a program under which State employees assigned to and located within given hospitals routinely review, on site, the medical necessity of inpatient hospital care and services in general short-term hospitals for which payments are made under a State plan approved under title XIX of the Social Security Act; and

(C) submit an application for such a demonstration project, in such manner, and containing such information, as the Secretary may prescribe, prior to May 1, 1978.

(3) Demonstration projects established under this section shall be established in Professional Standards Review Organization areas the population of which are representative of the statewide population of recipients of assistance under the State plan approved under title XIX of the Social Security Act and which represent a significant proportion of the statewide total of patient days for which payments are made under such plan.

(4) Not more than four Professional Standards Review Organization areas in any single State shall be utilized in a demonstration project established in such State under this section.

(b)(1) For purposes of carrying out the demonstration projects established under this section the Secretary shall select, with the concurrence of the State in which the project is established, an independent organization which shall—

(A) establish a study design by which to evaluate the comparative effectiveness of the Professional Standards Review Organization and the alternative State method of utilization review; and

(B) monitor, evaluate, and report the findings of the project.

(2) In evaluating the effectiveness of the Professional Standards Review Organizations and the alternative State methods of utilization review, the independent organization shall examine—

(A) the number of admissions to institutions;

(B) lengths of stay in institutions;

(C) the number of patient days;

(D) operating costs of institutions;

(E) the quality of patient care;

(F) the medical appropriateness of the approval or denial of care and service;

(G) the timeliness of decisions;

(H) administrative considerations;

(I) changes in the number of providers;

(J) the number of available beds in institutions; and

(K) any other factors which may affect the statistical validity of the project.

(3) In establishing the study design for projects the independent organization shall assign the title XIX review responsibilities, with respect to given hospitals within the Professional Standards Review Organization demonstration area, as equally as possible, with respect to which hospitals each party shall review, between the Professional Standards Review Organization and the State involved.

(c) During the course of any demonstration project established under this section the decisions of the Professional Standards Review Organization and the State shall each be binding for payment purposes (subject to other applicable provisions of law) with respect to the group of providers for which each has review responsibility under the demonstration project.

(d) A project established under this section shall operate for a period of two years unless terminated at an earlier date by the Secretary or by the State involved. A determination by the Secretary to terminate such a project shall be final and shall not be subject to judicial review.

(e) Professional Standards Review Organizations within a State which is participating in a demonstration project under this section, but which are not involved in such project, shall be subject to applicable provisions of law without regard to the provisions of this section.

(f)(1) Payments for expenses incurred by Professional Standards Review Organizations which participate in demonstration projects established under this section shall be made in the manner prescribed in section 1168 of the Social Security Act.

(2) Amounts expended by a State on account of participation in demonstration projects established under this section shall be considered, for purposes of section 1903 of title XIX of the Social Security Act, to be expenses necessary for the proper and efficient administration of the State's plan approved under such title.

(3) Amounts expended by an independent organization selected under the provisions of subsection (b)(1) which are necessary and proper for carrying out the requirements of such subsection shall be reimbursed by the Secretary from funds authorized under section 1901 of the Social Security Act.

(g) The Secretary shall submit to the Congress and to the President reports with respect to the results of any projects established under this section. An interim report on each such project shall be submitted at the end of one year of operation of such project, and a final report shall be submitted within three months after the completion (or termination) of such project.

(h) Except as otherwise specifically provided under the provisions of this section, review and evaluation of care provided under title XVIII and under State plans approved under title V and title XIX of the Social Security Act shall be undertaken in demonstration projects under this section in the same manner as prescribed under such titles.

PAYMENT FOR CERTAIN HOSPITALS SERVICES PROVIDED IN VETERAN'S ADMINISTRATION HOSPITALS

SEC. 25. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" immediately after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital

or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though such hospital is a Federal provider of services if (A) such individual was not entitled to have such services furnished to him free of charge by such hospital, (B) ofc harge, (C) the authorities of such hospital in the reasonable belief on the part of the admitting authorities that such individual was a person who was entitled to have such services furnished to him free of charge, (C) the authorities of such hospital, in admitting such individual, and the individual, acted in good faith, and (D) such services were furnished during a period ending with the close of the day on which the authorities operating such hospital first became aware of the fact that such individual was not entitled to have such services furnished to him by such hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove such individual from such hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf of such individual).".

(c) The amendments made by this section shall be applicable in the case of inpatient hospital services furnished on and after July 1, 1974.

HOSPITAL INSURANCE FOR INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

SEC. 26. (a) Title XVIII of the Social Security Act is amended by adding after section 1818 the following new section:

"HOSPITAL INSURANCE FOR INDIVIDUALS AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

"SEC. 1819. (a) Every individual who—

"(1) has attained the age of 60, but has not attained the age of 65; and

"(2) is either—

"(A) an individual entitled to monthly insurance benefits under section 202 or benefits under the Railroad Retirement Act of 1937, or

"(B) the wife or husband of a person entitled to benefits under this part, or

"(C) an individual entitled to benefits under—

"(i) section 223(a), or

"(ii) subsection (e), (f), (g), or (h), of section 202 based on disability,

but who has not met the conditions of section 226(b)(2); and

"(3) is enrolled under part B of this title shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll only once under this section and only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) In the case of an individual who satisfies paragraph (1) of subsection (a) of this section and either subparagraph (A) or (C) of paragraph (2) of such subsection, his enrollment period shall begin with whichever of the following is the latest:

"(A) April 1, 1978, or

"(B) the date such individual first meets the conditions in such paragraph (2), or

"(C) the date the Secretary sends notice to such individual that he is entitled to any monthly insurance benefits as specified in subparagraph (A) or (C) of such paragraph (2),

and shall end at the close of the—

"(D) 90th day thereafter, if such enrollment period begins on the date specified in subparagraph (B) or (C) of this paragraph, or

"(E) 180th day thereafter, if such enrollment period begins on April 1, 1978.

"(3) In the case of an individual satisfying paragraph (1) and paragraph (2)(B) of subsection (a) of this section, his enrollment period shall begin on whichever of the following is the later: (A) April 1, 1978, or (B) the date such individual first meets the conditions specified in such paragraphs, and shall end at the close of the (C) 90th day thereafter, if such enrollment period begins on the date specified in clause (B) of this paragraph, or (D) 180th day thereafter, if such enrollment period begins on April 1, 1978.

"(c)(1) In the case of an individual who enrolls pursuant to the provisions of this section, the coverage period during which he is entitled to benefits under this part shall begin on the first day of the second month after the month in which he enrolls, or July 1, 1978, whichever is later.

"(2) An individual's coverage period shall terminate at the earlier of the following—

"(A) for failure to make timely premium payments, at such time as may be prescribed in regulations which may include a grace period in which overdue premiums may be paid and coverage continued, but such grace period shall not exceed 30 days; except that it may be extended to not to exceed 60 days in any case where the Secretary determines that there was good cause for failure to pay overdue premiums within such 30-day period; or

"(B) at the close of the month following the month in which an individual files a notice with the Secretary that he no longer desires to be enrolled under this section; or

"(C) with the month before the month he no longer meets the conditions specified in subsection (a).

Notwithstanding the preceding provisions of this paragraph, an individual's coverage period shall terminate at such time as such individual becomes eligible for hospital insurance benefits under section 226 of this Act or section 103 of the Social Security Amendments of 1965; and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such month the application required to establish such entitlement.

"(d)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1, 1979, shall be the amount of the premium charged to individuals enrolling under section 1818.

"(2) The Secretary shall, during the last calendar quarter of each year beginning in 1978 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums chargeable to individuals for months occurring in the 12-month period commencing July 1 of the next succeeding year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period; and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1, or if midway between multiples of $1, to the next higher multiple of $1.

"(e) Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or other arrangement is administratively feasible.

"(f)(1) The provisions of section 1840 shall apply to individuals enrolled under this section if such individuals are entitled to monthly insurance benefits under section 202 or 223. The provisions of subsections (e), (f), (g), and (h) of such section 1840 shall apply to any other individual so enrolled.

"(2) Where an individual enrolled under this section meets the provisions of paragraph (2)(B) of subsection (a) (but does not meet the provisions of paragraph (2)(A) or (2)(C) of such subsection) and the person referred to in such paragraph (2)(B) is entitled to monthly insurance benefits under section 202 or section 223, the provisions of section 1840(a)(1) shall apply to such benefits as though such husband or wife were entitled to such benefits, unless such person files a notice with the Secretary that the deductions provisions of such section 1840(a)(1) shall not apply.

"(g) The term 'wife', or 'husband' as used in this section shall have the meaning assigned to those terms by subsection (b) and subsection (f) of section 216, as the case may be, except that the provisions of clause (2) of such subsection (b) and clause (2) of such subsection (f) shall not apply.".

(b) Title XVIII of such Act is further amended by adding after section 1844 the following new section:

"ELIGIBILITY OF INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HOSPITAL INSURANCE

SEC. 1845. (a) Any individual who meets the conditions of paragraph (1) and paragraph (2) of section 1819(a) shall be eligible to enroll in the insurance program established by this part. The provisions of subsections (b), (c), (e), (f), and (g) of section 1819 shall apply to individuals authorized to enroll under this section.

"(b) An individual's coverage period shall also terminate when (A) he no longer meets the conditions specified in paragraphs (1) and (2) of section 1819(a), or (B) his enrollment under section 1819 is terminated. Where termination occurs pursuant to this subsection, the coverage period shall terminate with the close of whichever of the following months is the earliest: (C) the month before the month the individual attains the age of 65, or (D) the month following the month in which such individual no longer meets the conditions of paragraph (2) of section 1819(a), or (E) the month in which his enrollment under section 1819 terminates.

"(c)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1979 shall be 300 per centum of the premium payable by an individual who has attained age 65 for such month.

"(2) The Secretary shall, during December of each year beginning in 1978 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period, and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1 or if midway between multiples of $1, to the next higher multiple of $1.

"(d) All premiums collected from individuals enrolled pursuant to this section shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.".

TREATMENT OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS FOR PURPOSES OF INTERNAL REVENUE CODE

SEC. 27. (a) Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j) PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS.—For purposes of this title, a Professional Standards Review Organization designated as such by the Secretary of Health, Education, and Welfare under the provisions of part B of title XI of the Social Security Act (including an organization designated under section 1154 of such Act) shall be treated as an organization organized and operated exclusively for charitable purposes.".

(b) The amendments made by this section shall be effective with respect to taxable years beginning on or after January 1, 1977.

Mr. TALMADGE. Mr. President, almost from their inception, medicare and medicaid have been plagued with widespread fraudulent and abusive practices.

Year after year, Congress has investigated and repeatedly been shocked by the ripoffs in the health care programs designed to help our poor and older citizens.

The bill we are now considering, the medicare and medicaid antifraud amendments, is designed to slow down, if not halt, many of the fraudulent practices in the $47 billion medicare and medicaid programs.

But, if we cannot stop fraud, under these amendments we will have new capacity to detect and punish wrongdoing, for example, instead of medicare fraud being a misdemeanor as it is now, it would be classified as a felony punishable by up to 5 years imprisonment and a fine of up to $25,000.

But, once again, while Congress can enact laws which support virgorous investigation and prosecution, we cannot administer those laws. Much will depend upon the skill and dedication of those charged with enforcing the law. At this point, all we can do is provide every possible means of support to those committed to law enforcement.

Last year, I was pleased to introduce, joined by many of my colleagues, the original medicare and medicaid antifraud bill.

We were able to secure both Finance Committee and Senate approval of the measure as an amendment to H.R. 12961. Unfortunately, due to the lateness of the congressional session, the House was unable to complete action.

During the adjournment period, Congressman DAN ROSTENKOWSKI, chairman of the Ways and Means Health Subcommittee, and Congressman PAUL ROGERS, chairman of the Health Subcommittee of the Commerce Committee, along with their staffs, worked with us to improve and expand the original antifraud proposal. That work culminated in the introduction, at the beginning of this session, of H.R. 3 on the House side and S. 143 here in the Senate.

It should be noted that 40 Senators joined in sponsoring this vitally needed legislation.

H.R. 3 benefited significantly from the extensive work devoted to it in hearings and markup by the House Committees on Ways and Means and Interstate and Foreign Commerce. They have made a good bill even better.

Both H.R. 3 and its companion bill, S. 143, reflect in their provisions the extensive time and effort devoted by several committees of the Congress in exposing fraud and abuse in medicare and medicaid. For example, the Senate's Special Committee on Aging has, for years, vigorously and imaginatively exposed the fastbuck artists and the exploiters who prey on our older Americans. That committee has sought, as we on the Finance Committee have, to keep the Federal programs for the poor and the sick and the old from being corrupted and subverted.

The permanent Subcommittee on Investigations of the Senate Government Operations Committee has also invested many months of hard—and often unpublicized—effort designed to reveal and remedy shortcomings in the multibillion-dollar medicare and medicaid programs. The permanent subcommittee deserves the thanks and commendation of all of us.

When I introduced the medicare and medicaid antifraud bill in the last Congress, I described it as an opportunity for the Congress to give a clear, loud signal to the thieves and the crooks and the abusers that we mean to call a halt to their exploitation of the public and the public purse.

Well, somehow we missed the opportunity to give that signal last year. But now, Mr. President, with enactment of this legislation that signal will be heard in unmistakable tones.

Mr. President, I ask unanimous consent that the summary of S. 143, included in the committee report, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

As reported, the provisions of S. 143, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, are focused on six major areas: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and other medicaid and medicare amendments. The summary presented below briefly outlines the principal features of the bill as reported.

PROGRAM PENALTY SANCTIONS

1. The bill modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid. Most fraudulent acts now classified as misdemeanors are to become felonies. Penalties are to be increased to a maximum $25,000 fine, up to five years imprisonment, or both. The types of financial arrangements and conduct to be classified as illegal have been clarified. In addition, States will now be permitted to suspend the eligibility of medicaid recipients convicted of defrauding the program. However, the misdemeanor penalty presently provided under existing law for conviction of such individuals is retained, as is the misdemeanor penalty for the conviction of a beneficiary under the medicare program. The bill also requires the Health, Education, and Welfare In-spector General to include in his annual report an evaluation of the effort of the Department of Justice in the investigation and prosecution of fraud in the medicare and medicaid programs and his recommendations for improvement of that effort. (Section 4)

2. The bill requires the Secretary of Health, Education, and Welfare to suspend, for such period as he deems appropriate, from participaton under medicare and medicaid, an individual practitioner who has been convicted of a criminal offense related to such individual's involvement in medicare or medicaid. When the Secretary suspends an individual, he must also notify the appropriate State licensing authorities, requesting that investigation be made and sanctions invoked in accordance with the State's law and public policy. (Section 7)

DISCLOSURE OF INFORMATION

1. (a) The bill requires, as a condition of participation or certification in either medicare, medicaid or the maternal and child health program, or health-related entities providing services under title XX, the annual disclosure to the Secretary or the appropriate State agency by the participating entity of the identity of any person who has a five percent or more ownership interest in the entity. These disclosure of ownership provisions will apply to medicare and medicaid providers of services (including independent clinical laboratories, health maintenance organizations and renal disease facilities), entities furnishing services for which payment may be claimed under medicaid or the maternal and child health program (but not including any individual or group of practitioners), and medicare carriers or intermediaries and medicaid fiscal agents. Providers of services would also have to disclose similar ownership information about any subcontractor, five percent or more of which is owned by the provider. (Section 3)

(b) Furthermore, the bill modifies existing medicare and medicaid provisions relating to termination of medicare provider agreements or suspension of medicaid payments to health care entities by adding a requirement that a provider must comply with a request specifically addressed to it by the Secretary or the medicaid State agency for full and complete information as to any significant business transactions between it and any subcontractors or between it and wholly-owned suppliers. Finally, in the case of subcontractors having more than $25,000 in annual business transactions with a provider, compliance would be required with similar requests related to ownership information pertaining to the subcontractor. (Section 3)

2. The bill requires all institutional providers of services, or other agencies, institutions, or organizations, as a condition of participation or certification in medicare, medicaid or the social services programs under title XX of the Social Security Act to disclose, in the application for participation or certification, the names of owners, officers, directors, agents, or managing employees who have been convicted of fraud against the medicare, medicaid, or State social service grant programs. When an application contains the name of any such previously convicted individual, the Secretary or the State agency can refuse to enter into an agreement or refuse to contract with

the applicant. The Inspector General of the Department of Health, Education, and Welfare must be informed of the receipt of any such applications and of any action taken on them. (Section 8)

3. The bill authorizes the Comptroller General of the United States to sign and issue subpenas in order to obtain necessary information and facilitate review of Social Security Act health programs. The Comptroller General will also be authorized, upon resistance or refusal by an individual to obey a subpena, to request a court order requiring compliance with the subpena. (Section 6)

4. The bill requires any provider of services participating in medicare to promptly notify the Secretary of its employment of an individual who, at any time during the preceding year, was employed in a managerial, accounting, auditing, or similar capacity by a medicare fiscal intermediary or carrier that services the provider. (Section 15)

5. The bill allows Federal access to the records of persons or institutions providing services under medicaid in the same manner that such access is presently provided to State agencies. (Section 9)

6. The bill authorizes prosecution of civil fraud cases under the Social Security Act health care programs by the Inspector-General of HEW where U.S. attorneys have not initiated proceedings within six months of formal referral of a case. (Section 23)

PROFESSIONAL STANDARDS REVIEW

The bill includes several provisions designed to clarify the nature and scope of PSRO review responsibilities, to enhance the capacity of PSRO's to perform reviews of the necessity and appropriateness of services more effectively, and to improve the administration and coordination of review activities so as to assure that program funds are properly expended. Thus, the bill provides:

(1) for the termination of other duplicative review activities when the Secretary determines that a PSRO is competent to perform its review responsibilities; that the determinations of PSRO's so recognized by the Secretary with respect to the necessity and appropriateness of care are conclusive for purposes of program payment; and that the role of the State in the process of establishing and evaluating PSRO review of services provided through the medicaid program will be increased and made more specific (Section 5(a) and 5(d));

(2) for the establishment of demonstration projects for the purpose of evaluating the effectiveness of PSRO reviews compared to alternative State review methods. The bill authorizes the establishment of such projects in States which had operating onsite State evaluation systems in place on August 5, 1977, and which make application to the Secretary prior to April 1, 1978. The purpose of the projects will be to evaluate the effectiveness, both in terms of the quality and appropriateness of medical care as well as the impact on State budgets, of PSRO hospital review compared to alternative State hospital review systems. Demonstration projects would be conducted in PSRO areas which are representative of a State's medicaid population and comprise a significant proportion of medicaid patient days (Section 24);

(3) that a PSRO may be conditionally designated for a period not to exceed 48 months (with authority for the Secretary to extend the period for an additional 24 months where warranted by unusual circumstances); and that PSRO's must assume review responsibilities for institutional services during this period (Section 5(b));

(4) that the Secretary shall require a PSRO, where he finds it is capable of undertaking ambulatory care review, to undertake such review no later than 2 years after it becomes fully operational (but not during such organization's conditional phase), and to give priority to requests by PSRO's to review services in "shared health facilities" (Section 5(c));

(5) that the Federal Government may assume the defense costs incurred by a PSRO in a liability suit related to the performance of its functions (Section 5(i));

(6) for the disclosure of information with respect to evidence of fraud to designated Federal and State law enforcement agencies (with a prohibition against access to PSRO records in the case of subpena or discovery proceedings in a civil action), and for the disclosure of aggregate statistical data to Federal and State health planning agencies (Section 5(h));

(7) for the annual submission to the Congress by the Secretary of a comprehensive report on the administration, cost, and impact of the PSRO program (Section 5(k));

(8) for the modification of current law provisions pertaining to payment for institutional services after a PSRO has determined that such services are no longer required. The current three day grace period would be reduced to one, with the PSRO permitted to authorize up to 2 additional days on a case-by-case exception basis where the facts in the case indicate that the additional time is needed to arrange for the necessary postdischarge care (Section 22);

(9) to amend the Internal Revenue Code to specifically include PSRO's as organizations eligible for section 501(c)(3) tax status (Section 27); and

(10) for several clarifying administrative and technical changes designed to enhance a PSRO's operational capacity (Section 5).

ADMINISTRATIVE REFORM

1. The bill requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data. This reporting system would be mandated for use of medicare and medicaid providers and such use would be phased in by type of provider. (Section 19)

2. The bill repeals the program review team provisions of present law. The functions formerly performed by such teams with respect to the quality and utilization of services will be performed by Professional Standards Review Organizations. (Section 13)

3. The bill would encourage each State to establish an office separate from the medicaid program agency to prepare and prosecute cases of suspected fraud and abuse in the program by providing for 100 percent Federal matching funds in fiscal year 1978, 90 percent in fiscal year 1979 and 75 percent in fiscal year 1980 for expenditures to establish and operate State medicaid fraud control units. The bill also authorizes the Secretary to arrange for demonstration projects designed to develop improved programs for detection, investigation, and prosecution of fraud and abuse. (Section 17)

4. The bill requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 95 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 90 days. The State would not be cited for noncompliance if the Secretary found the State was acting in good faith to achieve this goal. (Section 2)

5. The bill directs the Comptroller General to conduct a comprehensive review of the administrative structure for the processing of medicare claims. (Section 12)

6. The bill would prohibit the Secretary from refusing to enter into an agreement with a nominated intermediary under medicare solely because of the fact that such intermediary does not operate regionally or nationally. (Section 14)

7. The bill establishes a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State. Incentives would be provided for localities to make collections for States and for States to secure collections in behalf of other States. (Section 11)

8. The bill requires that as a condition for participation in the medicaid and medicare programs, a skilled nursing or intermediate care facility must establish and maintain a system to assure the proper accounting of personal patient funds. The system must provide for separate and discrete accounting for each patient with a complete accounting of income and expenditures so as to preclude the intermingling of other funds with patient funds. (Section 21)

OTHER MEDICAID AND MEDICARE AMENDMENTS

1. The bill modifies the requirements of current medicaid law concerning review of care delivered in institutional facilities. The section waives application of the penalties for noncompliance for calendar quarters ending prior to January 1, 1978. For subsequent calendar quarters, the required reductions in Federal matching would be imposed only in proportion to the number of patients whose care was not reviewed compared to the total patient population subject to review.

The bill further specifies procedural requirements for the Secretary to carry out the required validation requirements in a more timely fashion. (Section 20)

2. The bill modifies the requirements pertaining to the composition of medical review teams in skilled nursing facilities so as to conform them with those requirements applicable to intermediate care facility review. (Section 20)

3. The bill would permit spouses of medicare beneficiaries aged 60–64 as well as certain other persons in that age group to buy into medicare at a premium rate equal to the cost of their protection. In order for such persons to be eligible to enroll for hospital insurance they must be enrolled for supplementary medical insurance. (Section 26)

4. The bill would authorize, under certain circumstances, reimbursement to a Veterans' Administration hospital for care provided to a nonveteran medicare beneficiary. (Section 25)

5. The bill requires the Secretary of Health, Education, and Welfare to report to the Congress within 12 months after enactment of this legislation with an analysis and recommendations relating to all aspects (including the availability, administration, provision, reimbursement procedures and cost) of the delivery of home health services under medicare, medicaid and the title XX social services program. (Section 18)

TECHNICIAN REVISION

1. Your committee's bill clarifies existing law to insure that a power of attorney cannot be used to circumvent the prohibition in existing law against the use of "factoring" arrangements in connection with the payment of provider claims by the medicare and medicaid programs. (Section 2)

2. The bill modifies the provisions of existing law related to the rental or purchase of durable medical equipment to mandate that the Secretary requires the purchase of such equipment where purchase will be less costly than extended rental payments. (Section 16)

3. The bill increases individual State's incentives to adopt a computerized medicaid claims processing and information retrieval system by modifying one current requirement for higher Federal matching funds for the development and operation of this system. The bill would require such systems to provide explanation of benefits information to only a sample group of medicaid recipients rather than to each recipient as is currently required. (Section 10)

4. The bill would preclude Federal matching of State medicaid expenditures that result from State laws or contracts which exclude or limit insurance benefits because an individual is eligible for medicaid. (Section 11)

Mr. CURTIS. Mr. President, the Senate Finance Committee, in completing its work on S. 143, the medicare-medicaid antifraud and abuse amendments, has taken some very important first steps in dealing with the question of fraud in our public assistance programs. The bill, as the Members of this body know, is very similar to that which we passed last year and sent to the House under the able leadership of the distinguished Senator from Georgia, Mr. TALMADGE.

Mr. President, S. 143 contains changes which should have a very salutary effect upon the operation of the Nation's medicaid and medicare programs. Among other things, the bill provides for:

A prohibition against the use of a power of attorney to circumvent the existing ban on "factoring" arrangements in being reimbursed for Medicaid and Medicare claims.

More timely claims payment procedures to be required of the States under medicaid, so that 95 percent of clean claims are to be paid within 30 days and 99 percent within 90 days.

Disclosure of ownership interests, corporate or partnership status, past program records or hiring of former intermediary employees, by medicare and medicaid provider entities and individuals related thereto.

Strengthening of penalties for defrauding the programs, chiefly by changing a number of specified misdemeanors to felonies.

Subpena authority for the Comptroller General for programs authorized under the Social Security Act.

Suspension penalties and procedures following a criminal conviction for a medicare or medicaid program-related offense.

Increased Federal matching for the establishment and operation of State medicaid fraud control units.

In addition, the measure includes some highly desirable provisions modifying the section 1903(g) utilization review penalties imposed upon the States, and I am indeed hopeful that the substitute formula—reducing Federal matching only in proportion to the number of patients not reviewed, waiving reductions in matching for the period prior to January 1, 1978, and proceeding for more timely validation surveys by HEW—will prove to be a permanent solution to the problem which last came before the Congress in June.

The legislation contains, as well, numerous provisions relating to professional standards review organizations: For example, extending the time period for the operation of conditionally designated PSRO's; requiring that priority be given to review of "shared health facilities;" requiring operational PSRO's to undertake ambulatory care review no later than 2 years after achieving operational status; modifying certain restrictions on physician participation; rendering PSRO findings as conclusive for payment purposes, subject to State participation in PSRO designation, monitoring, a memorandum of understanding, and suspension of authority procedures related to the medicaid program; and facilitating Federal funding for PSRO's without State or local matching and for part B reviews. In my opinion, professional standards review organizations have a long way to go to prove themselves, and I am not at all convinced that a measure dealing principally with fraud and abuse is an appropriate vehicle for attempting to provide them with additional viability. In this instance, however, the changes proposed appear to move in the direction of greater flexibility, and given these changes PSRO's must now establish a record as to whether their role is one that should be continued. I am particularly pleased to see the call in section 5(k) of S. 143 for a detailed report annually to the Congress on the activities, cost, and impact of the PSRO program.

Finally, S. 143 contains certain provisions relating to confidentiality of medical records. Section 5(b) of the bill clarifies circumstances and procedures under which PSRO's may release data to Federal or State agencies having responsibility for the identification or detection of fraud and abuse or to agencies having responsibility for health planning and related activities. Section 9 gives the Secretary the same access to records of persons providing medicaid services that States presently have.

I have no quarrel with these two specific sections, but the bill does fail to address a more central question: under what circumstances should PSRO's, or other Federal agencies, have unrestricted access to private medical records in the first place? There have been a number of alternatives offered on this issue, but I for one am hopeful that we will see early enactment of a provision which insures that patients who have no fiscal relationship to medicare or medicaid whatever—other than paying the tax bill that these programs incur—will not have their private medical records released in an identifiable fashion to the Federal Government without their consent. I am hopeful that we will have early hearings and action which guarantees this level of confidentiality.

In closing, Mr. President, the measure we have before us is a desirable bill. It contains some loopholes, and some steps with which I do not agree, but on balance it should strengthen our administration of the medicaid and medicare programs. I would add two caveats, however: First, we should be careful that honest, extremely dedicated medical providers are not tarred with the brush of alleged abuse or the ink of massive new Federal regulations. More harm can be and has been done in the name of alleged good, and we should be vigilant against both administrative excesses and undesirable or unwarranted policy implications. Secondly, let no one think we are doing the entire job through our enactment of S. 143. We have only begun to examine the questions of recipient fraud and abuse, which deserves greater attention in succeeding considerations of this issue. We need to determine much more thoroughly if there are structural flaws in the medicare and medicaid programs which invite fraud, abuse, and overutilization. We can build upon this record, however, and prove our determination to complete the job.

UP AMENDMENT NO. 858

Mr. TALMADGE. Mr. President, the distinguished Senator from Kansas has an amendment proposed by the distinguished Senator from Oklahoma which I am prepared to accept.

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator BELLMON and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 858.

Mr. TALMADGE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

DELAY IN EFFECTIVE DATE FOR IMPLEMENTING CERTAIN METHODS OF DETERMINING REASONABLE COSTS FOR SKILLED NURSING FACILITY SERVICES AND INTERMEDIATE CARE FACILITY SERVICES

SEC. 28. (a) Section 1902(a)(13)(E) of the Social Security Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "January 1, 1979".

(b) Notwithstanding the provisions of section 1902(a)(13)(E) of the Social Security Act, a State plan for medical assistance shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under title XIX of such Act, and the amount payable to any State under such title shall not be decreased, solely because of the failure of such State to meet the requirements of such section during any calendar quarter ending prior to January 1, 1979.

Mr. BELLMON. Mr. President, H.R. 3 (S. 143) is intended to reduce fraud and abuse in the medicare and medicaid programs. I believe that this bill will make a major contribution to more effective administration of these programs and I congratulate my distinguished colleagues on the Finance Committee for their excellent work. The amendment proposed is a relatively simple one which will further reduce potential for fraud and abuse by postponing the cost-related reimbursement requirement for nursing homes for 1 year or until January 1, 1979. In addition, the amendment would absolve State medicaid programs of possible fiscal liability stemming from HEW's postponement of the original date of implementation of July 1, 1976.

Mr. President, there is very little chance that States will be able to implement cost-related reimbursement by January 1, 1978. Currently, only 30 States—including D.C.—have submitted plans to the central office of HEW. Of these 30 plans, 2 have been approved, 11 are pending minor modifications, 14 are pending major modifications, 3 are still undergoing review.

Thus, Mr. President, although the deadline for mandatory implementation

is only 3 months away, only two plans have been approved. Almost half—24—have either not submitted plans or are still undergoing review and have no idea what revisions may be necessary. In light of this record, there is little chance that effective cost-related reimbursement plans can be implemented by January 1, 1978.

It is vitally important also, Mr. President, that the issue of fiscal liability of States be resolved. This threat of retroactive liability stems from the fact that the law mandated implementation of cost-related reimbursement by July 1, 1976. HEW regulations, however, while technically requiring implementation by July 1, 1976, stated that plans had to be in effect on January 1, 1978. Although the requirement was enacted in October of 1972, HEW did not issue implementing regulations until June of 1976 or shortly before the July 1, 1976, effective date. Recently, the Middle District Court of Alabama ruled that the regulations were not in compliance with the law. I have been informed that a similar suit has been filed in Illinois and that others may follow. State welfare administrators are greatly concerned about this issue and have expressed support for this amendment. I have a letter from the American Public Welfare Association to this effect and ask that it be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, it is clear that it will be virtually impossible for the States to develop and implement approved plans for cost-related reimbursement of nursing homes by January 1, 1978. In addition, it is imperative that we clarify the position of the States concerning the issue of retroactive liability. This amendment will provide time to reexamine the cost-related reimbursement requirement and allow for the development of well-developed reimbursement plans. Plans developed in a last minute rush to meet the January 1, 1978, deadline are likely to encourage opportunities for fraud and abuse. Thus, Mr. President, this amendment will assist in achieving the objectives of S. 143, and I urge its adoption.

EXHIBIT 1

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, D.C., September 26, 1977.

Hon. HENRY L. BELLMON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BELLMON: The National Council of State Public Welfare Administrators of the American Public Welfare Association is composed of administrators of all state welfare agencies. These agencies have primary administrative responsibility for the Medicaid program. The Council wishes to extend its full support for S. 2005, the bill you authored and introduced which would extend the implementation date of Section 249 of P.L. 92-603 [Cost Related Reimbursement of Nursing Homes] from January 1, 1978 to January 1, 1979. We understand the bill would also absolve state Medicaid programs of possible fiscal liability from HEW's postponement of the original date of implementation of July 1, 1976 to January 1, 1978. We believe such legislation is necessary to allow states additional time to prepare for the implementation of Section 249. In addition the states welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

Thank you for your attention in this matter.

Sincerely,

JOHN J. AFFLECK,
Director, State Department of Social and Rehabilitative Services, Rhode Island and Chairman, National Council of State Public Welfare Administrators.

Mr. TALMADGE. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE. Will the Senator yield?

Mr. TALMADGE. I yield.

Mr. DOLE. Mr. President, I would like to begin by commending my colleague, Senator TALMADGE, for his commitment, concern, and hard work. The bill we have before us today is due in great part to his persistence and diligence.

Medicare and medicaid fraud and abuse are diseases, and are insidious and potentially fatal processes that may serve to destroy these programs.

Those who are adversely affected by these abuses are the recipients, the health care providers, and the taxpayers.

The recipients, those who are the poor, the aged, and the disabled of our society, suffer because fraud and abuse takes the money needed for services to these people, and puts it into the hands of the unscrupulous whose sole purpose is an increase in their own wealth.

The health care providers suffer because the names of many good practitioners are needlessly blackened, and their professionalism questioned, because of a few who are unethical. The taxpayers suffer because they expect that the money they have put into the system will be used for the purposes it was intended. But instead, the money is abused and the taxpayers are cheated.

The extent of fraud and abuse in these programs is widespread. In the past, our attempts to control these problems have met with limited success. This bill provides us with an opportunity to wage a stronger battle, with stronger weapons at our disposal.

Medicare and medicaid are taking an increased amount of the Federal budget. Health care costs are rising. Evidence of this can be found in another matter pending before both the Finance and Human Resources Committees, the cost containment measures. In the future, I anticipate there will be some form of national health insurance to consider. But before we can consider these major changes in the health care policy of our Nation, we need to gain a greater control over the existing programs.

It is not our intention to cast aspersions on those members of the health profession or on those health facilities who have provided responsible, qualified care. We are concerned about the small percentage that have taken advantage of their positions.

The control of fraud and abuse is a responsibility that cannot be borne solely by the Federal Government. The burden must be shared by the States, the local governments and even more importantly by the providers and the patients. We must all work together to help make these programs work.

I am hopeful each of my colleagues will join us in this effort.

Mr. President, I again thank my colleague, Mr. TALMADGE, and join him in urging passage of this bill.

Mr. President, I ask unanimous consent that a letter from the distinguished Senator from Oklahoma (Mr. BELLMON) be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., September 28, 1977.

DEAR COLLEAGUE:

Recently, I introduced legislation (S. 2005) to amend Section 249(a) of the Social Security Act (P.L. 92-603). Section 249(a) requires that states develop plans for reimbursing skilled nursing and intermediate care facility services on a cost-related basis. The purpose of my bill would be to delay implementation of the Section 249(a) requirement for one year (until January 1, 1979) and to protect states against liability for retroactive payments.

The threat of retroactive liability stems from the fact that the law mandated implementation of cost-related reimbursement by July 1, 1976. HEW regulations, however, while technically requiring implementation on July 1, 1976, stated that plans had to be in effect on January 1, 1978. (Although the requirement was enacted on October 30, 1972, HEW did not issue implementing regulations until June of 1976, shortly before the July 1, 1976 effective date.) Thus, states have operated under the good faith assumption that they had until January 1, 1978 to initiate cost-related reimbursement. This assumption has been challenged by a recent decision of the Middle District Court of Alabama (*Nursing Home Association of Alabama vs. Califano, et al*), which ruled that the January 1, 1978 implementation date was not in compliance with the law. I have been informed that a similar suit has been filed in Illinois and others may be pending.

The cost-related reimbursement provision is potentially a costly requirement which could undermine state efforts to limit the escalation of the cost of nursing home care. When the bill was passed in 1972, HEW estimated first year costs to be from $152-300 million. There is no way to obtain precise cost estimates, however, as the specific implementation approach can vary from state to state. In Oklahoma, preliminary discussions with auditors indicate costs to the state will increase by 20-30 per cent or $18-28 million in FY 78. This increased cost will not result in significant improvements in services to nursing home residents.

Cost-related reimbursement systems such as those in Section 249(a) have been major contribution factors to the unacceptable rate of inflation in health care costs. It is imperative that new financing approaches be established which reduce these inflationary incentives. Even with cost saving incentives, expenditures for long-term care will increase dramatically in the next three decades because of the increased proportion of older persons in the population (Congressional Budget Office estimates that total private and public spending for long-term care will increase from $11.6-13.5 billion in 1975 to $26.31 billion in 1980).

The problems with Section 249(a) are also clearly indicated in the fact that few states have been able to develop acceptable plans for implementation of the cost-related requirement. Currently, 30 states out of 51 (including District of Columbia) have submitted plans to the central office, HEW. Of these 30 plans,

2 have been approved
11 are pending minor revisions
14 are pending major revisions
3 are still undergoing review

Thus, although the date for implementation is approximately three months away, only two plans have been approved. Almost half (24) have either not submitted plans or are still undergoing review and have no idea what revisions may or may not be necessary. In light of this record, there appears to be little chance that the Section 294(a) requirement can be implemented by January 1, 1978 in most states. Failure to do so, however, could greatly increase the risk for states of extensive litigation with nursing home operators. State officials responsible for administering these programs are greatly concerned about these legal issues, the costs of implementing cost-related reimbursements and the lack of progress in development and approval of state plans. This concern was expressed by the National Council of State Welfare Administrators which endorsed this amendment on September 20, 1977 (see attached letter).

In view of the factors which I have outlined and of the fact that there is probably little chance that S. 2005 (my bill to delay implementation of Section 249(a)) can be reported during this session of Congress, I have decided to offer the bill as an amendment to S. 143, the Medical Fraud and Abuse Bill.

The amendment which I offer will give states greater flexibility in negotiating appropriate reimbursement rates with nursing home operators and permit more orderly consideration of the entire reimbursement issue. If you would like to co-sponsor this amendment, or if you wish more information, please call me or Dr. Barry Kinsey at extension 4-8935.

Thank you for your interest in this matter which is so important to our older citizens.

Sincerely,

HENRY BELLMON.

Enclosure.

AMERICAN PUBLIC
WELFARE ASSOCIATION,
Washington, D.C., September 26, 1977.

Hon. HENRY L. BELLMON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BELLMON: The National Council of State Public Welfare Administrators of the American Public Welfare Association is composed of administrators of all state welfare agencies. These agencies have primary administrative responsibility for the Medicaid program. The Council wishes to extend its full support for S. 2005, the bill you authored and introduced which would extend the implementation date of Section 249 of P.L. 92-603 [Cost Related Reimbursement of Nursing Homes] from January 1, 1978 to January 1, 1979. We understand the bill would also absolve state Medicaid programs of possible fiscal liability from HEW's postponement of the original date of implementation of July 1, 1976 to January 1, 1978. We believe such legislation is necessary to allow states additional time to prepare for the implementation of Section 249. In addition the states welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

Thank you for your attention in this matter.

Sincerely,

JOHN J. AFFLECK,
Director, State Department of Social and Rehabilitative Services, Rhode Island and Chairman, National Council of State Public Welfare Administrators.

Mr. KENNEDY. Mr. President, the Senate today is considering S. 143, the Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977. I want to commend my colleague from Georgia, Mr. TALMADGE, who chairs the Health Subcommittee of the Finance Committee, and my colleague from Louisiana, Mr. LONG, chairman of the full committee, for their efforts in assuring that the medicare and medicaid programs are administered as free of fraud and abuse as is possible. I believe that many of the amendments to medicare and medicaid which this legislation proposes will assist the administration in controlling what appears to be a major problem in these two health care financing programs.

Mr. President, S. 143 is a major piece of health care legislation which, because of the way the Senate committees are organized, has not been referred to or considered by the Subcommittee on Health and Scientific Research of the Committee on Human Resources. The amendments proposed by S. 143 are not just limited to controlling fraud and abuse in medicare and medicaid, they also extend significantly the authority and scope of the professional standards review organizations. PSRO's, which were established under Public Law 92-603 in 1972, are organizations of physicians charged with responsibility for regulating the quality, efficiency, and economy of health care purchased by medicare and medicaid. PSRO's may eventually perform similar functions under national health insurance.

The fiscal year 1978 estimated budget for PSRO's is almost $150 million, for the some 200 local organizations currently in the developmental stages. However, a study of selected PSRO-type programs that have been in operation for several years was recently conducted by the Institute of Medicine of the National Academy of Sciences. The Institute of Medicine concluded that there is no evidence that these kinds of organizations, and the peer review they conduct, are cost-effective.

PSRO's in essence give physicians a Federal license to regulate themselves. This further extends the already pervasive domination which physicians exert over the entire health care industry including: Physician control of medical and other professional health education; physician control of licensing of professional health practitioners and facilities; physician control of hospitals and their accreditation, operation, and utilization; physician control of laboratories and other health care facilities and their accreditation, operation, and utilization; physician control of such financing mechanisms as Blue Shield plans; physician control, both directly and indirectly, of health planning agencies, health care technology, and most other elements of the health care industry.

At the same time, physicians by their nature resist efforts at cost control and cost containment by continually arguing against innovation, competition, and controls, using the spectre of lowering of quality of care. The profession appears to feel it can keep any public controls on the defensive and thereby neutralize them.

The professional standards review organizations now give physicians further scope to their monopoly over the health care industry.

Mr. President, I believe the entire role of the medical profession in the health care industry needs examination from the standpoint of potential antitrust restraints on trade. With the 1975 Goldfarb decision, the Supreme Court has ruled that professions are indeed subject in part to antitrust concepts. But the scope to be given the professions is the biggest unanswered question, since the Court has suggested that some special powers are implicit in professionalism itself. What precise scope will be permitted to the professions depends upon assessments of public benefits and need.

To begin exploring these pertinent issues, we will initiate hearings jointly between the Subcommittee on Health and Scientific Research and the Subcommittee on Antitrust and Monopoly, on October 10. A close examination of the professional standards review organizations will be the focus of hearings scheduled for October 18.

It seems clear that the health care industry is not like those other industries where an open and competitive market serves the best interests of the consumer. In health care the consumer can never be fully informed, and thus the physician induces much of the demand for services. The incentives, given insurance coverage without controls, are to provide or induce more and more services, although in medical care, more services may not always be in the best interest of the patient. In this situation, some degree of regulation is essential to protect the consumer and society. The joint hearings will therefore explore the relationship between regulation and competition, seeking answers initially to such questions as:

What is the role of the medical profession in determining and controlling the regulatory as well as the competitive aspects of the health care industry? How pervasive is the role of the medical profession vis à vis other professional groups, consumers, the Government? What are the effects of the medical profession's domination of the industry on consumer knowledge, choices, and rights? What are the effects on competition in the industry? What are the effects on social objectives such as equity in access to services and containment of costs and inflation?

In the particular example of the regulatory mechanism of professional standards review organizations, the Government has given physicians almost exclusive control of decisions on utilization, quality, and, by implication, costs of services. What are, or will be, some of the effects of this control on consumers, the industry, and society? What role should consumers, other professionals, or elected officials play in the governance of PSRO's? Should information from practitioner and facility profiles be made available to consumers to help inform their choice of source of care? What are

the effects on consumer rights and protections of the immunity from civil liability granted practitioners and providers as a result of the PSRO program? Is peer review itself an effective mechanism of social control, and if so, are there methods to assure that such review and PSRO's can be accountable to the public?

What legislative changes, if any, might be appropriate to improve the balance between competition and regulation in health care? Is self-regulation adequate to protect consumers and society? Should there be a broader regulatory approach, perhaps on the public utility model? Should there be a move toward less regulation, less professional domination, and more open and competitive practices in the industry? How should we change present laws to assure that regulation does not stifle appropriate competition, as for example between health maintenance organizations and fee-for-service practice?

Mr. President, I believe that these issues need full and complete public discussion, and I intend that they will receive such during the joint hearings that have been scheduled.

MEDICARE/MEDICAID REFORM LONG OVERDUE

Mr. CHURCH. Mr. President, I am pleased to join with the members of the Senate Finance Committee in urging the enactment of this bill to combat fraud and abuse in medicare and medicaid.

I am grateful to the distinguished senior Senator from Georgia for his kind remarks concerning the role the Senate Committee on Aging has played in disclosing the extent of fraud and abuse and in formulating the reforms we are considering today. We have worked closely with him and several other committees in the House and Senate to achieve this important goal.

This year the combined expenditures for medicare and medicaid will equal almost $50 billion, and these costs will probably continue to grow at an alarming rate, without necessarily increasing benefits for those the programs are meant to serve. There has been growing realization in the Congress that fraud and abuse are intensifying the problem; perhaps 8 to 10 percent of our Government health care dollars may thus be lost. Witnesses before the Committee on Aging have suggested in fact that as much as 25 percent of medicaid funds may be diverted by the unscrupulous. If we can eliminate some of the embezzlement from these health care programs we may well serve yet another objective: To implement more effective cost and efficiency controls.

S. 143 is an essential bill. Many of its provisions and its companion, H.R. 3—which passed the House on September 23—were suggested at hearings conducted by the Committee on Aging or in reports we have issued, including:

First. Prohibition against factoring. Physicians and other providers who have large accounts receivable from medicare and medicaid can recover cash by selling these accounts receivable to a factoring, or brokerage, firm for cash while the firm takes 12 to 24 percent for collecting them. Medicaid payment can take 6 months or longer in some States, and so many providers have little choice but to go to factors. Congress did not intend that money appropriated for the care of the sick and aged to be diverted into the hands of such "middlemen."

Congress attempted to ban this practice in 1972 but factoring firms were able to escape through a loophole which allowed physicians to give their power of attorney to such firms. In our hearings in September 1975 we learned that factoring firms commonly increased the amount of the physician's bill before submitting them for payment often without the knowledge or approval of the physician. In 3,569 cases studied by Chicago's Better Government Association, 1,711 of the bills were raised to larger amounts.

S. 143 now precludes the use of power of attorney as a device to circumvent the existing ban on the use of factoring firms.

Second. Disclosure of information. Several of our investigations have been frustrated by inadequate information about the ownership or financial structure of health care facilities. S. 143 would require disclosure of ownership, financial information, and prior criminal convictions as a precondition of a provider's participating in medicare and medicaid. The bill also authorizes direct access to such information by Federal authorities.

Third. Suspension of providers for criminal violations. In a related provision, the bill would require suspension from medicare and medicaid of any provider guilty of "program-related criminal offenses." As things stand now, those convicted of felonies in medicare could continue providing services under medicaid. In other instances the convicted medicare provider simply moved into a different State, obtained a new provider number and began billing medicare again. S. 143 would prohibit this practice by requiring the Secretary to suspend providers who have committed serious criminal offenses.

Fourth. Increasing the penalties for fraud and abuse. U.S. attorneys testified at our hearings that penalties for medicare and medicaid fraud—now misdemeanors punishable by a maximum $10,000 fine, a year in jail, or both—should be made more severe. They also testified that the language of the medicare/medicaid fraud statute needs clarification.

S. 143 meets both objectives. Henceforth, fraud in Government health care programs will be a felony punishable by a maximum $25,000 fine, 5 years in jail, or both. New language will help better define what constitutes an illegal "kickback" or rebate.

Fifth. Encouraging physicians to fight fraud. Medicare should be encouraged to clean its own house to prevent having the Government step in to do so. One of our recommendations in the report relating to so-called medicaid mills would permit professional standards review organizations (PSRO's) to evaluate the quality of care offered in these medicaid outpatient clinics and to detect possible fraud and abuse.

At present, PSRO functions are limited to monitoring institutions, such as hospitals and nursing homes. Under this bill, groups of physicians could petition the Secretary of HEW for permission to evaluate medicaid mills. The Secretary of HEW, under the bill, must give priority consideration to such requests. I believe the result will be great improvement in the quality of care and reduced fraud in the shared-health facilities so numerous in the low-income areas of major cities.

Sixth. Subpoena power for GAO. The Comptroller General of the U.S. General Accounting Office, and the GAO itself have performed admirably in their role as "watchdog" for the Congress. However, GAO lacks subpoena power. A particular need for such power has been demonstrated in the GAO's recent audit and investigation at the request of the Senate Finance Committee in Illinois. S. 143 authorizes subpoena power for GAO with respect to its oversight responsibility for the Social Security Act. I believe this is an important and needed provision.

Seventh. Improving functions of intermediaries. At our March 8, 9, 1977, hearings, we discussed problems which arise when employees of intermediary insurance companies leave their posts and go to work for providers whom they have been serving. The reform bill would rectify the problem by requiring the provider to notify HEW immediately upon hiring an individual who had been employed by an intermediary within the previous year. The Secretary would thus be on notice of any potential conflict of interest. The bill also requires the Secretary to select intermediaries in some circumstances and not to rely totally on the nomination by providers. Specifically, preference is given in the selection to agencies that function within the same State or geographical area as the provider.

Eighth. New controls on patients' funds. Last year we released an audit by the General Accounting Office which proved significant problems in the handling of patients' trust funds in nursing homes in five States. Since that time the committee has received an audit of Kane Hospital, a 2,200-bed nursing home in Allegheny County, which suggests the need for new controls to protect the integrity of the $25 a month in personal spending money allotted to medicaid patients. Earlier this year, I presented these audits to Senator TALMADGE. I am pleased to see that the reforms as suggested by GAO have been incorporated in S. 143.

There is a related provision in the House-passed bill which I hope the Finance Committee will accept in conference. It, too, is the result of an audit which GAO conducted at our request. The audit disclosed that some nursing homes are requiring family members to make financial contributions as a precondition of admitting them to the facility. There was some evidence of this practice in our hearings on Kane Hospital. Commonly, relatives are told that there is no room in the home, but if they would care to make a contribution to the home's building fund, something can be worked out. Congressman CLAUDE PEPPER introduced and the House accepted an amendment which would bar this practice; he cited our work in this area as the basis for his proposal. Voluntary, that is freely offered contributions, would still be permitted.

Ninth. State medicaid fraud control units. In my statement to the House Ways and Means Committee I suggested that we should find ways to assist the States; by law they carry the greater part of the burdens associated with the administration of medicaid. What I suggested was 100 percent funding to the States to help establish units similar to the successful office of the special prosecutor for nursing homes in New York State. Assistant Attorney General Charles J. Hynes testified before our committee and described his amazing record. From 1970 to 1975 there had been no conviction for medicaid fraud in New York nursing homes. From 1975 until the present, Mr. Hynes has obtained 113 indictments and 44 convictions; he has identified more than $70 million in fraudulent payments over the past 5 years. Each year he recovers more than the cost of his operation. In fact, auditors recover $2,500 for every day they are in the field.

The provision in this bill offers 100 percent funding to the States to set up investigative units associated with the Attorney General's office for the first year, 90 percent funding for the second year, and 75 percent funding for the third year. Thereafter the Federal support would revert to the 50 percent match available for all medicaid administrative costs.

In a recent report on "Kickbacks in the Medicaid Program," the Committee on Aging adopted my recommendation that following the 3 years of start-up moneys, States be allowed to retain 100 percent of any funds recouped from their investigation and prosecution of medicaid fraud cases. I believe that this additional incentive is needed to encourage the States to take on this enforcement burden. I believe that it will become more important after the third year when Federal start-up funds phase out. I offer this suggestion for the consideration of my colleagues. I intend to study the progress in implementation of these State medicaid fraud control units and may want to offer an amendment along these lines next year or thereafter if there is not sufficient State interest in establishing viable fraud control units.

Tenth. Direct prosecution by HEW. Another recurrent problem is the assertion that the Department of Justice has not accepted medicare and medicaid fraud cases in timely fashion and has failed to carry out both prosecution and civil recoveries. U.S. attorneys explain the lack of prompt prosecution by pointing to inadequate manpower and what they consider to be higher priorities. I share the Finance Committee's view that this low priority must change.

S. 143 would authorize the Inspector General of the Department of Health, Education, and Welfare to initiate prosecutions for civil fraud on his own authority if no action is taken by the Department of Justice within 6 months following the formal referral of a medicare or medicaid fraud case. This provision is not contained in the House-passed bill. In my opinion it should be. I urge the Senate to accept this provision; conferees should insist on the Senate amendment.

In summary, Mr. President, I believe that the bill we consider today is an extremely important step in efforts to eliminate fraud and abuse. No one should have the impression that the bill will solve all problems which still cry out for close inspection and early solution. Our failure to enact this legislation, I believe, would jeopardize any chance of the enactment of national health insurance legislation. I pledge my best efforts to work for still other reform measures.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute as amended.

The amendment, as amended, was agreed to.

Mr. KENNEDY. Mr. President, on Monday, September 26, Senator THURMOND and I, together with Senators HATHAWAY, PELL, CULVER, METZENBAUM, MAGNUSON, CLARK, and INOUYE introduced S. 2144, the bill to provide prescription drug benefits for the elderly. Such legislation is needed now, because so many of the elderly suffer the combination of chronic illness and need for drugs, while facing the skyrocketing costs of such medications since medicare does not provide drug benefits coverage.

We do not feel it is necessary that we hold hearings on this legislation since the Senate has passed very similar legislation three times in the past. It was, therefore, our intent to amend S. 143, the medicare-medicaid antifraud and abuse amendments in order to include S. 2144 and to assure that the elderly did get the drug benefits they need.

However, I understand the urgency of passing this important bill on fraud and abuse in medicare and medicaid. I certainly do not want to cause any undue delay in its passage. If the Senator from Georgia will assure me that the drug benefits for the elderly bill will be considered either this session or early next year, as part of another medicare bill, then I will defer to his agreement and not offer any amendments at this time to S. 143. And I will, of course, welcome his cooperation and support in assuring passage of a drug benefits bill for the elderly at a later date.

Mr. TALMADGE. I thank my friend from Massachusetts. As the Senator knows, the Senate has passed that bill, but it has never been passed by the House. When we have our hearings for additional benefits on medicaid and medicare, the Senator has my assurance that we will hold hearings on that matter.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3) was passed.

Mr. TALMADGE. I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I move that the Senate insist on its amendments to H.R. 3 and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. MORGAN) appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. CURTIS, and Mr. DOLE conferees on the part of the Senate.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the bill, H.R. 3, be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, et cetera, designations, and cross-references thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT S. 143 BE INDEFINITELY POSTPONED

Mr. TALMADGE. Mr. President, I move that S. 143, calendar No. 416, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn, and the order for the quorum call is rescinded.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 5645, with the understanding that the discussion thereon will not exceed 3 minutes.

Mr. BAKER. Mr. President, reserving the right to object, I understand there will be an objection, but I wanted to say, in advance of the objection, that the distinguished majority leader and the distinguished Senator from Indiana have previously consulted with me about clearing this matter for consideration today; and it was our understanding that we could proceed with it, on condition that there be a rollcall vote.

I think now there is some indication that there is another problem with it, and I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, on behalf of a Senator who is absent from the Chamber, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. METZENBAUM. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 862 is the pending business.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 55 Leg.]

Abourezk	Ford	Moynihan
Allen	Garn	Muskie
Anderson	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Hart	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Proxmire
Brooke	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd,	Helms	Roth
Harry F., Jr.	Huddleston	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Matsunaga	Tower
DeConcini	McClure	Wallop
Dole	McGovern	Weicker
Domenici	McIntyre	Williams
Durkin	Meicher	Young
Eagleton	Metzenbaum	Zorinsky
Eastland	Morgan	

The PRESIDING OFFICER. A quorum is present.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 1093

Mr. HANSEN. Mr. President, I call up amendment No. 1093 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes amendment No. 1093.

On page 12, line 13, strike "1982" and insert in lieu thereof "1994".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The amendment attempts to amend a figure which is not in the bill and therefore it is not in order.

AMENDMENT NO. 1306

Mr. ABOUREZK. Mr. President, I call up amendment No. 1306 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1306.

Strike section 12(b) and insert in lieu thereof the following new section 12(b):

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States court of appeals for any circuit wherein the person to whom the order relates has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

Mr. LONG. Mr. President, I move to table that amendment, and I ask for the yeas and nays.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "yea."

The result was announced—yeas 85, nays 6, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—85

Abourezk	Garn	Nelson
Allen	Glenn	Nunn
Anderson	Goldwater	Packwood
Baker	Griffin	Pearson
Bartlett	Hansen	Pell
Bayh	Hart	Percy
Bellmon	Haskell	Proxmire
Bentsen	Hatch	Randolph
Biden	Hayakawa	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd,	Huddleston	Sarbanes
Harry F., Jr.	Inouye	Sasser
Cannon	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Matsunaga	Talmadge
DeConcini	McClure	Tower
Dole	McGovern	Wallop
Domenici	McIntyre	Weicker
Durkin	Metzenbaum	Williams
Eagleton	Morgan	Young
Eastland	Moynihan	Zorinsky
Ford	Muskie	

NAYS—6

Brooke	Case	Magnuson
Byrd, Robert C.	Hathaway	Melcher

NOT VOTING—9

Gravel	Humphrey	Metcalf
Hatfield	Mathias	Stafford
Hollings	McClellan	Thurmond

So the motion to lay on the table the amendment (No. 1306) was agreed to.

Mr. GOLDWATER. Mr. President——

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I yield myself such time as I might require.

Mr. President, yesterday on the floor of the Senate I made a statement relative to the comments the President of the United States made regarding those of us who may not agree exactly with his position on the deregulation of natural gas. During a subsequent colloquy in the Chamber with the distinguished leader, he suggested I get the context of what the President said and maybe I might change my mind.

I have not changed my mind, Mr. President. I might have been a little bit bitter but I get a little bit bitter when people suggest I have not been playing ball exactly square.

I have what the President said yesterday. I will read the important part of it.

As the Members of the House of Representatives began to realize the enormity of the consequences of their timid action and as the Speaker and other leaders moved forward to assert their influence, the House acted responsibly after giving us a disappointing time for a few weeks.

I think the Senate is now in that posture. I think the Senate realizes that this is the major domestic legislative product that we expect this year. And for us to devote a full year of work and come out with an inconsequential or inadequate energy program is something that I don't believe the Senate will face. They have their own reputations to protect.

I think they want to act responsibly and I think that it is obvious in my own experience in the Legislative Branch in Georgia that the focusing of the powerful lobby pressure is always on the second legislative body that has to act, the final body that has to act.

So there is a tremendous pressure on the Members of the Senate now from the lobbyists, many of whom are well-meaning people.

I am not criticizing them necessarily but I think as they hear the voice of the American people as they realize the consequence of the absence of courageous action, then I think they will move to adopt the major parts of the program.

Mr. President, this is not the first time the President has been critical of Members of this body, or of people interested in a position opposite to his own.

In the New York Times of September 26 he said:

The lobbying efforts of oil and gas industries on deregulation itself show how the special interests are trying to block enactment of the entire energy program.

Mr. President, I do not know what the experience of other Members of this body has been, but I have yet to hear from anybody representing an oil company anyplace. As I said yesterday, we have no oil wells or gas outlets in Arizona. I wish we did, but we do not.

Mr. President, the President does not seem to be too eager to end this filibuster. If he would send some of his representatives up here, such as Dr. Schlesinger, who, by the way, is lobbying the daylights out of this, and other members of the White House who are lobbying all over

the place, they could start to try to impress my good friend from South Dakota and my good friend from Ohio that the major reason we are not getting someplace with this bill is a continuation of this 23rd century filibuster, something we have never experienced before.

I might say parenthetically, having lived through filibusters conducted by the Southerners, I wish we were back in those days of the filibuster by the Southerners. It was a gentlemanly experience. We were only awakened maybe once a night, and really staying in session all night did not mean too much.

On top of that, the food was better at that time. [Laughter.]

Mr. President, I have never heard this President or any President complain of the labor lobbying that goes on in these halls. Some days, Mr. President, when I get off the elevator to try and vote, it is literally impossible for me to beat my way through the hordes of labor lobbyists who are telling everybody how to vote. Even once in a while they will tell me how to vote. I do not always follow it, but I do listen.

Mr. President, I just wanted to make those statements because I am getting a little sick and tired of the President criticizing those of us who disagree with him, accusing us of listening to lobbyists.

The President went on, for example, to say that:

Removal of natural gas from price controls would cost the average American family heating with gas an extra $150 a year by 1985 or a total of almost $10 billion annually, while producing little if any new supplies.

I will remind the President again if these words were not the words he used during the campaign. However, no responsible economist that I have listened to comes up with these figures. The most responsible figure that I get is an increase in the family user of gas of something like 3 to 5 percent. That might produce $10 billion annually. I do not think that would be unexpected with a population of 230 million people.

I am putting together some figures in economic form that will try and put this in a proper perspective.

Mr. President, there are those of us who live in States which depend on natural gas for our existence. Mind you, in my State of Arizona heating has not been a problem; we have God's sunlamp up there going all day and it is warm at night. But we do have to have gas for the smelting of copper. We smelt 52 percent of all the copper in this country. So we are looking forward to maybe having to cut down on the production of copper. We are already having to do that because of the competition we are receiving now from third world countries whose copper mines are owned and operated by the governments.

Mr. President, I would hope that in the future the President will recognize that those of us who oppose his plan, those of us who are for deregulation, are for it for economic reasons.

As I stated yesterday, I spent a large part of my life in the economic system, in the market system. I can tell you again, Mr. President, as I said yesterday, there is only one way that Americans ever enjoy cheaper prices. That is when we are able to make more of whatever it is they want to buy. When we do that, we provide jobs; we provide cheaper prices on everything. In every instance of Government control, such as the regulation of the price at the wellhead, it results in higher prices. We are seeing it now as we are hearing compromises offered that even go above what some of my friends in the gas industry seem to feel would be a fair increase of around, say, 15 percent at the wellhead.

Mr. President, this country could not enjoy the things we enjoy today in a material ways unles we had bigness in our enterprise, bigness and smallness. We have had, as I said yesterday, over 2,500 different automobiles made in this country and because you cannot make automobiles in your garage, we see most of the automobiles made by a relative handful of companies. But that is the way this country of ours and our economic system works.

What we are listening to here, if what the opponents are saying against deregulation is what I think it is, I think is prelude to the nationalization of our fuel supplies, which only means a few months or years from the nationalization or socialization—we may as well call it what it is—of transportation and every other industry in this country that has provided so much for us.

I close this particular part of my remarks, Mr. President, by merely asking my President to practice a little prudence in his remarks, not going off half-cocked just because he does not get everything he wants down here. I can assure him that the leadership is trying their best, but they are not getting the full cooperation they deserve from their own party. For once, that gives this old Republican a sort of smile.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 1094

Mr. HANSEN. Mr. President, I call up amendment 1094.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes amendment No. 1094.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1995".

The PRESIDING OFFICER. There is no such figure to be stricken. Therefore, the Chair is informed, the amendment is not in order.

AMENDMENT NO. 1095

Mr. HANSEN. Mr. President, I call up my amendment No. 1095.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment on page 12, line 13, strike "1982" and insert in lieu thereof: "1996".

The PRESIDING OFFICER. There is no such figure to be stricken. Therefore, the amendment is not in order.

AMENDMENT NO. 1096

Mr. HANSEN. Mr. President, I call up my amendment No. 1096.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1997".

The PRESIDING OFFICER. There is no such figure to be stricken. Therefore, the amendment is out of order.

AMENDMENT NO. 1098

Mr. HANSEN. Mr. President, I call up amendment No. 1098.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "2000".

The PRESIDING OFFICER. The Chair is informed that there is no such figure to be stricken. Therefore, the amendment is out of order.

AMENDMENT NO. 1097

Mr. HANSEN. Mr. President, I call up amendment No. 1097.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1998".

The PRESIDING OFFICER. The Chair is informed there is no such figure. Therefore, the amendment is out of order.

Mr. ABOUREZK addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, unless the Senator wanted to address himself to this particular point of order——

Mr. ABOUREZK. No; I want to call up an amendment.

IN TRIBUTE TO FORMER SENATOR CARL T. HAYDEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. GOLDWATER be authorized to proceed for not to exceed 2 minutes to call up a resolution which has been cleared on all sides.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object.

Mr. ROBERT C. BYRD. It has nothing to do with the present business.

Mr. ABOUREZK. Will the leader describe what it is?

Mr. GOLDWATER. I shall be glad to.

Mr. President, I send a resolution to the desk and ask that it be read. It is very short.

Mr. ABOUREZK. If I could reserve my right to object, I would like to.

Mr. ROBERT C. BYRD. It is self-explanatory.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 275) of tribute to former Senator Carl T. Hayden.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from West Virginia? Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. GOLDWATER. Mr. President, I have sent the resolution to the desk for myself and my colleague (Mr. DECONCINI).

It is my deep honor to offer this resolution in tribute to the memory of Carl Hayden, who served in the Senate and Congress longer than any other person and who died on January 25, 1972.

This Sunday, October 2, will mark the 100th anniversary of the birth of Carl Hayden. I believe all Senators will want to join with me on this occasion to pay tribute to his memory.

Carl Hayden served in Congress 57 consecutive years, with 42 in the Senate. This is an unparalleled record that will probably never be matched.

Mr. President, Carl Hayden was born in Haydens Ferry, now Tempe, Ariz., on October 2, 1877. After serving as a member of the Tempe Town Council and as sheriff of Maricopa County, he was elected Arizona's first Congressman upon statehood in 1912. He served in the House for eight successive terms from February 1912 to March 1927, and then was elected to seven succeeding terms in the Senate, from March 1927 to January 1969.

Now, I might say that Carl Hayden's great accomplishments are not as well known as they shall become in time, largely because of his modest character.

Carl Hayden was not a show horse; he was a work horse.

But his accomplishments were of national stature and included joint authorship of the constitutional amendment giving the vote to women and the original law setting up the Interstate Highway System.

It is fitting that we take this occasion to honor his memory and I urge approval of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 275) was agreed to as follows:

S. RES. 275

Resolved, That in commemoration of the occasion of the one hundreth anniversary of the birth of the late Carl Trumbull Hayden on this Sunday, October 2, 1977, and in memory of his great achievements and distinguished service to the people of Arizona and the United States throughout a career which included the unmatched accomplishment of having served longer in the United States Congress than any other person in the history of our nation, the Senate hereby marks such anniversary by expressing its highest tribute to the memory of the Honorable Carl T. Hayden.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 1307

Mr. ABOUREZK. Mr. President, I call up amendment No. 1307.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment.

Strike section 12(f), paragraph (3).

Mr. METZENBAUM. Mr. President, I move to lay that amendment on the table.

Mr. HANSEN. Mr. President, I make the point of order that the amendment is improperly drawn.

The PRESIDING OFFICER. There is no 12(f) paragraph (3). Therefore, the amendment is out of order.

Mr. ABOUREZK. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The bill does not have a paragraph 3? This is an amendment to the bill.

The PRESIDING OFFICER. The bill does not have such a section and paragraph.

Mr. ABOUREZK. Mr. President.

Mr. HANSEN. Mr. President.

Mr. ABOUREZK. Mr. President, I call up amendment No. 1308.

The PRESIDING OFFICER. I think from the viewpoint of where I am sitting, the Senator from Wyoming was first to seek recognition.

AMENDMENT NO. 1099

Mr. HANSEN. Mr. President, I call up amendment No. 1099.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1999."

The PRESIDING OFFICER. Since there is no such figure in the amendment, the amendment is out of order.

Mr. ABOUREZK. Mr. President.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1308

Mr. ABOUREZK. I call up amendment No. 1308.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment.

Strike section 12(f), paragraph (3), and insert in lieu thereof the following new paragraph (3):

(3) The Commission may require the purchaser in any first sale to which the provisions of section 5, 7, 8, or 10 apply to file with a copy of the contract under which such gas is purchased but shall not otherwise have any power over any such first sale.

The PRESIDING OFFICER. Since there is no section 12(f), paragraph (3), the amendment is out of order.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 1100

Mr. HANSEN. I call up amendment No. 1100.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment: On page 4, line 9, strike "January 1, 1977" and insert "the date of enactment".

The PRESIDING OFFICER. There is no such date in the amendment; therefore, the amendment is out of order.

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1316

(Purpose: Amendment to require an annual report from the Secretary of Energy with respect to natural gas production.)

Mr. ABOUREZK. Mr. President, I call up amendment No. 1316.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

At the end of the bill insert a new section as follows:

SEC. . The Secretary of Energy shall, after the termination of each year following the date of enactment of this Act, report to the Congress—

(1) the amount of new natural gas produced in the United States during such year;

(2) the amount of new natural gas reserves discovered in the United States during such year;

(3) the number of new exploratory natural gas wells drilled in the United States during each year; and

(4) the amounts and number reported pursuant to clauses (1), (2), and (3) compared with the average annual such amounts and number for the five-year period preceding the date of enactment of this Act.

Mr. HANSEN. I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1316.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

The result was announced—yeas 69, nays 25, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—69

Abourezk	Garn	Pell
Allen	Glenn	Percy
Anderson	Goldwater	Proxmire
Baker	Griffin	Randolph
Bartlett	Hansen	Ribicoff
Bayh	Haskell	Riegle
Bellmon	Hatch	Roth
Bumpers	Hatfield	Sasser
Burdick	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Helms	Scott
	Hollings	Sparkman
Cannon	Huddleston	Stennis
Chafee	Jackson	Stevens
Chiles	Johnston	Stevenson
Church	Laxalt	Stone
Clark	Lugar	Talmadge
Cranston	Matsunaga	Thurmond
Culver	McClure	Wallop
Curtis	McGovern	Weicker
DeConcini	McIntyre	Williams
Domenici	Metzenbaum	Young
Eagleton	Morgan	Zorinsky
Eastland	Muskie	
Ford	Nelson	

NAYS—25

Bentsen	Hathaway	Moynihan
Biden	Heinz	Nunn
Brooke	Inouye	Packwood
Byrd, Robert C.	Javits	Pearson
Case	Kennedy	Sarbanes
Danforth	Leahy	Schweiker
Dole	Long	Tower
Durkin	Magnuson	
Hart	Melcher	

NOT VOTING—6

Gravel	Mathias	Metcalf
Humphrey	McClellan	Stafford

So the motion to lay on the table amendment No. 1316 was agreed to.

Mr. ROBERT C. BYRD obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, I hold in my hands a number of amendments that remained to be called up about an hour ago. Of course, a good many of them are out of order, but it is not a majority of them, by any means. There are several in there that could be ruled out of order, and some of them are being ruled out of order as we are going along. But that is a pretty representative number and volume of the amendments that remain to be called up and disposed of, if they are called up.

I have had a number of meetings today. The distinguished minority leader has been with me in a good many meetings. I have met with Members on my side of the aisle, and he has met with Members on his side of the aisle, and we have met together in bipartisan groupings, and so on.

I ask unanimous consent, as a result of those meetings, that at 4:30 today, the Senate vote, up or down, on an amendment which is offered by Messrs. PEARSON and BENTSEN.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I realize this is rather short notice to some Senators, not all. I ask unanimous consent that a rollcall vote—I ask unanimous consent that a vote up or down occur on the Pearson-Bentsen amendment today at 5 p.m.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, I had promised some Senators to attempt to get agreements on some——

Mr. LONG. Mr. President, if the Senator wants to ask unanimous consent that we vote on 5, 10, or 50 dilatory amendments he just held up I will give consent to that.

I ask unanimous consent that we vote on 50 of those dilatory amendments.

The PRESIDING OFFICER. En bloc?

Mr. LONG. Yes. I ask unanimous consent that we be permitted to vote on 50 dilatory amendments en bloc.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, let us put it this way: I ask unanimous consent that all amendments which are not properly qualified—and I think it would be fairly easy, I have a list of amendments against which points of order can be raised for one reason or another, and if the unanimous-consent request that I shall make is agreed to it will take only a few minutes to designate these by number and to know exactly how many there are—I have them enumerated here, and some of them have been called up and ruled out of order since this listing was made—so I ask unanimous consent that all amendments at the desk which, for one reason or another, would be subject to a point of order be now ruled out of order.

Mr. ABOUREZK. Reserving the right to object, Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I think it would only be appropriate they be done as they are called up. I think it would be inappropriate to rule any number of amendments out of order en bloc. I object.

Mr. ROBERT C. BYRD. Mr. President, there are some other amendments which, using Mr. LONG's adjective of dilatory amendments, and dilatory is the word of Mr. LONG—there are some amendments which, I am sure, he would not put into that class, and by reason of the fact that several Senators last night held up their hands in any case that they would like to call up certain amendments today—and I have met with these Senators through today, and I am about to ask unanimous consent that each of their amendments be limited to the following time agreements which have been cleared with those particular Senators: Mr. FORD has eight amendments that are eligible, and he has indicated he would be willing to agree to a 30-minute time limitation on each.

I make that unanimous-consent request that at such time as Ford amendments are called up, if they are called up, there be a 30-minute time limitation on each to be equally divided in accordance with the usual form.

Mr. ABOUREZK. Reserving the right to object, Mr. President, may I ask the leader a question? When you attempt to set such time agreements does that mean a vote has to occur at the time that the 30 minutes are done or the debate will be limited at that time?

Mr. ROBERT C. BYRD. No, it would be assumed the debate would occur once it had been called up, and when the time had run there would be a vote to occur, and a tabling motion would be in order.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. —I would like to explore a thought that occurs to me with the majority leader in this particular case. It has no reference to these particular amendments. But if we have eight amendments and we are going to have 30 minutes apiece, and the distinguished Senator from Kentucky calls them up, when we certainly have reached the hour of cloture rule, I wonder how we are going to accommodate to that situation? I wonder if the unanimous-consent agreement would be changed to avoid that so that the request was not to extend the time otherwise available to the Senator from Kentucky under rule XXII?

Mr. ROBERT C. BYRD. Well, Mr. President, we have done this before. We have invoked cloture at times, as you know, and then resolved the whole matter by unanimous-consent agreement after a while. Unanimous-consent agreements were worked out that, in effect, vitiated the cloture and, of course, I know that is not going to happen in this instance at this particular time. This is just an effort at this point to carry through on my commitment to these Senators to attempt——

Mr. BAKER. I understand. If the Senator will permit me one more point, let me point out what will happen in that particular respect. I will not object, but just to make sure I have the picture clearly in my mind, assuming the distinguished Senator from Kentucky does not call up his amendment. For some reason or another, he decides not to do that, then they are at the desk, and eight of them at 30 minutes apiece means 4 hours additional time somebody can use and, of course, anybody in the Senate can call up those amendments. So, Mr. President, while I do not object, I point out we are potentially lengthening the time in which we can consider this measure.

Mr. ROBERT C. BYRD. Mr. President, I would include in my request provided the author of the amendment calls them up.

Mr. FORD addressed the Chair.

Mr. ROBERT C. BYRD. I yield to Mr. FORD.

Mr. FORD. I hope my colleagues will understand what is attempted to be done here. My amendments are very close to being called up by another Senator. Every amendment that we developed prior to cloture and every area we worked hard to see that these amendments would fit. The Parliamentarian has advised that the amendments do fit within the legislation. I would hate to see some that I worked very hard at—and I am sure it applies to other Members of this body, because if the Pearson-Bentsen substitute should not pass, then I think it is imperative that several of

my amendments be applied to the so-called Jackson-Byrd substitute, because if it is not one it has to be the other, and there are some corrections.

I understand what the distinguished minority leader has said, and I do not want to prolong this agony any longer, but I do want to protect my interest because I think 1308 was the last amendment that was called up by the distinguished Senator from South Dakota, and you are within 10 of mine and mine are in sequence, 1319 through 1328, I believe, and I would be very hopeful that I would at least have an opportunity to take a few moments to explain the amendments that I feel very sincere about.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, reserving the right to object, with the modification just made by the distinguished majority leader, I think he has reached the point, or at least one of the points, that concerns me. He appears to have reached the point made by the Senator from Kentucky, which was a very good point, and I reiterate what I said before. Although I said I think there is a potential for lengthening the time of debate, I do not feel now it will be a serious threat, and I will not object.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, the Senator from Ohio has objected.

Mr. FORD. Does the Senator from Ohio object?

Mr. ROBERT C. BYRD. He objected to my request.

Mr. President, for the further information of the Senate, let me say, as I said before, I met with the Senators who indicated last night they had amendments, and I think it is generally agreed that not one of the Senators is offering his amendments for any dilatory purpose, and it was in the hope that we could get some kind of an agreement worked out that when such amendments were called up, of course, the intent was that the author of the amendment would call it up.

I discussed this, all of this, with Mr. BAKER earlier today, and I think he has brought up a good point. It certainly ought to be tied into the request, but certainly it is the intent of this Senator, and I would have defended that position had any question arisen, but I am committed to proceed. Otherwise what is the use of my having a meeting with Senators. So I have to proceed, and I want to proceed.

I ask unanimous consent that upon any of four amendments which Mr. GLENN has at the desk, at such time as such amendments are called up by Mr. GLENN, there be a time limitation on each amendment of not to exceed 30 minutes to be equally divided and controlled in the usual form.

Mr. ABOUREZK. Mr. President, reserving the right to object, I shall ask the leader a question. Does that request contemplate that additional time will be granted to the Senator from Ohio or anyone else who might debate on that amendment over and above what they are allowed under the cloture rule?

Mr. ROBERT C. BYRD. No. It only would contemplate the time to be specified in this request which we have made. Once that time has expired, the vote would occur on the amendment or on a tabling motion.

Mr. ABOUREZK. But it does not grant additional time to any one Senator?

Mr. ROBERT C. BYRD. No, it would not.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. BIDEN. Mr. President, reserving the right to object, may I ask a question along those lines?

Mr. ROBERT C. BYRD. Yes.

Mr. BIDEN. How many amendments does the Senator's request contain?

Mr. ROBERT C. BYRD. He has four amendments.

Mr. BIDEN. So that is 2 hours on his side, is that right, or equally divided?

Mr. ROBERT C. BYRD. It is 15 minutes to his side on each of the four amendments.

Mr. BIDEN. And would that use up his full hour in terms of responding?

Mr. ROBERT C. BYRD. No, it would not have anything to do with the hour under cloture.

Mr. BIDEN. If I wanted to respond to him on each of those amendments for a period of 1 hour total would I still have an hour remaining under cloture?

Mr. ROBERT C. BYRD. No.

Mr. BIDEN. Only he would, is that correct?

Mr. ROBERT C. BYRD. No. The 30 minutes on his amendment would be all the time on that amendment. He would control 15 minutes of it and under the usual form the distinguished manager of the bill would control the other 15 minutes unless he is in accord with it, in which case the minority leader, or his designee, would control the time in opposition.

Mr. BIDEN. But in the event I wanted to respond to that and were granted time to respond to that amendment would that be taken off my 1 hour?

Mr. ROBERT C. BYRD. No.

Mr. BIDEN. I thank the majority leader.

Mr. ABOUREZK. Mr. President, I misunderstood the leader, then, in my earlier question. The leader says the debate during that 30-minute period on any one of those amendments would not be taken out of any Senator's hour.

Mr. ROBERT C. BYRD. No. It is 30 minutes that we are taking out from the manna that falls from heaven. It does not come under this cloture.

Mr. ABOUREZK. I will object if that is going to be it. But if the leader would give me an extra hour I would be happy to let that go.

Mr. ROBERT C. BYRD. No. I am making the requests. If the Senator objects, that is the end of it.

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and these are what I take to be the very serious amendments that will be called up in good faith by the authors of those amendments, and that is the reason why I am seeking to get a time agreement on it because——

Mr. GLENN. Mr. President, will the Senator yield?

Mr. METZENBAUM addressed the Chair.

Mr. GLENN. Will the Senator yield for a comment?

Mr. ROBERT C. BYRD. If I may complete my sentence first, then I shall yield.

At some point in time, I would assume that these Senators intend to call those amendments up and when someone calls them up, some of these amendments are subject to points of order.

Mr. METZENBAUM. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. Of course, if a point of order were made the whole time agreement is out and so is the amendment.

Yes, I yield.

Mr. GLENN. Mr. President, so there will be no misunderstanding, for those who were not on the floor last night, I wish to make it very clear that some of us spoke up for these amendments. They are constructive amendments. They are not alined with either side. We are trying to perfect whatever legislation comes out up and down, the substitute, the original, or whatever, so that what we come out with is really something that will do the people of this country some good. We are sincerely trying to make these perfecting amendments into constructive legislation, and it was not in any way tied up with whatever dilatory tactics may be on either side.

I make that clear. We are trying to do something constructive for a change over what has happened here in the last week.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. METZENBAUM. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I intend to object to any of these extra allowances of time because there is an implication to the question, and it is the implication that I cannot tolerate. I do not believe that any Senator, who has proposed these amendments, whether it is one of the Senators on the Republican side who proposed 28 amendments or one back here on this side who proposed 30 or 35 amendments, or I who have proposed substantially more than that, had anything other than serious motives in proposing them, and I think they have substance to them.

I say to the leader if we are to accept the leader's premise that our amendments are dilatory, which I do not accept, and that the other amendments are amendments that are to be considered because they have some special kind of a merit and we will, therefore, give additional time, I cannot accept that premise, and it is for that reason that I think it is demeaning to these other amendments which we have proposed to treat them in that manner; therefore, I must object to anyone getting any special kind of treatment in the Senate. I think we are equals among equals.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator was present last night when I asked Senators to identify any amendments that they wanted to call up, and he knows why I

intended at that time to try to get to those amendments. I thought there might be some chance of progress being made. I am sorry. I mean to cast no aspersions on any Senator.

Mr. FORD. Mr. President, will the Senator yield for a comment?

Mr. ROBERT C. BYRD. Yes.

Mr. FORD. I wish to say to the Senator from Ohio that an amendment that is called up that is not eligible to be considered under this legislative period is dilatory, and they know it. Then there is an objection heard, and we turn over and get another amendment. We have seen it on both sides.

We have a very few limited number of amendments that are drafted properly where there is not any question about it, and we want a little time to discuss those properly drafted amendments.

If the Senator has an abandonment on his lines to his distributors in Ohio and he does not let this abandonment amendment get on, when they cut him off I am going to remind him of it.

Mr. ROBERT C. BYRD. Mr. President, on the five substitutes by Mr. HART, I ask unanimous consent that on each of the substitutes there be 2 hours to the side to be divided and controlled in the usual form.

Mr. LONG. I object.

Mr. ROBERT C. BYRD. The Senator objects.

Mr. HART. Mr. President, will the Senator yield?

Mr. LONG. I object.

Mr. ROBERT C. BYRD. The Senator already objected. Does the Senator still wish me to yield to him?

Mr. HART. It is probably academic, but, nevertheless, I point out that I will not offer all six of these. I will offer at most probably not more than two depending on the parliamentary situation and under probably any set of circumstances would not use all the time on either of those two.

Mr. ROBERT C. BYRD. The Senator is being very gracious in his typical way.

I renew my request now that we have a better understanding.

Mr. LONG. I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on a substitute by Mr. JOHNSTON there be a time limitation of 1 hour to be equally divided in accordance with the usual form and 30 minutes equally divided on a perfecting amendment to his amendment which he, of course, is very well aware of.

Mr. JOHNSTON. Mr. President, reserving the right to object, I do not object to the time limit, but like Senator METZENBAUM I think there is something in the time requested this time and that implicitness is that I might call up this amendment in advance of a general time agreement on all amendments which I would not do because I am a supporter of the Pearson-Bentsen amendment, and I think in my view that should be called up and voted on and then, in turn, if that is rejected, then the Jackson amendment, and then if that is rejected, then I would be prepared to consider those same time limitations on my amendment.

Mr. ROBERT C. BYRD. All right.

Mr. JOHNSTON. So at this time I would have to reluctantly object.

Mr. ROBERT C. BYRD. All right.

Mr. President, I will make one blanket request and I will be glad to go through it in detail again if any Senator objects simply because I am saying it is a blanket request.

I ask unanimous consent that the foregoing time limitations on the specified amendments be in accordance with the cloture rule which would mean that the time on each amendment comes out of the Senator's hour under the cloture rule.

A moment ago all the amendments at the time would be in addition to the time allotted to each Senator under the cloture rule.

Mr. HANSEN. Mr. President, if the distinguished majority leader will yield for an observation, I did not catch exactly what he said.

Mr. ROBERT C. BYRD. This would, of course, mean that Mr. HART would not have 2 hours on his side, not any one of the substitutes. He just would not have that much time.

Mr. HART. Mr. President, if I could ask the leader a question, what is the effect if this request is not made? Is not that the state of affairs at the present time?

Mr. ROBERT C. BYRD. As far as the Senator's initial statement is concerned, but by putting an overall cap there, I would not expect the Senator from Colorado to agree to this request, because I did not discuss it with him. I just thought——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Will Senators allow me to get my explanation out?

Let me just say that ordinarily, under the cloture rule, if there is an agreement, let us say, that Mr. FORD will have 40 minutes, or 30 minutes, on an amendment which he will call up, 15 minutes on a side, when the 30 minutes is up we vote, but Mr. FORD's 15 minutes on that amendment would come out of his 1 hour under cloture. So I thought I would begin again, if I had any hope of getting anywhere with that request.

Mr. LONG. Mr. President, I object. Might I suggest to the distinguished majority leader that if he wants to start out by getting unanimous consent on the Ford amendments, I will not object. Maybe someone else will, but I will not.

Mr. ROBERT C. BYRD. Mr. President, I do not know how much time the Senator from Kentucky has left under the cloture rule.

The PRESIDING OFFICER. The Senator from Kentucky has 59 minutes remaining.

Mr. ROBERT C. BYRD. If he would be willing to limit his eight amendments to four, I would ask unanimous consent that Mr. FORD be authorized to call up four amendments, and that there be a time limitation of 30 minutes, to be equally divided in accordance with the usual form.

Mr. FORD. Mr. President, reserving the right to object, one of the amendments that I prepared is very important to some other Senators. It so happened that the drafting of my amendment would fit, and now they are very much interested in these amendments, and so it goes to the Northeast. I cannot agree to this at the moment, because I have given word to them that I would try to protect their benefit, and I shall keep my word until they say it is all right.

One question I might ask the majority leader: If I have the hour, and the only stipulation is that no one else can call up my amendments——

Mr. ROBERT C. BYRD. That would be the understanding.

Mr. FORD. Then I would have the right to call up my amendments; no other Senator could call up my amendments, and that the opposition, if any, to my amendments would come out of the time of the opponents, so that then I would have 59 minutes to lay against my eight amendments.

I will help as best I can to try to clear these other amendments, but certainly, if one of my colleagues wished to discuss one of the amendments that I bring up, and there is no time limit except the cloture hour, can I yield the floor to him for the discussion of that amendment, so he might get in, or several of them might get in their opportunity as relates to these amendments, because there is no time limit of 15, 20, or 30 minutes to use whatever we need, within the 59 minutes I have left?

Mr. ROBERT C. BYRD. We are getting into some mathematical computations. Under cloture, of course, a Senator can yield only for a question. But I would be glad to try to get into effect an order that the Senator could yield on his time.

Mr. FORD. I would not want it on my time, but it would be to a favorable Senator, and the favorable Senator would use part of his hour to support my amendment.

Mr. ROBERT C. BYRD. It would be fine with me.

Mr. FORD. We would not be losing any time, nor would anybody be giving any——

Mr. ROBERT C. BYRD. Certainly no time would be thrown away, because it is chargeable to the Senator who would call up the amendments.

Mr. FORD. I do not want anybody calling up my amendments and moving to table them without my concurring.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I yield first to the Senator from New Jersey.

Mr. CASE. Mr. President, reserving the right to object, is it implicit in the request that the majority leader is attempting to formulate that until the time allotted expires, no motion to table these amendments would be in order? That is a special privilege that is most unusual.

Mr. ROBERT C. BYRD. Until the time had expired. Then it would be in order.

Mr. FORD. Mr. President, as I understand the Senator, the only privilege I have here is that I am granted permission to call up my own amendments.

Mr. CASE. I understand the munificent purpose that the Senator has, but I see no reason why such a very special consideration should be given to any man, no matter how honest his purpose or how well-intentioned.

Mr. FORD. I do not want to get any

benefit from being honest, but all I want is the ability to bring up my amendment, instead of having another Senator bring it up because of a steamroller. My amendments are qualified at the desk. The amendments that are being called up and are being tabled are out of order.

Mr. CASE. I must say, Mr. President, that this is such a modification of the position under which we started out to do business that I am afraid we are getting into very deep water, and I would think it would be better, for example, as I suggested informally to the majority leader, that perhaps we take it in bites, and begin by asking unanimous consent that during this proceeding, that is, the balance of the proceeding under rule XXII on this bill, no Senator be permitted to bring up any amendment except his own. It seems to me that is absolutely the right thing to do under any circumstances. Then perhaps we could make a little headway.

Mr. LONG. I object. I object to that.

Mr. CASE. I know. I understand. I see no reason why the Senator should object except for purposes of delay, but nevertheless I understand his point.

Mr. LONG. Mr. President, I would like to vote on all the dilatory amendments right now. In fact, I would like the Chair to refuse to receive them. But that is not how it is; and if the rule is going to be that way, I will live with it. But understand, I am not the one demanding the yeas and nays. I am not the one demanding the quorum calls while there are 60 Senators in the Chamber.

Mr. CASE. Mr. President, all the Senator is doing is showing me he is an operator in the Senate. I will concede that, and he can have all the publicity he wants back home, here, and from here to Timbuktu. But the point is that it is only fair that only the proposer of an amendment should have the right to bring it up, and it seems to me to be very clear that we might make some headway if we agree to that.

Mr. ROBERT C. BYRD. Mr. President, I think I have done the best I can at the moment. I certainly appreciate the indulgence of Senators, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Rhode Island.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. PELL. I will just take about 2 minutes, if I may.

Mr. BUMPERS. Well, is it urgent?

Mr. PELL. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, would it be appropriate, under a unanimous-consent request or a motion, for the Parliamentarian—characterizing an amendment as dilatory is not exactly complimentary to the author of that amendment, but would it be in order for the Parliamentarian to rule on which amendments are out of order when they are called up, and then request the Senator to withdraw them, or the ones he would so rule on, and then list them publicly in the Chamber, so that the Senator from Ohio, the Senator from South Dakota, the Senator from Louisiana, and everyone will hear? Because the only option you would then have would be to appeal the ruling of the Chair. It seems to me that everybody's rights would be protected.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. PELL. I have the floor, and I have yielded to the Senator from Arkansas.

Mr. PELL. I am glad to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, in response to my friend from Arkansas, I did not carve the word "dilatory" out of the dictionary. That word is in the cloture rule. The Chair, under the rule, is authorized to declare amendments or motions dilatory, or a quorum call.

I think the distinguished Senator from Arkansas has made a good suggestion. A moment ago I sought to get unanimous consent to have the Chair rule out of order en bloc all of the amendments that have already been selected by the Parliamentarian and his staff, at my request.

I could simply enumerate them by number and, with a little time, could name the author, if that were important.

If there were no objection, the Chair could rule them out of order en bloc.

Concerning the further suggestion that the Senator has made, I would be willing to do that, and any Senator would have the right to appeal the ruling of the Chair on that particular amendment.

If the Senator will allow me to make a request, I ask unanimous consent, Mr. President, that the Chair be authorized to rule out of order en bloc amendments against which points of order would lie, and that at no later than 5 p.m. today the Chair state those amendments by number, and that if any Senator wishes to appeal that he be given that right to appeal. If the Senator wishes to appeal he could state so at the time his amendment was so named. Following the Chair's complete enumeration, those points of order which had not been appealed would be effective immediately.

Mr. METZENBAUM. I would object to that, but I would not object to the leader having the Parliamentarian or——

Mr. PELL. Do I still have the floor, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. PELL. I yield to the Senator from Ohio without losing my right to the floor.

Mr. METZENBAUM. Mr. President, I would suggest that the Chair prepare the appropriate list. If the procedure outlined by the leader were to be followed, the time sequence would be so short it would be difficult to determine whether or not an appeal should or should not be made. After that information is made available to all Members of the Senate who have pending amendments, thereafter such matters would be brought up for a vote.

Mr. BUMPERS. That would be part of my statement, that everyone would have a chance to look at the list the Parliamentarian would make up, and then they would have prior notice as to the ones they wanted to object to. If the leader will make that a unanimous-consent request, I believe it will be agreed to.

Mr. ROBERT C. BYRD. Mr. President, I have a feeling that a good many of these will be appealed in any event, but I sought to try to phrase my request in accordance with my understanding of the suggestion of the distinguished Senator from Arkansas and his earlier suggestion that I make a motion to that effect. I wanted to prepare such a motion some days ago which would allow the calling up of amendments en bloc which are out of order, and vote on the amendments. At that time, however, there was not enough sentiment in the Chamber to support that kind of motion.

Mr. President, does anyone else have a suggestion?

Mr. PELL. I have the floor, Mr. President, and I would like to make a statement.

The PRESIDING OFFICER. The Chair will state that there has been no objection to the motion of the majority leader.

Mr. METZENBAUM. Mr. President, I thought I made one.

Mr. ABOUREZK. Objection.

Mr. PELL. The Senator from Rhode Island has the floor.

What we are coming to here is legislation by stamina, not by reason or even by emotion.

I have always believed that in any legislative body, even in our august body, after a reasonable period of time a minority should not be able to thwart a majority from voting its will. That is why, no matter my own position, I have never voted against cloture. In this case, I even signed the cloture petition and voted for cloture even though I was of the minority at the time.

For whatever it is worth, we are making a spectacle of ourselves.

What we have done, too, is to create a new, tortuous, 21st-century form of filibuster wherein the filibuster does not even start until after cloture is voted.

One conclusion I hope we have all come to is that there must be a change in the rules so that this kind of action may not be repeated.

In this regard, my colleague from North Dakota (Mr. BURDICK) has the good idea that once cloture is voted, the hour limitation per Senator should include all time used in voting, quorum calls, amendments, and the like. I hope he will put it in legislative form, and get it to the Rules Committee. I just wanted to get this statement off my chest.

I yield to the majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair be authorized to compile a list of the amendments against which points of order would lie. This can probably be done in 15 minutes. The list is already made and the Parliamentarian can quickly have someone on his staff decide which have already been called up.

At 4:30 p.m., or shortly thereafter, the

Chair will get the opportunity to announce to the Senate the amendments which are at the desk which are out of order by virtue of points of order that could be raised; that the Chair state those amendments to the Members of the Senate, and that Senators who are authors of such amendments may have an opportunity then to indicate which of their amendments against which they would appeal points of order. I am led to understand that in the opinion of Senators who ought to know perhaps no appeals would be raised in 90 percent of the instances.

Mr. METZENBAUM. I would suggest if a list is made available by 4:30, no disposition of the matter would be made until 5:30.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. Mr. President, before I express my view on this unanimous-consent request, I want the Senate to know what I think. It does not mean anything except the opinion of one Senator. I think that what we have learned so far is some way we have to modify rule XXII. I would say, for the information of anybody who is interested, I have asked three Members of the minority to serve as an informal committee to make recommendations in that respect. I will pass those on, in due course, to my conference and, I expect, to the majority leader.

Next, Mr. President, by way of reservation, I would like to say that I would like to see us find some way to deal with the amendments which are at the desk. There are about 350 of them there.

I think this is a pretty good suggestion. I would like to go further than the request of the majority leader, and I will speak to that in a moment.

The majority leader pointed out that earlier in the week, I believe, he had wanted to make a motion to consolidate the amendments to deal with them in that way. I would like to be identified as one who indicated I thought that was not a good idea because I thought the rules do not provide for that. I thought there was no way to reach that result in any way that would not do violence to the rules. That is a matter that the majority leader and I have discussed at length and I need not dwell on that here. But there ought to be a way.

It is my hope that rule XXII in the future will deal with that problem.

By way of reservation, Mr. President, I wonder if the majority leader, either in this request or in a subsequent unanimous-consent request, would ask the Chair to list the amendments at the desk, as he has suggested, to designate those which appear to the Chair to be out of order for whatever reason, and to give Members of the Senate today an opportunity to have that list, and to be advised of its contents. It is increasingly apparent to me that we are not going to finish this thing tonight and that the first thing in the morning to have a period for us to decide whether there is going to be an appeal from that determination of the Chair or not would be a reasonable and logical way to proceed.

If the majority leader wants to incorporate that additional provision, I will be glad to support it. If he does not, I will not object.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. I would not proceed in that fashion because this is a matter that can be disposed of, if the Senate is willing to proceed, within 40 minutes. The amendments are listed on this sheet of paper. I would simply guess that there are 55 amendments. They are listed. Some of them have already been ruled out of order. So I assume that we have about 45 amendments left that could be immediately wiped from the desk at the hour of 5 p.m. and only 10 percent of them would be appealed, if any were.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON, Mr. BUMPERS, and Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Before the majority leader yields the floor and while he has a good audience, could he give us some idea about how long we are going to stay tonight and about tomorrow's session?

Mr. ROBERT C. BYRD. There is no question that there will be a session tomorrow. I see no alternative to having a session tomorrow. I think the Senate has to come in and work on the bill. I would say we ought to go a while yet today. I had hoped that I could have something better than that, something more optimistic, to offer.

Mr. JOHNSTON. Will the majority leader yield?

ROBERT C. BYRD. Yes.

Mr. JOHNSTON. For those of us who have to make plans—in my case for three kids for the weekend—could the majority leader let us know how long we might be in tonight and approximately how long tomorrow? And while we are at it, whether we might have 30 or 45 minutes to sneak away without the threat of bells this evening?

Mr. ROBERT C. BYRD. I do not know about sneaking away without the threat of bells. I cannot say at this point that we will be out by 6 o'clock, 5 o'clock, or 7. I think we ought to go a while and see if we make some progress.

As to tomorrow, we will be coming in at 9 o'clock and I would think that a reasonable hour tomorrow would be 6 p.m., unless tomorrow, there are some developments that might indicate that, by staying in longer, we can make progress.

Mr. JOHNSTON. Would the majority leader think I might safely make plans to eat with my children tonight, or should I make plans to have them come down here?

Mr. ROBERT C. BYRD. I would make plans for my children to eat. [Laughter]

I mean to be serious now. I am in no position to say, because I do not know. We might get started here and, who knows what progress may be made in the next 4 or 5 hours? I cannot say that the Senate could not be home by 7 or 8 o'clock. I do not know the answer to that.

I am sorry. I meant to be facetious, but I knew the Senator would understand. Then I meant to be serious.

Mr. ABOUREZK. Mr. President, while the leader is still——

Mr. ROBERT C. BYRD. If I may yield to Senator YOUNG, he has been seeking the floor.

Mr. YOUNG. Mr. President, with the hard work of our leadership on both sides, I know they have done all they possibly could. We have been working at least 14 hours a day all this week, some more than that. I think we are worse off now with respect to passage of this bill than we were last Monday. I think some of our Senators are beginning to enjoy this filibuster business. So I ask unanimous consent that I may be absent from the Senate from this evening at 9 o'clock until 8 a.m. Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, might I just speak for about 2 minutes?

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, may I yield to the distinguished majority whip first, then I shall yield to others.

Mr. CRANSTON. I would like to say one thing to the Senators present about what we might accomplish tomorrow. We do not know but that we might break the logjam now and resolve the matter, though prospects do not look bright for that. But I suggest that all Senators who can, come tomorrow and stay on the floor so we clearly have a quorum present at all times. We could dispose of a great many amendments during the course of the day and reduce the necessity for all of this going all the way through next week with late night sessions or conceivably all-night sessions if we are going to stay on any kind of schedule. We would not deal in that summary fashion or with a steamroller approach on any of the amendments where offerers of those amendments have stated that they consider them to be substantive and important. But for those the majority deems dilatory or those deemed out of order by the Parliamentarian, it seems that, if we keep a majority on the floor at all times for a clear quorum, we could dispose of many amendments in the course of the day without losing all the time we will lose if we have to get quorums on the floor and have yeas and nays on all of them. I would suggest that to withhold yeas and nays on that sort of amendment would also be in order, not the amendments that are serious.

Mr. SCOTT. Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I commend the distinguished majority leader for the efforts that he has put forth, many of them unsuccessful, in trying to resolve the dilemma that we find ourselves in. I wonder if, in his judgment—and apparently, since he is continuing his efforts, it must be—he feels that this impasse can be resolved. It would appear to me, as one

of the more junior Members, that with the lack of cooperation that he seems to be receiving from a number of the Senators, and with consideration that whatever we do will go to a conference and then will come back to the floor of both bodies, it does not look like we are going to get a bill passed this session of Congress.

I wonder if the distinguished majority leader is considering or has given consideration to lifting this bill and going onto something else, and perhaps coming back to it after the first of the year? Because this is just making a spectacle of the Senate. I wonder to what extent the distinguished majority leader has thought of this.

Mr. ROBERT C. BYRD. The answer is no.

Mr. SCOTT. The Senator does not care to amplify on this?

Mr. ROBERT C. BYRD. The Senator had asked if I had considered taking it down. I said no.

Mr. SCOTT. My thought is, Mr. President, that I would like to see a bill passed. I have my own personal preference, as each Member of the Senate has. But I hate to see us tied up in such a tangle as we are today. I do not see any daylight here.

Maybe that is pessimism on my part, and perhaps the daylight is a little closer than it appears to be. But to me, this is an alternative, because it looks to me like some of the Members would rather have no bill at all than to have a bill with which they do not agree. It may be that I am one of those Members.

Mr. ROBERT C. BYRD. I do not share that view myself. I think that the Senate is under a duty to pass a bill. I think that the energy problem confronting our country is so serious that we have that responsibility. The President has stated that we have that responsibility. Each of us knows that we have a responsibility to address the energy problems of the country. There are differences of opinion as to how we should address it.

We have spent, now, 11 days on this bill. I am of the firm determination to proceed with the bill. I think it may appear that we are not making any progress, but perhaps we are. I do not mean to speak in derogation of the Senator's suggestion; I have heard those suggestions made around the Chamber, but I do not share that viewpoint at all. I have responsibility to stay with this bill and to get Senate action on it.

I do not know what the Senate will do with it. They may vote it up or down. But for us to spend 11 days and then for me to turn around and take it down, I could not justify that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. SCOTT. Mr. President, I share the distinguished majority leader's desire to take action on this bill.

But the point I was attempting to make was that it is going to take time, not only while the bill is under consideration now, but we may well be faced with the same situation after the bill comes from conference.

I think there has to be a change of attitude if we are going to get the bill passed that the distinguished majority leader speaks of.

I heard the President on radio today and he was expressing his own point of view, a point of view with which I disagree.

The President indicated that his point of view was the right point of view. I believe all of us in this Chamber know that there is no one way that is the right way and everybody else is wrong. And that is the way I heard it over the radio today.

I would hope we would be able to resolve our differences and pass a bill. But there must come a time if we keep this wrangling up when it does not look like anything further constructive can be done.

I hope we have not reached that point.

Mr. ROBERT C. BYRD. Mr. President, I am not going to give any shred of hope in that direction.

Mr. SCOTT. I appreciate the distinguished Senator's response.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, in my judgment, the Senate is not even trying to break this filibuster. For example, the Senate is acting as though it does not know who is filibustering.

It says in the rule book, after cloture, no dilatory motion or dilatory amendment, or amendment not germane, shall be in order.

Now, no dilatory motion or dilatory amendment, or amendment not germane, shall be in order.

Mr. President, I have been here trying to move to table, or to move to dispose of dilatory amendments. It is perfectly all right with me for the Chair to refuse to accept them. But no, the Chair repeatedly acts as though the Chair does not know that these amendments were made for the purpose of delay.

I know what a filibuster is. I have been in filibusters. But those doing business in the Senate and filibustering go outside before the television, with cameras on them, justifying before the Nation why they are waging a filibuster and then come inside and act as though we do not know who is filibustering.

It says, "No dilatory motion or dilatory amendment, or amendment not germane, shall be in order."

Mr. President, the Chair does not have to accept all those dilatory amendments and dilatory motions. It can look at somebody else.

Now, the majority leader chastised the Vice President just the other day. The Vice President recognized a man who shouted first for recognition. He said that he should have recognized the minority leader because that is a tradition.

If we want to break a filibuster, the old Senate would not have thought of letting a man in the chair in favor of a filibuster, to put in the Vice President or the President pro tempore, or somebody against it, and he would only recognize filibusterers when it served his purposes.

To pretend he does not know that a filibuster is going on just shows how ridiculous it is.

So far, we do not know whether the President of the United States is for the filibuster or against it. All we know is that the President wants us to vote on his side. Whether that means it is the filibusterers, or supporting the filibusterers, nobody knows.

Will somebody please tell me that?

We are doing a job as though we do not know a filibuster is going on. Everybody else in the country knows. But we act as though we do not know who is filibustering. Any schoolchild might pick up a daily newspaper to see the picture of the men who are filibustering.

How long will we do business that way? I mean, we are not making much headway. But if we want to make headway, we can.

In the old days, my father used to be a Senator, they would make a few new precedents when they wanted to break a filibuster. When they were filibustering, for example, and he was the Presiding Officer if someone suggested the absence of a quorum, that came out of his time, just as it does with the unanimous-consent requests.

I have not seen it suggested around here.

The majority leader talked to the minority leader and said, "Look, we have a filibuster on our hands, what will we do about it? Oh, we musn't create a new precedent. We can't do anything that hasn't been done before."

With that, we might as well forget about it.

And against that resistance to a filibuster, all I can do is demand the right to filibuster as well. Just call up these amendments these people would call up themselves.

But I am willing, Mr. President, to vote. I wish the majority leader would quit coming in with these piecemeal little surrender agreements and say that we will vote on Pearson-Bentsen, and preserve the filibuster, keep on filibustering, which is to say if we vote for Pearson-Bentsen we will keep you here around the clock, break your health, wake you up every 15 minutes, all hours, day and night, but if you will bend your knee to those filibusterers, then you will be saved. [Laughter.]

Then we get the Byrd-Jackson compromise. All we have to do is vote down the Pearson-Bentsen and vote for the compromise and we can sleep tonight.

That is the kind of thing I resent. As far as I am concerned, we could pull the bill down now and see what the President wants to do about it.

So far, I have no idea whether the President wants me to do anything except the way he wants me to vote. I understand what the President's position is and the filibuster is probably closer to his position than mine. But I am curious. What does the President think about the filibuster, that we ought to get on with the business or keep on filibustering here forever?

As far as I am concerned, I am not

asking for any advantage. I can play it either way.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I think the distinguished majority leader has been working very well trying to get an agreement worked out that is fair and equitable.

It seems to me that if we were to incorporate in the idea he had the thoughts propounded by the distinguished minority leader, so as to give the Parliamentarian an opportunity the rest of today to look these bills all over and to indicate the ones that he finds against which a point of order might lie, and to indicate that, and then give all Members tomorrow a chance to plead their case here on the floor, we should be prepared to get through with a lot of bills that I think do not deserve to take the time of this body.

By noon, I would think we ought to be in a position to clean up what remaining amendments do lie.

Mr. BUMPERS. May we have order, Mr. President?

The PRESIDING OFFICER. Will the Senate be in order?

Mr. HANSEN. Then we could proceed in the manner that has been suggested by my friend from Louisiana so as to get votes on these bills without having hanging over the heads of some of us, that if we vote on a certain amendment, that is all right, everything is going to be broken. If we vote on Pearson-Bentsen, the whole ballgame, insofar as filibusterers are concerned, would be reenacted.

I would like to ask the distinguished majority leader if he might consider that approach, which would mean we give the Parliamentarian this afternoon to indicate at some later time those bills against which a point of order would lie, to give Members of the Senate a chance tomorrow to look them over and to plead their cases so no one can say he has been denied a hearing, and be prepared Monday to go through the balance of the amendments that are in order, that are substantial, to clean those up with the expectation that by late Monday afternoon we could take final action on this bill.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the majority leader is not here. Of course, the question can be directed to him in private or in the Chamber when he returns.

AMENDMENT NO. 1039

Mr. BUMPERS. Meanwhile, Mr. President, I call up amendment No. 1039.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BUMPERS. Mr. President, while the Senators are milling around——

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Before the amendment is stated, I should like to say that this is a fairly important amendment, and I hope Senators will take their seats, and perhaps we can get a vote on a very substantive amendment.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1039.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BAKER. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. BAKER addressed the Chair.

Mr. BAYH. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I simply wanted to say for the benefit of my colleagues that the reason for the objection in the first instance was that everybody was not in place and ready to vote, a simple housekeeping chore. We had no advance notice that the majority would call up his amendment which, of course, is Pearson-Bentsen No. 2. But now that there has been an opportunity to make sure that everybody has adequate notice of that fact, I have no objection to calling off the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided, however*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that any time prior to January 1, 1977, proper facilities were in place for natural-gas production, such natural gas would be produced economically, and such natural gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from off-shore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas.

"'(9) "Boiler fuel use" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12 "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and

charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following six new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a)(1) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(A) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(B) the rates and charges necessary to encourage the optimum levels of (i) the exploration for natural gas, (ii) the development, production, and gathering of natural gas, and (iii) the maintenance of proved reserves of natural gas;

"'(C) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(D) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of provisions (A) through (C) of this paragraph.

"'(2) The Commission shall monitor the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in paragraph (1).

"'(3) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(4) Pending the establishment of a national ceiling pursuant to paragraph (1) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977, the Commission shall establish on a monthly basis an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to paragraph (1) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(5) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(6) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(7) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract by a natural-gas company.

"'(b)(1) Rates and charges for new natural gas sold or delivered from sources other than offshore Federal lands on or after January 1977, shall not exceed on a British thermal unit (Btu) basis the current cost of No. 2 fuel oil, landed in New York, New York as determined by the Commission.

"'(2) From and after two years subsequent to the date of enactment of the Natural Gas Act Amendments of 1977, there shall be no ceiling price applicable to the sale or delivery of new natural gas from sources other than offshore Federal Lands.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas suppliers are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provision of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'(d) For purposes of this section the term "small user" means any person utilizing 50 Mcf or less on a peak day.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

"'SEC. 28. (a)(1) The Commission may, by rule or order, authorize any interstate or intrastate pipeline to transport natural gas on behalf of any interstate or intrastate pipeline or local distribution company served by an interstate or intrastate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of the transportation of any natural gas authorized by the Commission under this subsection.

"'(2) For purposes of this subsection—

"'(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under this Act.

"'(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under this Act.

"'Any contractual provision—

"'(1) prohibiting the sale of commingling of natural gas subject to such contract with natural gas subject to the provisions of this Act, or

"'(2) terminating or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any transportation of natural gas authorized by the Commission under this subsection.

INCREMENTAL PRICING

"'SEC. 29. The Commission shall—

"'(a) Require all natural-gas companies with certificated facilities for the transportation of natural gas to file reports at least annually with respect to (1) old natural gas, (2) new natural gas, and (3) synthetic or liquified natural gas in such form and manner as to reflect the price and volumes received into such facilities.

"'(b) Consistent with the provisions of Sections 4, 5, and 7 of this Act, requires that the costs of old natural gas be allocated for rate purposes to those users specified in Section 25(a) of this Act, including essential agricultural users until the rates or charges for natural gas for users not specified in Section 25(a) equal the reasonable cost of substitute fuel oil.

"'(c) In cases where the users identified in subsection (b) obtain natural-gas supplies directly or indirectly from more than one natural-gas company, the Commission shall allocate the relative volumes attributable to such users for rate purposes among the supplying natural-gas companies.

"'(d) The Commission shall report to Congress annually on the effect of incremental pricing.'.

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 5(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as epeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"(g) in section 12(b), by striking out 'October 1, 1977' and inserting in lieu thereof 'April 20, 1979; and, and January 1, 1979,' ".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

Mr. CRANSTON. Mr. President, I would like to say on behalf of Senator JACKSON, who is not present, that it is his desire and intention to have those Senators who wish to speak for a reasonable time on both sides of the issue have full opportunity to do so. At the end of what is generally, I think, deemed to be a fair and not too lengthy discussion of the merits or demerits of the pending amendment or proposal, if there is not an up or down vote he will then plan to move to table, but there would be no rush about it.

Mr. JAVITS. Would it be tonight?

Mr. CRANSTON. Not too late today.

Mr. JAVITS. But not tonight.

Mr. CRANSTON. Today.

Mr. BAKER. Mr. President, if there is anything on Earth the Senate does not need right now it is more talk. I think we have all discussed Pearson-Bentsen and Pearson-Bentsen No. 2 until every drop of blood has been squeezed out of it. I think everybody knows where he stands and, so far as we are concerned, we are ready to vote.

Mr. CRANSTON. Since the amendment was not called up by its proponents, those who do not look with favor on the amendment do not want to be precipitate in moving to table.

Mr. BAKER. I am assuring the distinguished majority whip that he is not being precipitate. The author of the amendment is on the floor, and he is ready to vote.

SEVERAL SENATORS. Vote! Vote!

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I would take just a couple of minutes of my time so that the chairman of the Committee on Energy will have an opportunity to move to table if he chooses or to vote up or down on it, I presume, and I think the minority should know that is an option, and since he is not around right now, and since the minority side is, I just want to make sure that everybody has said whatever they want to say on the matter, and assuming they have I will move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1039, and the clerk——

Mr. BAKER. Mr. President, what was the last motion? Did the Senator make a motion to table?

Mr. BUMPERS. Yes.

Mr. BAKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. We have the yeas and nays, and the clerk will call the roll.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BENTSEN. The rollcall has not started.

Mr. METZENBAUM. Regular order.

Mr. BUMPERS. The yeas and nays were ordered, a sufficient second was noted, and the clerk was instructed to call the roll.

Mr. BENTSEN. No one has answered the rollcall, and my understanding is that I can suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Texas is correct. The clerk will call the roll to establish a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table amendment No. 1039.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The Vice President assumed the chair.

Mr. FORD. Mr. President, could we clear the well? This is the first time I ever saw Senators leaning all over the clerk.

The VICE PRESIDENT. Senators will clear the well. The clerk will suspend. Clear the well, please. The Senate will be in order.

The clerk may proceed.

The call of the roll was continued.

The VICE PRESIDENT. The Senate will be in order. Senators will please clear the well.

The call of the roll was concluded.

Mr. TOWER. Regular order, Mr. President. Regular order.

Mr. BUMPERS. Mr. President, have 15 minutes expired?

The VICE PRESIDENT. Fifteen minutes have expired, but the regular order is for the clerk to tabulate the vote.

Mr. MORGAN (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Arkansas (Mr. MCCLELLAN). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ZORINSKY (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—44

Anderson	Hart	Moynihan
Bayh	Haskell	Muskie
Biden	Hathaway	Nelson
Brooke	Hollings	Nunn
Bumpers	Huddleston	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Case	Javits	Riegle
Church	Kennedy	Sarbanes
Clark	Leahy	Sasser
Cranston	Magnuson	Sparkman
Culver	Matsunaga	Stevenson
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Williams
Glenn	Metzenbaum	

NAYS—50

Abourezk	Ford	Melcher
Allen	Garn	Packwood
Baker	Goldwater	Pearson
Bartlett	Gravel	Percy
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Stennis
Curtis	Helms	Stevens
Danforth	Johnston	Stone
DeConcini	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eastland	Mathias	Weicker
	McClure	Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Morgan, for
Zorinsky, against

NOT VOTING—4

Humphrey	Metcalf	Stafford
McClellan		

So the motion to lay the amendment (No. 1039) on the table was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Is there objection?

Without objection, it is so ordered.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. What is the pending question?

PENDING QUESTION

The PRESIDING OFFICER. Amendment No. 1039 to amendment No. 862 to S. 2104.

Mr. BAKER. Mr. President, I have no strong feelings on what we ought to do at this point. I think now we could proceed to try and dispose of the whole issue, if that is the will of the Senate, or we could try to arrange a time certain to proceed in the next step, or some other variation of that.

We have been in an equivalent of recess now for about an hour and 45 minutes and I am perfectly willing to get our people back in place, if we want to transact further business tonight.

I think, Mr. President, if I may ask the majority leader, there may be one matter that we ought to take care of tonight that is not within the scope of the pending measure, and that is the extension of the life of the Civil Rights Commission which expires tonight, I believe.

I see the Senator from Indiana on the floor.

Mr. BAYH. Will the Senator yield?

Mr. BAKER. And I am willing to do that now.

Mr. BAYH. The matter needs 2 minutes to do so, and we have pledged the Senator from North Carolina a rollcall vote on that, and that is the end of it.

The Commission's life expires at the witching hour of midnight tonight.

Mr. ROBERT C. BYRD. What is the number of that measure?

Mr. BAYH. That is H.R. 5645.

It is a message from the House.

Mr. ROBERT C. BYRD. Yes.

UNANIMOUS-CONSENT REQUEST—H.R. 5645

Mr. President, I ask unanimous consent—of course, under cloture this requires unanimous consent—I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 5645.

Mr. ALLEN. Reserving the right to object, Mr. President, would the debt limit bill follow this? Would the Senator put that in his request?

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. ALLEN. What about the debt limit bill, which would seem to me should have precedence over this bill? Would the Senator make a request to include both measures?

Mr. ROBERT C. BYRD. I can. I would be glad to make that one next, or make the request that immediately upon the disposition of this House message the Senate proceed to that House message. But I would want to put a time limit on both of them.

Mr. ALLEN. I have no objection to——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I will propound the unanimous-consent request and then Senators may reserve the right to object.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5645, with a time limit thereon of 6 minutes, to be equally divided between Mr. BAYH and the minority leader or his designee, and——

Mr. ALLEN. I object, unless the other is included.

Mr. ROBERT C. BYRD. Well, I have the conjunction.

Mr. HANSEN addressed the Chair.

Mr. ROBERT C. BYRD. Wait.

And that upon the disposition of that measure, which I understand would be by rollcall vote tonight, the Chair then lay before the Senate the message from the House of Representatives on H.R. 9290, and with a time limit thereon of 10 minutes, the time to be equally divided between Mr. LONG and Mr. CURTIS.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, reserving the right to object, I do need to clear this. Temporarily, I will have to raise an objection to both unanimous-consent requests. If I could, I would like to suggest the absence of a quorum with the understanding——

Mr. BAKER. Will the Senator withhold that?

While we are doing the checking, I would like to extend the colloquy with the distinguished majority leader a little more to see how we might proceed with the natural gas pricing.

Mr. HANSEN. Mr. President, then if I may, with this understanding, I would not object, with the understanding that I have reserved the right to object on both of these issues in order that the distinguished leaders may engage in their colloquy while I am checking.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I withdraw my unanimous-consent request for the time being.

COMPREHENSIVE NATURAL GAS POLICY

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, these are two matters that ought to be disposed of tonight. While the distinguished Senator from Wyoming is checking for his clearances on them, I wonder if I could ask the majority leader and others what their plans might be, what the leadership might suggest for further disposition of matters relating to the natural gas pricing bill.

Mr. ROBERT C. BYRD. Mr. President, I will respond, and if any of my colleagues wish me to yield so that they may participate in the response, they may do that.

I think I should say that I am willing, if no Senator wishes to make any motion at this time, or offer any amendment at this time, or debate at this time on the bill, I would move to recess over until tomorrow at 9 o'clock a.m. But I do not want to shut off any Member on either side who may want to move, make certain motions—and I will not suggest any—but who may want to take any action whatsoever on this bill tonight. I do not want to attempt to shut that off at this moment.

If there is no disposition, of course, for anything on the part of any Senator, to make any motion, or take any action, or debate the measure, why I would see no—unless the Chair wanted to put the question on the bill, on the substitute. If he wants to do that he can, and Senators can vote one way or the other.

Mr. SCOTT. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I am just looking around now to see if I find anyone.

Mr. SCOTT. Mr. President, will the distinguished leader yield?

Mr. ROBERT C. BYRD. I am answering the distinguished minority leader. As Senator LONG says, I can stay and we can continue to work on the legislation that is before the Senate, or I can move to recess.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. I appreciate the leader yielding.

The thought in my mind—it may be in the minds of others—is when we might have a vote on the Pearson-Bentsen amendment. I am wondering if the leader would anticipate having that right after we convene at 9 o'clock or later in the day, and if he might comment on that.

Mr. ROBERT C. BYRD. Frankly, I do not know what to anticipate at this point, and I am not being facetious. I just do not know what to anticipate.

Every Member here has a right, if he wishes, to debate this measure further, to move to do certain things, if he wishes to, in connection with it. I know of nothing else to say to the distinguished Senator.

Mr. SCOTT. I appreciate the Senator's response.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Vermont.

Mr. LEAHY. A question to the majority leader, Mr. President:

I am blessed with a lovely wife and three lovely children; and several months ago, when we had a short break in the Senate's schedule I had a chance to see them, and I was very impressed with them. [Laughter.]

The children all walk and talk. I am sure there are still just three children. But I would like to go home and make sure none of them has grown up and left home since that time.

I am wondering about the schedule for tomorrow. If we come in at 9, will there be a particular time we will start voting, or is there a time certain? I am perfectly willing to be here tomorrow, and I will be here tomorrow and Sunday, and whatever other days, as required. But for planning purposes, I make this request on behalf of my four favorite constituents.

Mr. ROBERT C. BYRD. I know that some Members have canceled other engagements tonight.

Mr. LEAHY. I have, also.

Mr. ROBERT C. BYRD. Expecting to have some votes.

Of course, I cannot force a vote, except by making certain motions, which I will not; and even then I could not force a vote tonight.

Mr. TOWER. Mr. President, if the Senator will yield, I thought he was propounding a unanimous-consent request earlier which would result in our having a vote. It was my understanding that the distinguished majority leader was propounding a unanimous-consent request to take up a measure which would result in our having a vote tonight.

Mr. ROBERT C. BYRD. That is correct—if there is no objection.

At the moment, I cannot assure Senators that there will be votes tonight, nor can I assure them that there will not be. I have been silent, waiting to ascertain whether any Senator wished to make a motion in connection with the pending business. If no Senator wishes to make any motion or debate that measure, then we will try to take up the debt limit ceiling and the extension of the civil rights measure. One of those measures will result in a vote and the other might, also. But that will have to be done by unanimous consent.

So until we are able to contact the manager of the debt limit measure, Mr. LONG, I will not proceed with asking that unanimous-consent request.

Mr. LEAHY. I assure my good friend the distinguished majority leader of my respect for the leadership. If the leadership wants to stay here all night or all weekend, I will be here. It is simply for four others that I make this request. I would like to see them in between.

Mr. ROBERT C. BYRD. The Senator has stated his question, and he is one of the most cooperative and hard-working Members of the Senate, and I know he will be here if we stay all night. He, like everyone else, wants to know what is going to happen next. At this moment, I cannot say.

Mr. LONG is here, but the minority leader wanted to be recognized.

Mr. BAKER. I will withhold seeking recognition while the majority leader pursues the question of clearance for the two measures he identified in the previous colloquy.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. BIDEN. I think I understand the majority leader's dilemma in not being able to assure us whether or not there will be votes. He has been very cooperative in that. I question why we have to come in tomorrow.

Mr. ROBERT C. BYRD. I am sorry—I was talking to the distinguished Senator from Louisiana.

Mr. BIDEN. Obviously, the reason why the majority leader cannot assure us that there will or will not be votes tomorrow is that both sides of this very hot issue have not finalized their game plan. What I am wondering is this: What is the necessity of coming in tomorow, if that is the case? Why not let it settle, let people try to work this out, and come back to do battle on Monday? Why tomorrow?

Mr. ROBERT C. BYRD. I do not think we should go home and not come in tomorrow. I would love to do that. I had hoped that we could dispose of this measure today. Of course, it was a forlorn hope—as of now, at least—that we would not come in tomorrow. I said that if it was disposed of today, we would not. If it is not disposed of today, I think we have no alternative but to come in tomorrow.

I thank the distinguished Senator for his understanding.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. The distinguished Senator from Delaware indicated that neithe the side had firmed up its game plan. and I want to reiterate what I said before.

If you want to vote tonight, we will vote tonight. If you want to do something else, we will do something else.

But I want to make it clear that we are ready to proceed, if that is the will of the Senate.

It is some time now since we recessed, but we can get our people together again. If it is the desire of the leadership to proceed, we will do that.

On tomorrow, if we are in and have not concluded deliberations on the natural gas bill, which appears likely, I would expect a number of rollcall votes; because I would expect now, particularly, that we would try to get a number of amendments out of the way, so that when we do come to final consideration of the major issue, it will be free of as many extraneous amendments as possible.

I thank the majority leader for yielding.

Mr. ROBERT C. BYRD. I share the minority leader's viewpoint. If we are coming in tomorrow, we would not be coming in just to debate matters. I would expect votes.

Senators know as well as I that it has been impossible to anticipate what might occur. Anything can happen fast in this situation, and sometimes it takes many days for it to happen. But I would anticipate rollcall votes tomorrow, and I hope the Senate would find a way to reach its final decision tomorrow. But I have been hoping that for several days.

UNANIMOUS-CONSENT REQUEST

I ask unanimous consent, Mr. President, that the Chair lay before the Senate a message from the House on H.R. 5645, with the understanding that there be a 5-minute limitation thereon, to be equally divided between Mr. BAYH and the distinguished minority leader or his designee; that upon the disposition of the measure, which I understand will be by rollcall vote, the Senate resume its consideration of the present measure.

I say to Senators that if there is not going to be any action on that tonight, I will not keep the Senate in long.

Mr. ALLEN. Mr. President, reserving the right to object, does it include the debt limit bill?

Mr. ROBERT C. BYRD. After talking to Mr. LONG, I understand that another Senator should be here when the measure is taken up. Mr. LONG would not want it take up while that Senator is not here.

Mr. ALLEN. Is there any chance that the Senator from a nearby State will be here today?

Mr. ROBERT C. BYRD. I do not have any way of knowing that.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Senator BYRD of Virginia has an amendment on that bill.

Mr. ALLEN. Would the agreement then state it would come up tomorrow, the debt ceiling bill?

Mr. ROBERT C. BYRD. I ask unanimous consent and see how we come out on this.

Mr. LONG. Mr. President, we have to contact Senator BYRD of Virginia to see whether he is going to be here.

Mr. ROBERT C. BYRD. Would there be any objection to my proceeding to get a vote on the extension of the Civil Rights Commission tomorrow in any event? May I ask the Senator from Alabama?

Mr. ALLEN. I object unless there is a definite time set on the debt ceiling bill. I plan to vote against it myself, but I feel it should be considered. I object.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. I would just like to urge once again, as I did earlier today, that presuming we are in session tomorrow, and presuming that we are unable to proceed rapidly in dealing with the many pending amendments, and that they are used by one side or another or one part of one side or another to delay a final decision on this bill, that Senators who come in tomorrow stay on the floor so that when appropriate, when it is not a serious matter that is entitled to a rollcall and there should be some debate before that rollcall, we will dispose of frivolous or dilatory points of order type amendments by voice votes, and that can be done if we keep a majority on the floor.

So I urge we seek to do that tomorrow while having rollcalls on serious substantive issues that come up where that is appropriate.

Mr. ROBERT C. BYRD. Mr. President, I will seek to ascertain from Senator BYRD of Virginia his situation insofar as tomorrow is concerned. I will try to do that within the next few minutes.

I would intend, if it is agreeable with the Senate, to shortly ask unanimous consent that the Senate transact some routine morning business. That would give me an opportunity to contact Senator HARRY BYRD, and if it would be agreeable then with the parties who are most closely concerned in the event he is going to be here, I would then seek unanimous consent during the period of routine morning business tonight to take up that matter tomorrow at whatever time he would like, but I would like to have it as early as possible tomorrow so that Senators can dispose of that, together with the other House message. If there is any other routine morning business to transact, I will do nothing that would have any impact on the pending business tonight. I will assure all Senators of that.

I want to underscore what Senator CRANSTON said. The business is still before the Senate and it is still as urgent as it has been heretofore, and I would fully anticipate rollcall votes tomorrow.

I do not want anyone to be under any illusion that just because it is Saturday we are going to stay 3 hours and go out or 4 hours. All Senators are tired: They worked hard and came here last Saturday and worked a long day, and we had votes, and we worked one night, and I take this opportunity to express my appreciation to all Senators on both sides of the aisle. But I say again expect rollcall votes tomorrow.

Now, Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

Mr. LONG. Mr. President, I understand that Senator BYRD of Virginia is on his way here and may be here in short order. If that is the case perhaps we could dispose of that bill tonight.

Mr. HANSEN. We are unable to hear the Senator. Will the Senator please use his microphone?

Mr. LONG. Senator HARRY BYRD of Virginia is on his way here. He has an amendment to offer to this bill, and I think that, perhaps, he might be here in time to dispose of it.

Mr. ROBERT C. BYRD. Very well.

I suggest the absence of a quorum—I withhold that suggestion.

Mr. ABOUREZK. Mr. President, to save the time of Senators, and I know everybody would like to recess and go eat dinner—until tomorrow, I assume—I just want to tell the leader that I would object to bringing up any of those bills, and I would object to routine morning business being conducted.

Mr. LEAHY. Object to what?

Mr. ABOUREZK. Object to routine morning business being conducted.

Mr. ROBERT C. BYRD. Perhaps this could be satisfactory to the Senator. We could get unanimous consent to take up the debt limit extension this evening and vote on it the first thing tomorrow.

Mr. ABOUREZK. I would object.

Mr. BAKER. Mr. President, I only wonder—if the majority leader will yield to me——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Since the obstacle to consideration of the debt ceiling limitation, and the Civil Rights Commission, which will expire tonight, may be in some way intertwined with natural gas prices, I wonder if we could get a time certain to vote on the Pearson-Bentsen amendment tomorrow or Monday or Tuesday?

Mr. ROBERT C. BYRD. It is agreeable with me. I would like to hear from my colleagues.

Mr. METZENBAUM. I did not wish to speak. I thought the majority leader was speaking to us and the whip gave me a nudge and said, "Pay attention."

Mr. ROBERT C. BYRD. Well, I ask unanimous consent that the vote—on what?

Mr. BAKER. Pearson-Bentsen.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate on tomorrow at 11 a.m. vote up or down on the Jackson substitute.

Mr. ABOUREZK. On the Jackson substitute?

Mr. BAKER. Pearson-Bentsen.

Mr. ROBERT C. BYRD. I see. I thought the Senator said Jackson. On the Pearson-Bentsen substitute.

Mr. ABOUREZK. I object to that.

Mr. BAKER. Mr. President, if the majority leader will yield further, I reiterate that most of us have been here tonight, and within 30 minutes or an hour we could get up to full strength on both sides. If we cannot do it tonight or tomorrow, I wonder if the majority leader would object to having an up-or-down vote on Pearson-Bentsen on Monday of next week?

Mr. ROBERT C. BYRD. I just do not want at this point to feel we are that far along the line of disposing of that amendment. If we are not going to vote tonight on my motion or any amendment to the measure, I would prefer that we go over until tomorrow morning and let everyone think about the situation and tomorrow, perhaps, a good sleep will have helped, a good night's sleep will have helped, in the meantime. So I will not make that request, may I say with the greatest respect to my friend, the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader, and I am inclined to think, maybe I am an eternal optimist, but I am inclined to think, one way or another we can find a way to set a time certain to vote on Pearson-Bentsen, so I will not press it any further at this time.

But I would like to say for the convenience of all Senators, not just the Senators on this side, I wish we could establish a time certain for it so we can plan accordingly.

Mr. ROBERT C. BYRD. I think the minority leader and, perhaps, we can.

Mr. President, I am going to propound another unanimous-consent request, if I may have the attention of the minority leader.

Mr. MAGNUSON. Mr. President, can we have order in the Senate?

The PRESIDING OFFICER. Senators will please cease their conversation. The Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT—H.R. 9290 AND H.R. 5645

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 9290 with the understanding that there be a——

Mr. ALLEN. Time limit.

Mr. ROBERT C. BYRD. Ten minutes.

Where is Senator HARRY BYRD?

What kind of time limit would the Senator suggest?

Mr. HARRY F. BYRD, JR. Ten minutes.

Mr. ROBERT C. BYRD. That there be a time limit of 10 minutes on the measure and all amendments thereto.

Does the Senator expect to have a rollcall vote on this?

Mr. HARRY F. BYRD, JR. Not necessarily, from my point of view.

Mr. BAYH. Mr. President, reserving the right to object, what is the leader's disposition so far as the disposition of the civil rights measure?

Mr. ROBERT C. BYRD. I would like to see that disposed of tonight, also, because the expiring deadline is midnight tonight.

Mr. BAYH. Inasmuch as the unanimous consent that he proposed somewhat earlier included the disposition of that would he feel a mind to have a double-barreled unanimous consent instead of a single-barreled unamimous consent.

Mr. ROBERT C. BYRD. I was thinking about it. I ask unanimous consent that—let me start over again.

I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 9290, that there be a time limit thereon of 10 minutes to be equally divided between Mr. LONG, Mr. HARRY F. BYRD, Jr., and who on the other side?

Mr. BAKER. Who on our side?

Mr. ROBERT C. BYRD. Mr. CURTIS?

Mr. BAKER. Mr. CURTIS.

Mr. ROBERT C. BYRD. The minority leader or his designee and that immediately upon the disposition of that measure the Chair lay before the Senate a message from the House of Representatives on H.R. 5645, that there be a time limit thereon of 5 minutes to be equally divided between Mr. BAYH and the distinguished minority leader or his designee, and it is my understanding that there will be a rollcall vote upon the disposition of that measure.

Mr. BAYH. If the leader will just yield for a question, reserving the right to object, I support his unanimous-consent request. For the convenience of our brothers, if he would turn that around, I do not think there is necessity of having a rollcall vote on the debt limit, unless he has contrary information, and we did make a pledge to the Senator from North Carolina that we would have a vote on the Civil Rights measure.

Mr. ROBERT C. BYRD. I think the Senator has made a good point, but we have absolutely no assurance that there will be no rollcall vote on the extension of the debt limit.

Mr. BAYH. All right. I do not object.

Mr. ROBERT C. BYRD. Does the Senator object?

Mr. BAYH. No; I do not object.

I was thinking if we would have the rollcall first everyone could go home.

Mr. DECONCINI. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DECONCINI. Could we consider a 10-minute rollcall vote on both measures?

Mr. ROBERT C. BYRD. Yes. I do want to include that in the request.

May I get to this order first?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any further rollcall votes this evening be limited to 10 minutes on the rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

INCREASING THE TEMPORARY DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9290.

The PRESIDING OFFICER laid before the Senate H.R. 9290, an act to increase the temporary debt limit, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

UP AMENDMENT NO. 859

Mr. HARRY F. BYRD. JR. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr HARRY F. BYRD, JR.) proposes an unprinted amendment No. 859;

On page 1, line 4, strike "September 30, 1978" and insert in lieu thereof "March 31, 1978".

On page 1, line 7, strike "$373,000,000,000". and insert in lieu thereof "$352,000,000,000".

The PRESIDING OFFICER. Will Senators please take their seats or refrain from conversations?

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, as of midnight tonight the temporary ceiling on the Federal debt expires.

The total current Federal debt subject to statutory ceiling is now $700 billion. Of this $700 billion, $300 billion is subject to a temporary limitation which expires on September 30, 1977, and the Senate is now confronted with legislation which increases and extends the temporary debt limit.

The increase in our Federal debt is not a phenomenon which occurs in isolation from other congressional and governmental actions. It is, instead, a direct result of the repeated failure of Congress to confine expenditures to a level which can be financed by a tolerable rate of taxation.

Federal deficit spending has accelerated.

During the brief span of 7 years from fiscal year 1971 through fiscal year 1978, Federal funds spending has more than doubled—from $164 billion in fiscal year 1971 to $344 billion for fiscal year 1978.

The cumulative Federal funds deficit for the 4 fiscal years ending next September will be $251 billion. This is more than double the combined Federal funds deficit for the preceding 4 fiscal years—$101 billion.

The unfortunate result of the steady increase in the Federal deficit has been a doubling of the national debt from $383 billion in fiscal year 1970 to an estimated $787 billion at the end of fiscal year 1978.

To put it another way, 50 percent of our total national debt will have been accumulated in this 8-year period, ending next September.

The Federal funds deficit for fiscal year 1978 is estimated to be $74.6 billion. This huge deficit is the reason for the pending legislation which seeks to increase the debt ceiling.

Several weeks ago, the Carter administration requested that the ceiling on the national debt be increased from $700 billion to $783 billion, this latter figure being the amount the debt is estimated to be on September 30, 1978.

The House of Representatives on September 28, voted for an increase in the debt ceiling of $73 billion from $700 billion to $773 billion, such extension to expire September 30, 1978.

The legislation now before the Senate calls for an increase of $52 billion, from $700 billion to $752 billion in the debt ceiling for a 6-month period ending March 31, 1978.

Thus, the Senate Finance Committee is recommending to the Senate that the increase in the debt ceiling be for only

a 6-month period instead of a 1-year period as recommended by the administration and approved by the House.

The committee believes that this shorter extension in the increase in the debt ceiling would give Congress greater oversight as to debt management, and would serve the additional purpose of forcing more frequent attention to the ever higher national debt.

As chairman of the Subcommittee on Taxation and Debt Management of the Finance Committee, I want to emphasize to the Senate that the estimated $74.6 billion Federal funds deficit for fiscal year 1978 is an increase of $18.8 billion over the fiscal year 1977 deficit.

In hearings before the Subcommittee on Taxation and Debt Management, W. Michael Blumenthal, Secretary of the Treasury, admitted under questioning by me that this is the biggest Federal funds deficit in our Nation's history.

I ask this question of the Carter administration: How are you going to achieve a balanced budget 3 years from now when the deficit for the current year will be the largest in the Nation's history?

To me the reoccurring and accelerating Federal deficits are cause for pessimism—and, I believe, one of the reasons for declining confidence in the Government itself.

But there is an optimistic note as a result of two votes taken in the House of Representatives during the past 2 weeks.

On September 19, the House voted down an increase in the debt ceiling as recommended by its Ways and Means Committee. The committee proposal was to increase the ceiling by $75 billion or $8 billion less than the Carter administration requested. The House refused to accept such an increase and voted against the committee bill by 180 in favor to 201 against.

On September 28, after reducing the figure to $73 billion the House approved the proposed increase by a narrow margin of only 11 votes, 213 yeas and 202 nays.

A change of six votes would have defeated this measure in the House.

The fact that two attempts in the House were necessary to increase the debt ceiling, and the closeness of the second vote, suggests a growing concern about the swollen Federal debt.

The House action demonstrates that the newer, younger Members are looking more closely at the disturbing yet relentless policy of our Government to keep spending more than it collects.

The House votes suggest that more are beginning to realize that the key to reducing inflation, which is continually eroding the value of the wage earner's dollar, is fiscal discipline—an attribute totally lacking in the Congress.

In summary let me emphasize these points:

First, One-half of our total national debt will have been accumulated in the 8-year period ending next September;

Second. The Federal funds deficit for the current fiscal year (1978) will be the biggest in our Nation's history;

Third. The interest on the national debt—just the interest charges—will cost the taxpayers $46 billion in the current fiscal year, or 19 cents of every personal and corporate income tax dollar paid into the Federal Treasury.

Although I am reporting to the Senate the debt ceiling bill on behalf of the Finance Committee, I cannot support the increase in the debt ceiling. I am opposed to the deficit spending policy which has caused our Federal debt to double since 1970.

As a protest, I shall vote against the proposed debt ceiling increase and thus against the pending legislation.

At this point, I ask unanimous consent to print in the RECORD: First, table showing the national debt in the 20th century beginning with the year 1900 and going through 1978; Second, a table showing the deficit in Federal funds and interest on the national debt during the period 1959–1978; Third, U.S. gold holdings, total U.S. reserve assets and U.S. Government liabilities to foreigners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL DEBT IN THE TWENTIETH CENTURY

TOTALS AT THE END OF FISCAL YEARS 1970–78

(Rounded to the nearest billion dollars)

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	20
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	40
1940	43
1941	49
1942	72
1943	137
1944	201
1945	259
1946	269
1947	256
1948	251
1949	252
1950	256
1951	254
1952	258
1953	265
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
*1977	706
*1978	787

* Estimated figures.

Sources: 1900–1976, U.S. Treasury Department: 1977–1978, Office of Management and Budget (September, 1977 estimates).

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT 1959–78, INCLUSIVE

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[Billions of dollars]

Year	Receipts	Outlays	Surplus (+) or deficit	Debt interest
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.7
1970	143.2	156.3	−13.1	20.0
1971	133.7	163.7	−30.0	21.6
1972	148.8	178.0	−29.2	22.5
1973	161.4	186.4	−25.0	24.2
1974	181.2	198.7	−17.5	29.3
1975	187.5	238.5	−51.0	32.7
1976	200.3	269.2	−68.9	37.1
Transition quarter	54.0	65.0	−11.0	10.4
1977 [1]	242.0	298.8	−56.8	42.0
1978 [1]	270.2	344.8	−74.6	46.6

[1] Estimated figures.

Source: Office of Management and Budget and U.S. Department of the Treasury.

U.S. GOLD HOLDINGS, TOTAL U.S. RESERVE ASSETS, AND U.S. GOVERNMENT LIQUID LIABILITIES TO FOREIGNERS

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1959	22.8	24.8	19.4
Dec. 31, 1970	10.7	14.5	47.0
Dec. 31, 1973	11.7	14.4	92.6
Dec. 31, 1974	11.6	15.9	119.1
Dec. 31, 1975	11.6	16.2	126.6
Dec. 31, 1976	11.6	18.7	151.4
June 30, 1977	11.7	19.2	163.1

Source: U.S. Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, I move adoption of the amendment.

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays on passage of this.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Will the Senator from Arizona yield for a question?

Mr. GOLDWATER. I yield.

Mr. HARRY F. BYRD, JR. Wait a few minutes.

Does the Senator from Arizona want the yeas and nays on passage of the bill itself?

Mr. GOLDWATER. That is right.

Mr. HARRY F. BYRD, JR. Or the amendment?

Mr. GOLDWATER. No. Just on the bill.

Mr. HARRY F. BYRD, JR. Mr. President, I move the adoption of the amendment.

Mr. LONG. I ask for the yeas and nays on the amendment.

Mr. JACKSON. What is the amendment?

The PRESIDING OFFICER. There was a sufficient second for the yeas and nays on the bill.

Mr. HARRY F. BYRD, JR. The yeas and nays on the amendment is what he has been asking.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays on the amendment?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I think there has been an error here.

The Senator from Arizona wants the yeas and nays on the bill.

The Senator from Virginia wants the yeas and nays on the amendment. Now do we have both?

The PRESIDING OFFICER. Yes.

Mr. JAVITS. I thank the Chair.

Mr. ALLEN. Mr. President, will the Senator yield for one question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. ALLEN. May we have order?

The PRESIDING OFFICER. Let us please have order in the Senate.

Mr. ALLEN. Do I understand the Senator to say that the House bill provides for an increase of $72 billion and the period to be 1 year?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. ALLEN. And the amendment has it $52 billion for 6 months?

Mr. HARRY F. BYRD, JR. For 6 months, that is correct.

Mr. ALLEN. I am trying to rationalize in my own mind. If we allow $52 billion in 6 months, is that less conservative than $72 billion in 1 year?

Mr. HARRY F. BYRD, JR. No. It is more conservative for this reason. The peak period is prior to the receipt of the April income tax funds which are received, for the most part, in April, and then the need for money decreases from there on through the rest of the year.

Mr. ALLEN. I thank the Senator for that explanation.

Mr. HARRY F. BYRD, JR. That is for most of the year.

Mr. ALLEN. I thank the Senator for the explanation and I think the explanation needed to be made.

Mr. HARRY F. BYRD, JR. I think it is a very important point that the Senator from Alabama raised, and I am glad he did. The principal purpose for the shorter extension in the Senate Finance Committee's amendment is to provide closer and more frequent oversight over the growth and mangement of the public debt.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. If the Senator will yield 1 additional minute, I commend the Senator. I will support his amendment. I will vote against the bill as amended.

Mr. BENTSEN. Mr. President, I ask recognition for a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we vitiate the request for rollcall vote on the amendment.

Mr. JAVITS. No. Let us vote. Let us have a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Now I move adoption of the amendment.

SEVERAL SENATORS. Vote! Vote!

Mr. HARRY F. BYRD, JR. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. The yeas and nays have been ordered on the bill itself; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JACKSON. Let us vote.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Does the Senator from Tennessee yield back the remainder of his time?

Mr. BAKER. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 30, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—58

Anderson	Glenn	Nelson
Baker	Hart	Packwood
Bayh	Haskell	Pearson
Bellmon	Hathaway	Pell
Bentsen	Heinz	Percy
Biden	Inouye	Randolph
Brooke	Jackson	Ribicoff
Burdick	Javits	Riegle
Byrd, Robert C.	Johnston	Sarbanes
Case	Kennedy	Sasser
Chafee	Long	Schmitt
Church	Magnuson	Schweiker
Clark	Mathias	Sparkman
Cranston	Matsunaga	Stevens
Culver	McGovern	Stevenson
Curtis	McIntyre	Stone
DeConcini	Melcher	Weicker
Domenici	Metzenbaum	Williams
Durkin	Moynihan	
Eagleton	Muskie	

NAYS—30

Abourezk	Hansen	Nunn
Allen	Hatch	Proxmire
Bartlett	Hatfield	Roth
Bumpers	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Stennis
Danforth	Hollings	Thurmond
Dole	Laxalt	Tower
Ford	Leahy	Wallop
Garn	Lugar	Zorinsky
Goldwater	McClure	
	Morgan	

NOT VOTING—12

Cannon	Griffin	Metcalf
Chiles	Huddleston	Stafford
Eastland	Humphrey	Talmadge
Gravel	McClellan	Young

So the bill (H.R. 9290), as amended, was passed.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, was the motion to reconsider made in connection with the debt limit?

The PRESIDING OFFICER. No, it was not.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(This concludes proceedings which occurred later.)

APPROPRIATIONS FOR THE U.S. COMMISSION ON CIVIL RIGHTS

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate a message from the House on H.R. 5645.

The PRESIDING OFFICER laid the following message before the Senate:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5645) entitled "An Act to raise the limitation on appropriations for the United States Commission on Civil Rights", with the following amendment:

Line 8 of the Senate engrossed amendment, strike out "$10,420,023", and insert "$10,480,000"

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Will Senators please refrain from conducting conversations until they are recognized?

The Senator from Indiana.

Mr. GLENN. Will the Senator yield?

Mr. BAYH. Yes, I will yield.

Mr. GLENN. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Senators please take their seats?

Mr. SCOTT. Mr. President, I feel it is essential to have order because there are a lot of questions about this bill. If we do not have order, we cannot respond to questions.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. GLENN. Mr. President, I would appreciate it if everyone in here would listen for just one moment. This statement will not be over 1 minute long.

Today we have heard requests put in a very logical vein by the leadership that we stay on the floor so we can vote on the amendments.

I think people tend to let this sort of roll over their heads. Yet in all of the consideration, trying to work out compromises, and so on, there is only one certain way that we will still not be considering this bill at Halloween, Thanksgiving, or even Christmas, potentially.

One sure way out of this is that we do stay on the floor so time can be better controlled, and so that people can use their time, their 1 hour that they have under cloture, to speak for or against the amendments as they are brought up, one by one. If we do that, we can work our way through this.

I just want to take this time to support very fully what the leadership has asked us to do. It is the only one sure way out of the quagmire that we have gotten ourselves into.

There are no other compromises which will work. If we take it upon ourselves to talk up some support and keep each other alert to being on the floor, that is the one sure way we have out of this.

It seems to me it is not up to the leadership now, but it is up to the rest of us to organize this and stay on the floor.

I hope we can do that tomorrow so we can start what will undoubtedly be a lengthy process to work our way through these amendments one by one. It is the one sure way we have of getting this behind us so we can get to the other business which is waiting.

Several Senators addressed the Chair.

Mr. BAYH. Mr. President, since the Senator from Indiana has the floor, and we only have 5 minutes on this legislation, could I ask unanimous consent that the remarks of the Senator from Ohio be taken out of his time on the previous debate and not out of this 5 minutes?

Mr. GLENN. That will be fine with me.

Mr. CASE. Will the Senator yield for 1 minute on my time?

Mr. BAYH. I yield.

Mr. CASE. I want to comment on what Senator GLENN has said. I think he has said a sensible thing. There is only one way to go through this, and that is one by one and get it done. I think that is absolutely right.

Further to his suggestion, I would add that the leadership, I hope, will now begin to schedule a daily routine of about 12 hours and no more so that we can stick at it, and stick at it without ups and downs, all the fireworks, and all the rest of it, so that we can keep a schedule and keep it on indefinitely, as long as we need to.

We cannot go all night one night and then until 11 or 12 o'clock the next night, and have anything done at all.

This is not the same as the old-fashioned filibuster when we wore out one or two men. Now we have to wear out the whole Senate, in effect. The only way to do it is one by one on a schedule that everybody can keep indefinitely. I hope the leadership will do that.

Mr. GLENN. Mr. President, I agree with the remarks of the Senator completely. I only add one thing: I am not trying to foster any steamroller. I am saying if we start taking these things up, the people who feel strongly for or against can use their time and we will work ourselves through these things. We will go through them one by one and determine the will of the Senate. That is the only way out of this thing.

I appreciate the remarks of the Senator from New Jersey.

Mr. President, I ask that this time be charged against me and not the Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield before he begins?

Mr. BAYH. I yield.

Mr. BAKER. There is one matter which will require 30 seconds of my time, and I think it is better to do it now rather than interrupt the Senator from Indiana.

I yield to the Senator from Alaska.

JOINT REFERRAL OF A BILL

Mr. STEVENS. Mr. President, I have a bill I am introducing, a substitute for Senator METCALF's bill.

His bill has been referred to the Committee on Commerce, Science, and Transportation and to the Committee on Energy and Natural Resources.

I have checked this out with both sides. I ask that my bill be referred to both committees as his bill was referred.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I assured the Senator there would be no further morning business.

Mr. STEVENS. I checked this with Senator ABOUREZK.

Mr. ROBERT C. BYRD. When?

Mr. STEVENS. Right after the last vote.

Mr. ROBERT C. BYRD. Then I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. I yield.

TERRITORIAL AUTHORIZATIONS

Mr. JOHNSTON. Mr. President, H.R. 6550, the Micronesian claims bill, a message from the House, is at the desk. I ask unanimous consent that the Chair lay the message before the Senate. The distinguished Senator from Idaho (Mr. MCCLURE) and I have both worked this out together.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, has this been cleared all the way around?

Mr. JOHNSTON. Yes.

Mr. MCCLURE. It has been cleared on this side.

Mr. ROBERT C. BYRD. How much time would the Senator require?

Mr. JOHNSTON. Twenty seconds.

Mr. METZENBAUM. Reserving the right to object, may I inquire what the bill is about?

Mr. JOHNSTON. Micronesian claims.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER laid the following message before the Senate:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 10 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", with the following

AMENDMENT

In lieu of the matter proposed to be inserted by the said amendment, insert:

Provided further, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest not authorized to be awarded under the said 1971 Act and shall exclude from his payment such amounts as he determines constitute such interest. The Secretary's determination of the proportion of any award which constitutes such interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.

Mr. JOHNSTON. Mr. President, I move that the Senate concur with the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

APPROPRIATIONS FOR THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The Senate resumed consideration of H.R. 5645.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is it now appropriate to proceed with a message from the House on H.R. 5645?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. Mr. President, I apologize for bringing this matter before the Senate——

Mr. HELMS. Mr. President, may we have order? Nobody can hear anything.

Mr. MCINTYRE. Mr. President, let us have some order in the Chamber.

The PRESIDING OFFICER. Senators will please take their seats.

The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, H.R. 5645, a bill to authorize funds for the U.S. Commission on Civil Rights for fiscal year 1978, the final year the Commission is authorized to exist, is a bipartisan effort by the Senator from Maryland (Mr. MATHIAS) and myself to provide adequate funding for the Commission. As I said to the Senate when we originally considered the bill, I believe the Commission is one of the best investments in Government today. There is not another agency that comes to mind whose ratio of spending to output is as high as the Commission's. On an extremely small budget, in relative terms, it has been able to produce impeccably researched, scholarly works on a whole range of civil rights topics. The series on the Federal civil rights enforcement effort, the succession of reports on school desegregation capped by the August 1976 publication of "Desegregation in the Nation's Public Schools," the hearings on the civil rights problem of American Indians, the investigation of the question of course, the work on voting rights, especially the Voting Rights Act—10 years after show just part of the Commission's diversity of studies that help point the way—for the President and the Congress—toward a more equitable society in the United States.

It seems to me that we in the Congress owe a debt to the Commission for their fine work in the past. We need to support and encourage such activities in the future. It is especially important at this time—a time when the President has made a commitment for human rights internationally and set America out as the best example for all people to follow. However, our commitment to human rights should not lull us into thinking that the United States is now free of civil rights violations or threats. We must not falter here by ending our own battle for equality for all Americans. If this occurred, we would betray both the world's trust in America and our heritage of freedom itself. Therefore, we still need a watchdog to tell us exactly where the vestiges of racism and discrimination lie so we can rid the country of them. This, gratefully, is what the Commission has been doing since 1957 and is uniquely qualified to continue to do.

When the Senate first took up this bill in June, we agreed to a committee amendment which reduced the authorization by a little less than $120,000—which is the subject of our disagreement with the other body. This amendment, which was proposed in committee by my friend, the Senator from Virginia (Mr. SCOTT), was accepted in order to put on the record in a concrete form the objections of the Senator from Virginia to the Commission's plans for expanding its staff—to which the money was slated to go as salaries and other benefits—during the last year of its current existence. I do not believe that I could urge the Senate to agree to this House amount, $60,000, cut by the Senate, unless I went on record reaffirming the understanding of the Senator from Virginia, the Judiciary Committee, and the Senate that, as the committee report says:

"[N]o spending by the Commission is authorized for employee monetary compensation or other benefits for newly created staff positions in fiscal year 1978." (S. Rept. 95-223, P. 5).

Mr. President, I believe this is a fair compromise for us to reach with the House; they have given half and we have given half. While I hoped the House would have agreed to our amendment and, thus, spared us another legislative step over so simple a matter, they felt they could not do so. In fact, they were going to insist that the Senate agree to their language. However, to avoid a long drawn-out conference, we reached an agreement to compromise and cut the difference down the middle. I think this was a wise solution. I hope the Senate will agree and accept this compromise and vote favorably on the House amendment to the Senate amendment to H.R. 5645, the Civil Rights Commission Authorization Act of 1977.

Mr. President, I apologize for bringing this to the Senate's attention at this time of night, but because of what we have been through, I have been unable to do that over the last 2 days.

The question right now is the authorization for the Civil Rights Commission, which expires at midnight tonight. The difference between the House and the Senate positions is now a matter of $60,000. They wanted $120,000 more than the Senate. However, we negotiated and arrived at a compromise which: First, split the monitary difference and second, included the Senate position, insisted upon by our distinguished colleague, the ranking Republican member of the Subcommittee on the Constitution, that there be no new staff members. So this additional $60,000 will be used, not to employ new staff, but to meet other agency expenditures which arise during the next fiscal year.

Mr. SCOTT. Mr. President, will the Senator stay on his feet for a moment? I do want to pose a few questions for clarification.

Mr. BAKER. Mr. President, I ask unanimous consent that I might yield control of the time in opposition to the distinguished Senator from Virginia, who is ranking on the subcommittee involved.

Is that agreeable to the distinguished ranking member?

Mr. THURMOND. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I understand that the authorization for the continuation of the Civil Rights Commission will expire next year. Is that correct?

Mr. BAYH. This is the last year of the current authorized period.

Mr. SCOTT. And all this relates to is additional funds for a period of 1 year for the Civil Rights Commission.

Mr. BAYH. Yes. The Commission is authorized to continue operation for 1 more year. At the end of this period, we have to make a determination as to whether we are going to extend the life of the Commission for an additional 5-year period.

Mr. SCOTT. The head of the Civil Rights Commission wanted to employ additional people, and in the committee, we agreed that he would not have the right to employ any additional people on the Commission.

Mr. BAYH. That is accurate, with the assistance of the Senator from Virginia.

Mr. SCOTT. Mr. President, I have agreed, on behalf of the subcommittee, to accept the views that have been espoused by the Senator from Indiana. Since we are going to have a rollcall vote, I am going to vote against this measure because I feel that we should terminate the Civil Rights Commission. But I think our debate is next year, not this year, so I am not really soliciting votes from any of my colleagues. But I am going to vote "nay" since we are going to have a rollcall vote.

I am glad to yield to my friend from North Carolina.

Mr. HELMS. I thank the Senator.

May I ask the distinguished Senator from Indiana, to put this into perspective, what is the total cost of this Commission? The Senator talked about a $60,000 increase. What is the total cost?

Mr. BAYH. The total cost is $10,480,000.

Mr. HELMS. $10 million for a useless Commission, on which we have not one scintilla of printed information, and we are supposed to give away $10 million to it.

Mr. DECONCINI. Will the Senator from Indiana yield?

Mr. BAYH. Not at this time, because I want to have an opportunity to respond to the Senator from North Carolina.

Mr. JACKSON. Put it in the RECORD.

Mr. BAYH. Let me respond briefly, then I will yield to my friend from Arizona. The Senator from North Carolina could not be more wrong. The Commission, in my opinion, has made a tremendous contribution to society over the last 20 years. If the Senator from North Carolina would like, I will ask the Commission to supply him with the evidence of the large amount of work it does each year. However, I would not like to leave the Senator with the impression, even for 1 minute, that the Commission is "useless." I would like to quote from the testimony of the Chairman of the Commission that was made before the Subcommittee on the Constitution on April 27 of this year:

TESTIMONY

Throughout the 20 year history of the U.S. Commission on Civil Rights, this nation has evinced a growing concern for disparities between the promises contained in the Declaration of Independence and the Constitution and the realities of our society. We believe the Commission's reports have helped the American people appreciate not only the

progress we have made but have also identified the remaining obstacles that stand in the way of the attainment of justice and equality. In addition, our reports have made available to the Congress and the President, factual information which has been used in designing and implementing legislation in the areas of voting rights, equal opportunities in the field of education, housing, employment, and credit, and equal access to the benefits of programs financed in whole or in part by Federal funds. Commission reports have also incorporated the results of investigations into the manner in which Federal departments and agencies have discharged their responsibilities in the area of civil rights enforcement.

The Commission has a longstanding concern about school desegregation. In June 1975 we had a five-day hearing in Boston, Massachusetts on that issue and in Fiscal Year 1976 we undertook a program to document the facts relative to the issues that were confronting the nation in the area of school desegregation. We held additional public hearings in Denver, Tampa, Louisville and Corpus Christi; case studies were conducted by our State Advisory Committee in 29 cities; open meetings were conducted by State Advisory Committees in 4 cities; we held a consultation on the causes of white flight; and we conducted a national survey of school superintendents. We weighed the evidence made available to us, and reached agreement on findings and recommendations to the President and the Congress. We then released a report to the public in August 1976. As a result of our investigations the Commissioners are convinced that although there are problems, school desegregation is working and will work in any community where the educational, business, political, religious and other civil leaders are determined to make it work.

Recently, we issued a report on metropolitan school desegregation. This report was the result of a three year study by the Commission.

Also recently we released a report dealing with the status of Puerto Ricans on the mainland of the United States. This was the first comprehensive report dealing with this minority group, and was a follow-up to the hearing on Puerto Rican problems held in New York City several years ago. Toward the end of the year we will issue our first statutory report on civil rights problems of Asian Americans. This report follows several State Advisory Committee open meetings and reports by those Committees dealing with that minority group.

In June we plan to issue Volume VII of our Federal Civil Rights Enforcement Effort. This will be an oversight report dealing with policymaking at the highest levels of the Executive Branch of the Government. Also scheduled for release during the fiscal year is a report dealing with equal employment opportunities in the television industry.

The age discrimination study now underway as a result of a directive incorporated by the Congress in the 1975 Amendment to the Older Americans Act will be completed in November and phased out in Fiscal Year 1978.

Mr. President, I believe this statement shows that the Commission is far from a useless organization, but on the contrary, a vital, functioning agency that does more than its share to protect the American people's civil rights.

I yield to the Senator from Arizona.

Mr. BENTSEN. Mr. President, I thought we have a 5-minute limitation.

Mr. DECONCINI. Yes; I have been yielding the floor.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired. The Senator from Indiana has 30 seconds remaining.

Mr. BAYH. I yield all 30 seconds to my friend from Arizona.

Mr. DECONCINI. I thank the Senator.

Mr. President, I only want to say one thing: $10 million to protect the civil rights of the people in this country is a minimal amount of money to invest for the assurance that each one who has expressed his views here today has the right to express those views, whether we agree or disagree with him. I think it is wise to concur with what the House has approved and the conference has put forth.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. I ask for the yeas and nays.

Mr. BAYH. Mr. President, I move that the Senate concur in the amendment of the House to the Senate amendment to H.R. 5645.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. TALMADGE), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 80, nays 4, as follows:

[Rollcall Vote No. 503 Leg.]

YEAS—80

Abourezk	DeConcini	Johnston
Anderson	Dole	Kennedy
Baker	Domenici	Leahy
Bartlett	Durkin	Lugar
Bayh	Eagleton	Magnuson
Bellmon	Ford	Mathias
Bentsen	Garn	Matsunaga
Biden	Glenn	McClure
Brooke	Hansen	McGovern
Bumpers	Hart	McIntyre
Burdick	Haskell	Meicher
Byrd, Robert C.	Hatch	Metzenbaum
Case	Hatfield	Morgan
Chafee	Hathaway	Moynihan
Church	Hayakawa	Muskie
Clark	Heinz	Nelson
Cranston	Hollings	Nunn
Culver	Inouye	Packwood
Curtis	Jackson	Pearson
Danforth	Javits	Pell
Percy	Sasser	Thurmond
Proxmire	Schmitt	Tower
Randolph	Schweiker	Wallop
Ribicoff	Sparkman	Weicker
Riegle	Stevens	Williams
Roth	Stevenson	Zorinsky
Sarbanes	Stone	

NAYS—4

Allen	Helms	Scott
Byrd, Harry F., Jr.		

NOT VOTING—16

Cannon	Huddleston	Stafford
Chiles	Humphrey	Stennis
Eastland	Laxalt	Talmadge
Goldwater	Long	Young
Gravel	McClellan	
Griffin	Metcalf	

So the motion was agreed to.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the motion to concur was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

In an executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:44 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents, in which it requests the concurrence of the Senate.

At 1:50 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 10 to the bill (H.R. 6550) to authorize certain appropriations for the Territories of the United States, to amend certain acts relating thereto, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 6111. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NELSON, from the Select Committee on Small Business:

Without amendment:

S. Res. 272. A resolution increasing the amount which may be expended by the Select Committee on Small Business for the procurement of the services of individual consultants or organizations thereof. Referred to the Committee on Rules and Administration.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. Res. 238. A resolution to express the sense of the Senate that the U.S. delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging (Rept. No. 95–458).

S. Res. 278. An original resolution to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries (Rept. No. 95–459). Referred to the Committee on Rules and Administration.

S. 1582. A bill relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States (Rept. No. 95–460).

S. Con. Res. 47. Original concurrent resolution expressing the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments. Placed on the Calendar.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources: Bertram R. Cottine, of the District of Columbia, to be a member of the Occupational Safety and Health Review Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974, was read twice by its title and referred jointly to the Committees on Appropriations, the Budget, Foreign Relations, and Environment and Public Works, pursuant to the order of January 30, 1975.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WALLOP:

S. 2162. A bill to provide for the establishment of the Jackson Hole Scenic Area in the State of Wyoming and for other purposes.

By Mr. ANDERSON:

S. 2163. A bill for the relief of Virginia J. Mariano; to the Committee on the Judiciary.

By Mr. ZORINSKY (for himself, Mr. ANDERSON, and Mr. HART):

S. 2164. A bill to amend title 23 of the United States Code, relating to highways, to authorize a program to separate rail and highway crossings in certain energy impacted cases; to the Committee on Environment and Public Works.

By Mr. MAGNUSON (by request):

S. 2165. A bill to revise and improve the laws relating to the documentation of seamen; to the Committee on Commerce, Science, and Transportation.

S. 2166. A bill to revise and improve the laws relating to the documentation of vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 2167. A bill to assist in increasing the depressed price of copper in the United States by authorizing the purchase of a quantity of such metal for inclusion in the national stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. STEVENS:

S. 2168. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP:

S. 2162. A bill to provide for the establishment of the Jackson Hole Scenic Area in the State of Wyoming and for other purposes.

Mr. WALLOP. Mr. President, today I am introducing legislation to establish a Jackson Hole Scenic Area in the State of Wyoming. I am pleased to be sponsoring this bill, as it sets forth a radically new and locally developed concept of scenic preservation through easement acquisition. This approach to preservation is designed to protect the singular esthetic values of the Jackson Hole area, and may become the model for the future protection of other valuable areas in America.

Jackson Hole is a mountain valley in northwest Wyoming known the world over for its unique scenery, geology, wildlife, and recreation. It lies within the Greater Yellowstone Area, surrounded by national parks, national forests, wildlife refuges, and wilderness areas. Grand Teton National Park sits in the north end of the valley, bordered on the west by the magnificent Teton Range, and sliced by the Snake River which rises to the north in Yellowstone National Park. In the southern end of the valley the National Elk Refuge hosts the largest elk herd in the world, while Bridger-Teton and Targhee National Forests lie to the east and west, with Caribou and Shoshone Forest just beyond.

Scattered through Teton County are 75,000 acres of private lands, ranches, and settlements. Although 4 million visitors come annually to the area to see the Tetons, they also leave with vivid impressions of rounded haystacks, grazing cattle, elk and bald eagles on the privately owned ranches and pastures. The ranchers of Jackson Hole have sought to hold onto their lands and preserve their western way of life. Increasing pressures to develop lands worth up to $50,000 an acre may soon force many to sell. With a depressed cattle market and outrageously ill-conceived tax policies making a living in ranching impossible, this valley known as the last of the Old West will soon lose its special character to the relentless pressures of growth and commercial clutter.

In 1975 the National Park Service, aware of these problems, initiated a study to determine how to preserve the esthetic qualities of the valley. They subsequently recommended the creation of a Jackson Hole Scenic Area. A group of concerned local citizens and landowners drafted a similar proposal in conjunction with local officials. Today I am introducing the result of their joint efforts.

This bill establishes a framework within which the Federal Government may purchase development rights from private landowners. It will fairly compensate the owners of these values and preserve the lands in their present state. The legislation establishes a Jackson Hole Scenic Area, and authorizes Federal funds to be used to acquire scenic easements. A nine-member commission of Federal, State, and local representatives will devise a scenic area plan defining the existing public values in those areas. It will then determine proposed land uses which are incompatible with these values, and recommend which lands or more particularly lesser interests should be acquired to sustain the values of the Jackson Hole Scenic Area.

In the plan the scenic area would be divided into three interest areas. Those areas of primary concern to the National Park Service and Fish and Wildlife Service would be in the Interior Department interest area; those of primary importance to the Forest Service would be included in the Department of Agriculture interest area. In their respective interest areas these Departments could acquire lands or preferably lesser interests therein as indicated by the plan. The remainder of the plans would fall into State and local interest areas, and the acquisition of appropriate interests by those

agencies could be accomplished after a recommendation by the Commission. Funding would be equally divided among the three interest areas.

The bill authorizes the appropriation of not more than $200 million to accomplish its objectives. While the cost is undeniably high, the price of inaction will be prohibitive. Land prices in Jackson Hole continue to rise tremendously because of the very desirable qualities this legislation seeks to protect and complement. If Congress does not act now to preserve these values, the pricetag will soar beyond the reach of even the Federal Government. Undeniably the result will be that ranchers are priced out of a livelihood and a heritage, and the Nation will lose a superb natural area of value to very single citizen.

Both Federal and local interests have been carefully preserved in this bill. It has been endorsed by the Teton County Board of Commissioners, whose letter of endorsement follows the bill. Scenic or conservation easements allow the land to remain in private ownership and productive use. They maintain a way of life and the county's tax base. The intent of this legislation is clearly to keep land titles in the private rather than the public sector, and actual fee title purchase is limited to 5 percent of the private lands. Therefore, no new bureaucracy is needed, and none created in this bill. The bill rather depends on cooperative Federal, State, and local input, and addresses only these lands determined to be of particular value to the public.

Development pressures on rural and scenic lands are not, of course, unique to Jackson Hole. Other natural areas of national significance are experiencing similar problems; agricultural lands are being lost to development. The use of scenic, conservation, or open space easements and development rights may prove the single preservation concept which can be applied successfully in other areas.

Jackson Hole is a treasure of national and indeed international popularity which deserves careful consideration. I hope that the Congress will act with vision and foresight by adopting the measures proposed in this bill, and thereby preserve one of our most cherished American natural areas and a vanishing heritage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with a letter from the chairman of the Teton County Board of County Commissioners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds:

(1) that the area known as Jackson Hole and its environs in the County of Teton, State of Wyoming, possess extraordinary scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values;

(2) that these values are shared by both private and public lands in the area;

(3) that the public interest in these lands has resulted in and will continue to foster increasing visitation with its attendant pressure for development and provision of public service which has resulted, and will continue increasingly to result, in impairment of the scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values on private lands and adjacent public lands;

(4) that there is national, state and local interest in, as well as responsibility for, the preservation and enhancement of these values.

SEC. 2. The purposes of this Act are:

(1) to provide for the preservation and enhancement of the scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values of Jackson Hole and its environs;

(2) to establish a framework within which such preservation and enhancement may be accomplished with the cooperation of all affected public and private entities; and

(3) to provide sufficient authority to achieve such preservation and enhancement without undue interference with the prerogatives of participating public agencies and private property owners.

SEC. 3. (a) The Jackson Hole Scenic Area (hereinafter referred to as the "Area") is hereby established.

(b) The Area shall be comprised of all privately owned lands in Teton County, except those lying within Grand Teton National Park, as indicated on map No. and on the map designated as "Greater Yellowstone Area", date , both of which shall be on file and available for public inspection in the offices of the governmental agencies and entities which are members of the Commission hereinafter established.

(c) Acquisition of lands or lesser interests therein, including, but not limited to, scenic, conservation or open space easements and development rights, may be by donation, purchase with donated and appropriated funds, exchange, bequest, purchase and resale with deed restrictions, or otherwise throughout the Area: *Provided, however,* that the Federal agencies shall not utilize funds authorized by this Act to acquire by acquisition of fee title more than five percent (5%) of the total acreage which is privately owned upon the effective date of this Act.

(d) Nothing in this Act shall diminish, enlarge or modify any existing rights or authorities of the State of Wyoming or the United States in regard to hunting, fishing or the management of wildlife.

(e) Nothing in this Act shall diminish, enlarge or modify any right of the State of Wyoming, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests in or on lands or waters within the Area.

SEC. 4. (a) The Jackson Hole Scenic Area Commission (hereinafter referred to as the "Commission"), is hereby established.

(b) The Commission shall be composed of not more than nine (9) members to be appointed by the Secretary of Interior, with concurrence of the Secretary of Agriculture, as follows:

(1) the representative of the Secretary of the Interior;

(2) the representative of the Secretary of Agriculture;

(3) the Governor of Wyoming or his designee;

(4) a member of the Teton County Board of County Commissioners to be chosen by the County Commission;

(5) the Mayor of the Town of Jackson;

(6) four (4) civilian members-at-large selected from among residents of Teton County by the County Commission.

(c) The representative of the Teton County Board of County Commissioners shall act as Chairman until a Chairman is elected by vote of the Commission. Chairman shall serve two (2) year terms, no more than two (2) of which may be consecutive. Members of the Commission, other than those who serve in their official capacities as representatives of Federal or State governmental entities, shall serve two (2) year terms, no more than two (2) of which may be consecutive. No limitations on serving consecutive terms shall be imposed on those members of the Commission who serve in their official capacities as representatives of Federal or State governmental entities.

(d) The Commission shall act by affirmative vote of the majority of a quorum thereof; a quorum being a simple majority of the voting membership, unless otherwise required by this Act.

(e) The frequency, time and place of meetings shall be determined by the Commission. All meetings for the conduct of business shall be open to the public and shall be preceded by reasonable notice thereof.

(f) The Commission shall have the power to appoint and fix compensation of such additional personnel and such temporary and intermittent services as may be necessary to accomplish the purposes of this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) The Commission shall have the power to hold hearings and administer oaths.

(h) Members of the Commission not otherwise in the employ of the United States shall be compensated at a rate of not to exceed $100 for each day that such member is actually engaged in the business of the Commission, and while away from their homes or regular places of business in performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 (b) of title 5, United States Code.

SEC. 5. (a) The Commission shall within three hundred (300) days of the effective date of this Act, develop a Scenic Area Plan (hereinafter referred to as the "Plan") which includes:

(1) a description of the lands within the Area,

(2) an evaluation of the values present in such lands,

(3) determination of land uses incompatible with above values,

(4) recommendations for acquisition of lands or lesser interests therein,

(5) identification, mapping and designation of all lands or interests therein, the acquisition of which is principally the concern of:

(A) the National Park Service and U.S. Fish and Wildlife Service as Department of the Interior Interest Areas; and

(B) the U.S. Forest Service as Department of Agriculture Interest Areas,

(6) designation of the remainder of the Area as State and Local Interest Areas, within which the acquisition of lands or interest therein shall be the concern of State and local agencies which have authority to acquire or hold lands on behalf of the public.

(b) Prior to adoption of the Plan, the Commission shall hold at least one public hearing within the County of Teton for the purpose of receiving public comment on the proposed plan. Notice of the date, time and location of such hearing shall be published in a local newspaper of general circulation at least once a week for four consecutive weeks, and shall contain information as to where a copy of the proposed Plan may be inspected. The final Plan shall not be adopted until thirty days after the last hearing.

(c) The Commission shall, upon adoption of the Plan by a two-thirds vote of the entire Commission, submit the Plan concurrently to the Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretaries") for their review and approval or rejection. If neither Secretary has informed the Commission of his disapproval within one hundred (100) days from the date of submittal, it shall be deemed to have been approved. If either Secretary disapproves the Plan, he shall advise the Commission of the reasons therefor together with his recommendations for revision. The Plan shall be re-submitted by the Commission within sixty (60) days with corrections. This process shall be repeated until the Plan is approved. Upon the two-thirds (⅔) vote of the entire Commission, modifications of the approved Plan may be made. Such changes shall likewise be subject to the approval of both Secretaries. Failure to purchase lands or interest therein as recommended by the Plan shall not constitute a change under this Subsection.

(d) Upon approval of the Plan, the Secretaries may proceed to acquire such lands or interest therein as are indicated by the Plan within their respective Interest Areas without concurrence of the Commission: *Provided,* That the Commission is notified of the proposed acquisition.

(e) Upon approval of the Plan and upon recommendation of the Commission, the state and local agencies identified in the Plan may proceed to acquire land or interests therein within the State and Local Interest Areas.

(f) The power of condemnation shall not be used to further the purposes of this Act, except in the event a land use is proposed which is determined to be incompatible with the Plan in accordance with the provisions of Section 5(k).

(g) Such lands or interests in lands as may be acquired in the Area shall be held by the governmental agency or entity effecting the acquisition, and the land itself shall remain nominally within the Scenic Area and be managed accordingly: *Provided,* That lands or interests in lands within the boundaries of the National Elk Refuge or Bridger-Teton and Targhee National Forests acquired by such surrounding reserves shall be excluded from the Area and shall become part of such reserves.

(h) The Commission shall advise the State of Wyoming, County of Teton and the Town of Jackson to assist in coordinating the use of their respective authorities in the implementation of the Plan and may advise the Secretaries concerning their activities within their respective areas or request the assistance of either Secretary outside his respective Interest Area.

(i) No governmental agency or entity shall be bound by any recommendation of the Commission: *Provided, however,* no such agency or entity shall have access to any funds appropriated for accomplishing the purposes of this Act without the recommendation of the Commission except that the Secretaries may act without the consent of the Commission within their respective Interest Areas, except as provided in subsection (l).

(j) The Commission may recommend that governmental agencies or entities enter into agreements with private organizations or interests if such agreements are advantageous to the implementation of the Plan and in no way prejudice further actions of the Commission, or any governmental agency or entity.

(k) The Commission shall review major land use actions proposed by public or private interest within the Area and reach a formal determination as to compatibility with the Plan as described under the provisions of section 5(a)(3).

(l) If the action is proposed for private purpose, the Commission may recommend acquisition of the land, or preferably, acquisition of the incompatible interest by the appropriate Secretary within his respective Interest Area or by State and local agencies elsewhere in the Area. The power of condemnation shall be used to acquire such lands or interest therein only upon a two-thirds (⅔) vote of the Commission;

(2) if the action is proposed for a public purpose, the Commission may upon two-thirds (⅔) vote, delay the action in question for up to one hundred (100) days in order to hold a public hearing. Subsequent to such hearing, the action in question must be publicly reconsidered by the proposing party. If no hearing is held within one hundred (100) days, the planned action may proceed.

SEC. 6. (a) There is hereby established a special account in the Treasury of the United States of America for the purpose of holding moneys to be used by the Secretary of the Interior and the Secretary of Agriculture in making grants to further the purposes of this Act.

(b) There are hereby authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture such sums as may be necessary to accomplish the objectives of this Act, but not more than $200,000,000 in the aggregate.

(c) Withdrawals from the special account may be made by the Secretary of Agriculture and the Secretary of the Interior for the purpose of making grants to their agencies in support of projects indicated by the Plan within their respective interest areas: *Provided, however,* no more than one-third of the total appropriation authorized hereby may be utilized by either Secretary for this purpose, nor more than one-third of the amounts specified under subsections (f) and (g) of this section.

(d) In addition, either Secretary may make grants from the special account to the Governor of Wyoming for the use of his agencies and local units of government or to their own agencies in support of projects indicated by the Plan and specifically recommended by the Commission: *Provided, however,* no more than one-third of the total appropriation authorized hereby may be utilized for this purpose, nor more than one-third of the amounts specified under subsections (f) and (g) of this section.

(e) Governmental agencies or entities may continue to acquire privately owned lands or interests therein by exercising existing authorities and funding without concurrence of the Commission.

(f) No more than two and one-half percent (2.5%) of the total appropriation authorized hereby may be used for development of the public access or improvements within the Area. However, governmental agencies or entities may continue to exercise existing authorities and sources of funding for this purpose without concurrence of the Commission.

(g) No more than two and one-half percent (2.5%) of the total appropriation authorized hereby may be used for the removal of structures or improvements detrimental to the purpose of this Act.

(h) There are authorized to be appropriated to defray the expenses of the Commission established pursuant to section 4, including salaries and other expenses incident to the preparation of the Plan, and enforcement of easements, such sums annually as may be necessary up to one hundred thousand dollars ($100,000). Expenditures from this fund must be approved by the Commission.

STATE OF WYOMING,
COUNTY OF TETON,
Jackson, Wyo., September 7, 1977.

Senator MALCOLM WALLOP,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: On behalf of the Teton County Board of County Commissioners, I am pleased to forward to you the final draft of the Jackson Hole Scenic Area bill, which we endorsed at a meeting yesterday. As you know, this bill is the result of more than a year of deliberation by the Teton County Study Group, which the Commissioners appointed to recommend ways of preserving our valley's scenic resources.

We are grateful to you and your staff for taking time to meet with us last week to give us your views on the bill. You will notice that we have added the provision, suggested at that meeting, that condemnation authority be limited to those situations where a proposed land use is incompatible with the approved Scenic Area Plan. We think this change responds very well to some concerns which have been raised locally.

We appreciate the support you are giving this bill and your willingness to introduce it into the Senate this fall. We stand ready to work with you and your staff in any way we can to strengthen its chances of success.

With best personal regards, I am

Sincerely yours,

WILLIAM H. ASHLEY,
Chairman, Teton County Board of County Commissioners.

By Mr. ZORINSKY (for himself, Mr. HART, and Mr. ANDERSON):

S. 2164. A bill to amend title 23 of the United States Code, relating to highways, to authorize a program to separate rail and highway crossings in certain energy-impacted cases; to the Committee on Environment and Public Works.

Mr. ZORINSKY. Mr. President, I am introducing today, on behalf of myself, Senator HART, and Senator ANDERSON, a bill which will authorize as part of the highway trust fund, a new program to separate rail and highway crossings in certain energy-impacted cases.

This legislation is necessitated by our Nation's present and expected greater reliance on coal as an energy source. Unfortunately the largest portion of this Nation's coal is not geographically located near present and prospective users. Coal will only be a valuable national resource if it can be delivered to the user. While downplaying the impact of the coal transportation problem and citing conservative figures, Richard J. Barber Associates in a copyrighted report entitled "The Railroads, Coal, and the National Energy Plan: An Assessment of the Issues," dated 1977 nevertheless concludes:

Forecast-Flow Pattern for Rail Coal Traffic to All Consuming Sectors:

Vital to a pragmatic assessment of the impact of growing coal traffic on the railroads is the anticipated overall flow pattern between production areas and regions of consumption. Table 5 provides a detailed matrix for the estimated rail shipments of coal in 1985 compared with 1975 to all consuming sectors.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FIGURE 5

RAIL SHIPMENTS OF COAL, BY MAJOR PRODUCING AREAS AND CONSUMER REGIONS, 1975 AND FORECAST FOR 1985

[In millions of tons]

Destination By census regions	Origin, by BOM producing districts: Appalachia (1–4, 6–8, 13)	Interior Basin (5, 9–12)	South Western (14, 15)	Northern Great Plains (19, 21–23)	Rockies (16–18, 20)	U.S. total
New England	1.4					1.4
Middle Atlantic	1.8					1.8
East North Central	44.6				(*)	44.6
South Atlantic	75.6				(*)	75.6
East South Central	85.0	43.3	(*)	13.9	(*)	142.8
West North Central	142.8	83.6	(*)	24.0	(*)	250.4
West South Central	109.9	5.5		0		116.4
Mountain	173.0	6.2		1.3		180.5
Pacific	26.5	14.5		(*)	0	41.2
U.S. total	54.9	20.6		(*)	1.8	77.4
	1.1	12.5	5.3	16.7	(*)	36.0
	3.1	24.1	6.4	64.2	1.4	99.2
	1.5	0	2.0	(*)	(*)	3.8
	2.6	3.0	18.1	70.2	6.2	92.1
			(*)	3.8	13.4	17.4
			(*)	11.8	29.8	42.1
			(*)	(*)	1.7	2.1
			(*)	4.0	4.7	8.7
	270.1	75.8	7.5	35.0	16.3	408.0
	454.0	137.5	25.2	167.6	44.5	837.0

*Less than 1,000,000 tons.
Key: 1975 actual.
1985 National Energy Plan.

Source: Appendix B.

Mr. ZORINSKY. Although not discussed previously, the coal export market is included as a consuming sector in these figures. With almost all export coal mined in Appalachia and over 70 percent of it exported through Atlantic ports, the projected 24-million-ton increase in export coal by 1985 will have a concentrated effect on eastern rail coal volume. The upper number in each cell of figure 5 shows the tons transported by rail in 1975 from the identified producing areas to consumers in the nine census regions. The lower number is the projected rail tonnage based on the plan's 1985 consumption levels.

Examination of figure 5 shows that of the 25 cells showing tonnage increases, 11 indicate a forecast level in 1985 10 million or more tons greater than in 1975. As can be seen in the following table four of these flows are from Appalachia—to the middle Atlantic, south Atlantic, east-north-central, and east-south-central regions—two are from the interior basin—to the east-north-central and west-north-central regions—three radiate south and eastward from the northern Great Plains, and two are primarily intraregional flows within Southwestern and Rocky Mountain States. Combined, these 11 flows account for more than 90 percent of the incremental tonnage that is predicted to move by rail in 1985 as compared with 1975.

I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ANTICIPATED INCREASE IN RAIL COAL TRAFFIC TO ALL CONSUMING SECTORS IN 9 SELECTED CORRIDORS, 1975–85

Production region	Consuming census region	Tonnage increase (millions)	Percent of total gain in rail coal traffic
Appalachia	Middle Atlantic	31.0	5.6
Do	East North Central	57.8	11.3
Do	South Atlantic	63.1	14.7
Do	East South Central	28.4	6.4
Interior Basin	East North Central	40.3	9.0
Do	West North Central	11.6	2.7
Southwestern	West South Central	16.1	3.8
Northern Great Plains	East North Central	10.1	2.4
Do	West North Central	47.5	11.1
Do	West South Central	70.2	16.4
Rockies	Mountain	16.4	3.8

Source: Appendix 3.

Mr. ZORINSKY. In only 5 of the 11 cases—from Appalachia to the East-South-Central States, from the northern Great Plains to the west-south-central and west-north-central areas, and within the southwestern and Rocky Mountain areas—does the level of traffic double over the 10-year period.

In broad summary, then, the following points characterize forecast rail coal traffic for the period ending in 1985 as compared with 1975, assuming that the plan's projected coal demand target materializes:

Total coal tonnage moving by rail will increase to about 837 million tons in 1985, up 105 percent from a 1975 level of slightly over 400 million tons;

Movements of coal via rail to electric utilities will account for about 50 percent of the projected increase;

Though the uncertainties are many, coal moving by rail to industrial users is likely to increase to about 286 million tons, almost triple that carried by rail in 1975;

Rail movement of coal from the West will increase substantially, with marked gains expected in shipments to utilities in the west-south-central and west-north-central areas; and

Significant gains in rail coal traffic will also take place in several traffic corridors in the East, with industrial and export coal being of greater relative consequence there than in the rest of the country.

Clearly, the Durkin amendment which authorized $100 million for rehabilitation of branch rail lines to transport coal and coal products an amendment to the S. 977 The Coal Conversion Act of 1977 which was adopted by a vote of 60 to 21 on September 7, 1977, will help facilitate the transportation of the coal. However, as my good colleague from Minnesota, Senator WENDELL ANDERSON so clearly pointed out during the debate of the Durkin amendment:

But there is a serious additional problem resulting from the increase in coal-carrying railcars which should, at least be recognized here today. I refer to the rail-highway grade crossing conflicts aggravated by the increased production of Western coal.

The economics of rail transport necessitate the use of exceptionally long trains to carry coal from the mines in the West to the markets in the East. These trains often reach 1 or 2 miles in length. Rural communities which once prospered as they grew adjacent to the mainline tracks now find their highway traffic severely disrupted by unit coal trains. Population centers dependent upon one major highway in the countryside are severed from emergency services and medical assistance. The county engineer in Lancaster County Nebraska reports that some rural Nebraska communities are suddenly exposed to 80 trains traveling at 60 miles per hour each day.

I say to my colleagues that this problem is only going to grow with time. All this body can do is to attempt to preclude and/or mitigate some of the human suffering that will arise from this transportation of coal. I do not believe that it is necessary to recite the litany of tragedies that will occur across the countryside as people are cut off from their essential and emergency services while unit coal trains are moving through highway rail crossings. The railroads' main worry and main thrust of the report I previously cited is to answer "Yes" to the question of whether or not they have the capacity to deliver the expected requisite coal demanded by the marketplace. Both Congress and the railroads must begin to solve the problem before we get behind the power curve. This is an issue which we as Senators can manage from an initiative posture rather than a reactive posture. Future legislation will probably be necessary but this legislation is an important step in beginning to solve this national problem.

The recent "Report to Congress, U.S. Coal Development—Promises, Uncertainties" from the Energy and Mineral Division of the Comptroller General states:

WESTERN RAIL COAL TRAFFIC

Most western coal output will be handled by 10,000-ton-capacity unit trains dedicated to continuous service between the mine and the user.[38] FEA reported in its May 1976 "Coal Rail Transportation Outlook" that the four major western coal carriers were operating an average of 138 unit trains a week.

TABLE 9.—*Weekly unit train traffic of principal western coal carriers*

Railroad:	
Burlington Northern	55
Chicago and Northwestern	35
Denver & Rio Grande Western	25
Union Pacific	23
Total	138

By 1985 unit train traffic is expected to expand several-fold The Burlington Northern, for example, expects to operate about 200 unit trains per week by 1985.

Increased unit train traffic could have a major impact on communities en route, interrupt motor vehicle traffic, and subject community residents to increased noise and air pollution. Some Wyoming communities could experience coal traffic of between 30 and 48 unit trains a day in addition to other rail traffic.

Public concern over the environmental impacts of increasing unit train traffic is causing citizens' and environmental groups to seek closer Federal scrutiny of coal traffic buildup. The Sierra Club, for example, has filed suit in the U.S. District Court to require ICC to more closely examine the environmental impact of a proposed 116-mile coal route to be jointly constructed by the Chicago and Northwestern and the Burlington Northern through the Wyoming coalfields. According to the Sierra Club, the route could carry as many as 48 trains daily through a number of small towns.

Action will be required to reduce the safety hazards and disruption of vehicular traffic and community services that may be caused by unit train operations. Grade crossing improvements such as overpasses, crossing gates, and warning lights will be needed.

Mr. ZORINSKY. Next week, the Department of Transportation Task Force on Coal Transportation is expected to release its report. During the first week of August the task force upon my request conducted field hearings in Nebraska. I believe this report will confirm the need for action regarding separated grade crossing problems.

If any of my fellow colleagues desire to help sponsor this legislation, please contact my Legislative Assistant, Chip Terrill.

By Mr. MAGNUSON (by request):

S. 2165. A bill to revise and improve the laws relating to the documentation of seamen; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce, by request of the Department of Transportation, a bill to revise and improve the laws relating to the documentation of seamen. I ask unanimous consent that the text of the bill and the section-by-section analysis prepared by the Department be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Seamen Documentation Act."

SEC. 2. DEFINITIONS. As used in this Act—

(1) "master" means the person having command of a vessel;

(2) "seaman" means a person employed or engaged on board a vessel in any capacity; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 3. MERCHANT MARINER'S DOCUMENTS. Under regulations he may prescribe, the Secretary shall issue merchant mariner's documents for the identification of seamen and the certification of ratings for which they have qualified.

SEC. 4. MERCHANT MARINER'S DOCUMENTS; CONTENTS. Each merchant mariner's document shall identify the person to whom it is issued, state his nationality, and specify the ratings for which he has qualified. It may contain any additional information prescribed by the Secretary.

SEC. 5. VESSELS REQUIRING MERCHANT MARINER'S DOCUMENTS AND SHIPPING AGREEMENTS. (a) Unless otherwise provided, this Act applies to—

(1) vessels documented under the laws of the United States;

(2) undocumented vessels belonging in whole or in part to a citizen of the United States or to any corporation created under the laws of the United States, or of any State, territory, or possession thereof, or of the District of Columbia, the Commonwealth of Puerto Rico, or the Canal Zone; and

(3) public vessels of the United States operating in commercial service.

(b) Unless otherwise provided, this Act does not apply to—

(1) vessels of less than 100 gross tons;

(2) vessels on which the crew is entitled by custom or agreement to share in the profit or result of the voyage;

(3) fishing vessels; or

(4) vessels engaged exclusively in trade on the rivers of the United States.

SEC. 6. ENGAGEMENT AND DISCHARGE OF SEAMEN. (a) A seaman may not be engaged in the crew of a vessel to which this Act applies unless he holds a merchant mariner's document and exhibits it at the time he is engaged.

(b) Subsection (a) of this section does not apply to the engagement of a seaman outside of the United States for the crew of a vessel to which this Act applies, when a seaman holding a merchant mariner's document is not reasonably available. For those occasions, the Secretary shall, after consultation with the Secretary of State, prescribe regulations for the engagement of such seamen.

(c) The Secretary shall, after consultation with the Secretary of State, prescribe regulations for the discharge of seamen outside of the United States.

(d) Whenever in his judgment the public interest requires, the Secretary may extend the provisions of subsection (a) of this section to such additional classes of vessels, other than warships and public vessels which are not operating in commercial service, as he designates.

SEC. 7. SHIPPING AGREEMENTS; REQUIRED. (a) The master of each vessel to which this Act applies, before proceeding on a voyage—

(1) between the United States and a foreign country;

(2) between places in one or more foreign countries; or

(3) between a place in any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Canal Zone and a place in another of those jurisdictions not adjoining; shall make an agreement in writing with each seaman in the crew, signed by the master and each seaman.

(b) The agreement required by subsection (a) of this section shall state:

(1) the nature, and so far as practicable, the duration of the intended voyage and the port or country in which the voyage is to terminate or the term of time for which each seaman is engaged, as the case may be;

(2) the number and description of the crew, specifying their respective employments;

(3) the capacity in which each seaman is to serve;

(4) the amount of wages which each seaman is to receive; and

(5) any other matter not contrary to law to which the parties may agree.

SEC. 8. COLLECTIVE BARGAINING NOT IMPAIRED. This Act does not affect the right of seamen to bargain collectively.

SEC. 9. ENGAGEMENTS VOID WITHOUT AGREEMENT. The engagement of a seaman contrary to section 7 of this Act is of no legal effect. A seaman so engaged may leave the service of the vessel at any time and is entitled to compensation at the highest rate being paid at the port where he was engaged for the position for which he was engaged, or the rate agreed to at the time he was engaged, whichever is higher.

SEC. 10. FOREIGN AND CERTAIN INTERCOASTAL VOYAGES. (a) In the case of a vessel on a voyage between the United States and a foreign country (other than Canada, Bermuda, the West Indias, or Mexico), or a voyage between a place on the Atlantic Ocean and a place on the Pacific Ocean, the written agreement required by section 7 of this Act shall be in the form and contain the items of information that the Secretary may prescribe and, additionally, shall state—

(1) that each seaman agrees to perform his duties to the best of his ability and to obey the lawful orders of the master, or any person who may lawfully succeed him, and those of the vessel's officers and supervisory personnel acting under the authority of the master and by whom the seaman is supervised in matters relating to the vessel;

(2) that the master agrees to receive, consider, and accord appropriate action to the legitimate complaint of any seaman presented in a reasonable manner and at a reasonable time; and, as the agent of the owner or operator of the vessel, to pay each seaman compensation at the agreed rate; and

(3) any rules of conduct that may be agreed upon which may include the time each seaman is to report on board.

(b) A qualified person designated by the Secretary shall supervise the engagement and discharge of the crew—

(1) for each voyage to which subsection (a) applies; and

(2) if the master or owner of the vessel so requests, for any other voyage on which a written agreement is required by section 7 of this Act.

(c) Before a crew is engaged, the master shall exhibit on the vessel at a place accessible to the crew, a copy of the agreement to be entered into, less the items pertaining to individual seamen.

(d) Notwithstanding any other law, the first clause of section 4529, and sections 4526 through 4528, 4530, 4535, 4546, 4547, 4542 through 4545, 4552, and 4554 of the Revised Statutes of the United States, as amended, apply in the case of a seaman whose engagement is supervised by a qualified person under subsection (b)(2) of this section.

SEC. 11. WRITTEN EVIDENCE OF SERVICE UPON DISCHARGE. Each master required by section 7 of this Act to make a written agreement with a seaman shall, upon discharge of the seaman, provide him with written evidence of his service prepared in the manner and form prescribed by the Secretary. However, it may not contain any reference to the ability or conduct of the seaman.

SERVICE RECORDS

SEC. 12. The Secretary shall maintain a service record for each holder of a merchant mariner's document.

PUBLICATION OF STATISTICS

SEC. 13. Service records maintained by the Secretary are not public records. However, the Secretary may—

(1) provide information from the record of a seaman to the seaman or his designee, or to any organization established by an employer and a collective bargaining agent of the seaman to provide the seaman with welfare, pension, vacation, training, or other benefits; and

(2) prepare and publish statistics and other data extracted from the records that he considers pertinent or useful.

CREW REPORTS

SEC. 14. To ensure compliance with the laws and regulations relating to the engagement and discharge of seamen and the manning of vessels, and to provide information

necessary to maintain service records for holders of merchant mariner's documents, the Secretary may require masters of vessels to submit reports in the form and manner he prescribes.

OFFICIAL LOG BOOK; REQUIRED ENTRIES

SEC. 15. (a) An official log book shall be carried on board each vessel on a voyage to which section 10(a) of this Act applies. The Secretary may prescribe the form of the official log book. The master of the vessel shall make, or cause to be made therein, entries concerning the following matters:

(1) each conviction of a member of the crew by civil authority and the punishment imposed;

(2) in the manner specified in section 4597 of the Revised Statutes of the United States, as amended, each offense committed by a member of the crew for which it is intended to prosecute or to enforce a forfeiture;

(3) each offense for which punishment is imposed on board, and the punishment imposed;

(4) a statement of the conduct, character, and qualifications of each seaman in the crew or a statement that the master declines to give an opinion of those particulars;

(5) each case of illness or injury occurring to a seaman in the crew, which results in his incapacitation for 72 hours or longer, and a description of any treatment given to him on board;

(6) each death on board and the cause thereof;

(7) in the case of collision, a statement thereof, and the circumstances under which it occurred;

(8) the name of every seaman who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof;

(9) the wages due to any seaman who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(10) the sale of the effects of any seaman who dies during the voyage, including a statement of each article sold, and the sum received for it; and

(11) any other matters required by law or by regulations of the Secretary.

(b) Completed official log books shall be retained, transferred, or otherwise disposed of as prescribed by the Secretary.

SEC. 16. OFFICIAL LOG BOOK; MODE OF MAKING ENTRIES. Unless otherwise required by law, each entry required to be made in the official log book—

(1) shall be made as soon as possible after the occurrence; but if it cannot be made on the day of the occurrence, shall be dated and indicate the date of the occurrence; and

(2) shall be signed by the master, and by the chief mate or some other seaman.

SEC. 17. VIOLATIONS; PENALTIES; PROCEDURES. (a) A person who violates any provision of section 6, 7, 10, 14, 15 or 16 of this Act, or any regulation thereunder, is liable for a civil penalty of not more than $5,000 for each violation.

(b) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed until the person charged shall have been given notice and opportunity for a hearing. Upon failing to collect or compromise a penalty assessed under this section, the Secretary may request the Attorney General to commence in any district court of the United States an action for the penalty prescribed by this section.

SEC. 18. DELEGATIONS; REGULATIONS; FEES. The Secretary may—

(1) delegate, and authorize successive redelegations, of any of the duties or powers conferred on him by this Act;

(2) prescribe regulations to carry out this Act; and

(3) prescribe a reasonable fee for any document issued or any report, statistics, or other data provided under this Act.

SEC. 19. AMENDMENTS TO OTHER LAWS. (a) Section 4612 of the Revised Statutes of the United States, as amended (46 U.S.C. 713), is further amended by striking the schedule and tables following the text.

(b) Section 10 of the Act of June 26, 1884, as amended (23 Stat. 55; 46 U.S.C. 599), is further amended—

(1) by amending subsection (b) to read as follows:

"(b) At the time he enters into a shipping agreement, a seaman may stipulate in writing for the allotment of a portion of the wages he may earn:

(1) to his grandparents, parents, wife, sister, brother, or children; (2) to an agency duly designated by the Secretary of the Treasury as authorized to handle applications for United States Savings Bonds, for the purpose of purchasing such bonds for the seaman; (3) for deposits to be made in an account opened by him and maintained in his name at a Federal or State credit union or at a savings institution in which accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; or (4) to any other allotee that the Secretary may authorize by regulation.";

(2) by amending subsection (c) to read as follows: "(c) No allotment is valid unless in writing. It shall be the duty of a qualified person, designated by the Secretary, to examine allotments made under this Act and to verify compliance therewith. All stipulations for an allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall state the amount and time of any payment to be made, or shall direct the payment to be made to a Federal or State credit union, a savings institution, or any other authorized allottee in an account maintained in the seamen's name."; and

(3) by striking out the second paragraph in subsection (e).

(c) The Act of August 19, 1890, as amended (26 Stat. 320; 46 U.S.C. 563, second paragraph) is further amended to read as follows:

"The clothing of a seaman is exempt from attachments and liens. A person who detains a seaman's clothing or any license, certificate of registry, or merchant mariner's document issued to a seaman by the Secretary of the department in which the Coast Guard is operating shall be fined not more than $500 or imprisoned for not more than six months, or both."

(d) Section 434 of the Tariff Act of 1930, as amended (46 Stat. 711; 19 U.S.C. 1434), is further amended by striking the words "crew list, its".

(e) Section 435 of the Tariff Act of 1930, as amended (46 Stat. 711, 19 U.S.C. 1435) is further amended by striking the words "that a list of the crew need not be delivered, and".

(f) Section 4 of Public Law 89–99 (79 Stat. 424; 46 U.S.C. 444) is amended by striking the period at the end thereof and inserting the words "or the Seamen Documentation Act." in lieu thereof.

(g) Section 5 of Public Law 89–99 (79 Stat. 424; 46 U.S.C. 445) is amended by inserting the words "or the Seamen Documentation Act," immediately following the words "or supplementary thereto,".

(h) Whenever used in any other law with reference to documentary evidence of a seamen's rating, the terms "certificate of service", "certificate of service or efficiency", and "certificate" are considered to a mean a certification of that rating on a merchant mariner's document issued under this Act.

SEC. 20. *Repeals.* The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

Revised statutes section		
4290	4510	4522
4291	4511	4523
4292	4512	4548
4501	4513	4549
4502	4514	4551
4503	4515	4553
4504	4516	4568
4505	4517	4573
4506	4518	4574
4507	4519	4575
4508	4520	4576
4509	4521	4595

Date	Chapter	Section	Volume	Page
Feb. 27, 1877	69	[1] 1	19	250
June 26, 1884	121	19, 20, 27	23	58
June 19, 1886	421	2	24	80
Aug. 19, 1890	801		26	320
Feb. 18, 1895	97	1	28	667
Mar. 3, 1897	389	1, 3, 19	29	687
Dec. 21, 1898	28	1, 2, 14	30	755
Feb. 14, 1900	19	1	31	29
Apr. 26, 1906	1875		34	137
Mar. 4, 1915	153	1	38	1164
June 25, 1936	816	3	49	1934
Mar. 24, 1937	49	1, 2	50	49
June 16, 1938	467	3	52	754
Oct. 17, 1940	896	1, 2	54	1200

[1] (Only the part amending R.S. 4290, 4513, 4522, 4575)

SEC. 21. EFFECTIVE DATE. This Act is effective on the first day of the twelfth month following the month in which it is enacted.

SECTION-BY-SECTION ANALYSIS OF A BILL

To revise and improve the laws relating to the documentation of seamen.

(Related sections of existing sections of title 46, United States Code, that would be amended or replaced are indicated in parentheses following the analysis of the corresponding section of the bill.)

Sec. 1. This section contains the short title.

Sec. 2. Definitions. This section defines certain terms used in the Act. The definitions are consistent with those in closely related existing statutes.

Sec. 3. Merchant Mariner's Documents. This section permits the issuance of a single standard document for the identification of United States seamen and for the certification of their ratings. Provisions for the licensing of qualified ship's officers have been part of the Federal statutes for over 100 years. It was not until 1936 that American seamen received any form of certificate that would identify them as members of the United States Merchant Marine. Also, commencing in 1936, unlicensed seamen were issued "certificates of service" as evidence of their special shipboard qualification. In 1937, "certificates of identification" came into being. Several years later, without statutory change, these two "certificates" were combined in a single document called a "United States Merchant Mariner's Document." The Merchant Mariner's Document in use today also serves as a passport for American seamen on vessels engaged in the foreign trade.

The 1937 Act that created the certificate of identification gave the seaman an option. In lieu of a certificate of identification he could receive the "continuous discharge book" which served him both as a means of identification and a cumulative record of his shipboard employment. Over the years, this option has been exercised by a very limited number of seamen. Today, the Merchant Mariner's Document is not only issued in place of the certificates but also as a companion document to the seaman electing to receive a continuous discharge book. In addition to giving statutory recognition to the Merchant Mariner's Document as a replacement for both the certificate of identification and the certificate of service, this section discontinues the issuance of continuous discharge books. (46 U.S.C. 643(a) (part) and (h)).

Sec. 4. Merchant Mariner's Documents; Contents. This section prescribes the minimum information to be included on Merchant Mariner's Documents. (46 U.S.C. 643(a) (part) and (b)).

Sec. 5. Vessels Requiring Merchant Mariner's Documents and Shipping Agreements. This section identifies the kinds of vessels for which crew members must be holders of Merchant Mariner's Documents and for which written agreements of employment are required for certain voyages. Subject to the specific exemptions listed in subsection (b), these requirements apply generally to United States flag vessels, regardless of whether or not they are Federally documented, and to public vessels that operate in commercial service. The tonnage of vessels required to have a shipping agreement is raised to a uniform 100 gross tons, from 50 gross tons in the coastwise trade and 75 gross tons in the intercostal trade (Atlantic to Pacific). This makes the requirement for Merchant Mariner's Documents and shipping agreements uniform. (46 U.S.C. 566 (part) and 643(a) (part) and (i)).

Sec. 6. Engagement and Discharge of Seamen. This section requires the possession of a Merchant Mariner's Document for employment in the crew of commercial vessels of 100 gross tons or over (except those specifically exempted by § 5(b)). Subsections (d) and (c) apply to the engagement and discharge of seamen in foreign ports where seamen holding merchant mariner's documents are not available. Regulations will be promulgated by the Secretary to govern this situation after consultation with the Secretary of State. Subsection (d) authorizes the Secretary to extend the requirements of subsection (a) to certain other vessels when the public interest requires. (46 U.S.C. 569, 643(c) (part), 643b).

Sec. 7. Shipping Agreements; Required. This section requires that a written and signed agreement be executed between the master and each seaman in the crew of commercial vessels of 100 gross tons or over on foreign voyages and coastwise voyages between non-neighboring States.

Subsection (b) specifies the minimum information that must be stated in the shipping agreement and provides that it may contain any other lawful terms to which the parties agree. (46 U.S.C. 564 (part) 574 (part)).

Sec. 8. Collective Bargaining Not Impaired. This section recognizes the existence of "collective bargaining" and its relationship to the shipping agreements required by this Act.

Sec. 9. Engagements Void Without Agreement. This section provides legal remedies for the seaman who is improperly taken into a vessel's employ in violation of section 7. (46 U.S.C. 576).

Sec. 10. Foreign and Certain Intercoastal Voyages. This section requires that shipping agreements for: (1) foreign voyages (except for those to certain nearby countries), and (2) intercoastal voyages, by prepared in the format prescribed by the Secretary and contain the provisions specified. (46 U.S.C. 564 (part), 713 (Table A)).

Subsection (b) requires a qualified person, designated by the Secretary, to supervise engagements and discharges on voyages covered by subsection (a). (46 U.S.C. 565, 641 (part), 643(e) (part), and 643(k) (part)). It also permits the same supervision of engagements and discharges on coastwise and nearby foreign voyages at the option of the master or owner of the vessel (46 U.S.C. 563 (1st paragraph)).

Subsection (c) requires public display of the terms of an agreement before a crew is actually engaged under the supervision of a qualified person. (46 U.S.C. 577).

Subsection (d) provides for the application of certain enumerated laws pertaining to seamen's wages to coastwise and nearby foreign voyages when a master or owner exercises his option to have the engagement and discharge of his crew supervised by a qualified person under subsection (b)(2). (46 U.S.C. 563 (part of 2d paragraph)).

Sec. 11. Written Evidence of Service Upon Discharge. This section requires masters of vessels on voyages for which written agreements are required, to provide crew members with documentary evidence of their service on his vessel in a form to be prescribed by the Secretary. Masters are prohibited from including on the document any evaluation of the crew members' conduct or performance. (46 U.S.C. 643(e) (part) and (k) (part)).

Sec. 12. Service Records. This section requires the Secretary to maintain a service record for each documented seaman. (46 U.S.C. 643(f) (part)).

Sec. 13. Publication of Statistics. This section prohibits publication or disclosure of information about a named seaman from his record of service except to the seaman and certain of his identified representatives. It authorizes the Secretary to use such information for statistical purposes and to publish useful data derived therefrom. (46 U.S.C. 643(f) (part)).

SEC. 14. Crew Reports. This section authorizes the Secretary to require the submission of reports to assist him in the proper enforcement of the laws relating to the engagement and discharge of seamen, the manning of vessels with qualified crews, and will provide information necessary to maintain seamen's service records. In cases where the engagement and discharge of crews are supervised by qualified persons under section 10(b) of the Act most of the necessary information will be obtained through that person. This section provides a means for collecting the information from vessels not serviced by qualified persons under section 10(b). (46 U.S.C. 643(k) (part) and (i)).

Secs. 15 and 16. Official Log Book; Required Entries; Mode of Making Entries. These sections replace the existing statutes (46 U.S.C. 201; 202) relating to official log books. Section 15 requires log books to be maintained on voyages on which engagements and discharges are supervised by a person designated by the Secretary (e.g., foreign and intercoastal). It prescribes required entries and authorizes the Secretary to specify other matters about which entries should be made in addition to certain matters prescribed elsewhere by statute. Two entries previously required (births and marriages) would no longer be required. Section 16 requires entries to be made in a timely manner and to be signed by the master and the chief mate or some other seaman. (46 U.S.C. 201, 202).

Sec. 17. Violations; Penalties; Procedures. This section prescribes civil penalties for violations of the principal provisions of this Act. It also prescribes the means for enforcement of those penalties and vests the Secretary with discretionary power in their disposition. (46 U.S.C. 203, 567, 568, 575, 577, 641, 643(k) and (i)). Existing suspension and revocation authority under 46 U.S.C. 239 is also available as a means of enforcing the provisions of this Act.

Sec. 18. Delegations; Regulations; Fees. This section authorizes the Secretary to delegate responsibility for administration of the Act and to prescribe regulations for its implementation. (46 U.S.C. 643(j)). It also authorizes a reasonable fee to cover the cost of issuing Merchant Mariner's Documents and providing the informative reports and statistics authorized by section 13 of the Act.

Sec. 19. Amendments to Other Laws: Sec. 19. (a) eliminates the statutory form for "Shipping Articles" in the foreign and intercoastal trade. Under section 10(a) the Secretary will, subject to the specific requirements of that section, prescribe the form. (46 U.S.C. 713 (schedules)).

Sec. 19. (b) amends the statute relating to seamen's allotments by—

(1) providing for allotments to be made "at the time" a seaman enters into a shipping agreement rather than requiring it to be included in the formal agreement;

(2) eliminating the no longer existent "postal savings" from the list of approved allottees and by adding "brothers" and "Credit Unions";

(3) authorizing the Secretary to add to the list of approved allottees; and

(4) eliminating the requirement that shipping articles be presented to Customs for their examination before they clear the vessel to depart on a foreign voyage. (46 U.S.C. 599).

Sec. 19(c) amends the statute relating to: (1) the engagement of seamen in the coastwise trade by shipping commissioners, at the option of the vessel, and (2) the exemption of seamen's clothing from liens. It eliminates the former, now covered by section 10(b), and continues the latter. This section extends the penalty for wrongful detention of a seaman's clothing to include wrongful detention of a seamen's documents and licenses. (46 U.S.C. 563 (proviso)).

Secs. 19(d) and (e) amend the statutes pertaining to the entry of vessels from foreign voyages to eliminate the requirement that the master deliver a crew list to the customs house. Under the International Convention on Facilitation of International Maritime Traffic and its Annex (TIAS 6251), "a crew list dated and signed by the master or some other ship's officer duly authorized by the master" may serve the function of "providing public authorities with information relating to the number and composition of the crew on the arrival and departure of a ship." To meet the requirements of this multilateral agreement that became effective with respect to the United States on May 16, 1967, and to provide for our own domestic needs, the Bureau of Customs, the Immigration and Naturalization Service, and the Department of Transportation have jointly developed a standard form for crew lists, which, when filed with a vessel's inward manifest, meets the operational needs of the Bureau of Customs.

Secs. 19(f) and (g) amend the statutes relating to scientific personnel on oceanographic research vessels so as to preserve the application of those statutes in cases where this Act replaces provisions of title 53 of the Revised Statutes of the United States, or laws amendatory of supplementary to that title.

Sec. 19(h) makes it clear that a notation of a seaman's rating on the Merchant Mariner's Document issued to him is the official documentary evidence of his qualification for that rating in lieu of the separate certificates issued under prior statutes.

Sec. 20. Repeals. This section repeals existing statutes replaced by this Act and several related statutes superseded by Reorganization Plan No. 3 of 1946. The 1946 Reorganization Plan transferred the statutory functions of individual "Shipping Commissioners" to the Commandant of the Coast Guard. Through Reorganization Plan No. 26 of 1950 and section 6(b) of the Department of Transportation Act (49 U.S.C. 1655(b)), those functions are now vested in the Secretary of Transportation. It also repeals existing statutes requiring a crew list to be delivered to the customs house before clearance maybe granted for a foreign voyage.

TABLE SHOWING WHERE SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES AND THE STATUTES AT LARGE THAT WOULD BE REPEALED BY THIS SECTION MAY BE FOUND IN THE U.S. CODE

Revised Statutes section	*Title 46, U.S. Code section*
4290	201
4291	202
4292	203
4501	541
4502	542
4503	543
4504	546
4505	547
4506	548
4507	549
4508	545
4509	451
4510	562
4511	564
4512	565
4513	566
4514	567
4515	568
4516	569
4517	570
4518	571
4519	577
4520	574
4521	575
4522	576
4523	578
4548	605
4549	641
4551	643
4553	645
4568	665
4573	674
4574	675
4575	676
4576	677
4595	542a

Date	Statutes at Large Chapter	Section	Volume	Page	Title 46, United States Code, section
1877, Feb. 25, 676	69	1	19	250	201, 566, 576
1884, June 26	121	19	23	58	572.
		20			573.
		27			541.
1886, June 19, 646	421	2	24	80	563 (1st paragraph).
1890, Aug. 19	801		26	320	563 (2d paragraph).
1895, Feb. 18	97	1	28	667	563 (proviso).
1897, Mar. 3	389	1	29	687	549.
		3			677.
		19			564.
1898, Dec. 21	28	1	30	755	569.
		2			576.
		14			665.
1900, Feb. 14	19	1	31	29	201.
1906, Apr. 26	1875		34	137	542.
1915, Mar. 4	153	1	38	1164	569.
1936, June 25	816	3	49	1934	643.
1937, Mar. 24	49	1	50	49	643.
		2			643.
1938, June 16	467	3	52	754	643a.
1940, Oct. 17	896	1	54	1200	643.
		2		1201	643b.

Sec. 21. Effective Date. This section provides for an effective date twelve months after enactment to allow for the implementation of modernized engagement, discharge, and reporting procedures.

By Mr. MAGNUSON (by request):

S. 2166. A bill to revise and improve the laws relating to the documentation of vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce, by request, a bill to revise and improve the laws relating to the documentation of vessels, and for other purposes, which has been requested by the Department of Transportation. I ask unanimous consent that the text of the bill and a section-by-section analysis prepared by the Department be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vessel Documentation Act".

SEC. 2. DEFINITIONS. As used in this Act—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this Act; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 3. PORTS OF DOCUMENTATION. The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 4. VESSELS ELIGIBLE FOR DOCUMENTATION. Any vessel of at least five net tons, which is not registered under the laws of a foreign country, is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the law of the United States, or any State, territory or possession thereof, or of the District of Columbia, or of the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are non-citizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 5. HOME PORTS. (a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

SEC. 6. NAME OF VESSEL. (a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

SEC. 7. CERTIFICATE OF DOCUMENTATION; APPLICATION; ISSUANCE; FORM; EXHIBITION. (a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 10, 11, 12, 13, or 14 of this Act.

(b) The Secretary may prescribe the form of, manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this Act.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination by such persons and at such times and places as the law may require or as the Secretary may prescribe.

SEC. 8. NUMBERS; LETTERS; IDENTIFICATION MARKINGS. (a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary, the number assigned under subsection (a) and any other identification markings the Secretary may prescribe.

SEC. 9. PURPOSE OF DOCUMENTATION. A certificate of documentation issued under this Act is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) evidence of qualification to be employed in a specific trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 10. CERTIFICATE OF DOCUMENTATION: REGISTRY. (a) A registry may be issued for any vessel which is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with the Islands of Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel which qualifies for a coastwise license under section 11 of this Act, a Great Lakes license under section 12 of this Act, or a fishery license under section 13 of this Act, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

SEC. 11. CERTIFICATE OF DOCUMENTATION: COASTWISE LICENSE. (a) A coastwise license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

SEC. 12. CERTIFICATE OF DOCUMENTATION: GREAT LAKES LICENSE. (a) A Great Lakes license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

SEC. 13. CERTIFICATE OF DOCUMENTATION: FISHERY LICENSE.

(a) A fishery license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries; a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

SEC. 14. CERTIFICATE OF DOCUMENTATION: PLEASURE VESSEL LICENSE. (a) A pleasure vessel license may be issued for any vessel which—

(1) is eligible for documentation, and

(2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel is authorized to proceed from port to port of the United States and to foreign ports without entering or clearing at the customs house.

(c) Notwithstanding any other provisions of law, the Secretary may prescribe reasonable fees for measuring a pleasure vessel; for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

SEC. 15. VESSEL LIMITED TO TRADE OR USE COVERED BY CERTIFICATE OF DOCUMENTATION; EXEMPTIONS; PENALTY. (a) A documented vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel, and a documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a documented vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel together with its equipment, is liable to seizure and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 16. FALSIFICATION IN DOCUMENTATION; FRAUDULENT USE OF DOCUMENT; PENALTY. (a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this Act, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

SEC. 17. CERTIFICATE OF DOCUMENTATION; TERMINATION OF VALIDITY. (a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection O of section 30 of the Act of June 5, 1920, as amended, (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

SEC. 18. PROVISIONAL REGISTRY. (a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a provisional registry for any vessel procured outside the United States which meets the ownership requirements of section 4 of this Act.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which a provisional registry is issued may proceed to the United States and engage en route in the foreign trade or trade with the Islands of Guam, American Samoa, Wake, Midway, or Kingman Reef. Upon the vessel's arrival in the United States the provisional registry shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a provisional registry is issued is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend the application of any vessel inspection law administered by him, or any regulation thereunder, if he considers the suspension to be in the public interest.

SEC. 19. RECORDING OF UNITED STATES BUILT VESSELS. The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

SEC. 20. REGISTRATION OF FUNNEL MARKS AND HOUSE FLAGS. The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 21. LIST OF DOCUMENTED VESSELS. The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

SEC. 22. REPORTS. To ensure compliance with this Act and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any form and manner he may prescribe.

SEC. 23. VIOLATIONS; PENALTY. (a) A person who violates a provision of this Act, or a regulation thereunder, is liable to a civil penalty of not more than $500 for each violation.

(b) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed until the person charged shall have been given notice and an opportunity for a hearing. Upon failure to collect a penalty assessed under this section, the Secretary may request the Attorney General to commence an action for the penalty prescribed by this section in any district court of the United States.

SEC. 24. DELEGATIONS AND REGULATIONS. The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him by this Act; and

(2) prescribe regulations to carry out this Act.

SEC. 25. RELATED TERMS IN OTHER LAWS. With respect to the documentation of a vessel whenever used in any law, regulation, document, ruling, or other official act—

(1) "certificate of registry", "registry", and "register" means a registry as provided for in section 10 of this Act;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 11 of this Act;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 12 of this Act;

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided for in section 13 of this Act; and

(5) "yacht" means a pleasure vessel vessel whether or not documented.

SEC. 26. AMENDMENTS TO OTHER LAWS. (a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows:

"Only citizens of the United States shall serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in—

(1) the vacancy; or

(2) any vacancy resulting from the promotion of another to fill the original vacancy."

(b) Section 4148(a) of the Revised Statutes of the United States, as amended (46 U.S.C. 71(a)), is further amended to read as follows:

"(a) Before a vessel is documented or recorded, or where the application of the law of the United States to a vessel is otherwise determined by its tonnage, the vessel shall be measured by the Secretary of the department in which the Coast Guard is operating. The Secretary may, by regulation, provide for the temporary documentation of a vessel prior to the measurement required by this section."

(c) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first sentence of subsection (a).

(d) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by—

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(e) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(f) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be docu-

mented and not so documented, is employed in a trade for which certificates of documentation are issued under the Vessel Documentation Act, other than a trade covered by a registry, the vessel is liable to a civil penalty of $30 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture."; and

(2) striking the last sentence.

(g) Section 2 of the Act of March 3, 1897, as amended (46 U.S.C. 660–1), is further amended by striking the second paragraph.

SEC. 27. REPEALS. The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act:

Revised statutes section

4132	4167	4315
4136	4168	4318
4137	4169	4319
4138	4170	4321
4139	4171	4322
4141	4174	4323
4142	4176	4324
4143	4177	4325
4414	4178	4326
4146	4179	4327
4147	4180	4328
4150	4182	4329
4155	4183	4330
4156	4187	4331
4157	4189	4333
4158	4190	4335
4159	4191	4337
4160	4214	4338
4161	4215	4339
4162	4217	4372
4163	4312	4384
4164	4313	4385
4166	4314	4495
		4498

Date	Chapter	Statutes at Large: Section	Statutes at Large: Volume	Statutes at Large: Page
Apr. 17, 1874	106		18	30
Feb. 27, 1877	69	[1] 1	19	251
June 30, 1879	54		21	44
June 26, 1884	121	21	23	58
July 5, 1884	221	4	23	119
June 19, 1886	421	6	24	81
Feb. 21, 1891	250	1	26	765
Jan. 16, 1895	24	2, 4, 5	28	624, 625
Jan. 20, 1897	67	1, 2	29	491, 492
June 24, 1902	1, 155	1, 2	32	398, 399
Mar. 3, 1905	1, 457	9	33	1, 032
Apr. 24, 1906	1, 865	1, 2	34	136
May 28, 1908	212	7	35	426
Feb. 29, 1912	47		37	70
July 9, 1912	220		37	189
Aug. 24, 1912	390	[2] 5	37	562
Aug. 18, 1914	256	1	38	698
Feb. 24, 1915	57		38	812
Mar. 4, 1915	172	1	38	1, 193
Mar. 4, 1915	184	5	III	1, 218
Feb. 19, 1920	83	1, 2, 3	41	436, 437
Feb. 16, 1925	235	1	43	947
Aug. 5, 1935	438	310	49	528
May 20, 1936	434		49	1, 367
May 24, 1938	265		52	437
May 31, 1939	159		53	794
May 31, 1939	160		53	795
June 2, 1939	168		53	798
Aug. 17, 1961	(3)		75	392
Sept. 29, 1965	(4)	10	IV	892

[1] Only the part amending R.S. 4315, 4318, and 4319.
[2] Only the part amending R.S. 4132.
[3] Public Law 87–157.
[4] Public Law 89–219.

SEC. 28. EFFECTIVE DATE. This Act is effective on the first day of the twelfth month following the month in which it is enacted.

SECTION-BY-SECTION ANALYSIS OF A BILL

To revise and improve the laws relating to the documentation of vessels, and for other purposes.

Sec. 1. Short Title. This section cites the Act as the "Vessel Documentation Act".

Sec. 2. Definitions. This section defines the terms "documented vessel" and "Secretary" for the purpose of their use in this Act.

Sec. 3. Ports of Documentation. This section provides for the designation by the Secretary of ports of documentation in the United States where vessels may be documented and instruments of title recorded and for the designation of the geographic area to be served by each designated port. It also authorizes the discontinuance and relocation of ports of documentation and the designation of additional ports of documentation. This section is a general restatement of the existing law concerning the authority of the Secretary in regard to ports of documentation. The authority of the Secretary in regard to ports of documentation derived through reorganization plans, implication from related statutes, intradepartmental delegation orders, and transfer of functions from other governmental agencies is made more explicit.

Sec. 4. Vessels Eligible for Documentation. This section is a clarification and general restatement of existing law.

It provides that vessels of at least five net tons, not registered under the laws of a foreign nation, are eligible for documentation if owned by citizens, partnerships, or corporations of the United States or by the Federal or State Governments. It expressly prescribes the five net ton limitation on vessels eligible for documentation rather than leaving it to implication.

Sec. 5. Home Ports. This section defines a vessel's home port as the port of documentation selected by an owner for the documentation of his vessel with the approval of the Secretary and provides that a vessel's home port may only be changed with the approval of the Secretary. It is a general restatement of existing law but leaves the detailed procedures for fixing and changing a vessel's home port to regulation.

Sec. 6. Name of Vessel. This section provides that the name of record of the vessel to be documented will be the name provided by the owner subject to the approval of the Secretary and that the name may only be changed with approval of the Secretary. It is a restatement of existing law except to the extent that the procedural details of the transactions now in the statute, such as the publication of notices of change of name in newspapers, will be governed by regulation. The authorization for a reasonable fee, to be prescribed by the Secretary, for changing a documented vessel's name of record takes the place of the graduated fee schedule now set forth in detail in the existing statute and allows the fee to be specified by regulation.

Sec. 7. Certificate of Documentation; Application; Form; Exhibition. This section provides that a certificate of documentation shall be issued upon application by the owner of any vessel eligible for documentation on the form and in the manner prescribed by the Secretary and that such certificate of documentation shall be available for examination. The entire text of registers, enrollments and licenses, and licenses are now set forth at length in existing statutes. To provide flexibility and take advantage of savings afforded by modern forms and record keeping procedures this section provides only that each certificate of documentation shall contain the name, the home port, the description of the vessel, identity of its owner, and be in such form and contain such additional information as the Secretary may prescribe. The provision in this section that the Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation will provide a means for updating vessel documents through the submission of occasional reports rather than continue the presently required annual endorsement of renewals of licenses and enrollments and licenses and the endorsements of changes of master.

Sec. 8. Numbers; Signal Letters; Identification Markings. This section provides for continuing the present system of assigning official numbers, signal letters, and identification markings to documented vessels.

Sec. 9. Purpose of Documentation. This section does not modify existing law but for clarity contains express provisions that a certificate of documentation is conclusive evidence of nationality but not conclusive evidence of ownership in any proceeding in which ownership, determined by State law, is in issue. It also gives express recognition to the special nature of "license" type documents.

Sec. 10. Certificate of Documentation: Registry. This section provides that the issuance of a certificate of documentation in the form of a registry may be issued to any vessel meeting the requirements of section 4 entitling it to be employed in the same foreign trade in which it may now be employed under existing law.

Sec. 11. Certificate of Documentation: Coastwise License. This section provides for the issuance of a certificate of documentation in the form of a coastwise license for any vessel which is eligible for documentation, is built in the United States, and qualifies under the laws of the United States to be employed in the coastwise trade. This license takes the place of the "Consolidated Certificate of Enrollment and License" and the "License of Vessel Under Twenty Tons" now issued under existing law for the coastwise trade and also for the "Coastwise Trade and Mackerel Fishery" when appropriately endorsed.

Sec. 12. Certificate of Documentation: Great Lakes License. This section provides for the issuance of a certificate of documentation in the form of a Great Lakes license to take the place of the "Consolidated Certificate of Enrollment and License (Northern and Northwestern Frontiers of the United States Other Than by Sea)" now issued under existing law.

Sec. 13. Certificate of Documentation: Fishery License. This section provides that a certificate of documentation in the form of a fishery license may be issued for any vessel which is eligible for documentation, was built in the United States, and qualifies under the laws of the United States to be employed in the fisheries. This license takes the place of a "Consolidated Certificate of Enrollment and License" and the "License of Vessel Under Twenty Tons" now issued under existing law for the trades of whale fishery, cod fishery, and mackerel fishery.

Sec. 14. Certificate of Documentation: Pleasure Vessel License. This section provides for a certificate of documentation for pleasure vessels. As in existing law, to be eligible for documentation a pleasure vessel must be larger than 5 tons, must be used exclusively for pleasure, and must be owned by a United States citizen. A documented pleasure vessel has all the rights of a vessel documented under the laws of the United States as well as the privilege of proceeding from port to port of the United States and to foreign ports without entering or clearing at the customs house. Although no fee is charged for documentation of commercial vessels, a fee will be charged for documentation of pleasure vessels. Since only the larger pleasure vessels may be documented, this is a benefit enjoyed by relatively few vessel owners and others directly involved in the pleasure vessel industry. The cost of this service should be borne by those who receive the benefits. Therefore, section 14 gives the Secretary the power to set fees, based on the cost of providing the service.

Sec. 15. Vessel Limited to Trade or Use Covered by Certificate of Documentation; Exemption; Penalty. This section, which is a restatement of existing law, provides that a vessel is limited to the trade covered by her

certificate of documentation; exempts certain non-self-propelled vessels from documentation; requires that the master must be a citizen of the United States; and continues the present penalty for violations.

Sec. 16. Falsification in Documentation; Fraudulent Use of Document; Penalty. This section continues the existing penalty of seizure and forfeiture for false statements or representations in connection with the documentation of vessels and for fraudulent use of a certificate of documentation.

Sec. 17. Certificate of Documentation; Termination of Validity. This section continues the existing provisions that a certificate of documentation becomes invalid if the vessel for which it is issued no longer meets the requirements for issuance of the certificate or is placed under the command of a person who is not a citizen of the United States. It also continues the requirement for the surrender of invalid certificates but recognizes the protection accorded preferred mortgages by section 961(a) of title 46, United States Code.

Sec. 18. Provisional Registry. This section authorizes the Secretary of Transportation and the Secretary of State to provide for the issuance of a provisional registry for a vessel procured by a citizen outside of the United States. This enables the vessel to proceed directly to the United States and to trade en route, with the requirement that the provisional registry be surrendered upon the vessel's arrival in the United States. The present statutory authority of Consular Officers and persons designated by the President to issue provisional registries which are automatically valid for a period of six (6) months or until arrival in the United States is eliminated. This section does not continue the present automatic statutory exemption of a vessel with a provisional registry from laws relating to officers, inspections, and measurement; but it authorizes the Secretary to suspend application of those vessel inspection and measurement laws if he considers the suspension to be in the public interest.

Sec. 19. Recording of United States Built Vessels. This section authorizes the Secretary to provide for the recording and certifying of that information pertaining to vessels built in the United States he considers to be in the public interest. It thereby continues provisions in the existing law providing for the recording and certifying of essential information pertaining to vessels built in the United States for foreign owners.

Sec. 20. Registration of Funnel Marks and House Flags. This section continues the provisions of the existing law providing for the registration of funnel marks and house flags by owners of vessels.

Sec. 21. List of Documented Vessels. This section continues the requirement for publication of a list of all documented vessels.

Sec. 22. Reports. This section authorizes reports to be required of owners and masters of documented vessels to ensure compliance with the Act and the laws governing the qualification of vessels to engage in the coastwise trade and fisheries. These reports will also keep the vessel data current and certificates of documentation up to date, and they will take the place of annual endorsements of renewals of enrollments and licenses and endorsements of changes of masters on the certificate of documentation.

Sec. 23. Violations; Penalty. This section provides a civil penalty of not more than $500 for each violation of the Act. It takes the place of numerous specific statutory penalties now included in the individual statutes. This section also authorizes the Secretary to assess and collect any penalty and, in his discretion, to compromise, remit, or mitigate any civil penalty to ensure that only the appropriate penalty is assessed. The assessment of the maximum penalty in minor cases where the penalty will later be mitigated is no longer required.

Sec. 24. Delegations and Regulations. This section retains the provisions of existing law by authorizing the Secretary to delegate and authorize successive redelegations of any of the duties or powers conferred in him in this Act. It also authorizes the Secretary to prescribe regulations to carry out this Act.

SEC. 25. Related Terms in Other Laws. This section defines the new types of certificates of documentation provided for in this Act to ensure that their changed names have no legal effect.

Sec. 26. Amendments to Other Laws.

Sec. 26(a) restates the existing 46 U.S.C. 221 in terms of "vessels documented under the laws of the United States" to conform to the terminology of this Act.

Sec. 26(b) states when a vessel shall be measured and authorizes the Secretary to prescribe conditions under which a vessel may be documented before being measured until such time as the vessel is available for complete measurement. This amends the existing statutory requirement that a vessel must be measured before being documented.

Sec. 26(c) eliminates the references in 46 U.S.C. 251 to statutes pertaining to documentation that will be repealed by this Act and eliminates the provisions in that statute that only documented vessels shall be deemed vessels of the United States.

Sec. 26(d) eliminates the detailed statutory language prescribing oaths now required for the issuance of licenses.

Sec. 26(e) eliminates the provision of 46 U.S.C. 325 that vessels licensed for the "mackerel" fishery be employed in other fisheries since section 13 provides for a single fishery license covering all fisheries.

Sec. 26(f) restates the first sentence and eliminates the last sentence of 46 U.S.C. 319 to conform to the terminology of this Act.

Sec. 26(g) eliminates an outdated requirement that so-called hospital spaces be provided on certain vessels for the benefit of the crew. Because the crew is now regularly provided with private accommodations, this provision is obsolete. Its removal will allow some savings in the construction or conversion of vessels while not affecting requirements regarding medical equipment and supplies to be carried on vessels.

Sec. 27. Repeals. The corresponding sections of the United States Code are listed below for each of the Revised Statutes of the United States and Statutes at Large repealed by this section.

Revised Statutes section:	Title 46, U.S. Code section
4137	15
4138	16
4139	20
4141	17
4142	19
4143	21
4144	22
4146	23
4147	24
4150	74
4155	25
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4164	34
4166	35
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4168	37
4169	38
4170	39
4171	40
4174	43
4176	44
4177	45
4178	46
4179	50
4180	54
4182	55
4183	56
4187	58
4189	60
4190	61
4191	62
4214	103
4215	109
4217	105
4312	252
4313	253
4314	254
4315	255
4318	258
4319	259
4321	263
4322	264
4323	265
4324	266
4325	267
4326	268
4327	269
4328	270
4329	271
4330	272
4333	275
4335	276
4337	278
4338	279
4339	280
4372	318
4384	334
4385	335
4495	493
4498	496

STATUTES AT LARGE

Volume 18, page 30, title 46, U.S. Code, section 270.

Volume 19, page 251, title 46, U.S. Code, sections 255, 258, 259.

Volume 21, page 44, title 46, U.S. Code, section 332.

Volume 23, page 58, title 46, U.S. Code, section 47.

Volume 23, page 119, title 46, U.S. Code, section 55.

Volume 24, page 81, title 46, U.S. Code, section 45.

Volume 26, page 765, title 46, U.S. Code, section 46.

Volume 28, pages 624, 625, title 46, U.S. Code, sections 23, 108.

Volume 29, pages 491, 492, title 46, U.S. Code, section 46.

Volume 32, pages 398, 399, title 46, U.S. Code, section 20.

Volume 33, page 1032, title 46, U.S. Code, section 496.

Volume 34, page 136, title 46, U.S. Code, section 260.

Volume 35, page 426, title 46, U.S. Code, section 49.

Volume 37, page 70, title 46, U.S. Code, section 260.

Volume 37, page 189, title 46, U.S. Code, section 63.

Volume 37, page 562, title 46, U.S. Code, section 11.

Volume 38, page 698, title 46, U.S. Code, section 11.

Volume 38, page 812, title 46, U.S. Code, section 14.

Volume 38, page 1193, title 46, U.S. Code, section 12.

Volume 38, page 1218, title 46, U.S. Code, section 496.

Volume 41, pages 436, 437, title 46, U.S. Code, section 51.

Volume 43, page 947, title 46, U.S. Code, section 18.

Volume 49, page 528, title 46, U.S. Code, section 60.

Volume 49, page 1367, title 46, U.S. Code, section 263.

Volume 52, page 437, title 46, U.S. Code, section 11.

Volume 53, page 794, title 46, U.S. Code, section 276.

Volume 53, page 795, title 46, U.S. Code, section 267.

Volume 53, page 798, title 46, U.S. Code, section 496.

Volume 75, page 392, title 46, U.S. Code, section 35.

Volume 79, page 892, title 46, U.S. Code, section 74.

Sec. 28. Effective Date. This section prescribes the effective date of the Act as the first day of the twelfth month following the month in which it is enacted.

By Mr. DOMENICI:

S. 2167. A bill to assist in increasing the depressed price of copper in the United States by authorizing the purchase of a quantity of such metal for inclusion in the national stockpile, and for other purposes; to the Committee on Armed Services.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to assist in increasing the depressed price of copper in the United States by authorizing the purchase of this metal for inclusion in the national stockpile.

The domestic copper industry is faced with serious problems brought about by the decreased demand for copper in world copper markets coupled with increased production by foreign countries which supply a substantial percentage of our imports. This is causing curtailed domestic production which results in reduction in employment.

The U.S. Government's strategic materials stockpile has been without copper since 1974, when the administration sold the last of the stockpile's copper. Subsequent to this disposal the executive branch made a major study of the strategic stockpile. This review recommended a new long-range program for acquisitions and disposals for the strategic and critical materials stockpiles, and the copper stockpile objective was set at 1,299,000 tons. The present administration is studying the Nation's strategic stockpile objectives. However, since there is no copper in the stockpile at present it would seem reasonable to assume that the tonnage required will be great enough to prompt a purchasing program.

Unfortunately, it may be some time before this study is completed and it would appear prudent to allow the Government to purchase copper to assure national security at the current market price. This measure will provide for the sell of 30,000 tons of tin from the national stockpile which is excess to our national security needs and to use this money for the purchase of 250,000 tons of copper.

Mr. President, I urge the Congress to consider this measure at the earliest possible date.

By Mr. STEVENS:

S. 2168. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. STEVENS. Mr. President, today I am introducing the Deep Seabed Mineral Resources Act of 1977, a bill to facilitate the development of a U.S. flag capability to utilize the resources of the deep ocean bottom. This legislation is destined to become a landmark law in the field of ocean policy.

The United States has, since the late 1960's, been engaged in a great international negotiation known as the Law of the Sea Conference. One of the most contentious issues at that negotiation was the nature of the international regime which would manage the resources of the deep ocean bottom. In the interest of international cooperation, the United States has not conducted deep seabed mining operations during the pendency of the negotiations.

The Law of the Sea Conference is now conceded by all responsible parties to be near collapse. There are still some of us, however, who hope that the passage of this legislation will provide the needed incentives for serious negotiations to begin again.

Mr. President, I cannot claim the credit for much of the material in the bill. Large sections are borrowed from the work of Senator METCALF, Senator WEICKER, and Congressmen MURPHY and BREAUX. I have attempted to take the best provisions of all the pending bills on this subject, add my own material, and create a bill which would establish a prudent U.S. management regime for the resources of the deep seabed.

I would like to thank Senator METCALF for his long-standing role as another proponent of deep seabed legislation. I am sure the entire Senate joins with me in wishing him a speedy recovery from his present illness.

Although it is expected that all deep seabed mining operations will take place far beyond the edge of the Continental Shelf margin, it is theoretically possible that some operations could take place within the U.S. Fishery Conservation Zone between the edge of the continental margin and the 200-nautical-mile limit. Since the United States exercises exclusive fishery management authority in these areas, any deep seabed mining operation within the fishery conservation zone of the United States cannot be issued a permit without the concurrence of the affected regional fisheries council. This safeguard is a unique feature of the Stevens bill designed to afford maximum environmental protection for the fisheries resources of the United States.

Mr. President, the time has come for the United States to pass deep seabed mining legislation. The Law of the Sea Conference cannot continue without it. I hope each of my colleagues here in the Senate will join with me in supporting this legislation.

My remarks today are too brief to describe the substance of this bill. I have instead prepared a summary and ask unanimous consent that the summary and the bill, in that order, be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STEVENS BILL

The Stevens bill follows the general organizational pattern of H.R. 3350 as reported out by the House Committee on Merchant Marine and Fisheries, and borrows some of the excellent features of the Metcalf bill, S 2053, but differs from them in several important respects.

The bills are similar but not identical in their findings (sec. 2) and statements of intent to enable deep sea mining to proceed expeditiously, pending the entry into force of a superseding international agreement. However, as Ambassador Richardson has made clear, the treaty draft produced at the last session of the Law of the Sea Conference was "so bad" that it is "totally unacceptable" with respect to deep sea mining, and in the view of many members of Congress this situation (which has become steadily worse during the past seven years of negotiations) is not likely to turn around.[1]

The jurisdictional basis of the legislation, as stated in all three bills (sec. 101) is the power of Congress to regulate the activities of U.S. nationals on the high seas. The bill specifically disclaims any assertion of sovereignty or sovereign rights over the ownership of any area of the deep seabed (sec. 101).

The bill thus places restrictions on the presently existing freedom of the seas, under which any company can mine the minerals of the deep seabed. The State Department is firm in its representation to Congress that this is the existing international law, and research confirms this. This has not been changed by anything that has happened in the United Nations General Assembly, or in the Law of the Sea conferences; they have no power to legislate, nor have their deliberations affected the status of customary law.

The scheme of the bills is that a company desiring to engage in deep sea mining must obtain recognition of its rights from the Secretary of Commerce, in two stages (sec. 103). The first is a license for exploration; the second is a permit for commercial recovery. These must conform to detailed criteria stated in section 104, which must be included in regulations, licenses, etc.

The Stevens bill provides for its immediate effectiveness, as does H.R. 3350. Both bills provide that no permits for commercial recovery may be issued under the Acts until 1 January 1980. It is thus the intent of the drafters to give the Secretary two years to gear up his regulatory process and to accomplish required environmental studies. S. 2053, on the other hand, provides that it shall not become effective until 1980. Aside from the dampening effects this provision would have on industry, it unnecessarily delays the creation of regulatory authorities related to resource management and environmental protection. For these reasons we have attempted to cure S. 2053 by providing for the bill's immediate effectiveness.

The Stevens bill (sec. 103(a)(b)), unlike the House bill or the Metcalf bill, recognizes the investment requirement, plainly stated in industry testimony, that before spending scores of millions of dollars in discovering

[1] We are aware, of course, of the U.N. General Assembly Resolution No. 2749, in 1970, that declared the principle that the mineral resources of the deep seabed are the common heritage of mankind. But this principle remains to be legally defined under the terms of the treaty, which in turn would require the advice and consent of the Senate before it enters into force with respect to the United States. The difficulty with this expression, "common heritage of mankind," is that it means one thing to Anglo-Saxon lawyers and quite another to Latin lawyers. "Common heritage" is translated as "patrimonio" in the Spanish text (which is equally as authoritative as the English text), and "patrimonio" has been used as the "buzz word" to denote State ownership of minerals, for several centuries, at least as far back as the decree of Charles the III of Spain in 1787 declaring the minerals of the new world to be the "patrimonio" of the Crown and available only under license of the King.

and exploring a particular seabea area, and designing the machinery to operate in the peculiar topography of that mine site, and in designing processing plants to utilize the ores from that particular site, the company must be assured that if its tests prove that ore can be mined there in commercial quantities, and economically processed, as a result of these expenditures, it shall have the right to continue on into commercial production. This is a key feature of the successful mining laws of the world. To do otherwise, *i.e.*, to simply grant a license for exploration with no assurance that if ore is found it can be exploited, is like giving a building permit to excavate and put in the foundations for a building with no assurance that when that is done, the building itself can be built. Deep sea mining will be killed in the bud if the investor does not have this assurance. The business is risky enough as it is.

The Stevens bill requires that all regulations and the terms of all licenses and permits shall be uniform, and non-discriminatory.

All three bills agree that a licensee or permittee shall have an exclusive right as against all other U.S. citizens (the Stevens bill expands this to say "all persons subject to the jurisdiction of the United States") and against all nationals of "reciprocating states". (More about this later.) But the Stevens bill goes further. Section 103(b)(3) gives assurance that every U.S. licensee and permittee whose operations are in conformity with the Act and regulations shall be entitled to the diplomatic protection of the United States and, in the event of interference with such operations, the Secretary of State shall utilize all peaceful means to resolve the controversy by negotiation, conciliation, arbitration or resort to agreement reached by Tribunals.

The Stevens bill requires that, before issuing a license, the Secretary make certain important determinations including the finding that the licensee's operations will not unreasonably interfere with the exercise of other freedoms of the seas by other States or conflict with any international obligations or pose unreasonable threat to the quality of the marine environment. Authority is reserved to require the suspension of operations that conflict with the quality of the marine environment, or of international obligations of the United States, or pose a risk to the security interest of the United States.

We have modified the provisions of S. 2053 which require environmental impact statements for each license application. While supporting the need for environmental assessment, it has seemed that efficiency may be promoted at no loss to protection if the work done on prior environmental impact statements is made available for use in subsequent studies and formal assessment is required of significant variances in conditions only.

The bill, while granting the Secretary necessary discretionary powers to draft regulations and contract terms, would subject this discretion to effective conditions of due process and judicial review.

The Stevens bill differs from the other two bills in that the Secretary (or the President, in some cases) may order a suspension of operations, deleting authority to unilaterally modify the contract. We regard the reservation of power to unilaterally amend a contract as being totally unacceptable.

The Stevens bill also fixes the duration of the license to ten years with one permissible extension of five years (sec. 102(B)(2)). The other bills leave this to the discretion of the Secretary, which again is too broad a grant of authority.

Within the 15 year period, the licensee may apply for a permit for commercial recovery. If he does not, he loses the license.

The Stevens bill also provides that the permit for commercial recovery shall remain in effect until the recovery of all minerals in the permit area has been effected (sec. 104(B)(2)). A fixed duration for commercial recovery invites "high grading," i.e., the extraction of the better grade ores, leaving the lower grade ores impossible to recover at acceptable cost. It authorizes the Secretary to impose diligence requirements, which, however, must be uniform for all permittees and licensees, including the fixing of minimum annual expenditures by licensees per unit of area (sec. 104(b))).

The Stevens bill contains important provisions in title II, relating to the transition to an international agreement.

Taking Ambassador Richardson at his word that he hopes to obtain "grandfather rights," in his treaty negotiations, which will protect U.S. investments made in the interim before a treaty comes into force, the Stevens bill provides in section 201(a) that this Act and regulations issued thereunder which are not inconsistent with a future treaty shall remain in effect, but no new exploration licenses shall be issued under the Act after the date when that agreement does enter into force with respect to the United States. Exploration licenses theretofore issued and in good standing shall remain in effect unless the international agreement specifically provides otherwise. It logically follows, and is provided in the bill, that permits for commercial recovery pursuant to exploration licenses which were in good standing on the date the treaty goes into effect shall continue to be issued in accordance with this Act unless the international agreement specifically provides otherwise.

If the treaty does provide otherwise, so that licensees and permittees are not permitted to continue under the new agreement with the same rights and the same duties and without additional cost, as compared with the rights, duties, and cost imposed upon them by this statute, then section 202 comes into play.

This deals with insurance against political risks occasioned by a treaty or its implementation. It does so by virtue of government insurance, comparable to OPIC, and charging the same premiums as OPIC. The licensee may elect to obtain this insurance, up to 75% of the insured's investment, paying premiums therefor. However (and this is new), the reimbursement is limited to the investment in U.S. assets, i.e., the purchase and construction of machinery, equipment, etc., manufactured in the United States, or vessels documented in the United States, or services contracted to be furnished from sources in the United States. The Stevens bill defines the loss of investment as including any treaty-imposed reduction of value or usefulness of the investment in consequence of the imposition of financial or other obligations or restrictions in excess or in addition to those applicable under this Act. This is important, because the treaty, in its last several texts, has required the holder of a contract with the International Seabed Authority to discover and tender two mine sites to the authority (at a cost of scores of millions of dollars), the Authority to keep one and allow the contract holder to develop the other, but under production controls and other restrictions which may greatly reduce the usefulness of the investment. The treaty text also authorizes the Authority to impose production controls, to subject the miner's production to international commodity agreements, and so on. Moreover, there is as yet no solution to the problem of double taxation, *i.e.*, imposition of exactions of the Authority in addition to U.S. income and other taxes.

As in the case of the other two bills, the Stevens bill directs the Secretary to report back to Congress with his recommendations as to the creation of a fund, of which part of the U.S. revenues from deep sea mining will be deposited for the ultimate benefit of the less-developed countries. The decision can be made later by Congress, in light of the status of the treaty negotiations, as to how to commit these funds.

H.R. 3350 was amended during mark-up to impose enormously exaggerated penalties for violation (i.e., $50,000 per day as a civil penalty, $250,000 per day as a criminal penalty. These numbers compare to the penalty of $2,000 per day established by the Outer Continental Shelf Lands Act. It is difficult to see just what activities a thousand miles from shore and under water three miles deep could justify such penalties. The Stevens bill (secs. 301(a), 303(b)) restores these penalties to those that appeared in H.R. 3350, as introduced, namely, $10,000 as a civil penalty for each day of violation, $25,000 per day as a criminal penalty.

The Stevens bill (sec. 103(c)(2)) contains the same requirements as H.R. 3350 with respect to U.S. documentation of mining and processing vessels. This is understood to be satisfactory to both industry and labor. S. 2053 added "transport vessels." The House Committee on Merchant Marine and Fisheries deleted this additional language.

The Stevens bill (sec. 109), like the other two, provides for recognition of licenses and permits issued by "reciprocating States," that is, States which enact legislation comparable to this Act, and which recognize U.S. licenses and permits. The bill adds the requirement that their licenses and permits be issued under constraints substantially similar to ours, including environmental protection. It adds also authority for an international clearing house of information on such licenses and permits.

S. 2168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Act of 1977."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States requirements for hard minerals to satisfy national industrial needs, and for national defense, will continue to expand and that the demand for such minerals will increasingly exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and that the acquisition of such minerals from foreign sources is a significant adverse factor in the national balance-of-payments position;

(3) the present and future national interests of the United States requires the availability of hard mineral resources which are independent of the export policies of foreign nations;

(4) there is an alternate source of supply of certain hard minerals, including nickel, copper, cobalt, and manganese, which are significant in relation to national needs, contained in the nodules existing in great abundance on the deep seabed;

(5) major deposits of such nodules have been proven to exist in areas of the deep seabed which are seaward of the limits of national seabed resource jurisdiction recognized by international law;

(6) various mining companies are engaged in developing the technology necessary for the commercial recovery and processing of such nodules;

(7) given the necessary investment climate, including security of tenure, United States mining companies are prepared to undertake programs for the commercial recovery and processing of hard minerals from the deep seabed;

(8) it is in the national interest to establish a program to encourage the exploration and commercial recovery of the hard mineral resources of the deep seabed by United States citizens, and that such activities be regu-

lated in a manner to protect the quality of the environment;

(9) any deep seabed mining activities which take place within the Fishery Conservation and Management Zone of the United States must be conducted in a manner consistent with the desires of the affected regional fisheries council.

(10) deep seabed mining is a freedom of the high seas, subject to a duty of reasonable regard to the interests of other States in their exercise of that and other freedoms of the high seas recognized by the general principles of international law;

(11) the United States executive department supported (by affirmative vote in the General Assembly) United Nations General Assembly Resolution 2749 (XXV) declaring the principle that the mineral resources of the deep seabed are the common heritage of mankind, but this principle remains to be legally defined under the terms of a Law of the Sea Treaty to be agreed upon in the future, and this will require the advice and consent of the Senate if it is to enter into force with respect to the United States;

(12) since the parties currently attempting to negotiate a comprehensive international Law of the Sea Treaty have been unable to come to a final agreement, and since their failure to reach agreement may retard the development of the technology necessary to commercially recover and process the hard mineral resources of the deep seabed, interim domestic legislation is required to encourage the development of such technology.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to establish an interim program to encourage the development of hard mineral resources of the deep seabed by United States citizens without further delay, pending the entering into force with respect to the United States of a superseding international agreement relating to such activities;

(2) to insure that the development of hard mineral resources on the deep seabed is carried out in a manner which will protect the quality of the marine environment;

(3) to encourage the continued development of technology necessary to develop the hard mineral resources of the deep seabed as soon as possible; and

(4) to encourage the effectuation of an international agreement or agreements relating to development of the hard mineral resources of the deep seabed which will adequately protect the interests of the United States.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) The term "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate (without regard to profit or loss) for the primary purpose of marketing or commercially using such resource; and, if such recovered resource will be processed at sea, such processing.

(2) The term "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of two hundred meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

(3) The term "deep seabed" means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

(4) The term "development" means exploration and commercial recovery.

(5) The term "exploration" means—

(A) any onsite observation and evaluation activity, after prospecting, which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, and tenor of a hard mineral resource, and

(ii) the economic, environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, installation, and testing of equipment which is intended to be used in the commercial recovery of such resource.

(6) The term "hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

(7) The term "international agreement" means any Convention, which may be ratified by and become binding upon the United States relating to the development of hard mineral resources of the deep seabed.

(8) The term "licensee" means any United States citizen who is issued a license under title I to engage in exploration.

(9) The term "permittee" means any licensee who is issued a permit under title I to engage in commercial recovery.

(10) The term "person subject to the jurisdiction of the United States" means any national of the United States, any United States citizen as defined in this Act, any foreign corporation doing business in the United States, and any officer, agent, or employee, department, agency, or instrumentality of the United States, or of any State or local unit of government.

(11) The term "prospecting" means engaging, on a nonexclusive basis, in the taking of bottom samples and photographs, acquisition of hydrographic, geophysical, geochemical, and other data, taking soundings, mapping, and similar activities which do not significantly alter the surface or subsurface of the deep seabed, for the purpose of determining whether or not the potentials for existence of seabed minerals in commercially recoverable quantities justify an application for an exploration license.

(12) The term "reciprocating state" means any foreign nation designated as such by the President under section 108.

(13) The term "Secretary" means the Secretary of Commerce.

(14) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth territory, or possession of the United States.

(15) The term "United States citizen" means—

(A) any individual who is a citizen of the United States; and

(B) any corporation, partnership, association, or other entity organized or existing under the laws of any of the United States.

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

SEC. 101. DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.

By the enactment of this Act, the United States—

(1) exercises its jurisdiction to regulate United States citizens in the carrying out of development of hard mineral resources of the deep seabed as a freedom of the high seas; but

(2) does not thereby assert sovereignty or sovereign rights over, or the ownership of, any area of the deep seabed.

SEC. 102. PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS: EXCEPTIONS.

(a) IN GENERAL.—No United States citizen may engage in exploration or commercial recovery unless authorized to do so—

(1) under a license for exploration or permit for commercial recovery issued pursuant to this Act by the Secretary; or

(2) under a license, permit, or equivalent authorization issued by a reciprocating state; or

(3) pursuant to an international agreement which is in force with respect to the United States.

(b) EXISTING EXPLORATION.—Subsection (a)(1) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the date of the enactment of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license under section 103(d) with respect to such exploration within such reasonable period of time, after the date on which initial regulations to carry out section 103(d) are issued, as the Secretary shall prescribe; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of the issuance of such license.

The timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license under section 103(e). In any case in which more than one application referred to in paragraph (1) is filed with respect to all or part of the same area of the deep seabed, the Secretary, in taking action on such applications, shall apply principles of equity based on the date on which each applicant commenced exploration activities and the amount of funds expended with respect to such activities by each applicant regarding the area concerned.

(c) INTERFERENCE.—It shall be unlawful for any person subject to the jurisdiction of the United States to interfere with the carrying out by any licensee or permittee of any activity authorized to be undertaken pursuant to the license or permit.

(d) EXCEPTIONS.—The prohibitions of subsection (a) shall not apply with respect to any of the following activities carried out by any United States citizen:

(1) Scientific research with respect to hard mineral resources;

(2) Prospecting;

(3) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing does not involve commercial recovery;

(4) The furnishing of machinery, products, supplies, services, or materials in support of any exploration or commercial recovery operation engaged in by a licensee or permittee; or

(5) Any onshore activity.

SEC. 103. LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY.

(a) AUTHORITY TO ISSUE.—Subject to the provisions of this title, the Secretary shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery. He shall maintain a public registry showing names and addresses of all licensees and permittees, and the geographical boundaries of such licenses and permits.

(b) NATURE OF LICENSES AND PERMITS.—(1) An exploration license issued under this Act recognizes the right of the holder thereof to explore for hard mineral resources in the area described in the license. It shall entitle the holder, if in compliance with the Act, to a permit for commercial recovery, if application is made therefor while the exploration license is in effect, in an area, selected by the applicant, equal to one-half of the area encompassed by the license. A permit for commercial recovery recognizes the exclusive right of the holder to recover, own, take away, use, and sell the hard mineral resources produced from the area encompassed by the permit. That portion of an area encompassed by an exploration license which is excluded from

a permit for commercial recovery shall be relinquished. Licenses and permits shall be consistent with the provisions of this Act, the regulations issued by the Secretary to carry out the provisions of this Act, and the specific terms, conditions, and restrictions stated in the license or permit by the Secretary.

(2) Any license for exploration or permit for commercial recovery issued under this title shall be exclusive with respect to the holder thereof as against all persons subject to the jurisdiction of the United States and against any citizen, national, or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(3) Every licensee and permittee whose operations are in conformity with this Act and regulations issued hereunder shall be entitled to the diplomatic protection of the United States, and, in the event of interference with such operations by nationals of other States, the Secretary of State shall utilize all peaceful means to resolve the controversy, by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) SIZE OF AREA OF EXPLORATION OR COMMERCIAL RECOVERY.—(1) license shall encompass a work area of uniform size determined in accordance with the criteria set forth in section 106(b)(1).

(2) A licensee whose operations are in conformity with this Act, upon application made to the Secretary at a time when his license is in force, shall be entitled to the issuance to him of a permit for commercial recovery with respect to one-half of the work area of his license, consisting of one or more areal units, their location within the licensed area to be selected by the licensee.

(d) STATUTORY RESTRICTIONS AND CONDITIONS.—(1) The Secretary may not issue—

(A) any license for exploration or any permit for commercial recovery after the date on which an international agreement, ratified by the United States, enters into force with respect to the United States to the extent such agreement prohibits such issuance;

(B) a permit authorizing commercial recovery within any area of the deep seabed to other than the licensee for such area;

(C) any permit which authorizes commercial recovery before January 1, 1980; and

(D) any license for exploration of, or permit for commercial recovery within, any area of the deep seabed which is covered by any pending application to which priority of right for issuance applies under this Act; any existing license or permit; or any existing license, permit, or equivalent authorization issued by a reciprocating state.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing of such resources at sea unless the vessel is documented under the laws of the United States. For the purposes of the shipping laws of the United States, transportation of hard mineral resources shall be deemed to be in the foreign trade.

(3) No permittee may process at any place which is not located either in the United States or on a vessel documented under the laws of the United States any hard mineral resource recovered by him pursuant to a permit for commercial recovery; except that the Secretary may allow the processing of any such resource at a place other than in the United States or on such vessel if the Secretary finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of the resource at a foreign location is necessary for the economic viability of the commercial recovery operations of the permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein will be returned to the United States for domestic use if the Secretary so requires after determining that the national interest demands such return.

(e) ELIGIBILITY.—Any United States citizen may apply to the Secretary for a license for exploration.

(2) Any licensee may apply to the Secretary for a permit for commercial recovery with respect to an area encompassed by his license.

(3) Applications for such licenses and permits shall be made in such form and manner as the Secretary shall prescribe, by general and uniform regulations, and shall contain such relevant financial, technical, environmental, and other information, as such regulations require as being necessary or appropriate to enable the Secretary to make determinations required by this section.

(f) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 102(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements prescribed under subsection (d)(3), are filed with the Secretary. Priority of right shall not be lost in the case of any application filed which is not in full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Secretary shall provide.

(g) ACTION ON LICENSE APPLICATIONS.—(1) Before the Secretary may approve any application for a license the Secretary must determine that—

(A) the applicant has priority under this Act;

(B) the applicant is financially responsible to meet all obligations which may be required to engage in exploration and commercial recovery;

(C) the applicant has the technological capability to engage in such exploration and is likely to acquire the technological capability to engage in such commercial recovery; and

(D) the exploration activity proposed in the application will not—

(i) conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, and

(ii) pose an unreasonable threat to the quality of the environment, and in making such determination the Secretary shall take into account any applicable programmatic environmental impact statement prepared under section 105(a);

(E) the issuance of the license will not be in violation of the antitrust laws; and, to facilitate this determination, the Secretary shall submit the application to the Attorney General for comment, who shall respond within 60 days thereafter;

(F) the license will be in conformity with the requirements of section 105 relating to environmental impact assessments.

(2) Upon making the determinations required under paragraph (1) and payment by the applicant of the fee required under subsection (h), the Secretary shall promptly tender a license to the applicant, containing such terms, restrictions, and conditions as the Secretary finds to be required by this Act. Such terms, restrictions, and conditions shall be uniform, insofar as physical conditions permit, with respect to all licenses. The applicant, within 60 days thereafter, may file with the Secretary written exceptions to the tendered license, and if their differences are not resolved by negotiation shall be entitled to an agency hearing, on the record, and to judicial review of the Secretary's determination after such hearing, in accordance with section 706 of title 5, United States Code.

(3) Upon acceptance by the applicant of the tendered license, as proposed or modified by the Secretary or as modified by final judicial determination, the Secretary shall promptly issue the license to the applicant.

(h) ACTION ON APPLICATIONS FOR PERMITS FOR COMMERCIAL RECOVERY.—(1) The holder of an exploration license, at any time while that license is in effect, may apply for a permit for commercial recovery conforming to section 103(c).

(2) The Secretary shall grant the permit application unless he determines that—

(A) the licensee's exploration operations are not in conformity with this Act or regulations issued hereunder or the provisions of his license;

(B) the applicant is not financially responsible to meet all obligations which may be required to engage in commercial recovery proposed in the application;

(C) the applicant does not have, or is not likely to acquire the technological capability to engage in such commercial recovery; or

(D) the commercial recovery activity proposed in the application will—

(i) conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, or

(ii) pose an unreasonable threat to the quality of the marine environment, and in making such determination the Secretary shall take into account any applicable programmatic environmental impact assessments required by section 105(a).

(i) UNIFORMITY.—Terms, restrictions, and conditions of licenses and permits shall be uniform and nondiscriminatory, taking into account differing characteristics of the various areas of the deep seabed to which licenses and permits would apply.

(j) FEES.—(1) No application for a license or permit may be approved under this section unless the applicant pays to the Secretary an administrative fee. The amount of the administrative fee imposed by the Secretary on applicants shall, to the extent ascertainable, be limited to the reasonable administrative costs incurred by the Secretary in processing applications.

(k) EMERGENCY MODIFICATION AND SUSPENSION OF OPERATIONS.—(1) After issuance of any license or permit, the Secretary, proceeding in accordance with section 104, may require the emergency modification or suspension of operations (A) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the marine environment and if such modification is consistent with the regulations promulgated to carry out section 109 (b); or (B) to avoid a conflict with any international obligation of the United States, established by any existing treaty or convention in force with respect to the United States, as determined by the President; or (C) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined by the President. No modification may be made under clause (A) if the Secretary determines, on the basis of substantial evidence and after affording the opportunity of an agency hearing, that the national interest in obtaining hard mineral resources from the area to which the license or permit applies outweighs the potential injury to the quality of the marine environment intended to be eliminated or ameliorated by the modification. In determining whether operations under a license or permit shall be modified under clause (A), the Secretary shall also consider whether the proposed modification would result in significant economic loss to the licensee or permittee which would substantially outweigh the potential injury to the quality of the marine environment intended to be eliminated or ameliorated by the modification or suspension.

(2) If operations are required to be modified or suspended pursuant to paragraph (j), and the effect is to make it difficult or impossible for the licensee or permittee to comply with any time limitation or performance obligation under his license or permit, the Secretary shall extend such time or modify such performance requirements accordingly.

(l) During the term of a license or a permit, the licensee or permittee may submit to the Secretary in application for a revision of the license or permit. The Secretary shall not approve such application unless he finds that the revision will comply with the requirements of this Act and regulations promulgated hereunder.

SEC. 104. DENIAL OF APPROVAL OF APPLICATIONS AND SUSPENSION AND REVOCATION OF LICENSES AND PERMITS FOR CAUSE

(a) DENIAL, SUSPENSION, AND REVOCATION.—(1) The Secretary may—

(A) deny approval of any application made for a license or permit if the Secretary finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(g); and

(B) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or order suspension of particular operations thereunder if the licensee or permittee, as the case may be, willfully fails to comply wtih any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit.

(2) No action may be taken by the Secretary to deny approval of any application or to suspend or revoke any license or permit or suspend operations unless—

(A) the Secretary gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, or revoke and the reason therefor, and

(B) if the reason for the proposed denial, suspension, or revocation is a deficiency which the applicant, licensee, or permittee can correct, the Secretary gives the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice (or such longer period as the Secretary may establish for good cause shown), to correct such deficiency.

(3) The Secretary shall deny approval of any application and suspend or revoke any license or permit—

(A) on the 30th day after the date of the notice given to the applicant, licensee, or permittee under paragraph (2)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, or revocation; or

(B) on the last day of the period established under paragraph (2)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) ADMINISTRATION REVIEW OF DENIAL OR PROPOSED SUSPENSION OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request for review of a denial or a proposed suspension or revocation of a license or permit, or suspension of operations, is entitled to an adjudication on the record after opportunity for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) EFFECT ON OPERATIONS.—The issuance of any notice of proposed suspension of revocation of a license or permit shall not affect the continuation or exploration or commercial recovery activities by the licensee or permittee under the license or permit pending judicial review of such notice. The provisions of subsection (a) (2) and (3) and the first sentence of this subsection (c) shall not apply when the President determines by Executive order than an immediate suspension of a license or permit, or particular activities thereunder, is necessary to avoid any such conflict with an international obligation of the United States or to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, or the Secretary determines than an immediate suspension is necessary to prevent a significant adverse effect on the marine environment, and the Secretary issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Secretary under subsection (b) to deny approval of any application for a license or permit, suspend or revoke any license or permit, or require modification or suspension of operations thereunder, is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code. Any suspension imposed pursuant to subsection c shall also be subject to such judicial review.

SEC. 105. ENVIRONMENTAL IMPACT ASSESSMENTS.

(a) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.—(1) The Secretary shall with respect to the area of the oceans in which any United States citizens will likely undertake development under the authority of this Act—

(A) prepare and publish a draft programmatic environmental impact statement which assesses the environmental impact of development on such area;

(B) afford all interested parties 60 days after such date of publication to submit comments to the Secretary on such draft statement; and

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish a final programmatic environmental impact statement regarding such area.

(2) With respect to the area of the oceans in which development by any United States citizen will likely first occur under the authority of this Act, the Secretary shall prepare draft and final programmatic environmental impact statements as required under paragraph (1) except that—

(A) the draft programmatic environmental impact statement shall be prepared and published within 120 days after the date of the enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within 180 days after the date on which the draft statement is published.

(b) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The approval of any application for a license under section 103(f) shall be deemed to be a "major Federal action" for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). In preparing any environmental impact statement which may be required by the National Environmental Policy Act of 1969 the Secretary shall utilize the information contained in any other environmental impact statement prepared pursuant to this section and shall supplement such information only to the extent of a demonstrable change in circumstances. Any environment impact statement which is required shall be prepared within the 6-month period following the date on which the application for the license or permit concerned is approved by the Secretary.

SEC. 106. REGULATIONS: CRITERIA.

(a) IN GENERAL.—

(1) PROPOSED REGULATIONS.—As soon as practicable after the date of enactment of this Act, but not later than 180 days after such date, the Secretary shall publish in the Federal Register such proposed regulations as are required by, or are necessary and appropriate to implement, this Act. The Secretary shall hold a public hearing, on the record, on such proposed regulations.

(2) FINAL REGULATIONS.—As soon as practicable after publication of proposed regulations pursuant to section 401(a), but not later than 90 days after such date, the Secretary, after considering the comments received during the public hearing required in subsection (a) and any written statements on the proposed regulations received by him, and publishing his decision responding to such comments, shall promulgate such regulations.

(3) UNIFORMITY.—The Secretary's regulations shall be general, uniform, and nondiscriminary.

(b) CRITERIA WITH WHICH REGULATIONS SHALL CONFORM.—Said regulations shall implement the following criteria:

(1) SIZE OF AREA OF EXPLORATION OR COMMERCIAL RECOVERY.—(A) The Secretary shall identify in each license and permit the area of the deep seabed in which the licensee or permittee may undertake exploration or commercial recovery in conformity with section 103(c).

(i) The area for exploration shall be sufficient to allow for intensive exploration activities.

(ii) The area for commercial recovery shall be selected by the applicant, within the area encompassed by his exploration license, and shall be sufficient to satisfy the permittee's stated production requirements, taking into account the state of the technology then available for ocean mining and the relevant physical characteristics of the area but shall not exceed one-half of the of the related exploration license.

(B) When a licensee obtains a permit for commercial recovery, the area not covered by the permit shall be relinquished.

(2) DURATION.—(A) The term of any exploration license shall be 10 years subject to one extension of 5 years for good cause shown.

(B) A permit for commercial production shall remain in effect until completion of commercial recovery of the hard mineral resources in the area covered by the permit, provided that the permittee conforms to the performance requirements stated in subparagraph (3).

(3) PERFORMANCE REQUIREMENT.—(A) The Secretary, by general uniform and non-discriminatory regulations, shall establish such periodic reasonable expenditures for exploration by the licensee as the Secretary shall establish, taking into account the size of the area of the deep seabed covered by the license except that such required expenditures shall not be established at such high levels as to discourage exploration with less costly technology than is currently in use, or discourage deep seabed mining by new entrants into the industry.

(B) The Secretary shall establish, upon issuing a permit for commercial recovery, a maximum time interval within which commercial recovery must commence. Such interval shall take into account the time necessary for the design construction and testing of mining and processing systems, with allowance made for unavoidable delays.

(C) Once commercial recovery is achieved, the Secretary shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit: *Provided*, That the Secretary shall, for good cause shown, including force majeure and adverse economic consequences beyond the control of the permittee, authorize the temporary suspension of production.

(4) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(A) surrender a license or a permit issued to him; or

(b) relinquish in whole or in part, any area of the deep seabed covered by the license or permit.

Any licensee or permittee who surrenders a license or permit, or relinquishes any area of the deep seabed, shall remain liable with respect to all violations and penalties incurred by him, and damages to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(5) RECORDS AND AUDITS.—(A) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Secretary shall be regulation prescribe. Such records shall include information which will fully disclose expenditures for development and onshore processing of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the licensee or permittee that are necessary and pertinent to verify the expenditures referred to in subparagraph (A).

(6) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Secretary such necessary and reasonable data or other information as the Secretary may need for purposes of making determinations with respect to the issuance, denial, or revocation of any license or permit; complying with the reporting requirement in section 109, and evaluating the exploration or commercial recovery operations engaged in by the licensee or permittee.

(7) PUBLIC DISCLOSURE.—Copies of any record, document, report, or other communication received by the Secretary containing data or information required under this title shall be made available to the public, upon identifiable request therefor, at reasonable cost, unless—

(A) such data or information relates to trade secrets or other confidential matter referred to in section 1905 of title 18 of the United States Code; or

(B) the public release of such data or information is prohibited under any provision of law, including, but not limited to, section 552(b) of title 5 of the United States Code.

(8) PREVENTION OF INTERFERENCE WITH REASONABLE USES OF THE HIGH SEAS.—Each license and permit shall include such restrictions as may be necessary and appropriate to insure that exploration or commercial recovery operations carried out by the licensee or permittee do not conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States.

(9) PROTECTION OF THE ENVIRONMENT.—Each license and permit shall contain such terms, conditions, and restrictions wtih respect to the carrying out of exploration and commercial recovery operations authorized thereunder as are necessary to protect the quality of the environment. Before establishing, by uniform regulation, such terms, conditions, and restrictions the Secretary shall give due consideration to the information contained in any final environmental impact statement prepared with respect to such license pursuant to section 105(b).

(10) MONITORING OF OPERATIONS.—Each license and permit may require the licensee or permittee—

(A) to allow the Secretary to place officers and employees of the United States aboard vessels used by the licensee or permittee in exploration or commercial recovery operations for the purpose of monitoring such operations at such time, and to such extent, as the Secretary deems reasonable and necessary to assess the effectiveness of, and to determine compliance with license or permit terms, conditions, and retrictions relating to protection of the quality of the marine environment; and

(B) to cooperate with such officers and employees in carrying out monitoring functions.

(11) NAVIGATIONAL SAFETY.—The Secretary's regulations, in accordance with international law, shall specify conditions regarding lights and other warning devices, safety equipment, operating procedures, and other requirements relating to navigational safety and the promotion of safety of life and property at sea.

SEC. 107. APPLICATION OF CERTAIN LAWS.

In the administration of the laws of the United States relating to export control, customs, duties, and taxes, there shall be no discrimination between hard mineral resources taken incidental to exploration recovered under a permit and similar minerals recovered within the United States. For the purposes of such laws, all hard mineral resources recovered under a permit shall be deemed to have been recovered in the United States.

SEC. 108. RECIPROCATING STATES.

(a) DESIGNATION.—The President may designate any foreign nation as a reciprocating state if the President finds that such foreign nation—

(1) regulates the carrying out of development of hard mineral resources of the deep seabed in a manner similar to that provided for in this Act and the regulations issued thereunder.

(2) recognizes existing licenses and permits issued under this Act to the extent that such nation prohibits any person engaging, under its laws, in exploration or commercial recovery which conflicts with that authorized under any such license or permit; and

(3) recognizes, under its procedures, priorities of right for applications for licenses or permits that are consistent with those provided for in this Act and the regulations issued thereunder.

(b) EFFECT OF DESIGNATION.—If any foreign nation is designated as a reciprocating state under subsection (a), no license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any prior license, permit, or equivalent authorization issued by such reciprocating state.

(c) The Secretary, in cooperation with the appropriate administrative officers of reciprocating states, shall establish a public registry which shall show the geographical boundaries of each license or permit (or equivalent document) issued by every reciprocating state, including the United States, and the names and addresses of the holders thereof.

SEC. 109. ANNUAL REPORT BY SECRETARY.

The Secretary shall submit to the Congress on or before October 31 of each year after 1977 a report on the administration of this Act during the period covered by the report. Such report shall contain, but is not limited to, the following information with respect to the reporting period:

(1) The number of licenses for exploration and permits for commercial recovery issued, denied, suspended, or revoked under section 103 or 104 with related names and addresses, and geographical boundaries. Such data shall be kept current in a public register.

(2) A description and evaluation of the exploration and commercial recovery operations undertaken; including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources.

(3) A description and estimate of any damage to the quality of environment resulting from such operations.

(4) The number and description of all civil and criminal proceedings instituted under title III, and the current status of such proceedings.

(5) Such recommendations as the Secretary deems appropriate for amending this Act to further carry out its purposes.

TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

SEC. 201. EFFECT OF INTERNATIONAL AGREEMENT.

(a) ISSUANCE OF LICENSES AND PERMITS.—If an international agreement regulating the exploration for and commercial recovery of deep seabed minerals shall be ratified by, and come into force with respect to, the United States—

(1) All provisions of this Act, and regulations issued thereunder, which are not inconsistent with said agreement shall remain in effect.

(2) No new exploration licenses shall be issued under this Act after the date when such agreement enters into force with respect to the United States.

(3) Exploration licenses theretofore issued and in good standing shall remain in effect unless said international agreement specifically provides otherwise.

(4) Permits for commercial recovery, pursuant to exploration licenses theretofore issued and in good standing, shall continue to be issued in accordance with this Act unless said international agreement specifically provides otherwise.

(b) To the extent that the provisions of such international agreement permit, the United States shall sponsor applications from United States citizens who are licensees and permittees at the time such agreement so enters into force and shall insure that such licensees and permittees receive the same rights, and have the same duties, under such agreement, as are provided for under this Act, and at no additional cost.

SEC. 202. INSURANCE AGAINST LOSS OF INVESTMENT OCCASIONED BY AN INTERNATIONAL AGREEMENT.

(a) DEFINITION.—For purposes of this section, the term "investment" means expenditures, and any irrevocable legal obligation to make expenditures (together with the reasonable interest costs thereof), for the purchase or construction of machinery, equipment, and facilities manufactured, or vessels documented, in the United States, or for services contracted to be furnished from sources in the United States, utilized for exploration or commercial recovery pursuant to licenses or permits issued under this Act, or for processing of hard mineral resources in the United States or on board vessels documented in the United States, if such expenditure is made or such obligation incurred, on or after the date of enactment of this Act. Such term does not include (1) funds expended for research on, and the development, testing, and evaluation of, the technology necessary for such exploration, recovery, or processing; or (2) the potential value of hard mineral resources.

(b) IN GENERAL.—The Secretary shall enter into a contract of insurance with any licensee or permittee under title I who requests it, in accordance with the terms and conditions specified in this section. The purpose of such insurance is to provide compensation for loss incurred by an insured upon the agreement by the United States, after the effective date of this Act, to an international agreement if—

(1) by reason of the international agreement so entering into force, or the implementation of the provisions of such agreement—

(i) such license or permit is rendered void, or

(ii) such licensee or permittee is permitted to continue exploration or commercial re-

covery but under terms and conditions not substantially the same as the terms and conditions of such license or permit; and

(2) such insured suffers a loss of investment as a result of the circumstance described in subparagraph (1) (i) or (ii); and

(3) such insured has paid all premiums assessed against him by the Secretary pursuant to subsection (d).

(c) TERMS AND CONDITIONS.—The terms and conditions of any contract of insurance under this section shall be determined at the time of the issuance of a license or permit, or as soon thereafter as it is possible to reasonably determine the investment of the insured in the commercial recovery operation. All such terms and conditions must be consistent with the requirements of this Act. Except as authorized by this section, or as agreed to by all the parties thereto, a contract of insurance under this section shall be binding on all the parties thereto for a period of 20 years from the effective date of the contract, and may not be cancelled or modified during that period, except as provided in subsection (f) of this section.

(d) PREMIUMS.—In order to be eligible for insurance under this section, an insured must agree, as consideration for such insurance to pay annually to the Secretary for deposit in the Ocean Mining Fund established by subsection (j), a premium in an amount equal to not more than three-quarters, or less than one-quarter, of 1 percent of the amount of the insurance provided by the contract.

(e) LIMITATION ON INSURANCE.—No contract of insurance may be issued under this section which provides insurance in excess of 75 percent of the insured's investment as defined in subsection (a) or the actual loss of investment calculated in accordance with subsection (g), whichever is less. No compensation shall be awarded under this section for any element of loss incurred by any insured in carrying out exploration or commercial recovery operations under a license or permit or processing of hard mineral resources so recovered if such loss is attributable to failure of technology, variation in market values of recovered hard mineral resources, force majeure other than said international agreement, administrative fees, or events which are within the coverage of usual and customary insurance or for which remedy may be available under the admiralty laws.

(f) PERMISSIBLE MODIFICATIONS OF INSURANCE CONTRACT.—Prior to the commencement of commercial recovery, the insured shall be entitled to increase the amount of his insurance coverage. At any time during the term of the insurance contract, the insured shall be entitled to reduce the amount of his insurance coverage or cancel the insurance contract, except that coverage so reduced or canceled may not be increased, or reinstated, as the case may be, unless specifically agreed by the Secretary, and any amounts paid as premiums with respect to periods before the insurance coverage was reduced or canceled shall not be refundable.

(g) DETERMINATION OF LOSS AND COMPENSATION THEREFOR.—In the event of a loss for which there is a contract of insurance under this section, the Secretary shall determine the amount of the loss and shall pay compensation in such amount to the insured pursuant to the contract. The loss shall be calculated by subtracting from the insured investment an amount equal to the remaining commercial market value of the equipment, facilities, materials, and supplies used in exploration or commercial recovery under the license or permit and the processing in the United States or on board vessels documented in the United States of hard mineral resources so recovered.

(h) CANCELLATION OF CONTRACT.—Any failure of an insured who has a contract of insurance under this section to carry out the requirements of subsection (d) of this section shall be cause for the Secretary to cancel the contract of insurance and to seek any other remedy which the law provides.

(i) JURISDICTION AND VENUE.—The Court of Claims and the district courts of the United States shall have jurisdiction over cases and controversies involving claims for compensation under this section, without regard to the amounts involved. Actions in district courts with respect to any such claim may be instituted in (1) a district court of the United States for a judicial district in which the plaintiff resides or transacts business, or (2) the United States District Court for the District of Columbia.

(j) OCEAN MINING FUND.—There is established in the Treasury of the United States the Ocean Mining Fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary as a revolving fund for purposes of paying compensation which is provided pursuant to contracts of insurance under this section. The fund shall consist of—

(1) any annual premiums deposited by the Secretary under subsection (d) (1);

(2) any sums appropriated to the fund pursuant to section 306(b) of this Act; and

(3) any interest earned on sums invested pursuant to this subsection.

Sums in the fund which are not currently needed for the payment of compensation shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

SEC. 203. CONTRIBUTIONS FOR IMPLEMENTATION OF INTERNATIONAL AGREEMENTS.

No later than the 180th day after the date of the enactment of this Act, the Secretary shall submit to the Congress specific legislative recommendations for establishing contributions to a special fund the proceeds of which shall be used for the payment of United States contributions to an international regime (established under an international agreement if such agreement enters into force with respect to the United States) for sharing with the international community pursuant to such agreement. Such recommendations shall include such provisions as the Secretary deems necessary and appropriate, including, but not limited to, provisions relating to the source, amount, and computation of the contributions recommended, the structure of the special fund, the tax treatment of the contributions (if contributions are required of licensees or permittees), and the disposition of the fund in the event that an international agreement does not enter into force with respect to the United States or United States contributions of the kind referred to in the preceding sentence are not required.

TITLE III—CIVIL PENALTIES, CRIMINAL OFFENSES, AND MISCELLANEOUS PROVISIONS

SEC. 301. PROHIBITED ACTS.

It is unlawful for any person subject to the jurisdiction of the United States to violate any provisions of this Act, any regulation issued pursuant to this Act, or any term, condition, or restriction of any license or permit issued to him under section 103.

SEC. 302. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any person subject to the jurisdiction of the United States against whom a civil penalty is assessed under subsection (a) may obtain review thereof in any district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(c) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(d) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person subject to the jurisdiction of the United States fails to pay an assessment of a civil penalty after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who is authorized to maintain an action to recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 303. CRIMINAL OFFENSES.

(a) OFFENSES.—Any person subject to the jurisdiction of the United States is guilty of an offense if he willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of not more than $25,000 for each day during which the violation continues.

(c) JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

SEC. 304. ENFORCEMENT.

The provisions of this Act, any regulation issued pursuant to this Act, and any term, condition, and restriction of any license or permit issued under section 103 shall be enforced by the Secretary. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency in the performance of such duties. The Secretary shall issue such regulations as may be necessary and appropriate to carry out his duties under this section.

SEC. 305. LIABILITY OF VESSELS.

Any vessel, except a public vessel engaged in noncommercial activities, used in any violation of this Act, any regulation issued pursuant to this Act, and any term, condition, or restriction of any license or permit shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. And deep seabed mining activities which take place with the Fishery Conservation and Management Zone of the United States may be conducted only with the concurrence of the affected regional fisheries council.

SEC. 402. AUTHORIZATION FOR APPROPRIATIONS.

(a) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after September 30, 1977, such sums as may be necessary for the administration of this Act.

(b) FOR COMPENSATION.—To the extent that the moneys in the Deep Seabed Mining Fund established pursuant to section 203 are not sufficient to pay compensation awarded under section 202, there are authorized to be appropriated to such fund for any fiscal year beginning after September 30, 1977, such sums as may be necessary for such payments.

(c) FOR ENVIRONMENTAL ASSESSMENT.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after September 30, 1977, such sums as may be necessary to carry out the responsibilities assigned to him in section 109.

SEC. 403. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or of any other applications, shall not be affected thereby.

ADDITIONAL COSPONSORS

S. 80

At the request of Mr. BURDICK, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 80, to restore to Federal civilian and Postal Service employees certain rights in political processes.

S. 247

At the request of Mr. GOLDWATER, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 247, to provide recognition to the Women's Air Forces Service Pilots.

S. 1487

At the request of Mr. BELLMON, the Senator from Florida (Mr. CHILES) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1487, to eliminate racketeering in the distribution of cigarettes.

S. 1587

At the request of Mr. STONE, the Senator from North Carolina (Mr. HELMS) and the Senator from Missouri (Mr. DANFORTH) were added as cosponsors of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain state and local government retirement systems from taxation, and for other purposes.

S. 1812

At the request of Mr. NELSON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1812, the Reclamation Lands Family Farm Act.

S. 1990

At the request of Mr. ROTH, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 1990, a bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment.

S. 2009

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2009, the Home Care Services bill.

S. 2014

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2014, to protect consumer creditors in bankruptcy proceedings.

SENATE RESOLUTION 238

At the request of Mr. CHURCH, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Resolution 238, calling for a World Assembly on Aging.

SENATE RESOLUTION 244

At the request of Mr. STEVENS, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Resolution 244, calling for a study of the Federal retirement system.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 264, continuing expenditures for the Select Committee on Nutrition and Human Needs.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of Senate Concurrent Resolution 26, relating to amyotrophic lateral sclerosis.

AMENDMENT NO. 1019

At the request of Mr. TOWER, the Senator from Indiana (Mr. LUGAR) and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of amendment No. 1019, to be proposed to S. 1871, a bill to amend the Fair Labor Standards Act.

AMENDMENT NO. 1020

At the request of Mr. TOWER, the Senator from New Mexico (Mr. SCHMITT) and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of amendment No. 1020, to be proposed to S. 1871, supra.

AMENDMENT NO. 1025

At the request of Mr. PERCY, the Senator from Delaware (Mr. BIDEN), was added as cosponsor of amendment 1025 to S. 2114, the Public Utilities Policy Act of 1977.

AMENDMENT NO. 1398

At the request of Mr. ROTH, the Senator from Kentucky (Mr. FORD) and the Senator from Texas (Mr. TOWER) were added as cosponsors of amendment No. 1398 to S. 1585, a bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

SENATE CONCURRENT RESOLUTION 47—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO LIMITATION OF STRATEGIC ARMAMENTS

(Placed on the Calendar.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following concurrent resolution:

S. CON. RES. 47

Whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms will expire on October 3, 1977;

Whereas a temporary further observance of the limitations of the Interim Agreement will provide time for further negotiation, consistent with Public Law 92-448, toward a treaty limiting strategic offensive arms;

Whereas the Congress desires that the United States negotiate a treaty supportive of United States national security without the burden and pressure of imminent deadlines;

Whereas the Arms Control and Disarmament Act contemplates close cooperation and consultation between the Executive and Legislative Branches on matters of important substance;

Whereas the interests of the United States are best served by a mutual recognition in a spirit of comity, by the Congress and the Executive, of the importance of close consultation, cooperation and adherence to the constitutional and statutory sharing of responsibility in the conduct of foreign affairs;

Whereas the Administration has stated its unilateral intent that, while the Strategic Arms Limitation negotiations are being completed, the United States intends not to take any action inconsistent with the Interim agreement, provided that the Soviet Union exercises similar restraint; and

Whereas the Administration has expressly represented to Congress that the aforesaid declaration of intent is non-binding and non-obligatory upon the United States, Now, therefore, be it

Resolved, that the President is authorized to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977 and the Senate and the House of Representatives of the United States concur.

Mr. SPARKMAN. Mr. President, this concurrent resolution was approved by the Committee on Foreign Relations at a meeting this morning. It expresses the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments. The resolution expresses the support of the Senate and the House of Representatives for the administration's stated intention not to take any action inconsistent with the provisions of the interim agreement on certain measures with respect to the limitations of strategic offensive arms which expires October 3, 1977, and with the goals of these ongoing negotiations provided that the Soviet Union exercises similar restraint.

The Committee on Foreign Relations decided to approve this resolution upon careful deliberation, which was, of necessity, conducted over a period of several days. Having received word from the executive branch last week of its intention to maintain the status quo, the committee met on Monday afternoon with the Honorable Paul C. Warnke, Director of the Arms Control and Disarmament Agency to review the present state and prospects of the strategic arms limitation talks, and to explore the implications of the administration's stated intention.

I believe that the President has ample

authority to maintain the status quo following the expiration of the international agreement. This resolution merely recognizes and gives congressional endorsement of that fact. I believe that the mutual involvement of the Congress and the executive branch will demonstrate the shared interest in preventing the collapse of strategic arms limitation efforts so that the two sides may have a continued opportunity to proceed expeditiously to achieve broad and comprehensive strategic arms limitation.

The following Senators share my interest in this resolution and, were it not against the rules to add cosponsors to resolutions originally reported, would join as cosponsors of it: Senators CHURCH, CASE, PELL, HUMPHREY, STONE, SARBANES, JAVITS, PEARSON, PERCY, BAKER, GLENN, BYRD of West Virginia, JACKSON, CRANSTON, and WILLIAMS.

Mr. PELL. Mr. President, as chairman of the Foreign Relations Committee's Subcommittee on Arms Control, Oceans and International Environment, I wish to add my support to the concurrent resolution introduced today by Chairman SPARKMAN, I am, in fact, a cosponsor of that resolution.

In this resolution, the Congress would endorse the administration's statement of September 23, declaring the intention of the United States not to take any action inconsistent with the provisions of the SALT I agreement, which expires on October 3, and with the goals of the ongoing SALT II negotiations provided that the Soviet Union exercises similar restraint.

This resolution is the culmination of considerable discussion within the Foreign Relations Committee; between members of the committee and Mr. Paul Warnke, the Director of the Arms Control and Disarmament Agency; and among several interested Members of the Senate, including the leadership on both sides of the aisle.

I believe that it is important that the SALT I agreement not be allowed to lapse without there being some provision for a follow-on approach regarding restraint in the field of strategic nuclear weapons. I also believe that the Congress has an important role to play in such an approach. The administration's statement together with the resolution introduced today accomplish both objectives, and I urge its adoption.

SENATE RESOLUTION 276 AND SENATE RESOLUTION 277—SUBMISSION OF RESOLUTIONS AUTHORIZING CERTAIN PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. RIBICOFF submitted the following resolutions:

S. RES. 276

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process" be printed as a Senate document and that there be printed one thousand five hundred additional copies of such document for the use of the committee.

S. RES. 277

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" be printed as a Senate document and that there be printed one thousand five hundred additional copies of such document for the use of the committee.

SENATE RESOLUTION 278—ORIGINAL RESOLUTION REPORTED RELATING TO CERTAIN EXPENSES OF THE COMMITTEE ON FOREIGN RELATIONS

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 278

Resolved, That, effective September 1, 1977, subsection (b) of Senate Resolution 91, 94th Congress, agreed to March 18 (legislative day March 12), 1975 (as amended by Senate Resolution 459, 94th Congress, agreed to June 24 (legislative day, June 18, 1976), is amended—

(1) by striking out "1976" and inserting in lieu thereof "1977"; and

(2) by striking out "$15,000" and inserting in lieu thereof "$20,000".

(b) Effective October 1, 1977, such subsection is amended—

(1) by striking out "1977" and inserting in lieu thereof "1978"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$25,000".

SENATE RESOLUTION 279—SUBMISSION OF A RESOLUTION RELATING TO UNFAIR COMPETITION BY FOREIGN INDUSTRIES

(Referred to the Committee on Finance.)

Mr. HEINZ (for himself, Mr. RANDOLPH, Mr. GLENN, Mr. METZENBAUM, Mr. BAKER, Mr. SCHWEIKER, Mr. STEVENSON, Mr. ALLEN, Mr. BAYH, Mr. MATHIAS, Mr. LUGAR, Mr. PERCY, and Mr. SARBANES) submitted the following resolution:

S. RES. 279

Whereas, the American steel industry is facing an unprecedented crisis, in the last several weeks having suffered layoffs of more than 12,000 workers;

Whereas, a major contributing factor to the problems facing the American steel industry is the dumping of imports subsidized by foreign governments into this country;

Whereas, such imports have adversely affected the United States balance of payments and have contributed substantially to reduced employment opportunities in the American steel industry;

Whereas, the Department of the Treasury has failed to be sufficiently aggressive in pursuing dumping complaints filed by American industry to their conclusion, thus permitting the continued sale of imported products below cost; and

Whereas, the Office of the Special Trade Representative has failed to resolve a complaint alleging a violation of section 301 of the Trade Act of 1974 by the European Coal and Steel Community and the Japanese Ministry of International Trade and Industry filed on October 6, 1976, by the American Iron and Steel Institute:

Resolved, That the Senate reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

AMENDMENTS SUBMITTED FOR PRINTING

RESIDENCES OF STATE LEGISLATORS—H.R. 4007

AMENDMENT NO. 1408

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (H.R. 4007) to amend the Internal Revenue Code of 1954 to designate the home of a State legislator for income tax purposes, and for other purposes.

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1409

(Ordered to be printed and to lie on the table.)

SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

Mr. NELSON. Mr. President, when the Senate takes up S. 1871—the minimum wage bill—I intend to offer an amendment that will cut the paperwork burden faced by small businesses seeking to give jobs to full-time students under the provisions of the Fair Labor Standards Act.

Under the existing law, our Nation's retail stores, service firms, farms, and institutions of higher education may hire full-time students for up to 20 hours per week and pay them 85 percent of the minimum wage.

The amendment would require the Labor Department to prepare a short application form that would be used by small businesses wishing to participate in the program. The short form, which need be no longer than a standard IBM computer card, would simply require that the employer list his name, address, business, and the proportion of total hours of employment in his business that will go to students—not to exceed 10 percent—and then certify that no students will displace current workers.

This amendment does not make any changes in the program. It does not alter in any way the number of students that are eligible or the number of businesses that can hire them. It doesn't permit anything that businesses can't already do by filing the existing long and complex application.

What it does do is eliminate the unnecessary paperwork of the program that has been thrown up as a barrier to small business participation. It will take a load off the small businessman's back and make it possible for thousands of small businesses to provide jobs to deserving students.

The student hiring program could make a big dent in youth unemployment, but it just isn't working very well.

There are more than 3,200,000 retail and service firms in the United States that could participate in this program. But during the year ending June 1977, only 18,674 of these businesses had applied to the Labor Department to participate. They asked for 144,728 student positions and probably filled only half—or about 75,000—of these.

Only 900 small businesses applied.

Of our Nation's 3,000,000 farms, only 132 applied for 1,025 student jobs.

All told, our businesses were able to create only 75,000 student jobs last year, just a drop in the bucket compared to the more than 1,000,000 full-time students who are looking for part-time jobs and can't find them.

And it is all because of the paperwork burden.

Currently, business firms that want to participate in the program can apply to the Labor Department for a special certificate. For businesses that want to hire no more than four students and do not plan to devote more than 10 percent of their total payroll hours to students, permission is automatically granted when the employer files the current application form. For businesses that desire to hire more than four students or want to devote more than 10 percent of total hours to student employment, the application must first be approved.

It all sounds very easy, until you take a look at the application form. The application form takes up four full pages. It is almost as bad as the income tax form. It requires businesses to compute student employment as a percentage of total employment for a base period which goes back as far as 1961. It requires the completion of a seven-column table with headings that are virtually incomprehensible.

Although small businesses do not have to fill out the entire application, it is impossible to tell what they do have to fill out. The form itself is just too imposing and intimidating.

When a businessman requests the application form, he not only receives the form in quadruplicate, he also receives two pages of incomprehensible single-spaced instructions written in the worst bureaucratese and, to top it all off, a booklet that contains seven pages of Labor Department regulations for the program.

As Mr. Donald F. White, vice president of the American Retail Federation, said of this in a recent letter to the Small Business Committee:

> It is a paper work monstrosity. It is the main reason why most retailers never have taken advantage of this provision in the existing law. The larger stores, with sophisticated personnel and equipment, can handle the necessary documentation; small stores wouldn't touch it with a ten foot pole because of its complications.

What businessman—who needs to keep track of his payroll, supervise his employees, and run his store—wants to wade through seven pages of Government regulations just to hire one or two students? What businessman wants to fill out four pages of computations and documentations to be a good samaritan to young people? The wage savings just do not make up for the added time and trouble.

The average businessman takes one look at the application form and the information package and says "forget it."

Almost 1 million of the young people who are jobless today are full-time students looking for part-time work. These are high school and college students, your children and mine, who need to work after school and on weekends to earn their tuition money, their spending money, and the money they need simply to stay in school. They do not want, and could not handle, the career-oriented full-time jobs sought by adults. They want part-time work to meet their necessary expenses.

Many of these young people could be productively employed by our Nation's small businesses, without taking away adult jobs, under the provisions of the Fair Labor Standards Act.

For these young people, who want and need to work to stay in school, this is a tragic example of what is rapidly becoming the first law of Government—What Congress creates by legislation, the agencies destroy by regulation.

The amendment will simplify the application process for small businesses. Without changing a single provision of the current law, it will make it possible for thousands of small businesses to hire students.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1409

On page 12, between lines 17 and 18, insert the following:

SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

SEC. 5. Section 214 (29 U.S.C. 214) is amended by redesignating subparagraphs (B) and (C) of paragraph (4) of subsection (b) as subparagraphs (C) and (D) respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) To minimize paperwork and encourage small business concerns to employ students under paragraphs (1) and (2), the Secretary by regulations or order shall use the short form application specified in this subparagraph for any employer to employ not to exceed four students under paragraphs (1) and (2) when issuing special certificates under such paragraphs (1) and (2). Each short form application shall only contain provisions—

"(i) listing the name, address and business of the employer;

"(ii) listing the expected proportion of student hours of employment to the total hours of employment of all employees for the employer on a weekly, monthly, or annual basis, which shall not exceed ten percent; and

"(iii) certifying that the employment of such students will not create a substantial probability of reducing the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.".

On page 12, line 19, substitute "Sec. 6." for "Sec. 5.".

On page 12, line 24, strike out "section 4" and insert in lieu theerof "sections 4 and 5".

NOTICES OF HEARINGS

EDUCATIONAL AMENDMENTS OF 1977

Mr. PELL. Mr. President, the Subcommittee on Education, Arts, and Humanities will hold 5 days of hearings on S. 1753, the Education Amendments of 1977.

The hearings will be held on October 4, 1977, in room 4232, Dirksen Senate Office Building; on October 12, 1977, in room 4232, Dirksen Senate Office Building; on October 13, 1977, in room 6202, in the Dirksen Senate Office Building; on October 14, 1977, room 6202, Dirksen Senate Office Building; and on October 20, 1977, in room 4232, Dirksen Senate Office Building. All hearings will begin at 10 a.m.

Persons desiring further information or persons wishing to submit written testimony, should contact Jean Frohlicher, counsel, Subcommittee on Education, Arts, and Humanities, 4230 Dirksen Senate Office Building, Washington, D.C. 20510.

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 11, 1977, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation of the Department of Justice.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

THE BENEFITS OF NATURAL GAS DEREGULATION

Mr. STONE. Mr. President, I support the deregulation of wellhead prices for "new" natural gas because I am convinced that this will provide incentives for increased domestic production of natural gas. Natural gas will continue to be one of the most important energy resources for America. It is imperative that our energy policy encourage the exploration and development of domestic natural gas supplies so that we will not have to increase our dependence on unreliable foreign sources. A recent editorial in the Tallahassee Democrat outlines the benefits Americans can expect from the deregulation of natural gas.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION MAY BRING BIGGER SUPPLY

The South American coffee cartel appears on the verge of breaking up, and it is the world's (mostly the United States) coffee drinkers who are responsible.

The situation offers some lessons our nation should ponder in deciding about control of natural gas pricing and production.

Colombia, the world's second largest grower has urged fellow producing countries to lower prices to attract the average buyer and stop the flight of coffee drinkers to cheaper beverages.

The glory days for the producers of runaway coffee prices are over and latest figures show there will be a probable loss in coffee consumption of 10 to 15 percent. In terms of dollars, that amounts to a loss of more than $1 billion for coffee producers.

The Council of the International Coffee Organization is attempting to hold prices at an agreed to fixed high level, but such action is merely leaving them with a growing sup-

ply of coffee beans and falling sales and income.

Here is the lesson for all Americans, including President Carter. Just as coffee drinkers set the price when the free market is allowed to operate so would fuel users set the price if the government would remove the controls it has imposed.

If natural gas goes to a price that provides producers a higher profit it will also provide an incentive to search for more gas. If it goes to a price most consumers feel is too high there will be incentives to provide cheaper substitutes. And with the development of alternative energy sources much of the strain on our oil and natural gas resources would be removed.

The government through its price control programs got the nation into this mess of an over-dependence on natural gas brought about by artificially low prices. And Carter's energy program, which is really more of a gigantic tax program, will not get us out of it.

If we are to look after our long-range interests rather than an easy to take, but poor, short-range solution, we must bite the bullet today. Reduce government interference as much as possible and at least deregulate the price of new-found supplies of natural gas.

Yes we will pay more for it. President Carter says $150 a year more by 1985. But higher prices will stimulate the search for more gas desposits, plus encourage better utilization of the fuel and development of substitutes.

We can have a bountiful supply of energy or we can buy the Carter plan which promises low prices, but which will also assure less and less gas, with increased dependence on higher priced fuels and the eventual creation of an energy-starved economy. That will cost far more than $150 a year by 1985.

DO WE HAVE RIGHTS TO EVERYTHING?

Mr. GARN. Mr. President, if the Senate can tear itself away from this fascinating debate on natural gas for a moment, I would like to remind Senators that the process of turning our society into a moot courtroom is continuing. Fortunately, some voices are being raised against the notion that there are legal remedies to all our problems, and some of them are raised by lawyers themselves. A recent issue of the Washington Star carried one such voice, that of John C. Houston, a young lawyer recently graduated from the International School of Law. Mr. Houston discusses a number of cases that have recently been decided by the Supreme Court, and finds a healthy trend there, a trend away from too much legalism. While I think his view is a bit optimistic, he has worthwhile things to say, and I hope Senators will take the time to read his remarks. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 24, 1977]

DO WE HAVE "RIGHTS" TO EVERYTHING?

The Supreme Court has recently begun tacking a new course after a string of good decisions which demonstrate that good sense should prevail over non-sense.

As Oliver Wendell Holmes wrote, "The life of the law has not been logic; it has been experience."

After a decade and a half in which the Warren court ventured into the endless sea of making the Constitution the remedy for all the ills known to mankind, the Burger court has returned the court's focus to the proper role of the Constitution.

The primary function of the Constitution is to regulate the affairs of the federal government and to preserve the right of local government. Beyond this the individual rights protected by the Constitution are primarily those which the government had a tendency to infringe.

For example, these protected rights include quartering troops in the homes of private citizens, no government interference with individual religious belief and protection against unreasonable arrests and searches by police.

The Constitution does not protect against personal infringement of these rights, although the 14th Amendment makes them applicable to state and local governments.

The recent Congresses since Lyndon Johnson have aggressively encouraged the poor and minorities through prolific federal spending. Both such political decisions are reversible by public opinion and later congressional action, and do not have the status of eternal constitutional rights.

Inventive lawyers have attempted to stretch the Constitution, already straining to carry the new duties from the Warren court's decisions, totally beyond recognition or reason.

Recently the court heard a case based upon a novel argument by a group of prisoners who claimed that they had a constitutional right to negotiate with parole and prison officials through a union. The court reasoned that convicted felons forfeit many rights that non-felons may enjoy.

While that strikes the average person as an understatement of the obvious, numerous bleeding hearts did not see it that way. The court pointed out that the need for security and discipline in the prison system outweighed the interest of individual freedom of association and expression given the circumstances of being in prison.

Subsequently, the court heard a suit brought against General Electric to require the payment of maternity benefits to mothers as a constitutional right. While motherhood is traditionally safe political turf, it does not follow the Founding Fathers ever envisioned that the Constitution was transferring the cost of having children to the public at large. To have decided that maternity benefits are a constitutional right would have set a dangerous precedent for courts to dictate to private individuals and businesses how they must treat their employees without the intervention of Congress or state legislatures.

More recently, abortion has raised many of the same issues. A federal judge in New York City ordered Congress to pay for the abortions of poor women after Congress had specifically voted not to pay for them. This federal judge went along with the pro-abortion lawyers who cited an alleged Constitutional right to force the federal government to pay for them.

The Supreme Court recently turned down this argument in suits brought to force states to pay for abortions. But the rather grave question is: When did federal judges have the authority to order Congress to do or pay for anything?

The Constitution does not guarantee a middle class life style to all citizens. The 13th Amendment repealing slavery did not repeal all the other circumstances that we are born into.

If we the people are to be taxed to pay for services of any kind, then our elected representatives are the proper and final authority as to the disposition of money. To allow a federal judge to require Congress to appropriate money under Congress' "general welfare" power is to turn the Constitution on its head.

Had the court ruled otherwise, it would have been a death blow at the separation of powers which the Constitution guarantees the three branches of our federal government and is guaranteed therefore to the people.

But more importantly, every judicially created right is the basis of creating additional parallel rights. Therefore, while the need presented could be quite real or valid, the theory that court intervention is based upon is repugnant to the sovereignty of the people to act through their elected representatives.

If we are to relinquish our government to "enlightened" judges, there should at least be some evidence that Congress has relinquished its formal powers to act, or that the populace as a whole wished it to be that way.

In these cases the Burger court has quite rightly marked the limits of personal constitutional rights and excluded mere vicissitudes of life from being the basis of deforming the Constitution.

If such items are to be paid for or allowed, then it is appropriate that the issues be freely argued in and out of the legislature. And when and if Congress or state legislators appropriate money for such things it may be accepted only because our collective consensus has been enacted to authorize it to be so.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MAGNUSON. Mr. President, pursuant to section 302(b) of the Congressional Budget Act I am submitting to the Senate the subdivided amounts the Committee on Commerce, Science, and Transportation has allocated to the various programs within our jurisdiction.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION—REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions]

Function/subfunction categories	Fiscal year 1978			
	Direct spending jurisdiction		Entitlement programs that require appropriation action	
	Budget authority	Outlays	Budget authority	Outlays
150 Payment to Republic of Panama	2	2		
Miscellaneous trust funds	1.6	1.6		
300 Natural resources, environment and energy:				
306 Other natural resources, NOAA—Miscellaneous trust funds	10	10		
400 Commerce and transportation:				
403 Other advancement and regulation of transportation, promote and develop fishery products and research	8	8		
Other miscellaneous funds	.587	.482		
Science and technical research	16	16		
405 Air transportation grants-in-aid for airports	540,000			
406 Water transportation, operating differential subsidies	384,716			
Federal ship financing fund		−19,675		
St. Lawrence Seaway Development Corporation		−2,000		
Other	.562	.559		
Coast Guard retirement pay			157	157
600 Regional rail transportation, protection amounts			50	50
800 General Government, Corps of Engineers, permanent appropriation	5	5		

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement which I delivered yesterday in Chicago.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ERISA

ERISA was a giant step forward in improving our private pension system. There is, however, much that still needs to be done because private pension plans are but one part of our diverse but interrelated system for providing retirement income. What the country urgently needs is an integrated national retirement income system.

A "universe" approach to retirement income is necessary for a number of reasons.

By the end of this century, an unusually large number of retirees will place tremendous pressures on our retirement systems. The increase in the number of retirees is expected because of lower mortality and fertility rates coupled with the maturation of the post war baby boom. A comprehensive approach will be better able to deal with these pressures.

Coordination of policy will also achieve the most effective delivery of benefits by our various retirement systems. Policy decisions on Social Security can negatively impact on private pension plans. Federal, state, local and private pension plans, Social Security, ESOP's, TRASOP's, IRA's and Keogh plans must be viewed as part of the same continuum. Demographic changes and inflation should be viewed as affecting this continuum.

A coordinated policy approach can best anticipate the effects of economic downturns on the providing of retirement income. There is a real danger that crippling disorders in the international economic system will have a debilitating effect on the domestic economy and on the funding of our retirement systems. Economic depression could ultimately cause the termination of many private pension plans and result in claims of potentially staggering unfunded liabilities being addressed to the federal government.

Finally, a national pension policy can deal with the related problems of capital shortages, overconcentration of capital holdings by institutional investors, and employee stock ownership. The large and relatively homogeneous assets of pension trusts inevitably link retirement systems to these issues.

A national retirement income policy would be primarily concerned with assuring retirement income security, but would also facilitate such other important goals as increasing capital formation and expanding employee stock ownership. Retirement income policy is a matter of high priority which deserves creative Presidential and legislative attention. We are working toward a national energy policy, and should be doing the same for retirement income security.

I would like to turn now to those areas which may be of legislative concern within the foreseeable future.

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

My August 4th speech on ERISA served its primary function, that is, to accelerate action on what has been called "ERISA II." Other Members of Congress have since spoken out on ERISA. The press has picked up the coming debate, and different interest groups have formulated their positions. The Department of Labor has recently adopted the portfolio interpretation of the prudent man rule, which was one of the alternatives I suggested.

Beginning on October 11, the Committee on Human Resources Subcommittee on Labor, of which I am the ranking Minority Member, will hold wide-ranging oversight hearings. We hope to hear from the agencies involved with ERISA and from a broad cross section of those involved with employee benefits. These hearings will serve as a prelude to ERISA amendments.

I am also pleased to observe that a consensus appears to be developing in support of the basic idea of my bill, S. 2019. This measure delays for one year the Pension Benefit Guaranty Corporation's (PBGC) mandatory termination insurance coverage of multiemployer plans. The one year delay will give PBGC time to develop a permanent solution to the multiemployer termination problem. The PBGC has indicated that failure to delay the January 1 date could result in the dumping of possibly $350 million in unfunded liabilities on the federal government. Senator Williams has since introduced another bill in this regard, and I am confident that a common approach can be worked out before the end of this session of Congress.

As I indicated in my August speech, I am deeply concerned about the dual jurisdiction problem as well as the lack of policy coordination between the three principal agencies administering ERISA. I have concluded that the Administration approach, which may involve a limited division of jurisdiction between IRS and DOL, may be a satisfactory short-term approach to the problem. I believe, however, that the establishment of an independent SEC-style pension agency—the Pension Security Administration (PSA)—on or about January 1, 1980 is the best long term solution. I understand that the Administration is working toward finalization of its proposal, which may be presented as part of the President's government reorganization program. I urge the Administration to expedite its efforts and be prepared to state its position at our oversight hearings in October.

One suggestion I made in my speech was to establish two federal employee benefit plans to which employers with 25 employees or less could make tax-deductible contributions. The suggestion was aimed at encouraging those small employers who have terminated their plans to contribute once again to their employee's retirement income. The program I envision would be completely voluntary and would possibly be administered by the Small Business Administration. Of course, if there are practical and fair ways of promoting the establishment of small plans without creating a federally-sponsored program, I will certainly be willing to consider them.

Since my August speech, I have come to the conclusion that there are a number of other ideas which merit discussion.

One of these is the modification or elimination of the excise tax on prohibited transactions. It is my understanding that the Internal Revenue Service has not assessed this tax very often and that many view it as an unnecessary and ineffective deterrent. Some practitioners have complained that the automatic nature of the tax makes the settlement of cases very difficult. I am of the view that we should take a hard second look at the justifications for this excise tax.

I also think we in the Congress should study the need for a Pension Claims Review Board. Like the National Labor Relations Board, a Claims Review unit would have authority to investigate, try and decide participant claims relating to Parts 2 and 3 of Title I of ERISA (participation, vesting, benefit accrual and funding). Participants presently may bring court actions regarding such matters, and the Labor Department, if requested by the Treasury or by the participant, may also go to court. With older workers who are generally not well-off, the filing of a suit may not be a realistic means of redress. In addition, the Labor Department may not have the interest or the resources to file suit. A Claims Review Board, which should be a division of the new centralized Pension Security Administration, could provide an expedited, affordable way for retirees to assert their rights. The relationship of arbitration to Claims Review Board procedures should also be thoroughly analyzed.

In addition, I think the definition of "employee pension benefit plan" should be amended so that certain supplemental and severance pay arrangements will not constitute "pension plans." Generally, such arrangements are made on an individual basis, are not required by law, and are not part of a pension plan. Employers should be permitted to continue such beneficial practices without having to comply with ERISA's rules for employee benefit plans.

PENSION REFORM FOR STATE AND LOCAL SYSTEMS

When the Congress passed ERISA, we realized that there were serious problems with state and local pension systems. We excluded governmental plans from Title I, however, because we simply did not have sufficient information on which to act.

Since ERISA's passage in 1974, we have been assembling information on public pension plans. Some time this year, the House Pension Task Force is expected to release the final version of its comprehensive study. The staff of the Senate Human Resources Committee will also release its report in the near future.

Even though these studies may demon-

strate a need for federal legislation, I believe we should not take immediate action on a Public Employee Retirement Income Security Act (PERISA), I still consider the perfecting of ERISA as the highest legislative priority with respect to pensions. There is much that needs to be done with ERISA, and we should finalize the legal framework for private pension plans before we turn to public pension plan regulation.

I also think the states and their subdivisions have started getting their shops in order and should be given the chance to do the job without federal intervention. Over one-half of the states have started comprehensive reviews of their pension systems. In 1976, for example, New York State passed the Coordinated Escalator Retirement Plan. This law provides, among other things, for integration with Social Security and requires employee contributions of 3 percent of salary. It is estimated that these two measures will save approximately $2 billion in the course of the next decade.

In addition, President Carter has announced his intention to establish a blue-ribbon retirement commission which will study public pension systems. It would be very useful to have the input of the commission before we enact a public pension reform law. It is my understanding that the Administration presently views the proposed commission as an ongoing entity which will itself set deadlines for the study of various pension issues. I, for one, am not interested in spending years waiting for the proposals of such a commission, and I recommend that the Administration set reasonable deadlines for the completion of the Commission's studies. If such time limits are not set, I do not think the Congress will delay legislative action indefinitely.

Finally, I am concerned about the implications of The National League of Cities v. Usery which held that the extension of minimum wage coverage to state employees was unconstitutional. The Congress must be extremely wary of imposing responsibilities on the states.

EMPLOYEE STOCK OWNERSHIP

My interest in broadening capital ownership goes back over thirty years. I strongly believe that our free-enterprise system must expand stock ownership, particularly employee stock ownership, if it is to be in accord with modern times. Expanded employee stock ownership is vital for raising necessary capital, attaining adequate productivity, and broadening our people's participation in the stock market. The more workers who have "a piece of the action," the better will be our nation's productivity, and therein is our true national strength.

Over the years, I have found that it is easier to state the general principle than to develop a workable means of achieving it. I have grave doubts about the practicality and prudence of the Employee Stock Ownership Plan (ESOP) and its variant, the Tax Reduction Act Stock Ownership Plan (TRASOP), but one cannot replace something with nothing.

The ESOP and the TRASOP, I feel, discriminate against lower-paid employees because the size of a worker's interest is tied to his compensation. Both plans lack asset diversification, and with respect to the TRASOP, the tying of "Uncle Sam's gift of stock" to the investment tax credit favors workers of capital intensive corporations. As was pointed out in the debates on the Tax Reform Act of 1976, 72 percent of the labor force would receive no benefit from TRASOP's. The average salaries of those who would receive benefits were 20 to 100 percent higher than those who would not.

I shall introduce shortly in this Congress the Employee Stock Ownership Fund Act which Senator Humphrey and I sponsored last year. The bill would amend the National Labor Relations Act to provide a framework for the establishment, by way of collective bargaining, of jointly managed employee stock ownership trust funds. The bill will contain provisions designed to meet my objections to ESOP's. A private pension plan will have to be in effect before such an ESOP is adopted, and no more than 30 percent of the ESOP assets can be invested in the employer's stock. In addition, participant benefits will be fully vested after three years.

My staff and I are working on other possible ways of broadening stock ownership, and as soon as viable approaches are devised, I intend to introduce legislation embodying new ideas.

SOCIAL SECURITY

In recent weeks, the tax-writing committees of Congress have been working on amendments to restore the fiscal soundness of the Social Security system.

Proposals have included raising tax rates, boosting the wage-base, decoupling the automatic benefit adjustment mechanism, and increasing or completely phasing out the present $3,000 earnings limitation.

A House Ways and Means Subcommittee surprised many observers by voting to require Social Security coverage of all Federal, State, and local government employees and to phase out the present Federal retirement system. The Republicans on Ways and Means announced support of gradually advancing—from 65 to 68—the age at which full retirement benefits would be payable. I oppose this last proposal at this time.

These changes will doubtlessly have some effect on the private pension system. Recent studies indicate that rapid expansion of the social security system reduce private savings and adversely affect the growth of the private pension system. Yet, I wonder whether any in-depth analysis was given to the relationship between Social Security amendments and private pension plans. And, of course, the proposal to mandate coverage of all State and Federal employees, which will have far-reaching effects on public pension plans, seems to have sprung up rather quickly.

What I am driving at is that the congressional tax committees' actions regarding Social Security typify Congress' piecemeal approach to retirement income security. Now, in all fairness, retirement income is an intrinsically difficult area, the full magnitude and elements of which are only now coming into focus. I think our experience with ERISA has resulted in a more sophisticated and mature awareness of employee benefit systems and their interrelationships.

As I stated earlier, what we need is a national retirement income policy. This policy should cover the areas regulated by the existing or proposed statutes I have mentioned as well as the Age Discrimination in Employment Act of 1967 (including amendments hereto) and the various statutes on Federal retirement systems.

I should add that the recent GAO study on Federal retirement systems highlights many glaring problems, including large unfunded liabilities and inconsistent provisions from system to system. I agree with the study's conclusion that Congress establish an overall Federal retirement policy and centralize committee jurisdiction over all such Federal programs.

CONCLUSION

In conclusion, I sincerely hope the Carter Administration will give retirement income policy the kind of serious attention it deserves.

The appointment of a Presidential commission to study these matters is a first step. Of course, those of us who have been in Washington for years have seen many a Presidenial study group come and go. In fact, President Kennedy appointed a committee to study retirement income matters back in 1962. Such groups have occasionally been used in the past to delay meaningful change, and we must all see that this does not happen now.

In the energy field, the President has proposed sweeping legislation and has centralized the administration of energy matters into a new agency. I think the President should give similar high priority to retirement policy, particularly regarding centralized administration. In my view, we will not have a meaningful national retirement income policy until we have some such centralized administration.

To this end, I urge the Administration to support my proposal that a new pension agency be targeted for establishment on or about January 1, 1980. Such an agency could administer not only ERISA, but also a PERISA for State and local pension plans, employee stock ownership legislation, Federal pension system statutes, and possibly even the Social Security Act.

Such centralized administration will not solve all our problems but will give us a better chance of developing a reasoned and farsighted approach to retirement income security.

PANAMA CANAL TESTIMONY

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued its hearings today on the Panama Canal Treaties. The witnesses today were the Honorable Brock Adams, Secretary of Transportation, the Honorable Richard N. Cooper, Under Secretary of State for Economic Affairs, the Honorable Anthony M. Solomon, Under Secretary of the Treasury for Monetary Affairs, and Mr. Howard F. Casey, Deputy Assistant Secretary for Maritime Affairs in the Department of Commerce.

I ask unanimous consent that the prepared statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF BROCK ADAMS

Mr. Chairman and Members of the Committee: I am pleased to be here to discuss with you the Panama Canal treaties. I strongly support the ratification of these treaties.

As the Secretary of Transportation, I am concerned about whether the Panama Canal will serve this Nation's short term and long term transportation needs. In the short run, the treaty serves those needs, by settling long standing disputes which could have resulted in conflict hampering Canal traffic and by assuring that the U.S. will continue to manage the Canal for the next 25 years. In the long run the treaty provides a series of mechanisms whereby we can both study needed changes in the Canal to meet increased demands and then build any needed improvements together with Panama.

Decisions concerning the future role of the Canal will depend to a great extent on the demands of the market place. A shipper's decision to use the Canal will depend on the competitiveness of alternative routes and modes of transportation. These alternatives include shipments around the Horn

in supertankers, new oil or slurry pipelines, railroad transport or future "land bridge" or "minibridge" developments.

These market place decisions should be made in a climate of "certainty" regarding that waterway. If potential users of the canal are assured that the canal will continue to be operated efficiently and that its capacity will be increased if economically justified, then the canal has the potential to become an increasingly important transportation link. If not then usage will be uncertain. Ratification of the treaties will provide this assurance.

You have heard testimony from Secretaries Vance and Brown, Ambassadors Linowitz and Bunker, and others on the diplomatic and national defense aspects of these treaties. Today, I would like to speak to the transportation consequences of the treaties before you and in this regard I would like to present to you factual data concerning the use of the existing Canal for commercial shipping. That data is contained in the charts appended to my prepared statement, and I would like now to have that data presented to you by Mr. Edward Scott, Assistant Secretary for Administration, who has been involved in Canal matters affecting the Department.

The treaties permit the United States to retain effective control over Canal operations until the year 2000, when as was highlighted in Mr. Scott's presentation, according to the estimates of most informed observers, traffic through the present lock Canal will be approaching the Canal's capacity.

I think that the time has come to reappraise the future of the Canal and to plan for that future. As Mr. Scott has pointed out, one of the problems of the existing Canal is that supertankers and other large specialty ships are too large to transit the Canal. The treaties give us the capability to address this problem. They commit both the United States and Panama to study the feasibility of a sea-level canal. A sea-level canal could be used by these very large ships. Further, the treaties contemplate the building of any such canal in Panama where our studies suggest it could be most economically constructed.

The treaties further grant the United States the right to construct a third lane of locks beside the present Canal. While there is much debate about the technical wisdom of such an undertaking, a third lane of locks could increase the capacity and extend the useful life of the present Canal. In any event, it is clear that the next 25 years are critical and during that time the United States and Panama must jointly make some very important decisions regarding the future of the Canal.

I believe these treaties create a climate for a technological review that will permit these decisions to be made in an orderly manner. We must take the Canal and its operation out of the political arena and undertake these next 25 years of redirection in a context of mutual respect and cooperation.

So, in summary, it is not solely a question of whether the treaties are good foreign policy or defense initiatives, which I believe they are, but I submit that they are important to the transportation vitality of the present Canal and of any future Canals.

The Department of Transportation will have an important role to play in the examination and evaluation of options for the future development of the Panama Canal. We welcome that challenge and I believe it is one which we will be able to carry out effectively in the context of the treaties which you have before you for ratification. I therefore urge, without qualification, your prompt ratification of the treaties which I believe are consistent with a framework for strengthening the overall fabric of our national transportation system.

I will be pleased to answer any questions you may have.

[Appended charts not printed in the RECORD]

THE PANAMA CANAL
CANAL TRAFFIC

Panama Canal commercial ocean traffic

Fiscal year	Transits	Average ships per day
1915	1,108	3.0
1921	3,371	9.2
1936	6,453	17.6
1951	7,751	21.2
1966	11,925	32.6
1967	12,412	34.0
1968	13,199	36.2
1969	13,146	36.1
1970	13,658	37.4
1971	14,020	38.4
1972	13,766	37.7
1973	13,841	37.9
1974	14,033	38.4
1975	13,609	37.2
1976	12,157	33.3

SOURCE.—Panama Canal Company, Annual Reports.

U.S. oceanborne cargo through Panama Canal

Year	Millions of tons
1958	27.2
1959	28.9
1960	34.8
1961	37.5
1962	40.5
1963	35.5
1964	40.7
1965	44.1
1966	48.6
1967	53.1
1968	57.8
1969	63.9
1970	74.8
1971	77.9
1975	85.6

In 1975, 14% of U.S. oceanborne tonnage passed through Panama Canal.

SOURCES.—Based on Paddleford, Norman J., and Stephen R. Gibbs, *Maritime Commerce and the Future of the Panama Canal*, Cambridge, Md.: Cornell Maritime Press, 1975; and Panama Canal Co., *Annual Report, 1976*.

Major trade routes in Canal traffic

Trade route	1976 Panama Canal [1]	Percent of total [2]
East Coast United States-Asia	40,610	31.8
Europe-West Coast United States/Canada	12,293	9.6
Europe-Asia	9,639	7.5
East Coast United States-West Coast America	8,940	6.9
Europe-West Coast South America	7,206	5.6
U.S. Intercoastal (including Alaska and Hawaii)	5,213	4.0
Europe-Oceania	4,314	3.4
East Coast United States/Canada-Oceania	3,991	3.1
East Coast Canada-Asia	3,777	2.9
South American Intercoastal	3,217	2.5
West Coast South America-West Indies	2,867	2.2
West Coast United States-West Indies	2,556	2.0
Subtotal	104,623	----
All other routes	23,161	18.1
Total	127,784	100

[1] In thousands of tons.
[2] 57.4% of Canal traffic originates or terminates in U.S. ports.

SOURCE.—Panama Canal Co., *Annual Report, 1976*.

Increase in ship size

Fiscal year	Vessels [1]	Percent [2]	Vessels [3]	Percent [2]
1976	3,071	25.0	4,010	32.7
1975	3,120	22.6	4,000	29.0
1974	3,201	22.4	3,843	26.9
1973	2,581	18.1	3,205	22.5
1972	2,085	14.6	2,428	17.1

[1] Vessels of 600-foot length and over.
[2] Percent of total.
[3] Vessels of 80-foot beam and over.

SOURCE.—Panama Canal Co., *Annual Report, 1976*.

FUTURE TRAFFIC PREDICTIONS ALSO SUGGEST CANAL REACHING CAPACITY

Projected canal transits

(All types)

1976 (Actual)	13,201
1980	15,400
1985	16,100
1990	17,600
1995	19,400
2000	21,300
Theoretical canal capacity	26,800

SOURCE.—Based on Paddleford, Norman J., and Stephen R. Gibbs, Maritime Commerce and The Future of the Panama Canal, Cambridge, Maryland: Cornell Martime Press, 1975; and Panama Canal Company, Annual Report, 1976.

CONCLUSIONS

There are decisions that need to be made concerning Canal capacity and size.

Future Canal development needs to take place in context of national transportation plans.

The treaties will provide the framework for rationally addressing these decisions.

STATEMENT BY RICHARD N. COOPER

Mr. Chairman and Members of the Committee: I appreciate the opportunity to discuss with the Committee the plans for improved economic cooperation between the United States and Panama which will complement the process of implementing the new Canal arrangments. The programs that Under Secretary Solomon and I will discuss today are entirely separate and independent from the new treaty, although the idea of having this associated package arose during the last few weeks of the treaty negotiations. Secretary Vance and Ambassadors Bunker

and Linowitz have already described for the Committee the provisions within the Treaty which will provide for Panamanian participation in Canal revenues. The arrangements we discuss today are not directly related to the Canal but, rather, are an expression of our friendship and cooperation with the people of the Republic of Panama and reflect our interest in the economic well being of that country.

As this Committee is aware, the discussion of economic arrangements associated with the Treaty were among the most difficult issues encountered in the negotiations. Panama's negotiators proposed that the United States pay Panama a large initial lump-sum payment and a very sizable annuity, either of which far exceeded the most optimistic estimates of gross Canal revenues. The Panamanian negotiators sought to justify these proposals by assigning high economic value to the economic and security benefits derived by the United States from the Canal, without comparable benefits to Panama. They further suggested that, as a counterpart to United States investment in the Panama Canal, Panama had provided its unique geographic location, much of its prime land and water resources, as well as the labor of its people to the Canal effort. Panama also cited the low remuneration received by Panama under the present treaties and the value to our security interests of the military bases and the new neutrality arrangements. In a more compelling argument, Panama's negotiators maintained that Panama's national priority lies in the rapid social and economic development of its people with wide distribution of the benefits.

Both the economic provisions within the Treaty and the economic arrangements outside it are based on our shared recognition of the special relationship created by the interest in the Canal. Panama's development would serve the interests of the United States by fostering the stability which is the underpinning for an open, safe, efficient and accessible Canal before and after the expiration of the treaty which you are now considering.

Giving the Panamanians a stake in the operation of the Canal makes political and economic sense—it will ensure Panamanian cooperation in the efficient running of the Canal operation while also building broad political support for the enterprise in Panama. The broader program for improved economic cooperation with Panama rests on a similar assumption—that improving the welfare of an increasing number of Panamanians will result in a stable political climate in which the sound administration of the Canal can continue.

As was covered in earlier testimony, for the purposes of the annuity payments in the treaty, the economic provisions in the treaty reflect the United States position that the Canal operating revenues would be the source of financing. The purpose of this formula is to give Panama an equitable share of Canal benefits and assure a vital Panamanian interest in the efficient operation of the Canal.

The arrangements outside the treaty also reflect the perception that Panama and the United States have mutual interests, specifically, in fostering economic development and the well being of the Panamanian people. Since we believe that Panamanian development during the new treaty period could serve as a means of promoting an environment helpful in the operation of the Canal during and after the new treaty period, the United States Negotiators arranged for the Panamanian negotiators to meet with representatives of the Departments of State and Treasury, A.I.D. and the Export-Import Bank to discuss Panama's development needs. Out of these discussions emerged a program which will be undertaken outside the treaty; which will introduce no special assistance devices and which is subject to all applicable procedures under existing programs. Its contents were outlined to the Panamanian Government in the form of a diplomatic note signed by Secretary Vance on September 7, the date of the signing of the two treaties concerning the Panama Canal. I understand that a copy of this diplomatic note has already been provided the Committee.

The note outlines a program, to be undertaken on a best efforts basis, which seeks to enhance Panamanian development with the participation of the private sector in the United States as well as Panama. It is composed of the following elements:

Up to $200 million in Export-Import Bank loans, loan guarantees or insurance over a 5-year period subject to approval by the Bank;

Up to $75 million in A.I.D. Housing Guarantees over a 5-year period; and

A guarantee by the Overseas Private Investment Corporation of $20 million in United States private capital to the Panamanian National Finance Corporation (COFINA) for use in productive projects in the Panamanian private sector.

The Secretary's note of September 7 also proposes issuance of repayment guaranteed under our Foreign Military Sales Program not to exceed $50 million over a 10-year period. This aspect of the program is to assist Panama in assuming its increased responsibility for Canal defense during the new treaty period. It too is designed to further the spirit of cooperation between the two countries. Like the other parts of the program outside the treaty, the Military Sales Program is not a grant to be financed by the American taxpayer. The only appropriations required would be to cover 10 percent of the annual program in the form of deposits in a special reserve account.

Under Secretary Solomon will discuss the Overseas Private Investment Guarantee and the Eximbank program. I would like to expand on the rationale for the A.I.D. housing guarantee program proposed in the Secretary's note.

The purpose of the A.I.D. housing program is to provide housing to lower-to-medium income groups in less developed countries. The program provides a full faith and credit U.S. Government guaranty to private U.S. lenders who make loans for housing projects in less developed countries. The program demonstrates the valuable contribution of private capital and foreign investment to the social and economic development of such countries.

The 5-year program proposed for Panama in the economic cooperation proposal would—as other elements of the package—fit within existing statutory authorization. The guarantee program was proposed in the early 1960's and is designed to be self-sufficient and has not required Congressional appropriations. Total current housing guarantee authority is $1.055 billion. The proposed Panama program would conform to the statutory limitations of $25 million per year to any one country and an average annual face value of $15 million. In other words, we are using existing programs—which are proven tools for furthering U.S. interests in many overseas economic areas—to strengthen Panamanian development and the cooperative relationship between the two countries.

Panama has had several successful A.I.D. housing guarantee projects. To date, A.I.D. has guaranteed a face amount of approximately $26 million in loans. Another $15 million project is now under consideration. This represents an 11-year course of activity involving 8 projects.

* * * * *

The United States and Panama have agreed that the Canal should continue to be operated in an efficient manner and every effort should be made to ensure that the Commission is designed to run in a business-like fashion. This is an important shared interest since the economic provisions of the new treaty as well as the operating cost of the Canal are to be sustained from Canal revenues. The Commission should be structured as a self-sustaining business which would finance the payments to Panama under the treaty as operating expenditures. The Executive Branch will submit to the Congress implementing legislation to the treaty which will execute these requirements.

Finally, I would like to say a few words about the treaty provisions concerning the sea-level Canal. Both Panama and the United States are committed to study jointly the feasibility of such a canal. Any arrangement for the construction of a sea-level canal must be agreeable to both countries. Panama agreed that no third country be permitted to build a sea-level canal in Panama except with our consent. In exchange, Panama asked the United States to agree to limit any sea-level canal construction to Panama. This was an acceptable stipulation—as the Committee is aware—in light of the 1970 study by the Interoceanic Canal Commission which concluded that the two preferred routes for a sea-level canal excavated by conventional means are both in Panama. Again, it appears to us that the interests of both countries are secured by the outcome of the negotiation.

That concludes my statement. I welcome your questions.

STATEMENT BY THE HONORABLE ANTHONY M. SOLOMON

I am pleased to be here to discuss the economic aspects of the Panama Canal Treaty and the economic cooperation arrangements.

You have already heard testimony on the annuity and royalty payments Panama will receive according to the new treaty. My understanding is that these payments represent Panama's share of the benefits from operation of the Canal: they will be paid out of Canal revenues, and not out of U.S. tax revenues. These payments provisions will also serve U.S. interests by enlarging Panama's stake in the secure and efficient operation of the Canal.

In addition to the payments provisions of the treaty, we have extended to Panama, as Under Secretary Cooper has noted, an offer of economic cooperation involving as much as $295 million in U.S. loans, guarantees, and insurance, which I will presently discuss in detail.

The benefits to Panama from the financial provisions of the treaty and the economic cooperation arrangements will be significant and timely. In the decade prior to 1974 Panama's GDP increased at an annual average rate of 7.3 percent. In 1974, however, economic growth abruptly slowed to 2.6 percent, and last year there was no growth. A major cause of Panama's economic slowdown was uncertainty over the future of the Canal, resulting in a marked decrease in private investment (which increased only slightly in 1974 and 1975 and fell by 25 percent in 1976). In addition, worldwide recission, the increase in the price of oil, and the recent decrease in sugar prices also contributed to Panama's large current account deficits.

The Government of Panama attempted to maintain overall investment levels by increasing public investment to offset the decline in private investment. As a result, the central government budget deficit increased from $69 million in 1973 to $122 million in 1976. This, combined with borrowings to finance Panama's current account deficits, caused total public sector debt to rise from $0.6 billion in 1973 to $1.4 billion in 1976.

There is reason, however, for some optimism about the future of Panama's economy. Panama has negotiated two stabilization agreements with the IMF (one last year and one in March 1977), and has taken steps to reduce the government deficit and limit public sector debt. World economy recovery will help to narrow Panama's current account deficit. Above all, the single most important factor in bringing returned vigor to the Panamanian economy will be settlement of the Canal issue, and the resulting restoration of a favorable investment climate in Panama. We expect that, as a consequence, foreign and domestic private investment will rise appreciably, leading to increases in employment, reduced budgetary pressure on the Panamanian government, and improvements in its external accounts.

Panama's new economic program and settlement of the Canal issue are the fundamental requirements for returning Panama to its former path of economic growth. The payments provisions of the new treaty and the economic cooperation arrangements are ancillary to these developments, but we believe they will provide the extra boost to contribute to Panama's long-term economic development.

This is of importance to the United States, in the sense that economic stability and an improved standard of living in Panama will strengthen the ability of Panama to act as our partner in the Canal enterprise, bearing its share of the responsibilities. We have designed arrangements for economic cooperation with this goal in mind, selecting financial assistance programs which are nonconcessional, befitting Panama's stage of development, and directed at meeting Panama's present economic needs for low-income housing and a revived private sector. The U.S. will benefit additionally from these economic arrangements, through participation by U.S. investors and business in the Eximbank, OPIC and housing investment guarantee programs the arrangements entail.

I would now like to turn to the two aspects of the treaty effort in which I had a direct role. Treasury did not directly participate in the treaty negotiations. My contribution was to recommend economic cooperation arrangements, and to provide advice on the financing arrangements for the new Panama Canal Commission.

ECONOMIC COOPERATION ARRANGEMENTS

The proposed economic cooperation arrangements consist of: (1) an offer by the Overseas Private Investment Corporation to guarantee up to $20 million in borrowings in the U.S. capital market by the Panamanian development bank, (2) an offer by the Export-Import Bank to provide up to $200 million in loans, loan guarantees and insurance for individual U.S. export sales over a five-year period; and (3) a pledge by the Administration to consider providing up to $75 million in housing investment guarantees over a five-year period. In addition, we will provide up to $50 million in guarantees over a ten-year period under our Foreign Military Sales program.

These particular arrangements were selected not only for the benefits they are expected to bring to both the U.S. and Panama, but also for the reasonable level of risk they present and their compatibility with the financial assistance programs involved. All of these offers are subject to compliance with legal and managerial requirements, and, as necessary, availability of funds.

The housing guarantee aspect of the economic cooperation arrangements and the FMS offer have been addressed by Under Secretary Cooper.

As for the offer by Eximbank to provide up to $200 million in loans, guarantees and insurance, I would like to point out that the portfolio risk to Eximbank as a result of its offer will be small. With an additional $200 million to Panama over five years, exposure in Panama will amount to less than 1.37 percent of Eximbank's total existing portfolio. Project risk will be controlled in the usual manner, since each transaction will be subject to the normal Eximbank's financial, legal and engineering criteria—including Eximbank's statutory requirement to find a reasonable assurance of repayment.

Once the Canal issue is settled and investment in Panama accelerates, Panama will become an expanding market for U.S. exports. This projected market expansion is expected to give rise to more applications for Eximbank support, and Eximbank has indicated that its business in Panama could well amount to $200 million over the next five years.

A guarantee by the Overseas Private Investment Corporation of $20 million in borrowing by the Panamanian development bank would raise OPIC's exposure in Panama to only 8.5 percent of its total existing portfolio, a reasonable level of portfolio risk. The risk to OPIC will be further reduced by a Government of Panama guarantee. OPIC has also stipulated that its offer to Panama depends on terms being negotiated which are acceptable to the OPIC Board.

This will be the first time OPIC has participated in financing the expansion of a government-owned development bank, although OPIC is permitted to do so by long-standing OPIC Board policy guidelines. The Panamanian development bank, COFINA, is engaged in supporting the development of private enterprises in Panama through project lending. This function is both wholly compatible with OPIC's mission and in accord with our view that it should help strengthen the private sector of Panama's economy.

FUTURE FINANCING OF THE PANAMA CANAL COMMISSION

Turning now to the financial aspects of the Canal operations, an essential point in negotiating the treaty was that any new entity established to operate the Canal must be self-financing over the life of the treaty. Our negotiators made it clear to the Panamanians that any arrangements which did not conform to this principle would not be acceptable to the U.S. I assure you that we will continue to be guided by that principle. The Administration will make every possible effort to see that costs of the Canal operation are contained and that revenues are sufficient to cover liabilities. However, as a normal provision for management flexibility, I feel it is appropriate for the Panama Canal Commission to have the authority to borrow, as does its predecessor agency, the Panama Canal Company. Thus, the Administration will request a continuation of this authority in the implementing legislation.

I believe the following guidelines should be followed by the Commission in its borrowings. First, any borrowing by the Panama Canal Commission should be strictly limited to an amount sufficient to support the Commission's operations. The Commission should not have the authority to borrow for any other purpose, such as the general economic development of Panama. Second, all borrowing should be at a rate of interest equal to the cost of money to the U.S. Treasury for the period of time under consideration. Third, the repayment schedule will be tailored so that all borrowings will be fully repaid before the expiration date of the treaties.

Mr. Chairman, this concludes my formal statement. I will be happy to answer any questions the Committee may have.

STATEMENT OF HOWARD F. CASEY

Mr. Chairman and Members of the Committee, I am Howard F. Casey, Deputy Assistant Secretary of Commerce for Maritime Affairs. I appreciate this opportunity to appear before the Committee on behalf of the Department of Commerce and the Maritime Administration to assist you in your deliberations on the recently signed Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

Our interest in the two treaties relates primarily to the provisions regarding the commercial operation of the Canal and their potential effect on the U.S. Merchant Marine. Although both treaties contain articles that will govern future Canal operations, it is the Panama Canal Treaty that relates most directly and substantially to our concerns.

The Panama Canal has great economic significance for the United States and, in particular, the U.S. Merchant Marine. Indeed, this significance has been increased by the present necessity of shipping Alaskan crude oil through the Canal. Moreover, the Canal is beneficial for our Latin American neighbors and many other nations of the world. The Panama Canal Treaties are evidence of this national and international economic significance. One of their principal purposes is to assure for all nations the uninterrupted use of an efficiently operated canal. Implicit, too, in the treaties is an assurance of reasonable and equitable tolls for users. This assurance is firmly provided by the Panama Canal Treaty until its expiration on December 31, 1999. Until that time, tolls will continue to be established and modified by the United States through a new U.S. Government agency, the Panama Canal Commission. Thereafter, Article III (c) of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal commits the Republic of Panama to the continued establishment of tolls and service charges that are "just, reasonable, equitable and consistent with the principles of international law." Because such conditions, if achieved, can only enhance the value and significance of the Canal for the U.S. Merchant Marine and all other users, we support these treaties.

Of course, the Canal offers significant advantages to vessel operation in terms of time, distance traveled, fuel consumed, and net delivery or laydown capability. Thus, use of the Canal on the Indonesia to U.S. Gulf trade saves 28 percent in distance and steaming time over a trip around Cape Horn. Similarly, the Canal routes from Valdez, Alaska, to the Gulf or from El Segundo, California, to the Gulf save 57 and 67 percent, respectively. The reduced shipping time that the Canal makes possible has resulted in significant reductions in the cost of intercoastal shipments and the size of the U.S. merchant fleet required for their carriage.

Both the U.S.-flag and world merchant fleets rely substantially on the Canal. In FY 1976, over 12,000 transits were made through the Canal by vessels flying the flags of 65 nations. U.S.-flag vessels made over 1,000 of these transits. Of the 117 million tons of commercial cargo transported through the Canal in FY 1976, 78 million tons or 67% were either part of the U.S. foreign or the U.S. domestic trades. This rep-

resents 9.1 percent of total U.S. oceangoing trade, a highly significant portion. Should Canal usage cease to be economically feasible for any reason, the increased costs and shipment times would undoubtedly cause many U.S. and foreign markets to face serious economic hardship. Some markets, such as the U.S. East Coast market for Ecuadorian bananas and Colombian coffee would probably disappear, while other movements such as ores and concentrates from Peru and Chile would tend to be captured by operators of larger vessels. While the loss of such markets might not be significant for U.S. consumers, the net impact on many U.S.-flag operators would be a serious loss of business.

We believe that the advantages of Canal usage to U.S. shipping will be substantial through the remainder of this century. Even though the U.S. and world economies are expected to continue to recover and to expand, Canal capacity is expected to remain adequate through the year 2000. The anticipated increase in traffic will include, at least for the next few years, the transshipment of the West Coast surplus of Alaskan crude oil to the Gulf and East Coasts.

Many of the other nations of the world rely on the Canal relatively much more than does the United States, and that reliance will continue. In 1974, approximately 73 percent of Ecuador's foreign trade and almost half of Peru's transited the Canal. In fact, most Central American and West Coast South American countries rely heavily on the Canal. The Maritime Administration sees this reliance as a stabilizing influence under the new treaties, one which should work toward the continuing availability of the Canal at reasonable toll rates for all nations.

This brings me to what I regard as my principal comment in these hearings.

The chief concern of the Maritime Administration with any change in the status of the Panama Canal centers on those factors which suggest the possibility of increased operating costs and, hence, possible economic hardship for many U.S. ship operators.

The possibility of toll hikes is of course one of those concerns; but above and beyond that is the concern that the Canal remain open and accessible to the many U.S. operators who depend on it. On balance, the Maritime Administration supports the new Panama Canal treaties as far and away the best means to assure this.

Obviously if tolls were to increase too greatly many markets would be hurt severely in much the same manner, if not to the same degree, that they would be if the Canal were completely closed.

But it is not certain what toll increase applied over what period of time would be too great. Under the new Panama Canal Treaty, we are faced with the possibility of an immediate toll hike to cover various provisions for reimbursement to the Republic of Panama, and, under paragraph 4, Article XIII, we are committed to an indexing scheme for further adjustment of payments to Panama after five years and every two years thereafter until the expiration of the treaty on December 31, 1999.

The prospective toll hikes to cover these payments would of course be in addition to the roughly 50 percent effective rate increase that has already taken place since July 1974. The latter did not destroy the markets that I have voiced concern about, and, to the extent that future toll hikes reflect general inflationary pressures, to which all competing markets are subject, U.S. operators will very likely be able to operate under those too.

One way to look at the possible effect of any immediate substantial toll hike is to consider the price elasticity of demand for commodities that are moved through the Canal. The Maritime Administration performed such a study in 1974, and its results were mainly applicable to a short-run outlook. The Department of State, with the Department of the Army, I should note, have recently commissioned a much more comprehensive study which will address the relationship of toll hikes to Canal transits, cargo and revenue in considerable detail. The approach taken in our own earlier study, however, helps to show what the net effect of a toll hike might be. The thread of the analysis is as follows:

The average delivered value of the various commodities of U.S. trade that are moved through the Canal is about $300 per ton. Suppose, to take an extreme case, that the Canal tolls were to be raised 100 percent, that is, from about $1.29 per Canal ton to $2.58 per ton. That would mean that about forty-three hundredths of a percent (0.43%) would be added to the average landed price of a Canal transported commodity. Consider the "price elasticities" of the commodities. Price elasticities are numbers which characterize the marketplace for commodity sales. They usually represent the percentage drop in quantity sold for a given percentage increase in price and are expressed as a constant ratio. A commodity price elasticity of 1.0 for example, would mean that if the price were increased by some percentage, the quantity sold would drop by an equal percentage.

According to a study done at the Maritime Administration a few years ago, the average price elasticity of the commodities that are transported through the Canal in U.S. trade is less than 1.5, meaning that the quantity of those commodities that is actually sold tends to drop by less than 1.5 percent for each 1 percent rise in price. Therefore, if tolls are raised 100 percent, thereby adding 0.43 percent to the average landed cost of a commodity, we can expect a drop in the U.S. tonnage that transits the Canal of under sixty-five hundredths of a percent (0.65%). According to the Panama Canal Company's FY 1976 figures, this translates into a tonnage drop of about 500,000 long tons. Since U.S.-flag shipping carries about 10 percent of U.S. Canal trade, U.S.-flag operators might expect to lose no more than about 50,000 tons of cargo per year overall under a 100 percent toll hike.

Should toll increases immediately following ratification of the new treaties be about 30 percent, as some have suggested, the same line of reasoning would lead us to conclude that U.S.-flag operators would lose less than 15,000 tons of cargo.

The elasticity approach helps us to illustrate arithmetically what we have understood from the start: that tolls do in fact make up only a small part of the total cost to the consumer of Canal-transported commodities, and, given that they are always adjusted to represent the fair economic value of Canal service to general users, their increase will result in only a small loss of cargo overall to ship operators. In fact, the effect on U.S. export and import trade transiting the Canal that I have noted is essentially a short-term effect. All of the economic studies we have reviewed indicate that reductions in tonnages through the Canal, for toll increases approaching 100%, tend to be more than offset over a longer term by increased Canal traffic due to trade growth.

Unfortunately, the elasticity type of analysis doesn't necessarily describe the effect of increased costs on small, differentiated markets. To return to my earlier examples, if toll hikes were to make Ecuadorian bananas and Colombian coffee more costly on the U.S. East Coast than bananas and coffee from other sources—by whatever amount—these markets, far from suffering a mere small percentage decline, would be seriously affected, possibly even destroyed. The total size of these markets is currently about 500,000 long tons per year. Of this, U.S.-flag ships typically carry 20–25 percent or 100,000 to 125,000 long tons. These figures serve to illustrate that smaller segments of a market can be affected to a greater extent than the overall, consumer oriented market analysis might suggest.

Similar economic dislocations can of course occur in any industry or in any part of an industry whenever there is a change in the price or in the pricing structure of a major service to that industry. If the pricing structure is—and remains—reasonable and equitable, however, such dislocations can be minimized.

The principal issue, then, that I see for the U.S. Merchant Marine in the new Canal treaty is the alteration in the pricing structure of Canal services that might be forced by the requirement to make payments to the Republic of Panama out of operating revenues and produced surpluses. Henceforth, if this treaty is ratified, Canal tolls can be expected to change frequently, but with an established regularity and in highly predictable increments. This predictability should help to minimize any possible adverse effects on our industry. In addition, we can look forward to some immediate offsets to the new Panama payments which should help to reduce the amount of any new toll increases needed. I refer again to the transit of Alaskan oil and the increase in revenues that will result. Furthermore, the overall outlook for increased usage of the Canal for all commodity transport promises increased revenues at least through the year 2000.

Given the assurances for the continued availability of the Canal to all users, and the continued practice of establishing reasonable and equitable tolls and service charges, as set forth in both treaties, the risks to the maritime industry appear, on balance, to be minimal and justified. We, therefore, recommend ratification.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer as best I can any questions that you or other members of the Committee may have.

COMPREHENSIVE NATURAL GAS POLICY

Mr. CULVER. Mr. President, for reasons which are obvious to all of us, the Senate debate on natural gas pricing policy has attracted wide attention as an exercise in strategy and parliamentary procedure. Certainly these have been notable elements of the debate.

We must not lose sight of the fact, however, that such parliamentary maneuvers are, at best, tangential to the issues which this legislation addresses. I know that the people of the State of Iowa do not look on S. 2104 as some sort of procedural testing ground.

To Iowans, this is an energy issue. It is an economic issue. It is a consumer issue.

As a Senator from Iowa, I have therefore listened to the debate on S. 2104 with one overriding question in mind: Of the various proposals before the Senate, which one can best provide continued supplies of natural gas at prices which are fair to consumers?

I have concluded that the administration's proposal is the best way of balancing the need to encourage additional energy supplies with the importance of assuring the consumer fair prices for those supplies.

That proposal allows an increase of moderate proportions in the price of natural gas. The increase would be keyed to equivalent prices of competing fuels and would mean approximately a 20 percent rise in natural gas prices under existing conditions. This should provide incentives to producers to explore and develop new fields of gas. Frankly, Mr. President, I am reluctant to vote for a measure which places even this additional burden on consumers, who already have difficulty making ends meet. But I believe that producers should be offered this opportunity to test their repeated claims that price increases will call forth new supplies of this important energy source. Any such incentive needs to be strictly defined. In the past 6 years, the federally regulated price of natural gas has been allowed to rise over 500 percent. In these circumstances, giving producers a blank check for future price increases simply cannot be justified.

What figure would be filled in if a blank check were offered? According to the Congressional Research Service, the cost of the major deregulation proposal, the Pearson-Bentsen amendment, would be an additional $69 billion over the period from 1978–85 when compared to the plan proposed by the administration.

Because Iowa is a heavy user of natural gas, the additional costs would fall particularly heavily on the citizens of our State. According to a study of regional and State impacts of deregulation, Iowans would pay $2.34 billion of the $69 billion total over that same 8-year period. That amount is staggering. It is equivalent to $100 a year for every man, woman, and child in our State. I am told that only one other State would pay more than Iowa per capita under deregulation. Of course, these figures measure only direct costs. The secondary inflationary effects as they ripple through other sectors of the economy cannot be calculated.

I am well aware, Mr. President, that Senators PEARSON and BENTSEN have modified their original deregulation amendment so that some of these costs would be reduced somewhat. It seems to me, however, that the modifications would affect the costs significantly. Deregulation is simply not in the best interest of the citizens of our State.

I do not wish to imply that I am inflexibly opposed to any changes in the administration proposal. This is a complicated issue on which the Senate is fairly evenly divided. I intend to keep an open mind on the merits of proposed changes to the bill before us. But before I support any amendment, I will have to be convinced that it will foster legislation equitable to the people of Iowa.

HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, my office regularly receives letters from from Minnesotans and from people all over the country, in support of Senator HUBERT H. HUMPHREY, expressing warmth and affection for our dedicated colleague. I recently received a note from Mr. Einer H. Tostenson of Minneapolis, enclosing a poem written by Mr. Tostenson, who is 80 years old, about HUBERT H. HUMPHREY. His letter to me said, "I won't get mad at you if you read this poem of mine at rollcall some morning."

Mr. President, I want all of my colleagues to read Mr. Tostenson's thoughts on Senator HUMPHREY, and I ask unanimous consent that "Hubert H. Humphrey," a poem by Einer H. Tostenson, be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

HUBERT H. HUMPHREY

Hubert H. Humphrey—a giant Intellect—
We all have used—his great mind,
A Pharmacy graduate—of Minnesota U—
To him—Politics was a great find.

A South Dakotan—chose Minnesota—
A good state—to work in and live,
His desire to be of service to people—
In Politics—he had something to give.

A great Mayor of renowned Minneapolis—
Left his mark—on that beautiful City,
Voters sent him—to the U.S. Senate—
A place—where he had to be gritty.

To Washington with his Muriel and Family—
His Constituency—the whole USA,
In that great body—found his nitch—
With him good legislation had its way.

His speeches—more than mere orations—
His American English we all understand,
When he travels—all over the Nation—
His messages—always—in demand.

Hubert H. Humphrey—a man of the people—
People world over—call him by name,
Has proven himself—year in year out—
Hubert Humphrey—has won lasting fame.

CANADA AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, our recent negotiations and agreement with the Canadian Government over the construction of the natural gas pipeline once again underscore the exceptionally friendly and cooperative relationship which has existed between our two countries. In fact, in light of the many similarities between our governments and peoples, I often wonder why they were one of the first nations to ratify the Genocide Convention and we will be one of the last.

First, the United States and Canada maintain the longest peaceful and unguarded border in the world. As a matter of fact, our Nation's tendency to minimize the importance of international border disputes is often attributed to the fact that, due to our experiences in North America, we are unable to understand that high tension and saber-rattling are more often the norm. The relaxed attitudes that surround the Canadian-American border are indeed a source of envy.

More importantly, the United States and Canada share a similar economic base and way of life. We both enjoy relaxed trade relations, advanced technology, and the high standard of living that accompanies these blessings. Small wonder, then, that the Canadian people's gift to the United States during last year's bicentennial celebration was a commercial and cultural museum exhibit entitled "Between Friends-Entre Amis".

Finally, the United States and Canada share an abiding commitment to both democracy and the protection of human rights. Here, however, the two countries differ, for although Canada ratified the Genocide Convention only 1 year after its drafting in 1948, we have yet to do so. Although, our failure to ratify the treaty has always been a puzzle to our friends and allies, this is especially true for our neighbors, for probably no nation on earth shares as many similarities with the American people or cooperates as closely with our Government as they.

Mr. President, I commend the Canadians for being one of the first nations to ratify this important convention and urge my colleagues not to let us be the last.

NATIONAL ENERGY CONSERVATION CHALLENGE

Mr. HART. Mr. President, a group of students at Western State College in Gunnison, Colo., have issued the National Energy Conservation Challenge to institutions across the country in an effort to reduce energy waste, and increase "conservation consciousness." This is a volunteer effort by the students of this Colorado college to tackle the energy conservation problem at the grassroots level.

The National Energy Conservation Challenge is aimed at educating Americans to the need for energy conservation, while providing participants insight into the serious energy shortages awaiting us if we continue at our current consumption levels. The concept and forum will be unique for each participant in the challenge, but the common goal and overarching concern is to increase awareness of the energy problems facing us and, more importantly, reduce energy waste.

The National Energy Conservation Challenge was proposed by students on April 7, 1977, and more than 150,000 Americans are now involved. The students have challenged any institution to match or better, reduce its savings in energy from October 1, 1977, through April 30, 1978. This challenge is endorsed by numerous concerned and energy conscious individuals, organizations, government agencies, and businesses across the Nation.

NECC believes a cooperative effort by all Americans is needed to curb our energy waste. A change in our state of mind is the essence of the challenge. And, a conference to study the problem, methods, and results will be held at Western State College in January 1978.

Mr. President, I am pleased that citizens from Colorado have prompted this challenge, and I urge individuals and institutions across the Nation to answer the call for energy conservation and accept the challenge.

Mr. President, I ask unanimous consent that the newsletter be printed in the RECORD.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

NATIONAL ENERGY CONSERVATION CHALLENGE

Widespread national interest in the National Energy Conservation Challenge has prompted the students of Western State College to broaden the aims and invite all institutions, public or private, to join this conservation-consciousness effort. Originally a challenge from the liberal arts college high in the Rockies for any institution to match

its savings in energy from October 1, 1977, through April 30, 1978, we now urge groups anywhere to beat their own previous records, or challenge any comparable institution, in lowering the output of BTU's, kilowatts and gallons.

W.S.C. will serve as a clearinghouse and issue a newsletter for all participating groups. There is no charge for joining NECC; no donations will be asked from paritcipants. If any institution wishes to have its savings rated competitively nation-wide, it should simply figure out its energy output per employee, students, or staff member for the past several years (average), and rate that on the same scale for the output this year. Institutions with already-established programs may use NECC to re-affirm or extend such conservation activities.

NECC is dedicated to the idea that waste is a state of mind, and saving can also be a state of mind. If all Americans can stop using unnecessary lighting, heat, air conditioning and gasoline, the output can be cut 20 per cent. NECC recognizes that there will have to be further energy production to meet the nation's growing needs, but if personal conservation can be instituted, there need not be an energy crisis with its huge disruptions of employment, health, social order, and profits.

NECC is a volunteer effort begun by students and operated by students. It is not sponsored by conservation organizations, energy producers, or government leaders; however, representatives of all of those have endorsed it, and other such groups are invited to do so. We feel the time has come for a cooperative effort by all Americans, conservationists, and energy producers to pull together in the common interest and get along with solving what is an obvious problem. That is the essence of the challenge. A major conference for that purpose is being planned for the W.S.C. campus in mid-January of 1978.

NECC believes saving need not be a Spartan and masochistic denial rite. It can, and should, be fun, free from hassle and nagging. Students, staffs, and employees are urged to work out their own ideas for symbols, shows, and competitions to bring about constant reminders and make saving a habit. While interested in technical experiments and adjustments, NECC is aimed at the state of mind of people. It has proven to be a very morale-boosting and unifying force where programs are already underway. Employees and their supervisors; students, teachers and administrators; men and women; different races; all seem to be able to work together in harmony on this issue.

You have nothing to lose, and everything to gain by joining the NECC movement. Energy savings are also economic savings. This is a concrete action program on the national level; a positive response to the President's request for a volunteer conservation program by the people. NECC is grass-roots.

Become a part of NECC today! People want action, some positive things to do, rather than more talk. We're tired of "they oughta"; we're gonna! Call, write, or wire NECC, WSC, Gunnison, Colorado 81230, now; let us include your institution.

The following telephones are available to receive your calls for any further information. If there is no answer on one, or the line is busy, please call another. We're trying to keep one or another active at all times.

Student Chairman Jim Zulevich: 303-641-3903;

Assistant Chairman Jim Douglas: 303-641-0813;

Faculty Coordinator Abbott Fay: office: 303-943-2039; receptionist: 303-943-2091; home: 303-641-0931;

Student Government Office: 303-943-2185; and

Washington, D.C. Area Volunteer NECC office: 703-860-3697.

Western State is located in Gunnison, Colorado, often the coldest spot in the contiguous 48 states. It is a college of 3,000 students who have been very active in conservation projects, solar energy experiments, and Western water problems. We urge you to join with us and other institutions throughout the nation and become a part of NECC. We believe Americans still have the spirit and strength to solve this problem without severe regulation.

Look around you. Are there any unnecessary lights burning? Turn them off. Then write NECC, W.S.C., Gunnison, Colorado 81230. That's all there is to it!

PRESIDENTIAL COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

Mr. BAYH. Mr. President, I want to take this opportunity to comment briefly on Senate Resolution 271, a resolution which I have joined several of my colleagues in cosponsoring to establish a Presidential Commission on Domestic and International Hunger and Malnutrition. The purpose of this Commission would be to assess, correlate, integrate, recommend, implement, educate, and focus public attention on food and hunger issues in order to develop a cohesive national policy.

What is not needed is another commission to research problems. A large number of private and public agencies have undertaken comprehensive studies to determine the causes of hunger at home and abroad as well as the national and international capability on hand to eliminate the starvation and malnutrition faced every day by 469 million human beings. The task of the Presidential Commission established by Senate Resolution 271 would be to evaluate what has already been done and make specific recommendations within a definite period of time.

Six months from date of its creation the Commission will issue a report outlining goals and at the end of the first year a final report to the President and Congress will be forthcoming containing findings, conclusions, and recommendations for actions. If we act during this session of Congress, we could look forward to reviewing a cohesive and authoritative program supplied by the Commission by the beginning of the next Congress. The Commission would continue to exist for an additional year in order to follow up on its own findings. At the present time, the myriad of reports from a number of authoritative sources each year provides more reading material than most of our schedules can bear.

Freedom from the gnawing pain of hunger is a basic human right. As our own Ambassador to the United Nations Economic and Social Council stated in June of this year, "A human rights foreign policy is necessarily anti-hunger and famine foreign policy." Like our concern about the political and civil liberties which we cherish, we can be no less concerned about developing an appropriate role to assist the developing nations of the world in feeding their own populations. A hungry world is a dangerous world. Despite the healthy spurt in grain production in most of the developed world, food output continues to lag in the developing nations. As one study objective of the Commission, I would like to see a full evaluation made and program proposed as to how American technology can best be utilized to help the nations of the third and fourth worlds help themselves. This question will necessarily involve a judgment as to the appropriate role of population control assistance to hold growth rates at a level that will not defeat increased rates of food production.

The Commission should also evaluate the performance of our domestic programs in terms of the delivery of food services to the underprivileged, the elderly and the institutionally confined.

The nature of the world now requires us to understand how our efforts at home can have a real impact on the success of food policies abroad. I think the establishment of this Commission is an overdue step in that direction and I urge the Senate to approve this legislation before the end of this session of Congress.

TESTIMONY BY THE IOWA CONSERVATION COMMITTEE

Mr. CULVER. Mr. President, on August 3, 1977, the Senate Subcommittee on Resource Protection, which I chair, conducted a hearing on the merits of S. 1140, the Federal Aid in Nongame Wildlife Conservation Act of 1977. Though we recognize the significance of all fish and wildlife species, most fish and wildlife conservation efforts are directed primarily toward game species, and there is little funding specifically earmarked for nongame species—those species which are not hunted, fished, or consumed. The Wildlife Management Institute reported in 1975 that the 36 States which have nongame conservation programs use only 2 percent of their total wildlife budgets for nongame resources.

S. 1140, which I have cosponsored, authorizes $90 million through fiscal year 1980 for a Federal grant-in-aid program for nongame fish and wildlife conservation. It directs the Secretary of the Interior to cooperate with and provide financial assistance to States for nongame species conservation programs. The Secretary may fund up to 75 percent of the cost of approved projects, or, when two or more States are jointly involved, up to 90 percent of such costs.

Numerous local and national conservation organizations testified at the August 3 hearing in support of establishing a separate source of funding for nongame species. Among the witnesses from the various State fish and wildlife agencies at this session was Mrs. Carolyn Lumbard. Speaking on behalf of the Iowa Conservation Commission, Mrs. Lumbard stated that the Commission gives "its wholehearted support to the concepts embodied in S. 1140." She estimated that roughly 85 percent of the 400 vertebrate species in Iowa would be eligible for

funding under S. 1140, and like many other States, Iowa is anxious to participate in a Federal nongame conservation program.

Mr. President, I am very pleased that Mrs. Lumbard could appear before the Resource Protection Subcommittee, and I believe her statement provides valuable insight into the merits of the Federal Aid in Nongame Wildlife Conservation Act of 1977. I commend her remarks to my colleagues and ask unanimous consent to have it and my opening statement from the hearing printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

TESTIMONY SUBMITTED FOR THE RECORD TO THE SUBCOMMITTEE ON RESOURCE PROTECTION OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, BY COMMISSIONER CAROLYN LUMBARD OF THE IOWA CONSERVATION COMMISSION

This statement was approved by the Iowa Conservation Commission at their regular July meeting.

Like many other state wildlife agencies, the Iowa Conservation Commission's fish and wildlife programs are funded exclusively by the sale of hunting, fishing, and trapping licenses and cooperative Pittman-Robertson and Dingle-Johnson programs of the Federal Government. Because of this funding base, most of our efforts in the conservation of nongame fish and wildlife have been coincidental to the management of game species. Programs of land acquisition and habitat development have been beneficial to nongame wildlife but the nongame species were peripheral recipients. To date we have one individual devoting one-third time to nongame wildlife. We recognize the ecological, educational, and aesthetic importance of Iowa's nongame species but thus far have not had financial support for this program.

Passage of S. 1140 would provide Iowa the impetus necessary to pursue an active nongame program. We feel the enactment of this legislation would stimulate the Iowa Legislature to appropriate money for nongame conservation and enhancement, something that has not been accomplished in the past other than in a coincidental manner.

There are approximately 400 different vertebrate species extant in Iowa. Of these about 85 percent are species which meet the definition of nongame as given in S. 1140. It would be our intention to develop a well-rounded nongame program. Basic to this program would be research investigations into distribution, population status, and habitat requirements of selected nongame wildlife. Initially the research efforts would concentrate in the following five areas with the stated goals of determining population status and habitat requirements:

1. To conduct a statewide survey of nongame fish species: 3 years—$300,000.

2. To conduct a statewide survey of reptile and amphibian species and complete detailed studies on two reptilian and two amphibian species: 5 years—$80,000.

3. To conduct in-depth research on six species of native birds other than raptors: 5 years—$175,000.

4. To conduct a statewide survey of summer and winter raptor numbers and complete in-depth research on four species: 5 years—$125,000.

5. To conduct detailed research on ten species of nongame mammals: 5 years—$300,000.

The results of these investigations would provide the basis for habitat acquisition and development, management, and public information and education aspects of the nongame program.

After the initial five years the program would be a better balance of research, habitat acquisition, and public education. The annual cost of the program would be approximately $250,000.

The Iowa Conservation Commission wishes to be recorded as giving its wholehearted support to the concepts embodied in S. 1140. Programs initiated because of the enactment of this legislation may well serve to prevent many wildlife species from becoming endangered in the future. Preventive programs are always desirable.

There is one area in the bill where we respectfully request consideration be given to changing the bill as written. This is in Section 9, entitled Additional Regulations. We have had experience with federal programs that were based on clear, straightforward legislation but were made complex and cumbersome by rules added by the administering federal agency. Many times the rules do not account for conditions in the individual states but are set with a regional or national view. Perhaps this legislation can be safeguarded from these ills by providing clear guidelines for the administering federal agency in the promulgation of rules. Iowa and other states would be glad to assist in the development of such rules. Also, there is no mention in this bill of the life of the proposed nongame program. We recommend that it be a continuing program.

We urge the Committee to proceed vigorously towards enactment of this important and long overdue piece of legislation. Thank you for your attention in this significant matter.

OPENING STATEMENT OF SENATOR JOHN CULVER, CHAIRMAN, SUBCOMMITTEE ON RESOURCE PROTECTION

I want to welcome all of you to this hearing by the Senate Subcommittee on Resource Protection on S. 1140, the Federal Aid in Nongame Fish and Wildlife Act. As you may know, this legislation was introduced by Senator Hart and cosponsored by several other members of this subcommittee.

Traditionally, most fish and wildlife conservation programs have been directed primarily toward game species. Since Earth Day in 1970, however, we have begun to recognize the importance of all fish and wildlife species and the need to manage each species as an integral and interrelated component of our ecosystem. Yet, despite the wide acceptance of this concept, most fish and wildlife conservation programs are still devoted primarily to a minority of domestic species—game animals.

According to a 1975 report by the Wildlife Management Institute, the 36 States which have nongame conservation efforts use only 2 percent of their total wildlife budgets for nongame species. The problem is not a lack of willingness to conserve nongame species—those species which are not hunted, fished, or used for other consumptive purposes—but a lack of funding to institute such programs.

Established funding sources generally place a tax on consumptive users of wildlife—for instance, hunting and fishing licenses and excise taxes on hunting equipment States question—and rightly so—the equity of using this income for nongame programs. Accordingly, in its 1975 study the Wildlife Management Institute recommended that a "nongame fish and wildlife Federal matching grant-in-aid program be authorized by the Congress . . ."

This is the purpose of S. 1140. The bill recognizes the need to conserve nongame fish and wildlife by directing the Secretary of the Interior, acting through the United States Fish and Wildlife Service, to cooperate with and provide financial assistance to States for nongame species conservation programs. Such programs may be in the form of a long-term, comprehensive management plan or specific nongame conservation projects. Eligible projects might incude, for instance, habitat acquisition and modification; research, educational, and interpretive programs; and law enforcement activities. The Secretary may fund up to 75 percent of the cost of approved plans and projects, or, when two or more States are jointly involved, up to 90 percent of such costs. A total of $90 million would be authorized through fiscal year (FY) 1980.

Responsibility for the conservation of nongame wildlife should not be limited only to the States. Therefore, S. 1140 directs all Federal land management agencies to determine whether their programs can be reasonably modified to include nongame wildlife conservation. These agencies are also authorized to enter into cooperative agreements with Statese to carry out these programs.

The concept of this legislation has received overwhelming support from the conservation community, the States and the administration. I am pleased to note that my own State of Iowa has placed a high priority on nongame wildlife conservation and believes that a Federal grant-in-aid program would provide the necessary incentives in this area. Mrs. Carolyn Lumbard, who is a member of the Iowa Conservation Commission, will testify today about the urgent need for a nongame wildlife cost-sharing approach.

However, there are several aspects of S. 1140 which must be fully examined before the subcommittee takes final action, and we expect to have a thorough discussion of these points this morning. For instance, opinions are varied as to how a Federal grants-in-aid program should be financed: whether by general authorization as in the legislation before us today; by an excise tax on certain outdoor recreational and hunting equipment; or through existing Federal-aid conservation programs. Another consideration involves exactly which species should be covered under the program. Should there be greater emphasis on urban wildlife? Should the program be restricted only to native species? Hopefully, the testimony presented this morning will provide the subcommittee with answers to these questions.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 27, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on

Foreign Relations, room S-116 in the Capitol.

Mr. President, I ask unanimous consent to have the notification printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 27, 1977.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

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I wish to inform Members of the Senate that such a notification was received on September 30, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

Mr. President, I ask unanimous consent to have the notification printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

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The Department of State is considering an offer to a Near Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

FEDERAL GOVERNMENT ACCESS FOR THE DEAF

Mr. WEICKER. Mr. President, in the United States there are over 13 million people with severe or total hearing loss. More people suffer from it than heart disease, cancer, blindness, tuberculosis, venereal disease, multiple sclerosis and kidney disease put together. At least 1 out of every 10 Americans is affected according to the National Institute of Health.

Members of this enormous community are able to communicate over ordinary telephone lines through the use of a telegraph device called a TTY. They "speak" back and forth by typing on a keyboard which prints on a similar device at the other end of the telephone. There are over 20,000 TTY's in use around the United States and that number is increasing rapidly. Federal, State and local agencies and organizations have begun installing them to better serve their deaf constituents. Yet while hundreds of thousands of deaf people have instant access to TTY's, we, their elected representatives, cannot communicate with them nor can they communicate with us.

When a hearing person has a pressing problem, question, or request concerning the Federal Government, he can pick up the telephone and call the district office of his Senator or Representative. The deaf must commit their thoughts to paper and wait days, perhaps even weeks, for a reply. Often it is then too late.

Government must be accessible to all its citizens. I firmly believe the deaf community should be able to contact their elected representatives as quickly and easily as everyone else. We have the responsibility to help them.

The Legislative Branch Appropriations Act of 1978 provides for the installation of TTY's in the Capitol to receive messages from deaf people that will then be relayed to whichever Senator or Representative they designate. This is wholly inadequate for several reasons:

First, no legislative provisions have been made for the installation of either incoming or outgoing WATS lines. According to a test conducted by Representative PAUL FINDLEY and reported in the RECORD earlier this month, a TTY phone call can take at least two to four times longer to complete than the same spoken conversation. Without WATS lines the cost of placing frequent telephone calls would be prohibitive to a congressional office and impossible for a constituent.

Second and most importantly, the TTY system as approved would completely disrupt normal congressional operations. The deaf would have to dial a special number and leave a message for a congressional office to call back. A staff member would then have to walk to the communications center and place the phone call away from all his or her office resources. Return phone calls would often be necessary. If our deaf constituents call at the same rate as everyone else, staffers will be running to the communications center all day long. This clearly unacceptable burden might preclude a member from even offering the service to his constituency. It makes as little sense as installing several telephones in the Capitol and pulling the rest out of every office. Mr. President, it just does not have to be that way.

For that reason I have today instructed my staff to install TTY's in both my Bridgeport and Hartford State offices. These devices take up approximately the same room as a desk calculator, weigh about 3 pounds and cost less than an office typewriter. Deaf constituents will be able to call in on my local and WATS telephone lines and communicate with the same people and receive the same service as everyone else.

Careful usage records will be kept and I plan to report back to my colleagues with the results at the end of a 6-month test period. If things go as I expect, I will urge the Senate Committee on Rules and Administration to make these TTY units available to all Senators upon request and I invite any interested member to contact my office for further information on the project.

The deaf have the right to be a normal functioning part of society. They are doing their part, now let's do ours.

I ask unanimous consent that two articles concerning the history and applications of the TTY be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the American Banker, Dec. 3, 1975]

HARTFORD NB OFFERS IN-HOME HOOKUP FOR DEAF

HARTFORD, CONN.—Connecticut residents who are deaf or have a hearing impairment are being offered a service by the $1.5 billion-deposit Hartford National Bank & Trust Co., which allows customers to ask questions about their accounts from their own homes by a teletype link-up with the bank.

Hearing-impaired individuals often find it difficult or impossible to use a telephone for inquiries of any sort and are frequently dependent on a third party to handle routine banking question, said Walter A. Morrissey, senior vice president and manager of consumer banking. By teletyping inquiries either from their own homes or from a center for deaf people, the individual can be assured of accuracy, speed and privacy.

Mr. Morrissey said Hartford National believes that there is a real need for this service, and stressed that it is not an advertising gimmick. Both he and William Taylor of the customer service department said there are no plans for a hard marketing campaign.

According to Mr. Morrissey, telephone company estimates show that there are approximately 38,000 deaf and hearing-impaired people in the state of Connecticut; 15 percent are located in the greater Hartford area, he said.

The teletype system at Hartford National, Mr. Morrissey explained, was installed with the cooperation of the Converse Communications Center, a Hartford-based, nonprofit organization which transmits messages for the deaf. Teletype machines are donated by Western Union Corp. and reconditioned by Converse.

Mr. Morrissey said that the idea for the service originally came from Converse, which approached the bank and explained that other businesses offer similar services to deaf customers, and suggested that there was a market which the bank might reach. The bank officer said the Hartford National looked into the suggestion and found it to be a "worthwhile effort. We felt that it made a lot of sense," he stated. Teletype-banking for the hearing impaired is a good project for any business to get into, he said, and noted that G. Fox, a Hartford department store, offers a similar service for its customers, whereby they can teletype-in an order for merchandise just as people with normal hearing can call in orders.

The bank's teletype has been operating two to three weeks, Mr. Morrissey said. He said the bank will shortly send letters to families with hearing-impaired members, notifying them of the Hartford National Bank service. The consumer banking manager said that the bank has already received approximately 25 inquiries about the service, from people who have seen advertisements about it in the Hartford newspapers.

Hartford National B&T said that to use the service, the customer calls the bank's special number for the teletype inquiry, 728-4600. The bank will respond immediately that the transmission has been received and will supply any information requested, including consumer loans, Master Charge and checking credit. Data on checking and savings accounts are available, a bank spokesman said, although a slight delay is involved. If the question posed cannot be answered within a few minutes, the bank will contact the customer by teletype as soon as possible.

There is no charge to the customer for the service, Mr. Morrissey said. He explained that although inquiries are initiated by the customer, the system utilizes normal telephone lines and each "call" is paid for by the bank. The only expense which the customer realizes is the one-time installation charge for the teletype, if he chooses to have one in his home. The price is approximately $300.

In addition to the Hartford National service, deaf individuals can also receive newscasts, weather reports, schedules of events for the deaf and other services, all provided by Converse Communications Center.

Services like the Hartford one are really needed, according to Barbara Olmert, a supervisor of publications for the National Association of the Deaf, Silver Spring, Md. Citing a 1974 study undertaken by the National Census of the Deaf, she said that nationally, there are 13,362,842 hearing impaired Americans, 1,767,046 deaf individuals and 410,522 prevocationally deaf people, which are those who were deaf before the age of 19.

[From the Los Angeles Times, Dec. 7, 1975]

LINKED TO PHONES: TELETYPE CONNECTION PUTS THE DEAF IN TOUCH

(By Charles Hillinger)

A Pasadena dentist who has never heard a spoken word has made it possible for 14,000 deaf people to carry on conversations over the telephone.

Dr. James C. Marsters inspired the development of a communications system that combines the telephone with the teletypewriter machine.

Deaf persons "talk" to one another by punching teletypewriter keys. Their messages are carried back and forth from one teletypewriter to another via the telephone.

An orthodontist, Marsters, 51, is but one of three totally deaf persons in this country ever to become a dentist.

Since birth he has lived in a world of complete silence. Yet, like many born without hearing, he has learned to master speech, using in daily conversation, words he has never heard himself or others utter. He "hears" others by lipreading.

"A telephone for those deprived of hearing is often a matter of life and death," Marsters explains.

"Imagine waking up at 2 in the morning and finding your wife having a heart attack. You are deaf. You run to a neighbor and start pounding on his door.

"The neighbor has no idea who's at the door. He shouts out—'Who is it? Who is it?' You can't hear him, you don't answer. He doesn't open the door. He doesn't know who it is.

"What do you do? You are stuck.

"Multiply that by 1,000 times. It gets serious. You can't reach out when there's a need to reach out."

In 1963, Marsters sought out Robert Weitbrecht, a deaf astronomer and electronics engineer.

"I was so frustrated trying to use the telephone," recalled the dentist. "I had heard of Bob Weitbrecht's expertise in electronics. So I flew up to San Francisco to talk with him and see if we could come up with a telephone for the deaf.

"We worked together for months and finally came up with the equipment we now have after researching many different ways of accomplishing what we set out to do.

"Teletype machines were being phased out by the telephone companies, Western Union and other firms and being replaced with computers. We found a way to put the Teletype machines to work for the deaf.

"Combining the Teletype machine and the telephone seemed to be the most practical and economic way to enable the deaf to use the normal telephone."

The two men formed an all-deaf-owned and operated company, Applied Communications Corp. (Apcom), headquartered in Belmont in the San Francisco Bay area. Marsters is president and Weitbrecht is vice president of research and development. Out of their research came the Phonetype, a device that converts telephone signals into teletypewriter signals and vice versa.

When the phone rings in the home or office of a deaf person with a teletypewriter machine and Phonetype, lights go on and off.

If the person is both blind and deaf, fans go on. The deaf-blind person uses a Braille teletypewriter.

When the phone is lifted off its cradle and placed on a recess in the Phonetype—a small black box—the teletypewriter is activated.

Then a message from the caller begins to appear on the receiver's teletypewriter. The message is punched out by the caller.

The person receiving the message responds by punching out his message on his teletype teletypewriter keyboard. And the conversation goes back and forth throughout the length of the call.

In 1968 the Marsters-Weitbrecht project was given a boost when American Telephone & Telegraph Co. agreed to donate surplus teletypewriter machines to deaf people through the Alexander Graham Bell Assn. for the Deaf, Inc. (Alexander Graham Bell's wife was deaf.)

That same year Marsters and Weitbrecht along with others from the National Assn. of the Deaf and the Alexander Graham Bell Assn. for the Deaf formed Teletypewriters for the Deaf, Inc. (TDI), a nonprofit organization.

TDI buys teletypewriters, and receives donated ones. TDI and Apcom work together to place teletypewriters and Phonetypes in homes of the deaf.

It costs a deaf person $100 to have the teletypewriters brought to top working condition, delivered and installed, and $155 for the Phonetype. The deaf person becomes sole owner of the equipment.

Across the nation 130 deaf people serve as agents for Apcom and TDI. They pick up the used teletypewriters, and the Phonetype devices.

Neither Marsters nor Andrew Saks, operating vice president of Apcom and a member of the Saks 5th Avenue family, has ever received any compensation from the firm they head. Saks is also deaf.

Teletypewriters for the Deaf published its first directory of people with teletypes and Phonetypes in 1968. There were 174 listings.

Today the directory carries more than 14,000 listings including an international network of telephones for the deaf with teletype and Phonetype equipment now in use in South Africa, Canada, Sweden, the Philippines, New Zealand, Australia, Switzerland and England.

ARTS GRANTS AND OUTRAGE

Mr. LEAHY. Mr. President, the Senator from Wisconsin gives a monthly "Golden Fleece" award for the biggest, most ironic, or most ridiculous example of wasteful Government spending he has detected during each month.

I am a strong supporter of the arts, and of the National Endowment for the Arts in particular. However, I must admit that a recent article by the noted syndicated writer, James J. Kilpatrick, regarding Senator PROXMIRE's most recent Fleece Award struck a chord in me, and I believe it would be of interest to my colleagues and the general public. Therefore, I ask unanimous consent that this item be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 15, 1977]

ARTS GRANTS AND OUTRAGE

(By James J. Kilpatrick)

Senator William Proxmire of Wisconsin, our town's leading practitioner of the gadfly profession, sank his teeth last week in the National Endowment for the Arts. In the process, he once again raised a fundamental issue of constitutional government.

The senator was upset—justifiably so—at the award of $6,025 in tax funds to Le Ann Wilchusky of Pittsburgh. The award financed the production of a 20-minute film depicting, in part, the dropping of crepe paper from two small planes. In times past, though not at public expense, the same artist has dropped bouquets of plastic streamers, tire rubber, and even 35 rolls of toilet paper from airplanes.

The National Endowment for the Arts, in the year of this remarkable award, was financed chiefly by $82 million in tax funds. Most of this was paid out in federal-state partnership programs, and in large grants to museums, orchestras and public bodies. But the foundation also made 1,107 individual grants in fiscal '76 amounting to $4,863,000. These went, by way of example, to 78 poets, 45 novelists, 26 playwrights, and to whole flocks of artists, sculptors, printmakers, photographers, and even to 24 art critics.

The grant to Ms. Wilchusky came under the category of Public Media, Programming in the Arts. Such grants are intended "to encourage quality programming on film, television and radio." When Senator Proxmire complained to Nancy Hanks, chairman of the Arts Endowment, she amplified this explanation. Such films as the Wilchusky film, she said, are designed "to document an event designed to alter an audience's immediate environment for a short period of time."

This was how the taxpayers had their immediate environment altered for a short period of time: Ms. Wilchusky spent $1,424 on air fare and lodging for herself and her husband for a week's stay on the resort island of St. Maarten in the Caribbean. This was in February 1976, when things were a little bleak in Pittsburgh. Ms. Wilchusky told Proxmire's staff that she needed to go to St. Maarten in order to film one of the environments that had influenced her development as an artist. Her husband served as cameraman. The finished film shows various scenes of the artist posing in St. Maarten.

In August 1976, the artist, her husband, two sky divers and two of her children assembled in El Paso. They spent $1,713 for travel expenses on this venture. While the children stayed on the ground, the others went aloft. The sky divers then unreeled four rolls of crepe paper as they fell toward the ground. The camera whirred away. The artist told Proxmire's staff that her work calls attention to the higher spirit of mankind and the coming era of peace and harmony on earth.

A spokesperson at the foundation further explained that transitory works of art, such as this one, are as creative in their way as objects made of clay or bronze or stone. It is, she said, kind of like filming a fireworks show.

The $6,025, said Proxmire, represented the total annual taxes paid by a factory worker in Milwaukee, a cleaning woman in Madison and a dairy farmer in Marathon County, Wis. Proxmire termed the award "an outrage."

This sort of thing is indeed outrageous, but such payments from public funds also raise grave questions under the Constitution. Where is the authority for this nonsense? Even if the general welfare clause is cited, it is absurd to contend that grants to individual artists and writers are for the general welfare. Such grants smack of monarchical largesses, of purses bestowed by wealthy patrons to their proteges.

Forget the Wilchusky film. What of these 7[illegible] poets and 45 novelists? For every poet who received a $6,000 fellowship, it is a fair assumption that ten applicants were turned down. The 19 members of the advisory panel on literature simply gave away public funds on their subjective judgment of the applicants' talent.

A few years back, the foundation paid our tax money for a poem that read, more or less in full, "lligghhhttt!" I would like six grand, if you please, for my own poem of protest: "Arrggghhh!"

THE FILIBUSTER AS A USEFUL PUBLIC INSTRUMENT

Mr. McGOVERN. Mr. President, I ask unanimous consent that an editorial on the filibuster in today's Baltimore Sun be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ON FILIBUSTERS

"They feel very deeply about it. They shouldn't be criticized." So said Senator Strom Thurmond, record-holder for the longest speech in Senate history, as he observed this week's filibuster over natural gas deregulation. The *they* in this instance were two dedicated Senate liberals, James Abourezk and Howard Metzenbaum, who can be counted to be on opposite sides from Mr. Thurmond on most issues. They were on this one. While the conservative Mr. Thurmond was all for ejecting government from the business of controlling natural gas prices, Messrs. Abourezk and Metzenbaum were passionately for it lest the public be "ripped off."

And so, in the great tradition of senators trying to avoid sure defeat on a floor vote, they decided to filibuster. They went beyond Thurmond-like marathon speeches, a tactic somewhat undermined by recent rule changes requiring only a three-fifths instead of a two-thirds majority to close off debate. Rather, they introduced a huge number of amendments, more than 500 of them, each requiring a roll call averaging 40 minutes. This soon forced the Senate into its first all-night session in thirteen years, with scenes reminiscent of an old movie; army cots in anterooms, senators in stocking feet, some as bleary-eyed as James Stewart playing "Mr. Smith Goes to Washington." What's more, the filibuster may have partially achieved its objective. Instead of total deregulation, the Senate may yet adopt a compromise that would retain price controls, though at substantially higher levels.

The Abourezk-Metzenbaum effort is an instructive reminder that the filibuster can be a valuable protection to those with minority views on any number of questions. While government in as diversified a country as the United Sttaes must of necessity seek consensus near the ever-shifting political center, issues do come along on which minority views are passionately held. Whether these views are left or right, or wrong or right, is beside the point. If the Senate is to remain a bastion of free speech, those with unpopular minority views must remain free to bring their positions dramatically to the attention of the country. This does not mean total obstruction. But it can and should mean delay and discomfort if that is the price that must be paid to halt government by majority steamroller.

This newspaper was never convinced that Southerners were correct in opposing the great civil rights bills of the Kennedy-Johnson era. It is not convinced that Senators Abourezk and Metzenbaum are wholly correct in opposing gas deregulation. But it is convinced that the essence of American free government will be preserved only so long as the Thurmonds and the Abourezks can have their days—and nights—on the floor of the United States Senate.

DENNIS C. WALKER: VA'S OUTSTANDING HANDICAPPED EMPLOYEE—1977

Mr. CHURCH. Mr. President, the citizens of Idaho, and especially the city of Boise, are very proud that Dennis C. Walker of the Boise Veterans Administration Regional Office will receive one of the Outstanding Handicapped Federal Employees of the Year Awards from First Lady Rosalynn Carter on October 6.

Mr. Walker's story is one of courage, determination and pride. I offer it as an inspiration to all persons and a salute to the accomplishments of this young man.

The 30-year-old veteran was a member of "A" Company, 116th Combat Engineers of the Idaho National Guard. The unit was activated for combat in Vietnam in May 1968, one of only two Reserve units to be so activated during the entire war. Upon arrival in South Vietnam, the 116th was immediately committed to a battle in the central highlands. While engaged in direct combat, Walker was gravely wounded on January 11, 1969. The result was instant and permanent blindness from shrapnel wounds to his eyes and multiple wounds to his chest, back, arms, and face.

After a year of hospitalization, Walker, who was awarded the Bronze Star and the Purple Heart, went to the VA Blind Rehabilitation Center in Palo Alto, Calif., for a 26-week course. He completed the course in 3 months.

He enrolled in Ricks College in Rexburg, Idaho; then transferred to Boise State University where he graduated in 1974 with a degree in business administration with an average grade of 3.6.

On July 1, 1974, Walker became the first blinded Vietnam veteran appointed as a veterans benefits counsellor in the VA. He attained this position with the Boise regional office through his own efforts and by receiving the maximum score in a highly competitive Federal service entrance examination.

A detailed account of Walker's duties and responsibilities in an average day would be voluminous. As a veterans benefits counselor, he must be fully familiar with the full range of benefits and services for veterans and their dependents. He handles these demanding tasks by telephone and by personal interviews. At times, he works as a veterans representative on campus at his alma mater.

In 1975 Walker volunteered and was selected to be an instructor in a VA pilot project to train blinded veterans as veterans benefits counsellors. He received a VA commendation for his outstanding performance.

Mr. President, one of the unsung functions of a legislator is the constituent service provided as a liaison between the individual and government agencies. It is easy for me to understand why the VA would want Dennis Walker to help train others and to commend him for his efforts because of the excellent assistance he has offered to our fellow Idahoans who have been referred to him after being in contact with me on problems they had encountered with the VA.

I can well remember the first such occasion. A call was placed to the Boise VA about a constituent's problem, and another employee said, "Let me give this matter to a new employee. He is a blind Vietnam veteran, and he is doing an outstanding job. I know he can be helpful to you." The obvious pride and pleasure that his fellow employees had in having him on board was manifest, and I was delighted with his efforts.

Dennis Walker is an example of one of the most striking phenomena of recent years, the increasing self-reliance and independent spirit displayed by the handicapped. He is a cheerful, bouyant man with an exuberant outlook on life. Recently, in bestowing on him one of the VA's highest awards, Max Clelland, the VA Administrator, said of Dennis Walker: "His determination and spirit in overcoming his handicap stand as an inspiration to all handicapped persons and a wonderful example of what can be achieved in spite of heavy odds." I wish to add my personal congratulations to him, and my thanks.

QUARTERLY REPORT REQUIREMENTS FROM CANDIDATES FOR FEDERAL OFFICE AND POLITICAL COMMITTEES

Mr. ROBERT C. BYRD. Mr. President, the Federal Election Campaign Act requires that quarterly reports from candidates for Federal office and political committees must be filed on April 10, July 10, October 10, and January 31.

The Secretary of the Senate's Office of Public Records will be open Monday, October 10, 1977 from 8 a.m. to 6 p.m. to receive the October 10 quarterly filings of reports and statements as required by that act and the Federal Regulation of Lobbying Act. The Public Records Office is located in room A-623, 119 D Street NE., Washington, D.C. Reports submitted after the close of business may be placed in a clearly identifiable depository located in the lobby of that building. Additional information may be obtained from that office at (202) 224-0322.

REPORT REQUIREMENTS BY ANY SENATOR WHO MAINTAINS AN "OFFICE ACCOUNT"

Mr. ROBERT C. BYRD. Mr. President, pursuant to rules and regulations promulgated by the Federal Election Commission under the authority of the Federal Election Campaign Act, any Senator who maintains an "office account" is required to file a report with the Secretary of the Senate on April 15 and October 15 of each year. As defined in part 113 of the rules and regulations, an "office account" means "an account established for the purpose of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated . . ."

The report should be filed with the Secretary of the Senate's Office of Public Records, 119 D Street NE., room A-623, Washington, D.C. 20510. That office will be open to receive such reports on Saturday, October 15th from 9 a.m. until 5 p.m. Reports submitted after the close of business may be placed in a clearly identified depository located in the lobby of that building. Additional information may be obtained from that office at (202) 224-0322.

THE HUMAN DIMENSION OF DEREGULATION

Mr. KENNEDY. Mr. President, as we stand here hour after hour debating various amendments to the natural gas bill, it may be that some of us lose sight of the human dimensions of what we are considering. Last night on NBC News, Tom Petit had a report on what the impact of the various plans now under consideration would be on the average American.

I think that his report lends some human perspective to our debate and is well worth considering. We are not, as he points out, just debating the price of natural gas. We are also debating, quite literally, the price of bread for our people.

I ask unanimous consent that a transcript of Tom Petit's report be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

Nobody seems to know exactly how people will be affected by natural gas bills. But as an example, take the price of bread. It takes a lot of gas to bake bread. It takes billions of cubic feet a year. Under the Carter plan by 1985 the national bread bill would increase $27.5 million a year. Under the Jackson plan about the same or more. Complete deregulation: 1985 bread prices up $38.5 million. Just for baking bread with no inflation figured in. These estimates are by consumer advocates. The gas industry said it didn't know.

As for heating, St. Louis is considered the average American city with an average gas heating bill of $260 a year. By 1985 under the Carter plan it would go up to about $300 a year. Under the Jackson plan about $350 a year. Complete deregulation: about $455 a year. Those figures are from congressional sources and do not include an inflation factor.

All three proposals would raise prices which is why some Senators talk of a compromise which would be to change nothing at all, including prices.

A RESPONSE TO THE BURGER COURT

Mr. MATHIAS. Mr. President, over the past 2 years the Supreme Court has handed down a perplexing series of decisions raising the barriers to the courts for plaintiffs bringing claims that their constitutional rights have been violated. These decisions have been particularly troubling to those who believe, as I do, that the great accomplishment of the Warren court was that it opened up the Federal judicial system to many whose only previous means of appeal had been to the legislative and executive branch, where the cries for justice by the poor, racial minorities, advocates of unpopular causes, and victims of official misconduct had fallen all too often on deaf ears.

At the beginning of this Congress, I joined with Senator BROOKE to introduce S. 35, the Civil Rights Improvements Act. S. 35 was designed as a vehicle to strengthen 42 U.S.C. 1983, the principal statute permitting groups and individuals to challenge Government actions they believe violate their constitutional rights, and the statute most consistently hobbled by the court's restrictive decisions. This legislation has received encouraging support from the public, the legal community, Members of the House of Representatives, and the media, and I am hopeful that Senate hearings on S. 35 scheduled for this fall will provide strong impetus for adoption of the legislation early next year.

Hand in hand with the Supreme Court decisions on section 1983 have been decisions restricting access to the Federal courts for those seeking writs of habeas corpus under the Federal habeas statutes, 28 U.S.C. 2254, 2255. The "Great Writ" of habeas corpus—which for centuries has protected constitutional rights by serving as a swift and effective instrument by which courts could review the legality of the detention of a person—has been seriously weakened.

To reassert the full scope of Federal habeas relief, I joined with Senator NELSON on April 20 to introduce S. 1314, legislation to overrule the court's two most damaging decisions on habeas. It is to Senator NELSON's great credit that he took the lead on this vital—and controversial—issue, despite the fact that he is not a member of the Senate Judiciary Committee. He has also been active in pressing for legislation to curb warrantless national security wiretapping, establish legislative oversight of the intelligence community, and protect the privacy of telephone records. His record squarely places Senator NELSON in the forefront of those Senators who have consistently pushed for full recognition of the fundamental civil rights and liberties secured by our Constitution.

Early this year, Senator NELSON discussed his legislation and the court's habeas decisions in a speech to the National Conference on Access to Justice. I commend Senator NELSON's speech to my colleagues as a lucid and eloquent statement concerning the vital part played by the Federal courts in our society, and the obligation of Congress to take legislative action to preserve easy access to the courts.

Mr. President, I ask unanimous consent that the text of Senator NELSON's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR GAYLORD NELSON

We meet today to consider responses to a disturbing series of Supreme Court decisions. Some of these decisions are explicable in terms of precedent and defensible on the merits and some are not, but the overall pattern is unmistakably: access to the federal courts for claims based on the Constitution has been deliberately and substantially restricted. And that's serious enough to justify a Saturday meeting.

It is not my intention to enumerate the cases or try to separate those which can be overruled legislatively from those establishing constitutional holdings. Such remarks would merely duplicate the work of the panels, and the caliber of those participants is extremely high. If legal virtuosity could solve the problem before us, we could all rest more easily with the knowledge that it would soon be done.

I would prefer to focus on two cases which are particularly troubling to me. *Stone* v. *Powell* and *Francis* v. *Henderson* limit the rights of those in state custody to seek habeas corpus relief from the federal courts. In my view, these cases illustrate clearly the Supreme Court's approach to all these cases, and what is at stake. They also impel me to the conclusion that although profound issues of constitutional rights are involved, the problem facing us is political in nature.

In *Stone* v. *Powell*, the Supreme Court held that a federal court could not grant a petition for habeas corpus relief by a person claiming his conviction resulted from the use of illegally seized evidence, even if that claim was valid, if the petitioner had received a full and fair litigation of his Fourth Amendment claim in the state courts. In *Francis* v. *Henderson*, the Court held that failure to raise a constitutional claim in timely fashion in state court would bar the constitutional claim from being raised in a habeas petition even though such failure was caused by inadvertance or negligence of counsel.

Several points must be made about these decisions.

First, they are lawless decisions. Stone disregards the plain language of the habeas statute which says that relief is available to those in custody "in violation of the Constitution" by creating an unprecedented hierarchy of constitutional rights. *Francis* surprisingly and shockingly disregards a long list of precedents, reaffirmed as recently as 1975, establishing that a constitutional claim can be raised in a habeas corpus petition,

even if it was not raised in a timely fashion in state court, as long as state procedures were not deliberately bypassed. It also makes a mockery of the time-honored rule that constitutional rights can be waived only knowingly and intentionally.

Second, these decisions encroach on the power of Congress to define the jurisdiction of the federal courts. Article III of the Constitution grants Congress the power to create the lower federal courts. From that power flows the power to define the jurisdiction of the federal courts. There is no doubt that Congress has acted over the years to liberalize the common law procedure of habeas corpus. Until these cases, there was also no doubt that it was the Court's responsibility to give full effect to the habeas jurisdiction enacted by Congress. As Justice Brennan observed in *Stone*, it is the Court which defines the substantive scope of constitutional rights, but "it is for Congress to decide what the most efficacious method is for enforcing Federal constitutional rights and asserting the primacy of Federal law." For years, Congress has considered—and rejected—restrictions on the rights of state prisoners to petition for habeas similar to those now imposed by the Court. For this reason, Justice Brennan charged the majority in *Stone* with "nothing less than an attempt to provide a veneer of respectability for an obvious usurpation of Congress' Article III power to delineate the jurisdiction of the Federal courts," and that harsh judgment was unfortunately accurate.

Third, the Court abandoned its role as defender of individual freedom to balance the individual's interests against the social costs of letting him vindicate them—a task more befitting a legislature. *Stone* and *Francis* are not based on a reading of the habeas corpus statute, or a review of the history of habeas corpus. Rather, they are premised on a number of other competing factors: the need for finality in criminal cases; the desire for comity between the state and federal courts; the efficacy of the exclusionary rule; and the unspoken, but perhaps, overriding concern with the burden which habeas petitions impose on the workload of federal judges.

Fourth, these decisions demean the "great writ" of habeas corpus. Throughout history, habeas has been shaped to guarantee the most fundamental of rights, to provide a swift and effective instrument by which the courts could inquire into the legality of the detention of a person. It is the "most celebrated writ in the English law . . . and a writ antecedent to statute, throwing its root deep into the genius of our common law." As the Supreme Court has stated, in better years, "we repeat what has been so truly said of the federal writ: there is no higher duty than to maintain it unimpaired."

These words ring hollow against the background of *Stone* and *Francis*. As discussed by the majority in *Stone* and *Francis*, habeas corpus emerges as a nuisance, a burden on the federal judge, a source of tension between state and federal judges, just another appeal. The "great writ" is nowhere to be found.

I criticized these decisions at the end of last Congress and introduced legislation to overrule them. Thanks to the helpful comments of some of the people here, that legislation has been improved, and it will be reintroduced again soon, with the cosponsorship of Senator Mathias. Which brings us to the political problem. *Stone* and *Francis* are not the kind of decisions which will prompt a groundswell of public demand for legislation. Many who become casually familiar with the decisions may be satisfied with the Supreme Court's decision—because habeas corpus petitions impose a serious burden on the courts; because about 96 percent of the petitions prove unsuccessful; and because, after all, the petitioners are usually poor, black, and convicted felons.

It is the responsibility of those who oppose *Stone* and *Francis*—and the other decisions which bring us here today—to insist they not be casually accepted. I fully believe that if most of the public studied these decisions, a clear majority would reject the Court's reasoning. They would cut through the talk about "comity" and "federalism" and get to the essence of the case. Under the federal habeas corpus statute, a person in custody in violation of his constitutional rights should be able to obtain his freedom from the federal district court by petitioning for a writ of habeas corpus. How is it relevant that the state court considered his Fourth Amendment claim, if the Court denied it incorrectly? Similarly, why should it matter if the prisoner failed to raise his valid claim in a timely fashion if the failure to do so is attributable to an oversight by his lawyer? What is accomplished by such a rule except, as Justice Brennan put it, to trap the ignorant in "an airtight system of forfeiture."

Legislation to overrule *Stone* and *Francis* only solves part of the problem. We need a comprehensive approach to the problems of federal court jurisdiction. It is no secret that the federal courts are seriously clogged. In fiscal year 1970, there was an average of 317 cases filed for each federal district court judge. Only five years later, the average was 402, an increase of 27 percent. The appellate workload has increased even more dramatically, rising from 282 appeals per judge to 515 in seven years, an increase of 85 percent.

The relationship of the Supreme Court to the caseload problem is extremely delicate. As Justice Black pointed out five years ago, the Court "stands at the pinnacle of a judicial system many believe to be near collapse." The Chief Justice is the natural spokesman of the concerns of the judges, and the Court cannot be insensitive to problems which threaten the effective functioning of the federal judiciary. At the same time, the Court is obligated to resolve cases before it on the merits of the controversy, without being influenced by possible repercussions that decisions will have on judicial administration. Decisions like *Stone* and *Francis* convey the impression of being justified, at least in part, by the Supreme Court's desire to cope with the increased caseload crisis in the courts. But under Article III of the Constitution, Congress defines the jurisdiction of the federal courts; it is Congress which must determine how scarce judicial resources should be allocated. However serious the caseload problem may be, the remedy must come from Congress, and not from the Court in the guise of decisions on the merits.

But with power must go responsibility. Where the problems of the federal courts are concerned, Congress' response has been insensitive, inadequate, and occasionally hypocritical.

At the same time, however, Congress has shown its respect for the federal courts in statute after statute, by adding to the court's jurisdiction and responsibilities. As Judge McGowan has written, "the prevailing passion of Congress for judicial review is the central fact of life at the moment for federal judges at all levels of the system." We have enacted complex regulatory schemes, often the product of compromise and accommodation, granting administrative agencies great discretion and left the courts with the task of curbing possible administrative excesses and deciphering what we meant. The Speedy Trial Act of 1974 responded to an enormous practical problem of constitution dimensions, but the effect on the operations of the courts has been traumatic. As the Chief Justice pointed out in his year end report, in some districts, the civil trial has become a thing of the past. Moreover, Congress has not hesitated to include in its statutes a provision that judicial review should be forthcoming on an expedited basis. Some of these provisions are desirable, most are defensible, but all of them together seriously affect the ability of the court to control its docket.

In short, the federal judges often find themselves between "a rock and a hard place," and Congress, by its actions and its inaction, has helped put them there. These facts do not excuse decisions like *Stone* and *Francis*, but they do suggest the advantage of approaching the problem of federal court jurisdiction comprehensively. We need to create additional judgeships; pay federal judges salaries needed to attract and keep our finest lawyers on the bench; reduce or eliminate diversity of citizenship as a basis for federal jurisdiction; and generally focus more attention on the impact that our legislation will have on the operation of the courts—perhaps by incorporating a sort of "court impact statement" in committee reports dealing with relevant legislation. If the caseload crisis can be defused, public support for legislation facilitating access to the federal courts will be enhanced.

But if comprehensive reform cannot be accomplished, decisions like *Stone* and *Francis* should still be overruled swiftly and unequivocally. The assertion of constitutional rights—and the existence of a federal forum to review those claims—is vitally important for the society, as well as for the petitioner. Our willingness to use scarce judicial resources in this way reflects again the high priority this society places on constitutional liberties and individual freedom.

We must not be blinded by caseload statistics. When the Supreme Court restricts access to the lower courts, the impact falls disproportionately on the poor, minorities, and those seeking to challenge the political, economic, and social status quo. Most often, those who find the courthouse door closed are precisely those individuals and groups most in need of "heightened judicial solicitude," in the words of Justice Stone's famous footnote in *Carolene Products*.

Moreover, in a society committed to peaceful change through the rule of law, full and direct access to the courts is a necessity. ACLU director Neier expressed the importance of the federal courts in the 50's and 60's in this way:

It was a turbulent period in American history; there were wide-ranging pressures for social change; many groups of people previously disenfranchised by reasons of race, sex, status, dependency or youth sought the full protections of citizenship. The federal courts were a forum open to them to accommodate those pressures. While the federal courts did not always side with the people who were seeking changes, the very openness of the federal courts and their willingness to hear the claims for full citizenship, had a profound impact. This produced very substantial and very beneficial social changes. The courts channeled the activities of people seeking redress of their grievances into orderly and lawful paths in which claims for benefits became claims for rights. Grievances were adjudicated in the context of the U.S. Constitution.

These principles may seem far-fetched when juxtaposed with some frivolous habeas corpus petition by a convicted felon. But these are constitutional rights that we deal with. We balance them away—by whatever rationalizations—at our peril. As Justice Frankfurter wrote in the landmark habeas corpus case, Brown v. Allen:

The meritorious claims are few, but our procedures must ensure that those few claims are not stifled by discriminating generalities . . . For surely it is an abuse to deal too casually and too lightly with rights guaranteed by the Federal Constitution, even though they invoke limitations upon state power and may be invoked by those morally unworthy.

Too often in the past, politicians have

conveyed the message that full respect for the constitutional rights of those who commit crimes frustrates effective law enforcement. The inference is that we could somehow reduce the constitutional rights of "bad" people, while leaving intact the rights of law abiding Americans. Surely this is a dangerous delusion. When constitutional rights are shortchanged in the name of the law and order or judicial efficiency, the rights of the innocent will be lost as surely as the rights of the guilty. We maintain a constitutional system only by protesting infringements on constitutional rights—whatever the source, and whoever the target.

We can have a judicial system that accords full respect to constitutional rights and operates efficiently. But to the extent we must choose, I would not dilute the "great writ" of habeas corpus, or the other individual rights guaranteed by the Constitution. As the Supreme Court wrote in a 1971 decision, "This basic law and the values that it represents may appear unrealistic or extravagant to some. But the values were those of the authors of our fundamental constitutional concepts. If times have changed, reducing every man's scope to do as he pleases in an urban and industrial world, the changes have made the values served by [the Constitution] more, not less, important."

REORGANIZATION PLAN ABOLISHES CRUCIAL DRUG ABUSE OFFICE

Mr. PERCY. Mr. President, next week the Governmental Affairs Committee will report to the full Senate its approval of the President's Reorganization Plan No. 1. Although I support most provisions of this plan, I have very serious objections to abolishing the Office of Drug Abuse Policy (ODAP). In addition, I do not believe that the procedure of transferring functions to the President for later delegation—even if they remain within the EOP—is consistent with the provisions of the Reorganization Act of 1977 (P.L. 95–17).

I have chosen not to seek defeat of this reorganization proposal, since I believe that, as a general rule, the President should be granted broad latitude to organize the Executive Office of the President to meet his own needs. But I do feel compelled to express my deep reservations concerning certain aspects of this proposal.

THE NEED FOR ODAP

Oversight of Federal drug abuse policy poses difficult problems, as responsibility for this area is spread among twenty different agencies, including the National Institute on Drug Abuse (NIDA) in HEW, the Veterans' Administration, the Agriculture Department, and the Drug Enforcement Administration (DEA) in the Justice Department. Conflicts inevitably arise because the various agencies have widely differing programmatic missions and divergent interests—the very problem which led to consolidating fragmented energy policy in a new Department of Energy. However, in the drug abuse field an even more fundamental dilemma exists: the irreconcilable split between law enforcement functions in the Justice Department and treatment, prevention, and rehabilitation functions within HEW.

These problems can only be resolved by a single, high-level coordinating body with broad statutory authority over Federal drug abuse policy and its implementation. As Peter Bourne, the current Director of ODAP, stated in a recent internal memo opposing the reorganization proposal:

There is no reason at the departmental level for the agencies performing these functions to cooperate or coordinate with each other, for they will not facilitate their own programs by doing so. They can be made to complement each other, but only by an organization with Executive Office perspective and oversight.

The Federal drug abuse effort has long been characterized by duplication, inconsistencies, and interagency squabbles—the most notorious being the long-standing strife between Customs and the DEA. Although I have the greatest confidence in the abilities of Dr. Bourne, I am concerned that he will be unable to bind these programs together into a coherent whole once he is stripped of his broad-ranging statutory authority and adequate resources, as is proposed in Reorganization Plan No. 1.

As a Presidential assistant without a statutory office and mandate, Dr. Bourne—in his own words—"would have no formal authority in the drug area as I do at the present time, but would serve as an advisor to the President." Instead of acting directly to settle disputes or to reconcile inconsistencies, he will be confined to advising the President, whose attention will necessarily be distracted by his many more urgent duties. The vital coordinative role of Dr. Bourne will be significantly diminished.

Moreover, under the OMB proposal, Dr. Bourne's resources will fall far short of those needed to fulfill the original goals of ODAP. At present, the office has 11 staff members, of which 7 are highly trained, experienced professionals. They include the former police chief of Berkeley, Calif., who is an expert in drug law enforcement; a specialist in international law, formerly with the UN International Narcotic Control Board in Geneva; the former head of the CIA unit on narcotics intelligence; the director of a San Diego treatment program; and individuals from diverse backgrounds in government organization, management, and budgetary functions. Under the reorganization plan, this highly competent staff is likely to be disbanded. In his limited capacity as Presidential adviser, Dr. Bourne will have a single full-time staff member with professional experience in this field, with only part-time assistance from the new domestic policy staff.

At the same time that he is stripped of staff, Dr. Bourne will be given a number of additional duties in the areas of health, world hunger, and international human needs. As a result, in response to an inquiry from Senator HATHAWAY, chairman of the Senate Subcommittee on Alcoholism and Drug Abuse, Dr. Bourne has estimated that he will be able to spend only 25 percent of his time on drug-related matters.

The reorganization task force claims that it abolished no functions, but only reassigned them to other units. Yet by dismantling ODAP and transferring most of its duties to an inadequately staffed Presidential adviser, this reorganization will do away with the functions of ODAP—in effect if not in theory—by denying the responsible official the authority and resources necessary to perform those functions.

CONGRESSIONAL ACCOUNTABILITY

My concerns are not limited to the question of whether the Federal drug abuse effort can function effectively under this proposal. Indeed, my greatest opposition to Reorganization Plan No. 1 is that congressional participation in the formulation and execution of Federal drug policy will be seriously impaired with the demise of ODAP.

Although Congress has jurisdiction over the individual offices and agencies, this authority is meaningless without correspondnig jurisdiction over those responsible for coordinating the line agencies' programs—the point where policy differences must be reconciled. This is especially critical in the drug abuse field, where so much depends on the meshing of treatment and prevention.

It was precisely because of this lack of accountability to Congress that I made the following remarks on the Senate floor just prior to Senate passage of legislation creating ODAP:

Where we in the Congress want to know about administration policy on any health or welfare plan, we can turn to the Secretary of HEW. Where we want to know about Federal policy relating to the economy, we can turn to the Secretary of Treasury or to the Chairman of the Council of Economic Advisers. Where we want to know about Federal policy relating to international affairs or national security, we turn to the Secretary of State; and so on down the line.

In the case of Federal drug policy, the Congress has no one to turn to. Basically, that policy is not being determined by the Federal officials whom we confirm and who are available to testify to the Congress on the results of their programs. Neither Peter Besinger, the just-confirmed head of DEA, nor his predecessors, really set Federal policy on drug law enforcement or international narcotics control. Nor does Dr. Robert DuPont, as head of the National Institute for Drug Abuse—NIDA—in HEW, have overall charge of prevention/treatment policy.

Accordingly, in the drug abuse area, there is no single responsible office-holder to whom the Congress can turn for answers to the very serious questions relating to the formulation of Federal policy and priorities—and, more importantly, to the lack of such policy in certain key areas.

During the previous two administrations, Congress was unable to play a satisfactory role in the formulation and implementation of drug abuse policy because responsibility for this area was assigned to Presidential advisers—Egil Krogh in the Nixon administration and James Cannon in the Ford administration. In accordance with a long-established White House policy, these officials consistently declined to testify before congressional committees—let alone work closely with Congress in the formulation of policy.

In setting up ODAP, Congress considered and rejected several alternatives before arriving at the current solution. Only through a separate statutory office, headed by an official subject to Senate

confirmation, could we be assured of access to decisionmaking as it occurs, information on the entire Federal drug effort which is so crucial to effective oversight, and timely answers to the multitude of questions that were sure to arise in the future. As Senator JAVITS put it at the time:

> A solely executive coordination approach provides no focal point for Congress to question and examine what is being done . . . this is deeply troubling when Congress has taken a positive role in regard to problems of drug abuse . . . I believe that such a limited office, headed by a director who shall be appointed by the President, by and with the advice and consent of the Senate, is essential.

During its brief existence, ODAP proved entirely satisfactory in this regard. For example, when congressional staff were alerted to possible hazards from U.S.-backed chemical spraying of drug crops in Mexico, ODAP responded fully and expeditiously. Within a matter of days, ODAP was able to coordinate a seven-agency research effort designed to resolve these uncertainties.

Similarly, ODAP has been responsive to Congress in formulating Federal policy toward the decriminalization of marihuana. I am deeply disturbed and disappointed that President Carter has chosen to abolish this agency and, by reassigning its duties to the domestic policy staff, effectively return to the unsatisfactory situation that existed under the Nixon and Ford administrations.

The intent of the Congress is clear. The amendment authorizing ODAP was passed by both Houses over the strenuous objections of the Ford Administration, which preferred to vest this responsibility in a low-level arm of OMB. The present structure of ODAP is already the result of a compromise between the executive and legislative branches. It should not be abolished without an adequate opportunity to demonstrate its worth, and then only in the context of extensive congressional oversight and deliberation.

The economic cost of drug abuse to the Nation is estimated to be between $18 and $27 billion each year, a devastating loss which is compounded by the untold misery and human suffering resulting from drug addiction and abuse. President Carter has long stated that ending this problem is one of his highest priorities. In a February 1977 message to the U.N. Commission on Narcotic Drugs, the President stated:

> I am making the curtailment of drug abuse a high priority in my Administration. I have designated a highly competent staff in the White House to give the problem special attention. I intend to take a personal interest in this program and will monitor its progress.

One month later he said:

> Drug abuse continues to drain our human resources, especially from our youth, with no end in sight. I am determined that we make every effort to reverse this trend, and, therefore, effective with the date of issuance of this memorandum, do hereby establish the recently-enacted Office of Drug Abuse Policy.

Thus, as recently as March, the President considered the creation of ODAP a major link in his effort to control and contain the drug abuse problem. Nothing he has said since then has suggested a lessening of this interest. And clearly the problem has not diminished sufficiently to justify a reduction in effort.

To do away with the only Federal agency able to effectively coordinate the effort against a problem costing so many billions of dollars in order to achieve an alleged savings of some $300,000 is, as Senator HATHAWAY has suggested, "penny-wise and pound-foolish."

I do recognize that a unit of the Executive Office of the President can only be as effective as the President chooses to make it. Since President Carter has clearly stated that he does not wish to retain ODAP, it would not be fruitful for us to attempt to force it upon him.

But I cannot in good conscience support this measure, despite my agreement with virtually all of the other substantive provisions. Congressional adoption of the amendment authorizing ODAP was a clear rejection of the very arrangement proposed in this reorganization plan, an arrangement which has failed in the past.

As recently as August 2 of this year, President Carter made the following comments on the drug problem:

> Drug abuse continues to be a serious social problem in America. The lives of hundreds of thousands of people are blighted by their dependence on drugs . . . My goals are to discourage all drug abuse in America—and also discourage the excessive use of alcohol and tobacco—and to reduce to a minimum the harm drug abuse causes when it does occur. To achieve these goals with the resources available, effective management and direction are essential. Because the federal effort is currently divided among more than twenty different, and often competing agencies, I have directed my staff to coordinate Federal action and to formulate a comprehensive national policy. This will end the long-standing fragmentation among our international programs, drug law enforcement, treatment and rehabilitation, prevention, and regulatory activities.

I could not agree more completely with the President on these goals. I only differ with him as to how they can best be achieved. Back in February 1976 in urging passage of the ODAP legislation, I stated:

> The type of office spelled out in this amendment would be the most desirable mechanism for assuring that Federal drug abuse policies and priorities are formulated and established at the highest levels of government, and that the persons responsible for those decisions are held accountable to the Congress and to the American people.

Those are still my sentiments.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York for the term of 4 years vice Benjamin F. Butler, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, October 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary.

Robert D. Kingsland, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years vice Donald J. Stohr, resigned.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California for the term of 4 years vice William D. Keller, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, October 7, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of both measures on the Unanimous Consent Calendar, Calendar Orders numbered 414 and 415.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF SUPERVISION OF U.S. CAPITOL POLICE TO CERTAIN LEASED FACILITIES

The bill (S. 2052) to extend the supervision of the United States Capitol Police to certain facilities leased by the Office of Technology Assessment, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supervision of the United States Capitol Police shall extend over that part or parts of the premises located at 600 Pennsylvania Avenue, Southeast, Washington, District of Columbia, leased by the Office of Technology Assessment. In carrying out such supervision, the United States Capitol Police shall have within such part or parts jurisdiction, concurrent with that of the Metropolitan Police of the District of Columbia, to provide security for the personnel and property of the Office of Technology Assessment within such leased premises, and to make arrest therein for the violation of the laws and regulations of the United States and the District of Columbia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–451), expanding the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> S. 2052 would provide needed police protection for employees and property of the Office of Technology Assessment at their leased facilities, located at 600 Pennsylvania Avenue SE., Washington, D.C. These facilities are located outside the area presently included in the Capitol Grounds for purposes of jurisdiction by the Capitol Police.
>
> The Technology Assessment Board feels that, because of the irregular working hours of staff and general security considerations, reliance on the expertise of the Capitol Police in providing the protection necessary for congressional employees and facilities will provide more effective protection than dependency on conventional police and guard services alone could provide.
>
> Supporting letters addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Edward M. Kennedy, and Senator Clifford P. Case, chairman and ranking minority member, respectively, of the Board of Technology Assessment, and by Chief James M. Powell of the Capitol Police, follow:
>
> CONGRESS OF THE UNITED STATES,
> OFFICE OF TECHNOLOGY ASSESSMENT,
> *Washington, DC.*
>
> Hon. HOWARD W. CANNON,
> *Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.*
>
> DEAR MR. CHAIRMAN: On behalf of the Board of the Office of Technology Assessment (OTA), we request that the Committee on Rules and Administration favorably consider S. 2052, a bill to extend the supervision of the U.S. Capitol Police to facilities leased by OTA at 600 Pennsylvania Avenue SE.
>
> The OTA staff are congressional employees and are currently housed in the Senate and House facilities under the jurisdiction of the Capitol Police. The protection required at the 600 Pennsylvania Avenue facility would require security for personnel and property of OTA within this leased premise, with authority for the Capitol Police to arrest therein for the violation of the laws and regulations of the United States and the District of Columbia.
>
> The OTA staff, like most congressional employees, work long and irregular hours. This requires the presence of small numbers of individuals in the building at times which are not readily supportable by conventional police or guard services. In addition, the security for the prevention of the public from bringing unauthorized or dangerous items into a congressionally leased facility can be best attended to by the Capitol Police who have unique experience in this area.
>
> OTA's leased facility is in a single, electronically protected, building, and the Capitol Police feel that the level of security required will not pose any undue burdens or liabilities.
>
> Since OTA is planning to occupy this building during October and November of this year, your early consideration is greatly appreciated.
>
> Sincerely,
>
> EDWARD M. KENNEDY,
> *Chairman.*
>
> CLIFFORD P. CASE,
> *Ranking Minority Member.*
>
> U.S. CAPITOL POLICE,
> OFFICE OF THE CHIEF,
> *Washington, D.C., September 12, 1977.*
>
> Hon. HOWARD W. CANNON,
> *Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.*
>
> DEAR MR. CHAIRMAN: Pursuant to your request I have prepared a brief summation of justification for the proposed legislative authority provided in S. 2052.
>
> As you are aware, the authority of the U.S. Capitol Police force is generally recognized as being restricted to the confines of the Capitol Buildings and Grounds.
>
> Since the premises at 60 Penn. Ave., S.E. is located outside the boundary limits of Capitol Grounds, in order for the U.S. Capitol Police to be properly assigned to provide the appropriate security for the portion of the said building, which is to be used by the Office of Technology Assessment, it is necessary for this legislative authority.
>
> On the basis of the information furnished to date, the additional requirements for police personal would seem to be at least three officers.
>
> I would prefer not to request additional personnel at this time however, as we are in the process of reassessing our total personnel deployment in an effort to make any appropriate changes consistent with the maintenance of adequate security but with a view toward conservation of manpower.
>
> Sincerely,
>
> JAMES M. POWELL,
> *Chief of Police.*

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 269) authorizing supplemental expenditures by the Committee on Rules and Administration, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 189, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$399,300" and inserting in lieu thereof "$437,700".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–452), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> Senate Resolution 269 would amend Senate Resolution 189, 95th Congress, agreed to June 14, 1977 (the expenditure-authorization resolution of the Committee on Rules and Administration) by increasing by $38,400—from $399,300 to $437,700—funds available to the committee for inquiries and investigations through February 28, 1978.
>
> The committee is seeking this authorization in order to discharge its new responsibilities with respect to operation of the Placement Service and preparation and publication of the Congressional Handbook and judicial cases affecting the Congress—currently functions of the Joint Committee on Congressional Operations, which Joint Committee pursuant to Senate Resolution 4, agreed to February 4, 1977, and S. 1608, passed by the Senate on July 12, 1977, will expire on September 30, 1977.

APPORTIONMENT OF FUNDS FOR THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, at the request of my senior colleague, Mr. RANDOLPH, that the Senate proceed to the consideration of Calendar No. 417.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 282) making apportionment of funds for the National System of Interstate and Defense Highways.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, reserving the right to object, there is no objection, and this matter not only has been cleared on this side, but also, I join in the request that it be adopted.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. This authorization of $3,002,500,000 is for fiscal 1979. This money, which is necessarily provided to the States under the authorization will become available tomorrow, on October 1.

I take occasion to indicate that the Interstate Highway System of the United States is 92 percent completed and open to traffic. I add that in the latter part or the middle of October, the Committee on Environment and Public Works will hold hearings on a new highway bill, and it is our hope that when that legislation becomes law, we will have added another important chapter to the strength and mobility of the highway system in America and serve well the people of this country.

Mr. BAKER. Mr. President, I commend the distinguished chairman of the committee on which I serve. I have great admiration for him. If anybody is responsible for the efficiency of the American highway system, it is the distinguished senior Senator from West Virginia, and I pay him tribute for that.

Mr. RANDOLPH. I appreciate the Senator's remarks.

Mr. ROBERT C. BYRD. Mr. President, so far as I am concerned, I salute the man whom I consider to be Mr. Federal Highways.

Mr. RANDOLPH. I thank my able colleague from West Virginia.

Mr. ROBERT C. BYRD. I compliment him and thank him for the service he performs daily.

Mr. RANDOLPH. I thank the Senator.

The three of us who are now talking about this subject have all been identified with this development, which is important to the strength of America.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 282) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–454), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

GENERAL STATEMENT

The Senate Environment and Public Works Committee continues to be concerned with the expeditious completion of the National System of Interstate and Defense Highways. Under current legislation, the Federal-aid Interstate System program is authorized through fiscal year 1990; however, as mandated in section 104(b)(5) of title 23, United States Code, the funds for fiscal year 1979 cannot be apportioned or obligated until the Congress approves an updated cost estimate for completion of the Interstate System which specifies each State's relative share. Interstate funds by statute are available to the States up to 12 months prior to the beginning of the fiscal year for which they are authorized. Thus, fiscal year 1979 funds would be available to the States on October 1, 1977 upon approval of the current cost estimate. The shares are based on the ratio of the cost of completing the system within each State to the cost of completing the entire National System. As stipulated in section 104(b)(4) of title 23 of the United States Code, the minimum apportionment for any State other than the District of Columbia is one-half of 1 percent.

Cost estimates are furnished biennially by the Department of Transportation and compiled in tabular form. The most recent compilation was transmitted to the Congress in July of 1977 and is cited in table 5 (revised) of the House Committee on Public Works and Transportation Print No. 95–16.

Many States have already obligated large percentages of their fiscal year 1978 apportionments. Those States which have moved ahead in interstate construction will have their programs seriously curtailed if the apportionment of fiscal year 1979 funds is not made on October 1, 1977.

House Concurrent Resolution 282 approves table 5 (revised) as printed in this report and directs the Secretary of Transportation to apportion the $3.25 billion authorized for the Interstate System for fiscal year 1979. This resolution is intended to prevent disruption of State's interstate obligation schedules.

APPORTIONMENT FACTORS

The 1977 interstate cost estimate (which reflects 1975 unit prices) for completion of the 42,500-mile system designated as of July 1, 1977, is $30.8 billion. Table 5 (revised), to be used as the basis for apportioning the fiscal year 1979 $3.25 billion authorization, follows.

TABLE 5 (REVISED).—ESTIMATED FEDERAL-AID AND STATE MATCHING FUNDS TO COMPLETE THE SYSTEM, AND APPORTIONMENT FACTORS FOR DISTRIBUTION OF 1979 FISCAL YEAR AUTHORIZATIONS CONTAINED IN HOUSE COMMITTEE PRINT 95–16

[Dollar amounts in thousands]

State	Estimated Federal aid [1]	Estimated Federal share [2]	Apportionment factors (percent)
Alabama	$783,576	$709,718	2.548
Alaska			
Arizona	630,585	594,706	2.135
Arkansas	155,122	139,610	.501
California	1,993,578	1,823,925	6.547
Colorado	623,360	567,755	2.038
Connecticut	855,232	769,709	2.763
Delaware			
Florida	$942,563	$848,307	3.045
Georgia	759,826	683,843	2.455
Hawaii	402,280	362,052	1.300
Idaho	120,495	111,217	.399
Illinois	1,679,882	1,511,894	5.427
Indiana	276,181	248,563	.892
Iowa	403,414	363,073	1.303
Kansas	377,889	340,100	1.221
Kentucky	663,565	597,209	2.144
Louisiana	945,584	851,026	3.055
Maine	47,563	42,807	.154
Maryland	1,237,436	1,113,692	3.998
Massachusetts	987,304	888,574	3.190
Michigan	790,144	711,130	2.553
Minnesota	704,054	633,649	2.275
Mississippi	296,317	266,685	.957
Missouri	677,256	609,530	2.188
Montana	249,876	227,887	.818
Nebraska	56,659	50,993	.183
Nevada	258,829	245,888	.883
New Hampshire	124,957	112,461	.404
New Jersey	673,508	606,157	2.176
New Mexico	293,306	271,249	.974
New York	1,581,819	1,423,637	5.110
North Carolina	609,397	548,457	1.969
North Dakota			
Ohio	987,496	888,746	3.190
Oklahoma	222,210	199,989	.718
Oregon	527,132	486,227	1.745
Pennsylvania	1,616,962	1,455,266	5.224
Rhode Island	284,646	256,181	.920
South Carolina	317,938	286,144	1.027
South Dakota	51,137	46,555	.167
Tennessee	619,628	557,665	2.002
Texas	1,571,563	1,414,497	5.078
Utah	324,495	305,837	1.098
Vermont	52,534	47,281	.170
Virginia	1,280,077	1,152,069	4.136
Washington	967,695	877,119	3.149
West Virginia	699,601	629,641	2.260
Wisconsin	302,982	272,684	.979
Wyoming	190,926	176,702	.634
District of Columbia	487,549	528,794	1.898
Total	30,811,229	27,856,901	100.000

[1] Estimated Federal aid and State matching funds required to complete system.

[2] Estimated Federal share of funds required to complete system.

COST OF LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the committee's estimate of the costs of reported legislation, together with estimates prepared by any Federal agency.

While this concurrent resolution authorizes no funds in addition to those already authorized under the Federal-Aid Highway Act of 1976, it provides authority for the Secretatry of Transportation to expend the $3.25 billion authorized for fiscal year 1979 for the Interstate System. The resolution directs that these funds be immediately released.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill reported to contain a statement of the cost of each bill prepared by the Congressional Budget Office. The required report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., September 26, 1977.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed House Concurrent Resolution 282, to provide apportionment of funds for the National System of Interstate and Defense Highways, as ordered reported by the Senate Committee on Environment and Public Works, September 23, 1977.

Based on this review, it appears that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

ROLLCALL VOTES

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Environment and Public Works require that any rollcall votes be announced in the report. The motion to report the bill was adopted by a unanimous vote of the committee.

FEDERAL GRANT RELATIONSHIPS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 422.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

Mr. BAKER. Mr. President, reserving the right to object, I have a notation on my calendar that the distinguished Junior Senator from Pennsylvania wishes to be present at the time of the consideration and passage of this measure. If we can withhold for a moment, I will check and see if he is still within the vicinity of the Senate Chamber.

(The following proceedings occurred subsequently:)

Mr. ROBERT C. BYRD. Mr. President, earlier I called up Calendar No. 422, H.R. 7691. I ask unanimous consent that that action be vitiated for the present.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. THURMOND), I ask unanimous consent that John Napier and Mike Musho, of the Senator's staff, be granted the privilege of the floor during the consideration of and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR REPORTING S. 897

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the Governmental Affairs Committee, the Energy and Natural Resources Committee, and the Foreign Relations Committee to have their deadline for reporting S. 897 extended to midnight, October 3, 1977.

I make this request on behalf of Mr. GLENN.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENTER FOR BOOKS IN THE LIBRARY OF CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1331.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1331) entitled "An Act to provide for the establishment of a Center for Books in the Library of Congress", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. The Congress hereby finds and declares—

(1) that the Congress of the United States on April 24, 1800, established for itself a library of the Congress;

(2) that in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) that the Congress of the United States in recognition of the importance of printing and its impact on America purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) that the Congress of the United States has through statute and appropriations made this library accessible to any member of the public;

(5) that this collection of books and other library materials has now become one of the greatest libraries in civilization;

(6) that the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two-hundred-year history;

(7) that in the year 1977, the Congress of the United States assembled hereby declares its reaffirmation of the importance of the printed word and the book and recognizes the importance of a Center for the Book to the continued study and development of written record as central to our understanding of ourselves and our world.

It is therefore the purpose of this Act to establish a Center for the Book in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term Center means the Center for the Book;

(2) the term Librarian means the Librarian of Congress.

ESTABLISHMENT OF THE CENTER

SEC. 3. There is hereby established in the Library of Congress a Center for the Book.

The Center shall be under the direction of the Librarian of Congress.

FUNCTION OF THE CENTER

SEC. 4. The Librarian through the Center shall stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

ADMINISTRATIVE PROVISIONS

SEC. 5. The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without reference to Federal disposal statutes; and

(3) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate accept the amendments of the House of Representatives.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

ORDER THAT A MESSAGE FROM THE HOUSE ON H.R. 9354 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on H.R. 9354 be held at the desk, pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. ALLEN NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Tuesday, Wednesday, and Thursday, Mr. ALLEN be recognized for not to exceed 15 minutes, daily, following the recognition of the two leaders under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Tuesday, after Mr. ALLEN has been recognized under the standing order just entered, Messrs. SCHMITT, GLENN, MATHIAS, and GOLDWATER each be recognized for not to exceed 15 minutes, in whatever order they wish to arrange this presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate, before we go out.

The PRESIDING OFFICER. The Senate resumes consideration of the unfinished business, S. 2104.

The pending question is the amendment of the Senator from Arkansas in the nature of a substitute for the amendment in the nature of a substitute reported by the committee.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS ON SATURDAY UNTIL 10 A.M. MONDAY MORNING NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent when the Senate completes its business tomorrow it stand in recess until the hour of 10 o'clock on Monday morning. I would hope that the order could be changed tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:21 p.m. the Senate recessed until Saturday, October 1, 1977.

NOMINATIONS

Executive nominations received by the Senate September 30, 1977:

FEDERAL MARITIME COMMISSION

Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1978, vice Bob Casey, resigned.

DEPARTMENT OF JUSTICE

Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation for the term of 10 years, vice Clarence Marion Kelley resigning.

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years, vice Thomas A. Olson.

Archie P. Sherar, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years, vice George A. Locke.

DEPARTMENT OF STATE

The following-named persons for appointment as Foreign Service officers of class 4, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

John H. C. Gervers, of New Mexico.
John H. St. Denis, of California.

For appointment as Foreign Service officers of class 5, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Virginia S. Carson, of Oregon.
Nancy A. McKee, of Oklahoma.
Kenneth L. Wayman II, of Arizona.

For appointment as a Foreign Service information officer of class 5, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Patricia R. Ezell, of California.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

J. Loretta Baker, of Florida.
Reginald James McHugh, of Wyoming.
Sue Ford Patrick, of Florida.
George Louis Summers, of California.
Felix C. Vargas, Jr., of Washington.
Patricia A. Woodring, of California.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Donald Bruce Andrus, of South Carolina.
Edward D. Booth, of Nebraska.
Frank H. Day, of California.
William Terrell Fleming, Jr., of Florida.
Daniel Fried, of California.
Anne Maria Galer Ryan, of Iowa.
Dennis Patrick Harrington, of Wisconsin.
Robert Joseph Higgins, of New Jersey.
W. Andrew Osterman, of Pennsylvania.
Michael Christian Polt, of Tennessee.
Robin Lynn Raphel, of New Jersey.
Charles Parker Ries, of the District of Columbia.
Josiah Blumenthal Rosenblatt, of Pennsylvania.

Charles R. Ryan, of Colorado.
Judith Allison Ryan, of Maine.
Jack David Segal, of Maine.
Richard J. Shinnick, of New York.
Cynthia G. Smith, of the District of Columbia.
Douglas Gordon Spelman, of Ohio.
Laurie Jane Tracy, of Virginia.

For appointment as a Foreign Service information officer of class 7, a consular officer, and a secretary in the diplomatic service of the United States of America:

Charla Saylor, of Ohio.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Eileen Ann Riley, of the District of Columbia.
Tanya M. Russ, of Florida.
Michael James Senko, of Maryland.
Stuart Lee Spoede II, of Texas.
Laurence D. Wohlers, of Washington.

Foreign Service Reserve officers to be consular officers of the United States of America:

Kenneth A. Cohen, of Virginia.
Barbara T. Wilson, of Maryland.

Foreign Service Reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Donald T. Aubin, of Virginia.
John C. Baxter, of New Jersey.
John Brereton Bestic, of Virginia.
Patricia L. Bradley, of the District of Columbia.
Daniel F. Cameron, of Maryland.
Wilfred J. A. Charette, of Rhode Island.
Christian C. Chatfield, of California.
William R. Cooper, of California.
Kathleen M. Daly, of Maryland.
William B. Dyer, Jr., of Virginia.
Elizabeth A. Dziatkiewicz, of Wisconsin.
Cynthia G. Hanson, of California.
Peter T. Hanson, of Washington.
Robert W. Hoggan, of California.
Kent E. Holmes, of Virginia.
Lance G. Hopkins, of California.
Donald K. Kanes, of South Carolina.
John P. Kennedy, of Maryland.
Davis D. Knowlton, of New Hampshire.
Lawrence Y. Locke, of Virginia.
George Lu, of Maryland.
Anne W. S. MacNeil, of Virginia.
Thomas J. Maholchic, of Virginia.
James D. Massey, of Georgia.
Michael McGinnis, of Virginia.
Raul A. Mendez, of Puerto Rico.
Stephen E. Montgomery, of Texas.
James L. Morris, of Florida.
Joseph A. Murray, Jr., of Washington.
Paul G. Nyhus, of New Jersey.
Gayle L. Oechslin, of Illinois.
William R. Perkins, of Maryland.
Thomas A. Pluta, of Massachusetts.
Peter Poltun, of Virginia.
Paul J. Redmond, Jr., of the District of Columbia.
Caroleen L. Silver, of California.
Charles O. Skellenger, of Iowa.
John P. Sontag, of the District of Columbia.
Rufus Stevenson, of Georgia.
Fred C. Thomas, Jr., of Pennsylvania.
Patricia A. Weber, of Virginia.
Sally Werner, of New York.
Stephanie A. Weston, of California.
Harry Lon Wetherbee, of Virginia.
Jeffrey A. Whiteman, of Connecticut.
Susanne E. Ziemer, of Maryland.

Foreign Service Reserve officers to be secretaries in the diplomatic service of the United States of America:

Ronald L. Faucher, of Virginia.
John V. Granger, of California.
Robert M. Klein, of Virginia.
Henry A. Miller-Jones, Jr., of New Jersey.
David P. Reimuller, of California.

Foreign Service staff officers to be consular officers of the United States of America:

Alfred J. Pelland, of Pennsylvania.
Verna E. Smith, of Maine.
Jay S. Stricklin, of Illinois.

IN THE COAST GUARD

The following Regular officers of the U.S. Coast Guard for promotion to the grade of captain:

John R. Ehrmann
Neal G. Nelson
George P. Asche
John F. Dunn
Charles S. Wetherell
Charles S. Niederman
Robert A. Johnson
John I. Maloney, Jr.
Douglas B. Thurnher
Henry J. Harris, Jr.
James C. Osborn
Harold E. Fallon, Jr.
Arnold B. Beran
Thomas P. Nolan
Peter J. Rots
Everett L. Crowell
Ralph Z. Delgiorno
Thomas T. Matteson
Harry J. Reckitt
John P. Flaherty
Carol E. Conry
Richard J. Marcott
Edward B. Holtzman
Floyd A. Rice
Benjamin S. Beach
Ara E. Midgett, Jr.
Russell E. Sawyer
Richard B. Eldridge
Rudolph T. Sommer
Robert C. Nichols
Robert Farmer
John C. Hanson
Richard H. Wight
Donald P. Nachtwey
Theottis Wood
Phillip P. Coady
Robert A. Janecek
Franklin E. Thrall
John J. Janda, Jr.
Charles H. Leckrone
Albert D. Super
Gennaro S. Duca
Martin H. Daniell, Jr.
Michael J. O'Brien

IN THE NAVY

Rear Adm. Levering Smith, U.S. Navy, retired (age 67), for appointment to the grade of vice admiral on the retired list pursuant to article II, section 2, clause 2 of the Constitution.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Mario M. Ecung.
Ronald G. Keim.
John D. Niermeier.

The following-named temporary Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, W-3, in the U.S. Navy, subject to the qualifications therefor as provided by law:

*George W. Reel.

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent captain in the Dental Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Walter J. Gorman, DC, USN (ret.).

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant (junior grade) in the U.S. Navy, subject to the qualifications therfor as provided by law:

Lt. Calvin D. Lipscomb, USN (ret.).

The following-named temporary Chief Warrant Officer to be appointed a lieutenant (junior grade) in the U.S. Navy, for limited duty for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

*George W Reel, electronics (surface).

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a temporary lieutenant in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Calvin D. Lipscomb, USN (ret.).

The following-named (Naval Reserve officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr. Robert M. Giasi, MC, USNR.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Archie R. Traynor, Jr., MC, USN.

IN THE MARINE CORPS

The following-named chief warrant officer, U.S. Marine Corps Reserve, for appointment to Chief Warrant Officer (W-2) in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 555, subject to the qualifications therefor as provided by law:

Hunt, Mark C.

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel under the provisions of Title 10, U.S. Code, Section 5911:

Olen S. Akers
David M. Alfredson
John P. Arms
David H. Askey
Richard F. Baker
Charles S. Barrett III
Thomas W. Baxter
Victor E. Bianchini
James H. Bowman
James J. Brady
Paul P. Brutch
Arthur B. Burke, Jr.
John M. Burke
Richard J. Burke
Cole J. Buxton
Thomas J. Campbell
Harry G. Carpenter, Jr.
Robert F. Christie
Arthur L. Clark
James J. Cleary
William A. Coti
John D. Councilman
John F. Cronin
Leonard D. Culp
Harold R. Curtis
Robert C. Detweiler
Michael G. Dickerson
Ralph S. Dilullo
Richard D. Dowling
Lawrence L. Downey
Bobby G. Downing
Brooks C. Dyer
John S. Elekes
Donald R. Fariss
Frank E. Farmer
Darrell S. Fitts, Jr.
Paul B. Fraser, Jr.
Phillip C. Frey
Neil D. Frumkin
John J. Gannon
Michael R. Gardner
Winston W. Gardner, Jr.
James T. Golden, Jr.
David Hallett
John P. Halvorsen
George F. Hanke R.
George E. Harper
Albert C. Harvey, Jr.
James P. Heffernan
Enrique Hernandez
James H. Jeffries III
Alvin W. Jennings
John E. Jordan
Gardner S. Kendrick
Frank P. Kolbe, Jr.
Donald G. Kravitz
Walter J. Lawson
Cecil P. Lewis
Donald T. Lund
Robert D. Mahoney
Michael W. Manzer
Leonard W. Martin
Ralph T. McLean
Andrew J. Mehalick
David L. Menzdorf
Lowry J. Miller
Ronald G. Miller
W. S. Miller
Phillip M. Mitchell
George E. Mosakowski
Frederick G. Muesegaes
Fred E. Nichols
Frank Ottinger, Jr.
Robert F. Peterson
Charles R. Petty
Clarence D. Powell
Ronald K. Price
James L. Riggs, Jr.
John F. Rivers
Charles S. Robb II
Milton B. Rogers
Brian W. Rolfe
Gordon Rule
Charles W. Sampson
Albert J. Sattler, Jr.
Gary S. Schroeder
Todd M. Sloan
John B. Snowden III
Samuel A. Staples III
Cecil I. Stell, Jr.
Gene P. Taylor
John F. Thompson
James R. Vogel
Terry P. Wallace
Scott J. Wilcott
Raymond E. Wilder
George C. Wilkinson, Jr.
Edd K. Wright

The following named officers of the Marine Corps for appointment to the grade of chief warrant officer W-4 under the provisions of title 10, U.S. Code, section 563:

Charles W. Adams
James L. Anderson
Ferdinand J. Appl, Jr.
Ronald H. Asmus
James E. Bailey
Charles M. Banks
John E. Baughman
James A. Belfiore
Kenneth C. Bickley
Gary W. Bisplinghoff
Roy H. Bixler
Luther A. Bolenbarker
Gilbert H. Bolton
Lawrence C. Brinkman
James J. Brisson
William C. Brown, Jr.
Walter J. Bruderer
Joseph A. Bryant

*Appointment sent out ad interim (during the recess of the Senate). Senate recessed on 6 August–6 September 1977.

Donald N. Bush
Christopher P. Butler
Everett J. Campbell, Jr.
James T. Chaffee
Marion L. Cotten
Patrick C. Coulter G.
Frederick M. Cunningham
Charles A. Dankmyer, Jr.
Raymond L. Dedual
Oscar Delagarza, Jr.
Acie N. Derossett
Armand H. Desjardin
Joe H. Driver
Orlando Fernandez
Franklin A. Field W.
Donald H. Finley
Carl J. Fisher
Clyde L. Fisher
Jack W. Flynn
Robert W. Forsberg
Edgar Franklin, Jr.
Eugene T. Franklin
Carl H. Gassoway
Louis P. Glassburner
Johann Haferkamp
David L. Harris
Franklin R. Hester
Michael P. Hudson
Donald W. James
William J. Janning
Richard C. Jonely
Charles J. Julian
John J. Keenan, Jr.
John S. Keene
Albert Lane, Jr.
Enrique Lariosa, Jr.
Ronald J. Lauzon
Bernard L. Lee
Redmond J. Loftus, Jr.
Gary A. Lucus
William S. Maire
Michael T. Mallick
Thomah H. Marino
Larry A. Martin
John L. Matlack
Thomas J. McIntyre
Benjamin H. McNutt
Kenneth H. Medeiros
George A. Miller
John N. Miller
James R. Milner
Jimmy Miranda
Kenneth L. Mitchell
Patrick J. Mongoven
William R. Moody
David D. Moore
John V. Morris,
James E. Mulloy, Jr.
Louis N. Panchy
Roger L. Peterson
Eugene L. Polderdyke
Raymond G. Prefontaine
Ivan D. Puett
James S. Rayburn
Thomas T. Renau
Albert A. Reynolds
Wade A. Robinson, Jr.
Alfred R. Rocheleau
Gerald L. Rodden
Mack I. Rogers
William H. Rosser
Efrain F. Sanchez
Stephen A. Sandwich
Ray H. Scott
John R. Shultz, Jr.
Coburn L. Sergent
Henry L. Singer
Billy W. Smith
John A. Steward, Jr.
William M. Stewart
Donald R. Syring
Richard A. Teeter
Leonard J. Tevebaugh
William T. Troutner
John E. Udah, Jr.
Bruce W. Vance
Cullen R. Vinson
William J. Walker
Frederick M. Waller, Jr
Napoleon K. Weaver
John Whitley, Jr.
Dennis Wilczewski
Francis O. Williams
Nathaniel C. Wilson
Larry L. Wine
James W. Wofford, Jr.
Rudolph E. Woltner, Jr.
Billy E. Wright

The following named officers of the Marine Corps for appointment to the grade of chief warrant officer W-3 under the provisions of title 10, U.S. Code, section 563:

Homer L. Allen
Clarence T. Anthony, Jr.
Paul T. Ashe
Jewel F. Bain
James V. Branum
Curt C. Buss
Nearlin Carter, Jr.
James D. Churchman
Wayne R. Cote
George F. Deckert III
Thomas W. Dolman
Fritz G. Franz
Michael L. Furgal
Joseph F. Gomes, Jr.
Michael B. Graddy
Robert I. Hall
William Hohnhorst, Jr.
Charles A. Johnson
Lorenzo G. Jordan
Carl M. Jozaitis
Ernestine A. Koch
Larry R. Krouse
Paul L. Labarge
Jerry L. Lamerson
Jerome F. Lawson
Jack D. Mathis
Ellory M. Medor
Gerald B. Moore
Robert G. Neely
Roland N. Pannell, Jr.
Jack C. Parker
Kenneth D. Roebuck
James E. Russell
John B. Samples
Roger A. Sherman
Lloyd D. Songne
William L. Steigner
David W. Streagle
John M. Sweeney, Jr.
Gary O. Thompson
Donald R. Troutt
Marcelo J. Tyler
Daniel Vallee
Paul R. Weigley, Jr.
John D. Yarbrough

The following named officers of the Marine Corps for appointment to the grade of chief warrant officer W-2 under the provisions of title 10, U.S. Code, section 563:

Thomas E. Adams
John H. Alderson, Jr.
Geza J. Anasagasti
William A. Andrews
Donald P. Angely
Eugene N. Apel III
Terry L. Armstrong
Charles W. Bailey
Craig L. Bauer
Kurt T. Barnes
Karl P. Beehler
Robert C. Benbob, Jr.
Franklin O. Benjamin
David C. Berryhill
Douglas L. Bishoff
Henry Black, Jr.
Eldon E. Blair, Jr.
Jimmie L. Blick
Hendrik A. Blume
Michael W. Bohlen, Sr.
Steven D. Borgeson
Kenneth E. Boyer
Patrick J. Brake
William O. Brenek
Joseph O. Briscoe
Robert D. Brookins
Randy P. Brown
James D. Buck, Jr.
Steven R. Burgess
Fred L. Burpo
Edward L. Burwell, Jr.
Richard E. Byrd
Walter D. Calvert
Stephen E. Cecil
Jesus S. Chacon
Michael W. Chadwick
Jerry W. Chatelain
Vernon J. Chute III
William L. Clyde
Melvin L. Cochran
Merritt L. Cogswell
Joe N. Cole
Richard G. Cole
Matthew W. Conley
John R. Connelley
Barton D. Consford, Sr
Neely H. Cook
Charles L. Cornwell, Jr.
James F. Cox
Larry D. Cox
Alan T. Cripps
George M. Crouch
Paul D. Cyr
Otto A. Daly III
David Davis
Jere K. Detwiler
Walter S. Dickerson
Robert D. Dorsey
Paul F. Dossin
Roger W. Douthit
Michael E. Doyle
Thomas J. Dunphy
Dale A. Dye II
Charles L. Fay II
Samuel L. Flores, Jr.
Samuel P. Flournoy
Donald K. Foltz
Stephen H. Foreman
Richard A. Foster
Thomas A. Fox
Rodney Frazee
Ronald H. Freeman
Jack D. Frost
Johnny G. Frost
Roland J. Fryer, Jr.
Gary M. Fuhrman
Clarence R. Fussell, Jr.
John J. Gallagher
Thomas H. Gardner
Ronald R. Gaskell
Johnny E. Gebaide
Raymond S. Giradin
Bruno J. Giri, Jr.
Eric A. Glass
Frankie D. Gonzales
Jon D. Gosnell
Arvis O. Graham, Jr.
Edward Green
Ronald E. Grindle
Harold J. Guillory
Clinton W. Gunter
Louise M. Haebig
Douglas W. Hagee
Loren E. Hajduk
Walter S. Hakala
Thomas H. Hall
Ronnie E. Hanna
John C. Hannaford
Donald R. Hansen
Patrick J. Hardy
Stephen L. Harrington
Charles A. Harris
James B. Harris
Gary L. Harvey
Selvin E. Harvey, Jr.
David A. Healy
Daniel A. Henry
William H. Herndon
Edward W. Holder
Roger L. Hoot
Seybourn E. Hopper, Jr.
Steven R. Hulland
Dory B. Hux
James A. Inman
George L. Jackson, Jr.
David F. Jacobus
Charles R. Jarrett
Larry E. Jellison
Percie V. Johnson, Jr.
Robert R. Jones
Douglas R. Keene
Ray C. Kenens, Jr.
John J. Kierepka
Kathleen J. Kincaid
Michael S. Kinsella
Garry N. Klaus
Henry L. Klepac
Arthur C. Koon
Dennis G. Kozlesky, Sr.
Dennis E. Kush
Michael D. LaBonne
Leonard P. Ladue
Billy G. Lamar
Stephen C. Lambeth
Gerald L. Languell
Stanley R. Lemley
Arthur E. Leone
Edward B. Lewis
Jesse Lewis
Alan J. Lirette
John M. Longshore
Ronald J. Lucinski, Jr.
Stephen E. Lusk
Michael R. Lynch
Allen L. Maddox
William R. Mahoney
William H. Martin
Jacabo L. Martinez
Tyrone L. Mason
Richard W. Masterson
Edward G. McDaniel
Robert R. McDonald, Jr.
Donald D. McGuire
Barry L. McLemore
Layton A. McLeod
Donald R. McMann
Jack S. McNutt
John W. McRae
Gary P. Meienhelder
Robert E. Melton
James O. Mick
Charles S. Miller
Montelle E. Miller, Jr.
Robert B. Miller
Michael B. Mitchell
William M. Monroe
Donald A. Moore
Willus L. Morgan
Hershall W. Morse, Jr.
Thomas M. Mulloy
William J. Murphy
Kenneth J. Murray
Levance Myers
James H. Neal, Jr.
Cecil L. Nelson
Richard C. Ortiz
Bobby E. Ott
Gary R. Parsons
William L. Payne
Douglas J. Pelko
Thomas L. Penn
Bradford M. Perkins
Wayne M. Poore
Sammy Popwell
Glen E. Porter
Donald H. Post
Kenneth B. Poteet
Michael Pozzolungo
Charles M. Puckett
Guadalupe E. Reyes
David W. Rinker
Jerry D. Ritchie
William J. Roberge
James C. Roberts
Richard L. Robinson
Joseph M. Rodriguez
Thomas C. Rose
Martin L. Ronsenfield
Terry D. Ruhter
Thomas M. Rutherford
Leroy E. Sanderson
Duane F. Sansome
Russell F. Scanlan, Jr.
Michael C. Shaefer
Robert A. Schatz
Gary E. Schmidt
William W. Schrader
Frank L. Scott, Jr.
Joseph D. Scott
Clyde D. Sheldon
Paul L. Smith
Paul W. Smith
Victor J. Smith
Joseph J. Snow, Jr.
Lawrence R. Soloy
Gerald R. Sorensen
Robert L. Spencer
Roy W. Starks
Keith D. Stevens
Terry G. Stevens
James A. Stone, Jr.
Jerry D. Stovall
Gary W. Stuck
Jonathan H. Sylvester
Mario H. Tamayo C
Melvin Thomas
Wayne H. Thomas, Jr.
Stewartson C. Thompson
Ronald Throckmorton
Paul J. Tomecek
Jerrel R. Townsend
John T. Trosper
Donald T. Troubiefield
John L. Trudo
John M. Vanderursen
John J. Varelli
Charles A. Vaughan
Daniel G. Walczak
Joseph J. Walden
Jake Walker, Jr.
William M. Whittington
Charles B. Wilson, Sr.
Jerry L. Wilson, Sr.
Alva R. Windham
Durwood M. Wingfield
Ronnie J. Wood
James E. Yale
William E. Zimmerly

EXTENSIONS OF REMARKS

STATEMENT ON RESOLUTION OF DISAPPROVAL TO THE SALE OF MILITARY EQUIPMENT TO EGYPT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LONG of Maryland. Mr. Speaker, the proposed sale of 14 C-130 aircraft and 12 "Firebee" remotely piloted vehicles to Egypt should be strongly opposed by Congress. The logic behind this sale, which has received little attention, is highly questionable and should be reexamined before we lock ourselves into progressively larger arms deals. A military commitment is easier to prevent than to end.

Assistant Secretary of State Atherton has argued that "We clearly have a major interest in helping Egypt meet its legitimate defense needs." But against whom? Israel?

Why is it our responsibility or in our interest to help Egypt build up an even stronger military establishment? Supposedly to demonstrate our support for President Sadat. But is this not amply demonstrated by a projected economic aid package of $2 billion?

Will this sale increase our influence over the Egyptians during future peace negotiations? Has not past experience,

especially that of the Soviets in Egypt, shown that military equipment once sold and put in place loses its political leverage?

Will it prevent Egypt from turning again to the Soviet Union for military assistance? Indeed, it seems likely that the Soviet Union will continue to supply Egypt with spare parts through third parties such as Yugoslavia, Czechoslovakia, and North Korea. The British and French are also actively involved in helping maintain Egypt's military. The French have already agreed to coproduce with Egypt 150 Mirage F-1 fighter bombers beginning in 1980. There is, therefore, no military or political reason for the Egyptians to realine themselves with the Soviet Union.

Some argue that we should sell the C-130's and the RPV's because they are supposedly "nonlethal" and "defensive." Is not, however, an improved logistics and intelligence capability as militarily significant as additional tanks or fighters?

Have we not also ignored the intra-Arab implications of establishing a military relationship with the Egyptians? Could not such a relationship adversely affect our relations with Saudi Arabia? Throughout the 1960's Egypt and Saudi Arabia were bitter enemies. Their rapprochement is of recent origins and may turn out to be as temporary as most alliances in the Middle East.

Any sale of military equipment to Egypt is shortsighted. One day we could be watching Israelis and Egyptians kill each other with American weapons. Haven't we learned anything from arming both sides in the India-Pakistan and Greek-Turkish conflicts? Would not this sale create expectations among the Egyptians that we will eventually sell them sophisticated military equipment—sales to which the Congress will likely object.

The burden of proof should be on those who advise arms sales to Egypt. The administration has failed to explain what kind of long-term relationship it envisions with Egypt and why it is in the interest of the United States to pursue such a relationship. Given the failure of the administration to justify the precedent we would be setting, I stand firmly opposed to the sale of military equipment to Egypt.

TIME HAS COME FOR FEDERAL SELECTION OF OIL PORT PROJECTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BONKER. Mr. Speaker, Congress and the President have a responsibility to facilitate selection of the oil port and pipeline systems that will best serve the public interest in transporting crude oil from the west coast to inland U.S. markets.

Proposals made to date involve as much as 2,200 miles of supertanker travel and nearly 1,600 miles of pipeline that physically involve 10 States and 2 Canadian Provinces. The decisions made will affect millions of consumers in other States and Provinces throughout the United States and Canada and will have major implications for the energy policies of both nations. The issues, in short, transcend State, regional and, even, national boundaries and can be properly resolved only with the overview that only a Federal involvement in the process can provide.

A joint resolution I have introduced today takes a step toward asserting Federal leadership by authorizing and directing the President to initiate negotiations with Canada to determine the circumstances under which a Canadian oil port and pipeline system might serve the needs of both nations. The resolution also prohibits the issuance of any Federal permits, licenses, or other authorities required for construction of crude oil transportation facilities in the State of Washington until June 30, 1978, when the President is required to report to Congress on the progress of the negotiations in Canada.

Evaluation of all four current alternatives—the oil tanker off-load facilities envisioned at Port Angeles and Cherry Point, Wash., Long Beach, Calif., and Kitimat, British Columbia—can only be enhanced by better information on Canadian view and needs.

Federal involvement in selecting one or more crude oil transportation systems would promote a more rational and orderly decision than might otherwise occur. Many agencies are now involved in the process, but none compares the alternatives on an averall national basis by examining their relative costs or their comparative ability to supply markets where crude oil is needed.

Canada quite possibly might hestitate to approve a system within its borders at least until the U.S. Government concludes that a Canadian project is superior to U.S. alternatives. Similarly, the United States is in no position to make decisions on projects with its borders until the Canadian perspective is fully understood.

Some very real—and unnecessary—risks could develop if the Canadian considerations are not adequately addressed.

The west coast could, for example, end up with more oil ports than are optimally necessary. Sohio could proceed to build an oil port in California to handle the initial western surpluses of Alaskan oil. A case might then be made for a new oil port in Washington State to transport the remainder of the Alaskan surplus inland and to serve refineries in States to the east. That could leave Canada with no option other than building its own oil port at Kitimat when a need for imported oil in western Canada develops in the early 1980's.

One west coast oil port-pipeline system appears inevitable, and two may be necessary. Three, however, would be both unfortunate and unnecessary.

The importance of future oil imports by Canada should not be underestimated. Western Canada has never needed foreign oil, but, according to the Canadian National Energy Board, that fortunate circumstance will disappear between 1981 and 1983. Projected domestic shortfalls are 450,000 barrels per day by 1985 and 600,000 barrels per day between 1990 and 1995.

These projections intensify Canadian interest in an oil transshipment system that can serve their import requirements, and they guarantee either that the winner in the current competition for a northern route will ultimately become a major transshipment facility or that another west coast oil port-pipeline system will eventually be needed.

Accommodating a new west coast oil port is not the sole responsibility nor the exclusive concern of any one locality, State or region. The issues are broader than that: How should crude oil be supplied to refineries from Montana to Minnesota that have relied on Canadian oil exports that are now ending? Can increased U.S. domestic oil production from Alaska benefit the populous east coast that remains dependent upon costly and uncertain supplies of imported oil? How will western Canada obtain foreign oil when demand exceeds domestic supply in the early 1980's? And what, if any, revisions in Federal laws regulating coastal development and oil tanker traffic may be dictated by oil port and pipeline decisions?

These interrelated issues deserve comprehensive consideration. Initiating negotiations with Canada on the Kitimat alternative is a key step in that process.

The text of the resolution is as follows:

HOUSE JOINT RESOLUTION

To authorize the President to enter into discussions and negotiations with Canada concerning the transportation of crude oil by pipeline through Canada to markets in the United States, and for other purposes.

Whereas the Government of the United States of America and the Government of Canada have concluded a treaty concerning pipelines transiting each country to markets in the other country; and

Whereas it is critically important to supply refineries in the Midwest of the United States with new supplies of crude oil due to the impending cessation of exports of Canadian crude oil to the United States; and

Whereas Congress has requested negotiations in the past with Canada to assess the feasibility, consistent with the needs of other sections of the United States, of arranging for additional energy and energy transportation systems which reduce or eliminate the need to ship oil by tanker into Puget Sound in the State of Washington; and

Whereas, the National Energy Board of the Government of Canada has determined that imported crude oil will be required in the early 1980s in western Canada for markets now served by indigenous crude oil; and

Whereas the construction of a west-to-east crude oil pipeline across Canada may be found by the Government of Canada and the Government of the United States may be in the longterm interests of both countries; and

Whereas there are proposals now being considered by the National Energy Board of the Government of Canada which would achieve Canadian and United States objectives: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the President is authorized and requested to enter into further negotiations with the Government of Canada to determine—

(1) the desirability of a protocol to the United States-Canada Transit Pipeline Agreement, signed January 28, 1977, in regard to the construction of a crude oil pipeline system originating at Kitimat, British Columbia, and serving refineries in the Northern Tier of the United States, including refineries in the State of Washington; and

(2) the possibility of United States-Canadian crude oil exchanges, pending the completion of an adequate pipeline to serve Northern Tier refineries, in order to alleviate potential Northern Tier petroleum supply problems following the expected cessation of Canadian crude oil exports to the United States.

SEC. 2. (a) The President shall report to the Congress not later than June 30, 1978, on the progress of negotiations pursuant to this resolution.

(b) Notwithstanding any other provisions of law, on and after the date of enactment of this Act until June 30, 1978, no officer, employee, or other official of the Federal government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility related to transportation of crude oil in, on, or immediately adjacent to, or affecting the navigable waters of the State of Washington.

FEDERAL PROGRAM INFORMATION ACT

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. CORCORAN of Illinois. Mr. Speaker, on September 27, the House of Representatives considered a piece of legislation which I believe will be an important step toward providing efficient and regular distribution of current information on Federal domestic assistance programs. H.R. 6257, or the Federal Program Information Act, which was unanimously reported out of the House Government Operations Committee and adopted on the House floor by a voice vote, will transfer the Federal assistance program retrieval system (commonly known as FAPRS) from the Department of Agriculture's rural development service to the Office of Management and Budget. A similar Senate bill, S. 904, was passed by that body on May 17.

I am especially pleased that the House has acted on this bill since I had an opportunity during May to sponsor a local government seminar in my district where local officials were able to hear from representatives from various Federal agencies regarding Federal programs of interest to localities. One of the high points of the program was a computer demonstration of FAPRS. FAPRS is a system by which localities can very easily gain access to the latest information about the various Federal programs for which local communities may qualify.

The user needs only to provide very basic information—such as name of the local unit of government and population. The user is then provided with a printout of programs for which the community may qualify. The printout is keyed to the Catalog of Federal Domestic Assistance and considerably simplifies the local official's use of the catalog because he or she has only to consider 8 or 12 programs rather than the more than 1,000 Federal programs available for domestic assistance.

Finally, Mr. Speaker, I held a Hill briefing for Members and their staffs on June 9, in order to acquaint them with the excellent program which FAPRS can provide. Hopefully, this bill will be enacted into law very soon.

A TRIBUTE TO DR. JOSEPH S. ADAMKIEWICZ

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. ZABLOCKI. Mr. Speaker, I was profoundly saddened to learn of the recent death of a distinguished surgeon, friend, and prior to his retirement in 1967, our family physician, Dr. Joseph S. Adamkiewicz. While I have already expressed my sympathy and condolences to his wife and family, I would like to publicly pay tribute to Dr. Adamkiewicz's long career in the medical profession and his extensive contributions to the community he served so well.

In the course of serving more than 50 years as a doctor and 40 years as a professor at Marquette School of Medicine, Dr. Adamkiewicz's accomplishments include helping to establish St. Francis Hospital. He held the title of emeritus assistant clinical professor of surgery at Marquette. Dr. Adamkiewicz was an American Medical Association 50-year club member and a life member of the American College of Surgeons.

In the community he was known as an energetic man who trained over 1,000 students in anatomy, surgery, and orthopedics and was also known for his commitment and dedication to the medical profession by often seeing patients into late hours of the night. Surely, Dr. Adamkiewicz's passing is a substantial loss not only to those of us who knew him but also to his profession of medicine as well.

Mr. Speaker, at this point I include an article in the September 18, 1977, edition of the Milwaukee Journal which noted the dedication and accomplishments of Dr. Adamkiewicz:

ADAMKIEWICZ, S. SIDE SURGEON, DIES

Dr. Joseph J. Adamkiewicz Sr., for many years considered one of the leading surgeons on the South Side, died Saturday at St. Luke's Hospital after a long illness.

Adamkiewicz, 80, served for more than 50 years as a doctor and for more than 40 years as a professor at Marquette School of Medicine.

He also helped found St. Francis Hospital and was the hospital's first chief of staff from 1956 to 1958. Later he was chief of surgery and chief of staff at St. Luke's Hospital.

Adamkiewicz had his office at 1403 W. Lincoln Ave. He retired in 1967.

"He was one of the premier surgeons on the South Side of Milwaukee," said Dr. Steve L. Chojnacki, first a student and later a colleague of Adamkiewicz. A short, stocky, energetic man, Adamkiewicz trained more than 1,000 students in anatomy, surgery and orthopedics.

"He was a very exuberant speaker and always willing to teach," Chojnacki said.

"He had a large practice and would see patients . . . sometimes until midnight," said Merton Elihu Knisely, a former vice chairman at St. Luke's. "He (Adamkiewicz) was well trusted by the Milwaukee community as a surgeon."

In the mid-1950s, the doctor was included in a Reader's Digest Who's Who article on "Poles in America."

Adamkiewicz, who lived at 3062 S. Superior St., held honors including the title of emeritus assistant clinical professor of surgery at Marquette. He was an American Medical Association 50 club member and a life member of the American College of Surgeons.

Survivors include his wife, Sylvia; a son, Dr. Joseph J. Adamkiewicz Jr., Milwaukee; two daughters, Mrs. Thomas Kozina of Franklin, and Mrs. Marcia Kircher of Cedarburg; and a sister, Mrs. Cornelia Marlewski of Stone Lake, Wis.

STATEMENT BY THE HONORABLE H. M. PATEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SOLARZ. Mr. Speaker, I would like to share with my colleagues a most interesting and informative statement given by the Honorable H. M. Patel, Minister of Finance and Governor of the Bank and Fund for India. The speech was delivered at the annual meeting of the World Bank and the International Monetary Fund.

Mr. Patel's views on the world economic situation are both realistic and encouraging. I share his genuine concern over the problems of poverty in the world, and his desire for an increasing role for developing countries in the international economic sphere.

The text of the statement of September 27, 1977, follows:

STATEMENT BY HON. H. M. PATEL, MINISTER OF FINANCE AND GOVERNOR OF THE BANK AND FUND FOR INDIA, AT THE JOINT ANNUAL DISCUSSION, SEPTEMBER 27, 1977

It gives me great pleasure to participate again in the Annual Meeting of the World Bank and the International Monetary Fund after a lapse of nearly two decades. During this interval, I am happy to note that the activities of the two institutions have greatly expanded. This is both a recognition of the increasing interdependence of the world economy as well as a tribute to the growing spirit of international economic cooperation.

The international economic crisis of the early 1970s dealt a severe blow to an orderly expansion of the world economy. The collapse of the Bretton Woods system of fixed exchange rates, the strong upsurge of inflation, and a radical change in the pattern of international payments in the wake of the oil crisis had profoundly disturbing implications for the health of the world economy. We were all very fortunate that at the time of this massive crisis, these two institutions were led by two men of great vision, courage and devotion in the person of Mr. McNamara and Mr. Witteveen. Both of them have made an outstanding contribution in reshaping the policies of their respective institutions and in promoting the cause of interna-

tional economic cooperation against heavy odds. The news of Mr. Witteveen's decision not to seek a second term came as something traumatic. The remarkable qualities of leadership displayed by Mr. Witteveen as the Managing Director of the IMF have made a deep impact on the evolution of the international monetary system in recent years. We as a developing country will always remember with gratitude his deep understanding of our problems and sympathy for our aspirations.

The world economy has no doubt recovered from the recession of 1974–75. However, we cannot but be seriously concerned about the underlying weakness of this recovery. There was a welcome revival of growth rates in major industrial countries in 1976 which contributed substantially to the growth of 11 per cent in the volume of world trade in that year. On current indications, there is likely to be a considerable slowing down of the rate of growth of both the national income and the volume of world trade in 1977. Rates of inflation as well as unemployment still remain at intolerably high levels. The structure of international payments still displays an unsustainable abnormal trend. It is all the more disturbing to note that no immediate solutions are in sight to resolve problems of unemployment and inadequate capacity utilization coexisting with unusually high rates of inflation. In such an environment, the growth prospects of developing countries, notwithstanding vigorous self-help measures by them, are bound to be highly uncertain. The fact that despite a significant deterioration in their terms of trade, the current account deficits of non-oil developing countries are no higher in real terms than in 1967–72 is an indication of the harsh adjustment measures which they had to adopt in the face of unsustainable imbalances. Their capacity for further adjustment is severely limited and insistence on such adjustment will greatly affect their ability to deal with the massive problems of underemployment and unemployment that are facing them. This vital fact must not be lost sight of when we consider international monetary issues this week.

We are no doubt living in highly uncertain times. But there are also great opportunities if we have the vision to seize them. At a time when there is a sizeable excess capacity in the industrial countries, the real cost of increased transfer of resources to developing countries would be very small. When other internal stimuli to increased economic activity in industrial countries seem to be rather weak, increased transfer of real resources to developing countries could well act as a powerful means of stimulating employment and greater capacity utilization in the developed countries. Thus both enlightened self-interest and the spirit of international solidarity suggest that an adequate transfer of real resources to developing countries should constitute an essential component of any viable international strategy for achieving world prosperity. I sincerely hope that our deliberations this week will be animated by this spirit.

In the uncertain climate for their economic growth, the non-oil producing developing countries had placed much hope on the outcome of the Conference on International Economic Cooperation which concluded in Paris last June. The results of the Conference have been described as being "more limited than had been hoped for at the outset." This could very well be the understatement of the year. No progress was made on the important and urgent question of alleviating the heavy debt burden of the developing countries. With regard to the establishment of a common fund for raw materials, there was agreement merely to continue further negotiations for its establishment in the United Nations Conference on Trade and Development where no progress seems to have taken place so far. The only outcome of any substance from the Conference was the agreement among developed countries to provide an amount of $1 billion in a Special Action Program for low-income countries. Viewed in the context of the total flow of assistance to the developing countries, this agreement can only be considered as very disappointing.

The latest Development Assistance Committee figures show that Official Development Assistance declined once again as a percentage of gross national product of donor countries from 0.36 per cent in 1975 to 0.33 per cent in 1976. In real terms also it was lower. In any global strategy for the alleviation of poverty, the role of international cooperation through adequate resource transfers from the rich to the poor countries can scarcely be overemphasized. It is, therefore, essential that each developed country adopts a time bound program to fulfill the internationally agreed official aid target of 0.7 per cent of GNP. Simultaneously, adequate attention must be paid to the need for untying of aid as a means of improving the quality of development assistance. There is also an urgent need to adopt a new bold and imaginative generalized approach to the solution of the chronic debt service problem of developing countries. A failure to find an effective solution for this problem will greatly add to the uncertainty and difficulties already faced by the developing countries in implementing their development plans in an orderly manner.

We welcome the completion of negotiations for the Fifth Replenishment of IDA. However, it must be recognized that periodic uncertainty about the future of assistance from the IDA is potentially very disruptive of orderly planning processes in poor countries. I would, therefore, urge that the international community applies its mind without delay to the problem of finding ways and means of replenishing IDA in the future on a more secure and longer-term basis. This is a matter which ought to be studied by the management of the World Bank on a priority basis.

I welcome Mr. McNamara's proposal to provide its member developing countries between $30 billion and $35 billion in net financing over the next five years. I have no doubt that the main focus of the Bank will always remain on the special problems of low-income countries and the absolutely poor sections of their people. I am most appreciative of the fact that Mr. McNamara has placed before us such an imaginative and practical program when he is about to begin his third term as President of the Bank. I hope that during the coming years the Bank Group will not only have the resources that Mr. McNamara has indicated but its policies, programs and style of operations will be appropriately improved to ensure optimum results out of these resources. Time has also come for serious thought to be given to amending suitably the Bank's Articles of Agreement which were drawn up more than three decades ago under quite different circumstances. In particular, there is urgent need to adopt a more liberal attitude toward program lending. Excessive reliance on project financing is neither the most appropriate means of transferring real resources to developing countries nor is it an effective insurance against misuse of funds.

I welcome the proposal to set up a high-level International Commission under the chairmanship of so distinguished a statesman and internationalist as Herr Brandt. It is to be hoped that the Commission will not only focus world attention once again on the various developmental issues but also help create a strong political will among all members of the international community to seek an early and effective solution to the scourge of poverty. It is not merely enlightened self-interest but a higher purpose which should motivate all of us to take up this challenge here and now.

Notwithstanding the need for increased transfer of real resources to developing countries, it is our belief that development cannot be simply imported. It is for this reason that the bulk of resources needed for India's development have always been raised domestically. We fully recognize that in matters relating to development, the primary responsibility is our own. We in India are now engaged in redefining the priorities of development with a view to eradicating poverty and destitution in the minimum possible time. Our strategy will be to pay much greater attention to the rural areas where much of the poverty exists, through the development of agriculture, infrastructure and small and village industries. We share Mr. McNamara's realization that prosperity may not trickle down and that growth has to take place at the source of poverty if it is to be eliminated rapidly. The task will require not merely resources but organization and management, a fact that has not been fully recognized. This will, however, not be at the expense of the modern industry, power, transport and other important sectors, all of which have their own complementary and mutually reinforcing role to play.

Earlier I referred to the persistence of large imbalances in international payments. In this context, we welcome the outcome of the initiative taken by the Fund's Managing Director, Mr. Witteveen, to set up a Supplementary Financing Facility of the order of SDR 8.6 billion, that is, about $10 billion. I wish to congratulate those who have made this possible through their contributions, in particular Saudi Arabia. Member countries with balance of payments difficulties whose requirements cannot be met through the Fund's regular credit tranches will now be able to draw on this Supplementary Financing Facility. I hope this Facility will be administered in such a way as to benefit as many needy developing countries as possible without unduly rigid conditions. There should be an urgent examination of the need to provide an interest subsidy for drawings from this Facility by the low-income developing countries. It is also necessary to complete at an early date negotiations on the Seventh Quota Review. In our view, there is ample justification for a minimum increase of 50 per cent in the Fund quotas. Furthermore, in any process of quota revision, there should be no reduction in the share of non-oil developing countries in the decision-making processes of the IMF. The temptation to turn the IMF into a rich man's club must be firmly resisted.

While on the subject of international monetary questions, I can scarcely avoid referring to the gold question. The Interim Committee has already agreed to a phased removal of gold from the center of the international monetary scene. In pursuance of this objective, the Fund has been auctioning a part of its gold holdings through monthly auctions making the profits realized available to a Trust Fund for the use of developing countries in need. We believe that the time has come when the member countries of the IMF should agree to sell all the remaining Fund holdings of gold and earmark the profits thereof for providing assistance to the developing countries.

The international monetary scene in recent years has been characterized by a number of cooperative endeavors to deal with the emerging problems. However, the measures adopted so far have fallen far short of the needs of the international community. They have been piecemeal in nature without the mark of a genuine reform. We need to take an integrated view of monetary reform, trade and development. Any worthwhile international monetary reform must fully take into account the imperative need to move

toward a New International Economic Order. An essential element of such a monetary reform must be, as the Interim Committee has already agreed, the making of the SDR the main international reserve asset. Recent events have clearly shown that resort to floating exchange rates does not necessarily diminish the need for additional international liquidity. In the last few years, the world's requirements for increased liquidity have been met largely by reliance on the private financial markets. This is neither a very satisfactory nor a very equitable arrangement. We therefore strongly support a substantial fresh allocation of SDRs at an early date.

I must also voice my concern at some recent restrictive tendencies on the trade front. It is disturbing to note that new restrictions are being imposed on goods exported from developing countries. For instance, the exports of textiles and garments from developing countries are facing stringent quota restrictions. These will surely tell on their export earnings and worsen their balance of payments difficulties. It would be particularly unfortunate if the first attempt to diversify exports away from primary commodities meets with barriers at the very moment of its success. The burden of adjustment to changes in the international economic situation should not, through ill-conceived protectionist policies, be transferred from the stronger to the weaker shoulders, particularly when developed countries have far greater resilience. Let not free trade lose all the virtues, which have been so vociferously preached to the developing countries, at the first whiff of some need for internal adjustment. Poorer countries in the international community need a congenial trade atmosphere in order to pursue policies which could result in faster rates of growth for their economies and thus ensure a reasonable standard of living for their populations.

In an interdependent world, there are important linkages between money, trade and development. It is essential that in any reform of the international monetary and trading systems, the interest of developing countries are not lost sight of. Our deliberations must be informed by the spirit that true integration of the world economy is unthinkable unless there is a conscious effort to narrow the gap between the rich and the poor countries. This is no doubt not an easy task. But we cannot give up the struggle simply because the journey ahead is rough and difficult. Surely, without a certain sense of adventure and vision, nothing worthwhile has ever been achieved in human affairs. Modern science and technology have made it possible as never before to ensure that chronic poverty need not be the inevitable lot of the majority of mankind. It is up to us to accept the challenge of devising appropriate institutional arrangements to convert what is feasible into a living reality. That is why we were deeply moved by President Carter's firm commitment in his remarks yesterday to the goals of world development and his concern for some one billion people who suffer from absolute poverty.

TRIBUTE TO MRS. BEULAH STARK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SKELTON. Mr. Speaker, recently the State of Missouri lost a fine public servant, an exemplary citizen, and a good friend. The death of Beulah Stark, Cass County Auditor, was a sad event for those who knew and loved her. Mrs. Stark was one of those rare people who are able to balance a full and rewarding family life with an active life outside the home.

Mrs. Stark was elected auditor of Cass County in 1974. She had been active in politics and served as treasurer of the Cass County Central Democratic Committee. She was a member of the Business and Professional Women's Club. She was also a member of the First Christian Church of Harrisonville, Mo.

Mrs. Stark leaves her husband, B. W. Stark; two sons, Robert and Michael, and a daughter, Mrs. Dana Kay Stephens. She is also survived by her mother, Mrs. Edith E. Kornhaus; a brother, Don Kornhaus; and two sisters, Mrs. Arline Wright and Mrs. Mary Lee Haynes.

Beulah Stark was a beloved member of her community—both for her warm personality and for her good works. She will be sorely missed by her friends and family.

ADDITIONS TO UNIVERSITY OF JUDAISM IN LOS ANGELES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. WAXMAN. Mr. Speaker, it is a special privilege to bring to your attention the dedication of the new Isadore and Sunny Familian campus at the University of Judaism in Los Angeles, on Sunday, October 16, 1977. The first building on the new campus is already complete, and is known as the William and Freda Fingerhut Academic Building. Construction will start shortly on the Samuel A. Fryer Administration Building and the Jack M. and Bel Ostrow Library. The master plan for the university includes student residence as well, to make it possible for out-of-town students to live and study in a Jewish atmosphere. The new facilities will suffice the university for generations to come. It is a tribute to the University of Judaism, which had its inception only 30 years ago as the West Coast School of the Jewish Theological Seminary of America, that its growth and vigor have already required additional space. People of all religious, ethnic, and racial groups are welcomed as students at the University of Judaism.

The university's dedicated officers are Jack M. Ostrow, chairman of the board of directors; Benjamin Seewack, chairman of the Greater University of Judaism Committee; Isadore Familian, founders chairman, Dr. Victor Goodhill, chairman of the board of overseers; Julius Flingelman, honorary chairman of the board of overseers and Albert A. Spiegel, chairman of the board of governors.

Its distinguished directors are headed by Jack M. Ostrow, chairman; Jack E. Gindi, Nathan Krems, and Arthur Whizin, vice chairman; Max Zimmer, treasurer, and Cyrus Levinthal, secretary. The eminent faculty is under the direction of Gerson D. Cohen, chancellor; David Lieber, president; Max Vorspan, vice president; and David M. Gordis, vice president.

The University of Judaism is the foremost center of higher Jewish education in the West, is accredited by the Western Association of Schools and Colleges, and grants degrees through the university college, the two graduate schools, and its adult college. Joint programs with several University of California facilities extend its curriculum and its usefulness to students at every level.

The university reflects credit on itself and on the Jewish community of the Western United States. I ask the Members to join me in honoring the University of Judaism on the occasion of the dedication of its new campus.

TWO CHANCES TO ACT ON WORLD HUNGER

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mrs. MEYNER. Mr. Speaker, this is a significant time for the House of Representatives in a way that many of us may not realize. We will have two major opportunities in the next week to register our concern about a very real and human issue: the continuing problem of world hunger and malnutrition.

On Tuesday, a resolution was introduced by Representative RICHARD NOLAN and others urging the President to create a Commission on Domestic and International Hunger and Malnutrition. This resolution has been cosponsored by a majority of the House of Representatives. This response is a welcome indication to the President, the American people, and other nations that we are indeed concerned about hunger at home and abroad.

A vote is expected early next week on a second item dealing with world hunger: the conference report on the foreign assistance and related agencies appropriations bill, H.R. 7797. There are numerous points in disagreement between House and Senate conferees, four of them with far-reaching implications for the efforts of the United States to deal with chronic hunger and poverty in developing countries through such international agencies as the World Bank's International Development Association (IDA) and UNICEF.

Three amendments, agreed to by the House but rejected by the Senate, would prohibit U.S. contributions to such multilateral institutions from going to seven particular countries. A fourth amendment would prevent U.S. funds from assisting in the production of certain agricultural commodities in developing countries.

Because international organizations cannot accept funds from the United States—or any other donor—which are restricted in their use, the House-supported amendments, if they become the law of the land, would make further U.S. participation in such multilateral

development agencies impossible. They would hamstring the work of those agencies and deal a serious blow to the hopes of hungry people for help in solving their chronic malnutrition problems.

I therefore urge those who, like myself, are cosponsors of the World Hunger Commission resolution to study with care the amendments in disagreement on the foreign assistance appropriations conference report, especially the ones that I have described.

It would be a fitting sequel to our endorsement on Tuesday of a Presidential Hunger Commission for us to reaffirm, in the upcoming appropriations vote, our commitment to the developmental work of international agencies dealing with hunger in poorer nations around the world.

LABOR REFORM—LACK OF BALANCE

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. QUIE. Mr. Speaker, the National Labor Relations Act has over the years presented a fairly balanced approach in the field of labor-management relations. The National Labor Relations Board, which administers that act, operates in an efficient, equitable manner. I believe the Members of the House should take a hard look at the legislation reported from the Education and Labor Committee. The bill has the real potential for tilting that balance and interfering with the presently successful operations of the Board.

Basically, H.R. 8410 is a bill designed to ease the election procedures regarding union organization. Further, the proposal would provide broad new penalty provisions regarding unfair labor practice charges against employers.

The Labor Reform Act of 1977 is hailed by its sponsors as a necessary step to counteract employers who allegedly circumvent NLRB procedures during union organization drives.

I am concerned that H.R. 8410 is not written in a manner to provide equal treatment for employees, employers, and labor organizations. The bill legitimately seeks to protect an employee's right to join a union. However, the bill from what I have heard does not adequately protect an employer's rights to due process during an organization drive.

While the bill provides penalties against employers who commit unfair labor practices, it does not provide comparable penalties for labor unions who commit unfair labor practices. In a like manner, an employer could be debarred from Federal contracts for committing an unfair labor practice, yet a union would not be subject to comparable penalties. Also, an employer would be subject to "making whole" the loss of economic benefits of employees lost due to an employer's refusal to bargain. The bill does not address itself to the loss of employee wages and benefits caused by illegal union activity.

It is this lack of balance of the Labor Reform Act of 1977, H.R. 8410, that concerns me. I urge my colleagues to consider the bill carefully and to assure themselves that any labor reform bill considered by this Congress be equal and fair to employees, employers, and labor organizations.

NATIONAL HEALTH INSURANCE

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. WALKER. Mr. Speaker, my constituent, Mrs. Barbara Pearman of Lancaster, Pa., is a naturalized American citizen, originally a British subject, and for the benefit of my colleagues I would like to share her thoughts on national health insurance as she has had first-hand experience living under such a system in her native country and is very well aware of such a program's implications and consequences:

A PERSONAL VIEW OF NATIONAL HEALTH INSURANCE

(By Barbara Pearman)

The idea of National Health Insurance (NHS) has long had a surface but misleading appeal. The misleading appeal is that the government can do better for us at less cost to us. That there is a need to help those who cannot meet the inflated costs of health care cannot be denied, but that government programs are the best or only solution is not borne out by the facts. In 1946 the National Health Act was born in Britain establishing a Comprehensive Health Service, universal in scope and free at the time of service, but paid for by National Insurance contributions. The contributions were paid partly by the employee through payroll deductions and partly by the employer. Most of the major cost burden of NHS, however, is borne by the General Taxation Fund and amounts to approximately 5.8 percent of the national expenditure. In the U.S., the national expenditure on health programs now in operation is quoted at approximately 9 percent and rising steadily.

Overall control on Britain's Health Service is vested in the Minister of Health who operates the service through area Health Boards which coordinate the General Medical and Dental Service, Hospital Service and public Health Services in each region. It is considered that one level of these boards is superfluous and accounts for more administrative expense, inefficiency and delays.

A small number of hospital beds are reserved for private patients within the NHS structure. The Minister of Health is involved in a bitter struggle with the medical profession in an effort to abolish private beds in the NHS, thus forcing specialists to decide between the NHS and private practice. A few fully private hospitals have already been built and are filled to capacity. Many specialists rely on private practice to supplement their incomes, and keeping them in the NHS means higher income must be provided out of tax money. Many more affluent patients are paying for private health insurance plans to insure top-notch medical care.

Hospitals are antiquated and understaffed. A few years ago there was a waiting list of more than 540,000 people for admission to hospitals and it has grown much longer since then. The average delay for someone needing his tonsils removed is not less than 22 weeks and can extend to several years in some areas. The same applies to a hernia or varicose vein operation. Although the specialists name appears on the case sheet it is not uncommon for the operation to be performed by a resident. Although able to choose their general practitioner, the patient does not choose the specialist. This responsibility is left to the general practitioner.

Outpatient clinics are generally crowded and it is not uncommon for a patient with an appointment to wait two or three hours before seeing a doctor, often after having waited three to six months for the initial appointment.

The hospital buildings in Britain are the oldest in the western world. Two-thirds were erected before 1891. They are overcrowded and understaffed. The shortage of nurses, technicians, as well as doctors, coupled with the depressing physical condition in which they have to work have been the major factors in persuading young doctors to emigrate. Physicians leaving for the U.S. and other countries say financial compensation is one reason but they also blame insufficient funding of the NHS and government plans to curtail private practice. One doctor stated the NHS has declined in efficiency to the point where hospital services are not adequate in most areas of the country and that the situation will only worsen. An entire seven member professional team (unit) left a London hospital to carry on their research at Harvard because the funds were running out in England. In other words, the standard of health care has gone down drastically under the socialized system. Doctors cannot handle the workload, hospital beds are in short supply, hospitals lack the latest equipment and funds for research have dwindled. The people no longer have the freedom to choose a doctor and the taxes are exorbitant. The 28 year old NHS is in deep and continual crisis because of perennial shortages of money, complex political pressures, bureaucratic chaos, and the ravages of inflation which are now at 27 percent, far exceeding that of other major industrialized countries. The government, committed to curtailing inflation, has begun cutting some of the ambitious social-welfare programs that have necessitated a taxation level exceeded only by that of Sweden.

There is a great deal of waste in the NHS as in other government controlled services. A new hospital estimated to cost $11,700,000 now will probably cost $48,000,000. An experimental computer initiated at an expense of $1,400,000 for a London hospital designed to feed patients' records directly into a computer was scrapped. It was discovered junior doctors did not have time to write up their own notes and provide information for the computer. A breakdown of the NHS is very apparent with an embittered medical profession as the public becomes aware of its many deficiencies. The actual health of the nation has been little improved. While teaching and research centers have an effective treatment program the general practice fails to be an effective form of primary care.

Prior to the NHS, help for the poor came from the operation of the Elizabethan Poor Law (local taxes), private charity and mutual aid. It is interesting to note that in Sweden's socialist economy and health services, 1 child in 10 studies to be a doctor. Still, they have difficulty finding doctors for rural areas. Also, much of the general practice type of work is done by nurses in 24 hour health centers with the doctor working a strictly 40 hour week.

In the Soviet Union, two thirds are women. Again, much of the general practice type work is done by feldshers who receive a two year education and are allowed to deliver babies and treat fractures among their other duties. The men there are treated mainly by factory doctors.

To pay off cradle to grave comprehensive medical care has meant taxation in Europe ranging from 48 percent to 51 percent of income approaching a point where there comes a discentive to work. A nationalized medical system will always in a democracy run short of money because the politicians balancing so many different demands and pressures will never make it enough of a priority to become a really first-class service.

People are simply not willing to be mulcted through taxation for a standard of medical service as high as they would be willing to buy directly for themselves. Britain spends a significantly lower proportion of her national income on health than in America and the discrepency is growing wider.

The cost of the NHS was first estimated at $400,000,000. By 1951 it had risen to one billion dollars and by 1969 it was more than 5 billion. In 1974 it was approximately 7 billion without any improvement in the facilities provided.

Britain, for those that would learn, offers a mobile study in how to ruin a once vigorous nation. The formula is simple. You begin by putting upon a nation an economic burden it cannot bear. In Britain's case it was the all encompassing welfare program with its best known example being the free medical program. One way or another this must be paid for and that means higher taxes or a resort to the government printing presses to create money. Higher taxation means less incentive for a person to work harder leading to less productivity. America is the power of the western world, the nation to whom everyone looked for help. If the United States follows Britain, where will the rest of the free world turn? If the United States slides to a position of no power, the result will be one half the world at war and the other half starving.

We need greater productivity and more emphasis on private enterprise. We need more democracy not bureaucracy. Health is a big problem. Everyone would like free health care. I sympathize, but it can never be free. Someone has to pay.

There has been so great an exodus from Britain of her native born doctors that Indian and other foreign trained doctors have been widely employed. Due to the lack of suitable applicants there are more than 1,200 unfilled vacancies in the NHS for specialists in all fields resulting in skilled work being done by unskilled people. Trained personnel can earn more in industry than in the NHS.

It has been estimated that an NHS in the United States would mean an increase in taxation of more than one thousand dollars per family. This is only an initial estimate however. The final bill could be much more. An example is the original estimate for the British NHS was $400 million per year but it is now more than $7.2 billion and the service is still woefully inadequate. At least another $2.5 billion needs to be spent now to bring it up to minimal standards of acceptability.

LOW INCOME HOMEOWNER BILL

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, I am introducing a bill today that would be of timely help to those who own homes and are threatened with the loss of those homes due to steeply rising property taxes, utility bills, and insurance costs.

This bill would assist low-income persons who have either completely paid off a mortgage or have paid off a minimum of 60 percent of it. The object of this legislation, Mr. Speaker, is to help hard-working people enjoy the fruits of their own labors. The amount of Federal assistance would be the difference between certain homeowner expenses and approximately 25 percent of the household's income.

This is no outright gift. The bill would authorize the Secretary of Housing and Urban Development to insure that the Federal Government will be reimbursed for all financial assistance when the property is transferred to other ownership. In effect, the Government would be making an interest-free loan to these individuals to help them cope with the high costs of home ownership in their later years.

Eligibility for this proposed homeowner assistance would be measured by income levels as determined by the Secretary of Housing and Urban Development and determination that the recipient is not receiving assistance under section 235 of the National Housing Act.

I think this legislation will answer the needs of quite a number of individuals who have borne the costs of both Federal and local government through the years but who now find themselves in financial difficulties because of such things as job layoffs, retirement, and especially, the spiralling rates of property taxes that are taking a serious toll among low- and fixed-income property owners everywhere. I emphasize that this is not a give-away program but one that will assure that most of the money will be returned to the Federal Government.

LAWYERS VACATION AT TAXPAYERS EXPENSE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. VANIK. Mr. Speaker, I was shocked by a recent advertisement in a legal magazine for the American Trial Lawyers Association's midwinter convention in Monaco. This elaborate 4-page ad proves the urgent need to close a gaping loophole in our tax laws that allows a select few to go on vacation to Europe, partly paid for by the American taxpayer.

In a one-inch box in the advertisement was a notice that under the landmark case of Coughlin against Commissioner and Treasury regulation 1–162–5, tuition, travel, hotel, and living expenses of attending continuing legal education programs are deductible—implying that this vacation will pass as an educational expense deduction. However, directly below were pictures of boating, dining, sightseeing, tennis, and golf and a description of Monte Carlo as "the most exciting square mile on Earth." The ad then proceeded to describe the site chosen by the American Trial Lawyers Association as "The jewel of the Riviera—with sun and sports by day—opera, ballet, concerts, and clubs by night—the glittering international playground of the fun loving and sophisticated."

Clearly, there are instances when professionals need to attend seminars and conventions to maintain and improve skills and when certain businesses need to hold conventions in foreign countries. However, it defies fairness and reason to allow a deduction as an educational expense for a trip by American trial lawyers to a foreign vacation spot described as the "Jewel of the Riviera."

Section 602 of the 1976 Tax Reform Act attempted to limit deductions for attending foreign conventions. In a situation like this, a gaping loophole has been left open.

Next week the Ways and Means Committee will be deducting a 1-day public hearing on the rules applicable to the deductibility of foreign convention expenses. It may be appropriate to address this shocking situation at that time. It is this type of abuse that the average citizen can turn to as evidence that he is not getting a fair deal from our tax laws.

THE AMERICAN WAY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. COLLINS of Texas. Mr. Speaker, America is great not because of what Government did for people, but because of what the Government permitted a free people to do for themselves. Our free enterprise system—more than anything else—has produced greater wealth, and distributed that wealth more widely, to a greater percentage of our people, than any economic system in any nation in the history of the world. In America today, two-thirds of the people who live below the so-called poverty line live lives of luxury compared to the better-than-average family in most of the nations of the globe.

We need to remind ourselves that even with our current problems, we have more energy per capita, more food per mouth, more clothing per body, more homes per family, more cars per driver, more freedom per individual, and more opportunities per dream than any people who ever lived on the face of this Earth.

However, there has gradually been in this country a steadily increasing erosion of freedom, as citizens are allowing big government to be so dominant as to regiment every phase of our lives. The liberal bureaucrats in Washington seem to have forgotten the advantages of private enterprise compared to a nationalized state of socialism. The liberals and the Socialists forget that all human progress throughout history has owed its origins to talented, enterprising, and hard-working individuals. If America is to continue moving forward in freedom, we must preserve the individual liberties and the competitive spirit that have made this Nation great.

Here are some of the advantages of freedom which Americans have been taking for granted for decades, but which are very rare in any other country on Earth:

First. We can worship in the church of our choice.

Second. We can live with our own families.

Third. The right to work or quit work for any business we choose.

Fourth. A free and independent press.

Fifth. The best medical facilities in the world.

Sixth. Independent education for our children.

Seventh. No one in our community truly goes hungry.

Eighth. Living in any city, village, or farm where we choose to locate.

Ninth. Opportunity to have your own home, automobile, television, or telephone.

Tenth. Opportunities for promotion on merit, and success to those who work for it.

In many countries, these simple freedoms which we take for granted are unheard of. In many nations, the government tells people where to live, where to work, what to read, what to buy, sell, or produce, and at what price; and who can own an automobile, telephone, or house, usually after many years of waiting. When government starts to tell its citizens how to run their private lives, a great danger arises. As the noted philosopher David Hume once observed, freedom is seldom lost all at once, but rather is lost in small degrees, almost unnoticeable until they all add up to government control taking the place of personal responsibility and individual liberty.

Texans have always recognized the fact that there is no free lunch—people in Texas have pride in the fact that we work harder on our own, to earn what we deserve, rather than waiting for government to do it for us. Unfortunately, the big-spending liberals in Washington still have not learned some of these fundamental facts of life. Big government supervision of our lives gives us nothing but headaches, and threatens the very ideals of personal freedom upon which this country was founded. The best benefits and joys of life come from our families and living in a free society where we can do things for ourselves.

TRIBUTE TO THOMAS F. POLICASTRO

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. ST GERMAIN. Mr. Speaker, on August 11, the State of Rhode Island lost a man who, for more than a quarter century defended the cause of the working man.

Thomas F. Policastro will long be remembered as one of the most highly respected men the State has ever known. During his 25 years of active service as a spokesman and representative of the workers of the State, he was known for his uncompromising conviction.

He was an outspoken man of strength and vision. As president of the Rhode Island AFL-CIO for the past 19 years, he brought about changes that raised the standard of living for virtually every worker in the State.

He was the driving force behind the establishment of the State's group health association; he promoted the rights of all persons through his support of minority causes; and he represented the voice of the members of his union with distinction.

Not enough can be said about the deeds he accomplished. He was a community leader and a highly respected public servant.

In the passing of Thomas Policastro, the people of Rhode Island mourn the loss of an outstanding individual.

PANAMA CANAL AND NEUTRALITY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following dialog I had with General Brown of the Joint Chiefs of Staff and Secretary of Defense Harold Brown. As the following discussion indicates, the United States and Panama differently interpret article IV, which deals with the maintenance of the permanent neutrality of the Panama Canal, and article VI, which discusses U.S. rights to "expeditious" passage through the canal:

Mr. LAGOMARSINO. Let me ask you, in fact both of you, I would hope we could keep the answers rather brief, so I can finish the line of questioning if I might.

Would you support the treaties if they did not contain the right of this nation to intervene in Panama to protect the neutrality of the Canal even against Panama?

General BROWN. I would not.

Secretary BROWN. I would have to think very carefully about what exactly it said, Mr. Lagomarsino, but I believe that the assured neutrality is the key to my support.

Mr. LAGOMARSINO. Do you read the agreements to give the United States the right to determine if and when the neutrality is violated?

Secretary BROWN. I read the treaty to provide the US the right to determine by itself the need to assure the neutrality, yes. I believe that both Panama and the United States are under the arrangements of the neutrality treaty empowered to determine separately for themselves.

Mr. LAGOMARSINO. General, do you agree with that?

General BROWN. I do, as I understand Article IV, while I am not a lawyer, since it does not limit the responsibility, in time or condition, therefore it is open ended that the United States and the Republic of Panama agree to a regime of neutrality, to do exactly as you said.

Mr. LAGOMARSINO. Now, as you may know, Panamanian negotiator Escobar Bethancourt recently stated, quote, "The pact does not establish that the United States has a right to intervene in Panama". And he also said, "The Neutrality pact does not provide that the United States will say when neutrality is violated".

Apparently he at least does not believe that they agreed to allow the US to intervene for the protection of the Canal and you can make the determination when the neutrality has been broken.

We had a discussion with Ex or former Secretary of State Kissinger last week on this and he expressed some concern about this apparent abiguity, the US Government saying one thing and apparently at least some Panamanians saying exactly the opposite, and it would seem to me that being as fundamental an issue as it is, and I certainly agree with what you said, that it is fundamental, that we can't afford to have an agreement that is ambiguous, and my question is why don't we spell this out, if there is such a disagreement?

Secretary BROWN. Mr. Lagomarsino, since we are quoting, let me quote what General Torrijos said.

Mr. LAGOMARSINO. I understand what he said.

Secretary BROWN. He is a man of some influence there.

Mr. LAGOMARSINO. A little bit, which bothers me also, incidentally.

Secretary BROWN. Perhaps what he says about this will then reassure you. He says that the treaty does not enjoy the approval of all our people because, among other things, he said we are agreeing to a treaty of neutrality which places us under the protective umbrella of the Pentagon, which is a fairly strong statement.

I would also add that what we need to do is compare the situation now with the situation under the Neutrality treaty. I would be very surprised if Panamanians who believe that our ability to intervene is limited under the Neutrality treaty would consider it unlimited now. I think that this is the comparison that has to be made.

Mr. LAGOMARSINO. As long as you are quoting General Torrijos I will quote him back to you, a statement he made after the one you mentioned.

This was to the opening of the Tenth Congress of the Panamanian Students Federation at the Agusto Samuel Boyd National Agricultural Institute in Panama.

"I am not afraid nor am I denying we signed a clause which if misinterpreted by future U.S. generations could give place to intervening but I am not afraid, I know the youth we are producing, and in order for there to be intervention there must be a people willing to accept intervention, and these people have no intentions of accepting it."

All I am suggesting is there appears to be ambiguity, as Secretary Kissinger said, I think that if we are going to have a treaty we should certainly not have one that starts out in an ambiguous way.

He suggested that the Senate, he didn't use the word, reserve, but I guess that is what it amounts to, they make it very plain if they do ratify the treaty, we do have the right to intervene militarily.

Would you oppose that?

Secretary BROWN. I consider that we do have the right to intervene to preserve the neutrality of the Canal and that is clear so far as I am concerned.

Again, I would urge that we make a comparison not between what some people say now and what they might say then, but between our rights now and our abilities now and our abilities under those circumstances. That is, if the treaty is signed and if it is not signed, sorry, approved and ratified.

My judgment is that the need to intervene would be much less if the treaty is approved and that our right to intervene is fully preserved by the Neutrality treaty.

Mr. LAGOMARSINO. We have apparently a disagreement between the two sides. Again, my point is I think we should not have ambiguities when we know about them. They are bad enough when they come up later.

With regard to the right of expeditious passage, I believe that is a term used in the treaty, for our ships, not only our commercial ships but our warships. Apparently again there is some ambiguity there in the statement, Mr. Secretary, let's see if I can find it.

You say the US is given a preferred position with respect to use of the Canal, a position which no other country except Panama will enjoy.

Apparently, again Mr. Bethancourt has said when they, US, saw there was no way we would allow privileged passage, then they told us, we have to seek a formula so the Pentagon will see we are somehow taking them into consideration. This is how the expeditious passage came about. We do not believe that when they explain the expeditious passage term they will give the same explanation I . giving here. They have to sell their merchandise. It is the same merchandise but with different wrapping, they do not think as we do. They have to sell this treaty to their country, and for this reason you see that both of us give different information on the same provision".

Are you maintaining that we have preferred position or only expeditious passage which could indicate only that if we get in line they will take us when our turn comes?

Secretary BROWN. I will read the article which undoubtedly you have read. It says, "In recognition of the important contributions of the US and of the Republic of Panama to the construction, open rates, maintenance and protection and defense of the Canal, those vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this treaty, be entitled to transit the Canal irrespective of their internal operations, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal, expeditiously."

I can't read that any way except as a preferred position for the US and Panamanian vessels.

Mr. LAGOMARSINO. Well, again, apparently we have a different interpretation on the part of the Panamanians. Again if these things are as important as we all agree, why aren't they spelled out in the treaty?

Secretary BROWN. Well, this is spelled out.

Mr. LAGOMARSINO. But there apparently is a dispute as to what the term expeditious means. The Panamanians, at least Mr. Bethancourt, who is one of the negotiators says it does not mean privileged passage.

STELLA BRUNT OSBORN RECEIVES INTERNATIONAL AWARD

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. FINDLEY. Mr. Speaker, few people have given more of themselves to the cause of Atlantic unity and cooperation than Mrs. Stella Brunt Osborn. For as long as I can remember, Mrs. Osborn has been one of the leading exponents of developing stronger ties among the Atlantic allies for the purpose of meeting the challenge posed by the Soviet Union. Her tireless work, often at great personal sacrifice, has done much to advance the unity of purpose which today underpins western civilization. In that accomplishment, Mrs. Osborn has earned the gratitude of many, including some who are not even known to her.

I am therefore doubly happy to report that at a recent international meeting of the International Association for Federal Union, Mrs. Osborn received the first F. Cyril James Award for citizen participation in international affairs. No one is more deserving. I count it a distinct privilege just to know her.

Text of the award follows:

RESOLUTION

Whereas Stella Brunt Osborn has been active in the federal union movement for three decades; and

Whereas she has given of her time and her self in a manner reflective of the deepest commitment; and

Whereas she was a founder of the International Movement for Atlantic Union; and

Whereas she was an active participant in the Atlantic Union Committee; and

Whereas she long has served as a member of the board of directors of Federal Union, Inc., and

Whereas she was a member of the Organizing Committee which planned the creation of the International Association for Federal Union; and

Whereas she is the Honorary Vice President of the International Association for Federal Union; and

Whereas she has done more to enlist leading statesmen of the world in the federal union movement than perhaps any other person;

Now therefore be it resolved That the Governing Council of the International Association for Federal Union does recognize the invaluable contributions of Mrs. Osborn to the advancement of a secure and peaceful world and does hereby designate her as the first recipient of the F. Cyril James Award for citizen participation in international affairs.

Passed unanimously by the Governing Council at Reykjavik, Iceland, September 18, 1977.

THEOPHILUS TAYLOR,
President.

PANAMA CANAL ESSENTIAL TO UNITED STATES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement by Adm. Thomas H. Moorer before the House Committee on International Relations. His statement points out the importance of the Panama Canal to our naval and maritime activities.

STATEMENT BY ADM. THOMAS H. MOORER

Mr. Chairman and Distinguished Members of the International Relations Committee,

I am honored to be here as a witness. I would like to emphasize at the outset that I am not here representing a particular group, an organization, or a political party. Rather, I am here as a concerned citizen who has had far more than average involvement in the Panama Canal as it relates to the vital security of the citizens of these United States.

My military experience during the last twelve years of active duty, from 1962 to 1974, offered me some extraordinary and unique opportunities to assess the importance of the Panama Canal to the United States, as well as its value to our Allies and friends and, indeed, to all maritime nations.

My evaluation of this waterway as an invaluable possession of the United States was intensified in 1962. At that time I was Commander, Seventh Fleet, operating in the Western Pacific. Frequently my fleet's capabilities depended on the prompt arrival of supplies from the Atlantic seaboard, supplies loaded aboard ships which were utilizing the Panama Canal.

From the Seventh Fleet I went to Commander-in-Chief, Pacific; from there to Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, Atlantic; from there to Chief of Naval Operations and from there to Chairman of the Joint Chiefs of Staff. Each of these commands provided unique opportunities, and sometimes urgent reasons, to evaluate the Panama Canal. I saw this strategic waterway from many vantage points and under stressful circumstances.

As Commander-in-Chief, Pacific, I recall in some detail the Tonkin Gulf era of 1964. During that period I saw the Panama Canal as a conduit for rapid reinforcement from the Atlantic Fleet should the naval forces of the Soviet Union or mainland China become involved in the Vietnamese War. The U.S. high command was never sure during those early phases of the war of the intentions of either the Soviet Union or mainland China. We knew they had the naval and air capabilities to make trouble and therefore we had to draw up contingency plans for such eventualities. In order to equalize the wartime exposure and hardship throughout the entire Navy, large numbers of Atlantic Fleet units were continuously rotated through the Canal to the combat theater in the Pacific. In addition, as the Pacific Fleet Commander I looked to the Atlantic side for rapid logistics support. The U.S. Army, the U.S. Air Force, the U.S. Marine Corps and the U.S. Navy all required a continuous and heavy flow of logistic support; such necessities as fuel, ammunition, spare parts and food. Our allies fighting with us in Vietnam also required considerable support from the United States. If the Panama Canal had not been open and available, the war in Vietnam would have been much more difficult and costly to conduct. This conclusion is also true for the war in Korea. Going back a few years, there is no question but the availability of the Panama Canal shortened World War II by many months.

To give you some idea of the magnitude of Panama Canal usage and its relationship to military operations, in 1963 there was a total of 300 U.S. Government transits through the Panama Canal. As the Vietnam war escalated, the number of government ships transiting by 1966 had almost doubled. The records show for that year—1966—a total of 591 Government ships transited the Canal. Most of these ships were carrying critically needed logistics support to the forces operating under my command.

As Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, I saw the situation at Panama in another perspective. That was for the period 1965 to 1967. The war in Vietnam was still expanding, but now I was looking at the Canal not only as a means of sending support to the Commander-in-Chief, Pacific, but also from the Atlantic perspective. I saw the possible need to reverse the flow of ships through the Canal, particularly if the situation deteriorated in the Middle East or in the Caribbean during those volatile months of tension and conflict in both these areas.

Both in our U.S. planning and in our NATO planning we envisioned contingencies calling for reinforcements from the Pacific areas to the Atlantic. We clearly foresaw the need for transfer of combatant tonnage, Army and Marine divisions, and in particular we saw the need for transfer of amphibious lift.

As Chief of Naval Operations I had to look at the Panama Canal as an essential means of equalizing the strength and providing the balance between the Atlantic and Pacific fleets. The Canal made it possible to preposition certain types and tonnages, but always with the knowledge that the balance could be shifted to meet unforeseen situa-

tions. The Panama Canal gives the naval planner much flexibility and versatility that he would be deprived of without it.

As Chairman of the Joint Chiefs of Staff I became even more sensitive to the strategic value of this U.S. Canal as a means of protecting the security of the United States. My job as Chairman involved all of the Armed Forces of the United States—their collective requirements—and I was primarily responsible to the President for their ability to carry out their roles and missions as assigned by the Congress. Any Commander acting in that capacity will immediately perceive that it is vital to U.S. interests to retain complete ownership and control of the Panama Canal.

In view of the above I am very much concerned about the proposals to surrender the Panama Canal to a leftist oriented government allied with Cuba. There exists the potential danger for giving this U.S. advantage to a man who might allow or might be persuaded that it was in his best interest to permit Soviet power and influence to prevail by proxy over the Canal, in much the same manner as happened in Cuba. I was convinced as Chairman of the JCS—and I remain convinced today—that if the Soviet Union ever gained even proxy sovereignty and control over the U.S. Canal Zone and Canal through Cuba, U.S. security as well as U.S. prosperity would be placed in serious jeopardy.

The United States would be placed in jeopardy because interocean mobility would be threatened. The mobility of allied commercial shipping and naval forces would face the same threat. The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized, and the point is: there is no point in surrendering this vital interest. Also, by relinquishing control of the Canal Zone and the Canal, we would force all those nations who depend on our power and leadership to accommodate to the adverse implications of such action on our part. Recent history clearly indicates that the Canal Zone could quicky become the satellite base of an adversary. The advocates of this proposed treaty do not appear to take this factor into account.

The Panama Canal is one of the four maritime gateways of the world, together with the Malacca Straits, the Suez Canal, and the Gibraltar Straits. Anyone who reads Soviet literature concerning maritime affairs soon learns that the Soviets fully understand the strategic importance of the Panama Canal, even if some here in Washington do not. In my view, the prime reason for the burdensome support of Cuba by the Soviet Union is related directly to the interest in the Canal as they greatly expanded their maritime capabilities, both warships and merchant ships. We have in fact a Torrijos-Castro-Moscow Axis. Castro has sent thousands of troops to Africa aboard Soviet ships. He has been to Moscow where he was greeted with open arms. Torrijos has been to Havana where he has been decorated by Castro while both extolled the success of their respective revolutions. When Torrijos overflew Havana on his return from Washington to Panama, he sent the following message to Castro: "On my return trip to my country and flying above the sky of Cuba, I salute you with friendship always. I wish that the Cuban people under your skillful leadership, continue its ascendent march toward progress. In Latin America your name is associated with feelings about dignity that have been channeled toward the ending of a shameful period of colonialism."

In addition, a large Russian commission has recently visited Panama seeking concessions and offering economic assistance.

Mr. Chairman and Members of the Committee, do not be surprised that if this treaty is ratified in its present form to see a Soviet and/or Cuban presence quickly established in the country of Panama. Such a presence will seriously complicate the exercise of the implied "right" of the United States—I can find no such specific right contained in the treaty. In any event, any confrontation then becomes one with the Soviets rather than with the Panamanian guerrillas or terrorists. With the Soviets already on the scene, fighting our way in will not be simple. A permanent U.S. presence on the other hand is the only feasible posture.

In view of the above, Mr. Chairman, I have yet to hear any justification advanced as to why the United States should willingly sacrifice the strategic and economic advantages afforded the United States and, for that matter, all the nations in the Western Hemisphere by our exercise of full control of the Panama Canal as provided for in the current treaty. In fact, stripped to the essence I have heard only three reasons put forward in support of the proposed treaty: (1) by signing the new treaty we will divest ourselves of the stigma of colonialism harped on by Mr. Torrijos and thereafter everyone will love us; (2) if we do not surrender the Canal some unknown individuals in the Isthmus of Panama will blow it up; (3) the Canal is of not much use anyway. Traffic between oceans is a convenience but not vital. Further, the big ships of the Navy cannot use the Canal and only about 10 percent of the merchant ships passing through the Canal are U.S. flagships—so why the concern?

Let me briefly discuss each of these reasons in turn.

First, the United States does not have to apologize to anyone for its generous outpourings of blood and treasure in an effort to assist the underprivileged and make life more peaceful and more livable for everyone. This great Committee has participated and masterminded our aid program for years. However, from observing the attacks on the United States in the United Nations and other places, it is apparent that a great nation such as ours cannot buy affection. One more move in this direction in my view will have little or no effect. What we should strive for is not affection but respect. I am seriously concerned about the trends in recent years wherein we have withdrawn from Vietnam, are planning to withdraw from South Korea, have lost considerable influence following the Angola affair, and overall are suffering a gradual change in the perception by the nations of the world of the will and determination of the most powerful democracy in the world.

(2) Ever since the negotiations were initiated with Panama in 1964 the rationale has been advanced that if the United States did not divest itself of the Canal the Panamanians would sabotage it. To respond to this concept to me would be a retraction under threat. If this is to be our course of action in the future we might as well throw in the international towel. One should note from a practical point of view that the Panamanians enjoy the highest per capita income of any of the contemporary Latin American countries because of the presence of the Canal. The activities surrounding the presence of the Canal contribute about one third of the employment and one third of the gross national product to Panama. If they were to attempt to damage or sabotage the Canal they would be doing nothing more than cutting off their nose to spite their fiscal face. Furthermore, they would be the ones who would be committing violence, not the United States. To me a pulling back under threat will simply lay our country open to additional threats and we will lose the respect of which I spoke. Under such a condition one could expect many of the nations of the world to tilt toward those who they know are willing to take a firm stand in their national interest.

(3) So far as the question of a two-ocean navy and the passage of aircraft carriers through the Canal is concerned, let me say first that we do not have a two-ocean navy. In recent years the Navy has been rapidly reduced from over 900 ships to less than 500. All war plans and all contingency plans are infeasible unless one assumes that full use of the Canal will be available. With respect to the large carriers, the Navy has only 13 of these ships. The vast majority—well in excess of 90 percent—of the ships of the Navy can transit the Canal and will be required to transit the Canal. I should note that the other alternative, namely going around Cap Horn, will add 8,000 miles, 25 to 30 days and a considerable increase in the cost of fuel to naval operations. In wartime the 30 days could well be vital.

As far as the big merchant ships are concerned, it is true that only about 10 percent of the ships flying the U.S. flag transit the Canal. But that is not the point. It is well known that the United States has a very small merchant marine and that the shipping interests in our country, for various legal and fiscal reasons, resort to what is known as a "flag of convenience." What really counts is the tonnage which transits the Canal enroute to and from ports in the United States. It so happens that out of about 14,000 ships that transit the Canal, 8,000 are either enroute from or bound for U.S. ports.

So much for these three reasons. Finally, Mr. Chairman, there are several questions somewhat outside my purview but troublesome nevertheless, and I will simply list them for you.

(1) Do the negotiators for Panama and the United States have the same perception as to the real meaning of the language in the treaty? Public statements by both sides subsequent to the negotiations seem to indicate otherwise. Certainly this matter should be cleared up without delay.

(2) If the O.A.S. nations so strongly support the treaty, how do we account for the absence of the presidents of the two largest and most influential countries at the signing ceremonies in Washington a couple of weeks ago? (I refer, of course, to Brazil and Mexico.)

(3) What will Panama do with a 2,000 percent increase over the 2.3 million dollars she received last year as income from the Canal? To me that appears to be a fantastic amount for a country with a population not much larger than Detroit? Where will the money really go?

(4) In the event that the tolls are raised 30 percent resulting in serious impact on the economies of the other Latin American countries—particularly those on the west coast of South America—will these countries continue their strong support of the proposed treaty or will in the final analysis the U.S. taxpayer be asked to foot the bill in order to make certain that everyone loves us?

There are other questions which concern me, Mr. Chairman, but I think I will simply close by saying that regarding the question of control and ownership of the U.S. Canal Zone and the Canal I am satisfied with the Supreme Court's decision in the famous Wilson vs. Shaw case to the effect that the United States does in fact have legal control and ownership as if she has sovereignty for the purposes enumerated in the Treaty of 1903. This ruling was reaffirmed as recently as 1972. Also, our Constitution states in Article IV, Section 3, Clause 2, that only Congress has the authority to dispose of U.S. territory and other property of the United States. The language in the Supreme Court's decision of 1907 is quite precise. It is not ambiguous. So is the language in our Constitution. Since the Supreme Court's decision of 1907 still stands—it has never been overruled—and since the Constitution in my opinion is still the soundest governing document in existence, I can only conclude that we would be well advised to abide by such documents in our negotiations with other countries.

Thank you Mr. Chairman.

ANOTHER LOOK AT THE FUEL ECONOMY/AUTO EMISSION DEBATE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BROWN of California. Mr. Speaker, when the House debated the issue of Federal automobile emission standards, the debate seemed to center around fuel economy, and what effect stricter emission standards would have on fuel economy. At the time of this debate, I said this was a "red herring" issue, irrelevant to the question of auto emission standards for protecting the public health and welfare. It was known at the time of the debate, although it was denied by the auto industry, that both fuel economy and auto emission standards can be met.

A recent article from the Los Angeles Times documents, better than anything I could say, that the fuel economy arguments against auto emission standards were phony. In the hopes that Members can avoid being fooled in the future, I ask that this article be inserted in the RECORD at this time.

The article from the September 29 issue of the Los Angeles Times follows:

SOME CARS BEAT FUEL ECONOMY PENALTY

(By Harry Anderson)

The fuel economy penalty which California cars have suffered because of the state's tougher pollution control laws may soon be a thing of the past.

According to Environmental Protection Agency mileage estimates, some 1978-model Ford and General Motors cars equipped with a new smog device achieve exactly the same miles per gallon as identical models sold in states where pollution limits are not as strict.

In the past, California's cars frequently obtained as much as 15% fewer miles per gallon. Use of the new, three-way catalytic converter system, which was first installed on 1976 four-cylinder Volvos in California, may mean the elimination of the California penalty once all cars are equipped with it.

The system will be standard equipment on all 1978 California Ford Pintos and Mercury Bobcats with 2.3 liter, four-cylinder engines, and on all Pontiac Sunbirds, Chevrolet Monzas and Oldsmobile Starfires with 151-cubic-inch, four-cylinder engines.

It is also expected to be available in several months as an extra-cost option on Buick Skyhawks with 231 cubic-inch V-6 engines.

The EPA estimated that the Ford cars with automatic transmission would achieve an estimated 24 m.p.g. in combined city/highway driving. Manual transmission versions were estimated to get 29 m.p.g. Both estimates are identical with those for Pintos and Bobcats sold elsewhere without the new system.

On 1977 models, there was a penalty of 2 m.p.g. on California cars.

The GM four-cylinder engine, which is available only with automatic transmission in California, was estimated to get 26 m.p.g.—which also is identical to out-of-state cars with the same engine. There was a 4 m.p.g. penalty for California cars in 1977.

"The three-way catalytic converter offers us the opportunity to achieve better emissions control while greatly reducing the fuel economy penalty normally associated with tighter pollution limits," said Alex C. Mair, general manager of GM's Pontiac division, in an interview.

GM had previously indicated it plans to expand the use of three-way catalytic converters to all its California cars in 1980 and to all cars nationwide in 1981.

California air pollution officials had praised the new system when Volvo introduced it, but U.S. auto makers initially were reluctant to use three-way converters because they require an expensive rare element called rhodium. Also, the Detroit companies said they were concerned because the Volvo system used expensive fuel injection.

The three-way catalytic converter is so named because it acts to reduce all three chemical components of exhaust emissions, while converters used on most cars since 1975 act on only two.

The new system improves fuel economy and performance because a car's engine no longer needs an exhaust gas recirculation device, and other engine adjustments can be made to make the car run smoother and more efficiently than with conventional pollution control gear.

Both Ford and GM use a less expensive electronically controlled conventional carburetor in their three-way systems.

Mair said the extra charge to meet California emissions standards would be $100 on a Pontiac Sunbird with the new device compared with $75 on Pontiacs without it.

Ford said although its 1978 pricing has not been fully set it would not charge extra for the system.

CAP ON PRICING FOR ENRICHMENT SERVICES

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BURGENER. Mr. Speaker, on Wednesday, September 21, 1977, the House passed, by a division vote, an amendment to title V of H.R. 6796, ERDA authorizations for civilian research and development, that places a cap on pricing for enrichment services. It had previously been expected that a motion would be made to strike the entire title V. Unfortunately that motion was not made. Had it, however, been made, I would have supported it.

Mr. Speaker, the Government is the only source of enrichment services and should not take unfair advantage of those already under contract to buy such services nor of those committed to cooperative arrangements for power reactor demonstration program projects. By striking title V from the ERDA authorization for fiscal year 1978 the Congress would allow the proposed price change to be considered separately by the committees of jurisdiction in both Houses of the Congress. In that way, Congress could exercise complete and thorough oversight for all proposed pricing changes prior to enactment by the ERDA. It is estimated that in my own district, the San Diego Gas & Electric Co. would be compelled to pay an additional $23,000,000 for enrichment services over the next 10 years if the new criteria were to be approved. Surely, such a dramatic impact should receive the indepth consideration that all changes to enrichment services pricing criteria have received since enactment of the Atomic Energy Act more than 20 years ago.

BUCKEYE FARM NEWS SUPPORTS CONSUMER COMMUNICATIONS REFORM ACT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. ASHBROOK. Mr. Speaker, one of the important pieces of legislation I am sponsoring is H.R. 151, the Consumer Communications Reform Act. This legislation is aimed at preventing a major increase in residential telephone rates.

I was pleased to see an editorial in support of the act in the July issue of the Buckeye Farm News. The article stresses the danger of a major cost increase in telephone service for farmers and rural residents should the Consumer Communications Reform Act not be adopted. According to the editorial:

Should farmers and rural residents be forced to a cost-of-service basis you can imagine the price tag! Some have said it would be $100 a month for every farm home.

Farmers and rural residents can ill afford these additional costs. Congress should move to prevent a major increase in residential telephone rates by enacting the Consumer Communications Reform Act.

Following is the text of the editorial from the Buckeye Farm News.

COMMUNICATING COULD BE COSTLY

We need to keep telling the farmer's story at every opportunity in whatever manner seems best! Included in that story should be the tremendous benefit from having agriculture included in the main stream of communication, transportation, and other important public areas of concern on an affordable basis; rather than a total cost-of-service basis. There is a strong trend in recent months to force public services to a cost-of-service basis. People in agriculture and in rural areas will be subjected to high-cost service, and probably poor service, if this is permitted to happen.

Consider the impact of the decision of the federal regulators to allow the entry of new organizations furnishing so-called "specialized services" into the telephone business. The FCC policy when adopted probably seemed designed to increase competition. It permits independent companies to install their own equipment in office buildings, and then requires interconnect with the Bell System and all other independent telephone systems. It also permits these private companies to cream off the high-volume areas of business, which results in lower-cost telephone communication for high-usage areas.

In contrast, prior to the FCC ruling requiring interconnect, the entire telephone system used a variety of pricing methods to assure low-cost service to every home, and relatively low-cost service to rural residences. Charges were higher than necessary for long distance calls between large cities and fancy equipment. These extra costs helped provide home service at less than cost.

An independent study made for AT&T indicates that these changes will cause real-

dential service costs to increase by 79 per cent, an average, in order to accommodate this drastic change in pricing. Should farmers and rural residents be forced to a cost-of-service basis you can imagine the price tag! Some have said it would be $100 a month for every farm home.

Full impact of the new rules has not been felt. And now Congress has proposed Consumer Communications Reform Act which would return us to the system affirmed in the Federal Communications Act of 1934, and maintained for these last 40 years, which was then the policy of Congress to assure adequate service to all at reasonable rates.

Your Congressman should hear from you on this one, and your response need not be technical or lengthy. If you are alarmed at this new policy, that's all they really need to know, and further, they need to know your support of the Consumer Communications Reform Act.

Both the Ohio and American Farm Bureaus have expressed support of this act and have consistently worked on it—but it will take member involvement for effectiveness. In fact, why not use the telephone service you want to protect by calling a Public Opinion Message to Western Union and having them deliver it for you. The cost is only $2 for 15 words or less—and that should be sufficient for your message. The toll-free number is (800) 325-5300.

Eliminating sixth-day service for rural mail delivery is another one of the cost-of-service moves, as is the elimination of many rural post offices. Farmers now get the local paper one day late, and if Saturday delivery is eliminated the Friday paper will be received three days late.

Even the PUCO makes noises like cost-of-service is the only basis for regulating public utility prices.

Many of you can recall when roads were assessed on a front-foot basis to farmers who had virtually no need for the road, compared to others who want to reach a far destination. Surely we are not going to return to the old days when the public benefits greatly from a highly productive agriculture. Your Farm Bureau will attempt to protect the rural interests in all ways possible, but it's only when members are concerned that it can represent you. Let's not let them isolate us by pricing us out of the market for public services.

POTENTIAL OF AUTOMATIC CRASH PROTECTION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. MAZZOLI. Mr. Speaker, recent data collected by the U.S. Department of Transportation indicates the life-saving potential of automatic crash protection.

I commend to the attention of my colleagues the details of this study:

AUTOMATIC CRASH PROTECTION SHOWS DRAMATIC RESULTS

Newly compiled accident data collected by the U.S. Department of Transportation indicates a dramatic reduction in highway deaths in cars equipped with automatic crash protection.

The lastest survey by the Department's Fatal Accident Reporting System (FARS) shows the death rate for Deluxe Model Volkswagen Rabbits equipped with the automatic shoulder belt is about one-third the rate for other VW Rabbits equipped with ordinary seat belts.

The VW Rabbits provide for the first time a direct comparison between automatic restraint systems and regular seat belts because the cars are otherwise identical. The automatic shoulder belt automatically goes into place when the door is closed.

FARS, operated by DOT's National Highway Traffic Safety Administration, keeps a comprehensive file of fatal accident reports obtained from the states. The latest data show:

There are approximately 79,000 Rabbits with automatic crash protection on the nation's highways. These cars have traveled about 1.2 billion miles.

Nearly 300,000 Rabbits with regular seat belts have traveled about 4.8 billion miles.

There have been only six reported fatalities in the cars with automatic crash protection—a rate of .50 per 100 million miles—compared with 81 deaths in regular seat belt cars, for a rate of 1.7 per 100 million miles.

The VW type automatic crash protection is one system that can be used by auto manufacturers to meet the requirements of the Transportation Department's recently announced standard on occupant crash protection.

The standard, issued by Transportation Secretary Brock Adams on June 30, 1977, requires the installation of automatic restraint systems to protect front seat occupants in crashes beginning with all full-size passenger cars in model year 1982. All intermediate and compact cars will have to have such equipment by model year 1983, and all passenger cars will be required to provide passive protection systems by model year 1984.

"We are seeing a preview of the expected improvement in highway safety that will come when all cars on the road have automatic occupant crash protection systems," said Joan Claybrook, the NHTSA administrator. "The information gleaned from accident reports from across the nation confirms the department's expectation of the enormous payoff of automatic restraints in reducing deaths and serious injuries in automobile crashes."

She said a recent agency study showed that only 20 percent of vehicle occupants wear their safety belts and that restraints such as automatic belts or air bags could save 9,000 lives and prevent tens of thousands of injuries a year once they are installed in the entire U.S. auto fleet.

The NHTSA noted that there have been other indications of the improved safety in Volkswagen Rabbits with automatic restraints. In a preliminary analysis of insurance claims data released last July, the Highway Loss Data Institute found a reduction of between 19 and 27 percent in the frequency of claims in these Rabbits compared with Rabbits having only seat belts, both overall and as a function of collision claims associated with injury.

INCREASE IN MINIMUM-INCREASE IN HOSPITAL COSTS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SHUSTER. Mr. Speaker, I commend to my colleagues an article written by Mr. James M. Underwood of Latrobe, Pa. in regard to the effects the increase of the minimum wage will have on the hospital industry. I think the article makes some interesting points about an aspect of this issue of which we have had very little information.

The article follows:

INCREASE IN MINIMUM-INCREASE IN HOSPITAL COSTS

With all the space daily and weekly publications devote to government programs, little mention is accorded the minimum wage and its implications. One concludes it is a subject closely akin to motherhood, the American flag and apple pie. In other words, it seems to be the popular opinion that he who questions any part of it is unfeeling and unpatriotic, with no thoughts of helping his fellow man.

The minimum wage now stands at $2.30 per hour. The current increase proposed is $.35 to a total of $2.65. Built-in provisions are included to raise it $.85 to $3.15 by 1980. Anyone paying less than the current legal minimum is in violation of the federal law, and an individual choosing to work at a lesser rate would be in violation as well.

The minimum wage, however, is not all peaches and cream. Past increases have had some detrimental impacts upon the American economy. The higher it goes, the more continued effect it must have, particularly in such sensitive areas as new enterprises, teen-age employment and soaring hospital costs.

Too few articles have been written about the damaging effect of a minimum wage increase would exert upon new enterprise. New employers are needed for the new jobs only such enterprise can provide. It is important to provide a small base at the beginning to permit unproved and untried ideas to grow and prosper. With constant wage increases, a lot of these new ideas are never going to get off the ground.

Much more has been written about the effect of the increase on teenage unemployment. Teenage unemployment significantly exceeds the national average, and runs as high as 40 and 50%. If youths are not employable at $2.30 an hour because they are unskilled, or not permitted to take jobs at this or lower rates to learn a skill that will eventually pay them a higher rate, the increase in the minimum wage will simply make the situation worse. These young people need productive opportunities, not government created jobs to be supported by the taxpayers.

Admittedly, in these two areas the increase in the minimum wage will create serious problems. However, there is another area—hospital costs—where the effect of the minimum wage has received very little notice.

About one and one-half million beds are available in acute care hospitals in the United States. At a 70% occupancy rate, hospitals have a daily average of 1,050,000 occupied beds. By actual count made in 1976, 3.26 employees were required to service each occupied bed.

Almost every hospital has workers at a minimum wage. These are orderlies, kitchen help, people to push wheel chairs, or help with a great variety of other menial services. Many employ the handicapped where there are jobs they are able to do. When a hospital increases those at the lowest rate, the same percentage increase will follow through the entire payroll. This occurs every time there is an increase in the basic rate of any employment, in industry, hospitals, or whatever.

In addition, at least a third will be added to the basic wage increase for fringe benefits. Thus, the $.35 increase becomes $.46 an hour and the $.85 increase to $3.15 becomes $1.12 an hour. With 3.26 employees for a patient day, 26 hours are expended for each bed patient each day. . . . As a result, the federally-mandated increase to $2.65 will increase hospital costs. . . .

$12,558,000, each day.

$4,583,000,000, each year.

When the $3.15 base becomes mandatory, hospital cost will have increased to . . .

$30,846,000, each day.

$11,259,000, each year.

On a per day basis for a more comprehensible figure, the increase to $3.15 will mean added hospital costs of $29.38 per patient day.

This almost $30 per day mandated increase considerably exceeds the 9% some legislators have proposed as a limit to increased hospital charges. What kind of reasoning tells a hospital it cannot raise bed prices, when compliance with government rules will cost more than the permitted price increase? Only governments operate at deficits; a hospital, like any individual, must at least break even with revenue and expenses.

This all must come back to the enormous impact of the proposed cost to hospitals, and to the payment of $12 billion in additional costs annually. Medicare pays ever increasing percentages of hospital cost. If 50% is a conservative figure when the share of medicare in total hospital cost is considered, this minimum wage increase will force another $6 billion into the Federal budget to fund increased hospital cost. It will create another massive obstacle to balancing the Federal budget, if balanced it ever will be. With such unmentionable hidden increases in annual governmental costs, budget makers may well have another unsolvable problem.

Certainly, $6 billion added to the Federal budget each year will give inflation another tremendous push. Everyone is concerned with the purchasing value of the dollar, so real and cautious consideration should be given to the minimum wage proposal if for no other reason than its effect upon inflation. With the purchasing power of the dollar declining, deterrents, rather than inflationary boosts are needed for inflationary control.

So, the increase in the minimum wage is not all apple pie, motherhood and the American flag. The subject of the minimum wage is long overdue for plain talk and cold analysis. It's time we all began to be concerned about the serious problems it can create. On balance, the arguments against it may well have the greater weight.

JAMES M. UNDERWOOD,
Latrobe, Pa.

BOSTON GLOBE OPPOSES STATE DEPARTMENT INTERFERENCE IN FISHERY ENFORCEMENT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. STUDDS. Mr. Speaker, on September 10 the Coast Guard apprehended the Polish fishing vessel *Laskara* conducting illegal fishing activities in the water off New England. Although the Coast Guard, the National Marine Fisheries Service, and the Justice Department—the agencies charged by the Congress with responsibility for enforcement of the Fishery Conservation and Management Act of 1976—all agreed that the vessel should be arrested and seized, the State Department and the National Security Council staff at the White House intervened to prevent arrest of the vessel for its violations of the law.

The lead editorial from the Boston Globe of Friday, September 23, presents a very thoughful discussion of the need to end this interference in what are basically matters of domestic law enforcement, and I commend the editorial to my colleagues. The editorial follows:

INTERFERING WITH THE LAW

The Fisheries Conservation and Management Act of 1976, which established the United State's 200-mile fishing limit, is the law of the land, and it seems reasonable to expect that it be enforced like any other law. However, that view is apparently not shared by the State Department and the National Security Council.

About two weeks ago, it's now been confirmed, the Coast Guard, the National Marine Fisheries Service and the Justice Department all recommended that a Polish trawler found to be carrying 17 tons of squid in an area of the Atlantic designated for herring fishing be seized. However, the State Department objected, its position was upheld by the National Security Council staff and the trawler was released, its sqid in hold, with simply a citation.

The State Department, in a statement yesterday, based its intervention in the matter on "foreign policy considerations" and cited specifically the nature of the violation, the fact that it was the first for the particular trawler and the generally good record of compliance with the law by the Polish fleet.

Certainly every seizure of a foreign boat involves some foreign policy considerations. Yet, both the nature of the offense and the fact that it was the first such violation seem more law enforcement considerations than foreign policy matters. And the fact that the Polish record is generally clean is a factor a judge might weigh in imposing penalties, not a matter of foreign affairs.

The State Department and the National Security Council are brought into fishing vessel-seizure questions by a classified four-year-old White House policy. It predates the 200-mile legislation and was drafted at a time when fishing policy in the near northwest Atlantic was regulated by an international treaty, not a domestic law.

Under the former circumstances, routine State Department involvement was probably appropriate. That is no longer so.

As with any law, exceptional circumstances could in the future warrant a decision to waive normal enforcement. But a policy governing those exceptions should be crafted, together with more up-to-date procedures for routine enforcement, and the whole thing should be made public. The State Department and the National Security Council promised just this six months ago but have thus far failed to deliver.

If Congress were concerned primarily with foreign policy considerations in legislating a fishing policy, it would never have enacted the 200-mile limit, but would simply have permitted foreign fleets unlimited access to these waters.

Clearly, however, the congressional intent was to protect the domestic fishing industry and to manage better the northwest Atlantic fisheries. Unnecessary State Department interference with enforcement of the 1976 legislation can only undermine that intent.

PRESIDENT'S 11-NATION TRIP

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SISK. Mr. Speaker, next week our President embarks on an 11-nation trip to Latin America, Africa, Asia and Europe. An editorial in the Washington Post on Sunday, September 25, 1977 discussed what might be the purpose of Mr. Carter's trip. Said the Post: "Anyone who can detect a theme in this pudding gets to stay home as an award."

I must say that I was, at first, puzzled. These 11 nations seemed to have little in common; two are major non-Arab oil producers; three are European nations with different types of government; two are military dictatorships whose internal policies have raised serious questions among human rights advocates.

A second look at these nations, however, indicates that there is, in fact, a common problem among them: population growth. Nigeria, Brazil, Venezuela, Iran, and India contain a total of nearly 900 million people or 20 percent of the world's 4.3 billion inhabitants. Each of these nations is growing at 2.8 percent a year or more, with the exception of India which is still doubling its population every 30 years or so. By the year 2000, these five nations will contain over 1.5 billion people if current trends continue. In contrast, in 1950 these same nations contained approximately 500 million people.

Thus, in the span of 50 years, the number of people living in these five nations will have tripled. As a result of the enormous growth in human numbers since 1950, Nigeria, India, and Brazil have only about one-half an acre of arable land to support each of its citizens.

Instead of importing about 4.3 million metric tons of grain in 1950 (1948–52), these five nations imported nearly 10 million metric tons of cereal grains in 1974 according to the U.N. Food and Agricultural Organization.

In addition, while Iran and Venezuela have about 1 acre of arable land per person, their annual imports of cereal grains have increased by nearly 3 million metric tons between 1950 and 1974, largely because of their nearly 150 percent increase in population.

I would hope, Mr. Speaker, that this sad story will not be repeated in these countries in the next few decades. In the short 23 years left until the beginning of the 21st century the nations of the world must come to grips with this tragic problem. We have no other alternative.

Interestingly, Mr. Speaker, one of the nations on the President's agenda—Belgium—has just achieved zero population growth. Another, France, has a 0.4 percent growth rate, even though it is a heavily Catholic nation.

Just this Wednesday the House of Representatives passed House Resolution 70, to create a Select Committee on Population, which I strongly supported. This is a good first step toward the goal of world population stabilization. The President's trip is perhaps a good second step in that direction.

I strongly urge the President to speak to the leaders of these nations about the seriousness of the population problem facing them as well as the rest of the world. I believe that Congress is increasingly concerned that U.S. economic assistance can only be effective if population growth is brought under control. Sound economic policy would dictate that the industrialized nations of the world also must stabilize their populations. Together, the rich and poor nations of the world can solve this problem, but only if action is taken now.

BRONKO NAGURSKI: "OUTSTANDING MINNESOTAN"

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. OBERSTAR. Mr. Speaker, Minnesota's Bronko Nagurski is a legend in his own lifetime. Often called the "greatest football player of the era from 1900 to 1950," Nagurski was one of the original inductees of the College Football Hall of Fame and the pro Football Hall of Fame. Yet he never sought fame; he disdained public recognition; and, above all, never "cashed in" on his gridiron achievements.

But recognition has come at last to Bronko Nagurski who, on September 22, 1977, was voted "Outstanding Minnesotan" by the Minnesota Broadcasters Association during their annual meeting. It is recognition truly deserved and earned, and maybe all the more appreciated that it comes late in life, and perhaps takes on an even greater significance when we consider the many other great men and women of our State against whose achievements those of "The Bronk" must be measured.

A native of International Falls, Minn., and current resident of the Falls area, Nagurski played football for the University of Minnesota Gophers in the late 1920's and for the National Football League Chicago Bears in the 1930's. The memory of Nagurski's extraordinary exploits in those pioneer days of football still quickens the pulse of true football fans as well as pro football enthusiasts.

As a University of Minnesota Gopher, "The Bronk" first played tackle on offense and defense and later fullback, becoming the first player ever named All-American at two positions.

From our perspective of the 1970's it is difficult to measure the greatness of Bronko Nagurski, but not less football all-time great than Red Grange, himself, summed up Bronko's career in terms football fans of the 1970's can best appreciate. Grange said:

> I was asked once if I could describe the Bronko's player abilities in modern terms and I said, "He played offense like Larry Czonka and defense like Dick Butkus."

To me, that says it all.

I am honored to call Bronko Nagurski my friend of many years and am deeply pleased for him that he has won this long-overdue recognition.

I would like to share with my colleagues an article which appeared on Friday, September 23, 1977, in the Bronk's hometown newspaper, the International Falls Daily Journal, the fine daily newspaper in the Eighth Congressional District serving the borderland of the United States and Canada.

BRONKO HONORED AS OUTSTANDING MINNESOTAN

(By Keith Christensen)

WORTHINGTON.—Bronko Nagurski, Falls favorite son who went on to become a football legend with the University of Minnesota and the Chicago Bears, was named Outstanding Minnesotan Thursday by the Minnesota Broadcasters Association.

Accepting the award, Nagurski gave a brief speech to the large gathering of state radio and television personnel. He told them his two most memorable games were with the University in the late '20's.

In 1927 Bronko led the Gophers to a tie against another legend—Knute Rockne, coach of Notre Dame. Minnesota was playing the highly touted Irish on their home field. Nagurski recovered a Notre Dame fumble to preserve the tie.

As a senior in 1929, Bronko moved from tackle to fullback after being fit with a special brace to protect torn ribs. He rushed six consecutive times and scored a touchdown giving the Gophers a 6-0 win over Wisconsin in his final college game.

Nagurski wasn't sure why he received the award 34 years after his playing days. "A lot of people have done more than I have in that time," he said.

In past years the broadcasters have honored other Minnesotans who made it big such as Senator Hubert Humphrey and Vice President Mondale. Mondale gave a speech to the group Thursday via tape from Washington.

The former all-everything star was revered throughout and after his illustrious career. As a Gopher, Nagurski was named an All-American. In fact, he was the first player ever to receive the award at two positions—tackle and fullback. In nine seasons with the Chicago Bears, Bronko teamed up with the immortal Red Grange. He summed up Bronko like this: "A lot of times reporters ask me who I think was the greatest football player of all time and there is only one—the Bronk. I was asked once if I could describe the Bronk's player abilities in modern terms and I said—'he played offense like Larry Csonka and defense like Dick Butkus.' "

Nagurski can now put this award among his many others. Even now, in 1977—34 years after he retired, it is again appropriate to honor this giant of a man.

AWARD PRESENTATION BY REV. BEN CHAVIS AND THE "WILMINGTON 10"

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. EDWARDS of California. Mr. Speaker, last Saturday, September 24, the Congressional Black Caucus held its seventh annual dinner. The evening was the occasion for the granting of the George W. Collins Award for Community Service to the Wilmington 10. This award was created after the untimely death of the Chicago Congressman and late husband of our distinguished colleague, Representative CARDISS COLLINS. The award gives recognition to an individual or group on the local level who exemplifies the dedication and work styles of the late George Collins.

Wilmington 10 attorney James Ferguson and Dr. Charles Cobb accepted the award on behalf of Reverend Ben Chavis and the other members of the Wilmington 10. Mr. Speaker, I wish to include in the RECORD the fine words of my colleague, Congressman JOHN CONYERS, who made the presentation of this distinguished award.

AWARD PRESENTATION TO REV. BEN CHAVIS AND THE "WILMINGTON 10"

Rev. Ben Chavis was not able to be here tonight to receive the George W. Collins award for Community Service because all efforts to get him out of prison for the occasion failed. I even offered to personally escort Rev. Chavis here but that obviously was not good enough for the North Carolina correctional authorities.

The "Wilmington 10" case, with Rev. Chavis as the central figure, fully symbolizes the injustice of the so-called justice system in America for blacks and other minorities. Convicted 5 years ago this month and sentenced to a total of 280 years in prison, Ben Chavis, 8 black youths and a mother of 2 experienced political rather than criminal prosecutions. Federal, state and local authorities all are implicated in this travesty of justice.

The only significant different between Rev. Chavis and Steve Biko, the probable victim of political homicide in a South African prison, is that Ben Chavis is still alive. The parallels between the Chavis and Biko cases should be noted. Both were marked men from the start. Lawless suppression that failed to achieve its aim for both black men led to supposedly lawful repression—the trumped up charges, the flagrant violations of human rights and protections under constitutional and international law.

The irony of it all is that, as the Congressional Black Caucus was informed by Vice-President Mondale this morning, this nation's ability to exercise moral authority for human rights in international forums stems directly from the legacy of the civil rights movement. And yet, a leader in the struggle for civil and human rights in America languishes in a North Carolina prison apparently beyond the reach of the United States government's legal and, more important, moral authority.

On behalf of the Congressional Black Caucus and all of our brothers and sisters here tonight and across the nation, we acknowledge with this award the historic contribution of the "Wilmington 10" to the cause of justice and human rights for blacks everywhere.

WILMINGTON TEN

In 1971, ten people, a young Black minister (Ben Chavis), a white peace corps worker (Ann Sheppard), and eight high school students (Marvin Patrick, Connie Tindell, Jerry Jacobs, James McCoy, Reginald Epps, Wayne Moore, Joe Wright, and William Earl Vereen) brought needed leadership to a troubled Wilmington, N.C., Black community concerned and upset over discrimination in their public schools. Today these same civic leaders languish in prisons, save one who has been paroled, serving sentences totaling 282 years, victims of blind vengeance and racial injustice.

The genesis of the story of the Wilmington Ten, as they have come to be known, began in January 1971 when school officials at the newly integrated Hanover High School in Wilmington refused a request by Black students to honor the birthday of Dr. Martin Luther King, Jr., in a school assembly program. This rebuff, another in a long list of unanswered Black community concerns of discrimination in transportation, athletic teams, disciplinary actions, selection of members of the student government, and the transfer of Black teachers and administrators, prompted a peaceful boycott of the schools by the Wilmington Black community.

Their protest was met with violence from white extremists and attacks on the Gregory Congregational Church, the center of boycott activity. Undeterred in their purpose, Wilmington's Black community continued their demonstrations with the assistance and leadership of Rev. Chavis, who was dispatched to the city by the United Church of Christ at the request of one of its pastors. Ben Chavis, a civil rights activist since the age of fourteen, helped the community organize itself, urged communication and understanding between blacks and whites, and labored

to prevent violence from both sides. As one observer noted, "Ben Chavis was about the only man who had a chance of keeping a lid on things." Despite his efforts and those of his colleagues, in the aftermath of heightened racial tensions, a small white owned store, Mike's Grocery, burned. More than a year later a grand jury returned indictments against the "Ten" for the burning of the store.

The imprisonment of the Wilmington Ten has aroused national and international concern and attention. Amnesty International has adopted the Wilmington Ten case as an instance of human rights violation within the United States. Thousands of distinguished citizens and elected officials here and abroad have called for their release and have saluted their courage and moral steadfastness. Forty members of Congress have joined with the Congressional Black Caucus in petitioning the U.S. Justice Department for their intervention.

Community service, for most of us, involves activism and the loss of leisure time. For the Wilmington Ten, their community dedication has meant deferred dreams, disrupted lives, and the denial of personal liberty. Their belief in the principles of equal justice and racial equality placed their future in jeopardy but they have held true to what was right. The case of the Wilmington Ten, their lives and good works, is an inspiration. Their plight is a lesson that reform is needed in the criminal justice system, and their story is a striking reminder that the struggle for civil rights is ever ongoing.

PARALYZED ECONOMISTS, STAGNANT ECONOMY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SIMON. Mr. Speaker, I am sure someone who writes headings for articles and editorials has never won a Pulitzer Prize, but whoever wrote the head for a recent New York Times editorial perhaps deserves one, for the four words of that editorial heading summarize our present situation better than anything I have read: "Paralyzed Economists, Stagnant Economy."

The editorial points out the deficiencies of the traditional schools of economic thought, and the relative lack of fresh thinking, and fresh approaches by the Nation's economists. The editorial speaks of "an intellectual vacuum" and that is an apt description. Economists resist new ideas just as much as people in any other arena do. And right now we need the new ideas, the fresh approaches which build on the base of the solid contributions of Keynes and Friedman and all the others.

Let me cite one example of the type of thing I would like to see the economists take a look at.

Ask a traditional economist what is the impact of an increase in the price of steel, and the response is that it is inflationary.

Ask a traditional economist what is the impact of an increase in the price of oil, bread, sugar, and other products, and the answer is always, "Inflationary."

But ask what the impact is from an increase in the price of interest and the response is: "Deflationary."

I question that traditional wisdom.

If interest rates are lowered because too much money is in circulation, then there is an obvious inflationary factor, but it is the surplus money supply that causes the inflation, not lower interest rates.

But if we could keep the growth of money supply in line with productivity, as Friedman suggests, but depart from him there and have a generally lower interest rate through other means (as we do for everything from rural electrification loans to student loans), what would its impact be? How can it be achieved?

These are the types of questions I would like economists to look at.

My guess is that if we could lower interest rates 1 or 2 percent without increasing money supply faster than productivity, it would give our economy a tremendous boost. The stock market would rise, giving those seeking capital a more viable option there; the home construction business would experience a healthy growth; and you could go on.

I have great respect for economists, including those advising the President, but the answers up to this point have been unimaginative and of limited help in stimulating our economy. The country yearns for economists who take the best of the knowledge that has been accumulated from the past, but recognize that past answers are inadequate to the present needs.

I am inserting the New York Times editorial in the RECORD at this point for the attention of my colleagues:

PARALYZED ECONOMISTS, STAGNANT ECONOMY

A decade ago, if unemployment were frozen at a high rate and the economy appeared headed for a slowdown, a Democratic President surely would have called for major economic stimulus—a tax cut, a spending increase or both. But not now. Despite the unsatisfactory performance of the economy, policy is paralyzed because economists here and elsewhere in the industrialized world have lost their faith in rapid economic growth. They fear that faster growth would generate more inflation and, ultimately, sink us into another recession. We are left with uncommon inflation, high unemployment and fearful economists.

Their fear does not flow from any sophisticated economic theory. Indeed, it reflects the bankruptcy of modern theory, which for too long has congealed around either the activist budgetary manipulation championed by the late Lord Keynes or the passive money supply controls favored by Prof. Milton Friedman. Neither policy has brought the nation within sight of the promised land of price stability and full employment. But economists raised on Keynes or Friedman have no commandments to follow when these gods fail.

The resulting intellectual vacuum has pushed economic policy to the right, by default. Liberals who for years dominated economic discussion in the United States have left the stage to conservatives like Alan Greenspan, former President Ford's chief economic adviser, who prescribes a tough inflation cure: a long period of high unemployment and slow growth. This Republican idea seems to suit a Democratic White House, too. Mr. Greenspan cheered President Carter's decision last spring to abandon the $50 tax rebate—though it could have helped to cushion the economy in the current slowdown. And Mr. Greenspan welcomes Washington's continued caution about moving toward any further stimulus.

We sympathize with the uncertainty of most economists these days and, to a degree, we applaud their new humility. Faster growth may indeed not be manageable now in a nation that believes, rationally or irrationally, that it would generate higher inflation. But we worry about the profession's apparent satisfaction with slow growth as the cure for inflation. This may work but it may not. After two years of high unemployment and wasted industrial capacity, the United States still suffers from an inflation rate of 6 percent. The rate has not budged since early 1975. Would a few more years of high joblessness and wasted lives bring the rate down? Probably not.

What options are left then? Some are obvious—though they involve tough political choices. Economists long ago warned against the inflationary pressures of the nation's misguided regulatory efforts in trucking, airlines, agriculture, discount retailing, importing and wage setting. Anticompetitive governmental policies in these sectors should no longer be tolerated.

Other paths out of the policy dilemma are not so obvious. Some ideas for voluntary anti-inflation efforts by government, business and labor have emerged in Washington and academe. Such ideas deserve a hearing.

In the short run, however, economists should break out of their theoretical paralysis long enough to help the nation with some practical problems. It may be too soon to urge the country to move toward more budgetary stimulus. But it is high time to see that Washington at least spend at the levels already agreed upon. The Federal budget is expected to spur economic growth as President Carter's stimulus plan unfolds, with its public works, public jobs and revenue sharing. But the Government has fallen far behind on its spending in recent months, thus undermining its own stimulus plan.

The spending shortfall has been attributed to a number of causes—governmental red tape, bad weather and spending overestimates by ambitious bureaucrats. But since the Office of Management and Budget supposedly oversees such matters, a high-priority duty for its new director is making sure that the money gets spent.

Recent decisions by the Federal Reserve Board also merit notice. The board, which manages the money supply independently of the Administration, has let interest rates move up in recent weeks despite the economy's obvious weakness.

Finally, more attention must be paid to legislation with obvious economic consequences. Despite the general concern about inflation, Washington has beckoned the wolf to the door repeatedly in recent days. How strange that the $50 rebate frightened so many last spring—but that now scant attention is paid to legislation that would guarantee greater inflation: the minimum wage boost passed by the House, the new farm-price supports and the proposed change in cargo preference rules. These are measures that should engage the energies of economists as well as politicians.

PERSONAL EXPLANATION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SANTINI. Mr. Speaker, due to a meeting of the Nevada congressional delegation in the Senate offices, I was not present yesterday during the vote on final passage of H.R. 6566, Energy Research and Development Administration

authorization for national security programs. Had I been present, I would have voted in favor of the bill.

VFW RESPONSE TO CRITICS OF GI EDUCATION PROGRAM

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. CARNEY. Mr. Speaker, during the past few days I have noted various responses to an article by Colman McCarthy that appeared in the Washington Post on Tuesday, September 27.

Mr. McCarthy expressed the view that the current GI education program is inadequate because it does not take into account the varying costs of tuition. He further indicated that the leadership of the Veterans' Affairs Committee is indifferent to Vietnam veterans. Mr. McCarthy also suggested that, although he was a "favorite of veterans' organizations," with Vietnam veteran groups, the chairman of the Subcommittee on Education and Training, the distinguished and very able gentleman from Texas, TIGER TEAGUE, "receives the weakest of salutes." According to the article, the highly regarded gentleman from Texas is looked upon by Vietnam veterans "as being one of those who supported the war in Vietnam but who now refuses to support those who fought or were shattered by it."

Mr. Speaker, though I have sometimes disagreed with TIGER TEAGUE as to the best method of serving our veteran population, his commitment to veterans who served in all wars is total, unequivocal, and second to none. I frankly do not know what "Vietnam-veteran groups" Mr. McCarthy had in mind. There are more than 500,000 Vietnam veterans in the Veterans of Foreign Wars. There are more than 700,000 in the American Legion, and there are more than 128,000 in the Disabled American Veterans. If these major veterans organizations do not speak for Vietnam veterans, I do not know who does. I can tell you that in speaking to veterans throughout the country, no single Member of the Congress is more highly regarded or is considered to be a better friend of all veterans than the gentleman from Texas. He, more than any single individual, has devoted most of his adult life to making things better for the veteran. I am sure Mr. TEAGUE would appreciate knowing who the so-called Vietnam-veteran groups are to which Mr. McCarthy refers. All groups have equal opportunity to appear before our committee, and I am not aware of any group or large number of such veterans holding the view expressed in the article.

Mr. Speaker, as I have stated, more than 500,000 Vietnam veterans belong to the Veterans of Foreign Wars. Dr. John Wasylik, the national commander in chief of this great organization, recently wrote the editor of the editorial page of the Washington Post regarding the article by Mr. McCarthy. The letter addresses the issue in question pertaining to the adequacy of the current GI education program and the inequities the organization feels would exist if we were to adopt a program taking into account the varying costs of tuition. There follows a copy of the letter:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., September 28, 1977.

Mr. PHILIP L. GEYELIN,
Editor, Editorial Page,
The Washington Post,
Washington, D.C.

DEAR MR. GEYELIN: It is inconceivable to me that a newspaper of your caliber would publish an article as irrational as that by Colman McCarthy, entitled, "Vietnam Vets: Who Listens to Them in Washington?", in your September 27, 1977 edition.

The thrust of Mr. McCarthy's article was to decry the House Veterans' Affairs Committee for not yet advancing a number of bills introduced by the Honorable Lester L. Wolff of New York which would, among other measures, permit acceleration of monthly educational assistance payments to eligible veterans and dependents; a bill introduced by the Honorable Albert H. Quie of Minnesota, which would provide the payment of supplemental tuition allowances to certain veterans pursuing educational programs for the purpose of offsetting the difference in state educational costs and, also, berating the Honorable Olin E. Teague of Texas for opposing this legislation.

The legislation in question proposes making changes in educational programs for veterans and dependents which would be a significant departure from the philosophy of veterans benefits. The first year cost of the Wolff bill in direct benefits would be $2.5 billion plus an additional $74.6 million in operational costs, the major portion of which would be attributable to accelerated entitlement. The cost thereof, alone, would be sufficient cause in the existing fiscal climate to oppose passage.

The Quie bill would pay veterans in high cost areas supplemental tuition allowances up to $900 a school year. Such additional money, in my opinion, would only encourage institutions to further increase tuition rates, to the disadvantage of all students, including veterans. Mr. McCarthy would have the Federal Government subsidize state and local educational tuition for the sole reason that it is higher in the Northeast than in other parts of the country. This is like saying a war wounded veteran iin New York should receive more compensation for his disabilities than a similarly situated veteran residing in Albuquerque, where the cost of living is much lower. What is needed is a reassessment of tuition costs in the Northeast. Other parts of the country can teach for less; why can't New York?

The Honorable Olin E. Teague was the Chairman of the House Veterans' Affairs Committee for many years and is presently the Chairman of the Subcommittee on Education and Training. Of all legislators, "Tiger" needs to be thanked by all veterans across this land for his foresightedness, not berated by a few discontented vocal crybables who want the United States Government (and Taxpayers) to pay their whole way. He is the one, above all others, who pressed for the current GI bill and subsequent needed improvements therein.

Most distasteful to me, personally, was Mr. McCarthy's statement that the Congressionally chartered veterans organizations support any legislative proposal by Mr. Teague because he attends our National Conventions. Nothing could be further from the truth and let me make that crystal clear. The legislative posture of the Veterans of Foreign Wars of the United States for each ensuing year, dictating what legislation we will support or oppose in the Congress of the United States, is established by mandates in the form of resolutions passed by the voting delegates to our last National Convention representing our more than 1.8 million members.

It was never the intention of any of the three GI bills to establish a program which completely subsidizes the cost of veterans' education, as well as his living costs. These generous bills were designed as an aid program to assist those in attaining the education to which they aspired and would have attained, had such not been interrupted by service to our country. I obtained my own education under the Korean GI bill while, at the same time, working as a hod carrier to meet expenses.

Veterans benefits are presently under attack nearly across the board by anti-veteran forces and social welfare planners, both within and without the government. The surest way to destroy such benefits is to deviate from the basic philosophy and concept on which these benefits are based and make them so broad, all-encompassing and costly that they become untenable.

Sincerely,

JOHN WASYLIK,
National Commander in Chief.

TRADE WITH CUBA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following resolution of the California State Board of Food and Agriculture. The resolution deals with future U.S. relations with Cuba.

RESOLUTION

Subject: Trade with Cuba.

Whereas, The State Board of Food and Agriculture supports and promotes free trade in Articles of Commerce among free peoples throughout the world; and

Whereas, California agriculture believes in basic human rights for all the peoples of the world; and

Whereas, The United States is considering normalizing trade relations with Cuba; now therefore, be it

Resolved, That the State Board of Food and Agriculture, meeting in Sacramento, California, on August 4, 1977, opposes the liberalization of trade with Cuba if it is determined that products and/or commodities are being produced in violation of human rights; and, be it further

Resolved, That a copy of this resolution be transmitted to the Honorable Edmund G. Brown, Jr., Governor of the State of California; President Jimmy Carter; March Fong Eu, Secretary of State; John Sparkman, Chairman of the Senate Committee on Foreign Relations; Clement J. Zablocki, Chairman of the House Committee on International Relations; and the California Congressional Delegation.

SENATE—*Saturday, October 1, 1977*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Reverend Dr. Karl B. Justus, Executive Director, the Military Chaplains Association, offered the following prayer:

Let us pray.

"O Lord, Our Lord, how excellent is Thy name in all the Earth."

With humble gratitude we acknowledge that "from everlasting to everlasting Thou art God."

As this day's legislative duties begin in this august Chamber, bestow Thy blessing upon each Senator. In the course of deliberation and debate on policies that affect all Americans, grant insight and inspiration, conviction and courage to this day's proceedings. When compromise is necessary for concord, in the Nation's welfare, let there be no compromise of conscience. Confronting our problems in the setting of time, let us not lose our sense of eternity.

Bless the President, and these leaders of our Government, as they plot the course of the "Ship of State." May tranquil seas—and safe harbors—attend her voyages in future days.

Keep us strong morally and spiritually; forgive our sins and grant us Thy salvation.

In Thy great and holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 1, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Friday, September 30, 1977, be approved.

Mr. ABOUREZK. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

Mr. BAKER. Mr. President, I have no requirement for our time. I am prepared to yield it back if the majority leader wishes to retain it.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield time?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be on my time and on the minority leader's time if he is agreeable.

Mr. BAKER. I am agreeable.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate resumed the consideration of S. 2104.

Mr. BAKER. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment in the nature of a substitute (No. 1039).

Mr. BAKER. I thank the Chair. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. One moment, please.

The ACTING PRESIDENT pro tempore. Will the Senator from Tennessee withhold?

Mr. METZENBAUM. Mr. President, I ask unanimous consent that during the pendency of the debate on this matter, Bruce Rowen, an aide to the Senator from Florida (Mr. STONE), be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, before the Senator suggests the absence of a quorum, does any Senator wish to call up an amendment at this time?

Mr. BAKER. Mr. President, responding to the majority leader for a moment, I think in a few more minutes we may have things in shape to proceed. I believe at this time a little more time would be helpful.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1290

Mr. METZENBAUM. Mr. President, I call up amendment No. 1290.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1290: Strike section 3(n) and insert in lieu thereof the following new section 3(n):

(n) The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas in quantities sufficient to establish commercial production.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

The ACTING PRESIDENT pro tempore. The amendment is not in order. There is no section 3(n) to which the amendment could apply.

Mr. METZENBAUM. This Domenici amendment is out of order?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 1286

Mr. METZENBAUM. Mr. President, I call up amendment No. 1286.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1286: Strike section 3(j), and insert in lieu thereof the following new section 3(j):

(j) The term "new contract" means any contract other than a rollover contract entered into after April 20, 1977, for the sale of natural gas.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

The ACTING PRESIDENT pro tempore. The same ruling as on the previous amendment. There is no section 3(j), to which the amendment is addressed.

Mr. METZENBAUM. This is a Domenici amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 1300

Mr. METZENBAUM. Mr. President, I call up amendment No. 1300.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1300.

Strike section 8(b) and insert in lieu thereof the following new section 8(b):

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed—

The ACTING PRESIDENT pro tempore. The clerk will suspend. The same ruling. There is no applicable section 8

(b) to which the amendment is addressed.

Mr. METZENBAUM. Mr. President, this is the Domenici amendment?

The ACTING PRESIDENT pro tempore. Yes.

Mr. METZENBAUM. That was amendment No. 1300?

The ACTING PRESIDENT pro tempore. Yes.

AMENDMENT NO. 1301

Mr. METZENBAUM. Mr. President, I call up amendment No. 1301.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1301.

Strike section 10(a) and insert in lieu thereof the following new section 10(a):

SEC. 10. (a) The Commission shall by rule exempt all first sales of high cost natural gas within 30 days following enactment. Such exemption shall apply from the date of enactment. In addition the Commission shall prescribe such rules as will make clear the exemption herein mandated as it applies to all high cost natural gas so as to provide reasonable incentives for the exploration for or the production of high cost natural gas.

Mr. METZENBAUM. Mr. President, I move to lay this amendment on the table.

Mr. HANSEN. Is this amendment in order?

The ACTING PRESIDENT pro tempore. The Senator is correct. The amendment is in order.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table amendment No. 1301. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 62, nays 4, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—62

Abourezk	Dole	Pearson
Allen	Eagleton	Percy
Anderson	Ford	Proxmire
Baker	Garn	Randolph
Bartlett	Glenn	Ribicoff
Bellmon	Hansen	Riegle
Bentsen	Hart	Roth
Brooke	Hatch	Sarbanes
Bumpers	Hatfield	Sasser
Burdick	Hathaway	Schmitt
Byrd, Harry F., Jr.	Hollings	Schweiker
Byrd, Robert C.	Inouye	Sparkman
Case	Jackson	Stennis
Chafee	Johnston	Stevens
Chiles	Long	Stone
Church	Lugar	Talmadge
Clark	Mathias	Thurmond
Cranston	McClure	Tower
Danforth	Morgan	Wallop
DeConcini	Nelson	Williams
	Packwood	Zorinsky

NAYS—4

Bayh	Metzenbaum	Muskie
Culver		

NOT VOTING—34

Biden	Helms	Melcher
Cannon	Huddleston	Metcalf
Curtis	Humphrey	Moynihan
Domenici	Javits	Nunn
Durkin	Kennedy	Pell
Eastland	Laxalt	Scott
Goldwater	Leahy	Stafford
Gravel	Magnuson	Stevenson
Griffin	Matsunaga	Weicker
Haskell	McClellan	Young
Hayakawa	McGovern	
Heinz	McIntyre	

So the motion to lay on the table amendment No. 1301 was agreed to.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

AMENDMENT NO. 1197

Mr. ABOUREZK. Mr. President, I thank the Chair.

I call up amendment No. 1197.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1197:

On page 9, line 19, strike "$1.45" and insert "$0.53".

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Will the Senator withhold just momentarily and the Chair will get order so that the Senator can be heard.

The Senators will clear the aisles and the well. The Senators will kindly take their seats.

The Senator from Alaska.

Mr. STEVENS. Mr. President, only for myself, I will make a statement on my time.

In the 9 years I have been in the Senatc it has operated on the basis of courtesy and tradition. Part of that courtesy and part of that tradition is, in my opinion, that no Senator ever called up another Senator's amendment unless he was present in Washington. That is, the absent Senator had notified the Senate that he was going to be absent; a Senator should be present in Washington, and be notified by the Senator who is going to call up his amendment that he would do so, and the sponsor of the amendment should have an opportunity to speak on his amendment if he desires to do so before a motion to table is made.

I see disturbing things in the making here, particularly after notice that one of the Members of the Senate who is missing today has given notice that he had to return to his State, and has given notice he has amendments he considers very important.

I see evidence that those amendments might be called up in his absence. Now, in my opinion, we cannot operate except on the basis of courtesy and tradition in this body, and anyone who goes outside the range of that courtesy and tradition no longer deserves that same courtesy extended to him.

For myself, I want to say that any Senator who calls up an amendment without first notifying the sponsor, without determining that he is in Washington, and without giving him an opportunity to be heard before a motion to table that particular Senator's amendment is made, then for myself, I intend to object to whatever that Senator asks of this Senate in the way of courtesy so long as I am here.

Every Senator must at sometime ask unanimous consent. Every Senator must at sometime ask for a reciprocal courtesy from the other Members of this body. That courtesy cannot be extended to one who, in the heat of battle, forgets that he, too, is a Member of the Senate.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. BAKER. Mr. President, a point of order.

The ACTING PRESIDENT pro tempore. The Senator will state his point of order.

Mr. BAKER. Mr. President, it is my understanding that amendment No. 1197 has already been disposed of.

The ACTING PRESIDENT pro tempore. The Chair will consult on this.

This particular amendment has not been disposed of previously.

Mr. BAKER. I thank the Chair.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table amendment No. 1197. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 57, nays 22, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—57

Abourezk	Eagleton	Nunn
Allen	Eastland	Packwood
Anderson	Ford	Pearson
Baker	Garn	Percy
Bartlett	Glenn	Randolph
Bellmon	Goldwater	Roth
Bentsen	Hansen	Schmitt
Bumpers	Hart	Schweiker
Burdick	Haskell	Sparkman
Byrd,	Hatch	Stennis
Harry F., Jr.	Hatfield	Stevens
Byrd, Robert C.	Helms	Stevenson
Case	Johnston	Stone
Chafee	Leahy	Talmadge
Chiles	Long	Thurmond
Church	Lugar	Tower
Cranston	Mathias	Wallop
Danforth	McClure	Zorinsky
DeConcini	Melcher	
Dole	Nelson	

NAYS—22

Bayh	Inouye	Proxmire
Brooke	Jackson	Ribicoff
Clark	Magnuson	Riegle
Culver	Metzenbaum	Sarbanes
Curtis	Morgan	Sasser
Durkin	Moynihan	Williams
Hathaway	Muskie	
Hollings	Pell	

NOT VOTING—21

Biden	Huddleston	McGovern
Cannon	Humphrey	McIntyre
Domenici	Javits	Metcalf
Gravel	Kennedy	Scott
Griffin	Laxalt	Stafford
Hayakawa	Matsunaga	Weicker
Heinz	McClellan	Young

So the motion to lay on the table amendment No. 1197 was agreed to.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. RANDOLPH addressed the Chair.

The ACTING PRESIDENT pro tempore. Will the Senator withhold one second until we get some order. Will Senators kindly cease their conversations and take seats if they possibly can, and clear the aisles. The Senate will be in order so that the senior Senator from West Virginia can be heard.

The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I inquire as to the remaining time I have under the 1-hour cloture provision.

The ACTING PRESIDENT pro tempore. The Senator has 25 minutes.

Mr. RANDOLPH. I thank the Chair.

Mr. President, I am appreciative of the opportunity to discuss the current situation in the Senate as we debate natural gas pricing. I begin by stating that I make no pretense of having information that is important to my colleagues. While my colleague from Ohio, Mr. METZENBAUM, is in the Chamber I shall comment on his interview over radio station WRC earlier today.

My energetic colleague, speaking on radio earlier today said, in essence, that he and others would continue their effort to thwart the will of the Senate and continue a filibuster. This pronouncement followed the result of the vote last night to table the Pearson-Bentsen substitute No. 2 which failed 44 to 50.

I recognize—and I fully understand—that he has every right to do exactly what he has done and proposes to continue doing. I am not a carping critic in this body, but when I listened to his remarks I had the feeling that this was, in a sense, a new subject, and the people of America had to be informed. I want the record to indicate that this is not a new subject in the Senate. It has been studied and debated in prior years.

I document that statement. On December 10, 1973, in the first session of the 93d Congress, there was what we considered in this body S. 2776, a bill to provide for the effective and efficient management of the Nation's energy policies and programs for the duration of the existing energy emergency. The energy emergency was recognized in 1973. While considering such legislation, the issue of natural gas deregulation arose.

Senator RIBICOFF made a motion to table the amendment—which I cosponsored—offered by the then Senator from New York (Mr. Buckley). Under that amendment to the Natural Gas Act, the price of new natural gas in the interstate market would no longer be regulated by the Federal Power Commission.

The Ribicoff motion was agreed to by a vote of 45 to 43. So at that time in 1973, there was almost an even division of opinion in the Senate on the deregulation of natural gas.

We need to look back, not for the sake of nostalgia, but to remind the Senator from Ohio (Mr. METZENBAUM) that this is a matter which has been acted on in the Senate. It was, I repeat, before the Senate in 1973.

Mr. METZENBAUM, Mr. President, would my good friend from West Virginia yield for a question?

Mr. RANDOLPH. I am delighted to yield.

Mr. METZENBAUM. How many weeks was deregulation debated in 1973 and the Senator might, at the same time, answer for 1975?

Mr. RANDOLPH. I say to the Senator that there was lengthy debate on the Buckley amendment on December 19, 1973. The debate was several hours in duration and there were two rollcall votes. The motion to table was agreed to by a vote of 45 to 43, Subsequently, the motion to table the motion to reconsider was agreed to by a vote of 47 to 41.

Mr. METZENBAUM. I appreciate that information.

Mr. BARTLETT. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I gladly yield.

Mr. BARTLETT. Is the Senator from Oklahoma not correct that in 1973 and 1971 the distinguished Senator from West Virginia (Mr. RANDOLPH) introduced a resolution called Senate Resolution 45 which directed the Committee on the Interior, in conjunction with the Committee on Public Works, I believe the Committee on Commerce, to make an intense study of all aspects of energy, but one particular area was natural gas that was included and specified in the dialog that took place; is that not correct?

Mr. RANDOLPH. Yes. the knowledgeable Senator from Oklahoma is correct. That program—the National Fuels and Energy Policy Study—under the umbrella of several committees, was an effective forum for the discussion of energy problems. Frankly, through this study and the hearing processes we brought into the Senate for passage 71 measures relating to energy which became law. Sometimes I become weary at the constant charge that the Senate or the Congress has not acted on energy matters.

I do not want to be partisan in any sense, but the previous five administrations have not come to grips with energy problems. They have not focused attention on them. They have not given it the priority which, frankly, we in the Senate have done.

What the Senator from Oklahoma (Mr. BARTLETT) is saying is certainly correct. It was this coordinated effort which resulted in extensive hearings on the energy problem and various solutions. More important, the passage of legislation resulted.

Mr. BARTLETT. I congratulate the distinguished Senator from West Virginia (Mr. RANDOLPH) for his foresight from way back when. It has been a long time and he has played a very important part in natural gas legislation and other matters.

Mr. RANDOLPH. I am grateful to my colleague for reference to our efforts.

Mr. President, let us move to the 94th Congress, the 1st session in 1975, on the date of October 2.

At that time we were considering S. 2310, a bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976. A motion was made by the Senator from South Carolina (Mr. HOLLINGS) to modify the Pearson-Bentsen substitute amendment and to substitute the Hollings amendment. That motion was tabled.

Where the result had been only 2 votes different in 1973, the vote in 1975 had changed and the result was that it was rejected by the vote of 50 to 45. Thus, for the first time, deregulation of natural gas was endorsed.

Since this margin of 2 votes against deregulation in 1973, the Senate had changed on October 2, 1975 to a 5-vote margin for deregulation.

I then come to the date of October 22, 1975, in the 1st session of the 94th Congress. The modified Pearson-Bentsen substitute amendment, as amended, contained temporary provisions to assure the availability of natural gas supply, and other matters. There was a vote in the Senate which was not a tabling motion. This was an up and down vote in the Senate. And the vote in favor of the Pearson-Bentsen amendment was 50 yeas, 41 nays.

I emphasize to Senators that in 1973 there was only a two-vote difference. On October 2, 1975, there was, as I have indicated, a five-vote margin. Then on a later date in that same Congress, October 22, deregulation was approved in the Senate by a vote of 50 to 41.

Mr. President, the debate on S. 2310, at that time, was extensive. This issue of natural gas deregulation was discussed almost daily for nearly a month—from late September until agreed to on October 22, 1975.

I say to the Senator from Ohio (Mr. METZENBAUM) that the American people were educated 2 years ago on this issue. The mood of the Senate was for deregulation of natural gas prices then as now.

There have been close votes on this subject matter. There has been increasing support for deregulation in the Senate. The votes last night and last week have indicated that within the Senate there is solid support for deregulation.

The Pearson-Bentsen amendment now has an addition that would place the burden of higher prices, at least at first, on the industries of the country rather than on the homeowners. There is also a second provision, which is a modification, that would not allow new natural gas prices to go above $2.45 for the next 2 years. New natural gas flowing between our States is currently regulated by the Federal Government at $1.45 per 1,000 cubic feet. The proposal of the President and the administration bill would raise this rate to $1.75 initially, and then it would be raised to $2.50 by 1981. Also, the administration desires Federal regulations to extend to the gas flowing within a single State.

I stress these facts, and they are facts, to the membership of the Senate as we work to find some solution to the situation in which we are mired.

Frankly, I do feel that a filibuster by any group of Senators or a Senator is not helpful to the Senate procedure. I understand the rules of the Senate. They can be used, even misused. I am only suggesting that at long last—it should have come earlier—we try very diligently in a constructive way to move this measure. It is only one item of the energy program which must go to a conference with the House of Representatives.

Mr. President, the majority leader (Mr. BYRD) deserves the commendation of Senators generally for his continuing efforts to secure final action in this body on the pending legislation. I congratulate him on his fairness and determination to obtain a decision in this forum so that the measure can move to a conference with the House.

I also commend the able minority leader (Mr. BAKER) for his cooperation in attempting to resolve this problem so that the Senate can move to other important business.

Mr. SCHMITT. Mr. President, I rise only to ask the Senator from South Dakota a question in behalf of a colleague of mine, and it is as a consequence of some conversations I have heard this morning. Are there any circumstances under which the Senator from South Dakota would call up an amendment by a colleague who is out of town and unable to be on the floor? Are there any such circumstances in this debate?

Mr. ABOUREZK. Will the Senator yield on the Senator's time?

Mr. SCHMITT. I am happy to yield on my time.

Mr. ABOUREZK. I would not call up another colleague's amendment if it were made known to me that he would not be in town and if he asked me not to do so. In fact, I would not call up anyone else's amendment, but I did so yesterday. I called up amendments drafted and introduced by others simply because I saw the practice commenced on the other side of the issue, and I would not have done so had that not started. I thought that simply left it wide open. I do not intend to do that. I do not agree with the practice of calling up someone else's amendment. But as my colleague from Louisiana said, what is fair for one is fair for the other.

But I think the Senator is referring to Senator DOMENICI. I have no intention of calling up his amendment as long as he is gone.

Mr. SCHMITT. I thank the Senator for that comment.

I wonder if I could direct the same question to the Senator from Ohio (Mr. METZENBAUM)?

Mr. METZENBAUM. On the Senator's time.

Mr. SCHMITT. On my time.

I repeat the question. Namely, are there any circumstances under which the Senator from Ohio would call up amendments offered by Senator DOMENICI which are known to the Senator from Ohio as being of importance to him?

Mr. METZENBAUM. Known what?

Mr. SCHMITT. To be of importance to him, substantive amendments. Are there any circumstances in this debate and in this so-called filibuster that the Senator from Ohio would call those up knowing he was out of town?

Mr. METZENBAUM. No; and I want to point out that the amendments that I called up this morning, or one of them I called up this morning, is one that he had indicated was not of moment to him. He gave us a list of those that were of moment, and I would not intend to call them up while he is out of the city.

No one this morning, I might say, had indicated to me, until the latter part of the morning, that Senator DOMENICI is out of the city. As far as I am concerned, there are a sufficient number of amendments of other Senators on that side of the aisle who are in town that I can spend the remainder of the day calling up their amendments without any trouble whatsoever.

Mr. SCHMITT. I thank the Senator.

Mr. METZENBAUM. I would like to add one word, and that is that I think it is a highly inappropriate procedure for anyone to call up anyone else's amendment. I would prefer to call up my amendments and let the Senate act in connection with them. That procedure was also suggested by the distinguished Senator from New Jersey late yesterday in the debate.

Mr. SCHMITT. I thank the Senator. Does he have at his desk the numbers of the amendments Senator DOMENICI has requested not be called up?

Mr. METZENBAUM. I believe that I do, but the ones that I believe that he has indicated are not of substance are 1302, 1307, and 1308.

But in order that there may be no misunderstanding, if I should call up an amendment of the Senator from New Mexico that he felt was of substance or was unfair to him in any way, I would join in a unanimous-consent agreement that he might call it up in due course, out of respect for him as well as any other Member of the Senate. I would not want to take that advantage of him or any other Member of the Senate when they are out of the Senate.

Mr. SCHMITT. I appreciate those comments. I thank the Senator.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1106

Mr. DANFORTH. Mr. President, I call up amendment No. 1106.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 1106:

On page 12, line 20, strike "January 1, 1977" and insert "the date of enactment".

Mr. DANFORTH. Mr. President, I ask whether that amendment is in order.

The ACTING PRESIDENT pro tempore. The amendment is not in order.

Mr. ABOUREZK. Point of order, Mr. President. I appeal from the ruling of the Chair.

The ACTING PRESIDENT pro tempore. If the Senator will suspend until the Chair completes his ruling, then the Senator's point of order will be heard.

The amendment attempts to strike, on page 12, line 20, the date January 1, 1977, which does not appear on that page. Therefore, the amendment is not in order.

Mr. ABOUREZK. Point of order, Mr. President. Point of order.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota will state his point.

Mr. ABOUREZK. I appeal from the ruling of the Chair, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, the Chair has ruled there is not a sufficient second. I suggest the absence of a quorum.

Mr. ABOUREZK. There is a sufficient second.

The ACTING PRESIDENT pro tempore. There is now a sufficient second. The question is, Shall the decision of the Chair stand at the judgment of the Senate? The Chair has ruled that there is a sufficient second, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 77, nays 2, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—77

Allen	Byrd, Robert C.	Durkin
Anderson	Case	Eagleton
Baker	Chafee	Eastland
Bartlett	Chiles	Ford
Bayh	Church	Garn
Bellmon	Clark	Glenn
Bentsen	Cranston	Hansen
Brooke	Culver	Hart
Bumpers	Curtis	Haskell
Burdick	Danforth	Hatch
Byrd, Harry F., Jr.	DeConcini	Hatfield
	Dole	Hathaway
Heins	Metzenbaum	Sarbanes
Helms	Morgan	Sasser
Hollings	Moynihan	Schmitt
Inouye	Muskie	Schweiker
Jackson	Nelson	Sparkman
Johnston	Nunn	Stevens
Leahy	Packwood	Stevenson
Long	Pearson	Stone
Lugar	Pell	Talmadge
Magnuson	Percy	Thurmond
Mathias	Proxmire	Tower
McClure	Randolph	Wallop
McIntyre	Ribicoff	Williams
Melcher	Roth	Zorinsky

NAYS—2

Abourezk	Riegle

NOT VOTING—21

Biden	Huddleston	McGovern
Cannon	Humphrey	Metcalf
Domenici	Javits	Scott
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Stennis
Griffin	Matsunaga	Weicker
Hayakawa	McClellan	Young

So the ruling of the Chair was sustained as the judgment of the Senate.

AMENDMENT NO. 865

Mr. METZENBAUM and Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I call up amendment 865.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 865.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will proceed to read the amendment.

The second assistant legislative clerk continued reading the amendment.

Mr. JOHNSTON. Point of order, Mr. President. The amendment is not germane.

Mr. ABOUREZK. Regular order, Mr. President.

Mr. METZENBAUM. Mr. President, regular order.

The ACTING PRESIDENT pro tempore. If the Senators will kindly allow the Chair to express the Chair's ruling, regular order is for the amendment to be read. The clerk will proceed to read.

The second assistant legislative clerk continued to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. Objection.

Mr. ABOUREZK. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

The second assistant legislative clerk continued reading the amendment.

Mr. TOWER. Mr. President, point of order.

Mr. ABOUREZK. Regular order.

The ACTING PRESIDENT pro tempore. The Senator will state his point of order.

Mr. TOWER. Mr. President, in that the amendment is printed and at the desks of individual Senators, I raise the point that the reading of the amendment is, therefore, dilatory and a point of order should lie against it.

The ACTING PRESIDENT pro tempore. The Senator's point of order is contrary to the precedent of the Senate. The clerk will read the amendment.

Mr. CRANSTON. I appeal the ruling of the Chair.

Mr. ABOUREZK. I ask for regular order, Mr. President.

The ACTING PRESIDENT pro tempore. The ruling of the Chair has been appealed.

Mr. ABOUREZK. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is, Shall the ruling of the Chair stand as the judgment of the Senate?

The clerk will call the roll.

Mr. GLENN. Mr. President, could we have stated what the ruling of the Chair was?

The ACTING PRESIDENT pro tempore. The ruling of the Chair was that the precedents of the Senate require the amendment to be read and that the reading of a printed amendment is not dilatory.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. METZENBAUM. Am I correct that, if the Chair is overruled, we shall have established a precedent in the Senate that never again will there have to be an amendment read, as long as the amendment is printed and at the desk?

Mr. CRANSTON. Under cloture.

Mr. TOWER. Under rule XXII, Mr. President.

Mr. METZENBAUM. I did not ask it under cloture.

The ACTING PRESIDENT pro tempore. The Chair is answering that if cloture had been established under rule XXII, yes, this would have been a precedent. It would not be a precedent in the absence of cloture, because there is no dilatory rule in the absence of rule XXII.

Mr. CRANSTON. A parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CRANSTON. Is it not true that this would apply only under cloture and then only to amendments printed and at the desk?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The yeas and nays have been ordered.

Mr. ABOUREZK. Mr. President, I move to table the appeal, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on the motion to table the appeal of the ruling of the Chair. The clerk will call the roll.

The Chair further explains that if the motion to table is agreed to, the ruling of the Chair will be sustained; if not, then not. The clerk will proceed.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 47, nays 33, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—47

Abourezk	DeConcini	Muskie
Allen	Dole	Nelson
Anderson	Durkin	Packwood
Baker	Eagleton	Proxmire
Bartlett	Eastland	Ribicoff
Bayh	Ford	Riegle
Brooke	Hansen	Roth
Bumpers	Hart	Sarbanes
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hathaway	Sparkman
Case	Heinz	Stennis
Chafee	Helms	Talmadge
Chiles	Hollings	Thurmond
Church	Long	Wallop
Clark	Lugar	
Culver	Magnuson	
	Mathias	

NAYS—33

Bellmon	Jackson	Pell
Bentsen	Johnston	Percy
Byrd, Robert C.	Leahy	Randolph
Cranston	McClure	Sasser
Curtis	McIntyre	Schweiker
Danforth	Melcher	Stevens
Garn	Metzenbaum	Stevenson
Glenn	Morgan	Stone
Haskell	Moynihan	Tower
Hatfield	Nunn	Williams
Inouye	Pearson	Zorinsky

NOT VOTING—20

Biden	Huddleston	McGovern
Cannon	Humphrey	Metcalf
Domenici	Javits	Scott
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Weicker
Griffin	Matsunaga	Young
Hayakawa	McClellan	

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Mr. BUMPERS. Mr. President——

Mr. ABOUREZK. Regular order, Mr. President.

Mr. LONG. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The reading of the amendment will continue.

Mr. LONG. Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

Mr. ABOUREZK. Regular order.

Mr. METZENBAUM. Regular order.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. METZENBAUM. Objection.

Mr. ABOUREZK. Objection.

The ACTING PRESIDENT pro tempore. The clerk will continue to read the amendment.

The assistant legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

On page 19, after line 18, insert the following new section:

SEC. 18. Section 8 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended to read as follows:

"OIL PRICING POLICY

"SEC. 8. (a)(1) Not later than the first day of the second calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of the Act which regulation, as amended, shall provide that the ceiling prices applicable to first sales of old crude oil and new crude oil shall be the prices specified by the Federal Energy Administration in crude oil price schedule numbered 8 issued September 1, 1977, for first sales of such crude oils for the month of November 1977, as adjusted pursuant to paragraph (2) of this subsection.

"(2) The amendment promulgated pursuant to paragraph (1) of this subsection shall further provide for adjustments to the prices specified therein for first sales of old crude oil and new curde oil beginning November 1, 1977, and continuing each month following, which adjustments shall increase the ceiling prices applicable to first sales of old crude oil and new crude oil at the rate of 10 per centum per annum or the rate of inflation as measured by the adjusted GNP deflator, whichever is greater.

"(3) For purposes of this subsection:

"(A) The term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce.

"(B) The terms 'old crude oil' and 'new crude oil' means those terms as defined in section 212.72 of title 10, Code of Federal Regulations, as in effect on September 1, 1977.

"(b) If the President finds that an amendment to the regulation promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) to allow first sale prices higher than the ceiling prices specified in subsection (a) of this section would provide positive incentives for—

"(A) the development of high cost and high risk properties (including wildcat properties and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of tertiary enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells; the President may amend the regulation under section 4(a) to provide such incentives except that the effect of any such amendment shall not, in any calendar year, result in first sale prices higher than the ceiling prices specified in subsection (a) of this section for a volume of crude oil production in excess of 5 per centum of total crude oil production in the United States.

"(c)(1) The first sale price of stripper well crude oil, deep stripper well crude oil, and high water ratio crude oil shall be exempt from the regulation promulgated under section 4(a) of this Act, as amended.

"(2)(A) For purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1972, does not exceed ten barrels.

"(B) To qualify for the stripper well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.

"(3)(A) For purposes of this subsection, 'deep stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1972, exceeds ten barrels but does not exceed—

"(i) fifteen barrels from an average producing depth greater than two thousand feet but not greater than four thousand feet;

"(ii) twenty barrels from an average producing depth greater than four thousand feet but not greater than six thousand feet;

"(iii) twenty-five barrels from an average producing depth greater than six thousand feet but not greater than eight thousand feet;

"(iv) thirty barrels from an average producing depth greater than eight thousand feet but not greater than ten thousand feet;

"(v) thirty-five barrels from an average producing depth greater than ten thousand feet but not greater than twelve thousand feet;

"(vi) forty barrels from an average producing depth greater than twelve thousand feet but not greater than fourteen thousand feet;

"(vii) forty-five barrels from an average producing depth greater than fourteen thousand feet but not greater than sixteen thousand feet;

"(viii) fifty barrels from an average producing depth greater than sixteen thousand but not greater than eighteen thousand feet;

"(ix) fifty-five barrels from an average producing depth greater than eighteen thousand feet but not greater than twenty thousand feet; and

"(x) sixty barrels from an average producing depth greater than twenty thousand feet.

"(B) To qualify for the deep stripper well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.

"(4)(A) For purposes of this subsection, 'high water ratio crude oil' means crude oil produced and sold from a property from which the aggregate amount of water produced in association with crude oil exceeds ten times the aggregate amount of crude oil produced from such property during any consecutive three-month period.

"(B) To qualify for the high water ratio crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the three-month qualifying period and in accordance with recognized conservation practices.".

Mr. TOWER. Mr. President——

Mr. ABOUREZK. Regular order.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. TOWER. A point of order, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. The amendment is not germane; therefore, a point of order should lie against it.

The ACTING PRESIDENT pro tempore. The Senator is correct. Under previous precedent of the Senate, there is no requirement to read a nongermane amendment.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The amendment is not germane. The amendment is not in order.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, I voted with Mr. ABOUREZK and Mr. METZENBAUM on the previous rollcall because, in my judgment, whether or not an amendment is dilatory should depend upon the length of the amendment. If someone sends an amendment to the desk that has more words than the Holy Bible, then I would have to say it is dilatory to send an amendment that long to the desk. But if it is just an ordinary amendment or one, two, or three pages, I do not regard that as dilatory.

Mr. President, the thought had occurred to me as to how we could bring this filibuster to an end any time we wished, and I am going to make that suggestion after a while. It is simply this: This debate has gone on long enough now so that Senators who want to call up amendments to the bill should have called them up by now. They have not been on notice that they could prejudice themselves by failing to call them up, but Senators who want to call up amendments to the bill could have called up those amendments and had them voted on, for days on end.

So all the Senate really has to do, when it is ready to do so, is merely to hold that any further amendments to the bill should be regarded as dilatory. Most amendments to the bill already have been offered. There may be a few that have not been offered. However, in due course I am going to make the point of order that any amendments to the bill itself—not to the amendment or to the amendment to the amendment—but that any further amendments to the bill——

Mr. JOHNSTON. Perfecting amendments.

Mr. LONG. Any perfecting amendments to the bill itself, any further amendments, are dilatory; that Senators by now, if they really were hoping to get them agreed to, if they were really serious about them, that those amendments had great merit in their judgment, would have called them up.

I will put Senators on notice on this matter before—so I am not going to make the point today.

Now, on Monday I expect to make the point that any perfecting amendments to the bill itself are dilatory, and the Senate can vote on it. If the Senate does not agree with that on Monday it will agree with it eventually because the rule clearly contemplates that type of motion.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MUSKIE. If you follow that one, if it would be established, every Senator under the cloture rule is allotted 1 hour of debate, and I think it is just as legitimate to argue that any Senator who has not used his hour of debate as of today should be ruled out of order if he should seek to do so after any time that the Senator from Louisiana decides——

Mr. LONG. I will be glad to yield to the Senator on his time.

Mr. MUSKIE. It is on my time.

Mr. LONG. All right.

Mr. MUSKIE. Any time the Senator from Louisiana decides is the point beyond which any amendment or any speech is dilatory would become the time when the Senate would rule, would begin to put Senators in their seats.

I do not really believe the Senator wants that. I have not used all of my time except for a few comments where I took issue with the Senator from Louisiana.

But why should another amendment be any more dilatory than another speech? I think what the Senator is proposing here opens up dangerous possibilities. I yield.

Mr. LONG. Mr. President, my good friend from Maine is this moment doing something that he on occasion has accused me of doing, and maybe I am guilty of it, but if I am guilty, so is he. He has accused me of assuming that the other man was arguing something he was not contending, and answering something that the other fellow did not say. I have, perhaps, been guilty of that, but this time the Senator was.

I am not talking about everybody having 1 hour. By all means, give everybody 1 hour. All I am talking about is that the rule clearly contemplates that some of these amendments are dilatory and others are not. How are you going to tell one from the other? It is a very easy way to tell one from the other. If you have an amendment out there that you think is meritorious and ought to be agreed to, you ought to call the amendment up. We have given you a week to call up the amendment to the bill. A perfecting amendment to the bill would take precedence over an amendment to the amendment or a substitute, and even if someone else had an amendment pending, you could call it up.

So I am putting the Senate on notice that I am going to make a point of order that any amendment to the bill itself, any further perfecting amendment to the bill, is dilatory.

That will take care of some of those amendments and, in due course, Mr. President, I would then make the point of order that any perfecting amendments to the substitute would be dilatory.

The Senate may not vote for it the first time but, in due course, I think the Senate if it has no other way to cut the filibuster off, because that rule presupposes the Senate is going to terminate that filibuster any time a majority of the Senators want to do so after everybody has had 1 hour.

Mr. MUSKIE. Mr. President, will the Senator yield on my time?

Mr. LONG. I yield on the Senator's time.

Mr. MUSKIE. My memory goes back to the time when speeches were dilatory, and I have heard the Senator from Louisiana make many eloquent speeches hours on end whose only purpose was dilatoriness.

For the Senator to suggest that I am talking through my hat or unreasonably extending the logic of the Senator's proposal in suggesting that a speech can be dilatory as well as an amendment is to assume the Senators are naive in the extreme.

Mr. LONG. Mr. President, the Senator could not be more right. I have made some dilatory speeches, lots of them. But I have not made any dilatory speeches after cloture when I just had 1 hour; when I was saying something I really had to get this off my chest.

Mr. MUSKIE. Because at that time you did not have to. You could not get cloture, so you made your dilatory speeches before cloture. Now somebody has discovered a way to be dilatory after cloture, and you envy them. [Laughter.]

Mr. LONG. Mr. President, sometime when we do not have cloture, when we just have plenty of time to talk about the matter which is before us today, I will debate the things with the Senator, things I did not say.

But, for the time being, I would like to leave it for debate on things I did say rather than using up my time; I am not being dilatory now, and I will reserve the rest of it.

Mr. BAKER. Mr. President, I will take just a moment. I will say I voted to table the appeal from the ruling of the Chair. I do not want that to be misunderstood. I said yesterday I think we learned one thing, and maybe one thing, in this debate, and that was we need to modernize and overhaul rule XXII.

Yesterday I said I would ask three Senators on this side to serve informally as a group to study that issue and to make recommendations in that respect.

I do not say I would never vote that the reading of an amendment is dilatory or out of order and subject, for that reason, to a point of order. I might under some circumstances. I would not say I would not agree at some point that the Chair, in calling up and reading an amendment generally, either to the bill or otherwise, is out of order, but only if, Mr. President, we thoroughly consider what we are about. Only if we change that rule.

There is a resolution on the Calendar now that has been there since the first day of the session. As I recall, it is Senate Resolution 5 introduced by the distinguished majority leader, which says just what we are talking about here or proposing the Chair do. I rose to speak against that. I took certain steps to try to avoid its being submitted to the Senate as a rule change. I am not so sure I was right then. I may very well have been wrong that time. But what I am saying is I do not want to make a rules change

by a ruling of the Chair in the midst of superheated debate when tempers are high and passions are high, and we are not really sure what we are about. I reserve all my rights to change that. But I wanted to explain that is the reason I wanted to do that.

Several Senators addressed the Chair.

AMENDMENT NO. 1107

Mr. DANFORTH. I call up amendment No. 1107.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes amendment No. 1107:

On page 3, line 19, strike "January 1, 1977" and insert "the date of enactment".

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. DANFORTH. Mr. President, point of order, the motion is dilatory.

The PRESIDING OFFICER. Will the Senator from Missouri state the point of order?

Mr. DANFORTH. The motion is dilatory because the amendment on its face is out of order.

Mr. ABOUREZK. Is the Senator the Parliamentarian, Mr. President?

The PRESIDING OFFICER. The point of order is well-taken. The amendment attempts to strike a date which is not on that particular page.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1172

Mr. METZENBAUM. I call up amendment No. 1172.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1172:

On page 19, line 1, strike "$20,000" and insert "$50,000".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1172. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusett (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 31, nays 49, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—31

Abourezk	Hart	Muskie
Allen	Haskell	Nelson
Anderson	Hathaway	Pell
Bayh	Hollings	Proxmire
Brooke	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Stevenson
Clark	Mathias	Williams
Culver	McIntyre	
DeConcini	Metzenbaum	

NAYS—49

Baker	Ford	Pearson
Bartlett	Garn	Percy
Bellmon	Glenn	Randolph
Bentsen	Hansen	Roth
Bumpers	Hatch	Sasser
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Heinz	Schweiker
	Helms	Sparkman
Chafee	Johnston	Stennis
Chiles	Long	Stevens
Cranston	Lugar	Stone
Curtis	McClure	Talmadge
Danforth	Melcher	Thurmond
Dole	Morgan	Tower
Durkin	Moynihan	Wallop
Eagleton	Nunn	Zorinsky
Eastland	Packwood	

NOT VOTING—20

Biden	Huddleston	McGovern
Cannon	Humphrey	Metcalf
Domenici	Javits	Scott
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Weicker
Griffin	Matsunaga	Young
Hayakawa	McClellan	

So the amendment (No. 1172) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Missouri.

AMENDMENT NO. 1108

Mr. DANFORTH. I call up amendment No. 1108.

The PRESIDING OFFICER. The clerk will state the amendment. And the Chair will note that the Chair will state whether or not the amendment is in order.

Mr. METZENBAUM. Mr. President, under a previous ruling of the Chair, is it necessary to have the amendment read first?

The PRESIDING OFFICER. Not if the amendment is out of order on its face.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 1108:

On page 10, line 1, strike "1982" and insert "1992".

The PRESIDING OFFICER. The Chair announces that the amendment is out of order.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1110

Mr. DANFORTH. Mr. President, I call up amendment No. 1102.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. HART. I would only ask the Chair to take note of the fact that other Senators were on their feet earlier, but the Chair is recognizing consistently the same Senator. The Senator from Nebraska was on his feet first, then I was on my feet, and then the Senator from Missouri.

The PRESIDING OFFICER. The Chair thanks the Senator. He will be recognized next. The Senator from Missouri.

Mr. DANFORTH. I call up amendment No. 1110.

The PRESIDING OFFICER. The amendment is out of order.

The Senator from Colorado.

Mr. HART. Mr. President, I appreciate the recognition. I believe the Senator from Nebraska was seeking recognition first.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nebraska?

Mr. HART. I yield to the Senator from Nebraska.

AMENDMENT NO. 1117

Mr. ZORINSKY. Mr. President, I call up amendment No. 1117.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an amendment numbered 1117:

On page 3, line 5, after January 1, strike "1977" and insert "1978".

The PRESIDING OFFICER. That amendment is out of order for the same reason as the previous amendment.

The Senator from Colorado.

Mr. METZENBAUM. Mr. President, I appeal from the decision of the Chair.

The PRESIDING OFFICER. The Senator from Colorado has been recognized.

Mr. METZENBAUM. Mr. President, a point of order. I have a right to appeal the decision of the Chair.

Mr. DANFORTH. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Ohio is not recognized. If he cares to ask the Senator from Colorado, who has been recognized, to yield to him, he may do so.

Mr. METZENBAUM. Will the Senator from Colorado yield?

Mr. HART. Mr. President, at some point I would like to be recognized in my own right.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio?

Mr. HART. I yield.

Mr. METZENBAUM. Mr. President, I appeal from the decision of the Chair.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. After cloture, is it permitted for a Senator to yield for a purpose other than a question?

The PRESIDING OFFICER. In either case, cloture or not, it is never in order to yield to another Senator except for the purpose of a question.

Mr. METZENBAUM. Was not the Senator from Ohio recognized?

The PRESIDING OFFICER. I think the Senator from Colorado yielded to the Senator from Ohio, and the Senator from Ohio has the floor.

Mr. METZENBAUM. I appeal the decision of the Chair.

Mr. DANFORTH. A point of order, Mr. President. He cannot yield the floor for such purposes under these circumstances.

The PRESIDING OFFICER. The Senator from Colorado has lost the floor, and the Senator from Ohio is recognized.

Mr. METZENBAUM. I appeal from the decision of the Chair, and ask for the yeas and nays.

Mr. DANFORTH. Mr. President, a point of order.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DANFORTH. A point of order.

The PRESIDING OFFICER. Is there a sufficient second, first? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum,

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. DANFORTH. Mr. President, a point of order.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Missouri will state his point of order.

Mr. DANFORTH. The request for a quorum call is dilatory, and out of order.

The PRESIDING OFFICER. The request for a quorum call has not been made.

Mr. DANFORTH. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. The appeal from the decision of the Chair is dilatory, and therefore is out of order.

The PRESIDING OFFICER. The appeal is dilatory.

Mr. METZENBAUM. The appeal from the decision of the Chair is dilatory? Is that the ruling of the Chair?

The PRESIDING OFFICER. That is the ruling of the Chair.

AMENDMENT NO. 970

Mr. DANFORTH. Mr. President, I call up amendment No. 970.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes amendment No. 970, numbered 862 to S. 2104.

On page 15, after line 22, insert the following new section 28, and redesignate the succeeding sections accordingly:

RIGHTS OF INTERVENORS

SEC. 28. Section 22 of the Natural Gas Act is amended by inserting "(a)" after "SEC. 22." and by inserting at the end thereof the following:

"(b) An intervenor in any suit under subsection (a) shall have all the rights to obtain necessary information in the pursuance of such suit as are granted to the original parties.".

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DANFORTH. Mr. President, a point of order. The call for the quorum is dilatory.

Mr. METZENBAUM. There is not a quorum on this floor.

The PRESIDING OFFICER. Business has intervened. The call for the quorum is in order. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 56 Leg.]

Abourezk	Ford	Nelson
Allen	Garn	Nunn
Anderson	Glenn	Packwood
Baker	Hansen	Pearson
Bartlett	Hart	Pell
Bayh	Haskell	Percy
Bellmon	Hatch	Proxmire
Bentsen	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
	Inouye	Sasser
Byrd, Robert C.	Jackson	Schmitt
Case	Johnston	Schweiker
Chafee	Leahy	Scott
Chiles	Long	Sparkman
Church	Lugar	Stennis
Clark	Magnuson	Stevens
Cranston	Mathias	Stevenson
Culver	Matsunaga	Stone
Curtis	McClure	Talmadge
Danforth	McIntyre	Thurmond
DeConcini	Melcher	Tower
Dole	Metzenbaum	Wallop
Durkin	Morgan	Williams
Eagleton	Moynihan	Zorinsky
Eastland	Muskie	

The PRESIDING OFFICER. A quorum is present.

The Senator from Colorado.

Mr. DANFORTH. Can we have a ruling?

The PRESIDING OFFICER. The question should have been on agreeing to the amendment prior to the time I recognized the Senator from Colorado.

The question is on agreeing to the amendment.

Mr. METZENBAUM. What is the question? I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DANFORTH. Point of order, Mr. President.

The PRESIDING OFFICER. There is not a sufficient second.

What is the point of order?

Mr. DANFORTH. That the amendment is not in order because it amends the bill in two places.

The PRESIDING OFFICER. Since the Senate has decided that just amending the bill in two places, where the second one is simply redesignating another section, does not hit in two places, the point of order is not sustained.

The question is on agreeing——

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays were requested. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. CHILES. Point of order, Mr. President. The call for a quorum is dilatory, Mr. President.

The PRESIDING OFFICER. The Senator from Florida makes the point of order that the call for the quorum is dilatory.

Mr. METZENBAUM. There has been intervening business.

Mr. CHILES. Under rule XXII, motions that are clearly dilatory will be ruled out of order.

The PRESIDING OFFICER. The Chair has to confess that the Chair thinks it is dilatory because we have just completed a quorum call to establish a quorum, and the Chair rules that it is dilatory. The question is on——

Mr. MUSKIE. Mr. President——

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I appeal the ruling of the Chair because I am disturbed by a ruling the Chair made a few moments ago.

Mr. CURTIS. Point of order, Mr. President. Under cloture, there is no debate on an appeal from the ruling of the Chair.

Mr. MUSKIE. Mr. President, the Presiding Officer has not yet ruled.

The PRESIDING OFFICER. The appeal is not debatable, but the Chair has recognized the Senator from Maine to make an observation, and he may proceed.

Mr. MUSKIE. Mr. President, the Chair earlier ruled on a similar question that an appeal to the Chair is itself dilatory.

Mr. President, the word "dilatory" in the cloture rule is being defined in the course of this battle. A lot of decisions on first impression are being made. They are important decisions. They are important precedents.

But when the Chair rules that an appeal from the ruling of the Chair is, itself, dilatory, the effect of that is to take out of the hands of the Senate the power to make the final decision as to what the word "dilatory" means.

The Senate may wish to do that. We do not know who may occupy that chair at some point in the course of any heated debate after cloture. It may be someone sympathetic to our view or it may not be. But for the Senate to accept the notion that the occupant of the chair, whoever he may be, can deny the Senate as a whole the right to rule on appeals from the Chair is a precedent I doubt this Senate wants to set. I simply wanted to say that—that if the present occupant of the chair rules that the appeal is dilatory, we are powerless—all 100 of us—to

change that unilateral, individual ruling by someone who temporarily presides over the chair, I think we ought to think about it.

The PRESIDING OFFICER. The Chair will note that if an amendment seeks to amend language in a bill, where that language is not there, it is, on its face, an amendment that is out of order. Appealing that decision, which is an obvious decision, which cannot be refuted and argued in any way, where a vote is allowed, does, indeed, on its face, delay the consideration of the bill before us.

Mr. MUSKIE. Mr. President, a further observation.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. It does not matter whether or not the Chair's ruling on that point is challengeable. Once the Chair asserts the right to deny any Senator appeal from his ruling, that precedent can be built upon to deny appeals for any reason.

Mr. HART, Mr. METZENBAUM, and Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Chair observes that and notes that.

Mr. METZENBAUM, Mr. DANFORTH, and Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. HART. Mr. President, I think I was recognized.

The PRESIDING OFFICER. The Senator from Colorado had been recognized.

Will the Senator withhold?

Mr. CHILES. There was never a motion.

The PRESIDING OFFICER. There is an appeal from the ruling of the Chair that the quorum call was dilatory. Then the question is on the appeal.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays?

Mr. DANFORTH. Mr. President.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. CRANSTON. That is dilatory.

The PRESIDING OFFICER. The Chair ruled that dilatory. The question is on the appeal.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the appeal from the decision of the Chair.

Mr. DANFORTH. Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. The appeal to the Chair is dilatory.

The PRESIDING OFFICER. The Chair rules that the appeal was not dilatory.

The question is, Shall the decision of the Chair stand as the decision of the Senate? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 26, as follows:

[Rollcall Vote No. 509 Leg.]

YEAS—56

Baker	Garn	Pearson
Bartlett	Hansen	Percy
Bellmon	Haskell	Proxmire
Bentsen	Hatch	Randolph
Bumpers	Hatfield	Roth
Burdick	Heinz	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
Byrd, Robert C.	Inouye	Schmitt
Chafee	Johnston	Schweiker
Chiles	Leahy	Scott
Church	Long	Stennis
Cranston	Lugar	Stevens
Curtis	Matsunaga	Stevenson
Danforth	McClure	Stone
DeConcini	McIntyre	Talmadge
Dole	Meicher	Tower
Eastland	Moynihan	Wallop
Ford	Nunn	Williams
	Packwood	Zorinsky

NAYS—26

Abourezk	Eagleton	Morgan
Allen	Glenn	Muskie
Anderson	Hart	Nelson
Bayh	Hathaway	Pell
Brooke	Helms	Ribicoff
Case	Jackson	Riegle
Clark	Magnuson	Sparkman
Culver	Mathias	Thurmond
Durkin	Metzenbaum	

NOT VOTING—18

Biden	Hayakawa	McClellan
Cannon	Huddleston	McGovern
Domenici	Humphrey	Metcalf
Goldwater	Javits	Stafford
Gravel	Kennedy	Weicker
Griffin	Laxalt	Young

So the ruling of the Chair was sustained as the judgment of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I intend to ask unanimous consent that an amendment of mine which is at the desk and was at the desk prior to cloture be altered from a substitute to a perfecting amendment. Before I do that, I want to make a comment or two on my own time.

We have heard a great deal of talk in the last few days about both sides of this issue.

Mr. BUMPERS. Mr. President, may we have order? The Senator has a very important amendment, and I think everybody should hear him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HART. Mr. President, we have heard of lot of talk about both sides of this issue during the last few days which suggests very strongly that there are only two sides to this issue. I do not think there is any major policy question that comes up before the U.S. Senate that should permit itself to be reduced to simple alternatives—either/or—but that is exactly what the U.S. Senate has permitted itself to do. You were either for Pearson-Bentsen, for total deregulation, or you were for some form of the administration's proposal to continue regulation.

What that polarization, together with cloture, has done is to effectively foreclose any alternatives in between, except those that have been at the desk. I happen to have an alternative that is not Pearson-Bentsen and is not continued deregulation. I think that, to a certain degree, one other Senator, the Senator from Louisiana, also has an alternative.

I select the word "alternative" carefully, because a compromise is a coin which has been seriously devalued around here in the last few days. So I think we should talk in terms of whether there are in fact alternatives. There are alternatives, and they are at the desk. But because of cloture and because of the polarized nature of this issue, the Senate is effectively foreclosed from considering them. The Senate has an opportunity right now to consider one of those, and all it must do to permit consideration—not acceptance, but consideration—of that alternative is to grant my request for a unanimous consent to make this amendment in order.

The request will be that it be changed from a substitute to a perfecting amendment. No other substance essentially will be changed, but because of cloture, it will require consent. That means that one of 99 Senators can object, and I have every idea that somebody probably will. But I think the person who objects should understand that what that person is doing is not just voting against or taking it in his hands to vote against this proposal but is foreclosing from the Senate the possibility of considering an alternative. If any Senator wants to accept that responsibility, that Senator can do so, for his own reasons.

However, I, for one, am extremely unhappy that we sit here day after day, absolutely deadlocked, between two hard positions, the contenders for whom are adamant about them, and those of us who feel that there are viable alternatives—not compromises, but alternatives—are foreclosed from even presenting those alternatives because of the parliamentary situation.

We have a way out of that—unanimous consent. These issues are complex. I do not think any of us think they are simple—those who believe strongly one way or the other. They involve prices to

the consumer. They involve additional supplies for the consumers to use. They involve complex issues of interstate and intrastate. They involve the structure of the oil and gas industry. They involve a lot of issues. If the Senate is serious, and if all those who have been talking to the reporters about how they would like to find some way out of this, or how they would like to consider some way out of this, are serious about that, they will at least let those alternatives which are at the desk, and which otherwise qualify, except for a technicality—they say "substantive" instead of "perfecting"—they will let us bring up those amendments and let us spend the remaining part of our hour presenting them and vote them up or down.

I think I deserve that, and anyone else who qualifies in this regard cares to participate deserves that, because we have been serious about this. We are not delaying, and we have alternatives for the Senate to consider.

I have not had an opportunity to debate my alternative on the floor because of the time limitations and everything else that has gone on. However, I sent around a "Dear Colleague" letter on September 14. My staff and I talked diligently to the staffs and other Senators about this alternative. I think there is some support for it. But even if it were voted down, the Senate of the United States would have a chance to get out of this deadlock.

If a majority of the Senators want to stay in the deadlock, if they do not want to consider alternatives, that is up to them. Any Member of the Senate can foreclose that by merely saying, "objection." But I think that Senator would be well advised to realize that what that Senator is doing is killing the possibility of the Senate considering any way out of this impasse with the proposals that are presently at the desk.

Mr. HANSEN. Mr. President——

Mr. NUNN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Has the Senator from Colorado given up the floor?

Mr. HART. No.

Mr. NUNN. Mr. President, will the Senator yield to me before he yields the floor?

Mr. HART. I will.

Mr. President, I will propound my unanimous-consent request. First, I will send the amendment to the desk.

The PRESIDING OFFICER. The Chair reminds the Senator from Colorado that there is an amendment pending. The Senator is not seeking to offer it at this time, is he?

Mr. HART. I am seeking unanimous consent to propound a unanimous-consent request.

The PRESIDING OFFICER. The Senator should then be advised that we should dispose of the pending amendment first. The Senator's amendment would not be in order as long as——

Mr. HART. Would the consent request be in order?

The PRESIDING OFFICER. Yes. The unanimous-consent request is in order to allow the amendment to be offered in its changed form at a later time.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to change my amendment No. 1389, which is in the nature of a substitute to amendment No. 1022, to be changed to a perfecting amendment by striking sections 1 through 9 and 11 through 17 of amendment No. 1022, as amended, and inserting at the appropriate place sections 1 through 9 and 11 through 17 of my amendment 1389.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Reserving the right to object, Mr. President, I would like to speak on that. I do not intend to object.

I would like to urge that people not object because this may provide an opportunity for us to resolve the issue before us by means other than grinding through every amendment, going through all the motions and countermotions and tactics and strategies we have found ourselves embroiled in, and I assure all present that I would urge the same thing for any amendment that came from any Senator under these circumstances, regardless of the viewpoint of the Senator.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Wyoming reserve the right to object?

Mr. HANSEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. HANSEN. Mr. President, let me say this: I have no doubt at all about the sincerity and earnestness of the distinguished Senator from Colorado, and I think his motives could not be finer than what I ascribe to them.

But let me point out this: We have been engaged in a filibuster here for several days, and the trouble with this approach is if I were not to object, and in due time I will object, it leaves the door wide open so that everyone else here who may not have as fine motives, as I am certain the Senator from Colorado has, can latch upon this precedent to ask unanimous consent that their amendments——

Mr. HART. No.

Mr. HANSEN. I have the floor and I reserved the right to object. They can get all kinds of mischief going here by this same opportunity. So I must object.

Mr. HART. Will the Senator withhold his objection?

Mr. HANSEN. I do not withhold.

Mr. HART. So we may discuss the issue?

The PRESIDING OFFICER. Objection is heard. The Senator from Colorado still has the floor.

Mr. HANSEN. I have objected.

The PRESIDING OFFICER. Objection has been heard, but the Senator from Colorado does have the floor. The Senator from Colorado.

Mr. HART. Mr. President, I think this is extremely unfortunate. The Senator from Wyoming knows full well——

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me?

Mr. HANSEN. Mr. President, reserving the right to object, and if it is duly noted that right is fully reserved, I withhold my objection so that others may be heard.

The PRESIDING OFFICER. The Senator from Wyoming withdraws his objection but still reserves it.

The Senator from Colorado.

Mr. HART. I thank the Senator.

Mr. President, I think there is a reasonable response to what I think is a possible legitimate objection. First of all, I indicated in my remarks there are not that many substitutes—I think there may be no more than a dozen, and six of those are variations of mine, and I think the Senator from Louisiana's are variations of the same theme, so there are not that many substitutes—which would qualify for this kind of exception.

Second, we are not establishing a precedent. Any Senator at any time if he believes that an attempt to offer a motion is dilatory can object. The Senator from Wyoming has said he does not believe my intent is to delay, and he is correct. Therefore, he could not object here and still reserve his right to object to others that he believes are dilatory. This is not a precedent-setting step we are taking here. It is an effort to get out of this deadlock.

Now, if Senators do not object here they can object at any other time they wish.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. HART. I yield to the Senator from Washington for a question.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HART. On the Senator's time.

Mr. ROBERT C. BYRD. Mr. President, would the Senator yield to me?

Mr. HART. On the leader's time.

Mr. ROBERT C. BYRD. Mr. President. I move the Senate stand in recess until the hour of 10 o'clock Monday morning.

Mr. NUNN. Mr. President, will the Senator from West Virginia yield to me? I have been trying to get the floor for about 30 minutes.

The PRESIDING OFFICER. The Senate will come to order. Does the Senator from Colorado yield to the majority leader for that purpose?

Mr. ROBERT C. BYRD. He yielded to me on my time.

Mr. HART. But reserving——

The PRESIDING OFFICER. Does the Senator from Colorado yield for that purpose?

Mr. ROBERT C. BYRD. I hope he will.

Mr. HART. Reserving my right to the floor and with some understanding of the purpose of the majority leader's motion.

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. A further inquiry to my good friend from West Virginia.

The PRESIDING OFFICER. The Chair will state that the Senator from Colorado can only yield for a question except by unanimous consent or he loses his right to the floor.

Mr. HART. I yield to the majority leader so he may ask me a question which may reveal in the course of the

question his purpose in perhaps offering the motion. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator be allowed to yield to me without losing his right to the floor and that I may be able to utilize my time because I think I would want to explain. Would this be agreeable?

Mr. HART. If that is the understanding of the Chair.

Mr. NUNN. Reserving the right to object, if that is a unanimous-consent request, I reserve the right to object.

The PRESIDING OFFICER. The Chair will state that the Senator from Colorado can yield for purposes of a question, and if he is yielding for any other purpose he has to make that known at this time, and he automatically loses the floor when he does that.

Mr. ROBERT C. BYRD. Mr. President, will the Senator do this, would he yield the floor at the moment—I am asking a question—would he yield the floor, which still leaves the Senator from Wyoming with his having reserved his right to object, would he yield the floor to me that I might move to recess because I think that tempers are just too high at this point to continue action, and I think if we go home over the weekend perhaps we can find some way out of this.

If I may have the distinguished Senator's attention, I understand there is some talk around here of moving to recommit this bill this afternoon. I hope that if that motion is made, the Senators will not support it for these reasons: If we recommit the bill, that kills the bill and, Mr. President, I think it would be a very, very sordid event for this Senate, after it has spent already 12 days and 1 night in trying to work its way out of this wrangle, for us to turn around at this point and kill the bill.

I still have hope that in time there will be some resolution of this matter, and I do not believe the Senate of the United States ought to commit an act which will prevent natural gas pricing legislation from being in conference.

Now, whatever the Senate does on the bill it has a right to do. If it wants to kill the bill, of course, it can kill it, but I want to point out the consequences. We will have no measure in conference on natural gas pricing.

Now, the President of the United States is entitled to have something in conference so that the House and Senate can resolve this issue. I think most of us here know how the issue of deregulation will be resolved in conference. Nobody is kidding himself. But we have a responsibility to send something to conference, whatever the Senate sends.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Let me please finish my statement.

Whatever the Senate sends to conference is the Senate's business. But do not recommit the bill. I am not going to take the bill down. I am just not made that way. I have a responsibility to try to get this bill to conference. I am not willing to see this Senate be recreant in its responsibility to send something to conference, if I can avoid it.

If we do not send a bill to conference on natural gas pricing, there will be nothing in conference. That might endanger the whole national energy policy the President has presented, because the House then will be put in a very difficult position.

The House of Representatives passed a bill, and I said 5 months ago to the leadership of the House that we cannot possibly pass a bill of this kind, so massive, so controversial, in the Senate. Under our rules it is an impossibility. We would never be able to invoke cloture on such a bill. So we have to send it over in pieces. Now anyone can see the problems we are having with just one of the pieces.

The House of Representatives, though, has a different problem. As I understand it, if they do not have a whole package, they may not be able to pass anything over there and if we here knock out one of the components and the House of Representatives is unable to pass anything. I would not blame the President for calling us back after we adjourn.

We have to face up to this issue one way or the other and there should be a little give here. I understand there has been plenty of give already. I understand that.

But we are at a point where someone is going to have to give a little more in one direction or the other. Or we will just continue as we are until we get down to the point where we vote.

I have sought to have a vote up or down on the Pearson-Bentsen amendment, but there have been objections.

Mr. MAGNUSON. We did vote on it last night.

Mr. ROBERT C. BYRD. No. We voted on a tabling motion.

As far as I am concerned that was indicative of where the Senate sentiments are right now. But I hope and I plead with my friend from Georgia and any other Senator not to move to recommit this bill.

Mr. NUNN. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. NUNN. I have one brief comment.

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. NUNN. Will the Senator from Colorado yield on my time?

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. HART. Only if I may reserve my rights to the floor.

Mr. NUNN. Will the Senator from Colorado yield?

Mr. HART. Only if I reserve my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Colorado yields to the Senator from Georgia.

Mr. NUNN. I say to my good friend from West Virginia I will agree with everything he says about the priority of this bill, about the importance of energy legislation, and about what it means to the country, but it is very apparent to me that we either have to decide the Senate precedent and the Senate rules are going to be changed or altered or we are not going to get an energy natural gas bill.

If natural gas matters are as important as the Senator from West Virginia has just articulated, which I contend they are—and I will agree with him—then it is more important than making no change whatsoever in the precedents and the rules of this Senate.

I have seen no evidence whatsoever that the joint leadership is willing to deviate from either the precedents or the rules of this Senate so that we can end this debate and come to a conclusion.

So I would contend that unless someone makes that decision, and I do not know who that will be, but unless there is an effort to set aside either a precedent or a Senate rule during the first part of next week, then very reluctantly, because I think the whole effort is futile and we have other important business, then I certainly would at least contemplate making a motion to recommit this bill because I do not believe we are ever going to get a natural gas bill unless we decide that it is more important than the precedent or the rule of the Senate. That is the question that is before this Senate and that is what has to be decided, and I see no evidence whatsoever that this Senate has been willing or ready to come to grips with that decision, so-called.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me again?

Mr. NUNN. I thank the Senator from Colorado.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the majority leader?

Mr. HART. Mr. President, I shall try to resolve this issue I raised before we get sidetracked on the other one, frankly because this is not the issue before the Senate. Now I think it is important to state once again the situation. The American people believe they have two choices, either deregulate totally or keep regulations on. They do not have only two choices. They have at least two others. I have one of them. The Senator from Louisiana has another. But because of the parliamentary situation and the rules of the Senate we are foreclosed from offering those alternatives. They have not been reported on. They have not been considered by the Senate or by the American people, and I think the American people and the Senate have a right to consider them.

What I am asking, without establishing any precedents because I am asking unanimous consent not to have a change or alteration of the rules, is a technical change in my amendment from a substitute to a perfecting amendment so that it may be in order for the Senate to consider it. I may not get 10 votes. But that is not the issue. The issue is we are deadlocked and we are prevented from considering viable alternatives. That is the issue.

Any Senator may object. But if that Senator objects, that Senator is telling the American people he is unwilling to let the Senate consider any but two alternatives. That is the issue.

We could have unanimous consent on this request, and every Senator reserves his right to object to any other attempt to alter an amendment. This is one of the two sets of substitute amendments which are substantial and are serious. They are not dilatory. They are not perfecting amendments. And there is no precedent established. I am prepared, if this unanimous consent request is granted, to call up the amendment when appropriate, expend the remainder of my 40 or 45 minutes and have a vote on it up or down. If I only get six votes, fine, but at least the Senate would have considered an alternative to the two that it has been deadlocked over for the last 2 weeks. That is all I am asking.

Mr. JACKSON. Mr. President, will the Senator yield on my time for a question?

Mr. HART. I yield for a question.

Mr. JACKSON. Mr. President, is it not a fact that the Senator from Colorado has tried to pursue his amendment to bring it to the floor since we started this debate?

Mr. HART. The Senator is correct.

Mr. JACKSON. Is it not a fact that the amendment that the Senator has proposed does offer a substantial alternative to what we have been considering?

Mr. HART. The Senator is correct.

Mr. JACKSON. Mr. President, I hope for the benefit of all of our colleagues here that the unanimous-consent request will be granted.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object——

Mr. LONG. I reserve the right to object.

The PRESIDING OFFICER. The Senator from Tennessee is reserving the right to object.

Mr. CURTIS. I reserve the right to object.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I will not be long. In the course of the last 10 days, we have engaged in an exercise that maybe the Senate does better than it does most things. That is we play with our rules. We have been mesmerized by our rules. But those rules provide a way that we get an amendment up, the way we keep that amendment from being displaced, and the way we assure that we are going to get a chance to vote on it.

There are 350 amendments up here.

Mr. HANSEN. Five hundred to start with.

Mr. BAKER. Whatever the number is. I am told it may be more than 350 amendments. Every one of those one way or other are eligible or noneligible under the rules.

Mr. President, in all good grace, because I have only the highest respect for the distinguished Senator from Colorado, I must say that I cannot in good conscience permit a unanimous-consent request to qualify an amendment in this case when there are others in precisely the same class. I am sorry to say that but it is simply so.

So when the time comes, not because I disagree with the merits—I do not even know what is in his amendment—because of pure, simple equity, I shall object. We are past that point. That train pulled out of the shed. And at the proper point, if someone else does not object, I will object.

Mr. HART. Let me respond to that, if I may, because it is the same point made by the Senator from Wyoming earlier.

Mr. CURTIS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

The Senator from Colorado.

Mr. HART. This is not like those 350 amendments. I will make the case all over again. There are two sets of substitute amendments. I have one. They are almost the same. The Senator from Louisiana has another, and those are variations on a theme.

These are not perfecting amendments. They are substitute alternative amendments. So they are not like 350 others.

There is no precedent established for permitting the Senator from Colorado to change this from a substitute to a perfecting amendment. Thereafter any Senator in the Chamber may object to the same request if he deems it dilatory.

The Senator from Tennessee has already stated, as the Senator from Wyoming did, that he does not consider this amendment dilatory. Anytime either of them consider an amendment or an attempt to get unanimous consent dilatory they may object and I may object. So there is no precedent being established here. There is no favor being done to the Senator from Colorado except to the Senate as a whole, and that is to give us a chance to vote on some other alternative. That is all we are seeking. That is all I am asking for; I do not even have a cosponsor.

So I would hope that Senators who are serious about resolving this problem would at least let us consider an alternative. In 45 minutes we can vote it up or down and dispose of it, and Senators can say, "We do not like that alternative." That is all I am asking. So I would hope the Senator would not object to that request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. HART. I yield.

Mr. DECONCINI. Is there an attempt, in making this unanimous-consent request, to give the Senate an opportunity to move off of the position we are now in so that those of us who feel we should resolve this issue will have an opportunity to do so?

Mr. HART. The Senator has stated my intention exactly.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska reserves the right to object.

Mr. CURTIS. Mr. President, I would like to point out that the Senate is not deadlocked. [Laughter.] Laugh if you want to. We voted cloture to end debate on three occasions. By a clear majority, Senators have expressed the wishes of of the Senate on what kind of a natural gas bill we want. We have voted to end debate, and I appeal to the leadership to cease all of this trying to get together to work out something to undo what the majority has done on three occasions. We should end this law of the jungle, and return to the rules of the Senate. The rules of the Senate provide that when you vote for cloture, debate ends.

I am not criticizing the time keepers. I do wonder about the instructions they are getting. I have heard individuals stand here and talk for several hours this week, since cloture was voted. The rules say they are entitled to an hour.

The rules say that you cannot have any motion or amendment that is dilatory. When a Member comes in here and offers 250 amendments, on the face of it that is dilatory, and every schoolboy knows it.

Mr. President, I appeal to the leadership to recognize the fact that what is happening here is not a deadlock over a decision. The decision has been made three times. It is cooperation with a minority who do not like the decision, and we are filibustering after the Senate has voted to end filibustering.

I yield the floor.

Mr. LONG. Mr. President, reserving the right to object——

Mr. BARTLETT. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Louisiana reserves the right to object.

Mr. LONG. Mr. President, I believe there is a way the Senator from Colorado can get his amendment to a vote. I have not discussed it with him, but after this colloquy is over I will be glad to discuss it with him, and if there is an alternative available to him to get it to a vote, I do not think we have to make that decision, I do not care to discuss it here, but I will be glad to discuss it with the Senator later.

Mr. HART. Would not the Senator be willing——

The PRESIDING OFFICER. The Senator from Colorado has the floor. The Senator from Louisiana has stated his reservation, and the Senator from Colorado is recognized.

Mr. HART. Would not the Senator agree, however, that all other rules and parliamentary requirements having been met, if no Senator objected, the amendment would be before the Senate or could be brought before the Senate quite easily, without setting a precedent for anyone else?

Mr. LONG. Well, I think there is a way it can be done. If there were no alternative, I would look at it differently, but I think there is a way the Senator can achieve what he is trying to do. Therefore, I object.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object——

The PRESIDING OFFICER. Did the Senator from Louisiana object?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Does the Senator from Colorado yield the floor?

Mr. ROBERT C. BYRD. Does the Senator from Colorado still wish to hold the floor? Inasmuch as the objection has been made, I wondered.

Mr. HART. The only thing I want to say——

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART (continuing). Mr. President, to my colleagues, is that I appreciate the motives of the Senator from Louisiana, but if the Senator is serious about getting out of this impasse, whether you call it a deadlock or not is up to each individual, considering the viable alternatives there are, it seems to this Senator we have just had a chance to do it, and we passed it up.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. JOHNSTON. Mr. President, will the Senator yield to me? I have been trying to get recognized for some time.

Mr. ROBERT C. BYRD. Yes. I declined to yield earlier, but I did not intend to shut the Senator out.

Mr. JOHNSTON. I thank the distinguished majority leader. I wonder if the amendment of the Senator from Colorado is not in order right now, as a substitute for amendment No. 1022. Is not amendment No. 1022 the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 1039, as a substitute for No. 1022.

Mr. JOHNSTON. If that substitute should be brought down, then it would be in order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. I thank the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, there are two things I think I am constrained to state. First, in response to something that was said by the distinguished Senator from Nebraska (Mr. CURTIS) that he did not know what instructions were being given to the timekeeper. No instructions have been given to the timekeeper, I assure him that I know anything about, nor would I approve of any instructions given to the timekeeper to add to any Senator's time under cloture, or not to reduce his time. No instructions have been given to the timekeeper; so that can be laid to rest.

Second, in respect to the Senator from Georgia (Mr. NUNN), who is one of the most able Senators that I have seen enter the Senate since I have been here—and I have been here now 19 years, though some of us have been here longer—I have many reasons to compliment him, but I will not take time to do all of that now.

Let me say to him, however, that I have tried every way that I could possibly try to find a resolution of this situation. I guess I have worked out more time agreements in the last 10 years than any Senator in the history of the U.S. Senate. It has been difficult at times, but I must say that I have never run up against anything quite like this.

I believe in three things: Patience—and my own has been stretched greatly—patience, tenacity, and not giving up in an effort to get the Senate to work its way out and get action on a bill.

Now, I want to assure the Senator from Georgia that I have tried. I brought out a resolution (S. Res. 5) earlier this year and we went through the orderly procedure in getting that resolution—it went to the committee, Senator ALLEN and others of us on the committee considered it, and we amended it some, but we reported out a resolution. That resolution was designed to prevent such a protracted filibuster as we have seen here from happening again, from now until the crack of doom, unless the Senate subsequently changed the rules. It would have placed an overall 50-hour maximum on debate after cloture with quorum calls, et cetera, to be charged against the 50 hours. After 4 days of debate, I came to the conclusion that I could not get that resolution through the Senate at that time without going through a filibuster, and I had no assurance that a filibuster could be broken.

I entered into negotiations in good faith in an effort to see if I could get something worked out that would still be worthwhile and avoid a filibuster. By the time I completed such negotiations, I was down to the point that I did not have anything that was worth anything anyhow. It has been modified down to the point that it is now not worth anything as it is on the calendar. So I just left the resolution on the calendar and it is still there.

The original Senate Resolution 5 would have prevented what is occurring here.

What have I tried to do since? During the course of this debate I entered a motion to suspend the rules. In my judgment, that motion to suspend the rules would have brought this matter to a close before now. There are those who differ with me, and they have a right to differ.

Mr. NUNN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. NUNN. I did not say the majority leader. In my remarks I said the joint leadership had to decide, and by that I meant both Republicans and Democrats. I certainly do not think the majority leader should bear the brunt of this. I know he has been diligent in his efforts to complete this. The majority leader and I have been voting on the same side on this question. I also said the Senate does not seem to be willing to set aside either precedents or rules. I was not directing my remarks to the majority leader, and I hope he does not think so.

Mr. ROBERT C. BYRD. I understand. But I feel that now the question has been raised, I ought to put this on the record.

I also suggested earlier this week that it be in order to move to take up amendments en bloc. I had in mind dilatory amendments, or amendments which would be considered dilatory—and the word dilatory is in the rule itself—and amendments that are obviously out of order, et cetera.

Of course, I expected someone to make a point of order against that motion. Then the Chair would submit it to the Senate and I would move to table the point of order. If I had a majority of the votes, then I would have a block of amendments before the Senate. There could be 20 or 200, but the amendments would be there. Then I would just move to table them en bloc.

The PRESIDING OFFICER (Mr. GLENN). The time of the majority leader has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ROBERT C. BYRD. Will the Senator yield 1 minute to me?

Mr. CHILES. I yield.

Mr. NUNN. Mr. President, I yield to the Senator as much of my time as he desires.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. I yield to the majority leader on the time of the Senator from Georgia. [Laughter.]

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

Finally, I have been in my office all morning attempting to work out some approach whereby I could get the support of the joint leadership in finding a way so that we could get rid of the dilatory motions, dilatory appeals, dilatory quorum calls, and dilatory amendments. I am still working. I may yet come up with something. I am not sure.

I want to assure the Senator I am working in that direction with the distinguished minority leader. I have not discussed with him the details of my proposal. He knows I am working. He knows I am going to seek his advice and support.

I just assure the Senator that I am trying. I would urge Senators, I would plead with them, not to move to recommit this bill.

Mr. NUNN. The Senator has encouraged me greatly for the weekend.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. HART. Mr. President, I have just one observation before we lose track of where we stand. Despite the objection, I want my colleagues to understand that there are alternatives, and they are at the desk. In the case of the one I seek to offer, in essence all we have to change is one word, from "substantive" to "perfecting." We can have a vote in 45 minutes after any debate or discussion anybody wants to have.

I think it is extremely important that we not limit ourselves under the circumstances to either being for Pearson-Bentsen or for the administration's position. There are alternatives. They are on the desks of Senators. All it would take would be a unanimous-consent request or something else to call them up and have them voted upon.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The distinguished minority leader.

Mr. BAKER. Mr. President, I would only say that I, too, hope we can find a way out of this situation, including a way to deal with the several amendments at the desk. I think right now the only way to deal with the amendments at the desk is to chop one tree at a time. That is what we are doing. That is what we ought to continue to do. I commend the membership on this side for their continuing efforts, and especially the corps of freshmen headed by Senator DANFORTH who have been trying to chop trees all morning. I think we ought to get back to it. In the meantime, I will discuss with the majority leader how we can try to expedite that process further.

Mr. BELLMON. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 hour.

Mr. BELLMON. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. Can we have order in the Senate, please? Will Senators clear the well? The Senator has the right to be heard. Will those not seeking recognition please sit down? May we have order in the Senate, please? Will the center aisle be cleared, please? We will not proceed until we have order in the Senate.

Will the Senators conversing please retire to the cloakroom? Will the Senators in the center aisle please retire to the cloakroom? Will the Senators conversing by the Senate door please retire to the cloakroom?

The Senate will not proceed until conversations in the center aisle have ceased.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I understand the majority leader's time has expired. I ask uannimous consent to yield 30 minutes of my time to the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. BUMPERS. Mr. President, I call up amendment No. 1318.

Mr. DANFORTH. Mr. President, a point of order. I move to table amendment No. 970.

Mr. HARRY F. BYRD, JR. Will the Senator withhold that motion for 3 minutes?

Mr. DANFORTH. I will withhold, provided that after the Senator from Virginia completes his remarks I may be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Missouri will be recognized.

Mr. HARRY F. BYRD, JR. Mr. President, how much time has the Senator from Virginia utilized from the 1 hour allotted to him under cloture?

The PRESIDING OFFICER. The Senator has used none of his time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 3 minutes.

Mr. President, during the 12 years I have been in the Senate, I have consistently voted to uphold the rulings of the Chair. It is important that we operate by the rules. I have proceeded on the assumption that the Chair, working with the Parliamentarian, has a detailed knowledge of the precise point involved.

For that reason, in the absence of some countervailing evidence, I have consistently supported the rulings of the Chair. I did so on this last appeal. I did it with great reluctance. I want to state for the record that when I voted I was not certain whether I was voting correctly, but I gave the Chair the benefit of the doubt. To the best of my recollection, the Chair was correct when it ruled that there had been no intervening business when the Senator from Ohio requested a quorum call.

There was an earlier ruling of the Chair today, however, in which the Chair ruled that the motion by the Senator from Ohio (Mr. METZENBAUM) to appeal a ruling from the Chair was a dilatory tactic.

Mr. President, it seems to me that is going very, very far. I protest such a ruling.

If the Chair can make rulings and the Senate itself does not have an opportunity to override the decision of the Chair, then the Senate is putting itself totally in the hands of the Presiding Officer and the Parliamentarian.

It so happens that the Senator from Virginia has been in the majority in votes on the pending energy legislation. I have voted consistently against the position advocated by the Senator from Ohio (Mr. METZENBAUM), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Indiana (Mr. BAYH).

But I think it is very important that we operate by the rules in the Senate, that we do not bend those rules because it might not be in accord with the majority view of the Senate at a particular time.

The Senate is a unique legislative body. It is the only legislative body in the world where a minority has some protection. It is important that the rights of a minority be protected. Yet, as this debate goes on and on, I fear that the rules of the Senate are becoming, in at least a borderline way, perhaps, pretty close to being violated.

Mr. MUSKIE. Will the Senator yield?

The PRESIDING OFFICER. The Senator's 3 minutes have expired. Under the previous order, the Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I move to table the amendment numbered 970.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll:

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN, and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 47, nays 35, as follows:

[Rollcall Vote No. 510 Leg.]

YEAS—47

Allen	Eastland	Pearson
Baker	Ford	Percy
Bartlett	Garn	Randolph
Bellmon	Glenn	Roth
Bentsen	Hansen	Schmitt
Burdick	Hatch	Schweiker
Byrd, Harry F., Jr.	Hatfield	Scott
Chafee	Heinz	Sparkman
Chiles	Helms	Stennis
Cranston	Johnston	Stevens
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	McClure	Thurmond
Dole	McIntyre	Tower
Eagleton	Morgan	Wallop
	Packwood	Zorinsky

NAYS—35

Abourezk	Haskell	Muskie
Anderson	Hathaway	Nelson
Bayh	Hollings	Nunn
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Byrd, Robert C.	Leahy	Ribicoff
Case	Magnuson	Riegle
Church	Mathias	Sarbanes
Clark	Matsunaga	Sasser
Culver	Metcher	Stevenson
Durkin	Metzenbaum	Williams
Hart	Moynihan	

NOT VOTING—18

Biden	Hayakawa	McClellan
Cannon	Huddleston	McGovern
Domenici	Humphrey	Metcalf
Goldwater	Javits	Stafford
Gravel	Kennedy	Weicker
Griffin	Laxalt	Young

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SCHMITT. Will the Senator from Missouri yield for a question?

Mr. DANFORTH. I will yield for a question provided I do not yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. And on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, this will be a question, but I do want, before phrasing that question, to express my very deep concern, as has the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Maine (Mr. MUSKIE) on the Chair's earlier ruling that declared an appeal from the ruling of the Chair is dilatory.

I hope all of us can find a way in which we get around that particular ruling and establishing a precedent.

The PRESIDING OFFICER. What is the Senator's question? Unanimous consent will be required.

Mr. SCHMITT. Will the Senator from Missouri allow me to express this deep, great concern?

Mr. DANFORTH. I think the Senator already did.

The PRESIDING OFFICER. After the fact, that will take unanimous consent

AMENDMENT NO. 1083

Mr. DANFORTH. Mr. President, I call up amendment No. 1083.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 1083:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1984".

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. Amendment No. 1083 is not in order, it attempts to strike a figure which is not in it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, have we disposed of that amendment?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 1084

Mr. CHAFEE. Mr. President, I call up amendment No. 1084.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an amendment No. 1084:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1985".

The PRESIDING OFFICER. The Chair rules that amendment No. 1084 is out of order.

Several Senators addressed the Chair.

Mr. ABOUREZK. A point of order.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. I call up amendment No. 1085.

Mr. ABOUREZK. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. I appeal the ruling of the Chair on that ruling, and I ask for the yeas and nays on that.

Mr. DANFORTH. Point of order, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. I suggest the absence of a quorum.

Mr. DANFORTH. Point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. DANFORTH. That the appeal is dilatory.

Several Senators suggest the absence of a quorum.

Mr. METZENBAUM. Obviously, there is no quorum in this Senate.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. Objection.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed and concluded the call of the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BELLMON. I object.

The PRESIDING OFFICER. The absence of a quorum has been established. It is too late for that request. Objection is heard, also.

The clerk will call the names of absent Senators.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 57 Leg.]

Abourezk	Eastland	Muskie
Allen	Ford	Nelson
Anderson	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Hansen	Pearson
Bayh	Hart	Pell
Bellmon	Haskell	Percy
Bentsen	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Johnston	Scott
Church	Leahy	Sparkman
Clark	Long	Stennis
Cranston	Lugar	Stevens
Culver	Magnuson	Stevenson
Curtis	Mathias	Stone
Danforth	Matsunaga	Talmadge
DeConcini	McClure	Thurmond
Dole	McIntyre	Tower
Durkin	Melcher	Wallop
Eagleton	Metzenbaum	Williams
	Morgan	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair submits to the Senate a question: Is the point of order that an appeal from the ruling of the Chair that an amendment is out of order on its face dilatory well-taken?

Mr. MUSKIE addressed the Chair.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DANFORTH. There is.

The PRESIDING OFFICER. There is not.

There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that there may be 10 minutes of debate on this issue.

The PRESIDING OFFICER. Will the Senator suspend? May we have order? The Senator wants to be heard. May we have quiet while the Senator proposes a request.

Mr. MUSKIE. I think this is an important issue. It will establish an important precedent with which we will have to live for years, and Senators ought to focus on that fact.

I have no desire for extended debate. I made my point somewhat earlier; Senator BYRD made it, and I think we ought to have 10 minutes of debate.

I ask unanimous consent that we have 10 minutes of debate simply to focus Senators' attention on the significance of the issue.

Several Senators addressed the Chair.

Mr. CURTIS. Reserving the right to object, may I inquire is the intention that the 10 minutes would be charged as part of the time allocated to the Members?

Mr. MUSKIE. I am willing to charge it all to my time.

Mr. DANFORTH. Mr. President, reserving the right to object, on that understanding I will not object provided it is clearly understood that at the end of 10 minutes we are not going to be in a position of then asking for an additional period of time, and providing that the time begins immediately, and providing that a vote will then occur 10 minutes from now without intervening quorum calls.

Mr. MUSKIE. I am willing to accept that as part of the request.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, Mr. President, I think the unanimous-consent request should be clearly restated.

Mr. MUSKIE. The Chair has just ruled that it would submit to the Senate the question of whether or not as to an appeal from a ruling of the Chair that an amendment is not germane, that the appeal itself is itself dilatory. The Chair has submitted that question to the Senate.

I ask unanimous consent that that question be debated for 10 minutes and that immediately at the end of it there be a rollcall vote on that amendment. I think the rollcall vote has already been ordered.

That is my request.

The PRESIDING OFFICER. The question also propounded by the Chair would include that the amendment would have to be out of order on its face. The Chair would have ruled germaneness has nothing to do with it.

Mr. MUSKIE. All right. I understand that question.

Mr. DANFORTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. So there will be no misunderstanding, the Chair will restate the original statement. The Chair submits to the Senate the question, as to the point of order, that an appeal from the ruling of the Chair that an amendment is out of order on its face is dilatory, is that well taken?

Mr. DANFORTH. Reserving the right to object, it is my understanding that the unanimous-consent request of the Senator from Maine includes the fact that the full 10 minutes will be charged to the time of the Senator from Maine.

Mr. MUSKIE. Yes. I have no objection.

The PRESIDING OFFICER. The only point of clarification the Chair makes is, is this a split on time or is the 10 minutes all to the Senator from Maine?

Mr. MUSKIE. To be equally divided between myself and the Senator from Missouri if that is his desire.

The PRESIDING OFFICER. The time to be equally divided, 5 minutes on each side.

Is there objection to the unanimous-consent request of the Senator from Maine? Without objection, it is so ordered.

Mr. ABOUREZK. Could we have order, Mr. President, so the debate can be heard?

Mr. MUSKIE. Mr. President, I yield myself 4 minutes so that I may have 1 minute remaining for an appropriate response if necessary.

Mr. President, I understand what the proponents of these motions are seeking to do. They are seeking to eliminate dilatory amendments, and that is certainly their prerogative. But let me make this point: What is involved here is the question of whether at any time under any circumstances ever the Presiding Officer of the Senate, who is usually a Senator who has one position or another on an issue, should be able to make a ruling from which the Senate itself cannot decide.

This ruling of the Chair says that on its face an amendment is not in order. I do not know what appears on the face of this amendment. I do not have them before me. Nor do I have before me in an orderly fashion the documents or the instruments to which the amendment pertains.

So the question of fact, first, must be determined whether or not on its face an amendment is out of order. The Presiding Officer would be in the position of ruling on that question of fact from which there would be no appeal. And it is conceivable that that finding of fact could be erroneous, but if it were there would be no appeal from it by any Member of the Senate.

So what we are talking about is a precedent that has the potential for putting arbitrary power in the hands of the temporary occupant of the Chair, power from which the whole Senate could not appeal if this precedent is established and sustained.

The precedent has already been established by an earlier ruling of the Chair today, and I sought to have a test case made so that the Senate as a whole could decide whether that should be the precedent. That is left behind by this debate. So I provoked this test. I asked for it. If that is what the Senate wants to decide, that is the Senate's prerogative. But I have seen these precedents of the past built upon so that I can foresee a time when if this precedent is established a Presiding Officer might assert this authority whether or not an amendment on its face is in order.

The Senate may wish, as I say, to establish this precedent. I will oppose it. The distinguished Senator from New Mexico said he would oppose it. And I cannot believe that a majority of this Senate upon reflection would not agree with us.

Mr. ABOUREZK. Mr. President, will the Senator yield 30 seconds?

Mr. MUSKIE. I yield 30 seconds to my good friend.

Mr. ABOUREZK. I have two additional points to make in support of Senator MUSKIE's argument.

First of all, what Senator DANFORTH has sought to do is to change the rules of the Senate by majority vote instead of a two-thirds vote as the rules themselves require, because anytime a Senator makes a point of order and the Chair agrees with him and we vote on that as we are going to do it takes 51 percent of the Senate to decide that. The rules say that when we change the rules we do it with two-thirds vote.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABOUREZK. May I have 30 additional seconds?

Mr. MUSKIE. I yield 30 seconds to the Senator.

Mr. ABOUREZK. The second point is that if the Senate wants to change the rules that is fine and dandy. I may even vote to support a change in rules if it is done during the regular procedure. But if we are going to change the rules for JIM ABOUREZK, HOWARD METZENBAUM, or ED MUSKIE, we better change them for everyone else in the Chamber, and do not single out one or two or three Senators to do it for.

I thank the Senator.

The PRESIDING OFFICER. The 4 minutes of the Senator from Maine have expired.

Mr. MUSKIE. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this is really a very narrow question.

The question is whether an appeal from the ruling of the Chair that an amendment is out of order and is on its face dilatory will be taken.

This only applies after cloture is invoked. It has no relation whatever to the normal situation in the Senate, and the issue is whether when an amendment is challenged on a point of order and the Chair rules that it is not in order, then an appeal from that can be dilatory.

Let me give the kind of situation that is involved here. Amendment No. 1272, which is still at the desk, provides as follows: On page—and then there is a blank with a comma—line—and then there is a blank and a comma—insert the following: And there is nothing else that is printed on the page.

It is my position that this amendment is clearly out of order and that the Chair can rule that this amendment is out of order on its face.

There is no point in raising the point of order if by the very fact of raising the point of order on a matter such as this would then trigger a rollcall vote on an issue which is clear on its face when the Chair is being appealed.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question ?

Mr. DANFORTH. No.

Mr. ABOUREZK. Has that amendment been called up?

Mr. DANFORTH. No; I am not going to yield. The Senator had plenty of time.

Mr. ABOUREZK. Has that amendment been called up is the only question. It has not been.

Mr. McCLURE. Regular order.

Mr. DANFORTH. That is, in fact, the question. As a matter of fact, in courts there are certain matters that a court can determine when in litigation it is just clear on its face that certain matters are out of order.

Courts could dismiss lawsuits on motion under these circumstances. So, really, the question is, when it is absolutely clear on its face that the amendment is clearly not in order, it would seem to me, then, than an appeal from the decision of the Chair that it is not in order is itself simply a dilatory delaying tactic, and that such appeal should not be permitted.

I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, do I have any time remianing?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. MUSKIE. Mr. President, there is a rule on the books that there should not be legislation on an appropriation bill. Yet time and again this Senate approves legislation on appropriation bills deliberately, openly, and in violence to the rule, because the Senate reserves the right rule finally.

The question of whether an amendment on its face is out of order may be obvious in one case and not another.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. MUSKIE. And it is the other cases I am worried about.

Mr. DANFORTH. I yield back the remainder of my time, and call for a vote.

The PRESIDING OFFICER. The question is, is the point of order well taken? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. PROXMIRE. Mr. President, will the Chair restate the point of order?

The PRESIDING OFFICER. The Chair has been requested to restate the question. The question is whether a point of order that an appeal taken from the ruling of the Chair that an amendment is out of order on its face is dilatory is well taken. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Michigan (Mr. RIEGLE), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator

from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The yeas and nays resulted—yeas 9, nays 71, as follows:

[Rollcall Vote No. 511 Leg.]

YEAS—9

Bellmon	Hansen	Pearson
Curtis	Lugar	Randolph
Danforth	McClure	Wallop

NAYS—71

Abourezk	Eastland	Muskie
Allen	Ford	Nelson
Anderson	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Hart	Pell
Bayh	Haskell	Percy
Bentsen	Hatch	Proxmire
Brooke	Hatfield	Ribicoff
Bumpers	Hathaway	Roth
Burdick	Heinz	Sarbanes
Byrd, Harry F., Jr.	Helms	Sasser
	Hollings	Schmitt
Byrd, Robert C.	Inouye	Schweiker
Case	Jackson	Scott
Chafee	Johnston	Sparkman
Chiles	Leahy	Stennis
Church	Long	Stevens
Clark	Magnuson	Stevenson
Cranston	Mathias	Stone
Culver	Matsunaga	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Meicher	Tower
Durkin	Metzenbaum	Williams
Eagleton	Morgan	Zorinsky

NOT VOTING—20

Biden	Huddleston	Metcalf
Cannon	Humphrey	Moynihan
Domenici	Javits	Riegle
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Weicker
Griffin	McClellan	Young
Hayakawa	McGovern	

The PRESIDING OFFICER. The appeal, not having been dilatory, is in order. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask for a division. Will the Chair state the question, please?

The PRESIDING OFFICER. The decision of the Chair was that amendment 1084 was out of order on its face in that it struck the figure "1982" which was not in the bill.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Those in favor stand and be counted.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. The previous vote was 81. That would require 17. There were 16 hands raised.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? We will count once more.

Mr. ABOUREZK. Mr. President, is the Chair seeking a second now?

The PRESIDING OFFICER. I am seeking a second to the request.

The Senator will please——

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. There are 19 secondings. The yeas and nays have been ordered.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. After the yeas and nays are asked for, how long does a Senator have to muster a sufficient number of seconds?

The PRESIDING OFFICER. There is no precedent on that. A reasonable amount of time. When Senators are still coming into the Chamber, it is the opinion of this Presiding Officer that that is reason enough to have a recount of Senators still entering the Chamber.

Mr. DANFORTH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. How many requests can a Senator make?

The PRESIDING OFFICER. There is no precedent on that, or the Parliamentarian knows of none, so he says.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. DANFORTH. Mr. President——

The PRESIDING OFFICER. The clerk is calling the roll. A question is out of order.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent from on official business.

The result was announced—yeas 77, nays 3, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—77

Allen	Ford	Nunn
Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bayh	Hansen	Pell
Bellmon	Haskell	Percy
Bentsen	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Johnston	Schweiker
Chiles	Leahy	Scott
Church	Long	Sparkman
Clark	Lugar	Stennis
Cranston	Magnuson	Stevens
Culver	Mathias	Stevenson
Curtis	Matsunaga	Stone
Danforth	McClure	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Meicher	Tower
Durkin	Morgan	Wallop
Eagleton	Muskie	Williams
Eastland	Nelson	Zorinsky

NAYS—3

Abourezk	Anderson	Metzenbaum

NOT VOTING—20

Biden	Hayakawa	McGovern
Cannon	Huddleston	Metcalf
Domenici	Humphrey	Moynihan
Goldwater	Javits	Stafford
Gravel	Kennedy	Weicker
Griffin	Laxalt	Young
Hart	McClellan	

So the ruling of the Chair was sustained as the judgment of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Tennessee seeks recognition?

Mr. BAKER. Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that on Tuesday, at the hour of 5 p.m., the Senate vote up or down on the pending Pearson-Bentsen amendment.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, it is clear that we are in a difficult situation from a procedural standpoint, to say nothing of from a substantive standpoint.

Can the majority leader give me any further idea on how he would hope to proceed beyond this point?

Mr. ROBERT C. BYRD. Mr. President, I believe we ought to go out very soon. As I understand it, several amendments have been disposed of today—14 in number, which is not a great number when one considers the remaining amendments that are at the desk.

But the distinguished minority leader and I, and the two distinguished whips, have been discussing possible actions that might be taken in connection with the precedents of the Senate, and we feel that we ought to have an opportunity to further consider that matter over the weekend.

Consequently, I think it probably would be better at this time if the Senate went out after, perhaps, transacting a little morning business, if we could do

that, because I doubt that this is a good time and a good atmosphere in which to be tampering so much with the precedents of the Senate.

If we can improve upon the precedents so as to expedite action following the invoking of cloture, that is fine; but if we are not careful, we may set some precedents which would come back to haunt the Senate, and we obviously do not want to do that.

With that explanation, and following whatever comments the distinguished minority leader cares to make, I will then want to ask unanimous consent that there be a period for the transaction of routine morning business, so that we might be able to transact some other business today. Naturally, that would have to be cleared with any Senators who are here, and then I would move to go out.

It is possible that there could be some other business to transact today, as we did last night, in a short period of time, which would require a rollcall vote or two. I am not sure just what is stacked up here.

Mr. BAKER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I thank the majority leader.

Mr. President, I wholeheartedly agree with him. I think the better part of judgment and discretion is to try, as we will try, to find a way through the procedural thicket we are in, and then to go out, let the weekend have its soothing and calming effect on all of us, and try on Monday to see if we can discharge the country's business.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I thank Mr. BELLMON for his generosity and courtesy in yielding additional time to me. I was not on the floor when he did this, but it is typical of his kindness and thoughtfulness, and I express my gratitude.

ORDER FOR RECOGNITION OF MR. WALLOP ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, on Monday, following the recognition of the two leaders or their designees, I ask unanimous consent that Mr. WALLOP be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 48—SUBMISSION OF A CONCURRENT RESOLUTION OBJECTING TO PROPOSED SALE OF WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. CULVER (for himself, Mr. EAGLETON, Mr. BELLMON, Mr. ROTH, Mr. NELSON, Mr. PROXMIRE, Mr. CLARK, Mr. CRANSTON, Mr. LEAHY, Mr. SCHWEIKER, Mr. RIEGLE, Mr. ABOUREZK, Mr. METZENBAUM, Mr. HATHAWAY, Mr. ZORINSKY, Mr. MCGOVERN, Mr. KENNEDY, Mr. ANDERSON, Mr. STEVENSON, and Mr. HASKELL) submitted the following concurrent resolution:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the sale to the Government of Iran of seven airborne warning and control aircraft, proposed by the President in his message to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on September 7, 1977 (transmittal number: 77-46A).

Mr. CULVER. Mr. President, I am today submitting a resolution, cosponsored by 20 Senators, one-fifth of the Senate, to disapprove the proposed sale of seven airborne warning and control system (AWACS) aircraft to Iran.

We take this step, fully aware that some of our colleagues have been persuaded that the risks posed by this sale are acceptable and that the Carter administration has become more cooperative and responsive on broader policy issues related to foreign military sales. In fact, I believe that our earlier successful though temporary effort to block this sale has had important consequences by clarifying and solidifying the President's announced policy for restraint on arms sales and by strengthening the crucial role of Congress in these sales.

In particular, I am quite pleased that the President has decided that, if this sale is not disapproved, it will be counted with fiscal year 1978 sales instead of 1977. In view of the administration's commitment to lowered future levels of arms transfers, this decision imposes a sharp restraint on the amount of sales that can be permitted next year.

Nevertheless, this specific proposal is as risky and unacceptable now as it was in July, and we must reiterate our opposition.

I have studied closely the administration's justifications for resubmitting its proposal to sell AWACS aircraft to Iran and, in my judgment, nothing has changed since this sale was rejected in July which makes it any less objectionable now.

President Carter has given the Congress a series of assurances with regard to the AWACS sale. I welcome these assurances. They are prudent steps which I would expect the administration to take in any case involving the transfer of sensitive and highly capable military systems to foreign nations outside the NATO alliance. The President's assurances, however, cannot redress the serious national security and foreign policy risks associated with this sale. The assurances are largely promises for a long and uncertain future. If they are closely monitored and strongly enforced, the President's assurances may reduce somewhat the risks posed by this proposal and future sales to Iran. But I believe the AWACS sale is a mistake, and no assurances can be designed to cover that mistake.

The security risks inherent in the AWACS sale to Iran remain a serious concern. When the President resubmitted the AWACS proposal on September 7, some reports had it that the aircraft had been stripped down to soothe the congressional concerns and that sensitive subsystems have been removed. This is not the case. The plane and its equipments are exactly the same as was proposed in July, and consequently the potential damage to the United States and NATO defense posture should an Iranian AWACS be obtained by the Soviet Union remain unchanged and unacceptable.

Except for our highly sensitive coding equipment, the Iranian AWACS will be the same as the first AWACS delivered to the U.S. Air Force. The other five sets of equipment that are not being included in the Iranian versions are enhancements still in the development stage that will be added to our AWACS in the 1980's.

I do not accept the proposition that the absence of U.S. encipherment gear and five enhancement systems significantly minimizes the risk that could result from any security compromise of the Iranian AWACS. Coding equipment is not the distinguishing feature of the AWACS. What makes the AWACS "the most revolutionary development in air power since the invention of radar," as the Air Force claims, is the advanced look-down radar with its built-in electronic countermeasure capabilities and the data processing systems which filter radar input and translate it into useful data. This technology is important for the quality of United States and NATO defense forces, and Soviet access to it could be very detrimental.

It is argued that even if the Soviet Union has access to an AWACS, it would not be possible to reverse engineer and reproduce its capabilities. I hope this assessment is correct, but nevertheless the U.S.S.R. would still gain valuable insights into how the AWACS systems function. These insights would help the Russians in developing their own look-down radar, which they do not now have, but which could be an important factor in defending against U.S. cruise missiles. Moreover, insights into the AWACS electronic warfare systems could assist the Soviet Union in developing efficient jammers and electronic countermeasures to neutralize a U.S. and NATO AWACS force.

Proponents of the AWACS sale also maintain that the chances of defection or accidental delivery of an aircraft into Soviet hands are so small as to be insignificant. I would call their attention to a recent article in the German newspaper Bild which reported that the Soviet Union is offering $4 million to any pilot who delivers one of West Germany's F-4 Phantom jets to the Communist East. Gen. Paul-Albert Scherer, chief of West Germany's counterespionage service, reportedly told a parliamentary committee in Bonn that the Soviets have been interested for years in the F-4's radar system. If a 20-year-old aircraft with a 10-year-old radar is worth $4 million to the Soviets, what would their

offer or reward be for a $126 million AWACS?

It is indeed ironic that at the same time the Defense Department officials were resubmitting documents to justify this sale, the Secretary of Defense ordered a new policy to control the export of technology which states:

> There shall be a presumption for recommending disapproval of any transaction involving a revolutionary advance in defense-related technology to the proposed recipient country (if the resultant military capability threatens U.S. interest).
>
> In addition, it is in the national interest not to make it easy for any country to advance its technology in ways that could be detrimental to U.S. interests.
>
> Defense's primary objective in the control of exports of U.S. technology is to protect the United States lead time relative to its principal adversaries in the application of technology to military capabilities.

I do not see how the proposed sale of the AWACS to Iran can be squared with these new directives for protecting vital American defense technology. These are precisely the reasons why the AWACS should not be sold to a nation of uncertain stability which borders on the Soviet Union. Our concerns about our technology should be applied as rigorously to foreign military sales as to direct commercial transactions with potentially hostile nations.

The implications of this sale for regional arms control and restraint remain serious and unchanged. The claims that AWACS is essentially a defensive system carry little weight when balanced with Air Force statements such as the following assessment by the commander of the Strategic Air Command:

> Some mistakenly think that the AWACS is just an airborne radar technology. This is only the "tip of the iceberg" of AWACS technology. It has total battle management capability—it expands the commander's and the strategist's capability exponentially. The dramatic advance made by American electronic technology . . . makes AWACS one of the true "breakthroughs" of our time.

The contractor's promotion book spells out some of the offensive operational application of the AWACS:

> The E-3A can monitor the marshalling of airplanes at bases behind enemy lines and command friendly aircraft to attack while the enemy forces are still on the ground. The E-3A also can locate jammers and countermeasures behind the lines so they can be neutralized.

The force multiplier capabilities of the AWACS are a good addition to U.S. tactical air power, but I believe it very ill advised to introduce such a multiplier into a region where a number of nations are anxiously watching each other build up their military forces. Already, Saudi Arabia is seeking 60 of our most advanced F-15 fighters. Since the Saudis have been most cooperative and sensitive to U.S. interests in the OPEC decisions on oil price increases, in contrast to Iran, it would be inconsistent and undiplomatic to turn down their request for F-15's a few months after an exception is invoked to sell AWACS to Iran.

Perhaps the most troubling aspect of the proposal to sell AWACS to Iran is that it would extend American involvement in supporting the Iranian Armed Forces. Selling weapons to a nation is one thing; large-scale support for their operations is another more serious problem with fundamental foreign policy consequences. This proposed sale would require the long-term presence of several hundred more American support personnel, thus contributing further to the increasing dependence on Americans to train and manage large segments of the Iranian defense establishment. Indeed, AWACS is precisely the kind of sophisticated weaponry that requires such extensive support.

The Congress considers foreign military sales on a case-by-case basis. We often forget how extensive our foreign military sales relationship with Iran is. If anything, the history of that relationship suggests that the administration's estimates for American technical assistance in the Iranian AWACS program may be very optimistic.

Iran has purchased 221 F-4 fighter-bombers from the United States. The first F-4's were delivered to Iran in 1968, but according to last year's Senate Foreign Relations Committee report, the Iranian F-4 program continues to rely on the United States for training and is very dependent on the American personnel for maintenance and logistics support. This assistance reportedly will be required for several more years if the Iranian Air Force is to maintain its requisite number of flying hours and maintain operationally ready aircraft.

Iran also has purchased 296 American F-5 fighters. Although the first F-5's were delivered to Iran in 1965—12 years ago—the Iranian F-5 program also is heavily dependent on U.S. official and contractor personnel and this assistance will likewise be required for some time in the future.

The logistics problems which plague the Iranian F-4 and F-5 programs led to another example of the disturbing degree of U.S. involvement in supporting the Iranian Armed Forces. In November 1976 a $200 million contract—expected to cost an additional $100 to $300 million over a number of years—was signed for American experts to establish a logistics command for the imperial Iranian Air Force. In announcing the sale, U.S. officials said it was the most ambitious attempt yet to resolve Iran's problems in operating the advanced military aircraft it has been buying. These officials noted that if the Air Force logistics program is successful, similar programs may be set up for the Iranian Army and Navy.

On August 25, the Defense Security Assistance Agency notified the Congress of three proposed programs totaling $613 million for technical assistance to the Iranian Army's helicopter programs. Since 1972, Iran has purchased 596 helicopters from the United States at a cost of $970 million. Since 1974, the Congress has been notified of $1.1 billion in training and support assistance for those helicopters. The 1974 plan was to achieve zero percent reliance on American personnel by mid-1978. The three programs submitted to the Congress last month extend through August 1981. They involve 3,000 American technicians, which should be multiplied by three to four to include dependents.

Last August 25, the administration also notified the Congress of a proposed $184 million sale to Iran of contractor operations and maintenance support for the improved-Hawk or I-Hawk antiaircraft missile system. This program has the same pattern of absorption problems as the Iranian helicopter programs. It is justified with the admission that the normal I-Hawk maintenance training program already provided by contractor personnel is not meeting Iran's requirements for trained technicians in country. The schedule calls for 12,000 Iranians in the program by 1981, but it is estimated that Iranian personnel will be 2,500 short of required levels as early as 1978–79. The Foreign Relations Committee report last year concluded that unless there is a stretchout in virtually all aspects of the I-Hawk program, it may fail, or, alternatively, it could take nearly 1,000 American technicians to make the Hawks operational following completion of construction.

Iran's reliance on U.S. personnel to support its Armed Forces will grow, not diminish, in the years ahead. Many of the sophisticated weapons Iran has purchased have not yet been delivered. A portent of things to come may be the classified advertisement placed in U.S. newspapers this August offering long-term assignments in Iran with liberal fringes and remuneration for ex-F-14 pilots. This is a very disturbing development. Not only does it raise the prospect of American mercenaries serving in the Iranian military. It also indicates that Iran's reliance on arms sales can have a draining effect on U.S. defense programs. The Navy has informed me that it cost $411,000 to train each nonaviator to fly the F-14 and it is important for us to recoup such investments by retaining highly skilled personnel in our own Armed Forces.

Not only will thousands of Americans be required in Iran for years to come to support current programs and the proposed AWACS, but the total number of Americans, military and civilian, including dependents, is also projected to grow to 50,000 to 60,000 by the end of this decade. The end result will be even more Americans in a potential hostage situation.

In my judgment, the security risks, arms control implications, and extended American support requirements associated with the proposed AWACS sale still make a clear and convincing case against making this sale. The administration has submitted a new DOD analysis of alternative air defense systems for Iran which concludes that an AWACS-oriented system would best serve Iran's needs. As the GAO testified before the Senate Foreign Relations Committee on September 19, this study does not provide the basis for concluding that the AWACS system is operationally and militarily preferable. And it completely ignored the request of 21 Senators made to President Carter on August 5 that a thorough study compare the security risks, arms control implications, and long-term American support requirements of alternative systems.

Even as a cost-effectiveness study, the DOD analysis is fundamentally biased. Rather than comparing alternatives to Iranian air defense requirements, the study took the AWACS option as the yardstick. And predictably, AWACS turned out to be the best system to do what an AWACS can do. If this sale goes through, however, I fear that the day will come when the Iranians angrily discover that, for technical and operations reasons, seven AWACS cannot meet their expectations or requirements for air defense.

There is an alternative—an all ground-based radar system—which can provide adequate air defense for Iran without posing the risks involved in the AWACS sale. From the standpoint of complete and continuous border coverage for purely defensive purposes, it is far preferable to the AWACS-oriented system. Comparing the options on this basis, the GAO used the DOD analysis numbers to conclude that the AWACS option provides only 10 percent continuous border coverage, the E-2C alternative 17 percent, while the ground system can provide 100 percent continuous border coverage. It is unfortunate that in the rush to push this AWACS sale through, the all-ground radar system has been set up as more or less a straw man for the AWACS.

Mr. President, I recognize that time is short and the congressional calendar crowded. I urge disapproval of the AWACS sale at this late hour only because of my profound conviction that this transaction involves unacceptable security and political risks that are prejudicial to our national interest. But I also recognize that at this time there appears to be prevailing support for the AWACS sales in the Congress.

If, despite the risks and problems the transaction entails, the Senate does fail to disapprove the proposal, I would like to call the attention of my colleagues to the future opportunity we have for further consideration of this controversial action.

The administration has promised a full-scale review on security issues a year prior to the actual delivery of the aircraft, which is now planned for 1981. Furthermore, the standard form agreement which would be used for this sale contains a paragraph, required by law, which permits the U.S. Government to cancel any sale prior to delivery "under unusual and compelling circumstances when the best interests of the United States require it." Since the executive branch has the legal right to cancel this sale for security or other reasons before 1981, I believe that the Congress would also want to review the matter itself prior to that time. If the circumstances warranted, we could take legislative action to invoke that provision and thereby cancel the sale.

Since governments and world conditions change, we in Congress have no less a responsibility than the executive branch for keeping abreast of those changes. This means that when the time comes for actual delivery of weapons whose sales we have previously approved, we should make certain that these arms transfers are still in the best interests of the United States.

NOTICE OF MOTION TO SUSPEND THE RULE

Mr. HART submitted the following notice in writing:

> Mr. PRESIDENT: In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, paragraph 2, for the purpose of proposing an amendment No. 1022 to S. 2104, a bill to establish a comprehensive natural gas policy, a perfecting amendment to strike sections 1–9 and 13–17 of amendment No. 1022 and insert in the appropriate places section 1–9 and sections 13–17 of amendment No. 1389, as amended.

ADDITIONAL COSPONSORS

PANAMA CANAL TREATIES

EXECUTIVE N, 95–1

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from Wyoming (Mr. HANSEN) be added as a cosponsor of my amendments Nos. 1, 2, 3, 4, 5, and 6, and my reservations Nos. 1 and 2, to Panama Canal treaties now pending before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SUGAR PROGRAM NOW

Mr. DOLE. Mr. President, in all my years in the Congress I have seldom seen a problem more frustrating than a year-long effort to provide reasonable and sensible economic relief for the collapsing domestic sugar industry.

Every time we think we have solved the problem, someone throws a new monkey-wrench into the machinery.

You would think that with final passage by the Congress of a new farm bill containing a price support program for sugar cane and sugar beet producers everything would be sweetness in the domestic sugar situation, but instead, the mood is very sour.

Frustrated producers groups are asking embarrassing questions about what is really behind the administration's continuing foot-dragging and defiance in refusing to comply with the clear intent of the Congress.

They want to know, as do a good many of us in the Senate, why the administration is rejecting a million-dollar per day revenue from tariffs on imports and proposing to embark instead upon huge payments to processors out of the Government treasury that growers do not want and the Congress has sought in vain to prevent, thus far.

Domestic cane and beet growers have asked for fair prices in the marketplace, rather than Government payments, and supported a price support program to achieve it by an import management program calling for tariffs and duties or fees on foreign-produced sugar now flooding the United States at prices far below domestic cost of production. Congress agreed, and wrote such a program into the new Farm Bill, making clear the intention to implement it without involving heavy Government expenditures.

Instead, on the day before Congress completed action on the farm bill, Secretary of Agriculture Bergland announced a new Government payment program, a revision of an earlier program already ruled illegal by the Justice Department, and seemingly is determined to delay carrying out the congressional mandate just as long as he possibly can.

In fact, the United Press International reports that Secretary Bergland does not think he can implement it before January 1, and he says, by that time he might try to convince Congress he should not implement it at all.

Meanwhile, the U.S. market is being flooded with cheap foreign sugar, the United States is not getting the tariff revenues the Congress intended, and the Government faces huge payment costs to processors that Congress did not approve and in fact sought to avoid.

CARTER SUBSIDY PROGRAM

The administration's proposal will be using taxpayers' money for a welfare system of backdoor spending to pay farmers indirectly by using the sugar cane and sugar beet processors as paymasters. The beet and cane growers indicated an aversion to going on welfare since they naturally feel that the users of sugar, 75 percent of which are manufacturers, could just as well pay the cost of production for the sugar they buy.

If one is to really put in perspective what the Carter administration is proposing for sugar, one should consider what this philosophy would cost if it were applied to meat, dairy products, and fruits and vegetables.

Farmers' cash receipts from these three items in 1976 were as follows:

[*In billions*]

Meat animals	$26.8
Dairy products	11.4
Fruits and vegetables	6.8
Total, three items	45.0

Currently, dairy products are supported by Government administered marketing orders, price supports which involve purchases of cheese, butter, and nonfat dried milk plus strong import quotas.

Currently fruits and vegetables are supported by Government administered marketing agreements and order programs which involve volume controls, quality controls, import controls, and other price improving measures.

Currently, meat imports are limited by quotas on certain meat and meat products to support the market price.

If the U.S. Treasury were to subsidize consumption for these three groups in the same manner as for sugar and to the same extent as they have proposed for sugar, the annual Government outlay would be in the general area of $13 billion. One wonders about how the Carter

administration got itself into such a strange position.

ONE-YEAR STRUGGLE FOR PRODUCER RELIEF

Mr. President, I am sorry that it has become necessary to lay out the full, sad story of this situation for the record. The chronology of the past year shows Congress increasingly lining up on the side of the domestic producers, and the executive branch stubbornly clinging to the side of the big industrial users.

On September 14, 1976, the chairman of the Senate Finance Committee, Senator LONG, sent a resolution from the committee directing the U.S. International Trade Commission to investigate whether sugar imports were harming the domestic industry. The Finance Committee acted on complaints of economically suffering domestic producers, including those of my home State. The price of raw sugar at that time was 9.29 cents per pound.

On September 21, 1976, then-President Ford increased the duty by 1¼ cents per pound, and raw sugar prices rose to 10.78 cents per pound. At the same time the President requested the USITC to expedite its investigation.

After an intensive 6-month investigation, on March 7, 1977, the USITC reported to the President that the domestic industry was being threatened with serious injury by increased imports and recommended an annual import quota of 4.275 million tons. On that date the price was 11.7 cents per pound, but the Commission agreed sugar producers were still bleeding financially.

But meanwhile the new administration had taken over in Washington.

CARTER REJECTS RELIEF RECOMMENDED

President Carter's response to the sugar industry problems was contained in a press release of May 4, 1977, rejecting the Trade Commission's recommendation and asking the Secretary of Agriculture instead to institute a payments program of up to 2 cents per pound for sales of raw sugar at market prices below 13.5 cents per pound. The President agreed that the 13.5 cents was the estimated breakeven point for domestic sugar growers.

But the price on that date was down to 9.4 cents, so even the 2-cent payment did not achieve the 13½-cent goal. Again, sugar producers vigorously objected, both to the level and to the method of the proposed income support. They said they did not want to be dependent upon Government handouts that were really subsidizing big industrial users, and urged Congress to overrule the President.

As I prepared, along with other Senators, a resolution to override the President, the Comptroller General ruled in July that the announced program lacked legal authorization. On July 20, the Secretary of Agriculture announced he was appealing to the Attorney General for a new ruling. The Attorney General subsequently took himself out of the issue because of his former law firm's involvement with Coca Cola, and the Deputy Attorney General notified the Secretary of Agriculture on August 19 that his sugar proposal was unauthorized.

CONGRESS ACTS

Meanwhile the Congress, giving up imposition of the remedy recommended by the USITC—import quotas—overwhelmingly approved in the House a sugar price support loan and purchase program known as the de la Garza amendment to the farm bill, despite massive lobbying activity by the administration and the industrial users who utilize over three-fourths of the sugar consumed in the United States.

When the House-Senate agricultural conferees went to work on settling differences in the farm bill the first week in August, under the bipartisan leadership of Senator HUMPHREY and myself, the Senate conferees made it known they wanted to accept the House de la Garza amendment providing sugar price support at 55 percent of parity, approximating 14.03 cents per pound. While House and Department of Agriculture lobbyists threatened to veto the entire farm bill if that was kept in the act.

On the morning of August 3, Secretary Bergland met with Senator LONG to seek to work out a compromise acceptable to cane producers. On the basis of agreements at that meeting, Senator LONG recommended to Chairman TALMADGE of the Senate Agriculture Committee cutting down to 52½ percent of parity but not less than 13.5 cents per pound, with the understanding that the Department of Agriculture would immediately institute an import management program that would achieve a domestic price level sufficiently in excess of the 52½-percent parity level to insure that there shall be no acquisition of sugar by the Government.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point Senator LONG's letter to Chairman TALMADGE proposing that compromise and outlining the conditions he felt had been agreed upon.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FINANCE,
Washington, D.C., August 3, 1977.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR HERMAN: As a result of discussions earlier today with various representatives of the Administration, it seems to me a good compromise on the sugar issue might be the following:

Accept the de la Garza amendment with an amendment which lowers the level parity support from 55 percent to 52½ percent. No other change would be made in the de la Garza amendment.

The statement of managers would explicitly state that the Department of Agriculture would immediately institute an import management program that would achieve a domestic price level sufficiently in excess of the 52½ percent parity level to insure that there shall be no acquisition of sugar by the Government.

Additionally, statement of the managers would outline that the import management program, or levies to accomplish the goals of the amendment, would be administered by the U.S. Department of Agriculture.

The statement of managers would further make clear that an International Sugar Agreement which has been approved by the Congress (either as a treaty or as a trade agreement) which is implemented and which achieves the price objectives of the de la Garza amendment as modified, would take precedence over this amendment.

This compromise falls between what the Administration, under threat of veto, is offering and what the domestic industry and the Congress feel is fully justified. Therefore, it should be acceptable to reasonable men as a fair accommodation and, in my opinion, should not result in a veto of the Farm Bill.

With every good wish, I am
Sincerely,

_____,
Chairman.

Mr. DOLE. Mr. President, Senator LONG assures me there was no misunderstanding between himself and Secretary Bergland about the need for immediate implementation, under existing authority, in view of the fact Congress was about to recess.

In fact, Senator LONG stated that Secretary Bergland pledged his Department staff to start work "that very day" on implementation procedures for the de la Garza amendment.

It was on the basis of such assurances from Secretary Bergland, as reported by Senator LONG, that Senator HUMPHREY and I convinced the farm bill conferees to unanimously accept the compromise.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Senator HUMPHREY to Senator LONG on September 2, confirming that understanding, along with Senator LONG's letter of the same date to Chairman TALMADGE supporting Senator HUMPHREY's position.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 2, 1977.

Hon. HERMAN TALMADGE,
Chairman, Senate Agriculture Committee.

DEAR HERMAN: I assume that by this time you have reviewed Senator Humphrey's August 16 letter to you regarding action that the Conferees took relating to the sugar amendment to the Farm Bill.

Hubert's letter fully reflects the compromise that I negotiated with Secretary Bergland as reported in my August 3 letter to you. It also reflects my understanding of what occurred in Conference.

I am concerned about two things. First, the Administration, despite the unanimous recommendation of the Conferees, has been reluctant to quickly implement the program called for by the sugar amendment. Second, the draft language of the Conference Report does not, in my opinion, accurately reflect the intent of the Conferees.

I have just had a meeting with 1200 cane farmers, and they tell me that failure to get a program underway is creating a tremendous economic hardship on them. It is essential that the Administration take steps to immediately implement the program called for by the sugar amendment.

Herman, every day that goes by more cheap sugar is being dumped in this country, and domestic sugar is not being bought. Something has got to be done about this or we are going to become almost totally dependent on foreign sugar.

With best wishes, I am
Sincerely,

RUSSELL B. LONG.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 2, 1977.

Hon. RUSSELL B. LONG,
Russell Senate Office Building,
Washington, D.C.

DEAR RUSSELL: I am sure you know how much I appreciate the most significant role you played in working out a satisfactory compromise on the sugar price support legislation. I have endeavored to preserve the integrity of your recommendations to Senator Talmadge, since this was the basis of my presentation to the conferees.

I am concerned, however, about two things. First, the USDA, despite the unanimous recommendation of the conferees, has been reluctant to implement quickly the program called for by the sugar amendment to the Food and Agriculture Act of 1977, even though it has the authority to do so under existing law. And second, the draft language of the Conference Report prepared by staff does not, in my opinion, reflect accurately the intent of the conferees.

I asked my staff to send you a copy of my letter to Herman dated August 16—one I prepared just prior to entering the hospital—which makes clear the points I felt needed to be protected. I am enclosing another copy of that letter just to make sure you see it.

Senators McGovern, Dole, Young and Curtis also have written Herman in support of my letter and your recommendations. I think it would be helpful if you, too, would indicate your concern to Herman as well as encouraging Senators Allen and Eastland to express themselves to the Chairman in support of the points you originally made and I presented to the Conference.

Anything you can do will be deeply appreciated, Russell. I know your cane growers are just as concerned as my Minnesota beet growers that this amendment and the report accompanying it reflect the intent of yourself and the conferees.

Since it emphasizes the same concern, I also am enclosing a copy of a letter which Congressman Richard Nolan sent Chairman Tom Foley in the House.

Best wishes.

Sincerely,

HUBERT H. HUMPHREY.

Mr. DOLE. Mr. President, during the conference Senator HUMPHREY and I built a careful legislative history on how the proposed new program was to be implemented under section 22 authority, specifying that the USDA use tariffs or fees to control imports enough to achieve price support objectives, pointing out that the congressionally drafted program would bring revenues of around $300 million per year instead of costing the Government millions in payments.

The conferees state categorically that they unanimously accepted the compromise with that understanding, including the understanding that the Department of Agriculture would implement the new program immediately under existing authority, without waiting for the new mandatory provisions to be signed into law, to protect against windfall profits by industrial buyers trying to rush in more foreign sugar before the new program became effective.

The conference report reflects that understanding, in specific language. It was further amplified in discussion on the Senate floor September 9 when the conference report was approved by the Senate. In that debate, I complained about the Department of Agriculture's failure to act in utilizing the emergency import management provisions of section 22 of the Agricultural Act of 1933, as the conferees had directed. Senator MCGOVERN concurred, and placed in the RECORD Senator LONG's August 3 letter outlining the basis of the compromise accepted by the conferees calling for such immediate action on an import management program.

When many of us left Washington for our home areas during the recess, we had reason to believe the Department of Agriculture would expedite action along the lines the conferees had instructed them to carry out.

But nothing happened, except some apparent efforts from the Department to influence shifts in emphasis in the final draft of the conference report.

SUGAR PRODUCERS PROTEST

Many Senators reported to their cane and beet growers what the Congress had done, hoping we had solved their problems. But when nothing happened administratively, they were loud in protest.

During the recess, Senator LONG reports he met with 1,200 indignant cane growers distressed and upset because their Government refused to lend a hand when they were facing the loss of their homes and farms.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the newspaper article reporting on this meeting which appeared in the New Orleans Times Picayune.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUGAR CANE FARMERS DEMAND AID FROM LONG

BATON ROUGE, LA.—U.S. Sen. Russell B. Long spent an uncomfortable two hours Wednesday with about 1,000 sugar cane farmers and their families who demanded higher government-controlled prices for their product.

In a question and answer session, Long repeatedly told the farmers that he did not have the influence in Congress to give them more money.

At the end of the session, he said he would try to set up a meeting between representatives of the growers and President Carter.

"Sometimes a person can represent himself better than any senator can," said Long.

The agriculture bill now pending in Congress has been amended to guarantee farmers a price of 13 and a half cents a pound for raw sugar.

Cane growers were getting better than 64 cents a pound two years ago when the supply was short but the world market price has plummetted to below 11 cents.

"The President will veto the bill if the price is over 13 and a half cents," said Long, repeatedly stressing that "it's either 13 and a half cents or nothing."

"The problem is that for each farmer in the nation wanting higher prices there are 19 consumers wanting lower prices and able to get them from foreign nations," said Long. "It's tough trying to convince my colleagues to go for more."

In addition, Carter's administration has been against the price supports.

Several of the growers said Carter was trying to help soft drink executives in Georgia who lobbied against the price supports in Congress.

Long said he realized that "many of the newer and smaller growers cannot survive with 13 and a half cents."

He indicated that the farmers might be better served by planting rice "because we are competitive with foreign nations in rice."

"If it is between 13 and a half cents and nothing, which way do you want it?" asked Long. "It's your decision what to plant."

One farmer in the audience said that United States' aid to foreign countries included money for those countries to build sugar mills to compete with U.S. farmers.

"Why should we send taxes overseas to fight ourselves?" asked the farmer.

"I didn't vote for foreign aid," Long shot back. "Ask some of those who did vote for it."

"You've got to understand that 98 per cent of the people in this country want lower prices and we are in the minority," said Long.

The farmers told Long they depend on him because he was chairman of the powerful Senate Finance Committee and had clout in Congress and with the administration.

"I wish you would stop calling me powerful," said Long. "I wish I had more influence. I've done all I can. I didn't make this world. I was just born here."

Later, Long said, "I thought I had done my best. At least I thought I had. I'm convinced now that it's not good enough," adding that he would try to get the President to discuss the problem with the farmers.

Mr. DOLE. Mr. President, and apparently it was not different in the beet growing areas.

On September 1, Cy Carpenter, president of the Minnesota Farmers Union telegraphed a protest to President Carter and sent a copy to Senator HUMPHREY. Mr. President, I ask unanimous consent that it be printed at this point in my remarks.

There being no objection, this mailgram was ordered to be printed in the RECORD, as follows:

[Mailgram]

ST. PAUL, MINN.
September 31, 1977.

Senator HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

This copy of mailgram sent to President Carter. We respectfully request your personal attention to cause immediate implementation of the sugar provision of the farm bill, in accordance with the clearly stated intent of Congress.

Continued importation of sugar at present astronomical levels will destroy an already fragile domestic market and might well render the sugar portion of the farm bill totally unworkable for future application.

Your prompt attention is sorely needed.

Sincerely,

CY CARPENTER,
President, Minnesota Farmers Union.

Mr. DOLE. Mr. President, because I shared that concern about more foreign sugar being dumped into the United States every day—the very thing Congress sought to avoid by urging prompt implementation of the import management program—along with 28 other Senators I sent a telegram to the President on September 9, urging his intervention to get the early implementation Congress wanted and expected in order to ease the economic plight of domestic sugar farmers and processors.

Mr. President, I ask unanimous consent that our September 9 telegram be printed at this point in my remarks.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

SEPTEMBER 9, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

The economic plight of domestic sugar farmers and processors is of gravest concern. Each day of inaction contributes to further deterioration of the already depressed financial situation of the industry. Foreign sugar is being dumped into the market in record proportions. Administrative authority exists for the Department of Agriculture to take action. Mr. President, that authority is further backed by the substantial House vote favoring the de la Garza Amendment. House and Senate Conferees recommended that the sugar program called for by the Conferees be instituted without further delay. It is distressing to note that the Administration has already announced the Conferees' recommended programs for wheat and feed grain farmers but has taken no action whatever to implement the sugar program that is critically needed by sugar farmers. We strongly endorse the Conferees' recommendation on sugar and plead for immediate implementation of the program.

Russell B. Long, J. Bennett Johnston, Floyd K. Haskell, Lloyd Bentsen, John Tower, Quentin Burdick, Lee Metcalf, Carl T. Curtis.

Edward Zorinsky, Spark M. Matsunaga, John Melcher, Gary Hart, James A. McClure, Lewton Chiles, Hubert H. Humphrey, Wendell R. Anderson.

Robert Dole, Frank Church, Richard Stone, Clifford P. Hansen, Daniel K. Inouye, S. I. Hayakawa, George McGovern.

Milton R. Young, James Abourezk, Orrin G. Hatch, Donald W. Riegle, Malcolm Wallop, Alan Cranston, U.S. Senators.

Mr. DOLE. Mr. President, instead of getting the action requested, Secretary Bergland announced a new payments program directly contrary to the congressional intent, and his agreement with Senator Long.

Mr. President, I ask unanimous consent that the USDA press release of September 15, headed "Revised Sugar Payments Program Announced," be printed at this point in my remarks.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

REVISED SUGAR PAYMENTS PROGRAM ANNOUNCED

WASHINGTON, September 15.—Secretary of Agriculture Bob Bergland today announced that the Department is instituting a payments program to support the price of the 1977 crops of sugarbeets and sugarcane.

"The price support payments program has been modified to meet legal objection to the payments system we originally proposed," Bergland said. "The revised program, which will be published in the Federal Register within a few days, will establish price support levels for sugarbeets and sugaracane at not less than 52.5 percent of the parity prices for the two commodities as of July 1977.

"I have determined that the support prices will be $22.84 per ton of average quality sugarbeets and $17.48 per ton of average quality sugarcane. Processors of sugarbeets and sugarcane who assure us that producers will be paid no less than the applicable support price will receive Government payments for the difference in the national average market price per pound of sugar and 13.5 cents, the computed raw sugar equivalent price required to yield 52.5 percent of parity to producers. Through this system, in other words, compensatory payments will be made to processors who pay the support price to producers at a time when processors could not otherwise afford to do so in view of low sugar prices.

"Payments will be made on the processed products (refined beet sugar and raw cane sugar) marketed from the 1977 crop today forward until all 1977 crop sugar has been marketed or to the date of actual implementation of the price support loan or purchase program which would be mandated by the pending 1977 farm bill. We are still exploring ways of covering that portion of the 1977 crop marketed," Bergland said. "It is our intention, so far as it is legally possible, that fair and equal treatment be provided all domestic producers."

Mr. DOLE. Mr. President, as far as I am concerned I cannot accept the announcement by Secretary of Agriculture Bergland of a revised sugar payments program as in any way a valid response to our request, for it is open conflict with what the Congress has directed him to. Many of my colleagues have indicated they fully share my concern.

We accepted in good faith a quid pro quo compromise protecting the international sugar agreement negotiations and lowering the price support level in return for assurances from Secretary Bergland that he would immediately—that day, August 3—start the process of implementing the new program under section 22 of the Agricultural Act of 1933 that would achieve our price support goals in the market place without cost to the Treasury. Instead, he has ignored that agreement and announced a program that will cost our Government hundreds of millions in payments that we sought to avoid, and is losing to our Government more hundreds of millions in revenue that we intended be received as part of our program.

However, it now is becoming apparent the Department is hoping to escape ever implementing the law as designed by the Congress.

BERGLAND IGNORES WILL OF CONGRESS

In the Washington Star of September 20, a United Press International story bylined by Bernard Brenner reported that Secretary of Agriculture Bob Bergland says the Government may avoid the use of a congressionally mandated sugar support program which would require an increase in tariffs on imported sugar.

Mr. President, I ask unanimous consent that a copy of this article be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 20, 1977]

BERGLAND SEES TIME AIDING SUGAR PRICES

(By Bernard Brenner)

Agriculture Secretary Bob Bergland says the government may avoid the use of a congressionally mandated sugar support program which would require an increase in tariffs on imported sugar.

Bergland told reporters yesterday the plan may take so long to put into effect that the government may continue an alternate sugar support system, which already is in effect, until all domestic sugar programs are replaced next spring by an expected international sugar marketing agreement.

Bergland last week announced immediate activation of a program under which the incomes of depressed American sugarcane and beet growers will be boosted by direct payments routed through processors.

At the time, officials indicated the direct payments would be used only as a temporary device until they activated the congressionally-approved program.

The Congressional program, which is part of a farm bill approved by Congress last week, would put a floor under sugar market prices at 13.5 cents a pound. Bergland's program, in contrast, allows market prices to fluctuate at lower levels and uses federal payments to make up the gap between actual market levels and 13.5 cents.

If the congressional market price support plan takes effect, officials have indicated they would have to raise tariffs on imported sugar to keep imports from undercutting the support price.

Bergland told reporters yesterday, however, that after President Carter signs the pending farm bill, it will take until next Jan. 1 or longer to draft regulations putting the congressional sugar program into effect.

By that time, he said, the government may be within a month or two of beginning formal American participation in a new international sugar agreement which would prop markets at 13.5 cents a pound.

Bergland said he was "98 percent sure" the international agreement will be negotiated this fall and go into effect next spring.

Under those circumstances, he said, it would seem futile to bring the congressional sugar plan into effect in January for only a month or two of operations. So, if adoption of the agreement appears likely by early 1978, he said he might ask the congressional agriculture committees for clearance to continue the direct payment program until spring rather than activating the market support program—with its accompanying tariff hikes—for a brief run.

Bergland said the payment program, if allowed to run until spring, may cost about $125 million. He said there was no final ruling yet on whether retroactive payments—principally for Hawaiian farmers—could be made for sugar sold before last week, but he said prospects for such payments appeared poor.

Mr. DOLE. Mr. President, his attitude in the face of our legislative history is almost beyond comprehension. Mr. President, who can we trust?

Senator HUMPHREY promptly wrote Secretary Bergland questioning the reports and urging the Secretary to get on with following out the will of Congress. Mr. President, I ask unanimous consent that Senator HUMPHREY's letter be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., September 20, 1977.

The Honorable BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR BOB: Recent press reports, as well as a press release from your office, indicate that the Department of Agriculture plans to implement a sugar price support program that is inconsistent with Section 902 of the Food and Agriculture Act of 1977 and with the intent of the Statement of Managers which accompanies the bill. These reports are disturbing to me, particularly if they are an accurate reflection of the Department's plans for the period subsequent to October 1, 1977.

It was never my intention, as author of the sugar compromise proposal that was unanimously adopted in Conference, that a payment program of any kind be authorized. Section 902 (3) was intended solely to authorize payments for that portion of the

1977 sugar crop that was harvested prior to the effective date of the 1977 Food and Agriculture Act. Any existing authority to provide payments is repealed by operation of law as of the effective date of the Food and Agriculture Act of 1977.

There should be no confusion about the record of the Conference Committee on this matter. Let me quote from page 174 of the Statement of Managers: "The Conferences expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price." The effective support price is to be established at 52.5 percent of parity, a level that was reached after considerable discussion.

Furthermore, the Conferees stated, again on page 174, that "It is the recommendation of the Conferees that the Secretary of Agriculture implement the program called for by the House amendment as soon as possible—even before the Act is signed into law. The Conferees intend that the implementation of the loan and purchase program not be delayed even if there should be a delay in the establishment of minimum wage rates for agricultural employees engaged in the production of sugar because of any public hearings that may be held thereon." So the conferees made it quite clear that they intended no delay in implementation of the loan and purchase program. To the contrary, they made it known in precise terms their desire that the program be implemented even prior to the Act being signed into law.

There are a number of reasons why the Congress decided that an import management program was the best means to support domestic sugar producers at a level that was in the interest of both producers and consumers. For one thing, an import management program, if done properly and effectively, would produce over one hundred million dollars annually to the Treasury.

There are problems with a payments approach that go beyond the scope of your authority. I note that in the recent debate to amend the Senate Budget Resolution the various projections, including projections utilizing data from USDA, assumed no outlays for sugar supports. Given the difficulty that we in the Senate had in increasing the agriculture function spending level from $5.6 to $6.3 billion, I shudder at the prospect of increasing this level once again for a sugar support program.

Our sugar producers are in desperate need of strong domestic markets. Unless an aggressive import management program begins immediately—a program mandated by the Congress—we will continue to be a dumping ground for cheap sugar that will only benefit industrial users at tremendous expense to the taxpayer and to our domestic sugar producers.

I urge your most immediate consideration of this matter.

Sincerely,

HUBERT H. HUMPHREY.

Mr. DOLE. But, Mr. President, Senator HUMPHREY went even further, also writing to the Comptroller General questioning the legal basis of the Department's action and asking the GAO for an immediate review. I also ask unanimous consent that Senator HUMPHREY's letter to the Comptroller General be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C. September 20, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR ELMER: I hereby request that the GAO review the legality of the Department of Agriculture's proposed sugar support program. As you may know, the USDA has formulated a new program, announced September 15, to become effective very soon, which provides for payments rather than loans and purchases. A loan and purchase program is mandated by the Food and Agriculture Act of 1977. It is my judgment that the proposed USDA program has no legal footing once the Food and Agriculture Act of 1977 becomes effective. I have explained my views thoroughly in a letter to Secretary of Agriculture Bergland, a copy of which is enclosed.

It is imperative that your office begin its review immediately, since the Food and Agriculture Act of 1977 becomes effective October 1. It is my hope that you can report to me by this date. If you need any assistance from my office, please do not hesitate to let me know.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

Enclosures.

Mr. DOLE. Mr. President, in Senator HUMPHREY's letter to Secretary Bergland, he very rightly raised the concern many Senators will share over the budgetary implications of the course Secretary Bergland is seeking to pursue, particularly in view of the fact that the Senate's budget resolution estimates for the new farm bill were compiled on the basis of no costs being involved in the sugar program.

In consideration by the Senate of the second congressional budget resolution on September 8, 1977—noted in the CONGRESSIONAL RECORD on page 28178—Senator TALMADGE stated:

At the same time, no recognition is given for savings resulting from the sugar amendment adopted by the Conference. The Congressional Budget Office had earlier established a level of $185 million as needed to cover the Administration's direct payments to sugar producers.

That program was declared illegal by the Justice Department but this decision came *after the conferees had mandated the establishment of a sugar support program to be implemented at no cost to the Treasury.* (Italic added.)

The Congressional Budget Office cost estimate on sugar is now zero, but there is no indication as to what was done with the $185 million which was a 350 function item.

It is clear from the foregoing that the chairman of the Senate Agriculture, Nutrition, and Forestry Committee fully understood the intent of the Congress in regard to sugar to be a price support program implemented under section 22 of the Agriculture Adjustment Act of 1933—tariffs or quotas—"at no cost to the Treasury."

Instead of "at no cost to the Treasury," this supposedly budget-conscious administration is on its own authority imposing a budgetary swing conservatively estimated at $800 million to have its own way.

We have not treated these figures lightly. We have had highly respected economists familiar with both the sugar trade and operations of USDA programs look at the program being imposed by Secretary Bergland, and at the program enacted by the Congress. Based on their calculations, the Bergland program would cost an additional $450 to $500 million per year not planned for in our congressional budget ceilings, and lose the Government at least $350 million a year that would be collected by the Treasury under the program mandated by the Congress. Actually, the economists estimated both the USDA costs and the potential Treasury earnings of the two totally different programs as each coming out higher, but we have taken a conservative level in estimating a combined budget "swing" of $800 million.

I do not see how the Congress can ignore such a situation without losing complete control over legislation or the budget.

What is even more troublesome to me is the question of why it is being attempted. Who does it serve? The cane growers have not asked for the Bergland approach; the beet growers have not asked for the Bergland approach; both would prefer achieving their better price objective in the marketplace, and not be dependent on huge Government payments to processors in the hope it would trickle down to them.

Apparently, the only ones to benefit from the proposed huge Government subsidies, and the flood of low-cost foreign imports that would be allowed to continue, are the big industrial sugar users.

CARTER PROGRAM LOWERS PRICES

Currently, sugar prices are about 4 cents under what the President has found to be the minimum cost of production of sugar beet and sugarcane in the United States. And the Department of Agriculture's new processor payments program, sugar industry people tell me, could provide a built-in incentive to force the price even lower—and compel the Government to make up the difference in payments to processors.

The administration's cash subsidy program, which in effect makes available the resources of the U.S. Treasury to foot the bill for processors to sell sugar cheaper and cheaper to industrial users at the taxpayers' expense, and at no cost to themselves, is already undermining the world market and depressing returns not only to the United States but also to other poorer producing countries.

When the U.S. processors are promised a subsidy between whatever they can get in the marketplace and the support level they must pay U.S. producers, they have a built-in incentive to cut prices to attract new customers and to get a larger share of the market. And the other producing countries, to get a share of the U.S. market in competition with this U.S. Treasury-subsidized production, are compelled to reduce their prices still further.

All of us need, and are entitled to, some better explanations for the White

House and the Department of Agriculture as to what this is all about.

There needs to be better informed explanations than President Carter himself apparently gave in answer to a question about this program on September 16, at an interview with the President for non-Washington editors and news directors in the Cabinet room.

Asked why the administration was insisting on Government subsidies rather than tariffs or import restrictions to support the price of sugar, the President, replied, in part:

Tariffs are a terrible thing to impose, because many of our friends in Latin America depend heavily upon sugar. One of the most democratic nations in the world derives almost its entire income from the export of sugar. And for us to put an obstacle to their shipment of sugar to our country would, I think, almost destroy their economy, their government, probably shift it toward a complete dependence on totalitarian assistance and would not be fair as well.

We have already seen this happening, with further collapse of the sugar market last week after Secretary Bergland indicated he was going to use payments instead of import management to achieve price support objectives for U.S. growers.

As of the close of markets last Wednesday, the world raw sugar price was down to 6.75 cents. When adjusted for intervening inflation, in constant real dollar terms these current prices are comparable to the very depth of the economic depression of the 1930's.

We would like Secretary Bergland to explain that collapse, and how many more millions it will cost the United States.

Mr. President, in order to make sure nothing is presented out of context, I ask unanimous consent to have printed at this point in the RECORD excerpts from the Office of the White House Press Secretary transcript of the exact question and the full answer.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE INTERVIEW WITH THE PRESIDENT FOR NON-WASHINGTON EDITORS AND NEWS DIRECTORS

The PRESIDENT: I want to welcome all of you to the White House. Some of you have been here before. I think you have had a chance to meet with some of our staff this morning. I hope that the day will be fruitful for you.

One of the most important things to me as President is to have a means by which I can understand the problems and the questions that arise throughout the country, sometimes removed from Washington itself, to get a different perspective; and also, of course, during my news conferences that have been held and will always be held, I hope, twice a month, to receive questions from the Washington Press Corps.

There are a number of issues that confront me, that are very voluminous. I would just like to outline a few of them for you in preparation for your questions.

This morning I concluded my own talks with the Prime Minister of France, and this is a final meeting with him. He will now, this afternoon, meet with the economic advisers, the Secretary of State, Secretary of Defense, Secretary of Energy and others so that we, in shaping our own policies for the future, will know the special problems of France, and vice versa. These discussions which I have had with many foreign leaders have been very helpful to me.

As you know, I have never served in Washington before January. I have got a lot to learn about the processes, and I have gone out of my way this year to expand my own circle of knowledge outside just domestic issues.

Those are about five factors that I hope will be in the tax reform package and which I can predict to you with great assurance will be in the tax package.

Question. With the 15 percent tax investment credit you cut the unemployment rate 4 percent.

The PRESIDENT. That sounds very good.

Question. Mr. President, do you plan to withdraw your nomination of Don Tucker to the CAB and do you think the Lance matter has hurt that?

The PRESIDENT. I haven't any intention to withdraw the nomination. I understand that there has been some concern raised within the committee. I have not received that report. I have just read about it in the news. But I will look into it. And if there are some provable allegations there that I didn't know about when the recommendation was made, then I would certainly reconsider, but I don't have any intention now, knowing what I know, to withdraw the recommendation. Don Tucker is Speaker of the House in Florida. He has been recommended strongly by the two Senators from Florida. He has been recommended strongly by Governor Rubin Askew from Florida.

I don't even know what the reason for the hesitancy is in the Senate staff at this point.

Question. During the House-Senate Conference Committee on this year's Agriculture Act, an Administration spokesman said he felt tariffs should be used, or tariffs would be used to maintain the price of sugar rather than a price support program of Government subsidies.

Yesterday Secretary of Agriculture Bergland announced a payments program very similar to the one declared illegal by the Comptroller General was going to be proposed. Why are you insisting on Government subsidies rather than tariffs or import restrictions to support the price of sugar? And, secondly, do you think sugar prices should be supported at all?

The PRESIDENT. Yes, I think sugar prices ought to be supported. I think a 13½ cent sugar price is about the minimum that would be advisable, both for domestic producers and also for imported sugar. We have supported the new farm bill which provides price supports until the International Sugar Agreement can be implemented.

I did this reluctantly, as you know. We did not support the de la Garza Amendment in its original form and accepted it only if the conferees would agree that the price support mechanism would be terminated at the time an international sugar agreement was reached, if the international sugar agreement encompasses a price of about 13½ cents. Tarriffs are a terrible thing to impose, because many of our friends in Latin America depend heavily upon sugar.

One of the most democratic nations in the world derives almost its entire income from the export of sugar. And for us to put an obstacle to their shipment of sugar to our country would, I think, almost destroy their economy, their government, probably shift it toward a complete dependence on totalitarian assistance and would not be fair as well.

We have tried to avoid a protectionist policy since I have been in office and I think the best way to do it is through international agreements that in effect set minimum and maximum prices for commodities whose prices, without constraint, fluctuate so wildly.

We have seen this happen in the case of coffee. We have seen it happen in the case of sugar, where it went almost up to a dollar and then dropped back to 8 cents. We can accommodate that. It is devastating to a sugar farmer or to the sugar producers, but our national economy is so varied that we can accommodate it. But for a country where 85 percent of all their exports is sugar, this is devastating.

So I don't like tariffs as such. They would particularly be damaging to our lowest friends and allies in this hemisphere. They also, I think, would cost the American taxpayer a great deal more, and I think that an international agreement on sugar of about 13 cents would be the preferable approach and until that can be put into effect, I have reluctantly agreed to support the price support aspects of the new farm bill.

Mr. DOLE. Mr. President, someone must be poorly informing or misinforming the President on how sugar tariffs to protect domestic producers would work. The importing country, such as the country he mentions in Latin America, would pay nothing more, and market its sugar at world market prices just as it is doing now. The only difference is that the U.S. importer would have to pay the duty to bring in the foreign sugar, recouping his costs by the higher prices achieved in the U.S. marketplace for both domestic and foreign sugar. It is misleading to indicate anything the Congress has asked would penalize any poor country—it would just American producers.

ADMINISTRATION DELAYS RESPONSE TO EMERGENCY

And, Mr. President, the explanations we need would have to be better than Secretary Bergland's views, as reported by United Press International, that it will take until January 1 to implement the new legislation.

Everyone knowledgeable with the situation assures me emergency authority exists to impose these tariffs at once—if the USDA and the White House acknowledge that an emergency exists.

What does it take to convince them?

Over a year ago, the Finance Committee found enough of an emergency existed to adopt a resolution formally asking for an investigation by the U.S. International Trade Commission.

Over a year ago, ex-President Ford concurred that an emergency existed and asked the USITC to expedite the investigation.

Six months later the USITC concurred that an emergency did exist and still existed threatening the domestic industry, and recommended imposing quotas.

At that time President Carter disagreed with their course of action for relief, but concurred that an emergency existed in ordering an alternative payment program since ruled illegal.

The Congress has concurred that an emergency exists in approving a price support program for sugar producers for which the conferees called on the USDA last August 5 to implement immediately, without waiting for the farm bill to be signed into law.

Everybody seems agreed that an emergency exists except the people in USDA charged with initiating the emergency action to implement the program the full Congress has since approved. How many

acknowledgements of the existence of an emergency constitute an emergency?

Why is nothing happening?

CONGRESSIONAL INTENT DENIED BY ADMINISTRATION

Perhaps this review of what Congress intended, and what the administration has so far declined to do, will inspire some reconsiderations.

Mr. President, just yesterday we found a new twist in the long road to a rational sugar program. The Commodity News Service reports the following, which I will take the time to read to all of you:

U.S. Agriculture Secretary Bob Bergland last night told CNS he has shifted his views on implementing a sugar support program called for in the Farm Bill expected to be signed by President Jimmy Carter today.

Following a presentation to an agricultural leaders trade conference here, Bergland said he will direct U.S. Department of Agriculture staff on Monday to develop rules to implement the support program which will require import tariffs or restrictions to protect U.S. sugar prices at 13.5 cents a pound.

Last week, Bergland told reporters he planned to ask Congress to allow USDA to continue the Administration's direct payment sugar program until a new International Sugar Agreement (ISA) took effect February and to forego the Farm Bill program.

Bergland last night said he is now persuaded that whether or not an ISA is agreed to, USDA will go ahead with Farm Bill plan, probably beginning the program in December.

Bergland said he is still "98 percent sure an agreement will be reached," but he now believes it would not take effect until next fall.

Bergland said he received word from Geneva late yesterday that Australia, Cuba and Brazil have made "a great deal of progress" agreeing on export quotas, the main stumbling block to the past two-and-a-half week's ISA negotiations. But Bergland said he is determined to show other countries "if things don't go our way we're going to put the heat on them."

I want to call certain facts to the attention of this administration:

First. Yesterday's announcement is a carte blanche invitation to every importer to maximize the imports of sugar. Imports will pour into storage points at the maximum rate feasible. Already some plants are refusing to process domestic cane, but prefer to use their storage facilities for the future windfall profits. It will mean an extra million tons of imports—with a potential $80 million windfall profit.

Second. Unbudgeted hundreds of millions of dollars will pour out of the U.S. Treasury to add to our national debt.

Third. Now that the President has signed the farm bill, the Secretary must implement immediately a price support—notice I said price support, not income support—for sugarcane and sugar beets, by standing ready to purchase processed products of sugar beets and cane.

Fourth. This can be followed immediately by two steps: Increasing the duty under headnote 2 by 0.938 cent per pound; and announcing an import fee of 50 percent ad valorem in accordance with the emergency provisions of section 22.

IMPLEMENTATION SLOW DOWN

The USDA has had long experience in quickly developing and announcing price support programs. Certainly, USDA has known of the sugar provisions for about 60 days. As a matter of fact, I have in my hand a study of the USDA, dated August 5, entitled "Implementing the de la Garza Amendment." It spells out in detail what the USDA must do under the law. That was almost 2 months ago. Secretary Bergland's strong commitment to Senator LONG was also 2 months ago.

Not to have proceeded on the basis of the actual preparation of the regulations must tell the Congress that a slowdown order came from somewhere. I do not accept—nor will the Congress accept—the view that it will take until December to implement the clear directive of the Congress.

I respectfully suggest, Mr. President, that the Department of Agriculture announce immediate implementation of the mandate from Congress and live up to its unfilled covenants.

Unless such action is taken, executive branch officials will be spending much time before several committees of the Congress trying to explain its inactivity.

CONCLUSION

We are not, Mr. President, willing for either the Department of Agriculture or the White House to ignore the actions of this body. We do not condone item vetos or item delays.

I, with six other Senators, who were farm bill conferees, sent a letter to President Carter yesterday urging him to implement the congressional sugar price support program without delay as the Agriculture Act of 1977 requires. I ask unanimous consent to have printed in the RECORD the text of that letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
WASHINGTON, D.C.,
September 30, 1977.

Hon. JIMMY CARTER,
President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: According to an article which appeared in the *Washington Star* on September 20, 1977, "Agriculture Secretary Bob Bergland says the government may avoid the use of a congressionally mandated sugar support program which would require an increase in tariffs on imported sugar."

The Conference Report on S. 275, the Food and Agriculture Act of 1977, and the Joint Explanatory Statement of the Committee of the Conference clearly require the immediate implementation of Sec. 902, the sugar price support program. The administration does not, in our judgment, have the legal authority to delay implementation of the sugar price support program mandated in the Food and Agriculture Act of 1977.

As the Statement of the Managers makes clear, the Conferees intend that the Department of Agriculture implement the sugar price support program "as soon as possible—even before the Act is signed into law." In addition, the Conferees do not expect "that any outlay of CCC funds will be required, or that there will be any acquisition of products of sugar cane or sugar beets." Rather, the Conferees "expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price."

Secretary Bergland also said, according to the Star article, that it would take the administration "until January 1 or longer to draft regulations putting the congressional sugar program into effect." Six months ago, in March, 1977, the International Trade Commission reported that domestic sugar producers were being seriously injured by increased sugar imports. The administration did not dispute the Commission's findings, but nevertheless rejected the ITC's recommendation that an annual import quota be established. Instead, the administration attempted to establish a sugar payments program. The Justice Department, however, ruled that the sugar payments program was not authorized by current statutes.

The administration's failure to provide timely assistance to sugar producers led the Congress to enact a sugar price support program and to mandate its immediate implementation. During August, the administration should have been taking steps under existing authority to assure the prompt and smooth implementation of the congressionally mandated sugar support program. With your signing yesterday, the Food and Agriculture Act of 1977, Sec. 902 is law, and the conferees intend that you immediately announce import fees and duties to maintain the market price for sugar at no less than 52.5 percent of parity. If necessary to maintain the market price at the established support level, you are required to use the additional import management authority available to you under Section 22 of the Agriculture Act of 1933.

The Food and Agriculture Act of 1977 does not give the administration the discretion to delay implementation of the congressional sugar program pending an international sugar agreement. Nor can the administration's revised sugar payments program announced on September 15, 1977, serve as a substitute for the Congressional price support program for sugar. The USDA revised sugar payments program will not prevent the United States from being used as a dumping ground for imported sugar, but the congressionally mandated sugar price support requires the immediate implementation of an import management program to reduce sugar imports. By restricting the flow of surplus foreign sugar coming into the U.S., Congress' sugar price support program will help provide added momentum to reach an international sugar agreement.

We know you do not wish to place the administration in the position of, in effect, exercising an item veto—a prerogative which the Executive branch does not possess. We request that the administration implement the congressional sugar price support program without delay as the Agriculture Act of 1977 requires.

BOB DOLE.
MILTON R. YOUNG.
CARL T. CURTIS.
JAMES O. EASTLAND.
GEORGE MCGOVERN.
JAMES B. ALLEN.
HUBERT H. HUMPHREY.

Mr. DOLE. Mr. President, the Carter administration is still young. I am compelled to point out that its credibility will be adversely affected by this ignoring of the mandate of the Congress. We do not forget. Fundamentally, the future relationship with the Congress is at stake.

SPACE TECHNOLOGY AND ENERGY

Mr. SPARKMAN. Mr. President, I am always pleased to inform my colleagues

of the contributions of the George C. Marshall Space Flight Center at my hometown, Huntsville, Ala. I am particularly pleased at this time to point out two projects at the Marshall Center which which are relevant to our energy problems.

I have told this body many times of the benefits we have derived from projects at Marshall. Technology developed at the Marshall Center that allowed men to explore the Moon may help solve the Nation's energy shortage by making coal mining safer, more productive and more economical. Using technology developed for the Lunar Roving Vehicle that was operated so successfully on the Moon, an automated guidance and control system is being applied to a coal mining machine by Marshall engineers in a project for the Department of Interior's Bureau of Mines.

The "longwall machine," now operated by miners, is a large shearing machine that grinds coal from a wall or face of a coal seam in a more or less straight line, sending coal out on a conveyor, and advancing together with its mechanized roof supports as it travels deeper into the seam. Automating this machine would bring enormous advantages, and would eliminate the need for a human being to be exposed to the unsafe conditions working next to the cutting operation.

The new automated guidance and control system being developed at Marshall would allow the longwall machine to remove significantly increased amounts of coal from a mine at a faster cutting rate increasing the annual production by millions of tons. The coal taken would be purer and the guidance and control system would also reduce wear on the longwall machine's cutter, minimizing downtime on the machine.

The Marshall Center has also announced that solar energy will be harnessed to supplement conventional heating at the installation. Technology developed at the Solar Center operated jointly by NASA and ERDA at Redstone Arsenal, Ala., will be used in a program to convert heating and hot water systems in several Marshall Center buildings to solar collection systems over the next 2 years. This will free considerable quantities of conventional fuels for other uses.

I commend the people of Redstone Arsenal and the George C. Marshall Space Flight Center for their continuing contributions toward bettering our society.

THE PROBLEM OF INTERNATIONAL TERRORISM

Mr. CASE. Mr. President, the problem of international terrorism continues to spread around the world, as shown by the current hijacking of a Japanese Air Lines plane by members of the so-called Japanese Red Guard.

Members of the group have been responsible for other terrorist acts which have nothing to do with their complaints against their own government. For example, they have been allies of Palestinian terrorists and were responsible for the 1972 massacre at Israel's Lod airport in which 22 persons—many of them Puerto Rican Christians—were killed. The latest incident at Dacca, Bangladesh, in which they threatened to kill an American, Walter Karabian, because they mistakenly thought he was Jewish, casts further doubts on the claims by some PLO sympathizers that they are anti-Zionist and not anti-Semitic.

The Economist of London, in a prophetic story last week on the terrorism situation in Germany, notes that "the Terrorists need to be beaten soon."

I strongly agree.

The Senate Foreign Relations Foreign Assistance Subcommittee on September 14 held a hearing on the issue and is continuing to follow it. It is important that the administration give the problem high priority, complete work on the Presidential review memorandum on terrorism and undertake followup steps.

I ask unanimous consent that the Economic article and a press report on the Japan Air Lines plane be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Economist, Sept. 17, 1977]

A CASE FOR PRECISION

The West Germans need a policy for dealing with their terrorists, and they have not yet got one. Whether Mr. Hanns-Martin Schleyer is free or murdered by the time this is read, whether his kidnappers are in South Yemen or a police morgue, the German government now knows that it has probably the worst terrorist problem in Europe on its hands.

The new wave of the Red Army Faction is more adventurous than the Irish Republican Army, because it goes for the men at the top, and more efficient, because so far it has got them. It is more professional than Italy's far-left gunmen, who virtually suspended political violence for the holiday season in July and August. Worst, it has a constituency of sorts: a body of sympathisers, not large but large enough, willing to provide it with money, concealment or at least a muddy-minded suspension of disapproval. The fact that in Germany there is a pond for the piranha fish to swim in has to be the starting point of the policy for dealing with them.

The Germans have a bigger terrorist problem than most other people for a number of specifically German reasons. A country which has been defeated in two cataclysmic wars within 30 years is liable to produce an abnormal amount of political confusion afterwards. The confusion may show itself in left-wing or right-wing extremism (which in practice behave increasingly like each other), or it may try to sublimate itself in the pursuit of material enjoyment, treating politics as the mere administration of material growth. Neither is natural in a modern society. When that country, between its two lost wars, also tolerated a phenomenon like Hitler, and then found itself cut up between two rival ideologies, the disorientation is going to be even worse. Add the German tendency to get hold of an idea, good or bad, and hold on to it like grim death, and you have all the ingredients of what Raymond Aron has called "a psychodrama". The explanation of the Identikit young German terrorists of 1977 has to be found as much in the field of psychology as of politics.

There is one more factor, also largely German. The Germans reacted to the beginning of the general western wave of rebellion among young people, in the late 1960s, more clumsily than most other countries did, in two opposite ways. The German police were often clodhoppingly indiscriminate in their handling of student demonstrations; the majority of middle-aged Germans tended to treat all students as if they were violent nuts. But in the world of German education the reaction shot off to the other extreme. For a number of years, until the early 1970s, several German universities switched violently from the autocratic rule of conservative professors into the grip of a near-monopoly of Marxist students and assistant professors, many of whom actually preferred the political system of East Germany to the liberal one in which they had been brought up. The pool of support for today's terrorists may be partly the result of that period of alienation on the one hand, indoctrination on the other.

SMART BOMBS, NOT A BARRAGE

None of these things can be expunged from the history books. But they do point to the way in which the present problem needs to be handled. The aim should be to destroy the core of active terrorists without increasing the size of the outer ring of alienated, indoctrinated or just plain muddled people who are willing to help the terrorists now and perhaps take their place later. Because this outer ring exists, the counter-terrorist policy has to be as specific as possible. It is a case for precision weapons, not blanket bombing.

This rules out, say, a decision to intern terrorist suspects without trial. The German police could probably pick up most of the 1,200 people—about a quarter of them women—on their list of "potentially dangerous activists". But quite apart from the legal doubts about internment—how many police forces' lists of suspects are even 90% accurate?—this is precisely the sort of measure likely to expand that outer ring of sympathisers.

The same applies to bringing back the death penalty for terrorism. The majority of Germans would welcome execution for convicted terrorists, on the increasingly tempting argument that a dead terrorist attracts no attempts to release him by further acts of terrorism. But these German government's chief concern has to be, not with the majority, but with the conventional-minded minority who would regard the reintroduction of the death penalty as somehow an argument in favour of the terrorists; even more, with the minority within that minority who might take it as a reason to start helping them.

The German counter-terrorist operation needs, first, better intelligence, which means the ability to plant its own men along the terrorists so that it can track down the kidnappers and killers faster, second, it needs good psychological bargaining techniques to break down their resistance when they have been cornered; and, third it needs the special sort of combat training—marksmanship from a distance, rough-house fighting at close quarters—to make sure the right side wins the eventual shoot-out (unlike Mr. Schleyer's guards a week ago, who lost both their lives and him). There will not be many protests when terrorists are killed red-handed. Several police forces have demonstrated such a combination of skills. The Black Panthers and Weathermen in the United States and the IRA in mainland Britain—though not to the same extent as Ulster—have felt their effectiveness. Plaintive excuses notwithstanding (see page 60), there is no obvious reason why German policemen should not do as well.

It is a battle they will win in the end. German policemen will presumably be as Germanly efficient as German terrorists, and they have far more efficiency-enhancing technology at their command. A federal police structure exists to run the counter-terrorist campaign; it may need some more men, and more power to cut local corners, but more than that it needs more of the special skills of its trade. The first step may be to give it a new commander: the Germans need their Sir Robert Mark.

GERMANY TODAY, TOMORROW THE WORLD?

The coming struggle should be ruthless in the field, liberal in the courts and much stricter in prison than it has hitherto been. It should be seen to be all three, and to be conducted in defense of a liberal and just society. The difficulty for Germany's authorities is to fight an escalating police war more effectively without furthering the very good gospel of the educated, articulate and fiercely loyal terrorists family they are up against—the claim that Germany is a police state. It is important that democratic Germany masters that challenge not just in the end but reasonably soon. There is not an industrialist or liberal democrat in the world who has not shuddered to watch Germany these past few months. There are doubtless little cells of would-be revolutionaries in many other countries, without hope or mass backing, who will be studying what happens in Germany now. The terrorists need to be beaten soon.

[From the Washington Star, Sept. 30, 1977]

HIJACKERS FREE FOUR HOSTAGES, 142 STILL HELD

DACCA (UPI).—Japanese Red Army terrorists freed four more hostages today leaving 142 persons aboard a hijacked jet facing the prospect of being executed one by one.

Japan vowed to meet the guerrillas' demands—freedom for nine inmates in Japanese prisons and a $6 million ransom—but an airplane that will fly them to the Bangladesh capital was not expected to land in time to meet the new 6 p.m. deadline which the terrorists had extended.

The five Red Army commandos released two Egyptians, an Indonesian and a Japanese woman from the Japan Air Lines DC8 jet parked in an isolated area of Dacca airport, Japanese foreign ministry officials said in Tokyo.

"We are not going to set any more passengers free, whether they are sick or not," Foreign Ministry officials quoted one of the hijackers as saying.

Dacca authorities had not yet confirmed the release.

The terrorists, who commandeered the Paris-to-Toyko jetliner Wednesday over Bombay, released five U.S. residents, including an ailing yoga student studying in India and actress Carole Wells Karabian. The three others were an Indian family living in California.

Nine Americans are still being held captive aboard the jetliner, including Mrs. Wells' husband, Walter Karabian, a businessman and former California assemblyman.

The heavily armed guerrillas are threatening to kill the hostages if Japan does not deliver the jailed terrorists and the ransom—in $100 U.S. bills—but at least three of the prisoners said today they don't want to go to Dacca.

The Japanese government has agreed to meet the demands, but asked for more time to gather the prisoners who want to go and the money. The terrorists agreed to extend the deadline by more than a day until 6 p.m. today.

But the Japanese government announced a special Japan Air Lines jetliner carrying the prisoners and the ransom will leave Tokyo at 5 p.m. for the eight-hour, 4,500-mile flight to Dacca.

Five of the nine prisoners agreed to take up the offer of freedom, but three declined. The ninth prisoner, a condemned killer who has no relation to the Red Army, was unable to make up his mind.

The Red Army is made up of ultra-leftist Japanese terrorists who have often worked in conjunction with Palestinian terrorists. In 1972, three Red Army members killed 22 persons in a bloody attack on Tel Aviv's Lod airport.

The gunmen—four were Japanese, the fifth wore a mask and all appeared to be under the age of 30—told Dacca airport officials they would blow up the jet and launch a terrorist "program on a larger, global scale" unless they win all their demands.

WILBERT SNOW DIES

Mr. RIBICOFF. Mr. President, Wilbert C. Snow, a poet of national reputation, a former Governor of Connecticut, and one of the most gentle, wise and, humane men I have ever known, died of an apparent heart attack Wednesday, September 28, 1977, at his summer home in Spruce Head, Maine. He was 93 years old.

Mrs. Ribicoff and I are sending our deepest sympathies to Bill Snow's widow, Jeanette, and other members of the family.

Bill Snow was a legend in Connecticut, one of those rare human beings who lived his life absolutely free of vanity, a man who did not have a pretentious bone in his body. Bill was an original. To know him was a delight, to be his friend, a privilege.

A much beloved professor of literature at Wesleyan University in his hometown of Middletown, Conn., Bill Snow had a great and infectious sense of humor. He could laugh at himself—a rare quality for a politician—and, with a smile and an artful quip, could forgive and forget the foibles of others.

His tenure as Governor of Connecticut lasted 13 days, a short reign, to be sure, but one that will never be forgotten by those who witnessed it.

The incumbent Governor in 1946, Ray Baldwin, resigned 2 weeks before the end of his term to fill a vacancy in the U.S. Senate. Bill Snow, the Lieutenant Governor, become Governor and assumed his duties with gusto, opening up the governor's mansion to virtually anyone who happened by and insisting that, 13 days or 13 years, he was "the Governor," not a caretaker, and going about his official duties with diligence and grace and style.

Bill then sought to be elected Governor in his own right. However, as the Hartford Courant's Jack Zaiman, dean of Connecticut's political reporters, recalled, "Wilbert Snow was a far better poet than he was a politician." Bill lost the gubernatorial election by 95,500 votes in a campaign that was high on hope but short on cash. Ever resourceful, even if they had few financial resources, Bill's supporters did their best, trying on occasion to raise funds by betting on the horses—and the candidate himself once failed to show up for a major money raising event. He went to the wrong place.

Bill Snow accepted defeat graciously, returning to Wesleyan, his students and his poetry. Moreover, in losing the election, he had called on the abilities of two young men who went on to highly successful careers—Eliot Janeway, his speechwriter, now the widely syndicated financial columnist; and John Bailey, appointed by Bill Snow to be chairman of the State Democratic Party, later to be an early supporter of John Kennedy for President and for 8 years the chairman of the Democratic National Committee.

Bill Snow had a continuing love affair with the human race. His kind do not come along very often. With his passing, all of us suffer.

Mr. President, the Hartford Courant of September 30, 1977, published Wilbert Snow's obituary, a separate article by Jack Zaiman and a third article quoting tributes paid him by Connecticut leaders. I ask unanimous consent that these three articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WILBERT SNOW, 93, DIES; POET, 13-DAY GOVERNOR

Former Gov. Wilbert Snow, of 473 Newfield St., Middletown, who combined dynamic careers in politics, poetry and teaching, died Wednesday night at his summer home in Spruce Head, Maine. He was 93 years old.

Widely known for his political career, which was climaxed when he assumed the Connecticut governor's chair for a brief period in 1946, Mr. Snow was also a dedicated, nationally acclaimed poet.

For most of his life he was a teacher of literature, a profession which gave him his living and many admirers among former students. For 31 of those years he was associated with Wesleyan University where he was professor emeritus.

His son, Atty. Charles W. Snow Jr. of Middletown, said Thursday that his father had complained to him of a "small bug" and possible indigestion on the previous day.

The elder Snow had attended the funeral of a friend in Maine and then driven to his summer home in Maine eight miles away.

An avid Red Sox fan, Snow was listening to the Boston Red Sox-Toronto Blue Jays game on the radio Wednesday night when he apparently had a heart attack, Atty. Snow said.

Son of a Coast Guardsman, "Bill" Snow was born April 6, 1884 on White Head Island in Penobscot Bay, Maine. He attended the village school until he was 14, and then worked as a lobsterman, herring seiner and seaman for three years. He enrolled in high school in a mainland town and completed requirements for a diploma in two years.

Then, with $50 in his pocket, he went off to Bowdoin College in Brunswick, Maine, working his way through school for two years as the college bell ringer. In 1907, he graduated with Phi Beta Kappa honors and two years later received a graduate degree from Columbia University.

Mr. Snow's interest in social issues and politics led him to campaign in Maine for Woodrow Wilson. Later, his outspoken attitude toward politics and teaching cost him faculty jobs at the University of Utah and the University of Miami.

In an interview in May, Mr. Snow said, "You know these kids who are trying to stop this nuclear power plant—protesting in New Hampshire? They remind me of myself."

He went to Alaska in 1914, taught Eskimos, and was a U.S. government reindeer agent, traveling by reindeer sled over the Seward Peninsula to round up and brand reindeer.

During World War I, he was an Army artillery officer in this country.

Before joining the Wesleyan faculty, where he served from 1921 until his retirement in 1952, Mr. Snow taught at New York University and Bowdoin, Williams and Reed colleges.

Wesleyan dismissed him twice. As he wrote in his autobiography, "Codline's Child," he

was fired once in 1922 for swearing on the tennis courts, using profanity in a debating class, and for not having a Ph.D. "I had given my best to Wesleyan," he wrote. "What more did the administration want? Could a few 'damns' and 'hells' cancel out all this?" He was reinstated after both dismissals, saying that Wesleyan has accepted him as a "devil's advocate."

In 1944, at the age of 60, he was elected lieutenant governor of Connecticut, and held that post until late 1946, when the incumbent, Gov. Raymond E. Baldwin, resigned two weeks before the end of his term to fill a vacancy in the U.S. Senate.

Mr. Snow's short term as governor, complete with the formal swearing in ceremony, was jovially known as "the 13 days of the banana republic."

"I feel like a person who has won the consolation prize at an old-fashioned whist party," he said on assuming office. But he always insisted he was "governor, not acting governor."

He was the Democratic nominee for governor in 1946 but was defeated. This did not end his career in politics, however, and Mr. Snow remained active in the Democratic party on the state level.

He took an active part in the affairs of the City of Middletown, serving on the district school board for more than 25 years. In 1965, at the age of 81, he was a delegate to the State Constitutional Convention which wrote a new governing charter for Connecticut.

He once told the Courant's political writer, Jack Zalman, that, "Everyone should be interested in politics. If the people stay out, the crooks will take over."

In a 1959 speech to the University of Rhode Island student body, Mr. Snow said, "Political life in America is especially dull."

Politics, he explained, "means endless hours of committee work and discussions and beating around the bush, apparently getting nowhere ... Only if you have a driving interest can you accomplish things in politics."

A supporter of Jimmy Carter, Snow said at the Democratic state convention last year, "I wish he had a sense of humor."

At Wesleyan, he was popular among students and held frequent afternoon discussions over soft drinks and coffee. Often Mr. Snow brought students to his Middletown farmhouse, where they might be *introduced* to professional poets or politicians, who valued him both for advice and conversation.

He once said he was criticized by a superior at one college "because I talked too plain about politics and religion in class."

In 1951, he traveled around the world on a State Department tour as a special cultural ambassador. He retired from Wesleyan in 1954 and then accepted a one-year lecture post at a black college, Morehouse, in Atlanta, Ga.

A love for poetry, Snow recalled in an interview with a Courant reporter last May, was nurtured by his mother, an Irish immigrant. "All Irish people are poets if you strike down deep enough," he said.

"If you want to make money, write prose," he once said. "Poetry you just do for the love of it."

"If your number one happiness does not come out of the joy of doing a thing, don't try to do it. That's my test ..."

A prolific writer, Mr. Snow was the author of several books of poetry, including "Maine Coast," "The Inner Harbor," "Down East," "Before the Wind," "Maine Tides," "Spruce Head" and "Sonnets to Steve and Other Poems."

"Sonnets to Steve" contained reminiscences about his fourth son, who died in 1941. It won the 1957 Saturday Review of Literature poetry prize.

The poem begins with these lines:

"Knowing and living with and loving Steve.
For fifteen sunlit years was wealth to prize,
I count his virtues, even as I grieve . . ."

Mr. Snow had as friends many established poets, including Carl Sandburg, Robert Frost, Edwin Arlington Robinson, Edgar Lee Masters, and Edna St. Vincent Millay. Ralph Waldo Emerson was his favorite poet.

He was fond of telling about the two weeks Frost spent at his Middletown house. Every night students stayed until midnight, and he and Frost would continue talking until 4 a.m., when Mr. Snow would catch four hours sleep before his first morning class.

"Most wonderful 14 days of my life," he would say, "They almost killed me."

Mr. Snow was an early outspoken opponent of racial discrimination and in a 1945 radio speech proposed a state fair employment practice act. He declared, "Racial discrimination is an evil that American democracy has not yet shaken off. We give lip service to political and economic equality, and think that is enough."

In his later years, Mr. Snow remained active and was mentally alert, working on an autobiography and continually writing poetry. During his occasional public appearances, he always received long ovations.

Honors came to Mr. Snow from many sources after his retirement. In 1965, he was named Middletown's Outstanding Citizen, and received the first Bowdoin College Distinguished Education Award. Four years ago, he received an honorary doctorate from Bowdoin and was cited as having "captured in verse the salty flavor of Maine's sea-washed shore."

Of his Maine village youth, Mr. Snow wrote that "hunting, fishing and sailboating occupied a great deal of our time. To the grownup these were largely utilitarian sports, but to boys in their teens they were unadulterated pleasures."

"Fish and potatoes" were the staple of the family diet, he recalled.

Atty. Snow said Thursday that his father was forced on a bland diet in his early 20s when he had an ulcerous condition, and to this he attributed his father's long life. The diet was always enforced in the Snow family, Snow Jr. said, and he never had ketchup as a child. Gov. Snow always considered eating as a secondary function and always advised against over-indulging.

Snow Jr. also recalled that his father was the "autocrat of the breakfast table," who performed at all of the family's mealtime functions with stories and jokes.

The elder Snow, in his reminiscence of his youth in Maine, said village entertainment was "incredibly meager," and once a year a minstrel troupe, a traveling bear and an Indian medicine company would show up. "As for the rest, the neighbors had to provide it themselves."

Religion was a key element in the community, he said. "The shadow of John Calvin was always hovering over us," was the way he described it in the preface to "Maine Tides," published in 1940.

He alluded to his abiding love of the sea and its influence this way:

"The habitual mood of New England landscape is that of mild pastel shade, exquisitely delicate but not in any way violent. The tints on the sea are richer, especially at sunrise and sunset, consequently one will be more aware of the sea than he will of the land in perusing this volume, for it was the sea that instilled in the author the desire for expression in poetry."

In the last year of his life, Mr. Snow could still be seen walking down Middletown's Main Street with only a slight hobble or sitting in a Wesleyan University grill, speaking his mind on the politics of the day.

His long, thick white head of hair flopped when he talked and his sharp blue eyes looked straight at a listener.

"The worst thing about growing old," Mr. Snow said with a hint of sadness during the May interview, "is that your friends don't grow old with you. They try the other shore."

Besides Atty. Snow, he leaves his wife, Mrs. Jeanette Simmons Snow; three other sons, John F. Snow of Middletown, Nicholas Snow of Spruce Head, and Gregory E. Snow of Detroit, Mich., and 17 grandchildren.

Funeral services will be Saturday at 9 a.m. in the Church of the Holy Trinity, Middletown. Burial will be Monday in Ocean View Cemetery, South Thomaston, Maine. Calling hours are today, 2 to 7, at Doolittle Funeral Home, 14 Church St., Middletown. Memorial donations may be made to the Memorial Fund of the Church of the Holy Trinity, 381 Main St., Middletown, 06457.

MORE POET THAN POLITICIAN, SNOW LEFT MARK ON PARTY

(By Jack Zalman)

Wilbert Snow was a far better poet than he was a politician. His political instincts were pure, like a poem. He was uncomfortable with the legendary smoke-filled back room into which he was thrust in 1946 when he became the Democratic gubernatorial nominee.

Yet, he will go down in Connecticut political history as the man who brought John M. Bailey to prominence.

It was Snow who made the late Mr. Bailey the Democratic state chairman in 1946, a move that created the modern Democratic party, led eventually to the destruction of the Republican party as the dominant political force in Connecticut, and later brought Bailey to the Democratic national chairmanship.

And, having given Bailey his start, Snow's moment at the political top passed. He lost the 1946 gubernatorial election by 95,500 votes and that really was the end of his political career. He was a flash in the pan in politics; yet he has left a great mark.

That year, 1946, for those who remember it, always brings smiles. Snow was running for governor and Bailey was state chairman. There was no money for the campaign, since things looked so black for the Democrats.

How could money be raised for Snow? Somebody at Democratic headquarters owned a horse—a "hot" horse he said. So party leaders bet on the horse and it won. Then the bundle was lost when the horse, in later races, fell apart. But Snow didn't know what was going on.

And when funds were raised for a final big campaign radio broadcast—there was no television then—and all the leaders were gathered around a radio at the old Hotel Bond to listen to Snow, the announcer came on and said, "Due to conditions beyond our control, the program originally scheduled for this period will not be held."

They were astounded. Where was Snow? The statewide broadcast was to have originated in Bridgeport. Soon they found out that Snow had gone to the wrong radio station.

And his campaign speeches? His speechwriter was Eliot Janeway, now a widely known syndicated financial columnist.

Janeway would write the speeches and Snow wouldn't deliver them.

"They don't sound like me," Snow said.

It was a haphazard campaign for the Democrats, doomed to failure.

Yet, from these ashes Bailey rose to political greatness and Snow went back to teach at Wesleyan University and to his beloved poetry.

And as the years went on, and the Democrats took over the state, Snow sometimes would be forgotten by party leaders. They would have their big dinners and forget to invite Snow. And when he showed up, on his own, they would forget to put him at the head table.

And still later on, party newcomers would see the distinguished-looking Snow at political affairs and ask: "Who's he?" They looked stunned when informed that he was the man who had made Bailey what he was.

POLITICAL, ACADEMIC LEADERS MOURN FORMER GOVERNOR

Tributes to former Gov. Wilbert Snow came Thursday from the political and academic worlds where he made his career.

"The citizens of our state mourn the loss not only of a former governor, but of a sensitive and talented poet, a dedicated and energetic teacher and a spirited and compassionate human being," Gov. Grasso said. "He brought wisdom, wit and dedication to public service . . . He was a staunch educator . . . But perhaps his most lasting contribution will be the poetry in which he spoke so eloquently from his heart of his native New England and of those he loved."

U.S. Senator Abraham Ribicoff, D-Conn., said "Wilbert Snow was an extraordinary man—poet, teacher, intellectual and practical politician. He was a gentle and thoughtful human being who brought life and common sense to Wesleyan University the city of Middletown, the state, the nation and mankind. He was my friend. All who knew him loved him."

"All who were fortunate enough to know Bill Snow marveled at his keen wit and reveled in the vast storehouse of anecdotes which he so engagingly drew upon," said Lt. Gov. Robert K. Killian. "Connecticut has been blessed with a number of exceptional people who have also chosen to participate in the political forum. Historians will rank Bill Snow high on that list."

WESLEYAN LEGEND

Colin G. Campbell, president of Wesleyan, where Snow taught many years, said, "Wilbert Snow became a Wesleyan legend in his lifetime—beloved as a teacher, admired as a poet, respected as a civic and political leader. Many lives were touched by his thought and by his action and by the feeling of his words. Perhaps it was this third gift of his, feeling, which was of such inestimable value in a world where feelings are so often brushed aside, hidden and lost."

"We had breakfast together at a friend's house three weeks ago, just before he left for Maine," said former Gov. Raymond E. Baldwin, 84, also of Middletown. "It shakes me to see my old friends going. I considered him a fine citizen and an excellent poet."

"Even though he was a short-term governor, he showed his executive ability," Democratic State Chairman William A. O'Neill said. "He certainly was a scholar and artist well-known in the state of Connecticut and highly respected in all walks of life and by all political affiliations."

Middletown Mayor Anthony S. Marino declared a period of mourning for Snow that will start today at noon and extend through the weekend. City offices and schools will close at noon today, he said.

RHODESIAN CONFLICT

Mr. CASE. Mr. President, one of the problems in solving the Rhodesian situation has been the lack of trust and a good understanding of the attitudes on all sides. A major aspect of this has been a tendency by the white Rhodesians to misjudge the extent to which many in the outside world are concerned about the legitimate grievances of the black Rhodesians. The isolation of Rhodesia, partly due to geography, and partly due to the censored press, has been a contributing factor.

Therefore, earlier this year, I cosponsored an amendment—subsequently approved by Congress—which expressed opposition to the efforts to close the small Rhodesian Information Office in Washington. Although the office distributes publications and tries to influence people, it also serves a reporting function in the manner of a small consulate.

Also, although I was a cosponsor of the legislation which successfully repealed the Byrd amendment and thus reimposed the embargo on Rhodesian chrome ore, I joined last week with the Senator from Virginia to criticize the denial of visas to two Rhodesian blacks. The State Department allowed visas to several other black Rhodesians who support the so-called internal solution, but not the two tribal chiefs on the grounds that as members of parliament, they were assisting the Smith government. This is a rather legalistic viewpoint, and I can only agree with the New York Times editorial that in this situation, we should not curb the flow of ideas.

I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 30, 1977]

BAN CHROME, NOT IDEAS

The American people emerged the poorer last week when two worthy principles came into conflict and the State Department refused entry to two Rhodesian tribal chiefs. The principle that lost was the right of Americans to hear all sides of any argument. The one that prevailed was the nation's obligation to adhere to resolutions of the United Nations Security Council. The lesser principle won.

The two chiefs sought to visit the United States to argue the case for an "internal settlement" in Rhodesia—namely, a constitution, negotiated between the present white minority regime of Prime Minister Smith and those black leaders who have chosen not to take up arms against it. That is not the only—or best—way to provide for majority rule with safeguards for minority privileges, but neither is that the point at issue in this matter.

The chiefs occupy reserved seats in Rhodesia's parliament. They may or may not be Government stooges, but their acceptance of parliamentary seats marks them as persons who "have furthered or encouraged . . . the unlawful actions of the illegal regime in Southern Rhodesia." That is the language of a 1968 Security Council resolution tightening international sanctions against the Smith Government. It obligates United Nations members to bar all such persons from their territories.

The United States record of adherence to the sanctions against Rhodesia has been generally poor. The most flagrant violation was our importation—by order of Congress under the so-called Byrd amendment—of Rhodesian chrome. Embarrassed by this record, the Carter Administration last spring pressed Congress to repeal the Byrd amendment. It also moved to expel a Rhodesian Government information office which had functioned for years in Washington. On the Byrd amendment it succeeded; on the information office it failed, because some influential Senators objected. Now, in response to a recent Security Council resolution, it has again told the information office to pack up.

Expelling the information office raises the same issue of principle as denying admission to the two chiefs. The office should stay and the chiefs should come. It is fundamental to the way we conduct public business in this country that citizens be exposed to all points of view, no matter how repugnant the source of how antithetic to the Government's policy. The United States should not lightly bend that constitutional principle before international resolutions, even those of the United Nations Security Council, which acquire the force of American domestic law. When confronted by such resolutions, and even at this late date, an American Administration should demur and explain the difference between denials of commerce and denials of free debate. We can, and in this case should, take part in sanctions which curtail the flow of goods, but not the flow of ideas.

GENOCIDE AND THE NEED FOR INTERNATIONAL COOPERATION

Mr. PROXMIRE. Mr. President, as we move toward the end of the 20th century there is increasing need for cooperation between nations to deal with issues of vital importance to all countries.

The last quarter of a century has been the hallmark of significant developments in the need for cooperation between nations of the world. Technological and communication advances have "made the world smaller" while at the same time increasing the complexity of interaction. International politics and economics have influenced all of our lives.

In this new, increasingly complex world, no nation stands alone and, even more, no few nations can control the politics of the world. We are in an era of cooperation versus control. I am not suggesting that we sacrifice any of our sovereignty as a nation, but it is essential that we constantly develop new ways to contribute to the coordination of international affairs.

As such, one of the most significant measures proposed in the last 25 years for furthering this end is the Genocide Convention. As I have pointed out many times before, the convention does not circumvent any of the sovereignty of nations. The arguments that the treaty would circumvent our Constitution or legal codes is fallacious.

It is clear that this treaty is a statement of cooperation. It is a statement of moral agreement between nations on a matter as grave as genocide. It is a statement that by the weight of their collective agreements, nations can better the conditions of life for all of mankind. It is a civilizing document.

Many of the conditions of life that we enjoy now trace back to documents of moral aspirations; the Magna Carta, the Bill of Rights, the Convention on Slavery, and the Geneva Convention for the Treatment of Prisoners of War. These documents all have one major similarity, they require cooperation to work. The Genocide Treaty follows in a noble line of documents of cooperation for the betterment of life.

An international treaty can have a civilizing effect on the conditions of life for mankind. The Genocide Treaty represents a major effort in this area and it is well time that we made our contribution to helping this treaty work. Let us not be any tardier than we already have been in ratifying the Genocide Treaty.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. THURMOND. Mr. President, on vote No. 476, a motion to table amendment No. 1072, which occurred on September 28, 1977, I was necessarily absent. If I had voted, I would have voted "aye."

I ask unanimous consent that the permanent RECORD so reflect my position.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, again I say it is conceivable there could be a rollcall vote on something. There is a conference report which Mr. PROXMIRE has been wanting to call up. He wanted to call it up last night. I think it was indicated that it would be all right to call it up today, after 1 p.m. I have no desire to ask for the yeas and nays on the conference report. The Senator is here.

Mr. BAKER. Mr. President, if the Senator will yield to me, I advise him that we have more than one request on this side for a record vote, and it may take a little time.

Mr. PROXMIRE. I understand that Senator BROOKE, the ranking Republican, wanted 30 minutes all together, equally divided, and that is fine with me. No other Senator requested time, and I think the time request should be acceptable.

Mr. BAKER. I am not sure I can agree to that. I will have to check. Several people expressed an interest, and there are notations we have on the calendar. So I would rather not enter into a time limitation or proceed with the consideration.

Mr. ROBERT C. BYRD. Is there a deadline involved in this conference report?

Mr. PROXMIRE. There is a definite deadline. The authorizations expired yesterday, and it is urgent that we act. I talked to the Secretary of Housing and Urban Development, and she is very anxious for the Senate to act. So I hope we will be able to agree on acting this afternoon.

As I say, I have talked to Senator BROOKE. It was my understanding that no other Senator had any objection. Senator TOWER and Senator GARN signed the conference report and indicated that they have no particular difficulty with it.

It is an important bill to the States. It involves more than $14 billion—$7 billion this coming year—of community development money. All the States need it and need it now. So I hope we can act at once.

VISIT TO THE SENATE BY MEMBER OF BRITISH PARLIAMENT

Mr. MATHIAS. Mr. President, I call attention of Senators to the fact that we have a distinguished member of the Parliament of Great Britain, Lord Roll of Ipsden, visiting the Senate, and he is in the Chamber at this time.

[Applause, Senators rising.]

RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes, so that Senators may greet this distinguished visitor.

The PRESIDING OFFICER. (Mr. ZORINSKY). Without objection, it is so ordered.

The Senate, at 2:36 p.m., recessed until 2:38 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer.

COMMITTEE MEETING ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Human Resources Committee be authorized to meet during the session of the Senate on Monday, October 3, to consider S. 2159, a bill designed to correct deficiencies in the current health manpower legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL GRANT RELATIONSHIPS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7691

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that there be substituted in lieu thereof the language of S. 431.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed as follows:

That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing inconsistencies, confusion, inefficiency, and waste is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards.

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guideline for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed description of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

GUIDELINES

SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative guidelines to promote consistent and efficient use of contract, grants agreement, and cooperative agreements as defined in this Act.

REPEALS AND SAVINGS PROVISIONS—

SEC. 10. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, and 1892), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 431 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING THE TEMPORARY DEBT LIMIT—H.R. 9290

Mr. LONG. Mr. President, with regard to H.R. 9290, which the Senate passed with an amendment yesterday, I move that the Senate insist on its amendment and ask for a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ZORINSKY) appointed Mr. LONG, Mr. HARRY F. BYRD, JR., Mr. TALMADGE, Mr. GRAVEL, Mr. HASKELL, Mr. CURTIS, Mr. ROTH, and Mr. PACKWOOD conferees on the part of the Senate.

HOUSING AND COMMUNITY DEVELOPMENT ACT CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 6655 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1977.)

Mr. PROXMIRE. Mr. President, the conference report on housing and community development follows a long period. The act began as S. 1523 in the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to interrupt?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a time limitation on the conference report of not to exceed 30 minutes to be equally divided between Mr. PROXMIRE and Mr. BROOKE, and it is my understanding that there will be a rollcall vote on the adoption of the conference report.

Should we proceed now to order the yeas and nays so that all Senators will be alerted?

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. How soon will the rollcall be?

Mr. ROBERT C. BYRD. In 30 minutes or less.

Mr. PROXMIRE. It may be substantially less. We do not expect to take up the full time.

Mr. President, I am pleased to bring to the Senate floor the conference report on the Housing and Community Development Act of 1977. The act began as S. 1523 in the Senate, and was passed on June 7 by a vote of 79 to 7; it was, after a long conference, agreed to on September 26.

The 1977 Housing Act reported out by the conferees is an important piece of legislation. The bill is essential if we are to continue the operations of our FHA and low income housing assistance programs. It is essential if we are to continue to aid the Nation's urban areas under the community development program established 3 years ago. It is needed to improve other programs that affect the lives of citizens throughout the Nation. I believe that the bill being reported is a reasonable compromise of differences in the Senate and House bills and is legislation that should be passed promptly.

The 1977 Housing Act agreed to by the conferees includes the following major elements:

First. A 3-year reauthorization of the community development program with a new and improved funding formula.

Second. A new urban development action program to assist both small and large distressed cities.

Third. An extension and updating of Federal housing mortgage insurance programs.

Fourth. Additional authorization for HUD's low income housing assistance programs and Farmer Home Administration programs.

Fifth. A Community Reinvestment Act to encourage lending in communities and neighborhoods which have serious credit needs.

Sixth. Needed legislative changes in other HUD programs.

Mr. President, failure to act on this bill would have the most serious consequences for thousands of lenders, builders, and homeowners. Almost all housing programs of the Department of Housing and Urban Development and the Farmers Home Administration expired at midnight, September 30, 1977. These include basic mortgage insurance for middle-income families, cooperative housing, housing for lower income families, housing for families who have lost their homes as a result of Federal property acquisition or condemnation action, and land developers. No new contracts of assistance can be entered; families who had anticipated congressional action on this bill and had secured financing for their homes, risk losing their homes for lack of HUD or FmHA-assisted mortgage insurance or direct loans.

In flood-prone communities, thousands of flood insurance policies expire, leaving such homeowners virtually unprotected if struck by a flood while this bill is pending; and much of the secondary mortgage market interim purchases under the Emergency Home Purchase Assistance Act of 1974 would cease, meaning that many homeowners will find mortgage financing nonexistent or available only at very high rates. This, in turn, can and will mean a possibly sharp reduction in the amount of housing starts.

Obviously, Mr. President, much of this can be prevented or forestalled if the Senate would act now to approve H.R. 6655. I believe that the American people deserve to see the very significant housing programs of both HUD and the Farmers Home Administration continued with minimal disruption.

The act authorizes the appropriation of some $7 billion in fiscal year 1978, and an additional $7 billion during the following 2 years.

Title I of the act would extend the community development program and would provide authority for $11 billion in block grants to cities and counties over the next 3 years. This title would authorize $400 million for urban development action grants to distressed communities over the next 3-year period, and $100 million annually for financing the completion and financial close-out of urban renewal projects.

The new act would change the system for allocating entitlement to block grant funds by giving metropolitan cities and urban counties a choice between two formulas—an existing formula based on population, poverty, and overcrowding and a new formula that would be based on age of housing, poverty, and population change. It is expected that the new system will, by incorporating the new formula, bring out a better balance in the distribution of funds between older and new cities, between declining urban centers and those which are growing. Under the proposed allocation, increased funding would be available for smaller nonmetropolitan communities.

As you will recall, the Senate provided a third formula for areas impacted by a high percentage of older housing. This impaction formula would have additionally increased funding for the Nation's older cities. After considerable discussion and negotiation, the conferees decided to drop the impaction formula in favor of a provision that would give priority to impacted cities in making urban action grants.

These action grants are designed to promote commercial and industrial development, and to foster conservation and revitalization of neighborhoods in cities and urban counties which have declined economically and have critical development needs. Action grants would be made to distressed communities which can demonstrate that substantial private investment will be committed along with public funds, and will result in a significant expansion of employment opportunities and improvement in the community's tax base. Recognizing that small cities, as well as larger cities, have serious physical and economic development needs, the act specifically reserves 25 percent of the urban action funds for smaller cities with populations under 50,000.

Other improvements to the community development program also were agreed to. The new act would better target funds toward activities which benefit low and moderate income families and upgrade deteriorating neighborhoods; would strengthen citizen participation in the program, and would expand eligible activities under the program, particularly to foster increased economic development, and would make smaller cities eligible for multiyear grants.

Title II of the bill would authorize $1.2 billion in additional annual contributions contract authority, with specific set-asides for public housing modernization, State housing finance agencies and housing for elderly and handicapped families. In addition, $685 million would be authorized for public housing operating subsidies, $15 million for HUD's urban homesteading demonstration program and $60 million for HUD research contracts. Certain changes would be made in the section 8 leased housing program, in section 235 and section 236 of the National Housing Act and in section 202 of the Housing Act of 1959. Authority to subsidize new communities and the urban homesteading program would be extended 1 year and the Treasury Department's draw authority on Federal Reserve Banks would also be extended to the end of fiscal year 1978.

Title III would extend HUD mortgage insurance authorities, make changes in maximum mortgage limits and downpayment requirements, and would add certain new provisions to the National Housing Act. The Secretary's authority to establish maximum interest rates on insured mortgages would also be extended.

The title would also increase mobile home loan limits and maturities, and would increase home improvement loan insurance limits. HUD's experimental graduated payment mortgages program would be made permanent and would be revised in important respects.

Title IV of the bill would amend the Home Owners' Loan Act of 1933, which governs the investment activities of federally chartered savings and loan associations. Savings and loan associations would be permitted to increase from 3 to 5 percent of their assets for both line of credit construction loans and loans for farm building purposes.

Savings and loan associations making mortgage loans above the maximum amount allowable by law would be permitted to count only the excess of that amount in their "20 percent of assets" lending limitation.

The bill would also eliminate the limitation in section 5(c) of the 1933 act that loans secured by multifamily property consisting of more than four units be limited to 20 percent of the assets of the lending institution, but the bill would also limit such unrestricted loans to units with per unit costs no higher than those permitted under section 207 (c)(3) of the National Housing Act. The permissible single-family home loan ceiling would be increased from $55,000 to $60,000, while conventional home improvement loan limits would rise from $10,000 to $15,000.

Title IV of the bill would also amend the National Housing Act with respect to the Government National Mortgage Association and the Federal National Mortgage Association. The "Brooke-Cranston" GNMA emergency tandem plan, authorized by the Emergency Home Purchase Assistance Act of 1974, would be revised to target the program to serve a number of additional functions, including the stabilization of housing production, the promotion of homeownership opportunities for moderate-income persons and the financing of the rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods. The title would also authorize GNMA purchases of mortgages assisted under section 8 of the U.S. Housing Act of 1937, with a principal mortgage amount of up to $49,000 per unit in high cost areas and a purchase price per unit of up to $55,000 in high cost areas.

Current mortgage and sales price limits for other types of housing located in the 48 contiguous States would remain at $42,000 and $48,000, respectively. Total "Brooke-Cranston" tandem plan purchase commitment authority would be limited to $7.5 billion for the 1978 fiscal year. The Emergency Home Purchase Assistance Act of 1974 would be extended to October 1, 1978.

With respect to FNMA, the bill would direct the Secretary to conduct a review of the financial and program operations of the corporation, with a report to be submitted to Congress on or before July 1, 1978.

Title V of the bill would extend the housing programs administered by the Farmers Home Administration. Additional authorizations of $25 million, respectively, would be approved for the low-income housing repair loan program and for farm labor housing. Changes in the FmHA guaranteed loan program were approved which would limit its availability to persons best able to use it—those whose incomes are above moderate. At the same time, the conferees intend that FmHA would extend the benefits of the program to those whose adjusted annual income does not exceed $20,000. Interest rates on such loans would be negotiable between the borrower and the lender and the "graduation" requirement which applies to FmHA loans would be removed.

To aid homeowners of FmHA-assisted housing, provisions for the prepayment of taxes, insurance and other items and compensation for structural defects were adopted. Rural housing for the handicapped would be expressly authorized for the first time and congregate housing would be authorized for both elderly and handicapped persons and families. Farm labor housing in Puerto Rico and the Virgin Islands would be eligible for grants and loans under section 514 of the Housing Act of 1949. The rural rent supplement program's implementation would be mandated and 60 percent of single- and multi-family direct rural housing loans would be earmarked for low-income families.

The bill would clarify existing law by explicitly stating that property subject to a lien by the United States or acquired or held by Farmers Home Administration would be taxable by State and local jurisdictions. Lastly, the Secretary would be directed to establish a research capacity within FmHA.

Title VI of the bill would change the title and focus of the Urban Growth and New Community Development Act of 1970. The act would now be entitled the "National Urban Policy and New Community Development Act of 1970". A Report on National Urban Policy would be submitted biannually by the President to the Congress and would review and summarize the state of all urban areas, including areas experiencing high rates of growth. Other changes relating to the report essentially reflect the emphasis which is to be placed by Federal urban policy on encouraging desirable patterns of urban development and redevelopment.

Title VII of the bill makes substantial changes in the flood insurance program of the Department of Housing and Urban Development. In addition to extending the program for 1 year and authorizing $108 million for flood insurance studies for fiscal year 1978, the bill would remove the current prohibitions against private mortgage loans to finance improved real estate or mobile homes in flood-hazardous areas. At the same time, maximum insurance ceilings under the program would be greatly increased and additional circumstances under which the Secretary could purchase flood-damaged property would be enumerated.

The $4.5 million would be authorized to permit the Secretary to make 2 percent loans to homeowners for the purpose of elevating their single-family homes when such structures are located in a severe flood area of a flood-prone community. Finally, title VII of the bill would authorize a total of $500,000 for reimbursement of individuals and homeowners for nonattorney expenses incurred in connection with appeals from certain Secretarial determinations under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended.

Title VIII, Community Reinvestment, would require Federal bank regulatory agencies to assess the record of institutions which they supervise of meeting the credit needs of the communities in which such institutions are located, including low- and moderate-income neighborhoods. Such agencies would also be required to take that record into account when evaluating applications for new deposit facilities filed by the particular institution. Implementation of the provisions of this title is to be deferred for 390 days.

It is the purpose of the Community Reinvestment Act of 1977 to require the Federal financial regulatory agencies to use their authority to encourage regulated financial institutions to meet the credit needs of the communities in which they are chartered, consistent with the safe and sound operation of such institutions. To this end, the act requires the financial regulatory agencies to assess each regulated financial institution's record of meeting the credit needs of its entire community including low- and moderate-income neighborhoods, in connection with its regular examination of the institution.

The regulatory agencies would be required to take the assessment into account in evaluating all deposit facility applications. Because the Federal agencies have their broadest authority, concerning deposit facilities, over federally chartered institutions, consideration of institution assessments in this regard will have the greatest impact on federally chartered institutions. It is not the intention of Congress that the agencies ignore assessments of State chartered institutions. Rather the intention is as stated in section 801(b) that the agencies use the full extent of their authority, including their general regulatory authority, under section 806, to encourage all regulated depositary institutions' responsiveness to community needs. Accordingly I would like to make it clear in the RECORD today that the enumerated regulatory agencies take the required assessments into account in all their authorized actions regarding State chartered institutions as well as federally chartered institutions.

Title IX of the bill contains several provisions of miscellaneous nature. First, a Special Assistant to the Secretary for Indian and Alaska Native Housing would be created in the Department of Housing and Urban Development, to be designated within 60 days of passage of the provision. The Special Assistant would be responsible for coordinating all the Department's housing and community development programs directly affecting Indians and Alaska Natives. Second, the National Mobile Home Construction and Safety Standards Act of 1974 would be amended to exempt modular housing complying with statutorily prescribed manufacturing and other standards. Third, HUD's homeownership counselling program would be expanded to cover all owners of FHA-insured single-family dwelling units. Finally, the Secretary of HUD would be required, beginning in calendar year 1979, to prepare and publish annual prototype housing costs for one- to four-family housing for each market area in the United States.

Mr. President, in view of the urgent need for this legislation and the unanimous agreement by the Senate conferees that the legislation be approved, I urge adoption of the conference report on the Housing and Community Development Act of 1977.

Mr. President, I would like to make only one additional point: This is a very substantial bill. It is a $14,678,995,000 bill of which community development block grants is most of it. It is $12,450,000,000. Section 8 housing is $1.1 billion, and the rest is primarily for other assisted housing.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from North Carolina, who is a valued member of our Housing Subcommittee as well as our full committee.

Mr. MORGAN. I thank the Senator.

Will the Senator explain to me the difference between the Community Investment Act as we agreed to it earlier in the Senate and that which the conference committee has agreed to?

Mr. PROXMIRE. Yes. The Community Investment Act, as we agreed to it earlier in the Senate, was designed, as the Senator will recall, to provide as much incentive as we could for local investment in local communities. We found, in many cases, that banks had taken a great deal of money from local communities and

invested it outside their communities and had not met the needs and requirements of the local communities.

We provided that when a bank wanted to open a branch the regulating agencies would have to take into account how much they invested locally, and they might have this as a decisive consideration under some circumstances.

What this legislation does, in contrast to what passed, is to delay implementation for 390 days, just about a month longer than a year, after enactment. It also redefines the primary service area to be served on a broader basis, so that there be no question that it is not simply the immediate community where the bank was located.

Those are the two principal modifications.

Mr. MORGAN. I thank the Senator.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. SPARKMAN. Mr. President, I wish to express my support of the conference report on the Housing and Community Development Act of 1977, H.R. 6655. This bill would provide approximately $12.4 billion for community development program grants over the next 3 fiscal years; $1.2 billion for assisted housing programs; $685 million for public housing operating subsidies; and additional funds for such diverse purposes as comprehensive planning grants, rehabilitation home loans, HUD research contracts, urban homesteading demonstration projects, flood insurance studies, and rural housing loans and grants.

In addition to these authorizations, significant improvements are made in a number of Federal Housing Administration and Farmers Home Administration housing programs. These changes include a lowering of downpayment requirements for conventionally financed and other FHA-assisted housing, and a program to provide compensation to owners of Farmers Home Administration-assisted rural housing which is found to be structurally defective. These improvements, which I fully supported as chairman of the Subcommittee on Housing and Urban Affairs, represent a clear commitment on the part of both the Senate and House conferees to bring Federal housing programs back into the financial reach of the millions of lower income families for whom they were originally intended.

I particularly wish to associate myself with those provisions of the Housing and Community Development Act of 1977 which aid the community development and housing efforts in small cities and towns, and in rural areas, generally. The 1977 Housing Act authorizes a significant increase in the amount of money which will go to small cities and towns. Discretionary community development block grants, exclusive of hold harmless entitlements, will rise from $423 million for fiscal year 1977 to $614 million for fiscal year 1978. In my own state of Alabama, discretionary balances will rise from $12,995,000 in fiscal year 1977 to $17,186,000 in fiscal year 1978. This is an increase of nearly 50 percent. By the 1980 fiscal year, discretionary grants for all small cities and towns will be nearly $1 billion. In addition, 25 percent of the $1.2 billion in urban development action grants are to be set aside for distressed small cities. Third, under the act, the Secretary of Housing and Urban Development is directed to prepare a study, with recommendations to be submitted to Congress and the President within 1 year, concerned with the formation of a national policy for the developmental needs of smaller cities. Finally, in addition to reauthorizations of FmHA rural housing programs, the bill would also raise FHA mortgage loan limits for single-family homes in outlying areas from $16,200 to $45,000, and would permit federally-chartered savings and loan associations to increase loans for nonresidential farm properties from 3 to 5 percent of their assets.

In sum, Mr. President, this bill is an outstanding legislative achievement. That achievement, moreover, is one which could scarcely have been realized without the diligence of the members of the Committee on Banking, Housing, and Urban Affairs, the persuasive talents of its chairman, Senator PROXMIRE, and the unstinting work of the staff of the Housing Subcommittee.

Mr. President, I urge swift and unanimous approval of the conference report.

Mr. BROOKE. Mr. President, the distinguished chairman of our committee, the Senator from Wisconsin, has made his statement outlining the major provisions of the Housing and Community Development Act of 1977 in the conference report. I would like to direct my remarks to some of the significant provisions of this bill, and focus on what I believe to be its most serious shortcoming.

This is an important bill for our cities, particularly for those cities in serious financial and physical distress. But I fear that the action of the conference committee will prove to be a mixed blessing for some of our most troubled cities and towns. I am pleased that this bill has provided a new formula for allocating community development block grant funds. This formula gives substantial weight to two new factors which are sensitive to the needs of our older cities—age of housing stock and growth lag. Age of housing has been shown to be an extremely effective indicator of community development need, and correlates well with many other factors, such as obsolete infrastructure and decline in tax base, which are symptomatic of distressed cities. This new formula will help reduce the serious imbalance in HUD's current allocation mechanism. And the cities in Massachusetts and other older parts of the country will be protected from the severe reductions in funding which would have occurred under the old formula. In fact, some of our older cities will actually receive increased funding in fiscal year 1978.

However, this formula change is not sufficient to meet the urgent community development needs of our most troubled cities, particularly those cities which are phasing down from their "hold-harmless" funding levels beginning in fiscal year 1978. And it was for this reason that, together with Senator HARRISON WILLIAMS of New Jersey, I proposed an adjustment to the community development formula called "impaction," which was contained in the Senate version of the bill. In addition, in order to stay within the budget for community development, I proposed that funding for "impaction" be taken from the new discretionary urban development action grant (UDAG) program, and this was also included in the Senate version of the bill.

The "impaction" adjustment would consider the proportion of a city's older housing stock relative to the proportion of older housing in all metropolitan areas as the major variable in the formula. Impaction was designed to target community development funds at those cities with high concentrations of older housing. It would be particularly effective in aiding the medium-sized and smaller old cities, such as Fall River and New Bedford in my State of Massachusetts, which have problems which are equally as serious as many of our largest distressed cities. In fact, in Massachusetts, 23 cities and towns would have received an additional $50 million over the next 3 years under the "impaction" formula.

I was tremendously disappointed when the conference committee agreed to delete the "impaction" formula from this bill and decided instead to include the "impaction" formula factors as the primary selection criteria for HUD's new UDAG program.

I am hopeful that many of the cities and towns Massachusetts and throughout the country which gained funding under "impaction" will be selected by the HUD Secretary for UDAG grants, particularly since ""impaction" will be the major standard for selecting those cities which receive grants. However, these cities will not have the certainty of "impaction" formula funding. No doubt our larger cities will obtain UDAG grants, but I believe that funding for our equally distressed medium-sized and smaller cities is by no means assured. I am deeply concerned that the failure of the conference committee to accept the "impaction" formula could result in a serious setback to distressed cities and towns across the country.

And I was particularly disturbed that President Carter actively opposed the "impaction" formula. This formula change appears to be perfectly consistent with the concern which he has expressed for the needs of our older urban areas.

Let me say, however, that I am pleased with the provisions of this bill which relate to the community development needs of our cities and towns with less than 50,000 population. I believe that we have provided these cities with a source of discretionary funding which could go a long way toward meeting their community development needs. Under this bill, the HUD Secretary will be able to make multi-year commitments of discretionary funds to small cities and towns with comprehensive community development programs. And special consideration will be given to those communities which are phasing down from their "hold-harmless" entitlements. Under an amendment which I offered together with the Senator from New Hampshire (Mr. MCINTYRE) these funds will be distributed by States according to a new formula which gives significant consideration to a community's older housing stock. This will mean an additional $4 million in discretionary funding statewide for Massachusetts in fiscal year 1978, and will assist such cities and towns as Adams, Chelsea, Hull, Newburyport, North Adams, Peabody, and Salem in meeting their serious problems of housing and community development.

In the housing area, the conference report contains the first portion of the Young Families Housing Act, which I introduced earlier this year to assist young people in entering the homeownership market. This will provide for FHA insurance for graduated payment mortgages (GPM). The GPM would reduce monthly payments in the early years of the mortgage and increase those payments during the later years. I believe that this mortgage instrument will give young families a greater opportunity to purchase a home by relieving the burden of high initial mortgage payments. I am confident that the GPM will receive wide acceptance by financial institutions and with the homebuying public.

However, once again my enthusiasm is restrained because the second portion of the Young Families Housing Act, which has not yet been enacted into law, is equally important to help alleviate the affordability problem for first-time home buyers. That provision would establish a tax credit for deposits into an "individual housing account" by first-time home purchasers. This account would be used to accumulate the downpayment on a home, and a potential home buyer would receive a 20-percent tax credit for deposits up to $2,500 a year—with a $10,000 maximum—into such an account. The individual housing account bill is awaiting consideration by the Finance Committee. I believe that the adoption of both of these provisions would substantially assist those young families who are unable to purchase their first homes, and help stimulate the production of affordable homes by the homebuilding industry.

Mr. President, this bill contains many program extensions for FHA programs, and authorizations for the section 8 housing assistance and public housing programs, public housing operating subsidies and modernization funding, and rural housing extensions and authorizations, all of which are vital to our national housing efforts. I recognize that this is an important bill which will help meet the critical housing and community development needs in the country.

But I must conclude that I am disappointed with the outcome of the conference committee. And I will continue to work toward recognition of the needs of our older distressed cities by modifications in the community development formula and other Federal funding formulas which shortchange our neediest cities.

Despite its shortcomings, I ask that my colleagues support the conference report.

Mr. President, at this point I am pleased to yield to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. PROXMIRE. Mr. President, will the Senator yield first to me, on my time?

Mr. BROOKE. Yes.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Massachusetts. He and the Senator from New Jersey developed a formula which had my approval, the approval of the committee, and the approval of the Senate. It is a good formula, which would have provided more funds for older cities, which is a logical thing to do.

We were not able to sustain the "impaction" formula in conference. We were able, however, to get the House conferees to agree that among the desirable priorities for determining the distribution of urban development action grant money would be the age of housing, which, with the other criteria, growth lag and poverty, would be one of the three criteria for eligibility.

I applaud the efforts of Senator BROOKE, who worked very hard on this conference, and I assure the Senate that we would in no way have gotten that kind of consideration otherwise. I think Senator BROOKE has won a clear victory for cities all over the country, particularly cities with older housing, and I congratulate him on it.

Mr. BROOKE. I thank the Senator for his kind words. I hope the Secretary of Housing and Urban Development will understand and use these criteria in the distribution of the discretionary UDAG funds, so that cities across the country, particularly medium-sized and small cities, will begin to receive the assistance they need, because they are plagued with the problem of older housing stock.

My colleague worked with us very diligently on this effort, and I am very grateful for that. I guess under the circumstances that this was the best way to resolve the deadlock at the conference, and I intend to look very closely at what the HUD Secretary does in the allocation of these discretionary funds, and make sure that concentration of older housing stock criteria included as part of the conference report are actually used by the Secretary.

Mr. MOYNIHAN. Mr. President, I do not wish to let this occasion pass without expressing, if I may, on behalf of the people of New York State—and I am sure Senator JAVITS would join with me—our thanks to the distinguished Senator from Massachusetts in their behalf for having brought into public policy a principle of the very highest importance with respect to the housing program, which is now 40 years old, and yet until this moment has not acknowledged the particular difficulties of the older developed cities of this Nation in connection with housing. I think we will now see an important difference, and that difference will be very much the result of the work of the Senator from Massachusetts. I wish, as a New Yorker, to acknowledge it and thank him for it.

Mr. BROOKE. Mr. President, I am very grateful to my distinguished colleague from New York for his words of commendation. I certainly share his concern about the increasing blight that the cities of this country, particularly the Northeastern cities with high concentrations of older housing stock, have been suffering under the existing community development formula.

Let us hope that the day will arrive quickly when the concentration of older housing stock will be given the consideration it deserves in connection with the distribution of community development funds.

I yield now to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator from Massachusetts.

Mr. President, in the light of the nature of this conference report, and the obvious inequities contained in it, I think it was unwise to enter into a time limitation agreement in connection with its consideration by the Senate. I would respectfully ask the distinguished majority leader if he would seek to extend the time on this measure.

Mr. PROXMIRE. Mr. President, I am happy to yield all the time I have remaining, whatever it is, to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. PROXMIRE. I am happy to yield that 7 minutes, and perhaps the Senator from Massachusetts is willing to yield the remainder of his.

Mr. BROOKE. I yield the remainder of my time.

Mr. THURMOND. Mr. President, could I propound a question to whoever is handling the bill?

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes remaining, and the Senator from Massachusetts has 3 minutes, a total of 10 minutes.

Mr. HELMS. Very well, Mr. President, let us see how we can proceed. I withdraw my request for extension of the time, and I yield to the Senator from South Carolina, who wishes to ask a question.

Mr. THURMOND. Mr. President, who is the manager of the bill?

The PRESIDING OFFICER. The Senator from Wisconsin is the manager of the bill.

Mr. THURMOND. I would like to propound a question to the manager of the bill. I have been informed that the Northeastern States had their funding levels increased by about 40 to 50 percent, but that the remainder of the country, especially the South, receives only about a 5-percent increase. I would like to know if that is correct, and if so, why?

Mr. PROXMIRE. Well, may I say, in the first place, to the distinguished Senator from South Carolina, that the bill which passed the Senate overwhelmingly, by vote of 79 to 7, provided the basic distribution. What we did in the conference was modify that. Under that modification, some of the specific allocation that would have gone to the Northeast has been included in what we call urban development action grants.

That can be allocated by the Secretary all over the country. She does have certain criteria, including the age of housing, poverty, and so forth, but that money could be allocated to South Carolina, Wisconsin, or wherever, on the basis of the particular need. I can tell the Senator there is no question about it, the conference report provides less for the Northeast, in my judgment, than the bill that passed the Senate. The Senator from South Carolina lost nothing in the conference.

Mr. BROOKE. May I add to that. There is a $400 million fund in UDAG which is at the discretion of the Secretary of HUD and may be used across the country. In addition, under the formula, no city and no town suffers, and no region loses any money under this bill.

Mr. THURMOND. I would like to ask this specific question: Is it true, then, that the Northeastern States get 10 percent more than the remainder of the country?

Mr. PROXMIRE. We do not have a breakdown on that. We have not been asked for any analysis of that. There has been no indication by people in the Sunbelt States, in the West, or anywhere else, that there was any discrimination of this kind. There was a dispute or a difference of opinion when the bill passed. Senator SASSER offered an amendment which would have changed the formula for smaller cities somewhat, and perhaps taken some of the funds away from the Northeast. There is no indication that I know of that any section of the country has been discriminated against. I believe all sections will benefit from this.

Mr. BROOKE. Will the Senator yield?

Mr. THURMOND. Let me say this first: I do not want to see the Northeast discriminated against, but neither do I want to see the South, or any other part of the country, discriminated against. That is my position.

Mr. BROOKE. The Senator's position is a very sound position. I would be very disappointed in the Senator from South Carolina if he would stand by and see his region of the country discriminated against. There is certainly no intention to discriminate against the South in this bill.

As a matter of fact, the Northeast would have lost substantial funding under the old formula. What we really tried to do was to bring about some balance with the second formula. As I said to the Senator from South Carolina, there is $400 million in UDAG discretionary funds, and we do not know where it will go. It could go to the South, the West, the East, or the North. We hope it will be used with some balance and given to the distressed cities, wherever they are located.

Mr. PROXMIRE. And with the nondiscretionary funds, no area of the country will lose. They will all gain, they will all benefit, perhaps more than they have before.

Mr. THURMOND. Is any special favortism shown to the Northeast or any other part of the country?

Mr. PROXMIRE. Absolutely not.

Mr. HELMS. Here is one Senator who will dissent from that answer.

Mr. THURMOND. It appears to me, then, that the Northeastern States——

Mr. BROOKE. The Northeastern States were being given some consideration because under the old formula they were discriminated against. Under the new formula, we tried to bring about some sort of balance. That is the only result in this bill. But there is no discrimination against the Southern States, Midwestern States, or any other group of States. As a matter of fact, as the chairman said, no one loses under this bill at all. Everyone gains.

Mr. THURMOND. It is all right for everyone to gain, but what I want to know is does the South gain in proportion to the Northeast?

Mr. HELMS. Will the Senator yield?

Mr. BROOKE. I do not think we can answer the question because we have not had an analysis as to what the effect will be, and we do not know which cities will qualify as distressed cities for UDAG. The criteria and formula factors are written into the bill and now they will have to be applied. The overall question we are talking about is assistance for our cities in the United States. The bill is designed to help distressed cities in the United States, wherever they happen to be located.

Mr. HELMS. Mr. President, I do not want to be shut out of this. What is the time situation?

Mr. BROOKE. The Senator has not been shut out at all.

Mr. PROXMIRE. As I understand, the Senator from North Carolina has control of the time.

Mr. HELMS. Mr. President, I think if all Senators were here, or if they had studied this legislation, there would be a good many of them standing in opposition to this bill. I have a friend in North Carolina whose name is Chub Seawell, a lawyer, a philosopher, a very popular man, who talks so often about the hogs struggling to get to the Federal trough, trying to outdo each other in trying to get an inordinate share of that so-called "free money from Washington."

That is what we have here—the big hogs are getting to the political trough first.

I have a letter from the distinguished Governor of Georgia, the Honorable George Busbee, who has done an excellent analysis of this conference report. Governor Busbee certainly has not been fooled by this thing, and neither has the Senator from North Carolina. That is why I was one of seven Senators who voted against this measure when it passed the Senate sometime back.

It is always the case when Federal handouts begin, but anybody who believes that all sections of the country are being treated equally under this measure—well, Mr. President, they will believe anything. The South, the Midwest States, the Western States, Alaska, Hawaii, and Puerto Rico, all are being short-changed. Let us look at it. Forty percent of the increase is going to the Northeast and Central States, Mr. President; 6 percent is going to the Midwest States; 7 percent to the Southern States; 9 percent to the Western States, and minus 1 percent to Alaska, Hawaii, and Puerto Rico.

If that is what the Senate calls a fair distribution, then Senators need to go back and learn a little something about arithmetic and fair play. But that is the way it always is when the Federal Government hands out money—and the taxpayers, as usual, get stuck.

Mr. President, I am disappointed that the conferees have agreed upon a 3-year community development block grant program which changes the formula for the allocation of CDBG funds. When this bill sailed through the Senate, the Senator from North Carolina was one of seven who voted against it. It passed overwhelmingly, but it was one of those things where the Senators rushed in and voted yea without knowing what they were voting on. So here we are, with time limitations on a Saturday afternoon at 16 minutes after 3—and Senators do not know anything about the substance of this conference report. It will be approved by an overwhelming vote, but it will not be one of the Senate's finest hours.

Mr. President, the primary purpose of the CDBG program is to stimulate community development by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low and moderate income. The CDBG formula used since passage of the enabling legislation in 1974 promotes this objective by placing a 50-percent weighting factor on poverty and a 25-percent weighting factor on overcrowded housing as the most valid indicators of "urban stress."

The conference committee report now proposes to change the existing formula by inserting a 50-percent weighting factor for a new and totally arbitrary measure, pre-1939 housing. This measure has no valid relationship to the inner city problem of "urban stress" which the program is designed to solve. Rather, it is a carefully chosen indicator designed to balloon the level of CDBG funds which would be shifted to the Northeast while providing minimal benefits to other regions of the Nation.

The effect of this formula change would be to give Northeastern States a 71-percent increase in CDBG funds over current levels, obviously at the expense of other regions of the country. When HUD was challenged to prove the statistical correlation of pre-1939 housing with urban stress, their official response was they "couldn't find the data."

A careful statistical analysis of the proposed formula shows a very low correlation between pre-1939 housing data and the other commonly utilized measures of urban stress. In other words, cities which are largely nonwhite, and which have inadequate plumbing, overcrowded housing, a high percentage of poor, a large percentage of female household heads, and a high percentage of poverty teenagers are not necessarily the cities with large quantities of pre-1939 housing. Mr. President, at this point I ask unanimous consent that a list of "windfall" communities, as a result of the changed formula, be printed in the RECORD.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

WINDFALL CITIES AS A RESULT OF NEW CD FORMULA

	In percent				In thousands		
	Families in poverty	Lacking some all plumbing	Overcrowded	Negro lacking some all plumbing	CDBG entitlement 1977 [1]	Dual formula 1980 [2] (House)	Impaction formula 1980 [2] (Senate)
Berwyn, Ill	3.5	0.9	2.7		$458	$1,784	$2,136
Cicero, Ill	4.1	1.6	5.0		704	2,338	2,920
Evanston, Ill	3.6	.9	3.4	1.7	774	2,255	2,490
Oak Park, Ill	3.3	1.3	2.7		540	2,031	2,951
South Bend, Ind	6.2	2.5	5.9	3.8	2,948	3,997	3,997
Des Moines, Iowa	6.9	3.2	5.8	6.7	2,866	5,995	6,048
Medford, Mass	4.4	1.1	4.0	2.0	633	2,034	2,823
Newton, Mass	2.8	1.1	2.4		742	2,430	2,919
Pittsfield, Mass	5.6	2.7	4.5	1.6	1,342	1,694	2,001
Quincy, Mass	5.1	1.7	5.6		995	2,266	3,013
Dearborn, Mich	3.9	2.2	4.7		1,027	2,864	2,865
Bloomfield, N.J	3.7	1.1	3.9	2.4	470	1,384	1,627
Clifton, N.J	3.1	.7	3.4		679	1,807	1,807
Irvington, N.J	6.1	1.2	3.9	1.2	721	1,944	2,318
New Rochelle, N.Y	5.4	2.0	6.0	6.1	904	2,154	2,203
Niagara Falls, N.Y	8.4	2.0	6.7	4.5	1,571	3,866	3,901
Schenectady, N.Y	7.1	2.1	3.2	5.1	1,488	3,076	4,267
Cleveland Heights, Ohio	3.6	.4	1.2	1.8	479	2,120	2,618
Lakewood, Ohio	3.6	1.7	2.4		615	2,060	2,883
Allentown, Pa	6.1	4.0	3.1	13.8	2,426	3,229	3,910
Bethlehem, Pa	5.7	2.8	3.6	5.5	1,271	1,987	2,038
Hazelton, Pa	7.1	3.7	3.7		383	1,197	1,643
Seattle, Wash	6.0	3.7	3.3	3.7	9,502	17,988	17,988
LaCrosse, Wis	7.1	3.4	5.1		720	1,429	1,665
Milwaukee, Wis	8.1	3.3	6.9	2.4	12,621	23,146	23,146
United States	10.7	5.5	8.0	16.2			
The South	16.3	10.4	10.0	28.3			

[1] HUD printout Feb. 16, 1977. (Data estimated by HUD to be within 1 percent of perfect figures, Aug. 26, 1977.)

[2] HUD printout June 6, 1977. CDBG Program: Estimated Entitlements.

Mr. HELMS. The negative impact of the proposed formula will be enormous for the South. Billions of dollars are at stake over a period of years. Although no communities would receive fewer CDBG dollars under the new formula than they received in previous years, our Southern cities would lose ground due to a lower percentage of the total funds and due to the effects of inflation. Specifically, the Southern Growth Policies Board estimates the following changes in the distribution of total CDBG funds—present funding level plus increase—in 1978 if the new funding formula is adopted:

	Percent
Northeast and Central States	+40
Midwest States	+6
Southern States	+7
Western States	+9
Alaska, Hawaii, and Puerto Rico	−1

It is not my purpose in this discussion to perpetuate "Sunbelt-Snowbelt" controversy. But I think it is important to point out to my colleagues that this may be only the beginning. The issue will become increasingly important as the South continues to grow and prosper while the prospects are that the northern cities will continue to decline. In other words, we should be prepared to defend ourselves against more attacks on Federal funding formulas in the future.

Our interest is not one of mere parochialism. The reason, in great part, for the ascent of the "Sunbelt" and the decline of the "Snowbelt" grows out of the political systems the people of these areas have chosen to elect and maintain.

If New York is having problems, it is not North Carolina which has refused to punish criminals, allowed the labor unions inordinate control, permitted welfare to run wild, or imposed impossible tax burdens. I see no reason why the rest of the county should maintain a chronic bailout of the Northeast because the political leaders of that area refuse to put their houses in order. In fact, the greatest disfavor we can do the Northeast is to be overly generous with Federal funds, for this will merely postpone the day of reckoning.

In short, the funding formula adopted in the conference committee report is unfair. It would be much fairer to all the regions of the Nation to retain the current CDBG formula utilizing poverty and overcrowded housing as indicators of "urban stress" than to arbitrarily substitute another measure that even HUD cannot defend.

Mr. PROXMIRE. There were 2 full days of debate, with 33 amendments. This bill was thoroughly debated. In conference it was one of the most discussed bills. We had it in conference for 2 months discussing it, every aspect of it.

Mr. HELMS. But it was in an empty Chamber.

Mr. PROXMIRE. It was debated for 2 full days.

Mr. HELMS. But in an empty Chamber.

Mr. PROXMIRE. No. We had 33 amendments on the bill.

Mr. BROOKE. This formula was in both the House bill and the Senate bill. The Senate did not run over the House at all. The conference, as the distinguished chairman said, lasted 2 months. I understand Governor Busbee's statement, but he did not take into consideration the phasedown in funding for the "hold-harmless" communities, and his analysis reflects the Senate "impaction" formula which is not contained in this conference report. I want to assure the Senator from North Carolina that there was neither an attempt nor was there success in trying to roll over the South.

Mr. PROXMIRE. Furthermore, we have on our committee Mr. JOHN SPARKMAN, who is "Mr. Housing." He is from the South, from Alabama. Senator SPARKMAN pointed out the increase in discretionary balances for Alabama's small cities and towns will rise from $12,995,000 in fiscal year 1977 to $17,186,000 in fiscal year 1978 for Alabama. Alabama is a Southern State.

Mr. HELMS. I will concede that. [Laughter.]

Mr. PROXMIRE. The Senator from Alabama is a distinguished housing expert. There is no greater expert in the Congress than he is. He agreed this is a good bill for the North as well as the South.

Mr. WILLIAMS. Mr. President, after several months of extensive discussion, House and Senate conferees have agreed on the final shape of the Housing and Community Development Act of 1977. This is landmark legislation which I believe deserves our full and enthusiastic approval. I would also like to commend in particular the distinguished chairman of the Senate Committee on Banking, Housing, and Urban Affairs (Mr. PROXMIRE) and the ranking Member, the Senator from Massachusetts, (Mr. BROOKE) for their outstanding contribution to the success of the conference. Their diligence and leadership deserve our special recognition and praise.

Among the key provisions included in the legislation are:

A greatly strengthened community development program that will target greater assistance to our older, declining cities;

A promising new urban development action grant program (UDAG) designed to provide funds to our most distressed communities for specific, comprehensive projects of economic development and neighborhood reclamation;

Extension of our major housing programs for low- and moderate-income families, with specific set-asides of 30,000 section 8 units for use with section 202 housing for the elderly program and 49,000 section 8 units for projects financed by State housing finance agencies;

A renewed effort to expand homeownership opportunities for the average American family through such measures as increased FHA mortgage limits, reduced FHA downpayment requirements

and full implementation of the now-experimental graduated payment mortgage program;

Revision and extension of a variety of important rural housing programs.

I believe that these and other provisions of the legislation reveal a sincere, energetic response to problems that plague our cities and threaten to undermine the housing sector of the economy.

I am particularly gratified that the legislation focuses new attention on the problems of our most distressed communities. The key new elements in the reauthorized community development program would be a dual formula for determining block grant allocations, and the UDAG program. The Senate version of the legislation contained an adjustment to the dual formula called impaction which I authored along with the distinguished Senator from Massachusetts (Mr. BROOKE). Under the impaction adjustment, greater allocations would be targeted to cities with heavy concentrations of pre-1940 housing stock. The conference report endorses and preserves the concept of impaction by blending it into the UDAG program. The principal criterion for selection of UDAG recipients would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction formula. These factors measure the extent of a community's population stagnation, the extent of its poverty, and its number and percentage of pre-1940 housing units. When these factors are used by HUD to measure urban distress among UDAG applicants, they should carry the same weights that applied to them in the Senate impaction formula. As a result, we can be assured that UDAG funds will be directed to the most seriously troubled communities as defined in terms of the weighted factors in the Senate's impaction formula.

Mr. President, the Housing and Community Development Act of 1977 will help us make great strides toward the achievement of our goal of wholesome living environments and safe decent housing for each American household.

Mr. TOWER. Mr. President, I am greatly disappointed in the Housing and Community Development Act of 1977 as agreed to by the House and Senate conferees. That act contains many excellent provisions that are needed in the area of housing and community development. The bill, however, provides a new and significant departure from the community development block grant (CDBG) program and does so in a way that puts many cities in Texas and elsewhere at a relative disadvantage in participating in the program.

As I noted in my additional views to the committee report to accompany S. 1523, the Housing and Community Development Act of 1977 reported by the Senate Committee on Banking, Housing and Urban Affairs, this legislation provides a significant first step in reversing the concept of simple administration of the CDBG program. When this program was created in 1974, the purpose was to reduce the number of existing community development programs in favor of one funding mechanism. The concept was to let the cities and counties decide their own priorities. The activities would have to benefit primarily low and moderate income persons, but the community would know over the years how much money it would receive, and it would plan its projects accordingly. It would not have to compete in the "grantsmanship" game.

This bill is a clear signal that "grantsmanship" is back in vogue. It initiates the fragmentation of the community development program. It authorizes a new program of urban development action grants (UDAG) that will allow the Secretary of HUD to make grants to seriously distressed cities for neighborhood preservation and economic development. While this is a laudable goal, it is also a significant departure from the unified approach originally adopted under the Housing and Community Development Act of 1974.

Moreover, the methods for distributing such funds is slanted in such a way that it will discriminate against many communities in my State and elsewhere. Under the bill, the Secretary is authorized to make urban development action grants to severely distressed "cities and urban counties." As I noted in my additional views to the committee report in the Senate, such growing and vibrant cities as Atlanta, Miami, Houston, and Denver may not be able to participate in the program. Even though these cities have "areas" of poverty, unemployment, and dilapidated housing that equal those of distressed cities, UDAG cannot be applied to these distressed "areas" because the Secretary is authorized to make grants to "distressed cities and urban counties," not to "areas" within those cities and counties.

In my opinion, a distressed area should be eligible for assistance regardless of the nature and character of the city in which it is located. I attempted to correct this defect in the bill by offering an amendment on the floor that would have permitted distressed areas of cities to be eligible for assistance rather than just distressed cities. Unfortunately, this amendment was not adopted. If it had been, the program would have at least been useful in helping lower income families in all poverty areas, even though those areas are not in the older, decaying urban cities of this country. As it is now, the program ignores the fact that growing communities have problems just as serious as those whose policies have resulted in economic stagnation and outmigration.

To make matters worse, the conferees agreed to a compromise which discriminates against communities in Texas and elsewhere. Under the bill, the primary criterion for the selection of UDAG recipients would be the comparative degree of distress as measured by the extent of growth lag, the extent of poverty and the adjusted age of housing. Except possibly for the poverty criterion, these factors do not favor the relatively newer cities outside the northeast or north-central regions of this country which have problems.

Moreover, these are the primary criteria that must be taken into consideration over any other criteria spelled out in the bill. In summary, the fragmentation of the community development program, the failure to apply it to distressed areas and the selection of certain primary criteria makes the UDAG program highly undesirable in my view.

I received a letter from Governor Busbee of Georgia, as I am sure many of my colleagues did, regarding the way in which other provisions in this bill are slanted away from cities outside the Northeastern States. I ask unanimous consent that Governor Busbee's letter be reprinted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Atlanta, Ga., September 28, 1977.

Hon. JOHN G. TOWER,
U.S. Senator, State of Texas, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR TOWER: I was most distressed to learn that Senate and House conferees have agreed upon a three-year Community Development Block Grant program which changes the formula for the allocation of CDBG funds. As Governor of a Southern State and Chairman-elect of the Southern Growth Policies Board, I am deeply concerned and would like to caution my friends in the Congress of the dangers of this new formula.

As you know, the primary purpose of the CDBG program is to stimulate community development by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low and moderate income. The CDBG formula used since passage of the enabling legislation in 1974 promotes this objective by placing a 50-percent weighting factor on poverty and a 25-percent weighting factor on overcrowded housing as the most valid indicators of "urban stress."

The Conference Committee Report now proposes to change the existing formula by inserting a 50-percent weighting factor for a new and totally arbitrary measure, pre-1939 housing. This measure has no valid relationship to the inner city problem of "urban stress" which the program is designed to solve. Rather, it is a carefully chosen indicator designed to balloon the level of CDBG funds which would be shifted to the Northeast while providing minimal benefits to other regions of the Nation.

The effect of this formula change would be to give Northeastern States a 71-percent increase in CDBG funds over current levels, obviously at the expense of other regions of the Country. When we challenged HUD to prove the statistical correlation of pre-1939 housing with urban stress, their official response was that they "couldn't find the data."

A careful statistical analysis of the proposed formula shows a very low correlation between pre-1939 housing data and the other commonly utilized measures of urban stress. In other words, cities which are largely nonwhite, and which have inadequate plumbing, overcrowded housing, a high percentage of poor, a large percentage of female household heads, and a high percentage of poverty teenagers are not necessarily the cities with large quantities of pre-1939 housing. Please note the "windfall" communities attachment for gross examples of this fact.

The negative impact of the proposed formula will be enormous for the South. Billions of dollars are at stake over a period of years. Although no communities would receive fewer CDBG dollars under the new formula than they received in previous years, our Southern cities would lose ground due to a lower percentage of the total funds and due

to the effects of inflation. Specifically, the Southern Growth Policies Board estimates the following changes in distribution of total CDBG funds (present funding level plus increase) in 1978 if the act is passed as recommended by the House and Senate conferees:

	Percent
Northeast and Central States	+40
Midwest States	+6
Southern States	+7
West and Far West	+9
Alaska, Hawaii, Puerto Rico	−1

It is not my purpose to perpetuate the "Sunbelt-Snowbelt" controversy by calling this matter to your attention at this time. I am simply setting the record straight by telling you the facts as I see them. We in the South have a right and an obligation to defend ourselves against any arbitrary action that would deprive us of our fair share of federal assistance. I believe that this issue will become increasingly important as the South continues to grow and prosper and the Northern cities continue to decline. In other words, we should be prepared to defend ourselves against more attacks on federal funding formulas in the future.

As you examine this issue prior to floor action on the Conference Committee Report, I urge you to discuss the matter with your colleagues. It would be much fairer to all the regions of the Nations to retain the current CDBG formula utilizing poverty and overcrowded housing as indicators of urban stress than to arbitrarily substitute another measure that even HUD cannot defend. Therefore, I urge you to amend Conference Committee Report to restore the currently funding formula.

With warmest wishes.

Sincerely,

GEORGE BUSBEE.

Attachment

WINDFALL CITIES AS A RESULT OF NEW CD FORMULA

City	In percent				In thousands		
	Families in poverty	Lacking some/all plumbing	Overcrowded	Negro lacking some/all plumbing	CDBG entitlement 1977 [1]	Dual formula 1980 [2] (House)	Impaction formula 1980 : (Senate)
Berwyn, Ill	3.5	0.9	2.7		$458	$1,784	$2,136
Cicero, Ill	4.1	1.6	5.0		704	2,338	2,920
Evanston, Ill	3.6	.9	3.4	1.7	774	2,255	2,490
Oak Park, Ill	3.3	1.3	2.7		540	2,031	2,951
South Bend, Ind	6.2	2.5	5.9	3.8	2,948	3,997	3,997
Des Moines, Iowa	6.9	3.2	5.8	6.7	2,866	5,995	6,048
Medford, Mass	4.4	1.1	4.0	2.0	633	2,034	2,823
Newton, Mass	2.8	1.1	2.4		742	2,430	2,919
Pittsfield, Mass	5.6	2.7	4.5	1.6	1,342	1,694	2,001
Quincy, Mass	5.1	1.7	5.6		995	2,266	3,013
Dearborn, Mich	3.9	2.2	4.7		1,027	2,865	2,865
Bloomfield, N.J	3.7	1.1	3.9	2.4	470	1,384	1,627
Clifton, N.J	3.1	.7	3.4		679	1,807	1,807
Irvington, N.J	6.1	1.2	3.9	1.2	721	1,944	2,318
New Rochelle, N.Y	5.4	2.0	6.0	6.1	904	2,154	2,203
Niagara Falls, N.Y	8.4	2.0	6.7	4.5	1,571	3,866	3,901
Schenectady, N.Y	7.1	2.1	3.2	5.1	1,488	3,076	4,267
Cleveland Heights, Ohio	3.6	.4	1.2	1.8	479	2,120	2,618
Lakewood, Ohio	3.6	1.7	2.4		615	2,060	2,883
Allentown, Pa	6.1	4.0	3.1	13.8	2,426	3,229	3,910
Bethlehem, Pa	5.7	2.8	3.6	5.5	1,271	1,987	2,038
Hazelton, Pa	7.1	3.7	3.7		383	1,197	1,643
Seattle, Wash	6.0	3.7	3.3	3.7	9,502	17,988	17,988
LaCrosse, Wis	7.1	3.4	5.1		720	1,429	1,665
Milwaukee, Wis	8.1	3.3	6.9	2.4	12,621	23,146	23,146
United States	10.7	5.5	8.0	16.2			
The South	16.3	10.4	10.0	28.3			

[1] HUD printout February 16, 1977. (Data estimated by HUD to be within 1 percent of perfect figures, August 26, 1977.)

[2] HUD printout June 6, 1977. CDBG Program: Estimated Entitlements.

Mr. HELMS. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. BROOKE. Mr. President, I ask unanimous consent that an additional 5 minutes be granted for this discussion.

Mr. GARN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll. The question is on agreeing to the conference report.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 55, nays 19, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—55

Anderson	Ford	Moynihan
Baker	Glenn	Muskie
Bayh	Hart	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Case	Jackson	Riegle
Chafee	Leahy	Sarbanes
Chiles	Long	Sasser
Church	Lugar	Schmitt
Clark	Magnuson	Schweiker
Cranston	Mathias	Sparkman
Culver	Matsunaga	Stevens
Danforth	McGovern	Stevenson
DeConcini	McIntyre	Stone
Durkin	Melcher	Williams
Eagleton	Metzenbaum	
Eastland	Morgan	

NAYS—19

Allen	Hansen	Scott
Bartlett	Hatch	Talmadge
Bellmon	Helms	Thurmond
Byrd, Harry F., Jr.	Hollings	Tower
Dole	McClure	Wallop
Garn	Nunn	Zorinsky
	Roth	

NOT VOTING—26

Abourezk	Haskell	Metcalf
Bentsen	Hayakawa	Nelson
Biden	Huddleston	Packwood
Cannon	Humphrey	Pearson
Curtis	Javits	Stafford
Domenici	Johnston	Stennis
Goldwater	Kennedy	Weicker
Gravel	Laxalt	Young
Griffin	McClellan	

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 10 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, there will be one special order for the recognition of Mr. WALLOP, after which the Senate will resume consideration of the unfinished business. There will be rollcall votes during the day.

I am in no position at this moment to predict what may develop on Monday. I

can only say that Senators should be prepared to stay late on Monday and as late as necessary every day next week in order to not only complete the unfinished business, but other business which the Senate is going to need to transact as soon as possible.

RECESS TO 10 A.M. ON MONDAY, OCTOBER 3, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock Monday morning.

The motion was agreed to; and at 3:36 p.m. the Senate recessed until Monday, October 3, 1977, at 10 a.m.

SENATE—*Monday, October 3, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, the same yesterday, today, and forever, from worship and from rest we return to this place of work. Give us clean hands and pure hearts that in the days to come we may be servants of Thy righteousness, ever striving to do the Nation's work according to Thy will.

We pray in the name of Him, who lived without blemish and did the Father's will unto the end. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 3, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Harry F. Byrd, Jr., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, October 1, 1977, be approved.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the RECORD show a period for the transaction of routine morning business daily for the remainder of the week to permit statements, petitions, memorials, introduction of bills and resolutions, and the submission of reports for the RECORD and the Journal.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

THE UNSINKABLE HUBERT HUMPHREY

Mr. ROBERT C. BYRD. Mr. President, our colleague, Senator HUBERT HUMPHREY, is a remarkable man. Those of us who have had the privilege to serve with him in the Senate are well aware of that. And the Washington Post carried two fine articles yesterday that highlighted the unique nature of Senator HUMPHREY for its readers.

In the Outlook section, an article written by Aaron Latham was appropriately titled "The Unsinkable Hubert Humphrey." It describes his early days in his native South Dakota—days when he spent long hours working at his family's drug store, and spent his few leisure hours perfecting his skills as an amateur boxer.

The parallel is obvious: The work habits Senator HUMPHREY developed in his youth carried over to his career in public life; and his experience in the boxing ring served him well in the many fights he has led as a Senator on behalf of the people of our Nation.

Yesterday's other article about Senator HUMPHREY was in Parade magazine, written by Lloyd Shearer. In the question and answer format, Senator HUMPHREY speaks movingly of how the great depression altered his outlook on life. "I remember the depression," Senator HUMPHREY says, "with a vividness that's like a videotape running over and over again in my mind."

He pulled himself up from the poverty and struggles of those years, and has dedicated his life to helping others escape poverty in these relatively affluent times. Senator HUMPHREY has come from a family drug store in Wallace, S. Dak., to his present position as one of the most remarkable public figures of our time.

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 2, 1977]

THE UNSINKABLE HUBERT HUMPHREY

(By Aaron Latham)

Hubert Horatio Humphrey is besieged everywhere these days and asked for autographs. Everyone loves him now that they think he is dying. In fact, he is fighting cancer and fighting hard. One Wednesday last spring, he scheduled two lunches, the first of them with a group of cancer research doctors. They gathered in Room 155 of the Old Senate Office Building. The senator wanted to coach the doctors on how to get more money out of Congress. They told him about new cancer treatments, including one that used a vitamin.

"It'll be just my luck," Humphrey said. "You'll discover this cure about the time I'm ready to give up the ghost. It makes me madder 'n hell."

The doctors went on to describe a platinum treatment.

"Platinum!" Humphrey said, clutching his stomach. "Lord, it makes you sick."

The researchers mentioned the promise of immunology.

"They injected me with those dead tumor cells," Humphrey said. "Gave me 30 shots. They told me it was experimental. All I asked them was, 'Will it kill me or make me any worse?' They said, 'No.' I said, 'Go ahead.' "

On the way to his second lunch, Humphrey lingered in the doorway to talk about his mood.

"Let's face it: Everybody who has cancer gets depressed, but you have to fight it. When I lost my hair—now it's growing back in again—I used to look in the mirror and say, 'You bum, you're a mess.' Then, after two or three minutes of self-pity, I would shake myself out of it. You really have to grab yourself by the shoulders and shake. You know what's hit you. You know the odds. You can't kid yourself. But do you know my solution? Just work. Work all the time. Then if I don't feel good, I can blame the work."

The Senator's attitude surprises no one who knows of his background. Humphrey was brought up in a store with drugs on the street level and a boxing ring in the basement. The ring was used often; the drugs, almost never. Humphrey boxed the neighborhood kids in the basement during the winter and in the front yard in summer.

"I was pretty good," Humphrey remembered. "I was quick. And I did a lot of roadwork."

When he was not boxing at home, Humphrey boxed at the local movie theater. During reel changes on Saturday nights, the management put up a ring onstage. Young Hubert would climb in and box the minister's son for free movie tickets. "We'd fight two rounds," Humphrey reminisced, "and then go to Sunday school the next morning."

Humphrey's father was a druggist who had little use for drugs. "Daddy used to say about our drugstore, 'We don't take it—we sell it. You can't make money eating your own medicine.' Daddy'd say things like 'Self-

pity is the root of all evil.' He'd say, 'Activity, activity. Get active. Get busy. Come on, boys, get with it. We don't have time to get sick. Most of it's in your head. You're not really that sick.' "

Then Humphrey added: "Now obviously, when you have cancer, you're sick."

These days, he is forced to take some of the "worst" medicine ever brewed. This medicine comes very close to destroying his body in order to save it. In other words, he has been submitting himself to chemotherapy.

"Oh, the chemo was hard on me at the beginning," he said. "But even then, when I got the chemo, I'd go right back to work the next day. Couldn't eat. Bowels loose. Feeling lousy. You have the blahs for five, six, seven days."

It was the worst at the beginning of this year. He wasted away to 160 pounds. His head became a skull on a stick. Then, in March, Humphrey began to look better, although not necessarily because he was better. By spring, people who had seen him at his worst told him how much better he looked. But people who had not seen him since his surgery were shocked. His cancer or his cancer treatment, had turned him into an old man. He had gone from a 66-year-old senator who looked 56 to a 66-year-old senator who looked 76. His hair came back in white.

Recently the senator's conversation turned from drugs to fight. The fight he is proudest of is the one he fought for civil rights in this country. Asked to name his single greatest achievement in public life, Humphrey said: "I would say my perseverance in the field of civil rights from the day I was mayor of Minneapolis to the time of the passage of the 1964 Civil Rights Act. It was not an easy course to follow. I think it's fair to say I was ahead of my time. When I became mayor [in 1945], I started out right then. It was said that Minneapolis was one of the two most anti-Semitic cities in America. I started to work on that problem. Setting up one of the first mayor's councils on human relations in the United States—one of the first. Then going to the Democratic convention in 1948. Making the difficult decision about whether to challenge the platform committee's civil rights plank."

Making his debut in the national political ring, Hubert Humphrey rose to the moment and the microphone. He made a passionate speech in support of a maverick civil rights plank calling for broad legislative action. He told his party: "I realize I am dealing with a charged issue . . . There are those who say to you we are rushing this issue of civil rights. I say we are 172 years late . . ." The platform committee's tepid civil rights plank was beaten. Humphrey's plank was adopted.

After the convention, Humphrey was elected to the Senate, where, as he likes to recall, the fight continued: "There was all that battle from '48 to '64. Being floor manager of the '64 bill. The prolonged sessions. Coming right to when I was Vice President and Johnson made his speech on the 1965 Voting Rights Act. I would say that was the most important contribution that I feel I made to public policy."

Humphrey is also proud of his work in launching the Peace Corps and the Arms Control and Disarmament Agency. He pressed both ideas in the mid-'50s, but he had no success until John Kennedy was elected President. Then Humphrey and Kennedy began discussing these concepts at the White House as they skinny-dipped in the President's pool. In the end, Kennedy bought both ideas. Humphrey introduced the legislation and guided it through Congress. The bills passed and the Peace Corps and the Arms Control and Disarmament Agency became part of the . . . well, the Kennedy legacy.

Asked what his greatest mistake in public life had been, Humphrey said: "I think the misjudgment of Vietnam. At the time I did what I thought was right. It was not because Johnson was forcing me. I had very serious doubts in the beginning. Yet living and working in the White House atmosphere, I became convinced that we were doing the right thing. If I were to say what regret do I have, it would be—not that I was in charge of the war, not that I wanted it, not that I had anything really to say about it—that I supported it."

The dirtiest fight Hubert Humphrey was ever in was with Richard Nixon. He remembered the scrap this way: "In the '68 campaign, he had developed through some very careful public relations the idea that he was a new Nixon. Which the American press bought. Which I haven't forgiven them for. There was no new Nixon. Nixon was an amoral man."

Humphrey is bitterest about what he believes were Nixon's moves to undermine the Vietnam negotiations. And Humphrey had been counting on those negotiations to propel him into the White House. His presidential hopes, like the South Vietnamese themselves, were destroyed by a deadly combination of friend and foe: Lyndon Johnson and Richard Nixon.

"I went to Johnson a couple of times," Humphrey said, "and said, 'Mr. President, I've simply got to state certain things.' And one time he just became furious with me when I showed him a paper that a group at Harvard had developed with alternatives to our policy in Vietnam. I'll never forget what Johnson said to me one time, which made a lot of sense. He said, 'Hubert, if I can get you peace—peace in Vietnam—you'll get elected.' And he said, 'That's why I didn't run for re-election. I want you to stay with me. We're making progress in Paris. Don't break with me, because if you do, that'll just set things off in Paris. They'll know there's divided counsel here and that there's no need to make a settlement.' "

Humphrey did not break with Johnson, but the Vietnamese nonetheless got the message that there was no need to make peace.

"In the latter days of the '68 campaign," Humphrey said, "there is not any doubt in my mind that Nixon was wheeling and dealing with Thieu and Ky over in Vietnam. That Nixon undoubtedly had Anna Chennault telling Thieu—that thieving, conniving leader of South Vietnam—'Don't come to the conference table in Paris.' I had reason to believe that Madame Chennault was representing Nixon, but I couldn't prove it. And I was afraid that if I accused Nixon of it at the very last hour, it would look desperate. I got ahold of Jim Rowe, who was a good friend of mine and of Johnson's, and sent him to the South Vietnamese ambassador. I said, 'Tell him for me: 'If what I hear is true, you can tell your president that his relationship with me as the next President of the United States will be finished.' "

Humphrey's voice got louder and louder. He was mad all over again.

"My information was that Madame Chennault was telling Thieu and Ky that Nixon was going to win. That there was no sense in the South Vietnamese's turning up in Paris. That a new administration would be coming into power. We had information from the White House that indicated this was going on."

And there were other suspicious activities as well.

"We had break-ins at our office out in Los Angeles in '68. And I have reason to believe that the Nixon forces were financing a certain amount of the demonstrations that were going on at that time. Nixon was a tough type of fellow. The dirty-tricks department, I'm confident, was at work during this period."

On a Tuesday morning last spring, Sen. Humphrey was scheduled to be at the White House at 8 a.m. When he arrived, he shook hands with Senate Majority Leader Robert Byrd, Speaker of the House Tip O'Neill and other members of the congressional leadership team. They had all come for their biweekly meeting with President Carter. Humphrey was surrounded by people who had gotten the jobs he himself had wanted. Since he had failed to win those titles, the Senate had created for him a special title to help make up: deputy president pro tempore. It was as the Senate' DPPT that he was invited to attend these White House meetings.

The White House still awes Humphrey. He continues to feel some of the tingle he felt in 1949 when he took his mother and father over to the White House to meet President Truman, and, wonder of wonders, the President gave them a guided tour. At the White House, Humphrey always feels a little like a young man at his first fancy dinner party. He does not want to pick up any wrong forks. He wants everything to go well. So it was especially disturbing to him when something embarrassing did happen on that Tuesday last spring.

As a result of his cancer operation, which removed his bladder, Humphrey wears a bag to collect liquid wastes. That morning at the White House, the bag filled up faster than usual because a drug he had taken dehydrated him.

Sen. Humphrey later told a group of friends: "I didn't know my bag was filling up. I had a new seal on it that didn't hold. The bag broke. When something like that happens, you get down, but then you have to kick yourself"—he made a kicking motion toward his behind—"back up again."

Hubert Humphrey flew to Independence, Mo., to accept the Harry S. Truman Award. He was late. The crowd outside the Truman Library was worried. They were afraid something had gone wrong, but that was only because they did not know Humphrey well enough. There is something wrong when he is on time. Humphrey was late even to his own wedding.

The library staff had not provided lights for the out-of-doors ceremony. The sun was already setting when the Truman Award winner rose to the podium.

Humphrey had put in a long, draining day. Up early for breakfast, he had gone on to preside over a meeting of the Senate Foreign Assistance subcommittee, he had met with constituents, he had flown a thousand miles, and now he was supposed to give a speech. As he faced the crowd, he looked tired and fragile.

Then he began to speak and to change. His words seemed to rest him and to strengthen him. He grew younger at the podium. I was reminded of something Humphrey had said about Pablo Casals: "I've seen that dear old man at 90, barely able to get up, barely able to lift that baton. Then he'd get up in front of an orchestra and he'd come alive. Unbelievable. Just like a transformation." Humphrey was asked if he ever experienced anything similar when he addressed an audience. And he said: "Oh, yes, I can be literally ill and get up there to speak and start feeling strength. It sounds ridiculous, but I have gotten out of a sickbed with the flu, gone down to speak to an audience, gotten all perspiring—and gotten well! I get a kind of esoteric vitamin from crowds."

The crowd worked its healing miracle that night in Independence.

"Harry Truman was my hero," Humphrey proclaimed, modulating his strong voice, waving his arms, moving the crowd with his energy. The speech went well in spite of the gloom that made it impossible for the speaker to read his text. It didn't matter. He just kept going. It didn't matter that as

he stood on the steps of the Truman Library, the world was growing dark around Hubert Humphrey.

After the speech, there was a reception where hundreds of people wanted to touch the senator one last time. As usual, the crowd seemed to love him.

He left the reception and retired to the Sheraton Royal Hotel, where he noticed the giant baseball gloves that serve as lobby chairs. They should have been boxing gloves. Humphrey invited me up to his suite for cheese, crackers and beer.

A former staff member, Neal Peterson, called room service and placed our order. Humphrey recalled that when he was Vice President, he would find his hotel rooms crammed with cheese, crackers, beer and Canadian Club. Back then he deplored the waste, but this night, as it turned out, he would not have minded a taste of the old days. Room service seemed determined to ignore us.

While we were waiting for the food, we took off our shoes and put our feet up on a coffee table. Neal Peterson turned on the television. Humphrey said he wanted to watch something entertaining, "but it won't take much."

He explained that he unwinds for an hour or so every evening, no matter how late he gets in. This is his time. If he did not have it, he would feel he had lost control of his life. So if he gets in at 1 a.m., he stays up until 2 a.m., watching TV or doing whatever he wants to. If he gets in at 3 a.m., he plays until 4 a.m. That hour is his private life.

Room service still had not come . . .

Humphrey talked about the kinds of people he likes. He likes show business people, including such favorites as Kirk Douglas, Elizabeth Taylor, Sonny and Cher, Joey Bishop, Milton Berle, Alfred Hitchcock and Frank Sinatra.

"I like Frank Sinatra," he said. "He's a rather outgoing, friendly, gregarious, generous guy who gets in a lot of trouble. In his early days, he supported Democrats. I think he felt the Democrats turned their back on him. He supported Jack Kennedy real strongly. Then, when there was question of Sinatra's background and his connections, why, the politicians sort of moved away from him. I've never felt that way about people. I judge them on the basis of what they've meant to me. Everybody's got some marks on them."

Humphrey also likes musicians: people like Rudolf Serkin, Robert Merrill and Isaac Stern.

"I remember times sitting up with Stern half the night at the Jefferson or at the Hay-Adams Hotel and talking politics."

But most of all, Humphrey still likes his boxers. Jack Dempsey. Hammerin' Henry Armstrong. The Fargo Express. Gene Tunney. Sugar Ray Robinson. I asked him who his all-time favorite fighter was.

"Historically, I'd say Jim Corbett," Humphrey said. "He was really a tremendous athlete. He was a real boxer as well as a good fighter."

I asked why he liked prizefighters.

"They're not the kind of people you would want your children to admire," the senator said, "but they're fun to be with. They add a dimension to my life that's a relief from the occasional boredom of politics."

At last, room service came. A tray of sliced cheddar cheese and soda crackers was wheeled in. Humphrey took the beers into the bathroom to open them.

Neal Peterson turned around the channels again. We listened to a promo for a movie that was just coming on.

An announcer said: ". . . the story of a young woman dying of cancer and the effect on her family . . ."

Humphrey said, "I don't need this."

We flew from Independence to Minneapolis. Humphrey said: "I felt, when I faced the operation, I wasn't at all sure what was going to happen. But I was prepared in my own mind. I wrote a letter to my wife. I told her what I thought. In case I died, she'd know something about what I was thinking. That letter I don't think she ever opened."

Humphrey looked out the window at the farms.

"When I got through with the operation I wanted very quickly to get up and around. I didn't want to lie in bed. I got a big joy out of being able to talk with the other people in the hospital."

I recalled a story I had heard Vice President Walter Mondale tell about visiting Humphrey in October, 1976, at Memorial Hospital in New York City. Mondale expected to spend a few minutes in a gloomy atmosphere and to leave depressed, but as he approached Humphrey's room, he heard laughter. Then he walked in and got a 15-minute lecture on what he was doing wrong in the campaign. Mondale said he had heard that when Henry Kissinger came to the hospital, "Humphrey not only took Kissinger to every room in the hospital, but they stood outside the operating room and gave advice to the patients going in." Mondale left Memorial Hospital feeling good.

"I can't explain what it meant to me to have that tremendous wave of affection for me," Humphrey said. "It's embarrassing for me. I heard from everybody from the Pope to Kosygin to John Wayne, who said, 'Join the club.' "

When Humphrey left the hospital, he was deprived of the audience—the other patients—which had given him strength.

"The real test of a marriage is in an instance like we went through. As Muriel said to me, 'If we didn't love each other as much as we do, we couldn't stand this.' Because we were forced together that close. And there was very little we could do except slowly rebuild. Well, I walked a lot. I was very anxious to get back to work. I went back to my office for a certain number of hours a day. Then I'd go home and rest. By December, I was doing a full day. I was really feeling very good.

"Then I went home for Christmas. My grandchildren had the flu. I was a little reckless and overdid a little bit. I picked it up. Boy, it damn near knocked me out. It was over New Year's. Fortunately, Congress wasn't in session, so I didn't miss any days. But in the meantime I went down to Plains, Ga., during a terrible blizzard. I got down there and I damn near froze to death. It's a wonder I didn't get pneumonia."

Then it was time to go back to work.

"When Congress opened up, that's when I looked so bad. I didn't want to give in. I had a fever. I went back to Congress with a 102-degree fever. Well, I was up for this contest for majority leader, and I just didn't want to back out and give up. The chemotherapy had taken my hair. I was thin. It took a whole month to get myself back around."

The ride was getting bumpy as we dropped down toward Minneapolis.

"You never know how long you're going to live. Why worry about it? Maybe the plane won't land. So I can't go around wondering whether I'm going to be alive. I've got to plan my days ahead as if I'll live forever. I try to do that because I think mental attitude has a great deal to do with your health. Now, I know that once you've had this disease, you never get cured really. It can hit you again, but if you worry about it, you'll get sick.

"Still, you know the odds."

In spite of Humphrey's uncertainty, the plane did land. We were picked up by an aide who was to drive us out to see the senator's newest grandchild. On the way, he talked about naming children. When Humphrey's first son was born, he and his wife had no idea what they wanted to call him. All they were sure of was that they did not want to name him Hubert Horatio Humphrey III. But war bonds began arriving made out to "Hubert Horatio Humphrey III." They were a present from Hubert Horatio Humphrey Sr., the proud grandfather. These gifts made quite an impression upon Hubert Horatio Humphrey Jr., the future senator, because at that moment in his life he was broke. When the war bonds amounted to a staggering $500, HHH Jr. told his wife, Muriel, "Let's face it: Daddy has bought the name." They christened their son Hubert Horatio Humphrey III, but they called him Skip.

A month before our visit, Sen. Humphrey, inspired by his father, had decided to try to name his newest granddaughter. He called his daughter-in-law at the hospital, where she was recovering from a Caesarean delivery.

"How's Heather?" he asked.

His daughter-in-law said he must have the wrong number. There was no Heather there.

"Of course there is," Humphrey said. "My little granddaughter, Heather."

The daughter-in-law assured the grandfather that her daughter had not been named Heather and never would be.

A ritual began. Every morning, Hubert Humphrey would call his daughter-in-law. "How's little Heather?" "Her name's not Heather." Day after day. "How's little Heather?" "There's no Heather here."

The senator soon realized that he needed a co-sponsor for his idea. He called the maternal grandmother, whose name is Harriet. He suggested that the new granddaughter be named after her. The grandma was thrilled. Then Humphrey revealed the rest of his plan. Harriet would actually be the baby's middle name. Her first name would be Heather. Her full name would be Heather Harriet Humphrey. The point was: she would be another HHH.

The maternal grandmother was still pleased. She began calling her daughter and asking: "How's little Heather Harriet?" "Who's Heather Harriet?" And Humphrey kept calling, too. "How's little Heather Harriet?" During these calls, Muriel would stand at her husband's elbow and beg him not to interfere in his children's lives.

At last, the mother of the new baby agreed to a poll. She would ask her friends to pick their favorite name, and she asked the senator to do the same in his office. Now, Humphrey was an old hand at polls. He knew they could be used to show almost anything you wanted them to show. Calling together his staff, he held an election of Mayor Daley honesty. He read off all the competing names, concluding with: "And my favorite, Heather Harriet."

The poor mother had about as much chance as a Republican running in Cook County. She conceded gracefully.

We were on our way to see little Heather Harriet Humphrey when trouble developed. The driver pulled over to the side of the road. We were lost.

Humphrey and his aide pored over maps. They were both stumped. The senior senator from Minnesota did not know the way to his son Douglas' house. (He had never been as close to his children as many fathers. In 1964, during the fight over the Civil Rights Bill, his son Hubert Horatio Humphrey III was discovered to have cancer. Muriel Humphrey called her husband, who had to be summoned off the Senate floor, to tell him the bad news. Humphrey said he could not leave the Senate. The mother and son faced the lifesaving cancer surgery alone.)

At last, Humphrey folded up the maps.

We were still lost, but the senator had a plan.

"Drive straight ahead," Humphrey told his aide. "What do we have to lose?"

"No," said the aide, a mere college student, as he turned the car around. "We'd better go back."

No! I could not believe it. This kid was contradicting an order given by one of the most famous senators that ever lived, a man who had been Vice President of the United States, a man who had come within a few hundred thousand votes of the presidency.

Nevertheless, Humphrey sat back and said no more. We drove back and stopped at a small grocery store, where Humphrey called his son Douglas and asked directions.

"If we had just kept going another hundred yards," Sen. Humphrey announced, "we would have come to the turnoff."

There are those who say that Humphrey has always been driven by his staff and that his staff is often wrong. That over the years, he has perennially hired a second-rate group of people to advise him. Many believe he did not speak out against the Vietnam war because he listened to his staff. The staff said: *No!*

No matter. We finally found his son's house, overlooking a beautiful lake. One-month-old Heather Harriet granted us an audience. Grandfather Humphrey danced around his grandchild like an elderly, white Muhammad Ali. The old warrior had a new audience and a new reason to keep fighting.

"I'm your grandfather," Hubert Humphrey crooned. "I'm worth remembering."

[From Parade magazine, Oct. 2, 1977]

SEN. HUBERT HUMPHREY: REFLECTIONS ON HIS LIFE

(By Lloyd Shearer)

WASHINGTON, D.C.—Sen. HUBERT HORATIO HUMPHREY, running a losing race with cancer, agreed some weeks ago to sit for an interview and photo session and reflection with a Parade reporter in a question-and-answer session on the philosophy and highlights of his memorable life.

This is the way it went:

Q. Senator, you've lived your 66 years to the brim. You've lived each day as if it were your last. Suppose one of your children said to you, "Dad, what lesson have you learned from life?" How would you answer that?

HUMPHREY. What I've learned from living is that there are some things over which a man has no control. You are buffeted by events that are unknown, unchartered, unpredictable. And one has to learn to live with the uncertainties of life. That's really what you have to do, what I think you learn.

When you're young you feel that you can conquer almost anything. You've got the answers. You're sure, if only the old folks would get out of the way, then you could really set everything straight. But what you learn from life is that there are unknowns and problems for which there are as yet no answers.

There are still forces and powers that move the universe in your life, and these are not always subject to your personal control. Therefore, you've got to have an awful lot of faith that somehow things are going to work out and that you're running with a destiny that's maybe not fully in your hands.

I'm philosophizing and as usual talking maybe a little more about it than I should. But I've also learned from life to be tolerant, forgiving, understanding. You cannot go around and keep score. If you keep score on the good things and the bad things, you'll find out that you're a very miserable person. God gave man the ability to forget, which is one of the greatest attributes you have. Because if you remember everything that's happened to you, you generally remember that which is the most unfortunate.

Q. What do you remember, Senator?

HUMPHREY. Well, many people think that what I mostly remember is politics, but there are several other very vivid memories of mine. I remember the Depression of the 1930's, and what it did to people. That's left on my political, physical, and mental makeup an everlasting mark.

Q. How old were you then?

HUMPHREY. I was in my 20's. Very impressionable. And I was in the midst of the Depression, in the dust bowl of South Dakota. I saw what it did to families. I saw what low farm prices, the dust storms did to the young people, the sense of despair and hopelessness it generated in so many of us. I saw what it did to my father.

Q. What did it do to him?

HUMPHREY. It took 10 years off his life just as surely as my name is Hubert Humphrey. I can still see him at his desk, his hands wringing, wondering how he could ever pay the bills, pay the taxes, take care of the family. I could see the sorrow, the burden on his life. And I loved my father. As you know, I've talked about him a great deal. He was a tremendous source of strength to me. And the friendship we knew! We were friends, close personal friends as well as father and son. So I remember the Depression with a vividness that's like a videotape running over and over again in my mind.

That's why when I see a recession, when I see the Federal Reserve System cranking down on credit, when I see unemployed people, unemployed young people, that memory comes ringing right back—and that's why I fight so hard about it, that's why I speak the way I speak. I don't speak out of textbooks, out of economic theory.

I told Arthur Burns [chairman of the Federal Reserve Board] one day. I said, "Dr. Burns, I don't need to hear any lectures about the economy. I can go home to the family drugstore and tell you what's happening. I can just take a look at the accounts receivable, the cash in the box or in the bank, and the number of what we call bad checks. Because the people out my way don't like to write bad checks, but once in a while they do because they're short on cash. And we're not the kind of people that can put them in jail or go out and sue them. We have to carry that . . . I don't have to get the economic indicators and the charts out of the computer. I see what's happening at least in my part of the country. I know what's happening. I sense it. I feel it."

So that's one of the great impressions in my life. Another that's very lasting and meaningful to me was when I had the chance to go to the University of Minnesota, which was my dream as a young man. For years I felt that I was locked up in the South Dakota dust bowl: I felt I would never get out, that I was in prison. And then I got married. My wife Muriel helped me. She said, "We're going to get out of here. We're going to give you a chance to become what you want to be."

So we went to the University of Minnesota, and she got a job and helped me through school. Long before there was a federal scholarship program, I married one. We worked together, and I finished my university education, which opened up a whole new door of opportunities.

There are key points in life that are so important, and that was one of mine. Another, of course, was being elected to public office, particularly to the U.S. Senate. But I also remember the human tragedies—not only the loss of my father and my brother, which brought heartaches. Death comes to every family. But our first grandchild, Vicky, our daughter Nancy's child—she was born mentally retarded, and that really did something to us.

Vicky's birth, which at the time was one of sorrow and tears and sadness and bewilderment—well, it became a blessing, because we became involved. We became deeply involved in the whole subject of mental retardation. And we got to understand what other people are going through. And Vicky was so full of love. The wonderful thing about retarded children is that they have no hate. Only constant love, absolutely perfect love. . . .

You can have a real religious experience from all of this. I found the real meaning of what we call family love in Vicky. She really loved her grandfather with such devotion. She always called me "Baba," and she'd come rushing into my arms. Very sensitive, these little mentally retarded people. The normal people never know how their feelings can be hurt. They're extremely sensitive, the retarded are, and they teach you how to be sensitive to other people. I've learned to be aware of other people's concerns, of other people's feelings.

Q. Senator, as you look back on your life, what are you most proud of?

HUMPHREY. I'm proud of our family first of all. I think I've got a good family, and much of that is due to my wife. What I'm most proud of in my government career is the battle I waged for civil and human rights when it wasn't very popular but I somehow had the fortitude to stick with it.

And it was a very difficult time for me. I really had some pain in the Senate for several years. I was not popular. And I was not liked, and that's hard for me to take because I'm a gregarious sort of character. But in the long run I think that what we did with civil rights is the most important thing in my public life because it opened up opportunities for millions of people.

Q. During the race riots of the 1960's you were quoted as saying that if you'd been born and reared in a ghetto, you would have been one of its leaders or rioters.

HUMPHREY. I don't know whether I would have been a rioter, but I would have been a sharp protester, no doubt about that.

Q. Isn't that much the same?

HUMPHREY. Well, there's a difference between destruction and peaceful demonstration. It's easy for the comfortable to sit in judgment of the miserable.

Q. Have conditions for blacks in this country improved markedly since the 1960's?

HUMPHREY. Yes, they have improved. Not enough, but they have . . . . I carry a little book around with me, quotations from Alexis de Tocqueville. One is absolutely marvelous. Listen to it: "The sufferings that are endured patiently, as being inevitable, become intolerable the moment it appears there might be an escape. Refrom then only serves to reveal more clearly what still remains oppressive and now all the more unbearable. The suffering, it is true, has been reduced if one's sensitivity has become more acute.

Once people see hope in breaking out of their prison—whatever that prison may be, of poverty, of fear, of disease—the desire, the anxiety to get out becomes almost overwhelming. And as the de Tocqueville book so rightly notes, reform then only serves to reveal more clearly what still remains oppressive.

We've made progress in this country. And the best sign of progress is that we want to make more. I've learned that only the strong people can afford to admit weakness. The weak people never can afford to admit they're wrong.

Q. Senator, it's been said that ignorance is bliss only when 'tis folly to be wise. Do

you believe that television has raised the dissatisfaction quotient in this country and filled many of the minorities with dissatisfaction of their lot?

HUMPHREY. Exactly, but a society needs tension and dissatisfaction. Also restlessness. You've got to have restlessness in order to have progress. Stagnant waters stay stagnant. They become polluted. They've got to move. They may at times tear out the embankment. They may at times rip up the landscape. But they're fresh, and they cut new streams, new channels. This is what we're undergoing.

Q. Senator, is your view of President Carter the same as it was, say, six months ago?

HUMPHREY. No, I have a better view of the President. I was not one of Carter's original supporters. But every time I've been with the President I felt a little better about him. Because I know that he's learning. I believe in his sincerity. I feel that he is trying his level best to get hold of this massive structure called our government. I've had some disappointments so far, but I think this Administration has not yet come to grips with an economic policy. I don't think they've quite made up their minds yet what kind of war they're going to wage on poverty and unemployment, which is the real test of this government . . . But I think Jimmy Carter is a populist at heart. He does have a feeling for people. But he is essentially from a more fiscally conservative background, and it's going to require great investments to meet the problems of this country.

See, if I could get my President and the people in public life to understand that when you utilize federal resources for public works, for employment programs, you are not wasting, you're not spending, you're investing. You waste when you do nothing more than throw money around for unemployment compensation, food stamps, and the rest. You get nothing out of it. I think, as old Lyndon Johnson used to say, "Let's make tax-payers out of tax-eaters." Simple language, but it's still true. Remember, Franklin Roosevelt never really had a welfare program! He had a work program. . . . Now, if the private sector can't provide it, then the governmental sector must do it. And going around pretending that somehow or another this is wrong is ridiculous.

How did we get this country built anyway? The government of the United States gave the land to the railroads. We never would have had the railroads in this country if they hadn't been given six miles on each side of the track. We've always been doing public works. Well, I don't want to give you my long song and dance on that. You've heard it before.

Q. Of the men who've served with you in the Senate, which do you look back on with fondness and affection?

HUMPHREY. Alben Barkley, I loved him. He sat alongside me. But Paul Douglas, Herbert Lehman, Bill Benton, I suppose they were about the three closest friends I've had in the Senate. But there were many others.

Q. Senator, it's been said that your major political mistake was in going along with Lyndon Johnson on the Vietnam war. Do you think that true?

HUMPHREY. Well, I didn't consider it a mistake at the time. I considered it the right thing to do. I guess I can say this now. Had I been elected President, I would have ended that war, and I would have ended it promptly. I became convinced in late '67 and '68 that we had to get out of the war. In the beginning I wasn't for it, but as I've said repeatedly, I'd rather be remembered for being wrong than for being a hypocrite. I felt that what we were doing had to be done. Maybe it was because I was a product of that time, that generation.

But ultimately, looking back on it, I suppose I might have been elected President of the United States had it not been for the Vietnam war.

Q. One final question, Senator. Did you watch former President Nixon on the David Frost series of interviews, and if you did, what was your impression?

HUMPHREY. I was saddened. I wouldn't have done that for millions.

REPORTER. Good luck, Senator, much love to Muriel, and thank you.

HUMPHREY. Thank you. Now, when you're shooting your pictures of me, try to get as much of my hair as possible.

CARTER CALLS HIM "GREATEST DEMOCRAT"

At a party fund-raiser in New York City this past summer, President Jimmy Carter described Hubert Humphrey as "the greatest Democrat who lives in our country. I think," Carter expanded, "that when anyone tries to assimilate in one's mind what the Democratic party is, what it stands for—its cleanliness, its decency, its compassion and humanity, its fairness and its honesty and its dedication, its love for people—the personification of all those things is Senator Humphrey."

Hubert Horatio Humphrey of Waverly, Minn., was born in Wallace, S. Dak., on May 27, 1911, was graduated from the Denver College of Pharmacy with a degree and was further educated at the University of Minnesota, where he earned his Phi Beta Kappa key, and at Louisiana State University, where he earned his M.A.

He was elected mayor of Minneapolis in 1945 and 1947 after serving a stint as a professor of political science at Macalester College. In 1948 he was elected to the U.S. Senate and reelected again in 1954 and 1960. He is married to the former Muriel Buck, who blessed him with four children.

NARROW DEFEAT

Lyndon Johnson chose the Senator as his running mate in 1964, and Humphrey became Vice President of the U.S. Four years later he ran for the Presidency and was narrowly beaten by Richard Nixon. He returned to teaching political science at Macalester College and the University of Minnesota, a large share of his salary being paid by a grant from DeWitt Wallace, founder of Reader's Digest.

In 1970 and 1976 Humphrey was again returned to the U.S. Senate, where he was defeated for Senate Majority Leader by Sen. Robert Byrd of West Virginia this year.

One day after rejecting him as their leader, Senate Democrats, to show their liking and respect for Humphrey, voted him a new title, Deputy President Pro Tempro of the Senate. They included a chauffeured limousine, a second office and staff in the Capitol, plus $7,400 more than a Senator's normal salary and participation in all the Democratic Congressional leadership's meetings with the President.

Humphrey's medical history noted the presence in 1968 of pinhead-sized tumors in his bladder. In 1973 the tumors grew, Humphrey was subjected to X-ray treatment and chemotherapy, but the treatment did not arrest the cancer. On Oct. 7, 1976, his bladder prostate was removed at the Memorial Sloan-Kettering Cancer Center in New York.

SURGEON'S VERDICT

Ten months later, on Aug. 18, 1977, at 7:45 a.m., Dr. John Najarian, surgeon at the University of Minnesota Hospitals in Minneapolis, conducted exploratory surgery on Humphrey to determine the cause of the Senator's bowel obstruction. The surgeons discovered that the stubborn cancer cells had spread through almost the entire pelvis and that the malignant tumor could not be removed. They declared the cancer massive, inoperable, and terminal, but refused to predict whether the Senator might live for "months" or "years."

Anyone who knows Hubert Humphrey readily acknowledges his tremendous resilience, his indomitable will to live, and his great fighting heart. Whatever happens to his body, his spirit of love and camaraderie, his history as a spokesman for the poor and less-privileged people of his nation will long survive.

"It's not what you've lost," he told a Parade reporter a few months ago. "What counts is what you've got left. And I've got a lot left."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished minority leader.

Mr. BAKER. Mr. President, I have no requirement for my time and no requests for it. Therefore, I yield back my time under the standing order.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming (Mr. WALLOP) is recognized for not to exceed 15 minutes.

THE PROSECUTION OF JOHN J. KEARNEY

Mr. WALLOP. Mr. President, I am concerned today about what I instinctively feel is an injustice being perpetrated by our Government on a citizen and former employee. It is an injustice in the name of justice. I am referring to John J. Kearney, former supervisor for the FBI in New York.

Last April, this administration decided to prosecute Mr. Kearney on five felony counts involving an alleged conspiracy to intercept mail and wire communications, obstruction of correspondence and unlawful wiretapping in the course of a search for the Weathermen, whose bombs hit, among other targets, this very building. The alleged offenses are said to have occurred between about August 1970 and June 1972. If convicted, agent Kearney could be jailed for 25 years and fined up to $34,000.

The real controversy in this case is over the law. And a strange controversy it is. Mr. Kearney did not violate any statute then held applicable to the FBI in cases of national security. Nobody contends he violated the order of his superiors—quite the contrary, he followed them. Some of Mr. Kearney's superiors at the time have since declared publicly they authorized such activities. But his superiors are not on the dock. Nobody can even contend that Kearney's acts violated the Supreme Court's restriction on warrantless wiretapping of "wholly domestic" groups as set forth in the Keith case. And, Mr. President, that decision

was handed down after Kearney completed his assigned duties.

So why, Mr. President, is someone who violated no statute, no orders, and no court decisions, being prosecuted?

In January of this year, then Attorney General Edward Levi, one of the most distinguished and nonpartisan of men ever to occupy that office, offered several reasons why it would be unfair and unjust to prosecute Government agents who conducted mail opening and wiretapping in the United States between 1953 and 1973. He declared,

> Whatever can be said about the law now, at the time (Mr. Kearney and others like him) acted, there was a substantial basis for thinking the law was otherwise.

Mr. Levi went on to say that the Department of Justice itself condoned warrantless mail opening and wiretapping in cases such as agent Kearney's search for the Weathermen. The Department never instructed agents of the FBI to stop those activities. Thus, said Attorney General Levi, and I quote,

> Almost consciously leaving them to "take their chances" in what was an extremely uncertain legal environment.

Let us be clear there was uncertainty as to what the law was going to become. But what is now declared illegal in the field of surveillance was not illegal before 1972. Had the law been then as it is now, the Supreme Court's decision in the Keith case would have been superfluous. So, Attorney General Levi did not prosecute because in our legal system there is no such thing as an ex post facto crime. The chances that a jury will convict John Kearney are small.

Why then, between January and March 1977, did the Justice Department decide to take up the nearly impossible task of prosecuting John Kearney? Well, as the current Attorney General, Griffin Bell said last week defending the political selection of U.S. attorneys: "There was an election last November." True, there is a new administration. But this administration advertised itself as anything but a stickler for the criminal law. Among its first acts was wholesale forgiveness of men, who by withdrawing themselves from lawful military service had put others in harm's way.

Why then, we should ask, did this ostentatiously forgiving administration decide to prosecute a man who harmed no one, a man who acted in accordance within the law existing at the time and with the apparent approval of his superiors?

In this case, the administration tries to portray itself as the impartial handmaiden of the law. Accusations were made, says the Attorney General, and, however much he regrets this, the case had to be pushed to indictment and must be settled by trial.

But this is thin nonsense. The legal basis for any U.S. attorney's discretion to prosecute or not to prosecute is clear. Under our criminal justice system, the Attorney General has almost unfettered discretion in deciding whether or not to institute a prosecution. In this case, it seems that Attorney General has acted arbitrarily and inconsistently in the exercise of his prosecutorial discretion. He has indicated that other agents under suspicion for activities similar to those allegedly carried out by Mr. Kearney may be disciplined rather than indicted. Furthermore, the Justice Department has decided not to prosecute John Kearney's former superior, Mr. John R. Morley.

It seems grossly unfair to single out one individual for prosecution. I question whether the decision to prosecute was made in good faith or whether this is but another example of a strictly political decision on the part of the Justice Department. On the surface, it seems that the law was less important in the administration's decision to prosecute Kearney than was politics. Mr. President, we have the duty to ask what kind of political game this administration is playing, and is that game good for the country?

How can we avoid the conclusion that in the councils of this administration the FBI does not stand on equal footing with many so-called civil liberties groups which have long wanted to hamstring the FBI? The administration says it is sorry to see that the FBI's morale and efficiency have been seriously hurt by its moves against one of the FBI's exemplary agents. But at least President Carter ought to know that that kind of repentance is as useless on Earth as it is in Heaven.

Of course the FBI is hurting. How could anyone expect that their dedication and professionalism would not be affected. Every agent now knows that no matter how good a job he does, no matter how lawful his acts seem to him, no matter how well he obeys his superiors, he is liable to be prosecuted a few years later. Every agent now knows he will be subjected to judgments which have yet to be made. Why should not every FBI agent worry more about staying on the "right" side of the powerful groups that have gotten their way in this administration than about doing the job of protecting the American people?

Mr. President, on top of everything else, Mr. Kearney is being asked to pay for his own defense. No indemnification is contemplated. Yet superiors and others are not being charged. Is every retired or active FBI agent to be asked to set aside money for his own defense at some unforeseen time for an unknowable charge? This unfair act is foreign to everything America ever stood for. We once honored the faithful public servant. Shall we now ask them to hang their heads in shame? Or perhaps, Mr. President—should our heads and eyes be lowered?

Someday of course this administration will be voted out of office, their favorite groups replaced by others. But it will not be easy to change the habit the FBI must now acquire of protecting itself from potential liability while protecting the American people. It took almost two generations of administrations which respected the FBI's independence for that agency to become as good as it was. Now the Nixon and Carter administrations have gone a long way toward undoing that.

Mr. President, I think both for the sake of justice and for the good of the country, the administration ought to drop its case against John Kearney. The law will not suffer. Justice will have been served, not sidestepped. Our country will raise its head again. Our public servants will dare to serve again.

Mr. President, I thank the Chair, and I yield back the remainder of my time.

Mr. HANSEN. Mr. President, if the Senator will withhold just momentarily, will the Senator yield a minute to me?

Mr. WALLOP. Mr. President, I would be happy to yield a minute to my senior colleague.

Mr. HANSEN. Mr. President, I regret there are not more Senators on the floor at this particular moment because I think the point that has been made by my distinguished colleague from Wyoming is one that ought to be heard and heeded by all Americans.

I recall, as not too many here can, the days of America before the FBI came into being when crime was rampant, when it seemed as though the traditional law enforcement agencies lacked the ability, the competence, and the national network of communication that made possible society's ability to cope with crime, and I recall very well when the FBI was organized and J. Edgar Hoover became its Director a profound and pervasive sense of relief and reassurance that the good guys did have a chance.

I think it is fundamental that society be able to protect itself, and occasionally in order that society can protect itself it seems clear that activities such as were ordered by the FBI to be undertaken by Mr. Kearney were clearly in the best interests of all Americans.

It seems totally unconscionable to me now that, having carried out honestly and faithfully the orders that had been lawfully given him, we now turn our backs on this good man and say, "It is your problem. Not only are we lacking in compassion as we view your present dilemma and problem but we are not even going to provide you with any financial help to try to see that your case is fairly represented in a court of law.

I make these observations, Mr. President, because I think we are going to rue the day this action was undertaken. The damage has already been done. If we were to follow the suggestions of my very esteemed colleague from Wyoming and have the Government drop its case, as I think it should forthwith, that would be helpful. But even if we were now to do that at this late date the damage has indeed been done.

I want to compliment my colleague, the first nonlawyer to serve on the Senate Committee on the Judiciary, for his perception, insight, and understanding into a matter that I think deserves the close attention and active participation by all Americans.

I thank my colleague.

Mr. WALLOP. Mr. President, how much time is remaining under the standing order?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. WALLOP. I would like to yield that 1 minute to the Senator from Arizona (Mr. GOLDWATER).

Mr. GOLDWATER. I thank my colleague.

Mr. President, I want to compliment my friend from Wyoming for his remarks in defense of a good friend.

Mr. President, I would remind my colleagues that this morning's paper tells us they are going to try to do the same thing possibly against another loyal American, Mr. Richard Helms, who did nothing but obey orders, and this is what the Attorney General cannot seem to get through his head.

When the Commander in Chief of this country, the President, tells a member of the FBI or the CIA to do something, he does it. I remember during hearings not only Richard Helms but every other head of the CIA who appeared before us, in answer to the question, "Would you tell a lie to protect the President?" always said, "Yes."

I think that is the attitude anybody who has ever served under a Commander in Chief, even though he might think the Commander in Chief be wrong, would take.

I do not think these men, who are sworn to do their duty, should ever be persecuted by the Attorney General or by anyone else for having done what they were told to do.

If they go through with these things, they go through with these cases, I think I can promise the American people that we are in for months and months and months of deep embarrassment about what some of our Commanders in Chief ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield 30 minutes of the time allotted to me under the cloture rule to the distinguished majority leader (Mr. ROBERT C. BYRD) to be used as he sees fit at such time as he desires to.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont for his typical courtesy and thoughtfulness.

PRESIDENTIAL ACTION AFFECTING STRATEGIC ARMS LIMITATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrence Resolution 47, with a time limitation thereon of 30 minutes to be equally divided between Mr. SPARKMAN, the chairman of the Committee on Foreign Relations, and Mr. CHURCH and Mr. CASE.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. Mr. President, I just want to explain to the leader that I have been asked by two separate committee members to object to any consideration of the SALT resolution.

Mr. ROBERT C. BYRD. Well, Mr. President, I would hope they would be on the floor to object themselves. Could the Senator state who those Members are? Perhaps it has been cleared with them.

Mr. ABOUREZK. It has not.

Mr. METZENBAUM. We do not have any objection ourselves.

Mr. ROBERT C. BYRD. Mr. President, for the information of the two Senators the matter has been cleared with Mr. CLARK, Mr. BIDEN, and Mr. MCGOVERN. It was cleared with Mr. BIDEN yesterday. It was cleared with Mr. MCGOVERN yesterday. It was cleared with Mr. CLARK either yesterday evening or this morning.

So I hope that Senators would not object because today is the last day for the consideration of this resolution.

Mr. CHURCH. Mr. President, I hope that Senators ABOUREZK and METZENBAUM will accept the assurances of the majority leader on this question. I do not know of any other Senators who objected. The resolution has been cleared with the leadership on both sides of the aisle, and this is the last day on which we can act.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I hope we can proceed with this matter. I, of course, understand the problem confronting the distinguished Senator from South Dakota. But this is a matter of importance. It has been cleared on both sides, and it shall not take very long.

So, without repeating the arguments that have already been made, let me simply add my urging, and that of others, that we proceed with consideration of the resolution at this point.

Mr. ABOUREZK. Mr. President, it is difficult for me to object to proceed to the consideration of the resolution. I would rather take the majority leader's word for it, except I have been asked to object, and I have not been released from that request. I do not know what to do now.

Mr. CRANSTON. Did the Senator seek to reach the two Senators just now?

Mr. METZENBAUM. Yes.

Mr. ABOUREZK. I was not able to reach them.

Mr. CRANSTON. Are they available? I discussed with the Senator trying to reach them.

Mr. ABOUREZK. No; I have been unable to reach them.

Mr. METZENBAUM. Will the majority leader hold up the unanimous-consent request so we might be released from the commitment to them?

Mr. ROBERT C. BYRD. Yes, Mr. President, for the time being, I withhold the request.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I renew my request that the Senate turn to the consideration of Calendar Order No. 426; that there be a time limitation not to exceed 30 minutes thereon, after which the Senate will proceed to the disposition of the resolution; and the time to be equally divided between Mr. CHURCH and Mr. CASE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 47) expressing the concurrence of the Senate and the House of Representatives with respect to presidential action affecting the limitation of strategic armaments.

The PRESIDING OFFICER. The Senate will proceed to its consideration.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the pending concurrent resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, it had been the intention of the distinguished chairman of the Foreign Relations Committee (Mr. SPARKMAN) to present this resolution. Unfortunately, Senator SPARKMAN cannot be present at this time. He has asked me to present the resolution on behalf of the Senate Foreign Relations Committee. In doing so, I would like first to read Senator SPARKMAN's own statement, which is as follows:

STATEMENT BY SENATOR SPARKMAN

This concurrent resolution was approved by the Committee on Foreign Relations at a meeting last Friday. The resolution expresses the support of the Senate and the House of Representatives for the Administration's stated intention not to take any action inconsistent with the provisions of the Interim SALT agreement which expires today, and with the goals of the on-going negotiations, provided that the Soviet Union exercises similar restraint.

The Committee on Foreign Relations decided to approve this resoltuion upon careful deliberations over a period of several days. On September 21 the Committee received a letter from Secretary of State Vance stating the Administration's intention to maintain the status quo. I insert that letter in the Record at this point. On September 26th, last Monday, the Committee met with Paul C. Warnke, Director of the Arms Control and Disarmament Agency, to review the present state and prospects of the strategic arms limitation talks, and to explore the implications of the Administration's action.

I believe that the President has ample authority to maintain the status quo following the expiration of the international agreement. In this regard, I insert in the RECORD a letter I received on Friday from Herbert J. Hansell, the Legal Adviser of the State Department. This resolution merely recognizes and gives Congressional endorsement of that fact. The mutual involvement of the Congress and the executive Branch in this policy will demonstrate the shared interest of the two branches in preventing the collapse of strategic arms limitation efforts so that the two sides may have a continued opportunity to proceed to achieve a broad and comprehensive arms limitation agreement.

Under the Senate rules it is not possible to add cosponsors to original resolutions reported from committees. A number of Senators have indicated interest in this resolution and, were it possible, would have cosponsored it. These are Senators Church, Case, Pell, Humphrey, Stone, Sarbanes, Javits, Pearson, Percy, Baker, Glenn, Byrd of West Virginia, Jackson, Cranston, and Williams.

I hope that the resolution receives strong support from the Senate.

Mr. CHURCH. Mr. President, I ask unanimous consent that the material referred to in the statement of Senator SPARKMAN be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., September 21, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate

DEAR MR. CHAIRMAN: As you know, we have been exploring for some time ways in which we can facilitate an early and successful conclusion of the SALT II negotiations. One aspect of this subject which State and ACDA staffs have discussed with you is the situation that will exist after the present Interim SALT Agreement expires on October 3. In this regard, we have been considering a policy declaration expressing our intention, while the negotiations are being completed, not to take any action that would be inconsistent with the Interim Agreement's provisions, or with the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint. Under this proposal, although the Soviets may also issue a statement of their policy in this regard, along the same lines, there would be no agreement limiting strategic offensive arms in force between the United States and the Soviet Union after October 3 and pending the conclusion of a new SALT Agreement.

Our objective is to maintain the status quo while the SALT II negotiations are being completed, and to complete the work on a SALT II Agreement within the near future. We do not seek to enter into a new agreement extending SALT I during this period, by an "exchange" of statements or otherwise. Accordingly, we have informed the Soviets that we intend to issue a unilateral policy declaration along the following lines:

In order to maintain the status quo while [SALT II] negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms which expires October 3, 1977, and with the goals of these ongoing negotiations, provided that the Soviet Union exercises similar restraint.

In considering how to proceed in this matter, we considered and rejected the possibility of a joint U.S.-Soviet statement which might have raised the question of whether an international agreement was intended. We do not intend to enter into an agreement and believe that our proposal is consistent with this intent, in substance as well as in form.

As indicated in our discussions with you and with the Committee staff, it is our desire to proceed in this matter in close consultation with the Congress. We fully recognize your committee's responsibilities with regard to international agreements generally and SALT II in particular. We hope you share our assessment that our discussions of this subject have been most helpful and constructive.

Sincerely,

CYRUS VANCE.

THE LEGAL ADVISER,
DEPARTMENT OF STATE,
Washington, September 28, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for my opinion relating to the statement released by Secretary Vance on September 23. That statement declared the intention of the United States not to take any action inconsistent with the provisions of the SALT I Interim Agreement of 1972 and with the goals of the SALT II negotiations provided that the Soviet Union exercises similar restraint. Shortly after the release of that statement, the Soviet Union made a similar statement.

The principal question raised with regard to the statement is whether it requires authorization by treaty or legislation under section 33 of the Arms Control and Disarmament Act (the "Act"). That inquiry, in turn, raises the further question whether the statement legally obligates the United States.

Section 33 of the Act prohibits any action "under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States . . ." except pursuant to treaty or legislation. The language and legislative history of the Act make clear that Section 33 is confined to obligatory arms control arrangements effected by binding international agreement[1] entered into pursuant to the Act or other law. It does not purport to limit the constitutional power of the President to take non-obligatory measures in connection with conduct of international negotiations.

The United States statement of September 23 does not, alone or in conjunction with the Soviet statement, imposes an obligation on the United States. The United States has declared that its statement is "non-binding and nonobligatory."[2] Neither country has committed itself in its statement. Each has only stated a present intention to refrain from certain action provided that the other refrains from similar action. Each is free to reverse its intention at will; the negotiations which the policy of restraint is intended to facilitate could continue even if the declared policies were abandoned.

These circumstances thus lack essential elements of an obligation or a binding agreement: there is no intent by either party to be bound;[3] each may at any time cease to do what it has said it presently intends to do; and there would be no legal consequences if either changed its stated policy.

Accordingly, I am of the opinion that the September 23 statement does not legally obligate the United States, by binding international agreement or otherwise, and does not require authorization under section 33 of the Act.

Sincerely yours,

HERBERT J. HANSELL.

[1] Language in the House bill (H.R. 7936) which would have included "measures" other than international agreements within the Act's definition of "disarmament" was deleted prior to enactment.

[2] Mr. Warnke so testified to the Committee on Foreign Relations on September 26.

[3] The International Court of Justice has ruled that in some circumstances a state may be legally bound by a unilateral statement. (Nuclear Test Cases, Australia v. France and New Zealand v. France, Judgment of 29 Dec. 1974, I.C.J. Reports 1974, pp. 253 and 457.) However, that decision turned on the intent of the declaring state to be bound and the likelihood of reliance by other states on the binding character of the declaration. Its rationale is not applicable in the present circumstances in which the United States has publicly made clear that it does not intend its statement to be binding.

Mr. CHURCH. Mr. President, today the Interim Agreement Between the United States and the U.S.S.R. on the Limitation of Strategic Arms will expire. I personally had hoped that by now the United States and the Soviet Union would have arrived at a second, comprehensive accord limiting nuclear arms. But the birth of SALT II has been stubborn. Time, always elusive, has proved too short to complete this effort.

Understanding the importance of a comprehensive treaty and the need to negotiate it free of the burdens and pressures arising from imminent deadlines, President Carter last week announced his intention to take no action inconsistent with the terms of the original SALT Interim Agreement until negotiations for SALT II were completed. The Soviet Union, for its part, pledged to show the same restraint.

From its inception, the Arms Control and Disarmament Act, the grandfather of American arms control, contemplated close cooperation between the legislative and executive branches of our Government—a common endeavor to achieve common goals: Peace, security, and reduction of the threat of total annihilation posed from the world's burgeoning arsenals of nuclear arms. In enacting that act, we in the Congress underscored our own belief that America's interests were best served by a mutual recognition and respect for the partnership that exists between the President and Congress in the field of foreign affairs. It is a partnership born of the foresight of our Founding Fathers and bred by an envolving constitutional and statutory sharing of responsibility.

It is in this spirit of collaboration that I express my support for this concurrent resolution. It recognizes the President's action to have been unilateral and nonobligatory and thus authorized.

We all sympathize with President Carter's concern over a renewed and perilous arms race with the Soviet Union. We all share his desire to reach a serious and comprehensive solution to the precipitous growth of nuclear arms. The President, for his part, understands the role that Congress must play in these critical deliberations. This resolution, if enacted, would reaffirm the hope of both branches to achieve an arms agreement which preserves the peace and security of the United States. I urge the Senate to approve this resolution.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CHURCH. Yes.

Mr. ROBERT C. BYRD. Mr. President, I believe it is proper that the Senate express its concurrence with the President's stated intention not to take action inconsistent with the provision of the interim SALT agreement upon its expiration on today, October 3. Such a policy is, of course, dependent on the exercise of similar restraint by the Soviet Union.

I am pleased to be a cosponsor of this resolution, as Mr. CHURCH has stated, which sets forth the Senate support of the President's policy of maintaining the status quo while efforts are underway to reach a SALT II agreement. If such an agreement is reached it would, of course, be subject to extensive Senate consideration.

Matters relating to arms control and national security are of the highest importance and should always be subject to Senate scrutiny. At the same time we should avoid actions which would interfere with the ongoing negotiations. I am particularly pleased that this resolution enjoys broad bipartisan support, and I commend the efforts of those members of the Committee on Foreign Relations and others who have worked so diligently on this matter. Passage of the resolution will be an appropriate and responsible action by the Senate.

Mr. CHURCH. I thank the majority leader and yield to my distinguished colleague, the ranking minority member of the Foreign Relations Committee.

Mr. CASE. I thank the Senator.

Mr. President, this matter has been clearly and accurately stated. It does not really need much further explanation. If there are questions, I know we will be very glad to respond. There are some people who may say this is like a situation in which a girl comes to her father and asks, "May I get married?"

He says, "Are you married?"

She says, "Yes."

He says, "Then you may get married."

Well, it is not quite that, mainly because of the seriousness of this situation. We were faced with an expressed statement of intention by the administration and a statute. There was a question, and there is still a question, as to whether or not the statement of intention made by the President is within his constitutional authority without the consent or authorization of the Congress. So be it. Congress did not want this thing to go by, however, and establish a precedent for any extension of any constitutional authority that may exist.

Also, Congress happened to agree precisely, at least the great majority of the Members of Congress, I am sure, that this is a good thing, a sound thing, and a wise thing to do. The action that we have brought before the Senate for its consideration this morning is based upon those premises. I think it is a very sound job. I know all of us will be very glad to answer any questions or hear any further comments within the time limitation.

I have one request to yield.

Mr. YOUNG. What is the duration of this concurrent resolution?

Mr. CASE. This resolution merely states its approval of a statement by the Secretary of State. The Secretary of State has put no limitation on his statement of intention. Being a statement of intention it could be changed any time. So this has no term consent.

Mr. CRANSTON. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. CRANSTON. Mr. President, Concurrent Resolution 47, the resolution with respect to Presidential action affecting the limitation of strategic armaments, is a necessary reaffirmation of the constitutional role of Congress and the doctrine of separation of power between the legislature and the executive.

I want to express my thanks to all of those who have been involved in the arduous task of achieving agreement on this concurrent resolution. The concurrent resolution is an articulate compilation and blending of diverse views. It is gratifying that this resolution was finally drafted with such consummate skill and devotion of Senators JACKSON, CHURCH, and JAVITS that it received overwhelming approval of the Senate Foreign Relations Committee under its distinguished chairman, Senator SPARKMAN. It has been a senatorial honor to participate in the process leading to this resolution, which I hope is overwhelmingly accepted by this body.

It was Senator JACKSON who first raised the issue of the involvement of Congress in this matter. I compliment him for that. I joined him immediately in his effort to insure that Congress fulfilled its appropriate role, and it has been a pleasure to work with him and others—notably Senators CHURCH and JAVITS and Chairman SPARKMAN, toward the fine result that has been accomplished.

This concurrent resolution is made necessary by the action of the State Department taken in anticipation of the expiration of the present interim SALT agreement on October 3, 1977, and in recognition of the fact that the current SALT II negotiations would not be concluded by that date.

Both the United States and the Soviet Union desired to maintain the status quo with respect to the limitations on strategic offensive arms contained in the SALT interim agreement, but the evidence is compelling that the State Department did not desire to accomplish this maintenance of the status quo by any formal agreement or action which would require consultation with or the consent of Congress, and, in particular, of the U.S. Senate.

Accordingly, the State Department came up with a device to circumvent Congress and yet achieve the assurance needed that the status quo would be maintained while the SALT II negotiations proceeded to conclusion—a conclusion which I hope will in fact result in a realistic, enforceable, and verifiable arms control agreement embodied in a treaty approved by this Senate. This maintenance of the status quo particularly was desired by the United States because, as Mr. Warnke noted, the U.S. defense plans did not call for and would not exceed the interim arms limits but those of the Soviet Union could and would, particularly with respect to SLBM's.

The problem was how to make an agreement with the Soviet Union that would provide a sufficient guarantee of the status quo, yet not make an agreement that would require ratification by the Senate under the treaty-making power of the President or the authorization by affirmative legislation of the Congress under section 33 of the Arms Control and Disarmament Act.

The solution was a device of creative diplomatic and legal sophistication: The parallel unilateral policy declaration, whereby both the Soviet Union and the United States issued an identical statement pledging "not to take any action inconsistent" with the arms limitation provisions of SALT I provided and so long as the other side "exercises similar restraint." In nondiplomatic and nonlegal terms, if the Soviet Union agrees to maintain the status quo and does so, the United States agrees to maintain the status quo and will do so as long as the Russians do.

Such parallel unilateral policy declarations were issued by both the United States and Russia. At the same time as the State Department issued this policy declaration, it also stated that it did not intend to enter into any "agreement" with the Soviet Union.

The New York Times, in an editorial on September 27, 1977, noted that the "purpose of this double-talk was to circumvent a provision of the Arms Control and Disarmament Act that requires congressional assent to any arms limitations." The Wall Street Journal, on September 28, 1977, wryly observed in an editorial entitled "When in Doubt, PUPD," that if President Carter has trouble obtaining Senate ratification of the Panama Canal Treaty, he simply should "send Ellsworth Bunker and Sol Linowitz back to reframe the thing as a parallel unilateral policy declaration."

The Times and the Journal may be somewhat harsh in their judgments; I leave that up to each Senator's individual judgment. But what is clear is that the unilateral action taken by the administration did create a substantial question as to its power to do so unilaterally under the Constitution or without complying with the Arms Control and Disarmament Act.

And even more important for the future of SALT II, the unilateral action taken by the administration was not wise, prudent or warranted. This Senate ratified SALT I. There can be no doubt that this Senate must ratify SALT II, if it is ever to be. Under these circumstances, one must wonder at the course of action taken by the State Department in seeking to avoid Senate or congressional scrutiny as to any interim status of arms limitations between the expiration of SALT I and the possible signing of SALT II. Even if no constitutional or statutory issue were involved: should not the State Department be seeking the cooperation and guidance of Congress instead of expending its energy and talents finding ways to circumvent or ignore Congress?

Although I confess some difficulty in comprehending the State Department's position that Congress had no role in determining this interim status, certainly the State Department understood that the issue was in doubt. And when in doubt, I submit that the Constitution, the Arms Control and Disarmament Act, and the doctrine of separation of powers requires the State Department affirmatively to seek congressional authorization, and not to resort to PUPD.

The action the Senate can now take in passing this concurrent resolution is the action that should have been sought by the administration. It is an action that once again affirms the constitutional foundation of our Government and the separation of powers of the Executive and the legislature. Hopefully, this action also will mark the final interment of the Parallel Unilateral Policy Declaration doctrine, a doctrine that had the potential of constitutional excess even beyond that displayed by past administrations through the misuse of executive agreements in foreign affairs.

I also would like to set forth my views as to why so many of us deem this affirmative congressional action to be desirable.

Positive congressional endorsement would strengthen the President's hand in pursuing our Nation's arms control objectives with the Soviets. This resolution puts Congress clearly on record in support of the present arms ceilings while encouraging the administration to work toward a successful resolution of the SALT II negotiations.

By thus affirming its support for the executive's declaration of intent, Congress also is exercising its responsibility to be an active part of the process, consistent with section 33 of the Arms Control and Disarmament Act, instead of being a passive observer to a fait accompli. Today, Senate Concurrent Resolution 47, as it reflects institutional power sharing, will help build a foundation of confidence and mutual trust, which will be so vital when the Senate examines a SALT II treaty.

I have had the rare privilege of observing our SALT II negotiating team in action. They are engaged in a touch task with skilled and determined adversaries. They are bargaining in a hard but fair fashion for a comprehensive and enforceable treaty. We are fortunate to have that fine team under the able leadership of Paul Warnke. I am confident that the President's firm, fast commitment to effective arms control and arms reduction will be turned into a reality under his leadership and that of Secretary of State Vance. I have differed with the executive branch in this issue of the role of Congress at this particular stage of the SALT process, but I want to stress my hope and my faith that the conduct of the negotiations will be such as to cause me to strongly support the treaty that should be its final product.

By passing this resolution, the Senate will express its desire in the difficult task of arms control.

With congressional cooperation and support in the area of arms control, the administration and Congress can work together more effectively in other foreign policy matters.

Last November, after his election, President Carter told the Senate Foreign Relations Committee: "My inclination is whenever possible to share the knowledge that I have with you and to seek your advice and counsel. I will go a second mile to meet you on this." Given the circumstance, by the passage of this concurrent resolution, the Senate demonstrates that our support goes more than that second mile. We in the Senate expect reciprocation by the administration; the Constitution and the doctrine of separation of powers require it.

Let me say briefly that I believe this is a necessary reaffirmation of the constitutional role of Congress and the doctrine of the separation of powers between the legislative and the executive. The Senator from Hawaii and Senator JACKSON first raised the issue in regard to the necessary involvement of Congress in this situation. I respect them greatly for the leadership provided at that moment. I joined immediately in that effort.

Due to the wisdom of a number of Senators, including particularly Senator CHURCH, Senator CASE, Senator JAVITS, and others, we worked out a resolution which I think fulfills a very important responsibility of the Congress. I cannot understand the action the State Department sought to take in not consulting with Congress and recognizing the appropriate role of Congress in this matter. I trust their efforts to negotiate with the Soviet Union are carried on in a more careful and thoughtful way than their efforts to negotiate with the Senate.

Actually, I believe they are. I participated as a Senate observer in the SALT negotiations during August and I have great respect for what the negotiating team is seeking to accomplish, what they are accomplishing, and I share their goals in that respect.

Mr. CHURCH. I thank the Senator.

Mr. JACKSON. Mr. President, I am pleased to be a sponsor of this resolution. It is, in my judgment, a necessary assertion of the authority of Congress in the sensitive and important area of arms control agreements that profoundly affect our national security.

The action that the administration has taken in declaring that we will act in a manner consistent with the limitations of the 1972 Interim Agreement, provided that the Soviets do likewise, has been represented to the Congress as a nonbinding unilateral declaration. The Soviets have made an identical statement, the only differences being small differences of language arising out of the translation from Russian to English. In my judgment, the two statements, taken together, constitute an agreement. I regard the administration's resort to unilateral statements as a means of effecting an agreement as being contrary to the established statutory and constitutional procedures for concluding such agreements. The authors of this resolution are making plain their insistence that Congress retain the authority to approve agreements that have the effect of limiting the armaments of the United States. And I hope and trust that the Senate will follow the lead of the Foreign Relations Committee which has unanimously approved this resolution.

Mr. President, most, if not all, Senators believe it prudent to continue, on a temporary basis, the limitations of the Interim Agreement. It is difficult to imagine why one would oppose continuing those limitations—since the Soviets are in a position to exceed those limitations and we are not. On this there is no controversy. What has given rise to controversy is the effort by some officials in the administration to evade the revelant statutory and constitutional authority reserved to the Congress of the United States by a thinly disguised contrivance—by the claim, misleading at best, that we have acted "unilaterally" and that, therefore, the views and judgment of Congress are irrelevant. It is to restore the rightful authority of Congress that we are acting to authorize the President to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977.

Mr. President, I trust that we have seen the last of efforts of this nature—that in the future the administration will come to, and not seek to circumvent, Congress when it wishes to conclude an agreement that has the effect of limiting the arms of the United States; that it will not again act in a manner certain to erode the relationship of trust and confidence that is so essential to the development and implementation of a sound foreign policy.

With its vote on this resolution, I believe that the Senate will declare that it will not permit its authority to be circumvented; that it, alone will determine when an agreement has been reached in fact, however its authors may characterize their intent.

Mr. President, I commend the floor leader (Mr. CHURCH) for his leadership in getting the resolution adopted in the Committee on Foreign Relations and the detailed work that he has been involved in putting this together. Senator CRANSTON also deserves credit for his early interest and concern with the need for some appropriate action by Congress to assert its authority in this vital area.

This is a bipartisan effort. It is a bipartisan effort on the part of Senator BYRD and Senator BAKER and Senator CASE, who is the ranking minority member on the Foreign Relations Committee. Without mentioning all the other Senators involved, I want to say that what we have done here is a good example of the way in which we should handle urgent and important matters relating to the national security interests of the United States. I commend my colleagues for their participation in that continuing effort.

I commend my colleagues on both sides of the aisle for undertaking this bipartisan effort to make certain that the Congress of the United States is properly consulted, to assure that Congress asserts its full authority.

Mr. CHURCH. Mr. President, I thank the Senator. I simply want to say to him that, as he knows, it was necessary to negotiate language that would secure a broad measure of support on both sides of the aisle from Members who hold difference opinions with regard to arms control. The Senator's own cooperation in helping to work out language that was generally acceptable, at least, to most Senators, helped to make this possible and I express my appreciation to him for it.

Mr. MOYNIHAN. Mr. President, I ask

unanimous consent that I may be recorded as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I want to make one comment further on the sentiment of the Senator from Washington. I certainly share in thanking the distinguished Senators who have worked to bring this bipartisan agreement about. But I also want to comment upon the observation of my good friend, the distinguished Senator from California, who has observed—I believe I quote him—"I cannot understand the action of the Department of State in this matter."

Mr. President, I should like to suggest that the action of the Department of State is quite understandable. Arms negotiations in the administration are increasingly and explicitly in the hands of persons who, when they have written to define what is the problem with arms control, have said the problem with arms control lies in the attitudes in the U.S. Congress and the American people and the actions of our Nation and not those of the Soviet Union. It is the same attitude which, over this weekend, has had the United States joining in another resolution, unilateral, bi, parallel, as you will, in which the administration has had the astonishing—there is a word for it in New York which I shall not use—has made the astonishing statement that the interests of the Soviet Union and the United States in the Middle East are identical and parallel.

They are not, and we know that. Neither are they in arms control.

I think it is important that Congress, the Senate, in this bipartisan manner, has said, however much we may be looked upon with disdain by those in the Department of State today or by those conducting these negotiations, we are, nonetheless, a part of them and shall continue to be.

Mr. BAKER. Will the Senator yield to me?

Mr. CASE. Mr. President, I am happy to yield to the Senator from Tennessee as much time as he wants.

Mr. BAKER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Let us have order in the Senate. The Senators will refrain from conversation.

Mr. BAKER. Mr. President, I commend the Senator from New York for his statement. I concur with the statement of the distinguished Senator from Washington. I join in the statement of the Senator from New Jersey and the Senator from California in these respects: First, we have made the best of a bad situation. I think that this thing should have been done exactly opposite to the way it was initially. That is, I think the negotiators ought to have come to the Senate and said, "Look, this is what we have in mind," and give us an opportunity to confer with them, to advise with them, and, at least, to share with them our points of view and attitudes.

Secondly, I think that it was difficult for us to proceed to find a bipartisan accord in the face of a unilateral statement by the administration of its intentions before we were aware of them. But I think we have done that and I think this resolution of the issue is the most appropriate to the moment. I fully support it.

I commend the leadership of the Foreign Relations Committee for making it possible, with the forbearance of some others in this Chamber who have strong views on this subject, to have a stronger resolution.

But, Mr. President, I rise primarily for the purpose of saying, if this country is going to have a bipartisan foreign policy, there needs to be consultation in advance on important statements, undertakings, issues, and agreements. I, for one, am willing to try. I have told the President this and I have told other high administration officials this: I am willing to try to have a full-blown, thoroughgoing, bipartisan foreign policy; that does not mean, Mr. President, being advised of the determinations and decisions by the administration after the fact.

That said, Mr. President, I would add only the following observations: the 5-year Interim Agreement with the Soviet Union to limit strategic arms will expire on Monday, October 3. Last week, the administration announced that it was the intention of the United States to continue to abide with the provisions of the Interim Agreement, providing that the Soviet Union exercises similar restraint.

I believe there is no issue of greater national importance than our continuing attempts to limit, consistent with the dictates of our own security, the strategic armaments of the two major powers. Notwithstanding my belief that the President should have consulted with the Congress well in advance, I agree with the policy he has proposed.

In order to insure that the treaty is both meaningful and without jeopardy to essential interests, the administration should be allowed the opportunity to negotiate a meaningful SALT II treaty without the constraints of immediate deadlines or the pressure imposed by the threatened reescalation of the arms race.

The resolution that we have introduced and for which we ask immediate consideration is in recognition of the immense importance of these negotiations, and it expresses our support for the President's declaration of restraint. Moreover, it authorizes the President to take the measures necessary pursuant to that declaration.

Finally, Mr. President, the resolution is a reaffirmation of the vital interest of Congress in these negotiations and the intent of Congress to cooperate closely with the administration in this shared responsibility of critical importance to the future of the Nation. I am confident that the President will understand the importance of consultation and cooperation on this issue, and I urge my colleagues to support the resolution.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CASE. Mr. President, Senator McCLURE has asked for a brief time on this matter.

McCLURE. I thank the Senator for yielding.

Mr. President, in reading the resolution this morning, I see it makes a reference to a declaration of intent of the Secretary of State of September 23, 1977. I think it is essential that that declaration of intent be made part of the record so we know what it is that we are affirming.

Mr. CASE. Mr. President, if the Senator will yield, if it is not already part of the record, I suggest that it be printed in the RECORD.

Mr. CHURCH. I believe it is already a part of the record.

Mr. McCLURE. I thank the Senator. I asked for and did get a copy of that declaration of intent.

Mr. President, I take this time only to state the reservations which I have concerning the negotiations—not only the kind of negotiations that are undertaken, but the personnel who are involved in it. If you will recall, the Senate had prolonged debate over the confirmation of the appointment of Mr. Paul Warnke as our chief negotiator. This Senator, at least, the junior Senator from Idaho, has no more confidence in Mr. Warnke now than he did when he was appointed. I do not want to go into all the arguments that the Senate went into at that time, except to say that the President of the United States gave us assurances at that time that the Joint Chiefs of Staff would be involved in those negotiations at every stage of the proceedings, and that flatly has not been true. Whether it was the President's intention at the time he made that statement or not, I cannot say, but I know it has not been carried out in letter or in spirit since that assurance was given to the Senate.

I shall not go into all the reservations that this Senator has with respect to SALT I, or the interim agreements or proposed SALT II, or the conditions of the weapons systems analyses that have been going into these discussions. But I have severe reservations, and I would not want this resolution to be understood as being an expression of the Senate in a kind of carte blanche manner for all or any negotiations which the President or the Secretary of State might undertake as a result of those negotiations.

I notice that the Secretary of State's statement of intent includes these words: "negotiations being completed on SALT II." We do not know whether those negotiations will be completed or not, and I certainly would not want the Senate to say they must be completed. We hope they will be completed, but we hope they will be completed only if there are satisfactory results.

I would not want the Senate to go on record saying to the President of the United States, "You must complete those negotiations, regardless of what is intended." I do not think they should be read that way. But some might attempt to read them that way.

I am not certain the United States should declare its intention not to take any action inconsistent with provisions of the interim agreement, conditioned only in the very vague proviso contained in the last line of the Secretary of State's

statement of intent, "provided that the Soviet Union exercises similar restraint."

What is similar restraint?

Mr. President, I share with the other Senators who have expressed that feeling that the Congress of the United States is not being consulted as these negotiations go forward in any meaningful way, and they should be involved in these discussions. Otherwise, we will be faced with a fait accompli in exactly the same way the administration now says we must sign the Panama Canal Treaty, because otherwise we are breaking faith, breaking our word.

Whose faith? Whose word? Not the Congress of the United States.

I think it is very important that, as we address this resolution, it be clearly understood on the part of everyone who may read this resolution now or in the future that the Congress of the United States has not in any meaningful way yet been involved in formulating that negotiation or in formulating any such agreement that might later be necessary.

Mr. BIDEN. Will the Senator yield for 2 minutes?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. CASE. How much time do we have on this?

The PRESIDING OFFICER. Eight minutes remain. Eight minutes.

Mr. CASE. Eight minutes. I thank the Chair.

Mr. GOLDWATER. Will the Senator yield 1 minute?

Mr. CASE. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am going to vote against this legislation because I think we have been engaged for too long in trying to work out something in agreements with the Soviets, and we are now beginning to try to work out something with the Soviets from an inferior military position.

I was particularly disturbed by news in this afternoon's paper that we are reaching an accord on the Indian Ocean, which is to me the most vital, strategic area in the world. This means the end of Diego Garcia, and, with matters the way they are with the Philippines, that could mean the end of Subic Bay. It would be disastrous.

Mr. President, I just want the Senate to know I am going to vote against this, if we have a yea and nay vote, and, if we do not, I want the record to know I do not buy it.

Mr. McGOVERN. Will the Senator yield to me?

The PRESIDING OFFICER. The Senator from Idaho has control of the time on this side.

Mr. CASE. I yield to the Senator from Rhode Island.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey still has the floor.

Mr. CASE. I yield 1 minute.

Mr. CHAFEE. Mr. President, I would like to join in cosponsoring this resolution.

I know it is easy to find fault with the administration, but I would like to say from my personal experience that the administration has gone to great efforts to keep this Senator advised on these SALT negotiations.

There have been briefings at the State Department to which I have been invited. They have named a SALT Advisory Committee, which I believe any Senator who really cares can get on and participate. The senior Senator from Maryland went to Geneva and had full participation in the talks there and found them very fruitful.

I look forward to being able to do the same thing, come this December, or whenever we do finish.

I think it is very difficult for negotiations to be conducted by 100 people in the Senate, plus 400-plus in the House. I support this resolution. Obviously, as Senators, we want to do all we can to oversee what the administration is doing, but, nonetheless, I think that we have got to realize that no negotiations can be conducted by 540 people. From my personal experience, every effort has been made to include the Senate in these negotiations.

I thank the Chair.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes remaining.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Senator be given 5 additional minutes so we can ask some questions about this resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, this resolution was ordered reported Friday by the Committee on Foreign Relations. It was not placed on the committee's agenda. It was ordered reported in the absence of a quorum. The committee has not issued a report on it. The committee has no plans to issue a report on it. We are asked to approve a measure subject to a point of order because of the novel procedure in which it has come to the floor without a quorum present in the reporting committee.

As I understand it, this procedure—if it can be called a procedure—has been followed because of perceived urgency in adopting something—anything—before the SALT Interim Agreement expires today. But what is it that this resolution purports to do that requires such shortcuts?

In its resolving clause, there appears the phrase "the President is authorized." One might reasonably conclude from this that the resolution grants the President some authority that he does not now have. Indeed, that language is the language traditionally used in statutes—in bills and joint resolutions—to confer authorization which is legally required and without which the President cannot act.

Yet both the form of the resolution and its subject matter reveal that it cannot—and need not—confer the slightest authority. First, as to form, the resolution is a concurrent resolution. As such it has no force of law. It can give the President no authority that he does not already have. Second, as to subject matter, the resolution relates to a nonbinding declaration of policy by the President—to an action taken pursuant to his own constitutional power. No further authority is required.

Since the President needs no further authority, and since this resolution—because of its form—could bestow none upon him even if he did, what is the purpose of the resolution in saying that the President "is authorized"?

Is it to salve the feelings of those who wish the Constitution were drafted differently, to give the Congress a role it in fact does not?

Is it an act of bluster, to let the President know what he already knows—that the Congress is following arms control matters closely?

What exactly is its purpose?

Whatever its purpose, Mr. President, I suggest that this resolution is basically unsound and indeed possibly mischievous.

For many years I have championed a responsible, assertive role for the Congress in the formulation of foreign policy. When a new SALT agreement is concluded, I will be among the first to insist that it be scrutinized carefully and approved as constitutionally required. But being of that mind, I believe that it is all the more important that the role of the Congress be clearly defined. I have reserved the right to object to this resolution because it would have the effect of muddling what the congressional role is, and how and when it should be played.

I would, I should emphasize, find no objection at all to a resolution endorsing what the President has done. He has done nothing illegal. He is indeed clearly within his constitutional prerogatives—a point argued cogently, I believe, in a memorandum prepared by the Foreign Relations Committee's legal counsel—a memorandum which I ask appear at the end of my remarks. The President has used his constitutional authority to take an action designed to create an additional negotiating period for the conclusion of a SALT II agreement. I support that goal and I believe most of my colleagues do also.

If we are going to have a resolution on this matter, I would hope that we would consider an alternative to this resolution which would make clear that we support what the President is doing, but which does so in such a way as not to confuse the constitutional role of the two branches.

I would like to ask the floor manager, my friend, the distinguished Senator from Idaho, to clarify the meaning of this resolution.

First of all, the resolution is a concurrent resolution. As such, it is my understanding that it has no force of law.

Is that correct?

Mr. CHURCH. The Senator is correct.

As he knows, a concurrent resolution, standing on its own, lacks the force of law. It would require a joint resolution signed by the President to have a binding effect.

Mr. McGOVERN. Would the Senator further agree that the President was acting within his constitutional authority when he took an action designed simply

to create an additional negotiating period for the conclusion of SALT II; that as pointed out to the committee by administration witnesses at an earlier time, this commits us to nothing. There is no obligation; there is no treaty; there is no agreement.

As a matter of fact, the administration does not want SALT I extended beyond today. It wants to make it clear that agreement expired, that it is no longer in effect. It no longer binds anybody; the agreement is dead, and all we have is a statement of intent on the part of the administration that this country will not voluntarily exceed the terms of the agreement known as SALT I, provided the other side does not—but that we are free this noon, tonight, or tomorrow, or any other day, to make another statement of intent changing our position. We are not bound in any way and there is no obligation whatsoever placed on the United States by this statement of intent by the Secretary of State. Does the Senator agree?

Mr. CHURCH. Yes. I am in personal agreement with the Senator. That would be my interpretation of the situation and, indeed, that is my belief with respect to the governing law.

I think it might be well to include in the RECORD at this point the statement of the Secretary of State, dated September 23, 1977, that this resolution has reference to. The statement reads:

> In order to maintain the status quo while SALT II negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures With Respect to the Limitations of Strategic Offensive Arms which expires October 3, 1977 and with the goals of these ongoing negotiations provided that the Soviet Union exercises similar restraint.

I take this to be a unilateral declaration and not an action that has binding or obligatory consequences.

Mr. McGOVERN. That being the case, if it has no binding or obligatory consequences, was the President not acting within his constitutional powers to make such a statement without the necessity of congressional action?

Mr. CHURCH. This question is one on which Senators differ. Some Members of this body take an opposite view A legal question is presented as to whether such Presidential declaration does in fact come under the purview of the Arms Control and Disarmament Act. This resolution avoids that controversy. It can be avoided at this time, given the wording of the resolution, because everyone agrees that the Arms Control and Disarmament Act did contemplate close cooperation and consultation between the executive and legislative branches in matters relating to arms control.

So this resolution is a formal expression of the opinion of Congress, taken in a form which lacks the force of law, but which nevertheless represents a formal declaration of a congressional position regarding the action that the President has taken through his Secretary of State.

I think that, as such, it is satisfactory to nearly all Senators. It does not attempt to manacle the President in any way in connection with his future negotiations, but it reaffirms the intention of Congress to play a close and continuing role in disarmament matters, now and in the future.

Mr. McGOVERN. The Senator will agree, will he not, that if in fact a resolution such as this were necessary under the Arms Control and Disarmament Act—which would mean we would have to interpret the President's statement of intent as obligating us to something—then a concurrent resolution would not satisfy the terms of the Arms Control and Disarmament Act? It seems to me really to be an exercise in symbolism, rather that good legislative procedure.

Mr. CHURCH. I say to the Senator that I agree with him that if we were all to take the position that the unilateral declaration were in fact subject to the Arms Control and Disarmament Act, it would then require a joint resolution, at the very least, because then the President would need to obtain the authorization of Congress.

This concurrent resolution falls short of that. Therefore, it does not constitute a precedent that could adversely affect the President in the future. Yet, at the same time, it formally puts the Congress on record in support of the unilateral declaration made by the Secretary of State.

Mr. McGOVERN. Would not the Senator also agree that if in fact the Senate were to interpret what the Secretary of State said as an obligation, by endorsing it in the Senate we are going considerably further than the administration recommends? We are saying, in effect, that we are——

The PRESIDING OFFICER. All the time of the Senator from Idaho has expired.

Mr. CASE. Mr. President, I do not want to cut off this colloquy. I have a couple of obligations on our side that I need to meet. How much time do we have?

The PRESIDING OFFICER. Four minutes.

Mr. CASE. I do want to reserve 1 minute for Senator JAVITS, so will the Chair notify us when that time comes?

In the meantime, I yield myself such time as I may require to comment on the proposition that has been discussed by the Senator from South Dakota.

This is not necessarily an agreement. Yet, it is something that affects the conduct of foreign policy and binds the President, just as any statement of his own binds any man. It can be construed as an agreement, if you wish.

The point here is, Mr. President, what we are trying to do is to cut through pettifoggery, to get at the spirit of the thing, in the recognition and observance of that very wise statement in the Scriptures: The letter killeth, but the spirit giveth light.

Now let us get on with it. We approved what they are doing, and we do not want it to be a precedent for the future. That is the whole story here, and to try to make anything else of it is really doing harm to a very important and useful exercise.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. CASE. I yield 1 additional minute, for a comment on what I have said, because it is in complete disagreement with Senator McGOVERN.

Mr. McGOVERN. Mr. President, what bothers me is the argument that this is an agreement to which the administration has committed us, that it has somehow obligated the United States to a policy that we cannot follow without congressional approval. I think that elevates it to a higher status—to more than a simple declaration of intent. That is the very thing the administration witnesses urged us not to do: the administration does not want official congressional sanction to what would be interpreted as an agreement to continue the SALT I levels, because they think it would slow down the whole negotiating process.

Also, as the Senator knows, the SALT I agreement is unfavorable to the United States. It puts us at a disadvantage in terms of our relevant military strength with the Soviet Union.

So the administration is anxious to get on with SALT II, which will provide for more equitable levels between the two countries. I do not understand why those who are apprehensive about the security of the United States——

The PRESIDING OFFICER. One minute remains.

Mr. CASE. I am sorry that I have to cut the Senator off. I disagree completely with his position.

I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, this is a situation in which we in Congress believe it is an agreement. The President believes it is not an agreement. Whether it is or is not an agreement depends upon the President's intention. We are construing it as an agreement because, analogous to antitrust laws, if A says he is going to do something depending upon the fact that B is going to do it, too—and we believe the President is depending upon the fact that B will, too—then we consider that an agreement.

On the other hand, the President says, "I am not in any way bound. I can change my view tomorrow and take any action I please and still be fully in accord with my relations and the best of faith with the Soviet Union. Therefore, it is not an agreement."

Therefore, what we are doing is to say, without deciding that question now, that this is the thing to do. We are doing it in the way open to us, which is by action of both houses, without the necessity for Presidential signature.

I consider it a highly practical outcome to a difficult question. It will do the job, and I hope the Senate will approve it resoundingly.

The PRESIDING OFFICER. All time has expired.

Mr. McGOVERN. Mr. President, may I make a unanimous-consent request?

The PRESIDING OFFICER. The Senate will state his unanimous-consent request.

Mr. McGOVERN. Mr. President, I ask

unanimous consent to have printed in the RECORD a memorandum prepared by Mr. Michael J. Glennon, legal counsel of the Committee on Foreign Relations; the testimony of Mr. Paul Warnke before the committee on September 26, also indicating why such a resolution is not necessary; a copy of the alternative language I had suggested earlier which I think would be more in keeping with what we want to do—simply an endorsement of what the President did.

I am not going to make a point of order, although I am convinced one would lie against this agreement. It is clear that the sense of the Senate is to take this symbolic move, so I will withhold the point of order.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Committee on Foreign Relations U.S. Senate, September 23, 1977]

MEMORANDUM

To: Members, Committee on Foreign Relations.

From: Michael J. Glennon, Legal Counsel.

Subject: Does the unilateral declaration of policy outlined in Secretary Vance's September 27, 1977 letter to the Chairman—(1) constitute an international agreement; (2) require Congressional approval; or (3) violate section 33 of the Arms Control and Disarmament Act?

Whether a given arrangement constitutes an international agreement depends upon the intent of the parties, which may be inferred from a number of factors, including the following: whether it is binding on all parties and governed by international law; whether promises are exchanged for each other, as a quid pro quo, through a bargaining process aimed at achieving a meeting of the minds; whether similar, past arrangements have been regarded as agreements; and international custom and practice. If, applying these criteria, an agreement is found to exist, the question becomes whether the agreement is such as to require some form of congressional approval.

It is clear that the proposal outlined in the Secretary's September 21 letter and in thorough discussions with the Committee staff will not constitute an agreement. It is nonbinding, it is not governed by international law, no exchange of promises has been bargained, other such actions have not been so construed, and the parties do not intend for an agreement to exist—indeed, there are no "parties" as such. The staff is assured by Mr. Warnke that no collateral exchanges have occurred with Mr. Gromyko which would alter the legal status of the declaration described in the September 21 letter.

Since no international agreement exists, the question of whether Congressional approval is required is not reached. The only issue remaining is whether the proposed action would violate any law—specifically, the proviso to section 33 of the Arms Control and Disarmament Act. The proviso to section 33 provides that—

"no action shall be taken under this or any other law which will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States."

It is clear that the action proposed to be taken will not violate the proviso to section 33, for two reasons. First, it will not obligate the United States; the action will be a non-binding, unilateral policy declaration. Second, the prohibition contained in the proviso applies only to an "action . . . taken under this or any other law"; the action to be taken will not be taken under the Arms Control and Disarmament Act or any other statute, but under the Constitution. The proviso does not purport to affect the President's constitutional power.

Accordingly, issuance of the non-binding policy declaration and its implementation fall within the clear-cut constitutional prerogatives of the President.

STATEMENT OF HON. PAUL C. WARNKE, DIRECTOR, U.S. ARMS CONTROL AND DISARMAMENT AGENCY BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS

Mr. Chairman, I appreciate the opportunity to appear before the Committee today to discuss the expiration of the SALT ONE Interim Agreement on Offensive Arms. The 1972 Interim Agreement expires on October 3 and it is clear that a SALT TWO Agreement to replace it cannot be concluded by that date. In recent days, there has been much discussion in the press about the Administration's plans with respect to this matter. On September 23, Secretary Vance issued a statement to the effect that, in order to maintain a stable situation while the SALT TWO negotiations are being completed, the United States intends not to take any action inconsistent with the Interim Agreement or the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint. The Soviets have now issued a policy statement along the lines of our statement. It should be noted that U.S. defense plans would not cause us to exceed any of the Interim Agreement limits in the near future, while the Soviets are in a position to do so because of their active ongoing SLBM construction program.

We carefully considered what action should be taken in view of the fact that the October 3 date would pass before the completion of negotiations on a new agreement. In our deliberations, we concluded after consultation with a number of Members of both the Senate and House that an extension of the Interim Agreement would be inappropriate for two reasons.

First, it would have reduced the pressure on the Soviets and on us to pursue a SALT TWO Agreement based on equal aggregates of strategic offensive arms.

Second, it would formally reaffirm acceptance of the disparity in numbers of strategic weapons established in the Interim Agreement.

Mr. Chairman, our policy statement is exactly what it says—a declaration of present intent. It is non-binding and non-obligatory. The Interim Agreement will expire on October 3 and will not be extended. No agreement limiting strategic offensive arms will be in force after next Monday. The U.S. will be free to change the policy announced in its statement of September 23 at any time. Because our non-binding statement is not part of an international agreement and does not impose any obligation on the U.S., we have not requested Congressional approval for it. We will carefully and continually monitor Soviet activities.

If these activities or any other circumstances warrant, we will be free to take whatever actions are appropriate, irrespective of the provisions set forth in the Interim Agreement.

We will of course, continue to consult closely with members of this committee and other members of Congress on the progress of SALT. We hope you will support our efforts in this regard.

RESOLUTION

SECTION 1. The Senate of the United States urges that both the United States and the Union of Soviet Socialist Republics seek to maintain the status quo in strategic arms and forgo arms programs which would upset the strategic balance while serious negotiations to achieve a comprehensive SALT II agreement are pursued.

SECTION 2. The Senate of the United States endorses, as a temporary measure, the intention of the Executive Branch not to take any action inconsistent with the provisions of the Interim Agreement between the United States and the Union of Soviet Socialist Republics on Certain Measures with respect to the Limitation of Strategic Offensive Arms which expires October 3, 1977, or with the goals of these ongoing negotiations, provided that the Union of Soviet Socialist Republics exercises similar restraint.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CLARK. Mr. President, I did not oppose this resolution in committee because it is, I believe, recognition that the President is on solid constitutional ground in issuing the declaration of policy that the United States will take no action inconsistent with the interim agreement.

That the resolution does this is indisputable. It is a concurrent resolution. It therefore does not have the force of law. To authorize any Presidential activity requiring congressional consent, statutory authority is necessary—that is, either a bill or joint resolution. Since this is neither a bill nor a joint resolution, no law will have been enacted and no authority can be inferred from it.

That being the case, and given the resolution's endorsement of the President's action, authority must already exist, and that authority is the Constitution.

This resolution is therefore legally unnecessary. By its form—a concurrent resolution—it admits that. I support it because it endorses the President's action and recognizes his constitutional authority to take it.

Mr. President, I ask unanimous consent that there be entered in the RECORD at this point copies of the opinions of the Legal Adviser of the Department of State and the Legal Counsel of the Senate Foreign Relations Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LEGAL ADVISER,
DEPARTMENT OF STATE,
Washington, September 28, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for my opinion relating to the statement released by Secretary Vance on September 23. That statement declared the intention of the United States not to take any action inconsistent with the provisions of the SALT I Interim Agreement of 1972 and with the goals of the SALT II negotiations provided that the Soviet Union exercises similar restraint. Shortly after the release of that statement, the Soviet Union made a similar statement.

The principal question raised with regard to the statement is whether it requires authorization by treaty or legislation under section 33 of the Arms Control and Disarmament Act (the "Act"). That inquiry, in turn, raises the further question whether the statement legally obligates the United States.

Section 33 of the Act prohibits any action "under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or arma-

ments of the United States . . ." except pursuant to treaty or legislation. The language and legislative history of the Act make clear that Section 33 is confined to obligatory arms control arrangements effected by binding international agreement[1] entered into pursuant to the Act or other law. It does not purport to limit the constitutional power of the President to take non-obligatory measures in connection with conduct of international negotiations.

The United States statement of September 23 does not, alone or in conjunction with the Soviet statement, impose an obligation on the United States. The United States has declared that its statement is "non-binding and non-obligatory."[2] Neither country has committed itself in its statement. Each has only stated a present intention to refrain from certain action provided that the other refrains from similar action. Each is free to reverse its intention at will; the negotiations which the policy of restraint is intended to facilitate could continue even if the declared policies were abandoned.

These circumstances thus lack essential elements of an obligation or a binding agreement: there is no intent by either party to be bound;[3] each may at any time cease to do what it has said it presently intends to do; and there would be no legal consequences if either changed its stated policy.

Accordingly, I am of the opinion that the September 23 statement does not legally obligate the United States, by binding international agreement or otherwise, and does not require authorization under section 33 of the Act.

Sincerely yours,

HERBERT J. HANSELL.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 23, 1977.

To: Members, Committee on Foreign Relations.

From: Michael J. Glennon, Legal Counsel.

Subject: Does the unilateral declaration of policy outlined in Secretary Vance's September 21, 1977 letter to the Chairman—(1) constitute an international agreement; (2) require Congressional approval; (3) violate section 33 of the Arms Control and Disarmament Act?

Whether a given arrangement constitutes an international agreement depends upon the intent of the parties, which may be inferred from a number of factors, including the following: whether it is binding on all parties and governed by international law; whether promises are exchanged for each other, as a quid pro quo, through a bargaining process aimed at achieving a meeting of the minds; whether similar, past arrangements have been regarded as agreements; and international custom and practice. If, applying these criteria, an agreement is found to exist, the question becomes whether the agreement is such as to require some form of congressional approval.

It is clear that the proposal outlined in the Secretary's September 21 letter and in thorough discussions with the Committee staff will not constitute an agreement. It is nonbinding, it is not governed by international law, no exchange of promises has been bargained, other such actions have not been so construed, and the parties do not intend for an agreement to exist—indeed, there are no "parties" as such. The staff is assured by Mr. Warnke that no collateral exchanges have occurred with Mr. Gromyko which would alter the legal status of the declaration described in the September 21 letter.

Since no international agreement exists, the question of whether Congressional approval is required is not reached. The only issue remaining is whether the proposed action would violate any law—specifically, the proviso to section 33 of the Arms Control and Disarmament Act. The proviso to section 33 provides that—no action shall be taken under this or any other law which will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

It is clear that the action proposed to be taken will not violate the proviso to section 33, for two reasons. First, it will not obligate the United States; the action will be a non-binding, unilateral policy declaration. Second, the prohibition contained in the proviso applies only to an "action . . . taken under this or any other law"; the action to be taken will not be taken under the Arms Control and Disarmament Act or any other statute, but under the Constitution. The proviso does not purport to affect the President's constitutional power.

Accordingly, issuance of the non-binding policy declaration and its implementation fall within the clear-cut constitutional prerogatives of the President.

LEGAL QUESTIONS

1. Please describe fully all discussions with the Soviets regarding the proposed unilateral policy declaration.

2. Did the United States at any time agree to make that declaration in return for a similar declaration by the Soviet Union?

3. Is there any quid pro quo?

4. Is the declaration binding?

5. Would the Soviets regard it as "sharp practice" on the part of the United States if we were to rescind that declaration next month?

6. Why do you believe that this proposal does not constitute an international agreement?

7. Why do you believe that the proviso to section 33 of the Arms Control and Disarmament Act is not violated? The proviso to section 33 provides that—no action shall be taken under this or any other law which will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

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[1] Language in the House bill (H.R. 7986) which would have included "measures" other than international agreements within the Act's definition of "disarmament" was deleted prior to enactment.

[2] Mr. Warnke so testified to the Committee on Foreign Relations on September 26.

[3] The International Court of Justice has ruled that in some circumstances a state may be legally bound by a unilateral statement. (Nuclear Test Cases, Australia v. France, and New Zealand v. France, Judgment of 29 Dec. 1974, I.C.J. Reports 1974, pp. 253, and 457.) However, that decision turned on the intent of the declaring state to be bound and the likelihood of reliance by other states on the binding character of the declaration. Its rationale is not applicable in the present circumstances in which the United States has publicly made clear that it does not intend its statement to be binding.

Mr. GLENN. Mr. President, arms control is simply one step toward reaching long-term political understanding and stability. Therefore, arms control measures like SALT that result in meaningful exchanges, in better understandings of each side's perceptions, in mutual education regarding doctrinal differences, are valuable. Both sides obviously possess massive overkill capabilities. Hence, reductions in strategic offensive arms that are adequately verifiable have much to offer ourselves, the Soviets, and, ultimately, our world.

The SALT process is not a panacea. But, it is, for the moment, our best hope in enhancing mutual security. Vladivostok-type agreements which require both sides to build to absurdly high levels are not desirable measures. Rather, SALT agreements that limit or reduce weaponry and insure verification is possible, are the first steps toward stability and understanding. Indeed, these steps are a necessity if we are to have peace.

Verification is, in my opinion, the key to arms control developments. Any agreement is likely to succeed in direct proportion to its verification prospects. There is enough mistrust on both sides that there can never be the political understanding referred to above without greater confidence. Adequately verified arms control agreements are a significant means of enhancing mutual confidence.

A question publicly unanswered by officials is what would happen to the SALT II Treaty and protocol if the SALT III Treaty, which presumably would be intended to contain restrictions on the counterforce capabilities of both sides, could not be completed before the temporary protocol runs out. If negotiations are then proceeding in good faith, it could be expected that the protocol restrictions on counterforce would be extended as necessary. If, in a worst case scenario, negotiations for a SALT III Treaty failed, serious issues of national security would arise. Thus, if and when a three-part set of SALT agreements is submitted to Congress for approval, it might be wise to explore the implications of possible failure in completing a SALT III Treaty based on the principles of the third agreement in the Geneva framework.

Unilateral statements and deliberately vague language are not desirable in SALT treaties. The ambiguous and unilateral U.S. definition of "heavy missiles" in SALT I and later congressional testimony stands in stark contrast to Soviet replacement of the SS-11 by the SS-19 with three times the throw-weight and nearly double the volume of the earlier "light" missile. Hence, clarity of thought and language are essential. It is encouraging therefore to observe the careful preparation and drafting involved in the joint draft text. This process will hopefully minimize later charges of noncompliance.

Our basic objective must be to retain secure deterrent forces by both sides. The strategic balance then will be stable since there is little incentive to preempt or deliver a nuclear first strike. Moreover, the eventual shifting of strategic weaponry to the less vulnerable sea-based missile system with less throw-weight, relatively less accuracy, and an emphasis on countervalue rather than counterforce targets, would further enhance stability.

The critical unresolved question facing the United States is the extent to which Soviet planners adhere to American concepts of strategic stability. The

question remains unanswered as to whether, in Soviet strategic thought and planning, stability or parity in strategic weapons represent goals in themselves or instead provide but a stage, or milestone, on the road between strategic inferiority and superiority—however these terms are defined. Does the Soviet Union seek merely a war-deterring capability or a war-fighting capability? It is this question which demands the discussion of strategic doctrine in future SALT negotiations.

The maintenance of a belief by both sides that a military balance exists is crucial. In such a situation the case of military coercion can never appear as a rational choice and this is an essential condition for effective arms control. Hence, realistic arms control goals will center on verifiable agreements that freeze—and later hopefully reduce—the levels of strategic arms and solidify mutual deterrence. Mutual confidence is critical and a record of compliance by both sides is necessary for future SALT accords.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

UP AMENDMENT NO. 860

Mr. ALLEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 860:

At the end of the Resolution add the following—

"Be it further resolved that the Secretary of State shall at least once every six months during negotiations for a SALT II Agreement report to the Congress on the exact status of negotiations for such SALT II Agreement."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may have 2 minutes to speak.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, I do not favor this resolution. The SALT I agreement that the Senate approved had the Jackson amendment in it, that in the next agreement we had, we would move in the direction of equality, parity.

I have been of the opinion all along that it is going to be very difficult, indeed, to work out a SALT II agreement with the Russians because they were satisfied with SALT I. As I see it, it had built in about a 3-to-2 advantage for the Russians in offensive nuclear weapons.

This agreement here would just prolong the negotiation. It would encourage the Russians to fail to reach an agreement, so that they could preserve SALT I, and we would not be moving in the direction of a parity with the Russians.

I think this resolution, coming here as a surprise to most of us, should not be considered at this time so precipitately. I feel it ought to go back to the Foreign Relations Committee to have further baking. I feel that is necessary, and I would like to feel, I think, that possibly some better agreement could be worked out.

I am not satisfied with this. The sponsors of the resolution have accepted this amendment that I offered to require reports every 6 months, and I do not know how many other amendments might be advisable.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ALLEN. Mr. President, I move that the resolution be recommitted to the Committee on Foreign Relations, and I call for the yeas and nays.

Mr. CRANSTON. Mr. President, would the Senator from Alabama be willing to go by voice vote? We are trying to get on to the other matter.

Mr. ALLEN. No. I would rather have a yea and nay vote. I can understand why the Senator would like to have a voice vote.

The PRESIDING OFFICER. The Chair is conducting research on the parliamentary situation.

The unanimous-consent agreement provided for the disposition of the resolution at the end of the time.

Mr. ALLEN. This would be a disposition.

The PRESIDING OFFICER. It would not be a disposition.

Mr. ALLEN. It does not hold with a vote up or down.

The PRESIDING OFFICER. It requires some final action.

Mr. ALLEN. That might well be final action. [Laughter.]

The PRESIDING OFFICER. Not necessarily.

Mr. CRANSTON. Mr. President, I move to table the motion to recommit.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The request of the Senator from Alabama is ruled out of order.

The question is on agreeing to the resolution.

Mr. HELMS. Mr. President, in a moment I shall move to table the pending resolution, not in the expectation that it will indeed be tabled but for the purpose of affording some of us a few minutes to determine whether the resolution can be modified to protect the interests of the American people.

In my judgment, the resolution as it now stands does not do that. I do not question the good intention of those who have brought this resolution before the Senate in such a, shall we say, rapid set of circumstances, with, I dare say, very few Senators even knowing it would be acted upon today, let alone understanding the implications of the language of the resolution.

Perhaps an amendment or amendments can be drafted during a rollcall on the tabling motion I shall shortly make—an amendment that will correct some obvious defects in the resolution. We shall see about that.

Let me say, Mr. President, that I share the concerns expressed by the distinguished Senator from Arizona (Mr. GOLDWATER) who probably spoke the sentiments of a great many of us. In any case, there appears to be broad agreement that the President must realize that he must not continue to make binding declarations on SALT without consulting the Senate. That has happened too often already, to the detriment of our Nation.

Any attempt by the executive branch to circumvent the clear constitutional mandate that all treaties should be ratified by a two-thirds vote of the Senate should be exposed for what it is—and stopped immediately, no matter who is in the White House.

Who can say that such is not exactly just what the executive is doing with its unilateral declarations on SALT—unilateral declarations which the Soviets also have made? Are these mutual declarations truly "unilateral?" Or do we have little more than a subtle attempt to make an agreement in fact—disguised as "unilateral" declarations—which should be ratified by the Senate as a treaty?

For too long, the Executive has been able to make what amount to binding agreements by the vehicle of so-called "Executive agreements." Are we now to add what the Wall Street Journal in a recent editorial labeled the "parallel unilateral policy declaration" to this list? Of what value is the constitutional restriction, indeed, mandate, of the advise and consent role of the Senate on foreign policy and treaty-related matters?

It is time for the Senate to deal forthrightly with SALT and the entire arms control issue. Had we done so several months ago, we would not now be in the position of trying to demonstrate to the President that the Senate insists upon its own role in the SALT process, and not merely ratifying a fait accompli.

Rather than approve this resolution ratifying ex post facto what the President has done, why not refuse to give our approval to the President's actions until the Senate, the Congress and the American people have had an opportunity to give careful consideration to what our strategic arms limitation policy should be?

There is little if anything in this resolution which faces the issues involved in SALT squarely. There is no stated disapproval by the Senate of unilateral declarations on the part of the Executive. There is no stated Senate disapproval of what the Executive has done—and done without consultation with the Senate as far as I am able to ascertain.

No. Instead, we have a ratification of the President's actions. I cannot see that a ratification of what the President has done—after he has done it—gives the Senate any leverage over the Executive. I cannot see that such a ratification is even desirable.

The time has come, the time is now, for the appropriate committees and subcommittees of the Senate to begin a thorough look into this Nation's strategic posture. Where are we going in SALT? Where do we stand vis-a-vis the Soviets? What should our overall policy be?

This is all the more important in light

of what the executive branch has been doing.

Many of us have seen the reports about the administration's study of future U.S. strategic policy options, the so-called PRM-10 report. While most Senators have seen press reports about PRM-10, how many Senators have seen PRM-10? Or even a summary of PRM-10? How many Senators even know who the main author of this study is?

Mr. President, if press reports about PRM-10's contents are true, then the administration's formulation of future strategic policy options are indeed disturbing—not only to Americans, but also to America's allies. Two recent Evans-Novak columns have brought frantic inquiries from our German and Korean allies. How many of us in the Congress envision a U.S. policy which allows the Soviets to take over as much as one-third of Germany, for example? Well, according to Evans-Novak, the administration contemplates just that.

Is it not time to bring to the light of day such proposals, so that they can be debated in the Senate and defended by their proposers in the administration?

Furthermore, Mr. President, another Evans-Novak column purports to discuss a memorandum authored, it is claimed, by Leslie Gelb, a high-ranking State Department official. What Evans-Novak referred to in their column now seems to be the administration's SALT policy.

Should not the appropriate committees and subcommittees—indeed, all Senators—be able to study this memorandum and discuss its contents with its author? And with Mr. Warnke, our SALT negotiator?

Mr. President, it is late in the day for resolutions attempting to get a grasp on the fast-moving events surrounding the SALT negotiations.

The Constitution requires that the Senate advise in matters such as the SALT negotiations. Unfortunately, this resolution, no matter how well-meaning, only requires that we consent.

If we want to send the administration a message, if we want the President's advisors and negotiators on SALT to take us into their confidence and earnestly seek our counsel, then I say we should reject this resolution. Let us have a constructive confrontation with the Executive over SALT and our Nation's future strategy vis-a-vis the Soviets.

The people of the United States would be the direct beneficiaries of such a confrontation. The security of all Americans demands no less.

Mr. President, I ask unanimous consent that the editorial, "When in doubt, PUPD," from the September 28, 1977, Wall Street Journal; and the Evans-Novak articles entitled "Conceding Defeat in Europe, The U.S. Commitment to Defend Europe (Amended), and SALT: Creating an "Appearance of Progress," be included in the Record at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed, as follows:

[From The Wall Street Journal, Sept. 28, 1977]

WHEN IN DOUBT, PUPD

In its conduct of the Strategic Arms Talks, the Carter administration has come up with a diplomatic innovation, the Parallel Unilateral Policy Declaration (PUPD). Indeed, it could solve all of its Panama Canal Treaty problems by turning arms negotiator Paul Warnke loose on that one.

The interim agreement on offensive arms concluded at SALT I expires Monday. A new agreement has not yet been reached, and there has been interest on both sides in extending the terms of the expiring one. Indeed, we understand that the Russians were willing to sign an actual agreement extending it.

The U.S. negotiators demurred, since if they signed an agreement with the Russians it would have to go to the Senate for approval as a treaty. Instead, they negotiated some language with the Russians, and each side issued an identical PUPD, pledging to abide by the terms so long as the other did. When asked if Congress should approve the agreement he has just negotiated, Mr. Warnke in effect replies, "what agreement? Never heard of it." Senators who have spent the last five years frothing at the mouth about the prerogatives of Congress think this is just dandy.

As it happens, we have had some experience with "unilateral" statements during the Strategic Arms Talks. Back when SALT I was signed we made a unilateral statement defining the "heavy missile" in the agreement. During the life of the treaty the Soviets have walked all over our unilateral statements, deploying much larger missiles, and we have not lifted an official finger to complain.

If Mr. Carter gets away with this one, his problems with the Panama Canal Treaty are over. After all, he and the Panamanian government agree; the only problem is the U.S. Senate. All he has to do is to send Ellsworth Bunker and Sol Linowitz back to reframe the thing as a parallel unilateral policy declaration.

[From the Washington Post, Aug. 3, 1977]

CONCEDING DEFEAT IN EUROPE

(By Rowland Evans and Robert Novak)

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense pending, which these advisers say would provoke Moscow and divide Washington.

PRM-10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admitting its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's national security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28–29 meetings of the Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 per cent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences"—world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to pay if the Germans learned what was happening.

All this follows the script of the June 20 draft of PRM-10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Wesser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM-10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.-NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmanent or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reactions by Western Europe "could be significantly softened . . . if the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

PRM-10 also proposes these political steps, accompanying defense reduction, that could help forestall a Russian attack: "the U.S. might pursue arms control initiatives more vigorously to obtain reductions in threat and opposing force levels, thereby minimizing the risk of unilateral U.S. reductions. With respect to the Soviet Union, the U.S. might undertake a broad program of economic assistance to the U.S.S.R. on trade, credits, food, and technology, thereby lowering political tension and reducing the risks of war."

The four options calling for increases in defense spending says PRM-10, would be intended to roll back a Soviet invasion but "may provoke adverse Soviet and allied reacton." This "might provoke a similar Soviet counter-build-up or even a preemptive attack," and therefore "might actually undermine deterrence."

Arms control negotiations would be disturbed by "strategies requiring a visible and rapid increase in the size of U.S. and allied forces, particularly in Europe . . . Soviet suspicion of U.S. motives would make it more difficult to conclude meaningful arms control agreements, either SALT (Strategic Arms Limitation Talks) or MBFR (Mutual Balanced Force Reductions)."

PRM-10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble; in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicity accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "political environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

THE U.S. COMMITMENT TO DEFEND EUROPE (AMENDED)

(By Roland Evans and Robert Novak)

A draft presidential directive on defense strategy was amended last week by adding six words that seemingly reassert the U.S. commitment to defend central Europe but actually raise contradictions that can only be resolved by Jimmy Carter himself.

The original draft prepared last month contained this ambiguous policy for meeting a Soviet attack against West Germany: "Consonant with present NATO strategy, including forward defense, the U.S. is committed to minimum loss of territory in the event of a Warsaw Pact conventional attack."

A revised version drafted last week was strengthened to read that "the U.S. is committed to having the capability, in conjunction with the allies, to stop a Warsaw Pact attack, with minimum loss of territory, and ultimately to restore prewar boundaries." Most important are those last six words—"and ultimately to restore prewar boundaries"—which mean that any Soviet invasion would be rolled back to the Communist bloc's present borders.

According to some defense sources, those six words were slipped into the directive after our recent column reported a U.S. strategy conceding the loss of one-third of West Germany to a Soviet invasion. Whatever the timing, the revision raises two serious questions.

Question No. 1: PRM-10, the voluminous national-strategy paper upon which the six-page presidential directive is based, says a Soviet attack in central Europe can be rolled back to "pre-war boundaries" only if defense spending is increased beyond a level acceptable to the U.S. public. As we reported earlier, National Security Adviser Zbigniew Brzezinski echoed that view before the Security Coordinating Council (SCC), which made no dissent. So, how will the pledge in the presidential directive be made good?

Question No. 2: Both PRM-10 and Brzezinski (at the SCC meeting) suggest covering military weakness with strong rhetoric. So, were the six reassuring words added merely in pursuance of this dubious tactic?

What is involved here is not merely scholarly consideration of future options but an official appraisal of present reality. PRM-10 says: "The study concludes that the chance of NATO's stopping an attack with minimal loss of territory and then achieving its full objective of recovering that land which had been lost appears remote at the present time."

The four alternative strategies indicated by PRM-0 as the ones most acceptable to the American public would continue this situation. In addition, PRM-10 says the strategies "provide only a moderate conventional capability to confront the Soviets worldwide in the event a major war erupts" and indicates the existing capability to do this is "uncertain." That undermines The New York Times report, attributed to "a senior White House official," that U.S. attacks on Soviet "assets" outside Europe would force Moscow to surrender Germany territory gained in an invasion.

To compensate for this weakness, both PRM-10 and Brzezinski propose public reaffirmation of present NATO strategy while privately admitting inadequate means to pursue it. PRM-10 urges that the U.S. "publicly support MC-14/3 (official NATO strategy), particularly with reference to forward defense and restoration of the status quo ante." Hence, the latest draft of the presidential directive is less than convincing when it declares "the U.S. reffirms U.S. strategy as expressed in MC-14/3."

The alternative to such deception is described by PRM-10 as a minimum of 33 Army divisions (compared to the present 16) in the U.S. force structure. Even a 27-division structure, says the document, could not recapture the one-third of West Germany lost to Soviet invasion.

This grossly misstates the problem, in the view of most military experts—such as retired Gen. James Hollingsworth. In his 1976 study for the Senate, Hollingsworth put less stress on additional manpower than on additional firepower. Nowhere in the hundreds of pages of PRM-10 is it even suggested that standardized, more powerful rockets and guns might defend central Europe without massive increases in defense spending.

PRM-10, the product of newly appointed civilians at the Pentagon, is regarded by uniformed officers not so much as ideologically impure as professionally shoddy. Secretary of Defense Harold Brown has been chary about giving it his full endorsement and has privately criticized aspects of it. Yet nobody has repudiated it as a source of vast potential mischief, and the fact remains that Brzezinski has embraced its NATO strategy.

One additional contradiction: Whereas the draft presidential directive reaffirms President Carter's promise to NATO of a three percent annual increase in real U.S. defense spending, the Office of Management and Budget has put a one per cent increase ceiling on next year's defense budget. The gap between what this administration says and what it does on defense questions is widening.

[From the Washington Post, Sept. 14, 1977]

(By Rowland Evans and Robert Novak)

SALT: CREATING AN APPEARANCE OF PROGRESS

A top Carter policymaker has devised an arms-control strategy that offers escalating concessions to give the appearance of progress in SALT in order to avert congressional interference.

The secret "SALT strategy paper" drafted by Leslie H. Gelb, director of the State Department's politico-military affairs office, affords a rare peek into unguarded thinking at upper reaches of the Carter administration. Gelb's 15-page memorandum, dated July 26, boils down to these two imperatives: First, agreement with the Soviet Union in the strategic arms limitation talks (SALT) transcends mere military considerations; second, restrictions imposed by Congress must be avoided, whatever the cost.

Specifically, the Gelb strategy would extend the present SALT I treaty, due to expire Oct. 3, "through informal means" rather than "formal extension, with the prospect of critical [congressional] hearings and restrictive amendments." Such an administration effort has long been known. But Gelb makes specific how to pull it off: Show some progress on current SALT II negotiations. The Gelb strategy implies such progress is possible only by severely limiting U.S. cruise-missile deployment.

This proposal generated astonishment and distress within the Carter administration when Gelb's paper was circulated six weeks ago. Nevertheless, the strategy being hammered out at high-level meetings last week was a first cousin of Gelb's (though the Defense Department is demanding major changes.) Moreover, friendly congressmen are being privately consulted this week about "informal" extension of SALT I.

The "interim accord" curbing intercontinental missiles was signed in Moscow in 1972 as SALT I. If a new SALT II treaty placing overall limits on strategic weapons is not agreed to before Oct. 3, SALT I will expire. This has generated a mood of deep alarm, as is reflected by Gelb's strategy paper.

"No progress on SALT by October risks further straining overall East-West relations and, in turn, inhibiting cooperation on other bilateral issues," Gelb wrote. "Notwithstanding efforts to downplay in significance, no progress would magnify the negative international and domestic repercussions of a failure to meet the Oct. 3 deadline."

But Gelb, the former New York Times correspondent who is now a mastermind of President Carter's diplomacy, asserts that even with "some progress by October, it is doubtful that a SALT II agreement could be reached sooner than early 1978." What's more, Gelb makes this unusual admission: "The U.S.S.R. has not accepted the major elements of the U.S. proposal and has not even responded to some."

Therefore, Gelb's solution, reflecting the administration's concern about second-guessing from Capitol Hill: "We should plan to extend the interim agreement [SALT I], preferably through parallel, non-binding declarations, avoiding formal extension that would legally require congressional approval."

But Gelb recognizes that extending SALT I would be dangerous if there were no significant progress in SALT II. "Informal extension would almost certainly be attacked for failure to obtain congressional approval, while formal extension would provide opponents a platform for criticism of the SALT process itself and the conduct of U.S.-Soviet relations. Most worrisome is the prospect that formal approval of an extension might be tied to congressional criteria for an eventual SALT II treaty."

Thus, on top of major retreats made so far, the Gelb paper suggests still more concessions in hopes of giving the impression of progress:

"We would almost certainly have to back down on counting heavy-bomber variants"—the Soviet Bison and Bear bombers—as part of the overall strategic total. "To induce the Soviets to a lower MIRV [multiple independently targeted reentry vehicles] we could agree not to count the 120 disputed silos at Derzhayna and Pervomaysk against the [MIRV] ceiling."

The more startling concessions come on the cruise missiles, the amazingly accurate drone aircraft that has become a replacement for the junked B-1 bomber. The Gelb strategy would stitch into a new SALT II treaty (lasting eight full years) a 2,500-kilometer limit on air-launched cruise missiles. It would also restrict them to as few as 10 missiles per B-52 bomber and 30 per wide-bodied aircraft.

Beyond this, Gelb calls for "an added element of compromise." He suggests a 600-kilometer ceiling on cruise missiles launched from non-heavy bombers as part of the eight-year treaty—not simply as part of the three-year protocol previously offered. Another compromise might be the statistical inclusion of each wide-bodied plane carrying cruise missiles as one MIRV and each B-52 armed with cruise missiles as three MIRVs.

The Pentagon has protested that the cruise missile is vital now that the B-1 is dead, but there is pessimism about overriding the Gelb strategy. The ultimate decision is up to Jimmy Carter, who may soon clarify what he really thinks about these complicated questions of life or death.

Mr. HELMS. Now, Mr. President, I move to table the resolution and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 19, nays 77, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—19

Abourezk	Griffin	Schweiker
Allen	Hansen	Scott
Bartlett	Hatch	Thurmond
Curtis	Helms	Wallop
Dole	Lugar	Zorinsky
Domenici	McClure	
Garn	McGovern	

NAYS—77

Anderson	Glenn	Moynihan
Baker	Goldwater	Muskie
Bayh	Gravel	Nelson
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Hayakawa	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Inouye	Riegle
Case	Jackson	Roth
Chafee	Javits	Sarbanes
Chiles	Johnston	Sasser
Church	Kennedy	Schmitt
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Danforth	Magnuson	Stevens
DeConcini	Mathias	Stevenson
Durkin	Matsunaga	Stone
Eagleton	McIntyre	Talmadge
Eastland	Melcher	Tower
Ford	Metzenbaum	Williams
	Morgan	Young

NOT VOTING—4

Humphrey	Metcalf	Weicker
McClellan		

So the motion to lay on the table the resolution was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I move the adoption of the resolution.

UP AMENDMENT NO. 861

Mr. McCLURE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 861: At the end of the resolution add the following—

Mr. McCLURE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats and refrain from conversation.

The clerk will state the amendment.

The second assistant legislative clerk continued the reading of the amendment as follows:

Provided, however, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement, or deployment heretofore or hereafter authorized or provided for by the Congress of the United States.

Mr. McCLURE. Mr. President——

The PRESIDING OFFICER. No debate on the amendment is in order.

Mr. McCLURE. Mr. President, I ask unanimous consent that we might have a period of 20 minutes, to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Mr. President, reserving the right to object, I regret having to object on such an important matter, but the Senate has been tied up with all sorts of——

Several Senators addressed the Chair.

Mr. STENNIS. The Senate is not in order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. The Senator from California.

Mr. CRANSTON. Reserving the right to object, I am reluctant to object, but I must do so, because the Senate has been tied up for an endless period of time on another bill. We have to get to that bill. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCLURE. Mr. President, I ask unanimous consent, then, that the clerk be permitted to read the amendment while it is quiet enough to hear it read.

The PRESIDING OFFICER. The amendment has been read.

Mr. McCLURE. I ask unanimous consent that it be read again.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The second assistant legislative clerk read as follows:

Provided, however, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement or deployment heretofore or hereafter authorized or provided for by the Congress of the United States.

Mr. McCLURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHURCH. Mr. President, if the resolution is adopted, it cannot possibly be subject to any such interpretation. Therefore, the amendment is surplus and unnecessary, and I move it be laid on the table.

Mr. McCLURE. Mr. President, a point of order.

Mr. CHURCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Idaho (Mr. MCCLURE). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN, and the Senator from Montana (Mr. METCALF), are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "yea."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER), is necessarily absent.

The result was announced—yeas 62, nays 34, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—62

Anderson	Glenn	McIntyre
Bayh	Gravel	Melcher
Bentsen	Hart	Metzenbaum
Biden	Haskell	Moynihan
Brooke	Hatfield	Muskie
Bumpers	Hathaway	Nelson
Burdick	Hayakawa	Nunn
Byrd, Robert C.	Hollings	Pearson
Cannon	Huddleston	Pell
Case	Inouye	Proxmire
Chafee	Jackson	Randolph
Chiles	Javits	Ribicoff
Church	Johnston	Riegle
Clark	Kennedy	Sarbanes
Cranston	Laxalt	Sasser
Culver	Leahy	Sparkman
DeConcini	Long	Stennis
Durkin	Magnuson	Stevenson
Eagleton	Mathias	Stone
Eastland	Matsunaga	Williams
Ford	McGovern	

NAYS—34

Abourezk	Goldwater	Schmitt
Allen	Griffin	Schweiker
Baker	Hansen	Scott
Bartlett	Hatch	Stafford
Bellmon	Heinz	Stevens
Byrd, Harry F., Jr.	Helms	Talmadge
Curtis	Lugar	Thurmond
Danforth	McClure	Tower
Dole	Morgan	Wallop
Domenici	Packwood	Young
Garn	Percy	Zorinsky
	Roth	

NOT VOTING—4

Humphrey	Metcalf	Weicker
McClellan		

So the motion to lay on the table Mr. McCLURE's UP Amendment No. 861 was agreed to.

Mr. McCLURE. Mr. President, I make a point of order against the resolution on the ground that a quorum of the committee was not present at the time it was reported to the floor.

The PRESIDING OFFICER. The Chair asks the chairman of the committee whether a quorum was present when the resolution was ordered reported.

Mr. CHURCH. Mr. President, the Senate committee has met twice, once at the time when the measure was first reported out. At that time, the question of a quorum was not raised and the committee acted upon the usual assumption that a quorum was present, after which, other members of the committee were polled. The committee then met a second time, this morning, a few minutes ago, on the floor of the Senate——

Mr. DOMENICI. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHURCH. The committee, meeting a few minutes ago on the floor of the Senate, at which time a quorum was present, reconfirmed its action in reporting out the resolution. So the committee has voted twice—once upon the assumption that a quorum was present, with the remaining Senators polled, and a second time on the floor of the Senate, reconfirming the previous action, when a quorum was ascertained to be present.

The PRESIDING OFFICER. If a physical quorum was not present when the resolution was originally reported, then the resolution never left the committee and is still in the custody of the committee. The point of order is well taken.

Mr. CHURCH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho will state the parliamentary inquiry.

Mr. CHURCH. Inasmuch as the Committee on Foreign Relations has since met and a quorum was ascertained to be present, the committee then voted in favor of the resolution, and that vote was taken with a full quorum present, is the resolution now before the Senate?

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. CHURCH. I yield to the distinguishd chairman.

Mr. SPARKMAN. Were we not advised that such a resolution would lie over for 1 day? Were we not advised that such a resolution agreed to would have to lie over 1 day?

Mr. CHURCH. Subject to the unanimous consent of the Senate to permit us to proceed. Every step has been taken to correct any possible lack of a quorum, the committee having met for a second time with a quorum present and again having recommended the resolution favorably to the Senate. I hope that the Senate may be permitted to vote on this resolution and not have the matter lie over still another day on a pure technicality.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Did the committee have permission to meet while the Senate was in session?

The PRESIDING OFFICER. The committee did not need permission to meet, since the first 2 hours had not, at that time, expired.

Mr. DOMENICI. Mr. President, I say to my good friend from Idaho, the senior Senator, that if he asks unanimous consent to waive for 1 day, I personally will object. I shall state why. The Senate has had 11 days of debate on a natural gas bill, when we gave everyone time to talk about amendments. The junior Senator from Idaho, in my opinion, has a bona fide amendment brought to this floor and it was objected to because we could not take 20 minutes to discuss it. It appears to me that some of us do not quite understand, as many others of us do, this resolution and its effect on us. We seem to be concerned about its effect on the President. I am concerned about its effect on Congress 6 months from now.

So if the Senator asks for it, I shall object. When some courtesy is shown to the junior Senator from Idaho to let him discuss this issue—we would have agreed to 30 or 40 minutes a while ago. But it would not give him 10 minutes to discuss his amendment.

Mr. CHURCH. I say to the Senator that the objection was raised by the leadership for reasons that the leadership felt sufficient, given the cloture predicament in which we find ourselves. But if the Senator is going to object to a unanimous-consent request which would permit the Senate now to vote on the resolution, that is his right. In that case, the action taken by the committee will result in the resolution being held at the desk, and 1 day will have to intervene before the Senate may take it up and consider it.

Mr. DOMENICI. Mr. President, I want to say that I am not one who is prone to do this, but I repeat that I shall so object, and I shall object tomorrow when he asks for unanimous consent——

The PRESIDING OFFICER. We are on S. 2104 and are under cloture.

Mr. McCLURE. Mr. President, I ask unanimous consent to proceed for 5 minutes without its being charged to my time under cloture.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCLURE. I thank the leadership for withholding its objection.

I shall not object to the Senate Foreign Relations Committee meeting during a session of the Senate today so that they may consider this matter if they desire to do so today. I appreciate very much what my colleague from New Mexico has said on my behalf.

This amendment, I think, is a serious amendment. It does address itself to some serious problems:

What does the language of the resolution, as presented to us, do to the previous action of the Congress of the United States with respect to the development of the cruise missile? What does it do or say with respect to the limited funds voted for the B-1 bomber? What does it do or say to the previous expressions of this Congress with respect to Diego Garcia?

It may turn out that it does not affect any of those, but in my judgment, it can be construed to say that each of those previous actions and others taken by Congress have been wiped away by the language of this resolution.

I hope that the Committee on Foreign Relations will consider that at the time that they have this before them for reconsideration.

Mr. CHURCH. Mr. President, I ask unanimous consent that I may have 5 minutes to reply to my distinguished colleague.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHURCH. All this resolution does is associate the Congress with an action that has been taken by the President through the Secretary of State. That action reads as follows:

In order to maintain the status quo while (SALT II) negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures with Respect to the Limitations of Strategic Offensive Arms which expires October 3, 1977—

Today—

and with the goals of these ongoing negotiations, provided that the Soviet Union exercises similar restraint.

I suggest that the language is not susceptible to any interpretation that the United States, acting through the Secretary of State, has done anything other than declare its intention not to take an action inconsistent with the provisions of the interim agreement.

There is no use raising all kinds of extraneous arguments relating to the military budget or to other legislation within the competence of Congress. All this resolution says is that, when the Secretary of State declares that we have no intention of violating the interim agreement which expires today, providing the Russians do not violate it, this body concurs with that decision.

Now, the Congress can go one of two ways. It can say that we think the United States should immediately begin to take actions inconsistent with the interim agreement. Or it can say we concur in the President's declaration that we should abide by the interim agreement as long as the Russians do likewise, pending the completion of negotiations on SALT II.

To bring in extraneous issues that clearly fall outside the scope of the declaration only obfuscates this debate.

Mr. JACKSON. Will the Senator yield?

Mr. CHURCH. Yes.

Mr. JACKSON. Mr. President, I have worked very closely on a bipartisan basis with a number of Senators who have been deeply concerned, as I have, about the need to provide for a legislative extension, in effect, of the interim agreement.

I do not think anyone in this body is about to say I am soft on the issue of getting a SALT agreement that will protect the vital national security interests of the United States. I want to say to my colleagues that I think it would be a great mistake if we do not approve this resolution.

I point out that in the interim agreement is the requirement of the so-called Jackson amendment of 5 years ago in which we insisted that any future SALT agreement not limit the United States more than the Soviet Union. That amendment, calling for equality, is today the law of the land.

I think it would be unfortunate if we get off the subject here and go in various different directions that have nothing to do with this.

Mr. President, for example, the cruise missile, Diego Garcia, B-1, they are not involved in this interim agreement. They are not constrained——

Mr. McCLURE. Will the Senator yield on that point?

Mr. JACKSON. Yes.

Mr. McCLURE. I thank the Senator for yielding.

I agree with the Senator that they ought not be involved and it may, in-

deed, be the intention of the Foreign Relations Committee that they are not involved. But, as a matter of fact, a simple reading of the language of the resolution in conjunction with the statement of the Secretary of State which is referenced in the resolution brings that subject into question.

If, as a matter of fact, it is not the intention of the committee to inject those into this resolution as a part of the questions involved in the resolution, then simply adopt the amendment I offered, or some other clarifying language, and make sure they are not involved.

Mr. JACKSON. Mr. President, I can only say that the interim agreement does not in any manner, shape, or form, relate to those particular items.

Mr. McCLURE. Will the Senator agree with me the goals of these ongoing negotiations do, however?

Mr. JACKSON. The ongoing negotiations do not relate to the interim agreement.

Mr. McCLURE. No, but they refer to those weapon systems.

Mr. JACKSON. No, that is not true as far as——

Mr. McCLURE. Does the Senator——

Mr. JACKSON. May I say to the Senator, the interim agreement speaks for itself and it does not constrain——

Mr. McCLURE. I am not talking about the interim agreement.

Mr. JACKSON. Well, that is what we are here today——

Mr. McCLURE. I am talking about the goals of these ongoing negotiations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Could I have 2 minutes?

The PRESIDING OFFICER. Is there objection?

The Senator from Washington is recognized for 2 minutes.

Mr. JACKSON. I yield so that the Senator can continue.

Mr. McCLURE. I thank the Senator.

The Senator refers only to the interim agreement, but the Secretary of State's statement of intent refers not only to the interim agreement, but to the goals of the ongoing negotiations, and that brings into it all these systems that the Senator is more familiar with than I am.

I might note that the evening paper last evening stated there was an agreement in principle about the Indian Ocean that would completely wipe out all the decisions we have made on Diego Garcia.

Those are involved in this resolution.

Mr. JACKSON. I say, Mr. President, that regardless of what the Secretary of State may say, or perhaps may have said, we are dealing here with a specific document, the extension of the interim agreement.

Mr. President, I would like at this time to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, when unanimous consent was granted to bring up the resolution, does that not wipe out any defects prior to that consent, such as an absence of a quorum at the time the resolution was called in the committee?

The PRESIDING OFFICER. In the opinion of the Chair, it would, ab initio, wipe out any objections. However, the Chair preceding the present Chair had already ruled that the objection was in order.

Mr. JACKSON. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I trust that when a mistake has been made by the Chair, or the advice that was given, and not on the facts that were presented to the Chair, obviously the Chair would want to have the argument, which I think is a reasonable one, namely, that a unanimous-consent agreement in which it was agreed that the resolution would be before the Senate for consideration—that that wiped out any defects prior to the bringing in of the resolution.

As a matter of fact, the resolution could be brought up by unanimous consent on the floor at any time.

Mr. McCLURE. Mr. President, a point of order.

Mr. CHURCH addressed the Chair.

Mr. McCLURE. Mr. President, a point of order.

The PRESIDING OFFICER. The Chair will consult with the Parliamentarian.

Mr. McCLURE. Mr. President, might I on the point of order make one comment before the Chair rules?

The PRESIDING OFFICER. The Chair is now consulting with the Parliamentarian, if the Senator from Idaho will kindly permit me to do so.

The Chair observes that the Senate on appeal sustained a ruling of Vice President Barkley that a unanimous-consent agreement to vote on an amendment to a general appropriations bill at a certain hour did not preclude the making of a point of order that it was legislative in nature.

There is no direct point on the question at issue, but argument by analogy is the only one which can be made and the Chair is constrained to rule that the unanimous-consent agreement does not in any way preclude a point of order against an original defect.

The Chair so rules.

Mr. CHURCH. Mr. President, I appeal from the order of the Chair.

Mr. BAKER. Mr. President, will the Senator withhold that for a moment?

Mr. STEVENS. It is debatable.

Mr. BAKER. It is debatable.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, we are now at 12:20 p.m. Not only am I in favor of a resolution to express the Senate's point of view that the President cannot act on his own, and that his action requires congressional authority; but also, I cosponsored this resolution.

I hope, Mr. President, particularly taking into account the business we still have to transact today—and the serious and significant dispute that has arisen on this point, and the point of order that was successfully raised against this measure—that we can drop it and let this matter come back tomorrow and take it up in due course. We have to get on with other business. I do not believe the Senate is fully prepared to get into the merits of this controversy at this time. I thought there would not be serious controversy and that we could do it quickly.

If I may have the attention of the distinguished majority leader, I hope we can move on to the matters at hand and postpone this matter to the regular time on tomorrow, when we can consider it again.

Mr. CHURCH. Would the distinguished minority leader consider another course of action?

It is very important that the Senate act today, because the interim agreement expires today, and every effort was made to obtain the support of the leadership on both sides of the aisle and Senators of differing points of view regarding the wording of this resolution.

When the distinguished junior Senator from Idaho offered his amendment, I am sure that he expressed a sincere concern. In my opinion it is not well grounded, but it raises a question in his mind and may, indeed, have raised questions in the minds of some other Senators.

I have looked at this amendment. My original objection, as he will recall, was that the amendment was unnecessary. I did not raise any objection to it on the basis of its content.

I have no objection to the content of the amendment. If Senators would be better satisfied to have the amendment added, so that nobody would have any reason to be concerned, then I would be willing to accept it, if that would permit the Senate to act in a timely way.

Mr. NUNN. Mr. President, will the Senator yield for a brief observation?

Mr. CHURCH. I would like to get a response from my colleague to this question. If the amendment were accepted, thus clearing up any doubts that he might have or others might share with him, then would he be prepared to waive the point of order and permit the Senate to go forward with a final vote?

Mr. McCLURE. I thank my colleague for his statement, because I have been concerned. Otherwise, I would not have offered the amendment. From the conversations that have taken place on the floor, I know that others are concerned.

There is only one other major concern that remains in the resolution so far as I am concerned, and that is that it is open-ended so far as time is concerned. I will not raise that point, because I am sure we will be acting upon that.

The Senator from Georgia, a member of the Armed Services Committee, had expressed a desire to express himself on the point that was raised by my amendment, and I wonder whether he might be given the opportunity to state his opinion before we proceed any further.

Mr. NUNN. Mr. President, if the Senator will yield me 30 seconds, I should like to make a few comments.

I first thought that the amendment of the Senator from Idaho (Mr. McCLURE) was not necessary. However, after having thought about it for a few minutes, I think he has a legitimate point, because we have two items contained in the announcement of the Secretary of State. One relates to the terms of the SALT I agreement. I completely agree with the analysis of the Senator from Washington as to that. But the second facet of that relates to the goals of SALT II. If, by passing this resolution, we are endorsing both facet one and facet two, then I think the amendment of the Senator from Idaho would clarify the fact that we are not precluding the going forward with weapons systems that we have already authorized or might authorize in the future.

I do believe that he made a legitimate and important point.

I concur with the inclination of the senior Senator from Idaho to accept the amendment, or some other amendment closely related to that, which would express that purpose. I think the point is well taken.

Mr. McCLURE. In view of that expression and the expression I have received from others, if the Foreign Relations Committee and the Senate would accept the amendment I have offered, I would be perfectly happy to go ahead at this time.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. GOLDWATER. Mr. President, I am not concerned whether or not the spokesman for the committee accepts this. I think it is a good amendment.

My feeling is that, once again, we are breaking the rules of the Senate, and we are letting them get away with it. Either we run the Senate by rules or we do not. Most committees have a judgment of what a quorum is; and if the Foreign Relations Committee has such and they do not operate under it, then I suggest that they all retire to lunch, with a quorum, and return and report it, and we can act on it.

The PRESIDING OFFICER. All time has expired.

Mr. CHURCH. Mr. President, I ask unanimous consent that I may have 3 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—may I, another member of the committee, have 3 minutes?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

Mr. GRIFFIN. I object.

Mr. JAVITS. Reserving the right to object, I suggest that, to do this properly, we take 10 minutes and divide it, so that both sides may have an opportunity to make whatever points they wish to make.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I should like to know whether I am going to get any time.

The PRESIDING OFFICER. Will the Senator restate his question?

Mr. GRIFFIN. I am really asking the Senator from Idaho, whose unanimous-consent request is pending, if he will amend it to ask for more time. Then I will not object.

Mr. CHURCH. I amend it to ask for 6 minutes, half of which may be used by the distinguished Senator from Michigan.

Mr. JAVITS. I should like to have a couple of minutese. I suggest the Senator take 5 minutes, give 3 to the Senator from Michigan and 2 to me.

Mr. DOMENICI. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. This has nothing to do with the McClure amendment and agreeing to it at this moment, does it?

Mr. CHURCH. Mr. President, it appears to me that we might very well have to allow this resolution to go over. I had hoped that perhaps the acceptance of the McClure amendment would resolve the problem, but other amendments are now being suggested, and I think it would be most unwise to start accepting amendments willy-nilly.

I disagree with the need for the McClure amendment and with the argument made by the distinguished Senator from Georgia, since the goals of the ongoing negotiations referred to in the resolution are, in any case, subject to subsequent ratification by the Senate. Congress will inevitably be brought in at an appropriate time to pass judgment upon any agreement that may later be reached.

But in view of the fact that other amendments are now being offered and since a point of order has been upheld which prevents the Senate from acting today, I think we would be better advised to return this matter to the committee for further consideration.

The PRESIDING OFFICER. Does the Senator withdraw his appeal?

Mr. CHURCH. Therefore, I withdraw my appeal from the ruling of the Chair and yield the floor.

Mr. JAVITS. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. There is a very important point to make here. We get embroiled with each other sometimes in really the most outrageous ways.

Now, I have spent—I have been in the Senate 21 years—and I have spent all that time trying to bring Congress into a real partnership with the President on foreign policy.

Mr. President, why have we not been successful? Precisely for this kind of a performance. It is unbelievable that 100 responsible men cannot do something on time, and it discredits us completely when we say we should be full partners in a foreign relations effort.

I would appeal to the leadership, in whose hands we placed this responsibility, to see that this is brought up this afternoon. You have JACKSON and CHURCH and SPARKMAN, and even those who propose the amendment, in agreement. This is the last day. Do we want the President again to say, "See, you cannot make partners of this Congress. They just do not know how to do business on time. They are all over the lot. They are irresponsible. They cannot be trusted with the foreign policy of the country."

I really appeal to the leadership to put this together again because this is a critical matter to us, all of us, and to our country. We want to be full partners. In order to be full partners we have to qualify, and I really appeal to the leadership, because it is their function to put this together. Maybe we cannot do it this minute. But I believe the goodwill is here, and with an understanding of what is at stake it can be put together. That is what is at stake: whether we are fit partners for the foreign policy of our country or whether we are going to be a drag on the foreign policy of our country.

I hope very much we can act today to decide that question in the affirmative.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I be permitted to proceed for 3 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator is recognized for 3 minutes.

Mr. GRIFFIN. If and when the committee reports another such resolution, I hope not only that a quorum will be present but that the committee will provide the Senate with an appropriate report explaining the resolution. Such a report should call the attention of Senators to the fact that this resolution is before the Senate today primarily because of a proviso in section 33 of the Arms Control and Disarmament Act, which reads:

> . . . no action shall be taken under this or any other law *which will obligate* the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or *unless authorized by further affirmative legislation* by the Congress of the United States. (Emphasis supplied.)

Obviously, unless the President of the United States is taking some action "which will obligate" the United States to disarm or to reduce or limit armaments, there is no necessity for Congress under the statute to take any legislative action. One of the "whereas" clauses of the resolution recites that the Administration has expressly represented to Congress "that the aforesaid declaration of intent"—not to take action inconsistent with the "SALT I agreement—is nonbinding and nonobligatory" upon the United States.

Inconsistent with that recitation, however, is this language in the "resolve" clause of the resolution now before us:

> . . . the President is *authorized* to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977, and the Senate and the House of Representatives of the United States concur." (Emphasis added.)

If the President needs to be "authorized" to proceed, as the resolution purports to do, then it must be because of the requirements of the statute. To so "authorize" the President in the operational resolving clause—notwithstanding contrary recitations in the whereas clauses—suggests or implies, at least, that the Senate believes some obligation does in fact arise or exist because of the

statement of intent made by the Secretary.

Against this background, and because the resolution creates and raises more doubts and ambiguities than it resolves, I have concluded that the better course to take, for the time being at least, is to reject the language now before us.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from New Mexico is recognized for 1 minute.

Mr. DOMENICI. I say to the Senator from New York I did not intend to be one who delayed something important, but I would just make this observation: with regard to our involvement in foreign policy, if there is an important issue then I suggest that your committee understand it has the responsibility to handle it in an orderly manner where we are apt to be involved and to understand it. If it is not important then we ought not to be bothered with it.

If it is the first, it was not handled properly, and the committee is in a jam on the floor because of that. I, for one, will cooperate to undo it, but you cannot bring something down here with no quorum, and seek out a unanimous consent request, with few around, and not expect this to happen.

I share the responsibility today for raising some objections on the floor. But I just want to unburden the notion that it is purely ours. It is someone else's.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Virginia is recognized for 2 minutes.

Mr. HARRY F. BYRD, JR. My inclination has been to support this resolution. I voted against the motion to table it. I rise only to express the hope that when it is called up again there will be a reasonable time for debate, because I think there are some questions in regard to it—at least several questions have come to my mind since the discussion began earlier this morning. So I would hope the next time this is called up some reasonable time will be given where this matter can be debated.

Insofar as the Senator from Virginia is concerned, he has several questions he would like to propound to the managers of the resolution.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which the clerk will now report.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1039.

AMENDMENT NO. 1226

Mr. ABOUREZK. Mr. President, I call up amendment 1226.

The PRESIDING OFFICER. Will the Senator restate the number of the amendment?

Mr. ABOUREZK. 1226.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1226.

The amendment is as follows:

On page 14, after line 25, insert:

(d) The Commission shall have the power to compel integrated interstate pipelines to expand their certified storage capacity in order to adequately meet their systems' peak demand day requirements.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, amendment No. 1226 is an amendment to the bill. Inasmuch as it is an amendment to the bill, and in view of the fact this is the 13th day on which the Senate has been debating the bill, there has been ample time for the calling up of perfecting amendments to the bill. Any amendment offered to the bill, even if adopted, would be moot by virtue of the fact that cloture goes to 862 and not to the bill. Now once 862, the substitute, is adopted, then there can be no more amendments offered to the bill.

If, for some reason, amendment No. 862 were defeated or rejected, then there would be no cloture on the bill, and Senators could write any amendments they wished to offer at that point.

But under the recent circumstance in which cloture goes to the substitute and not to the bill and the final action will be on adopting the substitute, if it is adopted, no amendment to the bill is in order at that point. Any perfecting amendments that will have been adopted to the bill prior to that point will be moot.

I make the point that this is a dilatory amendment. Furthermore, Mr. President, I make the point that when the Senate is operating under cloture the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order. I make that point.

Mr. MUSKIE. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. A point of order is not debatable.

Mr. ABOUREZK. Mr. President I ask unanimous consent that 10 minutes be set aside to debate this point of order. There is an extremely crucial point of order.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I object to that, but I will be willing to debate. The Senator has time.

Mr. ABOUREZK. It is not debatable. It takes unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the point of order be debatable for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, I yield myself 2 minutes to make these two points against the double point of order that the distinguished majority leader is making.

His claim is that any amendment to the bill would be rendered moot in the event the substitute is agreed to. That is taken care of merely by the statement that the substitute has not been acted upon. The Chair cannot presume to say that the substitute will be adopted, thereby making any amendments to the bill moot.

Second, these amendments are offered to the bill. They are drafted properly and there is no way that the majority leader, or anyone else, can say that an amendment on its face is dilatory. I would suggest, as I did the other day, that any effort to change the entire rules of the Senate during the heat of a debate such as this on a majority vote will go contrary to those who might even want to support it at this time and they will live to regret it at a later date.

I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I will repeat the point of order.

Mr. President, I make the point of order that when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order.

Mr. MUSKIE. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. The other day the Senate voted on the question whether or not an appeal from the ruling of the Chair was itself dilatory. The point that the majority leader put is that the Chair should take the initiative to rule as dilatory amendments which on their face are dilatory. I remind my colleagues that we at our desks here cannot know in all cases at the moment that the Chair makes such a ruling whether or not in fact an amendment on its face is dilatory. That is the first question which concerns me. There is no way for me to run down to the desk, as one Senator, to look at amendments to judge for myself whether or not the Chair is ruling correctly on a statement of fact.

Second, evaluations of the amendments may result in different conclusions as to whether amendments on their face are dilatory.

The third point that concerns me is whether or not if the Chair would act pursuant to the majority leader's suggestion, is the majority leader seeking to reverse the decision that the Senate as a whole made the other day on the question of whether appeals from such rulings are dilatory?

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I say two things. By the way, I support this point of order.

The request, as I understood it, as was made by the majority leader, was not that amendments might be dilatory on

their face, but would be dilatory or which on their face are out of order.

Mr. ROBERT C. BYRD. That is right.

Mr. BAKER. The second point I would suggest is nothing in the request, as I understood the majority leader to make it, dealt in any way with the right of any Member to appeal from the ruling of the Chair, which is a point of grave importance to everyone.

Mr. MUSKIE. I want that to be very clear so if the Chair should rule on the point of order favorable to the distinguished majority leader that that would not be interpreted as reversing the action the Senate took on Saturday with respect to that last point.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENS. Mr. President, will the Senator yield for one point?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, so the Senator from Maine will see this as I understand it, when we in cloture voted on an amendment, an amendment offered to the bill before the amendment that is subject to cloture is voted upon is dilatory because if the amendment that is subject to cloture is adopted, in this instance, the bill is wiped out. If it is not adopted, the amendments to the bill are before the Senate and not under cloture. Therefore, if the Senate is to get to the point it wants to get to, and that is to vote on the Jackson amendment, any amendment to the bill is dilatory for that action. We are not killing those amendments. They are still on the desk. They can be voted upon should we get to the point that the Jackson amendment is defeated and the bill subject to amendment is before the Senate.

Mr. LONG addressed the Chair.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana. Of course, I can only yield for a question.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield the floor for a moment.

Mr. ABOUREZK addressed the Chair.

Mr. LONG. Mr. President, is not this true, that any Senator at any time can go down to the desk, and he can show his amendment to the Parliamentarian and ask the Parliamentarian whether in the opinion of the Parliamentarian that amendment appears to be in order or whether it appears to be dilatory? And 99 times out of 100 the Chair is going to rule the same way the Parliamentarian had advised him. So is it not a fact that any Senator who wants to amend a bill in any particular way, even before cloture, can go to the Parliamentarian and show him his amendment and say, "Here is the sort of problem I have, and can you advise me whether this amendment would be in order, can you advise me whether it would be germane?" Is it not a fact that that is what Senators who have been around here long enough to know the rules do anyway?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES addressed the Chair.

The VICE PRESIDENT. The Chair has recognized the Senator from West Virginia.

Mr. ROBERT C. BYRD. Let me see if we can clarify what we have before the Senate now. To begin with rule XXII says no dilatory motion or dilatory amendment or amendment not germane shall be in order.

What I am asking the Chair to do by making this point of order is this: When the Senate is operating under cloture, the Chair is required to enforce this rule. The Chair is required to take the initiative to enforce this rule.

Therefore, he is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order.

Let us take, for example, an amendment that amends the bill at more than one place. On its face that amendment is out of order.

Let us take an amendment not germane on its face. On its face that amendment is not in order because the rule says no amendment not garmane shall be in order.

And the right to appeal, may I say to the distinguished Senator from Maine, is not touched in this point of order, Senators may still appeal.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. ABOUREZK and Mr. MUSKIE addressed the Chair.

Mr. ROBERT C. BYRD. Inasmuch as I addressed the Senator from Maine, I yield to him first.

Mr. MUSKIE. May I ask a question for clarification?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. The Senator's suggestion is that the Chair should take the initiative.

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. That means—I wish to know at what point that initiative is to be exercised—after the amendment is called up, or while the amendments are at the desk before they are called up and before the Senate?

Mr. ROBERT C. BYRD. No.

Mr. MUSKIE. I assume the Senator means after they are called up.

Mr. ROBERT C. BYRD. Not while they are just at the desk. The Senator from South Dakota called up an amendment. At that point, the point of order that I am making would require the Chair to rule that amendment out of order, if indeed it is to the bill.

Mr. MUSKIE. I understand the Senator's point.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator is advised that his 5 minutes have expired.

Mr. SARBANES. Mr. President, how much time do I have under cloture?

The VICE PRESIDENT. The Senator has 20 minutes, unless it is a point of order or unanimous-consent request.

Mr. SARBANES. I ask unanimous consent to use some of the time remaining to me under cloture in order to pose some inquiries to the majority leader, on my cloture time.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, points of order are not debatable under cloture unless by unanimous consent. I would like to get a ruling as soon as possible. I have no objection to the Senator proceeding for 3 or 4 minutes on his time.

Mr. SARBANES. I ask unanimous consent to proceed for 4 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SARBANES. Does the unanimous-consent request of the majority leader encompass the provision that the Chair would rule out of order as dilatory any amendment that was offered to the bill itself.

Mr. ROBERT C. BYRD. I am making the point of order that such an amendment offered at this time is dilatory.

Mr. SARBANES. That was my understanding. I would like to address that point.

It seems to me that under cloture, as I understand it, it is in order to offer amendments to the bill itself.

Mr. ROBERT C. BYRD. That is correct, but—is the Senator asking a question of me?

Mr. SARBANES. I would be glad to yield to the majority leader to proceed on that point.

Mr. ROBERT C. BYRD. I am saying that the amendment which Mr. ABOUREZK called up just a moment ago was a dilatory amendment, for two or three reasons.

First, it had been at the desk for 13 days and had not been called up yet. Secondly, it is a perfecting amendment to the bill, and any amendment to the bill, if adopted at this point, would be moot when the final action was taken on the substitute, either by voting the substitute up, because in what event, cloture going only to the substitute, the substitute wipes out the bill. If the substitute should fail, there is no cloture remaining anyway, and the bill would not be under cloture, and the amendment could then be called up.

Mr. SARBANES. The point I wish to address—I am not addressing myself to the other points the majority leader has made, but the decision whether to vote for the substitute or not may be influenced by what the dimensions of the original bill are, which is open to amendment under the rules, even under cloture. So it is irrelevant to say if we vote down the substitute the original bill is open to amendment, which is true.

Mr. ABOUREZK. No, it is not true. It wipes out any amendments to the bill. That is what I have been trying to say.

Mr. SARBANES. Let me leave that to one side for the moment. Let me address the matter on the basis on which it was put.

The question of whether to vote for the substitute and insert it in place of the bill is subject to our decision as to what the bill looks like. Amendments to the bill are in order under cloture, and therefore the adoption or rejection of amendments to the bill changes the structure of the bill, and may influence the decision of a Senator whether to vote for the substitute or not to vote for the substitute.

Mr. ABOUREZK. Mr. President, may I

make a parliamentary inquiry? Will the Senator yield for a parliamentary inquiry?

Mr. SARBANES. I want to finish this point.

As long as amendments to the bill are in order under cloture, and as long as what the bill itself looks like is relevant to the decision of a Member as to whether to support a substitute, to insert it in place of the bill, or to vote against the substitute, it seems to me for the Chair to proceed to rule out as dilatory any amendments to the bill goes to the very substance of the process we are following. If we are going to do that, the rules really ought to preclude amendments to the bill when cloture has been invoked on a substitute.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from South Dakota will state his inquiry.

Mr. ABOUREZK. If the substitute is defeated, if it is voted down, are amendments to the bill in order subsequent to that defeat?

The VICE PRESIDENT. Yes, they are, and cloture would not obtain.

Mr. ABOUREZK. That is a reversal of the Chair's ruling the other day.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to go back to the other point. I am not quarreling, now, with the majority leader over other rulings with respect to the dilatoriness of amendments that have been previously ruled out of order, or something of that sort. But to rule on a unanimous-consent request that would place the Chair in the position of having to rule out of order any amendment as dilatory offered to the bill itself, no matter what its substance is, on the theory that the opportunity to offer such amendments would be available later if the substitute is not adopted because the cloture did not reach to the bill itself, does not address itself to the very basic point that the decision of Members of the Senate as to whether to vote for or against the substitute as it may contrast with the bill itself will be influenced by amendments that may be made to the bill itself; and as long as the rules permit amendments to the bill itself under cloture, which I understand they do, it seems to me that those amendments cannot automatically be ruled out by the Chair as being dilatory simply because they are offered to the bill itself.

If there is some other reason involved which would justify a dilatory ruling, that is a different question; but to simply wipe out any amendment to the bill and eliminate the opportunity for contrast between the amendment and the substance of the bill itself as being dilatory, would seem to me to be a bad precedent.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Colorado.

Mr. HART. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. HART. Was it not the ruling of the Chair in the last 2 or 3 days that amendments to the bill itself would be under the cloture rule?

The VICE PRESIDENT. That is still the ruling of the Chair, but if the substitute falls, so does the cloture action of the Senate; and amendments to the bill itself would then no longer be under cloture.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alaska.

Mr. STEVENS. Mr. President, as I understand it, the majority leader is making two points. The first is that the Chair is required to take the initiative under rule XXII and rule out all amendments to the bill which are, on their face, out of order. Second, he is saying that at this point, under the circumstances that prevail right now, when a Senator who has in fact been conducting a post-filibuster offers an amendment to the bill, after 121 rollcalls on this bill, after 34 live quorums, and after almost 40 hours of the Senate's time spent in counting those rollcalls alone, that that amendment, if it were not dilatory, would have been called up by the Senator previously, and therefore it is now dilatory. It is a subjective ruling, in the latter sense, by the Chair itself, that the amendment to the bill is in fact dilatory because of the circumstances, though not necessarily dilatory on its face. In my opinion, the point of order is well taken.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is a perfect example of the extremes to which one can go under the tensions of a debate such as this. To suggest that amendment 1126 to the bill is dilatory, which merely suggests that the Commission shall have the power to compel integrated interstate pipelines to expand their certified storage capacity in order to adequately meet their systems' peak demand day requirements, to say that that is a dilatory amendment, in spite of the contention that it can be offered at a later time, that is not the issue. Every amendment stands on its own in the Senate; and to suggest that in some way the Chair is going to rule out of order amendments to the bill on the basis that they are dilatory because they can be offered at a later point, to me, would almost be an Alice in Wonderland kind of decision.

I cannot believe we are about to hear it from the Vice President presiding in the chair. I am just amazed that we are going through this procedure to change the rules on the floor of the Senate because of our problems with respect to the remaining amendments.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, let us not confuse this issue. I am not asking the Vice President to rule that all amendments en bloc to the bill are dilatory. We have one amendment before us. That amendment is to the bill. I am submitting that that amendment is dilatory because it is to the bill. I stated the reasons why. Cloture goes to the substitute, and any amendment to the bill at this point, any perfecting amendment to the bill at this point, would be moot because if the substitute is adopted, the bill falls; if the substitute is not adopted, cloture is gone, the bill is still before the Senate, and the Senators can call up their amendments.

I am not asking the Chair to rule that all such amendments are dilatory. I am simply making the point of order that the Chair under rule XXII is required to take the initiative when the Senate is operating under cloture to rule out of order all amendments which are dilatory or which, on their face, are out of order.

That is the key question: Is the Chair required, when the Senate is operating under cloture, to take the initiative to rule out of order all amendments which are dilatory or which, on their face, are out of order?

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. ABOUREZK. Is the Senator asking that this one amendment be ruled upon, or all amendments?

Mr. ROBERT C. BYRD. No, I am not asking for all amendments.

Mr. ABOUREZK. If the ruling stands according to the Senator's point of order, that means a precedent is being created and all amendments to the bill will be ruled out of order automatically, is that correct?

Mr. ROBERT C. BYRD. An appeal can be taken. I am leaving open the appeal.

Mr. ABOUREZK. On each one?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Will the Senator yield?

Mr. SARBANES. Will the Senator yield?

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Is this correct, that what the Senator from West Virginia is seeking the Chair to rule is that the Chair ought to take the initiative to rule whether the amendment is out of order, or if the amendment is not germane, or if the amendment is dilatory, that the Chair ought to take the initiative, however the Chair is going to rule, rather than wait for someone to make a point of order. Is that what the Senator is saying?

Mr. ROBERT C. BYRD. Suppose someone has an amendment at the desk which is an amendment in the third degree. Obviously it is out of order if it is not germane. If it is dilatory, obviously it is out of order because of what the rules say. I am saying that this amendment is dilatory, but I am not asking the Chair to rule that all such amendments are dilatory at once. We will let that matter come up in each instance, as each amendment is called up.

Mr. SARBANES. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. As I understand the point of order it does not run only to the question of whether the Chair, on its own initiative, proceeding under rule XXII under cloture, can take the initiative to

rule certain amendments out of order; it also runs to the substance of the basis on which the majority leader is seeking to have this amendment ruled out of order. That basis is simply the fact that the amendment is to the bill. The justification for a ruling that an amendment to the bill is out of order, under the procedures even after cloture has been invoked, the justification for that is that if the substitute is carried Senators cannot offer an amendment to the bill, and if the substitute is rejected, the bill is open to amendment.

How does the Senator address the question as to how a Member is to make the judgment when it comes to a vote on whether the substitute should be put in place of the bill? Pertinent to that vote is not only what the substitute looks like but what the bill looks like. That is why the bill is allowed to be amended under the rules. To rule it out prevents a Member from making that substantive judgment.

Mr. ROBERT C. BYRD. Mr. President, Senators have had 13 days and 1 night in which to call up perfecting amendments to the bill, and they have not done it. That is why I am saying that this amendment is dilatory.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

The VICE PRESIDENT. Who yields time?

Mr. STEVENS. Well, I will yield myself time.

Mr. LONG. Mr. President, I yield myself 1 minute.

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. Mr. President, it seems to me the Senator is seeking to ask the Chair to rule on two points. One, he is asking the Chair to rule that the occupant of the Chair, under cloture, should take the initiative and rule an amendment out of order or dilatory if, in the opinion of the Chair, it is. It seems to me he is also asking the Chair to rule that this amendment is dilatory. I would hope the Chair would submit the two rulings: one, whether the amendment is dilatory; and, two, whether the Chair is required to take the initiative. He is seeking really two rulings.

Mr. ROBERT C. BYRD. Mr. President——

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would like to divide—I believe the Senator from Louisiana is correct—I would like to separate the two basic questions which are involved here. One is as to whether this particular amendment is dilatory because it goes to the bill; and, two, which I consider to be the main point of order which I wish to address, that the Chair, when the Senate is operating under cloture, is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory, or which on their face are out of order.

I would be prepared to suggest that the Chair address itself to that point of order and leave for future discussion as to whether or not amendments to the bill themselves are ipso facto dilatory and out of order under the present circumstances.

The VICE PRESIDENT. The requested ruling goes to the meaning of rule XXII which provides that once cloture is invoked no dilatory motion or dilatory amendment or amendment not germane shall be in order. The purpose of the rule is to require action by the Senate on a pending measure following cloture within a period of reasonable dispatch. The Presiding Officer must take judicial notice of the fact that we have now been for some 13 days, I believe, on this measure, well over 100 votes having been taken. Therefore, it is the opinion of the Presiding Officer that the point of order is well taken. The Chair will take the initiative to rule out of order dilatory amendments which, under cloture, are not in order——

Mr. ABOUREZK. I appeal the ruling of the Chair.

The VICE PRESIDENT. The Presiding Officer would like to finish his ruling—which, under cloture, are not in order and which on their face are out of order.

Mr. ABOUREZK. I appeal the ruling of the Chair and ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficent second?

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficent second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Will the Chair put the question before the Senate votes?

The VICE PRESIDENT. This is a motion to table an appeal from the decision of the Chair that, under cloture, amendments which are out of order on their face can be ruled out of order by the Chair on its own initiative.

Mr. SARBANES. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. SARBANES. Does the ruling of the Chair go only to the point that the Chair could proceed under rule XXII on its own initiative?

The VICE PRESIDENT. The Senator is correct.

Mr. SARBANES. As I understand it, both rulings of the Chair are subject to appeal if Members wish to do so and, therefore, subsequent ratification or rejection by the Senate.

The VICE PRESIDENT. The Senator is correct.

Mr. HART. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HART. The ruling of the Chair, when it states on its own initiative, does that mean prior to calling up the amendment?

The VICE PRESIDENT. The amendment will have to be called up and the Chair will rule on it, but he could prior to its being called up.

Mr. CASE. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. CASE. Is it correct to understand that rulings of the Chair pursuant to the general rule that the Chair has just announced will be pronounced upon a particular amendment only when it is sought to be brought up for action?

The VICE PRESIDENT. The Senator is correct; when it is called up.

Mr. CASE. Individually?

The VICE PRESIDENT. When it is called up, the Senator is correct.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that temporarily?

Mr. METZENBAUM. Without yielding my right to ask for it again.

Mr. ROBERT C. BYRD. Mr. President, is it understood that the ruling of the Chair at this point does not go to the particular amendment?

The VICE PRESIDENT. The Senator is correct. It is a general ruling.

Mr. METZENBAUM. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 58 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Hart	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
Byrd, Robert C.	Helms	Sarbanes
Cannon	Hollings	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Lavalt	Stennis
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Wallop
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Metzenbaum	Zorinsky
	Morgan	

The VICE PRESIDENT. A quorum is present.

The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—79

Allen	Goldwater	Nunn
Baker	Gravel	Packwood
Bartlett	Griffin	Pearson
Bellmon	Hansen	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Randolph
Brooke	Hatfield	Ribicoff
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Heinz	Sarbanes
Byrd, Robert C.	Helms	Sasser
Cannon	Hollings	Schmitt
Case	Inouye	Schweiker
Chafee	Jackson	Scott
Chiles	Javits	Sparkman
Church	Johnston	Stafford
Cranston	Laxalt	Stennis
Curtis	Leahy	Stevens
Danforth	Long	Stevenson
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Eagleton	Matsunaga	Tower
Eastland	McClure	Wallop
Ford	McIntyre	Williams
Garn	Melcher	Young
Glenn	Morgan	Zorinsky
	Moynihan	

NAYS—14

Abourezk	Culver	Metzenbaum
Anderson	Durkin	Muskie
Bayh	Hart	Proxmire
Bumpers	Hathaway	Riegle
Clark	Kennedy	

NOT VOTING—7

Huddleston	McGovern	Weicker
Humphrey	Metcalf	
McClellan	Nelson	

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

The VICE PRESIDENT. The appeal, therefore, is tabled.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the appeal from the ruling of the Chair was laid on the table.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. Therefore, the decision of the Chair on the point of order stands as the judgment of the Senate.

The question is now on agreeing to the amendment as offered by the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I yield myself 5 minutes, and I ask the attention of my colleagues. If I might try to analyze what just happened for the Members of the Senate, I would appreciate their attention.

What just happened is that the Vice President of the United States has come up to the Senate for one specific purpose, and that is to make certain rulings upon the parliamentary procedures that had been thought out ahead of time.

Mr. CRANSTON. Mr. President, will the Senator yield for just one point? I would like to respond to one point already made.

Mr. ABOUREZK. I hope nobody will interrupt me until I finish, because I do not want to yield until I am done. In fact, it was obvious from the reading of the decision by the Chair that the decision, the opinion of the Chair, had been drafted ahead of time. So it was no surprise to those people who were in on it.

I heard the rumor this morning. Several people came up to me and said the rumor is out on the street the Vice President is coming up to make specific rulings to end the filibuster. I said, "I do not believe it. I just do not believe it would happen because the position we are taking, those of us on this side of the issue, happens to agree identically with the position taken publicly with the administration.

So when the rulings were inquired about and the point of order was made, the distinguished majority leader made a two-part point of order. One part dealt with the general question of the initiative of the Chair to rule any amendments out of order that were on their face out of order or dilatory.

That allows the Chair to take a look at all amendments and just say, "This one is bad; this one is good; this one is bad; and this one is good," and it puts the burden then upon those of us who seek to call up these amendments to try to overrule each of those individual decisions of the Chair rather than forcing a Senator to make a point of order on each one, as has been the rule in the Senate.

Now, why did the Vice President come up to make those rulings? Why did that happen? I do not know. I know there are any number of Senators here who could have been put in the Chair, could have been placed in there, and who would have made the very same rulings, and there would have had to have been a decision on it because there are Senators here who feel very strongly one way or the other.

I can only surmise—I do not know because there was a flurry of meetings this morning between the leadership and the members of the administration—I can only surmise that something has happened that I do not know about, Members of the Senate on my side of the issue do not know about, and I do not even care to know about them.

I do not want to know. All I know is I have been told from time beginning, beginning from the time that I went into politics, that all governments lie. For a long time I knew that, and I was aware of it. There is one thing I never thought would happen, and that is that Jimmy Carter would lie.

I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, the Senator who has just spoken well knows I am on the same side of this issue that he is in opposing deregulation of the price of natural gas. The Senator from South Dakota also knows well there are several reasons why the Vice President might be in the Chair at this moment. One important reason why the Vice President is in the Chair instead of someone else who might make the same rulings as the Vice President is that he is able to break ties; that is something that the Senator from South Dakota knows very well; and there are certain times, for example, when we are voting on Pearson-Bentsen he would want the Vice President to be in the Chair for that purpose.

Second, there have been questions raised about the position of the President of the United States on the issue of deregulation and on the issue of the filibuster. By his presence in the Chair the Vice President very plainly signals the interest of the President of the United States in supporting the leadership of the Senate, the bipartisan leadership, in breaking a filibuster. That does not signal a change in the President's position on deregulation. It obviously does not go to the truth or falsity of what the President has said. He still intends to veto a bill, if it comes to him, if that bill would not be consistent with his position of keeping regulation on the price of natural gas.

As to the other point raised by the Senator from South Dakota, rather plainly I am repeating myself, anyone else can be in the Chair to make this ruling. The rulings that we hope will be made on issues that will be raised are consistent with the rules of the Senate. The leadership of the Senate would not tolerate anything else or would not seek to bring about anything else. It does, perhaps, bear greater weight when it comes from the lips of the Vice President of the United States.

The VICE PRESIDENT. The Chair would ask for 4 minutes indulgence from the Senate.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The VICE PRESIDENT. Is there objection. The Chair hears none, and it is so ordered.

The Senator from South Dakota indicated he learned this morning that the Vice President was part of some deal. The truth of it is the Vice President arrived at 11 o'clock this morning in the Senate. The majority leader advised him he was planning to propound certain questions relating to the meaning of rule XXII. He wanted the Vice President to be aware of those questions, and it was at that point, and only at that point, that the Vice President was aware at all that these questions would be propounded.

There was one suggestion, since this was a crucial issue dealing with the long-delayed question which has been around this Senate for over 60 years as to the meaning of the word "dilatory"—and there could hardly be a more crucial issue affecting the rules of this body—there was a suggestion that it might be wise if the Vice President absented himself and let someone else rule.

I refused to accept that suggestion because it is the Vice President's only constitutional duty to preside. The Vice President has that duty especially at those moments when crucial questions and profound questions of parliamentary procedure are at issue.

In the years that I have served in the Senate, I do not recall a single instance when a Vice President has vacated himself when crucial parliamentary issues were to be determined, particularly when they are being determined in the area where the law was not clear. I am not going to be the first Vice President to abdicate his responsibility.

My interest in rule XXII goes back from the beginning of my membership in this Senate. I, along with many of the Members of this body, helped to reform those rules. But I have always been concerned about the meaning of the word "dilatory" because the spirit of the rule requires that once cloture is invoked, as I understand that dilatory phrase, at some point with reasonable dispatch the Senate will decide the matter on which cloture is invoked.

There is no question about this Vice President's position on the merits of the deregulation issue before this body, and I assume the Senator from South Dakota knows that.

There is nothing more sacred to me or to the President than our integrity, and I am not here to apologize for my integrity.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I think that almost anything I would say at this point would be repetitious.

But, nonetheless, I feel it my duty to speak briefly on this matter that has been raised by the distinguished Senator from South Dakota.

The Vice President of the United States is the constitutional Presiding Officer over this body.

The Senator from South Dakota wondered why the Vice President issued the ruling; why another Senator was not in the Chair. The Vice President and the distinguished majority whip have both adequately answered that question.

I for one, I, I asked the Vice President to sit in the chair, so there need be no question as to why the Vice President was asked to sit in the chair.

I have been on the side of the Senator from South Dakota and the Senator from Ohio in the votes on the major issues here. But I am not on that side when it comes to prolonging and protracting the final decision. I am not on that side when it comes to the filibuster. I take the position that the Senate has a responsibility to act up or down on this bill, and we have been on it 13 days and 1 night already, and there are scores of amendments still at the desk. The leadership here is attempting to find some way to get final action on this bill so that it can go to conference, and the administration, I would assume, wants that same thing. I am positive of it.

Whatever the Senate does in working its will on the bill is up to the Senate. But I do not think that the Vice President should be criticized because he came here at the request of the majority leader for the purpose of establishing some rulings that the leadership considers to be important if we are ever going to get this bill to conference.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. I was not here when the ruling was sought. But the majority leader will recall that the other afternoon when we were trying to get some consent agreements I suggested that the Chair be given the prerogative of going through all the amendments and determining which ones were out of order because of draftsmanship, especially because of draftsmanship, but as I understand the ruling of the Chair now the Chair can on its own motion or upon its own initiative go through the list of amendments, or he can wait until they are called up, whichever, and before the amendment is read rule that it is dilatory and offered for dilatory purposes regardless of how it is drafted. Is that a correct statement?

Mr. ROBERT C. BYRD. No, that is not correct, may I say to my distinguished friend from Arkansas.

The ruling that we have established here is that the Presiding Officer is required, under cloture, to take the initiative in ruling out of order dilatory amendments or amendments that on their face are out of order, and what we are doing is simply this: Rule XXII says: "No dilatory amendment or amendment not germane shall be in order." So what we are saying is that the Chair is required to take the initiative in ruling an amendment that is dilatory or an amendment that is out of order on its face out of order.

Mr. LONG addressed the Chair.

Mr. BUMPERS. Mr. President, one additional question.

Mr. ROBERT C. BYRD. We are not saying that the Chair should take all the amendments up there and go through them and rule them out of order. But as the Senator calls up an amendment, if that amendment on its face is out of order, the Chair is required to take the initiative in so stating when the Senate is under cloture. For example, if I were to call up an amendment in the third degree, the Chair has the responsibility to call that amendment out of order.

Mr. BUMPERS. But my question to the leader is: He not only has the right to rule an amendment out of order because of its draftsmanship, for example—and we know there are a number of amendments down there since the Jackson compromise was resubmitted and brought back to the floor that are out of order for that purpose—but I ask, and I understood the majority leader to answer it, which was really sort of a restatement of what I said, when a Senator calls up an amendment, even though it is not out of order for that purpose, he can call it up and the Chair can, at that point, rule that even though it is a perfectly valid amendment on its face, it is being offered for dilatory purposes. Is that correct?

Mr. ROBERT C. BYRD. I am not saying that the Chair would do that. I believe the Senator is going beyond what has been established by the ruling here.

Mr. BUMPERS. He can do that under the present ruling, can he not?

Mr. ROBERT C. BYRD. I do not think he would because that amendment, even though it were not in order at that particular place, might be in order later in the event another amendment were adopted to which that particular amendment is geared. So I do not think the Chair would take the liberty of ruling that amendment out of order on that basis.

Mr. LONG. Mr. President, I have been a Member of this body for 29 years, and I have had occasion to observe the conduct of several Vice Presidents and several Presidents pro tempore, starting with Arthur Vandenberg who was President pro tempore—we had no Vice President—when I took my oath of office, Alben Barkley, Lyndon Johnson, HUBERT HUMPHREY, and Nelson Rockefeller. Without exception, Mr. President, when those men knew that a very significant ruling had to be made by that Chair and an historic ruling had to be made by that Chair they were here to make it. That is not the kind of ruling that should be made by a freshman Senator who is unfamiliar with the rules.

So, the Senator is most completely out of order and in bad taste to suggest that the Vice President, by doing the duty assigned to him under the Constitution and not shirking it, is doing something improper. It is just patently ridiculous. I think in time, perhaps not today, but as emotions subside, the Senator will be a big enough person in time to go to the Vice President and offer him a very contrite apology.

Mr. ABOUREZK and Mr. LEAHY addressed the Chair.

The VICE PRESIDENT. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I wavered for a moment, thinking perhaps I was wrong, but when Senator LONG, my colleague from Louisiana, got up and supported what just happened, my conviction is renewed. (Laughter.)

Mr. LEAHY addressed the Chair.

Mr. ABOUREZK. I want to say that it is not the integrity of the Vice President that I am impugning. What I am saying—and I want to make it very clear—is that we have had the rug pulled out from under us by the President of the United States and the Vice President is merely doing what he is supposed to do.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise very infrequently on the floor of the Senate, as the Presiding Officer knows, but I must at this point. Perhaps if my good friend from South Dakota has been supported in his convictions by what Senator LONG has said maybe he will take some pause when he finds me saying similar things.

When I came to the Senate in 1975, for my first month or two in the Senate, I had the distinct privilege of working with the distinguished Presiding Officer, the Vice President, on changing rule XXII. I spent hour after hour after hour on the floor of the Senate, sitting with the then senior Senator from Minnesota, and came to realize his strong convictions and understanding of the need for changes in rule XXII.

I am also aware, both from what I have observed in the short time I have been in the Senate and from what I know of the history of the Senate, that Vice Pres-

idents will be here, are here, and are expected to be here on serious matters before the Senate, especially when a vote may well be a close one. I think it would be a dereliction of their duty if they were not.

Tempers have flared here and there on this floor on both sides of the issue. My friend from South Dakota knows that I have supported him consistently in rollcall after rollcall. My own personal discomfort at this filibuster has been no more or no less than that of any of the other 99 Members of the Senate, and I am perfectly able physically to go on and on and on, until Christmas or beyond if necessary.

But I do not think it should be necessary, and I think it is in the best interests of the Senate and the best interests of the country to bring this matter to some kind of a conclusion. I say that without regard to whether I am going to be on the winning or on the losing side.

I must say to my good friend from South Dakota that I respect him greatly, I admire his courage, I admire his integrity, and I admire him as a person, notwithstanding that I have to disassociate myself from the remarks that he has made here this afternoon, remarks directed both at the Vice President and at the President of the United States. They were uncalled for and do a great disservice to two honest and dedicated Americans and I reaffirm my own support for them. I might say, Mr. President, that I hope, for one, both in my own behalf and certainly that of the State I represent, that this matter will come to a conclusion. Let us vote one way or the other on this vital issue facing the United States, and get on, one way or the other, with the energy matters before the Senate.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am happy to see the Vice President in the chair. Having served in the Senate with him through the years, I can assure the Senate he never shirked from a duty, either pleasant or unpleasant.

Mr. President, I recall amendments 1059, 1061, 1062, and 1063, and request that they be removed from the desk.

Mr. METZENBAUM. Mr. President, a point of order. Is there not an amendment pending before the Senate?

The VICE PRESIDENT. There is an amendment pending.

Mr. STEVENS. Mr. President, that is not a motion, it is a privilege.

The VICE PRESIDENT. The amendments are withdrawn.

Mr. BAKER. Mr. President, do I understand they are withdrawn? I understood the request to be that they be recalled.

Mr. STEVENS. Recalled and removed from the desk.

Mr. METZENBAUM. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. METZENBAUM. Does that not require unanimous consent?

The VICE PRESIDENT. Unanimous consent was given.

Mr. METZENBAUM. When?

The VICE PRESIDENT. I heard no objection.

Mr. STEVENS. No, there was no unanimous-consent request, Mr. President.

Mr. ROBERT C. BYRD. The Senator sought to do that within his own right, Mr. President.

Mr. STEVENS. These are my amendments. I submitted them; I asked to recall them from the desk; and I recalled them and removed them from the desk.

The VICE PRESIDENT. The Chair did not hear an objection, and they were removed.

Mr. METZENBAUM. Mr. President, there was never a statement made by the Chair about a unanimous-consent request.

Mr. STEVENS. I am not asking unanimous consent.

The VICE PRESIDENT. The Presiding Officer said "Without objection," which is a very standard ruling of the chair, and he heard no objection, to a routine request to remove certain pending amendments.

Mr. METZENBAUM. He never asked unanimous consent. I ask the reporter to transcribe his remarks. He never asked unanimous consent.

Mr. BAKER. A point of order, Mr. President.

Mr. VICE PRESIDENT. Will the Senator withhold his request?

The Senator from Tennessee will state his point of order.

Mr. BAKER. Mr. President, I put this point of order seeking to clarify this situation.

I make the point of order, Mr. President, that for the author of an amendment to seek to recall and remove from the desk amendments that he filed, no unanimous consent is required and he is exercising a matter of right.

Mr. SARBANES. Mr. President, will the minority leader yield on that point?

Mr. BAKER. I yield.

Mr. SARBANES. Will the minority leader distinguish between such a request at a time when no amendment is before the body for consideration, and at a time when an amendment is before the body and has not yet been disposed of?

Mr. BAKER. Mr. President, to respond to the inquiry of the Senator from Maryland, the point of order is that at any time the author of an amendment has a right to reclaim from the desk any amendments he has filed, that no unanimous consent is required, and that its exercise is a personal privilege of the Senator at any time.

Mr. SARBANES. At any time, no matter whether an amendment is before the Senate or not?

Mr. BAKER. At any time, and it does not require unanimous consent. Any time under cloture, Mr. President; this is limited to this situation, when we are proceeding under the provisions of rule XXII.

The VICE PRESIDENT. On the advice of the Parliamentarian, it being a case of first impression, the Presiding Officer submits the question to the Senate ab initio.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. What is the nature of the question now being submitted to the Senate?

The VICE PRESIDENT. Whether or not a Senator has the right, once cloture has been invoked, to remove amendments timely submitted to be considered, before they are in fact considered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Could that be amended to say his own amendments, amendments of which he is the author?

The VICE PRESIDENT. The Senator is correct. That is what the Presiding Officer intended.

Mr. BAKER. And a "yea" vote would sustain that interpretation?

The VICE PRESIDENT. Yes. The question is, Is the point of order well taken?

Mr. BAKER. The question would be, Is the point of order well taken?

The VICE PRESIDENT. That is right.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. I would have thought that even though an amendment is withdrawn by the author, that merely has to do with its then consideration; but the amendments that are filed belong to the Senate, they do not belong to the author of the amendment, and even though the amendments are withdrawn by the Senator from Alaska, that would not prevent, in my judgment, under the rules, the amendments being called up at a different time by different Senators.

I really believe the point that is now being raised is a moot question.

The VICE PRESIDENT. Is it the recollection of the Presiding Officer that the Senator from Alaska asked that they be recalled and removed, rather than withdrawn. Thus it is a totally new question which is being submitted to the Senate.

Mr. BAKER. Mr. President, a further point of order.

The VICE PRESIDENT. The Senator from Tennessee will state it.

Mr. BAKER. Under the question as put by the Chair, would the Chair advise the Senate whether or not it is his first intendment to say that once recalled and removed from the desk, the amendments would no longer be available for any purpose, to anyone?

The VICE PRESIDENT. The Senator is correct.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Missouri.

Mr. EAGLETON. Mr. President, on this point on which the Senate will soon vote, I think one thought must be borne in mind.

On first blush, there is a simplistic appeal to the thought that a Senator, having filed some amendments, they are his; he decides when to put them in, he decides whether or not to call them up, he decides when to pull them out. There is a simplistic appeal to that.

I raise this one point. Assume my colleague, Senator MUSKIE, offered what I throught were 10 magnificent amendments. I knew about them when they were being offered, my staff had conferred with his staff, and I said, "Since MUSKIE is filing those 10 I will not waste time filing 10 other amendments which are carbon copies of MUSKIE's. I know they are at the desk. My friend will call them up, and I will have a chance to support them".

Then I leave the floor of the Senate some afternoon and Mr. MUSKIE says, "I think I will withdraw those 10 amendments".

I think that, in part, is what is being stated by my distinguished colleague from Alabama.

The VICE PRESIDENT. The Senator from New York.

Mr. JAVITS. Mr. President, have the yeas and nays been ordered on such an amendment as described by the Chair?

The VICE PRESIDENT. Will the Senator restate his question?

Mr. JAVITS. If the yeas and nays have been ordered on an amendment such as described by the Chair, an amendment sought to be taken from the desk by its author, may it then be taken from the desk?

The VICE PRESIDENT. This is not an amendment which has been called up. Therefore, the yeas and nays are not involved, except by unanimous consent.

Mr. STEVENS. Mr. President, I think the Senator from Missouri has a good point. All he would have had to have done within the 13 days would have been to ask for the yeas and nays on one of my amendments. My amendments are sitting there now. Conditions have changed. These are no longer amendments which are in order. As far as I am concerned, I have no desire to offer them, but they sit on the desk and someone else could call them up for the purpose of delay. I think a Senator has the right to withdraw his amendments and in doing so I believe that the matter of withdrawal could be subject to an appeal from the ruling of the Chair each time. If a Member wants to keep one of these amendments on the desk, he could apoeal the ruling of the Chair as to that amendment.

I do believe we are entitled to remove the vehicles of delay that we offered for well-intended purposes at the time and no longer need.

I would call to the attention of the Senate that there is one of my amendments still at the desk which I intend to offer, should the circumstances require it.

To me, it is wrong to have my amendments become the vehicle for delay, for someone who has no intention to offer them for their substantive purposes. As a matter of fact, they would no longer be of any use to anybody except for delay. I think under these circumstances I am entitled to withdraw them.

The VICE PRESIDENT. The Senator from Maine.

Mr. MUSKIE. Mr. President, I would like to respond to the Senator from Alaska. If this precedent is established, it could be invoked on the first day after cloture. There is nothing to say that it would be invoked only after 13 days following cloture.

I think the point made by the distinguished Senator from Missouri is a valid one. I do not that often agree with my good friend from Alabama, but I expect he is moved by the same consideration.

After all, the limitations on our right to consider amendments after cloture, preventing us from introducing any new ideas, is sufficiently serious so that we ought not, I think, accede to the point being raised.

The VICE PRESIDENT. Under rule XXII, this is not subject to debate.

Mr. CRANSTON. Point of order, Mr. President.

Mr. President, I make the point of order when the Senate is operating under cloture the Chair is required to take the initiative under rule XXII and rule out of order all dilatory motions, including calls for a quorum, when it has been established by a quorum call or a rollcall that a quorum is present, and the Chair's count reaffirms that a quorum is still present.

The VICE PRESIDENT. The Parliamentarian advises me that this point of order is not in order because there is a pending point of order which the Chair has submitted to the Senate.

Mr. CRANSTON. I accept that. I serve notice at the next opportunity I will raise the point again.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. SCHMITT. Is it the Chair's intention that the question apply also to amendments against which other amendments have been drafted?

The VICE PRESIDENT. The Chair is submitting this question to the Senate.

Mr. ROBERT C. BYRD. Mr. President, would the Chair restate the question? Mr. President, I have no objection to the Chair restating the question, but I would like the question to be restated.

The VICE PRESIDENT. The clerk will state the question.

The legislative clerk read as follows:

Does a Senator have the right to recall his own amendments qualified and pending under cloture and have them removed from the desk prior to being called up.

The VICE PRESIDENT. The yeas and nays have been ordered and the clerk will call the roll.

Mr. MUSKIE. Mr. President——

The VICE PRESIDENT. The Senator from Maine.

Mr. MUSKIE. I would like to read a letter dated September 30, 1977, addressed to the Honorable HOWARD S. METZENBAUM, U.S. Senator, Washington, D.C.:

DEAR HOWARD: As you know, I have five amendments at the desk pending to the Jackson substitute to S. 1022. I intend to bring up one, if not all, for Senate consideration. For this reason, I would appreciate your cooperation in not offering amendments 1059, 1060, 1061, 1062 and 1063.

With best wishes, cordially,

TED STEVENS.

Mr. STEVENS. It is true, Mr. President, I sent that letter when it was apparent that there was going to be an attempt by Senators to call up amendments which they, themselves, had not offered. We have since examined them. As I indicated, one would be called up. Amendment 1060 will still be at the desk.

Mr. MUSKIE. But there is no control by the addressee of this letter or others who were relying on the fact that the Senator's amendments were on the desk. That is the point. I do not criticize the motive, but this is an important separation.

Mr. STEVENS. These are amendments which pertain only to the State of Alaska and certainly are not amendments which would be called up by the Senator from Ohio.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MATSUNAGA assumed the chair.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 59, nays 34—as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—59

Baker	Griffin	Percy
Bartlett	Hansen	Proxmire
Bellmon	Hatfield	Randolph
Bentsen	Hayakawa	Roth
Burdick	Heinz	Sasser
Byrd, Robert C.	Hollings	Schweiker
Cannon	Huddleston	Sparkman
Chiles	Inouye	Stafford
Church	Jackson	Stennis
Cranston	Johnston	Stevens
Curtis	Laxalt	Stevenson
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Magnuson	Thurmond
Domenici	Matsunaga	Tower
Eastland	Melcher	Wallop
Ford	Moynihan	Williams
Garn	Nunn	Young
Glenn	Pearson	Zorinsky
Gravel	Pell	

NAYS—34

Abourezk	Culver	McIntyre
Allen	Durkin	Metzenbaum
Anderson	Eagleton	Morgan
Bayh	Hart	Muskie
Biden	Haskell	Nelson
Brooke	Hatch	Packwood
Bumpers	Hathaway	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
Case	Javits	Sarbanes
Chafee	Leahy	Schmitt
Clark	Mathias	Scott
	McClure	

NOT VOTING—7

Goldwater	McClellan	Weicker
Humphrey	McGovern	
Kennedy	Metcalf	

The VICE PRESIDENT. On this vote, there are 59 yeas, 34 nays. The point of order is well taken.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Florida.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, I will take just a moment. I thank the Chair for recognition and I thank my colleagues for sustaining the point of order as submitted to the Senate. I want to clarify one point.

It was my understanding and intention that the right to withdraw and to recall from the desk an amendment was in favor of that Senator who was the author of that amendment and would not apply except with multiple consent in cases where there is more than one sponsor or author.

I wanted to make that point and to make sure it is the Chair's interpretation of the situation in the same vein.

The VICE PRESIDENT. The Chair will so note.

Mr. BAKER. I thank the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 898——

Mr. METZENBAUM. Point of order, Mr. President.

The VICE PRESIDENT. There is an amendment pending.

Mr. ROBERT C. BYRD. I withhold that.

The VICE PRESIDENT. It is amendment No. 1226.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from California.

Mr. CRANSTON. Mr. President I make the point of order that, when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum when it has been established by a quorum call or rollcall that a quorum is present and the Chair's count reaffirms that a quorum is still present.

Mr. METZENBAUM. I ask for——

The VICE PRESIDENT. The point of order on the quorum has been raised——

Mr. ABOUREZK. I ask for yeas and nays.

The VICE PRESIDENT. Is there a sufficient second on the amendment? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

Mr. ALLEN addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. Mr. President, the point of order having been decided by the Senate on withdrawal under cloture by a Senator of amendments of which he is the author, would the Chair advise as to whether the same rule would obtain if cloture had not been invoked, or is this peculiar to a cloture situation?

The VICE PRESIDENT. This was a point of order put to the Senate on the narrow issue of the post cloture meaning of withdrawal.

Mr. ALLEN. Would the same rule apply, the Senate having decided as to cloture, cloture not being invoked?

The VICE PRESIDENT. The Chair will not so apply it and had not so ruled, but it would be for the Senate to decide.

Mr. ALLEN. In other words, if that point is raised, the Chair would submit that question to the Senate, also, is that correct?

The VICE PRESIDENT. Yes.

In a precloture situation, a Senator could simply offer the same amendment in his own name without restriction.

Mr. ALLEN. In a precloture situation?

The VICE PRESIDENT. Precloture.

Mr. ALLEN. He cannot withdraw it from consideration, is that correct?

The VICE PRESIDENT. Whether or not he did would be meaningless because another Senator could simply take the same amendment and offer it.

Mr. ALLEN. The point I was trying to raise, how does cloture change it, how does cloture change the rule?

The VICE PRESIDENT. Because the only question that the Senate has decided has been the specific issue raised by the Senator from Alaska and the Senator from Tennessee which was raised in a postcloture situation, and that is the only question the Senate has decided.

Mr. ALLEN. Well, I ask the Chair if that same rule would apply in a precloture situation?

The VICE PRESIDENT. The Chair will not so apply it.

Mr. ALLEN. I see.

Now, one other question, I am not sure whether the distinguished minority leader asked this question, or not. I could not hear, there was such a commotion in the Chamber.

Suppose, even in a cloture situation, if there were an author and three cosponsors of an amendment, would it take acquiescence and request of all four Senators, or could only one Senator withdraw the amendment?

The VICE PRESIDENT. That is what the Senator from Tennessee indicated his intent was and the Chair would so apply it.

Mr. BAKER. Will the Senator yield to me?

Mr. ALLEN. Yes.

Mr. BAKER. The question I put to the Chair was in the case as described by the Senator from Alabama; that is to say, one or more cosponsors, that in order to avail themselves of the privilege of withdrawal and reclaim from the desk an amendment, it would take all of the cosponsors acting jointly.

Mr. ALLEN. I see.

I thank the Chair and I thank the distinguished Senator from Tennessee.

Mr. President, I have not yielded the floor.

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. The reason I sought the Chair's eye when we were discussing the matter of the propriety of the Vice President being in the chair at this time, is that I want to commend the distinguished Vice President for taking the chair when important parliamentary questions are to be decided. I feel he would have been derelict in his duty had he not assumed the chair.

I regard the distinguished Vice President as an outstanding authority on rule XXII. He and I have had some brushes here on the floor when he was the distinguished senior Senator from Minnesota and we have not always agreed on what rule XXII means. But I do believe that his ruling with respect to—on his own motion, ex mero motu—calling an amendment dilatory, that someone must imolement rule XXII, the statement that no dilatory motion or amendment can be offered.

I really feel there is no tremendous change here in the rules because it just obviates the necessity of a Senator making this point.

There is no ruling, as I understand it, that these amendments can be thrown out en bloc. It takes individual consideration. All we decided, as I see it, is that the Presiding Officer would, on his own motion, make this decision and it would still be subject to an appeal from the Chair's ruling.

I think it was proper for him to submit on the other question, about the Senator's right to withdraw an amendment from further consideration by the Senate, to submit that to the Senate..

Some would have preferred that he rule that the Senator does not have authority to remove an amendment from consideration, by the Senate, because, as I see it, when an amendment is filed under the cloture rule, without cloture, it does not belong just to the individual Senator. It is before the Senate for consideration.

Following that just one little step further, we all recognize that a Senator can withdraw an amendment and yet call it up again. That is well recognized, that he can do that. But if that be true, if he can call up the amendment and then withdraw it and then offer it again, as is recognized that he has the right, why then would he not lose control of the amendment after having withdrawn it?

So I feel the Senate made a wrong decision in this regard and I hope——

Mr. BUMPERS. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. BUMPERS. This ruling of the Chair still discourages me on the ability of the Chair to rule personally that a perfectly valid amendment, properly drawn to the proper bill, is dilatory.

Now, two questions. Does the Senator from Alabama, who apparently favored the ruling of the Chair, feel that the Chair should give any reason for ruling an amendment dilatory, or can that be just an arbitrary and capricious decision on his part?

Mr. ALLEN. Yes, I think he could make that statement. As I say, it is subject to appeal from the ruling of the Chair, and all we have decided is that he can do this. He can take the initiative for orderly procedure. Any Senator could raise the same point. So, really, we have not decided a great deal here. Rather, it prevents the Vice President or the Presiding Officer merely sitting there, knowing full well that an amendment is out of order, and possibly that we have acted on it before, as was the case here.

Mr. BUMPERS. I am not talking about his ruling the amendment out of order for technical reasons. I am talking about his ruling an amendment dilatory.

Mr. ALLEN. Subject to appeal from his ruling, yes.

Mr. BUMPERS. Is it the opinion of the Senator from Alabama, under the ruling of the Chair—and I consider the Senator's judgment under rule XXII to be one of the best—that the Chair could make a ruling that an amendment was dilatory without the amendment's being read?

Mr. ALLEN. Under this ruling, he can, yes.

Mr. BUMPERS. Would that mean, then, that it was incumbent upon the Senator offering the amendment—the Chair rules that it is dilatory and therefore not in order, and that puts the onus on the person offering the amendment to use some of his 1 hour to explain to the Senate why it is not dilatory, does it not?

Mr. ALLEN. That is true. But I do not see that many Senators have used much of that time. I do not think that would put too much of a burden upon them.

Mr. BUMPERS. Let us take the Senator from Ohio or the Senator from South Dakota, who have 150 to 200 amendments at the desk. I assume the Chair is going to rule virtually all those amendments dilatory.

Mr. ALLEN. Would not the situation be exactly the same if some Senator raised the point of their being dilatory? What is the difference?

Mr. BUMPERS. It places the onus on whoever the author of the amendment is.

Mr. ALLEN. No more than already is there, because any Senator can raise that point.

Mr. BUMPERS. Under the present procedure, they are at least reading the amendment, so the Senators can hear the amendment. The Senator said the Chair can rule it dilatory without its even being read.

Mr. ALLEN. Under this ruling, yes.

Mr. President, I reserve the remainder of my time.

Mr. HANSEN. Mr. President, I make the point of order that this amendment is out of order. We have previously, by a vote of 53 to 44, rejected the nearly identical amendment which was made to amendment No. 862. Because it is identical——

The VICE PRESIDENT. Will the Senator state the number of the rejected amendment?

Mr. HANSEN. The number of the amendment that was voted down earlier by the Senate was No. 1260, and this amendment is identical. Therefore, it is dilatory.

Mr. SARBANES addressed the Chair.

The VICE PRESIDENT. Will the Senator withhold until the Presiding Officer has had an opportunity to review this matter?

Mr. SARBANES. Mr. President, I submit to the Chair that even if the exactly identical amendment has been offered to the substitute, it remains in order to be offered to the bill. As I understand, the point of order was not that it was offered to the bill but offered to the substitute.

The VICE PRESIDENT. The Senator from Maryland is correct. The point of order is not well taken. The prior amendment was to an amendment in the nature of a substitute. This is an amendment to the bill. Therefore, it is a different question.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The VICE PRESIDENT. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Will the Chair state the pending business?

The VICE PRESIDENT. Amendment No. 1226.

Mr. HARRY F. BYRD, JR. On which the yeas and nays have been ordered?

The VICE PRESIDENT. The yeas and nays have been ordered.

Mr. HARRY F. BYRD, JR. And that amendment is debatable, I assume?

The VICE PRESIDENT. It is debatable, under the cloture rule.

Mr. HARRY F. BYRD, JR. I yield myself such time as I may take.

I do not wish to discuss the amendment per se. I do want to comment on what I understand may be forthcoming later in the day, a point of order being made to the Chair. I feel that I need to do it at this point because once the point of order is made. as I understand it. it is not then debatable, except by unanimous consent.

First, let me put a parliamentary inquiry to the Chair.

The VICE PRESIDENT. The Senator will state it.

Mr. HARRY F. BYRD. JR. It is not correct that throughout this debate, under cloture, the Chair has ruled consistently that the Chair, itself, on its own initiative, could not determine whether or not a quorum is present?

The VICE PRESIDENT. The Chair has ruled, according to the Parliamentarian, not consistently.

Mr. HARRY F. BYRD, JR. Will the Chair amplify on that? It has been my understanding that the Chair has ruled consistently that the Chair cannot, on its own initiative, determine a quorum to be present.

The VICE PRESIDENT. The Parliamentarian informs the Chair that that is essentially correct, but that during the debate on this measure and on at least two occasions postcloture, the Presiding Officer has ruled that that officer had the authority to determine that a quorum was present.

Mr. HARRY F. BYRD, JR. Is it within the authority of the Senator from Virginia to ask that the Chair make available to the Senate the transcript of such occasions, and the date and time when that was done?

The VICE PRESIDENT. The RECORD page is 30817 and 30818, September 26, 1977.

Mr. HARRY F. BYRD, JR. As I understand the Chair's reply to the Senator from Virginia, it is that the Senator from Virginia was essentially correct in his statement that the Chair has consistently ruled that the Chair itself cannot on its own initiative establish a quorum.

The VICE PRESIDENT. The Presiding Officer observed that that has been ruled in that direction a substantial amount of times, but on two occasions during the course of this debate, following the invocation of cloture, the Presiding Officer has ruled the other way.

Mr. HARRY F. BYRD, JR. The point I want to suggest is I hope no effort will be made to change what appears to be a fundamental rule in the Senate. If the rules need to be changed they can be changed at a later date and not in the heat of battle.

There may have been one or two isolated instances where the Chair has ruled differently, but I will say this: the Senator from Virginia was presiding the day this cloture debate began, and the Senator from Virginia was informed clearly by the Parliamentarian that the Chair had no right, under the rule, to determine on his own initiative that a quorum was present, and the Chair has ruled that way several times since this debate began.

I happen to be on the opposite side from the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Ohio (Mr. METZENBAUM), and I have consistently voted against them. But I am very anxious that we not change the rules in the middle of a fight. I would hate to see us take hasty action having far-reaching effects, or potentially far-reaching effects, on the deliberations of the Senate in the years to come.

Mr. President, how much time have I consumed?

The VICE PRESIDENT. Six minutes.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, during the course of this cloture proceeding I have repeatedly made the point that it is dilatory to suggest the absence of a quorum and demand a rollcall when a quorum is clearly present, and on at least two occasions I have been upheld in making that point.

I recognize that the Senator from Vir-

ginia was in the Chair when I made that point and he ordered the roll to be called, and he did not accord me an opportunity to appeal from his decision in that regard. I do not quarrel about that. I assume he has the right to do that, and I am not quarreling about that.

All I am saying is the Senate has a right to vote on that, whether, after cloture has been voted, and when the Presiding Officer finds there is a quorum present, he looks out and sees there are clearly 51 Senators here, that he can hold that it is dilatory or he can simply announce that a quorum is present because he looked and had seen it.

With the Senator from Florida (Mr. CHILES) in the chair, Mr. CHILES made just that decision, and the Senator from South Dakota (Mr. ABOUREZK) asked about it, Mr. ABOUREZK, contesting the Chair's right to rule that there was a quorum present.

The RECORD will show that Mr. CHILES said, that, it is sort of like an umpire who will call a play. One can look and see how many are there. That is how it was done previously.

In my judgment, Mr. President, those men who wrote this cloture rule, did not think they were writing some dead letter. They thought they were giving the Senate all it needed to shut that debate off after cloture was voted. As a matter of fact, the last change was sponsored by the present occupant of the Chair himself, the Vice President (Mr. MONDALE). He was the mover of that, he was the one who brought it about. If he had thought you needed something else for the purpose of closing off debate, and with the advice available to him of Mr. HUMPHREY, who served as Vice President, and others, he would certainly have insisted on having it in there the last time when we had the chance to say what the cloture rule was going to be for the future.

So, Mr. President, basically the people who wrote the rule in 1918 thought they had given us all we needed. But in order to do that, you are going to have to do in a way where you will have to rule that you do business somewhat differently once cloture is voted.

Here is the rule, and let us look at it:

No dilatory motion, or dilatory amendment, or amendment not germane shall be in order.

You have the language that you can use by simply construing that language as what the framers of it intended it to mean. They were giving you the power there to shut this debate off. Otherwise where do you stand?

All somebody needs to do is come in here with 10,000 amendments, just have somebody haul them on in, have people working on them in advance. You could not get the thing to a vote in 2 solid years.

The men who wrote that rule did not mean to permit that sort of thing to succeed. They had in mind that the man in the Chair could sit there and when someone brings up a motion, he could say that it is dilatory, and proceed to call on someone else.

We have done some of it, and if we are ever going to vote, we are going to have to do some more.

What some Senators are contending for is an interpretration which would leave so many loopholes to it that the rule is meaningless. It does not mean one blessed thing as far as I am concerned if that is the way it is going to be interpreted. I would expect to use the same rights as other people have used if that is how we are going to do business, but it does not make sense.

I yield the floor.

Several Senators addressed the Chair.

Mr. CRANSTON. Mr. President, I move to table the pending amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. I suggest the absence of a quorum.

Mr. BAKER. Point of order, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. I make the point of order that when the Senate is operating under cloture, a request by a Senator to conduct business which the Senate declines to conduct, for instance, the making of a motion which is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, a request for the yeas and nays which is refused, is not the transaction of business for the purpose of calling another quorum.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

The VICE PRESIDENT. The point of order is not debatable.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, I make the point of order that a point of order is now pending.

The VICE PRESIDENT. The Presiding Officer is now considering the point of order.

Mr. SARBANES. Mr. President, a parliamentary inquiry. Could the point of order be stated for the information of the Senate?

The VICE PRESIDENT. The clerk will state the point of order.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) made the point of order that, when the Senate is operating under cloture, a request by a Senator to conduct business which the Senate declines to conduct, for instance, the making of a motion which is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, a request for the yeas and nays which is refused, is not the transaction of business for the purpose of calling another quorum.

The VICE PRESIDENT. As in the case of the prior request, the prior point of order, the Vice President submits to the Senate the point of order made by the Senator from Tennessee as his prerogative under the rules.

Mr. ABOUREZK. I ask for the yeas and nays.

The VICE PRESIDENT. He does so because it is a case of first impression.

Mr. ABOUREZK. I ask for the yeas and nays.

The VICE PRESIDENT. And he assumes it will be appealed, and wishes the Senate to decide it ab initio.

The question is, Is the point of order well taken?

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JAVITS. Mr. President, I find one uncertainty in the request for the point of order, and that is the following:

If a motion has been ruled dilatory or the offering of an amendment is ruled out of order or dilatory and an appeal is taken and upon that appeal the Chair is reversed, would not that within this point which is made represent the right to continue with whatever the request was?

This request does not contemplate a situation in which a motion ruled dilatory results in an appeal and the overruling of the Chair, similarly, the offering of an amendment which is ruled out of order or dilatory.

Mr. BAKER. Mr. President, if the Senator will yield to me, that is not my intention.

Mr. JAVITS. I understand that, but I think that should be made.

The VICE PRESIDENT. Action on appeal would constitute business.

The question is, Is the point of order well taken?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 74, nays 21, as follows:

[Rollcall Vote No. 518 Leg.]

YEAS—74

Baker	Hansen	Nunn
Bartlett	Haskell	Packwood
Bellmon	Hatfield	Pearson
Bentsen	Hathaway	Pell
Biden	Hayakawa	Percy
Bumpers	Heinz	Proxmire
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Inouye	Roth
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Johnston	Schweiker
Clark	Kennedy	Scott
Cranston	Laxalt	Sparkman
Curtis	Leahy	Stafford
Danforth	Long	Stevens
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Talmadge
Durkin	Matsunaga	Tower
Ford	McClure	Wallop
Garn	McIntyre	Williams
Glenn	Melcher	Young
Gravel	Moynihan	Zorinsky
Griffin	Nelson	

NAYS—21

Abourezk	Culver	Morgan
Allen	Eagleton	Muskie
Anderson	Eastland	Riegle
Bayh	Hart	Sarbanes
Brooke	Hatch	Stennis
Byrd, Harry F., Jr.	Helms	Thurmond
Case	McGovern	
	Metzenbaum	

NOT VOTING—5

Goldwater	McClellan	Weicker
Humphrey	Metcalf	

The VICE PRESIDENT. On this point of order, there are 74 yeas and 21 nays. Therefore, the point of order is well taken.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, what is the question before the Senate?

The VICE PRESIDENT. There is pending a motion to lay on the table amendment No. 1226. The yeas and nays have not been ordered.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. There is a pending motion to table.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the motion to lay on the table.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table amendment No. 1226. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 519 Leg.]

YEAS—63

Allen	Dole	Laxalt
Baker	Eagleton	Long
Bartlett	Eastland	Lugar
Bellmon	Ford	Matsunaga
Bentsen	Garn	McClure
Burdick	Glenn	Melcher
Byrd, Harry F., Jr.	Gravel	Morgan
Byrd, Robert C.	Griffin	Moynihan
Cannon	Hansen	Nunn
Chafee	Hatch	Packwood
Chiles	Hatfield	Pearson
Church	Hayakawa	Pell
Cranston	Helms	Percy
Curtis	Huddleston	Randolph
Danforth	Inouye	Roth
DeConcini	Javits	Schmitt
	Johnston	Schweiker
Scott	Stevenson	Wallop
Sparkman	Stone	Young
Stafford	Talmadge	Zorinsky
Stennis	Thurmond	
Stevens	Tower	

NAYS—31

Abourezk	Hart	McIntyre
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Muskie
Biden	Heinz	Nelson
Brooke	Hollings	Proxmire
Bumpers	Jackson	Riegle
Case	Kennedy	Sarbanes
Clark	Leahy	Sasser
Culver	Magnuson	Williams
Domenici	Mathias	
Durkin	McGovern	

NOT VOTING—6

Goldwater	McClellan	Ribicoff
Humphrey	Metcalf	Weicker

So the motion to lay on the table amendment No. 1226 was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

Mr. CRANSTON and Mr. METZENBAUM addressed the Chair.

Mr. CRANSTON. Mr. President, I make the point of order that when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum, when it has been established by a quorum call or rollcall that a quorum is present and the Chair's count reaffirms that a quorum is still present.

The VICE PRESIDENT. The point of order is well taken. When operating under cloture, no dilatory motion shall be in order. The Chair will take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum, when made under the circumstances cited in the point of order.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the yeas and nays be ordered on this motion to table.

Mr. CURTIS. I object.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. CRANSTON. The point of order stands against suggestions of absence of a quorum.

The VICE PRESIDENT. Under the ruling, the point of order is well taken.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. CRANSTON. Mr. President.

Mr. ABOUREZK. Point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. What was the ruling, Mr. President?

The VICE PRESIDENT. The Vice President ruled that under rule XXII, where the Presiding Officer sees that a quorum is present, he may so rule, and a motion contrary to a quorum call is dilatory under rule XXII.

Mr. BAKER. Mr. President, point of order.

Mr. ROBERT C. BYRD. Mr. President.

The VICE PRESIDENT. The question is on agreeing to a motion to table.

Mr. ABOUREZK. Mr. President, I ask for a division.

The VICE PRESIDENT. The motion is agreed to.

Mr. ABOUREZK. Mr. President, I sought recognition.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

Mr. ABOUREZK. Mr. President, I sought recognition before the vote was announced.

The VICE PRESIDENT. It is the ruling of the Presiding Officer that that is not the case.

Mr. ABOUREZK. Mr. President, point of order.

Mr. ROBERT C. BYRD. Mr. President, I call up amendment——

The VICE PRESIDENT. The Chair has recognized the Senator from West Virginia.

AMENDMENT NO. 890

Mr. ROBERT C. BYRD. I call up amendment No. 890.

The VICE PRESIDENT. It is not in order since it seeks to amend the bill in two places.

AMENDMENT NO. 898

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 898.

The VICE PRESIDENT. It is not in order since it seeks to amend the bill in two places.

AMENDMENT NO. 920

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 920.

The VICE PRESIDENT. The amendment is not in order since it seeks to amend the bill in two places.

AMENDMENT NO. 941

Mr. ROBERT C. BYRD. I call up amendment No. 941.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 948

Mr. ROBERT C. BYRD. I call up amendment No. 948.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. ABOUREZK. Point of order, Mr. President.

AMENDMENT NO. 951

Mr. ROBERT C. BYRD. I call up amendment No. 951.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 959

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 959.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 972

Mr. ROBERT C. BYRD. I call up amendment No. 972.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. SARBANES. Mr. President, will the Chair give the reasons why each amendment is out of order?

AMENDMENT NO. 985

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 985.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 989

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 989.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. ABOUREZK. Mr. President, I make a point of order.

AMENDMENT NO. 992

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 992.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1006

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1006.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1017

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1017.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1048

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1048.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. ABOUREZK. Mr. President, what about the right of appeal?

AMENDMENT NO. 1056

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1056.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1183

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1183.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1218

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1218.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1241

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1241.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1261

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1261.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1281

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1281.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1284

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1284.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1343

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1343.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1347

Mr. ROBERT C. BYRD. Mr President, I call up amendment No. 1347.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1376

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1376.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. HATHAWAY addressed the Chair.

AMENDMENT NO. 1377

Mr. ROBERT C. BYRD. Mr President, I call up amendment No. 1377.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. HATHAWAY. Mr. President, I move to adjourn.

AMENDMENT NO. 1392

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1392.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

AMENDMENT NO. 895

Mr. ROBERT C. BYRD. Mr. President, I call up the following amendments which are not germane: amendment No. 895.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

AMENDMENT NO. 983

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 983.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

AMENDMENT NO. 996

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 996.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1021

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1021.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1026

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1026.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. SARBANES. I appeal the ruling of the Chair.

AMENDMENT NO. 1032

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1032.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. SARBANES. I appeal the ruling of the Chair.

AMENDMENT NO. 1036

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1036.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, is the ruling of the Chair that an appeal does not lie to the rulings of the Chair?

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. Is the Chair ruling that appeals do not lie to the rulings of the Chair?

The VICE PRESIDENT. The Chair has recognized the leader of the Senate under the customs of the Senate.

Mr. SARBANES. I understand that. Does the custom of the Senate which accords recognition to the leader of the Senate, which is a custom I recognize, extend so far that an appeal from the ruling of the Chair to a point of order made by the leader of the Senate is not available to any Member of the Senate and that the Chair is entitled to continue to recognize the leader to make successive points of order without any appeal from affirmative rulings of the Chair being available to the Members of the Senate?

The VICE PRESIDENT. It is the understanding of the Presiding Officer that the customs of the Senate call for recognition of the leader whenever he seeks it. That is what the Presiding Officer——

Mr. SARBANES addressed the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. SARBANES. Now, Mr. President, when the leader seeks recognition and makes——

Mr. CULVER. Regular order. Who has the floor?

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. I just want to underscore this point. I think it is tremendously important to this body.

I recognize what the leader is doing. He is now proceeding under precedents which the Senate has adopted. First of all, he is calling up these amendments. The Chair then, of its own initiative, is ruling them out of order.

But I do not understand that the custom which entitles the leader to recognition when he seeks it extends to the point that the leader can make a point of order or any other motion and that the ruling of the Chair on such a matter is not subject to an appeal by Members of the Senate.

Mr. ROBERT C. BYRD. Mr. President, would the Chair allow me to make a comment at this point?

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, all of the amendments I called up were either amendments that went to more than one place in the bill and they would thus automatically be out of order, or they were not germane, and under the ruling that has previously been entered today, the Vice President is required, the Presiding Officer is required to rule out of order under cloture any amendment that is dilatory or out of order on its face.

The amendments I called up were either out of order on their face because they were not germane and thus not allowed under the rules, or they went to more than one place in the bill and are thus out of order.

Mr. MUSKIE. Will the Senator yield?

Mr. ROBERT C. BYRD. I ask unanimous consent to allow a Senator to appeal en bloc—en bloc—all those amendments that were ruled out of order for the reasons I have stated.

Several Senators addressed the Chair.

The VICE PRESIDENT. Objection is heard.

Mr. CASE. A point of information.

Mr. SARBANES. Mr. President, the judgment as to whether——

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. Mr. President, the judgment as to whether an amendment is germane or is dilatory is a judgment which the Chair must first make. Under the precedent adopted earlier today, the Chair has been accorded the right to make that judgment initially of its own initiative. But to go beyond that and to say the Chair's ruling cannot be appealed and that the Members of the Senate cannot pass upon it is to establish a procedure here which I suggest to each Member of the Senate they ought to think about.

Several Senators addressed the Chair.

Mr. SARBANES. Now, there exists a rule that, as I understand it, if a Senator seeking the yeas and nays does not get sufficient seconds, then he cannot get the yeas and nays. So the possibility for a semisteamroller exists simply by providing with a series of voice votes if there are not sufficient seconds to the requests for the yeas and nays.

But the procedure just being followed here, an amendment being called up, the Chair ruling the amendment out of order and the Chair then permitting no appeals from its ruling, is a process fraught with danger.

Mr. ROBERT C. BYRD. Mr. President, appeal comes too late.

SEVERAL SENATORS. Regular order, Mr. President.

The VICE PRESIDENT. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. I yield to the Senator from Maine for a question.

Mr. MUSKIE. A further point, may I say to the Senator, when the majority leader put this point of order earlier, I asked him whether or not it would have the effect of denying the right of appeal which a vote of the Senate established just last Saturday. The majority leader assured me that it would not.

Now, the majority leader seeks to substitute that right of an individual Senator to appeal a single point of order or a single amendment by an en bloc kind of an appeal.

Mr. President, this is just what I feared last Saturday, when I raised this whole question of the right of appeal.

I take it that the majority leader has the votes now to enforce any change in the filibuster rule that he has devised over the weekend. We can count on this side of the aisle as well as on that side, but I hope that before you move irrevocably down this line, you begin to look at the consequences. I hope, further, that if that is what you are about—I am talking about the majority, who are now in the process of amending rule XXII—you do it totally, that you do it so thoroughly that when somebody on that side of the aisle, or any side of an issue in the future, seeks to filibuster, they will be foreclosed because of your foresight and your wisdom. I hope that happens.

I have been amused by those who over the years I have been in the Senate have fought cloture, who now seek to advise us what we intended when we adopted the cloture rule. The cloture rule was not made tighter not because we did not want to, but because we had to compromise our objective to accommodate those who wanted to reserve the right to unlimited debate. Now many of those who wanted that right seek to deny it to somebody else.

My whole posture in this has been not that I am for filibusters but that I do not like to see the advantage of the rules denied to a group that, at its peak, commanded 46 votes, maybe more now, on an issue of paramount national importance, by changing the rule in the middle of the game.

You cannot tell me that what is going on now is a simple application of the rule. Over and over again, the Chair is putting the question. There are no precedents, and the Chair wants the Senate to establish this ab initio—from the beginning—a new order of things, a change in the rules. That is what you are talking about, and you are doing it by commanding a majority who is your majority only on this issue. I do not think that is the way to do it.

I know how frustrating filibusters are. I have been against more of them than many of those who are against this one, and I do not really like this way of deciding this one.

I hope that out of this—and this is really what I hope—and out of the other recent filibusters we have had, we will finally get a cloture rule that will work but that will apply equitably to everybody, not to a temporary majority on a particular issue.

You have the votes. Go ahead with your amendments. Change the rule, and then get your vote on the issue.

Mr. SARBANES. Mr. President, I yield to the Senator from Idaho for a question.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Chair has recognized the Senator from Maryland.

Mr. CHURCH. Mr. President, it seems to me that the logic of the Senator from Maryland is impeccable. He has made the argument that it has now been decided by the Senate that the Chair may take the initiative in ruling a given amendment dilatory or nongermane, or otherwise out of order. We Senators have given the Chair that authority.

It also is true that the majority leader, under the customs of the Senate, is entitled to recognition by the Chair when he seeks it, even though other Senators are seeking the floor. When the majority leader gets that recognition, when he calls up an amendment, and the Chair rules that the amendment is out of order, the action is completed. The Senator from West Virginia does not still have the floor, once the action is completed, and another Senator then has the right to appeal from the ruling of the Chair.

Nobody understood—at least, the Senator from Idaho did not understand—that individual Senators were giving up the right to appeal from the ruling of the Chair.

My question is this: If individual Senators cannot get recognized for that purpose, then in truth the right to appeal has been foreclosed.

Mr. SARBANES. I say to the Senator from Idaho that we were absolutely assured by the Chair earlier in these proceedings that the right to appeal the ruling of the Chair with respect to ruling a motion or an amendment as being dilatory or out of order would be preserved for the Members of the Senate.

Mr. CASE. And on each amendment, by itself, not en bloc.

Mr. SARBANES. That is correct. We were absolutely assured by the Chair that that appeal right would lie. For the Chair to say that the custom which entitled the majority leader to recognition first extends to the point of precluding an appeal of the Chair's ruling on a matter raised by the majority leader is, in effect, to establish a dictatorship in the Senate.

Mr. CHURCH. The Senator is correct.

Mr. HART. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. SARBANES. I yield for a question.

Mr. HART. Mr. President, the rules of the Senate state that decisions of the Chair are subject to appeal and that by a majority vote the Senate may reverse or overrule any decision by the Chair. The appeal must be taken before other business intervenes.

Does the Senator from Colorado correctly understand that the way this very sophisticated version of the kind of steamroller we had 3 or 4 days ago is now operating is that we are foreclosed from an appeal by what I consider to be an abuse of leadership authority?

The VICE PRESIDENT. It is the Presiding Officer's position—and he has been advised to that effect—that it is the responsibility of the Presiding Officer to recognize the leadership when they seek recognition, and that is what he has done.

Mr. HART. Then the U.S. Senate has just seen an outrageous act.

Mr. SARBANES. Mr. President, a parliamentary inquiry.

Does an appeal lie from the ruling of the Chair on a motion that an amendment is out of order or dilatory? Can that be made?

The VICE PRESIDENT. Yes.

Mr. SARBANES. Is it the Chair's ruling that if the motion is made by the majority leader, such an appeal does not lie, except with his permission?

The VICE PRESIDENT. The responsibility of the Presiding Officer is to recognize the first Senator seeking recognition, except in those circumstances where the leadership seeks recognition; and under the customs of the Senate, it is the responsibility of the Presiding Officer, as he understands it, to recognize that leadership.

Mr. SARBANES. So does the recognition which is accorded to the majority leader by the customs of the Senate extend only with respect to the majority leader bringing up, subsequent to the disposition of one piece of business, the

next piece of business, or does it reach to the point of preventing an appropriate completion of the first piece of business as provided by the rules through the raising of a point of order?

The VICE PRESIDENT. The Presiding Officer has described his understanding of the customs of the Senate.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SARBANES. I yield to the Senator for a question.

Mr. JAVITS. I ask the Chair whether a point of order will lie, to be ruled on by the Chair that it is out of order, to successively recognize the majority leader, so as to deny individual Senators the right to appeal from a ruling of the Chair which is raised in the course of the first recognition by the majority leader. Would it be in order to make that point of order?

The VICE PRESIDENT. The Parliamentarian informs the Chair that it would be.

Mr. JAVITS. I make the point of order.

Mr. SARBANES. Mr. President, I have the floor, and am prepared to make such a point of order.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold?

SEVERAL SENATORS. Regular order.

Mr. ROBERT C. BYRD. Does the Senator withhold that point of order?

Mr. SARBANES. Without losing my right to the floor and without losing my right to make that point of order.

Mr. JAVITS. I have made the point of order.

The VICE PRESIDENT. The Chair is advised that the Senator from New York cannot make that point of order unless there is agreement on yielding to him for that purpose.

Mr. JAVITS. I ask the Senator from Maryland if he yields to me for that purpose.

Mr. SARBANES. May I yield for that purpose, under rule XXII?

The VICE PRESIDENT. The Senator may, but he loses the floor.

Mr. JAVITS. Mr. President, I make the point of order.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President——

Mr. CULVER. Mr. President, a point of order. Is the point of order debatable?

The VICE PRESIDENT. Under the rules of cloture, it is not debatable.

SEVERAL SENATORS. Regular order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 5 minutes in which to discuss the point of order.

The VICE PRESIDENT. Is there objection?

Mr. CULVER. Objection.

The VICE PRESIDENT. Objection is heard.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, I ask unanimous consent that there be 10 minutes to discuss the point of order, to be divided between the Senator who propounded the point of order and the majority leader. I ask unanimous consent for 10 minutes.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The Senator from West Virginia.

Mr. FORD. Mr. President, will the Senator yield me 15 seconds?

Mr. ROBERT C. BYRD. I yield.

Mr. FORD. The older I get, the smarter my parents become. My mother told me that a word spoken cannot be retrieved, and the tongue is the only edged tool that grows sharper with constant use.

Mr. ROBERT C. BYRD. Mr. President, what is the point of order?

The VICE PRESIDENT. The Senator from New York has made a point of order that it was out of order for the Chair to continuously recognize the majority leader to call up amendment after amendment, and in each case the Chair ruled them out of order, without Senators being permitted the right to appeal in each case, through recognition.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Maryland for his courtesy. Now, Mr. President, I think that my colleagues have known me long enough to realize that I always am as patient as one possibly can be; that I am forebearing; that I bend over backward in an effort to accommodate every Senator on both sides of the aisle, and on both sides of any question, often to my own disadvantage.

Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

Mr. ROBERT C. BYRD. But, Mr. President, we have come to a situation here in which it is not just the accommodation of a Senator that is involved; it is, rather, the accommodation of the Senate itself.

We have heard talk about the abuse by the leadership of its prerogatives. We have heard talk about the abuse of the custom of preferential recognition of the majority leader. What about the abuse of the rules to which every Member of the Senate on both sides of the aisle has been subjected for the last 13 days and 1 night? What about that abuse of the rules? What about the abuse of the Senate itself, when we have stood here hour after hour—and I have done it, I have pleaded, I have tried to get unanimous consent, I have had meetings in my office with Senators on both sides of the question, I have tried in every possible way available to me to get the Senate to come down to a resolution of the issue, and my words and pleadings have fallen upon deaf ears.

Now it came to the point that we saw we could not reason with a handful of filibusterers—and I have been on their side on the votes, I am still on their side on the basic issue of complete deregulation at this time. Time and time and time and time again, over the years, I have been the spear carrier, in fighting this able and honorable man, the Senator from Alabama. I have been the spear carrier many times in years gone by for those who are seeking to get the Senate to take action now to denigrate me.

For 10 years, who has been your spear carrier, Mr. CULVER? I have gone on the battleground with this man because nobody else in the Senate was chosen to do so or was equipped to do so. I did it on the civil rights attorneys' fee bill; I did it on the antitrust bill; I did it on Senate Resolution 400 that set up the Intelligence Committee; I did it on the extension of the Voting Rights Act; I did it on the fight to reduce the cloture votes from two-thirds to three-fifths. Those of you who today charge the majority leader of having abused his prerogatives did not then raise your voice.

I would say that the Senator from Alabama and those who supported him at that time had just as much right to say that I was abusing the rights of the leadership when I took him on. I was the majority whip then. But who stood up for him in that day? Nobody! Where were those then who now stand against me because I am now seeking to get this bill out of here, and because I am seeking to take a stand against the continued abuse of the U.S. Senate and every Member of it? Where were they then? I did not hear a word out of them when it was Senator ALLEN who was filibustering for causes in which he believed. But I carried the scars, and I still carry those scars.

I have not abused the leadership's prerogatives. I am trying to keep Senators from abusing the Senate, and I think it is self-evident that the ending of such abuse is long overdue. They have done too much of it already.

Now, Mr. MUSKIE said something about the devising of a change in the filibuster rule over the weekend.

The VICE PRESIDENT. The Chair must advise the leader his 5 minutes have expired.

Mr. JAVITS. I yield to the Senator 1 minute.

Mr. ROBERT C. BYRD. I cannot finish in 1 minute.

Mr. STONE. Mr. President, I yield to the leader my remaining time on the bill.

The VICE PRESIDENT. There is a question as to whether time would be yielded.

Mr. JAVITS. Mr. President, I understand we are limited to 5 minutes to a side, and I yield 2 minutes to my colleague.

Mr. ROBERT C. BYRD. I thank my distinguished friend from New York.

No change in the filibuster rule was devised over the weekend. But there have been some new precedents set here today that had to be set, and they were discussed over the weekend.

My interest here is not in putting at a disadvantage those who stand with Mr. METZENBAUM and Mr. ABOUREZK on the basic question. I have voted with them every time on the basic question. But I am trying to put a stop to this filibuster, and that is what the Vice President is trying to do, and that is what the administration is trying to do. That is why the Vice President is here today. He is not here, as someone has said, to—what did Mr. ABOUREZK say about the President?—pull the rug out from under us. The Vice President is here to get the ox out of the ditch. The ox is in the ditch! That is why the Vice President is here!

The administration is for the position that the filibusterers hold. The President has said in no uncertain terms that he intends to veto outright deregulation. What more do you want? You know you are going to win in conference. You know if outright deregulation gets through conference, the President will veto it. What kind of a charade do you think the American people are going to be fooled into thinking this is?

I say it is long past time, Mr. President, to stop this filibuster, and to stop the abuse of the Senate and its rules. It was for that reason that I, in this instance, took extraordinary advantage of my prerogative as leader to be recognized. One has to fight fire with fire when all else fails.

[Applause, Senators rising.]

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. ABOUREZK. Mr. President, will the Senator yield?

The VICE PRESIDENT. Under the controlled time, the Chair recognizes the Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 2 minutes, and I would like to yield then a minute to Senator SARBANES who started this whole discussion.

Mr. President, I have been here a long time. I am very proud of this body. I am very jealous of what it does. I do not want to see it run down the drain in a moment of exasperation. Thirteen days are but a moment in the life of this body; the precedents and the order and the procedure of a century, and I understand thoroughly how BOB BYRD feels, and I voted with him a lot, and I have gotten so fed up with this thing that I think I am almost ready to do something to resolve it even if it is against what I deeply believe is the right course in this matter, and I think that is true of many others.

But often in moments like this we forget, we miss the forest for the trees. It is not right not to permit an appeal. The Senate, indeed on Saturday—and I was not here but my assistant has called to my attention—voted that there could be an appeal. This vote was 71 to 9, that there could be an appeal in just such a situation.

I hope very much, therefore, that by the tradition of recognizing the majority leader that right will not be denied. It is exasperating, it is troublesome. But all of us must understand that there but for the grace of God go I.

I deeply believe, Mr. President, we have administered very considerable rebukes today to those whom the Senator from West Virginia has properly criticized, a great many, and they will curtail this filibuster very materially.

In addition, 100 of us have to live together. We have long memories. I hope the filibusterers remember that, too. But this process seemed to me, in all decency and honesty—and I have expressed my understanding and sympathy—to go beyond the bounds of what was reasonable and prudent.

As an older Member I felt if I do not put the question to the Senate and stop the Senate so that it takes another think on it, who would. That is why I made this motion.

The VICE PRESIDENT. The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, I want to speak in much the same tenor in which the Senator from New York spoke. I understand the feelings of the majority leader. We have been changing some precedents here, and I, in fact, have supported some of those put forward today by the majority leader as being a more sensible and more reasonable way for the Senate to do business.

If we want to change, that is fine. I was driven to raise the point of appeal by the process that was being followed and its implications. If simply allowed to pass without its being raised, the implications are quite serious.

If the Senate wants to adopt that implication by majority vote, it has that opportunity. But, it seems to me, if we try to work through the situation by the rules—as the Senator from Maine has pointed out, we got rule XXII through some very touchy fights, and these rules are available—if they want to change them, that ought to be done in a way that is sensible and constitutes an applicable precedent for the future.

We were assured in particular with respect to this point by the Chair at a time when other rulings were being made, and it seems to me a different way has to be devised in terms of moving forward.

Mr. TOWER. Regular order.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may proceed for 1 minute more.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, I wish I had time to respond to the distinguished majority leader. I believe the point has been made. I believe the Senate is of one mind on this question. At the same time I believe the Senate would hate to pass on this point of order.

I would ask unanimous consent that the point of order be withdrawn. It can be put in again if this same practice continues. Senators would be most reluctant to repudiate the distinguished majority leader who is trying so hard to get a vote on this issue.

There will be plenty of time later on this afternoon to raise this point of order if it is necessary.

I appeal to the distinguished Senator from New York to withdraw the point of order.

Mr. STONE. Mr. President, will the Senator yield 10 seconds?

Mr. ALLEN. Yes.

Mr. STONE. The Senator from Alabama is right. This point of order should be withdrawn for now at least, and the discussion of it could go on in person one on one at a later time.

Mr. JAVITS. Mr. President, will the Chair recognize me for a parliamentary inquiry?

The VICE PRESIDENT. The Senator from New York.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JAVITS. Will it be the intention of the President of the Senate upon the next such motion by the Senator from West Virginia to allow another Senator to seek recognition once he is recognized and calls up the amendment which the Chair rules out of order?

Mr. ALLEN. Mr. President, I do not think the distinguished Presiding Officer should be required to make that judgment.

Mr. JAVITS. I press that and I wish an answer.

Mr. ROBERT C. BYRD. Mr. President, I can answer that.

I had no intention of calling up any other amendments. I have finished.

Mr. JAVITS. All right.

Mr. President, I withdraw the point of order.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate be allowed to vote on appeal on each of the amendments that was ruled out of order——

Mr. MORGAN. Objection.

Mr. ROBERT C. BYRD. Will the Senator allow me to finish?

Mr. MORGAN. I will withhold it for the time being.

Mr. ROBERT C. BYRD. Provided it be done in each instance by voice vote and we then get on with the business of the Senate.

Mr. MORGAN. Objection.

The VICE PRESIDENT. Objection is heard.

Mr. ROBERT C. BYRD. Only two types of amendments were ruled out of order. They were those not germane and those that went to more than one place in the bill. They were clearly out of order.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. Before this matter came up, before the majority leader went down the list, had he not been advised by me that he had told me that there were two lists, one of which contained amendments that were not in order because they were not germane, and one of which contained amendments which were not in order because they amended the bill at more than one place?

Mr. ROBERT C. BYRD. And there were other lists, but I have given those lists to the Senator.

Mr. METZENBAUM. Had I not pointed out to the majority leader that out of those lists there were 44 amendments, 11 of them were mine, and had I not said to the majority leader that I intended to withdraw those amendments before he ever ran down the entire list?

Mr. ROBERT C. BYRD. The Senator did say that he intended to withdraw his amendments. I do not recall that he said how many were out of order. I had no chance to count them. I do not re-

member that he told me how many were his. He did indicate that a certain number of them were his and that it was his intention to withdraw those that were his.

Mr. METZENBAUM. I ask that question in the context of the majority leader, for whom I have great respect, having just a moment ago talked about the abuse of the rules. When I learned that there were certain amendments that were out of order, I was prepared to withdraw them voluntarily, and I thought the Members of the Senate should be apprised of that.

Mr. STONE. Mr. President, will the Senator from Ohio yield for a question?

Mr. CURTIS addressed the Chair.

Mr. STONE. Mr. President, will the Senator from Ohio yield for a question?

Mr. METZENBAUM. On the Senator's time.

Mr. STONE. On my time.

Does the Senator from Ohio wish to withdraw the amendments now that are irrelevant or not germane?

The VICE PRESIDENT. Had the Senator from Florida sought recognition?

Mr. STONE. The Senator from Florida asked the Senator from Ohio if he would yield on my time for that one question.

Mr. METZENBAUM. I am happy to yield on the Senator's time.

Mr. STONE. Yes, on my time.

And I ask the Senator from Ohio, Does he now wish to withdraw the amendments that he just mentioned?

Mr. METZENBAUM. All the amendments that I had intended to be withdrawn were called up by the majority leader and ruled out of order, so they are no longer extant.

Mr. STONE. Mr. President, will the Senator from Ohio have any other amendments that he wishes to withdraw?

Mr. METZENBAUM. Yes, I have no other amendments that are not in order.

Mr. ROBERT C. BYRD. Mr. President, may I say that I do have other lists. I am glad to say to the distinguished Senator from Ohio that I have other lists of amendments that are not in order for other reasons, and if he wishes to take a look at those lists and withdraw the amendments that are on those lists, I am very glad to supply them.

Mr. METZENBAUM. I ask the majority leader: Have I not been asking for the last several days if I might see such a list in order that I might make my own evaluation? And I have asked as recently as the last half-hour.

Mr. ROBERT C. BYRD. The Senator asked last Saturday.

Mr. METZENBAUM. Yes.

Mr. ROBERT C. BYRD. I said I would try to compile a list over the weekend and supply him with it.

Mr. METZENBAUM. I asked also when Senator BUMPERS had raised the point, and I asked at that time if I might obtain a list, and I said consistently if I could see the list to determine and agree with the determination then I would have no difficulty in arriving at an appropriate conclusion.

Mr. ROBERT C. BYRD. The Senator is correct.

I have to say to the Senator that over the weekend I asked the Parliamentarian to have his staff compile the remaining amendments and categorize them as to whether they were out of order for one reason or for some other reason. It was only this morning that they were able to supply me with those files and those up-to-date lists. The Senator came to me again this morning and reminded me of his request. I gave him two of the lists and was trying to complete them so as to give him the remaining ones. So I have done the best I could do.

Mr. METZENBAUM. I look forward to seeing that list.

Mr. CURTIS addressed the Chair.

The VICE PRESIDENT. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Richard Poore, of my staff, be accorded the privilege of the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ABOUREZK addressed the Chair.

The VICE PRESIDENT. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I wish to address a parliamentary inquiry to the Chair.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. We just had sort of an emotional outpouring based on the recent action of the Chair and the majority leader. I do not know if it is in place to ask this question now or not.

But what happened was when I tried to seek recognition the Chair refused to recognize me based on what he said was the precedent of recognizing the majority leader. I think it is recognized by everyone that that precedent deals with the majority leader doing the actual detail work of the Senate, not that he can get up and become involved in a partisan fight. I think that is the purpose for the precedent, because if we were going to set a precedent for a tradition that said the majority leader could become involved in a partisan way on an issue and then say that he is entitled to recognition over and above everyone else, I think that would be wrong and I think most people would agree with that.

When I sought recognition to appeal the ruling of the Chair on each point of order that was made by the majority leader I was denied that recognition. I was denied the right for a division on a voice vote before the voice vote was announced.

The question I want to propound to the Chair is this: Does the Chair intend to allow that what I consider a real violation of the rules, not only an abuse of the rules, but a brutalization of the rules to stand?

Mr. ROBERT C. BYRD. Mr. President, I think that is a question that should be addressed to me.

Mr. ABOUREZK. Mr. President, I would like an answer from each if I can get it.

Mr. ROBERT C. BYRD. The Chair is in no position to answer that question. I can answer it.

I have never before today attempted, as long as I have been in a leadership position in this Senate, to inject myself in a partisan way in any fight, and I am not doing that today. I am not doing that today because, as I say, I have been voting with the Senator on motions to table the Pearson-Bentsen amendment. Two years ago I voted for deregulation. I have not injected myself as leader in a partisan way, to tip the scales for or against deregulation by using the rules, and I do not intend to.

I might at some point inject myself in a partisan way as between Republicans and Democrats. I would suspect the Senator would expect me to do that. I would suspect the distinguished minority leader would expect me to do that. But when it comes to injecting myself and taking advantage of the rules, if that is what the Senator thinks I have done, just so that I might tip the balance one way or the other on the basic and substantive issue, between my colleagues here I have never done that, and I do not intend to ever do it, if that is what the Senator means by "partisan." I have used the rules, and will do so again, to get the Senate to act.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I still have the floor.

The VICE PRESIDENT. The Senator from South Dakota retains the floor.

Mr. ABOUREZK. Is the leader able to respond to the other part of my question?

Mr. ROBERT C. BYRD. Mr. President, I think my record over the years speaks for itself. I have been fair. I have been fair to the side against which I am voting. I have been fair to the side for which I am voting and with which I am voting. And I have done that today. I have not been partisan today on the substantive issue. I still stand right where I have stood heretofore. I am with the Senator, against the Bentsen-Pearson amendment.

If the Senator wants to call that "partisan," then that is partisan. That is my personal vote. But that has nothing to do with what I have done here today. I have simply tried to get the Senate off the dime and the ox out of the ditch and get on with Senate action on the bill.

Mr. ABOUREZK. If I could address the question to the Chair, and I would like a response from the Chair, does the Chair intend to allow the rulings that he made to stand in view of the fact that I and others were denied recognition in an effort to appeal those rulings?

The VICE PRESIDENT. The Presiding Officer described what he understood the custom of the Senate required him to do, namely, to recognize the leadership when he sought recognition, and that is what he has done.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio.

Mr. GLENN. Mr. President, we have had a remedy available to us to work our way out of this quagmire right from the start, but we have not been able to keep 51 Senators on the floor of the U.S. Senate to deal with the issue. We discussed it last week; I made a couple of remarks about it, and the leadership tried to exhort us on to come to the floor to keep a quorum on the floor, so that these interminable quorum calls would not be necessary. At that point, we could have voice vote on these amendments.

When we started doing that, I thought we might be through with this by this point, but we have been unable to keep 51 Senators on this floor to deal with this important legislation. As long as we had a majority on the floor, we could deny dilatory motions and it did not mean anyone's rights were being violated.

I thought this whole procedure of going through the rules to see how we could work the rules over was fraught with danger, and that has been evident today. But I say we have had the remedy for working our way out, if we could get enough Senators to stay on this floor. If we could go that route, I think we would be through within a few days. But we have not been able to get that many Senators on the floor.

I think that is the only way to eventually work our way out. It is obvious that trying to push the rules, bend the rules, or reframe the rules is fraught with great hazard.

I would hope that from this moment on, we can keep 51 Senators on the floor and we will eventually reach the end of this process and can vote up or down on the bill itself.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, there is good reason to finish this bill, get it into conference, and get the Senate on other business. We have been told that somehow if we stall this bill forever, and Pearson-Bentsen is defeated, there will be billions of dollars saved for the consumers of gas, and particularly the claim is made that there would be great savings for the home consumers.

Well, when all else fails, after reading about the billions of dollars figures from the CBO, from the administration, from Ralph Nader, from the Consumers Federation of America, or from what-have-you, there really is an opportunity to see what it will cost the homes in your own State.

I took that opportunity last Saturday, while we were talking here on the floor, to call the two utility companies in Montana that distribute gas, Montana Power and Montana-Dakota Utilities.

Now, I do not have total admiration for the utility companies. That is not in me. But if I want some information, I expect them to tell me the truth and to give it to me quickly and they do just that.

To tell you one reason why I do not have total admiration for these utility companies, while I was here Wednesday night voting for Bentsen-Pearson, Montana Power cut off the electricity, in Butte, Mont.—or Butte, U.S.A., as they like to call it—cut off the power to Joanie, our second daughter, who is not a good bookkeeper, but like other customers, should not abruptly be cut off by a utility company. That is why I tell you I do not have total admiration for utility company actions such as that example. However, I do appreciate their help to get the accurate information on the cost per home computed by them.

The fact is that, given the question, how much is it going to cost as between Jackson amendment 1022 and Pearson-Bentsen during the next 2 years for the average home, here is the answer: For Montana Power, $1.80 per year more in cost for Pearson-Bentsen over Jackson; that is a total difference of $1.80 per year per home.

Montana - Dakota Utilities, which serves little more than half of Montana, and practically all of North Dakota, and with 25,000 customers in the State of South Dakota, and some customers in Wyoming, the answer is slightly more: approximately $6 more under Pearson-Bentsen than under the Jackson amendment, for each year, and that is the total differential per year per home.

That is where it divides, in dollars and cents, between the two. I go for Pearson-Bentsen, because I think it is worth a little bit more to cut out some redtape. I go for Pearson-Bentsen because I think there may—and I say may—be more gas brought on line. For those two reasons, I think it is worthwhile to vote for Pearson-Bentsen.

But above all, given that narrow confine of dollars and cents, and together with the probability that we are going to get more gas under Pearson-Bentsen and get out of some redtape, why is it not worth going to conference? Let us get rid of it.

I hope every Senator who has some doubts as to how much it will cost homes in his area——

Mr. STENNIS. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

The Senator may proceed.

Mr. MELCHER. I hope every Senator who has some doubts as to what it will cost homes in his area under either formula will take the time to call the utility companies. They know. For every company it varies because contracts are expiring, and they are going to have to buy the new gas in different amounts. But every utility company can tell you what it will be, within pennies, for the next 2 years.

Having said that, it seems to me abundantly clear that we all should have the opportunity to resolve the issue in our own minds as to what the costs are, and then, if you find, as I have, that the costs are not all that great, then look at the other part of it: Does Pearson-Bentsen cut out enough redtape to make it worthwhile? Does it provide the opportunity for perhaps more gas coming on line? In my judgment, the answer is yes. In your judgment, it might be different. But I would hope all of us could agree that within such a narrow confine, this bill ought to be allowed to go to conference.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 3 minutes.

First of all, the Presiding Officer and the majority leader know that I have been deeply involved——

Mr. STENNIS. Mr. President, I make the point of order that we have no semblance of order here.

The VICE PRESIDENT. The Senator is correct.

Mr. STENNIS. Not a semblance of order for deliberations. I cannot hear the speaker. I cannot hear all these people talking back here. Who are all these people coming in and going out all the time, anyway, Mr. President? They are not Members of the Senate. If they are Members of the House of Representatives, they are all welcome, but something has to be done. This man is not being heard.

The VICE PRESIDENT. The Senator is correct. The Senate will be in order.

Mr. BUMPERS. I thank the Senator from Mississippi.

The VICE PRESIDENT. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, my position on this matter is well-known. I am not going to reiterate it or talk about the susbtance of the issue. But, as I was about to say, the majority leader and the Presiding Officer and others here know that I have been deeply involved in every conceivable effort to bring this thing to a conclusion, because I want a bill. I have not been totally supportive of either side. From time to time I have not supported the leadership; when I felt that the rights of the Senator from Ohio or the rights of the Senator from South Dakota were being infringed, I did not support it.

So that is where we are. I want a bill and the Senator from Montana wants a bill. I said that I would not vote to change the rules in the middle of the game for all the reasons the distinguished Senator from Maine (Mr. MUSKIE) stated so eloquently a moment ago.

But, Mr. President, it occurs to me, and I must say, I was one of the 13 Senators who just a few moments ago voted against the ruling of the Chair because I thought it was subject to being abused whether it was or not. I thought then, and I think now, it is a bad precedent to resolve a very volatile, emotional issue which is of immense importance, but nevertheless, a transitory issue.

I will certainly do my very best to assist the majority leader in moving this bill along, Mr. President. It occurs to me that on those amendments which are out of order because they amend the bill in more than one place, those amendments which are out of order because they refer to a page in the bill which does not exist—all those technical reasons an amendment could be out of order—No. 1, I think that Senators ought to be recognized to appeal even that ruling, but I, for one, will stay on the floor as much as I can to help constitute a quorum, and I will keep my hands in my pocket when the yeas and nays are asked for on those kinds of amendments.

On the other kinds of amendments which are properly drafted, which I feel have merit and are indeed not offered for dilatory purposes, whether to the bill or to the substitute, I will be the judge of that. I think we can move along. I do not think there will be many seconds to

even those amendments which are ruled out of order.

It occurs to me that that is a fair way. If it takes another 2 weeks, nobody's rights will be abused. Tempers will get short again and there will be a lot of outrageous oratory in this body. Yet, everybody can feel securely confident nobody's rights will have been abused and we will move in an orderly way under all the Senate rules at this moment.

Mr. President, having said that, those are my simple suggestions. I would hope that the Chair would allow appeals from his orders if Senators do not agree with him. Particularly in those cases where they are patently out of order I will be happy to vote with the Chair on a voice vote, and I will not lend my support to a second to ask for the yeas and nays.

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER. I ask that my amendments 983, 1027, and 1028 be recalled from the desk, Mr. President.

The VICE PRESIDENT. The Senator has that right. The amendments are recalled.

Mr. STEVENS. Mr. President——

The VICE PRESIDENT. The Senator from Alaska.

AMENDMENT NO. 1207

Mr. STEVENS. I will say to my friend from Ohio this is one of his amendments. I call up amendment No. 1207.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment No. 1207.

On page 5, line 17, strike "April 20, 1977" and insert in lieu thereof: "date of enactment".

Mr. STEVENS. This amendment changes the date of the President's program of April 20, 1977, to the date of enactment, and I oppose this amendment.

Mr. HANSEN. Mr. President, I move to table the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. The question is on agreeing to the motion to table. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. I make a point of order on the basis of the previous ruling of the Chair.

Mr. METZENBAUM. Mr. President, I ask the Chair to look around and tell me if there is a quorum present in this body at the present time. I also point out to the Chair that the rules do not permit him to make that count.

Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. METZENBAUM. Am I correct, that the rules and precedents of the Senate specifically provide in unequivocal language that the Chair may not count the Members of the Senate in order to determine whether a quorum is present?

The VICE PRESIDENT. The point of order has been sustained. The Chair possesses the authority to determine the existence of a quorum under cloture.

The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I recall my amendment No. 1313.

The VICE PRESIDENT. The Senator has the right to recall his amendment.

Mr. LONG. Mr. President——

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. With reference to the discussion we had about being recognized to make an appeal, after cloture was voted, I, myself, several times in moving these amendments which were out of order, called an amendment up, the amendment was ruled out of order, I shouted for recognition in contest with Mr. ABOUREZK, managing to get recognition, called up another amendment, and it was ruled out of order.

In one case, I think I managed to call up a third amendment and get it ruled out of order before the Chair recognized Mr. ABOUREZK to make his appeal. I am not a majority leader. I am just one Senator. That was going on here, that was the precedent that was set last week. Mr. ABOUREZK did not complain about it; Mr. METZENBAUM did not complain about it. Nobody complained about a single Senator being recognized by the Chair. After all Mr. ABOUREZK is not the only one who can shout—and getting recognized and bringing up the next motion.

As I understand, under the rules a Senator has to be recognized in order to make an appeal.

When several Senators are shouting for recognition and you get recognized you can make your appeal. If the other man gets recognized, he can call up something else and you lose your chance for making an appeal at that particular point. That is how the rules worked, as I understood it. That is how the Senate has been doing business and was doing business when the Senator from Louisiana tried to move these amendments on and get some of these out-of-order amendments disposed of prior to the time that this matter came up with all the uproar because the majority leader was recognized under the tradition of the Senate.

Several Senators addressed the Chair.

AMENDMENT NO. 1208

Mr. STEVENS. Mr. President, I call up amendment 1208.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendment No. 1208.

On page 5, line 18, strike "April 20, 1977" and insert in lieu thereof: "date of enactment".

Mr. HANSEN. Mr. President, I move to lay that amendment on the table.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President——

Mr. METZENBAUM. Mr. President——

The VICE PRESIDENT. The Chair recognizes the Senator from Alabama.

Mr. ALLEN. Mr. President, I have, by and large, supported, where I thought it was right, those who are engaging in, shall we say, extended debate. Every ruling of the Chair which has been appealed I have decided on the basis of merit, as I saw it, and not on the basis of on which side I might be. On occasion I have supported the position of those who were offering the amendments, and at other times I have failed to support them.

I was very much impressed by what the distinguished majority leader said, or, rather, the rhetorical question he asked: Where were all of these voices in the Senate last year when we had somewhat similar issues before the Senate, when the Senator from Alabama and two or three other Senators were making this very same point, that they should have the right to be heard, that they should have the right to offer amendments?

Did we hear from the distinguished Senator from South Dakota? No, he was on the other side, seeking to cut off any right to discuss amendments, to discuss the bill, or to offer amendments. These other Senators who have complained long and loudly about rulings of the Chair, many of them were in the vanguard of efforts to cut off the Senator from Alabama. So I have little sympathy and——

Mr. HELMS. Mr. President, may we have order, please?

The VICE PRESIDENT. The Senator is correct. The Senate will be in order.

Mr. ALLEN. I have little sympathy for those who are saying that they are being steamrolled. Yes, in some cases, I feel that, possibly, they are. But I have listened to the remarks of some of my colleagues on the difference between the method by which this filibuster has been sought to be cut off and extended discussions in the past. Senators will recall that frequently, when a bill was brought up that the Senator from Alabama felt should be discussed, cloture was filed within seconds of the time the bill was laid before the Senate. In this case, the issue was debated for 5 days before cloture was even filed. Then it seemed to me that the attitude of those seeking to bring the filibuster to a halt has been, if not obsequious, certainly deferential to the position of the filibusterers. The majority leader has leaned over backward to give the filibusterers every opportunity to be heard.

So I feel that it comes with somewhat bad grace for those who, in past times, have been the very leaders in the effort to choke off debate here in the Senate now to come and piously say, "We are being denied the opportunity to be heard." Possibly they are. I sympathize

with them. I have been voting with them. But I cannot help but notice the great difference which has taken place in the efforts to cut off this filibuster from efforts that prevailed in the past to cut off filibusters in which I and some other Senators on the floor were interested.

I am hoping that this issue can be resolved without violence to the rules, because we have to look far ahead on this issue. Whatever rules are made here on points of order are going to serve as rules of the Senate for years to come. So I am hoping we shall not break or bend the rules. But I do feel that there are avenues and methods by which this matter can be brought to a close.

I am going to have to commend the distinguished majority leader for his forbearance in this matter. He is entitled to a great deal of credit. He has given ample opportunity for all legitimate amendments to come in. I am going to continue to support the right of those who wish to discuss this matter. I am going to continue to support their right to offer amendments. Still, I say that the efforts in this particular matter, the so-called steamroller, as it has been called, in this matter is nothing like steamrollers that have existed in the past, and I can bear witness to that from my flattened-out body resulting from the steamroller.

I observe the distinguished Senator from South Dakota (Mr. ABOUREZK). His body has not yet been flattened by the steamroller, so I do not think he has a great deal to complain about, I say to the distinguished Senator.

Mr. METZENBAUM. Mr. President.

Mr. HELMS. Will the Senator yield for a question?

Mr. ALLEN. Yes, I yield for a question.

Mr. ABOUREZK. Mr. President, I rise for a point of personal privilege. The shape of my body has been impugned. I cannot help if I am fat. I wish the Senator from Alabama would recognize that.

Mr. ALLEN. I yield to the Senator from North Carolina.

Mr. HELMS. Does the Senator from Alabama share the hope of the Senator from North Carolina that the spirit of solicitude for the rights of the minority will run on and on like Tennyson's brook?

Mr. ALLEN. Yes, I hope the majority will continue to recognize the rights of the minority.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MAGNUSON. What is before the Senate at this time? Do we have some business to transact?

The VICE PRESIDENT. An amendment in the nature of a substitute No. 1039.

Mr. METZENBAUM and Mr. DOMENICI addressed the Chair.

The VICE PRESIDENT. The Senator from New Mexico.

Mr. DOMENICI. I wish to recall amendments 1291, 1292, 1293, 1294, 1295, 1296, 1298, 1302, 1303, 1304, and 1310.

The VICE PRESIDENT. That is the Senator's right under the precedents.

AMENDMENT NO. 1060

The VICE PRESIDENT. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I call up amendment No. 1060.

The VICE PRESIDENT. The amendment will be stated.

Mr. STEVENS. Mr. President——

The VICE PRESIDENT. The Senator from Alaska.

Mr. METZENBAUM. Regular order, Mr. President. The amendment has not been read.

The VICE PRESIDENT. The Senator is correct.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1060:

On page 9, line 24, strike the following: "produced from a new well in the United States and".

Mr. HELMS. Mr. President, I move to lay that amendment on the table.

Mr. STEVENS. Mr. President, this is an amendment of mine. I wish that the Senator from Washington were here, as the manager of the bill, or the manager of his substitute amendment, should we consider that portion of the issue. It demonstrates to me the extent that the Senator from Ohio wishes to go to destroy the courtesy of the Senate. As I have stated time and time again, this is a very important amendment to my State. It is only relevant if the Jackson amendment becomes subject to amendment following the defeat of the Pearson-Bentsen amendment, should that occur.

This amendment deals with a very touchy subject with regard to the Prudhoe Bay gas field. The Prudhoe gas field has about 10 percent of the hydrocarbons of this Nation in terms of our reserves. This gas is produced associated with the oil. Those are old oil wells, producing old oil, which will produce old gas, which for a period of time, will be reinjected into the ground. The time will come when it will be transported by pipeline and be subject to the controls if the Jackson amendment becomes law.

The Jackson amendment deals with old gas from new wells. The net effect of the provisions of the bill now would be that, in order to get the new gas price for old gas, it would be to the advantage of the producers to drill new wells to produce the old gas from an old field. It is a highly technical question about which the Senator from Ohio knows nothing—absolutely nothing. My good friend from Washington and I are prepared to discuss it. We are prepared to try to work it out, as gentlemen should, on the floor of the Senate. I have repeatedly asked the Senator from Ohio not to call up this amendment. I have also given him notice and told him if he gave me notice of any amendment he did not want to have called up, I would not call it up.

These frivolous amendments to change the date from April 20, 1977, until the date of enactment throughout the bill—and they are frivolous, and they are dilatory—are getting us all on the razor's edge. But this is a most important amendment.

I shall make one last attempt at courtesy. I ask the Senator to withdraw that amendment. We need to have the Senator from Washington here to work it out. It is premature to consider it because the Jackson amendment is not before the body. The amendment is to the Jackson amendment. If the Senator calls it up, it may be ruled out of order, not tabled, because it may be out of order to consider it at this time. It is an amendment to the Jackson amendment.

Am I incorrect?

The VICE PRESIDENT. The Senator is incorrect.

Mr. STEVENS. In what way, I ask, am I not correct?

The VICE PRESIDENT. It is in order at this time.

Mr. STEVENS. I do not want it to be out of order, believe me. I am happy to have that advisory opinion of the Chair.

This is not proper, for the Senator from Ohio (Mr. METZENBAUM) to jeopardize the future of my State with regard to this vast oil and gas pool in order to have a filibuster dilatory tactic.

Mr. LONG. Mr. President——

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. I make the point of order that the motion coming at this time is dilatory—the motion to proceed, coming at this time, is dilatory.

The VICE PRESIDENT. To which motion does the Senator refer?

Mr. LONG. The Senator is offering an amendment. I make the point of order that the motion to offer the amendment is dilatory at this point.

The VICE PRESIDENT. The Chair does not view that motion as dilatory.

Mr. METZENBAUM. Mr. President, I share the concern about matters of which the Senator from Alaska spoke. That is, he indicated that amendment No. 1060 is of major concern to his State. He calls my amendment, which he had called up a few minutes ago, a dilatory amendment. It would, indeed, cost the people of America billions of dollars if we do not make the change that is proposed in that amendment.

I have a lot of respect for the Senator from Alaska, and I spoke with him on Saturday and urged him not to call up my amendments. I assured him at that time that I had no intention of calling up his amendments unless he saw fit to do the same to me.

I do not accept the contention of the Senator from Alaska that my amendments are dilatory because they concern the people of Ohio and the other 49 States, and that his amendment is of substance because it concerns the State of Alaska.

I respect him for fighting for the people that he represents in his State. I hope he would have the same kind of concern for me.

I say to the Senator from Alaska that if I had his assurances he has no further intention of calling up any of my amendments, I would be pleased to withdraw my having called up his amendment.

Absent that, I do not intend to do so.

Mr. STEVENS. Well, this Senator has no intention of making that assurance because the Senator's amendments are

frivolous. The amendments of the Senator from Ohio are frivolous, Mr. President. The Senate has voted several times on changing the date from April 20, 1977, to the date of enactment.

He has amendments to change the dates which would affect many sections of the bill. There are some 20-odd amendments that involve that one change.

This is a single amendment. It is a single substantive provision of the bill.

I see my good friend from Washington is here now, if he is prepared to vote on this, I am prepared to discuss it and vote on it right now.

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. As long as I have the floor, I will keep it, Mr. President, and await the message from my friend from Washington.

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. But this is a different position——

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. An entirely different position than the Senator from Ohio has. He has never yet told me there is an amendment that he is serious about. As a matter of fact, he has yet to discuss an amendment on the floor.

Mr. METZENBAUM. How can I, in an hour's time, Mr. President?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I might ask the Senator from Washington, as long as this has been called up, whether he is prepared to discuss it in terms of its merits. I think it is premature and I would rather discuss it later.

Mr. JACKSON. Before I comment either favorably or unfavorably on the Senator's amendment, I would like to clarify its effect.

Does the Senator intend the amendment to apply if and only if a producer has old gas, as defined, that is not subject to an existing contract as defined?

Mr. STEVENS. The Senator is correct.

Mr. JACKSON. Would two parties to an existing contract be able to break that contract and thus qualify under the provisions of section 7 as amended.

Mr. STEVENS. No, that is not my intention. The amendment covers only those few situations where the producer has old natural gas that is not subject to an existing contract and that will not be produced from a new well. There is a very limited amount of gas in this category.

Mr. JACKSON. Would the amendment cover old natural gas that could have been produced but was withheld from the market?

Mr. STEVENS. The amendment would not enable any gas that was withheld from market to qualify for special high-priced treatment. The withholding issue is irrelevant as far as this amendment is concerned.

Mr. JACKSON. Why has the Senator chosen not to amend the section title and the table of contents so they would be in accord with his amendment.

Mr. STEVENS. I am unable to do so because of our procedural situation. If the amendment is adopted, those changes would need to be made and I would hope that they would be considered to be technical changes that could be made when the Secretary of the Senate makes technical and clarifying changes in the act.

Mr. JACKSON. In view of the Senator's comments, I am willing to accept the amendment.

Mr. METZENBAUM and Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor. Does the Senator yield the floor?

Mr. METZENBAUM. Point of order.

Mr. STEVENS addressed the Chair.

Mr. METZENBAUM. Mr. President, a point of order.

Mr. STEVENS. I have the floor.

Mr. METZENBAUM. Once he yielded the floor to the Senator from Washington, he lost the floor, Mr. President.

The PRESIDING OFFICER. The Chair will observe that the Senator from Alaska yielded to the Senator from Washington for a question, and that is permissible, even during cloture.

Several Senators addressed the Chair.

Mr. JACKSON. And I responded to the question.

Mr. STEVENS. I am delighted with the statement of my good friend from Washington. It is a fair amendment that will take care of a problem and save money, not cost money.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I move to table the amendment, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. METZENBAUM. I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. CRANSTON. There is a quorum.

The PRESIDING OFFICER. The Chair observes that there is a quorum.

Mr. GRAVEL. Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was not agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Ohio.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. HATHAWAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY. Mr. President, I yield myself 30 minutes of my time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATHAWAY. Mr. President, I have not had an opportunity yet to comment generally about the measure that is pending before us and I am afraid if I wait much longer I will not have that opportunity.

Mr. STEVENS. Will the Senator yield?

Mr. HATHAWAY. I will yield only for a question.

Mr. STEVENS. Mr. President, may I ask the Senator if he will permit us to complete the vote on my amendment, that was only the motion to table we voted on.

Mr. HATHAWAY. We can vote on that later when I finish my talk.

Mr. President, it has been argued that higher prices for natural gas will eliminate "wasteful" uses. As one oil executive put it in a recent statement, "If the cost of gas were allowed to rise to its true value as a premium fuel—and that appears to be in the range of $2 to $3 per thousand cubic feet in today's market—then many companies that now are using gas in low priority uses would likely convert to oil * * * or coal."

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The point is well taken. The Senate is not in order.

The Senate will please come to order. The Senate will be in order. Members will cease conversations.

The Senator from Maine.

Mr. HATHAWAY. This is only one expression of a mistaken belief that ending the regulation of natural gas prices or increasing the price so it equals the price of replacement fuels, is the best way to reduce the demand for natural gas. The theory of the market economy is that charging more for a commodity makes people think twice before they buy—and so, only those for whom natural gas is the most efficient fuel will continue to use it. Supposedly, even this use will be reduced to the "minimum necessary" amount.

The whole question of how price affects demand—in fact—remains speculative. Almost no research has been done to determine how high prices would have to rise before users consumed less or switched to other fuels. Even less has been done to identify the real institutional, physical and cost barriers to shifting our dependence away from natural gas. What work has been done seems to indicate clearly that deregulated prices by themselves will not have much of an impact on overall use of natural gas. Access to reliable supplies is a far more significant factor in fuel choice and patterns of usage.

New England, a market shaped by the "artificially low" price of regulated gas, uses only 2 percent of the total consumed in the United States.

QUORUM CALL

Mr. President, I make a point of order that there is no quorum present.

I suggest the absence of a quorum.

Mr. LONG. Mr. President, there has been no business transacted.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. STEVENS. There has been no business transacted.

Mr. ABOUREZK. Yes, there has.

Mr. LONG. Since the last rollcall vote.

Mr. ABOUREZK. There was a voice vote, Mr. President. I suggest the absence of a quorum.

Mr. STEVENS. I correct that record. There was a vote.

The PRESIDING OFFICER. There was a vote and also a message from the President. Business has intervened. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 59 Leg.]

Abourezk	Glenn	Moynihan
Allen	Gravel	Muskie
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Proxmire
Burdick	Hatfield	Ribicoff
Byrd, Harry F., Jr.	Hathaway	Roth
Byrd, Robert C.	Hayakawa	Sarbanes
Chafee	Heinz	Sasser
Chiles	Helms	Schmitt
Church	Huddleston	Schweiker
Cranston	Inouye	Sparkman
Culver	Jackson	Stafford
Curtis	Javits	Stennis
Danforth	Kennedy	Stevens
Dole	Laxalt	Stevenson
Domenici	Leahy	Stone
Durkin	Long	Thurmond
Eagleton	Matsunaga	Tower
Ford	McClure	Wallop
Garn	McIntyre	Young
	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment offered by the Senator from Ohio. (Putting the question.)

Mr. HATHAWAY. Mr. President, I would like to continue with my remarks. How much time do I have remaining? I reserved to myself 30 minutes. I wonder how much of that 30 minutes I still have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes of his 30 minutes left.

Mr. HATHAWAY. Now, Mr. President, as I was saying, New England, a market shaped by the "artificially low" price of regulated natural gas, uses only 2 percent of the total consumed in the United States. Most of that is for premium uses in residences. By contrast, over 23 percent of the natural gas consumed nationally is used in refineries, where oil is an obvious and spurned substitute for precious natural gas. Refineries are concentrated in the producing States where so-called market prices prevail, but the privileged access of oil companies to their own natural gas production makes price consideration irrelevant. In both of these examples, it is access and security of supply, not price, which determine fuel choice.

Using gas for heat and cooling in homes, for running small commercial establishments, and for use as a feedstock and in agriculture are all priorities. For all other uses, substitution is possible. Limiting our consumption to premium uses would considerably stretch out our remaining natural gas. Whether higher prices will produce such a desirable allocation is one question now before us. The other question we face involves the cost of allocating via the mechanism of higher prices. Price rationing obviously penalizes the working and middle class. End-use allocation might well achieve the desired results at a much lower price.

One of the chief objectives of price-induced conservation and allocation is to get large fuel users to switch to coal.

Mr. GRAVEL. Mr. President, will the Senator yield for a question?

Mr. HATHAWAY. I would be glad to yield to the Senator from Alaska for a question.

Mr. GRAVEL. I wonder if the Senator would explain how, if we had end use allocation, that would provide more gas or how that worked. I would just like an explanation of that. The fact that it might dictate you giving Mrs. Jones x quantities of Btu is not going to provide a new well or any Mcf's at the other end. So I really think that it should be elaborated on, that point.

Mr. HATHAWAY. Well, the point is that some uses of gas are inefficient and wasteful. It takes more gas to produce electricity for heating homes than it takes if families burn gas directly. In effect we would have more gas if we prohibited utilities from burning it under boilers, for example. That sort of allocation is what I am referring to. High prices also allocate fuel—we have had a moratorium on hooking up new residential users for several years now. If we price gas high enough, you will get situations like Crystal City, where gas was simply priced out of the reach of families. Once gas prices go that high people suffer because they can not switch to an equally efficient fuel.

It is not as if you are walking across the street to another drug store to buy a tube of toothpaste costing a nickel less. In that case it is only shoe leather. If you switch over from gas to oil it is going to cost a considerable amount of money to put in the necessary furnaces, and so forth, to make that switchover.

Mr. GRAVEL. I agree with that.

Mr. HATHAWAY. The only way to protect residential users is not by price rationing, by raising the price and forcing them into an impossible situation, but by some kind of end use allocation at a fair price with the assurance that an adequate supply is made available for heating houses and other premium uses.

This, of course, would include some conservation efforts as well. So we may end up, as you and I know from our work, in the Committee on Finance, providing assistance for homeowners to insulate through tax credits, so that the end user may not consume quite as much natural gas or whatever fuel we are trying to conserve and, thereby, additional supplies will be created.

Mr. GRAVEL. I do not disagree with my colleague. If you have a given quantity of natural gas and you must share that gas, the burden falls most heavily on the people who have the inability to buy a new type of furnace. There is no question about that.

But does my colleague offer that as a solution to the problem? The problem, as I understand it, is not that we should sit here and try to find a way only as to how to better carry the burden, but find a way to do away with the burden.

So when my colleague says we should not have a price increase because that is too burdensome to the people, then he is condemning the people in his area to very simply go without natural gas because if we do not discover any new quantities of natural gas the person who has that gas-fired burner in his house is going to have a useless burner in his house because there will be no gas to bring to it.

So the course of the exercise here should be to find new ways of getting some natural gas to New England. Would that not be the proper goal?

Mr. HATHAWAY. Well, it is true that if we could get more gas we would be better off. But I do not think it is going to be necessary to deregulate the price in order to get more gas.

We already provide, under the present pricing structure, for full costs plus a fair profit to encourage the search for more gas. It seems to me that is sufficient, especially under the recommendations made by the administration to increase the price to give those who are producing natural gas still greater incentives to get the additional gas that may exist in this country.

Mr. GRAVEL. Let me pose this question: The administration is asking for what, $1.75?

Mr. HATHAWAY. $1.75.

Mr. GRAVEL. Most of the gas comes from Texas and the Southwest area; is that not correct?

Mr. HATHAWAY. Yes.

Mr. GRAVEL. Why would anybody in the Southwest area go searching to obtain natural gas he can sell for $1.75 when right now we have just made an agreement with Mexico to bring in gas at $2.60 per Mcf, and that is from that new field down there? Why would anybody in the Southwest go out and try to find gas that would have that limitation on it?

Mr. HATHAWAY. Because they can make money on it.

Mr. GRAVEL. How can they still make money?

Mr. HATHAWAY. The market is big enough.

Mr. GRAVEL. But in point of fact when you make the statement so glibly they can still make money on it, well, the proof of the last decade has been there has been a decline in the search for natural gas because they very clearly cannot make any money on it. So you get a situation where we could pass all the laws we want to, we can set the price at $1.50 or $1.70, but if there is nobody who is going to drill and incur the cost, then supposing the cost is $2, supposing it costs a person $2, you do not want that $2 gas in New England? I mean, in the Southwest part of the United States, where there is natural gas, those people are now prepared to pay $2.60 an Mcf.

You are telling me that the people of New England do not want to pay $2.60, they do not want any gas? If it comes in

at $1.80, $1.90, "Oh, no, we do not want any gas." Is that what you are saying?

I just do not understand that. If that is what the people of New England think, maybe we should have regional deregulation for those who are prepared to pay the costs, which is what happened in the Southwest. The intrastate gas was selling higher but when you ran out of gas they were prepared to pass a law taking the gas from their bosom and raising the price of it so you could get it.

Mr. HATHAWAY. Let me ask the Senator.

Mr. GRAVEL. The point is simply this. At what point are the people of New England prepared to pay for natural gas to get some?

Mr. HATHAWAY. I refuse to yield.

I am yielding to the Senator on the Senator's time.

Mr. GRAVEL. I presume we are discussing it on the time of the Senator from Maine. I have not asked for nor have I been recognized in my own right.

Mr. HATHAWAY. I refuse to yield further unless I am yielding on the time of the Senator from Alaska. I am glad to yield to him on his time for him to ask the question or any question he wishes to ask.

Mr. GRAVEL. I wish to hear the remainder of the Senator's explanation and I shall take the floor on my own time and query him accordingly.

Mr. HATHAWAY. Mr. President, I would say one of the chief objectives of price-induced conservation and allocation is to get the large fuel users to switch to coal. This involves substantial expenditure on the part of those converting. Not only is the physical conversion process expensive, but the requirements of meeting air quality standards escalate costs. This must be addressed specifically—and simply having expensive gas will not do the trick. Careful programs must be adopted in order to facilitate significant coal conversion.

We must weigh two other considerations vis-a-vis deregulation. One is how another round of energy price increases will impact the economy. Will "energy shock" reverse the recovery? I believe it could well do so. I think those of us in higher income brackets have been able to forget the economic experience of 1974–75 which some portions of the society have yet to escape. The median annual earnings of nonfarm managers and administrators now exceeds the factory workers' median income by 49 percent—the difference in 1962 was only 27 percent. We are rapidly moving away from the goal of equitable income distribution, and energy price hikes threaten further tilting. Is it at all desirable to have substantial income shifts from consumers to the 20 firms that produce most of the country's gas? And from the consuming population centers of the country to the southwest producing areas? I think not.

Finally, the proposals to deregulate the price of natural gas do not stand on their own. They are accompanied by programs to encourage the use of insulation to cut residential and commercial consumption, and usually by some form of allocation. The same executive who advocated raising the price of natural gas urged that price deregulation be coupled with a policy of curtailment based on end-use concepts. Scarce natural gas would be made available on a priority basis for "efficient and necessary" end-uses. Pearson-Bentsen provides for assigning priorities to essential agricultural and residential uses. This seems to acknowledge the fact that high-priced, dwindling supplies of gas will not automatically find their way to the most efficient and appropriate users.

Last winter's experience showed clearly how the physical shortage of natural gas disproportionately affects the interstate market. For the past 8 years, intrastate users siphoned off supplies of natural gas that had historically flowed at regulated prices to users in the big interstate market. New sales in the interstate market now run at only 13 percent of total new sales. Most of this 13 percent consists of gas from offshore Federal lands—gas that must, by law, go to interstate markets. For all practical purposes, new interstate gas supplies have dried up. The result was a moratorium on hooking up new residential users in the interstate market and the addition, instead, of new electrically heated homes. From the standpoint of energy efficiency this makes absolutely no sense at all.

It was this drying up on interstate markets which turned natural gas policy into a matter of public concern. The obvious immediate source of additional interstate gas is to shift supplies from inefficient uses in the intrastate market to 30 interstate users. In order to accomplish this shift, we can let interstate pipelines drive up unregulated prices to the OPEC level or above, as they try to outbid intrastate users, or we can put both markets on an equal footing to prevent such inflationary competition for short supplies.

National regulation of all gas supplies on a consistent basis offers an opportunity to integrate natural gas into the nationwide energy policy we have all been demanding. With price regulation, fair costs are assured, as is a fair rate of return for gas producers. At the same time, it opens the way for allocation of all our resources according to their most efficient employment, which will in effect stretch out the amount of gas available to users who have no accessible or workable substitutes. The danger of our current practice, and its extension under deregulation, is that we will use up our remaining supplies of this clean-burning fuel in ways that are better filled by other, alternative fuels. Dumping rivers of natural gas into boilers to produce moderate amounts of heat, and less electricity, makes no sense when we could be turning much less gas into heat for homes and businesses all over the country. Of course, this makes explicit the allocation function, and subjects it to political pressure, whereas removing price ceilings and relying on some market mechanism obscures the fact that allocation is occuring along the lines of the most economically powerful and well-insulated—in the social and political sense—gas users.

Mr. President, how much time do I have remaining of the time I yielded to myself?

The PRESIDING OFFICER. The Senator has 8 minutes remaining of his 30 minutes.

Mr. HATHAWAY. Eight additional minutes?

The PRESIDING OFFICER. That is correct.

Mr. HATHAWAY. Mr. President, in addition to the 8 minutes, I yield to myself another 7 minutes for a total of 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 15 minutes.

Mr. HATHAWAY. Mr. President, most of what has been said during this debate would lead the listeners to think that natural gas companies must be impoverished firms, on the brink of disaster, hoping against hope that the Federal Government would release them from punitive price ceilings. Of course, the listeners would be entirely wrong.

Leaving aside for the moment the entire question of profits, if we just look at the pipelines' return on equity during the past 5 years, the false impression of poverty among the gas companies would be corrected.

Part of the reason people believe that the gas companies are making less money has to do with the fact that the companies are selling less gas. And that is something that the public can see with its own eyes. When public utility commissions prohibit new residential connections and the FPC OK's massive curtailments of natural gas to extensive parts of New England, the mid-Atlantic States, the Southeast, and the Midwest and upper tier States, people have a clear picture that the companies are selling less gas. And the normal assumption would be that, with shrinking sales revenues, profit margins for these companies would be declining—if not disappearing entirely. But, wonder of wonders, the pipeline companies have managed to turn this economic assumption on its head, just as they have turned the idea of supply and demand on its head.

As curtailment rose by a factor of 100, the return for the major pipelines on their common stock investment increased over 33 percent.

Now let us look at the figures to see what this means. In 1970, the total cutback by interstate natural gas companies on their contract commitments was 17.5 million cubic feet. That year, their return on equity capital was 12.5 percent.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am happy to yield to my friend from South Dakota.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that it be in order to make a motion to table the Pearson-Bentsen amendment today.

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATHAWAY. As I mentioned, their return on equity capital in 1970 was 12.5 percent. In 1971, the cutback—again, remember that this is the amount of supplies contracted for which the FPC did not require the pipeline companies to deliver because of so-called shortages—the cutback was 236.4 million cubic feet, and the companies' return on equity rose to 14 percent. So, despite the fact that the companies sold 17 times less gas, they made 2 percent more on their investment.

In 1972, the major pipelines gas sales dipped again—this time by 649 million cubic feet, but their equity return continued to climb. In 1973, the default on contracted gas sales was 1.13 billion cubic feet—and the return on equity jumped another notch, to 15 percent. Finally, in 1974, the companies failed to deliver 1.7 billion cubic feet of the gas they had contracted to sell, and once again they could enter an increase in their return on equity into their balance sheets—this time, a full 1.2 to 16.2 percent.

Shortages have become good business it seems. Not only that, but this particular shortage makes people's suffering good business. The less gas we have to heat our homes, the more money the suppliers make. And what makes these shortages particularly shameful, is that they need not have occurred. Companies began complaining to the Federal Power Commission that they could not meet their contracts to supply gas to consumers. According to the pipelines, there was no gas coming through from the producers on their contracts, so they had no choice but to ask for a curtailment from the Commission. And the Commission, whose mission and purpose is to regulate the pipelines in order to protect the public, simply went along with the requests, and curtailed city after city, and State after State. In 1975, curtailments were up to almost 2 billion cubic feet. But why did not the Commission look into the cause of all these sudden reverses in the supply situation?

When the FPC looked into only one case where it had automatically okayed deeper and deeper curtailments, it found there was gas where the producer said that there was none. Gulf Oil Co. had contracted to deliver 625 million cubic feet of gas a day to the Texas Eastern Transmission Co. During 1974 and 1975, Gulf had, in fact, delivered an average of 366 million cubic feet a day on that contract—about half of what was called for. Texas Eastern did not try to get Gulf to perform according to the terms of its contracts. It just accepted the cutbacks and went elsewhere to buy replacement supplies at much higher prices—which it passed on to its customers. Customers of Texas Eastern finally prevailed on the FPC to look into the case. Gulf executives told the FPC investigators that their company just did not have the gas.

When the Commission refused to accept the unverified explanation, Gulf finally agreed that it could raise its deliveries to 500 million cubic feet daily—still 125 million less than the contract called for—but the company said that it would not be able to begin the additional deliveries until the middle of 1977. The FPC judge who heard Gulf's defense suggested that the breach of contract constituted a cause of action by the Justice Department, because there was evidence of collusion between Gulf and Texas Eastern. At that point, Gulf came in with a plan to begin delivering a full 575 million cubic feet of gas by January 1, 1977.

This case suggests that the real problem has not been the fact that regulated natural gas prices were too low. The problem has been the absence of a strong, consumer-oriented Federal Power Commission. Curtailments seem to have become another tactic of the industry to put pressure on prices. The gas companies are making money and making it hand over fist, at that. I see no reason on Earth for us to augment their profits with our b'essings. Despite our efforts to strike a balance between the legitimate need for profit and the public's essential need for natural gas, the public is losing its supply of gas.

Mr. GRAVEL. How does that happen?

Mr. HATHAWAY. Mr. President, I make a point of order that there is no quorum present.

Mr. STEVENS. Mr. President, a point of order. No business has been transacted since the last quorum call.

Mr. HATHAWAY. Mr. President, the Senator from South Dakota made a unanimous-consent request, which was objected to: I think that was intervening business.

The PRESIDING OFFICER. The point of order of the Senator from Alaska is not well taken. There has been business transacted since the last quorum call. The unanimous-consent request and the rejection thereof constituted transacting business.

Mr. STEVENS. Mr. President, the Senate has just established the precedent that when the Senate refuses to take the action it has been requested to take, it does not constitute the transaction of business.

The PRESIDING OFFICER. That is when a quorum is obviously present. The point of order that a quorum is not present is well taken, and the clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 60 Leg.]

Abourezk	Glenn	Metzenbaum
Allen	Gravel	Morgan
Bartlett	Hansen	Moynihan
Belimon	Hatch	Nunn
Burdick	Hatfield	Sarbanes
Byrd, Robert C.	Hathaway	Schmitt
Chafee	Inouye	Schweiker
Chiles	Kennedy	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stone
Curtis	Long	Ta.madge
Danforth	Matsunaga	Wallop
Ford	McIntyre	

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 520 Leg.]

YEAS—90

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Anderson	Glenn	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Belimon	Hart	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Durkin	McGovern	Zorinsky
Eagleton	Melcher	
Eastland	Metzenbaum	

NAYS—1

Goldwater

NOT VOTING—9

Haskell	McIntyre	Weicker
Humphrey	Metcalf	Williams
McClellan	Stevenson	Young

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of the Senators present who did not answer the quorum call, a quorum is now present.

Mr. CRANSTON. Mr. President, is it correct that, when no business has intervened since the last quorum call and it has been established that the denial of a request is not business, a request for a quorum call is not in order?

The PRESIDING OFFICER. The Senator is correct. That is the precedent of the morning.

Mr. CRANSTON. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1060.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The amendment was agreed to.

Mr. STEVENS. I move to reconsider

the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

Mr. ABOUREZK. Mr. President, I ask for a division.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I asked for a division on the last vote before the Chair announced the vote.

The PRESIDING OFFICER. The vote has been announced.

Mr. ABOUREZK. I asked for a division before the Chair announced and he did not recognize me.

The PRESIDING OFFICER. The Chair apologizes.

Does the Senator wish a division on this vote?

Mr. ABOUREZK. I wish a division on the previous vote, Mr. President. I tried to get recognition. The Chair did not recognize me.

The PRESIDING OFFICER. The previous vote has been announced.

Mr. JACKSON. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota makes his point too late.

Mr. STEVENS. Mr. President, I move to lay the motion on the table.

Mr. JACKSON. Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division has been requested. I shall state to the Senator from South Dakota that a division is the prerogative of the Chair when the Chair is in doubt. The Chair is not in doubt and will call for a voice vote.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Mr. President——

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, some time ago, I offered a compromise amendment between what the administration had proposed and the Pearson-Bentsen amendment. If I can, in a few quiet words, try to explain briefly to the Senate what I would like to propose, maybe it will be helpful in trying to get some movement here in the Senate.

Mr. President, essentially, my previous compromise amendment would do two things: One, it would start the pricing of natural gas in 1977 at 2.03 per thousand cubic feet. The current average price of unregulated intrastate gas—that is, new gas—runs about $1.84 per thousand cubic feet. The administration proposal involved a price of $1.77.

Mr. President, what I would propose to do as a compromise would be, in the meantime, to the previously announced formula starting this year at $2.03, but starting in 1983, I would raise that price to $2.95, to $3.15 in 1984, $3.36 in 1985, with deregulation on December 31, 1986.

Mr. President, this can only be done, that is, to modify my amendment, by unanimous consent.

I would like, therefore, to propose a unanimous-consent request as follows:

I ask unanimous consent, Mr. President, that amendment No. 862—bear in mind that 862 is my so-called compromise amendment—be revised so as to provide that, first, sales of new natural gas would be deregulated after December 31, 1986; and second, the regulated price from January 1, 1963, through December 31, 1986, would be set by the formula originally proposed by the administration.

This will result, Mr. President, in a somewhat higher price in those years than would be the occasion under the current version of amendment No. 862, my compromise proposal.

As I stated earlier, the new gas price would still start at $2.03 per thousand cubic feet, rather than $1.77 as previously proposed, but by 1985 would be 12 cents higher than amendment No. 862, the original compromise that I introduced.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER (Mr. STONE). The Senator from Tennessee.

Mr. BAKER. Mr. President, this is the first any of us, as far as I know, have heard of any proposed compromise along these lines and, obviously, it is going to be necessary to take a look at it, because this is the first we heard of it.

I can only speak for myself, and I would like to hear from the Senator from Kansas as the principal sponsor.

As far as I am concerned, I am not quarreling about price. The question is the principle. The question is whether or not we have a regulated or nonregulated market.

It is my view the higher we go in the price, the less attractive it becomes to me because as we raise the price and continue to regulate, I think we have the worst of both worlds. We end up with the regulated price and no incentive to produce: the price, but not the benefit.

Mr. President, I am sure the Senator from Kansas——

Mr. PEARSON. Mr. President, reserving the right to object, I do not want to be in a position to turn down anything out of hand, and I compliment the Senator for seeking, once again, to come forward with a compromise.

I would like to have a chance to look at it carefully, and to have the staff look at it, and to have those people who have some conviction about ultimate deregulation take a very serious and honest look at this proposal. Because that is so, I do not want to be in a position this evening of objecting to a unanimous-consent agreement.

I would ask the Senator if he would withdraw that only for overnight, only for overnight, and let us take a good look at this thing.

The Senator from Texas can speak for himself, but it may be a way to come out of this issue with enough of what everybody seems to want. It is on that basis I ask the Senator to give us a little time to look at it. I did not know of it. I did not hear of it until the Senator spoke.

Mr. JACKSON. The Senator is correct.

Mr. BENTSEN. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Washington——

Mr. BENTSEN. Just for a point, if I may?

Mr. JACKSON. Certainly. I will complete my statement in a minute.

Mr. BENTSEN. I join with my colleague in saying I do not want to object to this out of hand.

The PRESIDING OFFICER. Is the Senator from Texas reserving his right to object?

Mr. BENTSEN. Yes, I am.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. We have discussed with the Senator from Washington from time to time areas of accommodation, and that is what Pearson-Bentsen No. 2 was, and in part what Senator JACKSON's amendment was.

But we have not been advised, as he has stated, as to the contents of this, nor have we had an opportunity to study it.

Presently, of course, we are striving, most of all, for the question of ultimate deregulation. But I do think we should have an opportunity to look at this. Would the Senator withdraw it?

Mr. JACKSON. May I say to my friend from Texas that the purpose of making this unanimous-consent request was to get it out on the table, so to speak, before the Senate, so Members could take a look at it.

All I am trying to do is to get something moving so that we can ultimately get to the right forum where it will be decided, and that is in conference.

So in furtherance of that unanimous-consent request, I would further make the two following requests so that we will get the full package to deal with my substitute and with the Pearson-Bentsen substitute because we want to follow the rules.

I ask unanimous-consent, provided that the first was agreed to, that is, the modification of my substitute, I would then ask unanimous consent that further debate on amendment No. 1039—meaning the Pearson-Bentsen amendment—be limited to 2 hours, to be equally divided, 1 hour on a side, and at the end of that time that a rollcall vote occur on the amendment. In other words, it would be a vote first on Pearson-Bentsen.

Mr. PEARSON addressed the Chair.

Mr. JACKSON. I will finish.

Then, if Pearson-Bentsen should fail, I would ask unanimous consent that if amendment No. 1039 is not agreed to, a rollcall vote occur on amendment No. 862, as modified, without intervening debate or motion.

Mr. PEARSON addressed the Chair.

Mr. JACKSON. That is essentially, and I will defer my prosecution of this unanimous-consent request until my colleagues have had a chance to look at it. Staffs will be available.

But I am trying, Mr. President, to get something out on the table here in a rather quiet way to see if we cannot find something in between something.

The PRESIDING OFFICER. Does the Senator withdraw his request?

Mr. JACKSON. Yes. I withdraw my unanimous-consent request at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. PEARSON. Will the Senator yield just for a second?

Mr. HART. I yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. To respond to the Senator to address the provisions of his unanimous-consent request.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. PEARSON. I have not discussed this with the Senator from Texas.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. PEARSON. I thank the Senator from Colorado for yielding to let me respond to the Senator from Washington.

I just say once again that I have not had an opportunity to talk this over with the Senator from Texas or anybody else that has been involved here.

But my impression is that the time he has suggested is adequate. If we can get some modification to ours, it seems to me there is plenty of time now for the Pearson-Bentsen and the time recommended by the Jackson modification, if it is so modified, is ample time, so far as I am concerned.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. BENTSEN. There is no argument about the time limitation—2 hours. We have covered this at length, and it is not my purpose to delay it any further, if we are satisfied with the unanimous-consent request.

Mr. HART. Mr. President, I ask unanimous consent that I may yield to the Senator from Louisiana, on his time, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I thank the Senator from Colorado.

I say to the distinguished manager of the bill that I commend him for the spirit of compromise which I know impels the last unanimous-consent request. But there is a great deal more than just price in the Senator's amendment that some of us find totally unacceptable, and I think I speak for a number of us on the Energy Committee.

For example, on page 21 of the bill is the power in the Federal Energy Regulatory Commission to allocate intrastate natural gas and to set contract duration, conditions of termination, delivery obligations, and there are some other provisions that are totally unacceptable which, from the standpoint of the Senator from Louisiana, are much worse than the price limitations that the Senator puts in his bill.

So if we are going to try to look at a compromise, I urge that we look at those provisions as well, because I find those much more difficult than even the present price limitations of the Senator's bill.

Mr. JACKSON. I appreciate the Senator's comments.

Obviously, when we look at the conference, no one group is going to have its way. I am trying to find a way in which the Senate can work its will to pass a bill.

So far as price is concerned, that is one aspect of the problem. The other part of it does relate to intrastate gas, and we must as well be frank about it, because we are not about to have a substantial increase in the price of gas unless the country can have access to intrastate gas.

I point out—and I will stand corrected if my figures are wrong—just off the top of my head, I think in the past year the demand has been for about 20 trillion cubic feet of gas and the supply has been a little less than that—19 point something. Intrastate gas is more than 40 percent of that total—8.3 trillion cubic feet, roughly.

Therefore, Mr. President, if one is going to act in the national interest and try to have a natural policy on natural gas, it seems to me that one must address oneself to the area of intrastate gas, which represents more than 40 percent of the total gas consumed in the United States. That is why we would place intrastate gas within the jurisdiction of the existing law on interstate gas.

Mr. STEVENS. Mr. President, will the Senator from Colorado allow the Senator from Washington to yield for one question?

The PRESIDING OFFICER. What is the will of the Senator from Colorado, who holds the floor?

Mr. HART. Mr. President, I ask unanimous consent that I may yield just once to the Senator from Alaska, on his time, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I say to the Senator from Washington—and this is the first time I have heard any compromise in which the ultimate goal would be deregulation—that I congratulate him for moving down that road.

I ask the Senator from Washington whether or not his now compromise proposal would have the support of Dr. Schlesinger and the President.

Mr. JACKSON. I have discussed it with Dr. Schlesinger. He is aware of my proposal, and he has not objected to it.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, on Saturday, I asked my colleagues for their consent—as the distinguished manager of the bill has—for the right to bring up an amendment which has been before the Senate, in one form or another, since September 14—about 18 or more days.

This is not a new proposal. I think almost every office in the Senate has had a chance to look at this—at least, at the staff level—and I have had a chance to talk to many Senators about it. Since we do not have the time, and I do not wish to take the time at this point, to outline what this provision is, I merely point out to my colleagues that this is not a new idea; that it has been available to Senators for well over 2 weeks now.

I will soon repeat my unanimous-consent request, urging Senators, as I did on Saturday, not to object; that since they have reserved their judgment on the proposal of the Senator from Washington, and since there seems to be a good-faith effort on the part of a majority of Senators to seek some resolution of this matter, and since this is one of only a small number of substantive proposals which neither are total deregulation nor total continued regulation, I ask the forebearance of my colleagues in seeking unanimous consent to bring up this matter. I will use the remainder of my time, or part of it, to discuss it. We then can vote on it up or down, and the Senate will have worked its will on another substantive proposal, or at least one substantive proposal, whereas it has been unable to do so to date.

I believe the same right should be accorded to the sponsors of the Pearson-Bentsen amendment, and it should be accorded to the Senator from Washington. I do not think we should prevent votes on these matters. I merely ask, as one way of getting movement, that this request be granted.

AMENDMENT NO. 1389

Mr. President, I send to the desk my amendment No. 1389, as modified, and ask that it be in order as a perfecting amendment to amendment No. 862.

Mr. HANSEN. Mr. President, reserving the right to object, I have no desire to prevent the distinguished Senator from Colorado to continue for a reasonable time on his time in discussing his amendment; but I do so only with the express understanding that it will be my intention to object at an appropriate time.

Does the Senator from Colorado accept that?

Mr. HART. No. If the amendment is not properly before the Senate, there is no use of my wasting my time discussing it, if we cannot have a vote on it.

Mr. HANSEN. I say to my good friend from Colorado that there are a goodly number of us here. If he chooses not to avail himself of the opportunity of this forum, then that is as he wishes it.

Mr. HART. I do not think it is necessary to be disingenuous. The Senator is perfectly aware that if the matter is not properly before the body, it cannot be voted on. It is not a question of the Senator from Colorado discussing his amendment. That is not the issue.

What I am asking unanimous consent for is not the right to discuss my amendment. I have the floor now, and I can do that without unanimous consent. I am asking unanimous consent for Senators to permit this measure to come up before them and to let it be voted on. The Senator may vote against it and all his colleagues may vote against it, and all my colleagues may vote against it. I would be more than willing to accept a time agreement on it. That is all I am asking.

Mr. HANSEN. I say to the Senator, before I object—and I do intend to object—

that what we are seeing here is a retreating vanguard action on the part of those persons who have been solidly against deregulation.

Mr. HART Mr. President——

Mr. HANSEN. I think I have the floor, Mr. President. Who has the floor? I reserved the right to object, did I not?

The PRESIDING OFFICER. The unanimous-consent request is not debatable. For a brief period of time, in reserving the right to object, the Senator can inquire, but at the sufferance of the Chair and of the propounder of the unanimous-consent request. Unanimous consent must either be objected to or——

Mr. BARTLETT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HART. I want to respond. The Senator well knows my record is not solidly against deregulation, and he knows that very well. This amendment is not solidly against deregulation. So that is a spurious kind of argument.

Mr. President, pursuant to notice filed at the desk——

The PRESIDING OFFICER. The Senator from Colorado is further recognized.

Mr. HART. Pursuant to notice filed at the desk on Saturday, October 1, I move to suspend paragraph 2 of rule XXII for the sole purpose of calling up my amendment No. 1389, as modified.

I ask for the yeas and nays.

Mr. BAKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, could the Senate be advised of the nature of the notice that is at the desk, what portion of rule XXII the matter goes to?

The PRESIDING OFFICER. The Chair is advised that the Senator did timely file a notice of a motion to suspend the rules. It takes a two-thirds vote to effect the result the Senator from Colorado seeks.

Mr. HART. I ask for the yeas and nays.

The PRESIDING OFFICER. Without giving the subsection of rule XXII, that is the subsection of rule XXII that requires amendments to have been prefiled at the desk before the vote.

Mr. BAKER. I thank the Chair. But could the Chair give me a reference from the notice itself?

The PRESIDING OFFICER. The Chair has sent for the notice. The notice will be here momentarily. Meanwhile, the Senator has asked for the yeas and nays on his motion. Is there a sufficient second? If the Senators will keep their hands up, those who wish to second the request. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the notice which had been filed at the desk.

The legislative clerk read as follows:

Mr. PRESIDENT: In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, paragraph 2, for the purpose of proposing to amendment No. 1022 to S. 2104, a bill to establish a comprehensive natural gas policy, a perfecting amendment to strike sections 1–9 and 13–17 of amendment No. 1022 and insert in the appropriate places section 1–9 and sections 13–17 of amendment No. 1389, as amended.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, is it correct that a "yea" vote on this motion merely means that the amendment is in order to be called up?

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. I thank the Chair.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Put the same proposition in a little different way, a "yea" vote means to suspend the rules that ordinarily apply.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair.

Mr. HART. For the sole purpose of making this amendment in order.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, does the effect of the notice modify the Senator from Colorado's amendment?

The PRESIDING OFFICER. No, it does not. It simply allows a modification of the amendment if this vote passes by two-thirds.

Mr. STEVENS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Would the granting of such a motion permit the Senator to add material to the amendment which is not before the Senate at the present time?

The PRESIDING OFFICER. The Senator would be required, if permitted by a two-thirds vote, to propose the amendment in the precise form, to offer the amendment in the precise form, as that which is attached or referred to in the notice the Senator filed Saturday.

Mr. BAKER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the motion, notice of which was given in writing pursuant to rule XL, debatable?

The PRESIDING OFFICER. Will the Senator repeat his inquiry?

Mr. BAKER. Yes. Is the motion, notice of which was given in writing pursuant to rule XL, debatable?

The PRESIDING OFFICER. Yes, it is debatable.

Mr. BAKER. What are the time constraints, if any, on the debate?

The PRESIDING OFFICER. The cloture rule itself, 1 hour per person per bill.

Mr. BAKER. I thank the Chair.

Mr. STEVENS. One further parliamentary inquiry. Would the effect of the Senate agreeing to the Senator from Colorado's request to change his amendment be to make this amendment a perfecting amendment so that it would have precedence over the Pearson-Bentsen, and the Jackson amendments?

Mr. HART. Mr. President, will the Senator repeat his request.

Mr. STEVENS. I will repeat it for the Senator from Colorado. My question was, would the effect of the Senator from Colorado's obtaining the right to make this amendment a perfecting amendment, the right to modify his amendment as he seeks, have the effect of changing his amendment as a perfecting amendment so that it would take precedence over the Pearson-Bentsen and the Jackson amendments?

The PRESIDING OFFICER. Yes.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. I assure the Senator from Alaska that the motion is not to permit me to modify my amendment because the amendment is at the desk and was at the desk Saturday. The motion is to suspend the rule for the sole purpose of making this amendment in order.

Mr. STEVENS. I might say to the Senator from Colorado that so far as this Senator is concerned, should the Pearson-Bentsen amendment fail and the Jackson amendment fail I woud be more than pleased to find a Solomon, if the Senator might be a Solomon. But until we have an opportunity to vote on those two amendments, I do not see why we should grant anyone permission to modify, to so make it a perfecting amendment so as to give it precedence over the other two amendments

The PRESIDING OFFICER. The question is on agreeing to the motion to suspend the rule. A two-thirds vote is required to suspend the rule. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The yeas and nays resulted—yeas 46, nays 45, as follows:

[Rollcall Vote No. 521 Leg.]

YEAS—46

Allen	Hart	Morgan
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Brooke	Huddleston	Nelson
Bumpers	Inouye	Nunn
Byrd, Robert C.	Jackson	Pell
Case	Javits	Proxmire
Chiles	Johnston	Randolph
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Sasser
DeConcini	Matsunaga	Sparkman
Durkin	McGovern	Stone
Eagleton	McIntyre	
Glenn	Melcher	

NAYS—45

Baker	Burdick	Chafee
Bartlett	Byrd, Harry F., Jr.	Curtis
Bellmon	Cannon	Danforth
Bentsen		Dole

Domenici	Helms	Stafford
Eastland	Laxalt	Stennis
Ford	Long	Stevens
Garn	Lugar	Stevenson
Goldwater	McClure	Talmadge
Gravel	Packwood	Thurmond
Griffin	Pearson	Tower
Hansen	Percy	Wallop
Hatch	Roth	Young
Hatfield	Schmitt	Zorinsky
Hayakawa	Schweiker	
Heinz	Scott	

NOT VOTING—9

Abourezk	Humphrey	Metzenbaum
Biden	McClellan	Weicker
Haskell	Metcalf	Williams

The PRESIDING OFFICER. On this vote the yeas are 46, the nays are 45. Two-thirds of the Senators present and voting not voting to suspend the rules, the motion to suspend the rules is not agreed to.

Mr. ROBERT C. BYRD. Mr. President, I believe that there is a possibility that things may be worked out overnight, which would enable the Senate to hasten its final decision on this bill. Mr. JACKSON has presented a unanimous-consent request, and later withdrawn it, with cosponsors on both sides of the aisle; and overnight Senators will have an opportunity to study the proposition that has been put forward by Mr. JACKSON; and I believe that in the interest of progress on tomorrow, it might be well if the Senate went out soon, to give Senators an opportunity to study that particular proposition, and hopefully on tomorrow agreement can be reached on some compromise approach which would enable the Senate to finish its work on this bill and get on to the next measure.

Therefore, Mr. President, unless a Senator indicates that he wishes to ask for the yeas and nays on an amendment or on a motion to recess, I will suggest to Senators that there be no more rollcalls tonight.

VACATION OF ORDERS FOR RECOGNITION OF SENATORS SCHMITT, GLENN, MATHIAS, AND GOLDWATER TOMORROW AND ORDER FOR RECOGNITION OF SENATORS ROTH, JAVITS, AND HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning the orders for the recognition of Messrs. SCHMITT, GLENN, MATHIAS, and GOLDWATER be vacated. I am told that they will not need those orders. I ask unanimous consent that in their stead Mr. ROTH and Mr. JAVITS each be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning, and after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, Mr. ROTH will be recognized for not to exceed 15 minutes, and Mr. JAVITS will be recognized for not to exceed 15 minutes, and at that point the Senate will resume its consideration of the unfinished business.

Mr. HARRY F. BYRD, JR. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. Could the Senator from Virginia have 10 minutes tomorrow morning?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Mr. JAVITS tomorrow morning, the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will kindly withdraw from the well, so that the leadership can state the program.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

On September 29, 1977:

S. 275, An Act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

On September 30, 1977:

S. 1731, An Act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services.

FORTY-TWO DEFERRALS—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations; the Budget; Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Armed Services; Finance; Human Resources; Energy and Natural Resources; the Judiciary; and Governmental Affairs:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 42 deferrals of fiscal year 1978 funds totalling $1,480.6 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 3, 1977.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–2081. A letter from the Chairman of the Commodity Futures Trading Commission transmitting, pursuant to law, the 1976 annual report of the Commodity Futures Trading Commission (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2082. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of 17 construction projects to be undertaken by the Air Force reserve (with accompanying papers); to the Committee on Armed Services.

EC–2083. A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported by Eximbank during August 1977 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended) (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2084. A letter from the Vice President of Government Affairs of the National Railroad Passenger Corporation transmitting, pursuant to law, a report for the month of May 1977 of expenses and revenues of each train (with an accompanying report); to the Committee on Commerce, Science, and Transporation.

EC–2085. A letter from the Acting Assistant Secretary of Interior transmitting a draft of proposed legislation to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2086. A letter from the Deputy Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report on contracts that the Corps of Engineers negotiated with local project sponsors during 1976 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2087. A confidential communication from the Director of the General Accounting Office transmitting, pursuant to law, comments dated September 2, 1977 that should be associated with the previous classified report on Relationships Between U.S. and NATO Military Command Structures—Need for Closer Integration, LCD–77–419 (with accompanying papers); to the Committee on Governmental Affairs.

EC–2088. A letter from the Chairman of the Civil Service Commission transmitting, for the information of the Senate, a copy of the executive order and some background information concerning the Presidential Management Intern Program (with accompanying papers); to the Committee on Governmental Affairs.

EC–2089. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The United Kingdom's Development of its North Sea Oil and Gas Reserves" (ID–77–51, September 23, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2090. A letter from the Comptroller

General of the United States transmitting, pursuant to law, a report entitled "The Navy's Intermediate Ship Maintenance Program Can be Improved" (LCD-77-412, September 23, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2091. A letter from the Under Secretary of the Interior transmitting a draft of proposed legislation to implement Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (with accompanying papers); to the Committee on the Judiciary.

EC-2092. A letter from the Chief Justice of the Supreme Court of the United States transmitting, for the information of the Senate, notice that the Court will open the October 1977 Term on October 3, 1977, at 10:00 a.m.; to the Committee on the Judiciary.

EC-2093. A letter from the Chief Justice of the Supreme Court of the United States transmitting, for the information of the Senate, information concerning the planning of the 200th anniversary of our country; to the Committee on the Judiciary.

EC-2094. A letter from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning people who conditionally entered the United States between October 1, 1976 and June 30, 1977 (with accompanying reports); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

Thes following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 263. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2114 (Rept. No. 95-462).

S. Res. 270. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 785, a bill conveying two thousand and seven hundred acres to the Paiute and Shoeshone Tribes of the Fallon Indian Reservation (Rept. No. 95-463).

S. Res. 273. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1863 (Rept. No. 95-464).

By Mr. RIBICOFF, from the Committee on Government Affairs, with reference to:

S. Res. 222. A resolution to disapprove the Reorganization Plan numbered 1 (together with additional views) (Rept. No. 95-465).

By Mr. STEVENSON, from the Committee on Banking, Housing, and Urban Affairs:

With amendments:

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency (Rept. No. 95-466).

By Mr. SPARKMAN (for Mr. RIBICOFF), from the Committee on Governmental Affairs;

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments; and

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 897. A bill to strengthen United States policies on nonproliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions (Rept. No. 95-467) (together with additional views).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

S. 457. A bill to amend section 1662(a) of title 28, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions (title amended) (Rept. No. 95-468).

REORGANIZATION PLAN OF 1977

Mr. RIBICOFF. Mr. President, I should like to present to the Senate the recommendations of the Governmental Affairs Committee regarding Reorganization Plan No. 1 of 1977, relating to the Executive Office of the President.

The President submitted Reorganization Plan No. 1 on July 15, 1977. On July 18, in accordance with the provisions of Public Law 95-17, I submitted for the Governmental Affairs Committee a Resolution of Disapproval (S. Res. 222). The committee held 2 days of hearings on the plan, July 26 and August 1, during which time it received testimony from the Administration in defense of the proposed changes in the EOP, and from witnesses outside of the White House with interests affected by the proposed changes. On September 15, in response to suggestions made by the committee, the President submitted a group of amendments to the plan. On September 30, the committee was polled, and the results were 16 to 0 (one Senator voting "Present") in favor of the Senate not approving the resolution of disapproval (S. Res. 222) which is pending before it.

Mr. President, the purposes of Reorganization Plan No. 1 are:

First. To strengthen the management of policy issues within the White House and Executive Office of the President (EOP);

Second. To rationalize the structure of the Executive Office of the President by limiting the EOP, wherever possible, to functions which bear a close relationship to the work of the President;

Third. To centralize administrative functions in the EOP in a new Office of Administration; and

Fourth. To reduce the size of the White House and EOP staffs.

Process management of policy issues: In his July 15 Message to Congress transmitting Reorganization Plan No. 1, the President announced a number of actions he was taking to strengthen the management of policy issues in the White House and EOP. Among these actions were:

The institution, for domestic and economic issues, of a system similar to the Presidential Review Memorandum process currently used for national security issues;

The consolidation under the Staff Secretary of two current White House paper circulation systems;

The delegation to the Assistant to the President for Domestic Affairs of clear responsiblity for managing the way in which domestic and most economic policy issues are prepared for Presidential decision.

Rationalize structure of EOP: In restructuring the EOP, the President took as a guiding principle the retention only of those functions and office that bear a clear and direct relationship to Presidential duties and responsibilities. After an extensive analysis of the functions of the 17 existing EOP units, the President determined that 7 units should be discontinued or transferred and that 10 units should be retained, though modified in some cases.

The seven proposed for elimination are:

1. Office of Drug Policy (created by Public Law 94-237);
2. Domestic Council (created by Reorganization Plan No. 2 of 1970);
3. Office of Telecommunications Policy (created by Reorganization Plan No. 1 of 1970);
4. Energy Resources Council (created by Public Law 93-438; statutory authority terminated September 30, 1977);
5. Council on International Economic Policy (created by Public Law 92-412; statutory authority ends September 30, 1977);
6. Ecoonmic Opportunity Council (created by Public Law 90-222, but never implemented by Presidents Johnson, Nixon or Ford); and
7. Federal Property Council (created by Executive Order 11954, January 7, 1977).

It should be noted that the reorganization plan, though it proposes the abolition of EOP units, does not propose to abolish any function. All functions currently assigned to White House or EOP units remain in existence, though reassigned in a number of cases.

The 10 EOP units which will continue with some modification are:

1. White House Office.
2. Office of the Vice President.
3. Office of Management and Budget.
4. Council on Environmental Quality.
5. Council on Economic Advisers.
6. Office of Science and Technology Policy.
7. Office of the Special Representative for Trade Negotiations.
8. National Security Council.
9. Intelligence Oversight Board.
10. Council on Wage and Price Stability.

Centralize administrative functions: About 22 percent of the full-time, permanent EOP personnel perform administrative support services in EOP units. Analysis of this decentralized administrative support system revealed a number of instances of duplication, uneven quality of support and the inefficient use of personnel. Thus, the reorganization plan proposes to combine all administrative support operations into an Office of Administration, which, according to the President's estimates, will result in a savings of 40 permanent full-time positions and about $1.1 million.

Reduce the size of the White House and EOP staffs: As a consequence of the changes proposed in the reorganization plan, and the overall direction of the President to produce a "stripped down" personal staff, the White House staff will be reduced from 485 to 351, a reduction of 28 percent; and the EOP staff will be reduced from 1,712 to 1,459, a reduction of 15 percent.

AMENDMENTS TO THE PLAN

Under the provisions of Public Law 95-17, the President has 30 calendar days of continuous session of Congress to submit amendments or modifications to a reorganization plan. For Reorganization Plan No. 1, with the break in continuous session provided by the August recess, the deadline occurred on September 15. On September 15, acting on suggestions made by the Governmental Affairs Committee, the President submitted a group of amendments to Reorganization Plan No. 1.

The committee believes that the amendments submitted by the President bring the plan in line with the intent of Congress, as expressed in the Reorganization Act of 1977 and in addition clarify certain ambiguities present in the original language.

Specifically, the amendments related to:

First. Transfer of Functions to the President for Redelegation;

Second. Certain Transfers of Functions Relating to the Office of Telecommunications Policy; and

Third. Effective Date of the Plan.

Transfer of functions to the President for redelegation: The original version of the plan proposed to transfer a number of functions from existing EOP units to the President for redelegation later, both inside and outside the EOP. One important result of a transfer of functions to the President is to remove any subsequent delegation or redelegation of these functions from the reorganization plan process.

Because the committee felt that this went beyond the intent of Congress in renewing the authority for the President to reorganize the executive branch in the Reorganization Act of 1977, it made two suggestions to the administration:

First. In those cases where the President had decided that certain functions did not belong in the EOP, he should submit amendments that would transfer these functions directly to a particular agency and not pass them through the President first for redelegation.

Second. In those cases where a decision has been made to have the President redelegate transferred functions to a unit within the EOP, a specific limitation be included that would allow such a delegation of functions by the President only within the EOP.

In the September 15 amendments, the administration complied with these requests.

Effective date: The original version of the plan stated that the changes proposed "shall become effective at such time or times as the President shall specify." Previous reorganization plans have contained a specific implementation date, and the committee suggested that a specific date be included in the relevant section of the plan.

In the September 15 amendments, the administration also complied with this request.

Office of Telecommunications Policy: Here the question related only to a clarification of language to carry out the administration's real intent with regards to the functions of this office. The September 15 amendments for this section of the plan embody mutually acceptable revisions agreed to by the administration and the committee.

OFFICE OF DRUG ABUSE POLICY

The most serious questions and reservations about any element of Reorganization Plan No. 1 were raised by the proposal to abolish the Office of Drug Abuse Policy. In response to the legitimate and serious questions advanced regarding this section of the plan, the committee set out a series of stipulations during the hearings and asked for assurances that these stipulations be met. They included:

First. Full accessibility to Congress of the President's Special Assistant for Health Issues with no invocation of Executive privilege;

Second. Clear delegation from the President to this Assistant of coordinating authority over agencies with responsibilities in the drug abuse area;

Third. Some assurance that drastic staff cuts will not cripple the White House effort in the drug abuse area;

Fourth. Provision for ODAP to complete the major studies it has undertaken before going out of existence;

Fifth. Access to funds for the President's Special Assistant for Health Issues in order to commission necessary additional studies in the drug abuse area.

In a letter to the committee on September 27, 1977, Acting OMB Director James T. McIntyre, Jr., gave affirmative replies to all of the stipulations.

Mr. President, the committee believes that the addition of the clarifying and limiting amendments, and the affirmative replies to the stipulations regarding ODAP have strengthened the case for acceptance of this first reorganization plan, and recommends that the Senate disapprove the pending resolution of disapproval.

FEDERAL MINE SAFETY AND HEALTH ACT—S. 717 CONFERENCE REPORT—(REPT. NO. 95-461)

Mr. WILLIAMS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

David T. Ready, of Indiana, to be U.S. attorney for the Northern District of Indiana.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself, Mr. ANDERSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. YOUNG):

S. 2169. A bill to name a certain Federal building in Washington, D.C., the "Hubert H. Humphrey Building"; to the Committee on Environment and Public Works.

By Mr. BARTLETT:

S. 2170. A bill to amend the Immigration and Nationality Act to define the term "public charge," and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. SARBANES, Mr. BIDEN, and Mr. ROTH):

S. 2171. A bill to amend section 304 of the Regional Rail Reorganization Act of 1973 to provide for the negotiation of division of revenues agreements between ConRail and certain designated operators of rail freight service; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. ANDERSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. YOUNG):

S. 2169. A bill to name a certain Federal building in Washington, D.C., the "Hubert H. Humphrey Building"; to the Committee on Environment and Public Works.

HUBERT H. HUMPHREY BUILDING

Mr. DOLE. Mr. President, I am today introducing legislation to name the new south portal Federal building of the U.S. Department of Health, Education, and Welfare in honor of our distinguished colleague from Minnesota, Senator HUBERT H. HUMPHREY.

Through over three decades of public service—as mayor of Minneapolis, as U.S. Senator, as Vice President of the United States, and as the nominee of his party for President of the United States, my friend HUBERT has been in the forefront of the struggle for social and economic justice. The lives of millions of Americans—the old, the young, the disadvantaged—are better today, because HUBERT HUMPHREY has not hesitated to champion unpopular causes, blazing the trail on key national issues before they were national issues.

Like any great leader, he has his critics. But none doubt his sincerity and good will. Few have done more to improve the Health, Education, and Welfare of our citizenry. Due in no small part to his efforts, or senior citizens are healthier, the young are better fed and better educated, the daily lives of the poor in America are more bearable. There is still much to be done.

Scores of vital Federal programs which are administered by the Department of Health, Education, and Welfare are operating today largely because HUBERT HUMPHREY fought for them: Medicare, Head Start, the Elementary and Secondary Education Act, the Community Mental Health Act, the Health Professions Scholarships Act. The list, HUBERT HUMPHREY's record of commitment, goes on and on.

He is a man of uncommon decency and compassion, a great political leader, a patriot, a kind and generous man who will continue to contribute to the betterment of this Nation for years to come. The people of the United States, whatever their party affiliation, whatever their philosophy, are fortunate to have HUBERT HUMPHREY in their service. He is, has been, and will continue to be a great national asset. I have worked with him and fought with him, but always admired him.

The Congress of the United States

will heap honor upon itself by honoring this great American, to whom the Nation owes so much—HUBERT HORATIO HUMPHREY.

Mr. President, I ask unanimous consent that two inspiring articles be printed in the RECORD at this point. One is a Washington Post Parade interview entitled "Senator Hubert Humphrey: Reflections on His Life" by Lloyd Shearer and the other is a Washington Post article entitled "The Unsinkable Hubert Humphrey" by Aaron Latham.

These articles give us a glimpse of the tremendous character and brillance that have made HUBERT HUMPHREY the great American hero he truly is. I hope all our colleagues will have a chance to read them.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SENATOR HUBERT HUMPHREY: REFLECTIONS ON HIS LIFE

(By Lloyd Shearer)

WASHINGTON, D.C.—Sen. Hubert Horatio Humphrey, running a losing race with cancer, agreed some weeks ago to sit for interview and photo session and reflect with a PARADE reporter in a question-and-answer session on the philosophy and highlights of his memorable life.

This is the way it went:

Q. Senator, you've lived your 66 years to the brim. You've lived each day as if it were your last. Suppose one of your children said to you, "Dad, what lesson have you learned from life?" How would you answer that?

HUMPHREY. What I've learned from living is that there are some things over which a man has no control. You are buffeted by events that are unknown, uncharted, unpredictable. And one has to learn to live with the uncertainties of life. That's really what you have to do, what I think you learn.

When you're young you feel that you can conquer almost anything. You've got the answers. You're sure, if only the old folks would get out of the way, then you could really set everything straight. But what you learn from life is that there are unknowns and problems for which there are as yet no answers.

There are still forces and powers that move the universe in your life, and these are not always subject to your personal control. Therefore, you've got to have an awful lot of faith that somehow things are going to work out and that you're running with a destiny that's maybe not fully in your hands.

I'm philosophizing and as usual talking maybe a little more about it than I should. But I've also learned from life to be tolerant, forgiving, understanding. You cannot go around and keep score. If you keep score on the good things and the bad things, you'll find out that you're a very miserable person. God gave man the ability to forget, which is one of the greatest attributes you have. Because if you remember everything that's happened to you, you generally remember that which is the most unfortunate.

Q. What do you remember, Senator?

HUMPHREY. Well, many people think that what I mostly remember is politics, but there are several other very vivid memories of mine. I remember the Depression of the 1930's and what it did to people. That's left on my whole political, physical, and mental makeup an everlasting mark.

Q. How old were you then?

HUMPHREY. I was in my 20's. Very impressionable. And I was in the midst of the Depression, in the dust bowl of South Dakota. I saw what it did to families. I saw what low farm prices, the dust storms did to the young people, the sense of despair and hopelessness it generated in so many of us. I saw what it did to my father.

Q. What did it do to him?

HUMPHREY. It took 10 years off his life just as surely as my name is Hubert Humphrey. I can still see him at this desk, his hands wringing, wondering how he could ever pay the bills, pay the taxes, take care of the family. I could see the sorrow, the burden on his life. And I loved my father. As you know, I've talked about him a great deal. He was a tremendous source of strength to me. And the friendship we knew! We were friends, close personal friends as well as father and son. So I remember the Depression with a vividness that's like a videotape running over and over again in my mind.

That's why when I see a recession, when I see the Federal Reserve System cranking down on credit, when I see unemployed people, unemployed young people, that memory comes ringing right back—and that's why I fight so hard about it, that's why I speak the way I speak. I don't speak out of textbooks, out of economic theory.

I told Arthur Burns [chairman of the Federal Reserve Board] one day. I said, "Dr Burns, I don't need to hear any lectures about the economy. I can go home to the family drugstore and tell you what's happening. I can just take a look at the accounts receivable, the cash in the box or in the bank, and the number of what we call bad checks. Because the people out my way don't like to write bad checks, but once in a while they do because they're short on cash. And we're not the kind of people that can put them in jail or go out and sue them. We have to carry that . . . I don't have to get the economic indicators and the charts out of the computers. I see what's happening at least in my part of the country. I know what's happening. I sense it. I feel it."

So that's one of the great impressions in my life. Another that's very lasting and meaningful to me was when I had the chance to go to the University of Minnesota, which was my dream as a young man. For years I felt that I was locked up in the South Dakota dust bowl: I felt I would never get out, that I was in prison. And then I got married. My wife Muriel helped me. She said, "We're going to get out of here. We're going to give you a chance to become what you want to be."

So we went to the University of Minnesota, and she got a job and helped me through school. Long before there was a federal scholarship program, I married one. We worked together, and I finished my university education, which opened up a whole new door of opportunities.

There are key points in life that are so important, and that was one of mine. Another, of course, was being elected to public office, particularly to the U.S. Senate. But I also remember the human tragedies—not only the loss of my father and my brother, which brought heartaches. Death comes to every family. But our first grandchild, Vicky, our daughter Nancy's child—she was born mentally retarded, and that really did something to us.

Vicky's birth, which at the time was one of sorrow and tears and sadness and bewilderment—well, it became a blessing, because we became involved. We became deeply involved in the whole subject of mental retardation. And we got to understand what other people are going through. And Vicky was so full of love. The wonderful thing about retarded children is that they have no hate. Only constant love, absolutely perfect love. . . .

You can have a real religious experience from all of this. I found the real meaning of what we call family love in Vicky. She really loved her grandfather with such devotion. She always called me "Baba," and she's come rushing into my arms. Very sensitive, these little mentally retarded people. The normal people never know how their feelings can be hurt. They're extremely sensitive, the retarded are, and they teach you how to be sensitive to other people. I've learned to be aware of other people's concerns, of other people's feelings.

Q. Senator, as you look back on your life, what are you most proud of?

HUMPHREY. I'm proud of our family first of all. I think I've got a good family, and much of that is due to my wife. What I'm most proud of in my government career is the battle I waged for civil and human rights when it wasn't very popular but I somehow had the fortitude to stick with it.

And it was a very difficult time for me. I really had some pain in the Senate for several years. I was not popular. And I was not liked, and that's hard for me to take because I'm a gregarious sort of character. But in the long run I think that what we did with civil rights is the most important thing in my public life because it opened up opportunities for millions of people.

Q. During the race riots of the 1960's you were quoted as saying that if you'd been born and reared in a ghetto, you would have been one of its leaders or rioters.

HUMPHREY. I don't know whether I would have been a rioter, but I would have been a sharp protester, no doubt about that.

Q. Isn't that much the same?

HUMPHREY. Well, there's a difference between destruction and peaceful demonstration. It's easy for the comfortable to sit in judgment of the miserable.

Q. Have conditions for blacks in this country improved markedly since the 1960's?

HUMPHREY. Yes, they have improved. Not enough, but they have. . . . I carry a little book around with me, quotations from Alexis de Tocqueville. One is absolutely marvelous. Listen to it: "The sufferings that are endured patiently, as being inevitable, become intolerable the moment it appears there might be an escape. Reform then only serves to reveal more clearly what still remains oppressive and now all the more unbearable. The suffering, it is true, has been reduced if one's sensitivity has become more acute."

Once people see hope in breaking out of their prison—whatever that prison may be, of poverty, or fear, of disease—the desire, the anxiety to get out becomes almost overwhelming. And as the de Tocqueville book so rightly notes, reform then only serves to reveal more clearly what still remains oppressive.

We've made progress in this country. And the best sign of progress is that we want to make more. I've learned that only the strong people can afford to admit weakness. The weak people never can afford to admit they're wrong.

Q. Senator, it's been said that ignorance is bliss only when 'tis folly to be wise. Do you believe that television has raised the dissatisfaction quotient in this country and filled many of the minorities with dissatisfaction of their lot?

HUMPHREY. Exactly, but a society needs tension and dissatisfaction. Also restlessness. You've got to have restlessness in order to have progress. Stagnant waters stay stagnant. They become polluted. They've got to move. They may at times tear out the embankment. They may at times rip up the landscape. But they're fresh, and they cut new streams, new channels. This is what we're undergoing.

Q. Senator, is your view of President Carter the same as it was, say, six months ago?

HUMPHREY. No, I have a better view of the President. I was not one of Carter's original supporters. But every time I've been with the President I felt a little better about him. Because I know that he's learning. I believe in his sincerity. I feel that he is trying his level best to get hold of this massive structure called our government. I've had some disappointments so far, but I think this Administration has not yet come to grips with an economic policy. I don't think they've quite made up their minds yet what kind of war they're going to wage on poverty and unemployment, which is the real test of this government. . . . But I think Jimmy Carter is a populist at heart. He does have a feeling for people. But he is essentially from a more fiscally conservative background, and it's going to require great investments to meet the problems of this country.

See, if I could get my President and the people in public life to understand that when you utilize federal resources for public works, for employment programs, you are not wasting, you're not spending, you're investing. You waste when you do nothing more than throw money around for unemployment compensation, food stamps, and the rest. You get nothing out of it. I think, as old Lyndon Johnson used to say, "Let's make tax-payers out of tax-eaters." Simple language, but it's still true. Remember, Franklin Roosevelt never really had a welfare program! He had a work program. . . . Now, if the private sector can't provide it, then the governmental sector must do it. And going around pretending that somehow or another this is wrong is ridiculous.

How did we get this country built anyway? The government of the United States gave the land to the railroads. We never would have had the railroads in this country if it hadn't been given six miles on each side of the track. We've always been doing public works. Well, I don't want to give you my long song and dance on that. You've heard it before.

Q. Of the men who've served with you in the Senate, which do you look back on with fondness and affection?

HUMPHREY. Alben Barkley, I loved him. He sat alongside me. But Paul Douglas, Herbert Lehman, Bill Benton, I suppose they were about the three closest friends I've had in the Senate. But there were many others.

Q. Senator, it's been said that your major political mistake was in going along with Lyndon Johnson on the Vietnam war. Do you think that true?

HUMPHREY. Well, I didn't consider it a mistake at the time. I considered it the right thing to do. I guess I can say this now. Had I been elected President, I would have ended that war, and I would have ended it promptly. I became convinced in late '67 and '68 that we had to get out of the war. In the beginning I wasn't for it, but as I've said repeatedly, I'd rather be remembered for being wrong than for being a hypocrite. I felt that what we were doing had to be done. Maybe it was because I was a product of that time, that generation.

But ultimately, looking back on it, I suppose I might have been elected President of the United States had it not been for the Vietnam war.

Q. One final question, Senator. Did you watch former President Nixon on the David Frost series of interviews, and if you did, what was your impression?

HUMPHREY. I was saddened. I wouldn't have done that for millions.

REPORTER. Good luck, Senator, much love to Muriel, and thank you.

HUMPHREY. Thank you. Now, when you're shooting your pictures of me, try to get as much of my hair as possible.

CARTER CALLS HIM "GREATEST DEMOCRAT"

At a party fund-raiser in New York City this past summer, President Jimmy Carter described Hubert Humphrey as "the greatest Democrat who lives in our country. I think," Carter expanded, "that when anyone tries to assimilate in one's mind what the Democratic party is, what it stands for—its cleanliness, its decency, its compassion and humanity, its fairness and its honesty and its dedication, its love for people—the personification of all those things is Senator Humphrey."

Hubert Horatio Humphrey of Waverly, Minn., was born in Wallace, S. Dak., on May 27, 1911, was graduated from the Denver College of Pharmacy with a degree and was further educated at the University of Minnesota, where he earned his Phi Beta Kappa key, and at Louisiana State University, where he earned his M.A.

He was elected mayor of Minneapolis in 1945 and 1947 after serving a stint as a professor of political science at Macalester College. In 1948 he was elected to the U.S. Senate and reelected again in 1954 and 1960. He is married to the former Muriel Buck, who blessed him with four children.

NARROW DEFEAT

Lyndon Johnson chose the Senator as his running mate in 1964, and Humphrey became Vice President of the U.S. Four years later he ran for the President and was narrowly beaten by Richard Nixon. He returned to teaching political science at Macalester College and the University of Minnesota, a large share of his salary being paid by a grant from DeWitt Wallace, founder of Reader's Digest.

In 1970 and 1976 Humphrey was again returned to the U.S. Senate, where he was defeated for Senate Majority Leader by Sen. Robert Byrd of West Virginia this year.

One day after rejecting him as their leader, Senate Democrats, to show their liking and respect for Humphrey, voted him a new title, Deputy President Pro Tempore of the Senate. They included a chauffeured limousine, a second office and staff in the Capitol, plus $7,400 more than a Senator's normal salary and participation in all the Democratic Congressional leadership's meetings with the President.

Humphrey's medical history noted the presence in 1968 of pinhead-sized tumors in his bladder. In 1973 the tumors grew, Humphrey was subjected to X-ray treatment and chemotherapy, but the treatment did not arrest the cancer. On Oct. 7, 1976, his bladder and prostate were removed at the Memorial Sloan-Kettering Cancer Center in New York.

SURGEON'S VERDICT

Ten months later, on Aug. 18, 1977, at 7:45 a.m., Dr. John Najarian, surgeon at the University of Minnesota Hospitals in Minneapolis, conducted exploratory surgery on Humphrey to determine the cause of the Senator's bowel obstruction. The surgeons discovered that the stubborn cancer cells had spread through almost the entire pelvis and that the malignant tumor could not be removed. They declared the cancer massive, inoperable, and terminal, but refused to predict whether the Senator might live for "months" or "years."

Anyone who knows Hubert Humphrey readily acknowledges his tremendous resilience, his indomitable will to live, and his great fighting heart. Whatever happens to his body, his spirit of love and camaraderie, his history as a spokesman for the poor and less-privileged people of this Nation will long survive.

"It's not what you've lost," he told a Parade reporter a few months ago. "What counts is what you've got left. And I've got a lot left."

THE UNSINKABLE HUBERT HUMPHREY

(By Aaron Latham)

Hubert Horatio Humphrey is besieged everywhere these days and asked for autographs. Everyone loves him now that they think he is dying. In fact, he is fighting cancer and fighting hard. One Wednesday last spring, he scheduled two lunches, the first of them with a group of cancer research doctors. They gathered in Room 155 of the Old Senate Office Building. The senator wanted to coach the doctors on how to get more money out of Congress. They told him about new cancer treatments, including one that used a vitamin.

"It'll be just my luck," Humphrey said. "You'll discover this cure about the time I'm ready to give up the ghost. It makes me madder'n hell."

The doctors went on to describe a platinum treatment.

"Platinum!" Humphrey said, clutching his stomach. "Lord, it makes you sick."

The researchers mentioned the promise of immunology.

"They injected me with those dead tumor cells," Humphrey said. "Gave me 30 shots. They told me it was experimental. All I asked them was, 'Will it kill me or make me any worse?' They said, 'No.' I said, 'Go ahead.' "

On the way to his second lunch, Humphrey lingered in the doorway to talk about his mood.

"Let's face it: Everybody who has cancer gets depressed, but you have to fight it. When I lost my hair—now it's growing back in again—I used to look in the mirror and say, 'You bum, you're a mess.' Then, after two or three minutes of self-pity, I would shake myself out of it. You really have to grab yourself by the shoulders and shake. You know what's hit you. You know the odds. You can't kid yourself. But do you know my solution? Just work. Work all the time. Then if I don't feel good, I can blame the work."

The Senator's attitude surprises no one who knows of his background. Humphrey was brought up in a store with drugs on the street level and a boxing ring in the basement. The ring was used often; the drugs, almost never. Humphrey boxed the neighborhood kids in the basement during the winter and in the front yard in summer.

"I was pretty good," Humphrey remembered. "I was quick. And I did a lot of roadwork."

When he was not boxing at home, Humphrey boxed at the local movie theater. During reel changes on Saturday nights, the management put up a ring onstage. Young Hubert would climb in and box the minister's son for free movie tickets. "We'd fight two rounds," Humphrey reminisced, "and then go to Sunday school the next morning."

Humphrey's father was a druggist who had little use for drugs. "Daddy used to say about our drugstore, 'We don't take it—we sell it. You can't make money eating your own medicine.' Daddy'd say things like 'Self-pity is the root of all evil.' He'd say, 'Activity, activity. Get active. Get busy. Come on, boys, get with it. We don't have time to get sick. Most of it's in your head. You're not really that sick.' "

Then Humphrey added: "Now obviously, when you have cancer, you're sick."

These days, he is forced to take some of the "worst" medicine ever brewed. This medicine comes very close to destroying his body in order to save it. In other words, he has been submitting himself to chemotherapy.

"Oh, the chemo was hard on me at the beginning," he said. "But even then, when I got the chemo, I'd go right back to work the next day. Couldn't eat. Bowels loose. Feeling lousy. You have the blahs for five, six, seven days."

It was the worst at the beginning of this year. He wasted away to 160 pounds. His head became a skull on a stick. Then, in March, Humphrey began to look better, although not necessarily because he was better. By spring, people who had seen him at his worst told him how much better he looked. But people who had not seen him since his surgery were shocked. His cancer, or his cancer treatment, had turned him into an old man. He had gone from a 66-year-old senator who looked 56 to a 66-year-old senator who looked 76. His hair came back in white.

Recently the senator's conversation turned from drugs to fight. The fight he is proudest of is the one he fought for civil rights in this country. Asked to name his single greatest achievement in public life, Humphrey said: "I would say in my perseverance in the field of civil rights from the day I was mayor of Minneapolis to the time of the passage of the 1964 Civil Rights Act. It was not an easy course to follow. I think it's fair to say I was ahead of my time. When I became mayor [in 1945], I started out right then. It was said that Minneapolis was one of the two most anti-Semitic cities in America. I started to work on that problem. Setting up one of the first mayor's councils on human relations in the United States—*one of the first*. Then going to the Democratic convention in 1948. Making the difficult decision about whether to challenge the platform committee's civil rights plank."

Making his debut in the national political ring, Hubert Humphrey rose to the moment and the microphone. He made a passionate speech in support of a maverick civil rights plank calling for broad legislative action. He told his party: "I realize I am dealing with a charged issue . . . There are those who say to you we are rushing this issue of civil rights. I say we are 172 years late . . ." The platform committee's tepid civil rights plank was beaten. Humphrey's plank was adopted.

After the convention, Humphrey was elected to the Senate, where, as he likes to recall, the fight continued: "There was all that battle from '48 to '64. Being floor manager of the '64 bill. The prolonged sessions. Coming right to when I was Vice President and Johnson made his speech on the 1965 Voting Rights Act. I would say that was the most important contribution that I feel I made to public policy."

Humphrey is also proud of his work in launching the Peace Corps and the Arms Control and Disarmament Agency. He pressed both ideas in the mid-'50s, but he had no success until John Kennedy was elected President. Then Humphrey and Kennedy began discussing these concepts at the White House as they skinny-dipped in the President's pool. In the end, Kennedy bought both ideas. Humphrey introduced the legislation and guided it through Congress. The bills passed and the Peace Corps and the Arms Control and Disarmament Agency became part of the . . . well, the Kennedy legacy.

Asked what his greatest mistake in public life had been, Humphrey said: "I think the misjudgment of Vietnam. At the time I did what I thought was right. It was not because Johnson was forcing me. I had very serious doubts in the beginning. Yet living and working in the White House atmosphere, I became convinced that we were doing the right thing. If I were to say what regret do I have, it would be—not that I was in charge of the war, not that I wanted it, not that I had anything really to say about it—that I supported it."

The dirtiest fight Hubert Humphrey was ever in was with Richard Nixon. He remembered the scrap this way: "In the '68 campaign, he had developed through some very careful public relations the idea that he was a new Nixon. Which the American press bought. Which I haven't forgiven them for. There was no new Nixon. Nixon was an amoral man."

Humphrey is bitterest about what he believes were Nixon's moves to undermine the Vietnam negotiations. And Humphrey had been counting on those negotiations to propel him into the White House. His presidential hopes, like the South Vietnamese themselves, were destroyed by a deadly combination of friend and foe: Lyndon Johnson and Richard Nixon.

"I went in to Johnson a couple of times," Humphrey said, "and said, 'Mr. President, I've simply got to state certain things.' And one time he just became furious with me when I showed him a paper that a group at Harvard had developed with alternatives to our policy in Vietnam. I'll never forget what Johnson said to me one time, which made a lot of sense. He said, 'Hubert, if I can get you peace—peace in Vietnam—you'll get elected.' And he said, "That's why I didn't run for reelection. I want you to stay with me. We're making progress in Paris. Don't break with me, because if 'you do, that'll just set things off in Paris. They'll know there's divided counsel here and that there's no need to make a settlement.' "

Humphrey did not break with Johnson, but the Vietnamese nonetheless got the message that there was no need to make peace.

"In the latter days of the '68 campaign," Humphrey said, "there is not any doubt in my mind that Nixon was wheeling and dealing with Thieu and Ky over in Vietnam. That Nixon undoubtedly had Anna Chennault telling Thieu—that thieving, conniving leader of South Vietnam—'Don't come to the conference table in Paris.' I had reason to believe that Madame Chennault was representing Nixon, but I couldn't prove it. And I was afraid that if I accused Nixon of it at the very last hour, it would look desperate. I got ahold of Jim Rowe, who was a good friend of mine and of Johnson's, and sent him to the South Vietnamese ambassador. I said, "Tell him for me: "If what I hear is true, you can tell your president that his leadership with me as the next President of the United States will be finished.' "

Humphrey's voice got louder and louder. He was mad all over again.

"My information was that Madame Chennault was telling Thieu and Ky that Nixon was going to win. That there was no sense in the South Vietnamese's turning up in Paris. That a new administration would be coming into power. We had information from the White House that indicated this was going on."

And there were other suspicious activities as well.

"We had break-ins at our office out in Los Angeles in '68. And I have reason to believe that the Nixon forces were financing a certain amount of the demonstrations that were going on at that time. Nixon was a tough type of fellow. The dirty-tricks department, I'm confident, was at work during this period."

On a Tuesday morning last spring, Sen. Humphrey was scheduled to be at the White House at 8 a.m. When he arrived, he shook hands with Senate Majority Leader Robert Byrd, Speaker of the House Tip O'Neill and other members of the congressional leadership team. They had all come for their biweekly meeting with President Carter. Humphrey was surrounded by people who had gotten the jobs he himself had wanted. Since he had failed to win those titles, the Senate had created for him a special title to help make up: deputy president pro tempore. It was as the Senate's DPPT that he was invited to attend these White House meetings.

The White House still awes Humphrey. He continues to feel some of the tingle he felt in 1949 when he took his mother and father over to the White House to meet President Truman and, wonder of wonders, the President gave them a guided tour. At the White House, Humphrey always feels a little like a young man at his first fancy dinner party. He does not want to pick up any wrong forks. He wants everything to go well. So it was especially disturbing to him when something embarrassing did happen on that Tuesday last spring.

As a result of his cancer operation, which removed his bladder, Humphrey wears a bag to collect liquid wastes. That morning at the White House, the bag filled up faster than usual because a drug he had taken dehydrated him.

Sen. Humphrey later told a group of friends: "I didn't know my bag was filling up. I had a new seal on it that didn't hold. The bag broke. When something like that happens, you get down, but then you have to kick yourself"—he made a kicking motion toward his behind—"back up again."

Hubert Humphrey flew to Independence, Mo., to accept the Harry S. Truman Award. He was late. The crowd outside the Truman Library was worried. They were afraid something had gone wrong, but that was only because they did not know Humphrey well enough. There is something wrong when he is on time. Humphrey was late even to his own wedding.

The library staff had not provided lights for the out-of-doors ceremony. The sun was already setting when the Truman Award winner rose to the podium..

Humphrey had put in a long, draining day. Up early for a breakfast, he had gone on to preside over a meeting of the Senate Foreign Assistance subcommittee, he had met with constitutents, he had flown a thousand miles, and now he was supposed to give a speech. As he faced the crowd, he looked tired and fragile.

Then he began to speak and to change. His words seemed to rest him and to strengthen him. He grew younger at the podium. I was reminded of something Humphrey had said about Pablo Casals: "I've seen that dear old man at 90, barely able to get up, barely able to lift that baton. Then he'd get up in front of an orchestra and he'd come alive. Unbelievable. Just like a transformation." Humphrey was asked if he ever experienced anything similar when he addressed an audience. And he said: "Oh, yes, I can be literally ill and get up there to speak and start feeling strength. It sounds ridiculous, but I have gotten out of a sickbed with the flu, gone down to speak to an audience, gotten all perspiring—and gotten well! I get a kind of esoteric vitamin from crowds."

The crowd worked its healing miracle that night in Independence.

"Harry Truman was my hero," Humphrey proclaimed modulating his strong voice, waving his arms, moving the crowd with his energy. The speech went well in spite of the gloom that made it impossible for the speaker to read his text. It didn't matter. He just kept going. It didn't matter that as he stood on the steps of the Truman Library, the world was growing dark around Hubert Humphrey.

After the speech, there was a reception where hundreds of people wanted to touch the senator one last time. As usual, the crowd seemed to love him.

He left the reception and retired to the Sheraton Royal Hotel, where he noticed the giant baseball gloves that serve as lobby chairs. They should have been boxing gloves. Humphrey invited me up to his suite for cheese, crackers and beer.

A former staff member, Neal Peterson, called room service and placed our order. Humphrey recalled that when he was Vice President, he would find his hotel rooms crammed with cheese, crackers, beer and Canadian Club. Back then he deplored the waste, but this night, as it turned out, he would not have minded a taste of the old days. Room service seemed determined to ignore us.

While we were waiting for the food, we took off our shoes and put our feet up on a coffee table. Neal Peterson turned on the television. Humphrey said he wanted to watch something entertaining, "but it won't take much."

He explained that he unwinds for an hour or so every evening, no matter how late he gets in. This is his time. If he did not have it, he would feel he had lost control of his life. So if he gets in at 1 a.m., he stays up until 2 a.m., watching TV or doing whatever he wants to. If he gets in at 3 a.m., he plays until 4 a.m. That hour is his private life.

Room service still had not come . . .

Humphrey talked about the kinds of people he likes. He likes show business people, including such favorites as Kirk Douglas, Elizabeth Taylor, Sonny and Cher, Joey Bishop, Milton Berle, Alfred Hitchcock and Frank Sinatra.

"I like Frank Sinatra," he said. "He's a rather outgoing, friendly, gregarious, generous guy who gets in a lot of trouble. In his early days, he supported Democrats. I think he felt the Democrats turned their back on him. He supported Jack Kennedy real strongly. Then, when there was question of Sinatra's background and his connection, why, the politicians sort of moved away from him. I've never felt that way about people. I judge them on the basis of what they've meant to me. Everybody's got some marks on them."

Humphrey also likes musicians: people like Rudolph Serkin, Robert Merrill and Isaac Stern.

"I remember times sitting up with Stern half the night at the Jefferson or at the Hay-Adams Hotel and talking politics."

But most of all, Humphrey still likes his boxers. Jack Dempsey, Hammerin' Henry Armstrong. The Fargo Express. Gene Tunney. Sugar Ray Robinson. I asked him who his all-time favorite fighter was.

"Historically, I'd say Jim Corbett," Humphrey said. "He was really a tremendous athlete. He was a real boxer as well as a good fighter."

I asked why he likes prizefighters.

"They're not the kind of people you would want your children to admire," the senator said, "but they're fun to be with. They add a dimension to my life that's a relief from the occasional boredom of politics."

At last, room service came. A tray of sliced cheddar cheese and soda crackers was wheeled in. Humphrey took the beers into the bathroom to open them.

Neal Peterson turned around the channels again. We listened to a promo for a movie that was just coming on.

An announcer said: ". . . the story of a young woman dying of cancer and the effect on her family . . ."

Humphrey said, "I don't need this."

We flew from Independence to Minneapolis. Humphrey said: "I felt, when I faced the operation, I wasn't at all sure what was going to happen. But I was prepared in my own mind. I wrote a letter to my wife. I told her what I thought. In case I died, she'd know something about what I was thinking. That letter I don't think she ever opened."

Humhprey looked out the window at the farms.

"When I got through with the operation I wanted very quickly to get up and around. I didn't want to lie in bed. I got a big joy out of being able to talk with the other people in the hospital.

I recalled a story I had heard Vice President Walter Mondale tell about visiting Humphrey in October, 1976, at Memorial Hospital in New York City. Mondale expected to spend a few minutes in a gloomy atmosphere and to leave depressed, but as he approached Humphrey's room, he heard laughter. Then he walked in and got a 15-minute lecture on what he was doing wrong in the campaign. Mondale said he had heard that when Henry Kissinger came to the hospital, "Humphrey not only took Kissinger to every room in the hospital, but they stood outside the operating room and gave advice to the patients going in." Mondale left Memorial Hospital feeling good.

"I can't explain what it meant to me to have that tremendous wave of affection for me," Humphrey said. "It's embarrassing for me. I heard from everybody from the Pope to Kosygin to John Wayne, who said, 'Join the club.' "

When Humphrey left the hospital, he was deprived of the audience—the other patients—which had given him strength.

"The real test of a marriage is in an instance like we went through. As Muriel said to me, 'If we didn't love each other as much as we do, we couldn't stand this.' Because we were forced together that close. And there was very little we could do except slowly rebuild. Well, I walked a lot. I was very anxious to get back to work. I went back to my office for a certain number of hours a day. Then I'd go home and rest. By December, I was doing a full day. I was really feeling very good.

"Then I went home for Christmas. My grandchildren had the flu. I was a little reckless and overdid a little bit. I picked it up. Boy, it damn near knocked me out. It was over New Year's. Fortunately, Congress wasn't in session, so I didn't miss any days. But in the meantime I went down to Plains, Ga., during a terrible blizzard. I got down there and I damn near froze to death. It's a wonder I didn't get pneumonia."

Then it was time to go back to work.

"When Congress opened up, that's when I looked so bad. I didn't want to give in. I had a fever I went back to Congress with a 102-degree fever. Well, I was up for this contest for majority leader, and I just didn't want to back out and give up. The chemotherapy had taken my hair. I was thin. It took a whole month to get myself back around."

The ride was getting bumpy as we dropped down toward Minneapolis.

"You never know how long you're going to live. Why worry about it? Maybe the plane won't land. So I can't go around wondering whether I'm going to be alive. I've got to plan my days ahead as if I'll live forever. I try to do that because I think mental attitude has a great deal to do with your health. Now, I know that once you've had this disease, you never get cured really. It can hit you again, but if you worry about it, you'll get sick.

"Still, you know the odds."

In spite of Humphrey's uncertainty, the plane did land. We were picked up by an aide who was to drive us out to see the senator's newest grandchild. On the way, he talked about naming children. When Humphrey's first son was born, he and his wife had no idea what they wanted to call him. All they were sure of was that they did *not* want to name him Hubert Horatio Humphrey III. But war bonds began arriving made out to "Hubert Horatio Humphrey III." They were a present from Hubert Horatio Humphrey Sr., the proud grandfather. These gifts made quite an impression upon Hubert Horatio Humphrey Jr., the future senator, because at that moment in his life he was broke. When the war bonds amounted to a staggering $500, HHH Jr. told his wife, Muriel, "Let's face it: Daddy has bought the name." They christened their son Hubert Horatio Humphrey III, but they called him Skip.

A month before our visit, Sen. Humphrey, inspired by his father, had decided to try to name his newest granddaughter. He called his daughter-in-law at the hospital, where she was recovering from a Caesarean delivery.

"How's Heather?" he asked.

His daughter-in-law said he must have the wrong number. There was no Heather there.

"Of course, there is," Humphrey said. "My little granddaughter, Heather."

The daughter-in-law assure the grandfather that her daughter had not been named Heather and never would be.

A ritual began. Every morning, Hubert Humphrey would call his daughter-in-law. "How's little Heather?" "Her name's not Heather." Day after day. "How's little Heather?" "There's no Heather here."

The senator soon realized that he needed a co-sponsor for his idea. He called the maternal grandmother, whose name is Harriet. He suggested that the new granddaughter be named after her. The grandma was thrilled. Then Humphrey revealed the rest of his plan. Harriet would actually be the baby's middle name. Her first name would be Heather. Her full name would be Heather Harriet Humphrey. The point was: she would be another HHH.

The maternal grandmother was still pleased. She began calling her daughter and asking: "How's little Heather Harriet?" "Who's Heather Harriet?" And Humphrey kept calling, too. "How's little Heather Harriet?" During these calls, Muriel would stand at her husband's elbow and beg him not to interfere in his children's lives.

At last, the mother of the new baby agreed to a poll. She would ask her friends to pick their favorite name, and she asked the senator to do the same in his office. Now, Humphrey was an old hand at polls. He knew they could be used to show almost anything you wanted them to show. Calling together his staff, he held an election of Mayor Daley honesty. He read off all the competing names, concluding with: "And my favorite, Heather Harriet."

The poor mother had about as much chance as a Republican running in Cook County. She conceded gracefully.

We were on our way to see little Heather Harriet Humphrey when trouble developed. The driver pulled over to the side of the road. We were lost.

Humphrey and his aide pored over maps. They were both stumped. The senior senator from Minnesota did not know the way to his son Douglas' house. (He had never been as close to his children as many fathers. In 1964, during the fight over the Civil Rights Bill, his son Hubert Horatio Humphrey III was discovered to have cancer. Muriel Humphrey called her husband, who had to be summoned off the Senate floor, to tell him the bad news. Humphrey said he could not leave the Senate. The mother and son faced the lifesaving cancer surgery alone.)

At last, Humphrey folded up the maps. We were still lost, but the senator had a plan.

"Drive straight ahead," Humphrey told his aide. "What do we have to lose?"

"No," said the aide, a mere college student, as he turned the car around. "We'd better go back."

No! I could not believe it. This kid was contradicting an order given by one of the most famous senators that ever lived, a man who had been Vice President of the United States, a man who had come within a few hundred thousand votes of the presidency.

Nevertheless, Humphrey sat back and said no more. We drove back and stopped at a small grocery store, where Humphrey called his son Douglas and asked directions.

"If we had just kept going another hundred yards," Sen. Humphrey announced, "we would have come to the turnoff."

There are those who say that Humphrey has always been driven by his staff and that his staff is often wrong. That over the years, he has perennially hired a second-rate group of people to advise him. Many believe he did not speak out against the Vietnam war because he listened to his staff. The staff said: *No!*

No matter. We finally found his son's house, overlooking a beautiful lake. One-month-old Heather Harriet granted us an audience. Grandfather Humphrey danced around his grandchild like an elderly, white Muhammad Ali. The old warrior had a new audience and a new reason to keep fighting.

"I'm your grandfather," Hubert Humphrey crooned. "I'm worth remembering."

By Mr. BARTLETT:

S. 2170. A bill to amend the Immigration and Nationality Act to define the term "public charge," and for other purposes; to the Committee on the Judiciary.

Mr. BARTLETT. Mr. President, I am introducing legislation which is intended to substantially reduce the number of legal aliens that are receiving all forms of public assistance, whether it be Federal, State, or local.

We have all heard and read about the situation created by illegal aliens, but the effect of legal aliens on our economy has only recently been revealed.

Certainly not all aliens who enter the United States become public charges. Nor do most intend to become public charges; however, there is growing evidence that there are some who do enter with the specific purpose of availing themselves of our welfare programs, and others who become public charges because they simply do not have adequate means to support themselves.

I do not intend to derogate the efforts of the State Department in screening aliens; however, in many cases, the State Department does not have adequate authority to initiate protective measures, nor does it have the time to perform adequate screening.

Two facts are known. There are a number of legal aliens who receive various forms of public assistance, and Federal, State, and local governments have no accurate method of identifying legal aliens who are receiving tax dollars.

The approach that I offer in this legislation is to strengthen the State Department's position at the time of admission, and to require deportation once an alien is identified as receiving public assistance. A strong policy is necessary to prevent existing abuses and to stop expansion of welfare services as aliens become aware of the possibilities.

My amendments take a multiple-step approach. First, a definition is provided, describing when an alien becomes a "public charge." This definition is based on the receipt of public funds because of the lack of a job, physical disability, or health impairment, and is without regard as to whether repayment is required or requested by the Federal, State, or local program. Physical disabilities or health impairments that occur after entry will not be included.

Second, an agreement by a third party sponsor will be drawn as a legally binding contract for a period of 5 years.

The third step provides for deportation when the alien becomes a public charge, unless the public funds are repaid by the alien or a third party.

Last, all Federal, State, and local agencies shall report to the Immigration and Naturalization Service (INS) any alien that becomes a public charge.

These provisions may seem stringent requirements for a country that prides itself on being a harbor for the immigrants of the world, but with the current expenditures of public support funds on our own indigents, we can little afford the addition of any aliens that were admitted to this country on the basis of their capability to support themselves.

As I have stated, there is little information on the numbers of publicly assisted aliens, but I would like to cite some estimates provided by the Comptroller General in a 1975 report to Congress.

The work was done in California, Massachusetts, and New York. The conclusion was that newly arrived aliens received large amounts of public assistance. In Los Angeles County, the report estimated that $19.6 million annually was being paid out in AFDC, OAA, and ATD. Total grants to aliens in Los Angeles County amounted to $37.5 million annually.

Also cited were estimates from Texas and Hawaii welfare officials which showed payments of $7 million and $6 million respectively.

The sample of 195 random cases in Los Angeles County showed 86 cases—44 percent—had applied for assistance in the first 5 years, and 47 cases had applied during the first 2 years.

In San Mateo and Sonoma Counties, 64 percent had applied in the first 5 years, and 44 percent had applied in the first 2 years.

The following are the estimates for Massachusetts and New York City:

Percentage:		Years
State of Massachusetts	58	5
	37	2
Boston	80	5
New York City	37	1
	59	2

Questionnaires were also sent to 46 department of social service centers in New York City. Eight centers were eliminated for certain unrelated reasons, and of the 38 remaining, 13 said that aliens had an important impact on total public assistance payments.

This report provides some idea of size of the problem, but, unfortunately, there is no accurate information. The courts have held that there is inadequate statutory authority to enforce third party sponsor agreements for support. There is also no statutory requirement that immigrant recipients of public assistance be reported to INS for the facilitation of deportation. It is therefore imperative that we strengthen the law to cut off aliens from public assistance.

I direct my colleagues' attention to a recent "Sixty Minutes" program which describes some of the more flagrant abuses.

Mr. President, I ask unanimous consent that a transcript of this program be inserted in the RECORD for review by my colleagues. Mr. President, this transcript is reprinted with written permission of CBS News and may not be published or reprinted without their consent.

Some may view these amendments as unnecessary, but such practices will only continue to grow as more individuals become aware of the possibilities. I therefore encourage the rapid consideration of this matter, and passage before the end of the 95th Congress.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

ALIENS ON WELFARE

MIKE WALLACE. Illegal aliens. We've been hearing a lot about them lately, mostly that they take jobs away from Americans. But what about *legal* aliens—people who enter this country with proper credentials from foreign lands? We take 400,000 legal immigrants into the United States each year, more than the total number accepted by all the rest of the nations on earth. And those legal aliens are beginning to cost the American taxpayer a great deal of welfare money.

A few weeks back, we began receiving letters from California about legal resident aliens, Filipinos mostly, who come to California and, after just 30 days, apply for welfare—that despite the immigration law which requires the State Department to keep out aliens who might become public charges. Some estimates put the cost of legal aliens using federal and state welfare benefits at over half-a-billion dollars a year, at the very least. And the problem is nationwide.

Yonkers is a suburb outside New York City, and thousands of Jordanian families have chosen to settle here over the past fifteen years.

They've made themselves a Jordanian home-away-from-home, and they are grateful for the opportunity America offers them.

SHAFFIK RABADI. The United States has a very big, rich name outside, abroad. Everybody is dreaming to be in it, if you are to be frank.

WALLACE. Shaffik Rabadi is a leader in the Jordanian community in Yonkers.

SHAFFIK RABADI. Yes, soon as we come here to America, I mean, we adopted to be American citizens, and our sons to be taken to the service at any time they wanted. If we are to do any business, we are going to pay the taxes. We are going to be exemplary citizens.

WALLACE. But not all immigrants feel that sense of responsibility, and that's what this story is about. You see, for an alien to enter the United States—be he Jordanian, Portuguese, Italian, British, any nationality—someone, a sponsor (usually a family member, sometimes a friend) here in the United States has to sign an agreement saying that the sponsor can and will support the new immigrant, and that the sponsor will guarantee that the immigrant will not become a public charge.

Another Jordanian, Sultan Rabadi, sponsored a family of ten persons last October for their entry into the United States. Three months later those ten persons were on welfare.

But you were their sponsor. You—you told us.

SULTAN RABADI. Well, how—how much you want me to—to help these people? I tell him I have no more responsibility. I have seven people. I have seven people in my family plus my—my father. Eight people, I'm responsible about eight people.

WALLACE. I understand that, but then—but you signed the paper saying that they would not become public charges. That is, that they would not go on welfare. But three months after——

SULTAN RABADI. Well, they didn't have—have a job. He—he didn't have a job. He no have a job, so I can't—I can't be responsible about fifteen—fifteen people, eighteen people.

WALLACE. Maybe you just should not have signed the paper when you told them to come from Amman, Jordan, here to Yonkers in New York.

SULTAN RABADI. Well, everybody do that. Everybody do that.

WALLACE. How do you mean?

SULTAN RABADI. I mean everybody sign a paper to help some people.

WALLACE. Sultan Rabadi showed me around the apartment that the family he sponsored lives in. And now that they're on welfare, Rabadi himself makes money from it, for welfare pays the family's rent. And since Rabadi is the landlord, he gets that rent: $350 a month from welfare. The Westchester County Welfare Office tells us a family this size receives about $11,000 a year in welfare payments. And Rabadi says many sponsors just don't expect to support the aliens they bring in, despite what papers they have signed.

If the government had said to you: Okay, you want to sponsor the Ayoub family, put up a $5,000 bond. And you will have to pay that back to welfare if they go on welfare. Would you have done it?

SULTAN RABADI. No. No.

WALLACE. Why?

SULTAN RABADI. Because I don't have money.

WALLACE. Right.

SULTAN RABADI. I don't have money.

WALLACE. Most legal aliens are entitled to just the same welfare privileges as American citizens. And most welfare offices don't know the number of sponsors who renege on their commitments, or how much it costs. But in Westchester County, where sixty cents out of every tax dollar goes for welfare, they've now started to calculate the price of aliens on welfare—and they found the bill there is in the tens of millions.

When social service officials here in this Yonkers welfare office started looking through their records a couple of years ago, they noticed some recurring patterns: Immigrants were coming into this country, settling here in Westchester County, and within a few months, sometimes in a few days, they were coming to this welfare office and getting welfare, food stamps and Medicaid—that despite the fact that somebody had signed an affidavit of support pledging that the immigrant would not go on welfare. And there was nothing this office could do about it, because it was legal.

The sponsor's affidavit spells out in detail how much the sponsor makes, what he has in the bank and other assets, with bank statements to confirm them, all leading to item 9 on the sponsor's statement: "That this affidavit is made by me for the purpose of assuring the Immigration and Naturalization Service that the person(s) named in item 3 will not become public charges in the United States."

Welfare case workers Nancy Walsh and Lindy Spry say some sponsors sign for immigrants, despite the fact they know those aliens will have a hard time supporting themselves.

LINDY SPRY. The sponsor has to be aware that a lot of the people he's sponsoring in are elderly, are people with disabilities, are people who could not possibly go out and support themselves.

WALLACE. Lots of these sponsors do have money, do have property and could support these people, but just don't?

NANCY WALSH. I believe so, yes.

WALLACE. And there's no way to get at them?

WALSH. Not that we've been able to find out.

SPRY. Everybody in the community knows that person owns property and has finances, but it's not legally, under our laws, touchable.

WALLACE. Ms. Spry, are there sponsors who have brought in families, had them go on welfare, and then brought in other families?

SPRY. Yes. Yes, we see that quite often. We see a sponsor who will bring in one, two, maybe five to six families—

WALLACE. Yeah.

SPRY. —put them on assistance, and sponsor somebody else in, using the same assets that they declared on the affidavit for the first family.

WALLACE. The man who lives in that house, Habib Marji, came to the United States from Jordan in 1965. He's employed as a Pinkerton guard; he's a man of property. He has sponsored the legal entry into this country of at least five families. In his sponsorship papers, he said, "I'm ready, willing and capable to receive, maintain and support the family, and I am making this affidavit in good faith to induce the honorable American Consul in Jordan and the Immigration authorities in the United States in determining that such prospective immigrant will not be a person that can become a public charge." But several of the families he sponsored are now on welfare, and Habib Marji says he's not responsible for them. At first he agreed to talk to us, and now he says he's too sick to talk about it.

Two of the persons he brought over, now on welfare, are his daughters-in-law. This is one of them. Five months after she got here, she and her husband were on welfare. They told us they didn't want to go to work until her husband finishes school. The sponsor, the father-in-law, owns this house and the one next door. His assets, he has said, are worth well over a hundred thousand dollars; and he, too, gets rent money from welfare for housing the families he sponsored.

The easy availability of welfare funds drew even the local immigrant magazine to poke fun at the community—in this cartoon showing a Jordanian coming into New York's Kennedy Airport, and asking the taxi driver to take him to 70 Ashburton Avenue, the address of the Yonkers welfare office. Shaffik Rabadi says welfare itself should share the blame.

SHAFFIK, RABADI. From the beginning of the time that they started to immigrate up to now, no action was taken against any sponsor. Say, for example, somebody sponsored somebody and came here, after five or six months he went to the welfare, the welfare themselves did not take any action—say, for example, to stop the money.

WALLACE. Do you call the sponsor in, Ms. Walsh, to talk about it?

NANCY WALSH. Yes, we do call the sponsor, we contact him. As long as he will give us a notarized statement saying that he can no longer support this person, we must accept it. We have no right to go any further. When we began seeing the problem of sponsors not living up to what we saw as their legal commitment to take care of people for five years after they came in the country, and we—we got into some research about it, and we found out that, actually, even though they sign something which says they are bound to take care of this person, it is simply a moral commitment.

WALLACE. Do you ever say to the sponsor. "Wait a minute, you said that you would!"?

WALSH. That's right.

WALLACE. And they say?

WALSH. Sorry, I have other financial obligations.

WALLACE. You will not sponsor other Jordanian families who want to come, Mr. Rabadi. Why?

SHAFFIK RABADI. I tell you frankly: because I have no money to support them, and I don't want to bear the responsibility for their coming. You see, I appreciate—

WALLACE. Right.

SHAFFIK RABADI. I understand well that the Americans mean when you sign something you mean it, that you have to be responsible so that they don't become a public charge. So that, I mean, they don't be a heavy burden, you see, on the shoulders of others in this country. This is the meaning of it.

WALLACE. Correct.

SHAFFIK RABADI. I myself understand it this way.

SULTAN RABADI. That man, he can understand good English and he—he knows everything. I—I can't understand everything, you know. And he can read good. You know the problem why they go to the welfare?

WALLACE. Because—?

SULTAN RABADI. Because they don't have any jobs. They want to eat. How come you like the people, the kids two years, three years or six years old, they want—you want them to die, without food? Well, that's why they go to the welfare.

WALLACE. But they say Rabadi signed a paper. He's—

SULTAN RABADI. Well, I signed the paper, I—I didn't know that I got to be responsible about five—five years.

WALLACE. Well, who's at fault? Is it Immigration? Is it the Consul back in Amman in Jordan? Is it the State Department? Who is to blame?

NANCY WALSH. As we try to sort it out from—from our own perspective, it seemed to me that it was the State Department—that if they wanted to, that they could make people post bond. After all, it—it's even on the form that you sign to become a sponsor.

WALLACE. Carl Shepherd, who runs the U.S. State Department's Visa Section, says the whole legal alien welfare situation is a mess.

The fact is, Mr. Shepherd, that this very formal affidavit of support with all kinds of questions about stocks and bonds and money and life insurance and real estate and signatures and—this legal-looking document is nothing but a sort of a worthless piece of paper, legally.

CARL SHEPHERD. In a—in a legal sense, you're quite correct. It has no more value than any other piece of paper.

WALLACE. Aren't we being taken advantage of?

SHEPHERD. I wouldn't question that we are; but again, because of the lack of hard figures, we don't really know to what extent.

WALLACE. Well, how often do you deny visas because you think the alien might become a public charge?

SHEPHERD. As of Fiscal Year '76, we actually refused 48,000 visas for public charge.

WALLACE. You did?

SHEPHERD. Yes.

WALLACE. And how many people became public charges?

SHEPHERD. I don't believe that there's anybody in the government who has that figure.

WALLACE. But we assumed the Immigration Department would know. After all, it's their job to watch over aliens here, and to hold the bonds the sponsors can be asked to deposit.

Sam Bernson is Immigration's top counsel.

Do you have any idea the number of legal aliens who are getting welfare?

SAM BERNSON. That's one of the unknowns.

WALLACE. Just unknown?

BERNSON. It's an unknown.

WALLACE. How many public charge bonds, bonds that we're talking about, are filed during the course of the average year for legal immigrants?

BERNSON. That's a figure that is unknown. We don't have that figure. We don't break that figure out.

WALLACE. Here in the paper capital of the world you don't know that?

BERNSON. That's right. They—And with all the data that we assemble, and we publish a massive annual report loaded with numbers.

WALLACE. You don't know the number of aliens, legal aliens, who are on welfare?

BERNSON. We don't—

WALLACE. You don't know—

BERNSON. We don't—we don't know, and neither do the—neither do those who are handing out the welfare payments know.

WALLACE. Under federal law, Mr. Bernson, ". . . any alien in the U.S. shall, upon the order of the Attorney General, be deported who has, within five years after entry, become a public charge." What does that mean?

BERNSON. The term "public charge" has been given a legal meaning. In addition to the person obtaining welfare, whoever gives him that welfare has a requi—ask him to reimburse.

WALLACE. If an alien comes into the United States legally and goes on welfare, he is not a public charge unless the welfare office demands the money back?

BERNSON. That is correct.

WALLACE. And if the welfare office doesn't demand the money back, he's home free?

BERNSON. He's not a public charge under the interpretation of that provision of law.

WALLACE. And how many welfare offices demand repayment? None that we could find.

That just doesn't seem to make sense. It is, foregive me, a kind of Catch-22.

BERNSON. It is a loophole in the law. The loophole should be plugged and Congress is aware of it. The bills have been introduced, but unfortunately these things move terribly slowly.

WALLACE. Even though the Immigration Service knows that many aliens take advantage of a variety of federal and state welfare benefits, they tell us they have not been able to deport one single alien for going on welfare since 1948—all because of that loophole in the law.

By Mr. MATHIAS (for himself, Mr. SARBANES, Mr. BIDEN, and Mr. ROTH):

S. 2171. A bill to amend section 304 of the Regional Rail Reorganization Act of 1973 to provide for the negotiation of division of revenues agreements between ConRail and certain designated operators of rail freight service; to the Committee on Commerce, Science, and Transportation.

Mr. MATHIAS. Mr. President, today I am introducing legislation to facilitate the negotiations between small railroads and the Consolidated Rail Corporation (ConRail) as they attempt to fashion an equitable revenue-sharing arrangement for those rail freight lines on which both parties operate trains.

The Regional Rail Reorganization Act of 1973 created ConRail and directed it to take over the operation of the bankrupt railroads of the Northeast. The act also provided the opportunity for smaller railroads—known as short lines—to come into existence to operate those branch lines that were not transferred to ConRail. The formation of these short lines has required the establishment of new joint routes and the sharing of operations and costs between ConRail and the short lines. In some instances, ConRail and certain short lines have been unable to agree upon a basis for sharing revenues derived from the freight traffic that travels on both ConRail track and the short line.

My bill addresses this problem by requiring ConRail and the short lines to establish an equitable sharing of revenues that will permit both parties to remain financially viable.

Certain of the short lines, including the Maryland and Delaware Railroad Co., have complained to the Interstate Commerce Commission that ConRail has withheld certain freight bills for traffic carried on ConRail track which the short lines need to compute freight charges to shippers. This ConRail practice prevents the short lines from collecting their fair share of freight revenues in a timely fashion.

ConRail has apparently withheld the freight bills because they do not yet have what they call "interchange agreements" with the short lines. These agreements spell out the formula for dividing up freight revenues between the two parties. The reason given for lack of agreement, rather astonishing I think, is the fact that they have not yet agreed to a sharing of revenues. The bill I am introducing today would solve that "catch 22" dilemma.

The withholding of freight bills by ConRail disrupts the cash flow the short lines need to continue service to shippers who are dependent upon them for railroad service.

Clearly, Mr. President, in passing the Regional Rail Reorganization Act, Congress did not intend to hamstring the operations of these short lines, which serve important rural economies. Nor was it our intent to enmesh the short lines in protracted disputes with ConRail over the amount of revenue each was to receive—ConRail from owning the rail line and the short lines from operating the trains that run on those ConRail-owned lines.

What we most assuredly did intend, however, was to insure both the viability of ConRail and the continued existence of the rail service on light density lines which contribute traffic and revenue to the ConRail system. Obviously, we must reassure the short line companies on light density branch routes, that they will at least recover costs and, at the same time, that they will be in a position to upgrade the level of their service to the shipper. Only by improved and dependable rail freight service will such shippers be willing to risk economic growth and increased reliance on the railroads.

The short lines are not big business. They operate on a tight budget and are dependent on a constant inflow of money to pay their daily expenses. They are now attempting to revitalize the service on their lines by upgrading their road beds, increasing train speeds and increasing shipping volume. They seek to do all this and still make a small profit. We should encourage their undertaking. However, continuing disputes with ConRail over sharing of revenues, as I have described here, degrades their financial viability. This bill will help the parties resolve their differences. In so doing, it will assure the continued rail freight service to rural areas, including the Delmarva Peninsula, which are dependent upon such service.

I have received a letter from the Maryland Department of Transportation which describes the nature of the problem. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARYLAND DEPARTMENT OF TRANSPORTATION OFFICE OF THE SECRETARY,

August 18, 1977.

Because of your assistance and support in preserving our local rail service in Maryland, I want to apprise you of the outcome of your negotiations with Conrail regarding division of revenues.

By letter of August 5, Conrail rejected the proposal of the Maryland Department of Transportation on revenue divisions for the subsidized Delmarva railroad operations (copy attached). This act by Conrail culminates several months of negotiations by the three Delmarva states to establish a reasonable and fair formula for dividing the revenues on traffic interchanged between Conrail and the Maryland and Delaware Railroad (M&D).

As you know, our negotiations with Conrail were initiated in early February in anticipation of turning the branch lines over to the M&D for operation. Our decision to contract with the M&D was based on several factors. First the M&D can provide the same level of service at about half the Conrail costs of operation. Additionally, during the 15 months of Conrail operation, Conrail has been unable to comply fully with the operating agreement particularly in the areas of track maintenance and cost reporting. Most significantly, Conrail has no interest and has made no effort to market the service or develop traffic on these lines. The M&D, because of lower costs and local management, will be in a position to build the lines up and increase traffic and revenue.

With equitable revenue divisions, all the Delmarva lines will have the opportunity to become self-sufficient, thereby eliminating the need for large subsidies to the operating railroad when the federal program runs its course.

Throughout our analysis and negotiations on this matter, we have recognized the congressional intent that Conrail is to operate as a for-profit corporation. To this end, we have proposed divisions that would permit Conrail to recover full off-branch costs in accordance with RSPO standards as well as make a profit on traffic interchanged with the short line. The short line would recover a portion of its costs sufficient to allow these lines at least a chance of survival.

Under the revenue formula proposed by Conrail, Conrail would keep a share of revenue far beyond the share needed to cover its own costs. We do not object to Conrail making a profit, but the profit in this case is excessive and would be derived from the diversion of subsidy payments made by local and federal taxpayers to the M&D. In effect, a large portion of the federal and local funds designed to help the state improve and preserve its rail system would be used to cross subsidize Conrail operations. We do not believe this artificial diversion of federal and local rail subsidies was the intent of Congress when it framed the recent rail reorganization legislation.

The impasse we have now reached with Conrail is jeopardizing the efforts of the Delmarva states to create a viable railroad system. Although the Interstate Commerce Act requires connecting railroads to establish just, reasonable and equitable divisions, Conrail has chosen to ignore these requirements and the many division agreements based on this principle. We cannot afford the delay and expense of a long legal challenge before the ICC and therefore believe a legislative remedy may be the best approach to resolving this matter not only for the Delmarva states, but for all states faced with the same problem.

Specifically, we propose that the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976 be amended to direct the RSPO to reopen Ex Parte No. 293, Sub. No. 2 for the purpose of establishing a basis for equitable divisions between a designated operator and its Class I railroad connections. It would be our suggestion that the existing formula for "off-branch costs" established under Ex Parte No. 293, Sub. No. 2, represents an equitable basis for the connecting Class I railroad's share of the joint revenue.

The legislation should specify that any studies, regulations and standards required to implement this legislation be completed well prior to April 1, 1978, the beginning of the next subsidy year. This will allow states the opportunity to determine which lines can be continued with short line operators, given an adequate share of revenues.

Without equitable revenue divisions in force, long run self-sufficiency of local rail operators is completely impossible. Thus, the efforts of many states to preserve rail service under local auspices are doomed to failure with the attendant waste of all the money intended by Congress for their rehabilitation.

We hope you can lend your support to this approach and you can be sure of our assistance and cooperation in further developing this proposal.

Sincerely,

HERMANN K. INTEMANN,
Secretary.

ADDITIONAL COSPONSORS

S. 444

At the request of Mr. JOHNSTON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 444, to credit certain service performed by National Guard technicians prior to January 1, 1969, as Federal employment for the purpose of civil service retirement benefits.

S. 457

At the request of the Senator from California (Mr. CRANSTON), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 457, the GI Bill Improvement Act of 1977.

S. 792

At the request of Mr. HEINZ, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 792, a bill relating to the conversion of closed schools.

S. 1014

At the request of Mr. DOMENICI, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1014, a bill to provide tax incentives for providing a home for an aged dependent.

S. 1228

At the request of Mr. ROTH the Senator ator from California (Mr. CRANSTON) was added as a cosponsor of S. 1228, the Equal Opportunity Enterprise Act.

S. 1585

At the request of Mr. BROOKE, the Senfrom Utah (Mr. GARN) was added as a cosponsor of amendment numbered 1398 to S. 1585, a bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

S. 1838

At the request of Mr. NELSON, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1838, to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees.

S. 1974

At the request of Mr. NELSON, the Senator from Minnesota (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 1974, the Regulatory Flexibility Act.

S. 2009

At the request of Mr. DOMENICI, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2009, the home care services bill.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 69, requiring each executive department and agency to designate a small business advocate.

AMENDMENT NO. 1024

At the request of Mr. HOLLINGS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Maryland (Mr. SARBANES), the Senator from Kansas (Mr. DOLE), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1024, intended to be proposed to H.R. 9005, making appropriations for the District of Columbia.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1410

(Ordered to be printed and to lie on the table.)

Mr. STONE. Mr. President, it is expected that the Senate in the near future will take up S. 1871, the minimum wage bill. It is my intention to propose an amendment that would retain the tip credit provisions as currently allowed by law.

Under current law—section 3(m) of the Fair Labor Standards Act—when an employee works in an occupation where tips are "regularly and customarily" received, part of those tips may be counted toward payment of the minimum wage—but not more than 50 percent of that wage. With this provision in effect, a tipped employee can never earn less than the minimum wage.

In a letter to the chairman of the House Education and Labor Committee dated July 25, 1977, Secretary of Labor Ray Marshall stated—

I note that the bill would phase-down the tip credit for tipped employees. We oppose this provision because we are unconvinced that the adverse impact on employees would be outweighed by other benefits.

Evidence developed in studies conducted by the U.S. Department of Labor and the restaurant industry strongly concludes that the repeal of the tip allowance will seriously jeopardize employment opportunities in eating and drinking establishments.

PUBLIC UTILITY REGULATORY POLICY ACT—S. 2114

AMENDMENTS NOS. 1411 AND 1412

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted two amendments intended to be proposed by him to the bill (S. 2114) to authorized Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

NOTICES OF HEARINGS

OVERSIGHT HEARINGS ON THE FEDERAL RESERVE SYSTEM'S ROLE IN THE PAYMENTS MECHANISM AND PRICING OF FEDERAL RESERVE SERVICES

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold 2 days of public hearings on the role of the Federal Reserve System on the payments mechanism and pricing of Federal Reserve services. The hearings will be held on October 10 and 11, beginning at 10 a.m., in room 5302 of the Dirksen Senate Office Building.

The purpose of the hearings is to examine four basic issues: Whether the provision of payments services is a necessary and appropriate function for the Federal Reserve in its capacity as the Nation's central bank; whether and on what basis all depository institutions should have access to Federal Reserve services; the potential benefits and costs that the economy would obtain from explicit pricing of Federal Reserve services; and the impact of the Federal Reserve's current role in the payment mechanisms on correspondent banking, on the efficiency of the payments mechanism, and on private marketplace incentives to provide payments services.

In his June 20 appearance before the Subcommittee on Financial Institutions, Chairman Burns stated that—

The Board is considering—and must consider more fully—alternative systems for collecting charges for services, such as requiring clearing balances or fees from all depository institutions.

NOW accounts, share drafts, and other financial innovations that are already making savings and loan associations, mutual savings banks, credit unions, and others active participants in the payments mechanism will no doubt increase the demand for Federal Reserve services by all depository institutions, not just member banks. The Federal Reserve has some obligation to see that these demands are satisfied: First, because the Federal Reserve was established by the Congress to provide an elastic currency; and second, because as the Nation's central bank the Federal Reserve is responsible for the Nation's monetary system in a very broad sense.

Although there was obviously a need for the Federal Reserve to provide check-clearing services 60 or 70 years ago when the payments system was first developing, questions have been raised as to the necessity of Fed involvement as the basic provider of many payments services now that the system is more fully developed. Moreover, the development of electronic funds transfer systems—which are in their infancy—raises additional questions about the role of the Nation's central bank in assuring the efficient transfer of funds. The Congress has an obligation to examine the role of the

Federal Reserve, as the Nation's central bank, in providing payments services, including whether the provision of all such services is a necessary and appropriate function for the Federal Reserve, and on what basis services should be provided to all depository institutions. I am of the opinion that pricing of Federal Reserve services on an explicit, rational basis can provide important benefits to the Nation that cannot be obtained when prices are set at zero and charges are levied only implicitly through member bank required reserves.

On Monday, October 10, 1977, the committee shall receive the testimonies of five witnesses: Prof. Almarin Phillips, dean, school of public and urban policy, University of Pennsylvania and public representative of the National Commission on Electronic Funds Transfers; Mr. George Oram, executive assistant to the Chairman, Federal Home Loan Bank Board; Mr. John Lee, executive director, New York Clearing House Association; Mr. Bernhard W. Romberg, president, Payments and Telecommunications Services Corp.; and Mr. Virgil Dissmeyer, president, National Automated Clearing House Association.

On Tuesday, October 11, 1977, the committee shall receive testimonies from three witnesses: Philip E. Coldwell, Member of the Board of Governors of the Federal Reserve System; Dr. Charles F. Haywood, professor, Department of Economics, University of Kentucky, representing the American Bankers Association, accompanied by Mr. William T. Dwyer, vice president, First National Bank of Chicago and chairman of the ABA Correspondent Banking Division; and Mr. Leif H. Olsen, senior vice president and economist, Citibank, N.A.

Anyone interested in obtaining additional information about the hearings or desiring to submit comments for the hearing record should contact Steven M. Roberts, chief economist for the committee, at (202) 224-0893.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. JACKSON. Mr. President, I would like to announce that on October 10, 11, 12, 17, and 18, 1977, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold hearings to receive testimony concerning labor union insurance programs. The hearings will begin at 9 a.m. in room 3302, Dirksen Senate Office Building, on Monday, the 10th, and Tuesday, the 11th, and in room 1114, Dirksen Senate Office Building, on Wednesday, the 12th. The hearings will begin at 9:30 a.m. on Monday, the 17th, and Tuesday, the 18th.

ADDITIONAL STATEMENTS

THE HATCH ACT

Mr. HARRY F. BYRD, JR. Mr. President, several Virginia mayors have announced opposition to the pending proposed revision of the Hatch Act, H.R. 10, recently passed by the House and now pending in the Senate Committee on Governmental Affairs, as locally elected representatives reflecting the grassroots view of their constituencies. They are:

Mayor James F. Hope of Suffolk, Va.

Mayor Joseph F. Freeman of Lynchburg, Va.

Mayor Roy H. Erickson of Harrisonburg, Va.

Mayor Nancy K. O'Brien of Charlottesville, Va.

Mayor Vincent J. Thomas of Norfolk, Va.

Mayor Robert H. Clarke of Danville, Va.

Mayor Joseph C. Ritchie of Newport News, Va.

The Hatch Act is basically a ban on political coercion of Federal workers, and a restriction on employees' own activities in political campaigns.

The history of the Hatch Act reveals that prior to its passage, rampant political intimidation, and "spoils system rewards" were the order of the day; and little, if any, semblance of a merit system based on job qualifications or job security existed.

An article by Marjorie G. Fribourg entitled "Why the Hatch Act Is Worth Keeping," recently appearing in the Washington Post, graphically traces this history. At the conclusion of my remarks, I shall request that a copy of this article be inserted in the RECORD.

My mail, from both Federal employees and the general public throughout Virginia, has been overwhelmingly opposed to revision of the Hatch Act that would open the doors to virtually unleashed partisan political purposes.

Federal employees can, and do, now vote for the candidates of their choice, express their views and may voluntarily make contributions. Their right and privilege to express themselves at the ballot box is no different from that of any other citizen or voter.

If, for no other reason, then the headline abuses of partisan political power which brought down one administration in recent years and the most recent admission of an Acting Comptroller of the Currency that he submitted a less than complete report to the Congress concerning a Presidential nominee, because of his own interest in currying favor and resulting appointment, the Hatch Act restrictions should be preserved as a minimum protection—both to the public and the Federal employee.

While the present Hatch Act restrictions did not preclude these occurrences, certainly its virtual repeal could not be construed as a condemnation of such activities.

Sadly, as a result of such revelations, public confidence in their Government has been seriously damaged.

Unfortunately so, as I think the vast majority of our public servants have been enabled to give dedicated and conscientious service without fear of reprisal under the Hatch Act protective shield, and have done so.

The sins and abuses of a few should not be attributed to this vast majority of public employees. They most certainly deserve to retain that protection which permits them to continue the performance of their duties objectively without consideration of either personal reprisal or reward.

I think Virginians perceive, and correctly so, that active campaign solicitation and activities by Federal employees, provided under H.R. 10, would further erode the efficiency and integrity of the public service. It certainly would not enhance it.

This, I believe, is reflected in the opposition expressed by these local elected officials to the proposed revision of the Hatch Act, who as mayors of their local communities are daily in close touch with the citizenry they serve and aware of their concerns and interests.

As to my own view, I feel it is essential that confidence in our Government be restored. This should be our primary concern—not the provision of a substantial reservoir of political control and dictation to serve partisan political purposes.

Reasonable limits on political conduct of Federal employees in order to promote efficiency and integrity in the public service without in any way impairing their free exercise of the franchise, as has been provided these many years under the Hatch Act, is a fair and equitable balance of the rights of the public and of the employee, and in the best interests of all concerned.

It should be maintained so that every individual in his contacts with these spokesmen of their Government may be assured of impartial treatment.

I ask unanimous consent that Ms. Fribourg's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY THE HATCH ACT IS WORTH KEEPING

(By Marjorie G. Fribourg)

In a famous White House memo in 1971, John Dean asked, ". . . how can we use the available federal machinery to screw our political enemies." Only the Hatch Act, which spells out that government workers are not to take an active part in campaigns, kept the Watergate crowd from being able to use vast numbers of unwilling government workers to go after Nixon's enemies. Having worked well for the protection of both the nation and the employees, the Hatch Act now faces being demolished or updated, depending on your point of view.

The House has passed H.R. 10, knocking down the safeguards in the act. The Senate is holding hearings on the bill, and while opponents may have blocked action this fall, some union leaders still hope to push the bill through. If they don't succeed, H.R. 10 will be high on the Senate agenda early next year.

Hence, some clear spring evening a platoon of postmen could be combing your neighborhood ringing every doorbell, handing out campaign literature and collecting contributions. Ostensibly, they will have volunteered their services and in any case are trying to make sure that their candidate defeats the incumbent congressman who either dared disagree with the President or dared fight the demands of a government workers' union.

Picture it: Your mailman comes calling to get your signature on a petition to put the challenger on the ballot—something you don't want to do or to refuse. Elsewhere, a clerk for the Social Security office distributes posters for one of the administration's favorites, making her neighbors wonder if her on-the-job decisions are also partisan. A scientist from the Bureau of Standards is out fund-raising and calls on a manufacturer

who has a product under examination—not by the campaigner; that would be illegal—but by another member of the agency. The manufacturer also doubts the integrity of the system.

A rumor has started simultaneously in every federal agency: Promotions will be given to those who go out and canvass for the cause; job descriptions will be reworded after election to match the individuals who helped the party. Legions of the 2.8 million civil servants have decided they had better be cooperative.

If anything like this ever happens—and it could without the Hatch Act—we will have returned to the patronage system instead of the merit system.

"I'M HATCHED"

Labor union activists have battled the Hatch Act for years. They come to the Hill to tell congressmen that postal and federal agency staffs are being treated as second-class citizens. It is not enough that they can vote, express their views and give contributions to political parties. "Voluntary political participation is one of the basic rights of American citizens."

Their challengers don't think it's the federal workers who want to be rid of the act. When a civil servant says, "I'm Hatched," he is not complaining. He is protecting himself from political arm-twisting, announcing, "You can't force me to do what is illegal." (Sen. Abraham Ribicoff's Government Affairs Committee has been getting a flow of personal notes from people with government jobs who don't want the change.)

It is the unions that will profit, gaining clout if H.R. 10 passes. Today, the president of an association tells his congressman he speaks for so and so many potential voters. Next November, he may be able to summon an instant campaign committee, persuading federal personnel to wave placards, address envelopes or drive the faithful to the polls, and somewhere in the United States swaying the outcome of an election.

The Republican minority on the House committee that processed the bill was deeply concerned over union power. One of them, Edward J. Derwinski (R-Ill.), has charged that union leaders want enough influence to force the government to let its employees strike—giving unions enough muscle "to bring the government to its knees." It's not the unions, however, but future administrations that will have the greatest opportunities to be abusive."

Even with the Hatch Act, division chiefs in the General Services Administration six years ago collected ticket money for a gala "Salute to the President" dinner. They claimed that GSA placed a great deal of emphasis on "organizational responsiveness"; and they never checked to learn that the affair was partisan. In other words, they did what was expected of them.

We are heading into these problems because the sponsors of H.R. 10 have treated the Hatch Act as if it were merely an overreaction to problems with the New Deal's Works Progress Administration, an unnecessary, unprecedented and novel device. That impression is misleading. Americans have gone through a long, harrowing saga to get the Hatch Act.

THE SPOILS SYSTEM

It started in 1791. Worried that government workers would be used as political tools, a group led by Georgia's Rep. James Jackson tried unsuccessfully to limit the political activities of inspectors to casting their own ballots. But, in spite of subsequent warnings by President Jefferson, by 1830 public servants were picked or fired on the basis of party loyalty. And all resolutions designed to keep federal employees from using threats, money or official abuse to affect elections were voted down.

By 1876, the milking of federal workers for campaign funds was so shocking that Congress prohibited all except the highest-ranking appointees from "giving or receiving from any other employee of the government any money . . . for political purposes. . . ." That did not save a number of them from getting a letter a few years later requesting 1 per cent of their salaries with the explanation that ". . . there will be no objections in official quarters to such voluntary contributions. . . ."

President Garfield had to be gunned down in a railroad station by a disappointed office-seeker before the spoils system was partially replaced with a merit system. (In the course of getting the bill passed, Congress discovered that in one section of the Treasury 500 of the 900 employees were completely useless except at election time.)

The Pendleton Act restated the prohibitions passed in 1876 and outlawed collecting political contributions in government buildings. By 1907, it was being evaded. President Theodore Roosevelt—a knowledgeable former civil service commissioner—issued a directive: Persons in the classified civil service could vote and express their views, but should take no active part in political management or political campaigns.

GOP CHARGES

It was all inadequate. In the 1930's, all the old abuses appeared in a new situation. The federal government had created projects designed to hire the unemployed but not under civil service. By 1938, there were legions of people relying on the WPA for their existence. Charges appeared that they were being shamelessly coerced to support Democratic candidates.

Bills had been introduced in previous Congresses to stop federal officeholders from misusing their positions for partisan ends, but mostly the suggestions came from statements on the minority side of the aisle. They did not get very far.

1938 was a congressional election year. Any attempt by the Republicans to do anything about the allegations against Democrats could have been countered as a partisan attack. Instead, the attack came from a Democrat, Carl A. Hatch—a gentle, mild-mannered New Mexican and the center of an influential group in the Senate. That summer, Hatch presented an amendment to be added to the appropriation for relief works. In brief, no person receiving pay from these funds was to use his authority to interfere with a political convention, a primary or an election.

Senate Majority Leader Alben Barkley of Kentucky objected. "The fact that a humble man or woman happens to be employed by the government . . . is not a sufficient reason for . . . denying to any such person the same right that anybody else in the United States enjoys . . .," he told Hatch.

When at last they voted, the measure was defeated, 37 to 40.

The Senate then increased the funds made available to Sen. Morris Sheppard's Committee on Privileges and Elections, which would be investigating the unsavory tales.

On July 16, 1938, the committee sent its investigators to Kentucky. It was true that Barkley's opposition in the primary took contributions from state employees. It was also true that, in parts of the state, Barkley's supporters conducted a systematic canvass of all WPA workers.

Project workers were asked by foremen to sign a statement that they would support Barkley's candidacy. Barkley buttons were handed out. Men known to hold views contrary to the candidates were, in a number of instances, discharged. Always the reason given was nonpolitical. Always political motives were denied.

When Barkley was questioned, he emphatically denied knowledge of any improper practices. "In every speech I made," he said, "I declared, insisted and urged that every federal, state and local employee possessed, and should exercise, the right to vote as they pleased."

The investigators noted these remarks and conceded that it had found nothing to show that Barkley had any knowledge of these activities. Officeholders in Washington often claimed to be, and often were, ignorant of the activities of their supporters back home, as the committee knew.

OBJECTIONS IN THE HOUSE

Autumn found the investigators checking out complaints in Pennsylvania. There, on more than one occasion, the supervisor of a women's sewing project circulated among the timid seamstresses, offering to sell them $1 and $1.50 tickets to a political rally or clambake. The foreman of a crew of unskilled laborers on a highway project did the same to his crew.

With all this in the record, Hatch renewed his crusade in 1939 and won the help of a singularly valuable gladiator—Vice President John Nance Garner. Together, they lined up support for legislation that would keep government employees from using their authority for the purpose of affecting elections.

The measure passed the Senate and went to the House Judiciary Committee where, according to Hatch, "unfair, unjust and unreasonable criticisms were made." Representatives were afraid the bill might apply to their own campaign speeches and dinners, "a most ridiculous interpretation."

Hoping to save his bill, Hatch went to the committee and agreed to language changes. After the meeting, the act read: "No officer or employee in the executive branch of the federal government, or any agency or department thereof, shall take any active part in political management or in political campaigns." The President, his Vice President, his cabinet, his staff and his appointees on the policy-making level were exempt.

In other words, Hatch wanted Theodore Roosevelt's directive turned into law and extended to cover federal workers who were not part of the classified or merit system. (It has been estimated that at that time only 32 per cent of the government force were classified.)

Hatch faced other complications. The Democratic Party would soon have to decide whether to offer Franklin Delano Roosevelt a third term. Political analysts expected that the President's cause would suffer if federal employees were barred by the Hatch Act from being delegates to the convention.

Toward the end of July, the measure came back from the House. Hatch strolled into the Senate and asked that it be put to a vote. The Vice President agreed and announced hurriedly that, if no one objected, it would be so ordered. Then they heard Sherman Minton's sharp, "Wait a minute."

The Indiana senator looked over the House changes to see if the bill should be sent to conference.

This time Hatch, who was usually calm and affable, exploded.

"There is nothing to confer about," he insisted. "A vote to send it back to conference . . . is a vote to send the bill to the graveyard. . . . Let there be no pious declaration of being for the noble objectives of the bill, but . . . ."

Instead of being antagonized, Minton understood Hatch's concern for his bill. Gently chiding that he had no dagger up his sleeve, he capitulated, letting the measure come to a vote.

It passed the Senate. Then the President made everyone wonder whether he would sign it. Roosevelt told reporters at his press conference that it was too vague and hard to interpret. He wanted to study it and get some advice on it. According to journal-

1st Marquis Childs, Hatch began preparing a speech to deliver if the President vetoed the bill.

Hatch never had to read his veto speech. Roosevelt signed the act into law.

But even then, the Hatch Act was not safely on the books. It was twice challenged before the Supreme Court. The fight was not over until the justices ruled that "Congress has the power to regulate within reasonable limits the political conduct of federal employees in order to promote efficiency and integrity in the public service." By then, a century and a half had gone by since congressmen first tried to prevent federal officers from interfering with elections.

Since 1791, there have been repeated, frustrating struggles to protect both the integrity of elections and the rights of government workers. Nobody could have dreamed that, after all that, the issue would come up again—that it was still debatable.

The need for the Hatch Act is even greater now than when Hatch proposed it. The size of the civil service has more than tripled. Roughly 1 out of every 75 Americans works for the executive branch of the U.S. government. Every time we face a major national problem—war, depression or catastrophe—we add to the federal staff. If anyone ever succeeds in molding these millions of men and women into a well-disciplined political machine, no challenger will ever again be able to beat it.

The subcommittee under Rep. William Clay (D-Mo.) that processed H.R. 10 believes that it is so skillfully written that it will protect the public, the employee and the merit system. While the bill states that federal employees are encouraged to be politically active, exceptions are made. Foreign intelligence agents, men and women who enforce the laws and those awarding government contracts, subsidies or licenses will remain Hatched. No one will be able to staff a political committee with Internal Revenue agents or with mortgage credit inspectors from HUD.

NO WAY TO DRAW LINE

Someone asked Hatch, when his bill was being written, whether there weren't some government workers who couldn't coerce anyone and shouldn't be restricted. He answered that there is no way to draw a line. Almost every agency affects the lives of multitudes.

He would not have been impressed with the few hard-to-enforce rules in H.R. 10 stating that neither coercion nor abuse of authority (both almost impossible to prove) are not to be used for election purposes. Such rules are no substitute for a healthy nonpartisan spirit in a government office.

Another provision lets government employees run for public office if they take leaves of absence from their jobs. As one young attorney explained. "If I take leave, run for the city council and am defeated, I can come back. By then, I have found out that only one of the three men in the office who lives in my district campaigned for me. If there is a chance to recommend him for promotion over the others, and I feel obligated to him because he helped me, you've stepped back into the patronage system."

The argument gets more heated when lobbyists examine the protection that workers are supposed to enjoy from being pressured by their superiors.

True, no one may campaign while on duty or in uniform or in a government building and no supervisor may solicit contributions from a subordinate or use his authority to help a political cause.

What the authors of the bill fail to consider is that coercion may be subtle. You do not have to go after a worker with a club or threaten to have him transferred. All a boss has to do is be visibly more cordial to those who showed up at a fund-raising dinner or rally and the maverick gets the idea. Life in the office will be more pleasant if one fits in with the crowd politically. If "great" assignments seem to go to the political conformist and "lousy" ones to the apathetic, that does it. More and more staff members show their eagerness to perform chores for the party after hours. They can no longer get out of it by saying, "I'm Hatched."

Obviously, a balance has to be struck between the needs of the workers voluntarily to exercise the rights of citizens and the needs of the government to preserve its integrity. The Hatch Act strikes that balance. Judging from the 150-year struggle required to get it, if we ever lose it, we won't get back. We had better hold on to it.

ARMS CONTROL IN THE INDIAN OCEAN

Mr. CULVER. Mr. President, at long last the United States and the Soviet Union are discussing mutual arms limitations in the Indian Ocean. The latest round of talks concluded with an announcement today that "both sides brought new ideas to the discussions, and specific aspects of the problem were addressed." The talks, which were said to have "entered an advanced stage," will be continued in the near future.

Mr. President, this is a most encouraging development. The fact that these discussions are taking place at all is a tribute to the Carter administration's diplomacy and is welcome proof that the U.S.S.R. is willing to discuss arms control issues in a serious and constructive way.

As Members of the Senate will remember, the Congress has been urging a U.S. diplomatic initiative on the Indian Ocean since 1974. Neither the United States nor the Soviet Union had raised that issue since inconclusive exchanges occurred in 1971. But in voting to defer funds for a proposed expansion of facilities on the island of Diego Garcia, pending a Presidential certification that the base was essential, the Senate Armed Services Committee expressed its hope that "such an evaluation would include a thorough explanation of the possibility of achieving with the Soviet Union mutual military restraint without jeopardizing U.S. interests in the area of the Indian Ocean."

Regrettably, that suggestion was ignored when the decision was made in May 1975 to proceed with base expansion on Diego Garcia.

Secretary of State Kissinger also brushed aside indications which some of us on a senatorial delegation received in Moscow in July of 1975 that the U.S.S.R. would respond favorably to an American initiative to seek means of reducing tension in the Indian Ocean area.

Nevertheless, the Congress persisted, and twice voted to urge and to require reports on efforts to seek mutual arms restraint. In April and December of 1976, however, the Ford administration reported to Congress that it had taken no such initiative, since it considered the timing inappropriate.

The executive branch insistence on pushing ahead with Diego Garcia base expansion while refusing even to sound out the Russians on possible limitations gave the U.S.S.R. an easy propaganda victory in the littoral nations, which since 1971 had won United Nations support for declarations of the Indian Ocean as a zone of peace, free from superpower military rivalry. Official U.S. policy arrogantly disregarded both the wishes of the Congress and the concerns of the nations of the area.

Mr. President, throughout the recurring debate on Diego Garcia and overall Indian ocean policy, I have always sought to preserve America's security interests in that region while strengthening our diplomatic position. I have argued for a good-faith initiative first, before each side got locked into a costly competition to build ships and bases and as a test of Soviet willingness to show restraint. As I told the Senate on July 17, 1975:

> At no real risk to our national security, we have the opportunity to undertake a major initiative for peace that would demonstrate to the nations of that part of the world that we respect their interests and concerns, and that if there is to be a major superpower escalation in the Indian Ocean, the responsibility must clearly be laid upon the Soviet Union.

Now we are fortunate to have an administration that is responsive to these concerns and constructive in its policies. Both as a candidate and as President, Jimmy Carter has called for arms restraint in the Indian Ocean. A bilateral commission was established following Soviet-American ministerial meetings last spring, and talks have proceeded in Moscow and now in Washington.

Mr. President, these discussions illustrate a special kind of arms control—anticipatory and preventive. Instead of waiting for a full-scale arms race to develop in the Indian Ocean, fueled by mutual suspicions and by escalating military deployments, the United States has now moved to stabilize the superpower presence in that area, as a necessary first step toward ultimate demilitarization if that should be mutually desirable.

We need more of such foresight in foreign policy, additional efforts to deal with situations before they become difficult problems, and greater willingness to take bold initiatives for global peace and security.

The few steps we have taken in recent weeks are major strides down a long but promising path. I believe that most Members of Congress will applaud the administration's policy and will support a mutually beneficial agreement on arms control in the Indian Ocean.

Mr. President, I ask unanimous consent that the text of the joint statement on these talks, released at noon today, be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

SECOND ROUND OF TALKS ON QUESTIONS RELATING TO THE INDIAN OCEAN

U.S. and Soviet delegations have concluded in Washington the second round of bilateral talks on questions relating to the Indian Ocean, following five days of discussions from September 26-September 30 As with the earlier round held in Moscow in June, the U.S. delegation was led by ACDA Director Paul C. Warnke, the Soviet delegation by Ambassador-at-Large Mendelevich.

During the talks, which were held in a businesslike atmosphere, further exchange of views regarding approaches leading to arms limitation in the area took place. Both sides brought new ideas to the discussions, and specific aspects of the problem were addressed. They noted that their talks have now entered an advanced stage.

The two delegations agreed that the talks will be continued in the near future.

THREE POWERS—TWO OCEANS

Mr. MOYNIHAN. Mr. President, this past June at a session of the current Strategy Forum of the U.S. Naval War College in Newport, a particularly illuminating paper was delivered by Charles Burton Marshall, a distinguished student of international affairs and a public servant for many years in the Department of State. His professional career encompassed seminal events in the recent history of American foreign policy, and his perspective makes his analysis of our contemporary situation especially interesting. Because his views will be of interest to many, I ask unanimous consent that the text of Professor Marshall's paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THREE POWERS—TWO OCEANS

The items prescribed for me to cover in this talk include the Pacific Ocean's and the Indian Ocean's strategic significance, the triangular relationship as it bears thereon among the United States, the Soviet Union, and China; diverse critical interests pairing those countries off in cooperative or competitive combinations, the pertinent function of military and especially naval power, and then an assessment of relevant variables in a projection of a decade or so. According to the president's invitation, I am at liberty to touch on other matters as appropriate within the allotted 45 minutes. I shall cover the agenda in my fashion. In case of an early finish I shall yield back the balance of my time. The President referred to is Admiral Huntington Hardisty. I am explicit concerning the identity because I am here not as an explicator or advocate of current Administration policy. I am wanting of inexperience for that. I have seen so many Administrations come and go and am so aware of a tendency in policy for the milestone of one decade to become a gallstone for the next.

The ocean areas selected by the conveners as the focus of this meeting engross about 70 percent of the globe's water surface and more than 95 percent of its islands—preponderantly in the Pacific—and are abutted on by 45 percent of the world's countries aggregating 75 percent of its population. Each of these two oceans in its own way arouses strategic imagination. In the large the Pacific is an open ocean, but its western edge consists of a 6,000-mile string of almost closed seas delineated by the East Asian coast and offshore islands. More warships lost or destroyed by the U.S. Navy lie in those waters than in all others. Considered as a discrete tactical episode, what is said to be the longest battle in U.S. military history—with the most U.S. ships and U.S. troops involved and the greatest number of casualties suffered—was fought there within living memory. The U.S. has sustained war across that ocean—with mixed success—through 15 of the past 36 years. In our experience, the Pacific stands as the most bitterly contested of oceans. By comparison, the Indian Ocean is virtually a closed sea. Constraining points, such as found among the local seas in the Western Pacific, are dominant features of the whole Indian Ocean. Strategically, the contiguous countries have not been an appreciable factor. Control has been a function for outsiders. There as nowhere else Britannia ruled the waves from the Napoleonic epoch until very recent years, making the Indian Ocean the strategically most stable of the oceans—a fact of great benefit for us, though not one borne in on general awareness. With the British having abdicated that function, a critical question concerns what strategic order effected by what power, close by or remote, will succeed.

Strategic interplay between the two oceans is notable. Japan's approach to one of the three constricted channels of entry, challenging British dominance in the Indian Ocean, prompted the U.S. embargoes which in turn precipated Pearl Harbor. An unanticipated early show of military activity on our part in the Western Pacific—I refer to the Doolittle raid on Tokyo—frightened the Japanese into pulling back from an effort which, if persevered in, might well have overturned Britain's thin control of the Indian Ocean. Britain's accesses to supply sources especially in India and—even more importantly—the lendlease channel through the Persian Gulf, critical in sustaining Soviet resistance to the Nazis, were not sundered. If one accepts J.F.C. Fuller's estimate, as I do, that fact was determinative of victory over the Axis in World War II.

Our strategic concern now in the Indian Ocean area rests almost exclusively on supply considerations. Mineral resources in Southern Africa are of indisputable importance. I shall merely mention gold. South Africa also appears well on the way to achieving second rank among uranium-producing countries. I specify uranium as only one in a long list of stringent and strategically critical materials concentrated in that region. Petroleum comes to mind even more dramatically. Two-thirds of the world's known petroleum resources are deposited along the northern reach of the Indian Ocean.

Power to interdict or to assure the flow of industrial energy over much of the globe hinges on strategic factors focused on the Indian Ocean area and various appurtenant constricted channels. Without that supply Japan—once our enemy, now a friend and a strategic client dependent on the Indian Ocean for 90 percent of its petroleum—would languish. Our European allies with a counterpart dependency of 80 percent would be in similar predicament if cut off. The U.S. is proportionately less but still too much dependent on the same sources and would be domestically on very hard times if denied access. The U.S. world position would be drastically damaged. Whether active in war or latent in other times, power to intercept the flow of oil out of the Indian Ocean is an instrument of enormous strategic implications.

I turn now to the triange featured in my assigned topic. Bear with me, please, in a retrospection to the spring of 1951—with U.S. forces, under symbolic U.N. sponsorship, entanged in hostilities on an appendage to the Asian mainland. Communist China had interposed to salvage stalemate from debacle in a war improvidently promoted by the Soviet Union and was the main enemy in the field. The options for the U.S. lay among indefinite protraction of indecisive fighting, an infusion of increments to pursue victory at huge cost and risks in what General Bradley called "the wrong war in the wrong place against the wrong enemy," and a quest for a ceasefire. The last course was preferred.

An obstacle was lack of any channel for confidential communication with Communist China—even indirect. Several of the few governments in formal diplomatic relations with the U.S. and China were considered untrustworthy as channels. Two others declined to try a middleman role. The remaining one disclaimed having practical access to the other side. Measures to bridge the obstacle included a variety of expedients and improvisations, recounted in Dean Acheson's *Present at the Creation*. The one pertinent here—mentioned on page 532 of that book—was the dispatching of someone with official standing to Hong Kong to try from that vantage to convey surreptitiously to Peking some basic points about U.S. foreign policy attitudes in hope of stimulating motion toward a ceasefire and, with luck, of getting negotiating preliminaries under way.

McCarthyism was then active, and the MacArthur uproar was at the forefront of attention. Because of those touchy circumstances, utmost secrecy was applied. Five or six persons—no more—in the executive branch were informed. Only oral instructions were given. The civil servant performing the mission spent six weeks on the scene in mostly tedious, occasionally adventurous, and, for him, highly educational endeavors but never learned the effects beyond an assurance that at least one of the various potential intermediaries found for him by the CIA did get through to authorities in Peking. The aspect in point here is the substance of the message forwarded in that makeshift way. I give it a drastic compression—and with full confidence, having been the one sent on the mission.

The first part was a review, from the U.S. standpoint, of the hiatus in relations with mainland China—emphasizing the constraints on the popularly accountable U.S. Government imposed by traditional attachments to China among large segments of the public and by general chagrin over the accession thereof of a regime with an outlook and purposes antithetic to American attitudes and aims. I cited as offsetting facts the United States' avoidance of direct involvement in China's civil war, the early refusal to interpose to protect the Chinese Nationalists' offshore refuge on Taiwan, and the attempts to keep open the U.S. Embassy and consular offices on the mainland. In the U.S. view, I stressed, the Communist regime's harassments to force closure of those facilities reflected a psychic need for an external enemy—a role, in the logic of circumstances, befalling the U.S.

The war in Korea had interposed as a painful fact replacing mere animosity with palpable hostility. The embittering effects were bound to last a long time. I stressed considerations extremely important for the Peking regime to understand. The U.S. Government perceived not China but the Soviet Union as the strategic adversary. The United States was intent to avoid war with the Soviet Union. Nevertheless, the issues between them were sharp and basic, and communications with the Soviet Union had become critically difficult and tenuous with Stalin's approach to senility and the reintensification of terror within the Soviet domain. The danger of slippage into unwanted active hostilities was therefore considerable. For all their then current enmities, the U.S. and China had one big thing in common: in their highest mutual interest, China must not become involved on the Soviet Union's side in a war against the U.S. That consideration must temper their enmity.

Protracting the conflict in Korea could only prolong the danger of inducing general war. That war had reached a stage of diminishing returns for both sides. Therefore the immediate necessity was to wind down the fighting. Embittered but cognizant of the necessary limits to their mutual grudges, the U.S. and China would probably have to continue holding each other at arm's length in the sequel to hostilities. At some juncture ahead—I stressed this point—a substitute external enemy for Peking would probably materialize in the Soviet Union. That development would provide a logical occasion for moving toward overtly improved relations between the U.S. and China.

So much for that hush-hush mission. At

worst it proved not a hindrance. Armistice overtures soon surfaced. A cease fire materialized after two more difficult years. I elide the fifteen ensuing years of mutual skulking and growling. The U.S. had contracted itself into the defense of the Nationalist regime's position on Taiwan. The U.S. was intent also to preserve China's U.N. franchise for the Taiwan regime, mainly excluding the Communist regime. In pique for having been labeled as aggressor in Korea, China underwrote that exclusionary policy by a show of studied aloofness and for a while even trying with no success to found a rival and successor world organization.

What is pertinent is the eventual shift toward amelioration with the U.S.—reflecting developments between that most profuse and ethnocentric land and the Soviet Union. Tension between the two was latent from the moment of Communist accession in China. I recall vividly from my Hong Kong venture an intimation to me of the Chinese Communists' assumption of cultural superiority to the Soviet Union's. It came from Chang Kua-tao, in exile as an ousted member of the Peking Politburo: "China was an ancient civility when Russians were painting themselves blue and wearing animal skins." The Chinese eschewal of satellite status surfaced in the refusal to join the chorus echoing Khrushchev's posthumous denunciation of Stalin at the 20th Party Congress. The difference had to be accounted for on doctrinal grounds rather than publicly acknowledged as a clash of national interests and cultural outlooks. Two papacies now vied for the same church, as it were. China made known its aspirations to rival and even to supplant the Soviet Union at the Communist apex.

A quick succession of three events some nine years ago sharpened Peking's anxieties—the Soviet-led suppression of Communist deviancy in Czechoslovakia, the pronouncement in Moscow of a so-called Brezhnev doctrine asserting the Soviet Union's historic prerogative to enforce doctrinal rectitude throughout the Communist realm, and a sudden tripling of Soviet troop strength bordering China. Pressed by such palpable security threats, China substituted initiative for indifference in certain aspects of external affairs. First, China hinted affirmative interest in a U.N. connection by thanking several governments for their perennial opposition to our exclusionary policy—thereby assuring its early undoing. More important—in an age-old practice of playing off adversaries against each other—Peking sought an opening to the one country with material capabilities to provide a counterweight to the Soviet threat. China's ping-pong initiative, Dr. Kissinger's secretive calls, and Mr. Nixon's theatrical visit—capped by a joint communique prefiguring progress to normal relations—came in remarkably quick order.

The Soviet response to that sequence of gestures reflected anxiety lest the incipient connection should mature into something akin to an alliance. Ambition to garner bonus effects in the form of subsidized preferential access to inventiveness and productivity—catering to an American preconception linking commerce and peace—supplied an auxiliary stimulus to the cultivation of Mr. Nixon and Dr. Kissinger. The culmination was their joint journey to Moscow five years ago.

The mere fact of a much-trumpeted melioration in U.S.-Soviet relations was nothing new. Such junctures had recurred many times, beginning with the Roosevelt-Litvinow parley of 1933. Yet one palpable quality does distinguish the turn in 1972 from the ones before. The volume and variety of U.S.-Soviet agreements then and thenceforth produced—they touch on such diverse matters as cultural interchange, commercial accommodation, technological transference, collaboration in space exploits, political concord, human rights, and the strategic equation—are unprecedented for so brief a span in the history of diplomatic relations between these two governments and probably between any other governments. If futurity inheres in what documents promise, then what has been accomplished is stupendous, and Mr. Nixon's hyperbolic claims concerning the transformation wrought where realistic.

The luster did not last. I shall not labor that observation with concrete details. I wish to focus rather on some illustrative conceptual differences bearing on the transactional relationship between the U.S. and the Soviet Union. As a basic point, a contract is an expression of linked intentions which the respective parties can properly and reciprocally accept as reliable predictions of actions so that they may shape their own conduct accordingly. The key terms must convey the same senses to both sides. Otherwise a valid contractual relationship is lacking. Miscarriages of agreed arrangements ascribable to confusions of common terms are not extraordinary in human affairs. A dozen old stories about contracts aborted over discrepancies of meanings come to mind. A thirsty wayfarer ordered a screwdriver at a country inn and was handed a screwdriver. A bishop sent a bellman to fetch a pot of tea and a tart and was brought his tea and a tart. An astronaut on Mars tried to buy a six-pack and was handed a bra. Here I am concerned not with foulups due to simple split definitions. I refer to profound discongruities reflecting divergencies of value and purpose.

As a point of reference consider a mutual pledge—it was entered into at Moscow in 1972 and elaborated during the Brezhnev visit to Washington a year later—for exchanging information and collaborating on behalf of peace in crises situations wherever occurring. The Soviet Union's subsequent actions have included secret provisioning of the Yom Kippur attacks on Israel, unilateral initiatives toward direct intervention after a shift in the tide of battle against its clients, abetting of the petroleum embargo by the Arab oil-producing states and utmost efforts, though in vain, to get the embargo prolonged; continued efforts to impede the United States' step-by-step efforts to abate the Arab-Israeli quarrel, prompting the North Vietnamese in overrunning South Vietnam in violation of the Paris accords signed by the Soviet Union as a guarantor, and unilateral intervention in the Angolan civil war in scornful repudiation of the U.S. Secretary of State's entreaties. As borne out by that record, the meaning of peace and of the promotion of peace diverges profoundly as between the United States' and the Soviet Union's operational codes. The discrepancy bears examination, for it presents a serious impediment to prospects for contracting about peace.

Soviet discourse is as wont as ours to celebrate peace as a policy goal. In a theoretic sense, also, Soviet concepts parallel those prevailing here in regarding peace as the norm and war, by corollary, as deviant. The rub is this. In the Marxist-Leninist dogma, the aberrations giving rise to war are seen as rooted in differences between classes defined in relation to varying functions in the processes of production. The causes of conflict are seen as knotted into the very fabric of societies at variance with the Soviet Union's postulates, practices, and scheme of authority. The achievement of peace as a pervasive human condition is for a remote tomorrow when Marxist-Leninist dogma will be no longer challenged. That consummation is supposedly predetermined by history's laws.

In keeping with the Maxist-Leninist dogma, the Soviet ruling group professes to regard itself as supreme guardian of the principles linked to that putative truth and as history's agent in promoting momentum to the predetermined goal. Until that consummation—and subject to the requirement of not jeopardizing everything by direct imprudent involvement in war—the pursuit of peace entails prosecution of unremitting enmity toward every differentiated political entity and belief—not simply for the sake of Soviet interests and preferences as such but in service to the teleological ends supposedly inspiring Soviet interests and purposes. Peace in the Soviet lexicon stands for promotion of communist aims in what is called "class struggle between systems." Whatever is contributory thereto is by definition peaceful. Because the United States is the mainstay of resistance to that postulated momentum of history, the Soviet version of service to peace calls for the isolation, neutralization, and ultimately the effective elimination of the United States as a counter factor. Thus enmity is waged under the rubric of peace, employing every device of strategy short of explicit war.

The United States' approach reflects a privileged historic past, remote from theaters of strategic competition, with security a bestowed condition, peace demonstrably the inherent situation, and war therefore regarded as obviously abnormal. In that outlook, strategy encompasses concepts and practices applicable only in the breakdowns but otherwise to be banished from general concern. The thing to do in order to perpetuate peace is to forestall breakdowns—not by attention to strategic factors but by communicating, engaging in commerce, sharing benefits, and following agreed rational procedures.

In the twentieth century's two world wars the U.S. formula for perpetuating peace thenceforth was the creation of an international organization—first the League and then the U.N.—to institutionalize a nonstrategic approach to peace in a world expected to be so abundant with friends as to obviate having to calculate how to deal with putative enemies. With the U.N. demonstrably incapacitated for its peacekeeping purposes by a rift over the conditions of peace between the main two members of the prevailing coalition supposed to serve as the nuclear for the undertaking, the United States in the containment policy ventured into a strategic approach to maintaining peace.

The provisionary character of that turn needs stress. No thread runs more consistently through the pattern of U.S. foreign policy covering three decades than the thought, the dream, of vindicating the goal of a nonstrategic basis for peace by dissuading the Soviet Union from its waywardness and thus converting it into a reliable collaborator for peace according to the U.S. perception. That prodigy is conceived as achievable by depriving the Soviet ruling group of opportunities for expansive successes, undermining thereby the group's confidence in the Marxist-Leninist image of the future, and at long last bringing the Soviet Union around to tractability and cooperation. President Truman put the expectation into his message enunciating the Truman Doctrine. Secretary Acheson repeated it in testifying for the North Atlantic Treaty. President Eisenhower paraphrased it in his first presidential speech on foreign policy. Thenceforward into the present, spokesmen for five successive administrations have articulated the same vision in diverse styles.

The Soviet dream anticipates a U.S. worn down to ineffectuality and acquiescence. The American dream envisions a Soviet Union rendered pliant and cooperative by a combination of frustration and wooing. Each dream foresees its version of peace triumphant—and the old opponent rendered submissive. Those conflicting dreams—they could not both come true—underlay, if that is the right tense, the strenuous competition called the Cold War. The same tension between incompatible concepts carries over

into a muddle of meanings between "peaceful coexistence" and "detente."

The former expression is the Soviet term-of-art for the Soviet version of a sequel to the Cold War and for the processes promoting that outcome. Thus "the strategic purpose of peaceful coexistence"—I quote President Brezhnev—"is to assure favorable conditions for the world-wide victory of socialism." "Detente" is the favored word expressing the contrasting version of a sequel to the Cold War treasured in policy on this side—with the Soviet Union cured of its presumption to be a universal cause and content at last to function simply as a state pressing its own interests as such. Soviet usage now uses both terms interchangeably, as if the practice of detente entailed acquiescence to Soviet rampancy and aggrandizement. The Soviet style—"peaceful coexistence"—is adopted in the pertinent official documents subscribed to by the U.S. in Nixon's time and since, but the alleged accomplishments are represented to the public in terms of detente according to the U.S. perception. The confusion is exemplified when statesmen, according to their wont on both sides, speak of making detente irreversible as if the word had a settled and definitive meaning. It has no such meaning but two antithetic meanings—Soviet desistance and an end of resistance to Soviet persistence—so that irreversible detente in one sense means the confounding of detente in the other.

The mismatch has a counterpart in strategic concepts—a matter of palpable importance so that I wish to apply utmost care and precision in discussing it. Conducting policy in peacetime under the rigors of strategic competition entails constant attention to the contingencies of war. The irreducible principle is never to afford one's putative adversary a basis for feeling optimistic about the probable consequences of launching war or of pushing an issue to a point of inducing hostilities. There is more to the matter than that, however. In a situation charged with contention and with one side optimistic in that sense and the other pessimistic—and each side knowledgeable of the other's estimate—the probability of war is not high. The constraints, however, are unequal. The side on the heavy end of advantage will be in position to come out ahead at the adversary's expense. In a contrasting controversy, with neither side feeling optimistic about a hypothetical outcome, the constraints tend toward equality, and danger of actual hostilities is low. A strategically and politically stable relationship obtains. Thirdly, for both sides in a contentious situation to feel optimistic in the relevant sense heightens the chances of slippage into war.

The assets which accrued to the United States and put it in the advanaged situation vis-a-vis the Soviet Union in the earlier stages of its first venture into conduction policy in peacetime under conditions of strategic competition included such nonmilitary matters as undamaged civil and institutional morale, a matchless capital plant left intact and even much expanded and improved by the experience of war, great industrial and agricultural productivity, and a uniquely stable currency—and also strong military resources exemplified in having Armed Forces attuned to victory and unchallengeable preeminence in military aviation, in naval power generally over the globe, and in nuclear technology with its prodigious strategic potential. Some of those assets were destined to decline in a relative measure because of factors beyond this country's ordaining. The last one listed—preeminence in strategic nuclear power, the anchor of the strength conveyed by grant and pledge to countries far and wide—was abdicated voluntarily in a decision dating from roughly ten years ago.

The idea behind relinquishing the strategic nuclear advantage—by tapering off and letting the Soviet Union catch up—was to open a way to establishing an equilibrium of pessimism about the outcome of putative war between the superpowers. Then each side would feel pressed to back away from war and be in no position to invoke the image of war as an instrument for having its way on issues in contention—a version, as it were, of a nonstrategic basis for peace. The Soviet Union's predisposition to settle for such a standoff and abstain from striving to supplant the U.S. in the favored position was assumed without critical examination.

Eight years of exacting negotiations—productive of a succession of intricate agreements, the major one being the centerpiece for the Nixon-Kissinger pilgrimage to Moscow 5 years ago—have not vindicated that last assumption. Does the Soviet Union seek only to complement the U.S. design for nuclear parity and the annulment of nuclear competition as a component of international politics, or does it to the contrary aspire to establish nuclear strategic superiority, which would be susceptible of being brought to bear as an instrument for forwarding the Soviet version of peace as an indefeasible dynamic force propelling toward global triumph for the Soviet Union? As between parity and superiority as Soviet goals, the present U.S. negotiators, Mr. Paul Warnke, professes not to know.

In epistemological precision, the verb is correct. One does not know. One can infer. Soviet discourse does not replicate U.S. phraseology for expressing a nuclear standoff. Soviet internal writings consistently support the larger estimate of Soviet ambitions. The verified scope of momentum of pertinent Soviet programs can scarcely be reconciled with any other assumption.

An analogy from sports seems appropriate not to prove but only to articulate an idea. Any organized sport is a mixture of ritual and contest. The formular aspects are those equalized by regulation. Contest occurs in the interstices. In football, for example, the size of the gridiron and the allowable number of players in action at any moment are among the matters regulated. Agreement on such dimensions does not write off every game of every season as a tie but only sets broad limits to the contest. Woe to the side which takes the field under a contrary illusion and even, in a fit of sportsmanlike innocence, concedes the other side a dozen or thirteen players to its own eleven or, in a misguided unilateral urge to economize, restricts its own participants to ten or nine. Whether quixotic or stinting, such concessions can only excite the other side's ambition to prevail.

To the disappointment of more committed and sanguine supporters, the negotiations about nuclear arms probably cannot succeed of themselves in prescribing and effectuating a standoff. At best the process may set outer limits without eliminating competition. The gross quantities agreed upon will not succor us but can only set boundaries on the endeavors with which this country must save itself.

Nuclear strategic superiority for the United States is probably irrecoverable. The important thing now is to avoid descent into nuclear strategic inferiority. That matter is to be determined by our own efforts, for the strategic arms talks of themselves are not going to rescue us from that predicament. With that in mind, I earnestly wish for an abatement of this government's anxiety to obtain agreement—the approach which casts our negotiators as the suppliants in bargaining with Moscow.

In Professor Richard Pipes' words, "There is something innately destabilizing in the very fact that we consider nuclear war unfeasible and suicidal for both, and our chief adversary views it as feasible and winnable for himself." As someone has said, the U.S. is predisposed to maypole dancing, while the Soviet Union insists on tug-of-war. No third party watches the two superpower contenders in that disjoined match with more avid interest—or ventures into the arena more opportunistically with its own version of what game to play—than does China.

I am loath to give judgments about the land. I have never been there. Those who, having been there, write giving me little light. I have a hard enough time understanding the determinants of policy even in my own society. Those operative in China abound, for me, with impenetrable mysteries, but I can at least resist a temptation to believe China's leadership to be endowed with transcendant sapiency. "Do you know, my son, with how little wisdom the world is governed?" Count Oxenstierna inquired three and a half centuries ago. The query is at least equally applicable to China as here or anywhere else. Watching the two superpower societies at the apex, set aside by their exclusory capability to attack and even to destroy each other, China's hierarchs inveigh against the superpowers, both, as oppressors and exploiters and profess to eschew superpower status. The show of renunciation probably exemplifies the sort of piety which leads men to denigrate what they most covet.

Conceptually, the dogmatic elements in China's image of the future are akin to the Soviet Union's. What is repellent is the idea of Moscow, rather than Peking, as the New Jerusalem. To elbow Moscow from that summit, the Chinese Communists presumably would do anything within limits of whatever power they may ever attain to. Moscow's awareness of that ambition on the Peking regime's part impels a counter ambition either to mend fences with China by somehow wooing the regime to conform with Soviet ambitions or to reduce China and thereby render it subservient or inconsequential to Soviet purposes. Awareness of those contingent intentions makes China's hierarchs fearful of some form of political penetration or of attack and partition from the Soviet Union.

Precaution against any such development is what impelled China to cultivate the United States—but not quite as an ally. China's political hierarchs are too ideologically possessed, basically too abhorrent of the United States, for that. Yet as of the time being they need the United States or at least the shadow of its power. China strategically is not enough to count as a determinative factor but enough to make some difference in the U.S.-Soviet equation. China, moreover, disposes more strategic potential if poised against the Soviet Union than if against the U.S. So for a short run, however long it may prove in the test of events, it is prudent to have China as a strategic factor more or less on this side rather than unequivocally opposed. U.S. policy toward mainland China is premised on China's remaining antithetic to the Soviet Union. Making opportune use of the situation is wise, but, in view of China's inscrutability, it would be improvident to stake much moral or material capital on China's constancy.

I now turn to projections. I do so with diffidence. This is not the first time of my letting the Navy down as a seer. A dozen or so years ago a panel of actual and aspirant admirals asked me—I was a consultant on a study of the strategic future of these same waters—to provide a sneak preview covering the following 15 years. I pleaded incapacity. They expressed willingness to settle for probabilities. I expounded the ambiguity of the concept "probable"—citing, in the case of a horse rated as the most probable winner in a race at 5 to 1, the higher probability for a less probable horse to beat out the most probable. Their expressions signified innocence about playing the ponies. How—this

was the next question—can one plan ahead without foreseeing the future? That question prompted me to a favorite discourse.

We must plan ahead not for a foreseeable future but for the unforeseeable future. Like navigating in heavy weather without a radar, we must look intently ahead because we cannot see ahead. We only discern various possibilities. We try to rate their varying potentials for coming true, for harm or benefit, and for being affected by our own choices. Then we see to the allocating of resources not to conform to prefigured probabilities but to try to affect probabilities—and above all to ensure that those in authority later on shall not be deprived of choice, and therefore of freedom, in face of exigencies not now perceivable. Another observation: In such matters we are masters of our own courses but never of how others beyond our fiat may discern and respond to them, much as we may try to anticipate.

It is chancy business. The Japanese did make war in face of our embargo to dissuade their advance toward the Indian Ocean and did surprise our fleet at anchor in a bay and our planes in supine rows on the ground. Adversaries did construe an opportunity for conquest from the lack of guarantees and defenses for South Korea. The Chinese did interpose and find a gap in our lines approaching the Yalu. The other side did exploit our improvident assent to making the demarcation line first item in the Korea armistice talks—risklessly testing the U.S. will with two additional years of attrition. In Vietnam our enemies saw and exploited, to ultimate success, the contradiction inherent in our decision to contest for an area whence we longed for exit against forces intent to get in and stay. The thin-skinned *Pueblo* did get pounced on.

The point of that dismal list—I could expand it considerably—is simple. The other side's failure to match our anticipations can land us in perplexity—which is what policy analysts classify as a worst-case outcome. Let no one here exemplify the practice—which persists in face of experience and logic—of ruling out worst-case outcomes as marginal and paranoid. "You cannot evaluate policy alternatives on the basis of extreme speculative consequences," the President's counselor on national security affairs, Dr. Zbigniew Brzezinski, recently retorted to a question about consequences of the phasing-out of ground forces from Korea. That counsel is wrong. Such consequences do occur. They must always be taken into account.

Every occurrence on my random list, moreover, had the Western Pacific as its locale. For us it has been a recalcitrant region, prone to confound our premises. I suspect the Indian Ocean of similar pervasiveness—up to now concealed from us by its century and a half of unmatched strategic stability, under British naval dominance. In both ocean areas, as over the great globe itself, the years just ahead should be expected to present a quickening rate, not a diminution, of challenges and crises.

The pervasive basic circumstance, manifesting itself in a miscellany of local and regional troubles, will be the continuing problem of Soviet purposes and power—dealing with which has been the central feature of U.S. policy in the past three decades. Dr. Brzezinski's recent words about the United States challenging the Soviet Union to cooperate with our aims or "run the risk of becoming historically irrelevant to the great issues of our time" are an exercise in romance. The real situation, rather, approaches fulfillment of Brezhnev's boast in 1970 of a time when "no question of importance in the world can be solved without our participation, without taking into account our economic and military might."

The Soviet Union is not going to convert to cooperativeness with our preferences and designs. The ruling dogma sets precisely the opposite course. The regime's grasp on power over its own society depends on that dogma. The regime will not—it cannot—abandon the dogma. The regime will continue, as in the past, to wrestle with production problems and consumer demands, but its command system for allocating resources will not be deflected from emphasis on military programs. The sector of life where the regime feels—with reason—most confident about contesting its adversaries is the military. The Soviet Union will not reciprocate in our projects for a strategic standoff but will approach strategic negotiations as—to use the apt internal phrase—"a highly effective form of class antagonism." Some time soon new leadership must take over in the Soviet Union. There is no reason to expect the younger successors to be less boldly opportunistic than the present leadership. The opposite is more likely to be the case.

As for China, some measure of rapprochement with the Soviet Union—a highly consequential development for us—should not be ruled out of calculation. The Chinese will watch exactingly with what prudence and constancy the United States manages it affairs, especially in respect of countering Soviet power, and will determine their own courses accordingly. As for reasons of pride it must, China will maintain its irredentist claim to Taiwan. Paradoxically, by breaking with Taiwan—if that is in the cards, as I suspect it is—in order to open a way to full formalities with Peking, the United States may satisfy a point of pride at the price of damaging its own reputation for constancy. The result of our impulsion for formally improving relations with Peking may well be substantively to impair them.

As for the United States—I note on the present scene relevant to my topic a propensity to presume the conclusiveness of the U.S. say-so, as if linkages among external issues were ruled by our preferences rather than determined by the nature of things. Because our plans so ordain, the contemplated troop withdrawal and dissolution of the U.N. command in South Korea are supposed to bear no adverse consequences. My doubt duplicates my skepticism in 1951 over London's confided assurance against any change in strategic conditions to follow a projected British pullout east of Suez.

A companion tendency is to count on the continuity of any convenient circumstance merely for its convenience. A Japanese swing away from disarmed dependency on U.S. stategic protection to a choice between armed neutrality and an accommodation with the other side would indeed be upsetting. So docility is attributed to that historically mercurial nation. I should regard a rekindling of Japanese nationalism, bringing on a basic realignment, as a plausible response to the unilateralism practiced by the U.S. in the demarche with Peking, the Lockheed affair, and now the decision to remove ground forces from Korea, which bears so directly on Japan's security.

An excessive inclination to trust in pacts, to believe in the feasibility of any desideratum by documenting it in an agreement, is a further characteristic of U.S. policy. A recent illustration is the diplomatic initiative to demilitarize the whole Indian Ocean. How in a practical sense could that be done for an ocean area within the ambit of one side's air power and not the other's? Candidly, I must question the reliability of any standoff arrangement over strategic stakes with an ambitious rival practiced in subversion and in waging proxy wars. If we are to maintain our interests there, it must be by naval power on the scene.

Is U.S. policy in a pharse of overhasty self-confidence? In asking, I have in mind the current approach to the Arab-Israeli confrontation, with its obvious potential for affecting matters in the Indian Ocean and far beyond. The urge now is to push toward a resolution this year for a set of contentions whose roots are traceable back to events recounted in the twenty-first chapter of *Genesis*. Neither side in the chronic quarrel—so I venture—can afford to make the concessions required by the other for a genuine and definitive settlement. Those are issues to be nursed along—not to be heightened by exercising a zeal to get things done wholesale and forthwith.

My last point of particular concern is about Southern Africa—an area of which I feel sufficiently knowledgeable that I wish it might have been the subject of my whole talk here instead of having its complexities dismissed in a paragraph. There, in my view, policy is not reflecting patience, wisdom, and a grasp of realities commensurate with the magnitude of the stakes. It operates on a basis of cliches rather than of comprehension and presses for so-called settlements and solutions beyond practical reach.

I remember the late Ambassador Charles E. Bohlen's pessimistic estimate concerning the United States' want of realistic insight and of staying power to sustain strategic competition with a dogmatic, enduring, and resourceful adversary. His doubt is yet to be refuted. The new Administration is exceptionally verbal—meaning that it talks much. It has a bent for dubious aphorisms, a favorite one being—test it with a forest ranger in a season of drought—that "fire is better fought with water than with fire." Concerning the new outfit's substantive qualities, I do not as yet feel able to distinguish between transient and ingrained traits. I am open-minded. My hopes are ardent because the needs are so compelling.

The basic necessity is to maintain the strategic nuclear deterrent. To permit the deterrent to become deterred would disqualify us for every other sort of strategic competition. Maintaining the deterrent, however, is only a necessary, not a sufficient, consideration. There are myriad other vexing and expensive tasks—including the maintenance of conventional military strength at a cogent level—to be performed year by year in countering Soviet expansion while avoiding strategic and political isolation. Not to persevere in those tasks must land us in the situation—to paraphrase Machiavelli—of having lost no enemies and kept no friends.

I have fulfilled the prescription. I am now on my own time. My added thought concerns—in usage familiar at the Capitol—a point of personal privilege. I spoke at this institution soon after the Hong Kong venture referred to earlier. Something my hosts did not tell me—that was the day for the Advisory Board's annual visit. Before me in Pringle Hall I saw an awesome row of eminent faces—Chester Nimitz, James Phinney Baxter, William J. Donovan, Hanson Baldwin, and so on. I weathered the surprise. Questions were dispensed with. Instead, General Donovan, the visitors' highly articulate chairman, was called on for a few remarks. To my dismay, I was the target of them because of a reference in my address to military casts of thought. Donovan equated my phrase with "the military mind"—a supercilious canard, he said, because of its implicit differentiation between military and other cerebral types. He upbraided me for attributing militarism to a profession intellectually indistinguishable from civilians. I was foreclosed from replying. I have waited twenty-six years to answer that arraignment. Here is what I did not get my chance to say.

I am right. If I am not right, I ought to be. Every calling has its special outlook, prerogatives, and obligations—all of them integral to its services for society and civility. Consciousness of distinguishing attributes is essential to the morale of any calling. Those points apply to the practice of medicine, the filed of law, the engineering profession, or any such vocation with a special role in civilization. The same must be true of the military calling. Otherwise—in my view—this institution and counterpart ones would lack justification. As a taxpayer, I would have to object to their existence.

The character of the military calling inheres in its obligations under rare extremity. A destroyer skipper must be morally capable of closing with the enemy at whatever odds. A bomber pilot must be up to persevering to the objective even beyond a point of no return. A battalion commander must be equal to executing even a sacrificial order. It is altogether appropriate—even necessary—for members of a profession with that sort of a canon to regard themselves and their role in a distinguishing way. Such a canon must properly be reflected in military attitudes in myriad ways beyond the rare exigencies of battle. To call that militarism is no more apt than accusing a conscientious lawyer of legalism or a devoted pastor of clericalism. Having some portion of Americans with that outlook was indispensable in the founding of this country in the eighteenth century, to preserving it against partition in the nineteenth, and to bringing it through two general wars in this century, and will be no less essential in times to come. The country's greatest external dangers may well lie ahead.

At a conclave sponsored by the Civilian/Military Institute at Colorado Springs earlier this year a flag officer in a panel session cogently rebutted a fallacious fancy uttered by a civilian participant and then at the final moment requested opportunity to make apology for having forthrightly expressed a military man's view.

An apology is worse than an insult. Once upon a time a court jester so observed. The monarch commanded him to demonstrate the point before sundown at pain of forfeiting his head. A while later the jester enraged the king by pinching his posterior and then made amends by saying: "Sorry, Majesty! I mistook you for the queen."

I related that account to the vice admiral at breakfast next day, pointed out the moral against apologies, chided him for his uncalled-for gesture of self-abasement, and urged him never again to fob off his profession with gratuitous obsequiousness. Such is my closing word to you who are officers—a precept especially appropriate for these times. Never be abashed about a deep concern for your country's security. Never—never!—feel penitent about devotion to preservation of the United States.

THE GENOCIDE CONVENTION: A BASIC BELIEF IN HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, the expiration of the SALT treaty and the continued United States/Soviet negotiations to establish another long-term agreement are of critical importance to the international community. Our technological progress has brought our Nation both comforts and great military capacity, as well as problems and major political dilemmas. This situation is evident not only to the United States, but to every major nation in the world. There are great moral issues involved in our foreign policy decisions. Past treaties, such as the Geneva Convention, have formed the rudimentary structure upon which the system of international law, which guides these policy decisions, is based.

This system has evolved over many years. As with all legal systems, international laws have built up slowly, starting with the establishment of certain basic values. In time, these values have become a fundamental part of the system. The recognition by the world community that the crime of genocide is reprehensible and should not be permitted must be one of these basic beliefs.

Twenty-eight years ago, the United Nations drafted a treaty outlawing genocide. This treaty afforded the nations of the world an excellent opportunity to declare their opposition to this crime. Eighty-two nations did just that. Yet, despite this overwhelming support, the United States has taken no action. We have had numerous opportunities to further our commitment to human rights through ratification, but we refuse to act.

With the recent negotiations serving as a reminder of the treaty's importance, I urge the Senate to act without delay to ratify the convention. In doing so, an international system of law based on humane principles can be built.

STEEL IMPORTS—THE ISSUE GOES FAR BEYOND "SPECIALTY STEEL"

Mr. ALLEN. Mr. President, for a few moments I wish to discuss the problem facing the domestic manufacturers of specialty steels and the import control program now in effect relative to imports of these products. However, I want to make it clear that I see the situation relative to "specialty steel imports" as part of a larger problem affecting all steel imports, and even larger than that—a problem for the Senate to deal with in constructing a more equitable international trade policy that will afford some realistic and immediate protection to various industries faced with dramatic and job-killing imports of all types.

My remarks are designed to convey to the administration my concern about the investigation by the U.S. International Trade Commission, in response to a request of May 25, by the Special Representative for Trade Negotiations, that the Commission "render its advice on the probable economic effect on the domestic industry of the reduction or termination in all or part of the relief provided by the specialty steel quotas." The ITC undertook such an investigation on June 17. Public hearings have been held; more hearings will be held on this matter this week, and then the Commission is to advise the President by October 14.

Mr. President, the call for a "review" of the relief granted is tantamount to asking for the relief to be terminated. It is my hope that the ITC will advise the President that modification of the Presidential Proclamation 4445 of January 1976, would not be in the best interests of the specialty steel industry in the United States.

What brought about the original finding of the ITC? The Commission found that the volume of imports of stainless and tool steels were of such a magnitude that the domestic industry was being seriously injured by imports and, therefore, in relief of that situation, the Commission recommended that import quotas be imposed for a period of 5 years—the maximum permitted under the Trade Act of 1974. Unfortunately, the President only bought three-fifths of the ITC argument and granted the relief for a period of 3 years. We are now in the second year of that import relief period.

One of the important facets of the ITC action and that of President Ford, was that, for the first time, the relief clause of the Trade Act was implemented. This action, Mr. President, offered some small ray of hope that the executive branch of the Government was coming to recognize the dire economic consequences that have resulted from almost 40 years of an "open border" trading philosophy. It was certainly not a big ray of sunshine, but it was something. And now, the new Administration, with a "labor-orientation," appears to want to renege on the relief provided. I cannot stress too strongly on how such backpeddling would appear to the American worker, and I strongly urge the ITC and the Administration not to change the specialty steel import quota relief already granted.

Now, Mr. President, I wish to go a step further. I see this particular issue as one involving a wider concern—that of all steel imports and what to do about same. As the saying goes, from small acorns, great oaks grow, and I hope these remarks will lead to something more extensive as far as the actions of the United States Senate go, in protecting the jobs of all of America's steelworkers and the industry.

With consideration of the specialty steel industry, we are basically concerned with about 19,000 workers located in the Northeastern region of the United States, particularly Pennsylvania, and about 2–3 percent of total steel imports. Perhaps 19,000 workers does not seem like many to some observers, but it does to me, and each of the workers involved, and further, it is indicative of a larger problem.

Recently we have been bludgeoned with the announcements by some of the major steel firms about layoffs and plant closings affecting thousands of workers. Not all of these layoffs can be attributed to imports, I know, but believe me, imports of all other steel products are not helping the situation. Perhaps it takes being hit between the eyes with a two-by-four to realize the dangerous situation our domestic steel industry faces because of the "open border" trading philosophy.

Mr. President, I have expressed my concern for the steelworkers in one area of the country affected by this policy; I hope my colleagues will understand my concern about the steelworkers in Alabama who lost their jobs in Birmingham, in July, when the United States Steel Corp. announced that it was going out of the business in the cotton tie market and closed its mill in Fairfield. The Fairfield Works Cotton Tie Mill began operations in 1929 and grew to be the world's largest producer of cotton bale ties. The closing of the mill was influenced in part by dwindling cotton production, but the primary reason was the result of the unfair competitive advantages enjoyed by foreign government subsidized steel producers. Cotton ties have been sold in the American market at prices well below costs when it suited the purposes of foreign producers and, conversely, during periods of high demand in world steel markets,

these same producers have withdrawn from the American marketplace or demanded exorbitant prices.

The cotton tie mill decision, the specialty steel case, the loss of jobs due to imports in the textile, shoe, electronics, as well as other industries, is a harbinger of soup lines to come in the industrial heart of the South, and, in fact, in other industrial centers around the country.

It is time—past time—for the U.S. Senate to do something about the flood of imports if we are to avoid the loss of tens of thousands of American workers' jobs.

Mr. President, let me emphasize that the 200 or so steel jobs lost in Alabama due, basically, to imports is not my total concern. The steel industry is vitually important to Alabama, employing about 19,000 workers. There are 13 steel company facilities in my State, including the large integrated producers such as Republic Steel Corp. in my home town of Gadsden, Ala., and United States Steel Corp. in Birmingham. The employees of these firms have had to go to the International Trade Commission and the Labor Department seeking trade adjustment assistance, necessitated by rising steel imports, but they have only been partially successful in gaining adjustment assistance over the past 3 or 4 years.

While the Washington bureaucrats shuffle papers add statistics, the workers and their families go on local relief. While the unfireable, deskbound civil servants considered the "big picture" of international trade, aid, and politics, the American worker who pays those fat salaries to Government employees walk the streets of Gadsden and Birmingham seeking a way to make ends meet.

There is no justice in this, and unless Congress acts soon to protect the jobs of the American workingman in, for example, the steel industry, the ire of those steelworkers in Alabama, Ohio, Indiana, New York, Pennsylvania, California, Texas, and elsewhere may lead to dramatic citizen response which cannot be swept away with rhetoric and standard political promises.

Mr. President, recently the American Iron and Steel Institute published a detailed analysis of the "Economics of International Steel Trade," which examines the basis for the problems faced by the industry as a result of foreign imports. In the study, it is pointed out that in 1976, over 14 million tons of steel were imported, accounting for over $4 billion of trade flow and representing 14 percent of the consumption of steel in the United States.

The full report examines the methods and stratagems used by foreign steel producers to capture larger and larger shares of the American market. I believe the case can be made that our steel industry could meet import competition if it were reasonable competition, but such competition is not fair in any normally accepted meaning of the term. To cite the most obvious example, most foreign producers are heavily subsidized by either their governments, directly, or by the intrinsic structure of their economies which underwrite production for export through loans or through quasigovernment marketing organizations.

The analysis concludes that foreign producers are currently selling steel in the U.S. market at prices below their average costs, and that this practice has been consistently used by foreign producers whenever necessary to increase the utilization of their domestic capacity. This factor was the basis of the September 19 filing of the United States Steel Corp. petition to the Department of the Treasury for relief under the U.S. antidumping statute from certain steel products imported from Japan. The Iron and Steel Institute's analysis of the reasons for the problems faced by the U.S. steel industry are too involved to present here in detail, but I refer our colleagues to the reasoning of the report for a picture of the type of competition our producers face, and, to this end, I ask unanimous consent to print the "Executive Summary" of the report in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, the question now, Mr. President, is what does the Congress do about the type of competition the steel industry faces? Do we ignore the problem and rely on the executive branch to protect domestic jobs, or do we go to work and find a solution?

I believe the Congress must act. I do not know precisely what is the proper legislative vehicle for such action, but I do know that we cannot ignore the problem any longer. Perhaps, what is needed is a "fair trade" bill. A measure that will take account of foreign nations' proclivities to use our country as a dumping ground for their economic expansion at the expense of American jobs. I do not believe that the U.S. steel industry needs to be nationalized to meet the threat of nationalized foreign competition, nor do I believe it is wise to establish national Government exporting and importing corporations to dicker with the governments of the world. We can lay the foundation for "fair international trade" by insisting upon rules of trade which take into account the Government-based trading. A shift away from our "free trade" doctrine in a nonfree trading world only makes common sense if we are to protect the jobs of the steelworkers of the Nation, and the workers in other industries which are battered by unfair import competition. Such legislation should include provisions for the imposition of mandatory quotas on imports when and if such imports reach a job-threatening level.

In conclusion, Mr. President, I should like to point out the obvious: The generosity of the American people has been demonstrated time and time again since the end of World War II. We helped rebuild war-torn economies, we have bailed out distressed nations, we unstintingly give our money whenever there is a natural disaster anyplace in the world, we have poured billions of dollars into foreign aid, we virtually underwrite every international development institution, we even prop up those very systems of government dedicated to our downfall—and we have done all this in the name of "free trade" and "international responsibility"—with the American taxpayer's hard-earned dollar.

Now, when the base of America's international largess is threatened; that is, when the jobs that produce the tax moneys to pay for all of this international goodwill are threatened with extinction, we are told that we must suffer unemployment at home in order to maintain our "image" abroad. I find the argument distressing, out of date, and out of touch with the American worker's perception of the role the Government should take with regard to domestic job protection. Our priorities have gotten out of whack over the years. It is time to set them straight.

It is time to reorder our priorities with respect to the protection of American jobs. We cannot allow the nations of the world unlimited access to our markets until it is recognized and written into law that such access will be on a competitive and equitable basis. If the administration will not respond to the threat caused by increasing foreign imports of all types, then the Congress must, and soon.

EXHIBIT 1

ECONOMICS OF INTERNATIONAL STEEL TRADE: POLICY IMPLICATIONS FOR THE UNITED STATES

INTRODUCTION

The issue of steel imports is important to the U.S. economy. In 1976 over 14 million tons were imported, accounting for over $4 billion of trade flow and representing 14 percent of the consumption of steel in the U.S. The increasing market share taken by steel imports is of great concern to the American steel industry. These imports represent lost sales for the producing companies and lost jobs for steel workers.

It is reasonable to assume that steel executives and steel workers would be concerned about any level of steel imports. The rest of the economy, however, would benefit from some steel imports, since one of the basic tenets of our economy is that competition, including foreign-produced goods, will result in the best allocation of our resources. This will be achieved in theory through the working of a free and open market.

Theory also argues that the market works well to allocate resources only when prices reflect the full costs of production, including an adequate return on equity. If some producers are able to maintain protected prices in their home market while using lower prices to displace competition in the export market, the resulting market shares are undesirable for the importing country. More specifically, if imported steel is sold in the U.S. at less than average costs during periods of excess capacity and a substantial market share is obtained by foreign producers, two outcomes can be expected in periods of tight supply: prices will be substantially increased and the amount of steel provided by foreign producers will be reduced. Both of these outcomes occurred in the 1973–1974 steel market. Both of these outcomes are undesirable for the entire American economy. Thus the possibility of such outcomes in the future must be considered by public officials when they review current trade practices.

The analysis in this report clearly indicates: (1) that foreign producers are currently selling steel in the U.S. market at prices below their average costs, and that this practice has been consistently used by foreign producers in the past whenever necessary to increase their capacity utilization; (2) that the market share of imports is increasing; (3) that additional capacity will not be added

to supply U.S. market at these price levels, either by foreign or domestic producers; (4) that steel demand will grow and that in the early 1980s the likelihood of severe steel shortages in the U.S. will be present. Thus trade policies that allow imports to enter the U.S. market today at prices below full costs will foster future shortages of a critical material for the American economy. This long-term viewpoint must be employed when analyzing current trade issues.

It is important to examine current steel imports in the context of what is good in the long run for the entire American economy, not just what is good for the American steel industry or what may appear to be a bargain for the consumer of steel in 1977. It is the intent of this report to take such a long perspective. As new information evolves we would expect some of our analysis to be modified. Thus we welcome and encourage comments on this report.

The remainder of this Executive Summary provides a synopsis of the major conclusions of the report.

TRENDS OF WORLD STEEL TRADE: 1950–1976

During the last 25 years, there has been a significant shift in the relative share of production among the world's large producing regions. Whereas in 1950 the United States accounted for more than half of the Free World's steel production, output has grown more rapidly outside the U.S. in subsequent years. By 1976, both Japan and the European Economic Community (EEC) were equal to or larger than the U.S. in total output, and both were growing more rapidly.

International steel trade has played an important role in this shift in the relative importance of the Free World's steel producing regions. Specifically, although both Japan and Europe have experienced rapid growth in their home markets during the post-war period, both have used steel exports to increase their rate of growth in total output. In the U.S., by contrast, steel imports have constrained the growth of total output. During the last 10 years, exports accounted for almost two-thirds of the growth in Japanese output and over one-third of the EEC's growth. Since the 1950–1960 period when the United States became a net importer of steel products for the first time, imports have captured more than one-third of the growth in U.S. consumption which otherwise would have provided greater expansion opportunities for domestic producers.

The steel exports which have stimulated growth in Japan and Europe are, by and large, the same imports which have constrained growth here. Japan and the EEC have accounted for over three-quarters of all steel imports into the U.S. Especially during the late 1960s when the steel industries of both Japan and Europe were experiencing rapid growth, the U.S. market absorbed between one-quarter and one-half of all exports from these areas. Since 1969, the U.S. has taken a lower percentage of total Japanese and European steel exports but the absolute tonnage has remained high.

Rapid expansion, in which steel trade flows have played an important role, has enabled foreign producers to substantially narrow the large lead once enjoyed by U.S. steel producers in material and labor efficiency. By encouraging these trade flows, therefore, U.S. policies have helped foreign steel producers increase the size and efficiency of their operations relative to U.S. producers. In the process, the U.S. economy has become increasingly dependent on foreign steel suppliers. In fact, the U.S. has become the only large industrial nation which lacks the capacity to produce 100 percent of its domestic requirements.

While neither of these events—namely, the strengthening of steel producers in Japan and Europe and the greater reliance of the U.S. economy on offshore steel sources—is necessarily undesirable, their potential impact on the U.S. economy warrants the careful attention of U.S. policy makers. The need for closer attention is borne out by the events of the 1973–1974 period when for the first time in history other than during a war, the domestic industry was unable to supply the nation's total steel requirements. As a result, U.S. customers were forced to pay premiums of $60 per ton or more for imported steel and even at these high prices, foreign steel producers gave the U.S. market a lesser priority than their other markets. For example, import tonnage into the U.S. decreased 15 percent between 1972 and 1973, even though apparent consumption in the U.S. increased almost 16 million tons.

The recent shortage does not appear to be a one-time event. Weak demand worldwide has caused foreign producers to drastically reduce their export prices. Led by Japan, foreign producers increased their share of the U.S. market to levels approaching 20 percent in the final quarter of 1976. Thus it appears that the U.S. may well be experiencing the beginning of another cycle of import penetration which in turn would imply increased reliance on the same sources which proved unreliable in 1973 and 1974.

JAPAN, EUROPE AND THE WORLD STEEL EXPORT PHENOMENON

In order to understand the implications for the U.S. economy of a greater dependence on foreign steel, it is necessary to first consider the political and economic considerations which motivate producers in Japan and the EEC.

Japan's steel strategy has been an integral part of the remarkably successful Japanese post-war industrial development effort. Not only is steel a key component in the manufacture of necessary capital goods and infrastructure, but it is also an important source of foreign exchange. Illustrating the importance of steel to Japan's foreign trade activities, iron and steel products alone accounted for 18 percent of all Japanese exports in 1975.

Beginning with the recognition that steel is a critical industry, Japan's government planners, banks, and of course Japanese steel companies themselves have evolved a three-part strategy for building a large and internationally competitive steel industry. First, the industry has been encouraged to rapidly increase its production volume, thereby permitting modern capacity additions and scale economies. Second, the steel industry has been provided with enormous capital inputs, primarily in the form of debt. Third, government and business leaders have cooperated closely to maintain high operating rates and protect the industry's highly leveraged financial position. Steel exports have played a critical role in executing each element of this strategy.

For example, the Japanese steel industry has benefited from rapid growth in its home market, but direct exports of steel products and indirect exports of steel-intensive products such as ships and automobiles have enabled Japanese steel producers to grow much more rapidly than otherwise would have been the case. Aggressive export programs were undertaken initially to offset the cost of necessary raw materials. However, during the 1960s, steel exports began to serve the additional purpose of supplementing production growth and offsetting cyclical downturns in domestic demand.

As a "target industry" favored by government planners, the Japanese steel industry has been provided with capital levels, which by U.S. standards, would appear virtually unlimited. Steel companies in Japan, who in 1974 had debt to total capital of 83 percent, obtain most of their financial requirements from the large Japanese City Banks. These banks in turn are heavily overloaned and look to the central government bank—the Bank of Japan—to finance this overloaned position. This system permits the government to exercise close control of the economy without directly guaranteeing any individual steel producer's debt.

The Japanese system of financing, together with the policy of effectively guaranteeing jobs to regular employees, makes the Japanese steel companies highly sensitive to small changes in their operating rate. In fact, because of their high fixed costs of interest and employment, Japanese companies are immediately threatened with losses when their operating rates begin to decline.

To stabilize their highly leveraged position, Japanese producers rely on extremely aggressive countercyclical export programs. Each downturn in domestic demand is met by a sharp surge in export activity. Conversely, when domestic demand improves, export activity is reduced.

These countercyclical export movements are managed by the manipulation of export prices, which at various times may be either substantially above or substantially below average production costs. Furthermore, these price manipulations clearly occur without corresponding changes in home market prices.

During the 1974 period, for example, the price of Japanese carbon steel exports to the U.S. rose to $100 per net ton above average production costs. In 1975, prices began to decline as demand fell off, eventually dropping in 1976 to $35–45 below production costs as Japanese producers struggled desperately to boost exports and maintain their operating rates by underselling producers in the U.S.

The Japanese export statistics testify to the success of these tactics. In 1976, Japan increased its total steel exports by more than 20 percent over 1975 and exports to the U.S. increased over 36 percent.

Regardless of the direction Japan takes in the future, it is important to understand the Japanese strategy of the past 25 years simply because many other developing nations are likely to emulate it in pursuing their own growth plans.

Although each European nation is different, the more prominent elements of the Japanese steel strategy can be found in the EEC as well. Government participation in steel operations is often even more direct in the EEC than in Japan, and government support has also contributed to aggressive capacity expansion programs. Excess capacity in Europe, as in Japan, creates great pressures to expand exports, and aggressive export programs, including government-sponsored incentives and volatile export pricing, are a trademark of EEC producers.

However, efforts to expand exports have met with less success in Europe than in Japan. Unlike the Japanese, European producers have not been able to completely isolate their export and home markets, and low export prices have tended to "leak" back into home markets. Also, especially in more recent years, European producers have had higher variable costs than Japanese producers. Therefore, other factors being equal, the price needed to sell exported steel—while in some cases below average cost for both the Japanese and the Europeans—would yield lower returns to the Europeans.

The most important opportunities and incentives for Japanese and European steel producers have not been applicable to steel companies in the U.S. Therefore, U.S. producers have not embarked on long-term export programs comparable to those of Japan and the EEC. In the short run, the ability of U.S. producers to reduce export prices as a means of expanding volume has been limited by the fact that variable costs have typically been higher in the U.S. than elsewhere. Thus during times of slack demand, it is questionable

whether U.S. producers could match export prices in third countries, pay transportation and marketing costs, and still cover their variable production costs.

THE COMPETITIVE POSITION OF THE U.S. STEEL INDUSTRY

In reviewing the history of import penetration, one can conclude that lower production costs by themselves have never been sufficient to account for the success of foreign producers in the U.S. market. Instead, artificial exchange rates, border tax rebates, shortages, strikes and threats of strikes, and whenever necessary below-cost prices have provided foreign producers with the margin of advantage they would not have been able to derive from production cost advantage alone.

A detailed analysis of the Japanese pricing strategy reveals that Japanese producers have been able to increase their short-run profits dramatically through a system of price discrimination between their home and export markets. This system is based on the principle of reducing average costs by increasing volume, with low export prices (typically 15–20 percent below domestic prices) providing the extra volume. The system works in the short run as long as low export prices lead to increased volume (usually by displacing other producers), and are above variable costs. The system also requires a protected home market.

Just as a protected home market enables Japanese producers to price discriminate in their export markets, an open home market makes it uneconomic for U.S. producers to meet the discounts offered by foreign steel suppliers. Competitive conditions in the U.S. makes it difficult for domestic producers to selectively match foreign discounts; instead, to prevent the sale of one imported ton they would have to offer discounts to many customers who would demand the same price. Therefore, U.S. producers would lose more money by matching import prices than by allowing their market share to be eroded.

Between 1964 and 1968, when foreign producers were generally increasing their penetration of the U.S. market steel left Japan at average prices of at least $50–55 per net ton less than the average U.S. domestic price. A detailed analysis of the U.S. and Japanese costs during this period shows that the maximum cost advantage which could possibly be attributed to Japanese producers during this period is about $40. Therefore, it can be concluded that Japanese producers were shipping steel to the U.S. at prices well below their average production costs.

Starting in 1969 and continuing through the end of the worldwide steel shortage in 1974, the need to price export shipments to the U.S. at below full production costs was diminished. An artificially high value of the U.S. dollar reduced the effective cost and therefore increased the effective profitability of foreign steel production in dollar terms until mid-1971. As a result of voluntary export restraints and strong home markets, there was generally less pressure on many foreign producers (especially the Japanese) to increase their share of the U.S. market.

As a result, the level of discount offered to U.S. customers diminished between 1970 and 1972 such that the effective price foreign producers could charge these U.S. customers increased. For these reasons, there was less below-cost pricing between 1969 and 1972, and in 1973–1974, foreign producers were actually able to earn sizeable windfall profits on shipments to the U.S. By 1976, prices once again fell to levels substantially below production costs as foreign producers were once again offering discounts of 15–20 percent under domestic prices in order to win customers from domestic producers.

In 1977, the U.S. industry is well positioned for competition in the U.S. market with respect to the major factor costs of production. Capital charges per ton are about the same in the U.S. as elsewhere. At worst, using market prices to estimate raw material costs, the U.S. industry is equal to foreign producers. The employment cost advantage once enjoyed by European producers has all but vanished. Japanese producers enjoy an employment cost advantage of about $70 per ton, which is roughly equal to the importation costs which Japanese producers must absorb.

Other factors being equal, therefore, Japanese producers might be able to deliver steel in the U.S. at prices equal to domestic prices and still reflect full Japanese production costs. However, the Japanese cost structure would not permit them to offer a discount in the U.S. market. The area of greatest uncertainty for domestic steel companies in 1977, therefore, is whether U.S. public policy makers will permit a continuation of foreign below-cost pricing tactics.

THE WORLD SUPPLY/DEMAND OUTLOOK: 1977–1985

Steel producers in Japan and Europe entered 1977 with considerably more capacity than they needed at current levels of domestic consumption and export demand. This situation was brought about in part by the unusual severity of the decline in worldwide steel demand beginning in 1975. The situation was compounded by government involvement in the steel operations of these countries which led to greater commitments to new capacity at the peak of the cycle and slower cutbacks when demand turned down than market forces would have dictated.

Realistically, foreign producers have only three ways to resolve this excess capacity situation. One is to hope that worldwide demand will recover; however, given present capacity levels and a minimum estimate of new commitments, it is unlikely that worldwide demand will be sufficient to support world capacity in the near term and possibly not until 1980. Failing a sufficient recovery in total consumption, the second alternative is to increase exports, which can only be accomplished by capturing business from other producers. It is unlikely that more exports can be forced into the consuming nations outside North America; these nations have low costs in their home markets and/or use rigid import quotas to protect their domestic industries. Therefore, the U.S. market will be the principal target of any increase in exports from Japan and the EEC.

The third alternative is for Japanese and European producers to retire existing capacity at a more rapid rate than projected. However, accelerated retirements will be bitterly opposed by those whose political and economic interests are involved.

In essence, foreign producers will face a basic confrontation between unprofitable operations, early retirements, or increased export shipments to the U.S. While it is impossible to predict the degree to which each of these alternatives will be followed, the prognosis of substantially increased imports into the U.S. is unavoidable given the historic practice of foreign producers of exporting at any price they can obtain above variable costs and given the fact that it is uneconomic for U.S. producers to meet these prices.

Substantially increased import penetration—which could conceivably increase to 30 percent of the U.S. market—would further impair the profitability of domestic producers and curtail the addition of capacity which the U.S. economy will need after 1980. The U.S. cannot depend on foreign producers to add capacity for the U.S. market either, because the low prices which are necessary in the short run to enter the U.S. market will not support new or even replacement capacity in the long run.

As a result, the U.S. economy will be extremely vulnerable to a steel shortage, which could emerge any time after 1980. In fact, if domestic capacity is not built, the U.S. can be virtually certain of a major shortage between 1980 and 1985.

POLICY IMPLICATIONS

The Free World's large steel producing areas—the U.S., Japan and the EEC—face a precarious situation during the 1977–1980 period. The stakes are high. The political and economic strategies adopted by steel producers and government policy-makers in each nation will have a considerable bearing on the health and international competitiveness of their respective steel industries, and on the long-term supply and price of steel which will be available to their respective economies.

Policy analysis must give consideration to the unique characteristics of the steel industry. First, it supplies a product vital to any industrialized economy. No modern nation, for security reasons alone, would be willing to rely exclusively on foreign sources for a large portion of its steel. Second, the amount of capital necessary to build and maintain a domestic steel industry is large, and often exceeds the level that private sources are willing to invest. Thus government involvement, both direct and indirect, is a common occurrence in the world steel industry.

Third, because of its early position in the overall production process the steel industry is more influenced by economic fluctuations than most industries. There are several levels of inventory adjustment that amplify normal economic cycles for the steel industry. Finally, it is important to understand the lead times needed to install steelmaking capacity. Several years are needed to engineer and install new capacity at an existing facility and five years or more may be needed for greenfield additions. Any miscalculation in capacity planning that results in a steel shortage cannot be quickly corrected.

The growth of steel imports during the 1960s constrained the growth of shipments by U.S. producers, thereby inhibiting productivity improvement, profitability, and investment in new capacity. Faced with a new wave of import penetration in the late 1970s, a similar result is likely. Therefore, if U.S. customers want more imports in the short run, they must also be willing to accept the consequences of greater reliance on offshore sources in the long run. Specifically, further import penetration will inevitably undermine the ability of U.S. steel industry to fill any void created by a reduced supply of imports under shortage conditions.

In addition to the potential economic impact of a future shortage, our national policy on steel trade should also give consideration to some of the more immediate consequences of a rising level of steel imports on jobs and trade balances.

Regardless of the short-run bargain we may be getting on imported steel the behavior of world steel producers reveals two realities about which we can be fairly certain in the future. First, foreign producers in time of excess supply will sell steel in the U.S. at prices which domestic producers cannot meet and still fulfill the profit and capital formation requirements of operating in the U.S. political and economics system. Therefore, in the absence of a coordinated policy to the contrary, the U.S. economy will become increasingly dependent upon imported steel during the period 1977–1980.

Second, the impact of a future steel shortage under conditions of heavy reliance on imported steel would be intolerable, given any reasonable alternative. Even if the nation is willing to accept the major losses of steelworker employment and adverse pressure on our trade balances which greater dependence on imported steel would entail, the ultimate risk to the U.S. economy inherent in this dependence is unacceptable.

NAVY'S PLANS TO BUY THE CTX AIRCRAFT

Mr. GOLDWATER. Mr. President, the fiscal year 1978 Department of Defense authorization bill authorized Navy $21.6 million for 22 CTX light utility transport aircraft.

These aircraft were a conference issue since the House in its bill had not approved Navy's authorization request. The House Armed Services Committee's report expressed concern that Navy had not fully defined the requirement for this aircraft and had not yet determined the type of aircraft to be purchased. However, the House report did point out that Navy witnesses indicated they wanted to have a free and open competition and that they expected five different companies to respond when the request for proposals was offered.

During the conference, there was much discussion about whether this procurement should be sole source or an open competition. It was my opinion, having participated in all of the discussion on this aircraft during the conference, that the conferees were unanimous in their understanding that this would be an open competition.

When we brought the conference report back to the Senate, Senator METZENBAUM and I, on July 14, engaged in a colloquy with Senator STENNIS to make sure there was no misunderstanding about the point of open competition for the CTX aircraft. Senator METZENBAUM, a strong advocate of free and open competition, was especially concerned that possibly procurement of the CTX would be sole source.

Mr. President, I ask unanimous consent that the colloquy referred to be printed at this point in my remarks.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. STENNIS. Mr. President, I thank the Senator from Texas for his very fine, effective service all the way through the bill, including the conference, and with the other conferees.

I have never seen, I do not believe, as complete and total participation, week after week, by every conferee there from both the House and Senate.

Mr. President, the Senator from Ohio has a matter here, and I am glad to yield to him for such time as he wants. I have certain papers in my hand he may need.

Mr. METZENBAUM. I thank the Senator. I appreciate the courtesy of the Senator from Mississippi who, in his usual way, is always very courteous to all the other Members of the Senate.

I have long addressed myself to my concern with respect to military procurement and the failure to use competitive bidding. I did that when I had the privilege of serving on an interim basis on the Armed Services Committee. I have done it in communications to the Secretary of Defense. I have done it at every opportunity, because in the past as little as 8 percent of all the procurement of the military has been done on a sealed bid competitive basis, and as much as 92 percent has been without true competitive bidding, and about 22 percent of that 92 percent was on a negotiated competitive bid.

In looking over the report of the conference committee on this subject, it came to my attention that there was an item involving an authorization of $21.6 million—not a very large item as items in a military authorization bill go—for the purchase by the Navy of 22 CTX aircraft.

As we read the conference committee report, this item was discussed a good deal at the conference committee. But the final report language is unclear on one key point.

(Mr. STONE assumed the chair.)

Mr. METZENBAUM. It is a fact that the CTX is to be an off-the-shelf aircraft. It would seem to me the best way to spend the taxpayers' dollars would be for the Navy to procure the CTX through price competition, through competitive bidding.

I ask the distinguished members of the Armed Services Committee who contributed in the conference if it was the intent of the conference report that the CTX be competitively procured?

Mr. STENNIS. Yes. The Senator is certainly correct.

In response thereto, I will read from the pertinent part of the conference report, the language exactly as it is in the conference report. It reads—

"The program was discussed at length—"

Meaning the $21.6 million program the Senator referred to:

"This program was discussed at length among the conferees and agreement finally was reached to provide funds for an off-the-shelf turboprop light utility transport aircraft.

These are small, light transport aircraft for the services. I wanted us to hold the money down on this any way we could and not go into new design or anything that was plush. This language was finally agreed upon. To me, it could not mean anything except that they buy this off the shelf, from whomever they see fit, as long as it is a turboprop and meets the other descriptions that are used.

Mr. METZENBAUM. Does the distinguished Senator from Mississippi interpret that language to mean that the military will be expected to purchase, on a sealed bid competitive basis, these turboprop airplanes, since they are off the shelf, and does the off-the-shelf reference imply that they are to be procured in that manner?

Mr. STENNIS. I will come back to that. Except for the words "sealed bids," I am not sure that they do not have to be accepted procedures in the law for doing it without sealed bids. It certainly would be my expectation that they would do the best to make a dollar go as far as they could, but stay within this class of planes, off the shelf, so that there would not have to be anything special made at a high cost; and that would be in compliance with the law.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. GOLDWATER. Mr. President, I am glad that the Senator from Ohio has brought this up, because I think we have made it perfectly clear on the floor that this is to be competitive bidding.

During the conference, I tried to use the language of our Senate report, which states:

Authorization of $21.6 million is recommended for procurement of off-the-shelf turboprop light utility transport which is common with the Army/Air Force light utility transport.

I objected to that, because if it is common, it means there is only 1 aircraft that can be bought, and that is the Beech aircraft.

This language would have steered the CTX procurement to the Beech C–12 A—commercial model A–200—meaning a sole source procurement.

My language, which I recommended and which I thought had been adopted—but after I left the conference, it had been changed—was as follows:

The conferees agreed to authorize $21.6 million for a competitive procurement of 22 off-the-shelf turboprop light utility transports for the Navy.

So I would like this colloquy to show that it is abundantly clear that competition will be held.

I point out that there is the Cessna Co., two models of Beech, the Fairchild-Swearingen Co., and the Arava 201 STOL Transport.

The CTX aircraft will provide direct administrative, logistics, and operational support to all fleet commands, shore facilities and research organizations. It will replace many of the 20- to 30-year-old reciprocating engine aircraft currently performing this mission. In briefings provided to the committee. Navy indicated CTX would be a competitive procurement of a commercial off-the-shelf FAA-type certified aircraft. The planned total procurement is 66 aircraft to be bought at the rate of 22 per year over fiscal year 1978, fiscal year 1979 and fiscal year 1980.

The authorization bill approved 22 CTX aircraft and recommended an authorization of $21.6 million for fiscal year 1978.

The issue is whether Navy will now buy these 22 aircraft sole source from Beech—who now has an on-going contract with Army/Air Force for the C–12 to fill the CX/UX requirement—or whether it will advertise for competitive bids to meet the CTX requirement.

The potential bidders for this aircraft are: One, Cessna Conquest; two, Fairchild-Swearingen Metro; three, Beech Model A–200 (C–12A); four, Beech Super King Air Model 200; five, Arava 201 STOL Transport.

Navy stated its general requirements for a CTX were as follows: One, Off-the-shelf Commercial Turbine Powered; two, Max TO GW 20,000 pound; three, 1000 NM Range/2000 pound; four, 8–18 PAX; five, 235 KTAS Min; six, 66 Aircraft—31 sites—To replace 117 UE old recips; seven, accel/stop less than 4,000 foot maximum; eight, consider DOD inventory; nine, small cargo door—40 inch by 48 inch pallet/occupied litter.

The argument that savings can be made if Navy buys the C–12A does not hold water. Since this aircraft will be contractor supported and maintained and the contractor will provide the training, all as part of the purchase price, there will be no common supply system or training system between the three services. Some savings would be possible if the services were going to maintain the aircraft and train all maintenance and air crew personnel.

Consequently, there will be no Government inventory of spare parts, special tools, overhaul facilities, and training facilities.

Referring back to the CX/UX competition, the word unofficially is that in the original evaluation of the Cessna Citation, Lear Jet, Swearingen, and Beech proposals, the Beech was rated fourth. Subsequently, when Congress directed Army to produce a turboprop aircraft only, Beech ended up as the only bidder because Swearingen at that time was having financial difficulties and was being taken over by Fairchild and did not bid a second time around.

The Senate report stated that:

Authorization of $21.6 million is recommended for procurement of off-the-shelf turboprop light utility transport which is common with the Army/Air Force light utility transport.

This language would have steered the CTX procurement to the Beech C–12A—commercial model A–200—meaning a sole source procurement. Your proposed language for the conference report as follows:

The conferees agreed to authorize $21.6 million for a competitive procurement of 22 off-the-shelf turboprop light utility transports for the Navy.

This language was not accepted.

The final language adopted in the conference report is as follows:

This program was discussed at length among the conferees and agreement finally was reached to provide funds for an off-the-shelf, turboprop, light utility transport aircraft.

Mr. President, I am satisfied that if the Senator from Mississippi says that it is his understanding that this will be done by bits, it will be done that way.

Mr. STENNIS. I thank the Senator. I do not know what he was reading about the specifications. I do not understand that. I am just passing on the words, that it is wide open to be competitive. As for the names that the Senator mentioned, any others who can meet the description would be entitled to bid.

Mr. METZENBAUM. Does the Senator from Mississippi understand that this procurement will be done by competitive bids? Is that his understanding of the procedure?

Mr. STENNIS. It certainly is clear here. I certainly thought at the end, where the conferees wrote in the language that the Senator indicated——

Mr. GOLDWATER. The language was not accepted. I left the room thinking it had been accepted, but after I left, it had been changed. I can read that language in the bill now. To me it is competitive bidding. But I want to pin it down absolutely.

Mr. STENNIS. I thank the Senator for his interpretation. There is no doubt that it is an open bid for any manufacturer who can meet these requirements. But it does not give them any authority to have a new plane built, with new specifications, and to get a plush plane and come back later for more money.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. TOWER. Mr. President, my understanding certainly is consistent with that of the distinguished chairman, that this is to be competitive. I was part of the deliberations on this. That was the intention.

Mr. METZENBAUM. I appreciate the responses of the distinguished Senators from Arizona, Mississippi, and Texas. It is a step in the right direction. I commend the Senators who served on the conference committee for taking this step in the right direction.

Mr. STENNIS. I thank the Senator for his assistance while he was a member of the committee. We need him to come back.

Mr. METZENBAUM. I thank the Senator.

Mr. GOLDWATER. Mr. President, Senator METZENBAUM and I thought after that particular exchange that there should be no doubt in the minds of Navy officials that CTX should be procured through established competitive procedures. However, that apparently was not the case, because it recently came to our attention that there was a possibility that Navy would buy these aircraft as an add-on to Army's ongoing C–12 procurement. This particular buy is in support of the Army and Air Force light utility transport requirement. The fiscal year 1978 House appropriations report on the defense bill stated that Navy should for its CTX requirement buy an aircraft that was common to Army and Air Force. This would make sense and would be the best course of action for the Government if the C–12 was a Government supported and maintained aircraft. However, that is not the case since the aircraft buy includes contractor support, which means that no savings are achieved as a result of having an aircraft common to all three services.

When Senator METZENBAUM and I heard that the Navy might buy the C–12 through Army, it was our opinion that such an action would be tantamount to a sole source procurement and not in the best interests of the Government and the taxpayers. We, therefore, wrote a letter to the Honorable W. Graham Claytor, Jr., Secretary of the Navy, expressing our concern over this matter.

I point out to my colleagues that Senator METZENBAUM and I have no objection if Navy eventually procures the C–12 aircraft as long as that procurement is the result of open competitive procedures. That is the issue here.

Mr. President, I ask unanimous consent that the letter referred to be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 30, 1977.

Hon. W. GRAHAM CLAYTOR, Jr.,
Secretary of the Navy,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: It has come to our attention that the Department of the Navy is considering buying, through the Army and without competition, the C–12 aircraft to meet its CTX requirement. This letter is to affirm to you our position that the procurement of the CTX aircraft should be done only through established competitive procedures. We have no objection if Navy eventually procures the C–12 aircraft as long as that procurement is the result of open competitive procedures.

As you know, the fiscal year 1978 Department of Defense Authorization Conference Report authorized funds for "an off-the shelf, turbo-prop, light utility transport aircraft." However, since there had been some question as to the type of procurement the conferees intended, on 14 July we engaged in a colloquy with Senator Stennis on the Senate floor to clarify the intent of the Conference Report. In the colloquy, Senator Metzenbaum asked Senator Stennis, ". . . if it was the intent of the Conference Report that the CTX be competitively procured?" Senator Stennis replied, "Yes. The Senator is certainly correct." Further on, Senator Goldwater stated that the purpose of the colloquy was, "to show that it is abundantly clear that the competition will be held."

Senator Goldwater also stated, "I am satisfied that if the Senator from Mississippi says that it is his understanding that this will be done by bits [sic], it will be done that way." Senator Stennis responded, "I am just passing on the words, that it is wide open to be competitive." Following up on that, Senator Metzenbaum then asked, "Does the Senator from Mississippi understand that this procurement will be done by competitive bids? Is that his understanding of the procedure?" Senator Stennis replied, "It certainly is clear here." Senator Goldwater then stated, "To me it is competitive bidding. But I want to pin it down absolutely" and Senator Stennis replied, "I thank the Senator for his interpretation. There is no doubt that it is an open bid for any manufacturer who can meet these requirements."

Mr. Secretary, even the most casual reading of the entire colloquy can only lead one to the conclusion that it was the intent of the conferees that the CTX be procured through competitive procedures. In fact, this is the only legislative history that points out the intent of the Congress on CTX. We bring this matter to your attention so that there is no doubt as to our feelings and no doubt as to the intent of the authorization conferees. We trust this will be a competitive procurement, but should you plan otherwise please contact us prior to proceeding.

Sincerely,

BARRY M. GOLDWATER,
HOWARD M. METZENBAUM.

IN SUPPORT OF SALT

Mr. KENNEDY. Mr. President, my good friend and colleague from Maryland (Mr. MATHIAS) shared with us on September 20 a very thoughtful report based on his observations of the Strategic Arms Limitation Talks in Geneva. I commend it and its recommendations to all of my colleagues, and to the administration which is now engaged in critical efforts to bring SALT II to a successful conclusion.

I join with Senator MATHIAS in his strong support for SALT—as well as his belief that "a broad national consensus is highly desirable" both in obtaining a SALT II agreement and in seeing it through ratification by this body. My colleague has made a noteworthy contribution to the consensus-building process, not only through his report to the Senate, but through an inclusive article written previously for the Baltimore Sun—which share with the public at large the need for SALT progress—including limitations on the missiles of concern to both sides, such as Soviet heavy missiles and our own cruise missiles.

I congratulate the Senator for his interesting and important contribution, and ask unanimous consent that his article, "A Senate View of the SALT Talks," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SENATE VIEW OF THE SALT TALKS

(By CHARLES McC. MATHIAS, Jr.)

We are entering a crucial stage in our relations with the Soviet Union. Detente is widely perceived in both countries as being at a low ebb. But on the basis of my recent observation of the SALT talks in Geneva, I am not without hope. Let me briefly report the bleak side first.

Washington is worried about Soviet involvement in Africa and uneasy about the Soviet build-up of conventional arms in Eastern Europe. Moscow rebels against the Carter administration's human rights campaign, is testy about our relationship with the People's Republic of China, and convinced we have reneged on agreements made by previous administrations.

Our allies in Europe, too, are uncertain we know precisely where we are going. A critical challenge for the United States is how to reconcile our bilateral SALT discussions with the Soviet Union to our responsibilities in NATO. Though we have tried to keep our friends fully conversant with our SALT positions, there are still apprehensions that the U.S. and the U.S.S.R. will sign a deal prejudicial to the interests of our allies.

Many Western European governments feel they are hearing unclear and even contradictory signals from the Carter administration. There is, I feel, genuine lack of understanding of our foreign policy. We, in turn, are uncomfortable about the possibility of Communist participation in the governments of Italy and France. These tensions have created a mood of uncertainty which has hampered the NATO command in redressing the imbalance between the Warsaw Pact and NATO forces.

Despite this depressing litany of obstacles, the SALT talks are one area, I am convinced, where a mutually beneficial Soviet-American agreement is still possible. Certainly, if the negotiations collapse, the gamut of Soviet-American relations would have to be reexamined.

In Geneva, the U.S. negotiators are serious and meticulously judicious in the negotiating process. They told me that the Soviets are also approaching the issues seriously. Much already has been accomplished, though some very contentious issues remain. It is possible that an agreement will not be reached by October 3, the expiration of SALT I. This would not necessarily be fatal; some means can be found to cover the intervening period before a SALT II document can be signed.

In this country, a debate is raging over whether the Soviet Union's goal is to achieve a "war-winning capability" in strategic weapons. This is not as all-important as it might seem if the Soviets continue to believe that the U.S. retains a capability of inflicting unacceptable retaliatory damage on the Soviet Union in a nuclear exchange. Any agreement must assure that we have that capability. And it is possible, I am persuaded, to fashion such an agreement.

The Soviets, of course, are not impressed with the purity of our intentions. They fear that our technological superiority may, at any given point, provide us with strategic superiority. Here in the U.S., enormous pressure is developing to counter the heavy ICBM capability of the Soviets with programs calling for rapid deployment of an MX mobile missile system and ground-launched and sea-launched cruise missiles with strategic capabilities.

These programs, if unwisely and prematurely pursued by the United States, could doom the strategic arms talks. There will be ample time, if the SALT negotiations fail, to make hard decisions on the MX system and on both cruise missile systems.

It is especially evident to those closely associated with the SALT talks that a broad national consensus is highly desirable. Unity is not only important to us as a nation, but a perception abroad of our unity is important.

On a political level, treaty ratification requires 67 votes in the Senate. This means Republicans as well as Democrats must support the ratification process. Republicans will invariably find it easier to be supportive if SALT is perceived as a continuing national policy bridging parties and administrations and if prominent members of the previous administration—including former President Ford and Henry Kissinger—are behind a SALT agreement at Geneva as a follow-through to their own efforts at Vladivostok. The country would be reassured, too. With sensitivity and common sense in the conduct of the negotiations, both of these leaders should continue to be considered as members of the country's team and give their stamp of approval to the final agreement.

Before such an agreement is obtained, there are issues which the administration should be aware will receive particularly careful Senate attention in any ratification process. These are:

1. The heavy-missile program of the Soviet Union is of concern. Any agreement should put a cap on this program and point clearly towards eventual reductions in a SALT III agreement.

2. The issue of verification is vital. The Senate must be persuaded that the entire agreement is verifiable within acceptable limits.

3. Arising from the verification issue is the question of data base. The SALT negotiations have been conducted using our terminology and numbers. This must stop. It is time for the Soviets to be more forthcoming in providing their own data on their force levels.

4. It is most important that the Senate be convinced that issues, such as Cruise and Backfire—which are now being discussed only at senior levels—ultimately are given the same careful across-the-table examination that issues being handled at the delegation level are now receiving. Nothing could doom an agreement quicker than the impression that parts of it, were arrived at in haste.

Finally, the administration must pay close attention to the sensitivities of our friends in Europe. Our signals to them must be clear and consistent. We cannot promote the Cruise missile to them while at the same time discussing with the Soviets how we might restrict use of the missile by our allies. This is the time for American leadership and understanding, not rude shocks.

We stand at a crossroads. If an agreement is not reached shortly, we could well be forced to take uncharted roads through hazardous minefields. We must ask the right questions in a nonpartisan spirit. There must be an agreement which, first sets the ceilings on strategic arms and, second, firmly points the way toward critical reductions.

GIFFORD NIELSEN, ALL-AMERICAN QUARTERBACK

Mr. HATCH. Mr. President, I would like to take a few moments of time to tell my colleagues about an outstanding young man. Gifford Nielsen, the quarterback of Brigham Young University's football team has to be considered one of the finest young men in college today. He is not only a gifted athlete, but an outstanding credit to the school and community he represents. After a record-breaking year last season, one in which he was named to the Football Writers of America All-American Team, Gifford has continued to rewrite many of the record books. In three games so far this season he has led his team to three impressive victories. While averaging only a little more than half a game, he has compiled some pretty impressive statistics. He has completed 76 passes in 108 attempts for 912 yards and 13 touchdowns. I am especially proud of this young man for he comes from my home State of Utah and attends the same university that I had the good fortune to attend some 20 years ago. I ask unanimous consent that the following article from this year's edition of "National Collegiate Athletic Association-Football Records" entitled "Local Boy Hits National Scene" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOCAL BOY HITS NATIONAL SCENE

On a clear day from the top of BYU's press box, quarterback Gifford Nielsen can re-live all the important events of his life.

Using his gifted passing arm to pick out special points of interest from the panorama of Utah Valley, the Cougar All-American can recall the major happenings of his life in Provo, Utah.

Dubbed "happy valley" by cynics who like to chide the residents for their tranquil life style, Utah Valley is bordered on three sides by the Wasatch Mountain Range and on the west by Utah Lake. Its a long, picturesque valley. But all of the great happenings in Gifford's life have taken place within a one-mile radius of the football stadium itself.

Like. . . .

Utah Valley Hospital where Gifford was born, and where his year-old daughter Kacey was born . . .

Provo High School where Gifford graduated with honors . . . where he won three letters in golf . . . where he won all-state and All-America honorable mention as a wishbone quarterback for the Bulldogs . . .

The campus of Brigham Young University, where his father Stan was a former basketball star for the Cougars . . . and where Gifford decided to enroll after being voted the outstanding prep athlete in Utah . . . where he won two varsity letters with the Cougar basketball team before deciding to concentrate his energies in football . . .

Now, moving further east to the foothills of the 10,000-foot Wasatch Range and the Provo Temple (of the Church of Jesus Christ of Latter-day Saints) where Gifford and his high school sweetheart, Wendy Olson (a former Provo High cheerleader), were married. The Temple is only a short walk from the apartment where Gifford. Wendy and Kacey now live.

"Looking back now on those chapters of my life," recalls the Giff rather philosophically for a 22-year old senior, "it appears I've covered a lot of ground in a relatively short distance, so to speak. And there is still more to come."

As an All-America selection (Football Writers of America) last year and a Heisman Trophy candidate this year, he faces the most important year of his career. And much of the drama for 1977 will be played out on yet another familiar site, the grassy turf of BYU Stadium.

There was a time in his sophomore season, however, when Nielsen felt he wasn't going to see any playing time at all. He watched the first two games of the 1975 season from the bench. In the third game (Arizona State) he was inserted for a brief period, netting only 21 yards on two carries and 11 passes attempted.

Then came one of the dramatic moments in BYU football history. In the fourth game (New Mexico) with the Cougars trailing in the fourth quarter, Gifford came off the bench to complete 10 of 12 passes (WAC single game record) and engineer a come from behind victory.

The Cougars caught fire under Gifford, winning six of their eight final games. Despite the fact he saw little action in the first four games of '75. Nielsen finished the year as the nation's number ten passer.

Last year after suffering an inexplicable loss to Kansas State in the opener, the Cougars bounced back to win nine of their 10 regularly scheduled games. With superb support from his teammates, Nielsen went on to post several records. He wound up as the nation's leader in touchdown passes and passing yardage, and his performance in several games were season highs (28 completions on 48 attempts for 468 yards against Utah State).

Nielsen has more than just a good passing arm. He is a gifted leader who remains cool under pressure, and is very competent field general.

"He reminds me a lot of Roger Staubach," says offensive coordinator Doug Scovil (who coached the Navy star who won the Heisman). "In that you can tell him once to do something or make adjustments in the way he does things and he complies. You don't have to waste a lot of time trying to pound something into his head."

The Giff also gets some high marks from Coach LaVell Edwards:

"There's no way we should have completed the winning pass against Arizona (43-yard TD pass in a rain storm with :03 left on the clock), except the guy is a winner. He scrambled until he found a receiver, knew exactly where the line of scrimmage was, then put the ball right where it had to be at the precise moment. If there's one guy you'd like

to have when the going is tough, it's Gifford."

Edwards can be thankful the kid from Provo, who followed BYU sports regularly as a youngster, elected to stick with football. Even though Nielsen scored 24 points in the final game of his sophomore year with BYU's varsity basketball team, he did not look very impressive in the Cougars' football drills that fall. But when he came off the bench to salvage the New Mexico game, there didn't seem to be any question of who BYU would be starting at quarterback.

But then, Nielsen's career could have gone in another direction too. He is an excellent golfer, frequently shooting par on the local courses. But the Cougars already had a Johnny Miller, and what they needed most was a football hero. They found one in Gifford Nielsen.

GIFFORD NIELSEN—HEISMAN CANDIDATE

If he's not a pro prospect, there aren't any—New Mexico's Bill Mondt

"Nielson gave us fits. We tried to mix it up, put pressure on him by blitzing, then dropping back to get double coverage whenever possible. But nothing worked. He's the best quarterback, we've seen this season (this includes Jeff Dankworth and Joe Roth)."—Frank Kush, Arizona State

"I think Gifford Nielsen is a more dangerous passer than [Tommy Kramer]. We tried more things defensively to stop Gifford than we have against any other quarterback.

"Nielsen has an uncanny ability to find a receiver when he is under pressure. He has great receivers, but Gifford hit a lot of passes that 'just a good passer' wouldn't have hit."—Tom Lovat, Utah

"We put a lot of pressure on him [Nielsen], and he still made the big plays."—Sark Arslanian, Colorado State

"He's the same type of young man Roger Staubach was at the Naval Academy. [John] Brodie was a super leader, and likewise with Giff and Roger. Nielsen does it in a quieter way than some others, but it's equally effective."—Doug Scovil (BYU quarterback coach who coached Staubach at Navy and Brodie with the 49ers)

"There's no way we should have completed the winning pass against Arizona, except the guy [Nielsen] is a winner. He scrambled until he found a receiver, knew exactly where the line of scrimmage was, then put the ball right where it had to be at the precise moment. If there's one guy you'd like to have when the going is tough, it's Gifford.

"Nielsen could have started in any one of four sports—baseball, basketball, golf, and football. We're sure glad he decided to concentrate on football."—LaVell Edwards, Brigham Young

LOCKHEED LOAN GUARANTEE IN RETROSPECT

Mr. McINTYRE. Mr. President, each of us, as Members of this body, are called upon from time to time to vote on issues that are difficult to discern on a public interest basis. Such issues can be best described as close calls. One such issue to me was my vote in 1971 in favor of the Lockheed loan guarantee. The arguments on both sides were almost equally impressive. On the one side was the question of the Federal role in our free enterprise system, and on the other the impact on jobs and many small businesses all standing to lose through no fault on their part.

I felt that the equities justified an unusual legislative action to aid a failing private corporation. At the time the Senate considered the loan I made my position clear, that the unique circumstances in that particular case called for unique action. I do not consider either my vote or the action by Congress as setting any future precedent in bailing out failing private companies. I believe it does set a precedent, however, that individual circumstances can on occasion justify what under normal conditions would be completely unjustified.

It is pleasing and of some relief and comfort to this Senator to see in recent days press reports that Lockheed has successfully turned the situation around and is no longer dependent on Federal loan guarantees for existence.

I believe the Sunday, October 2, 1977, Washington Post editorial aptly expresses what a number of us have felt during the last few years, and I ask unanimous consent, Mr. President, that the editorial entitled "Lockheed's Success" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LOCKHEED'S SUCCESS

We confess to having shared the strong reservations of a lot of people in 1971 when the federal government agreed to bail out the Lockheed Aircraft Corp., which was then on the verge of bankruptcy. Our reservations would have been even stronger if we had known then what we know now about the $30 million or so the company had used to bribe foreign officials. Disclosure of the bribes merely confirmed our impression that Lockheed was a lost cause and a bad investment for the American taxpayer. So it is with a sense of pleasure and relief—and considerable surprise—that we take note of reports that it hasn't turned out that way. On the contrary, the Lockheed bailout has apparently turned out to be very nearly unique among government programs of this sort: It appears to have achieved its goal without costing the taxpayers anything. Lockheed is giving up the federal loan guarantee on which it has depended for six years and is rejoining the world of free enterprise.

You may recall that what brought Lockheed to its knees was a combination of inflation, cost overruns on various projects and a new airplane that didn't sell too well at first. It has apparently conquered these and other problems. Thanks in large part to that loan guarantee, Lockheed is making money again. Admittedly, there were some rough spots. At one point, the federal government was backing up $245 million in loans and its supervisory committee was riding herd strictly on Lockheed's activities. The situation grew critical again when the exposures concerning the foreign bribes drove Lockheed's two top officers from office. But the cleanup of the company under Robert W. Haack, who is now retiring as chairman, seems to have been thoroughly and carefully conducted.

Does the Lockheed success story argue for more of the same sort of government rescue operations for other failing companies? No. As a general rule, we don't think the government should be in the business of helping private corporations escape the consequences of their own shortcomings. Lockheed was a special case because of its role as a defense contractor and because a case can be made that some part of its downfall was attributable to various Pentagon decisions. That it all has turned out well is heartening—almost heartening enough to make us think that someday all will also turn out well for Conrail, the government's other venture in trying to turn a failing corporation into a success.

NATIONAL EMPLOY THE HANDICAPPED WEEK—OCTOBER 2-8

Mr. DOLE. Mr. President, this week has been designated as "National Employ the Handicapped Week," and I would like to bring this observance to the attention of my colleagues. The fact that we find it necessary to set aside a week and name it "National Employ the Handicapped Week" is unfortunate, for I think it indicates that we do not yet think of the handicapped as candidates for employment.

I think it points out that even though vocational rehabilitation services for disabled persons have been improved, the struggle is not over until that training results in employment, to the fullest extent possible. I realize that employment will not be feasible for every handicapped individual, but it is a legitimate dream for many.

It is our responsibility—not so much as Senators, but as a group of concerned, fairminded individuals—to encourage employers to hire the handicapped.

As my colleagues will remember, earlier this year regulations were signed to section 504 of the 1973 Rehabilitation Act. This section states that any organization receiving Federal assistance cannot discriminate against a person on this basis of a handicapping condition.

Section 503 of the same act stipulates that businesses having a contract with the Federal Government in excess of $2,500 must follow an affirmative action program for the handicapped. These provisions are a clear indication of congressional intent.

Last year, I introduced an amendment to the Tax Reform Act to allow an income tax deduction for the removal of architectural and transportational barriers. The amendment was approved. The deduction may be used for expenses, up to $25,000, which the taxpayer incurs when removing barriers from property used in his business or trade. I intended this as a strong incentive for employment of the handicapped.

I wish there was legislation to introduce that would encourage the elimination of mental barriers. I have discovered that the biggest barrier of all is the one we build in our minds. We often determine what a person can or cannot attempt, can or cannot accomplish. This is the disabled individual's biggest handicap.

I hope that "National Employ the Handicapped Week" will provoke us to recommit ourselves to the laws which this body has approved, and to renew our efforts to allow handicapped individuals equal employment opportunities.

CHILD HEALTH DAY

Mr. CHILES. Mr. President, by a joint resolution of Congress, the first Tuesday in October is designated as "Child Health Day." It is important to note that while that resolution was passed in 1928, we still have a long way to go in developing

a comprehensive set of health care services available to all children. If we have any hope for creating a healthy adult population, it is by working with children to prevent disease and promote good health habits.

Over the last few years we have been learning more and more that major causes of disease have to do with our lifestyles, with the foods we eat, the amount of alcohol we drink or tobacco we smoke, the amount of exercise we get. There is a lot we can do by educating our children about how their bodies work and what they can do to be healthy.

At the same time, there are many aspects of health care that need professional attention, and many things that can only be done with Federal assistance to States and localities. In this session of Congress we have already moved ahead with a comprehensive immunization program, and the authorization for a nutrition education program has been passed by the Senate and is in conference with the House. We also have before us a series of proposals to make significant improvements in the medicaid program for children, and we ought to make those improvements as soon as possible.

Mr. President, I have been investigating Federal child health programs for the last 2 years on the Labor, Health, Education and Welfare Appropriations Subcommittee. We have taken a "mission budget" approach to look at the full range of 13 programs all paying for direct medical services to children. We have found a lack of coordination among these programs, as well as gaps and duplications in the services provided. We have sought through appropriations actions to get these programs working better together, particularly to coordinate medicaid's early and periodic screening, diagnosis, and treatment (EPSDT) program with maternal and child health formula grants, community health centers, and the family planning program.

By looking at all these programs together, we were able to create a comprehensive immunization program a year ahead of the schedule proposed by the President, and without creating a new Federal agency. We figured out what the role of each of these programs was in delivering immunizations to children, and added it to the role of the Center for Disease Control in providing vaccines and public information. We then earmarked increases in each of these programs, adding up to a $40 million program, and gave the Assistant Secretary for Health overall responsibility to coordinate their activities. I think this is the kind of approach that can yield important improvements in child health without big expenditures and bureaucracy.

Mr. President, I would also like to call attention to the area of nutrition. More and more we have been finding out that poor diet is linked to major physical disorders. Unfortunately, we have very limited knowledge of the specific relationships between nutrition and health. We know even less about who is suffering from malnutrition and what types of programs are effective in developing better nutrition. This lack of an adequate base of knowledge has become apparent to me while investigating food stamps and the variety of maternal and child feeding programs.

We have made an investment of more than $6 billion a year with little information about what it will produce. I am, therefore, pleased to point out that the farm bill and Food Stamp Reform Act which the President has just signed contains an amendment which I introduced mandating the development of a comprehensive nutritional status monitoring system. The Secretaries of Agriculture and Health, Education and Welfare will have to get together and draw the scattered efforts of their Departments into a coordinated system to provide:

First. An assessment system, consisting of periodic surveys and continuous monitoring, to determine the extent of risk of nutrition-related health problems and where they occur;

Second. A surveillance system to identify treatable nutrition-related health problems in such a manner as to tie detection to direct intervention and treatment;

Third. Program evaluations to determine the adequacy, efficiency, effectiveness, and side effects of nutrition-related programs in reducing health risks of individuals and populations.

I am hopeful that this system will begin to develop a coordinated set of Federal nutrition programs which are clearly targetted on areas of high need and will yield definite results.

Mr. President, I mentioned before that our investigations have revealed four major barriers that are keeping the medicaid program from reaching its goal of early detection of disease among children followed by comprehensive treatment:

First, there is a lack of coordination among Federal programs, particularly between medicaid and the grant programs.

Second, the financial incentives to provide medical care for children are not as attractive as those for treating adults, so the mere availability of medicaid financing has not stimulated growth of enough provider capacity to meet service needs.

Third, many States do not provide coverage for basic medical services. The most glaring omission is dental care, which has the highest incidence of disease and lowest rate of treatment for poor children.

Fourth, many medically indigent children fall through the cracks of medicaid eligibility as their families go on and off welfare or because they are just a little above medicaid income levels.

President Carter has submitted a set of proposals, introduced by Senator RIBICOFF, called CHAP—child health assessment program—aimed at correcting some of these deficiencies. The CHAP proposals would help the financial aspect by increasing the Federal participation by 25 percent if certain specifications are met, tying comprehensive care to screening. They would help the eligibility program by keeping a screened child eligible for treatment for 6 months after he went off medicaid rolls, and by mandating coverage for children up to age 6 who meet income eligibility criteria but not other conditions of aid to dependent children. These are important improvements, and I think we ought to move ahead with them.

On September 24 I introduced several amendments to the CHAP's proposal designed to meet the other barriers. To get at the lack of coordination among Federal programs, I introduced an amendment requiring each State to designate a lead agency for child health in each county or health systems area. The lead agency would be responsible for developing comprehensive service networks and certifying that contractual arrangements for screening, referral, treatment, and followup were appropriate. In recognition of the tremendous variation among States and localities about who is best able to perform this coordination task, the States would have complete flexibility as to who would be designated. It could be a county health department, a community health center, a medicaid-EPSDT program, a maternal and child health program, a health systems agency or other organization. The goal of developing a comprehensive health service system for children is generally accepted, but it will never be achieved unless we give someone the public responsibility to do the job.

My second amendment mandates a study of minimum fees or capitation arrangements to overcome the financial disincentives for provider participation in the medicaid program for children. People from many States have told us that fees are set too low and that an increased matching rate would simply be used my many States to offset existing costs. HEW does not even have a schedule of what fees the various States allow for basic services. We need to find out what reimbursement structure will increase services without inflating prices.

The most obvious lack of coverage by States is for dental services. Study after study turns up statistics showing that 75 to 90 percent of poor children have dental problems, but less than 25 percent receive treatment. Sixteen States do not provide dental coverage under medicaid at all. The administration proposal exempts dental care from the mandatory set of comprehensive services, a step backward from the current EPSDT program. My third amendment therefore eliminates the exemption and mandates dental care coverage for all children below age 18. The amendment has been carefully drawn to limit the service to basic dental care and not mandate coverage for replacement of teeth and orthodontia when the purpose is cosmetic. This restriction is necessary to keep the costs in line.

Mr. President, I am aware that these program improvements will cost money—$100 million in this fiscal year, more in future years. As a member of the Senate Budget Committee I fought successfully to have room for these improvements in the budget resolution. When we examined what has been happening with health expenditures, we found that the share of the Federal health dollar de-

voted to children has declined since 1967. The incentives in the health system work against child health care, which is less expensive and less profitable than services to adults. The returns from these inexpensive services are so great, and the need for healthy children is such a high national priority, that both Houses of Congress have left room in their budget for this legislation, with the amendments I proposed, this year.

The occurrence of Child Health Day ought to be a strong reminder to Congress to move ahead on this legislation. We are not proposing a massive undertaking or seeking to solve all the problems at once. Rather, we have carefully analyzed the deficiencies of existing programs and drawn a careful program of corrective action. We are not promising more than we can provide. I hope Congress can move quickly to adopt these medicaid amendments and improve the health care available to all our children.

ISSUES OF TECHNOLOGY TRANSFER

Mr. JACKSON. Mr. President, I wish to call the attention of my colleagues to a recent article by John Barron in the October 1977 issue of Reader's Digest entitled "Soviet-American Trade: Trick or Treat?" This article is very helpful in clarifying the dangers involved in the determined drive by Soviet leaders and others in Eastern Europe to obtain American high technology, as well as critical products of this technology. Mr. Barron's analysis emphasizes the need for the executive branch to develop a sound national policy to contain the flow of American high technology and protect our national interests.

I ask unanimous consent that Mr. Barron's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET-AMERICAN TRADE: TRICK OR TREAT?

(By John Barron)

(Under the guise of détente—and in hopes of financial bonanza—huge quantities of Western technology and capital are flowing behind the Iron Curtain. After five years, it's time to tally the results.)

At first glance, it looked like a good deal for everybody. The Soviet Union urgently needed a modern air-traffic-control system to prevent recurring commercial plane crashes. American companies, able to provide the best system in the world, stood to realize millions in profit.

So, with government encouragement, U.S. firms in 1973 staged a Moscow exhibition to show the Russians the components and workings of a nationwide control system. Raytheon Company engineers drew a complete schematic design on wallpaper, after they were unable to find in all of Moscow a large enough sheet of drafting paper. The Russians eagerly took the designs and all other knowledge they could extract. Then, having enlightened themselves with the latest American technology, they invited a Swedish-Italian combine to build the system. The American companies, which had spent more than $500,000 educating the Russians, got nothing. The Soviet Union got a heretofore unavailable system which easily can be converted to air-defense purposes.

In recent years, the Red army has ominously outfitted its divisions in East Germany for a lightning lunge westward. The Soviet units can keep moving swiftly because they have at their disposal large numbers of heavy trucks to transport munitions, fuel and other war supplies. The latest of these trucks come from a great factory built for the Russians by American, West European and Japanese firms.

Rising now across the Soviet Union and Eastern Europe are scores of new plants and factories, some more modern than any in the West, many managed with sophisticated American computers. They will produce chemicals, automobiles, spare parts and numerous other goods that can be used for peace—or war. Their construction is being supervised by Western companies, and in many cases financed by Western capital.

TECHNOLOGICAL TORRENT

These are but a few examples of how the West is helping revitalize sick communist economies with infusions of priceless production know-how. Since the United States began doing serious business with the Soviet-bloc communists in 1972, the trickle of technology flowing eastward has swelled into a veritable torrent.

Why has this happened? Because, in pursuit of détente, the Nixon and Ford Administrations systematically weakened controls over the export of strategic goods and technology. Today, no agency or person in the West really knows what is going on or how much is being lost. "Policy and procedures concerning export controls are in a shambles," concluded a 1975 report authorized by Congress. "The U.S. government currently has no coherent rationale for controlling exports on national security grounds."

Similarly, nobody outside the Kremlin knows just how much money the West has lent the communists to rejuvenate their economies and fatten their already bloated military establishment. Swiss banking sources put the figure at $40 billion. Even allowing for inflation, this is 25 percent more than the United States lent West Europe under the Marshall Plan. And many of the loans have been made at artificially cheap interest rates that are tantamount to foreign aid. For example, from mid-1972 to mid-1974 the U.S. Export-Import Bank made available $469 million to enable the Russians to buy machinery, foundaries, factory equipment—all long-term loans extended at interest rates of 6 percent, at a time when American home buyers and businessmen had to pay 9 to 12 percent.

EUPHORIC EXPECTATIONS

The communist campaign to obtain foreign aid began in the early 1970s after Kremlin recognition that the Soviet bloc was falling further and further behind the West in overall industrial technology. Soviet science equaled Western science. But the woefully inefficient Soviet economy was increasingly incapable of translating laboratory theory into products from the assembly line. Soviet leaders could have cut back their ever-growing arms budget and loosened the bureaucratic fetters that prevent Russians from developing their own know-how. They chose otherwise. As Marshall Shulman, now the Secretary of State's adviser on Soviet affairs, put it:

"Rather than face the politically painful choice of instituting fundamental economic reforms, the Soviet leadership has opted for a massive effort to overcome its shortcomings by increasing the flow of trade, advanced technology, capital and management experience from abroad."

Soviet delegations began appearing at corporate offices in New York and at businessmen's luncheons, at Pennsylvania, Ohio and California factories, at aircraft plants, at receptions and parties all over the country. These delegations took great pains to create the impression that the Soviet Union represented an untapped market where huge, lucrative orders awaited American businessmen with the vision and daring to go after them. America, announced Soviet Ambassador Anatoly Dobrynin, could well become "Russia's largest trading partner."

Many Western specialists in Soviet affairs comprehended from the beginning what the communists intended—indeed, some of the most lucid warnings came from liberal academicians who could not possibly be accused of being cold warriors. Observed Marshall Goldman, associate director of the Russian Research Center at Harvard University: "American-Soviet trade is a relatively cheap way for the Russians to obtain our advanced technology. This technology is intended not only to increase Soviet economic productivity but its military capabilities."

Such words of caution, though, were lost in the euphoria and extravagant expectations that accompanied the dawn of détente. Secretary of State Henry Kissinger, for one, saw trade as a means of drawing the Russians into a maze of mutual interests that would make them less belligerent. The Chamber of Commerce of the United States and the National Association of Manufacturers claimed East-West trade would generate new jobs for Americans. Back from Moscow, PepsiCo board chairman Donald Kendall told the press: "The Russian consumers have money to spend and are ready to buy."

NO SALE

And so it began. Exploiting Western naïveté, goodwill and eagerness to enter the Soviet market, the Russians from the outset proved to be hard and sharp bargainers, often able to acquire invaluable technology or its fruits at a fraction of the original cost. One of the biggest technological steals occurred in the 1975 Apollo-Soyuz space shot. Zbigniew Brzezinski, now the President's national security adviser, correctly labeled this joint venture "a vehicle for the one-sided transfer from the United States to the U.S.S.R. of a technology that has obvious military applications." NASA technical specialists interviewed by Senate investigator David Rosenbaum were convinced the Russians learned much of importance from us, while we learned nothing useful from them.

The Russians also sought to acquire free technology by raising prospects of grandiose deals that were never to materialize. In 1973, for example, they suggested that they wanted to buy wide-bodied American jets and have Americans build vast aircraft factories for them. Despite Defense Department misgivings, the Nixon Administration allowed a Soviet delegation to tour the Lockheed, Boeing and McDonald Douglas factories—as well as aircraft-engine plants—ostensibly to discuss purchases running into hundreds of millions of dollars.

Among the Russians admitted to sophisticated U.S. assembly lines were at least four officers with KGB connections, and a general formerly attached to the Soviet bomber command. At all three aircraft plants, the communist visitors asked hundreds of extremely detailed technical questions about manufacturing equipment and processes. To some present, it was clear that they were far more interested in learning how to make wide-bodied jets than in buying them.

The Russians decided to concentrate on Boeing, and another Soviet delegation visited Boeing's Seattle plant in 1974. This time, though, a Russian secretly confided to an American host: "Look, we're never going to buy American aircraft. After forcing our own allies to buy Soviet planes, how could we possibly fly imperialist planes?"

Boeing officials (who had strictly followed government guidelines throughout) finally concluded that the Russians were unwilling to make any significant plane purchases and broke off negotiations. Declares Gus Weiss, Jr., a senior White House staff member who was familiar with what happened: "In my opinion, this was an industrial-espionage operation, pure and simple, from beginning to end."

KAMA COMPLEX

U.S. industrial and military prowess depend heavily upon computer technology. We are in our fourth generation of computers, at least ten years ahead of the Soviets. It is difficult to conceive of any American purpose that might be served by assisting the Russians in narrowing or overcoming our lead. Nevertheless, the U.S. government has approved the sale of more than 70 modern computers, including some models employed here in sensitive scientific, military and intelligence undertakings. A $10-million computerized reservation system sold to Aeroflot in 1975 will improve the Soviet airline's ability to process passengers and compete with Western airlines. It will also enhance Aeroflot's ability to transport troops should the Russians decide to land forces in Eastern Europe as they did in 1968, or in the Middle East as they threatened in 1973. And a computerized reservation system sold to Intourist last year will help Soviet secret police keep closer watch on travelers.

The communists additionally have induced the West to design and equip for them whole factories whose output can be put to military use. A notorious example is the $5-billion Kama River truck factory now being completed 600 miles east of Moscow. Encompassing 40 square miles, auxiliary factories and foundries and a whole new city of 500,000 inhabitants, the plant will be the largest single industrial complex in the world. It is designed to manufacture 150,000 three-axle trucks and 250,000 diesel engines annually—more than all U.S. companies combined.

Overriding Defense Department objections, the Nixon Administration in 1971 encouraged a number of American companies to participate in the Kama River project. About 80 U.S. firms eventually joined West European and Japanese concerns in supplying equipment and technology, some of it more advanced than any currently utilized in the free world. To ease the financial strain on the Russians, American lenders supplied much of the capital. And the United States authorized sale of a major computer system the Russians needed to manage the complex. Trucks for the Soviet "blitzkrieg regiments" now poised on the West German border come from the Kama River plant, and assembly lines there can easily be modified to produce armored vehicles.

One of the most wondrous fruits of American innovation is the semiconductor, a tiny silicon chip that performs work which formerly only a big computer could do. Semiconductor technology is the essential element in the hand-held calculator, the digital watch—and the laser-guided bomb. Future military strength will depend heavily upon this technology in which the communists lag far behind the United States.

Nevertheless, in 1972 President Nixon twice overruled his scientific advisers and approved the sale of semi-conductor technology to the communists. Subsequently, a West European concern supplied know-how for several semiconductor plants in Poland and helped set up another such plant in Romania.

SOMETHING COMMENSURATE

Much as they already have siphoned out of the West, the Russians are hungry for more. Party Secretary Leonid Brezhnev wants the United States to dispatch equipment, expertise and untold billions of dollars to develop Siberian oil and gas. He wants Western concerns to design and help build still more factories. Most of all, he wants even more advanced Western technology.

Last spring, President Carter blocked the sale of a powerful computer to the Russians. Yet the President says he is unconcerned about mounting Soviet indebtedness to the West, and adds that he favors increased trade. Thus it appears that the Carter Administration has not yet formulated a clear policy toward commercial relations with the Soviet bloc. The time to do so is now, for few issues confronting the United States are more urgent. As J. Fred Bucy, president of Texas Instruments, Inc., and a member of the Defense Science Board, warns: "By continuing massive transfusions of advanced technology, we ultimately will lift the level of the whole Soviet economy. We then will have to allocate a much larger share of our resources to armaments to offset the surge in communist military power we ourselves have made possible."

If the economic and security interests of the West are to be safeguarded, then the industrial democracies must agree upon a unified policy controlling the export of technology and capital to the communists. Such policy must emphasize the long-range welfare of the alliance above the transient commercial interests of any one country or private corporation. It must strictly prevent the gift of advanced technology which the communists cannot acquire except through costly and time-consuming expenditure of their own resources. Finally, the collective Western policy must, for a change, ensure that in return for what we give the communists, we receive something commensurate. After investigating post-détente Soviet-American trade practices, the General Accounting Office advised Congress: "There is no evidence that any Soviet foreign-policy concessions were sought or obtained by the Executive Branch during negotiations for the 1972 trade agreement or the 1974 long-term agreement, or in exchange for extension of credits or favorable decisions on export licenses."

As former Under Secretary of State George Ball puts it: "If we are to continue to act out the charade of détente, we must insist that the Soviets cooperate with us in solving common world problems."

IRISH FOREIGN MINISTER MICHAEL O'KENNEDY'S ADDRESS IN NEW YORK CITY

Mr. KENNEDY. Mr. President, the Minister for Foreign Affairs of the Republic of Ireland, Mr. Michael O'Kennedy, is currently visiting the United States as a member of Prime Minister Jack Lynch's newly elected government. In recent years, as the spokesman on foreign affairs for the opposition party in the Dail, Mr. O'Kennedy acquired an excellent reputation as a thoughtful and persuasive analyst of foreign policy issues, and I welcome the influential role he is now able to play on behalf of Prime Minister Lynch.

On Saturday, Mr. O'Kennedy spoke in New York City to the St. Patrick's Society of Brooklyn. In his address, he discussed at length the current situation in Northern Ireland and his government's policy in seeking a just and peaceful settlement and an end to the violence there.

Mr. President, all of us who are concerned about the continuing tragedy in Northern Ireland are hopeful that the efforts of Mr. Lynch and Mr. O'Kennedy will be successful, and that an early settlement may be achieved. I believe that Mr. O'Kennedy's analysis of the current issues will be of great interest to all Members of Congress, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ADDRESS BY MINISTER FOR FOREIGN AFFAIRS TO A RECEPTION HOSTED IN HIS HONOUR BY THE ST. PATRICK'S SOCIETY OF BROOKLYN AND EMERALD ASSOCIATION, AT NEW YORK, OCTOBER 1, 1977

Mr. Chairman, Reverend Fathers, Ladies and Gentlemen:

This is my first visit to the United States as Minister for Foreign Affairs of the Government of Ireland and I am honoured and delighted to have an opportunity to address such a distinguished gathering of Irish-Americans on my Government's behalf.

The St. Patrick's Society of Brooklyn is, I understand, the oldest Irish charitable society in the New York area and it has over many years brought comfort and relief to many in distress in this great city, and at the same time, has brought honour to the name of the Irish community in Brooklyn and throughout the metropolitan area. "Ar scath a cheile 'sea mhaireann na daoine"—"people survive through depending on each other"—is an old Irish principle of charity and welfare exemplified by this great Society and its distinguished president, Mr. Jim Moriarty.

The strength and variety of the Irish contribution to the life of America and particularly to the greater New York area are exemplified also by the Emerald Association who are our co-hosts tonight and by the wide spectrum of Irish-American organisations who are represented here by such distinguished leaders and representatives.

My first purpose here today is to bring to you, and to the Irish-American community at large, warm greetings from my Government and people and to assure you that my Government places a high priority on maintaining and developing the relations based on blood, common heritage and friendship which we have always enjoyed with you. I bring you particular greetings from a Government elected some three months ago and the message I bring is one both of hope and of confidence—confidence in our own capacity to deal with the economic and political situation with which we are faced.

In the first hundred days of our Government what we have done is to lay the foundations and the framework of an overall plan to deal with the realities of the Irish political and economic situation. I wish to tell you what it is we want to achieve and how we are setting about our task and I hope that as the years go on further opportunities will arise to report to you on the progress being made. In return I ask for your interest, your support and your understanding. The relationship between Irishmen at home and Irishmen in the United States has flourished on the basis of mutual trust and confidence and I, for my part, can assure you that that is the framework within which I intend, during my time in office, to work together with you.

We are a small country with a population much smaller than that of New York but we are proud to play our role as a sovereign State in the world. In doing so we know we have the support not only of our own people but also of the many millions of Irish descent around the world and, in an especially intimate way, the Irish in America. In another sense we feel that you in many ways represent us in America, and your success in American life and the recognition that your enormous contributions to your community here have been accorded have given us enormous encouragement over several generations in our efforts to establish a modern, just and prosperous community. "If we could do it in America, we can do it in Ireland" was a saying that summed up for

many Irish people the reason for their confidence about their own future. That remains true and valid today.

Notwithstanding the fall off in emigration from Ireland to the United States, I want to say that this should not in any way diminish our warm regard for you, the Irish-American community, or our commitment to maintain close contact and good relations with you on the basis of mutual trust and confidence. We welcome your visits to Ireland and the interest you take in what is happening there. I always feel that personal observation of Ireland gives an important insight into the developing situation there and hope that you will be encouraged by the clear evidence of success in the implementation of the programmes of my Government. While we must, as you will appreciate, take our own decisions, we welcome your concern and your constructive interest. Since my arrival here twenty-four hours ago, I have had the pleasure of meeting your distinguished Secretary of State, Mr. Vance, and I will, in the course of the next few days, be meeting with good friends of Ireland in the political life of your country and also with representatives of the principal Irish-American organizations. My purpose in these meetings is to listen to the American views on our relationship and in turn to give an impression of how we in Ireland see the way ahead.

Earlier this year we were greatly encouraged to see some of the principal figures in American national political life, themselves of Irish descent, coming together to give a lead to American and particularly Irish-American opinion on the tragic problem of Northern Ireland and here I would like to pay a special tribute on behalf of my fellow-countrymen to Speaker O'Neill, to Senator Kennedy, to Senator Moynihan and to the Governor of this great State of New York, the Honorable Hugh Carey. Irishmen of all traditions heard their appeal for an end to violence in Ireland and for support for negotiations and were encouraged by it. We were encouraged again and are particularly grateful for the interest of President Carter who in August issued a statement in which he called for a just solution to the problem of Northern Ireland which would involve both parts of the community there, would have the support of the Irish and British Governments, would protect human rights and would guarantee freedom from discrimination. We welcomed President Carter's statement for a number of reasons.

Firstly, it was a recognization by him of the essential and legitimate role of the Irish Government in finding a just settlement to the problem in Northern Ireland. Secondly, we welcomed his undertaking that in the event of such a settlement the Government of the United States would be prepared to join with others to see how additional job-creating investment could be encouraged. This offer is one which poses on us obligations to work with even greater determination towards finding a settlement and I hope that we, for our part, will not be found wanting. In response to the President's statement, my Government issued the following statement:

"President Carter's statement is a constructive development in American relations with Ireland and Britain and reflects the traditional generosity of the American Government and people and their interest in Ireland. The President has placed himself firmly on the side of very distinguished American leaders who, in the President's words, seek peace and reject violence.

"It is particularly useful to emphasize that the problems of Northern Ireland have many dimensions, of which any effective and realistic solution must take account. President Carter rightly underlines the importance of finding a just solution by peaceful means, which protects human rights, in which both parts of the community in Northern Ireland as well as the Irish and British Governments will be involved.

"The Irish Government also welcomes the renewed American commitment to continue vigorously to apprehend and prosecute those who violate U.S. law in the respect of supporting with financial or other aid organizations involved directly or indirectly in violence in Northern Ireland, irrespective of the political or religious sympathies of those involved."

We in Ireland appreciate this American commitment since, as you are no doubt aware, finacial and other aid from a minority in the Irish-American community in recent years has only delayed the achievement of the objective to which we all here and in Ireland subscribe. You yourselves will have realised that, after eight tragic years of violence, the small minority who have provided aid to the IRA is diminishing. I thank you for the part you have played in this process and appeal to you to continue the good work of explaining to your friends the many positive and constructive ways in which they can support the cause of Ireland.

Of course, there have also been external sources of aid to the loyalist para-military organizations which have been involved in some of the most horrific and repulsive incidents of violence that the period has seen. In our talks this week with the British Government, we impressed on them the need to intensify their efforts to stop the material aid which fuels the loyalist campaign of violence.

We know that the responsible concern of many Irish-Americans played an important part in these developments. We thank you for this concern.

Let me tell you plainly what the position of my Government is in relation to the main political problem in Ireland. It is a central aim of our policy, and one which, I believe, we share with most Irish-Americans, to secure by peaceful means and through consent the unity and independence of Ireland. At our meeting with British Prime Minister Callaghan in London earlier this week, the Taoiseach, Jack Lynch, and I made clear our view that it was in the interests of all the people of Ireland, and of Anglo-Irish relations generally, to work towards coming together by consent and under agreed, negotiated structures. This has been and remains our long-term aim and it would be dishonest to pretend otherwise.

At the same time we recognize that, in the short-term, all of us in Ireland, regardless of the political tradition to which we belong—be it nationalist or unionist—must recognise that no real progress will be made without reconciliation and trust. I have spoken of the fundamental principle of mutual trust and confidence which forms the basis of the relationship between the Irish in America and the Irish in Ireland. The same principle must guide us in reconciling the different traditions in Ireland and we must work honestly and constructively to find a just solution by peaceful means.

We in the Irish Government recognise, as President Carter acknowledged in his statement, the economic dimension to the problem and we have clear guidelines within which we will work at national and international levels to support constructive moves which would contribute to improving the lot of the people of Ireland, North and South. I am glad to be able to report to you that at the meeting with Prime Minister Callaghan this week, the Taoiseach and I secured agreement with the British Government to take immediate steps together to increase economic cooperation between both parts of Ireland. Meetings will shortly be held to review current and proposed cross-border economic studies and to identify subjects and areas for further examination, with support from the European Economic Communities where appropriate.

This constructive step in the interest of all the people of Ireland and based on agreement secured in a spirit of mutual trust and confidence is, I hope, the first of many such steps some of which I hope will involve, in a supportive role, not only the European Economic Communities but also lay the framework within which the timely and generous offer of your President can be accepted. He has promised that in the event of a peaceful settlement, the United States Government would be prepared to join with others to see how additional job-creating investment could be encouraged.

I have spoken of the need for reconciliation and the basis of mutual trust and confidence which is fundamental to the process of reconciliation. No progress can be made without reconciliation and one of the greatest obstacles to reconciliation in Ireland in recent years has been the campaigns of violence—the violence of the IRA and the violence of the Loyalist para-military organisations. This violence has not and will not contribute to bringing the people of Ireland together. The Irish Government totally rejects the use of force towards achieving its aims and unequivocally condemns violence from whatever source it comes.

I invite you to examine the developments in Ireland and particularly the tragic events in Northern Ireland in recent years and draw your own conclusions. Violence has created distrust, fear and hindered progress at all levels. I appeal to men of violence and to their supporters: give it up. Your approach has not and will never work. At times, all of us, both at home and here in the United States, have been impatient with the slow, painful path of progress towards our objective. But this can never be a justification for embracing the violent path. I am speaking to you to-night as the representative of an Irish Government which has recently taken office with a strong mandate from the people of Ireland. We are entitled to the opportunity to try to fulfill the programmes which we have been elected to office to implement. Nobody has the right to thwart the mandate given to us so recently and so clearly. The way to unite the people of Ireland is by negotiation, by agreement and through peace.

However intractable the problem may now seem, Irish people of different views will hammer out a just solution recognising, as your great U.S. democratic system does, the richness and diversity which springs from the merging of different traditions. We confidently believe that Irish men and women can, while retaining a pride in and consciousness of our glorious past, can move forward within the framework I have outlined, to create a future of which all of us can be proud.

UNITED STATES TO INCREASE ENERGY IMPORTS

Mr. STONE. Mr. President, earlier during the Senate's debate on the matter of natural gas pricing, I raised the point that the United States is beginning to import natural gas supplies from other countries because domestic production no longer meets our needs. I pointed out the potential danger that the United States faces if we increase our dependence on unreliable, foreign sources of energy. Because of this potential danger, it is imperative that we provide effective incentives for greater domestic production of oil and natural gas.

The October 2, 1977, edition of the Washington Post included an extensive article on U.S. intentions to import large

amounts of oil and natural gas from Mexico. This article points to the fact that the Federal Government is likely to authorize the importation of natural gas from Mexico at prices greatly in excess of President Carter's proposed ceiling price for domestic natural gas.

It is unlikely a deregulated price for new domestic natural gas would be higher than the price the United States will have to pay for imported Mexican natural gas. This dramatizes the concern I have about the consequences of failing to encourage greater domestic energy production. Although the United States will most certainly need to import large amounts of oil and natural gas to fuel our expanding economy, it is unacceptable to me that we would not do everything reasonably possible to meet our needs through domestic energy resources.

CHILD HEALTH DAY

Mr. RIBICOFF. Mr. President, I was pleased to see that President Carter has designated today as Child Health Day. On this day we should pause a moment and think about the importance of healthy children to all of us. We often say that our people are our greatest asset. We recognize America's children as her future. Yet children who are denied their health, children who are denied adequate health care, are handicapped as adults.

In 1967 the Congress adopted the early and periodic screening, diagnosis, and treatment (EPSDT) program. This program aimed to improve the health of poor children in the United States. We set as a goal finding and treating those ailments that inhibit the child's future progress. Some health problems in children are relatively minor—if they are found in time. Some may require more extensive treatment. But it is better to catch these ailments in the child than to wait until they are crippling problems in the adult.

Unfortunately, the promise begun with the EPSDT program has not been completed. It took the Department of Health, Education, and Welfare 3 years to issue regulations for this program. It took some States longer to act.

A number of surveys and studies have made the shortcomings in the program evident. Only about 2 million of the estimated 12 million eligible children were screened in 1976. Twenty-two percent of those screened and found to need treatment do not get it. And in 34 States the program ignores 700,000 children under the age of 6 who are poor enough for medicaid but who do not meet categorical requirements.

On April 25, I was joined by Senators HATHAWAY and KENNEDY in introducing a bill to improve the early and periodic screening, diagnosis, and treatment program under medicaid. The child health assessment program would broaden coverage and strengthen our commitment to finding and treating health problems among poor children.

The administration's proposal is not perfect. It does not go far enough in encouraging coherent planning by the maternal and child health agencies in a State and the medicaid lead agency. These should work together when the goal is health services for poor children. We will have to examine closely just how coverage is defined. However, the bill does represent a step in the right direction.

An increase in the Federal matching rate for CHAP services will lessen the burden of medicaid services for children on the States. It will also be a recognition of the Nation's responsibility to the health of its poor children. We will look carefully at provisions for outreach to bring eligible children into the program. We need to emphasize case management to reduce the number of children "lost" between screening and treatment.

Congressman ROGERS has already held hearings before the Health Subcommittee of the House Interstate and Foreign Commerce Committee. Markup has not yet been scheduled. I am hopeful that the Finance Committee's subcommittee on health may find time for a hearing this year.

Mr. President, I ask unanimous consent that the text of the President's proclamation be printed in the RECORD.

There being no objection, the President's proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

This Nation was established to provide its people with the chance for better lives. Our early settlers and those who expanded the Nation westward bore their sacrifices and hardships with the assurance that in this free land future generations would enjoy opportunities still undreamed of.

The health of America's children today often determines what their future can be tomorrow. Over the years the number of deaths among babies has been drastically cut and we have made great strides toward eliminating the diseases and handicaps of childhood. We still have much to learn and accomplish, especially in the areas of birth abnormalities, child abuse, teenage alcoholism and drug addiction, lack of availability of medical care, and damage brought on by environmental factors.

But it is tragic for a child to die or endure lifelong handicaps from conditions we can prevent. Although such diseases as polio, measles, rubella, diptheria and whooping cough have been subdued for the time being they are not beaten. It is in our power to protect all our children, but nearly 40 per cent of those under the age of 15 are inadequately immunized. Some of these children will die or have serious disabilities and unborn babies will be permanently damaged from these preventable diseases and their complications.

No American child should die or suffer needless handicaps from diseases for which safe and effective vaccines are readily available. Neither should any child be deprived of adequate nutrition or a safe environment. While pushing back the walls of our knowledge and improving medical techniques may be restricted to scientists and medical expert, this is an area where every citizen can have an impact on giving our children the opportunity for better health, both now and in the years to come.

To encourage awareness of the fundamental necessity of a year-round program for the protection and the development of the Nation's health, the Congress, by joint resolution of May 18, 1928, as amended (36 U.S.C. 143) has requested the President to issue annually a proclamation designating the first Monday in October as Child Health Day and calling for its appropriate observance.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim Monday, October 3, 1977, as Child Health Day. I invite all Americans, as well as all agencies and organizations dedicated to the well-being of children, to unite on that day in support of activities that will alert each of us to our separate and collective responsibilities to protect and enhance the health of America's children and to provide them with the opportunity to live in safety and to grow up strong and knowledgeable about their own and their families' health needs.

In Witness Whereof, I have hereunto set my hand this twentieth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

IMPACT OF NATURAL GAS DEREGULATION ON CONSUMERS

Mr. KENNEDY. Mr. President, this morning the Antitrust and Monopoly Subcommittee convened a special session to focus on the implications of natural gas deregulation. That subcommittee has been looking at matters relating to the gas industry and the Federal regulatory machinery for almost a decade. In light of the heated debate on the Senate floor over the past weeks, we decided to look again at what deregulation will mean for the American public.

While we had extremely eloquent and persuasive testimony from Esther Peterson, the President's Assistant for Consumer Affairs, from Ralph Nader, and from utility commissioners of three States, the issue was joined most poignantly by our final panel. Joining mayors from Huntingburg, Ind., and Crystal City, Tex., were a number of concerned citizens from across the country: Ms. Dorothy Ryan, president of the Ohio State Council of Senior Citizens; Ms. Gale Cincotta from Chicago; Mr. Vincent Steffen, an Iowa farmer; Mr. David Garner from Carterville, Ill.; and Ms. Natalie Schneiderman, of Chelsea, Mass.

I wish that we had the transcript from that hearing already, because I think each of my colleagues would be interested in what these people had to say about how they and their friends and neighbors would be affected by the increase of natural gas prices that would be brought about with deregulation. Children would go cold. Older persons would be forced to choose between going hungry or sick or cold. Schools would shut down. Farmers would go broke. And the despair and hardship which hit so many last winter when the cold wave hit and the heating bills skyrocketed would be magnified and multiplied.

Two of our witnesses did have written statements, and they illustrate the force and emotion of the hearing generally. I commend these as examples of what I know to be the strong feelings in all parts of the country on this issue, and I ask unanimous consent that the statements of Ms. Schneiderman and Ms. Cincotta be printed in the RECORD.

There being no objection, the state-

ments were ordered to be printed in the RECORD, as follows:

STATEMENT OF MS. NATALIE SCHNEIDERMAN, CHELSEA, MASS.

Thank you for this opportunity to speak to you on the subject of deregulation of natural gas prices.

My name is Natalie Schneiderman. I am a lifelong resident of Chelsea, Massachusetts, a parent, and the person in my family who pays the bills. Because I do pay the bill, I have had the chance to watch gas bills in the greater Boston area creep up and then take off. Since seeing my fixed income eaten up by the gas bill, the light bill and the oil bill, I've been working with my neighbors in Chelsea and with people throughout Massachusetts to try and keep the bills down. We call our organization Massachusetts Fair Share, and we now have thousands of members throughout the Commonwealth working together to try and make sure that we all make it through next winter without ending up in the poorhouse.

For the past few weeks we've been watching the debate down here in Washington about deregulating natural gas. The most interesting thing I've seen is the attempts by the oil companies to convince the people that higher prices are good for them. As best as I can understand it, the oil companies are saying that if Congress lets them raise the price of natural gas as much as they can get away with, there won't be any more shortages.

In Massachusetts, we like to think of ourselves as some kind of national leader, and I'm forced to report that we already lead the nation in "enjoying" the "benefits" of deregulation. Since our gas companies use more imported Liquified Natural Gas than the companies in other States, we didn't have much of a shortage of *Natural Gas* last winter. Our gas companies (I say our gas companies because they are the ones we seem to be stuck with) simply bought more Algerian LNG, pumped it into storage tanks, many of which are located near by home, and sold us the gas at about a 25% markup. We didn't have a shortage of natural gas—we had a serious shortage of *money* to pay for the natural gas. We didn't have much of a problem of factories being closed down to save gas—gas is so expensive around Massachusetts already that factories with any choice at all don't use it. Mostly they heat with imported fuel oil. The oil companies which produce natural gas look like they're giving us a choice—either you don't get enough gas, or it costs too much to buy. Last winter a lot of places were on one side of this choice, and we were on the other side. It's a lousy choice.

Right now people in Chelsea and Boston who use gas for cooking and hot water end up paying between $30 and $50 every two months. My friends who heat with gas (and about one family in six does heat with gas) end up paying $100 per month or more during the winter, even when they only have a small apartment. And during the months that were the coldest when Boston Gas used a lot of imported LNG, the heating bills would jump $10.

Last winter, thousands of people couldn't keep up with their bills. Fair Share and others got most gas companies to agree not to cut people off during the winter. In Fall River, where, the gas company didn't agree to delay shut-offs, only sustained public pressure and some federal money, avoided tragedies.

Since then, the Federal Government has had to give the utility companies in Massachusetts literally millions of dollars to pay outstanding bills for the poor and elderly. Those unlucky enough to be slightly too well off to qualify have been really hurt, as have the thousands of poor people who do not know about the government aid programs.

Meanwhile, the gas companies have been announcing record profits. Boston Gas collects every penny from those who can afford to pay, gets a big check from Uncle Sam for part of the bills it can't collect, and raises rates to the rest of us to cover anything that's left over. It's really a pretty good racket. The only problem with it is that there are a lot of people in Chelsea, Boston and throughout Massachusetts who don't know how they are going to find the money they need to heat their homes this winter.

Now we've been reading that you are considering "deregulating" the price of pipeline natural gas. Exxon buys time all around the evening T.V. news on all three networks to tell us that "deregulation" of natural gas prices is the best thing for us since fresh vegetables. The Mobile Oil Co. has been buying a lot of space in the Boston Herald and the Globe to tell us the same sort of thing. And a lot of Senators, mostly from states with pretty mild winters, I think, seem to agree with the oil companies.

Now "deregulate" is a long word, and everyone tells me that it's hard to figure out what deregulation will mean to a person living in Chelsea, Mass. I wish I could tell you exactly what deregulation would do to my gas bill. I do know for sure that if the price of natural gas is deregulated, my bill is going *up* not down, and I know that where I live, the bills are already too high. If you deregulate natural gas, you should be prepared to spend time during this winter finding federal money to give away to prevent people from freezing.

Now some people in New England have been saying that deregulation of gas prices would be good for our region. Since we use less natural gas than other areas, these people say, deregulation will hurt other areas of the country more than it will hurt us, so we'll get back some of the ground we lost when the Arabs and the Big Oil companies raise oil prices. This has to be the dumbest idea going around. It doesn't do me a bit of good to know that my gas bill went up less than someone in Ohio's did. I don't have trouble paying bills in Ohio—I have trouble paying my bills in Chelsea, Mass. As far as I can see we're all in this thing together—except that the oil companies are making out like bandits.

From where I sit, this whole deregulation business looks like fraud—the oil companies don't produce gas, create shortages, import foreign gas at outrageous prices, and then demand that you allow them to raise prices on domestic gas. We're getting to understand that getting robbed by an oil company isn't even page three news anymore, but the last thing we need is for Congress to legalize this sort of robbery. Deregulation is a big fraud—people who have to pay gas bills to keep warm, or to cook their food haven't been fooled. I hope that the U.S. Senate isn't fooled either.

TESTIMONY OF MS. GALE CINCOTTA, CHICAGO, ILL.

Across the country, community people are feeling the effects of another unaccountable force destroying our cities. This time, though, it is not coming from the banks or from HUD—but from the monopolizing energy industries. These giant industries provide us with our gas, oil, or electricity—for an exorbitant price. And how are we finding out about these rip-offs? It is simple. All we have to do is to look at our utility bills from these companies.

The energy industries and their stockholders are reaping the benefits from our soaring utility bills. Commonwealth Edison of Chicago reported profits of $241.8 million, a 16.9 percent increase over the previous year. People's Gas of Chicago reported profits of $113 million, a 17.6 per cent annual increase in profits, while their shares rose 39 per cent. Gulf Oil Corp.'s annual report shows that, "This year the grin is in", and that the smiles in the boardrooms are from ear to ear. Many companies, such as Northern Natural Gas Company, are advertising for more stockholders through campaigns about their increasing profits. All this demonstrates that the priority of the energy industry is their executives and their stockholders, while they continue to neglect their responsibility to the consumers of America.

Because of the rising utility bills in the winter of 1976 through 1977, people were forced to make a far-reaching decision—which bill to pay. In many cases, the utility bills were higher than the mortgage or rent. For the first time, many people were faced with not having enough money to pay all their bills. It has come to the point of choosing which is more important—a place to live, heat, or food. Many people had their homes foreclosed. Many resorted to eating garbage or dog-food. Many went without heat and became sick or died. As stated by David S. Schwartz, an adjunct professor in economics at Michigan State University Public Utilities Project in Bethesda, Maryland, "There is no protection for the consumer whatsoever."

This all leads to the destruction of our neighborhoods. People have had to abandon their homes because they could not keep up with the mounting bills. The Sallis family of Chicago had their gas shut off and then had their home foreclosed because of the mounting bills. This new cause of abandonment leads to the further decay of our nation's cities.

America has become so large that we forget where we come from, the grass roots. Thirteen disorganized colonies who demanded representation if there was taxation. A president who was born in a log cabin and issued an emancipation proclamation. A country that would respond to human need after a devastating war in the form of a Marshall plan. The strength of this nation has been that we always have had the belief in the rights and dignity of the grass roots people.

What is happening today in America is that the little people are being told that they do not count, they will be used as children in the Crusades, they will be the victims of big business.

Point: The Sallis family, 2217 W. Cortez, two children, income $12,400. Mr. Sallis was injured on his job. Their monthly mortgage payments were $155.60. Then came the winter of 1976–77, and the utility bill for January was $185, and for February $147. Without his regular income, the family could not pay both the heating bill and the mortgage. Today the Sallis family is renting an apartment, and I am sorry to say, the Sallis family have lost the American dream of owning their own home, because someone wanted to earn 17.6 per cent return on their money. The Sallis family is now on public assistance—not because of laziness, not because of an inherited public welfare syndrome, not because they want a free ride, but because of the profit motive of the energy industry.

Point: Mrs. Stanley Koziol, widow, senior citizen, with one son who was killed in the armed services. She receives $230 a month in social security. In February of 1977, her heating bill was $180. That meant she had $50 to live on. When people have spent their life working, and have given up a son for America, we ask them to live on $50 a month. Because of last winter's cold, Mrs. Koziol had to give up her home and move into a senior citizen's housing project and go on public aid.

Our government is telling the Sallis family, Mrs. Koziol, and the American people: pay your taxes, give us your sons, and in return we will give you a gold star and high utility bills.

That, Senator Kennedy, is what led to the first revolution of America, when 13 colonies said they would not accept taxation without representation.

People do not know the difference between new and old gas. To them interstate and intrastate rates do remain a mystery. What people do know is cold showers and cold meals as pointed out in yesterday's New York Times article on Crystal City, Texas. As the Mayor of Crystal City will tell you, the people there are being charged $2.05 for a thousand cubic feet of natural gas. High prices for natural gas has reduced consumption there to zero. How many other horror stories will occur when the temperature goes below zero?

And what is the Senate doing but filibustering this debate of the Century on deregulation to death, and possibly leaving the question unresolved until they reconvene in January. By then there will be hundreds of people who literally have been filibustered to death without ever having had any input into this question of natural gas pricing. Who have had input and who have been allowed to make their voice heard in the halls of Congress? Certainly not the American people.

When National People's Action had 2,500 people in Washington on June 12 and 13, they attended Rep. John Dingell's House Subcommittee on Energy and won some hope of utility rate reform. Now we find that the Senate has killed that hope by refusing to federally mandate rate changes to reflect actual delivery costs of electricity and natural gas. And meanwhile, thousands of high industry lobbyists have persuaded members of the Senate to kill the Administration's proposal to continue controls on natural gas and extend them to the intrastate market.

Now we find out that the latest compromise is offering a ceiling of $2.03 per thousand cubic feet and no extension of controls to the intrastate market. What kind of compromise is that to the people of Crystal City, Texas, who cannot afford $2.05? This Senate debate is only serving to pit consumers against the industry. Our national energy crisis is rapidly becoming an energy civil war.

If there really were an energy crisis, we would all be working together. But instead the debate has centered on providing incentives to the energy industry to profit off America's energy problems. The Senate is forcing the people of America into a fight for survival, a fight for their right to heat their homes and feed their children. The Senate is not debating how to keep our schools and factories open. They are debating how many "incentives" the energy industry needs. But when you translate the word "incentives" into English and take it out of the hands of Texas oilmen who are talking about it as a bigger rate of return, "incentives" translate into higher profits. If there were an energy crisis, the Senate would be discussing hardships on people and not incentives for profit. How do you expect the American people to believe there is an energy crisis when there is no other incentives for the energy industry besides profit?

I ask you, Senator Kennedy, who is running this government? On April 20, 1977, when President Carter announced his National Energy Plan, he stated: "We must make it clear to everyone that our people, through their government, will now be setting our energy policy." Obviously, this was not clear to many members of the Senate who are more concerned with corporate contributions for their next campaign than whether their constituents are still alive to vote in the next election. Who is the Senate trying to kid? Is our government going to insure the American people's right to their own natural resources or is our government concerned with smiling faces in the corporate board rooms?

If the Senate condemns the American people to the unregulated price gouging of the energy industry, they are admitting that the energy crisis is a crisis of profit.

The Senate is condemning America to a civil war of profits versus people. A vote for deregulation is a vote for assuring the profits of a few at the expense of the good of the majority. The only alternative to prevent a crisis of confidence in the American government is to vote against deregulation and to reconsider lifeline legislation.

America has always prided itself on being a government of, by and for the people. This is the cornerstone of our entire human rights campaign. If we are to be about the business of insuring the human rights of Americans, now is the time for the Senate to tell the energy industry: "Ask not what your country can do for you, but what you can do for your country."

THE LIMITS OF THE LAW

Mr. MUSKIE. Mr. President, George J. Mitchell, Jr., recently confirmed as U.S. attorney for Maine, reflected last Law Day on the nature and limits of our Federal court system. His remarks pose the difficult question of the extent to which our judiciary ought to be a tool for social action. I found his conclusions extremely nourishing food for thought. His remarks were excerpted in the summer 1977, issue of the Bowdoin Alumnus. To share his view with my colleagues, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT ARE THE LIMITS OF THE LAW?

(By George J. Mitchell, Jr.)

Law Day is traditionally a time for lawyers to explain our judicial system to laymen, usually in glowing terms. However, there is a subject involving the law which, in my opinion, deserves more public attention and discussion than it has received to date.

I call it the limits of the law. Put in question form: Are we—the American people—trying to use the courts to solve problems they are not equipped to solve?

Beginning with the first administration of Franklin Roosevelt there developed in this nation a tendency to attempt to solve our social problems through the instrument of government, primarily the federal government. That tendency reached its peak during the administration of Lyndon Johnson. It has since declined in the face of negative public reaction over its failure to achieve all of its stated objectives. The result is that government action—in any form, at any level—is in public disfavor.

This is not entirely fair, in view of the many accomplishments during this period: reducing discrimination based on race, religion and sex; providing some degree of economic security for those most in need for it, particularly the elderly; expanding the right to vote to millions who had previously been denied that right; marshalling our collective resources to combat the modern scourge of pollution.

But what Mark Antony said of Caesar applies equally to government programs: the evil they do lives after them, the good is interred with their bones. Whether justified or not, a negative public reaction has set in, and as one result the effectiveness of government to deal with any new problem is impaired.

I now raise the question of whether we are in that first stage of glowing expansion with our courts and our entire judicial system. If so, do we run the risk of a later reaction which will impair the effectiveness of the courts to deal with those limited problems they were originally intended to deal with?

I have no magic solution to the problem. Rather, my purpose is to stimulate some thought and discussion on a subject that should concern us all. Consider three separate but related trends.

First, federal and state courts have taken over the operation of local jails in Boston, Baltimore, New York City, New Orleans, Jacksonville, Knoxville and Toledo; state prisons in Alabama, Arkansas and Mississippi; state hospitals in Alabama, Louisiana and Mississippi; and a school district in Boston.

Second, the United States Congress is in effect transferring to the federal courts the administration of a number of federal programs by dramatically expanding the jurisdiction of the federal courts and the concept of judicial review of executive action.

Third, the courts are being used increasingly as a means of achieving a form of absolute equality that threatens the traditional and honorable American pursuit of individual excellence based on reward for effort.

The first trend is the most serious and complex. Those who oppose the courts' action—mostly elected officials in the states involved—contend that the takeovers threaten us with a new form of dictatorship: by judges appointed for long terms, for life in the case of federal judges, not responsible to the electorate, making decisions on matters as basic as taxes and public services. There is something to that argument, but not much. For the reality is that in almost every instance, the courts have intervened only in extreme situations, and then only reluctantly.

Listen to this description which appeared in the *New York Times* of a local jail in Jacksonville: "Persons accused of crimes were placed in holding cells for up to two weeks, where they slept on tile floors or benches without bedding of any kind. The cells were strewn with filth, including human feces, urine and vomit. There were no bathroom facilities in two of the cells and those in the other three often malfunctioned. Often there was no toilet paper. Inmates never had a chance to shower, shave or brush their teeth in these cells and sleep was nearly impossible.

"They also found rats, mice and roaches. The jail had no windows and lighting was so poor that they couldn't read. Food was poor, and mostly cold. Medical facilities were inadequate. Muggings, robberies and homosexual rapes were common. There were no recreational or educational facilities, no visitors, mail was censored and few reading materials and little opportunity to consult with their attorneys."

Perhaps the most striking part of that description is the first four words: "Persons accused of crimes." In other words, the persons held in such conditions had not been convicted of anything; they had only been charged with crimes. Given such circumstances, can a court either legally or morally refuse to intervene?

Interestingly enough, very few of these court decisions have been appealed. The reason is that many public officials in such areas privately thank the federal courts while publicly denouncing them. Because neither the sheriff nor the mayor nor the governor nor the legislature wants to ask the taxpayers for money to improve conditions in prisons or in state hospitals. So when the judge says "Do it or you go to jail," they can do it and blame the courts.

There is no simple or immediate answer

to this complex problem. Certainly the courts must exercise great restraint in deciding where to intervene. If every situation is considered extreme, then of course nothing is extreme. At the same time it is clear that America's greatest treasure, her constitutional guarantees of individual freedoms, belongs to all Americans, including the poor, the retarded, the handicapped, those charged with crimes, and, to some extent, even those convicted of crimes. It is difficult for elected officials in a time of inflation and seething public resentment over high taxes, but if public institutions are to function at all, they simply must function within the framework of the Constitution.

The second trend is less serious and should be easier to resolve. The problem is that in recent years Congress has provided explicitly for federal court remedies and judicial review in virtually every new federal statute, from the Safe Water Act of 1974 to the Endangered Species Act of 1973 and the Older Americans Services Act of 1973. These and other similar legislative actions create new areas of jurisdiction for federal courts, whose time is increasingly consumed in what is really day-to-day public administration. Nearly 75 percent of all the business now before the United States Court of Appeals for the District of Columbia deals with civil litigation involving the federal government. That is obviously the highest percentage in the county because of that court's location, but the trend is similar throughout the country.

In a way, this trend is a tribute to the legal system, for it assumes that judges will act more capably and objectively than will legislators or executives. In reality, judges are no better equipped than either legislators or executives to resolve the complex and conflicting demands in a large diverse nation.

Just as the judiciary must exercise great restraint in deciding when and where to intervene, so must the Congress sharply reduce its tendency to dump all difficult social problems on the courts. As unwieldy and unsatisfactory as our political process seems at times to be, it is still the most effective method yet devised by humans to deal with the problems that exist in any modern society. It is simply no answer to say "Let the judge do it."

The final area of concern is the increasing tendency to use the courts to achieve an absolute equality among all citizens. I yield to no person in commitment to the goal of equal opportunity for all. But equal opportunity guarantees neither equal results nor equal rewards. Jefferson's magic phrase—"All men are created equal"—is simply not literally true. It is true in the sense in which it was intended—in the spiritual sense in that all men are endowed with certain inalienable rights. But it is not true in the physical or mental sense. We are of different sizes, shapes, intellects and talents. There is no way in which the law, or any other human institution, can make us all the same.

Edward Bennett Williams, the famous trial lawyer, put it well recently when he said: "Those who would divide the wealth equally, impose quotas and ratios in education, in employment, and in the political process, regardless of merit, overlook the crucial fact that all human progress throughout history owes its origin to the talented and the enterprising. We must keep a system that allows us to develop and use the talents and excellence of all, no matter what their origin. But if we practice inverse discrimination in the name of a ratio or quota system, we shall deprive the country of some of the real genius and talent we desperately need.

"The really great people of each generation are those who have a commitment to excellence—a commitment to be at all times, in all places, under all circumstances, the very best that they can be at whatever they do. John Gardner said it best in this century when he wrote: 'An excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is a humble activity and tolerates shoddiness in philosophy because it is an exalted activity will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water.' "

My remarks ought not to be construed as favoring the application of the law of the jungle to human affairs. Discrimination on account of race or sex are declining, but they remain facts of American life. There are, and will continue to be, some persons who need and should receive the assistance of society at large. In both of these areas collective action remains necessary. But only to assure equality of opportunity, not to guarantee the equality of results. This can be done. I do not regard compassion and the pursuit of individual excellence as mutually exclusive.

There must be a balance in our system and the balance must continue to include the incentive for each individual to achieve that fulfillment in life which, in Edward Bennett Williams words, "comes not from leisure or tranquility, not from idleness or self indulgence, but rather from striving with all one's physical and spiritual might for a worthwhile objective."

THE 100TH ANNIVERSARY OF THE BIRTH OF FORMER SENATOR CARL TRUMBULL HAYDEN

Mr. DeCONCINI. Mr. President, Friday, September 30, Senator GOLDWATER and I offered a resolution honoring a former Member of this body. Sunday, October 2, marked the 100th anniversary of the birth of perhaps the most influential Arizonan ever—Carl Trumbull Hayden.

Truly, Senator Hayden's record in the U.S. Congress has been unequaled by anyone from any State. He spent 56 consecutive years in the Congress. He represented Arizona in Washington from the State's inception in 1912 until his retirement in 1969.

His congressional accomplishments included several bills that dramatically increased water and power service in Arizona including—after nearly 50 years of hard work—the Central Arizona project. He was also responsible for legislation that heavily bolstered Federal assistance to highway development. But Senator Hayden's stature did not rest solely upon his contributions to the welfare and progress of the State of Arizona. Indeed, he was perhaps best known by his colleagues in the Senate for the facilitative role he played with respect to programs of benefit to every region of this country. He was chairman of the Senate Appropriations Committee for almost 14 years. During that time, Gerald Ford called him a "master of the art of constructive compromise," and Lyndon Johnson once referred to him as "the third Senator" from every State.

He left office with the same wit and eloquence that had graced his 56 years of service. In his retirement speech after seven Senate terms, Carl Hayden said:

Arizona's foundation includes fast highways, adequate power and abundant water, and these foundations have been laid. It is time now for a new building crew to report. . . . There is a time of war and a time of peace, a time to keep and a time to cast away, a time to weep and a time to laugh, a time to stand and a time to stand aside.

Carl Hayden died on January 25, 1972. As an indirect successor to this great man in the Senate, I thank my colleagues for joining with Senator GOLDWATER, myself and all of Arizona in paying tribute to him.

1977 SAILOR OF THE YEAR

Mr. PELL. Mr. President, it is, indeed, an honor to pay tribute to a young man, Kenneth M. Rosekopf, of the Student Personnel Branch, Military Personnel Division, Naval Education and Training Center (NETC), Newport, who has recently been selected as the 1977 Sailor of the Year.

In view of Newport's longstanding ties and traditional association with the Navy, the Newport County Chamber of Commerce, and Newport Kiwanis Club will host a dinner later this month in honor of Seaman Rosekopf, who was chosen from six nominees representing the various Newport naval commands.

Although he is a young man, 26 years old, Seaman Rosekopf has shown exceptional leadership and dedication to the Navy and the people in his community. Besides serving as class representative from the personnel department, he is a student at the NETC campus of Roger Williams college and a volunteer coach for the National Basketball Association's military youth program.

He has been cited by the Director of Newport's Naval Academy Preparatory School for his "unselfish efforts and long hours, which enabled the 1976–77 NAPS class to be the most crisis-free" and he has been commended by the Chief of Naval Personnel for high-quality, error-free documents he prepared for the Bureau of Naval Personnel. Capt. Howard N. Kay, NETC Commander, has praised Seaman Rosekopf for his "dedication to duty and sincere helpful manner that exemplifies the spirit and tradition of the Naval Service."

In the short time Seaman Rosekopf has served in the Navy—he enlisted in 1975—he has won the respect and gratitude of his officers and associates alike. I am sure he will continue to distinguish himself in serving his country, and I heartily commend him for his current accomplishments.

UNTIMELY SUBCOMMITTEE HEARINGS ON NATURAL GAS DEREGULATION

Mr. THURMOND. Mr. President, on Saturday last, just as the Senate was adjourning for the weekend, the chairman of the Antitrust and Monopoly Subcommittee, Committee on the Judiciary, served notice, that he would hold hearings "To Examine the Impact on the Public of Natural Gas Price Deregulation," the effect of which was to attempt to move the filibuster from the Senate floor into the subcommittee. It is customary under the precedents and practices of the Senate for a committee to give 7 days notice of hearings. It would appear that notification on Saturday afternoon

extending through Sunday of a hearing on an important matter by a subcommittee is not within the spirit of fair notice. A partial witness list was given to the minority on October 1, 1977.

The chairman, Senator KENNEDY, opposes deregulation. All witnesses who appeared before the subcommittee today opposed deregulation. Mr. President, not one statement of those witnesses who appeared was furnished to the minority until today.

I make this statement for one reason. If we cannot have balance in the subcommittee, then I believe it proper to come to the floor. The Senate is certainly entitled to the views of those who believe deregulation is best for our Nation. I refer you to the additional views of Senator J. BENNETT JOHNSTON, page 41, report of Committee on Energy and Natural Resources, Natural Gas Policy Act, September 15, 1977 and the additional views of Senators HANSEN, HATFIELD, MCCLURE, BARTLETT, WEICKER, DOMENICI, and LAXALT, in the same document at pages 50 through 57. Also, statements of other Senators should be carefully considered.

Among those speaking for deregulation are: Senator JAMES B. PEARSON, CONGRESSIONAL RECORD, 29784–29786, September 19, 1977; Senator LLOYD BENTSEN, CONGRESSIONAL RECORD, 30188–30189, September 21, 1977; Senator S. I. HAYAKAWA, CONGRESSIONAL RECORD, 30387, September 22, 1977; Senator CHARLES PERCY, CONGRESSIONAL RECORD, 30388–30390, September 22, 1977; Senator TED STEVENS, CONGRESSIONAL RECORD, 30392–30393, September 22, 1977; Senator ORRIN HATCH, CONGRESSIONAL RECORD, 30393–30394, September 22, 1977; Senator RICHARD STONE, CONGRESSIONAL RECORD, 30396–30398, September 22, 1977. Senator ROBERT DOLE, CONGRESSIONAL RECORD, 30398–30399, September 22, 1977; and Senator JOHN TOWER, CONGRESSIONAL RECORD, 30802–30806, September 26, 1977.

At the conclusion of my remarks, I request unanimous consent that extracts of conclusions of experts be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTRACTS

Mr. Edward W. Erickson, "Natural Gas Deregulation," Statement before the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, March 17, 1975:

The advantages of natural gas deregulation include:

1. enhanced supply.
2. conservation in demand.
3. reduction of the U.S. excess demand for imported oil
4. increased probability of lower world real oil prices.
5. decreased reliance upon higher cost substitutes for natural gas.
6. rationalization of the relation between the interstate and intrastate natural gas markets, and
7. creation of confidence in a set of rules of the game which facilitate investment decisions.

Mr. Ezra Solomon, Statement before the Committee on Commerce, U.S. Senate. Transcript of Proceedings, Hearings on Natural Gas Regulation Bills, pp. 587–588:

The . . . most promising approach would be to permit wellhead prices of natural gas to move freely to their market-clearing level. The argument for this approach can be stated succinctly:

(a) The U.S. has abundant undiscovered deposits of natural gas . . .

(b) Allowable price ceilings were set, and kept, at levels too low to induce the exploration and development of those abundant gas supplies. At the same time the artificially low prices induced on abnormal growth in gas consumption.

(c) The restoration of a free market in gas would stimulate a significant expansion in exploratory and development activity and this would lead to a significant increase in the availability of new supplies. At the same time, market-clearing prices would restrain the rapid growth rate of consumption, shift gas supplies automatically from less efficient to more end-uses and thereby restore a proper balance between supply and demand at a much higher level than would otherwise be the case.

(d) The restoration of a more efficient equilibrium in the gas sector would aid the restoration of equilibrium for other fuels, . . . it would result in lower fuel oil prices than would otherwise prevail and also result in a significantly lower dependence on imports and all that this implies for the national economy and for national security.

Mr. Stephen G. Breyer and Paul W. MacAvoy, MIT, "Natural Gas and the Consumer," The Washington Post, October 14, 1974.

We believe that natural gas regulation has hurt more consumers than it has helped. It is widely recognized that regulation brought about a reserve shortage beginning in 1962, which grew into an actual production shortage in 1969. But, it is less often noted that these shortages directly raised fuel costs for consumers, for they led millions of consumers who might have used gas to rely instead on other, more expensive fuels . . . if existing regulations keeps gas prices low, it may save present consumers of gas billions of dollars. But, it will do so only by imposing great costs (we predict greater costs) upon other consumers—of say, oil or electricity who might otherwise have the opportunity to use gas, consumers of natural gas whose reserve backing is no longer adequate, and customers of firms whose products would be cheaper were natural gas obtainable.

Mr. Keith C. Brown, " ntroduction," *Regulation of the Natural Gas Producing Industry*, Resources for the Future, Inc., 1972, pp. 11–12:

FPC regulation of the maximum price that jurisdictional purchasers are allowed to pay producers of natural gas seems to have been at least partially responsible for the current unsatisfactory conditions existing in the natural gas producing and distributing industries. At current price levels, the quantity of gas demanded by consumers considerably exceeds that which producers are willing to supply. There is no evidence that large enough quantities of substitutes for natural gas produced in the forty-eight contiguous states (gas from coal or oil, Canadian imports by pipeline, or liquefied natural gas from Alaska or foreign countries) will be available in the next decade to substantially reduce the projected demand growth for natural gas, either at current or prospective equilibrium natural gas prices. Therefore, providing market conditions under which quantity of natural gas supplied is likely to increase to quantity demanded seems to be the only way to end the current problem.

Mr. Thomas Gale Moore, "Choosing or Judging: A Time to Confuse," Institute of Contemporary Studies, San Francisco, 1975, p. 85:

The authors would also have benefited from careful study of our country's experience under natural gas regulation. There, as elementary economic theory would predict, shortages have developed. Prices have been held below market-clearing levels, with the result that exploitation and development has been retarded. Such experience is not confined to natural gas . . .

Mr. Walter J. Mead, "Private Enterprise and Energy," *No Time to Confuse*, Institute for Contemporary Studies, San Francisco, 1975, p. 71:

. . . the well-head price of interstate natural gas has been controlled for twenty-one years and the resulting shortage is clearly documented. Some consumers are able to buy all the gas they want at very low prices and use it wastefully as a result while others cannot buy it at any price. We are importing Canadian gas at $1.00/Mcf, and Algerian gas (LNG) at about $1.50/Mcf, while requiring domestic sales of new gas at wellhead at 51¢/Mcf. The price control system has caused demand to increase and development of new reserves to decline. Proved reserves reached a peak in 1967 and have been declining since then.

Mr. Edward J. Mitchell, Statement before the Committee on Commerce, U.S. Senate, 93rd Congress, *Consumer Energy Act of 1974*, Part 3, March 28, 1974, p. 1350:

We . . . have extensive and profound experience with FPC regulation of interstate gas prices and there has developed a general consensus among economists that FPC regulation has created a massive shortage of natural gas. Perhaps at the time the decision was made to regulate interstate gas prices there were doubts about the competitiveness of the industry and about the size of the supply response to price. I cannot verify the degree of uncertainty at that time because I was not involved in the regulation issue then. But the number of studies that have been conducted on the natural gas market since then and their virtually uniform conclusions do not leave much room for controversy or speculation today.

In reviewing possible future studies for my energy project the natural gas issue looms as one of the most important. But in consulting other energy economists about further work on the issue I do not find any pressing questions that require answers before we can make a policy choice. The issue has been studied to death. The industry is competitive. The FPC price regulations have caused a huge shortage of gas. Whether they are liberals, conservatives, middle-of-the-roaders, or of no particular political persuasion, that is the view held by economists I talk to. We may all be wrong. But one would hope that the Congress give a great deal of thought to the matter before it proceeds on that assumption.

INTERNATIONAL WOMEN'S YEAR: IS $5 MILLION OF THE TAXPAYERS' MONEY BEING MISSPENT?

Mr. HELMS. Mr. President, within the past several months, women's conferences have been held across the United States under the direction of the National Commission on International Women's Year; a commission authorized by an act of Congress and funded with $5 million of Federal taxpayer's money. These State and regional conferences have adopted resolutions for and elected delegates to the upcoming National Women's Conference to be held in Houston, Tex.

When reports of the North Carolina IWY activities began to reach me, I asked my staff to make a preliminary survey of what had happened in North Carolina and what was happening around the country. On July 21, I discussed the findings of this survey in a speech on the floor of the Senate. That examination indicated a widespread pattern and

practice of discrimination at the State and regional conferences against women who did not agree with the ideology and partisan biases of the IWY organizers. At that time I called for a further investigation of IWY and especially one in a hearing format which would provide Members of Congress an opportunity to question carefully those who were making such charges.

On September 14 and 15, I sponsored ad hoc congressional hearings into the activities of the National Commission and the State and regional IWY conferences. This bipartisan panel of 16 Senators and Congressmen received 12 hours of testimony from 70 witnesses who had traveled from 40 States at their own expense to relate their experiences with their State's International Women's Year activities. All the witnesses who presented testimony had been participants at IWY meetings or had attempted to participate. Many are delegates to the upcoming National Conference.

Mr. President, I am deeply impressed with the testimony which was received from women who are housewives, mothers, elected officials, officials of both the Democratic and Republican Parties, lawyers and professors. Their accomplishments in themselves are testimony to the deep concern for the status of women and their wide range of civic interest.

The witnesses who testified before the ad hoc hearings possessed a keen understanding of the ordinary and normal problems inherent in administering a meeting the size of the State women's conferences. For the most part, their testimony concentrated on actions by reflected an intentional bias or which reflected an intentional bias or which prevented the conference from being open, democratic, and fair. Their testimony repeatedly focused upon the following problems:

I. IWY Coordinating Committees Loaded to Represent Only Feminist Groups and Viewpoints.

II. Hostility and Discrimination Against Non-Radical Women.

III. Lack of Publicity to Non-Feminist Women's Groups.

IV. Lesbian Workshops and Pornographic Entertainment.

V. Anti-Religious Activity.

VI. Federal Funding and Registration Fees.

VII. Operation MMOPP and Praudulent Voting.

VIII. Parliamentary Violations.

IX. Railroaded Resolutions.

X. Rigged Elections.

XI. Voting Irregularities.

XII. Inability to Challenge Election Results.

XIII. Lobbying for Equal Rights Amendment.

XIV. Lobby for Federal Funding of Abortion on Demand.

XV. Special Examples of IWY Unfairness.

However, the ad hoc hearings were not the first time much of this information was made available to members of the National Commission. Many of the witnesses had earlier forwarded their information, documentation and formal challenges to the National Commission itself. In response, they received an impersonal, "Dear Friend" letter from the presiding officer of the National Commission, Bella Abzug. Although Ms. Abzug's letter admits the Commission has received numerous challenges to the delegate elections and other complaints, it concludes the such problems are "inevitable for such an ambitious enterprise" and that "all the challenges have been denied."

It is unfortunate that rather than accept the invitation to participate in the ad hoc hearings, officials of the National Commission have chosen to repeatedly characterize honest criticism as the views of extremists. Rather than respond in a reasonable manner to the testimony presented at the ad hoc hearings, officials of the Commission have considered the hearing as "personal attacks" and have sought to impune the character and motivation of the women who did participate.

Mr. President, the U.S. Department of Justice has determined and a Federal district court has ruled that the provision of the Federal Advisory Committee Act of 1972 apply to the activities of the National Commission and the National Women's Conference. This law requires that membership of committees and meetings held under its provisions must "be fairly balanced in terms of the points of view represented" and that they "not be inappropriately influenced by the appointing authority or by any special interest."

Those who sought Federal tax dollars to finance the activities of the National Commission and the National Women's Conference assured Congress there would be a balance of viewpoints in their activities. Ms. Abzug maintained that the National Women's Conference "will afford an opportunity for every kind of woman, representing every viewpoint, in every State of this Nation to make a statement of her concern."

Unfortunately, as the time for the National Conference approaches, other members of the commission have expressed profoundly different intentions for this meeting. On September 14, the Baltimore Sun reported Commission member Audrey Colom as saying:

> I perceive the Houston meetings as a political convention, and it has to be run like one. If we lose there, we're finished.

Ms. Colom continued, that the National Women's Conference was needed "to build momentum" for ratification of the equal rights amendment and as "an incentive for fund raising" for political activity regarding ERA.

Another member of the commission, Liz Carpenter, has been soliciting $100 and $250 contributions from participants at the State and local IWY conferences to promote ratification of the equal rights amendment. She describes the National Women's Conference as a "unique chance" to raise funds for ERA and as an "event which can add tens of thousands of dollars to ERA war chest and build momentum for ratification."

This distortion of the National Women's Conference by members of the National Commission strikes at the very heart of the upcoming conference. These latest developments confirm the testimony presented at the ad hoc hearings of widespread discrimination against women who did not agree with the partisan objectives of the IWY organizers.

In my opening remarks at the ad hoc hearings, I stated that the proceedings would be primarily concerned with one central question: "was there a good-faith effort to include women of all viewpoints and all backgrounds in the activities of the IWY conferences or was the opposite the case?" In order that my colleagues may judge for themselves if this were the case, I ask unanimous consent, Mr. President, that the following compilation of excerpted testimony from the ad hoc hearings be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS

COORDINATING COMMITTEES LOADED TO REPRESENT ONLY FEMINIST GROUPS AND VIEWPOINTS

It is not surprising that the State Conferences were run unfairly, since the members of the Coordinating Committees were overwhelmingly biased against non-feminist women and groups. The National I.W.Y. Commission, appointed by President Carter and headed by militant feminist Bella Abzug, includes every major feminist spokeswoman and organization, including Gloria Steinem, Eleanor Smeal, President of N.O.W., and Jean O'Leary, National Co-Director of the Gay Liberation Task Force. Applications from women known to be opposed to ERA or abortion were rejected when appointments to the National and State Coordinating Committees were made. This is a violation of the Federal Advisory Committee Act (P.L. 92-463), which requires that all such Advisory Committees "be fairly balanced as to the points of view represented", and that they "will not be inappropriately influenced by the appointing authority or by any special interest".

Kansas

"The 35 member Kansas Coordinating Committee excluded all Pro-Family Coalition members (STOP E.R.A., Eagle Forum, Right to Life, various conservative and Church groups)"—Mrs. Betty Hanicke, Shawnee Mission, Kansas.

Minnesota

"The makeup of the Planning Committee violated the Federal Advisory Act of 1972. Half of the 37 member committee chaired by Secretary of State Joan Growe, a NOW member, are members of NOW or Women's Political Caucus. Some of those refused participation were Natural Family Planning, Birthright, Young Parents Alert, Feminists for Life, Women Who Want to be Women, and Minnesota Citizens Concerned for Life"—Eloise Becker.

Michigan

"I was the only person on the Committee who represented Citizens for Life, STOP E.R.A., Lifespan, National Council of Catholic Women; There were no representatives from H.O.W., D.A.R., Eagle Forum, Church Women United, and many other Church groups. I seemed to be the Token member to represent the anti-abortion, anti-TRA, etc. point of view."—Mrs. Bernice Zilly, former National President of the National Council of Catholic Women and member of the Michigan Coordinating Committee—from Minority Report submitted to National I.W.Y.

"Considering that NOW claims membership of 3,000 in Michigan, with 29 local chapters, while Michigan Citizens for Life represents over 250,000 people, with over 100 local

affiliates, it would seem that a balanced committee would include members of pro-life organizations. Yet not one representative of a pro-life organization was selected. . . . Members of pro-life organizations share the concerns of women's groups for justice and equality for women. But we feel that the right to abortion is not a valid means of achieving these goals. Because of this difference of opinion, we were excluded from planning a meeting which addressed many women's issues".—Rosemary Hamilton, Grand Rapids, Michigan.

"Every attempt was made to cooperate with the Coordinating Committee, months in advance. But our suggestions for speakers and nominees were rejected."—Mrs. Elaine Donnelly, Detroit, Michigan.

Washington

"Pro-ERA leaders had complete charge over all aspects of the conference organization. The Washington State Coordinating Committee, appointed by Federal officials, had only one anti-ERA person out of 38 members."—Lynn Dyer, Gig Harbor, Washington.

New Jersey

"A disproportionate number of women on the 38 member IWY Coordinating Committee were members of the National Organization for Women. The figure is approximately one-third.

"The leadership of all workships dealing with abortion and abortion-related subjects such as teenage pregnancy was totally in the hands of pro-abortion spokeswomen. The leadership of the Equal Rights Amendment workshop was totally in the hands of pro-ERA activists . . . Of the original 240 workshop speakers only one was affiliated with a pro-life organization. None was connected with an anti-ERA organization."—Liz Sadowski, Freehold, New Jersey.

Wisconsin

"There was no balance in the twenty-eight member co-ordinating committee which planned the whole conference. The members of this committee were predominately from the Governor's Commission on the Status of Women, the National Organization for Women, and the League of Women Voters. Two members of the Resolutions Committee were original founders of N.O.W. The member in charge of workshops and resource people was the paid Executive Secretary of the Status of Women.

"A perfect illustration of how one-sided this conference was, the Chicago Sun-Times reported thought it was funded by the National Organization for Women. NEED WE SAY MORE?—Mrs. L. L. Liebner, Wauwatosa, Wisconsin.

Texas

"This, sirs, was not, obviously, a convention of grassroots women. It was a convention for the Women's Political Caucus, the N.O.W., interested lesbians, and government employees. Is it so surprising, then, that in apparent violation of the law, the Texas IWY Commission saw fit to print in its programs, with federal monies, a solicitation for donations to the election fund of the Texas Women's Political Caucus?"—Mrs. Suzanne Thomas, Houston, Texas.

California

"Not one person of our point of view was permitted to participate on any of several panels or to moderate any of the more than 100 workshops."—Mary Schmitz, California.

Iowa

"The coordinating committee was drawn heavily from the National Women's Political Caucus and the Iowa Women's Political Caucus. Of the 36 members, 17 were listed as affiliated with the above groups. *All* of the workshops were chaired by pro-ERA women, and of the 22 elected delegates to Houston, 15 are listed as affiliated with Iowa W.P.C. There is not one anti-ERA delegate." (See "Lack of Publicity and Outreach")—Mrs. Jacqueline Sumner.

HOSTILITY AND DISCRIMINATION AGAINST NON-FEMINIST WOMEN

Promises were made to Congress that all I.W.Y. Conferences would be "open" to women of all viewpoints, and that everyone would be able to express their opinions fairly. This was not to be the case.

Iowa

"Time and time again anyone who stated an opposing viewpoint was met with a common tactic; they were demeaned by name calling, sneering, laughter, and labelled as idiots", "racists", "uninformed", "unintelligent", "imbeciles", or "deranged"."—Mrs. Jacqueline E. Sumner, Iowa.

Michigan

"We were not welcome at the Michigan Conference, and we were treated with an attitude of hostility. Our commitment to the cause of women's rights was questioned, as if the official I.W.Y. definition of "women's rights" should be is the *only* definition that matters. Gentlemen, discrimination against women—by other women—is wrong."—Mrs. Elaine Donnelly, Detroit, Michigan.

Missouri

"I was very naive before attending the Missouri Conference . . . At the Conference, however, I quickly learned the philosophy of the opposition—"Never give your enemy an even break." (See National Women's Political Caucus memorandum re "Operation MMOPP")—Mrs. Karen Dukewits, Independence, Missouri.

Connecticut

"It had gone according to script, wholly dominated by the feminists. The unwelcome dissenters, like so many flies at a picnic, had been swatted to silent submission."—Betty Blaze, Bridgeport, Connecticut.

Washington, D.C.

"The most frustrating thing was trying to get information in the planning stages so that we could have some input into the substance and direction of the DCIWY Meeting. Profile people were excluded over the protests which I made by testimony and letter."—Nellie J. Gray, Attorney at Law, Washington, D.C.

New York

'When I spoke with Chris Karmer, who is in charge of inviting out-standing women to the women's meeting, I asked if she had invited Ellen McCormack . . . (nominated for President) . . . The answer was negative. When I protested the non-inclusion of American women whose philosophy differed from that of the Womens Libbers, her answer was: "Get your own funds and have your own conference." Are the funds and the conference theirs?"—Mary V. Tracy, Glen Cove, New York.

LACK OF PUBLICITY AND "OUTREACH" TO ESTABLISHED NON-FEMINISTS WOMEN'S GROUPS

The I.W.Y. Commission claims that women of all walks of life and points of view were invited to participate in the state meetings. However, the I.W.Y. "Outreach" efforts did not extend to those women's groups which were not likely to be in support of I.W.Y. goals.

Iowa

"Mrs. Charlotte Mohr, President of the United Farm Bureau Women of Iowa (Over 145,000 families) said she received an introductory flyer 2 weeks before the I.W.Y. meeting. . . Was it intentional that the I.W.Y. meeting was held the same weekend as the Farm Bureau Women's convention? . . . Publicity in the local newspaper was not adequate."—Mrs. Jacqueline E. Sumner, Iowa.

California

"Surveys of complete communities showed no knowledge whatsoever of the California meeting prior to the conference. Even a woman reporter for an Orange County TV station never heard of its happening until it was over."—Mrs. Mary Schmitz, California.

Minnesota

"About two months before the meeting took place many groups such as Natural Family Planning, Natural Child Birth, La Leche League and many pro-life groups asked that their viewpoints be represented at this meeting. They were denied this request."—Mrs. Terry Todd, S. St. Paul, Minnesota.

Washington, D.C.

"The most frustrating thing was trying to get information in the planning stages vited to participate, Ms. Jean Ford, the substance and direction of the DCIWY meeting. Prolife people were excluded over the protests which I made by testimony and letter."—Nellie J. Gray, Attorney-at-Law, Washington, D.C.

Wisconsin

"The publicizing of this conference was practically nil."—Mrs. L. L. Liebner, Wauwatosa, Wisconsin.

Nevada

The right to Life Committee of Nevada protests that our organization was not invited to participate. Ms. Jean Ford, the Conference Coordinator, has stated that all important organizations were contacted and invited to attend. In view of this statement, how could they have missed our statewide group which is the only organization with opposing views to the abortion-on-demand lobbying and has been working on women's rights since 1968?—Ruth McGroarty, Las Vegas, Nevada.

Florida

"Rule #1904.5—Call to the State Conference was violated. Many prominent organizations which work for the advancement of women and educational groups were not notified until July 13—2 days prior to the Conference."—Mrs. Frank Filewicz, Registered Parliamentarian, Florida State Association.

Missouri

"Numerous phone calls, in an effort to learn about the meeting, resulted in much buck-passing and no information. In desperation we called Senator Eagleton's office for assistance. Amazingly, within thirty minutes, three Committee members volunteered the long-sought-after information. Ironically, 24 hours earlier, these same Committee members had not known when they were to conduct this important, federally-funded meeting."—Karen Dukewits, Independence, Missouri.

Vermont

"I would also like to explode a common myth about women: that they cannot keep a secret. The fact that the first State meeting of the International Women's Year was to be held in Montpelier, Vermont on February 26 was probably the best kept secret since Pearl Harbor."—Marie Dietz, Taftsville, Vermont.

Mississippi

"Many attempts were made by concerned Mississippi women to get the details about the public meeting and they continued to be 'put off' by the Mississippi IWY Committee or were given conflicting reports as to times, places, and programs."— Mrs. Eddie Myrtle Moore, Chair, Mississippi Delegation to Nat'l IWY Conf.

LESBIAN WORKSHOPS, DISPLAYS, AND PORNOGRAPHIC "ENTERTAINMENT"

The federal International Women's Year Commission, at its first meeting chaired by the new Chairman, former Congresswoman

Bella Abzug, (April, 1977) voted to urge state IWY Conferences to add lesbianism and prostitution to their discussion agendas. This resolution was requested by IWY Commission member Jean O'Leary, who is Co-Executive Director of the National Gay Task Force, who has advocated that "Lesbian Studies" programs be instituted in the schools, in connection with Women's Studies and Human Sexuality courses, so that "Students will thus be encouraged to explore alternate life styles, including lesbianism" (From "Lesbians and the Schools", by Jean O'Leary and Ginny Vida).

Not all the states included lesbian displays and workshops, but those state meetings that did so were most offensive.

Hawaii

"I am President of Helen's Jewelry Creations, Inc., President of Soroptimist Club, and (member of numerous civic and service groups) I actively participated and worked on the Committee 'Influence and Policy Making' for Hawaii International Women's Year Conference.

"I attended meetings for the IWY State convention of Saturday, July 9 and enjoyed them very much . . . I attend(ed) another 'meeting' which was billed as 'Coming Together' . . . (I) expected it to be another session meeting, with possibly a panel of women . . .

"Let me now for the record, go into detail about the 'Coming Together' meeting. I must explain that I find this very difficult to do . . . The show began with one young woman, dressed as a dancer, in leotards, explaining that four of them wished to present a dance for our enjoyment.

"The first dance was described by a lady, sitting on the sidelines, reading the account of the descriptive dance the girl was doing. It ended with suggestive movements of the dancer, reaching toward her genital area, and the reader saying 'Should she dance so much she has to ——': That was the tone of the show. Next in succession came dancers, all using suggestive movements of Porno variety, and the words '——, ——, ——, ——' and other filth were in every other line of the readings.

"One 'skit' had two women kneeling on the floor, and a third woman reading to describe the act. The women went through the motions of having a baby, helping it to come out, and all the writhing and pain that her 'dance' could do. The second woman, also on the floor, was the 'audio' part of the act, with screaming and yelling of the pregnant delivery. Another dance described the 'joy' the woman went through in finding and then participating with her lesbian counterpart.

"Another 'dance' had the girl standing in front of a mirror, and examining her body . . . all over . . . in great pantomine detail. The private parts examination was done by placing the buttocks area toward the audience, and bending forward, clear over, to look well between her legs, and examine each spot in detail.

"Since the 'dancers' portrayed men, in pantomine, but did so by pinning a paper —— on the front of their leotards. One sick skit showed a 'man' with a paper —— hanging, and he was put into an examining position on a doctor's examining table, buttocks high, legs 'strapped' in the stirrups and —— dangling. There was much talk about 'too small' and —— and ——, and other choice filth, before the 'Doctor' operated and cut some off.

"Next we saw four chairs on the stage, representing four toilets, and the 'dance' represented four women, or men, going to the toilet on the stage, and calling out what they wrote on the walls of the toilet, and also what they were reading that others had written there. This was culminated with the two lesbians making love together on the stage, in one toilet.

"And so on . . . for an hour . . . You ask why I didn't leave. I'll tell you why! I was too embarrassed to walk up the aisle. Also . . . I wanted to have a seat for the next session . . . seats were at a premium with 1,600 seats for 4,000 people.

"I was so angry and so insulted at having been innocently subjected to such lewd sex acts on the stage, that I left the convention . . . I hope this account of one 'meeting' of the Hawaii IWY will bring action against the persons in charge of this outrage . . . why (did) my tax money go toward (the) showing of a porno stage show featuring the sex acts of deviates, listed as one of the 'meetings' for IWY?—Henel Priester, Honolulu, Hawaii.

Kentucky

(During the Sexual Preference Workshop at KY-IWY) Falcon, a male type lesbian described life with her lover of two years . . . who had formerly been employed by a day-care center until her sexual preference was discovered. Falcon expressed a desire for legislation on the state level to end discrimination on the basis of sexual discrimination on the basis of sexual preference in housing and employment. A resolution was passed to that effect.—June Barnett, Owensboro, Ky.

Minnesota

(With regard to lesbian workshops and displays) "I would like to leave you with this picture of hundreds of purple-banded lesbians . . . with their gestures of clenched fist defiance; with the posters and tables of lesbian, socialist and militant marxist literature; with all the workshops on revolution and sex, including an explicit 'how to' course on oral sodomy by a counselor in the Sexual Attitudes Reassessment program at the University of Minnesota and with an explicit sex film on masturbation . . . A horrifying picture traditional family women will never forget."—Mrs. Terry Todd, S. St. Paul, Minnesota.

Vermont

"We object to the promotion of homosexuality and other immoral behavior under the auspices of the IWY, such as the handing out of the book 'Our Bodies, Our Selves', at the Montpelier meeting.—Marie Dietz, Taftsville, Vermont.

Washington

"The 'Single Parenting' and 'Hunger' workshops were *deleted* while 'Gay Parenting' and 'Concerns of Lesbian Mothers' went full tilt".—Lynn Dyer, Gig Harbor, Washington.

California

"The lesbians had display tables of their unique equipment such as female masturbating wands, clitoral vibrators, vaginal speculums for self-examination, suction devices for extraction of the menstrual discharge or for performing a self abortion. One pregnant woman looking at the devices was offered instruction on how to perform an abortion on herself.

"There were also rubber —— for sale. Also displayed and worn were buttons and tee-shirts with slogans such as 'Clit Power', 'Anita Sucks' (with a graphic display of 3 oranges), 'Anita Sucks Other Things Besides Oranges'. '—— Phyllis'. 'Stop Phyllis', 'How Dare You Assume I'm Heterosexual', 'Jesus Was a Lesbian', 'Warm, Fuzzy Dyke', etc.

"Pornographic literature, such as a feminist coloring book with sketches of female genitalia to be colored, feminist and lesbian newspapers, Marxist literature, and socialist books were in abundance. Arrangements in advance were not permitted for pro-life, pro-family or pro-America displays. A pro-life table was set up during the meeting but destroyed by a group of radicals who threatened bodily harm."—Mrs. Mary Schmitz, California.

NOTE: Displays and literature of this kind is typical of that found in "feminist" book stores in large cities around the country, or near college campuses. IWY planners should have anticipated this.

ANTI-RELIGIOUS EXPRESSIONS AND FEMINIST FILMS

Most of the State I.W.Y. Conferences featured films which promoted the Equal Rights Amendment and the women's lib movement in general. Some of the rhetoric was extremely objectionable to non-feminist women.

Colorado

"Federal Law prohibited any topic pertaining to religion, and yet, Jane Conrad, Colorado Coordinator of American Atheists, was allowed to conduct an anti-religious workshop on removing the tax exempt status of churches. (Note: This is one of the stated goals of the National Organization for Women) Two lesbian/feminist bookstores were allowed to exhibit and sell, in the workshop area, materials such as, "The Feminist Bible", "A Call for the Castration of Sexist Religion", "Beyond God the Father", and other such works. The lesbian displays were so grossly pornographic that if Colorado's new Anti-Obscenity Law had been in effect, we could have had the place raided.

"A workshop on the Decriminalization of Prostitution was told, by a lawyer, that there was already a legalized form of prostitution—marriage."—Mrs. Sindy Miller, Englewood, Colorado.

Minnesota

"In several lesbian workshops the Catholic Church was ridiculed and derogatory remarks were made insulting women of that religious persuasion."—Eloise Becker.

Virginia

"The discussion of religious topics was specifically prohibited by the federal regulations. There was a workshop entitled "Women and Spirituality"—run by Witches."—Jo Ann Gasper, Virginia.

Arkansas

"The film festival was a series of film which were pro-ERA and pro-women's lib. Men were portrayed as villains and women as the victims."—Marilyn S. Simmons, Little Rock, Arkansas.

Illinois

"The second film was produced by the Socialist Party and presented their solutions to the problems of society, especially the feminist issue. This film emphasized revolutionary tactics and spirit and the importance of belonging to a 'group'. The overall effect of the films was to discredit free enterprise and shame the diversity and flexibility of democracy . . . Live entertainment was gutter comedy and music by a lesbian 'couple'."—Helen Manwaring, Illinois.

Iowa

"I never thought I would live in America and hear a guest speaker at a convention, paid for by tax dollars, openly make the statement that 'Capitalism must be replaced by the only effective and proven method of government—Socialism'."—Mrs. Jacqueline E. Sumner, Iowa.

FEDERAL FUNDING AND USE OF REGISTRATION FEES

Many questions have been raised about the $5 million appropriation, plus registration fees, donations, and grants have been used.

Mississippi

"The Mississippi IWY Committee received $36,364 from the National IWY Office, at least $3,000 from registration fees charged at the door, and other contributions—none of which has been accounted for publicly and the Mississippi Delegation has been told that there are no funds for the Mississippi Delegation and that no report would be shared with the delegates . . .

"Of this $41,000 (collected) the Mississippi IWY Committee ordered and paid out and

spent $7,673.00 with the Holiday Inn Downtown which payment included a Whisky and Liquor Bill of $506.00 (which) was contrary to the laws regulating IWY and said Liquor Bill was in the name of IWY Committee."—Mrs. Eddie Myrtle Moore, Chair, Mississippi Delegation.

Washington, D.C.

"In D.C., (the fee) was $3.00; some states were as high as $10.00 . . . Thus, in D.C., $3.00 was required as a registration fee in order to vote. I protested this fee and would not pay it, because it was an odious poll tax imposed on a Federally-funded program. I was then told to check a box to ask for financial assistance, and no questions asked. I refused to say that I needed financial assistance, and was refused registration, admittance to workshops, and threatened to be removed from the building which was open to the public.

"We do not know how much was finally collected by the states through fees, nor what happened to the funds. Did they just go into the State pot of money for IWY—were they given over to the Federal IWY—and by what authority were they spent?"—Nellie J. Gray, Attorney-at-Law, Washington, D.C.

Tennessee

"On the registration form that was mailed out by the IWY office, the public was given the option of paying $25.00 including registration and meals, or $30.00 including registration, meals and lodging. (sample attached) The fee was prohibitive to the mother/homemaker who is not employed outside the home and must try to make ends meet on one income.

"There were women who pre-registered, paying the $25.00 fee, and then took all meals off campus in the homes of friends or at motels. This constituted a loss of $10.00 to them because no mention was made on the registration form of a $15.00 fee to local residents and those not eating on campus."—Report of Tennessee Citizens Review Committee, as compiled by Mrs. Sue Thompson, Hixson, Tennessee.

"The fact that subsidization was available to those not having money to attend was apparently a closely guarded secret. It would be most interesting to see a close accounting of funds received and how *and to whom* those funds were disbursed."—Ralph A. Franklin, Staff Assistant, Tennessee State Labor Council, in a letter addressed to Mrs. Sue Thompson published in above report.

OPERATION M.M.O.P.P.—THE WOMEN'S POLITICAL CAUCUS PLAN TO STACK THE WORKSHOPS WITH "FLOATERS"

The M.M.O.P.P. Plan, which stands for "Monitoring and Mobile Operation Partnership Program", is based on the stated principle: "NEVER GIVE YOUR ENEMY AN EVEN BREAK" (emphasis theirs). The system was devised and endorsed by the National Women's Political Caucus. (Twelve members of the N.W.P.C. Advisory Board are present or former members of the National I.W.Y. Commission.) The M.M.O.P.P. plan, and similar techniques that have been used, are a blatant attempt to pre-determine the Conference results, which will be presented to legislators as the expression of what "women" want.

Nebraska

"Another important part of that (preliminary I.W.Y.) meeting was when a letter and the report by Elly Anderson was read to us by Ms. Donna Polk, describing the M.M.O.P.P. I believe it to be the exact letter and report that Senator Helms introduced into the Congressional Record of July 1.

"The plan was adopted for use at the Nebraska I.W.Y. meeting. Four persons volunteered to be coordinators for the "M.M.O.P.P. Squad"—Chris Funk, . . . Bobbie McGinn, . . . Julia Stanley, . . . and Carole Dietz. (There later was some shifting around of coordinators and eventually there was some different ones.) The targeted workshops were decided upon—those of Sexual Assault, Laws on Sex Discrimination, Lesbianism, Health Concerns of Women, Reproductive Freedom and Teenage Pregnancy.

"Earlier that same day, Ms. Donna Polk was quoted in both the Lincoln and Omaha newspapers as referring to 'anti-women groups', the 'cult' of Phyllis Schlafly; and also in one of them, as saying 'We know who the enemy is'."—Mary Ledbetter, Lincoln, Nebraska, member of State Coordinating Committee.

Virginia

"The workshops were controlled. In one workshop I attended, when it was time to pass recommendations, the leader whipped out a recommendation from the National IWY for passage. We asked if recommendations could be presented from the floor. The leader's reply, 'NO'. In other workshops, if unofficial opinions were being expressed, women were rushed in from outside to vote down the unofficial views."—Jo Ann Gasper, Virginia.

California

"Beepers and runners were used to call great numbers of radicals to a session where they were needed to outnumber us."—Mrs. Mary Schmitz, California.

Michigan

"Pro-life people succeeded in passing three favorable resolutions in the (Women as Health Consumers) workshop. One woman left, however, and came back with 10–20 "Unity" women who attempted to reopen the previous questions. (This request was denied.) The latecomers were allowed to vote on later resolutions, however."—Mrs. Elaine Donnelly, Detroit, Michigan.

PARLIAMENTARY VIOLATIONS

Parliamentary violations at the various State Conferences were too numerous to describe.

Florida

"I am a Registered Parliamentarian. It was shocking to me and to the majority of those attending the Conference to witness such violations of the Federal Register (rules) and the Robert's Rules of Order, Newly Revised. The presiding officer, Mrs. Gwen Cherry, arbitrarily refused to take votes on motions properly made; refused to recognize points of order and appeals from the decisions of the Chair . . . The presiding officer jumped from Federal Rules to Robert's Rules, whichever appealed to her. (Detailed descriptions of five different rule violations are included in written testimony)—Mrs. Frank Filewicz, Florida State Association of Parliamentarians, No. 00202.

Kansas

At the General Session on Saturday, July 16th, the Chairman was biased in rulings. Pro-Family people were refused freedom of speech as floor microphones were controlled at the platform. We were ruled out of order; denied the right to question irregularities; denied the right to present substitute resolutions; denied the right to debate rules, and denied the right to have an honest floor count on votes. The Chairman changed the rules in the middle of votes and her rulings were contradictory many times in favor of IWY viewpoints.—Betty Hanicke, Shawnee Mission, Kansas.

Illinois

"The right to express various viewpoints or to seek parliamentary information was forcibly violated by tight control over floor microphones. Tactics by IWY facilitators included unplugging, covering by hand, and, at one point, breaking the microphone in half to prevent speakers from being heard."—Rosemary Thomson, Illinois.

Minnesota

A. There was no quorum so the motion was made to form an ad hoc committee to act on resolutions which were not acted on by the delegates . . .

B. Various groups objected to the way they were treated and to the way in which this meeting was run. 1. The Black Caucus walked out. 2. The Native American women walked out. 3. The Chicano women walked out.—Eloise Becker.

Iowa

"Sec. III, p. 22, concerning resolutions was totally disregarded. At one point the Parliamentarian, Judge Marget Stevenson Briles, was asked if Robert's Rules of Order were being followed. She agreed that they were not, yet she did little to insist on order. One example: As one resolution was being amended the mike was turned off and the vote called for on the resolution. People were still standing at the other mikes desiring to speak . . . The Chair ruled that the proposal for a minority report was 'Out of Order'."—Mrs. Jacqueline E. Sumner, Iowa.

RAILROADED RESOLUTIONS

The pre-written I.W.Y. resolutions were voted on without intelligent analysis and fair debate in every state reporting.

Louisiana

The National Commission's 16 "Recommendations Urged for Consideration by State I.W.Y. Meetings" were adopted as a package with *no reading on the floor and no discussion allowed* despite vigorous protests . . . . NO QUORUM WAS REQUIRED. Although it was reported that 1,200 persons attended the Conference, the vote on the 16 recommendations was only a total of 180 registered delegates—Mrs. Arthur Felt, Jr., and 17 others.

Arkansas

"After the meeting had begun Sunday morning, a summarized list of resolutions was handed out and the voting was begun before anyone had time to read through them."—Marilyn S. Simmons, Little Rock, Arkansas.

Minnesota

"At the time resolutions (actually a questionnaire) were to be considered, one delegate made the motion that thirty-two resolutions be adopted at one time. According to Roberts Rules of Order, newly revised, any delegate at this point is supposed to be able to call for discussion of any one item. However, I stood at the microphone with the raised Point of Order card for approximately five minutes, waiting in vain for recognition, as the motion passed and adjournment was called for."—Mrs. Terry Todd, S. St. Paul, Minnesota.

Vermont

"Exhibit C of my testimony (an article from the *Brattleboro Reformer* of March 12, 1977) . . . states that Attorney William Wallace, counsel of the National Commission . . . has said that the delegates in Houston will 'simply be expected to vote 'aye' or 'nay' on a government-prepared agenda, which he may help prepare.

"Confirming this plan which turns these meetings into nothing more than a propaganda tool, Mrs. Lenore MacNeer, Chairman of the Montpelier meetings, says, and I quote, 'Washington will deal with the resolutions we send them. If the local resolutions don't fit into the national resolutions, then they won't go to Houston. If you are dealing with politics and you want to achieve certain ends, you don't leave it wide open.' "—Marie Dietz, Taftsville, Vermont.

Illinois

"Rules for voting established by the conferences were repeatedly violated including a directive by a state legislator to bring pro-ERA delegates from another workshop into

the ERA meeting after the entry deadline for voting had passed, thus assuring 'enthusiastic ratification of ERA by a slim majority . . ."—Mrs. Rosemary Thomson.

Washington

"In the final half hour, ERA forces suspended the rules to move up discussion of a highly manipulative, ethnic minority statement. Attached to the end of this statement was a rider, which was an endorsement of the ERA. To vote for minority rights, one was forced to vote support of the ERA. Black, Chicano and Asian women shook clenched fists (at) those who voted against their statement—ending the conference on an . . . emotional binge."—Lynn Dyer, Gig Harbor, Washington.

Missouri

"As a result of (an) outburst, time did not permit the reading of approximately two-thirds of the resolutions. In hurried, confusing moments, the motion was passed to blindly accept all workshop resolutions. How could a truly conscientious and intelligent person favor resolutions he had not heard?

"Quickly, another motion was passed to bind (non-feminist) delegates to favor these resolutions at the National Conference . . . We delegates were then told we could resign if voting for ERA, abortion, lesbian rights, etc. would prick our consciences. We pro-family delegates were elected by the majority of 861 voters. On the following day only 194 voted to force us to represent their minority convictions. Are we to call this democracy?"—Karen Dukewits, Independence, Missouri.

New Jersey

"Of the major resolutions which comprise the so-called 'consensus', none is . . . in accord with true opinions of New Jersey women as reflected at the ballot box and in public opinion polls. (New Jersey defeated a State ERA at the polls two years ago.)

"The Chairwoman of the Resolutions Committee—a leader of N.O.W.—asked for, and received, dictatorial power over all resolutions; (that is) the right to rewrite and/or edit any resolution which originated with New Jersey women. Her primary order of business was to get the National IWY resolutions out on the floor—and passed—before any resolutions from New Jersey women could be considered.

"Resolutions passed by New Jersey women in some of the workshops were simply shelved in the plenary session. One of those resolutions called for a Human Life Amendment to the U.S. Constitution."—Liz Sadowski, Freehold, New Jersey.

Tennessee

"Some women were denied the right to attend certain workshops. The reason that was given was that there had been a limit of 50 persons per workshop set, and the workshops that they had requested were supposedly full . . . this was found to be untrue . . . For example, only . . . 12–15 women were in participation in (one) workshop, but women were told that the workshop was 'too full'. (This same example could be repeated for many other workshops. When some women finally were admitted) . . . they were told to sit in the back of the room or in a corner away from other participants, and not permitted to *speak* or they would be asked to leave!"—Mrs. Sue Thompson, Hixson, Tennessee.

RIGGED ELECTIONS

The procedures used to elect delegates to the National I.W.Y. Conference in Houston, Texas ranged from slipshod to rigged. Everything was done to prevent non-feminist women from being elected to represent those women who do not favor the Equal Rights Amendment, abortion, or other controversial women's lib goals. The National I.W.Y. Commission has also expressed its intention to appoint at least 400 "at-large" delegates, who will surely see to it that non-feminist delegates who were elected are even more overwhelmingly outvoted at the Houston Conference. The endorsements of the pre-ordained feminist/I.W.Y. program coming out of Houston should therefore not be surprising—or impressive—to anyone.

Michigan

"Trickery, secrecy, constant manipulation of the rules, railroading, and personal intimidation were some of the tactics used by the Conference coordinators. The worst of it was the election, which was deliberately rigged in three easy steps . . . We were concerned that the time for nominations from the floor might be cut off, so our sole representative on the Coordinating Committee, Mrs. Bernice Zilly, entered and passed a motion at a preliminary meeting to keep the time for floor nominations open for *one full hour*.

"*The first step* in rigging the election was to distort the intent of Mrs. Zilly's motion, publish the distortion in the rule book, release the rule book *no sooner* than the night of the Conference, and then refuse to change it. Instead of allowing one full hour for floor nominations, the rule was written to allow one hour *only* for *both* the presentation of the I.W.Y. slate, and the floor nominations. Contrary to statements made by I.W.Y. Coordinators, the nationally published rules do *not* require that the time for nominations be so restricted.

"*The second step* was to use up as much of that hour as possible for the presentation of the "official" I.W.Y. slate. (Chosen by the Nominating Committee, headed by the State Coordinator of N.O.W.) *The third step* was more crafty, and it caused outrage and protest from most of the women there. *Without any public announcement or written notice*, four unmarked card tables were set out at the sides of the auditorium. When we entered the auditorium, there were at least 10 women wearing bright green "Unity" caucus armbands in line at each cardtable, and each of (them) had a number which we then learned was necessary for access to each of the four floor microphones . . . our representatives were repeatedly given contrary instructions. Of course, when time and access to the mike became crucial for the making of a nomination, the feminists in charge had used up almost all of the time, and taken up the first positions in line for access to the nominating microphones.

"The only way that the Coordinating Committee could prevent us from electing our women as delegates to Houston was to prevent us from *nominating* our women. This gentlemen, was the I.W.Y. plan, and it was executed ruthlessly."—Mrs. Elaine Donnelly, Detroit, Michigan

Florida

"Chairwoman Cherry opened the session for nominations and said that there would be only one hour to nominate and that each nomination could take two minutes. Inasmuch as the women of Florida were supposed to be entitled to choose 40 delegates and 5 alternates, there was not sufficient time in one hour to nominate 45 people if each nomination took two minutes. A motion was made to extend the nominating time and the motion was ruled 'out of order' by Chairwoman Cherry . . . The 45 names on the pre-selected IWY slate had been read at the beginning, thus assuring them a place on the ballot."—from a report compiled by Katherine E. McDonald, Winter Haven, Florida.

Georgia

"A motion by opponents of I.W.Y. to poll official delegate slate and also nominees from the floor on stand on ERA was ruled irrelevant, while motion by proponents of I.W.Y. to give city of residence of all nominees was honored" (Note: What kind of election is it where the views of the candidates are declared "irrelevant", and withheld?)—Mrs. Kathryn Dunaway, member, Georgia Coordinating Committee

SEVERE INCONVENIENCE IN VOTING

Women wishing to vote for their own non-feminist candidates for election found it extremely difficult to vote in several states:

Florida

"Those who wished to vote stood in line in the hot sun, from 5 to 6 hours and the polls were open until 4 AM the next morning."—Mrs. Frank Filewicz, Registered Parliamentarian, Florida State Association.

"The voting line had been moved outside to get it out of the main hall. We could see the women standing up to speak at the mikes, but we could hear nothing. It struck me as ridiculous that we could see the session through the glass walls of the exhibit hall, but we could hear nothing. The public address system was never turned on, and, as far as I can determine, no explanation was ever given as to why it could not be. So, hundreds of delegates stood in a voting line for 4½ hours watching a session, but hearing nothing that was said. (The last delegate cast her vote at about 2 AM Sunday morning.)—from a report compiled by Katherine E. McDonald, Winter Haven, Florida.

Washington

"Registration and voting conditions were deplorable. Women, some pregnant, some nursing, some handicapped and many with small children were all forced to stand in line in the hot sun to register, and at night in a cold wind, to vote."—Iynn Dyer, Gig Harbor, Washington.

VOTING IRREGULARITIES

Numerous states reported that voting procedures were untidy, careless.

Maryland

"There was gross negligence involved in securing the ballot boxes. The ballot box for delegate voting was a loosely covered cardboard box. The ballot box used to collect the National I.W.Y. Resolutions was left unattended in the public hallway. Resolution forms could have been easily duplicated and deposited without observation".—Jean Gartlan Guilfoyle, Maryland.

Georgia

"Marked ballots on the 16 I.W.Y. National Recommendations were found in an open cardboard box, which was unattended over a period of several hours during the day prior to the official voting . . . There was an undetermined number of ballots distributed as "samples" although they were not marked SAMPLE. These could have been and may have been voted as official ballots. ". . . After voting on the National I.W.Y. Recommendations was completed, the clerk handling the computerized ballots was observed, over a period of 30 minutes or more, tampering with the ballots by erasing marks on the ballots and filling in spaces."

"One teller upon objecting to the fact that in counting the individual votes for each delegate, the slashes were not lined up in 5's so that they could be counted, was told by National I.W.Y. representative, Connie Plunkett, to "just fill it in".—Kathryn Dunaway, Member, Georgia Coordinating Committee of I.W.Y.

Vermont

"1. On no fewer than three occasions, State Senator Esther Sorrell, who is a member of the Vermont IWY Coordinating Committee, personally carried by hand one or two handfuls of ballots, not in the official ballot boxes, into the counting room, and Mr. David Curtis, who chaired the ballot counting committee, accepted those ballots thus submitted by Senator Sorrell as valid ballots.

"2. At least one of the handfuls of ballots submitted by Senator Sorrell under the circumstances outlined above was accepted after all the ballot boxes had been brought into the counting room and after the polls were closed. When it was pointed out to Mr. Curtis that the polls had closed at 4:00 PM, Mr. Curtis stated that he would accept those hand-carried ballots presented to him by Senator Sorrell in spite of this circumstances."—from a notarized statement, submitted as Exhibit B with testimony Marie Dietz, Taftsville, Vermont.

New Jersey

"The Chairwoman of New Jersey Right to Life, . . . Kay Krug, appeared on the ballot as Kay King. And ballots were left on table tops within easy reach of anyone wishing to vote more than once."—Liz Sadowski, Freehold, New Jersey.

IMPOSSIBLE TO CHALLENGE ELECTION RESULTS

It is important to have the opportunity to challenge election results, in order to verify the integrity of the election. Many states reported that this opportunity was not extended to non-feminist women.

Maryland

"Furthermore, that election was held on June 12 and to this present date (September 15), I have not been notified of the election results and vote count, either for myself as a duly nominated candidate, or for any other candidate that ran in that election. I have solicited this information without success from both the Maryland Coordinating Committee for I.W.Y. and the National Commission on the I.W.Y.

". . . The deadline for challenging the election was up on August 8th. I submit—how can one challenge an election if one has not been supplied with the election returns?"—Mrs. Mary Bailey Bowen, Silver Spring, Maryland.

Wisconsin

"The distribution of ballots was totally uncontrolled. People could take any amount they wanted . . . When you had completed your voting and cast your ballot they stamped your hand with an ink stamp. The ink printed mark which was used to identify a person who had cast a ballot wiped off very easily. It is an accomplished fact that some voted more than once."—Mrs. L. L. Liebner, Wauwatosa, Wisconsin.

LOBBYING FOR THE EQUAL RIGHTS AMENDMENT

Public Law 94–167, Section 9, reads "No funds authorized hereunder may be used for lobbying activities." The legislative history of the $5 million appropriations shows that Congress did *not* intend that the I.W.Y. Conferences be used to promote the ERA. However, the Amendment was heavily promoted in every state, in line with the April 1975 pledge of the National IWY Commission "to do all in our capacity to see that the Equal Rights Amendment is ratified at the earliest possible moment."

Illinois

"The Equal Rights Amendment Workshop was a clear-cut case of the use of Federal money to lobby state legislators—an act which Congress expressly prohibited in Public Law 94–167, Section 9. Throughout the proceedings, at least two state legislators were present. Each panelist—two favoring ERA and myself opposing the amendment—was paid $50 by IWY. In addition, the moderator spoke in favor of ERA."—Mrs. Rosemary Thomson, Morton, Illinois.

Oregon

"Jill Ruckelshaus, a national leader for the ratification of the ERA, was Oregon's keynote speaker. Other speakers at the conference, Governor Bob Staub and Norma Paulus, Oregon Secretary of State, joined her in calling for the ratification of the ERA as mandatory to achieve equality for women . . . The most urgent theme expressed throughout all the functions of the Oregon Women's Conference was ratification of the ERA."—By Gabrielle T. Avery, Oregon.

Florida

"At the Welcome Session, the Chairwoman, Hon. Gwen Cherry, . . . read a letter from President Carter which said, 'Rosalynn and I support the adoption of the Equal Rights Amendment to the Constitution'. (Also a letter from Bella Abzug.)

"I wondered at the propriety of the letters being read from the podium, inasmuch as there were a number of legislators present and these letters could be construed as lobbying for a particular viewpoint."—From a report compiled by Katherine E. McDonald, Winter Haven, Florida.

Minnesota

"The League of Women Voters used the IWY meeting to solicit money for the ratification of ERA in other states . . . During the Sunday Session an announcement was made that a collection would be taken up to support the ratification of ERA in other states; after the plenary session women stood in the lobby of the meeting hall with white shopping bags asking for money for ERA."—Eloise Becker.

LOBBYING FOR FEDERAL FUNDING OF ABORTION ON DEMAND

The 382 page Report of the National I.W.Y. Commission, "To Form a More Perfect Union" advocates that 1) abortion services must be available legally, 2) federal programs should provide payment for "pregnancy termination", 3) hospital "conscience clauses" must be eliminated, 4) Teenagers should be given advice on the availability of contraceptives and abortion without parental knowledge or consent, and that 4) Counseling should be neutral as to the morality of abortion. (pp. 267–274) These policies were heavily promoted at the State IWY Conferences.

New Jersey

"A Human Life Amendment resolution was passed in a workshop. The pro-abortion resolution of the National IWY Committee was defeated. Yet, when the plenary session was held only the pro-abortion resolution was presented."—Liz Sadowski, Freehold New Jersey.

Maryland

"A delegate nominated by the Maryland Coordinating Committee passed out to the assembly postage paid post cards calling for the defeat of the Hyde Amendment, to be mailed to Congressmen by those attending the Conference."—Jean Gartlan Guilfoyle, Maryland

Oregon

"Abortion was presented by the (workshop) chair (and also the facilitator) as a 'right'. Women who challenged the desirability of 'abortion rights' were consistently ignored by the chair . . . Pro-life delegates were not allowed to present a resolution at the workshop. Workshop leaders told them to present their resolution as a minority report at the general session. This, too, was unsuccessful . . . Pro-life women were rudely shouted down and verbally abused by those who opposed them, without any intervention from the chair."—Gabrielle T. Avery, Lake Oswego, Oregon.

Michigan

"Convenor Lorraine Beebe is one of the foremost pro-abortion advocates in the state . . . Michigan H.B. 4425 (birth control education) was heavily promoted. Convenor Beebe admitted that abortion is a form of birth control, but insisted that the Supreme Court decision for abortion was not to be discussed. Nevertheless, a resolution endorsing abortion on demand was passed.

"There was not time allowed to question the panel speakers, none of whom expressed a pro-life viewpoint (alternatives to abortion) "Active listeners", chosen by the Convenor, used confusing parliamentary maneuvers to completely reverse the meaning and intent of pro-life resolutions."—by Mrs. Elaine Donnelly, Detroit, Michigan.

SPECIAL EXAMPLES OF I.W.Y. UNFAIRNESS

Some states have experienced unusual techniques to manipulate the results of the I.W.Y. Conferences.

Kansas

"The most blatant abuse of the Chairman's power as the lock-out from General Session. The Chairman announced that only 2500 persons according to Fire Marshall could be seated in Century II. With 4616 persons registered, 2116 persons were denied entrance to the General Session. Long lines of people stood in 101° temperature trying to gain entrance but were denied by IWY guards at the door. IWY persons were identified with dots on badges or ERA stickers.

"A check with Century II and the Fire Marshall later revealed that the hall capacity is 5244 or 628 more than registered so all could have been admitted. Supt of Century II stated that 3068 chairs were on the floor Saturday morning or 568 more chairs than the 2500 Chairman stated was capacity."—Mrs. Betty Hanicke, Shawnee Mission, Kansas.

Mississippi

"The Mississippi Delegation, elected at the State meeting on July 8–9, 1977 made immediate and numerous attempts to contact and obtain assistance from the State Coordinating Committee. They have been told by Ms. Jessie Mosley, Chair of the Mississippi Committee that no help would be given by the Committee to the Mississippi Delegation; . . . The Mississippi Office was closed immediately and the Delegation is having to personally and sacrificially fund all of their efforts to represent the State of Mississippi. (By contrast) other state offices continue to function with open doors, and with federal financial assistance where the ERA forces prevailed in their states.

". . . this abuse and gross neglect by the Mississippi IWY Committee makes it almost impossible for the State to be represented and causes the delegates to personally pay for the privilege of being elected delegates and official State representatives.

"To show good faith, however, the Mississippi Delegation did communicate, by registered mail, with Ms. Mosley, who had also stated that only she, (while not a delegate to the National Conference) could make our travel and hotel arrangements for the Delegates.

"She refused the mail.

"Section 1904.17(g) of the Federal Register of Feb. 25, 1977 demands that 'Each State Representative and alternate elected . . . shall' be issued a Certificate attesting thereto which shall be signed by the Chair of the Coordinating Committee. . . ."

"This has not been done by the Mississippi Committee of IWY. There is no indication that they ever intend to comply with this Federal requirement. This could be, and in keeping with other conduct patterns, probably would be used by IWY to prevent the Mississippi delegates from taking their rightful positions as delegates to the National Conference."—Mrs. Eddie Myrtle Moore, Chair, Mississippi Delegation.

NOTICE CONCERNING NOMINATION BEFORE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the President has sent to the Senate the nomination of John J. Boyle of Maryland to be Public Printer, and this nomination is now pending before the Committee on Rules and Administration.

On behalf of the committee I hereby give notice to all persons interested in this nomination to file with the commit-

tee in writing, on or before Monday, October 10, 1977, any representations or objections they may wish to call to the attention of the committee concerning this nomination, as well as a statement whether they may wish to testify at any hearing which may be scheduled on the nomination.

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I would ask the majority leader, what time are we coming in tomorrow?

Mr. ROBERT C. BYRD. Nine o'clock a.m.

Mr. BAKER. I do not wish to discommode the majority leader or any Member of the Senate, but it is going to be necessary for Senators on this side to meet tonight and then again in the morning to consider the Jackson proposal. If we could move that up 30 minutes or an hour, so that I could meet with my principals in my office, it might expedite things. I wonder if the majority leader would consider making the meeting time 10 o'clock instead of 9 o'clock.

Mr. ROBERT C. BYRD. Mr. President, in the interest of promoting some kind of compromise approach out of this troublesome dilemma, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, this will mean, then, that after the two leaders are recognized tomorrow morning under the standing order, there will be three 15-minute orders and a 10-minute order, which will consume about an hour. That would mean that the Senate could then resume its consideration of the unfinished business at around 11 o'clock a.m., give or take a little bit.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST TO EXPUNGE CERTAIN REMARKS FROM THE RECORD

Mr. ALLEN. Mr. President, I ask unanimous consent that the following remarks today of the Senator from South Dakota (Mr. ABOUREZK) be expunged from the record, where he stated "I never did think that Jimmy Carter would lie," second, "The President jerked the rug out from under us." I would like to ask unanimous consent that those two——

Mr. BAYH. Mr. President——

Mr. BAKER. Mr. President, I do not want to take advantage of a political situation, but I think if those remarks come out of the record, the distinguished Senator from South Dakota should make the request. There is an objection on this side noted with me.

Mr. BAYH. I would like to reserve the right to object. I think the Senate would be better served if that particular matter were expunged from the record, but I think, with all respect to my friend from Alabama, to make such a request in the absence of the person who made them, would probably go too far.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I requested some 2 hours ago the distinguished Senator from South Dakota to make this request. I stated to him that if he was not willing to do it, I would make a motion to expunge those remarks from the record. I send the motion to the desk. As soon as the motion has been read, I will suggest the absence of a quorum in order that the distinguished Senator from South Dakota may return from his office to the floor.

The PRESIDING OFFICER. The clerk will state the motion.

Mr. ROBERT C. BYRD. Does the Senator withhold his suggestion of the absence of a quorum at this time?

Mr. ALLEN. Yes.

Mr. BAYH. Would the Senator from Alabama permit the Senator from Indiana to ask a question prior to sending the motion to the desk? Will the Senator yield for that purpose?

Mr. ALLEN. For what purpose?

Mr. BAYH. We have gone through a period this afternoon which is a result of a number of hours and a number of days and a number of sleepless nights bearing rather heavily on a number of us. I think, without trying to judge anyone else, and perhaps in the 20–20 vision of hindsight, there is more than one Senator who would rather either change the substance or the style of his remarks.

As a matter of courtesy to a colleague, would it not make a lot more sense to permit this Senator to return to the floor and do something voluntarily, or at least find out that he was not going to do something voluntarily, without introducing a motion like this and putting him into a position that I do not believe any of us would want a colleague to be?

Mr. ALLEN. I gave notice to the distinguished Senator from South Dakota that I was going to file a motion. I spoke not only to him but to the distinguished Senator from Ohio (Mr. METZENBAUM) and urged him to urge the distinguished Senator from South Dakota to make that request. I feel the distinguished Senator should have been called to order at that time. I would hope that he would make this request. That is the reason I said on the offering of the motion I would suggest the absence of a quorum to allow the distinguished Senator to come in and make that request himself.

Mr. BAYH. If I may say to my friend from Alabama, there is a rather decided difference, it seems to me, between a person making a change in the record after having a motion sent to the desk, in which it looks like he is being intimidated into doing it, on one side, and, on the other side, on reflection and thinking what has happened, to make it voluntarily. I would just hope the Senator from Alabama would not put one of our colleagues in that kind of a position. I would not want to see him put into that kind of a position.

It could be when the Senator from South Dakota, who is a pretty hard, wild, and tenacious individual, who pursues his position with great vigor, gets back here he may not want to expunge the record. At that stage of the game, then I think the Senator from Alabama—well, he is within his rights now, but I would think his motion would not be put to the Senator from South Dakota in the position then that it does put him in now.

Mr. LEAHY. Will the Senator yield?

Mr. ALLEN. I will yield.

Mr. LEAHY. Mr. President, I stated this afternoon, after the remarks were made by the Senator from South Dakota, that I thought the remarks were inappropriate, uncalled for, and were not proper within the debate. I also stated at that time that though tempers may have been short, we have all been inconvenienced at some length, none of us any more or any less than anybody else, but that was no excuse for the remarks. I stated my own defense of the President and the Vice President at that time. I would have made exactly the same defense had it been a Republican President and Vice President under the circumstances. I make it knowing that I had voted with the Senator from South Dakota in most of his matters, so there could be no ulterior motives in the criticism of the position he had taken.

I really do feel that if those remarks are to be expunged, they should be expunged by the Senator from South Dakota. I state that and reemphasize my statement for it, I thought the remarks were improper, uncalled for, and had no place within the debate on the floor of the Senate. But I feel they should be withdrawn by the Senator. I understand the strong feelings of my distinguished friend and colleague from Alabama.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. May I have the floor for a minute?

Mr. ALLEN. I yield.

Mr. McCLURE. I understand why the Senator would feel that the first part of the remarks may be inappropriate, "I never did think that Jimmy Carter would lie." I am a little puzzled by the inclusion of the second question, "The President jerked the rug out from under us," because whether it be this President and this issue, this Senator has in the past felt that the President jerked the rug out from under us—not this President, not this issue. I see nothing offensive in that terminology. I may have used the same myself at times in the past.

Mr. ALLEN. I will not offer the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. ALLEN. I did not offer the motion, Mr. President.

The PRESIDING OFFICER. The Senator is correct. The motion was not offered. The Senator from West Virginia,

ORDER TO HOLD H.R. 6951 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when H.R. 6951 is received from the House it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

I withhold that, Mr. President.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with consideration of S. 2104.

Mr. METZENBAUM. I would like to say to Members of the Senate that Senator ABOUREZK and I have just indicated that we do not intend to filibuster by amendment; that as far as we are concerned the Senate may proceed in an orderly manner to dispose of the pending legislation. We feel that in view of the fact that the administration indicated quite clearly that they did not support the filibuster, in spite of the fact that they have indicated a strong opposition to deregulation legislation, that they ought to be given the opportunity to make such efforts as they can make in order to defeat the legislation in the Senate or, if not there, if it be necessary for the President to veto it. As a consequence, we have publicly indicated and now indicate to the Senate that we do not intend to offer any further amendments to the pending legislation, except if there might be some incidental one, but not in connection with the large number that are presently pending.

Mr. ALLEN. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. ALLEN. I commend the distinguished Senator from Ohio and his colleague, the distinguished Senator from South Dakota (Mr. ABOUREZK) for a very gallant effort in this fight. I have not found myself in agreement with the substance of their fight, though the distinguished Senator realizes on many occasions I have supported his efforts. I commend him for his stand for the right of a minority to be heard. I have supported that position. I am hopeful that some of the Senators who have supported his position, and who spoke at length and heatedly on this issue, will remember that position in time to come when others may possibly wish to be heard, or wish to offer amendments here on the floor. I am hopeful that we have now at least two very able recruits to the proposition that the minority has a right to be heard, not only on matters that the distinguished Senator might be in agreement with, but on matters that the distinguished Senator is not in agreement with.

The Senator from Alabama voted against cloture. He was in support of many rulings of the Chair. He supported the distinguished Senator. He is hopeful that those of us who do wish to protect the rights of the minority here in the Senate have attained two valuable—I shall not say recruits, I shall say leaders—in the fight to protect the rights of minorities in the Senate. I commend the distinguished Senators for their able and gallant fight on this issue.

Mr. METZENBAUM. I thank the Senator from Alabama.

Mr. ROBERT C. BYRD. Mr. President, I compliment the distinguished Senator from Ohio for his statement. It was a courageous one and I believe it will help to open the way for progress toward the ultimate conclusion by the Senate of this bill.

Mr. BAKER. Mr. President, I join the distinguished majority leader in commending worthy adversaries. I see the distinguished Senator from Ohio on the floor and I think I even detect a little look of weariness on his face.

He did a good job. Better than I have ever seen in conducting extended debate of this type.

I cannot recall a single time in the last 10 days or so when we agreed. But I want to take this oportunity to tell him that not only is he a worthy adversary, but he conducted himself with honor and dignity.

I would like to commend the Senator from South Dakota for being an ally and an effective champion of that point of view and to say at this point that he did a dreadfully effective job.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. RANDOLPH. Will the able majority leader advise us as to what the picture is now for Senators who, like myself, are thinking in terms of tomorrow and possibly the next day or the next?

Mr. ROBERT C. BYRD. Tomorrow and the next day and the next day, may I say to my friend, are going to be heavily laden with work. The Senate, first of all, has to complete its action on this bill. That may require several votes. But I believe that the climate is such now that all Senators are going to seek and, like reasonable men, find a way in which the Senate can work together to finish its obligations to the public by passing this bill.

Upon the heels of this bill, there is another energy bill. I have been asked by Mr. JACKSON, who is manager of the the bill that we have had before us now for 13 days, to allow just a little respite between the final action on this bill and the taking up of the utility rate reform bill. So it is my intention to proceed with the minimum wage bill, on which we have a time agreement, and the D.C. appropriations bill, on which we have a time agreement; get those bills to conference so that the conferees might be working on them before we proceed in the Senate to take up the utility rate reform bill.

I assume that what I have outlined here could be done in a day—I am talking about the minimum wage, and D.C. appropriations. It will be a long day, but we do have a time limitation on them. We could dispose of those and get back on utility rate reform.

In the meantime, while the Senate has been debating this natural gas pricing bill, especially in the last week, the Committee on Finance, which has the fifth and last of the energy bills, the energy tax bill, has been unable to conduct its meetings. So, hopefully, once action is completed on the natural gas pricing bill, the Finance Committee can go back to its work on a very difficult bill.

I say to my friend that I can see no hope of anything other than a Saturday session again this week, long hours, hard work, and a considerable amount of legislation yet to be enacted.

Mr. CURTIS. Will the distinguished leader yield?

Mr. RANDOLPH. Will the distinguished leader yield further so I can pursue this for just a minute?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. If any man needs to be spoken of as gallant, it is the gentleman who has now yielded to me.

Mr. ROBERT C. BYRD. I thank my friend.

Mr. RANDOLPH. I do not withhold it from other Members of the Senate, but I speak of it in reference to his actions here.

The reason I am pursuing this is that, as the Senator knows, we are going to conference on the black lung bill tomorrow, but we could not have gone to conference had the situation continued as it was in the Senate.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I am not attempting now to speak for or against what we have been doing, except to say that we could not have started the conference tomorrow.

We also are ready to go to conference on the water pollution legislation. Hopefully, we are going to try to begin that one tomorrow. The water resources, which is the regular rivers and harbors flood control protection bill, is another that we are moving. So we do more than just stop the filibuster here by the statement that has been made by the Senator from Ohio. We give an opportunity, other than in the Senate, for this body to transact important business in conference with the House.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. So I think it is good that the record reflect that, now, hopefully, there will be enough time between votes that those conferences can proceed. Does the Senator feel that that might be possible?

Mr. ROBERT C. BYRD. I would think so, yes. I am glad the Senator has made this point, because it is true that the discussions on the natural gas pricing bill, which have been going forward within the past week or more, have, in themselves, delayed actions between the two houses on the conferences that have been in conference for quite awhile. The distinguished Senator from West Virginia (Mr. RANDOLPH) has pointed to two or three very important conferences in which he plays an important part. He mentioned black lung, he mentioned the Clean Water Act. Then there is the Mine Health and Safety Act. I believe he is a conferee in connection with that. There are other conferences which, once this

bottleneck is broken, can go forward. Whether that will be tomorrow or not, I am in no position to say. I think we had better wait and see how things go tomorrow. Hopefully, final action can occur and if that is true, that logjam is broken and the conferences can go forward.

Mr. RANDOLPH. I want the leader to yield further.

Mr. ROBERT C. BYRD. I yield the floor. I did promise to yield to the Senator from Nebraska.

Mr. RANDOLPH. I have the floor. I am not finished. I shall yield in a moment or two.

Mr. CURTIS. This is just a brief question.

Mr. ROBERT C. BYRD. The Senator from West Virginia had not finished. I thought he had finished.

Mr. CURTIS. I beg the Senator's pardon. I did not know who had the floor.

Mr. RANDOLPH. The leader has been yielding to me. I shall not continue very long, but I should like one further expression.

I am sure that the leadership on both sides of this aisle have not had the opportunity and, understandably so, to give their attention to my earlier comments. But I do want to read now—not to request that they later read—into the record what I said in my speech of Saturday in reference to this subject matter. Will the Senator indulge me the opportunity to do that?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH:

Mr. President, the majority leader (Mr. BYRD) deserves the commendation of Senators generally for his continuing efforts to secure final action in this body on the pending legislation. I congratulate him on his fairness and determination to obtain a decision in this forum so that the measure can move to a conference with the House.

I also commend the able minority leader (Mr. BAKER) for his cooperation in attempting to resolve this problem so that the Senate can move to other important business.

So I just want to reinforce what I said on Saturday by reading my comments at that time in reference to the two leaders. I just feel that some day, we shall know properly the efforts which the majority leader and minority leader have made in these matters.

Mr. ROBERT C. BYRD. Mr. President, my senior colleague could not be more gracious. It is typical of him and I thank him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. METZENBAUM. Will the Senator yield?

Mr. ALLEN. Yes, I think I should, provided I do not lose the floor.

Mr. METZENBAUM. I would like to thank both the Senator from Tennessee and the Senator from West Virginia. They are both very worthy adversaries. But some of the extra team came in this afternoon, and that was a little bit too much.

But it was a privilege to contest with you, and I hope you are successful in moving this matter forward in the best interests of the Nation, which I am sure both of you will dedicate yourselves to.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, I, too, wish to associate my statement with the remarks of the distinguished Senator from West Virginia (Mr. RANDOLPH) in praise of our distinguished majority leader.

The majority leader displayed just the right measure of forbearance and determination on this issue. Certainly, he leaned over backwards to give those in the minority who wished to be heard every opportunity to be heard, because it was for 5 days that we debated this issue before a cloture motion was offered. Thereafter, it seemed to me that the distinguished majority leader leaned over backwards to give Mr. METZENBAUM and Mr. ABOUREZK, and those associated with them, every opportunity to be heard, every opportunity to present their amendments.

It seemed to one and all that a hopeless task lay ahead of the Senate and lay ahead of the joint leadership in resolving this matter. But yet, they plowed ahead, and I appreciated the determination of the distinguished majority leader in saying that if we had to stay in until Christmas we were going to resolve this issue.

I want to comment further on what I believe is the force of the public opinion, both in the Senate and throughout the country.

Public opinion is the greatest force in politics and no effort can be maintained here in the United States Senate if it does not have the backing of public opinion.

I believe public opinion had supported this effort just as long as it could and I feel it was the loss of opinion here in the Senate and public opinion throughout the Nation that caused the distinguished Senator from Ohio and the distinguished Senator from South Dakota to agree that no further amendments would be offered in this matter.

But there was a Herculean task that was laid out by the distinguished majority leader, and associated with him the distinguished minority leader, and I commend them for their determination to see that the Senate did reach a final decision in this matter.

At the same time, Mr. President, I supported the efforts of the distinguished Senator from Ohio and the distinguished Senator from South Dakota in their efforts to be heard in this matter. I felt that they were acting within their rights in offering this vast quantity of amendments.

I am glad that the rules of the Senate have not had violence done to them.

I feel that the distinguished majority leader had two courses that he could have pursued that would have brought an earlier resolution of this matter and he refrained from doing so because he did not wish to do violence to the rules.

I have reference to a suggestion that all of the amendments be brought up en bloc, and, if the Senate had supported that effort, that would have disposed of the matter.

The majority leader did not follow that course and I commend him for it.

Another thing that he could have done, and it was suggested here on the Senate floor, was to move that all of the amendments to the bill were dilatory. That one ruling, had it been supported by the Senate, would have brought resolution to this issue long ago.

So I believe the distinguished majority leader has, as always, shown great leadership in this great fight that has taken place here on the floor of the U.S. Senate. I feel that without his determination to see that this matter came to a final vote there would have been no possibility whatsoever of the matter being brought to a final conclusion.

I commend the distinguished majority leader. I commend the distinguished minority leader, who has worked hand in hand with the distinguished majority leader in seeking a resolution to this matter.

Mr. President, I say again that I want to see the rights of the minority protected. From time to time, I feel sure, as other matters are brought up here on the Senate floor, that I will speak out in support of the right of the minority to be heard.

I again commend the distinguished Senator from Ohio and the distinguished Senator from South Dakota for the fight that they have put on in reference to this bill.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield myself 3 minutes. I wish to ask the distinguished leader a question.

First, let me say that I commend the distinguished leader and the minority leader on their endurance and good nature and their fairness to everybody.

A number have tried to stay on the floor rather consistently all through these days, which is our duty. Other matters have had to wait.

Can the distinguished leader give us any indication as to the possible time schedule tomorrow, which time the important issue will be voted on?

Mr. ROBERT C. BYRD. I am sorry, I cannot. I cannot give the Senator that information because at this juncture it is simply impossible for me to say.

The Senate will come in at 10 o'clock. I will assume that by 11 o'clock we will resume consideration of the natural gas pricing bill. I do not know what to expect at that point.

I think we all have some reason to be optimistic this evening in the hope that tomorrow will somehow bring a final solution to that problem.

The distinguished Senator from Washington (Mr. JACKSON) propounded a unanimous-consent request which, it seems to me, after it has been shown to others who expressed interest here, might provide the way whereby the Senate can complete action on this measure tomorrow.

I am sure there are others here who spoke up at that time who will have some input, and that unanimous-consent request may have to be altered.

But I anticipate votes tomorrow, rollcall votes. I do not know when they will come. I would have to anticipate at this

point a long day tomorrow because our work has become so backed up, not only in the Chamber, but in committee and in conference, that we cannot hold out any hope for days in which we can avoid long sessions or many votes.

Mr. CURTIS. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. That is about the best answer I can give the Senator.

Mr. CURTIS. I understand.

Mr. ROBERT C. BYRD. It is not an answer that has certitude written all over it. I thank the Senator for asking.

Mr. President, I thank my friend from Alabama for his statement. He is not only an able parliamentarian but also a fine U.S. Senator, a man who is dedicated to his people, to the Senate, and the Nation. He is a gentleman. I do not know of anything better that can be said about a man than that.

Mr. BAKER. Mr. President, I express my appreciation to the distinguished Senator from Alabama for his remarks and to the Senator from Nebraska for his remarks. Most of all, I express my appreciation to the majority leader for his efforts today to reconcile this dilemma and to bring us to the point where I think there is a prospect that we can move this bill one way or the other promptly.

Mr. ROBERT C. BYRD. Mr. President, the prospect for a fairly and reasonably speedy conclusion to this measure requite any inconvenience that has been caused to me, and I am sure I can say the same about the distinguished Senator from Tennessee, who has stood shoulder-to-shoulder with me in the determination that whatever the final product is, the Senate is going to pass a bill and send it to conference.

I express my appreciation to the Senator for sharing that determination with me.

Mr. BAKER. I thank the majority leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:22 p.m. the Senate recessed until tomorrow, Tuesday, October 4, 1977, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 3, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

You were called to freedom, brethren; only do not use your freedom as an opportunity for the flesh, but through love be servants of one another.—Galations 5:13.

O Gracious God, in this quiet moment of prayer we turn to Thee who art the source of our strength and the sustainer in our daily way. Thanks be to Thee for Thy goodness to us, for the heritage our fathers have bequeathed to us, and for our hope for better days to come. Throughout this week help us to be faithful in our work, just in our dealings, kind in our relationships, and true to our faith. Grant us the vision to see and the courage to do Thy will. So live in us that we may not swerve from the path of duty but with patience and perseverance, with purity of heart and unity of spirit we may labor together for the highest good of our Nation and the benefit of all mankind. Amen.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order that a quorum is not present, and do so on the grounds of article I of the Constitution which requires a majority to conduct the business of the House, and further I base a point of order on rule 1, clause I of the Rules of the House of Representatives which states the duties of the Speaker and specifically says:

The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the Members to order. On the appearance of a quorum, the Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal; . . .

The SPEAKER. The Chair is aware of the gentleman's point of order and the gentleman's point of order is well taken under rule I. Evidently a quorum is not present.

CALL OF THE HOUSE

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 618]

Anderson, Ill.	Fish	Pepper
Andrews, N.C.	Fisher	Pursell
Badillo	Foley	Rangel
Bellenson	Fraser	Rodino
Biaggi	Giaimo	Roncalio
Boland	Gonzalez	Rose
Bolling	Hall	Runnels
Bonior	Hanley	Santini
Burke, Calif.	Harsha	Sebelius
Burton, John	Hillis	Shipley
Burton, Phillip	Holland	Shuster
Byron	Horton	Sisk
Carter	Howard	Spellman
Cederberg	Jenrette	Stokes
Chappell	Johnson, Calif.	Teague
Chisholm	Jordan	Traxler
Collins, Tex.	Koch	Udall
Conte	Le Fante	Whalen
Conyers	Lent	Whitehurst
Cotter	Livingston	Wilson, C. H.
Davis	Long, Md.	Wilson, Tex.
Dent	McDonald	Wolff
Dicks	Marlenee	Wright
Diggs	Mathis	Young, Alaska
Dingell	Meyner	Young, Tex.
Dornan	Neal	Zeferetti
Eckhardt	Patten	

The SPEAKER. On this rollcall 354 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 282. Concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the Houses on the amendments of the Senate to the bill (H.R. 6655) entitled "An act to amend certain Federal laws pertaining to community development, housing, and related programs."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1331. An act to provide for the establishment of a Center for Books in the Library of Congress.

The message also announced that the Senate agrees to the amendments of the House to the Senate amendment to a bill of the House of the following title:

H.R. 5645. An act to raise the limitation on appropriations for the United States Commission on Civil Rights.

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment to the House amendment to the Senate amendment numbered 10 to a bill of the House of the following title:

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes.

The message also announced that the Senate had passed with amendments in

which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes;

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; and

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3) entitled "An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. CURTIS, and Mr. DOLE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 9290) entitled "An act to increase the temporary debt limit, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. HARRY F. BYRD, JR., Mr. TALMADGE, Mr. GRAVEL, Mr. HASKELL, Mr. CURTIS, Mr. ROTH, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5101) entitled "An act to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. MUSKIE, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2052. An act to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment; and

S. Con. Res. 46. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

CONVEYING TO THE ELY INDIAN COLONY THE BENEFICIAL INTEREST IN CERTAIN FEDERAL LAND

The Clerk called the bill (H.R. 6348) to convey to the Ely Indian Colony the beneficial interest in certain Federal land.

There being no objection, the Clerk read the bill as follows:

H.R. 6348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the land described below, consisting of approximately ninety acres, is declared to be held in trust for the Ely Indian Colony, Nevada: Section 22, township 16 north, range 63 east MDB&M, Nevada, north half southeast quarter northeast quarter northeast quarter southwest quarter.

With the following committee amendment:

Strike out all after the enacting clause and insert:

H.R. 6348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights-of-way, licenses, leases, permits, and easements, all right, title, and interest of the United States in the land described below, consisting of approximately ninety acres, is declared to be held in trust for the Ely Indian Colony, Nevada: The north half of the southeast quarter and the northeast quarter of the northeast quarter of the southwest quarter of section 22, township 16 north, range 63 east. Mount Diablo base and meridian, Nevada. Such land shall be a reservation of the colony.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DECLARING CERTAIN FEDERALLY OWNED LAND HELD IN TRUST BY THE UNITED STATES FOR THE TE-MOAK BANDS OF WESTERN SHOSHONE INDIANS

The Clerk called the Senate bill (S. 667) to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

There being no objection, the Clerk read the Senate bill as follows:

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights-of-way, leases and easements, all right, title, and interest of the United States in and to the following described land, and improvements thereon, are hereby declared to be held by the United States in trust for the Te-Moak Bands of Western Shoshone Indians:

The north half of the southwest quarter of section 4, township 37 north, range 62 east, Mount Diablo base and meridian.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 9290, TEMPORARY DEBT LIMIT INCREASE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, strike out "September 30, 1978," and insert "March 31, 1978,".

Page 1, line 7, strike out "$373,000,000,000" and insert "$352,000,000,000".

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EXEMPTIONS FROM MANDATORY RETIREMENT BAN

(Mr. DRINAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, the Senate Human Resources Committee has caved in to the pressures of big business and university lobbyists by exempting from the ban on mandatory retirement individuals with pensions above $20,000 per year and university professors and public school teachers.

Their action is most unfortunate and represents an unacceptable compromise with the forces of discrimination and reaction. We can now expect banks, brokerage houses, hospitals, retail stores, and other organized groups to petition the Congress for similar exemptions.

Mr. Speaker, the House must stand firm in our drive to eliminate ageism by banning mandatory retirement. Under the able leadership of Congressman Pepper, a living example of the folly of forced retirement, I know that the House will refuse to agree to the unconscionable exemptions the Senate may be on the verge of adopting.

URGES PRESIDENT TO PERSEVERE

(Mr. FINDLEY asked and was given permission to address the House for 1 minute.)

Mr. FINDLEY. Mr. Speaker, weekend events concerning Mideast policy show a rising level of U.S. influence. A joint statement with the Soviet Union outlined principles to be involved in a general settlement—including legitimate rights of the Palestinians.

This statement, plus an interview reported with Dr. Brzezinski, President Carter's National Security Adviser, suggest a strong role by the United States in negotiations. This is gratifying. I have long been convinced that a just settlement cannot occur without strong U.S. leadership. I congratulate the President and urge him to persevere.

The weekend events also show wide divergence of opinion among the Mideast States on basic principles. I hope the administration will not press for a Geneva Conference until general agreement is achieved on major principles.

CLOSED RULE VERSUS OPEN RULE ON THE LABOR BILL

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, one of the final acts in the saga of reform is about to unfold.

Tomorrow the Members of this body will have an opportunity to vote for either a closed rule or an open rule on the labor bill. The Members might well ask themselves, Why a closed rule, a rule that inhibits their opportunity to work their will? Why has a closed rule been utilized in this particular situation in view of the fact that earlier in this session we had open rules on situs picketing, minimum wage, and black lung?

Mr. Speaker, I am putting into the RECORD today the previous rules on the labor bills in the last 30 years, every one of which was an open rule.

Mr. Speaker, the Members are being led to a cliff. The good shepherd would take them over the cliff.

I recall the statement of a great Democrat from Missouri, Jim Reed. Jim Reed once said, when confronted with a situation like this,

> I do not belong to that branch of the sheep family that will follow a bellwether over a precipice. I reserve the right to examine the judgment and the motives of the bellwether.

Mr. Speaker, the American people will be watching, and I suggest that the Members of this body examine the motives of the bellwether before they go over the cliff.

FORTY-TWO DEFERRALS OF FISCAL YEAR 1978 FUNDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-235)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 42 deferrals of fiscal year 1978 funds totalling $1,480.6 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 3, 1977.*

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, OCTOBER 5, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of this week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6951, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, September 30, 1977, the Clerk had completed reading the bill.

Are there further amendments to the bill?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to remind Members of the current legislative status of H.R. 6951 to extend the Council on Wage and Price Stability for 2 years.

On Friday the House adopted by voice vote the rulemaking H.R. 6951 in order. General debate was concluded expeditiously and the committee amendment, which appears on pages 2 and 3 of the bill, was adopted by voice vote.

I thereupon offered an amendment which was designed to clarify the law with respect to the confidentiality of matters submitted voluntarily to the Council and to conform the bill in substance to the bill passed by voice vote in the other body. This amendment was adopted.

We now have before us legislation which, if it is passed without amendment, can be sent directly to the White House.

This expeditious handling of the legislation is important because the charter of the Council expired last Friday. Therefore, I urge all Members to refrain from offering amendments and if amendments are offered to vote against them.

This request is justified because this House has acted on two previous authorization bills for the Council, subject, of course, to the enactment of authorizing legislation.

If amendments were to be adopted, the bill would have to go back to the other body which, to put it mildly, is in a turmoil over energy legislation. Such inevitable delay would have a demoralizing effect on the very competent staff of this agency which President Carter has called a centerpiece in his fight against inflation.

Therefore, I urge Members to stay with the committee which reported this bill by a 36 to 2 bipartisan vote.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: After the existing material in the bill, insert the following new section:

SEC. 7. The President is authorized and directed to present a plan to Congress before March 31, 1978, to transfer, effective September 30, 1979, the functions of the Council on Wage and Price Stability to appropriate agencies of the United States. When presenting the plan to Congress, the President shall inform Congress of any functions of the Council on Wage and Price Stability which other agencies of the United States have the power to carry out without any such transfer.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, I will not belabor this amendment because I addressed myself to the subject of this Council at great length last Friday, but the fact is that this agency is not really a Council in any sense whatsoever. So that while there are some very talented people at the Council who are doing a good job in what they do, but they are really not a collegial Council and are not an organization that was intended to deal with inflation nor do they really deal with inflation. It is merely a cosmetic which enables some politicians to go back to their constituents and say we can do something about inflation when in fact we are not.

It is also there as the potential intervener in the private sector which could ultimately lead to wage and price controls. I think the sooner we get rid of this fictitious agency and realize we have got a serious problem of inflation, the sooner we will be able to do something about inflation.

As I pointed out last Friday, this Council, so-called, has a very impressive list of members on it. It has got the Secretary of the Treasury; it has got the Director of Management and Budget; it has got the Secretary of Labor. But I made some inquiries to find out how often this very important Council has met, because I know if it is so important to have all those people on it, it must have frequently dealt with this serious problem of inflation. Lo, Mr. Chairman, lo, when I inquired, I found out that this extremely important Council has never met. So I wonder whether we really need it.

Mr. Chairman, in conclusion I would like to make this observation. Last Friday night, September 30, midnight, a great thing happened in this country: an agency of Government went out of existence. The earth was a little bit lighter. I noticed over the weekend people seemed a little bit merrier and happier. I think that if we adopt this amendment, we will continue that state of euphoria, to know that we are on the right track in getting rid of agencies, not of creating more.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding.

I want to congratulate the gentleman for his statement. I share his position and his opposition to the Council. He has made an extremely important observation for this body, that is, that that Council is not addressing the real issue of inflation. In fact, the Congress is not through that Council addressing inflation, because inflation is not going to be cured—it is not going to be touched—by wage and price efforts of the Council nor by wage and price controls, as the gentleman has mentioned. It is, indeed, a potential threat to the market by intervening into decisions in the marketplace.

The answer to inflation is right here in the U.S. Congress in Washington, D.C., and to tell the American people anything else is nothing but a fraud. So I appreciate the gentleman's remarks, concur with his efforts, and extend to him my support.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD. I thank my good friend for yielding.

When the gentleman mentioned the matter of meetings last Friday, I did not have the information. Since then I have obtained it, and that is that during the previous administration the full Council met approximately once a month. In this administration we have not had a full-time Director just an acting Director. Mr. Bosworth became the Director, I believe, August 1, and he has had meetings three times with four of the principal members of the Council. He has also had meetings with assistant secretaries of the secretaries who are members of the Council. The Council does serve a real function, because they are advised ahead of time of any filing proposed by the Council and given advanced copies of any report of the Council so that they can comment. So that the Council members do have a real input that I was not aware of and could not inform the gentleman of.

Mr. LEVITAS. I will say this: I am sure that the members of this group, so-called Council have met, and I am sure that the distinguished chairman of the subcommittee was provided the best information available from those who provide such information. However, in my conversations with the Chairman of the Council of Economic Advisers and the Chairman of this Council, the information I received and which I transmitted to this body was to the effect that really as a Council, as a collegial body, it has not met to give directions or instructions or input on the policy decisions. During the last Congress the Subcommittee on Commerce, Consumer, and Monetary Affairs on which I serve had oversight hearings on this agency, and it was only after those oversight hearings that they even began to go through the pretense of having meetings.

This is a very important function in Government. Every one of the functions of this Council is now being provided by at least two other agencies of Government. We are here today not extending an agency; we are in effect recreating one. So what the Members are being asked to vote upon today is creating another agency in Government. I think this is an opportunity for us to strike that vote for freedom and do away with one agency.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROUSSELOT. I rise in support of Mr. LEVITAS' amendment. Mr. Chairman, first of all, I want to compliment my colleague for the offering of this amendment because I think it provides a better opportunity for us to get a report directly back from the President as to how effective this Council bureaucracy is—and both of us agree it is unnecessary bureaucracy. Many of us do not feel it has produced that much in the way of beneficial results that it is supposed to provide. So I want to compliment my colleague for offering the amendment.

Even with the amendment, as the gentleman knows, I have great difficulty in understanding why we need to continue this unnecessary bureaucracy. Based on the President's own statements and promises during the campaign to eliminate unneeded and nonessential elements of Government especially in the White House area in which this falls. I would think the President would want this to expire. So I think the gentleman is making a positive contribution with this amendment. I assume the chairman of the subcommittee probably will want to support it because I am sure he is anxious to have adequate feedback from the President himself on the kind of value that this Council has. I assume he is going to support the amendment, I do not know, because he needs adequate feedback to his subcommittee to find out what this agency is doing.

A little more than 2 years ago, in dissenting views, on a bill to extend the Council on Wage and Price Stability Act, I made the following statement:

> The time has come to say goodbye to the Council on Wage and Price Stability. If the Council were to continue to exist and to play the role which its title implies, it would be working to keep prices up, for the economy is now displaying an unmistakable trend toward a lower rate of inflation. There will certainly be temporary breaks in this trend, such as that which occurred in June, but unless Congress and the Federal Reserve depart more drastically from responsible fiscal and monetary policies, the rate of inflation should decline to the 5%–6% range by the latter part of this year.
>
> Rather than add subpoena power and the power to require periodic reports by product line to the Council's authority, Congress should allow the Council on Wage and Price Stability Act to expire on August 15, 1975, and it should not permit wage and price controls to survive in any form or guise. There is no justification whatever for imposing controls upon the general economy when the cause of inflation is not to be found there but rather is to be found right here, in the Congress, and at the Federal Reserve.
>
> When Congress persistently runs huge deficits, these deficits must be financed by Federal borrowing, which creates upward pressure on interest rates, and, in periods of expansion, tends to crowd out private demand for funds. Pressure then builds for the Federal Reserve to "accommodate" these competing demands by increasing the money supply. In 1972 and 1973 the Federal Reserve yielded to this pressure and increased the money supply at record peacetime rates.
>
> A rapidly increased money supply causes inflation. Inflation is not created by citizens making their daily economic decisions. These decisions affect the allocation of resources, but they cannot raise prices generally. Inflation has its genesis in the Congress; therefore, any action to control inflation must come in the form of meaningful control over our own profligacy. It is a cruel trick to play on the victims of the irresponsible fiscal and monetary policies of the Federal government to use the natural consequences of these policies, including inflation, as an excuse to increase governmental control over their activities.
>
> Nor should there be any mistake as to the basic nature of the "monitoring" and "jawboning" activities which are supposed to be the primary functions of the Council. There is a distinction only in degree between economic controls on the one hand and "monitoring" and "jawboning" on the other. All such activities constitute attempts to influence economic events by the application of varying degrees of governmental coercion.

If the "sunset" concept, tl.at agencies should be disbanded when their usefulness has ended, means anything at all, then it is now past time to put the Council out of business. If the research capability of the Council staff is deemed to be unique and indispensable, we should adopt the amendment of my distinguished colleague from Georgia (Mr. LEVITAS), which sets a deadline, March 31, 1978, by which another place must be found for the staff and another deadline, September 30, 1979, by which the switch must be implemented.

As long as the Council continues to exist, it will continue to divert the attention of the American people from the real causes of inflation. The committee report on this bill contains a section entitled "Nature of the Inflation Problem" which calls for "a comprehensive anti-inflation program that operates directly on prices, costs, supplies, and expectations." The fact is that we do not need a complicated, "comprehensive" program to combat inflation. The program can be quite simple—keep the growth of the monetary aggregates within bounds which are commensurate with the ability of the economy to increase production. What seems to be difficult is to summon the will to implement this program

The great monetary economist, Milton Friedman, described our present economic predicament very succinctly in a column entitled "Why Inflation Persists," which appeared in the October 3, 1977, edition of Newsweek:

> There is one and only one cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. . . . .

> There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. . . . .

Fortunately, it is possible to cure inflation without perpetuating the existence of this bureaucracy and without sacrificing our economic and political freedom, if we have the will to do so. If we do not have the will to cure inflation, all of the bureaucracies we can establish to put out press releases saying nasty things about inflation will do no good.

There is one activity of the Council which deserves to be continued, whether or not the Council continues to exist in its present form. I refer to the identification and criticism of activities of the Federal Government which contribute to the high cost of living. In fact, if I could be certain that the Council would limit itself to the criticism of costly and wasteful Government activity and would never become the instrument for the imposition of the dreaded wage and price controls upon the American people, I would urge that the Council be permitted to remain in place. Unfortunately, there are no assurances that the Council will not once again become a bureaucratic menace in its own right; therefore, it must go.

The full text of the Friedman column follows:

WHY INFLATION PERSISTS

(By Milton Friedman)

Nearly three years ago, I wrote in this space: "Four times in the past fifteen years we have started on a cure for inflation. Three times we have abandoned the cure before it had time to complete its task—in 1963, 1967, 1971. Each time, the result has been a higher plateau of inflation, producing a new attempt at a cure. Will we make the same mistake the fourth time in 1975? Or this time, will we have the courage and the wisdom and the patience to see the cure through?" (Newsweek, Nov. 4, 1974.)

ABANDONING THE CURE

As of today, the answer is that we have made the same mistake a fourth time. Once again, we have paid the cost of a recession to stem inflation, and, once again, we are in the process of throwing away the prize. From a high of more than 12 per cent in 1974 (from December 1973 to December 1974) inflation fell to less than 5 per cent (December 1975 to December 1976). It has now risen sharply, may temporarily recede as we work through the bulge produced by the special problem of the hard winter, but then, I fear, will resume its upward march, not to the "modest" 6 per cent the Administration is forecasting, but to at least several percentage points higher and possibly to double digits again by 1978 or 1979.

There is one and only one basic cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. These days, that cause is produced in Washington, proximately, by the Federal Reserve System, which determines what happens to the quantity of money; ultimately, by the political and other pressures impinging on the System, of which the most important are the pressures to create money in order to pay for exploding Federal spending and in order to promote the goal of "full employment." All other alleged causes of inflation—trade union intransigence, greedy business corporations, spendthrift consumers, bad crops, harsh winters, OPEC cartels and so on—are either consequences of inflation, or excuses by Washington, or sources of temporary blips of inflation.

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. The Fed is supposedly independent. But, as Dooley said of the Supreme Court, "It follows the election returns." Its behavior reminds me of nothing so much as the remark attributed to a U.S. Army officer in Vietnam, "We destroyed the village in order to save it." Similarly, the Fed refrains from using its independence because it is afraid of losing it.

Listen to Chairman Arthur F. Burns in testimony to the House of Representatives (July 29, 1977):

"The trend of growth in monetary aggregates, I regret to say, is still too rapid. Even though the Federal Reserve has steadily sought during the past two years to achieve lower ranges for monetary expansion, the evolution of its projections has been extremely gradual; indeed, at the pace we have been moving [*note: with respect to projections, not behavior*] it would require perhaps a decade to reach rates of growth consistent with price stability. I must report, moreover, that despite the gradual reduction of projected growth ranges for the aggregates during the past two years, no meaningful reduction has as yet occurred in actual growth rates."

Meaning: promises have been in the right direction but too modest; performance has been in the wrong direction.

THE PERFORMANCE OF THE FED

The following table documents Chairman Burn's description of performance: the high rates of monetary growth from 1971 to early 1973 fostered the inflation that peaked in 1974. The sharply lower monetary-growth rates from 1973 to 1975 produced the serious recession of 1974–75 and the subsequent tapering off of inflation. The sharp rise in early 1975 sparked the recovery; the slowdown in late 1975 produced the economic pause in the second half of 1976 that played such a prominent role in the Ford-Carter election battle. Since then, monetary growth has been rising, not falling, and is now about back where it was in 1972.

Recent rates of monetary growth

[Percent per year]

	M_1	M_2
December 1971 to January 1973	9.3	11.4
January 1973 to February 1975	4.5	7.7
February 1975 to June 1975	9.5	12.0
June 1975 to December 1975	2.8	7.0
December 1975 to June 1976	5.8	10.5
June 1976 to August 1977	7.1	10.9

NOTE.—M_1=currency plus adjusted demand deposits; M_2=M_1 plus commercial bank time deposits other than large CD's.

Inflation will not be stopped by words, only by actions. At the moment, we have the worst of two worlds. Nominal independence of the Federal Reserve without its effective exercise permits Congress and the President to evade responsibility for the creation of money to finance large government deficits. The power of Congress to legislate and of the President to approve such deficits without explicit responsibility for the resulting monetary growth gives the Federal Reserve an excuse for its inflationary behavior.

Again, let me quote Chairman Burns, this time from a speech on Aug. 13, 1977, proclaiming "The Importance of an Independent Central Bank":

"Theoretically, the Federal Reserve could thwart the non-monetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government. The fact that such actions may in combination be wholly incompatible with moderate monetary expansion is seldom considered by those who initiate them."

FISH OR CUT BAIT

It matters little whether the Federal Reserve is unable or unwilling to exercise its independence in deeds as well as words. In either case, let us be done with the fiction that "independence" is somehow or other a bastion against inflation. Let us put the responsibility for the rate of monetary growth—and therewith for the subsequent rate of inflation—squarely and openly on the Administration and Congress. Instead of simply requiring the Federal Reserve to *report* its "projections" or "targets" for monetary growth, let the Congress require the Fed to *achieve* specified rates of monetary growth (or specified levels of the quantity of money) within specified ranges of tolerance. That would combine responsibility and power. It would also enable the ordinary citizen to know whom to hold accountable for inflation.

But I do compliment my colleague, the gentleman from Georgia, for offering this amendment. I think he can count on a substantial number of us on the committee to support it.

Mr. LEVITAS. I thank my colleague, the gentleman from California, for his remarks and for the assistance he has provided me in bringing this to the attention of the Members.

Let me point out one thing for the Members who are here. This really is more of a sunset amendment than an amendment which provides for the termination of this agency. This does not say this agency should go out of existence on last Friday night, which it did. It says that if this agency is to be continued, then at a certain time the President will report to the Congress as to the effectiveness of this agency and ascertain the places in Government where the functions of this agency can be transferred so that if it is needed it can continue whatever it is supposed to do.

So I think this is a very rational and reasonable approach to phase out agencies of Government. I think that is what the American people want and that is why President Carter received so much support when he was running, because he said he was for reducing the Government rather than expanding it.

Mr. REUSS. Mr. Speaker, I rise in opposition to this amendment.

I think the Members ought to know what they are asked to do by this amendment. It mandates on the President by early next year to torpedo, and sink without a trace, the Council on Wage and Price Stability. Sure, it is allowed to slowly settle beneath the waves over an agonizing period of several months after that, but it is dead and dead forever.

And by so doing we will be sending a signal to the entire industrialized world that we do not really care very much about combating inflation.

Every other industrialized country in the Western world has an agency, like the Council on Wage and Price Stability, whose function it is to break out the Phillips curve, whose function it is to show that maximum employment and maximum price stability can coexist.

If we now say that we are ridding ourselves of this leading weapon in our arsenal, we are saying in effect we have unilaterally disarmed ourselves.

The proponent of the amendment is our always hard-working and delightful colleague, who is entitled to go astray on this one—and, believe me, when he goes astray he does it in the grand manner. He calls this a sunset amendment. Well, the ghastly glow that would permeate the atmosphere when this amendment goes into effect would more resemble the afterglow of a nuclear detonation, and poor little COWPS would be no more.

It is said that the members of the Council and other officials have not met on the record as often as they should have.

I think there may well be some justification to that point. I have discussed it with our friend, the gentleman from Georgia. I would hope that the gentleman's subcommittee of the House Committee on Government Operations could meet with COWPS, and somehow regularize their proceedings.

I happened after the debate on Friday to have a discussion with the chairman of COWPS, Charles Schultze, and I have it from him that the Council does intend to meet regularly. But in order to eliminate this mosquito of insufficient meetings, the gentleman from Georgia would wield his giant sledgehammer, and utterly obliterate the Council on Wage and Price Stability.

So I hope that the amendment will be fully discussed, carefully considered, and overwhelmingly voted down.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I concur in the gentleman's remarks.

I just wanted to comment on some of the discussion that has taken place from our distinguished colleague from Georgia of this subject. Obviously, this bill has a sunset provision in that it extends the life of the Council for 2 years; so the gentleman does one better and makes a decision, in essence, for the House that we are going to prepare a plan for phasing out the agency completely.

I think the subcommittee has adequate leverage to deal with the Council on its merits within the context of the subcommittee. We had extensive hearings on this. A few months before the subcommittee was structured, we had meetings with the past administration on the subject. There has been an argument made that the Council has not done the job we want. I think by destroying the one hope we have for coordination, we do not contribute to the problem of dealing with inflation. I think that is precisely what this particular amendment does. I think it is hard enough to staff a Council with competent people over a 2-year period, rather than put a phase-out provision. We have to have competent people to run these agencies and we cannot attract competent people if we put this type of amendment in it. That is why when we considered this legislation we had a 1-year extension. We found that did violence to recruiting competent individuals.

So the allegations that the Council has not done much are interesting, but are not supported by the facts. Last year they put out 125 different reports on various subject matter. This year they were a major contributor when we talked about the availability of insulation materials when we were considering the energy bill. In addition this is the Council that under Executive order provides the economic impact statement that many of us think is a positive contribution.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, as fond as I am of the gentleman from Georgia, and I assure the gentleman from Georgia of that, in plain terms the intended effect of the amendment offered by my good friend is to abolish the Council on Wage and Price Stability. His bill to do that was introduced and was considered by the Economic Stabilization Subcommittee. The House should know that that direct attempt to terminate the Council was strongly opposed by the administration and was rejected by the subcommittee. I urge my colleagues to reject this amendment which is nothing more than a backdoor approach to kill the Council.

We need COWPS. It is unique in its independence. The Council of Economic Advisers was never intended to direct its attention on the narrower issues affecting our economy. It is essential that there exist within the executive branch—but independent of the Departments of Labor and Commerce which represent the interests of labor and business respectively—an agency which can direct its attention to inflationary developments in the public and private sectors of the economy.

If COWPS were merged into the CEA or any other agency, it would symbolize a less vigorous Government policy concerning wage and price stabilization as well as a smaller scale program of Government monitoring of inflationary actions. Even more impossible would be its ability to monitor and to critize the impact of other Federal agencies or its new parent. If this Congress is to make any changes in the role COWPS is to play, it should be to increase its independence and strengthen its ability to react to inflationary developments.

One of the most important factors in COWPS' ability to act effectively depends on the degree of support offered by the President. That question has been clearly answered during our hearings and in subsequent communications between my chairman, myself and the White House. The administration's strong opposition to this amendment gives us a clear indication of the important role the Council is playing in the battle against inflation.

I have been here for three Presidents fighting for this Council. The new President, as I reminded this body last Friday, in his April 15 attack on inflation said that this organization, COWPS, was an integral part of this anti-inflation program.

In addition, we had Mr. Lance's support for this organization. Secretary Blumenthal and Mr. Schultze appeared before us in strong support.

One thing the gentleman from Georgia has forgotten in all the discussion is that this agency is independent and when the Committee on Banking and Currency extended it the last time, we gave them the power to go in front of regulatory agencies and to say to the Congress and to the President that this regulation or this governmental action is going to cause inflation.

I would like to read a letter hand-delivered, dated October 3, from Mr. Schultze. He said:

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., October 3, 1977.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization of the Committee on Banking, Finance, and Urban Affairs, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that an amendment is to be offered today to the Council on Wage and Price Stability Act that would require the Administration to dissolve the Council by September, 1979.

Last week, I wrote you to express the Administration's serious objection to this proposal. At that time, I stated my concern that the functions of the Council and its staff are unique and unlikely to be performed effectively by any other agency in the Executive Branch. The President has stated on several occasions during the past several months his strong support for legislation to continue an independent Council within the Executive Office of the President.

I can understand, however, that some Members of Congress may wish to have a full examination and discussion of the role and functions of the Council within the Carter Administration. For this reason, I would like to assure you of my willingness, and that of other members of the Administration to appear before the appropriate oversight committee of Congress early next year to discuss the structure of the Council, the nature of its operations, and its relation to other agencies of the Government.

Through such an appearance, I hope that we can satisfy the wishes that some members of Congress have expressed yet manage to avoid the disruption of the Council's operations that would ensue if its disolution were mandated under the currently pending legislation.

Cordially,

CHARLES L. SCHULTZE.

What I am simply saying here, Mr. Chairman, was said so well by other members of the committee. If this amendment passes, we put this organization under a cloud which guarantees its incompetence for whatever period it exists. It is not merely a sunset amendment; it is what one would call a destructive amendment.

One of the problems we went into in both the Nixon and Ford administrations was that the life of the Council was such an indefinite thing that it was impossible to get highly qualified personnel. The

Council has come forward with a great many worthwhile reports which are there for anyone who wants to read them. They have been in direct contact almost every day with the steel situation, regarding what we can do about imports and prices. Secretary Harris has come to the Council and requesetd a review of prices of plywood which have helped to drive up the cost of new homes. Every day, there is daily contact between Chairman Schultze, between the Council of Economic Advisers and the Director of COWPS.

It seems to me that we should give this independent organization a chance to do its work and not hamper it with this type of amendment which is really, as the chairman of the committee has said, an atomic bomb going after a gnat. I urge the Members to vote against the amendment.

Mr. BLANCHARD. Mr. Chairman, I move to strike the last word, and I rise to speak in opposition to the amendment.

Mr. Chairman, I speak in opposition to this amendment. I want to commend to those Members who are following this debate the comments made by my colleague from Connecticut (Mr. McKINNEY) and the gentleman from Minnesota (Mr. VENTO). We on the Banking Committee have spent the last couple of years looking at the Council, wondering what President Ford was going to do with it. It has been a kind of on-again off-again thing under President Ford, and now under President Carter.

One thing throughout the number of hearings we have had on the Banking Committee which I think seems very clear is the fact that the major culprit in fighting inflation is the fact that most people in elected office have already decided what the cause of inflation is. They have seized upon their little pet peeves to cite out as the major causes of inflation. No issue—and we all know it—brings forth more convenient slogans than how to deal with inflation. Everyone blames their convenient whipping boy for inflation.

I think that if this amendment were adopted, we would eliminate effectively the one agency and the only agency we have which is independent, not locked into some other department, that can look at the question, the causes, the effects of inflation, on its own. Amidst all these slogans we have seen and heard in the Banking Committee, from almost every economist, whether he was working for the previous President or the current President; whether they be liberals or conservatives; Republicans or Democrats, was that the causes of inflation are varied. For example, wage-price policies within an industry can be a cause; obviously Government spending at certain points can be a cause of inflation; monopolistic practices can be a cause of inflation; administered inflation by large institutions can be a cause; expectational inflation by consumers can be a cause; the price of internationally traded commodities such as oil; the effect of payroll taxes: the size of world grain stocks; the money supply; fluctuation in our foreign trade; decisions on certain kinds of Government regulations; productivity performance; and the exchange rate of a dollar.

There are so many selective causes for inflation, their effect so varied and their effect varied over time, that the last thing I think we ought to do is to assume that we know what the answers to inflation are, that we do not need some council independent of others to look at inflation, to monitor it and to inform us. To say that somehow other agencies, whether they be Labor or Commerce, with their own special interest in promoting their own programs, are better equipped, I think is very unwise. I do not think the Council previously has been effective enough in monitoring inflation. I think we ought to give President Carter, who has called this Council his centerpiece for fighting inflation, a chance. Furthermore, I think, because of the kinds of information that the Council can come up with, the most important thing we can urge the Council to do is to step up its activity in providing every Member of this body information on what is going on, so we do not sit around here perpetrating a fraud, which is to go home and tell the people we know what the answers are and we know who is to blame.

The gentleman from Georgia is very concerned about the fact that maybe we are doing something cosmetic. I guess I share that concern, to some degree. But I think what would be worse is to fold up and say we know what the causes of inflation are, that they are very simple and we do not need anyone to watch us, to watch our unions, to watch the President, to watch business, to watch commodities, to watch world trade, that we do not need any new answers or insights.

I frankly think this body and the American people need as much information as they can get on inflation, and the best place to get it is from the Council on Wage and Price Stability.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, first of all, I would like to commend the gentleman from Michigan (Mr. BLANCHARD) as well as the others who have so eloquently spoken in defense of this useless Council, as to what it has been able to accomplish, although I have not found that it has been able to accomplish anything. But let me ask the gentleman this, because I know the gentleman knows the background of this Council. It came into existence in August 1974, at a period of double digit inflation, after phases 1, 2, 3, and 4 had been unsuccessful.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. BLANCHARD. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

It was adopted for a cosmetic purpose, to let Members of Congress go back to their constituents and say, "Look, we are doing something about inflation."

This agency has, according to its charge, responsibility of monitoring the entire private sector and the responsibility of monitoring the entire governmental sector. What is its staff? It has a staff of 40 professionals, and maybe it will go up to 50, or 150, or 160. But to believe that this Council can really fight inflation is to deceive the American people. And as long as the Members of this body do not have to face the issue head on, we are going to continue to have to take the aspirin of this Council. I believe there is a need for monitoring and advising the Congress and advising the President. But I say to my friend, the gentleman from Michigan, as I said to my friends, the gentleman from Pennsylvania and the gentleman from Wisconsin, this Council is not the vehicle that is going to get us to the place we want to go, and as long as it is sitting in the garage, we are not going to look up the means of other transportation.

Mr. BLANCHARD. Mr. Chairman, I thank the gentleman for putting his position in perspective. I guess it is a matter of perception. I do not think the American people are deceived one bit about the ability of this Government's conduct, or that of the Council we are deliberating upon, to fight or stop inflation. If anyone here would suggest that back home, I think they would probably be laughed out of their town meetings. The fact is that we need all of the help we can get to sort out the causes and effects of inflation. And since the whole debate of inflation has been dominated all of my lifetime by slogans by people like us, it seems to me we need this Council to help us break through that rhetoric.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has again expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. ROUSSELOT. There has been a substantial amount of discussion here about how much this Council, which is nothing more than the legislative remnants of the wage and price controls, has done. And if the Members like wage and price controls, they will really like this Council.

What has the Council done to stop inflation, or what has it done to point out to the Congress or the public where we should be doing something to stop inflation? I want the gentleman to name one thing quickly, and I hope all the other Members will not jump up at once to help the gentleman in the well.

Mr. BLANCHARD. Mr. Chairman, if

the gentleman will permit, I will try to reclaim my time and give an answer.

Mr. LAFALCE. He does not have the book.

Mr. ROUSSELOT. Let the gentleman from Michigan answer. It must be difficult for the advocates of this bill to name such accomplishments.

Mr. BLANCHARD. I do not have the lengthy list of all the various studies the Council has made and the statements it has put out, whether it be on health care or Government regulation.

Mr. ROUSSELOT. Reports by themselves mean nothing if there have been no real accomplishments or results. What has the Council done in the health care field to stop inflation?

Mr. BLANCHARD. It has not done anything.

Mr. ROUSSELOT. It has not done anything? An amazing admission.

Mr. BLANCHARD. Nor has this Congress or our Government, and it is because of clichés and slogans that we have not.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, all the arguments have been that this bill is not only going to stop inflation but also has done a good job in stopping inflation. Nobody has shown that so far in this debate.

Mr. BLANCHARD. Mr. Chairman, I will reclaim my time.

I have not made the argument that this Council is going to stop inflation. I have made the argument that this body, the U.S. Congress, the other departments of Government, and the American people need all the help they can get in pinpointing, monitoring, studying, and analyzing inflation in a number of sectors. There has been very little of that type of thing. The Council on Wage and Price Stability is a step in the right direction, and the amendment pending is, in my judgment, off base.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I would be delighted, Mr. Chairman, to point out to my friend, the gentleman from California (Mr. ROUSSELOT), what this Council has done. There is a 9-page report detailing what they have done.

Mr. ROUSSELOT. I have read it.

Mr. McKINNEY. This has to do with EPA's ridiculous idea of putting emission controls on motorcycles, and that would increase the cost of motorcycles by something like 20 percent. I can point out what has been written on tankers; I could go right down the list. It is an impressive document, when we consider that only 40 people have been involved in the study.

Mr. ROUSSELOT. I have read that document, and it does not prove in any way that this Council has done anything to stop inflation, just produce reports.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the author of this amendment made reference to the creation of the Council on Wage and Price Stability in August of 1974. It was created at the very time when President Ford came into office. The first week President Ford was in office he sent a message to Congress asking Congress, in bipartisan fashion, to give him an instrument to combat what he thought was the worst evil of that time, and that was the evil of inflation. This Congress, in a bipartisan mood, and by a bipartisan vote of 369 to 27, gave that President what he requested—the tools to do the job. Only 27 hard core extremists opposed President Ford's request.

Whether we agree or disagree with the efficacy of the Council over the past 2 years or so, the situation now is very similar. We have a new President, and he has come to this Congress and said,

> Give me the tools to do the job of fighting inflation. The tool that I want is a strengthened Council on Wage and Price Stability.

I do not think that the author of this amendment, the gentleman from Georgia (Mr. LEVITAS), even though he has difficulty with the job done by the Council over the past 2 years or so, wishes to visit the sins of the former Council upon the future Council. Inded, it was the author of this amendment, the gentleman from Georgia (Mr. LEVITAS), who was the leading proponent of the nomination of the incumbent President in this body and who came before us before President Carter was nominated and said,

> Have faith in him. He wants to reorganize Government, he wants to fight inflation, he does not want to add new layers of bureaucracy, he wants to make the existing bureaucracy work better.

Mr. Chairman, I say to the Members of this body that we should give the same confidence and the same tools to do the job to President Carter as we gave to President Ford in August 1974. Let us place the same confidence in our incumbent President that the gentleman from Georgia (Mr. LEVITAS) asked us to place in him when he was promoting him to be our nominee.

Mr. Chairman, in considering this bill it would be wise to look at who is favoring it and who is opposing it.

First, let us look at the Banking Committee, and we find that it was reported out of that committee by an overwhelming vote of 36 to 2. There was virtually unanimous bipartisan support for the continuation and strengthening of this Council.

To be sure, the AFL-CIO and the Chamber of Commerce oppose it; but why? Labor opposes it because they will have to consider the inflationary impact of their demands for wage increases; management opposes it because they will have to consider the inflationary impact of their demands for price increases. I really think the fact that both those groups oppose it indicates that the Council is in the public interest.

Mr. Chairman, as a cosponsor of the bill to extend the Council on Wage and Price Stability for 2 years, I believe that there are a number of other aspects concerning the Council which must be stressed.

The central focus of the Council is on inflation, as it was in 1974, when the Council was formed. The need to monitor and combat inflation is as compelling today as it was in 1974 in the depths of the recession. Current inflationary rates are no more acceptable than those which prevailed in 1974. The Government requires an independent agency, free of the usual bureaucratic inefficiencies and pressures, which can provide information on inflationary trends.

In addition to this extremely important function, the Council will be performing valuable new services for the country, the administration and the Congress. In these times of unacceptably high unemployment, the Council will now also concentrate on the question of full employment. The Council will be able to appraise both the administration and the Congress of ways to combat unemployment. It should also end the monthly ritual of everyone holding their collective breaths until the new rate of unemployment is determined. The Council should give us a better long-term prognosis of what unemployment rates will be, depending upon which particular policies are followed. Both the administration and the Congress desperately need this information.

The Council is active on other fronts as well. It is in the process of compiling a comprehensive report on the current condition of the steel industry. I and many other Members eagerly await this report, because we are deeply concerned with the current problems the steel industry faces. That President Carter assigned this report to the Council was no accident. The Council's reputation for independent and objective analysis uniquely qualified it for this crucial task.

The steel industry report will not be the last of the Council's efforts. It will be analyzing the significance of a large number of noteworthy factors which affect our economy. Fluctuations in commodity supplies and prices, interest rates, investment patterns, worldwide alterations in energy supplies and prices, and changing trends in international trade are only a few of these key issues. Instead of the typical bureaucratic fragmentation, the Council will provide a central clearinghouse for these studies.

The Carter administration has enlarged the parameters of the Council. By doing so, it has made it an integral and indispensable part of the President's economic program. If the Council is allowed to perform these key functions, the chances of success for the President's program will be greatly enhanced. I strongly urge my colleagues to support the continuation of the Council on Wage and Price Stability.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have been somewhat amazed because of some of the comments I have heard from my good colleagues expressing their great fear that this amendment might pass, an amendment which I think is a very reasonable one.

First of all, Mr. Chairman, I heard the distinguished chairman of my committee say that this amendment is a "sledge hammer."

Mr. Chairman, I want to read and quote directly from the amendment to show how much of a "sledge hammer" this really is. I will just read the language; it is very simple.

It says:

"The President"—that is Mr. Carter, to whom my good colleague, the gentleman from New York (Mr. LAFALCE), just referred—"is going to eliminate bureaucracy."

Mr. Chairman, that was his campaign pledge. Let me read further.

Mr. LAFALCE. Mr. Chairman, if the gentleman will yield, did he say he was going to eliminate bureaucracy or make bureaucracy more streamlined?

Mr. ROUSSELOT. I believe he said both.

Mr. LAFALCE. Did he say he was going to eliminate bureaucracy?

Mr. ROUSSELOT. Mr. Chairman, I will not yield to the gentleman but will say Mr. Carter emphasized both points. After I have reviewed the amendment I will be happy to yield to the gentleman.

The CHAIRMAN. The gentleman from California (Mr. ROUSSELOT) has the floor.

Mr. ROUSSELOT. To continue, Mr. Chairman, I would like to read this so-called "sledgehammer" amendment. It says:

"The President is authorized and directed to present a plan to Congress before March 31, 1978"—(that is not what I would call a speedy deadline)—"to transfer, effective September 30, 1979"—which is a substantial time in the future—"the functions of the Council on Wage and Price Stability." Therefore, if the President feels he has such an effective weapon against inflation, he has plenty of time to tell us how he is going to use that as an effective weapon. The amendment language continues "the functions of the Council on Wage and Price Stability to appropriate agencies of the United States."

Let me read more:

> When presenting the plan to Congress, the President shall inform Congress of any functions of the Council on Wage and Price Stability which other agencies of the United States have the power to carry out without any such transfer.

Mr. Chairman, that is the so-called devastating sledgehammer to which my distinguished chairman utters great fear in pointing out what this amendment will do to the Council on Wage and Price Stability bill before us, if it is adopted.

I just thought we might put that "sledgehammer" in a little better perspective.

Mr. Chairman, another colleague suggested that if we pass this amendment, it will destroy this agency, this great agency with respect to which it took all of my colleagues a long time to rise to their feet to give one instance in which a recommendation by this great agency has actually produced something constructive in stopping inflation. We had a great debate as to who could stand up first and tell us when and where this agency had done it. There was a deafening silence.

Mr. Chairman, I do not really believe that evidence has been produced—and I have gone through, as my colleague from Connecticut has suggested, the quarterly report that this agency now puts out, and I still challenge my colleagues to cite such instances—of the specific constructive things that this agency has done to actually stop inflation. I do not think that the functions for which this House established the council have really been performed.

Mr. Chairman, another colleague says that this amendment would be so devastating that this amendment would put a cloud over this agency. I do not know why it would put a cloud over it if we are merely asking the President—and he has charge of it; this is in the Office of the President; that is where this extra bureaucracy exists, in the Office of the President—to report to us before March 31, 1978, what the functions are that he expects to utilize in the future.

Mr. Chairman, I really think that the amendment is just an insurance policy on our part mandating that we be properly informed as to how this agency is going to perform; and I do not see any great "damage" in putting that mandate in this legislation.

I would think, on the basis of everything that President Carter has said, that he would be delighted to have this kind of provision in the bill.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Again, Mr. Chairman, I do not believe that the claims, charges, and fears that have been generated by those opposing this amendment have really been persuasive. I think the gentleman from Georgia, who has offered this amendment, has offered a reasonable approach in order to make sure that we get adequate feedback as to what the functions of this agency are going to be. If it is to continue.

Mr. Chairman, it has already been established that this Council has not met too much since President Carter has taken it over; and we all understand that it has taken a great deal more time to get hold of this massive bureaucracy than even President Carter himself anticipated when he was running for the Presidency.

So my belief is that this provides a helping hand to the President if he really intends to do the things that his people who came up and testified for its continuance said he was going to do, but it makes us a greater partner in that effort to insure that we have the input and that we have the capability to participate with him in redesigning and redrafting those functions or, if other agencies can perform it, such as the Council of Economic Advisers and the Office of Management and Budget, or the Commerce Department, or anyone else who can perform these functions, then let them do it, rather than continuing on with an unnecessary bureaucratic apparatus which, in fact, is not needed.

Now I shall yield to my colleague, the gentleman from Connecticut (Mr. McKINNEY), who I know has been a staunch advocate of this great bureaucratic nonsense.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. I sincerely believe that if you feel strongly that we should have wage and price controls managed by the Federal Government, you should vote for the continuance of this unnecessary bureaucracy. But if you believe as my colleague, the gentleman from Georgia (Mr. LEVITAS), several of the members of the committee, and I do, if you will study the questioning of Mr. CAPUTO, a member of the committee, you will see that even those who have advocated it had a great deal of difficulty producing any evidence that the council really produced constructive results in stopping inflation. Yet this has been the principal argument as to why we need to perpetuate the council.

I urge support of this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. McKINNEY, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute).

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be delighted to yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would just simply say to the gentleman from California that I have read the letter earlier from Mr. Schultz that clearly states his willingness to appear before the Congress and state where the Council is going.

Mr. ROUSSELOT. Why does the gentleman not read the letter again?

Mr. McKINNEY. I also have another letter, this one from Stuart E. Eizenstat, dated September 26, 1977, that says:

> The administration formally opposes mandatory wage and price controls including standby controls.

Which I think would take care of one objection of the gentleman.

Mr. ROUSSELOT. Hopefully it would, but we have heard other promises, such as the President's promise that he was going to support deregulation, which did not come about. The President said that in writing.

Mr. Schultze can easily utilize his own Council of Economic Advisers to perform those same tasks and functions. He does not need this useless bureaucracy.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, what disturbs me about that last comment is that the last time we had wage and price controls they were imposed by a President who said he would never impose wage and price controls. And if you leave a dog lying around long enough it is going to pick up fleas, and if you leave an agency such as the Council on Wage and Price Stability lying around long enough, it will pick up them too.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition

to the amendment and hopefully to conclude the debate.

Mr. Chairman, I strongly oppose this amendment. I do not believe we should mandate to the Council on Wage and Price Control the job of monitoring wage and price developments during the next 2 years under the debilitating handicap of planned dismemberment.

The gentleman from Connecticut (Mr. McKINNEY), the ranking member of the subcommittee, has, I believe, stated the cases and has referred to certain letters that he and I have received, two from Mr. Schultze and one from Mr. Eizenstat.

Mr. Chairman, under the permission granted me in the House, I will ask to include copies of those letters at this point.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., October 3, 1977.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization of the Committee on Banking, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that an amendment is to be offered today to the Council on Wage and Price Stability Act that would require the Administration to dissolve the Council by September, 1979.

Last week, I wrote you to express the Administration's serious objection to this proposal. At that time, I stated my concern that the functions of the Council and its staff are unique and unlikely to be performed effectively by any other agency in the Executive Branch. The President has stated on several occasions during the past several months his strong support for legislation to continue an independent Council within the Executive Office of the President.

I can understand, however, that some Members of Congress may wish to have a full examination and discussion of the role and functions of the Council within the Carter Administration. For this reason, I would like to assure you of my willingness, and that of other members of the Administration to appear before the appropriate oversight committee of Congress early next year to discuss the structure of the Council, the nature of its operations, and its relation to other agencies of the Government.

Through such an appearance, I hope that we can satisfy the wishes that some members of Congress have expressed yet manage to avoid the disruption of the Council's operations that would ensue if its dissolution were mandated under the currently pending legislation.

Cordially,

CHARLES L. SCHULTZE.

THE WHITE HOUSE,
Washington, D.C., September 26, 1977.

Hon. WILLIAM MOORHEAD,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOORHEAD: On behalf of the President, I would like to inform you that recent newspaper accounts suggesting a favorable Administration attitude toward formal numerical guidelines or standards as an anti-inflation tool were misleading and inaccurate. You will recall that the White House press office immediately denied the stories.

The Administration formally opposes mandatory wage and price controls including standby controls. Moreover, it is our judgment that a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy for inflation. Instead, the President has stressed the importance of meeting with business and labor leaders and other groups in the private sector to seek voluntary ways to deal with the serious problem of inflation. Members of the Cabinet and presidential advisors have been doing so. That effort, of course, will continue.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

The second point I make is that this is not a precursor of wage and price controls. This bill—and I will read the paragraph to the Members—actually prohibits wage and price controls, and it says:

Nothing in this act authorizes the continuation, imposition, or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends, or any similar transfers.

That cannot be made clearer. There can be no wage and price controls until the Congress acts, and it first has to act to repeal this bill.

The third point, Mr. Chairman, is that the amendment would direct the President to do certain reorganization in his own White House. Mr. Chairman, he has already done this, and this matter came before the Committee on Government Operations, on which the gentleman from Georgia and I serve. In the message accompanying that Reorganization Plan No. 1, the President said:

The Council on Wage and Price Stability helps and is a necessary weapon in the continuing fight against inflation and will be retained.

So we know clearly what the President's position is.

I merely close by reminding the Members that this was reported by their committee by a 36 to 2 bipartisan vote.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the ranking committee member, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. I appreciate the gentleman's yielding.

I join the gentleman in opposition to this amendment. All I can say to the Members of the House is that if they took time to really study the language, they would oppose it. It is not a sunset amendment but what one would appropriately call a sunset amendment in the morning. What we have is a 2-year extension. It is basically a simple extension for 2 years to give these people a chance to operate because the President has personally asked for it. He asked, as the gentleman from Michigan said, for it to fight inflation. All of us are interested in that. It is my only reason for supporting this legislation. But when we stop to think of the amendment, what the amendment says is we are extending the Council for 2 years, and asking its employees to spend time to recommend their responsibilities to some other agency. I do not know what quality or type of people we are going to hire with an amendment of this type. I would strongly urge rejection of the amendment.

Mr. HARRINGTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. HARRINGTON. I thank the chairman of the subcommittee for yielding.

Mr. Chairman, I think it is one thing to countenance the subterfuge of the Republican administration in the fall of 1974 by deferring to the creation of a Council on Wage and Price Stability which has no real power or authority to affect the level of wages and prices. It is another thing to perpetuate that subterfuge in the summer or early fall of 1977. I do not know what it is that has us all leery of raising questions which bring us into the 1970's and which show that there are within the public sector and the private sector concentrations of power that resist active intervention on the part of Government, not through any interest in the commonweal, but as a result of their own, narrow self-interest. Whether it is our own Joint Economic Committee, whether it is the International Monetary Fund meeting of recent note, whether it is a variety of altogether relatively gloomy reports, the economic clouds are gathering.

I think it is incumbent upon us, those who bear the brunt of the expectation of people who believe that somehow the majority party can do more for them, to do something that gets us on with the business of dealing with the fundamental problem that concerns most of our constituency. And that is the problem of assuring our people that inflation will be kept in check, but not at the expense of an army of unemployed The Council on Wage and Price Stability, which we are being asked to endorse meets current form, is ill equipped to contribute to that end. So, again, I must say that perpetrating such a hoax under Gerry Ford in 1974 is one thing; doing so under Jimmy Carter in 1977 is quite another.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MOORHEAD of Pennsylvania was allowed to proceed for 30 additional seconds.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I think we have seen that administrations of both political parties believe that there should be an independent agency, and that the function of monitoring inflation and attempting to control it cannot be assigned to agencies which have a constituency.

Mr. Chairman, I suggest a vote on the amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California for those anticipated comments that have not been uttered.

Mr. ROUSSELOT. Mr. Chairman, I thank my distinguished colleague from Ohio for yielding so that additional comments for posterity might be made.

I would like to ask the chairman of the subcommittee about the question of independence. When he talks about the sound independence of this agency, it still remains in the Office of the President. That is where the personnel are assigned. I

am not saying that it is not the President's right to ask for that, but I do not see that it provides any great promise of independence.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Of course I yield to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the point I was trying to make, for example, is if we put the function in the Department of Commerce, the Labor people would feel they were not getting a fair shake. If we put it in the Labor Department, the business people would feel they were not getting a fair shake. So this is an independent agency within Government on which both the Secretary of Labor and the Secretary of Commerce serve, and it is independent of the various pressures of the existing departments.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman from Ohio will yield further, the gentleman from Pennsylvania has not convinced me either on the basis of experience or on the basis, secondly, of other functions that might be more appropriately transferred to other agencies.

I think what the gentleman from Georgia was suggesting, as I understood it, was that those agencies which already have various functions to monitor inflation, which the Council of Economic Advisers clearly does, could clearly receive the responsibilities suggested under this amendment and more than adequately discharge those responsibilities.

I do not believe the gentleman has made the point very well that this agency has great independence because in fact it is clearly under the control of the President. That is the only point I wanted to make. So I still say that the amendment offered by the gentleman from Georgia is a very logical and concise suggestion, that there be adequate reporting back to the Congress by the President. It is in the President's Office. That is where the control is. I do not believe that this great independence really exists.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I suggest to the gentleman that, yes, this is not independent in the same respect as the Federal Reserve System is.

Mr. ROUSSELOT. I thank the gentleman for that acknowledgment.

Mr. MOORHEAD of Pennsylvania. But it is independent of the pressures the various departments are under, but it can call upon the departments for facts and information from their studies and balance them against reports from others and reach an independent recommendation to the President.

Two Presidents have sought this kind of assistance. A Democratic Congress granted it to a Republican President, and I would hope that on a bipartisan basis this Congress would also grant that power to a Democratic President.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I think it is on the basis of that experience, the experience of this agency and of two Presidents with the Wage and Price Control operation, that many of us do not wish to continue it. We think its time is past.

The President has more than enough tools in place to monitor the problems of inflation. We think this Council basically does not serve the function we originally thought it should, and so on that basis alone I think we should support the amendment offered by my colleague, the gentleman from Georgia, to require that we have a full reporting by the President himself, who my colleague has just acknowledged basically controls this agency.

Mr. ASHBROOK. Mr. Chairman, having made certain that this colloquy is reserved for posterity, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, with significant reservations I rise in support of H.R. 6951, Council on Wage and Price Stability.

The statutory purpose of the Council of Wage and Price Stability is a noble one: to monitor and impact upon all decisions in the private sector and all decisions in government which may have an inflationary consequence. Unfortunately, as presently constituted, this is an impossible and ludicrous mission. With millions of price decisions in the private sector and many thousands of decisions in government that can be considered inflationary, the Council cannot possibly be expected to have a major or even discernible impact on the behavior of prices and wages.

With all due respect to the Council's supporters, the only conceivable purpose it serves, intentionally or inadvertently, is to deceive the public that something is being done about inflation. It is the Federal exedrin in the fight against inflation—only its really a placebo. However, even for those consumers who are aware of the pill, the cost-of-living headache persists and intensifies in the vicinity of every cash register and when opening every bill.

The question that Members of Congress have to ask themselves about the future of the Council is whether it is capable of any meaningful mission and future. Or is the Council simply anti-inflation cosmetology? I would argue that the Council does not even qualify as a case of good intentions gone astray. The Council is a classic example of a preposterous mission translated into a useless body. To make matters worse, as my colleague, Mr. LEVITAS, has pointed out, a plethora of Federal agencies already perform many of the Council's functions.

There appears to be some question about whether the Council's membership has ever met. If Mr. Schultze, Secretary Blumenthal, Secretary Vance, Secretary Krebs, Secretary Marshall, Secretary Harris, and Presidential Adviser Eisenstadt have been too busy to make the Council a functional agency, then I would question its reason for existence. If the Council has not been worthy of their attention, all the more reason for its termination. If the Council's preservation in the President's Reorganization Plan No. 1 means that it is his intention to use the Council much more actively some day in the fight against inflation, I for one would appreciate some credible signal to this effect from the White House.

Most important of all, the existence or demise of the Council will have little or nothing to do with the persistence of inflation. In spite of persisting economic slack, prices are continuing to rise at a 6 percent or higher annual rate. The general agreement among economists is for a continuation of this situation through 1978, with even more slack in the economy and persisting high unemployment. The basic reason for the persistence of inflation is that the expectation of continued inflation has led business and industry to price goods and services higher and higher in order to offset anticipated inflation. This "anticipatory pricing," of course, acts as a self-fulfilling prophecy.

Monetary and fiscal policies exist that could retard the rise of prices but the cost of exercising these policies would be very high in terms of unemployment. The Congressional Budget Office estimates that it would take a $43 billion cut in Federal expenditures for 3 consecutive years—fiscal years 1978, 1979, and 1980—to reduce inflation by 1 percentage point in 1980. However, the cost would be about a million and a half unemployed workers by the end of fiscal 1979. My grave concern is that this level of cut in Federal spending, in order to balance the budget and reduce inflation, is precisely the policy of the Carter administration.

On April 15, 1977, President Carter outlined the administration's anti-inflation program. The President called for a wide variety of measures to control inflation including increased efforts by the Council on Wages and Price Stability. Thus far we have yet to see increased effort or effectiveness on the part of the Council. Instead we have a continued Federal spending lag of sufficient size—about $15 billion in fiscal 1977 and possibly a higher amount in fiscal 1978—to deflate the economy and increase unemployment by about half a million workers this year. If the administration regards this Federal spending lag as a way of arresting inflation, there will be a high political price to pay for controlling inflation through unemployment.

I intend to give the administration the benefit of the doubt and support the Council on Wage and Price Stability notwithstanding my serious reservations about its performance to date. Until the Hawkins-Humphrey bill (H.R. 50) is made law, however, none of the inflation control policies pursued by the administration amounts to more than a lesser of evils approach.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 28, noes 41.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 215, not voting 41, as follows:

[Roll No. 619]

AYES—178

Abdnor
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bevill
Biaggi
Bowen
Breaux
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burton, John
Butler
Caputo
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Corcoran
Cornwell
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dodd
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Evans, Ga.
Flippo
Flowers
Flynt
Forsythe
Fountain
Fowler
Frenzel
Frey
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hefner
Hightower
Hillis
Hollenbeck
Holt
Hubbard
Huckaby
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Krebs
Krueger
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McDonald
McEwen
Maguire
Mahon
Marriott
Martin
Mathis
Michel
Milford
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Myers, John
Nichols
O'Brien
Panetta
Pettis
Pickle
Poage
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Regula
Richmond
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Schulze
Shuster
Sisk
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Watkins
White
Whitley
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Zeferetti

NOES—215

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Armstrong
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Bedell
Bellenson
Bennett
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Cavanaugh
Chisholm
Clay
Cohen
Coleman
Collins, Ill.
Conyers
Corman
Cornell
D'Amours
Danielson
Delaney
Derrick
Diggs
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ellberg
Emery
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fuqua
Gammage
Gaydos
Gephardt
Glickman
Gore
Gradison
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Holtzman
Hughes
Hyde
Jenrette
Johnson, Colo.
Jones, N.C.
Jordan
Kastenmeier
Keys
Kildee
Kindness
Kostmayer
LaFalce
Le Fante
Leach
Lederer
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Mann
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nix
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pike
Preyer
Price
Rahall
Rallsback
Reuss
Rhodes
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Solarz
St Germain
Staggers
Stanton
Stark
Steed
Stratton
Studds
Thompson
Thornton
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitten
Wirth
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki

NOT VOTING—41

Anderson, Ill.
Badillo
Beard, R.I.
Burke, Calif.
Byron
Carter
Conte
Cotter
Dent
Dicks
Dingell
Dornan
Erlenborn
Foley
Fraser
Giaimo
Hanley
Holland
Horton
Howard
Johnson, Calif.
Koch
Livingston
Marlenee
Neal
Nolan
Rangel
Roncallo
Runnels
Sebelius
Spellman
Stokes
Teague
Traxler
Waggonner
Whalen
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wolff
Wright

The Clerk announced the following pairs:

On this vote:

Mr. Dornan for, with Mr. Dent against.
Mr. Livingston for, with Mr. Stokes against.
Mr. Whitehurst for, with Mr. Wolff against.
Mr. Teague for, with Mr. Rangel against.
Mr. Byron for, with Mr. Conte against.
Mr. Runnels for, with Mr. Whalen against.

Mr. MARKEY changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes, pursuant to House Resolution 703, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 145, not voting 38, as follows:

[Roll No. 620]

YEAS—251

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Broyhill
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Cavanaugh
Chisholm
Clay
Cohen
Coleman
Collins, Ill.
Conyers
Corcoran
Corman
Cornell
Cornwell
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Emery
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Gammage
Gaydos
Gibbons
Ginn
Gonzalez
Gore
Gradison
Grassley
Gudger
Hagedorn
Hamilton
Hannaford
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Holtzman
Hubbard
Hughes
Hyde
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kindness
Krueger
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
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Martin
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
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Preyer
Price
Quie
Rahall
Rallsback
Regula
Reuss
Rhodes
Richmond
Roberts
Rodino
Roe
Rogers
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shipley
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
St Germain
Staggers
Stanton
Stark
Steed
Steers
Stockman
Stratton
Studds
Thompson
Thornton
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wirth
Wydler
Wylie
Yates
Yatron
Young, Mo.

NAYS—145

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bevill
Blouin
Bowen
Broomfield
Brown, Calif.
Brown, Ohio
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Burke, Fla.
Burleson, Tex.
Burton, John
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Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Dodd
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Ellberg
English
Erlenborn
Evans, Ga.
Findley
Flippo
Flynt
Forsythe
Fowler
Frey
Fuqua
Glickman
Goldwater
Goodling
Guyer
Hall
Hammer-schmidt
Hansen
Harkin
Harrington
Harris
Hightower
Hollenbeck
Holt
Huckaby
Ichord
Ireland
Jacobs
Jeffords
Johnson, Colo.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kostmayer
Krebs
Lagomarsino
Latta
Leach
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McDonald
McEwen
Maguire
Marriott
Mathis
Mattox
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Myers, John
Nichols
Panetta
Pettis
Poage
Pressler
Pritchard
Pursell
Quayle
Quillen
Rinaldo
Risenhoover
Robinson
Rousselot
Rudd
Satterfield
Sharp
Shuster
Sikes
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Steiger
Stump
Symms
Taylor
Thone
Trible
Vander Jagt
Volkmer
Walker
Watkins
Wiggins
Wilson, Bob
Winn
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

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Ichord
Ireland
Jacobs
Jeffords
Johnson, Colo.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum

The SPEAKER. The gentleman from Connecticut (Mr. DODD) is recognized for one hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATA), for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 718 provides for the consideration of H.R. 3816, the Federal Trade Commission Amendments of 1977. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. It makes in order the consideration of the committee amendment in the nature of a substitute as an original bill for the purpose of amendment, and it provides for a motion to recommit with or without instructions. There are no waivers of any points of order against the substitute.

Mr. Speaker, H.R. 3816 amends the Federal Trade Commission Act in order to improve the handling of FTC actions. It provides for private actions based on violations of FTC rules or cease and desist orders, and insulates the Commission from political clearance in the legislative, budgetary, and personnel areas. The bill also authorizes $63 million for the Commission for fiscal year 1978 and $70 million for fiscal year 1979.

There are many provisions of H.R. 3816 that deal with enforcement procedures of the FTC. Section 2 changes the amount of civil penalties which can be assessed persons, corporations or partnerships for failure to comply with an FTC subpena or order. The present penalty is a mandatory fine of $100 per day and it is changed by the bill to a range from 0 to $5,000 per day as determined by the court. This new range of fines gives a stronger, more equitable and more flexible enforcement power to FTC issuances.

Section 5 of the bill alters the appeals procedure of a Federal Trade Commission cease and desist order. Under present law, a respondent may file an appeal in any circuit where a challenged practice occurs, or where the respondent resides or carries on business. This section would permit appeals to be taken only to the Court of Appeals for the circuit within which the respondent maintains its residence or conducts its principal business, or to the U.S. District Court for the District of Columbia.

Mr. Speaker, the most controversial provision of this legislation is section 7 which establishes procedures for private individual or class actions. Under this provision, a consumer may initiate a class action suit for all involved consumers against an alleged violator of an FTC rule or final cease and desist order. This private suit option is available only in cases where the Commission has already issued a rule or order, and also has stated in such a rule or order that violations can be brought to suit under this class action provision.

Section 7 also affects procedures of notice to class members who would be covered in a suit, and the determination of damages and awards in a class action. It is left to the court to determine what will constitute reasonable notice to class members. This may consist of advertisements in newspapers, on radio or television, postings on bulletin boards or individual notices. As for damages, the court may rely on a statistical sampling of the aggregate class and shall calculate the average amount for each case. Awards will also be granted on this basis when liability has been proven.

Section 12 of the bill is also notable as it grants the Federal Home Loan Bank Board sole regulatory authority over Savings and Loan Associations. This section, therefore, exempts savings and loans from FTC authority in the same way that banks are exempted from FTC jurisdiction as a result of their being regulated by the Federal Reserve and FDIC.

The Federal Home Loan Bank Board is required to take action to insure against unfair or deceptive practices by these institutions, and the Board is required to prescribe rules similar to those promulgated by the FTC within 60 days of such an FTC order or rule. This action is not mandated if the Federal Home Loan Bank Board determines that a rule would interfere with essential monetary and payment systems policies or if the particular actions designated by the rule are not felt to be deceptive or unfair in the business of savings and loans.

This section reflects previous court decisions whereby the Federal Home Loan Bank Board was held to be the proper authority for the regulation of savings and loans "from the cradle to the grave." This is a highly significant section of this legislation and one that clears the savings and loan business for regulation by an agency with expertise in the money market and housing fields.

H.R. 3816 further sets time limitations for bringing private injunction or damage suits; provides that the courts shall award reasonable attorney's fees in successful suits; permits public petition of the FTC for the issuance, amendment or repeal of trade regulations or rules, and makes several technical and other miscellaneous amendments.

Mr. Speaker, I request that we adopt House Resolution 718 so that we may proceed to the consideration of the bill.

Mr. LATTA. Mr. Speaker, I agree with the description of the rule by the gentleman from Connecticut (Mr. DODD). I want to emphasize that there are a couple of features in this bill that I personally do not like.

First, being always conscious of the taxpayers' dollar and wanting to help the President balance the budget by 1981, as he said many times he would like to do, I call the attention of the House to the fact that for fiscal year 1978 the bill provides $63 million for this agency, and then jumps it $7 million more for 1979. That is not the way I think we ought to balance the budget.

The gentleman from Connecticut has already pointed out various features of section 7. I want to say that this is another provision that probably is going to pass, which will clutter up our courts. People with legitimate claims before our courts today cannot be heard. Why? Because of all of these class action suits that the Congress provides for. Every individual, notwithstanding the fact that he has absolutely nothing to do with the case, rushes into court and files a lawsuit and clutters up the courts.

I believe, as has often been said in the past, that justice delayed is justice denied. This is happening around this country every day. Justice is being denied because it is being delayed to bona fide litigants. Here, we are providing once again for class action suits.

I want to call the attention of the Members to the views of 10 Members on section 7, and I quote:

> If the real purpose of those who support Section 7 is to punish the wrongdoer, then thought should be given to injunctions to stop the action coupled with substantial fines. However, we strongly believe that the scheme set out in section 7—that is, suits brought on behalf of an unidentified class who are not notified of the action, who may or may not—

And I stress that—

> may or may not have sustained injury and who in any event will not receive any individual redress—should be rejected.

Mr. Speaker, to that I say amen.

Mr. Speaker, I reserve the balance of my time.

Mr. DODD. Mr. Speaker, I do not have any further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ECKHARDT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3816, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. ECKHARDT) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as chairman of the subcommittee that drafted H.R. 3816, the Federal Trade Commission Amendments of 1977, I think it would be productive to spend a few minutes discussing the problems that give rise to this

legislation and how the bill was shaped and modified to strike a fair balance between the interests of consumers and the business community.

First of all, the bill is the product of extensive hearings. My Consumer Protection and Finance Subcommittee conducted 10 days of hearings in 1976 and 1977 on the operations of the FTC in general and on this and its predecessor legislation in particular. In addition, one of the principal recommendations of the Commerce Committee's Oversight and Investigations Subcommittee in its report on the FTC in the 94th Congress was enactment of legislation similar to H.R. 3816.

I think H.R. 3816 reflects the virtues of this extensive oversight in that it is an attempt to reconcile the hopes of past legislation with the realities of enforcing laws to prevent unfair and deceptive acts and practices in the real world.

Section 7 of H.R. 3816 contains one of the most important consumer provisions before the Congress. Under it, any person who is cheated by a violation of an FTC rule or order can sue the wrongdoer to recover his losses. For example, a consumer cheated by the overblown promises of a vocational school, or a small businessman deceived into buying a worthless franchise, could bring redress suits. In addition, a group of persons injured by the same violation could group together to bring a class suit to get their money back.

The consumer is cheated of millions of dollars each year by fraudulent and deceptive business practices. Under present law, the consumer must rely upon an overworked and understaffed FTC to seek redress for him or her. Obviously, under such a system, most consumers go without redress and the unscrupulous purveyor of goods and services can engage in unfair and deceptive practices with impunity.

I would like to briefly mention just a few of the kinds of practices we are talking about and the costs to consumer from these practices. The FTC has under consideration a rule which prohibits funeral homes from taking unfair advantage of consumers at a time when they are particularly vulnerable. A number of abuses would be prohibited. For example, a funeral home could no longer embalm the deceased without first seeking permission from the family. The FTC estimates that this one practice costs the consumer more than $78 million annually. Altogether ripoffs in the funeral industry cost the consumer more than $181 million annually.

I could go on with other examples of the victimization of the consumer. They add up to more than $1.3 billion in losses each year to consumers. The point is that the costs are real, they are enormous, and under present law, the consumer has no right to seek redress, and no effective way of receiving damages.

Permitting private damage suits based on violations of Federal law is not a new idea. Private damage suits have long been permitted under the antitrust, securities, and civil rights laws. As Attorney General Bell said in his letter endorsing section 7:

> It has been the experience of the Department of Justice that private enforcement actions such as those authorized by H.R. 3816 substantially complement governmental enforcement actions. Class and individual private suits under the antitrust and the civil rights laws have played an extremely important role in deterring violations of those laws as well as compensating persons injured by violations.

I am well aware that section 7 is highly controversial. This does not surprise me. Anything that gives the weak and the powerless a weapon that puts them on a par with the big businesses is bound to arouse their wrath. Today, a consumer is, for the most part, at their mercy. If a consumer relies upon a false advertising claim made by a store about a product which costs $50 to $100 and then discovers that the product does not live up to its advertised claims, the store knows that there is little recourse for the consumer. Section 7 raises a single very clear issue: Are we willing to assist the weak and the small in dealing with unfair practices by the large and the powerful?

Is the courthouse door as open to people as it is to the corporations?

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I would be delighted to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, it is kind of my colleague to yield.

I am proposing some amendments to section 7, but on the whole I think it is a desirable feature. However, I must make some comment in relation to the two examples that my distinguished colleague, the gentleman from Texas (Mr. ECKHARDT), has brought to the floor, and I would just like to mention that the funeral directors are examples of small businesses.

They came before the Committee on Small Business, and according to testimony before the Committee on Small Business, on the basis of six letters, the Federal Trade Commission started an investigation which was some 4 years in length. During the last 18 months of the investigation a half-million dollars was spent bringing in witnesses and paying expenses. That does not count the first 2½ years. There was a list of regulations involved that would have strangled any small business.

The State of New Jersey has regulations. I put them through as consumer director. That involves some States which have mandatory rules, so there is nothing one can do about that. But in any case, the consumer has to pay all expenses in the State of New Jersey. There is a list, and they can strike off anything they do not want, and what they have not stricken off or what they do not agree to goes onto the consumer's bill, and nothing else is involved.

There are easy ways of doing this; that is all I am saying. For instance, as far as false and deceptive advertising is concerned, under the laws of the State of New Jersey it is $3,000, and they can get that any time they want.

Mr. ECKHARDT. Mr. Chairman, will the gentlewoman allow me to respond to the first part of her statement?

Mrs. FENWICK. Yes.

Mr. ECKHARDT. Then, of course, I will yield again.

I gather that the difficulties that these small business people are encounting is involved in the burden of presenting their side in the rulemaking process; is that right?

Mrs. FENWICK. No, unless the gentleman is talking now about the small businesses.

One of the problems is that the Federal Trade Commission has a Consumer Bureau, and the testimony in the Senate hearing revealed that the Federal Trade Commission's own regulations were damaging not only the consumers but small business.

The Chairman of the Federal Trade Commission was asked what his Consumer Bureau had done when these violations of consumers' interests on the part of the Federal Trade Commission itself had been brought to his attention. His answer was:

> Nothing, because the job of the Consumer Bureau of the Federal Trade Commission is to look after businesses and not the consumers.

In other words, what I am saying to my dear colleague is that I do think the Federal Trade Commission itself, with 7 million extra dollars, ought to be able to do something of this kind.

Mr. ECKHARDT. Mr. Chairman, I agree with the gentlewoman from New Jersey that there should be attention in the most sensitive way to the claims of small business on the part of the agency, and that is one reason why I, along with the gentleman from North Carolina (Mr. BROYHILL), wrote certain provisions in that original bill, which is called the Magnuson-Moss bill. Those contained two very important features:

One is that before a rule was to be put into effect, the persons who were to be subject to the rule would be assured that all of the facts upon which the rule was based came into the RECORD. Further, under ordinary circumstances, to whatever extent it is possible, it was provided that there be an opportunity to cross-examine the agents of Government as to where they got that information.

Mrs. FENWICK. It was a great step forward.

Mr. ECKHARDT. The second thing we did—and it is a related one—is to provide that instead of being able to contest the rule only on the basis that the rulemakers were arbitrary and capricious, the persons subject to the rule would have access to the courts and be entitled to go in and show that there was no substantial evidence on the record as a whole on which the rule was based, in which case the court could strike it down.

The problem in other agencies is that one may come into court and say, "This rule is unreasonable, and everything you brought out in the hearing does not support the reason for the rule."

However, the agency says, "We had something in the file which we just did not show you, but we have this great background of material." They then plop that on the desk and bring that

into evidence, of course, so as to tend to show that they were not arbitrary and capricious. Consequently, the small business or any business, for that matter, which is unreasonably dealt with on the basis of what really came out at the hearing loses its case. That is the point at which protection is provided under the existing act.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, I agree.

I tend to favor the class-action method that we adopted in the parens patriae legislation last year under antitrust law actions brought by attorneys general of the States, but I think this section 7, if we adopt it, is going to have to be amended because I think it is dangerously open to a wide number of suits.

As a matter of fact, I am told by an attorney that it is quite possible that an attorney could bring a suit without even having an aggrieved client and receive the money himself.

Mr. ECKHARDT. No, that is not correct.

Mrs. FENWICK. I hope it is not, but I think we need some safeguards in section 7 so that we will not get a series of suits.

I would like to use some of the language from the parens patriae bill to provide that the successful defendant, in the same context as is contained in the parens patriae bill, when an action has been brought for a breach of warranty based on bad faith, can be awarded attorney's fees. I think that otherwise, knowing human nature, we do open a very wide field without adequate protection. Therefore, I think that the fraudulent and dishonest standard which is now in the law should be adopted in this section concerning the grounds on which the class actions can be brought.

Mr. ECKHARDT. Mr. Chairman, let me state this to my distinguished colleague, the gentlewoman from New Jersey (Mrs. FENWICK), who I know is in the forefront of those who have fought for consumers for a long time in this body, that if there are amendments to section 7 which would accomplish an effective class-action process, that is, which would not actually stymie the process by making it virtually impossible to give notice, I would certainly welcome that, and I feel sure that most of the members of our committee would.

We tried to anticipate these and we fashioned the law largely after the uniform class action act. We also used the parens patriae bill as something or a model with respect to some of these provisions.

Please let me say that those who are bitterly opposed to this process, who would close the doors to consumers, are not satisfied with those kinds of amendments. I know that they propose as their major amendment to strike all of section 7.

I do not mind identifying them because I think people ought to be identified when they have originally been identified and invited to participate.

When we were drawing up the Magnuson-Moss FTC Improvement Act, people like Penney's and Wards kept the visitors' seat in my office hot explaining their need to go into court and their right to go into court. I listened with great patience to them. I think the gentleman from North Carolina (Mr. BROYHILL) and I drafted provisions in the rulemaking process that were generally acceptable to them. But they did not appear in the hearing on the bill presently before us. Not a word was heard as to what they felt was wrong about the class action provision, not to us, at a point where we might have said, "Can't we negotiate? Can't we work the problems out?" Why not? Well, possibly because they felt that they did not want to identify themselves as resisting the right of the consumer to bring an action for fraudulent and unfair practices against a business.

So they went quietly to the offices of various Members. I am sure the gentlewoman is familiar with the process, if not with the particular lobbyists involved.

Mrs. FENWICK. No one came to see me.

Mr. ECKHARDT. And they all went to their local people. But if you called people back home, they would tell you, "I don't know what it is all about, but somebody told us this is terrible and the heavens are falling."

That is what we could not comprehend. I make this big preface merely to say that I really do hope that there are amendments brought from the floor which will answer specific criticisms on section 7.

Mrs. FENWICK. I will bring them to the floor.

Mr. ECKHARDT. Mr. Chairman, I shall now continue: Significantly, the right to go to court to recover damages is given directly to the consumer. We are not talking about creating more Federal bureaucracy using taxpayers' money to protect the consumer. This bill gives the authority directly to the consumer to help himself. Not surprisingly, those business lobbyists who normally rail against the inefficiencies and ineffectiveness of the Federal bureaucracy quickly change their tune and say "let the Government do it" when they are faced with the prospect of a consumer armed to protect himself.

I would like to clarify some misunderstandings about the bill. First, the bill does not permit damages to be awarded without proof. The plaintiff in any suit has the burden of proving with reasonable certainty the extent and amount of damages to the class. Any individual consumers must then be able to prove that they are a member of the injured class before they can collect their share of the damages. Second, there is no empirical evidence to suggest that the courts will be overwhelmed with a flood of irresponsible litigation. Experience under the securities and antitrust laws as well as under State laws provides no support for the "flood of litigation" argument. Third, opponents argue that section 7 will enrich attorneys, not consumers. Since the court must approve any attorney's fees in a class suit under section 7, the court can prevent excessive fees to attorneys. Recent trends in class action cases indicate that the courts apply strict standards in determining how much a class attorney should receive.

The Congress has expanded significantly the power of the Federal Trade Commission in recent Congresses. In 1973, in the Trans-Alaska Pipeline Act, the Congress acted to expedite the collection of line of business information and expanded the Commission's authority to seek injunctions against violators of the Act. In 1975, in the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act, we set up an elaborate rulemaking procedure and gave the Commission the power to seek redress on behalf of consumers.

Our hearings have shown us, however, that the laudable purposes of those acts are being frustrated by other statutory provisions of the Federal Trade Commission Act and by some poorly conceived court decisions. For example, the low $100-a-day penalty for failure to comply with FTC requests for information, combined with a court decision that has embroiled the Commission in extended procedural litigation, have prevented the FTC for more than 2 years from collecting Line of Business information from recalcitrant companies. Worse than that, this procedural snare prevented the courts from even getting to the merits of the refusal. It is worth noting that when the district court finally was able to consider the matter, it ruled in favor of the FTC on every substantive ground.

This legislation is designed to expedite the collection of that information that the Congress has specifically appropriated funds to collect—as well as the other investigatory information the Commission must have—by increasing the penalties for failing to comply with a valid FTC order and by overruling the misguided lower court decision.

I should point out that we made several important changes in the legislation that was originally recommended by the FTC and that was passed by the Senate in the last Congress. That bill provided for a penalty range from a minimum of $1,000 a day to a maximum of $5,000 a day; it reduced the amount of time after FTC issued a notice of its intention to seek penalties before those penalties would actually begin to accrue from 30 to 15 days; and it provided strict standards for the granting of a stay of penalties, including a demonstration by a resisting company that it would suffer irreparable injury if the stay were not granted. Our subcommittee felt these provisions, which had been approved unanimously by the Senate, were unfair to business, so we made several major changes.

Section 2 of H.R. 3816 contains no minimum penalty and specifically states that the court should take into account the reasonableness and good faith of the resisting company in setting the level of any penalty. Further, it provides for up to 60 penalty-free days for companies to seek a stay of penalties. And it contains no stay standards.

What the section does do is to restore 50 years of precedents that enabled the FTC to sue all resisting companies on one issue at the same time. This provision, coupled with the increased penalties, should eliminate the procedural delays and spurious objections to FTC subpenas, such as occurred in the line of business case. There, the FTC was in litigation with more than 100 companies for 2 years in procedural wrangling in

two separate courts. When the case was finally transferred to the district court here in Washington, D.C., the only court where virtually all the parties could be joined, the court heard the arguments on the merits in a relatively short time and ruled in the Commission's favor on all points. The Commission and the taxpayer could have very well done without all the extraneous fighting in multiple courts, and this bill is intended to do that.

The section is now consistent with the testimony of the American Bar Association and meets the specific concerns of companies such as J. C. Penney. It should speed up enforcement of the FTC Act without limiting the business community's legitimate rights to challenge agency action.

Another section of the bill, section 6, is very limited and intended to remedy a specific problem which the Commission has encountered in its consumer suits. The problem is to make sure that while the Commission is bringing its enforcement suit against a company to declare a practice illegal—and that is a necessary prerequisite to any consumer suit—the company is not wasting its assets so that there will not be any money available for the consumer suit when it can be brought.

The courts do not now, for technical reasons, have the power to stop the wasting of assets during the time the Commission is bringing its suit. They have long exercised the power to stop this kind of circumvention in other similar suits—private or agency—when the law violation suits are pending before the court rather than before an agency.

This is a technical problem which section 6 would correct, and not by relaxing any standards now applicable in our courts. The Commission would not have any power to act on its own. And as plaintiff before the court, the committee report states, the Commission would have to prove that the company is wasting its assets; that the commission would win its own suit against the company; that a later consumer suit for damages would be proper; and that the consumer suit would also be won. Finally, it must indicate the least burdensome way of accomplishing its goal.

That is a very stringent standard, and in fact the minority had no disagreement with it in the committee in view of the explanatory language in the committee report.

In conclusion, Mr. Chairman, I can only reiterate that this bill is necessary and important for consumers in giving them an effective right of action and in making the Federal Trade Commission Act more up to date and effective. And the issues have received every attention at every step of the process. Therefore, the committee acted favorably and I would strongly urge passage of this bill.

Mr. BROYHILL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, as a member of the subcommittee and committee which considered this legislation, I have spent considerable time and effort trying to resolve the problems evident in H.R. 3816. There remain in the legislation a number of troublesome provisions, and consequently, I do not believe that the bill should be enacted in its present form.

Briefly stated, the bill would cut back on the opportunities a company would have to challenge FTC orders and subpenas, thereby overturning at least one court case on this point (sec. 2). It would also increase the number of courts in which the FTC could file enforcement actions (section 3). While cutting back on the number of places in which a company could file an appeal of a FTC cease and desist order (sec. 5). In other words the FTC could "forum shop" but a private party could not. Under the provisions of the bill a cease and desist order could go into effect regardless of whether an appeal of that order had been filed (sec. 4). Under present law the effective date of an order is stayed pending the outcome of any appeals that might be filed. Further, the bill would allow the FTC in certain instances to ask a court to appoint a trustee to run a company if the FTC believes that the company is about to violate the FTC act (sec. 6). Finally, the bill contains a provision which would authorize private enforcement class actions for alleged violations of FTC cease and desist orders and trade regulation rules (sec. 7). This provision raises a number of problems which I shall discuss in a moment, and it, in combination with the other parts of the bill, makes H.R. 3816 a bill which clearly should not be enacted.

As I indicated, class action lawsuits could be brought for violations of FTC cease and desist orders and trade rules. However, the language used in FTC orders and rules is often not subject to precise definition of permissible conduct. The very nature of the acts and practices prohibited by the Federal Trade Commission Act renders orders incapable of definitive guidelines. When companies confer with the Commission's compliance staff, there is often a great deal of dispute over what practices constitute violations of existing orders and rules. Informal, nonbinding staff interpretations and formal Commission advisory opinions are needed on a frequent basis to help resolve the meaning of language that was thought to be clear when originally drafted.

As difficult as it is for companies and the Commission to agree on the meaning of jointly-written orders, the situation will become intolerable if section 7 of H.R. 3816 is enacted. Every State and Federal court in the country will be faced with the extraordinarily difficult task of defining FTC rules and orders, with millions of dollars riding on the outcome. The future direction of FTC law will be greatly influenced not by the FTC but rather, according to class action lawyers' creativity in formulating new theories of violations supposedly covered by rules and orders. Such interpretations may never have crossed the minds of the parties when formulating the order but, nevertheless, may become the basis for large monetary judgments. The FTC will never be able to intervene in all the private litigation unless it is forced to neglect its own primary mandate of enforcing the FTC Act and the numerous other special statutes under its enforcement responsibilities.

Not only will the potential for different interpretations place large sums of money at stake, but the mere existence of conflicting opinions will cause nightmares for industry. And this raises my second major point. Any company operating in more than one State will face a real likelihood of conflicting regulatory mandates; what is legal in one State may well be determined to be illegal in another. The probability of this occurring is really quite high, particularly for regional or national concerns—the very companies that are sure to be the defendants in most class action suits because of the perceived "deep pockets" for recovery. Faced with the risks of potentially massive monetary damages based on a State court's interpretation of an FTC rule or order, many companies will be forced to settle class action suits even though there is serious doubt that the rule or order has been violated. Whether such cases are settled or litigated and won, the company, in effect, loses. They will have to pay if they are right as well as pay if they are wrong. A fair and open "day in court" will become a luxury many companies simply will not be able to afford.

We should also consider the impact section 7 will have on our State and Federal court systems. This is not an issue to be taken lightly and, indeed, received a great deal of debate last year when the parens patriae legislation was being considered. Under parens patriae, when only State attorneys general could bring enforcement actions on behalf of their citizens, there was significant discussion about overloading our courts; section 7 of H.R. 3816 multiplies that effect many times over by empowering every citizen and every private attorney to have access to any State or Federal court to enforce FTC rules and orders. There is serious question whether our judicial system will be able to function fairly and effectively under the jurisdiction thrust upon it by section 7.

My last point concerns the existing powers of the FTC to accomplish what section 7 purports to do. The FTC already has the authority to seek restitution or any other appropriate type of redress on behalf of consumers. In fact, we gave the Commission this authority in 1975 when we passed the Magnuson-Moss Act. At that time we considered and rejected the idea of a private right of action to enforce the FTC Act which is now being proposed in H.R. 3816. In Magnuson-Moss, we also gave the FTC the authority to impose fines of up to $10,000 on companies which violate trade regulation rules and orders. Further, we even gave the FTC authority to impose a fine on a company which engages in conduct similar to that prohibited by an order levied against someone else. Finally, the Commission has authority to seek injunctions against companies violating FTC rules and orders. And the Commission has not been shy about using these newly acquired authorities.

When the Consumer Protection and Finance Subcommittee and later the full

Commerce Committee considered this legislation, there was very little discussion about whether the class action suit is an effective consumer protection device compared to small claims courts, consumer arbitration panels, and other redress mechanisms which operate essentially at a local level. Indeed, Chief Justice Burger in a recent speech indicated that in the consumer protection area we need to experiment with consumer redress mechanisms which operate outside the formal strict bounds of the judicial system. He points out that more often than not the legal system cannot provide relief to consumers in an efficient and speedy fashion. Further, in a recent interview with Business Week magazine, Attorney General Bell points out that class actions are just not appropriate in these kinds of cases. He states that "I would not countenance using the resources of the Government or a court when the recovery is going to be $2 for each person in the class and the real recovery is simply for the lawyers." However, those are exactly the kinds of suits that will be brought under H.R. 3816.

In light of the above, I do not believe that an adequate case has been made for the need for this bill and I am convinced that additional effort and careful study are necessary.

Mr. Chairman, at this time I yield 5 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, it is with reluctance that I rise to face such a formidable adversary as the famous bicycle rider of Capitol Hill, because I know how sincerely motivated and genuinely compelled the gentleman is in the pursuit of consumer interests.

But it is my judgment, and I hope a considered judgment, that his efforts with regard to section 7 are misplaced and misguided, and could invite the specter of a serious disruption of both our courts of law and the Federal regulatory processes as we know them. I would examine some of the contentions that have been offered by the distinguished elocutionist from south Texas to see if the burden of proof that the gentleman must carry can stand.

First of all, an essential premise of this contention is that the FTC is incapable of meeting their existing responsibilities. That is an interesting contention in view of the fact that it was the same FTC that came before the distinguished chairman and the subcommittee and asked that body to expand their jurisdiction under the proposed section 14 of the subcommittee bill. They advocated that their jurisdiction be expanded to encompass all non-profit corporations. Not only did they have sufficient personnel to meet the burdens and responsibilities already imposed upon them, but they have sufficient personnel to reach out and encompass the Boy Scouts, the Church of Christ and the American Medical Association under their regulatory umbrella. I do not feel that the contentions of inability to meet their responsibilities under existing law can stand.

It is also asserted that Moss-Magnuson has not worked. How in God's name can we make that assessment fairly and honestly within a brief 2-year history to determine if it works? That was heralded as the avenue of consumer protection entrance to the FTC regulatory process. It barely had the opportunity to draw its first regulatory breath.

The gentleman contends that this legislation gives the weak and the powerless a weapon. That is certainly designed to start the blood boiling and the tears rolling—are we willing to help the little people, he sincerely and honestly asserts. What little people? The little practitioners of law. These are the little people we are talking about. We are talking about the organized bar throughout the United States of America.

This legislation fairly and honestly could be characterized as the "Attorneys' Enrichment Act of 1977," because they will be the principal beneficiaries of section 7 without a question.

Next let us examine the context in which this legislative enactment would invite the "consumer" into the courthouse.

In an FTC cease and desist order, a standard is set forth that should not be violated. Thereafter, every inventive, enterprising, hardworking, dedicated practitioner of law throughout the country can then take it upon himself or herself to interpret those rules and regulations and determine if, in his or her community, there has been a violation of that law. That is the invitation that exists in this legislation.

So, in fact, we are asking a phalanx of dedicated legal practitioners to serve as an enforcement arm for the FTC. We are asking them to proceed to the courthouse with law book in one hand and bank book in the other to protect the interests of the consumer. Consumer interests, baloney. By the time we divide up any damages that are awarded as a consequence of this kind of litigation, after 10 years when we deduct the attorney's fees, when we deduct the court costs, when we reach the bottom line, we are ending up with a $2, $3, $4, and $10 lawsuit for each real or anonymous class member.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. BROYHILL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. As a result, the attorney can enjoy the prospect of an early retirement and the courthouses will find themselves breaking at the seams. The deficiencies and the weaknesses that are manifest in this sincere effort to use the private bar as an enforcement arm of the FTC will become more evident to the Members of this House when they realize all of the patchwork, piecemeal legislative efforts that are going to be made on this floor to salvage all of the deficient features of section 7. They are coming forth now. And here we are, at the 12 hour, being invited to rectify all of the potential deficiencies that many have already recognized in this section.

Mr. Chairman, I urge my colleagues to resist the temptation to try to salvage this kind of misguided legislation on the House floor and to reject section 7.

Mr. BROYHILL. Mr. Chairman, I yield myself 3 minutes to engage the gentleman from Nevada (Mr. SANTINI) in colloquy.

I thought the gentleman made a very good statement, and I wanted to call his attention to a proposed Federal Trade Commission rule, together with an explanation of that rule, which I hold in my hand. As the gentleman can see, it is a couple of hundred pages or more long, and I am sure that the gentleman has seen others. He may not have seen this particular one. But as the gentleman well knows, these trade rules are typically drawn in a very rather broad manner. They usually cover established violations, but they also try to look at what might become a violation some time in the future. The rules contain things that should be prohibited, but also often they go into technical points; for example, the size of the type, and so forth. I am sure the gentleman, being the excellent lawyer he is, could come up with several dozen ideas for suits just by reading language like this in a very broad voluminous report of this nature.

Mr. SANTINI. If the gentleman will yield, it may be the most tantilizing enhancement of the legal profession since the automobile accident. I am greatly concerned about the ability, as the gentleman has so aptly presented, of the State and Federal courts throughout the Nation to interpret and to serve as an enforcement mechanism the Federal rules and regulations which are very complex, difficult to understand and ambiguous. Some of us concerned with this have wondered whether they are written by the same gentlemen who propose the small print in insurance contracts. I do not know that, but I do know that there will be considerable difficulty in evaluating and interpreting those rules and regulations. And now we are asking the private bar to be the evaluator, interpreter and assessor or what the regulations may be.

The trade rule regulation program of the Federal Trade Commission is new. No new rules have been issued at this point under that Moss-Magnuson authority, and none of them has been interpreted and none of them has been enforced.

Here we are saying we are going to turn this over to the thousands upon thousands of lawyers to interpret what is in a rule of that magnitude and of that volume. My concern, of course, is the effect that this is going to have on the TRR procedure itself.

Would the gentleman want to comment on that? It is bound to protract that whole process, to make it far more difficult to impose any rules on an industry because they will be more likely to try to delay, to go into court, and so forth.

Mr. Chairman, I think the gentleman from North Carolina (Mr. BROYHILL) has touched on one of the very definite deficiencies in the section 7 proposal. Most of the enforcement that is taking place today is done as a consequence of consent decrees.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

Mr. BROYHILL. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I think the gentleman from Nevada (Mr. SANTINI) has made a very good point. Most of the orders that are entered into are consent orders.

How difficult or how much more difficult will it be in the future, if we adopt this section 7, to get the businesses around the country to enter into consent orders?

Mr. SANTINI. They will not do it.

Mr. Chairman, if the gentleman will yield further, they will avoid the consent decree, because it will set a precedent that might be used against them. Let me state why. We would conceivably have lawsuits all over the country based on consent decrees. We would essentially, in my judgment, eliminate almost all the consent decrees and force everything into litigation.

Mr. BROYHILL. Mr. Chairman, I thank the gentleman from Nevada (Mr. SANTINI) for his comments.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from North Carolina (Mr. BROYHILL) for yielding to me at this time.

I rise in support of the bill and in opposition to section 7. I will later for several reasons offer an amendment to strike section 7:

It is important to reiterate what the gentleman from Nevada (Mr. SANTINI) has just mentioned, and that is, that the FTC can at this time bring suits for consumers. It already has that authority. But with the passage of section 7 in the present bill, we would effectively take from the FTC the likelihood of its being able to win consent decrees.

Consent decrees are currently the major means of enforcement of FTC regulations. But who would have any reason to enter into a consent decree if, having done so, it only made him subject to suit for admitted previous conduct?

The FTC can at this time impose fines of $10,000 for each violation of its orders or for persisting after a cease and desist order. Again, the FTC already has that authority. But what particularly concerns me is something that is reflected, perhaps, in the statement of our subcommittee chairman when he said that the bill, in section 7, "allows persons who are cheated to bring suit."

What it really does is to allow people who believe they have been cheated to bring suit regardless of the validity of this claim. There is a difference. Part of the problem is that this bill would make it very likely that people would undergo personal and business damage as a result of mere accusations long before a case was ever tried.

In fact, the committee report, on page 33, contains an unusual requirement. This is what it says:

> For example, a court could require a defendant who sends out a mailing to customers or other class members to permit the plaintiff to enclose notice of the pending suit in one of the defendant's mailings. Tremendous savings to the plaintiff would result at no additional expense to the defendant.

I would observe that this may be very good indeed for the economic rights of the plaintiff, but as far as the personal rights of the defendant are concerned, it is not. It is unusual for one being sued to be required to send out notice to the people who might potentially wish to engage in a suit against him, advising them that they might wish to join in a suit against him.

I am further concerned that this bill, in the name of opening increased opportunity for consumers to gain redress, rather than leaving it to the FTC, will only open up the possibility of a kind of vigilante or posse justice. We might have large numbers of people who would take the law into their own hands rather than leave it to the FTC to bring suit. These people can take other people to court, there is no question about that. But before the people are actually taken to court, there will already have been considerable damage done to potentially innocent defendants, and those very defendants may be required to inform others who might wish to engage in a suit against them of the fact that they might wish to join such suits.

We here open up a matter to large mischief. "Confusion now hath made this masterpiece." We would be in safer hands to leave authority where it now lies, in the hands of the FTC, which has the authority to bring suit, rather than to make it available to all enterprising suitbringers.

Mr. Chairman, I thank the gentleman from North Carolina (Mr. BROYHILL) for yielding me this time.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman said that he believed that if this bill is enacted into law, it would prevent some persons agreeing with the Commission from entering into consent cease-and-desist orders.

Is the gentleman familiar with the fact that on page 36, the second paragraph, (B), provides that these suits will only arise when the cease-and-desist order provides, under its own terms, that a violation thereof will be the basis for an action under the provisions of this section? Therefore, the cease-and-desist order would not necessarily have to have that effect.

Mr. KRUEGER. Yes. We are talking, however, not only about cease-and-desist orders, but about other matters as well.

Mr. ECKHARDT. That would also be taken care of by the section because the same language applies to rules.

Mr. BROYHILL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I certainly hope that those few of us who are here in the Chamber today will put this matter in the appropriate context and perhaps pass along some thoughts to those of our colleagues who are not in the Chamber and will later on be voting on amendments.

Mr. Chairman, as important as this bill is in many respects and considering how much has been made of it in "Dear Colleague" letters, it still certainly is far from enough.

This bill authorizes $63 million for the operation of the Federal Trade Commission.

They are greatly expanding the scope of their activities down there, but what kind of oversight are we exercising? What kind of oversight has there really been that tells how the Moss-Magnuson Act is operating down there?

Mr. Chairman, what we have heard today indicates that we are really not looking very closely at this whole matter.

What policies is the Congress willing to see fostered at the Federal Trade Commission? How successfully have those policies been fostered? Nothing seems to show adequately except that this bill says that the Federal Trade Commission is not doing a good job. This bill is an indictment of the Federal Trade Commission. Maybe that is properly so. Maybe that is what should be done.

Mr. Chairman, if we think the Federal Trade Commission is a failure, then why are we authorizing $63 million for its operations? Why do we not turn over the whole function to the public so as to let class-action lawsuits carry on the whole function of the Federal Trade Commission?

Let us take a good, old-fashioned anarchist's view of how to deal with this problem. Why not take the $63 million and parcel it out directly to the attorneys who are going to benefit from this bill?

Mr. Chairman, as the gentleman from Nevada has so correctly pointed out, that is where the benefit lies in this bill; and of course, the American Bar Association will be all for it. By doing it directly in that way, we will save all that congestion in the courts.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

Mr. BROYHILL. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding me this additional time.

To continue, Mr. Chairman, I think enough has been said about section 7 already.

Please take a look at section 6 of this bill where it says that if the Federal Trade Commission has some reason to believe that a violation may occur, that somebody is about to violate, or that somebody is thinking about violating a regulation, the FTC can go into court for the purpose of preserving the assets to make such restitution or to provide such other redress as may eventually come out of the action. They can have a receiver or a trustee appointed, for example.

They can have a receiver or a trustee appointed. Whoever heard of such an unconstitutional concept, the taking of

property, of some business, for an indefinite period of time. Until the controversy is settled they are going to put a receiver in charge of the business because they might be thinking about violating some regulation, some obscure and difficult to construe regulation of the Federal Trade Commission about how to do business.

That is nonsense. This bill is full of nonsense in sections 6 and 7 and I would hope we will eliminate those two sections at least.

Mr. BROYHILL. Mr. Chairman, I have no further requests for time.

Mr. ECKHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it passes all understanding how persons here can feel that the question of a right, an individual's right, when he has been wronged as a result of a statutory violation, is something that he should not be able to vindicate unless he can convince a bureaucrat to vindicate it for him. For instance, if Jane Smith brings an action or asserts an action against Sears, Roebuck, and the Federal Trade Commission brings the action and finds Sears, Roebuck guilty of an unfair and deceptive practice, the bureaucrat can collect the losses of Jane Smith but if Mary Jones cannot convince anybody to bring her action—and this does not necessarily presuppose any corruption on the part of the Federal Trade Commission, they are limited in lawyers—but if she cannot get anybody to bring her action, then you say she cannot go and get her own lawyer to vindicate a right which the Federal law grants her but only permits her to process it through the channel of a bureaucracy. Is that fair? Is that fair to Sears, Roebuck who was sued by the Government for Jane Smith? Is it fair to Mary Jones that she have no remedy because the FTC will not present her case? It is fair to Montgomery Ward—more than fair—because no action is brought against them. But it is not fair to bring action against one competitor but not against another.

We have done everything we can in this bill to limit it and guard it and make fair and make restrained the class action right. Nobody can be sued unless there is a violation of section 5 of the Federal Trade Commission Act. Nobody can be sued unless that violation has been identified by a rule. Nobody can be sued unless the Federal Trade Commission has decided that that kind of an offense should give rise to a civil action. How could we be more guarded? So should we deny to the consumer the use of the courthouse? It is open to the bureaucrat, it is open to the corporation, it is open to them in antitrust matters to sue for treble damages. Only the consumer is told: You have to be "nursemaided" through your lawsuit or you will lose your right.

Who came before our committee giving these arguments at the time we were in the hearing? Why was it the people that are now attempting to undermine this section 7 did not come before the committee, did not ask? They were requested to come before the committee but they preferred not to, and it is rather easy to see why. They preferred to go quietly from office to office, spreading tales about how unfair this section was and they finally persuaded some persons on both sides of the aisle to present their case for them. But not at any time before our committee did witnesses of establishments like J. C. Penney and Sears, Roebuck, come before our committee. Why did they not?

They were there camping in my office, as I said before, when wanted process in the courts, that the rule involved had been put into effect unfairly. We gave them the fairest, most complete process available in any rulemaking procedure—the most complete opportunity for judicial review. We opened wide the courthouse door for them. Now they would close it to the consumer.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I must say that to me the most compelling argument that I have heard here this morning is that we cannot rely entirely on government bureaucracies to protect the individual, that somewhere there has got to be a place where the individual has a voice that does not depend on there being an intermediary of the bureaucracy coming between that person and justice. That to me is the whole reason for this section.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 3316, the Federal Trade Commission Amendments of 1977.

The need for this legislation is apparent to anyone who is sensitive to the complexities of today's marketplace and the resulting inequities experienced by increasing numbers of consumers. According to a 1967 study by the President's Commission on Law Enforcement and the Administration of Justice, fraud is costing the American consumer an estimated $1,350 million annually. More recent estimates place that figure at close to $3 billion per year.

Unfortunately, these inequities are often compounded by the well-intentioned efforts of the Federal agencies and courts to resolve them. This is particularly the case with respect to class action suits arising from noncompliance with FTC regulations.

It is well recognized that a class action is often the only practical means of obtaining redress from small injuries to a large number of persons. However, the effects of existing legislation governing class action suits tend to hinder this process to the point of making it unworkable. For example, the cost of notifying the members of a class of a suit brought about on their behalf often exceeds the total damages awarded by the court. This obstacle has rendered the class action an impossible illusion for most of those who are entitled to this protection.

To remedy this unfair situation, the proposed legislation, H.R. 3816, authorizes the courts to determine what type of notice is most appropriate to the circumstances of the plaintiffs. It also provides that the defendant share with the plaintiff whatever information he might have, including lists or records of customers, who might belong to the aggrieved class. These provisions should reduce the cost of notification sufficiently to place it within the means of most groups of injured consumers.

Another frequent obstacle to the effective resolution of class action suits is the impracticality of bringing before the court thousands of consumers, to determine, on an individual basis, the exact amount of their damages. Under H.R. 3816, this difficulty is also resolved by permitting damages to be calculated for the class as a whole, by using statistical or econometric methods. Once all efforts have been made to notify class members and all claims have been processed, the court will have the option of returning the money to the defendant or distributing it to a public purpose benefiting the members of the injured class.

The bill also provides for badly needed reforms of the Federal Trade Commission as an institution, by increasing its effectiveness and independence from political interference.

To secure compliance with its regulations, the FTC must have at its disposal sanctions that will have significant impact on violators. Under present legislation, dating from the original Federal Trade Commission Act of 1914, these penalties are set at a fixed amount of $100 per day. While this may have been an adequate deterrent to violations in 1914, it is hardly enough to influence the behavior of a large modern corporation, which commonly pays consultants up to $100 an hour to advise them on how to beat the FTC.

The proposed legislation deals with this problem by authorizing the courts to impose penalties of from $50 to $5,000 a day for failure to comply with a commission subpena or order. This will give the courts the flexibility to distinguish serious violators from borderline cases and to make sanctions effective in cases where they are really needed.

I wish to comment on one other feature among the many worthwhile provisions of this bill. This is the prohibition against the political clearance, by the President or other members of the executive branch, of Federal Trade Commission personnel other than the commissioners who are appointed by the President with the advice and consent of the Senate. Professional competence should be the only criterion applicable to the appointment of civil servants. This is particularly the case for an independent agency with an obligation to serve the public interest in as impartial a manner as possible.

Finally, I wish to commend the members of the Interstate and Foreign Commerce Committee for theeir outstanding efforts in producing this bill. I strongly urge my colleagues to join me in support of H.R. 3618.

Mr. ANNUNZIO. Mr. Chairman, H.R. 3816, the Federal Trade Commission Amendments of 1977, is one of the most important consumer bills to be considered by this body in this session of Congress. I would like to commend Mr. ECKHARDT, chairman of the Commerce Committee's Subcommittee on Consumer Protection and Finance for his diligent efforts on behalf of the legislation. H.R. 3816 will enable the Federal Trade Commission to carry out its responsibilities more effectively and will also help consumers to protect themselves in the marketplace.

H.R. 3816 has several purposes. It will alter certain Federal Trade Commission Act procedures to make sure that FTC actions are completed promptly. It will provide for a private cause of action based on violations of specified FTC trade regulation rules and cease and desist orders. In the legislative, budgetary and personnel areas, it will insulate the FTC from political clearance, and it will authorize appropriations for the commission of $63 million for fiscal year 1978 and $70 million for fiscal year 1979.

Mr. Chairman, one of the most significant provisions of this bill is section 7, Consumer Actions, which will create a self-help remedy for consumers whenever specified FTC trade regulation rules or cease-and-desist orders are violated and the violation results in harm to a consumer. The FTC estimates that it currently receives 60,000 consumer complaints a year. Unfortunately, because of budgetary limitations and competing demands on its resources, the Commission cannot take action on the majority of these consumer complaints. By authorizing private actions, this bill will insure that first, an injured consumer will have some means of dealing with violations of Commission rules and cease-and-desist orders, and second, Commission rules and orders will be more closely complied with because of the watchful eyes of consumers.

Section 10, Citizen Petitions for Rulemaking, will provide a means for members of the public to petition the FTC for the issuance, amendment, or repeal of a trade regulation rule. This provision should help to encourage consumer input into the rulemaking process of the FTC and will require a prompt response by the Commission to legitimate public concerns. Under this section the Commission would be required to either grant or deny a petition within 120 days after receiving the petitions. If the Commission grants the petition, it must begin an appropriate proceeding as soon as possible. If the Commission denies the petition, it will be required to notify the petitioner, supply the reasons for the denial, and to publish the reasons for the denial in the Federal Register.

Mr. Chairman, I believe that H.R. 3816 will significantly benefit consumers and improve the performance and capabilities of the Federal Trade Commission. Not only will this bill permit the FTC to act more expeditiously in cases which are now severely prolonged as a result of delaying maneuvers, it will also make the work of the Commission more effective and meaningful by enabling consumers who have been injured by violations of Commission rules and orders, to seek redress in the courts. I urge all of my colleagues to join me in my support of this measure and to vote for its passage.

Mr. FLORIO. Mr. Chairman, I rise in opposition to section 7 of H.R. 3816.

It is enormously disturbing to me that private enforcement of Federal Trade Commission rules and orders—or the rules and orders of any agency—can be proposed when no evidence has been presented that the agency is not performing its mandated duties.

Only 2 years ago, Congress enacted the Magnuson-Moss Warranty-Federal Trade Commission Improvements Act. Under this legislation, the FTC has clear authority to sue violators of FTC rules and orders on behalf of injured consumers and to obtain monetary damages, injunctions, the rewriting or cancellation of contracts—a whole array of relief to fit the particular needs of the case. In addition, this act gave the FTC the authority to seek civil penalties for violation of its rules. The Commission has long had the authority to sue for violations of its orders. The amount of civil penalties for violation of a rule or order is $10,000 for each violation.

The FTC is currently preparing a number of comprehensive rules under its Magnuson-Moss rulemaking authority. In addition, the FTC has obtained substantial civil penalties for violations of its rules and orders. The Commission has also used its consumer redress authority to obtain large settlements for consumers. For example, it has obtained $20 to $30 million in specific performance and refunds in a land-development case, and $1.5 million in restitution to vocational school students, and is now litigating a $40 million pyramid sales scheme case.

It is no secret that for years the FTC was an ineffective regulator of the American marketplace. The Commission was jokingly referred to as "the little old lady of Pennsylvania Avenue," a pawn of the industry it was supposed to regulate. All that began to change after the scathing Nader report in January 1969, followed by an equally critical study by the antitrust section of the American Bar Association. In the years since then, the Commission has attracted a number of well-qualified, highly motivated, new people who are fulfilling the congressional mandate of this agency. In fact, last year the Commerce Committee's Subcommittee on Investigations awarded the FTC high marks in the "Moss Report," a study of agency effectiveness. With a new Chairman who received the strong endorsement of consumer groups in his confirmation hearings, we have no reason to expect a change in the Commission's performance.

Mr. Chairman and fellow Members, let us not precipitously create private enforcement of the rules and orders which this Federal agency has the ability and willingness to effectively enforce. Let us first monitor the Commission's performance under the new Magnuson-Moss authority and determine how it uses this authority under the leadership of an able new Chairman. If, contrary to all indications, the FTC fails to live up to its potential under the broad range of powers vested in it by Congress, let us then examine what new approaches might be necessary. Let us not, however, take the drastic steps envisioned by section 7 when there is no demonstrated need for this new approach.

Mr. BARNARD. Mr. Chairman, section 7 is an unnecessary piece of legislation. It would strain our judicial system; it would interfere with a mandate Congress has given the FTC; and it would not benefit the public as a whole. For these reasons, I urge support of the Kreuger amendment to strike section 7 of H.R. 3816.

Consumers should be able to defend themselves against unscrupulous and fraudulent operators who plague our country. And if enactment of section 7 of H.R. 3816 truly offered this guarantee, I would be an enthusiastic supporter. However, this is not the case.

Section 7 permits attorneys to sue for violation of the Federal Trade Commission's vague and technical rules and orders. Unfortunately, these regulations rarely address the hardcore fraud problems. Rather, they only formulate prohibitions against certain unfair or misleading consumer practices.

Consequently, a legitimate company might find itself the defendant in a class action suit for simply misinterpreting an imprecise rule or its notification section. Clearly, it would be unfair to impose a liability on a company under these circumstances.

Under section 7, individual consumers would not have to be notified of a law suit. Thus, the vast majority of consumers in whose names these class actions are brought might never know of the existence of the suits nor receive any money.

Mr. Speaker, I am concerned that consumers will reap little reward from the mushrooming of class action lawsuits which will inevitably go hand-in-hand with enactment of section 7. Further, the additional burden to our already overtaxed judicial system should not be minimized.

Does such an insignificant gain for the consumers justify the costs to our judicial system and legitimate businesses? I think not.

Presently, the Federal Trade Commission is required to act on behalf of all consumers. We cannot expect this sense of public responsibility to be duplicated by private attorneys.

Mr. HYDE. Mr. Chairman, late in 1974, the 93d Congress passed the Magnuson-Moss Warranty Federal Trade Commission Improvement Act, significantly strengthening the powers of the Federal Trade Commission. Now we are being asked to further expand the powers of this agency in a manner which I can only characterize as unnecessary and disturbing.

The proliferation of rules and regulations facing today's businessman are burdensome enough to deal with—mountains of redtape and Government forms to complete, requiring additional personnel simply to comply with the plethora of Federal regulations.

Passage of the FTC amendments bill will only multiply the problems business-

men now face, under the much-abused guise of "consumer protection."

If today's consumers had been given a chance to understand the ramifications of this bill, they would have bombarded our offices with telegrams, phone calls, and letters opposing passage. The bill destroys our cherished concept of "innocent until proven guilty," and is so biased in favor of enforcement that innocent businessmen will be unable to defend themselves, particularly those without large legal and accounting staffs.

Section 7, allowing for class actions for money damages against alleged violators on behalf of all supposedly injured consumers, was the most radical section of the bill. Individual consumers would receive only a small fraction, if any, of the amount of their alleged damages. The tendency would be for these large class action suits to be settled, with the majority of the settlement fund being used to pay attorneys' fees and the costs of investigation and bringing the litigation. The defendant in such a pending class action suit would be required to post signs in its business establishment, put notices in its monthly statements, or notify the public through radio or television announcements. Such damaging and unfair publicity would be inflicted upon a business before it had been found guilty of anything. Is it any wonder that Judge Medina has called this an unconstitutional and "fantastic procedure." I supported the Krueger amendment removing section 7 from the bill.

Section 6 was nearly as appalling as section 7. Under section 6, the Federal Trade Commission would have the authority to ask a court to put a firm suspected of wrongdoing into receivership pending a Commission proceeding. In effect, the Federal Trade Commission could put into bankruptcy any company whenever the Commission believes that a law may be violated. This is an unprecedented attempt by Congress to impose Government receivership upon ongoing private enterprise. Why hold the hanging before the trial? I supported the Butler amendment striking section 6 from the bill.

The most onerous provisions of the bill were removed during debate, but it still was not worthy of support. Section 3 will increase the number of courts in which the FTC may file enforcement actions, while section 5 cuts back on the number of places in which a business could appeal cease-and-desist orders. In other words, the FTC can "forum shop" but businesses cannot. Section 4 dictates that FTC cease-and-desist orders become effective automatically within 60 days after being served unless the FTC, a court of appeals or the Supreme Court issues a stay of the order. Such a situation will create havoc for business firms by requiring them to take corrective action, which upon judicial review, may be reversed as not in violation of the cease-and-desist order.

What is the urgency? Why was the administration and the majority attempting to push through an untimely and unnecessary bill that will pound one more nail into the coffin of private enterprise. What has happened to their loud cries for decreasing Government regulations? What ever happened to the basic, guaranteed right of fair and even-handed justice?

The Federal Trade Commission already has sufficient enforcement powers under the Moss-Magnuson Act—powers which have not yet been fully tested. It is premature to grant the FTC even more enforcement power—creating in effect another law enforcement agency similar to the FBI and the Drug Enforcement Agency.

This bill proposed such heavyhanded authority for the FTC that it should have been resoundingly defeated.

Mr. MOSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 621]

Anderson, Ill.	Diggs	Mathis
Ashley	Dingell	Moakley
Badillo	Dornan	Murphy, N.Y.
Beard, R.I.	Drinan	Neal
Beard, Tenn.	Erlenborn	Ottinger
Bedell	Evans, Ga.	Pritchard
Blouin	Fascell	Rangel
Bolling	Ford, Mich.	Runnels
Brademas	Fraser	Scheuer
Breaux	Giaimo	Sebelius
Burke, Calif.	Hanley	Spellman
Burton, John	Harsha	Stokes
Burton, Phillip	Heckler	Traxler
Carney	Horton	Udall
Carter	Howard	Whalen
Cederberg	Johnson, Calif.	Whitehurst
Conyers	Koch	Wilson, C. H.
Cotter	Lundine	Wilson, Tex.
Coughlin	McDade	Wolff
Davis	McDonald	Wright
Dent	Madigan	Young, Alaska
Dicks	Marlenee	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 3816, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 369 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the committee rose, the Clerk had just begun to read the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk will read.

The Clerk read as follows:

H.R. 3816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Trade Commission Amendments of 1977".

ENFORCEMENT OF SUBPOENAS AND ORDERS

SEC. 2. (a) Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended—

(1) by striking out "SEC. 10. That any" and inserting in lieu thereof "SEC. 10. (a) Any";

(2) by inserting, respectively, "(b)", "(c)(1)", and "(f)" immediately before the second, third, and fourth paragraphs;

(3) by striking out the first two sentences of subsection (c)(1) and inserting in lieu thereof the following: "Except as provided in paragraph (2), if any person, partnership, or corporation fails to comply with any subpoena or order issued by the Commission under this Act (other than a cease and desist order) and if such failure continues for 30 days after service on such person, partnership, or corporation of a notice of such default, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not more than $5,000, as the court may determine, for each day that such failure continues after such 30th day. Such a civil penalty shall be recoverable in a civil suit, by and in the name of the Commission by any of its attorneys designated by it for such purposes, brought in the district court of the United States for a district within which such person, partnership, or corporation resides or does business. In determining the amount of such a civil penalty, the court shall take into account the reasonableness and good faith of any action or inaction of such person, partnership, or corporation with respect to which such penalty is being assessed, and such other matters as justice may require. The amount of such civil penalty shall be payable into the Treasury of the United States."; and

(4) by inserting after subsection (c)(1) the following:

"(2) Any person, partnership, or corporation which has been served with a notice of default issued by the Commission with respect to any subpoena or order referred to in paragraph (1) may apply to an appropriate district court of the United States requesting a stay of the accumulation of penalties under such paragraph for the default with respect to which such notice was served. If, before the expiration of 15 days after such person, partnership, or corporation is served with such notice, such person, partnership, or corporation—

"(A) makes such application; and

"(B) furnishes the court to which such application is made such records, documents, and other materials as may be required for the disposition of the application;

such person, partnership, or corporation shall, notwithstanding paragraph (1), not be liable for such penalties until the expiration of 60 days after service of such notice.

"(d) No court shall have jurisdiction over any action or claim seeking—

"(A) to stay the accumulation of any penalties authorized in subsection (c)(1) for failure to comply with any subpoena or order referred to in such subsection; or

"(B) to challenge the validity of, or enjoin the enforcement of, any such subpena or order;

unless the action is brought or the claim is made by a person, partnership, or corporation, or by a member of a joint venture, and a notice of default respecting such subpoena or order has been served upon such person, partnership, corporation, or joint venture.

"(e) No court shall stay the accumulation of penalties for failure to comply with any part of any subpoena or order referred to in subsection (c)(1) unless the party seeking such stay demonstrates that the applicable standards for such stays are satisfied as to such part.".

(b) The amendments made by subsection (a) shall apply only with respect to failures to comply with a subpoena or order referred to in section 10(c)(1) of the Federal Trade Commission Act (as so designated by subsection (a)(2) and issued after the date of the enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2? If not, the Clerk will read.

The Clerk read as follows: Page 30, line 1:

VENUE

SEC. 3. (a) The second undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by striking out the second sentence thereof.

(b) Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by striking out the third and fourth undesignated paragraphs and inserting in lieu thereof the following:

"In case of failure to comply with any provision of a subpoena or of an order issued pursuant to this Act (other than a cease and desist order), the Commission may invoke the aid of a court of the United States in requiring compliance with such subpoena or order. Any of the district courts of the United States within the jurisdiction of which the inquiry of the Commission is being carried on may, in the case of such refusal to obey, issue an order requiring compliance with such subpoena or order, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 3?

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand section 3 of this bill, it would enable the Federal Trade Commission to issue subpenas to a company or other business entity requiring it to respond in Washington, D.C., instead of permitting it to respond in the areas where it is doing business. The section would permit the FTC to compel businesses, large and small, to come to Washington, at great expense, and to hire counsel and to incur all of the other burdens in connection with such an investigation.

I would like to ask one of the sponsors of this legislation if this is not a substantial change in the administration of the Federal Trade Commission law? And to further ask if this is not going to impose new and expensive burdens on all kinds of private businesses. These and other sections of this proposal threaten to regulate and punish American business and destroy our entire private enterprise systems?

But, while indicating my overall philosophy regarding this legislation, could I ask if this is not a substantial change from the existing law?

Mr. ECKHARDT. The gentleman is now addressing his remarks to section 2. We are, of course, in section 3.

Mr. McCLORY. Yes, I am speaking about section 3.

Mr. ECKHARDT. Section 3 is the venue section. Of course it also has some relation to the other section. It has to do with filing cases in the District of Columbia.

The problem was this: An action could be brought against the Commission to test the Commission's authority to obtain information under its information seeking devices, including the subpena, particularly in the line of business cases. Those actions could be brought in any district court having venue. Our problem has arose with the A. O. Smith case which case changed 50 years of existing law and held that these injunctions to test the validity of the subpena could be brought before notice of default. The FTC then ran into challenges raising the same issues in several different jurisdictions and finally had to bring a case in the District of Columbia because that is the only court that had the reach of all of the parties involved so as to consolidate the suits.

What we have done here is simply directly provide that the Federal Trade Commission may bring the action in the District of Columbia, but this does not preclude the bringing of actions in other districts having jurisdiction and venue.

Mr. McCLORY. Is the gentleman stating that the practical effect of this section is not to require respondents to come to Washington, D.C., with regard to the enforcement of subpenas? And is the gentleman saying that there is not a transfer of jurisdiction from the district court, or the court which has jurisdiction where the company's principal place of business is located, to Washington, D.C.?

Mr. ECKHARDT. This does not deprive any court of its existing jurisdiction and venue, but it extends the option. The reason for that is to achieve a practical way to consolidate a number of suits.

Mr. McCLORY. In other words, the option is being given to the Federal Trade Commission to decide on the jurisdiction, notwithstanding the fact that the company's place of business might be in a place far remote from the District of Columbia?

Mr. ECKHARDT. I suppose if they insist on it, that could be done. It certainly is not the purpose of this section to encourage that sort of thing.

I would like to state in the very strongest terms here that were there some way to meet this problem of consolidating a number of suits involving the same kind of discovery process in another way, I would like to know it.

Mr. McCLORY. I think that merely imposes added burdens on the respondent and is a further reason why this bill ought to be rejected in toto.

Mr. Chairman, this proposal is double-barreled against American business. Under section 3, the FTC could compel a business entity to come to Washington and defend itself against a subpena no matter how unreasonable or frivolous an FTC demand might be.

Mr. Chairman, the proposal is made doubly offensive because of section 5 which provides new limitations on the right of a business to appeal from a cease-and-desist order. Under the existing law an appeal may be taken in the jurisdiction where the business practice which is being challenged—took place. Amended section 5 would deprive business entities of that right. Instead, they would have to take their appeal to Washington, D.C., or to the jurisdiction where they have their principal place of business.

The CHAIRMAN. Are there any amendments to section 3? If not, the Clerk will read section 4.

The Clerk read as follows:

EFFECTIVE DATE OF CEASE AND DESIST ORDERS

SEC. 4. (a)(1) Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g)(1) For purposes of this Act (other than section 19(d)), an order of the Commission to cease and desist shall become final upon the expiration of 60 days after such order is served, except as provided in subsections (h), (i), and (j). After an order has become final the Commission may modify it or set it aside as provided in the last sentence of subsection (b). Any such order may be stayed in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, did not grant the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

"(2) For purposes of section 19(d), such an order shall become final—

"(A) upon the expiration of 60 days after such order is served if no petition for its review is filed in accordance with subsection (c); or

"(B) if such a petition is so filed—

"(i) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed;

"(ii) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by a court of appeals of the United States; or

"(iii) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review dismissed.".

(2) Section 19(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b(c)(1)) is amended by striking out "by reason of section 5(g)1)" and inserting in lieu thereof "under section 5(g)(1) and no petition for its review was filed in accordance with section 5(c)".

(b) The amendments made by subsection (a) shall apply only with respect to cease and desist orders of the Federal Trade Commission served under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of the enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the reading of Section 4 be dispensed with, that it be printed in the RECORD, and be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendmens to Section 4? If not, the Clerk will read section 5.

The Clerk read as follows:

REVIEW OF CEASE AND DESIST ORDERS

SEC. 5. (a) The first sentence of section 5 (c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended to read as follows: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in the court, within 60 days from the date of the service of such order, a written petition praying that the order of the Commission be set aside.".

(b) The amendment made by subsection (a) shall apply only with respect to petitions for judicial review of cease and desist orders served under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of the enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment to any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 5? If not, the Clerk will read section 6.

The Clerk read as follows:

GRANTING OF EQUITABLE RELIEF

SEC. 6. (a) Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating subsection (c) as subsection (d), and by inserting immediately after subsection (b) the following new subsection:

"(c) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation has violated, is violating, or is about to violate, any provision of law enforced by the Commission; and

"(2) that, for the purpose of preserving the assets of such person, partnership, or corporation to make such restitution or provide such other consumer redress as may be required by the Commission or by a court in an action under section 19, the granting of equitable relief (other than injunctive relief under subsection (a) or (b)) is necessary pending the issuance of a complaint by the Commission and until whichever of the following dates occurs first—

"(A) the date the Commission dismisses the complaint;

"(B) the date the complaint is set aside by a court on review; or

"(C) the date the order of the Commission made on the complaint has become final for purposes of section 19(d);

the Commission, by any of its attorneys designated by it for such purpose, may bring suit in a district court of the United States for the granting of such equitable relief, including the appointment of a trustee or receiver, as the court considers appropriate for such purpose. Upon a proper showing, and after notice to the defendant, the court may grant such equitable relief, except that if a complaint is not filed within such period (not exceeding 20 days) as may be specified by the court after such equitable relief is granted, the order granting such equitable relief shall cease to be in effect. Any such suit shall be brought in a district in which the person, partnership, or corporation involved resides or transacts business.".

(b) Section 16(a)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(A)) is amended by striking out "injunctive" and inserting in lieu thereof "equitable".

(c) The first sentence of section 19(b) of the Federal Trade Commission Act (15 U.S.C. 57b(b)) is amended by inserting after "as the case may be" the following: "and, pending such action, to preserve the assets of a person, partnership, or corporation which may be required in such action to make restitution or provide other consumer redress".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 6?

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 33, strike out line 17 and all that follows down through page 35, line 13.

And redesignate the following sections accordingly.

Mr. BUTLER. Mr. Chairman, the purpose of this amendment is to delete Section 6 from the bill. If the Members will indulge me for a moment, I will read to them selected portions of section 6:

Whenever the Commission has reason to believe—

(1) that any person * * *is about to violate, any provision of law enforced by the Commission; and

(2) that, for the purpose of preserving the assets of such person * * * the granting of equitable relief * * * is necessary * * * the Commission, by any of its attorneys designated by it for such purpose, may bring suit in a district court of the United States or the granting of such equitable relief, including the appointment of a trustee or receiver, as the court considers appropriate for such purpose.

The report enlightens us a little bit about what exactly is intended:

It is intended by this section that conventional equitable relief be authorized for the purpose of preserving the assets of a company for a later redress suit . . . when it appears the company may be wasting, or about to waste, its assets.

This extraordinary power is triggered when the Commission has reason to believe that any person is about to violate its rules. The report enlightens us as to what they have in mind because it says:

This authority is particularly necessary with respect to closely-held corporations, since by the time the Commission has been able to complete its investigation and administrative proceeding, the corporation may be little more than a shell and the ill-gotten profits cannot effectively be traced to provide redress.

There is not any evidence in the record of any single instance in which the Commission has been confronted with this problem. There is no situation in the record when the Commission testified and asked for this, when they could point to one single instance when this had been necessary.

This is an extreme remedy, the appointment of a receivership of a business, simply because the Commission has reason to believe that it is about to violate the Commission's laws. Consider what it means to appoint a receivership for a small business.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield at this point?

Mr. BUTLER. I will yield when I get through if it will be convenient to the gentleman. I am kind of getting into the spirit of this thing and if the gentleman will give me just a minute I will complete my statement.

This is what it means to appoint the receivership for a small business, and this is a Federal court receivership we are talking about. What does that do to the business if these later circumstances establish that this was not necessary? To say that a business is in receivership is about as damaging as any kind of statement one can make about a small business. It is a slander for which there is no real response. Whenever thereafter that destiny of that business or the veracity of its officers is called into question, the question always arises: Did not the Federal Trade Commission ask for a receiver to be appointed for that business? It is slander for which there is really no real response.

Faced with that prospect, with that possibility, what is a small business going to do when the Federal Trade Commission suggests that a remedy is available to it? The section will be used to harass small businesses into signing consent decrees or they will face appointment of a receivership. Faced with such a choice, the small business will take the order no matter how unjust or erroneous it may be.

That is why I suggest to the Members of the House that what is asked here is an extreme power not statutorily granted to agencies in similar circumstances, granted only to the SEC under the case law. This is an extreme remedy, not supported by logic or precedent, and I urge the Members to vote with me in striking section 6 and this extraordinary power which is asked by the Federal Trade Commission.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I attempted a moment ago to engage the attention of the gentleman in the well who is the author of this amendment to establish the fact that the Commission does not make a determination to appoint a receiver because it has reason to believe that the assets will be wasted, but the Commission

makes a decision to go into court like any other plaintiff when a question is reasonably raised.

The reason for this section is that obviously after a suit reaches a court of appeals, the court has inherent authority to protect the assets from wastage while the processes are had in court.

But if the assets have been wasted during the Commission hearing and before the matter gets to court, the court does not have the reach to protect the assets.

I want to say here that I have much respect for the basis, the principle behind the amendment that the gentleman from Virginia (Mr. BUTLER) espouses. For that reason, we thought in the committee that the language was titled too much in favor of the court proceeding to appoint a receiver; so we made clear in the language of the committee report that we did not intend the court to do anything more than it would do when the case gets into court.

I think we ought to make the legislative history here as strong as possible, that the appointment of a receiver is a last resort. There are many other ways ordinarily to protect the jurisdiction of the court, but there is really no difference between the problem which exists while the matter is before the Commission and after it gets out from the Commission into the court. The court should determine on the basis of the law and the pleadings of the parties what equitable relief should be maintained to protect those assets.

Now, I think we all want to see that the litigants do not ultimately find themselves with an empty bag at the end of the Commission or the court proceedings, but if the bag is empty at the end of the Commission proceedings, the court's power to protect the assets is practically and effectively gone.

Now, the Commission, as the plaintiff, has the burden of proof and this is a heavy burden of proof when such extraordinary relief is sought. It is even a heavier burden than for injunctive relief, as the courts ordinarily decide.

Now, we had no opposition to this provision in the committee on either side of the aisle when we made it clear that we were respecting this on exactly the same equitable basis that existed after the matter got to the court.

Mr. Chairman, I ask for a no vote on the amendment.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this amendment striking section 6 must be accepted. Failing that, we clearly have to clean up section 6, because it is a grant of unprecedented authority that does not now exist in the law and, I suspect, is unknown to the law. The purpose of the novel grant of authority is contained in the first sentence of the committee report explaining this section:

This section authorizes the Commission to seek equitable relief from a court during the time the Commission is pursuing administrative adjudication.

Notice, equitable relief is granted during the time the Commission is pursuing administrative adjudication.

We know something about FTC adjudications. They often take years to resolve. This grants the novel power to the court to place a receiver in a business, not after liability has been determined, but pending an adjudication of liability, and for the purpose of preserving the assets for the benefit of someone. That is unheard of in the law. It permits this authority to be exercised even in advance of a complaint being filed with the Commission. In other words, a target defendant may get his first notice that there is any difficulty affecting him when he receives a copy of the complaint that a receiver is to be appointed for his business to protect the disposition of assets by reason of a lawsuit or a claim that has not even been filed.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New Jersey.

Mr. RINALDO. In other words, for purposes of clarification, is the gentleman saying that an equitable relief for the appointment of a trustee in the case would actually take place prior to the determination by the FTC that the company has done anything wrong?

Mr. WIGGINS. It says at line 7 that this relief may be sought pending the issuing of a complaint by the Commission, so I take that to mean that a receiver may be appropriate before any determination of liability.

Mr. RINALDO. Would the gentleman clarify that by stating, to the best of his knowledge as an attorney, whether or not this type of broad language prevails in any similar legislation?

Mr. WIGGINS. I will be happy to. I want to speak for a moment to those who are attorneys. Attorneys know that a receiver is not a primary form of relief. It is ancillary; preceding such relief must be a primary cause of action which is on file and pending before the court. It supplements, it is ancillary to, an existing claim. This, however, turns all of that law and history on its head and permits the appointment of a receiver to be the principal object of a lawsuit for the purpose of preserving assets.

The preservation of assets for a particular creditor inevitably works to the detriment of all other creditors. Indeed, this is an act of bankruptcy under the existing Federal law. What about the other trade creditors, for example? What about creditors who have an existing cause of action on file? Are the assets to be preserved for their benefit, or for the benefit of those claimants making a case before the Commission? This is a novel application of the use of a receiver, one which I believe is unprecedented. If the gentleman has any authority consistent with this application, I would be pleased to hear it.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I will be happy to yield.

Mr. ECKHARDT. I have a further point to make later, but I have one point I would like to make to the gentleman. Originally, the language presented to us provided for the appointment of a trustee or receiver to control the deposits of such a partnership, and we thought that was too broad because they might favor one creditor against another. So, what we limited this to is to preserve the assets, and the payment in due course of the creditors on an actual basis would in no way waste the assets. I think that is a very significant difference.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. I commend the chairman for limiting the scope of this relief to some extent, but I must take the bill at its face value. It clearly authorizes the Commission, which may have reasonable cause to believe that a person is about to do an act which might be a violation of a law or rule subject to the jurisdiction of the Commission, to file a complaint in court first for the appointment of a receiver. Now, such relief is unprecedented and unknown in the law.

Mr. GUDGER. Mr. Chairman, I wonder if the gentleman would yield for a question.

Mr. WIGGINS. I am happy to yield.

Mr. GUDGER. Do I understand that the impact of this amendment would be to allow the court to become an agency to render ancillary relief in an action pending before the Commission? In other words, that the court would be assuming this equitable jurisdiction as an agency for, or as a method of assisting the Federal Commission.

Mr. WIGGINS. The answer to that question is yes, but it is even worse than that. The court can be involved before the Commission has ever made a finding that there is a violation.

Mr. GUDGER. Is there any precedent known to the gentleman where a court, a Federal court, acquires jurisdiction in a civil remedy situation where there is not the diversity citizenship and jurisdictional amount required to be in controversy, and where that court does not itself have the final jurisdiction to determine an action pending?

Mr. WIGGINS. I suspect that jurisdiction would exist in a title 19 action without regard to diversity. This is not a diversity basis for jurisdiction. It is simply enforcing a Federal law with respect to a defendant.

I am not concerned about acquiring jurisdiction over the individual. But this is a new application of jurisdiction. By that I mean judicial power. The court does not ordinarily involve itself until there is a lawsuit pending before it, and then it can grant incidental relief. This grants incidental relief without the underlying lawsuit.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. The concept that is involved in section 6 has been discussed rather well here by those who have spoken before.

In addition to the points that have been made, I would just like to zero in on one factor that is at the very center of this. What kind of a finding would the court have to make in order to put this section into effect, in order to pro-

vide for the appointment of a receiver or a trustee? There is no guideline adequately stated in this section for the court to proceed upon. All the court would have to go upon here is the possibility alleged by the Federal Trade Commission that they believe that someone is about to violate a regulation and that they may issue a complaint and that they want the assets of the business preserved in order to provide for restitution or to provide for other consumer redress as may be required by the Commission in a section 19 action.

How is the court going to make such a determination that equitable relief of any sort, whether it is the appointment of a receiver or a trustee or something else, could possibly be warranted in such circumstances? This section is so constructed that I would suggest to the Members that a court could not possibly within the confines of the Constitution make such a finding. If it does so, it would certainly be doing so without due process for the owner of the business. It would be depriving the business of their property, of their assets, without due process during such time as it takes the Federal Trade Commission to get around to issuing a complaint, and until either the Commission dismisses the complaint, the complaint is set aside by a court on review, or the date the order is made final for purposes of section 19(d). This is all very indefinite, but all based upon some finding by the court that is not very clearly stated in the section and certainly not clearly enough to form the basis for such an unusual remedy to be afforded.

One other point, before finishing. The gentleman from Virginia (Mr. BUTLER) has referred to the effects this section might have if put into effect on a small business. But think of what would happen to a large business which employs a lot of your constituents. The appointment of a receivership relating to some small segment of that business' operation might indeed result in the economic detriment of the whole business and might result in even more unemployment in areas that are not even related to that factor.

So it is not only small business but also jobs in big business that I am concerned about.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding. I speak to the subject, to the standard which will guide the court in granting relief. The statute provides little guidance, and to the extent that it provides guidance at all it does so ambiguously.

On line 7, page 34, it says that such relief must be "necessary." And that is a standard. But on line 21, page 34, it says that relief may only be "appropriate." In either case, the bill provides precious little guidance to the court.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, we felt that to put in standards other than those which are imposed upon a court in equitable proceedings might tend to lessen the standard under which such relief would be granted.

So we said that: No. 1, it must be necessary to protect the assets, and that is so that the assets are not to be wasted; No. 2, it is not available if injunctive relief would suffice to protect the assets; and No. 3, the standards are those ordinarily—and these are very high standards—applicable in equitable relief in the courts.

I want to make it very clear that those standards do exist here, because I, along with the gentleman who controls the time, agree that this ought to be as a very last resort. But yet we must also protect the party who has presumably or allegedly been cheated in the marketplace.

Mr. KINDNESS. Mr. Chairman, I would just point out that there is another lack of clarity in the language to which the gentleman from Texas (Mr. ECKHARDT) has referred. As to the point the gentleman made that this is not available if injunctive relief would suffice, I submit that does not appear here in the section.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not familiar with the issues at hand. I have had an opportunity to study the committee report briefly, and I am concerned, as the gentleman from California (Mr. WIGGINS) is, about the possibility of this appointment of a trustee. But it seems to me that the gentleman from Texas (Mr. ECKHARDT) has pointed out that the standards of equitable relief should provide that the burden rest heavily on the Government in this instance.

On page 30 of the committee report, unless I am mistaken, there are really a whole host of caveats that have to be met before any relief would be granted to the Government in dismembering the corporation's assets. Am I correct in that?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. Yes, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think it is very important to give an answer to the question of the gentleman from California (Mr. WIGGINS) as to whether or not there is anyplace where this relief is granted at an administrative level. I do not believe there is.

But we must remember this: that in antitrust suits, the court has jurisdiction from the very beginning to protect the assets. But in an unfair and deceptive practice case the Federal Trade Commission may not go into court immediately. It must first get a cease and desist order, and within 60 days thereafter the person against whom it is issued has a right to go into court.

The cease and desist order process is really a part of the total process. And we are seeking to protect the whole process. We are leaving the decision entirely to the court and not to the Commission.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman from Texas (Mr. ECKHARDT), and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. ECKHARDT. Mr. Chairman, I demand a division.

On a division (demanded by Mr. ECKHARDT) there were—ayes 48, noes 12.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSUMER ACTIONS

SEC. 7. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 20 and section 21 as section 21 and section 22, respectively, and by inserting immediately after section 19 the following new section:

"SEC. 20. (a)(1) If any person, partnership, or corporation violates—

"(A) any rule under this Act which relates to unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)), and which provides by its terms that a violation thereof shall be the basis for an action under the provisions of this section; or

"(B) any final cease and desist order issued by the Commission which is applicable to such person, partnership, or corporation, and which provides by its terms that a violation thereof shall be the basis for an action under the provisions of this section;

then any person, partnership, or corporation injured by any such rule violation or cease and desist order violation may commence a civil action for relief against such person, partnership, or corporation, on behalf of such person, partnership, or corporation, or on behalf of such person, partnership, or corporation and all persons similarly situated, in any district court of the United States or in any court of competent jurisdiction of a State.

"(2) No action may be commenced in a district court of the United States under paragraph (1) unless the amount in controversy exceeds the sum or value of $25,000, exclusive of interest and costs. In the case of an action involving more than one plaintiff or a class action, the claims of the individual plaintiffs or of the members of the class, as the case may be, may be aggregated in determining if the requirement of the first sentence is met.

"(3) Any person, partnership, or corporation which commences an action under paragraph (1) shall notify the Commission in writing of such action at the time such action is commenced.

"(b) The court in any action commenced under subsection (a)(1) shall have jurisdiction to grant such relief as the court finds necessary to redress injury to the plaintiff in such action or members of a class in a class action, including rescission or reformation of contracts, the refund of money or the return of property, the payment of damages, and public notification respecting the rule or order violation, as the case may be, but not including the imposition of any exemplary or punitive damages. Any award of damages determined under subsection (d)(1) shall not be considered to be exemplary or punitive damages.

"(c)(1)(A) In the case of a class action commenced under subsection (a)(1), the court involved shall order notice to be given to the members of the class involved in such action through one or more of the following methods—

"(i) publication by newspaper, radio, television, or any other medium, or by posting at any location which is likely to be frequented by members of such class; or

"(ii) individual notice to each member of such class who can be identified through reasonable effort.

"(B) The court involved may provide, in addition to ordering notice to be made through the use of one or more of the methods provided in subparagraph (A)(i), that individual notice shall be made to—

"(i) a sample of the members of such class, if such members may be reasonably expected to represent any material conflict or divergence of views among members of the class; or

"(ii) any specific subclass of such class.

The specific characteristics or interests of any such subclass shall be determined by such court.

"(2) The court involved, in determining the method of notice under paragraph (1) to members of a class, shall take into account—

"(A) the interest of the members of such class in being informed of the pendency of the action;

"(B) whether it is reasonable to conclude that the members of such class would desire the action to go forward without the burdens and benefits associated with individual notice to the members of such class;

"(C) the costs of each such method;

"(D) the financial and other resources of the parties involved in such action;

"(E) the nature and importance of the interests of members of such class in such action; and

"(F) whether a significant percentage of the members of such class would be reasonably likely to desire to exclude themselves from such class or to participate in such action as separate parties.

The court may order that individual notice of such action be given to an appropriate sample of the members of such class in order to obtain information necessary to assist the court in making determinations under this paragraph.

"(3)(A) Except as provided in subparagraph (B), the plaintiff in any class action commenced under subsection (a)(1) shall bear any costs of notice required by the court involved.

"(B) The court may order the defendant to cooperate with the plaintiff in providing notice.

"(d)(1) In a class action commenced under subsection (a)(1), the court shall permit the amount of damages to be awarded to members of the class to be proved in the aggregate on the basis of—

"(A) any reasonable evaluation based upon statistical or sampling methods;

"(B) any reasonable econometric evaluation of the probable extent to which the rule or order violation of the defendant affected the revenues and market performance of the defendant; and

"(C) any other information or materials derived from a reasonable method or system for determining the aggregate amount of such damages.

"(2)(A) In any case in which damages are awarded in any class action commenced under subsection (a)(1), the court involved shall assure each member of the class in such action a reasonable opportunity to receive an appropriate portion of the net damages which are awarded. Any net damages which are not distributed to such members by the court in accordance with subparagraph (B).

"(B)(i) Any net damages which are not distributed by the court to members of a class under subparagraph (A) shall be—

"(I) distributed by the court for a public purpose which benefits, as closely as possible, members of the class involved; or

"(II) returned to the defendant in the action involved.

"(ii) In determining the amount of net damages to be distributed under subclause (I) or subclause (II) of clause (i), the court shall take into account—

"(I) the nature and the extent of the injury suffered by the members of the class;

"(II) any unjust enrichment of the defendant which would result from a distribution of any net damages to the defendant under clause (i)(II);

"(III) the nature of the relief granted by the court to members of the class under subsection (b) and the impact of such relief on the defendant;

"(IV) the amount of any civil penalties imposed upon the defendant under this Act respecting the violation which is the basis of the action; and

"(V) whether the violations of the defendant were willful violations.

"(C) For purposes of this paragraph, the term 'net damages' means the aggregate amount of damages awarded in any class action commenced under subsection (a)(1) reduced by the amount of any unrecovered costs of litigation or administration associated with such action.

(e)(1) Any person, partnership, or corporation may commence an action in any district court of the United States or in any court of competent jurisdiction of a State to enjoin any rule violation or any violation of a final cease and desist order referred to in subsection (a)(1).

"(2) No action under paragraph (1) may be commenced until 60 days after the receipt by the Commission of written notice by the plaintiff of its intention to commence such action.

"(3) No action may be commenced in a district court of the United States under paragraph (1) unless the amount in controversy exceeds the sum or value of $25,000, exclusive of interest and costs. The calculation of the amount in controversy in an action shall be based upon the nature and extent of the actual or potential injury to—

"(A) the plaintiff in such action; or

"(B) in the case of a class action, the plaintiff in such action and the members of the class;

from the rule or order violation involved. In the case of an action involving more than one plaintiff or a class action, the claims of the individual plaintiffs or of the members of the class, as the case may be, may be aggregated in determining if the requirement of the first sentence is met.

"(f)(1) No action may be commenced under subsection (a)(1) or (e)(1) more than 3 days after the occurrence of the rule or order violation to which such action relates.

"(2) If such an action is commenced in a district court of the United States and is dismissed without prejudice, the period beginning with the commencement of such action and ending 3 months after the date of its dismissal shall be disregarded in determining if paragraph (1) prohibits the commencement of another action with respect to the rule or order violation involved by the plaintiff in such dismissed action or by or on behalf of any member of the class for whom such dismissed action was brought.

"(g) The Commission shall have an unconditional right to intervene in any action commenced under this section.

"(h) If the plaintiff prevails in any action commenced under subsection (a)(1) or (e)(1), the plaintiff shall be entitled to recover, in addition to any damages or such other relief as may be granted by the court involved, the costs of such action, including reasonable attorney and expert witness fees.

"(i)(1) The provisions of section 19(c)(1) and section 19(e) shall apply to any action commenced under this section.

"(2) The provisions of Rule 23 of the Federal Rules of Civil Procedure shall apply to any class action commenced under subsection (a)(1) or (e)(1) in any district court of the United States, except where inconsistent with the provisions of this section.".

(b) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (C) thereof, by striking out "or" at the end thereof;

(2) in subparagraph (D) thereof, by inserting "or" immediately after the semicolon at the end thereof; and

(3) by inserting immediately after subparagraph (D) thereof the following new subparagraph:

"(E) under section 20 (relating to consumer actions) in which the Commission intervenes;".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any violation described in section 20(a)(1) of the Federal Trade Commission Act (added by subsection (a)) which occurs after the date of enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. KRUEGER

Mr. KRUEGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRUEGER: On page 35, strike line 14 and all that follows through line 5 on page 44, and redesignate the following sections accordingly.

Mr. KRUEGER. Mr. Chairman, this is, I think, a very important amendment, and I appreciate the fact that there are a very substantial number of Members who are for it.

The proponents of the bill say that section 7 is necessary for the consumer, and they say that it will benefit the Federal Trade Commission; but the fact is that the Federal Trade Commission can at this time bring suit on behalf of consumers. Further the Federal Trade Commission has authority now to gain consent decrees without bringing suit; and, in fact, those consent decrees are the principal means whereby the FTC enforces its regulations.

Mr. Chairman, earlier our distinguished subcommittee chairman pointed out that in the instance of consent decrees for cease-and-desist orders, the Commission would have specifically to authorize a consumer class action. I understand that, but the committee report is nonetheless clear. It indicates on page 30, the general expectation, is that such exemptions from suit should be the exception rather than the rule. Therefore we can expect that FTC regulations will be subject immediately to class-action suits under the proposed language.

Mr. Chairman, the potential for encouraging litigiousness and the potential for mischief by including section 7 seem to be very, very great. What we have is a kind of posse or vigilante mentality in which people who bring suit argue that they wish to act as citizen enforcers of the law so as to bring others before the courts.

The problem is suggested in the committee report on page 33:

The court could require a defendant who sends out a mailing to customers or other class members to permit the plaintiff to enclose notice of the pending suit in one of the defendant's mailings.

It says that:

tremendous savings to the plaintiff would result at no additional expense to the defendant.

Mr. Chairman, we are all accustomed to the right in this country against self-incrimination. Here that right against self-incrimination is undermined because somebody being sued is obliged by the court to indicate, perhaps in a monthly statement, that others might wish to join in bringing suit against him.

Mr. Chairman, the bill allows two kinds of class action suits. One might be brought against a particular business already identified by the FTC as having violated a regulation. But suit may also be brought by anyone who simply believes or charges that an individual business has, in the plaintiff's judgment, violated a practice only broadly and vaguely described by FTC regulations. It is the potential for bringing suit by accusing violation of vaguely worded regulations that opens the way to real mischief.

At that point an enterprising attorney can come along, identify what he believes to be a violation of a Federal Trade Commission regulation, and bring a class action suit not just for himself but for all parties. This suit, moreover, can be brought not just in the Federal courts but in State courts as well, and those State courts are unaccustomed to the process of dealing with Federal Trade Commission regulations. This opens the possibility of very rough justice indeed.

Three-quarters of the judges who were interviewed in a poll that has been taken have indicated their belief that the tendency from the filing of class action suits is to prompt settlement out of court rather than to bring the suit to justice and risk a trial on its merits, because of the large potential liability involved.

It seems to me, in short, this is a punitive amendment rather than an amendment that offers practical restoration to the aggrieved. It is a punitive amendment because it is primarily oriented toward——

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous Mr. KRUEGER was allowed to proceed for 1 additional minute.)

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from New York (Mr. DOWNEY) for securing me the additional time.

We must observe that the court is given the power to make any financial damages awarded and to assign them to any "public purpose." But there is no requirement that the aggrieved parties actually should share in the distribution of the proceeds.

That, it seems to me, gives great authority to a single individual. I would not wish to give such authority to any single Member of this body, nor would I think it a particularly good idea to expand it for single members of the court.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. KRUEGER was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. Mr. Chairman, I will defer to the gentleman from Texas for any additional remarks the gentleman might wish to make.

Mr. KRUEGER. I will yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman from Texas for yielding to me.

I thought I heard the gentleman say in the well that there was a question in his mind against self-incrimination with regard to the reporting requirements. The gentleman of course is aware that these are civil matters and are not criminal matters. The gentleman is also aware of a whole line of court cases which relate to self-incrimination, especially Anderson versus Maryland, which was handed down recently?

Mr. KRUEGER. No, but I am very aware that my constituents do not wish to see additional invitations to litigiousness.

I have not had any mail, and I think very few Members of this body have had any mail, encouraging them to prepare legislation so as to present an enlarged opportunity for class action suits. But maybe my ear is too close to the ground and your ear is too close to the law books.

I am sorry to be such a simple nonlawyer, but that is my response.

I would now like to regain my time, if I might.

Mr. DOWNEY. I am not an attorney either, but I certainly would not want the gentleman to make statements about self-incrimination that were inaccurate because I know the gentleman's penchant for scholarly accuracy.

Mr. KRUEGER. I thank the gentleman for his concern about my scholarly accuracy. At times it may yield to an even larger concern for my constitutents.

Mr. MOFFETT. When the gentleman said that these proceeds are not going to be distributed, I wonder if the gentleman can notify us of any evidence we do not have? The evidence we have indicates that about 83 to 84 percent of the recovered amount does go to the class members. If the gentleman has evidence that that is not the case then the gentleman should present it. But we do have evidence and I think it is fairly settled in class action suits, it is a fairly settled thing.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. KRUEGER was allowed to proceed for 2 additional minutes.)

Mr. MOFFETT. Second, if the gentleman will yield further, the gentleman has implied or perhaps meant to strongly suggest and assert that we are going to have a lot of mischievous suits and that attorneys will flock to bring these actions. I think the gentleman realizes what an investment it is for an attorney—and I am not an attorney either—to make this kind of decision in terms of the hours that would have to be spent and in terms of the kind of investment of time and research, and so forth, that would go into this.

The last point I would make is that the gentleman has indicated that he has not received mail. I cannot speak for the gentleman's constituents, but I will say for my own, I have not received mail either. The reason is that this is an esoteric issue on its face. As the gentleman knows, there is no consumer movement out there. There is no organized consumer organization that is able to generate that kind of mail. But what does come out in every poll that is taken nationally is that people want more protection, that there is a lot of ripping off going on in the marketplace, that people feel they are up against powerful economic interests, and they do not have the protection, and it is up to us, in the absence of that protection, to do something.

Mr. KRUEGER. I thank the gentleman. As to the first point of 83 to 84 percent, that percentage of proceeds being distributed is not, of course, made under the provisions of this bill. We do not know what the specific aggregation would do under the fluid recovery concepts of this particular piece of legislation. What we do know and what I hear very often is that my constituents are terribly concerned about the litigiousness about our society. They are very concerned about the kind of society that encourages all kinds of aspects to be brought to court rather than to be able to resolve some of their own concerns themselves without having to take them to court. As to the point of the potential expense for an attorney, I presume that there are unemployed attorneys as well as others who might not have a particularly high value for their time. Law schools are expanding very fast, and this is a powerful and perhaps lucrative way to get started, but I think it is wrong.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in support of the amendment.

Mr. Chairman, as a Member of this House, I have never been reluctant to join my colleagues in sponsoring consumer protection legislation.

This Congress and previous ones have written important laws in consumer and credit protection—notably in improving the language of warranties and guarantees.

I have enthusiastically voted to give consumers the information and protection they need in our marketplace. Without that information, they would be overwhelmed by the tidal wave of new products, services, compounds, and devices that American business has turned out in the past 20 years.

But supporters of American consumers must take a serious look at what section 7 of H.R. 3816 proposes to do.

They should ask themselves whether this section will ultimately benefit the consumer; or will it drive a wedge of suspicion, mistrust, and legal obstacles between the consumer and the small businessman.

In my judgment, the sanctioning of class action suits against business firms in this manner would lead many manufacturers to withdraw warranties on

products thus damaging commerce and hindering economic growth. It ultimately would cost consumers more money without the benefits alleged by its opponents. It also would expose an estimated half-million small businesses to lawsuits in distributing products over which they have little direct control.

There are serious legal problems with this section as well as it is now written.

Class action suits on behalf of individuals without their knowledge would undercut a U.S. Supreme Court ruling and establish legal practices which clearly make those involved in a lawsuit identifiable and responsible for their actions in a court of law.

Section 7 in its current form might well unleash a torrent of frivolous lawsuits, including some of a malicious nature designed to damage competitors. This concerns me. It would result in prolonged court battles and staggering legal fees.

If this section is approved as it now reads, the courts would be able to forego the traditional legal practice of notifying all individuals involved in a class action suit that a legal action is being taken in their behalf.

Where are the protections of their civil rights in such cases?

Do these phantom consumers really have all the facts of a case at their disposal before their names are used in court?

The answer is that they would not.

Moreover, damages awarded to consumers in a class action suit for deceptive advertising would bear no real relationship to the harm they actually suffer as individuals.

The court award for damages could be made to the consumer group involved in the litigation without the full knowledge of those listed as litigants in the suit.

Let me give an illustration of this fact by citing the case of a similar statute in California.

It involved a cab company that had been overcharging its customers.

The court found in favor of those in the class action suit and ordered the cab company to roll back the fares.

But the customers received no compensation for the previous overcharges: All of the $250,000 went to attorneys in the class action suit.

I agree with the Consumer Federation of America that there must be accountability and responsibility in the marketplace.

But it works both ways.

Making business accountable to the public also requires a "quid-pro-quo" that the consumer will not overburden the manufacturer or distributors with unwarranted claims, threats of class action suits, and cease and desist orders without showing individual harm or damage.

I oppose section 7 of H.R. 3816 on the grounds that it would be harmful to consumers and business alike.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, was the gentleman referring to Daar against Yellow Cab as the California taxicab case?

Mr. RINALDO. I believe that was the case, if that was the case where a quarter of a million dollars was awarded to the lawyers, yes.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. RINALDO was allowed to proceed for an additional one-half minute.)

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, was not that the case in which the Yellow Cab Co. had overcharged its customers and for an equal period of time the court ordered that the fees be lowered to offset that overcharge and then the attorneys, I think, got a fee that was considered maybe 17 or 18 percent of the total amount involved; was not that the case the gentleman was referring to?

Mr. RINALDO. I do not remember the details. My recollection of the case is that the attorneys took all of it.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(By unanimous consent, Mr. RINALDO was allowed to proceed for 1 additional minute.)

Mr. RINALDO. Mr. Chairman, the attorneys received most of the funds. The plaintiffs got nothing. This concerns me, Mr. Chairman, and what concerns me is that the bill as now written has this section in it that says you can advertise in a newspaper, you can advertise on the radio and give the names of the plaintiffs, you can mention them in this fashion and this is notification. A majority of the constituents that I represent do not read the Wall Street Journal. It is proposed that they be notified of the case in the Wall Street Journal or some other publication. They do not have the benefit of knowing they are plaintiffs in the case. They do not know the outcome of the case. They may not be called on to testify and they may not know the result of the case. I do not think that is good judicial practice. I do not think that is good law. I know there are other sections of the bill I support very strongly. I understand how difficult it was for the gentleman to get the proper language in.

Mr. PREYER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this section, as I think we all understand very clearly right now, would empower private attorneys to file lawsuits for violation of rules or orders issued by the Federal Trade Commission. It is a major policy change in allowing private lawyers to be the enforcing arm of a Federal regulatory agency.

That may turn out to be a meritorious approach.

But I would like to hear what the Judicial Council has to say when they complete their studies of class actions. I would like to hear what the Judiciary Committee would think about this approach. I would like to hear what the Justice Department says about it when they finish their studies of class actions.

What we know about it right now and what we know about this section, I suggest raises serious questions about adopting this policy.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield very briefly?

Mr. PREYER. I yield to the gentleman from Texas.

Mr. ECKHARDT. But at the present time the Attorney General supports section 7. I have a letter in my hand to that effect. The gentleman will concede that point I am sure.

Mr. PREYER. I have read the Attorney General's letter. I would suggest this is a very sweeping provision in the bill. The Attorney General's letter points out and relies on the fact that the provision is limited and he points to the fact that it is limited in the sense that it can only be filed if the FTC rule or order on which it is based contains a statement authorizing private enforcement; but I think if the Attorney General looked at the report which states that this language should be left out of rules and orders only "in exceptional cases," the Attorney General might find it is not as limited as he thought it was.

I think it is clear that this legislation has the potential of generating an enormous amount of potential litigation. It would add 50 different forums in the State courts; it would add their appellate court systems, and I think that is a matter of concern. Incidentally, because of the pressure it would put on businesses not to go along with consent orders, but to litigate every proposed order, I think we are going to find that this too would result in a lot more litigation.

That is a matter of concern, not just because it puts a burden on the courts, but because it would burden the FTC itself. In order to satisfy itself that its rules and orders were being correctly interpreted by Federal and State courts, the Commission would have to either monitor all this legislation or it would have to intervene in a number of suits. I am aware that Mr. Pertschuk, the Commissioner, says that is no problem. He says the FTC would only intervene "in important cases," but I think he will find that he will have to monitor almost every case to prevent the State courts from going off in all directions on FTC orders.

I think we ought also to consider section 7's potential as a vehicle for harassing businesses. That may be considered a virtue in some eyes, and I will have to admit that the chamber of commerce is supporting this motion to strike. I would say to those who distrust the chamber's bias that even the chamber of commerce is sometimes right. It is a virtual certainty that those members of the bar who specialize in class action litigation are going to begin to pore over the language of these FTC rules and orders looking for violations, and they will be able to find them, even if it is a technical violation never within the contemplation of the FTC itself.

Now, I do not think we are going to reach through this approach the fly-by-night operators that cause far and away the greatest damage to consumers. What we are going to reach is Sears, Roebuck,

and the corporations with the "deep pockets," whether or not they are fair in their consumer relations.

Section 7 would dispense with a number of requirements of the Federal Rules of Civil Procedure which must be followed when class actions are filed under any other statute. I think that in amending rule XXIII, Federal Rules of Procedure, we should not amend it piecemeal. Maybe it should be changed, and that is what these different groups are studying, but this amendment says that these changes to rule 23 would only apply to the FTC, and not to other agencies. If we change rule 23, we should change it for all.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(On request of Mr. MOFFETT and by unanimous consent Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. PREYER. I would just conclude by saying that I am also concerned about the fluid recovery provisions of this bill. I am concerned also about the fact that the existing rule that all members of the class must be personally notified of the existence of a lawsuit would be abandoned in favor of an informal procedure that would allow notice to be given by newspaper, broadcast, or other than actual notice. That is something that affects the plaintiffs also not just defendants. The plaintiff has some rights—he may not want a particular lawyer that is representing the class, for example. He is running the risk of being bound as a member of a class by a counterclaim when he may have known nothing about it, so I think the due process question is there.

Finally, let me just say that if the real purpose of the section is punitive and not remedial, there is a better route. Injunctions with tough damages is the best route on that. If the idea behind it is to provide a more satisfactory remedy for consumer grievances, I think we ought to consider alternatives such as small claims courts, consumer arbitration panels, and the like. I think these things will probably prove to be more meritorious from the consumer's point of view, and studies are being made in that connection right now.

In short, I think this is a new and interesting idea. I do not think, though, that means that it is necessarily a wise idea. I think at this time we should sustain the motion to strike.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, any time the gentleman opposes a particular measure, it behooves us all to take particular care, it seems to me.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

(On request of Mr. SEIBERLING and by unanimous consent Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. The gentleman is very fair and judicious in approaching legislative problems. But my personal experience as a member of the private antitrust bar for almost 20 years would tell me that this bill, which only provides for single damages, unlike the parens patriae bill which we passed last year, which provides for treble damages, which only provides for the plaintiff to pay for the cost of notice to the class, which could be very expensive, and which provides for the court to decide what is reasonable attorney fees, is not likely to bring a great flood of litigation the gentleman fears, because the stakes are not nearly as great as they are in conventional antitrust treble damage suits where the amounts can be astronomical, as the gentleman knows.

I wonder if the gentleman thought about that particular aspect.

Mr. PREYER. I would think this would run a much larger risk.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

(On the request of Mr. SEIBERLING and by unanimous consent, Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. PREYER. The antitrust type of lawsuit, I do not think any lawyer would very casually file that kind of a lawsuit, in view of the length of time involved in that kind of preparation and the elaborate hearing procedures. The lawyer would run a substantial risk since he invests much time. To pick out one aspect of an FTC order and bring a lawsuit on that is much easier to do, especially if he is really aiming at a settlement.

Mr. SEIBERLING. The gentleman is an experienced lawyer and knows that the antitrust laws are rather vague or general. But this deals with certain precise, specific FTC orders with which the defendant can readily determinew hether he is in compliance or not.

Mr. PREYER. I would suggest that FTC rules and orders are not very specific. They tend to be very vague and indefinite. Sometimes even the FTC is not quite sure what they have in mind.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has again expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. PREYER. One of the problems, I think, is that the FTC, through its consent order procedure now, indulges in what is called "fencing in." It gets a company to agree to a wide area of potential abuses which the FTC agrees is wrong, and the company agrees they will not get into that sort of thing. So one order has a fairly wide range and effect. If that consent order is going to be subject to a class action suit or a private suit, we will not find any more "fencing in" type of decrees from the FTC. I think they will be very narrow. It might come closer to making the gentleman's point about the class action suit, but it will slow down, I would think, the operation of the FTC.

Mr. SEIBERLING. Would the gentleman agree that if it promotes more precise orders, it might be a blessing?

Mr. PREYER. It would be a two-edge sword.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has again expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I rise in support of the amendment, and I commend the gentleman on the position he has taken.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, I concur in the gentleman's observations. But let me make a point we all can understand, because it is not technical at all. The purpose of this section 7 is to protect the consumers, I am told.

If the consumer prevails and a sum in damages is awarded to the consumer, one of two alternative courses follows: Either the corporate defendant absorbs the loss, in which event it is fully tax deductible and the ultimate bearer of the burden is all of us, the taxpayers, or, as the second choice—and there are only two—the defendant raises the price of the product and gets it back from the consumers.

Those are the only two options available, and I wonder if the gentleman can tell me what kind of a Pyrrhic victory that would be for the consumer.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

(On request of Mr. MOFFETT and by unanimous consent, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I might say briefly that the gentleman from California (Mr. WIGGINS) has just made a case for absolutely no involvement at all on the part of the Government and no penalty whatsoever for any corporation that commits any wrongdoing, on the basis that the costs would be passed on to consumers. I do not see how the gentleman can in fairness make that statement.

Let me make this comment: I have come to have enormous respect for the gentleman from North Carolina (Mr. PREYER), particularly in my work with the Committee on Interstate and Foreign Commerce, and I was disappointed to see the gentleman from North Carolina go into the well to take this position.

While I believe the gentleman feels he is supporting this amendment on the basis of fairness, I would urge the gentleman to consider the fact that when he says there is a small claims court and

other remedies for the consumer, the facts just do not support that position at this particular time, unless we are willing to make changes in those institutions and changes in the laws of particular States as well.

I know the gentleman speaks from his great experience as a very fine judge. I might say that my experience stems from another place, and that is a consumer group. The consumer is really up against it. I think this provision has been drafted very carefully in order to try to get some answers to the problems of consumers at a time when people feel apathetic and even angry about big corporations and the kinds of abuses that are practiced in many cases, as we know, and as the evidence shows.

Would the gentleman care to respond to that comment?

Mr. PREYER. Mr. Chairman, I understand the gentleman's concern. I am a supporter, for example, of the Consumer Protection Agency. I do not have anti-consumer feelings, and I would agree with the gentleman that the consumer does feel that he is not getting his day in court.

I think that it may well be that some form of a class action suit may turn out to be one that we will find workable, but I think there are real dangers to the judicial process right now in going into such a sweeping provision as this.

PERFECTING AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer a perfecting amendment.

The clerk read as follows:

Perfecting amendment offered by Mrs. FENWICK:

Page 37, strike out the period in line 12 and insert in lieu thereof a semicolon and the following: "except that in the case of an action commenced under subparagraph (B) of such subsection, the court may grant such relief only if the plaintiff in such action satisfies the court that the act or practice which constituted the violation for which such action was brought is one which a reasonable man would have known under the circumstances was dishonest or fraudulent.".

POINT OF ORDER

Mr. WIGGINS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WIGGINS. Mr. Chairman, pending before the committee is an amendment to the bill striking section 7 in its entirety. The gentlewoman from New Jersey (Mrs. FENWICK) has offered what she characterizes as a perfecting amendment to an amendment to strike which amends a portion of section 7.

It is my view, Mr. Chairman, that that amendment is not in order since section 7 is to be stricken entirely if the original amendment carries. The second amendment, the perfecting amendment, is inconsistent with the original amendment in its entirety, and for that reason it is out of order.

The CHAIRMAN. Does the gentlewoman from New Jersey (Mrs. FENWICK) wish to speak on the point of order?

Mrs. FENWICK. Yes, Mr. Chairman, I would like to speak on the point of order, but I would first like to yield to my colleague, the gentleman from Texas (Mr. ECKHARDT).

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) desire to speak on the point of order?

Mr. ECKHARDT. Yes, Mr. Chairman, I would like to speak against the point of order.

The distinguished gentleman from California (Mr. WIGGINS) has described exactly what a perfecting amendment is. The only time a perfecting amendment may be offered is before action on the amendment to strike, because after action on the amendment to strike, the perfecting amendment would speak to nothing.

The CHAIRMAN. Does the gentlewoman from New Jersey desire to be heard on the point of order?

Mrs. FENWICK. No, Mr. Chairman.

The CHAIRMAN. The Chair is ready to rule.

The perfecting amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) is not an amendment to the amendment to strike. It is an amendment in the nature of a perfecting amendment to the bill.

Perfecting amendments to the text of the bill are in order and take precedence over a pending motion or amendment to strike the pending portion of the bill.

Therefore, the Chair respectfully overrules the point of order.

PARLIAMENTARY INQUIRY

Mr. WIGGINS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WIGGINS. Mr. Chairman, several of us have amendments which will be offered if the motion to strike does not carry. Will those perfecting amendments be in order after the vote on the motion to strike?

The CHAIRMAN. The Chair will state that if the amendment or motion to strike does not carry, those amendments will be in order.

The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK) for 5 minutes in support of her perfecting amendment.

Mrs. FENWICK. Mr. Chairman, I will not take 5 minutes, but I would like to speak as the gentleman from Connecticut has. I am not an attorney either.

I, too, have dealt with consumer groups. I, too, see things from the other side of the street, so to speak: the people who feel helpless; the people who would have been protected by section 6.

Mr. Chairman, the Federal Trade Commission was unable to respond to my plea for help when a corporation in New York made off with its assets before we could get hold of them. And these were not ordinary consumers. These were about 100 children. They, saved up their babysitting money, and with help from mothers and grandmothers, paid for tickets to go on a special trip to Europe. Then the travel tour company went off with the assets. There was nothing we could do. That was the end of it.

So, Mr. Chairman, section 6 is gone. However, now we are faced with something else. We are faced with a situation in which the consumer will be hurt unless the Federal Trade Commission is going to act. It cannot act everywhere.

We had a wonderful Federal Trade Commission director, Mr. Richard Givens, in New York. I would like to do him honor. He was also in charge of New Jersey and he was a fine public servant. However, the Federal Trade Commission cannot do everything. It may take up one case against one company; and then, as our colleague, the gentleman from Texas, has said, another company, equally guilty, may not be prosecuted.

Very able arguments have been made by the other gentleman from Texas and by our distinguished colleague, the gentleman from North Carolina.

My amendment would provide that these consumer class action suits can only be brought on grounds which a reasonable man would have known, under the circumstances, were dishonest or fraudulent. In other words, we are making it more difficult. We are saying that one cannot lightly bring a lawsuit. Instead, we are bringing into this section language from the original act which requires that acts be proven dishonest and fraudulent, not just simply deceptive.

It is a much tougher standard.

Mr. Chairman, I do not know how many Members have read the language on page 37, but my amendment is to that page and adds the following language to line 12:

Except that in the case of an action commenced under subparagraph (B) of such subsection, the court may grant such relief only if the plaintiff in such action satisfies the court that the act or practice which constituted the violation for which such action was brought is one which a reasonable man would have known under the circumstances was dishonest or fraudulent.

In other words, the suit cannot be brought lightly because the court could dismiss the action on grounds that a reasonable man would not have known what the circumstances were.

I hope very much that we will retain section 7 with such other improvements as may be added; but we do need something. The consumer is an individual human being who cannot be protected properly when the Federal Trade Commission fails to move. The consumer must have some ability to stand up for his rights.

Mr. Chairman, we must be for the individual every time because that is the moving principle of our society.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentlewoman from New Jersey (Mrs. FENWICK) always speaks from a pure heart; but she also speaks from a discerning mind, and that is evidenced in this amendment.

I am for the amendment, and I think it satisfies one of the things that has been something of a galling point in my own mind. I feel that when we draft legislation in this body and bring it into this great hall, it is not something like the New York Stock Exchange, a place for transactions shown on the board and that is all. This body should be a deliberative body. We should deliberate here

and then hew out the best legislation that our joint efforts can devise.

The gentlewoman's amendment answers, it seems to me, a very important point. It was said by the gentleman from North Carolina (Mr. BROYHILL) a moment ago that Federal Trade Commission rules are frequently extremely long and complex. There is one way to shorten them and that is to say only those rules or parts of rules, as this amendment says, which address circumstances which are dishonest or fraudulent, will give rise to a class action.

I want to ask my colleagues, can you find a valid reason to vote against the proposition that, first, when the law says an act is unfair and deceptive (and, therefore, illegal under sec. 5) and section 5 is violated;

Second, the Federal Trade Commission finds and tells the prospective violators that if you violate this rule it is going to be the basis of a civil action;

Then, third, someone continues to violate the law and the rule in a way that any reasonable man would consider dishonest or fraudulent.

Can you find in your hearts to deny a person the right to hire an attorney and go to court to get his rights? Can you find in your hearts to say that only those who can get into court are those who can convince the Federal Trade Commission to bring an action in their behalf?

Why does John Doe have a better right to get restitution for his losses when he is defrauded in the marketplace, because he can come up and convince some bureaucrat to bring his action, than Mary Roe, because the FTC just, fresh, ran out of lawyers? She has been cheated in the same way as John Doe.

But she goes into court and she says, first, that the law has been violated. If the law has not been violated, it is not a wrong.

No. 2, the Federal Trade Commission has defined the offense by a rule and it continues to be violated.

No. 3, the Federal Trade Commission has warned by its rule of order—and this is PAUL ROGERS' amendment—that this will give rise to a civil action.

And, No. 4, under the Fenwick amendment, the act condemned in the rule or order will not be actionable unless a reasonable man, acting in this way, would know that this action is dishonest or fraudulent.

If you vote against this amendment and you vote to strike the section, you have said that Mary Roe cannot go to court, but that J. C. Penney can go to court to contest the rule; Sears, Roebuck can get into court to contest the rule. Only the consumer is left outside.

The courts are not just for corporations, the courts are not just for business. Indeed, if the courts serve their highest and best purpose they protect the weak against the abuses of the strong, that is the strong persons who engage in dishonest or fraudulent conduct. The amendment would limit consumer actions to that.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have not been talking in support of the motion to strike about the nature of the cause of action; we have been talking about the procedure, the deficiencies in notice, the aggregation of damages, the failure to have an opt-out provision with respect to the plaintiffs, the matter of paying for notice. All these are procedural deficiencies. The impact upon rule XXIII, just mentioned so eloquently by our colleague, the gentleman from North Carolina (Mr. BROYHILL) is also involved.

There is ample reason to support the motion to strike the full section because it is infected with procedural defects. The amendment offered by the gentlewoman from New Jersey, however, goes to the basis of the cause of action, and that does not trouble me at all. But it does not cure the problem of procedure authorized in section 7.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman knows that rule 23 is the rule which permits opting out, and this bill includes by reference rule 23. If we did not include that provision, it would clearly be unconstitutional.

Mr. WIGGINS. Let me clarify the gentleman's memory with respect to his own bill. This says that rule 23 shall fully apply except as may be modified by this bill. It is my belief that this statute effectively repeals rule 23 with respect to these kinds of actions. There is more to rule 23, as the gentleman knows, than opting out. There is the whole concept of manageability, which I think is adversely impacted by this legislation before us. Apparently rule 23 would be overturned to that extent.

Mr. ECKHARDT. Will the gentleman yield?

Mr. WIGGINS. Of course.

Mr. ECKHARDT. If this does not permit opting out, what is the point of notice? There are entire provisions with respect to notice for the purpose of informing persons so that they can opt out. It is not to advertise the lawsuit.

Mr. WIGGINS. As the gentleman knows—and I may be forced to speak to this point if the motion to strike does not carry—notice is not just a good idea. Notice is constitutionally mandated. Normally we talk about notice to the defendant because his interests are liable to be adversely affected by a lawsuit. This problem, however, deals with notice to the plaintiff, and the plaintiff has a vital stake as well, because a plaintiff without notice is going to be bound by a lawsuit, the results of which may adversely affect his interests. Some courts have looked at the form of notice provided in this statute and have found it constitutionally defective. Just because this Congress last year enacted a similar form of notice in another statute, a form which has not yet been constitutionally tested, does not raise it to the status of good law.

Mr. ECKHARDT. Will the gentleman yield?

Mr. WIGGINS. Of course.

Mr. ECKHARDT. I assume the gentleman is referring to the Eisen case with respect to the question of constitutionality.

Mr. WIGGINS. I think a very distinguished judge said it was unconstitutional in that case.

Mr. ECKHARDT. If the gentleman will recall, all the Eisen case said was where a group of plaintiffs constituted a definable class—in that case it was an SEC case and one could tell who the stockholders were—that a failure to notify this definable group would constitute a constitutional defect. The Commission then said, we reserve judgment with respect to a situation where the class cannot be defined.

Mr. WIGGINS. The effect of Eisen was to require personal notice to people affected by the lawsuit. This statute does not require that. It permits a whole range of alternative systems such as advertising in the newspaper, on television, sending special notice to a sample but not to all. Those people who have no actual knowledge of a lawsuit are going to be adversely affected by it, and their rights may be denied without due process.

Mr. ECKHARDT. Will the gentleman yield further?

Mr. WIGGINS. Of course I will yield to the gentleman.

Mr. ECKHARDT. The Eisen case did not even have to approach the question of constitutionality because it simply interpreted the law, and it said rule 23 did not permit a suit in that kind of case and reserved the question of constitutionality altogether, but reasonable notice is the kind of notice we are attempting to define in the case.

Mr. WIGGINS. I am not so sure I could quote the court in Eisen, but I think one judge said the procedure was "clearly unconstitutional."

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been a very interesting discussion. Of course, the Eisen case was based on rule 23, and the parens patriae act which we passed last year, in effect, revised rule 23, and so does this bill.

The gentleman from North Carolina (Mr. PREYER) for whom I have the utmost respect for his judicial approach to things, made some comments on this bill which deserve further attention. As best I can recall, every issue that he touched upon was disposed of when we passed the parens patriae bill last year.

Incidentally, he said that the Judiciary Committee had not yet taken a position on this bill. That is true. However, the chairman of the Judiciary Committee wrote a letter to every colleague, dated September 27, 1977, in which he expresses his strong support of this bill.

First, let us take the question of notice, that the gentleman from California also raised. The Parens Patriae Act, which we passed last year simply says that notice will be given by publication. It does not specify the kind of publication, but it says if the court finds that notice given solely by publication would deny due process of law to any person, it may direct further notice according to the circumstances of the case.

Now, looking at the bill before us, on page 37 it provides for notice by:

"(i) publication by newspaper, radio, television, or any other medium, or by posting at any location which is likely to be frequented by members of such class; or

"(ii) individual notice to each member of such class who can be identified through reasonable effort.

Then going to the next page, it says the court may also provide, if it believes additional notice is required, notice to:

"(i) a sample of the members of such class, if such members may be reasonably expected to represent any material conflict or divergence of views among members of the class; or

"(ii) any specific subclass of such class.

So the bill does not merely leave it up to the discretion of the court but goes beyond the Parens Patriae Act and spells out other ways to insure adequate notice.

Let us take the next question which was raised, which is the aggregation of damages. Incidentally, Parens Patriae Act authorizes actions for triple damages whereas the bill before us deals only with single damages. Moreover, Parens Patriae Act dealt with triple damages for violations of the general antitrust laws and this bill provides only for single damages for violations of specific orders or specific rules developed for specific companies or specific industries. The parens patriae act says that:

Damages may be proved and assessed in the aggregate by statistical or sampling methods—

And then it provides—

by the computation of illegal overcharges—

That part is irrelevant to an FTC order or rule.

And then parens patriae provides for proving damages—

by such other reasonable system of estimating aggregate damages as the court in its discretion may permit—

Now looking at the bill we find that substantially follows the same format. To be specific it provides:

The court shall permit the amount of damages to be awarded to members of the class to be proved in the aggregate on the basis of—

"(A) any reasonable evaluation based upon statistical or sampling methods;

"(B) any reasonable econometric evaluation of the probable extent to which the rule or order violation of the defendant affected the revenues and market performance of the defendant; and

"(C) any other information or materials derived from a reasonable method or system for determining the aggregate amount of such damages.

That is the equivalent of what is in the parens patriae bill, only again, spelled out somewhat more specifically.

So I submit, on the question of aggregation, we have crossed that bridge and we do not need to concern ourselves as to whether this portion of the bill breaks any new ground. It does not.

Let us take the next question which, as I recall, was raised by those speaking in opposition to the bill. This was whether the provisions for distributing monetary relief would assure each member of the class a reasonable opportunity to receive his portion of the net damages. The bill so provides in almost those precise words. It also provides that any money left over will be distributed by the court for a public purpose which benefits as closely as possible the members of the class, or, in such event, the court may even give it back to the defendant!

The Parens Patriae Act provides simply that monetary relief shall:

Be distributed in such manner as the District Court in its discretion may authorize.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, it provides:

Or (2) be deemed a civil penalty by the court and deposited with the State as general revenues;

. . . subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

So I submit, in those respects the bill is on all fours with the Parens Patriae Act except that in some respects it is even more protective of the identified members of the class or the defendant.

Finally, we get to the question of attorneys' fees and the fear that this is going to produce a rash of harassing and irresponsible litigation just to fill the pockets of lawyers. The Parens Patriae Act provides that "the amount of plaintiffs' attorney's fee, if any, shall be determined by the court." It also provides that the court "may, in its discretion, award a reasonable attorneys' fee to a prevailing defendant" upon a finding that the plaintiff "acted in bad faith, vexatiously, wantonly, or for oppressive reasons." That was already the law. Therefore, it was not necessary, but in order to avoid some arguments on the floor last year, we put that last part in.

The bill provides that the plaintiff—"shall be entitled to recover—the costs of such action, including reasonable attorney and expert witness fees." Obviously, what is a reasonable attorneys' fee is going to be determined by the court. So in substance, it is the same as the corresponding provision of the Parens Patriae Act. There is no equivalent in the bill of the provision authorizing attorneys' fees to a prevailing defendant, but the court already possesses that power, under general rules of equity, so it would be superfluous.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, the gentleman seems to be suggesting that the passage of the parens patriae bill last year by this House, and I supported the committee measure, as the gentleman knows, is the equivalent to what this measure would do. It seems to me that is not the same, that there was no class action authorized because of deficiencies and difficulties of the term manageability under rule XXIII of the Civil Rules of Procedure.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. COHEN, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. COHEN. Mr. Chairman, if the gentleman will yield further, because of notice requirements parens patriae was passed to authorize the Attorneys General of the States to bring actions on behalf of consumers; so to the extent we hear the argument that we are interposing bureaucracy on consumers and other groups directly, we did that in the parens patriae, because we interposed the Attorney General.

Secondly, I agree we attempted in the subcommittee meeting the other day to express the concern that this had not come before our committee and the simple fact the chairman sent a a letter to us indicating he stated it should not be indicative of support by the subcommittee.

Mr. SEIBERLING. Here we have a situation where not the Attorney General, but the Federal Trade Commission, has already brought an action, has already issued a rule or an order and the rule or order now is claimed to have been violated. Furthermore, if we adopt the amendment of the gentlewoman from New Jersey, the plaintiff will have to prove dishonesty or fraud. So it does seem to me there are equivalent protections in here even more than in parens patriae.

Mr. COHEN. Mr. Chairman, if the gentleman will yield further, to clarify the record, it is not the same as parens patriae.

Mr. SEIBERLING. I agree it is not the same as parens patriae, but on these procedural aspects the committee has tracked the Parens Patriae Act very closely. That is the only point I am attempting to make. The arguments being made against these features of the bill before us are basically the same arguments as were made last year against parens patriae and were rejected by the House.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. MOFFETT. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio may have 1 additional minute.

The CHAIRMAN. May the Chair make this comment. The Chair is going to get the committee to rise about 5:30 or so, in accordance with the schedule. The Chair would hope we might get a vote on the Fenwick amendment and would ask that those Members who want to debate the Fenwick amendment ask for recognition at this time; but we can leave the rest of the bill for some other time.

PARLIAMENTARY INQUIRY

Mr. RINALDO. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RINALDO. Mr. Chairman, am I correct in my understanding if there were a vote now, the vote would be on the Fenwick amendment and regardless whether it passes or fails, there would still be a vote on the Krueger amendment to strike the entire section?

The CHAIRMAN. That is correct. All perfecting amendments will be in order before a vote on the Krueger amend-

ment. The Krueger amendment will still be pending.

Is there anyone who seeks recognition on the Fenwick amendment?

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to both amendments.

I will be very brief, Mr. Chairman.

I want to say, Mr. Chairman, that we now have pending before the Committee on the Judiciary the entire subject of class actions under the antitrust laws.

As the gentleman from Ohio has indicated, the parens patriae bill was passed last year but is still very much in limbo as far as its interpretation is concerned. The so-called Illinois Brick case is left in a very vague and uncertain area, and the entire subject of who is entitled to represent the class and who is entitled to receive the treble damages under the antitrust laws has yet to be finally decided.

I believe that the amendment which is offered by the gentlewoman from New Jersey, while certainly well motivated and well intended, can only inject a certain uncertainty into the law, a vagueness which I think will make it impossible for courts to interpret or to apply in resolving this very difficult subject. I think that for the full House to consider the subject of class actions at this time and in this way is premature. I think it is out of order and should be first considered in depth by our standing committees. Whether or not we should proceed with some new type of class action procedure such as is involved here is something which I would hope would be taken up by the Judiciary Committee as well as the Committee on Interstate and Foreign Commerce.

I think it would be a mistake for us to retain section 7 in any form in this bill at the present time.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 51; noes 26.

So the perfecting amendment was agreed to.

Mr. ECKHARDT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 717, FEDERAL MINE SAFETY AND HEALTH AMENDMENTS ACT OF 1977

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-655)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) a bill to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: That this Act may be cited as the "Federal Mine Safety and Health Amendments Act of 1977".

TITLE I—AMENDMENTS TO THE GENERAL PROVISIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

SHORT TITLE

SEC. 101. The first section of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows: "That this Act may be cited as the 'Federal Mine Safety and Health Act of 1977' ".

DEFINITIONS AND APPLICABILITY

SEC. 102. (a)(1) Section 2 of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "or other" immediately after "coal" wherever it appears.

(2) Section 2(g)(1) of such Act is amended by striking out "the Interior" and inserting in lieu thereof "Labor".

(b)(1) Section 3(a) of such Act is amended by striking out "the Interior" and inserting in lieu thereof "Labor".

(2) Section 3(d) of such Act is amended by striking the semicolon at the end thereof, and inserting in lieu thereof "or any independent contractor performing services or construction at such mine;".

(3) Section 3(h) of such Act is amended to read as follows:

"(h)(1) 'coal or other mine' means (A) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (B) private ways and roads appurtenant to such area, and (C) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities. In making a determination of what constitutes mineral milling for purposes of this Act, the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment;

"(2) For purposes of titles II, III, and IV, 'coal mine' means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;".

(4) Sections 3(d), (e), (g), and (j) of such Act are each amended by inserting "or other" immediately after "coal" wherever it appears.

(5) Section 3 of such Act is amended by striking out "and" at the end of paragraph (l), by striking out the period at the end of paragraph (m) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraphs:

"(n) 'Administration' means the Mine Safety and Health Administration in the Department of Labor.

"(o) 'Commission' means the Federal Mine Safety and Health Review Commission.".

(c) Section 4 of such Act is amended by inserting "or other" immediately after "coal".

(d) Section 5(c) of such Act is amended by striking out "Labor" and inserting in lieu thereof "the Interior".

TITLE II—MINE SAFETY AND HEALTH STANDARDS AMENDMENTS

AMENDMENT TO TITLE I

SEC. 201. Title I of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"TITLE I—GENERAL

"MANDATORY SAFETY AND HEALTH STANDARDS

"SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

"(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, or a State or politcal subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendation of an advisory committee appointed under section 102(c). The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within 60 days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than 180 days. When the Secretary receives a recommendation, accompanied by appropriate criteria, from the National Institute for Occupational Safety and Health that a rule be promulgated, modified, or revoked, the Secretary must, within 60 days after receipt thereof, refer such recommendation to an advisory committee pursuant to this paragraph, or publish such as a proposed rule pursuant to paragraph (2), or publish in the Federal Register his determination not to do so, and his reasons therefor. The Secretary shall be required to request the recommendations of an advisory committee appointed under section 102(c) if the rule to be promulgated is, in the discretion of the Secretary which shall be final,

new in effect or application and has significant economic impact.

"(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking a mandatory health or safety standard in the Federal Register. If the Secretary determines that a rule should be proposed and in connection therewith has appointed an advisory committee as provided by paragraph (1), the Secretary shall publish a proposed rule, or the reasons for his determination not to publish such rule, within 60 days following the submission of the advisory committee's recommendation or the expiration of the period of time prescribed by the Secretary in such submission. In either event, the Secretary shall afford interested persons a period of 30 days after any such publication to submit written data or comments on the proposed rule. Such comment period may be extended by the Secretary upon a finding of good cause, which the Secretary shall publish in the Federal Register. Publication shall include the text of such rules proposed in their entirety, a comparative text of the proposed changes in existing rules, and shall include a comprehensive index to the rules, cross-referenced by subject matter.

"(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed mandatory health or safety standard, stating the grounds therefor and requesting a public hearing on such objections. Within 60 days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the mandatory health or safety standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing. Any hearing under this subsection for the purpose of hearing relevant information shall commence within 60 days after the date of publication of the notice of hearing. Hearings required by this subsection shall be conducted by the Secretary, who may prescribe rules and make rulings concerning procedures in such hearings to avoid unnecessary cost or delay. Subject to the need to avoid undue delay, the Secretary shall provide for procedures that will afford interested parties the right to participate in the hearing, including the right to present oral statements and to offer written comments and data. The Secretary may require by subpoena the attendance of witnesses and the production of evidence in connection with any proceeding initiated under this section. If a person refuses to obey a subpoena under this subsection, a United States district court within the jurisdiction of which a proceeding under this subsection is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpoena. A transcript shall be taken of any such hearing and shall be available to the public.

"(4)(A) Within 90 days after certification of the record of the hearing held pursuant to paragraph (3), the Secretary shall by rule promulgate, modify, or revoke such mandatory health or safety standards, and publish his reasons therefor.

"(B) In the case of a proposed mandatory health or safety standard to which objections requesting a public hearing have not been filed, the Secretary, within 90 days after the period for filing such objections has expired, shall by rule promulgate, modify, or revoke such mandatory standards, and publish his reasons therefor.

"(C) In the event the Secretary determines that a proposed mandatory health or safety standard should not be promulgated he shall, within the times specified in subparagraphs (A) and (B) publish his reasons for his determination.

"(5) Any mandatory health or safety standard promulgated as a final rule under this section shall be effective upon publication in the Federal Register unless the Secretary specifies a later date.

"(6)(A) The Secretary, in promulgating mandatory standards dealing with toxic materials or harmful physical agents under this subsection, shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life. Development of mandatory standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the mandatory health or safety standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

"(B) The Secretary of Health, Education, and Welfare, as soon as possible after the date of enactment of the Federal Mine Safety and Health Amendments Act of 1977 but in no event later than 18 months after such date and on a continuing basis thereafter, shall, for each toxic material or harmful physical agent which is used or found in a mine, determine whether such material or agent is potentially toxic at the concentrations in which it is used or found in a mine. The Secretary of Health, Education, and Welfare shall submit such determinations with respect to such toxic substances or harmful physical agents to the Secretary. Thereafter, the Secretary of Health, Education, and Welfare shall submit to the Secretary all pertinent criteria regarding any such substances determined to be toxic or any such harmful agents as such criteria are developed. Within 60 days after receiving any criteria in accordance with the preceding sentence relating to a toxic material or harmful physical agent which is not adequately covered by a mandatory health or safety standard promulgated under this section, the Secretary shall either appoint an advisory committee to make recommendations with respect to a mandatory health or safety standard covering such material or agent in accordance with paragraph (1), or publish a proposed rule promulgating such a mandatory health or safety standard in accordance with paragraph (2), or shall publish his determination not to do so.

"(7) Any mandatory health or safety standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such mandatory standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring miner exposure at such locations and intervals, and in such manner so as to assure the maximum protection of miners. In addition, where appropriate, any such mandatory standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the operator at his cost, to miners exposed to such hazards in order to most effectively determine whether the health of such miners is adversely affected by such exposure. Where appropriate, the mandatory standard shall provide that where a determination is made that a miner may suffer material impairment of health or functional capacity by reason of exposure to the hazard covered by such mandatory standard, that miner shall be removed from such exposure and reassigned. Any miner transferred as a result of such exposure shall continue to receive compensation for such work at no less than the regular rate of pay for miners in the classification such miner held immediately prior to his transfer. In the event of the transfer of a miner pursuant to the preceding sentence, increases in wages of the transferred miner shall be based upon the new work classification. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of examinations or tests made pursuant to the preceding sentence shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his designated physician.

"(8) The Secretary shall, to the extent practicable, promulgate separate mandatory health or safety standards applicable to mine construction activity on the surface.

"(9) No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners by an existing mandatory health or safety standard.

"(b)(1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary mandatory health or safety standard to take immediate effect upon publication in the Federal Register if he determines (A) that miners are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful, or to other hazards, and (B) that such emergency standard is necessary to protect miners from such danger.

"(2) A temporary mandatory health or safety standard shall be effective until superseded by a mandatory standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

"(3) Upon publication of such standard in the Federal Register, the Secretary shall commence a proceeding in accordance with section 101(a), and the standards as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a mandatory health or safety standard under this paragraph no later than nine months after publication of the emergency temporary standard as provided in paragraph (2).

"(c) Upon petition by the operator or the representative of miners, the Secretary may modify the application of any mandatory health or safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the operator or the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of such operator or representative or other interested party, to enable the operator or the representative of miners in such mine or other interested party to present information relating to the modification of such standard. Before granting any exception to a mandatory safety standard, the findings of the Secretary or his authorized representative shall be made public and shall be available to the representative of the miners at the

affected mine. The Secretary shall issue a decision incorporating his findings of fact therein, and send a copy thereof to the operator or the representative of the miners, as appropriate. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

"(d) Any person who may be adversely affected by a mandatory health or safety standard promulgated under this section may, at any time prior to the sixtieth day after such standard is promulgated, file a petition challenging the validity of such mandatory standard with the United States Court of Appeals for the District of Columbia Circuit or the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused for good cause shown. The validity of any mandatory health or safety standard shall not be subject to challenge on the grounds that any of the time limitations in this section have been exceeded. The procedures of this subsection shall be the exclusive means of challenging the validity of a mandatory health or safety standard.

"(e) The Secretary shall send a copy of every proposed mandatory health or safety standard or regulation at the time of publication in the Federal Register to the operator of each coal or other mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

"ADVISORY COMMITTEES

"SEC. 102. (a)(1) The Secretary of the Interior shall appoint an advisory committee on coal or other mine safety research composed of—

"(A) the Director of the Office of Science and Technology or his delegate, with the consent of the Director;

"(B) the Director of the National Bureau of Standards, Department of Commerce, or his delegate, with the consent of the Director;

"(C) the Director of the National Science Foundation, or his delegate, with the consent of the Director; and

"(D) such other persons as the Secretary of the Interior may appoint who are knowledgeable in the field of coal or other mine safety research.

The Secretary of the Interior shall designate the chairman of the committee.

"(2) The advisory committee shall consult with, and make recommendations to, the Secretary of the Interior on matters involving or relating to coal or other mine safety research. The Secretary of the Interior shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grants, and the entering into of contracts for such research.

"(3) The chairman of the committee and a majority of the persons appointed by the Secretary of the Interior pursuant to paragraph (1)(D) shall be individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

"(b)(1) The Secretary of Health, Education, and Welfare shall appoint an advisory committee on coal or other mine health research composed of—

"(A) the Director, Bureau of Mines, or his delegate, with the consent of the Director;

"(B) the Director of the National Science Foundation, or his delegate, with the consent of the Director;

"(C) the Director of the National Institutes of Health, or his delegate, with the consent of the Director; and

"(D) such other persons as the Secretary of Health, Education, and Welfare may appoint who are knowledgeable in the field of coal or other mine health research.

The Secretary of Health, Education, and Welfare shall designate the chairman of the committee.

"(2) The advisory committee shall consult with, and make recommendations to, the Secretary of Health, Education, and Welfare on matters involving or relating to coal or other mine health research. The Secretary of Health, Education, and Welfare shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grants, and the entering into of contracts for such research.

"(3) The chairman of the committee and a majority of the persons appointed by the Secretary of Health, Education, and Welfare pursuant to paragraph (1)(D) shall be individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

"(c) The Secretary or the Secretary of Health, Education, and Welfare may appoint other advisory committees as he deems appropriate to advise him in carrying out the provisions of this Act. The Secretary or the Secretary of Health, Education, and Welfare, as the case may be, shall appoint the chairman of each such committee. A majority of the members (including the chairman) of any such advisory committee appointed pursuant to this subsection shall be composed of individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

"(d) Advisory committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the appropriate Secretary but not in excess of the maximum rate of pay for grade GS-18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

"SEC. 103. (a) Authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this Act. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this Act, and his experience under this Act and other health and safety laws. For the purpose of making any inspection or investigation under this Act, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling his responsibilities under this Act, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine.

"(b) For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal or other mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this Act. Such regulations shall provide miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each miner or former miner to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each operator shall promptly notify any miner who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable mandatory health or safety standard promulgated under section 101, or mandated under title II, and shall inform any miner who is being thus exposed of the corrective action being taken.

"(d) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported at a frequency determined by the Secretary, but at least annually.

"(e) Any information obtained by the Secretary or by the Secretary of Health, Education, and Welfare under this Act shall be obtained in such a manner as not to impose an unreasonable burden upon operators, especially those operating small businesses, consistent with the underlying purposes of this Act. Unnecessary duplication of effort in obtaining information shall be reduced to the maximum extent feasible.

"(f) Subject to regulations issued by the Secretary, a representative of the operator and a representative authorized by his miners shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any coal or other mine made pursuant to the provisions of subsection (a), for the purpose of aiding such inspection and to participate in pre- or post-inspection conferences held at the mine. Where there is no authorized miner representative, the Secretary or his authorized representative shall consult with a reasonable number of miners concerning matters of health and safety in such mine. Such representative of miners who is also an employee of the operator shall suffer no loss of pay during the period of his participation in the inspection made under this subsection. To the extent that the Secretary or authorized representative of the Secretary determines that more than one representative from each party would further aid the inspection, he can permit each party to have an equal number of such additional representatives. However, only one such representative of miners who is an employee of the operator shall be entitled to suffer no loss of pay during the period of such participation under the provisions of this subsection. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

"(g)(1) Whenever a representative of the miners or a miner in the case of a coal or other mine where there is no such representative has reasonable grounds to believe that a violation of this Act or a mandatory health or safety standard exists, or an imminent danger exists, such miner or representative shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, signed by the representative of the miners or by the miner, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that the operator or his agent shall be notified forthwith if the complaint indicates that an imminent danger exists. The name of the person giving such notice and the names of individual miners referred to therein shall not appear in such copy or notification. Upon receipt of such notification, a special inspection shall be made as soon as possible to determine if such violation or danger exists in accordance with the provisions of this title. If the Secretary determines that a violation or danger does not exist, he shall notify the miner or representative of the miners in writing of such determination.

"(2) Prior to or during any inspection of a coal or other mine, any representative of miners or a miner in the case of a coal or other mine where there is no such representative, may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act or of any imminent danger which he has reason to believe exists in such mine. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation or order with respect to such danger and shall furnish the representative of miners or miner requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

"(h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

"(i) Whenever the Secretary finds that a coal or other mine liberates excessive quantities of methane or other explosive gases during its operations, or that a methane or other gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine some other especially hazardous condition, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine during every five working days at irregular intervals. For purposes of this subsection, 'liberation of excessive quantities of methane or other explosive gases' shall mean liberation of more than one million cubic feet of methane or other explosive gases during a 24-hour period. When the Secretary finds that a coal or other mine liberates more than five hundred thousand cubic feet of methane or other explosive gases during a 24-hour period, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine every 10 working days at irregular intervals. When the Secretary finds that a coal or other mine liberates more than two hundred thousand cubic feet of methane or other explosive gases during a 24-hour period, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine every 15 working days at irregular intervals.

"(j) In the event of any accident occurring in any coal or other mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal or other mine, where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activities in such mine.

"(k) In the event of any accident occurring in a coal or other mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal or other mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in such mine or to recover the coal or other mine or return affected areas of such mine to normal.

"CITATIONS AND ORDERS

"SEC. 104. (a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a coal or other mine subject to this Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to this Act, he shall, with reasonable promptness, issue a citation to the operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

"(b) If, upon any follow-up inspection of a coal or other mine, an authorized representative of the Secretary finds (1) that a violation described in a citation issued pursuant to subsection (a) has not been totally abated within the period of time as originally fixed therein or as subsequently extended, and (2) that the period of time for the abatement should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to immediately cause all persons except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(c) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal or other mine subject to an order issued under this section:

"(1) any person whose presence in such area is necessary, in the judgment of the operator or an authorized representative of the Secretary, to eliminate the condition described in the order;

"(2) any public official whose official duties require him to enter such area;

"(3) any representative of the miners in such mine who is, in the judgment of the operator or an authorized representative of the Secretary, qualified to make such mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

"(4) any consultant to any of the foregoing.

"(d)(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any citation given to the operator under this Act. If, during the same inspection or any subsequent inspection of such mine within 90 days after the issuance of such citation, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c) to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall promptly be issued by an authorized representative of the Secretary

who finds upon any subsequent inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisons of paragraph (1) shall again be applicable to that mine.

"(e)(1) If an operator has a pattern of violations of mandatory health or safety standards in the coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards, he shall be given written notice that such pattern exists. If, upon any inspection within 90 days after the issuance of such notice, an authorized representative of the Secretary finds any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the authorized representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine health or safety hazard. The withdrawal order shall remain in effect until an authorized representative of the Secretary determines that such violation has been abated.

"(3) If, upon an inspection of the entire coal or other mine, an authorized representative of the Secretary finds no violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine health and safety hazard, the pattern of violations that resulted in the issuance of a notice under paragraph (1) shall be deemed to be terminated and the provisions of paragraphs (1) and (2) shall no longer apply. However, if as a result of subsequent violations, the operator reestablishes a pattern of violations, paragraphs (1) and (2) shall again be applicable to such operator.

"(4) The Secretary shall make such rules as he deems necessary to establish criteria for determining when a pattern of violations of mandatory health or safety standards exist.

"(f) If, based upon samples taken, analyzed, and recorded pursuant to section 202 (a), or samples taken during an inspection by an authorized representative of the Secretary, the applicable limit on the concentration of respirable dust required to be maintained under this Act is exceeded and thereby violated, the Secretary or his authorized representatives shall issue a citation fixing a reasonable time for the abatement of the violation. During such time, the operator of the mine shall cause samples described in section 202(a) to be taken of the affected area during each production shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the period of time should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative has reason to believe, based on actions taken by the operator, that such limit will be complied with upon the resumption of production in such mine. As soon as possible after an order is issued, the Secretary, upon request of the operator, shall dispatch to the mine involved a person, or team of persons, to the extent such persons are available, who are knowledgeable in the methods and means of controlling and reducing respirable dust. Such person or team of persons shall remain at the mine involved for such time as they shall deem appropriate to assist the operator in reducing respirable dust concentrations. While at the mine, such persons may require the operator to take such actions as they deem appropriate to insure the health of any person in the coal or other mine.

"(g)(1) If, upon any inspection or investigation pursuant to section 103 of this Act, the Secretary or an authorized representative shall find employed at a coal or other mine who has not received the requisite safety training as determined under section 115 of this Act, the Secretary or an authorized representative shall issue an order under this section which declares such miner to be a hazard to himself and to others, and requiring that such miner be immediately withdrawn from the coal or other mine, and be prohibited from entering such mine until an authorized representative of the Secretary determines that such miner has received the training required by section 115 of this Act.

"(2) No miner who is ordered withdrawn from a coal or other mine under paragraph (1) shall be discharged or otherwise discriminated against because of such orders; and no miner who is ordered withdrawn from a coal or other mine under paragraph (1) shall suffer a loss of compensation during the period necessary for such miner to receive such training and for an authorized representative of the Secretary to determine that such miner has received the requisite training.

"(h) Any citation or order issued under subsections (b), (c), or (d) shall remain in effect until modified, terminated, or vacated by the Secretary or his authorized representative, or modified, terminated or vacated by the Commission or the courts pursuant to section 105 or 106.

"PROCEDURE FOR ENFORCEMENT

"SEC. 105. (a) If, after an inspection or investigation, the Secretary issues a citation or order under section 104, he shall, within a reasonable time after the termination of such inspection or investigation, notify the operator by certified mail of the civil penalty proposed to be assessed under section 110(a) for the violation cited and that the operator has 30 days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. A copy of such notification shall be sent by mail to the representative of miners in such mine. If, within 30 days from the receipt of the notification issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the citation or the proposed assessment of penalty, and no notice is filed by any miner or representative of miners under subsection (d) of this section within such time, the citation and the proposed assessment of penalty shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a citation and proposed assessment of penalty under this subsection shall constitute receipt thereof within the meaning of this subsection.

"(b)(1)(A) If the Secretary has reason to believe that an operator has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Secretary shall notify the operator by certified mail of such failure and of the penalty proposed to be assessed under section 110(b) by reason of such failure, and that the operator has 30 days within which to notify the Secretary that he wishes to contest the Secretary's notification of the proposed assessment of penalty. A copy of such notification of the proposed assessment of penalty shall at the same time be sent by mail to the representative of the mine employees. If, within 30 days from the receipt of notification of proposed assessment of penalty issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the notification of proposed assessment of penalty, such notification shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a notification of proposed assessment of penalty issued under this subsection shall constitute receipt thereof within the meaning of this subsection.

"(B) In determining whether to propose a penalty to be assessed under section 110(b), the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

"(2) An applicant may file with the Commission a written request that the Commission grant temporary relief from any modification or termination of any order or from any order issued under section 104 together with a detailed statement giving the reasons for granting such relief. The Commission may grant such relief under such conditions as it may prescribe, if—

"(A) a hearing has been held in which all parties were given an opportunity to be heard;

"(B) the applicant shows that there is substantial likelihood that the findings of the Commission will be favorable to the applicant; and

"(C) such relief will not adversely affect the health and safety of miners.

No temporary relief shall be granted in the case of a citation issued under subsections (a) or (f) of section 104. The Commission shall provide a procedure for expedited consideration of applications for temporary relief under this paragraph.

"(c)(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.

"(2) Any miner or applicant for employment or representative of miners who believes that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may, within 60 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent and shall cause such investigation to be made as he deems appropriate. Such investigation shall commerce within 15 days of the Secretary's receipt of the complaint, and if the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner pending final order on the complaint. If, upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner, applicant for employment or representative of miners alleging such discrimination or interference and proposing an order granting appropriate relief. The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary's proposed order, or directing other appropriate relief. Such order shall become final 30 days after issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay and interest. The complaining miner, applicant, or representative of miners may present additional evidence on his own behalf during any hearing held pursuant to this paragraph.

"(3) Within 90 days of the receipt of a complaint filed under paragraph (2), the Secretary shall notify, in writing, the miner, applicant for employment, or representative of miners of his determination whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days of notice of the Secretary's determination, to file an action in his own behalf before the Commission, charging discrimination or interference in violation of paragraph (1). The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate, including, but not limited to, an order requiring the rehiring or reinstatement of the miner to his former position with back pay and interest or such remedy as may be appropriate. Such order shall become final 30 days after its issuance. Whenever an order is issued sustaining the complainant's charges under this subsection, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the miner, applicant for employment or representative of miners for, or in connection with, the institution and prosecution of such proceedings shall be assessed against the person committing such violation. Proceedings under this section shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 106. Violations by any person of paragraph (1) shall be subject to the provisions of section 108 and 110(a).

"(d) If, within 30 days of receipt thereof, an operator of a coal or other mine notifies the Secretary that he intends to contest the issuance or modification of an order issued under section 104, or citation or a notification of proposed assessment of a penalty issued under subsection (a) or (b) of this section, or the reasonableness of the length of abatement time fixed in a citation or modification thereof issued under section 104, or any miner or representative of miners notifies the Secretary of an intention to contest the issuance, modification, or termination of any order issued under section 104, or the reasonableness of the length of time set for abatement by a citation or modification thereof issued under section 104, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such action), and thereafter shall issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation, order, or proposed penalty, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The rules of procedure prescribed by the Commission shall provide affected miners or representatives of affected miners an opportunity to participate as parties to hearings under this section. The Commission shall take whatever action is necessary to expedite proceedings for hearing appeals of orders issued under section 104.

"JUDICIAL REVIEW

"SEC. 106. (a)(1) Any person adversely affected or aggrieved by an order of the Commission issued under this Act may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or in the United States Court of Appeals for the District of Columbia Circuit, by filing in such court within 30 days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have exclusive jurisdiction of the proceeding and of the questions determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Commission may modify or set aside its original order by reason of such modified or new findings of fact. Upon the filing of the record after such remand proceedings, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(2) In the case of a proceeding to review any order or decision issued by the Commission under this Act, except an order or decision pertaining to an order issued under section 107(a) or an order or decision pertaining to a citation issued under section 104(a) or (f), the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding, if—

"(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

"(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

"(C) such relief will not adversely affect the health and safety of miners in the coal or other mine.

"(3) In the case of a proceeding to review any order or decision issued by the Panel under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding, if—

"(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief; and

"(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding.

"(b) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in the Court of Appeals for the District of Columbia Circuit, and the provision of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within 30 days after issuance of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such 30-day period. In any such case, as well as in the case of a noncontested citation or notificaiton by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 105, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the operator named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 110, in addition to invoking any other available remedies.

"(c) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Commission or the Panel.

"PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

"SEC. 107. (a) If, upon any inspection or investigation of a coal or other mine which is subject to this Act, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall de-

termine the extent of the area of such mine throughout which the danger exists, and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger and the conditions or practices which caused such imminent danger no longer exist. The issuance of an order under this subsection shall not preclude the issuance of a citation under section 104 or the proposing of a penalty under section 110.

"(b)(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

"(2) Upon the conclusion of an investigation pursuant to paragraph (1), and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause all persons in the area affected, except those persons referred to in subsection (c) of section 104 to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a public hearing affording all interested persons an oportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5 of the United States Code.

"(c) Orders issued pursuant to subsection (a) shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger and a description of the area of the coal or other mine from which persons must be withdrawn and prohibited from entering.

"(d) Each finding made and order issued under this section shall be given promptly to the operator of the coal or other mine to which it pertains by the person making such finding or order, and all of such findings and orders shall be in writing, and shall be signed by the person making them. Any order issued pursuant to subsection (a) may be modified or terminated by an authorized representative of the Secretary. Any order issued under subsection (a) or (b) shall remain in effect until vacated, modified, or terminated by the Secretary, or modified or vacated by the Commission pursuant to subsection (e), or by the courts pursuant to section 106(a).

"(e)(1) Any operator notified of an order under this section or any representative of miners notified of the issuance, modification, or termination of such an order may apply to the Commission within 30 days of such notification for reinstatement, modification or vacation of such order. The Commission shall forthwith afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, vacating, affirming, modifying, or terminating the Secretary's order. The Commission and the courts may not grant temporary relief from the issuance of any order under subsection (a).

"(2) The Commission shall take whatever action is necessary to expedite proceedings under this subsection.

"INJUNCTIONS

"SEC. 108. (a)(1) The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a coal or other mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent—

"(A) violates or fails or refuses to comply with any order or decision issued under this Act,

"(B) interferes with, hinders, or delays the Secretary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative, in carrying out the provisions of this Act,

"(C) refuses to admit such representatives to the coal or other mine,

"(D) refuses to permit the inspection of the coal or other mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine,

"(E) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this Act, or

"(F) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this Act.

"(2) The Secretary may institute a civil action for relief, including permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the coal or other mine is located or in which the operator of such mine has his principal office whenever the Secretary believes that the operator of a coal or other mine is engaged in a pattern of violation of the mandatory health or safety standards of this Act, which in the judgment of the Secretary constitutes a continuing hazard to the health or safety of miners.

"(b) In any action brought under subsection (a), the court shall have jurisdiction to provide such relief as may be appropriate. In the case of an action under subsection (a)(2), the court shall in its order require such assurance or affirmative steps as it deems necessary to assure itself that the protection afforded to miners under this Act shall be provided by the operator. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce any order under paragraph (1) of subsection (a) shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless prior thereto, the district court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision issued by the Commission or the Secretary after a public hearing in accordance with section 554 of title 5 of the United States Code, the findings of the Commission or the Secretary, as the case may be, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"POSTING OF ORDERS AND DECISIONS

"SEC. 109. (a) At each coal or other mine there shall be maintained an office with a conspicuous sign designating it as the office of such mine. There shall be a bulletin board at such office or located at a conspicuous place near an entrance of such mine, in such manner that orders, citations, notices and decisions required by law or regulation to be posted, may be posted thereon, and be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any order, citation, notice or decision required by this Act to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be delivered to the office of the affected mine and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

"(b) The Secretary shall (1) cause a copy of any order, citation, notice, or decision required by this Act to be given to an operator to be mailed immediately to a representative of the miners in the affected coal or other mine, and (2) cause a copy thereof to be mailed to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine. Such notice, order, citation, or decision shall be available for public inspection.

"(c) In order to insure prompt compliance with any notice, order, citation, or decision issued under this Act, the authorized representative of the Secretary may deliver such notice, order, citation, or decision to an agent of the operator, and such agent shall immediately take appropriate measures to insure compliance with such notice, order, citation, or decision.

"(d) Each operator of a coal or other mine subject to the Act shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal or other mine subject to this Act shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine, and such official shall receive a copy of any notice, order, citation, or decision issued under this Act affecting such mine. In any case, where the mine is subject to the control of any person not directly involved in the daily operations of the coal or other mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal or other mine subject to the control of such person, and such official shall receive a copy of any notice, order, citation, or decision issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

"PENALTIES

"SEC. 110. (a) The operator of a coal or other mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of this Act, shall be assessed a civil penalty by the Secretary which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense.

"(b) Any operator who fails to correct a violation for which a citation has been issued under section 104(a) within the period permitted for its correction may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

"(c) Whenever a corporate operator violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this Act or any order incorporated in a final decision issued under this Act, except an order incorporated in a decision issued under subsection (a) or section 105(c), any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violations, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (d).

"(d) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under subsection (a) or section 105(c), shall, upon conviction, be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than $50,000, or by imprisonment for not more than five years, or both.

"(e) Unless otherwise authorized by this Act, any person who gives advance notice of any inspection to be conducted under this Act shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or both.

"(f) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than five years, or both.

"(g) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission, which penalty shall not be more than $250 for each occurrence of such violation.

"(h) Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal or other mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this Act, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be subject to the same fine and imprisonment that may be imposed upon a person under subsection (f) of this section.

"(i) The Commission shall have authority to assess all civil penalties provided in this Act. In assessing civil monetary penalties, the Commission shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation. In proposing civil penalties under this Act, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

"(j) Civil penalties owned under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recorded in a civil action in the name of the United States brought in the United States district court for the district where the violation occurred or where the operator has its principal office. Interest at the rate of 8 percent per annum shall be charged against a person on any final order of the Commission, or the court. Interest shall begin to accrue 30 days after the issuance of such order.

"(k) No proposed penalty which has been contested before the Commission under section 105(a) shall be compromised, mitigated, or settled except with the approval of the Commission. No penalty assessment which has become a final order of the Commission shall be compromised, mitigated, or settled except with the approval of the court.

"(l) The provisions of this section shall not be applicable with respect to title IV of this Act.

"ENTITLEMENT OF MINERS

"SEC. 111. If a coal or other mine or area of such mine is closed by an order issued under section 103, section 104, or section 107, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal or other mine or area of such mine is closed by an order issued under section 104 or section 107 of this title for a failure of the operator to comply with any mandatory health or safety standards, all miners who are idled due to such order shall be fully compensated after all interested parties are given an opportunity for a public hearing, which shall be expedited in such cases, and after such order is final by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 103, section 104, or section 107 of this Act, all miners employed at the affected mine who would have been withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated. The Commission shall have authority to order compensation due under this section upon the filing of a complaint by a miner or his representative and after opportunity for hearing subject to section 554 of title 5, United States Code.

"ADMINISTRATIVE PROVISIONS

"SEC. 112. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

"THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

"SEC. 113. (a) The Federal Mine Safety and Health Review Commission is hereby established. The Commission shall consist of five members, appointed by the President by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

"(b)(1) The terms of the members of the Commission shall be six years, except that—

"(A) members of the Commission first taking office after the date of enactment of the Federal Mine Safety and Health Amendments Act of 1977, shall serve, as designated by the President at the time of appointment, one for a term of two years, two for a term of four years and two for a term of six years; and

"(B) a vacancy caused by the death, resignation, or removal of any member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(2) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Commission shall appoint such employees as it deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general pay rates. Upon the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the administrative law judges assigned to the Arlington, Virginia, Facility of the Office of Hearings and Appeals, United States Department of the Interior, shall be automatically transferred in grade and position to the Federal Mine Safety and Health Review Commission. Notwithstanding the provisions of section 559 of title 5 of the United States Code, the incumbent Chief Administrative Law Judge of the Office of Hearings and Appeals of the Department of the Interior assigned to the Arlington, Virginia facility shall have the option, on the effective date of the Federal Mine Safety and Health Amendments Act of 1977, of transferring to the Commission as an administrative law judge, in the same grade and position as the other administrative law judges. The administrative law judges (except those presiding over Indian Probate Matters) assigned to the Western Facilities of the Office of Hearings and Appeals of the Department of the Interior shall remain with that Department at their present grade and position or they shall have the right to transfer on an equivalent basis to that extended in this paragraph to the Arlington, Virginia administrative law judges in accordance with procedures established by the Civil Service Commission. The Commission shall appoint such additional administrative law judges as it deems necessary to carry out the functions of the Commission. Assignment, removal, and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5362 and 7521 of title 5, United States Code.

"(c) The Commission is authorized to delegate to any group of three or more members any or all of the powers of the Commission, except that two members shall constitute a quorum of any group designated pursuant to this paragraph.

"(d)(1) An administrative law judge appointed by the Commission to hear matters under this Act shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the chief administrative law judge of the Commission or by the Commission, and shall make a decision which constitutes his final disposition of the proceedings. The decision of the administrative law judge of the Commission shall become the final decision of the Commission 40 days after its issuance unless within such period the Commission has directed that such decision shall be reviewed by the Commission in accordance with paragraph (2). An administrative law judge shall not be assigned to prepare a recommended decision under this Act.

"(2) The Commission shall prescribe rules of procedure for its review of the decisions of administrative law judges in cases under this Act which shall meet the following standards for review:

"(A) (i) Any person adversely affected or aggrieved by a decision of an administrative law judge may file and serve a petition for discretionary review by the Commission of such decision within 30 days after the issuance of such decision. Review by the Commission shall not be a matter of right but of the sound discretion of the Commission.

"(ii) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

"(I) A finding or conclusion of the material fact is not supported by substantial evidence.

"(II) A necessary legal conclusion is erroneous.

"(III) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission.

"(IV) A substantial question of law, policy or discretion is involved.

"(V) A prejudicial error of procedure was committed.

"(iii) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass. Review by the Commission shall be granted only by affirmative vote of two of the Commissioners present and voting. If granted, review shall be limited to the questions raised by the petition.

"(B) At any time within 30 days after the issuance of a decision of an administrative law judge, the Commission may in its discretion (by affirmative vote of two of the Commissioners present and voting) order the case before it for review but only upon the ground that the decision may be contrary to law or Commission policy, or that a novel question of policy has been presented. The Commission shall state in such order the specific issue of law, Commission policy, or novel question of policy involved. If a party's petition for discretionary review has been granted, the Commission shall not raise or consider additional issues in such review proceedings except in compliance with the requirements of this paragraph.

"(C) For the purpose of review by the Commission under paragraph (A) or (B) of this subsection, the record shall include: (i) all matters constituting the record upon which the decision of the administrative law judge was based; (ii) the rulings upon proposed findings and conclusions; (iii) the decision of the administrative law judge; (iv) the petition or petitions for discretionary review, responses thereto, and the Commission's order for review; and (v) briefs filed on review. No other material shall be considered by the Commission upon review. The Commission either may remand the case to the administrative law judge for further proceedings as it may direct or it may affirm, set aside, or modify the decision or order of the administrative law judge in conformity with the record. If the Commission determines that further evidence is necessary on an issue of fact it shall remand the case for further proceedings before the administrative law judge.

The provisions of section 557(b) of title 5, United States Code, with regard to the review authority of the Commission are hereby expressly superseded to the extent that they are inconsistent with the provisions of subparagraphs (A), (B), and (C) of this paragraph.)

"(e) In connection with hearings before the Commission or its administrative law judge under this Act, the Commission and its administrative law judges may compel the attendance and testimony of witnesses and the production of books, papers, or documents, or objects, and order testimony to be taken by deposition at any stage of the proceedings before them. Any person may be compelled to appear and depose and produce similar documentary or physical evidence, in the same manner as witnesses may be compelled to appear and produce evidence before the Commission and its administrative law judges. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States and at depositions ordered by such courts. In case of contumacy, failure, or refusal of any person to obey a subpoena or order of the Commission or an administrative law judge, respectively, to appear, to testify, or to produce documentary or physical evidence, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides, or transacts business, shall, upon the application of the Commission, or the administrative law judge, respectively, have jurisdiction to issue to such person an order requiring such person to appear, to testify, or to produce evidence as ordered by the Commission or the administrative law judge, respectively, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 114. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title.

"MANDATORY HEALTH AND SAFETY TRAINING

"SEC. 115. (a) Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. The Secretary shall promulgate regulations with respect to such health and safety training programs not more than 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977. Each training program approved by the Secretary shall provide as a minimum that—

"(1) new miners having no underground mining experience shall receive no less than 40 hours of training if they are to work underground. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescue device and use of respiratory devices, hazard recognition, escapeways, walk around training, emergency procedures, basic ventilation, basic roof control, electrical hazards, first aid, and the health and safety aspects of the task to which he will be assigned;

"(2) new miners having no surface mining experience shall receive no less than 24 hours of training if they are to work on the surface. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescuer device where appropriate and use of respiratory devices where appropriate, hazard recognition, emergency procedures, electrical hazards, first aid walk around training and the health and safety aspects of the task to which he will be assigned;

"(3) all miners shall receive no less than eight hours of refresher training no less frequently than one each 12 months, except that miners already employed on the effective date of the Federal Mine Safety and Health Amendments Act of 1977 shall receive this refresher training no more than 90 days after the date of approval of the training plan required by this section;

"(4) any miner who is reassigned to a new task in which he has had no previous work experience shall receive training in accordance with a training plan approved by the Secretary under this subsection in the safety and health aspects specific to that task prior to performing that task;

"(5) any training required by paragraphs (1), (2) or (4) shall include a period of training as closely related as is practicable to the work in which the miner is to be engaged.

"(b) Any health and safety training provided under subsection (a) shall be provided during normal working hours. Miners shall be paid at their normal rate of compensation while they take such training, and new miners shall be paid at their starting wage rate when they take the new miner training. If such training shall be given at a location other than the normal place of work, miners shall also be compensated for the additional costs they may incur in attending such training sessions.

"(c) Upon completion of each training program, each operator shall certify, on a form approved by the Secretary, that the miner has received the specified training in each subject area of the approved health and safety training plan. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, he shall be entitled to a copy of his health and safety training certificates. False certification by an operator that training was given shall be punishable under section 110(a) and (g); and each health and safety training certificate shall indicate on its face, in bold letters, printed in a conspicuous manner the fact that such false certification is so punishable.

"(d) The Secretary shall promulgate appropriate standards for safety and health training for coal or other mine construction workers.

"(e) Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine.".

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY HEALTH STANDARDS

SEC. 202. (a) Section 202(e) of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"(e) References to concentrations of respirable dust in this title means the average concentration of respirable dust measured with a device approved by the Secretary and the Secretary of Health, Education, and Welfare.".

(b) Section 318(k) of the Federal Coal Mine Health and Safety Act of 1969 is repealed.

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

SEC. 203. (a) Title III of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "of the Interior in coordination with the Secretary" after "Secretary" in section 301(b).

(b) Subsections (c) and (d) of section 301 of such Act are repealed.

TITLE III—MISCELLANEOUS PROVISIONS

TRANSFER MATTERS

SEC. 301. (a) Except with respect to the functions assigned to the Secretary of the Interior pursuant to section 501 of the Federal Coal Mine Health and Safety Act of 1969, the functions of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969, as amended, and the Federal Metal and Nonmetallic Mine Safety Act are transferred to the Secretary of Labor, except those which are expressly transferred to the Commission by this Act.

(b)(1) The mandatory standards relating to mines, issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act and standards and regulations under the Federal Coal Mine Health and Safety Act of 1969 which are in effect on the date of enactment of this Act shall remain in effect as mandatory health or safety standards applicable to metal and nonmetallic mines and to coal or other mines respectively under the Federal Mine Safety and Health Act of 1977 until such time as the Secretary of Labor shall issue new or revised mandatory health or safety standards applicable to metal and nonmetallic mines and new or revised mandatory health or safety standards applicable to coal mines.

(2) Within 60 days after the date of enactment of this Act, the Secretary of Labor in consultation with the Secretary of the Interior shall establish an advisory committee under section 102 of the Federal Mine Safety and Health Act of 1977 which shall, within 180 days after the date of the establishment of such advisory committee, review the advisory health and safety standards issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act and recommend to the Secretary of Labor which of those standards (or any modifications of such standards which do not substantially diminish the health and safety of miners) should be promulgated as mandatory health or safety standards under section 101 of the Federal Mine Safety and Health Act of 1977. The Secretary of Labor shall publish, within 60 days after any recommendations of the advisory committee under this paragraph, each of the standards so recommended for adoption with or without modification as a proposed mandatory health or safety standard under this section by publication of such standard in the Federal Register, and afford interested persons a period of 25 days after publication to submit written data or comment. Within 30 days after the close of the comment period specified in the preceding sentence, the Secretary of Labor shall promulgate by publication in the Federal Register mandatory health or safety standards based upon the advisory committee recommendation with or without modification, and the data and comments received thereon, unless the Secretary of Labor determines that such standards will not promote the health and safety of miners and publishes an explanation of that determination in the Federal Register.

(c)(1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any functions transferred under the provisions of subsection (a) to the Secretary of Labor shall be transferred to the Department of Labor or the Commission, as appropriate. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary of Labor shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this Act.

(2) All orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission or other authorized officials, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department, agency, or component thereof, functions of which are transferred by this section, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Secretary of Labor or the Federal Mine Safety and Health Review Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this section had not been enacted.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary of Labor. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(d) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer or officer of such agency or department.

(e) The Director of the Office of Management and Budget in consultation with the Secretary of Labor and the Secretary of the Interior is authorized and directed to make such determinations as may be necessary with regard to the dispositions of personnel, personnel positions, property, records, assets, liabilities, contracts, obligations, commitments, unexpected balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

MINE SAFETY AND HEALTH ADMINISTRATION

SEC. 302. (a) There is established in the Department of Labor a Mine Safety and Health Administration to be headed by an Assistant Secretary of Labor for Mine Safety and Health appointed by the President, by and with the advice and consent of the Senate. The Secretary, acting through the Assistant Secretary for Mine Safety and Health, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem necessary for the administration of this Act, and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this Act. The Secretary is authorized and directed, except as specifically provided otherwise to carry out his functions under the Federal Mine Safety and Health Amendments Act of 1977 through the Mining Enforcement and Safety Administration.

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following paragraphs:

"(120) Assistant Secretary of Labor for Mine Safety and Health.

"(121) Members, Federal Mine Safety and Health Review Commission.".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(66) Chairman, Federal Mine Safety and Health Review Commission.".

(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that convenience of the public or the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

AMENDMENTS WITH RESPECT TO MINE SAFETY AND HEALTH ADMINISTRATION

SEC. 303. (a)(1) Section 501 of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "or other" after "coal" wherever it appears therein, and by striking "coal-mining" and inserting in lieu thereof "coal or other mining" wherever it appears therein.

(2) Section 501(a) of the Federal Coal Mine Health and Safety Act of 1969 is further amended by striking "and" after the semicolon in paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting immediately after paragraph "(10)", the following new paragraph:

"(11) to determine, upon the written request by any operator or authorized representative of miners, specifying with reasonable particularity the grounds upon which such request is made, whether any substance normally found in a coal or other mine has potentially toxic effects in the concentrations normally found in the coal or other mine or whether any physical agents or equipment found or used in a coal or other mine has potentially hazardous effects, and shall submit such determinations to both the operators and miners as soon as possible; and".

(3) Section 501(b) of such Act is amended by adding after "Welfare" the following: "through the National Institute for Occupational Safety and Health established under the Occupational Safety and Health Act of 1970"; and by striking out the period at the end thereof and substituting "of the Interior in coordination with the Secretary".

(4) Section 501(c) is amended by inserting "of the Interior" after "the Secretary" each place it occurs; and by inserting "in coordination with the Secretary" after "and Welfare" each place it occurs.

(5) Section 501(e) of such Act is amended by inserting after "Secretary" the last time it occurs therein, "of the Interior" and by striking "$30,000,000" and by inserting in lieu thereof "$60,000,000".

(6) Section 501(a) of such Act is amended by striking out "The Secretary and" and inserting in lieu thereof "The Secretary of the Interior and".

(b) Section 502 of such Act is amended by inserting "or other" immediately after "coal" each time it appears therein.

(c)(1) Section 503 of such Act is amended by inserting "or other" immediately after "coal" each time it appears therein, and by striking "Labor" and inserting in lieu thereof, "the Interior".

(2)(A) The first sentence of section 503(h) of such Act is amended by deleting "$5,000,000" and by inserting in lieu thereof "$10,000,000".

(B) The second sentence of section 503(h) of such Act is amended by inserting before the period the following: ", except that no less than one-half of such sum shall be allocated to coal producing States.".

(d)(1) Section 505 of such Act is amended by striking out "the mining of coal" and inserting in lieu thereof "in mining".

(2) Section 505 of such Act is further amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof ": *Provided, however,* That, to the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualification of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to the extent possible to their previous experience in the particular type of mining operation where such inspections are to be made.

(e) Section 506(b) of such Act is amended by inserting "or other" immediately after "coal" each time it appears therein.

(f) Section 511 of such Act is amended by inserting "or other" immediately after "coal".

(g) Section 512 of such Act is amended by inserting "or other" after "coal" each time it appears therein.

(h) Section 502 of such Act is amended by adding at the end thereof the following new subsection (c):

"(c)(1) The National Mine Health and Safety Academy shall be maintained as an agency of the Department of the Interior. The Academy shall be responsible for the training of mine safety and health inspectors under section 505 of this Act, and in training of technical support personnel of the Mine Safety and Health Administration established under section 302 of the Federal Mine Safety and Health Amendments Act of 1977; and for any other training programs for mine inspectors, mining personnel, or other persons as the Secretaries of Labor and Interior shall designate. In performing this function, the Academy shall have the authority to enter into cooperative educational and training agreements with educational institutions, State governments, labor organizations, and mine operators and related industries. Such training shall be conducted by the Academy in accordance with curriculum needs and assignment of instructional personnel established by the user.

"(2) In performing its function pursuant to this section, the National Mine Health and Safety Academy shall use the facilities and personnel of the Department of the Interior, and such other personnel as shall be mutually agreed upon by the Secretaries of Labor and Interior. The Secretary of the Interior may appoint or assign to the Academy such officers and employees as he deems necessary for the performance of the duties and functions of the Academy.

"(3) The Secretary of the Interior shall conduct his safety research responsibilities under section 501 of this Act in coordination with the Secretary of Labor, and the Secretaries of Labor and the Interior are authorized to enter into contractual or other agreements for the performance of such safety related research.".

SAVINGS PROVISION

SEC. 304. Nothing contained in this Act or any amendment made by this Act shall be construed to reduce the number of inspectors engaged in enforcement of the Federal Coal Mine Health and Safety Act of 1969 and the Federal Metal and Nonmetallic Mine Safety Act as in effect prior to the effective date of this Act or to reduce the number of inspectors engaged in the enforcement of the Occupational Safety and Health Act of 1970.

BUDGET PROVISION

SEC. 305. In the preparation of the Budget message required under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), the President shall set forth as separate appropriation accounts amounts required for appropriation for mine health and safety pursuant to the Federal Mine Health and Safety Act of 1977 and for occupational safety and health pursuant to the Occupational Safety and Health Act of 1970.

REPEALER

SEC. 306. (a) The Federal Metal and Nonmetallic Mine Safety Act is repealed.

(b) Section 405 of the Act of November 16, 1973, Public Law 93-153 is repealed.

EFFECTIVE DATE

SEC. 307. Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of enactment of this Act. The Secretary of Labor and the Secretary of the Interior are authorized to establish such rules and regulations as may be necessary for the efficient transfer of functions provided under this Act. The amendment to the Federal Coal Mine Health and Safety Act of 1969 made by section 202 of this Act shall be effective on the date of enactment.

CARL D. PERKINS,
JOSEPH M. GAYDOS,
JOHN H. DENT,
AUSTIN J. MURPHY,
ROBERT J. CORNELL,
LEO C. ZEFERETTI,
JOSEPH A. LE FANTE,
MICHAEL O. MYERS,
GEORGE MILLER,
RONALD A. SARASIN,
JOHN BUCHANAN,
ALBERT H. QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, JR.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
DONALD W. RIEGLE, JR.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report: The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate receded from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment.

The principal differences between the Senate bill, the House amendment and the substitute agreed to in conference are noted below.

DEFINITIONS

Both the Senate bill and the House amendment modified the Coal Act to make it the single mine safety and health law, applicable to all mining activity. The Senate bill did this by deleting the word "coal" where applicable in title I. The House amendment did this by inserting the words "or other" after the word "coal" where applicable. Thus, the Senate bill referred to "mines", the House amendment to "coal or other mines."

The conference substitute conforms to the House amendment. The conferees note that the foundation for the new Mine Safety and Health Act is the Federal Coal Mine Health and Safety Act of 1969. In adopting the provisions of that Act, titles II, III, and IV are retained as exclusively applicable to the coal mining industry. For this reason, it was the decision of the conferees that the use of the term "coal or other mine" in titles I and V, which are applicable to all mining activity, would more clearly delineate the distinction between those titles of the act applicable to all mining and those applicable to coal mining only.

The Senate bill modified the definition of "operator" to include independent contractors performing services or construction at a mine. This was intended to permit enforcement of the Act against such independent contractors, and to permit the assessment of penalties, the issuance of withdrawal orders, and the imposition of civil and criminal sanctions against such contractors who may have a continuing presence at the mine. The House amendment had no comparable provision.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment broadly defined mine to include all underground or surface areas from which the mineral is extracted, and all surface facilities used in preparing or processing the minerals, as well as roads, structures, dams, impoundments, tailing ponds and like facilities related to the mining activity. The Senate bill and the House amendment also included within the definition of a mine, such related structures, equipment or facilities which, while not yet in use in connection with mining activities, were to be used in connection with these activities. The House amendment excluded from coverage of the Act, the protection of miners from radiation hazards connected with the milling of certain radioactive materials. The Senate bill included this milling activity within the Act, and thus provided a single means for protecting all miners. Both the Senate bill and the House amendment authorized the Secretary, in cases of possible overlapping jurisdictions between the Mine Safety and Health Administration and OSHA, to assign enforcement responsibilities to a single agency.

The conference substitute conforms to the House amendment, except that the exclusion of milling activities of certain radioactive materials from the coverage of the act in the House amendment is deleted.

The House amendment provided a separate definition of "coal mine" for the purpose of Titles II, III, and IV of the Act, which apply to coal mine operations only. The Senate bill did not.

The conference substitute conforms to the House amendment.

In designating the name for the agency within the Department of Labor to enforce the law, the Senate bill retained the name of the existing agency, Mining Enforcement and Safety Administration. The House amendment adopted the new name, Mine Safety and Health Administration.

The conference substitute conforms to the House amendment in order to indicate the emphasis on the protection of miner health which this bill provides.

The Senate bill established an independent Federal Mine Safety and Health Review Commission to fulfill the administrative adjudicative role in connection with the enforcement of the Act. The House amendment did not, but instead retained this responsibility within the authority of the Secretary.

The conference substitute conforms to the Senate bill.

The Senate bill made consistent conforming changes to Section 5 of the Coal Act regarding the Interim Compliance Panel. The House bill did not.

The conference substitute conforms to the Senate bill. In making these conforming changes, however, it is clearly not the intention of the conferees to assign duties to the Panel or to in any way revitalize the panel.

GENERAL DUTY

The Senate bill contained a "general duty" clause which required operators to furnish safe and healthful working conditions free from recognized hazards likely to cause

death or harm to miners and to comply with rules, regulations and orders promulgated under the Act. This provision would have permitted the issuance of citations or the assessment of civil penalties based on violations of the general duty. The House amendment had no general duty clause.

The conference substitute conforms to the House amendment. While the conference substitute does not include a general duty clause, the conferees fully support the current Coal Act authority to issue imminent danger withdrawal orders even if the imminent danger does not result from the violation of a mandatory health or safety standard. It is the opinion of the conferees that the language of section 107(a) of the conference substitute which authorizes the issuance of imminent danger withdrawal orders is sufficiently broad to authorize the issuance of such orders even if the imminent danger is not the result of the violation of an express standard. Such authority must exist if miners are to be adequately protected from such imminent dangers.

STANDARDS SETTING

The Senate bill established the procedure for standards-setting, based on the rule-making mechanism of the chapter 5, title 5 United States Code, but without reference to the hearing requirements of that Act. The House amendment contained the similar basic rule-making authority established in Section 101(a) of the Coal Act.

The conference substitute conforms to the House amendment, except that the provisions of the Senate bill are incorporated which provide that the hearings held in connection with the standards-setting process shall be administered without regard to the hearing requirements of sections 556 and 557 of title 5, United States Code. The conferees intend that such hearings shall be held in a manner which will be consistent with the Secretary's duty to develop a complete record in the most expeditious and efficient manner. The conferees recognize that cross-examination may, under certain circumstances contribute to the development of a more definitive record. Although the opportunity to cross-examine is expressly not required, the Secretary may in his sole discretion permit such opportunity as in his judgment may be necessary to a more definitive hearing record.

The Senate bill authorized the Secretary of Labor to commence the rule-making procedure upon receipt of information from interested organizations or individuals, or on the basis of information which he develops himself, which indicates the need for revision, revocation, or promulgation of a safety or health standard. The House amendment continued the authority contained in the Coal Act which is similar to that in the Senate bill. While both the Senate bill and the House amendment vested safety standards-setting authority solely in the Secretary of Labor, the House amendment continued the provision of the Coal Act (Sec. 101(d)) which vested authority to develop health standards in the Secretary of HEW. The Senate bill authorized the Secretary of HEW to prepare criteria documents, but health standards development responsibility was vested in the Secretary of Labor.

Under both the Senate bill and the House amendment, the Secretary, in his discretion, could refer proposed standards to an Advisory Committee, for its consideration. The Senate bill, however, required the Advisory Committee to make its recommendations to the Secretary within 60 days of its appointment, or sooner or later if the Secretary prescribed, but in no event, later than 180 days. The House amendment contained no such limitation on the amount of time for Advisory Committee consideration of proposed standards.

The Senate bill further provided that when the Secretary received a recommendation concerning a proposed health standard from the National Institute for Occupational Safety and Health (NIOSH) accompanied by appropriate criteria, he must act on that recommendation (by either referring it to an Advisory Committee, publishing it as a proposed standard or publishing his determination not to do so) within 60 days. The House amendment required that the Secretary publish HEW-developed health standards without change.

The conference substitute conforms to the Senate bill.

The Senate bill required the Secretary of Labor to publish proposed standards in the Federal Register, and to permit interested persons a period of 30 days within which to comment. The House amendment adopted a substantially similar provision (section 101(e) of the Coal Act). The Senate bill permitted the Secretary to extend the comment period upon a finding of good cause. The House amendment did not specifically provide for such extension, but did not preclude such either. The Senate bill required that where a proposed standard had been referred to an Advisory Committee, the Secretary must publish the proposed standard for public comment or his determination not to do so within 60 days of the Advisory Committee's recommendation. The House amendment contained no such time limitation.

The Senate bill required that in publishing proposed rules for comment, the Secretary publish a comparative text of changes to existing rules, and a cross-referenced index to the rules affected. The House amendment contained no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained identical provisions requiring the Secretary to hold a hearing on any standard proposal at the request of an interested party. The Senate bill also required that any such hearing commence within sixty days of notice. The House amendment contained no such time limitation. The Senate bill authorized the Secretary to establish procedures for such hearings in order to avoid unnecessary costs or delays. The Senate bill additionally contained authority for the Secretary to subpoena witnesses and evidence necessary for the consideration of matters subject of the hearing, and required that a verbatim transcript of the hearing be kept. The House amendment had no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill required the Secretary to publish a final rule, or his determination not to do so, within 90 days after the certification of the record of the hearing, or within 90 days of the close of the formal comment period if no hearing had been requested. The House amendment, adopting the provisions of Section 101(g) of the Coal Act, required that the Secretary make findings of fact within 60 days after completion of the hearings. The House amendment did not require the Secretary or the Secretary of HEW to subsequently promulgate a standard, but did require the Secretaries to publish, within a reasonable time, the determination not to promulgate a standard.

The conference substitute conforms to the Senate bill.

The Senate bill permitted the effective date of any standard to be delayed for such reasonable period as the Secretary deemed necessary to insure effective compliance. The House amendment adopted the provision of Section 101(h) of the Coal Act, which required standards to be effective immediately upon promulgation unless the Secretaries, as appropriate, specified a later effective date.

The conference substitute conforms to the House amendment, except that the reference to the Secretary of Health, Education, and Welfare is deleted since that Secretary has no authority to promulgate standards, and therefore should have no authority to delay their effective date.

The Senate bill did not contain the provision of the Coal Act (Section 101(i)) adopted by the House amendment, which governed the promulgation by the Secretary of mandatory safety and health standards for surface coal mines and surface work areas of underground coal mines following the effective date of standards mandated by Titles II and III of the Coal Act of 1969.

The conference substitute does not include this provision from the House amendment.

The Senate bill required that in setting standards dealing with toxic substances and harmful physical agents, the Secretary establish a standard, based on the best available scientific and other data, which would adequately assure that no miner would suffer material impairment of health or functional capacity even if exposed to the regulated substance or hazard regularly for the period of his working life. The Senate bill further provided that when practicable, the standard be expressed in terms of objective criteria or performance desired. The House amendment contained no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained provisions requiring the Secretary of Health, Education, and Welfare, within 18 months in the Senate bill, and 3 years in the House amendment, and on a continuing basis thereafter, to determine whether toxic materials or harmful agents found in mines are potentially toxic in concentrations found in the mines, and to transmit such information to the Secretary. The Senate bill required that thereafter, the Secretary of Health, Education, and Welfare shall forward proposed standards and appropriate criteria to the Secretary, as developed, and that, as received, the Secretary shall within 60 days, either propose health standards pursuant to the rulemaking procedure or publish his determination not to do so. The House amendment required the Health, Education, and Welfare Secretary to submit proposed standards and criteria to the Secretary at the time he submitted the toxic substance list. The House version compelled the Secretary to publish such recommended standards upon receipt.

The conference substitute conforms to the Senate bill.

The Senate bill required that standards dealing with toxic substances or harmful physical agents prescribe the use of labels or other appropriate forms of warning and personal protective equipment or technological procedures to be used, where appropriate, and further provided, where appropriate, for medical monitoring of miner exposures. The Senate bill further required that such standards, where appropriate, provide periodic medical examinations or other tests of miners, at the operator's expense, to determine deleterious exposure; and that where such examinations indicate that miners may suffer material impairment, that such miners be reassigned to less hazardous places in the mines. To encourage miner participation in such medical programs, the Senate bill required that reassigned miners retain the pay they had received in their previous classification, as well as any increases in wages to which they would have been entitled had they not been reassigned. Finally, the Senate bill provided for certain medical examinations of miners, in the nature of research, to be conducted at the expenses of the Secretary of Health, Education, and Welfare; and permitted the results of such examinations to be furnished to the Secretaries, and at the miner's request, to his personal physician. The House amendment contained none of these provisions. (Section 203(b)(3) of the Coal Act, providing limited reassignment rights to coal miners exposed to coal

dust, but without protection of pay was contained in both the Senate bill and the House amendment).

The conference substitute conforms to the Senate bill, except that it limits the scope of the provision which guarantees that a miner who is reassigned to a different job classification will suffer no reduction in compensation if such reassignment is the result of a medical examination indicating that such miner may suffer material impairment of health or functional capacity by futher exposure to a toxic substance or harmful physical agent. After reassignment, however, such miner will be entitled only to the same dollar rate increases applicable to his new job classification. The conferees intend this provision to encourage miner participation in medical examination programs by insuring that miners who do participate in such programs shall suffer no immediate financial disadvantage if a medical examination results in a job reassignment.

The Senate bill required the Secretary to the extent practicable, to promulgate separate safety and health standards applicable to mine contruction activity on the surface. The House amendment contained no such specific requirement.

The conference substitute conforms to the Senate bill.

The Senate bill permitted the Secretary to issue an emergency temporary standard where such was necessary to protect miners from grave dangers. Such standard is to be immediately effective until replaced by a permanent standard, which shall be finally promulgated no later than 9 months after the publication of the emergency standard. The House amendment did not authorize the use of emergency temporary standards.

The conference substitute conforms to the Senate bill.

VARIANCES FROM STANDARDS

The Senate bill permitted the Secretary to grant a variance from any standard to permit the operator to engage in approved research to demonstrate new techniques, upon a finding that the granting of such variance would not diminish the protection afforded to miners. The House amendment did not authorize the issuance of such "research variances".

The conference substitute does not contain this provision from the Senate bill.

Both the Senate bill and the House amendment contained substantially similar provisions, based on section 301(c) of the Coal Act, permitting the Secretary to grant variances from existing standards. The Senate bill permitted variances from both safety and new health standards. The House amendment permitted variances from safety standards only.

The conference substitute conforms to the House amendment.

The Senate bill prohibited variances from mandatory health standards applicable to coal mines established in or promulgated pursuant to Title II of the Coal Act. The House amendment did not provide for variances from any health standards.

The conference substitute does not include this provision from the Senate bill, because the conference substitute elsewhere provides that there shall be no such variances.

The Senate bill provided for review of any promulgated standard in the U.S. Court of Appeals. It required that all actions for review be commenced within 60 days of final promulgation of the standard. The Senate bill further provided that objections not raised in the administrative proceedings not be considered by the court except for good cause, and that the judicial review procedure be the only mechanism for contesting the validity of standards, so that such standards shall not be subject to collateral attack in enforcement proceedings. The House bill had no provision for judicial review.

The conference substitute conforms to the Senate bill.

The House amendment adopted the provision of Section 101(k) of the Coal Act requiring the Secretary to send copies of each proposed standard or regulation, at the time of publication in the Federal Register, to the operator of each mine and the representatives to employees at that mine, and that such be posted at the mine. The Senate bill contained no such provision.

The conference substitute conforms to the House amendment.

ADVISORY COMMITTEES

The Senate bill authorized the Secretary to appoint ad hoc advisory committees to assist him in his standards-setting functions and other responsibilities. The House amendment, adopting the provisions of Section 102 of the Coal Act, required that the Secretary of the Interior and the Secretary of Health, Education, and Welfare establish standing advisory committees to advise with respect to safety and health research, respectively. In addition, the House amendment authorized the Secretary of Labor to establish advisory committees to assist in standards-setting responsibilities.

The conference substitute conforms to the House amendment.

INSPECTIONS, INVESTIGATIONS AND RECORDKEEPING

Both the Senate bill and the House amendment adopted the provisions of Section 103 (a) and (b) of the Coal Act, authorizing the inspection and investigation of mines. The Senate bill specified in the same section authority of the Secretary of HEW to conduct such inspections and investigations consistent with the Secretary of HEW's authority to assist the Secretary in the development and enforcement of health standards. The House amendment adopted Section 103 (b)(3) of the Coal Act, which provided similar authority. The Secretary of HEW has no enforcement responsibility under the Senate bill or the House amendment. The House amendment continued the provision of the Coal Act that the Secretary of Labor not give advance notice of any inspection to determine the existence of imminent danger or operator compliance with the Act or the standards thereunder. The Senate bill prohibited advance notice of any inspection conducted by the Secretary of Labor irrespective of the purpose. The Senate bill did permit the HEW Secretary to give advance notice of inspections or investigations conducted for the purpose of obtaining or disseminating information or for the development of standards.

The Senate bill mandated no fewer than four inspections per year for underground mines and no fewer than two per year for surface mines, and required the Secretary of Labor to develop more frequent inspection schedules for hazardous mines. The House amendment required only that underground mines be inspected at least four times per year.

The conference substitute conforms to the Senate bill, with an amendment to clarify the fact that while the Secretary of Health, Education, and Welfare has authority to enter the mines, he has no enforcement responsibilities. The Secretary of Health, Education, and Welfare's role in connection with investigation and inspection is to gather information regarding safety and health conditions, to assist in the development of new or improved health standards criteria and to assist the Secretary of Labor in determining whether an imminent danger exists in a mine or whether there is compliance with mandatory safety or health standards. This role of assisting the Secretary does not include the authority to issue citations or withdrawal orders.

The Senate bill established the authority of the Secretary to require the attendance of witnesses or the production of evidence in connection with the investigation of accidents or other conditions in mines relating to health or safety. The House amendment adopted Section 103(d) of the Coal Act, which provided similar authority. The House amendment created this right for investigations of accidents or *other occurrences*. The Senate bill established this right for a somewhat broader scope of investigations or accidents or *other conditions* relating to health or safety in a mine. The House amendment permitted the Secretary's investigators to administer oaths, the Senate bill did not. The House amendment adopted Section 103(c) of the Coal Act, authorizing the Secretary to use the personnel and facilities of other Federal agencies in carrying out his responsibilities under the Act. The Senate bill contained no such specific authority.

The conference substitute conforms to the House amendment.

The Senate bill required operators to maintain records, pursuant to regulations issued by the Secretaries, regarding their activities relating to the Act, for the purpose of developing information on the causes and prevention of occupational accidents and illnesses. Regulations could require the operators to conduct periodic inspections. The House amendment contained no similar provision.

The conference substitute does not include the Senate provision, because the conference substitute provides elsewhere for certain necessary recordkeeping.

The Senate bill authorized the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, to promulgate regulations requiring operators to maintain accurate records and make periodic reports to the Secretary. The House amendment had no similar provision.

The conference substitute does not include the Senate provision, because the conference substitute provides elsewhere for certain necessary recordkeeping.

The Senate bill authorized the Secretary, in cooperation with the Secretary of HEW, to promulgate regulations requiring operators to maintain accurate records of miner exposure to toxic substances or harmful physical agents which are regulated by mandatory health or safety standards. Miners, or their representatives, were to be permitted to observe monitoring of exposure levels under such standards, and miners were to have access to the records of their own exposure. Such standards were to require operators to notify miners if an individual miner's exposure exceeds levels permitted by the standard, and to inform miners of corrective measures being taken to eliminate or avoid such future exposure. The House amendment contained no such provisions.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment adopted the language of Section 111(a) of the Coal Act, requiring operator investigation and recording of accidents in the mine. The Senate bill did not include the provision, which was in the House amendment, requiring periodic reporting of such occurrences to the Secretary.

The conference substitute conforms to the House amendment.

The Senate bill required that in determining recordkeeping and reporting requirements, the Secretary do so in a manner which will impose a minimum burden on operators, especially small operators. The House amendment contained no such provision.

The conference substitute includes the provision of the Senate bill, as modified to require that the Secretaries obtain information in a manner which will not impose an unreasonable burden on operators.

Both the Senate bill and the House amendment contained provisions permitting miners' representatives to accompany inspectors on mine inspections. The House amendment did so by adopting Section 103(h) of the Coal Act. The Senate bill permitted miners' representatives to participate not only in the actual inspection of the mine itself, but also in any pre- or post-inspection conferences held at the mine. Under the House amendment this right was limited to the actual inspection of the mine. The Senate bill required the Secretary to consult with a reasonable number of miners if there was no authorized representative of miners. The House amendment did not contain this protection for unorganized miners. The Senate bill permitted the Secretary's representative to permit more than one miner representative to participate in such inspection and conferences, and further, to encourage miner participation, provided that one such representative of miners, who is also an employee of the operator, be paid by the operator for his participation in the inspection and conferences. The House amendment did not contain these provisions.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment (which adopted Section 103(g) of the Coal Act) contained substantially similar provisions entitling miners' representatives to request in writing inspections based on suspected violations of standards or conditions of imminent danger. The Senate bill authorized such inspections to be requested by miners or their representatives, while the House amendment authorized the miners' representatives only to request such inspections. The House amendment, which contained no general duty clause authorized requests for inspections only for suspected violations of standards or conditions of imminent danger. The Senate bill, which contained a general duty clause, also authorized such inspections to be requested if there is a suspected violation of the Act.

While both the Senate bill and the House amendment required that any such request for an inspection be served on the mine operator no later than the commencement of the inspection in order to protect miners from possible retribution, the Senate bill required that the name of the person requesting the inspection, and the names of any miners referred to therein not appear on the copy of the request served on the operator. The House amendment only required that such names be deleted if the person giving the notice so requested.

Finally, in order to assure miners that such requests are acted upon, the Senate bill required the Secretary to notify the party requesting the inspection if there was no violation or danger. The House amendment did not contain this provision.

The conference substitute conforms to the Senate bill, except that such inspections can be requested only by a representative of miners, or by a miner where there is no such representative of miners at the mine.

The conference substitute contains a further amendment requiring the Secretary to notify the operator of the mine or his agent forthwith if the complaint indicates that an imminent danger exists. Otherwise, miners might continue to work in an imminently dangerous situation until the Secretary is able to inspect the mine pursuant to the request. Accordingly, an operator who receives such notice would do what is necessary to evaluate the situation and protect the miners who may be exposed from such dangerous situation. While this provision, in fact, gives the operators the opportunity to abate such dangerous conditions—its sole purpose is to protect the health and safety of miners. The failure of the Secretary to notify the operator or his agent under this provision will not nullify any citation or order which may be issued as a result of the inspection in response to the request under this section, even if such inspection discloses the existence of an imminent danger situation in the mine.

The Senate bill additionally permitted miners or their representatives to request inspections of violations or imminent dangers prior to or during any inspection of a mine. Such requests were to be in writing. The Secretary was authorized to promulgate regulations establishing procedures for informal review of any refusal to make such an inspection. There was no such provision in the House amendment.

The conference substitute conforms to the Senate bill, except that the right to request such inspections is limited to miners' representatives in mines where there are such representatives, and to miners in mines where there are no such representatives of miners.

The Senate bill authorized the Secretary and the Secretary of Health, Education, and Welfare to compile, summarize and periodically publish reports and information obtained from operators under the Act. The House amendment adopted section 111(b) of the Coal Act, which required only the Secretary of Labor to compile, analyze, or publish said information. Additionally, however, the House amendment permitted public access to all such information and authorized the Secretary to require records, reports, and other information not otherwise specified by the Act.

The conference substitute conforms to the House amendment, with an amendment also authorizing the Secretary of Health, Education, and Welfare to compile such statistics and issue reports in areas pertinent to his responsibilities under the Act.

The Senate bill authorized the Secretaries to publish rules and regulations as they deemed necessary to carry out their responsibilities under the Act.

The conference substitute contains no such provision since both the Senate bill and the House amendment provide such authority elsewhere in the Act.

The House amendment adopted the provisions of Section 103(i) of the Coal Act, requiring inspection of mines which liberate excessive quantities of explosive gases, or in which there has been an ignition or explosion of gas within the previous 5 years. The Senate bill expanded upon this provision, by establishing an inspection schedule for such mines, based upon the amount of methane or other explosive gases liberated, requiring such inspections at mines which liberate 200,000 cubic feet of such gases per day or more. The Senate bill thus required more frequent inspections at these mines than currently required by MESA regulations.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment contained substantially similar provisions, adopted from Section 103(e) and (f) of the Coal Act, requiring operators to take steps to assist in the investigation of accidents. The Senate bill made it clear that this requirement applied even if the accident did not result in injury or death. Both the Senate bill and the House amendment contained identical provisions establishing the Secretary's authority to take steps to prevent death or injury in the case of accidents, and to take appropriate actions with respect to rescue and recovery work.

The conference substitute conforms to the House amendment.

CITATIONS AND ORDERS

Section 105(a) (of section 201) of the Senate bill established the Secretary's authority to issue citations or orders based upon violations of the Act or any standards promulgated thereunder. Similar authority is created by Section 104(b) of the Coal Act, which was adopted by the House amendment. The Senate bill, which had a general duty clause, permitted the issuance of a citation or order based upon the violation of the Act or a standard. The House amendment, which had no general duty clause, permitted the citation or order to be based upon the violation of a standard. The Senate bill permits the issuance of a citation or order based upon the inspector's belief that a violation occurs. The House amendment required that the citation or order be based on the inspector's *finding* that there was a violation. The Senate bill required that the citation or order be served with reasonable promptness upon the mine operator. The House amendment, adopting section 104(f) of the Coal Act, similarly required that such citations or orders be served promptly. The Senate bill, however, stipulated that failure to issue the citation with reasonable promptness not be a jurisdictional prerequisite to enforcement of the Act. The House amendment did not so provide.

The conference substitute adopts the provision of the Senate bill with a conforming amendment eliminating references to the general duty clause.

Section 105(b) (of section 201) of the Senate bill and the House amendment, adopting Section 104(b) of the Coal Act, established substantially similar authority for the issuance of "failure to abate" withdrawal orders. In both versions, the issuance of such orders was to be based on findings of the Secretary or his authorized representative of the existence of the same set of circumstances.

Both version identified the persons who shall be permitted to enter such mine or section of a mine closed by such an order, except that the Senate bill specified that "Any legal or technical consultant" who is certified and qualified, and whose presence is deemed necessary may enter. The House amendment, adopting section 104(d) of the Coal Act, specified "Any consultant . . .".

The conference substitute adopts the provisions of the House amendment with respect to those persons who shall be permitted in a mine subject to a withdrawal order.

Except to the extent that the Senate bill used the term "unwarranted failure", the Senate bill and the House amendment contained identical provisions for notice and closure order authority for unwarranted or unwarrantable failures to comply.

The conference substitute conforms to the House amendment, thus retaining the identical language of existing law.

The Senate bill provided authority for the Secretary to put an operator on notice that there exists in the mine a pattern of violaions, whether unwarranted or not, which could substntially or significantly contribute to the cause and effect of a mine safety or health hazard. If another such violation were to be found within 90 days following the issuance of this notice, the mine or affected portion was to be closed, until such violation was abated. Once such order had been issued, each successive finding of a violation which could significantly or substantially contribute to the cause and effect of a mine safety and health hazard would result in the issuance of a withdrawal order until such time as an inspection of the entire mine revealed no violations which could significantly or substantially contribute to the cause and effect of a mine safety and health hazard, at which time, the notice of the pattern of such violations was to be terminated. The House amendment contained no such authority.

The conference substitute conforms to the Senate bill. While a notice may be based on the existence of a pattern of violations of one

standard or of a number of different standards it is the intention of the conferees that the pattern can be based only on violations of standards that "significantly or substantially contribute to the cause and effect of a mine safety and health hazard." After the notice of the existence of a pattern, although an order could be issued under this provision for a violation which is not one which makes up the pattern, the violation which results in the issuance of the order must be one which could significantly or substantially contribute to the cause and effect of a mine safety and health hazard". Thus, just as the pattern may not be based merely on violations of technical standards, the order under this section cannot be based on violations of technical standards.

The Senate bill required that during the abatement period for any violation related to levels of dust in a mine the operator take samples of the air in such mine during each production shift. After an order related to failure to abate a dust violation had been issued, the Secretary was required, as soon as possible to dispatch a team of experts to the mine to assist the operator, upon his request, in reducing respirable dust concentrations. Such a team would have the authority to require the operator to take actions necessary to protect the health of persons in the mine.

The House amendment adopted the substantially similar provisions of section 104 (i) of the Coal Act. The Senate bill deleted specific authority, contained in section 104 (i) of the Coal Act, to require abatement and issue withdrawal orders in mines where the applicable limits of respirable dust are exceeded, since the authority to issue such orders was contained in section 105(b) of the Senate bill, in cases where excessive dust is noted by an inspector. The Senate bill did not contain the authority contained in section 104(i) of the Coal Act to permit the Secretary to require abatement and issue withdrawal orders based on operator obtained samples.

The conference substitute conforms to the House amendment.

The Senate bill required that all miners be given certain elementary mine safety and health training, and authorized the inspectors to remove from the mine any miner who had not received the requisite training, and to prohibit that miner's reentry to the mine until such time as the miner had received the required training. The Senate bill required that the miner so removed not suffer loss of compensation during the time he was not permitted to reenter the mine, and further prohibited discrimination against any such miner because of such an order

The House amendment did not contain these provisions.

The conference substitute conforms to the Senate bill.

The Senate bill contained a provision requiring the posting of citations and orders at the mine.

The conference substitute does not include the Senate provision, since a similar requirement is contained elsewhere in the conference substitute.

Section 104(g) of the Coal Act, adopted by the House amendment, provides that notices and orders issued pursuant to that section may be modified, terminated, or vacated by the authorized representative of the Secretary. The Senate bill provided that such orders shall remain in effect until modified or terminated by the Secretary or authorized representative, or until modified, terminated or vacated by the Commission or courts pursuant to review of such notices or orders.

The conference substitute conforms to the Senate bill.

PROCEDURE FOR ENFORCEMENT

The Senate bill required that within a reasonable time after completion of the inspection, the Secretary notify the operator, by certified mail, of the proposed civil penalty to be assessed for any violation noted in the inspection. Such notice, a copy of which must be sent to the representatives of miners at the mine, would notify the operator that he had fifteen working days from receipt to contest the citation or proposed civil penalty assessment. If within 15 working days, the operator or any miner or the representative of miners did not contest the civil penalty assessment or citation, such would be the final order of the Commission, and would not be reviewable in any court.

The House amendment adopted the provisions of the current Coal Act (section 105(a)(1)) which provide that upon issuance of an order or notice, the operator or representative of miners (but not specific miners) shall have a period of 30 days to seek review of the order or notice by the Secretary. With respect to proposed civil penalties, the House amendment, adopting Section 109(a)(3) of the Coal Act, provided that civil penalties shall not be finally assessed by the Secretary until the person charged has been afforded the opportunity for a hearing. The House amendment contained no time limitation on petitions for review of proposed civil penalties.

The conference substitute conforms to the Senate bill, with an amendment changing the period within which appeals may be taken from orders and penalty proposals from "fifteen working days" to "thirty days." The conferees intend that this shall mean 30 calendar days.

The Senate bill authorized an additional discretionary civil penalty of not more than one thousand dollars per day for each day beyond the abatement period in which a violation goes unabated. Accordingly, the Senate bill required that when serving the operator with the notice that the violation had continued unabated beyond the abatement period, the Secretary inform the operator at the same time that he proposed a civil penalty pursuant to section 111(b) of the Senate bill. The same 15 working day period, in which to contest the citation, notice or order and proposed penalty applied in such situations, and failure to contest any such citation, notice, order, or proposed penalty within that period would make the proposed assessment the final order of the Commission.

The House amendment, which contained no such extra penalty possibility, contained no similar provision.

The conference substitute conforms to the Senate bill, changing the period in which appeals may be taken from such penalty proposals to 30 calendar days in lieu of the "15 working day" period specified in the Senate bill; and and amendment which states the factors which the Secretary should consider in exercising his discretion to propose this additional penalty for failure to abate.

Both with respect to its proposal by the Secretary and its assessment by the Commission, the penalty for non-abatement of a violation is a matter of discretion. It is clearly not the intention of the conferees that this sanction be used in all cases. Accordingly, the conferees intend that the Secretary shall not propose the additional civil penalty for failure to abate a violation until he has considered the factors enumerated in section 105(b)(1)(B) of the conference substitute. While these factors are identical to those which serve as the criteria for the proposal of penalties by the Secretary and the assessment of penalties by the Commission generally, they must be viewed in the context in which they are to be applied; that is, from the perspective of whether to propose the assessment of this penalty at all.

The Senate bill provided that the Commission could grant temporary relief from a nonabatement withdrawal order if a hearing had been held in which all parties were afforded the opportunity to participate, the applicant had shown that there was substantial likelihood that he would ultimately prevail on the merits, and such relief would not adversely affect the health and safety of the miners. The Commission would provide expedited procedures for such cases.

The House amendment provided that the Secretary could issue temporary relief from nonabatement withdrawal orders under identical conditions. (section 105(d) of the Coal Act.)

The possibilities for temporary relief by the Commission under the Senate bill were somewhat more limited than the possibilities for temporary relief by the Secretary under the House amendment. Both measures provide no authority for temporary relief from imminent danger closure orders. The House amendment permitted a temporary relief from all notices issued under Section 104 of the Coal Act for unwarrantable failure and technological inability to abate; and from all orders issued under section 104 for failure to abate, unwarrantable failure to comply, technological inability to comply, and excessive dust. The Senate bill permitted temporary relief only for failure to abate orders.

The conference substitute contains a new provision, which incorporates the features of both the Senate bill and the House amendment. The substitute language provides that such temporary relief may be granted by the Commission, but expands the situations in which parties may seek such temporary relief to include all the situations encompassed by the House amendment.

DISCRIMINATION AGAINST MINERS

The Senate bill prohibited discrimination against miners, their representatives, or applicants for employment because of their activities under the Act. The House amendment, adopting Section 110(b) of the Coal Act, protected only miners and their authorized representatives (the Senate bill did not use the term "authorized"). The House amendment did not afford this protection to job applicants.

The Senate bill defined a broad range of "protected activities", to wit: Making or filing a complaint, including a complaint of a suspected violation of imminent danger; being subject to medical evaluation and potential transfer under a standard; instituting or causing to be instituted any proceeding under the Act; testifying in any such proceeding; or exercising any statutory right under the Act. The House amendment specified as protected activities; notifying the Secretary of any alleged violation, instituting or causing to be instituted any proceeding under the act, or testifying in any such proceeding.

The conference substitute conforms to the Senate bill.

The Senate bill provided that any person within the protected class could file his complaint with the Secretary within 60 days of occurrence, and that within 15 days of receipt of the complaint the Secretary commence the investigation, as appropriate. The House amendment required that such complaints be filed within 30 days of the occurrence, and, unlike the Senate bill, required that a copy of the complaint be filed with the operator. The House amendment also required the Secretary to conduct such investigation as may be appropriate, but did not require that the investigation be commenced within any specific time period.

To protect miners from the adverse and chilling effect of loss of employment while such matters are being investigated, the Senate bill provided that if the Secretary determined that any such complaint was not frivolously brought, the Secretary seek temporary reinstatement of the complaining miner pending final outcome of the investigation and the Commission order such reinstatement, after expedited proceedings. The House amendment contained no such provision.

The Senate bill provided that upon completion of the investigation, if the Secretary found that there had been such discrimination, he immediately file a complaint with the Commission, with copies to the complaining party and the violator. The Commission, after affording the parties an opportunity for a hearing, could order appropriate relief, including affirmative action, which may include reinstatement with back pay. Complainants also have the right to present evidence at any such hearings. The House amendment (adopting Section 110(b)(2) of the Coal Act) provided for similar proceedings.

The Senate bill required that the Secretary notify the complaining party of the outcome of the investigation within 90 days of receipt of the complaint. The House amendment contained no such limitation on the completion of investigations.

Under the Senate bill, a complaining party could, within 30 days of an adverse determination by the Secretary, file an action with the Commission on his own behalf. The Commission must afford an opportunity for a hearing, and thereafter, issue an order, based upon findings of fact, dismissing or sustaining the complaint, and granting such relief as may be appropriate. If the complainant prevailed in an action which he brought himself after the Secretary's determination, the Commission order would require that the violator pay all expenses reasonably incurred by the complainant in bringing the action. Unless appealed to the courts within thirty days, the Commission's decision would become final.

The Senate bill established the Commission and its role in miner discrimination complaints. The House amendment did not provide for the independent Commission. Accordingly, the House amendment did not establish this right of complainants to prosecute their cases before the Commission if the Secretary determined that there is no violation based on his investigation of the complainant. The House amendment did permit complaining parties to appeal adverse determinations of the Secretary to the courts, and provided, as the Senate bill did, that if the complainant prevailed in court, the award include all reasonable costs incurred. Both the Senate bill and the House amendment provided judicial review of the final agency act (the Commission decision in the case of the Senate bill, the Secretary's determination in the case of the House amendment) to the courts. Both versions also provided that matters of employee discrimination be subject to the judicial review, injunctive relief, and penalty provisions of the Act.

The conference substitute conforms to the Senate bill, with an amendment to require the Secretary upon receipt to forward a copy of the complaint to the respondent.

ADMINISTRATIVE REVIEW

The Senate bill required that parties wishing to contest the issuance or modification of an order, or a notification, or the abatement requirement notify the Secretary of the intention to contest within 15 working days of receipt thereof. The Senate bill required that the Secretary immediately notify the Commission, which would afford the parties an opportunity for a hearing, and issue a final decision, based on findings of fact affirming, modifying or vacating the Secretary's order, citation or proposed penalty, and directing other appropriate relief. The order of the Commission would become final 30 days after its issuance. Miners or their representatives were afforded the opportunity to participate in such hearings as parties.

The House amendment adopted Section 105 of the Coal Act, which provided similar procedures for contesting notices or orders, to the Secretary rather than the Commission. The same 30-day period for the filing of such actions applied. As in the Senate bill, the House amendment provided for the holding of hearings, subject to the provisions of section 554 of title 5, United States Code (except that the Senate bill excluded reference to subsection (a)(3) of that section), and required the issuance of a final decision on the notice, order or the assessment of a civil penalty, based on findings of fact. The House amendment did not provide that the decision would become final 30 days after issuance.

The conference substitute conforms to the Senate bill, with the amendment providing thirty calendar days for the filing of administrative appeals rather than the fifteen working days provided in the Senate bill.

JUDICIAL REVIEW

The Senate bill provided a procedure for review of any order of the Commission upon petition filed within 30 days of the Commission's order, in the United States court of appeals for the circuit in which the alleged violation occurred, the circuit within which the operator maintains his principal office, or the District of Columbia Circuit. The House amendment, adopting section 106 of the Coal Act, contained similar authority, except that it did not create jurisdiction in the circuit in which the operator maintains its principal office.

The procedure for judicial review in the Senate bill was a uniform procedure applicable to all final orders of the Commission including the assessment of civil penalties. The House amendment (Sec. 109(a)(4)) maintained the separate judicial review of penalty matters which currently exists in the Coal Act.

Both versions contained substantially similar provisions for the certification of the record by the Commission (in the case of the Senate bill) or by the Secretary (under the House amendment). Both versions authorized the court to affirm, modify, or set aside the administrative decision below, or to remand the case to the Commission (under the Senate bill) or the Secretary (under the House amendment) for further findings of fact. Both versions required that administrative findings be conclusive if supported by substantial evidence on the record as a whole.

The Senate bill provided that no objection not urged before the Commission could be raised before the court unless the failure to urge such objection was excused because of extraordinary circumstances. The House amendment had no such provision. Under the Senate bill, where a party sought to adduce additional evidence, and showed that such additional evidence was material, and the failure to adduce it below was excusable, the court must remand the matter to the Commission for additional hearings, and the Commission would modify its findings of fact or make new findings of fact. The House amendment permitted the court to similarly remand a case to the Secretary for additional hearing and finding of fact.

The conference substitute conforms to the Senate bill, with an amendment to eliminate the jurisdiction of the court of appeals for the circuit in which the operator maintains its principal office.

Both the Senate bill and the House amendment (which adopts Section 106(c) of the Coal Act) authorized the court to grant temporary relief from final agency orders or decisions under similar conditions. The Senate bill permitted such temporary relief from all orders, notices or decisions except that it permitted no temporary relief from imminent danger withdrawal orders. The House amendment did not permit temporary relief from imminent danger withdrawal orders or from orders or decisions pertaining to (a) notices issued in the course of inspections for violations of standards or (b) notices based on respirable dust violations.

The conference substitute conforms to the House amendment, with a technical amendment.

The Senate bill authorized the Secretary to seek review or enforcement of any final order of the Commission under the same procedures as private parties. The House amendment contained no such authority for the Secretary to seek review of enforcement.

The Senate bill also provided that if no appeal from the final order of the Commission was filed within thirty days, the Secretary could seek enforcement of such order in the circuit court, and that in such cases, the findings of fact and order of the Commission are conclusive. In any such case, as well as in cases where there has been no contest of proposed penalties, the clerk of the court could automatically enter a decree enforcing such order. The House amendment contained no provision for automatic enforcement of uncontested cases.

The conference substitute conforms to the Senate bill with an amendment specifying the circuit court jurisdiction.

The House amendment contained a provision stipulating that unless ordered by the Court, the commencement of a proceeding under this section would not operate as a stay of any order or decision. The Senate bill contained no such provision.

The conference substitute conforms to the House amendment, with a technical amendment.

PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

The Senate bill and the House amendment stated the identical authority for the Secretary to issue an order closing all or the affected portion of a mine upon the finding of an imminent danger; except that the Senate bill stated that such order shall issue upon the finding that "conditions or practices in such mines are such that imminent danger exists", while the House amendment (adopting Section 104(a) of the Coal Act) stated that such order shall issue upon the finding "that an imminent danger exists".

Under both versions, the issuance of such an order precluded access to the mine or affected portion to all persons except those authorized.

Under both versions, the issuance of an imminent danger withdrawal order would not preclude the issuance of a notice (or citation) or the proposal of a civil penalty assessment.

The conference substitute conforms to the Senate bill, with an amendment which requires that the issuance of such withdrawal orders be based on the finding that "an imminent danger exists."

The Senate bill and the House amendment contained identical provisions for the closure of mines in which exist conditions which, while not imminently dangerous, cannot be effectively abated through the use of existing technology. Under the Senate bill, this remedy was available where there exists a "potentially dangerous condition" which, although not imminently dangerous, cannot be effectively abated. Under the House amendment, which adopts Section 104(h) of the Coal Act, this remedy was available where there exists "a condition" which, although not imminently dangerous, cannot be abated.

The conference substitute conforms to the House amendment.

The Senate bill and the House amendment (section 104(c) of the Coal Act) contained substantially similar requirements that notices and orders contain detailed descriptions of the conditions or practices found to constitute an imminent danger and the affected area of the mine throughout which persons must be withdrawn.

The conference substitute conforms to the House amendment with a technical amendment.

The Senate bill and the House amendment required that imminent danger and technological-inability-to-abate findings and orders be in writing, signed by the authorized representative of the Secretary, and promptly given to the operator of the mine. The Senate bill provided that such orders could be modified or terminated by the authorized representative of the Secretary. The House amendment (section 104(f) and (g) of the Coal Act) did not provide that technological inability to abate findings and orders could be modified by the Secretary's representative.

The Senate bill further provided that such orders remain in effect until modified or terminated by the authorized representative of the Secretary or by the Secretary, or until modified or vacated by the Commission or courts. The House amendment did not provide for review of enforcement actions by an independent Commission, but did provide (at section 105(a) of the Coal Act) that any operator's request for review by the Secretary would not act as a stay of the order or notice.

The conference substitute conforms to the Senate bill, except that it retains the provision of the House amendment which prohibits the authorized representative of the Secretary from modifying technological-inability-to-abate orders.

The Senate bill required that parties wishing to contest the issuance of an imminent danger withdrawal order or technological inability to abate withdrawal order apply to the Commission within 10 days of the issuance of such order, and that the Commission provide expedited procedures for reviewing such cases. The Senate bill further provided that there shall be no temporary relief from an imminent danger withdrawal order by either the Commission or the courts.

The House amendment (section 105(a) of the Coal Act) permitted requests for administrative review of such orders within 30 days of issuance; and similarly prohibited temporary relief, either administratively or by the courts, of imminent danger withdrawal orders.

The conference substitute conforms to the Senate bill, with an amendment extending the time within which appeals from the issuance of such orders can be taken, from 10 to 30 days.

INJUNCTIONS

The Senate bill and the House amendment contained provisions identical in substance for injunctive relief by the district court against violations by operators or operator interference with the Secretary or the Secretary of Health, Education, and Welfare in enforcing the Act.

The Senate bill further provided for injunctive or special relief in cases of mine operators who engage in a pattern of violations of the Act which constitute a continuing hazard to the health and safety of miners. The House amendment, and the current Coal Act, provided no specific authority for injunctive or special relief directed to operators who engage in repetitive or continuing violations of the Act.

The conference substitute conforms to the Senate bill. The conferees intend that the provision in this section for injunctive relief in cases of patterns and practices of violations will not duplicate the civil withdrawal order remedy created in section 104(e) of the bill for patterns of violations which significant and substantially contribute to the cause and effect of a mine safety and health hazard. The injunctive remedy contained in this section is intended to provide the Secretary with additional flexibility in dealing with habitual or chronic violators. Thus, the Secretary may seek this remedy when the withdrawal orders available to him, including the section 104(e) procedure, has been unsuccessful in achieving lasting compliance with the Act and its requirements. The injunctive remedy enables the court to require affirmative corrective measures, for instance, which may be broader in scope than mere correction of a specific violation.

POSTING REQUIREMENT

The Senate bill and the House amendment, which adopts Section 107 of the Coal Act, contained the same provisions requiring the posting of notices, orders and decisions, except that the Senate bill also required the posting of citations, and that all such postings by operators be for a period of not less than 30 days. The House amendment contained no such minimum posting period.

The conference substitute conforms to the House amendment, with a conforming technical amendment.

PENALTIES

The Senate bill and the House amendment provided for a civil penalty of not more than $10,000 for each violation of the Act or a standard promulgated thereunder. The House amendment provided that each occurrence of a violation of a standard constitute a separate offense. The Senate bill did not so provide.

The conference substitute conforms to the House amendment.

The Senate bill provided a discretionary penalty of not more than $1,000 per day for each day beyond the abatement period in which a violation continued unabated. The House amendment contained no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill provided that when an operator violated a provision of the Act or a standard, any director, officer, or agent of the operator who knowingly authorized, ordered or carried out such violation could himself be liable for the civil or criminal sanction. The House amendment contained a similar provision (section 109(c) of the Coal Act), except that it excluded such liability for penalties pursuant to section 109 (a) of the Coal Act (equivalent to section 111(a) of the Senate bill) and penalties based upon the discrimination against miners.

The conference substitute conforms to the House amendment.

The Senate bill and the House amendment both contained provisions for identical criminal penalties against operators who knowingly violated the Act, or any rule, order or regulation promulgated thereunder (Senate bill) or any standard or order (House amendment).

The conference substitute conforms to the House amendment.

The Senate bill provided a criminal sanction of not more than $1,000 or six months imprisonment, or both, for persons convicted of giving advance notice of any inspection. The House amendment contained no such sanction.

The conference substitute conforms to the Senate bill, with an amendment which excludes the applicability of this section in cases where advance notice of an inspection is authorized by the statute.

The Senate bill and the House amendment contained identical provisions imposing criminal sanctions in cases of false statements and certification, except that the Senate bill, consistent with the corresponding criminal provisions of the U.S. Code, provided for a maximum penalty of $10,000 or five years imprisonment, or both.

The conference substitute conforms to the Senate bill.

The Senate bill provided a civil penalty of not more than $10,000 for each instance of violation of a posting requirement prescribed under the Act. The House amendment contained no such sanction.

The conference substitute does not include the Senate provision.

The Senate bill and the House amendment both contained criminal sanctions against individuals who sell, distribute or introduce into commerce, equipment improperly represented as complying with the provisions of the Act or regulations or specifications of the Secretary. The penalty in the Senate bill was not more than $25,000 or 1 year imprisonment or both. In the House amendment, the penalty was not more than $10,000, 6 months imprisonment, or both.

The conference substitute conforms to the House amendment.

The Senate bill provided that the independent Mine Safety and Health Review Commission would have the authority to assess all civil penalties, based on proposals made by the Secretary. The Secretary, in making his proposals, would rely on a summary review of information available to him, and need not make findings of fact. In assessing civil penalties, the Commission would consider the gravity of the violation, the good faith of the person charged, the history of previous violations, and the size of the business being charged.

The House amendment, adopting Section 109(a)(1) and (3) of the Coal Act, provided that the Secretary assess civil penalties, after the charged person is afforded the opportunity for a public hearing. (The Senate bill also required such a hearing.) The criteria upon which the Secretary was to assess a civil penalty were similar to those provided in the Senate bill, plus (i) the negligence of the operator, and (ii) the effect on the operator's ability to continue in business.

The conference substitute conforms to the Senate bill, with an amendment incorporating the six criteria contained in the House amendment in lieu of the four in the Senate bill; which criteria shall be those upon which the Secretary shall propose a civil penalty and the Commission shall assess such penalty.

The Senate bill provided that civil penalties accrue to the United States and may be recovered in case which have become final in a civil collection action in district court by the Secretary. Interest in the amount of 8 percent per annum was to accrue after thirty days following the final order of the Secretary, the Commission or the court. These provisions, which were not contained in the House amendment, were intended to simplify and expedite collection of civil penalties. The House amendment adopted the current collection provisions of section 109(a)(4) of the Coal Act. Under that procedure, if the person against whom the penalty was assessed failed to pay the penalty, the Secretary had to pursue penalty matters in the district court. The court then was required to consider and determine *de novo*, all relevant issues, except issues of fact which were or could have been litigated in the administrative proceedings; and upon request, issues of fact in dispute were to be submitted to a jury.

Under the Senate bill, in contested civil penalty cases, the appropriate judicial review was to be in the circuit court, based on a record review. There was no right to a jury determination of contested facts, and the factual determinations of the Commission were to be conclusive if supported by substantial evidence on the record as a whole.

The conference substitute conforms to the Senate bill.

The Senate bill prohibited the compromise, settlement, or mitigation of contested civil penalties without the express approval of the Commission or court, as appropriate. The House amendment contained no such limitation on the settlement of proposed civil penalties.

The conference substitute conforms to the Senate bill.

ENTITLEMENT OF MINERS

The Senate bill and the House amendment (which adopts section 110(a) of the Coal Act) contained substantially similar provisions for the payment of miners idled

because of the issuance of a withdrawal order. Under these provisions, miners receive pay for the balance of the shift, or 4 hours (whichever is less) for time lost due to any withdrawal order, irrespective of whether or not the withdrawal order was the result of the failure of the operator to comply with the Act or its requirements. The Senate bill also stipulated that miners have such entitlement "regardless of the result of any review of such order." The House amendment contained no such language.

Miners would also be entitled to pay for the period such mine was closed, or no more than one week, in the event the withdrawal order was the result of a failure of the operator to comply with the Act or its requirements, after the parties had been afforded the opportunity for a hearing on the question. The Senate bill provided for expedited hearings in such cases, and further provided that the Commission have the authority to order such payment upon the filing of a complaint by a miner or his representative. The House amendment did not so provide.

Under both versions, where an operator failed to withdraw miners after the issuance of a withdrawal order, the miners, who worked despite the order were entitled to their compensation for such work, and the compensation they would have been entitled to under this section if they had in fact been withdrawn.

The conference substitute conforms to the Senate bill.

ADMINISTRATIVE PROVISIONS

The Senate bill authorized and directed the Secretary of Labor to administer the provisions of this bill through a Mining Enforcement and Safety Administration established in the Department of Labor, and authorized the Assistant Secretary of Labor for Mine Safety and Health to appoint, subject to the civil service laws, such officers and employees as he may deem necessary. The House amendments contained no such provision, although both the Senate bill and the House amendment specifically established an agency within the Labor Department to be headed by an Assistant Secretary of Labor.

The conference substitute does not contain the Senate provision since the conferees deemed it to be redundant to authority contained elsewhere in the conference substitute.

The Senate bill authorized the Solicitor of Labor to appear for and represent the Secretary in all civil litigation arising under this Act except for litigation before the Supreme Court. The House amendment similarly provided that attorneys appointed by the Secretary may represent him in matters in the courts relating to the enforcement of the Act, subject to the direction and control of the Attorney General.

The conference substitute conforms to the Senate bill with an amendment providing that such litigation shall be subject to the control of the Attorney General. However, to insure that the positions and postures taken in federal courts by the Department of Labor are consistent with overall federal policy, the conference substitute authorizes the Attorney General to direct and control court litigation pursuant to this Act.

INDEPENDENT MINE SAFETY AND HEALTH REVIEW COMMISSION

The Senate bill established a Federal Mine Safety and Health Review Commission, to be composed of five members, to be appointed by the President, with the advice and consent of the Senate. The terms were to be for 6 years, except that initial appointments were to be for staggered terms. The President was to designate one member as Chairman.

The Senate bill further provided that the Chairman be the chief administrative officer of the Commission, and that the Commission be authorized to appoint such employees as may be necessary. Administrative Law Judges of the Department of the Interior currently assigned to the Office of Hearings and Appeals at Arlington, Virginia were to be automatically transferred in grade to the Commission, except that the chief Administrative Law Judge was to have the option of transferring as an Administrative Law Judge in the same grade and status as the other Administrative Law Judges. Administrative law judges assigned to the western facilities of the Interior Department Office of Hearings and Appeals who heard mine safety and health cases also had the option of transferring without loss of grade to the Commission. The Commission also had the authority to appoint such additional Administrative Law Judges as it deemed necessary.

The Senate bill further authorized the Commission to delegate all of its powers to any group of three or more of its members, and two members of any such group would constitute a quorum.

The House amendment did not create a Federal Mine Safety and Health Review Commission.

The conference substitute conforms to the Senate bill.

The Senate bill required that Administrative Law Judges hear and decide any matter assigned and make a decision which would constitute a final disposition of the proceeding. Any such decision of the Administrative Law Judge would become the final decision of the Commission 40 days after its issuance unless, within such period, the Commission directed that such decision be reviewed.

Review of the Administrative Law Judges' decisions would be at the discretion of the Commission and be granted on the vote of two Commissioners present. Adversely affected or aggrieved persons could file petitions for review with the Commission within 30 days of the final order of the Administrative Law Judge, only on the grounds that (I) a finding or conclusion of material fact was not supported by substantial evidence, (II) a necessary legal conclusion was erroneous, (III) the decision was contrary to law, rules or decisions of the Commission, (IV) a substantial question of law, policy or discretion was involved, or (V) a prejudicial procedural error was committed. No assignment of error could be made on the basis of a question of law or fact upon which the Administrative Law Judge did not have the opportunity to pass.

The Commission also had the authority to review any decision of an Administrative Law Judge on its own initiative, by a vote of two Commissioners present and voting, and on the grounds that the decision was contrary to law or policy, or that a novel question had been presented.

Review by the Commission would be on the record.

The House amendment did not establish the Commission. The procedures for administrative review in the current Coal Act, which were adopted by the House amendment contained no provision governing the review by the Secretary of the decisions of the Administrative Law Judges.

Under the Coal Act, review by the Secretary was solely a matter of discretion, but the current Coal Act specified no basis for the exercise of that discretion. The Coal Act also provided no specific period of time within which the decision of an Administrative Law Judge could become the final and enforceable agency action, if not reviewed.

The conference substitute conforms to the Senate bill.

The Senate bill authorized the Commission or its administrative law judges to compel the attendance and testimony of witnesses and the production of evidence by deposition in any proceeding before them. Witnesses were to be paid fees and mileage, and the district courts of the United States would have jurisdiction in cases of contumacy or refusal of any person to appear or testify. The House amendment contained no such provisions.

The conference substitute conforms to the Senate bill.

AUTHORIZATION OF APPROPRIATION

The Senate bill authorized such funds as may be necessary to carry out the provisions of the enforcement and administrative title of the Act. The House amendment contained no such authorization.

The conference substitute conforms to the Senate bill.

MANDATORY HEALTH AND SAFETY TRAINING AND MINE RESCUE TEAMS

The Senate bill contained a provision requiring the Secretary to, within 180 days of the effective date of this bill, promulgate regulations with respect to the safety and health training of miners. Each operator would have a safety and health training plan, approved by the Secretary, which would provide new underground miners with no less than 40 hours of training, new surface miners with no less than 24 hours of training, and all miners with at least 8 hours of annual retraining. Any miner reassigned to a new task would be provided with training in the safety and health aspects of his new assignment. Safety and health training would be provided at the expense of the operator, and during normal working hours. Miners would be paid their normal rate of compensation for such time spent in training, and new miners would be paid their starting wage rate. If such training was given away from the mine, miners would also be compensated for their expenses.

Operators would certify that each miner received the requisite training. Training certificates would be provided to each miner, and a copy of each certificate shall be maintained at the mine. When a miner left the operator's employ, the training certificate would be provided to the miner.

The Secretary would also publish standards for safety and health training of mine construction workers.

Within 180 days after the effective date of this bill, the Secretary was required to promulgate regulations providing that mine rescue teams shall be available at the expense of the operator at each underground mine.

The House amendment contained no mandatory provisions relative to mine rescue teams of safety and health training of miners, except for section 502 of the Coal Act, which authorizes the Secretary to assist operators in developing training programs, but which does not require that such training be provided to miners, and which was carried forward under both the Senate bill and the House amendment.

The conference substitute conforms to the Senate bill, but with certain amendments which are intended to clarify the requirements of this section. The amended version requires that the training for new underground and surface miners be mandated only where the miner has had no previous work experience in underground or surface mining, respectively. The conference substitute also requires that the training for miners who are reassigned a new task need only be provided if that miner has had no work experience at that new task. The conferees intend that the Secretary will, by regulation, establish the minimum amount of previous experience which will be necessary before a miner will be considered to have had previous work experience sufficient to obviate the need for further safety and health training. For example, if a miner has had only a few days of underground mining experience, that experience shall not be considered "mining experience" for the purpose of excusing the operator from providing such miner with the training required by this section. A rule of reason is expected, consistent with the

conferees' intention that all miners have sufficient knowledge and skills, whether through experience or through formal training, to understand and cope with the hazards of this most dangerous occupation.

The conference substitute contains an amendment which requires the Secretary's regulations dealing with mandatory health and safety training to provide that to the extent practicable, the formal training required of miners include a period to be conducted in circumstances which as closely as possible duplicate actual underground or surface mining facilities. The conferees were impressed by testimony received by both the Senate and the House subcommittees relating some operator training programs which included extensive training in simulated mining facilities, including nonoperating sections of actual underground or surface mines. It is the conferees' belief that training in such facilities is vastly more beneficial to the understanding of miners of the dangers which they will confront than classroom training, and the conference substitute requires that the Secretary's regulations require such training facilities to the extent practicable. The conferees also recognize and endorse training under actual production conditions where such conditions may be essential to the training experience. The conferees state their intention, however, that while training in mock mine facilities, in non-working sections, or in actual production conditions be encouraged, "on-the-job training" is not contemplated. The conferees are aware that many small operators may find it beyond their individual capabilities to provide such training facilities, and that therefore, each operator should not be independently required to maintain such training facilities.

The conferees recognize miner training may strain the financial resources of many small operators. While the conference substitute does not exclude such operators from the requirement that Secretary approved training programs be made available by operators, the conferees anticipate that the Secretary, the States and the mining industry will be resourceful in securing means for small operators to provide this essential training.

The conferees are encouraged by the programs maintained in some mining States, in which the State trains miners and certifies them as eligible for mine employment. The conferees view such programs as a most efficient way for such training to be given to the employees of small operators. The conferees encourage the further development of such training programs in the States. Toward this end, the conferees expect the Secretaries to establish a priority for the use of the grants to States, provided by section 503 of the Federal Mine Safety and Health Act of 1977, to encourage the development of such training programs in the mining States, and to fully use the authority contained in section 502 to assist small operators.

Industry groups are encouraged to pool their resources in order to efficiently provide such training for their member operators. Local community colleges should be encouraged to establish training programs which would meet the requirements of this section. The conferees expect the Secretary to maintain a flexible approach in approving such training programs as complying with the operator's training requirements.

Finally, the conference substitute contains an amendment to the Senate bill, dealing with the requirement that operators of underground mines provide that mine rescue teams be available to their mines in case of accident or disasters. The language of the conference substitute requiring that rescue teams be available "to" each underground mine is to make clear the intention of the conferees that each underground mine operator is not necessarily required to establish and equip a mine rescue team at his mine; but rather, that operators may also meet this requirement by entering into contractual or cooperative agreements which insure the availability of such a team to their mine.

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY HEALTH AND SAFETY STANDARDS

The Senate bill rewrote the reference to concentrations of respirable dust, to eliminate the reference to the MRE device contained in section 202(e) of the Coal Act, and eliminated a definition of respirable dust contained in section 318(k) of the Coal Act in order to eliminate apparently conflicting definitions of respirable dust which have threatened to interfere with the civil penalty enforcement of the dust sampling program established in section 202 of the Coal Act. The House amendment did not make these changes.

The conference substitute conforms to the Senate bill.

The Senate bill made certain technical changes to section 301(a) and 301(b) of the Coal Act to reflect the renumbering of the sections of Title I accomplished by the Senate bill, and to reflect the change of definition of "Secretary" to mean the Secretary of Labor.

The Senate bill further deleted Section 301(c) of the Coal Act, since, under the Senate bill, the authority to grant variances from existing standards was established in title I, and was applicable to all mines.

The Senate bill also deleted section 301(d) of the Coal Act, as the procedure stated therein are set out in the appropriate sections of title I of the Senate bill.

The conference substitute conforms to the Senate bill.

MISCELLANEOUS PROVISIONS—TRANSFER MATTERS

The Senate bill and the House amendment contained identical provisions regarding the transfer of functions from the Secretary of the Interior to the Secretary of Labor, except that the Senate bill referenced the assignment of certain functions to the Mine Safety and Health Review Commission.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained substantially similar provisions concerning the carryover of existing safety and health standards under the Metal and Coal Acts as standards applicable to metal and nonmetallic mines and coal mines respectively under this bill. The Senate bill used the term defined in the Coal Act, "mandatory health or safety standards"; the House amendment referred only to "standards". The Senate bill stated that such standards be applicable until modified, amended or revoked under the provisions of this bill. The House amendment more clearly specifid that new standards promulgated under this bill be applicable to metal mines or to coal mines.

The conference substitute conforms to the House amendment, with a technical amendment to include the defined term, "mandatory health or safety standards".

The Senate bill and the House amendment contained substantially similar provisions for the appointment of an advisory committee to review existing permissive standards under the Metal Act. Based on its review, the Advisory Committee was to recommend which permissive standards with or without modification should be published as mandatory health or safety standards under this bill. These provisions provided identical procedures for an expedited public comment period and promulgation of the final standards or the Secretary's reasons for not so doing.

The Senate bill provided that the advisory committee be appointed by the Secretary of Labor in consultation with the Secretary of the Interior. The House amendment required that the Secretary of Labor appoint the advisory committee.

The conference substitute conforms to the Senate bill.

The House amendment provided that all interpretations, regulations or instructions of the Secretary of the Interior or the Director of the Bureau of Mines shall be published in the Federal Register and continue in effect under this bill until modified or superseded in accordance with the provisions of this Act, except those inconsistent with this bill or any amendment made by the bill. The Senate bill contained no such provision.

The conference substitute does not contain the provision of the House amendment, which was deemed by the conferees to be redundant of similar provisions contained elsewhere in the conference substitute.

The Senate bill and the House amendment contained identical provisions with respect to the transfer of unexpended appropriations, personnel, property, records, and commitments except that the Senate bill referenced the Mine Safety and Health Review Commission.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained the same provisions that existing orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses and privileges in effect on the effective date of the bill shall remain in effect until modified terminated, superseded, set aside, revoked or repealed by the Secretary of Labor, court or operation of law; except that the Senate bill reference the Mine Safety and Health Review Commission or other authorized officials.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment provided for the continuation of proceedings pending at the time of enactment. The Senate bill referenced proceedings pending before any department, agency or component thereof. The House amendment referenced proceedings pending before any department or agency. The Senate bill provided that such proceedings be continued before the Secretary of Labor or the Commission. The House amendment provided that they be continued before the Secretary of Labor.

The Senate bill provided that administrative actions continue to be made as if this section had not been enacted until modified, terminated, superseded, revoked or terminated by the Secretary of Labor, the Commission, or the courts. The House amendment did not reference the Commission.

The Senate bill provided that nothing prohibit the discontinuance or modification of any proceeding under the same terms and conditions as if this section had not been enacted. The House amendment did not so provide.

The Senate bill authorized the Director of the Office of Management and Budget, in coordination with the Secretaries of the Interior and Labor to make necessary determinations with respect to the transfer of personal property and appropriations in connection with the functions transferred by this Act. The House amendment did not contain this provision.

The conference substitute conforms to the Senate bill.

MINE SAFETY AND HEALTH ADMINISTRATION

The Senate bill established a Mining Enforcement and Safety Administration within the Department of Labor, headed by an Assistant Secretary for Mine Safety and Health, to carry out the Secretary of Labor's functions under the Mine Safety and Health Amendments Act of 1977. The House amendment created a Mine Safety and Health Administration, also to be headed by an Assistant Secretary of Labor, to carry out the functions of the Secretary of Labor under the Mine Safety and Health Act of 1977.

The conference substitute conforms to the House amendment, with an amendment authorizing the Secretary to appoint such officers and employees subject to the civil service laws, as may be necessary, and to assign their duties and responsibilities.

The Senate bill established the pay levels of the Chairman and Members of the Mine Safety and Health Review Commission and established the principal office of the Commission in the District of Columbia. The House amendment did not contain these provisions. Both the Senate bill and the House amendment established the pay level of the Assistant Secretary of Labor for Mine Safety and Health.

The conference substitute adopts the provision of the Senate bill.

MISCELLANEOUS PROVISIONS

The Senate bill provided authority for the Secretary of the Interior or the Secretary of HEW to conduct evaluations of the hazards found in mines upon the request of operators or representatives of miners, and to provide the results of such evaluations to operators or the representatives of miners. The House amendment did not contain this authority.

The conference substitute adopts the provision of the Senate bill.

The Senate bill contained a technical amendment to section 501(c) of the Coal Act, which reflected the change in definition of "Secretary" to mean the "Secretary of Labor". This amendment provided that the authority to make grants and contracts in connection with the research functions to be performed by the Secretaries of the Interior and HEW shall also rest with the Secretaries of the Interior and HEW except that they perform these functions in coordination with the Secretary of Labor. The House amendment did not contain this provision.

The conference substitute contains the provision of the Senate bill.

The Senate bill and the House amendment increased the authorization for mine safety research from an annual maximum of $30 million to $60 million. The Senate bill authorized this sum to the Secretary of the Interior, consistent with the assignment of mine safety research responsibilities to the Secretary of the Interior. The House amendment authorized this sum to the Secretary of Labor.

The conference substitute conforms to the Senate bill.

The Senate bill added a requirement that the Secretary of Labor compile accurate statistics on work injuries and illnesses occurring in mines subject to the Act. The House amendment did not contain this provision, but did carry over the requirement of Section 111(b) of the Coal Act, authorizing the Secretary to require that reports be made by operators and authorizing the Secretary to from time to time analyze, compile and publish such information, and of section 511 (a) of the Coal Act, requiring the filing of reports by the Secretary.

The conference substitute does not contain this provision of the Senate bill.

The Senate bill authorized the Secretary of Labor, in coordination with the Secretary of HEW to make grants to States to assist the States in developing certain State programs. The House amendment required that in approving such grant requests, the Secretary of Labor coordinate with the Secretary of HEW and the Secretary of the Interior.

The conference substitute conforms to the House amendment.

The Senate bill required that in selecting persons as mine inspectors, the Secretary consider certain qualifications, and in assigning inspectors, the Secretary consider certain experience to the extent feasible. The House amendment required that he consider these qualifications and experience to the maximum extent feasible.

The conference substitute conforms to the House amendment.

Both the Senate bill and the House amendment contained identical provisions maintaining the National Mine Health and Safety Academy as an agency of the Department of the Interior, and describing the responsibilities of the Academy. The Senate bill listed as one of the functions of the National Mine Health and Safety Academy, the training of technical support personnel of the Mining Enforcement and Safety Administration. The House amendment referred to personnel of the Mine Safety and Health Administration.

The conference substitute conforms to the House amendment.

The Senate bill authorized the Secretary of the Interior to appoint or assign such officers and employees to the National Mine Health and Safety Academy as he, in his discretion deems necessary. The House amendment required the Secretary of the Interior to appoint or assign to the Academy, upon the Academy's request, such officers and employees as the Director of the Academy deems necessary.

The conference substitute conforms to the Senate bill.

The Senate bill amended section 7(b)(5) of the Small Business Act (15 U.S.C. 636(b)(5)) to expand the availability of small business loans to operators of all mines who may qualify, who may need such loans to comply with the standards established or promulgated by this bill. The House amendment did not obtain this provision, reflecting the 1974 Amendments to the Small Business Act, which deletes references to the Federal Coal Mine Health and Safety Act.

The conference substitute does not contain the provision of the Senate bill.

The Senate bill repealed section 405 of Public Law 93-153 (43 U.S.C. 1456a) which creates the office of Head of the Mining Enforcement and Safety Administration. The House amendment did not contain this provision.

The conference substitute conforms to the Senate bill.

The Senate bill provided that the changes made will become effective on July 1, 1978, unless otherwise provided, and authorizes the Secretaries of Labor and Interior to establish such rules and regulations as may be necessary to effect the efficient transfer of responsibilities between the two Secretaries. The House amendment became effective ninety days after enactment, and authorized only the Secretary of Labor to establish rules and regulations necessary to the efficient transfer of functions.

The Senate bill provided that the changes in definition of respirable dust made by section 202 are to become effective immediately. The House amendment did not make these changes in the definition of respirable dust.

The conference substitute conforms to the House amendment, with an amendment providing that the effective date of the act shall be 120 days after enactment, except where otherwise provided in the Act; and that the revised definition of respectable dust shall become effective upon enactment. The conference substitute further provides that the Secretaries of Labor and of the Interior shall establish rules concerning the transfer of responsibilities.

CARL D. PERKINS,
JOSEPH M. GAYDOS,
JOHN H. DENT,
AUSTIN J. MURPHY,
ROBERT J. CORNELL,
LEO C. ZEFERETTI,
JOSEPH A. LE FANTE,
MICAHEL O. MYERS,
GEORGE MILLER,
RONALD A. SARASIN,
JOHN BUCHANAN,
ALBERT H. QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, JR.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
DONALD W. RIEGLE, JR.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 7555, LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 7555) making appropriations for the Department of Labor and Health, Education, and Welfare, and related agencies for the fiscal year September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-656)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1978, and for other purposes, having met, after further full and free conference, have been unable to agree.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
GEORGE H. MAHON,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 82 to the Bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending Septmber 30, 1978, and for other purposes, submit the following

joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE GENERAL PROVISIONS

Amendment No. 82: Reported in disagreement.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
GEORGE H. MAHON,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONCURRING IN SENATE AMENDMENTS TO H.R. 9290, TEMPORARY DEBT LIMIT INCREASE

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–657) on the resolution (H. Res. 804) providing for concurring in the Senate amendments to H.R. 9290, to increase the temporary debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 8518

Mr. PREYER. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on H.R. 8518.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, on Friday, September 9, 1977, I missed part of the legislative day due to a commitment I incurred, as a member of the United States Military Academy's Board of Visitors, to be present for the dedication of the new West Point Hospital. Had I been present, I would have voted in the following fashion: H.R. 6683, Earthquake Hazards Reduction Act of 1977, rollcall No. 532; "yea"; H.R. 6669, National Climate Program Act of 1977, rollcall No. 533: "yea"; H. Res. 641, the rule for H.R. 6669, rollcall No. 531: "yea."

I was absent from the legislative session of September 30, 1977, due to hearings in Chicago scheduled by the Select Committee on Narcotics Abuse and Control, of which I am a member. Had I been present, I would have voted as follows: H.R. 7010, Victims of Crime Act of 1977, rollcall No. 616: "yea"; H.R. 9354, staff allowances for former Presidents, rollcall No. 617: "yea."

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF SEPTEMBER 30, 1977

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, on behalf of the Committee on Standards of Official Conduct, I submit for inclusion in the RECORD a report from that committee on the status of its investigation pursuant to House Resolution 252 as of September 30, 1977.

This report deals with activities of the committee and its special staff during the month of September in the committee's investigation of alleged efforts of nationals or agents of the Government of South Korea to influence legislation in Congress.

This is the fifth monthly report by the committee and is submitted to keep Members and the public informed of developments since the investigation began.

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF SEPTEMBER 30, 1977

This is the fifth report of the Committee on Standards of Official Conduct on the status of its investigation of allegations and published reports that Members of Congress may have been the objects of efforts by the Government of the Republic of Korea, or agents or nationals thereof, to influence their official conduct either directly or otherwise through gifts of money or other things of value.

Previous reports were published in the Congressional Record of June 7, June 30, August 1 and September 13 and covered the committee's investigative activities during the months of May, June, July and August 1977. This report deals with activities during the month of September.

These reports are made to keep Members of Congress and the public informed of the progress of the investigation.

The investigation was ordered by House Resolution 252 adopted by the House on February 9, 1977, and is being conducted by a special staff under the direction of Special Counsel Leon Jaworski.

Since the beginning of the investigation, the committee has approved a total of 159 personal subpoenas, including 20 in September, and 194 subpoenas for the production of documents and other material, including 42 in September. Eleven requests for immunity from prosecution have been approved by the committee, subject to approval by U.S. district courts.

The special staff conducted 30 interviews with potential witnesses and took depositions from 15 others during September, for a total of 285 since the investigation began.

As of September 30, the committee had received 432 responses to questionnaires sent to 435 Members of the House and 257 responses from 279 former Members. Material gleaned from the responses has been most helpful in the committee's efforts to determine if there existed a pattern of attempts to influence the official conduct of Members.

The committee held three meetings during September, in addition to numerous informal conferences. Its relations with the Department of Justice and other agencies of the Executive Branch continue on a mutually cooperative basis.

As a result of the substantial progress made during September, the committee is able for the first time since the investigation began to sight a tentative date for the first of a series of public hearings.

Although the date on which hearings can begin is not definitely ascertainable, Special Counsel Jaworski has advised the committee that "every effort is being made to move this inquiry along as fast as practicable consistent with thoroughness and completeness" and the special staff is considering asking the committee to hold the initial public hearings not later than the end of October.

Special Counsel noted that efforts are being made to obtain the cooperation of the Republic of Korea in making available for questioning a key figure in the investigation, Mr. Tongsun Park. The committee has received full cooperation from the Secretary of State and the Attorney General in these efforts.

"The matters relating to Mr. Park and to other facets of South Korean cooperation boil down to this simple fact," Mr. Jaworski said. "A full exposure of the facts relevant to this investigation does not seem achievable without the unrestricted cooperation of South Korea. The scope of inquiry we now envision extends beyond the activities of Tongsun Park. There are indications that it may extend to the activities of other citizens of South Korea."

Mr. Jaworski's statement to the committee follows:

Since our last session several constructive and progressive efforts have materialized resulting in the obtaining of additional significant information pertinent to this inquiry. Although the details cannot be revealed at this time—for fear of adversely affecting our continued investigation—I can report that both documentary evidence and oral testimony have been obtained recently shedding further light on the ultimate determinations we seek.

The date on which hearings can begin is still not definitely ascertainable, but I assure you that every effort is being made to move this inquiry along as fast as practicable consistent with thoroughness and completeness. We are presently considering asking you to hold the initial round of public hearings by not later than the end of October.

Much has been printed in the news columns and carried over the airwaves about the possibility of my meeting with Tongsun Park. It should be reported to you that an invitation was in fact extended—as mentioned by dispatches from Seoul—for me to meet with Mr. Park. I saw no purpose in going there unless there were assurances that the talks with Mr. Park would be revealing and productive. No such assurances have been forthcoming and, unless they are, a trip to Seoul at this time could not be justified.

Our President has revealed his strong efforts to have Tongsun Park return to this country. We have been in touch with the Secretary of State and the Attorney General on developments in their areas of activity and have received full cooperation from both.

The matters relating to Mr. Park and to other facets of South Korean cooperation boil down to this simple fact. A full exposure of the facts relevant to this investigation does not seem achievable without the unrestricted cooperation of the government of South Korea. The scope of inquiry we now envision extends beyond the activities of Tongsun Park. There are indications that it may extend to the activities of other citizens of South Korea.

I wish to stress that this investigation in no sense is directed at the South Korean government itself, and that its policies are

not a target of our search. We recognize, of course, that it is the prerogative of that government to formulate its own policies and practices.

We recognize also that the adoption of a policy of full and unlimited cooperation by the South Korean government poses some possible problems to it. They may be political in nature and may even have international overtones. We are convinced, nevertheless, that as difficult as this needed cooperation may be for the South Korean government, the failure to cooperate may well result in the forming of a lack of confidence in the Korean leadership by the American people. It may cause the forming of a belief that the facts and involvements under investigation are worse than a revelation of the truth may disclose. Of even more concern to the South Korean government should be the feeling of the American people that it is quite incongruous for us to extend to another nation so much aid when reciprocal cooperation in this important investigation is not forthcoming. Watergate proved that the American people will accept no less than the truth—and I would think that the government of South Korea should not be oblivious to this historical fact.

The Speaker of the House has urged South Korea to give this Committee a full measure of cooperation and it would seem that this appeal should not be taken lightly.

On behalf of this distinguished Committee I should like to invoke the response of the American people. Do they wish to know the facts relevant to this investigation? If so, then let their views be made known to you as well as to your colleagues who today befriend the Republic of Korea with very substantial supporting grants. Our relationship, as I see it, should not be a one-way street and if unilateral attitudes are to spell the policy of the South Korean government, future requests it makes of our government could be affected thereby.

Let me emphasize that I shall continue to press this investigation until every avenue has been explored as thoroughly as possible. I shall take as much time as I need to do so. But, as I have indicated, the investigation may ultimately meet some dead ends and may result in only a partial effort unless the assistance of South Korea is forthcoming in making available material evidence. Such a result would be most unfortunate, especially inasmuch as this Committee would need to point to this lack of cooperation as the reason for an incomplete inquiry.

Mr. Chairman, and members of the Committee, in the meantime we will be reporting to you from time to time on further developments. We have a matter or two to take up with you in executive session.

MEDICARE REIMBURSEMENT FOR COMMUNICATIVE IMPAIRMENTS

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today I am introducing a bill to amend title XVIII of the Social Security Act to provide more comprehensive health care under medicare for persons with communicative impairments.

There are today 21 million Americans with some degree of communicative disorder. As many as 3.7 million are senior citizens who suffer significant communicative impairments.

Although speech pathology services are reimbursable under medicare, the prevailing reimbursement conditions deny recognition to the speech pathologist as a qualified medicare provider. There are five steps between provisions of service and final reimbursement to the speech pathologist. Each step requires administrative procedures which pad the Nation's medicare bill. In some instances, institutional middlemen not only skim the cream off the top, but take most of the milk too, charging the medicare program anywhere from 20 to 100 percent of professional charges for administrative costs. Some facilities have declined to accommodate the cumbersome administrative procedures involved in providing speech pathology services for medicare patients. There is a special irony in the fact that conditions for reimbursement designed to assure quality services can actually bar the medicare recipient from receiving any services at all.

Moreover, current medicare law inappropriately requires that speech pathology and audiology services be prescribed by a physician when, in fact, these services are provided by independent health professionals on a referral basis. In the absence of a medical specialty in speech, the physician-prescription requirement sets up a clumsy and expensive rubber-stamp procedure that results in the wasteful, nonproductive expenditure of Federal health care dollars.

The legislation I am proposing would create a new definition under section 1861(x) of the Social Security Act for communicative services. Speech pathology and audiology services could be provided by a medicare-certified facility or by an individual qualified practitioner upon referral by a physician. Such providers could offer speech pathology and audiology services.

To qualify as a medicare provider, the individual practitioner would be required to meet such other health and safety standards as the Secretary of HEW deemes necessary.

Such legislation would not add to the Nation's medicare bill. Instead of sending patients to expensive medical clinics and doctors, patients would be able to visit the much less expensive members of this allied health profession. This bill would in turn cut down, and not increase, the total medicare bill.

In addition to making speech pathology services more readily available and most cost effective, my bill would add a new component to the medicare program—aural rehabilitation services.

Medicare currently permits reimbursement for a hearing evaluation requested by a physician to aid in his medical diagnosis, but does not provide either the hearing aid or the audiological services that may be needed to ameliorate a hearing loss. The omission in the medicare program is difficult to understand in light of the fact that the Federal Government—through the Veterans' Administration, Rehabilitation Services Administration, Department of Defense, and the medicaid program—provides appropriate rehabilitative services for hearing-impaired beneficiaries.

The audiologist's academic training and clinical experience make him indispensable in assuring the highest quality hearing health care for the Nation's elderly. Since hearing-handicapped medicare beneficiaries are required to purchase their own hearing aids—at an average cost of $400—it is important that this purchase is accompanied by professional counseling to assure the instrument's most effective use. Competent audiological services are indispensable.

Finally, this legislation directs the HEW Secretary to conduct experiments and demonstrations to determine cost effective delivery systems for communicative services under the authority granted by the 1972 amendments.

We must seek to find new ways which will insure quality health care to America's communicatively handicapped. This bill lays the groundwork for developing new health care delivery approaches and insuring the availability of adequate qualified manpower to provide services to speech and hearing-impaired Americans.

H.R. 9413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Audiological Rehabilitation Amendments of 1977."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the ability to communicate effectively is a vital tool for the Nation's aged, blind, and disabled;

(2) 3,700,000 Americans who are age 65 or over have significant hearing losses;

(3) the most prevalent disability among such Americans is hearing impairment; and

(4) title XVIII of the Social Security Act does not now provide for the diagnosis, treatment, and rehabilitation of aged, blind, and disabled Americans with hearing disorders.

(b) The purpose of this Act is to provide diagnostic, treatment, and rehabilitative services of qualified audiologists for the Nation's aged, blind, and disabled and to consolidate and clarify the coverage of speech pathology and audiology services under Medicare.

REORGANIZATION OF HEALTH INSURANCE BENEFITS UNDER TITLE XVIII

SEC. 3. (a) Section 1814(a)(2)(D) of the Social Security Act is amended—

(1) by striking out "or speech therapy" and inserting in lieu thereof "therapy, or speech pathology or audiology services"; and

(2) by inserting after "and is periodically reviewed by a physician" the following: "and the health professional rendering such services, if other than the physician".

(b) Section 1815(a) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", subject to the conditions provided in section 1861(w)."

(c) Section 1835(a) of such Act is amended by striking out "and (e)" and inserting in lieu thereof "(e) and (f)".

(d) Section 1835(a)(2)(A)(i) of such Act is amended—

(1) by striking out "section 1861(m)(7)" and inserting in lieu thereof "section 1861(m)(8)"; and

(2) by striking out "or speech therapy" and inserting in lieu thereof "therapy, or speech pathology or audiology services.".

(e) Section 1835(a)(2)(B) of such Act is amended by striking out "and (D)" and inserting in lieu thereof "(D), and (E)".

(f) Section 1835(a)(2) of such Act is amended by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof a period, and by striking out subparagraph (D).

(g) Section 1835 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) Payment for services described in section 1861(x) furnished an individual may be made only to providers of services which are eligible therefor under section 1866, and only if (1) the provisions of subsection (a)(1) of this section are complied with, and (2) the physician, together with the speech pathologist or audiologist providing such services, certifies (and recertifies, where such services are furnished over a period of time, with such frequency as may be provided by regulations) that such services (A) are or were required by the individual, and (B) meet the requirements of section 1861(w).".

(h) Section 1861(h) of such Act is amended—

(1) by striking out ", occupational, or speech therapy" in paragraph (3) and inserting in lieu thereof "and occupational therapy";

(2) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) speech pathology or audiology services furnished by the skilled nursing facility or by others under arrangements with them made by the facility;". (i) Section 1861(m) of such Act is amended—

(1) by striking out in paragraph (2) "occupational, or speech" and inserting in lieu thereof "and occupational";

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8);

(3) by striking out "(7)" in the material preceding paragraph (1) and inserting in lieu thereof "(8)"; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) speech pathology and audiology services;"

(j) Section 1861(o)(2) of such Act is amended by striking out "or registered professional nurse" and inserting in lieu thereof ", registered professional nurse, or other qualified health professional".

(k) Section 1861(p) of such Act is amended by striking out the last sentence thereof.

(l) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C), and by inserting "and" at the end of subparagraph (D); and

(2) by inserting the following new subparagraph at the end thereof:

"(E) outpatient communicative services;".

(m) Section 1861(v)(5)(A) of such Act is amended by striking out "speech therapy services,".

(n) Section 1861(w)(1) of such Act is amended by inserting the following new sentence at the end thereof: "Where receipt of payment by the hospital, a skilled nursing facility, or home health agency is based upon services provided by an outside resource, such payment shall be specifically payable to such outside resource provider (under such regulations as the Secretary may determine), and not to general revenue funds of such hospital, skilled nursing facility, or home health agency.".

(o) Section 1861(x) of such Act is amended to read as follows:

"OUTPATIENT COMMUNICATIVE SERVICES

"(x) The term 'outpatient communicative services' means speech pathology and audiology services furnished by a provider of services, a clinic, rehabilitation agency, public health agency, or individual, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient upon referral by a physician, excluding, however—

"(1) any such services—

"(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

"(i) provides an adequate program of speech pathology and/or audiology services (including diagnostic and rehabilitative services) for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may by regulation specify,

"(ii) has policies, established by a group of professional personnel to govern the services it provides,

"(iii) maintains clinical records on all patients,

"(iv) if such clinic or agency is situated in a State in which State or applicable laws provide for the licensing of institutions of this nature and speech pathologists and audiologists, is licensed pursuant to such laws or is approved by such State or locality responsible for licensing such institutions or professions, as meeting the standards established for such licensing; and

"(v) meets such other conditions relating to the health and safety of individuals who are furnished services on an outpatient basis, as the Secretary may by regulation find necessary;

"(B) if furnished by a public health agency, or by others under arrangements with such public health agency, unless such agency meets the conditions prescribed by subparagraph (A)(v); or

"(C) if furnished by an individual, unless such individual meets the conditions prescribed by clauses (i), (iii), and (v) of subparagraph (A), and if such individual is situated in a State in which State or applicable law provides for the licensing of speech pathologists and audiologists, is licensed pursuant to such law or is approved by such State or locality responsible for licensing such professions, as meeting the standards established for such licensing; and

"(2) any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.".

(p) Section 1862(a)(7) of such Act is amended by striking out "or examinations therefor".

(q) Section 1866 of such Act is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section, the term 'provider of services' shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(x)(1)(A) or if, in the case of a public health agency, such agency meets the requirements of section 1861(x)(1)(B), but only with respect to the furnishing of outpatient communicative services (as therein defined).".

DEFINITIONS

SEC. 4. Section 1872 of the Social Security Act is amended by inserting after "of section 205" the following: ", and of subsections (h) and (i) of section 210".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall be effective with respect to payments for services provided during calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

WHERE WE STAND AT THE END OF SALT I

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, today is the deadline for the expiration of the Interim Agreement on Offensive Forces, the executive agreement signed in 1972 to provide a "temporary" limitation on strategic land-based ICBM silo construction and missile-launching submarine deployments, known as "SALT I" and it is important to assess our current position in these vital negotiations. The past 5 years have been characterized by often intense discussions with Soviet leaders on ways to arrive at a permanent agreement to supplant the 1972 accords. The first step in the process was the 1974 Vladivostok accords between President Ford and Secretary Brezhnev which was to establish a negotiating framework for the conclusion of a detailed permanent agreement. Since that time, the Soviets have stonewalled various approaches offered by the United States to break the deadlock, including the well-publicized offering of Secretary of State Vance during his visit to Moscow in March of this year.

The proposal offered by Secretary Vance in Moscow was hopeful in its direction if not its details, but was rejected by the Soviets out of hand. I have remained optimistic that the United States would insist upon a high quality agreement, namely one which would be symmetric in its impact on both parties, and fully verifiable by national technical means of verification.

My disappointment was severe following my review of the new proposals offered by the Carter administration to the Soviet Union with respect to SALT over the past 6 months. They are, I fear, an expression of the view that any agreement is better than no agreement. The consequences for American security for the balance of this century are grave if the Carter proposals were to be adopted. While the proposals are dense with detail, I will review a few of the most ominous elements.

CRUISE MISSILES

The President recently canceled production of the B–1 bomber on the grounds that we can replace the penetrating manned bomber with long-range cruise missiles launched from aircraft firing their missiles 300 miles from the Soviet coastline. To do so, cruise missiles must have a range of 2,000 to 2,500 miles in order to reach Soviet targets, most of which are located far inland, in contrast to targets within the United States. This requirement has recently been verified in a study by the Defense Science Board. In only a matter of days after the President made his announcement canceling the B–1 bomber, he reinforced his position on cruise missiles in the Strategic Arms Limitation Talks to limit the range of allowable cruise missiles to not more than 1,500 miles. Thus, the United States will be left with neither a bomber capable of penetrating Soviet air defenses, or a cruise missile with sufficient range to reach appropriate Soviet targets.

HEAVY ICBM'S

When the 1972 SALT accords were signed, the terms of the agreement defined two types of ICBM's, one a heavy ICBM with a payload of approximately 12,000 pounds, and the other a light ICBM with a payload of 1,500 pounds. The former category included only one type, the SS–9 with 313 deployed. The latter category consisted of several types, the SS–11 being the most numerous by far, with approximately 1,000 deployed by 1972. The significance of the payload measurement is that the larger the payload, the greater number of warheads the missile could ultimately deliver on a target. Thus, any increase in Soviet ICBM payload would increase their advantage over the United States. The Carter administration's July SALT proposal offers to permit the Soviets to deploy 190 SS–18 ICBM's, a new ICBM with a payload of as much as 18,000 pounds, while continuing with the deployment of the existing 123 SS–9's. This is a major retreat from the U.S. proposal advanced last March when the United States proposed that the Soviets be allowed no more than 150 of the "superheavy" SS–18's.

In addition, the Carter administration proposes to permit the Soviet deployment of a replacement for the SS–11 with a missile with a payload five times as great (7,500 pounds).

The Carter proposals in effect, permit the Soviets to deploy the 1972 equivalent of an additional 80 SS–9-type missiles, and an additional 5,000 SS–11 equivalent missiles when expressed in terms of payload.

The recent Carter-Gromyko conferences on SALT in Washington indicate that there may be an acceleration in the decay in the American position on heavy missiles; namely, that the Soviets will be permitted to deploy 200 or more of the SS–18 type—perhaps with no restriction at all when an agreement is eventually concluded. This dimension is particularly ominous for it undermines one of the fundamental objectives of SALT; to enhance the stability of the strategic balance. If the Soviet Union is permitted to deploy a land-based force with the throw weight implied by the very high heavy missile deployments allowed the Soviets under the terms of the proposed agreement, the direct threat to our land-based force is overwhelming.

The threat posed to our silo-based ICBM force cannot be mitigated by deployment of a mobile ICBM, thereby enhancing the survivability, and hence strategic stability, of the land-based force during the 3-year term of the protocol. As too often occurs in international politics, "nothing is so permanent as the temporary." Thus, SALT may become an instrument which poses a far greater threat to the deterrence of nuclear war than its absence. An international environment where American land-based strategic nuclear forces may become vulnerable to a Soviet first strike as a consequence of ill-advised arms control arrangements can only result in the early emergence of the very circumstances we have sought to avoid.

BACKFIRE

Information provided to the Congress clearly indicates that the Backfire has a substantial capability to attack targets in the United States, and is considerably larger than the FB–111H, the bomber proposed by the administration to replace the B–1 bomber. Yet, our SALT posture will not be counted as a strategic delivery vehicle under existing administration SALT proposals while our existing B–52 will have to be counted.

VERIFICATION

Appalling as the Carter retreat is on the terms of what strategic systems will be included in a future SALT agreement, and how they are to be counted is, perhaps the most dangerous aspect is the total abandonment of reasonable standards of verification of the terms of such an agreement. The list of unverifiable components of the U.S. proposal simply staggers belief. I will list a few of the conspicuous ones to provide a flavor of the relaxed view this administration has come to take with respect to the verifiability of an arms control agreement.

First. A ban on mobile ICBM's would be included, but the Soviet's mobile SS–20 missile with an intercontinental capability would not be included. Soviet "assurances" are sought that the missile is not capable of being employed in the ICBM role.

Second. The United States proposes that the Soviets limit development of their Backfire bomber away from the existing Arctic staging bases. It is not possible to verify that the bases cannot be used to support a Backfire deployment in time of war.

Third. The United States proposes that the Soviets not store spare ICM's near launch silos to inhibit their reload potential. We cannot verify that the Soviets have no reload potential.

Fourth. The United States proposes that the range of cruise missiles be limited to 1,550 nautical miles. Since cruise missile range is a function of engine fuel consumption rates, payload, fuel density, altitude of flight, speed, and a host of other factors which cannot be verified, the utility of this proposal as a means of controlling Soviet cruise missile evasion must be considered to be zero.

Fifth. The United States proposes to prohibit testing of cruise missiles capable of ground or sea launch with a range in excess of 400 nautical miles. Since cruise missiles can be satisfactorily tested at far less than their full range, this proposal is utterly unverifiable.

Sixth. The Carter administration has chosen not to abide by article 33 of the Arms Control Act of 1961 which requires congressional approval for any Presidental agreement with a foreign nation which limits American arms, by seeking to abide by the expiring SALT I agreement without formally negotiating a successor. The law clearly requires that the Congress be a participant in arms control negotiations, and when an executive agreement is involved, the House of Representatives must give their approval as well. It would be very bad policy indeed, if given the current climate among the SALT negotiators of increasing the tempo of offers to the Soviets in an effort to induce a quick agreement, the Congress was not consulted and its approval formally requested for any interim extension. Without some coherent rationale given by the President as to why the United States should take such grave risks with its future security by allowing the Soviets to obtain long-range preponderance in strategic arms, the administration risks outright rejection of its proposals when they are formally submitted to the Congress in the form of an agreement.

It is regrettable that the "agreement at any price" school of thought has dominated the bureaucratic infighting within the Carter administration, for a genuinely verifiable agreement that provides for equal security for both sides is in our interest. An agreement which provides for obvious Soviet strategic nuclear superiority in every numerical index which specialists believe is pertinent to the capability of a strategic nuclear force under a set of conditions which cannot be verified makes nuclear war in this century a fearsome, but real possibility. The increase in the risk of war is a self-inflicted wound by the arms control advisors close to the President. I urge the President to reconsider the offering of his latest set of SALT proposals in the interest of not only our national security, but world peace.

Mr. GOODLING. Mr. Speaker, now that administration has dropped the B–1 program, the cruise missile has become pivotal in our strategic planning.

The cruise missile has advantages—cheap—accurate—powerful—but it also needs adequate penetration capabilities which should not be negatively limited by a new SALT agreement.

Since the United States will probably not deploy the B–1, which has extremely good penetration capabilities, adequate cruise missile ranges, which allow for penetration of the Soviet Union, are necessary.

The United States will be using older B–52's as cruise missile platforms. These B–52's do not have the penetration capabilities of the B–1 thus the necessity for maintaining adequate cruise missile ranges (adequate ranges—2,500 km to 3,000 km).

Mr. SYMMS. Mr. Speaker, I would like to thank our colleague, Mr. KEMP, for bringing this matter to the attention of the House today. During the last 5 years that the SALT I accord has been in effect the United States has unilaterally refrained from deploying any new strategic weapon systems. President Carter canceled production of the B–1 strategic bomber with no reciprocal action by the Soviets. Yet, during this 5-year period the Soviet Union has accelerated the production and deployment of new ICBM's much larger than U.S. missiles and with hard-target counterforce capability.

In addition, the Secretary of Defense has recently confirmed publicly that the Soviets are developing a still newer generation of ICBM's for deployment in the early 1980's. Also, Mr. Speaker, it is rumored that the U.S. Intelligence Community now has evidence that the Soviet Union has achieved ICBM accuracies comparable to the U.S. Minuteman III. With their much greater payload capacity such accuracy gives the Soviets counterforce advantage over the United States at this time.

It is this present buildup of heavy Soviet ICBM's that poses the greatest threat to crisis stability in the world to-

day. For these reasons, Mr. Speaker, I join my colleagues in calling on President Carter to work toward a SALT agreement with the Soviets that will redress this emerging imbalance in strategic missile capability. I urge the President to reorder production of the B-1 bomber, accelerate development of the MX advanced ICBM, and improve the accuracies and yield of our submarine-launched missile warheads pending a drastic reduction in numbers of heavy ICBM's by the Soviet Union. There is simply no way, Mr. Speaker, that we can negotiate a helpful SALT agreement unless the President and his negotiators play really hard ball with the Russians. I know that President Carter would have the full support of the American people and the Congress in such tough negotiating tactics, contrary to the advice given him by liberal policymakers within his administration.

I would like to conclude my remarks today with an editorial from today's Wall Street Journal entitled "The Myth of Arms Control."

THE MYTH OF ARMS CONTROL

When the first strategic arms agreement was concluded back in 1972, we wrote that for the Soviet Union, "the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building." And as that agreement expires today, we look back on five years of a steadily mounting Soviet threat.

During this period of arms control, the Soviet Union expanded its missile submarine force by more than 60%, surging to 909 missiles from 560 while the U.S. remained constant at 656. To facilitate this surge within the terms of the agreement, the Soviets have retired a few land-based missiles, dropping their total to 1,477 from 1,530, while the U.S. remained constant at 1,054. The Soviet long-range bomber force is counted at 135 today compared to 140 five years ago, while the U.S. force has dropped to 441 from 552.

Out of SALT-I, we got the retirement of 53 obsolete Soviet missiles. This is the price we received for agreeing not to exploit the lead in antimissile technology we held in 1972. Our ABMs have now been deactivated, while the Soviets retain the older system they have around Moscow, and have expanded fixed air-defense missiles to 12,000 from 10,000.

As the agreement expires, further, the Soviet momentum shows anything but signs of slackening. They have only started to replace their land-based missiles with a more modern generation with multiple warheads and high accuracy. Defense Secretary Brown recently revealed that they have already started to develop four even newer missiles as follow-ons for the generation now going on line.

In addition they are deploying the mobile SS-20, a modern ballistic missile with ranges that threaten our European allies. The SS-20 is the top two stages of the intercontinental SS-16 and could easily be upgraded into a mobile intercontinental missile. The Soviets have upgraded their conventional forces in Europe and their navy. They are steadily deploying their new Backfire bomber, insisting it is not a strategic weapon though it could reach the U.S. In any event, the Backfire is a potent threat to Europe.

The U.S. force shows nothing like the same across-the-board surge. Measured in constant dollars, the U.S. defense effort fell through most of the five-year period, and has only now started to revive. Still, its force was improved in significant ways during the interim agreement. The most important development was the introduction of more multiple warheads for both land and sea forces. This has allowed the U.S. to retain a sizeable lead, 11,000 to 3,800, in deliverable warheads. This advantage is so far only partly offset by the larger size of Soviet missiles and warheads, but it will shrink as multiple warheads are installed on more Soviet missiles.

The U.S. also retains several technological advantages. It continues to lead in warhead accuracy. It is building its new Trident submarine, though the B1 bomber has been killed. The U.S. is developing a new mobile intercontinental missile, the MX. Its most promising development is the subsonic but highly accurate cruise missile. The cruise missile will be needed if the U.S. bomber fleet ever has to penetrate the heavy Soviet air defense. It will be even more important as a tactical weapon, wtih either nuclear or conventional warheads. In particular, the cruise missile is the answer to the threat of the SS-20 and the Backfire in the European theater.

This, then, is the balance at the expiration of SALT-I's interim agreement on offensive weapons; the defensive treaty against ABMs goes on in perpetuity. However optimistically or pessimistically one judges the current balance, it is a balance struck by the fears and ambitions, resources and will, of the two sides. It is hard to discern where SALT-I made more than a marginal difference, except perhaps in delaying U.S. recognition of the true magnitude of the Soviet arms-building thrust.

This experience begs to be recognized as we negotiate in SALT-II. In retrospect, the 1972 negotiations are best seen as a Soviet drive to stop U.S. ABM technology. The negotiations today are best seen as a Soviet drive to stop U.S. cruise missile technology. If they can constrain cruise missiles through SALT, this affects the cost-benefit calculations for the entire cruise missile program. If the constraints are tight enough the entire program could die, as the ABM did, for budgetary reasons. If this ever happens we had better get a lot more in return than 53 obsolete ICBMs. In the wake of President Carter's decision to kill the B1, the cruise missile weighs much heavier in the strategic balance. Beyond that, there are two particular problems with limiting it by treaty.

The first is the European theater. The cruise missile is the key to reinvigorating the NATO alliance, though other steps are also needed. Under the treaty the Soviets want, land-based cruise missiles would be limited to a range of 600 kilometers, and we could not circumvent this by selling the technology to our allies. But the SS-20 would not be limited, though its range is some 4,000 kilometers. Our allies' subsonic weapons could not reach Russia, though they will be under the guns of ballistic missiles based there. Are we then to ask them to do more for the joint NATO effort?

The second problem is the impossibility of detecting Soviet cheating on any cruise-missile limits. We have had enough trouble monitoring their behavior under the SALT-I treaty, which concerned large and mostly stationary objects. The cruise missile is small and mobile. Range limits are particularly ludicrous, since range essentially depends on how much gas you put in the tank. The Soviets have large numbers of cruise missiles already deployed, and there will be no way to tell if the crucial guidance technology is installed in them. If a treaty limits the cruise missile, the only safe assumption is that the Soviets will have the weapon and we will not.

Yet such a crippling treaty, to judge from our experience in watching these negotiations, is by no means out of the question. Indeed, our experience makes us especially nervous when we hear optimistic talk about SALT from a President who badly needs a foreign-policy spectacular to obscure domestic political reverses.

There is driving force, as well, in the myth that arms control is the only route to safety in a nuclear world. With the offensive-arms agreement expiring today, the world will be no more or less dangerous tomorrow. Safety is maintained by a stable military balance, which treaties can impede as well as enhance. As we read the lessons of SALT-I, a safe military balance will depend only marginally on negotiated agreements. With a treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

Mr. FINDLEY. Mr. Speaker, 5 years after the conclusion of the Interim Executive Agreement on Offensive Arms, the question has to be faced as to whether SALT is truly a process for assuring real strategic stability or whether, instead, it has become a mechanism by which the Soviets are able to constrain important U.S. force improvements while accepting only the most cosmetic restrictions themselves.

It is important to recollect that the interim agreement of 1972 was itself demonstrably asymmetrical in favor of the forces of the Soviet Union. The Soviets were permitted to deploy 1,600 land based ICBM's in comparison to our 1,052, and 62 missile firing submarines to our 41. Most important, the Soviets were permitted a more than 4:1 advantage in missile payload, an advantage that gives them the capability to eventually target larger numbers of independent warheads against our land based missile systems.

This kind of numerical inferiority was argued to be at least partially justifiable for the following reasons:

First, it was said to enable us to set in motion an arms control process that would bear richer fruit in days to come; second, it was said that U.S. technological superiority would be able to compensate for the Soviet advantage in numbers through the years covered by the interim agreement; and third, it was asserted that any follow-on agreement would be made only on the basis of genuine equality in terms of numbers and capability.

Today, however, the United States seems to be negotiating largely with itself and negotiating more and more away from terms that would bring the kind of meaningful stability which we had been pledged. In particular, we seem to have completely backed away from our insistence on constraints over Soviet heavy missile systems. We seem to be prepared to accept the most superficial constraints on the Soviet Backfire system. And, finally, we seem prepared to place disabling range constraints on the cruise missile, our most promising new technology and one with enormous potential for reversing the military imbalance in the European theater.

These constraints on range are harmful for many reasons:

First, they reduce U.S. flexibility; second, they favor the Soviets who have deep inland targets; and third, they are largely unverifiable.

It is clear that if SALT is to gain the support of the Congress and the American people, its terms will have to provide for genuine security and not just the appearance of such. Moreover, it is important that the Congress be involved in

this process and, indeed, involved continuously. We have a vital role to play in assuring that the technical arrangements worked out by our arms control negotiators comport well with prudence and commonsense. We dare not abdicate that role.

Mrs. HOLT. Mr. Speaker, today marks the expiration of SALT I—the 5-year interim agreement designed to test the waters for a permanent agreement on the limitation of strategic arms between our country and the Soviet Union.

Since the 1972 agreement, the Soviets have gone out of their way to breach our faith and violate the spirit, if not the actual letter, of the agreement. Rapid advancements in Soviet military technology have contributed to a full-scale arms build-up in that country that rivals anything in modern times.

While this escalation has been going on in the Soviet Union, our own adherence to the full letter of the agreement has severely weakened our military strength. In fact, it has weakened us to the point where any agreement poses a direct threat to our national security.

For example, the interim agreement permitted the Soviets to deploy 1,600 land-based intercontinental ballistic missiles to our 1,052 ICBM's, and further permitted the Soviets to deploy 62 missile-firing submarines to our 41. The one-sided character of the agreement is further evident when we take into consideration that the Soviets have a 4-to-1 advantage in the payload capacity of ballistic missiles, and advantages that could be converted into a 4-to-1 preponderance in the number of total warheads as the Soviets continued to catch up to us in nuclear weapons capacity.

Now it is time to reconsider the strategic arms limitation talks, and I think we must take this opportunity to reevaluate past mistakes and prevent future disadvantages due to our own failings at the negotiating table. If the Soviets are to build up their arsenals, then so be it. I am confident American technology can meet and surpass any challenge offered by the Soviet Union. Let us not tie our hands with one-way restrictions, however, that permit the Soviets to increase their arsenals while we are bound to limiting ours.

Any agreement that permits the Soviets to build more and superior nuclear submarines is certainly questionable. As a final example, the Soviets recently completed construction of their 65th modern submarine, but since these new subs have not been deployed for sea trials, they are technically not in violation of the SALT agreements. However, what many people fail to realize is that most of these submarines are of the new DELTA class, with many capable of firing multiple warhead missiles at a range of over 5,000 nautical miles, which is more than enough for these missiles to reach American targets without ever leaving port.

Let us keep our past mistakes and the past violations of the Soviets in mind as we consider the future of the SALT talks. This is not some diplomatic game we are playing. It involves the security of our Nation, and our place in the power structure of world politics. I refuse to see the technological and military superiority that generations of Americans have worked and died for negotiated away, and I will not allow our Nation's future to be decided by the whims of SALT negotiators. Let us approach these negotiations with caution, and if we commit ourselves, let us take a hard line, with no concessions to the Soviet Union.

Mr. Speaker, finally, it is important that we keep open our dialog with the Soviets. However, we must indeed be very, very wary because we are dealing with masters of sophistry and negotiatory cunning.

Mr. WINN. Mr. Speaker, we all support a sound, verifiable SALT agreement, an agreement that can make a contribution to our national security and serve the interests of people in the Soviet Union as well. Given the importance and complexity of such an agreement, it makes good sense, therefore, that the Carter administration conduct the negotiations carefully and not be rushed by an artificial deadline.

In light of this need for continuing, persistent negotiation, I see nothing wrong with our extending the restrictions of the SALT interim agreement, which expired on October 3. The key feature of the interim agreement is to prohibit the deployment of additional silo-based ICBM's, a worthwhile restriction to maintain.

However, I am totally in disagreement with the way in which the Carter administration is trying to carry out the extension of the interim agreement. We have been reading reports that the Russians would have been willing to reach an agreement for an extension, but that the Carter administration assiduously sought to avoid an agreed extension. Instead, the administration arranged with the Russians for each side to declare that it would continue to abide by the interim agreement as long as the other side does. The sole purpose of this curious procedure, evidently, was to circumvent the law, and thus avoid the requirement for congressional action. This is no way to do business between the legislative and executive branch.

Section 33 of the Arms Control and Disarmament Act requires, of course, that no action will be taken that will obligate the United States to limit the Armed Forces or armaments of the United States except pursuant to the treatymaking power of the President or unless authorized by further affirmative legislation by the Congress. The administration has chosen the subterfuge of separate United States and Soviet declarations to circumvent this sensible, simple legal requirement.

Such deliberate circumvention is not only an affront to the congressional process, but it also makes the present situation far less stable. The administration now argues that we are not "obligated" by these parallel United States-Soviet statements to adhere to the limitations of the interim agreement. The administration makes this argument in order to sustain its claim that the Arms Control and Disarmament Act does not apply to that current sitution.

But if we argue that the United States is not "obligated" to observe the interim agreement, then we cannot argue that the Soviet Union is obligated. Hence, we would have no solid ground for complaining should the Russians begin to violate the provisions of the interim agreement.

Thus, the administration, with this foolish strategem, not only undermined its relationship with the Congress, it also undermined the stability of our strategic arms relationship with the Soviet Union.

GENERAL LEAVE

Mr. MARRIOTT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of the special order taken today by the gentleman from New York (Mr. KEMP).

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 29 and part of September 30, 1977, I was absent from the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 607. H.R. 6566: ERDA national security authorization. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 608. H.R. 6566: ERDA national security authorization. The House rejected the Weiss amendment that sought to prohibit the use of any funds for production, procurement, or deployment of any enhanced radiation weapon or for the research, development, test, or evaluation of such weapon, "no";

Rollcall No. 609. H.R. 6566: ERDA national security authorization. The House passed the measure to authorize appropriations for the use of ERDA for fiscal year 1978 for national security programs, "yes";

Rollcall No. 610. H.R. 9019: Budget rescission. The House passed the measure to rescind certain budget authority contained in the message of the President of July 19, 1977, "yes";

Rollcall No. 611. H.R. 7010: Compensation for victims of crime. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 612. H.R. 7010: Compensation for victims of crime. The House rejected the Railsback amendment in the nature of a substitute that sought to limit Federal payments to the elderly, and sought to require State programs to have offender restitution provisions, "yes"; and

Rollcall No. 613. Journal: The House approved the Journal of Thursday, September 29, "no."

ENERGY TRANSPORTATION SECURITY ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 30 minutes.

Mr. TRIBLE. Mr. Speaker, later this week the House is scheduled to consider the Energy Transportation Security Act of 1977. I rise and speak today in support of this important legislation.

As a citizen, as the Representative of the First District of Virginia, and as a member of the House Merchant Marine and Fisheries Committee and House Armed Services Committee, I am conconcerned about the state of the U.S-flag merchant fleet. The U.S.-flag Merchant Marine is in a state of decline. We must take action to reverse this trend.

American flag shipping, by total volume, is carrying less than 6 percent of all U.S. foreign trade and commerce. In 1975, U.S.-flag carriers transported 5.1 percent of all U.S. waterborne cargo, compared with 6.5 percent in 1974 and a 10-year average of 5.6 percent. With respect to tanker movements, American flag vessels participated to the extent of 4.6 percent. The comparable figure for 1976 was 3.5—3.5 percent. Carriage of bulk commodities by U.S.-flag ships was even worse—1.4 percent.

The Declaration of Maritime policy as annunciated in the Merchant Marine Act of 1936, and amended by the Merchant Marine Act of 1970—the law of the land if you will—provides that:

> It is necessary for the national defense and development of foreign and domestic commerce that the United States have a Merchant Marine, (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce to the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (b) capable of service as a naval and military auxiliary in a time of war or national emergency; (c) owned and operated under the United States flag by citizens of the United States insofar as may be practicable; (d) composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (e) supplemented by efficient facilities for shipbuilding and ship repair.

This declaration of legislative purpose represents a reaffirmation and continuation of policies and statutes dating back to the foundation of the Republic and to the First Continental Congress. Despite differences in approach and method, for two centuries, American maritime policy has been grounded on the following premises:

First. That an adequate merchant fleet is an indispensable defense asset vital to national security;

Second. That it is far less costly for the Government to maintain that asset by providing incentives to a privately owned fleet, part or most of the most of which is recovered through commercial trade, than for the Government to directly build and own vessels and employ their crews on a stand-by basis;

Third. That the U.S. Merchant fleet provides protection and benefits to U.S. commerce; and

Fourth. That construction and operation of the fleet results in economic benefits such as jobs, balance of payments, savings, and increased tax revenues.

In general, there has been broad agreement on the underlying premises of American maritime policy. Authorities from the earliest years of the Republic support this policy.

In 1793, Thomas Jefferson wrote:

> As a branch of industry (our navigation) is valuable, but as a resource of defense essential . . . but it is as a resource of defense that our navigation will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their land board, and nothing to desire beyond their present rights. But on their seaboard they are open to injury, and they have there, too, a commerce which must be protected. This can only be done by possessing a respectable body of citizen seamen and of artisan and establishments in readiness for shipbuilding.

In 1944, Dwight D. Eisenhower said:

> When final victory is ours, there is no organization that will share its credit more deservedly than the American Merchant Marine.
>
> We were caught flat-footed in both world wars because we relied too much upon foreign-owned and operated shipping to carry our cargoes abroad and to bring critically needed supplies to this country.
>
> America's industrial prosperity and military security both demand that we maintain a privately operated Merchant Marine adequate in size and of modern design to insure that our lines of supply for either peace or war will be safe.
>
> I consider the Merchant Marine to be our fourth arm of defense and vital to the stability and expansion of our foreign trades.

The core of our 1970 maritime program was the 10-year program to construct 300 new merchant vessels intended to substantively modernize and revitalize this country's dry cargo and bulk fleets. The vessel construction program is seriously behind schedule in meeting the 10-year goal established. This lag is of serious concern and has important national security and national interest implications. At more than the half-way point in the program, only 66 new vessels have been contracted for construction. Of this 66, only 36 vessels have been completed and delivered. Funds requested by the President, and authorized and appropriated by an overwhelming majority of Congress, remain unspent, and the program has clearly lost its momentum.

The chief cause for the delay in this program implementation is the lack of cargo for the U.S. Merchant Marine. I am absolutely convinced that a key factor in arresting the decline of the U.S.-flag merchant fleet and initiating a move in the opposite direction toward a strong and viable U.S.-flag maritime capability is a strong cargo policy which embodies some form of cargo equity. To this end I have vigorously supported the cargo preference bill.

Cargo preference is not a new concept. It is a subject that has been considered extensively by past Congresses. In the 92d Congress, a cargo preference bill was defeated in the Senate by a narrow margin. In the 93d Congress, 226 Members of Congress sponsored cargo preference legislation. The measure passed both the House and Senate but was pocket vetoed by former President Ford. There was very little action on cargo preference legislation during the 94th Congress because its supporters preferred to wait for a change in administration.

The proposed Energy Transportation Security Act of 1977 would provide that the Secretary of Commerce take "such steps as are necessary to assure that 4½ percent of all oil imported into the country be transported on privately owned U.S.-flag vessels and that this percentage shall be increased 1 percent each fiscal year that by September 30, 1982, 9½ percent of all imported oil shall be transported on privately owned U.S.-flag commercial vessels. Such a quota is to be available only when U.S. vessels are available at "fair and reasonable rates." Vessels which may qualify to carry the preference cargo must be U.S.-flag registry, be crewed by American citizens, and be within their economic lives (that is, not over 25 years old). Further, their owners must have entered into an agreement with the Secretary to replace the vessels at the end of their economic lives. This provision is to insure that the fleet created will be replaced and modernized regularly. Foreign-built vessels cannot qualify to carry preference cargo.

Why is this legislation necessary? Certainly there are important national security interests that dictate our efforts to revitalize our merchant marine fleet.

In the mid-1960's, the necessity of the merchant fleet for national defense came under renewed scrutiny. There were those who believed that larger, faster aircraft would bear the brunt of the military logistic burden in future conflicts.

Ironically, within months the department of defense was scrambling to secure merchant shipping capability and was scurrying to break moth-balled World War II built merchant vessels out of the national defense reserve fleet for Vietnam operations. Ultimately, logistical and cost considerations resulted in the U.S.-flag vessels being called on to transport 96 per centum of the armaments, supplies and logistic support moving to the Vietnam theater of operations.

The most recent lessons on the importance of self-reliance and seapower occurred as a result of the October 1973 war in the Middle East. The war itself, this country's inability to supply its allies in that war through its network of overseas bases, the economic blockade of this country by oil-producing nations, the assertion of sovereignty by a flag of convenience nation which ordered "its ships" not to supply this country's ally, were all events that clearly demonstrated once again, the importance to this Nation's security of a seapower capability unequivocably under its own exclusive control.

This country's long commitment to the merchant marine as a vital arm of national defense, and its continuing lessons of the validity of this proposition, cannot in any measure lead to a sense of complacency. In fact, recent developments have convinced me that the time has come for action.

Every citizen must be concerned with the rapidly increasing strength of Soviet seapower. The Soviet Union, geographically and historically a land power, has undertaken an ambitious buildup of its navy and its merchant marine. While potentially troublesome in itself, this buildup is doubly troublesome in view of the continued decline in both U.S. naval vessel strength and U.S. merchant marine vessel strength. Since the passage of the 1970 act, the United States has been surpassed by the Soviet Union as a merchant seapower at least in terms of numbers of vessels.

Between 1965 and the end of 1977, the Soviet merchant fleet grew from 990 vessels of 8 million DWT to 1,655 vessels of 15,353,000 DWT: a 67-percent increase in the number of vessels and a 92-percent increase in tonnage; 1975 saw the Soviet fleet increase by 972,000 DWT while the U.S. fleet increased by 582,000 DWT. During the same year, the number of Soviet vessels increased by 46 to 2,404 while the privately owned U.S. fleet decreased by 3 to 580.

There are other important reasons to support cargo equity. Clearly the national economy would be greatly stimulated.

What, for example, would be the effect of cargo equity on the creation of useful jobs in the private sector for American citizens? Substantial would be my response. The tanker building program inherent in reaching and maintaining a goal of 9½ percent carriage of U.S. oil imports in U.S.-flag, U.S.-built ships by 1983 would involve a substantial capital outlay for ship construction and would in the process involve thousands of man-years of employment for U.S. shipyard workers. But that is only part of the story: using the multiplier effect, a significant number of jobs would be generated in ship component manufacturing, related industries, and supporting services. Including increased employment for seagoing labor, the impact on the gross national product, measured by accepted economic criteria, could be even greater.

This program would have other important economic impacts which contribute to national economic strength and stability. During an era in which the United States is going to be importing increasing amounts of high-priced foreign energy supplies, the balance of payments contributions of the maritime program are significant. Moreover, tax revenues would be generated because the U.S. Government has far greater taxing power over U.S.-flag ships than it does over foreign or flag-of-convenience ships.

There are other benefits as well. The environment is an important concern to those of us that live in Virginia where we depend on the Chesapeake Bay, our rivers and creeks, for food, jobs, transportation, and recreation. All Americans are concerned about the integrity of our marine environment. We must do all we can to protect and preserve the quality of this environment and prevent catastrophies such as oil spills. Our ability to promote better tanker safety standards for all vessels operating in U.S. navigable waters will be greatly enhanced by the enactment of cargo preference legislation. The U.S.-flag vessels which would be built under its provisions would be safer, better manned, and operated with higher equipment and construction standards.

You might also ask, and properly so, what will be the cost of cargo carriage? Because of changing relative inflation rates, resulting economic conditions, corresponding currency fluctuations, and the world's shipping recession, I doubt very much if anyone, expert or clairvoyant, can predict future foreign or domestic shipbuilding prices or shipping rates with any degree of confidence.

According to the General Accounting Office (GAO), the cost of 9.5 percent oil cargo preference as of 1985 may be as high as $550 million a year if 8 million barrels/day are imported, or $610 million if imports rise to 10 million barrels/day. Department of Commerce (DOC) estimates of 1985 cargo preference costs at these import levels are, respectively $110 million/year and $170 million/year. DOC has reviewed its estimates in light of the GAO report on cargo preference costs, and finds no basis for revising them. This position reflects the following considerations.

The GAO estimates include transportation cost increments of $240 million and $300 million at the respective import levels. To these values, which are directly comparable with the DOC estimates of $110 million and $170 million, GAO would add $310 million attributed to a possible increase in the price of domestic oil. DOC reasons for rejecting these GAO estimates are as follows:

The GAO estimate has not been corrected to exclude past subsidized U.S. ship construction costs. The subsidized element of U.S. ship costs must be excluded because it will have to be excluded in the calculation of the "fair and reasonable" freight rates allowable to U.S. operators under the provision of the cargo preference legislation. This factor alone accounts for $64 million of the GAO transportation cost estimate of $240 million at the 8 million barrel/day import level and for $71 million of the $300 million GAO estimate for imports of 10 million barrels/day.

The second area of overstatement in the GAO estimate reflects an assumption that DOC will deliberately incorporate "excess profits" in fair and reasonable rates allowed to U.S.-flag operators in the preference trade. DOC will not do this, and has so testified. However, GAO has assumed that DOC will sanction rates 10 percent above fully allocated costs that already include a 10-percent capital recovery factor. This excess profit allowance accounts for $46 million of the GAO estimate for 8 million barrels/day and for $59 million in the 10 million barrels/day case.

The third major area of variance between the GAO and DOC estimates reflects the capital valuation procedure used in the development of the GAO estimates. Under generally accepted U.S. accounting practice the book value, reflecting original acquisition cost, is used in determining capital value. The DOC estimate is based on this valuation procedure, and hence reflects pre-1975 acquisition costs for most ships likely to be involved in preference trades at 9.5 percent. In the derivation of the GAO estimate, on the other hand, capital values were placed at a level approximating 1977 ship costs. The exact impact of this GAO approach is difficult to ascertain, but it must necessarily involve an overstatement in relation to actual acquisition costs.

Considering the above aspects of the GAO approach, it appears that appropriate corrections to the GAO estimates of transportation costs attributable to 9.5 cargo preference would reduce the $240 million assigned to an import level of 8 million barrels/day to something less that $130 million (that is, 240—64—46—indeterminate escalation factors=less than 130). A similar adjustment to the $300 million estimate for 10 million barrels/day yields something less than $170 million (that is, 300—71—59—indeterminate escalation factor=less than 170).

The assumption by GAO that domestic oil prices would increase by $310 million, given their estimate of the transportation cost increase attributable to 9.5 percent cargo preference, reflects an implicit assumption that domestic oil prices would be free to respond to minor variations in the delivered price of imports. However, domestic oil prices do not float freely. They are subject to comprehensive Federal regulation at the present time, and would continue to be regulated under proposed energy legislation. It appears highly unlikely that the oil industry would be permitted to increase domestic oil prices simply because of a marginal increase in the delivered cost of less than 10 percent of U.S. oil imports. It should also be noted that the $310 million increase as estimated by GAO is a direct reflection of an overstated estimate of the transportation cost increment. With appropriate adjustments to the transportation cost, the hypothetical domestic price impact would be reduced approximately by half. It is the DOC position that the GAO estimate of cargo preference's potential effect on domestic oil prices is: (A) overstated, and (B) unlikely to occur because it is unnecessary and readily preventable under existing procedures.

I think the Department of Commerce's estimate of cost is close to the mark. Certainly cargo preference will cost the American consumer more money. However, the national security, employment, balance of payments, tax and marine environment benefits that will naturally result from the use of U.S.-flag tankers will offset this cost.

In summary I believe we must begin to be more self-absorbed in our approach to maritime problems and policy related matters. I believe that this legislation is important and vital to the future of the American maritime industry and the best interests of the United States. I urge my colleagues to support the Energy Transportation Security Act of 1977.

AMENDMENTS TO H.R. 8410

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, tomorrow the House will debate H.R. 8410, the Labor Reform Act of 1977. I believe that many of the problems in the earlier version, H.R. 77, have been corrected, and I hope to be able to support passage of the bill. The idea of providing a degree of certainty an equitable procedures in the Federal labor law structure seems to me to be imminently fair.

However, it is also my belief that the bill can be improved even further and for that reason I will offer the following amendments to do just that when H.R. 8410 is considered.

AMENDMENTS TO BE OFFERED TO H.R. 8410 BY CONGRESSMAN TOM RAILSBACK

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18;

Page 20, line 15, strike out "fifteen" and insert in lieu thereof "thirty", and page 21, line 1, strike out "fifteen" and insert in lieu thereof "thirty";

Page 17, line 23, strike out "twenty-one" and insert in lieu thereof "forty-five";

Page 21, line 24, insert after the word "election" a period, and strike the following language, beginning with "Provided", through page 22, line 2;

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole";

Page 24, line 17, insert the following new sentence after "Secretary of Labor.": "Such order may be reviewed pursuant to subsections (f) and (g).";

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.";

Page 26, line 9, insert before the coma "in the same or similar industries";

Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following:

A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.

NATIONAL EDUCATIONAL OPPORTUNITIES ACT

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, the time has come when we consider busing on its merits rather than as a symbol. The great majority of whites have long since accepted the idea that segregation is wrong. Even in the Deep South there is hardly such a thing as an all-white school and little feeling that there should be. One need no longer defend busing as a symbolic way of defending an integrated society. That battle has been won. The question now is not of goals but the wisest choice of means to achieve those goals.

What is the actual effect busing has on the prospects of children in school?

Does it reinforce segregation in large cities? Will it make integration in the future more difficult to achieve?

Are there better ways to accomplish the two goals it is supposed to achieve: Improving the quality of education of black children, and promoting the establishment of an integrated society in which race will no longer be a major consideration?

Recent actions of the House and Senate clearly show a majority wishes to take some action, but the action taken so far has been through the technique of amendments to money bills. This is not only a bad way to go about solving the problem, with no hearings or expert testimony, but it has also proven totally futile in results. Time and again Congress has prohibited the use of Federal funds to pay for busing, but Federal courts have ruled that this does not absolve the cities of the obligation to integrate schools by busing.

We must address these questions in a more basic way, through the full hearing process. As the Washington Star editorialized:

> Congress should stop nibbling at the edges of the problem and find a solution the country can live with.

Representatives HAMILTON and UDALL have joined me in introducing a bill which approaches the problem in this comprehensive way. It does not mandate an answer by forbidding the courts to order busing. We must recognize that this is impossible under our constitutional system.

Nor does this bill suggest that we must await integration through evolution—better incomes for blacks, better housing, fair zoning laws, and so forth, which will be too slow. As Manny Celler used to say, "In the land of never-never we come eventually to the street of by-and-by." We must make progress.

Busing may remain necessary in some situations. But we know now that it is clearly not a good solution. To replace it, we must, first, make far greater use of other methods of school integration; and second, upgrade the education of black pupils in the inner city to speed the otherwise slow process of bringing them into the middle class. Of course, third, we must always seek racial harmony beyond the schools and thus ease the tensions that have made school desegreation a volatile issue.

The third point is beyond the scope of this bill, but the bill does address points one and two.

The heart of the bill lies in gradual integration, without Federal coercion, through the use of alternatives to busing. Such alternatives will appear only when the reins of education control are handed back to local officials. Otherwise, embittered communities will continue to watch from the sidelines as the courts administer clumsy and drastic remedies to their educational ailments.

Community involvement and community control would become a reality if local school districts were to take a hard, organized look at their problems and then devise a comprehensive 5-year plan for improvement. Such a plan would be more than a simple desegregation scheme. It would necessarily include methods to reduce racial concentrations, but it would also seek to improve the educational process as a whole.

No one knows the answer to our educational problems, although several new approaches have been tried. This is all the more reason why local communities should use their own ingenuity in developing ways to meet their particular educational needs. Supervision by HEW would still be necessary but meticulous bureaucratic scrutiny would cease and the initiative for planning would shift to local school districts. More importantly, there is every reason to believe that school districts in the process of charting their own educational course will be viewed differently by Federal judges who so often in the past have had only a choice of either issuing a busing decree or seeing nothing done.

This is the approach taken in this bill, the National Educational Opportunities Act. It would require each State to submit a plan by January 31, 1979, to carry out the objectives of the act; that is, to improve and equalize educational opportunities throughout the Nation and to alleviate racial isolation. Federal financial assistance would vary not only in accordance with the population of a State, but also in accordance with the number of minority families.

Plans would be reviewable annually and would be geared to achieve their objectives in 5 years. Acceptable plans would include one or more of such features as "magnet schools," which are designed to improve the education of blacks and also attract more whites. These magnet schools would be staffed with some of the best teachers and given an exciting, innovative curriculum. Another alternative is the building of new schools on the border between black and white neighborhoods to make integration possible without busing. The list of alternatives suggested in the bill is not exclusive. The purpose is to stimulate thinking across the land about alternatives, rather than sitting back and leaving it to the courts.

Integration of some of our inner city schools may be impossible, whether with busing or alternatives to busing. Nevertheless, we must upgrade the education of these pupils. The bill deals with this problem by requiring "equalization of resources" among schools in a district in eight very specific ways, such as pupil-teacher ratio, class size, school building and materials, teacher quality and textbooks.

The bill also addresses the racial concentration problem through the important "majority transfer" provision. This gives a student a right at the beginning of the school year to transfer from a school in which his race is in a majority to a school in which his race is in a minority, with transportation furnished. It would allow any student to transfer voluntarily to any school where this would improve the racial balance. Since such transfers are voluntary, they would not "generate the fear-spawned opposition that busing has generated," in William Raspberry's phrase. This would entail some restrictions: whites could not move from black schools to white schools, and the move could not increase racial imbalance.

The bill is based on one drafted by the late Alexander Bickel, an outstanding authority on constitutional law at Yale Law School. The bill may not be the final answer, but we hope it will serve to begin a full-scale discussion on how best to achieve equal educational opportunities in this country.

Better schooling for blacks offers the best way of breaking the vicious cycle of segregation in housing, leading to segregation in schools, then to segregation on the job and a permanent black underclass. This better schooling can be achieved without lowering the quality of education generally if we plan intelligently. The stakes for all sides are high—peace in the community and a fair shot at a quality education for each student.

NINETIETH BIRTHDAY SERMON BY REV. DR. FRANK RHOAD OF DELMAR, N.Y.

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 10 minutes.

Mr. STRATTON. Mr. Speaker, on September 18, the Reverend Dr. Frank Rhoad, now of Delmar, N.Y., and pastor emeritus of the Second Presbyterian Church of Amsterdam, N.Y., was honored in the Second Presbyterian Church with a special service on the occasion of his 90th birthday. At that service Dr. Rhoad preached the sermon from the same pulpit from which he had preached regularly for 36 years as pastor of the Amsterdam church until his retirement about 20 years ago.

Even at the age of 90, Dr. Rhoad is as alive, as alert, as vital, as full of wit and wisdom, as a man 30 years younger. He held the congregation spellbound for 20 minutes longer than the ordinary period allotted for a Sunday sermon—no mean feat, I might add, in this impatient day and age.

Most impressive of all, Mr. Speaker, was the fact that Dr. Rhoad's sermon was a genuine masterpiece, full of sage observations on a life of dedicated service that has already stretched over nine decades, yet well attuned to the realities of today. Because it contained such a profound message, I believe Dr. Rhoad's sermon will be of great interest to my colleagues, and therefore, under leave to extend my remarks, I include the full text of that sermon.

The sermon follows:

REFLECTIONS AND PROSPECTS AT 90: A VALEDICTORY SERMON BY REV. FRANK TILGHMAN RHOAD, D.D.

(Delivered on the occasion of the celebration of his 90th birthday anniversary and the 67th year of his ordination to the Christian Ministry at Second Presbyterian Church, Amsterdam, N.Y., September 18, 1977)

(The sermon is dedicated to my son, Frank, Jr., and his wife Ruth, my grandson, Ronald, and my 3 great grandchildren, David, Robert and Karen. To you . . . "I throw the torch of faith. Be yours to hold it high.")

REFLECTIONS AND PROSPECTS AT 90

Text—Hebrews 12:27.

I make to tremble, not the earth only, but the heavens. In this final shaking, all that is impermanent shall be removed, only the unshakable things will remain.

We are observing today the 90th anniversary of my birth, and the 67th year of my ordination to the Christian ministry. Surely it is much more than an occasion of personal gratification. It is a sign of the amazing grace of God, and the miracle and mystery of human life. Think of it! Within every one of us, there is a pump, the human heart that pumps unceasingly, night and day, lifting 125,000 gallons of blood a year, and so quietly the doctor has to listen with a stethoscope.

From the day you were born 'til now, think of all the "bugs" that have been out to get you and the arrows of outrageous circumstance that aimed to fell you. All of us are miracles of the Creative Wisdom of God.

We are age conscious. Whenever you fill out an application blank for this or that, there is asked the impertinent question, "How old are you?" Age is more than the chronology of the Calendar, and the hardening of the arteries. "We live in deeds. Not years. Not in figures on a dial."

Age has more than the one dimension of length of years. Age has also the dimensions of height, breadth, and depth.

The intent of all life is growth. I plant a tender plant in my garden to the end that it may blossom, mature and bear fruit.

What is the breadth of your life? What is the range of your interests and your points of contact with other people? What are your sympathies and appreciations?

What is the depth of your life? There are people who have no depth of conviction. No basic principles of action. Their lives are shallow and rudderless.

The psychologist speaks of infantile fixation and arrested development. Some people never grow up. A baby is the most beautiful thing in the world, but a baby in an adult body is a tragedy. A flapper at 18 is a normalcy, at 40 it is a monstrosity.

In the 5th chapter of Hebrews, a contrast is made between an immature Christian who has just learned his ABC's, requires a milk diet, and cannot take solid food, with a spiritual adult, who has power to discriminate between what is good, and what is bad.

How much have you grown since you were engrafted into Christ?

Spiritual growth is affected by our social environment, and the cultural changes that inevitably take place in society. And how we respond to these changes, determines character, and our outlook on life.

A distinctive mark of the present times is rapid change in every area of life. Change is one of the certainties of life. Nothing is because it was.

How evident this is in the physical world. From time immemorial, the mountains erode and are washed into the sea. The sea in an angry mood belches forth in volcanic rage and islands are born.

We are living in one of the most historic and picturesque valleys in the entire country. At the close of the Glacial Age, 25,000 years ago the Creator was getting the Mohawk Valley ready for you and me. The Mohawk River was the chief drainage of the glaciers that fed the great inland seas, such as prehistoric Lake Albany, that stretched as far west as Rotterdam, as far north as Saratoga and as far east as Albany.

The Labradorian ice sheets crept stealthily southward, and crashed over the plateau at Little Falls, cut through the rocks at Big Nose and made the Mohawk River a rushing mighty torrent.

Amsterdam in its brief history of 175 years changed from a pioneer agricultural village, to an industrial center, to clothe and carpet the nation. And what next, no one knows!

If a modern Rip Van Winkle had taken a nap for 20 years, and came back today to his old haunts in Amsterdam, he would be lost and confused. When I came back after an intermission of only a few months, I was bewildered with the "one way" streets, and the amazing real estate developments.

And yet "Old Second" stands proudly in the midst of it all.

We are living in a time of great social and political change. Social customs hoary with age are crumbling. In the last 50 years, in Africa 49 nations, at least, have gained their status, and are struggling to find their place in the Sun.

When my brother George went to Kenya Colony, about 75 years ago, it was a jungle something like our Western Country in the early days. He went as a servant of Jesus Christ preaching and healing in his name. Today Nairobi, where he labored, is a great metropolitan city and Kenya is a great center of African culture. My brother and his wife Nellie lie buried there. From the ashes of the graves of many pioneer missionaries who have passed to their reward, rise phoenix-like the pillars of a Christian civilization yet to be.

The discoveries and insights of Science are changing the world.

There are more scientists in the world today that the sum total of all the scientists that have ever lived hitherto.

Science is performing wonders in biological research. There is great concern today about "genetic engineering" and controlled experiments in DNA research.

In our materialistic age, it is so perilously easy to assume that only the body is real and that every human ill can be cured with a pill or a knife. There is a tendency to debase man to the animal level and reduce human behavior to a chemical reaction to stimuli.

When you saturate a generation with the philosophy of biological determination, and the idea that we are only chemical mechanisms and chattering animals, then you will get animal behavior. When the spiritual nature of man is ignored, then man reverts to the ethics of the jungle and barnyard. That is what is happening!

But we know better. Hidden somewhere within the biological wheels is the "Soul," transcendent to the body, and made in the image of God.

God has set eternity in our hearts. God has made us like unto His own nature. We can think God's thoughts after Him. We have an imagination that can elude the body, and wonder afar in distant lands. We have a conscience. And when conscience whispers, we hear the overtones of a world invisible. The Soul is more than body-brain. The Soul uses the body-brain as an instrument whereby we humans have business with God.

The psychologist makes much of the subconscious mind. It is the powerhouse of human behavior. In it are generated the riotous impulses of human nature.

Compounded as we are of animal and spiritual, there is waged within us, and in the world without, ceaseless warfare between the claws and the wings.

The world is a great arena in which this battle between good and evil is being waged. Science is giving man unprecedented power. It has knit the world together into a neighborhood, and whether it will end in a murderous brawl, or a beloved community depends on how the released power is used. Science has produced an atomic bomb that could blast this earth into smithereens. Arthur Compton, Nobel Prize Winner in Physics, exclaims, "Science has created such a world in which Christianity is imperative."

Our attention has been called recently to the character and service of Dr. Wernher von Braun. As a teen-age lad he watched the stars and dreamt of space exploration. At his confimation, he received a gift of a telescope. He would spend hours with it in reverie. He said, "I had a romantic urge to soar the heavens, and explore the mysterious universe." With the collapse of Nazism, he came to America and became the author of our rocket system of defense.

The paradox of the dualism of human nature for man, half-angel and half-devil, is expressed in his own words, "We designed the rocket to blaze the trail to other planets and not to destroy our own earth."

To have peace of mind and soul there must come into our lives a Master Passion to quell the riot within, unify our lives, cleanse us from an oppressive guilt, release us from our sins and set us free.

There is needed a quickening of our spiritual natures. This is what happens when by faith we accept Christ as the Saviour and Master of our lives.

Intimacy with Jesus is a transforming friendship. We become a new person and we live in a new world.

Being "born again" is not an outworn dogma as some regard it, only applicable to immoral prodigals. Too often, it is associated with the gutter, a sawdust trail or a sudden dramatic emotional experience.

Conversion is a fact of experience. Jesus said, "You must be born again." It is a necessary imperative to realize the spiritual potentiality of life.

In another context, Jesus placed a child in the midst of the disciples and remarked, "Except you be converted and become as little children you shall not enter into the Kingdom of heaven."

In that statement there is a suggestion of growth and development and a clear implication that Jesus thought of conversion as a normal experience of an unfolding life.

Horace Bushnell of a former generation maintained we should expect our children to grow up as Christians and never know anything else. He did not say that children did not need conversion. But it should be a normal development of the maturing life as the physical development and mental awakening of adolescence.

If there is love, reverence, and attractive goodness in the home, the second birth of the child is as normal as the first birth.

Fortunate are those who have come from such homes.

I would have a word with the young people who are here this morning. What a glorious thing it is to be young with life unfulfilled ahead of you, and to live in a day of opportunity such as this.

God has endowed the least of you with magnificent potentialities that await awakening. Many of you are members of a church and have taken the name of Christ, but have not yet completely experienced or realized the implications of a total commitment to Jesus Christ as Saviour and Master of your life.

In your search of God's plan for you, the world will be of little help. We are in a world of revolution and society is slipping its halter. We are a sex obsessed generation, and things that are intimate and sacred, are being made common and vulgar.

The home is the basic unit of society and a moral laxity is weakening its foundations.

Discipline is still the cost of achievement.

I saw a group of young black men, recently perform a most difficult feat. They were playing a game of basketball on one wheel cycles. Someone asked them how much time they spent on practice. They replied, 5 hours a day! The way to anything worthwhile is hard and narrow.

How apt and timely are the words of Jesus, "Go in through the narrow gate, because the gate to hell is wide and the road that leads to it is easy, and there are many who travel it. But the gate to life is narrow, and the way that leads to it is hard and there are few people who find it." Matt. 7:13, 14.

There is no more beautiful thing in life than a home that is love motivated. Such a home is not a donation given by the minister or priest at the marriage altar. It is a priceless achievement for which you must pay the cost of loyalty, devotion and sacrifice. The young woman or man who does not deny himself for a Christian home will be forever denied a Christian home.

Amid the tumult of a rapidly changing world, in our skeptical moments we ask, "Is there anything left to cling to? Is there anything that will survive the tempests of time, and the destructive passions of man?"

The words of our text are the promise of divine assurance. They were inspired of God to give courage to a persecuted and hopeless people in the first century.

And the promise is still valid for God's people today. "I shake the earth that only the unshakable things remain."

The Church of Jesus Christ is one of those unshakable things. In a bewildered age, the church stands amid the rubble of a changing world. Our Faith has worn out many hammers.

It survived the condescension of the Greek scholars, the bitter persecution of the Roman Emperors, the blight of the Dark Ages. And it will survive the assaults of modern secularism. "The gates of hell will not prevail against it," Jesus assures us.

We fully recognize the visible Church has its blemishes. The treasure of the gospel is carried, as the apostle Paul so aptly puts it, in a common earthen jar, and the jar is often marred and nicked by the frailty and stupidity of persons such as we are. In spite of the blemishes God is in the Church as He is in no other institution.

The charter of the Church does not read that the Church is to be a stabilizer of the status quo. It is to be a mediator of reconciliation between God and Man and Man with Man. The cardinal task of the Church is to preach the good news of the Kingdom of God, which was the earthly passion of Christ for which He gave His life upon the Cross.

The Church is not only fire insurance, to help us escape from the wrath to come and assure us safe passage to Heaven.

Much, much more so, it is to get more of heaven down to earth. That is the gist of the social gospel. Luke 4:18.

In this insecure world, St. Paul came to the conclusion there are three virtues that have survival value—Faith—Hope—Love.

Hope is essential to life. When hope has gone, there is nothing to live for.

A distinctive mark of modern science is the spirit of expectancy. Men of science are expecting greater things tomorrow than anything known today.

In laboratories all over the world are groups of eager men expecting some new discovery.

This same mood of expectancy was the dynamic of the Apostolic Church. Some time ago a noted British scholar wrote a book entitled, "The Lost Radiance." The early church was radiant with a great hope. And, he felt the contemporary church had lost its radiance, and its passion for the souls of men and women.

Maranatha was a common word among those early Christians. It means, literally translated—"The Lord Cometh." When a Christian met another Christian the greeting was Maranatha. When he wrote a letter to a friend he would conclude it with Maranatha. It was a slogan, the soldiers of Jesus Christ repeated as they went forth to the conquest of the world.

The apostolic Church was fired with a great Hope in the imminent Second Coming of Christ, and His Sovereignty in the world.

Now we know their time schedule was off and they were mistaken about the manner of His coming.

The core of that expectancy has never been nullified. The Holy Spirit is working mightily in world affairs today, "A Power outside ourselves that makes for righteousness," and we believe Christ in God's time, is ultimately destined to rule this world.

Another imperishable thing is Love. There are counterfeits to be sure. But true love never fails. It stands by when everyone else walks out.

Love is creative. Love builds. Hate and lust only destroy.

Love is the oldest thing in the world. A short time ago, there was excavated from ancient ruins in Egypt the mummy of a little girl. She held in her arms her favorite doll. Thousands of years ago little girls loved their dolls as they do today.

Our earthly loves are broken reflections of the Divine Love that surpasses all knowledge. The Love of God our Father in heaven is not altogether unlike the love of all good mothers and fathers on earth.

A noted philosopher once said, "If I had only one question to ask the Sphinx it would be, 'Is the universe friendly?' "

God's Word assuredly answers, God loves you. Both the Old Testament and New Testament answer with one voice.

I have loved you with an everlasting Love, and with loving kindness have I drawn you. Jeremiah 3:3.

God so loved the world, that He gave His Only Begotten Son, that whosoever believes in Him, shall not perish, but have everlasting life. John 3: 16.

Today, the acids of modernity are bleaching out the Love of God, until it means little more than a sweet amiability. To say that God is Love means to many people that He is benevolent, good-natured and easy-going. He is the Man Upstairs to be chatted with, and Someone you can call on when you get in a pinch. The Love of God is infinitely more than that.

Love without Justice is mushiness. And Justice without Mercy has no power to move the stubborn heart of man.

Nowhere does the mystery of God's Love come in such clear focus, as when we stand before the Cross on Calvary. The Cross is a symbol of God's Undiscourageable Love and His Immeasurable Grace. It is also a symbol of the stupid and stubborn wickedness of erring man.

When I came to this parish in 1921, the text of my first sermon was, "I am determined not to know anything among you, save Jesus Christ and Him crucified." 1 Cor. 2:2. It was my conviction then. It is my song now. Christ died for you and rose again to assure you of eternal life.

God loves you.

"Oh the Love that drew salvation's plan
Oh the Love that brought it down to man
Oh, the mighty gulf that God did span
At Calvary."

On this occasion, I have an humbling consciousness of the unearned contribution others have made to the enrichment of my life. I have a deep appreciation of the strengthening fellowship of friends in Albany Presbytery throughout the years. I have cherished memories of the love, devotion and loyalty of members of this church. Many have entered into their eternal reward and look down upon us this morning from the high places of eternity.

I want to thank the laymen and laywomen of this church who helped to make possible this celebration. I wish to express my sincere gratitude for the considerate thoughtfulness and gracious courtesy extended to me by your pastor, George Rack and his family in these recent years.

Marie and I with our 10-year-old-son, Frank Jr., came to this church over 50 years ago with all the eagerness of youth. We gave it all we had. And God prospered us in the partnership.

Now I am standing on the portals of eternity. If I could get another pair of legs, I wouldn't mind staying around for a little while, and see what is coming next.

I am a Christian optimist and am rejoicing in hope. True, there is gigantic evil in the world and the wicked spread themselves like a green bay tree. There is also massive good in the world and there are millions who have not bowed their knee to Baal. Dear Brown of Yale aptly put it, "I do not believe that the Lord God Almighty has cut out for Himself a piece of work which will prove too hard for Him."

One of these days, you will read in the press or hear over the radio that I have changed my place of residence and made the Great Adventure. I have no fear. God's word assures us, "They who put their trust in Jesus shall not be made ashamed." Romans 9:33.

Death will be life's Great Commencement. Promoted from the primary department of life's limitations to the celestial university of learning, heaven will be a place of growth and expansion. Every noble thing nourished here will find full expression there.

Death will be a thrilling family reunion of those who died in the faith, "whom we have loved and lost awhile."

We share with St. Paul the great expectation of a magnificient future that Our Heavenly Father has prepared for those who love Him.

We are heirs of God and joint heirs with Jesus Christ. What an inheritance!

A STATEMENT OF APPRECIATION ON BEHALF OF JOHNSTOWN, PA.

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 30 minutes.

Mr. MURTHA. Mr. Speaker, during the night of July 19 and into the morning of the following day flood waters hit Johnstown with devastating and tragic effect for the third time in less than a century.

In 1889, there were 2,000 people killed when an aging, decrepit dam broke sending water rushing through the streets of Johnstown. In 1936, on Memorial Day, water again inundated the city following a heavy rainfall. Water marks remain on downtown buildings to this day. No lives were lost, but there was millions of dollars in property damage.

On July 19, 1977, unsuspecting inhabitants of eight counties in western Pennsylvania went to bed, some never to rise again. As high as 11.8 inches of rain fell in the flood area; six dams burst, 75 persons died and at least $300 million in property damage was suffered.

In the prior two floods there was very little governmental assistance. Municipalities, counties, and the State government raised limited funds and coupled this with assistance from volunteers while the Red Cross and the Salvation Army helped and the National Guard provided security.

In sharp contrast, under the 1974 Disaster Relief Act, there was, in 1977, a dramatic, comprehensive coordinated response. State and Federal employees were prepared and trained to take charge of a program that would afford municipalities affected up to 100 percent reimbursement of rehabilitation costs.

One stop emergency centers were in operation within 3 days, to offer help to individuals from agencies involved in flood relief. I first learned about the flood while lecturing at Quantico to a Reserve officers group. President Carter dispatched one of his helicopters and I flew back to the Johnstown area. Over an eight-county area an estimated 7,375 families were affected. More than 400 homes were totally destroyed; 1,456 homes suffered major flood damage while 4,391 homes suffered minor damage; 119 mobile homes were totally destroyed; 59 mobile homes suffered minor flood damage; and 343 small businesses were destroyed or suffered major damage.

The flood waters began rising around midnight and rose without interruption until 6 a.m., when the water crested. I was on the ground in Johnstown by noon. At that time the National Guard had been mobilized and security was being provided by local personnel working with National Guardsmen assigned to prevent looting. Also, distribution centers for food were being set up. Gov. Milton Shapp had flown into the area. Senator JOHN HEINZ had flown over the disaster area and he and the Governor joined me in a briefing which included the mayor of Johnstown, the State Civil Defense director and the commander of the National Guard. A command center was set up at the Cambria County Airport to coordinate Federal and State activities relative to the emergency.

Two hours after I landed a team of HUD officials, complemented by officials from the State Department of Community Affairs, went into the flood area to do a windshield survey of the devastation to get an estimate of the damage. (The Corps of Engineers had a representative in the command center on the first day. Monsignor Baroni, Deputy Secretary of HUD, flew in during the initial stages of the recovery to assess what aid was necessary from HUD.)

U.S. Senator HEINZ suggested that news film taken by the local televison station WJAC–TV, Johnstown, be flown back to Washington. Later, he and U.S. Senator RICHARD SCHWEIKER together with a member of my staff presented this to the White House so that Mr. Carter could recognize the extent of damage suffered and make an expeditious declaration of official disaster.

Governor Shapp signed the request to the President asking that the eight-county area be declared a disaster and eligible for relief under the Federal Disaster Relief Act of 1974. On the morning of July 21, President Carter signed the declaration of disaster. This timely action was essential in the initial stages so that a coordinated effort could be initiated without delay.

No time was lost in handling this very tragic and traumatic situation. Federal and State officials acted with professional expertise, enthusiasm, and dedication. By July 24, a one-stop center manned by State and Federal officials was established; it remained in operation for the next 45 days while State and Federal employees worked tirelessly in implementing the disaster relief program enacted by Congress.

There was only one telephone line at the command center, therefore, it was necessary to relay information across town. This situation, which persisted for several weeks, made it difficult to coordinate recovery activity.

In the initial emergency, feeding people became a top priority. Some 100,000 persons were initially affected by the flood. The first week as high as 50,000 people per day relied on emergency feeding centers established by churches, fire companies, and many other volunteer organizations.

Emergency provisions were established so that 55,000 persons without water and food were able to have access to basic services and supplies. Municipalities were notified that under the Disaster Relief Act they could operate emergency facilities and the costs would be reimbursed by the Federal Government. It was only necessary to keep accurate records of their activities.

Naturally, there was confusion during the early stages, but I do not believe there could have been better handling of this difficult and complex situation. The cooperation at the Federal and State level was absolutely phenomenal. Everything that was available under the law was expeditiously dispatched within the affected eight-county area. For 45 days these men and women worked 15 to 18 hours a day to bring order and assistance where it was so desperately needed. Over 800 Federal employees together with 3,000 State employees were actively engaged at the height of the disaster assistance operation.

The purpose of this speech is to report to the Members of Congress on the situation in the flood-damaged section of Pennsylvania and how it was responded to by Federal and State agencies. This disaster provided a true test of the programs specifically designed for such occasions. I must commend the Federal Disaster Assistance Administration and the several State and Federal agencies involved for an outstanding job. In my estimation the Federal disaster relief legislation we passed in 1974 has proven to be a most humane and effective enactment.

I would hasten to add, however, that the valuable work done by volunteers and service organizations, cannot and should not be minimized. I wish at this moment, however, to give proper recog-

nition to the Federal and State agencies involved in the implementation of the Federal Disaster Relief Act of 1974. Herewith is a summary of these activities:

Mr. Richard Sanderson was assigned the Federal Coordinator for the disaster and it was he who implemented several new ideas to better facilitate uniting the federal resources with the affected disaster victims.

Many federal liaison officers were assigned to facilitate communication to officials of local and state municipalities with the various Federal disaster recovery agencies. This allowed immediate answers to questions and was found to alleviate confusion with the large number of agencies and programs involved. Twenty citizen community outreach meetings were conducted throughout the affected area and I attended most of these meetings.

They concentrated on finding who had been to the one-stop centers, what information had been given and what services had been provided. The first meeting was conducted within the hardest hit area of the flood where the most people had been killed. The church where it was held was overflowing, people were standing outside listening through the open windows.

These meetings where conducted over a 30 days period and, at the last one I attended, there were only ten persons which indicated to me that the one-stop centers were working.

Knowledgeable representatives from the Federal Coordinator's staff, HUD, and the Individual and Family Grants program attended the "citizen town meetings" to explain their respective program and answer questions.

Follow-up meetings are being conducted in the same areas to insure that every affected individual has the opportunity to secure in-depth answers to any questions.

In addition to the one-stop service centers the Federal Coordinating Officer established Follow-Up Assistance Service Teams to allow persons to bring their applications and receive individual help in completing them.

This disaster resulted in generating many volunteer and non-government organizations offering assistance to the affected individuals. The FCO assigned a coordinator for this group to help alleviate duplication of services and also to assist in public information distribution. This coordination has allowed the disaster affected individuals to maximize all the available volunteer services to their fullest extent.

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Beginning Wednesday, July 21, the FDAA office was in constant telephone communication with Governor Shapp's office. The deputy director and public assistance officer departed from the regional office at 6:30 a.m. Thusday for Johnstown.

Once in the area, a fly-over was conducted to survey the damage and then coordination began with the State and other Federal agencies regarding the damage to municipalities' streams, rivers, schools, roads, bridges public buildings and utilities.

Applicant briefings were scheduled with each municipality to explain eligibility criteria and to coordinate clean-up efforts.

ACTION

Action provided a total of 50 volunteers through the VISTA program. These volunteers performed disaster work ranging from actual assistance in the clean-up of homes to assisting with federal coordination of the disaster assistance center and out-reach activities.

DEPARTMENT OF JUSTICE

It is felt that special recognition should be given in this disaster situation to the efforts of the Regional Community Services Division of the U.S. Department of Justice. Their role in the recovery effort was especially important because of the large number of ethnic groups represented in this area.

With the authority of the Department of Justice to deal with discrimination-type cases and with the experience of that office in dealing with volatile and emergency situations, a special and needed form of communication was made available both to the Federal Coordinating Officer and to the affected individuals.

The office was especially valuable in identifying those individuals who needed special attention and leaders within the community that were instrumental in communicating valid information concerning the disaster relief assistance.

DEPARTMENT OF DEFENSE

The Department of Defense responded to this disaster in its normal highly responsive manner. The Federal Coordinating Officer and FDAA were able to depend upon immediate response to requirements placed upon military for air support, communications, bailey bridges and other resources of the military unavailable or inaccessible through other means. Efficient coordination was enhanced by the presence of the Military Liaison Officer, Col. George Woods and his staff.

INTERNAL REVENUE SERVICE

The IRS program assists disaster victims to write off casualty losses on their 1976 tax returns. They anticipate counseling over 10,500 individuals. The IRS is hand-processing each amended return to expedite cash flow to the affected applicants. This process has cut the time to three weeks.

DEPARTMENT OF LABOR

DOL, through the State Department of Employment Security, is expected to pay an estimated six million dollars to persons who have lost employment as a result of the disaster and who are not covered by the regular Unemployment Compensation program.

DOL also should be commended for its initiation of a $1.4 million CETA program in the Johnstown area.

DOL's quick response allowed immediate employment opportunities in an area whose unemployment rate rose drastically in a very short time.

SMALL BUSINESS ADMINISTRATION

The reduction in interest rates was of significant importance to the affected citizens. SBA expects to loan $33,700,000 in home and personal loans and $55,400,000 in business loans.

The most important addition to the disaster operations for SBA was the presence of a treasury disbursing agent to cut checks. This procedure has reduced the turn around time from the normal 10 working days to 1. This allows the affected applicant to have money to begin repairs and rebuilding almost immediately. It also serves to stimulate the local economy.

INDIVIDUAL AND FAMILY GRANTS

This program provides grants up to $5,000 for necessary expenses or serious needs caused by the disaster which cannot be met through other means. The State provides 5% of the funding and FDAA, through the President's Disaster Relief Fund, provides the remaining 75%. The Federal share is expected to total $11,250,000.

In this instance, the federal government advanced the entire 100% so the program could begin operating without delay.

GENERAL SERVICE ADMINISTRATION

GSA was responsible for providing space, equipment and communications and transportation to the FCO staff, FDAA regional HUD, SBA and other agencies.

Special recognition is due to GSA for their accomplishments in securing emergency office space in the Johnstown area for FCO, FDAA, HUD, SBA and other agencies in view of the fact that the Johnstown area suffered severe utility damage and that there were no existing federal resources in the area. These agencies were fully operational with an extensive telephone service and transportation system within 7–10 days after the disaster.

UNITED STATES DEPARTMENT OF AGRICULTURE

USDA's food stamp program expects to expend 2.9 million dollars to disaster affected people.

Farmers Home Administration lowered interest rates to complement the SBA rates. In the affected counties many farmers suffered losses. This lower interest rate allowed many affected farmers the same financial benefit as the businessman.

SOIL CONSERVATION SERVICES

SCS took an active role in assisting the flooded area. They were advanced 4.1 million dollars from the President's Disaster Relief Fund. They accelerated their normal contracting procedures to facilitate immediate stream restoration and stabilization for the benefit of the victims and to prevent future flooding.

COMMUNITY SERVICE AGENCY

CSA was instrumental in providing community outreach to the affected citizens via transportation of people to disaster assistance centers to make application to the necessary agencies.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The department expects to spend 1.9 million dollars in restoration of the public elementary and secondary schools. Coordinating with the local school districts, the affected students were given latitude in beginning school until temporarily housed in group sites. Every effort was made to provide transportation to the students to return them to the same school they last attended.

FEDERAL HIGHWAYS

The repair of roads on the federal aid system FHWA estimates spending 23 million dollars for work to be performed by the Pennsylvania Department of Transportation.

This work, coordinated by former State Secretary of Transportaion, Jacob Kassab, was phenomenal. As a volunteer, an unpaid adviser to the transportation department, he coordinated the extensive bidding procedures that were required and was instrumental in securing expeditious rehabilitating programs.

CORPS OF ENGINEERS

The Corps has participated in several ways. First, under Public Law 84–99, the Corps estimates spending 2.3 million dollars in flood control repairs and 1.8 million dollars in channelization of rivers. With the coordination of FDAA Region 3, the Corps was instrumental under the President's Disaster Relief Fund, in debris removal in the City of Johnstown.

The estimated cost from the President's Disaster Relief Fund is 2.8 million dollars. The Corps also has been given total responsibility for design and development of all the group mobile home sites. Again this expense is borne by the President's Disaster Relief Fund. The first group site was ready for occupancy 30 days after the flood. The other sites followed closely behind.

The Corps of Engineers deserves special recognition. They were on the job early. They provided the professional expertise during the initial clean-up which was essential to prevent outbreaks of disease which could have been caused by some of the citizenry eating some of the vast amount of spoiled foods which had accumulated from the flood but which had not been removed from city streets.

Their work in opening roads, providing initial emergency services were vital to the initial rehabilitation.

Colonel Max R. Janairo, Jr. of the district office in Pittsburgh, and Ralph Weise the project coordinator, deserve special recognition for their work in this operation.

HUD

HUD has implemented several new ideas to make sure their programs are completely understood.

An Elderly coordinator has been established to assess the special needs of this section of affected citizens and to coordinate with all the agencies to ensure their needs were met.

An outreach system was developed to communicate with the local government officials throughout the disaster area.

A hotline was established to ensure answers to questions of concerned victims were handled in a timely manner. Secretary Harris took a special interest in this disaster operation. She emphasized the fact that President Carter was insisting that the federal employees provide every assistance priority to the victims and that housing be reestablished as quickly as possible. The efforts of the individuals working for HUD has been magnificent.

The procedures followed have helped alleviate many of the traumatic effects that are normally associated with a disaster of this type. The fact that their response was enthusiastic and compassionate indicated to the people that they were, in fact, being helped by their own tax dollars. The fact that people's homes are being restored as quickly as possible or, if their homes were destroyed, that they were provided temporary housing close to their original homesite, mitigates to a significant degree the trauma attached to such disasters. Hundreds of HUD officials worked tirelessly to insure that homes were repaired adequately and quickly and that mobile home sites were filled in the shortest possible time.

ENVIRONMENTAL PROTECTION AGENCY

EPA was in the disaster area early to locate, contain and dispose of any oil or hazardous materials. EPA expended an estimated 200,000 dollars in this effort.

APPRECIATION

There were many problems that have caused untold agonies for the citizens affected by this tragic disaster. The members of Congress can be pleased that the Federal officials who responded to this emergency were experts, dedicated and low-key. They showed a compassion which is in the highest example of Federal service and the finest traditions of humanitarian principles.

All of us living in the affected area appreciate the 1974 act and offer our heartfelt thanks to President Carter—Gov. Shapp and all the Federal and State employees who helped during our time of need.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes. If I had been present, I would have voted as indicated:

JULY 11, 1977

Rollcall 403, "yes,"
Rollcall 404, "yes."
Rollcall 405, "yes."

JULY 20, 1977

Rollcall 442, "yes."

JULY 21, 1977

Rollcall 446, "yes."

AUGUST 1, 1977

Roll call 487, "yes."

SEPTEMBER 12, 1977

Rollcall 541, "yes."
Rollcall 542, "yes."
Rollcall 542, "yes."

SEPTEMBER 15, 1977

Rollcall 545, "yes."

SEPTEMBER 19, 1977

Rollcall 561, "no."
Rollcall 562, "no."
Rollcall 563, "yes."
Rollcall 564, "no."
Rollcall 565, "yes."
Rollcall 566, "yes."

SEPTEMBER 22, 1977

Rollcall 577, "yes."

PERSONAL EXPLANATION

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. McCLORY. Mr. Speaker, during my excused absence from Washington last week on official business as a delegate to the Interparliamentary Union Conference, a vote occurred on the Labor/HEW appropriations bill. Notwithstanding my request to the contrary, I was incorrectly paired in favor of the Senate modification of the so-called Hyde amendment.

I have expressed opposition to the Senate version and, if present, I would have voted against the motion to concur in the Senate language with which I am in unqualified disagreement.

The Republican pairing clerk, Walter P. Kennedy, has noted this error and it is my understanding that my correct position will be reflected in the final version of the CONGRESSIONAL RECORD.

Mr. Speaker, let me state further that I continue in support of the Hyde amendment to the HEW bill with only such minor modifications which would reflect my overall position that Federal funds should not be used to perform abortions except under the most extenuating circumstances as where the life of the mother is in danger or under conditions of similar gravity.

Let me repeat that if I had been personally present on September 27 I would have voted "no" on rollcall vote No. 594, against the adoption of House Resolution 780.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MARLENEE (at the request of Mr. RHODES), for the week of October 3, on account of a death in the family.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. DORNAN (at the request of Mr. RHODES), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 1 hour, today.
Mr. SARASIN, for 5 minutes, today.
Mr. TRIBLE, for 30 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. QUIE, for 30 minutes, today.
Mr. ASHBROOK, for 30 minutes, today.
Mr. ERLENBORN, for 30 minutes, today.
Mr. EDWARDS of Oklahoma, for 30 minutes today.

(The following Members (at the request of Mr. GUDGER) to revise and extend their remarks and include extraneous material:)

Mr. RANGEL, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. STRATTON, for 10 minutes, today.
Mr. MURTHA, for 30 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. BENJAMIN, for 60 minutes, October 4, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RYAN, to include remarks following vote on H.R. 6951.

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous material:)

Mr. CARTER in three instances.
Mr. SARASIN.
Mr. CUNNINGHAM.
Mr. WHALEN.
Mr. COLLINS of Texas in two instances.
Mr. HAGEDORN in two instances.
Mr. RHODES.
Mr. DICKINSON.
Mr. SHUSTER in two instances.
Mr. REGULA.
Mr. BOB WILSON in three instances.
Mr. MCKINNEY.
Mr. MOORHEAD of California.
Mr. HYDE.
Mr. ASHBROOK.

(The following Members (at the request of Mr. GUDGER) and to include extraneous matter:)

Mr. HEFTEL in five instances.
Mr. BYRON in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. SISK in two instances.
Mrs. LLOYD of Tennessee in five instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.
Mr. HAMILTON in 10 instances.
Mr. DRINAN.
Mr. MONTGOMERY.
Mr. SOLARZ.
Mr. MAZZOLI.
Mr. JENKINS.
Mr. HOLLAND in three instances.
Mr. FORD of Michigan.
Mr. TEAGUE.
Ms. MIKULSKI.
Mr. OTTINGER.
Mr. PERKINS.
Mr. JOHN BURTON.
Mr. BAUCUS in two instances.
Mr. SIMON in three instances.
Mr. RANGEL.
Mr. RAHALL.
Mr. LEVITAS.
Mr. EILBERG in 10 instances.
Mr. LUKEN.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2052. An act to extend the supervision of the United States Capitol Police to certain facilities leased by the Office of Technology Assessment; to the Committee on Public Works and Transportation; and

S. Con. Res. 46. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1331. An act to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5645. An Act to raise the limitation on appropriations for the U.S. Commission on Civil Rights; and

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 30, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 6111. To amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; and

H.R. 7554. Making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. GUDGER, Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 4, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2490. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1978 for the Departments of the Interior and Labor (H. Doc. No. 95–236); to the Committee on Appropriations and ordered to be printed.

2491. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report on expanding student financial aid information services via part-time personnel, pursuant to section 493B of the Higher Education Act of 1965, as amended (90 Stat. 2149); to the Committee on Education and Labor.

2492. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting one of the Institute's series of reports on compensatory education programs, dealing with the effects of services on student development, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2493. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting the fifth of six reports on compensatory education programs, dealing with demonstration studies of funds allocation within districts, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2494. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting the last of six reports on compensatory education programs, dealing with the use of achievement test scores to allocate title I funds, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2495. A letter from the Chairman, Committee on the Process of Determining Student Loan Special Allowances, Office of Education, Department of Health, Education, and Welfare, transmitting the committee's findings and recommendations with respect to an improved method for determining the special allowance paid to eligible lenders under the guaranteed student loan program, pursuant to section 438(g) of the Higher Education Act of 1965, as amended (90 Stat. 2133); to the Committee on Education and Labor.

2496. A letter from the Administrator, Federal Energy Administration, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2497. A letter from the Acting Comptroller General of the United States, transmitting a report on the energy conservation programs at 20 Government contractors' plants (EMD–77–62, September 30, 1977); to the Committee on Government Operations.

2498. A letter from the Comptroller General of the United States, transmitting a report on Federal procurement and acquisition practices (PSAD–77–128, September 30, 1977); to the Committee on Government Operations.

2499. A letter from the Comptroller General of the United States, transmitting a report on Federal internal audit organization coverage of computers (FGMSD–77–82, September 28, 1977); to the Committee on Government Operations.

2500. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Diego C. Asencio, Ambassador-designate to Colombia, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2501. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on the Commission's study of through routes and joint fares between Amtrak and other intercity common carriers by rail and motor carriers of passengers, pursuant to section 306(k) of the Rail Passenger Service Act, as amended (90 Stat. 2615); to the Committee on Interstate and Foreign Commerce.

2502. A letter from the corporation agent, Legion of Valor of the U.S.A., Inc., transmitting a report on the audit of the organization's accounts for the year ended April 30, 1977, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2503. A letter from the Chairman, U.S. International Trade Commission, transmitting the 11th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee on International Relations. H.R. 9165. A bill to authorize the Secretary of State to acquire a statue or bust of George C. Marshall for placement in the Department of State (Rept. No. 95–653). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 770. Resolution dismissing the election contest of Albert Dehr against Robert L. Leggett (Rept. No. 95–654). Referred to the House Calendar.

Mr. PERKINS: Committee of conference. Conference report on S. 717 (Rept. No. 95–655). Ordered to be printed.

Mr. FLOOD: Committee of conference. Conference report on H.R. 7555 (Rept. No. 95–656). Ordered to be printed.

Mr. SISK: Committee of Rules. House Resolution 804. Resolution concurring in the Senate amendment to H.R. 9290. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 95–657). Referred to the House Calendar.

Mr. ROGERS: Committee on Interstate and Foreign Commerce. H.R. 8518. A bill to direct an 18-month review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic for 18 months; and to authorize the Secretary during those 18 months to require, in retail stores and in advertising, warning notices respecting the potential health risks presented by the use of saccharin; with amendment (Rept. No. 95–658). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 9402. A bill to amend the Foreign Assistance Act of 1961 with respect to Cuba, and for other purposes; to the Committee on International Relations.

By Mr. CORCORAN of Illinois (for himself and Mr. COUGHLIN):

H.R. 9403. A bill entitled "The College Tuition Tax Relief Act of 1977"; to the Committee on Ways and Means.

By Mr. DIGGS (for himself and Mr. MCKINNEY):

H.R. 9404. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes; to the Committee on the District of Columbia.

By Mr. FASCELL (for himself and Mr. LEHMAN):

H.R. 9405. A bill to provide that, in computing certain Federal payments to local governments based on amounts of Federal public land within their boundaries, certain amounts of such land which heretofore have been excluded shall be included, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FORD of Michigan (for himself and Mr. CARR):

H.R. 9406. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mrs. HECKLER:

H.R. 9407. A bill to amend title XX of the Social Security Act to make certain that social security benefit increases do not have the effect of making any individual ineligible for services and related benefits under the program established by such title; to the Committee on Ways and Means.

By Mrs. HECKLER (for herself, Mr. TSONGAS, Mr. MARKS, Mr. EARLY, and Mr. JENRETTE):

H.R. 9408. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

By Mr. HEFTEL:

H.R. 9409. A bill to provide for tripartite regional committees to consider questions relating to labor-management relations, and for a National Center for the Study of Labor-Management Relations in the Non-Contiguous Areas; to the Committee on Education and Labor.

By Mr. HILLIS:

H.R. 9410. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, dentures, eyeglasses, and hearing aids among the benefits provided by the insurance program established by Part B of such title, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mrs. KEYS:

H.R. 9411. A bill to amend the Internal Revenue Code of 1954 to allow individuals a tax credit of $250 for each personal exemption, and to repeal the deduction for personal exemptions; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. KINDNESS, Mr. ROSENTHAL, Mr. PRITCHARD, Mr. PEPPER, Mrs. SCHROEDER, Mr. EILBERG, Mr. BEDELL, Mr. VENTO, Mr. BAUCUS, Ms. MIKULSKI, Mr. BONIOR, Mr. PEASE, and Mr. MAGUIRE):

H.R. 9412. A bill to provide that a former spouse of a Federal employee who is married to such employee for 5 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse and such employe, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MIKVA:

H.R. 9413. A bill to amend title XVIII of the Social Security Act to provide for inclusion of the services of qualified audiologists under medicare, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. FORSYTHE, Mr. EILBERG, Mr. TRIBLE, and Mr. BONIOR):

H.R. 9414. A bill to amend the Great Lakes Fishery Act of 1956; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 9415. A bill to amend title 18 of the United States Code to impose criminal penalties on certain persons who fire firearms or throw objects at certain railroad trains, engines, motor units, or cars, and for other purposes; to the Committee on the Judiciary.

By Mr. PREYER (for himself, Mr. HAMILTON, and Mr. UDALL):

H.R. 9416. A bill to provide for affording equal educational opportunities for students in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

By Mr. ROBINSON:

H.R. 9417. A bill to amend an act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality; to the Committee on Interior and Insular Affairs.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. OTTINGER, Mr. MARKEY, Mr. WALGREN, Mr. CARTER, and Mr. MADIGAN):

H.R. 9418. A bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMON:

H.R. 9419. A bill to encourage participation by children whose language is English in bilingual education programs under the Bilingual Education Act; to the Committee on Education and Labor.

By Mr. YOUNG of Florida:

H.R. 9420. A bill to amend title 5, United States Code, to increase the retirement annuity for any employee working at least 5 years and less than 20 years as a law enforcement officer or firefighter, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9421. A bill to permit the transportation or mailing of notices or other materials concerning bingo games conducted by nonprofit organizations; jointly, to the Committees on the Judiciary, and Post Office and Civil Service.

By Mr. BAUCUS:

H.R. 9422. A bill to amend the provisions of Public Law 88–482 relating to the imposition of quotas on certain meat and meat products; to the Committee on Ways and Means.

By Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BADILLO, Mr. BEARD of Rhode Island, Mrs. BURKE of California, Mr. CARR, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. FRASER, Ms. HOLTZMAN, Mr. JEFFORDS, Mr. MAGUIRE, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOSS, Mrs. SCHROEDER, Mr. VENTO, Mr. WALGREN, Mr. CHARLES WILSON of Texas, Mr. WINN, and Mr. WAXMAN):

H.R. 9423. A bill to establish programs for the prevention and treatment of family violence; to the Committee on Education and Labor.

By Mr. McDONALD (for himself, Mr. STUMP, Mr. SYMMS, Mr. HANSEN, Mr. BADHAM, Mr. ROUSSELOT, Mr. ASHBROOK, Mr. MARRIOTT, Mr. DORNAN, and Mr. CRANE):

H. Res. 805. Resolution impeaching U.S. Ambassador to the United Nations, Andrew H. Young, for high crimes and misdemeanors; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

272. By the SPEAKER: Memorial of the Legislature of the State of California, relative to bilingual education; to the Committee on Education and Labor.

273. Also, memorial of the Legislature of the State of California, relative to postal rates, to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 9424. A bill for the relief of Fulton Battise, Chief of the Tribal Council of the Alabama Coushatta Tribes of Texas and Ernest Sickey, Chairman of the Tribal Council of the Coushatta Tribe of Louisiana, and all other enrolled members of the Alabama Coushatta Tribes of Texas and the Coushatta Tribe of Louisiana, respectively; to the Committee on the Judiciary.

H. Res. 806. Resolution to refer bill H.R. 9424 to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. RES. 766

By Mrs. CHISHOLM:

An amendment to section 503 of the resolution as reported by the Committee on Rules. Strike out Section 503 and insert in lieu thereof:

"FAIR EMPLOYMENT PRACTICES PANEL

SEC. 503. The Rules of the House of Representatives are amended by inserting at the end thereof the following new rule:

"RULE LI

"FAIR EMPLOYMENT PRACTICES PANEL

"1. There is established a Fair Employment Practices Panel, which shall be comprised of five individuals, three Members and two employees of the House (other than those employed by administrative units of the House). The three Members shall be chosen by the Speaker, two from the majority party and one, upon the recommendation of the minority leader, from the minority party. The two employee representatives on the Panel shall be chosen by the

Speaker, one from the majority party and one, up on the recommendation of the minority leader, from the minority party.

"2. If an individual has sent a statement taken under oath administered by an authorized official to a Member alleging a violation of that individual's rights under clause 9 Rule XLIII by that Member and no mutually agreeable accommodation has been reached within the thirty-day period commencing upon the date of transmission of the statement taken under oath by an authorized official to the Member, then that individual may file a statement taken under oath by an authorized official with the Panel.

"3. The Panel shall review all statements taken under oath by an authorized official filed with it under this Rule and the attempts at accommodation under clause 2. After an individual has filed a statement taken under oath by an authorized official under this Rule, the Panel may offer consultation to the individual and the employing Member. All activities of the Panel shall be conducted on a confidential basis. If, in the opinion of the Panel, confidentiality has been breached by any individual filing a statement taken under oath by an authorized official, the Panel may dismiss that statement under oath by an authorized official.

"4. If a settlement of the statement taken under oath by an authorized official is reached by the interested parties, the Panel shall so certify.

"5. (a) If a settlement of the statement taken under oath by an unauthorized official is not reached by the interested parties and the Panel believes that a Member has violated clause 9 of Rule XLIII, then the Panel by a vote of four out of five of its members may refer the matter to the Committee on Standards of Official Conduct for its immediate consideration. Notwithstanding the provisions of clause 4(e) of Rule X, the Committee on Standards of Official Conduct shall undertake an investigation of any statement taken under oath by an authorized official referred to it by the Panel and, if the Committee believes that a Member has violated clause 9 of Rule XLIII, then the committee by the affirmative vote of a majority of its members, shall recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances.

"(b) For purposes of this clause—

"(1) continuity of session of Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period."

By Mr. FRENZEL:

The amendment made by section 201(b) to clause 4(d) of the Rules of the House of Representatives is amended by striking out ", and of all functions of the Auditor and his staff" in subparagraph (2) thereof, by redesignating subparagraphs (3) through (6) thereof as subparagraphs (4) through (7), respectively, and by inserting immediately after subparagraph (2) thereof the following:

"(3) establishing a Subcommittee on Audits, to be comprised of an equal number of members from the majority and minority parties, to provide policy guidance and oversight to the Auditor;

SEC. 605. (a)(1) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled to an allowance for use in employing not more than 2 staff members during the period beginning on the date on which the election of such Member-elect is certified by the appropriate officer of the State in which the congressional district of such Member-elect is located (or by any other appropriate official in the case of a Delegate-elect or Resident Commissioner-elect to the Congress), and ending on the date on which the oath of office is administered to such Member-elect.

(2) One staff member employed by a Member-elect under paragraph (1) shall be entitled to be paid at a single per annum gross rate which does not exceed 75 percent of the maximum per annum gross rate at which a professional staff member of a standing committee may be paid under clause 6(c) of Rule XI of the Rules of the House of Representatives, and one such staff member shall be entitled to be paid at a single per annum rate which does not exceed 50 percent of such maximum rate.

(b) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled, during the period specified in subsection (a)(1), to receive such office equipment, supplies, and other similar materials as the Committee considers necessary to carry out the duties of such Member-elect.

(c) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be assigned such common office space as deemed available and appropriate by the House Office Building Commission for the use of such Member-elect during the period specified in subsection (a)(1).

(d) The contingent fund of the House shall be available for purposes of carrying out the provisions of this section.

(e) The provisions of this section shall take effect on January 3, 1978.

Offered by Mr. MEEDS:

In the amendment offered by the gentleman from New Jersey, Mr. Thompson insert after section 611 the following new section and renumber succeeding sections accordingly:

SEC. 612. (a)(1) The aggregate number of staff members (other than professional staff members and clerical staff members appointed or selected under clause 6 of Rule XI of the Rules of the House of Representatives) which may be employed by all standing committees of the House (other than committees which are not required to obtain spending authorizations under clause 5(a) of Rule XI of the Rules of the House of Representatives) during any session of a Congress may not exceed an amount equal to 103 percent of the average number of such staff members employed by all such standing committees during the preceding session.

(2) The limitation established in paragraph (1) shall not apply in the case of—

(A) any increase under subsection (b)(2); or

(B) the appointment of associate staff members of committees under clause 7(a) of the Rule XI of the Rules of the House of Representatives or under the rules of any standing committee of the House.

(b)(1) Each primary expense resolution under clause 5 (a) of Rule XI of the Rules of the House of Representatives which grants an authorization for the payment of expenses of any standing committee of the House shall specify the maximum number of staff members in subsection (a)(1) which may be employed by such standing committee in the year involved.

(2)(A) Any increase in the maximum number of staff members specified in paragraph (1) which a standing committee is authorized to employ in any year may be made upon approval by the Committee, if such increase, together with any other increase approved by the Committee for such year, does not exceed an amount equal to 10 percent of the maximum number of such staff members specified in the primary expense resolution for such standing committee.

(B) Any such increase which, together with any other increase approved by the Committee for the year involved, exceeds an amount equal to 10 percent of such maximum number of staff members specified in paragraph (1) may be made through the adoption of a resolution which specifies the maximum number of such staff members which may be employed by the standing committee involved under such resolution.

(c)(1) For purposes of subsection (b), the average number of staff members specified in subsection (a)(1) employed by the standing committees of the House during a session of a Congress shall be calculated by—

(A) determining the total number of such staff members employed by all standing committees during each monthly pay period in such session;

(B) deriving the sum of such totals for all such pay periods in such session; and

(C) dividing such sum by 12.

(2) Any such staff member who is employed by a standing committee as the result of any increase approved or adopted under subsection (a)(2) shall not be included in the calculation of such average number under paragraph (1).

(d) The provisions of this section shall take effect on January 3, 1979.

By Mr. OBEY:

SEC. 608: Strike the words "services and" in the last line of Sec. 608.

By Mr. THOMPSON:

Strike out all after Title VI—Provisions Relating to House Operations and Employees, and insert in lieu thereof the following:

LEGISLATIVE SERVICE ORGANIZATIONS

SEC. 601. (a)(1) Any congressional Member organization which desires to be designated as a legislative service organization shall transmit an application for certification to the Committee on House Administration. Such application shall be transmitted at such times, and in accordance with such procedures, as the Committee may reasonably require. Such application shall contain such information as may be necessary to assist the Committee in making determinations under paragraph (2).

(2) The Committee shall approve any application for certification received by the Committee under paragraph (1) if—

(A) the Committee determines that—

(i) the congressional Member organization seeking such certification is designed primarily to provide legislative services and assistance to the members of such organization;

(ii) such organization has been in existence for at least 1 year with full-time employees who were compensated from the clerk hire allowances of not less than 25 Members of the House, each of whom provided at least $1,000 for such compensation during the preceding year; and

(iii) at least 25 Members certify that they receive services and assistance from such organization which are necessary in connection with the performance of their legislative responsibilities; and

(B) such organization agrees that it will not receive or accept any contribution from any source other than Members in connection with the provision of services and assistance by such organization to its members.

(3) Upon the approval of any application under paragraph (2), the Committee shall certify the organization transmitting the application as a legislative service organization. Such certification shall be transmitted to the Administrator of the House of Representatives and shall remain in effect for so long as the conditions specified in this subsection are met. Upon receipt of such certification, the Administrator shall establish an account for the use of such organization.

(b) Any Member may allocate a portion of the clerk hire allowance of such Member to the account of any legislative service organization. Any such allocation may be made on a monthly, quarterly, semiannual, or annual basis.

(c)(1) Any funds allocated to the account of a legislative service organization from the clerk hire allowances of Members may be used only for the compensation of the employees of such organization.

(2) Any voucher for disbursement from the account of any legislative service organization shall be signed by the chairman of such organization, or by the Member of the House who is the ranking Member among the House Members of such organization if the chairman is not a Member of the House, and shall include certification that each employee compensated from the account is performing assigned duties designed to assist Members in performing their legislative responsibilities.

(3) Any funds allocated to such account from the clerk hire allowance of any Member shall be considered to have been separated from the clerk hire allowance funds of the House and shall be available for use at any time during the year in which such transfer is made. Any funds remaining in such account at the end of such year shall be available for use during the first 6 months of the succeeding year without regard to any limitation which may otherwise prohibit, restrict, or otherwise affect the expenditure, obligation or allocation of such funds. Any such funds which are not expended or obligated by the close of such 6-month period shall cease to be available for use by the legislative service organization involved.

(4) The use of the account of any legislative service organization shall be subject to the Rules of the House of Representatives and regulations of the Committee relating to the use of such allocated funds.

(d) The Administrator shall maintain records of allocations made by any Member under subsection (b) and of amounts received by legislative service organizations as a result of any such allocation.

(e) The provisions of this section shall take effect on January 3, 1978.

REPORTING REQUIREMENTS RELATING TO CONGRESSIONAL MEMBER ORGANIZATIONS AND LEGISLATIVE SERVICE ORGANIZATIONS

SEC. 602. (a). Each congressional Member organization and each legislative service organization shall submit an annual report to the Committee. Each such annual report shall include—

(1) the name and address of the organization;

(2) the purpose of the organization;

(3) the number of Members of the House and the number of Members of the Senate who were members of the organization or who paid the organization for service during the preceding year;

(4) the number of persons, other than Members of the House and Members of the Senate, who were members of the organization and the number of such persons who paid the organization for services during the preceding year;

(5) the amount(s) the organization charged for membership therein and the amount(s) the organization charged for research services during the preceding years;

(6) a description of any services and assistance provided by the organization during the preceding year;

(7)(A) a summary of funds received and disbursed by such organization during the preceding year;

(B) in the case of a congressional Member organization, a listing of the name, address, and occupation of each person who has made contributions of $100 or more, in the aggregate, to such organization during the preceding year, including the total amount of contributions by each such person; and

(C) a listing of disbursements of $100 or more in the aggregate, made by such organization during the preceding year, including the purpose and recipient of each such disbursement;

(8) the name of each individual employed by the organization during the preceding year who received compensation for such employment from the clerk hire allowance of any Member, and the dates of such employment;

(9) in the case of a legislative service organization, certification from at least 25 Members of the House that they received services and assistance from such organization during the preceding year which were necessary in connection with the performance of their legislative responsibilities; and

(10) such other information as the Committee may reasonably require.

(b) Employees of a congressional Member organization or legislative service organization shall not be entitled to compensation from the clerk hire allowances of Members unless each office of the organization is located in Washington, District of Columbia.

(c) The chairman of each congressional Member organization, or the Member of the House who is the ranking member among the House Members of such organization if the chairman is not a Member of the House, shall transmit a report to the Administrator no later than 10 days after the close of each calendar month. Each such report shall—

(1) specify by name all employees of the organization who received compensation during the preceding month from the clerk hire allowances of Members; and

(2) certify that such employees are performing assigned duties designed to assist Members in fulfilling their official responsibilities.

Such certification shall be in addition to the certification submitted by individual Members who are compensating such employees under their clerk hire allowance in any month.

(d) The Committee shall issue an annual report which shall include the following—

(1) the records maintained by the Administrator under section 601(d) for the period covered by such report; and

(2) the name of each employee of each congressional Member organization and each legislative service organization, and the amount of compensation each employee received from the clerk hire allowances of Members and from the account of the legislative service organization during the period specified in paragraph (1).

(e) The provisions of this section shall take effect on January 3, 1978.

FULL-TIME AND PART-TIME EMPLOYEES; EMPLOYEES COMPENSATED BY TWO OR MORE MEMBERS

SEC. 603. (a)(1) Each Member of the House, chairman of a standing committee of the House, chairman of any subcommittee of a standing committee, and chairman of any congressional Member organization or legislative service organization shall certify to the Administrator, at such times and according to such procedures as the Committee may reasonably require, whether each individual employed by the Member, committee, or organization involved is employed as a full-time or part-time employee.

(2) In the case of a standing committee, the certification required in paragraph (1) shall be made by the ranking minority party member of such committee in the case of any employee selected by the minority party members of such committee under clause 6(a)(2) of clause 6(b)(2) of Rule XI of the Rules of the House of Representatives.

(3) In the case of any congressional Member organization or legislative service organization, if the chairman of such organization is not a Member of the House, then the certification required in paragraph (1) shall be made by the Member of the House who is the ranking member among the House Members of such organization.

(b)(1) Except as provided in paragraph (2), in determining the number of individuals employed by a Member or standing committee of the House, each part-time employee shall be considered to be one-half a full-time employee for purposes of—

(A) the clerk hire allowance of each Member;

(B) determining the number of professional staff members appointed under clause 6(a)(1) of Rule XI of the Rules of the House of Representatives or selected under clause 6(a)(2) of Rule XI of the Rules of the House of Representatives; and

(C) determining the number of clerks appointed under clause 6(b)(1) of Rule XI of the Rules of the House of Representatives or selected under clause 6(b)(2) of Rule XI of the Rules of the House of Representatives.

(2) If the number of part-time employees employed by a Member or a standing committee of the House exceeds 4, each part-time employee which exceeds such number shall be considered to be a full-time employee for the purposes specified in paragraph (1).

(3) For purposes of this subsection, the term "part time employee" means any employee whose period of employment during each workweek does not exceed 25 hours, except that an employee who works only 3 workdays during any workweek shall be considered a part-time employee whether or not the number of hours which such employee works during such workweek exceeds 25. Such employees shall be compensated at a rate not to exceed 50 percent of the maximum per annum gross rate at which a staff member may be paid under clause 6(c) of Rule XI of the Rules of the House of Representatives.

(c) In any case in which 2 or more Members pay the basic pay of any individual in any month through disbursements from the clerk hire allowance of each such Member, such individual shall be considered to be on the payroll of only one such Member, for purposes of determining the number of individuals employed by each such Member under his clerk hire allowance.

(d) The provisions of this section shall take effect on January 3, 1978.

COMPENSATION OF EMPLOYEES ABSENT FROM DUTY

SEC. 604. (a) There is hereby established in the contingent fund of the House a revolving fund to be known as the "House Employees Medical Disability and Maternity Benefits Fund." Moneys in the fund shall be available to carry out the purposes of this section.

(b)(1) Each employee of the House may request the employer of such employee for maternity leave and benefits in accordance with the provisions of this section. An employee shall be eligible for such leave and benefits if such employee—

(A) has been an employee of the House for a continuous period of 1 year or more before the date on which such employee makes a request under this paragraph; and

(B) meets such qualifications as the Committee may reasonably prescribe.

(2)(A) If the employer of an employee grants the request of such employee under paragraph (1) for maternity leave and benefits, such employee shall be entitled to payments from the fund at a rate equal to 75 percent of the rate of basic pay of such employee on the date on which the period of absence from duty begins. Subject to the provisions of subsection (g), the rate of such payments shall be increased in an amount equal to 75 percent of the amount of any adjustment made by the Clerk under section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)). The period of absence from duty for which such employee is entitled to payments from the fund under this paragraph shall not exceed 12 weeks,

beginning with the first day following the date on which such period of absence from duty begins.

(B) If an employee of the House who is absent from duty in accordance with subparagraph (A) desires to remain absent from duty after the close of the period specified in subparagraph (A), such employee may request the employer of such employee for an extension of such period. If such employer, with the approval of the Committee, grants such request, such employee may remain absent from duty in accordance with rules prescribed by the Committee. Any such employee shall not be entitled to payments from the fund for any period of absence from duty under this subparagraph.

(c)(1) Each employee of the House may request the Committee for medical disability benefits in accordance with the provisions of this subsection. An employee shall be eligible for such benefits if such employee—

(A) has been an employee of the House for a continuous period of 3 months or more before the date on which such employee makes a request under this paragraph; and

(B) meets such qualifications as the Committee may reasonably prescribe.

(2) If the Committee grants the request of an employee of the House under paragraph (1) for medical disability benefits, such employee shall be entitled to payments from the fund at a rate equal to 75 percent of the rate of basic pay of such employee on the date on which the period of absence from duty begins. Subject to the provisions of subsection (g), the rate of such payments shall be increased in an amount equal to 75 percent of the amount of any adjustment made by the Clerk under section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)). The period of absence from duty for which such employee is entitled to payments from the fund under this paragraph shall not exceed 6 months, beginning 30 days after the date on which such period of absence from duty begins.

(d)(1) The Committee shall—

(A) contract with qualified carriers offering long-term medical disability benefit plans, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other law requiring competitive bidding, for the establishment and administration of such a plan; or

(B) provide for the establishment of a self-insurance plan for the provision of long-term medical disability benefits.

(2) The Committee shall prescribe rules relating to types of benefits offered under any long-term medical disability benefit plan established or approved under this subsection, requirements and procedures for the election of coverage, and other matters relating to such plan.

(e) In any case in which an employee of a Member of the House is absent from duty in accordance with the provisions of subsection (b) or subsection (c), such employee shall not be included in any calculation of the number of employees which such Member employs under the clerk hire allowance of such Member.

(f)(1) An employee is not entitled to receive any payments under this section and compensation for illness, injury, or medical disability under any other provision of Federal law covering the same period of time.

(2) The provisions of paragraph (1) shall not bar the right of an employee to the greater benefit conferred by this section or other provision of Federal law for any part of the same period of time.

(g) If the Committee determines that the amount upon which a proposed increase under the second sentence of subsecion (b)(2)(A) or under the second sentence of subsection (c)(2) is based exceeds the amount of any adjustment made by the applicable pay-fixing authority for the position involved under section 5(b) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(b)), then such increase may not exceed 75 percent of such adjustment made by the pay-fixing authority.

(h) The Committee shall prescribe such regulations as the Committee considers necessary or appropriate to carry out the provisions of this section.

(i) For purposes of this section—

(1) the term "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing or paying for long-term medical disability benefits under group insurance policies or contracts, membership or subscription agreements, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier;

(2) the term "employee of the House" and "employee" mean any individual employed by—

(A) a Member, if the pay of the employee is paid by the Clerk;

(B) any committee of the House; or

(C) any officer, agency, or organization of the House; and

(3) the term "fund" means the House Employees Medical Disability and Maternity Benefits Fund established in subsection (a).

(j) The contingent fund of the House shall be available to carry out the provisions of this section.

(k) The provisions of this section shall take effect on January 3, 1978.

BILLING PROCEDURES FOR OFFICIAL EXPENSES

SEC. 605. (a) The Committee shall establish a procedure relating to the billing of obligations or other charges incurred by Members of the House in connection with the use of their official allowances. Such procedure shall—

(1) permit any Member to directly charge any such obligation or other charge to the appropriate official allowance of such Member, in lieu of seeking reimbursement for such obligation or other charge; and

(2) contains a mechanism for the verification of the amount of any obligation or other charge before it is assigned to any official allowance of a Member.

(b) The Committee shall, to the extent feasible, establish the procedure required in subsection (a) no later than December 31, 1977.

PAYMENT FOR CERTAIN ITEMS

SEC. 606. (a) Any Member of the House, committee of the House, or officer, agency, or organization of the House which receives—

(1) any plants provided by the Botanic Gardens;

(2) any shipping trunks provided by the Clerk of the House; or

(3) any picture frames or similar materials provided by the Architect of the Capitol in connection with carpentry services made available by the Architect of the Capitol;

shall provide for the reimbursement or other payment for the value of such items in accordance with subsection (b).

(b) Reimbursement or other payment for any item specified in subsection (a) shall be made—

(1) in the case of a Member, from the official Office Expenses Allowance of such Member; and

(2) in the case of a committee, officer, agency, or organization of the House, from any appropriated funds available for use by such committee, officer, agency, or organization.

(c) For purposes of this section, the value of any item specified in subsection (a) shall be determined by the officer or agent responsible for furnishing such item.

(d) The provisions of this section shall not apply to any item specified in subsection (a) which was provided before the effective date of this section.

(e) The provisions of this section shall take effect on January 3, 1978.

ALLOWANCE FOR COMPUTER SERVICES AND EQUIPMENT

SEC. 607. (a) Each Member of the House shall be entitled to an allowance for the leasing of computer services and equipment. Such allowance shall be $12,000 for each session of a Congress. No portion of such allowance may be transferred to any other allowance of a Member.

(b) The provisions of subsection (a) shall supersede any order of the Committee relating to allowances for the leasing of computer services and related services.

(c) The provisions of this section shall take effect on January 3, 1978.

PROVISION OF COMPUTER SERVICES AND EQUIPMENT

SEC. 608. The Committee is authorized to establish procedures whereby funds from the accounts of Members, committees and offices of the House may be transferred to the House Information Systems as reimbursement for the provision of computer services and equipment.

CLERK-HIRE

SEC. 609. (a) Each Member of the House shall be entitled to an annual clerk hire allowance one-twelfth of which shall become available for expenditure or allocation by such Member during each month of each session of a Congress, and unexpended or unallocated clerk hire from such entitlement in previous months shall remain available for expenditure or allocation by each Member only until the end of the session during which the entitlement became effective.

(b) The provisions of this section shall take effect on January 3, 1978.

REFERENCES TO ADMINISTRATOR

SEC. 610. Prior to noon on January 3, 1979, any reference to the Administrator in section 601, section 602 and section 603 shall be construed to be a reference to the Clerk.

RULES AND REGULATIONS

SEC. 611. The Committee on House Administration is authorized to issue rules and regulations necessary to carry out the provisions of this title.

DEFINITIONS

SEC. 612. For purposes of this title—

(1) the term "Administrator" means the Administrator of the House of Representatives nominated and approved under clause 1(b) of Rule XLIX of the Rules of the House of Representatives;

(2) the term "Clerk" means the Clerk of the House of Representatives;

(3) the term "Committee" means the Committee on House Administration;

(4) the term "congressional Member organization" means any organization—

(A) the membership of which includes Members of the House or Members of the House and Members of the Senate;

(B) which is designed to provide services and assistance to Members of the House or to Members of the House and Members of the Senate to assist them in performing their official responsibilities; and

(C) which employs one or more individuals who are compensated, in whole or in part, from the clerk hire allowances of 5 or more Members of the House during any calendar year;

(5) the term "legislative service organization" means any organization certified by the Committee in accordance with section 601;

(6) the term "contribution" means—

(A) any gift, loan, advance, or deposit of money or anything of value received by any congressional Member organization or legislative service organization from any person, other than any Member, for use by any such organization in compensating its employees or in providing services and assistance to Members of the House; and

(B) that portion of any payment from any person, other than any Member, for services and assistance provided by any such organization which exceeds the rate of payment which Members of the House are required to pay for such services and assistance;

(7) the terms "Members of the House" and "Member" mean any Representative in, or Delegate or Resident Commissioner to the Congress; and

(8) the terms "year", "session of a Congress" and "session" mean the period beginning at noon on January 3 of each calendar year and ending just prior to noon on January 3 of the immediately following calendar year.

H.R. 8410

By Mr. ANDREWS of North Carolina:

Beginning on page five, beginning with line twenty, strike Section four (§ 4) which includes lines 20–24 on page five and lines one, two and three on page six.

Renumber the subsequent sections of the bill accordingly.

By Mr. ASHBROOK:

Page 15, line 8, strike section 2(a) and redesignate section 2(b) on page 16, line 5, as section 2.

Page 16, strike out line 7 and all that follows down through line 19 and insert in lieu thereof the following:

"(2) Section 3(b) is amended by inserting after the third sentence the following new sentence: "The Board shall within 90 days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or the prevailing party in a decision of an administrative law judge after a hearing under Section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days."

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organizations, in an equivalent manner, information relating to representation.

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation: *Provided*, That where an employer provides an equal opportunity for employees to obtain information from a labor organization, time necessary for conveying such information shall not be at the expense of the employer.

Page 17, line 5, strike all of subparagraph (A) down through line 15, page 17, and renumber the subsequent subparagraphs accordingly.

Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force, or promise of benefit."

Page 17, line 19, strike the word "makes" and insert in lieu thereof "or for other reasons which make".

On page 18 strike all of line 6 down through line 9;

Page 18, strike "or (2)" on lines 11 and 12;

Page 18, line 20, strike all after the comma down through the comma on line 22; and renumber all subsequent subparagraphs accordingly.

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18.

Page 19, line 1, strike all after the comma on line 1 through line 5, and insert in lieu thereof the following: may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

SEC. 3 of the bill as it amends Section 6 of the Act is amended by deleting subparagraphs (B) page 17, lines 16 through 24, and (D), page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly:

and

striking section 5 of the bill, page 19 line 14 through line 2, page 22, and inserting in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "within fifteen days", and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote".

Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processess of the Board)."

On page 18, strike lines 10 through 25, on page 19, strike lines 1 through 5, and substitute therein the following:

"(c)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 7 including rules—

(A) which shall prohibit a labor organization from imposing or threatening to impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerned or to involve the processes of the Board).

(B) which shall provide for the conducting of secret ballot referendums by employees in a bargaining unit prior to the commencement of a strike by such employees.

(1) Any such referendum may be requested by (a) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (b) the employer, or (c) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than 5 days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to Section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

(C) which shall govern the expressing of views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), as the disseminations thereof, whether in written, printed, graphic, visual or auditory form, *Provided*, That violations of a rule promulgated pursuant to this subparagraph shall not be evidence of an unfair labor practice under any provisions of this Act or constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

(D) which shall provide that any employee (including any employee of a health care institution) who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required, in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in a contract between the employer (including an employer which is a health care institution) and a labor organization, or if the contract fails to designate such funds, then to any such fund chosen by the employee.".

Page 19, line 6, strike section 4 and renumber the subsequent sections accordingly.

Strike section 5, page 19 line 14 through line 2, page 22, and insert in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "withing fifteen days", and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote";

and,

amend section 3 of the bill as it amends section 6 of the Act by deleting subparagraphs "(B)", page 17, lines 16 through 24, and "(D)", page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly.

Page 21, line 5, insert the following after "petition.": "Notwithstanding the provisions of subparagraph (A) of this paragraph, where the Board determines that a majority of the employees in an appropriate unit are regularly scheduled to work less than twenty-five hours per week, the Board shall direct the election on a date not less than forty-five (45) days nor more than seventy-five (75) days after the filing and serving of the petition and shall inform the representative named in the petition, the employer and all other interested parties of the election date not less than fifteen (15) days prior to the election."

Page 19, strike all after the comma on line 19 through line 10 on page 20, and insert in lieu thereof the following: "pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has";

and

Page 20, line 14, substitute "fifteen" for "seven";

and

Page 20, lines 15 to 16, strike "a petition is filed and served" and insert in lieu thereof the words "the direction of election";

and

Page 20, line 18, immediately after the period insert the following: "The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this Section 9.";

and

Page 17, line 21, substitute "twenty" for "fifteen";

and

Page 17, line 23, strike "holding of such" and substitute "direction of".

Page 21, line 6, strike subparagraph (C) through line 9, page 21, and redesignate the subsequent subparagraphs accordingly.

Page 21, line 10, strike all of subparagraph (D)(i) down through line 17, page 21, and insert in lieu thereof the following:

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the election or to the conduct affecting the results of an election.

Page 21, strike lines 18 to 21 and substitute therefor the following:

"(ii) With regard to challenged ballots, the Board shall expeditiously investigate the challenges and serve a report upon the parties on challenges.

Page 21, line 24, substitute a period for the colon and strike all thereafter through line 2, page 22.

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole.".

Page 22, after line 10, insert the following new section 7 and renumber the subsequent sections accordingly:

SEC. 7. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employee on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

Page 22, line 14, strike "(1)"; page 22, line 15, strike "or" the second time it occurs and all that follows through line 5, page 23; and

Page 23, line 22, strike all therein through line 7, page 24;

and

Strike "(3) by" on line 8, page 24;

and

Change "paragraphs:" to "paragraph:" on line 9, page 24;

and

Strike line 10, page 24 through line 6, page 25;

and

Strike "(3)" on line 7, page 25.

Page 24, line 14, immediately after the comma, insert "and that compliance with the Act cannot be obtained through Board and Court procedures otherwise available,".

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.".

At page 24, line 17, insert the following new sentence after "Secretary of Labor.": "Such order may be reviewed pursuant to subsections (f) and (g).".

Page 25, line 6, insert immediately before the period the following: ": *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs".

Insert the following new sentence after the period on page 25, line 6: "Further, notwithstanding any other law, no contracts or training funds shall be awarded to any such person which is a labor organization, and the Board shall not order any employer to bargain with any such labor organization during a period of three years immediately following the date of the Secretary's certification."

Page 25, line 7 strike all through the period on line 19.

Page 25, line 19, insert immediately before the period following: ", less any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 18, strike the word "double" and insert before the period on line 19 the following: ", without regard to any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 9, after "(a)(3)" insert the following: ", (b)(1)".

Page 25, line 19, strike all after the period through line 17, page 26.

Page 25, line 19, strike all after the period through line 17, page 26, and insert in lieu thereof the following: "In a case in which the Board determines that an unlawful refusal to bargain within the meaning of subsection (a)(5) or (b)(3) of section 8 has taken place, the Board may award to the employees so represented compensation for the delay in bargaining caused by the unfair labor practice which shall be measured by the differences between (i) the wages and other benefits received by such employees during the period of delay and (ii) the last reasonable offer with respect to wages and benefits, made by the party not guilty of the unfair labor practice."

Page 26, line 26, strike the quotation marks and the second period and insert the following new paragraph:

"(4) where the Board determines at any stage of an unfair labor practice proceeding that an unfair labor practice charge has been filed against an employer or a labor organization, or both, which is without merit and is frivolous in nature, the Board shall be empowered to dismiss the case and to direct the charging party to pay the party or parties charged reasonable attorneys' fees, witness fees, transcript and record costs, printing costs, travel expenses and per diem, and any other costs or expenses directly resulting from the defense of such unfair labor practice charge.".

Page 26, line 18, strike all of section 9 through page 27, line 8; and renumber the subsequent sections accordingly.

Page 26, line 18, strike all of section 9 through page 27 line 8 and substitute therefor the following new section 9.

SEC. 9. The first sentence of subsection 10 (e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the procetdings, as provided in section 2112 of title 28, United States Code.".

Page 27, line 1, strike "thirty" and substitute therefor "sixty."

Page 27, line 9, through page 28, line 5, strike all of sections 10 and 11, and renumber section 12 as section 10.

Page 27, line 21, strike "or"; page 27, line 23, insert "or" after the comma and insert the following new subparagraph after line 23:

"(3) subsection (a)(5) of section 8 and there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

Page 15, after line 7, insert the following new section 2 and renumber the subsequent sections accordingly:

SEC. 2. Section 1 of the National Labor Relations Act (29 U.S.C. 151) is amended to read as follows:

"FINDINGS AND POLICIES

"SECTION 1. The denial of, or interference with, the rights of employees to organize, form, join, or assist labor organizations, to bargain collectively, to engage in other concerted activities, or interference with or denial of their right to refrain from any or all of such activities leads to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"Inequality of bargaining power between labor organizations and employers substantially burdens the process of collective bargaining and affects the flow of commerce.

"Experience has proved that protection by law of the right of employees to determine whether they wish to organize and bargain collectively encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions.

"Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities that impair the interest of the public in the free flow of commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by protecting the right of employees to exercise full freedom of choice in determining whether they wish to designate collective-bargaining representatives and, when such representatives have been designated, by encouraging the settlement of industrial disputes through free collective bargaining,".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b)(1) of the National Labor Relations Act is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in Section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further*, That it shall be an unfair labor practice under this section for a labor organization to threaten or impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances;".

Page 19, after line 5, insert the following new section 4 and renumber subsequent sections accordingly:

SEC. 4. Section 8(b)(1) is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further*, That it shall be an unfair labor practice under this section for a labor organization to threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances.".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. (a) Section 9(a) of the National Labor Relations Act is amended—

(1) by striking out "designated or" immediately before "selected for the purposes of collective bargaining"; and

(2) by inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election".

(b) Section 8(a)(5) of the National Labor Relations Act is amended to read as follows:

"(5) to refuse to bargain collectively with the representative of his employees: *Provided*, That nothing in this Act shall be construed as requiring an employer to bargain collectively until a representative of his employees has been determined by means of a secret ballot election conducted in accordance with the provisions of section 9.".

Page 19, insert after line 5 the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b) of the National Labor Relations Act is amended by striking out "and" after paragraph (6), striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(8) to call, maintain, continue or resume a strike in any bargaining unit after:

"(A) a majority of the employees voting on the question have voted in a secret ballot referendum conducted by the Board, or by any other person or organization selected by the parties or designated by the Board to conduct such referendum among the employees in such bargaining unit, not to strike or continue to strike; or

"(B) such referendum has been requested before a strike begins and the result thereof has not been certified.

"Any such referendum may be requested by (i) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (ii) the employer, or (iii) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

Page 19, after line 5, insert the following new section 4 and renumbered the subsequent subsections accordingly:

SEC. 4. Section 8(c) of the National Labor Relations Act is amended to read as follows:

"(c) The expressing of any views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual or auditory form, shall not (1) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying setting aside the results of any election conducted under any of the provisions of the Act, if such expression contains no threat of reprisal or force or promise of benefit.".

Page 28, after line 5 insert the following new section 12 and renumber the present section 12 as section 13:

SEC. 12. Section 441b(b)(5) of title 3, United States Code, is amended to read as follows:

"(5) Notwithstanding any other law, any method of soliciting voluntary contribution or of facilitating the making of voluntary contribution to a separate segregated fund established by a corporation permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members: *Provided*, That no method, procedure or system by which union dues and other assessments are deducted from an employee's paycheck by an employer, either automatically or on specific authorization from an employee, may be utilized in the solicitation of contributions to such separate segregated fund.".

Page 19, after line 5, insert the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(h) It shall be unlawful for any person to instigate, engage in, support, or condone any violence, mass picketing, or other coercive conduct, at or about the premises of any person engaged or employed in commerce or in any industry affecting commerce: *Provided*, That nothing contained in this subsection shall be construed to invalidate or limit, or be limited by, any law of a state or political subdivision of a state.".

(b) Section 10(1) of the National Labor Relations Act is amended by inserting between "or section 8(b)(7)," and "the preliminary investigation" the following: "or section 8(h),".

(c) Section 303(a) of the National Labor Relations Act is amended by inserting between "section 8(b)(4)" and "of the National Labor Relations Act" the following: "or section 8(h)".

Section 2 of H.R. 8410 is hereby amended by:

(a) striking out lines 8 through 25 on page 15; lines 1 through 20 on page 16.

(b) renumbering sections 3 through 12 accordingly.

RULES PROTECTING FREE SPEECH

Section 3 is amended by renumbering subparagraph (A) in Section 6(b)(1) thereof as (A)(i), and adding the following new subparagraph (A)(ii):

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under way of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

PANEL SYSTEM FOR NLRB DECISION MAKING

Amend Section 2 of H.R. 8410, as reported, by striking line 8 of page 15 through line 19 of page 16 and substitute in lieu thereof:

SEC. 2. The first sentence of Section 3(b) of the National Labor Relations Act is amended to read as follows:

"The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

DELETION OF ACCESS RULE

Amend Section 3 to delete Section 6(b)(1)(A) thereof, on lines 5 through 15 of page 17 of H.R. 8410, as reported, and renumber Sections 6(b)(1)(B), 6(b)(1)(C) and 6(b)(1)(D) as Sections 6(b)(1)(A), 6(b)(1)(B), and 6(b)(1)(C), respectively.

JUDICIAL REVIEW OF BOARD RULEMAKING

Amend Section 3 by deleting the entire sentence beginning on line 10 of page 18 of H.R. 8410, as reported, and substituting in lieu thereof:

"(3) A rule or regulation issued by the Board shall be judicially reviewable at the behest of any aggrieved party in any United States court of appeals where that party resides or transacts business, and such court shall have jurisdiction to grant appropriate relief."

JUDICIAL REVIEW OF IMPROPERLY APPLIED BOARD RULES

Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

Section 3 of H.R. 8410 is hereby amended by:

(a) striking out lines 20 through 25 on page 16; lines 1 through 25 on page 17; lines 1 through 25 on page 18; lines 1 through 13 on page 19.

(b) renumbering sections 4 through 12 accordingly.

SMALL BUSINESS EXEMPTION FROM JURISDICTION OF NLRB

Amend Section 3 by adding the following new section after the word "relief." on line 5, page 19, of H.R. 8410, as reported:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, and yearly thereafter, review and issue jurisdictional rules and regulations, which give due weight to changing and economic conditions. Such regulations shall provide that the Board will not exercise jurisdiction over employers with fewer than 50 employees.

BOARD RULES TO PREVENT UNREASONABLE UNION FINES

Section 3 is amended by adding at the end thereof the following new paragraph:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

Section 4 of H.R. 8410 is hereby amended by:

(a) striking out lines 6 through 13 on page 19.

(b) renumbering sections 5 through 12 accordingly.

Section 5 of H.R. 8410 is hereby amended by:

(a) striking out lines 14 through 25 on page 19; lines 1 through 25 on page 20; lines 1 through 25 on page 21; lines 1 through 2 on page 22.

(b) renumbering sections 6 through 12 accordingly.

EXPEDITED ELECTIONS AVAILABLE TO EMPLOYERS AND EMPLOYEES

Amend Section 5 so as to strike Section 9(c)(6)(A), as amended (lines 16 through 25 of page 19, and lines 1 through 18 of page 25 of H.R. 8410, as reported), and substitute therefor the following:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, pursuant to susection (C)(1)(A) or (C)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing of the petition direct an election by secret ballot not more than fifteen days after a petition is filed under this subparagraph and shall so notify the representative named in the petition and the employer.

Section 5 of H.R. 8410 is hereby amended by adding after the word "employer" on line 18 of page 20, the following: *"Provided*, That the Board shall extend the period for the holding of such an election if it finds such extension is necessary to afford a representative complement of employees, which in no case shall be less than 80 percent of the employees eligible to vote in such election, an adequate opportunity to vote."

NOTICE OF INTENT TO ORGANIZE

Amend Section 5 by deleting, at the end of line (2) of page 22 of H.R. 8410, as reported, the ".", and by inserting instead a ";" and adding the following new paragraph:

"(E) Every employee, employee group, individual or labor organization seeking status as an exclusive bargaining representative pursuant to this section shall file notice prior thereto with the Board and give notice thereof to the employer, in accordance with such rules and regulations as the Board may prescribe as necessary to afford employees an adequate opportunity to obtain from all parties involved information, views, arguments or opinions pertaining to such proposed representation.".

Section 6 of H.R. 8410 is hereby amended by:

(a) striking out lines 3 through 10 on page 22.

(b) renumbering sections 7 through 12 accordingly.

Section 7 of H.R. 8410 is hereby amended by:

(a) striking out lines 11 through 25 on page 22; lines 1 through 20 on page 23.

(b) renumbering sections 8 through 12 accordingly.

Section 8 of H.R. 8410 is hereby amended by:

(a) striking out lines 21 through 25 on page 23; lines 1 through 25 on page 24; lines 1 through 25 on page 25; lines 1 through 17 on page 26.

(b) renumbering sections 9 through 12 accordingly.

TO PREVENT COURT ENFORCEMENT OF BARGAINING ORDERS UNLESS BASED ON A SELECT BALLOT ELECTION

Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c)."

On page 25, line 6, add the following new sentence: "The provisions of this paragraph shall not apply to any situation in which the finding of violation of a prior order involves any bargaining between an employer and a labor organization that includes, or has included, any proposal for compulsory employee support of a labor organization including the irrevocable authorization for dues of fees to be withheld from wages and paid to a labor organization."

CHANGING STANDARD FOR THE "MAKE WHOLE" REMEDY TO COMMUNITY STANDARDS

Amend Section 8(a) by changing subparagraph (ii) beginning in line (3) of page 26 of H.R. 8410, as reported, to read as follows:

(ii) the wages such employees were receiving at the time of the unfair labor practice multiplied by the average percentage change in wages of other employees in the same industry in the immediate locality for the quarter in which the delay began.

PUNITIVE REMEDIES AGAINST UNIONS

Amend Section 8 by adding, after the last sentence of Section 10(b)(2) thereof, on line (6) of page 26 of H.R. 8410, as reported, the following: "If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a labor organization has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then notwithstanding any other law, the Board shall state its findings of fact and cause to be served on such labor organization an order withdrawing any Board certification of such union as the exclusive bargaining representative for its employees. Notwithstanding any other law, such labor organization shall not be certified, nor recognized by the Board in any manner whatsoever, as the exclusive bargaining representative of its employees, and no contract nor training funds shall be awarded to such labor organization by any Federal Department or agency, for a three-year period immediately following the date of the issuance of such order.

Section 9 of H.R. 8410 is hereby amended by:

(a) striking out lines 18 through 25 on page 26; lines 1 through 8 on page 27.

(b) renumbering section 10 through 12 accordingly.

On page 26, line 17, add the following new sentence: "The provisions of this paragraph shall not apply to any situation in which the bargaining between an employer and a labor organization includes, or has included, any proposal for compulsory employee support of a labor organization including the irrevocable authorization for dues or fees to be withheld from wages and paid to a labor organization."

BACK PAY FOR EMPLOYEES DENIED EMPLOYMENT BECAUSE OF VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 8 by adding the following new paragraph after line 17, page 26, of H.R. 8410, as reported:

(4) In a case in which the Board determines that any employee is interfered with or prevented from entering or leaving his place of employment because of any violence, mass picketing, or other coercive conduct arising out of a labor dispute at such place of employment, the Board shall require those persons or organizations who instigate, engage in, support or condone such conduct to pay such employee double the employee's wage rate for each day such employee shall be interfered with or prevented from entering his place of employment.

CONTEMPT POWER FOR CHARGING PARTY

Amend Section 9 by adding the following new paragraph after subsection (a), on line 23 of page 26 of H.R. 8410, as reported, and renumbering the present subsection (b) and (c):

(b) Section 10(e) is further amended by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

DIRECT REVIEW OF BOARD CERTIFICATION

Amend Section 9 by adding subsection (c) after line 8 on page 27, as follows:

Section 10(f) is amended by adding at the end thereof: "Notwithstanding any other provision of this Act, for purposes of this subsection a final order of the Board shall be deemed to include a certification by the Board issued pursuant to Section 9(c)(1) of this Act which creates a duty upon an employer to bargain with any labor organization."

Section 10 of H.R. 8410 is hereby amended by:

(a) striking out lines 9 through 25 on page 27; lines 1 through 2 on page 28.

(b) renumbering sections 11 and 12 accordingly.

INJUNCTIVE RELIEF AGAINST VIOLENCE AND OTHER COERCIVE CONDUCT

Amend section 10 by adding the following new paragraph after line 23, page 27, of H.R. 8410, as reported:

(3) subsection (b)(1)(A) of section 8 alleging that any person has instigated, engaged in, supported, or condoned any violence, mass picketing or other coercive conduct,

Section 11 of H.R. 8410 is hereby amended by:

(a) striking out lines 3 through 5 on page 28.

(b) renumbering section 12 accordingly.

Section 12 of H.R. 8410 is hereby amended by striking out all of section 12 as it appears on lines 6 through 8 on page 28.

SECRET BALLOT ELECTIONS

Amend the Labor Reform Act to provide for a new section as follows:

SEC. . Section 9(a) of the Act is amended by striking out "designated or" immediately before "selected for the purposes of collective bargaining", and inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election.".

Amendment in the nature of a substitute;

A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) The National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days.

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of the labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, during a period of time when employees are seeking representation by a labor organization or decertification of an incumbent labor organization, the employees shall be assured equal opportunities to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation by, or decertification of, such labor organization, and that the expressing of any views, argument, opinion or the making of any statement, shall not (i) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

"(B) for classes of cases in which either the distance from the Board's regional office to the election site or the number of employees involved in the election or for other reasons which make it infeasible to comply with the time limits stated in subsection (c)(6)(A) of section 9, to extend to a maximum of 25 days the period for directing an election stated in that subsection, and to a maximum of 45 days the period for the holding of such an election stated in that subsection;

"(C) to facilitate agreements concerning the eligibility of voters; and

"(D) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed upon the petition of any aggrieved party in the court of appeals in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief."

"(C) The Board shall within twenty-four months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the rights guaranteed in section 7, including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SEC. 4. Section 9(c) is amended by adding

at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed by the employer or labor organization, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within 15 days after the filing and serving of the petition direct an election by secret ballot not more than 30 days after a petition is filed and served under this subparagraph and shall so notify the representative named in the petition and the employer. The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this section 9.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than seventy-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than fifteen days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than one hundred and five days after the filing of said petition.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall promptly serve the parties with a tally of the ballots.

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the conduct affecting the results of an election.

"(ii) With regard to challenged ballots, the Board shall investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided*, That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

SEC. 5. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution, or made finding with respect to questions of fact which are not supported by substantial evidence in the record considered as a whole".

SEC. 6. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following:.": *Providing further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

SEC. 7. The first sentence of subsection (10)(b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section, prohibiting interference with, restraint or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization, and that said violation occurred within three years of the entry of the order violated,

the Board, or any agent or agency designated by the Board for such purposes, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

SEC. 8. Section 10(c) is amended by—

(1) inserting "(1)" after "(c)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding at the end thereof the following new paragraph:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, and that compliance with the Act cannot be obtained through Board and court procedures otherwise available, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identification of that person to the Secretary of Labor. Such order may be reviewed pursuant to subsections (f) and (g). Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list to all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.

"(3) In a case in which the Board determines that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(1) and (2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employee are seeking representation by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, the measure of backpay for the period until a valid offer of reinstatement is made shall be the employee's wage rate without mitigation at the time of the unfair labor practice. In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may impose a civil penalty of not more than , to be collected in the United States District Court pursuant to Title 28 U.S.C. 1355.

SEC. 9. (a) The first sentence of subsection 10(e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code.".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within sixty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within 20 days of service on it of said petition, file a further petition for review".

SEC. 10. Section 10 is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive or restraining order as it deems just and proper."

By Mr. BUCHANAN:

Beginning on page 19, beginning with line 6, strike all of Section 4 through line 13. Renumber the subsequent sections of the bill accordingly.

By Mr. EDWARDS of Oklahoma:

PANEL SYSTEM FOR NLRB DECISION MAKING

Amend Section 2 of H.R. 8410, as reported, by striking line 8 of page 15 through line 19 of page 16 and substitute in lieu thereof:

SEC. 2. The first sentence of Section 3(b) of the National Labor Relations Act is amended to read as follows:

"The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

DELETION OF ACCESS RULE

Amend Section 3 to delete Section 6(b)(1)(A) thereof, on lines 5 through 15 of page 17 of H.R. 8410, as reported, and renumber Sections 6(b)(1)(B), 6(b)(1)(C) and 6(b)(1)(D) as Sections 6(b)(1(A), 6(b)(1)(B), and 6(b)(1)(C), respectively.

JUDICIAL REVIEW OF BOARD RULEMAKING

Amend Section 3 by deleting the entire sentence beginning on line 10 of page 18 of H.R. 8410, as reported, and substituting in lieu thereof:

"(3) A rule or regulation issued by the Board shall be judicially reviewable at the behest of any aggrieved party in any United States court of appeals where that party resides or transacts business, and such court shall have jurisdiction to grant appropriate relief."

RULES PROTECTING FREE SPEECH

Section 3 is amended by renumbering subparagraph (A) in Section 6(b)(1) thereof as (A)(i), and adding the following new subparagraph (A)(ii):

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

JUDICIAL REVIEW OF IMPROPERLY APPLIED BOARD RULES

Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

BOARD RULES TO PREVENT UNREASONABLE UNION FINES

Section 3 is amended by adding at the end thereof the following new paragraph:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SMALL BUSINESS EXEMPTION FROM JURISDICTION OF NLRB

Amend Section 3 by adding the following new section after the word "relief." on line 5, page 19, of H.R. 8410, as reported:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, and yearly thereafter, review and issue jurisdictional rules and regulations, which give due weight to changing economic conditions. Such regulations shall provide that the Board will not exercise jurisdiction over employers with fewer than 50 employees.

NOTICE OF INTENT TO ORGANIZE

Amend Section 5 by deleting, at the end of line (2) of page 22 of H.R. 8410, as reported, the ".", and by inserting instead a ";" and adding the following new paragraph;

"(E) Every employee, employee group, individual or labor organization seeking status as an exclusive bargaining representative pursuant to this section shall file notice prior thereto with the Board and give notice thereof to the employer, in accordance with such rules and regulations as the Board may prescribe as necessary to afford employees an adequate opportunity to obtain from all parties involved information, views, arguments or opinions pertaining to such proposed representation.".

EXPEDITED ELECTIONS AVAILABLE TO EMPLOYERS AND EMPLOYEES

Amend Section 5 so as to strike Section 9(c)(6)(A), as amended (lines 16 through 25 of page 19, and lines 1 through 18 of page 25 of H.R. 8410, as reported), and substitute therefor the following:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (C)(1)(A) or (C)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing of the petition direct an election by secret ballot not more than fifteen days after a petition is filed under this subparagraph and shall so notify the representative named in the petition and the employer.

BACK PAY FOR EMPLOYEES DENIED EMPLOYMENT BECAUSE OF VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 8 by adding the following new paragraph after line 17, page 26, of H.R. 8410, as reported:

(4) In a case in which the Board determines that any employee is interfered with or prevented from entering or leaving his place of employment because of any violence, mass picketing, or other coercive conduct arising out of a labor dispute at such place of employment, the Board shall require those persons or organizations who instigate, engage in, support or condone such conduct to pay such employee double the employee's wage rate for each day such employee shall be interfered with or prevented from entering his place of employment.

CHANGING STANDARD FOR THE "MAKE WHOLE" REMEDY TO COMMUNITY STANDARDS

Amend Section 8(a) by changing subparagraph (ii) beginning on line (3) of page 26 of H.R. 8410, as reported, to read as follows:

(ii) the wages such employees were receiving at the time of the unfair labor practice multiplied by the average percentage change in wages of other employees in the same industry in the immediate locality for the quarter in which the delay began.

PUNITIVE REMEDIES AGAINST UNIONS

Amend Section 8 by adding, after the last sentence of Section 10(b)(2) thereof, on line (6) of page 26 of H.R. 8410, as reported, the following:

"If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a labor organization has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then notwithstanding any other law, the Board shall state its findings of fact and cause to be served on such labor organization an order withdrawing any Board certification of such union as the exclusive bargaining representative for its employees. Notwithstanding any other law, such labor organization shall not be certified, nor recognized by the Board in any manner whatsoever, as the exclusive bargaining representative of its employees, and no contract nor training funds shall be awarded to such labor organization by any Federal Department or Agency, for a three-year period immediately following the date of the issuance of such order.

CONTEMPT POWER FOR CHARGING PARTY

Amend Section 9 by adding the following new paragraph after subsection (a), on line 23 of page 26 of H.R. 8410, as reported, and renumbering the present subsection (b) and (c):

(b) Section 10(e) is further amended by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

DIRECT REVIEW OF BOARD CERTIFICATION

Amend Section 9 by adding subsection (c) after line 8 on page 27, as follows:

Section 10(f) is amended by adding at the end thereof:

"Notwithstanding any other provision of this Act, for purposes of this subsection a final order of the Board shall be deemed to include a certification by the Board issued pursuant to Section 9(c)(1) of this Act which creates a duty upon an employer to bargain with any labor organization."

TO PREVENT COURT ENFORCEMENT OF BARGAINING ORDERS UNLESS BASED ON A SECRET BALLOT ELECTION

Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in * * *.

INJUNCTIVE RELIEF AGAINST VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 10 by adding the following new paragraph after line 23, page 27, of H.R. 8410, as reported:

(3) subsection (b)(1)(A) of section 8 alleging that any person has instigated, en-

gaged in, supported, or condoned any violence, mass picketing or other coercive conduct,

SECRET BALLOT ELECTIONS

Amend the Labor Reform Act to provide for a new section as follows:

SEC. . Section 9(a) of the Act is amended by striking out "designated or" immediately before "selected for the purposes of collective bargaining", and inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election.".

By Mr. ERLENBORN:

Amendment in the nature of a substitute:

A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) The National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days.

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of the labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, during a period of time when employees are seeking representation by a labor organization or decertification of an incumbent labor organization, the employees shall be assured equal opportunities to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation by, or decertification of, such labor organization, and that the expressing of any views, argument, opinion or the making of any statement, shall not (i) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

"(B) for classes of cases in which either the distance from the Board's regional office to the election site or the number of employees involved in the election or for other reasons which make it infeasible to comply with the time limits stated in subsection (c)(6)(A) of section 9, to extend to a maximum of 25 days the period for directing an election stated in that subsection, and to a maximum of 45 days the period for the holding of such an election stated in that subsection;

"(C) to facilitate agreements concerning the eligibility of voters; and

"(D) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed upon the petition of any aggrieved party in the court of appeals in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

"(C) The Board shall within twenty-four months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the rights guaranteed in section 7, including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SEC. 4. Section 9(c) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed by the employer or labor organization, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within 15 days after the filing and serving of the petition direct an election by secret ballot not more than 30 days after a petition is filed and served under this subparagraph and shall so notify the representative named in the petition and the employer. The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this section 9.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than seventy-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than fifteen days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than one hundred and five days after the filing of said petition.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall promptly serve the parties with a tally of the ballots.

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the conduct affecting the results of an election.

"(ii) With regard to challenged ballots, the Board shall investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided,* That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

SEC. 5. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution, or made findings with respect to questions of fact which are not supported by substantial evidence in the record considered as a whole".

SEC. 6. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: "; *Provided further,* That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an

unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further,* That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

SEC. 7. The first sentence of subsection (10)(b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section, prohibiting interference with, restraint or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization, and that said violation occurred within three years of the entry of the order violated,

the Board, or any agent or agency designated by the Board for such purpose, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

SEC. 8. Section 10(c) is amended by—

(1) inserting "(1)" after "(c)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding at the end thereof the following new paragraph:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, and that compliance with the Act cannot be obtained through Board and court procedures otherwise available, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identification of that person to the Secretary of Labor. Such order may be reviewed pursuant to subsections (f) and (g). Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list of all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.

"(3) In a case in which the Board determines that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(1) and (2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employee are seeking representations by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, the measure of backpay for the period until a valid offer of reinstatement is made shall be the employee's wage rate without mitigation at the time of the unfair labor practice. In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may impose a civil penalty of not more than , to be collected in the United States District Court pursuant to Title 28 U.S.C. 1355.

SEC. 9. (a) The first sentence of subsection 10(e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code.".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within sixty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within 20 days of service on it of said petition, file a further petition for review".

SEC. 10. Section 10 is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive or restraining order as it deems just and proper."

Page 15, after line 7, insert the following new section 2 and renumber the subsequent sections accordingly:

SEC. 2. Section 1 of the National Labor Relations Act (29 U.S.C. 151) is amended to read as follows:

"FINDINGS AND POLICIES

"SECTION 1. The denial of, or interference with, the rights of employees to organize, form, join, or assist labor organizations, to bargain collectively, to engage in other concerted activities, or interference with or denial of their right to refrain from any or all of such activities leads to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"Inequality of bargaining power between labor organizations and employers substantially burdens the process of collective bargaining and affects the flow of commerce.

"Experience has proved that protection by law of the right of employees to determine whether they wish to organize and bargain collectively encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions.

"Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities that impair the interest of the public in the free flow of commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by protecting the right of employees to exercise full freedom of choice in determining whether they wish to designate collective-bargaining respresentatives and, when such representatives have been designated, by encouraging the settlement of industrial disputes through free collective bargaining,".

PANEL SYSTEM FOR NLRB DECISION MAKING

Amend Section 2 of H.R. 8410, as reported, by striking line 8 of page 15 through line 19 of page 16 and substitute in lieu thereof:

SEC. 2. The first sentence of Section 3(b)

of the National Labor Relations Act is amended to read as follows:

"The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

Page 15, line 8, strike section 2(a) and redesignate section 2(b) on page 16, line 5, as section 2.

Section 2 of H.R. 8410 is amended as follows: On page 15, delete all of lines 8 through 25.

On page 16, delete all of lines 1 through 8 and insert in lieu thereof the following:

SEC. 2. Section 3(b) of the National Labor Relations Act is amended by inserting after the third sentence the following new sentence: "The Board"

Section 2 of H.R. 8410 is amended as follows: On page 15, delete lines 8 through 25.

On page 16, delete lines 1 through 19.

Renumber subsequent sections accordingly.

Page 16, strike out line 7 and all that follows down through line 19 and insert in lieu thereof the following:

"(2) Section 3(b) is amended by inserting after the third sentence the following new sentence: "The Board shall within 90 days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or the prevailing party in a decision of an administrative law judge after a hearing under Section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days."

Section 2 of H.R. 8410 is amended as follows: On page 16, delete line 19 and add in lieu thereof the following: "the decision of the administrative law judge. At the request of any of the contesting parties, a decision of the administrative law judge shall be appealed to the entire Board. No decision of an administrative law judge shall be summarily affirmed in the event of a request for appeal to the full Board."

DELETION OF ACCESS RULE

Amend Section 3 to delete Section 6(1)(1)(A) thereof, on lines 5 through 15 of page 17 of H.R. 8410, as reported, and renumber Section 6(b)(1)(B), 6(b)(1)(C), and 6(b)(1)(D) as Sections 6(b)(1)(A), 6(b)(1)(B), and 6(b)(1)(C), respectively.

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation.

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation: *Provided*, That where an employer provides an equal opportunity for employees to obtain information from a labor organization, time necessary for conveying such information shall not be at the expense of the employer.

Page 17, line 5, strike all of subparagraph (A) down through line 15, page 17, and renumber the subsequent subparagraphs accordingly.

Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraphs (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

RULES PROTECTING FREE SPEECH

Section 3 is amended by renumbering subparagraph (A) in Section 6(b)(1) thereof as (A)(i), and adding the following new subparagraph (A)(ii):

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

Section 2 of H.R. 8410 is amended as follows: On page 17, line 15, after the semicolon, the following: "similarly, where a labor organization addresses an employee or a group of employees on issues relating to representation by a labor organization, during a period of time that employees are seeking representation by a labor organization, the employee shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from their employer."

SEC. 3 of the bill as it amends Section 6 of the Act is amended by deleting subparagraphs (B) page 17, lines 16 through 24, and (D), page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly:

and striking section 5 of the bill, page 19 lines 14 through line 2, page 22, and inserting in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "within fifteen days," and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote."

Page 17, line 19, strike the word "makes" and insert in lieu thereof "or for other reasons which make".

Section 3 of H.R. 8410 is amended as follows: On page 18, line 1, delete the word "facilitate" and insert in lieu thereof the following: "provide adequate time for all parties to arrive at".

On page 18 strike all of line 6 down through line 9;

Page 18, strike "or (2)" on lines 11 and 12;

Page 18, line 20, strike all after the comma down through the comma on line 22 and renumber all subsequent subparagraphs accordingly.

JUDICIAL REVIEW OF BOARD RULEMAKING

Amend Section 3 by deleting the entire sentence beginning on line 10 of page 18 of H.R. 8410, as reported, and substituting in lieu thereof:

"(3) A rule or regulation issued by the Board shall be judicially reviewable at the behest of any aggrieved party in any United States court of appeals where that party resides or transacts business, and such court shall have jurisdiction to grant appropriate relief."

On page 18, strike lines 10 through 25; on page 19, strike lines 1 through 5, and substitute therein the following:

"(c)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 7 including rules—

(A) which shall prohibit a labor organization from imposing or threatening to impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to involve the processes of the Board).

(B) which shall provide for the conducting of secret ballot referendums by employees in a bargaining unit prior to the commencement of a strike by such employees.

(1) Any such referendum may be requested by (a) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (b) the employer, or (c) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to Section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

(C) which shall govern the expressing of views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), as the disseminations thereof, whether in written, printed, graphic, visual or auditory form, *Provided*, That violations of a rule promulgated pursuant to this subparagraph shall not be evidence of an unfair labor practice under any provisions of this Act or constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

(D) which shall provide that any employee (including any employee of a health care institution) who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required, in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in a contract between the employer (including an employer which is a health care institution) and a labor organization, or if the contract fails to designate such funds, then to any such fund chosen by the employee.".

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18.

JUDICIAL REVIEW OF IMPROPERLY APPLIED BOARD RULES

Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

BOARD RULES TO PREVENT UNREASONABLE UNION FINES

Section 3 is amended by adding at the end thereof the following new paragraph:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

Page 19, line 1, strike all after the comma on line 1 through line 5, and insert in lieu thereof the following: "may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SMALL BUSINESS EXEMPTION FROM JURISDICTION OF NLRB

Amend Section 3 by adding the following new section after the word "relief." on line 5, page 19, of H.R. 8410, as reported:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, and yearly thereafter, review and issue jurisdictional rules and regulations, which give due weight to changing economic conditions. Such regulations shall provide that the Board will not exercise jurisdiction over employers with fewer than 50 employees.

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b)(1) of the National Labor Relations Act is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in Section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further*, That it shall be an unfair labor practice under this section for a labor organization to threaten or impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances;".

Page 19, after line 5, insert the following new section 4 and renumber subsequent sections accordingly:

SEC. 4. Section 8(b)(1) is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further*, That it shall be an unfair labor practice under this section for a labor organization to threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances.".

Page 19, insert after line 5 the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b) of the National Labor Relations Act is amended by striking out "and" after paragraph (6), striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(8) to call, maintain, continue or resume a strike in any bargaining unit after:

"(A) a majority of the employees voting on the question have voted in a secret ballot referendum conducted by the Board, or by any other person or organization selected by the parties or designated by the Board to conduct such referendum among the employees in such bargaining unit, not to strike or continue to strike; or

"(B) such referendum has been requested before a strike begins and the result thereof has not been certified.

"Any such referendum may be requested by (i) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (ii) the employer, or (iii) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent subsections accordingly:

SEC. 4. Section 8(c) of the National Labor Relations Act is amended to read as follows:

"(c) The expressing of any views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual or auditory form, shall not (1) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of the Act, if such expression contains no threat of reprisal or force or promise of benefit.".

Page 19, after line 5, insert the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(h) It shall be unlawful for any person to instigate, engage in, support, or condone any violence, mass picketing, or other coercive conduct, at or about the premises of any person engaged or employed in commerce or in any industry affecting commerce: *Provided*, That nothing contained in this subsection shall be construed to invalidate or limit, or be limited by, any law of a state or political subdivision of a state.".

(b) Section 10(1) of the National Labor Relations Act is amended by inserting between "or section 8(b)(7)," and "the preliminary investigation" the following: "or section 8(h),".

(c) Section 303(a) of the National Labor Relations Act is amended by inserting between "section 8(b)(4)" and "of the National Labor Relations Act" the following: "or section 8(h)".

Section 3 of H.R. 8410 is amended as follows: On page 19, following line 5, insert the following new section and renumber the succeeding sections accordingly:

SEC. 4. Section 9(a) is amended to read as follows:

"(a) Representatives selected by a secret ballot election, supervised by outside nonpartisan officials mutually agreed to by employee representatives and their employer, for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the representatives of those employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment generally applicable to employees: *Provided*, That nothing in this Act shall preclude any individual employee or group of employees acting in concert from electing to make and administer directly with their employer any individual or collective contract of employment or present any grievances, without the intervention of the collective bargaining representative, whether that contract or grievance is consistent or inconsistent with the terms of a collective bargaining agreement then in effect.".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. (a) Section 9(a) of the National Labor Relations Act is amended—

(1) by striking out "designated or" immediately before "selected for the purposes of collective bargaining"; and

(2) by inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election."

(b) Section 8(a)(5) of the National Labor Relations Act is amended to read as follows:

"(5) to refuse to bargain collectively with the representative of his employees: *Provided*, That nothing in this Act shall be construed as requiring an employer to bargain collectively until a representative of his employees has been determined by means of a secret ballot election conducted in accordance with the provisions of section 9.".

Page 19, line 6, strike section 4 and renumber the subsequent sections accordingly.

Strike section 5, page 19 line 14 through line 2, page 22, and insert in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "within fifteen days", and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote"; and

Amend section 3 of the bill as it amends section 6 of the Act by deleting subparagraphs "(B)", page 17, lines 16 through 24, and "(D)", page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly.

EXPEDITED ELECTIONS AVAILABLE TO EMPLOYERS AND EMPLOYEES

Amend Section 5 so as to strike Section 9(c)(6)(A), as amended (lines 16 through 25 of page 19, and lines 1 through 18 of page 25 of H.R. 8410, as reported), and substitute therefor the following:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (C)(1)(A) or (C)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing of the petition direct an election by secret ballot not more than fifteen days after a petition is filed under this subparagraph and shall so notify the representative named in the petition and the employer.

Page 19, strike all after the comma on line 19 through line 10 on page 20, and insert in lieu thereof the following:

"pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has";

Page 20, line 14, substitute "fifteen" for "seven";

Page 20, lines 15 to 16, strike "a petition is filed and served" and insert in lieu thereof the words "the direction of election";

Page 20, line 18, immediately after the period insert the following: "The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this Section 9.";

Page 17, line 21, substitute "twenty" for "fifteen"; and

Page 17, line 23, strike "holding of such" and substitute "direction of".

Section 5 of H.R. 8410 is amended as follows: On page 20, lines 15 through 18, strike out all after the word "ballot" and insert in lieu thereof the following: "to be held at a date mutually agreed upon by the employee representative defined in subsection (a) and their employer."

Section 5 of H.R. 8410 is amended as follows: On page 20, lines 22 through 25, strike out all after the word "date" and insert in lieu thereof the following: "mutually agreed upon by the employee representative as defined in subsection (a) and their employer."

On page 21 delete lines 1 through 5, and renumber subsequent lines accordingly.

Page 21, line 5, insert the following after "petition.": "Notwithstanding the provisions of subparagraph (A) of this paragraph, where the Board determines that a majority of the employees in an appropriate unit are regularly scheduled to work less than twenty-five hours per week, the Board shall direct the election on a date not less than forty-five (45) days nor more than seventy-five (75) days after the filing and serving of the petition and shall inform the representative named in the petition, the employer and all other interested parties of the election date not less than fifteen (15) days prior to the election."

Page 21, line 6, strike subparagraph (C) through line 9, page 21, and redesignate the subsequent subparagraphs accordingly.

Page 21, line 10, strike all of subparagraph (D)(i) down through line 17, page 21, and insert in lieu thereof the following:

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the election or to the conduct affecting the results of an election.

Page 21, strike lines 18 to 21 and substitute therefor the following:

"(ii) With regard to challenged ballots, the Board shall expeditiously investigate the challenges and serve a report upon the parties on challenges.

Page 21, line 24, substitute a period for the colon and strike all thereafter through line 2, page 22.

NOTICE OF INTENT TO ORGANIZE

Amend Section 5 by deleting, at the end of line (2) of page 22 of H.R. 8410, as reported, the ".", and by inserting instead a ";" and adding the following new paragraph:

"(E) Every employee, employee group, individual or labor organization seeking status as an exclusive bargaining representative pursuant to this section shall file notice prior thereto with the Board and give notice thereof to the employer, in accordance with such rules and regulations as the Board may prescribe as necessary to afford employees an adequate opportunity to obtain from all parties involved information, views, arguments or opinions pertaining to such proposed representation.".

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole.".

Page 22, after line 10, insert the following new section 7 and renumber the subsequent sections accordingly:

SEC. 7. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

Page 22, line 14, strike "(1)"; page 22, line 15, strike "or" the second time it occurs and all that follows through line 5, page 23;

Page 23, line 22, strike all therein through line 7, page 24;

Strike "(3)" on line 8, page 24;

Change "paragraphs:" to "paragraph:" on line 9, page 24;

Strike line 10, page 24 through line 6, page 25; and

Strike "(3)" on line 7, page 25.

Page 24, line 14, immediately after the comma, insert "and that compliance with the Act cannot be obtained through Board and Court procedures otherwise available,".

At page 24, line 17, insert the following new sentence after "Secretary of Labor.":

Such order may be reviewed pursuant to subsections (f) and (g).

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following:

Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.

Page 25, line 6, insert immediately before the period the following: ": *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs".

Insert the following new sentence after the period on page 25, line 6: "Further, notwithstanding any other law, no contracts or training funds shall be awarded to any such person which is a labor organization, and the Board shall not order any employer to bargain with any such labor organization during a period of three years immediately following the date of the Secretary's certification."

Page 25, line 7 strike all through the period on line 19.

Page 25, line 9, after "(a)(3)" insert the following: ", (b)(1)".

Page 25, line 18, strike the word "double" and insert before the period on line 19 the following: ", without regard to any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 19, insert immediately before the period the following: ", less any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 19, strike all after the period through line 17, page 26, and insert in lieu thereof the following: "In a case in which the Board determines that an unlawful refusal to bargain within the meaning of subsection (a)(5) or (b)(5) of section 8 has taken place, the Board may award to the employees so represented compensation for the delay in bargaining caused by the unfair labor practice which shall be measured by the differences between (i) the wages and other benefits received by such employees during the period of delay and (ii) the last reasonable offer with respect to wages and benefits, made by the party not guilty of the unfair labor practice."

CHANGING STANDARD FOR THE "MAKE WHOLE" REMEDY TO COMMUNITY STANDARDS

Amend Section 8(a) by changing subparagraph (ii) beginning on line (3) of page 26 of H.R. 8410, as reported, to read as follows:

(ii) the wages such employees were receiving at the time of the unfair labor practice multiplied by the average percentage change in wages of other employees in the same industry in the immediate locality for the quarter in which the delay began.

PUNITIVE REMEDIES AGAINST UNIONS

Amend Section 8 by adding, after the last sentence of Section 10(b)(2) thereof, on line (6) of page 26 of H.R. 8410, as reported, the following:

"If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a labor organization has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then notwithstanding any other law, the Board shall state its findings of fact and cause to be served on such labor organization an order withdrawing any Board certification of such union as the exclusive bargaining representative for its employees. Notwithstanding any other law, such labor organization shall not be certified, nor recognized by the Board in any manner whatsoever, as the exclusive bargaining representative of its employees, and no contract nor training funds shall be awarded to such labor organization by any Federal Department or agency, for a three-year period immediately following the date of the issuance of such order.

BACK PAY FOR EMPLOYEES DENIED EMPLOYMENT BECAUSE OF VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 8 by adding the following new paragraph after line 17, page 26, of H.R. 8410, as reported:

(4) In a case in which the Board determines that any employee is interfered with or prevented from entering or leaving his place of employment because of any violence, mass picketing, or other coercive conduct arising out of a labor dispute at such place of employment, the Board shall require those persons or organizations who instigate, engage in, support or condone such conduct to pay such employee double the employee's wage rate for each day such employee shall be interfered with or prevented from entering his place of employment.

Page 26, line 18, strike all of section 9 through page 27, line 8; and renumber the subsequent sections accordingly.

Page 26, line 18, strike all of section 9 through page 27 line 8 and substitute therefor the following new section 9.

SEC. 9. The first sentence of subsection 10(e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code.".

CONTEMPT POWER FOR CHARGING PARTY

Amend Section 9 by adding the following new paragraph after subsection (a), on line 23 of page 26 of H.R. 8410, as reported, and renumbering the present subsection (b) and (c):

(b) Section 10(e) is further amended by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

TO PREVENT COURT ENFORCEMENT OF BARGAINING ORDERS UNLESS BASED ON A SECRET BALLOT ELECTION

Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows: "The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *provided*, that no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c)."

Page 26, line 26, strike the quotation marks and the second period and insert the following new paragraph:

"(4) where the Board determines at any stage of an unfair labor practice proceeding that an unfair labor practice charge has been filed against an employer or a labor organization, or both, which is without merit and is frivolous in nature, the Board shall be empowered to dismiss the case and to direct the charging party to pay the party or parties charged reasonable attorneys' fees, witness fees, transcript and record costs, printing costs, travel expenses and per diem, and any other costs or expenses directly resulting from the defense of such unfair labor practice charge.".

Page 27, line 1, strike "thirty" and substitute therefor "sixty".

DIRECT REVIEW OF BOARD CERTIFICATION

Amend Section 9 by adding subsection (c) after line 8 on page 27, as follows:

Section 10(f) is amended by adding at the end thereof:

"Notwithstanding any other provision of this Act, for purposes of this subsection a final order of the Board shall be deemed to include a certification by the Board issued pursuant to Section 9(c)(1) of this Act which creates a duty upon an employer to bargain within any labor organization."

Page 27, line 9, through page 28, line 5, strike all of sections 10 and 11, and renumber section 12 as section 10.

Page 27, line 21, strike "or"; page 27, line 23, insert "or" after the comma and insert the following new subparagraph after line 23:

"(3) subsection (a)(5) of section 8 and there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

INJUNCTIVE RELIEF AGAINST VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 10 by adding the following new paragraph after line 23, page 27, of H.R. 8410, as reported:

(3) subsection (b)(1)(A) of section 8 alleging that any person has instigated, engaged in, supported, or condoned any violence, mass picketing or other coercive conduct,

Page 28, after line 5 insert the following new section 12 and renumber the present section 12 as section 13:

SEC. 12. Section 441 b(b)(5) of title 2, United States Code, is amended to read as follows:

"(5) Notwithstanding any other law, any method of soliciting voluntary contribution or of facilitating the making of voluntary contribution to a separate segregated fund established by a corporation permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members: *Provided*, That no method, procedure or system by which union dues and other assessments are deducted from an employee's paycheck by an employer, either automatically or on specific authorization from an employee, may be utilized in the solicitation of contributions to such separate segregated fund.".

Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

SECRET BALLOT ELECTIONS

Amend the Labor Reform Act to provide for a new section as follows.

SEC. . Section 9(a) of the Act is amended by striking out "designated or" immediately before "selected for the purposes of collective bargaining", and inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election.".

By Mrs. FENWICK:

Page 7, line 5, strike out "fifteen days" and insert in lieu thereof "thirty days".

Page 10, line 25, strike out "paragraphs" and insert in lieu thereof "paragraph". Page 11, strike out lines 1–22 inclusive. Page 11, line 23, strike out "(3)" and insert in lieu thereof "(2)".

By Mr. JENRETTE:

Page 15, strike out line 1 and everything that follows through and including line 8 on page 28 and insert in lieu thereof the following:

That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amend-

ment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. No more than a simple majority of the members of the Board shall be members of the same political party. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a quorum of a group designated pursuant to the first sentence of this subsection may, in appropriate cases, upon motion of the prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion and the response thereto shall be filed with the Board and presented to a quorum of a group designated pursuant to the first sentence hereof within thirty days after the decision of the administrative law judge.".

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(2) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act and only on the grounds that the Board prejudicially violated the requirements of subchapter II of chapter 5 of title 5, United States Code, or that a rule or regulation of the Board is arbitrary or capricious, contrary to a specific prohibition of this Act, or of the Constitution. The failure of the Board to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (1) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals for the District of Columbia Circuit. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to grant appropriate relief.".

SEC. 4. Section 9(c)(1) is amended by striking out "upon due notice." and inserting in lieu thereof the following: "upon due notice to be held not later than fifteen days following the filing of the petition, absent good cause sufficiently demonstrated to the Regional Director in the Region the petition was filed.".

SEC. 5. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution".

SEC. 6. Section 9 is further amended by adding at the end thereof the following new subsections:

"(f)(1) Either party to the election may file objections to the conduct of the election or conduct affecting the results of the election within five working days after the day of the election.

"(2) The objecting party shall then have three working days, following the filing of objections, within which to submit material evidence in support of the objections, and, if such material evidence is not timely submitted, the Regional Director shall dismiss the objections, absent a showing of good cause why that evidence was not timely submitted.

"(3) In those cases where a hearing is necessary to resolve the objections and where there are no unfair labor practice charges consolidated with the objections for hearing purposes, such hearing will be held within twenty-four days following the filing of the objections.

"(g) Exceptions filed by any party to any Board official's Report on Objections following the Board's investigation of the objections or an objections hearing, shall be resolved by the Board's issuance of a written decision within sixty days following the issuance of that report.".

SEC. 7. The first sentence of section 10(b) is amended—

(1) by inserting after "served upon such person" the following: "not later than forty-five days following the filing of the charge"; and

(2) by inserting after "not less than five days" the following: "nor more than seventy-five days (except in cases with substantial complexity or for good cause shown to the Chief Administrative Law Judge by any party)".

SEC. 8. Section 10(c) is amended—

(1) by inserting after "which shall be filed with the Board" in the last sentence thereof, the following: "and served on all parties within forty-five days after briefs are filed by the parties to the hearing"; and

(2) by adding at the end thereof the following new sentence: "Within sixty days following the filing of exceptions to the proposed report and recommended order by any party to the proceeding, the Board shall issue its written decision regarding the exceptions adopting, modifying, or setting aside that report or order or orders, unless the proceeding is certified in writing by the Board Chairman as one of unusual complexity, in which event the sixty-day period shall be extended to one hundred and twenty days.".

SEC. 9. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end thereof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within thirty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within fifteen days of service on it of said petition, file a further petition for review".

SEC. 10. Except as otherwise specifically provided in this Act, the amendments made by this Act shall take effect sixty days after the date of enactment of this Act.

By Mr. JONES of Oklahoma:

Page 15, strike out line 8 and all that follows down through page 16, line 6, and insert in lieu thereof the following:

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended by adding at the end thereof the following new sentence: "No more than a simple majority of the members of the Board shall be members of the same political party.".

Page 16, line 7, strike out "(2)" and insert in lieu thereof "(b)".

Page 24, line 9, strike out "paragraphs" and insert in lieu thereof "paragraph".

Page 24, strike out line 10 and all that follows down through page 25, line 6.

Page 25, line 7, strike out "(3)" and insert in lieu thereof "(2)".

Page 25, line 18, strike out "double".

By Mr. GARY A. MYERS:

Page 17, strike out line 5 and everything that follows through line 15 and redesignate subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C).

Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election,".

Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election,".

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization".

Page 25, line 11, insert "actively" immediately before "seeking".

Page 27, line 16, insert "actively" immediately before "seeking".

By Mr. QUIE:

Page 16, strike out line 7 and all that follows down through line 19 and insert in lieu thereof the following:

"(2) Section 3(b) is amended by inserting after the third sentence the following new sentence: "The Board shall within 90 days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the prevailing party in a decision of an administrative law judge after a hearing under Section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days."

Page 19, line 18, insert after the comma: "or a labor organization pursuant to subsection (C)(1)(A) or (e)(1) of this section 9,";

Page 20, line 6, insert after the comma: "or that a majority of employees in a unit currently certified or recognized designate that they no longer desire representation, or that a majority of the employees covered by an agreement made pursuant to section 8(a)(3) designate that such authority be rescinded,";

Page 20, immediately after line 7, insert: "unit covered by an agreement pursuant to section 8(a)(3), or is a unit where the certified or currently recognized representative is no longer desired, or is a".

Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "thirty";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy-five" and insert in lieu thereof "ninety";

Page 21, line 15, immediately before the period insert ": *Provided*, That the Board may extend the period for holding of a thirty day election and a sixty day election for a period of up to thirty days only if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote".

Page 21, strike line 6 and all that follows through line 2, page 22, and insert in lieu thereof the following:

"(C)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, object to the election on the ground that conduct contrary to a rule relating to election declared by the Board pursuant to its authority under section 6 or conduct contrary to a rule of decision declared by the Board in a proceeding under section 10 did not affect the result of the election.

"(ii) With regard to challenged ballots, the Board shall expeditiously investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided*, That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

"(D) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall, after resolving issues raised by objections and challenges, promptly serve the parties with a tally of the ballots and certification of results or certification of representative.

Page 25, line 6, insert immediately before the period, the following: "; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs, or to the local, intermediate, national or international labor organization found to have engaged in a willful violation".

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following:

"Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs.".

Page 25, line 9, after "(a)(3)" insert the following: ", (b)(1)".

By Mr. RAILSBACK:

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18;

Page 20, line 15, strike out "fifteen" and insert in lieu thereof "thirty" and page 21, line 1, strike out "fifteen" and insert in lieu thereof "thirty";

Page 17, line 23, strike out "twenty-one" and insert in lieu thereof "forty-five";

Page 21, line 24, insert after the word "election" a period, and strike the following language, beginning with "Provided", through page 22, line 2;

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered at a whole";

Page 24, line 17, insert the following new sentence after "Secretary of Labor."; Such order may be reviewed pursuant to subsections (f) and (g).";

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.";

Page 26, line 9, insert before the comma "in the same or similar industries";

Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following:

A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.

By Mr. TUCKER:

Page 17, line 23, strike out "twenty-one" and insert in lieu thereof "thirty-one".

Page 20, line 15, strike out "fifteen" and insert in lieu thereof "twenty-five".

Page 17, beginning on line 13, strike out "in an equivalent manner".

EXTENSIONS OF REMARKS

THE MISSILE THE RUSSIANS FEAR MOST

HON. BOB WILSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Reader's Digest, February 1977]

THE MISSILE THE RUSSIANS FEAR MOST

(By Ralph Kinney Bennett)

It burst from beneath the sea in a white geyser, a slim 21-foot cylinder. Small wings and fins snapped into position from slots in its sleek, shiny body as a turbofan engine roared to life and propelled it a thousand feet into the air. Banking, it angled downward until it was 50 feet above the surface, rushing toward land. Soon it was passing over a green blur of trees, fields and housetops. To people on the ground it was noise and shadow, gone in the snap of a head.

A hill loomed before it. Inside the cylinder, a computer no bigger than a loaf of bread pulsed a command through the guidance system; the projectile tipped up slightly, cleared the hill and dropped down the other side. For more than an hour it gulped up the miles, hugging the contour of the earth. Finally it flew out over a rolling plain and fixed its cold electronic eye on a strip of concrete and a line of aircraft with red stars stenciled on their sides. The flying cylinder's journey ended in searing light and a roar of obliteration. Here and at thousands of other military targets across the Soviet Union, the United States was responding to a nuclear first strike.

This is how a sea-launched "cruise missile" (SLCM) would be used under wartime conditions. With its uncanny accuracy and ability to elude enemy radar, the cruise missile now holds the most promising potential for increasing American strategic capability in the face of a continuing Soviet military buildup.

The first operational cruise missile—essentially a pilotless airplane filled with explosives—appeared during World War II when Hilter's engineers came up with the "buzz bomb" that terrorized England. The United States later developed cruise missiles of its own: the Matador in 1950, the Mace in 1959. Now, after extensive research and prototype testing, two new versions of this weapon could soon go into full-scale production, if Congress approves funds. They are the air-launched cruise missile (ALCM), a 14-foot Air Force missile that can be carried under the wings or in the bomb bay of a bomber and released as far as 700 miles from target, and the SLCM, built for the Navy and designated Tomahawk, which is fired through the torpedo tubes of submarines and has a range of at least 2300 miles.

Both these missiles are relatively inexpensive to build since they reap the benefits of systems already developed in connection with

other programs. They use the same turbofan engine and the same vital guidance components. Their average cost is about $600,000 each, roughly one tenth the cost of an ICBM.

It is the Navy missile that the Soviets fear most. The reason: the Tomahawk flies so low that radar cannot pick it out from the confusion of ground images. It thus overcomes the weakness of any cruise missile—the low speed (around 50 m.p.h.) that would ordinarily make it easy prey for radar-directed ground-defense missiles or guns.

The secret behind this extraordinary capability lies in the Tomahawk's guidance system, called TERCOM for terrain-contour matching. The Tomahawk carries in its computer an electronic library of precise maps showing various routes to targets inside the Soviet Union. As the missile moves along close to the earth, its guidance system sends out signals to "read" the terrain below and to each side. It then checks what it "sees"—hills, rivers, valleys, plains—against the correct map in its library. If the missile has wandered, impulses are sent in milli-seconds to the control surfaces to put it back on course. The entire guidance "package" inside the missile takes only a cubic foot of space and weighs less than 90 pounds.

Because of their slow speed, cruise missiles can hardly be construed as provocative "first-strike" weapons. They do, however, challenge the Soviets in two ways:

1. They threaten the entire Soviet war-making capacity. The current U.S. "envelope" of military targets in the Soviet Union numbers about 40,000—a staggering catalogue of missile silos, tank factories, troop and weapon depots, air bases, submarine pens, radar installations. Most of these are grouped near major Soviet cities. Because of their exceptional accuracy, cruise missiles sent after each of these targets would have a high probability of striking within 30 feet of "target zero," thus minimizing the threat to population centers. Such accuracy also makes it possible to use smaller nuclear warheads or even conventional explosives to destroy, for example, an air-defense installation.

Cruise missiles therefore provide the means of attacking virtually every element of the Soviet warmaking capacity within a matter of hours. "Time urgent" targets, particularly missile silos, would be hit primarily by our ballistic missiles, which would travel from launch to detonation in around 25 minutes. The relatively "slow but sure" cruise missiles could go after thousands of ancillary, but still crucial, targets.

2. They would force a profound redirection of Soviet arms spending. It is possible for the Soviets to create a defense against cruise missiles over a period of years. They would, for instance, need to develop much more sophisticated radar systems than they have at present. "That is precisely what we would like them to do," says Malcolm Currie, director of Defense Research and Engineering in the Pentagon. "It would cost the Soviets billions of dollars, and we would be forcing them to spend for defense rather than offense."

Renewed American interest in the cruise missile grew out of the SALT I accords of 1972 in which we negotiated away our clearly superior anti-ballistic missile (ABM) system and gave the Russians a quantitative superiority in ICBMs. There was a strong feeling in the Pentagon, particularly among the Joint Chiefs of Staff, that we had given away too much in the name of détente. Defense Secretary Melvin R. Laird then proposed development of the cruise missile as part of a package of "strategic initiatives." Unexpectedly swift advances in guidance, microelectronics and warhead miniaturization, and in small-turbofan-engine efficiency have made it, in effect, a new weapon.

These advances have been acutely felt by the Soviets, whose submarine-launched cruise missile, the cumbersome SS-N-3 *Shaddock*, has a range of about 600 miles, and is usually guided to its target with the help of signals from a ship or aircraft in the area. It is no wonder then that the Russians want to put the wraps on U.S. cruise-missile production.

The era of détente has been characterized by Soviet preparedness to negotiate when such talks may serve to wipe out an American advantage. Robert Hotz, editor in chief of the internationally respected *Aviation Week & Space Technology* and a close observer of the ongoing arms talks, says, "The United States was badly outmaneuvered at SALT I by the classic Russian chess gambit of trading a pawn for a knight. The United States gave up its superior missile-defense technology for a limitation of an extremely ineffective Soviet anti-missile system." The Soviets then repeatedly violated SALT I to catch up technologically, secretly testing and upgrading 1,000 existing anti-aircraft launchers to an anti-ballistic-missile capability.

The Kremlin seems prepared to use this same gambit with the cruise missile. At Vladivostok in November 1974, President Ford and Soviet Communist Party leader Leonid Brezhnev agreed to "cap the arms race" by limiting each country to a total of 2400 strategic launchers. Though the cruise missile was not mentioned at this meeting, it became clear in the ensuing weeks that the Soviet negotiators had the weapon very much in mind: they maintained that the 2400-launcher limit included cruise missiles. The American side balked, and for a year negotiations slowed to a crawl.

Finally, in January 1976, the Soviets made a modified proposal that the Tomahawk be banned from submarines and be stationed instead on 25 surface ships. They further suggested that it be limited in range to 372 miles, thus virtually eliminating it as a weapon against the Soviet landmass. The United States could have air-launched cruise missiles but would have to count as MIRV (multiple independently targetable re-entry vehicle) launchers all bombers carrying ten or more cruise missiles. Since there is a proposed ceiling of 1,320 U.S. MIRV launchers, and 1,286 launchers are now deployed, the Soviet proposal would permit only 34 cruise-missile-carrying aircraft. In exchange, the Soviets have offered only their assurances that their Backfire bomber (the exact range of which is still in dispute) would not be based at points in the Soviet Union from which it could take off and attack the United States without aerial refueling.

There the matter now rests. One thing seems clear: if the United States agrees to their proposals, the Soviets will have in effect reduced the American cruise-missile threat almost to the vanishing point. The very fact that Moscow continues to push for a one-sided agreement is in itself an indication of how formidable the cruise missile is as a counter to the Soviet desire for military superiority.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. MAZZOLI. Mr. Speaker, on September 30, I inadvertently cast a "present" vote on rollcall No. 613, the Journal of the House's proceedings of Thursday, September 29. My vote should have been "yea."

THE ADMINISTRATION'S EFFORTS TOWARD RECOGNITION OF THE PALESTINE LIBERATION ORGANIZATION IS INCONSISTENT WITH THE NEED FOR A PEACEFUL SETTLEMENT IN THE MIDDLE EAST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. KEMP. Mr. Speaker, there is mounting evidence that the administration is about to make a historic reversal of American policy in the Middle East by recognizing the PLO without any concessions on their part to mitigate their threat to destroy the State of Israel. For example, a recent statement by a State Department spokesman in Saudi Arabia on August 8 stated that the U.S. Government would consider the PLO's acceptance of U.N. Resolution 242 a step which "would open an avenue that they might participate in the Geneva Conference." This suggestion supports rumors heard in Washington to the effect that the Carter administration will recognize the PLO after the Congress adjourns later this year.

This perspective is further reinforced by the unconscionable coercion of the Israeli Government in the form of the joint position taken by the United States and the Soviet Union concerning the Geneva Conference. The coercion of the Israeli Government under these circumstances ill serves the cause of achievement of a permanent settlement in the Middle East. The firm stand of the United States in support of Israel's diplomatic position on the PLO has been the most important factor in weakening the grip of the PLO on Arab nations of the Middle East. Any relaxation of American attitudes on the PLO will reverse the fruit of a decade of American diplomatic effort. Negotiations must proceed with the established legitimate governments of the Middle East currently in a state of belligerency with the State of Israel. Intrusion of a separate Palestinian entity into these negotiations will doom them from the outset. A useful characterization of the international importance of the establishment of a permanent settlement in the region has been incisively provided by Prof. Eugene V. Rostow in an essay in the April 1977 issue of Commentary:

A strong, confident Israel is a vital factor in any program to protect our own legitimate national interests and those of Europe, Japan, and many other countries in the independence, openness, and stability of the region. These facts we can only refuse to respect at our own peril. It is unthinkable that the international community could stand idly by . . . if Israel were in danger of destruction. The moral and political convulsion which such an event would engender is beyond calculation. It could spell the end not only of the Atlantic alliance, but of liberal civilization as we know it.

A recent memorandum produced by the American Israel Public Affairs Committee provides a well documented guide to the diplomatic dimension of the controversy concerning recognition of the

PLO. I include the text of this memo at the conclusion of my remarks.

THE PLO: A DESTRUCTIVE FORCE

Shifting U.S. Policy. In recent weeks, Administration officials have enunciated a policy shift on the recognition of the Palestine Liberation Organization (PLO). Specifically, State Department spokesmen stated on August 8 in Saudi Arabia that PLO acceptance of UN Security Council Resolution 242 would be sufficient to show PLO diplomatic responsibility and would allow the United States to begin a dialogue with the PLO. On the same day, President Carter went one step further by stating that PLO acceptance of Resolution 242 "would open an avenue that they might participate in the Geneva Conference."

Such a position represents a significant change of U.S. policy and represents an abrogation of U.S. moral and legal commitments to Israel. In September 1975, the U.S. Secretary of State and the Israeli Foreign Minister signed a U.S.-Israeli Memorandum of Agreement in which the United States pledged to "continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization *so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338* [emphasis added]. The United States Government will consult fully and seek to concert its position and strategy at the Geneva Peace Conference on this issue with the Government of Israel. Similarly, the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states. It is understood that the participation at a subsequent phase of the conference of any possible additional state, group or organization will require the agreement of all the initial participants."

In February 1977, in Israel, Secretary of State Vance reinforced this by stating that acceptance of Resolution 242 by the PLO would not suffice: "As long as they stand by the covenant and refuse to accept Security Council Resolutions 242 and 338, this provides no basis for participation." The "covenant" referred to is the PLO's National Covenant which explicitly denies Israel's right to exist as a free and sovereign Jewish state.

The Administration now argues that PLO recognition of Resolution 242 implicitly means recognition of Israel. Such PLO action, however, cannot substitute for the explicit denunciation of the PLO's Covenant as called for by Vance in February. Acceptance of UN Resolution 242 is not a substitute for recognizing Israel's right to exist. The Arabs showed their own disregard of UN Resolution 242 when they launched a surprise attack against Israel on Yom Kippur, 1973.

The Nature of the PLO. The PLO's own actions and statements demonstrate that refusal to negotiate with the PLO is correct—morally and logically.

The PLO Remains Committed to Israel's Destruction. At the March 1977 meeting of the Palestine National Council (PNC) in Cairo, the PLO made it clear that it is unwilling to live in peace with Israel. PLO Chairman Yassir Arafat told the PNC on March 17 that "We want a secular democratic state in Palestine," and predicted that Palestinian military attacks against Israel will be escalated in the coming months. The head of the PLO's political department, Farouk Kaddoumi, told a Newsweek interviewer (March 14, 1977) that the establishment of a West Bank/Gaza state would only set the stage for the take over by the Palestinians of "the rest of our land." Said Kaddoumi: "There are two stages to our return. The first phase to the 1967 lines, and the second to the 1948 lines . . . The third stage is the democratic state of Palestine."

The constitution of the PLO, the 1968 National Covenant, asserts that "the partitioning of Palestine in 1947 and the establishment of Israel are fundamentally null and void" (Article 19). Article 20 denies that Jews are a national people with a right to statehood. Article 15 calls for the Arabs "to purge the Zionist presence from Palestine." Articles 13, 14 and 15 state that the PLO seeks an Arab state which would allow only those "Jews who were living permanently in Palestine until the beginning of the Zionist invasion" to remain (Article 6).

At the recent PNC meeting, not a word of the Covenant was changed. Instead, the PNC reaffirmed its specific adherence to the Covenant, called for further "armed struggle" for "all" the land, and pledged to reject "peace or recognition" with Israel.

The PLO is an Alliance of Terrorist Organizations. The PLO claims to represent the Palestinian people. The PLO's ruling body, the Executive Committee, chaired by Yassir Arafat, and the PLO structure, however, are controlled by seven terrorist groups—and dominated by Arafat's Soviet-armed Fatah, the largest of the groups.

All seven groups have carried out acts of terror, and continue to espouse it as their primary weapon. More than 250 Israelis, Europeans and Americans have been murdered by the PLO since 1967. In 1977 alone, more than 130 Israeli civilians—Jews and Arabs—have been killed or wounded as a result of PLO terrorist attacks.

Major PLO Crimes Include:

The murder of 11 Israeli Olympians in Munich in 1972 and the execution of U.S. Ambassador Cleo Noel, his charge d'affaires, and the Belgian charge in Khartoum in 1973 by "Black September," a group controlled by Fatah.

The 1970 bombing of a Swissair jet, resulting in 47 dead, by the Popular Front for the Liberation of Palestine—General Command.

The 1972 massacre of Lod Airport in which 26 died—including 21 Americans—by the Popular Front for the Liberation of Palestine.

24 children gunned down at Ma'alot, Israel, in 1974 by the Popular Democratic Front.

These are only a handful of the more than 1,000 incidents of terror which PLO groups have launched, almost always against unarmed civilians.

Nor is there any real difference among the PLO's constituent groups politically. All have endorsed the 1974 Ten Point Program, which asserts that the PLO would accept a West Bank/Gaza state only at a "fighting authority" but would not accept "recognition, conciliation, secure borders" with Israel (Articles 2 and 3). No PLO member, despite claims of "moderation" by some observers, has ever publicly acknowledged the right of Israel to exist.

The PLO is Not a Legitimate Movement of National Liberation. Security Council Resolution 242, the only accepted basis for a Middle East peace, specifically asserts that "every state in the area" have its "sovereignty, territorial integrity and political independence" recognized. The PLO is not a state, nor has it even attained the status of a government-in-exile. While the PLO claims to represent the Palestinian people, it has never met the requirements of a national liberation movement—that is it has been unable to organize or maintain regular contact with the majority of Palestinians who live in Israel, Gaza, the West Bank, and Jordan. During Secretary Vance's most recent trip to the Middle East, a delegation of West Bank Palestinian leaders presented him with a petition which firmly stated that the PLO does not represent West Bank residents, as the PLO claims.

The PLO is Committed to the Overthrow of Jordan's King Hussein—America's Closest Arab Ally. Articles 2 and 3 of the Palestine National Covenant claim both Israel and Jordan (plus Gaza and the West Bank) as the territory of the future Palestinian state to be controlled by the PLO. Article 5 of the Ten Point Program calls for the overthrow of the current government of Jordan. Illustrating the PLO's danger, Jordan to this day refuses to grant the PLO anything more than a bare token and non-military presence on Jordanian territory. The PLO's willingness to war against an Arab government was demonstrated in Lebanon, where the PLO played a major role in instigating and accelerating the two-year civil war, ignoring PLO pledges in the 1969 Cairo Agreement. Lebanon's elected, democratic government did not survive.

What Future for the Palestinian Arabs? Israel, like the United States, remains cognizant of the need for a solution to the Palestinian problem. Israel remains willing to negotiate a lasting peace for all the peoples of the Middle East. But Israel cannot be asked to negotiate with a group which openly calls for its destruction. Israel believes that the Palestinian problem must ultimately be resolved within the context of Jordan, which occupies 80 percent of historic Palestine and whose citzenship consists primarily of Palestinians. Israel has publicly stated that it would not object to the inclusion of Palestinians in a Jordanian delegation at any reconvened Geneva conference.

President Carter has endorsed this position in the past. On July 12, 1977, the President told a press conference, "My own preference, which I have expressed since I've been President and also as a candidate, was that the Palestinian entity, whatever form it might take and whatever area it might occupy, should be tied in with Jordan and not be independent."

CONCLUSION

The United States, which has set progress toward peace in the Middle East as its primary national interest in the region, can only decrease the chances for peace if it changes its opposition to the PLO's inclusion in negotiations. Only when real Palestinian leadership emerges, with open acceptance and recognition of the rights of both Israel and Jordan to exist, can there be Palestinian participation in the negotiating process.

BIOCHEMIST URGES STUDY OF AIR BAG CHEMICAL; WARNS OF EFFECTS ON PUBLIC HEALTH

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SHUSTER. Mr. Speaker:

. . . the exposure level to the population which would result from permitting sodium azide to be used must be determined and evaluated for its effect on the public health before any decision on the widespread use of sodium azide is made.—Dr. Bruce N. Ames, Professor of Biochemistry, University of California.

The emphasis is mine, but the words tell the story. Dr. Ames, one of the world's leading genetic scientists, feels that the threat to public health is real enough to warrant additional study before going ahead with a standard which could result in the widespread use of sodium azide.

Following is a copy of Dr. Ames' letter in its entirety. While he may not be an expert on air bags, he is an expert on mutagenic and carcinogenic hazards,

and his concerns are worthy of serious note.

This air bag/passive restraint order should be reversed until or unless its safety and effectiveness can be convincingly demonstrated.

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., September 23, 1977.

Hon. BUD SHUSTER,
Committee on Public Works and Transportation, Longworth Building, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN SHUSTER: I would like to clarify my position on sodium azide and its use in air bags. My interest in this matter was simply to alert those involved in the air bag decision to the mutagenic and possibly carcinogenic hazards associated with the use of sodium azide in order to assure that these factors are properly considered before a decision to allow its use is made. My original concerns were heightened by the fact that the acid form of azide (hydrazoic acid) is a gas that is extremely mutagenic, and I wanted to make sure that the public was not exposed to it.

It is out of my expertise to comment on the utility of air bags. It may well be that sodium azide can be used safely in air bags. The point I mean to raise is that the exposure level to the population which would result from permitting sodium azide to be used must be determined and evaluated for its effect on the public health before any decision on the widespread use of sodium azide is made.

Yours truly,

BRUCE N. AMES,
Professor of Biochemistry.

SALT TALKS OFF TARGET

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From The San Diego Union, Sept. 19, 1977]

SALT TALKS OFF TARGET

Andrei Gromyko flies to Washington later this week to resume arms-control talks with Secretary Vance and President Carter. But if the reports out of Washington are true, it will be providential if Mr. Gromyko's plane somehow never left Moscow. The resumption of the Strategic Arms Limitation Talks seems to bode nothing but ill for the United States.

The evidence suggests that the Carter administration is committing the two negotiating errors—one general, the other particular—that it simply cannot make, without seriously endangering this country's security. The general error is the one Presidents Nixon and Ford managed to commit, that of self-negotiation. The particular error is bargaining away the cruise missile.

Last week coloumnists Evans and Novak reported the secret SALT strategy paper drafted this summer by the State Department's director of politico-military affairs, Leslie Gelb. The paper, impressed with the October 3 expiration date of SALT I, figures that some progress on the talks be necessary, and recommends how the U.S. should "back down." This is nothing but Dr. Gelb negotiating with himself or, if you will, with the October 3 expiration date. Apparently the administration plans to follow Dr. Gelb's lead.

Dr. Gelb also proposes that the range of the air-launced cruise missile be 1,500 miles, the same range the U.S. offered the Soviets in one of its two rejected proposals last spring. Then 1,500 miles seemed an adequate range from a United States point of view, but now it is not, and any proposal that includes a 1,500 mile range on the cruise missile effectively eliminates it from U.S. strategic security. If Dr. Gelb's position has become the White House position, as we fear, the Carter administration may be scrapping the B–1 bomber and grounding its alternative, the air-launched cruise missile.

The country might avoid this setback to national security if Defense Secretary Brown can persuade Mr. Carter of the need for extending the range of the cruise missile. Mr. Brown wants an 1,800-mile range because of expected improvements in Soviet air defenses, and certainly it at least should be 1,800 miles, for a reason only recently come to light.

The 1,500 mile range is measured by the line that can be drawn from the cruise missile's point of origin to its point of destination, that is, a straight line. Cruise missiles, however, don't fly in straight lines but up, down, and around, depending on the lay of the land below and on air defenses. Presumably, the extra 300 miles Mr. Brown wants is to satisfy the margin necessary to allow the cruise missile to fly in this manner, with less risk of detection.

Surely this is a point Mr. Carter should consider, but he could be distracted by the presence of Mr. Gromyko, the influence of Dr. Gelb and the problems of Bert Lance. Short of some providential cancellation of Mr. Gromyko's visit, the best remedy for the worsening negotiating position in the White House would be, for the immediate time being, no progress at all towards SALT II.

ART BY WESTCHESTER'S HANDICAPPED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. OTTINGER. Mr. Speaker, I am pleased to share with my colleagues the news of the Eighth Annual Exhibition of Art by Westchester's Handicapped which will open on November 3 at the Neuberger Museum at the State University of New York, College at Purchase.

According to museum director, Jeffrey Hoffeld, over 150 original works—including paintings, drawings, sculpture, ceramics, collage, photography, and needlework—will be shown for 1 month at the museum designed by Philip Johnson. Following its stay at the Neuberger, the show will tour five other public locations throughout Westchester County. These will include the Scarsdale National Bank branches in Scarsdale and Pleasantville, the New Rochelle YMCA, Bonwit Teller in Eastchester, and the final exhibition site will be the County Courthouse in White Plains in April of next year.

In addition to individual entries, agencies and organizations that serve the handicapped have cooperated in making this special exhibition possible. Included in the show are artists from the Westchester Lighthouse; Westchester Association for Retarded Citizens, White Plains and Yonkers; United Cerebral Palsy of Westchester; Muscular Dystrophy Association; Opengate, Somers; Sarah Neuman Nursing Home, Mamaroneck; Extended Care Facilities of New Rochelle and White Plains; New York School for the Deaf, White Plains; Margaret Chapman School for Mental Retardation, Hawthorne; Southern Westchester Community Services of Harlem Valley Psychiatric Center, New Rochelle; Sky View Haven and Brandywine Nursing Homes, Croton; Sleepy Hollow Adult Home, Briarcliff Manor; Rye Association for the Handicapped; New Rochelle Parks and Recreation Department (disabled program); Green Chimney's School, Brewster; and Ferncliff Manor, Yonkers.

The coordinators of the exhibition, Jackie Sheinberg and Betty Lynn Steinweg of the Neuberger Museum's docent council, have expressed the hope that the public will visit the exhibition and appreciate the creative accomplishments attained by handicapped citizens; they are truly remarkable. Responsibility for the success of the exhibition is shared with the Westchester County Office for the Handicapped and the Mamaroneck Artists Guild.

A MIDEAST PEACE CANNOT BE IMPOSED

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. ROSENTHAL. Mr. Speaker, this weekend's joint United States-Soviet statement on the Middle East marks a further erosion of American support for Israel and a major step toward the imposed settlement that the United States has long promised would never happen.

It demonstrates a disturbing pro-Arab bias on the part of the convenors of the Geneva Conference, thus destroying their objectivity and prejudicing any possible outcome.

One cannot help but get the feeling that the administration continues pandering to the PLO—which it apparently cannot distinguish from nonterrorist Palestinians—in the face of repeated rebukes. It should be as clear to the administration as it is to everyone else that the PLO does not want peace with Israel; it wants peace without an Israel.

We cannot afford a settlement at any cost just because someone has put it on an agenda, declared it a goal or set an artificial deadline. Nor should a Middle East peace conference be a pawn in the SALT negotiations.

With the United States already tilting heavily to the Arab position and now joining the Soviet Union, Israel is becoming increasingly and dangerously isolated. This threatens to lead us away from the path to peace on which we are embarked.

It is ironic, Mr. Speaker, that this joint United States-Soviet statement supporting the so-called legitimate rights of the Palestinians was issued at almost the same time the PLO was taking credit for a bomb explosion yesterday that injured three persons at the Jerusalem central bus station.

I believe such terrorist activities are encouraged by actions such as the United States-Soviet statement of support for the Palestinian cause. Such big-power moves will only further harden Arab positions and strengthen PLO refusal to change its stance.

It appears that every time the PLO has rebuffed an American attempt to gain its acceptance of United Nations Security Council Resolutions 242 and 338, the U.S. Government has responded by taking out its frustrations on Israel. Harsh public criticism and heavy pressure by the United States have elevated United States-Israeli differences—for example, West Bank settlements—out of proportion to reality. This further strains relations with America's only true ally in the region and the only democratic government in that part of the world. At the same time, the administration has moved in the opposite direction, attempting to further and further appease the terrorists.

It is a shocking disappointment that the United States-Soviet statement failed to mention that perhaps the most important goal of a Mideast peace conference is a peace treaty among the parties. I hope that this does not mean the United States has abandoned that objective to further appease the PLO terrorists and their Arab supporters.

American appeasement of the PLO appears to be in violation of a memorandum of agreement the United States and Israel signed on September 1, 1975, as part of the Sinai II disengagement, in exchange for Israeli return to Egypt of the Abu Rudeis oilfields captured in the 1967 war.

Under that memorandum, the United States agreed to "consult fully and seek to concert its positions and strategy at the Geneva peace conference" regarding the PLO question. It also says the United States would veto any attempt to alter Resolutions 242 and 338. These documents, which form the only agreed basis for the Geneva talks, exclude the PLO as a party to the negotiations. They also call for the recognition of the right of all states in the area—including Israel—to live in peace behind recognized and secure borders.

The latter provision is exactly what the PLO so steadfastly rejects, despite continued U.S. pleas.

GEORGE MILIAS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. EDWARDS of California. Mr. Speaker, I was saddened to learn of the death of my good friend, George Milias. We shall miss him back home. We shall miss him here in Washington.

For the past few years, George was Deputy Director of the U.S. Fish and Wildlife Service. In that role he was very helpful, in fact a key person, in the evolution of the San Francisco Bay National Wildlife Refuge, something he thought was very important for California to have.

George was always available to help us solve various problems over which he might have authority. He had a keen eye for developing support for the wildlife refuge in the private sector.

George was well respected both at home and in Washington: A very decent, competent and widely knowledgeable public servant. My sympathy to his wife, Mary Ann, and the children.

A THOUGHTFUL EDITORIAL

HON. RALPH H. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. REGULA. Mr. Speaker, I would like to bring a thoughtful editorial that appeared in the October 2, 1977, edition of the Cleveland Plain Dealer to the attention of my colleagues. For this reason, I include the following article, entitled "Real Jobs or Makework?" in the CONGRESSIONAL RECORD:

REAL JOBS OR MAKEWORK?

The nation's unemployment rate now stands at 7.1%. For blacks, it is nearly twice that figure. Among black teen-agers unemployment runs to a staggering 40%. So, why not enact the Humphrey-Hawkins "full employment" bill pending in Congress and reduce unemployment, eventually, to 4%? The answer is disarmingly simple: It won't work.

To understand why, one must recognize the nature of this country's unemployment problem.

Unlike the experience of the Depression of the 1930s when millions of skilled workers with solid job backgrounds were idled, unemployment today is chiefly structural. That is, it exists among people who are only minimally affected by swings of the business cycle.

These unemployed are predominantly the young, the unskilled and minorities. And the unemployment is centered largely in the major cities.

Public service employment, precisely what the Humphrey-Hawkins bill would create, can have only a transitory effect on reducing chronic, structural unemployment. As Robert T. Hall, formerly with the National Manpower Commission and currently assistant secretary of commerce for economic development, noted recently, "I spent more years than I care to remember creating public service employment. But after two years of public service employment all you have is two years of canceled wage stubs."

Hall, in concert with a growing number of economists, argues that the best line of attack against structural unemployment is selective investment that will create permanent, private sector jobs and, in the process, teach marketable skills.

In the same Forbes magazine article in which Hall was quoted, Michael Wachter, a University of Pennsylvania labor economist, declared: "Our problem is not unemployment but low skills. Public service employment does nothing to improve that. It may teach a person to come to work on time, but that's about all . . ."

The federal government already has at least nine public service jobs programs in operation. Some are worthwhile, others amount to little more than a misappropriation of public funds.

What has not yet been tried on a sufficient scale is what the Carter administration unsuccessfully attempted to sell Congress earlier this year; namely, grant business and industry tax credits to hire and train the chronically unemployed. This way, those unemployed who genuinely want to work and have the aptitude to learn marketable skills can be brought into real jobs that are self-sustaining because they create wealth.

This approach, plus the kind of enlightened tax and general economic policies that promote rather than retard private sector growth, offers the most realistic prospects for lasting reductions in unemployment.

PRIVACY AND ELECTRONIC MAIL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. WHALEN. Mr. Speaker, on March 31, I wrote to JIM HANLEY, chairman of the Subcommittee on Postal Operations and Services, expressing my concern about safeguarding the privacy of communications transmitted by electronic mail. NED PATTISON placed a copy of my letter in the RECORD of April 25, at page 12110.

It may seem today that it is a bit premature to be worrying about communicating by electronic mail. But it is not. Electronic mail is not some sort of Buck Rogers vision of the future; virtually all of the technology—both hardware and software—is available right now, and various small scale systems are already in operation.

In fact, the debate over the future of electronic mail has little to do with the technical capabilities of the system. Instead, we hear discussions of when electronic mail systems will be operational nationwide, and how much they will cost, and who will run them.

What concerned me when I wrote to Mr. HANLEY in March, and what continues to concern me today, is that there has been very little discussion about the impact that electronic mail may have on the privacy of communications. Unless we give adequate thought to this matter now, we are going to have very serious problems when a major electronic mail system is established in the relatively near future.

In my letter of last March, I suggested that one of the possible solutions to the privacy problem might be the use of data encryption, a science that is of increasing importance in the computer industry. An article that appeared on the front page of the Christian Science Monitor on September 26 provides a further discussion of the possible application of data encryption to electronic mail. I commend that article to your attention.

The text of the article follows:

COMPUTER PRIVACY? MATH RIDES TO RESCUE

(By Robert C. Cowen)

BOSTON.—Len Adelman, Ronald Rivest, and Adi Shamir will pay $100 to the first person who breaks their secret code. But more than prize money is riding on the challenge.

These three Massachusetts Institute of Technology (MIT) computer scientists think they have developed a virtually unbreakable encoding scheme to protect your future bank accounts, income tax records, and even letters that increasingly are being entrusted to the insecure keeping of electronic data banks.

Now they want to test the system: hence, their challenge last August in the Scientific American mathematical games column.

Their work is part of what Dr. Martin Hellman of Stanford University calls a mathematical revolution that will put the esoteric art of cryptography at everyone's service. Information experts anticipate a time when much of the mail, including private letters, will be transmitted electronically.

"But what will prevent eavesdropping?" they ask. How will a recipient know that you and not someone else have sent an electronic letter—which until it is decoded would be a series of numbers anyone could transmit on a keyboard. How will a bank know who has drawn an electronic check?

Thanks to the cryptographic revolution, these scientists now think they can provide consumers with the electronic equivalent of sealed envelopes and unique signatures. The high-powered mathematics would be contained in computer microcircuits—with coding schemes that should be as easy to use as a pocket calculator or credit card. Equipment in homes and offices would be similar to an electric typewriter.

Dr. Hellman and his colleague Whitfield Diffie explain that users in a network would publish their encoding keys—large-digit numbers chosen randomly by each user to tell a computer how to scramble (or unscramble) information—perhaps in something like a telephone book. To send a message, a user would look up the recipient's encoding key and use it to encipher the message. Only the intended recipient would have the secret decoding key to decipher it.

The basic weakness of coding systems developed to date is use of the same key for encoding and decoding.

To send a coded message, operators first have to send the code's key to the recipient. But the key could be intercepted. What is worse, such a scheme would be unworkable for a complex network—such as the present telephone system.

Dr. Hellman and Dr. Diffie have proposed a new family of cryptographic schemes that avoid these problems by using two different keys—for coding and decoding—which are mathematically related. Research in recent years suggests that, even when an encoding key is known, it would be so difficult to derive the decoding key, without knowing the intermediate mathematical steps, that no computer would likely break the code. Yet it is easy for a user to generate both an encoding and a decoding key.

The system proposed by Dr. Hellman and Dr. Diffie could provide an electronic signature as follows:

Since encoding and decoding keys can be used in reverse, a message enciphered with a decoding key could be deciphered with an encoding key. To send a signed message, the user first would scramble it using the secret decoding key. Then the user would scramble it using the recipient's published encoding key. The recipient would decipher the message (which might be a check) using his or her decoding key. But the message still would be scrambled because of the double encryption. So, knowing it to be a check (perhaps by an indicator that was not doubly encrypted), the recipient would use the originator's published encoding key to turn the message into readable form. The fact that the originator's encoding key had to be used to extract the message would show that his secret decoding key had been used originally to scramble the message. No one but the originator could have done this, so it is equivalent to a personal signature.

Dr. Hellman and another colleague, Ralph Merkle, have developed such a public encryption scheme, and the MIT system is another version of it. If such schemes can be proved unbreakable for practical purposes—which Dr. Hellman thinks may be done within a few years—they would nail down the cryptographic revolution.

A TRIBUTE TO THE 100TH ANNIVERSARY OF BRENAU COLLEGE IN GAINESVILLE, GA.

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. JENKINS. Mr. Speaker, I would like to take this opportunity to salute and pay tribute to an outstanding educational institution which is located in Gainesville, Ga.—Brenau College.

Brenau is literally a child of history and of Gainesville. Founded in 1878 by Rev. W. C. Wilkes and then called the Baptist Female Seminary, the school was established when he and the Baptist Convention became interested in founding a Christian school for young ladies. The city of Gainesville offered Dr. Wilkes, then pastor of the First Baptist Church, 10 acres of land for the site of his proposed institution. Interested local businessmen subscribed funds for the first building, now called Wilkes Hall, and the members of the first class entered the seminary in September 1878.

The school was sold in the late 1800's to Dr. Azor Van Hoose and Dr. Haywood J. Pearce, both leaders in educational and religious activities in Georgia. It was during this time that the school was officially named "Brenau."

Brenau is the named coined from the German word, "brennen," meaning to refine, and the Latin word "aurum," meaning gold. Thus, the name Brenau meant "refined gold."

In 1917, Dr. Pearce made a decision that he foresaw as a key to Brenau's future. In that year, the educator formed a board of trustees with whom he agreed to transfer the school when a perpetual endowment fund of $250,000 was raised. This was accomplished in a decade, but Dr. Pearce remained president until his death in 1943.

During these years, the influence of Lucile Townsend Pearce, President Pearce's wife, was felt as she developed her musical and dramatic interests for the college and community. Due to her inspiration, Brenau became the scene of numerous musical and drama festivals with nationally and internationally known artists.

In 1945, the board of trustees invited Dr. Josiah Crudup to serve as president of Brenau. He came to the school when it was still unaccredited by the national accrediting agency and in debt for more than a half million dollars. In 2 years, both these problems were solved. The institution was properly accredited and all indebtedness was cleared.

During Dr. Crudup's term as president, the campus was expanded, many new buildings were added, and the entire physical plant was brought up to an acceptable standard. A unified campus development plan was created and 48 buildings on a campus of 40 acres became easily identified as Brenau College.

Dr. William K. Clark became the Brenau's fifth president in 1968. During his administration, closer ties were made between the college and the community. In creating a public relations department, the college initiated a program of public awareness that would not only give local residents knowledge of the activities on campus, but would also let them become a part of Brenau's activities and programs.

In 1970, Dr. James T. Rogers succeeded Dr. Clark and became the sixth president of the institution. Under his direction, Brenau has seen a new era of innovation and responsiveness to the needs of students, faculty, and community A new natatorium was built in 1974. Intercollegiate sports were introduced on the Brenau campus. An office of development was created to develop a fundraising program and perpetuate its alumnae activities.

One hundred years at Brenau—a page in educational history—a goal attained through perseverance and dedication—a heritage and tradition that has touched the lives of thousands of students, faculty and families that have been a part of the Brenau story.

But 100 years at Brenau is more than what has been. It is a promise of what will be. The first century is more than a mere goal. It is a steppingstone into the future. It is a commitment and a promise not only to continue the emphasis on quality and individualized education, but also to create and innovate new approaches in the liberal arts world of learning.

It is also a promise to make Brenau as contemporaneously vital for the next generation of students as for the last.

Brenau was founded and built by men and women who had their eyes on the horizon; men and women who foresaw the promise of tomorrow and knew that the promise could only be fulfilled through dedicated effort to their belief in private higher education.

A second century—proof that Brenau is truly "Enriched by the Past—Challenged by the Future."

Brenau's board of trustees is fully aware of this heritage and tradition. Thirty-six men and women serve on this board, and an additional 8 persons make up the advisory board. They are Dr. Rafe Banks, Jr., Mrs. James E. Bates, Ralph Cleveland, Dr. Josiah Crudup, Carter Estes, Winston Garth, John W. Jacobs, Jr., Mrs. John H. Martin, Jack B. McKibbon, Jr., Ray McRae, T. H. Paris, Sr., Emory F. Robinson, Sidney O. Smith, Jr., Charles Smithgall, Charles J. Thurmond, Paul L. Turner, Miss Virginia Brown, Mr. R. Carl Chandler, James G. Dunlap, Dr. W. R. Garner, Abit Massey, Mrs. John E. Redwine, and Mr. R. L. Swetenburg, all of Gainesville.

Other members are: Morris M. Bryan, Mrs. John S. Candler II, Frank Coggins, Charles L. Davidson, Jr., Mrs. Allen Diefendorf, Samuel C. Dunlap III, Mrs. Henry A. Foscue, Mrs. Frank Gilbert, E. Reginald Hancock, Ira H. Hardin, Mrs. W. E. Helms, Jr., Mrs. R. L. Hook, Lindsey Hopkins, Mrs. Louis L. Jones, Jr., Honorable Phil M. Landrum, Mrs. William D. Owens, Leo Rainey, Jr., L. E. Ridgway, Mrs. Millie Ripple Siceloff, Mrs. Peter Allen Stipp, and Mrs. Cornelis A. P. van Stolk.

All of these men and women have contributed greatly to the development and traditions of Brenau College.

It is with great pleasure and pride that I offer this tribute to the men and women of Brenau College.

EMERSON STREET

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. EDWARDS of California. Mr. Speaker, a dear friend and great labor leader, Emerson Street, will soon be retiring from his position as business representative for the Santa Clara County Central Labor Council to which some 100 local unions belong. Emerson has been a towering figure in labor for many years, but ill health has forced him to slow his break-neck pace and, finally, to take some time to take care of himself.

Emerson's departure will be felt as a great loss by other trade union leaders, rank and file and, yes, the public. Emerson, the gentle giant, fought the hard battles with integrity, vigor, a keen appreciation for the needs and concerns of working people, and, always, with a sense of humor.

Looking back on the many years of friendship I have had with Emerson, I remember the times that he stood with me, supporting and unafraid, because of his belief in what was right. Emerson has seen his position as a public and private trust—to fight for union workers, to support political candidates and issues which were important to working people, to stand up to injustice and, in the end, to do his level best to make our country free and just for all people.

Yes, Emerson has been a union leader—and a great one at that. Yet, I will always think of him most fondly as a civic leader—a unifier of our community, a man of principle but a man of good commonsense and good humor.

Emerson is one of a kind. I think my colleagues will be interested in the following article from the San Jose Mercury which communicates not only how important Emerson is to Santa Clara County, but gives an inkling of his delightful personality:

LABOR LEADER TO RETIRE—HE NEVER LIVED ON EASY STREET

(By Cathie Calvert)

He has the look of a British country squire, but the "estate" over which he presides is anything but a bucolic bit of tranquillity.

The man is Emerson Street, age 63, tall, deceptively robust-looking and a powerhouse for organized labor both "out front" and behind the scenes for nearly two decades in Santa Clara County.

He's the veteran business representative for the country's Central Labor Council, AFL–CIO, a "union" of nearly 100 local unions.

Street's genial manner belies a severe case of high blood pressure and hypertension that is forcing him into retirement about the end of the year.

"It's not the kind of job where you can slow down—if it isn't one beef it's another," he grins, with the same relish in his voice with which he tackles his assignments.

Seated in his office, he answers a steady stream of telephone calls and talks with a parade of people popping in and out.

A jammed-packed daily appointment log on his desk also serves to illustrate graphically the constant hectic pace of Street's work.

The job includes following the dictates of the council's membership in promoting labor activities and legislation on all levels and entering tense negotiations to avert or resolve a strike if requested.

Through the council's political arm COPE, the job calls for promoting political candidates and issues.

Community service and union organizing also are thrown into the job hopper.

Street, an erudite, witty raconteur with a phenomenal memory, for more than 17 years has handled with finesse and humor knotty problems and touchy personalities.

He winces at the term "statesman" a description of his modus operandi.

"Finagler" is the best adjective, Street says with a laugh.

"I'm there to help the unions, the rank and file members, whether it's writing a press release or yelling at the Board of Supervisors.

"It doesn't necessarily require statesmanlike conduct. Sometimes I can be an awful bastard," he grins. "It just depends on what the occasion calls for. You're kind of an actor in this business," Street says.

"I feel you can always be more effective entering discussions and trying to find what I call ways to 'wiggle,'" he says.

Street is considered a consummate "wiggler" in resolving discord, finding acceptable compromises in politics, legislation and negotiations.

A native of Oakland, Street came to the county in 1958.

He brought with him a background in labor and political knowledge and a commitment gleaned from a colorful and varied career as a newsman, union organizer and activist, and political campaigner dating back to his early 20s.

He had incorporated his many-faceted interests into self-employment in public relations by the time he saw the Santa Clara Valley, promoting candidates and causes.

When the Central Labor Council issued a "help wanted" notice on the business representative slot, Street went after the job.

He didn't get it.

"I have the reputation for being a pretty fair right-hand guy" (at tippling), Street says, a cardboard cutout of W. C. Fields musing down at him from its spot on the office coat rack.

"Let's put it this way," Street says. "The first time I went to a meeting of the bartenders union here, I knew more of the members by their first names" than the union's leader.

The man who got the job Street was after lasted only a short time.

Street was hired in May, 1960.

Street likes to drink and he knows how to hold his liquor.

But being arrested for drunken driving on a bicycle did, however tarnish his image a bit for a brief time—and provide one of the many colorful anecdotes.

"I wasn't drunk," Street maintains of the incident.

"I was back-pedaling, trying to stop the bike. I didn't know the damn thing had hand brakes," he explains.

He crashed into the back of a car—a Palo Alto police car.

The startled officers decided the bicyclist would be safer in jail.

Street holds no rancor over the incident. "It probably saved my life," he says.

The police car he rammed was stopped for a passing train.

The story about Emerson Street living on Emerson Street in Palo Alto, also is an other true chapter in his story.

"I felt sorry for the poor letter carrier. It was driving him crazy," Street recounts.

"With a name like Emerson Street you learn to live with it from the time you apply for your first library card and get the old 'I want your name not your address,'" he says philosophically.

Street was born July 14, 1914, and was christened Emerson because of his mother's fondness for the writings of Ralph Waldo Emerson.

His parents had moved to Oakland with their other child, a son 10 years older than Street, after the devastating quake and fire of 1906 destroyed their San Francisco home.

The family moved soon after Street's birth to a ranch it owned in Placer County where Street spent one of the treasured periods of his life in the Sierra foothills.

"Nature is a fine teacher. It gives you a sense of balance, of what's right and what's wrong," he says.

He attened a one-room schoolhouse presided over by a lone teacher who taught all grades.

"I was a voracious reader," Streets recalls.

The Bible, "which we read in our home as a piece of literature," the Rubaiyat of Omar Khayyam and Shakespeare were part of his reading, along with the adventurous tales of Jack London and Robert Louis Stevenson.

By 1931 the Streets were back in Oakland. Street's father, who had owned a printing firm and held extensive land holdings, was virtually wiped out by the Depression. The family had the home in which it lived and the elder Street went to work as a teacher.

Emerson was graduated from Berkeley High School, put in a stint at the University of California at Berkeley and at Santa Rosa Junior College, when he decided to call it quits in favor of full-time reporting for the Santa Rosa Press-Democrat for $24 a week.

Street's dedication to organized labor and the rights of workers took shape early.

He attempted, unsuccessfully, to organize a local of The Newspaper Guild at the Press-Democrat but joined the fledgling union as a charter member. He still prizes his first union card signed by Guild founder Heywood Broun.

During his time at the Press-Democrat, Street spent weekends walking the picket line in the 1935 San Francisco maritime strike.

"You walked the picket line on that waterfront, with National Guardsmen called out by the governor stationed behind sandbags with machine guns trained on you," Street says.

"That's when you really decide what it's all about," he adds.

Street ended his newspaper career working on Hearst's San Francisco Examiner in 1945, at the time of the United Nation's founding convention.

Street covered the historic signing of the charter and wrote the Examiner's page one bylined lead story.

Street then launched a freelance public relations operation "to work chiefly for Democratic candidates and issues and for union affairs."

The experience provided a lasting base of contacts in labor and politics and an insider's knowledge of the realities of how to get things done.

It's made Street an invaluable man at the Central Labor Council, and a hard person to replace.

"I've had a lot of fun and I don't regret a thing," he grins, recounting his career to date.

Travel with his wife, Miriam, whom he married in 1952, is the first priority on Street's retirement list.

Street has one child, Dusty, 30, a daughter from a previous marriage, who is a radio disc jockey.

VIETNAM VETS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. MONTGOMERY. Mr. Speaker, I am sure many of my colleagues saw the article by Colman McCarthy that appeared several days ago in the Washington Post entitled: "Vietnam Vets: Who Listens to Them in Washington?" The article personally attacked the distinguished gentleman from Texas, TIGER TEAGUE, and the current GI education training program, calling the program "shameful."

Now, Mr. Speaker, I am not here to defend TIGER TEAGUE. Everyone knows that he does a pretty good job defending himself, and since he has helped write every single veterans' benefit program during the past 25 years, I doubt he will take the time to take issue with Mr. McCarthy.

I think any person with a reasonable knowledge of the GI education program knows it is anything but shameful. If one bothers to ascertain the facts, he will find that a veteran with no more than a 10-percent service-connected disability can go to a school of his choice, with all expenses paid by the Federal Government including educational and vocational counseling, all appropriate individualized tutorial assistance, and other necessary incidental services. In addition, a service-connected disabled veteran receives a subsistence allowance of $226 per month if he is going to school full time.

Any veteran with at least 18 months of active duty is entitled to $292 per month for 45 months, a possible total of about $13,000 cash assistance. In addition, he can receive up to $1,500 per school year under the GI education loan program; up to $625 per school year under VA's work-study program; and up to $728 per school year for tutorial assistance. If a veteran is married and has one child, he may receive up to $19,000 in cash benefits, plus additional amounts under the loan, work-study, and tutorial assistance programs.

Although one can argue that we should do more, one can hardly classify the current program as "shameful." Mr. Speaker, I have to wonder what Mr. McCarthy thinks the limit should be for a veteran to go to school, having served only 18 months active duty, especially when we have a deficit of more than $60 billion facing us this year.

Mr. Speaker, there is absolutely no basis for Mr. McCarthy's personal attack on Mr. TEAGUE. Three things are apparent from his article. First, he opposed the war in Vietnam. Second, for reasons of his own, he favors the direct tuition subsidy program for veterans who desire to attend school in so-called high tuition schools. Third, he places the blame for the current "inadequate" program on the distinguished gentleman from Texas, and the leadership of the Committee on Veterans' Affairs, notwithstanding the fact that there has been no major policy change in the GI program since World War II, and the current policy has been strongly supported by the past six Presidents—three Democrats and three Republicans.

NORMALIZATION OF UNITED STATES-CHINA RELATIONS

HON. CECIL "CEC" HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HEFTEL. Mr. Speaker, I have recently received a petition endorsed by over 2,600 of my constituents and other islanders expressing their support for the normalization of relations with the People's Republic of China.

This petition could be viewed as especially unusual because of the ethnic background of the initiators, the National Association of Chinese-Americans Hawaii Committee. Their strong belief that their ethnicity affords them a greater understanding of China certainly cannot be ignored.

The issue of normalization of American relations with China has become a major objective of our international policy. As one of the world's oldest civilizations with a nation having one-fourth of the world's population, China will certainly play a growing role in the world arena. The fact that China's positions are often in contradiction to our own should not preclude us from striving to understand and appreciate them whenever possible. We must come to terms with such conflicts and endeavor to establish a relationship between the two countries.

At this time, I am pleased to call to the attention of my colleagues, the following petition for their perusal:

A PETITION TO PRESIDENT CARTER AND OUR CONGRESSIONAL DELEGATION CALLING FOR THE NORMALIZATION OF U.S.-CHINA RELATIONS

We, the undersigned Americans, favor the normalization of relations with China. We urge President Carter to take the necessary steps within the framework of the Shanghai Communique for the establishment of full diplomatic relations between the United States and the People's Republic of China (P.R.C.).

Visitors from the U.S. and other countries to the P.R.C. speak highly of the civility, health, honesty and patriotism of the Chinese people and their tremendous advancements in human relations, industry, education and lifes needs since 1949. Millions of Americans who want to enjoy the benefits of U.S.-China trade, travel, educational, cultural and scientific exchanges are hindered by the lack of normalization.

The P.R.C. represents a world power and has a population equal to one-fourth of the world's population. Since 1971, the P.R.C. has been a full member of the United Nations and its Security Council along with the U.S. Over 110 nations of the world, including all the leading countries except the U.S., have normal diplomatic relations with the P.R.C.

More than five years have passed since the U.S. and the P.R.C. signed the Shanghai Communique on February 28, 1972. Two U.S. Presidents have assured the P.R.C. that normal relations would be developed without delay, but our commitment has yet to be fulfilled. If we wait too long, our improved friendship with the Chinese people may deteriorate rapidly, and the balance of forces for maintaining world peace could be upset easily without prior warning.

Therefore, we must not let other less important disputes confuse or obstruct the vital issue. The process of normalization of relations with the P.R.C. must proceed with all possible means and due accord without further delay and equivocation.

CONGRESSMAN STUDDS OPPOSES SELLING AWACS TO IRAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. DRINAN. Mr. Speaker, Congress has begun to take seriously its responsibility to monitor major arms sales by the administration. We have begun to examine the fundamental assumptions underlying our sale of $12 billion worth of weapons a year. We have asked the American people to join us in questioning whether this massive merchandising of destructive material can be justified morally or strategically.

I have introduced legislation to lengthen from 30 calendar days to 45 days in which Congress is in continuous session the amount of time the Congress has to block major arms sales. I believe such an extension of time is essential if we are to fulfill our commitment to study dispassionately and in depth proposed major arms sales.

One of the House's leaders in our battle to inject sanity and sober thinking into this critical area of our foreign policy is Congressman GERRY STUDDS of Massachusetts. Congressman STUDDS has been an extremely effective advocate on behalf of a more rational arms sales policy, and I insert for my colleagues' consideration an article he wrote for the September 30 Boston Globe concerning the selling of early warning aircraft (AWAC's) to Iran:

GERRY STUDDS OPPOSES SELLING AWACS TO IRAN

Late last year, in spite of a singularly uninspiring presidential campaign which left many Americans pondering the purpose of voting at all, I found myself becoming convinced it was critically important that Jimmy Carter be elected. One of the principal reasons was candidate Carter's pledge to restore sanity to our foreign military-sales program.

In his first eight months, the President has talked a great deal about fulfilling that pledge, but has not come close to meeting his commitment to do so. On May 18, he enunciated—with great fanfare—an arms-sales policy that was supposed to lead to the reduction of arms sales abroad, to the intelligent and limited use of such sales as a tool of foreign policy rather than primarily as a source of private profit and to the beginning of a leadership role for the United States in a new international effort to control the arms trade.

Less than one month later, the President proposed the sale of seven early warning aircraft (AWACs) to Iran, an action which directly contradicts the provision in his policy that the United States would never again

"be the first supplier to introduce into a region newly developed, advanced weapons systems which would create a new or significantly higher combat capability." Equally disturbing, the sale was presented to Congress in a hasty and slipshod manner, which indicated that political considerations were the only issues the Administration considered relevant.

The Administration testimony made it clear that the Defense Department and the CIA were not originally sure what equipment would be included in the Iranian AWACs, a fact which meant that no accurate judgment of the security risks had been made. Even more incredible, spokesmen indicated they had not even decided on what grounds they were seeking an exception to the President's arms-sales policy.

A storm of congressional pressure forced the Administration belatedly to invest some brainpower to explain adequately how, or whether, their arms-sales policy will be applied to Iran, and to deal with the long-range problems created by our sponsoring in Iran the single largest, fastest rise to military power under peace time conditions of any country in the history of the world.

One is forced to suspect that the poorly prepared and sloppily defended AWACs proposal was rushed through Administration channels primarily in order to include it in arms-sales totals for Fiscal 1977, the last year for which Carter can share responsibility with a prior Administration. This seems particularly likely given the President's pledge to seek a lower sales total in Fiscal '78 than in Fiscal '77. The $1.2 billion AWACs sale will considerably restrict next year's options now that Congress has forced it into Fiscal 1978, but it would have given the President a chance to score some easy public-relations points if it had been allowed to swell the 1977 totals.

An equally disturbing factor is the tremendous personal interest which the President has demonstrated this time around in winning support for the sale. Immediately prior to the resubmission of the proposal on Sept. 7, the President personally called members of both the House and Senate in a successful effort to guarantee its approval. His primary message was that the Shah had been led by the previous Administration to believe that the sale would occur, that the U.S. must demonstrate continuity in its foreign policy and that denial of the sale might possibly lead to a serious deterioration in our relations with Iran.

It now appears impossible to prevent the AWACS sale. The Carter Administration will have lost, as a result, a unique opportunity to convince other nations that a real change in U.S. policy toward arms sales has occurred. I cannot help wondering how the President will be able to say no to Saudi Arabia, Egypt and Jordan when it appears so difficult to say no to the Shah.

The tragedy is that the Carter arms-sales policy of last May might well serve as an excellent basis for the kind of controls we so desperately need. It might serve particularly well as a guideline to future sales in Africa, perhaps the most attractive new market for those whose business it is to sell arms.

Unfortunately, President Carter will not be able to provide such leadership if he is unwilling to limit the flow of our own arms to unstable areas such as the Middle East. Although the arms-sales is proven a rather complex dilemma arising from our failure to exercise prudence in the past, it is also a challenge which candidate Carter seemed willing and strong enough to confront. While it is far too early to make a final judgment, President Carter has thus far failed to match his rhetoric with action, and now runs the risk of seriously alienating many of those in Congress and elsewhere who were eager to support him.

DEAF LAWYER IS VISTA VOLUNTEER AT NATIONAL CENTER FOR LAW AND THE DEAF

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HYDE. Mr. Speaker, it is a pleasure for me to share with my colleagues a news release concerning one of my constituents, Mr. Robert J. Mather of Oak Park, Ill. Mr. Mather is a VISTA volunteer and is presently serving as a staff attorney at the National Center for Law and the Deaf here in Washington. In light of the fact that he has been deaf since birth, his achievements are particularly inspiring. He is believed to be one of only two lawyers in this country who were born deaf, and the only deaf-born lawyer practicing in the deaf community.

Mr. Mather does not think of himself as being "handicapped," and surely his attitude has had a great deal to do with his success both academically and professionally. His accomplishments should serve as a splendid example to all of us, and particularly to those who may consider themselves disadvantaged, disabled, or handicapped.

I take pride in sharing the following article on Mr. Mather with my colleagues:

WASHINGTON, D.C.—Robert J. Mather thinks of himself "first as a person, then a lawyer and then deaf."

Mather, 27, from Oak Park, Ill. is believed to be one of two lawyers in the United States who were born deaf. The other is William S. Cumings, Jr., 34, a senior staff attorney at the U.S. Department of Labor.

A 1974 social work graduate of the National Technical Institute for the Deaf in Rochester, N.Y., Mather graduated from De Paul University Law School in Chicago, Ill. last February and was admitted to the Illinois bar in May. He is now serving as a VISTA (Volunteers in Service to America) staff attorney at the National Center for Law and the Deaf (NCLD) in Washington, D.C.

Mather is one of three VISTA lawyers assigned by ACTION, the federal volunteer service agency, to NCLD, the first center for law and the deaf in the country. Funded by the U.S. Department of Health, Education, and Welfare, NCLD was established in August, 1975 on the campus of Gallaudet College, the only fully accredited liberal arts college for the deaf in the world. The center provides free legal services for the deaf.

Mather is mainly involved with interviewing clients, researching legislation pertaining to the deaf and working on landlord-tenant, consumer, discrimination, automobile insurance and other legal problems of deaf people. He rarely uses an interpreter with his clients because he finds it easier to communicate directly in one language—American sign language.

"I can talk, but it is in a deaf voice," the volunteer said in sign language through an interpreter. Mather did not learn sign language until he was about 17 years old. As a child, he and a younger brother who was also born deaf were taught to speak and lip read through oral methods only. They were forbidden by their grade school teachers to use sign language.

The son of Bernard J. and Carol Mather of Oak Park, the volunteer was born in Evergreen Park, Ill. and attended St. Mel-Holy Ghost, a Catholic grammar school in Chicago which conducts a special program for deaf children.

"My parents chose this school because of its oralistic philosophy," said Mather, who describes himself as "profoundly" deaf. "They preferred that we grew up to lead normal lives and live like hearing people. They didn't want us to be deaf and dumb."

In 1966, he started attending Hinsdale South High School in Hinsdale, Ill., which has a special program for deaf students. "Most of the time, however, I went to hearing instead of deaf classes. I had no interpreter and had to sit in the front row and read the teacher's lips," he said. "I got very skilled at being phony and pretending to know what was said when I actually didn't."

When he graduated from high school, Mather was appointed to the National Honor Society for his outstanding grades, leadership and participation in extracurricular activities, including football and track.

"While in high school, I tried to be like a normal person and associated with hearing people and even had a hearing girl friend," he recalled. "I also did a lot of reading and was into black literature as there were no books for the deaf.

"I remember reading *Soul on Ice* by Eldridge Cleaver, particularly the part about his going to jail and posting pinup pictures of white women on his wall. A white cellmate told him that black women were ugly and he became furious and tore the pictures off the wall," continued Mather. "He then said 'black is beautiful.' "

"I substituted 'deafness' for black and thought to myself 'deafness is beautiful.' It was a real identity crisis that really blew my mind," he said. "I broke up with my hearing girl friend, started learning sign language and started feeling good about myself. I realized that if you are deaf, you cannot become hearing and deafness is nothing to be ashamed of. I was at last free to be myself."

After high school, Mather attended the National Technical Institute for the Deaf where he met his future wife, Susan Mozzer from Hartford, Conn., who also was born deaf. They now have a four-month-old daughter, Roberta, who apparently can hear.

"Susan and I both graduated with degrees in social work, which meant we would be competing for the same jobs when we got married. I didn't think this would be good for our marriage and decided to try a new field," he recalled. "After talking around, I found that deaf lawyers were needed so I took the test for law school and passed."

Mather went through De Paul University Law School in 2½ years, relying on an interpreter whom he paid $7.50 an hour. The Department of Vocational Rehabilitation gave him some financial support.

While in law school, he took an elective course on trial practice "to the amazement of the teacher and other students. They didn't think that I could handle it. I told them I was taking it 'for fun,' while actually I did it to see if it was possible for a deaf person to function in court," said Mather. He got an A in the course and won two cases in moot court.

"Thank God that I had the guts to take it because of the attitude of the other students. What if they had been right? What if I couldn't handle it? Thank God this did not happen," he continued. "But I am not handicapped. This is a hangup of other people. It is the attitude of hearing people that makes us handicapped. You can be a professional and a leader without good speaking capability."

One other obstacle for the deaf, according to Mather, is the telephone. "You know the saying about 'let your fingers do the walking' through the yellow pages? We deaf people still use our feet," he said. "The ironic thing is that Alexander Graham Bell invented the phone to magnify sound to help his deaf

wife. Then it became something that helps the hearing and not the deaf. We still have to use our legs to find jobs, shop and get services."

Another thing that annoys Mather is discrimination by auto insurance companies against deaf drivers. When he first moved to this area, he was told by an insurance underwriter that he couldn't get a policy because he was deaf. He reported the incident to the Maryland Insurance Commission, which recently ordered the insurance company to issue policies to deaf people.

"I was so shocked that something like that could happen to me. Driving is almost totally dependent on visual alerts and it has been proven that deaf people have equal if not superior driving records to the hearing," said Mather. He has since worked at NCLD on a number of similar discrimination cases.

Lately, Mather has been involved in research on Section 504 under the Vocational Rehabilitation Act of 1973. This section, which became federal law last April, requires all recipients of federal funds to provide accessibility for the handicapped in their programs.

"As far as the deaf are concerned, this means that all schools hospitals, and other social service institutions that receive money from the federal government must provide interpreters and telecommunications devices for the deaf (TDDs)," said Mather. TDDs enable deaf people to use the telephone by means of teletypewriters which transmit messages through regular telephone cables.

Recently, the Legal Defense Fund, a national legal service organization for the deaf which is associated with NCLD, won the first case concerning a Section 504 violation. It involved a small college in South Carolina which refused to provide an interpreter for a deaf person.

"This means that we will have a lot of work to do," said Mather, who does legal research for the Legal Defense Fund as well as NCLD. "For example, hospitals now must provide interpreters and/or TDDs so that deaf people can call in emergencies.

"I don't want people to pity me, but I think it is funny that right after I finished law school, this section was passed. As you recall, I had to pay for the services of an interpreter," he said.

The young VISTA lawyer is "very enthused" about the passage and enforcement of Section 504. "It is a very good beginning toward providing the deaf with equal and full citizen rights as members of society, but it is not the end," he said. "Often deaf people feel they have no rights as members of society. Because of their communication problem, they are the most disadvantaged and the most misunderstood of all minority groups.

"One major reason for this is that deafness is invisible. You don't see a deaf person unless he uses sign language. Unlike the blind, we don't carry white canes and are not accompanied by seeing eye dogs," continued Mather. "Also people think that there are more blind individuals than deaf, which isn't so. People with hearing impairments outnumber the blind 30 to 1, and for totally deaf people, the ratio is 3 to 1.

"As a lawyer, I want to educate the hearing as well as the deaf on the rights of the deaf," said Mather, who has received many satisfactions from his VISTA service at NCLD. "If I had gone into a big law firm, I would have had to prove to the other attorneys that I could do the job. This could take five or ten years. Here, I don't have to prove anything. I just do the job."

It is believed that Mather is the only deaf-born lawyer practicing in the deaf community. "There may be other born deaf lawyers. Who knows? This is not important to me," he said. "In fact, it is really a shame to say that we have only a few deaf attorneys. We should have many more."

Cumings, the other deaf-born lawyer, also served as a VISTA volunteer in 1967 and 1968 in West Virginia before entering the University of West Virginia Law School where he graduated in 1971. He is leaving the Department of Labor shortly to work on a master's degree in public health administration at the University of Pittsburgh in Pittsburgh, Pa.

THE DISTRICT OF COLUMBIA CONVENTION CENTER

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SARASIN. Mr. Speaker, a constituent of mine, Mr. Arthur T. Phelan of Prospect, Conn., has asked me to place the following article in the CONGRESSIONAL RECORD. The article appeared in the Washington Post in early July and was coauthored by his son, Dr. John J. Phelan, a member of the board of directors of the Capitol Hill Restoration Society which is opposed to the proposed construction of the convention center. I believe my colleagues will find this article of great interest:

THE DISTRICT OF COLUMBIA CONVENTION CENTER: AN "URBAN STRIP MINE"

(By David Paris and John Phelan

Despite the District government's assurance that a downtown convention center might work if managed with ingenuity, integrity and efficiency, the project is a large gamble.

District taxpayers are being asked to bear the risk for a questionable investment projected at $250 million over 30 years. The primary beneficiaries would be hotels and restaurants with no capital invested in the venture.

The feasibility report prepared by Gladstone Associates is more an advocacy statement than an impartial prognosis. Tax revenues are exaggerated by inflating the likely gains in delegate attendance and by including tax revenues from sources not normally used by other convention managers.

For example, the managers of the Atlanta convention center predict that their facility will take six years to generate attendance levels that Gladstone predicts D.C. will achieve in two or three years. Moreover, a 1973 analysis of a New York convention center, prepared by a firm critical of the plan, found that the New York center, twice as large as the D.C. project, would have generated only approximately 60 percent of the attendance levels proposed by Gladstone.

According to an unpublished draft of the Gladstone report, the average increase in convention-delegate attendance for a sample of seven cities three years after opening a new facility was only 106,000. That information was not included in the final report, which estimates that D.C. attendance will increase by up to 350,000 delegates.

Gladstone also included property-tax revenues from envisioned future hotel construction. We do not believe it is proper to calculate "paper" benefits from construction, which is as highly tentative as the long-overdue and long-promised rebuilding of the city's riot corridors.

After correcting such unrealistic assumptions, we found that the convention facility would generate from $2 million to $6 million in total annual revenues rather than the officially predicted $14 million. Even discounting social and environmental costs and city-service expenses, the convention "gamble" must generate $10 million to $11 million annually to break even.

If the Gladstone estimate of $65 million in new yearly spending on hotel services by conventioneers is accurate, then the private sector can afford to construct a convention facility. If, however, the benefits of the "gamble" have been overstated as we believe they have, then why should either the city or the private sector desire to construct and finance the facility?

An unsuccessful project would seriously threaten finances of D.C., whose homeowners already are subjected to the highest tax burdens of any jurisdiction in the metropolitan area. The District already has the highest debt per capita of major cities and is very close to the congressionally imposed debt ceiling of 14 per cent of tax revenues.

The Sheraton Park Hotel will soon have 165,000 square feet of exhibit space after its privately financed construction is completed. Added to the exhibit space at the Shoreham Americana and the Washington Hilton, that will enable the city to accommodate at least 80 per cent of the conventions that Gladstone estimates would use the proposed city center.

Washington is now tied with Chicago, a trade city with over twice the District's population, for the position of third major convention centers have been built or started, whether the city can gain further dominance.

Over the last 10 years at least 20 new convention centers have been built or started. At the end of 1973, there were 60 such facilities with at least 100,000 square feet of space. Since attendance growth has not kept pace with this construction, most of these centers are operated at a financial loss, and the losses are likely to get larger as the convention industry becomes even more competitive.

It is understandable that the hotel industry would seek a government subsidy through public financing of a convention center. The issue, however, is not whether the convention center will help the hotel and real estate industries—any $250-million subsidy would—but whether the facility will provide sufficient return to justify the municipal investment.

It is unlikely that the return would even equal that of a like investment in relatively safe government or private securities, let alone use of the $250 million for a more socially necessary project.

The Gladstone report also asserts that the project would generate 4,000 jobs, of which 66 per cent would be held by city residents. In contrast, Economic Research Associates found in a 1973 analysis that a nearly identical facility would generate 1,700 jobs of which 33 per cent would go to D.C. residents.

Surely a $250-million convention center would create some job opportunities. So would a dubious alternative like strip-mining the Mall. The convention center, however, is little more than urban strip-mining in the face of the city's medical, recreational and social needs.

This "gamble" has been opposed or severely questioned by the D.C. Federation of Civic Associations, D.C. Federation of Civic Associations, Capitol Hill Restoration Society, Upper Northeast Coordinating Council, 14th Street Project Area Committee, Shaw Project Area Committee, Wisconsin Avenue Corridor Committee, Committee of 100 on the Federal City and a number of Advisory Neighborhood Commissions, including one encompassing Chinatown, where the center would be built.

No citizen organization has supported the proposed convention center, its proponents are solely business interests, which quite naturally view the convention center as a special benefit to be financed by the general tax base.

Perhaps the project would work—if it is well managed, if Chinatown is protected, if New York and Baltimore don't build new convention centers, if the environment is protected, if the District is awarded a triple-A bond rating, if there are no cost overruns and if there is rapid growth in convention attendance. We are skeptical that those conditions can be met.

CONGRESSMAN DRINAN CRITICIZES JOINT UNITED STATES-SOVIET MIDDLE EAST INITIATIVE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. DRINAN. Mr. Speaker, on October 1, 1977 the United States and the Soviet Union issued a joint declaration outlining the principles and objectives of a new Middle East peace conference in Geneva.

This joint effort raises the most serious questions regarding the policy of the United States in the Middle East. Both procedurally and substantively, the joint American-Soviet statement appears to impose upon Israel concessions of a far more important and immediate nature than those imposed on the Arab countries. It casts into doubt traditional American positions in support of Israel. And it could very well constitute a step backward, not forward, in the continuing search for a peaceful resolution of the conflict in the Middle East.

One of the most serious problems raised by the initiative is simply the fact it was a joint United States-Soviet effort. For years, it has been the consistent policy of the United States to minimize the role of the Soviet Union, which cochairs the Geneva Conference, in the negotiations. In recent years, this policy has not met with opposition from the Arab States, who have looked increasingly toward the United States as the one party which could bring a measure of objectivity and effectiveness to the negotiations between them and Israel. Now, in an apparently dramatic shift of long-standing policy, the U.S. Government has taken action which increases significantly the role of the Soviet Government in the planned Geneva Conference and the entire process of negotiations.

The United States violated a 1975 agreement with Israel to "consult fully [with Israel] and seek to concert its position and strategy at the Geneva peace conference." Surely that commitment, signed by Secretary of State Kissinger on September 1, 1975, was violated on October 1, 1977 when the United States presented Israel with the final draft of the joint U.S.-U.S.S.R. initiative just 24 hours before its release.

In addition to these very serious procedural matters, the text of the joint statement raises fundamental questions about the policy of the United States on several of the most important issues associated with the Middle East conflict and places upon Israel an unfair and possibly dangerous burden before negotiations have even commenced.

The single most disturbing phrase in the joint statement is the reference to the resolution of the Palestinian situation. That resolution will include, the text reads, "insuring the legitimate rights of the Palestinian people." For many years, that phrase has been a code word, used by the U.S.S.R. and the Arab nations, for the establishment of a Palestinian state dominated by the Palestine Liberation Organization and irrevocably hostile to Israel. This marks the first occasion on which the United States has ever associated itself with this explosive phrase.

The joint initiative also pledges the United States and U.S.S.R. to work for the "withdrawal of Israeli Armed Forces from territories occupied in 1967." The Soviet Union and the Arab nations have consistently construed this to mean total removal of Israeli forces from every square inch of territory occupied in 1967. Palestine Liberation Organization, Arab, and Soviet spokesmen, of course, immediately confirm that their interpretation of Palestinian rights and withdrawal from occupied territory had not changed.

The reference to withdrawal was not accompanied, as it is in United Nations Resolution 242, by an affirmation of Israel's right to exist. This constitutes a departure from America's oft-stated commitment to work for a negotiated settlement within the framework of U.N. Resolution 242 and to oppose all efforts to alter the text or interpretation of that resolution.

One might argue, in defense of this disturbing document, that in order to get disputing parties to the conference table, a deliberately ambiguous agenda, subject to differing interpretations by the parties, is sometimes necessary. This argument ignores several key facts: The joint Soviet-American initiative increases the role of the U.S.S.R. and violates American agreements to consult with Israel in these matters. And, most importantly, it asks Israel to make potential concessions about essential issues, such as the form and composition of a Palestinian entity, withdrawal from the occupied territory, and even the possible participation of designated representatives of the PLO in the peace talks. These concessions, moreover, would occur very early on in the negotiating process and would surely influence the substantive content of the negotiations and their final outcome. In the conduct of diplomacy, the procedural rules initially agreed to often set the course of the negotiations.

While the somewhat ambiguous language imposes serious and immediate potential burdens upon Israel, it asks very little of the Arab nations. Reference is made to the "establishment of normal peaceful relations on the basis of mutual recognition of the principles of sovereignty, territorial integrity, and political independence." But in contrast to the possible concessions asked of Israel, this is intangible, will be reached far later in the negotiations, and could be violated with relative ease. Israel's concessions, however, go to the very heart of her security. This United States-Soviet document repeats the familiar pattern of asking Israel to make immediate and tangible concessions in exchange for promises which might be violated easily in the future.

Some have suggested that the Soviet Union compromised with the United States by agreeing not to mention the role of the PLO in the peace talks or the future Palestinian entity. This does not represent a compromise. Israel's leaders have made it very clear that they will under no circumstances enter into negotiations with designated representatives of the PLO, nor will they permit the PLO a role in the governance of any newly created Palestinian entity. It is remarkable that some serious-minded people actually expect Israel to negotiate with the PLO. This organization of terrorists is dedicated to the destruction of Israel. In recent months, the PLO, at its convention, refused to alter those sections of its charter which pledge it to the destruction of Israel and the "purge of the Zionist presence from Palestine."

The PLO has been responsible for the brutal murder and maiming of hundreds of Israeli citizens and also innocent individuals from many other nations. The PLO desires the destruction not only of Israel, but also of Jordan, America's next strongest ally in the Middle East. The PLO has been responsible for two civil wars in the two nations, Jordan and Lebanon, where they have been permitted to live in large numbers.

Can anyone expect Israel to accept as part of any future Palestinian entity members of the terrorist group committed to her destruction and responsible for two civil wars in those nations where they have been permitted to live autonomously? No other nation would be asked to sit down and talk with such international criminals. To ask Israel to permit PLO representation at the Geneva talks, and thereby provide at least tacit recognition of the legitimacy of the PLO as spokesmen for the Palestinian people, is totally indefensible.

The joint United States-Soviet initiative is seriously flawed by its preoccupation with the rights of the Palestinian people as the central issue. The Arab States in 1947 refused to accept the U.N. partition plan which would have established a Palestinian State. Instead, they invaded Israel at the first minute of her existence as a sovereign state. The Arab nations did not evidence any concern for the establishment of a Palestinian State or entity on the West Bank of the Jordan River during the period from 1948–67 when the West Bank was in Arab hands.

Nor are the territories presently occupied by Israel after the 1967 war the crux of the dispute. The Arabs went to war with Israel three times before the territories were occupied. The central issue is now, as it has been for 29 years, the stubborn refusal of the Arab nations to recognize Israel's right to exist. Just 1 month ago, President Hafez El-Assad told the New York Times:

> The desire to see a continuation of its [Israel's] existence—this depends on future developments.

Mr. Assad also added:

> The refugees must have a right to live as citizens of the state to which they return . . . I have in mind also that the total area of the West Bank is 5,000 square kilometers, which cannot absorb three million people. But the State of Israel is 120,000 square kilometers, and it can.

These ominous statements do not emanate from a terrorist, but rather the

head of state of one of the leading nations of the Arab world. They are not the threats of a Nasser of 20 years ago, but rather the words of President Assad of August 29, 1977.

Did the United States rebuke Assad as it has Israel for words and acts of a far more defensible and less inflammatory nature? No. The administration was silent. Israel alone is singled out for criticism.

The promulgation of the joint U.S.-U.S.S.R. initiative yesterday is in keeping with the administration's recent actions. The stubborn insistence on the convening of the Geneva Conference this year, apparently despite the costs, is a classic example of misplaced priorities. The goal is peace, not getting all of the parties to the dispute to a conference table before midnight on December 31, 1977. A Geneva Conference which has not been prepared with care and fairness could collapse quickly, thereby impeding, rather than accelerating, the progress toward peace.

Mr. Speaker, for the reasons described above, I believe that the joint American-Soviet initiative pertaining to the Geneva Conference is a serious mistake and calls into question the administration's policy in the Middle East. I hope that in the immediate future the President will take positive steps to clarify the disturbing issues raised by the Soviet-American statement and reassure all Americans that their country's traditional policy of support for Israel in her efforts to achieve a secure and lasting peace has not been altered.

LARRY WINN IS OTA VICE CHAIRMAN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. TEAGUE. Mr. Speaker, I am pleased to notify the Members of the House that our distinguished colleague, LARRY WINN, JR., the gentleman from Kansas, has been elected Vice Chairman of the Board of the Office of Technology Assessment for the duration of this 95th Congress.

I remind the Members that the OTA's charter provides that the six Board members from the other Chamber shall elect the Chairman in each odd numbered Congress, and the six House members of the Board then elect the Vice Chairman. That arrangement is reversed in each even numbered Congress.

I had the privilege of serving as OTA Board Chairman in the 94th Congress. The Chairman for this 95th Congress is Senator EDWARD KENNEDY of Massachusetts.

And the Board has established its own bipartisan precedent that the Chairman shall be of the majority party and the Vice Chairman of the minority.

LARRY WINN, JR., has been chosen to fulfill that precedent, but also because of his own ability and integrity and the respect all of us have for his good judgment fairness, and hard work.

LARRY WINN, JR., is especially qualified for leadership in the increasingly important activities of the OTA because of his long and productive service on the Science and Technology Committee of this House where he is the ranking minority member of the subcommittee for Space Science and Applications.

Our Science Committee has legislative responsibility for the OTA, and I call attention to the thorough OTA review hearings now underway in our Subcommittee for Science, Research, and Technology, chaired by the gentleman from Arkansas (Mr. THORNTON). I know that Chairman THORNTON and his subcommittee would welcome any comments or queries concerning this relatively new arm of the Congress, the Office of Technology Assessment.

I offer my personal congratulations and support to LARRY WINN, JR., as he assumes his new responsibilites, and I urge all Members of the House to join with me in that expression.

ISRAEL IS FORCED TO JOIN THE PARIAH STATES

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. CUNNINGHAM. Mr. Speaker, it seems that it is a great burden for any country to seek friendship with the West. When listing those strongly pro-Western states, it is easy to see that the United States has spared no efforts to alienate and isolate, to insult and upbraid, and to unilaterally determine that their offer of friendship for our country and for the West will be rejected.

Yesterday, the announcement was made that those two great allies, the United States and the Soviet Union, had determined that Israel, our friend and ally, would be compelled to recognize something called the legitimate aspirations of the Palestinian people when negotiating for a peaceful settlement in the Middle East.

Israel thus has been forced to join a growing list of those nations who are too friendly to American interests and too faithful to Western ideals—and who, therefore must be punished for the misdeeds of insulting our great ally, the Soviet Union.

Already added to the list are the Republic of China, Iran, Brazil, South Africa, Chile, Pakistan, and perhaps others that might transgress détente.

Israel has been guilty of being the strongest and most faithful American Middle East ally, a parliamentary democracy in a world of dictatorships, a haven for victims of the Soviet tyranny, a protector of the Holy Lands of three great faiths, and a nation with a relatively self-sufficient economy.

For this, the Carter administration has decided that Israel must be severely threatened. The threat is that unless the Palestinian terrorists are allowed to negotiate as equal partners, we may more directly undermine Israel. It is similar to the "solution" to the Rhodesia question proposed by Ambassador Young and Foreign Secretary Owen. All that is required for peace is surrender.

Mr. Speaker, I cannot accept this immoral and, indeed, illogical policy. It is obvious that in international affairs the maintenance of a tenuous friendship with the Soviet Union is worth everything to our President while the preservation of long-time alliance with faithful friends can easily be negotiated away, threatened by words and actions, and otherwise eroded.

Mr. Speaker, as our President pays homage to the United Nations this week, that tool of the Soviet Union, I do wish that he would look to the wider interests of the American people and those of our long-time friends.

Adding Israel to this list of pariah states is unconscionable and I hope that this does not signal a drastic turn in American policy away from this vital nation.

LOCKHEED'S SUCCESS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. MOORHEAD of California. Mr. Speaker, we in California are very proud of the fact that Lockheed Aircraft Corp. has improved its financial position to the point where no longer is the Federal loan guarantee necessary and in spite of the financial difficulties they have gone through, they have again reached a point of financial stability without costing the Federal Government a single penny. This success has been noted in an editorial in the Washington Post on October 2, 1977 which I am including with my remarks:

LOCKHEED'S SUCCESS

We confess to having shared the strong reservations of a lot of people in 1971 when the federal government agreed to bail out the Lockheed Aircraft Corp., which was then on the verge of bankruptcy. Our reservations would have been even stronger if we had known then what we know now about the $30 million or so the company had used to bribe foreign officials. Disclosure of the bribes merely confirmed our impression that Lockheed was a lost cause and a bad investment for the American taxpayer. So it is with a sense of pleasure and relief—and considerable surprise—that we take note of reports that it hasn't turned out that way. On the contrary, the Lockheed bailout has apparently turned out to be very nearly unique among government programs of this sort: It appears to have achieved its goal without costing the taxpayers anything. Lockheed is giving up the federal loan guarantee on which it has depended for six years and is rejoining the world of free enterprise.

You may recall that what brought Lockheed to its knees was a combination of inflation, costs overruns on various projects and a new airplane that didn't sell too well at first. It has apparently conquered these and other problems. Thanks in large part to that loan guarantee, Lockheed is making money again. Admittedly, there were some rough spots. At one point, the federal government was backing up $245 million in loans and its supervisory committee was riding herd strictly on Lockheed's activities.

The situation grew critical again when the exposures concerning the foreign bribes drove Lockheed's two top officers from office. But the cleanup of the company under Robert W. Haack, who is now retiring as chairman, seems to have been thoroughly and carefully conducted.

Does the Lockheed success story argue for more of the same sort of government rescue operations for other failing companies? No. As a general rule, we don't think the government should be in the business of helping private corporations escape the consequences of their own shortcomings. Lockheed was a special case because of its role as a defense contractor and because a case can be made that some part of its downfall was attributable to various pentagon decisions. That it all has turned out well is heartening—almost heartening enough to make us think that someday all will also turn out well for Conrail, the government's other venture in trying to turn a failing corporation into a success.

MEAT IMPORTS QUOTA ACT NOT WORKING

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BAUCUS. Mr. Speaker, the Meat Import Quota Act of 1964 is not working. Due in part to an excessive amount of imported beef and other products into this country, Montana ranchers are in extremely bad financial shape and many will soon be out of business. The unfair competition to our domestic beef cattle industry is due to both the total amount of meat coming in and the way that it can come in. I offer today amendments to section 2 of the Meat Import Quota Act that are a revision and expansion of amendments suggested by Senator Melcher earlier this year. The Senator has informed me that he does not intend to offer revisions as a separate bill but prefers to wait for hearings on the bill in order to make changes.

I am offering these amendments in the House of Representatives in order to get a more immediate sense of Congress as to whether or not it is prepared to do something about the terrible financial strain placed upon our ranchers by these imports. My bill makes three major changes in the current law. First, it amends the definition of that meat which falls under the act to include imports, no matter how processed. This will put a permanent stop to "back-door" importation through free trade zones which is temporarily halted by the Department of Agriculture.

Second, it reduces the "trigger" amount for imposition of quotas from 110 percent of the amount allowed in to 100 percent. This change, correcting what was originally intended to be a "safety valve" allowed to the President, removes the routine allowance of an extra 10 percent of imported beef flooding in each year.

Third, the act currently allows the President to suspend any quotas under the act and to allow increased totals if he finds it in the national interest. My amendment would allow him to also suspend the quota amount and decrease the total amount allowed in if that is in the national interest.

I think that this package of amendments, if enacted, would go a long way towards correcting the unfair burden placed upon our domestic cattle industry.

The bill follows:

H.R. —

A bill to amend the provisions of Public Law 88-482 relating to the imposition of quotas on certain meat and meat products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (Public Law 88-482; 78 Stat. 594) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) It is the policy of the Congress that the aggregate quantity of the meat of cattle, goats, and sheep (except lambs), whether fresh, frozen, chilled, cooked, canned or otherwise processed, which may be imported into the United States in any calendar year beginning after December 31, 1978, shall not exceed an amount which bears the same relation to the domestic commercial production of such meat in such year, as the imports into the United States of such meat bore to the domestic commercial production of such meat during the years 1959 through 1963, inclusive.";

(2) in subsection (c) by striking out "110 percent of" each place it appears in paragraphs (1) and (2);

(3) in subsection (d)—

(A) by inserting "(1)" after "(d)";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"(2) The President may suspend any proclamation under subsection (c), or decrease the total quantity proclaimed under such subsection, if he determines and proclaims that the domestic supply of articles described in subsection (a) will be in excess of the amount necessary to meet domestic demand at prices at least equal to the average national cost of production of such articles.

"(3) Any suspension under paragraph (2) or (3) shall be for such period, and any increase or decrease under such paragraphs shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.".

FINDLEY SUPPORTS TREATY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SIMON. Mr. Speaker, one of my distinguished colleagues from Illinois on the Republican side of the aisle is Representative PAUL FINDLEY. Because he has observed the international scene with great care, his recent statement in support of the Panama Canal treaties, I hope, will be listened to by our colleagues in the House and our friends in the Senate with more than casual attention.

His stand is not a popular one, but it is the right one for the Nation, and I commend him for his courage and vision.

The article follows:

FINDLEY SUPPORTS TREATY

(By Congressman PAUL FINDLEY)

Last week I attended the signing of the Panama Canal Treaties at the Organization of American States Building in Washington. As I watched, I thought of the intimate way in which the building of the canal was linked to central Illinois.

John Hay, the Secretary of State under President Theodore Roosevelt who negotiated the original Panama Canal Treaty, lived in Pike County as a young man and there made acquaintances which opened the way to diplomatic fame.

If the treaties are ratified, the United States will have agreed to turn over the canal to Panama in the year 2000 and phase out its military bases in the Canal Zone at its own discretion over the next 23 years.

In addition, the U.S. would reserve the right to intervene militarily to protect the neutrality of the canal even after 2000 and retain the right of "first refusal" to construct a new transcontinental waterway in Panama.

The old canal stands as a great monument to American engineering and preserverance. By the time it was completed in 1914 the United States had spent $387 million and lost 32,000 lives through disease and accident.

But the canal no longer holds the importance it once had. It is not wide nor deep enough for aircraft carriers or super tankers. A small bomb hitting any of its locks can put the canal out of commission. It is a sitting duck for saboteuers. Thus, it is of limited military value.

Only four percent of U.S. coast-to-coast trade goes through the canal, down from eight percent 10 years ago. Its value to U.S. commerce then, is also minimal and shrinking.

Yet, in a sense, the Panama Canal hangs as an albatross around our neck.

Desipte its shrinking strategic and commercial significance, some Americans think it symbolizes America's world power. At the same time, Latin Americans tend to view it as an infringement upon their own sovereignty, a festering sore running counter to our much touted friendship of our Latin American neighbors.

The treaties must win Congressional support to go into effect. The first test will be in the Senate, where two-thirds approval is needed for ratification. The outcome is anything but certain.

My personal view is that the treaties should be ratified. While I recognize that they entail some risk to the interest of our nation. I feel that on balance we will come out ahead. I also hope approval will occur promptly, so our government can get on with other urgent business.

PERSONAL EXPLANATION

HON. CECIL "CEC" HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HEFTEL. Mr. Speaker, because I was at the White House for President Carter's signing of H.R. 7171, the Agricultural Act of 1977, I was absent for one recorded vote on September 29, 1977.

Had I been present, I would have voted "yea" on the motion to resolve the House into the Committee of the Whole House for the further consideration of H.R. 6566, to authorize appropriations for the Energy Research and Development Administration.

AFFIRMATIVE ACTION WITHOUT QUOTAS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. LEVITAS. Mr. Speaker, on September 23, Congressman BOB WALKER and I introduced a bill, H.R. 9286, calling for the elimination of Federal enforcement of quotas, ratios, and numerical requirements in admission and hiring practices.

Some people have said that we cannot end discrimination or have affirmative action programs, that we cannot show our dedication to the goal of equality, without quotas. Congressman WALKER and I believe we can end discrimination without discriminating anew against anyone in the process.

There are many ways of developing affirmative action programs that will bring into the educational and economic and professional mainstreams those who are underrepresented because of discrimination in the past. One method is described in this article from today's Wall Street Journal:

AFFIRMATIVE ACTION WITHOUT QUOTAS: THE TEMPLE PLAN

(By John H. Bunzel)

The University of California at Davis maintains that only a racially preferential admissions policy can bring about the integration of the medical school and, ultimately, the medical profession.

In the case of Allan Bakke, the U.S. Supreme Court must decide if the university's social objectives are sufficiently compelling and of such overriding importance that a policy of special preferences and admissions quotas for certain racial minority applicants is constitutionally justified. But whether a racially preferential admissions policy is the only way to enable more minority group members to practice medicine (or law) is open to debate.

Consider the law school admissions policy at Temple University in Philadelphia. In the words of Dean Peter J. Liacouras, Temple's special admissions program seeks out and "carefully, individually and affirmatively selects those applicants—*minority and majority group members*—who have an outstanding performance record and an exceptional aptitude for the study and practice of law, not necessarily reflected by their LSAT scores."

The law school's Special Admissions and Curriculum Experiments Program (Sp. A.C.E.) is open to "working men and women, and their children, irrespective of ethnic or racial or social or religious heritage, or favoritism."

In the fall semester of 1976, Temple Law School could admit only one in 10 of its applicants. Its entering class of 375 constituted, in traditional terms, "the higehst quality" group in the school's history. Admissions were through two routes—"nondiscretionary" and "discretionary."

The median grade point average of the "non-discretionary" admissions was well above 3.50, and the median LSAT was well up in the 600s, which was in the top 10% of those who took the examination. Roughly 75% of the entering class was admitted "through the numbers," and almost everyone admitted through the "non-discretionary" formula was a white man or woman.

"Discretionary" admissions fall within the Sp. A.C.E., which considers six categories of applicants: black, Hispanic, American Indian, Asian or any other minority group grossly underrepresented in the legal profession, non-minority groups, college grade point averages of 3.80 or above, those who overcame exceptional economic deprivation, those who display exceptional leadership ability in college or community, and those whose exceptional physical disability (including blindness) precludes their taking the regular LSAT.

High academic achievement is a requirement for consideration in the Sp. A.C.E. Further, admission is competitive within and among the six Sp. A.C.E. categories, so that being in one of the categories does not necessarily ensure admission.

The non-discriminatory special admissions program differs sharply from the one which rejected Allan Bakke. At the UC-Davis medical school, a clear preference on the basis of race is granted to persons who, by the university's own standards, are not as qualified to study medicine as are non-minority students denied admission. In addition, the special admissions program at Davis reserves a fixed number of places for racial minorities only

By contrast, Temple's program is open to all applicants. No racial or ethnic group is considered deserving of exclusive preferential treatment. The proof is that approximately twice as many whites as minorities have been admitted in the last four years through the Sp.A.C.E. In a student body of 1,115, women now constitute 36%, not the 2% of 12 years ago. Minority students still comprise less than 10%, with blacks making up less than 8% of the total enrollment. But 10 years ago they comprised only 1%.

Perhaps the single most important feature of the Temple program is a student body that includes men and women from virtually every racial, ethnic and economic class, almost every religion, age group and walk of life. Among those in this rich melting pot:

A Hungarian refugee whose family was in a Nazi concentration camp; a young man of Italian ancestry who worked in a gas station 40 hours a week from age 12 through college; an American Indian raised on a reservation; children of working-class ethnic backgrounds; policemen; black women; black veterans wounded in Vietnam; a white women; black veterans wounded in Vietnam; a white woman who, as a teacher, helped establish an alternative school; Poles, Lithuanians and Lebanese from the multi-group state of Pennsylvania, and a Japanese-American whose first memories are of a World War II detention camp.

This is affirmative action at its democratic best—a program that pursues integration and other desired social goals without granting special privileges to some groups at the expense of others.

Advocates of racially preferential admissions systems charge that any program that avoids overt color-conscious means will promote hypocrisy and cheating and encourage a university to accomplish indirectly what it may not do directly.

But why should it be assumed that administrators will not play it straight or cannot be monitored? Moreover, the most honest response is that there is no reason to be ashamed of a policy that is right in principle. As University of Michigan Professor Carl Cohen observes, "The racial count that results (from a racially netural admission program) may not be the same as that produced when racial preference is used, but perhaps it ought not to be. Even if the count were the same, the individuals (admitted by using principles, not race) would be different, and that makes all the difference".

It also makes a difference when a program avoids "the dirty business" of inquiring about an applicant's race. By honoring the principle of equal treatment, no one need suffer the psychological burden of being rejected or accepted on racial grounds.

TAMPER-PROOF SOCIAL SECURITY CARDS—ACLU SHOULD TAKE ANOTHER LOOK

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SISK. Mr. Speaker, on March 8 of this year, together with a number of my colleagues, I introduced into the House, H.R. 4646, which would require prospective employees to obtain social security cards of a type which cannot be duplicated or forged. This would greatly help to prevent the employment of people who have no legal right to a job.

It has just come to my attention that on June 6, the American Civil Liberties Union circulated a memorandum whose subject is, "Counterfeit-Proof Social Security Identification Cards." This memorandum says that it is based on the provisions of H.R. 4646, a bill which ACLU opposes. They say, "the transformation of the social security card into an identity document and prerequisite for employment would bring this country perilously close to the adoption of an internal passport."

Apparently, ACLU has not read the bill. In the first place, a social security card is already a prerequisite for employment, except under rare circumstances. The bill does not even mention an "identity card," nor does it in any way provide for one. A social security card is not an "ID" card. People are not required to possess one; nobody is required to carry one; nor can anyone be required to produce one on demand. The card says on it, "For Social Security and Tax purposes—not for identification." H.R. 4646 does not change this. It proposes only to make these cards very difficult to forge. It is already a crime to forge a social security card. This bill makes it more difficult for this crime to be committed.

Presently fake social security cards are printed and sold in the thousands to people who have no legal right to possess them. They are used illegally to obtain employment, and other benefits, when presented to prospective employers or others, who accept them in good faith. Knowing that these fraudulent cards exist, an employer might hesitate to hire someone whose appearance or accent suggested the possibility of the applicant's being an illegal alien. This introduces an additional possibility of discrimination against legal aliens, or even American citizens, simply because they may appear to be "foreign."

I cannot believe that the ACLU approves in any way of forged social security cards. I hope that the organization, together with its members, will reconsider their position.

RECOGNIZING PLO WOULD MEAN RECOGNIZING TERRORISTS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. EILBERG. Mr. Speaker, many of my colleagues in the Congress and I have been concerned in recent days by press reports indicating that the Carter administration has agreed with the Soviet Government that the Palestine Liberation Organization should participate in the Middle East peace talks. I firmly believe, Mr. Speaker, that to recognize the PLO as the rightful representative of the Palestinian people would be equivalent to condoning the use of violence and bloodshed.

One only has to glance at the speeches, writing, and National Covenant of the PLO to realize the uncompromising position these alleged representatives of the Palestinians have taken time and again. Repeatedly, the PLO has refused to recognize Israel's right to exist—a right recognized by the United Nations.

In February 1977, in Israel, Secretary of State Vance said that acceptance of Resolution 242 by the PLO would not suffice, and that "as long as they stand by the Covenant and refuse to accept Security Council Resolutions 242 and 338, this provides no basis for participation." The "Covenant" is the PLO's National Covenant, which explicitly denies Israel's right to exist as a free and sovereign Jewish state.

The actions of the PLO serve as a stark demonstration of its rejection of peaceful compromise. At a March 1977 meeting of the Palestine National Council, the PLO clearly asserted its unwillingness to live in peace with Israel. PLO chairman Yassir Arafat told the council on March 17 that "we want a secular democratic state in Palestine," and predicted that Palestinian military attacks against Israel would be escalated in the coming months. The head of the PLO's political department, Farouk Kaddoumi, told a Newsweek interviewer, March 14, 1977, that the establishment of a West Bank/Gaza State would only set the stage for a takeover by the Palestinians of "the rest of our land." Kaddoumi spoke of the "stages to our return," and said, "the first phase to the 1967 lines, the second to the 1948 lines * * * the third stage is the Democratic State of Palestine."

The 1968 National Covenant outlines what is meant by a "democratic" Palestinian state. Article 20 denies that the Jews are a national people with a right to statehood. Article 15 calls for the Arabs "to purge the Zionist presence from Palestine" and this has been interpreted to mean purging all non-Palestinians from the area unless they had been living permanently in Palestine for over a half-century. The PLO, in other words, would drive into the sea anyone who has settled in Israel since that nation gained its tenuous independence in 1948.

This is what the PLO means when it speaks of a "democratic" government based on "equality." The PLO's past actions stand as proof of its fierce determination to purge all non-Palestinians and its total unwillingness to compromise. Its terrorist crimes include the 1970 bombing of a Swissair jet, resulting in 47 dead; the murder of 11 Israeli Olympians in Munich in 1972; the 1972 massacre at Lod Airport where 26 were killed including 21 Americans; and the gunning down of 24 children at Ma'alot in 1974. These were the most blatant of the PLO's crimes; that organization has been engaged in day-to-day acts of violence against Israeli nationals.

To allow the PLO to participate at the Geneva peace conference would give tacit approval to its methods of settling disputes and would make the peace talks a farce. Refusal to recognize the PLO is not a refusal to recognize the needs of the Palestinian people. Only when legitimate Palestinian leadership emerges, with open acceptance and recognition of the rights of both Israel and Jordan to exist, can there be a genuine Palestinian participation in the negotiating process.

Mr. Speaker, I commend to the attention of my colleagues the following editorial comments which demonstrate the broad concern that Americans of all faiths have for this issue:

[From the Philadelphia Inquirer, Aug. 13, 1977]

THE PLO HASN'T CHANGED

That trial balloon about the Palestine Liberation Organization which the Saudis launched last week, Secretary of State Vance wafted and President Carter blew out of proportion, was full of hot air, as balloons often are.

This one was to the effect that the PLO had undergone a "change in position" and was prepared to accept United Nations Resolution 242, affirming Israel's right "to live in peace within secure and recognized boundaries free from threats or acts of force."

That, even if true, would hardly represent the "breakthrough" that Mr. Vance leaped to conclude it was when the Saudis fed him the story during his stopover in Taif. However, the PLO itself proceeded to shoot it down.

"We are not ready to change our stand on 242, and we are not ready to recognize Israel," a PLO spokesman declared, while another PLO representative said the PLO would accept 242 if its wording is revised in ways unacceptable either to the U.S. or Israel. What the PLO clearly wants is the destruction of Israel. That is in its covenant which, as recently as last March, its leaders refused to change.

In Taif, a spokesman for Mr. Vance said that "as far as the secretary is concerned, (PLO) acceptance of U.N. Resolution 242 would accomplish the same purpose as changing the covenant." As far as the Israelis are concerned, it would do no such thing.

A "change in position" is not necessarily a change of heart. Some day Mr. Vance will return to his law offices in Manhattan. The Israelis will have to live with whatever political arrangements are wrought by the complex, laborious negotiations in which he is engaged—a process which, as he also conceded, finds the gaps between Arabs and Israelis as wide now as they were before he left Washington.

The Israelis resist the establishment of an independent state controlled by the terrorists who, as Premier Begin pointedly told Mr. Vance in Jerusalem, aim "to annihilate Israel." It ought not to be so difficult to understand Israeli sensitivities on this score.

Right now the PLO wants to resurrect itself. It was terribly bloodied in Lebanon by the Syrians (and anyone who thinks the PLO is trustworthy ought to consider its lethal behavior in that hapless land). The Saudis, who will happily use it to drive a wedge between Washington and Jerusalem, do not trust it. Nor does Jordan, whose government the PLO tried violently to bring down a few years ago—and which, not incidentally, has a better claim to represent the Palestinian Arabs than has the PLO. Egypt's President Sadat, whose comparatively moderate government the U.S. has good reason to support, tried to bypass the PLO in a proposal for foreign ministers' negotiations (which the U.S. accepted but Syria quashed).

American interests as well as those of Israel would not be served by the creation of a radical, irredenist state—pro-Soviet and supported by the Kremlin—between Israel and Jordan. Important as it is to get negotiations moving in one forum or another, it is even more important that negotiations lead to a just and durable peace.

[From the Philadelphia Inquirer, Aug. 25, 1977]

ARAB DEMAND IS THE OBSTACLE

Abba Eban, Israel's former foreign minister, observed in Philadelphia the other day, that if the United States agreed with Israel 100 percent of the time, the U.S. would be right 100 percent of the time, and Israel doesn't expect that.

Mr. Eban, of course, was joking. Nevertheless, the Carter Administration's latest criticism of the Begin government, though both governments later diplomatically downplayed it, rested on dubious ground. In a statement with which President Carter concurred, as he noted in his news conference Tuesday, the State Department denounced the Begin government for approving the building of three new settlements on uninhabited land on the occupied West Bank. The action, it is asserted, created "obstacles to constructive negotiations."

The Israelis have taken the consistent position that they will negotiate face-to-face with representatives of Arab governments ten minutes from now, anywhere. Not so the Arab governments vis-a-vis Israel. Indeed, they still insist that before negotiations can take place the Israelis must surrender almost everything the negotiating process is supposed to determine, including all the territories Israel occupied in the Six-Day War of 1967. Who, then, is creating "obstacles to constructive negotiations"?

Israel says everything is negotiable. That includes the settlements. Israel also says it will resume the 1973 Geneva conference with the original invitees. The Arab governments say they won't attend unless the Palestine Liberation Organization, which has yet to recognize Israel's right to exist, also attends. Who, then, is being intransigent?

Similarly, the State Department criticized Israel's extension of public services to Arabs living on the West Bank as creating "an impression of permanence of Israel's occupation . . . which is not helpful." Israel's response is that improving people's living conditions is generally regarded as a good thing not a bad thing.

Obviously, the Begin government is aware that it is creating an impression of permanance. It is, after all, hardly unusual in the field of human conflict, international or other, for parties to try to improve their bargaining position. If the Carter Administration wants to be helpful, instead of going out of its way to criticize Israel it should advise the Arabs that the way to settle the question of the West Bank settlements as well as other Israeli-Arab differences is

through negotiations; that the main obstacle to negotiations is their insistence that the PLO have an official role.

SOCIAL SECURITY REFORM PACKAGE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. RHODES. Mr. Speaker, last September 9 I joined with my Republican colleagues on the Ways and Means Committee in presenting a 15-point reform package for social security. Our plan was to develop a workable package to restore the financial integrity of the social security system.

First, I would point out that our plan is the only one we know about which would solve the system's financial problems for at least the next 75 years without raising taxes more than 1¼ percent over that period of time, while simultaneously correcting a number of inequities and anomalies. Other people have come up with short-term, piecemeal approaches to social security problems, and we think the American people deserve better.

Second, it should be noted that each of our plan's 15 points is related to the others. They were fitted together in order to achieve certain fundamental goals: saving the system, making sure it treats all participants fairly and equitably, and strengthening its insurance character. None of the provisions was designed to stand alone.

For example, the provision for advancing the eligibility age for full retirement benefits should be viewed in context. If it were removed from the package, the tax rate paid by each covered worker and his or her employer would have to be increased under this approach by an average of 0.83 percent over the entire 75-year period. That would mean an increase of nearly $150 per contributor next year alone, and corresponding increases every year thereafter. Yet the change would not even begin until 1990 and would not become fully effective until 2001. Workers still would be able to retire at age 62, as they now can do, but with a commensurate actuarial reduction in benefits. Thus, gradually extending the retirement age to 68 would have no effect on persons now in their early fifties or older and would be fully effective only for persons age 42 or younger who would be retiring around the year 2000.

Clearly, this is a tough adjustment in social security retirement practices. But it seems a realistic one in light of growing sentiment to abolish mandatory retirement policies, plus increasing longevity and productivity of the American people, along with a declining birth rate—factors which will combine to produce a ratio of only two worker-contributors to one social security beneficiary in the next century.

Another of the 15 points which has caused controversy is the call for social security coverage of Federal civilian employees (military personnel already are covered). We felt this change is needed because a nationwide social insurance program ideally should cover all of a country's workers. About 104 million Americans now participate in the U.S. social insurance program, and we felt it only fair and just that the some 2.5 million Federal Government workers—including Members of Congress—also should participate.

Other features of our plan—notably an end to the present limit on earnings of social security beneficiaries, and more equitable treatment of women under the system—also have drawn some unfavorable comment. But we feel these provisions, too, are fair and just.

Finally, we feel most strongly about our plan's attitude toward taxes. We simply do not believe that payroll taxes should be increased at all right now, because of the already heavy burden imposed on our citizens and because of uncertainties in the economy. Our plan would require no tax hikes until 1982 and only a 1.2-percent increase in total over the next 75 years.

With the hope that you will find it useful, I am enclosing for your closer examination a copy of our plan, presented in detail. I think if you can take a few minutes to read this material, you will have a better understanding and appreciation of our suggestions, particularly when you compare them with obvious alternatives—higher taxes, no system improvements, and use of general revenues of the Treasury, which means a higher public debt and eventually a bigger bill for all taxpayers to pay.

REPRODUCTION AND HUMAN WELFARE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SIMON. Mr. Speaker, recently a 2-year study of the state of knowledge about human reproduction and scientific research was concluded, titled, "Reproduction and Human Welfare." That review suggests strongly that the United States should be spending more in research in this area.

In view of the overall population problems which the world faces, that suggestion certainly appears to be a sound one.

The principal conclusions of their study, as condensed by the group, Projects for Population Action, include the following:

DWINDLING FUNDS FOR CONTRACEPTIVE RESEARCH

1. Over the past decade, there has been an explosion in basic knowledge of the reproductive system, both male and female.

2. This increase in basic knowledge makes feasible a much larger effort to develop improved means of regulating human reproduction than is currently underway.

3. A much larger effort is needed, not only to cope with rapid population growth in developing nations, but also to improve the health and well-being of American women, millions of whom now use contraceptive methods which are subject to questions of safety, or are objectionable on other grounds.

4. To adequately follow up current and promising research opportunities would require a tripling of worldwide expenditures for research and development in the reproduction field, which are currently on the order of $125 million per year. The capacity to make good use of additional funding—institutions, scientists, technicians—now exists and can be further expanded rapidly.

5. Funding for research and development on reproduction has been provided from government, industry, and private philanthropic sources. Such funds rose rapidly in the late 1960's and early 1970's, but since 1973 worldwide expenditures have declined when inflation is taken into account—at the very time when scientific opportunities for productive research and development have become much larger.

6. Governments now contribute two-thirds of worldwide support. Contraceptive development is not likely to attract new funding from private industry, in view of the high costs of experimentation and testing for safety compared to the potential earnings from commercial sales. Philanthropic funds are not available on the scale required. Consequently, there is no alternative source for the larger funding needed except from governments, and especially the United States government since the largest scientific resources relevant to this field are in the U.S.

REAGANS ROUGHRIDERS REVISITED

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I would like to bring to the attention of the Members a recent communication from former Gov. Ronald W. Reagan, concerning the Reagan Roughriders. I would also like to bring to the attention of the Members my reply to former Gov. Ronald W. Reagan.

The lesson to be learned from this exchange of correspondence is that people of good will may change horses in the middle of a canal.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 3, 1977.

Gov. RONALD W. REAGAN,
10960 Wilshire Boulevard,
Los Angeles, Calif.

DEAR RON: The point raised in your September 27 letter is well taken.

Certainly, an animal lover such as myself would never want to see a horse exposed to unnecessary danger, besides Gladys Sargent would never forgive me. I would just never envision you on a black horse. Perhaps my resolution could be amended to provide a Palomino or perhaps a Strawberry Roan.

Best wishes.

Sincerely,

JOHN L. BURTON,
Member of Congress.

RONALD REAGAN,
Los Angeles, Calif., September 27, 1977.

Congressman JOHN BURTON,
Longworth House Office Building,
Washington, D.C.

DEAR JOHN: I thought you'd like to know that the calvary never uses white horses.

They make too good a target—or was that what you had in mind?

Sincerely,

RONALD REAGAN.

Enclosure.

In case the Senate sinks the treaties, Rep. John Burton (D-Cal.) has offered, with a semi-straight face, a resolution "to keep the canal open." Burton would establish a "Panamanian Expeditionary Force" to be called "Reagan's Rough Riders." Ronald Reagan would be commissioned a "full bird colonel," and assigned a white horse and a squad of volunteers to do battle for the waterway.

FBI INDICTMENT FOLLOWS AN UNACCEPTABLE DOUBLE STANDARD

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BOB WILSON. Mr. Speaker, our Constitution guarantees our citizens a right to privacy, but it is well known that criminal elements of our society hide behind the provisions of the Constitution while perpetrating their crimes on their law-abiding fellows.

To deal with such people, one must almost go to war and use the weapons at hand in the combat. But now, with the prosecution of Special Agent John J. Kearney, we find that our own soldiers in this fight are being treated as though they were the criminals they seek to destroy.

I believe this to be patently unfair and the following column by former FBI Special Agent Frank L. Price, national president of the Society of Former FBI Agents in the San Diego Union spells out the reasons for my belief. I commend it to the attention of my colleagues:

[From the San Diego Union, June 19, 1977]

FBI INDICTMENT FOLLOWS AN UNACCEPTABLE DOUBLE STANDARD

(By Frank L. Price)

Federal criminal action targeted at present and former FBI agents as a result of the performance of their official duties is unjustified unconscionable, and unprecedented.

Misguided officials in the U.S. Department of Justice are pursuing a course of action that is destructive of the law-enforcement and intelligence-gathering responsibilities assigned to the FBI. Present prosecutive action must be terminated in the interest of national self-preservation and in fairness to loyal and dedicated FBI agents who were acting in fulfillment of their sworn oath to protect our country.

John J. Kearney, 55, served as a special agent of the FBI from 1947 to 1972. One of his more demanding assignments was as supervisor of Squad 47, an internal security squad in the New York City Division of the FBI. After 25 years of dangerous, and often thankless, work, he was honorably retired from federal service in 1972.

On April 7, after more than a year of investigation of FBI intelligence-gathering activities, the federal grand jury in New York City handed down a five-count indictment against Kearney. He has been accused of violating the civil rights of the Weather Underground, "a Marxist-Leninist, Communist, revolutionary group." Specifically, he has been indicted for "illegal wiretapping, obstruction of the mail and conspiracy."

No so-called "street agent" will be prosecuted, according to the many improper leaks of information which have been made to the media by spokesmen for the Civil Rights Division of the Department of Justice. But Kearney, because he was a squad supervisor, has been singled out to set an example. Through his indictment, eager government prosecutors seek to expose techniques used by the FBI.

Other leaks of confidential information have indicated that indictments of additional FBI officials are expected. Department of Justice sources have been quoted as saying that the Civil Rights Division has recommended indictment of at least six present and former FBI Officials who worked in either the New York Division or the Washington Headquarters of the Bureau.

The investigative procedures used by the FBI in the Weather Underground cases were the same techniques used over the years to combat the subversive activities of the Nazi saboteurs, the German-American Bund of pre-World War II, the Ku Klux Klan, the Symbionese Liberation Army, and the Communist organizations. The type of investigative activity utilized has been reported to both Republican and Democratic administrations and members of Congressional Budget and Judiciary Committees. There was at least tacit approval of the FBI's course of action.

The indictment of FBI agents for investigating the Weather Underground cannot be justified in conscience or good faith. The history and terrorism of the Weather Underground has been publicly documented. It has been cited in official records as a "Marxist-Leninist communist revolutionary group." Government publications have described the Weather Underground as "violence prone," "highly hostile to society," and a group that "presents a threat to public safety."

Much is being reported by the media concerning the "evils" perpetrated by the FBI. Little is said about the subversive actions of the Weather Underground. Perhaps it is time to refresh the public's memory.

Out of the militancy of the antiwar years of the '60s was spawned an organization active on American campuses, known as Students for a Democratic Society (SDS). In June, 1969, some SDS activists concluded that their trust was not "sufficiently militant and violent in its actions." They splintered off from SDS and formed a more violence-prone wing known as Weatherman. In later years the group was referred to as "Weather People" and "Weather Underground."

As of 1972, 26 Weathermen were wanted by the FBI as federal fugitives from justice. Some were placed on the FBI's list of "Top Ten" fugitives, which list is used to designate only the most vicious and badly wanted individuals, considered to be a menace to society.

One who made the "Top Ten" list was Bernardine Dohrn, a Weatherman leader. In 1970 she said that "Weatherman was declaring war and would use the classic guerrilla strategy of the Viet Cong."

On Oct. 6, 1970, at a New York City press conference a tape recording allegedly stated that the bombing of a police statue in Haymarket Square, Chicago, on October 5, 1970, was the work of the Weatherman and that this bombing "begins a fall offensive of youth resistance that will spread from Santa Barbara to Boston, back to Kent and Kansas."

"Communiques" and other public pronouncements boasted that the Weatherman was responsible for these other bombings: the United States Capitol, March 1, 1971; the Pentagon, May 19, 1972; state correctional offices in California and New York, August and September 1971; two military facilities and a county courthouse on the West Coast, Oct. 8, 1970; and Long Island City Courthouse, Queens, N.Y., Oct. 10, 1970.

Our present administration has granted amnesty to selective service violators and military deserters. Government officials are discussing amnesty and legalization of undocumented aliens. Daniel Ellsberg, Philip Agee, and others who admittedly revealed classified government secrets remain unconvicted. What standard of morality is being used to justify the prosecution of FBI agents?

It is totally inconsistent that the Department of Justice, which is responsible for seeking the indictment against Kearney, is the same department which recently announced that it would not proceed against CIA personnel for alleged illegal mail openings. How can such a double standard be justified?

Do the American people realize that accused FBI agents, as a result of the performance of their official duty, are now being required to pay their own legal fees because the Justice Department will not furnish representation?

The Department of Justice and its nationwide representatives, the U.S. district attorneys, are the lawyers for the federal government and its agents. By practice and tradition, the department has represented all federal investigative agencies in both U.S. and state courts. In the past they have provided legal counsel when needed by the FBI. They also have acted on behalf of the Secret Service, U.S. Customs, Border Patrol and other federal agencies charged with investigative responsibilities.

One attorney of record, who represented some 34 New York agents when they were called before the federal grant jury, has submitted a bill for legal fees totaling over $48,000. As of January, 1977, legal fees of more than $61,000 already have accumulated. Kearney's legal costs are not included and could be staggering if the case proceeds to trial, motions and counter motions, and extended appeals to higher courts.

So far, the only financial help available to FBI agents and former agents is the Special Agents Defense Fund, established by the Society of Former Agents of the FBI. The organization, formed in 1937, started the fund last year when Assistant Attorney General Stanley Pottinger, Civil Rights Division, Department of Justice, began his assault on the FBI.

Kearney's indictment has revived interest in the Special Agents Legal Fund, Security National Bank, 2000 M St., N.W., Washington, D.C. Former agents and agents now on duty are supporting this cause and voluntary contributions from concerned private citizens are beginning to augment the fund.

If the FBI and other intelligence agencies are to be denied the use of special investigative techniques, then the President and the Congress must fix the guidelines. When Kearney and the other FBI men acted, in the early '70s, they were operating before controls were fixed. They used aggressive procedures to combat a present danger. To judge now, in retrospect, that what they did was criminal, is the rankest kind of Monday-morning quarterbacking.

The American public must decide whether the right of privacy and individual liberty is unlimited, or whether the right of our country to defend itself must also be considered. The people must decide if the FBI and other intelligence gatherers should be permitted to use those tactics necessary to combat subversion and terrorism. Otherwise, they will be limited to playing a passive role, operating without vital tools.

Can we afford to shatter FBI morale and cripple their capability to perform the intelligence functions imposed upon them by statute and executive order?

REVOLUTIONARY TEACHING SYSTEM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. McKINNEY. Mr. Speaker, a constituent, Dr. Peter C. Goldmark, has developed an electronic teaching device that encompasses a number of significant technological breakthroughs. If fully utilized the systems could serve to bridge cultural and educational gaps in this country and throughout the world.

The system, known as rapid transmission and storage (RTS.) embodies several unique capabilities. Dr. Goldmark has developed a highly technological process that enables the "packing" of up to 30 hours—60 half-hour lessons—of audio and visual information onto a conventional 1-inch magnetic tape. The lessons consist of a continuous sound format accompanied by still pictures. The still pictures are used to conserve space on the tape, however, moving pictures can be used when it is necessary for clarity. The tape is played back on a small mobile piece of transmission equipment, similar to a portable tape machine. The machine when hooked up to conventional television sets can transmit the 60 different half-hour lessons simultaneously to as many as thirty different television monitors. An electronic coding method enables each professor to chose any one of the 60 different lessons.

I would like to gratefully recognize the contribution of the Department of Housing and Urban Development (HUD) whose funding of the rural society project enabled Dr. Goldmark to develop the RTS system. It is my hope that the system will reduce the gap between the city and country, giving those in less populated areas access to the many cultural and educational advantages that exist in the more densely populated areas.

Dr. Goldmark is president of his own company, the Goldmark Communications Corp. of Stamford, Conn. He holds more than 160 patents and is responsible for the invention of the long-playing record and the color television.

The system can also be used in conjunction with an educational or commercial television station. During the 8-hour period when the station is normally off the air, over 240 different half-hour lessons can be transmitted and received for the next day's use in a designated learning center. The material can be used as many times as is desired. When a sufficient quantity and variety of instructional material is developed and available, the RTS system would permit the transmission and storage of 40 hours of instructional material to be received and shown on one's home TV set.

North Carolina's community college system is the first to put the RTS to work. Lesson material is in preparation for 10 study centers in the Charlotte area, and lessons will eventually be extended to the 57 other institutions in North Carolina's community college system. Other community colleges joining in the initial RTS program are in Chicago and Glen Ellyn, Ill., Costa Mesa, Calif., Eugene, Oreg., and Kansas City. It is hoped that these programs will be able to expand the ability of the community colleges to deliver educational services closer to where people live and work, without a large investment in additional facilities.

HARLEM RIVER HOUSES: A NEW YORK CITY LANDMARK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. RANGEL. Mr. Speaker, on September 20, 1977 the Emanuel Pieterson Society celebrated the 40th anniversary of the Harlem River Houses. These houses were designated a New York City landmark on September 23, 1975, at the initiation of the Emanuel Pieterson Historical Society. To this end I would like to share the report of the society which details the history of this event:

REPORT TO EMANUEL PIETERSON HISTORICAL SOCIETY ON THE 40TH ANNIVERSARY CELEBRATION OF THE HARLEM RIVER HOUSES BY HARLEM RIVER COMMUNITY ORGANIZATIONS TO BE HELD ON THE SITE, SEPTEMBER 10, 1977.

Significantly, the U.S. Housing Act of 1937 became law September 1, 1937, the day after the first tenant moved in the project. It provides one of the reasons for the fortieth anniversary celebration of the Harlem River Houses to be held on Saturday, September 10th commencing at 1:00 p.m. on the mall at 211D West 151st Street.

The Planning Committee composed of representatives from the Harlem River Community Organization, the Management Office, NYCHA and neighborhood community organizations including Emanuel Pieterson Historical Society are cooperating in programming this event. With Landmark designation, a Plaque will be unveiled. Present plans call for remarks by officials, dignitaries and local community representatives as well as entertainment. The Society President will be among the participating speakers for this event.

The first Society project was the proposed landmark designation of Harlem River Houses to initiate greater recognition. After appropriate public notice, the NYC Landmarks Preservation Commission (LPC) conducted a Public Hearing on July 22, 1975 at 10:30 a.m. in City Hall. The Society led the public with favorable commentary for designation and there was no opposition. On September 23, 1975, Harlem River Houses was designated a NYC Landmark at the initiation of the Emanuel Pieterson Historical Society.

Before this hearing however, Community Board Number 10, Manhattan (CB10M) recommended designation approval with support from Councilman Frederick Samuel, 5th Councilmatic District, Manhattan and Congressman Charles B. Rangel, 19th Congressional District, among other Manhattan elected officials. The Office of the President, Borough of Manhattan through Deputy President Jolie Hammer, personally appeared at the hearing in further support of designation and CB10M recommendation. Members of Community Boards prior to recent City Charter changes were appointed by the President of each borough in consultation with City Councilpersons where appointments are made.

The Emanuel Pieterson Historical Society is chartered by New York State Department of Education as a membership institution. It is tax exempt, not-for-profit and fully accerited, essentially established to provide a more popular understanding of the contributions made by Black Americans in the nation and promote stability of development and preservation of historic sites. To implement these purposes the Society made Restoration of Historic Sites and Designation of National Landmarks two among ten functional projects. Public awareness was then generated on the potential of Harlem River Houses as a landmark.

The Harlem River Houses form an extremely attractive, well designed community, consisting of three separate groups of buildings ingeniously planned to fit a difficult site. When built, these low-rise brick buildings were considered an advanced example of housing because of the skillful manner in which they were laid out to provide ample fresh air and open space. The Federal Administration of Public Works built this 574-apartment complex, completed in 1937 specifically to serve the needs of low-income families. They were designed by Archibald Manning Brown in association with a corps of architects including John Louis Wilson a Society Trustee and features a series of handsome courtyards adorned by the sculpture of Henry Warneke and others and landscaped by Michael Rapuano.

The Society led a community thrust consisting of organizations, Harlem River Community Organization, Neighborhood Board Number 1, Inc., an anti-poverty program agency and the Office of Upper Manhattan Planning and Development and New York City Housing Authority (NYCHA). The Community Board (CB1OM) responded to a petition signed by residents around the proposed site for designation and presentation prepared by Neighborhood Board Number 1, Housing staff. During this preparation, James Antrum, a member of the Board of Directors for the anti-poverty agency constantly offered encouragement. This encouragement has been extended to assisting the efforts of Emanuel Pieterson Historical Society. The total effort of community action, Community Board, City agencies and elected officials combined for a forceful trust and led to designation.

At the LPC public hearing a representative from NYCHA commented favorably in absence of Joseph Christian the Housing authority Chairman, in addition to Jolie Hammer who spoke for the President, Borough of Manhattan. The Society President then introduced Lucinda Fox Ward and Lillian D. Finney to Commission members before each read prepared statements favoring designation. A copy of a prepared statement by Pricilla Reed, Harlem River Community Organization was submitted in her absence while a copy of the citizen's petition was exhibited. The petition had been submitted earlier at the hearing in support of designation included Miriam Christian, a cofounder of the Emanuel Pieterson Historical Society. She did not comment after acknowledging satisfaction with the proceedings.

One of the purposes of the Society is to further and promote stability of development and preservation of the historic and aesthetic character of Harlem-like communities through the preservation of reports, studies and recommendations and through participation in the creation of a community development plan and designation of historic landmarks. While the Society was initiating community awareness on the proposed landmark designation, it also increased a level of

historical images associated with the significance of establishing a more popular understanding of Black's in American history, which is the Society's essential purpose. The Society provided and generated community awareness that Harlem River Houses met LPC criteria in terms of historical significance, architectural character and aesthetic value.

A ceremony to lay the first bricks of the Harlem River Houses and to mark the completion of the foundations was scheduled for Saturday, June 20, 1936. Mayor F. H. LaGuardia, Housing Authority Commissioner L. Post and PWA Administrator Harold Ickes laid the first three bricks. In his remarks, Ickes predicted that the Harlem River Houses would set a new standard for housing in this country and would be a symbol of the Federal Government's renewed commitment to a program which would provide decent housing for low-income groups—the sort of housing that private enterprise could not afford to provide. A similar ceremony was held to commemorate the laying of the last brick on February 12, 1937.

The first federally-funded, federally-built and federally-owned housing project in New York City, begun early in 1936 was complete in 1937. It was an example of collaboration between city and federal governments. The project was "a recognition in brick and mortar of the special and urgent needs of Harlem," consisting of three separate groups of four—and five—story buildings.

The need for government-sponsored housing in urban areas, especially to aid lower-income groups, had long been recognized by concerned architects and social critics in the United States. Successful experiments in government housing had been carried out since the turn of the century in Great Britain, Holland, Germany, Austria and Scandinavia; many projects had been designed by distinguished architects. Many people wondered why the United States government could not do the same.

ARCHITECTURAL DESCRIPTION

The Harlem River Houses project development comprises an area with land coverage of 30.16 percent. This was an unusually low figure compared to the 50 percent land coverage of the Dunbar Apartments or the 60 percent coverage that prevailed in most of Harlem in 1935. The population density of the project was 225 persons per acre. In addition to creating light, airy apartments—each room was on the outside—the low land coverage also allowed for generous landscaping of the site.

The arrangement of the buildings on the relatively spacious, but difficult trapezoidal site, bisected by Seventh Avenue (now Adam Clayton Powell, Jr., Blvd.), is extremely effective and drew high praise from architectural and urban design critics Talbot Hamlin and Lewis Mumford. Also complications were added by the terrain which slopes downward toward the southeast.

There are three separate groups of buildings—each group composed of Z-, T- and L-shaped sections—two west of Adam Clayton Powell, Jr., Blvd. and one east. In the western section the two groups of buildings are arranged axially around a large plaza area, basically formal in plan and intersected by the area created by closing West 152nd Street, whereas a zig-zag is effected along Macombs Place where the sections are stepped back to follow the diagonal line of the street. The eastern section, which was designed in relation to the Harlem River, is a more rambling arrangement reflecting the east end of what would have been 152nd Street by a deep courtyard.

The red brick buildings, of four or five stories, which vary in height according to the slope of the site, are of a simple, straightforward design. Decorative details are added in the form of raised brick bandcourses at the base of the buildings. Broad, steel-framed casement windows with horizontal hopper lights punctuate the wall surfaces. Stairshafts lit by narrow vertical windows rise above the entrances which are sheltered by flat-roofed porticoes.

In their overall plan for Harlem River Houses the architects were anxious to promote a sense of community, as well as to provide facilities that would specifically meet the needs of Harlem residents. This resulted in such features as a nursery school for the children of working mothers (a necessity since many heads of households were women), a health clinic, four social rooms for adults, four rooms for occupational use and children's inside play and community laundries. The design of the buildings also resulted in ground flood space which could be used for stores on Adam Clayton Powell, Jr., Blvd., another community service.

Today the Harlem River Houses project remains one of the finest developments run by the NYCHA. Rents have, of course, risen over the years since the first tenant moved in August 31, 1937. There is still a strong sense of community, aided in part by the excellent overall physical planning.

(Submitted by the Society Co-founders, Horace Carter and Miriam Christian.)

(Dated: August 8, 1977, New York, New York.)

BILINGUAL ACT AMENDMENT PROPOSED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SIMON. Mr. Speaker, Abraham Lincoln once said:

> Upon the subject of education, not presuming to dictate any plan or system respecting it, I can only say I view it as the most important subject we as a people are engaged in.

The world today demands greater competence and, therefore, broader and higher quality education for more people than was necessary in the past. Equal and better education for all is not only a moral but a practical necessity.

The passage of the Bilingual Education Act, title VII of the Elementary and Secondary Education Act, was a great step toward achieving constructive communication in conditions of equality and mutual respect.

While the Bilingual Education Act is and should be primarily directed at helping students who cannot work in English, it should also permit the voluntary participation of English-speaking children as well.

There are two reasons why we should have children, whose primary language is English, participating on a voluntary basis in these programs. The first is that without that happening, the Puerto Rican or Mexican or Cuban children end up in segregated classes. If there is anything clear in the history of our education, it is that segregation is not a successful enterprise—educationally, socially, or in any other way. The second reason for encouraging voluntary participation of English-speaking children is that then when the children play together at recess and at other times, they learn the language in practical communication. The language that is only a classroom language never becomes part of a person. Children have great skill in absorbing a language as they play with other children. We should encourage that, not discourage it.

And that will also mean an increase in the learning of foreign languages by some of our students.

We must recognize both the decline in traditional foreign language study in this country and the drop in Federal support for programs designed to promote international cooperation and understanding. Two examples of the latter situation are first the 10-year decline in the funding of the Fulbright-Hays program to the point now where it is 30 percent smaller in real terms (1967 dollars) than it was in 1967 and, second, the continued refusal of the Congress to fund the International Education Act.

The decline in traditional foreign language study (and the cultural information associated with it) has been steady. In 1965 34 percent (a small fraction to begin with) of American high school students were receiving foreign language instruction. In 1968 the fraction was 30 percent. In 1970 it was 28 percent, and in 1974 it was 24 percent. It is still dropping. Some 90 percent of our colleges have no foreign language requirement for admission; fewer than 1 in 20 college undergraduates enrolls in a course that considers foreign peoples and cultures in any way; in 1973 only 5 percent of those studying to be teachers received any foreign area training; and finally there are more teachers of English in the Soviet Union than there are students of Russian in the United States. This is an appalling state of affairs.

Unfortunately the initial promise of the Bilingual Education Act—the start of a national effort at bilingual and bicultural education to benefit all pupils no matter what their dominant language—has not yet been fully realized. It is still largely a compensatory education program which often has the effect of segreating minority children by language or ethnic background.

Mr. Speaker, to correct this deficiency in the bilingual education program I am introducing a bill to amend the Bilingual Education Act to include a statement of policy recognizing more explicitly the of a national effort at bilingual and bilingual education.

It is helpful to look at this bill as an affirmative action proposal, because it holds that change is required not only among those who do not speak English but also among the English-speaking majority.

My proposal, unlike some affirmative action plans, does not require changes at the expense of one or another group. In this case all stand to benefit.

If we are to achieve new levels of equality and cooperation in this country

and the world, all of us will have to make a greater effort to understand each other linguistically and culturally. Justice and interdependence demand it. My bill seeks to take one step in that direction:

H.R. —

A bill to encourage participation by children whose language is English in bilingual education programs under the Bilingual Education Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 702(a)(5) of the Bilingual Education Act is amended by inserting "and children whose primary language is English" immediately after "ability".

(b) Section 703(a)(4)(B) of such Act is amended to read as follows:

"(B) A program of bilingual education may make provision for the voluntary enrollment therein of children whose primary language is English, in order that they may learn the language of the children of limited English-speaking ability for whom the particular program of bilingual language is designed, and acquire an understanding of the cultural heritage of such children."

NATIONAL LABOR RELATIONS ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. FORD of Michigan. Mr. Speaker, as a member of the Labor-Management Relations Subcommittee, I have been increasingly concerned about our inability to deter unscrupulous employers who flagrantly violate the provisions of the National Labor Relations Act with impunity. We have learned, during our 70 days of hearings, how employee rights over the years have been violated, trampled on and ignored by this small, but potentially growing band of law-breaking employers. Passage of H.R. 8410, the Labor Reform Act of 1977, which is similar to legislation that I have advocated for several years, becomes imperative as increasing numbers of recalcitrant employers become educated by "management consultants" in how to avoid effective enforcement of the act. The loopholes in the law have allowed these employers to defy the statute and nullify employee rights by skillful manipulation of the appeals process and cumbersome administrative procedures.

A recent article by Elliot Bredhoff, the general counsel for the Industrial Union Department, AFL-CIO, provides an excellent and well-reasoned explanation of the need for reform of the act's enforcement mechanisms and the changes that H.R. 8410 would make in this critical area of remedies for unfair labor practices. For the information of the Members, I have, therefore, inserted into the RECORD this article, "Legal Defects Victimize Workers: The Labor Reform Act Is Urgently Needed," Viewpoint, third quarter, 1977:

LEGAL DEFECTS VICTIMIZE WORKERS—THE LABOR REFORM ACT IS URGENTLY NEEDED

(By Elliot Bredhoff)

In 1935 Congress charted the course of this nation's labor policy by passing the Wagner Act, which declared that workers shall have the right to unionize, to engage in collective bargaining, and to be free from unfair labor practices. Sadly, after 42 years, the promise of the Wagner Act remains a hollow one for millions of Americans.

Experience has proved that the National Labor Relations Act (as the Wagner Act, with its Taft-Hartley and Landrum-Griffin amendments, is now called) contains fatal defects which prevent the policies of the Act from being fully brought to life. Built-in delay, inadequate remedies, and other weaknesses in the NLRA have thwarted the protections ostensibly provided by the Act. Indeed, the Act has become a snare and a delusion; workers seeking to exercise their rights under the Act have been victimized by firings and other employer unfair labor practices. For thousands of workers, the freedom and security promised by our labor laws have been replaced by fear, insecurity, and deprivation.

For years reform has been desperately needed, as documented in volumes of congressional hearings, court decisions, scholarly writings, and the opinions of the National Labor Relations Board itself.

Last month an Administration-sponsored bill "to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act" was introduced into Congress by Rep. Frank Thompson and Sens. Harrison Williams and Jacob Javits. It is a bill which, while modest in scope, is urgently required if workers are to receive the benefit of the promises and protections held out to them by that Act.

The bill proposes no fundamental changes in the rights and obligations of employees, unions and employers under the NLRA. It is designed simply to insure that the requirements already contained in the NLRA will be enforced through prompt and fair procedures and by adequate remedies for violations of the Act.

But that goal, and the steps which the bill would take toward its achievement, are in themselves important enough to make the proposed "Labor Reform Act of 1977" truly worthy of that name.

THE PRESENT LAW NEEDS TEETH

In this article I will primarily describe the changes which the bill would make in the critical area of remedies for unfair labor practices. As a labor lawyer, I am acutely aware of the bitter frustration caused by the absence of adequate remedies to cope with even the most blatant violations of the Act by employers. The law, as interpreted, is impotent to curb employers who illegally fire workers to stop an organizing drive, or unlawfully refuse to bargain in order to deprive employees of the benefits of a contract. Hence, improved remedies are of paramount interest to employees, the labor movement and the public.

The Administration bill also has other significant components besides its remedy aspects.

For one thing, the bill proposes some changes in the underlying rules of law governing representation elections.

One of these concerns the fundamental right of all employees to be informed as to the issues when employees are seeking representation by a union. It is the virtually unanimous practice of union-busting employers to fight organizing drives by requiring employees to attend meetings on company time, at which anti-union speeches or films are presented. Many who have experienced such "captive audience" sessions have found them to be inherently coercive and destructive of free choice. Nevertheless, the NLRA has not been construed as prohibiting the captive audience technique, nor even as requiring that the employees be given an equal opportunity to hear the union's side of the story.

The Administration bill does not prohibit captive audience sessions. But it does require the Board to afford employees equal access to what the union has to say. The bill provides for the Board to issue rules which will:

"Assure that if an employer or employee representative addresses the employees on its premises or during working time on issues relating to representation by a labor organization during a period of time that employees are seeking representation by a labor organization, the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organization."

This provision goes a long way toward correcting a serious imbalance in the information which is available to employees faced with the vital decision of whether to support union representation.

DELAYS WOULD BE CURBED

The bill also would remove an unnecessary roadblock which presently stands in the way of guard employees who wish to be represented by a union. The NLRA does not permit guards to be represented by a union affiliated with any labor organization which represents non-guard employees at any location. A modest change would be made in this rule by permitting guards to be represented by a union affiliated with a labor organization which represents non-guard employees of the employer at the plant where the guards work.

Apart from the area of remedies, most of the provisions in the bill deal with the problem of delay, which has so badly undermined the effectiveness of the NLRA. Those provisions include the following:

1. Time limits to insure that representation elections are held promptly—within 15 days, or, in the most complex cases, within 75 days after the filing of a petition for election.

2. Increasing the Board's membership from five to seven, to speed the resolution of cases.

3. Authority for two Board members to summarily affirm decisions of the administrative law judges, rather than requiring a full-blown review proceeding before the Board in every case.

4. Expedited enforcement of Board orders, by requiring a party to appeal an adverse Board decision within 30 days or lose the right to object to the order when the Board seeks court enforcement.

These provisions represent substantial improvements in the NLRA, and should be vigorously supported. It is the remedy provisions which, in many ways, represent the key to the labor law reform which the bill would accomplish.

Any one doubting the need for improvement of Labor Board remedies need only look at the record concerning J. P. Stevens, Florida Steel, and other laborbusting companies. Would those employers brazenly violate the labor laws time after time, were it not for the fact that the law, as presently enforced, provides no remedies to adequately punish and deter such conduct? Former Board member Gerald Brown made the point years ago when he stated that " some employers and unions have been respondents in case after case over the years, involved in one hardnosed violation after the other. I am certain that this is due in large degree to remedial inadequacies." And more than a dozen years ago, a congressional subcommittee concluded:

"Labor Board orders constitute in many situations no more than a 'slap on the wrist.' They are both too little and too late. They constitute, in the words of one witness, 'a license fee for union busting.' The subcommittee recommends that the Labor Board reconsider the problem of 'remedies,' with an eye to taking the profit out of unfair labor practices."

One of the areas in which the failure of existing remedies has been clearest is that

of the most common unfair labor practice—the discharge of employees for supporting a union. Such firings can have a devastating effect, not only on the individuals involved, but also on their fellow workers, who may be intimidated into giving up support for the union. By getting rid of the strongest union supporters at the most critical time in the organizing campaign, an employer often succeeds in killing unionization forever.

EMPLOYERS GET A BARGAIN

At present, the remedy for such a fundamental violation of our labor laws is reinstatement with back pay. But the back pay is reduced by any substitute income which the dischargee has earned, or which the Board decides the worker might have earned if he or she had been more diligent in seeking work. This is called the "mitigation" requirement.

This remedy is insufficient for several reasons. In the first place, it does not even compensate the dischargee for all his or her individual losses. A worker suddenly deprived of employment loses much more than wages. The individual may be forced to take out loans at interest and to spend considerable sums in seeking other jobs. Mortgages may be foreclosed and property repossessed. And, of course, the worker and his family suffer hardship and, often, real anguish. Laws in other areas generally compensate for such losses, but the Board's present back pay remedy does not.

Moreover, after the Board and courts rule that a discharge is unlawful—a process which itself may take years—it is often several more years before the dischargee finally receives back pay. Labor Board back pay proceedings are extremely time-consuming, due in large part to the factual determinations necessitated by the mitigation requirement. Workers discharged in the notorious Darlington Mills case are still waiting for their back pay awards to be computed 21 years after losing their jobs. As time passes, more and more dischargees tend to leave the area, or to accept other jobs and thereby mitigate the employer's back pay liability. An employer who succeeds in delaying the day of back pay reckoning long enough may find himself with almost no liability as a result.

It is small wonder that, for many employers, back pay awards are a bargain price for union-busting.

Even the reinstatement remedy is often escaped by companies guilty of illegal discharges. A study some years ago by Dr. Leslie Aspin of the Massachusetts Institute of Technology (now a congressman from Wisconsin) showed that although 82% of discriminatorily discharged workers wanted reinstatement at the time unfair labor practice charges were filed, less than 50% actually accepted reinstatement at the culmination of their successful litigation, years later.

REAL BARGAINING IS REQUIRED

The Administration bill proposes to do something about this intolerable situation. The bill provides that an employee who is discriminatorily deprived of employment during the period that employees are seeking union representation, or before the signing of a first collective bargaining agreement, shall receive double back pay with no "mitigation." This provision would assure that discharged workers receive a monetary award which more closely covers the real extent of their losses. It would greatly reduce the length and complexity of back pay proceedings. And it would more adequately deter companies from firing union supporters in order to disrupt organizing efforts.

As for the reinstatement remedy, the bill provides for a mandatory injunction procedure which the Act presently provides only against certain union unfair labor practices. Under the bill, whenever a Board regional office has reasonable grounds to believe that an employee has been deprived of employment for supporting or refusing to support a union during an organization campaign or prior to a first contract, the Board must go to court to seek a temporary injunction pending a final adjudication of the case by the Board. Such an injunction, if granted by the court, could require immediate reinstatement, as well as other appropriate relief.

Of equal significance to these improved remedies for unlawful discharges is a new remedy provided by the bill for cases of unlawful refusals to bargain prior to the signing of a first contract. As stated a few years ago by NLRB member (and now Chairman) John Fanning, "refusal to bargain is now the unfair labor practice that goes to the heart of the Act." The effect of refusals to bargain is most severe prior to a first contract, for reasons which have been eloquently stated by Judge Harold Leventhal of the Circuit Court of Appeals in the District of Columbia:

"Employee interest in a union can wane quickly as working conditions remain apparently unaffected by the union or collective bargaining. When the company is finally ordered to bargain with the union some years later, the union may find that it represents only a small fraction of the employees . . . Thus the employer may reap a second benefit from his original refusal to comply with the law: he may continue to enjoy lower labor expenses after the order to bargain either because the union is gone or because it is too weak to bargain effectively."

Secretary of Labor Ray Marshall made the same point in his recent testimony before the House Labor Subcommittee on Labor-Management Relations:

"The impact of a refusal to bargain on employee rights can be extremely significant. First, employees are denied representation during the period that the employer unfair labor practice is being processed. They lose not only the tangible economic gains that often result from collective bargaining, but also the benefits of day-to-day representation that help improve working conditions. Second, by the time the employer is directed to go to the bargaining table, the passage of time may have seriously eroded the union's support among the employees. As the employer delays bargaining with the union, the union tends to find it more difficult to negotiate any contract at all. This is especially true where the plant has only recently been organized, and there is no existing collective bargaining agreement."

Refusal to bargain has become a standard operating procedure for many companies resisting unionization—a "second line of defense" to be pursued whenever a union manages to gain certification as collective bargaining representative. Yet, astonishingly, at present the Labor Board's only remedy for a refusal to bargain is an order directing the employer to bargain henceforth. The Board does not require a company to make good employee losses suffered as a result of the refusal to bargain. Thus, an employer who refuses to bargain incurs no financial penalty whatsoever, but reaps the gains of avoiding the obligations which a union contract would impose.

Not surprisingly, refusal to bargain cases have become increasingly numerous, as employers realize they have nothing to lose, and much to gain, by flouting their obligations. Former Board Chairman Frank McCulloch probably understated the case when he said almost 10 years ago that "there may be no single reason for this steep rise in [refusals to bargain] during the last decade, but a number of objective observers believe that a major explanation is that the Board's traditional remedies are not sufficiently effective to encourage voluntary compliance with this important part of our law."

Indeed, in the famous *Ex-Cell-O* case a three-member majority of the Board stated:

"We have given most serious consideration to the trial examiner's recommended financial reparations order, and are in complete agreement with his findings that current remedies of the Board designed to cure violations of Section 8(a)(5) are inadequate. A mere affirmative order that an employer bargain upon request does not eradicate the effects of an unlawful delay of two or more years in the fulfillment of a statutory bargaining obligation. It does not put the employees in the position of bargaining strength they would have enjoyed if their employer had immediately recognized and bargained with their chosen representative. It does not dissolve the inevitable employee frustration or protect the union from the loss of employee support attributable to such delay."

The Board concluded, however, that it lacked statutory authority to order an employer to make employees whole for losses caused by a refusal to bargain.

The Court of Appeals in the District of Columbia disagreed, as did many scholars of the law, but the Board has adhered to its views. In light of the broad congressional mandate in Section 10(c) of the Act that the Board may issue orders requiring "such affirmative action . . . as will effectuate the policies of the Act," I cannot believe the Board is correct in its view that the only remedy for a refusal to bargain is a "cease and desist" order—the legal system's equivalent of a slap on the wrist.

THE LAW WOULD BE CLEAR

But, fortunately, the Administration bill would expressly authorize a compensatory remedy in cases of an unlawful refusal to bargain prior to a first contract. Employees subjected to a refusal to bargain would receive a retroactive increase in their wages and benefits equal to the average percentage increase attained in collective bargaining settlements across the nation during the relevant period. The increase would be based on data maintained by the Bureau of Labor Statistics. (The bill gives the U.S. secretary of labor authority to revise the index of damages in the future, if that is considered appropriate.)

Thus the bill would authorize the Board to order employers to compensate their employees for refusals to bargain occurring prior to a first contract, without necessitating an inquiry into what sort of contract the parties would have reached had fair bargaining been pursued. The compensation determined by the statutory formula is clear, so that companies will be on notice as to the financial consequences of a refusal to bargain.

Under this legislation, hopefully the day will pass when recalcitrant employers, unwilling to yield the fruits of hard-won unionization, routinely ignore their obligation to bargain and escape, in effect, scot-free.

The Administration bill includes an additional new remedy applicable to all types of unfair labor practices. Under the bill, if the Board determines that a company has willfully violated a Board or court order, no federal contracts may be awarded to the company for three years, unless the national interest would be jeopardized or there is no other source for the materials or services sought.

The significance of this provision is great. Many flagrant, repeated violators of the Act today receive millions of dollars in government contracts. The bill would go a long way toward ending that practice, which has always seemed to enlightened observers to rob the NLRA of much of its moral authority. Under several other labor laws, such as the Davis-Bacon, Service Contract, and Walsh-Healy Acts, as well as under the presidential executive order pertaining to

affirmative action against discrimination in employment, a similar contract debarment is imposed on violators. It is high time that the same approach be adopted with respect to the NLRA.

Although employer groups have already begun to attack the Administration bill with their favorite epithet: "pro-labor," the bill is perfectly even-handed. All of the new remedies for employer unfair labor practices apply equally to corresponding union unfair labor practices. Of course, companies violate the law far more often than unions; but that hardly gives the companies grounds for assailing a bill which applies to all violations.

Moreover, the present NLRA contains a double standard weighted in favor of employers. As we have seen, the remedies available to employees are weak. By contrast, the law now requires the Board to seek injunctions against unlawful secondary boycotts and certain other union activity. Also, Section 303 of the Act authorizes employers to file suits for money damages in such cases. The new remedies provided by the Administration bill would do no more than extend to employees the kinds of prompt, effective remedies which are already available to companies.

The basic principles declared in the Wagner Act more than 40 years ago need no revision. The national policy must be today, as Congress then declared it to be, one of "encouraging the practice and procedure of collective bargaining and . . . protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." What is needed is a mechanism by which those policies may be brought fully to life. This is what the Labor Reform Act of 1977 would do.

Labor Secretary Marshall captured the spirit and purpose of the bill when he testified that:

"Law-abiding employers and unions have nothing to fear from this bill. We do not propose a reshaping of our labor relations policy, for that is not what is needed. Our proposal is intended to remove the obstacles that now stand in the way of achieving the collective bargaining rights already guaranteed in our labor laws. The delays and weaknesses of the NLRB's enforcement powers have, in effect, denied these rights to thousands of American workers. This is an inequitable situation.

". . . I believe that, in the long run, speedy and effective remedies to enforce a just law serve the interests of everybody except the law-breaker."

Derek Bok, the president of Harvard University, has said, in writing about NLRB regulation of campaign tactics in representation elections, that we cannot allow the law to lose its "moral authority," or "the most serious consequences will follow." The searing national experience summed up in the word "Watergate" has reminded us once again that disrespect for law is the most dangerous vice that can infect our constitutional democracy.

It is fair to say that disrespect for the law of the land as declared in the National Labor Relations Act has become a pervasive phenomenon, due in large measure to the feeble enforcement mechanism of the Act. When flagrant violators of our labor laws escape with no more than a slap on the wrist—and a government contract—it is not surprising that the laws fail to command their due respect.

The Labor reform Act of 1977 would go a long way toward putting teeth into the NLRA. It would put "moral authority" back into the national labor law.

GOVERNMENT BY JUDICIARY

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HAGEDORN. Mr. Speaker, although there is growing popular—and academic—concern for increasing excesses committed by the judicial branch of our Federal Government, excesses typified by judicial participation in controversies in which they ought not properly play a part, as well as the issuance of decisions, the scope of which are properly beyond their purview, opponents of this trend often find it difficult to articulate the sorts of considerations that distinguish "proper" from "improper" decisions. To state, as does former Attorney General Edward Levi, that "the Federal courts now have all kinds of jurisdiction and authority which I think they should not have" is, of course, to beg the question of "what exactly is their jurisdiction and authority?"

Recognizing the difficulties inherent in resolving this question, but in the strong belief that—to paraphrase Justice Rehnquist—the courts have increasingly exercised a roving commission to strike down laws on the basis of their own personal notions of policy and morality, I would like to call to the attention of my colleagues an excellent article on this dilemma by University of Chicago law professor Philip Kurland from a recent issue of Modern Age magazine:

GOVERNMENT BY JUDICIARY

(By Philip B. Kurland)

When, then, does a judicial body overstep its role and encroach upon the legislative function? It is not merely when it announces new rules, especially if the new rules are revisions of those that it has previously made. What we must keep in mind, is that the prime function of a court is not to promulgate rules, it is to resolve disputes. In the course of such resolutions, it will establish the reasons for its decisions, those reasons will be utilized in the future to resolve later disputes that come before it, disputes which come within the rationalization of the first decision.

1. RHYME WITHOUT REASON

I would say, then, that a court oversteps its bounds, when it reaches a decision without adequate reasoning to support it, especially reasoning establishing the need for change. Judges are not expected to decide cases in terms of their personal predilections. While one cannot exclude the personality of the judge from the conclusions he may reach, he is required to decide the case in terms of the law. To use Felix Frankfurter's words: "We do not sit like a kadi under a tree dispensing justice according to considerations of individual expediency." That of course was a normative statement and not a descriptive one. Today, the kadi and the federal judges look like twins.

Erwin Griswold, former dean of the Harvard Law School, former member of the Civil Rights Commission, former solicitor general of the United States, recently commented: "Some Supreme Court Justices employ the ruse of saying, 'What we are doing is interpreting the Constitution,' when what the Court is doing is deciding what is good for the country." What is good for the country is a question for the representatives of the people to decide, not an unelected, politically selected, group of lawyers.

Professor Paul Freund has pointed out that one of the prime difficulties with the assumption of power by the judiciary is the absence of reasons for its decisions, as well as false reasons. The Supreme Court "should not play a shell game in making such decisions—it should tell us what it is doing." And, of course, the same admonition is valid with regard to courts other than the Supreme Court.

I expect that the most important recent decision that is without rational justification in constitutional terms is the abortion case. I have no quarrel with the result; I like it. Were I a legislator, I would vote for it. But the question whether abortion may be banned by the state in the first, second, or third trimesters of pregnancy is not a question that can be answered by the history or language of the Constitution and certainly does not fall within the expertise of the nine-robed men in the marble palace. There would appear to be reason why the result was not justified by the opinion.

2. LORD HIGH EXECUTIONER

I think, too, that the courts enter the legislative area when, in the absence of legislative mandate, they take the huge step from forbidding action that is prohibited by the negative provisions of the Bill of Rights and the Fourteenth Amendment, to commanding the effectuation of programs of their own creation. My example, here, would be the reapportionment cases, where the federal judicial system has undertaken to replace what might well have been an invalid allocation of legislative offices with a system described by a slogan—"one man—one vote." It is a standard that never existed in the past; it is a standard that was clearly rejected by the framers of the national constitution for the national government, and it remains a standard unjustified by the Court itself. It is one thing to say that specific malapportionment cannot be tolerated under the loose limits of the Constitution. It is quite another to prescribe how a state must apportion its legislative districts, state and federal—and even local. A similar situation occurred when the courts shifted from a ban on racial segregation to a command for "racial balance."

The courts also seem to me to go beyond their province when the judgment is not directed to remedying the wrongs done to a particular litigant or litigants, but when they use the judgment in a particular case to assert administrative authority over a large number of people and activities that were not the subject of the case or controversy before them. This is the fact with some school desegregation remedy cases, of which Boston is the most egregious recent example. The Boston school system is now in "receivership," which means that the federal district judge determines where repairs are to be made and how much is to be spent for them; whether students are to receive instruction in laboratories and shops or classrooms; which school should get a new piano. In short, the judge has replaced the school board and, whatever expertise he may have as a jurist, I don't believe that he qualifies in any manner, shape, or form as an educational expert.

There is some reason to doubt judicial expertise as to most desegregation plans. Judge Skelly Wright ordered the desegregation of the schools of Washington, D.C., which are now ninety-seven percent black as a result. Certainly this makes it difficult to integrate the student body. Similar instances of rigidity resulting in catastrophe are to be found in Atlanta and other cities.

I do not mean, by rejecting the validity of judicial action, to condone the use of force

to oppose judicial orders that are plainly grounded in constitutional bans on invalid state actions.

Compliance with decisions of the Court, as the constitutional organ of the supreme Law of the Land, has often, throughout our history, depended on active support by state and local authorities. It presupposes such support. To withhold it, and indeed to use political power to try to paralyze the supreme Law, precludes the maintenance of our federal system as we have known and cherished it for one hundred and seventy years.

Thus spoke Felix Frankfurter in the *Little Rock* case. And the proposition is no less relevant to Northern and Western communities than those of the South and Border states. But that kind of opposition is not likely to decrease when a court decides that it will not only execute its own functions but those of the school board as well. Or, for another example, when it assumes the authority for administering a prison system, rather than simply forbidding the violations of prisoners' rights, which may be occurring.

3. LEGISLATION PURE AND SIMPLE

When it comes to promulgating rules that are meant to control the behavior of others than those who are litigants before the courts, there can be little doubt that the judiciary is engaged in the legislative role. This is frequently done through the fiction of class actions, which assume that the relevant universe is divided into two groups, those like the plaintiff and those like the defendant, and any decision of such a case is therefore binding on everyone. But there are even more specious approaches to the legislative realm by the judiciary. I will mention just two. The first, by which decisions are intended to govern the behaviour of those who were not parties, i.e., those clearly outside the case or controversy before the court for adjudication. The second, where the courts simply rewrite the words of the legislative authority in order to effectuate its own will rather than that of the representatives of the people.

The first of these may be seen in a long-standing rule of the federal courts that excludes evidence of guilt because of the misbehavior of the police.

Evidence is sometimes secured by means that cast dubiety on its veracity. Of course, such evidence of doubtful probity should be excluded from consideration because of its implicit weakness. Other evidence is often excluded, but not because of its intrinsic infirmity. And, as Mr. Justice Jackson once wrote:

That the rule of exclusion and reversal results in the escape of guilty persons is more capable of demonstration than that it deters invasions of right by the police. . . . Rejection of the evidence does nothing to punish the wrong-doing official, while it may, and likely will, release the wrong-doing defendant. . . . The disciplinary or educational effect of the court's releasing the defendant for police misbehavior is so indirect as to be no more than a mild deterrent at best.

Again, I do not mean to condone police misbehavior. It is one of the banes of our system of criminal justice. But there is more than abundant evidence that such misbehavior is not inhibited by the exclusionary rule. If it is to be controlled it must be made the basis for direct punishment of the wrongdoers. To argue, as do the supporters of the ever-broadening exclusionary rule, that while that rule really does not do any good in correcting official misbehavior, they know of no more efficient rule, is, I submit a legislative judgment and not properly a judicial one; it has nothing to do with the proper resolution of the case or controversy before the court.

It is equally true that the legislative province is invaded by the judiciary when it moves in the opposite direction of making crimes of actions that the legislature has not defined as criminal. An example here is to be found in the judicial administration of the so-called "mail-fraud" statute which, as a result of judicial action, requires only a gossamer connection with the use of the mails and no fraud at all. As I have noted, the federal courts are not constitutionally competent to create common-law crimes. But in this instance, they have made bricks without straw, by allowing trial courts and juries almost absolute discretion to decide whether a person accused of "mail fraud" should be subjected to punishment, although the acts charged clearly do not fall within the ban of the statutory language. An exacerbation of the problem has resulted because federal prosecutors—especially those with political ambitions—have utilized this power to political ends.

If the utilization of laws beyond their language, purpose, and intent is judicial legislation, as I contend it is, the administration of laws in the direct face of legislative language to the contrary is even more offensive. This form of judicial legislation, the transmuting of congressional language into its opposite in order to meet the personal judgments of the courts rather than the expressed judgments of Congress, is endemic in the American judicial system. Let me spell out one example that I have chosen because the Attorney General has recently spoken publicly if erroneously on the subject. The issue is whether Congress has, by Title VII of the 1964 Civil Rights Act, commanded racial balance in employment. Like the Attorney General, I have a personal interest, because both of us are counsel—on opposite sides—in cases involving the question of the proper construction of the law.

The news story of the Attorney General's remarks appeared in the Chicago Sun-Times of March 18, 1976. The headline was: Levi hits Congress on job-bias laws." The lead paragraphs are as follows:

Anyone trying to understand the judicial and administrative law on discrimination in employment is confronted with the "view of a madhouse," Atty. Gen. Edward H. Levi said Wednesday.

In the field of equal opportunity, Levi said, the federal courts have been given the tremendous burden of doing "what Congress does not care to state plainly."

With all respect, Congress has stated its intention plainly in the language of the statute and in the congressional history of the statute. It forbids, in so many words, racial or ethnic or sex quotas in employment. It bans "racial balance" as a legislative standard.

Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any aporenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, state, section, or other area, or in the available work force in any community, state, section, or other area.

Like the language of the statute, its legislative origins make clear the ban on "racial balance." Thus, the floor managers of the Civil Rights Act of 1964, Senators Joseph Clark and Clifford Case, submitted a memorandum explaining this part of the proposed law to their colleagues. It read in part:

There is no requirement in Title VII that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such balance may be, would involve a violation of Title VII because maintaining such a balance would require an employer to hire or refuse to hire on the basis of race. It must be emphasized that discrimination is prohibited as to any individual. While the presence or absence of other members of the same minority group in the work force may be a relevant factor in determining whether in a given case a decision to hire or to refuse to hire was based on race, color, etc., it is only one factor, and the question in each case would be whether that individual was discriminated against.

In 1964 the Department of Justice prepared a memorandum in support of the bill at the behest of the bill's sponsors. It said:

Finally, it has been asserted that Title VII would impose a requirement for "racial balance." This is incorrect. There is no provision, either in Title VII or in any other part of this bill, that requires or authorizes any Federal agency or Federal court to require preferential treatment for any individual or group for the purpose of achieving racial balance.

No employer is required to hire an individual because that individual is a Negro. No employer is required to maintain any ratio of Negroes to whites, Jews to gentiles, Italians to English, or women to men. The same is true of labor organizations. On the contrary, any deliberate attempt to maintain a given balance would almost certainly run afoul of Title VII because it would involve a failure or refusal to hire some individual because of his race, color, religion, sex, or national origin. What Title VII seeks to accomplish, what the civil rights bill seeks to accomplish is equal treatment for all.

Far from being what, Mr. Levi calls, a failure of Congress to state its rule plainly, we have a series of decisions by the courts, made at the instance of the Department of Justice, that fly in the face of the legislative command. The judicial rulings are that a want of racial balance in an employment force is a violation of Title VII and that the remedy for that violation is a decree imposing racial balance on that work force. If the Attorney General sees the judicial and administrative law as "a madhouse," it is the Department of Justice and the courts that are both the inmates and the operators of the "Cuckoo's Nest." But, as usual, someone else, the persons deprived of jobs because of their race, color, religion, sex, or national origin, must pay the costs of maintaining the inmates.

Maybe the 1964 Civil Rights Act should have been written as the executive and judicial branches of the federal government desire. It is clear, however, that such a declaration of social policy belongs to the Congress and it has been delegated, although it may have been usurped by the bureaucrats and the judiciary.

Again, I would reject the notion that judicial interpretation of legislative language is not a judicial task, and a difficult task. It is only when the judges, as so many of them now do, rewrite the statute to their own preference, that they violate their judicial oaths. Judge Learned Hand's words are more than any I could adduce:

There are indeed political philosophers who insist that a judge must inevitably choose between the dictionary and tabula rasa; but there is a plain distinction in theory between "interpretation" and "leg-

islation," as well as a clear boundary in practice. Let the judge go as far afield as he will, in seeking the meaning of an "enactment"; if he is honest, he will never substitute his personal appraisal of the interests at stake, or his personal preference between them. It is true that he is not engaged in historical reconstruction, as he is when determining an issue of fact; his task is more difficult, so difficult that it is impossible ever to know how far he has been successful. For it is no less than to decide how those who have passed the "enactment" would have dealt with the "particulars" before him, about which they have said nothing whatever. Impalpable and even insoluble as that inquiry may be, the method which he must pursue is toto coelo different from that open to him, were he free to enforce his own choices.

Where a legislative act gives no clear direction as to its application to the facts before the court, a judge requires extraordinary talent to divine the legislative will. And, we cannot expect all our judges to have the talents of a Learned Hand or a Thomas Swann, much as we should like that. One should not chastise them, therefore, when in an ambiguous situation, their personal values are necessarily involved in their judgments. But the same cannot be said where, as in the Title VII cases, the legislative will is clear if unpalatable to both the administrators of the law and the courts. When, in conjunction, the bureaucracy and the judiciary supplant the legislature, they are acting unconstitutionally.

CONCLUSION

I have spoken of judicial invasion of legislative function as the primary deficiency of current judicial behavior. Except in terms of partisan interest in the outcome of particular cases, I am not among those able to see the desirable results of such judicial hegemony. Again, I would take my stand with Judge Learned Hand:

Another supposed advantage of the wider power of review seems to be that by the "moral radiation of its decision" a court may point the way to a resolution of the social conflicts involved better than any likely to emerge from a legislature. In other words, courts may light the way to a saner world, and ought to be encouraged to do so. I should indeed be glad to believe it, and it may be that my failure hitherto to observe it is owing to some personal defect of vision; but at any rate judges have large areas left unoccupied by legislation within which to exercise this benign function. Besides, for a judge to serve as communal mentor appears to me a very dubious addition to his duties and one apt to interfere with their proper discharge.

Dean Griswold was, perhaps, more pragmatic in his objections to judicial activism: "Judges may be doing good things in the name of activism today, but activism can also be used to order bad things if the principle of intervention is accepted."

One word of—shall I call it—"hope." When we talk about the federal judiciary we tend to think in terms of the Supreme Court. There are signs, however, that there is a movement away from judicial activism by the Supreme Court. The recent decision that rejected the lower federal court's desire to take over the management of the Philadelphia police department is an example. What we may have begun to witness is that an inherited judicial activism continues to grow in the lower federal courts. At the same time, there seems to be a reticence on the part of the Supreme Court to rein in that activism. The immediate future may see a Supreme Court that will try to turn the federal judiciary from its constant overreaching.

If the Supreme Court does not impose judicial restraint on its lower court brethren, the Chief Justice will continue to report each year—regardless of new appointments—that the federal courts cannot meet the burdens that they impose on themselves. All laws will turn into federal law, especially if the lower courts have their way with the post-Civil War Reconstruction Civil Rights acts. All laws will be judge-made, except for that which is made by the bureaucracy. All institutions will be the subject and object of judicial management. Perhaps it is not insignificant that federal trial judges, like American presidents, now speak of themselves in the first person plural: the royal "we."

This will certainly bring no improvement on present government incompetence. No more than other governmental agencies is the federal bench burdened by brilliance. Indeed, as Horace Binney wrote in 1835 in his biography of John Marshall, patron saint of judicial activism: "The world has produced fewer instances of truly great judges than it has of great men in almost every other department of civilized life." Government by judiciary is neither democratic nor efficient. Its only justification is that Congress and the President prefer politics to government, and opinion polls show that while the people do not think highly of the judiciary, they credit it more than they credit either the executive or legislative branches.

THE TRUE STORY OF LABOR LAW REFORM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. ASHBROOK. Mr. Speaker, very soon the House will be considering H.R. 8410, the so-called Labor Reform Act of 1977. Each Member has received a blue "fact" sheet and analysis issued by the Committee on Education and Labor which purports to give the reasons why such legislation is necessary. Unfortunately, that blue sheet contains factual representations that while not incorrect, are nevertheless misleading. Therefore, so that every House Member can make an informed choice on this crucial issue, I believe it is important to set the record straight.

EXPEDITING DECISIONS IN UNFAIR LABOR PRACTICE CASE

H.R. 8410 would expand the size of the National Labor Relations Board from five members to seven members. The blue sheet claims this expansion is necessary because the Board caseload has been increasing dramatically, so that in 1976 the Board had to handle 49,000 cases.

Here is the real story, based on the Board's own official 1976 report:

95 percent of the 34,500 unfair labor practice cases filed were closed by NLRB regional offices. The 5-member Board took no part in the resolution of these cases.

The 5-member Board became directly involved in only 1.2 percent of the representation cases considered during 1976—the remainder of the cases were settled or disposed of by the Board's regional directors.

Most revealing, the 1976 Board Report states: "The number of cases in Washington awaiting decision of the 5-member Board totaled 674, compared with 730 at the end of fiscal 1975." In other words, the 5-member Board actually reduced its caseload in 1976.

ELECTION AND CERTIFICATION PROCEDURES

The blue sheet claims that a substantial imbalance exists under the current law because unions are not able to address employees on working premises during working hours while employers may. Therefore, H.R. 8410 requires the board to issue a rule which would permit unions "equal access" to employer premises if employers spoke to employees at the workplace during working hours.

Here is what is not explained:

Under current law, the union can contact and visit employees in their homes; employers as a general rule cannot without fear of being accused of unfair conduct.

Employers are required under current law to provide the union with the names and addresses of all eligible voters so that the union can make direct employee contacts.

Unions can make extensive promises of benefits to employees to gain their support; employers who make promises of benefits are guilty of unfair labor practices.

The blue sheet claims that elections can and should be conducted as near as reasonably possible to the filing of the employee's petition. H.R. 8410 therefore would require the vast majority of elections to be held within 15 days after the union makes its request.

The fact is that a high percentage of elections are held within a reasonable time:

82 percent of the elections conducted by the NLRB in 1975 were held within 45 days of the filing of the petition; all but 47 of the remaining elections (out of an original total of more than 9,000) were held within a median time of 75 days.

80 percent of all union elections are conducted with the consent of both the union and the employer, with no exceptions being filed.

HARSH NEW PUNITIVE SANCTIONS

The blue sheet claims that "many employers have discovered it is more profitable to defy and ignore the provisions of the NLRA than to comply with them." H.R. 8410 therefore proposes several punitive sanctions, including Federal contract debarment and Government dictated wage and benefit increases, which would give the board considerable new power to deal with recalcitrants.

The assumption that "many employers" are labor law violators just does not wash. For example:

In 1976 fewer than 1 percent of the unfair labor practice cases filed against employers required court review, and fewer than 0.1 percent, or less than 30 cases, required proceedings in contempt.

The company most often cited as "the" flagrant labor law violator is J. P. Stevens. It is because of union hostility to Stevens that the dramatic changes to the labor law proposed in H.R. 8410 are alleged to be needed.

A few weeks ago, the U.S. Court of Appeals for the 2d Circuit issued a decision against J. P. Stevens. Among the court ordered sanctions:

(a) A $120,000 fine per violation

(b) $5,000 per day fine for each day Stevens fails . . .

(c) Requires Stevens to permit a union representative to be present in any Stevens plant in the Carolinas whenever a company representative makes speeches to employees.

(d) Requires Stevens to furnish the Textile Workers with a list of all Stevens workers in the Carolinas including name, address, wage-rate, job description and date of hire.

Whether or not this Court of Appeals decision is fair or correct is not an issue. The point is that this decision, long awaited by union leaders and now hailed as their victory over Stevens, came about in the American tradition of judicial review with a day in court, not by a ramrod legislative tampering with only a few sections of our labor law as H.R. 8410 would do.

Moreover, what about labor union violators? The bill and its promoters are not so strangely silent on that subject. Across the board, they have rejected any effort to bring balance and equity whether in free speech, make whole, double back pay or chronic violators. They simply want a one-track, one-sided bill which is blind to any abuse other than those they have created.

The courts and the board are capable of dealing with our labor-management relations. If there is to be reform, let it be overall, balanced reform, not the type we see advocated in H.R. 8410. That bill is unnecessary and counterproductive to good labor-management relations. It should be defeated.

CAMBODIA

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HAGEDORN. Mr. Speaker, it is by now a popular cliche to suggest that those who earliest and most persistently opposed U.S. involvement in Southeast Asia, and who actively supported our withdrawal—and in a few notorious instances, our defeat—were "right from the start."

It is true that there is no longer war in this part of the world. It is also true that occurrences there reaffirm the observation of one observer of the human scene who noted that—

The major reason that there is war is that there are things worse than war.

What is happening in Vietnam and Cambodia and Laos is far worse than war for the peoples of these countries; at least during war, there is hope. At least during war, the world watches.

While world opinion is inflamed by each jailing that occurs in South Korea, Chile, or Nicaragua, an estimated 1.2 million people—or nearly 20 percent of the total population—of Cambodia have died in the past 2 years, according to congressional testimony by the Assistant Secretary of State for East Asian Affairs, Richard Holbrooke. Protected by a policy that has denied permission to even a single journalist to enter the country in more than 2 years, Cambodia is seemingly a nation run by fanatics intent upon self-genocide.

I would like to call to the attention of my colleagues an article from the former New York bureau chief of Paris-Match, Stephane Groueff, translated into English by National Review. It provides a brief, but rare look, at this troubled country:

CAMBODIA—THE NATION AS CONCENTRATION CAMP

(By Stephane Groueff)

What has happened to Cambodia in the last two years? What is the nature of this revolution which, to judge from the reports of refugees, has undertaken to change Cambodians from a people who knew how to live into a joyless nation driven by a pitiless tyranny that makes the Chinese, Vietnamese, and Soviet Communist regimes seem benign by contrast? Now millions of men and women labor day and night in the collective rice fields, under the watchful eyes of guards armed with rifles. These people are tortured by hunger; they are forced to work to the point of exhaustion.

Despite the regime's attempts to impose a total blackout on news, word trickles across the border that there is still a fighting resistance force, two years after the curtain descended around Cambodia. There is also fighting among the Khmer Rouge themselves, for political reasons. There is fighting with Thai border troops in the west, and with the Vietnamese in the east.

I have just returned from Thailand; I was staying a dozen miles from the Cambodian frontier, where I was able to talk with a number of refugees who had recently escaped through the jungle. Twenty-five thousand of them have arrived in Thailand in the last two years. I also visited a makeshift prison, constructed of long bamboo poles, where 11 Cambodian guerrillas were being held. They had crossed the frontier the evening before: having run short of food and ammunition, they had decided they would fare better with the Thais than with the Cambodian peasant dictatorship. The next day three "Khmers Serey" (Free Khmer)—they are refugees who organize sporadic raids into Cambodia and then return secretly to Thailand to resupply—talked with me in my hotel room.

Major Dura Narin of the 749th battalion, seventh brigade of the seventh infantry division of the old regime's army, is an energetic 31-year-old soldier, an ardent patriot with numerous battle scars. Since he fled Cambodia in September of 1975, he tells me, he has returned a dozen times with his commandos.

"It isn't hard despite the mines and the sentries," he says, "if you really know this part of the country. Once inside Cambodia we mingle with the peasants in the rice fields. We stay, on average, a week—watching, listening, and organizing. We try to avoid skirmishes because we're not strong enough yet. We have only one gun for every two men, and a handful of grenades. We resort to our weapons only when we run into a patrol, and that has happened only four times." Thus, it is the guerrillas inside the country who have been attacking Communist guard posts and truck convoys, not Major Narin's commandos.

"When you meet a peasant you don't know," I ask, "is he likely to help you or denounce you?"

"That's no problem. They all want to help us. Everyone hopes that the Free Khmer will liberate the country."

Ching Namyeang, who was a deputy in the Lon Nol government, had told me that many people inside Cambodia still believe America will arm the Free Khmer; but that, in any case, the Free Khmer, organized under former Lon Nol officers, are preparing to invade Cambodia from Thailand and free their country. I ask Major Narin about this; he replies that at the moment there are in Thailand three groups of Free Khmer led by former officers, but that they have yet to form a common front. "We are trying to organize a central command," he says, "but for the moment each group continues to act independently. We are also in the process of contacting possible leaders. There is General Un Hauv, for example; he's now in the United States. We would be ready to follow him. There are countrymen of ours in France and Thailand who are actively helping us. And there are many officers living in the jungle, in the mountains near the border. But what can we do without arms?"

Meanwhile, as they wait for the day when they can stage a full-scale attack, Major Narin and his men continue to slip back and forth across the border. The picture they bring back of the new Cambodia is one of unremitting horror: it has been turned into an enormous concentration camp ruled with a savagery so shocking that it frightens even Cambodia's Communist neighbors.

The stories brought out by the guerrillas and the refugees are hard to believe, yet they are consistent with one another and with what little information foreign intelligence services have been able to gather. There is certainly some exaggeration and some misinformation, but even the smaller casualty figures are appalling.

ONLY 800,000 DEATHS

When does killing become genocide? Some American journalists who have interviewed hundreds of refugees believe that 1.2 million (out of a population of seven million) have died in the last two years. In testimony before a House international relations subcommittee, Richard Holbrooke, Assistant Secretary of State for East Asian Affairs, also estimated the death toll to be as high as 1.2 million. Other estimates are more modest. Father François Ponchard, who lived in Cambodia from 1965 to 1975, thinks only (only!) 800,000 have died since the Khmer Rouge took over.

How are the dead to be counted? Not all of them were shot. Many thousand failed to survive the forced evacuation from the cities, on foot, without water or medicine; many died from sheer exhaustion or from malaria. They were not, technically, executed. They are nonetheless no longer alive.

But even taking into account the disparities in the figures and the differences of opinion over what deaths are to be blamed on the Khmer Rouge, the reality of the Cambodian nightmare can no longer be questioned. Its most typical scenes call to mind a movie version of forced labor under the Pharaohs. As far as the eye can see are collective rice fields (the little dikes separating individual paddies have been pulled down) where hundreds often thousands, of men and women work in silence all day long. Here and there you can spot the Khmer Rouge soldiers, dressed all in black, their automatic weapon at the ready, watching this multitude of white-clad bodies drenched in sweat.

Elsewhere a swarm of peasants, perhaps three thousand of them, are laboring to build a dam or dig a canal or clear a spot in the jungle, also under the viligant eyes of the guards who are few in number but heavily armed: a nation of prisoners convicted of no crime. Many are city people unaccounted to such bone-wearing labor, but all suffer more from hunger than from fatigue. Hunger has become their obsession.

"What did you get to eat?" I ask a refugee.

"A little rice, about a coffee-cup-full a day. At noon and at night the give us soup, made of leaves from the trees, with a little salt. Meat and fish are only for the Khemer Rouge. Children get half rations."

"And in the morning?"

"Nothing. From six in the morning to noon we work on empty stomachs. People die of hunger. If you dare to complain you are punished. The Khmer Rouge are the only ones who don't go hungry. Even the recruits in the army often do not have enough to eat, though they get more than the peasants."

"What about those who don't work?"

"Everyone works, men and women. Old people work too, although their tasks are easier—basket-weaving, things like that. Six-year-old children pick up excrement to be used as manure and gather leaves to mix in with it."

"What happens when someone gets sick?"

"There are no pharmacies, so there is no medicine. We use herbs and roots. If a peasant is out sick, he is warned that he is setting a bad example. If he is sick for a week, they come and get him—he disappears."

"What about money?"

"There isn't any. Money has been abolished, and the markets shut down."

"But how do you buy things?"

"What do you mean, buy? There are no shops and there is nothing to buy, no clothes, no shoes, nothing. In the countryside, there is no cooking at home. The 'organization' distributes soup twice a day and everyone eats together. There aren't any homes, for that matter. When deportees arrive in a village they are made to build their own huts rather than allowed to occupy deserted houses—as though houses already built were somehow contaminated."

This kind of conversation with refugees is all the outside world has to go on in forming a picture of present-day Cambodia. It is impossible to conceive how isolated Cambodia is. No one has received permission to enter the country in two years: not a single journalist, not a single visitor—even from the Socialist camp. The government has not issued a single statement; it has never even named its own members. There are nine diplomatic missions in Phnom Penh, from eight Communist countries and Egypt. But the people manning these missions are sealed up in their own enclaves; they are forbidden to talk to Cambodians or to move freely in the city.

No Cambodian official will talk to a foreigner, and that includes representatives of the United Nations and of humanitarian organizations. Despite the epidemics of malaria and other diseases that are sweeping the country, the government has scornfully rejected all offers of medical help from abroad. As a result of this extraordinary isolation, next to nothing is known of conditions in central Cambodia or in the ghost cities emptied of their populations.

HOW DID THE FREE WORLD REACT?

It is hard to conceive of the degree of power the rulers of Cambodia exercise through total terror and absolute dictatorship. Many revolutions have tried to efface the past as a necessary conditon for the building of a new order. But none has succeeded, as this one has, in obliterating, in less than two years, the old social structure, the economy, the customs and culture of a country, and in extirpating every germ of liberal thought, every manifestation of a difference of opinion. Books and archives have been burned. Pagodas, statues of Buddha, shops, museums, money itself—all have been physically destroyed. With the cold calculation of a surgeon, the authorities are trying to eliminate every last vestige or memory of the old ways in order to fabricate a new-model citizen. (There are even unconfirmed rumors that the great monuments at Angkor Wat have been razed in the insane zeal to obliterate all memories of the past.)

"Shortly after the fall of the capital, students and teachers—friends of mine—began to disappear," I was told by Sean Khy, a 21-year-old student. "They were not former soldiers or government officials. The idea, it became clear, was to do away with all 'intellectuals,' that is, with educated people. I was then working in the country near Battambang, so I pretended to be an illiterate farmer. The worst thing I could have done would be to admit I was a student."

"What about left-wing students and teachers, those who had opposed the old government?"

"They made no distinction it wasn't a question of vengeance; they simply decided to eliminate anyone who was contaminated by the culture of the past."

It is hard to realize the savagery and the cruelty with which the Cambodian revolution is pursuing its goals.

"What did they say in the West about the evacuation of Phnom Penh?" a refugee wanted to know. He had lost every member of his family in ways too painful to repeat. I said nothing. "But surely you heard what happened in the days following April 17, 1975," he insisted.

Yes, we had read accounts of that horror, of the three million inhabitants of the capital who were told to leave for the countryside within hours; of the hospitals brutally emptied of their patients, with the beds of the gravely ill pushed out onto the streets; of the hundreds of thousands of people crowding the roads out of Phnom Penh. Old people collapsing, fever-ridden children dying in their tracks. The smell of rotting flesh was said to be unbearable. The Khmer Rouge, some of them only 13 or 14 years old and only too happy to use their weapons, finished off the stragglers. Yes, we had heard accounts of that.

"Tell me," he asked again, "how did the free world react?" Did he imagine that there had been demonstrations in New York and Paris, that indignant editorials were written, or that urgent meetings of the UN Security Council had been called? I didn't have the heart to tell him that in the West almost no one spoke then, or speaks today, of Cambodia.

I asked all the Cambodians I talked to just who was giving the orders, who had the real power. The answer was always the same: "Angkar."

"Who watches you, who feeds you, who punishes you?"

"Angkar."

This sinister and mysterious Khmer word crops up in every conversation. It is generally translated as "organization." In other countries people talk about "the party," or "the government," or "the secret police." In Cambodia nobody knows exactly who is what, or what the relations are between the government and the army. All they know is that above and beyond everything else there is "the organization," the mysterious, ever-present, all-powerful "Angkar." It has representatives in each village who are responsible only to the chief of a four-village group. He, in turn, receives orders from the chief of four four-village groups; and so on up the line. All of the organization's agents are soldiers, the black-clad Khmer Rouge. They live apart from the villagers, intransigent and unapproachable. They have power over life and death; there is no appeal from their judgments.

THE FOUR FACTIONS

Who runs Angkar? Is it the intellectual, French-educated fanatic, 46-year-old Khieu Samphan, the head of the Presidium? Is it Prime Minister Pol Pot? Or Ieng Sari, the Hanoi intellectual who isn't even Cambodian and whose Vietnamese name is Nguyen Sao Levy? Or the Communist Party Secretary General, Saloth Sar, whose name hasn't been mentioned for the last two years? No one knows.

Some Free Khmer, recently returned from ten months in the jungle, have brought out stories that are interesting but hard to verify. The Khmer Rouge are said to be divided into four factions: (1) the pro-Chinese, (2) the pro-Soviet, (3) the pro-Vietnamese, and (4) a group that wants to collaborate with the former head of state, Prince Norodom Sihanouk. The Free Khmer report that peasants have seen soldiers firing at each other. Deserters from the Khmer Rouge have confirmed the existence of dissident armed groups, but how important these operations are no one seems to know. For the moment Angkar seems to have the situation well in hand.

When I returned to Bangkok from the frontier area, I read the only interview ever given by Khieu Samphan. It was given to an Italian journalist at last summer's Colombo conference.

"In five years of war," Khieu Samphan told him, "more than a million Cambodians died. The present population of the country is five million. Before the war it was seven million."

"What happened to the other million?" the journalist asked. Samphan was annoyed.

"It's incredible," he said, "the way you Westerners worry about war criminals."

OUTSTANDING MEMBER OF THE CINCINNATI BETTER BUSINESS BUREAU

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to a distinguished citizen in my district. Mr. George C. Young has spent 40 years serving consumers in the Cincinnati area through his dedicated work for the Cincinnati Better Business Bureau.

The bureau is a 54-year-old Ohio not-for-profit corporation which provides free help and guidance to over 83,000 citizens annually. Mr. Young joined the bureau in 1937, and with professional competence, concern, and unvarying common sense, has worked to make certain that Cincinnati consumers received the goods and services they paid for.

Mr. Young became vice president of the bureau in 1946, and president in 1948. He has been both secretary and a member of the board of governors of the Association of Better Business Bureaus—now known as the Council of National Better Business Bureaus—and he is currently a member of the council's management committee.

It is an honor for me to recognize Mr. Young at this time and to compliment him on his fine work with the Cincinnati Better Business Bureau.

BABE RUTH BASEBALL CHAMPS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SOLARZ. Mr. Speaker, I would like to take a moment to commend the members of the Gil Hodges-Babe Ruth League of Brooklyn, N.Y. This baseball club recently became the first little league team from the United States to win a major international championship.

Establishing themselves in the Middle

Atlantic Regional Contest in early July, 15 boys, with the encouragement and guidance of their coaches, went on to defeat Alabama in August by a score of 3 to 0. In all, they defeated nine championship teams from all over the country, thus winning the World Championship of Little League Baseball.

I would like to take this opportunity to commend each one of these fine sportsmen individually:

THE 1977 BABE RUTH BASEBALL WORLD CHAMPS

1. Darryl Epps, Out Field.
2. Ricky Colacino, Pitcher/Out Field.
3. Anthony Codispoti, Out Field/Pitcher/Third Base.
4. Doug Weaving, Pitcher.
5. James Delitastro, Third Base.
6. Scott Fappino, Second Base/Short Stop.
7. Paul Galante, Second Base.
8. Daniel Gerardi, Catcher (Captain).
9. Dennis Kearny, Pitcher.
10. Anthony Maviscallo, Pitcher.
11. Abel Rivera, Short Stop.
12. William Santo, Third Base.
13. Peter Sceusa, Center Field.
14. Albino Perez, Pinch Hitter.
15. Ben Distefano, First Base.

Manager, Sal Galante.
Coach, Peter Degenova.
Coach, Benny Distefano.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 4, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings to review a report by the Congressional Budget Office on energy conservation through public transportation.
4200 Dirksen Building

Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.)
4221 Dirksen Building

Judiciary
To continue consideration of S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence, and S. 1437, to codify, revise, and reform the Federal criminal laws.
2300 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To hold hearings to explore the function of prisons in society, with emphasis on rehabilitation.
1114 Dirksen Building

Rules and Administration
To hold hearings on and to consider S. Res. 268, providing for radio and television coverage of Senate proceedings during consideration of the Panama Canal Treaty (Exec. N, 95th Cong., 1st sess.), and to hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

8:00 a.m.
Human Resources
To hold hearings on the nominations of Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, Department of Labor; Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board; and John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.
4232 Dirksen Building

9:00 a.m.
Foreign Relations
Foreign Economic Policy Subcommittee
To resume hearings on OPEC surpluses, and U.S. contribution to the "Witteneen Facility" of the IMF.
4221 Dirksen Building

*Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

9:30 a.m.
Armed Services
General Legislation Subcommittee
To hold oversight hearings on the Defense Civil Preparedness Agency.
224 Russell Building

Judiciary
To continue consideration of S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence, and S. 1437, to codify, revise, and reform the Federal criminal laws.
2300 Dirksen Building

Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building

Energy and Natural Resources
Business meeting to consider pending calendar business.
4110 Dirksen Building

Judiciary
To hold hearings on the nominations of Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky; Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York; and Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.
2228 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings to explore the function of prisons in society, with emphasis on rehabilitation.
1114 Dirksen Building

Select Small Business
To receive testimony on the implementation of that part of P.L. 95–89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

10:30 a.m.
Appropriations
To mark up proposed supplemental approriations for fiscal year 1978.
S–128, Capitol

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 2093, to require that Treasury Department administrative expenses be covered by regular appropriations; and on the use of the Exchange Stabilization Fund to support international monetary policy objectives.
6226 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
457 Russell Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on OPEC surpluses, and U.S. contribution to the "Witteneen Facility" of the IMF.
4221 Dirksen Building

Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings to explore the function of prisons in society, with emphasis on rehabilitation.
2228 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for September.
1202 Dirksen Building

OCTOBER 10

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building

Judiciary
Antitrust and Monoply Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 11

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building

Human Resources
Labor Subcommittee
To hold hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until noon 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

10:30 a.m.
Judiciary
To hold hearings on the nomination of Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation, Department of Justice.
2228 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building

10:00 a.m.
Governmental Affairs
To hold hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 14

9:30 a.m.
Human Resources
Labor Subcommitee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

2:00 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

OCTOBER 18

9:30 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 20

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs

To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
6202 Dirksen Building
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

OCTOBER 4

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

OCTOBER 7

10:00 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 4, 1977*

The House met at 12 o'clock noon.

Rev. Charles L. Yates, Fairview United Methodist Church, Moundsville, W. Va., offered the following prayer:

Our Heavenly Father, in whose hands are the destinies of man and nations, whose paths are mercy and truth, cleanse our hearts by casting out the irregularities we have followed in our own lives, lest in this dangerous day we might build on sand instead of rock.

With Thy blessing may we face this

day with honest dealing and good thinking in order that the world be based on gentleness, patience, and truth.

At this altar of prayer which has been used by our forefathers, please give us strength and guidance that we go forward overcoming our weakness through Thy power from on high.

Please bless this House of Representatives and all our branches of Government. In Thy precious name we pray. Amen and amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 3090) for the relief of Fidel Grosso-Padilla.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWI SOK BUCKINGHAM (NEE KIM)

The Clerk called the bill (H.R. 1798) for the relief of Kwi Sok Buckingham (nee Kim).

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWONG LAM YUEN

The Clerk called the bill (H.R. 4401) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. That concludes the call of the Private Calendar.

OFFICER GREG MACALEESE RECEIVES 12TH ANNUAL POLICE SERVICE AWARD

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, I would like to bring to the attention of my colleagues that an honor of the highest caliber has been conferred on a friend from Albuquerque, N. Mex.

I speak of Officer Greg MacAleese of the Albuquerque Police Department who was officially named recipient of the 12th Annual Police Service Award as the Nation's top policeman.

The rest of the Nation learned about the award yesterday in the Sunday Parade magazine.

The International Association of Chiefs of Police in conjunction with Parade magazine honor the Nation's top policeman each year with the award and it is, of course, with a great deal of pride that I bring this year's winner to the attention of my colleagues.

In addition to being a solid officer of the law in the generally held concept of the city policeman, Greg is the conceiver and coordinator of a program in the Albuquerque Police Department which has had an incredible success in fighting crime.

What he did was come up with a crimestoppers project which pays for information from the general public.

The program is getting a good deal of credit for a 27.6-percent reduction in crime in the Albuquerque area and is directly responsible for 261 solved cases and recovery of $286,000 worth of stolen property.

The success of the program should become a beacon to the police forces of the rest of the Nation and the foresightedness of Greg MacAleese a source of pride to men in blue everywhere.

It is with a great deal of pride that I rise to honor Greg MacAleese on this occasion.

THE CONGRESSIONAL STUDENT PROGRAM

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, it is my pleasure to welcome the first group of Fourth Congressional District students from Indiana to the House of Representatives. Mr. Speaker, these students were selected on a nonpartisan, competitive basis and I commend them for their success and enthusiasm.

The purpose of the program is to stimulate student interest in our Government. As the adage says "the youth of today are the leaders of tomorrow." These high school students are getting an inside look at Washington which may encourage them or their friends to seek public service at some juncture in their career.

The congressional student program will be an annual event with the funding and operations of the program derived from a nonpartisan, not-for-profit organization.

The following students are this year's participants:

Bradley Arnold, Howe Military School.
Lisa Butler, DeKalb High School.
Jenny Deeter, Northfield High School.
Sandra DeKoninck, Garrett High School.
Rita Freiburger, Bishop Luers High School.
Julie Hanselman, Homestead High School.
Daniel Henry, Northside High School.
Karen Jensen, Wabash High School.
Randall Jones, Snider High School.
Anne Keck, New Haven High School.
Larry Kelly, Northrop High School.
Ronda Kistler, East Noble High School.
Brenda McAfee, Angola High School.
Lisa McCrum, Columbia City High School.
John Pinnow, Concordia High School.
Ron Scheele, Jr., Heritage High School.
Michele Scheuber, Huntington Catholic High School.
Carmen Sharick, Westview High School.
Valarie Shearer, Prairie Heights High School.

Again, Mr. Speaker, it is my honor to welcome these students.

AMENDING THE CONTROLLED SUBSTANCES ACT EXTENDING THE AUTHORIZATION OF APPROPRIATIONS FOR 3 FISCAL YEARS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5742) to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice is carrying out that act, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after line 5 over to and including line 2 on page 1 and insert:

(2) by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979,", and

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us why it is necessary to use this route of a unanimous consent?

Mr. STAGGERS. If the gentleman will yield, in the first place it is to save time. The Senate passed the same bill that we passed with $2 million less authorization.

Mr. ROUSSELOT. Two million dollars less?

Mr. STAGGERS. That is true. Our bill cleared up a lot of things that they had in their bill. They had an open-ended authorization. Ours was definite. They adopted our bill with the exception of just reducing it by $2 million and cutting it down to a 2-year extension instead of 3, so that the Congress could have a review in 2 years.

Mr. ROUSSELOT. Further reserving the right to object, what was the difference between our position of 3 years and theirs of 2 years? Why is that so critical?

Mr. STAGGERS. They wanted a review in 2 years of the Drug Control Act so that they could see how it is going and have more control over it.

Mr. ROUSSELOT. Can the gentleman assure us that other than those two things that he has mentioned, there are no other substantial differences?

Mr. STAGGERS. There are no other differences.

Mr. ROUSSELOT. With the House version?

Mr. STAGGERS. That is correct. It passed the House with only one vote against it when it passed here.

Mr. Speaker, I urge all my colleagues in the House to join me in support of the Senate amendment to H.R. 5742, the Controlled Substances Act Extension. The Senate amendment provides for a 2-year extension of the authorization of appropriations for the expenses of the Drug Enforcement Administration in the Department of Justice to carry out its drug abuse enforcement responsibilities under the Controlled Substances Act. It authorizes a total of $403 million for fiscal years 1978 and 1979.

H.R. 5742 was reported by unanimous vote of the Committee on Interstate and Foreign Commerce and passed the House by a vote of 393 to 1 on the Suspension Calendar.

Mr. Speaker, drug abuse crime costs our society billions of dollars annually in economic and social losses. Heroin-related property crime costs society more than $10 million per day, or over $3½ billion per year. These costs, of course, do not include human suffering of heroin addicts and their families and wasted potential for productivity of heroin addicts.

I believe that this legislation is vital to the Drug Enforcement Administration's efforts to enforce drug laws and to bring to justice those organizations and individuals involved in illegal drug activities. This legislation is also extremely important to the augmentation of our national effort aimed at curbing the flow of abusable drugs into this country by eliminating their sources in Mexico, Southeast Asia, and other countries scattered throughout the world.

We have made great progress in drug abuse law enforcement and in reducing the sources of abusable drugs. Last year, total arrests for high-level heroin traffickers increased 26 percent over the total number of arrests in 1975. Last year almost twice as many conspiracy prosecutions were brought as compared to the number in 1975. In addition, thousands of poppy fields capable of producing approximately 150 tons of 6 percent pure heroin have been destroyed in Mexico during the last year and a half through a cooperative effort between our Nation and the Mexican Government.

Much more needs to be accomplished, however, if we are to have an effective program for the control of abusable drugs and the enforcement of our drug laws.

Mr. Speaker, I urge you and the other Members of the House to vote favorably for the Senate amendment—which is vital to our Nation.

HOUSE/SENATE COMPARISON—DEA AUTHORIZATION EXTENSION

[In millions of dollars]

	House—H.R. 5742	Senate—S. 1232	Agreement
	Number of years authorized		
	3	2	2
Authorization level:			
(a) Fiscal year 1978:			
Sec. 709	190	[1] 182	188
Sec. 103	[2] +0	[3] +6	[2] +0
Fiscal year 1978 (net)	190	188	188
(b) Fiscal year 1979	215	([4])	215
(c) Fiscal year 1980	240		

[1] And such sums as necessary for increases in salary, pay, retirement, other employee benefits, and other nondiscretionary costs which arise subsequent to the date of enactment.
[2] $6,000,000 under sec. 103 repealed.
[3] Sec. 3 not repealed.
[4] Such sums as may be necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Further reserving the right to object, I thank the chairman for his explanation. Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, as the chairman has said, this bill calls for $2 million less authorization than the bill which we sent to them. Furthermore, it extends it for only 2 years, rather than for the 3 years which were authorized under the previous legislation. I support the legislation.

Mr. ROUSSELOT. The gentleman is satisfied that this version before us, except for the two instances mentioned by the chairman and himself, is in no way different from the House version?

Mr. CARTER. I am so satisfied, and I certainly support the legislation.

Mr. Speaker, I rise in support of the Senate amendment to the House-passed bill H.R. 5742 which authorizes funds for 2 years for the continuation of programs under the Controlled Substances Act—which are administered by the Drug Enforcement Administration.

The Senate amendment makes only two changes to the House bill which was passed under suspension on May 17 of this year.

The two changes are:

First. The Senate amendment provides for only 2 years of authorizations—fiscal years 1978 and 1979—rather than 3 years of authorizations in the House-passed bill. Mr. Speaker, I have no objection to the Senate provision with respect to authorization years.

Second. The Senate amendment reduces the authorizations in the House-passed bill by $2 million for fiscal year 1978. Instead of $190 million in the House bill—the Senate amendment authorizes $188 million for fiscal year 1978. Mr. Speaker, I have no objections to this provision of the Senate amendment.

As a result of the changes made by the Senate amendment, H.R. 5742 would provide for a total of $403 million for 2 fiscal years—through 1979.

Mr. Speaker, if these changes are acceptable to the House, there will be no need for a conference on this legislation.

I urge favorable consideration of the Senate amendment to H.R. 5742 which provides continued authorizations for our Nation's important drug enforcement programs.

Mr. ROUSSELOT. Mr. Speaker, with that explanation, I withdraw my reservation of objection.

Mr. ROGERS. Mr. Speaker, I urge all Members to join me in support of the Senate amendment to H.R. 5742.

The House passed H.R. 5742 under suspension of the rules by a vote of 393 to 1. H.R. 5742 amends the Controlled Substances Act to extend for 3 fiscal years the authorizations of appropriations for the expenses of the Drug Enforcement Administration in the Department of Justice in carrying out that act.

The Senate amendment strikes the third year of authorization in the House bill which would result in a 2-year extension of the authorizations and provide a shorter period for us to review the program before the end of fiscal 1979. In addition, it reduces the fiscal 1978 level of authorization of $190 million in the House-passed bill by $2 million, thus providing a level of $188 million for that year. Except for these two differences, the Senate amendment adopts the remainder of the provisions in the House-passed bill.

H.R. 5742, as amended by the Senate, provides authorization levels for the next 2 fiscal years totaling $403 million. It authorizes $188 million for fiscal year 1978 and $215 million for fiscal year 1979.

Mr. Speaker, reauthorization of the Drug Enforcement Administration's program is vital to our Nation's effort for effective enforcement of our laws controlling narcotic, hallucinogenic, and other abusable drugs which cost our so-

ciety billions of dollars annually in economic losses and incalculable social losses.

Mr. Speaker, I want to thank and commend the distinguished chairman of the full committee, Mr. STAGGERS, for his support of this legislation. In addition, I want to thank and commend the gentleman from Kentucky, Dr. CARTER, the ranking minority member of the subcommittee, for his leadership with respect to this legislation. His interest in drug abuse law enforcement has certainly been demonstrated over the years. Finally, I want to thank all the other members of the Subcommittee on Health and the Environment, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. BROYHILL, Mr. MADIGAN, and Mr. SKUBITZ, for their fine contributions and support of this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend and revise their remarks on the bill just under consideration, H.R. 5742.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONCURRING IN THE SENATE AMENDMENTS TO H.R. 9290, INCREASING TEMPORARY DEBT LIMIT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 804 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 804

Resolved, That immediately upon the adoption of this resolution, the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, with the Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendments to the bill be, and the same are hereby, agreed to.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to my colleague, the gentleman from Ohio (Mr. LATTA), for debate purposes, pending which I yield myself such time as I may consume.

Mr. Speaker, I would hope Members would understand that this procedure actually approves an extension of the debt ceiling by virtue of this resolution. There will be no going into the Committee of the Whole House and debating the issue. This resolution (H. Res. 804) provides that the House take from the Speaker's table the bill H.R. 9290 increasing the temporary debt limit and agree to the bill as amended by the Senate on September 30, 1977. Adoption of this resolution would clear the bill for the President's signature.

The Senate amendments to H.R. 9290 provide that the temporary debt limit be increased by $52 billion to $352 billion. This would mean that the total debt limit is increased to $752 billion, including the $400 billion in permanent debt limit. The increase in the temporary debt limit would be effective through March 31, 1978. Members will note that is a different date from what the House originally passed. The bill as passed by the House increased the temporary debt limit by $73 billion through September 30, 1978. The Senate amendments provide for a 6-month extension of the temporary debt limit and are $21 billion less than the figure adopted by the House.

Mr. Speaker, due to the circumstances under which the other body has conducted its proceedings for the past 2 weeks, Chairman ULLMAN has recommended that the House adopt the Senate amendments without an attempt to go to conference. Although the filibuster apparently has been concluded in the Senate, it is still imperative that this bill be adopted immediately since the temporary debt limit expired on September 30, 1977, which simply means we cannot pay our bills or make any further borrowings until we have an extension. Consequently, Mr. Speaker, I urge adoption of House Resolution 804.

I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think it would be well to review a little recent history on this debt ceiling and I hasten to point out at this time that when we vote on this resolution we will be voting an increase in the debt ceiling. No further action by this House will be needed.

On September 19 the House rejected a resolution to increase the national debt for the fiscal year 1978 by $75 billion to a total of $775 billion, and this vote was 180 yeas to 201 nays. This proposal was to extend the national debt ceiling to September 30, 1978. On September 28, after some arms were twisted, the House adopted an almost identical piece of legislation by a vote of 213 yeas to 202 nays to increase the national debt by $73 billion, making a total of $773 billion, until September 30, 1978, the same date as contained in the 19th resolution.

Now what did the Senate do with the resolution passed by the House? What it proposes to do is to cut a bit of the doggy's tail off at a time, and they want to extend the debt ceiling by $52 billion but only to March 31—get that, March 31—1978, which will mean that the House will be back here voting on this very question come next March.

The House and Senate can mislead the people on this issue and say "Look what we have done. We have reduced the national debt request from $773 billion to $752 billion."

I think the American people are wiser than that and they can read the difference in the dates. The first one was until September 30, 1978. This extension is to March 31, 1978, meaning, Mr. Speaker, that the big spending of this administration and this Congress can continue. They are not cutting back. It is going to continue under this resolution unabated.

As I said earlier, they are going to be back here in March requesting an extension of the national debt.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, then what we are doing by this resolution or this proposal is very, very cosmetic. It really in no way puts a control on the excessive spending that both the gentleman from Ohio and myself know as members of the Committee on the Budget is well underway. This is just kind of a phony type of resolution to make it appear that we are actually cutting back on increases in the debt ceiling when, in fact, we are not.

Mr. LATTA. Mr. Speaker, the gentleman states it very accurately.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, can anybody explain why the Senate arrived at this date of March 31, 1978?

Mr. LATTA. I cannot explain that the same as I cannot explain a lot of things the other body does.

Mr. ROUSSELOT. Well, I see our distinguished chairman of the Committee on Ways and Means here. Maybe the gentleman can explain why the Senate selected the date of March 31?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield?

Mr. LATTA. I am happy to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the Treasury has given us and worked out with the staff an estimate as to what they are going to need on a month-by-month basis. That estimate provides an operating cash balance of $12 billion, which is I think proper.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. LATTA. Mr. Speaker, I yield myself 5 additional minutes.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield.

Mr. ULLMAN. And there also is a $3 billion allowance for contingencies. As we look forward to 1978 to that $752 billion figure, taking the cash balance and contingency allowance into account, we find that debt level is reached for the first time on March 31.

It is the feeling of the Treasury that we can survive until March 31 under this ceiling, but we will have to act on the debt limit again by that time, because certainly in April, the next month, we will exceed that amount.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, let me be sure I understand that argument, because I know the distinguished chairman of the Committee on Ways and Means is

quoting from a chart there which is projections from the Treasury and the administration. When the gentleman says that the Treasury believes they can survive on this new limitation on the debt ceiling until March 31, could the gentleman elaborate a little more on what the gentleman means by survive?

The gentleman has just stated that the gentleman has been informed by the administration, and I assume by the Treasury, they can survive, I think the gentleman used the term until March 31 on this lowered ceiling. What does the gentleman mean by survive, what do they mean by survive?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, under the cash balance assumption and the contingency allowance——

Mr. ROUSSELOT. Which is, as I understand, $12 billion.

Mr. ULLMAN (continuing). Of cash balance and $3 billion for the contingency allowance, Treasury arrived at a projected debt level of $752 billion as of March 31. These projections also are based on the monthly patterns of receipts and expenditures, which I feel I must remind the House follow entirely independent patterns.

By April 17 and also May 31, the projection goes up to $760 and $766 billion, respectively, and it is quite obvious that the Treasury could not survive the next month without another increase in the debt limit.

Mr. ROUSSELOT. Does the gentleman mean the month of April?

Mr. ULLMAN. The month of April.

Mr. ROUSSELOT. If the gentleman will yield further, I do not quite understand why they could not survive the month of April because that is when the cash begins to come in on income tax. As a matter of fact, as I understand, is that not really one of their better months of the year on cash flow coming in?

Mr. ULLMAN. Given the way the receipts actually come in and payments go out, the debt peaks in the middle of April at $260 billion. That is the peak time, the middle of April, and by the end of April the debt level would fall off to $748 billion. At the end of April Treasury could survive with the $752 billion limit. The gentleman is right; and in May they could not reach the end of the month because the debt may be $766 billion. That is correct.

Mr. ROUSSELOT. So do we yet know why the Senate decided on the 31st? Why did they not say the end of May or something like that?

Mr. ULLMAN. Let me just say that if the Ways and Means Committee were devising it, the debt limit would not be in this form. But, we have a problem in the other body where they now have to operate under unanimous-consent procedures and very difficult circumstances. As you know, the debt ceiling ran out as of last Friday.

Mr. ROUSSELOT. Did the country shut down as a result of that debt ceiling running out?

Mr. ULLMAN. All borrowing has closed down, including savings bonds, but they have a cash balance that they are operating on.

Mr. ROUSSELOT. How much is the cash balance right now?

Mr. ULLMAN. It was $19 billion yesterday morning. They may borrow under Federal financing authority some $15 billion, and they could operate probably the rest of this week and maybe into next week, if they have to, on that amount. But, it is a very precarious situation. We ought to get back to normal financing, and it is our feeling that we ought to move in that direction as rapidly as possible.

Mr. ROUSSELOT. If the gentleman will yield further, my understanding is that the expenditure level of the Federal Government is not running anywhere near what was anticipated.

The SPEAKER pro tempore. The time of the gentleman from Ohio has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 5 additional minutes.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. BROWN of Michigan. I would like to address a question to the chairman of the Ways and Means Committee. If he has the chart before him that Treasury has prepared, as far as total borrowing needs are concerned, there is a $52 billion figure for the period up to March 31. What does that come out to if extended to September 30, 1978?

Mr. LATTA. If the gentleman will permit me, I will insert in the RECORD those projections.

Let me say in answer to the gentleman's question that on September 29 the Treasury projected the public debt requirements for fiscal year 1978 to be $783 billion.

Mr. BROWN of Michigan. If the gentleman will yield further, for all intents and purposes this is a worse resolution, far worse, insofar as raising the ceiling, than was the measure that was defeated by the House in the first instance. It contemplates a projection of an additional $83 billion of debt ceiling rather than the $73 billion passed by the House, and the $75 billion defeated by the House. I thank the gentleman for yielding to me.

Mr. LATTA. Mr. Speaker, let me refer to the report of the Ways and Means Committee on H.R. 9290, page 6, it set forth the table in which the Treasury projects the public debt on a month-to-month basis. Many Members might not have this in hand at this time. So let me just say that on April 28, as the gentleman from Oregon has pointed out, it will be $748 billion; on May 31, $766 billion; June 15, $773 billion; June 30, $761 billion; July 31, $767 billion; August 31, $778 billion; and September 29, $783 billion.

So, in answer to the question of the gentleman from Michigan, the only way we could possibly get down to the figure passed by the House of $773 billion is to cut back on spending between now and then or increase revenues.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

Mr. Speaker, I am not quite sure, because I have forgotten quite what the rules are when one is attempting to refer to the other body, but I would ask my colleagues to look at the discussion of this proposal in the other body; and there they will find, on behalf of the Senate Finance Committee, the remarks of the manager of the bill, the distinguished senior Senator from Virginia, Mr. HARRY F. BYRD, Jr. Let me quote for the Members what he responded to a question. The question that was propounded in the other body was as follows:

> Do I understand the Senator to say that the House bill provides for an increase of $72 billion and the period to be one year?
>
> The manager said:
>
> That is correct.
>
> The question was:
>
> The amendment has it $52 billion for six months?
>
> The manager said:
>
> For six months, that is correct.
>
> The question was:
>
> I am trying to rationalize in my own mind. If we allow $52 billion in six months, is that less conservative than $72 billion in one year?
>
> The manager said:
>
> No. It is more conservative for this reason. The peak period is prior to the receipt of the April income tax funds which are received, for the most part, in April, and then the need for money decreases from there on through the rest of the year.

That was the rationale that was given in the other body for the 6-month extension proposed by the other body.

Mr. Speaker, my own view, frankly, is that, given the break in the filibuster, I am not sure we have to do all of this, but I do not think anyone ought to take this vote as being something more than what the House passed when we passed the $72 billion increase. It really is not.

Mr. LATTA. Nor should we take it the other way—that it is any less.

Mr. STEIGER. That I think is accurate.

Mr. LATTA. This is consistent, this $752 billion figure, with the figures that were in the report of the Committee on Ways and Means when this bill passed.

Mr. STEIGER. That is correct.

Mr. LATTA. As the gentleman well knows, I just inserted these figures in the RECORD and projected them out as the Treasury Department has done, and the debt figure soars to $783 billion by September 29. So if we are going to dispute the $752 billion figure that the Treasury Department gives us, then why not dispute the $783 billion figure?

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. LATTA) has expired.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I appreciate the comments of some of my colleagues in regard to this exercise that we have been going through many, many years. I can recall, back I think the first time that I had an opportunity to question the distinguished gentleman from Arkansas,

Mr. Mills, when he appeared before the Committee on Rules, back close to 20 years ago now, about this exercise, in what I called, in futility in those days, and I think it really has not changed. The facts are, though, that it is still a part of our program. It is still necessary that we go forward, as long as the statutes are as they are at the present time. I am here to hope that we can pay our bills, and I think it is essential, at least for the time being, that we be in a position to do so. And on that basis, Mr. Speaker, I urge the adoption of the resolution.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to my colleague, the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. I thank the gentleman for yielding.

Mr. Speaker, I want to just say to the Members of the House that I, for one, do not believe this is an exercise. I do not subscribe to the thinking of some individuals that we should have no ceiling on the national debt. I know that there are certain leaders in this House who have said, and I have heard them say it, that they do not believe in a debt ceiling. We should just spend, spend, and spend.

I believe in a debt ceiling because it is some restraint. It causes this body, the other body, and the people downtown to at least think about what they are doing to generations yet unborn.

From this viewpoint, I do not think it is a mere exercise. I do not think we ought to do away with it, and we should not refer to it lightly, as it is an important piece of legislation.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. SISK) has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I think it is high time for the media and the country to pay heed to this legislation. I plead with them to pay heed to it, because if we were just passing on the debt, that would be one thing, but we cannot escape the cost of the interest. The interest for this next fiscal year is going to run about $46.9 billion, and the taxpayers are going to pay it whether they like it or not; and that is the fourth highest item in the budget. Although they might say this does not affect us and it does not mean anything, the fact is that it does because all taxpayers are going to have to share in paying the interest. We may believe we are going to escape the responsibility of paying the debt by passing it on to our children and our grandchildren, but we cannot escape paying the interest.

Mr. Speaker, I think it is time for the American people to take note of this fact and to become aware of what this House is doing to them.

Mr. SISK. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, let me say that I recognize the right of my good friend and colleague, the gentleman from Ohio (Mr. LATTA), for whom I have the greatest respect, to have his opinion. I have felt through the years that this is generally an exercise in futility. I still think so, because it certainly has not restrained our spending because we are prone to vote for increased spending when the bills come up on the floor of this House.

The point I am trying to make to my colleagues on the floor is that we have to pay our bills and, therefore, we have to provide for this increase in the temporary debt limit.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SISK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 194, not voting 17, as follows:

[Roll No. 622]

YEAS—223

Abdnor	Fraser	Patterson
Addabbo	Frenzel	Pattison
Akaka	Fuqua	Pease
Alexander	Gephardt	Pepper
Ambro	Gibbons	Perkins
Ammerman	Gonzalez	Pettis
Anderson, Ill.	Gore	Pickle
Annunzio	Hamilton	Pike
Applegate	Hanley	Poage
Ashley	Hannaford	Pressler
Aspin	Harrington	Preyer
Badillo	Harris	Price
Baldus	Hawkins	Pritchard
Beard, R.I.	Hefner	Quie
Bedell	Heftel	Rangel
Beilenson	Hightower	Reuss
Benjamin	Holland	Richmond
Bennett	Holtzman	Roberts
Biaggi	Horton	Rodino
Bingham	Jeffords	Roe
Blanchard	Jenkins	Roncalio
Boggs	Jones, N.C.	Rooney
Boland	Jones, Okla.	Rose
Bolling	Jordan	Rosenthal
Bonior	Kazen	Rostenkowski
Bonker	Kildee	Roybal
Brademas	Krebs	Ruppe
Breaux	Krueger	Ryan
Breckinridge	LaFalce	Scheuer
Brodhead	Le Fante	Seiberling
Brooks	Lederer	Sharp
Brown, Calif.	Leggett	Shipley
Burke, Calif.	Lehman	Simon
Burke, Mass.	Long, La.	Sisk
Burleson, Tex.	Long, Md.	Slack
Burlison, Mo.	Lundine	Smith, Iowa
Burton, Phillip	McCloskey	Solarz
Carney	McCormack	Spellman
Chisholm	McFall	St Germain
Clay	McHugh	Staggers
Cohen	McKay	Stanton
Conte	McKinney	Stark
Conyers	Madigan	Steed
Cornell	Maguire	Steers
Cornwell	Mahon	Steiger
Cotter	Mann	Stratton
Danielson	Markey	Studds
Delaney	Mazzoli	Thompson
Dent	Meeds	Thornton
Derrick	Metcalfe	Tsongas
Dicks	Meyner	Tucker
Dingell	Mikulski	Udall
Dodd	Mikva	Ullman
Downey	Mineta	Van Deerlin
Drinan	Minish	Vanik
Duncan, Oreg.	Mitchell, Md.	Vento
Early	Moffett	Waggonner
Eckhardt	Mollohan	Walgren
Edgar	Moorhead, Pa.	Waxman
Edwards, Ala.	Moss	Weaver
Edwards, Calif.	Murphy, Ill.	Weiss
Ellberg	Murphy, N.Y.	White
Evans, Colo.	Murtha	Whitten
Evans, Ga.	Myers, Gary	Wiggins
Fary	Myers, Michael	Wilson, C. H.
Fascell	Natcher	Wilson, Tex.
Findley	Nedzi	Wirth
Fisher	Nix	Wright
Flippo	Nolan	Yates
Flood	Nowak	Young, Mo.
Flowers	Oakar	Young, Tex.
Foley	Oberstar	Zablocki
Ford, Mich.	Obey	Zeferetti
Ford, Tenn.	Ottinger	
Fowler	Patten	

NAYS—194

Allen	Fithian	Miller, Ohio
Anderson, Calif.	Florio	Mitchell, N.Y.
Andrews, N.C.	Flynt	Montgomery
Andrews, N. Dak.	Forsythe	Moore
Archer	Fountain	Moorhead, Calif.
Armstrong	Frey	Mottl
Ashbrook	Gammage	Murphy, Pa.
AuCoin	Gaydos	Myers, John
Badham	Gilman	Neal
Bafalis	Ginn	Nichols
Barnard	Glickman	O'Brien
Baucus	Goodling	Panetta
Bauman	Gradison	Paretta
Beard, Tenn.	Grassley	Pursell
Bevill	Gudger	Quayle
Blouin	Guyer	Quillen
Bowen	Hagedorn	Rahall
Brinkley	Hall	Railsback
Broomfield	Hammer-schmidt	Regula
Brown, Mich.	Hansen	Rhodes
Brown, Ohio	Harkin	Rinaldo
Broyhill	Harsha	Risenhoover
Buchanan	Heckler	Robinson
Burgener	Hillis	Rogers
Burke, Fla.	Holt	Rousselot
Burton, John	Hollenbeck	Rudd
Butler	Hubbard	Russo
Byron	Huckaby	Santini
Caputo	Hughes	Sarasin
Carr	Hyde	Satterfield
Carter	Ichord	Sawyer
Cavanaugh	Ireland	Schroeder
Cederberg	Jacobs	Schulze
Chappell	Jenrette	Sebelius
Clausen, Don H.	Johnson, Colo.	Shuster
Clawson, Del	Jones, Tenn.	Sikes
Cleveland	Kasten	Skelton
Cochran	Kastenmeier	Skubitz
Coleman	Kelly	Smith, Nebr.
Collins, Tex.	Kemp	Snyder
Corcoran	Ketchum	Spence
Coughlin	Kindness	Stangeland
Crane	Kostmayer	Stockman
Cunningham	Lagomarsino	Stump
D'Amours	Latta	Symms
Daniel, Dan	Lent	Taylor
Daniel, R. W.	Levitas	Thone
Davis	Livingston	Traxler
de la Garza	Lloyd, Calif.	Treen
Dellums	Lloyd, Tenn.	Trible
Derwinski	Lott	Vander Jagt
Devine	Lujan	Volkmer
Dickinson	Luken	Walker
Dornan	McClory	Walsh
Duncan, Tenn.	McDade	Wampler
Edwards, Okla.	McDonald	Watkins
Emery	McEwen	Whitehurst
English	Marks	Whitley
Erlenborn	Marriott	Wilson, Bob
Ertel	Martin	Winn
Evans, Del.	Mathis	Wydler
Evans, Ind.	Mattox	Wylie
Fenwick	Michel	Yatron
Fish	Milford	Young, Alaska
	Miller, Calif.	Young, Fla.

NOT VOTING—17

Collins, Ill.	Howard	Runnels
Conable	Johnson, Calif.	Stokes
Corman	Keys	Teague
Diggs	Koch	Whalen
Giaimo	Marlenee	Wolff
Goldwater	Moakley	

The Clerk announced the following pairs:

On this vote:

Mr. Stokes for, with Mr. Wolff against.

Mr. Conable for, with Mr. Runnels against.

Mr. Whalen for, with Ms. Keys against.

Mr. Moakley for, with Mr. Goldwater against.

Mr. Howard for, with Mr. Marlenee against.

Until further notice:

Mr. Corman with Mr. Teague.

Mr. Giaimo with Mrs. Collins of Illinois.

Mr. Koch with Mr. Diggs.

Mr. PRESSLER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3 to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and without objection, appoints the following conferees: Messrs. ULLMAN, ROSTENKOWSKI, CORMAN, PIKE, VANIK, STAGGERS, ROGERS, SATTERFIELD, PREYER, SCHEUER, CONABLE, DUNCAN of Tennessee, CARTER, and MADIGAN.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9375, MAKING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. 95–659) on the resolution (H. Res. 807) providing for the consideration of H.R. 9375 making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE LABOR REFORM ACT OF 1977

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 799 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 799

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except germane amendments printed in the Record at least one legislative day prior to consideration thereof. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, a great many things have been said about this rule, and I keep rereading it to be sure that I really know what is in it. The fact of the matter is that it is a very simple, straightforward, open rule which, of course, as practically every rule that is considered by this House and every bill that comes before this House, is very careful to attend to the problem of germaneness. The amendments that are in order under this open rule are bound to be germane under the rules of the House, and that apparently is the great complaint of those who criticize the rule. They want something more than the normal procedure. They want an opportunity to offer nongermane matter.

I do not propose to pursue this further at this time, but I want to assure the Members that this is a normal rule, an open rule, and it will give Members a full opportunity to debate the matter.

One other aspect of it is that, as we have done in a variety of other circumstances, on a variety of other bills, because this is a difficult and complicated matter, we have required in this proposed rule that amendment to the bill be printed in the RECORD 1 day in advance of their being called up. It is not, in my judgment, onerous. I think this is a fair rule. It is a sensible rule which will allow the House to work its will.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON. of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a few years ago there was a popular song entitled, "The Railroad Runs Through the Middle of the House." I cannot think of a better theme song for the proponents of this legislation and the way they are attempting to railroad it through this House. The report was filed just a week ago today. Late the following day we received notice that the matter would be heard in the Rules Committee the next morning, in clear violation of our committee rule requiring 48 hours advance notice of a meeting. The escape clause, of course, is a waiver of that rule for "emergency" matters, and so this was brought up under the guise of being some kind of great emergency—with the fate of the Nation presumably hinging on the passage of this bill. And, to top it all off, the proponents came asking for a rule requring 2-day advance publication in the CONGRESSIONAL RECORD of any amendments. That would have meant having all amendments in the RECORD last Friday if this were brought up today. While the Rules Committee amended that to 1-day advance publication, the requirement is still a travesty on our free and open legislative process and an insult to every Member of the House. Since when has the National Labor Relations Act become so sacrosanct and complex that we cannot be trusted to offer amendments from this floor as we do with all other legislation?

Mr. Speaker, who's kidding whom? This is no great emergency! The national labor law is not all that complex or intricate! The Members of this House are not a pack of illiterates when it comes to writing amendments!

Let's level with our colleagues and the American public and let them know who's really running this railroad through the middle of the House. I do not think I would be telling tales out of school if I disclosed that this bill was written by and for organized labor and that the only "emergency" is the majority leadership's panicked attempt to salvage some kind of reward for organized labor in this first session, after so many other ill-conceived labor-backed bills have been defeated or sidetracked.

Apparently the lesson that has been learned from those earlier setbacks is, if you cannot win on the merits, then smash 'em with a blitzkrieg, because that is exactly what we are being treated to with this procedure. But I frankly do not think my colleagues on either side of the aisle are going to take kindly to being treated in this fashion, regardless of where their sympathies might lie with respect to organized labor and this legislation. Our Constitution did not intend for us to lie down as 435 railroad ties for any special interest locomotive to run over. We were sent here to represent and reconcile a multiplicity of interests and, above all, to serve the national interest.

But a close examination of this legislation and this procedure will reveal just how difficult, if not impossible, things have been made for us to fulfill our legislative responsibilities and legislate in the national interest. The rule before us has been referred to by the proponents of this bill as a "modified open rule." But, taken together with the way the bill has been carefully drafted and the parliamentary deck has been stacked, the fact is this is little more than a gag rule. We are now informed by some that the major substantive amendments offered in the Education and Labor Committee, the so-called Employee Bill of Rights amendments, are somehow not germane to a bill which purportedly is designed, in the words of President Carter, "to insure that our labor laws fulfill the promise made to employees and employers when the Wagner Act was passed 42 years ago—that working men and women who wish to bargain collectively with their employers, in a way fair to both, shall have a reasonable and prompt chance to do so."

What could be more germane to this legislation than amendments which are designed to insure that our labor laws are fair to both employer and employee, and that workers be protected against unfair practices carried out by either? And yet, the procedure we will be operating under with this so-called modified open rule will prevent the offering of such amendments. It is a bit ironic that

in the past the leadership has justified such closed procedures on the grounds that amendments might upset the intricate balance inherent in a particular bill—be it an energy bill or a tax bill. And yet today, we are expected to accept a closed procedure which in effect will maintain a blatantly imbalanced bill. And I would submit, Mr. Speaker, if we accept this procedure and pass this imbalanced bill, we will have enacted a labor reform bill, not a reform bill. And I would caution my colleagues about the dangerous implications this would have for future labor-management relations.

I think the ranking minority Member on the Education and Labor Committee hit the nail on the head in his remarks last Friday in the RECORD, when he highlighted just how imbalanced this bill is. To quote from those remarks:

> I am concerned that H.R. 8410 is not written in a manner to provide equal treatment for employees, employers, and labor organizations. The bill legitimately seeks to protect an employee's right to join a union. However, the bill from what I have heard does not adequately protect an employer's rights to due process during an organization drive.

He went on to say, and again I quote:

> While the bill provides penalties against employers who commit unfair labor practices, it does not provide comparable penalties for labor unions who commit unfair labor practices. In a like manner, an employer could be debarred from Federal contracts for committing an unfair labor practice, yet a union would not be subject to comparable penalties. Also, an employer would be subject to "making whole" the loss of economic benefits of employees lost due to an employer's refusal to bargain. The bill does not address itself to the loss of employee wages and benefits caused by illegal union activity.

Mr. Speaker, I would strongly urge my colleagues to strike a blow for fairness, openness, equal treatment and balance by voting down the previous question on this rule so that we can offer a substitute rule that will make this a truly open legislative process by making in order the "Employee Bill of Rights" amendments. Without such a rule this legislation is not even deserving of our consideration because it would destroy the proper balance in labor-management relations and thereby be detrimental to the national interest. I urge defeat of the previous question and support for such a substitute rule.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield for a short observation?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, in that case, the gentleman from Illinois saying what the gentleman thinks is the theme song, for the record ought to be changed to, "The Little Engine That Could."

Mr. ANDERSON of Illinois. That remains to be seen. Maybe it will be demonstrated that the engine will not run as smoothly through this Chamber today as some think it will.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, may I just say as one of those on our side who wants very much to be able to support the labor reform program, I agree with what the gentleman from Illinois has said. It seems to me it was a bad tactical mistake to have this kind of a rule.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for the gentleman's contribution.

I recognize that the gentleman from Illinois (Mr. RAILSBACK), along with many others in this House, support some change in the present law as it pertains to the procedural rights of unions; but fair is fair. The Members ought to have the right to consider this very, very important measure, in all its ramifications.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, the bill before us today, the Labor Reform Act of 1977, includes some very needed improvements in the country's labor law. It also includes, as recognized by spokesmen from both major political parties and liberal and conservative viewpoints alike, some more dubious provisions. It would be a shame if the good in this bill were to go down with the bad, but that is precisely what the leadership is now risking through this "modified closed rule" on debate of the bill.

I urge my colleagues to overturn this restrictive debate rule. It allows only a limited number of amendments to be offered, requiring that all potential floor amendments be printed in the CONGRESSIONAL RECORD in advance of debate—which obviously does not allow any flexibility for adapting to the parliamentary situation on the floor at any given time—and allowing the leadership to throw out even amendments to the National Labor Relations Act itself on strict "nongermaneness" grounds. As a result, we will not have, if this rule for debate is railroaded through, an open forum for discussing comprehensive, well-rounded labor law reform.

Much of that reform is vital, and it should not be held hostage to a procedure for stifling debate of the bill as a whole. For example, there is the need to insure expedited election procedures on union representation; experience has shown that waits of 75 days, or even longer when hearings and other delays are involved, can transpire before employees are allowed to vote. This bill would outline needed guidelines for speedy conduct of those elections. It would, furthermore, increase the penalties for noncompliance by dilatory and unfair companies, award wages and benefits to those unlawfully fired for legitimate union activities, and allow union access to company property and time for organizing purposes if the company has likewise employed official time and property for antiunion campaigning. All of these reforms, properly written and administered, could be meritorious efforts to assure workers the freedom to debate union-related questions without fear of bias or reprisal.

But, as is usually the case with massive and complicated pieces of legislation, other aspects of the bill deserve reexamination. As the Washington Post correctly stated this morning in its reasoned editorial on the subject, "not all virtue is on one side" in such matters; and there are, the Post continued, "doubts about the way in which the bill before the House attempts to remedy those problems" of election delays and weak penalties. I agree with the editors of the Post that the bill's "shortcomings" need to be "cleaned up" before passage, and with the Chicago Tribune that the bill, despite its salutary sections, "has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it."

What are these shortcomings and imperfections, that they trouble even papers like the Post and Tribune? The lack of a guarantee for the employee of secret ballot union elections. The lack of limitations on the fines that unions themselves can levy against their members. The lack of guarantees of protection for those whose religions include conscientious objection to union membership, limited though they may be in number.

Moreover, the bill, without amendment, will deny Federal contracts to all employers found in violation of labor laws. The Post expresses, as well as I could, the fallacy of that well-intentioned provision:

> Taking away government contracts punishes workers as well as companies and may sometimes leave untouched the corporate officers who are responsible for the wrongdoing.

The bill also delegates to the National Labor Relations Board no flexibility at all in setting late deadlines for representation elections, even where extraordinarily complex issues and difficult determinations of the bargaining unit may be involved.

The Post concluded today:

> That is not what you would call a decent job of reforming the nation's labor laws

Rather, it is a hasty and counterproductive effort to debate a worthy legislative intent through undemocratic methods. That is not to say that many elements of this bill do not deserve early passage into law, for they do; it is simply to say that the bill as a whole has, as inevitably it must, some Education and Labor Committee provisions that merit reconsideration by the full House. If the leadership of this House attempts to smother all debate of those issues through a restrictive rule—if, in short, it is successful in prostituting the democratic process by denying open debate and amendment of this vital legislation—then I, and many other Members concerned with the working man's welfare, will have no choice but to vote against the railroaded passage of the bill itself. I urge my colleagues to reject that extremist course, and to vote for open and democratic consideration of this important legislation.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. CRANE. I thank my distinguished colleague for yielding to me. I would like to associate myself with his remarks.

Mr. Speaker, it has been a long time since the House of Representatives has been asked to vote on a bill with as many built-in biases as can be found in H.R. 8410 which we are discussing here today. Not only would this legislation give union organizers a number of advantages at the expense of both employers and employees but this bill deliberately discriminates against one portion of this great country of ours—a portion that, by its own choosing, has established a favorable business climate not at the expense of workers but to the benefit of all.

If that were not bad enough, the proposed rule under which proponents of H.R. 8410 would have us consider this legislation, is so restrictive that many of the amendments or substitutes that might be offered to mitigate the bill's bad effects cannot be offered. Only one substitute seems to be in order—one that will permit proponents to recoup any losses they might suffer during even the very limited amendment process—and the amendments themselves are so limited that alternative concepts cannot be introduced. In short, we are being asked to accept the basic premises and framework of H.R. 8410 as they stand and are only being allowed to make minor changes in the form. Such a procedure is, in my opinion, inappropriate to such an important piece of legislation and I urge that it be rejected.

I would also suggest that, if the rule for H.R. 8410 is defeated, it will give the Members of this body a little more time to look at the ramifications of this bill. While there has been a goodly amount of publicity on this legislation, and its forerunner, H.R. 77, I think it is fair to say that the committee of jurisdiction has not given very much attention to alternative proposals that might do a far better job of promoting meaningful labor reform. As a consequence, we are being asked to pass a bill, long before the Senate can be expected to act, and which even today's editorial in the Washington Post says is one sided. To quote the Post:

> Employers are not the only malefactors in labor disputes. Unions, too, sometimes break the law.

The fact that H.R. 8410 focuses entirely on violations of the labor law by business, without admitting that union violations ever occur, is only one of the problems stirred up by this legislation. In addition to shifting the thrust of labor law from being "remedial" to being "punitive," this bill is first and foremost designed to make it easier for unions to organize workers even if they do not want to be organized. In that regard, in fact in most regards, the measure is very much like H.R. 77. In a phrase, it all but does away with the concept of an unfettered certification election to determine what, if any, union shall represent workers in a given plant, and then goes on to help insure that once organized those workers stay organized—at the expense of the American consumer.

Indeed, a brief comparison between H.R. 77 and H.R. 8410 is most revealing. While H.R. 77 only permits the extension of the terms of members of the NLRB until a successor is selected, HR. 8410 permits the "packing" of that Board by two prounion members. Moreover, while H.R. 77 only required certification elections to be held within 45 days, H.R. 8410 requires that many of them be held in 15 days and effectively prevents an employer from contesting the process or results in instances where the employer feels irregularities have taken place.

In addition, H.R. 77 said nothing about giving the unions the right to lobby employees about a certification election on company time; H.R. 8410 gives the unions that right. And, if all that were not enough, H.R. 8410 spells out the "makewhole" penalties an employer would be forced to suffer if he was found guilty of refusing to bargain while H.R. 77 only said the NRLB should award damages to the employees.

True, the treble backpay provision of H.R. 77 was reduced to double backpay—in an instance where an employee was found to have been inappropriately discharged for union activities—and the requirement of H.R. 77 that a union must be certified if it collected election authorization cards from 55 percent of the members of a prospective bargaining unit was dropped from H.R. 8410. But on balance a good case can be made for the fact that the little publicized additions to H.R. 8410 more than offset the supposed losses suffered by the unions in this so-called compromise. So, if there are any of you who believe that you are voting for a "compromise", think twice and then vote against this rule so that you will have a chance to look at H.R. 77 and H.R. 8410 a bit further.

I think you will find that, in practice, H.R. 8410 will insure the outcome of a certification election almost as surely as H.R. 77 would have done and that it carries with it some special benefits for the labor union organizers that even H.R. 77 did not have. Whether H.R. 8410 is worse than H.R. 77 is something that every Member will have to decide for himself; but one thing for sure it is not so much better than H.R. 77 that a Member can justify voting for it on a "lesser of two evils" basis. Put plain and simple, H.R. 8410 will enhance the leverage of union organizers at the expense of employers and employees alike.

Which brings me to a final point. What we should be doing when we consider labor law reform—and obviously will not be able to do if this rule is adopted—is insure that employees, as distinct from union organizers, are protected under the law, and at the same time provide that unions and management be treated equally by the law with as little interference, especially biased interference, as possible by Government. Nothing is said in H.R. 8410 about giving employees the right to stay out of a union as well as get in one—and something should be said. No guarantee of a secret ballot for employees during certification and strike votes is provided—and it should be. No sanctions are included when the unions violate the rights of employees—and something should be included. But, none of these things can be done when all we can do is tinker with the form of H.R. 8410 without being able to do much to alter the substance.

Mr. Speaker, if we are going to consider this bill at all, and I frankly would prefer that we looked at an altogether different approach, at the very least we should consider it under an open rule. I urge my colleagues to join me in requesting such a rule by voting down the rule that is being proposed to us.

Mr. ANDERSON of Illinois. Mr. Speaker, I am going to ask for a recorded vote on the previous question. If we prevail in that vote, I will offer a very simple amendment to this rule:

> On page 2, strike all after the period on line 3, through the period on line 7, and insert in lieu thereof the following: It shall also be in order to consider without the intervention of any point of order any portion of the bill H.R. 8310 as an amendment to the committee amendment in the nature of a substitute or any amendment in the nature of a substitute thereto.

Mr. Speaker, it seems to me that if we do less than adopt that kind of a rule, if we adopt instead the restrictive rule that was voted out of the Committee on Rules on what is clearly an unbalanced bill that does not address the problem with the kind of perspective and balance that the country has the right to expect, then I say to the Members that we are simply building a bridge halfway across the river, and then we are going to ask the Members of this body to march over that half completed bridge. Everyone, I am sure, will agree that action of that kind is simply going to put us in over our heads in deep trouble, and instead of reforming the labor laws of this country, we will have ended up deforming the very process which we are trying to change.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, we have heard it said that this is a closed rule. If this is a closed rule, I would hate to see an open one. There are pending now in the record over 170 amendments to almost every word, comma, and semicolon to be found in this bill. This is a matter concerning which I want to ask certain questions when we get through. This is a difficult problem. It is a difficult matter on which we are compelled to vote. I would submit to the Members that this bill would probably not be before us today except for the tyrannical misuse of power of one giant billion-dollar corporation known as the J. P. Stevens Co. This is what has brought this matter to a head. Labor has won one election after another in various J. P. Stevens' plants, and they have yet been unable to negotiate a single contract with this company.

Mr. Speaker, let me read to the Members what was said by the Federal court concerning this company. The Federal court of appeals declared:

J. P. Stevens has interfered with, restrained and coerced its employees flagrantly, cynically and unlawfully.

A former Chairman of the NLRB said:

J. P. Stevens is so out of tune with a humane, civilized approach to industrial relations that it should shock even those least sensitive to honor, justice and decent treatment.

It is because of this flagrant misuse of tyrannical power and the attitude on the part of J. P. Stevens, in my judgment, that we are confronted with the need for this kind of legislation. If it had not been for this company, I do not think we would be faced with this bill today.

I would like to read to the Members the conclusions of an independent inquiry by the Ad Hoc Committee of Southern Church Leaders:

The J. P. Stevens Company has opposed union activity by means judged in our courts to have been illegal, and which we believe to be immoral as well.

The tactics of the company have forced the union to launch a nationwide boycott of J. P. Stevens products.

We affirm the right of the workers to organize, to be free of intimidation, and we believe this present boycott is appropriate and justified."

These are the words of the ministers and the church leaders who have looked into this matter. Now it has been thrown into the lap of Congress, and we are asked to do something about the law to stop this kind of abuse.

I do not think it is right to say this is being handled under a closed rule when any Member of this House, up to adjournment time yesterday, could have offered any amendment he wanted to any section, word, comma, or semicolon that is contained in this bill. And indeed the Members must have done that, because according to our report this morning, we have over 170 amendments pending.

I would like to ask the distinguished gentleman from Missouri (Mr. BOLLING) a question about this rule and how we are going to operate under it.

After considering those amendments of merit that we must consider, and after we get into the consideration of at least 160 other amendments, and probably more, that have been introduced strictly for the purpose of delaying action, can the distinguished gentleman from Missouri tell us how we can prevent this House from being tied up for the next 2 or 3 weeks, following the pattern of Senator METZENBAUM and the type of filibuster that was carried on in the Senate during these past 2 weeks? Is there any way we can deal with this matter and avoid tying up all legislative matters before this House for the next 2, 3, or 4 weeks?

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. ALLEN) has expired.

Mr. BOLLING. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. ALLEN).

Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, the only way I can answer the question asked by the distinguished gentleman from Tennessee (Mr. ALLEN) is to say that my experience tells me that the good judgment of the authors of some of those amendments, combined with the interest of the majority of the Members of the House, will prevail and we will not have a filibuster in a House fashion. My guess is that some of those amendments are offered for contingency reasons rather than for reasons growing out of a desire to delay the matter exhaustively.

Mr. ALLEN. But it does make possible a filibuster by certain Members?

Mr. BOLLING. It makes possible a House version of a filibuster. But my experience has been that we have been fortunate in most cases, and it has not been carried through, for two reasons: the good judgment of those who have the amendments pending and the strong opinion of the majority of the House that it does not approve of such tactics.

Mr. ALLEN. Mr. Speaker, I hope the gentleman is correct in his judgment.

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. ALLEN) has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. ALLEN).

Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I will be delighted to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I have a suggestion for the benefit of the gentleman from Tennessee (Mr. ALLEN), if he is concerned about the large number of amendments that now appear in the RECORD and that may be offered to this bill. I think a very simple solution is at hand.

If the gentleman will join with me in voting down the previous question so that I can offer the substitute rule that I discussed in the well just a few minutes ago, I can guarantee the gentleman that it will not take all that much time to offer the provisions of H.R. 8310, which will balance this bill and make it a better bill. In that event, most of the amendments which appear in the RECORD, I think, would be abandoned in lieu of the right of the gentleman from Illinois (Mr. ERLENBORN) to offer those amendments.

Mr. ALLEN. Mr. Speaker, the gentleman from Illinois (Mr. ANDERSON) can, the other Members would do or what the other Members would do or what would be contained in the substitutes.

In fact, it has been indicated that perhaps one of the amendments that would be offered as a substitute would provide for a repeal of section 14(b) of the Taft-Hartley Act. That would, of course, embarrass every Member of this body, and I do not want to be a party to that.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I am glad to appear in the well after the statement of my friend, the gentleman from Tennessee (Mr. ALLEN).

I would like to direct his attention to one aspect of this bill which also applies to this rule. He cited the J. P. Stevens Co. He was strangely silent when it comes to the textile workers of this country. He was strangely silent when it comes to union intimidation.

Mr. Speaker, I was at the hearings in Roanoke Rapids and brought out a long list of violent acts by the textile workers in attempting to organize plants. As a matter of fact, I asked the international president how he liked paying a substantial fine in one particular case and he did not like it too well.

Mr. Speaker, I can cite for the record, and I probably will before we are through, the examples of violence facing workers through parking lot intimidation, of throwing rocks at them, of attacking their families.

Mr. Speaker, all is strangely silent over here when it comes to that part of labor-management relations.

I have been a member of this committee for the 16 years that these hearings have been conducted. Indeed, many Americans, unions, employers, employees, attorneys, former board members, many Americans from a wide variety of callings have had complaints about the National Labor Relations Act. However, H.R. 8410 zeroes in on only one small segment of those complaints which we have heard over the 16-year period, the complaints of union organizers who go out to organize and try to get favorable elections throughout the country. A deaf ear is turned to the rank and file union man who has complaints against his union. A deaf ear is turned to the rank and file union man who wants an orderly process in a decertification election, where he has the right to vote a second time on whether he wants to keep his union or not. A deaf ear is turned to making whole the employee who has been intimidated, coerced, injured, and deprived of work by his union. The NLRB simply says, "We are not going to get into that matter."

Yes, I would say to my friend, the gentleman from Tennessee, throw the book at the employer, gloss over the shortcomings that are in the record—and we are going to put them in the record—adopt a rule that makes it impossible to bring balance into this field, and then go back to the American people and try to tell them that we have amended the National Labor Relations Act in the way that it should be amended.

Mr. Speaker, the gentleman from Illinois (Mr. ANDERSON) is absolutely correct. The bottom line of this rule is the leadership's telling the Members of this body, "You cannot be trusted."

Do you know why you cannot be trusted? Because they had open rules on situs picketing, and they had open rules on the minimum wage bill.

What happened? The House worked its will—worked its will, I suppose, hopefully, along the lines of what the American people want. However, that is not what the labor leaders want so that, all of a sudden, we have to shore up a difficult bill, a narrow bill, by a rule procedure which makes it possible to cover only a narrow area of the labor-management relations contained in this Act.

Mr. Speaker, I find it personally offensive because this year we had hearings on

H.R. 8410. Witnesses appeared to testify on the bill which was introduced by the gentleman from Illinois (Mr. ERLENBORN) and myself. The hearings were addressed to that bill. We had amendments offered in the Committee on Education and Labor which now, under the rule, cannot be offered on the floor.

We got little more than courtesy. They were offered and rejected, but at least we were able to offer them in the Committee on Education and Labor.

Mr. Speaker, the Members might ask themselves this question: Why were amendments germane in the Committee on Education and Labor less than 2 weeks ago and now are not germane on the floor of the House of Representatives?

Let the Members ask themselves this question, Mr. Speaker; and if we can still call ourselves a deliberative body, I myself will be surprised.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Speaker, I would like to ask the gentleman in the well with respect to all of these 170 amendments that have been offered, whether the abuses of labor to which he has referred will be taken care of through these amendments; and if not, why not?

You have 170 amendments. Do you not address yourself in any of these amendments to the things that you claim are abuses on that part of organized labor?

Mr. ASHBROOK. Of course, we had to do the best we could with the time we have had.

For example, I am interested in free speech. I am interested in the issue of a union violating the rights of the rank and file members. My amendments were not in order, so you have got to sit down and write them so they will be in order and you have got to find out somehow or other to try to write an amendment through which you can do the things you want by going through the back door, things that you cannot do by going through the front door. I have tried to do the things that this rule makes difficult for me to face up to to take care of this problem that you are talking about. If you will follow the reasoning as the gentleman from Illinois (Mr. ANDERSON) has suggested, and join in with us in this effort, this will open up the rule and help us address these problems.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I realize that frequently the perception overwhelms the facts, but it is awfully hard to look at this rule and talk about it as being a gag rule.

We have always considered ourselves as a deliberative body, but not a body of unlimited "wind" as is the other body. We have always thought we had a process which allowed us to work our will through the course of our debates, but that there was never time enough when anybody could just get up and talk on and ramble on forever and ever.

As one looks at this rule, it seems to me to be exactly in the mainstream of our process, a rule that provides the structure and form for the debate that we have always tried to devise. For instance, the rule requires prior notice that amendments must be printed in the RECORD in advance. It seems to me that that ought to be part of the standing rules of the House, and some of us are trying to push the rules in that direction. This deliberative body ought not to have to encounter surprise; it ought to at least allow the managers and the Members of the House to understand what it is we have to do and what it is we are debating; rather, we sometimes have some Member write out an amendment on the back of an envelope, and offer it in the name of hearth, home, and apple pie and have everybody vote for it and then find out a couple of months later that they have voted against consciences, convictions, and feelings.

The rule insists that the amendments be germane. I serve on the Committee on Ways and Means, and, as the Members of the House know, we too often come in with closed rules. I have fought, usually unsuccessfully, to open them up, from time to time, because I think in many instances Members of this body have not had a chance to express themselves on tax matters when they come out of the Committee on Ways and Means. But we have never even presumed to think that we were depriving any Member of this body from their rights by insisting that amendments be germane to the bill we brought before them. If all of the rules on the Committee on Ways and Means bills only had germaneness and advance notice as limitations I would say they are open rules. What we are saying here by the germaneness limitation is to insure that the House focuses on the subject matter that the committee has brought before the House.

Simply because the word "labor" is in the bill does not mean that child labor, or labor pains, or any other kind of labor amendments ought to be in order. I would say that the distinguished gentleman from Ohio (Mr. ASHBROOK) and the distinguished gentleman from Illinois (Mr. ERLENBORN), and others who are active in this field ought to be able to use their ingenuity and imagination, and their knowledge of the way in which this deliberative body operates to see to it that amendments are germane.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield, we have heard it said by the gentleman from Ohio (Mr. ASHBROOK) that these amendments were sufficiently germane when they were offered in the committee to be considered in the committee, and would not the same situation apply here in considering the same amendments, and let these gentlemen offer them again here, particularly in view of the words that I read from the Washington Post editorial a few moments ago that unless we do that we will not have a balanced bill?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOLLING. I yield 1 additional minute to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, let me say to my colleague first that his point would suggest that the committee ought to have no supervision over the scope and contents of the bill. Obviously many things are considered in committee, some of which are decided not to be within the scope of the bill that should be brought before the House.

That is the way a committee is supposed to do its screening, as far as I understand it. Simply because a committee looks at a subject does not mean that it automatically makes it germane to the bill it finally brings out.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to my colleague, the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

The question of germaneness was not raised in the committee. There exists a body of rules in this institution. This is one reason why we asked for an open rule. Such amendments as are germane will obviously be germane without a restrictive rule. The question simply was not raised in the committee.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, each one of us in this House of Representatives is sent here to represent between 450,000 to a half a million Americans. It is therefore particularly galling to be told by the majority leadership that we are so untrustworthy that we cannot offer proper amendments to a major labor bill without first having to submit them a day in advance for scrutiny by the House and the bill's managers. The only reason for such a scheme is to allow the majority leadership to work out a strategy to defeat such amendments, rather than dealing with them on their merits. What on Earth is the majority leadership afraid of? You have a majority of 2 to 1. You have a phalanx of labor bosses and their political action funds behind you. Each Member is aware of the political threat that exists. So why must you force the membership to submit in advance their amendments. What a shame that the House is to be treated like so many little children.

Mr. Speaker, the rules of the House are to protect both the majority and the minority, as well as the majority of the American peoples best interests. That best interest is not served by gag rules. The gentleman from Illinois (Mr. MIKVA) who just defended this loathsome rule has been one of the foremost exponents of mangling and changing the rules of the House which have developed over two centuries, because they do not suit his purposes. Many of the procedural changes he has advanced have done real violence to this parliamentary body, and I take it he is not finished yet, if he has his way. Now he tells us that the collective House of the people does not have enough integrity and brains to be trusted to offer amendments unless he and his friends see them first.

I suspect the real fear which haunts him and the leadersehip on his side is the possibility that another big labor bill is about to be rejected just like others before them this year. I hope that fear is well grounded.

Mr. BOLLING. Mr. Speaker, I yield myself 1 minute.

I think the rule of germaneness is probably as important a rule to protect the rights of the institution and the minority as any single rule. The complaint that comes from the minority today is that we are sticking to the rule of germaneness. The attempt to pervert this rule and interpret it as a limiting rule is a joke. This is the standard rule of this institution. It is the key rule that makes us different from the other body. Bills are constantly written by committees with great attention to germaneness, All this is protected here in this rule by its very openness is the rule of germaneness.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, today we are being asked to do something quite extraordinary. Instead of considering H.R. 8410 under an open rule, we are being asked to suspend our normal rules by eliminating the parliamentary procedure of germaneness. We are being asked to depart from our normal procedures and consider issues that according to the rules of the house are wholly unrelated to the bill we have before us. There are apparently those who wish to consider all of Federal labor law today. I strongly suggest that such an open-ended extension of our normal procedures would be a big mistake.

In the committee consideration of H.R. 8410 we carefully considered procedures and remedies under the National Labor Relations Act. We did not consider a wide range of issues that many in both the labor and management communities were strongly urging us to take up. We recognized from the outset that there was a clearly definable problem with the labor laws that related to remedies and procedures under the act. Those are the issues we examined and those are the issues addressed in H.R. 8410.

We are now being asked to reject such a reasoned approach and consider virtually any subject whether or not it is germane to the bill under consideration. Such a suspension of our normal operating procedures would be a disaster. We could be here for days considering amendments on every facet of Federal labor policy. No subject or section of the Federal labor law would be nongermane.

I strongly urge that we consider H.R. 8410 under an open rule and the rule that has been granted by the Rules Committee.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, some 40 or 50 years ago the labor movement was spawned in an atmosphere of violence—violent strikers and violent strike breakers—and I fear that the violence that attended the birth of the labor movement has marked both labor and management people since. Fortunately most people in management who are of an age to have been affected by the violence back in the twenties and thirties are of an age where they are retired and no longer in a position of influence. However there still remain a few of the labor leaders who were marked by that violence and who still seem to consider labor-management relations in the light of that.

It is a wonder to me that labor-management relations ever result in voluntary agreements between the parties if the kinds of tactics exhibited by organized labor in trying to push this bill through the House are the same kind of tactics that they use at the bargaining table. One would think the people whose work in life is to represent working men, to negotiate and compromise and reach agreement, would know how to negotiate and compromise on legislation in this House. Yet they use the same old tired methods of bludgeoning, of forcing and trying to force their will on the Members of the House rather than the negotiation and compromise that ought to be the mark of their ability to reach agreements.

But the old violent methods are the ones that we are being subjected to here today. No attempt at negotiation or compromise was engaged in, in the subcommittee. After the hearings were concluded the subcommittee was discharged. No negotiation was engaged in by those Members most intimately familiar with the provisions of this bill and the alternate bill, the employee bill of rights. Instead, at the bidding of organized labor, the subcommittee was discharged and the full committee marked up the bill and reported the bill they wanted. No attempt was made to sit down and compromise with the members of the minority.

As one of those active in this fight I did not have one member of labor to come into my office and say: "Look, what could we do to make this bill more appealing to the Members of the House?" Not once did the proponents of this bill sit down with me or the gentleman from Ohio (Mr. ASHBROOK), the ranking minority member of the subcommittee, to see what portions of the bill they could change to protect the rights of employees or what portions of their bill could be changed to be more acceptable to the business community.

Mr. Speaker, the interpretation of the rule of germaneness we understand we will be extremely strict and will not allow any amendments to the National Labor Relations Act other than those sections contained in the committee bill.

I would like to read in addition to the editorial in the Washington Post that was read by the gentleman from Illinois (Mr. ANDERSON), another editorial that was in this morning's paper, the Chicago Tribune. I will not read the entire editorial, but the last paragraph and, by the way, the thrust of this editorial is to say that 2 months ago when they endorsed some of the principles in the committee bill they did not mean they endorsed the bill in its entirety.

I would agree that in the business community there are many that feel the same as the Tribune. Some of the principles that are enunciated as the principles of the committee bill could be endorsed if we had language that would implement them fairly. The Tribune editorial goes on to say:

> H.R. 8410 has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it. Among the measures that deserve inclusion, furthermore, are some of those in H.R. 8310, sponsored by Rep. John Erlenborn [R., Ill.] and in a similar Senate bill. These would guarantee secret-ballot union elections; limiting the fines unions themselves can levy against their members, and the judicial enforcement of no-strike clauses. If in some instances unions deserve some protection against employer power, union members themselves clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

Mr. Speaker, do not be deceived. This bill before us does nothing for the working men and women of America.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, it is a bill to make life easy for labor bosses and union organizers. As both the Washington Post and the Chicago Tribune have pointed out, we are not doing the whole job if we only look at one side of the coin.

Now, contrary to what my friend, the gentleman from Illinois (Mr. MIKVA) who spoke in the well a little while ago said, if this rule is amended as proposed by my colleague from Illinois (Mr. ANDERSON) we are not going to be amending child labor laws or any other unrelated laws. We are going to make in order those provisions of the employee bill of rights that are clearly laid out in H.R. 8310, introduced before the committee bill, H.R. 8410, nothing more, nothing more. We will remove, of course, the requirement that all Members file their amendments 24 hours in advance, which is an unprecedented restriction on a labor bill.

Mr. Speaker, I urge that we vote down the previous question and support the amendment, so that we can have an opportunity at least for this House to adopt a balanced bill.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, it is difficult for a member of the Committee on Education and Labor to understand quite where my colleague from Illinois (Mr. ERLENBORN) and others who have spoken are coming from. I intend to include in the record here the entire editorial from which Mr. ERLENBORN read, since he just read the caveat in the editorial and not the language indicating that, on the whole, the editorial writer thought that this was a good bill whose time had come.

The Committee on Education and Labor has been holding hearings on this issue and has been involved in this legislation since 1961. The gentleman from Illinois and I have participated for 13 years in hearings on the issues that are in the legislation before us. During

those years, in the course of the hearings, there have been all kinds of suggestions of things that ought to be put in the National Labor Relations Act that are not in the legislation that comes here today. What my friends on the minority side are asking us to do, in effect, is to open the entire National Labor Relations Act so that these issues that many of us feel strongly about can be brought up here without full consideration by the committee, debated and presumably acted upon one way or another.

Here are some of the issues that are not in this bill that they would have come to this floor:

Repeal of 14(b), or the so-called right-to-work issue, which is not in this bill, and is not in order in the present form of this bill;

The question of whether supervisors should be permitted to join unions;

The question of card checks instead of a secret ballot to determine the willingness of employees to join a union;

The question of bargaining for retirees in light of a Supreme Court decision recently;

The question of assuming jurisdiction for labor-management relations on foreign flag ships;

The question of whether or not farmworkers ought to be included in the National Labor Relations Act;

And yes, the question of whether or not public employees at the State and local levels should be included in the act. Would the Members like to vote on that at about 6 o'clock this evening?

That is what the Republicans are urging upon us, all of these issues. I think that the Committee on Education and Labor must quite wisely have further time for study and consideration before we bring the major issues to the House to the House floor.

The gentleman complains that the rule of germaneness is too restrictive because he cannot amend laws that are not a part of the legislation that is brought before us. I suppose those of us who would like to amend the Internal Revenue Code should feel sad that this cannot be added while considering this bill; as with consideration of the criminal code or any other part of the Federal statutes that we do not propose to amend by the legislation we are considering today.

There is nothing at all unusual about trying to legislate on legislation that comes from the committee rather than every late blooming initiative which comes from the floor.

Mr. Speaker, the editorial which I have referred to reads as follows:

[From the Chicago Tribune, Oct. 4, 1977]

THE LABOR REFORM BILL

Since expressing some sympathy two months ago for the labor law reforms proposed by the unions and endorsed by the administration, we have been overwhelmed by the affection of new-found friends in organized labor.

The truth is that our editorial "In fairness to labor" was considerably less than a profession of undying and unconditional support for the bill now before the House Rules Committee. So before this affair gets out of hand, and before the committee sends the bill to the House floor in a form which makes amendments difficult, as the AFL-CIO would like, let us repeat and emphasize what it is that we support about the bill and what we oppose.

What we support is the effort to make sure that our labor laws succeed in their proper purpose, namely to enable employes to form or join a union when it is clear that a majority want to do so, and to make sure that the employer deals with that union in good faith and without undue delay.

There have been too many instances in which organizing efforts have become bogged down in the obstructionist tactics of employers and their lawyers. The proposed bill, H.R. 8410, would generally require that union elections be held within 15 days, 45 days, or 75 days of the receipt of a petition by the National Labor Relations Board, depending on the nature of the case and the decision of the NLRB. For contested cases, we said in our earlier editorial and repeat here, 75 days is a fair maximum. Fifteen days is too short a period to enable both sides to present their respective cases—which is in itself a professed goal of the bill.

One unacceptable section would temporarily deny U.S. government contracts to employers who "wilfully" violate labor laws. As we've said before, that would do more than express a possibly legitimate grievance, it would, in fact, discourage employers from legitimately moving against intolerable employe actions for fear of losing the case before the National Labor Relations Board and the courts. The resultant loss of federal contracts, upon which the livelihood of employers and employes alike may depend, would mean that a punitive element had been introduced into U.S. labor law never intended to be there. Established unions, often already too powerful, would have their powers still further enhanced.

Another pseudo-reform that should be deleted from H.R 8410 would, in effect, empower the NLRB to write a labor-management contract spelling out what the parties would have agreed to if they had completed negotiations The idea is to assure financial relief for employes victimized by an employer's refusal to bargain. Such employer delaying tactics are more properly addressed by the traditional weapon that keeps the issue between the contracting parties and doesn't invite in Big Brother That weapon is the strike.

Another employer-opposed provision would double the allowable penalty against employers who fire key workers for engaging in union activities. The severest penalty now is likely to be merely the payment of back wages. Labor originally wished to triple that penalty but accepted doubling it as a compromise. This strikes us as fair to both sides.

H.R. 8310 has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it. Among the measures that deserve inclusion, furthermore, are some of those in H.R. 8310, sponsored by Rep. John Erlenborn [R., Ill.] and in a similar Senate bill. These would guarantee secret-ballot union elections, limiting the fines unions themselves can levy against their members, and the judicial enforcement of no-strike clauses. If in some instances unions deserve some protection against employer power, union members themselves clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, for 12 years minus 2 I have listened to various Members of this body, particularly those to my left, complain about the lack of germaneness in the case of amendments that have been offered in the other body to House-passed bills. Therefore, I am reminded of the story of the Socialist who went next door to talk his neighbor into his philosophy. And his neighbor, the farmer next door, said:

> Do you mean to tell me that if you had two saddle horses, you would give me one of those saddle horses?

And the Socialist said:

> Certainly.

And the neighbor said:

> Do you mean to tell me that if you had two milch cows, you would give me one of your milch cows?

And the Socialist said:

> Certainly.

Then the neighbor said:

> Do you mean to tell me that if you had two hogs, you would give me one of your hogs?

And the Socialist said:

> Now, you know I have two hogs.

Mr. Speaker, I have listened to my friends over here inveigh against nongermane amendments over the years. And so I would ask them: Do you mean that if you had a nongermane amendment to a tax bill, you would not insist on offering it?

They would say: Certainly not.

I would ask them: And do you mean to tell me that if you had a nongermane amendment to a defense bill, you would not insist on offering it?

They would say: Certainly not.

I would say: And do you mean to tell me that if you had a nongermane amendment to a labor bill, you would not insist on offering it?

And my friend, the gentleman from Illinois, would say: Now, you know I have a nongermane amendment to the labor bill.

And I would say to my friend, the gentleman from Illinois, that if my sense of current history is accurate, there is a Senate seat up in his State next year, and if he wants to operate under the nongermane body rules, what he ought to do is take a shortcut and actually run for that body. It would be an improvement, in my judgment. I would only add that I think it would be an improvement for the other body. I do not believe it would be an improvement for this body, because I have too much respect for my friend, the gentleman from Illinois. But I would just add that my own definition of a germaneness rule is that if you make a speech, it has to be about something. And a germaneness rule to this bill means that if you make an amendment, it has to be about something, and the something that it has to be about is this bill.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I rise in support of the rule of H.R. 8410, the Labor Reform Act. The focus of my remarks today are on the horrors that working men and women

have been and are being subjected to in the textile industry because certain employers flagrantly violate the law or take unfair advantage of its administrative procedures.

We all have heard by now of the notorious J. P. Stevens Co., that giant of the textile industry, which maintains its status at the expense of its workers. The organizing drives at Stevens go back to 1963. All of the unfair labor practices committed against the employees are far too numerous and complicated to outline at this time, but I feel it is important to point out some of these cases which typify the company's actions and attitudes.

Shirley Hobbs was employed at the Rosemary fabrication plant. Her job was to sort napkins into "firsts" and "seconds" and to count them into bundles of 100. On an average day, an inspector sorts and counts 8,500 napkins. Ms. Hobbs joined the union and attended an open union meeting on October 3. On October 6, the general overseer of the plant recounted all her bundles, found one bundle one napkin short, and discharged Ms. Hobbs for "inefficiency."

At Republic plant No. 3, James Walden was one of the first employees to join the union. His name was posted by the company on August 18 and he was fired on August 22 for "tying doubles." There was undisputed evidence that no one in 20 years had been fired for this reason, "though doubles were continually being tied."

William Silbey also was employed at the Republic plant No. 3 and had an unblemished employment record of 21 years. He was fired shortly after he joined the union for "mixing waste." His supervisor subsequently testified that he could not recall ever before discharging a man for this reason.

Doris Hicklin had been employed at the Rock Hill plant from 1956 until the union informed the company on October 6, 1963, that she had joined the union. On October 7, she entered the plant wearing a button saying, "I am for AFL-CIO." Thirty-two minutes later she was fired.

Scores of other workers had similar experiences. On July 26, 1965, the National Labor Relations Board (NLRB) trial examiner found that 69 employees had been discharged in 1963 in violation of section 8(a)(3). Stevens appealed this decision to the Board, which unanimously upheld the Labor Board's decision. Stevens then asked the Supreme Court to review, but on December 11, 1967, the petition for certiorari was denied. Thus, 4 years after the initial discharges, the company was finally ordered to reinstate the employees and to cease and desist from further unfair labor practices.

What do workers do during this time while not having a job, no money to pay the rent or the mortgage, no money to pay for food, heat, electricity, and other essentials?

Albert Sanders of Greenville, S.C., was discharged from his job as a loom fixer at Stevens on August 29, 1963, after performing 16 years of service. He recently described, in his testimony before the committee hearings on H.R. 8410, his experiences of being "blacklisted" in the area and not being able to find another job until September 1966.

The Maureen Hedgepath story by now has become a classic. Ms. Hedgepath was a cotton mill worker at Stevens' Rosemary plant in Roanoke Rapids, N.C. In her testimony on H.R. 77, she described the company's harassment to which she was exposed for signing a union card. She was urged to tell her story at an NLRB hearing and was told at that hearing that she would not be denied her job when she returned from pregnancy leave. But, she was denied a job. And her husband, who also worked for Stevens, was subsequently fired, as the company accused him of having "the appearance of someone drinking alcoholic beverages."

When the baby was 2 months old and the Hedgepaths were close to penniless, Mr. Hedgepath pleaded to have his job returned to him. He was told not only could he not get a job at Stevens but he would not be able to find another job anywhere in town. He finally found a job 22 miles away, but he reported to work the following day only to find there was no job there for him.

From the time Maureen Hedgepath joined the union in 1963 and was subsequently denied a job after taking pregnancy leave, until the Board ordered her reinstatement, close to 6 years had elapsed. And it was not until June of 1969, 6 months after she returned to work, that she received her back pay.

Louise Bailey, who works at the Stevens' plant in West Boylston, Ala., told her story at the recent subcommittee hearings. Her experiences with the company go back more than 36 years. She remembers well when the plant shut down with no warning in the 1940's and the 4 subsequent years in which she could not find a job. When she would say where she had last worked, they would immediately say "union"—she was a member of a CIO union then—and she would not get the job.

When the order finally came to put her back to work, 4 years later, she received no backpay and instead of her old job, she got, in her words, "the worst job in the mill."

When the union campaign started last July, she was active, but described the fear of being laid off and the intimidation that she had seen other employees subjected to in her situation.

Another Stevens' worker at the Roanoke Rapids, N.C., plant described how he had contracted byssinosis, commonly known as "brown lung disease," on the job and the company would not allow a transfer. He concluded his testimony, "If we had some good laws on the books and had arbitration or grievances, we might have gotten these things straightened out, and I could have got out of the dust and probably been working now."

Johnny Davis, a member of the Clothing Workers, employed at Wellman Industries, Johnsonville, S.C., for the last 19 years, described his situation at the recent hearings. In 1970 the first organizing campaign took place at the plant and the union lost. The 1971 election was set aside, but the union won in 1972. Many workers were fired illegally for union activity during that time. In 1972, the union and the company were authorized to bargain. The first meeting was not held until 1976 and then the company refused to continue bargaining, thus starting the litigation process and delay after delay after delay. "So we continue through 5 years of fighting, from 1972 to 1977. We still have no contract yet."

Milton Taylor, another member of the Clothing Workers, employed at American Enka, Whitaker, N.C., also appeared at the recent subcommittee hearings. He described how prior to the union election, the workload "seemed to drop off. But as soon as we won, our workload is almost double. A lot of people have been harassed to the point they just quit and look for other employment."

Two workers at the Darlington Manufacturing Co., Darlington, S.C., poignantly emphasized the dire problems workers face if they exercise the rights they are supposedly "guaranteed."

Zuline Hunt worked at Darlington for 31 years until the plant closed down to avoid unionization. "It is just like fighting a war," noted Ms. Hunt at the hearings:

> . . . A lot of people had their insurance cut off. . . . My neighbor had mortgaged her house and she died about 10 years ago and the mortgage was never paid off. She was still remortgaging because when she retired, she really didn't draw enough Social Security to pay these payments.

Coley B. Gibson went to work at Darlington in October 1943 and was a diligent, loyal employee, who during World War II doubled up and worked long hours because help was short. But, when the plant closed in 1956, he, too had no job and lost all means of support for the family. "My wife was pregnant at that time, but because I lost all the hospitalization insurance I had when the plant closed, I had no money to pay the hospital bills when our daughter arrived the following March," noted Johnson at the hearings. "I sought work in numerous places, but everywhere I applied, I was turned down when they found out that I worked at the Darlington plant. . . ."

I have cited these cases because they all point to one conclusion—unless the Federal labor law is strengthened to deter the flagrant violations and delays that are initiated by antipeople employers, the purpose of the act is meaningless and workers will continue to be denied their rights. I implore you to join me in support of H.R. 8410 which will bring to fruition the purposes of the National Labor Relations Act.

The statements follow:

STATEMENT OF CLARENCE MITCHELL, DIRECTOR OF THE WASHINGTON BUREAU OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE BEFORE THE SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR

Mr. Chairman and members of the subcommittee, I am Clarence Mitchell, director of the Washington Bureau of the NAACP. Thank you for giving me this opportunity to present testimony in support of H.R. 8410, a bill to amend the National Labor Relations Act to

strengthen the remedies and expedite the procedures under such act.

The NAACP has consistently supported legislation that protects the right of working people to organize and engage in collective bargaining. Some of the earliest testimony that I personally presented to Congress on behalf of our organization was in opposition to restrictions against labor unions. Our State and local branch leaders have consistently opposed so-called right to work laws.

Organized labor, in its turn, has strongly supported civil rights and the causes of black Americans throughout the years. We have stood together in many battles for legislative, judicial and executive branch policies to protect the constitutional rights of our fellow citizens. I can say without fear of successful contradiction that most of our victories in the last quarter of a century could not have been won without the support of organized labor.

Under the present labor law, long delay and unfair tactics used by employers frustrate organizing and work real hardship on those who are fired for union activity.

The changes now proposed for the National Labor Relations Act would alleviate many of the injustices at countless work places, large and small. The changes are particularly important to black people concentrated in service fields and southern manufacturing, where employer abuses of existing law have blocked collective bargaining.

The proposal that the National Labar Relations Board be empowered to require an employer to bargain following a successful representation election, can prevent delays like the ones suffered under existing law. Under the present law, the board only issues cease and desist orders. Employers can—and do—procrastinate for years with impunity. The proposal that employees be compensated for undue delay in first negotiations would make such tactics more costly and directly alleviate worker suffering.

Likewise, the streamlining of NLRB procedures, less stringent internal procedures for affirming the decisions of administrative law judges and self-enforcement of uncontested board orders without acquiring court of appeals contempt sanctions would all contribute to expedited justice for workers.

Very important, from our perspective, are proposed changes providing injunctive relief for workers fired for union activity during an organizing campaign or in the time between a successful representation election and the implementation of a first contract. We also support the provision that employees who have been discharged unfairly receive twice their lost wages, rather than the current formula of lost pay plus interest minus the amount of any interim earnings. Black workers in nonunion shops, earning a average of only 60 percent of the median wage earned by whites in comparable jobs, can least afford the hardships imposed on unjustly fired workers under existing law.

It is well known that before the passage of the National Labor Relations Act workers paid a fearful price for the right to organize and bargain collectively. Today we see new and extensive efforts to turn back the clock. We must not permit this to happen. Instead, we must take steps to encourage parties in labor disputes to settle their differences by orderly process, rather than by confrontation. Passage of H.R. 8410 is an important part of industrial peace and progress in our country.

TESTIMONY OF NORMAN HILL, A. PHILIP RANDOLPH INSTITUTE ON H.R. 8410, LABOR LAW REFORM ACT OF 1977

My name is Norman Hill and I am executive director of the A. Philip Randolph Institute in New York. As most of you may know, the Institute, in existence since 1964 and with 180 chapters in 35 states, is dedicated to expanding the role of minority citizens and improving the quality of job opportunities, particularly by working with the labor movement. Our work is grounded in the belief to which A. Philip Randolph's life gives eloquent testimony, that the attainment of civil rights is inextricably tied to equal economic opportunity.

The Labor Law Reform Act of 1977 by more fully guaranteeing the fundamental rights of American workers will be an important step in achieving equal economic opportunity. The Wagner Act of 1935 established the labor relations policy of the nation as "encouraging the practice and procedure of collective bargaining" and as "protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing." Yet, in reality, those freedoms continue to be denied to millions of workers by weaknesses in the law which, in practice, discourage the practice of collective bargaining. The Congress now has a tremendous opportunity to guarantee workers free choice to exercise the rights recognized and promised by the Wagner Act.

Although the Wagner Act is usually viewed as Labor's Bill of Rights, it is often overlooked that it was, at the same time, a tremendous contribution to racial equality. By making possible the organization of workers in the mass production industries, the Wagner Act provided a major boost to the income of black workers and brought them to a level of approximate equality with white workers in those same industries. Studies by economists such as Orley Ashenfelter have found that there is substantially less discrimination in the unionized sector of the economy than in the non-unionized sectors. Indeed, unionization has made a significant dent in the inequality between black and white worker earnings. The most recent figures (from the 1970 census) show that blacks in the trade union movement earned annually a full $2000 more than their nonunion counterparts. Compared with earnings at 60 percent of whites in the economy as whole, unionized black workers in manufacturing earned a median wage of 89 percent of the white median. In transportation it was 89.6 percent in durable goods 93 percent, and in metal trades 97 percent. Similarly, 1965 statistics show that while 14.3 percent of non-union black families had income below $3000, only 3.9 percent of black union households were in that category. In short, the ability to organize unions has been an important instrument of upward mobility for black Americans. The reverse is equally true, barriers to unionization prevent black workers from making economic advances.

Labor law reform is needed to protect the rights of unorganized workers, to guarantee that they are truly able to exercise freedom of choice. When the rights to organize and bargain collectively are effectively denied to millions of workers, black workers are special victims. They make up a large percentage of workers who have been denied the right to organize. They are heavily concentrated in those industries and areas where employers have most ruthlessly resisted unions—the service industries, the South, and government employment. A fair chance to organize unions is an essential precondition for the economic advancement of blacks, as well as women and other minorities.

Workers in low wage industries suffer most from the inadequacies and abuses of current labor law. Earning very marginal incomes, they cannot afford to be fired unjustly and then wait indefinitely for the NLRB to rule on their cases. Twenty percent of all black workers are service workers, where the level of unionization is at a low 10.5 percent.

Other black workers are denied freedom of choice because they are concentrated in regions of the country where employers take pride in keeping unions out through illegal harassment and because the National Labor Relations Act is virtually powerless to prevent employer abuses. A case in point is the Florida Steel Corporation. The December 1976 Staff Report on the National Labor Relations Act of the Subcommittee on Labor-Management Relations summarized:

> The company uses the traditional anti-union techniques of discharging the known union adherents in an effort to intimidate the others. In addition, it utilized the use of "race hate" to divide and conquer the workers. Thus, when the union organizing campaign began in Charlotte, it was blamed on the "black people." The Industrial Relations Manager told others that "the NAACP had petitioned the United Steelworkers to 'kick off' this campaign." Supervisors were told to emphasize in their discussions with the workers that "this would be a black union, and that it was going to be run by blacks."
>
> In the first of many Florida Steel cases it was to hear, the National Labor Relations Board declared:
>
> The racial overtones in this case demonstrate Respondent's hostility to those of its black employees who were union adherents. Fourteen of the seventeen alleged dischargees were black. Testimony was adduced at the hearing the Respondent would not hire young black employees as they were viewed as likely union supporters, and the Administrative Law Judge specifically found appeals to racial prejudice in the Company's anti-union campaign. . . .
>
> The union persevered and won at two Florida steel plants, but thus far, they have been unable to get a first contract. And although some of the workers were eventually reinstated with back pay, many were out of a job for a year and a half or longer.

To the extent that labor law frustrates the ability of white and black workers to organize, it is a barrier to racial equality and economic justice. In fact, the absence of effective remedies against employer abuses has frequently resulted in the deliberate worsening of racial relations.

In exercising their rights as workers, many blacks face barriers which, although they may be slightly more subtle, are no less formidable than they faced in gaining their civil rights and voting rights. They face employer abuse and intimidation. Twenty years ago, a black worker risked being fired if he was a known civil rights activist. Today, black workers risk being fired if they are known union activists. The ability of employers to defy the law with impunity has effectively robbed workers of their promised right of free choice. How can a choice be "free" when it may cost you your livelihood?

And, of course, the closer a worker is to the poverty line, the more expensive the risk becomes and the fewer real choices exist. It is not difficult to sympathize with the worker who decides that even a miserable and low-paying job is better than being fired for attempting to join a union, but one must have enormous respect for the courage of workers who decide to risk their jobs in order to exercise their rights. There is something wrong when a worker is required to be a hero in order to exercise his promised rights.

Whatever progress has been made, black people still comprise a disproportionately large percentage of this nation's poor and marginal wage earners, those who cannot take chances if they wish to maintain a minimum living standard for themselves and their families.

Blacks are overwhelmingly a working people, so we have an enormous stake in proposals to make the laws which govern labor-management relations work more efficiently, quickly, and equitably. The A. Philip Randolph Institute believes that the Labor Law Reform Act, H.R. 8410, goes a long way to-

wards accomplishing those objectives. Several of the components of the bill are of special significance for black workers. Because black workers are especially prone to be pro-union, they face enormous risks of being fired for pro-union sentiments or activities. H.R. 8410 would remedy this situation by authorizing the National Labor Relations Board to award double backpay without mitigation to workers who were illegally discharged before the initial contract. Another important reform is that the Board should be authorized to prohibit a firm from obtaining Federal contracts for a period of three years, if the firm is found to have willfully and repeatedly violated NLRB orders. Equally important are the various measures designed to insure expeditious and meaningful elections and to streamline the procedures of the National Labor Relations Board and to reduce delays in the Board's operations. In addition, the Board should also be required to seek preliminary injunctions against certain unfair labor practices which interfere seriously with employee rights. These reforms would do much to guarantee that workers, both black and white, who wish to bargain collectively with their employers shall have a reasonable and prompt chance to do so.

The Institute believes that the Labor Law Reform Act is an important step towards economic and social justice. We hope that the Committee and Congress will agree.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RHODES), the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I was intrigued at the definition of germaneness as offered by my good friend and predecessor in the well, the gentleman from Indiana (Mr. JACOBS). I have never realized that the Committee on Rules was particularly bothered with the idea of germaneness when it was to the interest of the majority to get an amendment in order that would not otherwise be in order. I have always thought the germaneness was according to the state of mind of the majority of the Committee on Rules at any given time.

Contrary to what my Democrat colleagues infer, there is nothing immoral or even very strange about having a rule that makes a matter germane which might not otherwise be germane. Germaneness has been waived many times. After all, by definition the minority does not have the votes to decide what a bill will contain. If we did, we could write a bill to which our amendment would be germane. But we did not write the bill; the majority did.

The majority saw fit to write a bill that would preclude the germaneness of the substitute which the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Ohio (Mr. ASHBROOK) will offer later. I think the majority knew full well what they did. I think they undoubtedly constructed the bill in such a way that these very well known amendments would not be germane.

So, Mr. Speaker, I rise to express my strong opposition to this rule and urge my colleagues to vote "no" on the previous question in order that the gentleman from Illinois (Mr. ANDERSON) may offer a substitute rule.

Labor legislation affects the very grassroots of our economy and should not be approached lightly. Unfortunately, the bill reported out of the Committee on Education and Labor is extremely lopsided, and the very important and well-intended amendments offered to H.R. 8410 were rejected in a very heavyhanded and, I think, partisan fashion.

The rule now before us, at the direction of the majority, precludes the House from considering the Ashbrook-Erlenborn bill, the clearly recognized alternative, as an amendment to H.R. 8410. With such important legislation before us, it is inconceivable that the majority leadership could be so heavyhanded and so shortsighted as to preclude the House from truly working its will by excluding such an important measure from consideration as an amendment.

So I urge all my colleagues from both parties in the House to recognize this attempt for what it is and to insist on our right to vote on the Ashbrook-Erlenborn amendment. The right to choose is fundamental to our constitutional responsibility to represent our constituents. I think we need to do that. By voting "no" on the previous question and defeating it, the gentleman from Illinois (Mr. ANDERSON) will be recognized to offer an open rule making the Ashbrook-Erlenborn amendment in order.

Should we fail to defeat the previous question, then I must urge all my colleagues to vote against this rule and the travesty it seeks to impose on the House. That is the only way I know that we can direct the Committee on Rules to take the bill back and bring out a rule that will make all the provisions in order that are necessary before we proceed to resolve this very important issue that is now before the House.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding this time to me.

So much has been said about germaneness that I wonder just where we are. I have seven pages of precedents that relate to the topic that is the subject of our discussion and they all come to the opposite conclusion.

First of all, we do not have a narrow purpose in this bill as the sponsors allege. This bill would amend section 3 (a) and (b), it would amend section 6, it would amend sections 9 (b), (c), and (d), and it would amend sections 10 (b), (c), (e), (f), (l), and (m).

Moreover, it is not just procedural, as the gentleman from Washington (Mr. MEEDS) said; it has substantive law contained it in.

Let us look at section 3 of the bill. Section 3 was put in the bill to in effect overcome a Supreme Court case; that is a very substantive provision. Section 4 is substantive. Section 9(b)(3) is a clear limitation on guards to form a union. That would simply wipe it away. That is substantive; that is not procedural.

The precedents are full of instances where, if a bill is broad enough in scope and diverse in purpose, it opens up the entire act. Yet I have no doubt but what the Chair will rule otherwise.

Let us look at the precedent in Cannon VIII, paragraph 2942:

It is well established by precedents that where it is proposed in a bill to amend an Act in a number of its sections, an amendment to amend another section of the Act is in order. A number of cases have occurred in the consideration of this bill where amendments have been offered which were not germane to any section included in the present bill but were clearly germane to sections in the original law. . . .

Mr. Speaker, every one of these precedents is traced back to a member of the majority party in the chair, in case there should be any doubt about that.

All this talk about germaneness is like "Alice in Wonderland." This is not a narrow bill, it is wide in purpose and scope. It is not merely procedural, it has substantive law provisions in it.

Sometimes it sounds as if there is no concern for germaneness on our side as far as the rules are concerned, but if the precedents would hold, the bill is broad enough in scope that it should be opened up in every section. Yet this question of germaneness is thrown at us all the time. I simply want the record to show that precedents are on our side.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time, and I will be very brief.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 4 minutes.

Mr. BOLLING. Mr. Speaker, the fact of the matter is that this is an open rule, and the only limitation on the opportunity to offer amendments is the requirement that they be printed in the RECORD, that plenty of notice is given and that they be germane.

The gentleman from Ohio (Mr. ASHBROOK) has been citing precedents. I am sure there has been at least 1 precedent which appears contrary to each headnote he has cited. The gentleman is a highly skilled parliamentarian, and he knows very well that there are whole batches of precedents which superficially appear to go in all directions, and which are distinguishable, but the precedents of the House that have prevailed for, lo, these many years require a very strict construction of germaneness.

Mr. Speaker, the very simple fact is that this is a very straightforward open rule, and the previous question should be voted for and the rule should be adopted so that we can proceed with the matter at hand.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 267, nays 152, not voting 15, as follows:

[Roll No. 623]

YEAS—267

Addabbo, Akaka, Alexander, Allen, Ambro, Ammerman, Andrews, N.C., Annunzio, Applegate, Ashley, Aspin, AuCoin, Badillo, Baldus, Baucus, Beard, R.I., Bedell, Bellenson, Benjamin, Bevill, Biaggi, Bingham, Blanchard, Blouin, Boggs, Boland, Bolling, Bonior, Bonker, Bowen, Brademas, Breaux, Breckinridge, Brinkley, Brodhead, Brooks, Brown, Calif., Buchanan, Burke, Calif., Burke, Mass., Burlison, Mo., Burton, John, Burton, Phillip, Byron, Carney, Carr, Cavanaugh, Chappell, Chisholm, Clay, Conte, Conyers, Cornell, Cornwell, Cotter, D'Amours, Danielson, Davis, Delaney, Dellums, Dent, Derrick, Derwinski, Dicks, Dingell, Dodd, Downey, Drinan, Duncan, Oreg., Early, Eckhardt, Edgar, Edwards, Calif., Eilberg, Ertel, Evans, Colo., Evans, Ga., Evans, Ind., Fary, Fascell, Fisher, Fithian, Flippo, Flood, Florio, Flowers, Foley, Ford, Mich., Ford, Tenn., Fountain, Fowler, Fraser, Fuqua, Gammage, Gaydos, Gephardt, Giaimo, Gibbons, Ginn, Glickman, Gonzalez, Gore, Gudger, Hamilton, Hanley, Hannaford, Harkin, Harrington, Harris, Hawkins, Heckler, Hefner, Heftel, Hightower, Hillis, Holland, Holt, Holtzman, Horton, Hubbard, Hughes, Hughes, Ichord, Jacobs, Jeffords, Jenkins, Jenrette, Jones, N.C., Jones, Okla., Jones, Tenn., Jordan, Kastenmeier, Kazen, Keys, Kildee, Kostmayer, Krebs, Krueger, LaFalce, Le Fante, Lederer, Leggett, Lehman, Levitas, Lloyd, Calif., Lloyd, Tenn., Long, La., Long, Md., Luken, McCormack, McDade, McFall, McHugh, McKay, Maguire, Mahon, Markey, Marks, Mattox, Mazzoli, Meeds, Metcalfe, Meyner, Mikulski, Mikva, Milford, Miller, Calif., Mineta, Minish, Mitchell, Md., Moakley, Moffett, Mollohan, Moorhead, Pa., Moss, Mottl, Murphy, Ill., Murphy, N.Y., Murphy, Pa., Murtha, Myers, Gary, Myers, Michael, Natcher, Neal, Nedzi, Nix, Nolan, Nowak, Oakar, Oberstar, Obey, Ottinger, Panetta, Patten, Patterson, Pattison, Pease, Pepper, Perkins, Pickle, Pike, Preyer, Price, Rahall, Rangel, Reuss, Richmond, Rinaldo, Risenhoover, Roberts, Rodino, Roe, Rogers, Roncalio, Rooney, Rose, Rosenthal, Rostenkowski, Roybal, Russo, Santini, Scheuer, Schroeder, Seiberling, Sharp, Shipley, Sikes, Simon, Sisk, Skelton, Slack, Smith, Iowa, Solarz, Spellman, St Germain, Staggers, Stark, Steed, Stratton, Studds, Teague, Thompson, Thornton, Traxler, Tsongas, Tucker, Udall, Ullman, Van Deerlin, Vanik, Vento, Volkmer, Walgren, Waxman, Weaver, Weiss, White, Whitley, Whitten, Wilson, C. H., Wilson, Tex., Wirth, Wright, Yates, Yatron, Young, Alaska, Young, Mo., Young, Tex., Zablocki, Zeferetti

NAYS—152

Abdnor, Anderson, Calif., Anderson, Ill., Andrews, N. Dak., Archer, Armstrong, Ashbrook, Badham, Bafalis, Barnard, Bauman, Beard, Tenn., Bennett, Broomfield, Brown, Mich., Brown, Ohio, Broyhill, Burgener, Burke, Fla., Burleson, Tex., Butler, Caputo, Carter, Cederberg, Clausen, Don H., Clawson, Del, Cleveland, Cochran, Cohen, Coleman, Collins, Tex., Corcoran, Coughlin, Crane, Cunningham, Daniel, Dan, Daniel, R. W., de la Garza, Devine, Dickinson, Dornan, Duncan, Tenn., Edwards, Ala., Edwards, Okla., Emery, English, Erlenborn, Evans, Del., Fenwick, Findley, Fish, Flynt, Forsythe, Frenzel, Frey, Gilman, Goldwater, Goodling, Gradison, Grassley, Guyer, Hagedorn, Hall, Hammer-schmidt, Hansen, Harsha, Hollenbeck, Huckaby, Hyde, Ichord, Ireland, Johnson, Colo., Kasten, Kelly, Kemp, Ketchum, Kindness, Latta, Leach, Lent, Livingston, Lott, Lujan, McClory, McDonald, McEwen, McKinney, Madigan, Mann, Marriott, Martin, Mathis, Michel, Miller, Ohio, Mitchell, N.Y., Montgomery, Moore, Moorhead, Calif., Myers, John, Nichols, O'Brien, Pettis, Poage, Pressler, Pritchard, Pursell, Quayle, Quie, Quillen, Railsback, Regula, Rhodes, Robinson, Rousselot, Rudd, Ruppe, Sarasin, Satterfield, Sawyer, Schulze, Sebelius, Shuster, Skubitz, Smith, Nebr., Snyder, Spence, Stangeland, Stanton, Steers, Steiger, Stockman, Stump, Symms, Taylor, Thone, Treen, Trible, Vander Jagt, Waggonner, Walker, Walsh, Wampler, Watkins, Whitehurst, Wiggins, Wilson, Bob, Winn, Wydler, Wylie, Young, Fla.

NOT VOTING—15

Collins, Ill., Conable, Corman, Diggs, Holland, Howard, Johnson, Calif., Koch, Lundine, Marlenee, Runnels, Stokes, Whalen, Wolff

The Clerk announced the following pairs:

Mr. Howard with Mr. Runnels.
Mr. Diggs with Mr. Whalen.
Mr. Stokes with Mr. Conable.
Mr. Wolff with Mr. Marlenee.
Mr. Corman with Mr. Ryan.
Mr. Koch with Mrs. Collins of Illinois.
Mr. Lundine with Mr. Holland.

Mr. SIKES changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 291, nays 128, not voting 15, as follows:

[Roll No. 624]

YEAS—291

Addabbo, Akaka, Alexander, Allen, Ambro, Ammerman, Anderson, Calif., Andrews, N.C., Annunzio, Applegate, Ashley, Aspin, AuCoin, Badillo, Baldus, Baucus, Beard, R.I., Bedell, Bellenson, Benjamin, Bennett, Bevill, Biaggi, Bingham, Blanchard, Blouin, Boggs, Boland, Bolling, Bonior, Bonker, Bowen, Brademas, Breaux, Breckinridge, Brinkley, Brodhead, Brooks, Brown, Calif., Buchanan, Burke, Calif., Burke, Mass., Burlison, Mo., Burton, John, Burton, Phillip, Byron, Carney, Carr, Cavanaugh, Chappell, Chisholm, Clausen, Don H., Clay, Cochran, Conte, Conyers, Cornell, Cornwell, Cotter, Cunningham, D'Amours, Danielson, Davis, Delaney, Dellums, Dent, Derrick, Derwinski, Dicks, Dingell, Dodd, Downey, Drinan, Duncan, Oreg., Duncan, Tenn., Early, Eckhardt, Edgar, Edwards, Calif., Eilberg, Ertel, Evans, Colo., Evans, Ga., Evans, Ind., Fary, Fascell, Fish, Fisher, Fithian, Flippo, Flood, Florio, Flowers, Foley, Ford, Mich., Ford, Tenn., Fountain, Fowler, Fraser, Fuqua, Gammage, Gaydos, Gephardt, Giaimo, Gibbons, Gilman, Ginn, Glickman, Gonzalez, Gore, Gudger, Hamilton, Hanley, Hannaford, Harkin, Harrington, Harris, Hawkins, Heckler, Hefner, Heftel, Hightower, Hillis, Holland, Holt, Holtzman, Horton, Hubbard, Hughes, Ichord, Jacobs, Jeffords, Jenkins, Jenrette, Jones, N.C., Jones, Okla., Jones, Tenn., Jordan, Kastenmeier, Kazen, Keys, Kildee, Kostmayer, Krebs, Krueger, LaFalce, Le Fante, Lederer, Leggett, Lehman, Levitas, Lloyd, Calif., Lloyd, Tenn., Long, La., Long, Md., Luken, Lundine, McCloskey, McCormack, McDade, McFall, McHugh, McKay, Madigan, Maguire, Markey, Marks, Mathis, Mattox, Mazzoli, Meeds, Metcalfe, Meyner, Mikulski, Mikva, Milford, Miller, Calif., Mineta, Minish, Mitchell, Md., Moakley, Moffett, Mollohan, Moorhead, Pa., Moss, Mottl, Murphy, Ill., Murphy, N.Y., Murphy, Pa., Murtha, Myers, Gary, Myers, Michael, Natcher, Neal, Nedzi, Nix, Nolan, Nowak, O'Brien, Oakar, Oberstar, Obey, Ottinger, Panetta, Patten, Patterson, Pattison, Pease, Pepper, Perkins, Pickle, Pike, Preyer, Price, Pritchard, Rahall, Rangel, Regula, Reuss, Richmond, Rinaldo, Risenhoover, Roberts, Rodino, Roe, Rogers, Rooney, Rose, Rosenthal, Rostenkowski, Roybal, Ruppe, Russo, Ryan, Santini, Sarasin, Scheuer, Schroeder, Seiberling, Sharp, Shipley, Sikes, Simon, Sisk, Skelton, Slack, Smith, Iowa, Smith, Nebr., Solarz, Spellman, St Germain, Staggers, Stanton, Stark, Steed, Steiger, Stratton, Studds, Teague, Thompson, Thone, Thornton, Traxler, Treen, Tsongas, Tucker, Udall, Ullman, Van Deerlin, Vanik, Vento, Volkmer, Walgren, Waxman, Weaver, Weiss, White, Whitley, Whitten, Wilson, C. H., Wilson, Tex., Wirth, Wright, Yates, Yatron, Young, Alaska, Young, Mo., Young, Tex., Zablocki, Zeferetti

NAYS—128

Abdnor, Anderson, Ill., Andrews, N. Dak., Archer, Armstrong, Ashbrook, Badham, Bafalis, Barnard, Bauman, Beard, Tenn., Broomfield, Brown, Mich., Brown, Ohio, Broyhill, Burgener, Burke, Fla., Burleson, Tex., Butler, Caputo, Carter, Cederberg, Clawson, Del, Cleveland, Cohen, Coleman, Collins, Tex., Corcoran, Coughlin, Crane, Daniel, Dan, Daniel, R. W., de la Garza, Devine, Dickinson, Dornan, Edwards, Ala., Edwards, Okla., Emery, English, Erlenborn, Evans, Del., Fenwick, Findley, Flynt, Forsythe, Frenzel, Frey, Goldwater, Goodling, Gradison, Grassley, Hagedorn, Hall, Hammer-schmidt, Hansen, Harsha, Hollenbeck, Huckaby, Hyde, Ireland, Johnson, Colo., Kasten, Kelly, Kemp, Ketchum, Kindness, Latta, Leach, Lent, Lott, Lujan, McClory, McDonald, McEwen, McKinney, Mahon, Mann, Marriott

Martin	Railsback	Symms
Michel	Rhodes	Taylor
Miller, Ohio	Robinson	Treible
Mitchell, N.Y.	Rousselot	Vander Jagt
Montgomery	Rudd	Waggonner
Moore	Satterfield	Walker
Moorhead, Calif.	Sawyer	Walsh
	Schulze	Wampler
Myers, John	Sebelius	Watkins
Nichols	Shuster	Whitehurst
Pettis	Skubitz	Wiggins
Poage	Snyder	Wilson, Bob
Pressler	Spence	Winn
Pursell	Stangeland	Wydler
Quayle	Steers	Wylie
Quie	Stockman	Young, Fla.
Quillen	Stump	

NOT VOTING—15

Burton, Phillip	Guyer	Roncalio
Collins, Ill.	Howard	Runnels
Conable	Johnson, Calif.	Stokes
Corman	Koch	Whalen
Diggs	Marlenee	Wolff

The Clerk announced the following pairs:

Mr. Howard with Mr. Runnels.
Mr. Diggs with Mr. Whalen.
Mr. Stokes with Mr. Conable.
Mr. Wolff with Mr. Marlenee.
Mr. Corman with Mrs. Collins of Illinois.
Mr. Koch with Mr. Johnson of California.
Mr. Phillip Burton with Mr. Roncalio.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8410, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. THOMPSON) will be recognized for 1 hour, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 1 hour.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I would like to address myself to the facts of our national experience that have made it necessary for the Federal Government to regulate the conduct of relations between management and the workers and to recapitulate how that necessity has been met or neglected.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the distinguished Speaker.

(By unanimous consent, Mr. O'NEILL was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. O'NEILL. Mr. Chairman, I have asked the gentleman to yield for this purpose: We have been trying to figure out the schedule for the remainder of the day, and I wish to make this announcement.

I would hope that at the end of general debate on H.R. 8410, which is scheduled for 2 hours, we would go into the 5-minute rule. I would hope that the Committee would rise at that particular time in order that we may take up a couple of conference reports and some pieces of legislation that have been pending.

Then we would entertain a request—and this has been agreed to by the leadership on the other side—that we meet at 10 o'clock tomorrow morning. I would hope that we would start the debate under the 5-minute rule, and we will see if we can go forward with the legislation and complete it by tomorrow night.

On Thursday we would meet at 10 o'clock, and we hope that we can complete our work at a reasonable hour so that the Members can go home for the long weekend.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my friend, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the proposed schedule, as propounded by the Speaker, certainly meets with the support of the Members on this side. We have no intention of trying to delay this matter. I think tomorrow would certainly be adequate for the consideration of this bill, if we spend a full day at it. I would hope that we may open up the bill for amendment and thus expedite its consideration.

Mr. Chairman, I thank the Speaker for his courtesy.

Mr. THOMPSON. Mr. Chairman, in the beginning, when the founders declared that "all men are created equal," all political power lay in the hands of white, male property owners over 21 years of age. In the legislatures, in the courts, and in the marketplace the rights of property far outweighed human rights.

The intervening years and decades and centuries have seen a continuing struggle on the part of women and workers and nonwhite Americans and 18-year-olds to achieve the equality that was promised as the goal of the American Revolution, and stipulated as the central condition of American democracy.

This struggle for human rights has been a second American revolution, a revolution that has been fought for 200 years and that is not yet finished.

Women, who won the right to vote in 1924, are still struggling for an equal rights amendment in 1977. Blacks, who won freedom from slavery in 1865, are still struggling to realize the promise of the Civil Rights Act of 1965. And workers, who won the right to organize and join unions of their own choosing in 1935, are still struggling to translate that right into reality.

The American Revolution will never be over, and American democracy will never be stable and secure, until human rights are equally secure for all Americans of both sexes and all races, and until the concept of "equal justice under law" is applied even-handedly to workers and employers alike.

Equal justice and equal rights were the goals that Congress sought to establish in the National Labor Relations Act of 1935, and they remain in the goals we seek in H.R. 8410, the Labor Law Reform Act of 1977.

For the first century and a half of the Nation's existence, the relations between worker and employer were little better than the relations between master and slave.

Workers were driven by economic necessity. Employers were armed with overwhelming economic power, reinforced by the coercive power of the courts and legislature and by the physical power not only of their own unregulated private armies, but by the police and military forces of the State.

The result was unspeakable privation and degradation among workers and their families.

None of this proves that employers are or were evil. It proves that unrestrained power corrupts. It proves the need for countervailing power to preserve a decent and humane balance.

The facts of history make it abundantly clear why the Congress has found it necessary to guard against inhuman exploitation by regulationg child labor, limiting the hours of work, putting a floor under wages, and establishing standards to protect the lives and health of those who do the Nation's work.

And the facts of history make it clear why the Congress has found it necessary to guarantee that those who live by selling their labor have at least the opportunity to organize in order to have some voice in the terms and conditions of sale.

The records of the LaFollette committee's investigations into employer abuses of the 1920's and 1930's ought to be required reading for anyone who feels that workers would have had a ghost of a chance of equity or fair dealing without legislative sanctions.

And the records of our committee's investigations into employer abuses of the 1960's and 1970's ought to be required reading for anyone who feels that legislation can secure equity and fair dealing without prompt and effective enforcement.

It is true that in many instances the act functions as it was intended. However, this occurs when the parties voluntarily comply with the law. H.R. 8410 does nothing to upset or discourage voluntary compliance. It is when one party is determined not to follow the dictates of the law that the act's shortcomings become apparent. No law in this area can function effectively if there are insufficient means of deterring violations and a lack of adequate compensation for those victimized by violations. This has been a basic shortcoming of the NLRA and it is this very problem at which H.R. 8410 is directed. Thus, while there are those who voluntarily comply, there are many employers who remain blindly and

bitterly opposed to collective bargaining, disdainful of the rights of their employees to form or join unions and defiant toward the laws of the land. It is also intolerable, and it is to these employers that H.R. 8410 is addressed.

Since 1935 there have been two basic elaborations of Federal labor policy. In 1947 the Congress passed the Taft-Hartley Act and in 1959 the Landrum-Griffin Act was enacted. These additions to the law strengthened the right to refrain from union activity and regulated the process of collective bargaining and the use of economic weapons during labor disputes. However, in the past 42 years, Congress has not revisited the portion of the law protecting the right of self-organization. H.R. 8410 is intended to correct that omission.

Every measure of American social and economic progress since 1935 proves that the National Labor Relations Act is a good law and that the policy of encouraging free collective bargaining is a good policy. H.R. 8410 proposes no changes in the policy defined by the Wagner Act, no changes in the rights and duties of either management or labor.

It does provide more effective penalties for practices that have been outlawed for 42 years, but that have continued in defiance of the law simply because existing penalties have proven ineffective.

It does provide limitations on sophisticated techniques for evading and thwarting the operations of the law.

It does provide for protection of the fundamental right of workers to make up their minds about whether or not to create their own organization without interference from their employers.

It does improve the machinery of the National Labor Relations Board so that the Board can carry out its duties as the law intended.

These are modest goals, minimal goals. They rest not on theory, but on experience—the experience of 42 years of trying to make the National Labor Relations Act work.

Mr. ASHBROOK. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, it is with a sense of disappointment and some frustration that I rise in opposition to H.R. 8410—not because I disagree in principle with its stated objections. For who can be against reforms that promise to expedite the processing of cases before the National Labor Relations Board and to strengthen the remedies against the unlawful infringement of employees rights? Nor does my opposition spring from any delusions that the present NLRA and its enforcement by the NLRB is without problems and flaws.

Indeed, except for 1974 amendments extending the scope of the act to private health care institutions—amendments which I supported—the act has not undergone a thorough overhaul since 1959 when Congress passed the Reporting and Disclosure Act. And over the past 18 years, through the accretion of interpretations of the act by board decisions and court adjudications, through the burgeoning case load, and through the growing complexity of labor-management relations, the act has begun to show the signs of stress.

For this reason, I have welcomed efforts to reform the act. And I have actively participated as ranking minority member of the Labor-Management Relations Subcommittee in all hearings overseeing the administration of the act and considering proposals to improve the act.

I was hopeful that our committee would recognize that employees, wishing to exercise their correlative rights to self-organize and to refrain from and disengage from union activity, face obstacles thrown up by labor organizations and that not all obstacles come from employers. Gone are the days when an employee's chief threat to economic security was an oppressive employer and unions faced extinction by a legal system hostile to unions as a social institution.

Having matured under the Wagner Act and its progeny, labor unions now enjoy a secure place in our legal system—secure except for one thing: To continue as a viable and useful representative of individual workers, it must be able to persuade rationally and without coercion, such workers of the merits of union representation. But the plain fact is that organized labor has experienced real difficulties in persuading nonunion workers of the advantages of unionization. In fact, unions do not seem to be able to hold on to those of the rank-and-file. In 1947, unions were able to enlist 35 percent of the nonagricultural workforce during that year to join the trade union movement. In contrast, in 1976, the ranks of organized labor enjoyed were comprised of only 24.5 percent of the workforce. In the meantime, faced with this continuing erosion of power, many unions, just as many employers of yesteryear and admittedly some of today, have resorted to intimidation and coercion to secure their domination and protect their leadership. The newspapers recount instance after instance—indeed, the reports of the NLRB themselves are replete with dozens of cases of violence, physical injury, oppressive disciplinary actions, unlawful strikes, infringements upon political and religious liberties guaranteed by the First Amendment.

I therefore anticipated that our committee would devote full attention to all the abuses facing an employee, whether union or nonunion. I was hopeful that it would report out a bill that reflected a balanced approach to the problems of delay, of dilatory tactics, of repeated violations of the act, of ineffective remedies. Unfortunately, H.R. 8410 does not reflect an even-handed response to these problems.

Whereas the bill purports to cure the delays in holding certification elections, it does nothing to expedite the holding of decertification elections.

Whereas the bill supposedly remedies unlawful discharges due to union activity, it does nothing to protect union members who face oppressive disciplinary fines as a result of challenging the leadership or the majority status of a union.

Whereas the bill imposes the harsh penalty of debarment to deter willful violations by employers, it is totally devoid of similar sanctions against union misconduct.

Wheras the bill purports to protect against discriminatory discharges by mandating injunctive relief, it ignores the need for injunctive remedies against stranger picketing that can throw employees out of work.

Whereas the bill imposes a double back pay sanction against unlawful discharges, it does nothing to compensate workers who suffer wage losses as result of union coercion and intimidation.

Whereas the bill gives unions rights of equal access to facilitate the expression of their views, the bill does nothing to protect employee's first amendment rights against supporting causes and institutions that contravene their political and religious beliefs.

Whereas the bill creates a new claim for willful violations of Board orders, which is plainly directed against employer misconduct, the bill's sponsors rejected an effort to give employees a new right to challenge unreasonable fines before the NLRB.

The disparity of treatment does not stop here.

But it is not simply the employees, facing union abuse, who will be short-changed by this bill. I submit that H.R. 8410 poses a threat to all parties involved—union employees, nonunion employees, unions, management, and ultimately the public.

I submit that this bill places in real jeopardy the ability of the NLRB to be an efficient and effective protector of employee rights. How is this so? The answer is simple: The proponents of this bill have been so intent upon delivering up to organized labor the spoils of the 1976 elections that they have been blind to the factors contributing to an efficient agency, they have ignored the root causes of delay, and they have magnified the problem of flagrant offenders.

First, let us look at some statistics. In 1976, there were approximately 34,500 unfair labor practice charges filed. But 32,400 were concluded, and were disposed of in the following manner: 35.6 percent were withdrawn before any complaint was issued, 35.9 percent were dismissed by the General Counsel before any complaint issued; in other words 71.5 percent were disposed of as lacking merit. Of the remaining cases, 23.4 percent were settled prior to issuance of a complaint. This left approximately 5 percent for disposition by the Board, the vast majority of which were disposed of in less than 2 months. And while it is true that the number of charges has doubled over the last 10 years the relative percentage of meritorious cases has not increased but remained constant. In other words, the statistics do not disclose a growing percentage of flagrant employer abuses.

In the other major area of responsibility—conducting representation elections—the Board concluded 8,638 out of the 8,899 elections held. A great majority of these cases were disposed of within 45 days. Most significant was the fact

that of the elections conducted approximately 80 percent were pursuant to consent or stipulation by the union and employers involved.

Although it may not be so evident to the average layman, critical to the disposition of so many which may arguably have had merit was the willingness of most employers to settle prior to the issuance of a complaint. Similarly, indispensable to the conclusion of so many elections within a relative short time period was the willingness of employers to consent or stipulate to matters involving the conduct and appropriateness of the elections.

As was succinctly and forcefully put by former Board Chairman Edward Miller during the hearing, H.R. 8410 threatens to undermine this very willingness on the part of employers to fully cooperate in the NLRB's administration. How will it do this?

First, the short, arbitrary time limits proposed for conducting an election are clearly designed to frustrate the opportunity for employers to counter the propaganda dispensed by unions during an organizational campaign. I am not talking about giving employers an opportunity to engage in coercive and discriminatory misconduct, but rather a chance to apprise their employees of the advantages of remaining nonunion as well as the disadvantages of unionization. In this way, employees are better able to make an informed choice regarding unionization—which undeniably is one of the policies of the act.

But the moment employers begin to be pushed into a corner, without an opportunity to meaningfully participate in the campaign process, you can be assured that the percentage of consent elections will drastically drop and the regional offices of the Board will become mired. In the end, the evil sought to be remedied—delay—will magnify itself.

Similarly, in the area of unfair labor practice cases, H.R. 8410 will no doubt protract the delays already encountered. For with the adoption of a punitive approach to labor law enforcement—which has historically been rejected—the act will no doubt reduce the percentage of settlements that is vital to disposition of cases. This will come about because the availability of such goodies as double damages and retroactive pay increases will unquestionably tempt charging parties to insist on litigation. At the same time, these remedies will provide employers with an incentive to litigate because the cost of settling those cases will make litigation worthwhile. As Mr. Miller predicted, if this bill reduces the settlement rate by only 10 percent, the agency will no longer be able to successfully function.

What then does H.R. 8410 have to offer? Not much—a section-by-section analysis, as it appears in our minority views, exposes its severe infirmities.

SECTION 2

First. Size of Board—increasing size of Board from five to seven members will make consensus on the development of policies, rules and regulations more difficult to obtain, leading to delay in administration.

Second. Summary affirmance procedure—under present procedure, a party is assured that his case will be reviewed by at least a majority of the Board—three out of five members. Under the proposal, summary affirmance can be entered upon presentation of the case to only two members, not a majority—that is, four members.

SECTION 3

First. Equal access—this mandate to assure equal access is a significant change of substantive law. That provision would require employers, if the addresses employees on company time and property, to accord the same opportunity to unions. But existing law does accord unions a right to have their views communicated to employers. Moreover, unions are entitled to the names and addresses of employees. Unions can go into the homes, whereas employers cannot.

Whereas unions can make extensive promises of benefits, employers are restricted in what they can promise.

And where there are no alternative channels of communication available to a union, an employer may well have to open his plant gates to a union. What these rules reflect is a careful balance struck between the rights of unions to communicate and the rights of an employer to manage and protect his business. Although an employer is limited in communicating with his employees, he does retain a right to call his employees together in the plant, on company time, which the employer pays for, to tell his side of the story. The equal access seriously compromises that right by requiring the employer to now accommodate nonemployees and to in effect subsidize an organizing campaign.

SECTION 5—EXPEDITED ELECTIONS

The bill mandates elections to be held within 15 days after filing of an election petition.

The fact is that a high percentage of elections are held within a reasonable time:

First, 82 percent of the elections conducted by the NLRB in 1975 were held within 45 days of the filing of the petition; all but 47 of the remaining elections (out of an original total of more than 9,000) were held within a median time of 75 days.

Second, 80 percent of all union elections are conducted with the consent of both the union and the employer, with no exceptions being filed.

The clear intent of this quickie election provision is to deprive employees of the opportunity to become adequately informed of all the issues in a representation.

Moreover, the provision totally ignores the rights of employees to seek decertification and deauthorization in a similarly swift manner.

As explained before, the probable consequence of this provision is that employers will no longer be so willing to enter into consent agreements to facilitate and speed up the holding of elections.

SECTION 6—LIMITATION ON COURT REVIEW OF CERTIFICATIONS

The effect of this section is to severely limit the scope of judicial review with respect to certifications. No longer can a party be protected from a Board certification that is not based upon substantial factual evidence in the record.

SECTIONS 7 AND 8—PUNITIVE REMEDIES

The sponsors of H.R. 8410 claim that "many employers have discovered it is more profitable to defy and ignore the provisions of the NLRA than to comply with them."

H.R. 8410 therefore proposes several punitive sanctions, including Federal contract debarment and Government dictated wage and benefit increases, which would give the Board considerable new power to deal with recalcitrants.

The assumption that "many employers" are labor law violators just does not wash. For example:

In 1976 fewer than 1 percent of the unfair labor practice cases filed against employers required court review, and fewer than 0.1 percent, or less than 30 cases, required proceedings in contempt.

Moreover, there is every reason to believe that the judiciary is beginning to respond, effectively and with renewed vigor, to flagrant violations.

A few weeks ago, the U.S. Court of Appeals for the 2d Circuit issued a stinging decision against J. P. Stevens, whose reputation has become well known. Among the sanctions ordered were:

First, $120,000 fine per violation;

Second, $5,000 per day fine for continued violation of the court's orders;

Third, requires Stevens to permit a union representative to be present in any Stevens plant in the Carolinas whenever a company representative makes speeches to employees.

Fourth, requires Stevens to furnish the textile workers with a list of all Stevens workers in the Carolinas including name, address, wage rate, job description, and date of hire.

Whether or not this court of appeals decision is fair or correct is not an issue. The point is that this decision, long awaited by union leaders and now hailed as their victory over Stevens, came about in the American tradition of judicial review with a day in court, not by a ramrod legislative tampering with only a few sections of our labor law as H.R. 8410 would do.

The fundamental problems with the remedies provided in this bill is that the remedies are applicable to all employers, not just flagrant violators. Further, the remedies are essentially one sided in that they are directed only against employers. Above all, these remedies change the underlying philosophy of the NLRA from a remedial statute to a punitive statute.

This change is neither warranted by the facts, nor is there any guarantee that these remedies will deter flagrant violators.

What is clear, however, is that debarment will penalize both the violator and the victim. For employees stand to lose jobs with the loss of Government contracts.

It is clear that the double back pay

remedy will simply produce greater confrontation and conflict between employers and employees. The remedy will create an incentive for litigation. And, employers, justifiably offended that employees may gain windfalls, will readily resist settling these cases. The total effect will be increased caseload and further delays in the processing of cases.

Make-whole orders—Little need be said regarding this remedy beyond the fact that it contravenes the fundamental policy against Government intrusion into the negotiation and agreement of collective bargaining agreements. Historically, the role of the Government has been to bring the parties to the bargaining table, and leave to the free play of economic power between labor and management to forge the agreement. If passed, this proposal will put Government in the business of writing contracts. Other criticisms of this proposal are found at page 88 of the report.

If history provides any indication of what lies ahead, the passage of H.R. 8410 will be disquieting for labor reform. For the major revisions to the Wagner Act have not come often. Twelve years had to pass before the act was amended by Taft-Hartley. Another 12 years elapsed before the Landrum-Griffin bill was considered in 1959. Now 18 years later we are embarking upon another revision.

Perhaps it is the controversial nature of labor-management relations that discourages the Congress from overhauling the act more than once a decade.

But, whatever the reason, the question which the Members must ask themselves if they pass this one-sided bill, is whether we must wait another decade before addressing fully the problems confronting administration of the NLRA. Indeed, can this country wait that long?

Mr. THOMPSON. Mr. Chairman, I yield 10 minutes to our distinguished colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, in view of the somewhat convoluted explanation we have just had about what is not in this bill, and I think it is interesting to note that the opponents of this legislation have failed to find legitimate arguments against what is in the bill and are spending their time arguing about what is not in the bill. They choose to talk about that which is not in the bill obviously because of some difficulty that they are encountering in trying to find legitimate excuses to oppose that which is in the bill.

The Secretary of Labor this morning addressed a letter to the gentleman from Kentucky, Mr. CARL PERKINS, chairman of our committee, that I think very succinctly sets forth what the legislation does, in fact, do. I am sure there are more gentlemen on the Republican side who will give us out of their time further explanations about what the bill does not do. The letter is as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., Oct. 4, 1977.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. PERKINS: I wish to take this opportunity to express my strong support for H.R. 8410, the "Labor Reform Act of 1977," as reported by your Committee.

The bill is intended to make certain needed improvements in the National Labor Relations Act. While this law has, to a large degree, fulfilled its original promise, certain problems must be corrected to assure that this law continues to function effectively as a substitute for industrial strife.

This bill would eliminate many of the delays in the present procedures. It would set appropriate deadlines for the holding of representation elections and includes provisions relating to election campaigns which would make elections more meaningful.

It would provide for speedy resolution of the easy cases so that the NLRB could devote its energies to the more difficult ones. It would require that any person who wishes to object to an NLRB unfair labor practice decision must appeal that decision to the courts promptly. It would add two members to the NLRB in order to permit the Board to more effectively handle its ever increasing workload.

The bill would provide more effective remedies where the law has been violated. It provides just compensation to employees where there has been an illegal refusal to bargain in good faith for an initial contract. Employees who are illegally discriminated against during the early critical phases of collective bargaining would be more fully compensated for the economic losses which they suffer. Complex issues which may prolong litigation would be eliminated. Moreover, the NLRB would be required to take prompt action to minimize their losses.

Persons who willfully violate final NLRB or court orders would be denied Federal contracts for 3 years, unless relieved from the debarment in accordance with the bill's provisions. Unlike debarment provisions currently applicable in other areas, no debarment is required or allowable for initial violations of the law. Moreover the violation must be willful for debarment to be invoked. The bill contains two provisions permitting relief from debarment. The procurement agency may relieve sole source suppliers and the Secretary of Labor may also provide relief from debarment in the national interest. This provision will protect the integrtiy of the procurement process and at the same time provide fair procedures for alleged violators and assure that the Government is able to obtain its needed supply of goods and services.

The bill also contains provisions to assure guards more meaningful collective bargaining rights.

I strongly endorse this bill, as reported by your Committee because I believe it is a balanced and important proposal to assure that our vital labor relations laws continue to function fairly and effectively.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

That is what is in the legislation before us, all of the protestations of those who would oppose it to the contrary notwithstanding.

Mr. Chairman, why is it here and what is really the issue? Is it the unions of this country against the managers and shopkeepers and employers in this country? No, not at all.

This legislation was brought here today in response to Americans' cry for a return of law and order to our society. H.R. 8410 is designed to end the lawlessness established by a small handful of employers, who use procedural loopholes and deliberate violations of law to subvert the National Labor Relations Act (NLRA). These rogue employers have effectively undermined the very rights of individual American workers which the NLRA was designed to protect.

The NLRA has worked for several decades. It helped end the lawlessness that pervaded the labor scene when it was passed. But the days when employers strongly resisted the efforts of employees to improve their living standards and achieve dignity at the workplace have returned. These recalcitrant employers on an organized basis have violated the spirit and letter of the law. In so doing, they challenge the very structure and code of conduct that the NLRA provides for the peaceful resolution of labor-management differences. The spirit of fair play in the collective bargaining process, so important to stability in labor relations, is threatened.

H.R. 8410 does not directly affect—nor will it cause any inconvenience for the overwhelming majority of employers who now play the game according to the ordinary rules of law. Rather, it is confined to that small segment of employers composed of renegades and outlaws who operate outside the Nation's labor law without respect for the accepted standards of decency, and without respect for the rights of those fellow human beings who also happen to be their employees.

Labor peace under the NLRA was accomplished even though only minimal enforcement powers were initially provided by Congress, since it assumed that the act would be respected as the law.

However, as we have learned all too often, in over 70 days of hearings since 1961, lawlessness again is spreading its darkening cloud over the labor scene. The NLRA has, unfortunately, become a tool of a small number of unscrupulous employers in their attempt to stop working people from exercising their rights.

Today, it is not the yellow dog contract, the lockout, or the hired thug, that recalcitrant employers use to impede employee progress. The tools of these modern day lawbreakers are the illegal, discriminatory discharges, the unnecessary delaying and undermining of representation elections by the skillful manipulation of procedural redtape, the illegal refusal to bargain, and the runaway shop. These sophisticated "management consultants" specialize in frustrating employees' hopes and nullifying human rights.

Treating workers in the most calloused, demeaning way, these briefcase toting experts can teach a company how to circumvent the law, using dodges for which there are no effective remedies, and thereby avoid enforcement of the act for years. And if the day of reckoning ever does come—and when I see J. P. Stevens case No. XVIII, I repeat case No. XVIII, I am even more dubious of the certainty of that eventuality—these "experts" know that the penalty will be cheap, that the employees organizing effort will have been frustrated and their efforts dissipated by il-

legal, but unremedied, firings, by layoffs, and by turnovers.

For the fired worker, the promise of eventual relief many years down the road does not feed his children and shelter his family. For all too many workers, who have looked to the Board to protect their right to collectively seek more humane and rewarding conditions on their jobs, faith in this system, this set of rules that purportedly governs labor-management relations fairly and impartially, has been lost. The Board's complex set of procedures that were originally designed to protect employees and provide due process has been corrupted by consciousless employers who unduly distort and pervert the NLRA.

While the greatest tragedy in human terms of this lawlessness are the victims, and the broken spirits of employees, great dangers also loom ahead for the whole structure by which the NLRA has brought industrial peace to this country. When a law, any law, is violated with virtual impunity and official orders to obey that law are ignored—as we have seen time and time again by such companies as J. P. Stevens, Monroe Auto Equipment Co., and Darlington—all Americans are affected.

This successful defiance of the law generates a momentum of its own, setting a precedent and pattern for corporate lawbreaking that can only lead to serious damage to the legal underpinnings of our society. If there is an incentive to violate the law, if the means of doing so are readily at hand, and if those who violate the law benefit from doing so, even the employer whose initial inclination is to comply with the law will have his second thoughts, particularly if he is in economic competition with the lawbreaker. Flouting the law becomes "cost-effective" and crime does, indeed, pay. By acquiescing to this unlawful behavior, we run the risk of undermining the voluntary acceptance of the act by the overwhelming majority of law-abiding employers.

In addressing itself to these problems, the Labor Reform Act does not lay out any new principles of law that would change the basic substance of the act. It does not attempt to define previously legal activity by an employer as now illegal. It merely says that if the employer does something that has heretofore been illegal, remedies and penalties for that violation will be changed. These reforms should, as President Carter said in his support for H.R. 8410, make the existing law work more efficiently, quickly and equitably. In so doing, we can reduce the incentives and minimize the ability of recalcitrant employers to violate the law. Law-abiding employers would have less to worry about unfair competitive advantages gained by violators of the law.

Before briefly discussing the provisions of the bill, I would point out that this legislation has been the outgrowth of many years of study and hearings and has been derived from recommendations of panels headed by Archibald Cox and Representative PUCINSKI, by the NLRB task force, the American Bar Association, and numerous scholars in the field. The goals of this bill are supported by all six of the living Secretaries of Labor and by various members of the NLRB. What greater testimony to the value of this legislation do we need? Furthermore, many civil rights associations, women's groups, religious organizations, newspapers, and yes, even Barron's magazine, a traditionally conservative, business periodical, have voiced their backing for these reforms. They are not payoffs for any political support, or the product of hastily drawn legislation. They are a response to well-documented and seriously studied weaknesses in our labor laws.

The remedies for correcting these problems are simple. By providing for summary proceedings by panels of the Board, requiring rulemaking regarding the appropriateness of units, setting time limits for the holding of representation elections, and increasing the size of the Board to seven members—delays in simple, routine matters and dilatory tactics by rogue employers involving the certification process should be reduced. By streamlining its procedures, the Board will have more time to efficiently and effectively respond to its more difficult, complex, and exceptional representation cases.

It is during this certification process, and the first contact, that intimidations, illegal firings, coercion, and discrimination against employees most often occur. Against such a formidable challenge to the employee's exercise of his self-determination rights, his freedom of choice can only be destroyed by fear for his job. If back wages and reinstatement are finally awarded to the employee, these wages are tax deductible for the offending employer, as are the fees for the union-busting lawyers and the so-called "labor consultants." The employee, furthermore, must have attempted to mitigate his damages, with any of these wages earned during the interim being deducted from his award.

And if the union is eventually certified, there are no guarantees that bargaining in good faith by the employer, as legally required, will soon follow. This is the cheapest insurance against unionization on the market. A couple of years' wages for a few people adds up to much less than raising the wages of many by a few cents an hour. To diminish this incentive toward illegality, the Board would be authorized to award employees compensation lost during illegal delays in bargaining, to award double back pay for discriminatorily discharged employees, and it would be required to seek preliminary injunctions against certain unfair labor practices by employers which interfere seriously with employee rights, much as it is now required to seek injunctions against certain union unfair labor practices.

It is unconscionable that employers should now be able to so easily subvert the law. But they do, and the Federal Government, in many cases, continues to underwrite this lawlessness. J. P. Stevens, which has been found to have violated the act at least 13 times in recent years, which was just found in contempt of court for the second time, and which has even resorted to bugging the motel rooms used by union organizers, has received tens of millions of dollars in Government contracts—the most recent being a $3.4 million award from the Defense Logistics Agency.

We have not permitted such subsidies in other areas such as civil rights, witness the Walsh-Healy Act, the Davis-Bacon Act, the Service Contract Act and several Executive orders—and we should not sanction such behavior in the labor arena.

Companies that violate the law, and that continue this violation after a court has ordered them to cease, should be denied access to the Federal Treasury, absent a finding by the Secretary of Labor that national defense requires otherwise.

The vast majority of employers have little to fear from these sanctions. There is a simple, legal method for them to avoid these proposed new penalties—and they do not need expensive "management consultants" to tell them how: just obey the law!

The urgent need to deal, however, with those employers, who do repeatedly engage in massive violations of their employees' rights, was best expressed in a second circuit lament: Said Judge Feinberg of the second circuit,

> Stevens XVIII (18) has been a troubling (case) not only because of the violations of the rights of the employees involved, but also because *it raises grave doubts about the ability of the courts to make the provisions of the federal law work in the face of persistent violations.* (Emphasis added.)

No testimony could be stronger for ending this reign of economic terrorism. We cannot turn our backs on the many unorganized workers in this land who still seek the better life, simply because other workers now enjoy the fruits of their past struggles.

We cannot allow these workers and others like them to be used in this game of delay—like pawns in a chess game. The stakes are too high—a man's career, a woman's reputation, a worker's health, self-respect, and family can be destroyed, unless we act.

The opponents to this bill attempt to divert our attention by offering their own "employees' bill of rights," and amendments to H.R. 8410 which actually will only undermine these rights.

Nothing in their legislation is designed to assist the many workers who have suffered for so long awaiting reinstatement and adequate back pay. These opponents' amendments to H.R. 8410 are designed, however, to cleverly change the very substance of the NLRA.

Today, we do not seek a restructuring of the basic labor law that would give an undue advantage of one group over another. In the face of sophisticated challenges to these laws, we only ask that new life and vitality be given those rights promised so long ago.

If remedies are indeed the very life, the very heart of those rights, and if rights of American workers are as important as the human rights of peoples in Russia, Chile, and South Africa, can we do less?

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. THOMPSON. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. FORD).

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I tend to favor this bill. When one or two exceptions are corrected, I expect to vote for it. I am troubled by something that has been said here.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

Mr. THOMPSON. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. FORD).

Mrs. FENWICK. Mr. Chairman, will the gentleman yield further?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am troubled by something that has been said here. Does the gentleman not agree or has the gentleman found that there is no need to protect union members from such things as fines levied by labor leaders? Has the gentleman not discovered or does the gentleman not agree that there are those difficulties? Why is that not corrected too?

Mr. FORD of Michigan. For one thing, the present state of the law, in my opinion, very adequately deals with that problem. I have as a lawyer been on both sides of those types of cases. I can assure the gentlewoman that the employee is not without remedy against the violation of the union. That selection of the bill is not before us because there has been no testimony that I can remember in 12 or 13 years since I have been on the committee asking for that kind of an approach.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, I will say to my colleague, the gentlewoman from New Jersey (Mr. FENWICK), in response to her question, that is what 1959 Landrum-Griffin was all about. There are occasional abuses. But there is an existing body of law under which violators who are union members are indeed subject to penalties.

Mrs. FENWICK. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, I yield myself 2 minutes, only for the purpose of responding to my colleague, the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. Chairman, if you look at page 96 of the report, we only cite several of the cases. Every one of these has transpired since 1959. I point this out to my colleague, since the gentleman from New Jersey (Mr. THOMPSON), the chairman of the committee, indicated that the 1959 act seemed to protect workers. Look at what they could be fined for. A worker could be fined for exceeding production quotas, in other words, working too hard, Scofield against NLRB.

A worker can be fined up to $2,000 for working during a 1-day strike without recourse to the board to examine the reasonableness of the fine, NLRB against Boeing, 1973.

The list could go on and on and on. As a person who is conservative, it amazes me that my liberal friends always confess a concern for human rights and free speech, but somehow or another when it comes to a union, they draw the line. The union can inhibit free speech, the union can inhibit the normal constitutional rights that all of us think we have, when it comes to a union, all of a sudden our liberal friends do not care. They draw the line. They look the other way.

So I would suggest that we do look at the matter of fines and that you carefully consider the amendments that we will offer under the 5-minute rule.

Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to H.R. 8410. In the few minutes available I would like to go through the bill and explain why I am opposed to various portions of it.

Section 2 of the bill would increase the size of the Board from five to seven. I, along with other members of the committee who oppose the bill generally, find no particular reason to oppose this increase in the size of the Board from five to seven. It may make it a little more cumbersome.

I find the more important provision is the summary judgment affirmation procedure contained in section 2 whereby the Board establishes rules that two members of the seven-member Board could summarily affirm decisions of administrative law judges. Additionally, this provision requires that a motion in response to summary judgment be filed within 30 days.

One of the main objections to this procedure is that an integral concept of the act is the parties' right to review by the Board, and this procedure would eliminate the right to review. Additionally, an increase in the number of requests for reconsideration by the full Board can be expected, and this will probably result in slowing down the procedures of the Board rather than speeding them up, as the bill is designed to do.

Section 3 provides that the Board shall adopt rules that would allow unions to address employees on employer time and on the employer's property if the employer himself has done so. This is probably the most controversial provision in H.R. 8410. The interesting part of this proposal is that it is diametrically opposed to the 15-day election requirement, because there probably would not, except in very few cases, be sufficient time for the union to petition the Board to act and then allow the union to have an opportunity to engage in addressing the employees, all within the 15-day period.

In the full committee markup we offered an amendment which would have allowed equal access to both the employer and the union. That was an evenhanded amendment. But it would have, as well, protected the sanctity of the employees' home. Our amendment, which was fair and evenhanded, was summarily rejected by the majority of the committee.

Next, the bill requires that the Board adopt rules designating the appropriate units. This is something that the Board has had the authority to do for many years and has not chosen to do because it is not workable. Really I think what will happen is that if the Board does adopt such rules because it is forced upon it by the passage of this act, then the contest will not be over what is the appropriate unit but what are the facts to apply to the rule to determine what is the appropriate unit, and we will not reduce the disputes; we will just change the form.

Section 3 of the bill concludes by limiting court review of any rule promulgated by the Board. The standards for review are so strict that it is doubtful that a rule could be struck down by the courts under those standards.

Section 5 provides for expedited elections. Based on the false premise that the current procedures of the NLRB permit undue delay in the processing of representation elections, section 5 creates a 3-tier system of "quickie" elections founded upon the unreliable determiner, authorization cards. If a bare majority—50 percent of the employees in a proposed unit—sign such cards, then the election must be held within 15 days.

I would point out that both the Board and the Federal courts have consistently found that authorization cards are a very poor indication of the real intention of the employees. "Notoriously unreliable" is the way they have been described by the Board and the courts. But if less than a majority signs authorization cards, then there would be a mandatory limitation of 45 days.

Only in cases where there are exceptional questions, novel and complex questions, would a time of up to 75 days, which is the absolute outside limit, apply.

I would point out that when we talk about these time limitations, we must remember that they are maximum. For instance, that 15 days does not mean that the employer and the employees will have as much as 15 days; it means they can have no more than that. The time might be—and it very likely would be—shorter or less than the 15 days.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield on that point?

Mr. ERLENBORN. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, with respect to the time problem, the NLRB's practice has been that wherever the employer is notified by mail, 3 additional days—meaning a total of 18—are granted.

The gentleman will remember that in committee I offered and had an amendment adopted in order to insure that the employer get a full 15 days, and that the days begin to run upon a certified receipt or evidence of receipt given by the employer of that notice of election.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution, but I would say the rhetoric that the gentleman has just used is misleading.

The employer, under this bill, is not guaranteed 15 days. The union is guaranteed that the election will be held within 15 days. I think the gentleman would have to agree that when we say the maximum time is 15 days, the time could be 5 or 10 or 12 days.

Therefore, when the gentleman says that he is guaranteeing the employer 15 days, that is totally inaccurate.

This is a time limitation. The maximum length of time is 15 days.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, the gentleman from New Jersey is not in any way trying to deceive his friend. He just sees it differently.

I suppose that under the 5-minute rule we will have more adequate discussion of this subject.

Mr. ERLENBORN. Mr. Chairman, is the gentleman telling me that the provision in the bill says that the election shall be held on the 15th day?

Mr. THOMPSON. No.

Mr. ERLENBORN. Or does the bill say that the maximum time the board can allow is 15 days?

Mr. THOMPSON. I am having counsel check that.

Mr. ERLENBORN. I should think the author of the bill would know that. However, it is a time limitation.

Mr. THOMPSON. If the gentleman will yield further, the author of the bill, I think, knows about as much about the bill as does his distinguished opponent, but I want to give the gentleman an accurate answer.

Mr. ERLENBORN. Is this a maximum time or a minimum time, or is it an absolute time? It could be only one of those three.

Mr. THOMPSON. If the gentleman will yield further, on page 53 of the report it says:

> Including due regard for the needs of the employer to maintain the continuity of production, assure that if an employer or employer representative addresses the employees . . .

Mr. ERLENBORN. That is not the provision.

Mr. THOMPSON. No. I am sorry. Here it is: "not more than 15 days."

Mr. ERLENBORN. That is the maximum time. I thank the gentleman for confirming my interpretation, which is that the employer is not guaranteed 15 days.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for the opportunity to assure him that I am not trying to deceive him in any way.

Mr. ERLENBORN. I realize that, but I think that there has been a misinterpretation of this bill all along, not only with respect to those provisions. Employers have been told and the public has been told that the employer is guaranteed 15 days; and the gentleman had that interpretation himself.

It is obvious that this is a limitation; on how much time may be granted to the employer. He may get 1 day. He is guaranteed no particular period. He may be given 1 day, 5 days, or 10 days; but under no circumstances could the board give him more than 15 days, so these are time limitations.

Mr. Chairman, the unfairness and the one-sidedness of this whole bill, including this time limitation on representational actions, are really characteristic of what is being done here.

No limitation is suggested by this bill on decertification elections. If it is the purpose or the intent of the drafters of this bill and those who support it to see that the procedures of the board are speeded up, why do we not have deauthorization and decertification elections subject to time limitations as well?

I think it is obvious that it was not the intention to be fair, to be even-handed or equitable. The purpose is to make life easy for union organizers and union bosses.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 4 additional minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. THOMPSON. Mr. Chairman, I had promised the gentleman from Illinois, when he yielded to me, that I would give him more time. Therefore, I yield 2 additional minutes to the gentleman from Illinois (Mr. ERLENBORN).

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) is recognized for 6 additional minutes.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield for a question?

Mr. ERLENBORN. If it will be very short, I will yield very briefly.

Mr. FORD of Michigan. Mr. Chairman, the gentleman has talked about decertification elections. I cannot recall that this matter was suggested to the committee in the past.

Did the gentleman offer an amendment to this bill at any time when we were considering it or does he have such an amendment now?

Mr. ERLENBORN. I do have such an amendment. I do not know whether it was offered in the committee, but I think it was.

This was one of the several amendments summarily rejected by a majority in the committee.

Mr. FORD of Michigan. It was not offered in the committee.

Mr. ERLENBORN. I believe it was, but it certainly will be offered here tomorrow.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. ERLENBORN. By the way, slowing down or speeding up certification or decertification elections is not a remedy that is needed according to the facts that we know. The procedures of the board in certification elections is exemplary and the board has a fine record. Even the present chairman of the board, Mr. Fanning, in his testimony before us, did not say that the board needed any direction or help from Congress in improving the record of the board in this area. Actually the delays in disposing of unfair labor charges are not speeded up by this bill, and this is a false remedy aimed at a false target.

Section 6 of the bill drastically limits the opportunity to appeal board action. No certification can be set aside unless the board "prejudicially" violated the "procedural" requirements of the APA—the Administrative Practices Act—or acted contrary to the act or the Constitution, or acted capriciously or arbitrarily.

These are new standards, and are, in fact, different from standards of review that are applicable under APA to all other administrative agencies. It obviously is an attempt, now that the board is increased by two more pro-labor members, to make a decision of the board practically nonappealable.

Next, the board would be directed by this act to employ, for the first time, punitive remedies. Remedial has been the watchword of the act in the past. Now the act would add punitive remedies, such as debarment without any chance by the board to exercise judgment.

Debarment, under the act, would be automatic when the circumstances were found to exist, and would exist for a 3-year period without the board being able to exercise judgment as to whether debarment is a proper remedy or for how long debarment should exist.

I would point out that debarment means that if an employer with 40 plants across the country is found guilty in one plant, that employer cannot contract with the Government in the 40 plants. This means employees whose jobs have depended upon contracts with the Government will be the ones who will be suffering the penalty along with the employer.

Double back pay is a new remedy. I think if we are to use such remedies possibly it would be proper to do away with the mitigation of the back pay, but I would not say double back pay is a valid remedy.

Let me talk, for my last couple of minutes about employee bargaining rights which we hope to protect, by redrafting cleverly such extra amendments under this partial gag rule, which will limit our ability to offer amendments, employee bargaining rights would guarantee to the employees the right to have secret ballot elections. Many people are surprised to find out, under the current conditions of union employees who join together in secret ballot and vote against the union, the board has found against their right to organize independently. Certification of the union in some cases is used as a punishment of the employer regardless of whether the employees want that union or not.

The bill that the gentleman from Ohio

(Mr. ASHBROOK) and I have cosponsored would protect the employees from unreasonable fines. The gentleman from Ohio (Mr. ASHBROOK) has given us one example, the $2,000 fine for working 1 day contrary to the union's wishes, and the board, under present conditions, has continuously held they are powerless to protect employees, protect employees like in the secret ballot elections, on the question of whether to go out or indeed when the striking union's representation of these employees is at stake, to protect the employees who have effectuated a negotiated agreement for arbitration. Here we are talking about the union representing the employees' negotiating and agreeing to arbitration, the employer agreeing to arbitration; and yet the Board and the courts are powerless to force arbitration as agreed upon by the parties.

To protect employees from the onerous obligation of being forced to make contributions to the union through checkoff dues, and finding that they are being used to support political candidates not of their choice. The Supreme Court has found that they are entitled to get that money back if they file suit, if they can identify how much of their money has gone for those purposes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman.

Yet I think that it is obvious to all that this remedy of each individual who is forced to make these contributions for political purposes against his wishes to have to go through this cumbersome procedure of individually filing suit to recover his money is unfair.

Last, let me mention an additional amendment that was offered, and again summarily rejected, in the committee to protect against stranger picketing and wildcat strikes and violence by the unions in picket and strike situations. We have a very serious situation in the coalfields that is caused by stranger pickets to a great extent. We have had strikes, wildcat strikes, in the coalfields where the protest is against the content of schoolbooks, obviously outside the control of either the union or the employer; or the protest is because the Government has increased the gasoline tax, again a matter not within collective bargaining and outside the power of the parties to control.

We have stranger pickets wearing stocking masks that have stopped the production of coal in the coalfields.

We have the use of violence when people try to cross picket lines when stranger pickets are in the field.

We have these people in the coalfields that are carrying guns on the picket line, and the Board and Federal courts are powerless in these situations to protect the employers and the employees.

Here is what has happened in the coalfields, just as one example. The man-days lost due to this type of activity were 1,023,800 in 1974, running up to 2,273,000 man-days lost so far this year, and we have not even concluded the full year. We have had strikes, wildcat strikes, and stranger picketing in the coalfields over the question of the reduction of health and welfare funds in the United Mine Workers Health and Welfare Fund. These strikes in themselves have worsened the condition of the fund. The Health and Welfare Fund of the United Mine Workers is supported by a contribution based on so many cents per ton of coal that has been mined. Due to stranger picketing and wildcat strikes in the coalfields so far this year, $45 million has been lost to the Health and Welfare Fund. Over the course of the past 4 years, $108,397,000 has been lost to the United Mine Workers Health and Welfare Fund. It is near bankruptcy, and there is no remedy under the National Labor Relations Act or in the Federal courts for this kind of stranger picketing or wildcat strikes.

I will be offering an amendment, and it will be germane even under this semi-gag rule, to add this power to control these uncontrolled strikes in the coalfields. I would hope that the Members would support the amendments that we offer.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 30 seconds.

Further, I am somewhat amused by the characterization of the rule as a "semi-gag rule." So far the gentleman from Illinois, the gentleman from Ohio, and the gentleman from Oklahoma have something like 270 amendments. I do not know what would happen if this were really what they would want. Maybe they would have 400 amendments.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Chairman, we constantly hear the rhetoric that H.R. 8410 is a labor bill—supported solely by unions whose only goal is organizing for selfish reasons.

The Wagner Act, in 1935, was hailed as labor's bill of rights. It was, however, at the same time a tremendous contribution to racial equality. By making possible the organization of workers in the mass production industries, the Wagner Act provided a major boost to the income of black workers and brought them to a level of approximate equality with white workers in those same organized industries.

Today, black people still compromise a disproportionately large percentage of this Nation's poor and marginal wage earners—but they are not alone. Another segment of society—women—are entering the work force in unprecedented numbers. Their ranks have risen from 1 out of 5 to where they are now 2 out of 5.

For these two segments of our society, Mr. Chairman, the present law provides no adequate protection from the hardship of long delays and unfair tactics used by employers who even fire workers for union activity, despite the fact that those firings are clearly a violation of law.

The changes now proposed for the National Labor Relations Act would alleviate many of the injustices at countless work places, large and small. The changes are particularly important to blacks and women concentrated in service fields and manufacturing, where employer abuses of existing law have blocked collective bargaining.

Labor law reform is needed to protect the rights of these and all the unorganized workers, to guarantee that they are truly able to exercise freedom of choice. When the rights to organize and bargain collectively are effectively denied to millions of workers, blacks and women are special victims. And they make up a large percentage of workers who have been denied this right.

A fair chance to organize unions is an essential preconditions for the economic advancement of blacks, women, and other minorities.

Workers in low-wage industries suffer most from the inadequacies and abuses of current labor law. Earning very marginal incomes, they cannot afford to be fired unjustly and then wait indefinitely for the NLRB to rule on their cases.

To the extent that the current law frustrates the ability of white and black workers to organize, it is a barrier to racial equality and economic justice. In fact, the absence of effective remedies against employer abuses has frequently required a worker to be a hero in order to exercise his or her promised rights.

To say that this situation is at present "unbalanced" is an understatement. The situation regarding the National Labor Relations Act is not unlike the situation regarding sex discrimination legislation: Although it has been on the books for over a decade, women have not been able to achieve equality in this Nation due to the law's poor enforcement provisions and inadequate administration.

The struggle for blacks and women's rights is really a struggle for human rights and dignity. That is why we find such diversified groups as the NAACP, the A. Phillip Randolph Institute, the National Organization of Women, the National Political Women's Caucus, Catholic bishops, Episcopal ministers, Jewish rabbis, and many, many more voicing their support for H.R. 8410. They are linked by the thread of their concern for human rights and human dignity—their concern for people.

Passage of H.R. 8410 will guarantee that workers will be able to attain the rights that their ancestors fought for and thought they had won, but have been denied due to the inadequacies in the law. Now is the time to turn that around and assure equity and justice for all.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to the ranking minority member of the committee, the next Governor of the State of Minnesota, the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I believe that from time to time it is necessary to reform labor law, and I know the gentleman from Ohio and the gentleman from Illinois would like to have gotten into some parts of the NLRA that are not opened up by this bill, but the decision

on the part of this body when we voted on the rule was that we stay within the provisions of this bill and the restrictive rule that was sent to us and subsequently was adopted.

Mr. Chairman, my concern about this legislation is not that we are moving into labor law reform. I think it is wise to do that from time to time, as I have indicated; however, there are some parts of it that give me concern. I guess they would be in two ways that I am concerned; one, I think the so-called quickie election is too short a period of time.

Second, I think it is not a balanced piece of legislation in that we do not treat the unions in cases of unfair labor practices the same as employers; so I will be proposing seven different amendments.

I do not charge my colleagues on the Democratic side with any breach of faith or anything of that kind. I just want them to look at my amendments as reasonably as they possible can.

In talking to people on both sides, labor and management, it seems to me that the amendment I will offer will make H.R. 8410 more balanced and fair.

No. 1, in the quickest election in the bill, I believe that we should include deauthorization and decertification. I know there was a dialog a little bit earlier between two of my colleagues about that. It seems to me that inclusion of decertification and deauthorization would be the fairest thing. I will go into that when we offer amendments tomorrow.

Also, on the 15 days election, many of my colleagues have gone through short special elections themselves. With such a short time there would be a difficulty in comprehending and moving the procedures. I am going to propose that we make that first step when there is a majority of employees who want to have an election, so that the election will be held by 4 weeks instead of 15 days. The Board will have 20 days to decide.

The Board will have up to 4 weeks for a ballot on decertification and deauthorization also. These occur where a majority of the employees undoubtedly are in favor of such a move.

In the case of an employer petition, I did not include that in the shortest time election, which I would have within 4 weeks. When the employer makes a petition the Board cannot expect that he is speaking for a majority of the employees. That is why I did not include it.

In the next step, where a hearing is necessary, I change the 45 days to election in the bill to 60 days. In the case where the issues are very complicated, I set at 90 days the length of time in which the Board must hold the election. I would believe that would give the time necessary. Presently better than 80 percent of all elections are held within 44 days; so I doubt that organized labor is that concerned about organization elections that are settled within 44 days, but those that take years.

While I do have some reservation on my own part on limiting the Board that they cannot extend on the time that they feel they ought to for elections, I can see why they want to set an outside limit, which would be 90 days in which the election would be held, so that those which take 5 or 10 years will not occur in the future.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 5 additional minutes to the gentleman.

Mr. QUIE. Mr. Chairman, the question of debarment has been a concern to a number of people. I will have an amendment to that part of the bill as well. As the word "persons" can be widely construed, what my amendment would do is merely limit it to the plant or facilities or labor organization that has willfully violated the act; however, using GM as an example, if one GM plant engaged in a willful violation, I do not think all the GM plants all over the country should be debarred from Federal contracts. Similarly, if it were one local that committed the violation, we should not hold the whole international or the international's other locals responsible for it. Mandatory debarment for 3 years may be too harsh so my amendment will give the Secretary of Labor discretion in debarment, so if he feels that the 3 years is too harsh, he could impose debarment for shorter period of time.

Also, Mr. Chairman, on the back pay provision for violations, of 8(a)(3), the employer discrimination, or 8(b)(2), causing the employer to discriminate. That seemed a bit harsh to me, but in talking to people who represent labor unions they said, "What you are talking about is somebody who has broken the law." It is pretty hard to say you should not penalize them.

So, I took a different approach and decided that we ought to make it fair, that whoever breaks the law ought to then come under the double payback for violations. Therefore, the amendment I will propose will add both 8(b)(1) and 8(a)(1). The one is where an employer engages in an unfair labor practice to prevent employees from exercise of their section 7 rights; 8(b)(1) is where a union restrains or coerces an employee in the exercise of his section 7 rights. I believe that will make that provision fair and equitable.

Another amendment changes the bill from two members of the Board to make summary judgments, back to the present law with a three-member panel. I believe that we should continue three-member panels, because if the two disagree, we need somebody to break that tie between the two views.

The second part of that provision the bill provides 30 days for the motion and the response, I divide that so that there would be 10 days for the motion and 20 days for the response, because those who are going to respond need more time than could be possible under the bill.

The last amendment has to do with the tally of ballots. The bill provides that the tally of ballots will be served on the parties despite the Board's recent "vote and impound" procedure. I doubt whether the committee really intended to prevent the Board from implementing its recent decision on "vote and impound." My amendment would enable them to continue to use that procedure and require the Board to resolve the challenges.

With those amendments, I believe that this would be a much more fair and equitable piece of legislation, and would with their adoption vote for the bill myself.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to the distinguished subcommittee member, the gentleman from Michigan (Mr. KILDEE).

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, H.R. 8410 is a bill written to restore some equity in dealings between management and labor when it comes to organizing and collective bargaining.

To my way of thinking, we need all of the stability we can get in relationships between management and labor.

We all know that many forces are at work which divide various segments of society, and put them in confrontation with each other. Some of these we can do something about. Others do not appear to have solutions that are acceptable to the majority of the people.

But I think we can struggle and dispute and argue, and still come up with a bill which is generally acceptable to thoughtful people who would like to see at least this one area of important relationships—the relationships between management and labor—operate in a more harmonious way.

Mr. Chairman, if we succeed at this, if we succeed in passing a bill which helps make these relationships more harmonious—and I think we will—there will be benefits for society in the years ahead which we cannot foresee today.

So I want to urge all of the Members to consider this, to consider what the ultimate result of our action could be—more harmonious relationships between management and labor—and support the bill.

Mr. KILDEE. Mr. Chairman, it is difficult to believe that after 17 years, at least 70 days of committee hearings in the House, and the issuance of three comprehensive reports, we still do not have labor law reform.

That is the record, Mr. Chairman. The problems addressed by H.R. 8410 have undergone extensive, prolonged and detailed analysis and examination. I dare say no other issue has undergone such scrutiny, heard from so many witnesses and been delayed so long from reaching the floor of the House, as has this issue of labor law reform.

Certainly, back in 1947 and again 1959, when employers of the Nation complained vehemently about their perceived imbalances in the National Labor Relations Act, they did not have to wait 17 years to get their grievances redressed. Each time Congress responded to the employers quickly and favorably.

But now we are concerned with restoring the balance of power to assist employees in exercising their right to organize and bargain collectively. And it has taken 17 years, reams of testimony and reports and unmeasurable instances

of individual degradation, economic deprivation, employer repression and human suffering to get labor law reform before this body.

It remains to be seen if the power of working people will be heeded as favorably as the power of employers. We know the power of the people has not been heeded nearly so quickly.

For the record, Mr. Chairman, and for the benefit of those who may doubt the long history of H.R. 8410, let me summarize. It begins on February 2, 1960, when a panel of labor law specialists, chaired by Archibald Cox, filed a report with the Senate Committee on Labor and Public Welfare. It continues to President Carter's message to Congress on July 18 of this year, calling for labor law reform, and subsequently, the introduction of H.R. 8410 by Representative THOMPSON. There followed 10 full days of hearings by the Subcommittee on Labor-Management Relations, chaired by the distinguished member from New Jersey. On September 22, the full Committee on Education and Labor ordered H.R. 8410 reported, as amended.

As before indicated, the chronology of this legislation, between the Cox committee's work in 1960 and the debate here today, is packed with extensive detail and analysis. It is replete with recommendations for every reform contained in H.R. 8410. And the bill's long tortured history is fraught with thousands of examples of human suffering and denial of human and legal rights, caused by recalcitrant employers and rogue consultants, bent on breaking the unions by breaking the law.

Now, Mr. Chairman, let be briefly recite the chronology of H.R. 8410.

On February 2, 1960, the Cox committee filed a report, in the Senate entitled, "Organization and Procedure of the National Labor Relations Board." The Cox report said:

> A major weakness in labor-management relations law is the long delay in contested NLRB proceedings. In labor-management relations justice delayed is often justice denied.

From May 8 to June 29, 1961, the House Subcommittee on the National Labor Relations Board chaired by Congressman Pucinski, held 15 days hearings on the "Study of Operations of the NLRB." The subcommittee issued its report in September 1961. Let me quote just three of its findings:

> (1) It took 393 days for the processing of an unfair labor practice case, but more than half of this time, 165 days was expanded at the Labor Board level;
>
> (2) Labor Board members should not be required to review every trial appeal; and,
>
> (3) Labor Board orders constitute in many situations no more than "a slap on the wrist." They are both too little and too late. They constitute . . . "a license fee for union busting."

The subcommittee recommended—

> That the Labor Board reconsider the problem of remedies with an eye to taking the profit out of unfair labor practices.

On September 16 and 17, 1965, the Committee on Education and Labor conducted hearings on "Preliminary Investigation of the NLRB and the Administration of the NLRA." The subcommittee held 1 day of hearings on same subject on February 9, 1966.

The subcommittee found:

> If this study supports any conclusion, it is that the major impact of the NLRB lies in its effect upon . . . employers and . . . unions who do not figure in labor practice proceedings.

Not surprisingly, the subcommittee concluded:

> A weakening of employers' willingness to comply with the law has undesirable consequences and that the Board's remedies were not fully effective in dealing with some employers."

From August 7 to 18, 1967, the Special Subcommittee on Labor chaired by Congressman THOMPSON held 7 days of hearings on a bill, H.R. 11725, to amend the NLRA, in order to increase the effectiveness of its remedies.

The subcommittee's report was entitled "National Labor Relations Act Remedies: The Unfulfilled Promise"—90th Congress; Thompson subcommittee.

The Thompson subcommittee recommended:

> Congress should expedite the processing of unfair labor practice discharge cases by: (a) delegating to (ALJ) greater finality of decision-making process . . . (b) making decisions of the Labor Board self-enforcing; (c) requiring immediate reinstatement of discharged employee upon . . . finding that discharge was unlawful.

Next, from May 6 to 27, 1971, the Special Subcommittee on Labor held 8 days of hearings on H.R. 7152, a bill to amend NLRA to expedite its processes and strengthen its remedies.

More recently during March 20, 1975, to May 5, 1976, the Subcommittee on Labor-Management Relations held 19 days of hearings on several bills, each addressing problems and remedies contained in H.R. 8410.

A report issued December 1976—94th Congress, second session; Thompson subcommittee.

Finally, this year, July 15 to September 15, 1977, the Subcommittee on Labor-Management Relations held 10 days of hearings on H.R. 8410.

The staff report concludes:

> There is no effective penalty for disobedience of the National Labor Relations Act . . . there are rogues who must be curbed by law for the benefit and protection of all others.

The report continues:

> The inability to curb and remedy such egregious conduct turns what purports to be a protective law into an entrapment to disaster.

Finally, the report cites "the twin problems of delay and inadequate remedies."

Mr. Chairman, in view of this 17-year history of investigating and finding the weaknesses of the National Labor Relations Act, it defies all commonsense and sound judgment of opponents of H.R. 8410 to come before this body and plead there has not been enough study given to the issue.

They delayed this legislation for 17 years. How much longer, Mr. Chairman, shall we permit the antagonists to have their way?

In 1935 my father and his coworkers were victims of injustice. Congress responded to their cry for justice by passing the Wagner Act.

Twice since then that act has been changed to assist the employer. But, as I look around this country—north, south, east, and west—I seek that much of what we sought to achieve in the mid-1930's has not yet been achieved. Much of what I have seen is a déjà vu, a rerun of Flint, Mich., in 1937, when finally the first contract was signed between the employer and the UAW.

Forty years later, thousands of people are still looking to Congress for that justice they thought they had received in the 1930's.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to a member of the committee, the distinguished gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, it is very difficult to know exactly how to approach this debate. We are told repeatedly that the legislation before us is a simple bill, reasonable and eminently fair, and that nobody need be overly worked up about it.

And yet it comes before the Education and Labor Committee in a bit of a frenzy, added to the committee calendar for markup with little notice, skipping debate, and markup in subcommittee and rushed through the committee with amendments disposed of with little or no debate. On straight party line votes as Members march in lockstep apparently fearful of something or other although it is hard to know who could be upset enough to retaliate for a vote on such an innocuous and innocent piece of legislation.

We are told that the bill before us is one labor really expects no problem with, that it has been brought before the House with all controversial points removed from the earlier bill, H.R. 77, and yet we find that even though there sits in the chair perhaps the single most qualified and most fair Member of this body, quite capable of fairly interpreting and enforcing the rules of the Committee, with the respect of all the Members, it is for some reason necessary to remove from the chair's discretion the determination of what is and is not a germane amendment.

If you will permit me, Mr. Chairman, I suggest that this bill is as seductively dangerous as Fanne Fox and as innocent as the Happy Hooker.

And the hooker in this bill, Mr. Chairman, is that in the name of reform it reforms objectivity completely out of labor-management relations.

What we have here is a bill that provides for quickie elections practically depriving management of a chance to present its case to its employers.

Requires an employer not only to pay for his own employee relatic but also to subsidize union organizing efforts on his company premises on his company time, overturning 25 years of case law.

Restricts an American citizen's basic right to judicial review of administrative decisions.

Imposes severe, and I would say properly severe, penalties on employers who willfully violate the principles of fair

labor practice but with no similar prohibitions against labor unions which violate the rights of company employees.

Throughout this bill, Mr. Chairman, what we have is not reform but a tightening up of union power.

After nearly a century of activity, organized labor finds itself today with something like 20 percent of the labor force enrolled as union members and that number going down every year. Given a choice to join a union or not, free men and women increasingly vote no, and so, unable to compete fairly in a free fight for men's minds, the unions come to us again and again and again for unfair advantage in a battle for men's bodies, for their pocketbooks, for their names on union cards and more importantly for their hard-earned money in union treasure chests.

Mr. Chairman, the labor movement is no longer ill-fed men battling against fat employers, getting their heads bloodied and their bones broken to fight for the rights of the workingman. That is what labor used to be. Today it is fat union men in three-piece suits with expensive cigars demanding ever more special advantage to force workingmen into their unions and to deprive them of a chance to freely choose their own futures.

Mr. Chairman, the labor movement is old and sick and fat and crippled and that is why it comes to this floor, in desperation, putting the Members of this House under a gag rule so they can continue to put management and employees alike under a gag rule when the unions go to organize them and collect their union dues.

I am not confident that we will be able to stop labor again. The cards are on the table. The union bosses are saying this is the litmus test. They are saying we watch this vote and we decide who our friends are and if you want union money in the next election you be with us. This is the litmus test.

Well it is a litmus test, Mr. Chairman, not only for labor but for the rest of a free society. The portion of that 20 percent of the work force that is in labor unions but only grudgingly is going to watch this vote, too. The 80 percent of the work force that is not in labor unions is going to watch this vote. The businessmen and women of this country who provide the jobs that feed the working people are going to be watching this vote. If the liberals are going to watch this vote so are the conservatives who in every public opinion poll gain strength and allegiance.

Let this be a litmus test, Mr. Chairman, let the Nation see labor for what it has become.

This is a bad bill because it restricts freedom and fair competition in the field of labor management relations. I urge my colleagues to vote against it.

Mr. FORD of Michigan. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania (Mr. MICHAEL O. MYERS).

Mr. MICHAEL O. MYERS. Mr. Chairman, I rise in support of H.R. 8410 as reported by the committee. This legislation is designed to bring equity to labor-management relations. One basic purpose of H.R. 8410 is to address a serious deficiency of the present labor law: Its inability to deter those who deliberately choose to ignore it.

Protection against violations of the law cannot be provided simply by writing the necessary prohibitions in the statute books. The life of the law is experience and the experience since the passage of the Wagner Act confirms that a certain number of those covered by the act will violate its requirements if it pays to do so. That experience also demonstrates that successful defiance of the law generates a momentum of its own. If there is an incentive to violate the law, if the means of doing so are readily at hand, and if those who violate the law benefit from doing so, even the individuals whose first inclination is to follow the law have second thoughts, particularly where they are in economic competition. That is why "remedies are the life of rights."

H.R. 8410 is premised on the belief that the present remedies for certain violations are too long in coming, and when they do come fail both to make the employees completely whole and to deprive the violator of the fruits of his unfair labor practice. H.R. 8410's purpose is to correct these inadequacies. A climate of compliance with the act's prohibition of economic reprisal against employees who exercise section 7 rights during organizing efforts can be created only if the profit is taken out of section 8(a)(3) and 8(b)(2) violations.

In regard to protecting workers fired for union activity, the current remedy to "make whole" a worker who is illegally fired because of his or her union activities, is reinstatement plus the amount of lost wages, discounted by any substitute income earned. It can take years to settle a wrongful discharge case and time and money are clearly on the side of the employer.

The effect of these illegal firings on the workers and their families is devastating. Under present law, damages over and above the employee's actual wage loss are not compensated—for example, loss of insurance, repossession of property, impaired credit and so on. Reinstatement and back pay simply do not compensate for the anguish and hardship suffered.

Section 8 would amend subsection 10(c) of the act to provide that employees illegally discharged during an organizational campaign or until the first contract is reached would receive as compensation double the amount they would have earned had they not been illegally fired, with no discount for interim earning. This would eliminate the need for another time-consuming hearing as well as assuring the illegally fired employee more adequate relief. Double backpay is already incorporated in other nonpunitive statutes; that is, the Fair Labor Standards Act.

H.R. 8410 also protects employees by extending the use of preliminary injunctions, presently the exclusive right of the employer. This remedy could significantly cut down the devastating delay in many of the illegal firing cases. Under present law, section 10(1) of the NLRA requires a regional office of the NLRB to seek a temporary Federal court injunction to preserve the status quo when a union engages in certain unfair labor practices. With this section, employers are able to obtain prompt relief from certain alleged union violations of the law before the administrative process even begins.

What section 10 of H.R. 8410 proposes is comparable injunctive relief when an employer illegally fires a worker for union activity during the same period. Enactment of this provision would help eliminate the incentive for employers to fire union activists to undermine an organizing drive, since a Federal court could order immediate reinstatement.

Many employers have found that it is more profitable to defy and ignore the provisions of the NLRA regarding refusals to bargain. The present remedies available to the board, cease and desist orders and orders to bargain, are virtually meaningless. Delay is clearly to the employer's advantage.

Section 8 of H.R. 8410 would amend subsection 10(c) to authorize the board, in cases where the employer has unlawfully refused to bargain an initial contract—but no for subsequent contracts—to award the employees compensation for the delay in bargaining. The worker would receive an amount of money based on the average wage settlements negotiated by workers at plants where collective bargaining proceeded lawfully. They would receive these wages retroactively from the time the illegal bargaining occurred.

The final section of the bill that deals with strengthened remedies is barring labor law violators from Federal contracts. Each year some of the willful and flagrant violators of the NLRA are awarded millions of dollars in Government contracts. Section 8 of H.R. 8410 would put an end to spending Federal funds to reward violators of the Federal law.

Any company found by the NLRB to have willfully violated a Board order, which was finally enforced by a court decree, involving the intimidation of employees in the exercise of their rights under the act or discrimination of employees with respect to union membership would be barred from participation in Federal contracts for 3 years, with certain exceptions. This provision is identical to those found in many other Federal statutes, that is, the Davis-Bacon Act, Service Contract Act, Walsh-Healy Act, and various Executive orders and statutes. This provision is necessary to insure that a winning contract bid is not achieved at the expense of fair labor standards.

The strengthening of remedies contained in H.R. 8410 is desperately needed if the labor laws are to function as they were intended.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, every time we have a labor measure come before the House of Representatives, by the time final action is taken it has usually become a very controversial issue. This bill is no exception. The genesis of it was H.R. 77 with the same title. That bill contained a number of features that were believed to be very objectionable by the business community. Particularly

that feature in the bill that would have permitted union certification by petition. That provision would have had the effect of abolishing secret balloting by union members. I agree with those who believe that provision to be offensive.

However, no longer do we have before us H.R. 77. Instead, we have H.R. 8410 which prompted the Chicago Tribune in an editorial dated July 16, 1977 entitled "In Fairness to Labor," to reflect favorably on the many changes made and the effect of compromise on the bill. It is true as has been suggested by my colleague, Mr. ERLENBORN, that the Tribune has reemphasized some of the good and bad features of the bill.

I believe that there still needs to be some amendments to make the bill more equitable and balanced. I wish to state my belief that the thrust is fair and reasonable. The thrust is to provide procedural certainty that is to prevent delaying abuses that have been caused by the few to the detriment of the many. The overwhelming majority of American employers have been fair and cooperative. Only a few have been abusers. Today I will not cite the litany of abuses listed in the majority report. They are patently offensive and degrading—particularly demeaning to employees who have not the leverage to fight back.

Speaking as one of those who represents a substantial segment of working people—who are organized, I can tell you that the myths about unions and union leaders are just that—myths. In my own county of Rock Island, I have a great many unionized industrial employees. The labor organizations themselves have been good citizens. They have participated in every useful facet of community life. Everything from flood control efforts, to United Way fund raising, to environmental projects, to senior citizen activities, to holding elective office. I believe those examples of activities are cases where business and labor have been equally committed to provide a better community.

I hope people on my side of the aisle will give serious consideration and support to this measure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from South Dakota.

Mr. PRESSLER. I thank the gentleman for yielding.

May I commend the gentleman in the well for his efforts at improving this piece of legislation, as one who would like to support it if it could be improved. One difficulty I have had that has been raised earlier is that this piece of legislation places new penalties on employers without placing any new corresponding penalties on employees or on labor unions. I do not know if the gentleman in the well has a comment on that, but I commend him on his efforts to improve the bill.

Mr. RAILSBACK. My understanding is that there have been some efforts made to amend both the remedy section and some of the other sections of the bill to take the gentleman's observation into account. Let me express my own feeling. The major thrust of this bill, as I see it, is to provide what I will refer to as procedural certainty. The idea that very, very few abuser employers can delay, can take advantage of omissions in our present procedure, bothers me. It bothers me a great deal that some person who may be genuinely interested in organizing right now is able to get only back pay even though illegal activity has been committed against that person. By the time he or she gets that back pay, it may be that he has suffered all kinds of consequences. I think generally the thrust of the bill is quite good.

Mr. FORD. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MILLER).

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in strong support of the Labor Law Reform Act (H.R. 8410). The Committee on Education and Labor has done yeoman service in hammering out a positive proposal which resolves major issues which have stubbornly persisted in the exclusive representative election process.

We have been presented a well-documented need based on the 40+ years experience with the Wagner Act that extended basic economic rights and status to working men and women. Today I speak out for those who are represented by an exclusive representative, and more important, those who will make that decision in the future.

The record is replete with evidence of abuse, dilatory tactics and a thwarting of the basic rights to democratically select a union representative.

The record points out employers who have subverted the legal process and used every delaying tactic imaginable. This legacy remains and will persist without modification in the law.

Appeals upon appeal, circumvention of the orderly process conceived in the basic Wagner Act, and ultimate frustration on the part of courts and the NLRB has been the actual result. We must act today to reform these obvious abuses and stop the fragmentation of responsibility so evident in the current process.

Legitimate union organization efforts will be reinforced by this act and the rights of workers protected.

The 1935 Wagner Act implemented the framework for successful employer-employee good faith bargaining and has served us well for the past 42 years. At this time, however, these modifications are necessary to protect the due process while streamlining procedures to more efficiently provide for certification of an exclusive representative.

Certainly, I believe it is within the capability of the NLRB to condense the time frame proposed, and the increased membership of the NLRB will permit a more efficient and realistic workload for the members who serve.

Due process and workers' rights have been frustrated under current circumstances and these tactics have caused considerable acrimony which can be alleviated by the change envisioned in H.R. 8410.

Safeguards are maintained by this legislation in the election process which prevent fraudulent practices.

Workers that have been subjected to discrimination are given an equitable chance to continue earning a livelihood and positive determination of such unfair labor practice results in a modest remuneration. A concept that exists in many legal settings today, and certainly is appropriate in this format.

The Federal Government had set forth the policy of the Wagner Act 40 years ago. The reframing of intent and realistic modifications are in order.

Employers who had repeatedly violated the provisions of NLRA or orders of the NLRB, who frustrate and break the law, must be held accountable for their actions. The provisions in this legislation provide a new tool which, simply stated, denies our Federal Government business contracts to those employers who repeatedly, flagrantly, violate the NLRB orders or the NLRA.

This modification will put some teeth into the decisions of the regulatory agency and recognize that the Wagner Act and NLRB have come of age, and add the re-endorsement of the 95th Congress to the extension of basic economic rights first won by American workers in the 1930's.

I urge my colleagues to vote positive on the measure, H.R. 8410, and avoid mischievous "perfecting amendments."

There are those who would use the same tactics in defeating this legislation as are fired against workers seeking to organize. The attention of working men and women on our actions and vote today, with your help, we can meet the basic commitment of the Wagner Act and insure continued hope and equity for all Americans.

Mr. MILLER of California. Mr. Chairman, one of the most important reforms proposed under H.R. 8410 is to expedite the representation elections conducted by the National Labor Relations Board.

Before the passage of the Wagner Act, workers who desired to be represented by a union had only one way to persuade a reluctant employer to recognize their organization, and that was to demonstrate overwhelming, irresistible strength.

Then, as now, there were some employers open to reasonable persuasion, who examined the evidence of support for union representation among their employees and who accepted the obligation to recognize the union on the basis of their findings.

All too often, however, employers rejected even the most convincing evidence, declared war on their employees and used every economic weapon at their disposal in order to break the union and deny their employees any voice whatever in the conditions of their employment.

In some cases they succeeded. In others, workers replied with their only weapon—they went on strike. For many years union representation was the foremost cause of strikes in America, and the result was widespread disruption of production, loss of wages and profits, and industrial strife that was frequently violent and always damaging to the com-

munity, the social order, and the national interest.

It was to correct this state of affairs and to substitute the ballot box for strikes and lockouts that Congress devised the representation election system.

That system has done much to reduce industrial strife and to stabilize labor-management elections. But a large and growing number of employers, implacably opposed to unions, have found ways to stall the election machinery in order to subvert the purpose of the Wagner Act and to deny their employees the representation they want and are entitled to have.

A median time of 45 days from the filing of a petition to the holding of an election is required for even the simplest uncontested election. For contested elections, in which the issues are decided by an NLRB regional director, the median time is 75 days. If the issues are referred to the Board in Washington—and an employer determined to frustrate his employees in the exercise of their rights can always manage that step—the median time that elapses before an election is held is no less than 275 days.

Mr. Chairman, the provisions of H.R. 8410 to reduce that time lapse are designed to give substance to the rights of workers that are guaranteed by the Wagner Act but that are all too often wiped out by unreasonable delays. They are designed to end the delays of justice by which justice is effectively denied.

The changes we seek are based on the obvious needs that have been disclosed during 42 years of exeprience with the operation of the act and with the maneuvers that disable the act. They are carefully designed to preserve management's right to contest and challenge and appeal, but they put rational limits on the amount of stalling those actions can provide.

Most employer objections to NLRB election orders involve the appropriate bargaining unit, voter eligibility, and the time and place of the election.

To deal with these and other legitimate disputes in their varying complexity, the amendment proposes four different time limits for holding elections.

In simple cases, in which a clear majority of the employees in a plainly appropriate bargaining unit have already designated the petitioning union as their representative, elections would be held in as little as 15 days, though it could be extended to 21 days in cases in which the election is held at a substantial distance from the nearest NLRB regional office or in which the bargaining unit is a large one.

In cases of "exceptional novelty or complexity," the election could be delayed as long as 75 days—2½ months—in order to resolve disputed issues.

All other elections would be held in 45 days.

Opponents of H.R. 8410 have argued that too little time is provided, that employers would be hit by elections out of the blue, without warning. Mr. Speaker, that is nonsense. A month and a half is a long time. Two and a half months is long enough for any court or any legislature to resolve the most complex national issues, and it is certainly long enough to resolve the limited issues of administrative procedures involved in union recognition.

Even 15 days should be plenty of time considering the preceding time required for a majority of the workers in a bargaining unit to decide and express in writing their desire for union representation. Any management that is so out of touch with the sentiments of the majority of its employees under such conditions would not benefit by doubling or tripling the time lag between petition and election.

This expediting of elections would be made possible by the existence of clear and universal administrative rules which the NLRB would promulgate setting out plainly appropriate units for collective bargaining.

Clearly, the Board's current practice of nearly ad hoc, case-by-case rulemaking has to be changed. And 42 years of experience with every conceivable size, shape and composition of bargaining units make it possible to draw general conclusions and to shape clear ground rules that can apply in 99 percent of the cases that come before the Board.

Under present law, an election rule issued by the Board can be reviewed only in an unfair labor practice proceeding, typically after an employer's refusal to bargain.

Since all Board rules adopted under the amendment would be issued only after formal rulemaking procedures in which all interested parties have ample opportunity to be heard, this prohibition against piecemeal appeals is continued. Once established, a rule could be set aside only if it were found to be unconstitutional, arbitrary or capricious, contrary to a specific prohibition of the act or in violation of the Administrative Procedure Act.

Once an election is held, the proposed amendments provide that any party could file post-election objections to the Board within 5 days alleging a violation of a Board rule. Challenged ballots would have to be sufficient in number to affect the election's outcome.

The goal of these changes is to hold elections and certify their outcome as promptly as possible and to resolve election issues in advance of the election to the extent possible.

These changes are essential to assure the working of the National Labor Relations Act as Congress intended and to insure that workers actually have the opportunity for timely exercise of the rights guaranteed by the act.

Mr. Chairman, I strongly urge the enactment of H.R. 8410.

Mr. FORD of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, current labor law does not adequately protect the rights of working men and women who attempt to organize themselves into unions for the purpose of collective bargaining. The fact is, employees who wish to organize are free to do so only so long as they are secure in the knowledge that they are not putting their job on the line.

A choice made out of fear is not a free choice.

But protection against employer reprisals must go beyond the writing and enactment of prohibitions in the law. It is well documented that recalcitrant employers delay and deny justice through the use of legal proceedings between the findings of a violation and the application of the remedy.

H.R. 8410 will expedite the application of remedies in four vitally necessary ways. Each will make it difficult for employers to secure long delays in remedy after they have broken the law.

Three of the expedited remedy provisions occur when the employer is found to violate the unfair labor practices of the law with respect to discrimination for union activity or membership, illegal firings, and refusal to bargain a first contract.

These are serious problems. For fiscal year 1976, there were over 49,000 new cases before the National Labor Relations Board. Nearly half—23,000—involved charges of law violations by employers. Over the past 10 years, the number of charges of employer law-violations has skyrocketed 115 percent. In the past 15 years, charges of unfair labor practices against employers have risen some 204 percent.

Mr. Chairman, complaints against employers outnumber complaints against unions by a ratio of 5 to 1.

The first three expedited remedy provisions I wish to focus on are in answer to the question: What happens after the act is committed and the employer is charged with lawbreaking?

I. SUMMARY REVIEW OF ALJ DECISIONS

The first expedited remedy in H.R. 8410 would grant the Board authority to affirm, summarily, decisions of Administrative Law Judges (ALJ). The procedure now is for the ALJ to hear a case in the first instance, make a recommendation or finding and pass the case on to the NLRB, if the decision is contested. This is true even in clear-cut cases. It is an expensive and inefficient procedure. Official figures show a median time of 120 days is required by the Board to dispose of a case after it is received from an ALJ. Yet, in a great number of cases the Board's decision merely affirms the ALJ finding. This is true in approximately 40 percent of all contested cases taken to the Board.

Section 2(b) of H.R. 8410 requires the Board to establish a summary review process which would expedite the handling of these cases. Summary procedures similar to those now used by the Federal appeals courts, or example, could be developed by the Board. A two-member Board panel would, upon request, have the option of affirming an ALJ's decision on the basis of a motion and response presented to the panel within 20 or 30 days of the ALJ decision. Such a summary review process would not waste the Board's time on routine cases and would permit it to more fully address problems raised in complicated and unusual cases. And due process would be safeguarded.

II. EXPANSION OF BOARD FROM FIVE TO SEVEN MEMBERS

A second expediting remedy contained in H.R. 8410 was first proposed by Senator Robert A. Taft in 1949. It would expand the number of Board members from five to seven. Normally, the Board sits in panels of three, since, under existing authority, it can delegate its powers to panels of three or more members, with two members constituting a quorum. Increasing the Board to seven members, while maintaining the present panel system, will allow more panels to operate at any one time. It will also mean that each Board member will be required to participate in only three-sevenths rather than three-fifths of all summary affirmance decisions.

The Board's work also has been delayed when members' terms expire. Appointment of new members takes time. The Board's work is therefore often disrupted. By increasing the terms of members from 5 to 7 years, these delays can be less frequent.

To assure continued political balance, H.R. 8410 expressly provides that no more than a simple majority of the Board's membership shall be drawn from one party.

The need for these two procedural and remedial reforms becomes readily apparent when one realizes that in 1976 it took the Board a median 358 days to resolve an unfair labor practice complaint, up from 315 days in 1975. Over the past 20 years, there has been nearly a threefold increase in the number of contested unfair labor practice cases. The Board's caseload was 21,000 in 1960, with 7,000 cases pending at the end of the year. In 1976, the figures were 49,000 and 18,000 respectively.

III. SELF-ENFORCING ORDERS

A third way to expedite remedies in unfair labor practice cases provided in H.R. 8410 is through self-enforcing orders. Currently, and unlike a court order or the Federal Trade Commission's self-executing order, an NLRB order is not self-enforcing. H.R. 8410 provides that a party aggrieved by a Board order must petition for judicial review within 30 days, or the order becomes final and must be enforced by the Board. Under the present law, there is no time limitation on when an appeal of a Board decision must be filed. And while the case is pending in the Federal courts, the offended party has no relief. In 1976, it took an average of 365 days for the courts to enforce Board orders.

That is a long time, Mr. Chairman, for an illegally discharged breadwinner and his family to go without job security and in all likelihood without meat and potatoes, too.

IV. PRELIMINARY INJUNCTIONS AGAINST DISCRIMINATORY DISCHARGES

Mr. Chairman, a fourth provision in H.R. 8410 which would expedite the remedial process is a preliminary or temporary court injunction to preserve the status quo when an employer fires a worker during an organizing effort.

Under the existing law, the preliminary injunction is used often and regularly by employers when a union engages in certain unfair labor practices. Section 10 of H.R. 8410 gives comparable injunctive relief to employees. Those discharged or fired during organizing attempts would remain on the job until the unfair labor practice case is settled. Under the present system the discharged person is forced off the job immediately, and reinstatement is not possible until the complaint is settled—often years afterward. The injunction will help eliminate the incentive for employers to fire union activists in order to undermine and chill an organizing drive.

In summary, Mr. Chairman, I see no way that labor law reform can be achieved without these expediting procedures and remedies. There are other necessary expediting procedures in the bill, too, and I endorse them. But these four go to the remedy and provide an incentive to obey the law rather than break the law.

What incentive do remedies provide to encourage compliance if they cannot be implemented? Working men and women must feel secure in exercising their right to organize and bargain collectively. That is what the National Labor Relations Act is supposed to do for them. They must not be subjected to economic reprisal simply because they want to form a union.

Mr. DRINAN. Mr. Chairman, the vehement opposition to H.R. 8410, the Labor Reform Act of 1977, might lead the unsuspecting observer to believe that a whole new category of rights had been created for working men and women. In fact, the labor law reform bill considered by the House of Representatives today is neither more nor less than an attempt to enforce the rights guaranteed to employees by existing labor laws.

H.R. 8410 does not set out a new array of privileges for employees. What it does do is remove the incentives many employers now have to break the law.

It is bewildering to me that so many businesses have become so upset by this important yet modest adjustment in labor law.

TOUGHER PENALTIES NEEDED

Clearly, Mr. Chairman, present penalties in labor law have proved inadequate to deter many corporations from depriving their workers of long-established and incontrovertible collective bargaining rights. And yet now that President Carter, Labor Secretary Marshall, and many Members of Congress have come together to create legislation which will undoubtedly strengthen the enforcement mechanism in collective bargaining law, employer organizations and associations have strenuously resisted these good-faith attempts to make collective bargaining work.

Employer groups have totted out all of the old, tired arguments and myths in their opposition to labor law reform. They have warned us that passage of this bill will mean the coercion of workers and the denial of fundamental rights of management. Yet where in this legislation can we find any diminution of management authority, any infringement of management's legitimate rights?

Is it cause for alarm among enlightened employers that the National Labor Relations Board will be expanded from five to seven members and that its procedures will be streamlined to avoid unnecessary delays? Does the death knell sound for employer rights because representation elections are to be conducted in a period ranging from 15 to 75 days?

Anyone tracing the provisions of this bill will realize it is designed to bring recalcitrant employers into line, but not to dictate terms of a settlement nor to force anyone to join a union.

GOOD FAITH BARGAINING

H.R. 8410 is a significant, indeed a landmark piece of legislation because it returns to working men and women rights which have been removed from them by delay, obfuscation, bad faith bargaining, and other methods of manipulation dreamed up by attorneys who work for large firms. For example, H.R. 8410 recognizes that some employers have for too long dodged their legal responsibility by refusing to bargain in good faith. This has been a particularly frustrating handicap for labor, but it is now redressed, at least in part, by H.R. 8410. The bill provides that anytime a party is found guilty of refusing to bargain in good faith for a first collective-bargaining contract, the National Labor Relations Board may award damages to its employees based upon an objective statistical measure of wage gains under collective-bargaining agreements in comparable enterprises.

Another illustration of this bill's importance is its provision discouraging illegal discharges for union activity. A frequently used tactic by antilabor employers is the firing or punishing in some other highly visible way of union activists. Under H.R. 8410, employees discharged for legally protected activities during an organizational campaign or prior to a first collective-bargaining contract must be reimbursed at double back pay with no deductions for interim income.

CATCH-22 TRAPS WORKERS

At the present time, employers who fire workers for union activity benefit from a legal catch-22 which allows deduction of interim income in back pay awards. Illegally dismissed workers often find other jobs in an effort to keep food on the family table. They thereby lessen the amount of money a law-breaking employer must pay in a backpay settlement, and the vicious cycle continues as the employer is encouraged to try this tactic of firing union organizers at little financial loss to the company.

H.R. 8410 contains another sanction against frequent, flagrant labor law violators—the loss of Federal contracts. When the National Labor Relations Board finds an employer to have willfully violated a final order of the Board or the court, under H.R. 8410 the employer may be barred from receiving Federal contracts for 3 years unless the Secretary of Labor finds such a deprivation contrary to the national interest or unless the company in question is the sole source of a material or service.

The potential loss of Federal contracts may make a company like J. P. Stevens, the Nation's No. 1 labor law breaker, sit up and take notice. Clearly the people

who run J. P. Stevens are responsive to money pressures, just as surely as they are immune to any humanitarian concerns and unembarrassed by the indecent tactics they have used to browbeat their workers.

J. P. STEVENS IS NOT ALONE

But if J. P. Stevens deserves mention as a prime target, indeed an unwitting motivating force behind H.R. 8410, it would be a mistake to focus exclusively on the effect of labor law reform on this conspicuous and outrageous labor law breaker. Workers in Massachusetts are particularly sensitive to the ways in which J. P. Stevens and its cohorts in the textile industry have cost our State thousands of jobs by unashamedly promoting an antilabor, low-wage climate. Yet at the same time we must realize that H.R. 8410 will affect the course of labor relations far beyond the boundaries of Roanoke Rapids, N.C. J. P. Stevens is hardly alone in its contempt for workers' collective bargaining rights, and the labor law reform bill is designed to deal with employers who have practiced coercive and abusive tactics without achieving J. P. Stevens' notoriety.

In their campaign to keep labor laws weak and unenforceable and to keep the National Labor Relations Board mired down in a backlog of frightening proportions, opponents of H.R. 8410 have labeled the labor law reform efforts a backdoor attempt by unions to reverse the national trend of declining union membership as a percentage of the total work force. Their sophistry here is evident to all friends of the American worker. For it is painfully clear that organized labor's membership drives have often been blunted by precisely the kind of employer abuses H.R. 8410 would correct. In the South, especially, but elsewhere as well, membership drives have been a casualty of the employers' ability to utilize dubiously legal scare tactics and to emerge unscathed and unorganized.

FAIR WAGES FOR ALL WORKERS

For those of us in the Northeast, labor law reform is not only a just solution to collective bargaining problems, but a path to economic revitalization as well. We must recognize that when plants in the South and the Southwest are brought into the 20th century of labor relations and are made to pay their workers decently, fewer firms in the Snow Belt will seek to escape to the Sun Belt. We may finally be able to stem the tide of job loss which has so victimized our region.

While true regional equity in labor pay scales may have to await changes in right-to-work laws, it is nevertheless apparent that adoption of the labor law reform bill should remove part of the disadvantage from which our region now suffers.

Mr. Chairman, union members know first-hand how important labor law reform is and they are fighting to see the rights of their brothers and sisters in the workplace vindicated.

The campaigners for H.R. 8410 can be very proud of the efforts they have exerted to influence the Congress and the country concerning the need for an improvement in the procedural rights of those who enjoy and those who want to enjoy the right to bargain collectively with their employer.

Mr. QUAYLE. Mr. Chairman, the labor reform bill currently being debated is reform in one direction—that being the increase of power to the labor unions.

The bill has been referred to as the fairness bill. However, the remedies and penalties available are only favorable toward the unions. It would seem to me that if we were concerned about true labor reform that sanctions and penalties would apply equally to business and labor. For example, there are provisions in the bill which double the allowable penalties for employers committing unfair labor practices. On the contrary, unions who also commit unfair labor practices do not receive the double penalty. I do not think anyone would argue that violations of the law are only caused by business. It is a two-way street and the bill should be directed to both unions and business if it is to be considered reform.

One of the most objectionable provisions in the bill concerns the imposition of short and fixed waiting periods before representative elections. Generally, the bill requires union elections be held within 15 days, 45 days, or 75 days of the receipt of a petition by the National Labor Relations Board, depending on the nature of the case. Fifteen days is certainly too short to afford adequate opportunity to discuss the merits or demerits of a union. Also lacking is an element of flexibility given to the NLRB which could extend the time period for those few extraordinarily difficult cases.

Another serious objection and totally unacceptable section would be the temporary denial of U.S. Government contracts to employers who violate the law. While it is true that the Government should not be involved or do business with a persistent lawbreaker, automatically taking away Government contracts punishes the workers as well as the companies. Also, it could, in fact, discourage employers from legitimately moving against an intolerable situation in fear of losing the case before the NLRB and ultimately being debarred from Federal contracts.

Unless these imperfections of H.R. 8410 are corrected, it does not warrant the support of the House, much less the reference entitled "Labor Reform."

Mr. THOMPSON. Mr. Chairman, I have no further requests for time.

Mr. ASHBROOK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Does the gentleman from Ohio yield back the balance of his time?

Mr. ASHBROOK. Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, no amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except germane amendments printed in the CONGRESSIONAL RECORD at least one legislative day prior to consideration of the bill.

The Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

Mr. THOMPSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act, had come to no resolution thereon.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill, H.R. 8410.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1522. An Act to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

HOUR OF MEETING TOMORROW

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 6655, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

Mr. ASHLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 6655) to amend certain Federal laws per-

taining to community development, housing, and related programs, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1977.)

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object—and I do not think I will object—this is such an important conference report, does the gentleman not think we ought to read the whole statement?

Mr. ASHLEY. No, I do not.

Mr. ROUSSELOT. I mean it is such a crucial piece of legislation.

Mr. ASHLEY. Mr. Speaker, if the gentleman will yield, I agree that it is crucial legislation. The gentleman from California is entirely right about that, but I think if he will forbear, he will be satisfied with the persuasiveness of the statement which I intend to offer by way of explanation of the conference report.

Mr. ROUSSELOT. Mr. Speaker, I am overwhelmed, and I will just listen to the statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. ASHLEY) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 6655, the Housing and Community Development Act of 1977. This is a complex piece of legislation incorporating major changes in the landmark community development block grant program enacted in 1974, a new urban development action grant program for our most distressed cities, a renewed and expanded emphasis on the housing programs of the Federal Housing Administration and Farmers Home Administration, and changes in the statutes governing investment by financial institutions in housing and in our urban areas. Though the bill is complex, its goals are simply stated—to assist in rejuvenating our Nation's cities and to assure decent and affordable shelter to all our citizens. I make no pretense about this bill, it is not a panacea to the Nation's housing and community development problems. It is, however, a key element in a strategy we in the Congress have been developing for many years to deal with these problems.

I would like to compliment the chairman of the full Banking Committee (Mr. REUSS) for his cooperation in expediting the proceedings on this bill. I would also like to commend my distinguished colleagues on the conference committee for the very substantial efforts they exerted to make this a solid and workable bill.

It is always a pleasure to work with the ranking minority members of the full committee and the Housing and Community Development Subcommittee who joined us in conference, the distinguished member from Ohio (Mr. STANTON), without whose fine cooperation we would probably not have such a bi-partisan bill before us today and, as always, Mr. BROWN of Michigan whose nonpartisan and constructive work on any piece of housing legislation is invaluable.

This legislation is based upon two major principles strongly felt in this Chamber. First, that Federal assistance should be made available to communities in direct proportion to an objective measurement of their need. And second, that Federal assistance should be flexible so that communities can identify and meet their own unique needs. These were the principles upon which we drafted this legislation and they are the principles that we took to the conference with the Senate and fought for during the 3 months that we remained there. It is my belief that the bill before you today is stronger because of that fight.

In our conference with the Senate one issue stood paramount—how best to allocate and distribute community development funds to our Nation's cities. This issue went to the heart of our concern that communities receive funding in direct proportion to their needs. As you will recall, the House-passed bill incorporated a dual formula approach to allocating and distributing community development block grant funds. This approach was based upon almost 3 years of independent and objective analysis, by my Subcommittee on Housing and Community Development, two administrations, and numerous private institutions. It was our belief, supported strongly by this Chamber, that this approach would equitably provide funding to all the Nation's cities. The Senate, however, argued for the addition of a third formula which has come to be known as the "impaction" formula. It was the opinion of the house conferees that the Senate approach would unfairly distort the allocation and distribution of community development funds. Thus, we stood in firm opposition to it.

I am pleased to report that in the end the House position prevailed. It was clear, however, that the Senate's position was not completely without merit, particularly with regard to the new urban development action grant program. They had sought to employ a large portion of the funds of this program to fund the added cost of their impaction formula. They argued that the urban development action grant program did not sufficiently take into account the level of distress among cities as a determinant of which cities should receive funding. Though the House conferees believed that moving money from this program to fund the impaction formula was inappropriate, we did feel that the Senate's basic concern was valid. Therefore, we proposed, and the Senate concurred, that the primary selection criterion for funding under the urban development action grant program should be the comparative level of economic and physical distress among cities. In this way, we reemphasized the principle that Federal assistance should be made available in proportion to need.

The bill contains other less controversial, though no less important, elements. Title I, in addition to revising the community development block grant program and establishing the new urban development action grant program, extends through fiscal year 1978 and authorizes appropriations for fiscal year 1978 the section 312 rehabilitation loan program and the comprehensive planning program.

Title II and title III are designed to assure decent and affordable shelter to our citizens. For our lower income citizens, the Department of Housing and Urban Development assisted housing programs have been authorized to receive significant new appropriations in fiscal year 1978. These titles also provide for the continuation of the FHA insuring authorities, increases in the FHA mortgage ceilings and decreases in the downpayment requirements for FHA insured mortgages.

Title IV revises the lending powers of Federal savings and loan associations and the authorities governing the secondary market operations of the Government National Mortgage Association. These revisions are intended to assist in lowering the cost and increasing the availability of mortgage credit.

Title V amends and extends for 1 year the authorization for a number of the rural housing programs administered by the Farmers Home Administration. These programs, like the HUD programs are designed to make decent and affordable shelter available to families of varying income levels.

Title VI amends the Urban Growth and New Community Development Act of 1970 to provide for the development of a national urban policy rather than the national urban growth policy now required. This reorientation is important to assist in providing a comprehensive framework for the housing and community development programs authorized in this legislation.

Title VII amends in a wide variety of ways the national flood insurance program. In addition to changing the sanctions for nonconforming communities, it provides for increased actuarial coverage, low interest rate loans for elevating certain flood damaged properties, and the reimbursement for the cost of successful appeals of flood plain determinations.

Title VIII, known as the Community Reinvestment Act of 1977, reaffirms and strengthens the powers of the Federal financial supervisory agencies to assure that federally regulated financial institutions meet the credit needs of their communities. The community reinvestment provisions complement well the housing and community development elements of the bill by encouraging increased attention by financial institutions to the mort-

gage credit and other financing needs of their communities.

Finally, title IX contains several miscellaneous provisions, one of which would create a Special Assistant to the Secretary of HUD for coordinating programs in her Department which affect Indian and Alaskan Natives. Title IX also exempts from the National Mobile Home Construction and Safety Standards Act of 1974, structures which are designed only for installation on permanent foundations. Homeownership counseling is expanded to be available to all home buyers with FHA insured mortgages. And, it also provides for the Secretary of HUD to develop prototypical housing costs for one- to four-family homes in each housing market area of the country.

Mr. Speaker, after long and thoughtful consideration, we have before us today a piece of legislation which is carefully crafted so as to benefit fairly and equitably all the Nation's communities and citizens. It is a major step forward toward meeting our housing and community development goals. I, therefore, strongly urge the adoption of the conference report on H.R. 6655, the Housing and Community Development Act of 1977.

Mr. COHEN. Mr. Speaker, if the gentleman will yield, I would like to call the attention of the gentleman from Ohio (Mr. ASHLEY) to page 26 of the conference report. The gentleman may recall that during the course of the general debate on this measure, the gentleman and I engaged in a colloquy concerning the new provision which would authorize the Secretary of HUD to insure, and is meant to insure Federal Government money for those cases in which suits have been brought by certain Indian tribes against certain defendants.

At that time I raised a question on one of the limitations of the applicability of this section. As I recall the way the bill read at that time when it was before the House:

. . . such ownership claims are reasonably likely to be settled by court action or otherwise; . . .

And I think we had in there the calendar year 1977. And I objected to that because I felt that was rather a specific exemption to one State, namely, Massachusetts and the town of Mashpee, Mass., and, in essence, we were writing such legislation in a general housing bill.

Now in looking on page 26 of the conference report I find that language "calendar year 1977" has been stricken and then on page 27 I now find a new limitation saying that a suit would have had to be brought against 50 or more homeowners prior to December 31, 1976.

So, once again it seems that the conference report itself has even been more specific to one specific instance of only one town.

And I raise this issue because there are other suits that may be brought, and I am referring now specifically to the State of Maine, the State of Massachusetts also may be involved in a similar situation, depending on the structure of the litigation, as well as Connecticut, Rhode Island, New York, South Carolina, and we have heard reports that other States may be sued. And I am just wondering if the gentleman from Ohio (Mr. ASHLEY) would be willing to apply the same sort of protection and guarantee to other States and citizens who may be affected adversely economically if such suits are brought, and would the gentleman be willing to bring legislation to the floor to provide that this legislation is not just for one town.

Mr. ASHLEY. I would say that the gentleman's recollection is essentially correct. If you look on page 66 you will find not only the language as referred to in the conference report but the explanation of it. And whether you look on page 26 or on page 66, the conclusion, I must say, is the same, that this must be narrowly construed.

Mr. COHEN. I appreciate the gentleman's statement.

Mr. ASHLEY. And that the thinking of the conferees was that it should be so limited. If we are going to have to look at the problem of Indian claims as they relate to our housing programs, and the demands upon our housing programs, we would be better to do it promptly, and for this reason we have this special provision in the conference report.

If the Senate held hearings on this, it is not within the scope of my knowledge. I know we did not on the House side.

So it was felt that, at least by ourselves, that rather than embarking upon the drafting of broad gauged legislation, without the benefit of hearings, we would limit the applicability of this provision.

For this reason, what is in the conference report, is a limited provision and I think in fact it should be limited.

Mr. COHEN. Did the gentleman say the House never held hearings on the measure, and the gentleman does not know whether the Senate did and the Senate did not have this provision in its bill?

Mr. ASHLEY. No; the Senate had the provision, but I am not sure it was the result of the hearings. My impression is that it was by virtue of an amendment that was offered during the Senate committee markup of the housing bill.

Mr. COHEN. I thank the gentleman for yielding. I have just one further question, if I might.

Mr. ASHLEY. Surely.

Mr. COHEN. I guess the second part of my question or observation was, would the gentleman in his position as Chairman of the committee be willing to hold hearings in the future as these cases are filed and as the same sort of economic hardship is visited or inflicted on various communities around the country? Would the gentleman be willing to hold hearings to find out whether or not this type of precedent and this sort of Federal relief will be applied on more than a parochial, narrow interest in Massachusetts only, but to other States as well?

Mr. ASHLEY. I must say it seems to me that responsible legislation requires that kind of broader approach. I am no fonder of single-purpose, narrow-gauge legislation than is the gentleman from Maine.

Mr. COHEN. And the gentleman would be willing to consider the comprehensive approach to the problems afflicting all communities?

Mr. ASHLEY. Yes. I will say to the gentleman without any qualification if the problem is one which is sufficiently broad in its scope to require national remedy, then, most certainly, hearings should be held as the foundation for such legislation as may be proposed. So I do approve of the gentleman's approach.

Mr. COHEN. I thank the gentleman.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Could the gentleman tell me under the community development block grant formula what changes have there been from the present formula as would affect towns of 50,000 and under? I am concerned as to whether or not towns of 50,000 and under may now have less priority than before.

Mr. ASHLEY. No, that is not at all the case. Let me say to the gentleman that, what was initially in the conference, was essentially the action taken by the House when we went from the original formula contained in the 1974 legislation to what is known as the dual formula as was approved by the Banking Committee and the House. The criteria for distribution of funds contained in the original act was not considered to be as responsive to differing needs in differing communities as it should be.

I will say further to the gentleman by way of explanation that in the 1974 legislation it was recognized that the original formula should have continuing scrutiny and that there should be suggestions with respect to changes in the formula that might be deemed appropriate. So almost from the very beginning of this legislation, I will say from 1975 on, the original formula came under very considerable study. Out of these studies came the dual formula which we adopted on the floor of the House in May of this year. We went to conference with the Senate, and what the Senate said was, "Your dual formula may be all right, but actually we would like a third formula, that is to say, communities could choose either between the original formula or the second formula which we adopted in our considerations, or a third formula: the so-called impaction formula."

We thought that was going too far because the formula that we adopted, the dual formula, quite honestly, caused the distribution of funds to tilt somewhat in favor of the older, more obsolescent communities which are found largely in the Midwest and Northeast, so we rejected the new formula, the impaction formula proposed by the Senate.

Under no circumstances does this skew the amount of moneys that will be made available to communities under 50,000. Whether it be under the original or the dual formula, the fact remains that the formula applies only for the distribution of moneys to communities of over 50,000.

As a matter of fact, rather substantial increases in the funding of the community development program were proposed by the administration on the basis that it would be necessary in order to hold harmless many communities. In order to assure that communities of under 50,000 will receive their fair share of community development funds, increased amounts would have to be made available in order to accommodate the dual formula. So rather substantial increases in the funding in the formula were provided and are included in the conference report before us.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I do not know whether the gentleman has pointed it out, but the urban development action grants contain a reservation of 25 percent of the funds for communities under 50,000. In this way we did cover the point about which the gentlewoman expressed a concern.

Mr. BRINKLEY. My concern is whether or not the condition of one region is comparatively less relative to another region as far as the yield portions of these funds under the new formula. I am concerned as to whether a comparison of the various regions of the country might show a substantial difference, for example, would show whether or not the position of the Southeast United States would be substantially worsened by the new formula.

Mr. ASHLEY. No, absolutely not. I would say to the gentleman that we have very strong voices on our committee that represent the South and if they are not in the Chamber at the moment they would certainly affirm that the South has not been leaned upon nor has it suffered in any way from the shift from a single formula to the dual formula.

Mr. BRINKLEY. I thank the gentleman from Ohio.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman from Ohio for yielding.

Mr. Speaker, the conferees deleted a provision that was contained in the House bill that would have protected property owners, who are the victims of insurance company redlining. The provision would have assured denied fire, theft and extended coverage insurance because of insurance company redlining, that they could obtain insurance at a reasonable cost. I am very concerned that the phenomenon of the insurance company redlining and the resulting arbitrary denial of property insurance to homeowners will speed the deterioration of urban neighborhoods in our country.

I am particularly concerned because, on the one hand, this bill addresses housing deterioration but, on the other hand, the conference committee, has removed an important remedy for such deterioration by assuring property insurance is available at a reasonable cost.

I do know that the report states that the Secretary of Housing and Urban Development has been directed to undertake a study of the problems of insurance redlining and the cost of property insurance the committees have agreed, after receiving this study, to convene hearings promptly to undertake appropriate legislative action to remedy this situation.

Can the gentleman tell me whether he believes we will deal with this situation in this Congress?

Mr. ASHLEY. Yes. Let me first say that the provision in question was not lightly dropped by the conferees at all. As a matter of fact, we thought we had struck an agreement on this particular provision with the conferees from the Senate. Unfortunately some days after, some weeks after we thought that agreement had been reached and was locked up and decided upon, it developed that there were very substantial questions raised that necessitated a reevaluation on the part of the conferees with respect to the provision in which the gentlewoman has taken such a forceful leadership role.

It was felt that inasmuch as in-depth hearings, actually hearings of any sort had not been directed to the very real and very serious problem at hand and inasmuch as our efforts in conference to work this out without hearings were faltering and the implications were considerable, that it would be better to relegate this matter back to the appropriate committees of the two branches for very prompt hearings and action.

Now, the gentlewomen from New York is asking, can we get such action in this year? At this juncture I would yield to my close friend and associate, the gentleman from Pennsylvania (Mr. MOORHEAD), because we have discussed the essential character, the very serious matter at hand and have been trying to work out a means by which a hearing can be undertaken in this session, hopefully leading to action. I cannot promise there is going to be a bill.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. MOORHEAD), who can be more enlightening, perhaps, on the prospects for a hearing this year.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I thank the gentleman from Ohio.

Mr. Speaker, as the gentlewoman from New York knows, I tried to support in the conference as much of the gentlewoman's amendment as I could. As the chairman said, I thought we worked out an agreement that was satisfactory to the gentlewoman. Then at the end we ran into this roadblock on the fact that we did not have hearings and there were objections.

If the gentlewoman will note, at the bottom of page 74 and the top of page 75 of the report, the responsible committees have agreed upon receipt of this report, which was acquired from HUD, to promptly convene hearings and to undertake the appropriate legislative action to remedy this situation.

The gentleman from Ohio, the chairman of the subcommittee, has come to me and said that he would be tied up with further consideration of the Energy bill which will shorten our conference and asked me to act on his behalf to attempt to hold hearings, not next January, but beginning really this month.

I would also contemplate, hopefully, then that gentleman from Ohio could resume the chair and one of the hearings we would have, probably after adjournment, would be in New York, so we could get first hand, not only from the gentlewoman, but also to hear from any witnesses the gentlewoman would like to have before us.

I think the gentleman has a very good point, but we have not established it by hearings. I certainly am going to do everything I can to hold those hearings as promptly as possible.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for these assurances. I certainly hope action can be taken as promptly as possible, because by turning our backs on homeowners who have been denied affordable property insurance, we are going to allow a situation where neighborhoods deteriorate and decline.

I appreciate the gentleman's assurance. I know the gentleman (Mr. ASHLEY) has been extremely cooperative in this respect.

Mr. ASHLEY. I might say for the record, Mr. Speaker, I am familiar with the problem and I am aware of the problem because of the constant reminders of the gentlewoman from New York.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from Ohio and the ranking minority member, the gentleman from Michigan (Mr. BROWN) and others who have labored so diligently to produce a serviceable bill and a serviceable conference report.

Mr. Speaker, I rise in support of the conference report to accompany the bill H.R. 6655, the Housing and Community Development Act of 1977. The extensive provisions in this conference report reauthorize and improve the community development block grant program; create a new urban development action grant program for our most distressed communities; extend and authorize additional funds for the section 312 rehabilitation loan program, authorize funding for fiscal year 1978 for HUD housing assistance programs; increase FHA maximum insurable mortgage amounts; decrease the downpayment requirements; amend and extend the FmHA programs authorizations; mandate a national urban policy; establish a new program, the Community Reinvestment Act of 1977, which reaffirms and strengthens the powers of certain Federal regulatory agencies.

A major item in disagreement with the Senate concerned the method for distributing community development block grants and the funding of the new urban development action grant program. The House, after careful study and analysis, had recommended a dual formula for allocating these grants to our cities requiring no additional funding other than what was proposed for appropriation for CDBG grants. Under the House ap-

proach, communities could elect the existing formula based on population, poverty, and extent of overcrowding or a second formula which took into account poverty, growth lag, and extent of pre-1940 housing. The Senate called for a third formula which gave additional weight to the age of the housing factor and would have required tapping part of the funds proposed for the new UDAG program. In conference, a reasonable resolution of this serious disagreement was agreed to. Under this agreement, the dual formula for allocating CDBG as proposed by the House was retained. The extent of pre-1940 housing, the underlying concept of the Senate's third formula, was established as a priority in selecting applications for the new UDAG program.

The House conferees also accepted an amended provision for establishing the Community Reinvestment Act of 1977, insuring that the credit needs of citizens in our communities are met by the regulated financial institutions chartered to serve them. It is a good provision. It complements well the housing and development assistance purposes and objectives that this legislation is directed toward achieving.

Mr. Speaker, I urge adoption of the conference report.

Mr. BROWN of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, this conference report came about over a brief period of time. I certainly want to extend my congratulations to the ranking subcommittee chairman, the gentleman from the good old State of Ohio (Mr. ASHLEY), and to the gentleman from Michigan (Mr. BROWN), on our side of the aisle, for their efforts that together have brought this bill to the floor this afternoon.

Mr. Speaker, I rise in support of the conference report. I am quite pleased to note that smaller communities continued to be provided for under the conference report as they were under the House-passed bill. As cities and towns of under 50,000 population phase down under hold-harmless, they may still have uncompleted community development projects. We must assure these communities that they will have the means to complete these projects. I believe the conference report goes a long way toward that end.

The conference report authorizes HUD to make multiyear commitments, and protect those smaller communities in the midst of a major project by requiring that the Secretary give them "special consideration."

I still have some questions with respect to the urban development action grants, and the way the impaction issue was settled. In effect, "impaction" has become the primary criteria for awarding UDAG's. Fortunately, as a result of objections from the minority, this criteria is not applied to smaller communities. If it were, it could cause funding distortions since percentage figures for cities of 5,000 to 10,000 could inordinately skew the results of any such rating system.

As I mentioned during the original consideration of UDAG's, there has not been enough consideration given to the broader picture of HUD's activities versus EDA's, and the whole environmental question in authorizing this new program. To date, HUD is still not sure of the ramifications of the environmental problem. A problem of this nature could mean that no UDAG money will be utilized for some time to come.

I would like to commend my colleague from Ohio, LUD ASHLEY, for his leadership and perseverence in conference on behalf of the House's position. As Mr. ASHLEY knows, we have all worked hard on the community development block grant program, and we are pleased to see it reauthorized in much the same form as it began in 1974.

Other provisions in the bill—such as raising the FHA mortgage limits to $60,000, and increasing the FNMA and FHLMC mortgage purchase limits—are necessary as were the changes regarding savings and loan lending powers. I am also pleased that the conferees retained the amendment I offered on the House floor to limit the percentage of 235 subsidized housing units, in a subdivision, to 40 percent. I felt quite strongly, and my colleagues agreed, that this was necessary to avoid subdivision ghettos.

The provisions, with respect to rural housing, are also sorely needed. Fortunately, they follow closely what the House passed. On balance, the bill is a step forward and, my reservations not withstanding, I hope it will prove to be a step forward for the communities we seek to serve.

In conclusion, Mr. Speaker, I would like to urge passage of the report. It is quite close to what originally passed the House which contained a number of perfecting floor amendments which made it better than what came out of committee.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report which contains the vital extension of the community development block grant program and a number of Federal housing programs—particularly FHA with its increased mortgage limits and lowered downpayments.

In most of the critical areas relating to community development, the conference report follows closely the language and philosophy of the House bill.

During House consideration of this legislation, proposals to set national funding requirements, in the form of percentage benefits to low and moderate income persons for each city or county program, or even for each activity, were rejected. Instead, the House bill recognized the validity of permitting each recipient to set its own priorities between activities having a direct benefit to low and moderate income persons, which usually means social service activities, and action to halt or prevent slums and blight, which permits cities to deal with fundamental unemployment and declining tax base problems.

The Senate bill contained a number of specific directives only emphasizing the goal of principally benefiting low and moderate income persons. The Senate thrust would have turned what is essentially a physical development and economic development program into a community services type operation.

To the credit of my fellow House conferees, and particularly Chairman ASHLEY, the House successfully insisted upon maintaining local choice between the two major goals of assisting low and moderate income persons or eliminating or preventing slums and blight.

No doubt, many of my colleagues are aware of the complaints by local officials with respect to proposed HUD regulations requiring 75 percent of all CD block grant funds to be used for the benefit of low and moderate income persons, without regard to the equally pressing needs of eliminating slums and blight. Fortunately, I understand that the attempt to fix a set percentage, administratively, for the use of funds in this manner has been dropped. Certainly it would have been entirely inconsistent with the action of the House and the conferees.

It also would have been diametrically opposed to the newly emphasized thrust of economic development which is found both in the block grant program and the urban development action grants. I am equally concerned, however, with the draft regulation language dealing with the definition of prevention of slums and blight. The draft language limits these activities to situations where there is a clear sign of existing decay. In effect, the Department would appear to be proposing to ignore the blight prevention goal in the present law which has been reaffirmed in the legislation before us now coming out of conference.

Hopefully, the Department will revise its thinking before publishing its regulations on slums and blight elimination and prevention for comment. It may be necessary to identify some evidence of blighting influences in an area before using CD block grant funds to avoid the tennis court in the upper income neighborhood. But it certainly goes against the thrust of the new action grant program and the new economic development objective and activities to write regulations preventing cities from dealing with declining economic base and loss of tax revenues.

With respect to the action grants, I would like to ask the distinguished chairman of the Housing Subcommittee, Mr. ASHLEY, a question.

The conference report on the HUD-Independent Agencies Appropriation bill calls for HUD to use a preapplication process in selecting UDAG grant recipients. Since our conference report is silent on this matter, I would like to ask the chairman whether or not he would agree with me that a two-stage process, using a preapplication to evaluate cities and urban counties which may already meet threshold eligibility criteria, should be used by HUD and that such a process will save many communities from the nonreimbursable expense of preparing a full application?

Mr. ASHLEY. I would like to respond to my friend if he will yield.

Mr. BROWN of Michigan. I will be glad to yield.

Mr. ASHLEY. The question of a preapplication processing procedure for the UDAG program, as the gentleman has mentioned, was not considered by the conference committee. In fact, as the gentleman from Michigan has indicated, the report is silent on the issue. I would like to make clear that our silence should in no way be construed to conflict with the view of the Appropriations Committee in this matter.

Mr. BROWN of Michigan. While I have the attention of the gentleman from Ohio, I would like to make further inquiries regarding the conference report.

During the conference when we discussed the limits of coverage under the national flood insurance program, it was represented that the Senate provision increased the optional single-family actuarial rate limits from $35,000 to $50,000 and from $35,000 to $150,000 on multifamily. Now, we are informed that the agreed upon limits are $150,000 for both single family and multifamily properties.

In effect, when this new limit is added to the $35,000 in subsidized base coverage, there is a total coverage available of $185,000 for a single family unit. This figure is a $115,000 increase over the previous limit of $70,000.

As I read the language, the new limits are authorized "up to $150,000" in addition to the subsidized coverage of $35,000.

I would expect and does not the chairman expect that the Secretary will set some lower limit, at least at the present time?

Mr. ASHLEY. If the gentleman will yield, it is true that the new actuarial limits provided for in this conference report could go up to $150,000 in addition to the subsidized coverage of $35,000. It is not the intent of the conferees to provide a total coverage of $185,000 across the board. We are concerned that this additional actuarial coverage might be viewed as the rule rather than the exception without regard to the variances in cost structures among the high cost areas in the Nation. It is not our intent that all properties in all areas of the country should have this new maximum and we would certainly expect the Secretary to scale down actuarial coverage to reflect actual economic conditions in particular flood-prone areas.

Mr. BROWN of Michigan. I would like to further inquire of my colleague, the distinguished chairman of the subcommittee (Mr. ASHLEY) concerning the intent and purpose of including title VIII, the Community Reinvestment Act, in the conference bill.

As the gentleman knows, the Senate was insistent upon retaining the provision and it appears that we would not have a bill here today if we had not found accommodation.

I am concerned, because the report of the managers does not mention either our misgiving about the provision or the emphatic assurances that were given to the House conferees in order to gain our acceptance.

Am I correct in stating that it was our intent that implementation of title VIII be deferred for 390 days after enactment?

Mr. ASHLEY. That is correct. I believe the report of the managers makes that clear.

Mr. BROWN of Michigan. To make this a brief colloquy, is it the chairman's understanding that, regardless of the subcommittee of the Committee on Banking, Finance and Urban Affairs that would have jurisdiction over this matter, which would probably be the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, hearings would be held promptly so that we could get the input of the regulators as to their ability to implement the provisions?

Mr. ASHLEY. That is definitely my impression as to the intent of the conferees, and it is my expectation as to what would take place.

Mr. BROWN of Michigan. I see that the gentleman from Wisconsin, the chairman of the full committee, is on the floor. Could I ask the gentleman from Wisconsin if that is not also his understanding?

Mr. REUSS. If the gentleman will yield, I look at the statement of the managers, under title 8, and I do not find in the statement of the managers any language, which indicates that in the 390 days which is given to the Federal financial supervisory agency to get out their regulations, that necessarily committee hearings will be held. I have just heard the statement of the distinguished chairman of the Subcommittee on Housing and Community Development that such hearings will be held, and I will state my view that that is a constructive thing to do and I would heartily approve such a course of action.

Mr. BROWN of Michigan. Would the gentleman also agree—he was present in the conference—that in connection with our acceptance of this proposal from the other body, a colloquy occurred in conference, and it was agreed by all, that prompt hearings would be held and that we would not expect the regulators to attempt to implement these provisions in advance of our holding any hearings?

Mr. REUSS. If the gentleman will yield, the gentleman is talking about a discussion in the conference committee. But I have stated that I go right along with the gentleman from Ohio (Mr. ASHLEY) in stating that it would be a good idea to hold hearings, and, certainly, if we promptly hold hearings and the administration tries to jump the gun, I would think we would clear our throat in a proper manner and restrain that.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, rather than to see the gentleman from Michigan have any concerns about a failing memory, or anything of that kind, let me say that that colloquy did take place.

It was quite well understood that we might have a problem getting signators to the conference report unless the colloquy took place which did take place, and the agreements were reached that the gentleman has described.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for his comments and also for his good recollection and understanding.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

Under the Urban Development Action Grants, the formula for age of housing is raised by 50 percent.

Is that not a significant development or a significant change from the present formula, or is this a new situation entirely?

Mr. BROWN of Michigan. Mr. Speaker, the House passed the Urban Development Action Grants program without any such criteria. Other criteria were listed, but that criterion which was part of the impaction formula was not included in the House bill. However, as a compromise, we agreed to apply the impaction factors to the UDAG program.

Let me hasten to add that, with respect to communities of 50,000 population or less, that criterion is not involved. Twenty-five percent of the UDAG funds are earmarked for communities of less than 50,000. That is the point, I believe, that the gentleman was expressing earlier.

Mr. BRINKLEY. Mr. Speaker, if the gentleman will yield further, let me ask one further question:

It is my understanding that weighted formula was based upon the pre-1939 housing formula. Is the gentleman familiar with that?

Mr. BROWN of Michigan. Mr. Speaker, that was the original Senate language, so I would assume it is the same. I understand it was the pre-1940 formula, that is correct.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman.

Mr. BROWN of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to the conference report on H.R. 6655, a bill which would increase the funding for community development in fiscal year 1978 by over 23 percent. The bulk of the "new" money will be used in the worst possible way—for a $400 million categorical Urban Development Action Grant program to be administered by the Secretary of HUD.

As a result of the conference on this bill, the primary criterion for the selection of recipients under the UDAG program would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction on formula. The compromise may help to direct UDAG moneys to the cities and urban counties in greatest distress, but it does not go far enough to assure that this does not become just another misdirected urban renewal program, pouring Federal dollars into ill-conceived, overly ambitious, and infeasible local projects.

In addition, the UDAG criterion, along with the new dual formula, will dramatically shift block grant funds to the Northeast and North Central regions at the expense of the rest of the country. If the original single formula approach

had been retained and the UDAG funds distributed through this mechanism, the discretionary balances available for many smaller communities would have increased considerably. In this way, we would have actually accomplished some good by funding communities where the funds would make a difference.

Instead, these smaller communities have been largely preempted thanks to the drain of funds by the hold-harmless cities, UDAG and the dual formula. We are told that under the new dual formula, no one loses. What we are not told is, who is paying for this bloated budget.

This legislation would also authorize a total of $1,159 billion in additional annual contributions contract authority for subsidized housing. Remember that by this action, we are actually authorizing HUD to make contracts which will obligate the Federal Government to pay out billions of dollars over the next 30 to 40 years, which may be considerably longer than the projects themselves will last. The Federal Government is already paying over $3 billion a year for subsidies for housing built in earlier years. You can see that if we continue at the present pace, we will be adding $1 billion a year in the foreseeable future. Then we will be told these costs are "uncontrollable" budget items based on past contracts. How many times has this excuse been offered as the reason why Congress cannot control the budget.

There seems to be general agreement on the disappointment and failure of the traditional public housing program, except in a few rare cases. One needs only to look at the amounts necessary each year for operating subsidies.

In the last 4 years this subsidy level nearly doubled, and yet Congress continues to encourage the use of this program, and in fact, the conferees dropped the amendment sponsored on the floor that would have limited the total amount of housing funds which may be used for public housing.

As my colleague, Mr. BROWN of Michigan has already mentioned, when we discussed in conference the Senate provision, which would raise the limits of optional insurance coverage under the national flood insurance program, that provision was represented as one which would raise the limits on a single family residence from $35,000 to $50,000 and from $35,000 to $150,000 on a multiple unit dwelling. All you have to do is read the statement of managers in the CONGRESSIONAL RECORD to see the confusion. The RECORD, by mistake, reprints the draft statement and the final statement on this subject. The original language stated the coverage would go up to $70,000 but the final language shows that this optional insurance coverage, albeit at an actuarial rate, would be up to $150,000. And, remember, this new limit is added to the $35,000 in subsidized coverage, so we are talking about a program which auhorizes a total coverage of $185,000 for a single house. In effect, the Federal Government, to an extent, is subsidizing an insurance program for the wealthy. Since the first $35,000 of coverage, though at actuarial rates, will actually be at a rate lower than would otherwise be available. This is because the Federal Government is underwriting the first $35,000 of loss, the greatest risk.

Now, Congress has seen fit to establish a flood insurance program for the family that owns a home worth $185,000 in a flood hazard area, but only increases from $55,000 to $60,000 the basic loan limitation on conventional real estate loan by Federal savings and loan associations for single family homes. Inflation has dashed the hopes of many who wish to own their own homes. Recognizing that fact, the new legislation increases the basic FHA mortgage limits from $45,000 to $60,000, as well as the mortgage purchase limits of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. Such modest increases in the limits are understandable, but how can one explain an increase of $115,000 or 428 percent in flood insurance limits?

In conference we were told the increased limit was $50,000; in the draft statement of managers it was $70,000; in the final statement it was $150,000. Maybe we had better pass this report quickly before it goes up to $200,000.

As far as I can see title VIII, the so-called Community Reinvestment Act, does nothing but add another layer of redtape to the process of examination and expansion of services by State and federally chartered depository institutions. A political price could be exacted for any required approvals regardless of the merits of the case. It would have a chilling effect on the activities of institutions which operate in so-called disinvested areas. Many of these institutions have been bringing much more money into disinvested areas than they receive in deposits from those areas.

In addition to my general objections to the title, I have several objections to the procedure we are following in handling this conference report.

First. The various regulatory agencies for depository institutions have privately indicated that the regulations would be a nightmare to write and that the 180-day deadline for promulgating these regulations, which is provided in the conference report, is unrealistic.

Second. Although the conferees agreed that the implementation would be delayed for 390 days and the report language so states, the statutory language states that the Community Reinvestment Act can be implemented up to 390 days after enactment.

Third. There have not even been hearings on community reinvestment. Although Chairman REUSS twice gave his pledge that hearings would be held, subsequent to enactment, there is no mention of this commitment in the conference report.

Accordingly, I object to the enactment of this punitive, nongermane provision without full consideration by this House.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would be remiss in discussing this conference report and all of the innovative provisions that are in the conference report, if I did not say to my colleagues in the House and for the benefit of the Speaker that I think we all owe a great debt of gratitude to the gentleman from Ohio (Mr. ASHLEY). The gentleman has always been, I feel, a most objective Member in dealing with these matters.

The gentleman from Ohio has credited me with being bipartisan and nonpartisan. I would certainly have to say that to an equal, or an even greater degree, he has manifested the same quality. I would like to commend him for his work and wish him well in the years to come.

Mr. McDADE. Mr. Speaker, the conference report on the Housing and Community Development Act of 1977 (H.R. 6655) is the product of long negotiations and many misunderstandings. Unfortunately the existing authority for HUD programs expired on September 30, leaving us with little choice but to approve this bill.

I say "unfortunately" because I believe there are many provisions of the bill which merit close examination by Members of this body, an examination which most have not had the opportunity to pursue.

I am most concerned about what I believe are the serious deficiencies in Title I—Community Development as it relates to old declining cities. As a member of the HUD-Independent Agencies Appropriations Subcommittee I have had the opportunity to scrutinize closely the various Community Development (CD) formulas and I am disappointed with the results of the conference. Clearly the addition of a second community development formula prevented older declining cities of the Midwest and Northeast from suffering unjustified losses due to admitted shortcomings in the original formula. Yet as structured the dual formula in this bill is manifestly unfair to the community development needs of many moderate sized cities of the Midwest and Northeast. This result occurs because of the substantial amount of aged housing stock (constructed prior to 1940) in these cities.

According to the documentation provided by HUD to my Appropriations Subcommittee, age of housing stock is statistically the single best predictor of community development need. Yet in structuring its second formula HUD looked only to the number and not the concentration or impaction of aged housing. By HUD's own definition then, the need for CD funds of a city like my home city of Scranton in which 96 percent of all housing was built before 1940 is greater than that of a city in which only 20 percent of its housing was built before 1940. The same is true for many moderate sized Midwest and Northeast cities such as: Rock Island, Ill.; Terre Haute, Ind.; Portland, Maine; Fall River, Mass.; Kalamazoo, Mich.; Passaic, N.J.; Elmira, N.Y.; and many others.

Therefore the structure of the dual formula, looking only to the number of old housing units, creates a new class of CD block grant losers among the moderate sized cities of the Midwest and Northeast which have huge proportions of old housing but where absolute numbers are not comparable with large cities.

At the same time, the use of the dual formula produces actual increases in CD funding by 1980 for 9 of the 15 cities defined as "least needy" according to HUD's index of community development need. I believe it is indefensible for a program which is supposed to address "need." It was certainly never my understanding that the CD bloc grant program was designed as revenue sharing, yet that appears to be the result of the dual formula design.

The Senate version of the bill offered a third "impaction" formula measuring CD "need" by concentration of aged housing stock and awarding funds according to the formula which produced the best result for a community. No communities lost money from their dual formula entitlement under the Senate amendment. I believe this approach should have been adopted in conference.

This title also includes authorization for so-called Urban Development Action Grant (UDAG) program, intended, we are told, to add flexibility to the CDBG program and aid "one shot" development opportunities. Practically speaking we have no assurances that these funds will be allocated to needy cities. The compromise reached by the conferees on the impaction issue says that the primary criteria for distribution of UDAG grants shall be the impaction factors. In spite of the conference language this remains a program administered at the discretion of the Secretary. I intend to follow the administration of the program intimately to assure these criteria are observed and grants are awarded to the most needy cities.

The CD title also contains provisions which I supported, recognizing the CD needs of communities under 50,000. These included a requirement that 25 percent of UDAG funds be reserved for small cities, authority for multiyear award of discretionary grants and a requirement that priority in awarding of discretionary money be given to small cities presently receiving hold harmless funding.

Mr. Speaker, given the expiration of HUD's authorities and the necessary changes for HUD programs in other parts of the bill, I must vote for it. However, I want to make my dissatisfaction with the CD title clear. I believe it does a tremendous disservice to an objective "needs" approach to community development.

Mr. AUCOIN. Mr. Speaker, the House-Senate conference on H.R. 6655, a major piece of housing legislation, has been long and tedious. Those of us on the conference committee are relieved to have discharged our duty. But we do so with the knowledge that the conference has been productive. It covered much ground and generated solid compromises.

The bill we brought back to the House is very much like the legislation the House passed. Where it is different, it generally is improved.

The major issue in the conference was how we were going to divide up community development funds. I am pleased to say that the House conferees held firm to their conviction that these funds should go where they are most needed, but also to the cities and counties that are aggressively and innovatively attacking the problems of urban blight.

Few Members of the House on the conference committee were more adamant than I about rejecting the inclusion of a third formula in the disbursement of block grant funds. I was adamant not because of regional concerns, or because I feared the Northeast or Upper Midwest would get more and some other region would get less money. I was adamant because I believe there is a right way to develop a funding formula and a wrong way. The House, to my way of thinking, pursued the right course, waiting on any further formula changes until basic research is completed which identifies unmet needs so that such real needs—not hypothetical ones—can be met effectively.

Many of you will recall that I rose on the House floor while this bill was being debated and supported the dual formula on the basis it was a concept with a national scope. I said different regions of the country should put aside selfish concerns and support the formula because, first, no one was hurt and, second, significant progress was made in fair distribution of block grant funds.

By rejecting the Senate impaction formula for block grant funds, the House has preserved this position and it has also preserved a promising innovation—the administration's urban development action grant program.

This program has won my enthusiasm because HUD can use flexibility to employ funds in a troubleshooting manner, injecting large sums for severely distressed problems in which innovative solutions have been proposed at the local level. Meanwhile, the basic block grant program will enable cities to keep up their present efforts. UDAG, on the other hand, is intended to inspire them on to bolder pursuits. Finally, the UDAG program is a dash of spice that should serve as an incentive for cities to perform well with their basic block grant funds, in order to qualify for UDAG moneys.

We are not talking about a return to categorical funding for physical redevelopment. What we are talking about is a program designed primarily to leverage new ideas and new moneys from the private sector into the effort to revitalize our Nation's inner-city neighborhoods and downtowns. I believe the House has kept faith with the thrust of the Senate's initiative with respect to the impaction formula. We have altered the criteria for awarding UDAG's to give additional weight to older cities that would have benefited from the impaction formula. But we are not guaranteeing anyone anything, and that is how it should be. I represent a portion of Portland, the largest city in Oregon. Portland, because it has considerable pre-1940 housing stock, would have benefited from the impaction formula. But Portland, in its wisdom, chose not to support the certainty of a small bundle of cash. Rather, it expressed willingness to forgo such certainties and to compete with the rest of the Nation on the basis of its ideas and energies.

I commend Portland city officials for that, because that is the spirit we want to see in this land. Congress should not act like a dispensary for funds. Instead, it should act as conduit for good ideas, rewarding those who come up with them. The block grant program, coupled with UDAG, accomplishes that. Furthermore, this program, as its goals and procedures are more sharply focused, becomes the centerpiece for our country's developing urban policy.

Let me conclude by saying I support ongoing review of the funding formulas for block grants and of the criteria for awarding UDAG's. This should be a natural evolution, keeping pace with the changing times. But we must develop alternatives or modifications in the calm of the moment after we have developed the case for the existence of an injustice or unfairness. Hopefully, 3 years from now, we can be in agreement from the start on what needs to be done, then do it, for the good of the entire country and its people.

Mr. ASHLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DEL CLAWSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 26, not voting 24, as follows:

[Roll No. 625]

YEAS—384

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo

Gibbons	McKay	Rose
Gilman	McKinney	Rosenthal
Ginn	Madigan	Rostenkowski
Glickman	Maguire	Roybal
Goldwater	Mahon	Runnels
Gonzalez	Mann	Ruppe
Goodling	Markey	Ryan
Gore	Marks	Santini
Gradison	Marriott	Sarasin
Grassley	Martin	Sawyer
Gudger	Mathis	Scheuer
Guyer	Mattox	Schroeder
Hagedorn	Mazzoli	Schulze
Hall	Meeds	Sebelius
Hamilton	Metcalfe	Seiberling
Hammer-schmidt	Meyner	Sharp
Hanley	Michel	Shuster
Hannaford	Mikulski	Sikes
Harkin	Mikva	Simon
Harrington	Milford	Sisk
Harris	Miller, Calif.	Skelton
Harsha	Mineta	Skubitz
Hawkins	Minish	Smith, Iowa
Heckler	Mitchell, N.Y.	Smith, Nebr.
Hefner	Moakley	Snyder
Heftel	Moffett	Solarz
Hightower	Mollohan	Spellman
Hillis	Montgomery	Spence
Holland	Moore	St Germain
Hollenbeck	Moorhead, Calif.	Stangeland
Holtzman	Moorhead, Pa.	Stanton
Horton	Moss	Stark
Hubbard	Murphy, Ill.	Steed
Huckaby	Murphy, N.Y.	Steers
Hughes	Murphy, Pa.	Steiger
Hyde	Murtha	Stockman
Ichord	Myers, Gary	Stratton
Ireland	Myers, John	Studds
Jacobs	Myers, Michael	Taylor
Jeffords	Natcher	Teague
Jenkins	Neal	Thompson
Jenrette	Nedzi	Thone
Johnson, Colo.	Nichols	Thornton
Jones, N.C.	Nix	Traxler
Jones, Okla.	Nolan	Treen
Jones, Tenn.	Nowak	Trible
Jordan	O'Brien	Tsongas
Kasten	Oberstar	Tucker
Kastenmeier	Obey	Udall
Kasen	Ottinger	Ullman
Kelly	Panetta	Van Deerlin
Kemp	Patten	Vander Jagt
Ketchum	Patterson	Vanik
Keys	Pattison	Vento
Kildee	Pease	Volkmer
Kindness	Pepper	Waggonner
Kostmayer	Perkins	Walgren
Krebs	Pettis	Walker
Krueger	Pickle	Walsh
LaFalce	Pike	Wampler
Lagomarsino	Poage	Watkins
Latta	Pressler	Waxman
Le Fante	Preyer	Weaver
Leach	Price	Weiss
Lederer	Pritchard	White
Leggett	Pursell	Whitehurst
Lehman	Quayle	Whitley
Lent	Quie	Whitten
Levitas	Quillen	Wiggins
Livingston	Rahall	Wilson, Bob
Lloyd, Calif.	Ralisback	Wilson, C. H.
Lloyd, Tenn.	Rangel	Wilson, Tex.
Long, La.	Regula	Winn
Long, Md.	Reuss	Wirth
Lott	Richmond	Wright
Lujan	Rinaldo	Wydler
Luken	Risenhoover	Wylie
Lundine	Roberts	Yates
McClory	Robinson	Yatron
McCormack	Rodino	Young, Fla.
McDade	Roe	Young, Mo.
McEwen	Rogers	Young, Tex.
McFall	Roncalio	Zablocki
McHugh	Rooney	Zeferetti

NAYS—26

Archer	Clawson, Del	Miller, Ohio
Armstrong	Collins, Tex.	Mottl
Ashbrook	Crane	Rhodes
Badham	Derwinski	Rousselot
Bauman	Dornan	Rudd
Beard, Tenn.	Evans, Ga.	Russo
Bennett	Hansen	Stump
Brinkley	Holt	Young, Alaska
Burleson, Tex.	McDonald	

NOT VOTING—24

Anderson, Ill.	Foley	Satterfield
Andrews, N.C.	Howard	Shipley
Bolling	Johnson, Calif.	Slack
Broomfield	Koch	Staggers
Dent	McCloskey	Stokes
Diggs	Marlenee	Symms
Dodd	Mitchell, Md.	Whalen
Flood	Oakar	Wolff

The Clerk announced the following pairs:

Mr. Diggs with Mr. Whalen.
Mr. Howard with Mr. McCloskey.
Mr. Stokes with Mr. Marlenee.
Mr. Wolff with Mr. Symms.
Mr. Koch with Mr. Johnson of California.
Mr. Flood with Mr. Anderson of Illinois.
Mr. Dodd with Mr. Broomfield.
Mr. Dent with Mr. Mitchell of Maryland.
Mr. Foley with Mr. Satterfield.
Mr. Shipley with Mr. Staggers.
Ms. Oakar with Mr. Slack.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on the conference report accompanying the bill H.R. 6655, the Housing and Community Development Act of 1977, which was just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO S. 1522, AUTHORIZING MARINE MAMMAL PROTECTION ACT APPROPRIATIONS, 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes, with Senate amendments to the House amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments, as follows:

(1) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 4. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372 is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.".

(2) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments to the House amendments.

The SPEAKER. Is there objection to the request of the gentleman from New York to dispense with further reading?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do not see the gentleman from Kansas (Mr. SKUBITZ) here. I am just wondering whether or not the minority has been consulted at all about permission for the committee to sit tomorrow.

I wonder if the gentleman from Washington would withdraw this request?

Mr. MEEDS. Mr. Speaker, I will withdraw the request until we can get in touch with the gentleman from Kansas (Mr. SKUBITZ).

INTERNATIONAL "DAY OF BREAD"

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, this is Harvest Festival Week and today, I would like to remind my colleagues, is the International "Day of Bread." The purpose of this observance is to bring the people of the world together in spirit, to express thanksgiving for the annual bounty of nature and to continue our commitment to win the war against hunger and malnutrition.

Today, each Member of this body will be receiving a complimentary loaf of bread provided by the National Day of Bread Committee, made up of wheat

growers, millers, and bakers. They join me in the hope we can break bread together and recommit ourselves to the task of planning better to feed ourselves and our fellow human beings throughout the world.

Mr. Speaker, I also submit for the RECORD a pamphlet published by the International Day of Bread Committee entitled, "What Men of Science Say About Your Daily Bread." I commend this article to the attention of my colleagues who I know share my interest in the need to be fair with the farmer and the need to find answers to the unsolved problems of food economics, distribution, and nutrition education.

The pamphlet follows:

WHAT MEN OF SCIENCE SAY ABOUT YOUR DAILY BREAD

THE STORY OF "ENRICHMENT"

"Just before World War II, there was widespread and serious malnutrition in the United States in the form of vitamin deficiency diseases. Thousands of people were actually dying and hundreds of thousands more were existing in a state of miserable 'half-health' because of them. In 1941, it was decided that it would be feasible to improve the nutritional quality of bread by adding elements so dangerously deficient in the American diet, the vitamins; thiamine, niacin and riboflavin, and the mineral: iron. And, in the years that followed, the serious deficiency diseases (pellegra, beriberi, aribofiavinosis) disappeared as public health problems—due in large measure to the nutritional improvement brought about by the use of enriched bread. It has been said that the elimination of these vitamin deficiency diseases was one of the greatest success stories in the history of public health improvements."—Dr. W. H. Sebrell, Jr., Director, Institute of Human Nutrition, Columbia University.

ARE "HEALTH FOODS" BETTER?

"Any local grocery or supermarket is a health food store. Its brands of foods are as good, as healthy and certainly far cheaper than that sold in a 'special' health food store."—Dr. Fredrick J. Stare, Chairman, Department of Nutrition, Harvard University.

FROM ENRICHMENT TO FORTIFICATION

"There is evidence of potential risk of deficiency of vitamin A, thiamin, riboflavin, niacin, vitamin B_6, folacin, iron, calcium, magnesium and zinc among significant sections of the population. It is recommended that all products based on the major cereal grains, i.e., wheat, corn and rice, be fortified (with the above 10 nutrients at specified levels) where technically feasible . . . Cereal-grain products are suitable carriers . . . on the basis of their broad usage by almost everyone in the United States."—"Proposed Fortification Policy for Cereal Grain Products," Food and Nutrition Board, National Academy of Sciences, Washington, D.C., 1974.

HOW IMPORTANT IS BREAD AND OTHER WHEAT PRODUCTS FOR GOOD HEALTH?

"Work carried out in recent decades indicates that: (1) Wheat has an ameliorating effect on blood cholesterol levels which may be important in reducing cardiovascular deaths; (2) wheat decreases the incidence of dental caries in children; (3) wheat contains proteins of such high biological quality that normal young men can be maintained in excellent health for long periods of time when wheat is their only source of protein; (4) wheat lowers the blood urea level which may be efficacious in the reduction of renal (kidney) diseases; and (5) wheat provides an economical and adequate means of providing a nutritious diet for large numbers of people now that food is considered a critical factor in human survival."—Dr. Olaf Mickelsen, Professor of Nutrition, Michigan State, University.

IS BREAD JUST EMPTY CALORIES?

"Bread and cereals provide 25 percent of the good energy, 17 percent of the protein and about 25 to 30 percent of the iron consumed. . . Bread is a good food and is not an example of empty calories. It provides important nutrients to the diet and plays a proud role in nutrition."—Dr. Philip L. White, Secretary, Council on Foods and Nutrition, American Medical Association.

CAN BREAD PREVENT HEART DISEASE?

"An increase in the amount of bread consumed represents our best chance to lower the fat content of the American diet and thus take an effective step in trying to lower cholesterol levels and mortality from our number one cause of death, atherosclerotic heart disease."—Dr. Jean Mayer, Professor of Nutrition, Harvard University.

HOW DOES AMERICAN BREAD COMPARE?

"The bread with the highest over-all nutritional value was a semi-white Finnish bread made with a mixture of whole wheat and white flour and 4.3 percent milk solids . . . The bread which ranked second in over-all nutritional value was the enriched white bread typical of that sold in the United States."—Study made at Massachusetts Institute of Technology by Dr. Robert S. Harris, et al., of nutrient composition of 44 typical national breads of the world.

WHEAT AND THE WORLD FOOD PROBLEM

In testimony on the "Wheat and Wheat Foods Research, Education and Promotion Act" before Committees, House and Senate, U.S. Congress: "Increased cereal consumption in this country would be beneficial and cereals provide the major hope for feeding the world now and in the future."—Dr. D. M. Hegsted, Chairman, Food and Nutrition Board of the National Academy of Sciences-National Research Council.

"The key factor in the world food situation is of course the supply of cereals—wheat, rice and coarse grains—which account for well over half the world food production and, more important, are the staple foods for people all over the globe."—Dr. A. H. Boerma, Director, General, Food and Agriculture Organization, United Nations.

IS BREAD FATTENING?

"Because of bread's low fat content, it has a low caloric density and should be included in the diets of weight-conscious consumers rather than being shunned by them."—Dr. William J. Hoover, Chairman, Department of Grain Science and Industry, Kansas State University.

"When you consider the nutrients bread supplies, it really isn't a fattening food. You'd wind up with more calories if you tried to get the same nutrients from most other foods."—Dr. Paul A. Larhance, Rutgers Food Science Department.

A "DAY OF BREAD"

Emerging as a major factor in the solution of the world-wide hunger problem is bread—so common and so universal through the centuries that it is known as the symbol of all food. Wheat is the world's most widely cultivated food plant. It is eaten in various forms by almost four billion people and makes a larger contribution to the calories and protein available to man than any other food.

The universality of bread and the growing concern, both at home and abroad, for hunger and malnutrition gave rise to the "Day of Bread" in the United States to focus attention on this critical problem and urge industry and government to join in a campaign to improve popular diet.

The "Day of Bread," observed on Tuesday of the first full week in October, called Harvest Festival Week, is a revival of an ancient custom, celebrating the annual bounty of agriculture. The modern version began in West Germany in 1953 and spread to other countries of Europe, South America, Asia and Africa. It started in the United States in 1969 proclaimed by the President, state governors and mayors throughout the nation.

TREASURY SUPPORTS CONFIDENTIALITY OF INFORMATION CONCERNING BANKS AND BANK CUSTOMERS

(Mr. BROWN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of Michigan. Mr. Speaker, in the CONGRESSIONAL RECORD for Saturday, September 24, 1977, on page 30792, the gentleman from New York (Mr. ROSENTHAL) refers to and excerpts a recent letter he received from Treasury Secretary Blumenthal on H.R. 2176, the Federal Banking Agency Audit Act. Conveniently, Mr. ROSENTHAL did not place the entire letter in the RECORD so that all the Members could read it for themselves, but rather, chose to excerpt only those passages most favorable to his cause.

Although the Treasury Department letter indicates general support for H.R. 2176, it recites that the Treasury Department continues "to have some technical reservations," which reservations, I suggest, are actually substantive rather than merely technical, as a reading of such letter will demonstrate.

Specifically, Treasury supports the arguments I have heretofore made when in its letter it says:

. . . we find persuasive the arguments in favor of maintaining the confidentiality of information concerning banks and bank customers.

In addition, Treasury acknowledges the difficulty in separating what are, and are not, monetary policy functions and suggests that it may be difficult to frame an adequate definition. It is with this very concern in mind that I have advocated an amendment which would specify with greater particularity than does H.R. 2176 those things that shall be considered monetary policy and subject to the exclusion from audit as is provided in H.R. 2176.

In any case, Mr. Speaker, not wanting to be guilty of the same nonobjectivity of which I have suggested the gentleman from New York (Mr. ROSENTHAL) may be guilty, I am putting the full Treasury letter in the RECORD so that my colleagues may judge the relative merits of the two positions for themselves:

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 16, 1977.

Hon. BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Commerce, Consumer and Monetary Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for a restatement of the views of the Administration on H.R. 2176 which provides for regular audits by the General Accounting Office of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

As you know, on March 3, 1977, the Acting Comptroller of the Currency testified on this bill and indicated that his Office had no

objection to reasonably spaced periodic reviews by the General Accounting Office, provided that certain changes were made in the bill. The bill as reported by the Committee on Government Operations did not adopt all of the changes suggested by the Comptroller; in particular, it did not include an amendment that would prevent the disclosure of the names of banks and bank customers.

While the Administration generally supports H.R. 2176, we continue to have some technical reservations. Since the purpose of the GAO audit is to review the operations of the regulators, rather than the members of the industries regulated, we find persuasive the arguments in favor of maintaining the confidentiality of information concerning banks and bank customers.

I understand that the Federal Reserve System takes the view that the insulation from the audit process of matters concerning monetary policy is not sufficiently broad and that the operations of the discount window should be excluded completely. We share the System's concern about the extreme difficulty of distinguishing those discount window operations which are solely regulatory in character from those which are also intended to have a monetary imoact. While we see no reason why transactions in the former category should not be subject to audit, the inevitable ambiguity of the purpose for which any particular transaction is intended raises serious questions as to whether an adequate definition can be framed.

Sincerely,

W. MICHAEL BLUMENTHAL.

THE LOCKHEED LOAN—A DRAMATIC COMEBACK

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, later this month, members of the Emergency Loan Guarantee Board will meet at the U.S. Treasury Department and are expected to accept a revised credit agreement between the Lockheed Corp. and a consortium of 24 lending banks. The revised credit agreement will remove from the Federal Government responsibility for guaranteeing the loans to Lockheed. Through the sound management of their directors, especially Robert W. Haack, their recently retired chairman, Lockheed has returned to a more healthy financial situation and is making money again.

Six years ago, I addressed this body and explained why it was necessary to protect the viability of Lockheed. At that time, many critics of the guarantee stated that Government assistance was unprecedented and were ready to write the company off. The critics were wrong.

The loan guarantee helped save an important company and did not cost the American taxpayer a single cent. In fact, the Treasury has received $25–$30 million in loan and commitment fees, and has also recovered all expenses of the Emergency Board.

To quote a Washington Post editorial:

The Lockheed loan has turned out to be unique among Government programs of this sort: It appears to have achieved its goal without costing the taxpayers.

I would like my colleagues to join with me in recognizing and applauding the sound job the Lockheed management team has done.

The articles follow:

[From the Washington, (D.C.) Post, Sept. 29, 1977]

LOCKHEED, BANKS AGREE TO REMOVE FEDERAL GUARANTEES FROM LOANS

(By William H. Jones)

Lockheed Aircraft Corp., which only 18 months ago faced potential collapse in the wake of international payoff scandals and its own financial weakness, yesterday announced an agreement with 24 banks to remove federal guarantees on all loans to the California-based aerospace giant.

Moreover, retiring Lockheed chairman Robert W. Haack revealed yesterday that the controversial program of government-backed loans to his company since 1971 actually resulted in profits of some $30 million to the U.S. government.

"It's a great day, one we've been striving for," said Haack. He is a resident of suburban Potomac, Md., and a former president of the New York Stock Exchange.

Installed about 20 months ago to replace ousted Lockheed chairman Daniel Haughton, Haack has been credited with helping to restore the company's credibility after a series of damaging disclosures about questionable and illegal overseas payments related primarily to aircraft contracts.

Altogether, according to a report by Lockheed directors earlier this year, the company spent between $30 and $38 billion for questionable purposes in the early 1970s. Revelations about specific payments by Lockheed led to political turmoil in Japan and investigations in the Netherlands, West Germany, Italy and other nations.

In 1971, Lockheed was the nation's No. 1 defense contractor, but several of its government projects developed embarrassing cost overruns and other problems. Commercial banks told the company it could have no additional loans unless there was a firm guarantee that $400 million already owed would be repaid.

By a margin of four votes, Congress decided that Lockheed's survival was vital to the national interest and established an Emergency Loan Guarantee Board with authority to guarantee repayment for up to $250 million of loans by banks to the firm.

Lockheed soon borrowed nearly $650 million from commercial banks with $245 million guaranteed by the taxpayers. From that low point through this year, Lockheed gradually repaid loans backed by the government as sales and profitability were restored. Today, $60 million of bank loans to Lockheed are backed by government guarantees. In the first six months of 1977, Lockheed had profits of $26 million on sales of $1.7 billion.

According to the announcement yesterday, made on the eve of both the first regular Lockheed stockholders' meeting in several years and Haack's departure as board chairman, banks no longer will require federal loan backing because of the improved financial condition at the firm. Lockheed employs 55,000 persons.

In a telephone interview from his headquarters at Burbank, Calif., Haack said the federal loan board will meet here on Oct. 12 to review Lockheed's situation and presumably sever the firm's financial relationship with the U.S. Treasury.

"There has been a cloud around Lockheed here and worldwide," he said. "We have, for some time, looked like a ward of the government and it impeded some of our marketing efforts. 'If you're as good as you say then why do you have government guarantees,' some have said," Haack recalled yesterday.

The new bank agreement, Haack added, "will be persuasive to customers by saying Lockheed is a viable corporation and it can now fly alone."

Specifically, Lockheed's 24 banks agreed to extend a revolving bank credit line of $100 million to Lockheed to replace the existing line of $250 million in government-guaranteed funds. An outstanding $350 million long-term loan will be retained through 1981.

According to Lockheed and government officials, the federal loan guarantees did not require any taxpayers' money. After all expenses associated with the aid, the government ended up with about $30 million extra—the government's share of interest charges and fees on the banks' loans. Throughout, the federal government held priority liens on Lockheed's property.

Lockheed was a subject of continuous government oversight in traditional private enterprise decision making during the guarantee period. Haack said yesterday that federal officials had to approve new projects and financial agreements, for example.

Haack will be replaced today as chairman by Roy A. Anderson, following a management plan approved by directors in August. Haack will remain on Lockheed's board. He is a director of seven other companies.

He said he planned to spend more time at his home in the Washington suburbs. Haack predicted that an agreement with the Securities and Exchange Commission will be reached in the near future, permitting that agency to study all information in Lockheed's possession about questionable overseas payments—but without further public disclosure.

[From the Washington (D.C.) Post, Oct. 2, 1977]

LOCKHEED'S SUCCESS

We confess to having shared the strong reservations of a lot of people in 1971 when the federal government agreed to bail out the Lockheed Aircraft Corp., which was then on the verge of bankruptcy. Our reservations would have been even stronger if we had known then what we know now about the $30 million or so the company had used to bribe foreign officials. Disclosure of the bribes merely confirmed our impression that Lockheed was a lost cause and a bad investment for the American taxpayer. So it is with a sense of pleasure and relief—and considerable surprise—that we take note of reports that it hasn't turned out that way. On the contrary, the Lockheed bailout has apparently turned out to be very nearly unique among government programs of this sort: It appears to have achieved its goal without costing the taxpayers anything. Lockheed is giving up the federal loan guarantee on which it has depended for six years and is rejoining the world of free enterprise.

You may recall that what brought Lockheed to its knees was a combination of inflation, cost overruns on various projects and a new airplane that didn't sell too well at first. It has apparently conquered these and other problems. Thanks in large part to that loan guarantee, Lockheed is making money again. Admittedly, there were some rough spots. At one point, the federal government was backing up $245 million in loans and its supervisory committee was riding herd strictly on Lockheed's activities. The situation grew critical again when the exposures concerning the foreign bribes drove Lockheed's two top officers from office. But the cleanup of the company under Robert W. Haack, who is now retiring as chairman, seems to have been thoroughly and carefully conducted.

Does the Lockheed success story argue for more of the same sort of government rescue operations for other failing companies? No. As a general rule, we don't think the government should be in the business of helping private corporations escape the consequences of their own shortcomings. Lockheed was a special case because of its role as a defense contractor and because a case can be made that some part of its downfall was attributable to various Pentagon decisions. That it all has turned out well is heartening—almost heartening enough to make us think that someday all will also turn out well for Conrail, the government's other venture in trying to turn a failing corporation into a success.

DO WE NEED A NUCLEAR TEST BAN?

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKINSON. Mr. Speaker, I had the honor and privilege on October 1, 1977, of accompanying Chairman PRICE and four other members of the House Armed Services Committee to Lawrence Livermore Laboratory in California to discuss and observe the laboratory's national security programs. The accomplishments of this laboratory, which is celebrating its 25th anniversary, are manifold. While the lab today is working in a multitude of scientific and engineering areas, their major effort is still the enhancement of national security through the design, development, engineering and underground testing of nuclear weapons.

One of the major participants in our discussions on the life cycle of nuclear weapons was Dr. Michael M. May, former director of Livermore and now an associate director at large. Dr. May has long been a participant in assuring that the U.S. nuclear weapons stockpile is credible as a deterrent which is both modern and sufficient. A major concern of Dr. May is that deterrent credibility will evaporate rapidly if all weapons testing is ended. Dr. May stated that the constraints of the so-called 150 kiloton threshold test ban treaty are already affecting some U.S. modernization plans.

The June 28, 1976, issue of the Wall Street Journal carried an article by Dr. May. I include the article to be printed in full following my remarks since it is most important today to understand why a comprehensive test ban will not necessarily reduce the chances for proliferation. A moratorium or test ban can only cause significant deterioration of the usefulness of our nuclear weapons stockpile.

As Dr. May said: "Nuclear weapons systems are not perfect, absolute weapons which, once acquired, give us the power to deter attacks under all circumstances."

The referred to article follows:

DO WE NEED A NUCLEAR TEST BAN?

(By Michael M. May)

For more than 20 years the stated U.S. policy has been to seek a complete nuclear test ban. As it now stands, the U.S. and the Soviet Union have agreed to limit the yield of nuclear tests to 150 kilotons, whether the tests are done for civilian or for military purposes. Tests below that yield carried out underground would be permitted.

According to U.S. statements, all that keeps this country from signing a complete nuclear test ban is the fact that low yield nuclear test explosions—which are of major importance for *both* low yield and high yield weapons—could go undetected, so that the ban could not be verified.

The concern about detecting low yield nuclear tests is legitimate. But in this writer's view, even if all nuclear tests could infallibly be detected, the U.S. should not enter into a complete nuclear test ban. As a former director of a laboratory partly devoted to nuclear weapons research, my views may well be biased, and the reader must judge on the basis of the arguments. I believe that the continuing appeal of a nuclear test ban stems from an erroneous concept of what nuclear tests are about.

Nuclear explosives, if used in war, could destroy Western civilization. But the tests which made this outcome possible have long since been done. Treating their present successors as similar in purpose and impact leads to an unrealistic policy.

Currently, and for many years now, nuclear tests have been used to:

(1) Modify nuclear explosives so that they can fit into new missile systems.

(2) Make them lighter, safer to transport, harder to tamper with, more economical of material, etc.

(3) Investigate the effects of the explosion on military hardware (for instance, missile systems) and on communication systems. Some of these effects are extremely complicated and still poorly known.

(4) Maintain deployed weapons in working condition. Weapons are like any other hardware (actually worse than most, because the materials that have to be used are often chemically unstable or radioactive) in that they occasionally have to be repaired, and they will eventually have to be replaced. Replacements will likely be different from the originals because available materials change, as do safety and economy requirements.

(5) Understand better the functioning of the nuclear explosives, some facets of which are still uncertain.

CHANGES ARE NEEDED

Do we need to do these things? Nuclear weapon systems are not perfect, absolute weapons which, once acquired, give us the power to deter attack under all circumstances. Rather the search for invulnerability, reliability and safety requires that we change these systems, together with their nuclear weapon component.

Many of the changes cannot be made reliably without a nuclear test. Some can be. We do not know just where to draw the line between changes which require a nuclear test and those which do not. A nuclear explosive will often fail to work when seemingly slight design changes are made. Of course, under a test ban, changes in design of nuclear weapons would be made very cautiously (and, incidentally, would utilize more computing and non-nuclear test resources than at present). But the nuclear weapons laboratories would also be under significant pressure to make changes since small changes in the nuclear weapons often have a large impact on the cost, or effectiveness, or operational flexibility of the overall system. In the course of time, as the surprises of the past are forgotten, this pressure would increase.

After a number of years designing and supervising the design of nuclear weapons, including part of a previous test ban period. I believe that nobody knows how far we can safely go in making necessary changes without nuclear tests, and that no system of checks and reviews can ensure that we will not go too far. No paperwork system, whether applied to nuclear weapons or to any other hardware, has successfully replaced actual testing in verifying what will work and what will not.

But do not the advantages of a nuclear test ban overweigh the advantages of nuclear tests? It is argued that a nuclear test ban would ease the arms competition between the U.S. and the Soviet Union; help prevent nuclear weapons proliferation; preserve the environment; and save money.

The environmental and the financial arguments have little to support them. The environmental impact of the test program, now that it is carried out underground, is minor. The financial argument could equally well cut the other way. A nuclear test ban would, in the first instance, shift funds from the test activity to computing and non-nuclear testing. Later it would cost money by forcing the U.S. to select unnecessarily expensive, less effective weapons systems and deployment patterns. Since the overall cost of a military system is typically much larger than the cost of testing the nuclear weapon for that system, on balance, a nuclear test ban is likely to cost more thon it saves.

This leaves two major questions: What would be the effect of a complete nuclear test ban on the arms competition between the U.S. and the Soviet Union? And what would be its effect on nuclear weapons proliferation?

Nuclear arms competition between the U.S. and the Soviet Union in one form or another is inevitable. We can, given a careful approach and some commonality of purpose, mitigate its cost and dangers by agreeing to limits on the number and destructive power of the weapon systems, as is now being attempted at SALT. Even so, however, for the foreseeable future, our relationship with the Soviet Union will involve a mixture of cooperation and deterrence. We must in particular continue to rely on nuclear forces, which must remain invulnerable. We may not like this, but short of a verified complete nuclear disarmament, we have no choice.

A complete nuclear test ban will not help in that situation. As was pointed out above, its consequence would be to introduce some unmeasurable uncertainty in our deterrent ability without in any reliable way lessening the threat that either side poses to the other. This hardly seems a wise kind of arms control.

The Soviet Union has of late called for a complete test ban, although it would except nuclear explosions for peaceful (civilian) purposes from the ban. That type of ban would be unverifiable since tests for civilian purposes can be used to generate weapons information, and it should be rejected on that ground alone. What the Soviet motives are for proposing it can only be surmised. One may be to help turn world opinion against the Chinese, who are not party to any current nuclear weapons limitations and would presumably not be a party to the one the Soviets propose. Another motive might stem from the fact that the U.S., with its small missiles, probably relies on advanced nuclear technology to minimize systems costs, increase effectiveness and ensure invulnerability to a greater degree than does the Soviet Union.

The second major question is that of the effect of a complete nuclear test ban on nuclear proliferation. The idea that U.S. nuclear tests and proliferation are linked was proposed a number of years ago, on two grounds: one, that U.S. nuclear tests, by showing what can be done, would give technical encouragement to the groups in foreign countries which advocate acquiring nuclear weapons; and, two, that we would be considered hypocritical and would lack credibility if we asked others to refrain from what we were doing ourselves.

On the first score, it is true that our successfully testing nuclear weapons showed others it could be done. That is already irretrievable history, however. Foreign governments already know that, given the material, they can have weapons designed to fit their own delivery systems relatively simply. How we further evolve our stockpile to meet our needs does not alter that knowledge.

CONFUSING RHETORIC WITH REALITY

The second grounds for linking U.S. nuclear tests with proliferation, namely that

we should do what we preach, confuses the rhetoric of international meetings with the actuality of governmental decision making. Believing the rhetoric is likely to lead us away from the true causes of proliferation.

Insecurity, in some form, is the likely cause of nuclear proliferation. One source of governmental insecurity is the presence of nuclear weapons in the hands of potential enemies. For that reason, the existing nonproliferation treaty is valuable. But the desire to link that treaty to restrictions on U.S. nuclear tests, though understandable as an emotional and political reaction on the part of non-nuclear countries has little rational basis. Few if any non-nuclear countries feel threatened by U.S. nuclear weapons. None is likely to be reassured by our taking on the unpredictable technical, economic and operational handicaps which would flow from a complete nuclear test ban.

In addition, the Western nations must cope with the threat of large Soviet nuclear forces, separate from the ones which threaten the U.S. For such countries, any step by the U.S. away from resolute support of its security alliances (and a nuclear test ban, impeding as it would modernization of tactical forces as well as casting some doubt over the future viability of the deterrent forces, may well be viewed as such a step) will be an incentive to proliferation rather than the opposite.

This does not mean that the U.S. must give up any hope of playing a leadership role in the matter of nuclear weapons control. On the contrary, the U.S. has an unparalleled opportunity for such leadership under the present circumstances. The opportunity stems from the fact that the general political situation, as it involves resources, alliances, political balances, is more fluid than it has been at any time since World War II. But the leadership must be exercised by taking into account the diverse political, social and economic needs of the nations and governments involved, along with our needs. The solutions may involve new treaties, new security arrangements, new arrangements for dealing with nuclear technology. They are unlikely to require the U.S. to abstain from nuclear tests. The appeal of a test ban stems from the mistaken implication that the nuclear genie can be put back into the bottle, not from the evaluation of anyone's security needs.

In summary, it is difficult to see why U.S. adherence to a nuclear test ban should inhibit nuclear weapon proliferation. Whether it will reduce the threat of the U.S.-Soviet arms competition is even more questionable. Its effect will be rather to introduce uncertainties in the performance and invulnerability of nuclear forces, forces which neither side can abandon at this time of history.

WHY SO MANY STUDENTS CHOOSE VETERINARY MEDICINE

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PATTEN. Mr. Speaker, New Jersey students who want a degree in veterinary medicine may go to the nine-State regional school at the University of Pennsylvania.

New Jersey, Massachusetts, New Hampshire, Vermont, Maine, Connecticut, Rhode Island, Pennsylvania, and Delaware are providing State support for their students who attend the regional School of Veterinary Medicine at Philadelphia.

Several of these States provide teaching sites for part of the curriculum. Cornell, at Ithaca, N.Y., is the other veterinary medical school in this region. Cornell and Penn work closely together to meet the veterinary education needs of the nine States, exchanging faculty and students frequently.

We are proud of the education our students get though, naturally, we would want a New Jersey veterinary school if it were economical.

We are doubly proud when we hear of the innovative ideas which this school's faculty brings to veterinary medicine, particularly the direct benefits to humans that these ideas promise.

Labor/HEW Appropriations Chairman DANIEL J. FLOOD summarized these ideas in a fascinating speech.

I recommend it to all Members who have wondered why so many young people are suddenly taking an interest in veterinary medicine.

ADDRESS OF CONGRESSMAN DANIEL J. FLOOD ON THE OCCASION OF THE GROUNDBREAKING OF THE UNIVERSITY OF PENNSYLVANIA SCHOOL OF VETERINARY MEDICINE SMALL ANIMAL HOSPITAL

President Myerson, Provost Stellar, Vice-President Langfitt, Dean Marshak, and your excellent organization of educational administrators with you, I salute you all for the successful and creative leadership embodied in this project which you commence today.

I can use these adjectives with authority because, in your comprehensive way you have given me a college course in veterinary medicine so that I can understand the significance of today's events.

If I can pass this course and repeat back to you what you have taught me, then maybe I'll be ready for the postgraduate work, where the student goes a step beyond and makes his own contribution.

But there is so much deep thinking, so much philosophy in the undergrad portion that maybe I'd just better make sure I have that right, first. Then my own contribution might be to use my position in the Congress to tell the scientific, educational, and community service world what is the nature of the demands the best veterinary medical schools are prepared to accept.

Newshawks, members of the press, parents, and others on the periphery of this unusual enterprise, listen to what these leaders propose: They quite literally propose to explore from the beginning the entire relationship between animals and men. That includes aquatic animals. It includes pets. It includes food and fiber animals, wildlife of all kinds. Imagine!

This is not mere intuitive, scientific exploration, brain play. This is not the institutionalization of brilliant minds to allow them the luxury of strolling reflectively through the culture then regaling one another with articles that none of the rest of us can understand.

Rather, they intend to take tried and true concepts and apply them creatively to virgin areas, such as the potential for cowboy or range riding techniques for herding the oceans' fishes for the benefit of the millions who go undernourished in this world.

They intend to explore the dynamics of biological populations which are already interdependent—the typical food chains of the sea where some fish eat plankton and the big fish eat little fish; or food chain problems such as production stimulants in beef cattle which might affect the milk a mother gives her human child; and the gross interaction between various forms of protein production and various forms of protein consumption which have such a terrible impact on who shall live and who shall die.

You have taught me that veterinary medicine, in contrast to human medicine, is accustomed to calculating the economic worth of its patient. The human physician is so debarred from thinking in these terms that we now face a crisis—and no one on the campus where I work will deny this—a crisis of runaway human medical treatment costs with few, if any, guidelines on where to cut back. Veterinary medicine, by force of logic alone, must be exploited for its assistance in creating scientific and humane guidelines on costs.

Now I can tell you without hesitation that the chairman of the Labor/HEW money committee of the House believes that we urgently need all the help we can get from veterinary medicine in such guideline writing.

Your true veterinary avant garde, and it is nowhere if not here at the University of Pennsylvania, is studying not only the existing food chains, but the potential of new ones—Such as how can world health and world food organizations intervene in the migrations of men, domestic animals, and wild beasts in Subsaharan Africa in a way which will possibly ease pain, malnutrition, political tension and even war where other, less thoughtful, measures have obviously failed? Answer that question and I guarantee you that you'll have several congressional committees calling hearings to parallel your seminars.

And while these are large matters, important matters, if I understand the veterinary course you gave me, you are moving on toward other subjects just as important, but rarer as recognized societal problems.

A borderline case, in the sense that some other schools are certainly at work on it, is the area of laboratory animal specialization. As the National Institutes of Health have matured, and I don't need to remind you that my committee finds time now and then to inquire what's going on in Bethesda, USA, NIH has increasingly moved its research to the preclinical stage, the stage where biological systems closely resemble man's.

As many of you know, growing sensitivity among laymen to manipulation by the various professions has raised new questions about certain types of clinical research. Is it proper to pump a test vaccine into a healthy child where medical science cannot make a final assault on an infectious disease without controlled clinical trials? Such questions tend to press the border between clinical and preclinical research closer and closer to the preclinical, away from the human subject.

The interest of anti-vivisectionists and others has not, shall we say, modulated in recent years from what my mail shows.

The lab animal area has involved several schools and I am pleased to see Cornell's Dean Melby here today, a national leader in the field. I hope that the close relations between the Cornell and Penn veterinary schools survivies tonight's gridiron contest.

Lab animals were the borderline case where others are involved around the country. But the jobs your new Center on the Interactions of Animals and Society intends to do shows that you have already institutionalized what lies beyond that borderline. The work is intriguing, for instance—

Man has butchered animals for as long as we know man has existed. Religious sects have recognized moral obligations in this process. Some Asiatic sects forbid it entirely. Now there are courses in many of our medical schools on euthanasia, the selective killing of certain human beings, sometimes at their own request. Again, history tells us this is not a new human interest, but a renewed human interest and one never adequately pursued in our own culture.

What is the veterinary school's proper contribution to this subject? The very intimacy with which the veterinarian is forced to approach the orderly death of food and fiber animals tells us that he might be prepared to explore productively this very important subject. As the University of Pennsylvania School of Veterinary Medicine moves into this area it is clearly leading the traditional veterinary school curriculum into new territory.

You talk about the growing antagonism between those who love to have pets and those who regard pets as despoilers of our neighborhoods. You mention that someone counted 700 stray dogs per square mile in Baltimore City and tallied 33,000 injurious dog bites in New York City in one year.

I am delighted that your Center on the Interactions of Animals and Society is bringing on your law and economics faculties to help understand these disagreements and to work our way toward policy clarification.

Obviously, a statistical base is needed for this kind of work and your new Center will move where other veterinary schools have yet to see the need.

You have taught me that one study shows over 85 percent of stray dogs are owned by someone, a neglectful someone. The legal questions of this are not customarily addressed in veterinary schools, but are being addressed here.

You have taught me that the vastly increased interest in environmental causes of human diseases is reflected in long established, as well as new patterns, of research in veterinary medicine and that your new Center will strengthen the links between such human and animal epidemiological work.

You have told me that one scientific solution to an over-population of pet animals could be a safe, life-long contraceptive for animals. The human implications are enormous.

You have pointed out that cities, counties, and voluntary societies now bear the burden of many sick, privately owned animals. But, you say that the taxpayer and charity giver might be relieved of this burden. Experimental work in the animal health insurance and veterinary health maintenance fields could be the answer. Virtuoso thinking.

I understand that there has been little interaction between veterinary schools and the voluntary societies which shelter animals in our cities, and that Penn has already begun to improve this situation. I've heard of your work to prevent the spread of disease at the New York animal shelter in a cooperative arrangement with the American Society for the Prevention of Cruelty to Animals.

You see, I can reel off what you taught me. As a matter of fact, in this course you've given me the simple facts aren't so hard to handle. It's their sweeping implications.

I can't resist passing on to this audience the biblical cast one of your professors has given this instruction. I can't believe this is a cliche among veterinary medical schools.

He talks about the limited, anthropocentric—you can see this wasn't entirely a snap course—that is, a people-centered view man has historically taken toward animals. He has spoken of the Garden of Eden where his studies reveal that man and animal talked to one another in the same language. After the Fall, he says, human beings and animals have been cut off from one another. (An insinuous statement???)

Now the human is being forced more and more to re-establish that harmonious bond of life between man and animal that existed in the Garden of Eden and to guide man and animal back to Paradise.

Dr. Marshak and his demonstrably brilliant faculty think that this new animal hospital, the new center, the spiritual values which are the concern of those involved here will increase the ability of this institution to offer medical care of the highest quality in its human facilities as well as animal facilities.

They see this animal hospital as a major milestone in the development of the University of Pennsylvania in the services it can offer the Commonwealth and the nation.

I can only agree. The evidence of sincerity, devotion to service, commitment to matters of the soul as well as the intellect, these are marks of greatness.

I firmly believe that the 10 states lucky enough to be participating in this regional veterinary school should count their blessings. Any New Hampshire or Rhode Island parent who can consider Pennsylvania's campus to be his own, really has a possession to value and treasure.

Mr. Secretary, I want to tell you that they are better than the ordinary academicians around here. After more than a century of Brahminism, which after all has something to do with true quality, they have seen the wisdom of exchanging faculty and students with Penn State. They are interlocking the two schools' veterinary courses in some ways. They are working together. This can only mean good things for the Commonwealth.

I appreciate very, very much the opportunity to play a role in fostering these concepts in a world that so obviously needs them. Continue on in your excellence. As a dean, myself, of the Pennsylvania Congressional Delegation, I can say we are proud of you. All of the 27 Members of the Delegation through me express their gratification for the luster you add to this Commonwealth. We are proud to represent you and anticipate many more opportunities for service in tandem with this truly creative university.

CRITICAL SITUATION IN DOMESTIC STEEL INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 60 minutes.

Mr. BENJAMIN. Mr. Speaker, I am joined today by 29 of my colleagues in the introduction of two bills, both necessitated by the critical situation confronting our domestic steel industry.

The first measure proposes to amend the Tariff Schedules of the United States to establish a temporary tariff rate quota for certain iron and steel articles in order to stimulate fair and free competition in the world steel trade and to convert certain fixed rates of duty to ad valorem percentages.

The second bill proposes to amend title III of the act of March 3, 1933, known as the Buy American Act, to require the heads of Federal agencies to issue certain regulations respecting the purchase of materials made in the United States, to permit the States to give preferences to such materials and to require that certain State purchases made with Federal funds be subject to the Buy American Act.

The former measure simply applies a temporary surcharge of 25 percent on steel products until 1983 unless the average monthly unemployment in the domestic steel industry is 3.1 percent or less for a period of 1 year.

The latter merely extends the 1933 Buy American Act to nonfederal procurement agencies when 50 percent of the funding is from the Federal Government. It statutorily sets the preference at a minimum of 15 percent.

Two questions must be resolved today. The first is whether these bills are necessary. The second is whether their adoption will lead to a solution of the problems faced by our domestic steel industry.

The answer to the first query is "Yes."

The industry today faces the question of its very survival. The inability to modernize and expand the domestic steel industry has led to growing and effective import competition. The competition from foreign imports in turn has reduced the steel industries' ability to raise capital from the sale of stock and other forms of investment and borrowing. The capital is needed if modernization is to occur. This, in turn, has spawned additional imports. The problems have created a vicious circle whose perimeter is inexorably constricting to strangle our basic steel industry.

The United States is the only major industrial nation that lacks the capacity to produce 100 percent of its domestic requirements. The importation of steel produced from foreign countries has increased dramatically in the last two decades and has reached a point where it now represents 18 percent or more of our apparent domestic consumption.

The No. 7 iron blast furnace under construction at Inland Steel's East Chicago, Ind., site is the first such furnace to be constructed by an American steel producer since World War II. By contrast, nearly all of the steel facilities of our major foreign competitors were constructed since 1962.

Our major foreign competitors' facilities require 9.2 manhours to produce a ton of steel, compared with 10.9 manhours in this country. The application of modern production technology by foreign competitors also allows for the use of 30 percent less coke than U.S. facilities, drastically cutting their raw material costs.

All but 19 percent of the Japanese steel output was produced in basic ogygen furnaces compared to only 63 percent of the United States output. More expensive open hearth furnaces accounted for 18 percent of American crude steel production while this method of production accounted for only 0.5 percent of the Japanese output. The more efficient continuous casting method of production is used more than 3 times as much in Japan as it is used in the United States.

Other comparisons can be made, but the point is clear. Foreign competitors have been able to modernize and expand their facilities much more rapidly than our domestic industry and this development has led to the growing import problem we face today.

The problem must be solved.

Five hundred and fifty thousand people hold steel related jobs; 3.5 percent of all domestic production workers are employed by steel. Those employed in mining and transporting the raw materials from which steel is produced swell these numbers immensely. Shipments of domestic steel account for $28 billion in sales.

What has been the response to date? The Department of Labor wants a "healthy industry," but insists, and rightfully so, that costly health and safety standards be met. So, Treasury is looked to for assistance to restrain steel imports, but Treasury is committed to free trade, so it urges new investments to modernize the industry. With a substantial budget deficit, others express concern that a loss of revenue would result from any tax incentives for new investment. Joint ventures, which may help, are also dissuaded by the Justice Department because of possible anticompetitive effects.

While all of the interplay and positioning is taking place, 5,000 workers are laid off by Youngstown Steel in Campbell, Ohio, 7,300 by Bethlehem between the Lochavan, N.Y., and Johnstown, Pa. plants, 2,000 by United States Steel in Chicago, Ill., 2,400 by Kaiser Steel in Fontana, Calif., 3,000 by Allenwood Steel in Philadelphia, Pa., 2,510 workers at the tube works of the United States Steel Corp. in Gary, Ind., and were certified for trade adjustment assistance. A total of 67,000 steelworkers have been certified for trade adjustments assistance through August of this year.

The time has come, Mr. Speaker, to establish the parameters of the problems and to implement a broad based and comprehensive policy aimed at their solution.

I believe that the two bills being introduced today, along with the request for a General Accounting Office investigation of the activities of the trading companies and agents of foreign steel producers, and the enactment of the two tax proposals which will be introduced at a later date, represent a broad based policy which comprehensively and rationally addresses much of the problem the domestic steel industry is confronted with today.

The provisions dealing with imports are basically designed as a temporary measure to provide immediate and effective relief to slow imports to allow profitability to return to the domestic steel industry.

"Buy America" amendments are intended to expand the domestic steel market in which the industry will again be able to effectively compete. Equally important, it is a recognition that Federal tax dollars are being expended through State and local conduits which should be subject to the same rules of preference for American-made goods exacted on Federal agencies. A contrary position would be a tacit acceptance of backdoor foreign aid now being processed through many of our federally subsidized projects.

Finally, the tax proposals which I have drafted but am not introducing today which include an investment tax credit for steel industry property, elimination of certain restrictions of the amortization of pollution control facilities, and increase in the dollar amount of the tax-exempt obligations which may be issued without regard to industrial development bond limitations, will, I believe, provide the necessary capital formation to allow the domestic steel industry to modernize and again become competitive.

These latter proposals are in final draft form and are now being circulated for comment before introduction. I would invite the Members of this body and other interested parties to contact my office for copies of the measures.

I am not a purveyor of magic and I do not contend that this package represents a panacea. However, it recognizes a problem which, if left unattended, may become insoluble because of its growing dimensions.

It is my firm belief, however, that the approaches encompassed here are ones which are reasonable in approach and comprehensive in nature.

The two bills introduced today will be effective in the solution of the immediate problems faced by the domestic steel industry and its 550,000 employees. The whole package taken in tandem also provides an encouraging response to the long range dilemma. My colleagues and I ask for the consideration and support of our fellow legislators and without question the understanding, support, and encouragement of the administration.

The answer to the second query is also "Yes."

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, the gentleman from Indiana, the distinguished secretary-treasurer of the Steel Caucus, is precisely correct. The time is here, and it is past time for us to act to protect our steel companies and steelworkers. Therefore, I am pleased to be associated with the gentleman in his legislation.

Mr. Speaker, the American steel industry is in grave trouble. Historically, steel has been the lifeblood of my congressional district and the backbone of American industry. Today, the importation of foreign steel, particularly from Japan, is devastating the domestic steel industry and throwing thousands of American workers out of jobs.

It is estimated that in 1976, steel imports took away the equivalent of 90,000 American steelworker jobs. Thousands of additional jobs have been lost or threatened this year. We as a nation cannot tolerate the continuing loss of American jobs and the ever-increasing threat to our economic welfare and national security caused by the dumping of Government-subsidized, foreign steel on our markets.

In action yesterday, the Treasury Department tentatively ruled that five Japanese steel companies have been dumping their products on the U.S. market at prices 24 percent below actual production costs. This significant ruling seems to substantiate dumping charges levied by American steelmakers for many years.

In September, I joined with other Members of Congress concerned about the steel crisis to form a congressional "steel caucus." At our first meeting, 64 Members were either present or represented, and we expect our ranks to grow to 150 to 200 in the near future. Our message to the administration is clear: if our friends cannot find a way to help us, we will devise means to help ourselves.

Many bills have already been introduced to deal with the steel crisis. Today, the gentleman from Indiana, Mr. BENJAMIN, is introducing a bill to expand and strengthen the Buy America Act.

It has been my deep concern that for many years, the Buy America Act has been too weak to be effective or has been ignored by Federal agencies.

I have been contacted by several constituents in the past complaining that Japanese contractors, subsidized by their government, have been awarded U.S. Government contracts at prices well below contract costs.

In one case, a Birmingham company bid $3 million for a Coast Guard bridge project with an anticipated cost of $2.75 million delivered on the Mississippi Gulf Coast. A Japanese company was awarded the job for $2 million. My constituent, an experienced builder, maintained that it was impossible for anyone to complete the job for $2 million, particularly considering transportation costs from Japan. Nothing was done to grant relief to the American company.

The Benjamin bill would extend the Buy America Act to State and local projects receiving at least 50 percent Federal funding and would raise the American preference to 15 percent above foreign bids.

In this time of stagnating economic recovery and persistently high levels of unemployment, it is, in my judgment, far better to put Americans to work than to continue exporting jobs overseas and pay our people subsistence unemployment benefits.

The steel crisis is a complicated, many-faceted problem with no simple solution. We must, however, start now to find ways to deal with the problem. The very lifeblood of our Nation's economy is at stake.

Mr. DERWINSKI. Mr. Speaker, I believe we all welcome the belated action by the Carter administration on the subject of Japanese dumping of steel products. In this case the Congress has evidently forced the hand of the administration.

That is why I have cosponsored two bills being introduced today. The first is concerned with steel imports and imposes a temporary ad valorem tariff surcharge when imports of a particular iron or steel product exceed the apparent domestic consumption of that product as established by a defined base period. It also converts certain fixed rates of duty of tariff schedule 6, part 2, subpart B, iron or steel to ad valorem percentages in anticipation of future increases in the value of the respective items. The second bill amends the "Buy America Act" extending it to any contract, more than one-half of which is financed by appropriations, subsidies, loans or grants from, or loans insured or guaranteed by, the United States or any agency or instrumentality thereof.

Mr. Speaker, I am an internationalist, not an isolationist. In principle, I believe in free trade, and I am not a protectionist. But if the administration will not effectively enforce the laws which protect our American industry from unfair competition, then the public and the employees of affected companies are the victims.

Mr. FITHIAN. Mr. Speaker, I rise to address the serious problem facing our Nation and particularly the State of Indiana due to increased foreign steel imports. I am pleased to be a cosponsor of the legislation being introduced today—legislation which I believe is a major step toward a comprehensive package to bolster the American steel industry against the mounting tide of imported steel. The two bills being introduced today would impose a temporary surcharge on imported steel and extend the Buy American Act to encourage the use of American materials in State and local projects involving Federal funds.

My colleagues who may not be familiar with the steel industry or with the gravity of the problems posed by steel imports may benefit from some background information.

In many nations, steel is a direct instrument of national policy. By dumping their steel on our market, these countries seem to wish to export not only their steel, but also export their potential unemployment to the United States at the expense of American workers. So in reality, our steel companies are competing against foreign governments not just foreign steel companies.

The American steel industry already is suffering as a result of lack of capital for expansion and modernization. This situation is being made worse by unfair competition from imported steel. If our companies could develop capital, they could modernize their plants to compete more effectivly with other nations, notably Japan. Our steel industry is vitally important to the national economy, Mr. Speaker, long-term recovery in this industry requires relief from foreign imports. If we are to improve the production and employment picture in the American steel industry, there must be sufficient stability in the marketplace to assure capital investment that will enable competition with the more modern Japanese steel industry.

In the first 6 months of this year, some 768,000 tons of steel of all types were imported into the United States. This represents a 6-percent increase over last year's import figure—and the results are readily visible around the Nation. More than 7,500 workers for Bethlehem Steel already have gotten the ominous notification from their employer that their jobs are being cut out. Last week, Youngstown Sheet and Tube announced the termination of 5,000 jobs and the virtual closing of two mills in the Youngstown, Ohio, area. In all, some 18,000 steelworkers have already lost their jobs.

Mr. Speaker, this Congress has a responsibility. The steelworkers and their employers deserve to know that they are not going to face economic chaos as a result of unfair foreign competition. My personal responsibility lies not only with the 20,000 steelworkers' families who reside in my own district—many of whom are employed by Bethlehem Steel, United States Steel, Midwest Steel, and Inland Steel. We must face our responsibility to protect this vital American industry against foreign steel dumping in our market.

Yesterday's tentative ruling by the Treasury Department confirms what many of us have suspected for some time. Five Japanese steel companies apparently have been selling their products in America below their selling price in their home markets—in fact, some 24 percent below their actual cost. How long will this Congress allow this type of unfair competition to go on before we act?

We have taken the first steps. On Thursday, September 22, 63 Members of this House or their representatives met to form the Steel Caucus, and unite the actions of those concerned with the domestic steel crisis. We are currently arranging for a delegation from the caucus to meet with President Carter regarding the steel import problem, to try to impress upon him our concern for this serious matter. The next step, I firmly believe, is represented by the legislation being introduced today.

I must add, too, that, although Congress has an obligation to deal with the problems of steelworkers, American industry has an obligation to the American worker, as well. Just as the Federal Government must support steelworkers against unfair foreign competition, American industry must support our domestic steel industry by buying American steel. American steelworkers should know which U.S. corporations are threatening American jobs by buying cheap imported steel. To give just one example, companies such as Atlantic Richfield, Sohio, Exxon, and Mobil helped put thousands of American jobs in danger when they built the massive Alaskan pipeline using some 500,000 tons of Japanese steel. That can hardly be considered responsible citizenship.

It is time for united action—by steelworkers, by Congress, by industry, and by the administration. We must act to bring our American steel industry back into competition with the rest of the world, and the legislation we are introducing today is a step in that direction.

Mr. MURPHY of Illinois. Mr. Speaker, the American steel industry is faced with its worst crisis since the late 1950's. Workers are being laid off. Profits are sagging. Imports are rising. In my Illinois congressional district, supervisors at South Works steel mill warned August 26 that they might have to close the 97-year-old plant because of "an acute financial squeeze."

Officials said that, unless steps were taken to reduce the flow of foreign steel, the mill's 8,534 steelworkers would be out of jobs. These employees would join the 1,823 workers already laid off since 1974.

For this reason, Mr. Speaker, I have joined my colleagues in sponsoring legislation to protect American steelworkers' jobs.

Mr. Speaker, a closure of South Works would have a disastrous effect on south Chicago's economy. Every month, South Works pays $16.5 million in wages to its employees; spends another $11.5 million in purchased goods and services; and kicks in an additional $1.3 million in property taxes. Clearly, South Works is vital to south Chicago's economic health.

To be sure, steel imports are not the only problem plaguing the steel industry today. One problem: The Federal Government is pressuring steelmakers to hold down prices while requiring companies to spend heavily on antipollution equipment. Another: The industry is faced with its first major strike—by iron-ore workers—in 18 years. On August 1, 15,000 iron-ore workers went on strike to demand incentive pay for exceeding production averages. Because plants must feed their blast furnaces with ore, a prolonged strike could force mills to close as soon as their reserve ore supplies run out. Still another problem: Because the industry's profits have been sagging, companies have not been able to plow back money into modernization and investment. This makes investors reluctant to provide needed capital.

But the problem that concerns the steel industry most is the rising tide of imported steel from Japan and Europe. As of July, imports jumped nearly 30 percent over last year's levels. By selling steel at prices 10 to 15 percent below those charged by U.S. plants, Europe and Japan have been able to capture 15 percent of the domestic market. A Wall Street research group has predicted that within a year or within the next 18 months, foreign steelmakers might enlarge their share to 25 percent.

The consequence of this import gush could be staggering. A study this year by the firm Putnam, Hayes & Bartlett concluded that if imports rose to 30 percent of the U.S. market, our economy would be deprived of a potential 96,000 steelworker jobs. At a time when our unemployment rate is 7.1 percent, the United States cannot allow nearly 100,000 jobs to be washed away by a flood of imports.

What accounts for Japan's and Europe's ability to undersell U.S. mills? A controversial study recently done by Merrill Lynch, the large brokerage firm, contends that Japan's modern, efficient steel mills enable her to produce steel at a cost 30 percent below that of American steelmakers. This permits Japan, the report argues, to ship her products to the United States and still profitably undersell American mills.

But the Merrill Lynch study very much exaggerates Japan's advantage. The Putnam, Hayes & Bartlett study concluded that Japan—adding in shipping and insurance costs—must be selling below the full cost of production and transportation to undercut U.S. steelmakers.

That is why United States Steel Corp. has filed a complaint with the Treasury Department, charging that foreign steelmakers are "dumping" steel in the United States—that is, selling it at a price cheaper than it is sold for in the manufacturer's home market.

How can foreign mills afford to export at a loss? The reason is that they are indirectly subsidized by their governments to keep employment rates high. Since Europe is fearful of a depression and Japan has a lifetime employment policy, they would rather lose money than lay off steelworkers. In effect, Japan and Europe export their unemployment to the United States.

One way Japan subsidizes its steel plants is through its national banking system. Steel firms are able to borrow

heavily from banks for financing, which means they do not have to raise as much capital through common stock as American mills. Banks are willing to make large loans to mills because they are backed up by the Japanese Government. U.S. mills cannot get such generous, guaranteed loans. They are much more dependent on investment by stockholders, which forces them to seek a higher rate of profit than Japanese companies find necessary.

A major reason why steel imports have been increasing is an agreement reached 2 years ago by Japan and the Common Market to limit Japanese exports to Europe. In 1976, exports fell more than 25 percent from the previous year. The U.S. steel industry believes that 8.7 million tons of steel was diverted to the United States as a result of this trade agreement.

U.S. steelmakers rightly want this diversion stopped. That is why the industry filed a complaint last year with the Special Trade Representative, charging that this trade pact is discriminatory and illegal. But the President's chief trade negotiator, Robert S. Strauss, has been loath to act on this complaint for fear of hurting world trade. I find Strauss' response to be very distressing, since the industry is opposing not free, but unfair trade.

As an alternative to legislation, the steel industry wants Mr. Strauss to work out an international trade agreement on steel. Steelmakers would like an arrangement that would allow any country to impose quotas on steel imports under certain conditions. George A. Stinson, chairman of National Steel Corp., told Business Week magazine that he envisions a system in which quotas might be triggered whenever industry employment falls or imports rise to agreed levels.

As for the problem of how to increase capital formation, steelmakers need new tax incentives—such as easier depreciation laws—from President Carter's forthcoming tax reform program.

In all these matters—enforcement of U.S. trade laws, international trade agreements, and tax incentives—American steelmakers and steelworkers are looking to Washington for help. It is now up to the Carter administration and Congress to see that our vitally needed steel industry survives.

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SMALL BUSINESS TAX REFORM ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 15 minutes.

Mr. COHEN. Mr. Speaker, one of the fundamental principles underlying our personal income tax system is its progressivity. Individuals are taxed according to their ability to pay, with those with higher incomes contributing more to support our Government than those of more limited means.

To a large extent, however, the corporate tax structure is not characterized by progressivity. The current corporate tax structure has only three steps: The first $25,000 is taxed at a rate of 20 percent; the next $25,000 at 22 percent, and profits in excess of $50,000 are taxed at the rate of 48 percent. Thus, after the first $50,000 in profits, the same tax rate applies to a giant corporation earning $50 million annually as to a small business earning only $100,000.

I believe that progressivity is not only desirable in taxing personal income, but that it is equally desirable in taxing corporate income. It seems inherently unfair for a multimillion dollar conglomerate to be taxed at essentially the same rate as a much smaller business, as is the case under present law. A progressive corporate tax structure would tax each corporation according to its ability to pay.

In addition to making the present corporate tax system more equitable, a graduated corporate income tax would be desirable for another reason. It would have the effect of substantially reducing the tax burden on smaller businesses.

We speak frequently in Congress about the need to revitalize our small business community. We recognize that small businesses provide the majority of jobs in this country and contribute nearly one-half of our Nation's gross national product. And I doubt that there is a Representative in Congress who has not pledged his support to solving the paperwork problem of small businessmen. But less attention has focused on the burden which excessive corporate taxes impose on small companies. Certainly, simplifying and eliminating Federal redtape would greatly enhance the health of the small business community, but I believe that the most straightforward means of helping small business survive and prosper would be to reduce corporate taxes.

For these reasons, I am introducing legislation which would replace our present corporate tax structure with a six-step graduated corporate income tax. The Small Business Tax Reform Act of 1977 would tax corporate income according to the following schedule:

Corporate Taxable Income:	*Tax rate in percent*
$0 to $20,000	12
$20,001 to $40,000	16
$40,001 to $60,000	20
$60,001 to $80,000	26
$80,001 to $100,000	32
$100,001 and over	48

Lowering the corporate tax rate has another important advantage—simplicity.

The more complex the tax code, the greater the burden on small businesses relative to the position of large businesses. We must be certain that small businesses can participate equally with large, established corporations in the benefits of proposed tax adjustments. By providing a straightforward reduction in the corporate tax rate, my legislation would benefit small companies without increasing the complexity of the tax code. By contrast, an increase in the investment tax credit, which some have advocated, mainly helps large, capital-intensive firms and is of little value to most small businesses, which are labor-intensive. Furthermore, frequently only big businesses have the expertise available to take advantage of complex tax incentives, such as the investment tax credit.

A graduated corporate tax would help increase the survival rate for small businesses. According to the Small Business Administration, one out of every four businesses does not survive its first year of operation. In 1976 alone, more than 9,500 businesses failed. A recent Small Business Administration study states that fundamental revisions of Federal tax laws are needed to enable small businesses to survive and compete in today's marketplace.

The report concluded that the present tax system discriminated in favor of big business because it did not permit small business to retain enough capital for current operating needs, survival during periods of high inflation, and expansion to compete with other segments of the economy.

High taxes have far less impact on large, established corporations than on small, growing firms. Since small businesses have difficulty in obtaining loans at favorable interest rates, retained earnings are frequently the source of investment funds. High corporate taxes restrict the growth of small firms by reducing the amount of capital available from retained earnings to finance expansion. By allowing small corporations to retain more income, the graduated corporate income tax would help offset the competitive advantage large companies enjoy in obtaining financing.

A final purpose of the Small Business Tax Reform Act would be to stimulate our sluggish economy. A tax reduction would invigorate the economy in the most direct, efficient way possible. The problem of inadequate capital investment has been well-documented in recent studies by the House Ways and Means Committee and the Congressional Budget Office. While many options have been suggested to increase capital investment, I believe the most efficient means would be a tax cut such as I have proposed.

In sum, I believe that the Small Business Tax Reform Act would achieve the goals of tax reform legislation. The graduated corporate income tax would be a simple, fair, and progressive means of stimulating our economy and providing much-needed relief to our Nation's small businesses.

THE SAGA OF GOSPEL HUMP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 60 minutes.

Mr. SYMMS. Mr. Speaker, the Federal Government has lost control over the management of the national forests. Why is this important to all of us? The

effects of the loss of control are obvious in areas where decreasing timber sales are resulting in mill closures or job layoffs. But the effect also is felt throughout the entire State. People who are worried about the explosive growth in Ada County should remember that about half of the people moving to Boise are from other parts of Idaho and often they move because they could not find work in their hometowns. As long as mills and mines are threatened by ever-expanding wilderness demands, workers from these jobs will have to relocate in other parts of the State.

The national forest system is made up of nearly 160 national forests and grasslands located throughout the United States. The system contains almost 190 million acres of Federal land. It is a priceless heritage.

Nearly 13 million acres of the national forest system is dedicated by law to the National Wilderness Preservation System. Several million acres are involved in recommendations to Congress for inclusion in the Wilderness System. More than 12 million additional acres in the national forest system were withdrawn from some aspects of multiple-use management in 1972 and designated for study and eventual recommendation to Congress for inclusion in the Wilderness System. Millions of acres of the national forest system are grasslands, but more than 90 million acres are commercial forest lands—lands capable of producing a steady supply of commercial timber on a sustained yield basis under the mandate of the 1960 Multiple-Use Sustained Yield Act.

The 1960 act sets out regulations and policies for the Forest Service for all units of the national forest system. It officially established timber cutting goals or objectives. Until recent years, these objectives were called program harvesting levels. These timber harvesting objectives are based on intensive inventories of the timber resources. These inventories include the present volumes of timber, and the rates of growth, both now and projected in the future under various assumptions of management. These projections take into account multiple-use objectives to insure that water quality and water quantity are protected and enhanced. Wildlife habitat conditions, the needs of the general public for recreation opportunities and other requirements of the 1960 act that the productivity of the land for all of its uses not be impaired also are taken into account.

Over the years, the Forest Service has established timber harvesting objectives or allowable cut levels on all units of the national forest system. Until now, these allowable cutting levels for timber harvesting have been based on more than 90 million acres of commercial forest lands—lands capable of producing commercial forest crops and which are not presently, or in the foreseeable future, dedicated to the Wilderness System or to another land-use classification.

The great bulk of commercial timber production from the national forest system comes from the Western United States. Large-scale commercial timber production in western national forests started after the conclusion of World War II and we have been harvesting commercial timber from national forests for the 30 years since then. As of 1972, about 40 million acres of the 90-plus million acres of commercial national forest land had been entered or some timber had been harvested. By 1972, 56 million acres of commercial forest land had not yet been entered by timber sales and road systems. However, these 56 million acres of commercial forest land were a part of the inventory on which allowable harvest levels of the past 30 years had been based.

In the 1960's, there was increasing pressure from environmentalist groups for taking some, or indeed all, of this 56 million acre area of roadless commercial land and placing it in a wilderness classification. It is not difficult to imagine the effect of placing more than 50 percent of the commercial forest land base in a Wilderness System. The allowable harvest timber from the national forest system would be reduced by more than half, with devastating economic impact on the American consumer and countless local communities. The job losses resulting from such reclassification are staggering.

Nevertheless, in answer to the increasing pressure from environmental groups concerning this "roadless" commercial forest land, the Forest Service embarked on an evaluation process now known as RARE I. This acumen stands for roadless area review and evaluation. This process, completed in 1972, evaluated the Nation's need for wilderness by assessing hundreds of roadless areas as to their suitability for wilderness under the guidelines of the 1960 act and evaluating the resources trade uses that would be involved. An environmental impact statement was prepared, circulated, and analyzed. As a result, more than 12 million acres of national forest lands were set aside in a "limbo" category for future intensive evaluations for wilderness classification and ultimate recommendation to Congress. Only Congress can commit lands to the Wilderness Preservation System. The commercial forest resources on this 12-million-acre package were withdrawn from the allowable timber harvesting objectives.

The Forest Service hoped this process would satisfy environmental organizations and the agency would be able to continue to manage the remaining commercial forest land base for multiple use objectives including timber harvest, without significant controversy. This turned out to be a naive hope. Almost immediately, environmentalists filed a lawsuit which eventually was heard in a California district court before Judge Conte. The suit charged that no national forest roadless area could be entered with a timber sale road until a land management plan for the roadless area had been prepared and the plan had been subjected to the environmental impact statement process under section 102 of the National Environmental Policy Act. The suit ultimately was dismissed because the Forest Service agreed with the environmentalists' requests.

Since 1972, large amounts of money and manpower have been spent by the Forest Service developing land management plans and truckloads of environmental impact statements have been produced, However, even up to this point, all commercial forest land, including the roadless areas not deducted from allowable harvest land basis in 1972, still are an integral part of the forest base upon which current timber harvest levels are based.

In the last 5 years, many Forest Service land management decisions allocating the land and resources in these roadless areas have been stalled. Final decisions made after the entire environmental impact procedure, which is in itself timely and costly, have been appealed to the highest levels of the Forest Service, and, ultimately, to the Secretary of Agriculture. In many of these situations, ultimate litigation in the Federal courts has been threatened. It is crucial to know that the threat of litigation is in terms of section 102 of the National Environmental Policy Act (NEPA).

Section 102 of NEPA is an evolving body of law, which constantly is being intepreted by Federal courts throughout the country. In some legal jurisdictions, section 102 has been interpreted in outlandish and ludicrous ways. A central problem has been that Forest Service personnel working at the field level where the land is managed must try to read the minds of Federal judges who, thousands of miles away, are changing continually the meaning of section 102. As a result, at least eight Forest Service land management decisions in the State of Idaho have been appealed. In each of the eight incidents I am aware of, the Forest Service reversed the field decisions and remanded the land management plans for complete overhaul. The basis of the reversals were that plans had been prepared in violation of section 102 of NEPA, as interpreted by the Federal courts.

As a result, the Forest Service land management planning process has become so complex that the Forest Service is no longer capable of making decisions about the use of lands in the national forest system. Additionally, lands which can be used for timber sales are rapidly being exhausted. Allowable harvesting levels based on 90 million acres of land cannot continue to be made indefinitely on the 40 million acres available for actual harvest. Sooner or later, the other 50 million acres will have to be entered with roads and opened to sales, or the first 40 million acres will end up as a sea of stumps.

Some areas of the national forest system can afford to be tied up for years in the planning process, and the 7 to 10 years of procedural delays resulting from section 102 of NEPA can be tolerated. But in many areas of the national forest system, no time is left. In many areas timber sales have ended, with the timber sale program threatened or eliminated and small communities being brought to the edge of economic disaster.

Now we come to Gospel Hump.

Gospel Hump is an area located in the Nez Perce National Forest in Idaho, in the district which I am privileged to represent in the Congress.

The forest products industry located in the Gospel Hump area is a major part of the economic foundation upon

which the local communities are dependent. The forested area includes 450,000 acres of roadless area and is named for its most predominant physical features: Gospel Peak and Buffalo Hump Mountain. About 110 million board feet of timber have been harvested annually in the Nez Perce National Forest in past years. This timber harvest was based on the total commercial forest land base in the National Forest, including a large section presently unavailable for timber sales. That section now is officially roadless and cannot be entered for timber sales without going through section 102 of the NEPA process. The Nez Perce National Forest rapidly is running out of timber to sell and annual timber objectives cannot be met unless this roadless area is freed up through some procedure. The Gospel Hump area is a significant part of the roadless area inventory of the Nez Perce National Forest. After several years of intense on-the-ground examination by foresters, recreation specialists, mining engineers, hydrologists, soil scientists, landscape architects, and others, the Nez Perce National Forest recommended a land management plan covering a significant portion of the Gospel Hump area, which is presently involved in the NEPA process.

The proposed plan did not satisfy the objectives of the environmentalists who wanted a major portion of Gospel Hump dedicated to wilderness and the plans were appealed to the Chief of the Forest Service. Because of the increasingly desperate position of the forest products industry in this area, the Forest Service prepared and offered for a bid a large timber sale called the Honker Sale, located in an area covered by one of the land management plans under appeal. Earlier this year, the Chief of the Forest Service canceled the Honker Sale and remanded the entire land management plan to the field to be redone in line with regulations of section 102 of NEPA. This development ignited the local community, which could see that its major industry truly was threatened. A resolution allocating these roadless areas had to be achieved. Time was running out, and a feeling of desperation has prevailed in the area ever since.

In this environment of economic desperation, leaders of the local community several months ago met with Senator FRANK CHURCH, Idaho's senior Senator. Senator CHURCH suggested that local people concerned about the economy sit down with local environmental groups to see if a compromise could be worked out on the land allocation in the Gospel Hump area. Senator CHURCH told the group that if they could reach a compromise, he would take that agreement and pass a special law embodying the agreement so the local community could be preserved. If you will, this would be an Alveska or an Alaskan pipeline bill for the Gospel Hump area. It would be a legislative repeal of section 102 of NEPA for this area and would abrogate the appeal process in Gospel Hump. A legislative decision would allocate land for both wilderness and timber sales, without either judicial or administrative appeal.

In this environment, highly trained environmentalists met over a period of weeks with four deeply concerned local business representatives. A decision finally arrived at by this eight-man group designated an area of more than 220,000 acres of wilderness, and made an area of 123,000 acres available for multiple use and future study, with 45,000 of those 123,000 acres available immediately for timber harvest. Unfortunately, there was no representation for the mining industry, the outdoor recreation people, the off-road vehicle organization, and others who also have important and valid interests in a decision of such importance. It is incredible to think that four environmentalists and four local business people, however well intentioned, now should be making detailed decisions on how to manage the national forest system. No clearer evidence of the Federal Government's loss of control over the national forest system has even been seen.

A serious aspect of the agreement was the total absence of equal bargaining positions in the Gospel Hump situation. The environmentalists put a knife at the throat of the business community and then suggested they negotiate. The alternative to the compromise was lengthy lawsuits and appeals of timber sale agreements. The result is clearly reflected and it shows the terror that pervades the local economic community.

Senators CHURCH and MCCLURE recently conducted hearings on the Gospel Hump controversy in Grangeville, Idaho, for the Senate Energy and Natural Resources Committee. A great deal of local criticism developed over the agreement negotiated under such desperate circumstances. Senator CHURCH quite properly thanked the local people for the time and effort spent in working out the compromise and stated at the outset of the hearing that the compromise was just the starting point. Senator CHURCH said the purpose of the hearing was to take testimony on the additions or deletions from the recommendations of the committee. One of the witnesses at the hearing put the entire situation into perspective. Mr. Doug Scott, Seattle, Wash., northwestern representative of the Sierra Club, testified that his group would settle for not 1 acre less than the written agreement already signed at the negotiations. He then spelled out for the entire community and the Senate committee exactly what his group would do to the economic future of the forest products industry if the original compromise agreement was not adhered to. In other words, it was either give the Sierra Club its way or the economy of the area would be brought to its knees by way of prolonged litigation.

In this case, the authority of the Forest Service and the Federal Government to manage the Gospel Hump area clearly has been turned over to Doug Scott of the Sierra Club. In all fairness to Mr. Scott, however, any other citizen can do the same thing as long as section 102 of NEPA is in effect.

The situation that developed in Grangeville, Idaho, demonstrates more clearly than any other situation in the United States the desperate situation which has been created in forest management by some of the existing environmental legislation now on the books.

The situation in Grangeville can be, and is being, repeated all over the national forest system. Mills are closing, jobs are disappearing, wood products are being destroyed because the Congress has placed in the hands of a few extremists, the legal tools to enforce their will on the majority of Americans.

As a practical matter, it is not possible to pass a new law every time the Sierra Club finds a way to threaten another sawmill. I think it is high time legislation be passed which will correct the problem on the entire national forest system, instead of trying to put piecemeal legislative band-aids on a dying patient who needs major corrective surgery.

I think this situation is intolerable. Senator CHURCH has introduced legislation on the Senate side designed to rescue the Grangeville timber industry from a desperate situation by giving the environmentalists an additional large area in Idaho to lock up as wilderness. It is extremely difficult to agree that we ratify this so-called compromise at this time. I have never approved of blackmail or of negotiations conducted under duress. At the same time, I am extremely aware of the deep concern of my constituents in the area surrounding the Nez Perce National Forest. I am told that the Forest Service has been working day and night to rewrite the land management plan which was rejected earlier this year. The Forest Service has stated that it will have a revised plan and a draft environmental impact statement which meets all legal requirements by December 15 of this year. I would much prefer for the Congress to wait until these plans have been completed to take action. It is entirely possible that the Forest Service might be the basis for a final resolution of the Gospel Hump controversy. If it is, the final environmental impact statement and plan could be promulgated next spring. If no appeals by environmentalists are taken from those decisions, the Honker Sale could be readvertised and additional timber sales could be prepared for the local forest products industry in time to save the sawmills. No legislation would be needed. If, on the other hand, such a resolution did not meet with the concurrence of Mr. Scott of Seattle and the Sierra Club, and appeals are filed threatening further delays to the sale of timber, then, indeed, as deeply as I would regret it, I would have to consider the possibility of backing special legislation containing some wilderness to insulate the Forest Service's final plan from further intervention by environmental law suits.

Even under that extreme situation, it would be difficult for me to agree that such a large additional area of multipurpose recreation land should be locked up for sole use as a wilderness area. Some parts of Idaho should be designated as wilderness and I have favored placing certain parts of the Idaho Forest System into this restricted classification. But when outdoor family recreation and people's jobs are threatened by extremists who refuse to take a balanced view of land use in Idaho, it is time to fight hard for commonsense and for the rights of all the people in Idaho. However, if next year it becomes clear that no other resolution is possible, I do not intend to see the mills close in Grangeville. I assure the local people whose livelihoods are at stake here of my deep concern about the Gospel Hump area and my determination to find a solution to this serious problem which is affecting our entire national forest system. I have been accused of playing politics with the Gospel Hump situation. I am not playing politics and I am committed to resolve the problem. But I cannot accept the ludicrous position of having the Congress of the United States and the independent people in Idaho County being told by Doug Scott of Seattle what our State's future is to be.

LIVINGSTON BIDDLE NOMINATED CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE ARTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I have been advised that President Carter will nominate for the important position of Chairman of the National Endowment for the Arts Livingston Biddle of the staff of the Senate Subcommittee on Education, Arts, and Humanities.

Mr. Speaker, I am confident that Livingston Biddle's extensive experience in working with the National Endowment for the Arts will enable him to do an outstanding job as its new Chairman.

As an assistant to Senator CLAIBORNE PELL, Livingston Biddle helped write the legislation that authorized the National Endowment for the Arts in 1965 and he later served the Endowment first as Deputy Chairman and then as liaison director.

Mr. Speaker, this familiarity with the programs of the Endowment coupled with his own personal commitment to an important place for the arts in American life will also, I feel sure, mean that he will enjoy strong support from Congress in his new responsibility.

Mr. Speaker, I compliment President Carter on his choice.

FREEDOM OF INFORMATION ACT ADMINISTRATION: HIGHLIGHTS FROM AGENCY REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, once again Congress has received the annual reports from the executive branch departments and agencies regarding their implementation of the Freedom of Information Act (5 U.S.C. 552).

To assist in the analysis of these reports, the House Government Information and Individual Rights Subcommittee, which I chair asked the Congressional Research Service of the Library of Congress to compile and critique the agency responses. The Library's full analysis of the 1976 FOIA agency reports will be available next month. At present, however, we do have certain preliminary findings and I wish to share these highlights with you at this time.

One trend which we found troubling was the continued use by several agencies of questionable statutes which they cited as the basis for withholding documents from the public.

For example, we discovered that the Privacy Act of 1974 was still being relied upon to withhold data in conjunction with the intervening statute exemption of the Freedom of Information Act, 5 U.S.C. 552(b)(3). It appears that the Justice Department, Treasury Department, Equal Employment Opportunity Commission, Federal Power Commission, and General Services Administration utilized the Privacy Act to withhold requested records in a few isolated instances. It should be quite apparent by this time that the Privacy Act (5 U.S.C. 552a) does not constitute any authority to withhold any information under the Freedom of Information Act. The FOI statute recognizes the "clearly unwarranted invasion of personal privacy" standard as a basis for exempting information from disclosure under its sixth exemption (5 U.S.C. 552(b)(6), but does not rely upon the provisions of the Privacy Act.

Also, at least eight agencies cited the criminal code sanction against Government employees releasing "confidential information" (18 U.S.C. 1905) as a basis to withhold executive branch records. Section 1905 was cited in 139 instances during 1976. Agencies using it included the Defense Department, Federal Communications Commission, National Aeronautics and Space Administration, the Renegotiation Board, and the Small Business Administration. The case law is not explicitly clear as to whether or not the FOI Act's third exemption embraces the criminal code provision regarding confidential information. The position was offered in *Sears, Roebuck & Co.* v. *General Services Administration*, 384 F. Supp. 966 (D.D.C. 1974), stay of order dissolved 509 F.2d 527 (D.C. Cir. 1974), that the criminal statute does not fall within the ambit of b(3), the intervening statute exemption, because section 1905 does not itself define what information is exempt from disclosure. The b(3) exemption of the FOIA allows nondisclosure of information which is specifically exempted from disclosure by statute, but only where the statute—

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

In an earlier ruling, the district court in *Frankel* v. *Securities and Exchange Commission*, 336 F. Supp. 675 (S.D.N.Y. 1971), reversed on other grounds, 460 F.2d 813 (2d Cir. 1972), cert. denied 409 U.S. 889 (1972), held that the criminal code provision does not establish exemption from the FOIA, but merely penalizes a disclosure of nonexempt records. Hopefully, the agencies utilizing section 1905 will review their position regarding the appropriateness of such authority to deny FOI requests.

Some agencies, in citing statutory authority to withhold information under the b(3) exemption of the act, utilized laws at the administrative appeal level which they had not invoked initially in denying a request. Such isolated appellate citations were made by the Office of Management and Budget, the Department of Labor, and the Department of the Treasury.

Some entities provided no information regarding the laws they relied upon when invoking the FOIA's intervening statute exemption. These units included the National Security Council, the Department of the Interior, the Department of State, the Federal Reserve, the Privacy Protection Study Commission, and the Securities and Exchange Commission.

Also confusing, at least three agencies—the Justice Department, the Treasury Department, and the Veterans' Administration—provided citations of their regulations rather than statutory authority in invoking the intervening statute exemption.

One of the most important developments reflected in the 1976 reports was the increased use of the 10-day optional extension in the processing of FOI requests. Under the terms of the amended Freedom of Information Act, initial requests for records must be cleared within 10 working days and an appealed request must be completed within 20 working days. The law allows resort to a 10-day extension of either of these processing periods when unusual circumstances intervene—that is, need to collect materials from a field office other than the processing unit, additional time to locate and sort a voluminous number of documents being sought, and/or need to consult another facility or agency regarding the requested records. In 1975, thirty agencies reported a need to seek a 10-day extension to facilitate processing; in 1976, 38 agencies utilized the extension option. However, among six departments reporting on their resort to a 10-day extension during 1976—Agriculture, Commerce, Defense, HEW, Transportation, and Treasury—the data indicated a more than threefold increase over 1975 for claims of delay to collect materials from another facility, an almost twofold increase for reasons of voluminous materials, and an almost fourfold increase for reasons of consulting another agency or unit. During 1975, the four most frequent users of the 10-day extension option were the Veterans' Administration, the Federal Trade Commission, the Treasury Department, and the Department of Health, Education, and Welfare, respectfully. Last year the four most frequent users were the Defense Department, the Veterans' Administration, the Treasury Department, and the Federal Trade Commission, respectively.

The other significant trend reflected in the annual reports on the FOIA administration concerns operation costs. Last year, 35 units reported cost figures. This year 37 agencies provided an accounting. According to the figures supplied, it appears that costs increased by as much as 50 percent between 1975 and 1976. For some agencies the percent of increase was even higher. By way of comparison, six departments—Agriculture, Commerce, Defense, HEW, Trans-

portation, and Treasury—cited costs of $6,804,710 in 1975; for 1976 they reported costs of $15,493,233.

Of the Federal agencies reporting fee collections from requesters, a total of $978,251 in copying and search fees was collected during 1976 for FOI Act operations. During 1975, $1,014,510 in fees were charged.

A note of caution might be made here as to the significance of the fact that these cost figures reflect "incremental" costs. Agencies have interpreted the concept of incremental costs in different ways. The majority of departments have simply reported administrative costs for FOIA operations during 1976; a few, however, have combined these figures with cost totals from the previous year. Moreover, for all the figures noted in the annual reports it is unclear what constituted the cost base from which the incremental costs arose. Presumably the cost base would be the average administrative costs of FOIA operations prior to 1975 when the new amendments to the law became operational.

The cost increases may be due to staffing needs for the handling of the increased number of FOI requests. New employees are being secured at various GS levels. The training of both new and current employees for FOI operations also adds to the total. And the manner in which such employees are utilized—full-time or part-time dedication to government information matters—also has an affect on costs.

The increase in reported costs may also be due to the fact that agencies are keeping a closer accounting of incurred expenses for FOIA operations. The cost figures for 1976 may be higher because they are more accurate than previous years' reporting and represent a truer portrayal of operating expenses. On the other hand, we are uncertain as to the extent to which agencies are charging to the FOIA, expenses that would normally be included as part of a Federal department's regular public information activities and publications budget.

The total number of initial denials of requests for documents made under the Freedom of Information Act remained at roughly the same level as the preceding year. During 1976 agencies reported denying, in whole or part, some 26,802 requests. The 1975 figure was 27,300 denials.

The Department of Defense handed out the largest total number of denials, though this amounted to only 16 percent of the roughly 43,000 requests it received. In 1975 it reported an overall initial denial rate of 12 percent, however. The Treasury Department reported the second largest number of denials—2,090—out of 15,079 requests received. The denials for Treasury constituted 14 percent of the FOI requests it received during 1976. In 1975, its initial denial rate was only 7 percent. Although the Justice and Labor Departments did not provide statistics on the total volume of requests they received during 1976, the four executive branch units indicating the highest number of refusals were:

	Denials	Requests	Percent
Department of Defense	6,973	43,495	16
Department of the Treasury	2,090	15,079	14
Department of Justice	1,750	NA	--
Department of Labor	1,289	NA	--

Using the full figures submitted by the three departments handling about a third of the volume of requests received by the Government annually—Commerce, Defense, and Treasury—it can be estimated that roughly 150,000 FOI requests were made in 1976.

Unfortunately, the FOI Act reporting provisions presently do not require that agencies provide data on the total number of requests received, only the number denied. Because of this it is difficult to draw some conclusions about the operation of the act and to compare the performances of the various agencies. When the House Government Information and Individual Rights Subcommittee, along with the Senate Subcommittee on Administrative Practice and Procedure, drew up the reporting procedures in 1975, it was felt that although this data would be useful, the additional paperwork and effort required to keep accurate logs of all requests filed and filled might slow down the processing of these requests and not be worth the cost. This seemed particularly true for those routine requests which could otherwise be handled quickly and informally. These reporting requirements for the annual agency reports are now under review by the subcommittee, assisted by the Library of Congress.

Mr. Speaker, I hope these highlights are of interest to my colleagues and to the larger public. Please be assured that a more detailed assessment of these reports will be forthcoming shortly as soon as the Library of Congress has completed its analysis.

HELSINKI UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, I am grateful to have this opportunity to offer my support to Mr. DRINAN's project entitled the "Helsinki Unfulfilled Promise," but I find it sad that it is still necessary to dramatize case examples of the many families who are forcibly detained in the U.S.S.R. as a result of that Government's harsh emigration policy.

The Soviet Union is a signatory to the Helsinki Final Act which pledged to ease the reunification of families. But it is obvious that discriminatory harassment of Soviet citizens continues unbated. The family I cite today serves as a reminder that all of us have a moral obligation to object to violations of human rights and to offer our support to those who experience the daily struggle against the Soviet Union's repressive emigration policy. I invite your attention to the case of one Jewish family, David and Tatyana Skulsky and their infant child, who live in Odessa. David, now a factory worker, served in the Army as a postman and a medical orderly in a unit of approximately 50 men. Only David and the one other Jew were not authorized the special card permitting access to secret documents. In 1972, David's mother and grandmother emigrated to Israel, but ironically, David was refused an exit visa on the grounds that he knew secret information as a result of serving in the Army.

Since their marriage in 1973, David and Tatyana pursued their dream only to receive continuous denial based on the Soviet Government's twisted logic that Tatyana's mother would not give her consent to her daughter's application. Ironically, Tatyana's mother lost her job because of the family's desire to emigrate. The Skulsky's apartment has been searched, their mail "lost," their phone disconnected and the Soviet authorities have informed them their problems would increase. Despite the subhuman treatment, the Skulskys, like many other courageous families, will not give up.

None of us who participate in this vigil like to be put in the position of telling another sovereign nation how to manage its internal policies, and, therefore, I do so with natural reluctance. But, not only are the rights of families like the Skulskys basic and inalienable, they are also rights apparently guaranteed by the Helsinki agreement to which Russia is a signatory, and by the Russian Constitution itself.

First, the Skulskys were denied the right to emigrate. Then, they were subjected to harassment for wanting to leave. I am pleased to honor their courage and perseverance today. They, and others who are both victims and symbols in the struggle for human rights, must know we have not forgotten them. I hope this vigil will show that Congress is serious about completing the unfulfilled promise of Helsinki.

EXEMPLARY PERFORMANCE BY STATE DEPARTMENT IN HIJACK CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 15 minutes.

Mr. DANIELSON. Mr. Speaker, I know that you and all the Members share my gratitude that the terrible ordeal of the last several days is over and that the hijacking of the Japanese airplane in which a number of Americans were taken hostage has come to its end and that the hostages have now all been released.

I take this opportunity to call to the attention of my colleagues the outstanding performance of the people of our Department of State in connection with this hijacking. I suppose that, second only to the Congress, the State Department and its people are subject to more criticism than any part of our Government. During the past 5 days, I have personally witnessed exemplary performance and fulfillment of responsibility by a large number of people in our Department of State. Not only am I thankful for what they did but I am very proud of the manner in which they did it and I am sure that you, Mr. Speaker, and our colleagues will share that pride.

When news of the hijacking came through, and the fact that American citizens were among the hostages, the Department of State, as is its practice, set up a "task force" to handle the flood of communications and work which it was anticipated would flow from the hijacking.

Early on that Wednesday afternoon, September 28, I learned that four of my long time personal friends were probably among the hostages, namely John and Agnes Gabriel and Walter and Carole Karabian of Montebello, Calif. I immediately called the State Department and was put in touch with the task force, which was not yet able to confirm that my friends were on the plane. I requested them to keep me informed as information came in. Shortly before 6 p.m., Washington time, State confirmed the presence of the Gabriel party among the hostages. On a more frightening note, they informed me that the hijackers had issued an ultimatum that, unless their demands were met by 8 p.m., Washington time, only 2 hours away, the hostages would be executed, one by one.

Shortly afterwards I learned that the hijackers had announced that the first person to be executed would be "an American Jew who is a friend of President Carter." That information was soon followed by word that the first victim would be John Gabriel.

Knowing of the extreme anti-Jewish history of the Japanese Red Army I immediately phoned the task force and let them know that John Gabriel is a native-born American Christian of Armenian ancestry, and I requested them to communicate that information to the hijackers immediately. The task force promised that they would do what they could to get the information to the hijackers. Through their efforts it was possible to communicate the information directly to our Ambassador to Bangladesh, Edward E. Masters, who was at the airport in Dacca, and through him to the hijackers, in an effort to prevent that tragedy from happening. I was later informed that the information reached the hijackers at about 20 minutes before the deadline.

During that very difficult evening the members of the task force in Washington were in constant communication with Dacca and our Ambassador was at the airport performing his duty of representing the American citizens aboard the hijacked plane. Fortunately, the deadline was extended twice and negotiations were carried out so that all of the hostages eventually were released.

During all of the days of the hijacking the members of the State Department's task force were available 24 hours a day, were totally responsible to our questions, kept us constantly informed as to the status of the negotiations and condition and health of the hostages so far as they knew. They also served as the channel through which information was immediately transmitted to the negotiators for their assistance in resolving this difficult problem. I am sure that there are many employees of the State Department who were involved with whom I did not have personal contact, but I wish to commend those who I personally know were working in the task force and of whom we can all be justly proud. They include the following:

Douglas Archard, John C. Boehm, Jr., Micaela Cella, Janet Coon, Stephen Dobrenchuk, Fred Henneke, David Robins, Susie Tucker, James Ward, and of course, Hon. Edward E. Masters, U.S. Ambassador to Bangladesh.

MERGING SOCIAL SECURITY IS HELPING DISABLED WITH THE BLIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, I would like to share with my colleagues some profound concerns which I have about the recent action of the Social Security Subcommittee of the Committee on Ways and Means in approving a proposal to establish universal social security coverage by 1980. More than 6 million new employees would come under social security if the subcommittee's recommendation were adopted. Three groups of workers would be affected: First, Federal civil servants; second, about 30 percent of State and local governmental employees who do not currently participate in social security; and third, about 10 percent of employees of nonprofit organizations who do not currently participate in social security.

This proposal has generated great consternation among my constituents in California. They have raised many valid questions about the proposal. Unfortunately, I cannot provide any reassuring answers since the subcommittee has merely approved universal coverage without specifying any of the details of how this would be achieved. Integration of the social security program with just the Federal civil service system would be an incredibly complex undertaking if the objective is to protect the vested pension rights of current Federal employees. Information forthcoming from the Social Security Subcommittee unfortunately does not enlighten us about how these vested pension rights would be protected.

In all candor, I must ask whether this problem has ever been considered. I suspect not; rather that the subcommittee was motivated to seek a quick fix for the financially-troubled social security system, regardless of the impact on vested pension rights. I understand that the total recommendations of the subcommittee would increase revenue through 1983 by about $100 billion. Of that amount, about half would come from universal coverage. One gets the impression that universal coverage represents a gimmick at the expense of 6 million Americans to avoid addressing some fundamental problems in the social security system. Leaving the details to be worked out at a later date leaves open some fundamental questions of equity for people covered by other systems.

For example, the social security contribution rate proposed by the subcommittee for 1980 will be 6.05 percent on all earnings up to $24,400. Federal civil servants currently contribute 7 percent of their salaries toward their retirement. Is the subcommittee proposing that Federal civil servants be required to contribute 13.05 percent of their salaries toward their retirement? This seems rather prohibitive.

If it is proposed that civil service retirement contributions be reduced so that the combined civil service/social security amount is not a confiscating rate of 13.05 percent, how does the subcommittee propose to meet the existing pension commitments of the civil service trust fund? I would remind my colleagues that the unfunded liability in the civil service retirement system is already $107 billion. The cost of the civil service system last year was equal to 20 percent of the Federal civilian payroll. This cost is expected to increase each year and exceed 40 percent of the Federal payroll within 40 years. I submit that the social security proposal presents us with a Hobson's choice. Either we commit ourselves to break faith with Federal employees and reduce their vested pension rights for which they have contributed 7 percent of their salaries, or we substitute higher civil service fund liabilities in order to shore up temporarily the social security system. I believe that we would be better off simply to retain the separate systems.

The purpose of the civil service retirement system is fundamentally different than the purpose of social security. Fifteen years before the creation of the social security system, the civil service retirement system was established—in 1920—so that the Federal Government could provide a retirement income to employees who had made Federal service their careers. The civil service retirement program is essentially a company pension plan.

In contrast, the social security system was established to provide retirement benefits which would supplement private pension plans and personal savings. Unlike civil service retirement, social security was not intended to provide a total retirement income.

I have not touched on the rather significant problems which the universal coverage proposal would present for State and local governments as well as nonprofit organizations. The complications involved in merging the civil service retirement and the social security systems are bad enough—and the laws passed by the Congress. The pension systems of State and local governments are so numerous and disparate that we creating both of these systems have been cannot even begin to highlight the pitfalls.

In addition, I would note that the extension of mandatory social security coverage to State and local governments raises significant constitutional issues. Just last year, the Supreme Court held in the case, *National League of Cities* v. *Usery*, 96 Sup. Ct. 2465 (1976), that Congress lacked the power under the commerce clause to impose the requirements

of the Fair Labor Standards Act on State governments. The majority opinion written by Justice Rehnquist held that the Constitution did not delegate to Congress the authority to regulate the employer-employee relationships of State governments and their subdivisions.

Since the pension arrangements of State and local governments have frequently evolved through collective bargaining, could not a case be made that the Federal Government by mandating social security coverage would be regulating State employer-employee relations?

A second constitutional problem is the tax on State and local governments which this proposal would involve. State governments have considerable immunity from Federal taxation. Universal social security participation would amount to a mandatory tax on all employers, including State and local governments.

The Congress under the Social Security Act imposes various taxes on private employers and rebates most of the money to the States that participate in the various programs under the conditions laid down by the Congress. But Congress cannot impose a payroll tax upon a State government and condition its rebate upon the State's submission to coverage under the act of its employees.

In the unemployment compensation amendments of 1976, Congress resolved this dilemma by requiring the States to cover State and local government employees as a condition for receiving the 2.7-percent tax credit and Federal grant for administering State unemployment insurance programs in the private employment sector. Clearly it is within Congress power to extend financial assistance to the States upon the condition that the States must meet certain standards in the operations of particular programs.[1] But while Congress is not limited in attaching conditions in its taxing and spending programs to its enumerated powers, it is limited to the extent that the conditions must be reasonably related to the purposes of the taxing and spending programs themselves.[2] The courts may well draw the line at the point at which Congress seeks to accomplish something extraneous to the program.

To phrase the constitutional issue another way, the courts could well find that it is not valid for Congress to attach conditions that, in and of themselves, promote the general welfare, since Congress may only legislate for the general welfare through its granted powers. Conditions imposed by Congress must promote the general welfare objective of the taxing and spending program itself and may not be utilized to go beyond the program to which they are attached.

Thus, the courts could find it improper for Congress to condition State participation in the social security program coverage of private employers and employees upon State submission to coverage of State employees, since this would be to accomplish some other general welfare purpose extraneous to the program for private employers and employees and a general welfare purpose that it could not in fact accomplish because it is beyond Congress delegated powers.

If universal coverage were enacted, I do not know if the courts would decide the issue along these lines. I believe, however, that we should weigh the constitutional issue carefully. We would be creating a rather chaotic situation if we coerced State and local governments into reshaping their retirement programs to accommodate universal social security coverage, only to have the courts several years later rule that universal coverage is unconstitutional.

In conclusion, I would note that too often in voting in this House we are not certain of the long-term implications of the legislation before us. Despite careful analysis of what is known about the problem which we are seeking to solve, many imponderable issues remain. Since the proposal to exend universal social security coverage has not even been subjected to careful analysis, the Social Security Subcommittee is asking us to buy the proverbial "pig in the poke."

[1] *Steward Machine Co.* v. *Davis*, 301 U.S. 548 (1973); *Oklahoma* v. *Civil Service Comm.*, 330 U.S. 127 (1947).

[2] *Steward Machine Co.* v. *Davis, supra*, 590–593, 593; *Ivanhoe Irrigation Dist.* v. *McCracken*, 357 U.S. 275, 295 (1958); *Lau* v. *Nichols*, 414 U.S. 563, 569 (1974).

UNIONS ABRIDGE CONSTITUTIONAL RIGHTS OF MEMBERS BY IMPOSITION OF FINES

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, during the debate on H.R. 8410, frequent reference was made to the tactic of organized labor in utilizing fines to keep their members in line. This has become such an abuse that my colleague from Illinois (Mr. ERLENBORN) and I have addressed this problem by offering amendments to prevent this glaring abuse.

Liberals always seem to profess a concern for the civil rights and constitutional rights of Americans, indeed of downtrodden people throughout the world. This concern has a hollow ring, however, because they invariably stop short of criticizing unions who abridge the constitutional rights of American citizens who merely happen to have one other status which changes this concern, that is, belonging to a union. At that point, the normal concerns of the liberal seem to cease.

Here is just a portion of the record I have developed in studying case law on unions imposing fines on their members. First, here are some of the fines which have been allowed:

PERMISSIBLE USE OF FINES

NLRB v. *Chalmers Co.*, 388 U.S. 175 (1967)—workers fined for crossing union picket line during a strike upheld.

Scofield v. *NLRB*, 394 U.S. 423 (1969)—fine upheld (and suspension) from union membership of workers for not abiding by a union rule that imposed a ceiling on the wages that members could earn (and collect) each day in excess of the negotiated machine rate. (The union rule required the worker insist that employer credit the excess earnings for a future day when earnings fell below ceiling.)

American Newspaper Guild Local 31 (Washington Post Co.), 186 N.L.R.B. 877 (1970)—upheld fine for violating rule banning the crossing of a lawful picket line erected by a sister union.

Glasser v. *NLRB*, 395 F 2d 401 (2d Cir. 1968)—members of musicians' union fined for working alongside nonmembers.

NLRB v. *Boeing Co.*, 412 U.S. 67 (1973)—NLRB is precluded from examining the reasonableness of an otherwise legally imposed fine; union member must resort to State court proceeding despite fact that he may not be able to bear financial burdens of State proceeding (while he bears no expense in NLRB proceeding) and despite fact that fine can be so excessive as to wipe out member's earnings during the strike and thus be equivalent to clearly unlawful job-related penalty of withholding wages.

NLRB v. *Local 10*, Operating Engineers (B. D. Morgan & Co.), 503 F 2d 780 (6th Cir. 1974) (may be minority view)—fine backed by expulsion upheld where union disciplines members who cross and work behind a picket line in support of an unlawful secondary boycott.

These fines have been upheld not because the courts have any less concern for the constitutional rights of an American citizen when he may happen to be, voluntarily or involuntarily, a member of a union. They have been allowed because the court accedes to the legislative accommodation that this Congress has given to labor unions in the NLRB and legislation passed during the past four decades.

Even more devastating to the rank and file member's exercise of his constitutional rights is the hundreds of attempts by unions to arrogantly impose fines which have been held to violate the law. The fact that these fines have been imposed, the worker penalized and then forced to appeal his case, often under heavy personal financial burden, would be construed by my liberal friends in any other field to be of a chilling nature and chilling effect on the exercise of his constitutional rights. Isn't it strange that we do not hear liberal Congressmen talk about the chilling effect of a union fine levied against a member who had the temerity to run against an officer of the international union? or against a member who merely testified in a hearing on civil rights? The silence is deafening but the contributions to their campaigns are thunderous so this probably gives the answer.

Here are a few of those cases. Note how many types of proper, legal, constitutional activity the unions arrogantly try to circumvent by the intimidation and threat of fine:

UNIONS FINES FOUND UNLAWFUL UNDER PRESENT LAW

Local Union 138, Operating Engineers (Skura) 148 NLRB 679 (1964)—Union violates Section 8(b)(1)(A) for fining members who file unfair labor practice charges with NLRB.

Philadelphia Moving Pictures Mach. Operators Local 307, 159 NLRB 1614 (1966), *enf'd* 362 F 2d 598 (3d. Cir. 1967)—Member who merely encourages another to file an unfair labor practice charge may not be disciplined.

International Molders Local 125 (Blackhawk Tanning Co.) 176 NLRB 208 (1969), *enf'd* 442 F 2d 92 (7th Cir. 1971)—unlawful for union to fine a member who participates in petitioning to decertify union as bargaining representative.

Independent Shoe Workers (United States Shoe Corp.) 208 NLRB 411 (1974)—unlawful for union to fine member who signs and solicits authorization cards for rival union.

Automotive Salesmen's Ass'n (Spitler-Demmer, Inc.) 184 NLRB 608 (1970)—union cannot fine member for testifying at unfair labor practice hearing.

Teamsters Local 788 (San Juan Islands Cannery) 190 NLRB 24 (1971)—fines may not be lawfully levied against member who testifies before an arbitrator in trial of contract grievance.

Carpenters Local 22 (Graziano Constr. Co.) 195 NLRB (1972)—unlawful to impose fine on a member who sought to compete against an incumbent union official in running for position of delegate to international convention.

NLRB v. *Retail Clerks Local 1179* (Alpha Beta Markets) 476 F 2d 186 (9th Cir. 1975)—illegal to fine retail clerks for crossing of picket line established by Teamsters Union in violation of Section 8(b)(7).

Glasser v. *NLRB*, 395 F 2d 401 (2d Cir. 1968)—where union member is acting temporarily in capacity of an employer with the power to hire, the union may not fine him in the event he abides by the law's mandate to hire without discrimination and in the process violates union rule requiring hiring of only union members.

Painters Local 1066, 205 NLRB No. 110. (1973)—union held to have violated 8(b)(1)(A) by imposing fines on members who testified on employer's behalf at a joint grievance board hearing, where union unlawfully attempting to prevent employer from hiring a black apprentice.

NLRB v. *Textile Workers, Local 1029*, 409 U.S. 213 (1972)—union violated 8(b)(1)(A) by fining members who engaged in strike-breaking activities after resigning from the union.

Wisconsin River Valley Dist. Council v. *NLRB*, 91 LRRM 2961 (7th Cir. 1976)—Union fined employee $1,300, and instituted law suit to collect fine, for working in violation of its "no contract-no work" decree, notwithstanding that employee was acting in capacity of supervisor for purpose of grievance adjudications. Held violative of Section 8(b)(1)(B).

Building v. *Const. Trades Council (Mississippi Gulf Coast)* 222 NLRB No. 98, (91 LRRM 1215 (1976)—Unions violated Act when during unlawful picketing of construction site, they threatened to fine and did fine members employed by neutrals.

Longshoremen v. *Warehousemen, Local 30 (United States Borax & Chemical Corp.)* 223 NLRB No. 196, 92 LRRM 1282 (1976)—Union violated Act by imposing fine against individual because he crossed and worked behind unlawful picket line that was established at contractors' gate at construction site for object of enmeshing neutral contractors in union's dispute with company.

International Union of Operating Engineers, Local 400 (Hilde Construction Co.), 225 NLRB No. 77, 92 LRRM 1494 (1976)—Union violated Act by imposing disciplinary action, including fines, on three members because of their conducting a meeting to question wisdon of their bargaining representative and to attempt to promote support to persuade union to change bargaining strategy.

Carpenters, Dist. Council of Colorado, Local 362 (Pace Construction Co.), 222 NLRB 613, 91 LRRM 1205 (1976)—Union unlawfully fined employee of neutral employer for crossing picket line at construction project, where picketing had object of forcing neutral to cease doing business with general contractor with which union had dispute.

Textile Workers, TWUA, Local 953 (Visinet Mill, Benis Co., Inc.), 189 NLRB 598, 77 LRRM 1035 (1971)—Incumbent union violated Act by imposing fines on four members for signing and soliciting employer's other employees to sign rival union's cards in order to support timely filing of rival's representation petition with the Board.

Teamsters, Local 165 (Goodyear Tire & Rubber Co.) 211 NLRB No. 100, 86 LRRM 1433 (1974)—Union fined three members for sponsoring and participating in decertification election. Held unlawful.

Machinists, Dist. Lodge 837 (McDonnell Douglas Corp.) 206 NLRB 662, 84 LRRM 1365 (1973)—International union and district lodge fined member for soliciting signatures on rival union's cards. Held unlawful.

Communications Workers, Local 6306 (Vactec, Inc.), 212 NLRB No. 117, 87 LRRM 1590 (1974)—International and local union unlawfully fined members for soliciting representation authorizations on behalf of rival union, and threatened members with loss of jobs if they did not pay fines.

Communications Workers, Local 1197 (Western Electric Co. Inc.) 202 NLRB 229, 82 LRRM 1530 (1973)—Union unlawfully fined and expelled members for crossing picket line established by sister local, despite claim that employer's action indicated that no strike clause was inapplicable.

The heart of understanding the rationale of these fines, most of which are clearly offensive to Americans who believe in fair play and constitutional and civil rights, is recognizing the arrogance of the union hierarchy. They simply feel they are a government to themselves, the rest of us be damned. Sadly, they seem to be able to convince a majority of Democratic Congressman of this, too. Unions hold their members of little or no concern when it comes to allowing difference of opinion. They have their line and it is take it or leave it. Take it or be fined, I should say.

These glaring abuses cry out for legislative remedy. The only question is whether or not there are enough uncommitted Members of this body who will vote the way they talk. We will see tomorrow.

UNIONS UTILIZE VIOLENCE, THREATS, INTIMIDATION TO ACHIEVE GOALS, YET MAJORITY PARTY LOOKS THE OTHER WAY

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, I have constantly pointed out the shortcomings of H.R. 8410. It is one-sided and addresses only the grievances that union organizers have regarding the NLRA and the NLRB. The majority party may be committed to delivering for the unions but Americans are increasingly concerned about the vast growth of power by unions and the arrogant exercise of that power.

I have detailed some of the union abuses in abridging the civil rights and constitutional rights of their members. In these brief remarks I want to put on the record some of the intimidation, threats, and violence of the unions which should be addressed in our deliberations on H.R. 8410 but will not because of an arbitrary and capricious rule which narrowly limits us in our ability to offer amendments.

Fines, intimidation, and outright violence seem to be the stock and trade of all too many unions throughout the country. Here are just a few of the cases that involve violence. I could fill 20 pages of the RECORD with cases that show violence and intimidation:

CASES RELATING TO THREATS OF BODILY INJURY

NLRB v. *Trabajadores*, F.2d, 92 LRRM 3425 (1st Cir. 1976)—Union violated Section 8(b)(1)(A) by threatening physical violence at bargaining session with employer, by physically attacking two employees of employer, and by threatening to kill employer's supervisor who allegedly was attempting to obtain employee signatures on union decertification petition.

Teamsters, Local 5 (Union Tank Car Co.) F.2d 71 LRRM 2311 (15th Cir. 1969)—Business agent of union made threats and displayed a gun at union meeting to intimidate employees into refraining from joining or assisting rival union.

Mid-States Metal Products, Inc. (Chemical Workers, Local 738) 156 NLRB 872, 61 LRRM 1159 (1966)—Union threatened anti-union employee with bodily injury, and warned him that union would obtain his discharge if he did not stop circulating anti-union petition.

Retail Clerks International Assoc. (Skorman's Inc.), 160 NLRB 709 (1966)—Union found to have violated Section 8(a)(1)(A) by spying on union members who were seeking support for deauthorization of union under Section 9(e). Other unlawful activities included questioning employees as to identity of others supporting deauthorization, threatening employees that it would continue surveillance, inducing an employee whom it had wired with radio transmitter to spy on meeting between dissident group and Board agent.

Crown Discount Dept. Stores, 172 NLRB 934 (1968)—Union unlawfully threatened employees with loss of jobs if they did not sign union authorization cards.

Retail, Wholesale & Dept. Store Union, Local 1199 (Rockville Nursing Center) 193 NLRB 959, 78 LRRM 1519 (1971)—Union violated NLRA when in the presence of employee pickets it threatened employees and agent of rival union with bodily harm and discharge if they did not sign cards.

Nation-Wide Plastics Co., Inc. (Office & Processing Union, Dist. 65) 197 NLRB 996, 81 LRRM 1036 (1972)—Union violated Act by threatening employees with violence and personal injury to compel them to join union and with loss of employment.

Hope Industries, Inc. (Teamsters, Local 867), 198 NLRB No. 115 81 LRRM 1205 (1972) Union threatened to cause employer to discharge employees if they refused to sign check-off authorization. Held violative.

A 1975 case before the Board found the Union Nacional de Trabajadores guilty of even more reprehensible conduct. Note again this is the Board's finding, not my summation of its actions. Here is what the Board found:

Restraint or Coercion Sec. 8(b)(1)(A)—

Threats and assaults on management officials—Coercion of employees—57.937

Union violated LMRA when its agents (1) threatened to fight anyone who attempted to prevent union agent from speaking with employees whenever he chose, (2) threatened and assaulted management representatives within view of employees, (3) threatened company officials, employees, suppliers, and others with physical harm if they attempted to undermine strike effort, and (4) brought in gang of pipe— and stick-wielding non-employees to police decision against attempting to negotiate end to strike.

Union Agent Sec. 2(13)—

Resident agent—Threats and violence—55.735

Individual who was in effect union's "resident agent" at struck project is its agent

within meaning of LMRA, and union is responsible for his coercive and threatening conduct, since (1) individual directed course of strike, under general guidance of union official; (2) union official did nothing to restrain or prevent individual's bellicosity and, in fact, made no effort to disassociate union from threats made by individual in union official's presence.

Order Sec. 10(c) Restraint or Coercion Sec. 8(b)(1)(A)—

Union threats and violence—Broad remedial order—56.107

Union that has repeatedly and flagrantly violated LMRA rights of employees is ordered to cease and desist from such conduct with respect to employees of any employer in union's jurisdiction and to publish NLRB's notice in manner directed in Catalytic case (89 LRRM 1741).

Restraint or Coercion, Sec. 8(b)(1)(A)—

Union threats and acts of violence—57.73—57.87

Union violated LMRA by (1) threat of physical violence made at negotiating session, (2) physical violence and bodily injury inflicted upon supervisor and employee and threat to kill employee, and (3) threat to knock or break down gates of company's plant.

Refusal to Bargain, Sec. 8(a)(5)—

Refusal to negotiate because of union's threats and acts of violence—54.703

Employer did not violate LMRA by its refusal to meet and bargain with union after union's threats and acts of violence during course of negotiations, since (1) threats and violence were unprovoked, pervasive in character, and destructive of harmonious bargaining relationship; (2) employer received no assurances against continuation of such conduct at time of its refusal to bargain; and (3) subsequent cease-and-desist order directed at union's misconduct could not mollify fears held at time of earlier refusal to bargain.

Intimidation, threats, and coercive actions can be just as chilling on the employee as any bodily assult. Take the NLRB case in 1975 involving Local 1632 of the Textile Workers. By the way, recall again that J. P. Stevens is supposed to be the bad guy. Here is what the NLRB found:

Discrimination—59.03

Union violated Section 3(b)(2) of LMRA by constructively causing employer to discharge employee who had expressed dissatisfaction with employer's preferential treatment toward union president. (1) Union president's statement to employer that "it's me or her," in response to employee's criticism, constituted an implied request to discharge employee; (2) union president acted in capacity as union official when making implied request to discharge dissenting employee, since request was based on belief that employees criticism was undermining the union.

Restraint or coercion—57.73

International union violated Section 8(b)(1)(A) of LMRA by threatening to "blacken" employee's name and to cause her discharge if employee's criticism of local union's president resulted in loss of international union's representation rights at employment site.

Again Textile Workers Union officers were involved in violence and illegal actions in the Keyser-Roth case in 1973. The U.S. circuit court of appeals used these words in describing the situation:

Damage action—Picket line violence—"Clear proof" standard of Norris-LaGuardia Act—81.04—82.842

In action by employer for damages from labor union for acts of picket line violence committed by union members, federal district court was warranted in finding that employer satisfied "clear proof" standard of Section 6 of Norris-LaGuardia Act which deals with responsibility of union for unlawful acts of its members, it appearing that international union's vice president and two of its representatives personally participated in, observed, supervised, and controlled activities of strikers. Statements in union magazine congratulating members for successfully shutting down plant are sufficinet to demonstrate union's ratification of striker's actions.

Damages—Picket line violence—Responsibility of union—Unfair labor practices by employer—81.04

In action by employer for damages from labor union for acts of picket line violence committed by union members, no merit is found in union's contention that employer should not be awarded damages where employer's refusal to bargain in good faith during contract negotiations precipitated strike and resulting violence.

Note the words of the court of appeals decision which referred to the actions of the Textile Workers International officers:

The involvement of the union in the violence and other unlawful and damage causing activities during the strike is demonstrated most clearly by the actions of Adolph Benet, the union's International Vice President, and Ted Benton and Walter Rainey, its International Representatives. During the course of the strike, these union officials personally participated in, observed, supervised and controlled the activities of the strikers. They leased property adjacent to the plant site for use as a strike headquarters; a mobile office was moved onto this property, and a shelter for the strikers was also provided. Other evidence indicated that Benton instructed the pickets to walk in such a manner as to make entrance to the plant difficult. Rainey instructed them that they should stop nonstrikers from entering the plant by any means they could, including stripping off their clothes. Benton admitted that he was at the picket line from the beginning of the strike until the plant was closed supervising strike activities; Rainey spent about one-half of his time assisting Benton in the supervision of the strikers. During this period, numerous acts of extreme violence occurred which are fully recounted in the opinion of the District Court. In their capacity as strike supervisors for the union, Rainey and Benton observed groups of strikers while they blocked, stoned, and in some cases overturned vehicles bearing nonstrikers attempting to enter or leave the plant.

Benton admitted that he was aware of the systematic daily implantation and re-implantation of nails and broken glass on company driveways, and when the company sought to provide bus service for non-striking workers, Benton personally directed the strikers to jam the buses to prevent boarding by non-strikers. The company eventually capitulated to the violence, and the plant was closed on June 24, 1958. Thereafter, the striking employees effectively prevented its reopening until September 16, 1968.

Again, note the court's own words in referring to the violent act of the Textile Workers Union: stripping off clothes, stoning, implantation of nails, overturning vehicles. These are the activities the majority members would protect. These are the activities Mr. ERLENBORN and I would address in our amendments.

I could go on and on, as I said before, filling 20 pages with accounts of the pattern of intimidation, threats, and violence by unions. How can Members of this body honestly look the other way and vote for a one-sided bill which addresses only a few of the many shortcomings of the NLRA?

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW, OCTOBER 5, UNDER THE 5-MINUTE RULE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may be permitted to sit tomorrow, October 5, for consideration of matters during the 5-minute rule, with the exception of the coal slurry pipeline matter.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BURKE of Florida (at the request of Mr. MICHEL), for tomorrow, October 5, on account of official business to attend meetings of the United Nations in New York, at the invitation of the President of the United States.

Mr. CORMAN (at the request of Mr. WRIGHT), for until 2:45 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous matter:)

Mr. RAILSBACK, for 5 minutes, today.
Mr. O'BRIEN, for 30 minutes, October 6.
Mr. COHEN, for 15 minutes, today.
Mr. SYMMS, for 60 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. FRENZEL, for 10 minutes, today.

(The following Members (at the request of Mr. KILDEE) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.

(The following Members (at the request of Mr. BENJAMIN) to revise and extend their remarks and include extraneous material:)

Mr. DANIELSON, for 15 minutes, today.
Mr. LEGGETT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MITCHELL of Maryland to include extraneous matter in his remarks made on the labor reform rule today.

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous matter:)

Mr. COUGHLIN in two instances.
Mr. FINDLEY.
Mr. JOHNSON of Colorado.
Mr. BURGENER.

Mr. LAGOMARSINO in two instances.
Mr. COHEN.
Mr. DEL CLAWSON.
Mr. MCCLORY.
Mr. SHUSTER in two instances.
Mr. CARTER in two instances.
Mr. MCKINNEY.
Mr. STEERS.
Mr. MCCLOSKEY in five instances.
Mr. RINALDO.
Mr. DORNAN.
Mr. BOB WILSON in four instances.
Mr. ABDNOR in three instances.
Mr. GILMAN.
Mr. THONE.
Mr. SPENCE.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. CARNEY in two instances.
Ms. MIKULSKI in two instances.
Mr. WAXMAN in two instances.
Mr. EILBERG in three instances.
Mrs. COLLINS of Illinois in two instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. OBEY in six instances.
Mr. DE LA GARZA in 10 instances.
Mr. SOLARZ.
Mr. SIMON.
Mr. TEAGUE.
Mr. RUSSO.
Mr. EDGAR.
Mr. MOAKLEY.
Mr. JENRETTE.
Mr. FOWLER.
Mr. MATHIS.
Mr. EDWARDS of California.
Mr. MCDONALD.
Mr. PEPPER.
Mr. MIKVA.
Mr. LUKEN.
Mr. FRASER.
Mr. KOCH in four instances.
Mr. STUDDS.
Mr. WOLFF.

(The following Members (at the request of Mr. BENJAMIN) and to include extraneous matter:)

Mr. FUQUA in five instances.
Mr. WOLFF.
Mr. HIGHTOWER.
Mr. MILLER of California.
Mr. RISENHOOVER.
Mr. WAXMAN.
Mr. JOHN L. BURTON.
Mr. RAHALL.
Mr. RANGEL.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 667. An act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 5, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2504. A communication from the President of the United States, urging action on remaining appropriation bills for fiscal year 1978 (H. Doc. No. 95-237); to the Committee on Appropriations and ordered to be printed.

2505. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of a new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2506. A letter from the President, Communications Satellite Corporation, transmitting the Corporation's 14th annual report, covering calendar year 1976, pursuant to section 404(b) of the Communications Satellite Act of 1962; to the Committee on Interstate and Foreign Commerce.

2507. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act (66 Stat. 214, 76 Stat. 1247); to the Committee on the Judiciary.

2508. A letter from the Secretary of Transportation, transmitting a report that no transactions were negotiated during fiscal year 1977 under the authority of section 303 of the Federal Aviation Act of 1958, as amended, pursuant to section 303(e) of the act (84 Stat. 234); to the Committee on Public Works and Transportation.

2509. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of NASA's plan to dispose of certain real property at the Plum Brook Station, Sandusky, Ohio, pursuant to section 207 of the National Aeronautics and Space Act of 1958, as amended; to the Committee on Science and Technology.

2510. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report (PSAD-77-86) entitled "The District of Columbia's New Detention Center: Careful Planning Essential for Adequate Addition," pursuant to section 736(b)(3) of Public Law 93-198; jointly, to the Committees on the District of Columbia, and Government Operations.

2511. A letter from the Comptroller General of the United States, transmitting a report on progress being made in each service to improve enlisted personnel management (FPCD-77-42, September 29, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2512. A letter from the Comptroller General of the United States, transmitting a report on ways the Department of Defense can improve oil recycling (LCD-77-307, September 28, 1977); jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 807. Resolution waiving certain points of order against H.R. 9375. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes Rept. No. 95-659). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENJAMIN (for himself, Mr. FITHIAN, Mr. GUYER, Mr. FARY, Ms. OAKAR, Mr. NOWAK, Mr. DERWINSKI, Mr. EILBERG, Mr. BEVILL, Mr. WALKER, Mr. ZEFERETTI, Mr. JENRETTE, Mr. BUCHANAN, Mr. FLOWERS, Mr. COUGHLIN, Mr. ROE, Mr. APPLEGATE, Mr. MURPHY of Pennsylvania, Mr. CARNEY, Mr. PERKINS, Mr. WALGREN, Mr. REGULA, Mr. PRICE, Ms. MIKULSKI, and Mr. MURPHY of Illinois):

H.R. 9425. A bill to amend the Tariff Schedules of the United States to establish a temporary tariff rate quota for certain iron and steel articles in order to stimulate fair and free competition in the world steel trade, and for other purposes; to the Committee on Ways and Means.

By Mr. BENJAMIN (for himself, Mr. GOODLING, and Mr. LUKEN):

H.R. 9426. A bill to amend the Tariff Schedules of the United States to establish a temporary tariff rate quota for certain iron and steel articles in order to stimulate fair and free competition in the world steel trade, and for other purposes; to the Committee on Ways and Means.

By Mr. BENJAMIN (for himself, Mr. FITHIAN, Mr. GUYER, Mr. FARY, Mr. LAFALCE, Mr. NOWAK, Mr. DERWINSKI, Mr. EILBERG, Mr. BEVILL, Mr. ZEFERETTI, Mr. JENRETTE, Mr. BUCHANAN, Mr. FLOWERS, Mr. COUGHLIN, Mr. ROE, Mr. APPLEGATE, Mr. MURPHY of Pennsylvania, Mr. CARNEY, Mr. PERKINS, Mr. WALGREN, Mr. PRICE, Ms. MIKULSKI, Mr. MURPHY of Illinois, Mr. GOODLING, and Mr. LUKEN):

H.R. 9427. A bill to amend title III of the act of March 3, 1933, known as the Buy American Act, to require the heads of Federal agencies to issue certain regulations respecting the purchase of materials made in the United States, to permit the States to give preference to such materials, to require that certain State purchases made with Federal funds be subject to the Buy American Act, and for other purposes; to the Committee on Government Operations.

By Mr. BENJAMIN (for himself and Mr. CORNWELL):

H.R. 9428. A bill to amend title III of the act of March 3, 1933, known as the Buy American Act, to require the heads of Federal agencies to issue certain regulations respecting the purchase of materials made in the United States, to permit the States to give preference to such materials, to require that certain State purchases made with Federal funds be subject to the Buy American Act, and for other purposes; to the Committee on Government Operations.

By Mr. BRODHEAD (for himself, Mr. AKAKA, Mr. BEARD of Rhode Island, Mr. BONIOR, Mr. CARR, Mr. CLAY, Mr. FARY, Mr. LEDERER, Ms. MIKULSKI, Mr. PATTISON of New York, Mr. ST GERMAIN, and Mr. CHARLES WILSON of Texas):

H.R. 9429. A bill to amend the Internal Revenue Code of 1954 to clarify the exemption from political organization taxable income for proceeds from bingo and related games; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 9430. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. COHEN:

H.R. 9431. A bill to amend the Internal Revenue Code of 1954 to provide graduated corporate income tax rates; to the Committee on Ways and Means.

By Mr. LEGGETT:

H.R. 9432. A bill to amend titles 10 and 32, United States Code, to authorize additional medical and dental care and other related benefits for reservists and members of the National Guard, under certain conditions, and for other purposes; to the Committee on Armed Services.

By Mr. PEPPER:

H.R. 9433. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. CORRADA, Mr. DE LUGO, Mr. WON PAT, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. OTTINGER, and Mr. WALGREN):

H.R. 9434. A bill to amend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mr. BADHAM, Mr. HARRINGTON, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. MAGUIRE, Mr. RODINO, Mr. CHARLES WILSON of Texas):

H.R. 9435. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to employer pension funds and to allow certain individuals to establish modified individual retirement plans when the employer-employee pension contributions are small; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 9436. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the armed forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. ZEFERETTI (for himself, Mr. CARTER, Mr. DEVINE, Mr. GOLDWATER, Mr. GILMAN, Mr. KEMP, Mr. LONG of Louisiana, and Mr. MURPHY of New York):

H.R. 9437. A bill to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. officers and employees routinely assigned to perform investigative, inspection, or law enforcement functions, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHBROOK (for himself, Mr. ARCHER, Mr. COLLINS of Texas, Mr. SPENCE, Mr. ROBINSON, Mr. ABDNOR, Mr. MCDONALD, and Mr. KETCHUM):

H.R. 9438. A bill to amend the National Labor Relations Act to protect the rights of employees, to strengthen the remedies under such act, and for other purposes; to the Committee on Education and Labor.

By Mr. PATTEN:

H.R. 9439. A bill authorizing the removal of a rock ledge and certain other material in the Arthur Kill at Perth Amboy, N.J.; to the Committee on Public Works and Transportation.

By Mr. WHITTEN:

H.R. 9440. A bill to amend the Internal Revenue Code of 1954 with respect to the determination of whether certain charitable organizations are publicly supported; to the Committee on Ways and Means.

By Mr. HILLIS:

H.J. Res. 610. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland:

H.J. Res. 611. Joint resolution to extend the authority of the Federal Reserve Banks to buy and sell certain obligations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STUDDS:

H.J. Res. 612. Joint resolution to extinguish any right, title, or interest to certain lands in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. BURKE of California:

H. Con. Res. 368. Concurrent resolution calling for the support of the city of Los Angeles, representing the United States, in its bid before the International Olympic Committee to host the 1984 summer Olympic games; jointly, to the Committees on International Relations and Interstate, and Foreign Commerce.

By Mr. FOUNTAIN:

H. Res. 808. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. MARKEY (for himself, Mr. DOWNEY, Mr. MAGUIRE, Mr. DIGGS, Mr. EDWARDS of California, Mr. MITCHELL of Maryland, Mr. BEDELL, Mr. BONIOR, and Mr. TSONGAS):

H. Res. 809. Resolution expressing the sense of the House of Representatives that the circumstances surrounding Steve Biko's death be investigated; to the Committee on International Relations.

By Mr. SOLARZ (for himself, Mr. AKAKA, Mr. AMMERMAN, Mr. ANDERSON of California, Mr. ANDREWS of North Dakota, Mr. APPLEGATE, Mr. BAUCUS, Mr. BENJAMIN, Mr. BEVILL, Mr. BLOUIN, Mr. BOLAND, Mr. BRECKINRIDGE, Mr. BRODHEAD, Mr. BROWN of Ohio, Mr. BUCHANAN, Mr. BURKE of Massachusetts, Mr. BYRON, Mr. CEDERBERG, Mr. CHAPPELL, Ms. CHISHOLM, Mr. CLEVELAND, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. CONYERS, and Mr. CORCORAN of Illinois):

H. Res. 810. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. CORNWELL, Mr. CORRADA, Mr. D'AMOURS, Mr. DAVIS, Mr. DE LA GARZA, Mr. DELANEY, Mr. DERRICK, Mr. DIGGS, Mr. EDWARDS of California, Mr. EVANS of Georgia, Mr. EVANS of Delaware, Mr. FARY, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FREY, Mr. GAMMAGE, Mr. GINN, Mr. GOODLING, Mr. GRADISON, Mr. GRASSLEY, Mr. HALL, Mr. HAMMERSCHMIDT, and Mr. HANLEY):

H. Res. 811. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. HANSEN, Mr. HARRINGTON, Mr. HARSHA, Mrs. HECKLER, Mr. HEFTEL, Mr. HILLIS, Mr. HOWARD, Mr. HUBBARD, Mr. HUCKABY, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Mr. JOHNSON of Colorado, Mr. JONES of Oklahoma, Mr. JONES of North Carolina, Mr. KETCHUM, Mrs. KEYS, Mr. KILDEE, Mr. KREBS, Mr. KRUEGER, Mr. LEDERER, Mr. LE FANTE, Mr. LEHMAN, and Mrs. LLOYD of Tennessee):

H. Res. 812. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. LUKEN, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MADIGAN, Mr. MANN, Mr. MARKEY, Mr. MARKS, Mr. MATHIS, Mrs. MEYNER, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MINISH, Mr. MITCHELL of New York, Mr. MOLLOHAN, Mr. MOTTL, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. MICHAEL O. MYERS, Mr. NEAL, Mr. NOWAK, Mr. PANETTA, Mr. PERKINS, Mr. PICKLE, and Mr. PREYER):

H. Res. 813. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. PRICE, Mr. PURSELL, Mr. QUAYLE, Mr. RAHALL, Mr. RANGEL, Mr. ROGERS, Mr. ROONEY, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. SARASIN, Mr. SCHEUER, Mr. SISK, Mr. SKUBITZ, Mr. SPENCE, Mr. STANTON, Mr. STUDDS, Mr. THONE, Mr. TRAXLER, Mr. TREEN, Mr. TSONGAS, Mr. WALSH, Mr. WOLFF, and Mr. YATES):

H. Res. 814. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

274. By the SPEAKER: Memorial of the Legislature of the State of California, relative to vocational training; to the Committee on Education and Labor.

275. Also, memorial of the Legislature of the State of Ohio, relative to enforcement of the Trade Act of 1974 to preserve the domestic steel industry; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XX,

Mr. BURGENER introduced a bill (H.R. 9441) for the relief of Zora Singh Sunga; which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

283. By the SPEAKER: Petition of the Rockland County Legislature, New City, New York, relative to violations of human rights in Northern Ireland; to the Committee on International Relations.

284. Also, petition of the executive council of the Episcopal Church, New York, N.Y., relative to Indochinese refugees; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. RES. 766

By Mrs. CHISHOLM:

Strike out section 503 of the resolution as reported by the Committee on Rules (or

section 504 of the resolution if the Rules Committee amendments to title V are rejected) and insert in lieu thereof:

"FAIR EMPLOYMENT PRACTICES PANEL

"SEC. 503 The Rules of the House of Representatives are amended by inserting at the end thereof the following new Rule:

"RULE LI

"FAIR EMPLOYMENT PRACTICES PANEL"

"1. There is established a Fair Employment Practices Panel, which shall be comprised of five individuals, three Members and two employees of the House (other than those employed by administrative units of the House). The three Members shall be chosen by the Speaker, two from the majority party and one, upon the recommendation of the Minority leader, from the minority party. The two employee representatives on the Panel shall be chosen by the Speaker, one from the majority party and one, upon the recommendation of the Minority leader, from the Minority party.

"2. If an individual has sent a statement taken under oath administered by an authorized official to a Member alleging a violation of that individual's rights under clause 9 Rule XLIII by that Member and no mutually agreeable accommodation has been reached within the thirty-day period commencing upon the date of transmission of the statement taken under oath by an authorized official to the Member, then that individual may file a statement taken under oath by an authorized official with the Panel.

"3. The Panel shall review all statements taken under oath by an authorized official filed with it under this Rule and the attempts at accommodation under clause 2. After an individual has filed a statement taken under oath by an authorized official under this Rule, the Panel may offer consultation to the individual and the employing Member. All activities of the Panel shall be conducted on a confidential basis. If, in the opinion of the Panel, confidentiality has been breached by any individual filing a statement taken under oath by an authorized official, the Panel may dismiss that statement under oath by an authorized official.

"4. If a settlement of the statement taken under oath by an authorized official is reached by the interested parties, the Panel shall so certify.

"5. (a) If a settlement of the statement taken under oath by an authorized official is not reached by the interested parties and the Panel believes that a Member has violated clause 9 of Rule XLIII, then the Panel by a vote of four out of five of its members may refer the matter to the Committee on Standards of Official Conduct for its immediate consideration. Notwithstanding the provisions of clause 4(e) of Rule X, the Committee on Standards of Official Conduct shall undertake an investigation of any statement taken under oath by an authorized official referred to it by the Panel and, if the Committee believes that a Member has violated clause 9 of Rule XLIII, then the committee by the affirmative vote of a majority of its members, shall recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances.

"(b) For purposes of this clause—

"(1) continuity of session of Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period."

By Mr. FRENZEL:

Insert before the last section of the amendment recommended by the Committee on House Administration the following new section, and renumber the last section accordingly:

SEC. (a)(1) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled to an allowance for use in employing not more than 2 staff members during the period beginning on the date on which the election of such Member-elect is certified by the appropriate officer of the State in which the congressional district of such Member-elect is located (or by any other appropriate official in the case of a Delegate-elect or Resident Commissioner-elect to the Congress), and ending on the date on which the oath of office is administered to such Member-elect.

(2) One staff member employed by a Member-elect under paragraph (1) shall be entitled to be paid at a single per annum gross rate which does not exceed 75 percent of the maximum per annum gross rate at which a professional staff member of a standing committee may be paid under clause 6(c) of Rule XI of the Rules of the House of Representatives, and one such staff member shall be entitled to be paid at a single per annum rate which does not exceed 50 percent of such maximum rate.

(b) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled, during the period specified in subsection (a)(1), to receive such office equipment, supplies, and other similar materials as the Committee considers necessary to carry out the duties of such Member-elect.

(c) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be assigned such common office space as deemed available and appropriate by the House Office Building Commission for the use of such Member-elect during the period specified in subsection (a)(1).

(d) The contingent fund of the House shall be available for purposes of carrying out the provisions of this section.

(e) The provisions of this section shall take effect on January 3, 1978.

The amendment made by section 201(b) to clause 4(d) of the Rules of the House of Representatives is amended by striking out ", and of all functions of the Auditor and his staff" in subparagraph (2) thereof, by redesignating subparagraphs (3) through (6) thereof as subparagraphs (4) through (7), respectively, and by inserting immediately after subparagraph (2) thereof the following:

"(3) establishing a Subcommittee on Audits, to be comprised of an equal number of members from the majority and minority parties, to provide policy guidance and oversight to the Auditor;

By Mr. MEEDS:

Insert before the last section of the amendment recommended by the Committee on House Administration the following new section, and renumber the last section accordingly:

SEC. (a)(1) The aggregate number of staff members (other than professional staff members and clerical staff members appointed or selected under clause 6 of Rule XI of the Rules of the House of Representatives) which may be employed by all standing committees of the House (other than committees which are not required to obtain spending authorizations under clause 5(a) of Rule XI of the Rules of the House of Representatives (during any session of a Congress may not exceed an amount equal to 103 percent of the average number of such staff members employed by all such standing committees during the preceding session.

(2) The limitation established in paragraph (1) shall not apply in the case of—

(a) any increase under subsection (b)(2); or

(B) the appointment of associate staff members of committees under clause 7(a) of the Rule XI of the Rules of the House of Representatives or under the rules of any standing committee of the House.

(b)(1) Each primary expense resolution under clause 5(a) of Rule XI of the Rules of the House of Representatives which grants an authorization for the payment of expenses of any standing committee of the House shall specify the maximum number of staff members in subsection (a)(1) which may be employed by such standing committee in the year involved.

(2)(A) Any increase in the maximum number of staff members specified in paragraph (1) which a standing committee is authorized to employ in any year may be made upon approval by the Committee, of such increase, together with any other increase approved by the Committee for such year, does not exceed an amount equal to 10 percent of the maximum number of staff members specified in the primary expense resolution for such standing committee.

(B) Any such increase which, together with any other increase approved by the Committee for the year involved, exceeds an amount equal to 10 percent of such maximum number of staff members specified in paragraph (1) may be made through the adoption of a resolution which specifies the maximum number of such staff members which may be employed by the standing committee involved under such resolution.

(c)(1) For purposes of subsection (b), the average number of staff members specified in subsection (a)(1) employed by the standing committees of the House during a session of a Congress shall be calculated by—

(A) determining the total number of such staff members employed by all standing committees during each monthly pay period in such session;

(B) deriving the sum of such totals for all such pay periods in such session; and

(C) dividing such sum by 12.

(2) Any such staff member who is employed by a standing committee as the result of any increase approved or adopted under subsection (a)(2) shall not be included in the calculation of such average number under paragraph (1).

(d) The provisions of this section shall take effect on January 3, 1979.

By Mr. OBEY:

In section 608 of the amendment recommended by the Committee on House Administration, strike the words "services and".

H.R. 8410

By Mr. BIAGGI:

Page 15, immediately after line 7, insert the following new section:

SEC. 2. Paragraph (3) of section 2 of the National Labor Relations Act is amended by inserting after "his parent or spouse," the following: "or any alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens,".

Redesignate the succeeding sections accordingly.

By Mr. QUIE:

Page 16, line 11, delete the words "a quorum of" strike page 16, line 16 through line 19 and substitute: "A motion for summary affirmance shall be filed within 10 days after the decision of the administrative law judge, any response shall be filed within 20 days thereafter, and the motion and response shall then be presented for decision to a group designated pursuant to the first sentence of this subsection."

Page 19, line 18, insert after the comma: "or a labor organization pursuant to sub-

section (C)(1)(A) or (e)(1) of this section 9,";

Page 20, line 6, insert after the comma: "or that a majority of employees in a unit currently certified or recognized designate that they no longer desire representation, or that a majority of the employees covered by an agreement made pursuant to section 8(a)(3) designate that such authority be rescinded.";

Page 20, immediately after line 7, insert: "unit covered by an agreement pursuant to section 8(a)(3), or is a unit where the certified or currently recognized representative is no longer desired, or is a".

Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "twenty-eight";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy five" and insert in lieu thereof "ninety";

Page 21, line 15, immediately before the period insert: ": *Provided*, That the Board may extend the period for holding of a twenty-eight day election and a sixty day election for a period of up to 30 days if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote", and

Page 17, line 16, strike all of subparagraph "(B)" therein through line 24, page 17, and reletter the subsequent subparagraphs accordingly.

Page 21, line 8, after the word "shall" add: ", unless under a rule adopted pursuant to subsection (b)(1)(D) of section 6, the ballots have been impounded,".

Page 21, line 21, after the word "challenges" add "; *Provided*, That nothing contained herein shall preclude resolution of the eligibility questions raised by such challenges in a subsequent unit clarification proceeding.".

Page 25, line 6, insert immediately before the period, the following: "; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs, or to the local, intermediate, national or international labor organization found to have engaged in a willful violation".

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party: *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs or to the local, intermediate, national or international labor organization found to have engaged in a willful violation.".

Page 25, line 9, after "(a)(3)" insert the following: ", (a)(1), (b)(1)".

H.R. 9375

By Mr. TSONGAS:

Page 10, line 17, strike out "$167,000,000" and insert in lieu thereof "$196,000,000".

H.R. 1037

By Mr. McCLOSKEY:

On page 7, line 6, after "both" add ": *Provided*, That any rate which is more than 50 per centum higher than the applicable rate for the most efficient nonpreference vessels available may not be deemed fair and reasonable".

On page 6, line 18, after "shall" insert ", if the Secretary of the Treasury certifies that such steps will not reduce total national employment and gross national product,".

On page 9, line 4, strike "(or if at" and all thereafter through "and" on line 8.

On page 6, line 18, after "shall" insert ", if the Secretary of State certifies that such steps will not violate any Treaty of Friendship, Commerce and Navigation with any nation which is a member of the North Atlantic Treaty Organization,".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 22, 1977, page 30313.

H.R. 4901. March 14, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceedings for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 4902. March 14, 1977. Government Operations; Rules. Prohibits the expenditure of Federal moneys, not otherwise provided for by law, which are not made pursuant to procedures providing for a voucher describing to payee and items or services for which payment is being made. Requires all appropriations, not made under a law which provides otherwise, to provide for voucher requirements for expending such moneys appropriated.

Requires the Comptroller General to audit all programs subject to this Act.

H.R. 4903. March 14, 1977. Judiciary. Directs the United States to pay reasonable attorney fees, to prevailing parties in civil actions in which the United States is a party which does not prevail.

H.R. 4904. March 14. 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to make insurance against damage caused by the movement of frozen water into property located along shorelines available under the national flood insurance program.

H.R. 4905. March 14, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4906. March 14, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4907. March 14, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4908. March 14, 1977. Judiciary. Requires that witnesses compelled to testify before any Federal courts or grand jury, any Federal agency, or either House of Congress or any Congressional committee be given transactional immunity.

Specifies additional prerequisite findings for issuing an order compelling testimony.

Prohibits a grand jury from indicting a witness who was compelled to testify before it.

Specifies penalties for disclosure of grand jury proceedings. Empowers grand juries to conduct independent inquiries.

Entitles defendants and witnesses to examine certain transcripts of grand jury testimony.

H.R. 4909. March 14, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 4910. March 14, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4911: March 14, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4912. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit for the tuition paid to a private, nonprofit elementary or secondary educational institution for the education of a dependent. Grants taxpayers standing to challenge the Act's constitutionality in the District Court for the District of Columbia.

H.R. 4913. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 4914. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make loans to homeowners and builders to assist them in purchasing and installing solar heating of solar heating and cooling equipment, and directs the Secretary to provide individuals with all current information on such equipment upon request.

Directs the Energy Research and Development Administration to: (1) establish procedures for inspecting and evaluating solar heating and cooling equipment; (2) review new equipment as developed; and (3) periodically review certifications of such equipment for validity.

H.R. 4915. March 14, 1977. International Relations. Amends the Foreign Relations Authorization Act, Fiscal Year 1977, to authorize specific appropriations for the United States Information Agency for fiscal year 1978 to carry out international informational activities and programs (specifically salaries and expenses, special international exhibitions, and acquisition and construction of radio facilities). Authorizes the appropriation of such sums as may be necessary for such purposes for fiscal year 1979.

Amends such Act to permit funds herein authorized to be transferred under certain restrictions.

H.R. 4916. March 14, 1977. International Relations. Amends the Foreign Relations Authorization Act, Fiscal Year 1977, to authorize appropriations for the Department of State for fiscal years 1978 and 1979 to carry out foreign affairs.

Authorizes appropriations to pay the United States assessments to the World Health Organization for 1974 to 1977.

Authorizes the Department of State to furnish medical and dietary assistance to United States citizens incarcerated abroad.

H.R. 4917. March 14, 1977. International Relations. Authorizes appropriations for the Board for International Broadcasting for fiscal years 1978 and 1979.

H.R. 4918. March 14, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 4919. March 14, 1977. Public Works and Transportation. Names the lake located behind Lower Monumental Lock and Dam, Washington, Lake Herbert G. West, Senior.

H.R. 4020. March 14, 1977. Ways and Means. Amends the International Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline used in aircraft for farm purposes to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4921. March 14, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 4922. March 14, 1977. Interior and Insular Affairs; International Relations; Merchant Marine and Fisheries. Establishes a program of Federal insurance against losses incurred by eligible ocean mining prototype operations. Directs the Administration of the National Oceanic and Atmospheric Administration to develop criteria designed to protect the marine environment from such operations.

Stipulates that this Act shall be transitional in nature pending the outcome of the United Nations Conference on the Law of the Sea.

H.R. 4923. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to exempt bonds issued to finance primary and supplementary onsite coal gasification facilities from industrial bond treatment.

H.R. 4924. March 14, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to change the criterion used for determining eligibility of families assisted under such Act. Redefines the term "lower income families."

H.R. 4925. March 14, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or in part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 4926. March 14, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to the start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 4927. March 14, 1977. Armed Services. Make it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 4928. March 14, 1977. Education and Labor. Establishes a career education program to assist States and local educational agencies in increasing the emphasis they place in elementary and secondary education on job awareness, exploration, decision-making, and planning.

H.R. 4929. March 14, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decision-making, and planning.

Specifies procedures to be used in implementing this Act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this Act.

H.R. 4930. March 14, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the establishment of courses to train paraprofessionals in the anaesthetising and spaying and neutering of dogs and cats.

H.R. 4931. March 14, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) cover the commission of any of specified felonies with the use of any firearm which has been transported in commerce, rather than only the commission of Federal felonies, (2) increase the terms of imprisonment, and (3) prohibit suspended and probationary sentences for first convictions.

H.R. 4932. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to authorize any taxpayer to elect to have any portion of any overpayment of tax or any contribution in money which the taxpayer forwards with the return for such taxable year be available, as the taxpayer may designate on such return, for the National Endowment for the Arts or the National Endowment for the Humanities.

H.R. 4933. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4934. March 14, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 4935. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 4936. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 4937. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative 12 months of their employment.

H.R. 4938. March 14, 1977. Ways and Means; Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 4939. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the programs of Medicare, Medicaid, and Grants to States for Social Services of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization in such care.

H.R. 4940. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulatory Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4941. March 14, 1977. Interstate and Foreign Commerce; Ways and Means; Rules. Requires any officer or agency in the executive branch to obtain congressional review of all proposed regulations relating to cost and expenditures for health care.

H.R. 4942. March 14, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4943. March 14, 1977. Interstate and Foreign Commerce. Makes the manufacture, distribution and sale of saccharin for human consumption legal in the United States and its territories.

Requires a label with a specified message on all containers of saccharin sold after the enactment of this Act.

H.R. 4944. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require that the Administrator of the Environmental Protection Agency make grants for special studies and demonstration projects designed to assist in providing a safe supply of drinking water to the public.

H.R. 4945. March 14, 1977. Government Operations; Rules. Requires the President to report to the Congress yearly suggestions for the reform of independent regulatory bodies in order to decrease their inflationary effects and to increase competition.

H.R. 4946. March 14, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4947. March 14, 1977. Judiciary. Requires that any rule proposed by any Federal agency be submitted to Congress for approval along with a cost-benefit analysis of such rule.

Permits holding employees, rather than their employers, responsible for violations of agency rules if such employee violated such rule.

H.R. 4948. March 14, 1977. Rules. Amends the Congressional Budget Act of 1974 to require each Congressional committee having jurisdiction to report legislative authorizing appropriations for any Federal program to review such program at least once every six years as though it were being proposed for the first time.

Amends the Congressional Budget and Impoundment Control Act of 1974 to require the Committees on the Budget of the House and Senate to establish guidelines for the committees of both Houses in carrying out their zero-base budgeting functions.

H.R. 4949. March 14, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4950. March 14, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4951. March 14, 1977. Ways and Means. Amends the Social Security Act by adding Title XXI—Minimum Income Maintenance Benefits, which establishes a national program to guarantee a minimum adequate income for all qualified residents of the United States.

H.R. 4952. March 14, 1977. Armed Services. Grants additional dental care benefits to dependents of active duty members of the uniformed services.

H.R. 4953. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the withholding tax on lump-sum payments of accumulated leave for Federal employees and members of the armed services shall be computed as though the leave were paid on the basis of an annual payroll period.

H.R. 4954. March 14, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation Zone Transition Act to make the Reciprocal Fisheries Agreements between the United States and Canada effective during the period beginning March 1, 1977 and ending December 31, 1977.

H.R. 4955. March 14, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 4956. March 14, 1977. Agriculture; Small Business. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate up to $2,500 forgiveness on the loan; or (2) a one percent interest rate with no forgiveness clause

H.R. 4957. March 14, 1977. Judiciary. Amends provisions imposing additional sentences for commission of a Federal felony with the use of, or while unlawfully carrying, a firearm to (1) increase the minimum authorized sentence, (2) remove maximum limits for such sentences, and (3) prohibit suspended and probationary sentences with respect to first, as well as to subsequent, convictions.

H.R. 4958. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to exclude interest on installment obligations from Subchapter S Corporations' passive investment income where the obligations arise from the sale of substantially all of the corporation's properties and where the corporation has elected to return all the sale income under installment accounting methods.

H.R. 4959. March 14, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4960. March 14, 1977. Small Business. Amends the Small Business Investment Act to change the title of the Associate Administrator for Finance and Investment of the Small Business Administration to that of Associate Administrator for Investment. Changes the duties of such office.

H.R. 4961. March 14, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 4962. March 14, 1977. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950 to extend the provisions of such act through September 30, 1979.

H.R. 4963. March 14, 1977. Merchant Marine and Fisheries. Authorizes appropriations in specified amounts to the Department of Commerce for specified maritime-related expenses for fiscal year 1978.

H.R. 4964. March 14, 1977. Interstate and Foreign Commerce. Makes it a violation of the Federal Trade Commission Act for any retailer to increase the price of a consumer commodity after the retailer has marked the price on the item.

H.R. 4965. March 14, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 4966. March 14, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that any individual who is entitled to a monthly benefit under such title for the month preceding the month in which such eligible individual dies shall be entitled for the month in which he dies to a prorated benefit based upon a specified formula.

H.R. 4967. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (medicare) and title XIX (medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 4968. March 14, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4969. March 14, 1977. Education and Labor. Amends the National Labor Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to participate in, or to induce an employee of a person primarily engaged in the construction industry at the site involved to participate in, a strike or other refusal to perform services which is (1) conducted at the site of the construction, alteration, or repair of a building other than a residential structure less than four stories, and (2) directed at any of several employers in the construction industry who bear certain contractual relationships with the employer of the organization's workers.

H.R. 4970. March 14, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to collect, analyze, and publish current world population statistics at least annually.

H.R. 4971. March 14, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decision-making process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 4972. March 14, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decisionmaking process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 4973. March 14, 1977. Ways and Means. Directs the Secretary of Health, Education, and Welfare to pay all costs (including related and administrative expenses as well as the cost of the actual aid, assistance, or benefits involved) incurred by any State or local government or agency thereof in carrying out a welfare or public assistance program.

H.R. 4974. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for health planning and related programs.

Amends the Social Security Act to prohibit reimbursement to a State for Medicaid expenditures unless specified conditions are met.

Includes as gross income, for purposes of the Internal Revenue Code, interest on a loan to a State for medical facilities after such facilities are sold by the Secretary of Health, Education, and Welfare.

H.R. 4975. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for biomedical research and related programs.

Appoints the Director of the Office of Science and Technology Policy to the National Heart, Lung, and Blood Advisory Council, removes the Director of the National Science Foundation from such Council.

H.R. 4976. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act, the Community Mental Health Centers Act, and the Social Security Act, to authorize appropriations for health services programs for fiscal year 1978.

Extends the coverage of grants for training and education in specified fields to the health care professions.

Establishes an Indian Health Scholarship Program.

Extends the coverage of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to include programs relating to drug abuse or mental health.

H.R. 4977. March 14, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that certain factors be considered in determining whether a proposed use of a food additive is safe.

H.R. 4978. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association.

Amends the Housing and Urban Development Act of 1968 to authorize the Secretary of Housing and Urban Development to extend counseling and technical assistance to owners of single-family dwelling units.

Amends the National Housing Act to make changes in Federal coinsurance and insurance programs.

H.R. 4979. March 14, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior and the Administrator of General Services to convey specified public lands to the county of Mineral, Nevada.

H.R. 4980. March 14, 1977. Interior and Insular Affairs. Declares that all right, title, and interest of the United States in approximately 2,640 acres are hereby held by the United States in trust for the Paiute-Shoshone Tribes of the Fallon Indian Reservation, Nevada.

Authorizes and directs the Secretary of the Interior to improve the existing irrigation system and the use of irrigated reservation lands.

H.R. 4981. March 14, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to construct a new Veterans' Administration hospital in the southern part of the State of Nevada.

H.R. 4982. March 14, 1977. Veterans' Affairs. Directs the Veterans' Administration to establish a national cemetery in the State of Nevada, and to acquire not less than 5,000 acres of land for this purpose.

H.R. 4983. March 14, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by directing the Secretary of Labor to: (1) render on-site consultation and advice to any employer, upon the request of such employer, concerning compliance with the Act; and (2) establish programs for the education and training of employers and employees concerning hazards in particular industries.

H.R. 4984. March 14, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by directing the Secretary of Labor to: (1) render on-site consultation and advice to any employer, upon the request of such employer, concerning compliance with the Act; and (2) establish programs for the education and training of employers and employees concerning hazards in particular industries.

H.R. 4985. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the tax exclusion of proceeds on industrial development bonds to certain types of issues, the proceeds of which will be used within economic development areas. Allows national banks to deal in, and underwrite, such bonds.

H.R. 4986. March 14, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that whenever cost-of-living increases are made in benefits, such amounts be further increased for individuals residing in high cost areas by a formula set forth in the Act.

H.R. 4987. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 4988. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 4989. March 14, 1977. Agriculture Establishes the price support for milk, under the Agricultural Act of 1949, at not less than 80 percent of parity, adjusted quarterly, for the period beginning on the date of enactment and ending on March 31, 1978.

H.R. 4990. March 14, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4991. March 14, 1977. Science and Technology. Authorizes appropriations for specified activities of the National Science Foundation.

Amends the National Science Foundation Act of 1950 to require the National Science Board to submit an annual report to Congress pertaining to policy issues affecting the Foundation.

Directs the Foundation to issue instructions to grantees covering the protection of students and procedures for involving students in precollege education research and development, pilot-testing, evaluation, and revision of experimental and innovative precollege curriculum projects funded by the Foundation.

H.R. 4992. March 14, 1977. Interior and Insular Affairs. Provides that grants for the Indian business development program established by the Indian Financing Act of 1974 shall be made from funds appropriated to the Bureau of Indian Affairs.

H.R. 4993. March 14, 1977. Interstate and Foreign Commerce. Directs the National Academy of Sciences to conduct a study to determine whether the section of the Federal Food, Drug, and Cosmetic Act dealing with the issuance or denial of a petition for a proposed food additive's use may be safely revised.

Directs the Academy to report its results and legislative recommendations to the Congress within six months of enactment of this Act.

Directs the Food and Drug Administration to withhold its announced prohibition of the use of saccharin in foods and beverages pending completion of such study.

H.R. 4994. March 14, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 4995. March 14, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purposes of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 4996. March 14, 1977. Merchant Marine and Fisheries. Requires the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, to promulgate regulations which must be complied with before any large-scale killing of birds or mammals shall be permitted. Prohibits any such killing until an environmental impact statement has been approved.

Prohibits the eradication or suppression of certain animals injurious to agriculture or to other animals until an environmental impact statement has been apuroved by the Administrator and the Secretary.

H.R. 4997. March 14, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to nominate two individuals each for appointments to the Merchant Marine Academy.

H.R. 4998. March 14, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to extend benefits to Puerto Rico, the Virgin Islands, and Guam on the same basis as the States.

H.R. 4999. March 14, 1977. Ways and Means. Interstate and Foreign Commerce. Amends the Social Security Act to extend specified public assistance benefits to Guam and the Virgin Islands on the same basis as other States.

H.R. 5000. March 14, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that whenever a retired employee who is receiving a larger annuity under such Act than would be payable to the spouse of such employee, the amount payable to the surviving spouse of such an individual shall be the same amount which would have been payable to the retired employee but for his or her death.

H.R. 5001. March 14, 1977. Post Office and Civil Service. Makes surviving spouses eligible for survivors' annuities if married to the principal annuitant for at least one year. Makes such survivors eligible for an annuity equal to 55 percent of the amount such principal annuitant was eligible for at retirement plus appropriate cost-of-living increases. Permits the amount of the survivor annuity to increase if the principal annuity is increased because of reemployment of the principal annuitant without reduction in the increase of the principal annuity.

H.R. 5002. March 14, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction or modification of their habitats.

H.R. 5003. March 14, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 5004. March 14, 1977. Public Works and Transportation; Banking, Finance and Urban Affairs; Education and Labor; Small Business. Amends the Disaster Relief Act, the Public Works and Economic Development Act, and the Small Business Act to provide for Federal assistance to areas stricken by a drought emergency.

H.R. 5005. March 14, 1977. Ways and Means. Forbids any increase in any tax imposed under the Internal Revenue Code for a four year period.

H.R. 5006. March 14, 1977. Merchant Marine and Fisheries. Makes the provisions of the Ports and Waterways Safety Act of 1972 applicable to vessels which enter into the fishery conservation zone carrying liquid cargo in bulk which is inflammable, oil, or a hazardous polluting substance.

Directs the Secretary of the department in which the Coast Guard is operating to institute specified safety measures regarding such vessels.

H.R. 5007. March 14, 1977. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to establish a three-year motor vehicle synthetic fuels research and demonstration project, in accordance with specified criteria.

Directs the Administrator to establish a program of Federal assistance to electric utilities for approved projects utilizing synthetic fuels in place of conventional fuels for the generation of electricity.

H.R. 5008. March 14, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 5009. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5010. March 14, 1977. Public Works and transportation. Amends the Urban Mass Transportation Act of 1964 to authorize the use of funds made available under such Act for the payment of operating subsidies in areas other than urbanized areas.

Directs the Secretary of Transportation to require that projects receiving Federal financial assistance under such Act be planned and operated to allow effective use of mass transportation services by elderly and handicapped persons. Directs the Secretary to establish a National Advisory Committee on Accessibility of Mass Transportation to consult with the Secretary on all matters relating to mass transportation for such individuals. Authorizes the conversion of specified loans under such Act and the Housing Amendments of 1955 into grants.

H.R. 5011. March 14, 1977. Agriculture. Amends the Federal Crop Insurance Act to increase the capital stock of the Federal Crop Insurance Corporation and to make insurance available to producers of rice, wheat, cotton and certain feed grains wherever they are grown commercially. Provides for a 25 percent Federal subsidy of premiums and removes the ceiling on appropriations. Creates a revolving fund for the Corporation in the United States Treasury and gives the Corporation discretionary borrowing authority.

H.R. 5012. March 14, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of Congress before October 1, 1978.

H.R. 5013. March 14, 1977. Public Works and Transportation. Repeals the 55 mile per hour national speed limit.

H.R. 5014. March 14, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 5015. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay. Applies this repeal retroactively.

H.R. 5016. March 14, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by franchisor.

H.R. 5017. March 14, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by the franchisor.

H.R. 5018. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5019. March 14, 1977. Ways and Means. Amends Title IV of the Social Security Act to permit payment of benefits under the Aid to Families with Dependent children program with respect to unborn children.

H.R. 5020. March 14, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property, caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 5021. March 14, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Required that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5022. March 14, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to establish specified employment, training, and guidance programs for youths through prime sponsors under such Act.

Authorizes the Secretary of Labor to establish a National Occupational Information and Career Guidance Service.

Authorizes the Secretaries of Agriculture and of the Interior to extend the Youth Conservation Corps and the State youth conservation grant program and to make grants to prime sponsors for youth conservation projects.

Allows a tax credit of 20 percent of expenses for education and compensation of youths in qualified apprenticeship programs.

H.R. 5023. March 14, 1977. Judiciary. Extends the statute of limitations through 1987 for causes of action accruing before 1966 that are brought on behalf of an Indian tribe, band, or group.

H.R. 5024. March 14, 1977. Post Office and Civil Service. Prohibits the first comparability salary adjustment which would be made under the Federal Salary Act of 1967 after the date of enactment of this Act from taking effect for the Vice President, Members of Congress, judges, commissioners, and referees, and positions in the Executive Schedule.

H.R. 5025. March 14, 1977. Veterans' Affairs. Revises the procedures relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities.

H.R. 5026. March 14, 1977. Veterans' Affairs. Revises the procedures relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities.

H.R. 5027. March 14, 1977. Veterans' Affairs. Removes from the definition of "Veterans' Administration facility" private facilities contracted for when Government facilities are not capable of furnishing economical care because of geographic inaccessibility.

Repeals the requirement that medical services be furnished only within the limits of Veterans' Administration facilities to: (1) any eligible veteran on an outpatient or ambulatory basis; or (2) any veteran on pension receiving a care and attendance allowance or who is permanently housebound.

H.R. 5028. March 14, 1977. Veterans' Affairs. Removes from the definition of "Veterans' Administration facility" private facilities contracted for when Government facilities are not capable of furnishing economical care because of geographic inaccessibility.

Repeals the requirement that medical services be furnished only within the limits of Veterans' Administration facilities to: (1) any eligible veteran on an outpatient or ambulatory basis; or (2) any veteran on pension receiving a care and attendance allowance or who is permanently housebound.

H.R. 5029. March 14, 1977. Veterans' Affairs. Extends until September 30, 1983 the authority: (1) of the Administrator of Veterans' Affairs to maintain an office in the Republic of the Philippines; (2) of the President to authorize the Administrator to enter into contracts with the Veterans' Memorial Medical Center to pay for hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; (3) to make payments for such care and services; and (4) to appropriate specified sums for the training of health service personnel, for new equipment and the rehabilitation of the Veterans' Memorial Medical Center.

H.R. 5030. March 14, 1977. Veterans' Affairs. Extends until September 30, 1983 the authority: (1) of the Administrator of Veterans' Affairs to maintain an office in the Republic of the Philippines; (2) of the President to authorize the Administrator to enter into contracts with the Veterans' Memorial Medical Center to pay for hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; (3) to make payments for such care and services; and (4) to appropriate specified sums for the training of health service personnel, for new equipment and the rehabilitation of the Veterans' Memorial Medical Center.

H.R. 5031. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make payment to a medical facility which provides treatment to any alien unlawfully in the United States for the costs of such treatment when the medical facility cannot recover such costs under any other program.

H.R. 5032. March 14, 1977. Science and Technology. Authorizes the appropriation of designated sums to the National Aeronautics and Space Administration for research and development programs, construction of facilities including land acquisition, and research and program management.

Sets forth guidelines with respect to the use and availability of funds appropriated pursuant to this Act.

H.R. 5033. March 14, 1977. Veterans' Affairs. Expands the existing program of grants to States for the construction, remodeling or renovation of State veterans' care facilities to include hospital and domiciliary as well as nursing home care facilities.

H.R. 5034. March 14, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers in the United States who sustain losses incurred on or after January 1, 1973, as a direct result of contamination of their food crops, animal feedcrops, livestock (including poultry), or livestock products by toxic chemicals at levels dangerous to the public health or at such levels that the Secretary determines that the contamination has adversely affected the economic viability of the farming operation.

H.R. 5035. March 14, 1977. Interstate and Foreign Commerce. Amends the Toxic Substances Control Act to authorize the Administrator of the Environmental Protection Agency to make grants to assist States, individuals, and businesses in compensation and prevention of injuries caused by injurious chemical substances. Stipulates that priority shall be given to cases involving polybrominated biphenyls.

H.R. 5036. March 14, 1977. Judiciary. Amends the Hobbs Act to impose penalties for interfering with commerce by willfully causing property damage of at least $2,000 at or near a factory, construction site, or other place where work or business of an employer or owner is carried on or where such employer or owner transports, stores, or maintains property.

Stipulates that a violation of such provision or of the provision prohibiting interference with commerce through robbery, violent acts, or extortion shall not be nullified or mitigated by certain factors.

H.R. 5037. March 14, 1977. Ways and Means. Directs the Secretary of the Treasury to extend the expiration date of a certain temporary importation bond, notwithstanding the provisions of the Tariff Schedules.

H.R. 5038. March 14, 1977. Judiciary. Deems the service of a certain individual in the Public Health Service as active service in the armed forces, for the purposes of determining that individual's entitlement to retirement pay.

H.R. 5039. March 14, 1977. Merchant Marine and Fisheries. Authorizes and directs the Secretary of Commerce to issue a medal to a certain individual in commemoration of his service in the Merchant Marine during World War II.

H.R. 5040. March 15, 1977. International Relations. Amends the Foreign Relations Authorization Act. Fiscal Year 1977, to increase appropriations authorized for international organizations, and migration and refugee assistance. Authorizes appropriations for assistance for incarcerated citizens abroad.

Amends the Foreign Service Buildings Act, 1926, to revise the authorizations for appropriations for purchase and construction for certain foreign service buildings.

Revises requirements pertaining to Congressional delegations to the Canada-United States Interparliamentary Group, the Mexico-United States Interparliamentary Group, the North Atlantic Treaty Parliamentary Conference, and the Conference on Interparliamentary Union, under the Third Deficiency Appropriation Act, the Department of State Appropriation Act of 1959, and certain joint resolutions.

H.R. 5041. March 15, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 5042. March 15, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5043. March 15, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to extend the coverage of the Act to include all aspects of production, supply, transportation, distribution, and sale of natural gas, except for sales to ultimate consumers by local distributors.

Requires all natural gas companies to file monthly reports concerning available supplies. Prohibits such companies from withholding natural gas supplies where shortages exist. Establishes procedures for seizure and allocation of natural gas reserves to alleviate shortages.

Authorizes the President to provide Federal reimbursement for a share of net losses incurred in natural gas exploration and drilling activities.

H.R. 5044. March 15, 1977. Ways and Mean. Amends the Tariff Schedules of the United States to suspend the customs duty on strontium nitrate until January 3, 1980.

H.R. 5045. March 15, 1977. Government Operations. Permits the President to formulate plans to reorganize any Federal agency without abolishing existing agencies or establishing new ones. Makes such plan effective 60 days after such plan is submitted to Congress unless disapproved by either House. Limits the authorization given the President by this Act to plans submitted within three years after the enactment of this Act.

H.R. 5046. March 15, 1976. Judiciary; Rules. Requires all rules proposed by any Federal agency except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5047. March 15, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5048. March 15, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks under Titles II and XVI falls on a Saturday, Sunday or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 5049. March 15, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to make insurance against damage caused by the movement of frozen water into property located along shorelines available under the national flood insurance program.

H.R. 5050. March 15, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in an amount reasonably anticipated to be consumed by man or animal, or found to induce cancer in man or animal in appropriate tests based upon amounts of food additives reasonably anticipated to be consumed by man or animal.

H.R. 5051. March 15, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 5052. March 15, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend for two years the customs duty on the importation of color couplers and coupler intermediates for the manufacture of photographic sensitized material.

H.R. 5053. March 15, 1977. Agriculture. Amends the Agricultural Act of 1949 to require that beginning with the 1977 crop the support price for wheat be computed without adjustments for differences in location.

H.R. 5054. March 15, 1977. Post Office and Civil Service. Repeals the requirement that appointments in the departmental service in the District of Columbia be apportioned among the States, territories, possessions, and the District of Columbia on the basis of population.

H.R. 5055. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

H.R. 5056. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth and related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.

H.R. 5057. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth and related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.

H.R. 5058. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth and related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.

H.R. 5059. March 15, 1977. Agriculture. Repeals all the price support and marketing provisions relating to tobacco of the Agritural Act of 1949, the Agricultural Adjustment Act of 1938, and related laws. Prohibits the Commodity Credit Corporation, under its Charter Act, from exercising any of its specified powers with respect to tobacco.

H.R. 5060. March 15, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to develop a comprehensive plan for the development of hydroelectric power in Alaska. Requires the development of a comprehensive plan for the construction of direct current lines from Alaskan sources to the transmission system of the Bonneville Power Administration.

H.R. 5061. March 15, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 5062. March 15, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

H.R. 5063. March 15, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual

act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5064. March 15, 1977. Ways and Means; Education and Labor. Amends the Social Security Act to redefine "disability" for purpose of Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

Authorizes the Secretary of Health, Education, and Welfare to prescribe by regulation the level of severity which shall be deemed to be sufficient to preclude an individual from engaging in substantial gainful work as required for a finding of disability.

H.R. 5065. March 15, 1977. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to require utilities to file curtailment plans to meet anticipated power shortages.

Requires public hearings on proposals for utility rate increases. Authorizes the Commission to take additional measures to eliminate discriminatory and anticompetitive practices by utilities.

H.R. 5066. March 15, 1977. Post Office and Civil Service; Judiciary. Requires Federal employees, grade GS–13 and above, who have been employed by the Government for less than three years to file an annual statement describing present and former positions and recent or pending agency actions over which such employee has any influence and in which such employee's former employer has an interest. Requires persons who have terminated their Federal employment at a grade of GS–13 or higher during the past three years to file a statement with regard to actions in which such person's present employer was interested.

H.R. 5067. March 15, 1977. Post Office and Civil Service. Classifies all deputy United States marshals holding non-supervisory or non-specialist positions at GS–5 through GS–11. Classifies such marshals in supervising or specialist positions at GS–12 through GS–14. States that all law enforcement personnel performing the duties of a marshal shall be classified as a marshal.

H.R. 5068. March 15, 1977. Armed Services. Authorizes appropriations for fiscal year 1978 for weapons procurement by the armed forces. Establishes the authorized strength levels of each of the military departments and the level for civilian personnel positions within the Department of Defense. Sets forth the authorized average military training student load for each of the armed forces. Authorizes appropriations for fiscal year 1978 for programs of the Defense Civil Preparedness Agency.

H.R. 5069. March 15, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interestate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5070. March 15, 1977. Post Office and Civil Service. Reveals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 5071. March 15, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 5072. March 15, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant to a reconsideration of the initial decision concerning such claimants eligibility for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 5073. March 15, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant, to a reconsideration of the initial decision concerning such claimant's eligibility for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 5074. March 15, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant to a reconsideration of the initial decision concerning such claimant's eligibility for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 5075. March 15, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all research, extension, and teaching activity in the food and agricultural sciences conducted or financed by the Department of Agriculture and other agencies of the executive branch of the Federal Government. Authorizes the Secretary to cooperate with and assist the States in carrying out programs of animal disease research. Establishes competitive grants and teaching assistantship programs to help carry out the purposes of this Act.

H.R. 5076. March 15, 1977. Post Office and Civil Service. Requires automatic retirement of employees of the Alaska Railroad, the Panama Canal Company, or the Canal Zone Government who have attained the age of 62 years and have completed 15 years of service.

H.R. 5077. March 15, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to exclude wastewaters resulting from commercial processing of seafoods from the definition of "pollutant" under such Act.

H.R. 5078. March 15, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments of the salaries of Members of Congress.

H.R. 5079. March 15, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction or modification of their habitats.

H.R. 5080. March 15, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such Act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 5081. March 15, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this act.

H.R. 5082. March 15, 1977. Education and Labor. Amends the National Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to engage in, or induce any individual employed by any person to engage in, a strike, refusal to perform services, or threat thereof: (1) at the site of the construction, alteration, painting, or repair of any structure; and (2) directed at any of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of such construction, alteration, painting or repair.

H.R. 5083. March 15, 1977. Armed Services. Requires the Secretaries of the various armed forces to establish regional boards and panels to review discharges from the armed services under less than honorable conditions. Specifies certain mitigating and extenuating factors which such boards and panels are to consider. Authorizes the issuance of honorable discharge (limited) to individuals whose post-service behavior has been exemplary. Sets forth the procedures which the boards and panels are required to follow regarding applications for review.

H.R. 5084. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 5085. March 15, 1977. Agriculture. Requires the Federal Crop Insurance Corporation, under the Federal Crop Insurance Act, to reopen, for a special period ending 30 days after this Act becomes effective, any county which for any reason the Corporation has closed to new applications for crop insurance prior to the normal closing date, upon a determination by the Secretary of Agriculture that an emergency exists in such county as a result of a natural disaster.

H.R. 5086. March 15, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 5087. March 15, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5088. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself, his spouse, and any dependents.

H.R. 5089. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to increase each of the standard personal exemptions to $1,000.

H.R. 5090. March 15, 1977. Ways and Means. Amends the Internal Revenue Code of 1939 with respect to the deduction (formerly allowed) of certain medical expenses from gross income.

H.R. 5091. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for their ordinary and necessary commuting expenses.

H.R. 5092. March 15, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to abolish the professional standards review organizations which were established to review services covered under the Medicare and Medicaid programs.

H.R. 5093. March 15, 1977. Ways and Means; Amends Title XVI of the Social Security Act to prohibit the payment of supplementary security income benefits to an alien unless he is a permanent resident of the United States and has continuously resided therein for at least 1 year.

H.R. 5094. March 15, 1977. Education and Labor. Amends the Higher Education Act of 1965 to require recipients of Federal aid to higher education to give senior citizens access, on a space available basis, to scheduled courses and programs.

H.R. 5095. March 15, 1977. Interior and Insular Affairs; Amends the Outer Continental Shelf Lands Act to require that leases under such Act be issued or transferred only to United States citizens and domestic corporations.

H.R. 5096. March 15, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 5097. March 15, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 5098. March 15, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 5099. March 15, 1977. Judiciary. Specifies the tax treatment of certain individuals under the Internal Revenue Code.

H.R. 5100. March 16, 1977. Ways and Means. Prohibits any reduction, by reason of outside earnings, in the old-age insurance benefits of an individual who is entitled thereto under the Social Security Act.

H.R. 5101. March 16, 1977. Science and Technology. Authorizes appropriations to the Environmental Protection Agency for environmental research, development, and demonstration activities for fiscal year 1978.

H.R. 5102. March 16, 1977. Public Works and Transportation; Banking, Finance and Urban Affairs. Amends the Public Works and Economic Development Act of 1965 to establish within the Department of Commerce an Office of Aid to Economic Communities.

Authorizes the designation of economic disaster communities in accordance with specified criteria.

Authorizes Federal agencies to assist such areas by making available certain property and personnel.

Establishes a Federal Economic Recovery Fund within the Treasury to aid economic disaster communities.

H.R. 5103. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to provide refunds or credits of overpayments of the excise tax on tires arising from certain warranty readjustments.

H.R. 5104. March 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private entities which are engaged in the development of new schools of veterinary medicine to assist in such development. Requires applying schools to demonstrate that there is a reasonable indication that non-Federal financial resources for development will be available and that Federal assistance will accelerate the date on which the school will be able to begin its teaching program.

H.R. 5105. March 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health. Education, and Welfare to make grants to public and nonprofit private entities which are engaged in the development of new schools of veterinary medicine to assist in such development. Requires applying schools to demonstrate that there is a reasonable indication that non-Federal financial resources for development will be available and that Federal assistance will accelerate the date on which the school will be able to begin its teaching program.

H.R. 5106. March 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to permit reimbursement through the Federal Disability Insurance Trust Fund to private physicians for services in supplying medical evidence of record needed to evaluate claims for social security disability benefits under this title.

H.R. 5107. March 16, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Corps of Engineers, to construct a project for navigation on the Blair and Sitcum Waterways, Tacoma Harbor, Washington.

H.R. 5108. March 16, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emissions data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5109. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to deny employers a tax deduction for expenses relating to employee health or accident plans which do not extend their wage or medical coverage to pregnancy disabilities and expenses.

H.R. 5110. March 16, 1977. Ways and Means. Restricts the importation of shrimp by any foreign country during 1977 and 1978 to the average annual quantity imported into the United States by such country during 1971, 1972, and 1973. Directs the Secretary of Commerce to notify the Secretary of the Treasury of the quantities imported during the base period.

Amends the Tariff Schedules of the United States to impose a customs duty on shrimp.

H.R. 5111. March 16, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to require the downward adjustment of the annual rate of pay for Members of Congress if the level of inflation for any calendar year exceeds the acceptable level of inflation established by Congress for such year.

H.R. 5112. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 30 percent of the first $1,000 spent by an individual during the taxable year for insulating a residence in existence on May 25, 1977.

H.R. 5113. March 16, 1977. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of the Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 5114. March 16, 1977. Judiciary. Requires rulemaking hearings which must be held under the Administrative Procedure Act and which primarily concern a single unit of local government, geographic area, or State be held within such unit, area, or State.

H.R. 5115. March 16, 1977. Interstate and Foreign Commerce. Repeals Titles XV (National Health Planning and Development) and XVI (Health Resources Developing) of the Public Health Service Act.

H.R. 5116. March 16, 1977. House Administration. Entitles to matching payments for campaign use, Congressional candidates who agree to certain reporting and recordkeeping procedures and certify that (1) they and their authorized committees will not incur campaign expenses in excess of certain limitations and (2) they have received contributions in excess of a certain sum.

Amends the Federal Election Campaign Act of 1971 to specify spending limits for candidates receiving matching payments.

Directs the Secretary of the Treasury to establish a Congressional Election Payment Account in the Presidential Election Campaign Fund.

Specifies the administrative authority of the Federal Election Commission in carrying out this Act.

H.R. 5117. March 16, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 5118. March 16, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200-mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 5119. March 16, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5120. March 16, 1977. Education and

Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5121. March 16, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applications for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5122. March 16, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5123. March 16, 1977. Armed Services. Establishes the Defense Civil Preparedness Agency within the Department of Defense to prepare and conduct national programs for civil defense. Establishes a National Emergency Service Advisory Committee to consult with the Agency and the Federal Disaster Assistance Administration regarding civil defense policies.

Authorizes the President or the head of the Defense Civil Preparedness Agency to exercise certain powers during a state of civil defense emergency. Makes the Federal Government immune from civil liability for actions during such emergency. Waives the provisions of the Administrative Procedure Act during such an emergency.

H.R. 5124. March 16, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to approve user charge systems based upon ad valorem taxation if specified requirements are satisfied.

H.R. 5125. March 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize the Secretary of Health, Education, and Welfare to take specified steps to facilitate and encourage the rental of durable medical equipment and the purchase of such equipment used whenever possible.

H.R. 5126. March 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 5127. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses paid for the higher education of the taxpayer, or a dependent, not exceeding $1,500 for each student.

H.R. 5128. March 16, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 5129. March 16, 1977. Armed Services. Authorizes the Secretary of Defense to contract with health maintenance organizations to provide medical care for members of the Armed Forces and their dependents.

H.R. 5130. March 16, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to limit Federal Power Commission authority to regulate prices of natural gas to new natural gas produced from offshore Federal lands. Requires that prices for the sale of other new natural gas be consistent with the ceiling established for offshore natural gas.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 5131. March 16, 1977. Post Office and Civil Service. Directs the Public Printer to reimburse any officer or employee of the Government Printing Office who earned any leave during fiscal year 1932 which such person has not taken and for which such person was not compensated.

H.R. 5132. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5133. March 16, 1977. Public Works and Transportation.

Amends the Disaster Relief Act of 1974 to authorize the President to make contributions to States or local governments to help repair or replace a public facility damaged or destroyed in an emergency. Limits the amount of any such contributions to 75 percent of the cost of repair or replacement of such facility.

H.R. 5134. March 16, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 5135. March 16, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to terminate foreign assistance and military sales unless the President certifies that the recipient country is taking adequate measures to control illegal narcotics trade.

H.R. 5136. March 16, 1977. Rules. Requires congressional committees to evaluate each Federal program every four years to determine whether such program merits continuation. Requires the Comptroller General to identify duplicative and inactive programs. Requires a note be printed on all bills and resolutions describing the costs of carrying out the provisions of such legislation and the expected savings from such legislation.

H.R. 5137. March 16, 1977. Government Operations; Judiciary; Post Office and Civil Service; Rules; Ways and Means. Requires the President to submit plans for reorganization of regulatory agencies according to a schedule set forth in this Act. Requires congressional approval of Federal agency rules. Specifies other reforms applicable to the Executive branch. Sets standards of conduct for Federal employees and officers.

H.R. 5138. March 16, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow cancer-including additives to be used in food for human consumption if the Secretary of Health, Education, and Welfare has determined the benefits of such food additive's availability outweigh its dangers.

Permits the Secretary to promulgate specific restrictions on the use of such food additives.

H.R. 5139. March 16, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 5140. March 16, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order 120 days from such publication.

Species factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5141. March 16, 1977. Ways and Means. Amends the Old-Age, Survivors, and Disability Insurance Program of the Social Security Act to provide for the payment of reduced old-age insurance benefits to women at age 55, and to provide for the payment of full wife's or widow's benefits at such age.

H.R. 5142. March 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 5143. March 16, 1977. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the Medicare program at the level applicable during calendar year 1976.

H.R. 5144. March 16, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on: (1) articles assembled abroad with components produced in the United States; and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 5145. March 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for prescription drugs under the supplementary medical insurance program.

H.R. 5146. March 16, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the customs duty on competition bobsleds and luges.

H.R. 5147. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for retirement savings by persons who are active participants in other retirement benefit plans qualifying for special tax consideration.

Amends the Employee Retirement Income Security Act of 1974 to repeal the provision permitting pension plans providing annuities before normal retirement age to pay such benefits in other than under a qualified joint and survivor annuity.

Amends such Act and the Internal Revenue Code to require plans to provide a survivors annuity to the spouse of a participant who dies before the earliest retirement age.

H.R. 5148. March 16, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 5149. March 16, 1977. Interstate and Foreign Commerce. Establishes a national plan for no-fault automobile insurance which sets forth national standards for State no-fault insurance plans. Requires every owner of a motor vehicle registered in a State which has a no-fault insurance plan to participate in such plan as a condition precedent to operating such vehicle.

H.R. 5150. March 16, 1977. Judiciary. Authorizes the Secretary of Health, Education, and Welfare to pay for certain medical services provided to qualified individuals suffering from physical injuries attributable to the atomic bomb explosions on Japan in August 1945.

H.R. 5151. March 16, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen, or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 5152. March, 16, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria with respect to the black lung benefits program established under such act.

Creates the Black Lung Disability Insurance Fund for the payment of claims, to be financed by the imposition of an excise tax on coal mine operators.

H.R. 5153. March 16, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock, or products contain quantities of toxic chemicals dangerous to the public health.

H.R. 5154. March 16, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 5155. March 16, 1977. Agriculture. Directs the Secretary of Agriculture to issue orders to establish projects for research and nutrition education for wheat and wheat products and studies regarding the sale, distribution, marketing, and utilization of wheat and wheat products and the creation of new wheat products. Establishes a Wheat Industry Council to carry out such orders.

H.R. 5156. March 16, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require appropriate tests before a food additive may be banned as inducing cancer in man or animal, and to permit the marketing of such an additive with appropriate warning labeling.

H.R. 5157. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5158. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5159. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5160. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5161. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5162. March 16, 1977. Judiciary. Provides that the United States Court of Claims shall consider any claim of a certain individual with respect to his alleged false imprisonment, notwithstanding the applicable statute of limitations.

H.R. 5163. March 16, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5164. March 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 5165. March 13, 1977. Education and Labor; Post Office and Civil Service; Armed Services; District of Columbia.

Amends various laws relating to maximum retirement age by deleting from such laws any mandatory or automatic retirement requirements as imposed on (1) the competitive civil service; (2) the military; (3) teachers in the District of Columbia; (4) Tax Court Judges; (5) the Director of the Federal Judicial Center; (6) Foreign Service Reserve Officers; (7) Ambassadors and Ministers; and (8) other specified Federal employees and officials.

Amends the Age Discrimination in Employment Act of 1967 to repeal the maximum age limitation to which the discrimination provisions of such Act apply. Makes it unlawful for an employer to require an employee to participate in a pension plan which makes retirement mandatory at any age.

H.R. 5166. March 17, 1977. Interstate and Foreign Commerce.

Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5167. March 17, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and promulgate model youth camp safety standards within six months after the enactment of this Act. Authorizes Federal financial assistance to States for the development of State youth camp safety plans with enforcement mechanisms.

Terminates the assistance program on September 30, 1980.

H.R. 5168. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to exempt single unit trucks from the highway use tax.

H.R. 5169. March 17, 1977. Interstate and Foreign Commerce. Amends the Emergency Natural Gas Act of 1977 to extend the emergency authorities under such Act until 1980. Includes specified industrial users within the category of high-priority users covered by such Act.

H.R. 5170. March 17, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5171. March 17, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5172. March 17, 1977. Veterans' Affairs. Repeals the delimiting period in which an eligible veteran must use his educational benefits.

H.R. 5173. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health. Directs the Secretary to consider certain factors in making such a determination.

H.R. 5174. March 17, 1977. Judiciary. Renders the United States exclusively liable for compensating damages resulting from torts, other than defamation, deceit, misrepresentation, or interference with contract rights, committed by its employees within the scope of employment.

H.R. 5175. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to postpone, from June 14, 1977 to June 14, 1981, the

termination date for deductions on transfers of partial interests in property for conservation purposes. Decreases the percentage of the gain from the sale of certified historic structures which is treated as ordinary income rather than capital gain when the special deduction for amortization has been taken for such structures.

H.R. 5176. March 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to revise the customs duty on levulose until December 31, 1980.

H.R. 5177. March 17, 1977. Post Office and Civil Service. Designates Election Day, the first Tuesday after the first Monday in November in every even numbered year, a legal public holiday.

H.R. 5178. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 5179. March 17, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to establish procedures for review of instructions for high altitude performance adjustments for motor vehicle emission control systems by the Administrator of the Environmental Protection Agency.

H.R. 5180. March 17, 1977. Government Operations. Prohibits the President under any executive reorganization plan from transferring to or consolidating with another agency or abolishing the Veterans' Administration or all or part of the functions of such agency.

H.R. 5181. March 17, 1977. Post Office and Civil Service. Entitles any individual paid by a nonappropriated fund instrumentality under the jurisdiction of the armed forces which is conducted for the comfort of military personnel, to specified retirement benefits when such individual transfers without a break in service to a position to which civil service leave and retirement provisions apply.

H.R. 5182. March 17, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 5183. March 17, 1977. Small Business. Amends the Small Business Act to direct the Small Business Administration to give special preference with respect to specified subcontracts and government sales and contracts to small business concerns with 100 or fewer full-time employees.

H.R. 5184. March 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5185. March 17, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administration to make loans if such Administration has determined that there is a disaster resulting from any sewage or sludge deposit, any fish kill or any oil spill.

H.R. 5186. March 17, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce. Increases the amount authorized to be appropriated for remedial measures designed to reduce radiation exposure from certain uranium mill tailings. Revises requirements with respect to State involvement in such remedial payments and remedial work.

H.R. 5187. March 17, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to require that the charge to a provider of services under such Title for the costs of utilization review shall be calculated without apportioning such costs among the non-Medicare patients of such provider.

H.R. 5188. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow unlimited individual income tax deductions for the medical care expenses incurred for the taxpayer, his spouse and dependents, and certain senior citizens who do not qualify as dependents.

H.R. 5189. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to extend the exclusion from gross income for the cancellation of certain student loans to all cancellations after 1975.

H.R. 5190. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the termination dates for the income tax exclusion of scholarships under the Armed Forces Health Professions Scholarship Program.

H.R. 5191. March 17, 1977. Ways and Means. Provides that the income tax treatment of certain transportation expenses between the taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76-453 or any other ruling, regulation or decision reaching the same result.

H.R. 5192. March 17, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds of livestock and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 5193. March 17, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 5194. March 17, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed or the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R. 5195. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Federal Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 5196. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 5197. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe if it is found, after tests which the Secretary of Health, Education, and Welfare determines appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal.

Directs the Secretary to consider certain factors as relevant in determining the appropriateness of such tests.

H.R. 5198. March 17, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 5199. March 17, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior, acting through the Bureau of Reclamation, to implement an emergency drought assistance program of Federal loans to irrigators.

H.R. 5200. March 17, 1977. Banking, Finance and Urban Affairs; Education and Labor; Small Business. Provides emergency assistance necessitated by critical energy shortages or unusually severe weather to certain totally or partially laid off workers, businesses, and local governments.

Directs that the following executive departments and agencies participate in the administration and implementation of such assistance program: (1) Federal Disaster Assistance Administration, (2) Small Business Administration, (3) Department of Labor, and (4) Department of Commerce.

H.R. 5201. March 17, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 5202. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farm trucks and soil and water conservation trucks from the highway use tax.

H.R. 5203. March 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duties on field glasses, opera glasses, binoculars, and other telescopes not designed for use with infrared light.

H.R. 5204. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $750 refundable income tax credit for each taxpayer, spouse or other dependent who is mentally or physically handicapped.

H.R. 5205. March 17, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 5206. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to provide that a creditor in substantial compliance with the provisions of the Act may not be held civilly liable under the Act.

H.R. 5207. March 17, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long-range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 5208. March 17, 1977. Post Office and Civil Service. Permits any Federal employee or official to waive the receipt of any portion of compensation to which he or she is entitled. States that such waivers shall not be considered income for Federal income tax purposes.

H.R. 5209. March 17, 1977. Post Office and Civil Service; House Administration. Reduces the retirement annuity of a Member of Congress who remains in office after becoming 70 years of age. Stipulates that the reduction does not affect the annuity of a surviving spouse, widow, widower, or child of such Member.

H.R. 5210. March 17, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5211. March 17, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5212. March 17, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 5213. March 17, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 5214. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 5215. March 17, 1977. Education and Labor. Amends the Occupational Safety and Health Act to permit a person liable for an industrial accident involving bodily injury to sue an employer if such employer's failure to comply with an industrial safety requirement caused or contributed to such injury.

Allows a person being sued by the employer in a subrogation suit to raise as a defense the employer's contributory fault or failure to comply with an industrial safety requirement.

H.R. 5216. March 17, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 5217. March 17, 1977. Education and Labor. Directs the Secretary of Labor to (1) allot grants to regional employment councils to assist second career programs for unemployed and underemployed persons age 40 and older and (2) conduct research, by means of contracts and grants, to facilitate such persons entering and remaining in the labor force.

H.R. 5218. March 17, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to establish specified employment, training, and guidance programs for youths through prime sponsors under such Act, including a Youth Community Service opportunity in private enterprise, and occupational information and career guidance programs.

Authorizes the Secretary of Labor to establish a National Occupational Information and Career Guidance Service.

Requires each prime sponsor to establish an Education Work Committee within its planning council.

Directs the Secretaries of Agriculture and of the Interior to establish a National Conservation Corps.

Increases the amount authorized to be appropriated annually to the Job Corps.

H.R. 5219. March 17, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and eyeglass lenses, and examinations related to each, and dentures under the supplementary medical insurance program.

H.R. 5220. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow physicians, dentists and optometrists annual tax exclusions, decreasing from $20,000 to $5,000 over their first five years of medical practice in areas certified by the Secretary of Health, Education and Welfare as having an insufficient number of practicing physicians.

H.R. 5221. March 17, 1977. Interior and Insular Affairs. Establishes the George W. Norris Home National Historic Site in the State of Nebraska.

H.R. 5222. March 17, 1977. International Relations. Amends the Arms Export Control Act, with respect to approval for the transfer of defense articles, training, or services under that Act, to delay the effective date of such approval until the end of the first period of 30 days of continuous Congressional session after the President has certified the proposed tranfer to Congress, unless Congress disapproves such transfer by concurrent resolution within that period. Permits such proposed transfer to become effective immediately if the President certifies to Congress that a state of emergency exists which requires such transfer in the national security interests of the United States.

H.R. 5223. March 17, 1977. International Relations. Amends the Arms Export Control Act, with respect to approval for the transfer of defense articles, training, or services under that Act, to delay the effective date of such approval until the end of the first period of 30 days of continuous Congressional session after the President has certified the proposed transfer to Congress, unless Congress disapproves such transfer by concurrent resolution within that period. Permits such proposed transfer to become effective immediately if the President certifies to Congress that a state of emergency exists which requires such transfer in the national security interests of the United States.

H.R. 5224. March 17, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 5225. March 17, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

Requires that a label warning of the possible risk of saccharin causing cancer be on packages of saccharin sold to the consumer.

H.R. 5226. March 17, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to extend the coverage of such Act to individuals 65 or over, and to make unlawful seniority systems and employee benefit plans which require the retirement of individuals age 40 or over.

H.R. 5227. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5228. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5229. March 17, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 5230. March 17, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5231. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free entry of chlorendic acid.

H.R. 5232. March 21, 1977. Armed Services. Authorizes the Secretary of the Army to make available free of charge to the State of Hawaii or through it to the Queen's Medical Center, unneeded physical facilities at Fort DeFussy, Hawaii to establish and operate a mental health clinic.

H.R. 5233. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on specified hand tools.

H.R. 5234. March 21, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to prohibit the commercial licensing of plutonium-fueled nuclear reactors and nuclear fuel reprocessing facilities designed to recover plutonium.

H.R. 5235. March 21, 1977. Veterans' Affairs. Shortens the World War I service requirement for pension eligibility from 90 days to any length of service beyond an initial short period of time immediately following entry into the Armed Forces during which the veteran might have been discharged or released from active service as a result of examination or processing during such short period of time.

H.R. 5236. March 21, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5237. March 21, 1977. Interstate and Foreign Commerce. Directs the National Academy of Sciences to conduct a study to determine whether the section of the Federal Food, Drug, and Cosmetic Act dealing with the issuance or denial of a petition for a proposed food additive's use may be safely revised.

Directs the Academy to report its results and legislative recommendations to the Congress within six months of enactment of this Act.

Directs the Food and Drug Administration to withhold its announced prohibition of the use of saccharin in foods and beverages pending completion of such study.

H.R. 5238. March 21, 1977. Education and

Labor. Amends the National Labor Relations Act to require an employer which assumes the ownership or operation of a business to honor any applicable collective-bargaining contract in its entirety.

Amends the Labor Management Relations Act to permit a labor organization to bring suit against a new employer which refuses to honor an existing agreement in United States district court regardless of the citizenship of the parties or amount in controversy.

H.R. 5239. March 21, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 5240. March 21, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5241. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "steoped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5242. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's state will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5243. March 21, 1977. Judiciary. Amends the definition of "destructive device" in the Gun Control Act of 1968 and in the provision of the Omnibus Crime Control and Safe Streets Act of 1968 prohibiting certain persons from possessing or receiving firearms to include weapons which, after expelling a projectile, remain connected to that projectile for the purpose of conducting an electric charge to it.

H.R. 5244. March 21, 1977. Education and Labor. Repeals the requirement that survivor annuities to any surviving spouse of a Federal employee be terminated upon remarriage of such surviving spouse.

H.R. 5245. March 21, 1977. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir, Wabash River, Indiana.

H.R. 5246. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetics Act to require that certain factors be considered in determining whether a proposed use of a food additive is safe.

H.R. 5247. March 21, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

H.R. 5248. March 31, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to extend eligibility for Golden Age Passports (lifetime admission permits for designated units of the National Park System) to include persons 60 years of age or older and blind and disabled persons.

H.R. 5249. March 21, 1977. Post Office and Civil Service. Repeals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 5250. March 21, 1977. Agriculture. Requires the quarterly adjustment of the price support for milk under the Agricultural Act of 1949.

H.R. 5251. March 21. 1977. Agriculure. Prohibits the importation of any dairy product into the United States unless it has been found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Agriculture.

H.R. 5252. March 31, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to use the statistical method known as "sampling" when taking agricultural censuses. Authorizes the Secretary to use an alternative method with respect to data regarding the statistical classification of farms when "sampling" is not appropriate. Directs the Secretary when using such an alternative method to seek to reduce the time necessary to respond to census questions. Prohibits the Secretary from using any method which imposes unnecessary requirements upon persons responding to such questions.

H.R. 5253. March 21, 1977. Agriculture. Amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system from 50 to 80 percent of the estimated total cost of the Federal-State cooperative program.

H.R. 5254. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5255. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to apply the 50 percent estate tax exclusion of joint interests held by a decedent and his spouse to all such tenancies in real and personal property so long as the tenancy was created by either or both spouses and was held solely by them.

H.R. 5256. March 21, 1977. Public Works and Transportation; Ways and Means. Amends the Urban Mass Transportation Act of 1964 to increase the authorization for appropriations for specified projects under such Act. Revises the apportionment formula for funds for urbanized areas under such Act.

Changes the name of the Highway Trust Fund to the Unified Transportation Trust Fund.

Amends the Highway Revenue Act of 1956 to extend appropriations for such fund through fiscal year 1990.

Amends the Land and Water Conservation Fund Act of 1965 to extend such fund through fiscal year 1990.

Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 5257. March 21, 1977. Banking, Finance and Urban Affairs. Permits the provisions of the Renegotiation Act of 1951 to be effective only when the President determines, during a period of national emergency, that having such provisions in effect is in the best interest of the United States and neither House of Congress passes a resolution within 60 days thereafter disagreeing with such determination.

H.R. 5258. March 21, 1977. Armed Services. Authorizes the Administrator of General Services to dispose of a specified amount of tin now held in the national and supplemental stockpiles.

H.R. 5259. March 21, 1977. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to direct the Administrator of the Environmental Protection Agency to compute fuel consumption rates in actual road tests to determine motor vehicle full economy in accordance with specified procedures.

Directs the National Bureau of Standards to develop an accurate and realistic method of determining actual automobile fuel consumption rates.

H.R. 5260. March 21, 1977. Agriculture. Directs the Secretary of Agriculture to make payments to farmers and ranchers who operate a beef or dairy production business in an area designated as an emergency area or major disaster area and who are forced to sell their livestock foundation herd in order to avoid excessive financial losses.

H.R. 5261. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order without 120 days of publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5262. March 21, 1977. Banking, Finance and Urban Affairs. Authorizes increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund.

H.R. 5263. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend temporarily the customs duties on certain bicycle parts and accessories.

H.R. 5264. March 21, 1977. Ways and Means. Amends the Medicare program of the Social Security Act to authorize the President to enter into agreements establishing reciprocal arrangements between such program and the program of any foreign country under which health services are provided.

H.R. 5265. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on fluorspar until June 30, 1978.

H.R. 5266. March 21, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to include the services of licensed registered nurses, physicians extenders, and nurse practitioners among the services for which payment may be made under such Titles.

H.R. 5267. March 21, 1977. Merchant Marine and Fisheries. Makes the provisions of the Ports and Waterways Safety Act of 1972 applicable to vessels which enter into the fishery conservation zone carrying liquid cargo in bulk which is inflammable, oil, or a hazardous polluting substance.

Directs the Secretary of the department in which the Coast Guard is operating to

institute specified safety measures regarding such vessels.

H.R. 5268. March 21, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 5269. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to allow income, gift, and estate tax deductions for charitable transfers to the United Nations.

H.R. 5270. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to include aspen wood under rates for wood entered for particle board.

H.R. 5271. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to authorize the Secretary of Health, Education, and Welfare to issue a regulation allowing the use, for a period of not more than five years, of a food additive as a sugar substitute for which there is no adequate replacement and whose benefits to the public outweigh the risks. Permits the Secretary to either (1) require a warning label revealing any increased risk of cancer; (2) require such food additive to be dispensed only upon written or oral prescription; or (3) ban the use of such food additive.

H.R. 5272. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5273. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 5274. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to increase the deduction for individual retirement savings.

H.R. 5275. March 21, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 5276. March 21, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or in part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 5277. March 21, 1977. Government Operations. Requires the President to transmit annual reports to Congress setting forth the progress and effectiveness of Federal, State, local, and private efforts to promote equal opportunity for all Americans in areas such as health, education, rehabilitation, housing, the arts, and humanities. Establishes within the Executive Office of the President a Council of Social Advisers to assist and advise the President in the preparation of the social report required by this Act. Directs the Council to appraise specified social programs and establish an ongoing data center to collect and coordinate data measuring the social condition of the United States.

H.R. 5278. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5279. March 21, 1977. Judiciary; Ways and Means. Directs district courts to award court costs to prevailing individual parties in civil actions where (1) an action is brought by the United States or agent thereof and the court finds that bringing of the action constituted harassment or (2) the court finds that the conduct of the United States or agent thereof which gave use to the action constituted harassment.

Directs the Tax Court to award costs to individual taxpayers who substantially prevail in a proceeding for redetermination of a deficiency.

H.R. 5280. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5281. March 21, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to the start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 5282. March 21, 1977. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize the issuance of interim ocean dumping permits through 1981, in accordance with specified conditions and limitations. Requires additional studies of ocean dumping of biological, chemical, and radiological materials.

H.R. 5283. March 21, 1977. Banking, Finance and Urban Affairs. Directs the National Center for Productivity and the Quality of Working Life to take specified measures to foster and aid public and nonprofit institutions to develop programs and provide services for assisting small business and State and local governments improve productivity and the quality of working life.

H.R. 5284. March 21, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1937 and the National Housing Act to provide that future social security benefit increases shall be disregarded in determining eligibility for admission to or occupancy of low-rent public housing or the rent which an individual or family must pay for such housing and eligibility for other Federal housing subsidies.

H.R. 5285. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to set forth the customs duty on acrylic resin sheets and to exclude from tariff classification as rubber and plastics scrap or profile shapes such scrap or shapes improved by grinding on the edges, drilling, milling, hemming, or otherwise processing for a useful commercial purpose.

H.R. 5286. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States with respect to the classification of acetone.

H.R. 5287. March 21, 1977. Agriculture; International Relations. Authorizes the Secretary of Agriculture to make shipping subsidy payments to persons selling surplus agricultural commodities for export under specified conditions.

H.R. 5288. March 21, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 5289. March 21, 1977. Ways and Means. Exempts the musical instruments of a certain individual from the provisions of the Tariff Schedules.

H.R. 5290. March 21, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5291. March 21, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5292. March 22, 1977. Merchant Marine and Fisheries; Interstate and Foreign Commerce; Judiciary. Requires the Secretary of the Interior to issue regulations relating to traps and trapping. Sets forth standards for approved traps.

Establishes an advisory commission to advise the Secretary on traps designed or intended for use.

Prohibits trapping on Federal lands where such trapping will adversely affect any species of mammal or bird.

Sets forth a procedure for the application and issuance of trapping permits.

Requires shipping certificates for packages containing specified parts of trapped animals shipped in interstate commerce.

Sets forth criminal penalties for violations of this Act.

H.R. 5293. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pensions, or other retirement.

H.R. 5294. March 22, 1977. Banking, Finance and Urban Affairs. Amends the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Sets forth criminal and civil penalties for violations of such provisions. Requires the Federal Trade Commission and the Attorney General to oversee the enforcement of this Act.

H.R. 5295. March 22, 1977. Agriculture. Amends the Volunteers in National Forest Act to remove the limitation of the amount authorized to be appropriated for purposes of such Act.

H.R. 5296. March 22, 1977. Agriculture. Amends the Volunteers in National Forests Act of 1972 to remove the limitation of the amount authorized to be appropriated for purposes of such Act.

H.R. 5297. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require the Secretary of Health, Education, and Welfare to establish and put into effect procedures to expedite payment of monthly benefits which are delayed.

Amends Title XI (General Provisions) of the Social Security Act and the Federal Coal Mine Health and Safety Act to require the Secretary to institute measures to insure that hearings and determinations pursuant to specified provisions of such Acts are expedited. Amends Title II of the Social Security Act to limit the amount of reduction in benefits allowed to compensate for past overpayments.

H.R. 5298. March 22, 1977. Agriculture. Extends the provisions of the Rice Production

Act of 1975 through the 1981 crop years. Sets formulas for the established price and the loan for each such crop.

H.R. 5299. March 22, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 5300. March 22, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 5301.—March 22, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propoulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 5302. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline used for farming purposes in an aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 5303. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers maintaining households to elect either a $250 income tax credit or a $1,000 deduction for each dependent aged 65 or over who resides in their homes.

H.R. 5304. March 22, 1977. Ways and Means; Government Operations. Establishes a Task Force on the Taxation of Real Property by State and local governments to study and evaluate such taxation, its effects on middle and fixed income taxpayers and the feasibility of using Federal taxation or other methods to reduce the dependence of State and local governments on such taxation.

H.R. 5305. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the tax exempt status of farmers' and the special tax treatment of certain other cooperatives. Disallows to cooperatives any deduction for patronage dividends paid by them. Includes patronage dividends within the amounts excludible as dividends received by individuals and corporations.

H.R. 5306. March 22, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to increase the additional amounts authorized to be appropriated for fiscal year 1978 to the Land and Water Conservation Fund. Permits the Secretary of the Interior to modify boundaries of an area of the national park system. Provides for the issuance of lifetime admission permits to designated units of the National Park System to persons 60 years of age or older and to specified blind or disabled persons.

H.R. 5307. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5308. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5309. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5310. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5311. March 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5312. March 22, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the pay for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 5313. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited nonrefundable income tax credits for specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 5314. March 22, 1977. Judiciary. Amends the Sherman Act by declaring unlawful any agreement between a labor organization and an employer whereby such employer agrees to boycott any product which is distributed in interstate or foreign commerce.

H.R. 5315. March 22, 1977. Armed Services. Authorizes the Secretary of the Army to convey to the Virginia Polytechnic Institute and State university specified lands of the United States of America at Fort Pickett, Virginia.

H.R. 5316. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 5317. March 22, 1977. Judiciary. Establishes the Office of Public Participation within the Department of Justice to award attorney's fees and other costs of participation in any agency proceeding if the participant applying for such award contributes to the determination of issues and would be financially unable to participate but for such award.

Provides for the award of participation costs in any court proceeding challenging any Federal agency action if the participant substantially prevails.

H.R. 5318. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to allow any person, partnership, or corporation injured by any unfair or deceptive trade practice to commence a civil action for relief on behalf of himself or on behalf of himself and all persons similarly situated.

Allows any person, partnership, or corporation aggrieved by any deceptive trade practice with respect to which the Commission has issued a final cease and desist order to commence an action for injunctive relief in any court of competent jurisdiction.

H.R. 5319. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5320. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5321. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthy wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5322. March 22, 1977. Ways and Means. Amends the Tariff Schedules of the United States to extend the suspension of customs duty on processed istle through June 6, 1981.

H.R. 5323. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5324. March 22, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds of livestock and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 5325. March 22, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to

preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5326. March 22, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5327. March 22, 1977. Rules. Amends the Congressional Budget Act of 1974 to require economic impact statements for every bill or joint resolution reported in Congress and for each rule proposed by any Federal agency to show the effects of such proposed law on specified sectors of the economy. States that statements pertaining to agency rules shall disclose the effects of such proposed rule on State and local governments, small business, and low- and middle-income families.

H.R. 5328. March 22, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customers by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 5329. March 22, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the Current Population Survey so as to provide monthly to each State statistics on the number of unemployed persons within it.

H.R. 5330. March 22, 1977. Post Office and Civil Service. Entitles a Federal employee whose position is reduced in grade to have the grade of such position treated as if such reduction had not occurred so long as such position is continued to be filled by such employee without a break in service.

H.R. 5331. March 22, 1977. Interstate and Foreign Commerce. Makes the manufacture, distribution and sale of saccharin for human consumption legal in the United States and its territories.

Requires a label with a specified message on all containers of saccharin sold after the enactment of this Act.

H.R. 5332. March 22, 1977. Post Office and Civil Service. Repeals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 5333. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5334. March 22, 1977. Agriculture. Directs the Secretary of Agriculture, under the Food Stamp Act of 1964, to pay the bonus value of a coupon allotment to each household; (1) of which every member is either 65 or is eligible for a supplemental security income benefit under Title XVI of the Social Security Act, or for grants to the blind or disabled in Guam, Puerto Rico, and the Virgin Islands; and (2) which is eligible to participate in the food stamp program. Designates such a payment a nutritional supplemental. Prohibits the issuance of a coupon allotment to a household for any month it receives such payments.

H.R. 5335. March 22, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonforming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 5336. March 22, 1977. International Relations. Prohibits the settlement of a debt owed to the United States by a foreign country in an amount less than the full value of the debt, unless approved by Congress by concurrent resolution.

H.R. 5337. March 22, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 5338. March 22, 1977. Government Operations; House Administration; Judiciary; Post Office and Civil Service; Rules; Ways and Means. Establishes regulations for Members of Congress regarding the use of funds, the effective date of salary increases, travel allowances, and other financial matters.

Requires the publication on every piece of proposed legislation of a statement of the economic impact on the taxpaying family. Sets forth measures to facilitate communication between Members and their constituents. Defines the conditions under which elected and appointed Federal officials and employees may accept honoraria.

Establishes the Office of the General Counsel to the Congress.

H.R. 5339. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to decrease the floor on allowable medical deductions to two percent of adjusted gross income. Eliminates the one percent medical insurance with other medical care expenses for which the two percent floor is applicable.

H.R. 5340. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 5341. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 5342. March 22, 1977. Interior and Insular Affairs. Allows larger acreages of specified land to be retained by the owner of such land and still remain qualified for irrigation water under the Federal reclamation laws.

H.R. 5343. March 22, 1977. Education and Labor. Amends the National Labor Relations Act to permit, subject to specified provisions, a labor organization to engage in, and induce others to engage in, a strike, refusal to perform services, or threat thereof: (1) at a construction site; and (2) directed at anyone of several persons in the construction industry who are either joint venturers or in the relationship of construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of work at such site.

Establishes a Construction Industry Collective Bargaining Committee in Department of Labor with jurisdiction over collective bargaining agreement disputes.

H.R. 5344. March 22, 1977. Judiciary. Establishes within the judicial branch a United States Commission on Sentencing to promulgate sentencing guidelines.

Specifies factors to be considered by a sentencing court in imposing a term of imprisonment.

Requires courts to disclose in open court and in the record reasons for imposing imprisonment.

Sets forth guidelines for court of appeals review of sentences.

H.R. 5345. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5346. March 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5347. March 22, 1977. Public Works and Transportation. Requires specific statutory authorization for each canal maintenance, repair, or reconstruction project costing $4,000,000 or more to be undertaken by the Corps of Engineers.

H.R. 5348. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow cancer-inducing additives to be used in food for human consumption if the Secretary of Health, Education, and Welfare has determined the benefits of such food additive's availability outweigh its dangers.

Permits the Secretary to promulgate specific restrictions on the use of such food additives.

Deems saccharin a safe food additive until the Secretary declares it unsafe under the provisions of this Act.

H.R. 5349. March 22, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to exclude from the income of an individual applying for such benefits, specified income earned from employment in a sheltered work setting.

H.R. 5350. March 22, 1977. Interstate and Foreign Commerce; Ways and Means; Government Operations; Science and Technology. Amends the Internal Revenue Code to 1954 to give preferential status to users of recycled or rerefined oil. Encourages use of recycled oil in Federal procurement activities.

Authorizes the Administrator of the Environmental Protection Agency to make grants for implementation and operation of State waste oil management plans.

Directs the Administrator of Energy Research and Development to conduct a program to improve the performance and marketability of recycled oil.

H.R. 5351. March 22, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 5352. March 22, 1977. House Administration. Provides for the designation of any

nationally accredited law school as a depository library upon request of such law school.

H.R. 5353. March 22, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph if such individual knows or should know such film or photograph or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5354. March 22, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay a pension to veterans of World War I. Establishes maximum annual income limitations.

H.R. 5355. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to allow a State to terminate social security coverage for policemen and firemen without affecting the coverage of other public employees.

H.R. 5356. March 22, 1977. Ways and Means. Sets forth procedures by which ministers and Christian Science practitioners who have exempted themselves, under the Internal Revenue Code of 1954, from old-age and disability Social Security coverage, may revoke their exemptions and obtain coverage for the exempted period upon payment of the requisite taxes.

H.R. 5357. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to allow the State of New Jersey to establish a divided retirement system for purposes of providing social security coverage of State and local employees under Federal-State agreements.

H.R. 5358. March 22, 1977. Post Office and Civil Service. Repeals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in salaries of Members of Congress.

H.R. 5359. March 22, 1977. Government Operations. Declares a national policy on investment in the private sector of the United States economy.

Requires the President to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment.

H.R. 5360. March 22, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey specified lands of the United States to the University of Nevada.

H.R. 5361. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow use of food additive for human health purposes, even though such additive induces cancer in animals, if the Secretary of Health, Education, and Welfare determines the benefits of such use outweigh the risks.

Directs the Secretary to consider in his evaluation (1) scientific data and information on the additive; (2) the scientific validity and other conditions concerning the additive's testing on animals; and (3) the reliability of predicting cancer in humans from use of an additive found to induce cancer in animals.

H.R. 5362. March 22, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 which imposes additional penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) limit its application to felonies other than offenses consisting solely of the possession, transportation, or sale of a firearm, (2) replace ranges of authorized sentences with sentences for a specified number of years, (3) prohibit a probationary or suspended sentences for first, as well as for subsequent convictions, and (4) deny parole with respect to imprisonment under such provision.

H.R. 5363. March 22, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 5364. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first instance violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5365. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5366. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5367. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5368. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5369. March 22, 1977. Interior and Insular Affairs. Amends the Energy Reorganization Act of 1974 to require that the Energy Research and Development Administration notify appropriate State legislatures of plans for radioactive waste storage facilities. Stipulates that such facilities shall not be constructed unless approved by a statewide referendum.

H.R. 5370. March 22, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 5371. March 22, 1977. Post Office and Civil Service. Amends the Postal Reorganization Act Amendments of 1976 to extend to 1977, the period during which the Postal Service is prohibited from: (1) increasing rates and to levels exceeding those in effect on the enactment of the Act; (2) offering levels and types of services which are less those available on July 1, 1976; and (3) closing certain postal facilities which were in operation on July 1, 1976.

H.R. 5372. March 22, 1977. Public Works and Transportation. Amends the Water Pollution Control Act to permit the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill materials into wetlands adjacent to navigable waters.

H.R. 5373. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to increase the number of mutual deposit guaranty funds qualifying as tax exempt organizations.

H.R. 5374. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to modify the age and filing requirements pertaining to the credit for the elderly for persons receiving public retirement income.

H.R. 5375. March 22, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 5376. March 22, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities must be approved by affected States prior to application for approval by the Nuclear Regulatory Commission.

Authorizes States to adopt safety standards which are more stringent than Federal requirements.

H.R. 5377. March 22, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities shall be subject to State disapproval for a 90-day period following notification of the affected State.

H.R. 5378. March 22, 1977. Small Business. Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 5379. March 22, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Corps of Engineers, to study the hazardous conditions on the Mission Bay Harbor Entrance Channel, Quivira Basin, and Marines Cove, Calif.

H.R. 5380. March 22, 1977. Veterans' Affairs. Provides that all decisions of the Administrator of Veterans' Affairs be subject to judicial review and that all rules, regulations, orders and determinations of the Administrator be subject to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 5381. March 22, 1977. Veterans' Affairs. Subjects all decisions of the Administrator of Veterans' Affairs to judicial review and all rules, regulations, orders and determinations of the Administrator to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 5382. March 22, 1977. Judiciary. Establishes two divisions within the eastern judicial district of New York.

H.R. 5383. March 22, 1977. Education and Labor; Post Office and Civil Service. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5384. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5385. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5386. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5387. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5388. March 22, 1977. Ways and Means. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5389. March 22, 1977. Ways and Means. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5390. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5391. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5392. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5393. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5394. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5395. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5396. March 22, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing inappropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardized the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5397. March 22, 1977. Ways and Means. Amends title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing in appropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5398. March 22, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing in appropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5399. March 22, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing inappropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5400. March 22, 1977. House Administration Requires each State and local government to permit an individual who is eligible under applicable State and Federal law to register to vote in any Federal election to register on the date of a Federal election at the appropriate polling place.

Directs the Federal Election Commission to make grants to States for approved voter registration outreach programs.

Establishes the positions of Administrator and Assistant Administrator of Voter Registration within the Commission.

Prohibits commercial use of any list compiled by a State or local government of individuals registered to vote in a Federal election.

H.R. 5401. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients, and to insure mortgages made in connection with senior centers offering health, nutritional, recreational, and social facilities to elderly persons, regardless of whether such centers offer housing facilities.

Amends the Housing and Community Development Act of 1974 to authorize additional grants for the construction or maintenance of a senior center providing recreational, health, and nutritional services.

H.R. 5402. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are to be used primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act to entitle a grant recipient to an additional grant for the construction or maintenance of a senior center providing recreation, health, and nutritional services regardless of whether such centers offer housing facilities.

H.R. 5403. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are to be used primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act to entitle a grant recipient to an additional grant for the construction or maintenance of a senior center providing recreation, health, and nutritional services regardless of whether such centers offer housing facilities.

H.R. 5404. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are to be used primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act to entitle a grant recipient to an additional grant for the construction or maintenance of a senior center providing recreation, health, and nutritional services regardless of whether such centers offer housing facilities.

H.R. 5405. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5406. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5407. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5408. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5409. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means.

Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5410. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5411. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5412. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5413. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5414. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5415. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5416. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5417. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home of intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefit check or other income received after the patient has given such notice.

H.R. 5418. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home or intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefit check or other income received after the patient has given such notice.

H.R. 5419. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home or intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefits check or other income received after the patient has given such notice.

H.R. 5420. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home or intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefit check or other income received after the patient has given such notice.

H.R. 5421. March 22, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5422. March 22, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of

the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5423. March 3, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5424. March 3, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5425. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5426. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5427. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) or the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5428. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5429. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5430. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5431. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5432. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5433. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 5434. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 5435. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 5436. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a Long-Term Care Services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5437. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a Long-Term Care Services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5438. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a long-term care services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5439. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a long-term care services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5440. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5441. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5442. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5443. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or

a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5444. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5445. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5446. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5447. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5448. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5449. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5450. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5451. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) or the Social Security Act.

H.R. 5452. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5453. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5454. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5455. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5456. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5457. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5458. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5459. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5460. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affair; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends Title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5461. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5462. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends Title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5463. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends Title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5464. March 22, 1977. Judiciary. Provides that a certain individual may assert a claim under the Trading with the Enemy Act, notwithstanding the statute of limitations.

H.R. 5465. March 22, 1977. Judiciary. Deems a certain retired military officer to have held the grade of lieutenant colonel on the date of his retirement, and receive the additional pay to which that grade would entitle him.

H.R. 5466. March 22, 1977. Judiciary. Provides that a certain individual may assert her claim against the United States for bodily injuries sustained in a motor vehicle accident, notwithstanding the applicable statute of limitations.

H.R. 5467. March 22, 1977. Judiciary. Authorizes classification of a certain individual as immediate relative for purposes of the Immigration and Nationality Act.

H.R. 5468. March 23, 1977. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of each Federal agency every ten years and to recommend to the President and Congress reorganization or abolition of each such agency as may be necessary to improve such efficiency and effectiveness. Abolishes each such agency upon the due date of such report unless during the ten-year period since the last report Congress has passed legislation continuing such agency.

H.R. 5469. March 23, 1977. Ways and Means. Amends the Internal Revenue Code and the Social Security Act to exclude certain mission societies and their missionary members from social security taxes.

H.R. 5470. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to extend the repurchase deadline for nonrecognition of gain on the sales of former residences in the case of members of the armed forces who are stationed overseas or are required to live in government quarters.

H.R. 5471. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals limited, nonrefundable income tax credits for the higher education expenses incurred for themselves, their spouses and dependents.

H.R. 5472. March 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5473. March 23, 1977. Education and Labor. Amends the Child Prevention and Treatment Act to prohibit the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depictive, a prohibited sexual act, or (4) receive for sale any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5474. March 23, 1977. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depictive a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5475. March 23, 1977. Banking, Finance and Urban Affairs; Public Works and Transportation. Requires any person who acquires or who has acquired property as of the effective date of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 for any program for which such person received Federal financial assistance and thereby displaces another person to make all relocation payments and provide all assistance required of a State agency by such Act as if the relocation was caused by such State agency under the Act.

H.R. 5476. March 23, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to stipulate that none of the laws restricting trade between points in the United States to vessels of the United States shall apply to inflatable boats used in river running.

H.R. 5477. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide a nonrefundable $10 income tax credit for each ton of used waste paper which is recovered and recycled in the United States by the taxpayer.

H.R. 5478. March 23, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to eliminate automatic pay adjustments for Members of Congress.

Amends the Legislative Reorganization Act of 1946 to establish the rate of pay for Members of Congress at the rate in effect on March 1, 1977.

H.R. 5479. March 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 5480. March 23, 1977. Interstate and Foreign Commerce. Suspends for two years with regard to regulations involving saccharin, the operation of the proviso in the Federal Food, Drug, and Cosmetic Act which prohibits regulatory approval of a food additive found to cause cancer.

H.R. 5481. March 23, 1977. Agriculture. Directs the Secretary of Agriculture to issue orders to establish projects for research and nutrition education for wheat and wheat products and studies regarding the sale, distribution, marketing, and utilization of wheat and wheat products and the creation of new wheat products. Establishes a Wheat Industry Council to carry out such orders.

H.R. 5482. March 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem an additive safe for human consumption even if it is found to induce cancer when ingested by man or animal, if the Secretary of Health, Education, and Welfare finds that (1) the benefits of such use exceed the risks; and (2) adequate labeling informs the public of the risks associated with use of the additive.

H.R. 5483. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 5484. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Securtiy Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits.

H.R. 5485. March 23, 1977. Interstate and Foreign Commerce. Authorizes to be appropriated funds for the Secretary of Health, Education, and Welfare to conduct a study of the potential carcinogenic effects of saccharin.

Directs the Secretary to submit a report on such study to the President and the Congress.

Prohibits any ban or restriction on saccharin in interstate commerce by the Secretary or any officer in the executive branch of the Federal Government for a period of three days.

H.R. 5486. March 23, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5487. March 23, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5488. March 23, 1977. Education and Labor. Amends the provisions of the National School Lunch Act concerning the summer food service program for children to authorize appropriations for 1978. Specifies the level of disbursement for, and the meals that may be served by, participating service institutions. Specifies the time at which payments must be made to States and service institutions.

Directs the Secretary of Agriculture to study the costs of food service operations and administration of the program. Authorizes the Secretary to conduct demonstration projects to better assure that needy children receive balanced meals during the summer.

H.R. 5489. March 23, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who is a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 5490. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns.

H.R. 5491. March 23, 1977. Agriculture. Revises the eligibility requirements for food coupons under the Food Stamp Act of 1964 to exclude individuals who receive one-half of their income from an individual who is not eligible for food coupons.

H.R. 5492. March 23, 1977. Education and Labor. Amends the Labor Management Relations Act of 1947 to authorize the President to appoint a board of inquiry to inquire into and, upon receiving the board's report, to direct the Attorney General to petition a district court to enjoin any actual or threatened strike or lockout which (1) affects an entire industry or substantial part thereof and (2) if allowed to occur or continue, will cause losses of agricultural crops.

H.R. 5493. March 23, 1977. Merchant Marine and Fisheries. Extends until October 1, 1980, the appropriation authorizations for the Seal Beach, and San Francisco Bay National Wildlife Refuges, California, and for the Great Dismal Swamp National Wildlife Refuge in North Carolina.

H.R. 5494. March 23, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 5495. March 23, 1977. Post Office and Civil Service. Designates the apple blossom as the national flower of the United States.

H.R. 5496. March 23, 1977. Government Operations. Obligates the Federal Government to pay to the appropriate State or local government payments in lieu of real property taxes for property which is owned by the Government but leased to a private person for the purpose of conducting a business for profit thereon. States that the amount of such payment shall equal the amount of tax that would be due if the lessee were the owner of the leased property.

H.R. 5497. March 23, 1977. International Relations; Banking, Finance and Urban Affairs. Amends the African Development Fund Act to increase the authorization of appropriations for the subscription of the United States to the African Development Fund.

H.R. 5498. March 23, 1977. Interstate and Foreign Commerce; Ways and Means. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish by regulation a uniform functional accounting system and statistical system for the purpose of calculating the reasonable cost of services provided by health services institutions.

Amends Titles XVIII (Medicare) and XIX (Medicare) of the Social Security Act to require providers of services to use such uniform accounting and statistical systems in determining the cost of service provided under the provisions of such Titles.

H.R. 5499. March 23, 1977. Judiciary.

Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5500. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 5501. March 23, 1977. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to direct the Board of Directors to promote respect for human rights. Requires the Board to take into account the observance of human rights prior to approving any financial transaction in support of exports. Requires the semiannual reports of the Board to include progress on the reduction of export financing instrumentalities. Requires the Board to submit nuclear proliferation assessment statements to Congress prior to approving any extension of credit.

H.R. 5502. March 23, 1977. Armed Services. Authorizes supplemental appropriations for military construction projects for energy conservation, fuel conservation, and pollution abatement, and for military housing projects.

H.R. 5503. March 23, 1977. Appropriations: Armed Services. Revises the standards and procedures relating to the appointment, promotion, separation, and retirement of officers in the armed forces.

H.R. 5504. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 5505. March 23, 1977. Interior and Insular Affairs. Designates specified public lands and waters in the State of Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems. Makes provisions for the management of subsistence uses of fish and wildlife on national lands.

H.R. 5506. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 5507. March 23, 1977. Veterans' Affairs. Gives the Administrator of Veterans' Affairs the authority to extend medical services to veterans of World War I who have non-service connected disabilities.

H.R. 5508. March 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that certain factors be considered in determining whether a proposed use of a food additive is safe.

H.R. 5509. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that any individual who is entitled to a monthly benefit under such title for the month preceding the month in which such eligible individual dies shall be entitled for the month in which he dies to a prorated benefit based upon a specified formula.

H.R. 5510. March 23 1977. Judiciary. Grants a Federal charter to the Army and Navy Union of the United States of America.

H.R. 5511. March 23 1977. Post Office and Civil Service. Requires the Postal Service, before constructing a new facility, to notify and consult with any State or local government agency responsible for the administration of laws relating to the use of land upon which such construction is proposed. Authorizes such agencies to conduct hearings with respect to such proposals. Requires the Postal Service to hold such hearings if the appropriate agencies fail to do so within 90 days after notification of proposal. Prohibits the Postal Service from undertaking such construction prior to such hearing.

H.R. 5512. March 23, 1977. Post Office and Civil Service. Permits any volunteer member of a private nonprofit organization to deposit, for such organization postage free, any mailable matter relating to the activities or functions of such organization in any letterbox.

H.R. 5513. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 5514. March 23, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 5515. March 23, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health Education and Welfare to study the feasibility of broadening the purposes of the Uniformed Services University of the Health Sciences to train civilian physicians to serve in medically underserved areas.

H.R. 5516. March 23, 1977. Judiciary. Amends the Immigration and Nationality Act to make it a felony to hire or to refer for employment an alien not lawfully admitted into the United States.

Directs the Immigration and Naturalization Service to increase the number of its Border Patrol and Investigation branch personnel.

H.R. 5517. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 5518. March 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5519. March 23, 1977. Rules. Amends the Congressional Budget Act of 1974 to require economic impact statements for every bill or joint resolution reported in Congress and for each rule proposed by any Federal agency to show the effects of such proposed law on specified sectors of the economy. States that statements pertaining to agency rules shall disclose the effects of such proposed rule on State and local governments, small business, and low- and middle-income families.

H.R. 5520. March 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for relief assistance to the victims of 1976 earthquakes in Italy.

H.R. 5521. March 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for relief assistance to the victims of 1976 earthquakes in Italy.

H.R. 5522. March 23, 1977 Judiciary. Makes it unlawful for any individual to (1) cause or permit a child to engage in a prohibited sexual act if such act is to be filmed, photographed or form part of a live show; (2) photograph or film such act; (3) knowingly transport a film or photograph depicting such act; (4) receive for sale or sell any film or photograph depicting such act; or (5) induce or permit a child to commit a sexual act for purposes of prostitution, if such individual knows or should know such action has or may have an effect on interstate or foreign commerce.

H.R. 5523. March 23, 1977. Interior and Insular Affairs. Provides for the distribution by the Secretary of the Interior of funds appropriated to pay a judgment to the Cowlitz Tribe of Indians in a certain case before the Indian Claims Commission.

H.R. 5524. March 23, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act to authorize the appropriations to the Land and Water Conservation Fund such amounts as are necessary to make the income of the Fund not less than $900,000,000 for fiscal year 1978.

Lowers the age limit for eligibility for lifetime admission to the National parks.

H.R. 5525. March 23, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to permit States, territories, and local political subdivisions to tax property subject to a lien held by the United States or otherwise held by the Secretary of Housing and Urban Development under Title IV of such Act.

H.R. 5526. March 23, 1977. Small Business. Amends the Small Business Act to reduce the interest rates on disaster-related loans under such Act and to provide for the cancellation of a portion of principal and interest payments with respect to certain of such loans.

H.R. 5527. March 23, 1977. Small Business. Amends the Small Business Act to reduce the rate of interest on certain disaster-related loans under such Act.

H.R. 5528. March 23, 1977. Judiciary. Amends the Legal Services Corporation Act to: (1) eliminate the requirement that no more than six of the eleven members of the Legal Services Corporation Board of Directors be of the same political party; (2) subject the Corporation and State advisory councils to Government in the Sunshine Act requirements; (3) revises restrictions on political activities with respect to staff attorneys; (4) revise limitations on the use of funds made available by the Corporation; and (5) require independent hearing examiners.

H.R. 5529. March 23, 1977. Education and Labor. Establishes a program to pay supplemental benefits to uranium miners and their dependents for disability and death due to lung cancer resulting from uranium mine employment. Authorizes grants to States for research and planning programs relating to compensation for ionizing radiation injuries connected with uranium mine employment.

H.R. 5530. March 23, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amounts to which they are presently entitled.

H.R. 5531. March 23, 1977. Public Works and Transportation. Amends the Federal Water Pollution Act to require the United States to pay the entire cost of lateral sewer

connections between federally-assisted collection systems and single-family residences of low-income elderly persons age 65 or older

H.R. 5532. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit.

H.R. 5533. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reforms Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 5534. March 23, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to stipulate that none of the laws restricting trade between points in the United States to vessels of the United States shall apply to inflatable boats used in river running.

H.R. 5535. March 23, 1977. Judiciary. Revises the provision authorizing suits against persons acting under the color of State or Territorial law for the deprivation of constitutional and Federal statutory rights to permit suits against; (1) bodies politic and; (2) persons acting under the color of law of the District of Columbia or a United States possession.

H.R. 5536. March 23, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to extend the eligibility of mortgages for insurance and to increase the maximum allowable mortgage amounts.

Permits the Secretary of Housing and Urban Development to insure, on a permanent basis, mortgages and loans with varying rates of amortization.

H.R. 5537. March 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5538. March 23, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to reduce the age at which railroad employees and their spouses become eligible for annuities under such Act.

H.R. 5539. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a nonrefundable income tax credit for 15 percent of the amounts paid during the year for the installation of wood-burning stoves in their principal residences.

H.R. 5540. March 23, 1977. Judiciary. Amends the Clayton Act to subject the operation of agricultural and horticultural organizations to the antitrust laws.

H.R. 5541. March 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5542. March 23, 1977. Interior and Insular Affairs. Designates specified lands in certain national forests as components of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 5543. March 23, 1977. Post Office and Civil Service. Directs the President, when making comparability pay adjustments for Government officials and employees, to make additional adjustments for the purpose of maintaining pay distinctions between grades, steps with grades, schedules, and other levels of pay which would exist but for the operation of the statutory requirement limiting the rates of pay of certain positions to the rate of pay for level V of the Executive Schedule.

H.R. 5544. March 23, 1977. Rules; Post Office and Civil Service. Amends the Rules of the House of Representatives to require all matters relating to Federal civil service within the jurisdiction of the House Committee on Post Office and Civil Service be referred to such Committee. Removes the authority of Federal agencies to set the number of positions within such agencies at grades GS–16, GS–17, and GS–18 and to establish scientific or professional positions outside the General Schedule. Places such authority exclusively with the Civil Service Commission but sets ceilings on such "super grades" and positions outside the General Schedule.

H.R. 5545. March 23, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of the Social Security Act to permit a State, at the request of a family receiving aid under such program, to make direct payments from such aid to a utility company or landlord to cover the family's utility or housing costs.

H.R. 5546. March 23, 1977. Judiciary. Increases the minimum amount which must be in controversy to qualify for Federal court jurisdiction based upon diversity of citizenship.

Prohibits any person from invoking diversity jurisdiction in any State of which he is a citizen. Prohibits a business entity which has maintained a business establishment for more than two years in a State from invoking diversity jurisdiction in such State in any action arising from the establishment's activities. Prohibits an individual from invoking diversity jurisdiction in any State in which he has had his present business or place of employment for more than two years.

Revises removal, venue, and joinder guidelines for diversity actions.

H.R. 5547. March 23, 1977. Judiciary. Amends the Immigration and Nationality Act to authorize the seizure and forfeiture of vessels, vehicles, or aircraft which have been or are being used to illegally transport aliens into the United States.

H.R. 5548. March 23, 1977. Post Office and Civil Service. Increases by 25 percent the civil service annuity payments of retired employees who performed ten years of service in Alaska and continue to reside in Alaska.

H.R. 5549. March 23, 1977. Post Office and Civil Service. Requires all revenues and fees collected by the Postal Service to be deposited in the general fund of the Treasury of the United States. Requires the Postal Service to describe all operations and provide any other necessary information to Congress when seeking appropriations for its operations before the appropriate Congressional committees as required by this Act.

Requires the Postal Service to provide door or curbline mail delivery to all permanent residential addresses receiving such service on or after the date of enactment of the Postal Reorganization Act Amendments of 1976 until September 15, 1977.

H.R. 5550. March 23, 1977. Education and Labor; Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to appoint a Committee on Uniform Adoption Regulations.

Directs such Committee to review current conditions, practices, and laws relating to adoption and to propose to the Secretary uniform adoption regulations.

Directs the Secretary to make grants to States for allocation to State agencies and to public and private nonprofit adoption agencies to assist such agencies in meeting the costs involved in the adoptive placement of children.

Establishes a National Office of Adoption Information and Services. Requires the establishment of a national adoption data, tracking, and analysis system utilizing computers.

H.R. 5551. March 23, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on 2-methyl, 4-chlorophenol for three years.

H.R. 5552. March 23, 1977. Education and Labor. Amends the Headstart Follow Through Act to extend the follow through program for one year.

H.R. 5553. March 23, 1977. International Relations. Amends the Arms Control and Disarmament Act to authorize the Director of the United States Arms Control and Disarmament Agency to arrange research in the field of arms control and disarmament by institutions or persons of any country.

Amends such Act to authorize a specific appropriation for fiscal year 1978 and such sums as may be necessary for fiscal year 1979 to carry out the purposes of such Act.

H.R. 5554. March 23, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act

H.R. 5555. March 23, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5556. March 23, 1977. Judiciary. Authorizes the conditional admittance of a certain person to the United States for permanent residence.

H.R. 5557. March 23, 1977. Judiciary. Authorizes the conditional admittance of a certain person to the United States for permanent residence.

H.R. 5558. March 23, 1977. Judiciary. Authorizes the conditional admittance of a certain person to the United States for permanent residence.

H.R. 5559. March 24, 1977. Agriculture. Amends the Housing and Community Development Act of 1974 to require that Community Development Programs give priority to activities which benefit low-or-moderate-income families and follow a citizen participation plan prior to the submission of grant application.

H.R. 5560. March 24, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all Federal programs designed to assist agricultural producers in alleviating distress caused by natural disasters.

Providing for emergency crop production payments to producers. Amends the Agricultural Act of 1970 to require the Secretary to establish minimum reserve inventories of grain. Allows a two-year grace period for repayment of specified disaster or emergency loans granted under the Consolidated Farm and Rural Development Act. Repeals the emergency hay transporation provision of the Farmer-to-Consumer Direct Marketing Act of 1976, and replaces it with a similar program.

H.R. 5561. March 24, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to undertake a program to provide a surface water supply to Central Arizona Indian tribes. Grants the Secretary authority to acquire land and undertake various projects to assure the supply of specified amounts of water to each tribe. States that final provision of such water shall satisfy all claims of each tribe to present and future rights to surface water for farming purposes.

H.R. 5562. March 24, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to designate lands in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site and to acquire and manage such lands.

H.R. 5563. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services.

H.R. 5564. March 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors,

and Disability Insurance) of the Social Security Act to revise the time at which eligibility for Medicare benefits on account of kidney failure commences and terminates. Revises the conditions applicable to payments for services and supplies required by self-dialysis patients.

H.R. 5565. March 24, 1977. Public Works and Transportation. Increases the national maximum speed limit from 55 m.p.h. to 65 m.p.h.

H.R. 5566. March 24, 1977. Post Office and Civil Service. Entitles Federal employees who have completed 30 years of service to an annuity, regardless of age.

H.R. 5567. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction of up to $100 in drought losses of grass, trees, shrubs, flowers, and vegetables on their residential property and family gardens.

H.R. 5568. March 24, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5569. March 24, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5570. March 24, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such a period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5571. March 24, 1977. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require lenders to post current interest rates charged for various categories of loans to consumers.

H.R. 5572. March 24, 1977. Interstate and Foreign Commerce. Makes it a violation of the Federal Trade Commission Act for any retailer to increase the price of a consumer commodity after the retailer has marked the price on that item.

Authorizes the Federal Trade Commission to issue a cease and desist order and to order the restitution of moneys received by a retailer in violation of this Act.

H.R. 5573. March 24, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to stipulate that it shall not be unlawful to hire an individual between the ages of 40 and 65 without including such individual in the employee retirement, pension or insurance plan if the exclusion is necessary to the economic survival of such plan. Prohibits the mandatory retirement of an employee between such ages under such a plan, but allows such a plan to cease to accrue benefits for an employee when the employee reaches a certain age if such cessation is necessary to the economic survival of the plan.

H.R. 5574. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5575. March 24, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R. 5576. March 24, 1977. Judiciary. Directs that United States attorneys be appointed and subject to removal by the Attorney General rather than the President.

Eliminates set terms for United States attorneys.

H.R. 5577. March 24, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1954 to prohibit the Federal Communications Commission, when granting or renewing any radio or television broadcast license, from considering whether the applicant involved owns or has any interest in a daily newspaper which is circulated in the area to be served by the broadcast station for which such license is sought.

H.R. 5578. March 24, 1977. Judiciary. Requires any organization making expenditures in excess of a specified amount for lobbying communications or the research or preparation thereof to comply with certain recordkeeping, registration, and reporting requirements.

Directs the Comptroller General to develop filing and cross-indexing systems to identify persons and organizations engaged in lobbying activities.

H.R. 5579. March 24, 1977. Ways and Means. Increases to $5,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5580. March 24, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 5581. March 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of comouting the primary insurance amount for blind persons under such Act.

H.R. 5582. March 24, 1977. Interstate and Foreign Commerce. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits sale of metal beverage containers with detachable openings.

H.R. 5583. March 24, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 5584. March 24, 1977. Judiciary. Removes the jurisdiction of any Federal court to enter a decree requiring the transportation of students or teachers to carry out a plan of school desegregation, and vests such jurisdiction in the State courts (and in the case of the District of Columbia and any United States territory in such Federal courts exercising essentially local jurisdiction).

Limits the appellate jurisdiction of the Supreme Court in such cases to writs of certiorari from the highest State or territorial court.

H.R. 5585. March 24, 1977. Judiciary; Education and Labor. Prohibits affirmative action programs regarding discrimination in federally assisted programs, employment discrimination, Federal grantees or contractors, or Federal employment, from requiring quotas. Prohibits a finding of discrimination to be based solely upon the composition of the work force or membership in question. Prohibits relief in certain civil rights actions unless an act of discrimination has been committed. Prohibits any remedy in a civil rights action which establishes quotas. Prohibits requiring employers or contractors to collect data applicable to discrimination except pursuant to discovery procedures.

H.R. 5586. March 24, 1977. Judiciary; Education and Labor. Establishes a Commission on School Integration to study the results of, and other questions relating to, the racial integration of public schools, and the use of busing to achieve such integration.

H.R. 5587. March 24, 1977. Ways and Means; Judiciary; Rules. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove disparities in determining benefit basis between men and women. Revises specified prerequisites of eligibility for benefits. Allows the exemption of individuals 65 years or older from social security taxes. Authorizes payments directly to providers of services under Medicare.

Amends the Internal Revenue Code of 1954 to provide income tax credit for real property taxes and a tax exclusion for interest on savings.

Imposes mandatory penalties for use of firearms during the commission of a felony.

Amends the Congressional Budget Act of 1974 to limit budget outlays to the level of Federal revenues by 1979.

H.R. 5588. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5589. March 24, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5590. March 24, 1977. Interstate and Foreign Commerce. Declares that the Federal Communications Act shall not be construed to require the availability of broadcasting time to any person. Repeals the "equal time" provision relating to availability of broadcasting time to legally qualified candidates for public office.

Repeals the prohibition on political editorializing by noncommercial education broadcasting stations.

H.R. 5591. March 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5592. March 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5593. March 24, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to make recommendations for rates of pay for Members of Congress and the Resident Commissioner from Puerto Rico, transmitted by the President to Congress, subject to Congressional approval by specific resolutions passed by each House.

Amends the Legislative Reorganization Act of 1946 to establish annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and House and Senate leadership at the rates in effect on September 30, 1976.

H.R. 5594. March 24, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend through June 30, 1980, the customs duties on calcinated petroleum coke, not commercially suitable for use as fuel.

H.R. 5595. March 24, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5596. March 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5597. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5598. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 5599. March 24, 1977. Interior and Insular Affairs; Ways and Means. Authorizes Indian tribes to adopt, by majority vote, a constitution and by laws and provides that, upon adoption of such constitution and by-laws, a tribe shall be a corporate body, with certain powers designed to encourage the location of new private industry on tribal lands. States that any person who establishes new private industry or maintains certain existing businesses on a reservation shall qualify for certain tax incentives if he employs a work force one-half or which are Indians.

H.R. 5600. March 24, 1977. Interstate and Foreign Commerce. Requires the Securities and Exchange Commission to regulate the issuance and trading of municipal bonds and similar securities under the Securities and Exchange Act of 1933 and the Securities and Exchange Act of 1934.

H.R. 5601. March 24, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 5602. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5603. March 24, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 5604. March 24, 1977. Agriculture. Amends the United States Grain Standards Act, as amended, to grant the Administrator of the Federal Grain Inspection Service discretion as to the subjects and processes about which he shall require complete and accurate records with respect to the official inspection or weighing of grain, and to repeal the requirement that supervision fees be paid to the Administrator by official and State agencies. Establishes an Advisory committee to advise the Administrator with respect to implementation of the act. Prohibits any official analysis or certification with respect to specified characteristics of Hard Red Winter heat.

H.R. 5605. March 24, 1977. Merchant Marine and Fisheries. Establishes the Admiralty Island National Reserve in the State of Alaska to be administered by the Secretary of the Interior for the preservation of natural and cultural resources.

H.R. 5606. March 24, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants to health agencies of States or their political subdivisions, or to any qualified nonprofit agency for programs of prenatal health care for adolescents, health care for infants of adolescent mothers, family planning services, social services and funds to purchase adoption services for adolescent mothers.

H.R. 5607. March 24, 1977. Ways and Means. Amends Title IV (Child Support and Establishment of Paternity) of the Social Security Act to allow the payment of lump sum or periodic payments to a spouse or former spouse as required by a decree of separation or divorce from moneys due from, or payable by, the United States.

H.R. 5608. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5609. March 24, 1977. Armed Services. Authorizes the Secretary of the Army to acquire specified private and State-owned lands in El Paso, Texas, in exchange for Government-owned lands.

H.R. 5610. March 24, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5611. March 24, 1977. Interior and Insular Affairs. Designates specified lands in Oregon Islands National Wildlife Refuge, Oregon, as wilderness.

H.R. 5612. March 24, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5613. March, 28, 1977. Post Office and Civil Service; Judiciary. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 5614. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the income limitation for the income tax credit for the elderly.

H.R. 5615. March 28, 1977. Ways and Means. Amends the Trade Act of 1974 to provide Federal reimbursements to States for certain amounts of unemployment insurance benefits paid to workers eligible for adjustment assistance.

Repeals the provision of the Internal Revenue Code which reduces certain tax credits for employers in a State that fails to enter into, or fulfill its commitments under, a Federal-State agreement regarding the administration of worker adjustment assistance benefits.

H.R. 5616. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than 6 percent.

H.R. 5617. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property

placed in service in States having an unemployment rate which is greater than 6 percent.

H.R. 5618. March 28, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to make specified Interstate Commerce Commission procedures which are presently applicable to railroads applicable to other surface carriers (motor carriers, water carriers, and freight forwarders). Eliminates the present requirement that at least 30 days expire before orders relating to surface carriers of the Commission may become effective. Changes the name of the Office of Rail Public Counsel to the Office of Public Counsel. Revises the duties and authority of such Office.

Authorizes appropriations for fiscal year 1977 for the Office of Public Counsel.

H.R. 5619. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pensions, or other retirement.

H.R. 5620. March 28, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5621. March 28, 1977. Interstate and Foreign Commerce. Requires Senate confirmation of the presidential appointment of specified independent regulatory commissions. Places control of civil litigation involving such commissions and the Environmental Protection Agency (EPA) in such agencies.

Eliminates the authority of the Office of Management and Budget to review proposed legislation from independent regulatory agencies and the EPA. Requires the office to submit with its own budget recommendations, the recommendations submitted to the Office by the regulatory agencies and the EPA. Requires each such agency to respond within two days to requests for specified documents by specified congressional committees or the components of such committees.

H.R. 5622. March 28, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 5623. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 5624. March 28, 1977. Interior and Insular Affairs; International Relations; Merchant Marine and Fisheries. Establishes a program of Federal insurance against losses incurred by eligible ocean mining prototype operations. Directs the Administration of the National Oceanic and Atmospheric Administration to develop criteria designed to protect the marine environment from such operations.

Stipulates that this Act shall be transitional in nature pending the outcome of the United Nations Conference on the Law of the Sea.

H.R. 5625. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 5626. March 28, 1977. Post Office and Civil Service. Entitles a Federal employee whose position is reduced in grade to have the grade of such position treated as if such reduction had not occurred so long as such position is continued to be filled by such employee without a break in service.

H.R. 5627. March 28, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5628. March 28, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5629. March 28, 1977. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of the Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 5630. March 28, 1977. Merchant Marine and Fisheries. Amends the Coastal Zone Management Act of 1972 to authorize appropriations to the Secretary of the Interior for annual grants to coastal States equal to 25 percent of revenues received in connection with public lands for a seven year period beginning October 1, 1977.

H.R. 5631. March 28, 1977. Judiciary. Prohibits any provision of law or rule prescribed by the Supreme Court, or the fact a prisoner had an opportunity to litigate the issue in contention in State court, from precluding appropriate relief in a Federal court to a Federal prisoner, or a State prisoner, respectively, unless the prisoner deliberately bypassed a procedure through which the issue could have been presented constituting the basis of the application for relief.

H.R. 5632. March 28, 1977. Judiciary. Repeals provisions stipulating that nothing in certain sections relating to interception of communication shall be construed to limit the power of the President to take measures to protect national security.

Directs that applications for authorizations to intercept communications in connection with specified national security crimes be made to the United States Court of Appeals for the District of Columbia.

Authorizes interceptions of communications with respect to violations of the Foreign Agents Registration Act of 1938 and the Export Administration Act of 1969.

Sets forth time limits and admissibility standards for national security surveillance. Authorizes waiver of notice to persons surveilled.

H.R. 5633. March 28, 1977. Judiciary. Requires Federal agencies under the Administrative Procedure Act to allow at least 60 days to pass after publication of intention to promulgate a rule to permit interested persons to comment thereon. Permits automatic extention of such period for an additional 30 days upon request of such party. Requires public rule making hearings to be held upon request of any such party. Requires republication of such rule if changed so substantially that promulgation of the rule as changed would deny interested parties the opportunity to comment on new or substantially modified matter within the rule.

H.R. 5634. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 5635. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes a system of survey and certification, rate-setting and audit, and general regulation of long-term care facilities under the Medicaid programs of the Social Security Act. Creates a system of patient need assessment in order to determine the appropriateness of and the initial or continued need for post-hospital home health services, or intermediate health care services.

H.R. 5636. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes a system of survey and certification, rate-setting and audit, and general regulation of long-term care facilities under the Medicaid programs of the Social Security Act. Creates a system of patient need assessment in order to determine the appropriateness of and the initial or continued need for post-hospital home health services, or intermediate health care services.

H.R. 5637. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes a system of survey and certification, rate-setting and audit, and general regulation of long-term care facilities under the Medicaid programs of the Social Security Act. Creates a system of patient need assessment in order to determine the appropriateness of and the initial or continued need for post-hospital home health services, or intermediate health care services.

H.R. 5638. March 28, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation Zone Transition Act to express Congressional approval of the Reciprocal Fisheries Agreement between the United States and Canada. Permits Canadian vessels and nationals to fish within the fishery conservation zone or for anadromous species and Continental Shelf resources beyond the zone. Exempts Canadian vessels and nationals from certain restrictions of the Fishery Conservation and Management Act of 1976. Requires persons fishing pursuant to the Agreement to furnish certain fishing

data to the Secretary of Commerce. Imposes penalties for failure to furnish such statistics.

H.R. 5639. March 28, 1977. Judiciary. Amends the Bail Reform Act of 1966 to require consideration of the safety of others and the community at large in setting conditions for pretrial release.

Permits the Government to appeal conditions of release in certain circumstances.

Directs that a convicted person who has filed on appeal be detained unless it is shown by clear and convincing evidence that the appeal raises a substantial question of law or fact.

Sets forth sanctions for violating release conditions, threatening witnesses or jurors while on release, and committing serious offenses while on release.

H.R. 5640. March 28, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal Buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5641. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 5642. March 28, 1977. Agriculture. Directs the Secretary of Agriculture to study problems associated with water supply and water resources affecting rural areas.

H.R. 5643. March 28, 1977. Ways and Means. Permits the President to enter into agreements with other countries to apply import restrictions on archaeological or ethnological material. Establishes a Cultural Property Advisory Committee to review the effectiveness of such agreements.

Directs the Secretary of the Treasury to list material covered by any agreement under this Act. Prohibits the importation of any listed article into the United States unless the State Party certifies that the exportation of such article was not in violation of the laws of the State Party. Prohibits the importation of any cultural property stolen from the inventory of a museum or similar institution.

H.R. 5644. March 28, 1977. Agriculture. Requires the Secretary of Agriculture, under the Food Stamp Act of 1964, to provide for the implementation of the food stamp and commodity distribution programs either concurrently or separately upon request by the official governing body of an Indian tribe, on behalf of eligible households of such tribe.

H.R. 5645. March 28, 1977. Judiciary. Amends the Civil Rights Act of 1957 to authorize appropriations for fiscal year 1978, for the Commission on Civil Rights.

H.R. 5646. March 28, 1977. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to direct the Consolidated Rail Corporation (Con Rail) to make premium payments in order to maintain insurance policies providing medical or life insurance benefits to employees and retirees under such Act. Entitles the corporation to a loan under such Act to make such payments. Deems such costs to be expenses of the administration of the respective estates of the railroads in reorganization.

H.R. 5647. March 28, 1977. Education and Labor. Amends the Davis-Bacon Act to deny until a collective bargaining agreement is concluded further progress payments and the exercising of any options to certain Federal contractors and subcontractors found by a factfinding panel appointed by the Federal Mediation and Conciliation Service to have control over, or to have caused, a work stoppage.

Authorizes termination of a contract with respect to which such a work stoppage occurs if no collective bargaining agreement is signed within 45 days of the stoppage and the contractor or subcontractor has failed to meet its obligations in a timely fashion during that period.

H.R. 5648. March 28, 1977. Education and Labor. Amends the Davis-Bacon Act to impose penalties upon a public works contractor which replaces or attempts to replace contract employees who are on strike pursuant to a dispute between the contractor and their collective bargaining representative.

H.R. 5649. March 28, 1977. Education and Labor. Amends the Service Contract Act to deny until a collective bargaining agreement is concluded further progress payments and the exercising of any options to certain Federal contractors and subcontractors found by a factfinding panel appointed by the Federal Mediation and Conciliation Service to have control over, or to have caused, a work stoppage.

Authorizes termination of a contract with respect to which such a work stoppage occurs if no collective bargaining agreement is signed within 45 days of the stoppage and the contractor or subcontractor has failed to meet its obligations in a timely fashion during that period.

H.R. 5650. March 28, 1977. Education and Labor. Amends the Service Contract Act of 1965 to require that contracts entered into by any of the armed forces contain a provision which requires the contractor or subcontractor to notify the head of the armed force involved in the event of a strike.

Requires the head of such armed force to terminate such a contract if, after notice and hearing, a determination is made that the contractor or subcontractor has replaced, or attempted to replace, any service employee participating in the strike.

H.R. 5651. March 28, 1977. Education and Labor; Judiciary. Amends the Walsh-Healey Act to deny until a collective bargaining agreement is concluded further progress payments and the exercising of any options to certain Federal contractors and subcontractors found by a factfinding panel appointed by the Federal Mediation and Conciliation Service to have control over, or to have caused, a work stoppage.

Authorizes termination of a contract with respect to which such a work stoppage occurs if no collective bargaining agreement is signed within 45 days of the stoppage and the contractor or subcontractor has failed to meet its obligations in a timely fashion during the period.

H.R. 5652. March 28, 1977. Education and Labor; Judiciary. Amends the Walsh-Healey Act to impose penalties upon a government contractor which replaces or attempts to replace public contract employees who are on strike pursuant to a dispute between the contractor and their collective bargaining representative.

H.R. 5653. March 28, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

Requires that a label warning of the possible risk of saccharin causing cancer be on packages of saccharin sold to the consumer.

H.R. 5654. March 28, 1977. Armed Services. Grants retired pay to members of the reserve components of the armed forces who did not perform active duty after September 8, 1940, and before January 1, 1947, by reason of holding a civilian occupation which was deemed to be vital to the national security, safety, and welfare and to reservists who performed at least 20 years of service after August 16, 1945.

H.R. 5655. March 28, 1977. Armed Services. Revises the method of computing retired or retainer pay for members of the armed forces who were later called to active duty before October 1, 1973, and served on active duty for at least two years.

H.R. 5656. March 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require that any hearing on claims made pursuant to such Title or to Title XVIII (Medicare) be conducted on the record and in accordance with the procedure set forth for the conduct of adjudications under the Administrative Procedure Act.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

H.R. 5657. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitations on charitable deductions and investment tax credits taken by cooperative corporations. Allows cooperatives to allocate investment tax credits among their programs.

H.R. 5658. March 28, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

Directs the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River.

H.R. 5659. March 28, 1977. International Relations. Amends the Arms Export Control Act, with respect to approval for the transfer of defense articles, training, or services under that Act, to delay the effective date of such approval unit the end of the first period of 30 days of continuous Congressional session after the President has certified the proposed transfer to Congress, unless Congress disapproves such transfer by concurrent resolution within that period. Permits such proposed transfer to become effective immediately if the President certifies to Congress that a state of emergency exists which requires such transfer in the national security interests of the United States.

H.R. 5660. March 28, 1977. International Relations. Amends the Arms Exports Control Act to require the President to transmit certain information to Congress with respect to any proposed major arms sale to a non-NATO country.

Prohibits the issuance of any letter of offer for such sale if the Congress disapproves such letter by concurrent resolution, within the first period of 30 days of continuous Congressional session after receipt of Presidential certification of such offer.

H.R. 5661. March 28, 1977. Agriculture. Amends the Agricultural Act of 1949 to base specified disaster payments for wheat and feed grains on the actual acreage planted, in lieu of the farm acreage allotment base.

H.R. 5662. March 28, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral re-

sources research programs and to provide for reclamation of abandoned mine sites.

H.R. 5663. March 28, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 5664. March 28, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 5665. March 28, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to the rates of pay for Members of Congress effective only upon specific approval by a concurrent resolution adopted by both Houses of Congress. Specifies that such adjustments shall take effect at the beginning of the first session of the Congress following such approval.

Amends the Legislative Reorganization Act of 1946 to require that cost-of-living pay adjustments for Members of Congress be approved by a concurrent resolution adopted by both Houses, and take effect at the beginning of the first session of the following Congress.

H.R. 5666. March 28, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5667. March 28, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 5668. March 28, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purposes of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 5669. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 5670. March 28, 1977. Ways and Means. Requires the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, to promulgate regulations which must be complied with before any large-scale killing of birds or mammals shall be permitted. Prohibits any such killing until an environmental impact statement has been approved.

Prohibits the eradication or suppression of certain animals injurious to agriculture or to other animals until an environmental impact statement has been approved by the Administrator and the Secretary.

H.R. 5671. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 5672. March 28, 1977. Judiciary. Declares that a certain individual completed 20 years of service in the Armed Forces for the purposes of determining his retired pay.

H.R. 5673. March 28, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5674. March 28, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5675. March 29, 1977. Banking, Finance and Urban Affairs; Ways and Means. Authorize the Secretary of the Treasury to invest any portion of the Treasury's operating cash for period of up to 90 days in obligations of depositories maintaining secured Treasury tax and loan accounts and obligations of the United States.

H.R. 5676. March 29, 1977. Interstate and Foreign Commerce; Public Works and Transportation; Ways and Means. Revises the warning label on cigarette packages and requires the inclusion on such packages of a label bearing a statement of the tar and nicotine content.

Prohibits smoking in any enclosed area open to the public in any Federal facility or interstate passenger carrier facility.

Requires the separation of smokers and nonsmokers in any restaurant, other dining facility, recreation room, or lounge in any Federal facility or interstate passenger carrier facility. Recommends, whenever possible, the separation of smoking and nonsmoking Federal employees.

Imposes an increased tax on cigarettes and authorizes the use of such revenues for cigarette-related disease research.

H.R. 5677. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5678. March 29, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5679. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5680. March 29, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972 in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 5681. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and State property taxes imposed on the land and building in which his dwelling is located.

H.R. 5682. March 29, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 5683. March 29, 1977. Interior and Insular Affairs. Modifies the exterior boundary of the Cibola National Forest, New Mexico.

H.R. 5684. March 29, 1977. International Relations. Prohibits the settlement of a debt owed to the United States by a foreign country in an amount less than the full value of the debt, unless approved by Congress by concurrent resolution.

H.R. 5685. March 29, 1977. Post Office and Civil Service. Requires members of all commissions, councils, and similar bodies in the Executive branch of the Government appointed from private life to serve without compensation for their services other than travel, subsistence, and other necessary expenses.

H.R. 5686. March 29, 1977. Post Office and Civil Service. Grants civil service retirement benefits comparable to those provided Federal firefighters and law enforcement officers for persons employed by the Energy Research and Development Administration as atomic energy security guards or ERDA couriers. Requires the retirement of such employees when they have attained the age of 55 years and completed 20 years of service.

H.R. 5687. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that much be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5688. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5689. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to exempt buses used in local transit systems from the excise taxes on buses, tires, inner tubes and tread rubber.

H.R. 5690. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to increase the amount of the excise tax refunds on gasoline and other motor fuels to local transit systems, and to revise the definition of tax-exempt commuter revenue. Extends the refund of the excise tax for lubricating oil to local transit systems.

H.R. 5691. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health.

Directs the Secretary to consider certain factors in such a determination.

Directs the Secretary to (1) provide an opportunity for public inspection of the data used in such a determination; and (2) require labeling of the food additive or any food containing such additive stating carcinogenic nature of such additive.

H.R. 5692. March 29, 1977. Armed Services. Authorizes the Secretaries of Defense, the Army, Navy, and Air Force to establish or develop military installations as specified locations. Authorizes appropriations for each such location. Authorizes the Secretary of Defense to construct or acquire military family housing in specified numbers at specific locations. Authorizes appropriations for each such location. Authorizes the Secretary to grant homeowner's assistance to employees and personnel of the Department when the Department has announced plans to close a military base. Repeals previous authorizations for military public works.

H.R. 5693. March 29, 1977. Post Office and Civil Service. Makes Inauguration Day, January 20 of each fourth year after 1977, a legal public holiday.

H.R. 5694. March 29, 1977. Ways and Means. Repeals the provision of the Emergency Jobs and Unemployment Assistance Act of 1974 which denies assistance and waiting period credits under the special unemployment assistance program between academic years or terms to certain nonprofessional employees of educational institutions or agencies.

H.R. 5695. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exhange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5696. March 29, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as condition of employment.

H.R. 5697. March 29, 1977. Judiciary. Authorizes an officer who seizes explosives in connection with an offense involving forfeiture to destroy the explosives in compliance with specified guidelines, where removal and storage is impracticable or unsafe.

H.R. 5698. March 29, 1977. Judiciary. Makes the killing of an officer or employee of the Bureau of Alcohol, Tobacco, and Firearms who is performing official duties a Federal crime.

H.R. 5699. March 29, 1977. Judiciary. Makes it a Federal criminal offense to kill any officer or employee of the Federal Communications Commission while engaged in the performance of official duties.

H.R. 5700. March 29, 1977. Interior and Insular Affairs. Amends the provision of law dealing with Shoshone and Arapahoe Indian tribal trust funds to require the Secretary of the Interior to make per capita payments of the yearly interest accruals to those tribes. Directs the Secretary, under certain circumstances, to add to the distribution fund of those trusts.

H.R. 5701. March 29, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to withdraw and segregate ten percent of the funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians and the Absentee Delaware Tribe of Western Oklahoma. Directs that ten percent of such funds be distributed to the Kansas Delaware Tribe of Indians for the payment of costs and attorney's fees, and directs that the remaining 90 percent be distributed per capita, to descendents of that tribe.

H.R. 5702. March 29, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to authorize payment of funds in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency entity or is established by the order of a court.

Increases the penalties for defrauding the Medicare and Medicaid programs.

Requires the Secretary of Health, Education, and Welfare to suspend any physican or practitioner from participation in the Medicare or Medicaid programs whenever such individual is convicted of a criminal offense related to their involvement in such programs.

H.R. 5703. March 29, 1977. Judiciary. Removes the jurisdiction of the Supreme Court of the United States and the Federal district courts over any case arising out of any State statute, ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

H.R. 5704. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise alcoholic beverages.

H.R. 5705. March 29, 1977. Judiciary. Makes the killing of an officer or employee of the Small Business Administration who is performing official duties a Federal crime.

H.R. 5706. March 29, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to eliminate the rights of purchasers or lessees of real property to sue airport operators from damages resulting from the noise generated by the lawful operation of aircraft using such an airport. Exempts aircraft manufactured before January 1, 1974, from noise standards promulgated by the Administrator of the Federal Aviation Administration pursuant to such Act.

H.R. 5707. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5708. March 29, 1977. Education and Labor. Amends the section of the Comprehensive Employment and Training Act of 1973 which authorizes assistance for youth and other special programs to establish a Youth Employment Office within the Department of Labor to administer the youth programs under such section. Directs the United States Employment Service to provide employment counseling and placement services for youth. Requires that the State plans submitted in order to receive assistance for public employment services be amended to include provision for the development and promotion of employment opportunities, job counseling, and job placement for youth.

H.R. 5709. March 29, 1977. Interior and Insular Affairs. Prohibits the leasing of lands under Federal mining laws to persons engaged in more than one aspect of energy-related industries, either through the control of more than one category of energy assets, or through the participation in more than one aspect of petroleum or natural gas production, refining, transportation, or marketing activities.

H.R. 5710. March 29, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to appoint a Special Advisory Council on Social Security Financing to study ways and means by which the present system of financing may be phased out and replaced by an actuarily sound method whereby payments are made from accrued interest rather than principal or general revenue moneys.

H.R. 5711. March 29, 1977. Judiciary. Prohibits the use of Federal funds for specified activities designated to support or defeat any legislation or legislative issue on the ballot in any State.

H.R. 5712. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit for the tuition paid to a private nonprofit elementary or secondary educational institution for the education of a dependent.

H.R. 5713. March 29, 1977. Ways and Means. Amends the Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act, and the Internal Revenue Code of 1954 to authorize the Secretary of the Treasury to provide the Secretary of Health, Education, and Welfare with information returns filed under such Code and to permit the use of data on such returns in the administration of the Social Security program.

Revises the method of computing the length of coverage and determining insured status under the Social Security Act.

H.R. 5714. March 29, 1977. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to permit the Bank to extend credit to the Peoples Republic of China. Eliminates the avoidance of arms races between countries not menaced by Communist China from the factors considered by the President in determining whether the prohibitions against credit extensions by the Export-Import Bank for defense sales to developing countries should be waived in the national interest.

H.R. 5715. March 29, 1977. Ways and Means. Amends the Trade Act of 1974 to permit the People's Republic of China to participate in United States credit and investment programs.

H.R. 5716. March 29, 1977. Interior and Insular Affairs. Authorizes and directs the Secretary of the Interior to convey by quitclaim deed to the present owner or owners of record all phosphate interests of the United States in specified lands in Lee County, Florida.

H.R. 5717. March 29, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1977 for relief and rehabilitation assistance to the victims of recent earthquakes in Romania. Authorizes the President to furnish such assistance.

H.R. 5718. March 29, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5719. March 29, 1977. Agriculture. Amends the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to extend through the 1981 crops specified provisions of the upland cotton program. Sets a new formula for the determination of the level for nonrecourse loans, and stipulates the established price per pound of cotton at 110 percent of the loan level. Sets conditions for, and formulas for the amounts of, mandatory special limited global import quotas.

H.R. 5720. March 29, 1977. Science and Technology. Directs the Secretary of Agriculture to coordinate and carry out research culminating in the commercialization of latex from parthenium of other hydrocarbon-containing plants. Requires the Secretary to

maintain a bank of research data on native latex. Authorizes the Secretary to enter into cooperative projects with the Government of Mexico to accomplish the purposes of this Act.

Authorizes the Secretary to conduct specified activities to promote the development of native latex.

H.R. 5721. March 29, 1977. Agriculture; Science and Technology. Amends specified Acts to authorize environmentally oriented instruction, research and demonstrations at land-grant colleges, agricultural experiment stations and the Agricultural Research Service and Agricultural Extension Service.

H.R. 5722. March 29, 1977. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of human activities on climatic dynamics. Empowers the Secretary, in order to carry out the purposes of this Act, to: (1) establish advisory committees composed of experts in climatology and related fields and of representatives of interested Federal departments; and (2) transfer funds and make grants to governmental bodies and to nonprofit and educational institutions.

H.R. 5723. March 29, 1977. Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 5724. March 29, 1977. Post Office and Civil Service; Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 5725. March 29, 1977. Post Office and Civil Service; Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 5726. March 29, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirements for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 5727. March 29, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record

H.R. 5728. March 29, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the rate payable for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 5729. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to increase from $50,000 to $100,000 the amount of group term life insurance which employers may purchase for employees without including it within the latter's taxable income.

H.R. 5730. March 29, 1977. Veterans' Affairs. Extends the delimiting period for completing a veteran's education program until such time as the veteran completes or ends the program, if at the close of the ordinary ten-year delimiting period the veteran is enrolled in a program.

H.R. 5731. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct education expenses incurred for the primary, secondary, or higher education of any dependent.

H.R. 5732. March 29, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to remove geographical restrictions on payment for inpatient hospital services outside the United States when the covered individual is in danger of death from injury or illness and the nearest, or most readily accessible hospital is outside the United States.

H.R. 5733. March 29, 1977. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to prohibit a pipeline company engaged in the transportation of oil from transporting any oil through its pipelines if that company has an interest in such oil.

H.R. 5734. March 29, 1977. Judiciary. Prohibits certain petroleum companies engaged in the production, transportation, refining, or marketing of petroleum assets from controlling any interest in another aspect of the petroleum industry. Directs the Federal Trade Commission to require divestment of ownership interests by affected companies.

Establishes a Temporary Petroleum Industry Divestiture Court to hear cases arising under this Act.

H.R. 5735. March 29, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 5736. March 29, 1977. Ways and Means. Amends the Social Security Act to assure that recipients of Aid to Families with Dependent Children (Title IV); Supplemental Security Income (Title XVI); specified programs of assistance to the aged, blind, and disabled (Titles I, X, and XIV); veterans' pensions and compensation; assistance under the Food Stamp Act of 1964 or the United States Housing Act of 1937; and benefits under any Federal retirement or disability program shall not have the amount of such assistance or benefits reduced because of cost-of-living increases in monthly social security benefits.

H.R. 5737. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5738. March 29, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as a condition of employment.

H.R. 5739. March 29, 1977. Banking, Finance and Urban Affairs. Prohibits State and local laws which permit the construction of buildings or other obstructions which interfere with the effective operation of solar heating and cooling equipment.

H.R. 5740. March 29, 1977. Public Works and Transportation. Requires that Federal agencies prepare energy consumption analysis prior to construction or renovation of public buildings. Details information and evaluations to be included in each such analysis.

H.R. 5741. March 29, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 5742. March 29, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act to extend for three years the authorization for appropriations for the Department of Justice to carry out the control and enforcement provisions of such Act.

H.R. 5743. March 29, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decision making process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 5744. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 5745. March 29, 1977. Agriculture. Designates the Department of Agriculture as the lead agency of the Federal Government to coordinate all agricultural research activities in other Federal departments and agencies, the land grant colleges, the State agricultural experiment stations, and research in the private sector.

Establishes, to assist the Secretary of Agriculture in the administration of research and grant programs, the (1) Agricultural Research and Education Policy Advisory Committee; (2) Agricultural Research Policy Analysis Institute; (3) Committee on Agricultural Research Facilities; and (4) the Animal Health Science Research Advisory Board. Establishes grants and fellowships for various purpose, including a National Agricultural Research Award.

H.R. 5746. March 29, 1977. International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to increase the minimum quantity of agricultural commodities which shall be distributed for food assistance annually.

H.R. 5747. March 29, 1977. International Relations. Amends the Foreign Assistance Act of 1971 to authorize appropriations for FY 1978 for disaster relief, international narcotics control, military assistance, security supporting assistance, international military education and training, and the Middle East Special Requirements Fund.

Amends the Arms Export Control Act to authorize appropriations to carry out such Act. Increases the ceiling of credits and loans for foreign military sales. Exempt arms exports to certain countries from certain restrictions on major arms exports.

H.R. 5748. March 29, 1977. International Relations. Amends the Foreign Assistance Act of 1971 to authorize the President to make available development assistance to least developed countries.

Authorizes appropriations for fiscal year 1978 for: (1) food and nutrition assistance; (2) population planning; (3) health assistance; (4) technical, urban, and economic development; (5) education and human resources development; (6) American schools and hospitals abroad; (7) housing and credit guaranties; (8) international organizations and programs; (9) international disaster assistance; and (10) assistance to the Sahel region and to Lebanon.

Authorizes the President to study factors affecting population growth and family planning.

H.R. 5749. March 29, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5750. March 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 5751. March 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay specified sums to certain corporations in full settlement of such corporations' claims against the United States.

H.R. 5752. March 29, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5753. March 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 5754. March 30, 1977. Small business. Authorizes the Small Business Administration to make Grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 5755. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to tax the unrelated income of tax-exempt organizations which is derived from farm real property.

H.R. 5756. March 30, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property by interest of which a person divest himself by virtue of this prohibition.

H.R. 5757. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5758. March 30, 1977. Agriculture. Amends the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to extend through the 1981 crops specified provisions of the upland cotton program. Sets a new formula for the determination of the level for nonrecourse loans, and stipulates the established price per pound of cotton at 110 percent of the loan level. Sets conditions for, and formulas for the amounts of, mandatory special limited global import quotas.

H.R. 5759. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, natural gas, or telephone services.

H.R. 5760. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for orthopedic shoes or other supportive devices prescribed by a physician for correction or treatment of abnormalities of the feet or legs which cause serious detrimental medical effects.

H.R. 5761. March 30, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 5762. March 30, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, currently applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 5763. March 30, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health.

Directs the Secretary to consider certain factors in making such a determination.

H.R. 5764. March 30, 1977. Interstate and Foreign Commerce. Establishes a utility services stamp program to assist low-income and fixed income households in meeting monthly utility costs. Directs the Secretary of Health, Education, and Welfare to issue coupons and administer the program.

H.R. 5765. March 30, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to permit the Federal Communications Commission to deny the renewal of any radio or television broadcast license if the licensee has broadcast information relating to any serious crime in a manner which impeded law enforcement efforts.

H.R. 5766. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 5767. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 5768. March 30, 1977. Interstate and Foreign Commerce. Authories the Consumer Product Safety Commission to establish definitions and test methods relating to flammability and combustibility.

H.R. 5769. March 30, 1977. Post Office and Civil Service. Sets the postage rate for a postal card mailed to the official address of a Member of Congress by a constituent of such Member at an amount equal to the cost of the manufacture, printing, and delivery of such card.

H.R. 5770. March 30, 1977. Public Works and Transportation. Modifies the project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, to require non-Federal interests to contribute 25 percent of the costs for spoil disposal, unless waived by the Secretary of the Army upon certain findings by the Administrator of the Environmental Protection Agency regarding dredging plans and water quality standards.

H.R. 5771. March 30, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5772. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5773. March 30, 1977. Government Operations. Amends the Federal property and Administrative Services Act of 1949 to require Federal agencies which are about to dispose of surplus real property to first offer such property for sale to the person or entity from which such property was acquired by the Federal Government.

H.R. 5774. March 30, 1977. Interstate and Foreign Commerce. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this Act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 5775. March 30, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

Requires that a label warning of the possible risk of saccharin causing cancer be on packages of saccharin sold to the consumer.

H.R. 5776. March 30, 1977. Judiciary. Stipulates that if the relevant State judgment in a Federal habeas corpus action resulted from a trial in which illegally obtained evidence was admitted then the judgment shall have no more validity that it would have had in a proceeding for appellate review.

H.R. 5777. March 30, 1977. Public Works and Transportation. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe if it induces cancer when ingested by man or animal in quantities pathologically significant to man.

H.R. 5778. March 30, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to redefine the

term "navigable waters" to include only those waters capable of transporting interstate or foreign commerce shoreward to the ordinary high water mark.

H.R. 5779. March 30, 1977. Public Works and Transportation. Amends the Water Pollution Control Act to permit the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill materials into wetlands adjacent to navigable waters.

H.R. 5780. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to provide honorably discharged veterans of the Vietnam war a refundable $500 income tax credit for taxable years ending between 1976 and 1980.

H.R. 5781. March 30, 1977. Judiciary. Stipulates that, for the purpose of determining retirement pay of judges of district courts for the territories and possessions of the United States, no such judge shall be deemed to have received a salary of less than $62,000 at the time of relinquishing office.

H.R. 5782. March 30, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 5783. March 30, 1977. Post Office and Civil Service. Prohibits the U.S. Postal Service from closing any post office which serves a rural area or small town unless: (1) a majority of the persons regularly served by such post office approve the closing; (2) it establishes a rural station or branch which provides the same postal services as the post office and does not result in any change in the address of persons served by such post office; or (3) it establishes a rural route to serve the area. Allows the Postal Service to establish a rural route as a substitute for an existing post office upon making specified determinations.

H.R. 5784. March 30, 1977. International Relations. Directs the President to develop a plan for the phased withdrawal of all United States ground forces from the Republic of Korea beginning no later than July 1, 1978, and ending before July 1, 1981.

H.R. 5785. March 30, 1977. Public Works and Transportation. Names the lake located behind Lower Monumental Lock and Dam, Washington "Lake Hebert G. West."

H.R. 5786. March 30, 1977. Interior and Insular Affairs. Requires the Secretary of the Interior to: (1) designate the home of Charles S. Pierce, known as Arisbe House, in the Delaware Water Gap National Recreation Area, Pennsylvania, a national historic site; (2) establish and maintain a museum in such house; and (3) construct a building near such house to be used as a center for the study of philosophy.

H.R. 5787. March 30, 1977. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to condition certain assistance to States, local governments, and agencies thereunder on the adoption of a law enforcement officers' bill of rights.

H.R. 5788. March 30, 1977. Public Works and Transportation. Establishes a program designed to place a solar hot water and space heating devices in Federally-owned buildings. Establishes a program for the annual acquisition of photovoltaic solar electric systems, primarily for use by the Department of Defense.

H.R. 5789. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for psychologists' services under the supplementary medical insurance program. Amends Title XI (General Provisions) of the Social Security Act to require that psychologists be included in any Professional Standards Review Organization appointed under such title.

H.R. 5790. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to provide payment for services performed by professional clinical social workers. Includes outpatient services, community mental health centers, and neighborhood health centers among "qualified providers" under Titles XVIII and XIX. Removes specified limitations which are imposed on coverage of psychiatric and mental health services under such Titles.

H.R. 5791. March 30, 1977. Judiciary. Authorizes the Attorney General to (1) institute a civil suit for or in the name of the United States whenever there is reasonable cause to believe that a person involuntarily confined in a State correctional or health facility is being deprived of Federal constitutional or statutory rights, and (2) intervene in a case for deprivation of Federal rights brought on behalf of a person so confined.

Prohibits a person involuntarily confined in a State institution from bringing a Federal action under a certain Civil Rights Act unless State administrative remedies have been exhausted.

H.R. 5792. March 30, 1977. Judiciary. Authorizes a Federal court, upon a recommendation of the attorney for the government, to place any individual charged with a criminal offense under a program of community supervision if the court finds that the individual may benefit by such placement and that such placement is not contrary to public interest.

Authorizes the chief judge of each district to appoint an advisory committee for each program of community services and supervision within the district. Specifies the duties of such committees and of United States probation officers in carrying out such programs.

H.R. 5793. March 30, 1977. Judiciary. Authorizes Federal Prison Industries to assist qualified applicants to establish, develop, or expand projects for training and/or employing offenders.

Establishes, for the purpose of carry out the assistance program, a Federal Employment and Training Fund within the Treasury.

Includes, under the Social Security Act, and subject to employment taxes, services performed by inmates in a penal institution.

Authorizes the chief judge of each district into agreements with States to assist them in establishing offender training and employment programs.

H.R. 5794. March 30, 1977. Judiciary. Establishes procedures for the application, approval, and extension of orders authorizing the use of electric surveillance for foreign intelligence purposes. Permits the Attorney General to authorize emergency employment of such surveillance for 24 hours in the absence of a judicial order.

H.R. 5795. March 30, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 5796. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to deny the foreign tax credit for taxes paid or accrued to the Republic of South Africa.

H.R. 5797. March 30, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Develoement Act of 1974 to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amounts to which they are presently entitled.

H.R. 5798. March 30, 1977. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

H.R. 5799. March 30, 1977. Judiciary. Revises the range of additional sentences authorized to be imposed under the Gun Control Act for the commission of a felony with the use of or while carrying a firearm.

Prohibits a suspended or probationary sentence with respect to a first, as well as to a subsequent, conviction for such an offense.

H.R. 5800. March 30, 1977. Interior and Insular Affairs. Authorizes the Secretary of Health, Education, and Welfare to establish a national adoption information exchange system.

H.R. 5801. March 30, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to create the Disabled Eagle passport program under which disabled persons are admitted free to designated admission fee areas in national parks and national recreation areas.

H.R. 5802. March 30, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to redefine the term "single visit" for purposes of establishing admission fees to designated units of the National Park System.

H.R. 5803. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for agency fees, court costs, attorney's fees and other necessary costs and fees incurred in the adoption of a child.

H.R. 5804. March 30, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 5805. March 30, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 5806. March 30, 1977. Interior and Insular Affairs. Establishes a revised system for Federal regulation of hardrock mining activities on Federal lands. Authorizes the Secretary of the Interior to issue prospecting licenses, and leases for exploration and development and production only if prescribed environmental criteria are met.

Imposes limits on the control of large tracts or lands or various aspects of mining operations by a single entity involved in mining of Federally leased lands.

H.R. 5807. March 30, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and promulgate model youth camp safety standards within six months after the enactment of this Act. Authorizes Federal financial assistance to States for the development of State youth camp safety plans with enforcement mechanisms.

Terminates the assistance program on September 30, 1980.

H.R. 5808. March 30, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include within the meaning of the term "hospital" under such Title, rural health facilities of 50 beds or less.

Sets forth exceptions to staffing, health, and safety requirements set forth for hospitals in the definition of such term.

H.R. 5809. March 30, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 5810. March 30, 1977. Interior and Insular Affairs. Makes changes in the management program of Redwood National Park including authorizing the Secretary of Agriculture to alter the boundaries of the Park Protection Zone. Authorizes the Secretary to acquire specified lands and sets forth procedures for such takings.

H.R. 5811. March 30, 1977. Merchant Marine and Fisheries. Authorizes the Secretary of the Treasury to issue permits to foreign-flag vessels allowing them to carry passengers from ports on the east and gulf coasts of the United States and ports in Puerto Rico until such time as the Secretary determines that there is sufficient service on United States vessels to carry such trade.

H.R. 5812. March 30, 1977. Armed Services; Judiciary; Government Operatons; Ways and Means. Reorganizes the intelligence agencies of the United States. Restricts the collection of information on any American. Limits the use of specified persons and specified methods to collect foreign intelligence. Creates civil remedies for persons whose rights have been abridged by a Federal officer acting under color of law.

H.R. 5813. March 30, 1977. District of Columbia. Requires the Mayor of the District of Columbia to include in the annual budget estimates of the Mayor, beginning with fiscal year 1977, the estimated value of water, water services, and sanitary sewer services to be furnished to the United States during the fiscal year for which such budget estimates were prepared.

Stipulates that nothing contained in this Act relieves the United States of its obligation to make payments for the water, water services and sewer services provided prior to fiscal year 1977.

Requires payment by October 1977 for all such services outstanding on that date, subject to adjustment within two fiscal years.

H.R. 5814. March 30, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Requires the Federal Trade Commission to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 5815. March 30, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Requires the Federal Trade Commission to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 5816. March 30, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Requires the Federal Trade Commission to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 5817. March 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5818. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5819. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a deduction for tuition expenses paid by the taxpayer during the taxable year to any institution of higher learning for the education of the taxpayer, his spouse, or any dependent to the extent the expenses exceed three percent of the adjusted gross income of the taxpayer for the taxable year.

H.R. 5820. March 30, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5821. March 30, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5822. March 30, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 10 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5823. March 30, 1977. Agriculture. Authorizes the Secretary of Agriculture, under the Agricultural Act of 1970, to: (1) include hay in the separate reserve of commodities held for the alleviation of distress caused by a natural disaster; and (2) purchase, through the Commodity Credit Corporation, wheat, feed grains, soybeans and hay in order to establish and maintain such reserve inventories.

H.R. 5824. March 30, 1977. Interstate and Foreign Commerce. Requires anyone utilizing sales representatives to solicit orders for merchandise to indemnify such representatives for income lost because the principal has taken away on account of such representative, decreased his or her territory, or reduced his or her rate of commission.

Sets forth provisions which must be covered by any contract between a sales representative and a principal providing for employment of such representative.

H.R. 5825. March 30, 1977. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement systems which allow retirement credit to teachers for out-of-state teaching service.

H.R. 5826. March 30, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 5827. March 30, 1977. Judiciary. Directs the Attorney General to establish special drug forces in the Department of Justice composed of law enforcement personnel and special United States Attorneys.

Declares the duty of the drug forces to be to assist States and local governments in which there is an unusually large amount of drug trafficking and whose law enforcement and criminal justice system is unable to effectively prosecutive violations of the Controlled Substances Act.

H.R. 5828. March 30, 1977. Judiciary. Directs the Attorney General to establish Special Drug Forces in the Department of Justice composed of law enforcement personnel and special United States attorneys.

Declares the duty of the drug forces to be to assist States and local governments in which there is an unusually large amount of drug trafficking and whose law enforcement and criminal justice system is unable to effectively prosecute violations of the Controlled Substances Act.

H.R. 5829. March 30, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act and the Safe Drinking Water Act to authorize appropriations for fiscal years 1978 and 1979 to enable the Administrator of the Environmental Protection Agency to carry out specified programs related to the improvement of public water supply services.

H.R. 5830. March 30, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations to extend through fiscal year 1979, for Federal aid to States for public water system supervision programs.

Requires the Administrator of the Environmental Protection Agency to submit a report to Congress analyzing the anticipated cost of compliance with revised national primary drinking water regulations and methods of paying cost of compliance.

H.R. 5831. March 30, 1977. Interior and Insular Affairs. Establishes revised procedures governing the development of mineral resources on Federal lands.

H.R. 5832. March 30, 1977. International Relations. Directs the President to submit a plan to the Speaker of the House of Representatives and to specified committees of the Senate for: (1) the phased withdrawal of all United States Armed Forces and all United States tactical nuclear weapons from Korea beginning no later than fiscal year 1979 and ending by the end of fiscal year 1981; and (2) the modernization of the Armed Forces of the Republic of Korea.

H.R. 5833. March 30, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock or products contain quantities of toxic chemical dangerous to the public health.

H.R. 5834. March 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to raise the amount by which an individual's social security benefits are to be increased on account of delayed retirement.

H.R. 5835. March 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to a minimum of $3,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 5836. March 30, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5837. March 30, 1977. Judiciary. Deems a certain retired military officer completed 20 years of service before the date of his sixtieth birthday for purposes of retirement pay.

H.R. 5838. March 30, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5839. March 30, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 5840. March 31, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

H.R. 5841. March 31, 1977. Interstate and Foreign Commerce. Amends the Federal Power Commission to take additional steps to improve the efficiency in the generation of electricity and to meet anticipated shortages. Establishes procedures to eliminate unfair methods of competition and discriminatory rate structures. Requires hearings prior to increases in utility rate schedules.

Establishes procedures for planning of bulk power facilities by electric utilities. Imposes national minimum standards for State-regulated and nonregulated utilities.

Amends the Energy Conservation and Production Act to authorize Federal assistance to State regulatory agencies. Establishes procedures for representation of consumer interests in Federal Power Commission proceedings.

H.R. 5842. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include the services of licensed practical nurses under the coverage provided pursuant to such titles.

H.R. 5843. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles owned by individuals from the highway motor vehicle use tax.

H.R. 5844. March 31, 1977. Agriculture. Establishes the Research and Demonstration Planning Committee within the Department of Agriculture to assist State departments of agriculture to determine appropriate agricultural conservation research projects. Directs the Secretary of Agriculture to make grants to such State departments, and requires recipient departments to establish model farms and agricultural conservation demonstration projects.

H.R. 5845. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide alternative limited tax credits or deductions for the expenses paid for periodic physical examinations. Amends the Social Security Act to provide for coverage of periodic physical examinations in the Medicare and Medicaid programs.

H.R. 5846. March 31, 1977. Armed Services. Excludes industrially funded personnel from the computation of the end strength for civilian personnel within the Department of Defense for any fiscal year.

H.R. 5847. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow as an individual income tax deduction a reasonable allowance for salaries or other compensation for personal services actually rendered but not otherwise deductible paid to any individual during the taxable year.

H.R. 5848. March 31, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5849. March 31, 1977. Government Operations. Amends the Budget and Accounting Act of 1921 to authorize the Comptroller General to request and receive all necessary documents relating to any expenditure by a Federal agency to determine whether such expenditure was, in fact, made and was authorized by law.

H.R. 5850. March 31, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 5851. March 31, 1977. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize the issuance of interim ocean dumping permits through 1981, in accordance with specified conditions and limitations. Requires additional studies of ocean dumping of biological, chemical, and radiological materials.

H.R. 5852. March 31, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 5853. March 31, 1977. Ways and Means. Authorizes the appropriation to the Department of the Treasury of such sums as may be necessary for the Customs Service to carry out its functions in the fiscal years, 1980 and 1981.

H.R. 5854. March 31, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act: (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5855. March 31, 1977. Judiciary. Establishes a system for a settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 5856. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 5857. March 31, 1977. Agriculture. Authorizes the Secretary of Agriculture to pay up to three-fourths of the actual cost of transporting a maximum 90-day, or when conditions warrant, a continuing supply of water from areas in which water is in plentiful supply to rural areas and livestock producers in major disaster or emergency areas, or in areas where the Secretary determines such action necessary to protect the public health and welfare.

H.R. 5858. March 31, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of crude petroleum and crude shale oil from Canada, when an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum and crude shale oil has been exported to Canada within 30 days prior to entry.

H.R. 5859. March 31, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the age limitation before which passenger ships delivered on or after December 1, 1952, can qualify for operating differential subsidies from 25 to 30 years.

H.R. 5860. March 31, 1977. Ways and Means. Authorizes the appropriation to the Department of the Treasury of such sums as may be necessary for the Customs Service to carry out its functions in the fiscal years 1980 and 1981.

H.R. 5861. March 31, 1977. Interstate and Foreign Commerce. Prohibits the Federal Trade Commission from promulgating trade regulation rules which repeal or limit use of holder in due course defenses in connection with the sale or lease of goods or services to consumers.

H.R. 5862. March 31, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation. Creates the Columbia Basin Energy Corporation to assist in the development of energy resources in the Pacific Northwest region. Stipulates that the responsibilities of such corporation shall include developing and generating electric energy, encouraging implementation of energy conservation measures, and encouraging development of alternate forms of energy. Establishes a separate fund in the Treasury to finance the activities of the Corporation.

H.R. 5863. March 31, 1977. Agriculture. Establishes within the Department of Agriculture an Advisory Committee on Timber Sales Procedures to study the methods by which the Forest Service sells timber and to make independent recommendations with respect to establishing procedures for such sales.

H.R. 5864. March 31, 1977. Judiciary. Approves a proposed amendment to the Federal Rules of Criminal Procedure relative to verdicts by juries less than 12 contained in an April 26, 1976 Supreme Court order.

Modifies and approves proposed amendments in such order relative to disclosure of grand jury proceedings and factfinding in nonjury trials.

Disapproves proposed amendments in such order relative to peremptory jury challenges, removal of State prosecutions, and search warrants based on oral testimony.

H.R. 5865. March 31, 1977. Judiciary. Amends the Federal Rules of Criminal Procedure to authorize issuance of a search warrant upon sworn oral testimony, communicated by telephone or otherwise, of a person not physically present before a magistrate if the magistrate is satisfied that probable cause exists.

H.R. 5866. March 31, 1977. Judiciary. Amends procedures for removing State criminal actions to Federal court to require, absent good cause, that the removal petition be filed within ten days of arraignment. Directs a United States district court, upon receiving a criminal removal petition, to promptly examine it and, if it is not appropriate for summary dismissal, conduct an evidentiary hearing.

H.R. 5867. March 31, 1977. Interstate and Foreign Commerce. Stipulates that any regulation issued under the Federal Food, Drug, and Cosmetic Act concerning the safety of saccharin as a food additive shall not take effect until two years from the date of enactment.

H.R. 5868. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the reimbursement of all of a taxpayer's reasonable litigation expenses, including attorney's fees, in any legal action commenced by the Government, or any action instituted by a taxpayer contesting the accuracy of a deficiency assessment of claiming a refund, in which the taxpayer substantially prevails, or the Government withdraws.

H.R. 5869. March 31, 1977. Public Works and Transportation. Provides that the lake referred to as "Laurel River Lake" on the Laurel River, Kentucky, shall hereafter be known as the "John Sherman Cooper Lake," and that the dam forming such lake shall hereafter be referred to as the "John Sherman Cooper Dam."

H.R. 5870. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5871. March 31, 1977. Appropriations. Appropriates funds for school assistance in federally affected areas for the fiscal year ending September 30, 1978.

H.R. 5872. March 31, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy commissions technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 5873. March 31, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy commissions technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 5874. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters, or to their dependents, widows to other survivors to the extent that such benefits are based on full-time service for a governmental entity.

H.R. 5875. March 31, 1977. Interstate and Foreign Commerce. Stipulates that any regulation passed under the Federal Food, Drug, and Cosmetic Act concerning the safety of saccharin as a food additive shall not take effect until two years from the date of enactment.

H.R. 5876. March 31, 1977. Post Office and Civil Service; Rules. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to reestablish the Commission on Executive, Legislative, and Judicial Salaries as an entity meeting for one year out of every four years to recommend adjustments in pay for executive, judicial, and congressional salaries to the President who in turn is required to make specific salary level recommendations to Congress. Makes such recommendations automatically effective unless disapproved by Congress. Prohibits annual salary comparability increases in years in which pay adjustments have been made under this Act.

H.R. 5877. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 5878. March 31, 1977. Interstate and Foreign Commerce; International Relations. Directs the Federal Energy Administrator to study the feasibility and effects of establishing price, allocation, and export controls on coal, natural gas, nuclear materials, and other energy sources.

H.R. 5879. March 31, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt the Columbia Dam and Reservoir in Tennessee from certain prohibitions against the harming or killing of endangerd or threatened species attributable to the construction of such dam.

H.R. 5880. March 31, 1977. Judiciary; Rules. Authorizes the President to delay for up to one year the statutory deadline for promulgating rules by an agency to permit more time for data collection and conferring with affected parties. Makes such delay subject to Congressional disapproval. Requires wider publication of proposed rules, inclusion of a paperwork impact statement in such publication, a rule promulgation period of at least 30-days, and a 45-day period between publication of a substantive rule and its effective date.

H.R. 5881. March 31, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industy rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5882. March 31, 1977. Agriculture. Declares the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to study, issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and imoroving such land.

H.R. 5883. March 31, 1977. Agriculture. Declares the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to study, issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 5884. March 31, 1977. Public Works and Transportation. Authorizes the Secretary of Commerce to establish a program of Federal grants and loans to assist emergency drought impact areas.

H.R. 5885. March 31, 1977. Public Works and Transportation. Authorizes funds to be appropriated for the prosecution of the comprehensive plan of development of specified river basins. Amends the Flood Control Act to authorize the Secretary of the Army to construct bank protection works along specified sections of the Sacramento River, California.

H.R. 5886. March 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living pay adjustments for Members of Congress.

Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to salaries of Members of Congress effective only upon a resolution by the Congress approving such recommendations.

H.R. 5887. March 31, 1977. Agriculture. Amends the Food Stamp Act of 1964 by revising: (1) eligibility standards; (2) the method of determining the amount of the coupon allotment; (3) administration of the program by State agencies, including the eligibility certification procedure and duties imposed on issuing agents; and (4) the method of computing the Federal share of program costs and of making payments to the States. Transfers the functions of the Secretary of Agriculture under the Food Stamp Act of 1964 to the Secretary of Health, Education, and Welfare.

H.R. 5888. March 31, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to make insurance against damage caused by the movement of frozen water into property located along shorelines available under the national flood insurance program.

H.R. 5889. March 31, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 5890. March 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit any cost-of-living adjustments to the salaries of Senators and Representatives which take effect before October 1, 1978.

H.R. 5891. March 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit any cost-of-living adjustments to the salaries of Senators and Representatives which take effect before October 1, 1978.

H.R. 5892. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 5893. March 31, 1977. Ways and Means. Amends the Social Security Act to establish under Title IV (Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services) a program of Foster Care Services.

Sets forth the requirements for State plans for the administration of such services.

Directs the Secretary of Health, Education, and Welfare to publish a set of uniform adoption regulations to facilitate adoptions.

H.R. 5894. March 31, 1977. Science and Technology. Authorizes and directs the Secretary of Commerce to make grants to local fire departments to pay up to one-half the cost of purchasing firefighting equipment.

H.R. 5895. March 31, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Replaces the existing program with a new program substantially similar, but: (1) eliminates charges for coupon allotments and makes coupons redeemable for cash; (2) requires national income standards of eligibility to be income guidelines for the non-farm United States prescribed by the Office of Management and Budget; (3) directs that food stamp applications be included on application forms for other public assitance programs; and (4) directs the Secretary to make contracts or grants for research that will help improve the administration and effectiveness of the food stamp program.

H.R. 5896. March 31, 1977. Banking, Finance and Urban Affairs. Authorizes the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association.

Amends the Housing and Urban Development Act of 1968 to extend the counseling and technical assistance in federal coinsurance and insurance programs.

H.R. 5897. March 31, 1977. Judiciary. Makes it unlawful to manufacture or transfer any handgun not meeting cetrain specifications or to modify any handgun if such modification results in the handgun no longer meeting such specifications.

Imposes certain mandatory prison terms for using, offering to use, carrying, or displaying a handgun during the commission of a Federal felony.

Revises certain exceptions to prohibitions against commerce in firearms by repealing the "generally suitable for sporting purposes" test and permitting commerce in circumstances otherwise complying with such exceptions so long as the firearms involved are not concealable handguns or handguns not meeting specifications.

H.R. 5898. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to change the tax exemption for wine produced for personal consumption to allow an adult to produce: (1) 200 gallons of wine for personal consumption per year if there are two or more adults in the household; or (2) 100 gallons for such consumption if there is only one adult in the household. Allows a tax exemption for beer produced by an adult for personal consumption in the amounts set forth above.

H.R. 5899. March 31, 1977. Judiciary. Amends Title VIII of the Civil Rights Act of 1968 relating to fair housing to allow the Secretary of Housing and Urban Development to initiate a civil action to enforce the provisions of such Title. Permits the court to award attorney fees to the prevailing plaintiff, whether or not plaintiff is financially able to assume such fees.

H.R. 5900. March 31, 1977. Ways and Means. Interstate and Foreign Commerce; Education and Labor; Government Operations. Establishes, as a new executive agency, the Social Security Administration.

Revises the administration of Old-Age, Survivors, and Disability Insurance, Medicare, and Supplemental Security Income under the Social Security Act. Transfers the responsibility for administering these programs and the health standards provisions of the Federal Coal Mine Health and Safety Act from the Department of Health, Education, and Welfare to such newly established Administration.

H.R. 5901. March 31, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from considerations as household income for purposes of determining: (1) eligibility for participation in the food stamp programs; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 5902. March 31, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal Housing programs.

H.R. 5903. March 31, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 5904. March 31, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 5905. March 31, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipients of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age Survivors, and Disability Insurance) of the Social Security Act.

H.R 5906. March 31, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R 5907. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5908. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorized Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5909. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5910. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar. renewable source, or other energy conserving measures and equipment.

H.R. 5911. March 31, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 5912. March 31, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 5913. March 31, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 5914. March 31, 1977. Science and Technology: International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 5915. March 31, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 5916. March 31, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 5917. March 31, 1977. Science and Technology; International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 5918. March 31, 1977. Science and Technology; International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 5919. March 31, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 5920. March 31, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for

evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5921. March 31, 1977. Small Business; Science and Technology. Amends the Small Business Act to authorize the Small Business Administration to make loans to small business engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 5922. March 31, 1977. Small Business; Science and Technology. Amends the Small Business Act to authorize the Small Business Administration to make loans to small business engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 5923. March 31, 1977. Small Business; Science and Technology. Amends the Small Business Act to authorize the Small Business Administration to make loans to small business engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 5924. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and businesses.

H.R. 5925. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and business.

H.R. 5926. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and business.

H.R. 5927. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and businesses.

H.R. 5928. March 31, 1977. Judiciary. Authorizes classification of a certain individual as a natural born daughter of U.S. citizens for purposes of the Immigration and Nationality Act.

H.R. 5929. March 31, 1977. Judiciary. Specifies the tax treatment of certain individuals under the Internal Revenue Code.

H.R. 5930. March 31, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individual in full settlement of such individual's claims against the United States.

H.R. 5931. March 31, 1977. Judiciary. Allows the claim of a certain individual concerning his overseas service in the U.S. Army to be considered notwithstanding the provisions of law barring such a claim.

H.R. 5932. March 31, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5933. March 31, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5934. April 4, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to designate lands in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site and to acquire and manage such lands.

H.R. 5935. April 4, 1977. Agriculture. through the Statistical Reporting Service, to take an enumeration of horses in the United States, by the "sampling" method if preferred, in 1978 and in every fifth year beginning after 1978.

H.R. 5936. April 4, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist in acquiring specially adapted housing for those veterans who have a permanent and total service-connected disability due to the loss, or loss of use, of one upper and one lower extremity, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

H.R. 5937. April 4, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5938. April 4, 1977. Veterans' Affairs. Extends from ten to 15 years the delimiting period in which a veteran's educational assistance must be used; except that if at the close of such 15-year period any eligible veteran is pursuing a program of education, assistance shall continue until such veteran completes or ceases to pursue it.

H.R. 5939. April 4, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by an educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself. Ends the current inclusion in the 85 percent of students whose fees are paid by grants from any other Federal agency.

H.R. 5940. April 4, 1977. Ways and Means. Establishes the Internal Revenue Administration in the executive branch of the Federal Government for the purpose of administering and enforcing the Internal Revenue Code.

Transfers all present functions, instructions, rules, or regulations which were promulgated or administered by the Secretary of the Treasury or his delegate with respect to the enforcement of the Internal Revenue Code, to the Internal Revenue Administration.

H.R. 5941. April 4, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 5942. April 4, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 5943. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to provide an income tax credit for expenses incurred in the conversion of farm and ranch land into qualified wind erosion control or wildlife habitat areas.

H.R. 5944. April 4, 1977. Government Operations. Authorizes the head of any Federal agency to procure property or services for such agency from areas of high unemployment if such agency head determines that bids of offers will be obtained from a sufficient number of eligible concerns to assure that awards will be made at reasonable prices.

H.R. 5945. April 4, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 5946. April 4, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 5947. April 4, 1977. Agriculture. Repeals all the price support and marketing provisions relating to tobacco of the Agricultural Act of 1949, the Agricultural Adjustment Act of 1938, and related laws. Prohibits the Commodity Credit Corporation, under its Charter Act, from exercising any of its specified powers with respect to tobacco.

H.R. 5948. April 4, 1977. Agriculture. Repeals all the price support and marketing provisions relating to tobacco of the Agricultural Act of 1949, the Agricultural Adjustment Act of 1938, and related laws. Prohibits the Commodity Credit Corporation, under its Charter Act, from exercising any of its specified powers with respect to tobacco.

H.R. 5949. April 4, 1977. Judiciary. Establishes a Public Integrity Section within the Department of Justice. Authorizes the section to among other things, (1) investigate and prosecute official misconduct, (2) train and supervise appropriate employees of the Department of Justice and take other measures to facilitate investigation and prosecution of official misconduct, and (3) monitor legal developments relative to prosecution of official misconduct.

H.R. 5950. April 4, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

SENATE—*Tuesday, October 4, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, we thank Thee for food and clothes and shelter sufficient for so many people of this land of abundance. On this "Day of Bread" make us mindful of those here and in other lands who are unfed and without hope. Give us wisdom to strive for that day when hunger is no more, when all people partake of the bounty of the Earth and live in fellowship with Thee and with one another. As we pray "Give us this day our daily bread" may we remember that man does not live by bread alone but by "every word of God." Nourish our souls on the "bread of life" until at last all men live in Thy kingdom which is both visible and invisible, temporal and eternal and the law of love rules all men's hearts. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 4, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWARD M. METZENBAUM, a Senator from the State of Ohio, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. METZENBAUM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, September 29; Friday, September 30; Saturday, October 1; and Monday, October 3, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Education, Arts, and Humanities Subcommittee of the Human Resources Committee be authorized to meet during the session of the Senate on Tuesday, October 4, 1977, today, to discuss the Education Amendments of 1977, S. 1753.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the Chair for recognition. I have no requirement for my time under the standing order, and I yield it back.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair.

PROPOSED PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, the last 2 or 3 weeks the leadership has been gracious enough to me to allow me three times a week to have time reserved for the purpose of discussing the Panama Canal treaties.

This morning I am to testify before the Committee on Foreign Relations in opposition to the treaties, and, for my remarks this morning, I ask unanimous consent that there may be printed in the RECORD a copy of the statement I will give in just a few moments before the Committee on Foreign Relations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY JAMES B. ALLEN

Mr. Chairman, thank you very much for affording to me an opportunity to state to you and to the distinguished members of the Committee on Foreign Relations my reasons for opposing ratification of the proposed Panama Canal Treaty and the proposed, so-called neutrality treaty. Although the defects in both documents are legion, in my judgment there are five major flaws, each of which on its own ground would warrant complete rejection of the arrangements negotiated, inasmuch as each would independently damage the national interest of the United States to such extent as to render it improper for the Senate to give its assent.

The five major defects, at least as I see it, are (1) the failure of the Canal Treaty to provide for an adequate defense of the Canal during the proposed 23-year term of the treaty, (2) the failure of the neutrality treaty to grant to the United States the unilateral right to intervene to assure the neutrality of the Canal Zone, (3) the astonishing provision of the Canal Treaty which forbids the United States even to negotiate with another nation for construction of a sea level canal without the express consent of Panama, (4) the decision embodied in the Canal Treaty and related loan agreements to pay to Panama some $2.262 billion, and (5) the failure of the Canal Treaty to require Congressional authorization for its proposed cession to Panama of United States territory and property.

DEFENSE OF THE CANAL

In order to understand the defense provisions of the proposed treaty, care must be taken to examine in detail the Executive Agreement in Implementation of Article IV of the Canal Treaty. Moreover, further study must be given to the annexes to the executive agreement, to the annexes to the annexes, and to the various notes, minutes, and protocols—all of which form the fabric of the joint military defense we would undertake with Panama.

I am particularly concerned, Mr. Chairman, that the drafters of the Canal Treaty saw fit to set forth the major substantive defense provisions not in the Canal Treaty in its Article IV, which is entitled "Protection and Defense," but instead in the Executive Agreement in Implementation of Article IV—an agreement which is several times as large as the entire Canal Treaty itself. Article IV of the Canal Treaty does not cover a complete printed page, yet the Agreement in Implementation of Article IV is some 53 pages long, excluding annexes and excluding an additional 22 pages of agreed minutes, the minutes themselves having their own annexes. So, Mr. Chairman, we have critical defense provisions not in the text of the treaty but rather in this executive agreement and in other extrinsic documents which could be modified from time to time by the executive branch with no requirement whatever to obtain the assent of the Senate.

Moreover, Mr. Chairman, the defense provisions set forth in the executive agreement are themselves unworkable and portend a complete withdrawal of the U.S. forces from the Canal Zone well in advance of the projected date of 2000 AD. The Administration proposes in this first executive agreement to surrender 10 out of 14 bases. Thus, we are asked at the outset to permit the surrender of 10 out of 14 military bases and to permit our forces defending the Canal to be hemmed in from day one in 4 relatively small enclaves. These bases would indeed be enclaves because our freedom of action outside of the 4 bases would be severely limited by the treaty requirement for approval of operations by a joint military board in which the United States and Panama will have equal authority. Apparently, the doctrine of unity of command is imperfectly understood at the Department of State, but the Panamanians no doubt recognize fully that this provision of the executive agreement would give a *de facto* veto of United States operations outside of the 4 retained bases.

So our forces would be restricted to 4 relatively small enclaves, and only the naive would doubt that we would very soon see pressure on our forces to withdraw from the 4 sites retained. That process of withdrawal would be facilitated by the fact that the executive department could close down any one or all of the remaining bases by amendment of the executive agreement with the stroke of a pen without the consent of the Senate or the consent of the Congress. Now, Mr. Chairman, the members of the distinguished Committee may not think that this process of accelerated withdrawal is contemplated, but I would call attention to the provision of the executive agreement implementing Article IV which provides explicitly that the agreement will be renegotiated every two years or upon the request of either government and thus tacitly acknowledges what is coming.

This treaty is for a proposed term of 23 years. Yes, we are going to need tough-minded negotiators if we plan to hang on to these 4 defense sites for a term of 23 years with the Panamanians hounding us daily for complete withdrawal and with our own government already proposing to negotiate the matter on a biennial basis or upon request. Frankly, Mr. Chairman, these 4 defense sites would rest on a foundation of sand if, by Senate ratification of the Canal Treaty, the Department of State were to be given the right to agree—and they seem pretty agreeable with this dictator down there in Panama—if the Department of State were to be given the right to agree with Panama more or less at any time that the time was propitious to shut down another base.

Finally, Mr. Chairman, I would ask the Committee to consider carefully the feasibility of successful joint military operations with Panamanian forces. Over the long term we can expect problems. How can we expect full cooperation from an Army whose recruits are taught to chant in unison at their recruit training base at Fort Cimmaron, "Down with the Yankees, death to the Yankees, to the wall with the Yankees." No, Mr. Chairman, over the long term we would be naive in the extreme to expect full cooperation from Panama in any joint defense of the Canal.

CANAL NEUTRALITY

Closely related to the issue of defense is the failure of the executive branch to negotiate for the United States a right to defend the neutrality of the Canal after 2000 AD. Much has been said in the media to the effect that the United States could unilaterally preserve Canal neutrality after a full withdrawal of U.S. forces from the Isthmus of Panama, but, Mr. Chairman, a careful reading of the neutrality treaty makes it evident that, in fact, the United States would have no such right whatsoever.

The neutrality treaty simply declares that the Canal Zone is neutral and sets forth an agreement by the United States and Panama that both parties recognize the Canal's neutrality. Nowhere is the United States granted permission to determine that the neutrality of the Canal is endangered or has been violated and nowhere is the United States granted the right to intervene to insure that the Canal is not made available to an enemy nation while being denied to our Navy and merchant ships.

Additionally, Mr. Chairman, the so-called right of expeditious transit given to United States warships is totally meaningless. The failure of our negotiators to insist on privileged passage for United States war vessels could permit Panama in an emergency to delay the movement of United States warships by simply requiring those vessels to transit the Isthmus on the same "expeditious" basis as merchant ships of all nations.

As Dr. Romulo Escobar Bethancourt, chief negotiator for Panama, put the matter, "If the gringos with their warships say, 'I want to go through first,' then that there is their problem with the other ships there." Regrettably, Mr. Chairman, Dr. Escobar's analysis of the practical meaning of our right to expeditious transit, although stated undiplomatically, is nevertheless precisely correct. His complete rejection of any claim that the United States is given the right to send troops to preserve Canal neutrality also accords accurately with the language in the text. In fact, the truth is, Mr. Chairman, that Dr. Escobar's construction of the neutrality treaty, unlike the construction placed on it by our own executive department, is a construction based on the language of the treaty itself rather than on wishful thinking or on the assertions of the mass media.

SEA LEVEL CANAL

From the language in the Canal Treaty rather than from press reports, we also learn that the United States would agree not to negotiate without Panamanian consent with any country except Panama for the right to construct an interoceanic canal on any other route in the Western Hemisphere. Mr. Chairman, knowing you as I do, I feel certain you share my astonishment that the negotiators for the United States saw fit to preclude any possibility of construction of a new interoceanic canal, perhaps at sea level, without our country first obtaining the express consent of a pro-Marxist and highly unstable military dictatorship. Why was this concession necessary? What did the United States gain from the concession?

I notice with some amusement, Mr. Chairman, that the Republic of Panama purports to grant to the United States of America the right to add a third lane of locks to the existing canal. Inasmuch as the United States already has the right to add a third lane of locks to the existing canal, surely our negotiators did not think that a meaningless concession of that variety was sufficient consideration for giving the Panamanians a veto over any other project we may wish to undertake to connect the two oceans. Certainly, the negotiators for the United States could not have felt that the Panamanian agreement to commit Panama "to study jointly the feasibility of a sea level canal" warranted a countervailing commitment from the United States not to do anything whatsoever without Panamanian permission—but perhaps so. The bizarre behavior of our negotiators has produced other results equally as startling.

In any event, Mr. Chairman, one thing is sure and that is that the Panamanians know they got the best of this bargain. Discussing the sea level canal issue, chief Panamanian negotiator, Romulo Escobar Bethancourt, on August 19, 1977, with pride explained to the Panamanian National Assembly the unilateral benefits of the so-called sea level canal options. Dr. Escobar's remarks on the subject, like his remarks on neutrality, are illuminating and are worth studying in full. As Dr. Escobar explains, instead of the United States obtaining an option to build a sea level canal, the United States negotiators gave to the Panamanians the option to veto construction of a sea level canal by the United States anywhere in the Western Hemisphere.

Now, Mr. Chairman, committing the United States to deal only with Panama about building another canal is a serious mistake. As the distinguished Chairman knows, the best route for a sea level canal is in Nicaragua, that being the route that Senator John Tyler Morgan favored during consideration of Isthmian routes in the early part of this century. Senator Morgan of Alabama, who was Chairman of the Senate Committee on Interoceanic Canals, felt strongly that Nicaragua provided a more favorable political and geographical solution to the immense problems involved in constructing a canal between the two oceans. Retrospectively, he may well have been correct, yet our present treaty negotiators propose to foreclose entirely the option Senator Morgan and many others favored, an option which should at least be kept open. Certainly, with the great volume of Alaskan oil which is only now beginning to come on stream and which must move to Gulf and East Coast refineries, any relinquishment of the right to negotiate for a sea level route in Nicaragua is a very grave mistake indeed.

$2.262 BILLION TO PANAMA FOR THE RIGHT TO CEDE THE CANAL ZONE TO PANAMA

So, Mr. Chairman, we are presented a treaty which does not provide for an adequate defense of the Canal, does not give the United States the right to intervene to guarantee neutrality, and does not allow the United States to initiate new canal projects except with Panama's consent. The Canal Treaty does, on the other hand, give the Canal Zone to Panama; it does eventually also give the Panama Canal Company to Panama; it does immediately give the most lucrative operations of the Panama Canal Company to Panama; it does give 10 United States military bases to Panama; it does give Panama political jurisdiction over 37,000 United States citizens living in the Canal Zone; and finally, Mr. Chairman, it gives to Panama over the life of the treaty $2.262 billion in 1977 dollars.

You know, Mr. Chairman, ordinarily the grantee pays the grantor, but our clever negotiators have figured out a way for us to give away the Canal Zone and pay the recipient at the same time. I will not insist on going into great detail on how this $2.262 billion in 1977 dollars is to be paid to Panama because I know the Committee is fully familiar with the financial ramifications of this proposed arrangement. However, I would recommend to the Committee a careful reading of a speech given on August 19, 1977, before the Panamanian National Assembly by Panamanian Planning and Economic Policy Minister Nicolas Ardito Barletta. Minister Barletta's analysis of the cash flow of this arrangement is, in my judgment, valid, and it is from his work that I have drawn the figure $2.262 billion.

Why are we proposing to pay these tremendous sums to Panama? Why would we permit these proposed toll increases which will surely burden commerce and inflate consumer prices in the United States? The only reason I can ascertain is a desire to provide Panama with funds to repay outstanding loans from the large international banks.

The Library of Congress did a study at my request which indicates that the external public debt of Panama is some $1.7 billion. Interest on that sum is a tremendous burden on this small country of only 1.7 million inhabitants, and already 40% of current revenues in Panama go to carrying present indebtedness. Stating the matter bluntly, Panama is on the verge of bankruptcy and many of our large banks hold loans which may soon be bad debts, that is, of course, unless the United States taxpayer rescues the banks by providing the funds to Panama for repayment.

Mr. Chairman, sooner or later the Congress must draw the line and stop robbing American taxpayers to extend funds to bankrupt Third World countries so that international banks can collect principal and interest on shaky loans. In my judgment, the international banks should be required to write off their bad debts, to write off at least some portion of the loans they made in error, and the international banks should be put on notice that the American taxpayer will not always guarantee a profit in any loan transaction with unstable governments. Perhaps, rejection of the Panama Canal Treaty would be a good method to send that message.

THE CONSTITUTION IGNORED

The final major defect in the treaties is perhaps the most significant since it represents a direct assault by the executive branch on the prerogatives of Congress and since it would set a precedent extending the authority of the executive branch far beyond the bounds contemplated by the authors of the Constitution of the United States.

Article IV, Section 3 of the Constitution provides that Congress "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Mr. Chairman, I know that the Attorney General has advised the Committee that the proposed treaties do not in any respect violate this clause, but with all due deference to him as a very able lawyer, I cannot share his rationalization of the clear language of the Constitution or his characterization of consistent past practice in our dealings with Panama.

In 1936 and again in 1955, cessions of United States territory to Panama were made

contingent on Congressional authorization. Yet now that a truly major cession of virtually all United States territory in the Isthmus of Panama is contemplated, the executive branch has seen fit to assert a novel theory by which the Administration would circumvent the Congress. The reason for development of this novel theory of Constitutional law is, I believe, a matter of practical politics rather than legal scholarship since public opposition to giving up the Canal is so overwhelming that any Congressional authorization of a cession of territory would be difficult, if not impossible to obtain.

But beyond the immediate question, if we in the Senate permit this circumvention of the role of the whole Congress in any cession of United States territory, we will be setting a very dangerous precedent which will surely be used again by this or future administrations to assert power in an area heretofore preserved to the Congress. My own guess is that we would next see this precedent applied to the Guantanamo Naval Base in Cuba, but perhaps other cessions of territory or property are also in the works.

So, Mr. Chairman, this Committee should not lightly endorse a departure from sound Constitutional principles simply for the political expediency of the moment. This Committee, should, instead, amend the proposed treaty at all approoriate points to make cessions of territory subject to the enactment of authorizing legislation by the Congress. I would hope that such an amendment would be one of many adopted in Committee to correct these glaring defects I have discussed.

RESERVATIONS, AMENDMENTS, AND THE FILIBUSTER

In summary, Mr. Chairman, I believe that the Senate should play a significant role in the formulation and revision of these proposed treaties so that the terms of any new arrangement with Panama can be made acceptable to the American public and so that the national security interests of the United States can be protected.

Mr. Chairman, I am sure you know of the early practice of including Senators in delegations sent to foreign countries for the purpose of negotiating treaties. That practice has unhappily in large measure ceased, and the Senate has been more and more asked for consent rather than advice. These treaties provide an excellent opportunity for the Senate to reafirm its Constitutional prerogative and, indeed, duty to advise the Executive—to advise the President—in matters of foreign policy, particularly with respect to treaty negotiation. The Senate can give its advice through the amending process. These treaties should be amended to cure their obvious defects, and since any amendment will require a renegotiation of the amended treaty, the Administration will be advised by these Senate amendments of what is acceptable to the Senate and to the people and what might later receive Senate consent.

Reservations to these treaties would be of little or no value. Reservations simply state the opinion of the Senate and do not have the full force and effect of law. No, Mr. Chairman, the defects in these treaties require outright amendment, and I strongly urge that the Committee take in hand the process of amending the treaties before reporting the treaties to the Senate, at which time the Senate will first receive them as the Committee of the Whole. Although there will be ample opportunity, I am certain, for amendment in the Committee of the Whole and on the floor of the Senate, certainly the Committee on Foreign Relations should play the leading role in molding and amending these documents and giving thereby to the Administration its advice on arrangements with Panama.

Finally, Mr. Chairman, I would comment that I do not foresee a filibuster of these proposed treaties. I do foresee a full discussion, legitimate debate, and consideration of substantive and serious amendments. A filibuster would be pointless, both because a filibuster could be stopped by 60 Senators whereas the treaties could be stopped by 34 Senators and because both treaties present questions which should be disposed of without undue delay.

Inasmuch as the concerns of the citizens of the United States are fairly evident, the Senate should with deliberation, but nevertheless promptly, discharge its duty in considering ratification. No good purpose would be served by having these proposed treaties more or less hanging around for years. They should be put to the test of ratification expeditiously, and it is my own sincere hope that the wisdom and desires of the people of the United States will be respected and that accordingly the treaties will be defeated.

Thank you for the opportunity to appear before this distinguished Committee and before its distinguished Chairman, who is my friend and senior colleague.

TWENTIETH ANNIVERSARY OF SPACE AGE

Mr. ALLEN. Now, on another subject, Mr. President, I wish to comment on what might well be called the 20th anniversary of the space age and of the contribution that was made by government facilities at Huntsville, Ala., in this great space effort.

Mr. President, historic facts cannot be denied, and it is a fact that on October 4, 1957, just 20 years ago today, the entire world was electrified by the successful launching by Russia of Sputnik One. The launching of that first satellite marked the beginning of a new era for all mankind, and, in looking back, the Russian "first" was the impetus necessary for America's belated entry into the space race and into the space age.

Although the Soviet Union had a running start, the United States now holds uncontested leadership in space exploration and development.

I am particularly proud of Alabama's outstanding contributions to our country's space effort. As another matter of historic fact, Explorer One, America's and the Free World's first satellite, was a product of the magnificent team of Army missile experts working at Redstone Arsenal, Ala., which is, was and is, in Huntsville, Ala.

Certainly we all remember the terrifying announcement that came with the launching of Sputnik One, and the feeling of demoralization that our country felt as a result of Russia's getting this headstart in the space age by launching Sputnik One.

Following a period of floundering and uncertainty, President Eisenhower finally ordered the Army's missile team, then under the direction of Dr. Werhner von Braun, to launch America's first satellite. Beating his own deadline, Dr. von Braun directed the modification of an Army missile called the Redstone, and guided its successful launching from Cape Canaveral, Fla., putting into perfect orbit the Explorer One. Within a few months of that success, the National Aeronautics and Space Administration was created by Congress. The Army team at Redstone Arsenal was broken apart with the creation of the George C. Marshall Space Flight Center at Huntsville, dedicated to the development of rockets for the peaceful exploration of space.

Mr. President, it has been my privilege to watch the great space advances take place at Marshall Space Flight Center in Huntsville, Ala. It has also been my privilege as a member of the Alabama State Legislature and as Lieutenant Governor of the State of Alabama to help develop legislation to permit the State to build and maintain a research institute at the University of Alabama in Huntsville—we have three great campuses of the University of Alabama, one at the home campus of Tuscaloosa; another great campus, great facility, of the University of Alabama at Birmingham, which includes our world-renowed medical center; and then the University of Alabama at Huntsville, Ala. So, serving in these capacities, as I have stated, I have observed the development of legislation to permit the State to build and maintain a research institute at the University of Alabama where many space-related research programs have been carried out and are being carried out for NASA and its various centers.

Our national space program is most frequently related to adventure and experiences of moon and interplanetary explorations, but the fact of the matter is that the benefits which we have enjoyed in our daily lives as a result of space-related inventions and technology have more than repaid the United States for the cost of the space programs. For example, the investments which we have already made, and the programs which are envisioned for the future, should go far to help ease the worsening energy crisis. Marshall Space Flight Center is engaged in a research and development program which has already contributed invaluable time and solar technology to the national effort to find and use alternate sources of energy for oil and gas.

Our investments in space will bring vast rewards in better methods of farming, in discovery of new mineral deposits and in new industrial techniques.

Today, there are thousands of new products on the market as a direct result of technological developments in the space program. The giant computer industry, which touches every one of us uncounted times in our everyday activities, is a direct fallout of the space programs. Early storm warnings and global communications are made possible by our satellites. In the medical field, ingenious instruments useful in the early detection of diseases and in the treatment of patients have been developed. Household appliances and new building materials have come to us from space laboratories. These are but a few of the thousands of applications of space-related technology which have economic and humanitarian benefits awaiting the harvest. We have only begun and all mankind will reap the benefits.

But, Mr. President, even as we observe this 20th anniversary of the entry of man into the space age—this does not mean man's space travel but the entry of man into the space age—I must express my alarm at the decline in long-range planning for scientific programs as a result of cuts in the NASA budgets. I support a sensible approach to funding and programing of technical and scientific projects so that there will be stability and good judgment in the utilization of the thousands of highly competent men and women whose efforts have contributed to the development of new knowledge. Stability in funding for our space program is necessary so it may continue in an orderly step-by-step fashion.

History will record that the United States won technological preeminence in space exploration. Let us not have history also record that America abrogated its position in this vital endeavor just as the space age is about to mature.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BUMPERS). Under the previous order, the Senator from Delaware (Mr. ROTH) is recognized for not to exceed 15 minutes.

CRUDE OIL EQUALIZATION TAX

Mr. ROTH. Mr. President, on Sunday Secretary Schlesinger threatened that the administration may slap a $5 a barrel tax on imported oil if Congress does not pass the crude oil equalization tax.

As the sponsor of the motion in the Finance Committee which successfully removed the crude oil equalization tax, I am deeply disturbed by this threat, which would circumvent the will of Congress, hurt the American economy, and drain billions out of the consumer's pocketbooks.

The administration is treading on very thin ice by trying to win by scare tactics what it has failed to win on merit.

The reason, in my judgment, the Finance Committee, in a bipartisan 11-to-6 vote, rejected the crude oil equalization proposal is that this tax would have a severely depressing effect on the economy, without producing one new drop of energy or resulting in any significant energy savings. It would raise taxes by an estimated minimum of $39 billion by 1981, and the administration has not provided any clear idea how these taxes would be put back into the economy.

An additional $5 a barrel tax on imported oil, such as Secretary Schlesinger has suggested, would have the same negative effects on the economy, but it would also have other very dangerous side effects.

First, it would be an open invitation for the OPEC countries to increase the world price of petroleum. The OPEC leaders would argue that if the United States can afford $19 a barrel for oil from abroad, then why should they not increase their price to $19 a barrel? Their extra profit would come out of the hide of the American consumer and would result in an additional massive transfer of resources from the United States to the OPEC nations.

Second, it would have an unfair impact on the Northeastern States, like Delaware, that import a high proportion of their oil. The only way to achieve fairness would be to greatly expand the current inefficient entitlements program. This program everyone agrees, has become a bureaucratic nightmare. In fact, a major administration justification for enactment of the crude oil tax is that it would mean an end of the entitlement program.

Third, the tax would have a very harmful effect on American industries which depend on imported oil as a raw material for their products. By increasing the price of the raw materials and energy for our industries, we would be putting them at a disadvantage in world trade and throw thousands of Americans in export-related jobs out of work at a time when our trade deficit is running at a record rate.

The impact could be especially devastating on the petrochemical industry which is one of the few industries now having a favorable balance of trade.

Fourth, this end run around Congress would raise many new issues about the President's authority under section 232 of the Trade Expansion Act of 1962. It would, of course, result in new lawsuits by States, firms, and individuals who would be hurt, but just as importantly, it would also raise doubts about the administration's willingness to abide by the spirit of the laws.

In my judgment, section 232 was created to provide emergency authority to a President in the event of a serious national security problem. It was not intended to be a club by which the administration could brow beat Congress or the public. Because of this threat to abuse the national security authority under this section, I am seriously considering an amendment to provide Congress with a single House veto of any use of section 232, except in times of actual hostilities. Such an amendment is apparently needed to provide Congress with a check over possible irresponsible use of this authority.

Considering all these factors, I find it difficult to believe that Secretary Schlesinger was serious when he threatened this additional $5 a barrel tax. Rather than engage in scare tactics, I hope the Secretary and the administration would work with Congress in trying to develop a sensible energy program to increase American production of all energy sources and fight the OPEC oil cartel.

ACTIVITIES OF ROBERT H. MEYER, ASSISTANT SECRETARY OF AGRICULTURE

ADDITIONAL STATEMENT SUBMITTED

Mr. HASKELL. Mr. President, I ask unanimous consent to have printed in the RECORD copies of letters to the Secretary of Agriculture and to Senator METCALF, chairman of the Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources, both letters being dated September 30, 1977. These letters relate to the apparent activities of Robert H. Meyer, Assistant Secretary of Agriculture. The letters, I believe, are self-explanatory.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 30, 1977.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: During the last few days, the newspapers have carried several articles about the activities of Assistant Secretary of Agriculture Robert H. Meyer. If the articles are accurate, it would appear that Mr. Meyer communicated or met with high Interior Department officials, White House staff, and Congressmen concerning Federal policy on the amount of acreage landowners may hold within Federal reclamation projects.

Apparently, Mr. Meyer wished to alter or overturn proposed regulations which would adversely affect his personal financial position as such a landowner. The impression is left that Mr. Meyer attempted to either use or benefit from his status as a high Federal official for personal gain.

During the last Congress, I chaired a series of oversight hearings of the Public Lands and Resources Subcommittee on the Forest Service's preparation of the East River unit, Gunnison National Forest, Colorado. Those hearings concerned a situation similar to the one now involving Mr. Meyer; a high Federal official intervened in a Federal agency's decisionmaking process, the outcome of which would significantly affect his private business. In that case, the decision was to be made by an agency of your department and the intervention came from the Secretary of another department. The subcommittee report criticized such interventions by Federal officials for the purpose of conducting their own personal business. The report set forth a number of recommendations to assure that such interventions would not occur in the future.

Press reports concerning Mr. Meyer alarm me for several reasons:

First, Mr. Meyer's performance, if it is accurately reflected in these accounts, is reprehensible.

Second, the reports indicate that the work of the subcommittee, its findings, and its recommendations were ignored by the very department which most closely followed—and was directly affected by the subcommittee's work.

Third, we are all aware of the President's strong statements concerning the character of men and women he sought to hold high public office in his administration. We heartily concurred with him on the need to avoid not only the fact but also the appearance of conflict of interest in the conduct of the Nation's business.

Accordingly, this Administration, and you, as a Presidential appointee, should certainly be in sympathy with the subcommittees recommendations and certainly should have taken every step to prohibit activities such as those ascribed to Mr. Meyer.

Given the subcommittee's and my personal concern about any effort by high public officials to influence Federal decisionmaking for their own personal benefit and given the fact that Mr. Meyer's activities concern de-

cisionmaking related to Federal reclamation policy—subject matter squarely within the jurisdiction of the subcommittee—I would appreciate your providing the Chairman of the subcommittee, Senator Metcalf, and me with a factual statement of your relationship with Mr. Meyer and his activities as they relate to this controversy.

Certainly, if the facts are not fully known to you, I hope you will promptly order an investigation either by your office of investigation or the Justice Department.

I look forward to your response.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

SEPTEMBER 30, 1977.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR LEE: I am deeply concerned over recent press reports concerning the efforts of Assistant Secretary of Agriculture Robert H. Meyer to influence policymaking in the Interior Department. If the reported facts are accurate, Mr. Meyer has apparently communicated or met with high Interior Department and White House officials and Congressmen in an attempt to alter a policy decision which would adversely affect his personal financial position.

I am dismayed not only by the apparent conflict of interest involved in Mr. Meyer's case, but also by the failure of the Agriculture Department and this Administration to establish unequivocal guidelines to prohibiting dealings between high Federal officials where personal financial gain is involved. As you will recall, last year the subcommittee, and you and I personally, labored long and hard during the difficult hearings on the East River Unit Plan controversy to establish a higher standard of behavior for Federal officials who wish to conduct personal business during their terms in office. It grieves me to note that the recommendations resulting from the subcommittee's work were apparently ignored by this Administration and the very department involved in the East River Unit Plan controversy.

Today, I wrote Secretary of Agriculture Robert Bergland expressing my concern and asking that he promptly inform you as chairman of the subcommittee of the facts concerning Mr. Meyer's activities. Should a prompt response not be forthcoming or should the response not be clear and complete, I will certainly make the suggestion that the subcommittee take whatever steps are necessary to assure a full airing of this controversy.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

The PRESIDING OFFICER. The Chair in its capacity of a Senator from Arkansas suggests the absence of a quorum, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, will the Chair withhold that temporarily, please?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may control the time that is being yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum on the time I now control and ask unanimous consent that it be without prejudice to any Senator's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GYRATIONS IN U.S. MIDEAST PEACE POLICY

Mr. JAVITS. Earlier this year, on June 27, I felt compelled to speak out concerning the disturbing course in U.S. Mideast peace policy which had resulted from a series of press conference statements by President Carter and a speech on June 17 by Vice President Mondale which was received as an authoritative exposition of U.S. Mideast policy—a speech which itself created new doubts by its omissions as well as its inclusions.

Now, a new crisis has been created by the Soviet-American joint statement on the Mideast just issued and in this connection there was—as far as I know—no consultation with the Senate Foreign Relations Committee, with which Secretary Vance has proposed to work closely particularly as regards the possible reconvening of the Geneva Conference.

This joint Soviet-American statement raises a number of serious questions, to which I shall refer shortly. For the moment, I wish to single out the language in that joint statement which deals with the Palestinian question. The statement purports to suggest "the framework of a comprehensive settlement of the Middle East problem," which it states includes "the resolution of the Palestinian question, including insuring the legitimate rights of the Palestinian people." It goes on to mandate, at the Geneva Conference to be reconvened by the cochairman" participation of all the parties involved in the conflict, including those of the Palestinian people."

The chronology preceding the joint Soviet-American statement of October 1, on this Palestinian question is:

On September 12, the State Department spokesman released a statement respecting the Geneva Conference which stated:

> The status of the Palestinians must be settled in a comprehensive Arab-Israeli agreement. . . . This means that the Palestinians must be involved in the peacemaking process. Their representatives will have to be at Geneva for the Palestinian question to be solved.

The September 12 statement further stated:

> With respect to U.N. Resolution 242, all the participants in the peace ocnference *should* (sic) adhere to the terms of that resolution and Resolution 338, which presently form the only agreed basis for negotiations.

On September 29 at his press conference, President Carter stated:

> If the P.L.O. should go ahead and say "we endorse U.N. Resolution 242 we don't think it adequately addressed the Palestinian issue because it only refers to refugees and we think we have a further interest than that" *that would suit us O.K. We would then begin to meet with and work with the P.L.O.* (Emphasis added.)

Yet in the joint Soviet-American statement there is no mention whatsoever of U.N. Resolutions 242 and 338. This is most disturbing with respect to the Palestinian issue. For, we know that the Soviet Union has long been on record as regarding the PLO as the "sole legitimate representative of the Palestinian people." Also, the whole policy of the United States as explained to the Congress and the Nation has been based on U.N. Resolution 242.

Are we to conclude then, that the President has abandoned the performance standard of acceptance of U.N. Resolution 242 as it applies to the PLO?

On September 1, 1975, the United States in connection with the withdrawal of Israel from a big slice of the Sinai desert and the Suez Canal Zone and the surrender of the Abu Rudeis oil field, entered into a written Memorandum of Agreement with the Government of Israel which states among other provisions:

> The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.

The September 1, 1975 Memorandum of Agreement with Israel further states:

> The United States will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Peace Conference or to change Resolutions 242 or 338 in ways which are incompatible with their original purpose.

This Memorandum of Understanding was submitted to the Senate Foreign Relations Committee and was published in the record of the committee's hearings in connection with its recommendation to the Senate of approval of U.S. participation in the Sinai II agreement. On several occasions, President Carter has publicly stated his intention to honor the terms of the September 1, 1975, Memorandum of Agreement with Israel.

In my judgment, the time has come to raise this question: How does President Carter intend to honor our 1975 Memorandum of Agreement with Israel while pursuing the course of action respecting the Geneva Conference which is explicit and implicit in the joint Soviet-American statement issued on October 1, the President's press conference remarks of September 29, the State Department statement of September 12 and the reported U.S. proposal for a unified Arab delegation at a reconvened Geneva Conference.

First, we need an authoritative clarification of U.S. policy respecting U.N. Resolutions 242 and 338. Are these or are these not the bases for U.S. Mideast peace policy? In this connection, it is pertinent to recall a passage

in Vice President Mondale's "authoritative" statement of June 17:

> Resolution 242 does not by itself provide all that is required. We, therefore, decided to work with the parties concerned to outline the overall framework for an enduring peace. Our concept was to use this framework as the basis for a phased negotiation and implementation of specific steps toward peace.

The text of the Soviet-American joint statement lends support to the concern that the administration may be, in fact, in the process of abandoning or diluting important aspects of U.N. Resolution 242.

In the second substantive paragraph of the Soviet-American joint statement, which purports to list "key issues" of the framework of a comprehensive settlement, there is conspicuous absence of any reference to "secure and recognized boundaries"—a phrase which represents a carefully negotiated offset to the preceding call for "withdrawal of Israeli armed forces from territories occupied in the recent conflict." (The first "key issue" identified in the joint Soviet-American statement is a careful paraphrase of this very "withdrawal" language.)

Such a critical omission could hardly be unintentional and could be fatal to the prospects for the Geneva Conference.

Second, the United States-Israel Memorandum of Understanding spells out a twofold performance required to precede any U.S. recognition of, or negotiation with, the PLO.

The first condition for U.S. dealings with the PLO requires the PLO to "recognize Israel's right to exist." The second and independent condition is acceptance by the PLO of resolutions 242 and 338.

At his September 29 press conference, President Carter seemed to telescope those two preconditions into a mere PLO "endorsement" of Resolution 242, with the caveat that the PLO could demur to 242 by saying,

> We don't think it adequately addressed the Palestinian issue because it only refers to refugees and we think we have a further interest than that.

Presumably, the "further interest" which the PLO could have in mind is in effect the nullification of the State of Israel, called for in the basic charter of the PLO and reaffirmed in the meetings of its Palestine National Council in March and August of this year.

Third, if the PLO is admitted as a procedural matter to the Geneva Conference as the representative of the Palestinian people, does not that prejudge the substantive question of "insuring the legitimate rights of the Palestinian people," to quote the words of the joint Soviet-American declaration? What happens to the claims of Jordan (from whom it was taken) with respect to the West Bank? What happens to the chances for freedom of self-determination by the people in the West Bank? How can there be true self-determination for the West Bank under the pressure of these circumstances?

Fourth, the Carter administration has proposed the acceptance of a unified Arab delegation (including Palestinians) to function throughout the conference, with separate country-by-country subcommittees meeting and reporting back to the unified Arab delegation, thus raising the prospect of a veto by the "unified Arab delegation" of agreements achieved by the bilateral subcommittees. In this regard, it is pertinent to note that the U.S. Memorandum of Agreement with Israel stated:

> The United States will make every effort to ensure at the Conference that all the substantive negotiations will be on a bilateral basis.

Fifth, the Soviet-American joint statement speaks of the United States and the Soviet Union as being ready to participate in "international guarantees" of international borders which may result from the Geneva Conference. In connection with the Panama Canal treaty, we have been assured that the right of the United States to guarantee the neutrality of the Panama Canal entails the unilateral right of intervention against threats to the canal's security. If the Soviet Union really becomes an international guarantor of the Mideast peace settlement will it acquire or claim the right of unilateral forceful intervention there?

Sixth, the United States-Israel Memorandom of Agreement states:

> The United States will seek to ensure that the role of the cosponsors (i.e., the U.S. and the Soviet Union) will be consistent with what was agreed in the Memorandum of Understanding between the United States Government and the Government of Israel of December 20, 1973.

The text of the United States-Israel Memorandum of Understanding of December 20, 1973, on this question has, as far as I know, not been made public. It seems to me that the text of that memorandum would have to be made available so that the American people and the Congress can judge whether the latest Soviet-American joint statement is compatible with that memorandum of understanding.

Seventh, the administration has cited U.N. General Assembly Resolution 194 of December 11, 1948, which the United States supported as pertinent to the definition of Palestinian rights and interests in the present context. But the President needs to explain the administration's understanding of the meaning of this resolution as it relates to the Geneva Conference which the joint Soviet-American statement says should reconvene "not later than December 1977." Paragraph 11 of the U.N. Resolution 194 deals with the issue of refugees in the following language:

> 11. Resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that the compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or equity should be made good by the governments or authorities responsible;
>
> Instructs the Conciliation Commission to facilitate the repatriation resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations:

Are we still thinking about repatriating the Arab refugees?

Finally, the President needs to tell the Nation whether or not the Soviet-American joint statement represents the beginning of a process of superpower imposition of a Mideast settlement, despite numerous U.S. assurances to Israel that it would not seek to impose a settlement.

The scenario unfolding and oblique references to U.S. leverage on Israel need to be clarified. There is a need to get on with the Mideast peace and the parties need to get to Geneva to get the peace process underway. But, if the whole effort is to be compromised in advance by imprudent response to Israeli fears, and if a joint position with the U.S.S.R. is, indeed, to lead to the abandonment of solemn U.S. commitments to Israel, then we are being drawn into a situation that not only guarantees failure in the peace efforts, but which also could lead to a confrontation with Israel which nobody wants. It could disappoint Arab States and lead to a PLO continuing to be dedicated only to terror and nihilism.

I trust the administration will answer the questions I have raised, will consult with the Senate Foreign Relations Committee and the House International Relations Committee, and will reconsider its position on Mideast peace which seems to be prestaged by the joint Soviet-American statement on the Mideast.

Is not what has happened in Lebanon—where the PLO showed its true colors—enough notice to the people of Israel and the American people that this could be the road to war, not peace?

The President's address to the UN General Assembly today is, as a matter of fact, a better presentation of the U.S. position than the Soviet-American statement.

But, the Soviet participation is the enigma in the Middle East. We need to know a lot more than we do about Soviet intentions, if there is to be a just and lasting peace.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that I may reclaim [illegible] minutes of the time allocated to me under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield to the distinguished junior Senator from Pennsylvania the time I reclaimed under the standing order.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the distinguished minority leader for yielding time.

THE MIDDLE EAST SITUATION

Mr. HEINZ. Mr. President, I take this time because I am very deeply concerned by the recent joint statement made by the United States and the Soviet Union to propose a formula for the reconvening of the Geneva peace talks.

I understand that the distinguished senior Senator from New York addressed the Senate this morning on that subject. I particularly respect the leadership and the statesmanship he has shown over the years, and particularly as we approach what could be a very critical period ahead. I know that the Senator from New York has very deep concerns which he has always expressed articulately and with very great thoughtfulness.

For my own part, Mr. President, I have taken the opportunity to express my concerns in writing to the President; and I take these few minutes to acquaint my colleagues with the text of my letter, which I am sending today. The letter is as follows:

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., October 4, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I was most disturbed to read the text of the Soviet-American Statement on the Mideast recently made public.

Clearly the joint statement has the effect of changing the well-established U.S. policy on the Palestinians by referring to their "legitimate rights", a code term construed by the Palestinians to include the right of self-determination and the right to return to their pre-1967 homes. Though understandably, the term might mean something else to others, use of it in this context is without question an extension of policy far beyond any previous position we have taken.

Further, the clear implication of the statement, including its obvious omission of any reference to Resolutions 242 or 338, is to add legitimacy and force to the claims of the PLO to represent the Palestinians and to participate in the Geneva talks, despite the unequivocal refusal of the Israeli Government to deal with the PLO. This is one more instance of the Administration essentially pushing the PLO onto the center of the stage despite the disruptive effect of that policy.

Such an approach is particularly unwise because it injects an element of contention that may not be necessary. Some Arab states are known to have private reservations about a Palestinian state run by the PLO, but no Arab state can be expected to take a less aggressive stance than the United States on this subject. As a result, I fear our policy has pushed the Arabs farther in support of the PLO than they otherwise might have gone, further complicating the negotiations. It is my judgment that the Administration's continued public insistence on creating a role for the PLO in the peace talks jeopardizes both the prospects for settlement and now the very talks themselves.

Beyond the contents of the Soviet-American settlement, the process of its creation is also disturbing. The 1975 U.S.-Israeli Memorandum of Agreement makes a clear commitment to consult with Israel on certain decisions relating to a Geneva conference. There seems little question that there was no meaningful consultation in this case. This violation of an earlier agreement jeopardizes the possibility of a settlement, and its casts doubt on the continued credibility of our commitments, particularly in the minds of the Israelis. Such doubts will also make an ultimate settlement more difficult.

Finally, and perhaps most importantly for the long term, the statement brings the Soviet Union back into a position of influence in the Mideast, a position it had lost some time ago. Events have shown the disruptive and negative impact the Soviets have had on the Middle East and our pursuit of our policy objectives in that region in the past. The joint statement unnecessarily reinjects this destabilizing force into the situation, and the result will almost certainly be contrary to our interests.

I regret that I must be critical of your Administration's handling of these delicate negotiations. But the publication of the joint communique brings this matter into the open and, in all candor, is deeply disturbing. All in all, the Soviet-American statement brings little that is good into the sphere of discussion and much that is disquieting. I frankly deplore this unfortunate change in our policy, and I respectfully hope you will take steps to correct it.

Sincerely,

H. JOHN HEINZ III.

Mr. President, that is the text of the letter I am sending this morning to the President.

I ask unanimous consent that an article by Mr. Joseph Kraft, in today's Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MUDDLE IN THE MIDDLE EAST

(By Joseph Kraft)

What good is achieved by the joint Soviet-American statement favoring an early Geneva conference on the Middle East? What harm does the statement do? Those are the questions that have to be asked in assessing the latest turn of events in the Middle East.

The starting point for analysis is the position of the Soviet Union. Having been cold-shouldered by Egypt and Syria, the Russians now hang on in the Arab world by their fingernails. About all they have going for them is the cochairmanship (with the United States) of the Geneva peace conference, and the possibility of providing military aid to discontented parties, notably the Palestinian Arabs.

In these conditions, the Russians were bound to favor a reconvening of the Geneva conference. While they might talk up the claims of the Palestinians especially loudly and be coy about Israel's right to exist, they were in fact bound to go along with any decision by the Arab states. Thus, in agreeing with Secretary of State Cyrus Vance to move on to Geneva, Foreign Minister Andrei Gromyko gave up nothing.

Unlike the Russians, the United States had a lot to lose. Opposition to Russia in the Middle East has solidified this country's ties with Israel, with Egypt, and—through the paymaster of the Arab world, Saudi Arabia—with Syria. In consequence the United States alone is in position to promote negotiations between Israelis and Arabs.

Israel has long been willing to deal with the neighboring Arab states—Egypt, Jordan and Syria—returning bits of territory for steps toward peace. The hangup has been the Palestinian Arabs.

They have aspirations for a Palestinian state that the Israelis fear threaten the existence of a Jewish state. They are concentrated in two bits of land—the West Bank of the Jordan and the Gaza strip—which Israel seized in the 1967 war and refuses to abandon. They have various potential leaders ranging from moderate notables on the West Bank to firebreathers in an exile organization, the Palestine Liberation Organization.

The Arab states have insisted that the PLO is the only legitimate spokesman for the Palestinians and that it should be represented at the Geneva conference. They have publicly, at least, favored a Palestinian state based on the West Bank and Gaza, and with some kind of federal links to Jordan or Syria.

The Carter administration has favored the principle of a Palestinian homeland, as distinct from a Palestinian state. It has indicated that the Palestinians, including some members of the PLO, should be represented at Geneva as part of an all-Arab delegation. It has insisted that before the Palestinians participate in a diplomatic process, they accept the existence of Israel as a state.

A delicate compromise linking the Israeli, the Arab and the U.S. positions seemed to be emerging after Foreign Minister Moshe Dayan visited Washington two weeks ago. Dayan indicated Israel would accept Palestinians as part of an all-Arab delegation in a preliminary, non-negotiations phase of a Geneva conference. He said that the Israelis would not admit PLO members, but would not object if the Palestinians leaned toward the PLO.

The joint Soviet-American statement knocks that delicate compromise into a cocked hat. It implied that the United States and Russia were going to impose a Middle Eastern settlement that would begin with PLO representation at Geneva and inevitably end with a Palestinian state.

In Israel the government of Menahem Begin denounced the statement as "unacceptable." Leaders of the Jewish community in this country, who had been won over to Begin largely because of his warm reception by President Carter, called the statement a "betrayal." It was at least possible that the Israelis would refuse to go to Geneva, or that once there they would blow the conference.

Perhaps that ugly scene will not materialize. It is possible that the administration can give assurances that the PLO will accept Israel. It is also possible that the joint Soviet-American statement is part of a larger deal, encompassing progress toward better relations between Moscow and Washington.

But if so, the burden of proof is on the administration. As of now anyway, it is a mystery why the United States agreed with so much fanfare to the joint statement with the Russians. The explanation that comes to mind is that once again, the Carter administration has muddled matters in the Middle East.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HEINZ. I am pleased to yield.

Mr. JAVITS. Mr. President, it is a splendid letter. It is a splendid analysis of the situation, and it is completely accurate and completely in accord with what I have said this morning. I congratulate the Senator on it. It is very perceptive and very knowledgeable.

I have asked for—and I hope we will receive—the opportunity to have Secretary Vance come before the Committee on Foreign Relations; and, as is the tradition of the Foreign Relations Committee, if the Senator wishes to sit with us, I believe the chairman and the ranking member will make that possible. The Senator certainly has shown himself very eligible by this extremely able presentation of the case. I thank him very much.

Mr. HEINZ. I thank my distinguished colleague from New York.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Does the Senator need further time?

Mr. HEINZ. No.

ORDER VITIATING RECOGNITION OF SENATOR HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. HARRY F. BYRD, JR., be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate continued with the consideration of the bill.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, this will be a live quorum.

The PRESIDING OFFICER. Does the majority leader suggest the absence of a quorum?

Mr. ROBERT C. BYRD. Yes, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 61]

Baker	Heinz	Sasser
Bumpers	Javits	Stennis
Burdick	McGovern	Stone
Chiles	Metzenbaum	
Hatfield	Pearson	

The PRESIDING OFFICER (Mr. STONE). A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Allen	Danforth	Leahy
Anderson	Garn	McClure
Bartlett	Hansen	McIntyre
Bellmon	Hart	Nunn
Bentsen	Haskell	Proxmire
Burdick	Hatch	Sparkman
Byrd, Harry F., Jr.	Hathaway	Stafford
Chafee	Hayakawa	Talmadge
Culver	Huddleston	Tower
Curtis	Jackson	Wallop
	Johnston	Williams

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 522 Leg.]

YEAS—89

Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Matsunaga	Thurmond
Dole	McClure	Tower
Domenici	McGovern	Wallop
Eagleton	McIntyre	Williams
Eastland	Meicher	Young
Ford	Metzenbaum	Zorinsky

NAYS—1

Weicker

NOT VOTING—10

Abourezk	Long	Ribicoff
Durkin	Mathias	Stevenson
Goldwater	McClellan	
Humphrey	Metcalf	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. PEARSON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PEARSON. Mr. President, on last evening, the distinguished Senator from Washington presented a modification of his proposal. Not being responsive to that, but in our own manner, we seek today, and I seek recognition now, to outline a position that we, at a later time, if it is the will of the Senate to take a closer look at this suggestion, will move to require unanimous consent to modify our amendment 1039. The amendment that we seek to modify is the one which has been popularly known as Pearson-Bentsen No. 2. That compromise and modification was to put a cap on new domestic gas for a period of 2 years, the price being controlled and set at the price we should pay for Mexican gas coming into this country or crude No. 2 coming into east coast ports, which would be the Btu equivalent of about $2.48. We seek to amend our amendment by unanimous consent by changing that price in a downward manner so that the price of the 2-year cap would be placed at the Btu equivalent of domestic stripper production, which is about $2.25. The modification we would seek by unanimous consent would be to pull the price from $2.48 down to $2.25, from a measurement against imported Mexican gas to a measurement against domestic stripper production.

Mr. President, I am glad to yield to the Senator from Texas.

Mr. BENTSEN. If I may comment on that, we chose such a price because that is comparable to what the President chose last winter in times of emergency. At that price, the intrastate market provided the interstate pipelines, finally, with more gas than they could actually take. That price worked, and it helped take care of the situation last winter once it was put into effect. We think it is an applicable price and a fair price. I support the Senator from Kansas with a modification, if we understand that we get the unanimous consent of Congress.

Mr. BUMPERS and Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, on my time, I should like to ask the Senator from Kansas a question.

The Senator says there would be a cap on for 2 months.

Mr. PEARSON. Two years.

Mr. JACKSON. I mean 2 years. My reading of the second Pearson-Bentsen proposal was that the cap would go off in January 1979. That is 15 months; is it not?

Mr. PEARSON. We meant to draw it and intend to draw it for 2 years from date of enactment.

Mr. BENTSEN. We accept that further modification by the distinguished Senator.

Mr. JACKSON. I am not modifying anything. I am merely trying to make the record straight because it is 15 months as introduced in Pearson-Bentsen, Nov. 2.

Mr. PEARSON. We shall clear that up. I direct the Senator's attention to page

13, line 11, paragraph 2, where it says "from and after 2 years subsequent to the date of enactment of the natural gas amendments of 1977." It is our intention to have a 2-year cap and we think we do it by the language that I have cited.

Mr. BENTSEN. Reserving the right to object, Mr. President. I want to state at the outset that I will oppose the Jackson amendment, as modified. Senator JACKSON's latest proposal tacitly acknowledges the wisdom of deregulation but condemns the Nation to another decade of regulation-induced natural gas shortages, strangled production, and increased dependence on foreign energy sources.

If we have learned anything during the past 2 weeks, it is that the Senate favors the deregulation of new natural gas now, not in 1987. We have lived with regulation for 23 years, and it has been clearly demonstrated that the policy does not work.

Nevertheless, in the spirit of conciliation and fair play recently evident in this Chamber, I am prepared to accede to Senator JACKSON's unanimous-consent request, on one condition. I am prepared to give the Senate an opportunity to choose between Pearson-Bentsen, and the committee chairman's latest compromise formulation.

My condition, Mr. President, is this—I would like a formal assurance from the committee chairman that if the Senate votes in favor of the Pearson-Bentsen formulation, and there is every reason to believe that we will, then the majority of the Senate conferees on S. 2104 shall be drawn from those who voted in favor of this legislation. There is ample parliamentary precedent for such a request, Mr. President.

Senator HUMPHREY, for example, during consideration of the civil rights legislation in 1964, cited the following passage from Senate Procedure:

> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate, and with consideration for the usual party ratio."

The reason I seek such assurance from Senator JACKSON is no great mystery. Proponents of continued regulation have argued consistently throughout our debate that Senate action is really irrelevant since President Carter and House Speaker O'NEILL are opposed to deregulation.

The implication is that our work of the past 2 weeks will quickly be undone in conference. The committee chairman stated this thesis only 2 days ago on "Meet the Press," when he suggested that—

> We're going to end up in conference with a system of regulation, no deregulation. That's what will happen.

During our debates, the Senate has consistently taken a position in favor of the deregulation of new natural gas. At no time during our extensive deliberations have proponents of regulation demonstrated that they command a majority in this body. They have not won a single test vote.

I seek assurance, Mr. President, that if we win the battle on deregulation, those who favor the concept will be a majority of the Senators in conference. I do not accept the assertion that the administration and the Speaker of the House shall dictate the terms of the conference. I think it is important to note that 47 percent of the House Members voted in favor of deregulation.

I do not want to put the Senate conferees in the embarrassing position of having to defend in conference a position they do not support.

Therefore, I ask the committee chairman, are you prepared to go to conference on this legislation with a majority of Members who voted in favor of Pearson-Bentsen if this bill is passed by the Senate?

Mr. JACKSON. I want to say that the Chair will exercise his discretion on the appointment of the conferees. We are going to try basically to follow the regular procedure. I say to the Senator that there are 535 Members of the House and Senate. To turn around in a conference and not have any flexibility at all, have one group in there that would support Pearson-Bentsen right down the line, without any give, is certainly not going to result in a conference in which agreement can be reached.

We do not select conferees in this body on the basis, generally, of the result of the Senate itself on a given issue. If that were the case, we would have all kinds of problems. But there will be—all of the Republicans will be against it—that is, against regulation. Senator JOHNSTON will be on and he is for deregulation. So we start from a solid phalanx, and I intend to have a conference that can deal with this problem in a way in which we can reach an agreement with the House.

Mr. BENTSEN. I say to my distinguished friend, with the understanding of his eloquence and his capacity for argument——

Mr. JACKSON. I have been very quiet during this debate.

Mr. BENTSEN. I want to feel assured that the majority viewpoint, as expressed in 2 weeks—it seems like 2 months—of debate and compromise, was represented amongst the conferees. If we are going to be operated on, I should like to have at least one of the knives in the hands of a friendly surgeon.

I understand that TIP O'NEILL is adamant in his position and he stated that.

I am sure what those conferees are going to look like as appointed by the House. But I do not see any railroad tracks going through the Senate. I think we should be entitled to make up our own minds and be represented by a majority. If the Senator from Washington prevails in the final vote, obviously, we get a majority. But if we prevail, that the conferees be made up of the majority.

Mr. JACKSON. I say to my good friend that we do not normally select conferees on the basis of how they voted in the Senate. We do not follow that rule here.

I am going to try to have conferees that can work out, hopefully, a bill that can be sent to the White House without veto.

So that this body understands why I make an ongoing compromise to my earlier compromise on the subject of deregulation starting December 31, 1986, I did that, Mr. President, in order to try to bring the extended debate to a conclusion.

I will be very candid. I would not have offered it had I known we were coming to the end of this debate. I did it as the floor manager in trying to meet the wishes of this body.

I am opposed to deregulation. I made that very clear. But I wear a different hat trying to manage this bill with the objective in mind of trying to come to some resolution.

I must say that since I have offered my second modification of my compromise amendment, and getting requests now to further amend it, I am at the end of that rope, as far as I am concerned, and I speak only for myself.

Mr. BENTSEN. Mr. President, let me cite Senator HUMPHREY's comments in the civil rights legislation fight of 1964 when he referred to Senate procedures. He stated that the conferees are appointed by the Presiding Officer but, in fact, are designated by friends of the measure who are in sympathy with the prevailing view of the Senate. And with consideration of the usual party ratio. And that we have quite a number of precedents.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, we are at a point now where I think we have been through enough and we need to explore this unanimous-consent request by the distinguished Senator from Kansas, whether or not we can get the issues presented at a time that is mutually convenient and get to a vote.

I would like to do that, if we could, either today or tomorrow.

Mr. President, the question, I would hope, is soon answered since there is now a unanimous-consent request pending.

Mr. JACKSON. It has not been made yet.

Mr. BAKER. I understand it has been.

Mr. PEARSON. I am going to make it.

Mr. BAKER. All right, as soon as it is made, we can get determination not only of whether or not we can amend the Pearson-Bentsen No. 2, but whether we can set a time to vote on it.

So I would hope we will try now while there is a significant number of Senators on the floor to establish a time to vote.

Mr. JACKSON. Mr. President, I say to the distinguished minority leader that I made both requests yesterday, and, of course, there was objection to my dual request to revise my proposed compromise and also to have a time certain for the vote.

But, be that as it may, I just wanted to call to the attention of the Senate, and I will ask my good friend from Kansas about the pricing feature of the proposed modification, the Pearson-Bentsen No. 3.

As I understand it, the price would be tied to the domestic equivalent of the stripper production, and that, the Senator says, is $2.25.

Staff informs me that stripper oil price is running between $13.50 and $14; $13.50 would be the equivalent of $2.33; and $14 would be $2.41.

I just wondered if we could have the record clarified on that point.

Mr. PEARSON addressed the Chair.

Mr. BELLMON. Will the Senator yield?

Mr. PEARSON. Let me respond by saying that we will check our figures over and seek to find some measurement back against domestic production that will pull that price down.

Now, our investigation——

Mr. JACKSON. They are proposing $2.25 period.

Mr. PEARSON. Well, we want to tie it to something that is measurable and we thought by our research, if we tied it to domestic stripper production, we would be at the $2.25 level.

If our figures and numbers are wrong, we will seek to tie it to another level.

It was not our intention to, first of all, mislead anybody.

Mr. JACKSON. I understand.

Mr. PEARSON. To cite the figure and have it in distortion.

Mr. JACKSON. I merely wanted to point out what staff had advised me.

Mr. PEARSON. To bring that price down and then tie it to some domestic production other than an imported figure.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, reserving the right to object, the problem with unanimous-consent requests is that if we do not grant them to others, it is awfully hard for others to grant them to us.

The Senator from Kansas and his colleague from Texas have been very fine about their proposal throughout this matter and have been very cooperative with everyone regardless of their point of view.

I do not think, all events having occurred as they have during the last few days, retribution is in order. It probably never is in order in the U.S. Senate. But I would only take note of the fact that twice the Senator from Colorado attempted to get a procedural unanimous-consent request granted changing his substantive, substitute amendment to the perfecting amendment so that it would be in order.

An objection was heard from proponents of the Pearson-Bentsen side twice. Of course, that was within their rights.

I would only say that the Senator from Colorado felt as strongly as I think the sponsors of this measure do about it. He waited just about as long to try to get it up to set a vote on it. It was within that spirit I twice asked this and it was denied for reasons that are still very unclear.

But I will not object. I just take note of the fact that the Senate works much better when people work in the spirit of cooperation.

Mr. ALLEN. Will the Senator yield?

Mr. HART. I yield the floor.

Mr. ALLEN. Will the Senator yield?

Mr. SCHMITT addressed the Chair.

Mr. HART. I yield to the Senator from Alabama.

Mr. ALLEN. The Senator brings up a very good point, that he has an amendment that is not in order and two-thirds of the Senate did not vote to suspend the rules to let him offer the amendment.

I really believe—I throw this out as a suggestion, I do not imagine it will be accepted—the imposition of cloture makes it almost impossible to properly shape legislation on the floor.

Since there is to be no filibuster of this bill—now, the distinguished Senator from Washington's new amendment is not in order—but I feel that the Senate can better work its will in this matter if the restrictions of cloture were lifted and if a time limit was placed on this bill.

I believe we would come out with a better bill than working under the restrictions of cloture.

Mr. HART. Let me respond to the Senator from Alabama.

I think he has made a wise and statesmanlike suggestion.

If we are no longer faced with a filibuster and we are down to legislating on this very important subject in what is best not only for the Senate but the country, I think his suggestion is very timely and one we could all agree with.

I certainly would and would enter into a time agreement, if I could bring my amendment up, of a very short duration.

Mr. ALLEN. I offer that suggestion to the Senate.

Mr. SCHMITT. Mr. President, I wonder whether the distinguished Senator from Washington would respond to a question, as the manager of the bill.

I have shared the concerns of others which have been expressed in the statement that this issue ultimately will be decided in conference, as it will. But the implication has been in some of those statements that whatever the Senate does is not as important as what the opinion of the House and the President might be. I do not share that feeling, and I ask the Senator from Washington this question: At least at the beginning of such a conference, is it not appropriate for the Senate conferees to represent whatever turns out to be the majority opinion?

Mr. JACKSON. I am sorry; I was speaking to the leadership.

Mr. SCHMITT. My question to the Senator is this: At the beginning of any conference, is it not appropriate and only fair that the conferees, whatever their personal opinions may be, attempt to represent the majority opinion of the Senate, whatever that might be?

Mr. JACKSON. That is correct. However, I point out to the distinguished Senator from New Mexico that the margin here is so narrow, when we look at the aggregate of representation in the House and the Senate, that obviously without some flexibility in that conference, we are not going to have a bill. I base that on the fact that we have had two Pearson-Bentsen bills passed and they have died. The last one was in conference for months and nothing happened.

Mr. BUMPERS. Mr. President, will the Senator yield for an observation?

Mr. SCHMITT. I yield.

Mr. BUMPERS. I remember when I believed Senate conferees should always defend the Senate position, whether they agreed with it or not. And that is the position the Senator from Texas just articulated.

But I would remind the Senate again about a matter which has always been extremely sensitive to me, and that is the surface owners' veto right provided for in the strip mining bill. That provision was debated here for 2 days and finally voted down by the Senate. Then one of the Senate conferees moved to recede from the Senate position before the House even discussed the Senate position, much less vote on it, and succeeded in his motion.

Mr. BENTSEN. May I respond?

Mr. SCHMITT. The Senator from New Mexico has the floor, but I yield, without losing my right to the floor.

Mr. BENTSEN. Conferees should start out not having to be put into the embarrassing position of arguing against something in which they do not believe. I want them to start out representing the majority viewpoint as expressed on the floor of the Senate. I well understand that after that, a compromise may be arrived at. At least, let them have some enthusiasm about their position.

Mr. SCHMITT. I think the Senator from Texas makes an excellent point. It is exactly the way I feel.

However, I add to that my general feeling—and it is a personal feeling—that all the conferees, at the start of the conference, have the obligation and duty to the other Members of the Senate to represent whatever the majority opinion has been, as strongly as they can, even if the margin of that majority is small.

I am not sure that the five, six, or seven votes we will see here is a small majority. That is a significant majority, compared with some others the Senate may have had in the past.

For myself, at least, I hope that the conferees, whatever their personal opinions might be, would in fact represent the Senate position as strongly as humanly possible, until the point of necessary compromise is actually reached.

Mr. BAYH. Mr. President, a parliamentary inquiry. Are we in a position in which any Member of the Senate now has a chance to express himself, or are we operating under a request for unanimous consent from the Senator from Kansas?

The PRESIDING OFFICER (Mr. ZORINSKY). We are not operating under a unanimous-consent request. A Senator may seek recognition.

Mr. BAYH. I should like to express a thought or two.

As I think most of my colleagues know, I have been very much in favor of the President's bill. I have not been wed to that. I did believe that those of us who felt strongly about it should do everything we could to get the Senate and the country aware of where we are headed. Obviously, we have lost that battle.

I regret that, in the process, there probably were some things said and some feelings exacerbated that may take a while to disappear.

I do not intend to object to the suggestion of my friend from Kansas. I want us to resolve this matter one way

or the other. But I must say that the opinion that has been expressed, that the majority of the Senate has spoken in favor of the position of the Senator from Kansas and the Senator from Texas, will turn out to be the case in the final resolution of this problem.

However, one of the concerns I have right now—and the reason why I am speaking at this time—is that with the imposition of cloture, many of us were put in the position whereby if we could not get our first choice, we were not permitted to have a second, third, or even a fourth choice.

To suggest that when the final votes are cast and perhaps because two Senators vote one way instead of another way, there is a ground swell of support in the Senate for the position felt so strongly and argued so persuasively by the Senator from Texas and the Senator from Kansas really is not the situation as it exists. Some of us, when we are thinking about the national interests, are going to be forced to make a choice among what I feel are several undesirable alternatives. Admittedly, those on the other side might look at it differently.

However, I wonder whether the Senate and the country would not be better served if a different unanimous-consent request were proposed, one very similar to the suggestion made by the distinguished Senator from Alabama: the unanimous-consent request stating that the filibuster is over; that we are going to have a time certain; that we are going to have the amendment of the Senator from Texas and the Senator from Kansas—their No. 1 and No. 2; the proposal of the Senator from Colorado; the amendment of the Senator from Louisiana, and the proposal of the Senator from Washington.

Then let the Senate vote on these in regular order; and at the end, at least we will have a shopping list that gives us some flexibility. It seems to me that that is a fair way to go. It recognizes a final disposition of this situation, without tying us into limitations that really were arbitrarily imposed because we could not get a time limitation.

I do not want to get myself in the position of making a suggestion that should be made by the leadership. The leadership is not here at the moment. Would there be an objection to a unanimous consent request that the Senate reach a time certain, agreed to by the two leaders; that the new proposal of the Senator from Kansas and the Senator from Texas, as well as their old proposal, the proposal of the Senators from Colorado and Louisiana, and the proposal of the Senator from Washington be made germane and be permitted to be voted on by the Senate? We would then dispose of this matter. Would there be objection to that?

Mr. PEARSON. I apologize to the Senator from Indiana. I was talking to the staff. Is he making an inquiry of me?

Mr. BAYH. The Senator from Kansas or anyone else. I do not want to inject myself into this position.

Mr. JACKSON. I say to the Senator that I made a request last night that we vote first on the Pearson-Bentsen amendment, which is Pearson-Bentsen No. 2, and then we vote on the Jackson compromise, as I had proposed to modify it. I hope we can vote early this afternoon on Pearson-Bentsen first, however they modify it; and if that fails, then go directly to my compromise.

If Pearson-Bentsen carries that is the end of it because nothing else would be in order, and then you would go to third reading and pass the bill as amended, as I understand the parliamentary situation.

Mr. BAYH. Mr. President, I see our leader is now here. He was not on the floor earlier. I do not want to be in a position where I think it could be exercised more expeditiously by the majority and minority leaders. Could I ask the leader is it out of order, discourteous, whatever descriptive phrase one might apply to it, to suggest that we ask our two leaders to get together and propose a unanimous-consent request that would terminate this matter before we go home tonight and would give us a shopping list of the most significant substantive amendments?

Certainly the Senator from Texas and the Senator from Kansas have at least one or two that ought to be No. 1 on the list; the Senator from Washington, the Senator from Colorado, and the Senator from Louisiana, and there may be someone else who wants to put himself in that category, but I do not make that suggestion thinking we are going to have a number of amendments. There are, however, probably four amendments or five amendments we have heard bandied about back and forth that I think the Senate ought to have a crack at, and then let us see.

Maybe I am wrong. Maybe when we are through we are going to have a strong majority supporting that amendment which has received the most attention.

Mr. BAKER. Mr. President, I would reply, if I may, that the majority leader and I have been trying for most of the day today to find a common ground for agreement for a time to vote and a way to vote. If that is successful then maybe some part of what the distinguished Senator from Indiana suggests will be incorporated. If it is not possible, then I think we are rapidly approaching the place where we simply have to get down to voting.

I guess the most immediate problem confronting us is the immediate disposition of two unanimous-consent requests. There may be others. If any of them is granted, then we will know how to arrange further proceedings. If none of them is granted, then, thankfully, the rules will arrange it for us. But one way or the other I would hope we could get to a vote today and dispose of this matter, and we will continue to try to work in that respect.

Mr. BAYH. As I mentioned earlier—and I am not certain my friend, the minority leader, heard—I do not intend to object. I think we have argued this as persuasively—not persuasively—as persuasively as we can, and have lost this battle, so I want to dispose of it.

But I would like to dispose of it in such a way that we have as good an opportunity to explore some limited alternatives not available to us unless we can get a unanimous-consent request that is broader than that proposed by the Senator from Kansas.

If instead of working on that one, we could get the two leaders together and propose one that had, say, four alternatives and a time certain for disposing of it, I think the Senate and the country would be better served.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BAYH. I yield.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from Indiana his suggestion is a helpful one. The minority leader, as he has indicated, and I have been exploring the problem. We were both under the impression Mr. JACKSON was going to renew his request of last evening at some point, and then I had the impression that, perhaps, Mr. PEARSON might present a unanimous-consent request at some point that he has been working on, and we would like to see what happens as a result of those requests first. But it is a helpful suggestion and we are endeavoring to do that.

Mr. BAYH. If I might just finish my thought, I do not want to prejudge what other Members of the Senate are going to do. I do not intend to interpose any objection, but inasmuch as the forces have become rather solidified, I think it would be unfortunate if one side objected to the other and the other side objected contrariwise.

If we could have a list in which we have three or four alternatives and everybody said, "All right, let us see what the Senate is going to do," and we can get it over with before the Senate gets on to anything else, it would be well to do so.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. I know we all want to get on with the show and wind it up this afternoon. In order to bring this matter to a head, I propose the following unanimous-consent request, Mr. President:

I ask unanimous consent that amendment No. 862 be revised so as to provide that, first, sales of new natural gas would be deregulated after December 31, 1986; second, the regulated price between the date of the enactment and December 31, 1986, would be the greater of (a) the Btu equivalent of the price of upper tier oil or (b) the formula proposed by the administration.

As a result, the new gas price would still start at the $2.03 per thousand cubic feet rather than $1.75, as originally proposed, but by 1985 would be 12 cents higher than amendment No. 862.

The third point, which is in line with the part of the program that the distinguished Senator from Colorado (Mr. HART) has advocated, I would have a third provision: Gas produced from tight formations where production costs are extraordinarily high would be deregulated immediately.

Now, Mr. President, if this consent is granted, it would be my understanding that we would vote first on Pearson-Bentsen, as modified, if consent is granted for that purpose; and then immediately after, if Pearson-Bentsen is voted down, we would turn to my so-called compromise amendment.

I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, I, for one, cannot look upon the kind of so-called compromise where one merely seeks to better his hand by saying "Maybe I could get a few more votes if I make these changes," which do in some respects amount to a concession, as any compromise at all.

It seems to me if there was going to be some kind of a compromise, it ought to be discussed with the people on the other side.

It is subject to the same criticism as the previous so-called compromise which the Senator is seeking to change. It is a compromise with those who are on the same side. If you want to compromise, you ought to try to come to terms with those on the other side.

To simply ask unanimous consent to better one's hand once cloture has been invoked seems to me to make no sense, unless you have an agreement where the other side can also better its hand.

Now, has agreement been given to the sponsors of the Pearson-Bentsen amendment to improve their situation? Could I ask that question?

Mr. BUMPERS. The unanimous-consent request has not been propounded yet.

Mr. BENTSEN. It has been discussed, and I assume my colleague is prepared to propound it. But I think certainly the Senator makes a point when he says we should be treated with the same courtesy as the Senator from Washington.

I personally would object to neither one if we can get that kind of agreement.

Mr. LONG. It would seem to me if one side is going to be permitted to improve their offer the other side ought to be permitted to improve theirs. Incidentally, I think this serves a very good purpose because it tends to bring the contending sides a little closer together, and I think that is good.

Mr. BENTSEN. Could we join the unanimous-consent request?

Mr. JACKSON. I have proposed that to the distinguished Senator from Kansas, and he can best respond to that question.

Mr. PEARSON. The proposal is that we join the two unanimous-consent requests?

Mr. JACKSON. Unanimous-consent request.

I would, Mr. President, in connection with my unanimous-consent request, add a further unanimous-consent request that, if amendment No. 1039, that is, Pearson-Bentsen, is not agreed to, that a rollcall vote occur on amendment No. 862 immediately thereafter, as just modified—that is, if I get consent to modify it—without intervening debate or a motion, so we go immediately to 862 in the event that 1039 is defeated.

Mr. LONG. Reserving the right to object——

Mr. JACKSON. That is part of the unanimous-consent request.

Mr. LONG. Could we add to that the agreement that sponsors of the Pearson-Bentsen amendment will have a similar right to modify their proposal?

Mr. JACKSON. Obviously. I just propounded the question to the Senator from Kansas.

Mr. PEARSON. It is not my intention nor my desire to join both unanimous consents together. If the Senator wants to move his unanimous consent then I will move unanimous consent to Pearson-Bentsen No. 2, with some explanation, because we have changed it because of questions raised on the floor here today.

Mr. JACKSON. With all due respect, if the Senator will yield, Mr. President, that is not exactly cricket because you get consent to modify yours and then one objection, and if that is approved, then one objection, on our side—I mean in connection with my amendment, and it would be out. I think either we do it all together or not at all. It does not make any sense.

Mr. FORD. I reserve the right to object to the floor manager's motion, Mr. President.

I wish to ask the Chair this question. It is a parliamentary procedural question.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Does the unanimous-consent agreement asked by the distinguished Senator from Washington do anything to those amendments that were eligible for his original substitute?

Those amendments that have been previously cleared that are eligible to be submitted, will not be subject to the Chair saying they are out of order?

The PRESIDING OFFICER. They will not be subject to the Chair saying they are out of order. They would still be eligible.

Mr. FORD They are still eligible?

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Mr. President, I can only say that I would be compelled to object unless I am sure that the other side, which is the Pearson-Bentsen side, will have an equal right to modify theirs.

Mr. JACKSON. Mr. President, if the Senator will yield, that is what I am suggesting. I am suggesting that we put it all in one unanimous-consent request, but my good friend from Kansas raises objections to that. So it is not a problem with me.

Mr. LONG. Then if I might add to the unanimous-consent request, would the Senator from Washington be willing to modify his unanimous-consent request to say that the sponsors of the Pearson-Bentsen amendment would also have the right to modify their amendment?

Mr. JACKSON. As proposed, certainly. They are making the request.

But the problem is, I say to the Senator, the distinguished Senator from Kansas does not want to treat the two requests in one package, the one I make to my amendment and the one he makes to his amendment. He does not want to combine them in one package, in order to do equity here.

Mr. LONG. Then he can object.

Mr. JACKSON. Obviously the thing to do is put it in one package. If we do not do that I cannot buy a pig in a poke. There have been too many fine maneuvers around here.

Mr. LONG. It seems to me that the only way we can be fair is to agree that both sides will have the opportunity to modify their amendments. I do not know any other way that would be fair.

Mr. JACKSON. The Senator's problem is to convince the other half of Pearson-Bentsen.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana had the floor. Is he yielding the floor?

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. LONG. I yield to the Senator.

Mr. BAKER. Mr. President, I do not want to be arbitrary, and I do not think I am being arbitrary, but I reiterate what I said a minute ago. It is time to fish or cut bait.

I also want to say that I was on the floor more than once telling my good friend from Colorado that we had to play by the rules and why should we favor his amendment over someone else by qualifying it by unanimous consent.

Mr. President, in all fairness, I must say to you that there are other requests besides the request of the Senator from Colorado which I have declined to give. I cannot square with my conscience, frankly, how I am going to give these two unanimous-consent requests having turned down those.

There is no retaliation; there is no retribution. All I am saying is let us proceed according to the rules and let the chips fall where they may.

Mr. JOHNSTON addressed the Chair.

Mr. JACKSON. Mr. President, I renew my unanimous-consent request.

Mr. JOHNSTON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana has given up the floor.

Mr. LONG. I yield the floor for a moment.

The PRESIDING OFFICER. The junior Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I will have to object, not only for the same reason that the distinguished minority leader said but also because those provisions of this amendment which I spoke about with the distinguished chairman of the Energy Committee last night have not been removed.

You still have the power of regulation of intrastate gas. You still have rollbacks of all the rollover contracts and existing intrastate gas contracts which is going to break financially many independents and under the guise of a "compromise" to put a cosmetic front on top of what I regard as very bad legislation that would absolutely ruin the intrastate markets which have been finding most of the gas. I simply cannot allow that to be done because I believe it would look as though it is a compromise when in fact it is not a compromise.

Mr. FORD. Mr. President, reserving the right to object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana still has the floor. Does he yield?

Mr. JOHNSTON. So, Mr. President, at the appropriate time I would simply have to object.

Mr. JACKSON. Mr. President, will the Senator yield on my time?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. In order to clear the deck for the moment at least I withdraw my unanimous-consent request.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the situation might not be helped if we had a quorum call or a recess for a little while?

Mr. RANDOLPH. A recess.

Mr. ROBERT C. BYRD. Because there seems to be some desire and inclination on the part of various Senators here to see if they can work out a package which would, of course, have to have unanimous consent, and I think perhaps that might be the best thing for us to do.

I ask unanimous consent——

Mr. FORD. Mr. President, will the majority leader withhold? I need to propound a parliamentary inquiry.

Mr. ROBERT C. BYRD. Yes, I withhold the request.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. I ask the Chair: The unanimous-consent agreement as propounded by the Senator from Washington said we immediately go to a vote on his substitute. Even though according to the request I made earlier my amendments were eligible, if the Senate goes to a vote may I then offer my amendments?

The PRESIDING OFFICER. Are the amendments of the Senator from Kentucky to the Jackson substitute?

Mr. FORD. They are.

The PRESIDING OFFICER. Then they would be in order.

Mr. FORD. As I understood the unanimous-consent agreement is that we would go to an immediate vote under the unanimous consent agreement. If we went to an immediate vote that would take the whole thing and leave my amendments and others out.

The PRESIDING OFFICER. If the Pearson-Bentsen amendment were defeated the Senate would go to the Jackson substitute and vote immediately, but there is no time constraint put on the Pearson-Bentsen amendment.

Mr. FORD. But my amendments do not lie to the Pearson-Bentsen amendment. They lie to the Jackson substitute. If the Senate goes to an immediate vote I thought that meant my amendments then could not be offered.

The PRESIDING OFFICER. The amendments of the Senator are in order now, even though the Pearson-Bentsen amendment is pending.

Mr. FORD. OK, but the point then is that if we get unanimous-consent agreement to go to an immediate vote after the Pearson-Bentsen amendment, subject to its failing, which I hope it does not, then if we go to the Jackson substitute for an immediate vote I then at that point have an opportunity to present my amendments; is that correct?

The PRESIDING OFFICER. The Senator would have the right to offer the amendments at that point, but they would not be debatable.

Mr. FORD. That is the point, and I will object to the Jackson proposal.

The PRESIDING OFFICER. However, the Senator could offer his amendments prior to the vote on the Pearson-Bentsen amendment, and be able to debate them if he has time.

Mr. FORD. I understand.

Mr. JAVITS. Mr President, if the Senator will yield, there is one point omitted. The Senator could offer his amendments before the vote on the Pearson-Bentsen amendment to the Jackson substitute.

Mr. FORD. I understand, but it may not be necessary. Why put the Senate through all that if it is not necessary is the point I am making.

Mr. JAVITS. If it is, that does not mean the Senator has to object to the whole thing.

Mr. FORD. I am not objecting to the whole thing. There is the point. I am exercising the point right now. I have not done that yet. I do not want these other amendments to fall. I am trying to back my aces.

Mr. BAKER. Back his aces is what he said.

RECESS UNTIL 1:29 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 12:29 p.m., recessed until 1:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE MAMMAL PROTECTION ACT AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1522.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 12, 1977.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment with the amendments which I have sent to the desk on behalf of Mr. MAGNUSON.

UP AMENDMENT NO. 862

(Purpose: (1) To ban commercial whaling within 200 miles of the United States; (2) To reaffirm Washington State oil port siting policy.)

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. MAGNUSON proposes unprinted amendment No. 862 en bloc.

The amendments are as follows:

On page , line , insert the following:

"SEC. 5. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States."

On page , immediately after line insert the following:

SEC. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MAGNUSON. Mr. President, during consideration of S. 1522 today, two amendments will be considered by the Senate. S. 1522 would amend the Marine Mammal Protection Act of 1972 in order to authorize appropriations under the act for fiscal year 1978. The bill has passed both the Senate and the House and has been returned because of the House's deletion of Senator BOB PACKWOOD's antiwhaling amendment. Since

the act's funding authorization expired on October 1, it is imperative that we act on this bill quickly.

The first amendment to be considered is a compromise antiwhaling amendment. The amendment is acceptable to the House Merchant Marine and Fisheries Committee and to the Senate Commerce Committee. The original Senate amendment would have banned all whaling within 200-nautical miles of the United States. The new amendment bans all commercial whaling, which was the source of our concern in the first place. This new amendment would be completely in keeping with U.S. policy on this issue, but would not have the effect of unduly restricting subsistence whaling—which is specifically allowed under the Marine Mammal Protection Act—or Government approved research—which is also allowed under very strict conditions. I believe it is a good amendment.

The second amendment is extremely important to me and to the State of Washington. The State of Washington has been experiencing a heated public debate on the location of expanded oil terminal facilities in the State's coastal zone. While I would have preferred a unanimous decision by State leaders settling this controversy, unfortunately this has not happened. Instead of allowing this controversy to continue, I and my colleagues from the State have decided to confirm, as a matter of Federal law, that increased tanker traffic in Puget Sound is simply bad policy and should not be allowed. The amendment is also a clear Federal endorsement of the policy now in the Washington State coastal zone management program that—

The State of Washington, as a matter of overriding policy, positively supports the concept of a single, major crude oil petroleum receiving and transfer facility at or west of Port Angeles.

This policy would preclude any major new facility, or significant enlargement of any existing facility, on navigable waters east of Port Angeles, and in particular on Puget Sound.

The waters of Puget Sound, and the attendant resources, are indeed a major national environmental treasure. Puget Sound ought to be strictly protected; its resources ought not to be threatened. Since tanker accidents are directly related to the amount of tanker traffic, there should not be an expansion of traffic over what now presently exists. One oil company proposal would quadruple the amount of oil moved now through this pristine environment. This is simply intolerable. There are other oil transport options that would serve the national interest just as well as moving it by tanker through Puget Sound.

I do not necessarily favor increased oil traffic at Port Angeles. The State of Washington already bears its fair share of the Nation's refinery capacity. The social costs of oil tanker movements in my State, in my view, simply outweigh the benefits. And as I said, there are other alternatives.

Again, it is urgent that Congress approve this amendment. The Alaska oil transportation picture is a bit of a mess. This amendment will speed a decision on the best oil transport system to the Midwest. More importantly, it will also protect a fragile and significant natural asset—Puget Sound.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 1522 to make any necessary technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

BORROWING AUTHORITY OF THE DISTRICT OF COLUMBIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 419, H.R. 6530.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6530) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter is cleared for passage on our calendar.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6530) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 427, Senate Resolution 263.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 263) waiving sec. 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2114.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter also is cleared for passage on this side. We have no objection.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-462), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 2114, which in effect authorizes enactment of new budget authority which would become available in fiscal 1978, was reported on September 21, 1977, by the Committee on Energy and Natural Resources, a resolution waiving section 402(a) of the Budget Act with respect to S. 2114 must be adopted before this bill can be considered by the Senate. In reporting favorably on the resolution, the Budget Committee is simply recommending that the Senate proceed to consideration of S. 2114 and is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the first concurrent resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET IMPLICATIONS

S. 2114 authorizes $10 million in fiscal year 1978 and thus requires a section 402(a) waiver. The bill also authorizes "such sums as may be necessary" for certain activities, estimated to require $12 million in fiscal year 1978. This brings the total cost of S. 2114 to an estimated $22 million.

S. 2114 is the last of five bills reported by the Committee on Energy and Natural Resources as part of a national energy plan and is primarily a regulatory policy bill dealing with public utility ratemaking. The bill authorizes Federal action to encourage energy conservation, efficiency and equitable con-

sumer rates in public utility systems. Specifically, the bill as reported: (1) requires utilities to furnish information to the Department of Energy (DOE) regarding costs of service; (2) authorizes DOE to intervene in any proceeding before a State regulatory authority which relates to utility rates or rate design, although DOE is prohibited from appealing the authorities' decisions; (3) establishes a National Regulatory Research Institute; (4) requires DOE to recommend guidelines on cogeneration and small power production to State regulatory authorities; (5) authorizes loans for studying the feasibility of undertaking small hydroelectric projects; and (6) requires several studies, including one of the financial impact on State regulatory authorities of implementing this bill.

Enactment and full funding of this bill plus other legislation comprising the national energy plan, as well as funding of later nonenergy related requirements, would lead to a breaching of the second budget resolution ceiling for budget authority in function 300, although the outlay ceiling would remain intact. However, actual appropriations in function 300 are not expected to breach the fiscal year 1978 ceilings.

Significantly, the effect of defecting consideration of S. 2114 would be to preclude the Senate debate of a major part of the national energy plan.

The Committee on Energy and Natural Resources was delayed in reporting S. 2114 because it did not receive the administration's specific legislative proposals for a national energy plan until May 2, 1977. This left insufficient time for a careful review of the proposals in time to meet the May 15, 1977, reporting deadline.

Consideration of S. 2114 will not delay the appropriations process. Funding of this $22 million bill and other energy plan initiatives could be provided in a supplemental. Passage and subsequent funding of S. 2114 would not affect the economy as a whole but would reflect a national priority of emphasizing energy conservation.

Under these circumstances, the Budget Committee reports favorably on Senate Resolution 263 and recommends that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2114. Such waiver is necessary because S. 2114, containing part E, as amended, of title I of S. 1469, the "National Energy Act", authorizes the Secretary of the Department of Energy to expend funds and to grant loans for certain utility regulation programs in fiscal year 1978. The authorizations contained in S. 2114, are consistent with the Energy and Natural Resources Committee's March 15, 1977, report to the Committee on the Budget. However, compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible with respect to these authorizations because of—

(1) the extensive hearings and mark-ups necessary for the full consideration of the President's National Energy Plan proposals submitted to the Congress on April 20, 1977, and

(2) the large number of other matters considered and reported by the Committee on Energy and Natural Resources during the past three months.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 428, Senate Resolution 270.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 270) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 785, a bill conveying 2,700 acres to the Paiute and Shoshone Tribes of the Fallon Indian Reservation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, this measure as well appears cleared on our calendar, and we have no objection to its passage.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–463), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 785 authorizes enactment of new budget authority for fiscal 1978 and was reported on September 27, 1977, by the Senate Select Committee on Indian Affairs, a resolution waiving section 402(a) of the Budget Act with respect to S. 785 must be adopted by the Senate. In reporting favorably on the resolution, the Budget Committee is simply recommending that the Senate proceed to consideration of S. 785 and is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the First Concurrent Resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under the circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: The reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the Congressional budget.

BUDGET IMPLICATIONS

S. 785 authorizes appropriations of $5.4 million for fiscal year 1978. If this bill were enacted and fully funded, CBO estimates $0.3 million would be outlayed in fiscal year 1978. Estimated revenue losses would be a few thousand dollars.

Funding of $5.4 million in fiscal year 1978 for the program authorized in S. 785 would not significantly affect the Congressional budget totals. This authorization would not delay the appropriations process, as the amount can be accommodated in a supplemental. S. 785 does not have a macroeconomic impact nor does it affect national priorities.

The Select Committee on Indian Affairs contends that it made a diligent effort in reporting the bill, but was prevented from meeting the May 15 deadline because the select committee was created pursuant to S. Res. 4 on February 4, 1977, but did not have funds to hire staff until April 1, 1977, when the committee's appropriation resolution passed the Senate. As a consequence, the committee did not have a full staff until May. In addition, the select committee, in carrying out its legislative duties, relies upon the American Indian Policy Commission for recommendations. The Commission did not advise the select committee on this matter until May 17.

Under these circumstances, the Budget Committee reports favorably on Senate Resolution 270 and recommends that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 270) was agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 785. Such waiver is necessary because the Congressional Budget Act of 1974 requires that all authorizations for appropriations for fiscal year 1978 be submitted by May 15, 1977. However, the Senate Select Committee on Indian Affairs is a new committee which was not fully operational by that date and could not, therefore, have met the May 15, 1977, deadline.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 429, Senate Resolution 273.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

The resolution (S. Res. 273) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1863.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, this matter also is cleared for passage on this side.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–464), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 1863 authorizes enactment of new budget authority for fiscal 1978 and was reported by the Committee on Armed Services on September 27, 1977, a resolution waiving section 402(a) of the Budget Act with respect to S. 1863 must be adopted by the Senate. In reporting favorably on the resolution the Budget Committee is simply recommending that the Senate proceed to consideration of S. 1863 and is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the first concurrent resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET IMPLICATIONS

The proposed legislation for S. 1863 was submitted to the Senate by the Department of Defense on July 13, 1977. Since the President's decision to cancel the B–1 did not occur until June 30, the Armed Services Committee could not comply with the May 15 reporting deadline.

S. 1863 is tied to the President's decision (approved by the Congress) to cancel the production of the B–1 aircraft in favor of increased reliance on cruise missiles. Without enactment of this bill, the bomber and air-launched strategic weapons portion of the triad defense policy would not be modernized at the same pace as the other triad components. The second budget resolution assumed enactment of this legislation.

Enactment of the bill will require a supplemental appropriation. The Appropriations Committee staff has indicated that the components of the bill will be included in a general supplemental bill covering several items within the next 2 weeks.

Under these circumstances, the Budget Committee reports favorably on Senate Resolution 273 and recommends that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1863, a bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

On July 12, 1977, the President submitted an amendment to the Budget for fiscal year 1978 as a result of his decision to terminate B–1 production and to pursue instead development and deployment of cruise missiles using air launched platforms. The amendment decreased the amounts requested for appropriations in certain accounts of the Department of Defense and increased others. Some of these increased amounts require fund authorization pursuant to section 138 (a) of title 10, United States Code.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to S. 1863, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE GEORGE WASHINGTON UNIVERSITY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1060.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1060) entitled "An Act to amend the Act of February 9, 1821, to restate the charter of The George Washington University", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as "The George Washington University Charter Restatement Act".

SEC. 2. The Act entitled "An Act to incorporate the Columbia College in the District of Columbia", approved February 9, 1821 (6 Stat. 255), is amended to read as follows:

"ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia a university and a body corporate which shall be known as The George Washington University (hereinafter in this Act referred to as the 'University') and which shall have perpetual succession.

"PURPOSES

"SEC. 2. The purposes of the University are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

"POWERS

"SEC. 3. In order to carry out the purposes of the University, the University may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the University.

"(2) establish any school, division, or department of learning to become a part of the University,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the University without regard to the restrictions of any usury law, but may not plead any usury law as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the University and the facilities of any agency of the United States available to the University,

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–1005) on the date of the enactment of The George Washington University Charter Restatement Act and not inconsistent with the purposes of the University, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the University.

"BOARD OF TRUSTEES

"SEC. 4. (a) The management, direction, and government of the University shall be vested in a board of trustees (hereinafter in this Act referred to as the 'board'). The bylaws of the University shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the University.

"(b) No bylaws of the University which establishes qualifications for membership on the board may permit any individual (except the president of the University) to serve as a member of the board during the period in which the individual is serving as

an officer, professor, lecturer, teacher, tutor, or employee of the University.

"AUTHORITY OF THE BOARD OF TRUSTEES

"SEC. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the University in a manner consistent with this Act, shall have full authority over all personnel and activities of the University, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent, or employee of the University. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the University for—

"(1) the conduct of the purposes, business, and affairs of the University, or

"(2) the regulation of the internal government of the University.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge the University with any other nonprofit organization.".

SEC. 3. (a) The amendment made by section 2 constitutes a complete restatement of the charter of The George Washington University without disturbing the present and continuing corporate status of The George Washington University and supersedes all prior charter provisions of The George Washington University contained in the Act of February 9, 1821 (6 Stat. 255), and all amendments and supplements thereto.

(b) Each individual who is a member of the board of trustees of The George Washington University on the date of the enactment of this Act shall continue to serve as a member until the membership termination date applicable to such individual.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EAGLETON, I move that the Senate concur in the House amendment.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Commerce, Science, and Transportation; and the withdrawal of the nomination of Donald L. Tucker, of Florida, to be a member of the Civil Aeronautics Board.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 7010. An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; and

H.J. Res. 573. A joint resolution commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1331. An act to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

H.R. 5645. An act to raise the limitation on appropriations for the United States Commission on Civil Rights.

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METZENBAUM).

At 12:14 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 6348. An act to convey to the Ely Indian Colony the beneficial interest in certain Federal land; and

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

The message also announced that the House has passed without amendment the bill (S. 667) to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

At 2:30 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs; and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. CORMAN, Mr. PIKE, Mr. VANIK, Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. CONABLE, Mr. DUNCAN of Tennessee, Mr. CARTER, and Mr. MADIGAN were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes.

At 4:40 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the amendment of the Senate to the bill (H.R. 5742) to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

S. 667. An act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2095. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to amend the Emergency Livestock Credit Act (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2096. A letter from the Acting Director of ACTION transmitting, for the information of the Senate, problems the Agency will face if the Labor-HEW appropriation bill for fiscal year 1978 does not pass by the beginning of the new fiscal year; to the Committee on Appropriations.

EC-2097. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a listing of contract award dates for the period September 15, 1977 to December 15, 1977 (with an accomapnying report); to the Committee on Armed Services.

EC-2098. A letter from the Secretary of Defense transmitting, pursuant to law, the annual report on reserve forces for fiscal year 1976 and the transition quarter (with an accompanying report); to the Committee on Armed Services.

EC-2099. A letter from the Chairman of the Federal Deposit Insurance Corporation transmitting, pursuant to law, the annual report of the FDIC for the calender year 1976 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC-2100. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Use of Exchange Stabilization Fund Resources—Arrangement with Treasury Provides Access to Information (ID-77-42, September 28, 1977) (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC-2101. A letter from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, the sixth annual report of the National Advisory Committee on Oceans and Atmosphere (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2102. A letter from the Secretary of Commerce transmitting, pursuant to law, the sixth annual report of the National Advisory Committee on Oceans and Atmosphere (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2103. A letter from the Under Secretary of Interior transmitting, pursuant to law, the annual report of the fiscal condition of the Government of the Virgin Islands for the fiscal year ended June 30, 1976 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2104. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a report of building project survey for Springfield, Massachusetts (with accomoanying papers); to the Committee on Environment and Public Works.

EC-2105. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "What Needs to be Done to Improve the Supply System of the District of Columbia" (GGD-77-32 September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2106. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "What Needs to be Done to Improve the Supply System of the District of Columbia" (GGD-7732 September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2107. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Conflicting Congressional Policies: Veterans' Preference and Apportionment Vs. Equal Employment Opportunity" (FPCD-77-61, September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2108. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Benefits From Flexible Work Schedules—Legal Limitations Remain" (FPCD-77-62, September 26, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2109. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Department of Housing and Urban Development Unresponsive to Multifamily Housing Real Estate Tax Problems" (CED-77-125, September 27, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2110. A letter from the Comptroller General of the United States transmitting pursuant to law, a report entitled "Executive Agencies Can Do Much More in Using Government-Owned Space as an Alternative to Leasing or New Construction" (LCD-77-314, September 27, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2111. A letter from the Chairman of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research transmitting, pursuant to law, a report entitled "Report and Recommendations: Research Involving Children" (with an accompanying report); to the Committee on Human Resources.

EC-2112. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document concerning Commissioner's State programs and discretionary programs which has been sent to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC-2113. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report entitled "Title I Funds Allocation: The Current Formula" (with an accompanying report); to the Committee on Human Resources.

EC-2114. A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to amend chapter 40, title 18, United States Code, to require the addition of tracer elements to explosive materials and to correct the reference to drugs (with accompanying papers); to the Committee on the Judiciary.

EC-2115. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, 414 reports covering the period September 1 through September 15, 1977, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Governmental Affairs:

Without amendment:

S. Res. 281. An original resolution to authorize a staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and be deposed and to present himself and give testimony at the trial in the matter of Janine Perrignon, et al. v. Bergin Brunswig Corporation, et al.

By Mr. CRANSTON, from the Committee on Human Resources:

Without amendment:

S. Res. 283. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2108. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORT OF THE COMMITTEE ON HUMAN RESOURCES (REPT. NO. 95-469)

Mr. WILLIAMS, from the Committee on Human Resources, submitted a report pursuant to section 302(b) of the Congressional Budget Act of 1974, which was ordered to be printed.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were each read twice by title and referred as indicated:

H.R. 7010. An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 573. A Joint resolution commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people; to the Committee on Foreign Relations.

H.R. 6348. An act to convey to the Ely Indian Colony the beneficial interest in certain Federal land; to the Select Committee on Indian Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 4, 1977, he presented to the President of the United States the enrolled bill (S. 1331) to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 2172. A bill to repeal certain obsolete provisions of law relating to deductions from salaries of Members of Congress; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 2173. A bill to provide for Federal judicial review of the application of jurisdictional guidelines for the State taxation of interstate commerce and for the apportionment of interstate income among the States; jointly, by unanimous consent, to the Committees on Finance and the Judiciary.

By Mr. HEINZ:

S.J. Res. 85. Joint resolution to proclaim October 11, 1977, to be Pulaski-Kosciuszko Memorial Day; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S.J. Res. 86. Joint resolution to extinguish any right, title, or interest to certain lands in the Commonwealth of Massachusetts, and for other purposes; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 2173. A bill to provide for Federal judicial review of the application of jurisdictional guidelines for the State taxation of interstate commerce and for the apportionment of interstate income among the States; jointly, by unanimous consent, to the Committees on Finance and the Judiciary.

Mr. MATHIAS. Mr. President, I am today introducing the Interstate Taxation bill of 1977.

In 1789, the Founding Fathers replaced the Articles of Confederation with our Constitution. In large measure, they did so because commerce and trade—so vital to the security and prosperity of every American—could not flourish in the confusion of multiple and often conflicting local laws.

Our Constitution was written as a compact between States, willing to trade short-run gains for long-term progress in an orderly Federal system of free-flowing commerce.

Today that system is not functioning as efficiently as it should. A major obstacle to interstate commerce lies in the complex and often conflicting local tax rules which confront firms in interstate commerce. These rules harm both business and our State and local governments—and, in the end, deprive all our citizens of the efficiency which leads to lower prices and the tax revenue which finances government services.

I have been deeply concerned with this problem since I served on the House Special Committee on State Taxation of Interstate Commerce. In 1964 we issued a report based on an extensive study of this problem. We found that sales and use taxes were levied by approximately 2,300 State and local units. That number has increased by 250 percent since the 1964 report. In addition, there are corporate income tax laws in all but five States of the Union.

Businesses now have such a complex set of rules to comply with that they often fail to pay tax liabilities simply because they are unaware of them. Some States have laws which are effectively useless because companies having ephemeral contacts with these States are not familiar with the particular idiosyncracies of these laws. There are no

uniform accounting principles by which businesses can compute their liability if they do business in varying amounts in a number of different States. It has long been obvious that the burden of even attempting to comply with the multiplicity of State and local laws is particularly onerous for small business. My bill will put all businesses on notice that those States in which they operate to such an extent that they come within the Federal guidelines can impose and collect taxes on their sales and income.

Over the years of my service in both the House and Senate, I have introduced a series of bills which would address this problem. These bills have incorporated the ideas of representatives of State and local government and business groups. The bill I introduce today, like my earlier bills, will regularize the jurisdictional principles by which States impose sales, use, income, and gross receipts taxes. It will benefit the States by giving them the assurance that their tax laws, written in conformity with the uniform State and use tax provisions of this act, will result in maximum compliance and maximum revenues.

In the 90th and the 91st Congresses, the House passed, by overwhelming majorities, State taxation legislation similar in thrust to my bill. The Senate Finance Committee created a Subcommittee on Interstate Taxation in the 93d Congress to hold hearings and give serious consideration to the problem. Senator MONDALE, who chaired the subcommittee, said that:

> Its purposes were to "examine the problems posed for interstate businesses by the multifarious corporate income and sales and use taxes imposed by the different states . . . [F]urther House action now appears unlikely unless the Senate acts first and, in an effort to begin Senate action, the subcommittee is holding hearings.

Other business has kept the Finance Committee from taking action on the findings of these hearings.

The basic objectives of this bill are the same as legislation which I have introduced in the past including S. 2080 in the 94th Congress. However, there are several major differences between this bill and S. 2080:

First. Title I provides for a sample "business location" test to determine whether or not a business is required to collect sales and use taxes for a particular State. It does not include the so-called "Louisiana Plan" for a combined State and local sales and use tax. The "business location" test in this bill is basically the same as in the two bills which have been passed by the House of Representatives in the past.

Second. Title II on gross receipts tax is an entirely new provision. It is necessary to clear up the confusion that resulted from a 1975 U.S. Supreme Court decision in the Standard Pressed Steel case.

Third. Title III on net income taxes is basically the same as title II in S. 2080, but it has been simplified and shortened through elimination of nonessential provisions.

Mr. President, I ask unanimous consent that the full text of the interstate taxation bill of 1977 be printed in the RECORD at the conclusion of my remarks along with a section-by-section explanation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SALES AND USE TAXES

PART A. Jurisdictional Guidelines

SEC. 101. UNIFORM JURISDICTIONAL STANDARD.

No State or political subdivison thereof shall have power to require a person to collect a sales or use tax with respect to a sale of tangible personal property unless the person has a business location in the State or regularly makes household deliveries in the State.

SEC. 102. REDUCTION OF MULTIPLE TAXATION.

(a) LOCATION OF SALES.—A State or political subdivision thereof may impose a sales tax or require a seller to collect a sales or use tax with respect to an interstate sale of tangible personal property only if the destination of the sale is—

(1) in that State, or

(2) in a State or political subdivision for which the tax is required to be collected.

(b) IMPOSITION OF USE TAX.—A State or political subdivision thereof may not impose a use tax with respect to tangible personal property of a person without a business location in the State or an individual without a dwelling place in the State; but nothing in this subsection shall affect the power of a State or political subdivision to impose a use tax if the destination of the sale is in the State and the seller has a business location in the State or regularly makes household deliveries in the State.

(c) CREDIT FOR PRIOR TAXES.—The amount of any use tax imposed with respect to tangible personal property shall be reduced by the amount of any sales or use tax previously paid by the taxpayer with respect to the same property on account of liability to another State or political subdivision thereof.

(d) REFUNDS.—A person who pays a use tax imposed with respect to tangible personal property shall be entitled to a refund from the state or political subdivision thereof imposing the tax, up to the amount of the tax so paid, for any sales or use tax subsequently paid to the seller with respect to the same property on account of prior liability to another State or political subdivision thereof.

(e) MOTOR VEHICLES AND MOTOR FUELS.—

(1) VEHICLES.—Nothing in subsection (a) or (b) shall affect the power of a State or political subdivision thereof to impose or require the collection of a sales or use tax with respect to motor vehicles registered in the State.

(2) FUELS.—Nothing in this section shall affect the power of a State or political subdivision thereof to impose or require the collection of a sales or use tax with respect to motor fuels consumed in the State.

SEC. 103. EXEMPTION FOR HOUSEHOLD GOODS, INCLUDING MOTOR VEHICLES, IN THE CASE OF PERSONS WHO ESTABLISH RESIDENCE.

No State or political subdivision thereof may impose a sales tax, use tax, or other nonrecurring tax measured by cost or value with respect to household goods, including motor vehicles, brought into the State by a person who establishes residence in that State if the goods were acquired by that person thirty days or more before he establishes such residence.

SEC. 104. TREATMENT OF FREIGHT CHARGES WITH RESPECT TO INTERSTATE SALES.

Where the freight charges or other charges for transporting tangible personal property to the purchaser incidental to an interstate sale are not included in the price but are separately stated by the seller, no State or political subdivision may include such charges in the measure of a sales or use tax imposed with respect to the sale or use of the property.

SEC. 105. LIABILITY OF SELLERS ON SALES TO BUSINESS BUYERS.

No seller shall be liable for the collection or payment of a sales or use tax with respect to an interstate sale of tangible personal property if the purchaser of such property furnishes or has furnished to the seller—

(a) a registration number or other form of identification indicating that the purchaser is registered with the jurisdiction imposing the tax to collect or pay a sales or use tax imposed by that jurisdiction, or

(b) a certificate or other written form of evidence indicating the basis for exemption or the reason the seller is not required to pay or collect the tax.

SEC. 106. LOCAL TAXES.

No seller shall be required by a State or political subdivision thereof to classify interstate sales for sales tax accounting purposes according to geographic areas of the State in any manner other than to account for interstate sales with destinations in political subdivisions in which the seller has a business location or regularly makes household deliveries. Where in all geographic areas of a State sales taxes are imposed at the same rate on the same transactions, are administered by the State, and are otherwise applied uniformly so that a seller is not required to classify interstate sales according to geographic areas of the State in any manner whatsoever, such sales taxes whether imposed by the State or by political subdivisions shall be treated as State taxes for purposes of this Act.

PART B. DEFINITIONS

SEC. 110. SALES TAX.

A "sales tax" is any measure imposed with respect to sales and measured by the sales price of tangible personal property or services with respect thereto, which tax is required by State law to be stated separately from the sales price by the seller or is customarily stated separately from the sales price.

SEC. 111. USE TAX.

A "use tax" is any nonrecurring tax, other than a sales tax, which is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership of that property or the leasing of that property from another, including any consumption, keeping, retention, or other use of tangible personal property.

SEC. 112. INTERSTATE SALE.

An "interstate sale" is a sale in which the tangible personal property sold is shipped or delivered to the purchaser in the State from a point outside that State.

SEC. 113. STATE.

The term "State" means any of the several States of the United States or the District of Columbia.

SEC. 114. DESTINATION.

The "destination" of a sale is in the State or political subdivision in which possession of the property is physically transferred to the purchaser, or to which the property is shipped to the purchaser regardless of the free on board point or other conditions of the sale.

SEC. 115. BUSINESS LOCATION.

A person shall be considered to have a "business location" within a State only if that person—

(a) owns or leases real property within the State, or

(b) has one or more employees located in the State, or

(c) regularly maintains a stock of tangible personal property in the State for sale in the ordinary course of its business.

For the purpose of paragraph (c), property which is on consignment in the hands of a consignee, and which is offered for sale by the consignee on his own account, shall not be considered as stock maintained by the consignor; and property which is in the hands of a purchaser under a sale or return arrangement shall not be considered as stock maintained by the seller.

SEC. 116. LOCATION OF PROPERTY.

Property shall be considered to be located in a State if it is physically present in that State.

SEC. 117. LOCATION OF EMPLOYEE.

(a) GENERAL RULE.—An employee shall be considered to be located in a State if—

(1) the employee's service is localized in that State, or

(2) the employee's service is not localized in any State but some of the service is performed in that State and the employee's base of operations is in that State.

(b) LOCALIZATION OF EMPLOYEE'S SERVICE.—Service of any employee shall be considered to be localized in a State if—

(1) the service is performed entirely within that State, or

(2) the service is performed both within and without that State, but the service performed without the State is incidental to service performed within the State.

(c) EMPLOYEE'S BASE OF OPERATIONS.—The term "base of operations," with respect to an employee, means a single place of business with a permanent location which is maintained by the employer and from which the employee regularly commences his activities and to which he regularly returns in order to perform the functions necessary to the exercise of his trade or profession.

(d) CONTINUATION OF MINIMUM JURISDICTIONAL STANDARD.—An employee shall not be considered to be located in a State if his only business activities within such State on behalf of his employer are any or all of the following:

(1) The solicitation of orders, for sales of tangible personal property, which are sent outside the State for approval or rejection and (if approved) are filled by shipment or delivery from a point outside the State.

(2) The solicitation of orders, for sales of or for the benefit of a prospective customer of his employer, if orders by such customer to such employer to enable such customer to fill orders resulting from such solicitation are orders described in paragraph (1).

(3) The installing or repairing of tangible personal property which is the subject of an interstate sale by the employer, if such installation or repair is incidental to the sale.

This subsection shall not apply with respect to business activities carried on by one or more employees within a State if the employer (without regard to those employees) has a business location in such State.

(e) EMPLOYEES OF CONTRACTORS AND EXTRACTORS.—If the employer is engaged in the performance of a contract for the construction of improvements on or to real property in the State or of a contract for the extraction of natural resources located in the State, an employee whose services in the State are related primarily to the performance of the contract shall be presumed to be located in the State. This subsection shall not apply with respect to services performed in installing or repairing tangible property which is the subject of interstate sale by the employer, if such installation or repair is incidental to the sale.

(f) EMPLOYEE.—No person shall be considered an employee of an employer unless such person is an employee of such employer for purposes of Federal income tax withholding under chapter 24 of the Internal Revenue Code of 1954, as amended.

SEC. 118. HOUSEHOLD DELIVERIES.

A seller makes household deliveries in a State or political subdivision if he delivers goods, otherwise than by mail or by common carrier, to the dwelling places of his purchasers located in that State or subdivision.

TITLE II—GROSS RECEIPTS TAXES

PART A. Jurisdiction

SEC. 201. UNIFORM JURISDICTIONAL STANDARD.

No State or political subdivision thereof shall have power to impose a gross receipts tax with respect to the interstate sale of tangible personal property unless the sale is solicited directly through a business office of the seller in the State or political subdivision.

PART B. Definitions

SEC. 210. GROSS RECEIPTS TAX.

For purposes of this title, a "gross receipts tax" is any tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, which is applicable to commercial or manufacturing business in general, and in the determination of which no deduction is allowed which would constitute the tax a net income tax.

SEC. 211. BUSINESS OFFICE.

For purposes of this title, a person shall be considered to have a "business office" in a State or political subdivision only if that person—

(a) owns or leases real property within the State or political subdivision, or

(b) regularly maintains a stock of tangible personal property in the State or political subdivision for sale in the ordinary course of his business.

For the purpose of paragraph (b), property which is on consignment in the hands of a consignee, and which is offered for sale by the consignee on his own account, shall not be considered as stock maintained by the consignor; and property which is in the hands of a purchaser under a sale or return arrangement shall not be considered as stock maintained by the seller.

SEC. 212. OTHER DEFINITIONS.

For purposes of this title, the terms "sales tax", "State", and "interstate sale" have the same meaning as such terms have for purposes of title I of this Act, and the term "net income tax" has the same meaning as such term has for purposes of title III of this Act.

TITLE III—NET INCOME TAXES

PART A. Apportionable and Allocable Income

SEC. 301. OPTIONAL THREE-FACTOR FORMULA.

A State or a political subdivision thereof may not impose for any taxable year on a corporation taxable in more than one State, other than an excluded corporation, a net income tax measured by an amount of net income in excess of the amount determined by (1) multiplying the corporation's base by an apportionment fraction which is the average of the corporation's equally-weighted property, payroll, and sales factors for the State for the taxable year and (2) adding to the amount determined under clause (1) the amount of income allocable to the State for the taxable year. For this purpose the base to which the apportionment fraction is applied shall be the corporation's apportionable income as defined in this title for that taxable year. No State shall, by reason of not including dividends or foreign source income in apportionable income, make any offsetting adjustment of an otherwise allowable deduction which is unrelated to such excluded dividends or foreign source income.

SEC. 302. INCOME ALLOCABLE TO A STATE: EXCLUSIONS FROM APPORTIONABLE AND ALLOCABLE INCOME.

Dividends received from corporations in which the taxpayer owns less than 50 percent of the voting stock, other than dividends which constitute foreign source income, are income allotable to the State of commercial domicile of such taxpayer. No dividends received from corporations in which the taxpayer owns 50 percent or more of the voting stock and no foreign source income of such taxpayer shall be apportionable or allocable to any State.

SEC. 303. COMBINED OR CONSOLIDATED REPORTING.

(a) Except as otherwise provided in subsection (b), any State may require, or a corporation may elect, that the taxable income of the corporation be determined by reference to the combined or consolidated net income and the combined or consolidated apportionment factors of all affiliated corporations in the affiliated group of which the corporation is a member.

(b) No State may require, for purposes of subsection (a), that a combination or consolidation of an affiliated group include—

(1) any excluded corporation, or

(2) any corporation, substantially all the income of which is derived from sources without the United States.

For purposes of this subsection, substantially all the income of a corporation (whether a domestic or a foreign corporation) shall be deemed to be derived from sources without the United States if 80 percent or more of its gross income is derived from sources without the United States in the current taxable year and in each of the two preceding taxable years (excluding any period during which such corporation was not in existence).

(c) Nothing in this title shall preclude the determination of combined or consolidated income on a basis acceptable to both the State and the taxpayer.

PART B. Definitions

SEC. 310. NET INCOME TAX.

A "net income tax" is a tax which is imposed on or measured by net income.

SEC. 311. EXCLUDED CORPORATION.

An "excluded corporation" is any of the following:

(a) Any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, small loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, any type of insurance company, or any corporation which derives 90 percent or more of its gross income from interest (including discount).

(b) Any corporation more than 50 percent of the ordinary gross income of which for the taxable year is derived from regularly carrying on any one or more of the following business activities:

(1) the transportation for hire of property or passengers, including the rendering by the transporter of services incidental to such transportation;

(2) the sale of electrical energy or water; or

(3) the furnishing of public telegraph or intrastate telephone services.

SEC. 312. AFFILIATED CORPORATIONS.

Two or more corporations are "affiliated" if they are members of the same group comprised of one or more corporate members connected through stock ownership with a common owner, which may be either corpo-

rate or noncorporate, in the following manner:

(a) More than 50 percent of the voting stock of each member other than the common owner is owned directly by one or more of the other members; and

(b) More than 50 percent of the voting stock of at least one of the members other than the common owner is owned directly by the common owner.

SEC. 313. APPORTIONABLE INCOME.

Except to the extent otherwise provided in section 302, the "apportionable income" of a corporation means its net income subject to apportionment as determined under State law.

SEC. 314. PROPERTY FACTOR.

(a) IN GENERAL.—A corporation's property factor for any State is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned and used or rented and used during the taxable year in that State and the denominator of which is the average value of all of the corporation's real and tangible personal property owned and used or rented and used during the taxable year and located everywhere.

(b) STANDARDS FOR VALUING PROPERTY IN PROPERTY FACTOR.—

(1) Owned Property.—Property owned by the corporation shall be valued at its original cost.

(2) Rented Property.—Property rented to the corporation shall be valued at eight times the net rents payable by the corporation during the taxable year. Net rent is the gross rent payable by the corporation less rent received by the corporation from subrentals.

SEC. 315. PAYROLL FACTOR

(a) IN GENERAL.—A corporation's payroll factor for any State is a fraction, the numerator of which is the amount of wages paid or accrued during the taxable year by the corporation to employees located in that State and the denominator of which is the total amount of wages paid or accrued during the taxable year by the corporation to all employees located everywhere.

(b) DEFINITION OF WAGES.—The terms "wages" means wages as defined for purposes of the Federal Unemployment Tax Act in section 3306(b) of the Internal Revenue Code of 1954, determined without regard to the limitation of section 3306(b)(1) on the amount of wages.

SEC. 316. SALES FACTOR.

(a) IN GENERAL.—A corporation's sales factor for any State is a fraction, the numerator of which is the total sales of the taxpayer in the State during the taxable year and the denominator of which is the total sales of the taxpayer everywhere during the taxable year.

(b) SALES INCLUDED.—

(1) Sales of tangible personal property are in the State if such property is received in the State by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in the State, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in the State and direct delivery outside the State to a person or firm designated by a purchaser does not constitute delivery to the purchaser in the State, regardless of where title passes or other conditions of sale.

(2) Sales, other than sales of tangible personal property, are in the State if—

(A) the income-producing activity is performed in that State, or

(B) the income-producing activity is performed both in and outside that State and a greater proportion of the income-producing activity is performed in that State than in any other State, based on costs of performance.

(c) LOCATION OF CERTAIN OTHER SALES.—

(1) Sales of services shall be included in the numerator of the State in which the service is performed. Sales of services rendered in two or more States shall, for the purpose of the numerator of the sales factor, be divided between those States in proportion to the direct costs of performance incurred in each such Sate by the taxpayer in rendering the services.

(2) Sales of real property, if the corporation is engaged primarily in the business of selling real property, are included in the numerator of the State in which the property is located.

(3) Sales which consist of receipts from the rental of tangible personal property shall be considered to be located in the State in which the property is located.

(d) ALL OTHER SALES.—All gross receipts, other than those described in subsections (b) and (c) of this section, shall be excluded from both the numerator and the denominator of the sales factor.

SEC. 317. FOREIGN SOURCE INCOME

For purposes of this title, "foreign source income" is—

(a) interest other than interest derived from sources within the United States;

(b) dividends other than dividends derived from sources within the United States;

(c) rents, royalties, license and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties; and

(d) gains, profits or other income from the sale of intangible or real property located without the United States.

In determining the source of income for purposes of this section and section 303(b), the provisions of section 861, 862 and 863 of the Internal Revenue Code of 1954 shall be applied.

SEC. 318. DIVIDENDS.

"Dividends" shall have the same meaning as that term has under the Internal Revenue Code of 1954, as amended, including any sum treated as a dividend under section 78 of such Code.

SEC. 319. UNITED STATES.

The term "United States" wherever used in this Act shall include only the fifty States and the District of Columbia.

TITLE IV—JURISDICTION OF SPECIAL COURTS

SEC. 401. JUDICIAL REVIEW.

Notwithstanding section 1251(a) of title 28, United States Code, the United States Court of Claims shall have jurisdiction to review de novo any issues relating to a dispute arising under this Act or under Public Law 86–272, as amended. Within 90 days of the decision of a State administrative body from which the only appeal is to a court, any party to the determination may petition the Court of Claims for a review de novo of any such issues. The findings of fact by the State administrative body shall be considered with other evidence of the facts. The judgment of the Court of Claims shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code, as amended.

SEC. 402. EFFECT OF FEDERAL DETERMINATION.

The determination of a dispute arising hereunder by the Court of Claims shall be binding for the taxable years involved on any State given notice or appearing as a party, notwithstanding any prior determinations of the courts or administrative bodies of that State completed after notice to that State. No statute of limitations shall bar the right of a State or a corporation to an amount of tax increased or decreased in accordance with the determination, provided action is begun within one year after the determination has become final.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PROHIBITION AGAINST OUT-OF-STATE AUDIT CHARGES.

No charge may be imposed by a State or political subdivision thereof to cover any part of the cost of conducting outside that State an audit for a tax to which this Act applies.

SEC. 502. LIABILITY WITH RESPECT TO UNASSESSED TAXES.

(a) PERIODS ENDING PRIOR TO ENACTMENT DATE.—No State or political subdivision thereof shall have the power, after the date of the enactment of this Act, to assess against any person for any period ending on or before such date in or for which that person became liable for the tax involved, a sales or use tax with respect to tangible personal property, if during such period that person had no business location in the State, or did not regularly make household deliveries in the State.

(b) CERTAIN PRIOR ASSESSMENTS AND COLLECTIONS.—The provisions of subsection (a) shall not be construed—

(1) to invalidate the collection of a tax prior to the time assessment became barred under subsection (a), or

(2) to prohibit the collection of a tax at or after the time assessment became barred under subsection (a), if the tax was assessed prior to such time.

EXPLANATION OF PROVISIONS OF S. 2173

A BILL TO PROVIDE FOR JUDICIAL REVIEW OF STATE TAXATION OF INTERSTATE COMMERCE

Titles I and II spell out the Jurisdictional Guidelines that would govern the State taxation of interstate commerce and provides that the application of such guidelines shall be subject to Federal Court Review as provided in Title IV of this Act. Title I provides jurisdictional guidelines for sales and use taxes; Title II covers gross receipts taxes; and Title III deals with the apportionment and allocation of interstate corporate income for income tax purposes.

TITLE I—SALES AND USE TAXES

Title I is substantially the provisions which have twice been approved by the House Judiciary Committee and passed the House of Representatives by substantial votes. These were H.R. 2158, which passed the House by a vote of 284–89 on May 22, 1968, and H.R. 7906, which was approved by a 311–87 margin on June 25, 1969. H.R. 7906 and subsequent bills with identical provisions have been sponsored by the Chairman of the House Judiciary Committee, Peter W. Rodino, Jr. (D-N.J.). The explanation of Title I which follows is based primarily on House Report No. 91–279 which explained H.R. 7906.

Section 101. Uniform jurisdictional standards

This section aims to provide protection for the business that is selling in interstate commerce from being liable for payment or collection of sales or use taxes in States where that business has no business location while at the same time preserving the legitimate interest of the States in collecting all taxes to which they are entitled.

The concept of maintaining a business location in a State is defined in section 115 and generally means owning or leasing real property within the State, having one or more employees located in the State, or regularly maintaining a stock of tangible personal property in the State for sale in the ordinary course of business or by regularly making household deliveries in the State. The term "household deliveries" is defined in section 118 to mean the delivering of goods by the seller, other than by mail or common carrier, to the dwelling places of his purchasers.

The method for determining whether an employee is located in a particular State is set out in section 117. In general, the method follows two of the four rules used to determine the State in which an employee is located for unemployment compensation purposes. Under the rules used in section 117 an employee is located in a State if (1) the employee's service is localized in that State; that is, if his service is performed entirely within the State, except for incidental service outside of the State, or (2) the employee's service is not localized in any State but some of the service is performed in that State and the employee's base of operations is in that State. It is intended that the uniform rules and interpretations developed with respect to locating employees for unemployment compensation purposes be applicable here to the extent consistent with section 117. In addition, no person would be considered an employee unless such person is an employee for Federal income tax purposes. (See Section 117(f)).

To clarify the question of taxability of contractors and extractors, section 117(e) provides that employees of contractors and extractors working on a contract in a State are to be presumed located in the State.

Installing or repairing tangible personal property incidental to an interstate sale is distinguished from contracting, "incidental" meaning insubstantial.

Section 102. Reduction of multiple sales and use taxation

Overlapping multistate sales taxation is mitigated by section 102. An interstate sale must have its destination in a State in order for that State or any political subdivision thereof to impose a sales tax or require a seller to collect a sales or use tax with respect to the sale. Destination is defined in section 114 to conform to the definition proposed by the National Conference of Commissioners on Uniform State Laws in their Uniform Division of Income for Tax Purposes Act.

A State other than the State of destination, however, may require a seller to collect a sales or use tax for the State of destination even though the seller does not have a business location or regularly make household deliveries in the State of destination. For example, New Jersey and New York could adopt parallel procedures whereby New Jersey would require sellers with business locations in New Jersey to collect tax on their sales for shipment to New York buyers, even though the sellers had no jurisdictional contact with New York, in return for New York imposing on its sellers a collection obligation on their sales to New Jersey buyers. Section 102(a) preserves any existing power of a State having jurisdiction under section 101 to exercise it on behalf of another State, but does not confer any new power or remove any present barrier in State constitutions or statutes.

The above explanation of Section 102(a)(2) which was taken from House Report No. 91–279 on HR 7906 does not do justice to the potential importance of this provision. This may help explain why the States have not fully appreciated the opportunity that this provision gives for interstate agreements that could greatly increase the amount of sales and use tax collections. It recognizes that the State of origin usually is in a much better position to collect sales and use taxes from businesses domiciled and having property and payroll in them than is the State of destination of the sale. Failure by the States to recognize the potential of such reciprocal agreements helps explain the great difference between the revenue impact estimates made by the House Judiciary Subcommittee staff and those made by individual States.

A use tax may not be imposed on a person without a business location in the State or on an individual without a dwelling place in the State. "Dwelling place" is intended as an inclusive term denoting less than State residence, but more than mere transient status within a State. As such, it is a concept already embodied in the laws of many States, drawing its meaning from the structure, scope, and objects of those laws. The bill is not intended to affect the case law regarding the circumstances when a given use of property may be considered to be within a State for tax purposes.

Where under these rules the same person is still subject in more than one State to sales or use tax on the same property a credit is required to be given by a taxing jurisdiction for prior taxes paid (or a refund in case a sales tax is paid to the seller after a use tax is paid in another State). None of these provisions apply to sales and use taxes with respect to motor fuels consumed in the State or, except for the credit provision, to sales or use taxes with respect to motor vehicles registered in the State (sec. 102(e)). This section does not affect the obligations of sellers of cigarettes created by the Jenkins Act (15 U.S.C. 375–378).

Section 102 provides rules only those forms of multiple sales taxation on which there is general agreement as to the remedy. It in no way vitiates the need for other devices adopted by various States which tend to prevent a transaction or series of transactions across State lines from incurring more tax than if all had occurred in only one of the States.

Section 103. Household goods and motor vehicles

The burdensome requirement on new residents of a State to account for their household goods brought into the State for use tax purposes is eliminated for household goods, including motor vehicles, purchased at least 30 days before residence is established (sec. 103).

Section 104. Freight charges on interstate sales

In order to achieve uniformity in the treatment of freight charges with respect to interstate sales, section 104 establishes the rule that freight charges on interstate sales which are separately stated are excluded from the sales price in the measure of a sales or use tax.

Section 105. Liability of sellers on sales to business buyers

The burden on the seller of ascertaining, often at his peril, whether or not his interstate sales into other States are taxable sales is alleviated by section 105, which provides that certificates or other written evidence from the buyer indicating the basis of nontaxability conclusively relieve the seller from collecting or paying the tax. In addition, on interstate sales to business buyers who are registered with the State for sales tax collection purposes, the seller is relieved of collection responsibilities if he receives evidence from the buyer that he is registered with the State. These provisions do not affect the taxability of the transaction and the State is free to collect the tax directly from the buyer. Evidence of either the nontaxability of the sale or the registration of the buyer need be given to the seller only once with respect to the registration status of the buyer, the exempt status of the buyer, or the nontaxability of particular classes of sales.

Section 106. Local sales taxes

The bookkeeping burden on sellers of collecting or reporting sales or use taxes on interstate sales into a State according to geographic areas is eliminated, whether the requirement is by the State or any of its political subdivisions. Where a seller has a business location or regularly makes household deliveries in a political subdivision, however, he may be required to account for interstate sales with destinations in that political subdivision. The limitations in this section do not affect locally imposed sales and use taxes which are State administered and uniformly applied so that interstate sales need not be classified according to geographic areas of the State (sec. 106).

TITLE II—GROSS RECEIPTS TAXES

This title affects only a few States, but it is important to many businesses especially as a result of an effort by several gross receipts tax States to expand the application of the tax as a result of a recent United States Supreme Court opinion in the case of *Standard Pressed Steel v. Department of Revenue* 419 U.S. 560 (1975). This decision has greatly aggravated the uncertainty as to the application of gross receipts taxes to interstate sales which has existed since a 1964 United States Supreme Court opinion in the case of *General Motors v. Washington*, 377 U.S 436, 462.

There are only six States with *general* gross receipts taxes—Alaska, Delaware, Hawaii, Indiana, Washington and West Virginia. This title is meant to have minimal impact on these taxes by returning the law on the application of gross receipts taxes to interstate sales to the more certain situation that existed prior to the Supreme Court decisions in the Standard Pressed Steel and General Motors cases. This is done in Section 201 by prescribing a uniform jurisdictional standard which in effect codifies an earlier Supreme Court opinion in the case of *Norton v. Department of Revenue*, 340 U.S. 534 (1951).

Part A—Jurisdiction

Section 201. Uniform jurisdictional standard

Section 201 provides that no State or political subdivision shall have the power to impose a gross receipts tax with respect to the interstate sale of tangible personal property unless the sale is directly solicited through a business office of the seller in the State or political subdivision. Sections 210 and 211 define a "gross receipts tax," and a "business office" for purposes of this title. The definition of "interstate sale" is the same as for Title I and is defined in Section 112.

This proposal for a uniform jurisdictional standard is more modest than the proposal made and other alternatives considered by the House Judiciary Subcommittee on State Taxation of Interstate Commerce following their exhaustive study of the matter. (See *Report* of the Special Subcommittee on State Taxation of Interstate Commerce of the Committee on Judiciary, House of Representatives, Part V Gross Receipts Taxes and Part VI Recommendations pp 1195 House Report No. 565, June 30, 1965.) The Special Subcommittee recommended that gross receipts from the sale of tangible personal property be taxable only by the State of origin and that a business location jurisdictional standard be enacted. The Subcommittee considered, but rejected confining gross receipts taxation to destination States or apportioning the receipts among the States by formula.

Although recent gross receipts problems have occurred primarily at the State level, it is appropriate to apply the same jurisdictional standard to local gross receipts taxes as is done in Section 201. The House Judiciary Subcommittee study referred to above found that there were over 1,000 localities in eighteen States imposing local gross receipts taxes. It found that in most States

where the tax is imposed by a sizable number of communities, the State had had some experience with gross receipts taxes. However, in other States the local tax is "fairly old and well settled" with roots extending back to the 19th century. There has been a tendency for localities to replace their gross receipts taxes with other sources of revenue such as sales or income taxes. The most notable example of this was the abandonment of the gross receipts tax by New York City effective January 1, 1966.

Part B—Definitions

Section 210. Gross receipts tax

This section defines "gross receipts tax" for purposes of this bill so as to distinguish it from net income tax or a sales tax which may also be applied to gross receipts. The 1965 report of the Special House Judiciary Subcommittee (p. 1112) notes that the "gross receipts tax is, by definition a tax which is not separately stated and collected from the purchaser" as is the sales tax. The intent of Section 210 is to confine the jurisdictional standard of Section 201 to "general" gross receipts taxes such as are found in the six States listed above. It is not intended to apply to the numerous special excises, such as those on gasoline and liquors, and taxes on the gross receipts of limited groups, such as public utilities, insurance companies, banks and contractors.

Section 212 provides that for purposes of the Gross Receipts Tax provisions of Title II the terms "sales tax," "State" and "interstate sale" have the same meaning as defined in Title I on the Sales and Use Taxes. This has the effect of applying the Gross Receipts Tax provisions to the District of Columbia since "State" is defined in Section 113 as meaning any of the several States of the United States and the District of Columbia.

The definition of "interstate sale" found in Section 112 is quite significant for purposes of Title II on Gross Receipts Taxes. This definition greatly confines the scope of the jurisdictional standard in Section 201 since it is applicable only to interstate sales. Thus this title is not applicable to much of the gross receipts taxes in States such as Hawaii, Washington, and West Virginia which apply their gross receipts taxes to the privilege of extracting minerals and manufacturing *within* the State.

Court decisions have firmly established that the State of origin cannot constitutionally tax receipts from the sale of goods shipped to a purchaser in another State except as a tax on the privilege of extracting or maufacturing as a local activity before the goods enter the stream of interstate commerce. See the 1965 Special House Judiciary Committee report (House Report No. 565) pages 1032, 1040–1043 for a discussion of this point and citation of pertinent cases.

Section 211. Business office

Section 211 defines "business office" for purposes of the gross receipts tax jurisdictional standard in Section 201 as existing when a person owns or leases real property within the State or regularly maintains a stock of tangible personal property in the State for sale in the ordinary course of his business.

This definition would have the effect of overruling the Supreme Court decision in the Standard Pressed Steel case because Standard Pressed Steel had no "business office" in Washington. The Court upheld the application of the tax to 100% of the gross receipts from Standard Pressed Steel sales to Boeing on the basis of *one* resident employee in the State. This employee had no sales or solicitation responsibilities, but was an engineer who worked with Boeing on engineering problems such as design testing, and use of Standard's products.

TITLE III—NET INCOME TAXES

Part A—Apportionable and allocable income

Section 301. Optional three-factor formula

The bill provides an optional Three-Factor Formula (property, payroll, and sales) for apportionment of income of interstate corporations. This is the most widely used formula and has been recommended by the Commissioners on Uniform State Laws in the Uniform Division of Income Tax Purposes Act (UDITPA). A taxpayer would still have the right to use a different apportionment formula that may be provided for by State law, but the Three-Factor Formula and other provisions of Title III serve as a maximum.

The bill adopts the approach of the so-called "Ad Hoc" bill S. 2092, of the 93rd Congress introduced by Senator Magnuson, to apportion all income in the tax base except portfolio dividends which would be allocated to commercial domicile. Foreign source income generally and intercorporate dividends would be excluded both from allocable and apportionable income. This will clear up the confusion that has developed in the application of UDITPA between "business" income that is apportionable among the states by the use of the Three-Factor Formula and "non-business" income which is allocable to a specific State.

Placing greater emphasis on apportioning income among the States by formula, as opposed to allocating that income to specific States by situs, recognizes a developing trend among the States to apportion income among the States by the Three-Factor Formula rather than allocating by situs. Business generally would prefer clarifying the confusion in UDITPA between apportionable "business" income and allocable "non-business" income by specifying what types of income should be apportioned and what types should be allocated.

The three factors used in the apportionment formula are defined in Part B of this title: Property in Section 314, Payroll—315, and Sales—316. Apportionable income is defined in Section 313.

Section 302. Allocable and apportionable income—dividends and foreign source income

Dividends, except dividends from affiliates, are allocable to the State of commercial domicile. Dividends received from an affiliated corporation in which the taxpayer owns 50% or more of the voting stock and income from sources outside the United States generally are excluded both from apportionable and allocable income and so would not be in the tax base.

Section 302 provides for allocation of dividends, except dividends from affiliates, to the State of commercial domicile. This type of allocation is in accordance with intent of the Uniform Act (UDITPA) but Congressional action is made necessary by a September 10, 1971, recommendation by the Multistate Tax Commission (MTC) to the States for regulations that would generally apportion dividend income. The original version of these regulations which the MTC changed basically were worked out after much effort by the Committee on Uniform Income Tax Regulations of the National Association of Tax Administrators (NATA). The regulations as originally proposed by NATA would generally allocate dividends to the State of commercial domicile which is a clear cut way of handling the problem in accordance with the intent of the uniform law (UDITPA). Only a minority of the States have enacted the Multistate Tax Compact. Therefore, even if all the member States adopted this proposed regulation, which seems unlikely, many States are likely to continue to follow their present practices. This means that States that tax dividends of companies with a commercial domicile in the State will continue to do so. Other States that adopt the Multistate Tax Commission (MTC) regulation will be apportioning the *same* dividend income by formula among the States. The result will be increased *double* or multiple taxation.

Most States and the Federal government have long recognized that intercorporate dividends should not be treated as income subject to full taxation. Some States allow a 100% exclusion for intercorporate dividends, while others follow the Federal practice of an 85% exclusion (a 100% exclusion is permitted by the Internal Revenue Code for dividends from affiliates under certain circumstances). It is likely, however, that if the MTC regulation referred to above is adopted by the Compact member States, there will be a great temptation for these States to subject such income to taxation even though they have no legitimate claim on it. The result will be increased multiple taxation.

Since a State should be attempting to tax only income derived from sources in that State, it would seem obvious that the States should not be taxing income earned overseas, but this is precisely what some States are doing. In fact, some States are attempting to go beyond commonly accepted worldwide concepts of taxing international income. Section 302 provides that dividends and foreign source income as defined in Section 317 of this bill shall not be allocable or apportionable to any State and so would not be included in the tax base.

Section 303. Combined reporting

Section 303 permits aoportionable income, at the option of either the State or the taxpayer, to be determined by reference to the combined apportionable income and apportionment factors of all corporations of an affiliated group of which the taxpayer is a member. However, no State would be permitted to require combination with corporations excluded from the provisions of this title or with corporations substantially all of the income of which is derived from sources without the United States.

Section 303(b) provides that for purposes of this subsection substantially all the income of a corporation shall be deemed to be derived from sources without the United States if 80 percent or more of gross income is derived from sources without the United States. This provision is patterned after Section 861 of the Internal Revenue Code.

Part B—Definitions

Section 310. Net income tax

It is necessary to define a "net income tax" as a tax "measured" by net income because technically some corporate income taxes imposed on corporations are "franchise" or "excise" taxes measured by net income rather than being imposed directly on the income.

Section 311. Excluded corporations

This section generally excludes financial institutions, transportation companies, and local public utilities from the provisions of this title. To the extent that such corporations have interstate income tax problems, it has generally been assumed that they are sufficiently different from commercial and manufacturing comoanies to justify separate legislative consideration.

Section 312. Affiliated corporations

Corporations are affiliated if there is common ownership of more than 50% of the voting stock.

Section 313. Apportionable income

"Apportionable income" is defined as meaning taxable income as determined by State law except that it shall not include foreign source income as defined in Section 317 and dividends as provided in Section 302.

Corporations necessarily have, in addition to their regular business income, income which is not earned in the course of their regular trade or business. To the extent that such income is not earned in the United States, it is not properly apportionable by formula to the various States. Section 302 and 313 define "apportionable income" so as to insure that only income earned in the

United States will be apportioned among the States by formula.

Section 314. Property factor

The property factor is defined as the ratio between the tangible personal property "owned and used or rented and used" in a State and such property of the corporation everywhere.

Section 315. Payroll factor

The payroll factor is the ratio between the amount of wages paid by the corporation to employees located in a State and wages paid to the corporation's employees everywhere.

Section 316. Sales factor—"throwback rule"

The bill assigns sales by destination in a State as the simplest, most equitable attribution procedure. It gives due weight to the role of the market in the overall production of income or capital and is one that many businesses and States have learned to live with and prefer. The so-called "throwback" provision, found in the Uniform Act (UDITPA), is not included in the sales factor. The "throwback rule" provides that in the case of sales to the United States Government and when the taxpayer is not taxable in the State of the purchaser, the sale will be recaptured or "thrown back" to the State of origin of the sale.

It would appear more equitable and appropriate that the receipts factor include sales on a straight destination basis since the purpose and intent of the apportionment formula is to arrive at a reasonable basis for assigning some part of the corporation's total income to a particular State based on the activity performed in that State. Therefore, in attempting to measure this activity, the guidelines should be focused on what is being done in that State—and not what the taxpayer is not doing in some other State. In utilizing the receipts factor, it is recognized that part of the income is attributable to the selling activity in the market State, therefore, any change from a straight destination test results in attributing a smaller part of the total income to the selling activity than would be the case by utilizing a straight destination test. The market oriented States must rely largely on the sales factor to have a share of major multistate business assigned to them. Other States that are relatively less market oriented have property and payroll factors, as well as sales, to increase their share of the taxable income. The justice of this concept has been recognized by a number of major States, including some that are not market oriented States, which have deleted the "throwback" provision in enacting the Uniform Act. These States have recognized that recapture involves an administrative complexity that may cost more than the tax difference. The House Judiciary Subcommittee on State Taxation of Interstate Commerce on page 244, Volume 1 of their report, stated that:

"It should also be observed that the existing throwback rules add to the complexity of the system even if their applicability is clear. When a throwback rule applies, it will normally require the taxpayer to develop data in addition to that needed to comply with the primary division-of-income rules to the taxing State. When a destination State requires that certain sales be thrown back to the State of origin, for example, the taxpayer is required to determine the point of origin of each transaction subject to the throwback. The development of such information may materially increase the burden of compliance."

Section 317. Foreign source income

This section defining Foreign Source Income is patterned after the Internal Revenue Code provisions, but it is narrower in that it includes primarily income from intangible property and property other than inventory. It does not, as the IRC does, include compensation for labor or personal services. Income from sale of personal property if it is the type of property that would ordinarily be included in the inventory of the business also would not be considered foreign source income. However, income from the sale of intangible or real property located without the United States is considered "foreign source" income.

Section 318. Dividends

"Dividends" are defined as having the same meaning as in the Internal Revenue Code including any sum treated as a dividend under Section 78 of the Code. Section 78 is the so-called "Gross-up" provision whereby foreign taxes are "grossed-up" before claiming the foreign tax credit. Although States do not recognize the foreign tax credit, some States nevertheless in picking up the Federal tax base have included the gross-up. Section 318 is meant to preclude this procedure since inclusion of the "gross-up" would be proper only if the State recognized the foreign tax credit.

TITLE IV—JURISDICTION OF FEDERAL COURTS

This Title would give jurisdiction to the Federal Court of Claims to hear appeals upon the application of provisions of the Act and P.L. 86–272, after State administrative decisions are final and the only appeal is to court. The Court of Claims uses Commissioners to hear cases throughout the country. The Court of Claims also has authority to sit as a panel of judges in different parts of the country. The objective of this Title is to have a single Federal court that could develop expertise in the area of interstate taxation and provide for uniform application of the Federal law in a manner that would not be possible through use of State or Federal District Courts.

TITLE V—MISCELLANEOUS PROVISIONS

This title is based on Title V Part B of H.R. 7905 which was passed by the House in 1969, but not acted upon by the Senate Finance Committee.

Section 501. Prohibition against out-of-State audit charges

Out-of-State audit charges by a State or a political subdivision would be prohibited by this section for all taxes to which this act applies.

Section 502. Liability with respect to unassessed taxes

Section 502 provides for an orderly transition to the uniform sales and use tax jurisdictional standard provided for in the bill (Sec. 101) by preventing a haphazard flurry of assessments for back liability in situations which would not give rise to liability after the effective date of Section 101. For periods ending on or before the enactment date of the bill no assessments could be made for sales or use tax if during that period the seller did not maintain a business location in the State or did not regularly make household deliveries in the State.

Section 502(b)(2) makes it clear that Section 502 would not prohibit the collection of a tax at or after the time assessment was barred by this section, if the tax was assessed prior to such time.

By Mr. HEINZ:

Senate Joint Resolution 85. A joint resolution to proclaim October 11, 1977, to be Pulaski-Kosciuszko Memorial Day; to the Committee on the Judiciary.

Mr. HEINZ. Mr. President, today I am introducing a resolution to proclaim October 11 as Pulaski-Kosciuszko Memorial Day. Both Gen. Casimir Pulaski and Gen. Tadeusz Kosciuszko were Polish citizens and patriots who came to the American colonies to fight for the cause of freedom during the American Revolution. Casimir Pulaski was a polish patriot who fought against foreign domination in Poland during the 1760's. After meeting Benjamin Franklin in Paris, he came to the American colonies to join in their fight for freedom from British rule. Casimir Pulaski served with Gen. George Washington at Brandywine and Germantown and was made a brigadier general charged with leading the Continental Calvary. He served with Gen. Anthony Wayne at Valley Forge and later joined in the seige of Savannah. It was there, on October 9, 1779, that he was mortally wounded and died 2 days later.

Casimir Pulaski's fellow countryman, Tadeusz Kosciuszko, shared his convictions for freedom. After Polish military service and training in military engineering in Paris, Tadeusz Kosciuszko came to the colonies in August 1776. His distinguised career included service at the battles of Ticonderoga and Saratoga. Because of his engineering expertise, Tadeusz Kosciuszko was assigned with planning the fortification of the Delaware River, Mount Definance at Ticonderoga, and directing the building of fortifications at West Point. After the American Revolution, General Kosciuszko returned to his native Poland. When, in 1817, he was awarded $18,000 and 500 acres of land in Ohio as compensation for his military service in the Continental Army, he directed that money and the funds raised from the sale of the Ohio land to be used toward the founding of a school in Newark, N.J. for the education of freed black people. This was one of the first educational institutions for black people in the United States, and served as a further example of his love for freedom and betterment of all.

October 11 is annually designated as Casimir Pulaski Memorial Day by Presidential proclamation. This year, on September 16, President Carter paid tribute to General Pulaski. It is time now for the Congress to commemorate Casimir Pulaski and also to pay tribute to Gen. Tadeusz Kosciuszko another great Polish citizen who contributed to the fight for American freedom. Officers of the National Confederation of American Ethnic Groups have proposed the addition of Tadeusz Kosciuszko to Casimir Pulaski Memorial Day to President Carter. I join with Mr. Joseph C. Swider, chairman of the National Assembly of Representatives of the National Confederation of American Ethnic Groups and president of the Polish National Alliance Council 145 (and Mr. Anthony Studnicki, vice president of the National Confederation of American Ethnic Groups and president of Pittsburgh's Central Council of Polish Organizations, in proposing that October 11 be proclaimed annually to be Pulaski-Kosciuszko Memorial Day.

By Mr. KENNEDY (for himself and Mr. BROOKE):

Senate Joint Resolution 86. A joint resolution to extinguish any right, title, or interest to certain lands in the Commonwealth of Massachusetts, and for other purposes; to the Select Committee on Indian Affairs.

Mr. KENNEDY. Mr. President, Senator BROOKE and I are deeply concerned over the economic hardships faced by the residents of Mashpee, Mass. arising from an Indian land claim. Only after the failure of repeated attempts to negotiate a settlement, we introduce today a joint resolution to extinguish title to property presently occupied by homeowners in Mashpee. Congressman GERRY STUDDS is introducing identical legislation in the House of Representatives. Our efforts have the full support of the homeowners of Mashpee, and of the Indian Tribal Council.

Litigation has been pending in the U.S. District Court for the District of Massachusetts for 13 months. During this time, title to the property has been clouded creating severe economic hardship for hundreds of homeowners. Numerous meetings were initiated, and every possible solution was explored. We strongly believed that the issues should be resolved out of court.

Last winter when it became apparent that a local solution would not be arrived at readily, we attempted to persuade the Indian Affairs Committee in both Houses of Congress to help by substituting the United States as defendants, or essentially, indemnifying the homeowners. At that time, our colleagues were unwilling to consider such a solution.

We appealed to President Carter to name a Federal mediator to aid the parties in Mashpee. His efforts have proved unsuccessful. Last month, we made one last effort to spur negotiations between the parties, and that also failed.

Earlier this year, after periodic efforts to negotiate failed, we introduced emergency legislation to prevent mortgage foreclosures, and also introduced a bill to provide small business loans to the commercial community harmed by the suit. Both of these are now law, but title remains clouded to home-owned property.

Mr. President, Senator BROOKE, Congressman STUDDS, and I have stated repeatedly that every attempt must be made to settle this matter out of court. We have, on numerous occasions, stated that we do not intend to raise false hopes with the promise of an unrealistic legislative remedy. In the past even this legislation might have been considered unrealistic.

To date, all efforts to reach a negotiated settlement have failed. Now, the many complex issues involved in this case will have to be resolved in the courts. Years of protracted litigation will bring ever greater economic hardship to the citizens of Mashpee.

We have always held that Congress has the ability and the obligation to resolve the one major issue in this case to the title on home-owned property. Both parties agree that Congress must act to extinguish the Indian's claim to this property. Without congressional action now, title will remain clouded during years of litigation, and everyone in Mashpee will suffer the terrible consequences.

We are pleased to find a growing recognition among our Senate colleagues that every avenue other than a legislated solution has been tried for Mashpee and every attempt has failed. We have reason to believe that the previous opposition by the Indian Affairs Committee to considering any extinguishment legislation has abated and that they will at least give our proposal a fair hearing in the near future.

It is important to point out that the liability incurred by the U.S. Government with passage of this legislation is contingent upon the tribe winning its case in court. If the courts determine that the plaintiffs are a recognized Indian tribe with recognized title to home-owned property, the Indians will have the opportunity to seek just compensation from the U.S. Government in the Court of Claims.

Mr. President, I know that the Senate will agree that this joint resolution is vital to the interests of Mashpee, and I urge its early enactment.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 86

Whereas, the action entitled *Mashpee Tribe* v. *New Seabury Corp.*, pending before the United States District Court for the District of Massachusetts, has resulted in severe economic hardship for the residents of the Town of Mashpee, Massachusetts, by clouding title to land in the town;

Whereas, the plaintiff in such litigation has amended its suit to indicate that no relief is sought from any defendant respecting the right to possess any tract of land on which the dwelling of the defendant was located on the date of commencement of such action; and

Whereas, only an Act of Congress can clear the title of the defendants to such lands: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That any right, title, or other interest based on section 2116 of the Revised Statutes (25 U.S.C. 177) of the plaintiff in an action entitled *Mashpee Tribe* v. *New Seabury Corp.*, filed in the United States District Court for the District of Massachusetts (Civil Action 76-3190-S), to the lands described in section 2 of this joint resolution is extinguished.

SEC. 2. The lands referred to in the first section of this joint resolution are the tracts of land which are the subject of the action referred to in such section and on which the dwelling of any individual was located on the date of commencement of such action; provided, that if a single such tract exceeds 1 acre, the Secretary of the Interior, after consulting with the resident or residents of such tract, shall designate the portion of such tract, not to exceed 1 acre, which is reasonably necessary for the enjoyment of the dwelling and is accessory structures, and the portion of such land so designated by the Secretary shall be the land in such tract referred to in the first section of this joint resolution.

ADDITIONAL COSPONSORS

S. 600

At the request of Mr. PERCY, the junior Senator from Oklahoma (Mr. BARTLETT), the senior Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 600, a bill to reorganize Federal regulatory agencies.

S. 1812

At the request of Mr. NELSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1812, the Reclamation Lands Family Farm Act.

S. 2161

At the request of Mr. JAVITS, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 2161, to create an Energy Corporation of the Northeast.

SENATE RESOLUTION 271

At the request of Mr. LEAHY, the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of Senate Resolution 271, a resolution expressing the sense of the Senate that the President should establish a Commission on Domestic and International Hunger and Malnutrition.

AMENDMENT NO. 1410

At the request of Mr. STONE, the Senator from Missouri (Mr. EAGLETON), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. HAYAKAWA), the Senator from Indiana (Mr. LUGAR), and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 1410, intended to be proposed to S. 1871, to increase the minimum wage.

SENATE RESOLUTION 282—SUBMISSION OF A RESOLUTION DISAPPROVING PROPOSED DEFERRAL OF BUDGET AUTHORITY

(Referred to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to the order of January 30, 1975).

Mr. MAGNUSON (for himself and Mr. JACKSON) submitted the following resolution:

S. Res. 282

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D 78-21) for acquisition, construction, and improvements by the U.S. Coast Guard, Department of Transportation, including funding for the Puget Sound Vessel Traffic System and follow-on work related to the Medium Endurance Cutter replacement program set forth in the special message transmitted by the President to the Congress on October 3, 1977, under section 1013 of the Impoundment Control Act of 1974.

SENATE RESOLUTION 283—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 2108

(Referred to the Committee on the Budget.)

Mr. CRANSTON, from the Committee on Human Resources, reported the following original resolution:

S. Res. 283

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2108. Such waiver is necessary because, with the commencement of FY 1978 on October 1, 1977, funds are not currently available to reimburse States for welfare assistance to 19,000 refugees from Vietnam totally dependent upon public assistance. Without the funds authorized by S. 2108, the refugees assisted by this program would become an unfair burden on local governments which have advanced the costs of their support. The legislation authorizes reimbursement of 100 percent of such costs in FY 1978, an estimated $118 million, partially offset by any Federal welfare and supplemental social security benefit assistance thereby saved. The legislation also authorizes special assistance funding, which in FY 1977 totalled $7 million, and in FY 1978 should be approximately the same. Provision is made for a phased reduction of general support assistance to 60 percent of such costs in FY 1979, and 30 percent of such costs in FY 1980, before phasing out. Compliance with Section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1977, because the recommendations of the Administration with respect to this program were not made available until September 9, 1977.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1413

(Ordered to be printed and to lie on on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

AMENDMENT NO. 1416

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

PUBLIC UTILITY REGULATORY POLICY ACT—S. 2114

AMENDMENT NO. 1414

(Ordered to be printed and to lie on the table.)

SOUTHERN POWER ADMINISTRATION

Mr. EAGLETON. Mr. President, the purpose of my amendment is to clarify and reaffirm the intent of Congress with respect to marketing of Federal hydroelectric power by the Southwestern Power Administration under the Flood Control Act of 1944.

The act authorizes the Secretary of the Interior, in the alternative, to construct transmission lines "from funds to be appropriated by Congress" or to use the transmission lines of other utilities to transmit hydroelectric power; and so forth, the Secretary "is authorized to—acquire, by purchase or other agreement—transmission lines and related facilities."

In implementing the Flood Control Act and other similar acts, the policy of Congress always has been to encourage the Secretary to contract with other utilities to use their transmission lines, rather than to construct transmission lines with appropriated funds. And our policy always has been that rates to ultimate customers should be uniform and nondiscriminatory, whether the power is transmitted over Government-owned lines or lines made available by contract or lease. This is the concept of "postage stamp" rates—uniform rates for power delivered to load centers, regardless of the nature of the transmission lines' ownership.

The State of Missouri represents an example of the policy of Congress. In the 1950's and 1960's, Congress decided not to appropriate funds for constructing transmission lines in Missouri, but instead Congress directed the Federal marketing agency (the Southwestern Power Administration) to lease the transmission lines of privately owned electric utilities and rural electric cooperatives, paying rentals adequate to carry operating costs and debt service of the money which the cooperatives borrowed from REA. Thus, we were spared the necessity of appropriating millions and millions of dollars to construct transmission lines.

That is how the matter stood until 1970 when the Nixon administration, taking note of growing SPA deficits, ordered a special transmission charge levied on Missouri cooperatives above and beyond the basic SPA rate charged everywhere else.

The rationale was that the payments made by SPA for lease of the Missouri lines was a cost, and since the agency was charged by law to recover all costs, it was only appropriate to offset the lease payments by levying a transmission charge on the cooperatives receiving those payments.

The net effect of this circular argument is that Missouri cooperatives are providing transmission service free of charge to SPA. In the other States served by SPA, transmission lines either were built with Federal funds or leased from private power companies, but no special cost-recovery charge is levied on customers. Only in Missouri has that been the case.

To add to the inequity, Missourians continue to pay the basic SPA rate which is designed to recover all costs of the system, including amortization of the Federal investment in transmission lines outside of Missouri. In short, Missourians are helping to shoulder the cost of delivering power to other States but are being asked to assume the total cost of delivering SPA power in their own State.

The discriminatory transmission charge would increase the cost per kilowatt to Missouri cooperatives more than 60 percent above the price per kilowatt charged to users of peaking power in other States.

Commitments made by SPA to deliver power to all customers at the same basic rate without distinction as to whether the users were served over Government-owned or Government-leased lines were simply ignored. The long history of congressional approval of the arrangement between SPA and Missouri cooperatives was shunted aside.

With the imposition of the transmission charge, SPA effectively relieves itself of its obligation to compensate Missouri cooperatives for use of their transmission facilities. The cooperatives, however, remained obligated to repay the REA debt which they incurred to build the lines for SPA.

My amendment will remove this discrimination and assure equal treatment for customers in all States in the Southwestern Power Administration system.

GI BILL IMPROVEMENTS ACT—S. 457

AMENDMENT NO. 1415

(Ordered to be printed and to lie on the table.)

Mr. MELCHER (for himself, Mr. STEVENS, Mr. RIEGLE, and Mr. MCGOVERN) submitted an amendment intended to be proposed to the bill (S. 457) to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

Mr. MELCHER. Mr. President, I am introducing on behalf of Senators MCGOVERN, STEVENS, RIEGLE, and myself a conditional and limited extension of the delimiting period during which veterans must use their benefits as an amendment to S. 457, the GI Bill Improvements Act. This amendment would permit needy and deserving Vietnam veterans who served between 1964 and 1970 an opportunity to enter or complete readjustment assistance education and training programs.

This amendment is within the fiscal parameters authorized by the second concurrent budget resolution for veterans program initiatives. It will accord many Vietnam veterans who are currently unemployed or underemployed adequate opportunity to acquire the training and skills necessary to secure meaningful and productive careers.

Current law requires a veteran to complete his or her training program under the GI bill within 10 years after separation from the armed services. This is a reasonable and responsible requirement, provided the veteran can initiate training soon after separation from the service. Unfortunately, hundreds of thousands of needy and deserving Vietnam veterans could not enter a meaningful or effective readjustment program at the time of their separation from the service. The Veterans Readjustment Assistance Act of 1966 (Public Law 89-358), a program designed as a peacetime Cold War GI Bill) failed to provide for or foresee the unique and difficult readjustment need of Vietnam veterans. The level

of benefits between the enactment of Public Law 89–358 in 1966 and the increases accorded by Public Law 90–77 in 1970 were in inflation adjusted dollars and were only one-half the opportunities accorded to Korean war veterans a decade before.

Before February 1970, a Vietnam veteran received a mere $130 a month if he was single, $155 with one dependent, or $175 with two dependents. The current stipend for peacetime post-Vietnam veterans is more than twice that amount ($292) while their military pay and allowances exceed three times that accorded those who served during the Vietnam war. ($89.11 in 1966; $380 in 1976 for a private.)

In 1970, 4 years after the enactment of the current GI bill, the President's Committee on Vietnam Veterans stated in its report:

> As of February, 1.06 million or 27.8% of the 3.8 million eligible Vietnam era veterans had used GI Bill education or training benefits. Available survey data show that participation in GI Bill training is inverse to need. Nearly 50% of the veterans who already have college training at the time of discharge, and thus have the best prospects for immediate employment, seek to upgrade their education under the GI Bill. On the other hand, those who have serious education deficiencies show participation rates as low as 10%.

Clearly, many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the time of their separation from the service. Readjustment benefits were totally insufficient to provide meaningful support without supplemental income, especially for veterans requiring trade, technical, or vocational training at proprietary institutions.

Forty percent of the Vietnam veterans were married with families to support at the time of separation. Thus many who entered training were forced, by economic considerations, to terminate their training.

Mr. President, my amendment would accord these veterans who were separated from the service, at the time that the Nation had no effective plan to address their readjustment needs, the opportunity to avail themselves of their rightfully earned entitlements.

In 1966, when the cold war GI bill was enacted, few foresaw that Vietnam would be our Nation's longest war and that 3 million veterans would serve in a combat theater of operations. Many, including the traditional veterans organizations, raise the valid question "Is it not contrary to the philosophy of the GI bill as a readjustment program to extend benefits beyond 10 years after a veteran's separation." For Vietnam veterans separated between 1964 and 1970 there was no such program. Therefore, as a nation we have a duty and an obligation to retroactively extend the readjustment opportunities that these veterans were denied.

I note that in June 1966, Public Law 89–358 retroactively extended readjustment benefits to 3,082,000 peacetime cold war post-Korean veterans separated after January 31, 1955—over 10 years after many had left the service. Several hundred thousand of these cold war veterans were still using benefits up to May 31, 1976, 22 years after their separation. Participation under the peacetime cold war GI bill program exceeded 52.9 percent. Under the wartime Korean GI bill participation was only 50.7 percent. Thus, there is clearly established precedent for a one-time, limited, retroactive extension of readjustment assistance to wartime veterans as provided by my amendment.

This amendment would not extend the time any veteran has to use his benefits from 10 to 12 years. On the contrary, it would provide those veterans who served between 1964 and 1970 a one-time extension of the delimiting period up to 2 years—time needed to initiate or complete their education or training. On or about January 1, 1980, no one would be permitted to extend his training beyond his 10-year delimiting period. For those who were separated after January 1968, the extension would proportionately be less than 2 years.

S. 457 contains a limited accelerated entitlement, a provision of S. 1421, which we introduced. Acceleration is essential to enable many veterans to initiate a meaningful and effective readjustment program. It is especially imperative for those who served during the time period of 1964 to 1970 which my delimiting date amendment addresses. The enactment of S. 457, or a more effective acceleration provision will make available the first meaningful access to readjustment assistance for hundreds of thousands of Vietnam veterans. Thus, the opportunity for readjustment will be available only for 2 years to these Vietnam veterans, even though they may have been separated from the service for several years. Even from the very conservative prospective of when benefits were raised to a level in 1970 to achieve parity with those accorded Korean war veterans, no veteran would have longer than 10 years to avail himself of an adequate readjustment program.

Unlike many more sweeping proposals, our amendment would only extend the delimiting period for those Vietnam-era veterans—August 4, 1962—who demonstrate need, and could not reasonably have initiated or completed their education or training. It also requires a program of instruction that will fulfill the readjustment intent of the original GI bill.

If a veteran is in school when his delimiting date expires, but does not demonstrate the need for continued GI benefits to complete his training, he would not be entitled to an extension of the delimiting period under my amendment. The VA reports that 61 percent of the veterans not in school, who served between 1964 and 1970, would probably be eligible for a conditional delimiting extension given the opportunity for meaningful readjustment assistance instead of continued unemployment, underemployment, welfare, or dead-end public service jobs. From a fiscal as well as a moral standpoint, it is only just that they have the opportunity for training necessary to acquire productive roles in society.

In a recent article in the National Alliance of Businessmen's magazine Working, VA Administrator Max Cleland said:

> I don't know whether here in 1977, there is any way to go back and make up for the deficiencies in the GI Bill in the late sixties and the early seventies.

I firmly believe that my conditional extension of the delimiting period, combined with a meaningful accelerated entitlement provision, is the way to make up for those deficiencies. I urge my colleagues to join us in fulfilling our obligation to the Vietnam veteran.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

No. 1415

SEC. 204. (a) Section 1662 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(f)(1) Notwithstanding the provisions of subsections (a) and (c), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran who served on active duty, any part of which occurred after August 4, 1964, if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education with the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country.

"(2) Under no circumstances may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after the effective date of this provision, whichever is the lesser period of time.".

(b) The provisions of this section shall become effective January 1, 1978.

NOTICES OF HEARINGS

CIGARETTE TRAFFIC

Mr. McCLELLAN. Mr. President, I wish to announce that the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will hold open hearings on S. 1487, a bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, on Friday, October 21, 1977. The hearings will be held in room 2228, Dirksen Senate Office Building, beginning at 9:30 a.m.

Additional information on the hearings can be obtained from the subcommittee office, 2204 Dirksen Senate Office Building, telephone (202) 224–3281.

FARM CREDIT

Mr. ALLEN. Mr. President, I announce that the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture, Nutrition and Forestry will hold hearings at 9:30 a.m., Tuesday, October 11, in room 322 of the Russell Senate Office Building.

The hearings will consider three bills providing for changes in the farmer loan programs of the Farmers Home Administration. They are S. 312, by Mr. BELLMON of Oklahoma; S. 2126, by Mr. CHURCH of Idaho; and S. 2146, which was introduced by Mr. TALMADGE at the request of the Secretary of Agriculture.

All three bills provide for significant changes in the Consolidated Farm and Rural Development Act.

All witnesses for the hearings will be invited. They will include banking associations, farmer organizations and others interested in the economic future of rural America.

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 11, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit vice Wade H. McCree, Jr., resigned.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, the Special Committee on Aging will conduct a hearing on Senior Centers and the Older Americans Act at 9:30 a.m. on October 18 in room 114, Dirksen Building. The hearing is one of several activities conducted in conjunction with forthcoming legislative hearings by the Subcommittee on Aging of the Committee on Human Resources on extension of the Older Americans Act.

ADDITIONAL STATEMENTS

B–1 BOMBER ASSESSMENT

Mr. HAYAKAWA. Mr. President, I would like to address today, the continuing story of the B–1 bomber. Recent actions by the President and Congress have indicated that the B–1 is not a dead issue.

When the President announced his decision to cancel further production of the B–1 bomber, he indicated that cruise missiles launched from stand-off carrier aircraft offered a better alternative than an advanced, manned penetrating bomber. Accordingly, both the House and Senate voted to delete the B–1 funds from the 1978 Defense appropriation bill.

However, there was still the matter of the fiscal year 1977 funds for planes Nos. 5 and 6 to be dealt with. Therefore, on July 19, the President sent a rescission proposal to the Congress requesting that these 1977 funds be recalled. According to law, the Congress has 45 days in which to act on the rescission favorably; otherwise the President must obligate the money.

Much to the surprise of the administration, the House Appropriations Committee soundly rejected the President's rescission proposal last week. This action indicates the growing sentiment in Congress that the Prseident may have misled us on the B–1 issue. In recent weeks, the Pentagon has indicated that the President still wants to retain a manned, penetrating bomber option. With the growing expansion of Soviet air defense and the possibility that cruise missile range will probably be limited in the SALT talks, the administration is finally realizing that it is going to require a penetrating bomber to supplement the cruise missiles because of their inadequate range under the SALT constraint. This is indicated by the fact that he has asked the Armed Services Committee to give the Pentagon another $20 million to initiate a $350 million R. & D. program to convert the F–111 to the FB–111H, suitable for the manned penetration mission.

This admission that it is necessary to supplement the cruise missiles with the manned penetrating bomber underscores the weakness of the administration's proposal to rescind fiscal year 1977 funding for the B–1.

President Carter's case for the rescission of the fiscal year 1977 funding for the B–1 is particularly weak on the grounds of cost. The 165 FB–111H's which the administration proposes to buy are equivalent, when measured by the number of weapons delivered on target, to only 61 B–1 aircraft. Because of the requirement for extra tankers for the FB–111H, as well as higher maintenance cost, the FB–111H program would cost $17 billion, compared to $11 billion for the B–1 alternative, to provide equal effectiveness.

The execution of the fiscal year 1977 program as appropriated by the Congress would insure that the President maintain a practical production option for at least 2 years, an objective he emphasized in his statement canceling the fiscal year 1978 B–1 production program. Termination of the B–1 program through the elimination of aircraft Nos. 5 and 6 would preclude full-scale production, should it be required, for 5 years or more.

Aside from these obvious substantive advantages to completing the fiscal year 1977 R. & D. program, a larger issue of the integrity of the budget process is at stake. The Congress has refused to rescind the fiscal year 1977 B–1 R. & D. funds under procedures established in the 1974 Budget Impoundment and Control Act. It ill serves the cause of effective congressional budget management to attempt to rescind funds indirectly through a supplemental appropriation bill when the Congress had earlier refused to act favorably on the resident's rescission message.

In view of these facts, I think the Congress should let the House Appropriations Committee's action stand. If we are going to use a manned penetrating bomber let us build the best—the B–1.

HEALTH CARE COSTS

Mr. EAGLETON. Mr. President, one of the most analyzed and criticized elements of American society today is our health care system. Health care costs account for more per capita of our gross national product than for any other country in the world. Our physicians, dentists, nurses, and allied health manpower are clustered in the wealthy, overserved suburbs, leaving the inner cities and rural areas critically underserved. To provide for the future health and well-being of our citizens, we must institute some far-sighted, down-to-Earth programs of cost effectiveness and increased availability or the spiraling costs and maldistribution of health manpower will prove disastrous to what was once the most envied and emulated health system in the world.

In the ongoing battle for a well-balanced answer to our Nation's health care crisis, everyone has a complaint and everyone has a cure. Among the most experienced and notable of academicians offering some well-founded analyses and practical solutions to our problems is Dr. E. Grey Dimond, provost for the health sciences at the University of Missouri at Kansas City. Recently, Dr. Dimond set out some of his ideas in a cogent article published in the Journal of the American Medical Association. Dr. Dimond's suggestions include a move away from the high cost, crisis care provided by the expensive physician in the equally expensive hospital. More first-line health care at the community level, provided by modestly trained health workers, would help cut costs and insure more immediate, preventive treatment. Dr. Dimond suggests that our traditional, lengthy medical education could benefit from a shortened curriculum and more humanist direction in education.

Any system that may ultimately be enacted by Congress to provide for the national health will have to face the issues raised by Dr. Dimond and the ultimate health of that system will undoubtedly benefit by his suggestions.

I ask unanimous consent that Dr. Dimond's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEDICINE—WHERE IT SEEMS TO BE: AN AMERICAN HEALTH CARE SYSTEM

The morning paper reports that fuel shortage is making the "all-electric" home a considerable liability to the pocketbook. The details, in brief, are that ten years ago the power and light companies endorsed vigorously—in fact, huckstered—the advantages of cheap, clean, efficient electrical power as the way of the future for the ideal home. Now, ten years later, these same companies have looked in their energy cupboard and found electricity is still a clean source of heating but not at all cheap; in fact, said the news article, electricity was found so very dear that the utility companies are urging home conversion to oil or coal.

This interesting example of inability to see the future, even when all signs were available a brief ten years earlier, readily is criticized by all of us as an example of an industry's lack of sensitivity to the public good and as an example of why this country is floundering toward disaster. The critic

would say that such issues should be regulated by law and that the government should control a national policy that prevents the misdirection of national resources.

To leave heating and to move to medicine is not too large a leap. Ten years ago there was a remarkable need for cardiovascular surgeons and an even greater need for medical cardiologists. Essays, editorials, and position papers presented the calculated evidence that there was an almost overwhelming crisis of public need for such skills.

By the hundreds, programs were funded and prepared men and women for these careers.

Now in 1977, the next piece of the arithmetic becomes reality. Need for such special skills was finite, not infinite; training programs met the needs; available positions are nearing saturation; the young incumbents, rather logically, expect to hold the positions for 20 or 30 years.

The crisis has been met, but the supply line did not have a regulator valve. The initial evidences indicate that there are almost enough specialists in these fields and that an overproduction may generate "work" sufficient to consume the specialists' time even beyond the public need.

The initial response to this evidence of overproduction of specialists, not only in cardiology but in general surgery and specialty surgery, is that here again is an example of lack of a national policy, and we must control these issues at the federal level. Legislation is sought as the antidote. As with electric heating, it is suggested that the medical profession is self-serving and cannot be trusted to solve such problems. Central planning and control is essential, it is said.

Friends who know me as an avowed liberal and democrat will be surprised to learn that I vote here for free enterprise. Beware of national long-range planning and federal control in this area of determination of national need for medical specialists. There may be some inefficiency, and there may be a lag time in precisely fitting the public need. Let us have national discussions, published in national journals; let us have hearings; let us have national studies motivated by the volunteer specialty societies, but let us beware of national legislation that locks us into national quotas.

Let the individual liberty of decision remain intact. The word will spread rapidly enough; career choices will be sensitive to opening or closing of need. No law was needed to eliminate wagon-train masters. The facts spoke the logic. Underused surgeons are difficult to justify as standbys in the operating room.

National laws concerning individual liberty have their own risk. The steps from a nationally defined quota, by law, of certain medical specialists to laws defining specific labor assignments for others are not many. Let there be a talent waste; time will correct it.

Regional supervision of professional conduct by the profession will provide public protection if the profession will only move rapidly to make such protection the applied rationale: audit begats continuing education begats public protection.

Is there no useful role for a reasoned national health policy? Of course there is. Such is long overdue. The risk comes from locking into a national health policy that is based on evidence presented by a vocal minority, by national professional organizations that are rigid with bias, by lawmakers weighing publicity more than public good, or by combinations of the above that omit a sensitivity for immense career commitment of the individual physician year-in and year-out.

Changes are needed, but that quality involved in the very private contract between patient and physician must not get lost in the search for a national program. The individual human's need for a trusted, private, personal physician and counselor is a basic union that must be protected. Cheap, clean, efficient electricity—or health care—may be efficient and may be facilitated by an appropriate national health policy. But "clean," "cheap," and "efficient" are words to take a second level of importance to "kind," "gentle," "humanistic," "compassionate," "personal," and "private health care."

There is a steady momentum gathering in the United States toward obligated retesting by physicians to prove they have remained competent. The variety of steps include certified evidence of attendance at postgraduate courses, audit of one's practice pattern, and periodic reexamination and recertification. Federal legislation has brought onto the scene Professional Standards Review Organizations (PSRO) with the intent of obligated (by law) audit of physician performance, essentially through record review and matching of one's practice pattern against criteria-referenced norms.

None of these techniques will have an influence equal to that of personal and professional ethics. The more the public seeks to regulate standards of physician conduct the greater becomes the public risk. This paradox stems from the basic rule that must guide each physician. Specifically, the profession's standards must be *greater* than public expectations. For the public to attempt to adjudicate, step by step, what is correct medical care is for the public to set standards that are *less* than those from which they would have benefited if the adjudication had been left to the profession alone. The adversary relationship that has steadily grown in the United States and has pitted patient against physician (with lawyers, judges, and juries defining practice standards) has not elevated the level of medical care. In fact, these attitudes and legal risks have burdened the patient with excessive tests and unlimited expenses. Men nor physicians are made wise, honest, and devoted by threats of punishment. These qualities are found in strengths of personal character and group professional pride.

One hopes that persons who are selected to enter medical school have these inherent qualities of self-regulated honesty. One hopes that the years in medical school and residency strengthen and engrain these values. This commitment to a professional way of life has value above the tests, examinations, and grades.

This professional dedication is carried out through one's conduct over a lifetime. Included in this conduct is the self-responsibility to remain informed and current in knowledge. A superb means of self-renewal is through a lifetime pattern of work paced by periods of recovery, then giving and taking, doing and reviewing. All of these phases are implied in the term "sabbatical leave," a three-, five-, or six-year period of intense professional commitment and then a half or full year of personal and family recharging. Such a lifestyle cannot only be the distinction of our profession, making clear the personally imposed audit on one's ability, but can also be the saving quality that makes an intense professional commitment possible.

Instead of national legislation for PSRO and Health Systems Agency, how about a tax-sheltered means of assuring each health professional several sabbatical leaves during a lifetime of professional service?

PATIENT RIGHTS AND PROFESSIONAL RIGHTS

What are the prime values that we all seek in health care—a dependable patient-physician relationship, ready and quick availability of care, the right of freedom of choice of a physician, the right of privacy of confidential information, and the right of care decently available to all?

There are other values not often expressed that are well worth understanding: the right of the physician to refuse to attend a specific person and, at the same time, the recognition of the commitment of nonabandonment. Not well understood, but perhaps necessary to restate is the right of the patient to seek health care that he or she trusts, be it Christian Science, native healer, acupuncture, biofeedback, or generous vitamin C. Modern science may be marvelous, but it has not yet disproved the validity of positive thought. Faith, confidence, and trust *are* therapeutic.

There must be an appreciation that there is an *art* in medicine equal in contribution to science. The present growing alienation between the public and doctors is manifested in malpractice suits, countersuits, elaborate documents of form and consent, written waiver of responsibility, and demands for consumer protection representatives, and it is serving to harm, not help, the public. A commercial, non-Hippocratic orientation to fees and duty is threatening to alter the "moral contract" that traditionally bound the patient and his physician. The "healer" cannot be effective if he or she loses the role of a personal, private confidante of the patient. The present situation has moved the physician and the patient into a harmful antagonism, more and more dependent on legal protection and weakened in terms of the moral contract.

I carefully qualify that I am speaking on an *American* system. Approaches that have developed in England, in the People's Republic of China, and in Sweden are the result of their historical experience. Any change here must have national antecedents, ties to the historical sources of our present health system.

PLAN-FOR-CHANGE CHECKLIST

An American health system plan-for-change must follow a certain check list:

1. Emphasis on humanism as an equal companion of modern scientific medicine is needed. The overenthusiasm for science, technique, and hardware has downplayed the fundamental objective of caring for the patient.

2. The steady push by all components of the health profession for overcredentialization, overtraining, and consequent overpricing is manifest as an unwillingness to accept practical experience as of some academic value. Therefore, nurses and medical corpsmen cannot gain recognition for their substantial, real medical knowledge learned through experience. Their entrance into medical school is made difficult; advanced standing and abbreviated class work are not often offered.

3. There is a need for front-line, very modestly trained, neighborhood health workers. These persons would cover the entire United States like a grid and have direct responsibility to the local health care system—not to the Public Health Service but to the community doctors, clinics, and hospitals. Our dilemma is that we have not yet tied our health care system downward to the people's neighborhood. Instead, we are caught up in methods that cater to the development of care at the expensive ends: more credentials, specialists, equipment, procedures, bigger hospitals. Our present system encourages medical dependence on the health profession and pulls the citizen into a sickness orbit.

4. The mass of the people have a handful of illnesses now ignored by so-called organized medicine. The handful of problems are high blood pressure, alcohol, wrong nutrition, venereal disease, and narcotics. What do we offer? For the latter four, essentially nothing. Even hypertension is not found in probably one-third of those afflicted.

For high blood pressure, we need to keep the patient on the job and take the daily medication to him. A very inexpensive health worker directed by a doctor could handle this, treating the patient where he is, not at the artificial and expensive clinic and hospital.

For alcoholism and overweight, it is generally accepted that Alcoholics Anonymous and Weight Watchers have more success than the physician. The simple truth is that the vital quality of caring, of humanism, of fellowman's concern, is far more successful than the physician (who essentially fails because he will not take the time and make the emotional commitment).

We must go after these major public health problems with the power of compassion and participation. Public education and public action, not police tactics, have worked. Add a grassroots, to-the-people, formal component to the organized health care system. Our pyramid has grown too elegant at its point, the base has been ignored.

We recently have thought that a neighborhood clinic was the right way to reach the people. It is but a way station. We must go to the factories, farms, homes, schools, offices. Benign invasion of a citizen's privacy is possible if it can be offered as a part of a health care system that serves him.

5. We need to structure our system with our present excellent community hospital and medical centers at the central pivot. We should reach out from them with administratively related regional, communal clinics but go beyond that into the very web of society with friendly health allies who talk the people's language and make easy the movement to serious medical care when needed.

We need to seek evenhanded availability of care, with the same emphasis on inner city, middle-city, suburb-city, or rural area. We need to make it possible for the patient to seek the doctor he wants, both when the patient is solvent and when he is broke. We should use the major regional community hospitals not only to provide the backup care but also as the source of mobilized, regional health professionals. Present central congress of medical talent in expensive central hospitals requires a "balance of payments." This central pool of resources must take on regional responsibility to provide mobile health care teams that take care and teaching to the satellite care units of its region. All health professional schools, in a similar manner, need to assume active health education roles. University hospitals should compete for regional health care responsibility.

6. Each health worker should give care to the maximum of his ability, and no professional should spend time doing actions that a lesser trained person can do.

7. Federal money should be used to assure evenhanded availability and to stimulate the acceptance of a region-based private prepayment system, but the health professionals should be left totally responsible for quality control. Their duty should be measured by moral and ethical standards that must be even beyond society's expectations. Political, legal, fiscal attempts to force quality control will destroy the most precious quality: true professional pride. Americans do not care for the term elite, but the American public will have lost if they succeed in bringing the medical profession into line as a trade guild.

A quote from the retired editor of Lancet, T. F. Fox,[1] deals with professionalism:

"None but a saint could follow this principle all the time; but so many doctors have followed it so much of the time that the profession has been generally held in high regard. Whether its remedies worked or not, the public have seen Medicine as a vocation, admirable because of the doctor's dedication. As someone has put it, most people work so that they can be paid; but those with a vocation are paid so that they can work.

"Yet in times of real trouble . . . people still need a doctor whom they can trust to do all he can for them. Indeed, in our new technological world it's more desirable than ever that every patient, inside hospital as well as outside, should be under the care of a doctor who takes full responsibility for him, sees him as a whole, and protects him, if need be, from the marvels of the specialties.

"Whatever our view of elites, patients are often helped if they know that, because of his profession, their doctor will keep their secrets; give the same care to them regardless of class, race, or beliefs; and do what is needful first and think about payment later. Not everyone . . . abides by these rules, but those who do are more than experts on disease. They might indeed be described as exponents of civilisation."

8. Education is a comfortable word, and American medical schools seem to find considerable solace in it. Why else require four years of premedicine, four years of medical school, and three years of residency? Medicine is a difficult subject, but does it require 11 years of formal training after high school?

A physician's education must be more than science. Equal is the need for a broad cultural knowledge, a knowledge of people, and a wisdom gained through experience. The present system separates these educational units into separate chapters. Why not make an adjustment that maintains the physician as a learner, a teacher, a scholar, and a counselor of the sick over an entire career? Stop the commercialization; regain the professionalization.

The formal education should be shortened and altered so that medical knowledge and humanist knowledge are acquired simultaneously. Offer the degrees, doctor of medicine and bachelor of arts, six years after high school.

All graduates should be required to serve two years in the National Health Service Corps. Credit should be given for this practical experience toward medical school loans and for this practical experience toward residency training.

After two years of national service, residency training should be encouraged. Residency schedules should be adjusted so that the trainee can acquire the necessary training without a large three-year removal from practice. Why not six months, intermittently? The youg doctors will have benefited from the experience, and their loans can have been paid. The people will have benefited from the more than 30,000 young physicians available for underserved areas. The large number of women entering medicine will certainly make tailored training periods necessary.

By thoughtful assignment from the National Health Service Corps (NHSC) of some of the 30,000 young physicians to relieve those in practice, the exhausted practitioner can be assured a sabbatical leave and, therefore, "refresher" education at a medical center of his or her choice. Education is therapeutic. Such training should be additive towards Board certification.

An income tax shelter should be developed for the practitioner so that each seventh year is free for his or her renewal. The absence could be made possible by use of the physicians from the NHSC. Credit could be given toward certification in a special field of study accomplished during the sabbatical leave.

9. Education should be taken to the public. Most of the remaining U.S. health dilemmas are functions of social medicine (except cancer). How do we get education to the public? Television is obviously one route. However, person-to-person contact is the best approach. Physicians and nurses can do some of this. Their efforts need to be multiplied by penetrations into the neighborhoods and farm areas. Moderately trained persons, high with enthusiasm and energy (the United States is filled with such people), should be organized into a system of friendly neighborhood health workers. These people would be responsible to physicians, not to the public health system.

We must educate the health profession to a concept of comprehensive team care. We talk about this, but we do not do it. A medical center, a neighborhood health clinic, a nurse-clinician satellite clinic, and a penetration into the individual's home are all needed components. Education about this system should begin at birth, i.e. preschool.

Education is the fuel that makes peer review, self-evaluation and recertification possible. Such education of all health professionals can be facilitated if the health professional schools will use the active practitioners, their clinics, and their hospitals as part of the education system. The professional schools, therefore, need to be guided into an area health education center concept, and this can be facilitated by appropriate legislation.

TO REGULATE GENTLY, TO STIMULATE

This is all a delicate balancing act: the use of skilled legislation and federal funds to stimulate change, but the removal of a central government-controlled and government-policed national health service. The health professions must be self-regulating, with a code of discipline suitable for Caesar's wife. Equal availability of care at a cost that can be afforded and with ethics beyond suspicion—those are the profession's obligations. Government's role is to facilitate, to regulate gently, to protect by its presence, and otherwise to remain out of the area.

A new health care and education approach will find resistance from many. However, a new plan directed at the students, new graduates, and the individual professionals may find strong support. In medicine alone there will be 60,000 new physicians during this current presidential four-year term. Allowing for retirement and death, this will be almost 25% of all practicing physicians in the country. Similar arithmetic with nurses, pharmacists, and dentists makes it clear that an entirely new base is moving into the health care team.

In six years, not only will 12% of all present health professionals retire, but more than 60,000 new physicians will have moved forward into practice, 45,000 will be in residency, and 60,000 will be in medical school. These represent the potential catalysts for converting a health care plan through legislation into action and into a system.

Again, using federal bonus devices, we should bring the health professional schools into all the participating community hospitals and into the neighborhood clinics and rural areas. The success of the Area Health Education Centers needs to be expanded.

Physicians need to be placed in active preceptor roles. We should not downplay the students' basic science need but foster getting them out into the real world of elderly people, of broken homes, of drugs, of bad diet, of narcotics, of bad personal health habits, of mental flaws, of infants neglected, of small towns and farms. The real schoolhouse for learning how to serve is real life. No part of this comment ignores the importance of underwriting the creative, investigative contribution of scholars. The university is too precious to categorically demand that it be pragmatic only. Much that is involved in caring for the patient must be learned, taught, and experienced beyond the traditional walls.

A quotation from the United Kingdom says it well: "Too many consultants have retired into their marble palaces to practice the minutiae of their biochemical and narrowly academic sciences without too much interruption from, or reference to, the community way of life of their patients."

The new medical graduate may respond with enthusiasm to the altruistic opportu-

Footnotes at end of article.

nity of giving two years of service in underserved areas. Instead of interpreting this as a penalty, it can be presented as an example of the uniqueness of the role of physician. Equally, this opportunity should be made available to physicians, pharmacists, and nurses. Professionalism would become the pride, and union shop techniques would fade.

Not only would these young people provide health care and institute new health centers, but they would relieve fatigued or out-of-date professionals. Legislative funds and tax sheltered incomes should be provided to make possible sabbatical leave "refresher" experiences at regional medical centers for the professional and spouse. A promise of 6 to 12 months of professional retraining would brighten the intense commitment required from several years of private practice.

The horizontal power structure of the specialty medical societies, (i.e., radiology, pediatrics, psychiatry) is an additional source of strength and quality. Any national health system will need the cooperation and volunteer strength of these major factors of the American health scene.

These organizations are entirely based on volunteer help from the health specialists. Their roles are powerful ones in terms of maintaining standards and in fostering graduate medical education. Education, new ideas, and change move rapidly across the country via this administrative structure. These societies are a direct access route to all physicians and are an additional strength to that of the hospitals and the health professional schools. Thoughtful attention to their potential will provide one with effective, volunteer, well-motivated agents for change, reaching into every community and into every hospital. Their membership represents almost all practicing physicians.

The American social system had evolved a method of health care that is essentially based on private community hospitals that have been built and administered by influential, often wealthy, lay people. Many of these hospitals also have important religious connection that assists in the fund-raising and guides their sense of dedication. The United States is covered by such hospitals, and the energy inherent in such institutions and their boards and staffs offer the natural ally at the local level for any major federal effort to alter the health care system. Instead of introducing artificial administrative devices, is it not wiser to turn to these powerful, well-intentioned people who make any community progress, those who make up the membership of the hospital boards?

We need to develop legislation that gives these boards, their facilities, and their staffs the responsibility for service of a geographic area, for development of neighborhood health workers (spreading out from the hospital volunteer system and using neighborhood mothers, welfare mothers, and others), for the door-to-door, day-to-day health contact and education; these are the friendly neighborhood health workers. From all social and economic levels, the patients who are to be served must also have representation on these hospital boards. Let these hospitals compete for regional responsibility, using availability of service, cost effectiveness, and proof of safe audit as attractions to the public.

It should be made attractive through federal aid for all such hospitals to develop prepayment insurance plans, using private underwriters. Legislation should be written that will cause hospitals to be competitive and cooperative, and thus offer the public alternate plans. The low income families should be augmented through assistance with insurance premiums but allowed the hospital of their choice.

Again, through attractive federal bonuses, the existing network of hospitals should be encouraged to fully staff neighborhood health centers, to maintain common records, and to audit the quality and cost of care. Legislation should be constructed that will encourage these hospitals to compete for the privilege of serving rural areas, including frequent regional visits by all levels of staff to the rural area.

This plan turns to the already existing health system, ties the neighborhoods and rural areas to adequate tertiary care, stimulates the specialized hospital staff to serve in the entire region, and provides a logical framework for health service areas and professional organizations.

The Veterans' Administration hospitals should be phased into this same program. Their patient population and their health facilities should be part of the program and enjoy the same quality and resources made available to all citizens. The veteran patient should be able to obtain medical care where most convenient; the nonveteran patient should have ready access to the unique facilities of regional veterans' hospitals.

We should build on the existing huge dollar investments, the costly equipment, professional talent, and civic leadership. We should not go around this system but instead make it the nucleus for constructing the missing links.

SUMMARY

Instead of isolated chapters of education now characterizing the physician's life, one can follow a concept of "lifetime learning for physicians" (and other health professionals). Equally, the physician must respond to the profession's ancient concept of service, and all graduates must take their turn in the National Health Service Corps. Such will not slow the physician's growth but instead will mature it and enrich the physician by a sense of social commitment.

Simultaneously, the present islands of care—medical center, private offices, and clinics—can be brought into a harmonious system strengthened by an ability to reach into the lives and homes of the people. The use of personal contact, as in Alcoholics Anonymous and as has been used by churches throughout history, is a major unmet need of the US health care system. This personal contact can be used as the extending missing link tying the individual at his place of residence and employment into a continuous health care system. Appropriate health care education and needed preventive medicine measures can be kept as active and on-going factors in the individual's life.

The cost of such a program can be small by using modestly-trained persons. Cost effectiveness will be realized, over a period of time, by the decrease in time lost from work, in transportation time, and in health risk factors, and will be accomplished without using the most expensive member of the health team, the physician.

The primary regulation of this system will require logical methods of checks and balances. However, the health professional must follow self-imposed standards of performance, standards that will be higher than those that could be legally required. The medical professional is a morally responsible, action-oriented problem-solver working on behalf of people in difficulty. His or her services will always be dear, by any society's terms; however, they will not be so dear that society itself loses faith, or worse, loses access to the needed skills.

Do not introduce a piecemeal legislation. Do not separate health care from health education. Do not ignore the existing powerful matrix of community hospitals and specialty societies. Do not build further in an upward tertiary manner, but turn the community hospital and staff around so they must serve defined geographic areas, rural areas, inner cities, schools, factories, farms, and offices. Build the national health program on these existing community stalwarts, and encourage each unit to become a competitive prepayment total care system. By increments over a fixed period of time, incorporate the Veterans' Administration.

Use the students in all health professions as agents of change. Before the end of 1980, 50% of the next generation of health care providers will be in training or newly in practice. They are the human resource for causing change.

Appoint a self-limited (six years only) blue ribbon board charged with the implementation of the overall concept. Give them a very small staff, and let them be effective by use of existing health care systems, both federal and private. Limit their number to five or seven, and require them to commit themselves essentially full time. Do not let their role be that of a one-day-a-month, fly-in and fly-out advisory group, manipulated by an entrenched full-time staff. Give them visibility, publicity, and influence.

This proposal combines the strengths of volunteerism, private citizens, private enterprise, bonuses, and mobilization of federal, commercial, and private efforts. It is not a group of legislative tactics but an overall approach. It is a system of health care true to its American historical antecedents.

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FOOTNOTES

[1] FOX TF: Industrial action, the national health service, and the medical profession. *Lancet* 2:892–895, 1976.

[2] Wigglesworth R: Health and social services, letter to the editor. *Lancet* 2:774–775. 1968.

INCREASING SUPPORT FOR THE REGULATORY REFORM ACT OF 1977

Mr. PERCY. Mr. President, I am extremely pleased that S. 600, the Regulatory Reform Act of 1977, is continuing to attract a broad spectrum of support from both the business and public interest communities. Just recently, the Business Roundtable and Common Cause announced their support for the comprehensive regulatory reform approach of S. 600. Now, the American Bar Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Cotton Council of America have pledged their active support for the principles and much of the language underlying this far-reaching, action-forcing regulatory reform measure.

Housecleaning at the regulatory agencies is certainly in order. The proliferation of Federal regulatory activity in this century has been enormous. In many cases, such regulation is a necessary and prudent means of safeguarding the public interest. However, when polls regularly show that small businessmen see Federal regulation as more of a hazard to their livelihood than taxes or inflation, it is time to reexamine the purposes and procedures of that regulation.

In whose interest is such regulation if many of the Nation's small businessmen are being forced out of business by it?

Few organizations are as familiar with the pressures of Government regulation on small businessmen as the National Association of Manufacturers—85 percent of its members employ fewer than 500 people. The NAM's endorsement of S. 600 is testimony to their serious concern with the accountability of Government regulation. The NAM's over 13,000 member companies are asking for no special favors. All they want is a fair deal. And too often the Government's regulatory agencies have denied them that.

A major part of the regulatory problem is that all too often those issuing regulations fail to take into account the costs of that regulation. Lately, regulation has been commonly used as the quick, easy-fix answer to all the Government's difficulties. Little time or energy has gone into looking for more efficient, alternative means for achieving a chosen goal.

I believe that Congress must share responsibility for much of the misguided regulation presently enforced by the Federal regulatory agencies. When these agencies were created, Congress simply assumed that the best way to keep tabs on the marketplace was through regulation.

But now we are all a little wiser from our experience. In the light of new studies, there is evidence that: Certain regulatory agencies are no longer operating in the public interest and should be transformed, revitalized, or eliminated; and that other regulatory agencies would achieve their purposes more efficiently by substituting economic incentives for regulation, or enhancing Federal antitrust activity. Much damage is being wrought unnecessarily by failing to act on these often less costly methods of protecting the marketplace.

It is in the interest of opening up the process of regulatory reform and forcing review of current agency practices and purposes that a sunset procedure has been incorporated into the Regulatory Reform Act of 1977. S. 600 provides an agenda, a timetable, and a discipline for Congress to undertake this important responsibility.

There may be reasonable differences over how broad a scope S. 600 should encompass. The sponsors of the bill are wedded to no set number of regulatory agencies to be reviewed per Congress. The Commission on Law and the Economy of the American Bar Association recommends that we proceed cautiously. I agree. It is vital that whatever sunset agenda Congress finds appropriate—whether it is the limited form advocated by the ABA, or the more inclusive plan presently in S. 600—be a manageable, orderly program. I am confident that with the able assistance of prominent public interest groups like the ABA, we will find agreement on the proper workload for the Regulatory Reform Act of 1977.

Mr. President, I ask unanimous consent to add to the list of those Senators co-sponsoring S. 600, Senators BARTLETT, BELLMON, GARN, GOLDWATER, MCCLURE, and STEVENS. They have joined the many Democrats and Republicans—liberals, moderates, and conservatives—who have united together in support of the Regulatory Reform Act of 1977. That list consists of the following Senators who have now joined with the principle sponsors, the distinguished majority leader Senator ROBERT BYRD, Senator RIBICOFF, and myself: Senators ALLEN, ANDERSON, BENTSEN, BURDICK, HARRY BYRD, CHAFEE, CHILES, DANFORTH, DECONCINI, DOMENICI, DURKIN, EASTLAND, FORD, GRAVEL, HANSEN, HASKELL, HATFIELD, HEINZ, HUMPHREY, HUDDLESTON, INOUYE, JOHNSTON, KENNEDY, LEAHY, LUGAR, MATHIAS, MATSUNAGA, METZENBAUM, NUNN, RIEGLE, ROTH, SCHMITT, SCHWEIKER, SCOTT, STAFFORD, TOWER, and ZORINSKY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Clearly, a consensus is developing in the Senate and among prominent organizations and groups that S. 600 is the best available means for achieving a comprehensive reform of Federal regulatory practices.

Mr. President, because of their importance and constructive contributions to the regulatory reform effort, I ask unanimous consent that the statement on S. 600 of the ABA's Commission on Law and the Economy, the National Association of Manufacturers, the Chamber of Commerce, and the Cotton Council, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the American Bar Association report to the House of Delegates Commission on Law and the Economy]

RECOMMENDATION: SUPPORT OF LEGISLATION REQUIRING PERIODIC REAUTHORIZATION OF FEDERAL REGULATORY AGENCIES OR FUNCTIONS

Be it resolved that the American Bar Association supports a limited form of sunset legislation which would require reviews and reauthorization by the Congress of federal regulatory agencies or regulatory functions and which would embody the following features or considerations:

1. Until it is demonstrated by experience that Congress can accomplish more reviews effectively within a short period of time, sunset legislation should not require review of more than a very limited number of regulatory agencies or regulatory functions by any one Congress.

2. Subject to a properly safeguarded legislative veto, the legislation should delegate to the President the authority and responsibility of designating the agencies or regulatory functions to be reviewed.

3. Reports to Congress on the agencies or regulatory functions scheduled for review should be prepared by the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office and the affected agencies. The legislation should establish criteria for the comprehensiveness and usefulness of these reports. The sunset schedule should permit enough lead time for the completion and publication of such reports in advance of consideration by the appropriate committees of Congress, and should provide for full participation in the Congressional review process.

4. Sunset legislation should provide an orderly method by which agencies may be phased-out if they are not reauthorized.

5. Sunset legislation should provide procedural safeguards to require that legislation drafted in response to sunset reviews should be discharged from committee and given prompt consideration on the floor and by conference committees.

6. Sunset legislation should apply to all forms of government regulation and should not carve out particular agencies or regulatory functions to be excluded from intensive review.

REPORT

The American Bar Association's Commission on Law and the Economy was formed to study the government's legal structures and procedures for regulating the national economy and to recommend changes designed to improve the effectiveness and fairness of the regulatory process. The Commission has divided its work among three committees on Accountability, Information and Analysis, and Procedures. It plans to submit its full report in 1978 and is submitting this interim report on this one aspect of the subject because it requires immediate attention.

BACKGROUND

Congress is actively considering legislation which would initiate a "sunset" process through which either all federal budget authorization categories or all federal regulatory agencies will be subject to periodic reauthorization. The principal bills are S. 2 (Senator Muskie and 53 cosponsors) and S. 600 (Senator Percy and 40 co-sponsors). S. 2 would require that all federal budget categories be subject to reauthorization every five years on a rotating schedule. S. 600 would require that 32 federal regulatory agencies be subject to study and reauthorization during the next eight years' period. A subcommittee of the Senate Government Affairs Committee has completed hearings on both these bills and S. 2 has already been marked up.

The Commission recognizes that "sunset" legislation is not the only way to improve Congressional control of regulation. Other methods include strengthening the traditional Congressional oversight process, establishing a new process by which each Congress determines which agencies to subject to comprehensive reviews, and developing an inventory of all federal programs for potential review by Congress pursuant to priorities established by the majority and minority leadership. However, sunset legislation is at this moment a very active and important item on the Congressional agenda and need not exclude other methods.

Although "sunset" is not the only route to meaningful regulatory reform, it has strong potential for eliminating unnecessary federal regulation and improving the effectiveness of regulation found to be necessary. The Commission on Law and the Economy believes that sunset legislation which includes the features recommended by the Commission would contribute to improving federal regulation and would not be unnecessarily costly or apt to divert political attention from meaningful regulatory reform.

The Commission recommends that sunset have a cautious beginning, placing a small number of regulatory agencies or functions in the limelight of intensive review by Congress and the President. This is a particularly helpful procedure for economic regulation. Then, if the test of sunset proves successful, Congress may expand the procedure to test whether more agencies or categories of the budget can be successfully reviewed.

Since this is the second session of Congress in which Sunset legislation has been actively considered and since further committee hearings on this concept appear to be imminent, it is believed by the Commission to be important for the Association to express its views on this legislation at this time.

Analysis of the provisions of the recommendation

This portion of the Commission's report presents and comments on each of the sections of the Commission's recommendation:

General Support Statement. The American Bar Association supports sunset legislation which would require reviews and reauthorization of a very limited number of federal regulatory agencies or regulatory functions and which would embody the following features or considerations:

Comment: The purpose of subjecting an agency to reauthorization is to create a situation in which Congress must act or the agency passes out of existence. The procedure is designed to force the kind of review that often is not possible under more usual legislative procedures.

Sunset can be applied to federal regulatory agencies or regulatory functions, depending on the reason for the review and on an evaluation of practical and political realities. Thus, a review could be directed at the Interstate Commerce Commission, at trucking regulation (a portion of the ICC's responsibilities) or at an entire sector of regulation, such as all transportation regulation (including ICC, CAB and the Maritime Commission). If a sector is designated for review, it is necessary to specify the agencies or parts of agencies which must be reauthorized.

Limited Review. 1. Until it is demonstrated by experience that Congress can accomplish more reviews effectively within a short period of time, sunset legislation should not require review of more than a very limited number of regulatory agencies or regulatory functions by any one Congress.

Comment: The Commission believes that a careful sunset review may absorb extensive resources and political energies. For example, a recent Senate review of the Civil Aeronautics Board required over $250,000 of Congressional resources and extensive cooperation from CAB staff. The study took over a year to complete and its results have provoked strong resistance from affected labor unions and most affected companies. While the study already seems to have affected agency operations, resulting legislation is still under consideration by Congress.

The analytical difficulty of completing a particular sunset review and the practical and political difficulty of accomplishing meaningful reform, depend in part on the size and nature of the agencies or regulatory functions designated for review. Because of this wide potential variation, the Commission's recommendation does not specify the exact number of reviews which one Congress might effectively accomplish. However, the Commission believes that as a matter of prudence, only a very limited number of reviews ought to be undertaken by any one Congress until further experience is gained.

Of course, Congress is free to conduct all its usual oversight, reauthorization and appropriations business and to effect fundamental reform as part of these activities, unaffected by the existence of a sunset law.

Congressional and Presidential Roles. 2. Subject to a properly safeguarded legislative veto, the legislation should delegate to the President the authority and responsibility of designating the agencies or regulatory functions to be reviewed.

Comment: In order to deal effectively with potentially serious problems in deciding which agencies or regulatory functions should be selected for sunset review, the Commission favors Presidential participation in selecting the subject for such review. Unless the President and Congress work together closely, fundamental reform is unlikely to occur.

A properly safeguarded legislative veto would permit either house of Congress to block an unpopular choice of agencies or functions by the President, providing an important check on Presidential leadership and giving the President an added incentive to confer with Congress on his choice. Because of the possible unconstitutionality of the legislative veto, about which no court has as yet clearly spoken, the Commission recommends a safeguarded legislative veto procedure. Under a safeguarded legislative veto, the President would be given authority to designate agencies or functions for only four years, subject to renewal by Congress. The President would assure Congress informally that if his designation is vetoed he would voluntarily withdraw it and substitute another agency or function, in order to moot any judicial challenge to the validity of the veto. In return, Congress would provide that the veto provision is severable from the remainder of the legislation, thereby mooting any challenge to the validity of an unvetoed Presidential designation, which might in an extreme case even result in the termination of any agency. In brief, the safeguarded veto is a prudent device by which the government can protect the legality of the operation of a sunset law which contains a legislative veto.

The Commission is aware that some members of Congress will oppose giving the President such an active role in naming agencies for sunset. An alternative method has been suggested by others. Sunset could require the President to recommend the agencies or functions for sunset, subject to affirmative vote by both Houses of Congress. Under this procedure, the legislative designation of agencies or functions, since it could have the ultimate effect of terminating affected agencies, should—for Constitutional reasons—be presented to the President for his signature or veto.

On the other hand, if Congress should decide on a more expansive sunset process, going beyond the cautious initial approach suggested by the Commission, there is substantial merit in the proposition that agencies of government automatically be subject to reauthorization on each tenth anniversary of their original authorization, thereby eliminating potential problems in the selection process. In addition, during the review of a particular agency, consideration could be given to reforms of agencies performing related functions.

Reports and Procedures for Congressional Review 3. Reports to Congress on the agencies or regulatory functions scheduled for review should be prepared by the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office and the affected agencies. The legislation should establish criteria for the comprehensiveness and usefulness of these reports. The sunset schedule should permit enough lead time for the completion and publication of such reports and should provide for full public participation in the Congressional review process.

Comment: Establishing criteria for comprehensive reports is both important and difficult. Sunset reports should:

Identify the regulatory objectives expected to be achieved by the designated agencies or parts of agencies and assess their effectiveness in achieving the objectives;

Identify and assess the effectiveness of other programs having similar, conflicting or duplicate objectives;

Identify and assess the potential effectiveness of other policy choices, including increased reliance on competition or pursuit of a different government program;

Study ways of enhancing agency procedures to improve the determination of technical and factual questions while reducing delay and increasing the representation of all legitimate interests;

Study and assess the cost of modifying the existing agencies and making the transition to the preferred policy alternatives;

Make recommendations about the transfer, consolidation, modification or elimination of functions; the reform of structures and procedures; the merger, modification, establishment or abolition of regulations or agencies; the elimination or phasing-out of outdated, overlapping or conflicting regulatory jurisdictions or requirements; the reduction of delay; the improvement of the representation of affected interests; and the increased reliance on economic competition or private incentives.

Furthermore, it is essential that the reports be clearly written and that all key assumptions be revealed, in order to maximize the usefulness of reports for Congress.

The first round of reports needs to be initiated promptly in order to permit sunset to be tested during the next Congress. Thereafter, a schedule may be established so that sunset report preparation can commence from twelve to eighteen months prior to the beginning of the Congress which will consider the recommendations, thus giving Congress and the public ample time to study the recommendations and contribute to the decisionmaking process. The relevant Congressional committees should consider whether or not to adapt to their hearings the funding of public participation, as set forth in House of Delegates Resolution No. 114 (Winter 1976): that the government may pay attorney's fees and other expenses, under proper limitations and controls, in administrative proceedings and in the judicial review of such proceedings, when the availability of such fees and expenses is necessary to assure the presentation of positions which deserve full and fair consideration in the public interest and would otherwise not be presented.

The Commission recommends that separate reports be submitted to Congress by the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office and the affected agencies. Each of these sources of reports is believed to have useful expertise and a different viewpoint. Since there will be only a very limited number of sunset reports, it is important that Congress begin its deliberations by considering a variety of analytical viewpoints. Furthermore, the competition to write a meaningful report that will persuade Congress should create an additional incentive to improve the quality of the reports.

Providing for An Orderly Sunset. 4. Sunset legislation should provide an orderly method by which agencies may be phased out if they are not reauthorized.

Comment: The sudden abolition of some regulatory agencies might create great confusion. For example, the abolition of the CAB might result either in freezing all previous route awards and rate determinations or in permitting free entry and competition. FCC termination might create similar confusion about the right to broadcast. To reduce this confusion, the legislation should contain a method for developing contingent phase-out plans. One possibility would be to permit the President to include in his order designating the subject of sunset contingent phase-out plans to be effective only in the absence of responsive legislation.

Procedural Safeguards. 5. Sunset legislation should provide procedural safeguards to require that legislation drafted in response to sunset reviews should be discharged from committee and given prompt consideration on the floor and by conference committees.

Comment: The purpose of sunset legislation is to force a full review of an agency or function. This purpose should not be permitted to be thwarted because of the difficulty of discharging legislation from a committee or obtaining a vote on the floor of Congress.

General Application. 6. Sunset legislation should apply to all forms of government regulation and should not carve out particular agencies or regulatory functions to be excluded from intensive review.

Comment: The sunset process is inherently neutral. Little is to be gained by excluding any regulatory agency from the possibility of a sunset review which may improve its effectiveness.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
May 19, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: The National Association of Manufacturers is pleased to have the opportunity to share our views on S. 600, the "Regulatory Reform Act of 1977." As we have frequently stated in the past, the NAM supports the concept of true regulatory reform.

In the last session of the 94th Congress, the expressed support of the concepts embodied in S. 2812, the predecessor to S. 600. At that time, however, we discerned several difficulties with S. 2812 which detracted from its general effectiveness. We are pleased that many of these difficulties have been resolved in your new legislation, S. 600.

For example, the elimination of Section 2(c) of S. 2812 in S. 600 may indicate that there will be no major shift to the use of industry-wide regulations at the expense of the traditional case-by-case adjudicatory approach. We feel both methods should be available as needed in any given situation.

The addition of Section 4(d) to S. 600 is a positive step toward reconciling the two major approaches to regulatory reform. This section would require consideration of reform by the sectors of affected industries approach in addition to the major emphasis on reform by sectors of government regulation. We feel a balance between these two considerations is necessary to achieve true and equitable regulatory reform.

We commend the concept of using the Comptroller General (GAO) and the Director of the Congressional Budget Office to take a broader perspective of the reform effort as provided in Section 5 of S. 600.

The extension of the timetable for regulatory reform from five to eight years is a major improvement. Even with this extension, however, the NAM still perceives some inflexibility in this system. Considering the importance of many of today's regulations to the vitality of our economy, the termination of an agency's authority because of a lack of time for a serious reform effort would be a major mistake. The insertion of Section 6(b) is a very commendable effort to help alleviate this potentially devastating situation, but we believe some consideration should be given to an extension period for special cases beyond the existing cut-off dates.

We suggest that language be added to the legislation defining "unnecessary or harmful legislation." We also feel that a provision should be added to insure that all affected parties, including the general public and the business community, be consulted before (final) action is taken to reform a regulatory agency.

In addition, we feel that S. 600 effectively avoids the difficulty encountered with S. 2812 where Executive action might repeal existing statutes.

We hope these comments will be of use to you in your consideration of S. 600. If we may assist you further in this or any other matter, please do not hesitate to call upon us.

Sincerely,

JAMES P. CARTY.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, D.C., June 27, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: When the Subcommittee on Intergovernmental Relations of the Senate Governmental Affairs Committee recently held hearings on S. 600, the Regulatory Reform Act of 1977 which you introduced along with Senators Robert Byrd and Ribicoff the Chamber was unable to testify in support of the legislation. At that time, our position on the sunset aspects of the bill was such that we could neither support nor oppose the concept. It was decided that we take the sunset issue to the June meeting of our Board of Directors.

At the June 24 meeting of the Board, the sunset concept was clearly placed before the members. Roscoe Egger, the chairman of our new Government and Regulatory Affairs Committee, asked the Board to support sunset as it applies to programs in S. 2, Senator Muskie's Sunset Act of 1977, and S. 600. The Board agreed, without opposition, to back sunset as a means to achieve effective regulatory reform.

Our Board did find one problem with the legislation. We are concerned about maintaining the independence of the Board of Governors of the Federal Reserve System. Our Board felt that this independence is so important that even that remotest possibility of sunset should not be applied to the Federal Reserve System. Thus, they adopted as part of their resolution, a request that the Chamber seek to have the Fed taken out of any sunset in your bill. We would hope that you could amend the legislation so as to exempt this very important agency.

With this action of our Board of Directors, we can now give S. 600 the Chamber's support. I look forward to backing this bill as it moves through the Congress.

Sincerely,

RICHARD L. LESHER.

STATEMENT OF NATIONAL COTTON COUNCIL OF AMERICA

The opportunity to comment on S. 600 and the leadership its sponsors are providing to bring accountability into the regulatory process are deeply appreciated by the American cotton industry. The legislation pending before this committee would enable Congress to achieve much needed reform, and it has our full support.

Providing a safe working environment, that is at the same time practical, is a highly desirable goal, and few would quarrel with reasonable regulations designed to achieve that goal. However, government agencies with responsibility in the regulatory area should be required to consider costs and weigh these costs against the benefits just as they must make certain that in the standards imposed the benefits clearly outweight the risk. Unfortunately, in many instances, the cost side of the equation has been neglected just as the risk side has been overstated. The result has been higher prices to consumers and a reduction in economic growth in our economy.

Federal regulatory agencies are intruding into every facet of an individual's life to a degree unparalleled in our history. The cost of staggering. The General Accounting Office estimates that regulations are exacting approximately $60 billion annually from taxpayers and industry.

In the cotton industry alone, the burden of excessive regulations, the resulting harrassment and unproductive expenditures jeopardize the future of many thousands of jobs. Several areas are cited below.

First flammability—Since 1967, flammability standards have been written for 5 textile products. The first important one affecting cotton was children's sleepwear, sizes 0 to 6x. The immediate result was a loss in cotton's market share from 70% to 5%.

Since these standards were enacted, the Census Bureau has found that burn injuries and deaths associated with textiles are only one-fifteenth as great as originally estimated.

In the Consumer Product Safety Commission's haste to issue a standard we now have a situation where industry is faced with a significant financial loss from the recall of garments treated with chemicals suspected of being carcinogenic. The Commission's repurchase order is estimated to cost the producers of children's apparel and the manufacturer of flame-retardant materials approximately $200 million.

Currently under consideration is a new apparel standard covering robes, nightgowns, pajamas, dresses, shirts and trousers. If adopted this standard would cost consumers over $3 billion annually. Also under consideration is a standard that would cover all apparel. Estimates on the cost vary but are astronomical.

It is obvious that the Consumer Product Safety Commission's actions were precipitous in promulgating the children's sleepwear standard when it did. The industry was not ready and the rapid development and use of flame-retardant chemicals that resulted can be laid directly at the door of the C PSC. One of the most widely used chemical treatment has subsequently been cited as an animal carcinogen, which means that it causes cancer in animals and may possibly lead to cancer in humans. This hasty action by the Commission, while inexcusable, is a classic example of the remedy prescribed and required by government being worse than the so called hazard.

Second, cotton dust—OSHA's proposed cotton dust standard offers a prime example of over-regulation. With the exception of harvesting, the proposed standard would apply to all industry sectors involved in processing or in any way handling cotton. This OSHA proposal has been made even though there are no data to show the existence of a dust realted health problem in any sectors, except for some areas of yarn manufacturing.

Despite the absence of such data OSHA's proposal would extend sweeping coverage to cotton gins, oil mills, warehouses, classing rooms and other areas of textile mills. Also the proposed standard would substantially increase energy consumption at a time when national emphasis must be on conservation. Energy consumption under the proposed standard would increase by 29% in textile mills and 75% in the ginning industry.

The cost of installing engineering controls in conjunction with the proposed standard is estimated to be approximately $3.2 and annual operating costs are estimated to be $947 million. OSHA officia's are on record as saying that the standard's cost will be disregarded, except as it relates to the time allowed for implementation.

Others—There are a number of other regulatory matters having significant impact on cotton and the textile industry which we have not covered. These include present proposed standards on agricultural pesticides, noise, air emission, water quality, heat stress, toxic substances, food additives, machine guarding, equipment operation and walking-work surfaces.

In view of the examples as cited above, and because of the trend of more and more regulations, it is essential that meaningful reform be enacted by Congress. S. 600 could accomplish this badly needed reassessment of our entire regulatory process. The proposal would require the President and the Congress to systematically review agencies and their effectiveness over a period of eight years. In addition the President would have the responsibility of submitting to the Congress recommendations for reforming regulation in four broad sectors of the economy every two years. This mandatory review accompanied by the sunset provision, as provided in the propcsed legislation, is highly desirable.

The legislation requires the President to include in his plan a report on the cumulative impact of certain government regulatory actions on specific industry groupings. The President is also required to submit recom-

mendations to insure that the impact of the regulation is in the nation's best interest.

We feel that this language should be expanded to direct the President to specifically take into consideration, in developing his recommendations, the overall benefits derived from such regulations as opposed to the cost of implementation. This is the very heart of many of the problems associated with the regulatory agencies. In too many instances the risks have been greatly overstated and actions highly detrimental have been taken without balanced consideration of both benefits and cost. Consequently, many well intentioned measures have become counter productive and inflationary.

When Congress acted to establish the various regulatory agencies and commissions they created in some instances bureaucratic monsters that have gone far beyond what Congress had intended. Regulatory agencies have become what many feel to be, the most powerful force in Government. Because of their statutory independence, these agencies are apparently accountable to no one.

S. 600 will not answer all problems associated with over regulation. However, if enacted, the Congress and the Executive branch will address and debate the issues and develop meaningful alternatives to a situation that has gotten out of hand and is not serving the best interests of the Nation. Therefore, we urge prompt consideration and passage of this legislation.

THE UNITED STATES AND OUR NATIONAL HONESTY

Mr. PROXMIRE. Mr. President, this week President Carter will make his first visit as Chief Executive to the United Nations. During his 2-day visit he is to address the General Assembly, sign two international covenants, and discuss both the Middle East situation and a hoped-for extension of the United States-Russian arms limitation pact. It is also believed that the President will discuss the question of human rights around the world.

It is regrettable that in discussing the important issue of human rights, the President will have nothing more to arm himself with than his own strong convictions. The Senate has failed to give the President the backing he requires in this matter—the ratification of the Genocide Treaty.

When President Carter discusses human rights with international leaders, an atmosphere of hypocrisy cannot help but develop. How can the leader and representative of the American people strongly advocate human rights when, due to the failure of the Senate to ratify the Genocide Treaty, it seems the American people are not supporting their President? This lack of support not only hurts the President's international image, but it also displays the hypocrisy of the entire Nation, a nation that values human life above all.

With so many important international issues under consideration, I believe it is time to back President Carter and give him the support that will bring the professed desires of the United States in line with our actions. Through the ratification of the Genocide Convention we can stand firmly behind our President in his struggle for human rights.

COMPREHENSIVE TEST BAN

Mr. GARN. Mr. President, President Carter stated early in his term of office that he wants to stop all nuclear weapons testing. In order to further this objective, the United States and the Soviet Union have been negotiating since June to complete a comprehensive test ban treaty which would prohibit all nuclear weapons tests. Soviet Foreign Minister Andrei Gromyko's announcement on Tuesday, September 27, gives us reason to believe that obstacles to the treaty have been removed and a test ban agreement will emerge in the near future.

While some believe that a full test ban treaty is the next major step in assuring world peace, the Comprehensive Test Ban (CTB) would result in a net U.S. disadvantage in regard to the balance of strategic deterrence and long-term national security interests. In the event of a CTB the U.S. nuclear weapons laboratories would severely and quite probably deteriorate in their effectiveness. It is most unlikely that the scientific and engineering talent now attracted to such laboratories could be retained in the long run in absence of a significant level of new weapons development testing. Public opinion and budgetary considerations in the United States would soon cause significant attrition in the top technical talent pool which is indispensable for a sound, effective and continually evolving, strategic posture. There is no way to restore this type of research and development (R. & D.) base on short notice, should the need arise.

This same problem does not exist to a comparable extent for the Soviet Union. The ability of the U.S.S.R. to direct its resources—including budgets, facilities, and scientific talent—to the tasks prescribed by the interests of the state would permit the maintenance of the nuclear R. & D. laboratories at a high state of excellence and readiness, even in the presence of a CTB. In the case of an abrogation of the test ban, the Soviets would be in a position to take rapid and effective advantage of the fully maintained R. & D. capability. They would also be in an excellent position to make military use from test data covertly derived from "peaceful" nuclear explosions.

In the August 1972, issue of the Air Force magazine, retired Army Brig. Gen. Albion W. Knight claims that a CTB would, among other things, cause a serious exodus of highly skilled scientists and technicians from the nuclear weapons laboratories at Los Alamos, Livermore and Sandia. The respective laboratory directors have confirmed this year that it would be almost impossible to conduct a viable nuclear weapons R. & D. program without nuclear testing. Without testing, the good scientists would believe, rightfully, that their Nation no longer needs their help.

If we lose the capability to advance the state of nuclear weapons technology at a time when the Soviets continue their massive effort in strategic nuclear R. & D., we may be painting ourselves into a difficult corner. If and when President Carter, or his successor, recognizes that we can no longer accept the consequences of Soviet strategic superiority and directs an overall improvement in our own strategic forces, he may find that the Comprehensive Test Ban Treaty would have removed the key scientific assets necessary to make that improvement. President Carter should make a very careful analysis of his rosy arms control hopes to see whether they justify the loss of our nuclear weapons laboratories.

I ask unanimous consent that the article by General Knight be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NUCLEAR WEAPONS LABS: AN ENDANGERED SPECIES

(By Brig. Gen. Albion W. Knight, USA (Ret.))

Shortly after his inauguration, President Jimmy Carter announced that he would like to proceed quickly with a Comprehensive Test Ban Treaty. "I am in favor of eliminating the testing of all nuclear devices instantly and completely," he said.

During the 1976 presidential campaign, Mr. Carter proposed a five-year ban on all nuclear testing. He has now moved to carry out that campaign promise. The ill-fated strategic arms limitation proposals made by Secretary of State Cyrus Vance in his March 1977 visit to Moscow included a provision for halting nuclear testing.

The follow-on SALT discussions and negotiations between the United States and the Soviet Union have dealt with the subject of extending the existing nuclear test bans into a Comprehensive Test Ban Treaty barring all nuclear tests in all environments. Negotiations on such a treaty are now under way.

The 1963 Limited Test Ban Treaty prohibited nuclear testing in all environments except underground. The 1975 Threshold Test Ban Treaty then prohibited all underground nuclear weapons testing in yields greater than 150 kilotons. The 1976 Peaceful Nuclear Explosives Treaty placed similar, but at the insistence of the Russians, less restrictive controls over peaceful nuclear explosions. These latter two treaties have not been ratified by the U.S. Senate, although hearings are scheduled for this summer. However, both nations are abiding by the treaties as if ratification were completed.

The purpose of this article is not to discuss the issue of a Comprehensive Test Ban Treaty. This has been covered adequately by others, especially by Edgar Ulsamer in the May '77 issue of this magazine. Rather, it is to note that a Comprehensive Test Ban Treaty would have an extremely adverse impact upon the American nuclear weapons design laboratories and, consequently, upon our long-term national security. These laboratories, relatively unknown and unheralded, are a prime foundation of our national security posture. US governmental actions in the recent past have weakened these national assets. The proposed Comprehensive Test Ban Treaty might well give the *coup de grâce* to the laboratories. The United States then would be placed at a severe scientific and technological disadvantage in the building (or rebuilding) of our security posture for the future—at a time when our scientific capability has become even more vital.

THE WEAPON DESIGN LABORATORIES

The nuclear weapon design laboratories include the two major nuclear laboratories operated by the University of California: Los Alamos Scientific Laboratory in Los Alamos, N. M., directed by Dr. Harold M. Agnew; and the Lawrence Livermore Laboratory in Livermore, Calif., directed by Dr. Roger E. Batzel. They also include the Sandia Laboratories operated by the Western Electric Co. at Albuquerque, N.M., and at Livermore to give fully dedicated engineering support to the nuclear laboratories. All of these laboratories are under contract to and under the direction of the US Energy Research and Development Administration (ERDA), which assumed nuclear weapons responsibilities from the US Atomic Energy Commission (AEC) in January 1975. These responsibilities will, in turn, be incorporated within the functions of the new Department of Energy. An integral part of ERDA's nuclear weapons research and development complex is the Nevada Test Site, northwest of Las Vegas, where each of the laboratories conducts those experiments that require nuclear explosions.

According to date published by ERDA in a congressionally directed study of their nuclear weapons capabilities (*Funding and Management Alternatives for ERDA Military Application and Restricted Data Functions*, January 1976, ERDA-97), the weapons laboratories employed, in Fiscal Year 1975, more than 17,000 people with nearly 11,000 working on the nuclear weapons program. The remaining 6,000 were engaged in other important scientific work, mainly in seeking solutions to some of our critical energy problems. Since then, the laboratories have grown to more than 19,000 employees with the predominent increase being scientists and technicians working on energy programs.

A number of people in both ERDA and the Department of Defense worry that the energy role of the nuclear weapons laboratories may so expand that, even without a cessation of nuclear testing, the primary weapons functions of the laboratories might be seriously degraded. For that reason, there was, until the Carter Administration took office, serious study of whether the nuclear weapons role of ERDA (including that of the laboratories) should be shifted to the Department of Defense. This was the major question asked by the congressionally directed study noted above. (The answer reported to the Congress in May 1976 was that, for the time being, the weapons functions should remain with ERDA.) The creation of a Department of Energy and the declaration by President Carter of a "moral equivalent of war" on the energy problems can only heighten those worries. I believe it to be a real possibility that the laboratories' weapons functions might be squeezed out at the end of that battle.

What has been the cost to the taxpayer for the research and development capability of the nuclear weapons laboratories? Over an eight-year period from FY '70 through FY '77 an average of about $260 million per year was appropriated by the Congress for Atomic Energy Commission and ERDA nuclear weapons research and development programs. About $200 million more per year was appropriated for nuclear testing. Thus, the nuclear weapons research and development capability has been costing less than one-half billion dollars a year, or less than one-half of one percent of the Defense Department budget. Yet it provides the heart of the strategic and many of the tactical weapon systems needed by the Department of Defense. This is one of the biggest, yet lesser-known, bargains of the US government.

CONTRIBUTION TO SECURITY

The nuclear laboratories have made significant contributions to our national security posture. First, and most obvious, all the nuclear weapons in our stockpile were designed, tested, and developed by either the Los Alamos or the Livermore laboratory.

Second, they have been pioneers in the development of highly reliable complex systems. The nuclear portion of a weapon system is its most reliable component. The laboratories envision a twenty-year or longer stockpile life for some nuclear devices. Some of our nuclear weapons either approach or exceed this lifetime.

Third, the laboratories have saved the nation untold billions of dollars. By advances in nuclear technology, they have made possible weapon systems that are far more effective than envisioned twenty years ago. One of the most impressive of these advances was the miniaturization that resulted in improvement in the yield-to-weight ratio of nuclear explosive devices. The United States thus has been able to build smaller and less expensive missiles and to develop the MIRV concept of one missile placing nuclear-armed reentry vehicles on several targets. In a recent panel discussion among senior managers at Lawrence Livermore Laboratory, William Nelson, a key division chief, commented:

. . . An excellent example [of saving] is the Polaris submarine. It would have been very expensive if this Laboratory hadn't discovered the means for making the missile payload powerful, yet small enough to be carried by a submarine. Getting that payload to a specific point on the earth is a very expensive thing to do. And if we can make the payload smaller, lighter, and able to do its job more effectively, this saves money in the overall system.

What was said for Polaris also applies to the Minuteman and Poseidon missiles. It is even more a factor with the coming generation of new weapons—the Mark 12A warhead for Minuteman III, and warheads for the MX, the Trident, and the cruise missiles.

Miniaturization also made it possible for fighter-bomber aircraft to carry the thermonuclear bomb—a feat that could be done only by heavy bombers for the first-generation hydrogen bombs. That, in itself, caused an order of magnitude expansion in the mission and the effectiveness of the Air Force. It may make it less risky to carry out the controversial withdrawal of ground forces from South Korea, which the Carter Administration wants to do. The deterrent threat of nuclear-armed aircraft located within immediate striking distance is powerful. It is the heart of the NATO deterrent as well as of deterrence in the Pacific. The laboratories have made all this possible.

A fourth and extremely important contribution is that the laboratories' advances in the state of nuclear weapons technology gave a sound base for the SALT I negotiations. The SALT I Interim Agreements were accepted by the Congress and American people primarily because the Nixon Administration assured them that the United States, while acknowledging a Soviet quantitative superiority in throw-weight, numbers of launchers, and on-going missile development programs—maintained its technological lead and continued to hold a qualitative superiority. As late as March 1974, James Schlesinger, who at that time was Secretary of Defense, told the Senate Foreign Relations Committee that the three US advantages providing balance under the SALT I Interim Agreements were MIRV and RV technology, guidance technology, and nuclear weapons technology.

Since SALT 1, the Soviet Union has made major progress in MIRV and guidance technologies. We know that they continue to give strong support to their nuclear weapons laboratories. Thus, the need for the United States to retain a strong nuclear weapons scientific capability is more important than ever if we hope to reach an arms control agreement that will not harm US national security. A vigorous nuclear weapons technology might be the only advantage we retain. Even then, there is room for doubt since the 1963 Limited Test Ban Treaty eliminated the means for checking and measuring Soviet progress in nuclear weapons technology.

DECLINING SUPPORT

Since the Nixon Administration touted a strong nuclear weapons technology as an enabling factor for SALT I, it should have taken great pains to keep that technology healthy. In fact, the Safeguards associated with the Limited Test Ban Treaty of 1963, proposed by the Joint Chiefs of Staff as their prerequisite for agreeing to that treaty and accepted by President Kennedy, require the President to give strong support to the nuclear weapons laboratories. The two Safeguards that applied to the laboratories stated:

Safeguard A: The conduct of comprehensive, aggressive, and continuing underground test programs designed to add to our knowledge and improve our weapons in all areas of significance to our military posture for the future.

Safeguard B: The maintenance of modern laboratory facilities and programs in theoretical and exploratory nuclear technology which will attract, retain, and insure the continued application of our human scientific resources to these programs on which continued progress in nuclear technology depends.

However, the Nixon Administration did not support the nuclear weapons laboratories. Instead, it made steady annual reductions in the Atomic Energy Commission nuclear weapons budget, resulting in a significant deterioration in the research and development capabilities of the laboratories and in their ability to conduct nuclear weapons tests. In late 1974, the author was a professional staff member for the Joint Committee on Atomic Energy of the Congress. When the possible reduction in the nuclear laboratories came to light, Chairman Melvin Price directed me to conduct an investigation of the matter. The investigation was completed in March 1975, following detailed discussions at the three laboratories and with AEC headquarters personnel. My basic conclusions was that there had, in fact, been a deterioration in the US nuclear weapons research and development capability, a reduction in effort of about one-third, and that the deterioration had an adverse effect upon our national security that would become serious if the trend of the previous five years continued. Some of the key findings were:

Over the previous five years, due primarily to Executive Branch decisions, there had been a series of annual reductions in the research and development capability of the AEC nuclear weapons laboratories. The funding level, annually, was at less than the rate of inflation.

The reductions were reflected principally by cuts in laboratory weapons programs of about twenty-five percent (a cut of more than 3,000 people, from about 12,000 in 1970 to about 9,000 in 1975).

At the same time there was evidence that the Soviet Union had increased noticeably its investment in nuclear weapons laboratories.

In the same five years there had been a reduction in the nuclear weapons test effort by about fifty percent (a cut of about 4,500 man-years, from about 9,600 in 1970 to about 5,100 in 1975).

As a result of decreased laboratory resources, the increased DoD demands for weaponization efforts, and the need to complete weapons testing in yields greater than 150 kilotons before the Threshold Test Ban Treaty was effective, *the advanced development effort in the laboratories was essentially abandoned*. (Italics added)

The then current level of effort at the weapon design laboratories was not sufficient to the long-term task of maintaining the quality of the US weapons stockpile.

Laboratory equipment was becoming increasingly obsolete due to reduction in capital equipment funds. One laboratory director stated that "present funding can no longer sustain an orderly equipment replacement program."

There was evidence of declining morale among the key scientists in the weapons program. They viewed the constantly declining resources as evidence of lack of concern by the nation about its security, in the face of significant growth in the Soviet nuclear capability. A number of key scientists

had left the weapons program for that reason.

The design capability of the US nuclear weapons laboratories rests upon the unique skills of highly specialized scientists and technicians dealing with problems and materials completely unknown outside of the laboratories. If this resource is dissipated—as it had been for the previous five years—it would not soon be regained. (This fact is especially pertinent in 1977 with the possibility of a cessation in nuclear testing that would cause an exodus of key scientists from the weapons program.)

What happened to that investigation? The Ford Administration generally acknowledged the validity of its findings and took action in the FY '77 ERDA budget to halt further decline in the laboratories' capabilities. ERDA took internal management actions with the objective of regaining and maintaining a balanced laboratory capability and program. This meant the renewal of interest in the advanced development programs that had been shelved for several years. During my time with ERDA in 1976 and 1977, I participated in those efforts. Yet I had the firm conviction that they were "too little and too late."

We may never know the price that we paid for the laboratories' halt in the advanced development projects. The corrective action is relatively inexpensive—allocating an additional $100 million a year to the weapons laboratories to allow replacement of aging equipment, and, most important, the resumption of promising advanced development work to push ahead the state-of-the-art in nuclear weapons technology. This would be about the cost of one B-1 bomber. It would pay far greater dividends.

LONG-TERM CONSEQUENCES

There are some who believe that advanced development work should be discontinued and nuclear technology brought to a halt. With that in mind, I took a thorough look at the advanced development projects the laboratories said they would like to pursue if they had adequate resources. I examined the potential contribution to our future security posture if they were pursued with vigor. They are highly classified and cannot be discussed, but I am convinced that they would bring about improvements in the following areas: Safety (for example, work has proceeded on a high explosive for use with nuclear weapons, which is far more insensitive shock than the present high explosives), security, better command and control, survivability, reduced civilian damage potential, further advances in miniaturization, clean nuclear explosives, means of making nuclear weapons less expensive, and increased understanding of nuclear physics.

These are very desirable objectives that ought to be pursued by the laboratories with priority equal to weaponization. That they are still not being pursued is tragic.

The nuclear weapons laboratories are not yet recovered from the neglect of the Nixon Administration. Yet they are now faced with the Carter Administration proposals to cease nuclear testing. These proposals would affect the nuclear laboratories directly and adversely. First, it is almost impossible to conduct a vigorous nuclear weapons program without having experimental nuclear explosions. Thus, the promising projects I noted earlier could not be pursued without the ability to conduct nuclear tests.

Second, a cessation of nuclear testing certainly would cause an exodus of highly skilled and specialized scientists from the weapons program. Such an exodus happened during the 1958–61 nuclear test moratorium. Their loss was felt severely after the Russians broke the moratorium in August 1961, and the United States then had to put together hurriedly a test series without the help of some of the key scientists who had worked on the design.

In my view, if President Carter proceeds with his proposals to stop nuclear testing, he will be telling the nation that we no longer need the important nuclear weapons laboratories. It was clear, before my February 4, 1977, resignation from ERDA, that the Carter Administration had not examined and would not examine the impact on our long-range security posture, should the capabilities of the nuclear weapons laboratories be lost. That is a serious omission that ought to be corrected before the President proceeds with a Comprehensive Test Ban Treaty or a unilateral nuclear test moratorium.

Why have two Administrations taken actions that lead to weakening our nation's key scientific nuclear capability at a time when the Soviet Union has made the most massive development and deployment of a strategic nuclear force the world has ever seen? In the case of the Nixon Administration, I believe that the main reason stemmed from the long-time separation of the nuclear weapons program from the rest of the national security program. In both the Legislative and Executive Branches, those who prepared, reviewed, and approved the AEC/ERDA nuclear weapons budget were not the same people who were responsible for the Department of Defense budget. As a result, cuts were made in the nuclear weapons research budgets of the Nixon era without a clear policy-level assessment of the impact of those cuts upon the overall national security program. This was also indicative that within the Atomic Energy Commission, those with budgetary functions were more powerful than those with a programmatic responsibility.

I believe that weakening the nuclear weapons laboratories under the Nixon Administration was due more to annual bureaucratic budget exercises than to a conscious national policy decision. The responsibility must rest upon the shoulders of the Atomic Energy Commission management for not raising with sufficient force the policy implications of the budget cuts.

On the other hand, the test-ban proposals being offered by the Carter Administration and the resultant weakening of the nuclear weapons laboratories will be the result of a conscious national policy decision. I believe that President Carter has an obligation to the nation to examine very carefully whether it is in the long-term interests of the nation to throw away the tool that has done so much in the past thirty years to give us the foundation for an effective nuclear deterrent force. Only if the basis of our national security posture is changing from nuclear weapons to some other weapons technology would the need for the nuclear weapons laboratories be eliminated. For the foreseeable future, that does not seem possible.

If the future unfolds as it now seems probable, the Soviet Union will continue to seek clear military superiority. There may come a time when President Carter or his successor will have to decide that the political consequences of Soviet superiority cannot be tolerated. It will then be necessary to repair the damage done to our security by emotionally satisfying nuclear disarmament policies, and to improve our weapon systems. Without the nuclear weapons laboratories in a healthy state, this would be extremely difficult, time-consuming and very expensive.

It is wise not to throw away the paddle before pushing the canoe into white water. A cessation of testing, with a consequent critical weakening of the nuclear weapons laboratories, would be just that kind of action.

SUPPORT FOR ELECTRICAL LIFELINE AMENDMENT

Mr. HART. Mr. President, on September 28, Senator ANDERSON and I introduced amendment No. 1399, which is identical to S. 1364, the Electrical Lifeline for the Elderly Rate Reform Act of 1977. This amendment, which will be offered to S. 2114—the Public Utilities Regulatory Policy Act of 1977—would extend a subsistence quantity of electricity to elderly residential users at the lowest cost that it charges to any class of consumer. It would also require the new Department of Energy to study an alternative electric costing method—long-run incremental costing—which would generate revenues sufficient to permit utilities to extend a subsistence quantity of electricity to all principal residences at significantly reduced rates.

Mr. President, widespread support has been generated for this amendment, which represents an immediate, easily administered response to the steadily worsening problem faced by the elderly in meeting home energy costs. Further, my lifeline proposal would not unduly burden utilities or other classes of consumers with increased costs.

Supporters of this amendment include the Urban Elderly Coalition, the National Council of Senior Citizens; the National Indian Council on Aging; Environmental Action; Sierra Club; Cherokee Senior Citizens Committee; and the Seattle Department of Human Resources. Letters of endorsement have been received from each of these organizations, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

URBAN ELDERLY COALITION,
Washington, D.C., August 31, 1977.

Senator GARY HART,
Russell Senate Building,
Washington, D.C.

DEAR SENATOR HART: I am writing on behalf of the Urban Elderly Coalition (UEC) in support of S. 1364, The Electrical Lifeline for the Elderly Rate Reform Act of 1977, which would make available a minimum amount of electricity to elderly residential users at the lowest cost it charges any consumer.

The UEC, an association of Urban Offices on Aging representing the overwhelming majority of older Americans in our country, is greatly concerned about the availability and cost of energy for the urban elderly population, particularly since two out of every three persons age 60 and over live in urban metropolitan areas. As a population subgroup, persons age 60 and over many of whom are low-income, are generally more affected by sharply rising energy costs than any other segment of the population.

This is increasingly true for those persons age 60 and over whose disposable income is less than $5,000 annually. For example, between 1973 and 1976 persons of this age group living in the Northeast, North Central, South, and West regions of the United States annual expenditures on home fuel rose 47.8, 67.5, 46.6 and 45.4 percent respectively. Subsequently, a greater proportion of an elderly person's income must go to pay for those increased fuel prices, and as a result, their purchasing power is limited in other crucial areas such as health care, transportation and food buying.

The Urban Elderly Coalition views S. 1364 as an important piece of legislation. We believe it is a necessary first step in the development of an equitable rate structure for older Americans.

If I can be of any assistance or Jeffrey Lewis, our legislative assistant, please contact me.

Sincerely,

RUTH C. BRAVER,
Executive Director.

NATIONAL INDIAN COUNCIL ON AGING, INC.,
Washington, D.C., September 12, 1977.

Senator GARY HART,
U.S. Senate, Washington, D.C.

DEAR SENATOR HART: The National Indian Council on Aging in polling its council members have received unanimous endorsement of S. 1364.

It is a much needed piece of legislation that will do much to enhance the lives of older people, including the American Indian elderly. Many of the Indian elderly who reside in urban and rural areas have access to the conveniences of electricity, will undoubtedly benefit as a result of favorable action on this amendment.

We are highly supportive of any legislation that contributes to the dignity of our Indian elderly and applaud your efforts.

Respectfully,

LARRY CURLEY,
Liaison Specialist.

NATIONAL COUNCIL OF SENIOR CITIZENS, INC.,
Washington, D.C., September 23, 1977.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy Conservation and Regulation, Washington, D.C.

DEAR CHAIRMAN JOHNSTON: We have received a copy of S. 1364, the Electrical Lifeline for the Elderly Rate Reform Act of 1977, and would like to assure you that the Council is wholly in support of the "Lifeline" concept. There is no question that recent utility rate hikes have burdened poor households almost beyond their capacity to survive. Had there not been a moratorium on utility "shut-offs" this past winter, many poor people, and especially poor senior citizens, would have died.

We are opposed to the common practice of many utility companies that offer "declining bloc rate" price structures which, in fact, serve to stimulate energy consumption by large users and penalize or restrict users of less electricity or gas. Insuring that the less fortunate families in this country receive a subsistence level of energy at the lowest possible cost is essential.

Clearly, a situation which allows big industrial consumers to pay as little as one-fifth the price per kilowatt hour of what is charged poor people and senior citizens is grossly inequitable. We felt that, although the Hart proposal must be recognized as an interim measure pending a more comprehensive review of electric rate structures, it has the dual benefit of providing relief quickly and targeting it accurately.

The National Council of Senior Citizens strongly endorses S. 1364 as proposed by Senator Hart, and we urge every Senator to give this measure the fair consideration it merits and strong support it deserves.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

WASHINGTON, D.C.,
September 30, 1977.

DEAR SENATOR: Environmental Action and the Sierra Club urge your support of the Hart Lifeline for the Elderly Amendment to S. 2114, the Public Utility Regulatory Act of 1977, when it is considered by the Senate next week. Confronted by sharply rising home electricity costs and limited to fixed incomes, the elderly too often simply cannot pay for their fuel bills. This measure will provide relief to millions of the country's elderly, especially the aged poor.

More than any other age group, the nation's elderly have been hurt by the sharp increase in energy prices in recent years. A few salient points underscore the extreme nature of their plight:

Between 1973 and 1976, retirement income sources increased by only 30 percent while home fuel prices rose by 44 percent.

There are 5.5 million elderly Americans struggling to live at or below the poverty level in the U.S. today. When confronted by rising fuel costs, too often they sacrifice other essential, such as quality food, to pay their utility bills.

After last winter's freeze, the Community Services Administration, through its Crisis Intervention Program, spent over $200 million to reimburse utilities for unpaid fuel bills. In contrast to this cumbersome and costly program, the lifeline system has proven to be easy to administer, effective in assisting the elderly, and strongly supported by consumers in areas which have experimented with it, most notably Los Angeles, Seattle, and Aztec, NM.

The Hart Amendment calls for state and local regulatory authorities to determine what the minimum volume of kilowatt-hours per month is to be for subsistence needs such as cooking, heating and lighting. Utilities must offer senior citizens a subsistence quantity of electricity at the lowest-level of rates which they offer to any of their customers. To meet these costs, at most only 2.9 percent of utility revenues would have to be redistributed, according to a Library of Congress study.

The amendment calls upon the Secretary of Energy to study an alternate electric rate design which would promote energy conservation, equitable rates for all users, and economic efficiency. The potential benefits of reforming utility rates appear to be substantial, and merit this close examination by the Department of Energy.

On behalf of America's elderly, Environmental Action, and the Sierra Club, we strongly urge your support for Senator Hart's Lifeline for the Elderly Amendment to S. 2114.

Sincerely,

PAMELA DEUEL,
Environmental Action.

CHEROKEE SENIOR CITIZENS COMMITTEE,
Cherokee, N.C., August 31, 1977.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: On behalf of the elderly of the Cherokee Indian Reservation, I wish to express my appreciation to you for the Bill (S-1364) you introduced on behalf of the elderly of this country.

We are well aware of the many problems that are created with the increased electrical rates. This is a source of mental anguish for the elderly. With the meager income provided through Social Security, one is in a constant state of turmoil of where to place the expenditure priority; and as you so adequately pointed out many elderly deprive themselves of much needed food in order to pay utility bills.

We whole-heartedly support your efforts and may God bless you for your thoughtfulness on behalf of a people who have for so long been neglected.

Again, thank you so much.

Sincerely yours,

(Mrs.) BIRDIE SIXKILLER,
Chairperson.

DEPARTMENT OF HUMAN RESOURCES,
Seattle, Wash., September 26, 1977.

Senator HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: This letter is in support of the lifeline proposal by Senator Gary Hart which is offered as part of the Utility Rate Reform Act.

This office administers a discount program to the low-income elderly of Seattle on their combined utilities bill (water, sewer, garbage) or their Seattle City Light bill, and also exempts them from recent surcharges on their light bills. Such measures were enacted by Mayor Wes Uhlman and the Seattle City Council from the conviction that rising utility costs are least manageable by those on a fixed income.

Every day we receive two hundred to three hundred calls from senior citizens who are feeling the pinch of rising utility costs. Yet the rates of Seattle's utilities are far lower than most places in the nation.

We urge the adoption of a lifeline measure so that senior citizens throughout the nation will be able to afford the cost of necessary utilities. The cost of such a break, when spread out over the utility's other ratepayers is minimal, and yet a few dollars means a great deal to those living on Social Security and pensions. As the cost of all necessities increase, particularly in inflationary times, the older citizen is often forced to do without essentials, such as an adequate diet. Society has a moral obligation to protect its older citizens who are the victims of an inflationary economy and whose opportunities for additional income sources, such as employment, are practically nil.

Thank you for your consideration of the lifeline prosposal.

Sincerely,

CAROLE L. GLICKFIELD,
Director.

S. DILLON RIPLEY

Mr. PERCY [reading]:

You can become spokesmen and activists, expressing to your local and national representatives your concerns about saving the best of the past, selecting what is worthwhile from the present, and from a synthesis of these judgements preparing for the future. S. Dillon Ripley, *Smithsonian Magazine*, September 1977.

Mr. President, S. Dillon Ripley, Secretary of the Smithsonian Institution, addressed these words to the Smithsonian Associates to encourage them to become even more involved in understanding and preserving the heritage of civilization. Even though his comments were directed to the million and a half Associate members, I believe that each of us has the responsibility of pursuing this goal.

As the eighth Secretary of the Smithsonian Institution, Mr. Ripley has demonstrated that his own personal zest for discovery and life can be shared with the millions of visitors who come into contact with one of the world's largest museum complexes. Under his guiding hand, the Smithsonian has become a bustling center for research, study, explorations and exhibits representative of the arts, humanities, space, technology and natural history. During the last 13 years of Secretary Ripley's stewardship, the Smithsonian has opened to the public a wide range of attractions, such as:

The National Air and Space Museum, covering the history of flight from the

Kitty Hawk Flyer and Lindbergh's "Spirit of St. Louis" to American spacecrafts;

The Hirshhorn Museum and Sculpture Garden, Joseph H. Hirshhorn's collection of modern paintings and sculptures and special exhibitions of contemporary art;

The National Portrait Gallery, collection of life portraits of men and women who have significantly contributed to our American heritage;

The Anacostia Neighborhood Museum of exhibits on minority contributions to American culture;

The National Museum of History and Technology, a collection including aspects of American life and history; and

The Woodrow Wilson International Center for Scholars began operations as a Smithsonian affiliate, an institute for advanced study for scholars selected from a variety of disciplines to be engaged in serious research, writing and dialog.

As Emerson said: "Nothing great was ever achieved without enthusiasm." The Smithsonian has become a vibrant, exciting institution under S. Dillon Ripley and I believe that he should be given full credit for what he has accomplished. His sheer dedication to broaden the scope of programs offered at the Smithsonian provide an increasing number of participants an opportunity to be exposed to a remarkable material record of our civilization. This is quite an achievement.

During the last year, several congressional committees have become interested in the financial arrangements of the Smithsonian Institution in the use of Federal and private funds. The General Accounting Office was asked to review the various banking activities of the Smithsonian. In its latest report to the committee, GAO has provided the Institution and Mr. Ripley with a clean bill of health on the financial practices under review.

On September 21, 1977, the Washington Star carried an article on the GAO report, which I would like to share with my colleagues. I ask unanimous consent that the article by Betty James entitled "GAO Clears Smithsonian In Banking Probe" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 21, 1977]

GAO CLEARS SMITHSONIAN IN BANKING PROBE

(By Betty James)

The General Accounting Office has given the Smithsonian Institution a clean bill of health on its banking procedures, finding no fault with the role played by S. Dillon Ripley, Secretary of the institution, as a member of the board of directors of American Security and Trust Co. where the Smithsonian has an active checking account.

The banking procedures came into question during GAO's investigation of various aspects of the Smithsonian's operations requested by the leaders of a Senate appropriations subcommittee last year.

Comptroller General Elmer B. Staats, head of GAO, stated in his conclusion, "In our opinion, the Smithsonian has adopted adequate procedures for the management of cash in its private funds. It strives to maintain only sufficient funds in its two principal noninterest-bearing checking accounts to pay the payroll checks and other checks presented for payment each day."

The Smithsonian uses other methods, including a savings account and short-term investments, to earn interest on any funds not needed immediately to pay its expenses, the GAO said.

The GAO found that as of April 30 of this year the Smithsonian maintained 41 accounts in financial institutions and the United States Treasury.

Most of these are small checking accounts used to pay local expenses at Smithsonian locations outside Washington, the report said.

The GAO limited its review to an analysis of the use of the five principal accounts—two at American Security and Trust, two at the Riggs National Bank, and an account in the U.S. Treasury.

The GAO said Ripley joined the board of directors of the American Security and Trust Co. in February, 1967, three years after becoming secretary of the Smithsonian, and resigned in December, 1976, after 10 years with the bank.

"His service on the board (of American Security and Trust Co.) was approved by the executive committee of the Smithsonian's Board of Regents (the governing body)," the GAO said.

The Smithsonian and a non-profit corporation associated with it, the Smithsonian Research Foundation, opened bank accounts with American Security and Trust the year before Ripley became a member of the bank's board of directors, and the accounts were maintained after he was appointed to the board of the bank, according to the report.

These were not the first accounts the Smithsonian had with American Security and Trust. The Smithsonian first opened an account at the bank in 1927, the report said.

Although Ripley was a member of the Smithsonian Research Foundation's board of directors, he wasn't at the meeting when the decision was made to open the account at American Security and Trust, GAO said. Ripley was president of the foundation at that time, however.

GAO said it has been advised by the Smithsonian that Ripley no longer owns the American Security and Trust stock he was required to hold as a director of the bank.

The new, nine-page report is the second of two GAO reports prepared in response to a letter June 14, 1976, from Sen. Robert C. Byrd, D-West Va., chairman of the Senate Appropriations subcommittee that handles the Smithsonian, and Sen. Ted Stevens, R-Alaska, the ranking minority member, calling for an investigation into various aspects of the management and accountability of Federal funds made available to the Smithsonian. Federal funding provides 90 percent of the money for the institution, which is controlled by its own board of regents.

The first report, issued in March, was 110 pages long, including appendices, and was critical of the Smithsonian.

The GAO said the two private corporations established by the Smithsonian should be dissolved because they avoid federal laws governing appropriated funds. Smithsonian officials challenged the GAO's conclusions but said they were willing to discuss alternative administrative procedures for running the programs handled by the two corporations.

"Our criticism is muted by the fact that there is nothing to suggest that appropriated funds were spent on anything but the programs authorized," the GAO said at that time.

After appropriations hearings this spring Congress went along with the GAO's recommendations on one of the corporations, the Smithsonian Research Foundation, and cut the funds for the other, the Smithsonian Science Information Exchange.

Although there was some press criticism of the Smithsonian maintaining a large interest-free checking account at the American Security and Trust Co. while Ripley was on the board, the GAO report pointed out that the Smithsonian endeavored to make the most of this money through short-term investments of money not needed to cover checks.

The Smithsonian entered into a "repurchase agreement" with American Security and Trust in June, 1975, that authorized the bank to withdraw operating excess funds daily from the checking account and invest them in short-term money market securities with the stipulation that American Security and Trust would repurchase them from the Smithsonian to fulfill any Smithsonian cash needs, the GAO said.

The Smithsonian later broadened its repurchase agreement with American Security and Trust to get additional earnings by investing the daily "float" resulting from the timing difference between the writing of checks on the operating account and their being charged against the account, the GAO said.

American Security and Trust didn't charge the Smithsonian directly for the service but recovered its costs by giving the Smithsonian a slightly lower rate of interest than the bank earned on the funds invested for the Smithsonian, the GAO said.

The operating account at American Security and Trust was used extensively as the Smithsonian's principal checking account for payments other than payroll, according to GAO. During the 15-month period ending Sept. 30, 1976, an average of more than 2,600 transactions (deposits and withdrawals) a month were handled by this account.

At the Riggs National Bank, in addition to a payroll checking account, four separate trust accounts are maintained to temporarily hold funds awaiting investment by professional investment managers engaged by the Smithsonian, the GAO reported. These funds are used for long-term investment.

MOBILE SPECTROSCOPY LABORATORY—A GOOD IDEA

Mr. PROXMIRE. Mr. President, in recent years, I have been extremely critical of the National Science Foundation, the National Institutes of Health, and other Government agencies with substantial research resources for their funding of seemingly low priority projects that may never be used by the taxpaying public. Projects that lay on the proverbial "shelf" gathering dust are not only a waste of the hard work and expertise of the researcher, but a waste of tax dollars as well.

The latest issue of the National Science Foundation publication, Mosaic, however, tells the story of at least one research project that has borne fruit and has been of substantial benefit to a large number of college students in the State of Arkansas.

Prof. T. D. Roberts, professor of chemistry at the University of Arkansas, with support from the Division of Science Education Development and Research at the National Science Foundation, has developed a mobile spectroscopy laboratory which travels to a number of small, Arkansas colleges, providing undergraduates with an opportunity to use highly sophisticated instruments otherwise unavailable to these financially strapped institutions. In some instances, students have worked around the clock, conducting experiments with these expensive instruments. At the same time, the arrival of this innovative mobile spectroscopy lab at the College of the Ozarks, for example, literally revived chemistry as a viable major program at the school. Perhaps the most attractive aspect of this project is that for an initial outlay of $6,600 and an annual expense of only $800 a small school can have access to $77,000 worth of instruments. Three distinguished chemistry professors from the University of Florida, the University of Arizona, and Creighton University, who were asked to evaluate the project, commented that, "We are persuaded that on a dollar basis this is as fine a program as we have seen" and that the mobile laboratory concept has potential for benefits nationwide.

Professor Roberts, the State of Arkansas, and the National Science Foundation are to be commended for developing and supporting this innovative educational concept. My critics often ask me "What type of project should the Federal Government be supporting?" Well, here is an example of a federally funded project where it appears the taxpayers are getting a good bang for their hard earned bucks.

Mr. President, I ask unanimous consent that a copy of the article in the September/October 1977 issue of Mosaic be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LABORATORY ON WHEELS

On a warm and lazy day last May, chemistry students at the College of the Ozarks in Clarksville, Ark., were operating an instrument known as a nuclear magnetic resonance spectrometer. It cost approximately $14,000. Other students were experimenting with a mass spectrometer, which cost about $9,000.

Still others were using a grating infrared spectrometer (approximate cost $6,000), an ultraviolet-visible spectrometer ($8,400), an atomic absorption spectrometer ($7,000) and a flame-ionization gas liquid chromatograph ($3,500).

These instruments are commonplace nowadays in the chemistry departments of most universities and well-endowed colleges. But 18 months earlier none of the instruments could have been found on the campus of this small, church-supported, financially strapped school; they were economically out of reach for institutions like the College of the Ozarks.

They were there on that day, however, because a brightly colored van had brought them to Clarksville for a two-week visit. The van was sitting up on blocks, parked in front of the Sciences Building. In big bold letters on its side were the words: Mobile Spectroscopy Laboratory.

The presence of the van represents an attempt to bring spectroscopy, a technique widely employed in chemical analysis, to the students of the College of the Ozarks. Operating under a grant from the National Science Foundation, the mobile laboratory is carrying instruments of spectroscopy to 13 institutions of higher education in Arkansas and Kansas, spending one to three weeks at each school and then getting back on the road and heading for the next scheduled stop.

During its visit, faculty members demonstrate how the machines work—they have already explained what they do—and turn them over to students to run experiments. The instruments are in use from early morning to late night.

Students conduct the standard tests that they have read about—but have never seen—in their chemistry textbooks. They also conduct applied experiments: By subjecting a sample of the local water supply to the atomic absorption spectrometer, for example, they can determine if it came from copper or lead pipe. With the same instrument they can detect traces of heavy metals in the treated sewage flowing into a nearby river. If they find such contaminants, the students may be moved to write a letter to the city council, pointing out the dangers.

Or they can analyze an aluminum plate that has been left near a highway and then moved progressively farther into the woods. They see the decrease in lead contamination. Their awareness of what automobile emissions can do to the environment is heightened by stark scientific evidence.

Or they can pick up some shopping pointers. The gas-liquid chromatograph, for instance, will tell them that the gasoline from one of the major retailers is identical to the gasoline sold at the cut-rate station for a nickel a gallon less.

REVIVING A MAJOR

At the College of the Ozarks, a 143-year-old school founded and supported by the United Presbyterian Church, the arrival of the mobile spectroscopy lab has led to the revival of chemistry as a major. The option had been discontinued in 1972 because the college did not feel it had the educational resources to justify a chemistry major. With a student body of only 550 (including part-time students) and a tuition of approximately $1,500 a year, the school was always financially strapped. The money simply wasn't there to equip a chemistry lab adequately.

"The mobile lab was the key to getting us thinking about reviving the chem major," says Mike Condren, the youthful Ph.D. who serves as the college's one-man chemistry department.

The College of the Ozarks now offers five courses in chemistry: general, organic and physical, instrumental and quantitative analysis, plus a directed individual studies program. Subjects such as instrumental analysis clearly could not have been offered without the instruments supplied by the mobile lab.

During the 1976–77 academic year, 15 students at the college majored in chemistry. Many more took chemistry courses. In the previous year the closest they could have come to majoring in chemistry was a major in natural sciences with an emphasis in chemistry, which meant, explains senior Curtis Shankle, that students like himself had to choose substitutes such as premedicine. For many young people, of course, that would be fine. But, "My first love [redacted] chemistry," says Shankle.

It is also the first love of his wife, Kathy, also a senior at the College of the Ozarks; both plan to go on to graduate school and seek advanced degrees in chemistry.

If the three-year spectroscopy project is a success, the hope among its sponsors is that other small colleges across the country will join together to purchase and share instruments which none of them could afford singly. One estimate places the number of colleges that could benefit at 300.

RESOLVING A CONTRADICTION

The man who conceived the mobile spectroscopy lab is T. D. Roberts, professor of chemistry at the University of Arkansas. Roberts is one of those academic scientists who feels as strong a commitment to teaching as he does to research. He is also on the faculty of a university which feels a responsibility to small colleges in the region.

About three years ago Roberts was making the circuit of small Arkansas colleges that he visits as part of his university's "outreach program," an informal effort under which professors from Fayetteville lecture at the smaller schools. During the visits, Roberts would do some recruiting for the university's graduate schools, encouraging students to apply to them. Roberts, however, realized that there was a contradiction in what he was doing. Most of the schools were so poorly equipped with scientific instruments that many of the students were not ready for graduate studies. It was particularly true among chemistry majors.

The problem was on his mind while on a visit to Arkansas College in Batesville. Someone mentioned an NSF-sponsored conference on chemistry education. "It reminded me that NSF supports other things besides research," Roberts recalls. In some still undefinable way he thought that NSF might be able to help.

"Then something else occurred to me," Roberts notes. "Our chemistry department had an ongoing, informal, standing invitation to students and faculty of small colleges to visit us and to use our equipment. They would come in on Fridays' when the instruments weren't in use much, and on Saturdays; they would take the data home for analysis. It worked very well, and they got a big kick out of it.

"There were a couple of problems with it, though. It was fairly expensive, in terms of travel expenses, and it interrupted those university students who wanted to use the equipment at those times. We wanted something better.

"Then I thought: Why not turn it around? Instead of sending the students to the instruments, we would send the instruments to the students."

Over the next few months Roberts fleshed out his idea: Several colleges—perhaps even a dozen—would cooperate in the venture; a vehicle of some sort would be needed to transport the instruments from one campus to another; faculty members from the participating schools would have to rearrange their course schedules so that the students would be ready to use the equipment when the lab arrived.

Roberts got on the phone and called every small college in Kansas and Arkansas that he could think of and ask them if they would be interested in participating in a pilot project along the lines he envisioned. Thirteen said they would be. In addition to recruiting colleges, Roberts sent out questionnaires to chemistry instructors to determine which instruments would be most appropriate for the mobile lab. He wanted to know which pieces of equipment were most desired but which the schools were precluded from buying because of cost. From the responses, Roberts chose the five spectrometers and the chromatograph ultimately included in the van. Although the flame-ionization gas-liquid chromatograph is not technically an instrument of spectroscopy, it is a necessary adjunct to the technique; it tells whether or not the sample to be tested by a spectrometer is pure.

Next, Roberts turned to the selection of a vehicle. He sought a truck or van that not only could carry the equipment from campus to campus but which was also large enough inside for students to operate at least some of the instruments. At the same time, the vehicle had to be sturdy enough to stand the back roads of Arkansas and Kansas and price low enough so that it would not make the project economically unrealistic. Roberts eventually chose a 12-foot-long, 8-foot-high step-up van of the kind seen all over America handling such tasks as deliver-

ing bread to retailers or selling fast food at construction sites.

Roberts immediately realized that modifications would have to be made to the truck. One of the instruments, the nuclear magnetic resonance spectrometer (NMR), had to be protected against the extremes of Arkansas' scorching summers and Kansas' harsh winters. To do so, the van's frame was strengthened and lined with several inches of insulation. It also had to be furnished with a cooling and heating system that could produce a steady, year-round temperature of between 68 and 72 degrees Fahrenheit. To keep the cooling and heating unit operating while the truck was on the road, a generator had to be installed. (While the lab is on campus, an electric line from a nearby building is run to the truck to power the unit.)

Although the truck that Roberts bought was the "room-on-wheels" type he was seeking, it was clear there would be no room for people as well as all of the equipment. A decision was made, therefore, to install only two of the instruments in the van permanently. The other four would be housed in specially built cabinets and taken into existing laboratories when the truck pulled into one of the colleges.

SPECIAL HANDLING

The NMR was one of the permanently installed instruments. (The other was the mass spectrometer.) The NMR required special handling; its magnet weights 600 pounds. Roberts had nightmare visions of an accident in which the magnet would slam through a flimsy partition and crush the driver. To avoid the disaster, two chains were passed through a pair of conveniently existing holes at the base of the magnet and fastened to a steel plate that had been attached to the truck's underside.

Colleagues, meanwhile, were predicting that the equipment would survive neither the trips in the truck nor the system of shared responsibility for upkeep and repairs. Roberts was not as pessimistic about the effects of travel on the instruments. He recalled that salesmen from the companies that manufacture the equipment often come calling with demonstration models stored in the trunks of their cars. To provide the equipment with an extra guarantee of protection, Roberts had the instruments encased in custom-built drawers lined with foam padding.

Dealing with the normal breakdown rate of the instruments was a more difficult challenge. But even here Roberts was optimistic. From his nearly 20 years of experience with scientific machines, he had come to the conclusion that most malfunctions were relatively minor. A circuit board is jarred loose, for example. With a bit of instruction, someone possessing a modicum of technical skill can do the repair. Without that training, however, the alternative is to call in a serviceman from the manufacturer. For schools in Arkansas and Kansas, that could mean flying in a technician from Houston at a cost of $500 a day.

Roberts came up with two solutions. One was to hold a workshop, the summer before the project's first full year, in which a coordinator from each participating school would receive instruction in the care and repair of the instruments. (The workshop, which took place in the summer of 1975, also allowed the schools' representatives to work out scheduling of the mobile lab.) Another means of controlling the maintenance problem was to hire, on a consultant basis, the electronics technician at the University of Arkansas. He was someone who could offer guidance over the phone and repair damaged parts sent to him at Fayetteville.

THE SHAKEDOWN

On June 1, 1975, NSF awarded Roberts a $193,000 grant to develop a mobile spectroscopy laboratory. The Foundation would buy the instruments, purchase and modify the van and pay operating expenses until May 31, 1978. At that time, the participating colleges would have to decide whether to keep it operating, at their own expense.

The six Kansas institutions taking part are Tabor, Sterling, Bethany, McPherson and Bethel Colleges and Kansas Wesleyan University. The seven in Arkansas include the University of Arkansas in Pine Bluff, John Brown University, Ouachita Baptist University, the University of Arkansas in Monticello, Harding College, Arkansas College and the College of the Ozarks.

Seven months after the grant had been awarded, on a wintry day in January, the Mobile Spectroscopy Laboratory pulled out of Fayetteville and headed for its first stop—Tabor College. Its visit that spring semester to Hillsboro and the other 12 towns on its itinerary could be termed a shakedown cruise. Roberts wanted to spot the problems that he could not anticipate and discover the needs of the schools that could not be foreseen.

One of the first changes was to get rid of the tow bar intended for drivers who wanted to bring along their own cars for the ride home. That practice was discontinued after a few near accidents.

A more subtle and harder problem to solve, but one which offered an interesting challenge, was the frequent failure of the filament in the mass spectrometer. It cost $69 to order a single filament from the manufacturer, and delivery could often take several months. Roberts and his colleagues devised a twofold solution: They discovered that the filaments would last longer if fewer samples of heavily halogenated, highly volatile hydrocarbons were injected into the instrument. Secondly, they fashioned their own filaments—at a cost of less than a dollar each.

Particularly puzzling to the instructors and students was a persistent, low-frequency sine wave noted in every section of the NMR. Roberts and his associates eventually traced it to an almost imperceptible, gentle rocking motion that was set off every time someone stepped into the van. The solution: Jack the truck up off its springs and keep it that way while it is visiting a school.

Despite the difficulties encountered, Roberts felt he could justifiably label the first full year of operation a "great success." He cited the response of the 13 participating schools. "Each school is looking forward to the next year with enthusiasm," he said at the end of the year.

RECOGNITION AND SPIN-OFF

Robert's satisfaction is mirrored in a report on the project filed by three outside chemistry professors he asked to evaluate it: Calvin A. VanderWerf, Dean of the College of Arts and Sciences at the University of Florida; Kazuo H. Takemura of Creighton University, and W. T. Lippincott of the University of Arizona.

"There is no doubt in our minds that the primary goals of this project are being realized in full measure," they wrote in an unsolicited letter to the National Science Foundation. "At several institutions," they wrote, "the student interest was so high that the Mobile Spectroscopy Laboratory was operated on a 24-hour basis, with numerous students signing up and using the instruments well past midnight."

The three evaluators also took notice of what they described as unanticipated "spin-off benefits." One was the achievements and innovations introduced by Roberts and his staff in the maintenance of the instruments.

"It is almost inconceivable," they wrote, "based on experiences with instruments in permanent installations, that they could be kept in operating order while being moved from one place to another and under diverse environmental conditions. Yet Roberts and his staff have succeeded in doing this and have developed several new replacement techniques that should be useful to those maintaining these instruments in normal and abnormal circumstances." They singled out the homemade filament for the mass spectrometer, saying that it "will save literally thousands of dollars per year in mass spectrometer maintenance."

Noting that they had been involved in many NSF-supported projects over the years, the three professors declared, "We are persuaded that on a dollar basis this is as fine a program as we have seen." They concluded by stating that many other sections of the country could benefit from a similar experience.

Mike Condren at the College of the Ozarks noticed another spin-off from the project, one that the evaluators also observed the relationships that evolved among the chemistry faculty members of the 13 participating schools. For Condren, whose professional work at the college tends to be on the solitary side, it was a novel and satisfying experience to be able to identify a network of peers, to recognize someone at a conference, to have someone to talk to on the telephone about a teaching or technical problem. "The relationships and friendships are easily as valuable as the equipment," says Condren.

But he hasn't ignored the equipment. In fact, says Condren, working with the spectroscopy instruments has spurred him into repairing equipment that has been lying around the college unused, and searching for reasonably priced equipment in government surplus stocks. Last year he found a five-piece analytical balance, an instrument that would have cost the college $1,200 if it had been bought new. Condren bought the surplus one in fine condtion for $20.

T. D. Roberts is convinced that the mobile spectroscopy lab will work elsewhere. He has marshalled a host of arguments that colleges can make to their boards of trustees or to their state legislatures in seeking the necessary money to duplicate the NSF-supported project. He makes this telling economic argument: For an initial $6,600 and an annual outlay of $800, a school can have access to $77,000 worth of instruments.

Because he feels that a large university must serve as a coordinator of such projects, Roberts feels their adoption around the country will help promote closer and more active relationships between large and small institutions of higher education. That spirit apparently is taking hold and spreading downward. Some of the colleges in the Arkansas-Kansas program have been prompted to invite students from nearby junior colleges and local high schools to work with their scientific instruments, including their spectrometers.

DAY OF BREAD

Mr. DOLE. Mr. President, today, October 4, is the International Day of Bread and this is Harvest Festival Week. The annual observance began officially in this country in 1969 through an unprecedented union of wheat growers, flour millers, bakers, union representatives and many of the trades allied to those industries.

The founders set aside personal differences and professional competition to create a modest fund spent for education in nutrition, food, agriculture, economics, and the cultural-historical origin of our civilization.

Just as important, this program resulted in meetings—bringing together leaders—not only in the wheat industry, but also in government, agriculture, business, and science for a free exchange of information on the local, national, and world food supply, the economics and technology of food, the urgent need for good nutrition, the problems of food distribution, malnutrition, hunger, and many kindred subjects.

AMERICAN WHEAT FARMER

It is appropriate on this day to pay tribute to the American farmer and the free-enterprise economic system. Record-breaking wheat crops have been produced and we have plenty of wheat for consumers at home and abroad.

It is staggering to think of how much wheat the American farmer could really produce if he were free to produce and the market price was high enough for him to make a reasonable profit.

INTERNATIONAL OBSERVANCE

The International Day of Bread formally began in 1969. It is actually an ageless, international custom deeply rooted in the minds and emotions of all men and women—expressing a need to pause each autumn—after the granaries were filled with food for the winter and seed for the spring.

This occasion became manifest in rites and ceremonies of gratitude, recognizing our eternal dependence upon the Earth, the Sun, the showers, the atmosphere, the seasons. The spirit of the occasion is the spirit of strength, humility, good will, and brotherhood throughout the world.

FEED OUR BROTHERS

It is in this sense that we pause today and give each of you a symbolic loaf of bread as a reminder of our obligation to feed our brothers. We take this step in observing the "day of bread" because no tragedy defeats the human spirit, mocks our values and dreams, like the look of despair in the eyes of a starving child, here or abroad.

COAL MOVES INTO AN ERA OF GREATER USE—ADDRESS BY SENATOR RANDOLPH BEFORE THE COAL CONFERENCE ON PRODUCTION, USE, AND FINANCING

Mr. FORD. Mr. President, I ask unanimous consent to have printed in the RECORD an address being delivered today by the distinguished Senator from West Virginia (Mr. RANDOLPH) before the Coal Conference on Production, Use, and Financing.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COAL MOVES INTO AN ERA OF GREATER USES

(Speech by U.S. Senator JENNINGS RANDOLPH)

This coal conference provides participants with the opportunity to discuss the new attitudes which are emerging with regard to the production and utilization of our most valuable fossil resource—coal. This gathering is being held in Washington, D.C. where a few blocks away decisions are being made which will eventually evolve into the Nation's first national energy policy. This has been and will continue to be a crucial year for coal as we in Congress legislate a foundation for a national energy policy. I have long recognized that to achieve and maintain high levels of coal production the Federal government must adopt a coal policy which can be easily understood and implemented. This policy must be coordinated with national policies on coal mine health and safety, surface mine reclamation, environmental quality, and transportation capacity. Earlier this year the Senate established new mining and restoration practices, and adopted new requirements relating to mine health and safety.

On September 8 the Senate passed what I believe to be the most significant coal legislation since the Bituminous Coal Act of 1937. The Natural Gas and Petroleum and Coal Conservation Act of 1977 (S. 977) was approved by a vote of 74–8. It will make widespread coal use a reality and establish coal as the direct successor to oil and gas. I am gratified the measure incorporates about 80 percent of the provisions I proposed in S. 273, which I introduced on January 14, 1977 to mandate the use of domestic coal.

The Coal Utilization Act begins to clarify Federal policy for those who will produce and consume the coal. It sets forth a revised and simplified regulatory program for converting certain existing electric powerplants and some industrial plants. Requirements that certain new electric powerplants and major industrial installations be built with the capacity to use coal and other fuel are also spelled out. (The Act clearly establishes the Federal position on a coal utilization policy, and thus answers a question which had to be resolved before definite markets for coal could become clear.)

During debate on this bill, I offered two amendments which were accepted. The first directed coal policy study to assure that the National Energy Policy to be enacted later this year sees to the creation of a non-fragmented and comprehensive coal use policy. I desire that President Carter conduct a complete investigation of how we, as a Nation, will go about implementing a national coal policy for efficient and economic utilization, full employment and for the protection and enhancement of the quality of the environment. This study would investigate current and future coal resource production, transportation, conversion, and utilization requirements: It also would examine programs for the development of new coal mining technologies; and existing and future government policies and laws affecting the coal industry.

Transportation at the present time represents a significant constraint to the achievement of at least doubling coal production. There is no question that a national policy concerning the domestic use of coal will have to be complemented by a national transportation policy. In recent years, because of conversion by electric utilities and industrial plants away from coal to other boiler fuels, domestic coal movements have varied considerably, especially in the Eastern States. This trend away from coal has caused a reluctance by rail and water carriers, especially, to commit their resources to a major expansion in fleets and equipment for moving coal. It has also led to the disuse of many branch lines that have subsequently fallen into disrepair. We must concern ourselves with the ability of our rail system to respond to a large-scale increase in coal demand.

The Secretary of Transportation (Mr. Adams) stated before the House Committee on Interstate and Foreign Commerce last May: "To the extent that constraints on the shipment of coal by rail do emerge, they are likely to involve the ability of financially marginal railroads to secure the financing required to make the necessary investments."

Because of these concerns, I sponsored with Senator Durkin an amendment, again, to the coal utilization bill authorizing an additional $100 million for replacing tracks and roadbeds. This money will help weaker rail lines which cannot privately finance the rehabilitation needed to serve customers. These funds will be made available under Title V of the 1976 Railroad Act.

I also offered an amendment which recognized that the socioeconomic impact on mining communities is caused by the expansion of the workforce and local population rather than increases in coal production. This is especially true in States such as Colorado, Kentucky, New Mexico and West Virginia. I noted that, "Under the bill as it comes from the committee, aid to areas impacted by expanded coal development is triggered by increases in annual production levels over the 1976 level. This amendment which I offered provided aid based instead on increases of 8 percent or more in employment in the coal and coal-related industries of an area." Planning grants, loan guarantees for housing and technical assistance provisions in this section of the measure have applicability to all coal regions.

In a move to assist small mining concerns, I sponsored with Senator Ford of Kentucky an amendment that will result in increasing the amount of clean coal, by giving financial assistance to companies intending to build coal cleaning plants. Federal loan guarantees will be provided for operators under the same conditions as the coal mine loan guarantees authorized in the Energy Policy and Conservation Act of 1975. Incidentally, the coal mine loan guarantee program will go into effect in January of 1978, according to the Federal Energy Administration.

It is also clear to me that we as a Nation must be careful not to overlook how, in the next few years we are going to supply needed energy to homes, utilities, and industries. The Administration emphasizes conservation, which of course is needed, but we must assure a continued energy supply through development of coal gasification and liquefaction. To date the supply question has been underemphasized. Coal research and development now must be aimed at taking synthetic coal technology out of the laboratory and into the marketplace.

The Senate Finance Committee is considering energy tax provisions of the national energy plan. In a letter written on August 11, 1977, I told Senator Long that, "I was deeply concerned over the features of the tax bill as passed by the House intended to foster energy conservation through producer and user taxes to create higher prices with the resultant funds going to general tax revenues."

Insufficient attention has been given to the development of domestic energy alternatives with these funds. The United States is currently spending $45 billion annually on imported oil without any assurance of a long term supply. We are also creating a one billion barrel strategic reserve system at a Federal cost of about $12.5 billion.

For a similar Federal investment we could construct coal gasification facilities capable of producing the equivalent of 1 million barrels of oil per day for at least 20 years. By subsidizing new energy supplies and technologies for the differential cost between market prices (for example, of imported oil) and domestic alternatives, we can foster even greater energy supplies from domestic sources. It would be in the national interest to consider financial incentives as a means to stimulate domestic energy alternatives to oil imports from traditional and unconventional sources, such as coal gasification and liquefaction, solvent refined coal, and oil shale. Tax revenues raised from energy usage should be directed to the development of new energy supplies; otherwise after the high prices have been paid, we will be no better off than now from the standpoint of energy self-sufficiency.

The Senate Finance Committee also is considering the formation of an Energy Finance Development Corporation as one optional use for revenues from a crude oil equalization

tax. A major part of such a Corporation's efforts would be directed toward development of synthetic fuels, and would be a positive step in producing increased energy supplies. The Committee expected final resolution of this issue by Friday.

Earlier this year the Senate passed two measures which indicate the growing concensus and recognition in the Senate that we must increase coal production and use to assure our energy independence.

In June, the Energy Research and Development Administration Authorization Act of 1978 was passed. It included $965 million for fossil energy development of which $140 million more was provided for increased coal technology than in fiscal year 1977. Because of the need for assessment of new technologies, I introduced and the Senate accepted an amendment providing the Administrator of ERDA the authority to make Federal loan guarantees of up to 75 percent to companies utilizing new coal technologies.

This amendment does not provide loan guarantee or economic aid without further action by the Congress. The Congress, based on ERDA's request, would have to appropriate the financial assistance to be provided. Where the cost of a demonstration facility exceeds $50 million, the amount of loan guartees, extent of economic aid, and the amount of borrowing authority granted to the Administrator, must be approved by both Houses of Congress. No specific sum of loan guarantee authority was authorized by the Committee, however. Requests would be revived on a project by project basis. The ERDA authorizations bill was passed by the House last week and will soon be before a conference committee.

Of special importance to any program involving coal conversion is the Clean Air Act Amendments of 1977, signed into law by the President on August 7. The policies adopted with regard to coal conversion in this program are consistent with the provisions of the Coal Utilization Act. It provides the necessary flexibility to allow both coal conversion of existing and the building of new coal burning facilities. The measures adopted this year should aid the coal mining industry in making decisions associated with assured coal markets.

As members of the 95th Congress, we have the responsibility to assure that the country strengthens the coal substitution option in the short and long term. This must be done not only with specific legislation directed at the coal industry but with other energy policies such as re-regulation of natural gas, utilities reform, and tax structure. Necessary coordination must be developed among all of these in order to increase the national commitment to and the scope of coal use.

Senator Wallop of Wyoming recently in a Senate debate on divestiture—"In this country there will continue to be interfuel competition among companies, but one of the things that is soon to develop in America will be a striving for fuel of any description, not competition between fuels."

Mixed powered coal for roads, coal gasification processes for plants and homes, liquified coal which may be our new gasoline, solar energy, and others must all contribute along with gas and oil to a final product. That final product is to assure a strong United States for future generations.

"I'M OK" PROGRAM HELPS SENIOR CITIZENS

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues an innovative, and inexpensive, way to assure the personal safety of our senior citizens. The "I'M OK" program provides a means for elderly persons or any shut-in to alert neighbors if they need assistance.

The only expense of the "I'M OK" program is the printing of highly visible signs with the words "I'M OK" printed on them. These signs are then distributed to senior citizens and shut-ins. They alert several neighbors that they have the sign and, at a time during each day which is agreed upon between themselves and the neighbors, they put the sign in a conspicuous place in a certain window or on their door. If the neighbors see the sign, they will know that the senior citizen or shut-in is OK and will not disturb that person's privacy. However, if the sign has not been displayed, they will know that the person needs some type of assistance and will go to see what the problem is.

The "I'M OK" program is a simple but highly effective way of assisting our senior citizens. The signs can be distributed at senior citizen centers, in churches, and given to senior citizens by friends and relatives. The program has been a big success in Chicago, where it was originated by Mr. Larry Barenbaum of RIMAGE, Inc. and Mr. Ralph Barnhart. With the help of the Mayor's Office for Senior Citizens and Handicapped, DeKoven Drug Centers, WLS–TV, and the Chicago White Sox baseball team, "I'M OK" signs have been distributed and many senior citizens and shut-ins have received invaluable assistance.

I urge my colleagues to encourage the creation of "I'M OK" programs in their States.

THE TRADE ACT OF 1974 AND SPECIALTY STEEL

Mr. METZENBAUM. Mr. President, I have received today from the General Assembly of the State of Ohio a resolution which calls on the President and Congress of the United States to evaluate the regulatory, investigative, and enforcement actions under the Trade Act of 1974, and to enforce the act to preserve the domestic steel industry.

The problems which the U.S. steel industry face today are massive and multifaceted. This resolution focuses on one major area: the Trade Act of 1974.

Since the inception of the act, steel imports into the United States in specialty steel alone have risen dramatically, while production has dropped. The following figures illustrate this concurrent trend, and reveal implications which require action.

	Tons
Imports in specialty steel:	
1975	154,061
1976	167,760
U.S. production in specialty steel:	
1974	1,328,532
1975	722,936
1976 (after imposition of quotas during last half of 1976)	1,063,306

First six months of 1977, 605,300 tons (this figure indicates that the total production figure for 1977 should register a slight increase over 1976, but not yet reach the 1974 figure, even with the continuation of quotas.

In the light of the relationship between imports and production in specialty steel following the Trade Act of 1974, and the recent grave developments in the U.S. steel industry as a whole, the General Assembly of the State of Ohio has acted in a timely manner, and I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, It is essential to this nation to have a healthy steel industry with an adequate domestic supply for the years ahead; and

Whereas, It is necessary to combat the predatory practices of foreign steel producers and their government; and

Whereas, We support fair trade, but find that foreign competition is unfair competition because of deliberate efforts by foreign governments or instrumentalities thereof to bolster their economies at our expense; and

Whereas, Our nation's ability to produce steel has declined while new foreign production capacity continues to grow since our own trade policies make our expansion of steel output an unattractive investment, which has resulted in the fact that we are the only industrialized nation that does not have the ability to produce all of its domestic steel needs at times of peak demand; and

Whereas, These unrealistically priced steel imports continue to stifle our economic growth and undermine the ability of our own steel industry to operate at a profitable level; and

Whereas, It is imperative that the administration and the Congress understand that it is not better technology and lower production costs responsible for high steel imports at unrealistically low prices, but the deliberate and planned use by foreign governments of the American steel market to gain economic advantage; and

Whereas, National trade policies since World War II have stimulated foreign steel industries to expand beyond their home markets so as to provide steel for export to American markets, and also thereby depressing the growth in our domestic steel markets; therefore be it

Resolved, That the General Assembly of the State of Ohio memorialize the President and the Congress of the United States immediately to evaluate the regulatory, investigative, and enforcement actions under the Trade Act of 1974, and to promptly enforce the provisions thereof for the purpose of preserving the domestic steel market and its related employment; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the presiding officer of each House of Congress of the United States and to each Senator and Representative from Ohio in the Congress of the United States.

EUROPEAN SECURITY AND COOPERATION CONFERENCE CONVENES IN BELGRADE

Mr. DOLE. Mr. President, today is the opening day of the Review Conference on European Security and Cooperation in Belgrade and already we are getting indications that the U.S. delegation and the other Western diplomats are fearful of a confrontation on human rights.

SAKHAROV APPEALS TO THE WESTERN DIPLOMATS

Perhaps sensing the West's timidity on this issue, Andrei Sakharov, the 1975 Nobel Peace Prize laureate, issued an appeal today to the 35 nations:

We are now living through a moment in history when decisive support of the principles of freedom of convictions, of open societies and of human rights is an absolute necessity.

The alternative is a capitulation to totalitarianism, a loss of the benefits of freedom, and a political, economic, and moral degradation.

This is certainly not the time for the U.S. delegation to start retreating from a firm stand on human rights. It is not the time for the West to start focusing on the economic issues which are so attractive to the Soviet Union without thoroughly discussing human rights violations.

SOVIETS ARE MASTERS AT INTIMIDATION

But the Soviet Union is a master of intimidating Western diplomats. It has just announced that Yuri V. Andropov, head of the secret police in Russia, the KGB, will be paying an official visit to Belgrade at the same time human rights will be discussed at the Conference. One diplomat is quoted as saying that "it's like inviting a cat to a convention of mice."

I am dismayed at this analogy. Have we really abdicated our principles and moral leadership? Surely we, who know what freedom and human rights are all about, would not deny our support to others who are striving for these same goals? Can we really be intimidated so easily not to talk about issues which anger and embarrass the Soviet Union? Although the U.S. delegation will "seek no confrontation," to quote Arthur Goldberg, head of the U.S. delegation, will it also flinch if a confrontation does arise? Or will it retreat so fast and so far that there will not be the slightest possibility of a confrontation?

SOVIET HARASSMENT OF DISSIDENTS UNABATED

How can we ignore the Soviet harassments and oppressions? Within the last week alone we have heard of further violations by the Soviet Union:

On Monday, October 3, the Soviet Union denied Dr. Melvyn Nathanson a Soviet visa for his 8-month research program in Moscow without any reason.

On September 28, the Soviets forbade Jews in Kiev from holding prayer services or bringing wreaths to Babi Yar to commemorate the Nazi massacre there 36 years ago.

On September 27, we learned of the arrest of Gely Snegiryov, a dissident Ukrainian writer who publicly urged President Carter to be firm with the Kremlin on human rights.

And these are only the cases that have come to the attention of the Western press this week. There are so many other arrests that we have been informed of this year. They are all names that we have grown familiar with—Mykola Rudenko, Oleksa Tyky, Anatoly Schaansky, Yuri Orlov, Alexander Ginzburg, Felix Serebrov, Viktoras Petkus, and Antonas Terleckas.

SOVIET PSYCHIATRIC ABUSES

And there are the many dissidents whom we know nothing about, who have been incarcerated in the infamous psychiatric institutions the Soviets have developed for their political prisoners. The conditions and practices of such institutions as the special psychiatric hospital at Dnepropetrovsk have been described in all their terrible detail by a former inmate, Leonid Pluysch. The practices that the Soviet doctors have engaged in have been testified to by Dr. Marina Voikhanskaya, who herself waits for the Soviets to fulfill their promise of letting her 10-year-old son, Misha, join her in the West. The World Psychiatric Association in Hawaii this summer passed a resolution condemning such Soviet practices, in spite of the fact that the Soviet delegation threatened to withdraw from the conference if this issue was brought up. And in spite of the fact that it was brought up, they did not go home.

This same fear that the Soviet Union will pack up its bags and go home if the conference insists on talking about subjects the Soviet Union does not like is even now plaguing the U.S. delegation and other Western country delegations. But the United States and the West must stand firm on this issue. We must insist on discussing these violations. Let us not forget that the Soviet Union wanted the Helsinki Conference very badly and signed the Final Act. And now, it is time to review compliance with it and we must not flinch from this task.

AMERICANS SUPPORT STRONG HUMAN RIGHTS STAND

As the Belgrade Conference gets underway, I would like to reiterate that I am not alone in my views. I have been informed of these same sentiments by hundreds of people from throughout the United States and on September 24 attended a human rights rally where 4,000 people here in Washington reaffirmed this same stand. Human rights is a cornerstone of U.S. foreign policy and the U.S. delegation in Belgrade should be strengthened by the support they have and will continue to receive from the American people to implement this firm policy in Belgrade.

SUPPORTING FAMILY FARMERS ON RECLAMATION LANDS

Mr. BAYH. Mr. President, every day, family farmers across the country are facing a growing threat of losing control of their land. Pressures of urban and industrial development in many areas threaten to destroy productive farmland and with it many of the family farms which are the traditional basis of American agriculture. Not only are millions of acres of farmland being converted to nonagricultural uses each year, but the remaining land is also being increasingly controlled by fewer and fewer people. As land prices continue to rise, many young farmers and others who are not from wealthy families cannot afford to own land. As landownership is becoming more and more concentrated, many of our Nation's farmers or would-be-farmers are relegated to the only available alternative of becoming hired farmhands, tenants, or sharecroppers. Unfortunately many efficient and productive small farms are going out of business. The number of farms in the United States has been declining steadily and those remaining have become larger. In September's Agricultural Outlook the Department of Agriculture reported that at the outset of 1977, there were around 2.8 million farms in the United States, down from 4 million in 1960. Furthermore although individuals still own and operate over 400 million of the nearly 1 billion acres of U.S. farmland, over 70 percent of the 376 acres of land rented out to farm operators is now owned by nonfarm individuals, estates, partnerships, corporations, or the Government.

One of the most disturbing examples of the demise of small farms has been found in the West—particularly in the reclamation lands. Here individuals and corporations with little apparent concern by the Government, for years flagrantly violated and corrupted the Federal program which was designed specifically to assist family farming. At last, I am heartened by recent efforts in the Congress and the administration to eliminate these abuses and once again to encourage family farms. On August 25, 1977, the Interior Department issued proposed regulations to effect the sale of excess lands in the western reclamation districts.

In 1902, the Congress, through the Reclamation Land Act, intended to supply irrigation water from Federal projects at low cost to as many as 6,000 farms to increase agricultural production and encourage family farming. Seventy-five years later there are less than 300 farms receiving the subsidized water. The requirements that the owners live on or near the land and that an individual buy no more than 160 acres have been loosely interpreted or ignored and reclaimed lands now support huge corporate farms (averaging 2,000 acres) with absentee owners. Family farms are the exception, not the rule. If implemented, the Interior Department's regulations would make over 1 million acres of "excess" farmland, irrigated by federally supplied water, available to family farmers. The Interior Department would administer the sales to insure compliance with the rules and prevent speculation. There is now a 90-day comment period and all excess land sales have been suspended by the Secretary of Interior until new regulations are effective.

Although the Department of the Interior is to be commended for these proposed changes, administrative action alone cannot resolve the problem. Two months before the Interior Department's action, our distinguished colleague from Wisconsin, Senator NELSON with Senators HASKELL, ABOUREZK, and METCALF, introduced S. 1812, the Reclamation Lands Family Farm Act. S. 1812 embodies the spirit and much of the substance of the new regulations, but its carefully written provisions make this legislation more encompassing and thorough and more compatible with the economic realities of today's family farms than mere regulations under the 1902 act could be. If passed, S. 1812 or similar legislation would endure the changing policies or whims of other administrations and it would reestablish the purpose of the 1902 law with standards that are more appropriate to agricultural pressures of the 1970's.

Under S. 1812, with very few exceptions, federally supplied water would be available only to land being farmed by family farmers. Land held in violation of this act must be sold within 3 to 5 years. The Department of the Interior would administer these excess lands sales to eliminate windfall profits and see that family farmers will indeed own and control the land. The present owners would select the buyers and only if they could not decide, would the Interior Department then determine the buyer through a fair means. The land would be sold at the price it would bring without access to Federal water. Only after the land had been used as a family farm for 10 years could it be sold at an uncontrolled market price.

This bill, like the new regulations exhibits a healthy growing concern for family farmers. Today's inflated farmland prices require financial strength beyond that of many family farmers, especially young or new farmers. Nationwide exorbitant land prices imperil family farms. U.S. farmland values increased an average of 17 percent for the year ending February 1, 1977. Over the last 5 years, land values have gone up 114 percent and values in the Corn Belt and lake States rose most rapidly. This summer Indiana farm real estate sold for 32 percent more than a year ago despite lower farm earnings, reduced cattle receipts, and lower milk, wheat, and corn prices. Noting that last year the overall cost of production rose 9 percent and that real net farm income is at its lowest point since the late 1960's, it is obvious that this recent land price increase is unrelated to the earning power of the land for agricultural purposes. However, it is the farmers who must bear the brunt of the rising costs. Although it would have no effect in my home State or the Middle West, the Reclamation Lands Family Farm Act would directly help farmers in the reclamation project areas. To be able to purchase land at the controlled rate would make it possible for some promising young farmers to buy land they would otherwise only have been able to dream about.

S. 1812 contains two essential reforms of the original law. Farming has changed a great deal in 75 years and Federal policy should now address the conditions of agriculture in 1977, not 1902. First, in recognition of the varying productivity of farmland, S. 1812 would establish a class 1 equivalency formula which would allow an individual to buy up to 240 acres of less productive land. In many cases a 160-acre unit, the maximum allowed under the present law, is too small to be profitable. Under S. 1812 each farmer would be able to purchase 160 acres or the class 1 equivalent, and an additional 160 or equivalent number of acres if he or she has one or more dependents. Witnesses at the joint hearings of the Interior and Small Business Committees conducted in Fresno, Calif., testified that farms of this size could provide a good living. Despite the trend toward very large farms, through careful management and hard work a great percentage of family farmers have kept their efficiency of production up with the levels of larger farms. The Department of Agriculture has found that in most areas, "all of the economies of size could be achieved by modern and fully mechanized one-man or two-man farms." Their study, "Economics of Size in Farming" further showed that, in crop production, specialized feed lots and dairy farms, one-man farms were capable of achieving average costs as low as any larger size. The acre-equivalency provision is a realistic attempt to encourage farms which are small and productive.

Second, the bill would create a $25 million fund to purchase irrigated lands which would be leased to family farmers. By giving them 2 to 7 years to buy the land themselves, this program would help farmers unable to afford the land immediately. A Department of Agriculture "Special Survey of Farm Financial Situation" revealed that income and credit are major problems for one-third of the farmers in the Plains and Mountain States. Bankers surveyed expect "one-fourth of all bank borrowers in the area or about 59,000 farmers to be forced to refinance their loans or dispose of some farm assets to meet their debt payments." In other words many family farm operators may be forced out of business in the next few months. Tragically, while strong financial institutions and large corporations can withstand cost increases, at least in the short run, family farmers often cannot. In this period of farm depression, the loan provision of S. 1812 is sorely needed.

Mr. President, I am pleased to join as cosponsor of S. 1812. It marks progress toward needed and well-deserved attention to the problems of small farmers. I hope the Senate will act quickly. Swift passage by the Congress will end the terrible violations of the reclamation law and give family farmers the opportunity to buy prime farmland. Hopefully Congress will take this initiative now, when all excess sales have been suspended and the administration is prepared to change its policies.

The great value of the Interior Department's enforcement of the acreage and residency requirements in the western reclamation projects extends to farmers throughout the country. An editorial in the Indianapolis News on August 26, 1977, which I would like to have included at the conclusion of my remarks, clearly recognizes and articulates the importance of this action. As the News concludes, finally the "Department of Interior has dug in its heels to defend small farms and family farming."

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FEDS ARE DOING SOMETHING RIGHT

Approving more Federal intervention is not a common policy of The News. But the latest Federal stand against monopoly and Big Agriculture is a wise move.

It is a complex issue—the gobbling up of farm lands by corporations and combines, against which the Department of Interior has moved in the West. However, there is a measurable national trend—alarming, we believe—of farm acreage, formerly held by families, being bought up and developed as agribusiness corporations for absentee owners. Some of the owners are even in foreign countries.

An argument can be made that the soil is no different from a factory or mine, that if it is a sound investment it should be susceptible to the highest bidder. Others say the family farm is a dead issue, anyway, that the investment required for purchase and operation is so immense, only a corporation can deal with it.

A side argument against Federal intervention is that tinkering with the marketplace and establishing price supports, acreage quotas and excessive Federal spending in all areas have created this problem. Thus, the Feds help create the conditions that call for Federal remedies. And so they do, but we are too far down the road to cry over this wrong turn. The facts are: the family farmer is being crowded out and corporations and absentee owners are looking at farm land as one of the best hedges against inflation. Farm land is the closest commodity to gold—and it's negotiable.

Farm land is exploding in price—a 32 percent increase during the past year in Indiana, 17 percent across the nation. Top Indiana farm land is bringing up to $4,000 an acre—a figure far out of proportion to what it can produce at today's prices.

Land is high because it is secure in a time of economic uncertainty. It's high because we can't make any more of it, except for limited reclamation.

Land is high also because it guarantees the nation's food supply. It's in the hands, for the most part, of the most efficient managers in the world. One American farmer can feed 56 persons. One Soviet farmer, in contrast, feeds only seven. The average American spends only 18 percent of his or her income on food. The average Russian spends 58 percent, the Japanese 35 percent, the West German 32 percent.

The American farmer is the nation's leading earner of foreign exchange. Although the cycle is in a downward turn, our balance of payments will grow substantially in 10 years to an estimated gain of $8 billion because of farm exports. To be blunt, the farmer is a power to be reckoned with in both domestic and world affairs.

American soil and its managers are world assets a thousand times more valuable than all the Arab oil.

This record of power and abundance did not happen by accident or by absentee owners conferring in Chicago about wheat quotas for their Nebraska farms. This phenomenal success has been created through individual ownership, personal initiative and family commitment to a way of life. Spokesmen for one of the largest agricultural conglomerates, Ralston Purina, recently admitted our thesis: "The individual farmer or family corporation can meet and many times surpass the efficiency of the large units that operate with hired management."

Typical of the corporate move on the land was a recent plan formulated by a Chicago bank. The bank decided to invest $50 million—mostly from pension funds—into acreage to be leased back to farmers. It would, by the way, be a tax shelter, too.

Public opinion boiled up, and the bank backed down—publicly at least. Farmers across the nation called the bank's project a "return to slavery," "sharecropping" and worse.

Frankly, we don't want Chicago banks acquiring $50 million worth of land in Indiana or in any other state. Under such a scheme local bankers who now lend Farmer Jones $50,000 to expand or get out a crop would be out of the picture. Only the large lending institutions—doubtless in Chicago—would be able to handle such "collective" borrowing. Displacing local owners and operators with absentee directors would mine the heartland of its spirit and its profits and send them to Chicago or Omaha.

Today, the Department of Interior has dug in its heels to defend small farms and family farming—mostly in the West, it is true, because this is where the banking collectives have made greatest inroads. They have acquired massive holdings in areas irrigated through projects of Federal Bureau of Reclamation. Interior will make that land available to family farmers in tracts of 160 acres, making sure, we trust, that present ownership is properly reimbursed. The rationale is that this was the intent of the reclamation projects as funded by Congress.

As much as we desire minimum Federal controls, we believe in this instance that the Federal government is acting with logic and justice. It is doing what it can to arrest an alarming trend that could destroy agriculture as we have known it. The Department of Interior deserves commendation and support on this one.

SOUTH KOREA

Mr. GOLDWATER. Mr. President, Dr. Ernest W. Lefever had an article published in the New York Times of September 30. Dr. Lefever, in as succinct a way as I have seen, puts the whole problem of what President Carter is doing about South Korea into easy perspective. He further states, and I quote him:

> The destiny of men and nations is shaped by more consequential realities—the relative military and economic power of adversaries, the reliability or unreliability of allies, and the moral and psychological will of great powers to fulfill their responsibilities.

That one paragraph spells out the problems that face the Carter administration and the American people. Do we have the moral and psychological will to fulfill our responsibilities to the world? If the President continues to make gestures like weakening our forces in South Korea, yielding to the demands of Communist-dominated nations and attempting to see some good in Red China, then we may live to see the day when the United States is not only no longer a power in this world, but is no longer reckoned with.

Mr. President, I ask unanimous consent that Dr. Lefever's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OPENING A KOREA GATE

(By Dr. Ernest W. Lefever)

WASHINGTON, D.C.—Historical perspective among chroniclers, analysts and politicians is as rare today as it was during the long weekend between Versailles and Pearl Harbor.

President Carter's policy toward Korea is a vivid example of contemporary confusion. The press is preoccupied with a Seoul businessman who apparently bribed United States Congressmen on behalf of his besieged country. It is a juicy story—lavish parties, illegal campaign gifts, and other forbidden favors.

There is no evidence that the inept influence peddling of Tongsun Park changed any votes. His favors hardly rank with the great forces of our time and he will probably not rate even an embarrassing footnote in history.

The destiny of men and nations is shaped by more consequential realities—the relative military and economic power of adversaries, the reliability or unreliability of allies, and the moral and psychological will of great powers to fulfill their responsibilities.

Corruption of the spirit and will cut a far wider swath in human affairs than bribery and greed, though as the fall of ancient Rome demonstrates the two are not wholly unrelated. In the ceaseless struggle between freedom and tyranny, President Carter's pullout of all United States ground forces from South Korea will surely have an impact a thousand times greater than Mr. Park's bumbling efforts.

The basic issue is not complicated. South Korea is essential to the defense of Japan and the Western Pacific and it is under relentless siege by Kim Il Sung, a fanatical Marxist tyrant determined to unite the Korean peninsula by subversion, psychological aggression, or outright force. Both North and South Korea have formidable military Establishments, but the superiority of the North in manpower, aircraft, tanks and ships is further enhanced by longer periods of military service and a posture designed more for attack than defense.

For 23 years, this disparity has been more than compensated for by a United States security treaty buttressed by significant United States forces in the South. Now President Carter is determined to cut back the American commitment by withdrawing all of our ground troops, including the 2d Infantry Division, strategically poised in the narrow corridor between the demilitarized zone and Seoul, a city of seven million. But how can he defend the independence of a faithful ally by emasculating our commitment? Does he not invite aggression by cutting out the heart of deterrence?

Mr. Carter promises that United States air units will remain after the ground troops leave, but aircraft can fly away. He points to the power of the Seventh Fleet, but what assurance do we have that it will respond to an attack from the North? He promises arms and training to compensate for the pullout, but their delivery depends upon Congressional appropriations.

The South Koreans (both Government and opposition leaders), Japanese, Nationalist Chinese, and our other Asian allies quietly oppose the pullout and fear it may signal the beginning of the end of American protection in the Western Pacific. Neither Peking nor Moscow has encouraged the American departure. Several highly placed leaders in Seoul, Tokyo and Taipei have told me that if the pullout is completed and if the withdrawal trend is not arrested, they must assume that the United States is retreating to Honolulu. Some have suggested that an independent nuclear deterrent might be their best substitute for our diminishing commitment.

Why did Mr. Carter embark on a one-sided withdrawal of American power in this crucial arena of the world struggle? Why does he doggedly pursue a policy opposed by the Joint Chiefs of Staff and virtually all experienced advisers in the State Department and the Central Intelligence Agency? Why does he persist in this unprecedented act with no hint of comparable concessions by North Korea's two patrons, Moscow and Peking?

No one has argued that the pullout will enhance security. And it hardly contributes to the cause of human rights in Korea. In the authoritarian South, certain rights are limited by emergency law; in the totalitarian North they are denied altogether. If the vacuum created by the pullout of 30,000 Americans is filled by Kim Il Sung, 30 million South Koreans will lose all their freedoms.

If the press is interested in corruption, the pullout story is the big one—the corruption of facts and perspective that underlies Mr. Carters decision. Available evidence suggests that the advisers who pressed this potentially tragic policy on him did so because they did not want Americans to be shot at. This is an irresponsible basis for making a major strategic retreat and is morally unworthy of the leader of the free world.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS SECTION 302(B) REPORT FOR FISCAL YEAR 1968

Mr. RANDOLPH. Mr. President, the Committee on Environment and Public Works has filed with the Senate Budget Committee a report under section 302 (b) of the Congressional Budget Act for allocations of fiscal year 1978 budget authority.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

Program	Fiscal year 1978			
	Direct spending jurisdiction		Entitlement programs that require appropriations action	
	Budget authority	Outlays	Budget authority	outlays
1. Federal-aid highways (404): Subcommittee on Transportation:				
Controllable	7,039	1		
All other (appropriations trust fund)	5			
2. Economic Development (450): Subcommittee on Regional and Community Development:				
Controllable	44	53		
All other		1,000		
3. Pollution Control (300): Subcommittee on Environmental Pollution:				
Controllable				
All other	15	16		
4. Water Resources Development (300): Subcommittee on Water Resources:				
Controllable				
All other	44	42		
5. Fish and Wildlife (300): Subcommittee on Resource Protection:				
Controllable				
All other	125	167		

ARSON-FOR-PROFIT BECOMING A NATIONAL EPIDEMIC

Mr. PERCY. Mr. President, the incidence of urban arson is rapidly approaching epidemic proportions. Last year alone, the total property loss from deliberately set fires was an estimated $2 billion, almost double the amount of the previous year. When the hidden costs, such as erosion of the tax base and unemployment, are added to this figure, the total economic impact of this crime may approach $15 billion yearly.

Much of this loss is thought to result from arson-for-profit, the intentional burning of structures for the purpose of filing a fraudulent insurance claim. There exists convincing evidence that the provisions of a Federal program, the Urban Property Reinsurance Act of 1968, may be subtly encouraging or at least facilitating this form of criminal property destruction.

The act was passed in the wake of the riots of the 1960's, when owners of high-risk inner-city property found it increasingly difficult to obtain basic property insurance. To cope with this problem, the 1968 law required private companies in participating States to join special risk-sharing pools as a condition of receiving Federal reinsurance against riot-related losses. These State-run pools, known as FAIR (fair access to insurance requirements) plans, are statutorily required to provide coverage for almost any property owner—even a known arson racketeer—who cannot obtain it in the voluntary market. Currently, FAIR pools in most States suffer tremendous losses each year—losses which eventually fall upon the general public through higher rents and higher insurance premiums.

Although I am supportive of the concept underlying the Riot Reinsurance Act, I feel that this is a program which has suffered from a lack of congressional scrutiny and continuing oversight. At my request, the General Accounting Office and members of my staff have begun a special audit of this program which should provide the basis for legislative improvements to the original act.

There have been reports from across the Nation that organized rings of arson racketeers have emerged and are operating on an interstate basis. Some cases involve "arson entrepreneurs," who sell corrupt landlords and businessmen a complete package of arson services. These range from the services of expert chemists who concoct special water-soluble fire accelerants, undetectable by conventional means, to those of corrupt insurance adjusters, who arrange for an inflated and profitable settlement. Other cases appear to be inside jobs from start to finish, involving a few conspirators who purchase a dilapidated building, and then contrive to inflate its apparent value, insure it, burn it, and divide the proceeds.

Unfortunately, there are serious problems with the enforcement of the laws against arson and arson-related racketeering and mail fraud. Currently, in its uniform crime reports, the Federal Government appears to view arson as a low-priority crime, reportedly in the same category as vagrancy, loitering, and gambling. As a result, Federal funds designated for crime prevention are allocated away from arson control, and Federal law enforcement agencies devote an inadequate amount of their resources to the investigation and prosecution of arson offenses. As a means of ending Federal neglect of this problem, I fully support the proposal of my distinguished colleague from Ohio, Senator GLENN, to reclassify arson as a part I offense in the FBI Uniform Crime Reports. I have also asked the GAO to investigate the efficiency and effectiveness of Federal law enforcement in this vital area.

Mr. President, in this regard, I would like to call attention to an article entitled "Arson and the Mob," which appeared in the August 1977 issue of Firehouse magazine. The author of this article is Clifford Karchmer, former director of the Massachusetts Organized Crime Control Commission and probably the Nation's leading expert on arson fraud. Mr. Karchmer has been of considerable personal help to me in understanding this phenomenon, and I would like to take this opportunity to thank him for his generous assistance. Well-written and thoroughly researched, his article documents the increasing role of organized crime in promoting arson-for-profit. The piece merits close and careful reading, and I recommend it highly to my colleagues.

Mr. President, I ask unanimous consent that the article be printed in the RECORD together with my letter to Comptroller General Elmer Staats seeking GAO review of facets of this problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., August 2, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Over the past several years, arson has become one of the fastest growing and most costly crimes in the United States. Precise statistics are unavailable, but according to the most recent estimates of the National Fire Protection Association, the annual number of arsons has tripled in the last 15 years. According to news reports, last year's property losses from arson were an estimated $2 billion, nearly double the amount of the previous year. Each year, deliberately-set fires claim some 1,000 lives.

Evidence collected by federal and state investigators indicates that much of this is arson-for-profit—the burning of structures, mostly in decaying urban neighborhoods, for the purpose of filing fraudulent insurance claims. Repeatedly, organized crime has turned arson-for-profit into an interstate activity, organized and conceived by experts who arrange for or conspire with respect to inflated insurance coverage burning the building, filing the claim, and dividing the proceeds. The incidence of this activity is rapidly approaching epidemic proportions. Yet federal efforts to halt arson and interstate arson racketeering remain uncoordinated and, in the opinion of some observers, demonstrably ineffective.

To aid the Senate Permanent Subcommittee on Investigations in analyzing the nature and extent of this problem and the ineffectiveness of federal agencies to deal with it, as Ranking Minority Member of the Subcommittee, I request that the General Accounting Office undertake a comprehensive assessment of the adequacy of current federal programs dealing with the detection, investigation, and prosecution of arson offenses. This study should include, but not be limited to, consideration of the following matters:

1. The Federal Insurance Administration operates the Federal Riot Reinsurance Program, which enables states to set up risk-sharing pools in arson-prone areas. It is alleged that this program, known in some states as the Fair Access to Insurance Requirements (FAIR) Plan, facilitates arson-related insurance fraud by permitting any property owner in a core city area to insure his holdings far beyond the market value of the building and its contents and to burn them for the insurance proceeds. In addition, since insurance companies operate these pools on a cost-plus basis, they reportedly have little incentive to contest suspicious claims or to prevent the overinsurance of deteriorated properties.

(a) Under this program, how do insurance companies determine the amount of coverage to be given to a property owner? Can the owner insure for any amount he desires, even beyond fair market value?

(b) Can the insurance company refuse to insure for the full amount requested by the owner? Can it refuse coverage altogether?

(c) Is there any provision for less-than-full payment on a claim if the insurer can prove that the insured allowed his property to deteriorate significantly prior to the damage in question?

(d) How can the provisions of the FAIR Plan be altered to remove the incentive to destroy unprofitable or deteriorating but well-insured buildings?

2. Please list and evaluate all federal programs falling under the following three areas:

Research and development of arson detection techniques and equipment. (Primarily conducted by National Bureau of Standards and National Fire Control and Prevention Administration, both agencies of the Commerce Department.)

The training of arson investigators and Prosecutors. (Primarily conducted by the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms.)

Programs and funding for state and local arson investigators and prosecutors.

(a) Is an adequate amount of resources allocated to these tasks?

(b) Are the agencies receiving these funds putting them to efficient use?

(c) Can you suggest changes to improve the federal government's performance in these areas?

3. How effectively has the National Fire Control and Prevention Administration employed the funds allocated to it for the implementation of a training program for arson investigators?

4. How well-coordinated are federal efforts to prevent, detect, and prosecute violations of federal laws pertaining to arson and arson-related insurance fraud, postal fraud, and racketeering? How effective are the federal interagency strike forces set up for this purpose? Are federal strike forces planned for other U.S. cities and, if so, how soon will they be ready for action? What improvements need to be made to improve the efficiency and effectiveness of federal law enforcement efforts in the area of arson racketeering?

If in the course of conducting this inquiry any questions arise, please have your staff contact Stuart M. Statler, Chief Counsel to the Minority, Senate Permanent Subcommittee on Investigations at 224-9157. Thank you for your assistance in this urgent matter.

Sincerely,

CHARLES H. PERCY,
Ranking Minority Member.

[From Firehouse magazine, August 1977]

THE UNDERWORLD TURNS FIRE INTO PROFIT

(By Clifford Karchmer)

In underworld jargon, a scam is a fraudulent scheme that uses a legitimate business as its base of operation. The objective can be to gouge out all of the business assets or to use the business as a means of illegally obtaining money from other businesses, such as banks and insurance companies. Ever since the Federal government began its national drive on the illegal operations of organized crime in the 1950s, the mob has been moving for cover into the legitimate business world. The result has been massive white-collar frauds of all types, from check kiting and stock manipulation to planned bankruptcy and insurance fraud—especially arson-for-insurance fraud. Although there is no central source of statistics on the problem of mob-run arson rackets, one ring alone, operating between 1969 and 1975, pulled down an estimated $500 million.

Today, the ranks of arson-for-hire rings are filled with organized crime figures from every segment of the underworld. There are Mafia dons, such as the Rochester *capo* of Buffalo's organized crime family, currently under federal indictment along with six of his lieutenants for running an arson-for-hire business. Working closely with Mafia groups are non-Mafia associates and independent racketeers who have discovered arson fraud as one of the easiest ways to turn an evening's work into a quick windfall.

The mob gets involved in arson scams as an outgrowth of a gambling or loan-shark debt owed to the mob, or as one of the many freelance activities of mob underlings anxious to profit by burning a failing business on a contract basis. Also, arson scams have grown into an organized business where the mob sells a combination package of arson and insurance fraud, and where the primary occupation of the racketeers is the arson scam.

Mob involvement in arson is an example of modern-day organized crime at a crossroads between the older staples of gambling and loan-sharking and the more recent investment in legitimate businesses. Because the arson scam does not fit neatly into the traditional police definitions of street crime, organized crime, or white-collar crime, the problem has received little recognition. Police and prosecutors usually pursue arson's more manageable motives, vandalism and revenge, while officials attacking organized crime continue to hammer away at the more familiar rackets of book-making, narcotics, and loan-sharking

Law-enforcement agencies eager to score with consumers on white-collar crime find it easier to attack frauds victimizing individual consumers. Since arson committed for insurance fraud has always been one of the toughest crimes to prove, justice officials usually avoid the mob arson scam as a non-win proposition. This unfortunate trend has left arson racketeers free to grow fat over the years. Only recently has the federal organized-crime effort begun to challenge them.

Convictions in major cases have already been obtained in Pennsylvania, New Jersey, Ohio, Connecticut, and California. Currently, federal investigations into suspected syndicate involvement in, or control of, arson scams are underway in five other states. Two federal investigations are expected shortly to name racketeers in indictments, charging them with running arson racketeering businesses under a novel 1970 federal law that has been used successfully in Milwaukee and Los Angeles.

While investigations confirm that many organized crime figures run arson scams, they by no means enjoy a monopoly over this type of crime. That would be impossible with all of the junkies, juvenile delinquents, and amateur torchmen willing to burn a home, car, or business for $100 or less. But the mob has entered the arson-for-hire market by offering something its unorganized competitors cannot, package deals, starting with the fire and ending with complete arrangements for the insurance settlement. Often a mob member or associate serves as the broker for the fire. A master torch surveys the business to determine whether fire alone will destroy it, or if dynamite will be needed to assure a total loss. Chemists prepare special accelerants so that water-soluble residues will be difficult to detect. The mob has also enlisted the services of a public insurance adjuster to inflate the fraudulent claim by arranging phony invoices for equipment allegedly destroyed in the fire but never purchased. The mob's fire broker takes a healthy cut of the insurance settlement for putting this package deal together, but the mob offers the businessman a much larger settlement to start with.

An early pioneer of the lucrative arson-fraud racket was John Roselli, who set fire to the family house for insurance money not long after he arrived in America in 1905. Later Roselli embarked on a career as a Chicago and Los Angeles Mafia leader, con-artist, extortionist, and alleged anti-Castro CIA operative, until he was the victim of a reported mob assassination in 1976. Another Mafia luminary whose early career was spurred by experience in arson was Raymond Patriarca, who was imprisoned in 1938 for a crime spree that included armed robbery, burglary, and arson. Patriarca later became boss of the New England Mafia family. A number of his associates, who dealt principally with Mafia informer Vincent "Big Vinnie" Teresa in stolen securities, also ran freelance arson rackets that landed them prison terms in the early 1970s.

For most of this century the problem of sketchy data on mob arson has been a symptom of the larger problem that no nationwide intelligence was being collected on mob activities at all. Then, as a result of the infamous Mafia summit meeting in Apalachin, New York, in November 1957, a national effort was launched to identify major racketeers and their illegal operations. Because arson scams in that period were mainly freelance ventures of underlings and associates, they avoided federal investigative efforts and continued to grow. Beginning in 1961, however, the Justice Department under Attorney General Robert Kennedy undertook a major campaign to attack organized crime. Very late in that effort, arson scams were identified for the first time nationally as mob-run rackets. In 1965 the Justice Department cited examples of New Jersey arsonists setting a $2 million fire in Ohio, and a roving West Coast-to-Alaska torch setting a $450,000 fire in Nevada. From the limited information available, it was clear that elements of organized crime had moved into arson-for-hire businesses on an interstate basis.

A graphic illustration of how the mob set up a contract arson surfaced in a 1958 Boston scam. The proprietors of the Intercolonial Dance Hall decided that their business was declining because of stiff competition from a rival hall named the Hibernian. They went to a mob arsonist with the fitting Boston name of "Pilgrim" Tommasino, who allegedly functioned as the broker for the fire. According to investigators, Tommasino steered the fire contract to Brooklyn Mafia figure Dominick "Mimi" Scialo, who subcontracted the arson to two young hoods for a $1,000 fee, $500 of which was advanced.

The young arsonists, failing to destroy the Hibernian on the first try, succeeded on the second, and returned to Brooklyn to receive their final payment. Scialo refused them on the basis of sloppy work. Determined to collect, the torches knocked out Scialo's bodyguard and assaulted Scialo until he finally relented. Later that night, Scialo and three associates picked up the two hoods and took them to an isolated section of Brooklyn where they beat them and then shot them. One of the young arsonists lived long enough to give a deathbed statement implicating Scialo, who was later indicted for the double murder. After indictment was returned, Scialo and his bodyguard went underground. The Brooklyn Mafia held a benefit for the two fugitives, attended by such notables as Larry and "Crazy Joe" Gallo. Police did not speculate how much was collected at the benefit, but within a year the young torch's deathbed statement disappeared from the Brooklyn DA's office, and the Scialo murder indictment was dismissed. Never charged with arson, Scialo was murdered in 1974. Tommasino and the Intercolonial lessee and manager, indicted in Boston, pleaded guilty to charges of accessory to the crime of arson.

While freelance contract arson has been the stock-in-trade of mob associates, mob leaders have used the occasion of an overdue loan-shark debt to burn a debtor's business. Mob-related arsons growing out of gambling and loan-sharking run neck and neck with business contract fires. When a loan-shark debtor is unable to keep up his regular payments, a mob courier or the debtor himself may propose to burn an insured property to collect the insurance and pay off his debt.

The FBI came across one fascinating illustration of this during its 1964 bugging of the headquarters of New Jersey Mafia boss Sam DeCavalcante. The arson scam grew out of a $12,000 loan DeCavalcante made in 1964 to Pennsylvania bookmaker Joseph Migliazza so the latter could pay a gambling debt. Migliazza (known as "Mr. Maglie") kept failing to meet payments, and DeCavalcante's courier, Bobby Occhipinti, kept visiting him with dunning notices. Finally, Migliazza proposed that he would have his restaurant burned to collect the insurance money. Occhipiniti carried this plan back to DeCavalcante for his reaction:

OCCHIPINTI. Mr. Maglie wants to burn down his joint, and I got the guy.

DECAVALCANTE. Who's the guy?

OCCHIPINTI. Russ . . . as far as Pussy [another Mafia leader] is concerned, he's okay.

DECAVALCANTE. What's he want for it?

OCCHIPINTI. He's gonna pay $5,000. . . . He's got $90,000 insurance on it.

DeCavalcante gave his approval in standard Mafia fashion, intended to insulate him from any involvement in the scam. He replied, "I don't want to know nothing about it."

Migliazza's restaurant, "The Stagecoach," burned in July 1965 and he collected the insurance. Federal authorities claimed that they were unable to connect "Mr. Maglie" with Migliazzia and the "joint" with the "Stagecoach," until it was too late to prevent the fire. No criminal charges resulted from the incident.

Mounting evidence of other arson scams resulted in a 1965 Justice Department request for a law to make interstate travel to commit arson a federal crime. In support of that proposal, Attorney General Nicholas Katzenbach cited a 1965 study showing that in the 10 preceding years, known hoods were suspected of either arranging or setting 124 fires in 17 states, involving fraudulent insurance claims of $16 million. Clearly, arson-for-hire had become a national business which, Katzenbach claimed, was being serv-

iced by none other than mob torchmen. He stated, "The services of these specialists are furnished by organized crime groups to persons desiring them or are used by the racketeers themselves in burning legitimate but failing businesses in which they are interested."

The arson racketeering law, enacted in 1965, was not widely used against the mob for another five years. At that time, the newly formed federal Organized Crime Strike Force in Pittsburgh began to assemble the pieces of a puzzle indicating that locally based arson rings were operating throughout Western Pennsylvania, with hints of their arson handiwork in seven other states. Its members and associates worked together in groups whose composition and size shifted from scam to scam. In most instances, a fire broker would bring the crew together, and acted as a sort of manager for that arson. This peculiar setup used mob members as often as associates and independents, and the loose organizational arrangement is best described as an "arson cooperative." Before the Strike Force finally broke the "co-op's" back in 1975, investigators placed its members in hundreds of fires from coast to coast, with an estimated insurance-fraud tab for $500 million.

In 1971, the Pittsburgh Strike Force brought its first arson-related indictment, which grew out of the 1970 fire in a suburban Pittsburgh social club named the German American Association (GAA). The prosecutors bagged a Beaver County numbers banker named Roddie Jones, prominent torch Anthony "Ninny" Lagattuta, and a public insurance adjuster named Carl Luick, for a $160,000 fraudulent insurance claim. Unable to bring charges for the crime of arson, a state violation, the feds dusted off the 90-year-old mail-fraud law, which applies where the mails are used to send fraudulent proofs of loss or false sworn statements about the origin of a fire.

To build the GAA fraud case, the postal inspectors located vendors who had provided Luick with backdated and otherwise phony invoices, which Luick used to inflate the amount of the insurance claim. Prosecutors also succeeded in developing a GAA co-owner named Frank Teny as a government witness by granting him immunity from prosecution. At the 1972 trial, Teny testified that he was invited by Jones to take a one-third interest in the GAA with the prospect of burning it if the club failed, and later how he, Jones, and Lagattuta surveyed the building to determine the best location for air holes to ventilate the fire which occurred on May 5, 1970.

With the benefit of Teny's testimony, Jones, Lagattuta, and Luick were convicted. A third defendant, John Petrone, committed suicide in 1971 after the GAA indictment was returned. Bolstered by their success, investigators tried to link the GAA scam with other Pittsburgh area arsons, but were unsuccessful. Although Luick later surfaced in four more cases, it was clear that he was not the brains behind the arson scams. The GAA arson looked like a one-shot scam, stemming from a business failure. The fact that the owner was a numbers banker and the torch was a GAA employee did not lead investigators into the other Pittsburgh arsons.

In 1973 investigators found the common thread in one Merrill H. "Morrie" Klein, who listed his occupation as a broker who arranged the sale of failing businesses at bargain prices. Actually, Klein was a fire broker who scouted around for troubled firms to sell so that afterwards he could follow the new owner's progress. If the business kept fumbling, Klein would approach the owner with an arson scam proposal. If the owner agreed, Klein (who doubled as a master torch), would assemble a crew of arsonists to set the fire, and con-artists to arrange the inflated insurance claim. He informed clients that their buildings were burning with the code message, "The sky is red."

After the feds had repeatedly caught Klein in 1973 and 1974, he agreed to testify as a government witness. At one trial he was asked how he had earned his money since 1967. "I sold fire like other people sell anything else," he replied. A customer once described how Klein had approached him with a scam offer, boasting, "I can make concrete burn."

The Strike Force suspected Klein of brokering, setting, or acting as a referral agent in 24 arsons since the late 1960s, but Klein admitted to participating in only 12. He has been prosecuted for three, is currently under indictment in Pittsburgh for a fourth, and in two others is listed as an unindicted co-conspirator (a cooperating witness allegedly involved in, but not charged with the crime).

So far the provable tab for Klein's arson scams is $7.4 million. As business broker and master torch, Klein was paid first legitimately by the old owner for arranging the business sale, second, by the new owner for setting up the arson scam, and third, by the public insurance adjuster for steering him business. Klein's fee ranged between 10 percent and 20 percent of the insurance settlement, and he took a flat 5 percent from the public adjuster's cut as his own finder's fee.

By late 1974, postal inspectors and FBI agents had amassed a list of 30 suspected racket arsons in the Pittsburgh area. With the help of Klein and his associates, who were either convicted or facing charges by that time, there remaining pieces of the "arson co-op" puzzle began to fit into place.

One obvious fact was that known mob figures in Pittsburgh and McKeesport served as major clients of the "arson co-op." Numbers bankers were principal defendants in four of the nine total "co-op" cases, and a reputed pornography wholesaler figured in a fifth. It seems that as an outgrowth of the racketeers' day-to-day dealings in such activities as "laying off" large gambling bets with each other, the hoods began to exchange tips of other lucrative ventures, with arson prominent among them.

By January 1975, the Strike Force had most of the known members of the "co-op" either convicted, indicted or under active investigation The most frequent charges were mail fraud and conspiracy, but in two major arson cases, where the "co-op" sold its traveling fire business in Connecticut and Kentucky, the 1965 arson anti-racketeering law was used. The Strike Force success rate was impressive: convictions in the GAA fire, those in Connecticut and Kentucky, and one in Pennsylvania. In addition, the Strike Force was investigating other arson scams involving a $360,000 dry-cleaning plant, a $120,000 warehouse, and a $275,000 meat-packing plant. While the remaining tasks did not exactly fit the definition of a "mop-up operation," it seemed that the lions' share of work was completed.

Then, on March 1, 1975, a whole new branch of the "arson co-op" unfolded when the Sponge Rubber Products Company in Shelton, Connecticut, was destroyed by a $10 million bombing and arson. The conflagration wiped out 3,000 jobs in a factory town already saddled with a 9 percent unemployment rate. An FBI arson investigation of unprecedented scope scared the Western Pennsylvania mob. It was reasoned that nationwide coverage of the disaster produced so much pressure that the feds would be forced to solve the case at all costs. Consequently, investigators encountered cooperation from underworld quarters where it was never expected.

Only three weeks after the Shelton arson occurred, 10 individuals were indicted in Hartford on federal charges of interstate racketeering, conspiracy, and federal explosives offenses. The fire broker was an errant psychic and fundamentalist minister with no racket ties, but the master torch was a numbers banker from Butler, Pennsylvania, assisted by other prominent gamblers and professional criminals of the Western Pennsylvania underworld.

The FBI was able to persuade John Shaw, one of the two accused bombers in the case, to testify for the government. With Shaw's help, six of the other defendants were convicted in January 1976 after a lengthy trial. After the last jury verdict was in, a federal indictment was unsealed in Pittsburgh, charging Shaw, his partner in constructing the Sponge Rubber bomb, and a Pittsburgh businessman with the 1971 arson of a meat-packing plant. The plant owner pleaded guilty and the other defendant was convicted after a trial.

A tenth federal indictment was returned in Pittsburgh against "co-op" members in January 1977, growing out of the 1972 arson of a Pittsburgh cocktail lounge. The investigations still continue today, and it is reported that another federal indictment will be handed down soon in Pittsburgh, charging the remaining master torch with committing a string of arsons. Overall, the federal prosecutor chalked up a commendable record. In the nine prosecutions completed to date, 33 defendants have been convicted, five acquitted.

Three other mob associates eluded prosecution. Abe Zeid was murdered before his trial for the 1963 fire-bombing of a Pennsylvania shopping center. Emilio "Chicke" Flex died in a 1971 Pittsburgh restaurant fire that he set. Suspected mob torch Nick Kerna committed suicide during the 1974 grand jury investigation of the Artistic Wire Company fire.

Elsewhere in the country federal investigations are turning up scams similar to those set up by the Pittsburgh "co-op." In fact, arson-racketeering and mail-fraud indictments are expected shortly in organized crime investigations now underway in New Jersey, Florida, Pennsylvania, and New York. A popular weapon is a 1970 federal law which prohibits the operation of a business enterprise in a racketeering manner. Running an arson-for-hire racket that affects interstate commerce qualifies, and already the feds have brought three such cases and are close to a fourth.

It is impossible to put an accurate price tag on the staggering amount of arson that can be traced to the mob. Although the insurance industry estimated total arson losses of $2 billion in 1976, we have just begun to grasp the extent of the mob's involvement. After more than half a century of battling organized crime, we are just realizing the scope of what may be their largest racket.

STEEL DUMPED BY FIVE JAPANESE FIRMS

Mr. TALMADGE. Mr. President, as a member of the Senate Finance Committee, I am particularly concerned about the pervasive effect of unfair trade practices on our domestic competition in the specialty steel industry.

This industry was one of the first to take advantage of the new "escape clause" provisions of the Trade Act of 1974. On June 16, 1975, 19 American specialty steel producers and the United Steelworkers of America filed a petition under section 201 of the Trade Act, seeking relief from the flood of specialty steel imports. These imports threatened

the future of this vital industry and the security of about 65,000 steelworkers' jobs.

The International Trade Commission held extensive public hearings and conducted a full investigation of this case. On January 16, 1976, the ITC determined that imports were "a substantial cause of serious injury" to the domestic specialty steel industry. The Commission recommended the strongest possible form of import relief—5 years of quotas.

The case then went to President Ford, who accepted the findings of the International Trade Commission that serious injury had occurred. The President negotiated an orderly marketing agreement with Japan, and unilaterally imposed quotas on the European community and other countries which refused to negotiate. The quotas have been in effect for just over a year, and are scheduled to terminate in June 1979.

It is significant that, as part of the import relief recommended by President Ford, he directed that the United States seek sectoral negotiations in the multilateral trade negotiations. These negotiations were to be designed to negotiate solutions to the problems of cyclical distortions in steel trade, while liberalizing the conditions of this trade. Such negotiations, of course, have not taken place to date. President Ford's call for them, however, did indicate his understanding that the problems of the specialty steel industry will not be solved by quotas alone.

His call for sectoral negotiations formed an integral part of the import relief provided to the specialty steel industry. Only half of the program has been implemented, and that is currently under review.

As I indicated, most foreign steel producers are subsidized in one form or another by their governments. For example, British Steel Corp. is owned by the British Government. Over the last 3 years, this company which includes extensive specialty steel operations, has lost nearly a billion dollars. Yet, the British taxpayers are being asked to contribute $1.6 billion this year for an expansion in modernization of British Steel's facilities. Clearly, it would be impossible for a company with this kind of losses to obtain financing from the private capital market.

In France, too, steelmakers have suffered extensive losses. At the end of 1976, French steel producers owed the Government $1.4 billion.

Yet, the French steel industry has asked its Government for $600 million in financial assistance. The Government is committed to a long-term program of $2.6 billion in loans for modernization and expansion of steel facilities, including those for the production of specialty steel.

A similar picture exists with respect to Italy, where the Government owns a 54-percent interest in Finsider, a group of 24 steel producing companies, including 2 of the leading stainless steel producers. The Economist has stated—

The state-owned Finsider group ended 1976 almost $150 million in the red. Yet, for political reasons, to provide jobs in the regions, investment continues.

German steel producers have received low-cost loans from European coal and steel communities, as have steel producers in other European community countries.

Perhaps the best example of Government subsidies is the Swedish steel industry.

The Government has fostered a program of rationalization whereby the production of various products by individual companies has been organized in a manner which would undoubtedly be illegal under our antitrust laws. The Swedish Government subsidizes inventory stockbuilding during periods of recession by providing grants to specialty steel firms to encourage them to increase their production above "normal levels." Sweden also uses tax policies to support economic stabilization, and allows individual companies to set aside up to 40 percent of their pretax profits as a reserve for future investments. Such amounts are deductible from taxable incomes.

Japanese steelmakers obtain capital through domestic commercial banks which in turn receive credit from the Government's Bank of Japan. In 1974, the Bank of Japan reported that the capitalization of the 19 largest Japanese steel companies included a huge 83 percent debt. The comparable figure in the United States is 23 percent debt.

This huge debt burden means that Japanese steel companies have a very high break-even operating rate. As a result, they are under pressure to keep their operating rates high and produce steel even when market demand is low. This, obviously, encourages Japanese steelmakers to export to the United States.

In fact, Mr. President, today's Washington Post contains a lead article in the Business and Finance section on just this problem. The article discusses the background of yesterday's tentative ruling by the Treasury Department that five Japanese steel companies are guilty of selling their products in this country at a loss of up to 24 percent below their actual costs in dumping.

Mr. President, I have simply provided a few examples of government subsidies to companies which compete in our market. This has major implications for the future of our free enterprise system, at least as far as the steel industry is concerned. How can we ask our specialty steel companies to compete with foreign producers who can continue in business year after year without making profits? For this reason, it is urgent that sectoral negotiations be undertaken in the multilateral trade negotiations.

Mr. President, I ask unanimous consent that the full text of today's article by Hobart Rowan in the Washington Post entitled "Steel Dumped by Five Japanese Firms, Department of Treasury Rules," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STEEL DUMPED BY FIVE JAPANESE FIRMS, DEPARTMENT OF TREASURY TENTATIVELY RULES

(By Hobart Rowen)

In a major victory for the U.S. steel industry, the Treasury Department ruled tentatively yesterday that five Japanese steel companies have been selling their products here at a substantial loss of 24 per cent below their actual costs.

As a result, importers of steel from the five companies were ordered to post, at once, bonds covering "dumping duties" that may later be imposed.

For years, the domestic steel industry has been claiming that Japan was "dumping" steel in this country as a way of making serious competitive inroads in U.S. markets. The classic definition of dumping has been the sale of a product in export markets below the selling price for the same or similar products in home markets.

But yesterday's ruling, relating to carbon steel products from Japan amounting to $174 million in 1976, was based on a new formula in the 1974 trade act.

Under this formula, the domestic selling price is ignored, and a so-called "constructive value" or fair market price is figured at actual cost of production, plus an 8 per cent profit margin. On that basis, the Treasury concluded that the Japanese steel was being dumped at 24 per cent below cost, and 32 per cent below the "constructive value." Thus bonds equal to the value of 32 per cent of the value of Japanese carbon steel exports by these companies must now be posted by importers.

If a final Treasury decision within three months confirms the preliminary findings, it will be referred to the International Trade Commission. If the ITC concludes that the Japanese imports have injured or threaten to injure the domestic steel industry, then the Treasury will impose higher tariffs in addition to the normal 7.5 per cent rate.

These are known as "dumping duties," payment of which would be assured by the bonds.

Treasury General Counsel Robert Mundheim said that the ruling was "the biggest cost-of-production anti-dumping action" ever taken.

The steel industry has been asking the Carter administration to take various actions to limit steel imports, which the industry cites as the major reason for declines in domestic steel sales and profitability. The administration, in response, has been urging the industry to pursue anti-dumping claims where they can be proved, but has been fending off pressure for import quotas.

But demands for protection have accelerated in recent weeks as major companies laid off 18,000 workers and warned that more cutbacks lay ahead.

President Carter late last week appointed a special Treasury task force headed by Under Secretary of the Treasury Anthony Solomon to recommend solutions for the domestic industry's many problems.

Meanwhile, it was learned, the Council on Wage and Price Stability (COWPS) is putting the finishing touches on a lengthy report on steel industry conditions, for delivery to President Carter on Wednesday.

This report was requested by the President last summer after the industry announced a series of price increases that were sharply criticized by the administration. Officials calculated the steel price proposals as the equivalent of a 12.5 per cent annual boost, which they said was intolerable for the economy as a whole.

The COWPS report is expected to recom-

ment against any kind of formal quota relief for the steel industry.

Special Trade Representative Robert Strauss, who said last week that congressional anxiety over steel industry unemployment might force the administration to reconsider its opposition to steel "orderly marketing agreements," (OMAs), cautioned yesterday that he did not think this the most probable decision.

In a telephone interview, Strauss acknowledged that a steel OMA, limiting European and Japanese steel imports, would be discussed, because "we are going to look at every single possible solution." But he said he thought a "monitoring mechanism," by which the U.S., the Common Market, and Japan would undertake a voluntary agreement on import levels is more likely.

At a luncheon meeting with reporters, Belgian Foreign Minister Henri Simonet warned yesterday that a steel OMA "could touch off others," and put the whole process of trade negotiations at Geneva under a cloud, just as they promise to get started again after "dragging for four years."

AIR FORCE ASSOCIATION

Mr. GOLDWATER. Mr. President, Mr. James Straubel who is executive director of the Aerospace Education Foundation of the Air Force Association, made his annual report to the board of trustees recently here in Washington. This is an effort that Americans should be aware of, an effort that all of us former Air Force people and active Air Force people are very proud of, and I think mostly because it is doing a fine job and equally important, it is not costing the Federal Government a dime. The money to run this program is made from voluntary contributions and money raised from Air Force balls held in New York and Los Angeles each year. If any of my colleagues is interested in seeing the actual material that is referred to in the report I would be very happy to supply him with it. Therefore, I ask unanimous consent that the excerpts from this report be printed in the RECORD.

There being no objection, the report excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE REPORT OF THE EXECUTIVE DIRECTOR 1977 ANNUAL MEETING OF THE BOARD OF TRUSTEES AEROSPACE EDUCATION FOUNDATION

During the past four years, nearly 1200 course packages in occupational education, each developed by the U.S. Air Force, have been purchased from our Foundation, at low cost and on a non-profit basis, by more than 500 schools in 48 states and the District of Columbia.

* * * * *

In recognition of this unique work, the American Society for Training and Development has presented our Foundation with its Human Resources Development Award, as the "best organization" of the year in this category.

* * * * *

Our transfer of vocational-technical courses is accomplished at no expense to the government. As an example of how we approach potential donors, I now quote from a summary sheet we prepared for private sponsorship of the program we call the "Chicago Project." It states:

"The Aerospace Education Foundation is carrying out a program to transfer USAF technical learning systems to the civilian classrooms.

"The 12 Chicagoland Community Colleges have approached the Foundation and expressed a need for a selected group of these systems.

"Chicagoland Community Colleges will:

a. Prepare their facilities in the use of competency-based instruction.

b. Supply equipment and training aids necessary to implement these systems.

"We are asking Chicagoland industry to share the cost of needed software to get the project underway."

We have placed our proposal before selected companies to jointly fund the project. So far we have received a pledge of $25,000 over a five-year period from W. Clement Stone. Nine firms have indicated serious interest in supporting the program to some degree, but based on their fiscal years we expect their decisions to come later this year.

* * * * *

Due to some delays in receiving course materials we need from the Air Force, our first mailing for this year will go out in early November rather than September as usual. This mailing will announce the availability, through the Foundation, of eleven new Air Force systems all in one curriculum area—Automotive Mechanics.

These new systems are structured on what we call a "shred-out" or building block basis. The first step can be any one of three selections in a basic course in Automotive Principles.

We will offer this course in classic lecture and demonstration format, and in a second format for schools which have access to a special computer system called PLATO.

The third version is based very uniquely on this computer program, as we have converted it into a printed program that can be used by schools that do not have computer facilities.

In addition, we are preparing for release on or about January 1 another group of eight courses as follows:

Metals Processing Specialist, Heat Treatment and Electroplating of Metals, Fabric and Rubber Products Specialist, Fire Protection Specialist, Non-Destructive Inspection Specialist, High Reliability Soldering and Connections, Weather Observer, and Weather Forecaster.

All the copying of motion picture, videotapes, sound slides, printed materials and other elements which make up these eight courses has been accomplished on site at Chanute Air Force Base, Illinois.

* * * * *

As you know, the Florida Air Academy has, for the past several years, contributed $2000 toward the scholarship award we make to the winner of our annual Junior ROTC contest. Beginning this year the Academy is funding five $1500 scholarships to be granted to students that the Aerospace Education Foundation selects from a group of candidates submitted to us by the Board of the Academy.

This will be known as the Senator Barry Goldwater Scholarship, at the request of the Academy and in honor of Senator Goldwater. The first five awardees have been selected for the scholarship. They come from California, Bermuda, Florida, New York State, and Mississippi.

* * * * *

As you may recall, I have briefed you on a two-year project in South Carolina, funded by the National Science Foundation. It involves adaptation of the Air Force's Electronic Principles course for use throughout their state-wide community college system. The latest report from the State indicates the following, and I quote directly:

"Air Force materials can be adapted for civilian use to provide improved instructional resources at a lower cost than would be required if prepared independently.

"Most of the Air Force student text material has been used with only minor revisions. Very few organizations could afford the man-hours required to produce the visual aids, video-tapes, and written materials developed by the Air Force and purchased from the Aerospace Education Foundation.

"The set of Air Force materials from the Foundation cost us $8,877.80 and our development, instructor time, reproduction, equipment costs, etc., are anticipated to be well over $200,000 . . . but development from ground zero would currently cost 10 to 12 million dollars."

TWO DECADES IN SPACE

Mr. STEVENSON. Mr. President, 20 years ago, on October 4, 1957, the launch of Sputnik I by the Soviet Union introduced the world to the medium of space. This first satellite launch was followed by Sputnik II on November 3, 1957, demonstrating that a conscious effort was underway to understand, explore, and exploit the space environment. While the United States was not the first nation in space, its first successful satellite, Explorer I launched on February 1, 1958, was responsible for the first satellite scientific discovery—the Van Allen radiation belt.

INITIAL SPACE OBJECTIVES

These events led to enactment of the National Aeronautics and Space Act of 1958 on July 29 of that year which established basic policies and purposes for a national space program and created the National Aeronautics and Space Administration—NASA—as the implementing agency. In retrospect, it is useful to reflect on the major objectives set forth in the act in terms of our accomplishments of the past two decades and our directions for the future. These objectives include: The expansion of human knowledge of phenomena in the atmosphere and space; the development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space; the preservation of the role of the United States as a leader in aeronautical and space science and technology and in their peaceful application within and outside the atmosphere; and cooperation by the United States with other nations and groups of nations in space.

Spurred by the national commitment made by President John Kennedy in 1961 to land a man on the Moon and return him safely to Earth before the end of the decade, the Nation moved rapidly to develop a manned space flight capability. On February 20, 1962, Col. JOHN GLENN, now one of our Senate colleagues, became the first American to orbit the Earth in the Mercury program spacecraft—Friendship VII. Following the successful Mercury and Gemini programs, the Nation experienced a tragic accident in Apollo spacecraft preflight testing in which three astronauts—Gus Grissom, Ed White, and Roger Chaffee—lost their lives. This necessitated a substantial redesign of Apollo spacecraft systems and a thorough review of all other Apollo hardware. The Apollo 204 fire was costly in lives, in time and in money. But a stronger program emerged from this

tragedy. Neil Armstrong and Buzz Aldrin successfully landed the lunar module, Eagle, on July 20, 1969. The Apollo program produced five additional lunar landings; three carried the lunar rover which significantly extended the range of scientific inquiry on the moon. The crew of Apollo 17 included the first scientist/astronaut, our colleague Dr. Harrison H. Schmitt, a geologist, who now serves with me as the ranking minority member of the Subcommittee on Science, Technology and Space.

Utilizing residual Apollo hardware, NASA launched the Skylab space station on May 25, 1973, and demonstrated the ability of humans to live and work in space for extended periods of time. In addition to the planned Skylab experiments in solar astronomy, Earth resources, space manufacturing, human factors and other areas, a launch mishap provided a unique opportunity to show man's ability and adaptability in space through the successful repair of the Skylab in orbit. The three Skylab missions were successfully conducted with increasing mission durations of 28, 59, and 84 days.

SPACE APPLICATIONS

Simultaneously with the development of a manned spaceflight capability, NASA embarked on significant developments in the applications area. The first experimental weather satellite, Tiros I, was launched on April 1, 1960, and was followed by Tiros II on November 23 of that year. These early satellites and their much-improved successors, developed by NASA to meet the requirements of the National Oceanic and Atmospheric Administration (NOAA), have led to operational weather satellite systems in both polar and geosynchronous orbits. These satellite photos can be seen daily on most home television news and weather programs.

Early experiments with communications satellite technology both in NASA and in the private sector led to enactment of the Communications Satellite Act of 1962 and the subsequent establishment of the Communications Satellite Corporation and the international consortium, Intelsat, to exploit this new technology.

NASA developments led to the launch of the first successful geosynchronous communications satellite, Syncom II, on July 23, 1963. This was the forerunner of the communications satellite which is commonplace today and which has enhanced the transmission of voice, television, and business data in developed, undeveloped, and remote areas of the earth.

More recently, on July 23, 1972, NASA launched the first Earth resources technology (Landsat) to ascertain the potential of satellite data for crop forecasting, land-use management, water-resources measurement, location of mineral resources, and for other activities essential to improved management of the Earth's resources. A second Landsat was launched on January 22, 1975, a third is being prepared for an early launch, and a system with greatly improved capability is now under development for launch in the early 1980's.

The Subcommittee on Science, Technology and Space is currently considering a bill, S. 657, introduced by Senator WENDELL FORD, which would provide the framework to exploit this technology on an operational basis as opposed to the present experimental nature of the Landsat project. While there are dissimilarities between the Landsat and the weather and communications satellite programs, there is a common international interest in all three. For example, foreign nations have weather and communications satellite terminals and three nations directly receive Landsat data with four more building Landsat receiving terminals. All new international agreements prescribe a charge of $200,000 annually for Landsat data.

SPACE SCIENCE

As important in the implementation of U.S. space policy is the expansion of scientific knowledge commonly referred to as space science. NASA has sought to build an inventory of fundamental knowledge about the Sun, the planets and interplanetary space. While investigation of the solar system and the cosmos may seem a bit esoteric, many scientists are convinced that these studies will produce information of value to the Earth and its survival as a unique body in the solar system.

Orbiting geophysical observatories, orbiting astronomical observatories, orbiting solar observatories, and Pioneer and Explorer spacecraft have been continuously and successfully flown to acquire and build on our knowledge of space physics and astronomy. The spaceborne observatory program was continued this year with the launch of the first high-energy astronomical observatory which is to be followed by two more observatories in this series, one in 1973 and another in 1979. Also a solar maximum mission will be launched in 1979 to monitor the next peak in solar activity. For fiscal year 1978, the Congress has approved NASA's request to initiate the development of a shuttle-launched space telescope, a project assigned a high priority by the Nation's scientific community. The space telescope will be placed in Earth orbit in 1983.

The United States has accumulated a host of accomplishments in its lunar and planetary space science initiatives. The Ranger, Surveyor, and Lunar Orbiter projects supported and complemented the Apollo lunar program. We have seen flybys of Venus, Mars, Mercury, Jupiter, and Saturn. Planetary exploration has been characterized by increasingly sophisticated missions and instrumentation, each building on the predecessor mission. Consequently, in 1976, NASA placed two Viking spacecraft in orbit around the planet Mars and landed two spacecraft on the Martian surface—an extraordinary engineering feat which provided pictorial as well as large amounts of technical information about the Martian atmosphere and surface environments.

Two Voyager spacecraft were launched on August 20 and September 5, 1977, respectively, for close-in missions to Jupiter and Saturn with the possibility of targeting one spacecraft for an initial encounter with the planet Uranus. It may even be possible to direct this spacecraft to the distant planet Neptune. Voyager follows the successful Pioneer missions launched in 1972. The next major events in planetary exploration will be the Pioneer Venus orbiter and multiprobe mission to be launched in 1978 followed by a 1981 Jupiter Orbiter/Probe mission approved by the Congress this year. The JOP will provide for an extended, close-in study of the solar system's largest planet and it will help unravel age-old mysteries of the solar system's origins.

INTERNATIONAL COOPERATION IN SPACE

International cooperation in space has been extensive. NASA has agreements with some 60 nations covering activities such as launch services for foreign satellites, operation of tracking and data acquisition stations, codevelopment of scientific payloads, and the acquisition of weather and Earth resources data. Most of these activities involve the day-to-day, now almost routine, business of space research and development. However, a few are highly visible, such as the Apollo/Soyuz manned flight project conducted with the Soviet Union in 1975 and the satellite broadcast experiment to community antennas conducted by the Indian Government with our ATS-6 experimental communications satellite. A significant step toward greater international cooperation lies in the agreement with the European Space Agency (EAS), a consortium of Western European nations, to develop and build Spacelab, a scientific experiment carrier which will be a prime payload in the Space Shuttle.

It has been NASA's policy to conduct its international cooperative programs on a reimbursable or a quid-pro-quo basis—for example, on a specific project NASA may provide the launch services for the scientific payload furnished by the cooperating nation, with both nations having full access to the data acquired. The breadth and diversity of the international activity testifies to the success of this aspect of our space program. Moreover, testimony before the subcommittee indicates that NASA space activities contribute $175 to $200 million annually to our balance of payments.

In summary, the record of the past two decades reflects the development and demonstration of the capability to live and work in space through the Mercury, Gemini, Apollo, and Skylab programs; the expansion of scientific knowledge through the space science programs in physics, astronomy, and planetary exploration; the development of weather, communications, and Earth resources satellites demonstrating the usefulness of space technology; the establishment of a broad program of international cooperation in space activities with agreements with some 60 nations; and the preservation of the role of the United States as a leader in space activities.

Achievements such as the Apollo and Viking landings, an operational weather satellite system, and the favorable competitive position enjoyed by our launch

systems and spacecraft technology in the world marketplace are striking evidence that NASA and the Nation have done a commendable job in carrying out the space policy which was established by act of Congress in 1958.

FUTURE DIRECTIONS

In contemplating the future direction of the national space program, it must be recognized that the Nation is making a large investment in the development of the Space Shuttle, and that there is an implicit obligation to achieve the greatest possible return on this investment. The Shuttle will provide an economical and flexible space transportation capability—available to the United States, foreign governments, and commercial users—in comparison to the current family of expendable launch vehicles. Once the Shuttle is operational in the early 1980's, launching satellites and spacecraft will be even more routine than it is today. Retrieval and repair of satellites in orbit will be feasible. Spacelab will introduce a new approach to space experimentation and operations. There is the further expectation that the Shuttle will make radical changes in what we can do and, in turn, what we may want to do in space. The utilization of the environment of space in sensible and productive ways will be the principal policy issue facing NASA and the Congress in the third decade of the space era.

These factors underlie the decision of the Congress this year to support the acquisition of a national fleet of five orbiter vehicles. This commitment places a high priority on sound planning and direction for Shuttle applications. Our immediate objective has to be getting the Shuttle operational, then understanding and using its capabilities fully.

This does not mean developing payloads simply to fill the Shuttle payload bay. It does mean planning carefully how we can most productively expand and exploit the substantive base in space science and applications that has been developed in the last two decades. In addition, the United States should be prepared to exploit fully the commercial/industrial potential of space which has only been superficially tested in Skylab experiments. The future should be characterized by sound programs with clear objectives and by the absence of space spectaculars conducted for their own sake.

We should continue to pursue our space science initiatives. It may be vitally important in the years ahead for us to understand fully the space environment in which the Earth rotates, not only from the standpoint of exterior impacts on our planet but also for the effect of our own activities on that environment. This is the principal goal of our physics, astronomy, and lunar and planetary projects. Testimony before the Senate has repeatedly stressed the unique opportunities for using the planets as laboratories to acquire knowledge which then can be applied to Earth.

Similarly, I think we must take full advantage of the Shuttle's ability to move to and from orbit routinely and rapidly, as well as its new onorbit capabilities. No longer will we have to spend years to develop, launch, and test a new instrument. The engineer and scientist can take test equipment on the Shuttle, conduct the experiment, make adjustments as necessary, and greatly reduce the time which is required to establish an operational system.

I also anticipate great interest in expanding cooperative programs with other nations in the communications, weather, Earth resources, scientific, and Spacelab areas. Although we may encounter occasional difficulties due to varying national interests, the record to date shows that significant contributions to world peace and economic development have been and are continuing to be made through cooperative international space activities. The fundamentals of science and technology are identical to all nations and all peoples. This fact provides a common base for progress.

The programs I have been discussing have required sizeable annual budgets. However, they have also produced sizeable accomplishments, contributed significantly to our national research and technology base, and created a firm foundation for future space activities. These activities will continue because human beings have a role to play in space—to search for new knowledge, and to exploit the benefits of space for the protection and improvement of the human condition. While no one can predict with certainty what this knowledge or these benefits will be, or when they will be derived, human history strongly suggests their likelihood. I accept this view and look forward to the developments of the next several decades.

For these reasons I believe it is important for the Nation to support a space program that builds on the foundation already in place, that challenges and extends our national scientific and technical capabilities and that is responsive to the mandate in the original NASA legislation. In providing this support we must also demand careful and realistic planning from those who are responsible for the day-to-day implementation of our space program. The past several years have been an example of such planning and have demonstrated how a progressive program can contribute to the national interest.

PRESIDENT SIGNS JUVENILE JUSTICE ACT

Mr. BAYH. Mr. President, I take great pride in announcing to my colleagues that yesterday in a White House ceremony in the Rose Garden, President Jimmy Carter signed into law the Juvenile Justice Act of 1977.

This measure is designed to strengthen, implement, and stabilize the 1974 landmark congressional-citizen initiative which established juvenile crime prevention as the Federal priority. Further, it announced to the youth of our Nation that they have an advocate in the Federal Government for their constitutional, legal, and human rights.

The Juvenile Justice Act amends the 1974 Juvenile Justice and Delinquency Prevention Act, which was the product of a 4-year effort, I was privileged to lead, to improve the quality of juvenile justice in the United States and to overhaul the Federal response to juvenile delinquency.

The Congress this year approved the Juvenile Justice Act amendments by an overwhelming bipartisan unanimous support.

Likewise, I am proud that this bipartisan congressional initiative was strongly endorsed in my party's national platform in the following unequivocable manner:

> A Democratic Congress in 1974 passed the Juvenile Justice and Delinquency Prevention Act to come to grips with the fact that juveniles commit a majority of the serious crimes in the United States, and to remedy the fact that federal programs thus far have not met the crisis of juvenile delinquency. We pledge funding and implementation of this Act, which has been ignored by the Republican Administration.

The measure I introduced in March is designed to carry on our congressional commitment and to fulfill my party's commitment to the program by providing the continuity and strengthened features so vital to the full implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

Never have we had a more opportune setting to fulfill these commitments.

I was especially heartened and gratified by President Carter's February 22, 1977, message to the Congress on the revisions to the fiscal year 1978 budget. The President noted that there were important goals that the revision did not reflect and then, relative to the changes made to date, Jimmy Carter said:

> The 1978 budget is essentially still President Ford's budget, with only such limited revisions as my administration has had time to make. But these revisions do reflect our careful choices among many possible options: they are important first steps toward a Federal Government that is more effective and responsive to our people's needs.

Among those "careful choices" and "important first steps—more responsive to our peoples needs" was this first clear Presidential endorsement of the Juvenile Justice Act.

Mr. President, the Carter administration requested "additional funds for juvenile justice and delinquency prevention programs that have a high potential for reducing crime and delinquency" specifically the requested amount for fiscal year 1978 restored the 1977 level of $75 million. The Congress, in turn, has approved an appropriation of $100 million for fiscal year 1978.

Although I am very pleased by this particular change in White House policy I was not surprised. When candidate Jimmy Carter was asked last October by the American Bar Association whether he favored an increased share of LEAA and other Federal funds for juvenile justice and delinquency prevention he responded in the affirmative and added:

> Both the commentators and the statistical evidence now point to the fact that court reform, corrections, and juvenile justice are the critical elements in improving crime control.

For one who has struggled to establish such Federal priorities these words

and the budget revisions reflecting a commitment to them are indeed sweet music.

Similarly, Attorney General Griffin Bell made a strong commitment to such priorities and to the full implementation of the Juvenile Justice and Delinquency Prevention Act during the Senate Judiciary Committee's confirmation hearings. In response to my inquiries as to whether, if confirmed as Attorney General, he would provide juvenile justice and juvenile crime prevention the priority it deserves and that the 1974 law and the 1976 amendment require, Judge Griffin Bell said that he would and then continued by noting:

> If we are going to do anything about crime in America, we have to start with the juvenile.

He also added the following observation:

> I have never known that our country on a national level had a criminal justice policy. I plan to establish one. If you do have a criminal justice policy, the most important part of it would be juvenile justice—how to prevent juvenile crime—I have a deep interest in that.

The law, as amended, extends the Office of Juvenile Justice and reaffirms the role of its chief executive; authorizes appropriations of $150, $175, and $200 million, respectively, for fiscal years 1978, 1979, and 1980; provides flexibility relative to the act's requirement that noncriminal offenders be deinstitutionalized; emphasizes the need to respond sensibly to the serious problems of school violence and vandalism; repeals unnecessary reporting requirements and combines others; expands the cornerstone of the 1974 act; namely, the intcgral role of nonprofit agencies and essential citizen involvement and participation; clarifies the authority of the Office to provide careful, nonemotional assessments of issues found to be of national significance and lacking in comprehensive understanding, such as the role of family violence, sexual exploitation and sexual discrimination in delinquency and juvenile justice areas, and it extends the Runaway Youth Act for an additional 3 years.

CITIZEN PARTICIPATION

State planning agencies, have not been adequately responsive to the need for meeting the crisis of juvenile delinquency and the needs of youth to obtain needed services to prevent delinquent conduct. State advisory groups, representative of a broad cross-section of citizens and juvenile justice expertise, were established by the 1974 act to advise the State planning agency and review the State's juvenile justice plan prior to supervisory board approval and submission. The Congress finds that these groups have made a substantial contribution to the State planning agency in many States. In others, however, they have been given limited duties and staff support, and have been largely stifled. It is apparent that additional statutory duties and resources must be built into the act so that these citizens groups can make the contributions envisioned by the 1974 act.

The bill broadens advisory group participation to specifically include the private business sector, youth workers involved with alternative youth programs, and persons with special experience regarding the problem of school violence and vandalism and the problem of learning disabilities, and provides that at least three of the next appointed youth members on the group must have been or must now be under the jurisdiction of the juvenile justice system.

The role of the advisory group is expanded to include a role in State plan development, a role in advising the Governor and legislature on juvenile justice matters upon request, and an opportunity to review and comment on all juvenile-related grant applications submitted to the State planning agency. While final authority to approve or disapprove grant applications must remain in the State planning agency, it is expected that advisory group grant review will be of substantial benefit to the State planning agency supervisory board. Permissive authority is granted to the Governor and the legislature, to involve the State advisory group in monitoring State compliance with the mandate of the act. It is intended that the advisory group will review the progress and accomplishments of juvenile-related projects funded under the State plan.

Finally, in order to assist State advisory groups in carrying out their duties, the new law provides 5 percent of the State's minimum formula grant allocation, will be used to assist the State advisory group to carry out its mandated and assigned functions.

SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAM

The new law expands upon the areas of special emphasis program authority enumerated in section 224 of the act. The law encourages the development of programs designed to provide more effective responses to minor delinquent conduct outside the formal juvenile justice system. Office of Juvenile Justice funded school violence and vandalism programs are strengthened and required to be closely coordinated with the Office of Education. New authority is provided to fund youth advocacy programs, the development of model youth employment programs, and programs to improve the juvenile justice system to conform to standards of due process.

The Congress adopted Senator WALLOP's suggestion to include programs designed to encourage and enable State legislatures to consider and further the purposes of the act. It is intended that the office expand its efforts in this area and build on those supported by the subcommittee, such as the contract to Legis 50—the Center for Legislative Improvement, which has provided such assistance in States including Alabama, Florida, Michigan, and New Mexico. Additionally, section 224(c) 20 percent earmarking of these funds to private nonprofits is increased to 30 percent. Again, these new authorities reflect the bill's emphasis on proactive programing. The Congress strongly emphasizes and reaffirms the intended role of State planning or local agencies regarding special emphasis assistance. Namely, that under 225(b) (5) and (8) they have solely an advisory role and under no circumstances do the views of such agencies have a determinative effect. These sections were intended merely to inform those agencies of special emphasis grants and contracts.

DEINSTITUTIONALIZATION, SEPARATION, AND MONITORING

The Juvenile Justice and Delinquency Prevention Act of 1974 called for all States participating in the formula grant program to deinstitutionalize status offenders within 2 years. The conference committee has very carefully considered the testimony before the subcommittee on the reauthorization of the act. The clear indication is that some additional flexibility must be provided to the States in their efforts to meet the deinstitutionalization requirement. Otherwise, many currently participating States—States that have acted in good faith to meet the 2-year deadline—maybe forced to withdraw, or have their eligibility terminated, from participation under the formula grant program. The children of those States would be the losers because many currently funded programs and projects would be discontinued and new programs and projects could not be initiated. The incentive to continue the deinstitutionalization, separation, and other act mandates and objectives would be severely affected.[1]

Further, Congress did not expect the low level of funding provided under the act for fiscal years 1975, 1976, and 1977. The Congress authorized appropriations of $75 million, $125 million, and $150 million for each of the 3 fiscal years. Faced with strong opposition from the Ford administration, the Congress was still able to pass appropriations for $25 million, $40 million, and $75 million for the 3 fiscal years, representing 40 percent of the authorized level.

It should be emphasized that substantial progress has been made toward the goal of deinstitutionalization since the enactment of the Juvenile Justice Act. Additional States such as California and Virginia have passed legislation requiring the deinstitutionalization of status offenders. Utah has deinstitutionalized and removed status offenders from jurisdiction of the court. Similar bills are pending in a number of State legislatures and 46 out of 56 jurisdictions eligible to participate in the juvenile justice program have made a commitment to compliance with the deinstitutionalization and separation requirements.

The continued participation of these 46 jurisdictions and the participation of the 10 jurisdictions not currently participating is one of the committees' objectives. Reaching this objective would allow the act's resources to be available to all the noncriminal incarcerated children of the United States and the act's deinstitutionalization mandate to be realized in every jurisdiction where they are held in public and private detention and correction facilities.

Therefore, the Congress has amended

[1] It is worth noting the Crime Control Act funds, especially those earmarked by sec. 261, are available to help meet the objective of deinstitutionalization.

section 223(a)(12) to provide 1 additional year, or 3 years in total, for States participating in the formula grant program to achieve compliance with the deinstitutionalization requirement. In addition, the committee has included an amendment to section 223(c) to specifically provide that any State's failure to achieve compliance with the deinstitutionalization requirement within the new 3-year time limitation shall terminate the State's eligibility for formula grant funding unless it is determined that the State is in substantial compliance with the requirement and has made an unequivocal commitment to full compliance within a reasonable time. The committee bill defines substantial compliance as 75 percent deinstitutionalization and a reasonable time as no more than 2 additional years.

The new substantial compliance standard is consistent with current Office of Juvenile Justice policy and reflects the standard agreed upon with the Subcommittee To Investigate Juvenile Delinquency following passage of the 1974 act. This provision, coupled with the extension of the section 223(a)(12) requirement from 2 to 3 years, and the addition of up to 2 additional years for full compliance, meets the need for flexibility while retaining the strong congressional commitment to the deinstitutionalization effort. The committee rejected a suggestion which was offered in the House Education and Labor Committee and later withdrawn and modified, that would have required the placement of all nonoffenders in facilities and thus eliminated a child's return home and other appropriate sensible alternatives.

As noted previously, the Congress has also included several amendments in the law designed to clarify the section 223(a)(12) and (13) deinstitutionalization and separation requirements. The committee has noted that testimony before the Subcommittee To Investigate Juvenile Delinquency on April 27, 1977, indicated that the States' initial submission of monitoring reports to the Office of Juvenile Justice on December 31, 1976, revealed some problems in clarity of data, specifically with regard to the progress achieved, the facilities monitored, and confusion regarding the definition of juvenile detention and correctional facilities.

In response to these concerns, the Congress has included in the law a requirement that all facilities for juveniles be monitored in order to determine whether they are juvenile detention or correctional facilities or other types of facilities where status offenders may be placed. The committee encourages the Office to provide technical assistance to those States that have had difficulty in generating adequate compliance and progress data. Further, the Congress has reviewed the Office's proposed definition of juvenile detention and correctional facilities, submitted to the subcommittee, and finds that the definitions fairly reflect congressional expectations of the criteria to be applied in distinguishing juvenile detention and correctional facilities from other types of facilities where status offenders may be placed.

In implementing section 223(a)(12) and (13), the committee expects the Office to follow a "rule of reason." While section 223(a)(12) appears to be an absolute prohibition, the committee recognizes that there may be rare situations in some States where short-term secure custody of status offenders is justified. For example, detention for a brief period of time prior to formal juvenile court action, for investigation purposes, for identification purposes, to allow return of proper custody to the juvenile's parents or guardian, or detention for a brief period of time under juvenile court authority in order to arrange for appropriate shelter care placement may be necessary. This would be a limited exception which the committee expects should not exceed 24 hours. The exception recognizes a balance between competing interests as highlighted by the report of the advisory committee to the Administrator on Standards for the Administration of Juvenile Justice, submitted pursuant to the Juvenile Justice Act. In its September 30, 1976, report, the advisory committee recognizes that the juvenile intake officer needs some time to gather information necessary to make proper intake and detention decisions and also recognizes the harsh impact that detention may have a juvenile:

> On the other hand, there is the harsh impact that even brief detention may have on a juvenile, especially when he/she is placed in a secure facility, and the corresponding need to assure as quickly as possible that such detention is necessary. (Standard 3.155)

It is expected that the maximum 24-hour period recommended by the advisory committee would be the outer limit and that where a shorter period is appropriate or established by State law, that LEAA would require that the shorter period be used. However, with the development of 24-hour intake encouraged by the committee bill it is expected that such exceptions, if any, would be rare indeed. Such flexibility is particularly appropriate for such sparsely populated States as Alaska or Wyoming where shelter facilities may not be readily available. At the request of the subcommittee to investigate juvenile delinquency definitions relevant to these sections were submitted by the Department of Justice. The Congress notes the significance of the definitions in providing the guidance necessary for the States to more appropriately respond to the 1974 act. Especially noteworthy are the definitions of "shelter facilities" and "juvenile detention or correctional facility." The Congress expects that Office of Juvenile Justice and administration guidelines will address such issues.

This measure will provide the stability so vital to the continuation of this congressional initiative. The 3-year extension, with the adequate funding provided when coupled with the full implementation of the provisions of the 1974 act will help assure that we have begun to address crime's cornerstone in this country—juvenile crime and violence.

Mr. President, I ask unanimous consent that the Judiciary Committee report section entitled "Conclusion" be printed at this point in the RECORD.

There being no objection, the conclusion of the report was ordered to be printed in the RECORD, as follows:

VII. CONCLUSION

The committee believes that S. 1021, as amended, will strengthen and revitalize the program established by the Juvenile Justice and Delinquency Prevention Act of 1974. The committee bill reflects recommendations included in S. 1021 as originally introduced, S. 1218, the administration bill, and the comments of many interested public and private representatives.

The Federal Government has an important responsibility to provide the leadership and coordination to assist and encourage the development of sensible, humane, and more economical responses to juvenile delinquency. Many of the multitude of factors and influences have yet to be seriously addressed. There are no panaceas. A reauthorization of the 1974 Juvenile Justice and Delinquency Prevention Act will ban important step. As Attorney General Bell stressed to the committee earlier this year, the most essential and important ingredient of a national criminal justice policy is the prevention of juvenile crime. There must be a commitment by all our citizens to begin to resolve the legal and social problems and attitudes relevant to children in trouble. Alternatives to unsound policies must be developed and encouraged. Many States, localities and private interests are already beginning to redirect and increase their efforts. The 1974 act has contributed to this progress. The committee believes that S. 1021, as amended, further emphasizes the type of commitment that is requisite. Passage of the bill will refocus this clear product of bipartisan congressional and citizen initiative, and permit what President Carter characterized as the program's "high potential for reducing crime and delinquency" to be realized.

Mr. President, I am especially gratified today that the President has signed this act that we in the Senate and House, including our collective staffs, have labored on so diligently to strengthen and revitalize the goal we established more than 6 years ago. This act represents a culmination of years of hard work and the expertise and dedication of a great many individuals in both the private and public sector. The importance of this legislation cannot be overstated.

While we in government are attempting to achieve a balanced budget, certain crisis problems such as juvenile justice and delinquency prevention demand an immediate mobilization of Federal resources for our States, counties, cities and local private organizations who are best equipped to focus their energies on and to adapt these resources to their own needs. We realize that the crisis of juvenile delinquency must be met, but none of us can hope to prevail if we operate alone, but together, along with the strong support of President Carter, Attorney General Bell and the new Administrator of the Juvenile Justice Office, John Rector, we can move toward attainment of our mutual goals. We have begun.

We in the Federal Government know all too well, to paraphrase Abraham Lincoln, that we cannot escape the responsibility of tomorrow by evading it today. We acknowledge our part in seeking to improve our Nation's juvenile justice system today. Not everything that

is faced can be changed, but nothing can be changed until it is faced.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a chart on the LEAA appropriation history from 1969 through the present, a chart on the LEAA distribution of parts B, C, E and J.J. & D.P. formula funds for fiscal year 1978 and a summary of the Juvenile Justice Act History and the Runaway Youth Act history.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEAA APPROPRIATION HISTORY

[In thousands of dollars]

Budget activity	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 actual	Transition quarter actual	1977 actual	1978 actual
1. Direct assistance (formula grants):											
a. Planning formula grants	19,000	21,000	26,000	35,000	50,000	50,000	55,000	60,000	12,000	60,000	50,000
b. Corrections formula grants			25,000	48,750	56,500	65,500	56,500	47,739	10,500	36,838	29,849
c. Juvenile justice formula grants							10,600	23,300	5,750	47,625	64,000
d. Criminal justice formula grants	24,650	182,740	340,000	413,695	480,250	480,250	480,000	405,412	84,660	313,123	253,717
2. Collateral assistance (discretionary grants and contracts):											
a. Criminal justice program (pt. C discontinued)	4,350	32,000	70,000	73,005	88,750	88,750	84,000	71,544	14,940	55,256	53,179
b. Correctional programs (pt. E discontinued)			22,500	48,750	56,500	56,500	46,500	47,739	10,500	36,838	35,453
c. Juvenile justice programs:											
Special emphasis							10,750	11,500	2,950	18,875	25,000
Juvenile justice institute							3,150	4,000	1,000	7,500	10,000
Concentration of Federal effort								500		1,000	1,000
Total juvenile justice							13,900	16,000	3,950	27,375	
d. High crime area program										15,000	15,000
e. Community anticrime program		1,200	4,000	6,000	10,000	12,000	14,000	13,000	2,500	13,000	11,000
f. Technical assistance											
g. Educational assistance and special training programs:											
LEEP	6,500	18,000	21,250	29,000	40,000	40,000	40,000	40,000	40,000	40,000	30,000
Educational development			250	1,000	2,000	2,000	1,500	500		500	500
Internship			500		500	500	500	250		300	300
Sec. 402 training			500	1,000	2,250	2,250	2,250	2,520	600	3,250	3,168
Sec. 407 training					250	250	250	250		250	250
Total educational assistance	6,500	18,000	22,500	31,000	45,000	45,000	44,500	43,250	40,600	44,300	
h. National institute: Enforcement and criminal justice	3,000	7,500	7,500	21,000	31,598	40,098	42,500	32,400	7,000	27,029	21,000
i. Data systems and statistical assistance		1,000	4,000	9,700	21,200	24,000	26,000	25,622	6,000	21,522	16,000
3. Public safety officers' benefits program										29,600	15,000
4. Management and operations	2,500	4,487	7,454	11,823	15,568	17,428	21,500	23,632	6,560	26,936	26,844
Total	60,000	267,937	528,954	698,372	[1] 841,166	870,526	[2] 887,171	809,638	204,960	754,442	
Transfer to other agencies	3,000	182	46	196	14,431	149	7,829				
Total appropriated	63,000	268,119	529,000	698,919	855,597	870,675	895,000	809,638	204,960	754,442	647,250
Positions (PFT)	225	343	448	546	660	691	[3] 801	822	[4] 822	830	

[1] Includes $14,200,000 transferred to DOJ.
[2] Includes $7,829,000 transferred to DOJ, and $10,000,000 transferred to juvenile justice.
[3] Includes 51 positions appropriated through juvenile justice supplemental.
[4] Includes 20 positions transferred from Bureau of Prisons, 1 from HEW.

Note: Congress required in 1974 and again in 1976 under sec. 261 of the act that LEAA allocate 19.15 percent of its non-JJDPA moneys to the area of juvenile justice for each of the above cited components.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION DISTRIBUTION OF PARTS B, C, E, AND J.J. & D.P. FORMULA FUNDS FOR FISCAL YEAR 1978

[In thousands of dollars]

State	Part B	Part C	Part E	J.J. & D.P.	State	Part B	Part C	Part E	J.J. & D.P.
Alabama	852	4,240	499	1,102	New Jersey	1,470	8,601	1,012	2,077
Alaska	311	428	50	225	New Mexico	440	1,342	158	385
Arizona	618	2,594	305	695	New York	3,258	21,202	2,494	5,008
Arkansas	601	2,475	291	626	North Carolina	1,156	6,382	751	1,609
California	3,778	24,864	2,925	5,953	North Dakota	356	747	88	225
Colorado	673	2,980	351	751	Ohio	2,087	12,591	1,481	3,192
Connecticut	766	3,636	428	867	Oklahoma	702	3,184	375	765
Delaware	346	679	80	225	Oregon	630	2,679	315	639
Florida	1,628	9,708	1,142	2,193	Pennsylvania	2,224	13,911	1,637	3,250
Georgia	1,071	5,784	680	1,530	Rhode Island	405	1,092	129	257
Hawaii	394	1,018	120	265	South Carolina	719	3,303	389	886
Idaho	385	954	112	261	South Dakota	363	799	94	225
Illinois	2,113	13,133	1,545	3,275	Tennessee	944	4,895	576	1,214
Indiana	1,134	6,232	733	1,604	Texas	2,287	14,353	1,689	3,764
Iowa	726	3,356	395	838	Utah	450	1,411	166	423
Kansas	629	2,674	315	633	Vermont	329	554	65	225
Kentucky	814	3,973	467	1,013	Virginia	1,079	5,842	687	1,443
Louisiana	883	4,464	525	1,234	Washington	842	4,174	491	1,017
Maine	426	1,241	146	315	West Virginia	549	2,110	248	514
Maryland	936	4,835	569	1,207	Wisconsin	1,014	5,383	633	1,382
Massachusetts	1,218	6,819	802	1,624	Wyoming	313	441	52	225
Michigan	1,766	10,686	1,257	2,825	District of Columbia	368	835	98	225
Minnesota	903	4,599	541	1,184	American Samoa	255	33	4	56,250
Mississippi	640	2,746	323	776	Guam	267	117	14	56,250
Missouri	1,043	5,591	658	1,351	Puerto Rico	741	3,461	407	1,105
Montana	374	875	103	230	Virgin Islands	264	97	12	56,250
Nebraska	507	1,811	213	451	Trust Territory	270	139	16	56,250
Nevada	348	692	81	225					
New Hampshire	385	952	112	242	Total	50,000	253,717	29,849	64,000,000

SUMMARY OF JUVENILE JUSTICE ACT HISTORY

On February 8, 1972, Senator Bayh introduced S. 3148, the Juvenile Justice and Delinquency Prevention Act of 1972. (White House Office).

Hearings were held by the subcommittee on April 28, May 15, 16 and June 27, 28, 1972 on S. 3148.

On February 8, 1973, Senator Bayh reintroduced the Juvenile Justice and Delinquency Prevention Act of 1973 as S. 821. (White House Office).

Hearings were held by the subcommittee on February 22, March 26, 27 and June 26, 27, 1973 on S. 821.

On March 28, 1973, the House introduced S. 821 as H.R. 6265, which with modifications, became H.R. 15276.

On March 5, 1974, the subcommittee reported S. 821 to Judiciary (HEW Office) and on May 8, 1974, the judiciary reported S. 821 to the Senate (LEAA Office).

On July 1, 1974, H.R. 15276 passed the House by a 329 to 20 vote; on July 25, 1974,

S. 821 passed the Senate by an 88 to 1 vote; subsequently a House-Senate Conference was held on the differences of the two passed bills and on August 19, 1974, the Senate passed the compromise version of S. 821 unanimously; on August 21, 1974 the House passed the compromise version of S. 821 the measure was sent to the President.

Signed into law on September 7, 1974 as Public Law 93–415.

Administered by the office of juvenile justice and delinquency prevention of the Department of Justice.

On September 24, 1975, the President nominated as Assistant Administrator of LEAA to administer the office of juvenile justice and delinquency prevention Mr. Milton Luger of New York. Hearings were held by the subcommittee on October 30 and the Senate confirmed the nomination on November 11, 1975.

Despite stiff Ford administration opposition, $25 million was obtained in the fiscal year 1975 supplemental. The act authorized $125 million for fiscal year 1976; the President requested zero funding; the Senate appropriated $75 million; and the Congress approved $40 million. In January, 1976, President Ford proposed to defer $15 million from fiscal year 1976 to fiscal year 1977 and use $10 million of the $150 million authorized for fiscal year 1977, or a $30 million reduction over fiscal year 1976. On March 4, 1976, the House, on a voice vote, rejected the Ford deferral by approving a resolution offered by the chairman of the State, Justice, Commerce and Judiciary Appropriation Subcommittee. On July 14 the President signed a bill appropriating $75 million for fiscal year 1977, or half of the authorization. A bill amending the Omnibus Crime Control and Safe Streets Act which mandated the Law Enforcement Assistance Administration to spend 19.15 percent of their total funds in the area of juvenile delinquency prevention, or approximately $130 million for the 1977 fiscal year, was signed by the President on October 15, 1976.

Carter revised budget requests $75 million for Juvenile Justice Act.

On March 17, 1977, Senator Bayh introduced the juvenile justice amendments of 1977, S. 1021.

On April 1, 1977, Senator Bayh introduced, on request, the Carter administration 3-year extension bill as S. 1218.

On April 27, 1977, Senator Culver chaired subcommittee hearings on S. 1021 and S. 1218.

On May 13, 1977, HR 6111, as amended was reported from the House Education and Labor Committee, Report No. 93–313.

On May 14, 1977, S. 1021, as amended was reported from the Senate Judiciary Committee, Report No. 95–165.

On May 18, 1977, H.R. 6111 passed the House by a vote of 389–5; on June 21, 1977 the Senate struck the language of H.R. 6111 and substituted the language of S. 1021, and unanimously passed this version of H.R. 6111, as amended; subsequently a House-Senate Conference was held on the differences of the two passed bills and the Conference substitute amendment was filed on July 27, 1977.

On June 30, 1977 the House-Senate Appropriations Conference met and agreed to $100 million for the Juvenile Justice Act for fiscal year 1978.

On July 28, 1977, H.R. 6111 Conference Report unanimously passed the Senate, Senate Report 95–368.

On September 23, 1977, H.R. 6111 Conference Report unanimously passed the House.

On October 3, 1977, President Carter signed H.R. 6111 into law.

SUMMARY OF RUNAWAY YOUTH TITLE HISTORY

On November 9, 1971, Senator Bayh introduced S. 2829, the Runaway Youth Act.

Hearings were held by the subcommittee to investigate juvenile delinquency on January 13, 14, 1972, on S. 2829.

On July 31, 1972, S. 2829 passed the Senate unanimously.

On January 31, 1973, Senator Bayh reintroduced the Runaway Youth Act as S. 645.

On June 8, 1973, S. 645 passed the Senate unanimously; was introduced in the House on July 16, 1973, as H.R. 9298 and was incorporated into H.R. 15276 and S. 821 sent to the President on August 21, 1974.

Signed into law on September 7, 1974, as title III of Public Law 93–415, the Juvenile Justice and Delinquency Prevention Act of 1974.

Administered by the Department of Health, Education, and Welfare, Office of Youth Development.

Public Law 93–415 authorizes $10 million for each fiscal year 1975, 1976, and 1977.

Labor-HEW appropriation bill, H.R. 8069, passed the Senate September 26, 1975. Reported out of House-Senate Conference on December 8, 1975, and sent to the President.

Five million dollars appropriated for fiscal year 1975, $7 million appropriated for fiscal year 1976, $1.2 million appropriated for the transmittal period (July 1–October 1).

Labor-HEW appropriations bill was vetoed by the President on December 19, 1975, veto overridden on January 27, 1976, by the House ($8.2 million for July 1, 1976, to September 30, 1977.)

Nine million dollars appropriated by fiscal year 1977.

Ford budget deletes funding for Runaway Youth Act. Carter revised budget request, restores fiscal year 1977 level to fiscal year 1978.

Senator Bayh introduces S. 1021 extending the Runaway Youth Act for 5 years. No administration bill proposed.

On May 14, 1977, S. 1021, as amended was reported from the Senate Judiciary Committee, Report No. 95–165, included a three year extension at $25 million each year for the Runaway Youth Act.

On May 19, 1977, H.R. 6111 passed the House by a vote of 389–5, included a three year extension at $25 million for fiscal year 1978 and such sums for fiscal years 1979 and 1980 and included a provision that permitted the President, effective January 1, 1978 to transfer the program from HEW to the ACTION Agency; on June 21, 1977 the Senate struck the language of H.R. 6111 and substituted the language of S. 1021, and unanimously passed this version of H.R. 6111, as amended; subsequently a House-Senate Conference was held on the differences of the two passed bills and the Conference substitute amendment was filed on July 27, 1977. The substitute amendment to H.R. 6111, would extend the Runaway Youth Act for three years at $25 million per year, included a provision that permits the President, effective April 30, 1978 to transfer the program from HEW to the Office of Juvenile Justice and Delinquency Prevention or to the Action Agency.

Senate Labor-HEW appropriation bill, H.R. 7555, appropriated $16 million for fiscal year 1978, House appropriated $9 million for fiscal year 1978 and the House-Senate appropriation Conference agreed to $12 million for fiscal year 1978.

On July 28, 1977, H.R. 6111 Conference Report unanimously passed the Senate, Senate Report 95–368.

On September 23, 1977, H.R. 6111 Conference Report unanimously passed the House.

On October 3, 1977, President Carter signed H.R. 6111 into law.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Richard D. Dutremble, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years vice Charles J. Pooler.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, October 11, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearings which may be scheduled.

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) made an excellent argument in opposition to the new Panama Canal treaties in testimony before the Senate Foreign Relation Committee this morning.

I ask unanimous consent that Senator THURMOND's testimony and supporting documents be presented to the committee and be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR THURMOND BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON RATIFICATION OF THE PANAMA CANAL TREATIES

Mr. Chairman: I am here this morning to present to the Committee and the American people my reasons for opposing the treaties with Panama.

My interest in the Panama Canal is longstanding. Over the years I have introduced several bills to modernize the Panama Canal. In the 94th Congress, I offered a resolution signed by 38 other Senators opposing the surrender of this waterway to Panama. Last August, I visited the Canal Zone for briefings and study to ascertain any changes since my previous visit several years before.

While I recognize the need for some adjustments with Panama concerning the Panama Canal, I see the retention of U.S. sovereignty as basic to continued "practical control" of the Canal, which even the President has expressed himself as being necessary.

My 1976 resolution was more than sufficient warning to both the Ford and Carter Administrations relative to the Senate's concern in this matter and to alert the government of Panama that the treaties would be scrutinized closely. Yet the treaties have been signed with great fanfare, and the threats from Panama strongly suggest either we ratify or pay the consequences of violence and disruption in the Canal Zone. In fact, Panamanian chief negotiator Escobar Bethancourt went so far as to say ". . . This country (Panama) will take a course of violence" if the treaties are not ratified.

At no time in my memory have such threats and pressure been exerted on the Senate as is the case with these treaties. In making our decision, however, we must rationally decide what is in the best interest of our Nation, irrespective of the pressures and threats directed toward us.

IMPORTANCE OF CANAL

I disagree completely with Ambassador Linowitz's statement to this Committee last week that the Canal has become "economically obsolescent." This statement is designed to denigrate the importance of the Canal and thus make the proposed treaties more palatable.

The Canal is one of a very few vital world waterways. It permits rapid two-ocean commerce very beneficial to our Nation. In 1975 about 14,000 ships transited the Canal. Approximately 70 percent of the traffic originated in the United States or was bound for the United States. It is estimated that 45 percent of Alaskan oil will be shipped through the Canal by 1980.

Furthermore, its value from a national security standpoint is attested to by heavy use during the Korean and Vietnam Wars. Approximately 98 percent of our Navy can use this Canal. As an example, in FY 1968, about 70 percent of U.S. Government cargo headed for Vietnam used the Canal. U.S. Government vessels passing through the Canal increased from 285 in 1964 to 1,504 in 1968; 1,376 in 1969; and 1,068 in 1970 during the height of the Vietnam War.

Also, we must not forget our Navy has declined from 900 ships to less than 500. Admiral Thomas Moorer, immediate past Chairman of the Joint Chiefs, states we no longer have a two-ocean Navy. All of our current major war plans are contingent on the interchange of ships between the Atlantic and Pacific Oceans. Ships of the Third and Seventh Fleets in the Pacific may have to bolster the Second Fleet or even the Sixth Fleet. All of our military services—Army, Navy and Air Force—depend on logistical support which transits the Canal regularly.

Four former Chiefs of Naval Operations have attested to the strategic importance of the Canal in a personal letter to the President. These four great naval strategists, Admirals Anderson, Burke, Carney and Moorer, have retired from the active service and speak from great experience. In their letter to the President, they warned:

"Loss of the Panama Canal, which would be a serious setback in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive."

REJECT SLOGANS

Now that we have clearly established the importance of the Canal, I want to reject outright the slogan that "Use of the Canal is more important than ownership." A more sensible slogan would be "Ownership assures control." As a matter of fact, it can be argued that our giving up ownership of the Canal would diminish our chances for having free access to the Canal, particularly when we consider, for example, Panama's historic instability. Once the U.S. gives up sovereign and effective control of the Canal Zone and Canal, it will be, in effect, an outsider with highly questionable authority to intervene if the neutrality of the Canal is threatened. This Country would be in a very difficult position internationally and domestically if it had to resurrect "gunboat diplomacy" and intervene in Panama after we surrender sovereign rights.

WHY OPPOSED?

In an effort to be brief and avoid repetition of prior testimony, I will attempt to list my reasons for opposing the treaties.

I. Nature of Panamanian Government

I do not believe we should negotiate on such a vital issue with a government leader who deposed an elected President by military force and over a period of 9 years has not provided the people of Panama free elections. In this period, the Torrijos government has pushed the national debt from $167 million to over $1.5 billion. Today, about 39 percent of the Panama budget goes to service this national debt. Furthermore, this government of 1.7 million people has promoted close relations with Cuba and the Soviet Union, two expansionist powers unfriendly to our Country. I seriously question why we should make national heroes out of government officials who have virtually eliminated all political and civil rights of their people. The documented human rights record of the Torrijos government is one of the worst in the world.

One might ask, Once sovereignty is given to Panama, will that government remain friendly to the U.S.? Does the Panamanian government have the political strength or will to resist outside interference? Does it have the economic vitality to maintain and protect one of the world's vital waterways? What will we be paying after the year 2000 to keep the Canal open? If Panama finds it is unable to cope with the complex operation of the Canal, to whom will they turn? If to us, it means great outlays of cash. The only other great power to which it could turn would be the Soviet Union, through its figurehead Castro.

Mr. Chairman, I wish to point out that in the prepared statements of Ambassadors Bunker and Linowitz, Secretary Brown and General Brown, before this Committee, not one single time did any of these witnesses mention the name of General Torrijos. That should tell the Committee something about the nature of the government to which we are being asked to turn over an approximate $8 billion national and world resource.

II. Sovereignty surrendered

I further oppose this treaty because it grants to Panama sovereignty six months after ratification, not in the year 2000, as the public has been led to believe. Once sovereignty is surrendered, control is lost for all practical purposes and control governs use.

III. Property surrendered

Six months after ratification of the Treaty, the Canal Zone ceases to exist and about 65 percent of the land and 10 of the 14 U.S. bases are given to Panama. The remaining land adjoining the Canal itself is under limited U.S. control for the purpose of operating the Canal. We oblige ourselves to pay the Panama government huge sums in various ways, totaling up to nearly $1.5 billion over the next 22 years. By the year 2000, we will be turning over an investment valued at approximately $9.3 billion.

IV. Military pact rejected

Our negotiators sought but failed to obtain a military pact with Panama for minimal base rights which would have greatly enhanced our ability to assure the Canal's neutrality after the year 2000. Negotiator Bethancourt stated in his address to the Panama Assembly on August 18 the U.S. desire for defense forces after the year 2000 "created a deadlock in the negotiations for some time because Panama opposed signing of a military pact." Instead, we accepted an ambiguous neutrality pact.

V. Foreign troops allowed?

While U.S. negotiators claim the Neutrality Treaty allows only Panama to maintain troops on its own territory after the year 2000, the Treaty is silent on prohibiting foreign troops prior to the year 2000. There is nothing to prevent Panama from introducing Cuban, Soviet or troops of any other nation into those areas of the Canal Zone we surrender six months after the proposed ratification of the treaty in 1978. Changing political events could prompt Panama to take such a step. In my judgment, a prohibition on foreign troops prior to the year 2000 was one of the many errors made by our Canal negotiators.

VI. New canal prohibited

Another part of the Treaty with which I find fault is the provision prohibiting our construction of a sea-level canal prior to the year 2000, except in Panama or only with the permission of Panama. In this instance, we have surrendered an option which may be forced upon us. While I feel a sea-level canal is unnecessary, why have we foreclosed this option? In doing so, we place ourselves at the mercy of the government which controls Panama.

VII. Privileged passage

The right to priority passage is also denied us in Article VI of the Neutrality Treaty. Instead of "priority passage" through a canal we built and have maintained for the world's benefit, we are promised only "expeditious passage." Mr. Bethancourt has stated privileged passage sought by our negotiators was specifically rejected. The differences in statements made by the negotiators on the two sides make it unclear what our rights would be in a given situation, although priority passage through the Canal could be vital to our national security in an emergency or war.

VIII. Unfriendly ships assured passage

Presently, as a result of our control of the Canal, we could deny passage to adversary ships as a practical matter in time of an international crisis or war. Under the Treaty we surrender this right as it cannot be exercised once practical control of the Canal is surrendered. This means ships aiding an enemy of the U.S. could transit supplies through the Canal.

IX. Neutrality treaty

One of my most significant concerns is the ambiguity contained in the Neutrality Treaty. Ambassador Linowitz and others have maintained that no limits were spelled out in the Treaty, so we will be free to take whatever steps are necessary to protect the neutrality of the Canal. These remarks might be reassuring to the American public, except for the comments made by Chief Negotiator Bethancourt on these provisions to the Panama Assembly on August 19. He stated:

"Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact." (applause)

Additionally, in an August 24, 1977 radio broadcast, Mr. Bethancourt is quoted as saying:

"The pact does not establish that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated . . ."

Later he stated:

". . . the neutrality pact does not provide that the United States will say when neutrality is violated."

Indeed, Mr. Chairman, Article IV and V of the Neutrality Treaty are so ambiguous as to lend themselves to various interpretations. This reason alone is sufficient to reject the Treaties.

BROAD CONCERNS

Mr. Chairman, these are some of the specific concerns I have relative to these Treaties. There are other broader issues involved. Will our ratification of these treaties be seen as a pattern of withdrawal in view of our retreat in Korea, Southeast Asia and possibly Taiwan? This misguided direction of our foreign policy engenders consternation on the part of our Allies and audacity on the part of our adversaries.

This type of audacity has been been highlighted by the reckless and provocative statements of Mr. Bethancourt and others about violence.

We cannot hope to deal effectively with other Nations as a world leader if we yield to blackmail. That is the only word to describe the threats of violence and sabotage which treaty proponents are broadcasting far and wide, and using as their chief argument for ratification. If the Senate were to ratify a treaty in the face of such threats, it would show the world a new policy alien to our national character and our history and which would invite further exploitation.

While I will leave to others the history of our acquisition of this property, no one can deny its benefits to Panama.

BENEFITS TO PANAMA

Between 1946 and 1973, according to the House Appropriations Committee hearings, Panama was the recipient of $342 million in total U.S. aid, more per capita aid than was granted to any other country in the world. Benefits to Panamanians in 1975 alone amounted to $29 million in direct purchases in Panama by U.S. agencies; $108 million in wages to non-U.S. citizens; and $39 million in expenditures by U.S. employees. We have not exploited Panama; rather, our aid has enabled its people to enjoy one of the highest GNPs per capita among all 19 Latin American nations, and the highest per capita income in Central America. Panama has from 1960 to 1973 a per capita growth rate surpassed only, and barely, by Brazil. Furthermore, U.S. private investments represent 50 percent of the capital investment in Panama.

POSITIVE ALTERNATIVES

Mr. Chairman, I am not opposed to a new arrangement with Panama, but strongly opposed to this treaty. In the past, I have supported the Terminal Lake-Third Lock Modernization Plan. This would provide for approximately $2.5 billion in capital investments over a 5 to 10 year period. Such a major step will provide an opportunity for mutual cooperation and an even greater partnership between the people of the United States and the people of Panama.

Under no circumstances, however, can we afford to cede sovereignty over the Canal to Panama. Stability for the Canal can only be maintained by U.S. control. Without sovereignty, we have no control. No provision of the treaties is more detrimental to our national interest than the provision which relinquishes sovereignty and control.

In conclusion, Mr. Chairman, neither our interests nor the interests of the people of Panama are served by the treaties. The only outcome of ratification can be danger ahead.

ADDENDUM TO STATEMENT BY SENATOR STROM THURMOND BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON RATIFICATION OF THE PANAMA CANAL TREATIES

Mr. Chairman: In order to provide in detail some additional information to the Committee, I am submitting the following documents and ask that they be made a part of the Hearing Record:

1. Letter dated June 8, 1977 from Admirals George Anderson, Arleigh A. Burke, Robert Robert C. Carney, and Thomas Moorer on the importance of the Panama Canal to the defense of the United States.

2. Freedom House 1977 Comparative Survey of Freedom, which details Panama's rating on human rights.

3. Panamanian interpretation of treaty provisions in speeches before the Corregimiento Assembly as reported by the Foreign Broadcast Information Service.

JUNE 8, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Chiefs of Naval Operations, fleet commanders and Naval Advisers to previous Presidents, we believe we have an obligation to you and the nation to offer our combined judgment on the strategic value of the Panama Canal to the United States.

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this Inter-oceanic waterway is as important, if not more so, to the United States than ever. The Panama Canal enabled the United States to transfer its naval forces and commercial units from ocean to ocean as the need arises. This capability is increasingly important now in view of the reduced size of the U.S. Atlantic and Pacific fleets.

We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the Canal as it exists today. The super-tankers represent but a small percentage of the world's commercial fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of a short-range, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants. In the years ahead as carriers become smaller or as the Canal is modernized, this problem will no longer exist.

Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict.

As long as most of the world's combatant and commercial tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost. Moreover sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the over-all U.S. defense capability, with enormous potential consequences for evil.

Mr. President, you have become our leader at a time when the adequacy of our naval capabilities is being seriously challenged. The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost, depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious set-back in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive.

For meeting the current situation, you have the well-known precedent of former distinguished Secretary of State (later Chief Justice) Charles Evans Hughes, who, when faced with a comparable situation in 1923, declared to the Panamanian government that it was an "absolute futility" for it "to expect an American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903," (Ho. Doc. 474, 89th Congress, p. 154).

We recognize that a certain amount of social unrest is generated by the contrast in living standards between Zonians and Panamanians living nearby. Bilateral programs are recommended to upgrade Panamanian boundary areas. Canal modernization, once U.S. sovereignty is guaranteed, might benefit the entire Panamanian economy, and especially those areas near the U.S. Zone.

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Very respectfully,

GEORGE ANDERSON.

THE COMPARATIVE SURVEY OF FREEDOM
TABLE OF NATIONS

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Afghanistan	7	6	NF	0
Albania	7	7	NF	0
Algeria	*6	6	NF	0
Andorra	4	4	PF	0
Angola	6	6	NF	0
Argentina	6	5	NF−	+
Australia	1	1	F	0
Austria	1	1	F	0
Bahamas	1	2	F	0
Bahrain	6	4	PF	0
Bangladesh	7	4?	PF+	0
Barbados	1	1	F	0
Belgium	1	1	F	0
Benin [4]	7	7	NF	0
Bhutan	4	4	PF	0
Bolivia	6	*4	PF	0
Botswana	2	3	F	0
Brazil	4	5	PF	0
Brunei	6	5	NF	0
Bulgaria	*7	7	NF	0
Burma	6	6	NF	0
Burundi	7	6	NF	0
Cambodia [4]	7	7	NF	0
Cameroon	*7	*5	NF*	0
Canada	1	1	F	0
Cape Verde Islands	*6	*6	NF	0
Central African Republic	7	7	NF	+
Chad	7	6	NF	0
Chile	7	5	NF	+
China (Communist)	7	7	NF	0
China (Nationalist)	*5	5	PF*	0
Colombia	2	3	F	0
Comoro Islands	5	*3	PF	0
Congo Republic	5	6	PF	0
Costa Rica	1	1	F	0
Cuba	7	*6	NF	+
Cyprus	3+	4	PF	0
Czechoslovakia	7	6	NF	0
Denmark	1	1	F	0
Dominican Republic	4	*3	PF	0
Ecuador	*6	4	PF	0
Egypt	5+	4	PF	+
El Salvador	3−	3	PF−	0
Equatorial Guinea	6	7	NF	0
Ethiopia	7	6	NF	0
Fiji	2	2	F	0
Finland	2	2	F	0
France	1	*1	F	0
Gabon	6	6	NF	0
Gambia	2	2	F	0
Germany (East)	7	7	NF	+
Germany (West)	1	1	F	0
Ghana	7	5	NF	0
Greece	2	2	F	0
Grenada	2	4	PF	0
Guatemala	4	3	PF	0
Guinea	7	7	NF	0
Guinea-Bissau	6	6	NF	0
Guyana	3+	3	PF	0
Haiti	6	6	NF	0
Honduras	6	3	PF	0
Hungary	6	6	NF	0
Iceland	1	1	F	0
India	3−	5	PF	0
Indonesia	5	5	PF	0
Iran	6	6	NF	0
Iraq	7	7	NF	0
Ireland	1	*1	F	0
Israel	2	3	F	0
Italy	*2	*1	F	0
Ivory Coast	6	5	NF	0
Jamaica	1	3−	F	0
Japan	2	1	F	0
Jordan	6	6	NF	0
Kenya	5	5	PF	0
Korea (North)	7	7	NF	0
Korea (South)	5	6−	PF?	0
Kuwait	6−	5−	NF−	0
Laos	7−	7−	NF−	0
Lebanon	4	4	PF	0
Lesotho	5	4	PF	0
Liberia	6	4	PF	0
Libya	7	6	NF	0
Liechtenstein	4	2	PF	0
Luxembourg	2	1	F	0
Malagasy Republic	6−	5	NF−	0
Malawi	7	6	NF	0
Malaysia	3	4	PF	0

Footnotes at end of table.

THE COMPARATIVE SURVEY OF FREEDOM
TABLE OF NATIONS—Continued

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Maldives	4	4	PF	0
Mali	7	7	NF	0
Malta	1	2−	F	0
Mauritania	6	6	NF	0
Mauritius	3	2	F	0
Mexico	4	4−	PF	0
Monaco	4	2	PF	0
Mongolia	7	7	NF	0
Morocco	5	5	PF	+
Mozambique	7−	7−	NF	0
Nauru	2	2	F	0
Nepal	6	5	NF	0
Netherlands	1	1	F	0
New Zealand	1	1	F	0
Nicaragua	5	*5	PF	0
Niger	7	6	NF	0
Nigeria	6	*4	PF	+
Norway	1	1	F	0
Oman	*6	6	NF	0
Pakistan	*4	5	PF	0
Panama	7	6	NF	0
Papua-New Guinea	*2	2	F*	0
Paraguay	5	6−	NF−	0
Peru	6	4	PF	+
Philippines	5	5	PF	0
Poland	6	6	NF	+
Portugal	2+	2+	F+	0
Qatar	*5	5	PF*	0
Rhodesia	6	5	NF	0
Rumania	7	6	NF	+
Rwanda	7	5	NF	0
San Marino	2	2	F	0
Sao Tome and Principe	5	5	PF?	0
Saudi Arabia	6	6	NF	0
Senegal	6	4	PF	+
Seychelles	1+	2	F	0
Sierra Leone	6	5	PF	0
Singapore	5	5	PF	0
Somalia	7	*7	NF	0
South Africa	4	5	PF	+
Spain	5	3+	PF	+
Sri Lanka	2	*3	F*	0
Sudan	6	6	NF	0
Surinam	2	2	F	0
Swaziland	6	4	PF	0
Sweden	1+	1	F	0
Switzerland	1	1	F	0
Syria	6	*6	NF	0
Tanzania	6	6	NF	0
Thailand	6−	6−	NF−	+
Togo	7	6	NF	0
Tonga	5	3	PF	0
Transkei	6	5	NF?	0
Trinidad and Tobago	2	2	F	+
Tunisia	6	5	NF	0
Turkey	2	3	F	0
Uganda	7	7	NF	0
U.S.S.R.	7	6	NF	0
United Arab Emirates	*5	5	PF*	0
United Kingdom	1	1	F	0
United States	1	1	F	0
Upper Volta	5+	5−	PF	+
Uruguay	6−	*6	NF−	+
Venezuela	*1	2	F	0
Vietnam	7	7	NF	0
Western Samoa	4	2	PF	+
Yemen (North)	6	5	NF	0
Yemen (South)	7	7	NF	0
Yugoslavia	6	6	NF	0
Zaire	7	6+	NF	0
Zambia	5	5	PF	0

[1] The scales use the numbers 1-7, with 1 comparatively offering the highest level of political or civil rights, and 7 the lowest. A plus or minus following a rating indicates an improvement or decline in the rating since the last survey. A rating marked with an asterisk (*) has been changed since the last survey due to reevaluation by the author. This does not imply any change in the country. For further information on the scale and survey see Freedom at Issue. January-February 1973. p. 2ff.

[2] A free state is designated by F, a partly free state by PF, and a not free state by NF.

[3] A positive outlook for freedom is indicated by a plus sign, a negative outlook by a minus, and relative stability of ratings by a zero. The outlook for freedom is based on the problems the country is facing, the way the government and people are reacting to these problems, and the longer run political traditions of the society. A judgment of outlook may also reflect an imminent change such as the expected adoption of a meaningful new constitution.

[4] The name of Dahomey has been changed to Benin. Cambodia is now officially Kampachea.

LATIN AMERICA

TORRIJOS, TREATY NEGOTIATORS ADDRESS CORREGIMIENTO ASSEMBLY

(By Foreign Minister Gonzalez Revilla)

Your Excellency President of the Republic, Demotrio Basilio Lakas; Your Excellency chief of government, Gen. Omar Torrijos Herrera; Mr. Vice President of the Republic, Gerardo Gonzalez; honorable chairman of the national representatives assembly, Mr. Fernando A. Gonzalez; deputy commander in chief of the National Guard and members of the chiefs of staff; minister and members of the autonomous entities; legislation commissioners; honorable president of the Supreme Court of Justice, Dr. Juan Materno Vasquez; honorable representatives:

The agreements reached in the negotiations for a new Panama Canal treaty constitute the culmination of a very important phase in the struggle of the Panamanian people for its liberation from all forms of foreign domination. Created as an independent state in 1903 and recognized by all nations of the world, the Panamanian nation immediately announced that the limitations of its sovereign attributes, imposed by a treaty that placed it in a status of dependence, would have to be eliminated. Only thus would it be possible for its position to be, in fact, equally sovereign among the other nations of the world.

From its birth, our nation has struggled relentlessly and continuously to become the master of its own fate. With the contribution, throughout the years, of great Panamanians, whose names must not be mentioned hastily to avoid unfair omissions, we are today in the final stages of a historic battle. Such effort has evidenced that we possess the essential attributes of a true nation—the deep sentiments of freedom and political maturity. The name Panama today is uttered with respect by foreigners and with pride by Panamanians in all corners of the earth.

The proud and constant struggle gave a characteristic nature to our liberation efforts. We can proudly and firmly tell our parents and grandparents that we understood their message and that we did the best we could under the circumstances, that we fought tirelessly and based our debate on historic arguments and legal consistency, honoring those who deserved to be honored without questioning their efforts, united in a single team made up of men who were always inspired by their love for their fatherland.

We may also tell them with the same pride that we shall turn over to our children a nation which has recovered its territorial integrity, which has rid itself of the colonial enclave, and which is ready to take full advantage of its greatest natural resource.

Our chief of government, Gen. Omar Torrijos, promised the coming generations of Panamanians that this liberating process would firmly establish for them a territory covered from border to border by our national sovereignty. This sovereignty includes the canal and its adjacent areas which had been cut off from the rest of our territory for 74 years.

The objective of this struggle is already in sight. The watchword of our campaign has been total sovereignty. In order, however, to consolidate this sovereignty, it is necessary to rely on the expressed willingness of the peoples of both sides through the respective ratification procedure to be carried out in Panama and the United States.

In the case of Panama, it will be done through a national plebiscite as provided by the constitution approved by this assembly. Should we fail to achieve this ratification, we shall be committed to continue our struggle under unpredictable conditions. We are confident there will be sufficient common sense on both sides to realize that an honorable solution has been found which issues a peaceful death certificate to an anachronistic situation that will cease at a fixed date.

To continue our information policy on behalf of the Panamanian people, where all sectors have equal value and rights, we offer an exposition of the main points of the agreements reached by the governments of Panama and the United States and which, in our opinion, constitute an effective program of decolonization. Thank you.

FIRST ESCOBAR BETHANCOURT SPEECH

Your Excellency, president of the republic; chief of government; president of the Assembly of Corregimiento Representatives; ministers; members of the National Guard General Staff; and representatives:

We consider it to be most historic that a detailed report on the negotiations is being submitted to this assembly. It is deeply significant for what you represent. This revolutionary government considers that the republic's new composition, its new political structure, is in actuality linked to the Panamanian people through you, because you come from all sectors of the country. It is precisely you who will have to explain in each of your communities the problem of the negotiations.

When the revolutionary government assumed power in 1968, a change took place in its international policy, a change aimed at obtaining for our country those things which needed improvement regarding its sovereignty and jurisdiction. Led by General Torrijos, for the first time in our history a Panamian government, far from evading, opposing or attacking the Panamian people in response to their claims of sovereignty and jurisdiction, has done precisely the opposite and has taken hold of the banners which the Panamanian people have been holding high since 1903. The struggle for the full independence of our country and for the recovery of its natural resources has become not only the slogan but also the foundation of the revolutionary government's policy. When this government is assessed by history, when the revolutionary government and General Torrijos are analyzed, the analysis will indicate that this government was basically revolutionary, because it made national liberation the slogan and the motive power of all its administrative, governmental and political activities.

A campaign to force the United States to sit at the negotiating table and to arrive at conclusions favorable to and positive for our republic began from this position.

But this is another of the great differences between this revolutionary government and our past. General Torrijos understood that a struggle for national liberation carried out at only a bilateral level was a struggle without a future, for the simple reason that it was the struggle of a very small country against the major power in the world. Then he decided, using one of his typical phrases, that the problem of Panama, the canal problem, would not be a real problem until it became a problem of the American continent and of the world. An independent international policy was drafted on this basis.

Now, when we are being criticized by certain national sectors or groups, we recall the criticism of those same groups when Panama began its independent international policy. When the general said that each country had the right to its own friends and enemies and that our country's international policy was not going to continue according to the dictates from Washington as was customary, we received strong criticism from domestic sources. During the crisis of the Panamanian ships in Cuba, when the general decided to hold direct contact with Fidel Castro's regime, the persons who bewailed his policy on that occasion are doing the same now regarding the canal. However, now they are not protesting contacts with Cuba because the United States is making such contacts. But when Torrijos did so, they said it was crazy, that it did not make sense, that it was making Panama communist, that the gringos would not tolerate it. We went through all that criticism in this country from those sectors which are now criticizing the treaty draft.

General Torrijos remained firm and imperturbable in defense of his policy and in the face of criticism. In a few years history proved him right and tossed into the wastebasket the position of those opposed to his

independent policy. This policy continued with the meeting of the UN Security Council in this same building. We were strongly criticized on that occasion by local sectors and received threats from the United States and bribe offers from U.S. Government officials. General Torrijos stood firm on that occasion. U.S. colonialist policy was denounced in this same building and all the countries of the world supported us. The United States was forced to veto the resolution.

We were told we had done something crazy, but it is these things which have given dignity and strength to our country's presence in the eyes of the world.

General Torrijos began a tour to all Latin American countries, and there was more criticism: The country's money is being spent on trips, what is he going to do in those countries? What can those countries do for us? He paid no attention to criticism. He continued meeting with the presidents of all Latin America. This was also a step, a landmark, in strengthening our dignity and our international presence.

When President Lakas went to the United Nations, Mexico and Greece, we were also criticized. Those sectors said, what is the government after? However, the visit of our president to those countries informed the world about our cause. When General Torrijos left again for Europe, for Sri Lanka, when our country joined the Organization of Nonalined Countries, as usual the same sectors continued to criticize: What does nonalined mean? What is the importance of Sri Lanka? The general only thinks about traveling. We who have traveled now and in the past can give the following answer: When we were students and traveled, we could not explain when we said we were Panamanians, what Panama was, because no one understood us. In some Latin American countries near ours, people were surprised that we spoke Spanish, because they thought we spoke only English. Now we can tell them that the Panamanian who leaves the country for any part of the world—the American continents, Europe, Asia, Africa, China—does not have to explain any further, once he says he is a Panamanian because everyone treats him with respect and dignity, because he is from a country which during all these years has been struggling against imperialism and for its national liberation. This is what Panamanians owe to this revolution and this man, this general. (applause)

He gave dignity even to those Panamanians who criticize us. Those reactionary Panamanians are respected abroad, not because they are reactionaries, but because they are Panamanians. Those who call themselves revolutionaries are respected abroad, not because they are true revolutionaries, but because they are Panamanians.

Everybody knows where Panama is, what language is spoken here and is familiar with Panama's struggle. This is the reason for our pride in 8 years of revolution. We have rescued our country from the world's indifference and ignominy and acquired regional and international dignity. (applause) The negotiations had a difficult beginning. As to those who say that we have not obtained enough, we would like to have seen them sit down 4 or 5 years ago at the table in the Pentagon or the U.S. State Department and ask for Ancon Hill. We were almost beaten for asking for that little hill. The negotiations were not initiated by this revolution; they began with those who died in 1964. These negotiations were generated by their corpses and blood. It began slowly, painfully and with ridicule directed toward our country be the OAS, the U.S. State Department, the Pentagon and the President of the United States. Waging a hard struggle, Panamanian men who participated in negotiations before we did brought their maximum efforts to some projects which came to an end in 1967. It was the most that the period, our country's situation and the international situation permitted. The revolution emerged, projects were studied, but despite some positive aspects, we still did not penetrate to the root of the problem—the liquidation of the Canal Zone and of the perpetuity idea. For that reason these talks were rejected and other negotiations were begun, also slow and painful.

You will ask why negotiations? The general himself has said that this is not the only way. There are other paths—armed struggle, terrorism and sabotage. We all know this. But we also know the social price we have to pay—the immolation of the people, of youth. We know what it means in destruction, pain and death. A governor who considers himself responsible avoids those paths as much as he can. A responsible leader does not send his people to sacrifice themselves, does not see his people abused, tortured and massacred. Instead, he seeks all possible alternatives to avoid such a situation, not because of fear—because there has been no other alternative we have decided on that course—but because of a sense of responsibility. When you are governing a country, you seek the paths for its political, economic and cultural development. If development can be achieved through an intelligent stance and tactics based on patience, an intelligent and prudent leader prefers this road, despite his impatience and knowledge that other roads may be faster. One of those men is General Torrijos.

We have been with him all these years and witnessed his impatience. He has a military training different from ours. Therefore, he should be more inclined to use arms to try to solve problems, but constantly he urged us: Let us have negotiations by all means; let us develop our capacity for tolerance, because I do not want to have on my conscience the death of our youth. This he reiterated in his declaration: We have concluded this treaty in order not to sacrifice 50,000 youths.

Nevertheless, there are people who are criticizing the negotiations. We can say that there is more opposition in the United States than here. We do not even know whether the U.S. Congress will approve these treaties or not. If they do not this country will take another course. This country will take a course of violence. And when this country takes that route, all those individuals who are in their offices writing on whether neutrality is good are going to have to take off their ties and come out. We are going to make sure that they do not remain in hiding. (Applause.)

Today we are going to carry out the following program: Royo will deliver a report and an analysis to this assembly on certain aspects of the treaty, specifically on the problem of duration, jurisdiction, operation of the canal and employment policy. Later on, Minister Ahumada is going to explain the armed forces statute which has been negotiated between Panama and the United States as part of the treaty and the problem of the defense of the canal. Nicolas Ardito Barletta, planning and economic policy minister, will analyze the economic aspects of the treaty. Edwin Fabrega will give you a detailed explanation of the lands and waters problem. Later, we will again explain the neutrality issue and the option for a new sea-level canal. Finally, General Torrijos will speak, and in the afternoon we will be back to answer all your questions.

SPEECH BY PLANNING MINISTER BARLETTA

Gentlemen representatives, colleagues, ladies and gentlemen: It is my duty to inform you about the economic aspects of these negotiations, aspects which are fully as important as the others because at this stage we are all convinced of the necessity that a strong national economy must be the basis for obtaining and fully implementing our freedom of action. They are important also because the real valorization of our geographical position as a natural resource was at stake as well as Panama's obtaining of revenue equal to the value of that geographical position. This means, as a result, the real possibility of accelerating Panama's general development and providing an answer to the important needs of our people in this process. In other words, it would be one thing to have dignity and sovereignty with hunger and quite another to have and to consolidate the dignity and the sovereignty with the integral development of our people. And this has been our aim through the economic aspect of these negotiations in attempting to consolidate the value of our geographical position and the resources and revenue which respond to it so as to use it in our development.

The agreements reached in this aspect are as follows: An average income of $80 million per year, I repeat, average, for the next 23 years; that is, a total of $1.8 billion in the 23 years. The majority of this income is subject to a clause of inflationary correction so that the annuity consistently maintains its purchasing value, based on the year 1977. The income for the first year is estimated to be $55 million. By the end of the treaty, the amount will reach approximately $100 million in real values of 1977, that is, corrected against any inflation that may occur during that period. The mean of this gradually increasing sum gives us the average amount of $80 million. This income is itemized as follows: $0.30 for each ton of cargo that transits the canal. According to traffic projections through the canal, this means an average income of $55 million per year which in the first year will amount to about $42 million, to reach $70 million by the end of the century.

The second item of this round sum is $20 million per year, of which $10 million is guaranteed each year, the rest depending upon the level of income of the Panama Canal Company in that year. If in 1 year the second half of the $20 million cannot be covered, the deficit caused would be covered in the subsequent years to maintain the $20 million per year payment. And a third item of approximately $5 million per year of income will come from several businesses and operations being transferred to the national government, such as ports, railroads, sale of fuel, repair of ships and so forth. Therefore the total sum of $80 million is composed of these three items that I just discussed.

Another aspect gleaned from the canal operation is the transference to Panama—as Edwin Fabrega will explain shortly—of buildings and infrastructure for a current value of $82 million. Aside from this aspect, which is what Panama would derive from the operation of the canal and from the transfer of physical assets which currently exist in the Canal Zone, there is a parallel and corollary package of economic cooperation. This package reaches an amount of $345 million, above all, within the next 5 years, and is itemized as follows: loans from the Export-Import Bank up to the amount of $200 million in the next 5 years; loans for the construction of housing guaranteed by AID up to $75 million in the next 5 years; loans guaranteed by a U.S. agency called OPIT for $20 million for Cofina, our development bank, and other loans and equipment, principally military equipment, for the amount of $50 million in the next 10 years.

In short, all of these elements of economic benefits which I have mentioned in structures, payments and loans for development will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama would receive under the current treaty during that same period, which would be the

ridiculous amount of $52 million. This, then, is the difference between what this treaty means as far as economic benefits and what Panama would receive under the current treaty.

Aside from the foregoing, it must be emphasized that all the rest of the existing structures in the Canal Zone, that is, the canal itself and the rest of the civilian and military installations, will be returned to Panama, free of charge, on 31 December 1999. And these structures have an approximate value of $3 billion currently. Aside from that, we must also point out that Panama will receive from the company that operates the canal the amount of $10 million per year, also with inflationary correction, to cover the cost of the public services which Panama will administer in the exercise of its jurisdiction in the zone area, for these services which are generated by reason of the existence and operation of the Panama Canal. Therefore, lending these services will cost nothing to the national treasury.

In brief, what is the significance of these figures? We can say that in the next few years, the next 3 or 4 years, the amount of the annuity alone, without taking into consideration the economic cooperation, is 19 percent of the national government's budget, that is, it is a considerable increase, one-fifth. It is 25 percent of the operational expenses of the current budget and is 15 percent of the program of investments of the public sector. As the national government's intention for the time being is to devote the majority of these resources to solving the problems of our nation, the problems of our people through its investment program, we have to take into consideration that this amount—the annuity only, which in the first few years will be approximately $65 million per year—means at least 15 percent more for the program of investments being carried out by the country. This amount can become a figure of more impact through financing which can be negotiated on the basis of this income. We can also say—as another manner of illustrating what these figures mean, because they are so large that one often does not see them in real terms—that this means considerably speeding up the program of investments which we are developing. All of us here are aware that during the past year we have had to reduce investment in order to face the serious economic crisis which the country and the world have been experiencing. We will now once again be able to accelerate the program of housing construction for the people at reasonable prices, generating employment for all this accumulation of public investments.

It will be possible to take advantage of the important opportunities for national development which we have, opening up all our resources throughout the national territory. And we will therefore enter, through this aspect together with all the others already mentioned, a stage of enormous creativity and national realization in the next few years through the results that have been attained.

Having responded with dignity during the last 2 years, withstanding the sacrifice that we have had to accept for the recession, we now find ourselves facing the possibility of entering a path of great economic activity, of growth in production and of distribution of the benefits of that growth to all the people throughout the national territory. In this respect I honestly and firmly believe—and I do not believe I am using superlatives—that Panama, with the united revolutionary effort of growth and distribution, with the participation of all our people and with this complement which we have obtained, may become an example among Third World countries as to how development within our historical and geographic reality with justice and with the participation of the entire people can be achieved.

LABOR MINISTER AHUMADA

President Lakas, General Torrijos, Commander Carcia, assembly president, representatives, government officials, gentlemen:

The agreements in principle reached between Panama and the United States, especially during the efforts made last week and which are continuing this week in the drafting stage, contain what we consider to be a clear and categorical program of the country's decolonization from a military standpoint. They contain the program which marks the beginning of the end of the country's military occupation by foreign forces. This is important because up to now, contrary to the will of the Panamanian people and government, our country has been virtually occupied by an overwhelming number of foreign forces in comparison to our nation's military forces. The agreement in principle thus means that from the moment the canal treaty goes into effect there will be substantial reductions in U.S. military forces in our country until 2400 on 31 December 1999.

In this respect there are various problems and theories which have been debated. Those who will oppose any treaty regardless of whether it is a good one, such as this one, believe that the agreement in principle legalizes U.S. military forces in Panama. Consequently, to them, any treaty which directly or indirectly has any reference recognizing in any way the existence of any military base in Panama is a bad treaty. They argue that the joint defense of the Panama Canal agreed in principle is a step backwards and not a step forward in our country's final goal for its liberation. This theory basically considers that in matters of international policy, in regaining its international personality, and on sovereignty, jurisdiction and liberation, Panama must follow the line historically taken by an ostrich—in other words, it should hide its head underground so as not to see what is going on in the rest of the world. U.S. military installations in our country, objectively and independently of our will, exist and operate against our will.

In the face of this reality, there were only two alternatives: Either you conduct negotiations to have these military installations slowly disappear by 31 December 1999, the date when all these military installations will be finally liquidated, or simply, according to international law and the views of great authors and essayists, be satisfied with saying that those installations are illegal and for that reason they will automatically and by the very will of the United States, disappear. These latter views are mirages of a historic nature which the Panamanian people cannot accept because they are deceiving attitudes which prolong the problem instead of solving it. [applause]

For this reason Panama and the United States have reached an agreement of a military nature, which in first place accepts the role of the United States in the protection and defense of the canal. Panama's participation will increase greatly from the date the treaty goes into effect, while U.S. participation will decrease until the date the treaty ends.

But this responsibility for protecting and defending the canal—which is shared with Panama in a combined military board which must submit consultations and coordinate actions for Panama's increasing participation according to equal [paritaria] representation between Panama and the United States—is properly established in the agreements which have been approved.

What does this mean? It means that now, at this moment, the U.S. military force is operating freely, according to its own creed and beliefs, according to its own criteria, whatever they may be, but, according to the agreement or principles, that military presence is solely and exclusively for the protection and defense of the canal and not to attack any country or to interfere in the problems of other countries. [applause]

This military force must be harnessed by some sort of legal or political restraint, which will define its extent of legal activity in Panama. Therefore, the broad range of action without limitations will be, according to the agreement in principle, subject to rules and very definite laws and regulations that the two countries have agreed upon. Additionally, these are not final—not in their wording or application—because they may be revised every 2 years.

This agreement is known as the statute on armed forces in Panama [estatuto de fuerzas armadas en Panama]. It establishes that at the defense sites that will remain, in the military complexes that will remain—and Fabrega is going to explain how and which ones are involved—out of the 14 bases we now have, four will remain and they will gradually disappear by the year 1979. [applause]

These defense sites, which will not be islands out off from the national scene and from the country's juridical and political systems, will be separate in as much as the treaty provisions provide that no soldier of any rank can directly or indirectly interfere politically or in any other manner in the affairs of this country. To us this is an extraordinary step forward for the consolidation of our freedom as a country that will now be truly sovereign and independent. [applause]

Therefore, these defense sites will also be subject to Panamanian jurisdiction. There will be no separate juridical arrangement there; we are not going to make four small zones out of the Canal Zone. Panamanian law will apply there also, and if a Panamanian who works there or goes there breaks the law in any way, he will be judged by Panamanian authorities and not by a U.S. military court.

Nevertheless, since this is an objective and serious report, information that is commensurate with this act must be provided, and some things must be said, because not everything in the treaty is beautiful. The treaty also has things which are not liked by neither you, nor us the government, but, since it is not a capitulation by Panama to the United States, but a negotiation, the treaty obviously will have some things we would prefer were not in it. But its essence, that which gives it its essential character, leads us to feel that it is an instrument of liberation.

For example, if a U.S. soldier commits a misdemeanor within a defense site, he will be tried by the authorities of the military forces themselves. This on the surface appears to be a concession, but it seems to be military practice each time the forces of a country must for some reason move outside their borders. We know, for example, when the Panamanian National Guard had to fulfill such an important peace effort as that in the Middle East, it was obvious that if some National Guardsman committed a criminal act, Panama could not be so naive as to allow this guardsman to be subjected to the rigours of the trial given him, for example, in some of the Arab countries or Israel. Consequently, Panama retained the power to try that guardsman. This is more or less—keeping in mind the differences of the examples—the present case. If that U.S. soldier commits an offense outside the military installation, then he will be tried by Panamanian authorities except if he commits an offense against another soldier, so long as it is a misdemeanor, an offense for which he will be tried by military authorities. But if it is one of the graver crimes which our

laws provide for—homicide, for example, or robbery, or rape—and for which there is no bail according to our law, then the competency to try falls within the jurisdiction of the Republic of Panama, even though it is a U.S. soldier. If a U.S. soldier commits an offense against a Panamanian within a military base, then he will also be tried by Panamanian authorities even though he is a U.S. soldier.

And if the Panamanian is the one who commits the offense against the soldier, that Panamanian will also be tried by Panamanian authorities, even though he committed the offense against a U.S. soldier. Consequently, this means that the defense sites which may remain at the outset of the treaty—which, we must learn, are not defense sites in perpetuity because the only perpetuity which may finally remain here is the revolutionary process and its capacity to solve the people's problems [applause] [Ahumada does not finish the sentence.]

On the other hand—Mr. President, will you allow me? I will soon finish. Here's another problem. Up to now the number of U.S. soldiers in Panama has been unlimited. In military terms, this is known as the level of forces [nivel de fuerza]. Others call it force strength [pie de fuerza]. So, then, it has been agreed, to avoid the impression—which is real and not imaginary—of an occupied country, an impression resulting from the unlimited presence of U.S. troops around us, that this force level or amount of soldiers will never, never—unless there is a worldwide conflict or an extremely serious, uncontrollable situation, in which case we are not even going to have the resources to be aware of it—the number of U.S. soldiers in Panama can never be greater than the number of troops in the Panama National Guard. Therefore, our capacity for action will not be limited by an overwhelming foreign presence. [applause.]

Royo mentioned the flags question. In effect, even though it is a case of military sites managed by the United States, the flag flown there will be the Panamanian flag. They can put theirs inside, according to agreements they can do this. This point caused a tremendous bemoaning, but is logical. After all, they are North Americans and it is quite logical for them to struggle to prevent their flag from disappearing completely. But it must go inside. And even when it flies inside, it must be beside the Panamanian flag, and even when it is beside the Panamanian flag, the Panamanian flag must occupy the position of honor.

For those of us who have had an opportunity to discus these things with the colossus, the work that has been done is cause for extraordinary pride. A great Colombian thinker has said: Extreme modesty is the pride of the hypocritical. Without reaching the execrable levels of pedantry, we believe that General Torrijos and President Lakas' leadership has been able to produce a good agreement which will place us in a situation to say definitely that we have already begun the stage of military withdrawal from the country. [applause]

I will make this clear: The relationship between Panama and the United States from now until 1999 will be a bilateral one. The two countries will participate in the protection and defense of the canal. It will be this way until 1999 when only Panama will be responsible for the defense of the canal.

From now until 1999 there will be a bilateral relationship. Both countries will participate in the protection and defense of the canal until 1999, when Panama alone will defend the canal and when only Panamanian troops—from 31 December 1999 onward—will be allowed anywhere in the Republic of Panama. Only Panamanian troops. And this joint defense, this bilateral participation, will naturally demonstrate that on all fronts Panama is capable of operating this canal, even more efficiently than the United States can, and that this canal will be defended even more efficiently than they can defend it, because in the final analysis the defense of the canal consists of two fundamental factors—one, the capability of the specialized force, and two, the love and faith of the Panamanian people who know that this is their canal and that consequently every Panamanian has to become a defender of this international waterway, which is a part of the country's natural resources. [applause]

This is why, in considering a treaty of this nature—and I am not going to talk about the neutrality aspect, which will be discussed by the head of the negotiations team, Dr. Escobar Bethancourt—I will only say that the military ties will end on 31 December 1999.

At this moment I recall a statement I recently read in an international report published in Panama, a statement which was very sad and painful to me. Two Panamanians by birth—according to the Panamanian constitution a person cannot lose his nationality—made a statement that they are not interested in the canal, that they are concerned only about the Torrijos dictatorship and that if the treaty is signed, it would be between the United States and Torrijos, but not between the United States and the Panamanian people. With a problem as large as this one, so large that people set aside their political attitudes, it is not a matter of what you or I think or what political leanings, crusade or ideology one advocates but of whether or not one loves one's country. At such a time, when a problem arises that is above domestic disputes, when Panamanian nationality and the state and the elimination of a state within a state are at stake, these Panamanians made this statement. It was a sad and depressing comment that could cause pessimism among those who are not politically aware.

The truth is that when I gained political awareness at an early age, I began to understand that in the political dictionary of all countries, including ours, there is one clear and precise word to describe this type of action and position. That word is treason. This is so because, in any effort to inflict temporary wounds of a political nature, such people do not hesitate to grab a poisoned knife and thrust it into the loving heart of the fatherland! Thank you.

EDUCATION MINISTER ROYO

Mr. President, Mr. General, Mr. President of the Assembly, Mr. Vice President, second commander in chief, fellow government officials, members of the staff, honorable representatives:

The subject of the duration of the treaty is related to the subject of abrogation. The 1977 treaty points out that this treaty supersedes all the other agreements that Panama has signed with the United States.

This means that the 1903 Hay-Bunau-Varilla Treaty, the 1936 and the 1955 treaties and all the annexes, exchanges of notes and any other documents in conflict with the present treaty are abrogated. This treaty will have an approximate duration of 23 years. It will expire on 31 December 1999 at 1200 o'clock [as heard].

This treaty clearly establishes the principle of nonintervention. Neither U.S. civilians nor U.S. military forces will have the right to intervene in the domestic affairs of Panama or to participate in Panamanian political affairs.

Regarding the operation of the canal, there will no longer be a governorship in the Canal Zone. There will no longer be a governor of what? [applause] There will no longer be a Panama Canal Company in the form it has been operating up to now. There will be other organizations which will be explained immediately. The United States has primary responsibility for the administration of the canal until 31 December 1999. Panama will have a continuously increasing participation in the administration of the canal while U.S. participation will decrease, as will be explained later together with the employment policy aspect.

However, they will have primary responsibility [until 31 December 1999] in line with the Tack-Kissinger agreement.

This does not mean—and we want to use this opportunity to make this clear—that foreigners working in the canal will be persecuted or dismissed. There will be no Belgian Congo here. There will not be an Algerian case here to expel the French. Those persons who have been working in the Canal Zone for years will be able to remain at their jobs. However, they have an obligation. In the first 5 years after the treaty goes into effect, they are under the obligation of reducing the foreign labor force by 20 percent.

Lies have been reported, lies to the effect that all those who have been working in the present Canal Zone will be dismissed. We can tell them—making use of this opportunity—to rest assured and to sleep well, because although we had a 9 January of 1964 here, and despite all the interventions we have suffered, this is not a vindictive country.

Finally, we would like to refer to a point which is perhaps more important from an emotional, rather than a practical, point of view. This is the problem of the flags.

It is said that the flag problem is what caused the events of 1964, but this is not true. What caused it was the symbolic problem. The flag problem was a real one. It involved the recovery of our sovereignty in the Canal Zone.

Regarding the flags, here has also been an important recovery: Throughout all the territory that now constitutes the Canal Zone, excluding the office of the Canal Commission—with only this exception—only the Panamanian flag will fly on the flagpoles. [applause]

NEGOTIATOR FABREGA ON LAND RECOVERY

Half of Fort Amador will revert to Panama with all the corresponding installations on the 1st day of the treaty, as well as the islands of Naos, Perico and Flamenco. [applause] From the Bridge of the Americas you see all the installations of the fuel tanks, of the Port of Balboa, and which extend to Diablo Heights, including the northern part of Diablo Heights, where there is an antenna field. All this land will revert to Panama immediately and it will be known as the Balboa Port complex, including areas for expansion. Albrook Field will revert to Panama on the first day of the treaty. Curundu Heights will revert to Panama 3 years later, as well as the antenna field across from Panama University. Ancon Hill will revert to Panama on the first day of the treaty. [applause] with two exceptions, namely Gorgas Hospital, to be used for military use by the U.S. Armed Forces and U.S. civilian personnel, and the area where the Quarry Heights offices are now located, which will serve as headquarters of the combined military board which will be in charge of planning and carrying out everything concerned with the defense of the canal—a combined defense. This board will be evenly divided, that is, it will have the same number of representatives from Panama and the United States. The rest of Ancon Hill will revert to Panama on the first day of the treaty.

The railroad with all its installations will also revert to Panama on the first day of the treaty, as well as a coastal strip, from beneath the Bridge of the Americas at the entrance of Farfan Beach to Veracruz so that the residents of Veracruz will not have to transit a defense site. The strip has the best beaches closest to Panama City and every Panamanian may, as of that date, have access to those beaches, which are the best close to Panama City.

On the Atlantic side, in the city of Colon, the port of Cristobal with all its installations will revert to Panama on the first day of the treaty, [applause] as well as Rainbow City and the towns of Paraiso and Pedro Miguel.

To conclude, we want to point out that the agreement in principle does not grant lands and waters and installations, but the right to use them, according to the agreement, so that the United States may operate, maintain and defend the canal as a primary right, until 31 December 1999 at noon.

We see, then, a Panama fully liberated from a condition that limited its political, economic and social geography. According to the new treaty, we shall have a truly free nation. Thank you. [applause]

SECOND ESCOBAR BETHANCOURT ADDRESS

Mr. President, General Torrijos, distinguished representatives and general public: We will now report on two very controversial points in the negotiations—one is the neutrality pact between Panama and the United States and the other is the problem of the option to build a new sea-level canal. We feel that the best way to explain this is by pointing out the details of how this negotiation was conducted and what things Panama accepted or rejected, because that will allow you to see the real scope of the neutrality pact.

One of the conditions originally established by the United States before beginning negotiations with Panama called for a neutrality pact and a military pact between the two countries. The military pact had to be concluded before the end of this century so that it could go into effect after 2000. This created a deadlock in the negotiations for some time because Panama opposed the signing of a military pact. And it opposed such a pact because the military pact entailed two things: First, the U.S. military presence in Panama after the expiration of the new treaty. Second, as a great power, the United States is often involved in wars in other parts of the world and we did not want a situation in which, on the basis of a military pact, our country's future generations would be required to fight in U.S. waters under the pretext that they were fighting because the war was being waged to defend the Panama Canal. That was a position Panama maintained until the United States stopped insisting on the military pact, and discussions began only regarding the neutrality pact.

One of the problems that arose had to do with granting preferential transit through the canal to U.S. warships. They said they had two problems: First, they had to please their Pentagon and had to present them in this matter of the treaty. Second, they said that since they are leaving after the expiration of the treaty they should at least have that [preferential treatment] because they had constructed the canal.

We told them that we admitted that they had in effect constructed the canal, but that to put down in the neutrality pact that U.S. warships were entitled to preferential transit in relation with other ships violated the neutrality pact itself, contradicting the very idea of the pact we were negotiating. This was another subject of long debates and thorough analysis. They kept looking into their books, we into ours; they kept quoting their treaty writers, we kept quoting ours, for this is the way in which these debates are conducted.

So this is the framework of the neutrality pact. The criticism being made against it—some of which you may have heard or read—by a number of people who like to nitpick is that we are giving the United States the right to intervene in our country after the year 2000. Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact. [applause]

When they landed in Santo Domingo they did not have any military pact with Santo Domingo, nor did they have any right to intervene in Santo Domingo. But just the same they landed there. But there are people here who believe that it is the articles in a code which tell a country whether or not it has the right to intervene.

They do not know that is the bayonets and cannons and the atomic bombs which give a country the right to intervene. A country like the United States can land its troops in Panama whenever it pleases after 2000 with or without a neutrality pact. But it cannot land its troops in Russia, even if Russia told them to do so. This is reality. In other words, with the neutrality pact we are not giving the United States the right to intervene. What we are giving them is an assurance that the canal will remain permanently neutral, that we are not going to close the canal to their ships or those of any other country.

Why this neutrality pact? Because they think that maybe in the year 2000 this country will become socialist and will turn into their enemy and they feel it is better to make sure right now that even if our country becomes socialist, it cannot prevent them from using the canal. To be even more frank, they do not need that neutrality pact to tell them whether or not they may intervene. They need it to show to their Congress; in order to be able to tell their Congress: Look, we are turning the Canal over to the Panamanians, but we still have the right to watch over them so they behave. That is the truth. It is a question of their internal policy. They are solving an internal problem regarding a Congress that is largely opposed to these negotiations and which even has members who have not been elected of their own free will, turned into members of the U.S. Congress. They are Panamanians who live here and in Miami. [as heard] [applause]

The other problem we discussed was that of the option for the construction of a sea-level canal. In all these years the problem of a sea-level canal was hardly discussed at all at the negotiating table. There were about two talks on this. We discussed this, nothing came out of these discussions and then came the Bogota conference with the presidents. That is where the option problem really reached a crisis. It reached a crisis because a very direct and continuous communication was established among all the presidents meeting there and President Carter through negotiators Bunker and Linowitz as well as with us through Dr. Diogenes de la Rosa, who was there at the time, and our Ambassador Gabriel Lewis Galindo.

But they made a proposal to us on that option and that is why the issue reached a crisis. They proposed that Panama grant them an option to build a sea-level canal without setting any date. Second, they wanted Panama to promise that no other country would construct a sea-level canal. We rejected that proposal in Bogota. We read it to the presidents. That was the proposal brought the previous evening by several of our negotiators and we read it to them. The negotiations between the two countries was practically broken in Bogota. So much so that I remember that at one point General Torrijos told the presidents: Well, we called this conference several days ago for a celebration of a new treaty and it turns out that we have come for the wake. The struggle between the two countries began in Bogota. And I say the two countries because the rest of the presidents got as involved as if they had been Panamanians. We must really be very grateful to the presidents that met with the general in Bogota. Regarding this problem they acted just like any of us; they even wanted to walk out mad. The Mexican president wanted to get on his plane and leave; he was very furious. They all became Panamanians regarding the option problem.

When the United States finally realized that there was no way in which an agreement could be reached regarding this option in the terms they were proposing and that the issue had reached an impasse, they asked for a recess. During that recess we continued our discussions with the presidents meeting in Bogota.

The Panamanian delegation then prepared a draft which all presidents liked. They said it was correct and fair. We then called the United States, they examined it for a while and finally accepted it. I think that it would be a good idea to read the text of this draft to you so that you will see how the option problem came out. It reads:

Article 3. Possibility of building a third set of locks or a sea-level canal.

First, the Republic of Panama and the United States of America acknowledge that a sea-level canal can be important for future international navigation. As a result of this, after approving the treaty of the existing canal and for the duration of this treaty, both countries promise to study jointly the viability of such a canal. In the event that the need for such a canal is viewed favorably, they will negotiate its construction in the terms agreed on by both countries. This is how the option issue came out. [applause]

As you can see, it is not even an option to build a sea-level canal. It is an option to promise to study the viability of it. That is the true option. The true commitment is to sit down with the United States to study whether or not it is viable to build a sea-level canal. If the two countries feel it is viable, then they will sit down to negotiate the terms agreed on by the two countries.

This is the panorama we have before us. This is the famous neutrality that is being criticized in these negotiations. The real problem, or rather the two real problems that those who oppose these negotiations will have to face, will be to prove to us that the 1903 treaty, the Buneau-Varilla Treaty, is better than this one. That will be their first problem—to prove that the perpetuity clause we now have and the present Canal Zone is better than this. That is something they will have to prove to us and our people. They will have to prove that the $2 million we now get is economically better for all the coming years than what has been presented by our planning and economic policy minister. That is something they will have to prove.

We do not mind being criticized by those who say they do not want the treaty because, as Ahumada said, they do not like General Torrijos because he is a dictator and they do not want the treaty to be signed under a dictator. That is nonsense. At the bottom of this problem, those who oppose this treaty will have to prove to us that perpetuity, the Canal Zone's existence, the existence of a foreign jurisdiction here and the anarchic existence of military bases is better than what we are proposing. And those who do not attack us on that side, but on the contrary, say that we are not revolutionary enough, will have to prove it to us by getting their knapsacks and their grenades and entering the zone to get the gringos out of there. That is how they will have to prove it to us. Not with little speeches or documents.

SPEECH BY GENERAL TORRIJOS

Esteemed fellow members of the government, honorable representatives: You have heard a compact account of what has been 70 years of struggle for the Panamanian people.

I say that it has been 70 years of struggle for the Panamanian people because America and the world know that many of the cemeteries of rebels in this country are full of the crosses of youths who sacrificed themselves to see their sovereignty and their dignity respected.

This triumph, which I come to present to you here, is a triumph which results from the greatest conviction that we have triumphed. [as heard] It is a triumph which comes from the conviction that the country will take another path and a triumph which comes from the conviction that, had we not organized the country politically and given this people authentic representation in the administration of their destiny, no government or leader, no matter how great or how good a pathfinder, could have presented to the nation a treaty which has as its most important feature the fact that it sets the date for the erradication of each of the colonialist stakes [surrounding the zone] which exist at present. [applause]

I can tell you that this is a triumph which fills me with pride because to change the term perpetuity to 23 years is a triumph of this generation. I tell you that I am proud of the negotiating team, because they set a deadline on perpetuity, which in other words meant eternity plus one. And I tell you that I am proud because I am convinced that the great objectives of sovereignty can only be achieved through this struggle which the country has waged, which I call the alpinism [alpinismo] of generations. I call it alpinism of generations because we would be very selfish if we failed to admit that all the past generations, within their own circumstances, fought with all their effort, valor and determination to erradicate the colonial enclave which divides the fatherland. [applause]

Never before have I felt more respect for those who participated in this effort. I had not felt such respect because I was unaware of the pressure to which they had been subjected. Sirs: If one were not a leader with a good mental attitude, if one were not a leader who is inspired daily by love for our youth, if one were not a leader overly prepared to withstand pressure, today one would be in a mental asylum. One is subjected, in this type of negotiation—when one chooses the route of negotiation to liberate the country, one chooses a somewhat shorter, but which would entail the sacrifice and immolation of no less than 50,000 Panamanian youths who, being overly devoted to the cause of their fatherland, would have demonstrated that they are the aristocracy of the country's patriots. We would have left future generations headless, completely without future leaders, because the best—the aristocracy of patriotism, the aristocracy of talent and the aristocracy of courage—would have been sacrificed in the 1,142 square kilometers of the Canal Zone.

What will happen? I know that there is question in the minds of all the people—will we recover this piece of land in order to change its owners? To exchange white masters for brown masters? This is the great question and the great doubt which I wish to clarify right now. We are not going to exchange that great piece of land which we are now incorporating under our sovereignty for new masters. We are going to make the most collective use possible of those recovered installations and of those square kilometers. [applause] When I say the most collective use, I refer to the use by which the greatest portion of the Panamanian people may enjoy the fruits of their labor.

I visualize, with the idealism of a leader, I visualize Fort Amador, when I pass overhead in a helicopter, as the home of 20,000 Panamanian children playing on those fields, playing on those lawns, sheltered in those installations, without the fear that someone will say that their presence is illegal and that they are intruders on the soil which belongs to them. [applause]

I visualize the children of the [national] institute—and when I say the children of the institute I refer not only to those who are registered there but all those who have the philosophy of the institute, since the philosophy of the institute has been the greatest quarry of rebelliousness that has nourished the patriotism of the fatherland. [applause]

I visualize the children of the institute climbing Ancon Hill as they please and from there, looking down at the canal, the city, and wherever they wish without a foreign policeman arresting them and accusing them of the usual charge—disturbing the peaceful existence of 50,000 Zonians.

Thank God that not everything in this country was badly designed, because he who had enough vision to install the national institute near the Canal Zone was doing so with the clear understanding that he was establishing there an outpost of national dignity so as to prevent those who had arrogantly usurped our territory from sleeping in peace for 70 years. [applause]

And now we are in the stage of drafting, of the academic polishing of the treaty. After the Panamanian Government accepts it, accepts this draft as what has been agreed upon, the U.S. Government will have to do likewise. This will take 3 or 4 weeks. Then two alternatives will remain. President Carter is not averse to the idea of coming to the country to sign this document in a setting which was a source of shame for them for 60 years, and in the presence of all the leaders of Latin America. He is not averse to the idea, but on the other hand he is also too busy [empenado], too busy trying to get the treaty through the Senate, and this might possibly prevent his being present. If this is so, then we will have to fly to the United States to sign the treaty and immediately begin disseminating information in order to saturate the public with information on what is being approved or disapproved.

We must stipulate that the government does not consider criticism of the treaty as criticism against the government and that all the government wants is for these opinions on the agreements to be expressed in a responsible manner. We must stipulate that the treaty will be submitted to a plebiscite and that every Panamanian who goes to the ballot box should be aware that what he is depositing in the box is a message from his own conscience. [applause]

It was possible to obtain this treaty due to the fact that a long time ago, following the moral scandal of Watergate in the United States, there a team of men began to be formed in the top political leadership of that country who gave a deep, fundamental importance to morals. This team of men believed and believe, know and are convinced, that there is no juridical code that legalizes a colonial enclave. They are a team of men with a deep sense of shame and who balanced out the correlation of forces between a big nation and a small one. It balanced out the correlation of forces, not because the United States had become militarily weak, and Panama militarily powerful, but because conscience, honor and morals on both sides reached an equal level at which it was possible for us to reach an agreement.

In this we must admit that President Carter has shown that he is not a president elected only to have the national anthem played for him, but to make decisions which will prevent his country, which is the great nation of the north, from continuing to live with the shame of maintaining a colonial enclave based on the principle that the United States is much stronger than we are. We must admit that this man has had the courage to tell his people not an agreeable truth but rather the logical truth and to tell his people that to continue treating Panama in this way is something which should shame each one of the 200 million U.S. citizens. [applause]

Soon—the date has not been determined yet—we will have to confront a general mobilization, a mobilization that will bring to the polls the greatest number of Panamanians able to exercise the right to vote. We have to do it because not doing it, not going, not being present en masse at the polls is to deny the idea that this cause stopped being a cause and became a national religion and later a religion of Latin America. We are soon going to have to deal with this situation, and I hope, and am completely certain, that no Panamanian with the right to vote will be indolent in responding to this call from the fatherland.

And I am completely sure, because each member of our generation, one way or another, has been humiliated in that enclave which today we are dismantling by means of this treaty which we are proposing. [applause] I am completely sure that we will be present at the polls to give the country and the leaders a testimonial to the fact that, having given me a blank check to negotiate this treaty, you are now accepting the results of this act of faith and confidence. You are accepting it with satisfaction, and you do so because it is a treaty which decolonizes and does so rapidly because it is a treaty which returns to us all that had been taken from us by force; and because it is a treaty which will strengthen our personality as Panamanians and will give Panamanians more dignity everywhere in the world.

And I know that you will be present, because no Panamanian throughout history, faced with the hidden [as heard] demands of the fatherland, confronting a vehement appeal by the fatherland, no Panamanian in history has failed this call or these demands; nor will they fail this call now made by the country—the call which consists of the casting of their votes in the ballot box in the plebiscite. By this vote, they are expressing what their conscience and dignity as Panamanians and their position as the men of this country tell them they should do. Thank you very much.

AGREEMENT ON TREATY PRINCIPLES SUMMARIZED

Listeners of the state radio broadcasting system through the country: This is Danilo Caballero. Along with Arqueles Morales, we are going to read a summary of the agreement of principles signed between Panama and the United States to reach a new Panama Canal treaty. This document was prepared by the Foreign Ministry and the introductory paragraph is signed by Foreign Minister Gonzalez Revilla. It is for the Assembly of Corregimiento Representatives and was distributed to them this morning for them to study, to read during the recess and at 1500 when today's special meeting reconvenes. They will thus have a basis—with this document and the expositions made this morning—on which to ask pertinent questions to the members of the negotiation team.

This document is especially important because it is the first time that the general content and specific data of the new canal treaty, which is of the highest interest to our people, are being submitted to the 505 representatives for their analysis.

It is necessary to clarify, as Dr. Romulo Escobar Bethancourt did in his speech this morning on the contents of the treaty, that this is not the full document. That is, it is not the complete and absolute text of the draft agreement, the agreement of principles, for the simple reason that the document will only have domestic and international validity when it is signed by our Chief of Government Brig Gen Omar Torrijos Herrera and by U.S. President Jimmy Carter.

Regarding the duration of the treaty, the document says: The 1977 treaty will have a set duration; it will expire on 31 December 1999. On that date, the Republic of Panama will begin to manage and defend the Panama Canal exclusively.

Regarding jurisdiction, which historically has been one of the most debated problems in our people's historical struggle to recover sovereignty, the text at our disposal reads: There will be no Canal Zone government or

governor. Only Panama will exercise such governmental functions as police, firemen, customs, justice, postal services and so on. This transfer will be completed in a 30-month period after the treaty takes effect. Only Panamanian civil and penal laws will apply.

The Foreign Ministry document goes on to say that the canal administration commission will not be allowed to carry out commercial operations and that these activities will be completely regulated by Panamanian laws. In this regard, the following activities and functions being carried out by the Panama Canal Company and the Canal Zone Government would cease:

Wholesale and retail sales of merchandise of all types in commissaries, stores, optical shops and others, the preparation of food and drink and milk products; the operation of bakeries, public restaurants and cafeterias and the sale of articles using automatic vending machines; the operation of movie theaters, bowling alleys, billiard halls and other entertainment centers charging admission; launderies and drycleaning facilities that are not operated for official use; outlets to repair and service private automobiles or sell fuel and lubricants, including service stations, garages and outlets to repair or retread tires; repair shops for other privately owned property, including electronic and electrical home appliances, irons, motors and furniture; cold storage and cargo warehouses that are not being operated for official use; commercial supplying and servicing privately owned ships, including the sale of fuel and lubricants, towing services not related to the canal and other U.S. Government operations; the repair of private vessels except when it is necessary to remove damaged ships from the canal; nonofficial printing plants; ocean transportation for public use; mortuary services and cemeteries; educational services, including schools and libraries; the postal services; the customs, immigration and quarantine services, excluding those needed to ensure the cleanliness of the canal; the construction and repair of ships and supplying them with water, fuel and lubricants; the docks and the movement of cargo and passengers.

Regarding the principle of nonintervention, the document distributed today to the 505 Corregimiento Representatives reads as follows: The U.S. military forces and civilian personnel will abstain from all political activities in the Republic of Panama, as well as any other intervention in the domestic affairs of the Republic of Panama.

Regarding neutrality, Panama unilaterally declares the neutrality of the canal so that in times of peace or war it will remain open and at the service of the shipping of all nations of the world in terms of absolute equality and so that the canal and consequently the Isthmus of Panama will not be subjected to reprisals in any armed conflict between the nations of the world. Panama and the United States agree to maintain its neutrality so hat the canal can remain permanently neutral. Panama and the United States will promote the support of all nations of the world for the protocol of neutrality.

Regarding the canal's operation, this important document says the following: The United States will be mainly responsible for the operation of the canal until 31 December 1999, when the canal and its auxiliary projects will pass completely to Panama. The canal will be operated by an agency of the U.S. Government. This agency will be called the commission. This commission will have a board of directors made up of nine members, five of whom will be U.S. citizens and four will be Panamanians chosen by the Panamanian Government. From the moment the treaty comes into effect until 31 December 1989, the deputy manager will be a Panamanian and the manager will be a U.S. citizen. Starting on 1 January 1990 until 31 December 1999, the manager will be a Panamanian and the deputy manager will be a U.S. citizen.

Referring to the canal's optration, the document also says there will be a consultative committee made up of an equal number of Panamanian and U.S. representatives that will advise the governments of the two countries on policies related to the canal's operation.

Regarding the employment policy, non-Panamians will be employed only when there are no competent Panamanians to fill the vacancies. This means that when there is a vacancy, it should be filled by a Panamanian. If there is no Panamanian able to fill the post, then foreign or non-Panamanian personnel will be employed. Within the 5 years following the treaty's implementation, the number of U.S. citizens employed in the former Panama Canal Company will be reduced by 20 percent. The employees of U.S. citizenship contracted after the treaty is in effect will be able to work only for a 5-year period. There will be no discrimination in matters regarding salaries, services or labor benefits because of nationality, sex or race. That is to say, there will be no gold roll or silver roll. There will be no security posts, which were held only by U.S. citizens.

One of the most important matters included in the document distributed to the 505 represenatives refers to the canal's defense. In this respect, the text reads as follows:

The Republic of Panama and the United States will be jointly responsible for the protection and defense of the Panama Canal during the new treaty's duration. The Republic of Panama will have a growing participation in the canal's defense. There will be a joint board with an equal number of military officers from each of the two countries who will be in charge of coordinating and consulting on matters related to the protection and joint defense of the canal without restricting the identity or lines of command of the Panamanian National Guard.

The United States will station, train and transport military forces only in the manner described in the regulations for the U.S. armed forces in Panama. In times of peace, U.S. forces in Panama will not surpass the level in the Canal Zone prior to the treaty. After the Panama Canal treaty ends, only Panama will manage the canal, maintain military forces, defense sites and military installations in all its territory.

Regarding flags, one of the most irritating matters for Panamanians for over 70 years, the summary of the agreement presented by the Foreign Ministry to the representatives of the assembly says:

The Panamanian flag will be flown in all parts of Panamanian territory. The U.S. flag will be flown only at the office of the Panama Canal administration commission and within defense sites, where our flag will always have an honored place. That is, the Panamanian flag will always be in a honored location at all sites.

The document also refers to the possibility of building a sea-level canal. For the treaty's duration, the two countries, if they believe a sea-level canal may be important, will commit themselves to a joint study of the feasibility of such a canal. If they do this, they will negotiate to try to reach an agreement for its construction under terms which could be established by the Republic of Panama and the United States at that time.

This means that the agreement on principles does not include any clause which commits Panama to building a sea-level canal in conjunction with the United States. This agreement on principles merely provides for the possibility of a joint study with the United States of the feasibility of building a sea-level canal.

The economic aspects of the negotiations we believe to be too complicated to set forth in this short report we are presenting to you via Radio Libertad.

Regarding lands and waters, the document states the following specific points: When Panama grants the United States the right to use, until the year 1999, the lands and waters needed for the efficient operation of the canal, our country thereby liberates almost 70 percent of the lands and waters now occupied by the United States, including the following: Ancon Hill, the railroad, the ports of Balboa and Chistobal, half of Fort Amador, the Nao, Perico and Flamenco islands, part of Coco Solo, France Feld, all the towns of Rainbow City, Pedro Miguel and Paraiso, the littoral area from the Bridge of the Americas to Veracruz, Gatun and Alajuela lakes, Fort Randolph and Fort Gulick, Curundu Heights and Albrook Field, Summit Botanical Gardens, Fort San Lorenzo—part of our national historical heritage—the Mount Hope Cemetery, the Balboa and Ancon court buildings and a number of sports facilities.

Some of these installations will revert to Panama on the first day after the signing of the treaty, and others 3 and 5 years later. Therefore, from the first day of the new treaty there will be no more Canal Zone. We shall have a canal without a colonial enclave.

Well, this is a summary of the agreement on principles between Panama and the United States which was distributed this morning at the legislative palace to the honorable Corregimiento Representatives. It is a document drafted by the Foreign Ministry and signed by Foreign Minister Nicolas Gonzalez Revilla.

NEGOTIATORS ANSWER ASSEMBLY'S QUESTIONS

[Education Minister Royo] Regarding the question of whether Panama will have to repay the loans from the United States: In referring to discussions of economic aspects, Don Gilberto, we are speaking of two areas. One area is the payments which the United States makes to Panama and which are derived generally from the canal revenues. These include tolls derived from Panama's use of the ports of Balboa and Cristobal.

Another, different area is the package which is called the economic cooperation agreement. That agreement has one goal: for Panama to achieve improved economic development, as Minister Ardito Barletta explained, and, on the day we have to administer the canal 100 percent and defend it for Panama to have a level of economic development that will allow it to assume that tremendous responsibility.

This economic cooperation agreement provides for loans which Panama definitely must repay. For example, the loan from the Eximport Bank will be $200 milion, and that loan will be made through what are called concessionary loans which are long term—20 and 30 years—with grace periods of 5 to 10 years and, moreover, at an interest rate of between 5.5 and 7 percent. This rate is what is called a soft interest rate and it allows Panama, at the end of 30 years when it repays the $200 million, the payment at that time, at the values current at that time, will be much less than the amount we are receiving today [sentence as heard]. For this reason, it is said that these are loans paid for by the devaluation of the currency itself.

[Representative Luis Castillo] Mr. President, distinguished negotiators, dear comrade: I would like to ask the negotiators about the plebiscite. Since this is the means by which the Panamanian people will ratify the treaty and is related to the ratificiation by the U.S. Congress, I would like to ask whether a date has been set for the plebiscite and whether it has considered that it is im-

portant for the plebiscite to be held before the U.S. Congress ratifies the treaty. The idea is that once the results of the plebiscite are known—and we feel sure the Panamanian people will approve the treaty by a majority—this would have an impact on the U.S. Congress.

[Romulo Escobar Bethancourt] About the plebiscite. The date for the plebiscite here in the Republic of Panama still has not been set, because naturally this depends on when General Torrijos and President Carter sign the treaty, and also on the amount of time allowed for public debate. After that period for debate—if it is decided here in Panama that, let's say, the debate will take place over a period of 4 weeks beginning on such and such a date—the plebiscite will take place. But the date for it can be set as soon as the two chiefs of government sign the treaty. I understand the electoral tribunal is already taking action and studying the mechanics of the plebiscite. We of course attach great importance to the plebiscite.

I would point out that the revolutionary government is so honest and scrupulous regarding the negotiations with the United States that the 1972 constitution provides for this plebiscite. That is, a constitution dictated by this very same government. What does this mean? Simply that, as General Torrijos has said from the beginning, the problem of relations with the United States is not the problem of one leader or one administration, it is the problem of all Panamanians. If all Panamanians are to be affected for good or for ill by a treaty with the United States, then all Panamanians must have the right not only to express their opinions but to decide whether or not that treaty should stand. For the first time in the history of our republic and under our revolutionary government, that kind of political participation has been established. We honestly agree with you that in a plebiscite here, after our people become truly informed about this treaty and the profound change it implies for the country, an overwhelming majority will be in favor of the treaty.

This revolutionary government, despite the fact that this is a small country, is the only one that has confronted the United States in a really dignified and strong manner.

As for the U.S. Congress, there is a big problem, to be frank with you. They have a big problem, worse than you can imagine. The United States is a country where people have been brought up thinking that the Canal Zone and the Panama Canal belong to them. All their lives they have been taught this in school, at home, through publications—that is the background of the American people. As a product of that training, they, or most of them, feel that this step which President Carter's administration wants to take is a step to give up part of the United States. Many of them feel that if the United States give Panama jurisdiction over the Canal Zone and the Panama Canal afterwards, it is as if they were giving up, for example, the Florida Peninsula. Because that is the training which they have had.

Logically, then, the problem goes to congress. Why? Because the U.S. congressman, as a good politician, acts as the instrument of those electing him. He is always aware of how the voter of the district or state that elects him feels. As there are sectors in the United States which feel as I have told you, there are congressmen who, because of their own training, because they were also educated that way, and, because they act according to the desires of those voting for them totally oppose the treaty with Republic of Panama.

[Representative Luis Emilio Veces] I wish to clear up a point of order, because the secretary has declared that the vote was unanimous [for the resolution approving the accomplishments of the Panamanian negotiators regarding the treaty]. I wish to explain my abstention from voting. With the indulgence of those at the presidential table, the vice president, the cabinet ministers and fellow representatives, I wish to explain that I am incapable of begrudgiing the merits with which the resolution credits those persons abroad who have expressed their solidarity with our country. However, there is a basic issue which has caused me to abstain from voting for that resolution. It is the fact that I cannot share the pleasure of those at this meeting or the pleasure expressed by the government team today for a treaty which I have not yet seen.

The agreement on principles as submitted by the negotiating team undoubtedly presents the positive portions of the agreements reached. Nevertheless, I do not want to talk about the agreement on principles excessively, because I am not able to express a knowledgeable opinion. I want to inform my fellow representatives and the government team of two or three concerns which have caused me to abstain from voting for that resolution.

I have already expressed my concerns to Captain Ocalgan [head of the General Directorate for Community Development—DIGEDCOM] who visited the Chorrera Municipal Council during its last session. According to the national press and the government team, we have ample guarantees permitting a debate on the new treaty draft. Nevertheless, the same government team has made a series of threats of a political nature against persons who oppose the treaty. I wish to state clearly that in such a situation, it would appear that we are left only to take it or leave it.

I do believe that one of the statements made by Romula Escobar Bethancourt is true. Right now it would appear that any academic lucubration of the treaty is unnecessary because it would in no way alter the agreement on principles or the treaty draft, because the negotiating stage has ended. I am also worried about a number of ideas being expressed, such as that those who oppose the government or the treaty are traitors to the fatherland. These are ideas which given the pretense that there is a democratic atmosphere, constitute a threat for anyone in this country who has the power to reason.

Now, those who participate in politics in this or any other country have to accept the consequences of their participation, whatever they may be, and we know this. However, I believe that this whole process of consultation is being besmirched. This is not detrimental domestically because here we all know each other, what we want and where we are heading, and we do not deceive ourselves, but on the international level where this type of threat sometimes denotes fascist ideas, such as accusing of treason two Panamanians in exile in Venezuela who made statements against General Torrijos.

Frankly, I know of one Latin American government which has stated that whoever is against it can be labeled a traitor and lose his nationality, and this is General Pinochet's government.

Other than that, not even General Somoza, the dictator closest to us, has made such a statement, as far as I know. I also wish to express to my fellow representatives and to the government team my deep concern over the fact that a political debate can be held that will affect not only the treaties, but the whole government as well. However, I sincerely believe that this is not the time for the country to undertake a debate on the national government's situation, because what is at stake is not the government's situation but the country's situation. Consequently, I believe that no one in this country should make any statement at this time on whether General Torrijos' government is appropriate or not, because what we must decide at this time is whether the treaties are appropriate or not, and it is the national government who must lead the debate.

[Chairman interrupts] Fellow Representative Veces is reminded that he has 30 seconds until the end of the permitted 5-minute speaking period.

[Veces] Honorable representatives and members of the government team, I do not believe that there is any doubt in Panama about that reality. I would like to strongly suggest that the government team seriously consider this fact.

[Escobar Bethancourt] My reply to Representative Veces is the following: We are promoting a public and open debate and we are not leveling political threats at anyone. We believe that this is going to be a very democratic debate. However, it will probably not be a one-way democracy, but a two-way democracy. For example, if a person is against the treaty drafts and states it publicly, we will publicly explain the points which the person is opposed to. That is what we call a debate.

However, if a person makes a statement in a newspaper, as we observed recently, that not even Bunau-Varilla would have done this—"this is a democracy," as one published statement read—that person had better not believe that we will remain silent after being compared to Bunau-Varilla. He should be prepared for our reply. This is not a threat. Some individuals believe that democracy consists of criticizing the government and that the government must simply accept it. We will not do that. Any person who during the debate objects to the approval of the treaties because Torrijos is a dictator will receive our reply explaining why we do not consider Torrijos a dictator, and in addition we will reprimand that person.

That will be the debate, at whatever level people choose to engage in it, but whoever decides to enter the debate should know that he will get a reply. It would be a threat if we said that anyone who opposes the treaty would be put in jail, fired from his job or persecuted. That would be a threat. However, having the right to reply to an individual's proposals, I would call true democracy, Veces.

Some persons frequently bring up the question of the exiles in reference to the treaty. Let us address this matter. They were not exiled due to the treaty. When they were sent into exile, the negotiations for the treaty had not been completed, and at that time they had said nothing about the treaty, either for or against. They were sent into exile for other reasons, for political reasons, and I do not personally like to see anyone in exile. However, every government has a right to defend itself, and I believe that this government defends itself very mildly. In other countries people are not sent into exile. I have visited all of Latin America. I am going to propose to the general that he send you on a Latin America visit so that you can see what fascism is and what they do to their opponents, how they make them disappear from their homes.

The problem of the exiles is a problem that should be solved. When we visited Cancun, Mexico, we met with the lawyer Turner and we told him we should return to Panama because he had spent too much time abroad, that he should return and see for himself. Turner came to Panama, visited everywhere he wanted, talked to anyone he wished and returned to Mexico. We published a long list of persons who are permitted to return to the country. Do you know why many do not return? Because they are working in those countries and earning much money. That is why they are not returning. In Miami they have already bought a bank. They are not over there suffering. We have many poorer

people right here, who have no jobs, right here in our country. In Miami they live in a golden exile.

ASSEMBLY RESOLUTION SUPPORTS NEGOTIATIONS

The National Assembly of Corregimiento Representatives has issued a resolution of support for the negotiations at this stage that is so crucial for the total liberation of the country. The representatives who met with Cheif of Government Gen. Omar Torrijos Herrera and the negotiating team yesterday were extensively briefed on the treaty draft concluded by our country and the United States.

The assembly's resolution notes, among other things, that the briefing indicated that the new treaty will be instrumental in achieving national liberation because it eliminates the colonialist enclave imposed on our country 73 years ago, that the new treaty will have a specific deadline, when Panamanian territory will be free of any form of alien presence; and that the results obtained were possible due to the solidary support of Latin America and many other countries throughout the world. The resolution says that the assembly hereby decides to issue an appeal to the Panamanian people at this historic moment to renounce before the altar of the nation all their differences and to consolidate national unity by unanimously supporting the treaty. They urge the Panamanian people to fulfill their civic duty by means of a massive turnout for the plebiscite to cast a vote that their patriotic conscience tells them is a sign of their political maturtly.

In addition, political circles of the General Directorate for Community Development [DIGEDECOM] have voiced their support in a resolution, which states: Since the nation has been engaged for 13 years in negotiations with the United States to reach a new treaty over the so-called Canal Zone, and since the agreement on principles for the new treaty eliminates the perpetuity clause and guarantees full sovereignty and jurisdiction over national territory, they support the country's revolutionary leaders and the negotiating team.

DIGEDECOM officials also feel that the next step is to work toward the ratification of the new treaty because it embodies the supreme aspirations of the Panamanian people.

LABOR LEADER ANDERSON INTERVIEWED ON TREATY

[Question] How do you view the attitude of the Canal Zone workers right now and what is the labor leaders' position on the agreement of principles recently reached between Panama and the United States?

[Answer] To us it has been very interesting to participate in the negotiating process which resulted in the agreement of principles. As far as the Canal Zone workers are concerned, it could be stated that they are generally quite pleased; first, because a treaty has been reached after so many years of negotiations and it is definitely a treaty that meets the aspirations of every good Panamanian—namely, that Panama wants to be a free, sovereign nation with jurisdiction over its entire territory.

Many feel that since the employer in the Canal Zone is the U.S. Government there is a negative feeling toward Panamanian aspirations. Our experience is that this is not so. Panamanians who work in the Canal Zone are very much aware of Panama's struggle. They share it and, in most cases, actively support it.

Concerning the labor aspects, there is uncertainty among the workers because the specifics have not been disclosed.

I think that after we hold several information meetings, after we issue public communiques and leaflets and after we use the mass media to brief the entire Panamanian labor force in the Canal Zone, there will be a great deal of acceptance of the content of the treaty.

As leaders, we feel that the protection set forth in the treaty is very adequate, and this is not a rash judgment but a comparative judgment. It is significant that today we have certain benefits and that we have achieved a number of conquests for Panamanian workers in the Canal Zone. Those conquests and benefits have been achieved since the 1955 memorandum of understanding which contained only three labor clauses. Today we are faced with a treaty which includes about 25 labor clauses and none are unfavorable to Panamanian workers. This is indicative of why we accept the treaty.

Today we have had the opportunity of participating directly in the negotiations. We did not have that opportunity in 1955 or 1967.

There is also a great deal of acceptance because the Panamanian Government has fully met its promise of not only seeking to protect current benefits, but of correcting a number of ills existing in the Canal Zone which, despite many struggles, the labor leaders had been unable to correct.

Concerning private business in the Canal Zone, there were 3,000 Panamanian workers whom we could not protect because this area was outside the scope of the law. We were unable to obtain any benefits for them even though this union in particular put all its manpower and funds behind that struggle for the past 15 years. This is one of the issues that the new treaty corrects.

About 82 percent of workers of nonbudgeted activities such as clubs, pools, sports fields and libraries on the military posts were not covered by any labor benefits. This treaty corrects that.

If we view it from the standpoint of just these two specific conquests, we would have to say that it is an extremely favorable treaty for Panamanian workers.

[Question] How do you view the social security benefits that will become effective with the treaty?

[Answer] There has been some confusion or misunderstanding over the benefits. The treaty does not stipulate any major change in labor benefits. However, from the first day of the treaty, those who start to work in the Canal Zone, whether for a state agency or a U.S. Government agency, will be covered by the Social Security Service.

As far as present workers are concerned, there will be no change in their benefits. The changes that could occur are optional for the worker and that would also have to be explained. There will be several employers in the Canal Zone. There will be employees of private business, employees of those activities that go from the U.S. Government to the Panamanian Government and employees of activities that will be entirely administered by the U.S. Government. All those employes who will continue working for the U.S. Government will have the same benefits that they now have with minor differences such as medical care at Gorgas Hospital. The treaty stipulates that after 3 years no Panamanians will receive medical attention at Gorgas Hospital or any other hospital administered by the U.S. Government in the area. But here we are just saying that employees will receive care from other private institutions in Panama or, if they prefer, from the Social Security Service.

[Question] What is the status of the workers who will be laid off and what possibilities do the labor leaders see of resolving this problem?

[Answer] It would be impossible to specify now how many workers will be laid off. However, this is a matter of profound concern to us. In certain areas we have been given almost total assurances that there will be no layoffs and in other areas the very nature of the treaty poses the possibility that there will be layoffs, and this is a matter of deep concern to us.

The fact that Panama will assume complete jurisdiction over political and criminal matters within a maximum of 3 years after the treaty goes into effect means that all the government apparatus which the U.S. Government maintains in the Canal Zone will disappear. The strictly economic and commercial functions will also disappear.

We confronted this reality not now, after a treaty has been reached, but before, when we foresaw this as a logical consequence of a treaty. We proposed early retirement as a means of keeping the loss of employment from becoming a serious problem, not only for the working classes within these specific activities but also within the broader framework of the country's economy. As a matter of fact, when we spoke of a Canal Zone worker and the effects of his dismissal, we in fact said that the dismissal of a worker there would have the same results as the dismissal of three or four workers. Referring specifically to a document published here which referred to [the dismissal of] 3,000 to 8,000 employes, this would have the same effect as the closing of two breweries, Cemento Panama and two or three of the largest companies in the country. We do not really believe that so many employees will be dismissed, but we are aware of the fact that a meaningful number of workers could be dismissed. Let us see now what kind of protection can be given these workers. I believe that they can be given an early retirement so that those dismissals do not become a trauma for the workers or the national economy. In the specific case of the commissaries, we had mentioned that General Torrijos had suggested the possibility of creating cooperatives that would replace these commercial activities administered by the U.S. Government. This would be one of the many ways to solve the problem. However, these specific aspects would have to be studied as the various stages of the treaty develop. It is impossible now to make predictions because no one has any clear-cut concept. No one, not the U.S. Government, the Panamanian Government or we, the unions, have a clear-cut concept of how many jobs will be affected.

[Question] Is there any possibility that your centrals, in solidarity, will press strongly to influence the Senate regarding the treaty's ratification?

[Answer] All the unions now operating in the Canal Zone, except the Colon Portworkers Union, are affiliated with the AFL–CIO. The solidarity you referred to has been evident since 1974. Our federation, at a national level, has supported Panama's just aspirations in the United States. This was the result of a proposal which Local 907 presented in the congress held that year in Honolulu. Our federation's support was very real. It was published by the federation's official news media and also by mass communications media in the United States. What we can assure you is that our federation maintains this attitude of support for Panama and that this support is growing with a treaty which definitely protects the rights we have acquired. In my opinion, based on the study of the treaty's clauses, if the treaty's labor aspects, which is what should interest all labor organizations, are observed, we will be committed to support the treaty. The treaty is a document which protects both Panamanian and U.S. citizens. Any possible opposition to the treaty by the labor unions would be provoked by other reasons, not laboral.

[Question] What, in your opinion, will be the status of the existing labor code and the unions now existing in the Canal Zone?

[Answer] This question is difficult to answer because we will have to await the legislation to implement the conceptual clauses of the treaty. Nevertheless, everything seems

to indicate that the labor code will be applied mainly in the areas of private employment and not in those activities under the direct administration of the U.S. Government. Regarding our organization—Local 907—we operate structurally with the labor code. We have had legal standing since 1954 and have always operated under an administrative structure based on the labor code principles.

[Question] How does the union leadership view the employment of many Panamanians in jobs formerly considered security positions?

[Answer] I think that this is not a matter of human qualities. At this time it is we who run the canal. The security positions are really privileged positions to insure the continuity of U.S. personnel at the job and not because the position required a professional or technological level not obtainable in the Republic of Panama. The apprenticeship program begun in the Canal Zone 16 years ago has trained Panamanians at a level capable of carrying out the efficient administration, operation, repair and maintenance of the Panama Canal. The security positions are a great fallacy. One sees, for example, that in the Canal Zone police there are security positions. The Canal Zone fire department desires security jobs. Certain levels of engineering common in Panama are classified as security positions. I rather believe that the problem of running the canal efficiently will fall in the realm of our administrative systems—the administrative systems applied by the republic as sovereign and owner of the canal—and not whether we have the human resources capable of operating it.

It would be wrong to think that, as Panamanians, we could object to a treaty which returns to Panama the total jurisdiction over all of its physical territory. We could object to a labor clause affecting our interests, just as we have protested in the past over the clauses which prevented the full utilization and development of Panamanian workers in the Canal Zone. But we could never object to a treaty which is the aspiration of all good Panamanians, and this organization will back this treaty even if it contains certain clauses detrimental to our interests. What we would do is simply to wage a struggle at a labor level to correct these irregularities.

THE F-18 IS THE WRONG KIND OF AIRPLANE

Mr. HART. Mr. President, I would like to bring to the attention of my colleagues a most thoughtful letter by a junior naval officer, from the September issue of the Naval Institute Proceedings, regarding the proposed F-18 naval fighter.

As this letter so well explains, the F-18 is the wrong kind of aircraft for the Navy. The threat to our aircraft carriers is generally not enemy tactical aircraft, but rather antiship missiles. The F-14, with its Phoenix antiaircraft/antimissile system, is designed to be able to intercept six incoming antiship missiles simultaneously. In contrast, the F-18 is strictly a fighter, with little antimissile capability.

Nor does the attack version of the F-18 appear any improvement over the current attack aircraft, the A-7. In fact, it may be inferior to the A-7, having a smaller bomb load. It would seem that a reengined A-7 could be procured well into the future, instead of the A-18, with a substantial savings in cost and improved capability.

Perhaps most importantly, the F-18/A-18 program may inadvertently prove a device to delay the development of VSTOL aircraft and small VSTOL aircraft carriers. If the F-18 program continues, it will mean the acquisition of a large number of naval aircraft which can only operate from large, expensive, catapult-equipped aircraft carriers. This will provide ammunition for those who want to compel the Navy to continue building aircraft carriers costing $2 billion apiece, which are not only large investments but also very large and attractive targets for enemy missiles. If naval aviation is to remain viable into the 1980's and 1990's, it must be dispersed onto a much larger number of small, less-expensive platforms. The F-18/A-18 program may hinder us from taking this necessary course.

Mr. President, I ask unanimous consent that the letter from the Naval Institute Proceedings on the F-18 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE F-18

(By Lt. (junior grade) William G. Garvey, U.S. Navy)

As an E-2C Hawkeye crewman responsible for the early detection of airborne antiship weapons, I have a more than passing interest in the fighter aircraft I will be controlling in the future. The F/A-18 Hornet, so eloquently described by Captain Halleland, sounds like a true fighter pilot's aircraft—small, swift, and maneuverable. It will undoubtedly be a fun jet to fly. Despite this potential for amusement, the Navy had best remember that the lightweight fighter was forced on us and is not the aircraft for the job at hand. Its only virtue, as stated by the CNO, is that it is cheap. Economy is an important consideration, but a weapon system must be judged by its mission capability. When viewed in this light the F-18, in both the fighter and attack versions, offers a marginal advancement, at best, over the aircraft it is programmed to replace.

The primary mission of a shipborne fighter is to protect the CV. That fact has been obscured by our Vietnam experience. We had best remember that North Vietnam had no navy or antiship missiles to threaten the carriers. The worldwide proliferation of Russian-built antiship missiles and their lauchers will most likely preclude similar circumstances in the future. Our CVs will be threatened, and it will be the responsibility of the fighters to fend off the attacks.

The "worst case scenario" will involve us with a power which has based its anticarrier tactics on the massive application of antiship missiles. Fighter squadrons will be tasked with shooting down the airborne platforms before they get within launching range or, failing that, to attempt to shoot down the antiship missiles. These fighters will have to use missiles in order to attack the launchers at the greatest possible range from the task force. They will rarely get the chance to use guns. The next generation of fighters will have little opportunity for "hassling" but many for intercepting.

The F-18 is not a good interceptor. It is incapable of the semi-autonomous operations routinely flown by F-14s. The F-18's short-range radar and lack of passive detection capability will necessitate close control from a shipboard or airborne intercept controller. In spite of the increased range of Soviet air-to-surface missiles (ASMs), the F-18 is armed with the old, short-range Sparrow, the same weapon carried by the F-4 which the F-18 is supposed to replace. In fact, it carries four Sparrows, while the F-4 has the capability of lifting six. The F-18's small fuel load will keep it from being stationed far enough from the carrier to engage subsonic strike aircraft; it will be forced to counter supersonic antiship missiles. The Russians have the ability to fire large numbers of antiship missiles from a strike group within a matter of minutes. The F-18 can lock up and shoot only one at a time. In theory, one F-14 can engage and destroy six incoming antiship missiles simultaneously; it will require six F-18s to do the same job. A CAP (combat air patrol) station manned by two F-18s cannot be expected to account for more than two missiles in a strike. Given the Soviet capability to saturate a target, the F-18 is clearly a less than adequate addition to our defenses.

The F-18 in its attack version, the A-18, is also a mediocre performer and, in at least one respect, inferior to the A-7. It may be slightly more maneuverable than the A-7, but with the growing sophistication and number of Russian-built surface-to-air missiles (SAMs), in particular those with electro-optical devices, survivability depends less on physical tactics than "black box" countermeasures. New boxes can be fitted onto existing A-7s, as well as being built into the A-18. A major drawback to the A-18 is its weapon load, a grand total of 13,700 pounds. The single-engined, smaller, and cheaper A-7 carries 19,940 pounds. The A-18 offers a marginal increase in maneuverability and a marked decrease in payload. It's little wonder that the light attack community is not singing the praises of this aircraft.

Why then is the Navy reconciled to, and even pleased with, the selection of the F-18? The answer is that the naval air forces and their support activities are largely staffed by exfighter pilots who yearn for the days of snappy, single-seat jets. Day fighters were well suited to the requirements of the early 1950s but are totally unsuited for the present threat. We aren't going to hassle with antiship missiles; we're going to shoot them down with missiles at the greatest range possible from the CVs. The F-18 can't do that, but the "fighter lobby" is so enchanted by the acrobatic potential of the aircraft that the mission has been forgotten. Instead of extolling the virtues of the F-18, we should be sounding a warning for our carrier defenses. It won't do any good to have half the airwing playing Red Baron while the carrier is sinking.

VIEWS OF THE ADMINISTRATION'S MIDDLE EAST POLICY STATEMENTS

Mr. CRANSTON. Mr. President, I am pleased by the reaffirmation by President Carter before the United Nations today that the U.S. commitment to peace in the Middle East is based on the principles of U.N. Resolutions 242 and 338 and that the United States does not intend to impose from the outside a settlement on the nations of the Middle East.

This statement clarifies some of the confusion that had arisen over the United States-Soviet Mideast statement issued on October 1, and I view the President's speech today at the United Nations as the accurate position of the United States. I firmly support the President in the view that he has clearly stated that U.S. policy in the Mideast must be based on two fundamentals:

First. The superpowers will not try to impose a settlement.

Second. Any settlement must be based on the essential elements of U.N. Resolutions 242 and 338:

First, acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area, and its right to live in peace within secure and recognized boundaries.

Second, the withdrawal of Israel's armed forces from territories occupied in the 1967 conflict.

Third, freedom of navigation through international waterways.

Fourth, a just settlement of the refugee problem.

The October 1 United States-Soviet Mideast statement departed from the substance of U.N. Resolution 242 and 338 in two important aspects.

First, by the use of the key words "insuring the legitimate rights of the Palestinian people," the statement appeared to recognize the right to an independent, sovereign Palestinian State. This langauge has been so construed by some of the Arab States and Arab interests, and such a position is contrary to previous U.S. policy. The President did use similar language in his speech at the U.N.—but he stressed that "these rights" must be defined and implemented by the interested parties in negotiations. I trust the President means by this important qualification that the United States is not committed to an independent and sovereign Palestinian State.

Second, the United States-Soviet Mideast statement, by using the words "representatives of all parties involved, including those of the Palestinian people," appeared to be an implicit recognition of the Palestine Liberation Organization and appeared also to sanction representation of the PLO at Geneva. Such a position, of course, would be totally unacceptable to Israel and a very substantial change of U.S. policy. The President did not refer to this question or use this language in his U.N. speech today, and again I trust that the United States does not intend to depart from its past position on the PLO. It most certainly should not and must not do so.

I continue to believe, as does the President, that real peace will emerge only if the details of the negotiations and the final terms of a settlement are left to the Israelis and the Arabs themselves to work out. I also continue to believe that acceptance of a sovereign Palestinian State is not now warranted. And finally, I continue my strong stand that the PLO has no place in the Geneva deliberations unless and until it recognizes unequivocally the right of Israel to exist and accepts both the letter and spirit of U.N. Resolutions 242 and 338.

In view of the justified concerns raised by the wording of the United States-Soviet policy statement, I welcome the reaffirmation today by President Carter of the fundamental U.S. policy that a solution will not be imposed on the Mideast and that the United States stands firm on U.N. Resolutions 242 and 338.

I urge the President and Secretary Vance to continue to encourage the Israelis and Arabs to sit down together at the peace table and negotiate the final terms of a settlement under U.N. Resolutions 242 and 338.

OUR ARMED FORCES, READY—OR NOT?

Mr. HATCH. Mr. President, the men and women that are serving in the military today have been maligned and ridiculed ever since the Vietnam war. We have heard many charge that the Armed Forces of this country are not prepared to defend us in a time of war. Combat readiness is a term that has been bandied about in the Halls of Congress for many years. The American public has grown to look upon the young man in uniform with contempt and scorn. Well the draft is no longer with us and we have turned to an all-volunteer concept in the military. These men and women have chosen to make the military their career and have worked hard to attain a level of professionalism.

A member of my staff has had the opportunity to visit several key military installations and has reported to me the presence of a new "esprit de corps" among the men and women. Their training is at a new alltime high and they are dedicated to the mission they have been assigned. In this week's issue of U.S. News & World Report there is a special report entitled, "Our Armed Forces, Ready—or Not?" It is an in-depth look at some of the key units in this country's first line of defense and the report is favorable. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR ARMED FORCES, READY—OR NOT?

This year, 110 billion dollars is being spent on the nation's armed forces, a sum that causes many Americans to ask:

Are we getting our money's worth?

Are those forces ready to fight if war threatens? Or are they crippled by deficiencies, as some critics claim?

To search out the answers, U.S. News & World Report sent a team of reporters to key American military installations across the country as well as in West Germany and South Korea.

Their findings boil down to this conclusion: Despite some shortcomings, America's military forces today appear to be as good as, if not better than, they have been at any other peacetime period in the nation's history.

Military commanders insist that the demoralized conscript services that came out of the Vietnam War have been rebuilt in a few short years into highly motivated, well-trained and reasonably well-equipped contingents of volunteers. They caution, however, that the rebuilding process has some way to go yet.

TAKING STOCK

The Air Force, for example, is in the midst of a difficult transition as it absorbs an assortment of new fighter aircraft. There still are too few planes, and many are experiencing serious troubles. And air-to-air munitions are still inadequate for a protracted war.

The Navy, with 468 ships, is now only half the size it was pre-Vietnam, and commanders insist that more combat vessels are needed to meet the growing Soviet challenge.

The Army is still short of modern tanks, long-range artillery, advanced helicopters and ammunition. The deficiencies will persist for several years, at least.

The Marine Corps, with three divisions and three air wings set to go on a moment's notice, is still adapting to a new basic role as a first-line back-up force for the European front.

America's strategic nuclear forces are in a period of critical adjustment, too. President Carter's decision to kill the B-1 bomber and concentrate on air-launched cruise missiles will compel the Administration to decide on a plane to replace the aging B-52 fleet. Also: The growing vulnerability of land-based Minuteman missiles to a Soviet knockout attack will force another early decision—whether to build a new generation of mobile missiles at a cost of 30 billion dollars.

Those are problems that U.S. military leaders believe could be managed over the next few years, although the cost would be high.

But the leaders see two shortcomings that could seriously impair America's ability to wage a protracted war in Europe, and they warn that there is no obvious remedy in sight.

One is an acute and worsening shortage of properly trained reserves, who are supposed to reinforce active military units in wartime. Recruits are drying up as a result of the ending of the draft. Some experts argue that a limited form of conscription may be necessary.

The other critical problem is a scarcity of air and sea transport to carry U.S.-based fighting units across the Atlantic, in particular those with tanks and other heavy equipment. One plan—extremely costly—would be to position the needed stocks of heavy equipment in Europe ahead of time.

As things stand, the fear is that the conventional forces of NATO might be overrun before adequate reinforcements could arrive. In other words of one Army general: "We need a ride to where the war is."

Despite these deficiencies, top American military men believe that the armed forces today are capable of deterring the Soviets from launching a nuclear attack on this country and convincing them that they could not win a conventional war in Europe without facing prohibitive risks.

It is at the operational level—among the fighting forces in the field—that the magazine's reporting team found the most graphic evidence of the rehabilitation of America's military services since the Vietnam debacle.

For a close-up look, here are their on-the-spot reports—

STRATEGIC AIR COMMAND—OLD BOMBERS, SHARP PILOTS

MINOT AIR FORCE BASE, N.D.—At 5:50 p.m. on a recent evening, a claxon blared the call to war and a softball game broke up abruptly in the bottom half of the seventh inning.

The players piled into waiting pickup trucks and sped toward a line of B-52 bombers and their tankers. Ninety seconds after the horn sounded, black smoke belched from the first plane as a small explosive device was used to start the first engine.

In the cockpits of the five bombers on the alert line, the pilots began copying a series of numbers broadcast from Strategic Air Command headquarters at Offutt Air Force Base, Nebr. Only when they decoded the numbers did they know that this was a test and that they were not actually on the way to assigned targets in the Soviet Union.

At 5:55 p.m., the first plane crossed the hold line, ready for take-off. Three minutes later, the last of the tankers from the alert line reached the runway and the test was over.

Col. James D. Gormley, commander of the Fifth Bombardment Wing, took stock. Of 10 planes in the alert force, nine were ready for take-off in eight minutes, fast enough to escape a surprise attack.

One bomber did not taxi out because only seven of its eight engines started. "If this had been the real thing, we would have gone to war and started that engine in the air," Gormley explained.

During a recent four-day period, a similar test was run to determine if the 150 Minuteman missiles buried in silos in an 8,000-square-mile circle around the Minot base are equally ready. Eleven missiles were selected at random, and the entire system that controls and launches the missiles was tested.

2,680-mile mission

Lt. Col. Reginald S. Goodwin, commander of the 740th Strategic Missile Squadron, said the test was a total success.

Officers assert that, with 127,000 persons, the Strategic Air Command is much more powerful than it was 15 years ago with twice as many people.

As a further check on the readiness of the Strategic Air Command, an associate editor of U.S. News & World Report joined Capt. Robert W. Koop and his five-man crew in their B-52 on a practice mission that covered 2,680 miles in 9 hours and 10 minutes.

Koop took off at 11 a.m. and climbed to 25,000 feet to meet a tanker over the North Dakota-Montana border. For 36 minutes, the two planes flew within a few feet of each other as Koop and his copilot, Capt. Gerald J. Venteicher, practiced connecting and disconnecting from the tanker. Sweat streamed down their faces, and their muscles ached with the tension of flying so close to another plane 5 miles above the earth. Next it was the turn of 1st Lt. Robert L. Rottman, the navigator. He began a long celestial-navigation practice that took the plane to a point just south of Missoula, Mont., and back to the east of Rapid City, S.D. Then Koop pulled back on the throttles, and the bomber plummeted from 28,000 feet to 800 feet to approach the simulated bombing range.

For the next hour and 18 minutes, the huge plane followed the contour of the earth across the flat plains of South Dakota, bouncing in the rough air as it dipped into the sharply etched valleys of eastern Wyoming, skimming higher and higher mountains until it was passing over the snow-capped peaks of the Rockies near Deer Lodge, Mont. For safety it stayed 800 feet above the earth. In combat, it would go in at 200 feet or less, under the enemy radar.

As the crew prepared for the first attack, simulating strikes with bombs on two targets and with a short-range attack missile on a third, the bombing and navigation system malfunctioned. Officers report that the most frequent problem with the B-52s—the newest of which is 15 years old—is in the outdated vacuum-tube electronics equipment.

In this case, Rottman and Capt. Murry P. Gandy, the radar-navigator, managed to fix the system in time for the attack. Later, however, the system malfunctioned again, and an alternate bombing system had to be used.

Officers here say that the navigation and bombing systems now carried by the B-52 and the other strategic bomber, the FB-111, permit extreme accuracy.

Viewed from this base, the Strategic Air Command seems almost frighteningly ready for war.

U.S. MARINE CORPS—SHIFTING TO A NEW ROLE

CAMP LEJEUNE, N.C.—At the height of the war in Vietnam, a cluster of Asian "hootches"—primitive reed huts—stood amid the North Carolina pines, and Marines attacked the little hamlet, practicing the techniques they would use in combat.

Now, the hootches are gone. In their place is "combat town," with its bank, school, church and other buildings similar to those found in the cities of the United States and Europe. Here, men of the Second Marine Division practice the techniques of urban warfare.

The Marines still stand ready to move out on short notice. They still sail with the Sixth Fleet in the Mediterranean and they still storm ashore on beaches in the Caribbean. But they also prepare for war above the Arctic Circle and on the plains of Northern Germany. While they could fight anywhere in the world, their training now is clearly aimed at the defense of Europe from a Soviet attack.

How well are they prepared for that role?

New chapter

By almost any measure, the Marines are better prepared for combat than they were five, or even two, years ago.

In the early 1970s, Camp Lejeune was so torn by racial tension and by drug-abuse problems that it was dangerous to walk alone at night. Three brigs overflowed with inmates, some of them dangerous felons. Now, officers say, the criminal element has been eliminated. There is a small problem with marijuana but almost no evidence of the use of hard drugs. Officers and enlisted men agree that serious racial problems are a thing of the past.

The result of these changes is that the division can concentrate on training, which has meant a marked improvement in the division's readiness for combat, says Brig. Gen. J. V. McLernan, assistant division commander.

The division is also getting new equipment. The Marines have sometimes complained that they were short-changed on equipment. But the Second Division is getting the new Abrams tank, and TOW and Dragon anti-tank-missile systems ahead of some Army units.

About 30 per cent of the division's equipment is set aside and kept ready for a move to combat. But Lt. Col. R. C. Hyatt, the division supply officer, says that regular maintenance and spot checks keep all but 8 per cent of the division's equipment combat ready.

The problems that worry officers here are the kinds that can only be cured with time and lots of money. McLernan would like more naval gunfire support and more ships to carry the division and land it where it is needed. Other officers speak of the planes that the Air Force would need if the division had to move out in an emergency.

"These problems are long-term and expensive. We've just got to be patient," McLernan says.

TACTICAL AIR COMMAND—"AN IMPOSSIBLE CHALLENGE"

LANGLEY AIR FORCE BASE, VA.—The Tactical Air Command is in the position of a man trying to change from an old suit of clothes to a new one—without getting undressed.

Brand-new fighter planes and attack planes are coming off the production lines. Though the planes are welcome, they are also a problem to the officers who must worry about what would happen if war came now, in the midst of the transition.

"Converting to this new equipment is an impossible challenge—but we're going to do it," says Maj. Gen. Charles A. Gabriel, until recently deputy chief of staff for operations of TAC.

The Soviet Union, he says, has now completed about 95 per cent of a major modernization of its Air Force. The U.S. is in the early stages of a similar modernization program, which must be carried out while still trying to maintain a high state of readiness.

The headaches

These are some of the problems that have cropped up:

The 26 tactical wings should have 72 planes each. But they have only enough planes for 23 fully equipped wings. The shortage of planes will not be cured until 1981.

There is a shortage of fighter pilots. The cockpits of first-line fighters are manned, but there are too few experienced pilots available to train new pilots.

There is an across-the-board shortage of ammunition, especially the more sophisticated and expensive missiles. TAC officers would like to have each crew fire one air-to-air missile and one antiradiation missile each year. But there are not enough missiles for even that limited amount of training.

Engine problems plague the twin-engine F-15 and the single-engine F-16 fighter planes, both of which use the same power plant. The engine may stall unpredictably during dogfight maneuvers. That is especially dangerous in the F-16 because it has only one engine.

A shortage of parts for the F-15 has forced a high rate of "cannibalization"—borrowing parts from one plane to keep another flying. To some extent, this was foreseen as a necessary phase until a full parts inventory can be built up, based on experience in operating the planes.

Intensive training in the new planes means that things break or wear out. Thus, many of the planes are not fully ready for combat operations, although most of them could be used if needed.

Senior officers here say they are in the process of solving or working around many of the most serious difficulties.

A major problem was how to phase in a new plane without leaving a gap in front-line defenses. In the past, it might take a wing a year or more to become fully ready for combat with a new plane. But the first F-15 wing was trained here at Langley while the unit it was to replace remained on duty in Germany with its older F-4 Phantoms. When the training period was completed earlier this year, the new wing was flown to Bitburg, West Germany, and was on combat-alert status just 27 hours later.

To ease the pilot shortage, new pilots are getting more flight time in sorties carefully planned to jam in as much training as possible. With this intensive training, a pilot can become a flight leader with 300 hours of flying, rather than the 500 that used to be required.

Training is also being made more realistic. In a special training area at Nellis Air Force Base, near Las Vegas, Nev., air crews fly simulated combat missions against air defenses that are as much as possible like those they would face in combat against the Soviet Union or a nation supplied by the Russians.

Pilots specially trained in Russian tactics and flying planes that look very much like MIG-21s take on the trainees in air-to-air combat. Ground crews track them with radar on Soviet frequencies and simulate antiaircraft fire with captured Soviet weapons.

When the day's fighting is done, photographs and a computerized analysis of the air battle show the crews what they did right—and what they did wrong. They also have the unusual opportunity to talk over the battle with the "enemy."

Says Brig. Gen. Larry D. Welch, commander of the First Tactical Fighter Wing: "We have a constant problem balancing out between the need for readiness now and the training that will increase our level of readiness three months from now."

NAVY'S ATLANTIC FLEET—"IT'S GOING TO BE CLOSE"

NORFOLK, VA.—If war breaks out in Europe, it will be the job of the naval commanders here to keep open the sea lanes across the Atlantic to move supplies for the troops and to provide food, fuel and other goods for people in Europe and the United States.

Can they do the job?

"I'll tell you what's a fact," says Adm. Isaac C. Kidd, Jr., Supreme Allied Commander, Atlantic. "In the opening days, the losses are going to be staggering, just staggering."

Kidd believes that in an emergency at least 6,000 of the 10,000 merchant ships owned by residents of nations of the North Atlantic Treaty Organization should be mobilized. They would be loaded and sent

across the ocean at top speed. Some would go alone and unescorted, not waiting for convoys to form. As many as 2 out of 3 might be lost. Kidd says: "We're going to get an awful bloody nose—and so's the enemy."

"I'm afraid we may be like the division commander who has a big river to cross," Kidd adds. "His staff has proceeded in a thoroughly professional way to measure the loads, mobilize the trucks and organize the movement. Just one thing: Nobody has checked to see if the blasted bridge is out!"

The primary threats to the "bridge across the Atlantic" are the submarines that would swarm out of their bases in the Northern Soviet Union, through the Sea of Norway and down into the North Atlantic. "It's going to be a very difficult thing," says V. Adm. D. D. Engen, Deputy commander of the Atlantic Fleet.

"We don't have as many ships, we don't have as many airplanes as are going to be needed. We are going to have to do the very best we can with everything we have. It's going to be close. It really is."

Eliminating a threat

Maj. Gen. R. H. Spanjer, deputy commander of the Fleet Marine Force, Atlantic, puts the problem this way: "If you can get all the Army divisions that General Haig (Alexander Haig, Supreme Allied Commander in Europe) would like to have, plus two Marine divisions, which he'd like to have, then how do we survive? How do we get them supported fully? If it's a question of getting in to a trap if we can't support them over there, maybe our tactics and our strategy should change."

To protect the bridge across the Atlantic, two aircraft-carrier striking forces would be dispatched to the north. One would swing around the northern tip of Scotland, fighting its way into the Norwegian Sea if shooting began. The other would attempt to block the sea lanes between Greenland and Iceland and between Iceland and the Faeroe Islands. The goal of both would be to bottle up the Soviet submarines near their bases in the Barents Sea, sink those that tried to run the gantlet and either sink those already in the Atlantic or prevent them from returning to their bases for food and torpedoes.

V. Adm. H. E. Greer, commander of the Navy's Atlantic air arm, and V. Adm. W. L. Read, commander of the Atlantic surface fleet, agree that their forces are in a high state of readiness. But both express some misgivings.

The air arm, Greer says, is keeping its state of readiness by cannibalizing aircraft and by working its people 14 and 15-hour days to make up for manpower shortages. The state of readiness is "high but rather thin," says Greer.

He explains: "The reason that readiness is thin is the manning levels, the quality of experience and the depth of spares and backup material. If we had a surge and had to double or triple our pace, the supply line simply is not equipped to handle an intensive operation over an extended period."

Read expresses a similar concern about the surface fleet: "We have 100 per cent of the numbers of our people, but we're thin in experience. We're thin in terms of the numbers of technically trained people. This in turn makes for a thinness as far as deployability is concerned—the capability of maintaining extended operations. I'd say that we have made good progress in the material aspects, but on the people side we've got problems."

Spanjer says that the Marine Corps, which recently held training exercises in Norway, Denmark and Germany, is in good shape right now, "the best shape that I've seen it in during my 36 years." Then he adds: "If there's a problem, it's getting there—taking everybody and getting into the battle."

U.S. FORCES IN EUROPE—RECOVERING FROM VIETNAM

HEIDELBERG.—Fly low along the southern border between East and West Germany, and you see how U.S. platoon leaders and the pilots of the A-10 jets giving them close air support get on-the-spot training to meet any Soviet attack.

Across the broad corridor where such an attack would sweep into West Germany, the American combat leaders are flown by helicopter to study at first hand the terrain where Russian forces might pour through. There, they plan how to attack tanks and other enemy targets that could be involved in an invasion.

It is a revealing exercise and one that backs up the impression that the American Army in Europe is a lot closer to being ready to go to war than it was a year or two ago.

In top form

As Gen. George Blanchard, commander of the U.S. Seventh Army, tells it: "Our forces in Europe have finally recovered from Vietnam. I don't think we've ever been in as good shape as we are now. And we should be. I now have absolute priority in people and equipment."

That represents a total turnaround. During Vietnam, Europe was at the end of the line. It got whatever was left over. Experienced officers and noncoms did European tours measured in months, as Germany was only a way station en route to and from the fighting. But whatever the Seventh Army wants now, it generally gets.

Its manpower is up to authorized strength for the first time in years, with two new combat brigades sent over from the U.S. recently and the American garrison in Germany up to the equivalent of five divisions. In Europe at this time are some 191,400 men, or 3 per cent over assigned strength, stationed in 700 installations in West Germany.

The other personnel indicators seem to be good, too. Racial incidents, which were disturbingly commonplace during the Vietnam period, are down to about one per month. The use of hard drugs is down sharply. And in the past two years, the AWOL rate has decreased from 2.6 to 1.2 per 1,000 men.

Military equipment is being shipped to Europe in a steady stream. More supplies are being hauled by plane, cutting back on the use of slow surface shipping.

But the third leg of the readiness triangle—personnel, logistics and training—is less heartening. Says General Blanchard: "I want more training money, more training time, more training ammunition and more training space."

Even if he contrives to get the first three, as he probably will, chances for getting more space are just about nil. Real estate for military use in Germany is severely limited, and U.S. forces will have to make do with what they have.

Talk with the top American officer over here—Gen. Alexander Haig, the Supreme Allied Commander in Europe—and you hear this: "I would say that we are far from reaching the level that would generate complacency, but in the past two years we have given close attention to our conventional needs and have finally turned the corner.

"With the improvement programs now under way, in a very rational framework, we'll be in tiptop shape in another three to four years."

Has the shift to an all-volunteer Army had an adverse effect, as some claim, on U.S. forces in Europe? Brig. Gen. William H. Fitts, Blanchard's chief of personnel, does not think that it has made much difference. His judgment is that today's soldiers, although less educated than the draftees, are more interested in doing their job and thus co-operate better with their officers and noncoms. The result, he says, is a trade-off.

This autumn, 12,500 U.S. soldiers were flown across the Atlantic to take part in the annual large-scale maneuvers of the NATO Alliance. The hope now is to make this more than a once-a-year exercise. As an Eighth Division colonel explains it: "Combat-training level is a very perishable commodity."

U.S. FORCES IN KOREA—"FIT TO FIGHT," BUT—

SEOUL.—Early every morning, you can see the 15,000 officers and enlisted men of the U.S. Second Infantry Division out jogging for several miles over the misty hills of South Korea.

That is one reason that the American military forces here are probably in their best shape in peacetime history.

In addition to such rigorous "fit to fight" physical conditioning, the division holds frequent field maneuvers, including almost constant cold-weather exercises, and spends much more time in the field than do troops in either the U.S. or Western Europe. But President Carter's announced troop-withdrawal plans may change the American position of strength here in the near future. Within five years, all U.S. ground-combat units are to be out of South Korea.

Right now, the American ground units are at or near their designated strength. Reductions so far have been mostly in support units and noncombat elements of the division, and they have not affected combat readiness.

Some U.S. Air Force units will stay in South Korea indefinitely, to be reinforced quickly in case of another invasion from the North. At least one additional tactical wing—usually a fighter-bomber wing plus reconnaissance group—is almost always in Korea on a training assignment from its home base on Okinawa or in the Philippines.

Measure of speed

An inkling of just how fast reinforcements could arrive in case of emergency can be gained by looking at the Korean incident of mid-1976, when two U.S. officers were murdered in the demilitarized zone. Aircraft reinforcements were brought in from as far away as the United States in less than two days. Local commanders say that other available planes are based only hours away, with some just minutes away, to give the South Korean-American Air Force superiority over anything that North Korea can put in the air.

No combat naval forces are stationed in South Korea these days.

The backbone of U.S. forces in Korea is the Second Division, now well supplied with equipment ranging from small arms to heavy artillery. As division manpower is reduced, this equipment will be left behind for eventual transfer to South Korean forces.

Meanwhile, the U.S. troops are doing most of their maneuvering in lightly populated areas near the DMZ, places that they would defend in case of war.

To a correspondent familiar with the U.S. Army in Vietnam, troop morale in South Korea presents a sharp and favorable contrast.

Commanders say that training has been helped by permitting more live-ammunition firing practice than is allowed in Europe or the United States.

What will happen to the defense capability when troop withdrawals begin on a large scale is a matter of endless debate here, but at this stage the U.S. commanders assert that they can handle anything that North Korea can dish out.

A PAT ON THE BACK FOR THE ALL-VOLUNTEER ARMY

Ever since the draft died with the end of the Vietnam War, major concern has centered on whether volunteer recruiting can maintain a high-quality U.S. Army.

Now a report by a respected independent

study group, the Rand Corporation, calls the all-volunteer military force a definite success.

In a detailed study made for the Pentagon, Rand reported on September 25 that the quality of the U.S. armed forces has not been lowered by ending the draft, which formerly provided an assured routine influx of high school and college graduates. The fear that the Army would become top-heavy in blacks or disproportionately heavy in poor or uneducated men and women has not been borne out, the 394-page report states.

The number of blacks in the Army has increased from 8 percent in 1960 to 16 percent currently, the study found. But it attributes this to "the vastly larger numbers of blacks qualifying for military service now."

The report adds: "The number of blacks entering the armed forces would be about the same under the all-volunteer force or the draft."

An increase in the number of blacks with high-school diplomas or the equivalent has enabled more of them to enlist in recent years—a period when civilian jobs have been scarce, especially for black youths.

What lies ahead?

Looking beyond 1980, the Rand study concludes:

"The all-volunteer force can be made to fail. But it also can be made to work—and perhaps much better than its draft-dependent predecessor."

The key to the future of the volunteer force, the report states, is in new policies that will increase the rate of re-enlistments, bring in more women in uniform and reduce the present inefficient use of military manpower.

FROM THE JOINT CHIEFS OF STAFF

Gen. GEORGE S. BROWN, Chairman:

I think our forces today are more ready than they've ever been in peacetime. Our training is more realistic than in the past. Our people are interested, enthusiastic and sincere; they're just professionals. But we've suffered because of some economies in funds to maintain equipment and to hold exercises and maneuvers.

Our lift capability to move reinforcements to Europe is not adequate against the worst scenario: little or no warning of a Soviet attack. We have plenty of airlift for people, but heavy equipment is an entirely different thing. It would take days, weeks, even months to move. This has led to a program of pre-positioning heavy equipment in forward areas in Europe.

There is a recognition that we do not have sufficient conventional forces to stop a Warsaw Pact penetration in Europe with nonnuclear forces. But if President Carter's proposal to improve NATO's conventional capability wins support, we can rapidly improve the situation. The strategy is to fight as long as we can in the nonnuclear sense, then resort to tactical nuclear weapons, then strategic ones, if necessary.

If our primary aim was to fight a war rather than deter one, we would be doing lots of things differently. What we are seeking to do—successfully, so far—is to deter a war principally with a strategic nuclear deterrent.

I'm not terribly pessimistic about our ability to cope with the Soviet threat. However, I don't think there's room for joyous optimism.

Gen. BERNARD W. ROGER, Army:

We have deficiencies, but the men and women in today's Army are the most highly motivated and best prepared peacetime soldiers I've seen in my 34 years of service.

There is an equipment-modernization gap between our active and reserve components and the Warsaw Pact. Our latest equipment won't be coming into the inventory until the 1980s.

We need additional ammunition stocks, new tanks, longer-range artillery, advanced attack helicopters and other modern equipment.

We have a sustainability problem, such as shortages in the Individual Ready Reserve which must provide replacements for combat losses. To assist in that area we would like a Selective Service System operating that would cut the time from call-up through training.

Our quick-reaction forces range from a 40-man ranger platoon on up to 100,000-man corps of three light or three heavy divisions. What concerns me is adequate air-and-sea lift to get them to where they are needed in time. I'm particularly concerned about our ability to reinforce rapidly our forces in Europe.

We have some deficiencies in our readiness, but I'm encouraged by what I've seen in the field. Training is the best I've ever seen and—though focused primarily on operations in Western Europe—includes cold-weather, jungle and desert environmental training.

Our challenge in the Army is nearterm readiness and midrange modernization. Obviously, we will be in a better posture after 1980, when our new generation of equipment starts getting to the troops.

BRING BACK FREE ENTERPRISE

Mr. HART. Mr. President, on September 9, Senator HATHAWAY and I introduced S. 2071, the "Competition Review Act." The purpose of this act is to determine legislative changes and regulatory modifications necessary to insure a vibrant and dynamic free enterprise system.

The bill would establish a "Competition Review Commission" to evaluate the competitive impact of the Government's laws, regulatory policies, and enforcement procedures. The study commission would also evaluate the effect of the practices of management, labor and other financial interests on the general health of the economy.

Not surprisingly, this proposal has been labeled "antibusiness" in some quarters. This is not the case. The bill reflects the fact that Congress must have a genuine understanding of the current structure and operation of the marketplace and how its actions help shape the economic environment.

Mr. President, there is an urgent need for this kind of comprehensive analysis of government and the private sector. A recent editorial appearing in the September 14 edition of the Rocky Mountain Journal—a paper in my home State of Colorado—makes this point with unusual clarity.

The editorial underscores the need for resolving competing economic theories of current industry structure. It states in part:

The truth of the matter is, what's good for General Motors may or may not be good for the rest of the country. And, most of the time, we simply don't know enough to decide.

Mr. President, I ask unanimous consent that this editorial be printed in full in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BRING BACK FREE ENTERPRISE

It seems safe to predict that U.S. Senator Gary Hart will soon be feeling the wrath of the What's-good-for-General-Motors-is-good-for-the-rest-of-the-country brand of capitalist.

Hart, along with Senator William Hathaway (D-Maine), introduced a bill last week which would create a commission to study the effects of economic concentration on employment, prices, profits, efficiency, innovation, quality of goods and services, ability of U.S. corporations to compete with foreign rivals, regional economic development and the political and social impact of economic concentration. The 11-member group, drawn from the private sector, the Congress and three federal agencies, would collect and analyze data gathered from the 11 major industries which handle chemicals and drugs, electrical and mechanical equipment, computers and communications equipment, energy, iron and steel, nonferrous metals, motor vehicles, transportation, food and—God help us—the newspaper and communications business.

Senators Hart and Hathaway may expect the sniveling and whining to begin to issue from the board rooms, the golf courses and the country clubs almost immediately. For if there is one thing big business, as we have come to understand the term, does not want generally known, it is the effects of economic concentration on our society—indeed on our planet.

We see them all about us: the muck in our rivers; the brownish-green miasma that hangs over Denver; the senseless violence that characterizes life in our cities; the near-total cynicism of a generation reared on Richard Nixon and Lockheed; the spots on our lungs.

But somehow, to some people, any suggestion that corporate greed may be at least partly responsible for these and a host of other evils is tantamount to an attack on the free enterprise system.

Well, we think it is about time that people begin to realize the extent to which big business influences every conceivable aspect of our daily lives and—more importantly—how often the influence is malign. We think the Hart-Hathaway bill, if passed, will help us to understand the world in which we live.

We anticipate that it also will create a solid data base from which it will be possible to refute the claims of those who invoke the spirit of free enterprise in defense of big business' felonies and misdemeanors.

Public Service Company of Colorado does not represent free enterprise.

Mountain Bell does not represent free enterprise.

Scripps-Howard does not represent free enterprise.

General Motors does not represent free enterprise.

Standard Oil does not represent free enterprise.

We all know this deep down in our guts, but let some flag-waving press agent start talking about the American Way or The Capitalist System and our knowledge makes us feel guilty, or even unpatriotic. The newspaper and communications industry must bear a large portion of the blame for this silly state of affairs.

The truth of the matter is, what's good for General Motors may or may not be good for the rest of the country. And, most of the time, we simply don't know enough to decide.

We fully expect the bill, along with its sponsors, to be categorized as "anti-business."

We hope an informed electorate will see through the deception.

We urge passage of the bill.

RATIFICATION OF THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, today the Committee on Foreign Relations continued its hearings on the Panama Canal treaties hearing as witnesses Senators THURMOND, HOLLINGS, and ALLEN, and Congressmen STRATTON, FLOOD, and Commissioner CORRADA from Puerto Rico. For the information of the readers of the RECORD, I ask unanimous consent that the prepared statements of the witnesses be printed in the RECORD. Senator HOLLINGS did not have a prepared statement but his remarks will be available for reading in the transcript in the committee offices.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND

Mr. Chairman: I am here this morning to present to the Committee and the American people my reasons for opposing the treaties with Panama.

My interest in the Panama Canal is longstanding. Over the years I have introduced several bills to modernize the Panama Canal. In the 94th Congress, I offered a resolution signed by 38 other Senators opposing the surrender of this waterway to Panama. Last August, I visited the Canal Zone for briefings and study to ascertain any changes since my previous visit several years before.

While I recognize the need for some adjustments with Panama concerning the Panama Canal, I see the retention of U.S. sovereignty as basic to continued "practical control" of the Canal, which even the President has expressed himself as being necessary.

My 1976 resolution was more than sufficient warning to both the Ford and Carter Administrations relative to the Senate's concern in this matter and to warn the government of Panama that the treaties would be scrutinized closely. Yet the treaties have been signed with great fanfare, and the threats from Panama strongly suggest either we ratify or pay the consequences of violence and disruption in the Canal Zone. In fact, Panamanian chief negotiator Escobar Bethancourt went so far as to say ". . . This country (Panama) will take a course of violence" if the treaties are not ratified.

At no time in my memory have such threats and pressure been exerted on the Senate as is the case with these treaties. In making our decision, however, we must rationally decide what is in the best interest of our Nation, irrespective of the pressures and threats directed toward us.

IMPORTANCE OF CANAL

I disagree completely with Ambassador Linowitz's statement to this Committee last week that the Canal has become "economically obsolescent." This statement is designed to denigrate the importance of the Canal and thus make the proposed treaties more palatable.

The Canal is one of a very few vital world waterways. It permits rapid two-ocean commerce very beneficial to our Nation. In 1975 about 14,000 ships transited the Canal. Approximately 70 percent of the traffic originated in the United States or was bound for the United States. It is estimated that 45 percent of Alaskan oil will be shipped through the Canal by 1980.

Furthermore, its value from a national security standpoint is attested to by heavy use during the Korean and Vietnam Wars. Approximately 98 percent of our Navy can use this Canal. As an example, in FY 1968, about 70 percent of U.S. Government cargo headed for Vietnam used the Canal. U.S. Government vessels passing through the Canal increased from 285 in 1964 to 1,504 in 1968; 1,376 in 1969; and 1,068 in 1970 during the height of the Vietnam War.

Also, we must not forget our Navy has declined from 900 ships to less than 500. Admiral Thomas Moorer, immediate past Chairman of the Joint Chiefs, states we no longer have a two-ocean Navy. All of our current major war plans are contingent on the interchange of ships between the Atlantic and Pacific Oceans. Ships of the Third and Seventh Fleets in the Pacific may have to bolster the Second Fleet or even the Sixth Fleet. All of our military services—Army, Navy and Air Force—depend on logistical support which transits the Canal regularly.

Four former Chiefs of Naval Operations have attested to the strategic importance of the Canal in a personal letter to the President. These four great naval strategists, Admirals Anderson, Burke, Carney and Moorer, have retired from the active service and speak from great experience. In their letter to the President, they warned:

"Loss of the Panama Canal, which would be a serious setback in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive."

Now that we have clearly established the importance of the Canal, I want to reject outright the slogan that "Use of the Canal is more important than ownership." A more sensible slogan would be "Ownership assures control." As a matter of fact, it can be argued that our giving up ownership of the Canal would diminish our chances for having free access to the Canal, particularly when we consider, for example, Panama's historic instability. Once the U.S. gives up sovereign and effective control of the Canal Zone and Canal, it will be, in effect, an outsider with highly questionable authority to intervene if the neutrality of the Canal is threatened. This Country would be in a very difficult position internationally and domestically if it had to resurrect "gunboat diplomacy" and intervene in Panama after we surrender sovereign rights.

WHY OPPOSED?

In an effort to be brief and avoid repetition of prior testimony, I will attempt to list my reasons for opposing the treaties.

I. Nature of Panamanian Government

I do not believe we should negotiate on such a vital issue with a government leader who deposed an elected President by military force and over a period of 9 years has not provided the people of Panama free elections. In this period, the Torrijos government has pushed the national debt from $167 million to over $1.5 billion. Today, about 39 percent of the Panama budget goes to service this national debt. Furthermore, this government of 1.7 million people has promoted close relations with Cuba and the Soviet Union, two expansionist powers unfriendly to our Country. I seriously question why we should make national heroes out of government officials who have virtually eliminated all political and civil rights of their people. The documented human rights record of the Torrijos government is one of the worst in the world.

One might ask, Once sovereignty is given to Panama, will that government remain friendly to the U.S.? Does the Panamanian government have the political strength or will to resist outside interference? Does it have the economic vitality to maintain and protect one of the world's vital waterways? What will we be paying after the year 2000 to keep the Canal open? If Panama finds it is unable to cope with the complex operation of the Canal, to whom will they turn? If to us, it means great outlays of cash. The only other great power to which it could turn would be the Soviet Union, through its figurehead Castro.

Mr. Chairman, I wish to point out that in the prepared statements of Ambassadors Bunker and Linowitz, Secretary Brown and General Brown, before this Committee, not one single time did any of these witnesses mention the name of General Torrijos. That should tell the Committee something about the nature of the Government to which we are being asked to turn over an approximate $8 billion national and world resource.

II. Sovereignty surrendered

I further oppose this treaty because it grants to Panama sovereignty six months after ratification, not in the year 2000, as the public has been led to believe. Once sovereignty is surrendered, control is lost for all practical purposes and control governs use.

III. Property surrendered

Six months after ratification of the Treaty, the Canal Zone ceases to exist and about 65 percent of the land and 10 of the 14 U.S. bases are given to Panama. The remaining land adjoining the Canal itself is under limited U.S. control for the purpose of operating the Canal. We oblige ourselves to pay the Panama government huge sums in various ways, totaling up to nearly $1.5 billion over the next 22 years. By the year 2000, we will be turning over an investment valued at approximately $9.3 billion.

IV. Military pact rejected

Our negotiators sought but failed to obtain a military pact with Panama for minimal base rights which would have greatly enhanced our ability to assure the Canal's neutrality after the year 2000. Negotiator Bethancourt stated in his address to the Panama Assembly on August 18 the U.S. desire for defense forces after the year 2000 "created a deadlock in the negotiations for some time because Panama opposed signing of a military pact." Instead, we accepted an ambiguous neutrality pact.

V. Foreign troops allowed?

While U.S. negotiators claim the Neutrality Treaty allows only Panama to maintain troops on its own territory after the year 2000, the Treaty is silent on prohibiting foreign troops prior to the year 2000. There is nothing to prevent Panama from introducing Cuban, Soviet or troops of any other nation into those areas of the Canal Zone we surrender six months after the proposed ratification of the treaty in 1978. Changing political events could prompt Panama to take such a step. In my judgment, a prohibition on foreign troops prior to the year 2000 was one of the many errors made by our Canal negotiators.

VI. New canal prohibited

Another part of the Treaty with which I find fault is the provision prohibiting our construction of a sea-level canal prior to the year 2000, except in Panama or only with the permission of Panama. In this instance, we have surrendered an option which may be forced upon us. While I feel a sea-level canal is unnecessary, why have we foreclosed this options? In doing so, we place ourselves at the mercy of the government which controls Panama.

VII. Privileged passage

The right to priority passage is also denied us in Article VI of the Neutrality Treaty. Instead of "priority passage" through a canal we built and have maintained for the world's benefit, we are promised only "expeditious passage." Mr. Bethancourt has stated privileged passage sought by our negotiators was specifically rejected. The differences in statements made by the negotiators on the two sides make is unclear what our rights would be in a given situation, although priority passage through the Canal could be vital to our national security in an emergency or war.

VIII. Unfriendly ships assured passage

Presently, as a result of our control of the Canal, we could deny passage to adversary

ships as a practical matter in time of an international crisis or war. Under the Treaty we surrender this right as it cannot be exercised once practical control of the Canal is surrendered. This means ships aiding an enemy of the U.S. could transit supplies through the Canal.

IX. Neutrality treaty

One of my most significant concerns is the ambiguity contained in the Neutrality Treaty. Ambassador Linowitz and others have maintained that no limits were spelled out in the Treaty, so we will be free to take whatever steps are necessary to protect the neutrality of the Canal. These remarks might be reassuring to the American public, except for the comments made by Chief Negotiator Bethancourt on these provisions to the Panama Assembly on August 19. He stated:

"Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact." (applause)

Additionally, in an August 24, 1977 radio broadcast, Mr. Bethancourt is quoted as saying:

"The pact does not establish that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated . . ."

Later he stated:

". . . the neutrality pact does not provide that the United States will say when neutrality is violated."

Indeed, Mr. Chairman, Articles IV and V of the Neutrality Treaty are so ambiguous as to lend themselves to various interpretations. This reason alone is sufficient to reject the Treaties.

BROAD CONCERNS

Mr. Chairman, these are some of the specific concerns I have relative to these Treaties. There are other broader issues involved. Will our ratification of these treaties be seen as a pattern of withdrawal in view of our retreat in Korea, Southeast Asia and possibly Taiwan? This misguided direction of our foreign policy engenders consternation on the part of our Allies and audacity on the part of our adversaries.

This type of audacity has even been highlighted by the reckless and provocative statements of Mr. Bethancourt and others about violence.

We cannot hope to deal effectively with other Nations as a world leader if we yield to blackmail. That is the only word to describe the threats of violence and sabotage which treaty proponents are broadcasting far and wide, and using as their chief argument for ratification. If the Senate were to ratify a treaty in the face of such threats, it would show the world a new policy alien to our national character and our history and which would invite further exploitation.

While I will leave to others the history of our acquisition of this property, no one can deny its benefits to Panama.

BENEFITS TO PANAMA

Between 1946 and 1973, according to the House Appropriations Committee hearings, Panama was the recipient of $342 million in total U.S. aid, more per capita aid than was granted to any other country in the world. Benefits to Panamanians in 1975 alone amounte to $29 million in direct purchases in Panama by U.S. agencies; $108 million in wages to non-U.S. citizens; and $39 million in expenditures by U.S. employees. We have not exploited Panama; rather, our aid has enabled its people to enjoy one of the highest GNPs per capita among all 19 Latin American nations, and the highest per capita income in Central America. Panama has from 1960 to 1974 a per capita growth rate surpassed only, and barely, by Brazil. Furthermore, U.S. private investments represent 50 percent of the capital investment in Panama.

POSITIVE ALTERNATIVES

Mr. Chairman, I am not opposed to a new arrangement with Panama, but strongly opposed to this treaty. In the past, I have supported the Terminal Lake-Third Lock Modernization Plan. This would provide for approximately $2.5 billion in capital investments over a 5 to 10 year period. Such a major step will provide an opportunity between the people of the United States and the people of Panama.

Under no circumstances, however, can we afford to cede sovereignty over the Canal to Panama. Stability for the Canal can only be maintained by U.S. control. Without sovereignty, we have no control. No provision of the treaties is more detrimental to our National interest than the provision which relinquishes sovereignty and control.

In conclusion, Mr. Chairman, neither our interests nor the interests of the people of Panama are served by the treaties. The only outcome of ratification can be danger ahead.

STATEMENT BY JAMES B. ALLEN

Mr. Chairman, thank you very much for affording to me an opportunity to state to you and to the distinguished members of the Committee on Foreign Relations my reasons for opposing ratification of the proposed Panama Canal Treaty and the proposed, so-called neutrality treaty. Although the defects in both documents are legion, in my judgment there are five major flaws, each of which on its own ground would warrant complete rejection of the arrangements negotiated, inasmuch as each would independently damage the national interest of the United States to such extent as to render it improper for the Senate to give its assent.

The five major defects, at least as I see it, are (1) the failure of the Canal Treaty to provide for an adequate defense of the Canal during the proposed 23-year term of the treaty, (2) the failure of the neutrality treaty to grant to the United States the unilateral right to intervene to assure the neutrality of the Canal Zone, (3) the astonishing provision of the Canal Treaty which forbids the United States even to negotiate with another nation for construction of a sea level canal without the express consent of Panama, (4) the decision embodied in the Canal Treaty and related loan agreements to pay to Panama some $2.262 billion, and (5) the failure of the Canal Treaty to require Congressional authorization for its proposed cession to Panama of United States territory and property.

DEFENSE OF THE CANAL

In order to understand the defense provisions of the proposed treaty, care must be taken to examine in detail the Executive Agreement in Implementation of Article IV of the Canal Treaty. Moreover, further study must be given to the annexes to the executive agreement, to the annexes to the annexes, and to the various notes, minutes, and protocols—all of which form the fabric of the joint military defense we would undertake with Panama.

I am particularly concerned, Mr. Chairman, that the drafters of the Canal Treaty saw fit to set forth the major substantive defense provisions not in the Canal Treaty in its Article IV, which is entitled "Protection and Defense," but instead in the Executive Agreement in Implementation of Article IV—an agreement which is several times as large as the entire Canal Treaty itself. Article IV of the Canal Treaty does not cover a complete printed page, yet the Agreement in Implementation of Article IV is some 53 pages long, excluding annexes and excluding an additional 22 pages of agreed minutes, the minutes themselves having their own annexes. So, Mr. Chairman, we have critical defense provisions not in the text of the treaty but rather in this executive agreement and in other extrinsic documents which could be modified from time to time by the executive branch with no requirement whatever to obtain the assent of the Senate.

Moreover, Mr. Chairman, the defense provisions set forth in the executive agreement are themselves unworkable and portend a complete withdrawal of the U.S. forces from the Canal Zone well in advance of the projected date of 2000 AD. The Administration proposes in this first executive agreement to surrender 10 out of 14 bases. Thus, we are asked at the outset to permit the surrender of 10 out of 14 military bases and to permit our forces defending the Canal to be hemmed in from day one in 4 relatively small enclaves. These bases would indeed be enclaves because our freedom of action outside of the 4 bases would be severely limited by the treaty requirement for approval of operations by a joint military board in which the United States and Panama will have equal authority. Apparently, the doctrine of unity of command is imperfectly understood at the Department of State, but the Panamanians no doubt recognize fully that this provision of the executive agreement would give a *de facto* veto of United States operations outside of the 4 retained bases.

So our forces would be restricted to 4 relatively small enclaves, and only the naive would doubt that we would very soon see pressure on our forces to withdraw from the 4 sites retained. That process of withdrawal would be facilitated by the fact that the executive department could close down any one or all of the remaining bases by amendment of the executive agreement with the stroke of a pen without the consent of the Senate or the consent of the Congress. Now, Mr. Chairman, the members of the distinguished Committee may not think that this process of accelerated withdrawal is contemplated, but I would call attention to the provision of the executive agreement implementing Article IV which provides explicitly that the agreement will be renegotiated every two years or upon the request of either government and thus tacitly acknowledges what is coming.

This treaty is for a proposed term of 23 years. Yes, we are going to need tough-minded negotiators if we plan to hang on to these 4 defense sites for a term of 23 years with the Panamanians hounding us daily for complete withdrawal and with our own government already proposing to negotiate the matter on a biennial basis or upon request. Frankly, Mr. Chairman, these 4 defense sites would rest on a foundation of sand if, by Senate ratification of the Canal Treaty, the Department of State were to be given the right to agree—and they seem pretty agreeable with this dictator down there in Panama—if the Department of State were to be given the right to agree with Panama more or less at any time that the time was propitious to shut down another base.

Finally, Mr. Chairman, I would ask the Committee to consider carefully the feasibility of successful joint military operations with Panamanian forces. Over the long term we can expect problems. How can we expect full cooperation from an Army whose recruits are taught to chant in unison at their recruit training base at Fort Cimmaron, "Down with the Yankees, death to the Yankees, to the wall with the Yankees." No, Mr. Chairman, over the long term we would be naive in the extreme to expect full cooperation from Panama in any joint defense of the Canal.

CANAL NEUTRALITY

Closely related to the issue of defense is the failure of the executive branch to negotiate for the United States a right to defend

the neutrality of the Canal after 2000 AD. Much has been said in the media to the effect that the United States could unilaterally preserve Canal neutrality after a full withdrawal of U.S. forces from the Isthmus of Panama, but, Mr. Chairman, a careful reading of the neutrality treaty makes it evident that, in fact, the United States would have no such right whatsoever.

The neutrality treaty simply declares that the Canal Zone is neutral and sets forth an agreement by the United States and Panama that both parties recognize the Canal's neutrality. Nowhere is the United States granted permission to determine that the neutrality of the Canal is endangered or has been violated and nowhere is the United States granted the right to intervene to insure that the Canal is not made available to an enemy nation while being denied to our Navy and merchant ships.

Additionally, Mr. Chairman, the so-called right of expeditious transit given to United States warships is totally meaningless. The failure of our negotiators to insist on privileged passage for United States war vessels could permit Panama in an emergency to delay the movement of United States warships by simply requiring those vessels to transit the Isthmus on the same "expeditious" basis as merchant ships of all nations.

As Dr. Romulo Escobar Bethancourt, chief negotiator for Panama, put the matter, "If the gringos with their warships say, 'I want to go through first,' then that there is their problem with the other ships there." Regrettably, Mr. Chairman, Dr. Escobar's analysis of the practical meaning of our right to expeditious transit, although stated undiplomatically, is nevertheless precisely correct. His complete rejection of any claim that the United States is given the right to send troops to preserve Canal neutrality also accords accurately with the language in the text. In fact, the truth is, Mr. Chairman, that Dr. Escobar's construction of the neutrality treaty, is unlike the construction placed on it by our own executive department, a construction based on the language of the treaty itself rather than on wishful thinking or on the assertions of the mass media.

SEA LEVEL CANAL

From the language in the Canal Treaty rather than from press reports, we also learn that the United States would agree not to negotiate without Panamian consent with any country except Panama for the right to construct an interoceanic canal on any route in the Western Hemisphere. Mr. Chairman, knowing you as I do, I feel certain you share my astonishment that the negotiators for the United States saw fit to preclude any possibility of construction of a new interoceanic canal, perhaps at sea level, without our country first obtaining the express censent of a pro-Marxist and highly unstable military dictatorship. Why was this concession necessary? What did the United States gain from the concession?

I notice with some amusement, Mr. Chairman, that the Republic of Panama purports to grant to the United States of America the right to add a third lane of locks to the existing canal. Inasmuch as the United States already has the right to add a third lane of locks to the existing canal, surely our negotiators did not think that a meaningless concession of that variety was sufficient consideration for giving the Panamanians a veto over any other project we may wish to undertake to connect the two oceans. Certainly, the negotiators for the United States could not have felt that the Panamanian agreement to commit Panama "to study jointly the feasibility of a sea level canal" warranted a countervailing commitment from the United States not to do anything whatsoever without Panamanian permission—but perhaps so. The bizarre behavior of our negotiators has produced other results equally as startling.

In any event, Mr. Chairman, one thing is sure and that is that the Panamanians know they got the best of this bargain. Discussing the sea level canal issue, chief Panamanian negotiator, Romulo Escobar Bethancourt, on August 19, 1977, with pride explained to the Panamanian National Assembly the unilateral benefits of the so-called sea level canal options. Dr. Escobar's remarks on the subject, like his remarks on neutrality, are illuminating and are worth studying in full. As Dr. Escobar explains, instead of the United States obtaining an option to build a sea level canal, the United States negotiators gave to the Panamanians the option to veto construction of a sea level canal by the United States anywhere in the Western Hemisphere.

Now, Mr. Chairman, committing the United States to deal only with Panama about building another canal is a serious mistake. As the distinguished Chairman knows, the best route for a sea level canal is in Nicaragua, that being the route that Senator John Tyler Morgan favored during consideration of Isthmian routes in the early part of this century. Senator Morgan of Alabama, who was Chairman of the Senate Committee on Interoceanic Canals, felt strongly that Nicaragua provided a more favorable political and geographical solution to the immense problems involved in constructing a canal between the two oceans. Retrospectively, he may well have been correct, yet our present treaty negotiators propose to foreclose entirely the option Senator Morgan and many others favored, an option which should at least be kept open. Certainly, with the great volume of Alaskan oil which is only now beginning to come on stream and which must move to Gulf and East Coast refineries, any relinquishment of the right to negotiate for a sea level route in Nicaragua is a very grave mistake indeed.

$2.262 BILLION TO PANAMA FOR THE RIGHT TO CEDE THE CANAL ZONE TO PANAMA

So, Mr. Chairman, we are presented a treaty which does not provide for an adequate defense of the Canal, does not give the United States the right to intervene to guarantee neutrality, and does not allow the United States to initiate new canal projects except with Panama's consent. The Canal Treaty does, on the other hand, give the Canal Zone to Panama; it does eventually also give the Panama Canal Company to Panama; it does immediately give the most lucrative operations of the Panama Canal Company to Panama; it does give 10 United States military bases to Panama; it does give Panama political jurisdiction over 37,000 United States citizens living in the Canal Zone; and finally, Mr. Chairman, it gives to Panama over the life of the treaty $2.262 billion in 1977 dollars.

You know, Mr. Chairman, ordinarily the grantee pays the grantor, but our clever negotiators have figured out a way for us to give away the Canal Zone and pay the recipient at the same time. I will not insist on going into great detail on how this $2.262 billion in 1977 dollars is to be paid to Panama because I know the Committee is fully familiar with the financial ramifications of this proposed arrangement. However, I would recommend to the Committee a careful reading of a speech given on August 19, 1977, before the Panamanian National Assembly by Panamanian Planning and Economic Policy Minister Nicolas Ardito Barletta. Minister Barletta's analysis of the cash flow of this arrangement is, in my judgment, valid, and it is from his work that I have drawn the figure $2.262 billion.

Why are we proposing to pay these tremendous sums to Panama? Why would we permit these proposed toll increases which will surely burden commerce and inflate consumer prices in the United States? The only reason I can ascertain is a desire to provide Panama with funds to repay outstanding loans from the large international banks.

The Library of Congress did a study at my request which indicates that the external public debt of Panama is some $1.7 billion.

Interest on that sum is a tremendous burden on this small country of only 1.7 million inhabitants, and already 40% of current revenues in Panama go to carrying present indebtedness. Stating the matter bluntly, Panama is on the verge of bankruptcy and many of our large banks hold loans which may soon be bad debts, that is, of course, unless the United States taxpayer rescues the banks by providing the funds to Panama for repayment.

Mr. Chairman, sooner or later the Congress must draw the line and stop robbing American taxpayers to extend funds to bankrupt Third World countries so that international banks can collect principal and interest on shaky loans. In my judgment, the international banks should be required to write off their bad debts, to write off at least some portion of the loans they made in error, and the international banks should be put on notice that the American taxpayer will not always guarantee a profit in any loan transaction with unstable governments. Perhaps, rejection of the Panama Canal Treaty would be a good method to send that message.

THE CONSTITUTION IGNORED

The final major defect in the treaties is perhaps the most significant since it represents a direct assault by the executive branch on the prerogatives of Congress and since it would set a precedent extending the authority of the executive branch far beyond the bounds contemplated by the authors of the Constitution of the United States.

Article IV, Section 3 of the Constitution provides that Congress "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Mr. Chairman, I know that the Attorney General has advised the Committee that the proposed treaties do not in any respect violate this clause, but with all due deference to him as a very able lawyer, I cannot share his rationalization of the clear language of the Constitution or his characterization of consistent past practice in our dealings with Panama.

In 1936 and again in 1955, cessions of United States territory to Panama were made contingent on Congressional authorization. Yet now that a truly major cession of virtually all United States territory in the Isthmus of Panama is contemplated, the executive branch has seen fit to assert a novel theory by which the Administration would circumvent the Congress. The reason for development of this novel theory of Constitutional law is, I believe, a matter of practical politics rather than legal scholarship since public opposition to giving up the Canal is so overwhelming that any Congressional authorization of a cession of territory would be difficult, if not impossible to obtain.

But beyond the immediate question, if we in the Senate permit this circumvention of the role of the Whole Congress in any cession of United States territory, we will be setting a very dangerous precedent which will surely be used again by this or future administrations to assert power in an area heretofore preserved to the Congress. My own guess is that we would next see this precedent applied to the Guantanamo Naval Base in Cuba, but perhaps other cessions of territory or property are also in the works.

So, Mr. Chairman, this Committee should not lightly endorse a departure from sound Constitutional principles simply for the political expediency of the moment. This Com-

mittee, should, instead, amend the proposed treaty at all appropriate points to make cessions of territory subject to the enactment of authorizing legislation by the Congress. I would hope that such an amendment would be one of many adopted in Committee to correct these glaring defects I have discussed.

RESERVATIONS, AMENDMENTS, AND THE FILIBUSTER

In summary, Mr. Chairman, I believe that the Senate should play a significant role in the formulation and revision of these proposed treaties so that the terms of any new arrangement wtih Panama can be made acceptable to the American public and so that the national security interests of the United States can be protected.

Mr. Chairman, I am sure you know of the early practice of including Senators in delegations sent to foreign countries for the purpose of negotiating treaties. That practice has unhappily in large measure ceased, and the Senate has been more and more asked for consent rather than advice. These treaties provide an excellent opportunity for the Senate to reaffirm its Constitutional prerogaive and, indeed, duty to advise the Executive—to advise the President—in matters of foreign policy, particularly with respect to treaty negotiation. The Senate can give its advice through the amending process. These treaties should be amended to cure their obvious defects, and since any amendment will require a renegotiation of the amended treaty, the Administration will be advised by these Senate amendments of what is acceptable to the Senate and to the people and what might later receive Senate consent.

Reservations to these treaties would be of little or no value. Reservations simply state the opinion of the Senate and do not have the full force and effect of law. No, Mr. Chairman, the defects in these treaties require outright amendment, and I strongly urge that the Committee take in hand the process of amending the treaties before reporting the treaties to the Senate, at which time the Senate will first receive them as the Committee of the Whole. Although there will be ample opportunity, I am certain, for amendment in the Committee of the Whole and on the floor of the Senate, certainly the Committee on Foreign Relations should play the leading role in molding and amending these documents and giving thereby to the Administration its advice on arrangements with Panama.

Finally, Mr. Chairman, I would comment that I do not foresee a filibuster of these proposed treaties. I do foresee a full discussion, legitimate debate, and consideration of substantive and serious amendments. A filibuster would be pointless, both because a filibuster could be stopped by 60 Senators whereas the treaties could be stopped by 34 Senators and because both treaties present questions which should be disposed of without undue delay.

Inasmuch as the concerns of the citizens of the United States are fairly evident, the Senate should with deliberations, but nevertheless promptly, discharge its duty in considering ratification. No good purpose would be served by having these proposed treaties more or less hanging around for years. They should be put to the test of ratification expeditiously, and it is my own sincere hope that the wisdom and desires of the people of the United States will be respected and that accordingly the treaties will be defeated.

Thank you for the opportunity to appear before this distinguished Committee and before its distinguished Chairman, who is my friend and senior colleague.

TESTIMONY OF CONGRESSMAN SAMUEL S. STRATTON

Mr. Chairman, I appear here in opposition to the Panama Canal treaties "in their present form." I am recommending three "reservations" which I believe should be incorporated in these treaties before they will properly protect the national interest and so be suitable for ratification.

Thus my position differs from that of some other treaty opponents. I am not, for example, opposed to some adjustment in the existing canal treaty. I have been to Panama and have seen the glaring economic disparities there between those who live in the Zone and those outside. I recognize the potentialities for civil disturbance and even guerrilla warfare. I would agree we should take steps to eliminate many of these glaring inequities that are more appropriate for an earlier age. We ought to turn over more of the operation of the canal to the Panamanians, and make available to them a greater share of the financial benefits of the canal, if indeed there are any left.

So I do not quarrel with the general thrust of the principal treaty pending before you. What disturbs me is that these treaties go too far. Clearly they throw out the baby with the bath.

The Panama Canal is still a valuable American asset. It is important to our sea-borne commerce. One might argue that it is not quite as valuable today as it was 30 or 40 years ago. But it is still valuable and will continue to be valuable into the future, especially as we begin to ship our new Alaskan oil around to the East Coast.

Thus whatever changes may be made in the operation or financing of the canal, it is absolutely essential the canal remain available to us and control of it be denied to our enemies into the indefinite future—which certainly means well beyond the next 22 years.

That is why, throughout all these negotiations, and in the subsequent debate over the treaties themselves, the question of canal defense has been fundamental. The main treaty spells out in Article IV the right of the United States to defend the canal until the year 2000. In addition, all the statements made by the negotiators and by Administration spokesmen have asserted that the second treaty, the so-called neutrality treaty, gives the United States the right to defend the canal after the year 2000.

Unfortunately, as recent hearings here and before several House committees have disclosed, this later assertion is simply not true. An alleged right of defense is supposed to be imcilcit in the text of Article IV of the neutrality treaty. But the word "defense" never appears there. Article IV provides that:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral . . ."

It doesn't say one word about defense. How exactly do you get "defense" out of "neutrality"?

In his original press conference on the treaty President Carter, commenting on Article IV, said "we will have an assurance in perpetuity following the year 2000 that the Panama Canal will be neutral, that our ships will have unlimited access to the canal, along with the ships of other nations; we have no constraints on the action that we can take as a nation to guarantee that neutrality."

But there is a world of difference between "no constraints" placed on the action we can take to preserve neutrality, and a clear-cut, unambiguous right of defense.

Indeed the Panamanian Foreign Minister, Dr. Romulo Escobar Bethancourt, declared in a news conference in Panama City on August 24th that "The treaty does not establish that the United States has the right to intervene in Panama." Just how meaningful can a supposed defense right be when a high official of one of the contracting parties publicly denies that the treaty assures such a right?

The only possible conclusion is that these treaties are seriously deficient in protecting America's vital interests. They have been presented to the American people under gravely misleading colors, as containing what they do not in fact contain.

Therefore, Mr. Chairman, my first proposed reservation is that these treaties must specifically spell out the right of the United States, after the year 2000, to defend the canal from any aggression or hostile action that might close it off or threaten to close it off to United States ships or render the canal itself inoperable. With possible threats against the canal from Cuban or Soviet action in the Caribbean, we simply cannot rest our vital national interests on abstruse interpretations of vague and ambiguous language that have already been repudiated by the other signatory power. For the Senate to ratify these treaties without insisting upon this important change would be a dereliction of duty.

General George Brown and other military leaders were quoted in the Washington Post as having assured this committee on September 27th that "U.S. interests will be safeguarded by those treaty provisions giving the United States the right to intervene against threats to the canal's neutrality." Just where do these officers find that particular right in the two treaties? What legal experts told them that even though no such right is spelled cut in the text it is there nevertheless? Since when does it make sense for the most vital item of all not to be clearly and unambiguously spelled out in two treaties that devote hundreds of other precise and intelligible words to items of far less significance? If it is there, what's so wrong about stating it plainly?

In testimony before the House International Relations Committee former Secretary Kissinger expressed concern that this defense right was not expressed in the treaty. And on September 26th before this committee Ambassador Linowitz was reminded by Senator Stone that Foreign Minister Escobar's statement contradicted all these repeated assurances of a specific right of intervention. Mr. Linowitz's only reported response was to say that regardless of what the Panamanians said, the United States still considers its own interpretation "binding on Panama."

Famous last words! This was precisely the approach that got us in trouble with the SALT I treaty. Too many important items were either not mentioned at all or were referred to ambiguously. So when the Soviets began to do things we regarded as violations of the spirit of the treaty, it turned out there never were any such provisions in the treaty—only the conflicting interpretations of the two signatory powers. Let's not do this all over again with the Panama Canal treaties.

In his September 26th testimony Mr. Linowitz offered to resolve this difficulty by "seeking some kind of clarification from the Panamanian government." Well, no amount of "clarification" merely from the Panamanian government can assure the American people this point. The only proper place to clarify the matter is in the text of the final ratified treaty itself. And that clarification can only be made by means of a specific reservation insisted upon by the United States Senate.

Directly related to this principal reservation, I recommend two other reservations. The first is that this defense right be incorporated in the basic treaty itself, not in a separate treaty. So long as there are two treaties, one before 2000 and the other after 2000, disputes will always arise as to which is the real treaty and which should ultimately prevail. As far as defense is concerned, we can tolerate no such ambiguity. We must make it perfectly clear in the basic

treaty that all the things we are agreeing to do up to the year 2000 are in direct consideration of the explicit defense right that is being guaranteed to us after the year 2000. Otherwise, the treaty process becomes just a one-sided giveaway.

Finally, if any defense right after the year 2000 is to be meaningful, the United States must have in Panama itself the means to mount such a defense. Yet Article V of the Neutrality Treaty specifically forbids the United States to "maintain military forces, defense sites and military installations" within the Republic of Panama. So a third reservation is required.

Here, too, the testimony of the Joint Chiefs of Staff is seriously deficient. Repeatedly in his comments on the canal General Brown has insisted that the canal is basically "indefensible." If he really believes that, it doesn't matter whether our right to defend the canal is unambiguously assured or not. But I gather that what General Brown really means is that the canal is basically indefensible against an aroused Panamanian people. This may or may not be true. But defense against the Panamanian people is not the major military problem after the year 2000. Once the Panamanians are cut in on the operation and financial benefits of the canal, as this treaty does, they would have to be out of their minds to interrupt regular canal operations.

Our major defense problem after 2000 is the Cubans and the Russians. Panama is not a major military power. Therefore, once United States forces have withdrawn completely from the canal there will be a sizable power vacuum, and with it a strong temptation for other military powers to take the canal away from the Panamanians. If Cuba can send a force of 10,000 combat troops to Africa, what is to stop her from sending paratroopers to Panama to take over the canal? Or what would prevent the Soviets from forcing special concessions out of Panama by moving several cruisers or nuclear submarines just off the coast of Panama City?

If we are to oppose or, better still, deter any such efforts to capture the canal and deny its use to us we need a base located in the immediate vicinity of the canal. Otherwise our "defense" would amount to trying to recapture the canal from bases in Florida, Texas, or Guantanamo. But once the Cubans or the Russians were in physical possession of the canal, I wonder if America would really be willing to retake it in a contested amphibious landing? On the other hand, if U.S. military forces are still in place, if our defensive radar is working, and if our patrol planes are on station out of an American air base, then we can almost certainly deter any such attack well into the 21st century.

So I propose, Mr. Chairman, that we insist, as part of our right to defend the canal, at least one United States base in Panama, including an airfield. Presently we have 13 or 14 there. If the treaty really gives us the right of defense, then it should also give us the capability of exercising that right effectively. This base would not, of course, be on American soil; it would be on Panamanian soil. And we would be there under treaty to aid Panama in the canal's defense. Anything less than that would make a mockery of the whole issue of American defense rights.

I recognize that these reservations would require reopening negotiations. But let me point out that this would not have been necessary had the executive branch made a serious effort to listen to the American people and to the Congress while these negotiations were under way rather than after they had been concluded. Woodrow Wilson made a similar mistake in 1919 and lived to regret it.

With these reservations the treaty is not quite as generous to the Panamanians as in its present form. But, after all, we are promising not only to give them the canal, but to pay them very generously, perhaps too generously, for taking it away. Surely in return for all these concessions it is little enough to ask that we have not just an implied, but a specific and meaningful right to protect and defend this engineering marvel we built and have successfully kept in operation.

The American people have been led to believe that that right is actually contained in these treaties. You and I know better. Therefore, it is up to the Senate, and to a lesser extent the House, to see that this very serious omission is corrected.

PANAMA CANAL: THE PROBLEM AND THE REASONED SOLUTION

(By Hon. DANIEL J. FLOOD)

Mr. Chairman, as a student of Panama Canal history and problems, I long ago recognized them as inexhaustible subjects. My interest was first aroused in early youth when former President Theodore Roosevelt used to be an occasional house guest at my grandfather's home in Hazleton, Pennsylvania. During those years, I listened many hours to that great American leader while he discused the difficulties he had to face in launching what was then, and still is, one of the most stupendous industrial enterprises in history. He naturally became my youthful ideal and inspired an interest on my part in the Canal question that has increased over the years. It has been a privilege, indeed, since being a member of the Congress, to have been an instrument in the protection of the most strategic waterway of the Americas as a vital asset of the United States for interoceanic commerce and national defense.

Instead of making a long and detailed statement, I ask that the following documents be appended to my testimony:

Hay-Pauncefote Treaty of 1901 with Great Britain and the April 22, 1977 letter of the Raja of Patiala to the Prime Minister of India.

My statement before the House of Representatives Subcommittee on Inter-American Affairs, September 22, 1971.

My address on "New Panama Canal Treaty Report: Fallacies Clarified and Constructive Program Proposed." Congressional Record, September 9, 1976, pp. 29561–64.

H. Res. 92, 95th Congress.

H.R. 1587, 95th Congress.

Dr. Karl Brandt et al. "Panama Canal Sovereignty and Modernization: Memorial to the Congress," 1975.

Press release of environmental organizations of September 6, 1977 and their telegram to the President of September 6, 1977.

Panama Canal Pilot Association urges Major Modernization as Solution of Panama Canal Problems. Congressional Record, November 15, 1973, p. 37175.

Mario Lazo. "Panama Canal Giveaway: A Latin American's View." Washington, D.C.: Council for Inter-American Security, 1977.

Letter to the President by four former Chiefs of Naval Operations of June 8, 1977, and its forwarding endorsement by four Senators of June 15, 1977.

In my studies of Isthmian canal policy questions, I have had the benefit of extensive consultations with the best informed authorities that I could find. They included experienced engineers and geologists, Panama Canal pilots and other navigators, marine biologists, lawyers, historians, and distinguished officers of the Armed Forces with high command exeperience.

Though canal problems are immensely complicated, when reduced to their essentials they are relatively brief and simple. The two central ones are: (1) the question of U.S. sovereignty over the Canal Zone; and (2) the increase of transit capacity coupled with operational improvements.

From a study of extensive evidence, it is clear that one of the prime reasons for the tremendous success of the United States in the construction of the Panama Canal and its subsequent efficient maintenance, operation, sanitation, protection and defense, with tolls that are "just and equitable," during two World Wars, the Korean and Viet Nam Wars, and the Cuban missile crisis, was the exclusive sovereign control of the Canal Zone by the United States.

When the present Panama Canal questions are evaluated from their most significant angles—engineering, marine operational economic, legal, environmental, defense and diplomatic—the only commonsense solutions are: (1) retention by the United States of its undiluted sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under the well known, extensively documented and strongly supported Terminal Lake-Third Locks solution. This proposal, which was developed in the Panama Canal organization as a result of World War II experience, was submitted to higher authority through official channels and won the approval of President Franklin D. Roosevelt as a post war project.

Such major modernization, on which more than $171,000,000 have already been expended, would imorove the maintenance and operation of the Canal enormously, bring huge benefits to Panama, serve interoceanic commerce by increasing canal capacity and its operational efficiency for larger vessels, including larger tankers with Alaskan oil, and serve to increase employment in the United States as well as in Panama. Moreover, it is covered by existing treaty provisions, which authorize "expansion and new construction," and thus does not require the negotiation of a new canal treaty. (Congressional Record, July 24, 1939, p. 9834.) In addition, the Terminal Lake-Third Locks solution is recognized by experienced navigators, including Panama Canal pilots, as providing the best operational canal practicable of achievement and, I may add, at least cost.

In connection with costs, one of the main reasons for the insistence by the United States upon exclusive sovereign control over the Canal Zone was to protect the huge investment involved in the construction and fortification of the canal as well as the costs of its later improvements.

As a member of the Subcommittee on Defense, House Committee on Appropriations, I believe that I reflect the view of a majority of the House of Representatives as well as the people of the United States when saying that both will demand adherence to that historic U.S. canal policy.

In contrast to the modernization of the existing Canal, the much publicized proposal for a so-called "sea-level" canal, which is actually one of tidal lock design, would be operationally inferior to the existing canal as well as economically extravagant. Nevertheless, it makes a strong appeal to the inexperienced and others who think they may benefit from such a vast project. It periodically reappears as a "hardy perennial" no matter how often the impossibility of realizing any such scheme within realistic limits of cost and time may be demonstrated.

Historically, the advocacy of a "sea-level" design has been based on the alleged vulnerability of the lake and lock type.

In 1905–06, during the "battle of the levels," its supporters used the danger of "naval gunfire" as their major justification.

In 1938–39, prior to World War II, they stressed the hazards of "enemy bombing."

In 1945–48, its proponents held that "vulnerability to the atomic bomb" and other new weapon dangers "dictated" the construction of a "sea level" canal for reasons of "security and national defense."

In 1964, its advocates argued that "two sticks of dynamite" could destroy the present canal.

In 1970, they contended that the alleged "vulnerability" of the existing canal to "many forms of attack" required a tidal lock design.

In 1974–75, its supporters stressed that the dangers of "guerilla warfare" and even "earthquakes" required construction of the "sea level" type.

The only new points in support of the "sea-level" proposal have been the use of different hobgoblins. Such advocacy is primarily based on the fallacious assumption that it is possible to construct a canal of "indestructible proportions."

The advent of nuclear weapons has negated all such assumptions, for any navigation project, regardless of type, is vulnerable to destruction by such weapons and no amount of sophistry can alter this fact. The true criteria for decision as to type are not passive defense measures embodied in canal design but "ease and safety of navigation" and this test leaves no doubt as to what type is required at Panama.

The 1947 Report under Public Law 280, 79th Congress, recommended only a "sea-level" project in the Canal Zone near the existing canal. It failed to receive Executive approval and was transmitted by President Truman to the Congress without comment or recommendation, and the Congress took no action thereon.

When the 1960 report of an independent inquiry under the House Committee on Merchant Marine and Fisheries was submitted, it opposed the construction of a "sea-level" project in the Canal Zone, as previously recommended in 1947, because of the possibility of massive slides involving a "long interruption to traffic" (H. Rept. No. 1960, 86th Congress, p. 5.)

In 1970, the report under Public Law 88–609, 88th Congress, as amended, recommended only a "sea-level" project in the Republic of Panama about 10 miles west of the existing canal.

The 1947 and 1970 "sea level" canal reports, costing about $6,000,000 and $23,000,000, respectively, were not the products of independent broadly based commissions subject to Senate confirmation, but of Executive appointed consultants to justify the predetermined decisions of a small professional and industrial group.

The maintenance, operation, sanitation and protection of the Panama Canal and its indispensable protective frame of the Canal Zone are technical problems of great complexity, requiring not only a depth of expert knowledge and experience but also the strong logistical support of a great and powerful nation.

The solution of these problems, including that of major modernization, does not consist of surrendering U.S. sovereignty over the Canal Zone and, ultimately, the Canal itself to a small, weak, technologically primitive, and unstable country but the assumption by the United States of its responsibilities as the great power leader of the Free World.

As was previously indicated, the reasoned solution is two fold: (1) re-affirmation by the Congress of full U.S. sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under existing treaty provisions. Measures to implement these objectives are now before the Congress and should be promptly approved.

As to the much propagandized assertion that all of the Latin American countries desire the United States to surrender its sovereign control over the Panama Canal and Canal Zone to Panama, this is plain poppycock. I know of no better summary of Latin American feeling than that by the late Dr. Mario Lazo, a distinguished Cuban lawyer and author. In his 1977 posthumously published article, when commenting on the proposed surrender, he stated: "The almost universal reaction among the educated people of Latin America who are not politicians to a promulgated Kissinger-Bunker giveaway treaty would be, at first, incredulity, then sadness and eventually ridicule and even contempt for the once greatly respected nation that had shown itself no longer to have the will to maintain its responsibilities." (Mario Lazo, Op. Cit., p. 10.)

The situation on the Isthmus is not a mere local conflict between Panama and the United States but a focal issue in the U.S.S.R. campaign for world domination by gaining control of strategic waterways. The strength of the U.S. Navy has been reduced from some 1,000 vessels a decade ago to about 460 ships today. Thus, the Canal is a more vital element now for U.S. seapower than for many years. We can surrender its sovereign control only at our peril for with the loss of sovereignty all other aspects would become irrelevant. Such giveaway would quickly transform the Caribbean Sea and the Gulf of Mexico into Red lakes.

As to current efforts to polarize proponents of surrender of the Canal Zone and their opponents as liberals and conservatives, respectively, this is a monumental deception. The Canal question transcends all partisan considerations and must be resolved on the highest plane of national interest for it is a crucial issue in the current global situation, involving the security not only of the United States but also that of the entire Free World.

In these connections, I would stress the following:

The proposed new canal treaties ignore the obligations of the United States under the Hay-Pauncefote Treaty.

They disregard the rights under that treaty of the successor states of the former British Empire and other important canal users that provide a substantial portion of Panama Canal traffic.

They represent an abject surrender to threats of violence if the treaties are not ratified.

Their ratification will extend U.S.S.R. power in the strategic Caribbean-Gulf of Mexico areas and impair the influence of the United States not only in this area but also throughout the world, especially among canal user nations.

There is ample authority to deal with local problems within the framework of existing treaties without any new ones.

The present treaties are workable. The proposed treaties would saddle the United States with grave responsibility without adequate authority, which would be an entirely impossible situation and would not work.

Finally, Mr. Chairman, the program that I recommend, which is derived from experience and is historically based, is simple:

1. Rejection of the pending treaties in their entirety;

2. Re-affirmation by the Congress of the historic U.S. policy for perpetual undiluted U.S. sovereign control over the Canal Zone;

3. Enactment of measures for the major modernization of the existing canal under existing treaty provisions.

4. Authorization for a Delegate in the Congress from the Canal Zone.

5. Reactivation of the preWorld War II U.S. Navy's Special Service Squadron with home base in the Canal Zone.

As recognized by many informed Latin Americans, this program will be best for the United States, best for world commerce, best for Panama and best for other nations of Latin America that use the Canal.

TESTIMONY OF THE HONORABLE BALTASAR CORRADA

Mr. Chairman, Members of the Committee: My name is Baltasar Corrada, Resident Commissioner of Puerto Rico to the United States Congress, and Member of the House of Representatives. I am very pleased to be given the opportunity to testify today on the proposed Panama Canal Treaties. I have a short statement that I would like to read and I will then answer any questions that you may have.

I have asked to be heard by the Committee because it seems to me that we Puerto Ricans are in a very unique position as citizens of the United States as well as residents of the Caribbean of hispanic heritage, to understand the significance of these treaties for our nation and for our relations with Latin America. Puerto Rico lies halfway between the U.S. mainland and the Canal. From our particular vantage point, I will share my views with you.

Although I am aware of the concern of some people about a possible threat to our national security, I do not believe that our safety is imperiled as a result of the ratification of these treaties. I would like to state from the outset that the proposed treaties have my full support as well as the endorsement of the Governor of Puerto Rico, the Honorable Carlos Romero Barceló. Governor Romero was one of the first governors to encourage the ratification of these treaties in a speech given at the recent Southern Governors Conference held in San Antonio.

We realize and share in the strong belief that these treaties represent a fair and just resolution of a long standing and delicate dispute between our nation and the Republic of Panama. A dispute, may I add, that has become an issue in terms of our relationship with all the nations of Latin America who will judge our actions in this matter to view us as fair and open-minded or as recalcitrants who insist in perpetuating an old agreement not morally justified on the basis of today's standards for international relations.

A major question and one which I find people are most concerned about revolves around what they perceive to be a giving away of something that is rightfully ours. A close examination of the provisions of the Hay-Bunau-Varilla Treaty, particularly Articles II and III, however, will show that while the words "in perpetuity" were used in granting the United States control over the land for the purpose of the construction of the canal, and that Article III provides that "the United States would possess and exercise (as) if it were the sovereign of the territory," the United States has never asserted sovereignty in one very important characteristic inherent to a claim of full territorial jurisdiction: the citizenship of persons born within its boundaries. Children of non-U.S. nationals which are born within the boundaries of the Canal Zone are not considered U.S. citizens. I believe this to be a very important point as we have extended our citizenship to those persons born in places where we have full jurisdiction; the absence of that policy in this case shows that we never intended to assert full sovereignty over the Canal Zone.

In addition, there are two other points which we need to emphasize in order that our people will fully understand the purpose of these treaties. First, the continued protection of our national security interests are ensured by the provisions in the treaties which continue our exercise of control over the defense of the Canal until the year 2000 and guarantees the neutrality of the Canal into the 21st century and beyond. Moreover, the United States is guaranteed passage of its ships during a time of war regardless of the nature of their cargo, and the United States will continue to supervise the access to the Canal area on both the Atlantic and Pacific ends. We are thus assured that, should the need arise, the uninterrupted use of the Canal would be guaranteed.

A third main point concerns the commercial use of the Canal. In recent years our use of the Canal has declined as it is not equipped to handle the super-tankers used today. Many people are not aware that only about 4 pecent of the trade between the East and West coasts of the United States is handled through the Panama Canal today. Even so, this commercial navigability is not endangered or precluded by the ratification of the Canal Treaties; on the other hand, both the United States and Panama commit themselves to a joint study to determine the feasibility of a new sea-level canal. Such a study and possible construction, I submit, would not have been possible without an overall evaluation of the 1903 Treaty. Looking at it pragmatically, by the enactment and ratification of these treaties we are ensuring the possibility of increased use of the canal by our ships and tankers through the expansion of the existing Canal or the construction of a new one, something which would otherwise have been extremely difficult, if not impossible under the terms of the existing treaty.

Lastly, we must remember that Ambassadors Bunker and Linowitz are men of vast experience dedicated to the achievement of a mutually equitable treaty. If people would read and analyze the provisions of these treaties, the notion that this is a one-sided deal, beneficial to the other party at the detriment of our interest, would be dispelled. Our interests and security have been and will continue to be protected by the ratification of these treaties.

This brings me, Mr. Chairman, to what I consider to be a significant consequence of these treaties; our enhanced reputation in the world community, particularly amongst our neighbors in Latin America. The 1903 Treaty has long been considered a blot in our international reputation. While one can understand and sympathize with the pressing need in the United States during the early 1900's for a route connecting the Atlantic and Pacific oceans, one cannot help but be critical of the 1903 Treaty. It seems inconceivable that a fair and equitable treaty could be worked out within days of the proclamation of the new Republic of Panama. It is not surprising that the Panamians later resented the terms of the treaty. The 1964 riots exacerbated an already smoldering situation and determined without question that a solution had to be reached in order to avoid a major crisis. It was impossible to maintain the status quo but it would have been foolish to undertake any precipitous agreements. The fact that the negotiations spread over a fourteen year period under Presidents Johnson, Nixon, Ford and Carter attest to the thorough deliberations that took place. We can be justly proud and sure that the ratification of these treaties will result in a better appreciation and support of our intentions in the area.

Mr. Chairman, the United States has traditionally been the defender of the interests and rights of other people. Here we are putting our words to action by correcting a situation which concerns our friends and allies and offered grounds for criticism to our enemies. We had entered into a treaty where the two parties had not been equal in the fullest sense of the word; we can remedy that situation by the ratification of these treaties and I urge the Senate to act favorably on these treaties.

Thank you.

WORLD LIONS SERVICE DAY

Mr. SCOTT. Mr. President, I am pleased to be a member of the Fairfax Host Lions Club and would like to call to the attention of my colleagues the following proclamation concerning World Lions Service Day issued by the Mayor of Fairfax, Virginia.

I ask unanimous consent that that proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

Whereas, On October 8, 1977, WORLD LIONS SERVICE DAY, the Fairfax Host Lions Club in unison with 32,000 other Lions clubs and a world-wide membership of 1,200,000 located in 150 nations of the world will be performing special acts of humanitarian service; and

Whereas, Is it recognized that the Fairfax Host Lions are committed to bring relief to the needy and lonely so that they might live with grace and dignity, and to satisfy the many other needs of our community; and

Whereas, These Lions will again display their dedication to our community on October 8, 1977 by visiting the youngsters who are hospitalized, providing special needs for them, and paying honor to Miss Maureen Adams, Safety Patrol Leader of Jermantown Elementary School, whose courageous act saved the life of a fellow student.

Now, therefore, I, Nathaniel F. Young, Mayor of the City of Fairfax, Virginia, do hereby proclaim October 8, 1977 as World Lions Service Day in the City of Fairfax and encourage all residents of the City to join in giving support to the Lions for their many activities in benefiting humanity in our City.

SMOKING, ADVERTISING AND HEALTH

Mr. HART. Mr. President, many Americans find it hard to understand why it is so difficult to do something about the frightening death rate from lung cancer, emphysema and coronary heart disease in this country. The evidence that cigarette smoking is the principal cause of lung cancer—80,000 deaths a year—and emphysema—15,000 deaths a year—is beyond dispute. When we add cigarette smoking as an important contributing cause of death from coronary heart and other diseases, the deaths from cigarette smoking each year in this country number well over a quarter of a million.

Despite extensive medical evidence, many individuals refuse to believe that cigarettes are a health hazard. Dr. G. Timothy Johnson of the Harvard Medical School zeroed in on this problem and reiterated the connection between smoking and lung cancer in his article "What Everyone Should Know About Cancer" in the July–August issues of Harvard magazine.

I ask unanimous consent that the following excerpt from that article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LUNG CANCER

Besides being the top killer among American cancers (the number of deaths per year is now almost twice that of the next contender), the story of lung cancer is tragic for one other mind-boggling reason: *we enlightened Americans promote the cause of this number-one killer with more money than we spend for research on all cancers combined.* Indeed, some future historian may decide to use the word "stupid" rather than "tragic" to describe this chapter in the struggle of homo sapiens to engage mind over matter.

The story of lung cancer is a simple three-point homily. Inhaled tobacco smoke causes the vast majority of lung cancers; heavy smokers have up to a 23-times greater chance of getting lung cancer than nonsmokers. Lung cancer is extremely difficult to detect early enough for a surgical cure; there are no reliable early warning signals or screening tests. Therefore, 90 percent of *all* persons with an initial diagnosis of lung cancer will be dead within five years.

Behind these simple statements lie facts that some people still have not grasped. For example, many people still think chest x-rays can reliably detect lung cancer at a stage early enough for effective treatment. Not true in the vast majority of cases! Chest x-rays will *eventually* detect any lung cancer but *in the majority of cases the appearance of a lung cancer on x-ray marks a stage already beyond surgical cure.* In one famous study done at the Medical College of Pennsylvania, a group of over 6,000 males screened with chest x-rays every six months for ten years had the same death rate from lung cancer as a comparable group not so screened.

Many also overestimate the effectiveness of surgery as a cure—remembering the John Waynes and Arthur Godfreys but forgetting the Nat King Coles and Edward R. Murrows. Surgery does cure some people. And in reasonably selected cases, it is worth a try. But most people with lung cancer at a stage that is "worth a try" are not cured by surgery.

There have been some recent studies suggesting improved possibilities for early detection and effective therapy but these reports are still preliminary and the techniques involved are expensive, difficult, and often laden with unpleasant side effects. From the medical point of view, the signs mean exactly what they say: *No Smoking.*

Mr. HART. Mr. President, a second article published in the June 27 issue of the New Yorker points out one basic reason why it is so hard to get a grip on the public health problems caused by cigarette smoking. For example, the article reports that one of the six leading tobacco companies, R. J. Reynolds, is spending $50 million to advertise its new cigarette called "Real." It further reports that the tobacco industry is now spending about $400 million a year on cigarette advertising in newspapers and magazines.

The article focuses briefly on the fact that the American press reports exhaustively on potential carcinogens such as saccharin, but barely mentions the link between smoking and death.

Money talks. Four hundred million dollars a year to advertise a product that kills directly and indirectly 250,000 Americans a year. Yet, the Government is spending little more than $2 million annually educating individuals about the hazards of cigarette smoking.

Mr. President, I ask unanimous consent that the New Yorker article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOTES AND COMMENT

The R. J. Reynolds Tobacco Company has just launched an advertising and promotional campaign for a new brand of cigarette—a campaign that Advertising Age has declared will constitute "the most heavily advertised cigarette introduction of all time." A recent article in the Sunday business section of the Times went further. It described the introduction of the new brand as "the biggest marketing campaign in the history of consumer packaged goods." Ac-

cording to the Times article, preparations for this event have gone forward under conditions of corporate secrecy approaching those of military intelligence services in wartime. For several years, the project was known within the company only under the code letters "RL." "Documents referring to RL were stamped 'secret' or 'eyes only' and were distributed on a need-to-know basis. Papers were discussed behind sealed doors, kept in locked drawers, handled by staff with special clearances, and tossed into shredders," the Times articles reported. The name of the new cigarette has now been declassified by the Reynolds company; its name is Real, and in introducing it Reynolds intends to spend no less than fifty million dollars in advertising and promotion during the next twelve months. The promotional aspects alone are reported in the Times to involve the use of a hundred and thirty boxcar loads of display materials, more than twenty-five million free sample packages of Reals, the acquisition of the biggest billboard overlooking Times Square, and the services of a task force of two thousand salesmen, who will call upon tobacco retailers to boost Reals. The print advertising campaign for Reals will, of course, be pushed on a vast and relentless scale; and Donald W. Grout, a Reynolds vice-president in charge of sales, was quoted in the Times as promising, "Before long you won't be able to turn around out there without having Real hit you over the head."

The introduction of Real adds to a list of relatively recent cigarette brand names that are epithets of probity, such as True and Merit. (True is a product of Lorillard division of Loew's Theatres, Inc., and Merit of Philip Morris, Inc.) The particular claim to virtue that the Reynolds people say they intend to put forward for Real in the forthcoming promotion is that Real is a "natural" cigarette. Exactly what that means even the Reynolds people seem to have difficulty in making entirely clear. Apart from the fact that in Reals the company will replace the synthetic flavoring additives that most cigarettes contain with non-synthetic flavoring additives, it seems that the "natural" quality of Reals will consist in their being advertised and promoted as natural.

In contemplating the news of this latest cigarette promotion, we have been struck anew by the contrast between the scale on which the tobacco industry is able to mount campaign after campaign to reinforce the contributions of particular companies to the cigarette-smoking habit and the scale of the measures being taken by the United States government to lessen cigarette smoking for the sake of public health. Thirteen years after the famous report on smoking and health by an advisory committee to the Surgeon General of the United States declared that cigarette smoking is a leading cause of lung cancer in males, and that it presents "a health hazard of sufficient importance . . . to warrant appropriate remedial action," the tobacco industry is spending approximately four hundred million dollars a year on cigarette advertising in newspapers and magazines. That is about a hundred million dollars more than the industry spent on all its television, radio, billboard, and print advertising in 1970, just before cigarette advertising was taken off the air by act of Congress. Against the four hundred million dollars a year now being spent on print advertising, the government is spending less than two million dollars a year on educational programs concerning the hazards of cigarette smoking. Moreover, the government is easily outweighing its own countermeasures with the estimated ninety-seven million dollars that it will spend in 1977 in support of the tobacco-growing industry. These support measures include a loan program for tobacco sales abroad under the Agricultural Trade Development and Assistance Act of 1954 (which is now also known as the Food for Peace Program), a fifteen-million-dollar expenditure to administer tobacco price-support programs in the United States, and a five-to-six-million-dollar program for government inspection and grading of domestic tobacco crops.

To enlarge yet further the disproportion in the forces at contention over this public-health issue, the anti-smoking spot announcements on television which, before the ban on broadcast cigarette advertising, television stations were obliged to run at no charge, and in reasonable proportion to the cigarette ads on the screen, are no longer seen on the air in any numbers, and so barely exist as a counterforce to cigarette advertising. Obviously, no equivalent of the anti-smoking commercials exists where the press is concerned. From the time that Congress ordered cigarette ads off the air, newspapers and magazines have reaped huge benefits from the tobacco industry; their cigarette-advertising revenues have increased nearly sevenfold since 1970, when they received sixty-four million dollars from the tobacco companies. With certain exceptions—a very few publishers currently refuse to accept cigarette advertising—the business managements of the major newspapers and of other publications are vigorously soliciting and competing for cigarette advertising from the agencies employed by the big tobacco companies. The publishers want the money and feel they need the money—and, indeed, for some national publications the annual revenues from cigarette advertising do make the difference between profit and loss.

In view of these circumstances, we find it significant that the press has been paying very little attention to the issue of cigarettes and public health, and that the reporting on this subject has become extraordinarily untenacious. After all, the issue is not without interest. The effects of cigarette smoking on public health are of an absolutely disastrous order. Cigarette smoking is the direct cause of approximately eighty thousand deaths a year in this country from lung cancer alone. In addition, it is considered to be the direct cause of some fifteen thousand deaths from emphysema, and is an important contributing cause of death from coronary heart disease and other diseases. Altogether, the deaths from cigarette smoking in this country come to about a quarter of a million each year—a figure that dwarfs the figures of deaths resulting from other catastrophes, natural or man-made, which are extensively reported in the press. In comparison to the number of lives being taken by cigarette smoking, the number of deaths from violent crime in this country each year, which is about twenty thousand, and which is the subject of such highpresure reporting in the press, seems small.

Only recently, the press has devoted acres of space to the subject of saccharin, and the proposed ban by the Food and Drug Administration on the unlimited sale of this sugar substitute. The saccharin issue is indeed an important issue of public regulatory policy, and the studies made of experimental animals that were fed saccharin indicate a carcinogenic potential among human beings which might conceivably be responsible for as many as four hundred deaths a year in the American population. But if the controversial issue of saccharin, involving a theoretical toll of four hundred lives a year, merits all the attention it is given by the press, what attention should the press devote to a toll, from lung cancer and emphysema alone, of ninety-five thousand lives a year as a direct result of cigarette smoking? Why the widespread lack of interest by publishers, and lack of reporting by journalists, concerning the issue of the tobacco industry, cigarette smoking, and public health—except, perhaps, for reports on big-money promotions of new cigarette brands which may find their way into the business pages? Currently, even the Columbia Journalism Review, which supposedly exists for the purpose of subjecting the reporting standards of the American press to critical examination, has been helping to sustain itself financially by running full-page color ads for cigarettes, and it seems to us that when this happens, something is really awry.

Mr. HART. Mr. President, on February 21, Senators KENNEDY, BROOKE, HATFIELD, and BAYH joined me in introducing S. 1260, a bill to encourage smokers to consume low tar and nicotine cigarettes. By helping to reduce the amount of these toxic substances inhaled by smokers, our legislation will go a long way toward reducing the ever-increasing incidence of smoking related illnesses.

Mr. President, this legislation is a reasonable and practical approach to a serious public health problem that promises to grow worse if we continue to ignore it as we have in the past. I urge my colleagues to consider the needless deaths and disease caused by excessive amounts of tar and nicotine and join in efforts to reduce this health threat.

BELGRADE CONFERENCE TO REVIEW IMPLEMENTATION OF THE HELSINKI ACCORDS

Mr. PELL. Mr. President, today in Belgrade, Yugoslavia, a conference has been convened to review implementation of the Final Act of the Conference on Security and Cooperation in Europe, which was signed in August 1975 by 33 European governments and those of the United States and Canada.

This is a historic occasion, as it marks the first time that representatives from Communist as well as democratic countries have sat down at the same table to compare notes on each other's performance on human rights. Heretofore, the subject of human rights in the Soviet Union and Eastern Europe has been considered by them to be an internal matter that could not be discussed in an international forum.

As Cochairman of the Commission on Security and Cooperation in Europe, I have been deeply involved for over a year in monitoring the progress made in fulfilling the pledges contained in the Helsinki Final Act. After considerable study and thought, I have concluded that in order for the Belgrade review conference to be a success, the United States should do two things:

First, recognize that the United States has shortcomings of its own in living up to the provisions of the Final Act; and

Second, adopt a realistic attitude concerning what can be expected of the Communist governments in the area of human rights.

Regarding American shortcomings, we should not try to hide the fact that aspects of our immigration laws are in conflict with the Helsinki Final Act, that we have not become party to important international human rights conventions such as the Genocide Convention, and that we have not provided the kind of dissemination of the provisions of the Final Act that has taken place in the

Communist countries, where the full text has been printed in the principal newspapers.

As to our adopting a realistic attitude toward what should be expected from the Soviets and East Europeans, it seems to me that we should make a distinction between those areas in which the Soviets and their Warsaw Pact allies might be prepared to act positively in the short run and those other areas where greater resistance should be expected. If such a distinction can be made, it seems to me that priority attention should be given to encouraging the Communist governments to take early action in the former area while in no way abandoning our interest in and insistance upon eventual movement in the latter area. Indeed the August 1977 report of the Commission on Security and Cooperation in Europe on page 9 stated that—

> The signatories should recognize that the Helsinki process could be set back by imposing on it too many demands, too soon. Instead, they should pursue a limited number of concrete initiatives in a carefully organized, consistent, low-key, continuing effort to encourage and reward progress.

Let me cite an example of what I have in mind as one of the "concrete initiatives" referred to in the Commission's report. It seems to me that in areas which least threaten the political stability of the Communist regimes, the governments concerned should be most receptive to pressure for movement. Thus, nonpolitical human rights concessions should be the most readily negotiable of human rights. Surely, actions such as the facilitation of family reunification, the issuance of exit visas to Soviet Jews, or loosening up the impediments to religious practice pose no threat to the Communist system; whereas full acceptance of political human rights would threaten the Communist regimes with collapse.

In my view, concentration on increasing religious rights would be a particularly attractive area in which the United States could concentrate its efforts. Although we make much of our separation of church and state, we are nevertheless a country based on religious principles; the motto "In God We Trust" has a deep and real meaning for the American people. Accordingly, it would be appropriate for the United States to emphasize in the coming months what perhaps is the most basic of human rights, the freedom of religious practice.

Religion is no threat to the Communist regimes as long as it remains nonpolitical. In fact, the suppression of religious freedoms in the countries where other freedoms are restricted is a real threat to authority, because it cuts off a person's last retreat toward spiritual peace and may thus lead to sudden explosions of frustration. The Soviets seem to have recognized this in Poland, where the Communist regime has not suffered as a result of its permitting the Roman Catholic Church to function openly.

Specifically, the Soviets and East Europeans could be encouraged to do the following:

Permit the free circulation of holy scriptures and religious books;

Adopt a policy of noninterference with clergymen in carrying out their nonpolitical, clerical functions;

Recognize the value and unity of the family, including permitting religious education for children, at least in the home and/or in the churches or synagogues.

In making this proposal, I wish to emphasize that I am in no way suggesting that the United States abandon its broader goals in the human rights field which have been so eloquently enunciated by President Carter. Those goals must be pursued because, as the President himself has said, they represent "The hopes and dreams and inclinations and commitment of the American people." My point is simply that we should make a distinction between what is feasible in the short run and what, hopefully, will be feasible in time, and give priority attention to encouraging early progress in the former.

THE JUVENILE JUSTICE AMENDMENTS OF 1977

Mr. CULVER. Mr. President, as chairman of the Senate Subcommittee To Investigate Juvenile Delinquency, I am pleased to announce that President Carter yesterday signed into law the Juvenile Justice Amendments of 1977. These amendments reauthorize the Juvenile Justice and Delinquency Prevention Act of 1974 for an additional 3 years and the Runaway Youth Act for an additional 3 years. These amendments are an important step in the Federal Government's continuing effort to improve juvenile justice and combat juvenile crime.

However, I wish to emphasize that these amendments will do much more than merely continue the existing Federal programs in this area. The amendments also make a number of significant changes in the 1974 act that should greatly enhance its effectiveness. These changes, coupled with the Carter administration's strong expressions of support for the act, promise a much greater Federal commitment to provide help to youth and to protect society from juvenile criminality. And I should also like to emphasize that the Subcommittee To Investigate Juvenile Delinquency has already begun a series of oversight hearings to insure that the act and its amendments are implemented quickly and effectively.

THE NEED FOR A RENEWED EFFORT

There can be no question as to the need for a renewed Federal effort to improve juvenile justice and combat juvenile crime. Our existing system of juvenile justice all too often fails to react in a constructive manner to juveniles who have committed a criminal offense or are in conflict with their parents or school authorities. Moreover, the existing system of juvenile justice is directed primarily at dealing with juveniles once they engage in misbehavior rather than at preventing such misbehavior.

It is particularly important that the juvenile justice system respond more effectively to juvenile criminal offenders. In the last 10 years, the number of young people under the age of 18 arrested for serious crimes has nearly doubled. Although young people between the ages of 10 and 17 makes up only 16 percent of our population, they account for nearly 40 percent of our serious crime. Moreover, if you add in the arrest figures for young adults, you find that those under the age of 26 account for nearly 74 percent of our serious crime.

It must be borne in mind that the juvenile justice system deals not only with the juvenile criminal offender but also with the so-called juvenile status offender. These are young people who have not committed a criminal offense. In 1976, an estimated 700,000 children ran away from home and many of them ended up in the juvenile justice system as status offenders. In addition, countless other youth are referred to juvenile and family courts for status offenses such as defiance of parental authority, truancy, and school misbehavior. Indeed in some States up to 40 percent of the children in the juvenile justice system are status offenders who have not engaged in criminal conduct.

The traditional goal of the juvenile justice system has been to furnish humane treatment to juveniles with problems and to prevent, reduce and control juvenile crime. Sadly, the consensus is that the system has largely failed to fulfill this goal. In may areas of the country overcrowded and understaffed juvenile courts and correctional agencies are not able to provide juveniles with effective treatment. Processing of troubled youth through the juvenile justice system may in fact exacerbate rather than ameliorate their problems. One of the most distressing aspects of the juvenile justice system in this regard has been the confinement of juveniles under undesirable conditions for too long a period of time in adult jails, secure detention facilities and secure correctional institutions. Such facilities and institutions have sometimes proved to be little more than brutal academies of crime.

The sad truth is that in far too many cases the juvenile justice system is simply used as a dumping ground for children. And unfortunately a substantial number of children who go through this system suffer social, economic and psychological damage. Obviously something must be done to stop this horrible waste of young lives. I do not want to suggest that the Federal Government has some magical solution for this problem. Nevertheless, there is much that we can and should be doing.

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

The Juvenile Justice and Delinquency Prevention Act of 1974 is truly a milestone in the Federal initiative to improve juvenile justice and prevent juvenile delinquency. I would like to mention at this point that we all owe a large debt of gratitude to Senator BIRCH BAYH, my predecessor as chairman of the Senate Subcommittee to Investigate Juvenile Delinquency, who played such an instrumental role in the enactment of this act and its subsequent implementation.

The 1974 act is designed to accomplish

a number of objectives. Among the most important are:

To coordinate the various Federal programs dealing with juvenile delinquency.

To make Federal assistance available to State and local governments for the improvement of their juvenile justice systems;

To provide direct Federal assistance to public and private agencies for innovative prevention and treatment programs;

To make Federal assistance available to local groups and organizations for the provision of services to runaway youth and their families;

To stimulate the development of programs designed to prevent and reduce juvenile justice system;

To divert appropriate youth from the juvenile justice system;

To stimulate the development of new approaches, techniques and methods with respect to juvenile delinquency programs;

To stimulate the development of a wide array of community-based programs and services for youth;

To stimulate the development of critically needed alternatives to institutionalization;

To assure that hundreds of thousands of youth such as runaways and truants—who have committed no criminal act—are no longer placed in jails or correctional facilities but rather are dealt with in a more constructive and humane manner;

To increase the role of private agencies and organizations in providing services to youth; and

To stimulate the formulation and adoption of advisory standards for juvenile justice.

THE JUVENILE JUSTICE AMENDMENTS OF 1977

THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The 1974 act created an Office of Juvenile Justice and Delinquency Prevention within the Law Enforcement Assistance Administration. The role of the Office was to coordinate all Federal juvenile justice and delinquency prevention programs, to administer the Federal grant programs established under the act—the formula grant program and the special emphasis program—and to provide technical assistance to Federal, State, and local agencies. In addition, the act created a National Institute for Juvenile Justice and Delinquency Prevention within the Office. This National Institute is intended to serve as a clearinghouse on juvenile justice, conduct research into the problems of juvenile delinquency, evaluate juvenile justice programs, develop standards for the administration of juvenile justice, and provide specialized training for personnel in delinquency and related areas.

The Congress fully intended that the Office would administer the programs established under the 1974 act. Indeed the 1974 act provided that all programs concerned with juvenile delinquency and administered by LEAA, including programs under the Safe Streets Act, would be administered or subject to the policy direction of the Office. Unfortunately, the LEAA Administrator during the Ford administration did not delegate sufficient authority to the executive head of the Office to allow him to fully implement either the programs or the legislative mandates in the 1974 act.

The 1977 amendments relating to the role of the Office of Juvenile Justice and Delinquency Prevention and its executive head are designed to assure that the intent of the 1974 act is fulfilled. Specifically, the amendments reaffirm that the provisions of the 1974 act shall be administered through the Office. They also clarify the duties of the head of the Office with respect to the award and management of grants under the 1974 act and the Safe Streets Act and to the evaluation and coordination of all Federal programs dealing with juvenile delinquency. Finally, the amendments change the title of the executive head of the Office from Assistant Administrator to Associate Administrator in order to underscore the importance of the Office within the Law Enforcement Assistance Administration.

COORDINATION OF FEDERAL YOUTH PROGRAMS

Under the 1974 act, the Office of Juvenile Justice and Delinquency Prevention is charged with reviewing and coordinating all Federal programs related to juvenile justice and delinquency prevention. It is assisted in this task by the Coordinating Council on Juvenile Justice and Delinquency Prevention. This Coordinating Council is composed of officials from those Federal agencies that are most directly involved in youth programs.

To date the Office has identified 140 Federal programs that are related to juvenile justice or delinquency prevention. These include a wide array of programs in such fields as law enforcement, social welfare, education, drug abuse, youth employment, and community development. To date, however, only limited progress has been made in formulating and implementing overall policies and priorities for these programs. Indeed in some areas, the policies of Federal agencies tend to contradict the mandates of the 1974 act.

In order to facilitate the coordination of these programs, the 1977 amendments specifically authorize the Coordinating Council to review the programs and practices of Federal agencies in order to determine whether any Federal funds are used for purposes that are inconsistent with the 1974 act's mandates for the deinstitutionalization of status offenders and the separation of juveniles from adults in jails and institutions. The Coordinating Council is also strengthened through the addition of two new statutory members, namely the Commissioner of Education and the Director of ACTION. Finally, the amendments provide for sufficient staff support to assist the Coordinating Council in its duties.

It is the hope of the subcommittee that both the Office of Juvenile Justice and the Coordinating Council will vigorously pursue the coordination and integration of Federal programs so that in the future States and localities will be able to use Federal funds from a number of different sources to provide integrated services for young people. Such integrated funding and programs have been initiated in a few select projects. Much more work needs to be done, however, if we are ever to achieve the levels of coordination envisioned in the 1974 act.

THE DEINSTITUTIONALIZATION AND SEPARATION REQUIREMENTS

Two of the most important provisions of the 1974 act are the deinstitutionalization requirement and the separation requirement. Under these provisions, every State that participates in the formula grant program has to agree to end the practice of placing children who have committed no criminal offense in detention or correctional facilities. The States also have to agree to insure that no juveniles are placed in facilities in which they have regular contact with adults who have been accused or convicted of committing a crime.

The 1974 act called for all participating States to deinstitutionalize status offenders within 2 years. For the great majority of States, this 2-year period expired at the end of August 1977.

The recent hearings of the Subcommittee To Investigate Juvenile Delinquency found that many States have made substantial progress in achieving deinstitutionalization; however, a great deal still needs to be done. Thus, in considering the amendments, the Congress was faced with the painful choice of either cutting off the funds of a large number of States—many of which have made good faith efforts to comply with the act—or to extend the time frame for deinstitutionalization.

In making this decision, the Congress gave special consideration to two factors. First, if a State becomes ineligible for funding, the ultimate losers would be the children in that State inasmuch as many currently funded programs would be discontinued and new programs could not be initiated. Second, a considerable amount of the delay in implementing the new act was due to the financial and administrative restraints placed on the program by a hostile Ford administration.

Thus, the Congress decided to give all States 1 additional year, or 3 years in total, to comply with the deinstitutionalization requirement. At the end of this 3-year period, which for a majority of States will expire in August of 1978, the States must be able to demonstrate that they have achieved at least 75 percent compliance with the deinstitutionalization requirement and made unequivocable commitment, through appropriate executive or legislative action, to achieving full compliance within a reasonable time.

If a State is able to demonstrate such compliance at the end of the 3-year period, it will be eligible for continued funding. If the State is not able to demonstrate such substantial compliance, the 1977 amendments specifically provide that the States shall become ineligible for funding.

This new time frame gives participating States sufficient flexibility to comply-

with the deinstitutionalization requirement. Congress, however, expects that the deinstitutionalization requirement will be vigorously enforced. Indeed the Subcommittee to Investigate Juvenile Delinquency has already held 2 days of oversight hearings concerning compliance on the part of participating States with the deinstitutionalization requirement in order to assure that the Law Enforcement Assistance Administration will enforce these provisions.

In this respect let me emphasize that under the 1974 act, States are required to demonstrate that they are in compliance with both the deinstitutionalization and separation requirements. In other words, in order to continue to receive funds after the end of the 3-year period, the burden is on the State to prove that it has achieved substantial compliance.

This is a particular problem because in the past the monitoring reports submitted by the States have been inadequate. At its recent hearings, the subcommittee heard considerable testimony as to deficiencies in the previously submitted monitoring reports and the plans of the Office of Juvenile Justice to correct these deficiencies. The subcommittee expects the Office to provide whatever guidance and technical assistance is necessary to insure that the States provide sufficient data to indicate the extent of their progress in complying with the deinstitutionalization and separation requirements.

Finally, I should note that the 1977 amendments make several other changes is the deinstitutionalization, separation, and monitoring requirements. Specifically, the amendments make it clear that nonoffenders such as dependent and neglected children as well as status offenders must be removed from detention and correctional facilities and may not be placed in any facility in which they have regular contact with adult offenders. The amendments also delete some confusing language in the 1973 act that appeared to indicate that all status offenders be placed in shelter facilities. The amendments reaffirm the intent of the 1974 act that States develop a wide variety of programs and services to deal with the problems of status offenders and nonoffenders, including programs in which the child remains in the home with appropriate supporting services. In addition, the amendments require the States to monitor nonsecure as well as secure facilities to insure that these facilities are not actually detention or correctional facilities.

THE FORMULA GRANT PROGRAM

Under the 1974 act, the primary vehicle for improving juvenile justice and delinquency prevention on the State and local level is the formula grant program. This program provides modified block grants of Federal assistance to the States based upon their relative population of persons under the age of 18. These funds are then used to fund a wide variety of State and local projects that deal with juvenile justice or delinquency prevention. To date some 46 States and territories have chosen to participate in the program and have received $77 million in Federal funds.

To assure that formula grant funds achieve maximum impact, participating States must guarantee that the Federal funds will be used to supplement rather than replace the normal State and local expenditures for juvenile justice. The State also is required to prepare a comprehensive State plan for juvenile justice which among other things contains a detailed study of the States needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment.

The 1977 amendments make a number of changes in the formula grant program. Because of their importance, I have already commented on two of these changes. They are the deinstitutionalization requirement and the requirement that participating States involve private citizen's and organizations in the development and implementation of their juvenile justice and delinquency prevention programs. The 1977 amendments also make a number of other changes, and I would like to mention them at this time.

Specifically, the 1977 amendments increase the minimum annual allotment that is given to the smaller States from $200,000 to $225,000. The amendments also broaden the requirement that State's expend at least 75 percent of their formula grant moneys on advanced techniques. Under this expanded provision, advanced techniques will include a wide array of programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide alternatives to juvenile detention and correctional facilities, and to encourage a diversity of such alternatives within the juvenile justice system.

Other important changes in the formula grant program will take effect on October 1, 1978. After that date, participating States will no longer be required to put up a 10-percent match in order to receive their Federal funds and public and private local projects will no longer be required to put up a match in order to receive formula grant funds from the State. This change will make it much easier for local public and private projects to participate in the program.

In addition, the current provision that allows a State to use up to 15 percent of its formula grant moneys to pay for the expenses of planning and administration will be revised as of October 1, 1978. After that date, States will be allowed to use only 7½ percent of their formula grant funds for planning and administration and any Federal funds used for such purposes will have to be matched on a dollar-for-dollar basis with State or local funds. It is hoped that this change will make more moneys available for action programs while still providing sufficient funds for planning and administration.

THE SPECIAL EMPHASIS PROGRAM

The special emphasis program is a discretionary grant program administered by the Office of Juvenile Justice and Delinquency Prevention. Under this program, direct Federal assistance is made available to public and private agencies and organizations to develop and implement innovative programs in the area of juvenile delinquency.

Under the 1974 act, special emphasis funds are made available in five areas: Prevention of juvenile delinquency, diversion of juveniles from the traditional juvenile justice system, development and maintenance of community-based alternatives to the institutionalization of juveniles, reduction and control of juvenile crime and delinquency, and improvement of the juvenile justice system. To date some $31.2 million in special emphasis grants have been awarded or announced.

Several of the 1977 amendments expand the scope of the special emphasis program. Specifically the amendments encourage the development of programs designed to provide more effective responses to minor delinquent conduct outside the formal juvenile justice system. In addition, school violence and vandalism programs funded by the Office of Juvenile Justice are strengthened and required to be closely coordinated with the Office of Education. Also new authority is provided to fund youth advocacy programs, model youth employment programs, programs related to juvenile delinquency and learning disabilities, and other similar programs. Finally, the requirement that at least 20 percent of special emphasis funds be awarded to private nonprofit agencies was increased to a level of not less than 30 percent.

INCREASED CITIZEN PARTICIPATION IN THE JUVENILE JUSTICE SYSTEM

One of the primary goals of the 1974 act was to increase the role of private citizens and organizations at all levels of the juvenile justice system. The act accomplished this goal by establishing citizen advisory boards at both the State and Federal levels and by assuring that private organizations play a significant role in both the formula grant and special emphasis programs.

The 1977 amendments strongly reinforce the role of private citizens and organizations in implementation of the act. The citizen advisory board at the Federal level is known as the National Advisory Committee on Juvenile Justice and Delinquency Prevention. The committee consists of 21 persons appointed by the President because of their special knowledge of youth and their problems. At least seven of the members must be under the age of 26.

The role of the National Advisory Council is to make recommendations concerning the planning, priorities and operation of all Federal juvenile delinquency programs and to make proposals for model standards for juvenile justice. Although the committee got off to a slow start, due primarily to President Ford's delay in appointing the original members, it has nonetheless made a very real contribution.

Under the 1977 amendments the value of the committee's work should be greatly enhanced. Specifically the President is authorized to broaden the scope of the committee by appointing youth workers

involved with alternative youth programs and persons with special experience regarding the problems of school violence and vandalism and the problem of learning disabilities. In addition the amendments require that at least three of the youth members of the committee be persons who either have been or currently are under the jurisdiction of the juvenile justice system. The amendments also create a permanent subcommittee with specific responsibility for advising the Associate Administrator as to the workings of the Office of Juvenile Justice and Delinquency Prevention. Finally the amendments require the Associate Administrator to provide the necessary staff to assist the committee in fulfilling its duties.

Under the 1974 act, every State or territory participating in the formula grant program must establish a similar citizen advisory group at the State level. The members of the State advisory group are appointed by the Governor of that State based upon their special knowledge of youth and their problems.

Many State advisory groups have made a substantial contribution to the implementation of the 1974 act. Some State advisory groups, however, have been given limited duties and staff support. Thus the 1977 amendments make several important changes to insure that advisory groups are able to fulfill the role envisioned for them under the 1974 act.

Specifically the 1977 amendments substantially expand the role of the advisory group. Under the amendments, the advisory group has a role in State plan development, in advising the Governor and legislature on juvenile justice matters upon request, and in reviewing and commenting on all juvenile related grant applications submitted to the State planning agency. In addition, State advisory groups may be given a role in monitoring State compliance with the deinstitutionalization and separation requirements, in advising as to the composition of the board of the State planning agency and regional planning units, advising on the State's maintenance of effort, and in reviewing the progress of all projects funded under the State comprehensive juvenile justice plan. Finally the 1977 amendments require each participating State to appoint the chairperson and at least two additional citizen members of the State advisory group as members of the State planning agency and to apportion 5 percent of the State's minimum annual formula grant allotment to assist the State advisory group in fulfilling its duties.

Another change in the formula grant program that will increase the role of private programs is a change in the local passthrough provision. The 1974 act allows a State to spend up to one-third of its formula grant funds on State projects. The other two-thirds must be spent on public or private projects at the local level. Under the 1974 act, however, a local private project had to obtain the sponsorship of the appropriate unit of local government in order to receive formula grant funds. The 1977 amendments provides that a private project would still have to seek sponsorship from the appropriate unit of local government. If the local private program is denied such sponsorship however, it will now have the option of applying directly to the State planning agency for formula grants.

Two other provisions of the 1974 act which will help stimulate private participation in the juvenile justice system should also be noted. The first requires all States participating in the formula grant program to provide for the active consultation with and participation of private agencies in the development and execution of the State plan. The second provision requires that at least 20 percent of the funds under the special emphasis program be granted to private, nonprofit agencies, organizations, or institutions who have had experience in dealing with youth. The 1977 amendments increased this figure to at least 30 percent.

THE RUNAWAY YOUTH ACT

Title III of the 1974 act, known as the Runaway Youth Act, establishes a separate program to provide services to young runaways and their families. Under the Runaway Youth Act, the Department of Health, Education, and Welfare provides assistance to localities and local private agencies to operate temporary shelter care programs for runaways.

Unlike traditional halfway houses, these facilities provide runaways with shelter and immediate assistance, such as medical care and counseling, for a short period of time rather than on a long-term basis. Once in the runaway facility, the young person is encouraged to contact home and reestablish in a permanent living arrangement. In addition, these runaway facilities are equipped to provide after care counseling for the youth and his family.

Under the 1977 amendments the maximum amount of a grant to a runaway youth facility is increased from $75,000 to $100,000. The amendments also authorize the Department of Health, Education and Welfare to provide short-term training to localities and private agencies. Finally, the amendments make it clear that runaway facilities are intended to serve homeless youth as well as runaway youth.

AUTHORIZED APPROPRIATIONS

The 1977 amendments which reauthorize both the Juvenile Justice and Delinquency Prevention Act and the Runaway Youth Act for an additional 3 years also raise the authorization levels for these two acts. Specifically the authorization level for the Juvenile Justice and Delinquency Prevention Act is set at $150 million for fiscal year 1978 and at $175 million and $200 million for fiscal years 1979 and 1980 respectively. The authorization level for the Runaway Youth Act was set at $25 million for each of the next 3 fiscal years.

CONCLUSION

It is my expectation that the aforementioned legislation will result in a more efficacious and efficient administration of the Juvenile Justice and Delinquency Prevention Act of 1974. It is my further expectation that this legislation by providing an increased level of funding will furnish a strong incentive to States to improve their juvenile justice systems and will substantially aid States and localities in developing the programs necessary to deal with the problem of juvenile delinquency.

CRITIQUE OF U.S. MIDDLE EAST POLICY

Mr. CASE. Mr. President, President Carter's efforts to reach a peaceful settlement of the Middle East have carried with them the hopes of all Americans. I am sure we all agree on the desirability of obtaining a proper and lasting settlement. Thus it was with initial hope but then increasing dismay that I have watched the unfolding of the administration's Middle East policy.

If the past U.S. policy and the present administration policy toward the Middle East really are the same, Israel would not exist, for it would never have come into being.

Since 1947 when the United Nations approved the partition plan dividing Palestine into Jewish and Arab sectors, and 1948 when President Truman recognized the infant State of Israel, American policy has been grounded on the belief that in the aftermath of the holocaust and previous centuries of persecution, the Jews were entitled to a homeland. Although the Arabs rejected the U.N. plan and their armies invaded—with Jordan taking over the West Bank—a mainstay of U.S. policy has been support of Israel's security and right to exist. I cite this capsule history to call attention to the broad stream of U.S. policy. It is a policy which I have strongly supported.

Thus, I noted with great interest that in the latest controversy, administration officials have said U.S. policy has not changed, despite the recent formulations in the communique issued October 1 with the Soviet Union. No doubt the comments were meant to be reassuring.

However, in looking at the broad trend of the administration's statements and tactics in the past few months, I wonder if this portrayal of no-change—which many people may regard as an insult to their intelligence—is not more revealing than intended.

On closer look, the policy of this administration does appear consistent.

The administration's policy really amounts to a step-by-step acceptance of the PLO.

The continued movement toward the PLO position in the series of statements by U.S. officials and the tactics used to pressure the most vulnerable side of the dispute—the Israelis—are deeply disturbing.

The process appears to be continuing despite the PLO's continued rejection of U.S. overtures. The PLO refused at its recent Damascus meeting to accept U.N. Resolution 242 which is the generally agreed upon framework for a settlement which includes establishing secure and recognized borders.

On Friday the PLO issued a statement declaring it would enter into peace talks

only if the U.N. Security Council adopted a new resolution that explicitly stated "the rights of the Palestinian people to self determination, statehood, and return to their property and homes."

Such a stance is merely another way of stating their goal of dismantling Israel.

Thus I and many of my colleagues were shocked to learn that on the very next day, without consultation with Congress, the United States joined with the Soviet Union in a joint communique which embraced the PLO's demand that a settlement include "insuring the legitimate rights of the Palestinian people."

These are code words in the Middle East. These words are understood by the PLO and its backers to mean support for their demands for establishment of a separate Palestinian State and other steps which would end with the replacement of the world's only Jewish State with its 21st Arab State.

I am aware that State Department officials say that the communique represents a significant achievement in getting the Soviet Union to adopt a responsible stance regarding peace-seeking efforts in the Middle East. The officials, in defending the inclusion of the phrase "legitimate rights," note that the Russians were persuaded for the first time to accept a reference to "normal peaceful relations."

In effect this means the Soviets embrace motherhood and we in turn, embrace terrorists.

Of course it is preferable that the Russians cooperate, or at least do not disrupt efforts to work out a peaceful settlement in the Middle East. But it should not be necessary to make such lopsided tradeoffs or feel we have to placate the Soviets in the Middle East because of differences we have over other matters. Indeed, one of the proclaimed achievements of U.S. policy was that the Soviets had been losing influence in at least some parts of the Middle East. Thus was it really so important to try to wrap them into Geneva with a statement containing so many "tradeoffs"?

The claim that the United States as part of the bargaining had to accept the reference to "legitimate Palestinian rights" would be more convincing if the administration had not made previous moves in that direction. Indeed, one of the reasons that there is such concern about administration policy has been the apparent lack of frank consultations.

Last Friday, the day before the United States-Soviet communique was released, the matter of the 1975 Sinai Accords and its assurances to Israel on coordination of future negotiations was brought up at a White House meeting President Carter held with a small group of Senators. I attended the meeting. There was no mention of the fact that a communique was in the works containing the phrase "legitimate Palestinian rights."

I know the President and other officials contend they are not trying to impose a settlement. Yet the clear trend of recent administration policy has been toward the imposition of a settlement. Of course the United States has an interest in a settlement. But to suggest as the President's National Security Adviser did in a recent television interview that "the United States is not just an interested bystander, not even a benevolent mediator" and that U.S. leverage should be used to get the desired results, can only worsen a dangerous situation.

The danger is that in its desire to get to Geneva by the artificial deadline of this December, the administration will go for either a "quick fix," in the form of a conference which will bog down or of a settlement in which differences are papered over. A conference as a confidence-building measure might have some merit, but the past record is not encouraging. For example, the Egyptians have been violating the 1975 accords by moving into the Sinai more units and equipment than allowed under the agreement. They also have been ignoring the provisions of the accord calling for a cease-fire in the propaganda war against Israel.

On a long-term basis, a settlement is not likely to be lasting or meaningful unless the Arab nations, through the process of hammering out a settlement in negotiations, truly and publicly accept Israel's right to exist. Words and promises are not sufficient.

Even if the PLO gives the wink and nod the administration is seeking, I for one do not think that is enough. The latest PLO gesture of moderation was to claim credit for the terrorist bomb incident Sunday at Jerusalem's heavily used bus station—shortly after issuance last Saturday of the U.S.-U.S.S.R. communique on the Geneva talks.

Understandably there is great concern about the efforts to force the acceptance of the PLO into the Geneva talks. Were such a move successful, it could have the effect of prejudging the course of the talks by forcing one party against its will to negotiate with a group sworn to destroy it. When one of the participant's right to exist becomes part of the negotiations, it cannot help but have a bearing on the outcome of the talks.

There is another very disturbing effect of the administration's approach to the Middle East. That is the undermining of moderate Arabs. I refer to the apparent acceptance of the PLO claims that the PLO be accepted as the representative of the Palestinian people.

This sanctification of a terrorist organization—one which has singled out women and children as targets—retards the emergence of moderate nonterrorist Palestinian leaders as a meaningful force. This group included the West Bank mayors who—unlike the leaders of the PLO and the Arab countries—were freely elected.

One of the tragedies of the Middle East and indeed a source of continued bloodshed had been the way extremists have been allowed to intimidate and dominate the moderates. The current U.S. approach with its apparent fixation with the PLO is furthering that trend.

These consequences of the administration's initial approach seem not to have been well thought out. It would be a pity if miscalculations hurt the chances of a meaningful Geneva Conference. Yet some commentators apparently already are being encouraged to believe that if the Geneva Conference collapses the administration will blame it on Israel and there will be all sorts of consequences such as a confrontation and cutoffs of aid. It would be most unfortunate if such a vindictive attitude is allowed to develop and prevent an honest effort to reexamine U.S. policy.

I urge the President and his advisers seriously to reevaluate their approach to the Geneva Conference and the Middle East in general. A starting point might be fuller and franker consultations.

I also suggest that if there is a sincere concern about the plight of the Palestinians, this is the time to encourage the Arab nations to help resettle refugees and accept their brothers as citizens instead of keeping them in camps and using them as pawns. I am sure the Israelis would reciprocate in any genuine effort to deal with the human dimensions of the Middle East problem.

A lasting settlement in the Middle East will not be easily obtained. It will be even harder to achieve if the process is hampered by impatience, artificial deadlines, the imposition of views from Washington and Moscow and the encouragement of terrorist organizations.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes without the time being charged under cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE WAGE AND PRICE STABILITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6951. I do this on behalf of the Senator from Wisconsin (Mr. PROXMIRE), and it is my understanding that this has been cleared on both sides of the aisle.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate H.R. 6951, an act to amend the Council on Wage and Price Stability Act to extend the termination date, and for other purposes, which was read twice by its title.

Mr. PROXMIRE. Mr. President, on

September 21 the Senate passed S. 2056 by voice vote as it was reported out of the Committee on Banking, Housing, and Urban Affairs. The bill amends the Council on Wage and Price Stability Act to extend the expiration date of the Council from September 30, 1977, to September 30, 1979. The legislation would also authorize the appropriation of $2,210,000 for the Council's activities for the fiscal years 1978 and 1979. Another amendment would provide for the same confidentiality of data obtained voluntarily by the Council as is now given to data obtained under a subpena. Other amendments would include full employment as one objective of the anti-inflation program, would direct the Council in the course of its public hearings to emphasize the purpose of controlling inflation, and would direct the Council to review information about and analyze the effects on the U.S. economy of U.S. participation in the world economy.

The House of Representatives has passed an amended version of H.R. 6951 which is now identical to the Senate bill. Because of a procedural objection, the House was unable to take up the Senate bill, S. 2056, although the two bills are now identical in every respect. Meanwhile, the authority for the Council under the Council on Wage and Price Stability Act expired on September 30, 1977.

The language of this legislation is such that there will be no gap in the Council's existence once the Senate acts to pass H.R. 6951. There is, however, a need for the Senate to proceed to consider and pass H.R. 6951 with all deliberate speed so that the workings of the Council on Wage and Price Stability are not impeded. The Senate passed favorably on this legislation under the number S. 2056, and I urge that it pass favorably on it under the number H.R. 6951.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 62 Leg.]

Baker	Ford	Lugar
Burdick	Glenn	McClure
Byrd, Robert C.	Hansen	Melcher
Chafee	Hart	Randolph
Chiles	Hatch	Roth
Cranston	Jackson	Schmitt
Danforth	Javits	Schweiker
Domenici	Johnston	Zorinsky

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 523 Leg.]

YEAS—89

Allen	Ford	Melcher
Anderson	Garn	Metzenbaum
Baker	Glenn	Morgan
Bartlett	Gravel	Moynihan
Bayh	Griffin	Muskie
Bellmon	Hansen	Nelson
Bentsen	Hart	Nunn
Biden	Haskell	Packwood
Brooke	Hatch	Pearson
Bumpers	Hatfield	Pell
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Randolph
Byrd, Robert C.	Heinz	Riegle
Cannon	Helms	Roth
Case	Hollings	Sasser
Chafee	Huddleston	Schmitt
Chiles	Inouye	Schweiker
Church	Jackson	Scott
Clark	Javits	Sparkman
Cranston	Johnston	Stafford
Culver	Kennedy	Stevens
Curtis	Laxalt	Stevenson
Danforth	Leahy	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	Magnuson	Tower
Durkin	Matsunaga	Wallop
Eagleton	McClure	Williams
Eastland	McGovern	Young
	McIntyre	Zorinsky

NAYS—1

Weicker

NOT VOTING—10

Abourezk	McClellan	Sarbanes
Goldwater	Metcalf	Stennis
Humphrey	Percy	
Mathias	Ribicoff	

So the motion was agreed to.

The PRESIDING OFFICER (Mr. MATSUNAGA). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The PRESIDING OFFICER. The question now recurs on the Bentsen-Pearson amendment No. 1039.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. JACKSON addressed the Chair.

Mr. BAKER. Mr. President, I yield to the Senator.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, on behalf of the Senator from Kanas (Mr. PEARSON) and myself, first, I ask unanimous consent that amendment No. 862 be revised so as to provide that—

First, sales of new natural gas would be deregulated after December 31, 1986; and

Second, the regulated price between the date of enactment and December 31, 1986, would be the greater of, first, the Btu equivalent of the price of upper tier crude oil, or second, the formula set out in section 4 of amendment No. 868.

Third, gas produced from tight formations where production costs are extraordinarily high would be deregulated immediately.

Second, I ask unanimous consent that amendment No. 1039 be revised to provide that lines 8, 9, and 10 on page 13 shall read as follows: "or after January 1, 1977, shall not exceed $2.25 per Mcf.". If my first two requests are granted—

Third, I ask unanimous consent that further debate on amendment No. 1039 as modified be limited to 2 hours to be equally divided 1 hour on a side and at the end of that time that a rollcall vote occur on the amendment, and that no amendments be in order.

I further ask unanimous consent that if amendment No. 1039 is not agreed to, that a rollcall vote occur on amendment No. 862, as just modified, without intervening debate or motion.

Mr. FORD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Kentucky reserves the right to object.

Mr. FORD. Mr. President, to go back to the questions that I asked prior to recess, those questions have not been answered to my satisfaction. The question that I would like to propose, and I think I understand the answer, but I have several amendments that all those who are in authority have told me are in order.

But this unanimous-consent agreement does not allow me to bring up any of these amendments should the Pearson-Bentsen, as modified, fall, except to offer them without any debate.

I have time under the bill. I am not asking for any additional time. Also, I think one of the amendments I have will help in the Northeast as it relates to SNG.

I am not only asking for myself, but I am asking for others that would be so-called opponents of deregulation.

Now, Mr. President, if I can be assured that I can bring up these amendments, that we can modify the unanimous-consent agreement that my amendments will be eligible, and that I can have at least the time that is left under my 1 hour, I would consider not objecting. But if I do not have the opportunity to bring up these amendments should the Pearson-Bentsen substitute fall, then I have no alternative but to object.

Mr. DURKIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair will state that the Senator from Kentucky has the privilege of offering his amendment under unanimous consent, and the original way of the Chair to know whether any objection will ensue——

Mr. FORD. I would like to have an opportunity to at least spend a few minutes of debate on my amendments and protecting the right, also, of the Senator from New Hampshire, because of my amendment under SNG which was left out completely, and they have some very serious problems.

My amendment does not go as far as they would like to have it, but it is something better than they now have.

Mr. JACKSON. Let me——

Mr. FORD. All I am asking is to be able to bring up my amendments and use my time under that, or what portion of that hour I have left.

Mr. BUMPERS. If the Senator will yield, would it be possible, Mr. President, for the Chair to advise the Senator from Kentucky whether or not his amendments will be in order if the unanimous consent is agreed to?

I think that is the question he is asking.

Mr. FORD. No. I know they are in order. But it says without intervening debate or motion I can bring up my amendments, and that is all there is to it. I cannot say a word about them.

Mr. ROBERT C. BYRD. That is right. The Senator has the right to call them up, but no debate.

Mr. JACKSON. Let us clarify it.

Mr. FORD. I am going to objcct, and I think the Senator from New Hampshire is also in the position of objecting.

Mr. JACKSON. Let me state the situation on the amendments.

The unanimous-consent request for Senator PEARSON in connection with amendment No. 1039, which is Pearson-Bentsen, would not be subject to amendment.

Mr. FORD. That is the rule now; is it not?

Mr. JACKSON. No. There are no amendments pending. That is not the rule now.

Mr. FORD. There are no amendments pending.

Mr. JACKSON. No amendments pending. But after it was revised, it was no longer the third-degree, or second-degree problem. I mean, amendments could be offered.

Earlier, that was not the case. That is correct. But the problem is that there are no amendments at the desk pending to 1039, but it is not in that degree category that would prohibit amendments. It was earlier, until the leader offered the motion to recommit with instructions.

Mr. DURKIN addressed the Chair.

Mr. JACKSON. I am just trying to explain the situation, if I can.

Mr. DURKIN. Will the Senator yield for 30 seconds?

With respect to Senator FORD'S amendment 1327, that is of great importance to New Hampshire and New England. That grandfathers the Algonquin plant in Freetown, Mass.; and if there is a shortage of gas this year, we do not make it without that SNG. So it is of vital importance.

On behalf of my people at home, I think I will have to utilize whatever means we have to protect their interests, and I underscore the remarks of Senator FORD, especially with reference to amendment No. 1327.

Mr. JACKSON. Mr. President, I further ask unanimous consent that if amendment No. 1039 is not agreed to, a rollcall vote occur on amendment No. 862, as modified, without intervening debate or motion, except for 10 minutes on amendment No. 1327.

What other amendments do we have?

Mr. GLENN. 1349.

Mr. FORD. 1328, 1324.

Mr. GLENN. 1324, as modified.

Mr. FORD. 1322.

Mr. JACKSON. Let us get the laundry list.

Mr. DURKIN. 1382.

Mr. FORD. I have had these for a long time. It is not a surprise. I will take 1319 through 1328.

Mr. JACKSON. The Senator is offering 1319 through 1328. Ten minutes each.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. JACKSON. Let us do it one at a time.

Mr. FORD. We will take 1322 through 1328.

Mr. JACKSON. 1322 through 1328, inclusive?

Mr. FORD. Yes.

Mr. JACKSON. Senator GLENN?

Mr. GLENN. I have an amendment, 1349, which would be modified so it fits this legislation.

Mr. JOHNSTON. Mr. President, for the reasons previously stated, I object.

Mr. JACKSON. Senator DURKIN had a request, as did Senator HART.

Mr. JOHNSTON. Does the Senator want me to withhold it?

Mr. DURKIN. Yes, it would be better.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Reserving the right to object, Mr. President, I would like to add to that laundry list—and I beg the indulgence of the Senator from Colorado—amendment 1382.

Mr. JACKSON. Senator HART?

Mr. HART. Reserving the right to object, Mr. President, I make the point I tried to make for the last week—that is, that there are more than two sides or two approaches to this issue.

I ask the indulgence of the distinguished floor manager in amending the unanimous-consent request to provide at the end of the request that it be in order to call up my amendment 1389, as modified, with 1 hour limit on debate, equally divided, and the vote to occur on 1389 at that time.

Mr. JACKSON. Mr. President, I modify my unanimous-consent request in accordance with the requests made by the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Colorado (Mr. HART).

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to amendment No. 1039.

Mr. BAKER and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wonder whether we could reach a time agreement at which to vote up or down on the Pearson-Bentsen amendment. It seems to me that if we do that, we might then be able to proceed to other amendments. If that fails or, if it carries, we could vote on the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I should like to make the Senator a gentleman's proposal to help bring this about.

I suggest to the Senator that he and I agree to pair. If the side he is on should have no more absentees than the side I am on, I will pair with one of his absentees, with the same understanding that if the side I am voting with should have more absentees, the majority leader would pair with one of our absentees. That way, we could stop the jockeying for advantage.

We should use pairs to express the will of the Senate, not to prevent the will of the Senate from being expressed on these votes.

Frankly, in view of the health of various Senators, the probability is that on a dragged-out debate, the side I am on will have a little advantage, because it would be extremely difficult for Mr. HUMPHREY to come here.

At the same time, we should start agreeing that these votes will express the will of what the Senate wants to do, rather than to take advantage of the side that has the most absentee situation not know what the absentee situation is at this point, but I hope we could agree on that and make it effective: that whichever side has the most absentees, the other side will give them one pair. The two of us can make that effective, and I think that would make it possible to set a time to vote.

Mr. ROBERT C. BYRD. I think the Senator from Louisiana makes a very good proposal. I would not want to enter into that proposal at this particular moment, but I should like to enter into such an agreement on a longstanding basis, so that, as he says, the Senate will not be held up in reaching a final decision on any measure just because one side has a one-vote advantage over another side, because someone is out of town or is in the hospital or some such situation.

I would not want to enter into that agreement at this moment. Perhaps before the day is over, I might be constrained to do that.

Mr. LONG. I thank the Senator.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. GLENN. If I may have the attention of the Senator from Oklahoma, the Senator was heard to object. I inquire whether the objection was on the

amending process we were trying to set up or on the basic proposition that the Senator from Washington had proposed originally. I would be prepared to withdraw my amendment if that was one of the objectionable features the Senator from Oklahoma found, important though I think it is under the emergency natural gas situation.

Did the Senator object to the amending process or to the basic proposition of the Senator from Washington?

Mr. BAKER. Mr. President, if the Senator will yield to me, I assure the Senator that other objections would have been offered on both sides of the aisle. So I recommend against trying to get any reasons why objections were made. I wonder if the Senator from Ohio would consider that point. I suspect that it was not the only objection that might have been lodged.

Mr. BARTLETT. In response to the request, I say to the Senator from Ohio that my objection was mainly to the basic request.

Mr. GLENN. I thank the Senator from Oklahoma and the Senator from West Virginia.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I think it is possible that we can get an agreement to vote on Pearson-Bentsen, up or down. For reasons the Senator from West Virginia and I have discussed, the knowledge as to whether or not we can do that is probably 15 or 20 minutes in the future.

If we could find useful and productive work for, say, a half hour, I think we could promptly come to a decision on whether we can or cannot come to an agreement today.

If the majority leader does not want to do that, then maybe we can explore the possibility of a time to vote tomorrow, although I will state it is my preference to try to work out a time certain this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I would hope we could vote on Pearson-Bentsen up or down today. I say that for the simple reason we would hope once this bill is disposed of we can move on to the minimum wage bill and, hopefully, dispose of it in 1 day inasmuch as we have a time agreement on it.

We also have the District of Columbia appropriations bill. We could dispose of those two bills today, and the conferees could be working between the two Houses.

We have the electric utility rate reform bill which is the fourth in a series of five measures, and by disposing of this bill, Senator LONG's committee could then meet to act on the energy tax bill, because so long as this bill has the Senate tied up it has the Committee on Finance tied up. Members cannot get to the Committee on Finance to work on the fifth of the five measures; nor can Members go to conference with the House on measures that are tied up in conference.

So I would hope there is a possibility of voting on Pearson-Bentsen and we will do so today.

Mr. BAKER. Mr. President, if the majority leader will yield, I share that hope. I think we are getting close to the time we can dispose of it.

I might also say there is another matter we need to or I hope we would direct our attention to, and that is the possibility of continuing the work we commenced and did not complete yesterday with respect to the resolution on SALT.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I would hope we could consider both issues today, the SALT resolution and the disposition of the pending measure.

I think another 15 minutes will give us some idea of what we will be able to do.

Mr. CRANSTON. Mr. President, I might be able to personally work this out by a pair, but I have a question to ask first. I would not want to give a pair if it would change the outcome of the vote that is coming.

I do not know of any Senator who has changed his position that would change an up or down vote on Pearson-Bentsen. Senator BENTSEN, Senator METZENBAUM, and Senator JACKSON all told me they do not know of any person who has changed his vote, which means it will come out almost identically, with one slight change that does not change the outcome, from the vote the other day.

The problem is that certain Senators who are absent now—one with whom we cannot communicate, because he is in transit—if we cannot reach a time agreement to vote today, because of this pairing problem and absence problem, then we will not have a vote today, and we will vote tomorrow when all Senators will be present, and the outcome plainly will not be changed.

So if there is no Senator present who has changed his position or who knows of any Senator who has changed his position—and I beseech anyone who has any such knowledge to tell me—I am willing to commit now to giving that pair if it is not otherwise forthcoming.

Mr. LONG. Mr. President, will the Senator yield to me?

Mr. CRANSTON. Yes.

Mr. LONG. I am willing to do it the other way around. If it should prove that the side I am on——

Mr. CRANSTON. We need a pair from the other side, from your side, on this issue, unfortunately.

Mr. LONG. That is all right with me. Here is what I am proposing: When we call the roll if it turns out that the side the Senator from California votes with has one more absentee than the side the Senator from Louisiana is voting with, I will give a pair to that Senator.

Mr. CRANSTON. Since the majority leader——

Mr. LONG. With this understanding——

Mr. CRANSTON. Since the majority leader turned down that proposition, I am not about to stand up here and accept it. But I am offering my own proposal. If no Senator knows of anybody who has changed, please tell me if you do, I will now commit myself to giving that pair if it does not come from somewhere else.

Hearing from no one, I now commit to the pair, so now let us get a time agreement.

Mr. BAKER. I can tell in just a few minutes if we are ready to vote. If I could suggest the absence of a quorum, I can then make the determination.

Mr. HART. Mr. President, will the Senator withhold for the purpose of a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. HART. Mr. President, since the purpose of Senator JACKSON's unanimous-consent request was to permit the principal participants in this debate to amend their resolution or their amendments, and since the reason why we cannot do that is cloture, and since the reasons for cloture have disappeared, I ask unanimous consent that it be in order to dissolve the order for cloture.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, I am sorry my attention was drawn away by another question. Will the Senator indulge me by telling me what the request was?

Mr. HART. I thought the Senator would be interested. [Laughter.]

Mr. President, I ask unanimous consent—well, the Senator from Louisiana is going to want to know about this, too, so I will wait.

Mr. President, since the reason why the Senator from Washington propounded the unanimous-consent request is that the principal participants could amend their proposals, and since the reason they cannot amend their proposals by unanimous consent is cloture, and since the reason for cloture has disappeared, I ask unanimous consent that the order for cloture be dissolved, and that——

Mr. TOWER. I object.

Mr. HART. Will the Senator from Texas permit me to conclude the request?

Mr. TOWER. Go right ahead.

Mr. HART. I thank the Senator.

To complete my statement—and that a vote on final passage occur no later than 8 o'clock tonight.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, let me say I think the distinguished Senator from Colorado made a very reasonable request.

Mr. HART. I wish the Senator would direct that to the Senator from Texas.

Mr. ROBERT C. BYRD. I wanted to pay my compliments to the Senator.

Let us think about it, and maybe we can propose it again. There is too much going on.

Mr. TOWER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. Rather than trying to resolve all this on the floor, can we not put in a quorum call and have a little caucus?

Mr. ROBERT C. BYRD. Yes. Unless any Senator wishes to be heard at the moment, I suggest the absence of a quorum hoping that shortly thereafter we can agree on a time to vote on the Pearson-Bentsen amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 63 Leg.]

Abourezk	Glenn	Metzenbaum
Allen	Goldwater	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
Curtis	Lugar	Stevenson
Danforth	Magnuson	Stone
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Domenici	McClellan	Tower
Durkin	McClure	Wallop
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	Young
Garn	Metcalf	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. RIEGLE. Mr. President, I have not used any of the time that is allotted to me under the rules that are in effect now, and I just want to make some brief comments about the situation we find ourselves in. I understand that efforts are being made to work out some time agreement on the vote, and I am not interested in delaying that. I am really interested only in expressing some summary thoughts at this time.

First of all, Mr. President, I commend Mr. METZENBAUM and Mr. ABOUREZK and those who worked with them for what I think has been the correctness of their position over many difficult days in trying to bring to light the basic facts about this issue that, in my judgment, are still not fully brought out into the light of day. I must say that my greatest regret about where we find ourselves right now is the fact that I do not think the public yet fully understands what this struggle is all about. I must say I think I must accept some of the responsibility for the failure to adequately clarify these issues and bring them into focus fully, so that the public might really understand the true stakes in this situation.

Frankly, I think whatever the failures were in getting these issues properly focused is of grave public consequence, in terms of the implications on people. I think the press, too, for its part, has not got this issue fully in focus. I think nearly all of the press commentary on this fight has centered on the mechanics of the struggle, such thing as the Senate being in overnight, pictures of cots, angry tempers, parliamentary maneuvers, and the rest of it. That is certainly all part of the story, but I do not think it is the story. In fact, I think that preoccupation on parliamentary tactics has obscured the real story here.

What the story is and has been, and what I think we have not gotten across, is that what we have here is probably the greatest unarmed robbery of all time in this country. A robbery in terms of a theft of money from the consumers, on a scale that almost defies comprehension. The size of that robbery is so vast that it is actually being carried off in the full light of day with almost nobody able to really comprehend what is going on.

We just in recent years have gotten to the point where we have started thinking in terms of million dollar figures, and most of us cannot really comprehend the scale of a million dollars. But now we talk about billions of dollars and tens of billions of dollars. This bill has an economic impact in the range of tens of billions of dollars and so it is not surprising that we have a hard time calculating exactly what that means, say, in terms of inflation. Because inflation is a big national problem and this is a very inflationary bill—probably the most inflationary measure that Congress will deal with all year long. This debate thus far has not adequately pointed up the tremendous inflationary impact of deregulation.

This is a bill that is also going to create unemployment. We have a serious unemployment problem now in this country, and this bill will do as much to increase unemployment as anything we will deal with this year.

Another thing this bill means, in the end, is basically whether senior citizens across America are going to be able to afford to keep and maintain the houses that they live in, because they are being forced out of their housing in increasing numbers by rising prices; and the biggest single component of the price rise has been energy prices. This bill will drive those prices up again, push their utility bills higher and higher. And young people who may want to form family units, perhaps get out of apartments or the homes where they live with their parents and instead own homes of their own, but they cannot afford them; and one of the reasons why they cannot is because energy costs are rising. And yet despite these terrible consequences on people, we are about to lock into law a monopoly pricing structure which will take money from everybody and give it to a few people.

I have not heard anyone make a convincing argument that this administered price rise is going to, in any appreciable way, increase the supply of natural gas. As a matter of fact, it is not going to increase the supply of natural gas more than a minute fraction over what it would be otherwise. Yet we are about to sign into law measures that would cost this country tens of billions of dollars for that pitifully small increase in supply.

Now let me tell you where the money is going to go, because I have not seen that well enough pinpointed, either, in my opinion. These billions of dollars will work their way through these higher prices and utility costs back to the gas companies and into their income statements, and down to the net profit line, and you will find it in terms of higher corporate salaries, executive salaries and dividends for shareholders. And gas executives are not badly paid, I might say. They are paid very well, and they will be paid much better after this piece of highway robbery is carried out.

So where these billions of dollars are going to go is for nice cars and more cars, nice vacations, nice homes, nice college educations, and a lot of good things for a handful of people in this country, because they happen to be situated in an industry with that kind of strategic power.

And when I think of what we went through last winter, with the shortages, I am convinced in my own mind that those shortages did not need to be as severe as they were. There is plenty of evidence of wells that have not been opened up, and of other wells that have been deliberately capped. There are investigations underway to try to ascertain this information, but there is plenty of evidence that supplies have been held off the market in order to frighten people into exactly what we are about to do.

The failure of strategy on our side of the argument has been that 10 days ago we should have gotten 5,000 senior citizens to travel here to Washington to pack these galleries, and to sleep in our offices while we were here in session all night long. They should have been here with us, because we are waging a citizens' fight and a people's fight, and yet that has been obscured by all kinds of analogies and explanations that would make it seem nothing more has been happening than keeping the Senate trains running on time.

Sometimes you have to leave the ox in the ditch, if that is where it belongs. This ox ought to have been left in the ditch, in my opinion. That is no disparagement to any Senator here in terms of their views on the issue, and how they think it ought to be handled. My concern is where the weight of this change in law will fall. It is going to fall on those people in this country least able to deal with it.

What is the corresponding public gain? Do they get some magic increase in supply? I would say that there is not anybody around here who can make that argument, not even those from the oil States or the gas States. They cannot make that argument because the facts do not sustain that argument.

We could go out and manufacture synthetic gas in the amount of the small supply increase that is anticipated here for a fraction of the cost we are now going to impose on American consumers through this administered higher price system. There is no justification for outright deregulation other than the fact that those who stand to benefit from this have orchestrated a masterful campaign and lobbying effort. They have been very effective here. There is no question about that. But that does not mean the public interest is being served, because the public interest is not being served. In my judgment it is being abused on this policy issue.

I must say I share the frustration of every Senator who likes to try to resolve these matters in something short of 13 days, day and night. Everybody is tired. Everybody is weary, and tempers are

short. That is just the way it is after a struggle of this sort.

The sides coming in to argue this case are not even. Frankly, the special interests in this case come in with an enormous power differential in terms of their capacity to present arguments, and, I think, finally to sway the outcome of votes.

That does not mean they are right. It does not mean the public interest is served. This issue is going to hurt more people in this country than anything else we are going to consider this year. That is what has not been put across. We somehow have not been able to express that sufficiently so that the country could understand it. I believe this: If the country understood it, we would not be about to take this action, because there would be so much heat on this Chamber and so much demand for equity and fairness that we would not be struggling for one or two extra votes. We would have plenty of votes.

The country is smart enough to understand that deregulation is a lousy deal and it is not justified. It makes all of our problems worse, not better.

So where are we now?

I am about to conclude, because I know we have other things which have to be dealt with today.

We are about to resolve this issue. But in my judgment, we are not going to resolve it on the merits because I do not believe the merits have really been laid out very clearly. I think it is going to be resolved on a different basis.

I hope the administration which for quite some time felt very strongly about deregulation—and I hope still does—will understand that if they start back-stepping on this issue, if they start cutting deals with the other side on this issue, they are not going to get anything, or very little of what they want. The lobbies and the interest groups which are involved on the other side here do know how to play hard ball. And they did not just arrive in Washington. They have been here a long time. They are as well organized in this Government as either party, or any administration, has been.

That is why this vote is about to go the way it appears to be about to go, if for no other reason.

Having said that, I want to say finally to the majority leader that I appreciate his willingness to allow me to speak at this time and set aside the quorum call so I might do it.

Let me just say to him I can appreciate, too, the fact that this is not an easy time to try to exercise leadership within the Senate in terms of sorting this out, thrashing it out, interpretations of the rules, and what have you.

Feelings on this issue run deep, and they run deep out of this Chamber across this country of ours. If we go ahead and deregulate natural gas as we seem about to be determined to do, it will be an action we will regret not for a short time but forever more in this country, in my judgment. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold that?

Mr. TOWER. I withhold.

Mr. BUMPERS. Mr. President, how much time does this Senator have remaining?

The PRESIDING OFFICER. The Senator has 45 minutes remaining.

Mr. BUMPERS. Mr. President, I would like to ask the majority leader a question. I assume there is an effort being made now to reach some sort of a time agreement.

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. There are some of us who perhaps would like to join the Senator from Michigan, echoing some of his comments, and perhaps embellishing them, who might like to utilize this time. I certainly have no desire to hold up anything which is about to occur. I would like some guidance from the majority leader on that.

Mr. ROBERT C. BYRD. I think there is good reason to hope that we might be able to reach an agreement to vote——

Mr. TOWER. If the Senator from West Virginia will yield, I believe we are very close to an agreement.

Mr. BAKER. I believe we can agree to vote no later than 3:30.

Mr. BUMPERS. That will be on Pearson-Bentsen?

Mr. ROBERT C. BYRD. Yes. In the meantime, the Senator can proceed, if he wishes.

Mr. BUMPERS. I thank the Senator.

Mr. President, I yield myself such time as I may use.

Mr. ROBERT C. BYRD. Will the Senator yield for 1 minute?

The PRESIDING OFFICER. The Senator still has the floor.

Mr. BUMPERS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur up or down on the Pearson-Bentsen amendment at 3:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arkansas.

Will the Senate be in order?

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, there was an effort on the part of the Senator from Wisconsin yesterday to provide time for a number of Senators who wished to speak against the Pearson-Bentsen amendment, but now the time agreement has been reached and we are going to vote in about 20 minutes. So that time will not be available to Senators.

In the sure knowledge that what I have to say is not likely to change any opinions in this body, I still feel constrained to reiterate some of the things I have said previously on the floor but which need to be said again.

No. 1, why is $1.75 an Mcf which the President proposes, not enough? I would remind the Senate that as of this moment the price of new natural gas in interstate commerce is $1.46 per Mcf.

If we had told the oil and gas industry in this country as recently as a year ago that today the price would be $1.46 an Mcf they would have thought they had died and gone to heaven. They would have loved it. Mr. President, at $1.46 every rotary drilling rig in the United States is working night and day, 2,345 units in the country with 20 to 30 more being added every month. All of them are in operation.

So how much does it take to provide incentive for the oil and gas companies? I believe $1.46 is adequate. If Pearson-Bentsen is adopted here today, and if the House agreed to it, and the President signed it tomorrow, it would not put one more drilling rig to work in this country. More wells were drilled in 1976 than any year since 1959.

The top 20 oil companies own somewhere between 60 and 80 percent of the reserves in this country. The value of those reserves under Pearson-Bentsen has already increased by $100 billion since October 1973, and within 24 months under Pearson-Bentsen will go up another $100 billion.

Talk about incentive. Talk about incentive. Why, Mr. President, we are dealing with an issue here so basically simple in scope as to defy logical contradiction. It is that the oil and gas lobby, wall-to-wall in this building for 13 days, as we used to say in Arkansas, got the bit in their mouth. To use another term, they "smell blood." They know. They have been told time and time again for the past 2 weeks that they are not going to get deregulation. Everybody has said, in trying to convince the Senator from South Dakota and the Senator from Ohio to call off the filibuster, "Why do you want to fight this losing battle? You know the House will never accept this. And even if the House, in some moment of insanity, did accept it, the President is going to veto it."

I will tell you why they persisted. I will tell why they would not quit until we got Pearson-Bentsen. Because they can go to the conference committee with at least something to bargain with. They can say, "You are going to have to get off the dime over here in the House and give us something more than $1.75 or there ain't going to be a bill."

Everybody knows the President wants a bill. So the more they get in the Senate, the more they get in conference.

The suggestion was made this morning that the conferees ought to defend the Senate position until the last dog dies. I used to believe that myself. I used to think that the Senate ought to defend its position, until I got hopelessly torpedoed one time in a conference committee where the Senate conferees moved to recede before the House even had a chance to discuss, much less vote on, the Senate position.

I am going to be a conferee on this bill, I think. My position in the conference is going to be precisely what it is right here. It is going to represent a minority view in the Senate, but it is going to be such a big minority that I do not think any conferee ought to abandon his conviction, his strong beliefs.

Mr. President, nobody has argued that we ought to allow a cartel to determine the price of oil in this country. We talked

about this the other day. The Senator from Alaska remembers this. He, himself, said that oil prices in this country should not be set by the OPEC nations. So what sense does it make to say that gas prices ought to be set by Mexico? The gas that is being imported into this country from Mexico and Canada, or coming in in the form of liquefied gas from Algeria, has absolutely no relationship whatever to what should be allowed as a fair return to American producers. It is an arbitrary, capricious price, fixed by the Canadian and Mexican Governments. It is not a price that is based on the free enterprise system.

The suggestion is that if Mexico decides to charge us $10 an Mcf for gas tomorrow, we ought to permit $10 an Mcf in this country. Given the option of a price, I would always opt for an uncontrolled price if there were an infinite source so that competition actually determined price. But there is no competition. By the very structure of the industry itself, there is no competition, and by the fact that demand far outstrips production, there is no competition.

Mr. President, when we talk about allowing the price of natural gas to be set by the law of supply and demand—and we all know that there is a limited supply—it is almost the same as saying we have 2 million doses of medicine that will cure cancer and when those 2 million doses are gone, there will be no more; who is the highest bidder? That would fly in the face of the sense of fairness and justice of every Member of the Senate.

Mr. STEVENS. Will the Senator yield right there for a question?

Mr. BUMPERS. I yield for a question.

Mr. STEVENS. Does the Senator believe that we would buy Mexican gas at $10 an Mcf if foreign oil were available at a price equivalent to $8?

Mr. BUMPERS. I am not sure I follow the question of the Senator.

Mr. STEVENS. Let me put the question this way: When the administration chose the particular pipeline to bring our gas down from Alaska, it compared the price of Alaska gas to foreign oil, because it said the alternative source of fuel to Alaska's gas was foreign oil. Is not the alternative source of fuel to Mexican or Canadian gas, one of the alternatives, at least, foreign oil?

Mr. BUMPERS. Of course, this country is not geared up to use that much oil. The people in my State use natural gas. They could not convert to oil or coal if they wanted to.

Mr. STEVENS. I admit that, but some places could. Certainly there is a price substitution somewhere.

It appears to me that the theory of the debate so far, at least from the point of view of the Senator from Arkansas, and I respect his judgment and his position in this matter, is that regulation, per se, has not been at least partially a cause of the shortage and that the shortage is going to be eliminated somehow by continued regulation. Those of us who believe—and I do believe—that a part of the shortage must be attributable to excessive regulation in the past, believe that the light at the end of the tunnel is deregulation, eventually.

Mr. BUMPERS. So far as natural gas is concerned, there is no light at the end of the tunnel.

Mr. STEVENS. I remember there was a Secretary of the Interior once who said that this country would never discover another pound of tungsten, that we had to plan a whole new program for tungsten. The price went up on tungsten, and we had it coming out of our ears.

If the Senator is projecting that we have no capability of a new supply of natural gas, we do not accept that.

Mr. BUMPERS. Is the Senator suggesting that if Mexico chose to charge $10 an Mcf, the OPEC cartel ought to raise the price of gas to reach it?

Mr. STEVENS. No; the Senator is not saying we ought to raise the price. We are saying that domestic gas is the leverage against foreign prices for gas.

Mr. BUMPERS. May I ask the Senator this question? Does the Senator think that if Mexico sets the price of gas at $10 an Mcf, the American price of gas ought to be $10 an Mcf?

Mr. STEVENS. Not at all, but I suggest that if the Senator wins, there will be no alternative. I suggest that if the Senator wins and we continue to be in a position where we are forced to pay foreign suppliers whatever they demand, when our people cannot even have the incentive of a free market for production, we shall be at their mercy forever.

Mr. BUMPERS. The Senator just reached my next point. That is that if the price of gas in Mexico or any place else is $10 an Mcf, it will be an arbitrary price, and nobody in this country could afford it. That is what Pearson-Bentsen is going to do for people who have to heat their homes with natural gas.

Based on the Congressional Budget Office report, the President's bill alone will raise home heating bills by 20 percent and Pearson-Bentsen by another 30 percent. I cannot believe——

Mr. BENTSEN. Will the Senator yield on that?

Mr. BUMPERS. I am happy to yield.

Mr. BENTSEN. I have to say to my distinguished friend from Arkansas that that obviously does not take into consideration the incremental pricing structure that was put into place to protect the homeowner, to say the homeowner would have the advantage of old gas and the price on that old gas, and that industry would pay for that new gas and bear that burden.

I understand just as well as the Senator that utility rates are too high and that the homeowner has been burdened with them. He cannot put a coal chute in his basement, nowadays he does not often have the basement.

It is the utilities that can make that choice and option. That is why we put the specific burden on the major companies, the industries, and we put in a provision to say that incremental pricing would protect anyone who uses less than 50 mcf a day. In addition to that, hospitals, schools, and the rest, those priorities.

So let us relate the statement to what the bill now is because I share the concern of the Senator from Arkansas on this.

Mr. BUMPERS. Mr. President, at the expiration of 2 years, there will be no price on natural gas in this country.

If we have another winter like last winter, can you imagine what the homeowners in Ohio will be asked to pay for natural gas?

The legislative research study shows that on some sensible assumptions Pearson-Bentsen will cost the American consumers, between now and 1985, $162 billion.

That is going to be the biggest massive transfer of wealth from the working people of this country, from the people on fixed incomes in this country, into the hands of about 20 to 30 big corporations. It will be the biggest transfer of wealth in the history of this country.

Mr. STEVENS. Will the Senator yield for another question?

Mr. BUMPERS. Certainly.

Mr. STEVENS. Let me state first that if the Senator could prove that point, we would all be with him. We had an unregulated market during the previous years. What did it cost the consumers in the area where they took gas out of the intrastate into the interstate in order to get the supplies?

It cost them less than the intrastate people have been paying all the time.

Why does the Senator think there has been a surplus of supply intrastate and a declining supply in the interstate class?

The people in the intrastate market have not been regulated. They responded to the demand and met the needs. The people in the intrastate markets in the gas producing States are paying more for gas now than in the nonproducing States because they are willing to pay to get the supply.

But my question is, we deregulated the market last winter to meet the emergency, what did it cost us to get it? Less than 10 percent of the price to get the added gas. California gave it up. Texas gave it up. Louisiana gave it up. Oklahoma gave it up. All gas producing States gave it up to meet the need and they paid less than the intrastate market has been paying.

Mr. BUMPERS. That is my point precisely. When we have a supply and catch people in an emergency like last winter and they have to have it or freeze to death, they will pay anything.

Mr. STEVENS. They only paid, at the most, 10 percent more of the total bill.

Mr. BUMPERS. Because the U.S. Senate had the good sense to put a cap on what they could charge on it.

Mr. BENTSEN. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. BENTSEN. Realize, the President put that cap on, and that the emergency provision and its application provided finally for more gas from the intrastate market at prices from $2 to $2.25 than the interstate pipeline could finally take.

Mr. BUMPERS. Mr. President, I have

said about all I want to say on this subject—not all I want to say, but all I will say this afternoon.

I see it as an outrage. I see it as a breach of faith with the people of this country who struggle to keep body and soul together. I see this bill as a response of the U.S. Senate to the intense lobbying efforts that have been going on for 30 years to get natural gas deregulated.

I know that the Federal Power Commission did, indeed, keep natural gas at an inordinately low price for many years. That is most unfortunate and it is one of the things that has brought us to this point.

But on that old argument, I want to remind every Senator in this body before he votes that the oil and gas companies have not said they will solve the gas shortage in this country. What they have said is that if we do not want to lose jobs next winter, like last winter, deregulate.

They are not saying we will not lose jobs. They are not saying there will be an adequate supply of natural gas.

They are saying deregulate, because that is a great knee-jerk word in this country.

We are getting ready to do it in this body. I do not know where we will go in conference.

But I say one thing, if in the unlikely event deregulation should ever happen to stand up in conference, every Member of this body will live to rue the day.

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, I promised the Senator from Ohio that I would yield to him for 2 minutes.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Pearson-Bentsen amendment is going to pass this afternoon and it is really a very disappointing reality of life.

The economic albatross about which Senator BUMPERS spoke, Senator HOLLINGS spoke the other day, Senator RIEGLE, Senator KENNEDY, Senator BAYH, and others, is, indeed, going to be a reality and I think it is important we not overlook the manner in which it came about.

Yesterday, we were advised, some of us, that there need be no problem, that Pearson-Bentsen was not going to pass, or one report was that there were four votes that had changed for the compromise, and then there was another report that three votes had changed for the compromise.

The facts, indeed, are that the opinion is that there will be no votes that will have changed with respect to Pearson-Bentsen.

Now, we received some criticism for keeping the Senate in session to talk about a large number of amendments, some of which were called dilatory, but we did so for the purpose of letting the world and the country know what the economic impact of this legislation is and will be.

It will be the most significant piece of economic legislation considered by the Senate this session and maybe for many sessions to come. It will add 180,000 to 360,000 unemployed persons to the unemployment rolls of this country. It will add $10 billion to the costs of the consumers which will go directly into the pockets of the oil and gas companies of this country. It will mean the average residential homeowner will probably pay something about 50 percent more than he is presently paying, and the present burden is an intolerable one.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BENTSEN addressed the Chair.

Mr. METZENBAUM. Thirty seconds?

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, we have heard some numbers and figures that, frankly, are outrageous and do not have any basis in fact.

The Stanford Research Institute, MIT, and others, have attested to how much gas is going to be found and that a free market system would help accomplish that.

We have heard the statement that not another rig would be put to work. Yet today, we have more rigs working than we have had in 4 or 5 years. One of the reasons is because the price is increased.

But we do not have near as many rigs working as we did back in 1954.

Now, here is a Senator from Texas, from an oil and gas producing State, who goes out and votes for a 20-percent subsidy in the Finance Committee to try to bring on coal, to try to bring on alternative sources of energy in competition with oil and gas, because I think we ought to be looking at the national interest rather than just some on an individual interest.

But encouraging the drilling for oil and gas will help buy the time.

No, it will not solve all the problems, and no one is trying to say it will. But we have some resources that are finite, and one of them is time.

Sometimes I think in this Congress we have the time span of a 5-year-old and we have to wait until we are shoveling snow next winter before we will address realities.

If Pearson-Bentsen goes down to defeat, I will tell you what you will get. You will get the price, but you will not get the product.

What we are trying to do is keep the factories open and to keep the people at work, and do something about the balance of trade that in August was the second biggest deficit in our balance of trade in the history of this country.

Secretary Blumenthal said just the other day that it may approach as much as $30 billion this year.

What do you think that does to the dollar? What do you think is the cruelest tax of all on people on fixed incomes, on the elderly people, or people who are having a tough time in making ends meet?

The toughest tax of all is inflation and the deterioration of the dollar and what it will buy. Go to a supermarket these days and you will see somebody stamping on the end of a can. Do you get in front of that person or behind that person?

ADDITIONAL STATEMENTS SUBMITTED

Mr. HASKELL. Mr. President, this year's debate over the deregulation of natural gas has an urgency about it stemming from last winter's shortages which closed schools and factories and left a lot of Americans in cold homes. Those shortages, the energy industry argues, were the direct and unavoidable consequence of natural gas price regulation. Certainly "artificially low prices" for natural gas led to its casual, often wasteful use. Low prices made gas the preferred fuel and those with a choice chose gas. This was particularly evident after the 1973 Arab oil embargo when gas was controlled at a price equivalent to about one-third that of oil. The fact that gas sold within the States in which it is produced is free of Federal controls compounds the problem. Most newly discovered gas is channeled into those markets.

Certainly there are imbalances in the current system of Federal regulation and the Carter plan attempts to rectify these. The facts underlying the natural gas controversy unfortunately have been clouded behind the rhetoric and self-serving concerns of the producers. In fact, producers have been receiving sufficient incentive for new exploration and the administrations' proposals provide more than healthy incentive for further exploration.

Just 10 years ago natural gas prices averaged 18 cents per Mcf at its wellhead. In 1971, the price was allowed to rise 26 cents per Mcf in the interstate market—a price producers agreed was a sufficient long-term incentive for exploration. Since then the FPC has several times allowed the price to rise to its current value of $1.42 per Mcf—5½ times the 1971 price which producers agreed to. The Carter proposal would increase this by a generous 25 percent. The so-called Jackson compromise by an even more generous 43 percent.

Despite the ample increases in price, production has not kept pace and actual gas production decreased 12 percent between 1972 and 1976. During the past few years almost all of the available drilling rigs have been in operation. Deregulation 2 years ago would not have changed the situation today except that producers would have reaped windfall profits. Nothing in the profit statements of the oil and gas industry reflects a hard-pressed industry struggling to stay afloat and unable to finance exploration.

Again, the facts speak for themselves. What little available information forthcoming from the industry casts further doubts on the need for greater incentives to producers. Several studies indicate that in 1976 a price of 60 cents per Mcf was sufficient to cover costs of new gas development.

An Oklahoma legislative study indicates that actual costs ranged from 35 to 60 cents per Mcf.

A Price-Waterhouse audit of Gulf's Texas Eastern operation showed that costs for offshore gas development from 1972–75 were under 28 cents per Mcf.

The FPC's Bureau of Natural Gas concluded that a 60-cent rate was "just and reasonable" and that it allowed producers a 15 percent rate of return on investment.

I believe the President's plan is more ample incentive to new exploration and production. Deregulation on the other hand represents an unnecessary transfer of wealth to producers at the expense of the average American homeowner.

In Colorado where a large percentage of homeowners heat with natural gas the impact of deregulation will be severe. Estimates obtained from the Congressional Research Service indicate that the average Colorado household by 1985 would see their gas bills increase by 2.5 times under the Carter plan, over 3.5 times under the Jackson substitute and an unbelievable 5 times if deregulation is enacted.

According to the Congressional Budget Office, the typical monthly winter heating bill nationwide in 1985 under the administration's plan would be $47.20 versus $70 under deregulation—a significant difference especially for the poor and elderly who are already hard pressed to pay existing bills. According to the CBO study, deregulation will produce only about .9Tcf more new natural gas than the administration's proposal, or less than a 5-percent increase in total gas supply in 1985 for the entire country. For that small increase the consumer will be called upon to pay $12 billion in 1985 and over the years up till 1990 a total of $162 billion above the administration's proposal. In effect, for the small increment of new natural gas in 1985 we are being asked to pay a marginal price of approximately $12 per Mcf or seven times the current Btu-related price of natural gas. This figure bears no relationship to cost, producer incentives, or any other supposed virtue extolled by the producers. It is pure profit—a profit which would be subsidized by the average American homeowner who is already steeped in high fuel costs, taxes, and mortgage payments. These figures are astronomical and their implications for consumers unconscionable. The debate on natural gas had focused overwhelmingly on doing justice to the producer. If deregulation is approved a severe injustice and unnecessary hardship will have been inflicted on the average American household.

In my State the average monthly gas bill in the winter month is $46. If the Carter proposal is adopted it will be $115 in 1985; if the JACKSON compromise is adopted it will be $161; and if deregulation is voted it will be a staggering $230.

Mr. LEAHY. Mr. President, there is a popular red herring that has been promoted recently regarding the impact of natural gas deregulation on residential consumers. This misleading statement makes the correct assertion that, of a homeowners gas bill, only 15 or 20 percent is for the gas itself, prices and the remainder is for transportation and distribution. This is fundamentally correct, although actually the gas is 25 percent of the total bill. Interstate gas costs an average of 60 cents per Mcf at the wellhead. By the time it gets delivered to a residential customer, it costs an average of about $2.30 per Mcf. Roughly 50 cents of this goes to an interstate pipeline. The remaining $1 per Mcf goes to a local distribution company, which delivers the gas to a home from the long distance pipeline dropoff point.

Now, his argument becomes a red herring, because those advancing it want their listeners to believe that an increase in gas prices would not impact homeowners. This is far from true. Under deregulation, gas prices will rise to the 1977 dollar equivalent of $3 per Mcf. Sooner or later all gas will reach this level. The homeowner who paid 60 cents at the wellhead and $2.30 delivered will find himself paying the real dollar equivalent of $4.70 per Mcf delivered at his residence. His gas bill will have doubled.

A typical home with gas heat, hot water, and range used about 150 Mcf's per year. At today's prices this amount of fuel costs $345 annually. Under deregulation, a household will pay $705 for exactly the same amount of gas. His bill has increased by $360 a year for each and every year of deregulation.

The red herring's proponents attempt to distract their listeners from the hard fact that without Federal price controls the commodity component of a household's bill will rise from 25 to 65 percent, while transportation and distribution will decline to 35 percent. The hard facts are that this will cost each household $360 per year. The red herrings proponents do not want you to know this. They want you to think dereg's cost is trivial. It is not.

INCREMENTAL PRICING

Mr. PEARSON. Mr. President, proposed section 29 to the Natural Gas Act of our substitute amendment numbered 1039 introduced on September 26 deals with incremental pricing. By engaging in this colloquy with Senator BENTSEN, I intend to elaborate on the intent of this section. Subsection (a) merely restates existing FERC authority in requiring that interstate pipelines file reports at least once a year on the price and volumes of first, old gas; second, new gas; and third, synthetic or liquefied natural gas entering pipelines. No new authority is granted FERC or the DOE under this subsection. It merely lays down a statutory preference as to the form and timing of reporting.

Mr. BENTSEN. Subsection (b) mandates that the FERC require that interstate pipelines allocate in their rates the costs of old gas to those high-priority users specified in section 25(a). It is our intention that the cost of new gas will be allocated in such a way that the price to users not specified in section 25(a) will not exceed the cost of substitute fuel oil. Once the substitute fuel oil equivalent is reached all customers will be priced on an equal basis.

This is necessary so that fuel costs to low priority users—those users not designated in section 25(a)—do not exceed the cost of substitute fuel oil. Otherwise, low priority users would be encouraged to switch to imported foreign oil, a result that is clearly contrary to our national energy policy.

Mr. PEARSON. So, in effect, subsection (b) requires only that new gas be allocated to users not specified in section 25(a). The reporting of SNG and LNG costs and volumes required in subsection (a) is only meant to identify those supplies separately. The costs of SNG and LNG supplies are not to be incrementally allocated to those users not specified in section 25(a) unless they qualify as new gas under the definition contained in our proposal for new gas. These SNG and LNG supplies are more capital intensive and they are primarily designed to protect those users specified in section 25 (a). Thus it would be inappropriate to allocate their costs only to the users not specified in section 25(a).

Mr. BENTSEN. Subsection (c) restates FERC authority to allocate rates between interstate pipelines and city gate sales. This subsection merely insures that the FERC in allocating these higher costs of new gas does not allow a distributor or pipeline served by more than one pipeline to count its high priority customers on each pipeline. Thus we do not intend to allow a company to "double dip." For example, if a distributor purchases from three pipelines, and has, let us say 100,000 priority customers, it cannot, under this subsection, include those 100,000 in reporting to all three pipelines. The distributor would have to allocate his customers on the basis of his takes from each of the pipelines. Thus assuming he received one-third of his supply from each pipeline, he would allocate one-third of his high priority demand to each pipeline under this subsection.

Mr. PEARSON. There is no authority under section 29 which permits allocation by FERC from one pipeline to another. Nor is there any intention to allow a pipeline to discriminate against those of its customers who happen to be served by more than one pipeline. Finally, incremental pricing or allocation with respect to intrastate pipelines and other nonjurisdictional transporters of natural gas is not contemplated by our provision.

Mr. HANSEN. I would like to be certain that I understand fully the manner in which it is intended that section 29 of the "modified" Pearson-Bentsen substitute, relating to incremental pricing, will be implemented. Am I correct that this section requires incremental pricing to all customers of natural gas companies on the basis of users not specified in section 25a of the "modified" Pearson-Bentsen substitute numbered 1039 up to the reasonable cost of substitute fuel oil?

Mr. PEARSON. Yes, section 29 is designed to require that the costs of the new natural gas which would be subject to deregulation would be first allocated to all customers of natural gas companies on the basis of users not listed in section 25(a), until the rates for such users match the reasonable cost of substitute fuel oil, after which point such costs would be allocated to the rates and charges applicable to sales to all customers of the natural gas company. The Federal Power Commission which would be the Federal Energy Regulatory Commission under the Department of Energy Organization Act will be charged with responsibility, not only to supervise the submission of the reports required by

section 29(a), but also to determine, after appropriate administrative procedures upon the new rate structure filings by natural gas companies, the appropriate allocation of costs mandated by section 29, including allocation of costs where more than one natural gas company supplies a user specified in section 29(b).

This section is, of course, not intended to preempt the very important role of the State Regulatory Commission in their handling of local tariff filings within their jurisdiction, and it is certainly anticipated that the State commissions will be of assistance in working with the Commission in compiling data on the effects and implementation of this section.

NATURAL GAS PRICING

Mr. BIDEN. Mr. President, although I have in the past opposed the deregulation of natural gas prices, I have deliberately kept an open mind on the issue during the course of the current Senate debate on a comprehensive national energy policy.

I can recall all too vividly last winter's scene of plant shut-down, unemployment, school closings, and the serious human suffering and economic dislocation inflicted on many American families because of inadequate natural gas supplies.

In the wake of that crisis, some people charged that natural gas producers deliberately withheld supply; others contended that Federal price regulation provided a disincentive for the additional production needed to meet U.S. demand.

I do not believe either of these extreme propositions explains the shortages of last winter.

PRICE AND SUPPLY

However, one fact remains undeniable, natural gas supplies did not meet demand during the extreme cold of 1976–77. If higher natural gas prices would guarantee supply adequate to avoid a repeat of last winter's shortages, then I believe most business people and consumers would consider accepting higher natural gas prices.

Therefore, the central question becomes how sensitive is U.S. natural gas production to increases in price?

How much can domestic production be increased under various pricing mechanisms and at what cost to consumers?

These are the real issues that need to be addressed.

Mr. President, we must look at the "facts" of the natural gas situation of the last 5 years to get some answers to these questions.

We need not consider the various reregulation schemes in a vacuum.

Let us take a look at the recent past for some indication of how natural gas price increases have affected domestic production of this most precious energy resource.

GAS PRICE HISTORY

Since 1968, natural gas prices have escalated by 600 percent, with a 350-percent increase occurring in the last 14 months.

During this same period drilling activity has increased every year, presumably in response to higher prices.

Yet, at the same time the rate of new discoveries and total production has declined.

Production has even declined in the deregulated intrastate market, where natural gas has been contracted for in excess of $2 per thousand cubic feet. In 1976, the year of our winter of discontent, more gas wells were completed than ever before—more than double the number of gas wells completed just 10 years ago.

Yet, production has consistently declined.

The Joint Economic Committee study recently released forecasts that production "is expected to decline—or at best to remain at present levels—at virtually any price level."

The Congressional Budget Office also concluded that under any pricing scheme "the likelihood that increased production will be substantial by 1985 is small."

In fact, by CBO's calculations, deregulation of natural gas prices 2 years ago would not have yielded significantly more gas than has actually been found. I know that there are industry studies which disagree with the independent analyses of the Library of Congress and the Congressional Budget Office.

Some of these analyses forecast potential large discoveries.

However, none of these clearly identify "where" the new production would come from or what the investment requirement would be to yield this gas.

Yet, even though the average price of new natural gas has jumped from 18 cents per thousand cubic feet in 1968 to $1.46 today—with no real additional supply yield—even despite this incontrovertible evidence of the unresponsiveness of supply to price—I have supported the President's proposal for yet "another" price increase to $1.75 per thousand cubic feet of natural gas.

To this, industry and the Pearson-Bentsen proponents respond—"we need still higher prices to bring additional gas onstream."

EXOTIC SOURCES

So, being a reasonable man—though reason is being stretched awfully thin—I will walk the extra mile. I will concede to the gas industry that perhaps there are certain domestic sources of natural gas which would require even more than the 20 percent price increase the administration calls for.

Hence, I support those proposals before the Senate which provide an even greater price incentive for gas drilled from so-called "Exotic," more expensive sources—such as geopressurized brine or extremely deep reservoirs.

ECONOMIC RUSSIAN ROULETTE

Yet the Pearson-Bentsen advocates tell us "not enough," I ask my colleagues, how heavy a price burden must we place on American families before reason demands a halt to this type of economic Russian roulette?

The facts demonstrate that the deregulation of natural gas prices would not significantly increase supply—as phenomenal price increases in the past have not provided additional gas for American homes and industry.

CONSUMER IMPACT

Mr. President, as if all the price escalations which many of my colleagues and I have already conceded are not enough, the Pearson-Bentsen bill would have us accept on behalf of the American consumer yet another $70 billion cost increase by 1985.

The people of my State of Delaware alone would be saddled with increased costs of $130 million should we accept the Pearson-Bentsen proposal before us.

Many of the country's leading economists and the Congressional Budget Office forecast a significant inflationary impact, on our economy as a result of a decontrol of natural gas prices.

The CBO's estimates place the impact of deregulation at no less than 0.5 percent per year in 1977 and 1978 alone.

So let us be clear, Mr. President, about who is being reasonable in this debate.

I would be derelict in my responsibility to the people who elected me to this office were I to vote for the economic nonsense which the Pearson-Bentsen proposal represents.

I urge my colleagues not to permit our fatigue with this debate to interfere with the body of reason which demands the defeat of the Pearson-Bentsen amendment.

Mr. WILLIAMS. Mr. President, I rise today to join my colleagues who have labored tirelessly these past two weeks to oppose deregulation of natural gas.

We all know something must be done to improve our long-term supplies.

I am worried about the threatened loss of natural gas to homes, schools, hospitals and industries, but I do not believe deregulation is the answer.

The people of New Jersey simply cannot afford it.

Total deregulation of natural gas will cost New Jersey consumers more than $750 million a year in higher gas utility prices.

Nationwide, consumers are expected to pay anywhere from $10 billion to $25 billion annually under deregulation.

In a State where unemployment is in double digits, where the cost of living has skyrocketed, and where many of our citizens are on fixed incomes, any additional financial burden would be unfair, unreasonable and unbearable.

To make matters worse, such increases in price will not guarantee New Jersey's homeowners and industries uninterrupted supplies this winter or in the winters ahead.

I think of the hardships the energy shortages and price increases have already placed on our poor and elderly citizens.

Their limited incomes make it difficult, if not impossible, to absorb rising energy prices.

Some simply do not have an adequate margin between income and expenditures to withstand higher fuel, transportation, and electrical costs.

Too often they face the choice of "heat or eat."

If suddenly we were to increase natural gas prices, the burden imposed on the poor and elderly would be catastrophic.

I have no argument with the notion that producers require adequate incentives to deliver a quantity of natural gas to meet the needs of American consumers.

But in the past 5 years the Federal Power Commission has raised the price of natural gas more than 500 percent—justifying each increase on grounds that higher prices and higher profits would provide the industry with the incentive to produce greater resources.

I am told oil and gas producers are now drilling more wells than ever before in response to the enormous increases in price and profitability that have taken place since 1972.

The number of new gas wells drilled annually has risen by 85 percent since 1972 and has more than doubled since 1971.

In fact, the number of gas wells set a new all-time record in 1973 and in each year since that time.

Yet, we are also told that President Carter's proposed increase in the price of new natural gas from $1.46 to $1.75 per thousand cubic feet is not enough.

We must pay more, the companies say, if we want more output.

We are being asked to let consumers take their chances in an unregulated market with the OPEC cartel, the highly concentrated American oil industry, and the prospect of gas shortages.

Our economy is still trying to recover from the sudden quadrupling of oil prices after the Arab oil embargo in 1973.

It would be unforgiveable were we to allow the price of new gas to increase so precipitously at this time.

We cannot overlook the overwhelming impact the cost of energy has already had on our economy.

A doubling or tripling of gas costs to the consumer will clearly be inflationary.

The producers, who leave us in the dark by refusing to disclose their production costs, will be assured greater profits.

But these profits will undoubtedly trigger a continuing round of needless inflation we simply cannot afford.

I am not happy that the administration would like to raise the price of gas from $1.46 to $1.75, but their proposal does eliminate the two-tier pricing system by extending Federal regulation to the intrastate market.

The two-tier pricing system now sets a lower rate—$1.46—for natural gas sold outside a producing State.

Gas sold within the producing State is not regulated and sells for about $2.25.

This system, therefore, makes it far more lucrative for the gas producing States of Texas, Oklahoma, and Louisiana to keep the natural gas within their own State boundaries.

Extending the controls would not only keep the price of natural gas within reasonable bounds, it would free up much of the natural gas now being stored or burned for nonessential uses in the producing States.

A freer flow of natural gas at a lower regulated price can only reduce the dependence of New Jersey and other States on synthetic natural gas now selling in excess of $4.

I cannot accept the Senate's position in favor of total deregulation.

I thought the $1.46 price was adequate, but I was willing to accept $1.75 if controls were extended to the intrastate market.

Now we are talking about a price near $4—even higher after deregulation.

To support this proposal is to place a tremendous economic burden upon this Nation.

I cannot support it because we cannot afford it.

Mr. DOMENICI. Am I correct in interpreting the provisions of section 28(a)(1) of amendment No. 1039 as permitting an interstate pipeline to transport intrastate natural gas without that natural gas becoming subject to the jurisdiction of the Commission under the Natural Gas Act?

Mr. PEARSON. That is correct, subject to the Commission's power to set the rate or price to be paid to the interstate pipeline for the transportation of the intrastate natural gas and to deny approval of the transportation arrangement if it were to threaten or impede the interstate pipelines capacity to transport jurisdictional natural gas to its regular or jurisdictional customers. Stated another way, it is contemplated that the Commission would deny approval of such an arrangement if the interstate pipeline did not possess excess transportation capacity.

Mr. DOMENICI. Am I correct in assuming that if the transportation rate to be paid the interstate pipeline transporter is equal to the rates and charges paid for similar services by the pipelines regular or jurisdictional customers, that the standards of this provision will have been met?

Mr. PEARSON. That is correct.

Mr. DOMENICI. Am I also correct in assuming that in passing upon such an arrangement that the Commission will have no authority to deny approval on the basis of the price to be paid by the buyer to the seller of such intrastate natural gas or the end use to which the gas might be put?

Mr. PEARSON. That is correct. Stated succinctly, so long as the transportation arrangement does not preempt the interstate pipelines capacity to serve its jurisdictional customers and the owners of the intrastate gas pay the full distributive share of the costs of its transportation, then approval should be granted. The exempt status of any party to such a transaction under the Natural Gas Act as amended would not be jeopardized.

Mr. DOMENICI. Thank you. In asking these questions I am concerned with a situation which exists in my State. There are a number of communities in New Mexico, served by pipelines that are in curtailment. As you know, New Mexico is a significant producer of natural gas. In some areas of the State we have many properties with potential marginal production that will not justify the construction of pipelines to transport the production to these distressed communities. However, interstate pipeline facilities are nearby and have the excess capacity to transport this gas but the owners of the gas are reluctant to transport it through the interstate facilities for fear of the attachment of Commission jurisdiction over the natural gas with all of its consequences. If I understand this provision correctly, these legal impediments would be removed. Is that correct?

Mr. PEARSON. You are correct.

Mr. MORGAN. Mr. President, I wish to direct a question to the distinguished Senator from Kansas (Mr. PEARSON) concerning a provision of the so-called Pearson-Bentsen amendment No. 862.

Suppose that an interstate pipeline contracted to purchase onshore new natural gas after January 1, 1977, and that deliveries have begun under that contract. If the Pearson-Bentsen amendment No. 862 becomes law later this year, will there be any automatic price increase for deliveries made under that contract retroactive to January 1, 1977?

Mr. PEARSON. Mr. President, in response to the question of the distinguished Senator from North Carolina, the answer is no. Our amendment does not increase prices retroactive to January 1, 1977 or any other date. The earliest possible date that a "deregulated" price for new natural gas could be collected would be the date of enactment of our proposal.

Mr. MORGAN. Suppose that an interstate pipeline has contracted to purchase new onshore natural gas on or after January 1, 1977, and that deliveries have begun under that contract. The sale, of course, is presently subject to FPC regulation. If Pearson-Bentsen amendment No. 862 becomes law, will there be any automatic prospective price increases for future deliveries under that contract?

Mr. PEARSON. Again, the answer to the question of the Senator from North Carolina is no. Whether the price would increase prospectively under the contract for future deliveries after the date of enactment would depend entirely upon the terms of the contract itself. There is nothing in the Pearson-Bentsen amendment which would mandate any increases in price under existing contracts. The contracts would have to be performed by the parties to their terms.

Mr. MORGAN. Mr. President, as I understand it, then, there is no provision in the Pearson-Bentsen amendment which would mandate any increase in price for gas already under contract. I thank the Senator for his explanation.

THE NATURAL GAS POLICY ACT

Mr. MOYNIHAN. Mr. President, I have not spoken before now on the Natural Gas Policy Act, not, as one might infer, because I have not had the opportunity—the leadership has been most accommodating in that respect—but because the proper moment has not, until now, been available. It is fitting, as the Senate has completed its procedural debate and is about finally to work its will, that I now speak on this important issue.

The Senate's lengthy consideration of natural gas pricing has not included the kind of thorough debate that usually

characterizes a Senate filibuster. We have had a filibuster by amendment, not by debate, and, as a consequence, the public has not had the benefit of a full airing of the issues. I think we should take the time now, after 14 days, to turn back to the substance of the problem before we terminate our deliberations.

We have all had several chances, over 120 in fact, to record our views on the natural gas pricing proposals before us. I have consistently voted in favor of the administration's proposal or its substitutes that would maintain some form of price controls. I have voted against deregulation. The role call votes indicate my position, but the reasons for this position and the many issues which I have considered in making my decision may not be apparent to my constituents. I wish to explain my position now.

CREATIVE ANALYSES OF NATURAL GAS PRICING

Apart from the ideological issues of deregulation, there are practical questions which all of us must confront. First, will there be shortages of natural gas such as the one experienced during the winter of 1976–1977, and, if so, why? Second, if we let prices rise by deregulation or administration, how much new gas will be produced and how much will it cost consumers?

This Senator cannot answer these questions, nor, I expect, can any of my colleagues give confident answers either. We have numbers—plenty of them, but whose data should we most believe? We have the administration's analysis, the gas industry's analysis, and we have the analyses of various academic and consulting institutions. These analyses tell a conflicting story which serves more to frustrate than to elucidate.

I think it is worthwhile to consider each of the questions that I have raised and some of the answers that have been offered. This discussion will show that the state of our knowledge about these issues is not impressive, and, further that the controversial nature of natural gas pricing is such that even when we seem to agree on facts, opposing sides can draw opposite conclusions as to what constitutes appropriate public policy response.

WILL THERE BE MORE SHORTAGES AND WHY?

We seem to agree on the first part of this question: there will be shortages at least for the next 5 years. The report of the Joint Economic Committee cites increasing curtailments of natural gas deliveries to interstate pipelines since 1972. That is history, but what of the future? Of course, it is difficult to predict what production and demand will be, but there is apparent agreement that natural gas shortages are a chronic problem that will go away only if demand is reduced considerably—as the administration would prefer—or if supplies are dramatically increased, and there is disagreement over the possibility and the approach for doing this.

Given that we have a shortage and we will continue to have one, we should understand the causes of it before we undertake to solve the problem. Proponents of price controls offer a simple reason: We are running out of natural gas deposits. The Committee on Energy and Natural Resources cites declining domestic production from a peak of 22.2 trillion cubic feet in 1973 to only 19 trillion cubic feet last year. Further, the Bureau of Mines reported in Minerals and Materials (1977) that proven reserves of natural gas have declined dramatically from a peak of 289.3 trillion cubic feet in 1967 to about 220 trillion cubic feet, or a 20 years supply, more or less.

The differences in the numbers used by the opposing sides is never more dramatic than when we talk about this issue of natural gas reserves. The American Gas Association in its Gas Review has claimed that we have 20,000 trillion cubic feet of natural gas remaining, maybe even as much as 50,000 trillion cubic feet, if only we would deregulate. The industry is saying that we have 1,000 to 2,500 years left, not 20 years!

Consider those differences and their psychological impacts: 20 years—a period sufficiently short to cause immediate concerns. Consider, on the other hand, 1,000 to 2,500 years—what comfort those numbers supply! We have enough gas to keep us warm through the next ice age—if we are willing to pay the price.

Now, the amount of reserves is a geological question about which one should expect some agreement. I have been a member of the President's Science Advisory Commission, and a former Vice President and member of the Council of the American Association for the Advancement of Science.

I am intimately familiar with Government statistics and analysis and I know that analysts can disagree, but I am amazed over the level of disagreement over this scientific issue. There must be a way to get a consensus on the natural gas which is available for domestic production.

There is one cause of the interstate supply shortages on which there does seem to be a consensus. No one has refuted the historical health of the intrastate markets. There have been no major curtailments in the intrastate markets during this period of increasing shortages in the interstate markets. What is the major difference between the two markets? The intrastate market is not regulated while the prices of interstate gas are controlled. And, what are the policy implications from this fact? The proponents of deregulation say we should deregulate all gas; if we would only do that then the artificial difference in prices would disappear and interstate pipelines would be free to compete for the gas used intrastate.

That is a sound argument, but the opponents of deregulation use the same facts to argue the other way. They say that the price difference should be negated by imposing controls on all gas; that is, regulation should be extended to the intrastate market, as well.

It should be easy to understand the depth of feelings that have been displayed in this Chamber over the last 3 weeks. There is an incredible difference in the numbers—20 years versus 2,500 years of reserves—and a significant difference in opinion. Furthermore, even a simple fact on its face, carries very different policy implications for the opposing sides.

HOW MUCH WILL NEW GAS COST?

The differences in the numbers carry through to the next issues of the impact of higher prices on production and on the costs to consumers. The administration, and its supporting studies, have painted a bleak picture. The report of the Committee on Energy and Natural Resources showed that the period during which domestic production of natural gas was declining was also a time during which prices for interstate gas were increasing by 600 percent. That is, even while there was a strong price incentive to produce more gas, production declined.

The Congressional Budget Office supports this conclusion. Their report showed that producers did respond to higher prices by drilling more. However, consistent with the view that our reserves are dwindling and the gas industry is experiencing rapidly decreasing marginal returns, production has declined. The report goes on further to conclude that, because of these declining reserves, deregulation would only result in 5 percent more new production than would the President's plan.

The gas industry flatly refutes these claims. We have plenty of natural gas, they say. Their problem is over-regulation by the Federal Government—after all, look at the health of the unregulated intrastate market. The industry also attacked the conclusions of the Congressional Budget Office because the report considered only shallow deposits of natural gas. The industry claimed that the report did not take into account the deep deposits that are expensive to tap and which require higher prices, such as under deregulation. The industry's conclusion, and the view of those who support deregulation, is that production will increase, predicated on their optimistic estimates of reserves, if only we will allow prices to rise.

The Wall Street Journal in its editorial "The 'Energy Crisis' Explained," advocated the economist's view of the world. We should unleash the market forces, let them do their work of balancing supply and demand and bring forth increased production. The energy crisis will thus go away.

But apart from market imperfections that may exist, the "economists view"—and the industry position—seems to ignore some very important questions, questions that are critical to the public decisionmaker: Who pays, how much do they pay, and what do they get for it?

Unquestionably, the States of the Northwest and Widwest—the major consumers of natural gas—will bear the greatest burden of increased costs. Consumers in the producing States will also pay more, but this is mitigated by the fact that any increase in revenues to gas producers will accrue to these States.

My own State of New York would be particularly hard hit by higher natural gas prices. Not surprisingly, there is some uncertainty as to the increased cost to New Yorkers due to higher natural gas prices. My estimates indicate that deregulation under the Pearson/Bentsen plan would cost New York over $10 billion through 1985, or about $1.1 billion per year for the next 9 years.

It is not clear that this increase, even one this large, will guarantee adequate supplies for the consumers of my State. A frequently cited incident is the failure by producers to find "all the gas we want," as they predicted a few years ago, at a price of $1.45 per thousand cubic feet, the current regulated price. There is just too much uncertainty about the price-responsive of gas production for the representative of a natural gas-consuming State to support deregulation.

An editorial in the New York Times provided an excellent characterization of the natural gas pricing problem; the Times called it "The Dilemma of Decontrol and Production." And, this is a dilemma. The Times articulated it well:

> On the one hand (the Senate is) concerned that higher natural gas prices would work a hardship on consumers. On the other hand, without increased natural gas production, factories and schools will be forced to close again next winter. . . . The public distrusts solutions that create more government, more bureaucracy, more regulations and more special interests, but does not want to be "ripped off."

There are concerned people back home in all our States. They are concerned for their jobs, for their children's education and for their family's ability to meet skyrocketing heating costs. As one representative of the people of my State, I have not and I will not support instant deregulation. I urge my colleagues to join me in voting against the Pearson/Bentsen substitute amendment and in supporting the Jackson compromise.

REJECT THE FALSE "COMPROMISES"

SUMMARY

I

Mr. HANSEN. Mr. President, the first Jackson "compromise," which is now pending, allows a slightly higher price today, but lower prices for every year after 1983. When you look at the overall return from a new well, it provides less incentive than the Carter plan.

Even the average Jackson price for all of 1978 is below the price right now, in 1977 on 30 percent of all new intrastate contracts, and 50 percent of all new intrastate contracts in Texas.

Finally, the Carter plan is at least pegged to a known physical quantity—all domestic oil purchased. The Jackson plan is tied to a legal construct, "upper tier oil," which may be altered by decree at any time.

So, any way you look at it, Jackson's plan is inferior to Carter. For the same reasons the Senate did not endorse the Carter plan 2 weeks ago, reject this even less satisfactory alternative today.

II

The second Jackson "compromise," presented last night, makes only 2 changes in the first compromise. It provides a controlled price for the years 1983–1986 that is actually lower than the price for the comparable years in the original bill. Then, it offers total decontrol in 1987.

This price, of course, makes this version less attractive than the bill. The offer of deregulation almost 10 years from now is simply not believable. It is unlikely that anyone will drill today, based on an expectation of prices 10 years from now, when Congress could renege at any time.

III

The place for compromise is in conference. The vehicle for compromise must be one that moves toward freedom and market prices, not away from them. Support Pearson-Bentsen today, and let the Senate go to conference in the strongest possible position.

I

An analysis of the price and incentive in the Jackson proposal must look at the price, not just in 1 year, but over the life of the well or contract. As an example, the latest FPC pricing decision set an initial price of $1.42, rising evenly to $2.02 after 15 years. Thus, the potential producer is not looking at a price of $1.42 when he decides to drill. Nor is he looking at a price of $1.72, which would be the average of the prices over the 15 years. This is because $1 today is not the same as $1 15 years from now. Using the 15 percent discount rate used in FPC decisions and most other calculations, the current value of the stream of payments rising from $1.42 to $2.02 over 15 years is equivalent to a constant price of $1.63. To compare different pricing schedules, they must be reduced to a common denominator of the current-value equivalent constant price.

Turning now to the comparison of the original Jackson compromise and the Carter bill, we see that the Jackson substitute offers very little more incentive for wells drilled in 1978, and less incentive for all wells drilled thereafter.

First, there is an error in the chart presented by the Senator from Washington. The analysis of the price trajectory under the Carter plan (labelled amendment No. 868 on chart) is copied from Table 1 supplied to the Energy Committee on July 30, 1977 by FEA, which goes through 1990.* It assumes 5.5 percent inflation (see page 4 and Tables 5–9). However, the chart shown by the Senator from Washington assumes 6 percent inflation. Thus, the column labelled "substitute" on the chart must be adjusted to a 5.5 percent inflation rate to make a fair comparison. With this correction, the figures for the chart are shown below, also taken out of 1990.

In order to assess a full 15-year well life, we need to project figures out to 1995. Because the Jackson plan price only increases by inflation, we simply continue the 5.5 percent increase postulated. The Carter plan will continue to escalate a bit more rapidly as the domestic oil mix changes. To be conservative, we took a 6.5 percent increase, which is lower than the increase in any year through 1990.

*These FEA figures do not include Alaskan oil, and therefore understate the ceiling price of the Carter plan. Our chart thus understates the superiority of the original bill to the first "compromise".

[In dollars]

Average price for year	Carter price trajectory [1]	Jackson price trajectory [2]
1978	1.86 (1.86)	2.14 (2.14)
1979	2.02 (1.72)	2.26 (1.92)
1980	2.20 (1.59)	2.38 (1.72)
1981	2.39 (1.47)	2.51 (1.54)
1982	2.58 (1.35)	2.65 (1.38)
1983	2.79 (1.24)	2.80 (1.24)
1984	3.01 (1.14)	2.95 (1.11)
1985	3.23 (1.04)	3.12 (1.00)
1986	3.48 (.95)	3.29 (.90)
1987	3.72 (.86)	3.47 (.80)
1988	3.97 (.78)	3.66 (.72)
1989	4.24 (.71)	3.86 (.65)
1990	4.52 (.64)	4.07 (.58)
1991	4.81 (.58)	4.30 (.52)
1992	5.13 (.53)	4.53 (.47)
1993	5.46 (.48)	4.78 (.42)
1994	5.81 (.43)	5.04 (.37)
1995	6.19 (.39)	5.32 (.34)

[1] Present value in 1978 of this year's price at 15 percent rate of return.

[2] Present value in 1978 at this year's price at 15 percent rate of return.

We now take the stream of payments under each plan, and discount to present value and find the constant price equivalent:

[In dollars]

(1)	Carter schedule [2]	Jackson schedule [3]
1978	2.70	2.74
1979	2.85	2.83
1980	2.99	2.92
1981	3.14	3.01

[1] For wells beginning to flow January 1.

[2] Is equivalent to a constant price of.

[3] Is equivalent to a constant price of.

And the disparity gets steadily worse for the Jackson schedule.

II

Any ceiling price has the potential to outlaw some of the contract prices that have produced the gas that has come forth in the intrastate market.

A ceiling price of $1.75, as in Carter's plan, would outlaw the 56 percent of new contracts that sold above that price in the intrastate market from April to June, 1977. A price of $2.03 would outlaw about 30 percent of all new contracts, including 53 percent of new contracts in Texas, our strongest intrastate market. So, the Jackson substitute is still a rollback for much of the intrastate market.

III

The second Jackson compromise, which was hastily presented last night as the last-ditch effort of the regulators, makes only two changes from the first version; a change in the pricing ceiling formula from 1983 to 1986, and deregulation thereafter.

From 1983 to 1986, the ceiling price is to be the Carter price, which is Btu related to the average refiner acquisition cost of domestic crude, instead of to the price of upper tier crude. Since we have argued that the Jackson price would be lower than Carter's after 1983, this would seem to be a concession. But, there is a hidden ball in this compromise too.

The Carter price, in S. 2104 included all domestic oil. The second Jackson compromise excludes Alaskan oil from the computation, thus producing a considerably lower price.

There are two avenues to estimating the effect of removing this important factor (Alaska will soon provide over 10 percent of our domestic oil) from the averaging process.

First. Current calculations, and administration admissions, indicate that the removal of Alaskan oil would lower the current Carter price by 7 to 11 cents, or about 5.5 percent. This percentage should hold steady, or even grow, as Alaskan oil becomes a greater percentage of total supply. Using this assumption, we have the following price comparison for the affected years.

	S. 2104	First Jackson "compromise"	Second Jackson "compromise"
1983	2.94	2.80	2.79
1984	3.18	2.95	3.01
1985	3.41	3.12	3.23
1986	3.67	3.29	3.48

Second. In the years 1983–86 the Jackson price will exceed the Carter price only if the average price of total lower tier production and total (non-Alaska) new and stripper production exceeds the average price of upper tier. An examination of the relative volumes today show that this would not occur by 1983 unless new and stripper production increased 20 percent per year (and old production decreased 15 percent per year). These are both unlikely outcomes.

The promise of deregulation in 1987 gives little incentive now, even if it were believable. And it is not very believable.

The story of Lucy pulling the football away from Charlie Brown has been repeatedly cited in debate by the Senator from Arkansas, a proponent of regulation. But it is the energy producer that truly is in the position of the hapless Charlie Brown. At least three separate deadlines for the end of oil price controls have come and gone; it is apparent that the end of controls is not in sight. Anyone who believes that it is certain that those controls will end on May 1979, as mandated by law, probably also believes in the tooth fairy. Gas producers are simply not going to put their strength into an effort when the ball can be jerked away any time in the next 9 years.

Even giving full credence to the promise of deregulation in 1987, the full Jackson package works out to only about a 30 cents per Mcf improvement over the original Carter proposal for new gas which begins to flow over the next 4 years. While some improvement is better than the actual retrogression imposed by the other parts of the latest compromises, it certainly is not enough to offset the other damaging features of all of the versions of continued regulation.

The primary and clear problem with all of the proposals competing with Pearson-Bentsen is that they all extend the outmoded system of regulation to the eminently competitive and successful intrastate market. The same rules should apply across the country, but we should achieve uniformity by imitating success, not by extending the reign of failure.

All of the proposals for continued regulation would ban many of the new contracts that have been responsible for the remarkable surge in drilling and exploration in the intrastate market. Those efforts have now halted the country's long downward slide in gas production, despite the continuing dead hand of regulation over the interstate market.

Further, in several areas, treatment of certain categories of gas is less favorable than even existing regulation by the Federal Power Commission.

Under current FPC controls, gas from new wells drilled in the normal and usual course of development receives a price of $1.46, with quarterly escalators, and that price is subject to upward revision in proceedings now going on. The regulation plans would lock out this possibility of revision to conform to actual data. And the plans would roll back the prices that can be paid for such gas in the intrastate market.

Under current FPC rules, gas discovered in 1972 or before is controlled at prices no higher than 29 cents. Many contracts are even lower, having been made when gas prices were being severely depressed by the FPC. The FPC has taken cognizance of this problem by allowing a modest escalation, to 52 cents, when existing contracts expire. All of the regulation plans abolish this ruling, and require a case-by-case assessment of each of the thousands of contracts as they expire, before any increase can be granted. And, of course, existing intrastate contracts come under control and may be rolled back when they expire.

So we come to the conclusion that the choice is still basically between deregulation and regulation, between success and failure, between supply and shortage, and ultimately between slightly more expensive conventional American gas, and far more expensive foreign imports or synthetics.

Let us choose a future of growth and increasing well-being for Americans, not a long lingering decline into energy starvation.

Mr. HATHAWAY. Mr. President, yesterday I spoke to the Senate about the effects of price allocation of natural gas. I explained that it would ration the supplies to those most able to pay for it—to those who would use that gas inefficiently. Increased prices would tend to favor the large industrial users and utilities which could pay for even high-priced gas to use as inefficient boiler fuels while the homeowners and small businessmen would be priced out of the market for natural gas which can be efficiently used for space heating.

This seems an upside down approach to logic, commonsense and a sound national energy policy.

However, there is an even more severe implication of deregulation. I have opposed deregulation of natural gas—and, in the light of current economic facts, I shall continue to oppose it.

The economy is slowly and hesitantly recovering from its worst economic disaster since the Great Depression. That massive recession with the high inflation rate and massive unemployment resulted from many factors. There was no one cause. However, the quadrupling of oil prices by the OPEC cartel was a significant, if not the major, contributor to both our, and the world's, economic disaster.

Now, some are suggesting that natural gas be deregulated—not an increase in the ceiling price as proposed by the administration, but deregulated. It sounds great to say we are removing price controls, but can the economy stand the shock?

The regulated price is currently set at $1.46 Mcf. The administration would raise it to $1.75 Mcf—a 25-percent increase in natural gas prices. Yet, the gas industry and its supporters in Congress suggest this is not enough; they want the cap removed entirely. Where will natural gas prices settle in the absence of regulation: $2.05 Mcf? $2.50 Mcf? $3.25 Mcf? How high is high enough?

We have heard many figures cited about reasonable prices and the additional gas that will be produced. I have heard endless days, and nights, where figures and rhetoric were thrown about.

There is no denying that higher prices will encourage greater production and higher prices will encourage conservation.

However, I do not believe that the benefits arising from these increased prices will offset the traumatic shock to our fragile economy or produce sufficient additional gas to outweigh the damaging effect on the American consumer.

I shall, therefore, continue to oppose those who would sacrifice this Nation and citizens to deregulation and its vague promise of "more gas if you pay enough."

But, I also recognize that, at least in the Senate, I am in the minority. After the actions of last night, it seems that the forces of unbridled prices will prevail here.

For that reason, I have introduced a windfall profits tax amendment to the bill before us. If we are forced to accept new, decontrolled gas, then we must, at least, assure that those high prices are returned to the individual gas consumers.

My amendment would impose a 90 percent tax on the difference between what the new gas is sold for and the Btu equivalent price of crude oil on January 1, 1977—which was about $1.42 Mcf.

Thus, if the gas is sold for $2.02 Mcf, the windfall profit is $0.60 Mcf. The gas producer would get to keep 10 percent, or $0.06 and the Federal Treasury would get $0.54 which would be rebated to the individual consumer.

When the administration suggests raising crude oil to its replacement level using an equalization tax, it at least suggested rebating the money to consumers. Yet, those who propose deregulating natural gas would not.

I could suggest that there is a certain amount of callousness coupled with greed in this proposal.

Mr. President, my time is expiring. I would like to summarize briefly. I oppose deregulation. The administration is recommending a generous increase in gas prices. Enough is enough. The economy cannot afford it and the consumer cannot afford it.

Mr. BELLMON. Mr. President, going back a few years into the history of natural gas regulation, I doubt that anyone except perhaps Justice William O. Douglas really understood the impact of the 1954 Supreme Court Phillips decision on the future of fuel supplies for the United States. In his minority opinion, Judge Douglas informed the people of the United States that this action of the Supreme Court would, by "the fastening of rate regulation on this independent producer bring the production of natural gas under effective Federal control, in spite of the fact that Congress has made that phase of the natural gas business exempt from regulation. The effect is certain to be profound." It certainly has been. Equally, the action the U.S. Senate takes as it votes today is certain to be profound.

Mr. President, we often forget the reason for the Phillips decision. In the late 1940's, right after the end of World War II, Phillips Petroleum Co., from my State of Oklahoma, attempted to raise the price of natural gas, which was selling to Michigan-Wisconsin Pipeline for delivery to the city of Detroit, from $.04 Mcf to $.10 Mcf. The city of Detroit and the State of Michigan intervened in the negotiations between the purchaser and the transporter and asked the Federal Power Commission to also intervene. The court case was to determine if that intervention was permissable. It was decided by the Supreme Court that they did have the right, and thus the foundation for the national energy crisis was laid. The Federal Power Commission found it impossible to artifically set natural gas prices to please consumers and at the same time assure adequate supplies of fuel.

When regulation started, there was a fuel oversupply of tremendous proportions in the United States. The abundance was due to 100 years of exploration for oil, and the inadvertent discovery of gas. There was no real market for the gas until after World War II. The control of prices at the then prevailing low levels set the Nation up for the greatest energy binge in the history of man. We proceeded to waste gas by using it for many purposes which coal had previously served. Coal could not compete and as a result the development of our abundant coal resources was seriously hampered.

This low gas price made it economically impossible for industry to burn coal. Therefore, the coal industry began a long slide downward, which the current recognized shortage may stop. Not only that, but the heavier oils were not commercial for industry to burn. Gas was not only cheaper on an absolute Btu basis, but it did not need all of the other special equipment, storage, heated tanks, et cetera, that residual oil requires. For that reason, the United States now has a shortage of refining capacity for heavier fuel oils.

Because of the low price of natural gas, the price of oil itself was kept at an unrealistic level. This caused all of the products made from oil to be at low prices to the consumer, and because of the oversupply, the country was subject to the periodic gasoline price wars so famous in the past. Because the cost of energy was artificially low, the cost of energy related goods produced in the country were cheap and wastefully overutilized. Cheap fuel even seduced Americans into building wastefully. It was not possible for a domestic automobile manufacturer to build an energy efficient automobile that people would or could buy. Fuel was just too cheap.

Mr. President, further controls will worsen the situation. Political realities will not permit the regulator to adjust prices responsibly in the future anymore than it has in the past. This can best be done by the directness of the marketplace. I have absolute faith in the ability of 210 million American consumers to get exactly what they want, and at reasonable prices, sooner than by political decisions by Federal regulators.

While the price of natural gas was rising in the controlled market immediately after gas price controls started in 1954, the price of the free-market gas in the states of Texas, Louisiana, and Oklahoma were continuing to fall. As the price fell, the demand increased. The excess was worked off and the intrastate price began to rise in the early 1960's. As the price rose, intrastate drilling activity likewise rose and supply started back up. The price at the same time began to abate the unbridled rise in demand, and accounts for the decrease in production in the intrastate markets in the last year or 2. That drop in production, which has been construed by some of our colleagues as proof that the free-market does not work, is absolute proof that it does work.

The shortage of energy, and natural gas in particular, has been a traumatic experience for a Nation which has never before had a real shortage of energy. As a matter of fact, the United States is the only industrialized nation in the world to have had an energy sufficiency, and in most cases an oversupply, of energy of the right kind at the right time for the particular needs of the moment. This shortage and the rhetoric that filled the air, much of it from this floor, has confused our people.

Unfortunately, the debate this year is of the same divisive nature. We in the producing States have long paid the price for energy needed on the intrastate market. We have not exactly enjoyed paying those prices, but we realized that we either had to pay the true cost, or the product would not be available. We have no shortage of gas. The price brought on the supply, and reduced the demand. People reduced their demand for gas, not to save gas, but to save money. Now some propose to take away the gas which the people of the producing States have paid for. We do not particularly object to that, as an emergency matter, but when the Congress in its great wisdom then says that the future price of the inter and intrastate markets will be regulated at some artificial level, we do have a problem. Some politicians seem determined to enforce policies which will cause consumers to starve to death in the dark. We in the producing States prefer policies which insure producton of the gas needed for the Nation. We prefer to continue the progress which has been made in the intrastate market states, where gas prices are uncontrolled, in developing supplies adequate to meet the need.

The United States cannot merely continue to manage a shortage. That way is disaster. That way we all freeze in the dark ultimately. We must face up to the problem in all of its facets. First, we use too much energy in inefficient converters and we must conserve through efficiency improvement; second, we use the wrong kinds of energy, that which we must import, and do not use our most available resource, coal and oil shale. We must begin to convert to greater use of these fuels where it is commercially feasible to do so; third; there are other energy sources in this world which we need to research and develop into viable alternatives for the longer term; and fourth, for the short term, we must get on with the job of developing oil and gas and stop the counterproductive bickering that is destroying our ability to cope with the problem.

There are some things governments can do. There are other things that governments should not do. There are even some things governments cannot do. The detailed day-to-day control of a competitive industry falls in the last category. If we will let government establish policy and direction and let the industry do the job we will soon get the Nation's energy problem behind us. There may be some increases in profits. Profits are necessary to attract the investment necessary to fund the activity which will solve the problem.

Mr. President, current high levels of crude oil imports will grow even higher if natural gas production slumps. If natural gas is imported, the drain on our foreign exchange will be exacerbated. There is great concern that our Nation's economy cannot long support even the current cost of imported energy. A continuation of controls will guarantee that unemployment will remain high, that the dollar will continue to be worth less and less, that the steel industry and other basic industries will continue to shrink, we cannot export jobs in petroleum without exporting support jobs also, our strength as a nation will continue to erode as the suppliers of energy dictate our foreign policy, and the air will become dirtier along with the water as we burn dirtier and dirtier fuels.

The problem with controls is that they are insidious, and in their purest sense represent self-fulfilling prophecies. Returning to a free market tomorrow is not followed instantly by a result to which we can point in pride. It may require years for this type of action to be effective, and in the interim we are subject to the "trial

of the polls." I believe that we must make the effort now to remove politics and regionalism from the area of such an important part of national policy.

Mr. President, if this Nation is to remain free and be the leader of the free world, it must itself be free from the fears of shortages and supply interruptions which we have suffered since 1973. We should be supportive of the policies which candidate Carter proposed and insist that energy development receive at least as much emphasis as energy conservation. Approval of the Pearson-Bentsen amendment is the necessary first step on the long road toward relative energy self-sufficiency.

Mr. NELSON. Mr. President, the Pearson-Bentsen substitute, an amendment that would lift all Federal price control on new natural gas, is nothing more nor less than a massive raid upon the consumer's pocket book.

First, we are told by the proponents of this legislation that the gas industry, some of the wealthiest corporations in the world, require additional incentive to bring forth new supplies of natural gas. These wealthy multi-national corporations claim today, that without additional incentives, additional windfall profits, they can not explore, develop and produce new fields.

The facts simply do not support these claims. There should be absolutely no mistake about one fundamental point. The industry does not require additional profit in order to accelerate exploration and production. The price of natural gas has risen at least 500 percent over the past 6 years, but we are producing less gas now than we did in 1972. Industry is, in fact, drilling as rapidly as possible. There is a shortage of drilling rigs. To suggest that these powerful and profitable corporations require more working capital before they can go out and explore for new gas reserves is refuted by all the available facts.

Second, in my judgment, the $1.45 per thousand cubic feet price for new gas sold in interstate commerce set by the Federal Power Commission, is a very generous incentive. This price takes into account a fair rate of return on invested capital, cost of exploration, et cetera. Furthermore, the administration has proposed that the current Federal ceiling of $1.45 per thousand cubic feet be raised to $1.75 per thousand cubic feet with incremental increases of approximately 5 per year. The President would also extend Federal price control into the intrastate market for the first time.

The current Federal ceiling of $1.45 per thousand cubic feet is a generous price for both producers and consumers of natural gas. The President's recommendation of $1.75 per thousand cubic feet is in fact excessively generous.

Just a little over a year ago, the industry testified before the Senate Commerce Committee on the question of natural gas deregulation. The industry then stated that $1 per thousand cubic feet for new natural gas would give the industry adequate incentives to develop new fields. Today, they strongly lobby against $1.45, against the President's recommendation of $1.75 and they have bitterly fought the Jackson compromise of $2.03 per thousand cubic feet. Now that they sense victory their appetite for unconscionable profits is insatiable.

Third, the cost of the Pearson-Bentsen amendment is astronomical. The gas industry is asking the Congress to raise the public's natural gas bill by more than $131 billion by 1985. The White House estimates that if deregulation is enacted into law, only 2.5 percent additional supply would be produced over the amount that would normally come on the market under the administration's price control policy.

While the President's program would increase the Nation's gas bill by $62 billion over the next 8 years, the gas industry and the producing States are asking that the public pay an additional $69 billion for 2.5 percent additional production. This is plainly and simply indefensible.

These numbers become so large that they are sometimes meaningless. If this amendment becomes law, by 1985 the average Wisconsin homeowner's gas bill will have increased $930, $110 in additional payments per year.

Deregulation would cost Wisconsin's residential gas users over $680 million more than under present pricing policies between 1978 and 1985. If deregulation becomes law, every man, woman and child in Wisconsin will be paying an additional $21.58 per year for natural gas. This additional cost will not result in significantly larger supply.

Finally, it is clear that there is no justification for the allegation that the industry require additional incentives. The gas industry does not need this type of special interest legislation; they should not have it; and they certainly do not deserve it. The current Federal ceiling of $1.45 per thousand cubic feet is incentive enough. The President's compromise of $1.75 would raise an additional $62 billion for the industry. If there is doubt about the $1.45 level there should be no question about the $1.75 recommendation. The taxpayer in Wisconsin like taxpayers all across the country, cannot afford to pay the price of this legislation. It is absurd to ask the taxpayers of this country to pay $131 billion for a minuscule additional amount of gas. The Senate, in my judgment, should stand firm and continue to curb the ravenous appetite of the gas industry for unjustified profits.

Mr. RIBICOFF. Mr. President, natural gas deregulation poses a serious inflationary threat for the Nation's economy. It will harm the average American consumer. Deregulation will result in substantial price increases but will do little to achieve additional production.

Deregulation amounts to a transfer of large sums of money from consumers to producers. A Congressional Budget Office study reports that deregulation would inflate gas industry earnings by as much as $76 billion over the next 7 years while natural gas supplies would increase by only 5 percent. Translated into consumer cost, those now paying $40 each month for gas heat would pay $70 monthly by 1985. Consumer safeguards in the deregulation proposals advanced in the Senate these past 2 weeks are just not adequate; these proposals do not serve the best interests of my constituents.

Just a year ago the natural gas industry was negotiating long-term contracts for the delivery of gas at 50 cents per thousand cubic feet. This same industry now claims it will go broke at the price of $1.75 per thousand cubic feet, the amount proposed by the administration. Deregulation means prices above $3. Such a price increase is not justified. The additional inflation generated by such a substantial jump in price will further erode the earnings of the average American family.

An objective of the national energy plan is to achieve greater energy production. It seeks to lessen our dependence on foreign sources of energy. If greater profits are necessary for industry to increase production, those profits should at least remain in the United States and not be exported to OPEC nations. However, deregulation will not achieve these goals. While there has been a recent increase in new drilling at the present price level, the rate of discovery has gradually diminished in recent years. It is estimated that deregulation would produce no additional supplies of natural gas over that provided by the administration's program until the early 1980's and less than a half trillion cubic feet more in 1985. Even with regulation, under which prices have annually risen by 30 percent, producers have failed to locate or produce the necessary natural gas.

The Pearson-Bentsen deregulation formula would be most harmful because of the lack of sufficient consumer protection. The Connecticut Department of Planning and Energy Policy advises me that the Pearson-Bentsen proposal would cost consumers in my State an additional $33 million per year more than the administration's proposal by 1985. This department further informs me that Connecticut consumers would save approximately $60 million by 1985 had the Byrd-Jackson compromise been accepted in lieu of Pearson-Bentsen. Thus, the total annual gas cost for Connecticut by the middle of the next decade will amount to approximately $292 million. The nationwide impact of this situation is fully appreciated considering the fact that natural gas represents only 9.5 percent of Connecticut's energy needs.

Mr. President, today's home consumer pays 80 percent more for natural gas than the industrial consumer. They deserve a more gradual price rise than industries, which are able to convert to alternative fuels. The incremental pricing provision in the administration's plan would provide this important consumer protection which the majority of deregulation proposals lack.

The burden of deregulated gas prices will create serious economic hardship for millions of our fellow citizens. Deregulation will do little to increase the availability of this important but rapidly dwindling energy source. Most analyses conclude that discoveries and exploration will decline at virtually the same

rate regardless of the pricing mechanism finally adopted by the Congress.

For the past 2 weeks I have supported Senators ABOUREZK, METZENBAUM, and KENNEDY in their effort to defeat proposals advancing deregulation or, at least, to lessen their economic and social impacts. I commend them for their tenacity, for their mastery of parliamentary procedures, and for their ability to expose the ramifications of natural gas deregulation. These colleagues, and the administration, are simply trying to prevent the price and supply of an essential energy resource from being manipulated by a monopoly.

I also wish to commend our very able majority leader. Under very difficult and trying circumstances Senator BYRD has treated all sides in a fair and evenhanded manner. He has given all Senators the opportunity to air their views. Senator BYRD has attempted to avoid needless controversy and to encourage compromise and accommodation.

The distinguished chairman of the Energy Committee deserves special praise as well. Senator JACKSON is the most knowledgeable Member of Congress on energy matters. He has long worked to encourage additional energy production, to develop additional energy sources, and to formulate a fair pricing mechanism. He has provided valuable leadership throughout the debate on the natural gas policy legislation and has actively worked to seek a meaningful compromise.

Mr. President, we can meet the Nation's energy challenges and encourage additional energy development without excess profits to producers at consumers' expense. The deregulation of natural gas is not the route to follow. Deregulation will neither spur substantial additional production nor will it benefit residential or commercial consumers. Deregulation encourages neither conservation nor the utilization of alternative sources of energy, particularly those involving renewable resources. I cannot support legislation which raises prices to my constituents and achieves little in the way of additional energy. I urge, therefore, that the Pearson-Bentsen substitute be rejected.

Mr. President, I ask unanimous consent that an analysis of the various natural gas opinions, prepared by the Connecticut Department of Planning and Energy Policy, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONNECTICUT GAS COSTS PER YEAR BY 1985

Present policy: Average 1985 pipeline gas price, $1.41 Mcf.

Transportation cost, $1.00.

Cost per Mcf. as delivered to Connecticut Utilities, $2.41.

Gas available to Connecticut under this policy, 48.6 million Mcf.

Total Connecticut pipeline gas cost, $117,000,000.

Shortage of pipeline gas compared with projected 1985 demand (73 million Mcf.), 24.4 million Mcf.

Cost of meeting shortage with synthetic gas at $5 per Mcf., $122,000,000.

Total gas cost, $239,000,000.

Administration proposal:

Average 1985 pipeline gas price, $1.47 per Mcf.

Transportation cost, $1.00.

Cost per Mcf., delivered, $2.47.

Gas available to Connecticut, 56.4 million Mcf.

Total Connecticut pipeline gas cost, $139,000,000.

Shortage of pipeline gas, 16.6 million Mcf.

Cost of meeting shortage with synthetic gas, $83,000,000.

Total gas cost, $222,000,000.

Deregulation of gas from new reservoirs only and gas from expiring contracts:

Average 1985 pipeline gas price, $2.11 per Mcf.

Transportation cost, $0.85.

Cost per Mcf., delivered, $2.96.

Gas available to Connecticut, 63.6 million Mcf.

Total Connecticut pipeline gas cost, $188,000,000.

Shortage of pipeline gas: 9.4 million Mcf.

Cost of meeting shortage with synthetic, $47,000,000.

Total gas cost, $235,000,000.

Deregulation of gas from new and existing reservoirs:

Assumed gas price, $3.00 per Mcf.

Transportation cost, $0.85.

Cost per Mcf., delivered, $3.85.

Gas available to Connecticut, 63.63 million Mcf.

Total Connecticut pipeline gas cost, $245,000,000.

Shortage of pipeline gas, 9.4 million Mcf.

Cost of meeting shortage with synthetic, $47,000,000.

Total gas cost, $296,000,000.

ASSUMPTIONS: NATURAL GAS POLICIES

Present policy:

Highest gas cost (per Mcf) under policy: Synthetic gas $5.00 (10% of Connecticut use); ceiling of $1.46 on most recently produced natural gas.

Average Wellhead, 1977, $.84 (.78).

Gas Cost (per mcf), 1980, $1.24 (.97).

National (Interstate), 1985, $1.78 (1.41).

Transportation Cost to Connecticut: Approximately $1.00.

Gas Production National (Interstate) (Trillion Cubic feet): 1977, 19.4 (10.1); 1980, 18.7 (9.0); 1985 18.9 (8.1).

Administration proposal:

Highest gas cost (per Mcf) under policy: New gas, $1.75 minimum, increasing with domestic oil costs (plus transport to Connecticut); 1985 new gas price, $2.08 (est.).

Average Wellhead, 1978, $1.03 (.89).

Gas Cost (per Mcf), 1980, $1.21 (1.04).

National (Interstate), 1985, $1.55 (1.47).

Transportation Cost to Connecticut: Deregulation would reduce transmission costs by average of 9¢ in 1980, and 15¢ in 1985, computed to Administration Plan.

Gas Production National (Interstate) (Trillion Cubic feet): 1978, 19.2 (9.8); 1980, 18.7 (9.4); 1985, 18.9 (9.4).

Deregulation of new gas, but only that from New Reservoirs (as defined in Administration Proposal):

Highest gas cost (per Mcf) under policy: New gas, $2.50–$3.00 (est., plus transport to Connecticut). One estimate has initial new gas cost of $3.50 to $5.00 for several years.

Average Wellhead, 1978, $1.40 (1.23).

Gas Cost (per Mcf), 1980, $1.78 (1.53).

National (Interstate), 1985, $2.20 (2.11).

Transportation Cost to Connecticut: Deregulation would reduce transmission costs by average of 9¢ in 1980, and 15¢ in 1985, compared to Administration Plan.

Gas Production National (Interstate) (Trillion Cubic feet); 1978, 19.5 (10.4); 1980, 19.1 (10.2); 1985, 19.8 (10.6).

Deregulation of "new" gas from both new and existing reservoirs:

Highest gas cost (per Mcf) under policy: Same prices per Mcf as deregulation of new reservoirs only, but prices would apply to greater quantities of gas.

Average Wellhead, Gas Cost (per Mcf), National (Interstate), after five years, all gas could reach uncontrolled price (i.e., up to $3.00 plus transport).

Transportation Cost to Connecticut: Probably no additional savings.

Gas Production National (Interstate) (Trillion Cubic Feet): It is disputed whether any additional production increase would result from this extension of the definition of "new" gas, as it would cover gas from reservoirs already in production.

WHY DEREGULATION OF NATURAL GAS IS AGAINST THE PUBLIC INTEREST

Mr. PROXMIRE. Mr. President, in my opinion, the deregulation of natural gas as proposed in the Pearson-Bentsen proposal is against the public interest. It would do even greater violation to the interests of the people of Wisconsin. For those reasons plus the additional reason that the very large increase in price is unlikely to bring forward anything like a proportionate increase in production, it should be defeated. Let me address these points.

RAPID INCREASE IN NATURAL GAS PRICES

Since 1973 we have witnesses a phenomenal increase in new gas prices for interstate natural gas.

From the time of the Phillips decision in 1954—when the Supreme Court told the Federal Power Commission to get on with the job of regulating wellhead prices as required by the 1938 Natural Gas Act—until 1965, the price of new interstate natural gas at the wellhead remained remarkable stable at the level of 14 to 17 cents per thousand cubic feet.

In 1964 the Federal Power Commission abandoned its wellhead regulation and went to an area pricing rate. Between then and 1973, the time of the OPEC oil embargo, prices increased from about 16.5 to 25 cents per thousand cubic feet, or by 57 percent.

In 1974 the Federal Power Commission shifted from the area rates of 1965 to a national rate for all new gas produced after January 1, 1973. The new price was 42 cents, or an increase of 17 cents or 68 percent in 1 year.

In 1975 the price was raised again by the Federal Power Commission, this time to 52 cents plus an inflation adjustment of 1 cent per Mcf per year.

Then on July 26, 1976, the FPC issued the infamous opinion 770 which established a radically higher national rate for new gas of $1.42 for all new gas produced after January 1, 1975. Meanwhile the old 52-cent rate was raised to 93 cents for gas priced under it, and older gas from contracts which had expired were allowed to be sold in interstate commerce at 52 cents.

Since 1973, therefore, we have seen an explosion in natural gas prices.

I ask unanimous consent that a table showing the price of new natural gas in interstate commerce for these years be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

New interstate natural gas prices

Years:	Price (cents per mcf)
1955–64	14–17
1965 (area rate)	16.5
1973	25
1974 (national rate)	42
1975	52
1976	$1.42

NO INCREASE IN PRODUCTION

Mr. PROXMIRE. Mr. President, did this explosion in the price of interstate natural gas bring any significant increase in new discoveries? Here we have a geometric increase in prices—a doubling in price from 1973 to 1975 and almost a tripling of price from 1975 to 1976. One would expect that such a vast increase in price would produce a great outpouring of supply. It would certainly tend to do that to the degree that the markets were competitive and reacted to an increase in price.

That did not happen. There was no overall increase in supplies from the 1972 figure and unlike the period between 1955 and the mid to late 1960's, when natural gas prices were relatively stable, new discoveries, revisions, and extensions are far lower now than when prices were low and stable.

In the former period they averaged about 20 trillion cubic feet a year. But since 1973, they have not grown and essentially since 1968 they have fallen off very much.

I ask unanimous consent that a table showing these facts be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Natural gas production compared to discoveries, revisions, and extensions of proven gas reserves, 1950–1975 (tcf.)

Year	Discoveries, revisions, extensions	Net production
1950	12.0	6.9
1951	16.0	7.9
1952	14.3	8.6
1953	20.3	9.2
1954	9.5	9.4
1955	21.9	10.1
1956	24.7	10.8
1957	20.0	11.4
1958	18.9	11.4
1959	20.6	12.4
1960	13.9	13.0
1961	17.2	13.4
1962	19.5	13.6
1963	18.2	14.5
1964	20.3	15.3
1965	21.3	16.3
1966	20.2	17.5
1967	21.8	18.4
1968	13.7	19.4
1969	8.4	20.7
1970	*37.2	22.0
1971	9.8	22.1
1972	9.6	22.5
1973	6.8	22.6
1974	8.7	21.3
1975	10.5	19.7
1976	7.5	19.5

*Includes Alaska.

SOURCE.—AGA Gas Facts, Table 4. Reprinted from JEC Study, p. 14.

Mr. PROXMIRE. Mr. President, interestingly enough, according to a study by the Joint Economic Committee, "drilling activity, especially for gas wells, has risen sharply since 1973."

Here we have it: Higher prices—in fact spectacularly higher prices; more drilling for gas wells; but less gas.

Some people call that the "free market." But I do not.

What are some of the reasons for this contradictory situation?

HIGHER PRICES—LOWER PRODUCTION

One reason is the drive for deregulation by the natural gas industry. The figures on supplies and reserves are dependent on the industry. Since the oil and gas industry started its big push for deregulation after the 1968 election, discoveries have dropped phenomenally. They have dropped from the general level of 20 billion Mcf per year—or 20 tcf—to the 6.8 to 10.4 billion Mcf since 1971.

INDUSTRY REVISES ESTIMATES TO GET DEREGULATION

But much of this is merely the revised estimates of the industry of its reserves on hand. For example in what is called the Non-Associated Texas District 3, the estimates for gas discovered in 1935 dropped from 5.8 to 3.8 billion cubic feet, or by 2 billion cubic feet or 35 percent in the period 1970 to 1973.

Mr. President, I ask unanimous consent that a table showing the decline in recoverable natural gas in certain Texas and Louisiana districts as estimated by the American Gas Association be printed at this point in the RECORD. (Table 8, JEC report).

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. PROXMIRE. Mr. President, this represents the downward revision of old field reserves which were pledged to interstate markets.

ARTIFICIAL BIDDING UP TO MINERAL RIGHTS

A second reason, which is discussed in the staff study of the Joint Economic Committee entitled "The Economics of the Natural Gas Controversy," is that a considerable proportion of the increase in price went not only for the increased costs of labor and equipment, such as drilling rigs and pipe, but especially in the bidding up of the price of limited mineral rights.

As the report states (p. 41):

> Such an adjustment in the value of mineral rights (basically a rent payment) will have minimal effect on incentive to develop and produce from most properties.

RAPID PRICE INCREASES INDUCE WITHHOLDING SUPPLIES

The big rise in past prices—and we can expect the same under deregulation—has created an incentive to keep gas off the market, not to sell it. As the JEC report notes:

> If the rate of energy price increase is higher than the return on alternative investments—e.g., the prevailing rate of interest—a producer will do better by holding his reserve.

As the report so succinctly puts it:

> In this situation, energy in the ground is a better investment than money in the bank. (p. 42.)

The increase in typical new gas prices since 1970—when it was about 20 cents—to 1976—when it was set at $1.42 nationally—was 470 percent, or 40 percent a year.

In other words, the rapid increase in prices and the anticipation of further rapid increases under deregulation or continued weak regulation, encourages the withholding of gas from the market.

High prices haven't helped in the past and they will not help very much in the future.

The best alternative—both for bringing new production on stream and protecting the plight of consumers—would be for reasonably small but fair increases which were predictable over a fairly long period.

The anticipation of higher and higher prices has brought the worst of all worlds—higher prices, more inflation, and less gas.

COSTS IN THIS BILL

We are now presented with a series of bad choices.

First of all, according to the JEC report, if we continue with the present regulatory structure, which allows for substantial increases above the present $1.42 level:

> Consumers eventually will pay $10 billion per year more than they are paying for today's supply of gas.

Second, under the Carter administration proposal, which is a very generous proposal with new gas prices at $1.75 per thousand cubic feet and with new gas quite liberally defined, costs to the consumer will be about $16 billion per year more than now.

Third, under deregulation, according to the JEC report:

> The Nation's gas bill would be about $25 billion per year higher than under the present regulation.

That is the meaning of Pearson-Bentsen.

Our effective choice is between the Carter proposal and the Pearson-Bentsen proposal. And the differences in costs are about $72 billion over the next 8 years or $9 billion a year more for Pearson-Bentsen than for the administration proposal.

WHAT THIS MEANS TO WISCONSIN

What does this mean to the citizens of Wisconsin—the family which heats its house with gas, cooks with gas, heats its water with gas, and is stuck with an investment of several thousands of dollars in furnace, stove, water heater, and heating ducts for which they have no effective alternative?

Wisconsin, which has 2 percent of the country's population consumes about 3.3 percent of the country's natural gas in interstate commerce. Almost half of it is used industrially, a little over one-third is for residential use, and commercial and others account for about one-sixth of the State's consumption.

We know that the Pearson-Bentsen bill or the deregulation of natural gas will cost consumers about $72 billion more over the next 8 years than the Carter administration proposal. About $2.4 billion of that will be paid by Wisconsin citizens. That amounts to about $300 a year per family over the next 8 years for the increased cost of gas at the wellhead for Wisconsin families.

And, of course, the cost of gas at the wellhead is not the ultimate cost as the pipelines and the distributors add their costs of transportation and distribution to the consumer to that price.

What this bill does is to take money from the pockets of millions of families and consumers in most States and put it in the pockets of a relatively small number of producers in a small number of States.

And the tragedy of such a proposal is that it most likely will not induce any greater or much greater production than at the present time. Much of it will go for higher costs for existing or old gas. Much of the increase will be dissipated in bidding up of mineral rights. And finally, as there is no genuinely free market, since the "deregulated price" is to be the BTU equivalent of the OPEC cartel price for oil, the forces of competition and free enterprise are unlikely to be allowed to work.

THE PUBLIC REGULATION OF GAS PRICES IN THE PUBLIC INTEREST

Mr. McGOVERN. Mr. President, I rise to oppose the deregulation of natural gas prices. The issue before the Senate is as simple as it is enormous. The issue is whether we will have fair prices for the American gas consumer or whether we will give the big oil companies a free hand to profiteer at the expense of the American people. The issue is the American consumer versus the Oil Companies Deregulation is a fancy word. But it adds up to a license to exploit the American gas consumer. We have been inundated by fallacy after fallacy of how many additional volumes of natural gas would be produced by deregulation. For many weeks, the American people have been subjected to a constant barrage of misinformation.

Mr. President, it is time to set the record straight and clarify what will happen to the pocketbooks of American consumers should public regulation of gas prices be ended.

Deregulation of natural gas will cost $10 billion each year through 1985—$10 billion in 1978, $10 billion in 1979, $10 billion on 1980, and so on all the way to 1985. The Congressional Budget Office says that by 1985, the American consumer will have said an additional $70 billion for natural gas.

The Library of Congress estimates that the Pearson–Bentsen amendment would cost $69 billion more than the administration bill.

During the same period, only an estimated 0.4 Tcf would be committee to interstate pipelines, because of the Pearson-Bentsen amendment. This means that nonproducing States like South Dakota, Ohio, Massachusetts, and New York will have to bid against each other for a few precious volumes of natural gas. The economic impact on consumers in those States would be astronomical.

As the price of natural gas skyrockets, so will unemployment, the bulk of which will fall on these same States. Countering claims that deregulation will result in more gas and prevent layoffs and closing, the Congressional Budget Office estimates that by 1985, anywhere from 180,000 to 360,000 persons will be jobless as a direct result of deregulation.

One example already dramatizes what happens when gas is unregulated. In Senator BENTSEN's own State of Texas, for the period extending from 1970 to 1975, market prices increased nearly 1,000 percent. During this period, total production actually declined by 13 percent.

Production decline would mean that by 1985 the gross national product, now $15 trillion, would decrease by $450 billion, while the rate of inflation would increase 0.06 percent.

Certainly, these are dangerous trends and astronomical figures—ones we must pay serious attention to, if we are to prevent the kind of catastrophe that would result from the Pearson-Bentsen amendment. We must keep the lid on if we are to avert an economic explosion which could burn the already strained budgets of millions of American consumers.

And all these figures fall on the American consumer. But one set, small by contrast, may hit home—the American home—more than any other. If deregulation is adopted, the average home heating bill would increase approximately $23 per month. A $40 heating bill would jump to $70 in many cases.

And there is no way to calculate the ripple effect of inflation that could be set off by deregulation—with higher and higher prices burdening the very same consumers.

Those are the issues at stake here, Mr. President.

My colleagues should keep these figures uppermost in their minds as we debate this all-important issue—because we are not talking about technical matters here that are the domain of the energy producers. We are talking about something for more simple.

We are talking about the consumers of America who are the pawns in this game and who will have to bear the brunt of this action.

And that, Mr. President, is why I will continue to oppose the Pearson-Bentsen amendment and urge my colleagues to do so.

Mr. President, we will shortly be voting on a bill to determine the pricing policy to be applied to new natural gas. It seems to me that the question before us; namely, will higher natural gas prices provide production incentives and thus lead to increased supplies of new natural gas, or will higher prices simply yield high windfall profits to producers—is still unanswered and to a large extent unanswerable. We really do not know.

We have been told by the new Secretary of the Department of Energy that major oil companies would gain more than $120 billion in windfall profits if natural gas prices were to rise in excess of $1.75 per 1,000 cubic feet.

We can also recall that in 1972, natural gas sold for an average price of 18.5 cents. Notice that the $1.75 price is 10 times higher than the 1972 price.

We can also recall that in 1970, producers publicly promised that if prices were increased to 26 cents they would have sufficient incentive to bring forth additional supplies. They got their 26 cents and we got a decrease, rather than an increase, in production.

Higher energy prices that bear little relationship to costs yield excessive profits which in turn cause companies to cut production.

I reiterate what I said earlier, during consideration of my "yardstick" amendment: At the heart of much of the current debate is the critical relationship between energy prices and the costs of producing gas and oil. We are debating a natural gas pricing bill and one of the major problems in trying to arrive at a fair system of pricing is that we do not have reliable data either as to the extent of or the cost of production.

When the proponents of deregulation argue that higher prices will serve as production incentives, many of us are suspicious. We are suspicious in part, because of the past behavior of the companies—higher prices have not generally led to increased production.

We are also suspicious because the data underlying the analysis is suspect—suspect because the statistics are supplied by parties with a vested interest in generating the "right kind" of answers. Some would suggest that the answers are self-serving.

The "yardstick" amendment, which I proposed to create a Federal gas and oil corporation to develop up to 10 percent of the energy on Federal lands would have provided a source of independent data on—among other things—costs of production.

I believe that most of my colleagues would support higher natural gas prices if they were assured that higher prices were necessary to increase the supplies of new natural gas. I believe that the reliability of the underlying data would add such assurance. I still believe that my "yardstick" amendment would have been of immeasurable assistance to those of us who share the responsibility of determining reasonable energy prices.

In the absence of such independent data, and in light of the rapid increases in the price of natural gas and the accompanying decreases in production of new natural gas, I join with those who question the need for still higher natural gas prices. I, therefore, will support efforts to hold the line on natural gas prices, insofar as that is possible.

Mr. MUSKIE. Mr. President, I intend to vote against the Pearson-Bentsen proposal to decontrol natural gas prices, and I would like to explain my reasons why.

The argument in favor of decontrol is that gas producers need virtually unlimited additional financial incentives to explore for new sources of natural gas—and that they need such incentives now.

Frankly, I do not buy that proposal. Profit records for the major oil companies which produce three-fourths of the Nation's natural gas—show a very healthy return on natural gas sales at present prices. In fact, a look at recent oil company profits shows a startling upward trend. For the period between 1972 and 1977, using current dollars, overall oil company profits have averaged an increase of over 100 percent. And some of the individual increases are astronomical—Standard Oil of Indiana, a 177 percent increase; Phillips Petroleum, a 240 percent increase. Of the top 21 producers, only two companies averaged less than a 50-percent increase over this period.

I am sure that the Nation's farmers—

who produce an equally important commodity—would be delighted with this kind of profit record.

Now I cannot really blame the oil industry for wanting even higher profits.

But I certainly do not think that we should make national policy on the basis of that want—particularly when the policy being advocated is one that could throw our entire economy severely out of joint.

We are, after all, talking about something greater than the glowing health of one single industry.

Nevertheless, I do not believe that whether one likes it or not, natural gas prices are going up. The question is when and by how much.

The question is: Are we going to adopt an orderly pricing policy which imposes limits on how high these increases can go, or are we going to simply adopt a hands-off policy and the economic consequences be damned?

The industry would, of course, like total decontrol right now. Somehow they expect us to believe that an orderly scenario for gradually increasing prices up to a parity level with petroleum is not enough. They must have it all immediately.

The Pearson-Bentsen amendment would make the industry wait 2 years for decontrol—only slightly delaying their instant gratification.

Frankly, I find the greed of both options equally appalling.

But more importantly, such a pricing policy would mean economic chaos for the Nation. We can only guess as to the impact of decontrol on unemployment, on inflation, on the very shaky recovery we are slowly making from the worst recession in decades—a recession which, I might add, was brought on in large part by a precipitous increase in energy prices.

I find it hard to believe that the industry—and its supporters here in the Senate who are pushing the Pearson-Bentsen approach—can be so shortsighted that they do not remember what happened the last time somebody blew the lid off of fuel prices.

In fact, the Congressional Budget Office estimates that prices could go as high as $4 to $5 per thousand cubic feet if uncontrolled, leading to large windfall profits for producers. At the same time, CBO estimates that new supplies will bring less than 1 trillion cubic feet in additional production by 1985.

Mr. President, I believe in our private enterprise system. I believe that industry should receive ample return on the investments it makes. And I believe that the original Jackson compromise would do just that.

I do not believe that we should abandon all semblance of stability and order in the pricing policy we set. And I believe that decontrol—in any form—would do just that.

New England, and my State of Maine, have a direct stake in the outcome of this debate. Not because we stand to profit from higher prices. We have no indigenous supplies.

Nor is my principal concern that our consumers will have to pay higher costs if natural gas prices are decontrolled. Very few in my State are fortunate enough to have access to natural gas at any price.

We are concerned with this debate, because we know that any pricing policy which adversely affects the Nation's economy will wreak havoc with an already troubled New England economy.

Mr. President, I have already acknowledged that higher natural gas prices are inevitable—even desirable to a certain degree.

But I also think that there are other options we ought to consider which are more consistent with the needs of both the industry and the economy of the Nation as a whole.

Under the original Jackson compromise, for the example, natural gas prices would be permitted to rise substantially, to a level comparable to that for petroleum. The industry would receive plenty of financial incentives to explore for new natural gas. But we would have an orderly pricing policy, not a runaway pricing policy.

Mr. President, we do not know what will happen to the price of natural gas between now and 1985 if we move to decontrol. Some people think that price will stabilize at the petroleum price level. But they do not know that for sure.

I do not know that they are wrong. I do know that natural gas is the cleanest, most efficient, and generally most desirable fuel source which we have. And it seems entirely plausible to met that if uncontrolled, marketplace forces could drive the price of natural gas up to a level far higher than now anticipated.

In conclusion, Mr. President, it is clear to me that the interests of New England, and of the country as a whole, will be best served by the provisions of the original Jackson proposal.

Under that proposal, we will have higher natural gas prices.

Under that proposal, we will have an orderly process for letting those prices rise.

And under the proposal, we will eventually reach parity between natural gas and petroleum prices.

I believe that each of these results is in the best interests of the economy of New England.

I also believe that each of these results is in the best interest of the economy of the Nation as a whole.

And most importantly—I believe that each of these results is in the best interests of a stable, long-range energy policy, one which will ease, not exacerbate, the economic shocks of the future. And that, after all, is what this debate is supposed to be all about.

Mr. SCHMITT. Mr. President, the last few weeks have witnessed extensive debate on the issue of natural gas deregulation. Many subissues have been discussed in detail, but I think it is important to summarize some of the key points in this debate.

At the start, I want to point to several resolutions from regional organizations representing the Nation's Governors calling for the deregulation of new natural gas prices at the wellhead. Only five State Governors voted against the standing resolution of the National Governor's Association supporting deregulation. While the details of the various statements differ, the essential point which they make is that we cannot afford to subject individual States and the Nation to the unemployment forthcoming should proven natural gas supplies diminish as rapidly as expected under continued regulation. As a geologist, I know that there exists a great potential supply of as yet unproven gas reserves.

The amendment now pending is the Pearson-Bentsen amendment. The Pearson-Bentsen amendment calls for the deregulation of "new" natural gas—that is, gas produced from wells drilled after a specific date. By permitting the deregulation of only new gas, we can avoid a rapid increase in prices for gas now under contract from older wells, and yet we can provide the stimulus for producers to begin the search for and development of new natural gas deposits. Any price rise borne by the consumer will be diluted by the large amount of older, low priced, regulated gas still entering the pipelines.

The administration has recognized the need to encourage natural gas production through higher prices and has recommended an increase in the regulated ceiling price now set by the Federal Power Commission at $1.45 to a higher level at $1.75 per thousand cubic feet. This new price may be sufficient to encourage production in limited easily explored areas, but we will need all of the natural gas which can be reasonably produced over the next few decades, as long as it costs less than alternative sources of energy. Gas from very deep reservoirs, offshore areas, and frontier areas will not be tapped if price is limited to $1.75.

WHAT WOULD IT COST TO DEREGULATE?

The major reason for opposing our efforts to deregulate "new" natural gas is the fear of increased costs to the consumer. This is a valid concern, but careful analysis reveals that continued regulation is more costly for large numbers of our consumers. For some former users of natural gas, the cost of a substitute is quite high, much higher than the deregulated gas would have been. Synthetic natural gas (SNG) can be produced from propane, butane, and natural gasoline. Its cost ranges from $4.25 to $4.50 per Btu equivalent (equal to 1,000 cubic feet of natural gas). Synthetic gas can also be produced from naptha, but its cost has reached $5 per Btu equivalent. SNG made from naptha also forces this country to be more dependent on the OPEC cartel, since naptha is a petroleum derivative. Western coal reserves could also be used to produce SNG, but again the price is in the range of $4.50 per Btu equivalent.

Imported liquefied natural gas (LNG) is an alternative presently being used in some markets in the United States. The cost per thousand cubic feet is $4.20 at present, and its supply from Algeria is always subject to embargo. Even electricity costs as much as $10 per Btu equivalent making it the worst alternatives for the consumer.

Of course, there are other alternatives too numerous to mention. Some users may be able to replace natural gas with

coal or fuel oil, but these fuels are inferior in many industrial processes. And to the extent that the fuel oil is an alternative, we are further obligating ourselves to the OPEC cartel.

Another cost to consider is the environmental damage produced by burning fuels that are dirtier than natural gas. This, too, is a cost which is difficult to measure, but nonetheless a real one. Natural gas is a nearly perfect fuel in terms of protection of the environment, and regardless of the alternative chosen to replace it, there will be additional pollution of our atmosphere with which to deal.

Mr. President, our economy is presently with the hardware for the processing, transportation, and distribution of natural gas. By prematurely abandoning or underutilizing a very large capital investment, we are forcing the remaining consumers of natural gas to pay a higher price per unit of gas to cover the full amortization of these capital investments. Add to this the cost of prematurely replacing gas burning equipment in factories and homes. This will happen with increasing frequency if the price of new natural gas is not permitted to rise as an incentive for additional exploration and development of domestic natural gas reserves.

ARE THE GAS PRODUCERS MAKING LARGE PROFITS?

The most persistent argument against the deregulation of "new" natural gas prices is the belief that the removal of these price controls, which have helped to lead us into the energy crisis, will result in excessive and unjustified profits for firms which produce natural gas. This argument is justified by opponents of deregulation on the grounds that, first, the domestic oil companies have conspired to force up gas prices, or second, large profits will be obtained because the OPEC cartel has already established the artificially higher price for gas as well as oil. Let us explore each of these possibilities.

The charge that a conspiracy exists to restrict production and drive up oil and gas prices to artificially high levels is doubtful at best. Economic studies show that by two measures of market structure, relative profits and competitive price levels, there exists no monopoly pricing in the oil industry. Both before and after the 1973 OPEC price increase, the data show that oil company profits are at approximately the same level as all U.S. industrial profits.

There are logical reasons why we would not expect monopoly prices in the natural gas industry. If a monopolistic cartel is indeed pricing or restricting output to earn excess profits, other firms will enter, to capture some of these profits for themselves. No monopoly can endure without natural or institutional barriers to such entry. Since no such barriers have been shown to exist, it can be argued that the industry is not earning "excess" profits.

Even if monopoly profits were a real threat, continued price regulation would not be the option of choice. Holding prices to lower levels merely increases the quantity of gas demanded and forces administrative allocation of existing gas volumes. Holding prices down is the proper policy only if increased demand is desired, and only if holding prices down will indeed lead to increased output. Since neither of these conditions are true at present, a more desirable approach would be to allow prices to rise in order to discourage waste and increase supply.

With 6,000 producers now in the natural gas industry, it would be hard to argue that the barriers to entry exist, and without them, the high profits so often claimed for the gas producing industry would not exist.

WOULD HIGHER PRICES BRING MORE GAS?

A major argument against higher gas prices is that there would be no more gas available at higher prices than at present, and yet the record shows that not to be the case. Studies by the Energy Research and Development Administration, the U.S. Geological Survey, and the American Gas Association indicate that there are large quantities of gas to be discovered in the future. These contentions are supported by the data from intrastate markets where prices are not regulated. Even in Ohio, which is not usually considered an energy producing State, higher intrastate prices have induced a tripling of gas production since 1968.

Present estimates of the amount of gas available to the United States through domestic production run as high as 2,500 years worth of consumption. I do not think that anyone could successfully argue that the gas is not available or would not be discovered and produced at higher prices.

Thus, Mr. President, I continue to urge my colleagues to support the general concept of deregulations of natural gas prices.

Mr. PELL. Mr. President, I am deeply disappointed at the action of the majority of the Senate in rejecting President Carter's natural gas pricing proposal.

Our national policy on natural gas should be based on several objectives. It should be a policy that encourages conservation of natural gas. It should discourage the use of natural gas for industrial purposes, electric generation, and other uses for which fuels such as coal and residual oil can be substituted. It should provide adequate incentives for exploration and development of new natural gas, and it should eliminate the current dual pricing system of interstate and intrastate natural gas. And, finally, our national policy on natural gas should protect the interests of the consumer—particularly the family that uses natural gas to heat their home.

The President's program, I believe, is well designed to meet these objectives, and to protect consumers from unwarranted and unnecessary large increases in the price of natural gas.

The program approved by a majority of the Senate, the Pearson-Bentsen proposal, will also meet most of the objectives of a sound national natural gas policy, but it fails to meet one essential objective—protection of consumers against skyrocketing of natural gas prices.

It is for that reason that I have voted against the Pearson-Bentsen proposal and in support of President Carter's program.

I hope very much that the legislation which the Senate has approved today will emerge from the House-Senate conference committee in an improved version that provides adequate protection to natural gas consumers.

Mr. CRANSTON. Mr. President, we are nearing the finale of a long and sometimes bitter disagreement about the merits of the President's plan to maintain Federal price controls on natural gas, albeit at a higher level than presently, and the Pearson-Bentsen proposal to deregulate natural gas.

Inasmuch as we are apparently close to a final vote on these matters, I want to take just a moment of the Senate's time to express my opposition to the Pearson-Bentsen deregulation proposal, as contained in amendment numbered 1039, and to explain my reasons for this position.

As the Senate is well aware, the Pearson-Bentsen amendment would eliminate immediately Federal price controls on new natural gas produced onshore and would phase out over a 5-year period price controls for new natural gas produced offshore. The rationale for this elimination of price controls—and the inevitable price increase that will result—is supposed to be increased exploration for and production of natural gas. In short, by allowing the price of natural gas to rise substantially, we are supposed to be buying additional supplies of natural gas.

Yet, Mr. President, it seems clear that the Pearson-Bentsen proposal will not result in appreciably greater supplies of natural gas regardless of the ultimate price of new natural gas. The Congressional Budget Office, in an analysis prepared for the Energy and Natural Resources Committee, has predicted that deregulation would increase gas production by less than 1 trillion cubic feet per year by 1985 compared to the administration's plan as approved by the House of Representatives and embodied in H.R. 8444. This is approximately 5 percent more gas than would be produced if price controls were maintained on new gas in accordance with the President's proposal.

The question, then, is how much consumers will have to pay for a mere 5-percent increase in total gas production.

According to the Congressional Budget Office (CBO), the modified Pearson-Bentsen amendment would cost consumers $39 billion in 1985, compared to $29.5 billion for the President's plan. In other words, if Pearson-Bentsen is enacted, consumers will pay $9.5 billion for a 5-percent increase in new gas production.

Californians will pay nearly $1 billion more in 1985 alone. That means the average Californian will be paying three times more for natural gas by 1985. That is a mighty high price to pay for the small increment of new production that might be produced under deregulation. Mr. President, this is a negative cost-benefit ratio if I have ever seen one.

Even when compared to the Jackson-Byrd compromise, the Pearson-Bentsen proposal is still too costly to justify. Ac-

cording to CBO, the Jackson substitute would cost consumers $33 billion in 1985, compared to the $39 billion cost of the modified Pearson-Bentsen amendment.

In other words, consumers will have to pay an additional $6 billion for what is sure to be even less than a 5-percent increase in new gas supplies.

Mr. President, in good conscience I could only justify a vote to raise the cost of natural gas to consumers if the increased cost will bring on certain and substantial increases in new natural gas. According to the CBO, the additional billions that will be added to consumer's utility bills will not result in substantial new gas production. The bottom line, Mr. President, is that the Pearson-Bentsen proposal is little more than an income transfer scheme that will enrich the major oil companies at the expense of the consumers of natural gas.

I want to emphasize one other point: My participation in the efforts to end the filibuster on the Pearson-Bentsen amendment should not be interpreted as any indication of any lessening of my commitment to the continuance of regulation. I believed—and now believe—that the issue will be determined not in the Senate but in conference with a House that strongly supports regulation and, finally, in a White House that shares that support and will veto any bill calling for any early deregulation in the extremely unlikely event that such a bill reaches the President.

I oppose the Pearson-Bentsen substitute amendment, numbered 1039, and urge the Senate to defeat it.

NATURAL GAS SUPPLY AND THE WELLHEAD PRICE

Mr. SCHMITT. Mr. President, I think one of the issues which has played an important role in our debate over the natural gas section of the National Energy Act merits further consideration. As I understand the Senators who oppose deregulation, they believe that higher wellhead prices for natural gas will call forth only a slight (5 percent) increase in the quantity of gas produced. Those supporting deregulation believe that higher prices will result in a large increase in the supply of gas. Certainly, there are other issues and certainly this issue has many subtleties, but the availability of increases is one essential point of disagreement.

Each side of the deregulation debate has alined a number of arguments—often numerical—which support their contentions. We have heard so many numbers from so many sources that few retain any credibility. These arguments are arranged in pairs, in different orders, with different emphasis, stacked on top of one another like a set of dominoes. The only problem is that each side plays with its own set of dominoes.

I believe it would be worthwhile to outline the facts which are accepted by both sides and lead us to the fundamental disagreement.

First, we all recognize that higher prices will indeed call forth greater quantities of any commodity. It is the quantity called forth that is at issue, not the incentive mechanism.

Second, it is generally accepted among geologists that our proven reserves are well over 200 trillion cubic feet and that there exists some large quantity of additional as yet undiscovered, natural gas resources. It is this quantity of additional resources which is at issue.

Third, there is agreement that the cost of producing future natural gas is dependent upon many different variables including depth of the reservoir, available technology, physical properties of the rock, exploration costs, shape and size of the reservoir, leasing costs, distance from existing pipelines, equipment and crew costs, and so on. The issue is whether such costs should be recovered whenever market conditions warrant or only where a Federal program of price control will permit.

Let me again return to the fundamental issue; how much more gas will be produced under deregulation than under continued Federal controls? An economist must answer that initial question with another; what is the shape of the "supply curve"? More plainly, if we plotted the quantity of gas produced, or supplied, versus the price, what does the resulting curve look like?

If we are talking about a free or unlimited commodity, say sea water for a consumer in the middle of the Atlantic ocean, the supply curve is essentially a horizontal line, that is, all necessary supply can be obtained for a single price. In practice, larger quantities would perhaps require larger pumps and more energy, so there would be a slight rise to the supply curve, but it remains, for all reasonable purposes, a horizontal line.

If, on the other hand, we are talking about a severely restricted, nonrenewable commodity in demand, say paintings by Remington, then the supply curve will have some upward slope until all available paintings have been purchased. At that point, that is, when all paintings are off the market, the supply curve becomes a vertical line. No matter how much money is offered, another Remington cannot be produced for purchase.

Natural gas is neither sea water nor Remington paintings. It is a natural resource of fixed but unknown total quantity. Its supply curve is neither a horizontal nor a vertical line—not vertical that is, until all natural gas has been produced for purchase.

It might be useful, also, to make some generalizations about the shape of the natural gas supply curve; is it a straight line or does it curve upward, or perhaps, downward? In fact, the natural gas supply curve tends to slope more steeply upward as the quantity produced is increased. Stated in a different way, it takes a higher and higher price to call forth the same quantity of new gas. This characteristic is the result of the naturally occurring distribution of gas as a function of geography and geology. By this I mean some new gas is more costly to produce than other new gas. As I pointed out earlier, this is one of the three points on which we all agree, and a natural gas supply curve with an increasing upward slope is the result.

At this point political differences creep into the economic formula. Opponents of deregulation, in order to support their arguments, will tend to view the supply curve as sloping upward very steeply. As an example, the Joint Economic Committee estimated that the supply curve makes an inexplicable change somewhere between $1.45 and $1.75 per thousand cubic feet (mcf) and becomes vertical at some fixed quantity of natural gas production. Unfortunately, this is neither good economics nor does it enhance the credibility of that potentially effective group.

The fact is that we do not really know what happens to the supply curve for interstate gas above $1.45 per mcf. I will readily admit that it is not acceptable to simply scale up the experience of the Oklahoma and Texas intrastate markets; they may indicate an unduly optimistic picture, just as the Joint Economic Committee and the Congressional Budget Office present an unduly pessimistic picture.

As we have agreed, the natural gas supply curve above $1.45 per mcf is determined by many variables. One of these is the total quantity of natural gas yet to be discovered. This quantity is a major determinant of the shape of the supply curve. It is a geological variable—not economic nor political—and yet, sophisticated analyses which virtually ignore this variable have been performed under the guise of professionalism.

To be fair, it has been argued that the number of drilling rigs available establishes an upper limit on the amount of gas which can be produced. At any given point in time, this is true, because available rigs are a factor in the production rate of natural gas, which is itself a major determinant of the shape of the supply curve. But this highlights a terribly important point. The supply curve is dynamic. It changes with time. As the number of rigs available increases—I am told that this can happen at approximately 200 new rigs a year—the ability to produce also changes, and the supply curve shifts.

These points notwithstanding, no one really knows what the supply curve would look like under the deregulated price proposals of Mr. PEARSON and Mr. BENTSEN, or for that matter, at the prices and regulations proposed by the President or Chairman JACKSON.

So, again, we are forced out of the comforting, logical camp of economics into the paradoxical chaotic world of politics. Given the uncertain nature of the natural gas supply curve, is it "better" to permit restrictive Federal planning of gas development or to permit reasonably independent development to occur under more traditional market mechanisms? Will higher price call forth a sufficient quantity of gas? What is "sufficient"?

I am sure by now that my colleagues know I favor the more traditional mechanisms. There are also those firmly committed to the need for considerable Goverment control of the oil and gas industries. The remainder, and eventually the conference committee, must decide which way to go. To this group I address my final remarks.

Making decisions based on an uncertain future is not new to private business

or the Federal Government. The Federal Government is forced to make such decisions for the common good in matters of national defense, for example. We have no viable alternative. The decisions are made by honest, well-meaning men and women and, for the most part, we are well served by those decisions.

But, the issue before us requires a measure of skill and responsibility in a business environment. No matter how well-intentional a Federal official is, he will not pay 1 penny for a bad decision—it could cost consumers billions, but it does not cost the regulator 1 cent. He or she probably will not even lose his or her job. The cost of a bad business decision by a private firm is not borne by the consumer, to be sure, nor does it exclude the consumer from searching for other sellers or products.

So our legislative choice in dealing with uncertain natural gas supply is between well-meaning, but unaccountable Federal officials and profitseeking businessmen and their millions of stockholders. I urge you to reaffirm the economic greatness of this country by recognizing that it is the "profit motive" which best serves both the personal and the public interest. Through this motive, upon which much of the past, present, and future greatness of our Nation rests, we can see rapid increases in natural gas supply and eventual reductions in price to the consumer.

Mr. DOLE. Mr. President, Senator ERNEST HOLLINGS has introduced an amendment to the District of Columbia Appropriations Act to provide additional appropriations for the small business administration. I cosponsored and now support the amendment.

The additional appropriations are needed to cover emergency loan applications being received by the Small Business Administration in record numbers.

DISASTERS ACROSS THE NATION

Two-thirds of the Nation is currently involved in some form of disaster activity, primarily agricultural drought relief programs, but also the recent civil disorder in New York, floods in Pennsylvania, West Virginia, and Missouri. New drought areas are still being designated, and the flood in Kansas City has created an additional demand.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration is currently providing disaster assistance in 41 States and the drought disaster declaration now cover over 2,100 counties in 38 States. In nine of these States, SBA has declared physical disasters based on crop losses resulting from the drought.

As a result, SBA has on hand more than 6,600 physical disaster applications amounting to over $606 million.

On September 21, 1977, the judiciary and related agencies appropriations subcommittee indicated that approximately $800 million in additional applications will be ready for funding in the next 3 to 4 months so that a total of $1.4 billion is required.

It is imperative that a sufficient amount be appropriated so that there is no interruption in the assistance to disaster victims during the adjournment of the Congress. This situation is particularly critical for the farmers as the disaster declarations have been in effect for as much as 2 months and the SBA has not been able to process the loans due to the unavailability of funds.

NEW AUTHORITIES FOR SMALL BUSINESS ADMINISTRATION

The huge demand for disaster loan funds comes because the authorities of the Small Business Administration have been expanded to include farm disaster loans. The Federal Government now has two agencies, the Small Business Administration and the Farmers Home Administration making disaster loans to farmers.

DEEP FEDERAL SUBSIDIES IN DISASTER PROGRAMS

The amendment before us provides the funds for the Small Business Administration to loan out Federal tax dollars for long periods of time at 3-percent interest. Loans of up to $250,000 for 30 years carry 3 percent interest and an additional $250,000 can be loaned at 6⅝ percent. It also should be pointed out that the Small Business Administration does not have a credit elsewhere test.

I assume most of the $1.4 billion in loans will be repaid. The interest subsidy though will amount to millions of dollars.

DISASTER PROGRAMS NEED TO BE REVIEWED

I hope before any more huge supplemental appropriations bills need to be passed, Congress can review the disaster programs. The program costs and benefits need to be studied. Also similar disaster programs, with different benefits, handled by two or more agencies need to be studied.

Since the present disaster programs are already in the law and since disaster victims need loans and benefits now, Congress should go ahead and fund existing programs.

I urge the adoption of this amendment.

NATURAL GAS DEREGULATION: GAMBLING WITH BILLIONS

Mr. CHURCH. Mr. President, for 2 weeks the Senate has debated whether to continue controls on natural gas prices with a higher price allowed for newly discovered gas or to deregulate gas prices. I entered this debate supporting the pricing policy proposed by President Carter and I remain convinced that it is the best policy for our Nation and for my home State of Idaho.

To be successful, our national policy on natural gas pricing must establish a stable system of prices, provide incentives to stimulate new production and offer maximum protection from sudden inflationary surges in energy costs. The President's plan was carefully crafted to satisfy these requirements. In contrast, we are urged by proponents of deregulation to abandon regulation designed to reflect cost of production in favor of wide-open pricing, even for gas that is already in the market or under production. The cost differential between these two approaches is staggering. Supporters of deregulation urge that we transfer billions to the producers with no assurance that this would result in increased supplies.

Natural gas is of vital importance to many Idaho's homes and industries. Natural gas and its products are widely used in agriculture—from fertilizer to food processing. Because of its clean burning nature, natural gas is often used in many processes where there is no readily available substitute. Thus, any boost in natural gas prices will not only increase the costs of heating Idaho homes, but will add to the already burdensome material costs faced by Idaho farmers. And the impact does not stop there, because we can anticipate higher costs for all food if natural gas prices are allowed to skyrocket.

There are several recent studies which point to the tremendous costs consumers will bear if we deregulate gas prices. A Congressional Budget Office study and a recent report of the Joint Economic Committee both found that deregulation will cost consumers about $10 billion per year above what the President's plan would cost. A typical January 1985, home heating bill is estimated to be $47 under the President's plan and $70 under deregulation.

Mr. President, most Idahoans would not object to paying more for gas if they thought this would yield greater supplies and insure deliveries when needed. Yet both of the cited studies show that the significantly higher prices of deregulation are not likely to produce substantial increases in production. This is so partly because the United States is already heavily explored and because we are unlikely to discover many more huge reservoirs of gas.

The argument for deregulation assumes that there is plenty of gas to be discovered if we will only give producers the money to find it. How then do we explain the fact that exploration activity has increased significantly under present prices and discoveries per well or per exploratory foot drilled have dropped dramatically? Federal Energy Administration analysis of deregulation also reveals that it would cost consumers $72 billion more in the next 8 years than the President's plan while increasing gas supplies only 2.5 percent over what the President's approach would yield. Is it worth $72 billion to increase supplies by 2.5 percent?

There is one effect of deregulation that is predictable. That is the fact that it would create huge windfall profits for producers. For example, we have already discovered large quantities of natural gas on Alaska's North Slope. That gas is now available and awaits congressional approval of a pipeline to transport it to Idaho and other markets. If prices are deregulated, this already discovered gas will cost Idaho and others billions of dollars more. It will represent a massive transfer from the pocketbooks of the consumer to the corporate bank accounts with no connection to increasing supplies. That is absolutely unnecessary. In contrast, the President's plan offers a substantial increase in price for new gas to stimulate exploration and development while controlling the price of already discovered gas. That is absolutely necessary.

Oil and gas companies are not being forced into bankruptcy. Gas exploration

is occurring at a brisk pace. The President's plan is generous in its price for new gas. If a compromise is needed to resolve the impasse between the administration's proposal and unlimited costs under deregulation, then I will support it. But it should be clear that the President's plan is what we need.

We are not free to ignore these facts. Deregulation is an enormous gamble with poor odds. I cannot sanction such a risky unnecessary venture when the odds are so poor and the only guarantee is windfall profits for gas producers.

The VICE PRESIDENT. The hour of 3:30 having arrived, under the unanimous-consent agreement, the vote now is on amendment No. 1039, which is an amendment in the nature of a substitute to amendment No. 862.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. RIBICOFF (after having voted in the negative). On this vote I have a pair with the Senator from Illinois (Mr. PERCY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ZORINSKY (when his name was called). On this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 524 Leg.]

YEAS—50

Allen	Garn	Melcher
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Stafford
Curtis	Helms	Stennis
Danforth	Johnston	Stevens
DeConcini	Laxalt	Stone
Dole	Long	Thurmond
Domenici	Lugar	Tower
Eastland	Mathias	Wallop
Ford	McClellan	Weicker
	McClure	Young

NAYS—46

Abourezk	Hart	Morgan
Anderson	Haskell	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Huddleston	Nunn
Bumpers	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Javits	Riegle
Case	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Magnuson	Sparkman
Cranston	Matsunaga	Stevenson
Culver	McGovern	Talmadge
Durkin	McIntyre	Williams
Eagleton	Metcalf	
Glenn	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Ribicoff, against.
Zorinsky, for.

NOT VOTING—2

Humphrey Percy

So amendment 1039 was agreed to, as follows:

In lieu of the language proposed to be inserted, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided, however*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that at any time prior to January 1, 1977, proper facilities were in place for natural-gas production, such natural gas could be produced economically, and such natural gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from off-shore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas.

"'(9) "Boiler fuel use" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(12) Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural-gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made demanded or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following six new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a)(1) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(A) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(B) the rates and charges necessary to encourage the optimum levels of (i) the exploration for natural gas, (ii) the development, production, and gathering of natural gas, and (iii) the maintenance of proved reserves of natural gas;

"'(C) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(D) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of provisions (A) through (C) of this paragraph.

"'(2) The Commission shall monitor the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in paragraph (1).

"'(3) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(4) Pending the establishment of a national ceiling pursuant to paragraph (1) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977, the Commission shall establish on a monthly basis an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to paragraph (1) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(5) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(6) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(7) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'(b)(1) Rates and charges for new natural gas sold or delivered from sources other than offshore Federal lands on or after January 1, 1977, shall not exceed on a British thermal unit (Btu) basis the current cost of Number 2 fuel oil, landed in New York, New York as determined by the Commission.

"'(2) From and after two years subsequent to the date of enactment of the Natural Gas Act Amendments of 1977, there shall be no ceiling price applicable to the sale or delivery of new natural gas from sources other than offshore Federal lands.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'(d) For purposes of this section the term "small user" means any person utilizing 50 Mcf or less on a peak day.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation

of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

"'SEC. 28. (a) (1) The Commission may, by rule or order, authorize any interstate or intrastate pipeline to transport natural gas on behalf of any interstate or intrastate pipeline or local distribution company served by any interstate or intrastate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of the transportation of any natural gas authorized by the Commission under this subsection.

"'(2) For purposes of this subsection—

"'(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under this Act.

"'(B) The term interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under this Act.

"'(b) Any contractual provision—

"'(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of this Act, or

"'(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any transportation of natural gas authorized by the Commission under this subsection.

INCREMENTAL PRICING

"'SEC. 29. The Commission shall—

"'(a) Require all natural-gas companies with certificated facilities for the transportation of natural gas to file reports at least annually with respect to (1) old natural gas, (2) new natural gas, and (3) synthetic or liquified natural gas in such form and manner as to reflect the price and volumes received into such facilities.

"'(b) Consistent with the provisions of Sections 4, 5, and 7 of this Act, require that the costs of old natural gas be allocated for rate purposes to those users specified in Section 25(a) of this Act, including essential agricultural users until the rates or charges for natural gas for users not specified in Section 25(a) equal the reasonable cost of substitute fuel oil.

"'(c) In cases where the users identified in subsection (b) obtain natural-gas supplies directly or indirectly from more than one natural-gas company, the Commission shall allocate the relative volumes attributable to such users for rate purposes among the supplying natural-gas companies.

"'(d) The Commission shall report to Congress annually on the effect of incremental pricing.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979'; and,

"(g) in section 12(b), by striking out 'October 1, 1977' and inserting in lieu thereof 'January 1, 1978; and, and January 1, 1979;' ".

Provided, That Title III of H.R. 5289 shall not be effective so long as Title II of H.R. 5289 remains law.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question now is on agreeing to amendment 862, as amended. (Putting the question.)

Amendment No. 862, as amended, was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a tabulation of how the vote would have been if everyone had been here and voting.

Mr. BUMPERS. Mr. President, reserving the right to object, what was the unanimous-consent request?

The VICE PRESIDENT. For the rollcall to be included in the RECORD.

Mr. METZENBAUM. That is not correct.

Mr. LONG. I simply asked unanimous consent to put in the RECORD a tabulation of how the rollcall would have read if we had all the Senators here.

Mr. BUMPERS. How would that be significant? I do not understand that.

Mr. LONG. Just look at the record and you can see.

Mr. BUMPERS. The vote was 50 to 46, which means some Senators were paired.

Mr. LONG. It shows how absentees would have voted if they had lifted the pairs; how they would have voted.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

YEAS

Allen, Baker, Bartlett, Bellmon, Bentsen, Burdick, Byrd, Harry F., Jr., Chafee, Chiles, Curtis, Danforth, DeConcini, Dole.

Domenici, Eastland, Ford, Garn, Goldwater, Gravel, Griffin, Hansen, Hatch, Hatfield, Hayakawa, Heinz, Helms, Johnston.

Laxalt, Long, Lugar, Mathias, McClellan, McClure, Melcher, Packwood, Pearson, Percy, Randolph, Roth, Schmitt, Schweiker.

Scott, Stafford, Stennis, Stevens, Stone, Thurmond, Tower, Wallop, Weicker, Young, Zorinsky.

NAYS

Abourezk, Anderson, Bayh, Biden, Brooke, Bumpers, Byrd, Robert C., W. Va., Cannon, Case, Church, Clark, Cranston, Culver, Durkin.

Eagleton, Glenn, Hart, Haskell, Hathaway, Hollings, Huddleston, Humphrey, Inouye, Jackson, Javits, Kennedy, Leahy, Magnuson, Matsunaga, McGovern, McIntyre, Metcalf.

Metzenbaum, Morgan, Moynihan, Muskie, Nelson, Nunn, Pell, Proxmire, Ribicoff, Riegle, Sarbanes, Sasser, Sparkman, Stevenson, Talmadge, Williams.

The VICE PRESIDENT. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The VICE PRESIDENT. The manager of the bill, under the previous order, is recognized to call up a House bill.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I have agreed under the unanimous-consent order to utilize Calendar Order No. 383, H.R. 5289, as the House vehicle.

The VICE PRESIDENT. Without objection, the Senate will proceed to consider the bill which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla.

The Senate proceeded to consider the bill.

The VICE PRESIDENT. Without objection, the bill will be amended to include the text of S. 2104, as amended, and the pertinent text of H.R. 8444.

The VICE PRESIDENT. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The VICE PRESIDENT. The question is, Shall the bill, as amended, pass?

(Putting the question.)

The bill (H.R. 5289), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senator from West Virginia is recognized. The Senate will be in order.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5289 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5289.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to proceed for 2 or 3 minutes, without the time being charged against either side on the next bill. I take the floor at this time to compliment the distinguished Senator from Washington (Mr. JACKSON) and the distinguished Senator from Wyoming (Mr. HANSEN) on the splendid leadership that they both provided during the very long and difficult debate on the natural gas pricing bill.

They demonstrated great skill, patience, and equanimity and I think that the Senate is in their debt, and I want to also at this time congratulate all who participated in the debate from both sides of the aisle and on both sides of the question.

It was a long, tenuous, and very controversial debate, of course, but that is behind us now and I personally want to express my gratitude to all Senators and to the Vice President of the United States for his presiding over the Senate, and I would hope that all Senators would share my viewpoint in this respect.

Mr. BAKER. Mr. President, will the Senator yield to me on the time he has reserved under his unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I thank the majority leader for permitting me to associate myself with his remarks and extend my congratulations and my appreciation to the managers of this bill on both sides, especially to the distinguished managers of the amendments which were offered over such a long period and so effectively by those who moved the amendments and their adversaries.

I think the Senate has come through a difficult time in good shape, and I offer my congratulations as well to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader and I reciprocate in kind.

SENATE ACTION ON NATURAL GAS IS WELL-REASONED

Mr. RANDOLPH. Mr. President, during the last 14 days Members of the Senate have had strong positions on what steps to take in the pricing of natural gas. Some have favored forms of continued regulation, such as President Carter proposes and others favor deregulation in one form or another. The strength of these positions are reflected in the fact that the Committee on Energy and Natural Resources after much discussion on the regulation/deregulation issue decided that it could not agree on a modified position. I believe the Bentsen-Pearson amendment as modified reflects a reasonable answer to encouraging the production of new natural gas.

Energy as a major social issue has been before the public and the Congress since 1973. Natural gas pricing is perhaps the most difficult part of the issue as I mentioned last Saturday on the floor, this was before us in both 1973 and 1975. We have now hit this issue headon and said, "Let us take the steps necessary to finally resolve this issue in conference with the House." We may now proceed to assure this Nation has an economically viable and meaningful energy package.

Much uncertainty and mystique has surrounded statistics involving the total natural gas reserves we possess, and whether industry is aggressively developing known reserves. Since April, I have seen scores of reports which are continually in conflict with one another. As I have studied the issues, listened to, and participated in this debate, I have looked for an expression of accurate facts on the issue, the efficacy of various amendments offered and how germane they are to the question before us, and how much emphasis Federal control of the energy business is given as opposed to free market participation.

I do know this. In West Virginia gas supplies 21 percent of our energy needs. Over 69 percent of our homes use natural gas. Last year's actual curtailments were 8.1 percent of normal usage. Many industries dependent on natural gas experienced severe cutbacks of gas last winter—the largest in the State's history. Among these were steel and glass industries which were forced to lay off workers during the winter months, a vivid expression of how energy and jobs are tied together in our country.

I do not again want to be in the position of having to introduce legislation as I did on January 14—the Natural Gas and Emergency Conservation Act of 1977—and the 24—Natural Gas Emergency Act of 1977—of this year to authorize emergency measures to minimize the adverse impacts of gas shortages and curtailments. Decisions should be made now to deal with such situations.

Further curtailments have been forecast for the coming winter. The Federal Power Commission estimates curtailments could reach 3.8 trillion cubic feet in the winter of 1977–78; no matter what price policy is adopted by Congress. One industrial group projects an estimated curtailment of at least 5,807,000 cubic feet of natural gas in the State of West Virginia this year. The resultant adverse consequences on the economy and employment in West Virginia and Appalachia are obvious. Secondary impacts on other industries which depend on manufacturers within the region for materials and supplies could also be felt.

Those hardest hit would be stone, clay, and gas products; chemical and allied products; and primary metals. If West Virginia experienced a 20 percent reduction in gas supplies it could displace 8,300 workers in manufacturing and related industries.

Mr. President, this type of situation cannot be tolerated. We must provide a structure which will give proper incentives to major producers and independents, to interstate and intrastate suppliers and users alike. In addition we must protect the American consumer from any drastic rise in his fuel bill. The modified Pearson-Bentsen amendment accomplishes these objectives.

Broad public support with a sense of community interest and willingness to sacrifice will bring about conservation—but probably only a short term basis. But we need more than conservation. We need assurances of a stable rate of production and supply. This will not be accomplished by relying on high prices from liquid natural gas from such countries as Algeria, Mexico, and Indonesia. Such reliance would be the same mistake we made on oil imports. The U.S. Geological Survey indicates that only 2 percent of the domestic rock containing oil and gas has been drilled to date. Only 1/50 of the gas reserves in Appalachia have been tapped. Currently there are about 2,000 drilling rigs operating independently in the United States. We need an estimated 3,500 to 4,000 pieces of such equipment. Perhaps some of this machinery now involved in drilling for gas in foreign countries should be brought home again. It makes no sense to spend over $45 billion on imported sources of energy, while we permit natural gas reserves in the ground to remain there because they cannot be exploited at regulated prices.

Necessary incentives must be provided to both major producers and independents. As elected representatives we need to have some degree of confidence and credibility in those private concerns in the gas and oil business. West Virginia's independent production is 0.9 percent of the national domestic gas production. In West Virginia there are also potential new supplies in deep geological formations that could be developed. Of course such endeavors would require special pricing reflecting increased cost over national average prices. Current price structures discriminate against my State's producers thus discouraging exploration. To continue these structures or modify them as several of my colleagues have suggested would, in my opinion, reduce drilling activity and deplete reserves of the intrastate of 1 percent of all gas produced in this country for deregulated prices will not do the job. Again, changes are necessary to spur new development. While we make the necessary adjustments to convert to coal, gas and oil will still be included in the major mix of fuels at least for the next 7 to 8 years.

Mr. President, I believe that Senator BENTSEN's perfecting amendments do much to improve the measure we have just passed. Enabling intrastate distributors to sell to interstates will provide drilling incentives to producers in States such as West Virginia. His amendment stating that industrial boiler users purchase new deregulated gas while leaving old gas to residential customers will do much to protect our individual constituents using gas in their homes.

I support the Natural Gas Policy Act as passed by the Senate. A strategy such as this, I feel, will give us a better understanding of the relationship between the costs of higher prices and the costs of the shortages, distortions, and growing foreign dependence that result from policies attempting to maintain low prices.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar order No. 399, H.R. 9005, the District of Columbia appropriations bill.

Mr. BAKER. Mr. President, reserving the right to object, may we have order?

The VICE PRESIDENT. I am trying.

The Senate will be in order.

The PRESIDING OFFICER. (Mr. MATSUNAGA). The Senate will be in order. The Senate will be in order. Members will cease conversation. The Senate will be in order. Senators will please cease conversation. The Senate is still not in order. The Senate will come to order. Members will please cease conversations and retire to the cloakroom if conversation is necessary. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, while we are awaiting the managers of the next bill, and it is under a time agreement, I suggest the absence of a quorum, and I would ask unanimous consent—the manager of the bill is here and we are awaiting the ranking Republican member.

The PRESIDING OFFICER. The Chair will remind the Senator from West Virginia the bill has not yet been reported.

Mr. BAKER. Could I reserve for just a moment?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. There is a unanimous consent to proceed to the consideration of this measure. That was the parliamentary inquiry at the time the furor broke out.

The PRESIDING OFFICER. That was.

Mr. BAKER. All I was going to say is that calendar order No. 399 is cleared for consideration at this time on our calendar.

The only notation we have is there will be amendments offered by two Senators on this side and, of course, as the majority leader pointed out there is a time limitation on the bill.

Mr. ROBERT C. BYRD. Yes.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 399, H.R. 9005, the District of Columbia appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. There is 1 hour of debate on this bill.

Who yields time?

Mr. LEAHY. Mr. President, I yield myself such time as I may need.

Mr. President, I am pleased to finally have the opportunity to bring to the Senate recommendations on the District of Columbia Appropriations Act for 1978.

In June and July as the other appropriation bills came to the Senate, I began to wonder if we would have a D.C. bill for the Senate before the fiscal year was over. The city's second supplemental for 1977 and the amendment for 1978 was not officially transmitted to Congress until July 25. A submission date of July 25 with the intervening August district work period gave the subcommittee 14 working days between then and the September 12 due date for the completion of all action on the bill as required by the Congressional Budget Act of 1974.

We cannot meet our deadlines as required by the Congressional Budget Act unless a timely budget submission comes to Congress. I am, therefore, recommending as a legal requirement a due date of February 1, 1978, for the submission of the fiscal year 1979 budget for the District of Columbia. I hope this measure will permit the appropriation act for the District of Columbia for 1979 to be presented to the Senate on a more timely basis than was possible this year.

The District of Columbia budget request for fiscal year 1978 is $1,414,561,100 of which $1,237,084,200 is for operating expenses and the remaining $177,476,900 is for capital improvements. Also included in the bill is a second supplemental request for fiscal year 1977 that totals $11,226,800.

The committee analyzed these requests in great detail. In addition to the regular hearings, the subcommittee held 2 days of special hearings on the city's proposal to build and operate a $110,000,000 convention center in downtown Washington. On this one issue alone the subcommittee heard testimony from over 30 witnesses.

I recommend a total fiscal year 1978 budget of $1,340,431,800, of which $1,238,258,400 is for operating expenses and $102,173,400 is for the capital improvement program. This represents an increase of $180,180,100 over the funds provided last year or an increase of almost 16 percent. This recommendation is $5,353,600 more than the House recommendation for operating expenses and $66,584,500 less than the House recommendation for the capital improvement program. It should be noted, however, that $39,384,500 of this difference in the House and Senate recommendations for the capital improvement program is explained by the committee's recommendation to reprogram funds that were appropriated in fiscal year 1972 for capital improvements at Lorton but never used for that purpose.

With regard to the city request for funds for the second supplemental for fiscal year 1977, I recommend a total of $7,378,500 which is $537,600 more than recommended by the House.

Last year the committee began an effort to encourage the city to collect more of the taxes, fees and fines that are due it. This effort has paid rich dividends. The city's July revenue estimate released in August shows an increase in local collections for fiscal year 1977 and fiscal year 1978 that totals $31,565,000 over the previous estimate of April 1977. The House which began its markup process in July based its recommendations on the lower revenue estimates made in April 1977. In addition to the city's own estimates of increased revenues, monthly reports made available to the committee show that the city has collected over $6,000,000 more from the hospital and health clinic billing system than previously estimated. This billing system was launched last year by the city at the direction of the Senate. The subcommittee also estimates that the city should be able to collect approximately $4,500,000 in additional revenues in fiscal year 1978 from delinquent parking ticket fines that now total almost $18,000,000. These increases in local revenues make possible the following financing recommendations:

First. Provide a $15,000,000 tax relief measure to local citizens, as requested by the city.

Second. Accelerate the repayment of funds owed the U.S. Treasury from short-term borrowings made in fiscal year 1975, as requested by the city.

Third. Establish an RFK Stadium bond sinking fund and appropriate $9,900,000 to the fund to help meet the $19,800,000 obligation that comes due on December 1, 1979.

Fourth. Provide a Federal payment of $276,000,000 which is the same level provided last year to the city.

While the recommended Federal payment for fiscal year 1978 is $24,000,000 less than the requested $300,000,000, it should be noted that the budget as recommended to the Senate is balanced and fully funded and provides for a 16-percent increase over last year to more than offset the effects of inflation. It should also be noted that the committee recommends the Federal payment for water and sewer services be increased by $25,409,000 in fiscal year 1978. This is done by putting all water and sewer service billings on a current basis. While I fully support putting the billings on a current basis, it does give the city a "revenue windfall" of Federal funds in fiscal year 1978 which places the direct Federal funds contribution to the city over $300,000,000. Additionally, the city also expects to receive $299,074,100 in Federal grants and $36,543,000 in revenue sharing and countercyclical funds in fiscal year 1978. In summary, 47 percent of the total resources to be available to the city in fiscal year 1978 would be Federal funds.

While I will not take the Members' time to go over each item, I would like to discuss briefly two of the committee's recommendations.

First, I have recommended $449,000 to fully implement the Child Abuse and Neglect Act of 1977. This act was signed by the Mayor in July and while neither the city nor the House has provided funds to fully implement this program, I feel this program is of high priority and we should move ahead to assist the children and families that need help because of child abuse and neglect situations.

Second, I shall briefly discuss the city's proposal to build and operate a $110,000,000 convention center in downtown Washington.

An important debate has developed

locally and in Congress over the need for the District of Columbia city government to build and operate a convention center in downtown Washington. The $100,000,000 convention center proposal represents the largest single capital expenditure item ever proposed by the city as a single jurisdiction. A proposal of this magnitude to spend the taxpayers' money needs to be carefully considered and, therefore, I believe the current debate is both a healthy sign of good government and is completely appropriate.

The Senate Appropriations Subcommittee on the District of Columbia held 2 days of special hearings on this topic alone and heard from over 30 witnesses. The subcommittee had two evaluations of the economic feasibility of the proposal, one done by the General Accounting Office and the other by D.C. City Auditor. Additional economic analysis was submitted to the subcommittee by civic associations and by the city government. Based on the hearings and on study and review of the analysis, I believe that the proposed center is too expensive and will result in a net revenue loss to the city. The center is not needed in order to maintain and permit growth in the city's current position in the tourist and convention market. The center is also not necessary in order to revitalize the downtown area. I would now like to expand on each of these points.

First, I support the objective of revitalizing the downtown area of Washington, D.C. The convention center, however, is not needed to meet the objective nor could the convention center alone guarantee it. Several projects are already underway to meet this objective and several other projects are on the horizon. For example:

The subway, with a cost in excess of $5 billion, will criss-cross the downtown area with seven subway stops. This considerably increases the economic development potential of the downtown area and will help increase its accessibility to the entire metropolitan area.

Over $300 million in Federal funds has been authorized for the Pennsylvania Avenue redevelopment plan. This plan will focus on the redevelopment of the north side of Pennsylvania Avenue extending as much as four blocks into the downtown area. Plans for a major $100,000,000 complex of hotels, offices and shops to be included in the Pennsylvania Avenue redevelopment area were announced just last Saturday by the National Press Club and Atlanta architect and developer John C. Portman, Jr. This proposal itself includes convention facilities and will be financed primarily with private funds.

Also in the Pennsylvania Avenue redevelopment area is another proposal that has been approved by the Pennsylvania Avenue Redevelopment Corp. This second proposal by the Quadrangle Development Corp. is for an office building with two levels of retail stores, a pedestrian arcade and offices.

Additionally, the city currently has a proposal from the Hines Corp. of Dallas to build a 1,000,000 square foot building complex at 12th and G in downtown Washington. This complex would be located on top of a new subway stop in the downtown area. The Hines Corp. is interested in having the city support this project by agreeing to lease approximately 300,000 square feet of the proposed office space. While the Senate Appropriations Committee's choice is to leave the decision on this matter entirely to the city, the city could bring this project or others like it to the downtown area by exercising its current leasing powers and by using its current need for over 3,000,000 square feet of leased space more effectively in order to meet this objective.

It has been argued that the convention center will bring jobs to the city, and that is true. However, as the discussion above indicated, there are alternatives available to the city to help bring jobs to the city and to generally help expand the tax base of the city. The convention center is not the only way, as some of its advocates have argued, to meet these objectives.

At $110,000,000 the proposed convention center is one of the most expensive convention centers ever proposed in the United States. Centers recently built in St. Louis and Atlanta cost approximately $36,000,000. One of the reasons that these other centers were less expensive is that they were built on donated land. In a letter which I sent to Mayor Washington on August 2, 1977, I asked the Mayor to consider an alternative site for the convention center, a site already owned by the city or the Federal Government, as this would save over $25,000,000 and considerably increase the economic feasibility of the proposed convention center. The city and the Federal Government own over 45 percent of the land in the District of Columbia and numerous sites are available. On September 1, 1977, the city responded by rejecting further consideration of alternative sites.

One fact that is not well known is that the District of Columbia is already the third largest convention center city in the United States even without having a major, Government-owned convention center facility. Additionally, the Sheraton Park Corp. is making a $60 million expansion of their facility which will then be able to accommodate 80 percent of the conventions that would come to Washington, D.C.

Economic feasibility for the proposed center hinges on estimates of the net additional delegates that the center would bring to Washington. The city's estimate of 390,000 net additional delegates appears to be greatly inflated when compared to the track record of other U.S. cities that have built convention centers. If the District of Columbia's performance in terms of attracting additional delegates to the city would equal the average performance of other cities, the center would attract an additional 100,000 to 150,000 new delegates. The fact that the District of Columbia is the third largest convention city reduces the chances for a great amount of rapid growth in the city's market share.

The bottom line of our analysis is that the convention center would lose between $4 to $9 million a year in tax revenue to the city, including all the tax benefits from projected spin-off developments. It is still true that the convention center would bring profits to some business interests in Washington, D.C., and understandably the business community has been pushing very hard for the convention center. While it would benefit a segment of that community, it would represent a net drain on the city's resources taking revenue away from the needs of the more traditional city functions and activities. This would come at a time when the city appears to be making great progress on two of the more vital functions: schools and police protection.

Washington already has the highest per capita expenditure level of any city in its population range, the highest per capita debt load of any city in the United States, and according to the city, the largest tax burden of any jurisdiction in the metropolitan area. The convention center would only aggravate these negative trends and only put further upward pressure on local taxes. Based on the testimony of witnesses that appeared before the subcommittee, on letters received, and on a petition received from over 85 percent of the civic associations in Washington, D.C., the citizens of the District do not appear to be agreeable to having their taxes increased in order to fund the construction of a convention center. Many of the citizens who have testified and written to me believe that a center would bring no direct benefit to themselves while they, the citizens, would be asked to pay for it.

Finally, proponents of the center have cast this debate in terms of a test of home rule for the District. So that there can be no misunderstanding, let me point out several facts. I have often stated my support for full home rule, as well as full voting representation, in both the House and Senate. However, that does not change the reality of this situation. Until it can be changed, the law requires Congress to enact a budget for the District of Columbia. As chairman of the Senate's District of Columbia Appropriations Subcommittee, I cannot abdicate my responsibility to evaluate the city's proposals, particularly with millions of Federal tax dollars involved.

In this instance, the city's proposal to build a downtown convention center simply is not, in my opinion, financially feasible.

Mr President, this concludes my overall statement on the bill.

Mr. President, I ask unanimous consent to have a table entitled "Comparative Statement of New Budget (Obligational) Authority for Fiscal Year 1977 and Budget Estimates and Amounts Recommended in the Bill for Fiscal Year 1978" printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978

Agency and item	New budget (obligational) authority, fiscal year 1977	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978	New budget (obligational) authority recommended— In House bill	New budget (obligational) authority recommended— By the Senate committee	Senate committee recommendation compared with— New budget (obligational) authority, fiscal year 1977	Senate committee recommendation compared with— Budget estimates of new (obligational) authority, fiscal years 1977 and 1978	Senate committee recommendation compared with— House allowance
TITLE I							
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA							
Salaries and expenses	$1,500,000	$3,000,000	$3,000,000	$3,000,000	+$1,500,000		
TITLE II							
DISTRICT OF COLUMBIA FEDERAL FUNDS							
Federal payment	[1] 276,650,000	300,000,000	295,350,000	276,000,000	−650,000	−$24,000,000	−$19,350,000
1977 supplemental		4,000,000				−4,000,000	
Payment in lieu of reimbursement for water and sewer services to Federal facilities	2,707,000	28,116,000	28,116,000	28,116,000	+25,409,000		
Loans to the District of Columbia for capital outlay	101,292,000	160,000,000		92,000,000	−9,292,000	−68,000,000	+92,000,000
Total, Federal funds	380,649,000	488,116,000	323,466,000	396,116,000	+15,467,000	−92,000,000	+72,650,000
1977 supplemental		4,000,000				−4,000,000	
DISTRICT OF COLUMBIA FUNDS							
Operating Expenses							
Governmental direction and support	81,707,900	116,899,800	117,040,600	117,313,400	+35,605,500	+413,600	+272,800
1977 supplemental		795,300	702,300	725,400		−69,900	+23,100
Economic development and regulation	14,415,100	14,118,500	14,118,500	14,050,100	−365,000	−68,400	−68,400
1977 supplemental		20,000				−20,000	
Public safety and justice	256,468,900	264,487,400	265,115,200	263,763,800	+7,294,900	−723,600	−1,351,400
1977 supplemental		2,192,000	150,000	2,151,000		−41,000	+2,001,000
Public education system	260,953,400	273,984,500	273,378,500	272,982,900	+12,029,500	−1,001,600	−395,600
1977 supplemental		3,800,000	2,800,000	2,800,000		−1,000,000	
Human support services	305,216,000	320,769,200	319,129,900	316,573,900	+11,357,900	−4,195,300	−2,556,000
1977 supplemental		2,682,300	1,879,500	393,000		−2,289,300	−1,486,500
Transportation	55,028,600	61,337,200	59,834,500	59,713,900	+4,685,300	−1,623,300	−120,000
1977 supplemental		1,737,200	1,309,100	1,309,100		−428,100	
Environmental services	69,036,000	68,519,100	68,519,100	68,191,900	−844,100	−327,200	−327,200
Repayment of loans and interest	80,839,100	116,968,500	115,768,500	125,668,500	+44,829,400	+8,700,000	+9,900,000
Total, operating expenses	1,123,665,000	1,237,084,200	1,232,904,800	1,238,258,400	+114,593,400	+1,174,200	+5,353,600
1977 supplemental		11,226,800	6,840,900	7,378,500		−3,848,300	+537,600
Capital Outlay							
Capital outlay	36,586,700	177,476,900	168,757,900	102,173,400	+65,586,700	−75,303,500	−66,584,500
Total, District of Columbia funds	1,160,251,700	1,414,561,100	1,401,662,700	1,340,431,800	+180,180,100	−74,129,300	−61,230,900
1977 supplemental		11,226,800	6,840,900	7,378,500		−3,848,300	+537,600

[1] Includes $650,000 for inaugural expenses.

Mr. LEAHY. Mr. President, I make the usual unanimous-consent request that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 22, strike "$295,350,000" and insert "$276,000,000";

On page 3, beginning with line 15, insert the following:

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198; the District of Columbia Appropriation Act, 1976, Public Law 94-333; and the District of Columbia Appropriation Act, 1977, Public Law 94-446; $92,000,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor.

On page 4, line 6, strike "GENERAL OPERATING EXPENSES" and insert "GOVERNMENTAL DIRECTION AND SUPPORT";

On page 4, line 8, strike "General operating expenses" and insert "Governmental direction and support";

On page 4, line 9, strike "$90,783,000" and insert "$117,313,400";

On page 4, line 9, strike "$799,300" and insert "$300,000";

On page 4, line 21, strike "*Provided further*, That $5,861,000 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation:";

On page 5, line 2, strike "*Provided further*, That not to exceed $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor:";

On page 5, line 18, after "expended" insert a colon and "*Provided further*, That $65,549,400 shall be available for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1978 from which employees are properly payable";

On page 5, line 24, strike "$648,000" and insert "$625,100";

On page 6, line 12, insert the following:

ECONOMIC DEVELOPMENT REGULATION

Economic development and regulation, $14,050,100.

On page 6, line 15, after "safety" insert "and justice";

On page 6, line 19, strike "$264,069,000" and insert "$263,763,800";

On page 7, line 12, after "program" insert a colon and "*Provided further*, That not to exceed $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor";

On page 7, line 21, strike "$150,000" and insert "$2,151,000";

On page 7, line 22, before "EDUCATION" insert "PUBLIC";

On page 7, line 22, after "EDUCATION" insert "SYSTEM";

On page 7, line 23, strike "Education," and insert "Public education system,";

On page 7, line 24, strike "$264,876,600" and insert "$272,982,900";

On page 7, line 25, strike "$7,722,800" and insert "$8,222,100";

On page 8, line 16, after "sec. 31-727)" insert a colon and "*Provided further*, That not less than $5,392,000 of this appropriation shall be used exclusively for maintenance of the public schools";

On page 9, beginning with line 1, strike through and including line 3;

On page 9, line 4, strike "RESOURCES" and insert "SUPPORT SERVICES";

On page 9, line 5, strike "resources" and insert "support services";

On page 9, line 8, strike "$285,865,600" and insert "$316,573,900";

On page 9, line 9, strike "$6,520,000" and insert "$6,728,200";

On page 10, line 5, after "Forest Haven" insert a colon and the following:

Provided further, That authorization is hereby provided to the Government of the District of Columbia to fund the Special Education tuition grants and increased bed capacity at D.C. Village out of funds heretofore appropriated to such Government for fiscal year 1977, but not to exceed $391,000 for tuition grants and $1,095,500 for D.C. Village:

Provided further, That $5,838,600 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation.

On page 10, beginning with line 15, strike through and including line 16;

On page 10, line 21, strike "$59,834,500" and insert "$59,713,900";

On page 11, line 16, strike "$68,519,100" and insert "$68,191,900";

On page 12, beginning with line 2, strike through and including line 5;

On page 12, line 10, strike "$12,000" and insert "$58,000";

On page 12, line 24, strike "$115,768,500" and insert "$125,668,500: *Provided*, That there is hereby appropriated from the funds of the District of Columbia $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6 (a) of the District of Columbia Stadium Act of 1957, as amended";

On page 13, line 15, strike "$168,757,900" and insert "$102,173,400";

On page 13, line 23, strike "$13,031,400" and insert "$7,431,400";

On page 14, line 20, after "lapse" insert a colon and the following:

Provided further, That none of the funds appropriated for the construction of the University of the District of Columbia shall be obligated until the Mayor, the City Council and House and Senate Committees on Appropriations have approved the consolidated master plan for the construction of the University of the District of Columbia.

On page 18, line 21, strike "36,116" and insert "36,000".

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from South Carolina and I understand that he will bring up an amendment and that it will be on his time.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. That is right.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 1024

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) for himself and Mr. MAGNUSON, Mr. NUNN, Mr. WEICKER, Mr. TALMADGE, Mr. STONE, Mr. SPARKMAN, Mr. EASTLAND, Mr. RANDOLPH, Mr. THURMOND, Mr. CHILES, Mr. ALLEN, Mr. HUMPHREY, Mr. BURDICK, Mr. CHURCH, Mr. SARBANES, Mr. DOLE, and Mr. INOUYE proposes amendment No. 1024.

At the end of the bill insert the following new title:

TITLE III—SUPPLEMENTAL APPROPRIATIONS, 1977

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For additional capital for the "Disaster Loan Fund", authorized by the Small Business Act, as amended, $1,400,000,000 to be immediately available and to remain available without fiscal year limitation.

The PRESIDING OFFICER. The Chair makes inquiry of the Senator from South Carolina. Is this the amendment on which there will be 2 hours of debate equally divided?

Mr. HOLLINGS. That is correct.

The PRESIDING OFFICER. The Senator may proceed. The Senator is recognized.

Mr. HOLLINGS. Mr. President, I yield myself such time as may be necessary.

We await our colleagues who have been vitally interested in this particular amendment. I see the distinguished Senator from Wisconsin, who is chairman of our Small Business Committee. In addition thereto there is the Senator from Maine, chairman of our Budget Committee, who had some misgivings and considerations that he wanted to make a record on.

I believe the Senator from Georgia, Senator TALMADGE, the chairman of the Agriculture Committee, is on his way to the Chamber at this time since this pertains to the farmers of America.

This has been fairly well worked out on both sides. The Subcommitee on State, Justice, and Commerce, the Judiciary and Related Agencies Appropriations which has jurisdiction over the Small Business Administration considered this in 2 days of hearings.

Approximately two-thirds of the Nation is currently involved in some form of disaster activity, primarily agriculture drought relief programs, but also the civil disorder in New York, and the floods in Pennsylvania, West Virginia, and Missouri. The Small Business Administration is currently providing disaster assistance in 41 States and the drought disaster declarations now cover 2,100 counties in 38 States. In nine of these States SBA has declared physical disasters based on crop losses resulting from the drought.

As a result, SBA has on hand almost 9,500 physical disaster applications amounting to almost $806,000,000. At a hearing before the State, Justice, Commerce, the Judiciary, and Related Agencies Appropriations Subcommittee, the SBA Administrator, A. Vernon Weaver, indicated that additional applications will be ready for funding in the next 3 to 4 months so that a total of $1,400,000,000 is now required. This amount would make allowance for newly designated drought areas as well as the flood victims in Kansas City that were not provided for in the supplemental budget request.

Incidentally, at this point, Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated October 4, 1977, from James T. McIntyre, Jr., Acting Director of the Office of Management and Budget.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 4, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, Washington, D.C.

DEAR MR. CHAIRMAN: On September 16, 1977, the President transmitted to the Congress a fiscal year 1978 supplemental appropriation request for $725 million to allow the Small Business Administration (SBA) to make disaster loans associated with the recent drought. As you are aware, the estimates of the budget authority required to meet the drought are continuing to change, and have changed significantly since the $725 million request was submitted. In Georgia alone, the value of drought loan applications on hand with SBA has increased by $392 million in the last two weeks from $157 million to $549 million. This is at least $250 million more than anticipated by SBA earlier this month.

It has been the President's intent all along to provide the funds necessary to insure that those eligible under current law receive SBA drought disaster assistance, and at the same time to make certain that the disaster programs are properly and effectively administered.

While the few weeks' experience still do not permit precise estimates of the entire fiscal year 1978 cost of SBA's drought programs, our latest estimates, based on the additional two weeks data available since September 16, indicate a need for $1.4 billion to operate SBA's disaster fund through the beginning of next year. This amount will enable SBA to make commitments for 100% of the value of the drought applicant's loan.

The SBA and the Department of Agriculture are working closely to make sure their drought loan programs are administered efficiently and that they address the very urgent needs of the drought-stricken farmers.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Acting Director.

Mr. HOLLINGS. This letter from the OMB, indicates they have now revised their estimate from the $725 million submitted on the House side to the figure of $1.4 billion. I am advised that the budget will be revised up to that amount, which is necessary to take this program through the first part of next year when Congress reconvenes after the adjournment.

I want to try to check off all our particular concerns, so that the Senate realizes that this has been given very thorough consideration. On the House side they put in the $725 million asked for by the Administration; over here, in the meantime we are trying to move through on this bill, with the permission of the Senator from Vermont, because of the fact that there is a cash flow problem.

Many of the particular farmers who receive this disaster relief are out on all kinds of paper, their liens are about to be attached and claims to be made against them, and there is going to be more than a natural disaster if Congress does not move very promptly.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. HOLLINGS. Does the Senator want the floor?

Mr. LEAHY. Yes. I am perfectly happy to have your amendment on this bill. I think the Senator from South Carolina

has done yeoman service in putting this supplemental together, and having his committee meet on it. As I recall, his subcommittee's vote was unanimous on it, and I think it shows his own marked awareness of the problems facing this country and facing the drought areas.

I certainly have no objection to it, but I suspect that the Senator from Maine (Mr. MUSKIE) would want to speak at some point on this matter, and at such time as the Senator from South Carolina finishes his statement, the Senator from Vermont will ask for a quorum call to continue until Senator MUSKIE arrives.

Mr. HOLLINGS. I have sent the pages to inform Senator MUSKIE and Senator TALMADGE and the various cosponsors of this particular amendment, because we are all very vitally interested in it.

Mr. President, it is imperative that a sufficient amount be appropriated so that there is no interruption in the assistance to disaster victims during the adjournment of the Congress. The situation is particularly critical for the farmers as the disaster declarations have been in effect for more than 2 months, such as Georgia where the applications on hand now amount to $549,100,000, and the SBA has not been able to process the loans due to the unavailability of funds. Our farmers are now dangling in the wind and this emergency amendment will speed up the process by attaching this appropriation to this bill instead of waiting for the Supplemental Appropriations Act.

I ask unanimous consent to have printed in the RECORD the portion of the draft committee report of the State-Justice-Commerce Subcommittee, to be considered by the full Committee on Appropriations when we take up the supplemental on Thursday where it describes exactly the extent of our hearings.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

1978 appropriations to date	$115,000,000
1978 supplemental estimate (H. Doc. 95-223)	725,000,000
House allowance	725,000,000
Committee recommendation	1,400,000,000

Approximately two-thirds of the Nation is currently involved in some form of disaster activity, primarily agriculture drought relief programs, but also the civil disorder in New York, and floods in Pennsylvania, West Virginia and Missouri. The Small Business Administration (SBA) is currently providing disaster assistance in 41 states and the drought disaster declarations now cover over 2,100 counties in 38 states. In 9 of these states SBA has declared physical disasters based on crop losses resulting from the drought.

As a result, SBA has on hand almost 9,500 physical disaster applications amounting to almost $806,000,000 of which $694,000,000 is for the hard-hit southeastern region. At the Committee's hearings it was indicated that additional applications will be submitted in the next 3 to 4 months requiring an appropriation of $1,400,000,000 to process the loans ready to be approved for funding through January 1978. This need is substantiated by the fact that the $806,000,000 in applications now on hand contrasts with the $260,706,000 on hand when the budget justification was prepared on September 12, 1977, an increase of more than $545,000,000 in three weeks. This amount would make allowance for the newly designated drought areas as well as the flood victims in Kansas City not provided for in the original supplemental budget request of $725,000,000, as well as allowing the SBA to obligate for 100 percent of the determined loss instead of only half of the loss as allowed in the budget estimate.

It is imperative that a sufficient amount be appropriated so that there is no interruption in the assistance to disaster victims during the adjournment of the Congress. The situation is particularly critical for the farmers as the disaster declarations have been in effect for more than two months and the SBA has not been able to process the loans due to the unavailability of funds.

ADMINISTRATION OF PROGRAM

The Committee has retained the language in the bill as approved by the House of Representatives that this appropriation is "to remain available without fiscal year limitation." This has been the past pattern of this appropriation but the recent changes to the authorizing statutes inadvertently deleted this authorization.

During the Committee's hearings that included a unique problem solving session with affected farmers and SBA officials, a number of issues were raised. These issues have also been discussed in meetings with the Secretary of Agriculture and officials of his Department, the Office of Management and Budget, as well as the SBA.

The involvement of the Small Business Administration in agriculture and related industries has been a recent development that originated in Public Law 94-305, approved June 4, 1976. This act made small farmers eligible for business loans from SBA. More recently and in response to an inquiry by the Committee on Small Business, the SBA General Counsel concluded that the authority to make loans to farmers also made them eligible for the 7(b)(1) physical disaster and 7(b)(2) physical economic injury programs.

It is clear to the Committee that the SBA is to be the agency for the disaster loan program. While the Farmers Home Administration (FmHA) of the Department of Agriculture has a similar program, there are additional criteria for their emergency (disaster) loans that are not required to obtain such assistance from SBA. In view of the above developments making farmers eligible for SBA assistance, it is clear to the Committee that the intent of the Congress was that disaster loans be available to all individuals who can demonstrate a bona fide loss, without further arbitrary administrative requirements. The eligibility of farmers is fixed in substantive law. The Administration proposal to require the farmers to first apply to FmHA would be a clear case of discrimination by remanding farmers to another agency when the butcher, the baker, and the candlestick maker do not have to first apply elsewhere.

As noted previously, the budget estimate would provide for the obligation of only 50 percent of the determined loss now with the remainder dependent upon a subsequent appropriation. In fairness it should be said that the budget estimate was not a true indication of the expected needs over the next several months but apparently was an attempt to accommodate temporary Congressional budget levels. This procedure would not only be a significant departure from SBA's usual practice, but would be disruptive of normal farm operations, which require field preparation and planting as early as November. The Committee has added sufficient funds so that the loans will be obligated at the level of the determined loss and is pleased by SBA's announcement that the 50 percent obligation plan has been dropped.

The SBA has also established a policy that 50 percent of the approved loans for crop losses would be disbursed when the loan was approved with the remainder being retained until the next planting season. This policy applies to crop losses only, and while similar to the procedure of paying as progress is made for non-agricultural disaster loans, is of real concern to the farmers and the Committee. The evidence in the hearings clearly reveals that agricultural disaster victims are primarily faced with an extreme cash flow requirement, with payments due, and in many instances overdue, on leases, equipment, seed, fertilizer, etc. A 50 percent disbursement will not always be sufficient to keep the farmer in business until the next planting time when the remaining 50 percent is to be disbursed.

Agricultural producers have deep roots in their farms and ranches and their assets generally represent full collateral for the loans. The Committee is no less concerned than the SBA that these loans not be misused but believe a more flexible policy should be applied to agricultural disaster loans. The Committee, therefore, directs the SBA to make full disbursement to agriculture producers where the situation warrants the entire amount.

The SBA has issued a new Standard Operating Procedure (Bulletin #12) providing new instructions for processing and closing physical and economic injury disaster loans for crop losses. This bulletin establishes a formula for computing the amount of physical loss for each crop "by multiplying the acres planted times the established normal yield times the percentage of loss times the marketing price, minus any insurance collected or other recoveries from any other source including any reduction in expenses which were not incurred by the farmer due to the disaster." The normal yield will be as determined by the Agricultural Stabilization and Conservation Service, USDA, for the program crops of wheat, corn, sorghum, barley, rice, tobacco, peanuts and cotton; and the county average for a non-program crop as determined by the Statistical Reporting Service.

These statistics, however, in many cases underestimate yields due to improvements made during the past several years when many price support programs were inactive. The farmer could thus be penalized with inadequate funding. The Committee directs that the SBA allow the farmers who believe that the ASCS amounts understate their normal yields to demonstrate factual evidence of their own average yield in 4 of the last 5 years as the basis for determining the normal yield.

The SBA assured the Committee that the necessary personnel would be available to speedily process the applications. SBA has a pool of temporary skilled workers that should be sufficient to administer this program and can draw upon the additional amounts approved for fiscal year 1978 for personnel.

REDUCED INTEREST RATES

The Committee was concerned to learn that the Small Business Administration has interpreted H.R. 692, which became public law on August 4 and reduced interest rates for disaster loans, as allowing the SBA to apply such reduction in interest rates by shortening the period over which the loan will extend, rather than reducing the monthly payments and allowing the loan to run the full period for which it was negotiated. The Committee believes that Congress intended that persons receiving loans at least have the option to decide for themselves whether they will repay the loan over a shorter period of time or pay at a rescheduled monthly rate. Consequently, the Committee directs the SBA to take necessary action (1) to advise affected persons that they have an option in terms of repayment

and (2) to provide them with a reasonable opportunity to exercise that option without imposing unnecessary burdens on the applicant.

Mr. HOLLINGS. It was originally my plan to submit this as a 1977 supplemental, inasmuch as these losses occurred in that fiscal period and there certainly was sufficient new budget authority in the third concurrent resolution for fiscal year 1977 for this appropriation. However, we are now into the new fiscal year and that will not be possible, but I believe the new budget authority and outlays can probably be accommodated within the total ceiling approved for fiscal 1978.

Mr. President, as the matter I inserted from our report indicates, I have held two hearings of the State, Justice, Commerce, the Judiciary and Related Agencies Appropriations Subcommittee on this, including a unique problem solving session with drought disaster victims. We have also had several meetings with various Senators, the SBA, Secretary Bergland of Agriculture, Mr. McIntyre of OMB, and others. We have been able to get general agreement on several items to improve the delivery of the disaster assistance and a number of points have been raised that I want to stress.

The thought has been expressed that there is a similar program at the Farmers Home Administration and the farmers ought to first go there first before going to SBA.

Yes, there is a second window in the Government making disaster loans to farmers but at that window the applicant must meet a test for credit. The distinguished chairman of the Committee on Small Business of the other body and I agree that SBA is the disaster lending agency and the only criteria is: "Was the loss caused by disaster"? Since these losses were the result of a declared disaster the question is affirmatively answered. Since the eligibility of the farmers is now fixed in law, they no more than the butcher, baker and candlestick maker do not have to go somewhere else first for their disaster loan.

In other words, we did not want our farmers to be second-class disaster-loan citizens here in the United States.

Mr. President, in this instance we are concerned about the most stable group we could be lending to—our farmers where the roots are in the land and year after year—boom or bust—they have stayed with the land. Several years ago I held hearings on another SBA disaster supplemental—the one covering the earthquake in California. We found SBA making loans to movie stars for repairs to their swimming pools, and no one told them to go elsewhere or pass a paupers test.

Before I leave that California earthquake let me note that there is no longer the forgiveness feature that prevailed at that time and led to those famous $3,000 paint jobs that cost the owners $500 and the SBA $2,500. We had to make them stop that particular procedure, where they had a forgiveness clause of $2,500. I think we should emphasize that there is no forgiveness clause under this particular loan program. We have had a great deal of abuse with the forgiveness clause, in my experience in dealing with these disaster loans here in Congress for the past several years, but does not exist in those loans.

With further regard to the issues involved, the testimony indicated that the budget estimate would apparently provide for the obligation of only 50-percent of the determined loss now with the remainder dependent upon a subsequent appropriation. In fairness it should be said that the original budget estimate was not a true indication of the expected needs over the next several months but apparently was an attempt to accommodate temporary congressional budget levels. This procedure would be disruptive of normal farm operations, which require field preparation and planting as early as November. The amendment provides sufficient funds to obligate the loans at the level of the determined loss and I am pleased by SBA's announcement that the 50 percent obligation plan has been dropped.

The SBA also established a special policy that 50 percent of the approved loans for crop losses would be disbursed when the loan was approved with the remainder being retained until the next planting season. This policy applies to crop losses only, and while a similar procedure to the payments made as needed for non-agricultural disaster loans, is of real concern to the farmers. The evidence in the hearings clearly reveals that agricultural disaster victims are primarily faced with an extreme cash flow requirement, with payments due, and in many instances overdue, on leases, equipment, seed, fertilizer, et cetera. A 50-percent disbursement will not be sufficient to keep the farmer in business until the next planting time when the remaining 50 percent is to be disbursed.

In fact, it is a sort of the same approach we followed in Vietnam, of destroying the farmer you are trying to save in order to save him. That is the practical affect of that 50-percent basis, because, although we have undertaken, by means of that disaster loan, to make him whole, on the contrary, with the 50-percent amount we put him under. Next year, having gone in the red with loans on equipment, fertilizer, and things like that, he will not be able to receive loans from Farmers Home Administration or other agencies or anything like that, and, in fact, rather than guarantee the solvency of the American farmer we have guaranteed his demise.

We brought that out very dramatically in one day's hearings that we had with farmers and the SBA Administrator present.

The deep roots of agricultural producers in their farms and ranches and their assets generally represent full collateral for the loans. They are not going to run away with the farms. We are no less concerned than the SBA that these loans not be misused but a more flexible policy should be applied to agricultural disaster loans. The subcommittee has approved language in that report on the Supplemental Appropriations Act I inserted earlier that directs the SBA to make full disbursement to agriculture producers where the situation warrants the entire amount.

The SBA has issued a new Standard Operating Procedure (Bulletin No. 12) providing new instructions for processing and closing physical and economic injury disaster loans for crop losses. This bulletin establishes a formula for computing the amount of physical loss to each crop "by multiplying the acres planted times the established normal yield times the percentage of loss times the marketing price, minus any insurance collected or other recoveries from any other source including any reduction in expenses which were not incurred by the farmer due to the disaster." The normal yield will be as determined by the Agricultural Stabilization and Conservation Service, USDA, for the program crops of wheat, corn, sorghum, barley, rice, tobacco, peanuts and cotton; and the county average for a nonprogram crop determined by the Statistical Reporting Service.

These statistics, however, in many cases underestimate yields due to improvements made during the past several years when many price support programs were inactive. The farmer could thus be penalized with inadequate funding. The SBA should therefore allow the farmers who believe that the ASCS amounts understate their normal yields to demonstrate factual evidence of their own average yield in 4 of the last 5 years as the basis for determining the normal yield.

The SBA assured the committee that the necessary personnel would be available to speedily process the applications. SBA has a pool of temporary skilled workers that should be sufficient to administer this program and can draw upon the additional amounts approved for fiscal year 1978 for personnel.

When the second budget resolution was before the Senate there was considerable concern about both SBA and the Farmers Home Administration making disaster loans. As I have indicated, I have held hearings and have no trouble with this as long as the SBA is restricted to disaster situations. However, I am informed, and the distinguished Senator from Wisconsin can elaborate further, that the Small Business Committee is ready to review this situation for the Senate. I am sure we will work together on that and hope to have hearings. We will not have waste; we will not have duplication. It will be a program for the justly deserving.

I know of the good and legitimate concern of the Budget Committee regarding how the Government budgets for disasters. I am an active member of that committee. In our hearings on the regular bill, I questioned the meager $20 million requested for the disaster loan fund. The response was that it was traditional to budget for no disasters and to request funds only after they occurred. Already this year we have provided a supplemental of $200 million for the 1977 disasters and we boosted the 1978 amount up to $115 million. This severely affects our new budget process—and, undoubtedly,

we have to do a better job of providing for disasters—but the farmers should not be held hostage while we work this out.

Mr. STONE. Will the Senator yield?

Mr. HOLLINGS. I am glad to yield.

Mr. STONE. I know I speak for my senior colleague (Mr. CHILES) and I know the same is true for the other Senators from the Southern region, particularly in Georgia. We feel very much a debt of gratitude to the Senator from South Carolina for his efforts to fund these disaster loans on an emergency basis. It is an emergency. Some of our farmers were afflicted not only by the drought but by a freeze last winter. They have suffered a double disaster.

Many of those farmers have applied for, and have been approved for, Small Business Administration disaster loans but have not received the money. Their creditors are crowding in on them. Their suppliers of fertilizers, tractor services, and other services to prepare them for the chance to recoup from this disaster, question whether, even having been approved by the SBA, these funds will be made available in time to plant or replant.

All through the South, in the Senator's own State and the other States of the South, and particularly in north Florida, in my State, farmers are very desperate. They are on the edge of bankruptcy.

Yet the assets and skills that they have are such that, with this SBA funding, they can make it and can continue to produce not only food and fiber for the country but tax revenues.

What the Senator is proposing to the Senate are not grants, but they are loans. They are good loans, and they will be repaid.

It is a question of survival for our Southern agriculture, as well as agriculture throughout the country, many areas of which have had disasters this year. But particularly in the South this past year has been the worst in the last 20 years or more. It is a question between surviving and not surviving.

I certainly would urge my colleagues in the Senate to support this proposal of the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to strike the date "1977" on page 2 of the amendment. Now that we are out of fiscal year 1977, since we have passed October 1, it would not be applicable.

The PRESIDING OFFICER (Mr. HART). Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me thank my distinguished colleague from Florida. With him I met not less than three times, with the Secretary of Agriculture, the head of the Farmers Home Administration, the head of the SBA, the acting director of the Budget, Mr. Jim McIntyre, whose letter I have already submitted for the RECORD. We have tried to work this all the way around, with my senior colleague (Mr. THURMOND), and the Senator from Georgia (Mr. NUNN) who raised the question initially. Perhaps it would be appropriate to yield the floor to the Senator from Georgia at this time. He has been giving leadership in this cause.

Mr. NUNN. I thank the Senator from South Carolina, as my colleague from Florida did, for outstanding leadership benefiting my State and other States in the South, and some in the Midwest and the Pacific Northwest, for the most important single legislative item of the year.

As the Senator from Florida indicated, this means surviving or not surviving for literally hundreds and perhaps thousands of farmers in Georgia, northern Florida, South Carolina, and many other areas of the Southeast.

I thank the Senator from South Carolina for taking this action, for taking it in an expeditious way, holding hearings on it, getting the information necessary, for pursuing it with the executive branch, and bringing it to the Senate for a vote. Without the Senator from South Carolina in this kind of leadership role there would be many disappointed and bankrupt people in the Southeast and in other sections of the country, particularly those in the agricultural community.

Mr. HOLLINGS. I thank my distinguished colleague from Georgia. I bring to his attention the letter dated October 4 which we have just received from OMB relative to two things which concern the Senator from Georgia: The $1.4 billion amount now has been verified by OMB on the one hand, and the 100-percent loan value on the other hand.

In many instances in Georgia they are going to begin to replant at the end of November and the beginning of December. Once they are approved, we rather like the expression that we included in the report, "As progress is made."

The Appropriations Committee has been conscious and restrictive and not willy-nilly on this money for SBA disaster loans. During the hearing I recalled the California earthquake, when Mr. Kleppe was administrator, the San Andreas Fault earthquake, when they added millions on it. I am trying to put this in proper perspective. We are not trying to form a bum's rush on the Government's money. What was vividly found in these hearings was that all of the farmers have injuries which are real. They are in a tight cash position on what is going to happen in the next 3 or 4 weeks.

This is an effort, with the full approval of both Houses, almost, and almost the entire membership on both sides, to move forward—not in a hasty fashion, because we are still working with Mr. Weaver and the others, and Secretary Bergland, to put in the necessary requirements. But once we do, we must really respond to that farmer's need to keep him farming, and not by raising unemployment, because that is the situation they are in.

I am glad to yield to the senior Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend my distinguished colleague for the leadership he has shown in this important matter.

On July 5 of this year, I toured several of the counties in my home State which have been hit hardest by the current drought. I witnessed firsthand one of the most disturbing sights I have ever seen as a representative of the people of South Carolina. In many areas, the farmers' crops and livestock feed supplies have been nearly wiped out by the extended period of hot, dry weather.

I traveled from the coastal plains area of the State where row crops are prevalent into the Piedmont area of the State where beef and dairy farming are the main farming activities. I saw mature corn with dry shriveled stalks only 2 to 3 feet tall which will produce little or no grain. In addition, plants which had reached their normal heights did not yield any significant amount of grain due to a lack of rain.

The estimated losses of corn, hay, and pasture is staggering. In one county in the Piedmont, the corn loss is estimated to be 100 percent. In many other counties the estimates are as high as 90 percent to 95 percent.

Mr. President, I do not know anything that is more important that we could do today than approve this disaster loan request. This amount is needed. In fact, more could be used, but this amount is certainly needed to assist the farmers during this emergency. The situation is serious, and many farmers face financial disaster. In rural areas this situation has serious repercussions on the total economic activity in the community. Although difficult to know the precise effect, in some cases, it may result in near chaos. Without assistance, there will be many farmers who will have to go out of farming, particularly younger farmers who have little capital with which to operate, and many who lease their land or have little equity in their land holdings.

It is a "must" piece of legislation and I sincerely hope that the Senate will take action to pass it without delay.

I say, too, that this is no welfare program, this is no give-away program, this is no handout program. Our assistance is imperative during this time of need for Americans who toil the fields to provide the food and fiber for the citizens of this country. In many cases they risk their complete livelihood on factors, such as weather, for which they have no control.

Mr. BELLMON. Will the Senator yield?

Mr. THURMOND. I am pleased to yield.

Mr. BELLMON. The Senator realizes that we have had, for years, the Farmers Home Administration, that makes this same kind of loan, with two exceptions. One is that, in order to get a Farmers Home Administration loan, the borrower has to prove a need to get the credit. At SBA, he can be John D. Rockefeller and still get the loan.

Mr. THURMOND. Yes.

Mr. BELLMON. Second, the Farmers Home loans are made for about what the Government pays for interest, whereas SBA loans are for 3 percent.

Mr. THURMOND. Yes, that is right.

Mr. BELLMON. This does not provide

any more money; it just provides cheaper money to more people.

Mr. TALMADGE. Will the Senator yield for a response?

Mr. BELLMON. Yes, I yield.

Mr. TALMADGE. The Farmers Home Administration disaster loans are also 3 percent up to $250,000. Above the $250,000, they are higher.

Mr. BELLMON. Farmers Home does require that there be a need for the credit?

Mr. TALMADGE. That is the one difference.

Mr. THURMOND. Mr. President, I sincerely hope the Senate will pass this amendment. It is a most important amendment. Frankly, if it is not passed, I do not know what is going to happen to a lot of farmers in my State. I believe the same situation exists in many other States of the Nation.

Mr. TALMADGE. Will the distinguished Senator from South Carolina yield to me 10 minutes?

Mr. HOLLINGS. I am delighted to yield.

Mr. TALMADGE. I compliment the distinguished Senator from South Carolina for taking the leadership in this amendment. It is not only important but absolutely necessary if we are to alleviate the terrible conditions that confront many areas in our country at the present time.

The United States, this past year, has been plagued with more disasters than ever before in my memory. We have had floods; we have had the worst winter in the recent history of the Nation. In many areas of our country, we have had the worst drought in the history of the United States.

More than 2 months ago, Senator NUNN, my colleague from Georgia; the Under Secretary of Agriculture, Mr. John White; the State's commissioner of Agriculture, Mr. Tommy Irwin; the president of the American Farm Bureau, Mr. Emmett Reynolds, and I toured five different areas of Georgia. It was the saddest sight that I have seen in my lifetime. We visited cornfields, knee-high, that you could stick a match to and burn up the entire field just as though it were woodland in the middle of the winter. It was estimated at that time that Georgia's agricultural losses had already exceeded $700 million.

The corn crop was estimated to be an 80-percent failure, 20 percent of normal production. Even that 20 percent is affected with aflatoxin. The cotton yield in my State this year is estimated to be 120,000 bales, the lowest level since 1866, the year following Appomattox.

We have had that condition, Mr. President, not only in Georgia, but we have 38 States in the Union that are affected. More than 2,000 counties in our Nation have been affected. This statute is on the books. The farmers of our Nation expect it to be complied with. The Small Business Administration announced that their offices would be available to make these loans.

Unfortunately, the Small Business Administration is acutely short of personnel. In addition to that, when I last checked on it, they had only $140 million in the pipeline, probably not enough money to take care of the severe needs of only one of our States.

The distinguished Senator from South Carolina, my colleague, and other interested Senators and Congressmen have not only met with the Administrator of the Small Business Administration, Mr. Weaver, to try to get the matter adjusted; we have also met with the Secretary of Agriculture, Mr. Bergland. We have met with the Deputy Director of the Office of Management and Budget, Mr. Jim McIntyre. We have had joint meetings with those individuals. Each and every one of them, individually and collectively, has pledged to us that they would try to make this law work, that they would make these loans available.

So what has happened? Thousands and thousands of farmers in my State and thousands and thousands of farmers throughout this Nation have been to the Small Business Administration. They have filed their applications. They have been told that their loans were approved. And what happened? Nothing.

Day after day, week after week, my office in the Committee on Agriculture, Nutrition and Forestry, my office in Atlanta, and the offices of Senators and Congressmen have been swamped with calls wanting to know what is the matter.

> You have got a law on the statute books. We have had a disaster. The President of the United States has declared it to be a disaster. We have complied with the law. We have filed our papers. They say our loan is approved. They do not send us a check. They are threatening foreclosure on our farms; they are threatening foreclosure on my tractors. My ad valorem taxes are coming due. What am I going to do? You people passed the law; why can't you make it work?

That is what we are confronted with here today, Mr. President. The Senator from South Carolina and others who have cosponsored this legislation are simply trying to make the law work. We are trying to let the people of the United States of America know that they can rely on the full faith and credit of the United States of America; when they pass a law, the citizens of this country have a right to expect that that law will be executed in accordance with the manner that Congress devises. They have a right to expect that the Administrator of the Small Business Administration and his subordinates, all the way down to the district and the county level, are going to make the law work.

But the law cannot work, Mr. President, unless they have money. They had some 2 weeks ago, $140 million, and that was all. It requires further congressional appropriations to make the law work.

The Senator from South Carolina is asking for $1,400,000,000. That is just twice what the losses of Georgia are, Mr. President. That does not count the other 37 States in the Union.

That does not count the recent Johnstown flood. That does not count the recent Kansas City flood. That does not count the many other national disasters that have occurred throughout the length and breadth of this land.

We are not speaking, Mr. President, for my State and my region alone. This is a national matter. It extends from Washington State to Florida. It extends throughout the length and breadth of this land.

They are crying out for relief. Let us give them this relief. Let us approve the amendment proposed by the distinguished Senator from South Carolina by an overwhelming majority.

Mr. President, I yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a unanimous-consent?

Mr. HOLLINGS. I will yield to the Senator, but first, I yield to the distinguished Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I wish to speak in favor of the pending amendment to the D.C. appropriations bill, the Hollings amendment, of which I am a cosponsor.

This amendment is necessary in order to assure that the SBA physical disaster loan program has at least the minimum resources required to last it until the Congress reconvenes in January. The SBA on September 21 testified before the Committee on Appropriations that any supplemental appropriation substantially less than the $1.4 billion now proposed would likely cause the program to run short of funds while the Congress is in adjournment. In that case numerous farmers, particularly in the States with late growing seasons, would find themselves unfairly precluded from participating in what has become the major drought assistance program.

Like everyone else, I wish that this year's drought had never occurred, and that our farmers had never had to experience the financial losses that now necessitate this appropriation. And, of course, given that the drought did occur, I believe it would have been preferable for it to do so earlier in order not to cause any confusion to the regular appropriations and budget process. But that is the trouble with natural disasters—they do not follow any schedule. Since Mother Nature is unwilling to bargain or negotiate the matter, we have no choice but to follow her timetable, and to now accommodate this emergency situation.

This is not the first we have heard of this matter. It was first recognized as a likely additional demand on Federal resources during the Senate's consideration of the second budget resolution. At that time Senator NUNN proposed that the budget resolution spending ceilings be raised by $1.2 billion in order to accommodate this heretofore unknown emergency requirement. In the dialog that followed it became clear that no one was certain at that point just what the SBA program's minimum supplemental funding requirements were, and exactly how the funding and administration of the physical disaster loan program was to mesh with the Federal Government's regular farm assistance programs run by the Farmer's Home Administration.

Because of this it was decided to add only a small amount to the overall spending ceilings, $200 million, and to accept the result that a third budget resolution might be required if a subse-

quent and more careful examination of the program's financial requirements revealed that substantially more funds were needed. Senators may recall my comments at the time, when I agreed to this compromise but expressed my strong support for providing whatever supplemental amount was necessary once it became clear what that amount was.

Subseuqently Senator HOLLINGS' appropriations Subcommittee on State, Justice, Commerce, and the Judiciary—of which I am a member—did hold a hearing on the SBA physical disaster loan program. In this hearing, held September 21, Administrator Weaver indicated that the SBA's best estimate of its minimum supplemental funding requirements to last through the coming adjournment is $1.4 billion. Further, in response to my expressed concern over what would happen if the SBA did not receive funding adequate to last through the period of adjournment, administrator Weaver confirmed that because disaster assistance loans are granted on a "first come/first served" basis, those States which have comparatively late growing seasons or for some other reason have been late in submitting loan applications, would be likely to receive very little assistance under the program. It is of course of major concern to me that Washington is one of those States. But it is not alone. I understand that Oregon, Idaho, Mississippi, Kansas and Louisiana, to name a few, face similar risks of funding shortfalls.

Mr. President, in view of this situation I believe the Senate has no option but to approve the minimum $1.4 billion supplemental appropriation provided by the Hollings amendment. SBA personnel have been advertising their program and promising disaster assistance to farmers across the country, and it is our job to make certain that the Federal Government makes good on its word. If there are administrative and other problems with the program, then I would hope that we can today get from the authorizing committee whatever assurances are necessary that these problems will be quickly and expediently solved. Under no circumstances can we run the risk that the program will run short of funds before the Congress returns in January.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Mike Hammond, of my staff, be granted privilege of the floor during consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, who has the time?

The PRESIDING OFFICER. The Senator from Vermont has the time.

Mr. LEAHY. Mr. President, as I understand the rules, there is 1 hour of time for those in favor of the amendment of the Senator from South Carolina and 1 hour for those in opposition. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator from Vermont controls the time.

Mr. LEAHY. Then I yield time, for purposes of bookkeeping, in opposition to the Senator from Maine, such time as he needs.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I thank the distinguished floor manager, my colleague from Vermont.

Mr. President, before I get into my prepared remarks, may I express my appreciation, and let there be no misunderstanding, to Senator HOLLINGS, Senator NUNN, Senator TALMADGE, and others, who, in my judgment, have acted responsibly in developing the information upon which they base this amendment.

They have been solicitous of the Budget Committee's concerns with respect to this legislation, and I think they are as troubled as I am about some of the budgetary implications of this legislation.

I also understand the problems of the farmers whom they seek to serve with a provision of our existing laws.

I can understand that. But my responsibility as chairman of the Budget Committee is to highlight the budgetary implications, the budgetary impact, of this proposed amendment, and to point out some of the policy considerations which we ought to examine. There are serious questions to be raised not only today, but in the months ahead as we consider our disaster relief programs. There are problems that have led to this amendment and may lead to others like it down the road.

Mr. President, the amendment now before the Senate spotlights a multibillion dollar bulge in the budget. The amendment would provide $1.4 billion in budget authority and outlays that 2 months ago were not anticipated in anyone's budget. It is a $1.4 billion first installment on a program that may ultimately spend $2 to $3 billion this fiscal year.

When the Budget Committee was considering the second budget resolution in July, the White House and the Congress anticipated fiscal year 1978 spending of about $115 million under the Small Business Administration's Disaster Loan Fund. Then, on September 16, less than 2 months later, the President submitted a request for supplemental funding of $725 million. OMB indicated that amount would provide adequate funding through next January. That was just over 2 weeks ago.

Then yesterday, Mr. President, I received a letter from Acting Director McIntyre of OMB. In it, he says he now estimates that $1.4 billion will be needed just to pay the bill for the SBA disaster loan program through the beginning of next calendar year.

Mr. President, in relation to SBA disaster loans only one thing now appears to be certain: that is that we can expect to return in January and find additional demands for this program beyond the $1.4 billion. No one knows how high the bill will go. But program administrators believe they will require as much as $2 to $3 billion of budget authority and outlays in fiscal year 1978 alone. This would be over 25 times the level of spending the Congress anticipated only 2 months ago. If the Administrators are right, spending under the SBA program in fiscal year 1978 alone will just about equal spending under the program in the entire previous decade.

What we have here is clearly a runaway program. It is one of the most startling cases of uncontrolled spending in recent years. Funding at the levels now being talked about would drive the Federal deficit up to almost $64 billion. For that reason and others, this requires a hard look and some hard decisions.

I am aware, Mr. President, that the amendment of the distinguished Senator from South Carolina is meant to relieve the pressure on vast numbers of farmers who have been hurt by a drought that has affected regions of this Nation. The pressure is felt most keenly by the many farmers who borrowed heavily to invest in land and equipment in the expectation of high prices and abundant crops.

It is a bitter time, and American farmers are hurting. I can understand that. We can all understand that. And we can all understand the demand for relief.

My good friend from South Carolina, for whom I have as great a respect as I have for any Senator, has kept me abreast of the hearings he held on this subject.

However, Mr. President, there are many pressing demands on the Federal budget. When we were shaping the second budget resolution we had to wrestle with choices that brought those demands clearly before us. We know the demands for energy. We know the demands for the cities, for national defense, for education, and for all the other pressing needs of the Nation. But, Mr. President, we also have a widspread and growing demand to bring Federal spending under control and to achieve a balanced budget.

The second budget resolution already reflects a significant increase in agricultural assistance in relation to other national priorities, Mr. President. In February, President Carter requested $2.3 billion in outlays for agriculture programs. The second budget resolution can accommodate an increase in spending to $6.3 billion. Now this amendment would provide an additional $1.4 billion through the Small Business Administration, and perhaps an additional $1.6 billion or more will be required before fiscal year 1978 is ended. Moreover, there are reports that the administration is developing proposals that will increase spending for agriculture by an additional $1.7 billion or more. So, Mr. President, within 7 months we could see planned spending for agriculture—for this one national priority—go from $2.3 billion to over $11 billion.

Mr. President, I must call the attention of my colleagues to one of the striking ironies of this jump in agricultural spending. Four weeks ago, when the fiscal year 1978 second budget resolution was being considered on the floor of this Chamber, some Senators from farm States succeeded in increasing outlays and the Federal deficit by $700 million.

This was done so the Department of Agriculture could help farmers who were hurt by low prices because their crops were unexpectedly abundant. Today we are being asked to provide additional billions of dollars so the Small Business Administration can help farmers who are hurt because crop yields are unexpectedly poor. Remarkable—for the same crop we will spend some Federal dollars because production is too high, while we spend other Federal dollars because production is too low. I wonder if we will find a more vivid illustration of the fact that when the Government tries to remove the risk of doing business in one of the Nation's major industries, it costs the taxpayers plenty.

Where will this money come from? The answer is clear. If we are not going to break the budget, the Congress must reduce spending elsewhere.

Let me mention here that a sizable portion of the second budget resolution totals has been allocated to the Appropriations Committee in accordance with section 302(a) of the Budget Act. This allocation amounts to $328.0 billion in budget authority and $300.6 billion in outlays. However, all of these amounts are already subscribed by congressional action completed or underway except for $21.4 billion in budget authority and $7.6 billion in outlays. And important later requirements anticipated in the second budget resolution could account for all of the remaining budget authority and outlays.

It is fully within the prerogative of the Appropriations Committee to provide funds for an unanticipated need and to accommodate that spending by making adjustments in other areas. However, if the Small Business Administration is to spend $2 to $3 billion in fiscal year 1978, sharp cuts will have to be made in expected appropriation measures or the second budget resolution ceilings will be breached.

Mr. President, we simply cannot afford the luxury of looking at one national need at a time and then ratifying runaway program costs to meet that need. However worthy the intentions that gave rise to the skyrocketing costs in the SBA disaster loan program, the reasons for these costs deserve a hard look and some hard decisions.

Apparently, Federal disaster loan programs deserve a much more intensive examination than we thought. With the best of intentions, a floor amendment to the Small Business Amendments of 1976 made it the stated policy of Congress that American farmers should be assisted through the programs of the Small Business Administration. With the best of intentions the Small Business Administration was pressed to make physical disaster loans available to farmers whose crops had been damaged by drought. And with the best of intentions, just 2 months ago, the Small Business Amendments of 1977 reduced the loan rate for this major SBA program to a low 3 percent on loans up to $250,000. None of these steps was taken with the understanding that they would bring a huge increase in Federal spending and cause a major shift in the operations of the Small Business Administration and perhaps have a profound impact on the agricultural credit markets.

But now we are finding out how easy it is, with the best of intentions, to unleash billions of dollars in Federal outlays—this year and in future years.

Congress did not intend to set up a multi-billion dollar money pump. Before this new SBA program commits our Nation to billions of dollars in future year costs, we need to change it to avoid waste and abuse. Certainly, savings can be made with administrative action. Surely, amendments can be made to the legislation to tailor eligibility to those most seriously in need and so, reduce its cost.

A few weeks ago, when the Senate was considering the second budget resolution for fiscal year 1978, Congress had just learned of this huge jump in SBA disaster loan spending. Some Senators, especially those from States most affected, wanted immediately to increase the budget resolution ceilings to accommodate about $1.2 billion in additional budget authority for this program. We had several long discussions about the issue at the time, and the Senators involved finally agreed on a process. It was decided, first, that the second budget resolution budget authority and outlay ceilings would be increased by about $0.2 billion—enough to accommodate moderate levels of funding for several months. Second, the appropriate committees of the Senate would closely examine the disaster loan programs and develop ways to insure that program spending was effective, efficient and controlled. Third, the budget process would accommodate the level of disaster loan spending that is found to be justified. I thought that was a wise course of action, and I have been following that course. I think it is the wise one to follow now.

I am pleased that the Select Committee on Small Business is proposing a comprehensive review of disaster loan programs. This Congress must address a number of complex issues related to these programs. I am confident that the able members of the select committee will help other affected committees and the Congress to do that job well.

Several pressing questions must be answered. First, what are the longer term effects of converting the Small Business Administration into an agricultural assistance agency? The SBA was originally created to help small manufacturing and retail firms compete in an ever more difficult environment. SBA has had little experience in dealing with the special needs of farmers. The SBA disaster loan program was created to help victims rebuild after destructive catastrophes such as floods and tornados. Disaster programs were not intended to relieve nationwide strains in the agricultural credit markets. But now within less than 6 months, the total budget of the SBA may be increased more than sixfold—from $600 million to perhaps $3.6 billion—almost five-sixth of its budget going to assist agriculture. The SBA Disaster loan fund will increase its operation over 25 times. How can an agency possibly increase its activities in that magnitude and still carry out its responsibilities with prudence and good management?

Second, why are the needs of farmers not adequately served by the emergency assistance and farm credit programs of the Department of Agriculture? The Farmers Home Administration and other agencies of the Department of Agriculture operate several grant and emergency loan programs to assist farmers affected by natural disasters. If those programs are not responsive and effective, as they apparently are not, they should be improved. SBA capacities should not be strained to solve problems in other agencies. Perhaps the Agriculture Committees of the House and the Senate should consider major revisions in the Nation's crop insurance program. Such a program could be carefully designed to be a smoothly functioning part of a healthy farm financing system. But farm financing will surely be disrupted if we rely on disaster programs that are designed primarily to aid victims of sudden catastrophes.

Third, why are disaster loan interest rates set at a level below the Government's cost? It is true that private lenders often are not able to provide the levels of credit needed to finance recovery from major disasters. So Government lending is often appropriate. It is true that some disaster victims cannot afford interest rates even at the Government's cost of capital. So direct grant aid should be provided to those victims. But if loans are offered to all at deeply subsidized interest rates, those eligible borrowers who normally operate with high levels of credit will have a strong incentive to borrow as much as possible under the disaster loan program. There will be greatly increased pressure on State Governors and on the SBA Administrator to declare a disaster whenever there is some local adversity. And, when a disaster is declared, there will be a strong motive to overstate disaster-related losses. We should not build those incentives into a program.

I understand that the Department of Agriculture conducted a nine-State survey of farm lending last March and found that over 90 percent of the farm borrowers would be able to get further refinancing from private sources. In July, the Kansas City Federal Reserve Bank surveyed banks in the region most severely affected by the drought and found that about 96 percent of the farm borrowers were not in imminent danger of liquidation or foreclosure. Those statistics may not tell the real story. But with the recent flood of applications for disaster loans, those statistics raise a question for further investigation. We should determine whether the cheap SBA interest rates are attracting large numbers of applicants who have access to other sources. If so, we may be causing normal lending arrangements to be displaced and disrupted.

Fourth, why do we not make sure that Federal assistance is used only for essential purposes and goes only to those who are most in need? We have heard that farmers have been treated unfairly. They have had to go to the Farmers Home Administration and prove that their loan applications were turned down by two banks before they are eligible for disaster loans, while millionaires in disaster areas can simply go to SBA and get disaster loans to repair their swimming pools and summer homes. That is in-

deed inequitable. But the question is: Why should Federal dollars be going to wealthy people and for such frivolous purposes as swimming pools? We should eliminate this type of abuse, provide aid only to those who really need it, and keep Federal costs under control.

Several years ago, if this sort of unexpected spending came to light, Senators might have been surprised. But the Congress likely would have quietly approved the request without regard to its impact on the overall budget and national priorities, just hoping the problem would not occur again. The congressional budget process was created because of the problems that resulted from that approach. Now the budget process properly requires us to look at the full costs of this program and reexamine the legislation that could result in these costs.

Mr. President, I have stated before—and I state again now—that responsible budgeting is not simply a process of holding down spending. It is a process of matching limited resources to real national need. If the need is clear, and if the program is effective, and if the spending is fully justified, then high costs alone should not deter us. We should weigh the need against competing needs and do what must be done.

The congressional budget process is flexible enough, as the Senator from South Carolina and the Senator from Georgia understand with me, to accommodate unanticipated needs that are truly justified. However, before we consider any change in the budget resolution ceilings, we must have solid accomplishment in three areas: First, administrative steps must reduce SBA Disaster Loan Fund costs; second, legislative changes must direct aid to those most in need; and third, restraint in appropriations must accommodate these new SBA costs to the maximum extent possible within the existing budget totals. Our Nation should be committed to new long-term spending only after those steps are taken and not before.

Now, Mr. President, with respect to the second point I made, the question of legislative changes, I understand the distinguished chairman of the Select Committee on Small Business, Senator NELSON, intends to conduct hearings on the whole scope of the SBA disaster loan programs, to reexamine them in the light of these recent developments and other developments that require that kind of examination.

Knowing that, the distinguished Senator from Oklahoma (Mr. BELLMON), my valued ranking Republican member on the Budget Committee, and I addressed a letter to Senator NELSON raising suggestions to be examined in those hearings to be applied to the SBA disaster loan program.

I ask unanimous consent, Mr. President, that a copy of that letter to Senator NELSON be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C.

The Honorable GAYLORD NELSON,
Chairman, U.S. Senate Select Committee on Small Business, Washington, D.C.

DEAR GAYLORD: Shortly before the fiscal year 1978 Second Budget Resolution was considered on the Senate floor, the Administration disclosed the possibility of massive, unanticipated spending under the Small Business Administration's Disaster Loan Fund. This was the first indication that recent changes in disaster assistance programs will have an alarming impact on the size and shape of future budgets.

After considerable discussion among Senators involved, it was agreed that a moderate increase in the relevant budget function should be provided in response to the sudden heavy demand. It was also agreed that large increases in funding would be provided only on the condition that steps be taken to eliminate unnecessary spending under the program.

The Select Committee on Small Business has stated it intends to undertake a broad study of the effectiveness of Federal disaster assistance programs. I strongly encourage that study. It could help the Congress complete the thoroughgoing review of these programs that was agreed to during the Second Budget Resolution deliberation.

I am certain that practical steps can be taken under existing law to reduce wasteful spending in the SBA disaster programs. I recommend that you support immediate implementation of short-term measures from among the following:

1. Establish a uniform credit elsewhere test for all SBA disaster loan recipients.

Loan applicants could be required to prove that their loan applications had been turned down by private lenders as is now required by the FmHA procedures. This requirement may deter many borrowers who do not really need the special SBA disaster loans. FmHA staff claims that eligible borrowers can obtain the necessary documentation without difficulty.

2. Limit disaster loan assistance to the amount of loss greater than the loss sustained in a "normal" bad farming year.

Prudent farm financing is based on the assumption that farm income may fluctuate significantly from year to year—farmers should expect occasionally to have years in which farm prices or production levels drop. A disaster loan program is not intended to remove risks that are inherent in a given business. Thus disaster assistance should cover only the loss a prudent farmer could not have been prepared for.

3. Limit business disaster loans to cover only losses in operations that provide a substantial percentage of the businesses' income.

The FmHA requires farmers to prove that they have sustained losses of at least 20% in a crop or other operation that provides at least 25% of the farm's income. Once this test is met, FmHA stands ready to provide loans to the full extent of the loss. The SBA could adopt a similar requirement and apply it to all businesses. This would prohibit the abuse of the SBA disaster loan program by large, multi-plant firms who sustain losses in a geographically limited disaster.

4. Provide SBA disaster loans for only a fraction of the documented loss.

This would recognize the disaster victim as a co-insurer against the loss. It would be based on the assumption that each disaster victim could have reduced the effect of the physical disaster by having taken preventive steps that the victim chose not to take. However, it would have the tendency to increase the burden on small borrowers, who find the burden of loan processing offsets a greater portion of the benefits of their loan.

5. Place a maximum dollar limit on SBA disaster loans.

This would be based on the assumption that the operators of very large businesses have a greater capacity to sustain losses and raise financing than is available to small businessmen. The benefits of the subsidized interest rates on the SBA loans should help the borrower bear the burden of higher interest rates on the portion of the loan that is needed above the maximum.

6. Establish income eligibility standards for disaster loans.

Under existing law, wealthy individuals are eligible for SBA disaster loans for such purposes as replacing disaster damaged summer homes and swimming pools. Large corporations also have received low interest loans to replace plant and equipment. In the past such lending has been considered of questionable merit but part of the price the Government had to pay for providing rapid aid to those really in need. The Administration could establish eligibity tests to target assistance on the most needy individuals and businesses.

7. Require farmers to exhaust the services of FmHA before being eligible for SBA assistance.

Senator Nunn turned to the SBA physical disaster loan program as a means to help hard-pressed farmers who were just a little too well off to meet the Farmers Home credit test. It was not his intent to supplant the role of FmHA in emergency lending to farms or to open up Government assistance to wealthy farmers. The Administration could adopt the same objectives by having the county offices of FmHA complete a preliminary process of SBA applications to determine which borrowers would be eligible for FmHA assistance.

8. Provide shorter terms on SBA disaster loans than has been the practice to date.

SBA disaster loans, since the recent enactment of the Small Business Amendments of 1977, provide two major benefits (1) deeply subsidized 3 percent interest rates and (2) longer repayment periods than are ordinarily available from private lenders. The interest rates are set by law. However, the repayment terms are set by administrative decision. The SBA has testified before the State-Justice Appropriations Subcommittee that the agency has in the past set short repayment periods to control abuse of the program by very wealthy individuals and firms. This method could be used to screen out some of those who seek disaster loans only because the terms and interest rates make such borrowing a very good business deal. This may have a significant effect in reducing the practice of refinancing short-term production credit with long-term when that is not necessary. It would reduce the value of loans outstanding in future years and thus reduce the cost to the taxpayers of any interest rate subsidy.

9. Loan variable cost of production or market price of crop, whichever is smaller.

Disaster loans should not cover costs which are not directly dependent on the farming activity in question. There is no need to guarantee extra payments beyond costs when market prices are over the variable cost of production. The definition of variable costs of production could include: seed, fertilizer, pesticide, soil preparations, farm fuel, irrigation, harvesting costs, interest on production expense loans. Variable costs should exclude interest on land, taxes on land and other fixed costs of production.

10. Loan only 50 percent of the eligible loan amount, and consider the other 50 percent after applying a strict "credit elsewhere" test.

This would be a relaxation of the "credit elsewhere" test discussed above.

I believe that the above changes in program administration should also be included in revisions of legislation so that disaster assistance may be more effective within reasonable levels of funding. I recommend in addition that your committee give specific consideration to the following changes that would require legislative action:

1. Set disaster loan interest rates equal to the rates for Treasury obligations of comparable maturity plus a premium to cover servicing costs and default risk.

P.L. 95–89, enacted August 4, 1977, reduced the interest rates on SBA and FmHA disaster loans to 3% for amounts up to $250 thousand. Many financial experts consider artificially low interest rates on Government lending to be an undesirable form of subsidy. A wide spread between disaster loan rates and those available elsewhere give eligible borrowers a strong incentive to seek disaster loans to meet as much of their credit needs as possible. Those who normally operate on high levels of credit are motivated to overstate disaster-related losses. Total U.S. farm debt has been increasing at an average annual rate of 21% in the last decade, so this should be a major concern in the SBA and FmHA programs. Fixed interest rates cause the value of the Federal subsidy to rise as market interest rates increase, and the problem becomes more intense.

Major natural disasters often create a need for rapid and abundant credit that cannot be met by the normal financial institutions. If Federal disaster loan interest rates were high enough to cover the Government's costs, they could more efficiently be targeted on the problem of credit availability in disaster areas. Although rates would still be somewhat below those available from banks, they would not be so much lower as to create troublesome incentives.

2. Provide direct grants to cover a portion of the cost of repairing or replacing essential facilities.

Federal disaster subsidies have been authorized because some individual's and essential businesses do not have the resources to recover rapidly after a catastrophe. Rather than offering low interest rates to all borrowers to cover all losses, direct grants could be made to lower income families to pay part of certain essential costs such as the provision of safe and sanitary shelter. Grants could also be made when necessary to ensure the survival of basic small businesses. These subsidies could be more easily targeted, evaluated and controlled by Federal agencies and the Congress.

3. Establish a comprehensive, self-financed crop insurance program to mitigate the effects of cyclical crop losses.

Disaster assistance programs will be enormously expensive and disruptive if they are a primary source of aid to farmers who are hurt by bad weather. A crop insurance program can be designed as an integral part of the farm financing system. A disaster assistance program, designed to aid victims of sudden catastrophes, cannot. Under the SBA disaster loan program as now designed, the Government assumes important risks that prudent farmers and lenders traditionally have anticipated in their financing decisions. If that remains national policy, it may encourage farm debt to increase to undesirable levels and further fuel the recent speculative rise in land prices. A comprehensive crop insurance program would not remove the risks but would spread the risks across large numbers of farmers and across several years. The current crop insurance program covers only a few crops and has low levels of participation in many areas.

In addition to the specific legislative proposals described above, I recommend that your committee's deliberations provide answers to the following fundamental questions:

1. Which adversities justify Federal assistance and which ones do not?

2. What distinctions should be made among fundamentally different types of disasters, and what implications do these distinctions have for the design of disaster assistance?

3. How can we avoid overlapping responsibilities among Federal agencies?

4. What steps can prevent disaster assistance from providing windfall benefits to wealthy individuals, firms or others who can recover from a disaster without Federal aid?

5. What measures can ensure that the Government does not remove risks that prudent individuals and firms should be expected to assume?

6. How can assistance be limited only to those purposes essential to the rapid recovery of disaster damaged social and economic structures?

7. How can disaster benefits be designed so as not to create undesired incentives for potential recipients?

8. How can state and local policy limit losses due to natural disasters?

9. How can disaster programs be administered so that they do not disrupt ongoing Federal programs?

When the First Budget Resolution for fiscal year 1979 is prepared the Congress will have to consider SBA disaster loans in relation to other assistance to small businesses and other national priorities. Therefore, the Budget Committee will need the views and recommendations of the Small Business Committee concerning this rapidly expanding program.

Please let me know how your Committee's study will treat the issues outlined above and improve the budget decisions. This matter is of major importance to the budget process, and the Budget Committee will give particular attention to the recommendations of the Small Business Committee.

Sincerely,

HENRY BELLMON.
EDMUND S. MUSKIE.

Mr. MUSKIE. I have made these remarks, and they have been long, Mr. President, not in any spirit of criticism of Senator HOLLINGS or those who have joined him in sponsoring this amendment. My comments are intended to be constructive, as I think they understand. The present concerns that Senator BELLMON and I have about this program and the precedents we may be establishing in connection with this program that may spill over into other areas of the budget. I know Senator HOLLINGS understands this, and I know Senator NUNN does.

At this point I would like to yield to my colleague from Oklahoma for whatever comments he may wish to make.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. I appreciate the distinguished Senator from Maine yielding to me at this point.

I want to begin by saying that I sympathize with those who are suffering from the 1977 drought. As an Oklahoma farmer I have had many first-hand experiences with conditions of these kinds. I have often seen crops burn up, grass turn brown, cattle grow thin, soil going to dust, and ponds dry up in my own State of Oklahoma, and I believe it is a terrible experience, and I am sorry anyone has to go through it.

I am fully in support of programs to help those truly in need as a result of those conditions.

I think we have had some overstatements here, Mr. President, this afternoon. Those who say this program means survival for those caught up in these conditions, I think, have overstated their case because the fact is that we have available in the Farmers Home Administration programs carefully tailored to meet the credit needs of those rural people who are sufferingfrom a drought.

I think the Senate should not be misled about what we are about to do, and I have no question in my mind the Senate is going to approve this request for the $1.4 billion in appropriations.

What we are about to do here is to turn over a major program, a very large sum of money, to an agency, the Small Business Administration, which has virtually no experience, and which is seriously understaffed to deal with a program of this magnitude.

The only advantage by turning over to the Small Business Administration this program rather than expecting those who need loans to go to the Farmers Home Administration, it is going to make it much easier for them to get certified for the loans since they do not need to show that they cannot get credit elsewhere, and since they will not need to show they have suffered loss serious enough to qualify them under the rules of the Farmers Home Administration.

In effect, these SBA 3-percent loans are sweet deals for people who are able to borrow money elsewhere and who have not really suffered the serious losses the Farmers Home Administration requires for them in order for them to be qualified.

Mr. President, my concern is that, unless we show restraint, we are going to see a program here that is so badly abused that there will be a huge public outcry raised against all disaster programs, even those that are carefully run, to the effect that we may lose disaster relief for those who genuinely need it.

I want to say for the record that I am not in favor of a double standard. I do not believe we should have a fat program for those who live on one side of the city limits in the urban areas, and a tough program for those who live in the rural areas. This is what we have had in the past. This may cause Congress to realize Small Business Administration programs have been too loose in the past, and have to be tightened up for the urban as well as the rural areas.

I believe the same standard should apply to both sides of the city limits, and I hope that will be one of the results of the action we are about to take here today.

The problem here today is, as long as the Small Business Administration has cost relatively small amounts of money Congress has not shown much interest in tightening this up and, perhaps, after

today this interest will be generated, and we can write a better program.

Mr. President, the disaster programs I believe are in themselves a disaster. There is a need for programs for those who cannot help themselves in conditions like these. But we should be careful that we do not put out a lot of money, that we do not allow serious abuse of the programs and, in this way, generate strong taxpayer opposition and cause us to lose our opportunities to help those who cannot help themselves.

I am seriously concerned over the overwhelming increase in the Small Business disaster loan program reflected in this amendment.

Mr. President, as ranking minority member of the Senate Budget Committee, I am concerned over the overwhelming increase in the SBA disaster loan program reflected in this amendment. Only a short time ago, it was anticipated this program would cost $115 million in fiscal year 1978. Now, it is expected that program costs could reach $2 to $3 billion in this one year alone. Once a program of that size gets underway, it will place ever-increasing demands on our budget in future years. As we all know, Mr. President, we have a difficult time holding down the predictable cost of Federal programs from year to year. So when the estimated cost of one program jumps in a matter of months—from the $115 million contemplated to over $1.4 billion—and that amount is expected only to carry us through to January—to an estimated $2 to $3 billion by the year's end—we had better stop and take a good hard look at the program.

This is not to say that I wish to deny Federal assistance to the many drought-stricken farmers who have suffered severe crop losses in the 1977 crop year. I do not. Nor do I wish to see the applications of those entitled to SBA physical disaster loans under the law turned down because of a lack of funds. I am a farmer and I represent an agricultural State. I understand the plight of these farmers. I am keenly aware of the vital role they play in our Nation's economy. Many are in serious need of assistance to bring them out of the financial crisis they now face. Many must have help to pay the losses they incurred last year so they can plant crops again in 1978. It is this need which has triggered the flood of applications into SBA offices and has created pressure for additional funding of this program.

As I recall, when this legislation was before us it was the desire of the Agriculture Committee that loose standards for payment and coverage be tightened up under the SBA disaster loan program. Farmers Home is not as liberal in its payments and coverage standards. Farmers Home applies a "credit elsewhere" test requiring proof that the applicant is unable to obtain commercial credit before the loan is granted. The Farmers Home requires proof that a loss has been sustained of at least 20 percent in a crop or other business operation providing at least 25 percent of the farm's income. SBA has no such requirements for disaster loans. And, when we failed in our efforts to tighten up liberal SBA standards, agriculturally oriented members figured it was only fair to make natural disasters in ranching and farming eligible for SBA disaster loan assistance on the same terms as disasters in urban centers. It is critically important that we do now what we should have done earlier.

Congress should take a hard look at whether we are, in fact, operating duplicative Federal programs. Perhaps we should rework our FmHA programs so that they are more responsive to the needs of farmers suffering from natural disasters. It may be that SBA standards for payments and coverage are too liberal, it may be that the Farmers Home Administration is more appropriate. It may be that we should, at the very least, require a credit test and major proof of loss before granting such loans. I think we should also take a good look at the 3-percent interest rate recently set on loan amounts up to $250,000. This is a source of potential abuse, being a much more attractive means of borrowing than at the prevailing commercial rates.

The SBA has had no experience in dealing with the needs of farmers. The Farmer's Home Administration has such experience. Whether the SBA can administer a program which has grown so large, in so short a period of time, efficiently and effectively and without large-scale fraud is questionable. We are told that the SBA loan program is more responsive than the Farmer's Home emergency loan program. We are told that SBA disaster loans are disbursed more quickly with less redtape. There is great danger that abuse and waste in this program will be considerable.

In any event, we need to take a close look at the interrelationships of our Federal disaster assistance programs and ask ourselves if we are utilizing the most appropriate vehicles for extending such aid and whether the form of that aid is appropriate.

We have problems. We need some answers. We need a broad and comprehensive review of disaster loan programs. I support my colleague, Senator NELSON, in advocating that such a study be undertaken by the Select Committee on Small Business. With timely answers provided by such a study, I hope we can make those legislative and administrative changes in our disaster loan programs that will bring spending under control while providing immediate and responsive relief to those whose lives are suddenly and dramatically disrupted by a major natural disaster.

Mr. President, I sympathize with the plight of rural people who are caught up in a drought. As an Oklahoma farmer I have suffered through these conditions more than once. I would favor making the full support of the FHA loan programs available. These programs have been tailored to meet the needs of rural people. They have built in the needed safeguards against abuse. The FHA has proven its ability to administer drought disaster loans to farmers and ranchers. The SBA has not.

Mr. President, I shall vote against this appropriation as a way of showing my concern that this program badly needs to be tightened up. I shall work for this result.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

SEVERAL SENATORS. Vote!

Mr. HOLLINGS. Mr. President, preparatory to voting, I want to go along with the idea extended by my distinguished chairman of the Budget Committee, who has been very conscientious in this regard, and make certain that these programs do not run away, with his letter that he has addressed to Senator NELSON, the chairman of the Small Business Administration Committee. We will be having joint hearings sometime later this fall after we go out. I support some of those ideas he extended.

But I think it should be said in credit to the chairman of our Small Business Administration Committee that generally speaking sweet deals and runaway programs do not apply here.

Mr. President, what was really the sweet deals and runaway programs were those like Hurricane Dora, where they had the forgiveness clauses of $41.4 million, and Hurricane Celia where they had the forgiveness clauses of $56 million. These are just outright grants hiding under the term of "forgiveness clause." When we had Hurricane Agnes it was $477 million in grants. There was no percentage of money. There was no go and see what your credit is. For anything that you could correlate and say, "I lost it in the hurricane," bam, you got the money.

If you could not think it up, others would think it up for you. In the Los Angeles earthquake there was $163 million paid out, and I would say 90 percent fraudulent. Ninety percent was fraudulently paid with fellows going from door to door with a Polaroid camera giving $3,000 repair jobs for anything and to everyone, for the damage to swimming pools, knowing that they would not pay any of the $3,000 or $2,500, and the U.S. attorney out there would not even bring a case for the $500 amount owed the Government.

Senator NELSON in the Small Business Committee cut out the forgiveness clauses. There are not any forgiveness clauses there.

There are other areas to look at. In the New York area there is the civil disorder considered as a natural disaster under the Disaster Relief Program of America. And there is Buffalo where we had the ice and snow disaster.

How are we going to deal fairly with the problem there and in other parts of the country, or how are we going to deal with civil disorder where no one raises their voice from the Budget Committee?

No one raised their voice from the Budget Committee when we paid out $30 million for civil disorder.

Finally, thank heavens for the new mayor nominee. He said they should have called out the National Guard and enforced the law. I have no hard feelings.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Wait. I want to complete this thought.

I understand if you had nothing to do with it and you owned a store, came back, and the store was in shambles, it was a disaster to the storeowner. I sympathize with that situation, but the place to put the road blocks, the restrictions, and the auditorial requirements to make this a substantial disaster relief program and something that will have the public confidence, is not here with the farmers all of a sudden, but in those particular areas where we have forgiveness clauses, civil disorder, and other things.

I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I agree we did not look at the $30 million item that the Senator referred to. Neither did we look at the $115 million SBA request in the original budget. As the Senator knows, we do not look at items of that magnitude in the Budget Committee. That is the Appropriations Committee's business.

But when a program then escalates from an expected cost of $115 million to a potential cost of $2 to $3 billion, the Senator surely will not argue that it is not a Budget Committee responsibility.

If that civil disorder the Senator refers to begins to rage to the point where spending for it might rise to about $3 to $4 billion in disaster relief then we will have to look at that also.

Mr. HOLLINGS. That is right.

Mr. MUSKIE. There is no question about it.

But let me say this in the spirit in which I know the Senator makes his remarks. He displays, in what he has just said and in his approach to the amendment before us, the kind of responsible regard for budgetary implications that I have come to associate with him. He has supplied that same kind of concern to his responsibilities in connection with the small business programs. I know that. And I know that Senator NELSON has also. That is why I am willing to see this responsibility rest in those hands.

I appreciate what the Senator has done on very short notice with very little time for hearings on this particular amendment. It is impossible to write new legislation and new policy to apply under those conditions.

So the purpose of what I had to say today is to make a record that will enable us to consider what, if any, policy changes should be made. And the Senator has helped make that record.

Mr. HOLLINGS. Mr. President, that is what my comment was really directed to because I was answering and commenting on a letter of our distinguished chairman to Senator NELSON, the chairman of the SBA Committee of the Senate.

In addition to the $30 million already approved, there is almost $34 million in New York in process, so that is going to be $64 million for failure to enforce law and order. Is that the kind of disaster we are going to take out?

In any event, let us look at the disaster loan program and the payback because I think it is very important that where the rate of loss on the regular SBA loans was 4.05 percent in 1976, it was only 2.33 percent in the disaster loan program. For 1977 thus far for all SBA payback programs there have been a loss rate of 4.34 percent, whereas it has only been 2.45 for the disaster loans. I think the Senator from Maine and myself both were looking into that.

Mr. TALMADGE. Mr. President, will the distinguished Senator yield at that point?

Mr. HOLLINGS. I yield.

Mr. TALMADGE. Is it not true that virtually every rural bank in America is loaned up to capacity at the present time?

Mr. HOLLINGS. That is exactly the situation we are in.

Mr. TALMADGE. Is it not normally true that most rural banks have reserves which they loan to urban banks and now the opposite is true that rural banks have been loaned up to capacity and there has been an inflow of money from urban banks to rural banks?

Mr. HOLLINGS. That is exactly correct.

Mr. TALMADGE. That has happened for the first time in my memory.

Mr. HOLLINGS. That is exactly right, I say to the distinguished Senator and chairman of our Agriculture Committee.

Mr. TALMADGE. Is it not further true that the parity ratio of farm commodities at the present time is at the lowest level it has been since 1933 during the dark depths of the depression?

Mr. HOLLINGS. We have the worst situation we have ever had in my State of South Carolina.

Mr. TALMADGE. So we have a calamity, not only a drought, but a calamity on agricultural prices which compounds the calamity. Is that not true?

Mr. HOLLINGS. That is exactly right.

The whole idea was to keep the economy going, keep people from being unemployed and to have an economic stimulus with the $13 billion that we have already approved, just to try to find ways to spend money. And over the weekend the cry and shout from every economist was that we should have gone ahead and given everyone else we could find a $50 rebate, just give that back to them, and everything else. While we are talking about that, there are people trying their best working from morning to night and they cannot leave their land. They are loaned to the hilt. They are about to be foreclosed. They are levying on the loans, and everything else. They are about to go bankrupt.

And people in America wonder why Congress vacillates and cannot observe the obvious and cannot move forward on the situation. I know it is not the Senator's intent to hold it up. He has been nice.

Several Senators addressed the Chair.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from South Carolina.

Mr. THURMOND. Is it not ridiculous that this country can find the ways and means to spend not millions but billions of dollars overseas to other countries for all kinds of projects, and yet there is a squabble here over providing just a few funds here that will be loaned to the farmers, not given to them? We give away billions of dollars, and yet we quibble over $1.4 billion here as loans to our own farmers.

Mr. HOLLINGS. That is exactly right.

Several Senators addressed the Chair.

Mr. NUNN. Mr. President, will the distinguished Senator yield?

Mr. HOLLINGS. I yield to the Senator from Georgia.

Mr. NUNN. As I said, I completely agree with the amendment of the Senator from South Carolina, and I certainly intend to support it.

I wish to say, though, that I had a chance to read this letter that the Senator from Maine has written to the chairman of the Small Business Committee, Senator NELSON. I think there are some very constructive suggestions in that letter. I think what we have here now is the situation because of the magnitude of the disaster that this whole disaster program is coming under the kind of focus that it really should have come under before we had a disaster of this magnitude.

That is not the fault of the farmers in Georgia, South Carolina, Washington State, Oregon, or Iowa or anywhere else. The Senator from Maine mentioned a minute ago about swimming pools and the millionaires having vacation homes replaced. That has been the existing law, and those occurrences have taken place in the past following hurricanes, and so forth.

I think we all need to agree that we need to take another look, not just at the farm or agricultural aspects of this program, but at the whole disaster program, as my senior colleague from Georgia (Mr. TALMADGE) has already discussed he will do as to the crop insurance and whether crop insurance can really take the place of SBA and Farmers Home Administration, at least to some extent, in terms of disaster insurance.

So I think the Senator from Maine, even though I do not agree with his position on this amendment and intend to support it, has made some very constructive suggestions that need to be looked at, not just by the committees of Congress but also, I think, as brought out in his letter to the Senator from Wisconsin, that the Small Business Administration does naturally want to look at some of these provisions. In amending the program, we are not talking about just a change in the law, but also in the administration. One of the things I think the Small Business Administration is doing, and I know this has worried the Senator from South Carolina, the senior Senator from Georgia and the junior Senator

from Georgia, is that if a man comes in and wants to borrow 3 percent money, that amounts to $10 billion or $15 billion over a lengthy period of time. We have been assured that in considering that, even though the person would theoretically be eligible, the limit of that loan will be compressed to a very short maturity. That is one administrative change that I think would be constructive and in keeping with the theory all of us are talking about.

So I do not think the disagreement here involves a very wide gap. The Senator from Maine has his duty as chairman of the Budget Committee. We have our duties in terms of our committees, and also in terms of our home States. I hope all of us will look at this problem in the long term rather intensely during the next year, so that next year we will not be back here covering the same ground again.

Several Senators addressed the Chair.

Mr. MUSKIE. I yield now to the Senator from Vermont.

Mr. LEAHY. Mr. President, I have two requests.

First, I ask unanimous consent that Martin Franks of my staff be given the customary floor privileges during the consideration of this matter.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Mr. LEAHY. Then, Mr. President, because of the lateness of the hour and since a number of Senators have expressed an interest to vote on this particular issue and other issues tonight, I would ask unuanimous consent that there be a rollcall vote on the amendment beginning not later than 20 minutes past the hour.

Mr. HOLLINGS. We are ready to vote right now.

Mr. MUSKIE. All I need is 30 seconds, and I am ready.

Mr. LEAHY. Will you be ready for the rollcall vote in 2 minutes?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, first of all, let me assure my good friends from South Carolina and Georgia that their fiscal instincts do not worry me. Second, let me say to my good friend, the senior Senator from South Carolina, that there is considerable pressure on this body, as he knows, for us to achieve balanced budgets, and we cannot achieve balanced budgets if we yield to every need. You know, achieving a balanced budget means saying no to some good programs. It means saying no to some real needs. It is not just a question of eliminating the obviously unjustified needs; we have to say no to real needs.

Up in my part of the country, we do not have farming areas big enough to qualify for this kind of disaster loans. We have potato growing areas, and last year there was a flood of a local nature that rotted almost the total crop, of many farmers, in the ground. That was a disaster to them, but they did not qualify because the disaster was not big enough.

This past summer, in the coastal area, where many people make their entire living out of a 10-week tourist season, they had so much rain that the tourists did not come. That was a disaster to them, but they could not qualify because the disaster was not big enough.

Two years ago there was very little snow in Maine, so many of our ski areas had a disaster, but they could not qualify because their disaster was not big enough.

So at best we are not going to cover everybody's disaster or everybody's setbacks. We have to understand that. Nevertheless, this is a legitimate issue. Senator BELLMON and I are put in the position of voting as we are going to, because, we think we need to focus Congress attention on this problem and the need to take a look at the underlying policies.

Mr. NUNN. Mr. President, if the Senator will yield for a brief observation, I am sure we are willing to trade our biggest disasters for Maine's small disasters.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the privileges of the floor be granted to Michael Short of the staff of the senior Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 82, nays 13, as follows:

[Rollcall Vote No. 525 Leg.]

YEAS—82

Allen	DeConcini	Huddleston
Anderson	Dole	Inouye
Baker	Domenici	Jackson
Bayh	Eagleton	Javits
Biden	Eastland	Johnston
Brooke	Ford	Kennedy
Bumpers	Glenn	Laxalt
Burdick	Gravel	Leahy
Byrd, Robert C.	Hansen	Long
Cannon	Hart	Magnuson
Case	Haskell	Mathias
Chiles	Hatch	Matsunaga
Church	Hatfield	McClure
Clark	Hathaway	McGovern
Cranston	Hayakawa	Melcher
Culver	Heinz	Metzenbaum
Curtis	Helms	Morgan
Danforth	Hollings	Moynihan
Nelson	Sasser	Talmadge
Nunn	Schmitt	Thurmond
Packwood	Schweiker	Tower
Pearson	Scott	Wallop
Pell	Sparkman	Weicker
Randolph	Stafford	Williams
Ribicoff	Stennis	Young
Riegle	Stevens	Zorinsky
Roth	Stevenson	
Sarbanes	Stone	

NAYS—13

Bartlett	Chafee	Lugar
Bellmon	Durkin	McIntyre
Bentsen	Garn	Muskie
Byrd, Harry F., Jr.	Goldwater	Proxmire
	Griffin	

NOT VOTING—5

Abourezk	McClellan	Percy
Humphrey	Metcalf	

So the amendment (No. 1024) as modified, was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 980

Mr. WEICKER. Mr. President, I call up the amendment of Senator EAGLETON and myself which is at the desk.

Mr. DECONCINI. Will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER), for himself and Mr. EAGLETON, proposes amendment No. 980.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 22, strike out "92,000,000" and insert in lieu thereof "110,000,000".

On page 13, line 16, strike out "102,173,400" and insert in lieu thereof "129,173,400".

Mr. WEICKER. I yield to the distinguished Senator from Arizona for a unanimous-consent request.

The PRESIDING OFFICER. The Chair asks if this is the amendment on which there is to be 2 hours of debate?

Mr. WEICKER. My response to the Presiding Officer is that I was willing to cut that down to 1 hour. I do not know if that has been agreed to or not.

Mr. LEAHY. Mr. President, I am perfectly willing to cut that down to 1 hour, equally divided, and I ask unanimous consent that we vote no later than 23 minutes to 7.

Mr. WEICKER. Why not have it 20 minutes to 7?

Mr. LEAHY. I change that to vote no later than 20 minutes to 7.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHILES. We are willing to cut that down further than that, Mr. President. We are willing to cut it down to 15 minutes.

Mr. LEAHY. This manager of the bill, at least, will do everything possible to cut it even closer. But, I warn Senators while

they are here, Mr. President, that there will be at least one other rollcall vote after the convention center vote. I ask, if it is at all possible, that both the minority and majority cloakrooms send out on their hot lines that there will be at least one more vote after this and possibly two more.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. Mr. President, I intend to yield to the distinguished Senator from Arizona in just a few seconds.

The amendment before us restores $27 million in funding, which moneys are for the acquisition of land for the proposed civic center in downtown Washington. I shall have further comment to make on the substance of this matter.

I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am happy to join my friend from Connecticut in urging the construction of this center. I know that there has been a lot of opposition to it, some in the press.

Mr. President, I believe this would be a good move for the District for, while we have some of the finest hotels that can be found in the world in which to hold conventions, we are very limited as to the size of the conventions that can be held here, in the Nation's Capital. Three thousand is about the limit. When I look at convention centers like Las Vegas, with their ability to handle over 18,000 people in one location, and my own hometown of Phoenix, which can handle over 12,000, and other cities that are really going after this convention business, I see no reason in the world why the suggestions of my friend from Connecticut would not bear fruit here, in the District of Columbia.

I think we have to keep one thing in mind. It has been the custom, ever since we created a Federal city by the Constitution, for the Federal Government to support this city. But the time is coming—I shall not say in all probability, but the chances are good, now that President Carter has endorsed the idea—when the District of Columbia will, in effect, become another State.

Raising money to support that State is going to be a problem that will no longer be a problem of the other 50 States in this Republic.

While this project is going to cost about $110 million, $83 million for the building and $27 million for the land, the method of financing will be a loan of $110 million for the Treasury, paid back over 30 years, or at the time of sale of a district bond issue which is estimated within 3 years.

I think that this is a reasonable amount of money. I will admit it is not cheap to build these large buildings today. I will also go a step farther and say experience has shown that this type of building ususally goes bankrupt two or three times.

The time comes, though, when it does begin to pay back to whoever is willing and able to pick it up at that time, which should be, again, the city of Washington.

My city has just gone through, in the last 10 years, a similar experience of building a large civic center, which is also a large arts center and the home of the philharmonic and other cultural organizations where they had no home before.

Mine is, as I say, one of the largest convention centers. It has somewhat the same problem of Washington where the hotels are pretty much all in one area, the businesses are in another area.

There are large parts of downtown Washington that need rehabilitation very badly, that we do not see in the future, unless something like this comes along which will then give the business people, professional people and local residents some cause to have pride in the whole city of Washington, other than the pride that is natural because it is the Nation's Capital and a very beautiful city, if we do not get too picky about where we are looking.

The place they plan this construction is downtown. Even though I know hotels are building expanded facilities to handle more conventions, I do think it is proper that the Nation's Capital have a place other than that beat-up, old, torn down, dilapidated armory in which to hold not just conventions, but shows, automobile shows, boat shows, large exhibitions of paintings that cannot be handled by the existing art galleries. Even, Mr. President, the idea of holding the national conventions of the two larger political parties in this country in the Nation's Capital, to me, strikes a very resonant chord.

I think it would do both the Republicans and Democrats good to meet here in the shadow of the history of our country, not once, but maybe have their regular 4-year meetings in this city so that as they are meeting they can feel some of the thrill of this city, some of the history of this city, some of the things that we all love about it, even though Washington is not our home.

Mr. President, I have been for this project, as I say, even though my mail runs about 50–50 on it from local people—50 percent like it and 50 percent do not like it.

We talk about it costing a lot of money. Well, we just kissed away a billion-odd dollars for the Small Business Association for drought relief. If we can do that, I see no reason we cannot do it this way. We provide for drought relief and yet we grew more corn this year than in the history of the country, more soybeans, more cotton. Yet we have to have drought relief, over $1 billion to help people grow more crops than ever before.

I voted against it, so I think I have a right to mention that particular point, because we are now talking about $110 million, not $1 billion or $2 billion.

Mr. President, that is about all I have to say on this. I have learned from practical experience that the cities really want to bring in new money—I think of Atlanta. I think of Hartford, Conn., I think of Chicago, I think of Los Angeles and Las Vegas. Reno is attempting to get in the act.

This convention business is one of the biggest businesses in this country. Do not ask me to explain why, But we all know in this Chamber that we are invited to literally dozens of conventions every year, some of them representing gatherings we never heard of.

But they have the money to do it. They are looking around for places to do it. At the present hotel prices around the country, I would say the average attendee of a convention is going to drop at least $100 a day in the community he is attending the convention in.

I am speaking, therefore, maybe against my own best interests, or against the best interests of my junior colleague from the city of Tucson, which is also a very great convention center.

But I do think it would be wise to build this structure for the District of Columbia and let them begin enjoying the income from these large, gigantic conventions that cannot be held in this community today.

I thank my friend from Connecticut for yielding to me.

Mr. EAGLETON. Will the Senator yield?

Mr. WEICKER. I yield 4 minutes to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I thank my colleague.

I rise to urge Senate approval of an amendment Senator WEICKER and I have introduced that will provide $27 million for a convention center in the heart of downtown. The convention center will meet several urgent needs:

First, it will provide jobs in a city that desperately needs employment opportunities.

Second, it will attract business and spur redevelopment in an older section of town.

Third, it will encourage private investment and increase local revenues.

All these objectives are vitally important if the District is to realize home rule and lessen its dependence on the Federal Treasury.

The site of the center, at Mt. Vernon Square, midway between the White House and the Capitol, was carefully selected. It is adjacent to some 30 acres that could be readily redeveloped with hotels and other businesses to serve the 350,000 and more delegates expected at the center each year.

It has been reliably estimated that some 3,000 additional hotel rooms would be needed, along with 40 to 50 new restaurants and 20 or so new stores.

The most immediate result would be the creation of jobs—2,000 in construction and 4,000 in the center and in the hotels and other new or expanded businesses. The payroll would come to more than $42 million a year. Add the $100 million convention center delegates would spend, and the District will have created for itself a vital and constant source of new revenues. The fiscal experts are confident that the District, within 3 years after the center opens in 1981, would net at least $12 million a year in additional tax revenues from new convention business.

The District will borrow the $27 million to buy and prepare the site. It already has agreed to new hotel and business taxes to cover interest and other early costs. Within 3 years, it plans to enter

the municipal bond market and refinance the project through the sale of tax-free bonds. Delay would be devastatingly costly—$2 million for every 3 months the project is put off.

The District Council, the Mayor, the Board of Trade, the Chamber of Commerce, unions and a number of civic and community groups all are behind the project, and I believe they, under home rule, should be allowed to move ahead with the center.

Home rule bestows special responsibilities on the District to strengthen its economy, and I believe the Senate should give home rule a chance to work in this instance. The convention center not only would give new life to a despairing part of town, but it would create new revenues and provide a tremendous transfusion of new and steady employment.

I thank my colleague for yielding time.

Mr. LEAHY. Mr. President, I yield to a distinguished and senior member of the Appropriations Committee, the junior Senator from Mississippi. I yield whatever time the Senator desires.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I thank the Senator. I will use about 4 minutes.

First, I commend the Senator from Vermont for the energy and time he has devoted to this matter and the effective manner in which he has handled the bill. Some years ago, I was chairman of this subcommittee. It is a thankless and difficult job, and a great mass of work continues throughout the year. As I recall, the Senator from Missouri handled the bill with distinction a year or two. Our present floor leader, I recall, handled it, also.

Mr. President, I speak as a taxpayer—not as a complaining taxpayer—but I know by experience, because I own a dwelling house here, of the enormous increase, the amazing increase, in ad valorem taxes in this city. I am proud of the city, the Capital of the Nation. I do not begrudge any particular taxes I have paid. It is an enormous rate and a burden to a great many of the homeowners and other property owners in this city.

I find, by comparison, that this city already has the highest per capita debt of any other city in the United States—that is, on a per capita basis, the highest per capita expenditure of any city in its population range. That means it has the highest tax burden, relatively speaking, of any jurisdiction. Had it not been for what I think is a very generous Federal money contribution over the years, the situation already would have been desperate here. We want that contribution, in some reasonable amount, to continue. I am not arguing against that, of course.

This expenditure is going to amount to $110 million, as I understand—$27 million in this amendment itself. The total expenditure will be about $110 million.

When I asked the question whether or not it was going to be self-sustaining or nearly self-sustaining, the Senator from Vermont replied that the analysis they had made showed a deficit of between $7 million and $10 million per year.

We know that when we start out with a figure of that kind, the first calculations, it runs far, far beyond that. We know that somewhere, sometime, someone will have to retrench somewhat. Otherwise, our economy will have some kind of collapse.

Other cities in America have trouble, and are doing something about it. I highly commend the people of New York for the way they have responded to their problems. I think it has been encouragement to the Nation, the way the people there responded when they realized the predicament they were in. The people as a whole responded with some sacrifice as well as determination. I am proud that they are coming out of the hole.

At this point, without hurting anyone, I think we should look and listen and tighten the checkreins on these kinds of expenditures.

Again, I commend the Senator very highly for his interest and the hard work he has done on this bill. I back him up.

Mr. LEAHY. I thank the distinguished Senator from Mississippi.

Mr. WEICKER. Mr. President, I should like to comment on several remarks made by the distinguished Senator from Mississippi, because I think they deserve a response.

The Senator from Mississippi complimented various and sundry cities of this Nation for trying to help themselves get out of a financial bind.

No. 1, there is not a city in the United States that is not in a bind, due to a variety of factors—perhaps in some instances mismanagement on their part or playing too much politics at the taxpayers' expense.

However, I think we would all agree that the Federal commitment, both in terms of Congress and the White House, over the past several years, has been somewhat of a declining commitment, and that is the reason why cities find themselves in their present day difficulties. But at least those cities have the option to devise various means by which to get out from underneath their troubles.

No. 1, it is all right for us to say that the Federal Government has been generous to the District of Columbia. Indeed, the Federal Government has been generous to the State of Mississippi. But the State of Mississippi—the Governor and the legislature—runs its own affairs. The State of Mississippi's affairs have a vote in the Senate and in the House. The Federal Government would not have the gall to impose on the State of Mississippi what the Federal Government has imposed on the city of Washington for decades.

But here comes the city of Washington, under its newly granted home rule, which was granted by us, and says, "All right, we no longer want a Federal handout to help us with our urban problems. We have an idea which, if you will allow us to try it, will generate private money, private capital, to come in and do an urban renewal job and create jobs."

They no sooner come up with their idea, just as other cities have their ideas, as referred to as the distinguished Senator from Mississippi, and we say, "No, you can't do it that way."

If, indeed, they have the highest tax burden, and so on down the checklist of tax liabilities, as set forth by the distinguished Senator from Mississippi, who has created that problem? The Senator from Mississippi, being in the business of defense, knows as well as I do that there is an element of leadtime in any of these expenditures.

The District of Columbia has not been the ruler of its own house. It has been the Congress of the United States that has run the District of Columbia. This highest tax burden and highest tax liability situation did not occur yesterday. It is one that has been created over a period of time.

The Senator is correct when he says that Washington, D.C., along with the rest of our cities, has some real problems and that it is going to take initative and innovation on their part to get out from under these problems. But I think that is exactly what the District is proposing when it comes to Congress and says, "We want a loan in order to establish this civic center, which civic center should, No. 1, rehabilitate the District, the downtown area, at private expense, which civic center should employ thousands of persons, not only in the construction of the center but also in the running of the center and the various businesses that will be built around the center."

As elected representatives, not one of us in this Chamber would tolerate the major city of our State to be in the condition in which Washington, D.C. is.

We have spared no expense, as Senator EAGLETON and I wrote in our letter, as to the esthetics and the job opportunities of the Federal establishment in this area. If you want to take two similar names and compare them, take a look at Mt. Vernon Square in the District of Columbia, and then take a look at Mt. Vernon.

Aside from our life here on the Hill and the occasional jaunts of our families in midday to the downtown district, aside from Constitution Avenue and a few of the main thoroughfares, who spends much time in the District of Columbia? Who is it who after 5 o'clock cares to spend much time in the District of Columbia?

No, I think what is being proposed here is the first initiative by the government of the District to, in effect, make Washington a livable city in a total sense, not livable just for Federal employees, not livable from 8 to 5, but a place of commerce, a place of living, one which is open the same hours we are open here on the Hill.

Having stated that initiative, I think it is for us to go ahead and back up the elected representatives of the District.

Let me just say, in conclusion, before I sit down that we had a similar problem in the city of Hartford, Conn. Our downtown area had deteriorated to the point where it was an 8-to-5 city and going downhill. The civic center was built at a cost of some $60 million, and within 1 year turned a profit. But, more importantly, it has rehabilitated the entire downtown area of Hartford, Conn., not with moneys of the taxpayers of the State of Connecticut or of the Federal Government but private capital.

Criticism was made that the center is expensive. It is not compared to the cost of other centers. The new one being built in San Francisco at the present time comes almost to the same amount.

I realize it is tough for all of us to cut the umbilical cord here and have faith and trust in the elected representatives of the District. But I think we all would be more than a little miffed if such faith and trust were not reposed in us in decisions we make when it comes to our own constituencies.

Regardless of whether or not we are used to telling them how to conduct their affairs, I think the time has come in our actions to live up to what it is we granted them several years back when we granted home rule.

I think the project makes sense. It is not without its risks, just as Senator GOLDWATER stated, and Senator EAGLETON and I know. But I know what the certainty is because the certainty has been conducted over a period of years. It is more Federal money, not loans, but grants, direct outlays, more and more of that as compared to the possibility of a loan being used as seed money to attract private capital.

I find that a very big difference and a very enticing one indeed, and one which far from stifling we should encourage more of so far as Congress is concerned.

Mr. LEAHY addressed the Chair.

Mr. DECONCINI. Mr. President, will the Senator yield 5 minutes?

Mr. LEAHY. Certainly.

Mr. DECONCINI. Mr. President, I rise in opposition to the amendment. I have given it considerable thought, and that includes certainly the efforts to revitalize the downtown area, and I find myself in opposition to my distinguished colleague from Arizona.

One of the reasons why I find myself in opposition here is that I believe the free enterprise system should be put into play to build this type of a center and, in fact, the Federal Government is subsidizing it, and it was sold to the committee the distinguished Senator from Vermont chairs that it would be a paying proposition.

In fact, I am convinced from the record of the numerous hearings the Senator from Vermont held it would not pay. In fact, there would be a deficit.

There are pros and cons on each side of that based on the hearing record, and I believe the Senator from Vermont has come to the correct conclusion, and the committee has, in the fact that it is going to lose money.

Let us be realistic. If you want to build job programs, let us call it job programs. I have supported many of those, and I might be convinced to support another one. But that is not how this was sold. It was sold that it was going to be a loan from the Federal Government and then, of course, be paid back and, of course, it was going to make money.

I think there is too much iffiness in that type of proposition.

I compliment the distinguished Senator from Vermont for taking more time than the city officials of Washington, D.C., took in holding hearings and taking the time to listen to both sides.

I chaired partially one of those hearings. It was a laborious but necessary process to go through because people felt like they had not been heard enough on this proposition, people who live here and are taxpayers, and ultimately will benefit or suffer from the burden of this.

Senator WEICKER remarks about the home rule and that they should be able to make this decision, and that we, being the Federal Government, should not be adverse to assisting them. It seems to me the responsibility really still lies with Congress even though partial home rule has been granted.

There is also the argument of do brick and mortar really become the answer to revitalizing cities. I submit they do not. If you are going to create jobs that is one answer, as I indicated. But if it is to revitalize the city of Washington, D.C., we need other types of programs to help people of this community to help themselves.

I would like to address a couple of questions to the distinguished Senator from Vermont as to the fiscal economics. As I understand this issue, one of the key assumptions that underlies the question of economic feasibility is the number of new additional delegates that the center would bring to Washington, D.C.

On the one hand, the city has argued that the center could bring as many as 390,000 new delegates to the city. I understand the Committee on Appropriations has concluded the center will bring between 100,000 to 150,000 additional delegates to the center.

Could the Senator explain the reasons for these two widely divergent sets of estimates?

Mr. LEAHY. I would be happy to point out these reasons.

As I said, the Senator from Arizona was of enormous help to the committee in sitting through day after day of hearings on this question. I wish that my distinguished colleague from Connecticut and others had had a chance to sit through even a small part of the hearings, because most of the questions which have been raised here in support of the convention center were answered in the negative at those hearings.

In answer to the Senator from Arizona's question, our committee estimate is based on the track record of the seven most recent cities to open convention centers and to have had them in operation for at least 3 years. It seems to us to be more objective to assume the District of Columbia would do no worse or no better than those other cities throughout the country. In fact, I think there are several factors that prohibit the District of Columbia from doing a great deal better than other cities.

First, Washington, D.C., is already the third largest convention center city in the Nation. An additional rapid growth of its market share is unlikely.

Second, the Sheraton Park Corp. is making a $60 million expansion with private money, not public money as is requested here, but with private money. This expansion to the Sheraton Park's current convention facilities is going to let them compete for 80 percent of the total market. They have been in business for 50 years. They should be able to compete very well with a city facility.

Now, the city has not been in the convention business. There is no private money that is willing to go in and be part of the attempt to obtain additional convention business for the city.

We have a Gladstone report done for the city. Our analysis shows it is greatly inflated. For example, an analysis done by the District of Columbia Auditor, the GAO, and the Capital Restoration Society have all suggested delegate levels far below those estimated by the Gladstone report that is relied on by the city.

Mr. DECONCINI. Will the distinguished Senator from Vermont tell the Senate the cost to the city of the Gladstone analysis?

Mr. LEAHY. It was approximately $100,000, and that includes supporting analysis done by an architectural firm.

Mr. DECONCINI. I also noticed, Mr. President, and I point this out to the distinguished Senator from Vermont, a recent article in last Friday's Baltimore Sun that pointed out that the Gladstone Corp. has the same ownership as the Quadrangle Corp., and that Quadrangle Corp. owns and develops real estate in the downtown area.

The Baltimore Sun article suggests there is some appearance of a conflict-of-interest situation which could have influenced the objectivity of the Gladstone report.

Would the Senator from Vermont care to comment on this apparent conflict-of-interest situation?

Mr. LEAHY. We have noted the same subject in the committee. The Senator from Vermont feels it would have been better had a different company been used to make the study, because based on their own studies, GAO, and others, there is no question that the figures appear to be greatly inflated.

Mr. DECONCINI. I thank the Senator and, Mr. President, I yield back the remainder of my time.

Mr. LEAHY. Mr. President, I thank the Senator from Arizona, and I thank him again for the hours and hours and days of work that he put in on this matter.

I compliment the Senator from Connecticut on his eloquence. He has argued very ably in the full Committee on Appropriations on this issue.

The full Committee on Appropriations went the other way. The full Committee on Appropriations went with the Subcommittee on District of Columbia Appropriations.

So I mention this, Mr. President, because I want my colleagues to know we have heard Senator WEICKER's arguments before. It is not a test of home rule for the city.

I happen to have very, very strong positive feelings toward the city of Washington, D.C. I went to law school here, primarily because the law school was in the District of Columbia and not the other way around. Our oldest son

was born in the District of Columbia. And I have very, very strong feelings about the city for that reason as well.

But do not accept the idea that somehow because we carry out our legal duties in determining where the Federal dollars are spent that somehow we are turning our back on the question of home rule.

I would be perfectly willing to see total home rule given to the city but until that happens, section 446 of Public Law 93-198, the Home Rule Charter, requires us to enact a budget for the District of Columbia and the law requires us to carry out that responsibility.

The fact is that the center would be funded by a $110 million loan from the U.S. Treasury and paid back, in part, with Federal funds that come to the city from Federal payments.

We talk about this need to revitalize downtown Washington as though Congress has done absolutely nothing for downtown Washington. We have a $5 billion subway system that crisscrosses the downtown area, the most expensive public works program in the history of mankind. We have over $300 million in Federal funds for the Pennsylvania Avenue redevelopment area which is in downtown Washington. The District of Columbia already has the highest per capita debt of any city in the United States, the highest per capita expenditure level of any city in its population range, and the highest tax burden of any jurisdiction in this area.

Mr. President, I submit that the convention center would only worsen these trends.

Mr. President, Congress has received inflated and overly optimistic projects from the city before. Let us take the RFK Stadium. That was supposed to pay for itself. I think that is probably as good a case in point as we can possibly make. Not only has RFK Stadium been unable to cover its operating expenses, it has also been unable to set aside any revenue to pay off the $19 million in revenue bonds that are due in fiscal year 1979, and this year in order to avoid a trainwreck in fiscal year 1979 I have recommended setting aside $9 million to help retire those bonds for a project that was supposed to pay for itself, the same as the convention center.

If the convention center loses money, as all independent analyses indicate it would, we are going to be required to bail them out again.

Mr. President, it is too expensive. It is $110 million. It would be the most expensive of convention centers ever proposed in the United States.

Let us look at what private money does. Private convention center facilities in Washington permitted the District of Columbia to be the third largest convention center city in the United States. As I mentioned before, the Sheraton Park is putting another $60 million of private money in there, because they know what size facility can actually make money.

The business community has refused to take any of the risks in this convention center. They would come in only after the convention center, built at public cost and at public risk, is in there.

There is no question the center is going to cause dislocation and split up Chinatown.

Mr. President, no one in this city has sat and listened to more testimony on this question than I have. No one in this city has spent more time looking at the site. I have spent walking tour after walking tour down through the area where it would go.

Mr. President, really, when you have a city as overextended as the District of Columbia, when you have projected net revenue losses of $4 to $9 million a year, with the extra burden on the taxpayers that it implies, when you have a project that includes no private capital, Mr. President, I submit that we simply cannot afford such a project and sink Federal funds into it.

I think, Mr. President, that it is not a question of home rule. If it were simply a question of home rule, my decision would be very, very easy on this. But it is not a question of home rule. It is a question of us carrying out our legal duties to the people of the District of Columbia and to the taxpayers of the Nation.

I think that is why the mail to my office from the citizens in this city has run strongly against the convention center. That is why when one radio station in this city ran day-after-day editorials in support of the convention center, asking people to call my office and register their support, the telephone calls came in but they came in heavily against the convention center because they were from the taxpayers of the District of Columbia who know that they are the ones who will pick up the tab in the long run.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LEAHY. I am happy to yield to my distinguished colleague from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Vermont for his position in this matter and the position of his subcommittee.

I must say that I believe that the stand of the distinguished Senator from Vermont and his subcommittee is the brightest ray of fiscal responsibility that I have seen exhibited in this Chamber in many a day, and it has taken some courage on the part of the distinguished Senator from Vermont to take this position as it does many who take a position of fiscal responsibility and fiscal sanity.

But I believe that he has reached the right decision, and I certainly hope that the Senate will back him, back the action of his subcommittee, and back the action of the committee.

I think it is a very fine position that he has taken, an outstanding position, and a position that I feel reflects great credit on the distinguished Senator from Vermont.

I commend him and his committee.

Mr. LEAHY. I thank the Senator from Alabama.

Mr. WEICKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. BAYH addressed the Chair.

Mr. WEICKER. Mr. President, I yield 3 minutes to the distinguished Senator from Indiana. Is that what the distinguished Senator wishes to have?

Mr. BAYH. I do not want to interfere with the Senator from Connecticut. I will be seated. But I hope he will permit me at least to express myself on the subject.

Mr. WEICKER. Indeed, I will.

Let me respond to some observations made in the Chamber in the last several minutes.

First of all, and I think the Baltimore Sun is a great newspaper, indeed, I am in concurrence most of the time with its editorials. I think it is hardly appropriate that the Baltimore Sun, representing a city that wants to build its own convention center, should go ahead and comment as to a possible conflict insofar as one of the groups that passed judgment on this city having its own center.

I am sure the city of Baltimore will build a convention center and be a huge success. It is a great city

Very frankly, I doubt there is much conflict between the two and each can have its own and both will thrive.

Point No. 2, I think radio polls have their place. What I think is far more important is the fact that on this project the City Council, the elected representatives of the people, voted 9 to 4 in favor.

Mr. LEAHY addressed the Chair.

Mr. WEICKER. If I may finish, I will then be glad to yield.

They voted 9 to 4 in favor. The Mayor of the city of Washington is in favor.

Regardless of what calls are coming into the offices of the distinguished Senator from Vermont, the fact is, No. 1, we operate in an election system which is fairly well set forth. We do not have to rely on phone calls into our office and, in any event, we are supposed to be U.S. Senators and not pollsters.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. The point was then made as to the Sheraton Park and the facilities which it intends to construct. No. 1, as all of us know, that is going to be no impact whatsoever on downtown Washington. How many of us here in this Chamber like to go to the Sheraton Park for receptions?

It is a fine facility, but we all know it lies on the fringe of the District. It is a most inconvenient place for us to go, and certainly will have no impact on downtown Washington. Neither will it substitute for what is being proposed by the District, because after you get through with the lobbies, corridors, and whatever, what is being built by Sheraton Park is 118,000 square feet of exhibition space, and what is proposed by the District is 300,000 square feet, which is what is needed for a convention center if it is to bring in that amount of income which is hoped for the city of Washington.

Again, it is commented that every study says it will just lose money, which

just is not so. The firm hired to evaluate the project comes forward with a net profit figure. The city auditor's estimates range from a profit to a small loss. The only person who agrees with the chairman of the committee is one individual representing the Capitol Hill Restoration Society, who predicts a loss of between $6 and $9 million. That is the only firm or individual who supports the contentions or conclusions reached by the chairman of the committee. Everyone else ranges from a profit to a very small loss. So it is not proper to say that all studies that have been made show the project losing money.

I again repeat, Mr. President, and then I plan to sit down and allow my distinguished friend from Indiana to hold forth, that what is involved here can stand on its own feet as a project.

Yes; the principle of home rule is involved. I think that has been argued well on both sides. People can draw their own conclusions. The project itself can stand on its own feet, in what it will do, not just in the sense of temporary employment, but in providing permanent employment opportunities here in the District, which is desperately in need of them, what it will do in attracting private enterprise, and what it will do in upping the value of property in downtown Washington, so the District can extract additional taxes. That is what is involved.

I think the project itself stands very well on its two feet. So I would hope my colleagues would support the amendment of the distinguished Senator from Missouri (Mr. EAGLETON) and myself, and vote the additional funds.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Connecticut has 4 minutes remaining.

Mr. WEICKER. Does the Senator from Maryland care to—I noticed him on his feet.

Mr. MATHIAS. I will reserve it.

Mr. WEICKER. Fine. I yield 3 minutes to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I must say with some great reluctance that I find myself in a position contrary to that of my good friend and colleague from Vermont. Not only do I have a warm personal feeling for him and great respect for his judgment, but, having sat in the seat he now occupies, supporting a similar bill through more than one appropriation process, I know what a thankless job it is trying to represent the Senate and the country in handling the District of Columbia appropriations.

Nevertheless, I feel an obligation, having studied the particular matter of a civic center while I did have that responsibility, to at least express my thoughts to the Senate.

I have long felt that when we are talking about projects in the Nation's Capital, we are really thinking in terms of something that is more than just a project for the District of Columbia and its residents, but that indeed what we do here has an impact on the Nation's Capital—with capital letters—and is thus in the interest of the entire United States of America.

So it seems to me that to really provide the total facilities that the citizens of this country have a right to expect in the Nation's Capital, we do have a need for a civic center. We are talking about more than dollars; we are talking about opportunity, not just for the citizens of the District, but for the citizens of this country, who will otherwise not have a chance to come here, because of their association with conventions that cannot be handled.

It is true that the Sheraton Park is involved in an expansion, but it is also true that there are significant numbers of conventions that cannot be handled by the Sheraton Park. It is true that there will be Federal money in a project such as this. It is not true that no private money is going to be involved. The Hotel Association has suggested a willingness to apply an 80 cents per room tax over the next 3 years, and extend the surtax so that there will be somewhere in the neighborhood of $18 million over the next 3 years that will be applied as up-front costs for this center before it is able to make the kind of revenues that are predicted.

To me, we are talking about two or three things. We are talking about job opportunities, as the Senator from Connecticut suggested, not just temporary jobs during the construction, but as a result of the development that will follow, we are talking about permanent job opportunities.

Second, we are talking about an increased tax base for the District. There will be increased tax revenues from those private facilities that are built in conjunction with the civic center, perhaps relieving the pressure for additional Federal payment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BAYH. Could I have 30 more seconds?

Mr. WEICKER. I just want to leave 1 minute for the distinguished ranking Republican member of the committee.

Mr. BAYH. I will yield. However, I would just like to point out, that we have a mess on our hands, and a sorry sight, in the middle of the Capital City. We still have not done the job to repair the 7th Street and 14th Street corridors that were destroyed in 1968. This will provide an opportunity for the civic center and to associated development to put a shining face on a section of the city, which has been ignored up to now.

Mr. WEICKER. I yield the remainder of my time to the Senator from Maryland.

Mr. MATHIAS. I yield it back.

Mr. WEICKER. I reserve the remainder of my time.

Mr. LEAHY. To sum up very quickly, Mr. President, I point out that, that apart from the Press Club's proposal being in downtown, the Press Club is willing to put together a $100 million complex with private money. The private money, of course, is willing to go where it will make money. The hotel industry is split on having this facility; but I can tell you that 85 percent of the civic organizations in the city are opposed to it. A large percentage of the business people and others who will be displaced by it are opposed to it.

I thank my good friend from Indiana, and he is my good friend, for his kind words. I am reminded of the line from Shakespeare's Julius Caesar:

> I come to bury Caesar, not to praise him.

I hope my good friend will stop just with the praise.

Mr. BAYH. Mr. President, if the Senator will permit me to suggest, there is going to be an awfully live corpse in his body for a long time.

Mr. LEAHY. I thank the distinguished Senator.

We have gone over this over and over again. I could go on for hours on this subject, Mr. President. I will not do so. The fact remains that there is no solid report showing but it would make money. The fact remains that there is no private money going into it. The fact remains that if it loses money, a third of that money is coming from the Federal payment. The fact remains that the city analysis for the Eisenhower Center in 1974 said it would create only 200 new permanent jobs created, with a delegate level of 100,000 people not 1,000 jobs. The fact remains that the cost would likely go well over $110 million, which would make it even more certain that is would lose money.

The fact remains that it would be the most expensive convention center in the country by far.

The fact remains that there is a lack of citizen support.

The fact remains that the District of Columbia is already highly overextended.

The fact remains that, like the RFK Stadium, the taxpayers of this city and the taxpayers of this country would have to come forward once again to bail it out.

Mr. CHURCH. I have been following this convention center issue in the local press and I am greatly concerned about the dislocation of small businesses as well as the dislocation of families and elderly individuals. The Special Committee on Aging, which I chair, recently studied a similar dislocation situation posed by San Francisco's Yerba Buena Convention Center. This proposed convention center reached in 1966 a stage of development equivalent to the District of Columbia proposal. San Francisco's convention center proposal was delayed for more than 4 years by litigation brought by residents and businesses which alleged violations of Federal relocation requirements. Although the dispute was settled in 1973, the Yerba Buena Convention Center still remains unfinished. It seems to me that similar delays could jeopardize the District of Columbia center proposal. Could the Senator from Vermont give us any information on the dislocation problems that the city's proposed center might cause?

Mr. LEAHY. I would be pleased to respond to the questions of the Senator from Idaho. The convention center proposal would dislocate 69 businesses, 62 households, and more than 120 individuals. Ninety of these individuals are

mostly elderly Chinese American citizens that would be forced to move out of the Chinatown area. I took two walking tours of the area and personally visited with numerous businesses in the area. Many of these small businessmen told me that they fear of being forced to move from a place of business that they have occupied for over 30 years. Such dislocation could result in them losing a large part of their clientele and could force them out of business altogether. I have heard from the Chinese American community on this question and two out of three Chinese American organizations have expressed their opposition to the proposal.

Mr. CHURCH. If the District of Columbia Convention Center proposal were delayed for 4 years like the Yerba Buena Convention Center, what would be the economic impact on the city's proposal?

Mr. LEAHY. Each year of delay would increase the cost of the proposal by $6 to $8 million and 4 years of delay would put the center's total cost between $134 million to $142 million. The Gladstone Corp. which did the economic analysis for the city stated that if the cost of the center exceeded $120 million the overall proposal would be of questionable feasibility. The analysis we have done indicates that the center would not be economically feasible even at $110 million.

Mr. CHURCH. Is there a way that the city could build a convention center that would not dislocate so many people and pose such a great threat to the Chinese community of Washington, D.C.?

Mr. LEAHY. Yes. As many of my colleagues know, the city and Federal Government own over 45 percent of the land in the District of Columbia and there are numerous alternative sites available to the city. Many of these other sites are already cleared and would not require the considerable expense of acquisition, demolition, and relocation. In fact, I asked the Mayor in a recent letter to consider an alternative site for the center that would avoid these problems and also make the center at least $25 million cheaper by putting it on land already owned by the city. The city refused to consider an alternative location.

Mr. CHURCH. It seems to me that we should support the committee and reject the amendment offered by the Senator from Connecticut. I urge that this proposal be sent back to the city and request that they reconsider it.

Mr. MATHIAS. Mr. President, the Senator from Connecticut yielded me the remainder of his time. How much time has he yielded?

The PRESIDING OFFICER. No time remains.

Mr. MATHIAS. I thought there were 30 seconds remaining.

The PRESIDING OFFICER. By the time the yielding was made——

Mr. MATHIAS. Will the Senator yield me 30 seconds?

Mr. LEAHY. Yes.

Mr. MATHIAS. I merely want to say that I support the amendment of the Senator from Connecticut and will vote for it.

Mr. LEAHY. I yielded knowing what he was going to say.

I will just say, Mr. President, in reference to the Baltimore Sun article, that the Baltimore Sun simply reported the facts as they were.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. YOUNG (when his name was called). On this vote I have a pair with the distinguished Senator from Arkansas (Mr. McCLELLAN), the chairman of the committee. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. MELCHER (when his name was called). Mr. President, on this vote, I have a live pair with the Senator from Louisiana (Mr. LONG). If he were voting, he would vote "nay." If I were allowed to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Louisiana (Mr. LONG), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 25, nays 65, as follows:

[Rollcall Vote No. 526 Leg.]

YEAS—25

Anderson	Goldwater	Muskie
Baker	Hatfield	Pearson
Bayh	Hathaway	Ribicoff
Brooke	Hollings	Sasser
Cannon	Javits	Schweiker
Clark	Kennedy	Weicker
Culver	Laxalt	Williams
Durkin	Mathias	
Eagleton	Matsunaga	

NAYS—65

Allen	Garn	Nelson
Bartlett	Glenn	Nunn
Bellmon	Gravel	Packwood
Bentsen	Hart	Pell
Biden	Haskell	Proxmire
Bumpers	Hatch	Randolph
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Byrd, Robert C.	Huddleston	Schmitt
Case	Inouye	Scott
Chafee	Jackson	Sparkman
Chiles	Johnston	Stafford
Church	Leahy	Stennis
Cranston	Lugar	Stevens
Curtis	Magnuson	Stevenson
Danforth	McClure	Stone
DeConcini	McGovern	Talmadge
Dole	McIntyre	Thurmond
Domenici	Metzenbaum	Tower
Eastland	Morgan	Wallop
Ford	Moynihan	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Young, for
Melcher, for

NOT VOTING—8

Abourezk	Humphrey	Metcalf
Griffin	Long	Percy
Hansen	McClellan	

So the amendment (No. 980) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1005

Mr. MATHIAS. Mr. President, I have an amendment at the desk. I ask to have it considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment No. 1005.

On page 2, lines 22 and 23, delete "$276,000,000" and in lieu thereof insert "$292,560,000".

The PRESIDING OFFICER. Is this the Senator's amendment on which there are to be 2 hours?

Mr. MATHIAS. That is correct.

Mr. LEAHY. Mr. President, if the Senator will yield.

Mr. MATHIAS. I am happy to yield.

Mr. LEAHY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senate will suspend from further business until we have order in the Senate.

The Senator from Vermont.

Mr. LEAHY. Mr. President, my colleagues have listened to the amendment being offered by the Senator from Maryland.

While I will oppose that amendment, I intend to use only a very few minutes of my time. I hope, less than 5 minutes at the most.

I would hope we could bring that to a conclusion as quickly as possible, although I will leave that up to the distinguished Senator from Maryland.

I would also state for the benefit of my colleagues that while we will reach final passage tonight, it is not my intention to ask for a rollcall vote on final passage. I have no insurance there will not be a rollcall requested, but there is no intention on my part to ask for a rollcall.

Mr. EAGLETON. Will the Senator yield me 1 minute on the Mathias amendment?

Mr. LEAHY. Yes.

Mr. MATHIAS. Mr. President, the Chair just inquired if this is the amendment on which there are 2 hours. I say to the Chair, that is accurate. This is the amendment on which there are 2 hours.

But in looking at the rollcall on the previous amendment, I would say that this is not what we used to call District Day in the U.S. Senate. This is not a day that augurs well for legislation which deals with the welfare of the people of our National Capital.

In this mood, I can read the tea leaves as well as other Members of the Senate. I think we can offer this amendment and dispose of it very rapidly. I doubt it takes 20 minutes, not 2 hours.

Although, Mr. President, I can speak formally full well on this subject, I think I can say some things that will be useful.

This amendment is so simple that I think it can be expressed in 2 minutes, not 2 hours, because all it does is recognize the fact that the cost of living is going up.

All the committee has recommended to this Senate is that we give the District for a Federal payment the same dollar volume we did last year.

The committee has voted the same Federal payment of $276 million for fiscal year 1978 as was appropriated for fiscal year 1977.

All I suggest is that we factor in 6 percent inflation, which would come to $16,560,000. So that is all we are talking about—$16,560,000.

I am sure every Member of the Senate is against inflation. I am against it, we are all against it.

But it is a fact of life that it has to be dealt with and the District of Columbia suffers the problem of inflation as well as everybody else. Now, that is the case.

The distinguished chairman of the subcommittee has argued that the District has very recently projected increased income for fiscal year 1978 from the various District taxes and that, therefore, they do not need this cost-of-living increase.

Well, we have urged them to tighten up their taxation. We have urged them to collect more aggressively. They have done that and they are making progress. But if we deny them the kind of cost of living increase that every place else in the Government has received, we will simply penalize them for trying to do better in what we have asked them to do.

That is the case, Mr. President. I submit it to the conscience and the good judgment of the Senate.

Mr. SARBANES. Will the Senator yield.

Mr. MATHIAS. Yes.

Mr. SARBANES. Mr. President, I just want to speak in very strong support of the Senator from Maryland's amendment.

Clearly, the government of the District of Columbia has to adjust its own budget with respect to inflation that is taking place, and it seems to be eminently reasonable that the Federal payment ought to carry the adjustment with it that has been proposed by the Senator from Maryland.

Otherwise, the Federal payment being extended represents nothing more nor less than a program cut.

There is no other way we can interpret it than it represents a program cut, and I do not think that is meeting our responsibilities as a Congress with respect to this important matter.

Mr. MATHIAS. I thank my distinguished colleague. It is exactly accurate. It does represent a program cut.

I just put the figures in context. This amendment would bring the payment for 1978 up to $292,560,000, which is $7,440,000 under the authorized amount for fiscal year 1978 and which is $2,790,000 under the amount voted by the House.

So we are not being spendthrift in doing this. We are still below the authorization and below the House.

It is only simple justice and I hope the Senate will approve the amendment.

Mr. LEAHY. Mr. President, I take exception to the words of my good friend and distinguished colleague, and distinguished minority leader on the District of Columbia Appropriation Subcommittee, when he says that today is a day that does not augur well for the District. I take strong exception to that comment.

I say it augurs very well for the taxpayers of the District of Columbia. I think we lose sight of the fact that they also pay Federal taxes. They have been saved from a $110 million, ill-conceived, ill-thought-out white elephant.

The amendment just offered by the Senator from Maryland is offered with good intentions and generosity toward the city. It is, however, both unnecessary and unneeded. I would like to take just one moment to expand on these points.

The budget for the District of Columbia that the committee recommends to the Senate is balanced and fully funded.

I question how many other budgets come before us and fall in that category. It represents an increase of over $180 million over the funds provided to the city last year. This $180 million increase is more than an ample amount to compensate the city for inflation. But more importantly, I would like to stress that the budget, as recommended, is balanced and fully funded and the additional Federal funds that Senator MATHIAS proposes to give the city are not needed to fund any of the programs that the committee recommends to the Senate.

The city's August revenue estimate shows that there have been recent large increases in local revenues. In fact, the committee estimates that local revenues available to the city are at least $40 million more than the city previously estimated in its April revenue estimate. This large increase in local revenues has already permitted the city to propose a $15 million tax relief measure for fiscal year 1978.

Personally, Mr. President, I see nothing wrong with trying to seek a budget that might allow some money to go back to the taxpayers instead of the other way around. The committee recommends approval of that measure in order to provide tax relief to the citizens of the District of Columbia. This large increase in local revenues also makes it possible to fund the city programs without increases in the Federal payment.

I would also like to note that the section 501(a) of the home rule charter says that the Federal payment "should operate to encourage efforts on the part of the Government to maintain and increase its level of revenues and to seek such efficiencies and economies as are possible."

We do not do that by constantly increasing the Federal money available to the city. It is not needed to balance the budget. It is not needed to fund the program we are recommending. It is not needed to compensate the city for the effects of inflation.

As I said before, Mr. President, I would rather see the money going back to the taxpayers than the other way around. Providing the city with an additional $17 million that are not needed to balance the budget would not be consistent with the intent of section 501(a) of the home rule charter that requires the Federal payment to be established in a way to encourage the city government to maintain and increase its own revenues.

In closing, I would only stress that the additional Federal subsidy that Senator MATHIAS has recommended for the city is not needed to balance the budget, it is not needed to fund the programs that the Appropriations Committee is now recommending to the Senate and it is not needed to compensate the city for the effects of inflation. Providing the city with these additional funds also would be contrary to the intent of section 501 (a) of the home rule charter.

The committee listened to Senator MATHIAS' arguments on this matter and rejected a similar amendment that he offered at the full committee markup. I urge the Senate to support the committee and to defeat the amendment.

Mr. SCOTT. Will the Senator yield?

Mr. LEAHY. I have already agreed to yield to the Senator from Missouri and I would be most happy to yield to the Senator from Virginia.

Mr. EAGLETON. I am glad to wait.

Mr. SCOTT. Mr. President, I thank the Senator for yielding.

I have listened to my distinguished colleague, the ranking Republican Member, speak of inflation.

I think one of the primary, if not the primary, causes of inflation is Government spending.

We have an opportunity not to add to the inflationary spark by defeating this proposed amendment.

Mr. EAGLETON. Mr. President, I oppose the Mathias amendment. I think this is the first time that Senator MATHIAS and I have disagreed on an issue on the District of Columbia that was brought to a vote on the floor of the Senate. I will make my case briefly.

There are 55,000 municipal employees in the District of Columbia. I have not misspoken. There are 55,000. There is no city in the world of comparable size that, in any way, shape, or form, has such a bloated payroll.

Time and again, we have had Mayor Washington and the Budget Director before our committee. I have said,

Gentleman, I cannot support any further increase in the Federal payment. You must bring that payroll down.

They have made little progress. Albeit, for certain purposes the District is a State and for certain purposes it is a county. Factoring all that into account, I ask any Senator here whose State has a city of, roughly, 600,000 to 800,000 population—the D.C. population is 702,000—if he has the same number of municipal employees. St. Louis, for example, has 7,000 employees—7,000 versus 55,000.

It is incredible, Mr. President. The only way we will get the attention of District officials is to keep the lid on the Federal payment, so that each year they will pinch a little harder, and then, finally, they will take the inescapably necessary steps to pare down this bloated payroll.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. JOHNSTON. Can the Senator tell me what all 55,000 do?

Mr. EAGLETON. Fifty-five thousand

is the sum aggregate of all municipal employees, the schoolteachers, plus the policemen and firemen, plus all the Metro employees. It does not include the Park Service or the Interior Department or any Federal entities. It is 55,000.

There are things with respect to the District budget that we find very, very difficult to defend. This has come as a continuing source of agony to me and to many others who have had some oversight responsibility with respect thereto.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. I yield to the distinguished senior Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the committee chairman and oppose the amendment offered by the Senator from Maryland, which I feel would neutralize the few positive steps taken by this year's District of Columbia appropriations bill.

This bill represents an effort to reduce the District's dependency on Federal support. The Mathias amendment, by indexing the "Federal share" to the cost of living, embodies the principle that Federal support should remain at its current level.

The District's independence under "home rule" implies responsibility for its own support, in addition to the freedom to make its own decisions.

If the District wishes autonomy, it must demonstrate that it is ready to put its own house in order.

The chairman of the subcommittee, Senator LEAHY, has told the Senate that the District of Columbia Government will cost $180 million more than last year, an increase of 16 percent.

The District Government is among the most wasteful in the country.

It has the highest per capita expenditure level of any city in the country of similar size.

The Washington spending rate of $2,203 per person is almost $400 per person higher than Boston, the class runner-up.

Washington's per capita debt of $1,860 is $50 per person higher than the figure for New York and is up $100 per person from last year.

While no other city has to function like a State government, none other has its parks and museums financed by the Federal Government.

Furthermore, the District has a dismal record of predicting the ability of capital projects to pay for themselves. It is already $1,300,000,000 in debt to the Federal Treasury and is borrowing another $92,000,000 in the upcoming fiscal year.

It is not generating adequate revenue from the operation of RFK Stadium to meet the $19,800,000 in principal payments coming due on December 1, 1976.

It has $2 billions of unfunded pension funds debts; and this figure, if left unchecked, will balloon to $17 billion by the year 2010.

The bottom line is that current District accounting practices are pushing the city toward the point where it will have to ask the Federal Government for enormous additional infusions of capital to meet foreseeable but unforeseen crises.

It now wants to build a $110,000,000 convention center. To rebut estimates that the District would lose $4 to $9 millions a year on the operation of the center, it produces estimates by a company with major landholdings in the area of the proposed center.

Senator LEAHY, chairman of the appropriations subcommittee of the Senate estimates operating deficits of $7 to $10 million annually.

The outcome of all of these projects should be readily apparent. The project is commenced on the basis of deflated figures. Once the project has reached the point of no return, the Federal Government will be called in to absorb the unanticipated overrun.

Unfortunately, too many people in responsible positions have responded defensively to repeated calls for fiscal responsibility, regarding such pleas as indictments of home rule. We have passed the point of mutual recriminations, and now must move toward reasonable solutions.

The District government is seeking to impose a commuter tax on residents of Virginia and Maryland who work for the Federal Government in Washington, D.C.

I have consistently opposed a commuter tax and will continue to do so. What the District needs to do is to economize—not seek more taxes, or more funds from the Federal Treasury.

Mr. LEAHY. Mr. President, if the distinguished minority member is willing to yield back his time, I yield back mine.

Mr. MATHIAS. I yield back the remainder of my time.

Mr. LEAHY. I yield back the remainder of my time. The committee's position would be a "no" vote.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was rejected.

ADDITIONAL STATEMENT SUBMITTED

Mr. MATHIAS. Mr. President, I want to commend our able chairman, Senator LEAHY, for the very hard work and excellent job he has done as our chairman of the Appropriations District of Columbia Subcommittee. While we have not agreed on every item in this bill, I do support most of his recommendations and in those few instances where I do not, I am very aware that he has arrived at his conclusions after diligent work and consideration of the issues involved.

I was very pleased that in the full committee the Senator accepted my recommended add-on of $28,800 for the legal assistance to prisoners project. I believe this is a most worthwhile project and certainly it is not an expensive one. While we did not add additional funds for the child care center at the superior court, I am pleased that the committee has approved a reprograming of funds to continue that function.

I tried to add funds totaling $299,000 to the appropriation for the Board of Elections and Ethics Account to support an automated system of information recording, storage, and retrieval, and for the purchase of units for an automated ballot counting system. I believe it is very important that we provide the District with every means available to support accurate and speedy balloting and counting. The committee did agree, however, on the following language in the report:

> While the Committee has agreed with the House in denying funds for these two projects, the District is encouraged to resubmit budget requests for them when they have completed further study to determine exact total costs."

Finally, I am proposing an amendment which I discussed in the full committee meeting on this bill to increase the Federal payment over last year's amount by 6 percent to accommodate uncontrollable inflation in the District's expenditures. Again, let me say that it was a pleasure to work with Senator LEAHY, our chairman.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LEAHY. Mr. President, if there are no further amendments, I yield back my time on the bill and ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 9005) was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 9005.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LEAHY, Mr. BURDICK, Mr. DECONCINI, Mr. HOLLINGS, Mr. MAGNUSON, Mr. INOUYE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG conferees on the part of the Senate.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I want to take this occasion to compliment the distinguished Senator from Vermont (Mr. LEAHY) who has managed his first District of Columbia appropriations bill, and who, as chairman of the D.C. Appropriations Subcommittee has performed a masterful job.

Having been chairman of that subcommittee for a period of 8 years myself, I think I know something about the work that is entailed. I just have to tip my

hat, figuratively speaking, to this fine Senator from Vermont who has so ably conducted the hearings and managed the bill on the floor.

I also want to compliment the ranking member of the subcommittee (Mr. MATHIAS) on the cooperation and the splendid work he has rendered in connection with the work through the committee hearings, markup, and the floor debate. Both Senators have demonstrated their skill and their great knowledge of the subject. May I say the Senate is in their debt.

Mr. LEAHY. Mr. President, I wish to thank the distinguished majority leader at this late hour. He has been very kind and overly generous.

I would point out that one morning when I had an 8 o'clock in the morning committee meeting, and there were a couple of people grumbling in the committee room, saying how that was an early hour for working the committee, somebody else said that it was an awful lot easier than when Senator ROBERT C. BYRD was the chairman. Then, he said they not only had weekday mornings but Saturday mornings, too.

So I know I have a very, very hard act to follow, and for the number of years I will be serving, I will try to perform as well as I can. It will be difficult.

Mr. SCHMITT. I would like to join with the distinguished majority leader in complimenting Senator LEAHY for his outstanding work. I have been very impressed by his persuasive discussion with respect to several of the issues that have come before his committee, and I hope in the future to discuss more of these in some detail and, perhaps, work out some alternative answers as to some of the problems he was presented with.

Also, since it is late in the day, and we have had a long day, long several weeks, I want to compliment the majority leader for his efforts in seeing that we did get through this day and also have a chance to work on other legislation. Obviously, it has been a very difficult time for him as well as others. But he bore a great deal of the load, and I want to compliment him on his efforts to reach a compromise. In a real sense, we have established a compromise, and at least we have established a position in which the Senate can reach a compromise with the other body.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from New Mexico is more than generous. It is all in the day's work. However, I am very grateful for his generosity.

Mr. LEAHY. It is day and night work. I think the Senate owes a great deal to our leadership and, having said that, I will now go to a PTA meeting with one of my four favorite constituents I have mentioned on the floor here. I thank the Senator.

Mr. ROBERT C. BYRD. May God speed the Senator on his way. I look forward to seeing him on the morning.

JOINT REFERRAL OF A BILL—S. 2173

Mr. MATHIAS. Mr. President, I ask unanimous consent that a bill I introduced earlier be referred jointly to the Committee on Finance and the Committee on the Judiciary. This request has been cleared on both the majority and minority sides with the chairmen and ranking members of both those committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PANAMA CANAL TREATIES

Mr. THURMOND. Mr. President, earlier today I testified before the Foreign Relations Committee on the provisions of the pending treaties that would give the Panama Canal Zone to the Republic of Panama. During my testimony opposing these treaties, I raised the point that Panamanian officials are putting a different interpretation on some of the treaty provisions from those interpretations expressed by U.S. officials who support the treaties.

I have now been handed a wire from the American Embassy in Panama to the U.S. Secretary of State. It was obtained by Senator ROBERT DOLE and corroborates my statement this morning about Panamanian interpretations of the treaties differing from those expressed by proponents in this country.

Mr. President, I ask unanimous consent that a news release on this matter by Senator DOLE and the wire to the Secretary of State be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

DOLE: "CONFIDENTIAL" CABLE PROVES PANAMA CANAL TREATY FLAWED

WASHINGTON, D.C.—Senator Bob Dole today released the text of a Confidential State Department cable which he said proves "beyond a doubt" that U.S. and Panamanian officials have far different interpretations of key defense provisions in the proposed Panama Canal Treaties. Dole has requested comments from Secretary of State Cyrus Vance on the contents of the cable, which the Senator recevied a copy of on Monday of this week. "This document demonstrates beyond a doubt the vast differences in interpretation of the most important part of these treaties—that portion which bears directly on our vital national defense interests," Dole said.

Senator Dole, who is due to testify before the Senate Foreign Relations Committee Wednesday morning, said that the Senate "must clarify our defense rights by Amendment, not by weak 'understandings' that have no legal and binding effect." Senator Dole is the only Senator to have introduced Amendments and Reservations to change the language of the Canal Treaties proposed by President Carter.

The State Department cable was received from the American Embassy in Panama last Thursday, September 29, and described Panamanian negotiators as "disturbed" over testimony by Secretary of State Vance and U.S. Ambassadors Ellsworth Bunker and Sol Linowitz before the Senate Foreign Relations Committee last week. One Panamanian negotiator confirmed that the U.S. would have no military intervention rights under the Treaty, and there would be no "preferential passage" for U.S. warships through the Panama Canal. Secretary Vance, along with several other Administration witnesses, indicated in his testimony last week that such American rights were "understood" within the language of the Treaties.

Senator Dole said it is "essential" that the United States retain unilateral authority to step in and defend the Canal militarily at any time it is threatened. He said it is also essential to have clear-cut rights to priority passage through the Canal during wartime. Senator Dole has already introduced Amendments to the Treaties which would guarantee both rights to the United States permanently.

In other remarks prepared for the Committee, Dole said defects and omissions in the Treaties must be corrected by Amendment or Reservation, both of which would be legally binding, rather than by Understanding or Declaration, which have only an interpretive purpose for the party that makes them.

Dole described in detail his six Amendments and two Reservations which, in addition to those described above, would cut U.S. payments to Panama in half; guarantee the U.S. right to construct a new interoceanic canal anyplace in the Western hemisphere; extend the transition period for transfer of U.S. jurisdiction over the Canal Zone; insist on human rights observance in Panama for U.S. and Panamanian citizens; and give the House of Representatives a right to act on the Treaty proposals.

STATE DEPARTMENT CABLE

Subject: negotiator's concern over hearings:

1. The political counselor called Carlos Lopez Guevara on another matter this morning and found him disturbed over some of the testimony before the Senate Foreign Relations Committee—particularly the first day. Two matters seemed to trouble him most:

A. Interpretation of the expeditious-passage clause that U.S. war vessels get "preferential" treatment or that they may "go to the head of the line". Lopez Guevara said that Royo and Escobar tentatively accepted preferential treatment for us and Panamanian war vessels, but in a later session this was specifically rejected by Panama and the word "expeditiously" was substituted.

B. Assertions that the treaty gives the U.S. any right to "intervene" in Panama. He said that Article IV means nothing more than what it says. "Intervention is simply forbidden by international law," he said. "Panama cannot agree to the right of the U.S. to intervene." He urged that U.S. officials stop using the term "intervention" in describing its rights under the treaty. He also expressed the view that those testifying before the committee on Monday had made too much of General Torrijos' statement that Panama was under the umbrella of the Pentagon. "The general was stating a fact, not giving the U.S. any right to intervene." He said he had no way of knowing what Torrijos thought of the testimony, but he, Lopez, personally was disturbed with many of our interpretations. He promised to "set the record straight" in a speech he is to make tonight.

2. The political counselor pointed out some statements which Panamanian negotiators had made which do not accord with our understanding of the neutrality agreement. He said that, on balance, the positions on neutrality given by Escobar and Boyd, while not identical with our interpretation, were moderate in the Panamanian context. However, certain statements taken by themselves and out of the overall context, have proved difficult to explain to skeptical Senators. He pointed out that most of the difficulties in the Senate so far have come from uncommitted Senators such as Baker and Stone, rather than hardline treaty opponents. He suggested that it might be useful if the Panamanians would establish a standard position, rather than speak extemporaneously on this delicate question.

3. Lopez Guevara said he understood the difficulties which U.S. negotiators face and asked for copies of some of the offending remarks. However, he cautioned that, no

matter how necessary in the American process, there were some things that no Panamanian Government could accept.

4. Comment: As the negotiators are aware, Lopez Guevara, though a moderate and reasonable man, is relatively inflexible on some questions. As he pointed out, he was at the head of those who did not accept the concept of priority passage for U.S. war vessels. He is considered a technician within the government, but he is influential. As we talk with other negotiators and officials who are campaigning for the treaty here, we will urge caution on any statement concerning U.S. rights under the neutrality treaty. But we are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which deems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged here.—Gonzalez

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the able Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I have seen the wire to which the distinguished Senator from South Carolina refers. It is a wire from the American Embassy in Panama to our State Department.

It is a very significant statement. I am glad the Senator has put it in the RECORD. Earlier today, I inserted in the RECORD the testimony given by the Senator from South Carolina before the Foreign Relations Committee today. In that testimony, the Senator from South Carolina brought out many facts which I think are very important for the Senate to know.

Mr. THURMOND. I thank the distinguished and able senior Senator from Virginia.

QUORUM CALL

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF A BILL—S. 2161

Mr. JAVITS. Mr. President, I ask unanimous consent, and I will give my clearances in a moment, that S. 2161, the Regional Energy Development Act of 1977, be referred to the Committee on Governmental Affairs in addition to the Committee on Energy and Natural Resources and Banking, Housing, and Urban Affairs.

Mr. President, I have taken up the matter personally and orally with the chairman and ranking member of each of these committees and all have approved this course of action and, hence, I make the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 2114

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2114, the public utility rate bill, is called up and made the pending business before the Senate, there be a time limitation of 4 hours on the bill to be equally divided between Mr. JOHNSTON and Mr. DOMENICI; that there be a time limitation on any amendments of 2 hours; that there be a time limitation on an amendment by Mr. GRIFFIN of 1½ hours; that there be a time limitation on each of two amendments by Mr. TOWER of 1½ hours; that there be a time limitation on an amendment by Mr. GLENN of 1½ hours; that there be a time limitation of 30 minutes on amendments to any amendments in the second degree; that there be a time limitation on any debatable motion, appeal or point of order of 20 minutes; and that the agreement be in the usual form.

Mr. STEVENS. There is no objection.

Mr. JOHNSTON. Did the Senator put a time limitation on the Johnston amendment?

Mr. ROBERT C. BYRD. There be a time limitation on an amendment by Mr. Johnston of 1½ hours.

Mr. JOHNSTON. Do we need 2 hours on all of those amendments?

Mr. ROBERT C. BYRD. Yes, at this time I think we would.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, excuse my interruption, but will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JOHNSTON. Can we get a germaneness limitation through?

Mr. ROBERT C. BYRD. It is included. It was in the usual form.

Mr. President, I ask unanimous consent that in connection with the time agreement on the utility rate reform bill there be a time limitation on an amendment by Mr. DURKIN of one-half hour, and a time limitation on an amendment by Mr. FORD of one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 2114 (Order No. 403), the Public Utilities Regulation and Policy Act of 1977, debate on any amendment in the first degree (except an amendment by Mr. Griffin, on which there shall be 1½ hours; two amendments by Mr. Tower, on which there shall be 1½ hours each; an amendment by Mr. Glenn, on which there shall be 1½ hours; an amendment by Mr. Johnston, on which there shall be 1½ hours; an amendment by Mr. Durkin, on which there shall be ½ hour; and an amendment by Mr. Ford, on which there shall be ½ hour) shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. Johnston) and the Senator from New Mexico (Mr. Domenici): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR THE CONSIDERATION OF S. 2114 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been consummated, the Senate proceed to the consideration of S. 2114, the utility rate reform bill.

The PRESIDING OFFICER. Without objection, it is ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, and following the recognition of Mr. ALLEN, the following Senators be recognized each for not to exceed 15 minutes, and in whatever order suits their convenience: Messrs. SCHMITT, GLENN, MATHIAS, GOLDWATER, BARTLETT, and CURTIS.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9354.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to the immediate consideration of H.R. 9354.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish the record to show the bill is called up at the request of our minority leader to clear this. This is former President Ford's additional staff bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 9354) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 1 minute.

The motion was agreed to, and at 7:21 p.m. on Tuesday, October 4, 1977, the Senate adjourned until 7:22 p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, OCTOBER 4, 1977

The Senate met at 7:22 p.m., pursuant to adjournment, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING COURTNEY C. PACE FOR 35 YEARS OF FAITHFUL AND OUTSTANDING SERVICE TO THE U.S. SENATE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EASTLAND and Mr. JACKSON, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 280) commending Courtney C. Pace for 35 years of faithful and outstanding service to the U.S. Senate.

Whereas the Senate wishes to express its appreciation to Courtney C. Pace who has occupied the post of Administrative Assistant to Senator James O. Eastland for three and a half decades;

Whereas the said Courtney C. Pace is now and has been for some time the senior Administrative Assistant employed by the Senate;

Whereas this true gentleman has, at all times, discharged the important duties and responsibilities of his office with efficiency and diligence, as well as with compassion and understanding; and

Whereas his exceptional service and his unwavering dedication to duty meet the highest standards of the Senate and have earned for him our esteem and affection: Now, therefore, be it

Resolved, That Courtney C. Pace is hereby commended for his long, faithful, and outstanding service to the Senate and to his State and Nation.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Courtney C. Pace.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 280) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR STAFF INVESTIGATOR TO GIVE TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 281) to authorize a staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and be deposed and to present himself and give testimony at the trial in the matter of *Janine Perrignon, et al.* v. *Bergin Brunswig Corporation, et al.*;

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JACKSON. Mr. President, I report today a resolution to permit a staff investigator of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs to present himself and be deposed and to give trial testimony in the matter of Janine Perrignon, et al. against Bergin Brunswig, et al., pending before the U.S. District Court for the Northern District of California.

By letter dated July 20, 1977, counsel for plaintiffs in the case formally requested that Mr. Vienna be permitted to testify in this civil action concerning an investigation conducted by the subcommittee into the medicaid management information systems. The trial is presently schedule to begin November 21, 1977.

On September 9, 1977, Mr. Vienna was served by defendants in this action with a subpena commanding that he present himself and be deposed on October 6, 1977.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, such information, documentation and testimony may not be released without a resolution of the Senate.

Accordingly, I report the resolution, approved by the Committee on Governmental Affairs, and ask that this resolution be adopted.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 281

Whereas, counsel for plaintiffs has formally requested by letter dated July 20, 1977, that David Vienna, a staff investigator of the Senate Permanent Subcommittee on Investigations, be authorized to appear and give trial testimony in the matter of *Janine Perrignon, et al.* v. *Bergin Brunswig Corporation, et al.*, a civil action pending before the United States District Court for the Northern District of California;

Whereas, defendants have subpoenaed David Vienna to present himself and be deposed in the above captioned matter;

Whereas the subject matter of the trial and deposition pertains to information obtained by Mr. Vienna in the course of his employment as a staff investigator for the Senate Permanent Subcommitttee on Investigations; and

Whereas by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate: Therefore, be it

Resolved, That David Vienna be authorized to present himself and be deposed and present himself and give trial testimony with regard to the public hearings of the Senate Permanent Subcommittee on Investigations on Medicaid Management Information Systems held on September 29 and 30 and October 1, 1976, and to take with him copies of public exhibits received for the record at said hearings; provided, however, he shall respectfully decline to be deposed or testify concerning any and all matters which would directly or indirectly disclose sources or matters involving materials or information received in confidence by him in his official capacity as a staff investigator for the Senate Permanent Subcommittee on Investigations.

SEC. 2. The Secretary of the Senate shall transmit copies of this Resolution to James Ware, Esquire, 321 Lytton Avenue, Palo Alto, California, 94302, and Theodore Russell, Esquire, 600 Montgomery Street, San Francisco, California, 94111.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate on tomorrow will meet at 9 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN, Mr. SCHMITT, Mr. GLENN, Mr. MATHIAS, Mr. GOLDWATER, Mr. BARTLETT, and Mr. CURTIS will each be recognized for not to exceed 15 minutes, after which the Senate will proceed to the consideration of the utility rate reform bill, S. 2114, which is the fourth in the series of five energy bills which is on the Senate agenda for this year and which constitutes the President's package.

Upon the disposition of the utility rate reform bill, looking down the road during the remainder of the week, the leadership would expect to take up the minimum wage bill, S. 1871, and other measures that have been cleared for action in the meantime.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to; and at 7:29 p.m., the Senate recessed until tomorrow, Wednesday, October 5, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1977:

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982:

Gillian Martin Sorensen, of New York, vice Robert S. Benjamin, term expired.

Sharon P. Rockefeller, of West Virginia, vice Thomas W. Moore, term expired.

WITHDRAWAL

Executive nomination withdraw from the Senate October 4, 1977:

Donald L. Tucker, of Florida, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1979, vice G. Joseph Minetti, which was sent to the Senate on June 16, 1977.

EXTENSIONS OF REMARKS

SHERRILL C. CORWIN'S CAREER IN SHOW BUSINESS IS RECOGNIZED

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WAXMAN. Mr. Speaker, Mr. Sherrill C. Corwin of Los Angeles has been chosen to receive the 1977 "Pioneer of the Year" award by the National Foundation of the Motion Picture Pioneers. He will be honored at a gala dinner on November 14, 1977. Mr. Corwin desrves our commendation for his many contributions to his community and for his numerous accomplishments. Always interested in developing new talent for all segments of the motion picture industry, Mr. Corwin was one of the founding trustees of the American Film Institute and helped initiate the group's policy of offering grants to young filmmakers. He played a key role in developing the apprenticeship program by which major studios encourage college cinema graduates to take part in the industry. Mr. Corwin is also the sponsor of the annual Sherrill C. Corwin Awards at the University of California, Santa Barbara, for stage, screen and television writing, and for original musical composition.

Mr. Corwin's involvement in philantropic and humanitarian projects include his longtime trusteeship of the Will Rogers Respiratory Diseases Research Foundation in New York, and an active role in the Motion Picture Pioneers, a national organization involved in the distribution branch of the movie industry. He has repeatedly been chairman or cochairman of the Entertainment Division of the United Jewish Appeal in Los Angeles. Mr. Corwin has long been a dominant figure in the affairs of Variety Clubs International, the organization best known as the worldwide charity arm of show business, having raised more than $300 million since its inception in 1927. Mr. Corwin has also been an active member of the Academy of Motion Picture Arts and Sciences, and the Friar's Club.

Sherrill's wife, Dorothy, with whom he has enjoyed a marriage of 46 years, has also been very active in community projects. She has served several terms as an officer of the United Jewish Appeal and of the Jewish Federation Council. Their twin children, Bruce and Bonnie, have carried out the family tradition of community and political service.

Sherrill Corwin's show business career spans more than half a century. He is currently chairman of the board of the Metropolitan Theatres Corp., in Los Angeles. He was one of the founders, and was the first president, of the National Association of Theatre Owners and remains a member of both its board of directors and executive committee. Mr. Corwin has long been interested in independent film production, and in addition to his theater holdings, is director of a bank and of a life insurance company and has owned and operated radio and television stations throughout California and Kansas.

For Sherrill C. Corwin's lifelong contributions to his community and his industry, he has earned our respect and admiration. I ask the Members to join me in honoring him.

ESTONIA LAID WASTE BY RUSSIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McDONALD. Mr. Speaker, the Daily Telegraph of London, on September 19, 1977, in a story datelined Stockholm, reported a protest by scientists relative to pollution created by the rape of natural resources in Estonia by the U.S.S.R. and this is certainly noteworthy. However, this is not unusual. The U.S.S.R. possessed of one of the greatest storehouses of natural resources in the world, has always been wasteful of its resources and is a johnny-come-lately to the environmental business.

In the case of Estonia, the rape of resources has been secondary to the attempt to populate Estonia with Great Russians, subvert the Estonian culture and religion, and, when necessary, ship Estonians to labor camps when they resisted Communism. As one of the Baltic nations, poor Estonia was invaded by both the Nazis and the U.S.S.R. during World War II again losing her freedom after gaining a painful independence following World War I. This is yet another sad aspect of her subjugation to the U.S.S.R. The news item follows:

[From the Daily Telegraph, Sept. 19, 1977]

ESTONIA "LAID WASTE BY RUSSIA"

(By Elga Eliaser)

A group of scientists may be in danger of arrest or lose their jobs after smuggling a warning out of Estonia that natural resources in the north of the country are being wasted by Russia.

The biggest threat is to oil shale and phosphorite. But soil, water and air are being excessively polluted, say the scientists, in a letter addressed to colleagues in countries around the Baltic Sea.

Scientists in Finland, Sweden, Denmark and West Germany have been told that heavily-polluted Estonian rivers are polluting the Baltic, a shallow, tideless, extremely vulnerable sea.

The letter was signed by "18 scientists of the Environmental Protection Society, now the Academy of Sciences of Tallinn Polytechnical Institute and of Tartu University of the Estonian SSR." Although their names were not published, it will be relatively easy to identify them.

LUNAR LANDSCAPE

They said Estonian oil shale was a valuable raw material for the chemical industry and ought also to be capable of producing oil and gas for export.

But most of the output was used for fuel in two large power plants, and the construction of a third was planned.

Excessive mining for oil shale, they said, turned large districts in Northern Estonia into a lunar landscape. "Large heaps of ashes and stones arise above a grey and dead land. Fertile soil and its flora have been killed over large stretches, air has been polluted by smoke and poisonous compounds.

"Rivers which earlier abounded with salmon and trout, are now completely lifeless and poison the sea. The pollution of the ground water has reached a dangerous level."

They appealed for their colleagues to help to save North Estonian resources and to stop further pollution and environmental destruction.

JOINT STATEMENT ON ISRAEL RAISES DISTURBING QUESTIONS ON U.S. POLICY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. COUGHLIN. Mr. Speaker, the joint United States-Soviet statement on the Middle East raises disturbing questions about the administration policy toward Israel.

By its use of the so-called big power leverage, the administration suddenly has thrust the Soviet Union back into a major world trouble area with renewed influence when its credibility with Arab States was waning greatly.

Whether out of naivety or on purpose, the administration appears to be abandoning key principles which I always have considered essential in working toward peace between Israel and her Arab neighbors:

First. It indicates it is willing to impose a settlement on Israel which represents a significant reversal of our longstanding policy;

Second. It apparently ignores the facts that Israel can survive only with secure borders which it has fought for, at great cost to its relatively small population, since its establishment as a state; and

Third. It jeopardizes Israel's bargaining position by imposing preconditions even before the Geneva Conference which leaves it to the negotiating mercy of the Arab States.

In sum, the administration's "grand design" for peace in the Middle East is a risk of monumental proportions and calls into doubt both the wisdom and influence of its architect, National Security Adviser Zbigniew Brzezinski.

Substitution of this strategy for the step-by-step diplomacy of former Secretary of State Henry Kissinger increases tensions in the Middle East. Rather than enhancing chances for lasting peace, it reduces them.

The problems of the Middle East, including Palestinian interests, are so tangled and profound that only an act of folly or a flight of ego would attempt to solve them by one great ploy. We should be encouraging responsible Israeli and Arab leaders to a realistic resolution of a number of delicate problems, not promoting a questionable panacea of sweeping magnitude that places more emphasis on hope than reason.

Obviously, the leaders of Israel are realists who recognize they will be called upon to make concessions if they are to achieve a lasting peace with the Arab States. A step-by-step progression affords all participants the maximum opportunities to bargain and to adjust positions. By taking away all of Israel's bargaining chips before the conference, the administration is committing a gigantic blunder.

President Carter's reassurances to Israel mean little in light of the joint United States-Soviet communique. Even more ominous are the cocksure statements of Brzezinski that, in effect, Israel has no place to go and will be forced to sit down at the peace table at any cost. Mr. Brzezinski's reading of history is as fallacious as his premise that he can dictate a Middle East settlement to the nation which has been the cutting edge of our policy there and has maintained the only stable government on which we could depend.

TWENTIETH ANNIVERSARY OF SPUTNIK I

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. TEAGUE. Mr. Speaker, today is the 20th anniversary of the orbiting of the world's first artificial satellite, Sputnik I, launched by the Soviet Union on October 4, 1957.

This major scientific accomplishment was not only a dramatic event, but was one that caught the world by surprise. Aside from the political effect upon world public opinion, the Soviet space accomplishment had grave implications for the security of the free world.

The success of the U.S.S.R. satellite led the world into outer space and the U.S. immediate response was that it must put forth a tremendous effort to insure its own preeminence in this new area. The race in space presented a whole new set of far-reaching and complex problems to Congress, the executive branch of the Government, and to the industrial and scientific communities.

Although the United States did not have an integrated national space program in 1957, it had plans to launch a scientific satellite in the International Geophysical Year, preparation for which had begun in 1954. The IGY was a scientific undertaking sponsored by an international organization of scientists and designed to promote a worldwide investigation of the Earth and its environment.

America's successful response to the Russian challenge came on January 31, 1958. On that day, this Nation successfully launched under its IGY program, Explorer I, the free world's first artificial satellite. Onboard instruments discovered the radiation belt which surrounds the Earth. Soon thereafter, there was established the Advanced Research Projects Agency within the Department of Defense to provide interim responsibility for the national space program.

With strong public support, both Houses of Congress quickly enacted into law the National Aeronautics and Space Act of 1958 that created a civilian space agency and gave it a broad charter for civilian aeronautical and space research. The National Aeronautics and Space Agency became operative on October 1, 1958, and with the help of many dedicated people, has guided our Nation's space exploration activities through the fastest moving technological revolution of all time.

Mr. Speaker, from the position of being a nation behind in space achievements in 1957, we have forged ahead and have witnessed many spectacular and amazing achievements including landing men on the Moon and returning them safely.

I think it is only fitting for all Americans to pause and reflect on this Nation's successful response to the challenge it faced 20 years ago and to appreciate the contribution our space program has made for the people of this Nation and of the world.

And, at the same time, Mr. Speaker, I believe it very fitting that all of us join in again congratulating the scientists and engineers of the Soviet Union for their historic achievement of 20 years ago today. They do deserve the whole world's appreciation for that first step into outer space.

CRUISE SHIP "ODESSA" SCHEDULES TWO SAILINGS FROM PHILADELPHIA IN 1978

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EILBERG. Mr. Speaker, the honorable Frank L. Rizzo, Mayor of the city of Philadelphia, has just announced that the cruise ship *Odessa* will make two sailings from the Port of Philadelphia in 1978.

Representatives of the ship operator are due to arrive in Philadelphia shortly for the official signing of agreements. The cruise coordinator is Joshua Davis-Baser of Glenside, Pa.

Mayor Rizzo has adequately expressed the view of the people of Philadelphia with his statement welcoming resumption of passenger service actively through our modern Port of Philadelphia.

One of the world's newst and most beautiful cruise ships, the *Odessa*, built in England in 1975, will sail from Philadelphia's Tioga Marine Terminal on a 3-day "cruise to nowhere," May 26–29, 1978 and a 5-day cruise to Bermuda, May 29–June 3, 1978.

With a capacity of more than 500 passengers, the *Odessa* features American and international cuisine, a casino, outdoor pool, sauna, gymnasium, professional entertainment, and movie theater.

ANDY SANTOR IS YOUNGSTOWN, OHIO, AREA GOLFER OF THE YEAR

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. CARNEY. Mr. Speaker, on Saturday evening, September 17, the Youngstown District Amateur Invitational Golf Association (YDAIGA) held its annual awards dinner-dance at Cherry's Top of the Mall in Niles, Ohio.

Mr. Andy Santor, who has been an outstanding golfer for many years, received this year's "Golfer of the Year"

award from association president Pete D'Alesio.

As an amateur golfer, Andy Santor has had few equals during his long and distinguished golfing career. A charter member of the YDAIGA, Penn-Ohio and YMCA leagues, he was the first golfer to win the YDAIGA match and medal championships in the same year, 1957; during that year, he also won the Champ of Champs golf tournament at the Trumbull Country Club.

Andy Santor's personal feats on the golf course are many; they include: set the course record of 65 at Sharon Leeland during a YDAIGA amateur tourney; led the Penn-Ohio League three times in low average and points won, plus maintaining a 74-stroke average over 27 seasons; seven-time winner of the Henry Stambaugh course; winner of the Ohio Publinx in Columbus, Ohio in 1965;, four-time winner of Yankee Run best ball with Dr. Frank Bellino, and 1967 winner of New Castle best ball, also with Dr. Bellino; winner of the Trumbull County Amateur in 1963, his sons, Bob and Bill, tied for second; had low round of 32 on Mill Creek's second nine holes in 1975 YMCA League; shot a 63 on the Hubbard course in 1975, and shares the Stambaugh course record of 31 with four other golfers. A retired milk company truck driver, Mr. Santor served as the first president of the Metro Golf League last year.

Andy is married to the former Dorothy Hoover; they have three sons and two daughters: Bob Santor, a mathematics teacher, basketball coach, and cross-country coach at Cardinal Mooney High School, and an excellent golfer in his own right; Bill Santor, an employee of General Motors Acceptance Corp. and also an excellent amateur golfer; Ed Santor, head football coach at Liberty High School; and daughters, Sandy—Mrs. Sandy Mayerchak—and Cathy—Mrs. Cathy Marino.

Mr. Speaker, I have known the Santos for many years. They are a close family, wonderful athletes and public-spirited citizens. We are very fortunate to have them as members of our community. Andy Santor is a good and decent human being, and I am proud to call him my friend.

GO SLOW ON CAPITAL GAINS REPEAL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FINDLEY. Mr. Speaker, it has been reliably reported that the Carter administration is seriously considering recommending that Congress repeal the current capital gains provisions of the Internal Revenue Code and thus treat all gains from the sale of real or personal property as ordinary income.

I recognize that such a major departure from historical taxing practice will be controversial and I would certainly hope the matter would have very thorough hearings and public analysis before any change is seriously considered. In fact, I strongly oppose the change.

If it were to come, it is obvious that farmpeople would be directly and adversely affected.

The price of farm land is now high. If sellers of farm land could not shelter at least half of the increased value of their land when they sell it, they obviously would have to ask more for it when selling.

This can mean only one thing—higher land costs to purchasers. This, of course, will hit young farmers the hardest since they already have difficulty in raising the needed capital to finance their entry into agriculture.

A second impact of repealing capital gains provisions comes in the futures market.

If profit from the sale of futures contracts becomes taxable as ordinary income, it could well result in many small speculators turning to other forms of investment income. This in turn could reduce the liquidity that futures markets need to reflect accurately commodity values and to provide a sound basis for hedging by farm producers and processors.

Finally, if capital gains are to be treated as ordinary income, what about capital losses? At present, capital losses must generally be offset against capital gains. If this system were to be changed and capital losses were counted against ordinary income the result might be enormous losses of revenue to the Federal Government which is already $60 billion in the red for this fiscal year.

In summary, the impact on land values, the effect upon commodity markets, and the possible loss of large amounts of revenue all add up to say "go slow" before making such a major change in our tax laws.

REPRESENTATIVE BOB POAGE ANNOUNCES HIS PLANS FOR RETIREMENT

HON. JACK HIGHTOWER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. HIGHTOWER. Mr. Speaker, on Saturday, September 24, 1977, our distinguished friend and colleague, W. R. (BOB) POAGE who has served the 11th Congressional District for 42 years wrote an open letter to his "family." He has a large "family." In this letter he stated that he and his wife, having no children of their own, have tried to do for their district what they might have done for their own family. Such a long tenure of service is evidence of the love and respect the people of his central Texas district have for BOB and Frances POAGE.

Mr. POAGE has announced that he will not be a candidate for the Democratic nomination in the 11th Congressional District next year. I know that his colleagues will have occasions at a later time to express their appreciation of his life and service, but I would not want them to miss the opportunity to take note of such a significant event as the announcement of his plans to retire.

TO THE PEOPLE OF THE 11TH CONGRESSIONAL DISTRICT

For more than half a century I have represented the people of my home county at Austin or at Washington. For 42 years I have sought as best I could to serve the people of the entire Eleventh District in the Congress of the United States.

During my years in Congress, I have been assisted by a great staff. More than 175 different individuals have at one time or another worked with me. Almost all of them have been from the Eleventh District. I am deeply indebted to my fellow workers. I want to thank each one of them.

The people of Central Texas are "my people." They think as I do on most issues. They value the same ideals of morality and hard work, which I value. I hope that I can always say I am one of these people. I was born in Waco. We have maintained our home in Waco all the years I have represented you in Washington. I expect to complete my years at 600 Edgewood, Waco, Texas; but I like to think that I have just as fine friends in Temple, Cameron, Glen Rose, Brownwood, and other communities as in Waco. Service in Washington would not have been so fascinating without these good friends at home. I shall always value these friendships.

My family has always been an inspiration to me. My father was an old-time cowman. I value the livestock tradition. My mother was a frontier homemaker. Her greatest pride was her children, and they knew that she could (and did) work miracles with very little to work from. My wife, Frances, has shared all my problems and disappointments. She has stood with me in failure and success. We regret that we have no children of our own, but we have tried to do for our District what we might have done for our own family.

We have been generously rewarded. Service in the United States House of Representatives is a privilege that comes to a very few (only 9058 since the founding of the Republic). We have enjoyed the privilege of living a number of months each year in the center of world activity. It has been a great experience, and it was made possible by the trust and confidence of the people of Central Texas. We are deeply grateful.

In recent years I have seen the sentiment of the country and of the country's Representatives change. Many people seem to believe that government can and should *give* them all of the good things of life. I cannot consistently represent such views. I believe government cannot change economic law. I believe we must *work* for a better life. I believe in the Biblical injunction, "In the sweat of thy brow shall you eat bread." I have seen what an overdose of socialism has done for a once proud people in Great Britain. I do not want to be a party to leading my country down that primrose path.

Our District is entitled to the most effective representation available. I have come to the conclusion that my efforts to move our country in what I consider to be the right direction may not be as effective as those of a new face would be. Several competent individuals have expressed an interest in assuming the responsibility when I lay it down. I have no desire to try to select my successor. I think that the people of this District have proven that they are quite able to do that. As a concerned citizen, I will, of course, vote for the candidate I consider best qualified; but I want to work with, and if I can, to assist anyone our people select.

I expect to serve for the full term to which I was elected; but Frances and I have long ago discussed the matter and agreed that we want to get home and live among those friends who have meant so much to us throughout the years. I have a lot of unfinished work to do at home, and I would like to be at it.

So that each of you may understand my delay in making this announcement, I want to point out that any early announcement of retirement very directly reduces a Representative's influence in Washington. With such an announcement he becomes a "Lame Duck." I have, therefore, withheld any statement as long as possible. Congressional action on the Farm Bill, in which I was deeply interested, has been completed.

I think that the time has arrived when I must, in fairness to all prospective candidates, announce that I will *not* be a candidate for reelection. In doing so, I want to thank every citizen of the 11th Congressional District for your years of support and friendship. May God bless you every one.

MAINE IS PROUD OF WILLIAM ROGERS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. COHEN. Mr. Speaker, on August 25, William J. Rogers of Maine stepped down as the national commander of the American Legion.

There is no question that Bill Rogers served the Legion well during his term as national commander. Indeed, he has served his Nation well and his State well. We in Maine are proud of the job Bill Rogers has done for American veterans, and I, for one, am confident that his strong voice will continue to be heard on veterans issues in the years to come.

The special feeling Maine veterans have for Bill Rogers was expressed in an editorial in the September issue of the Maine Legionnaire. I hope my colleagues will take time to read this moving tribute to a great American, Bill Rogers.

The editorial follows:

MAINE IS PROUD OF WILLIAM ROGERS

It was a moment of great pride for all of the citizens of Maine when on Thursday, August 25, 1977, our own William J. Rogers stepped down from his role of National Commander of The American Legion in the concluding session of the National Convention in the "Mile-High" City of Denver, Colorado.

Bill Rogers had become "Past National Commander William J. Rogers" and all of us from Maine and the Nation saluted a good and great national legion chief.

No man came to the office of National Commander of The American Legion with so many friends and supporters than Bill Rogers. When he stepped down from his lofty post, Bill Rogers continued, to enjoy that same fellowship and support that marked him in years past.

We salute you, Bill Rogers—fellow Legionnaire and Past National Commander . . . for your leadership and accomplishments. Few National Commanders faced the problem and heartaches that Bill Rogers confronted in his term of office. Yet among the perils and troubles of his administration, Bill Rogers walked "ten feet tall" with pride and dignity and with the air of a great leader. Great men do not have easy times or goals which are attained lightly. Bill Rogers never lost his sense of humor, his smile or warm personal greeting for friend and comrades. He never lost sight of the zest for leadership of the highest caliber. As National Commander, he gave the best that was within him in his leadership of the greatest veterans organization in the world.

Maybe it is because Mainers have a special sense of pride in Bill Rogers and that wonderful spirit that make this Legion so great. But everywhere you travel across the great areas of The American Legion, Bill Rogers is respected by the "blue cap" Legionnaires as well as officers of the organization.

We have come to end of a year of Legion history . . . and we in Maine were proud to be a special part of it. Walking down the path of Legion leadership with Bill Rogers, the citizens of Maine and the Nation join hands in a salute to a great man and a fine National Commander.

Bill Rogers will wear the title "Past National Commander" with great distinction and service to his fellow Legionnaires. When the shades of time come closing in on us all . . . and we warm ourselves with thoughts of great days and time, the men and women of Maine proud of our heritage will speak of Bill Rogers with a sense of pride. We will remember our National Commander and his leadership. But most of all, we will remember Bill and Connie Rogers for being truly wonderful people . . . the kind that makes our State of Maine a finer place to live in.

Bill Rogers . . . the Legionnaires and Auxiliary members of Maine, indeed all your fellow citizens salute you for a job well done.

STEVE BROIDY RECEIVES SHLOMO BARDIN MEMORIAL AWARD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WAXMAN. Mr. Speaker, on Tuesday evening, November 22, 1977, Mr. Steve Broidy will receive the first Shlomo Bardin Memorial Award of the Brandeis-Bardin Institute. I should like to call to the attention of my colleagues in Congress and the general public some of the achievements of the distinguished honoree, Steve Broidy.

Few people in southern California have had as dramatic and long-lasting an impact on our major institutions as Steve Broidy has had. Every organization fortunate enough to have attracted Steve Broidy's interest has experienced directly his enormous energy, inventiveness, persistence, and, above all, sensitivity to people's feelings and needs.

He has been particularly dedicated to the unique Jewish communal and educational institution developed by the late Dr. Shlomo Bardin. Bardin, in whose memory the institute has been renamed, the "Brandeis-Bardin Institute" found in Steve Broidy the friendship, encouragement and like-mindedness that made it possible for them to overcome enormous barriers to the growth and well-being of the institute.

In addition to his work for the Brandeis-Bardin Institute, Steve Broidy also played an extremely active role in the development of the Cedars-Sinai Medical Center in Los Angeles. With the medical center, as with the institute, those actively involved cannot imagine these institutions being what they are today had it not been for the total involvement and dedication of Steve Broidy.

Despite deep involvement in the Jewish community, Steve Broidy has always found time and strength to contribute to the improvement of life for people of every faith and background. He has chaired United Way drives, served on the board of the Salvation Army, and of Claremont Men's College, and the Academy of Motion Picture Arts and Sciences. Space does not allow me to enumerate Mr. Broidy's other civic and philanthropic activities or to indicate even a portion of the numerous awards and symbols of recognition he has earned.

I know Steve Broidy's wife, Frances, and his children, Arthur, Stephen, and Mrs. Jack Sattinger, above all others, understand how deserving Steve Broidy is of the Shlomo Bardin award and how much the work of Dr. Bardin and the phenomenal success of the institute means to him. I know my colleagues in the House of Representatives join with Steve Broidy's numerous friends and admirers in congratulating him and in wishing him good health and continued strength to continue to play a central role in our community, and, indeed, our Nation.

EDUCATORS VERSUS SENIOR CITIZENS: WHO WILL BE THE WISER?

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. SOLARZ. Mr. Speaker, a bill that I quietly introduced last February, the Senior Citizen Opportunity Act, H.R. 3542, has caused some sparks to fly between the senior citizens and the educators. The following excerpt from "Adult and Continuing Education Today"—September 5, 1977—was written by that very witty and articulate senior citizen, Sam Brightman. It is as lively a presentation of both sides of the issue as I have seen—

American Council on Education opposes Solarz bill, sees freeloading old folks as threat to academic freedom.

The American Council on Education has come out against the Solarz bill, which would require colleges and universities that accept a variety of Federal funds to admit qualified old people to classes on a space available basis without charge, other than administrative expenses. (See ACET, vol. VII, No. 14 and 15.) A somewhat patronizing letter sent to the bill's sponsor, Representative STEPHEN SOLARZ of New York, by assistant ACE staff counsel Laura C. Ford expressed this opposition. The ACE is the powerful voice of our colleges and universities and the letter reveals a lot about the higher education establishment's attitude toward all adult learners, not just toward the aged. Some key excerpts from the letter follow:

* * * The essence of academic freedom is often states (sic) as "who shall teach, what shall be taught, and to whom." We consider any attempt by the federal government to prescribe who shall be admitted into a course, and at what price, as an unwarranted intrusion into the academic affairs of individual institutions * * *

We believe that professional educators which learning can best take place. These conditions include the size of classes, the

teacher/student ratio, the presence or absence of nonparticipants, and the mode of interaction between a teacher and students. Such matters are an integral part of the educational process, and should not be made the subject of federal legislation.

A third general concern is that of cost. We find unconvincing the argument that H.R. 3542 would not cost educational institutions any money * * * To the extent that senior citizens can be expected to enroll in higher education in the future on a tuition paying basis, H.R. 3542 would have a significant financial impact on institutions.

Also a cost item to colleges and universities would be the administrative burden of registering senior citizens, issuing identification and library cards (often needed for entry to campus buildings), and keeping the appropriate records. Unless an "administrative fee" were permitted, such paperwork could constitute a significant cost factor.

A final general concern is the potential conflict between H.R. 3542 and the Age Discrimination Act passed by Congress in 1975 (P.L. 94-135). The latter law forbids unreasonable discrimination on the basis of age in programs or activities which receive federal assistance. The U.S. Commission on Civil rights is currently conducting a study which will result in recommendations and proposed regulations for the elimination of age discrimination in admission, financial aid, and student services at virtually every accredited college and university in the nation. Separation of students into "paying" and "nonpaying" categories solely on the basis of age would seem to be a prima facie violation of the Age Discrimination Act * * *

This letter takes a lot of words to say that higher education institutions do not want any nonpaying customers and consider part-time students a nuisance. But the arguments are worthy of some response from the aged supporters of the measure, who make these points:

The fact is that the Federal Government interferes a lot in the operation of postsecondary institutions and whenever this interference is accompanied by grants of money, the institutions do not seem to find any big problem.

The position of ACE that academic freedom is the property of the colleges and universities and that it is none of the business of the citizenry or the Federal Government was breached a good many years ago when the Federal Government abridged the academic freedom of the University of Alabama to exclude blacks. Does our Constitution provide that only academics can have a voice in deciding "who shall teach, what shall be taught, and to whom?" That statement and the following statement that the teacher should have sole control over learning conditions—and that the learner should have no say—strikes at the heart of adult education and the concept of lifelong learning. It implies clearly that adults should have no voice in what they are taught or how.

Since the bill provides for administrative costs to be levied, all of the crying about the cost of issuing library cards is not relevant. As to loss of revenue from seniors who would pay if they could not get in for free, it is not likely to be as great as the loss of revenue to transit companies that issue half-fare cards to the aged or to pharmacies that give a 10-percent discount on prescriptions. All of these things are charity doled out to the aged in lieu of sufficient income to ride buses or to fill prescriptions at the regular price. The aged would rather be able to buy these things at the full rate than to accept charity, but when income suddenly drops to a half or a third or even less of what it has been, most of the aged swallow their pride and accept charity.

It is impossible to disagree with the argument that the Solarz bill proposes to discriminate in favor of the aged. But what about all of the discrimination against adults? What about universities that charge part-time adult students higher tuition fees for courses taught by their worst instructors? What about universities that lock up their libraries and student unions and eating places during the hours when employed adults go there to learn? What about the Federal programs of aid that discriminate against the part-time adult students? What about the student aid programs of the universities which do the same thing? It seems just a little hypocritical to carry on all of this discrimination against the aged for years and only take a position against discrimination when it would favor the aged.

The aged have far more pressing needs than a free pass for a few of those who have been to college to return and sit in the back of the classroom, so ACE will probably be able to block the Solarz bill without much trouble. Not to worry. There is always the senior center in the basement of the Elks Club and remedial basketweaving.

WILLIAM R. HULL, JR.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. CONTE. Mr. Speaker, I appreciate this opportunity to join with my colleagues in saluting the memory of the late William R. Hull, for 18 years a distinguished Member of this body.

Bill Hull and I served together on the Appropriations Committee, where he was a diligent student of budgetary affairs. He was closely involved in legislation concerning the interests of his agricultural constituency and served with distinction on the Public Works and Interstate and Foreign Commerce Committees, as well as the Appropriations Committee.

The Hull family has played a prominent role in the political life of the community of Weston, Mo., for many, many years. I join the citizens of Bill Hull's hometown of Weston, and the residents of the 6th District of Missouri, whom he served with such dedication in the Congress, in mourning the passing of this fine public servant.

At this time, I would like to express my condolences to his son, William R. Hull, III, and his daughter, Mrs. Susan H. Hudson, and the entire Hull family.

MASSACHUSETTS SOLAR ACTION OFFICE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MOAKLEY. Mr. Speaker, as is becoming more obvious every day, most of the solar energy reaching the United States is grossly wasted. For despite the various technologies which can utilize this abundant and safe source of energy, we have failed in widespread commercialization.

But still this inexhaustible, safe source of energy may fuel the solar plate collectors for heating and cooling of buildings and for heating water and also provide the necessary sunlight for photovoltaic cells to produce electricity in the future.

An all-out effort to aid the growth of a national solar energy industry would not only decrease America's dependence on foreign oil but will also create jobs for construction workers, machinists, metal workers and other industrial workers.

A widespread growth in the solar industry based around research, construction, installation, and maintenance of solar-collecting products will help in our effort to cut unemployment and help our economy grow.

In an effort to encourage the development of the solar energy industry, I would like to bring to your attention a major State effort to accomplish just this: Gov. Michael S. Dukakis, of Massachusetts, recently announced the opening of a Solar Action Office in Boston.

I commend this action. With the United States seeking to conserve our dwindling fossil fuel resources, establishing this kind of facility to promote a clean, renewable energy source, such as the sun, is certainly a step in the right direction.

The office, which was established with funds from the U.S. Department of Housing and Urban Development, will be within the jurisdiction of the Department of Consumer Affairs.

The Governor also announced that Massachusetts will be the first State in the Nation to receive Federal funds for a series of conferences across the State to inform the public about the vast potential solar energy offers the general public at increasingly affordable costs.

This alternative energy source offers great hope in the future for each year, the sunlight reaching Earth supplies more than 25 times the energy than all the world's known coal, oil, and natural gas reserves.

By harnessing the sun's power, we have the chance to supply the needed energy for countless generations in the future. It is hoped that the proliferation of this kind of effort across the Nation will accomplish just that kind of end product.

MAURICE GLADMAN, TUSTIN, CALIF., PRESIDENT, KIWANIS INTERNATIONAL

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. DEL CLAWSON. Mr. Speaker, one of my longtime friends and fellow Kiwanians, Maurice Gladman, a Tustin, Calif., banker and association executive, started, on October 1, a 1-year term as president of Kiwanis International. In that capacity he will be official spokesman for this 62-year-old service organization which now comprises nearly 290,000 members in 7,000 clubs located in 61 nations around the world. Gladman was elected during Kiwanis annual convention in Dallas, Tex., in June.

I am proud of him and want to share my pride with you. I am also proud of my own Kiwanis membership which is duplicated by some 105 Members of the current Congress.

When Gladman made his acceptance speech in Dallas, he presented the Kiwanis theme which will guide the organization in all its community service efforts during his term of office. That theme is "Reach Out," and it is a dramatization of Gladman's own philosophy.

The theme is supplemented by five "objectives" which also were presented by President Gladman. Simple in wording, yet powerful in intent, they read:

Reach out for deeper understanding of the human and the spiritual values of life

For excellence of purpose and performance in community service

For greater effectiveness in safeguarding life and property by working directly with youth

For personal involvement with sponsored youth organizations

For sustained growth in numbers and in service and in fellowship throughout the world.

In addition, Gladman announced the Kiwanis "Major Emphasis Program" for the period of his presidency. Called "Safeguard Against Crime, Phase II," it is an extension of a program of information and indoctrination begun last year, aimed at advising all segments of society on the incidence of crime, the kinds of crime usually perpetrated against persons and property, and the steps that individuals can take to resist such crime. Phase II of the program will concern itself with crime as it applies to young people, both as its perpetrators, and its victims.

Maury Gladman is a veteran of 22 years in Kiwanis. They have been years crowded with service to the organization, and to his fellow man.

He served 7 years on the Kiwanis International Board of Trustees before becoming Kiwanis' president; and he has been governor of the California-Nevada-Hawaii District, and president of his home club, Santa Ana, Calif.

In private life, Gladman is executive secretary and manager of the Southern California Tire Dealers and Retreaders Association, and chairman of the board of the American State Bank of Newport Beach, Calif. He is prominent in the affairs of his association and in the American and Southern California Societies of Association Executives.

He has been active in civic and charitable affairs as well, both in his community and State, and in the Nation. On July 10 of this year he received the prestigious "City of Hope Spirit of Life Award." He is a colonel (retired) in the U.S. Army Reserve. His last tour of duty was with the Assistant Secretary of the Army for installations and logistics.

Maury and Rosabelle Gladman will travel widely during the coming year, visiting most of the 61 nations in which Kiwanis serves. His presidential year will be climaxed by the 1978 convention of Kiwanis International in Miami Beach, Fla., next summer.

Maury Gladman has my commendation for his willingness to assume the demanding duties of the presidency of Kiwanis International, and I join with his many friends in wishing him a successful administration crowned with growth and vital public service.

A TRIBUTE TO GEORGE W. MILIAS, AN OUTSTANDING PUBLIC SERVANT AND FRIEND

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BURGENER. Mr. Speaker, I know I am joined by the entire California congressional delegation in offering a solemn congressional tribute to a man many of us knew and deeply admired who passed away last Saturday.

George W. Milias, with whom so many of our delegation served in the California legislature, was truly an extraordinary individual, and we will all miss him deeply.

George Milias was not only an outstanding public servant, but he also brought to his public service career that extra dimension of mild-mannered perspective, quiet leadership, and compassionate devotion which summoned deep respect from nearly everyone he came in contact with.

Even though his leadership ability was exemplified by his outstanding tenure as chairman of the California State Republican Party, those of us who knew George knew that partisanship seldom accompanied his actions on behalf of the people of his district and the people of California. He led by quiet example and simple sensibility.

Long before the widespread public concern about our Nation's treasured natural resources, George Milias' personal concern led the way for an enlightened natural resources and conservation policy in California, which, as much as any facet of his outstanding public service, is his legacy. His upbringing in Gilroy, Calif., imbued him with a love for the land and a respect for the natural beauty God had surrounded him with, and George Milias always loved our natural heritage.

George Milias was a "doer," a participant all of his life and not a spectator. His confident yet concerned demeanor, his quiet competence in public life, and his simple forthrightness and friendship with so many of us will be a humbling loss. Our thoughts go out to Mary Ann Milias in her loss, which we certainly share deeply.

PHILADELPHIA SEEKS APPROVAL FOR FOREIGN TRADE ZONE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EILBERG. Mr. Speaker, the Philadelphia Port Corp. has filed an application with the U.S. Foreign Trade Zones Board to establish a general-purpose foreign trade zone at pier 78 south, pier 78 south annex buildings No. 1, 2 and 3, and pier 98 annex—all located on the Delaware River waterfront.

The Foreign Trade Zones Board will hold a public hearing on the application this week in Philadelphia. At that time, Mayor Frank L. Rizzo, and a number of Members of Congress, myself included, will submit statements endorsing the proposal. It is my understanding that labor, railroad, and trucking interests also will testify in favor of the proposal.

The city and its port are urgently in need of a foreign trade zone, which will create new jobs and new revenue for cur local economy," Mayor Rizzo has declared.

The Greater Philadephia Chamber of Commerce, the Philadelphia Industrial Development Corp., the Delaware River Port Authority, and numerous port-oriented organizations will join with the Philadelphia Port Corp. in its request. Prospective tenants for the foreign trade zone will be represented.

A total of 47 firms have expressed potential interest in the zone in a survey conducted by the Greater Philadelphia Chamber of Commerce.

Irvin J. Good, President of the Port Corporation, has said the principal advantages of a foreign trade zone are the manufacture and processing of imported materials without the usual formal Customs entry procedures and payment of duties until the goods leave the zone and enter the United States. Foreign materials are frequently combined with American materials in the manufacture of a finished product. Goods shipped overseas remain free of Customs duties.

"Importantly, a foreign trade zone will enable Philadelphia to attract the reverse investment flow from other nations," he has declared.

TASK FORCE ATTACKS EXPENSIVE HOUSE REFORMS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. COUGHLIN. Mr. Speaker, I would like to submit this statement on behalf of the Republican Task Force on Congressional Reform, of which I am honored to serve as chairman. Joining me on the task force are JOHN J. RHODES, JOHN B. ANDERSON, DEL CLAWSON, BILL FRENZEL, WILLIAM L. ARMSTRONG, ROBERT E. BAUMAN, M. CALDWELL BUTLER, JAMES C. CLEVELAND, THOMAS B. EVANS, JR., MILLICENT FENWICK, LOUIS FREY, JR., HENRY J. HYDE, ROBERT W. KASTEN, JR., JIM LEACH, DONALD J. MITCHELL, W. HENSON MOORE, JOEL PRITCHARD, RALPH S. REGULA, NEWTON I. STEERS, JR., WILLIAM A. STEIGER, and ROBERT S. WALKER.

STATEMENT OF THE REPUBLICAN TASK FORCE ON CONGRESSIONAL REFORM

House Resolution 766 presents the House of Representatives with an additional opportunity to consider meaningful institutional reform. This resolution, based on the recommendations of the Task Forces on Administrative Units and Work Management of the Commission on Administrative Review, proposes an extensive series of changes in the administrative structure and the internal operations of the House: We are acutely aware that our present administrative system is a complicated patchwork which has developed without the benefits of any rational planning, resulting in fragmented responsibilities and duties among a number of jealous and competing subunits. All Members of the House would agree that—A streamlined legislative bureaucracy; improved management in internal administration; greater degree of accountability in financial operation; and a more rational committee structure, are essential if the House is to be responsive to the demands of contemporary society. Although House Resolution 766 attempts to assuage these concerns, we would like to suggest several areas where the proposal must be strengthened:

I. PROTECTION OF THE MINORITY

While it is understandable that legislative matters of the House should be subject to control by the majority in proportion to its representation in Congress—administrative, investigatory, and judicial functions of the House should have adequate checks to protect the minority from discrimination.

The principal provision of H. Res. 766 is the creation, in Title I, of an extremely powerful House Administrator to direct, plan, and coordinate the day-to-day administrative and support operations of the House. As the resolution is drafted, the Speaker nominates the Administrator and the House must then vote to approve. As to dismissal, a majority of the Members of the Committee on House Administration must vote to remove the Administrator with Speaker's approval.

The minority party possesses negligible input in the selection and the removal of the Administrator. An important modification would be to require the concurrence of the Minority Leader in the appointment and the dismissal process. Only by providing the Minority with these safeguards can adequate protection be ensured. A bipartisan approach would prevent any compromise of the new system, and would guard against the misuse of this potent, centralized office.

II. ACCOUNTABILITY OF HOUSE FINANCES

The Task Force believes that independent, mandatory outside audits of the financial operations of the House are imperative.

As drafted, Title II of the resolution incorporates language allowing the House Administration Committee to employ outside audits, "as it deems necessary." An internal auditing process alone would be simply insufficient and would do nothing to regain public trust in the integrity of the financial operations of the Congress.

Since the purpose in creating the Commission on Administrative Review was to suggest mechanisms to avoid the financial scandals which beset the House in 1976, it seems incredible that a nonpartisan, independent audit was not adopted. If the system is to warrant public respect, there must be an independent auditing role.

However, if the House is to limit itself to an internal auditing procedure, the Task Force recommends that the Committee on House Administration establish an audit subcommittee to provide policy guidance to the House Auditor. This subcommittee proposal had been initially offered by the Commission on Administrative Review but was deleted during the final stages of deliberation. If the creation of the subcommittee were coupled with the requirement that it be divided equally between Republicans and Democrats, it would ensure an apolitical role for the auditor and provide another crucial safeguard to the minority.

III. DISCLOSURE

The members of the Task Force believe that disclosure is the key element in preventing impropriety. Previous recommendations of the Commission on Administrative Review have focused on regulation and disclosure of Members' personal finances, but neither these recommendations nor the provisions of this resolution pinpoint disclosure of the expenditure of public funds.

An essential amendment to Title I, in the section dealing with the House Comptroller, would be to make the expense vouchers of the House available to public inspection. Although the official allowances of the House are derived from public tax dollars, disclosure of the manner in which these funds are utilized is quite limited. Accessibility to the expenditure records is paramount to restoring public accountability in the financial operations of the House. Full disclosure is essential, not only to curb any potential abuse, but also to dispel any hint of impropriety in the use of public moneys. Since Members already afford public access to campaign reports and office salary records, disclosure of expense vouchers is a logical and important reform.

IV. THE BILLION DOLLAR CONGRESS

The cost of operating the Legislative Branch of Government has escalated at an alarming rate in recent years. In 1958, the legislative budget amounted to just over one hundred million dollars; by 1978, the legislative budget has soared to one billion dollars. This rapid increase has not resulted in a more effective Congress; it has merely served to subsidize incumbents.

H. Res. 766 has been introduced as the remedy for the administrative chaos which now besets this body. We have been promised that—with the creation of the new positions of Administrator, Comptroller, and Auditor, accompanied by untold numbers of support staff—an efficient and effective management will result. Yet it appears that this resolution merely superimposes another layer of bureaucracy over an antiquated administrative structure. The proposal does not describe what streamlining or consolidation of existing support units will occur following the passage of H. Res. 766. The new position of Administrator will assume many of the functions now parceled among a variety of subunits, yet we are still left with a clutter of subordinate offices including the Clerk and the Doorkeeper.

Although the current administrative enterprise needs rationalization, we must avoid creating an unwieldy bureaucratic empire within our own halls. Any hiring of staff or creation of new positions by either the Administrator or the Auditor should be subject to the close and careful review of the Committee on House Administration. Whatever new system is constituted, the primary concern is that it be accountable to the House and not a self-guided instrument, indifferent to the institution it serves.

V. MEMBERS' BONANZAS

Increases in congressional perquisites benefiting incumbents have also escalated at an astonishing rate in recent years. The House Republican Task Force on Congressional Reform believes that the underlying problem is the consolidated account system under which the House now operates. Established in 1976 in response to the House Administration Committee scandals, the consolidated account allows for almost unlimited transfers among specifically designated accounts. This allows Members to maximize taxpayers' money to bolster the advantages of incumbency. The media is just becoming aware that transferability among Members' accounts has resulted in a bonanza.

The resolution proposes a new $12,000 computer allowance as a supplement to the untold number of allowance perquisites Members now receive. The cost to the taxpayer is substantial—over five million dollars per year. The cost to the political process is even higher—for it will further weight the scales on the side of the incumbent, thereby discriminating against any potential campaign challenger.

Even though it has been recommended that the computer allowance be nontransferable, we cannot ignore the recent splurge in expanded allowances. This proposed windfall follows closely on the heels of a $5,000 addition to office expenses granted each Member by the provisions of the March ethics resolution, which will be costing the taxpayer over two million dollars. In September, the House increased the district office rental allowance which, in dollars and cents, amounts to an average gain of approximately $7,900 per Member or an additional cost of nearly $3.5 million per year. All of these allowances will be effective in January of 1978, at the beginning of a new election year. The question can rightly be asked when, if ever, this avalanche of increased benefits is likely to stop.

VI. CRAZY QUILT COMMITTEE STRUCTURE

There exists a pressing need for the reorganization and realignment of committee jurisdictions in the House of Representatives. The rampant growth of subcommittees and the crazy quilt pattern of committee jurisdictions underscore the outdated nature of the current system.

The House Republican Task Force on Congressional Reform has long backed efforts to revamp the present antiquated committee structure. We join in strong support of a new select committee on committees. Major issues, such as energy and welfare, cannot be considered within the present structure but must be assigned to specifically created select or ad hoc committees. Comprehensive policy integration and coordination is almost impossible. This multitude of committee assignments results in neverending scheduling conflicts, wasting the time and energies of Members.

A new select committee would be confronted with an enormous and thankless task—but it affords the best possible vehicle to institute an agenda for change. Recent history indicates the difficulties facing committee reform. In the 93rd Congress, the widely-praised effort of the Bolling-Martin Select Committee on Committees was waylaid by a series of obstacles, most notably the interference of the Democratic Caucus. The costs of failure a second time would irreparably weaken the policy-making role of the House of Representatives.

In endorsing this proposal for a new select committee, the Task Force believes that the only avenue for success is a bipartisan approach. In this regard, the Task Force recommends that the select committee of 13 members, as proposed in Title VII of the resolution, be composed of 7 Democrats and 6 Republicans—an arrangement which will serve to enhance a bipartisan endeavor and to strengthen the final product.

VII. POLITICAL EXPLOITATION OF CONGRESSIONAL RESOURCES

One regrettable omission in H. Res. 766 is the lack of any provision to control the political misuse of congressional staff. In the final report, the Commission on Administrative Review suggested the following:

"The Rules Committee should review the existing provisions regarding the prohibition of payment of congressional employees with official funds for campaign purposes and should make such recommendations as they may deem necessary to enhance enforcement of existing rules and/or propose new rules, if necessary, for the protection of the employees and the public."

It is disappointing that the Commission avoided tackling this issue during their deliberations—for it is the political exploitation of congressional resources, including staff, which contributes to the low reputation of Congress in the media and among the general public. The Republican Task Force on Reform strongly recommends that the Rules Committee undertake this very difficult responsibility in order to provide a more coherent set of guidelines.

VIII. OPEN RULE

This resolution will affect each and every Member of the House in the performance of his or her duties. Regrettably the time constraints imposed on the consideration of this resolution has resulted in a hasty, and somewhat superficial review of its impact. It is important that, in light of this rapid-paced deliberation, Members be allowed the opportunity to debate fully the merits and defects of H. Res. 766 when it reaches the floor. An open rule, permitting all Members to offer amendments is the best assurance that comprehensive and meaningful reform will be achieved.

ENERGY AND NATURAL RESOURCES

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FOWLER. Mr. Speaker, the Congress has had under consideration the bills H.R. 8336 and S. 1791, to establish the Chattahoochee National Recreation Area. As a lifelong admirer of the Chattahoochee's natural and as yet unspoiled resplendence, I would like to offer the following remarks:

TESTIMONY BY REPRESENTATIVE WYCHE FOWLER, FIFTH DISTRICT, GEORGIA, TO THE PARKS AND RECREATION SUBCOMMITTEE OF THE ENERGY AND NATURAL RESOURCES COMMITTEE REGARDING S. 1791 AND H.R. 8336

The Chattahoochee River area is exceptionally beautiful. Even though its waters flow through the heart of metropolitan Atlanta, the Chattahoochee remains remarkably unspoiled by urbanization. We would be foolish to let the opportunity to preserve this area pass us by. Furthermore, if we do not act quickly we will lose that opportunity. Already the City of Atlanta has rezoned some of the affected area to allow commercial development.

As you know, H.R. 8336, the companion bill to S. 1791, would establish the Chattahoochee River National Recreation Area, a 48-mile segment of the Chattahoochee River in the State of Georgia from Buford Dam to Peachtree Creek. The Secretary of the Interior is authorized to acquire lands, waters and interests within the recreation area and to develop the area for public use. There are several aspects of this bill which deserve particular mention.

First, the Chattahoochee Recreation Area is of substantial Federal interest because of its recreational, historic, and natural values. The unique location of the River in and near a regional urban center, which is itself a transportation nexus for the entire Southeast, affords accessibility of the River to literally millions of people. Last year 2.5 million people used the River somewhere along the proposed 48-mile stretch. In other words, the number of people who used the River last year exceeded the number (2.4 million) who visited Yosemite National Park in 1974 or the number (1.9 million) who visited Yellowstone National Park in 1974. It is worth noting that this usage occurred even with the current very limited accessibility to the River. As the River is made into a national recreation park, its usage will probably multiply.

In addition to the recreational value of the River, which has already been discovered by millions of people, this is an area in which nationally significant historic and archaeological resources exist. These resources must be protected. Furthermore, it is in the national interest to preserve the outstanding geologic formations, as well as the ecological community which protects endangered species, for ourselves and for future generations.

Second, despite the compelling nature of this bill, there have been some objections raised to creating a national recreation area along the Chattahoochee. In particular, it has been charged that the area will be impossible to police and to administer properly, that it will hamper the water supply to the City of Atlanta, that it will work a hardship on those who own land along this 48-mile corridor, and that citizens have not had the chance to express their views on this legislation. I do not feel that any of these concerns are warranted by the facts.

The Chattahoochee River Area will consist of 14 separate nodes along a 48-mile stretch of land. The fact that these separate parcels are not contiguous has aroused some concern for proper policing and administration of the area. These fears are unfounded.

In a comprehensive letter to Chairman Udall endorsing this legislation, Secretary of the Interior Cecil Andrus made no mention of any policing problem. More positively, the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments found that "the Chattahoochee corridor more than met the established criteria for national recreation areas." At the present time, there are four sites which have been purchased by the State of Georgia, and they have posed no particular policing problems. In fact, the main problem in the area right now is that of trespass. In order to gain access to the River, users must cross through private property. The trespass problem would be virtually eliminated with the passage of this bill.

The charge that the establishment of the Recreation Area would hamper the water supply to the City of Atlanta is also without substance. Because the Chattahoochee River is the main source of water for the City of Atlanta, the concern for the effect of this legislation on Atlanta's water supply is a legitimate one. However, H.R. 8336 includes protective language which is not incorporated in S. 1791 but which I hope will be adopted by this Committee. Specifically, although the House bill protects the River from construction of any water resources projects which might have an adverse affect on the area, the House version excepts projects which the State of Georgia deems necessary and which are authorized by the Congress. This balance between recreational values and the provision for an adequate water supply for the City of Atlanta was developed after extensive consultation with local environmental groups, the Georgia Department of Natural Resources, and members of the Georgia delegation working on this bill. Moreover, the House version of the bill clearly states that it is not the intention of Congress by this legislation to manipulate the water levels in Lake Sidney Lanier, which draws from the Chattahoochee. As a consequence of these provisions, Atlanta's water supply will be protected.

Another concern which has been voiced on occasion is that the legislation might work a hardship on those who own land along the 48-mile corridor. I think that the facts of the matter lay this concern to rest.

Both the House and Senate versions of the bill address the question of the timing of land acquisitions to assure that area residents are not disadvantaged or inconvenienced. The Secretary of the Interior is directed in the House version of the bill to proceed as expeditiously as possible to acquire the lands and interests necessary to meet the requirements of the Chattahoochee Recreation Area. S. 1791 states the intent of Congress to be complete acquisition within five years.

In addition, landowners can sell or develop their property until the day the Park Service actually buys it. Typically, the designation of an area as a potential park increases land values somewhat. Thus, it is very likely that landowners will benefit from the legislation more than they will be inconvenienced.

Another protection for property owners is that the right of use and occupancy of most of the land to be acquired is retained by the landowner. The owner may elect to continue to use the property for residential purposes for 25 years or until the owner's or spouse's death, whichever occurs later.

Finally, the land must be purchased by the Park Service at current market prices. The aggregate effect of these provisions is to protect the landowner from undue uncertainty, to ensure use of the property by the landowner for those who wish to continue to live on their land, and to make certain that landowners will not suffer a financial loss.

A final concern is the question of whether local citizens have had an adequate opportunity to express their views on this legislation. Several points should be made here. First, the Bureau of Recreation identified the 14 sites as far back as 1970. These sites were identified with the aid of a Citizens' Advisory Board. Second, the Atlanta Regional Commission, which is itself made up of citizens and elected officials, again identified the 14 sites in 1972 at which time public hearings were held. Third, the Congress has conducted a number of hearings on this legislation both here in Washington and in Atlanta. Members of Congress have conducted on-site inspections of the Chattahoochee area. As Congress has been considering this legislation for over three years, the newspapers have prominently reported these activities.

In sum, we would be remiss not to move quickly on the Chattahoochee River Bill. The

Bill itself has been the result of extensive cooperation among the consultation with local governments, businesses, citizens groups, landowners, and individual citizens. We are not acting precipitously here. A decade of dedicated work is represented in this legislation. The Chattahoochee River Bill offers a rare opportunity to improve the quality of life in this country. I urge you to move swiftly to save the Chattahoochee for the Nation.

PASSIVE RESTRAINTS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Ms. MIKULSKI. Mr. Speaker, the Baltimore News American recently carried an extremely informative article on the topic of air bags and other passive restraint systems. I commend this article to the attention of my colleagues:

PASSIVE RESTRAINTS

(By Pamela Gray)

There is about a month left for Congress to accept or reject Secretary of Transportation Brock Adams decision requiring every automobile sold in this country to have automatic crash protection according to a phased-in schedule to be completed by model year 1984.

The decision would broaden the scope of possible restraint systems to be used to meet the higher standards of safety protection. Ralph Hoar, director of the National Committee for Automobile Crash Protection, stresses that Adams's decision is not a mandate only for air bags, "but for all technologies which meet the injury protection requirements."

Although it is the air bag system that is now under heavy scrutiny, the passive belts in Volkswagen Rabbits have proven successful in reducing road injuries and meeting the more stringent safety standards. There are 12,000 VW Rabbits now on the roads, and injury claims from crashes involving these cars have been reduced by 20 to 24 percent from previous cars without this system.

The voluntary seat belt system is now only 25 percent effective because 75 percent of the population is simply not using them.

During the first week in September, Susan P. Baker, associate professor in the Division of Forensic Pathology at the Johns Hopkins School of Hygiene and Public Health, will testify before Senate sub-committee hearings specially in favor of the air bags.

"I am convinced," Baker says, "that the safety and effectiveness of air bags warrants their wide-scale use as one design approach that would provide passive protection." She has been lobbying heavily for air bags since the spring, although numerous federal hearing have been conducted during the past three years.

Baker supports Adams's decision to phase-in automatic crash protection. Dept. of Transportation (DOT) estimates predict that if air bags are put in all cars, they will save more than 9,000 lives and prevent or reduce the severity of hundreds of thousands of injuries each year.

"The side crash is not the subject of the controversy," says Baker. "What the air bags are to be used for are front-end crashes which are 55 per cent of the fatal and serious crashes that now occur." She adds that along with the air bag system on the dashboard and steering wheel, lap belts would be required for extra protection in a rollover.

Testing of air bags began 20 years ago. Since 1972 about 12,000 cars with air bags have been on the road, in models of 1972 Mercurys, 1973 Chevrolets, 1974–76 Cadillacs, Buicks and Oldsmobiles, and 1975 Volvos. About 15 percent of these have been in business or government cars.

As of this August, it is not possible to purchase a new car equipped with air bags. No one is making them and it is not yet possible to fit air bags into used cars.

Estimated purchase prices for air bags vary according to the dealer, ranging from $90 to $235. But even though there is an increase in the cost of a new car, insurance industry testimony maintains that over the life of a car insurance premium savings will more than pay for any automatic restraint system. Some insurance companies already offer 30 per cent discounts on medical coverage for air bag-equipped cars.

The air bag passive restraint system has six basic parts—front bumper detector, dashboard sensor, passenger air bag and inflator, driver air bag and inflator, driver and passenger knee restraint, and lap belts.

When the car ignition is turned on, an indicator lamp on the instrument panel glows for four to six seconds. During this time a capacitator is charged to inflate the air bags in a crash even if the auto battery is destroyed. When the light goes out, the air bag system is operative.

The system is set in operation when there is a frontal crash. Sudden deceleration causes a pendulum in the dashboard sensor to move forward and close a circuit. The circuit sends a signal to the gas inflator which inflates the air bags instantly to restrain the occupants in a slow, soft manner (in combination with simultaneous deflation of the air bags.)

When a crash occurs at high speeds, the gas supply to the air bags is speeded up to provide faster protection. The bags inflate in about 1/25 of a second, so fast that if you blinked your eyes would miss the full inflation.

Today's technology has designed air bags to work just once to do their life-saving job. After use, the fabric bags, inflators and sensors must be replaced, the same as a "used" seat belt system must be replaced after a crash. In most cases insurance collision coverage pays for the air bag replacement as part of regular restoration of the auto to its pre-crash condition.

One of the greatest concerns challengers and investigators of the air bag system have shown is the possibility of accidental air bag inflation. DOT computations show that the chance of inadvertent inflation of present air bags due to system failure is about one in 3.3 billion vehicle miles traveled. Using this figure, one in 6,000 drivers might experience inadvertent inflation during 54 years of driving time.

In a report dated June 9, 1976, DOT recorded six inadvertent (non-collision) air bag inflations. One was set off by an explosion and the others by improper use. Except for one early experimental air bag, there has not been a single incident of inadvertent inflation caused by failure of the system itself.

Air bags cannot be inflated by a blow on the front of a stationary car. A vehicle must decelerate abruptly by at least 12 mph. Or, if standing still with its ignition switch on (and air bags activated), the car would have to be impacted frontally at 24 to 25 mph or more by a vehicle of the same weight and mass giving the air bag sensor the same signal as it would receive if the air bag car struck a fixed object.

Even if an air bag were to inflate inadvertently, tests have shown that the driver's vision would not be obstructed sufficiently for him completely to lose control of the steering mechanism.

A parked auto whose engine has been turned off for about 10 seconds will not inflate its air bags if hit in the front bumper area. This 10-second period is enough time for front seat occupants to leave their seating positions. During this time, the air bag capacitor discharges itself, neutralizing the system until the ignition switch is turned on again and the capacitor-charging process is repeated.

Besides the objections to air bags in terms of cost and accidental inflation, critics have most recently balked over the chemical, sodium azide, used in the air bag system. At the time of a crash cannisters of sodium azide ignite and chemically react producing nitrogen gas to inflate the air bags. Sodium azide is now widely used for medical purposes, both as a preservative agent and as a blood dilutant.

Sodium azide can explode if it comes in contact with lead or copper. However, Susan Baker explains that the chemical is secure in special steel cannisters. As far as the possibility of these cannisters being dangerously exposed in junked cars, Baker points out that old gas tanks and batteries in the junkyard are equally hazardous.

Air bags prove exceedingly valuable in the prevention of high speed crash injuries because belt systems are known to fail beyond 25 to 30 mph impacts. Shoulder belts actually begin inflicting chest injuries in higher speed impacts, and no belt system protects the head and neck from whiplash.

"In the final analysis," says Baker, "it is a societal obligation on the part of health officials to make a product so that it doesn't kill people. We've got the technology to do this now." If Congress vetoes Adams' proposed phased-in crash protection program, it will be another two years before the subject will be broached again.

STATEMENT IN SUPPORT OF HOUSE CONCURRENT RESOLUTION 60, AUTHORIZING A BUST OR STATUE OF MARTIN LUTHER KING, JR., TO BE PLACED IN THE CAPITOL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, I am gratified to note that on September 26 the House passed House Concurrent Resolution 60, which authorizes the procurement of a statue or bust in honor of the late Dr. Martin Luther King, Jr., for display in the Capitol.

I personally find it deplorable that, despite the many rich contributions to the culture, science, history, and politics of the United States made by black citizens, not one of the 681 works of art displayed in the Capitol memorializes a black American. Dr. King, who gave his life for the cause of nonviolent progress toward the goals of liberty and justice, most surely deserves to be commemorated alongside those leaders who, like himself, placed their faith in the American Constitution and way of life.

I hope that this statue will be prominently displayed, where it can be seen and can serve as an inspiration to all those who admire Dr. King and what he stood for.

EMERGENCY LEGISLATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. STUDDS. Mr. Speaker, I am today introducing emergency legislation—legislation acceptable to all parties concerned—to extinguish all Indian claims to home-owned land of 1 acre or less in the town of Mashpee, Mass.

For 13 months, litigation has been pending in the U.S. District Court for the District of Massachusetts which has asserted a claim on behalf of the Mashpee Indians for most of the town of Mashpee. The existence of this suit has clouded title to individual residences in the town, and has resulted in severe economic hardships for hundreds of homeowners. In August, the Mashpee Indians amended their suit to indicate that no relief would be sought from any defendant respecting the right to possess any tract of land on which the dwelling of the defendant was located on the date the suit was filed.

Because of this recent Indian action, and because of the severe economic and human hardships which have resulted from the clouded titles to the homes in Mashpee, it now appears possible to win approval for this desperately needed legislation to clear title to the homes of the residents of Mashpee. It is my understanding that this measure is supported by all parties to the litigation, and that it is not opposed by the Interior Department or any other agency of the executive branch.

Federal law requires congressional action to extinguish the rights of Indians to file claims for land. This particular bill is not meant to alter, prejudice, or influence in any way the rights or obligations of any party to litigation related to this or any other Indian land claims, except as specifically cited in the legislation.

Interior Department officials have informed me, and legal counsel to the Mashpee Indians have agreed, that the language in the bill will not affect the right of the Indians to seek compensation for any valid land claims which they might have. The bill seeks solely to free the residents of Mashpee from the economic disruption caused by the cloud currently placed over all residences in the town, and it seeks to accomplish this in a manner satisfactory to all parties concerned.

Mr. Speaker, very little time is left in the current session of the Congress. It will be extremely difficult—even with the cooperation of everyone involved—to have this legislation approved before the end of the year. I would argue very strongly, however, that for more than a year the citizens of Mashpee have experienced unique and overwhelming hardships, and that Congress has a responsibility to do everything possible to ease those hardships. Given the noncontroversial nature of this bill, and given the severity of the problems faced by the residents of Mashpee, I am hopeful that a truly extraordinary effort in behalf of this humane proposal will be forthcoming.

YOUNG ISRAEL EMPLOYMENT BUREAU

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ZEFERETTI. Mr. Speaker, today, I join with my colleagues in wishing to insert into the RECORD a commendation by the Council of Jewish Organizations in Civil Service, Inc., to the National Council of Young Israel, whose record in on-the-job training program could serve well as a model for similar programs. I commend the statement to your reading:

STATEMENT

In times when critics arise to find fault with government sponsored programs designed to alleviate unemployment, it is incumbent upon us to state for the record those exemplary achievements that give credit to the United States Department of Labor. As an example of a viable outstanding program, we submit the record of the Young Israel Employment Bureau, a nonsectarian undertaking sponsored by the National Council of Young Israel with its national headquarters in New York City and branch operations in 17 states. It operates employment bureaus in five states: New York, Ohio, Michigan, Missouri, California, and Florida.

In 1929, it established its first Employment Bureau designed to find jobs for all people regardless of ethnic background. During and immediately after the war years, it added a Veterans Division to the Employment Bureau with the particular concern with the unique problems of the returning veterans, in the field of education, employment, and social adjustment. In 1966, the Employment Bureau applied to the United States Department of Labor and received its first federally funded On-The-Job Training Program (OJT). Subsequently, it has successfully executed 12 employment contracts under Ephraim H. Sturm, the founder and director of the program.

With the advent of CETA, they spun off their national programs in Los Angeles and in Dade County, Florida as independent CETA operations. Albeit, the records will clearly indicate that the local CETA programs are far more costly than the same operation when administrated as part of the national program.

This program called for placing 70 people in each of the above cities with reimbursement for training costs to be given for 35 slots in each area and the additional 35 slots in each area for non-reimbursable OJT. Each area was serviced by one job developer at $9,816.00 annual salary or $188.76 per week, and a secretary with the annual salary of $6,165.00 or $118.55 per week. This is far lower than the normal amount of $15,000 for a job developer and $8,500 for a secretary. In addition, there are the normal fringe benefits which amount to approximately 9 percent.

Reimbursement averages $600 per trainee. On a matching one to one basis this means actually that the reimbursement cost is only $300 per trainee. The normal amount of reimbursement nationally and under CETA is well over $1,500.

The National Program was continued with Detroit, Cleveland, and St. Louis as bases. On July 14, 1977, they completed the program with 120 percent record.

The entrance rate ranged from the $3 minimum requirement to $6 for reimbursable trainees and from $2.90 to $4 for non-reimbursable ones.

The trainees were placed in the type of program which will lead to the learning of a particular skill and talent. The following are examples of the type of positions in which trainees are placed: office machines, mechanics, carpet cutters, clerk-typists, orthopedic shoe fitter, auto-mechanics, secretaries, bookkeepers, metal fabricators, butchers, machinists, medical assistants, geriatric nurses, jewelers, store managers, security officers, etc. We note that in the forseeable future these areas will need workers.

This OJT Program including the reimbursable funds costs only $185,656.00.

One can't judge statistics without yardsticks. Let's, therefore, suggest the following: the average retention rate is approximately 60 percent, 70 percent is considered good. Their retention rate is over 90 percent.

The mean cost for reimbursement for training is $1,500, theirs is $300 with the training period being equal. CETA programs are happy with an 80 percent performance and theirs is over 100 percent, normally 120 percent.

On July 15, 1977, the United States Department of Labor once again recycled the Young Israel Employment Bureau National Program for the above mentioned three cities. It is to the credit of the United States Department of Labor for recognizing the Young Israel's national program service as a yardstick in evaluating the efficacy of the local CETA sponsored programs. We wish to acknowledge the astuteness of the Honorable Ernest Green, the Assistant Secretary for Employment and Training, and his staff for recognizing the uniqueness of dedication and achievements of the Young Israel National OJT Programs.

We enter this document in the CONGRESSIONAL RECORD to indicate the progress and achievement that can be obtained by experienced, dedicated employment service under the sponsorship of the United States Department of Labor.

CONSUMERS CHOICE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ABDNOR. Mr. Speaker, last week over 230 beef producers from the State of South Dakota came to Washington for the last in a series of hearings on meat imports before the International Trade Commission. They were asking the help of the Commission in correcting conditions which have made the United States the dumping ground for the world's surplus beef.

Quite frankly, Mr. Speaker, what they were asking was some moral support in continuing the economic viability of the cattle industry which has made it possible for Americans to become accustomed to plentiful supplies of reasonably priced meat in their diet.

The average consumer will find it hard to believe this supply could be seriously threatened, but unlike the Federal Government, if the cattle producer cannot make enough money to cover his expenses he is going to have to quit the business. And, quitting business is what a lot of producers are facing.

I have repeatedly pointed out 14 loopholes in the meat import laws which need to be tightened so that the law can do what it is supposed to: provide reasonable protection to domestic livestock producers from "unwarranted imports."

Note, I say "unwarranted" imports, because we all recognize that America must import if it is to export.

The Rapid City, S. Dak., Journal in a September 23, 1977 editorial stated the producer's argument well. I commend it to the attention of my colleagues as they strive to best serve their constituents—the consumers of meat.

The editorial follows:

BEEF IMPORT LAW FLAWS NEED TO BE CORRECTED

South Dakota's cattle producers and the state's congressional delegation have presented a strong case for changing laws which presently govern meat imports.

In a series of hearings before the International Trade Commission, begun in June in Rapid City and concluded Wednesday in Washington, the South Dakotans, and representatives from other meat producing states, pointed out flaws in the Meat Import Act of 1964.

Those flaws should be corrected to protect the cattle industry, a basic and important industry in South Dakota. The threat is real that continued depressed beef prices will force many cattle producers out of business.

The cattlemen and legislators listed a number of things in the current system that need correcting, but their No. 1 concern was with beef import quotas.

At present, when domestic beef supplies are high and prices low, imports are allowed to increase, to put even more beef on the market. And when domestic supplies are low and prices high, the import quota can simply be suspended to allow importation of a virtually limitless amount of beef.

If your first reaction is "huh"? you are likely to agree with the cattlemen that that system doesn't make much sense.

What makes more sense is the proposal that import quotas be tightened when domestic supplies are high, and expanded when domestic supplies are low. That would guarantee an adequate supply of beef and also allow the cattlemen a fair profit at the market price.

The Trade Commission, an independent agency created by Congress, will consider the testimony presented and report its recommendations to Congress.

That is when residents and legislators from the beef producing states will face their biggest challenge: persuading Congress that the statutes need revising.

And that won't be easy. Many congressmen, especially those from urban states, are under constant pressure from home to keep food prices down.

They must be convinced that relatively higher beef prices are preferable to the alternative: an uncertain supply of domestic beef.

WILLIAM BUCKLEY CRITICIZES EARNING LIMITATIONS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. SIMON. Mr. Speaker, I am inserting into the RECORD the column of William F. Buckley, Jr. regarding the congressional earning limit.

There is no question that there are serious inequities in the present earning limitations. Like some others in the House, I voted for it only because complete in-detail disclosure of income—which I believe to be a better solution—was not part of the package.

In addition, the disclosure laws we have voted do not include a requirement for disclosure of income by a spouse and minor children.

A much more sensible answer for the House and the Senate is to require detailed income disclosure by the officeholder and by his spouse and minor children.

My colleague from Illinois, Congressman GEORGE O'BRIEN, and I are cosponsoring a measure which would call for the detailed income disclosure that ought to be required of all sitting Members of the House and Senate.

And that detailed disclosure must be exactly that: Detailed. That means if a Member of the House or Senate is practicing law, he or she must list the clients and the money paid by the clients. For those who immediately will try to hide behind the canon of ethics, this should be made prospective, and any lawyer can tell his or her clients in advance that he or she will be happy to serve them but he or she will have to list their names and the amounts paid to the lawyer. That violates no canon of ethics anywhere.

We have some disclosure, but not enough. We have some earnings limitations, but inequitable limitations. We say that if you inherit oil stocks and make $500,000 a year in dividends on those oil stocks, that is perfectly all right, but if you make 10 lectures at 10 universities at $1,000 apiece, that is somehow unethical.

The fundamental protection for the public is detailed disclosure, and anything beyond that, or less than that, is a less than happy solution.

I hope my colleagues will read the article by William Buckley:

CONGRESSIONAL EARNING LIMIT: 'TWAS A MISJUDGMENT

(By William F. Buckley, Jr.)

I wish to atone for what I now conceive as a misjudgment, namely my public support of that provision in the federal wage increase package last January which forbids members of Congress from earning more than $8,000 per year from extra-curricular activities.

Oh, the rationale sang sweetly to the ear. And, indeed, there was a philanthropic intention: Salaries at the highest levels of government were just too low, and it was becoming increasingly difficult to attract non-ascetic types who had obligations to their families to give them the kind of education and shelter which are not available in Washington at 44 grand before taxes. The practice, as we all know, had been for the most energetic congressmen and senators to eke out their living by doing other things.

Under the new law, they will be limited to earning 15 per cent beyond their current salaries (they were raised to $57,500) through extra-legislative activities. I think this wrong both in terms of what it does to congressmen, and what it denies congressmen the right to do for others.

The subject came up during a recent lecture trip when I learned from my hosts that it had become increasingly difficult to engage the services of interesting congressmen or senators to speak. The reason was obvious: after earning $8,000, a congressman may earn no more. He faces the alternative of going to Northwest Louisiana University to give a speech on his current preoccupations—or staying home.

It is the planted axiom of the Ethics Committee's bill that, staying at home, the congressman will devote the time he would otherwise spend talking to students and citizens at Natchitoches (La.) re-reading the *Federalist Papers*, or studying up more carefully for tomorrow's committee meeting.

This does not, of course, follow. All that is absolutely known about the effects of the interdiction is that (a) the students will not get a chance to hear and question Senator Smith; (b) Senator Smith will not get a chance to hear the questions of the students; (c) Senator Smith will be deprived of $1,000 of income (assume that the fee is $2,000); and (d) the taxpayers will be deprived of a thousand dollars of income.

That last point, by the way, is ironically relevant in respect of high-earning congressmen or public servants on the order of Patrick Moynihan, John Kenneth Galbraith, or all those congressmen who used to practice law: in many cases, by their extra-curricular activities they returned to the government sums of money in excess of that paid them for their work in government. In a way, the republic was getting their services for nothing.

In opposing the Ethics Committee bill, Senator James Buckley argued last December that it was objectionable on several grounds. For one thing it constituted a preemption of a property right. It is by no means obvious that anyone can contract for all of someone's services—there is an unhealthy feel to such a Faustian contract.

For another, Senator Buckley felt that the measure failed lazily to confront the relevant distinctions. It is one thing to frown on the senator who sits on the Maritime Committee and is offered a large fee to give a speech to the Seafarers' Union. It is another to serve on the Maritime Committee and appear as a lecturer at a series sponsored by Northwest Louisiana State College.

Senator Buckley's successor, Daniel Patrick Moynihan, opened the floodgates on his tumultuous emotions when his colleague, Senator Adlai Stevenson, proposed that excess campaign funds should not be permitted to be used for office expenses. The Stevenson proposal was defeated, but not before Senator Moynihan had railed against the Senate for desiring to make a "pauper" out of him, having already, earlier in the year, stripped him of an earning capacity as a lecturer that had fetched him $150,000 during his last year as a free agent. A poetic fine, perhaps, for depriving the nation of the services of his distinguished predecessor.

In the last analysis, there is no substitute for giving public servants the right to make their own decisions—and then spotlighting these decisions so that their ethical adequacy can be evaluated by their constituents.

One fears, looking back on it, that unpleasant motives figured in the devising of the bill. Rich congressmen are indifferent to the problems of poorer congressmen. And congressman whose oratorical gifts are never bid for by Northwest Louisiana College are adept at writing regulations governing the activities of those of their colleagues who are.

NATION'S POLLUTION CONTROL EXPERTS GATHER IN PHILADELPHIA FOR 50TH ANNUAL CONFERENCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EILBERG. Mr. Speaker, this week the Nation's leading experts on stream protection have gathered in Philadelphia for the 50th annual conference of the Water Pollution Control Federation.

City Water Commissioner Carmen F. Guarino is serving as the official host to

the 11,000 sanitary engineers, public officials, and scientists from the United States and abroad who are attending the convention at Philadelphia Civic Center. The experts are exchanging views and studying legislation designed to upgrade the Nation's water resources.

One of the highlights will be the keynote address by Douglas M. Costle, the new national Administrator of the Environmental Protection Agency, who will discuss the outlook for further improvement of the Nation's water sources. Also scheduled to speak at the conference is Ruth C. Clusen, national president of the League of Women Voters.

The conference will be highlighted by over 700 exhibits by American industries, showing the most advanced technologies for collecting, treating, and disposing of liquid wastes. There will be 34 technical sessions conducted by 340 wastewater experts.

Mr. Guarino predicts that "many important ideas will come out of the technical sessions," during which speakers will outline new technologies to convert digested wastewater sludge into new products, transform it into energy, or dispose of it safely either in the ocean or on the land, and to upgrade wastewater treatment plants, control industrial wastes, reduce storm overflow from sewers into streams, and computerize wastewater plants and sewer systems.

The conference will also take a close look at impending amendments to national water quality laws and at ways to pay the huge cost for improving lakes and rivers.

As one of the highlights of the week-long conference, Water Commissioner and Guarino and visiting water pollution experts inaugurated a new technique designed to save money and improve sewage treatment at the northeast water pollution control plant.

With Horace L. Smith, president, and Robert A. Canham, executive secretary of the Federal pushing the starting lever, the department put into service 22 giant rotating rollers which will gently resolve in sewage flowing through aeration bays, as the first step in a $146 million modernization of the plant.

The new polyethylene rollers, 25 feet in length and 12 feet in diameter, have been installed in two bays of an aeration tank at a cost of $1,917,000. The Commissioner said the rollers represent "an efficient, low cost method" for upgrading old sewage plants. Guarino said:

Although variations of such rollers have been used by other communities, "Philadelphia's Surfact units will be used in a unique way that will require no additional energy, since they will rotate under the force of air already supplied to the aeration tanks. No other community has done this.

Guarino said that the Surfact units will also:

Produce less sludge than conventional treatment systems:

Remove nitrogen, as well as carbon, from sewage, without the expensive two-stage process required by conventional systems;

Require only a modest capital investment;

Combine with the biological process in aeration bays to unite two different methods for more effective treatment, and

Upgrade treatment by removing over 90 percent of pollution from sewage, as measured by biochemical oxygen demand, compared to 65 percent previously.

Guarino noted that the Surfact rollers operate on a well-established principle—as they rotate through the sewage flow, they pick up a film on which aerobic bacteria grow. The bacteria then oxidize the sewage, converting it into other elements.

The idea of operating such rollers by utilizing existing air in aeration bays—rather than powered mechanical drive in a different kind of tank—originated with Commissioner Guarino when he noted that energy supplied to aeration bays was not being fully utilized by aerobic bacteria.

"The units appear to fulfill our goal of improving the old plant, while saving the public as much money as possible," Guarino said. Pilot units were tested previously.

Guarino said that the city's plans include modernization of the existing northeast plant, and the construction of a new plant alongside the old one. The estimated cost for the new plant is $91 million and that for the old plant $55 million.

The 22 units put into service will treat about 20 million gallons of sewage daily. If the units prove successful, the water department will install similar units in all aeration bays at the northeast plant.

At present the plant receives about 190 million gallons of sewage daily. This, plus additional flows expected in the future, would be split between a new plant and an upgraded old plant. The two plants together will be able to treat up to 250 million gallons daily.

CARCINOGENS HAZARDOUS TO WORKERS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. CARTER. Mr. Speaker, I would like to include for the RECORD an article about a recently completed study for which the National Institute for Occupational Safety and Health had contracted to determine what carcinogens in which industries are most hazardous for workers.

As we in Congress support the very critical work of finding the causes of cancer and, if possible, eliminating them, I believe this information would be of interest to many others concerned about the on-the-job hazards for America's working men and women.

I offer for the perusal of the Members this excerpt from the September 23 issue of Science magazine:

CARCINOGENS IN THE WORKPLACE: WHERE TO START CLEANING UP

(By Thomas H. Mauch II)

The most hazardous industry in the United States, in terms of exposure of workers to carcinogens, may well be the manufacture of scientific and industrial instruments, according to a study prepared by John Hickey, James Kearney, and their associates at Research Triangle Institute for the National Institute for Occupational Safety and Health (NIOSH). The fabricated metal products industry was rated second most hazardous, and the manufacture of electrical equipment and supplies third. The chemical industry, which many people would consider an odds-on choice to head the list, was ranked a lowly 12th.

The study* was designed as a first step for controlling exposure of workers to carcinogens. But because of NIOSH's limited resources, it was first necessary to identify those industries where the potential hazard is the greatest, and therefore where the maximum effort should first be exerted.

The rankings in the study are based on two separate sets of data: the total amount of exposure to carcinogens, and the relative potencies of the carcinogens. The relative potencies of the carcinogens were estimated as accurately as possible from a comprehensive search of the available literature. The ranking for carcinogenic potential took into account the time required for tumors to appear after exposure to the carcinogen, the minimum amount of carcinogen required, and the method of administration. Some of the available data about individual carcinogens are contradictory and some are incomplete; most of the information, furthermore, is based on studies with animals. Each of these areas represents a potential pitfall of the study, particularly the need to extrapolate animal data to human exposures. But the data used, the report emphasizes, are the best now available.

The investigators ranked some 86 industrial chemicals according to their carcinogenic potential. The ten most potent chemicals, the report concludes, are N-nitro-sodiethylamine, thallium, chromium, asbestos, nickel, coal tar pitch volatiles, methyl methane sulfonate, acetamide, yellow OB, and ethylenimine.

Information about the exposure of workers to carcinogens was obtained primarily from NIOSH's National Occupational Hazards Survey (NOHS). For this $6-million, 3-year study—which has not yet been completely published—a group of engineers went to manufacturing facilities throughout the country to determine, among other things, how many workers in each type of plant are exposed to chemical agents, what those agents are, how the exposure occurs, and the length of the exposure. Data from this survey were then combined with data on carcinogenic potential to produce two new lists, one ranking carcinogens by a combination of exposure and potency and the second ranking industry by the amount of exposure to carcinogens and suspended carcinogens.

In the first case, the investigators combined potency, amount of exposure, and annual production to conclude that the ten most hazardous industrial chemicals are, in order, asbestos, formaldehyde, benzene, lead, kerosene, nickel, chromium, coal tar pitch volatiles, carbon tetrachloride, and sulfuric acid. Similarly, the potency of the materials and the amount of exposure to them was used to rank American industries.

The new results differ from the conclusions of previous studies. Hickey tells *Science*, because those previous studies generally considered only the volume of the carcinogens and not the amount of exposure. Previous studies have ranked the chemical industry very high, for example, because it manufactures hazardous materials in lots of tons or more. But the large quantities of materials may actually be manufactured by only a very

*The Development of an Engineering Control Research and Development Plan for Carcinogenic Materials. (Government Printing Office, Washington, D.C., in press).

small number of people, so that consideration only of the volume of carcinogens grossly overestimates the potential hazard.

In contrast, Hickey says, the manufacture of scientific and industrial instruments requires relatively small amounts of carcinogenic materials. But these materials are used in the hand fabrication of devices, so the total exposure—and thus the total risk—is very high. The fabrication of metal and electrical products both rank high for the same reasons. Hickey emphasizes that the total amount of hazard is very similar in the top ten industries, and the actual rankings could be altered by undiscerned factors such as the discovery of previously unrecognized carcinogens. But there seems little doubt, he adds, that these are the industries where research and cleanup efforts should first be directed.

The single most severe problem in many industries, the report says, is the presence of carcinogenic dusts in the workplace. These occur in the dry mixing of paints and pesticides, for example, and in many other processes where solids must be mixed. A major effort is thus needed, according to the report, to develop new ways to enclose the entire system of dry materials production, mixing, and transfer.

Another severe problem that seemingly could be easily solved is better venting of areas where carcinogens are used. In many cases, the report says, the venting system now in place does little good and, in some instances, it even blows carcinogens back in the faces of the workers. More attention apparently also needs to be given to the use of masks and protective gear now used only infrequently.

It must be emphasized that the Research Triangle Institute report is basically a library study. The investigators neither visited factories nor tested potential carcinogens. They also did not use any data about occupational cancer in the studied industries; many of the most potent carcinogens, in fact, have not been in use for the 25 to 30 years that would be required for cancers induced by them to begin showing up. It is also possible that better controls have been established in some industries since the NOHS study was conducted. Nonetheless, the results will give NIOSH a good idea where to begin emphasizing control procedures. The study should also give pause to many executives who now think they run clean industries.

AIR BAG "12 MPH CRASH" IS NOT REALLY 12 MPH CRASH

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. SHUSTER. Mr. Speaker, I previously reported that in 230 towaway accidents of air bag equipped cars investigated by the National Highway Traffic Safety Administration (NHTSA), the air bag did not inflate in 97 crashes, or 42 percent of the time. This fact, even though confirmed and reconfirmed by NHTSA—the same agency pushing the air bag/passive restraint mandate—has been dismissed by NHTSA and the air bag lobby as insignificant, since they say that air bags were not supposed to inflate in those cases.

In a debate on the September 27, 1977, Good Morning America television program, air bag lobbyist Ralph Nader responded to my recitation of this fact by saying,

The fact is that the airbag is designed not to deflate (sic) in low collision impact crashes such as under 12 miles per hour.

He later stated on the same program,

The airbag has inflated in crashes where it was designed to inflate—above 12 miles per hour collisions it has worked perfectly.

Mr. Speaker, this statement by Mr. Nader—which I have quoted directly from a tape of the program—is simply not true, and it is time this is brought to the attention of our colleagues in the Congress.

The air bag sensor is designed to activate the air bag in crashes achieving 12 mph "rigid barrier equivalent impact speeds." This must not be confused with 12 mph crashes, because they are not the same thing. The "rigid barrier equivalent impact speed" can be defined as the speed at which the automobile stops, rather than the speed at which it is traveling at the time of impact. It is determined by the amount of kinetic energy that is absorbed by the automobile and the barrier—or second car—at impact.

A car crashing into a "rigid barrier"—that is, a concrete wall about 4-feet thick that absorbs no energy—head-on at 12 miles per hour, would have a barrier equivalent impact speed of 12 miles per hour. However, a car crashing into an identical parked car would have to be going 24 mph to achieve a barrier equivalent impact speed of 12 mph, since the parked vehicle would cushion the impact and absorb half the energy.

If a car were travelling down a freeway at 60 miles per hour, and hit the rear-end of an identical vehicle travelling 40 miles per hour, the kinetic energy would be evenly distributed between the two cars so that each would attain a barrier equivalent impact speed of only 10 mph.

Thus, it is clear that a car could conceivably be travelling at 50 or 60 miles per hour and above and, under certain circumstances, not achieve a barrier equivalent impact speed of 12 miles per hour, as required for air bag inflation.

Another excellent example is the crash in Virginia involving an air bag-equipped Cadillac, which was recently reported in several newspapers, including the New York Times. The Cadillac was traveling at about 25 miles per hour when it crashed into a parked truck. The air bag did not inflate, because the barrier equivalent impact speed was under 12 miles per hour. Nevertheless, the driver sustained severe neck and spinal injuries for which she is still being treated—2½ years after the accident.

Another example is a park police vehicle which was forced off the roadway travelling between 40 and 50 miles per hour. The cruiser hit nine trees in its path, the last of which was large enough to stop the vehicle and prevent it from being hurled into the river. The air bag did not inflate. Nonetheless, frontal damage to the car amounted to over $2,000 and the officer driving the car was taken to the hospital in an ambulance and sustained cracked ribs and back, neck, buttocks, and coccyx injuries which are still giving him trouble today—4 years after the accident.

Mr. Speaker, there are many other examples of accidents involving cars travelling well over 12 miles per hour in which the air bag "was not supposed to inflate" which nevertheless resulted in severe injuries. Should these accidents be dismissed because of a technicality? Should we find comfort in the fact that the air bag "was not supposed to inflate" in these crashes?

When the air bag lobby blithely dismiss the alarmingly high noninflation rate of air bags with the argument that air bags are not designed to inflate in crashes below 12 miles per hour, I urge you to keep in mind that an air bag "12 mph crash" is not really a 12 mph crash.

PRESIDENT CARTER'S ENERGY PLAN—A GOOD FIRST STEP

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues an address I delivered at a recent energy conference in Philadelphia. I believe the address is a useful document in explaining some of the more controversial provisions of the President's National Energy Act:

PRESIDENT CARTER'S ENERGY PLAN—A GOOD FIRST STEP

(Keynote Address of Congressman ROBERT W. EDGAR)

I appreciate the honor of appearing before this Conference to speak in favor of the President's Energy Plan. You, as opinion leaders and decisionmakers of the scientific, academic, business, nad governmental communities have already played an important role in shaping energy policy. Elected officials in Washington can enact the laws, but our energy problems will not be solved in Washington. They will be solved, to a great extent, only with a commitment from people like you and those you influence. It will not be an easy task for a majority of members of both Houses of Congress to agree word-for-word on language which will comprise the major share of a national energy policy. There are 535 Members of Congress, and they have 535 different solutions to our energy problems. Our representative democracy is a form of government which was not designed for efficiency. I know it will be as difficult for you as it is for me to accept the wisdom of every provision in the bill which eventually receives the signature of the President to become the law of the land.

This is an important opportunity for me to explain the need for the President's bill to those who I expect to look at this legislation critically. It isn't enough to say that the energy problem is the "moral equivalent of war" and expect you to accept legislation, without justification of its provisions. I know I can count on you to judge my support for these provisions with the "show me" critical attitude which you must have, or you wouldn't be the successful decision-makers that you are. I expect tough questions following my presentation and that of my colleague from New Jersey.

I would like to take a moment to thank the Conference organizers—Dr. Dees, Dr. Eidson, Dr. Eisenberg, Dr. Poziomek, and Dr. Ratchford—for inviting me. I'd like to mention that Dr. Eidson is an active member of my Energy Advisory Committee. I organized that group of energy experts earlier this year to help bring me up-to-date on

energy issues, and to help me weigh the pros and cons of the many policy options available in responding to our energy problems. This group has done an excellent job educating me about many aspects of our energy situation; the prospects of wind and solar energy, the economic impact of natural gas pricing, the environmental costs of increased coal production, and other issues which are part of the energy picture.

I point out the work of my Energy Advisory Committee as a way of saying that I do not consider myself to be an energy expert. I do not claim to know all the answers about how to solve the problems of meeting our energy demand. I rely heavily on the advice of my constituents, my staff, representatives from special interest groups such as industry, labor and environmental organizations, and my colleagues in the Congress to help me focus on what the problems are and how to solve them with a minimum of economic and social cost, and in a fair manner. I come frequently to my Congressional district to find out what is on the minds of those I represent. I have held both an energy public forum and an Energy Awareness Day to find out specifically what support there is for a creative and aggressive response to energy problems. I am gratified that most citizens are willing to make personal commitments. They are willing to turn down their thermostats, and to insulate their homes. They are willing to buy more fuel-efficient vehicles and appliances. But in exchange for this, those I represent demand that our energy policy be fair. They are outraged by the prospect of any single group benefiting from this crisis, or escaping their share of the burden of sacrifice. They do not want to see exemptions in this legislation unless those exemptions are clearly in the national interest, and not merely the price of political support from a special interest group. I am convinced that fairness is the most important asset of a national energy policy, and I believe the President's proposal gets high marks in this regard.

Most experts agree that our energy problems are real and growing. We have, during the last few decades, undergone a transition from a coal economy to an oil and gas economy. Oil and gas were cheap, abundant, and easily transportable. Our demand for these two fuels continues to accelerate. Yet at the same time, our domestic production of these fuels peaked early in this decade, and has been declining ever since. We began relying on cheap imports of crude oil to satisfy our need for cheap energy. We did not count on political developments which occurred four years ago which made these imports costly, and subject to supply interruption. Most of us remember not too fondly the impact of the OPEC embargo when lines at gasoline stations were almost as long as the Alaskan pipeline. Following that embargo, oil prices charged by OPEC nations quadrupled. OPEC oil not only fueled our furnaces but also fueled inflation. Our economy is still recovering from the recession caused in large part by the OPEC embargo and subsequent price increase.

Even without the political realities of the OPEC cartel, we are running out of oil. Every day, the world converts oil, which took hundreds of millions of years to form, to water, carbon dioxide, and smaller amounts of other products, at the rate of sixty million barrels per day. Oil consumption in the world is increasing at a rate of five percent each year. This means that the world has to increase supply by three million barrels per day just to meet the growth in demand. To do this, we would have to add the equivalent of another Texas, producing at its peak, every single year. There may be new Texas's in the short term—Prudhoe Bay, the North Sea, and Siberia are examples. But there is simply not enough oil out there undiscovered to meet demand in the long term, and certainly not at the prices we were accustomed to during the middle of this century.

As long as we rely on imported energy for a major portion of our needs, we will be vulnerable. Still, I understand that surveys show that most citizens aren't aware that we even import crude oil, let alone that we have imported as much as 50 percent of our needs during some weeks this year. Our bill for imported energy will exceed $40 billion this year. The present situation is totally unacceptable, and there is little reason to believe that the future will be brighter without strong leadership and a sustained national commitment by every citizen.

That brings me to the President's Energy Plan. This plan, in my opinion, is only a first step in meeting the challenges of providing the energy we need, while at the same time eliminating the energy waste which is so prevalent in this nation. Few, if any, of my colleagues in the Congress support every provision of the 283-page National Energy Act which President Carter sent to the Congress five months ago. I felt that the bill had major shortcomings. The most striking and disappointing one, in my view, was the fact that the bill neglected to revitalize our transportation system. Historically, moving people and goods in this country has been done with little regard for energy efficiency. Our public transit system is crumbling; billions of dollars are needed just to maintain existing service in our urban centers. A majority of our commuters drive alone in a two-ton vehicle to work. Many of these workers could form carpools and vanpools to save energy. Others could and would use public transit if it was available and efficiently run. The only people I know who benefit from our present transportation policy sit around the boardroom of the OPEC cartel.

A quarter of our energy is used in transportation. The President missed an important opportunity to reverse the national policy which elevates the concrete cloverleaf to the status of national flower, and which makes the suburban bus as rarely seen as an Edsel.

However, I generally support the spirit of the President's energy program. I worked with my colleagues in the House to improve and fine-tune some of the bill's provisions. On August 5th, I voted to approve the bill and send it to the Senate.

The National Energy Act is a comprehensive and coherent set of proposals with four major emphases:

(1) energy conservation and increased fuel efficiency;

(2) energy pricing which encourages new production at a price affordable by consumers;

(3) switching from scarce oil and natural gas to more abundant coal;

(4) expansion of nuclear power as a last resort, until solar and other renewable and high technology sources can be harnessed.

For each of these objectives, the President's bill combines a balanced set of proposals that includes the use of regulation, advanced technology, taxes, and voluntary efforts. It avoids the excessively high prices for energy which could result from allowing a foreign cartel to dictate market prices. It tries to avoid a climate of excessive regulation. And it calls for the achievement of seven national energy goals by 1985:

(1) reducing the annual energy growth rate to less than 2 percent;

(2) reducing gasoline consumption by 10 percent;

(3) reducing oil imports to six million barrels per day;

(4) establishing a billion barrel oil reserve;

(5) increasing coal production by two-thirds;

(6) insulating 60 percent of American homes and all new buildings; and

(7) using solar energy in more than 2.5 million homes.

I agree with many reports published since April that these goals are not achievable solely as a result of the President's energy bill, and perhaps not at all. Given our recent history of doubling oil imports in five years, just holding the line on these imports would be quite an achievement, but we must do better than that. There may not be the capacity in the coal and coal transportation industry to increase coal production by two-thirds, and burning this coal could bring with it environmental hazards. However, these goals are a good place to start. Some of the institutional obstacles to achieving these goals could be removed should we commit ourselves with the zeal that characterized the Apollo project. The President challenged us with his assertion that our energy problems should be faced with the "moral equivalent of war". It is certain that without strong leadership by opinion leaders and support by all citizens, these goals will not be reached regardless of the achievability of these goals.

Four of these seven goals involve energy conservation, which is the first part and the cornerstone of the President's bill. I agree with the President that conservation deserves the greatest concentration of effort, since saving a barrel of oil equivalent will almost certainly be cheaper and less destructive environmentally than producing a barrel of oil equivalent. The bill would make the United States a world leader in energy conservation, an area where we lag embarrassingly far behind other industrialized nations. At the same time, the bill would enhance economic growth, promoting job opportunities in the energy conservation industry, and maintaining our high quality of life. Without an effective conservation effort, a lower standard of living would be almost assured, as billions of dollars in purchasing power would be siphoned into energy production.

Business and industry have already embarked on ambitious programs to conserve energy. They are doing this for more than patriotic or public relations reasons. The fact is that conservation is good business. It is a high yield investment which promises significant dividends in a short period.

Today, much of our energy is used by individuals, especially in heating and cooling their homes, using appliances, and automobiles. Energy conservation in this area can have major and continuing benefits, and the energy bill proposed by the President tries to maximize this benefit.

The President proposed two separate taxes related to auto usage. The House endorsed the President's proposal for a tax on gas-guzzler automobiles to supplement existing fleet-average fuel-efficiency standards. The Senate Energy and Natural Resources Committee went a full step further last week by banning the manufacture of autos which do not achieve at least 16 miles-per-gallon by 1980. However, this week the Senate Finance Committee struck the Carter tax from the bill.

More controversial has been the gasoline tax. I opposed the President's standby gasoline tax, because I do not feel that a small tax will result in measurable gasoline conservation. A large tax, while more effective, would have devastating effects upon our economy. I did support a five cent non-rebatable gasoline tax to finance transportation programs which would have substantial energy conservation impacts. The House soundly defeated this tax, virtually guaranteeing that the United States will continue to have the best highway system in the world—and one of the worst transportation systems. This tax would have cost the average family $50 per year, a small price to pay to meet long-range national needs for public transit, bridge repair, and related programs. Right in this area, the citizens served by SEPTA would have been one of the prime beneficiaries of this gasoline tax.

The President's bill would also authorize an insulation tax credit for homeowners, require utilities to offer a weatherization service to their customers, and expand the existing weatherization program for low-income citizens. It would provide an additional 10 percent tax credit for businesses to invest in energy conservation equipment, provide grants to schools and hospitals to make energy conservation improvements, and accelerate energy conservation programs for federal buildings.

The Carter bill also proposes an expansion of existing conservation programs to set energy efficiency standards for major appliances, and it proposes a progressive utility reform proposal to end practices which encourage wasteful energy use.

The second and perhaps the most controversial portion of the President's program addresses the issue of energy pricing. The bill adopts a philosophy that energy should be priced at its replacement cost, should be fair to consumers and producers, and should not result in windfall profits for energy companies.

Consistent with this philosophy, the Carter bill would allow the price for newly discovered oil to rise, over three years, to the 1977 world market price, with allowances for inflation. The current return to producers for previously discovered oil would remain the same, except for inflation adjustment. The House and the President rejected proposals to lift price controls on already discovered oil because that would result in massive transfers of money from consumers to producers without a substantial increase in domestic oil supplies. The oil price in the Carter bill is more generous than that which has attracted exploration and energy production in the North Sea where production is costly. The philosophy of the President is to support higher prices for the development of energy in areas where costs are higher. But I should underscore that the House and the President have rejected decontrolling oil prices, a policy which would allow exorbitant profits on oil which has already been discovered.

The President's bill recognizes that high energy prices are desirable for conservation reasons, but highly undesirable for economic reasons. To reconcile these two competing interests, the President proposed a rebatable crude oil equalization tax at the wellhead for domestic oil, phased in over a three-year period, and equal to the difference between the present controlled price and the world price. The taxes collected would be returned dollar-for-dollar to consumers by reductions in withholding from paychecks and adjustments to existing income maintenance programs for those without paychecks.

The crude equalization tax would encourage conservation by making the apparent price of energy expensive. It would encourage switching from oil and natural gas to coal. It would end the administrative nightmare known as the entitlements program which seeks to minimize the competitive advantage of companies who have large stocks of artificially cheap domestic oil. The House approved this tax, but it faces stiff opposition in the Senate.

The bill also sets natural gas prices in a manner which removes the distortions in the marketplace which contributed to last winter's tragic supply shortages in the interstate natural gas market. The $1.75/1000 c.f. price ceiling for both interstate and intrastate new gas, based on the BTU equivalent of oil prices, reflects the replacement cost of the gas, provides true incentives for increased production, and provides a generous rate of return for natural gas producers. The House narrowly approved the President's proposal, which was helped by a compromise which increased the amount of natural gas which would be considered "new" natural gas supplies. The Senate by a tie vote in committee failed to defeat the President's proposal, but it is facing a stiff floor fight.

When I came to Congress three years ago, interstate gas prices were controlled at 52c/1000 c.f. The President proposes a price more than three times this price, more than adequate incentive to increase production. Thus equalizing competition between the interstate and intrastate markets will permit customers in the Delaware Valley to get their fair share of existing supplies, without the extortion of $3–$5 natural gas.

The third portion of the bill, and the one with perhaps the highest oil-saving potential, promotes the conversion by utilities and industries from oil and natural gas to coal. This nation is blessed with more energy in coal, on a BTU basis, than the Middle East has oil. The problem is that it is difficult to mine and transport the coal, and burn it in a manner which will not excessively damage the environment, or result in a threat to public health. The President proposes to achieve this fuel conversion by imposing a tax on the use of oil and natural gas by industry and utilities, with many exemptions, to take effect after a suitable transition period for the conversion process. The President proposes accelerated research and development to promote greater utilization of our vast coal reserves, and to minimize problems associated with transportation and the environment.

I should mention that Westinghouse Corporation in my Congressional district has played a major role in furthering greater efficiency in the burning of coal with their High Temperature Turbine Technology program, financed by a grant from the Energy Research and Development Administration. The termination of Westinghouse's participation in this effort is, in my opinion, not in the national interest. Those who recognize the contribution Delaware Valley industry can make to solving our energy problems should be interested in how to maximize the participation of our industry. We have many resources to offer. More can be done to make it attractive for our industry to seek and be awarded grants which save and create jobs for area workers.

Even if we are successful in maximizing conversions from oil and natural gas to coal, eliminating energy waste, and increasing production where it can be done responsibly, there will remain a gap between domestic supply and demand. Here is where the final of the four portions of the President's plan comes into play. Light water nuclear reactors will be needed to fill this gap between supply and demand. I have serious questions about the safety, security, and reliability of nuclear plants. But I also recognize that construction of more plants is necessary. For this reason, I support the President's view that the design of nuclear plants should be standardized as much as possible, that radioactive waste should be disposed of properly, and that safety standards should be strengthened. I also commend the President for supporting a streamlining of nuclear plant licensing procedures.

In his energy message, the President underscored the danger of proceeding with construction of the Clinch River Breeder Reactor demonstration plant. I agree with the President that the construction of this plant is premature on an economic basis, and serves as a roadblock to efforts to obtain international agreements which will promote nuclear non-proliferation efforts. I feel it was unwise for the House this week to approve construction funding for this project.

I have saved my comments on solar energy for last because I have great enthusiasm for the future of solar technologies. As a member of the Public Buildings and Grounds Subcommittee, I was active in ironing out a compromise which authorized the purchase of photovoltaic cells for the purpose of providing a market for private industry. I believe that this action will begin the development of the mass production of these cells, at a cost which may become competitive with conventional technologies. The Carter bill proposes a tax credit for the installation of solar heating equipment, provides a 10 percent additional tax credit for such installation by businesses, and commits $100 million over a three-year period for the installation of solar systems in federal buildings. In addition, the Carter Plan promotes a regulatory climate at the state and local levels which encourages solar energy development. Solar systems, unlike other conventional technologies, are clean and renewable. They are not yet cheap, but I have confidence that the accelerated research and demonstration approved during the last three years by the Congress will further the development of more efficient and cost-effective uses of our almost unlimited solar resources.

In summary, the President's Plan is not perfect, yet it is a good first step in the formulation of a coherent national energy policy. It encourages conservation through taxes, regulation, and voluntary efforts. It encourages production by allowing producers a high rate of return on their investment for new discoveries. It minimizes adverse economic impact by returning most of these taxes dollar-for-dollar to consumers.

Perhaps more significantly, it attempts to reach its goals by using strategies which call on all of us to make equal sacrifices. It protects the poor and those living on fixed incomes who cannot bear a heavy burden of sacrifice. It will avoid both unacceptable inflation and a loss of jobs. It will not result in unacceptable harm to our environment.

Not doing anything to solve our energy problems now will almost surely have grave consequences for the future of this nation. Even if every single provision of the President's legislation were enacted, an increasingly slim possibility, we will only put a brake on a worsening of the energy situation. Analyses by the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment point out correctly that the Carter bill will not meet the energy goals set by the President, which I described earlier. Only massive voluntary conservation efforts by all sectors of our society will have a decisive short-term impact in reducing the average of nine million barrels per day of petroleum and petroleum products we import each day.

I think that we need a new energy conservation consciousness. During testimony before the House Surface Transportation Subcommittee, on which I serve, Federal Energy Administrator John O'Leary pointed out that it was only a few years ago when it was not socially unacceptable to roll down a car window and throw out a Kleenex. Today, society frowns upon this action. Most people don't litter anymore, not solely because it is against the law, but because we have more sensitivity about the impact of litter on our environment. The same type of consciousness is needed for energy conservation. Many of us do not turn lights off when we leave our residences in the evening. There is little social pressure to comply with the 55 mile-per-hour speed limit on our highways. We reflexively turn on air conditioners when the outside temperature reaches 80 degrees or so.

It may only take a few years until we develop an energy consciousness in the same way we developed an environmental consciousness. It is not something that we can legislate in Washington. Only people like you can accelerate the process of forming this consciousness among our citizens.

I would like to reiterate that you as Delaware County leaders will be playing an important role in shaping energy policy. I urge you to closely follow the progress of the energy legislation as it makes its way through all of the institutional obstacles which our system of government has placed in its way. Let your representatives in the Congress know where you stand on these issues. Participate in the process. Don't become cynical about the decision-making process in Washington. Your opinions really count.

Thank you for letting me share with you my perspective on the President's energy bill. I look forward to responding to your comments and questions following the presentation by Representative Forsythe.

AFTER A YEAR, LITTLE JON IS COMING HOME

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. CARTER. Mr. Speaker, on March 29 I brought to the attention of this august body the plight of a young family in my district.

At that time John and Debbie Benningfield were struggling under the double burden of whether their infant son would survive and whether, if he did live, they would be able to pay the awesome medical bills for his care.

Today I am happy to report that their son, Jonathan Lyle, finally has come home, 1 year after his birth. His twin, Jessica, had been able to come home at 6 weeks of age.

The anxiety about little Jon's survival has eased tremendously. But there has been little easing of the anxiety about the $125,000 hospital and doctors' bills incurred in helping him reach his first birthday, although the people of Campbellsville and Taylor County have demonstrated a tremendous generosity by raising $10,000 to help defray those costs.

As I noted in March, no family, rich or poor, is immune to the possibility that in the next moment a catastrophic accident or illness could strike and ruin the family financially.

While little Jon has come home, most citizens of this country remain unprotected against catastrophic medical costs. I urge once again that we move toward enactment of a national program to insure that needed protection.

Mr. Speaker, so that the other Members might know the details of little Jon's happy homecoming, I include for the RECORD an article from the September 19 edition of the central Kentucky News-Journal in Campbellsville, Ky.:

AFTER A YEAR, LITTLE JON IS COMING HOME

(By Steve Lowery)

Little Jon Benningfield is coming home.

After more than a year the little guy is going to be released from Louisville's Norton-Children's Hospital in about two to three weeks.

Jon, for those unfamiliar with his plight, has been in the hospital since birth. That was a year ago September 26.

He and his twin sister Jessica were born two and a half months premature. Both of the twins had underdeveloped lungs. They also were very small. Jon weighed 3.5 pounds. Jessica tipped the scales at 2.14 pounds.

Both babies were immediately put into isolation. They were both put on respirators to help them breathe and they both needed constant medical attention.

Jessica improved quickly. In fact, six weeks after her birth she was able to come home to Taylor County.

But Jon had to stay. His condition fluctuated. At times doctors for Jon thought that he might not pull through. He has though.

Jon's parents—John and Debbie Benningfield of Campbellsville—have spent countless hours driving to Louisville in the last year. They've stayed on the road to Norton's Hospital through rain, sleet and all of last winter's snow.

They've watched little Jon go through some rough times. And they've been through their own fair share of rough times worrying over their son.

It's no incidental matter that hospital bills alone for the twins have cost more than $100,000. That doesn't include doctor bills. And there will be doctor bills, most likely to the tune of $25,000 or more.

In the last six months individuals and organizations inside Taylor County have raised more than $10,000 to help the Benningfields.

There have even been contributions from outside Taylor. For instance, there was a little old man who sent $1 to the CKNJ to be put in the Benningfield Fund at Taylor County Bank. He recognized that it wasn't a large contribution, he just wanted to help.

Little Jon weighs about 11 pounds now. His sister weighs twice that much.

Little Jessica can say a few words now. She can take a few steps and she's as active as can be.

Jon was finally taken off of his respirator last week. He can hold his little head up and roll from side to side, but he has a lot of catching up to do before he's as healthy as Jessica.

Debbie Benningfield's last day of work—for a while, anyway—came Friday. She's taken a leave of absence as a nurse so she can help her boy if and when he needs it.

Both of Jon's parents are elated that he's coming home. They're a little worried, too. They hope he's healthy enough to stay at home for a while.

I haven't seen him in person, but I did see Jon's picture last week. He's as healthy looking as can be. He had a big smile on his face and he was hanging onto the side of his crib.

The picture was a sharp contrast to the picture I viewed of Jon five months ago. In that one, he was being fed intravenously, he was breathing with the help of a respirator, and he appeared to be very small and weak.

I can't wait to see what he looks like in person and what he looks like when he's a young man.

A TRIBUTE TO THE MOST REVEREND JOHN R. McGANN, D.D., L.H.D., BISHOP, DIOCESE OF ROCKVILLE CENTER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues the achievements of the Most Reverend John R. McGann in whose honor I recently attended a dinner dance at Molloy College.

As the spiritual leader of one of the largest dioceses in the United States, Bishop McGann has carried an awesome burden of leadership and authority. His love, comfort, and guidance have long been felt by those fortunate enough to have known him as both an educator and a friend.

In recognition of his long service and outstanding work as the college's chancellor, Bishop McGann was awarded the President's Medal of Molloy.

A man of great magnanimity, he has enriched the lives of millions through his tireless efforts to maintain the high levels of excellence he has brought to Molloy and to the entire religious community. It is my honor to pay tribute to such a distinguished and deserving individual.

TESTIMONY OF ADMIRAL MOORER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony of Adm. Thomas H. Moorer before the House Committee on International Relations. Admiral Moorer's remarks shed further light on the importance of the Panama Canal to American security and the numerous ambiguous statements in the treaties:

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Admiral, I want to compliment you also on your statement, and in furtherance of your colloquy with the Chairman about what happens after the year 2000, I would like to mention Article V of the neutrality treaty. It says after the termination of the Panama Canal treaty only the Republic of Panama shall operate the canal and maintain military forces, defense sites and military installations within its national territory. So the treaty makes it very plain that we are not allowed, at least by treaty, to have any troops in Panama after the year 2000.

I think if we want to have troops there after that year, we had better decide that now and not rely on some change in the future.

Admiral, I take it you would agree with, then candidate Carter, who said in the second televised debate with then President Ford, when he said "I would never give up complete or practical control of the Panama Canal Zone?"

Admiral Moorer. Yes; we have a perfect meeting of the minds on that one.

Mr. LAGOMARSINO. At that time?

Admiral MOORER. Yes, sir.

Mr. LAGOMARSINO. You quoted Mr. Escobar Bethancourt, who was the chief Panamanian negotiator, in his statements on neutrality, on the question of privileged as against preferred passage, or expeditious passage through the canal.

You might not be aware of a statement that General Torrijos made in Panama on September 15. This was a speech by General Omar Torrijos at the opening of the 10th Congress of the Panamanian Students Federation at the Augusto Samuel Boyd National Agricultural Institute in Divisa, Herrera Province, Panama, wherein he said: "I am not afraid nor am I denying that we signed a clause which if misinterpreted by future U.S. generations could give rise to intervention, but I am not afraid. I know the youth we are producing, and in order for there to be intervention there must be a people willing to accept intervention, and these people have no intention of accepting it." Then it says "applause."

So I think you are perfectly correct in pointing out that there is at least a very great ambiguity about what even the President and your successors claim is the most

important part of this treaty. There is ambiguity about it and I think it is absolutely imperative that that be cleared up and not just by some further statement made by the Panamanians. They can come back and make a later clear statement. I think if we are going to have a treaty there should be a reservation to the treaty or the treaty should be renegotiated to take care of that point specifically.

Admiral, do you think perhaps a bases agreement like we now have with Spain would take care of the problem of not having a base there in the future, assuming that the base agreement would be made either part of the treaty or negotiated at the same time?

Admiral MOORER. Yes, sir, I think something of that kind would, as I said, be certainly in order to give the Panamanians economic assistance, but again, I would delete completely Article V with respect to U.S. forces.

Mr. LAGOMARSINO. Right.

Admiral MOORER. And there is no way you can get around it. The canal is far more vital to the security of the U.S. than it is to the security of Panama. It is vital for the economic well being of Panama. It has nothing to do with the defense of Panama as a country, but it is vital to the security of the U.S. and it contributes heavily to the prosperity of the United States.

Mr. LAGOMARSINO. When asked to comment on the letter that you and the other Admirals sent to President Carter on June 8 of 1977, General George Brown and Secretary of Defense Harold Brown replied that they agreed with some of what you wrote; however, they said the fact that it was written before the treaty, before the treaty terms were revealed, indicates that the concerns raised were made without your having read the treaties and the assurances that they contain.

Now that you have had a chance to read the treaties, do they provide the needed assurances that you feel are needed for the concerns you expressed in that letter?

Admiral MOORER. Well, sir, in view of Article V, in view of the statements by Mr. Escobar Bethancourt, in view of the statements you just read from Torrijos, I have not in any way changed my mind because of the contents of the treaty.

As I say, my basic problem has to do with maritime aspects of global warfare and I just don't agree with the idea of the U.S. completely withdrawing and leaving the control and operation of that vital link between the two major oceans totally to a little country. And I am not saying this in disrespect, but a little country, as I said, the size of Detroit, Michigan, I don't think the city of Detroit can operate and insure that the canal is open all the time. And certainly in Panama where the technical capabilities are far less than they are in Detroit, I am convinced, I know they can't operate it.

Mr. LAGOMARSINO. Thank you, Admiral.

LOSS OF PUBLIC CONFIDENCE IN EQUITY INVESTMENT POSSIBLE UNDER NEW SEC RULES

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RINALDO. Mr. Speaker, I rise today to address an issue which deserves the attention of the Members of this Chamber. The Securities and Exchange Commission has announced that it plans to take action, effective January 1, 1978, to allow stocks currently traded in the public stock exchange markets to be traded in the offices of dealers, an action which, in my opinion, could lead to the loss of public confidence in equity investment in the United States, with a corresponding difficulty of companies to raise capital and expand to create the jobs needed to promote economic growth in our Nation. One need not understand the complexities of the securities law or the arcane language of Wall Street to appreciate the implications of this proposal.

In view of the importance of this matter, I would like to explain briefly the background, and especially the legislative history of the law on which the SEC's proposed action is based. In 1975, in what was the first major overhaul in the securities laws in 40 years, Congress enacted, and the President signed, the Securities Acts Amendments of 1975. The centerpiece of this new law was the direction by Congress that the Securities and Exchange Commission "facilitate the establishment of a national market system for securities". It was expected that such a system should take advantage of electronic technology in linking the securities markets so as to protect investors, enhance competition, and generally serve the public interest.

While the law did not define the national market system, it did describe the characteristics it should possess, while setting forth a series of objectives which should guide the development of the system. While some significant steps have been taken by the securities industry and the SEC to put into place such a national market system, much more needs to be done to meet the objectives set forth in the 1975 amendments. It is in the midst of this transition to a national market system for securities that the Securities and Exchange Commission has proposed to take action which I believe—as do most of the witnesses testifying at the hearings the SEC held in August—is not only contrary to what Congress intended in writing this law, but potentially very disruptive to the Nation's economy.

First, a word about what the SEC has proposed and its likely impact, and then I will set forth the controlling legislative history. Our national stock exchanges historically have required exchange members to buy or sell on an exchange the stocks of those companies listed on the exchanges. The reasoning is simple and makes good economic sense for the investor: the more buyers and sellers coming together in a public exchange auction market, the more the competition among orders and the more efficient and fairer pricing of the stocks being bought and sold. When the national market system Congress envisioned is in place, the present separate competition in markets will be linked electronically, thus providing an even more efficient system through the entire Nation. Until such a system is operating, these basic rules—usually referred to as off-board trading rules—are necessary to prevent the markets for listed stocks from splintering or "fragmenting", and are appropriate to protect the interests of public investors.

Notwithstanding this background, the SEC has proposed to eliminate these off-board trading rules on January 1, 1978, thereby leaving investors vulnerable to the economic consequences likely to occur. What are these consequences? Mr. Speaker, if these off-board trading rules are repealed, it means that most brokerage firms will be allowed to trade listed stocks in their offices—or "in house"—both as dealers and as agents, instead of taking these trades to the exchanges. There is strong reason to believe that this would be followed by fragmented markets for these stocks as these firms trade internally—and largely as dealers—rather than trading through the auction market system of the public exchanges. The capital requirements inevitably needed for such internal trading likely will result in larger firms having greater competitive advantage, thereby driving the smaller securities firms out of business. Not only will public investors be severely disadvantaged from this demise of the auction-type markets, but the potential loss of the smaller securities firms has alarming implications in terms of the likely inability of small and medium sized businesses throughout our Nation being able to raise the capital needed to assure sound economic growth which in turn provides jobs for our people.

Mr. Speaker, when drafting and debating this legislation in 1975, Congress expressed what it wanted in the national market system, and perhaps more importantly it made clear it was keenly aware of the problems of fragmentation, concentration, overreaching of public investors and other consequences which should be avoided in the development of such a system. A review of the legislative history on this issue of a national market system, leaves little doubt as to what Congress had in mind when it directed the SEC to "facilitate the establishment of a national market system for securities."

The problem of potential fragmentation was the subject of considerable discussion in 1975, and it was recognized as a clear danger which must be guarded against prior to the national market system's development. As our House report noted "market fragmentation becomes of increasing concern in the absence of mechanisms designed to assure that public investors are able to obtain the best price for securities, regardless of the type or physical location of the market upon which his transaction may be executed. Investors must be assured that they are participants in a system which maximizes the opportunities for the most willing seller to meet the most willing buyer." The report went on to point out that the legislation did "define certain goals and principles to serve as a guide to the industry and the Commission in this evolutionary process—briefly stated, these embrace the principles of competition in which all buying and selling interests are able to participate and be represented."

Clearly, Mr. Speaker, these quotations reflect that the House intended that basic auction market characteristics be preserved as the securities industry moves toward a national market system. Moreover, the Senate report, mindful of the potential problems of market fragmentation, spoke to this issue in saying that "the national market system has as a fundamental goal, the elimination of fragmented markets for securities suitable for auction trading," and went on to say in effect that an objective of a national linkage is to reduce or eliminate market fragmentation.

So Mr. Speaker, the benefits of the so-called auction system, in which buyers and sellers come together for their mutual advantage were well recognized in the 1975 legislation. The Senate report said so explicitly in observing that Congress is establishing "a clear congressional policy supporting the preservation and extension of the protections associated with auction type trading."

Moreover, our House report calls for the interlinking of markets in a manner that would enhance customer protection and auction market characteristics throughout the system. Those protections, I might add, will be weak indeed if the SEC has its way on January 1.

The conferees adopted with minor revisions those provisions of the Senate bill related to the national market system. The conference report notes the "Senate bill relied on an approach designed to provide maximum flexibility to the Commission and the securities industry in giving specific content to the general concept of a national market system," and the Senate report states the two paramount objectives of that concept; namely, the "maintenance of a stable and orderly market" and the "centralization of all buying and selling interests." Actions such as that planned by the SEC on January 1 certainly will not further those objectives.

To be sure, the SEC does have a role in the development of a national market system. It is, among other things, "to oversee the implementation, operation, and regulation of the national market system," as the Senate report reminds us, but at the same time it is charged "with a clear responsibility to assure that the system develops and operates in accordance with congressionally determined goals and objectives." As I have discussed, Mr. Speaker, and as can clearly be observed in light of our legislative history, these goals and objectives seem to be fading from the Commission's memory as it oversees this national market system development.

Mr. Speaker, the SEC's proposed action is contrary to the congressional objectives set forth in the 1975 amendments and it is also contrary to the overwhelming weight of the testimony at the public hearings the SEC held in August on its proposal. Of the 28 principal witnesses at the hearings, some 24 urged the SEC not to repeal the off-board rules until essential elements of a national market system are in place. The witnesses, I might add, represented not only the exchanges and the securities industry generally, but included witnesses speaking for the shareholder's point of view as well as the small businessman's point of view.

The SEC, in fact, Mr. Speaker, is not required to repeal off-board trading rules under the law. While the new law does provide for the Commission to "review any and all rules of the national securities exchanges which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges," it does not call for a change in those rules if it is found that they further the purposes of the act.

Mr. Speaker, Congress has directed the SEC to "facilitate" the establishment of a national market system for securities. Perhaps the SEC should be more diligent in responding to this directive. Perhaps the SEC should step in and expedite the process. Or perhaps, the SEC should assume generally a more aggressive leadership role in the development of a national market system. But, Mr. Speaker, the congressional intent as to what the SEC should not do is clear. It should not take the precipitate action now scheduled to become effective on January 1, 1978.

INDUSTRIAL PROGRESS AND WORKER SAFETY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MILLER of California. Mr. Speaker, as the article I am inserting into the RECORD indicates, the issue of workplace safety is one which deserves the very highest attention of the Congress. The task of insuring that American workers labor in safe factories and shops has been given to the Occupational Safety and Health Administration (OSHA). But that Agency has become a highly controversial one and has fallen under constant attack, because of its frequent focusing on seemingly petty issues. Fortunately, the Carter administration has refocused OSHA's attention onto the more serious perils which confront American workers.

The dangers in the workplace in this generation are unlike those of the past. Safe working conditions have long been among the primary reasons for which workers agitated and organized, and similarly were among those first of workers' rights recognized by Government. In the past, those dangers, such as exposed machinery, crowded tenement conditions, fire perils, and the like, threatened workers' safety daily. One major accident could, and periodically did, result in the deaths of dozens of workers.

The dangers which affect workers today go far beyond those of the last, and early parts of this century. The dangers of the workplace to which contemporary workers are subjected are carried home to their families, and passed on to future generations. The hazards in some workplaces endanger not only the employees at that site, but can even jeopardize the well-being of an entire community.

There is an obvious question here, that being, should workers be subjected to these kinds of risks in order to earn an income and provide for their families? But there is another extremely important issue, and that is, who decides that workers are to be subjected to occupational hazards? OSHA is not the answer, because in the several years of its existence, it has reviewed only about 2 percent of all workplaces. I find it extremely disturbing that someone is making decisions that there is an "acceptable level of risk" in some job, which in many cases really means that a decision has been made that some worker must risk his health and safety, and that of his family, in order that a particular business or industry operate under current design.

Who decides that a coal miner should work in a 30-inch seam? Who decides that an asbestos worker should be exposed to cancer-causing dust? And these questions can be asked repeatedly about many, many industries.

I really fear that a decision has been made that there must be some unhealthy industries in this countries, and that this decision presumes that there will be workers subjected to the health hazards associated with these jobs. I have no doubt whatever that the people who make those decisions are not the ones who subsequently ruin their health by working at the job.

One hundred years ago, as the labor movement was first beginning to command the attention it now enjoys, decisions were made that we were not going to permit young children to climb among the whirring machines in the silk mills, and that we were not going to permit tailors to be crammed into tiny spaces despite safety hazards. Then, too, some complained that sacrifice was the price of industrial advancement. The problem which I am addressing today is only the modern variant of that dilemma between the maximization of profits and production versus the cost of human life.

The article which follows raises these, and related issues concerning dangers in the workplace. I believe that we in Congress should direct a long look at these issues, focusing not only on the issue of OSHA overregulation, but on the little-addressed issue of worker safety:

WORKPLACE HAZARDS: NO WOMEN NEED APPLY

(By Dorothy McGhee)

Vicky Read, twenty-two, was working at the Beaver County Hospital for the elderly, not far from her home in Corsopolis, Pennsylvania. Her husband, handicapped by blindness in one eye, was having a hard time finding work. With a young child to support, the Reads were not getting by on the $2.50 an hour Vicky was paid at the hospital. When she saw an ad announcing that St. Joes Mineral, a zinc mineral plant in nearby Monaca, was hiring women, Vicky jumped at the chance to earn $4.70 an hour.

"They didn't tell us it might be dangerous," Vicky says, "and I just figured it was a chance to get a good job. I didn't know what I was getting into, really. All I knew was that my father worked there, and my uncle, and my grandfather before he died of lung cancer."

What Vicky Read was getting into was the hazard-infested American workplace, where millions of women—and men—are exposed each day to conditions that cause injuries, lingering illnesses, miscarriages and birth defects, and death.

At St. Joes, Vicky was assigned to what they call the roaster department, one of several processing plants in which the company uses lead to produce zinc and acid.

"It's very dirty and hot," Vicky says.

"They've got big roasters in there like ovens and it's over 100 degrees at all times. I never sweated until I went into that place. It's dirty up to your knees and it's all in the air. I don't understand how the men can continue to work in there. You have to wear respirators, but even that doesn't help a whole lot. You can smell the gas. It burns your nose and throat. It's common knowledge that you can get sick working in there, but no one likes to talk about it."

About three months after she started working in the roaster department, the company called together the seventeen women who were employed in the processing plants and told them they were being transferred because high exposures to lead in the plants could be dangerous if they became pregnant.

"Most of the girls weren't even planning to have children," Vicky recalls, "and I wasn't because we couldn't afford it. One girl at the meeting said that her husband was in Korea and asked if the move affected her. They said to her, 'Well, you can do it with someone else, you know. You've got to get out of the plant.'

"They told us," Vicky adds, "that if we wanted to have our tubes tied or have a hysterectomy or something like that, that would be perfectly all right and we could stay where we were. But we couldn't sign waivers, or say that we were on pills. The only way we could get in the plants any more was to have papers from the doctor saying we could not have children any more."

The women were told they would be transferred at the end of the month to the labor pool, where they would be assigned to janitorial and yard work at reduced pay.

"I was very upset," Vicky says. "It meant a reduction in pay and nowhere to bid (for upgraded jobs under the union seniority system), because there's not too many places to work in that mill that aren't exposed to lead. I really needed to work.

"I went back to my plant," she continues, "and I cried. I couldn't decide how we were going to afford to live, really. Jobs just aren't that easy to find around here. We have an 8 per cent unemployment rate in Pennsylvania. It's bad, really bad. I was hurt. I worked hard in that plant to show that I could do it. I was trying to be a good worker and they gave me the shaft."

Until she was transferred, Vicky Read was one of an estimated one million women in their prime child-bearing years who work amid potential exposure to chemical substances and processes that can cause birth defects and miscarriages. Now she is one of an untold number of women around the country who are losing their jobs, or being excluded from jobs, because they are pregnant or capable of becoming pregnant. Other women are undergoing tubular ligations or hysterectomies to keep those jobs.

"On our application forms now, they ask if you have had any operations, and if you can't put it down you won't get hired," says Vicky. "Really, they're not even going to look at you."

Current Federal laws supposedly assure Vicky and other women not only of the right to safe and healthy working conditions, but also of the right to work without being discriminated against because of their sex. But it isn't working out that way. Instead, tire companies, lead battery plants, certain chemical processors and producers, and laboratories simply will not hire women for some jobs. Rather than clean up the workplace so that it is safe for women who might become pregnant, companies are removing women from the work force.

As a result, scores of new cases of sex discrimination are cropping up around the country. In the lead and zinc industries and in virtually all smelters, fertile women are being transferred or dismissed from processing plants with high exposure levels to lead. Goodyear, DuPont, and General Motors have removed women from areas of high exposure in their battery plants. In Oshawa, Canada, thirty-four-year-old Norma Jones had a hysterectomy to ensure she could keep her GM job.

"I really didn't want to have the operation," she told a reporter for *Medical World News*, "but I had only thirty days to appeal my transfer or I couldn't get my job back."

In Muncie, Indiana, G.M. is being sued by a woman who was denied employment because she was capable of having children. At the Bunkerhill Foundry in Idaho and at St. Joes Mineral in Pennsylvania, at least four more women have undergone hysterectomies or tubular ligations in order to keep their jobs. Other women, preferring to remain fertile, have been transferred, often at a loss of pay and job seniority.

Exposure to lead is not the only problem. The petrochemical industry is becoming nervous about female employees who work with benezene. Exxon and Dow Chemical will no longer hire fertile women for jobs involving exposure to that chemical. At Amoco, women employees must immediately report a missed menstrual period to the company physician; one woman was fired at Amoco's Sugar Creek facility for failing to give timely notice of her pregnancy.

In the plastics industry, corporate managements are worried about the effects of vinyl chloride on fertile women. Laboratories using radiation have begun dismissing pregnant employes. In Texas, the Kleberg County Hospital is being sued by a woman who was fired because she became pregnant. A female research technician in a thyroid laboratory in Illinois was told to resign or take a maternity leave of absence without pay. Afraid to lose both her salary and unemployment benefits, she accepted dismissal.

What is emerging is a bizarre confrontation between working women's rights to a safe workplace under the broad provisions of the 1970 Occupational Safety and Health Act, and their rights to equal employment opportunities under the 1964 Civil Rights Act. A growing number of women are caught in the middle—denied unemployment or forced out of hard-won jobs, suffering pay cuts or loss of seniority or unemployment. Their plight is focusing new attention on an old problem that grows increasingly acute: the indifference of industry to the hazards that confront working men and women and the failure of Government agencies to curb those hazards.

Industry's sudden concern for the health and safety of developing fetuses is not prompted by a surge of humane altruism. More and more companies are, according to an industry lawyer cloaked in anonymity by The New York Times, "terrified about the prospect of having a deformed child bring suit." As one Dow Chemical official put it, "We'd rather face an action by the Equal Employment Opportunity Commission than a deformed child."

Workers' compensation, which acts as a sort of no-fault insurance for employes injured on the job by compensating them but limiting their right to sue, does not cover birth defects or spontaneous abortions. The fetus is not covered, so anyone can bring suit until the age of twenty-one, claiming to be deformed because his or her mother was exposed to a dangerous substance.

"The only redress of the damaged child would be a civil action, almost equivalent to medical malpractice," explains John Finklea, director of the National Institute of Occupational Safety and Health (NIOSH). "The mother can not sign a release for the fetus, and liability will accumulate as research is being done. This, it seems to me, will be a powerful lever for everyone to get to work on this problem." But industry's way of "getting to work" has been simply to exclude women from areas of risk.

Though many companies are becoming concerned about their potential liability toward a deformed fetus, the concern is not shared by all high-risk industries. Vilma Hunt, professor of environmental health at the University of Pennsylvania, asks a hard question: "So why are they suddenly worrying about only the jobs that women have just begun to move into? Obviously, if you work in an operating room you are going to have just as much trouble, if not more, than if you work in a lead plant. But they are not throwing women out of the operating room. I don't think that they're going to throw out all of the women nuclear technologists or x-ray technicians. It's no accident that many of us are questioning the policies of exclusion that are suddenly being vigorously enforced in some industries."

Dr. Jeanne Stellman of the Health Foundation in New York, an outspoken critic of workplace hazards, echoes Hunt's skepticism: "There's nothing new under the sun in terms of women's problems under industrial technology, because this is an exact repetition of early protective legislation which turned out to apply only in those areas in which women did not represent the major and most important part of the work force. In the areas in which women were needed for work, that's where the restrictions were never extended."

When the states began enacting special legislation early in this century to "protect" working women, Stellman explains, the laws were by no means universally applied. There were laws, for instance, prohibiting women from working at night, but waitresses and hospital workers were quickly exempted. There were laws restricting the weight women were allowed to lift (which effectively kept women out of male-dominated heavy industries), but the laws were amended to exempt female retail workers, waitresses, and nurses.

Women are in a vulnerable position in the labor force; in the last four years their earnings in relation to men declined by about 10 per cent. The most vulnerable of all are the estimated twelve million women in jobs that involve exposures to potentially dangerous chemical substances and processes. Most of them lack the protection of a union or work association, so they are left to the caprice of industry and minimal Government protection.

Since enactment of the 1964 Civil Rights Act, regulations designed to "protect" women have been considered illegal. According to a Fifth Circuit Federal Court of Appeals decision, "Title VII of the Civil Rights Act rejects just this type of romantic paternalism as unduly Victorian, and instead vests individual women with the power to decide whether or not to take on unromantic tasks. Men have always had the right to determine whether the incremental increase in remuneration for strenuous, dangerous, obnoxious, boring, or unromantic tasks is worth the candle. The promise of Title VII is that women are now to be on equal footing."

The risks of spontaneous abortion and deformed children faced by one million working women are only part of a rapidly growing problem of health hazards in the workplace. "If we had statistics from an in-depth medical survey of the nation's workers," says Representative Dominick Daniels, the New Jersey Democrat who heads the House Health and Safety Subcommittee, "they would paint a picture of disease and chronic illness as horrifying as conditions in the sweat shops of the last century." Amid the noise, dust, fumes, vapor, gases, mists, heat stress, vibrations, radiations, inadequate lighting and ventilation, and untested chemicals of the American workplace, literally millions of workers—men and women alike—are becoming casualties as they try to earn a living.

The Department of Health, Education, and Welfare estimates conservatively that 100,000

men and women will die this year as a result of work-related illness, and that another 390,000 will become seriously ill. The United Auto Workers' Washington representative, Frank Wallick, estimates that of eighty million working Americans, four million will come down with an occupational disease or illness.

Unlike occupational accidents, which are immediate and obvious, occupational disease affects its victims subtly and gradually. Such symptoms as persistent coughing, cramps, or dizziness are not immediately recognizable as related to the workplace.

"The chronic effects of industrial exposures," says Jeanne Stellman, "are insidious—they creep up on you. A chronically ill person often gets used to having mild symptoms, such as headaches or ringing in the ears. You may ignore these symptoms and be unaware that you are becoming ill."

Elaine House, who works at the Prestolite battery plant in Visalia, California, described in testimony to the Labor Department's Occupational Safety and Health Administration (OSHA), the chronic effects of working at high lead exposures: "You feel sick. You are tired, but it is not like you are tired from work. It is a completely different tired: it is exhaustion. It is altogether different than if I went out and mowed the lawn."

When she had been hired by Prestolite in 1970, the company had assured her that lead was not dangerous to her health, but she learned it was: "I had cramps in my stomach after I ate. I got pains. I have been off balance, and I have acquired a drooping eyelid. I have been nauseous and weak and tired. Sometimes I couldn't sleep; sometimes I slept too much."

OSHA is charged with making it possible for Vicky Read, Elaine House, and other working Americans to hold jobs that do not jeopardize their health. Through the development of standards called threshold limit values (TLVs), OSHA sets permissible levels of airbrone concentrations of harmful substances in the workplace—levels at which, according to available evidence, workers may be exposed day after day to toxic substances without adverse effect. Tony Mazzachi, the Oil, Chemical, and Atomic Workers representative in Washington, defines TLVs somewhat differently: "A TLV," he says, "is how much poison somebody else says you, as a worker, have to take on the job."

Despite OSHA's broad authority to establish "safe and healthy" working conditions, the agency has done little to create the health standards needed to protect millions of lives. Under recent Republican administrations, OSHA was flagrantly restrained from interfering with major corporate interests. When Secretary of Labor F. Ray Marshall came into office last January, he accused the Republicans of "sabotaging" the agency. In the Nixon Administration, OSHA attained notoriety for the vigor with which it pursued trivial violations while ignoring more serious and widespread occupational hazards. For example, it took thirty-two months for OSHA to come up with a manual on the proper construction of safety matches.

Moreover, OSHA was one of the Government agencies mobilized to further Richard M. Nixon's reelection campaign. In June 1972, the Assistant Secretary for OSHA, George Guenther, wrote to the then Under Secretary of Labor, Laurence Silber. "While [health standard] promulgation and modification activity must continue, no highly controversial standards (that is, cotton dust, etc.) will be proposed by OSHA or NIOSH. A thorough review with NIOSH indicates that while some criteria documents, such as on noise, will be transmitted to us during the reelection period, neither the contents of these documents nor our handling of them here will generate any substantial controversy."

Guenther concluded his memo with the loyal declaration, "While I have discussed with Lee Nunn the great potential of OSHA as a sales point for fund-raising and general support by employers, I do not believe the potential of this appeal is fully recognized. Your suggestions as to how to promote the advantages of four more years of properly managed OSHA for use in the campaign would be appreciated."

To date, OSHA has set TLVs for fewer than 500 of the 19,000 toxic substances in common industrial use, and for only sixteen of the 2,400 chemicals suspected to be carcinogenic by NIOSH. At the present rate, it will take more than a century, according to the Government Accounting Office, for OSHA to establish standards for substances already known to be toxic—without taking into account the new and potentially toxic chemical compounds which are introduced into the workplace at the rate of about one every twenty minutes. "I am ashamed to speak of Federal standards," says David Gore, a lawyer for the Steelworkers Union. "They're almost nonexistent."

In its six-year existence, OSHA has become conspicuous primarily for what it has not done and does not know. Few of the hundreds of thousands of chemicals currently in the workplace have been tested for their effects, singly or in combination with others, on the human organism. Philip Handler, former President of the National Academy of Sciences, says. "What each compound or what several or many compounds acting together are doing to man and especially to the complex interacting balance of life about us and including us is almost a complete mystery."

As of 1976, six years after the initial passage of the Occupational Safety and Health Act, Congress had provided funds sufficient for an inspection force capable of examining only 2 percent of the Nation's workplaces each year. Fewer than 4 percent of America's five million workplaces have had first-time inspections, according to Ralph Nader's Health Research Group. And only 400 of OSHA's 1,500 inspectors are trained to conduct sophisticated investigations that can pinpoint carcinogenic chemicals or those that cause birth defects.

In fact, the Federal Government has done virtually nothing about the exclusion of fertile and pregnant women from certain jobs. The Nuclear Regulatory Commission (NRC) is the only agency that has even attempted to deal with the problem. When evidence came to light linking radiation exposure to high incidences of leukemia and cancer in the offspring of female radiation workers, the NRC considered setting a separate standard of radiation exposure for women. But the Equal Employment Opportunity Commission said this would probably constitute a violation of Title VII of the Civil Rights Act. An alternative was to lower the radiation exposure standard so that the atomic industry would be safe for both men and women, but the NRC decided this would be too costly.

Instead, the NRC merely directed its licenses to inform women workers of the potential hazards. The NRC's instruction guidelines for women suggest they "delay having children" until they can work in low-exposure jobs, or seek reassignment to low-exposure jobs when they become pregnant. If this is not possible, say the guidelines, "you might consider leaving your jobs." NRC, in effect, offered women a choice of risking the health of their babies or giving up their jobs.

OSHA is now considering a revised standard for exposure to lead, since recent medical evidence suggests that the current standard allows concentrations of exposure that could cause miscarriages. The proposed revision, which is expected to be issued by the end of the year, allows for half the exposure level currently permissible, and it promises a substantially diminished risk of miscarriage. But the lead industry calls the proposed revision unduly restrictive and far too costly. Industry spokesmen maintain that smelters across the country will be forced out of business if the revision is adopted.

Proponents of the lower standard contend its adoption would signal the Government's commitment to equal opportunity for women. Olga Madar, president of the Coalition of Labor Union Women, testified at recent OSHA hearings, "Industry prefers excluding a group with a problem rather than dealing with it. After the fertile women are removed, who will be next? Black workers who carry the sickle-cell anemia trait in their blood? Older male workers who have the highest probability of heart problems? The list of groups with special susceptibility goes on and on, until a strain of superworkers has been bred."

Men, however, are not superworkers, and there is growing evidence that the reproductive organs of male workers might also be adversely affected by toxic substances and processes. Foreign studies suggest that an unusually high number of male workers have abnormal sperm test results after exposure to lead. Female operating-room personnel exposed to anaesthetic gases suffer increased risks of miscarriages and children with birth defects, and children of male operating-room personnel also show an increased risk of birth defects. Women whose husbands have been exposed to vinyl chloride have an unusually high incidence of stillbirths and miscarriages.

Andrea Hricko, an industrial hygienist at the University of California and an activist in occupational health issues, recalls a four-day training course in safety and health she taught for workers at an auto assembly plant in Fremont, California:

"At the beginning of the class," she said, "it was clear that they thought it was a very good thing that G.M. had been responsible enough and protective enough about women that they were not letting them work in the lead grind booth. But when we pointed out that there are indications that lead also affects the male reproductive system, they were totally astounded. There was one guy who has been working in the lead area for ten years and has been trying to have children for eight years. We don't know, of course if it's connected. His wife has been tested, but he's never been tested.

"The male workers were really appalled," Hricko continued. "They had been duped into thinking that the company was being responsible, when in fact what they were doing was discriminating against the women and not telling the men that there was a health hazard at all."

At St. Joes Mineral in Monaca, Pennsylvania, according to Vicky Read, the men are not so complacent. "The men are aware," she says, "that lead can hurt them, and it upsets them. They can't understand why the company is concerned about us women and not about them. Why don't *they* have a case of discrimination against the company? They have to work in the dirty places and we don't.

Ann Trebilcock, assistant general counsel for the United Auto Workers, believes the issue has been improperly defined from the outset. "By not considering the health of men," she says, "industry is only raising the questions which will get people all upset about deformed babies. Instead, they should ask the questions which will get people all upset about workers' safety and health, men and women alike. The company is using the prospect of deformed babies as a subterfuge to avoid making the place safe for either men or women."

At the Prestolite battery plant in Visalia, California, Elaine House says, "I would like to know maybe I can work without worrying. Half the time I hear, 'Well, what are you doing there? Why don't you leave the plant?' Because I am fooling myself and I am telling

myself, 'Hey, it is not going to happen to me. I am going to get out before I end up on a kidney machine or something.' So I would like to see health standards so I could work for a lot more years without having to worry, 'Is it too late? Do I get out now or what?'"

Workers like Elaine House will probably have to wait many years before they can work without worrying about their health. For the foreseeable future, these workers are the guinea pigs on whom the toxic substances and processes of industry are being tested. Their illnesses and deaths, and the defects among their offspring, provide the raw statistics which confirm the toxicity of the untested chemicals already in use in the workplace. So far, OSHA seems willing to set new or revised TLVs only when undeniable evidence of death, severe illness, or birth defects is documented.

OSHA reduced the TLVs for asbestos by 90 percent only after a Federal study indicated that the death rate among asbestos workers was three or four times higher than among the general population. George Wald, the Nobel laureate in biology, has predicted that one out of five asbestos workers will eventually die of lung cancer.

Only when NIOSH discovered that the incidence of leukemia among workers exposed to benzene was at least six times the normal rate did OSHA order a 90 per cent reduction in benzene exposures. When Allied Chemical and Dow Chemical came up with a study showing evidence of high rates of lung and lymph cancer among workers exposed to arsenic, OSHA finally reduced the allowable levels of that chemical by more than half. And only after a NIOSH study firmly established that the wives of men who work with vinyl chloride are twice as likely to have miscarriages or stillbirths, did OSHA set levels for that chemical.

Industry, on the other hand, complains that the Government is moving too fast, and corporations are enriching scores of Washington lawyers by challenging each step in the painfully slow standard-setting process. And industry spending for workers' health and safety actually declined by 10 per cent from 1974 to 1975.

No one can even hazard a guess as to how much it would cost to clean up America's workplace, because new information continually surfaces to condemn yet another chemical which had been presumed to be harmless. Given the profit-maximizing goals of business and the acquiescence of Government regulators, it seems unlikely that our existing economic structures can ever accommodate the changes necessary to make work safe. The pursuit of private profit leaves no room for concern about the health of workers. If Government regulators were to insist on strict enforcement, corporate costs would rise and corporate profits diminish. Industry would threaten to stop producing (as the auto companies did when Congress was debating air pollution standards) or to move production to the "better business climate" of the Third World.

The Occupational Safety and Health Act of 1970 is a prime example of potentially effective legislation that has been disarmed by lack of implementation and enforcement. The law does, in fact, recognize some important worker rights. It guarantees a "safe and healthy" workplace. It calls for inspections without prior notice to a company, and directs that a representative of the workers accompany the inspector on tour. It allows any worker to register a complaint and call for an inspection, while protecting that worker from reprisals. It imposes fines for violations and compels employers to maintain records of work-related deaths, injuries, and illnesses.

But as George Wald has said, "If the far-reaching provisions of the new health and safety legislation are to be realized, it will be only because workers insist upon them, organize for them, and participate in their enforcement. That is just what the legislation invites." In practice, it is difficult to protect workers from reprisals for demanding an OSHA inspection. Workers must wait months for a requested inspection, while dangerous conditions persist. The current health and safety standards don't go far toward defining safety in the workplace. The average fine levied by OSHA for safety and health violations is so small that there is little incentive for companies to maintain better working conditions; it is often cheaper to get caught than to clean up.

Without the backing of a vigorous union, it is especially difficult for a worker to take recourse in OSHA's provisions. And working women—83 per cent of whom are not affiliated with any union—are particularly helpless when it comes to dealing with health conditions at their jobs.

"A worker in a nonunion shop," says Steve Wodka of the Oil, Chemical, and Atomic Workers, "is not going to risk being fired by filing a complaint without the protection of a union. A lot of companies, to avoid union organizing campaigns, will pay union rates, but when it comes to issues of safety and health, getting representation in Washington at OSHA, prying information from management about the chemicals on the jobs, or getting conditions corrected, if there's not a union on the job that workers can use, bad conditions just go on and on."

With a handful of exceptions, unions themselves have displayed far less vigor in pursuing health and safety than in pursuing higher wages. But there is no substitute for the collective action available through a local union in seeking information from management about the chemicals used on the job, in seeking stricter safety measures, or in pressing OSHA to fulfill its mandate.

Until women are organized to demand safe working conditions, they will continue to be at the mercy of industry, risking their own health and lives and, in some cases, the health and lives of their offspring as well. "When they say women shouldn't be in the plant, I get a little aggravated," says worker Elaine House, "because I hate to say 'men' and 'women.' I would like to say 'humans.' I would like to see us safe as humans, not as male or female."

TODAY—THE 20TH ANNIVERSARY OF SPUTNIK

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FUQUA. Mr. Speaker, October 4, 1957, was the day the Soviet Union ushered in the space age with its successful launching of the world's first artificial satellite, Sputnik I. Heralded around the world as a major scientific achievement of a nation far ahead in science and technology, Sputnik I represented a major challenge to the nations of the free world.

The United States was quick to respond to this challenge as the free world leader capable of catching up to and surpassing the Soviet Union in a new space race. That period in history was one of adverse political relations between the United States and Russia and involved differing political ideologies. Political tensions and mistrust prevailed between the two nations and little cooperation could be expected in the exploration of space.

America's first artificial satellite was successfully launched on January 31, 1958, just a few months after the space race began. Named Explorer I, the satellite was launched with a Redstone missile modified by the Werner von Braun team and was built, managed, and tracked by the Jet Propulsion Laboratory in Pasadena, Calif. Scientific measuring instruments were on board.

Since that time, major advances have been made in the exploration of space. Our Nation has conducted its space missions in the open and the public has had the opportunity to see both the successes and defeats.

Since its beginning, America's space program has been courageous and one of many accomplishments. We have seen our astronauts confidently walking and riding on the surface of the Moon and also enjoying walks in space. Our scientific satellites have also made impressive discoveries for the benefit of mankind. In looking back over the 20 years since the inception of the space era, the sense of rapid scientific and technological progress is very real.

Today should, therefore, not only be remembered as an important anniversary of space age. It should also be appreciated as a day to honor the frontier spirit of man that has contributed so greatly in the last 20 years by acquiring new and beneficial knowledge for man's use.

Mr. Speaker, my hope is that as we look forward to continued progress in the field of scientific space exploration, we will remember that our national space effort has made a major contribution to the peaceful purposes of mankind and that its record is outstanding.

AIR BAGS FOR SAVING LIVES

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I am offering the following editorial from the San Francisco Chronicle for my colleagues to read and consider concerning air bags:

AIR BAGS FOR SAVING LIVES

Unless Congress sets it aside by October 19, an order of the Secretary of Transportation will then take effect requiring all new cars to be equipped with automatic seat belts or air bags (or possibly other crash-protection devices), beginning in 1982. The final month of the pro and con debate on this issue will no doubt be hot and heavy.

Secretary Brock Adams is being widely objurgated as Big Brother for having made the installation of crash restraints obligatory; his predecessor, William C. Coleman, had been content to leave the matter optional for 1980 and 1981 model cars.

We ourselves have in the past argued for the optional approach, but new considerations have caused us to change our minds. The most persuasive of these is that the public is buying more and more light cars and these need more effective crash protection for front-seat occupants from heavy cars.

A second persuasive reason is that polls show more of the public wants air safety bags required in all new cars than opposes them.

Finally, there is no denying that optional systems have failed—the evidence is that only 20 percent of front-seat occupants will wear a safety belt if its use is optional.

The air bags and automatic belts would protect drivers and front-seat passengers without their decision to hitch themselves in. The automatic seat belt wraps around the occupant as the car door is closed.

The air bag, a cushion hidden inside the instrument panel, inflates at the moment of impact above 12 miles per hour; it has been tested in 400 million miles of highway driving and is said to be four times as effective in preventing fatalities as most conventional safety belts.

The prediction of the Department of Transportation, endorsed by the insurance industry, which favors automatic restraints, is that 9,000 of the 46,000 American lives lost yearly in accidents will be saved and tens of thousands of injuries prevented if the Adams decision is let stand. How can resistance to automatic restraint systems be justified in the face of these figures?

DAY OF BREAD

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. THONE. Mr. Speaker, this is Harvest Festival Week and today, October 4, is the International "Day of Bread." In observing this event we join with all nations, creeds, and cultures around the world as the family of man in an autumnal tradition of spiritual kinship as old as civilization itself. It is a time to pause and give thanks for the annual bounty of nature; a time to assess our personal, national, and world food situation; a time to plan better how to feed ourselves and our fellow human being throughout the world.

Today, our granaries are stocked with more than 1 billion bushels of surplus wheat. Today, in spite of inflation, the price of wheat is the lowest in years—so low that many farmers are selling their grain for less than their cost of production. Today even with this glut in available food, many Americans go to bed hungry. Today, 12 percent of the world population—500 million people—is malnourished.

Clearly, the problem is not simply food quantity. There is an equation still unsolved of food economics, distribution, and nutrition education.

We may not solve this problem today. But we shall solve our larger problem, if we keep sight of our goals and our dedication to universal fellowship. In token of such values, and the role of bread as a hunger fighter and symbol of all foods for at least 60,000 years, American wheat growers, flour millers, bakers, and the many of the trades allied with these industries, have presented each one of you an extraordinary gift—a simple, yet marvelous loaf of bread. They join me in the hope that you will break bread together, as all men have for centuries, in a special act of universal brotherhood.

The "Day of Bread" is every day. Let us use our gift from nature wisely and with love. Thank you.

CONGRESSIONAL TRAVEL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. LAGOMARSINO. Mr. Speaker, recent news reports concerning congressional travel have raised the legitimate question of both the function and the cost of overseas trips. As a member of the House International Relations Committee, I believe these trips serve a legitimate function, however, I agree with the commentators that the taxpayers deserve a full accounting. The enclosed article and editorial from the Santa Barbara News-Press touch on this issue and deserve the attention of the Members:

LAGOMARSINO HAS TRAVELED TO 23 NATIONS SINCE 1974

(By Jerry Rankin)

Congressman Robert J. Lagomarsino has visited 23 countries and spent two months on taxpayer-paid overseas trips in his 40 months in office, becoming one of the California delegation's leading world travelers.

In 1976, he spent 31 days on such trips, second highest in the 43-person California delegation, 17 of whom traveled outside the country. Lagomarsino, first elected at a special election in March 1974, is a Republican representing Santa Barbara and parts of San Luis Obispo and Ventura countries.

The cost to the taxpayers for such trips is thousands of dollars, but Lagomarsino says that in his case, as a member of the House international relations committee, the trips are logical, needed and worth it to the taxpayer.

In all, Congressmen and women spent $2.4 million on overseas travel last year, and as usual the trips sparked some protests by individuals and groups such as Common Cause that consider them as "junkets" of little or no value except to give the members, their spouses and some assistants lavish foreign tours at the expense of the folks back home.

Most of the figures were compiled by Congressional Quarterly, the independent weekly magazine considered the "bible" of detailed information about Congress and the government. CQ's Mark Gruenberg descended into the bowels of the State Department, Treasury and Defense Department as well as Congress to obtain the information. He told the News-Press he spent hours going through boxes of vouchers, bar tabs and so on to document his figures.

A News-Press check shows that Lagomarsino—who announces his trips in advance, and sends out reports on them afterwards—spent 16 days traveling outside the country in 1975, visiting seven nations.

Last year it was 31 days and 12 countries, exceeded only by Democrat Charles Wilson's 43 days among California members of Congress.

And in 1977, Lagomarsino has been out of the United States 15 days on visits to six countries.

In 1975, he was one of many, with 29 others in the delegation world-hopping, and at least 10 reported more time gone than he did. But in the election year of 1976 only 16 in addition to Lagomarsino traveled.

All his travel was when Congress was in recess, not in session; Lagomarsino has a nearly perfect attendance record for his time in Congress, and has made 100 percent of all roll calls in 1977.

Where has he traveled? Mexico, Germany, Belgium, Italy, Austria, Portugal, Greece, Egypt, Israel, Iran, Turkey, Yugoslavia, Taiwan, Peru, the Philippines, Indonesia, Australia, New Zealand, Colombia, Ecuador, Chile, Argentina and Brazil.

Much of the criticism of congressional traveling is aimed not just at its need, but—even in the cases where the justification is clear—at how it is handled and some of the "extras" thrown in by the military escorts.

Many stories have detailed over the years, and CQ's new survey reconfirms it, that such trips are carefully escorted by military officers well aware that the congressmen control the amount of money the Defense Department gets.

For example, the military planes the politicians and their parties travel on are well stocked with food and liquor, but the bill is paid by military congressional liaison money, not by the committee, which thus doesn't have to report it on official forms filed with the Houes or Senate.

Asked about the need for the liquor and food aboard planes, Lagomarsino told the News Press in a telephone interview from Washington that some food obviously is needed on the plane. As for the liquor, he feels the public shouldn't pay for it: "They ought to do it so that whoever uses it pays for it. You can pay for your own . . . I guess I missed out on my share."

When Lagomarsino and six other members of his committee toured the Mideast from Jan. 3 through 16 last year, their military VC-137 jet was stocked before it left with $422.30 worth of liquor and mix from Branchwood Liquors.

Another $372.49 was spent before leaving to stock the plane with frozen food, including chocolate eclaires, fruit, different types of cake and pies, vegetables, beef stroganoff, veal parmesan and pigs in blankets.

In all, the military laid out $1,690.38 just to stock the plane during the trip.

On the return leg, the plane landed in Naples Jan. 14 and supplies were made available by the Navy captain escorting the trip for consumption there and on the return journey. He paid $425.25 for:

Twelve bottles of Old Forester, 24 of Johnnie Walker Black Scotch, 12 of Tanqueray gin, 12 of Smirnoff vodka, 12 of Jack Daniels Black bourbon, one bottle of Martini & Rossi vermouth, one of Bacardi rum, a six pack of Old Milwaukee beer, plus mixers and nuts.

The previous night, the military spent $51 in Athens for 10 bottles of whisky, a case of beer, a case of Coke and three cartons of cigarets for the group.

In total, the military paid $4.838.46 on that trip, Jan. 3–16, for meals and beverages, in addition to money spent for regular meals by the congressmen out of their $75 daily living expense allowance.

There were 27 persons aboard the 78-passenger plane, including staff and wives. Among them was Lagomarsino's wife, Norma, but her expenses are paid entirely by Lagomarsino on such trips, including her air fare.

In addition, at most stops—such as Athens—the military provides with its own funds a "control room," at the hotel, where free liquor, snacks and so on are provided. It also can serve as a central communications point for those on the trip.

On a second trip Lagomarsino took Nov. 6–22 through Southeast Asia last year, the military tab for various items came to $5.392. That included $1,828 for food and beverages, $2,904 for "miscellaneous" and $662 for lodging—the control rooms, which critics of such trips consider a waste of money.

A major part of the cost of such trips is the military aircraft, and the amount of money spent varies according to whom you talk to.

The Navy's record, for example, put the total cost of using the plane for the Asian

tour at $134,345, based in $2,337 per hour in the air.

But the committee's report filed in Congress puts the total plane cost at $11,695, one-twelfth the Navy's estimate. Lagomarsino said he had nothing to do with figuring the plane cost and Gruenberg said the congressional committees' reports on such transportation costs always seem to be substantially below that reported by the services flying them.

On the Mideast tour, the committee reported a cost of $10.400 for the plane, but the military report $64,636 at $1,908 per hour airborne.

That helps account, CQ said, for the disparity between what Congress reports spending on overseas trips in a given year and what the apparent real cost is. For 1976, Congress reported spending $1.44 million—$1 million below the magazine's estimate, based on records it examined. Nor did Congress figure include the $75 per day each member got on the trips.

Lagomarsino said his records, based on the committee figures, show the taxpayers' cost for him to make the Asian tour was $3,506 and for the Mideast tour it was $3,592, or $7,098 for the year. That would include a total of $1,050 in per day expenses for the Mideast trip and $1,275 for Asia. The cost of the plane trip to the Mideast was put by his committee at $953 per congressman, roundtrip, and $1,948 on the Asian tour. But Congressional Quarterly said the real cost was much higher when the actual expenses of keeping the plane in the air, as reported by the military, is calculated.

The official reason for the Asian trip was to study the post-Vietnam situation; for the Mideast trip, it was to study arms supplies, Cyprus and other matters.

Lagomarsino's international relations committee was the top spender on trips last year, reporting $236,111.

Asked how he would reply to a constituent complaining about such costly overseas ventures, Lagomarsino said:

"I would tell him that I'm on the committee that has the responsibility for international relations, foreign aid, military security—everything to do with our country's relations with other countries . . .

"It's right to take trips—it's to find out firsthand what's happening instead of relying on the secretary of state (or others) . . . With the money we're called on to look at and spend, it's well worth it."

He says he worked 12 to 14 hours a day on the Mideast trip, and noted that in 1976 at the time of the Mideast trip, "we had a bill calling on Congress to appropriate $3.6 billion for the Mideast . . . We felt it would be irresponsible to act without knowing what we were talking about."

Regarding the Asian trip, he said it was useful in gathering information concerning Taiwan and Red China and how other nations view that confrontation. The committee also obtained important firsthand information on the U.S. military bases in the Philippines, key installations whose continuation is an item of debate between the two nations.

Lagomarsino said his visit to Indonesia was valuable for his constituents especially because of the reliance on that country for natural gas and oil imports to California.

Citrus is important in California, and on the trip to Asia he was able to discuss the matter face-to-face with heads of several states, he recalled. "I brought to their attention that a lot of Californians were concerned" about trade restrictions in those nations, and asked them to review those policies.

In the Philippines, he talked to President Marcos "about the experience they'd had in a recent earthquake. I was interested in determining whether buildings built with what we were told were California earthquake standards withstood the shock. We had been told they did not. But (on talking to Marcos) we were told they did, indeed, stand up when actually built to those standards. . . ."

And, the "Mideast trip's importance was underlined by the fact that when we got back President Ford spent more than an hour listening to us, to our impressions," Lagomarsino added.

He agreed that "some taxpayers might have a different idea" about the real value of such journeys and said, "There are undoubtedly members who don't have very good excuses for doing it, members of committees who don't have international responsibilities."

But Lagomarsino noted he also turns down trips. "I was asked just this morning to go on a trip to the Mideast . . . and a trip is being put together to many of the same areas of the Far East this year."

Regarding the new Asian trip, the congressman said he thinks it would have value with regard to California products and trade, but he turned down both: "That would be kind of overdone."

Lagomarsino stressed that he announces his trips beforehand, and that his wife is going with him. And on returning, he sends out reports which go to newspapers in his district.

THE CONGRESSMAN'S TRIPS

In a roundup story in Sunday's News-Press, staff writer Jerry Rankin pointed out that Rep. Robert Lagomarsino of this district is one of California's most widely traveled House members: 23 countries visited on taxpayer dollars during his 40 months in office.

It was also noted that in his overall two months in various foreign lands, none of it occurred when Congress was in session. He had a near perfect attendance record and made 100 percent of all roll calls in 1977.

Further, the congressman announced his trips in advance to his constituents, reported on his findings at their conclusions, turned down several proffered treks, and paid his wife's expenses when she accompanied him.

Lagomarsino, as a member of the House international relations committee, says it is imperative for him to get a first-hand look at what's happening in foreign countries—particularly so considering the amounts of money the committee is obliged to act upon. He acknowledged, however, that the treks taken by some members of the House would be hard to justify.

It is unlikely that taxpayer disaffection with congressional travels would center much on cases such as Lagomarsino's. There are committee responsibilities involved here, and evidence that he and some of his colleagues dedicate long hours to their tasks when abroad.

But with public temper running high over the cost of government, the distinction between foreign treks which can reasonably be justified and extravagant "junkets" becomes blurred.

There is also the matter of care and feeding the traveling congressmen; how sumptuous it is, who picks up the tab, and in what manner the costs are recorded.

Sunday's article spells out how solicitous the military is in providing planes, amply stocking them with food and drink, assisting with lodgings, and setting up "control rooms" at some stops where free drinks and snacks become available along with communications facilities.

Estimates of the costs of these amenities vary widely according to the arm of the service involved. Also much of the tab is paid through military congressional liaison funds, relieving the committees of having to include them on official report forms. In a word, nobody knows really just what the expense may add up to.

We suspect that Lagomarsino might support the idea that a lot of unjustified congressional travel is still going on; that considerable economies could be affected in the mode of travel, and that committee reports on costs incurred should be revamped to bring them into closer touch with reality.

UPCOMING CONGRESSIONAL ADJOURNMENT SHOULD BE CONSIDERED

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. LUKEN. Mr. Speaker, I would like to speak on behalf of my constituents in Cincinnati, many of whom are concerned over the upcoming congressional adjournment. They are angry because action will be delayed on such issues as unemployment, soaring energy and health prices, inflation, welfare and social security, minimum wage, and the Panama Canal, only to name a few. I am sure these feelings are not exclusive to my district, and that people around the Nation hold these same views.

It is our responsibility as Members of Congress to act in the best interest of the people we represent. With energy, unemployment, inflation, health issues, and tax reform, all waiting to be acted upon Congress should not be away from Washington for what would be a critical 2½ months.

The 95th Congress has before it many of the most challenging and difficult problems of recent history. However, if we adjourn as suggested, this will be the shortest first session of Congress in 10 years.

I believe that the adjournment in October would be flagrantly irresponsible, and urge careful consideration of the adjournment decision.

WITH FRIENDS LIKE THE UNITED STATES, DOES ISRAEL NEED ENEMIES?

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. STEERS. Mr. Speaker, the weekend release of the Soviet-American statement on the Middle East confirms my fears, which I expressed in this House in June, that the Carter administration is attempting to dictate to Israel the terms of a Middle East peace settlement.

This policy is at the least unwise, since a peace settlement that has not been ironed out by the participants in the conflict cannot be expected to last. A dictated settlement might be enacted sooner, but the risks taken to achieve the quick solution are great, indeed. If Israel is forced successfully by the Carter administration to accept this proposal, and peace does not last, almost all the participants in the Middle East conflict will be convinced that peace is impossible. Peace is not impossible, but it cannot be rushed to suit the diplomatic suppositions of an American President or a Soviet General Secretary.

Furthermore, this statement must lead, not only Israel, but other allies of the United States, to wonder about the value of American support. It seems that the Carter administration feels that, since Israel depends on U.S. support, that the United States can treat Israel as it pleases. However, if the United States is willing to pressure its friends in this manner, it can only lead to a loss of American credibility in the eyes of America's allies throughout the world.

And I do believe this action is diplomatically unwarranted. By issuing this statement, President Carter has violated several pledges given to Israel in a 1975 memorandum agreement. I find it ironic that the President has joined forces with the Soviets to extract major concessions from an Israel that has recently made bold, conciliatory gestures to the Arab States involved, particularly Israeli permission of non-PLO Palestinian participation in the Geneva talks. The fact is that Israel does not want to recognize the PLO, an organization committed to the ultimate destruction of Israel, and I wholeheartedly support Israel in this matter.

The PLO should not be allowed to participate in the Geneva Conference, since it would be a tacit admission that the PLO represents a sovereign government, which it does not. How on Earth can Israel be expected to assist in the creation of a neighboring country committed to Israel's destruction? Instead of trying to pressure Israel into this one-sided plan for peace, President Carter should realize some of the harsh realities in the Middle East.

Furthermore, I question the advisability of this joint effort with the Soviet Union. The U.S.S.R. has never constructively assisted in peace efforts in the Middle East, and, at times, they have tried to aggravate the situation. The Carter administration's embrace of the Soviet Union at this point adds credibility to dubious Soviet intentions, strengthening the Russian position in the Middle East.

I will not list the broken promises that constitute the Carter-Soviet plan, since so many of my colleagues have done so very eloquently. I would like to point out to supporters of President Carter that I feel this action is a grave error, and I hope its damage can be undone in the tense months ahead.

NORTHEAST MIDWEST ECONOMIC ADVANCEMENT COALITION ON THE PRESIDENT'S WELFARE REFORM PROPOSALS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RANGEL. Mr. Speaker, on Friday, September 30, 1977, I appeared on behalf of the Welfare Reform Task Force of the 204-member Northeast Midwest Economic Advancement Coalition. At that time, I presented the preliminary findings of the Northeast Midwest Institute's research on the President's welfare reform program.

Those findings indicate that the States which are the most heavily burdened by welfare will continue to bear the economic brunt under the new system. The institute also took note of the fact that since the cost of living is so high in coalition States, recipients will be relatively better off in those States which unlike coalition States currently provide benefits which are significantly less than the proposed national benefit.

As pertains to the jobs portion of the bill, the institute points out that because of the high rate of structural and cyclical unemployment in coalition States, it will be necessary to allocate more jobs to that area of the country. Additionally, the plan fails to address the questions of providing job-related benefits to those who work in public sector jobs, that the earned income tax credit will only apply to the private sector, jobs, and that there well may be more demand for jobs than the allotted 1.4 million.

Finally, the institute decrys the administration's blatant move to deny the wellhead tax rebate to welfare recipients. To deny these people a rebate which all Americans were intended to receive will place a disproportionate financial burden for our energy program on the poor.

The text of the institute's observations follow:

TEXT OF OBSERVATIONS

Congressman Rangel appears for the Welfare Reform Task Force on behalf of himself and Congress people Michael Harrington, Donald Fraser, Silvio Conte, Frank Horton, Edward Koch, Steven Solarz, Shirley Chisholm, Abner Mikva, James Oberstar, and Elizabeth Holtzman.

Mr. Chairman, and fellow subcommittee members, I am pleased to have this opportunity to appear before you on behalf of the Welfare Reform Task Force of the Northeast Economic Advancement Coalition. As you probably are already aware, the coalition was formed during the closing days of the 94th Congress in an effort to identify and address those Federal policies which have a significant fiscal impact upon the declining States of the Northeast and Midwest.

One of the more critical of problems which we in the coalition face is the one I am here to talk with you about today: welfare reform. Until recently migration patterns in this country had been from the rural South and Southwest to the industrialized Northeast and Midwest. These people came in the hopes of finding jobs and creating a better life for themselves and their families. But all too often when they got here, they found that either jobs weren't available or if they were available, they didn't have the skills to fill them.

With no job, no education, and no real prospect of improving their economic situation many of these people turned to public assistance in order to survive. Because of the high concentration of the poor and under educated in the Northeast and Midwest regions and because of the high cost of living, the fiscal burden for the taxpayers of these regions has become intolerable. While there is some Federal assistance, the amounts are too little when one considers the number of recipients and the need to supplement the meager Federal grant in order to provide those on welfare with anything close to a subsistence income.

Because of the profound impact of the inequities in the current program on coalition members, the welfare reform task force was formed. One of the major inequities is the heavy fiscal burden which is placed on such coalition States as Pennsylvania, Ohio, New York, New Jersey, Massachusetts, Illinois, Indiana, and Michigan. At our request, the Northeast Midwest Research Institute has undertaken to analyze President Carter's program for better jobs and income with an eye toward those issues which have uniquely regional concerns. I would like to share with you some of the findings of the institute.

1. COST OF LIVING VARIATIONS

There are numerous examples of the plan's failure to address the issue of regional cost differences.

First, the high benefit States, many of which are represented in the coalition, must pay more to their recipients to provide them with the same purchasing power as recipients in lower benefit States. The Federal Government, under the administration proposal, would only assist in this additional cost, leaving a large part of the additional amount to be paid by the States. Thus, the Federal share of the new welfare proposal would not provide an equal amount of purchasing power across States, leaving a number of States, primarily in the Northeast and Midwest, to bear the brunt of regional cost differences.

A second example of this problem involves the Federal income tax reimbursement requirement for States with higher cash assistance payments. The higher benefits States would be penalized under the administration plan for providing such benefit levels by the requirement that States must reimburse cash assistance recipients for any Federal income tax for which they are liable if the State's supplemental benefits are high enough to place the recipient above the income tax entry point.

Additionally, the flat $150 ceiling for deductible child care expenses does not reflect the regional cost variations for such services. The thirty percent Federal portion of the public service job subsidy for overhead also fails to be adjusted for cost of living.

While there are obvious methodological and data problems with present cost of living indices, preliminary studies by Guy Rosmarin and Associates in conjunction with the First National Bank of Boston, have indicated that dramatic cost of living differences are present across regions. These and other preliminary findings, while inconclusive, are strong enough to mandate the collection of more extensive cost-of-living data. Often the cost-of-living varies more within a State than between States, Therefore it is critical that figures be compiled for the cost-of-living for both between and within States. The failure to adequately focus on regional cost variations during the welfare reform dialogue could lead to a continuation of regional inequities.

2. DISTRIBUTION OF COST BURDENS

A second regional concern emerging from the administration's proposal is the question of the distribution of costs and fiscal relief. The financial burden of each level of government is an important issue to the northeast and midwest, given the present inequitable distribution of welfare cost responsibilities. Because of inequities inherent in the medicaid and AFD formula, the coalition States tend to be reimbursed at lower percentage rates than are States in the south and west. More States in the northeast and midwest are reimbursed at the minimum rate (50%) than in any other region. Consequently, the northeastern and midwestern States are bearing a larger portion of the financial burden of present welfare costs. The administration's plan does not address these present fiscal inequities.

Instead, the proposal uses the current fiscal effort of each State as a part of the base upon which to set new, across-the-board cost-sharing responsibilities.

3. FISCAL RELIEF

A primary regional concern is the minimum fiscal relief percentage.

The amount of fiscal relief accruing to States under the proposal is determined by such factors as the State's current AFDC matching ratio, its error rate, its benefit level and other factors.

The minimum rate of 10 percentage is rather small when one considers the fact that the northeast and midwest presently carry a larger share of the current welfare burden.

In addition the States which choose to supplement Federal benefit, located primarily in the northeast and midwest, would be required to supplement minimum wage public service jobs. This requirement would, once again, place a larger financial burden upon those regions which currently fund a large share of the welfare costs.

4. JOBS COMPONENT

Another welfare reform issue which comes immediately to the forefront of any regional discussion concerns the jobs component of Carter's proposal. The administration's plan fails to address a number of job-related issues of vital importance to the region.

One of the more import issues centers on the allocation of public service jobs. The high rate of structural unemployment and the limited potential for additional private sector expansion in the northeast and midwest will necessitate the provision of a larger number of subsidized jobs and training slots.

Additionally there must be some incentive for both public and private sector employers to fill future job vacancies with those who are in federally subsidized jobs. Further more the program fails to address itself to the necessity of providing normal job related benefits (excluding retirement) to those who are in federally subsidized jobs. This is of critical significance when one considers that those presently employed under CETA are eligible for such benefits.

The job component of the welfare reform plan offers some temporary assistance to the Northeast and Midwest but needs to be accompanied by a more comprehensive economic stimulus proposal. Public service jobs are ineffective steppingstones to private employment in the event of limited availability of private sector jobs.

The administration's plan does not seem to take account of a number of regional differences in economic circumstances. For example, the earned income tax credit (EITC) could only be applied to income earned in the private sector. This provision would de facto penalize persons in the coalition States which have limited private sector job opportunities.

The administration's plan also ignores the possibility of excess demand for jobs. The proposal outlined no provision for distributing additional jobs if excess demand occurred and offered no priority guidelines for filling an undersupply of public service jobs or training slots.

Another job-related issue concerns the capability of State employment service agencies to handle additional administrative responsibilities.

5. WELLHEAD TAX BENEFITS

The Wellhead Tax Rebate is another regional issue. Rather than using the $1.3 billion in revenue from the tax which was originally earmarked for energy rebates for the poor in order to compensate them for increased costs of petroleum and petroleum products, the administration now proposes to use those funds to finance welfare reform. This can only result in the cruelist of charades. With the imposition of the wellhead tax, energy costs for the poor in the coalition States will increase more than in Southern and Western States. Yet only those recipients in States which must raise benefits to a minimum of $4,200 as a result of the plan will gain as the Congress intends from the wellhead revenues. None of those States is in the coalition region. Yet the welfare reform proposal states as a goal providing recipients with grants which are equal to two-thirds of the poverty line. Since the vast majority of those who are not on welfare will automatically receive the rebate the increase cost in energy will not be nearly as great as for those who are welfare recipients. As a result any grant which represents two-thirds of the poverty line is not accurate because it is not an accurate reflection of the increase cost in energy.

6. MEDICAID COSTS

Additional cost distribution questions arise surrounding the medicaid issue vis-a-vis welfare reform and national health insurance. HEW officials have stated that in the coming months, the administration plans to submit a national health insurance program which would also seek to address the medicaid cost problems created by the welfare reforms. If welfare and national health insurance were consolidated into one program, the medicaid question would be less important. However, the administration tentatively plans to have a separate national health insurance proposal ready by early 1978. Yet HEW officials and others believe that medical cost containment will have to be made far more effective before the Federal Government can reasonably finance a national health insurance program throwing considerable doubt on the administration's ability to implement a NHI plan in the same time-frame as welfare reform. In view of this situation, the questions surrounding medicaid eligibility and increased State costs need to be resolved as part of the welfare reform debate. Since the coalition States must pay the same percentages of medicaid costs as of AFDC costs, any increases caused by additional demand for services will result in a significant added fiscal burden for the Northeast and Midwest.

Even if medicaid costs continue to increase at their present rate of growth (approximately 15–18% a year) States' medical costs may more than absorb any fiscal relief promised by the Carter proposal.

These increases in costs will occur in those States, primarily in the Northeast and Midwest, which have the lowest medicaid reimbursement percentages. Unless these percentages are upwardly adjusted, medicaid cost increases may substantially eliminate welfare reform fiscal relief.

WHITE HAT PAY PANELS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, the Fleet Reserve Association, an organization of enlisted naval personnel—retired and active—have recently sponsored a series of white hat pay panels, asking for suggestions from enlisted personnel about pay allowances and other problems of the military services.

I was fortunate enough to be asked to participate in one of the panels in San Diego and, at that time, received a letter from an outstanding serviceman, GMCM Clarence W. Chambers, USN. Because his letter made a lot of sense, I include it as a portion of my remarks:

SAN DIEGO, CALIF., *August 9, 1977*

Congressman BOB WILSON,
White Hats' Pay Panel Hearings,
San Diego, Calif.

DEAR CONGRESSMAN WILSON: My original Intentions were to listen to what others had to say and keep silent, however while getting ready to come to these hearings this morning I had different thoughts. I will not go into lengthy detail in this letter and will just hit the highlights of my thoughts and observations I have gained throught my 16 years of naval career.

Pay and allowances are only a minor problem encountered within the navy now days. This consideration means very little unless a man has pride in what he is doing a sense of belonging and personal worth, security and human dignity. My considerations for making the navy a career 16 years ago was not pay as we both know in those days sailors were payed below welfare levels. No sir what convinced me to make the navy a career was my pride in the organization, a sense of belonging and a feeling that people believed in me and therefore I believed in my personal worth.

What in my opinion can be done to bring back Esprit de corps, Human dignity and entice young people to make the navy a career and to retain our qualified Senior personell to remain in not only the navy but other Services as well? The following are but a few Suggestions:

1. Pay and allowances:

(a) Cut out all the Garbage pays such as clothing allowance, Selective Reenlistment Bonuses, Sea pay, Hazerdous duty pay, Basic allowance for quarters, Family Seperation allowance, etc. These pays are aimed at the few and only tend to dissatisfy those people who do not qualify or, Receive these pays. They are Completely disheartened at the Inaquality of this System.

(B) Develope a Salery system which is equal to a mans personal worth and qualifications, Based on his civilian counterpart, which will enhanse the equality of all people.

(C) When a man goes to duty which is considered ardous Such as Combat or Sea duty then don't give him token pay. Instead of token pay give him Such things as free Bed and board, mail Service etc.

(D) Guarantee that at Intervals during his career he will receive a large Salery raise based on his experience and worth. IE Don't give him a token Raise as is now the Case in Longevity raises as they now are.

(2) Advancement:

(a) Develop an apprenticeship program where a man enters the navy, goes through boot camp, and is Sent to Sea for Three years as an apprentice. While on apprenticeship training he can be deciding on what area of occupation he wishes to strike for and the navy can decide on his worth for retention at the same time. At the end of his apprenticeship if he does not measure up to required standards he is simply discharged. If he does qualify for Retention he is advanced guaranteed a School in his chosen field and given an open end career contract.

(B) After apprenticeship training those qualifing for retention on open end contracts must continue to maintain standards or after administrative warning they may be discharged.

(C) The other side of the coin is they may request to resign at any time period in their career. However no retirement or compensation will be received until after completion of either 20, 25 or 30 years of service. This must be based on the needs of the service and held in obeyance during times of war.

(D) Guarantee career personnel that at specific time frames they will be advanced through the ranks with a large raise in salary. (IE.)

(1) Completion of apprenticeship training (3 years) advance to E2 at $500 monthly.

(2) Completion of school and 8 years service advanced to E3 at $800 monthly.

(3) Completion of 12 years service advanced to E4 at $1,200 monthly.

(4) Completion of 16 years service advanced to E5 at $1,600 monthly.

(5) Completion of 20 years service advanced to E6 at $2,000 monthly. (Retirement at $1,000 monthly)

(6) Completion of 25 years service advanced to E7 at $2,400 monthly. (Retire at $1,400 month)

(7) Completion of 28 years service advanced to E8 at $2,600 monthly.

(8) Completion of 30 years service advanced to E9 at retirement of $2,000 monthly.

In conclusion make the military services a worthwhile career where a man can realize security, accomplishment, self satisfaction, equality and a sense of dignity. Make it an honorable profession that a man can be proud of and that is not looked upon as a necessary evil by our fellow man. Without the foregoing the military man and woman will be forced to unionize to protect themselves from the indignity shown them by their fellow Americans. I myself am not a believer in unions or how they operate but if eyes are not opened I will be forced also to seek that means to be heard.

Sincerely yours,

CLARENCE W. CHAMBERS,
GMCM, USN.

SOBER ASSESSMENT FROM TURKEY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FINDLEY. Mr. Speaker, the distinguished journalist, C. L. Shulzberger, in the August 21, 1977, New York Times, presented a very sobering appraisal of U.S.-Turkish relations. I am impressed by his analysis and especially so by his call for an outsider, perhaps former German Chancellor Willy Brandt, to be the negotiator of a settlement on Cyprus. I have been urging a similar initiative, thinking however that a prominent U.S. personality like Gen. Lyman Lemnitzer, former NATO supreme commander, and still highly respected in both Ankara and Athens, could fill the assignment. In any event the legislated embargo against Turkey is turning our relationships very sour, indeed. I hope Congress will come to its senses and authorize the President to negotiate the best way out that can be found.

Text of article follows:

"CATCH-22" IN TURKEY

(By C. L. Sulzberger)

ANKARA.—The late Arnold Toynbee must have been thinking of the United States when he wrote, more than 50 years ago: "Western sentiment about the Greeks and the Turks is for the most part ill-informed, violently expressed and dangerously influential." He also said, with respect to this area: "The herd instinct can be relied on, as it cannot be in the West, to override the interest and judgment of the individual."

Toynbee's analysis is distressingly correct. It lies at the root of today's yawning crisis in United States-Turkish relationships. We have worked our way into a "Catch-22" situation which guarantees there can be no result but disaster for everyone concerned. Washington says that until Ankara shows signs of yield on Cyprus, the Defense Cooperation Agreement signed March 26, 1976 cannot be ratified by Congress. The Turks say they won't accept threats, and there can be no yield on Cyrus until the DCA is ratified.

If this situation is not compromised within about six months, Turkey will probably first evict United States caretaker forces from the idle bases once available to us here and most likely later, withdraw from NATO. It feels "betrayed" by the United States in particular and its Western allies in general. So we are well on the way to losing an ally with a unique strategic position, the largest NATO army outside our own, and 41 million people.

The economic situation is dreadful. Imports are grinding to a halt. About all Turkey buys abroad now is oil—which must be paid for because of the United States boycott. Although Turkey is an ally, it is embargoed in the same category as Cuba, Vietnam, Cambodia, Argentina and Ethiopia. Meanwhile, it has become the largest recipient of Soviet economic aid and credits.

The armed forces are gradually falling apart as equipment becomes obsolescent and spare parts remain unavailble. Anti-Americanism is noticeably growing among younger officers who blame air crashes on the lack of replacement parts and resent ammunition shortages that curb artillery practice. There are no more United States grants financing Turkish studies at United States military schools.

The stalled DCA provides for revived American use of former key bases here and a four-year payment of one billion dollars as quid pro quo. President Carter doesn't dare to try to push it through Congress now, fearing its rejection would be an unmitigated disaster and wishing first to test the political waters with the new Panama Canal treaty, by no means a cinch.

A few days ago Metin Toker, son-in-law of the late President Inonu and a prominent journalist, wrote: "Will the hand of America remain at the throat of Turkey, especially at the throat of the Turkish armed forces? Will the Turkish armed forces be forced to remain, in General Haig's [NATO commander] calculation, at half their capacity?"

Turks admit a switch from the United States and NATO would harm all parties including themselves but, at Toker says it "is not based on calculated interest but on a concept of dignity," and the United States has really replaced Greece as the most disliked country in Turkey today.

"The Greek lobby" in our Congress is seen as trying to isolate the Turks from Western connections. America has unwittingly but undoubtedly become an integral part of what used to be called the Greek-Turkish problem, originally involving only Cyprus and Aegean air and sea space.

We are now directly entangled. Clark Clifford, Carter's mediator, is unwelcome here and regarded as little more than a Greek agent. It is past high time for a new initiative.

This must be taken by an outsider, representing the West but bearing neither United States, nor Greek, nor Turkish passport. My own nominee is former West German Chancellor Willy Brandt, who is widely respected in the three capitals concerned: Ankara, Athens and Washington.

Prime Ministers Demirel and Caramanlis are just as worried as Carter at the prospect of NATO collapsing, but the problem has gotten out of hand. There is a machismo element of courage culture in this tough country which doesn't respond to threats. Moreover, there is a new rise of political anti-Westernism, neutralism and pro-Arabism which is visible on the internal political horizon.

If the United States doesn't move—quickly, subtly and effectively—to get a serious new diplomatic mediation started, including with its own Congress, that Congress will be demanding a few years hence: Who lost Turkey?

FEDERAL GUARANTEES FOR DELINQUENT RAILROAD TAXES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. GILMAN. Mr. Speaker, H.R. 8882, a bill introduced by my distinguished colleague from Ohio (Ms. OAKAR), is designed to correct the inequitable situation created by the bankruptcy of Penn Central and other bankrupt railroads and the resultant delinquent taxes owed our financially hard pressed local, county, and State governments.

H.R. 8882 amends the Regional Rail Reorganization Act of 1973, providing Federal guarantees for notes that the Penn Central Transportation Corp. proposes to offer to our local and State taxing districts in lieu of delinquent taxes owed by the bankrupt railroad and its lease lines.

As a cosponsor and active supporter of this bill, I testified on September 27, 1977, before the Subcommittee on Transportation and Commerce. In an effort to more fully familiarize my colleagues with the onerous burden to which local, county, and State taxing authorities have been subjected as a result of these bankruptcies, and to illuminate the judicious and well-reasoned legislative remedy offered by H.R. 8882, I am submitting for insertion in the RECORD my testimony before that subcommittee:

TESTIMONY BY MR. GILMAN

Mr. Chairman, I am grateful for this opportunity to appear before the Subcommittee on Transportation and Commerce in support of H.R. 8882, a bill to guarantee notes issued to secure the real property obligations owed by Penn Central and other railroads.

I have co-sponsored and supported this legislation introduced by my distinguished colleague from Ohio, Mrs. Oakar, because of the firm commitment in this bill to provide our financially hard-pressed local, county, and state governments optimum security for tax relief for the real property obligations owed by Penn Central and other railroads.

In sum, this bill amends the Regional Rail Reorganization Act of 1973 by providing federal guarantees for notes that the Penn Central Transportation Corporation proposes to offer to our local and state taxing districts in lieu of delinquent taxes owed by the bankrupt railroad and its lease lines.

The long and complicated litigation surrounding the Penn Central bankruptcy has ensnared local, county and state governments in a perplexing fiscal dilemma not of their own making. I speak of the approximately $500 million in delinquent taxes that these tax districts are attempting to secure from Penn Central. In my own 26th Congressional District in the State of New York, at least 17 taxing authorities report that Penn Central owes them collectively, over 1.7 million in unpaid taxes. For these financially hard-pressed towns and counties, struggling to maintain adequate municipal services, while at the same time attempting to stem the current upward spiral of local tax rates, Penn Central's tax debts continue to exacerbate the fiscal plight they are experiencing.

The legal imbroglio in which the current claim to Penn Central back taxes is rooted stems to a large degree from the Penn Central bankruptcy in June 1970, and the subsequent issuance of Order No. 70 by the Reorganization Court on October 26, 1970. That Order permitted Penn Central to defer payment of State and local taxes and enjoined state and local taxing authorities from taking any actions to collect these back taxes. From the date of entry of Order No. 70 to the end of 1976, numerous state and local taxing authorities engaged in extensive litigation.

In an effort to stem further suits contesting Order No. 70, the Trustes of the Penn Central Transportation Company entered a petition seeking authority to compromise payment of unpaid taxes. Over the objection of more than 25 taxing authorities—including

the city of New York, the Cleveland Board of Education, the City of Philadelphia, and the State of Maryland—the compromise was approved by the Reorganization Court on April 22, 1977 as Order No. 2922. Order No. 2922 is currently being appealed.

The key provisions of Order No. 2922 translate into the following: (1) on all tax claims for which the principal amount equals $10,000 or less, Penn Central trustees are directed to pay 100 cents on the dollar; and (2) payment of 50% of the post bankruptcy principal amount, or 44% of both post and pre-bankruptcy claims whichever is the larger amount—on all tax claims above $10,000.

Widespread dissatisfaction exists over this proposal. Indeed, a national coalition has been formed of local, county and state officials who are fighting this compromise in the U.S. District Court in Philadelphia. This coalition has lobbied extensively in support of H.R. 8882; and I might add that Mrs. Oakar's legislation has also received the endorsement of the U.S. Conference of Mayors and the American Federation of Teachers.

H.R. 8882 is the legislative complement to a settlement the proposal now before Judge John A. Fullam of the U.S. District Court in Philadelphia. This proposal would provide for an immediate 20 percent cash payment and would allow the remaining 80 percent to be paid through the issuance of Penn Central notes. H.R. 8882 would provide Federal guarantees for these Series C and Series D Notes.

What would passage of H.R. 8882 mean to those local, county, and state governments whose fiscal troubles have been compounded by Penn Central's delinquent taxes? As I indicated earlier, Penn Central owes taxing districts in New York's 26th Congressional District back taxes approximating $1.7 million. H.R. 8882 would provide these municipalities an optimal opportunity for securing full payment of these back taxes. Without this legislation, the majority of these taxing districts will be forced to settle for approximately half this amount—and in some cases less—under the terms of the Penn Central compromise.

I believe passage of H.R. 8882 to be a just and equitable solution to the matter of Penn Central's delinquent taxes. To further buttress this contention, I refer to the case of the Village of Maybrook in my home Congressional district.

The Village of Maybrook is owed $65,289.67 back taxes by the Penn Central Transportation Company. If the Village of Maybrook is forced to accept the Penn Central's offer in compromise, Maybrook stands to receive only 44% of the above mentioned amount, or $28,727.45. However, if Congress passed legislation such as H.R. 8882, providing for federal guarantees, the Village of Maybrook could elect to take 20% cash offered by Penn Central together with promissory notes for the balance of the $65,289.67, and then negotiate these notes in the market which would be created by virtue of the federal guarantee.

Moreover, the plight of the Village of Maybrook is particularly difficult when one realizes that as a result of the bankruptcy of the New Haven Railroad, the Village of Maybrook lost approximately $120,000 in unpaid taxes. The paper issued to the Village of Maybrook as a result of the New Haven bankrutpcy was completely worthless.

In considering the merits of H.R. 8882, there emerge two highly salient questions to which we must address ourselves: (1) Why should the Federal government intervene in this case, guaranteeing the large-scale tax debts of a private corporation? and (2) What is the likelihood that this Federal guarantee will if we were to assume that these delinquent taxes were not paid eventuate into a huge financial burden to be borne by the Federal government?

In responding to the first question, I would point out that the case for federal intervention can be tied in no small way to the Federal government's culpability for the existence of those delinquent taxes as a result of Washington's initiative in reorganizing the railroads. The Regional Rail Reorganization Act of 1978 created Conrail; the federally related corporation which has supplanted the old rail lines. Those railroads included in the Reorganization Act were required to continue operations until conveyance could be effected. Moreover, claims for repayment of federal grants and loans ("211(h) loans")—enabling railroad to continue operations were established as not subject to any reduction, and also superseded all other administrative claims—including state and local taxes—on the estate of the railroad in reorganization.

This arrangement, even allowing for good intentions, has created the anomolous situation of state and local taxing districts subsidizing, in effect, the reorganization of those railroads that had failed. This onerous burden has only intensified the already precarious fiscal situation of state and local governments seeking to maintain vital services and high quality school systems.

Correspondence I have received from David Gubits, the attorney representing the Village of Maybrook, illuminates not only the need for a federal guarantee, but also the glaring inequity that will continue, if such a guarantee is not forthcoming. As Mr. Gubits asseverates:

"We believe that the loss of the approximately $120,000 in unpaid taxes as a result of the New Haven bankruptcy is more than sufficient subsidy of the nation's railroads by the Village of Maybrook. It would only be fair at this time for the Federal Government to guarantee the Penn Central notes so that the Village of Maybrook can be assured of nearly complete payment of its tax claims.

"I know that I need not remind you of the devastating effect on the Village of Maybrook of the Poughkeepsie Bridge fire. Maybrook has borne much more than its fair share of carrying our nation's railroads. It is time for the Federal Government to give some minimal aid to the Village of Maybrook in the form of guarantees for the Penn Central notes."

We come now to the question concerning the possibility of such a federal guarantee of Penn Central's notes becoming actual obligations the Federal government would be forced to assume. Extensive research conducted by Mrs. Oakar reveals that the possibility of a guarantee costing the Federal government any money is quite small. Indeed, indications are that as the reorganization plan is concluded, and Penn Central properties are valued, the delinquent taxes in question will be paid in full. The guarantee would be activated in the instance of a shortfall, again, however, all key signs point to the possibility of a shortfall being slim. The United States Railway Association (USRA), which is representing the Federal government in the complex rail reorganization and litigation, has submitted that this litigation has made great strides. While the road ahead is long, and the end not yet in sight, the USRA nevertheless, expects progress at a good pace. Indeed, the trustees for Penn Central also indicate that there will be a successful reorganization.

In closing, I wish to point out that the guarantee provisions embodied in H.R. 8882 are both warranted and fiscally prudent. Our state and local taxing authorities should not be subject to the current, inordinately adverse effects surfacing, in part, as a result of the Rail Reorganization Act a product of Congressional design.

A federal guarantee would provide these Penn Central notes the credibility they would need in an investment marketplace. It is only through such a guarantee that state and municipal governments can be accorded an equitable adjustment to the fiscal injustice to which they have been subjected.

I thank the Subcommittee on Transportation and Commerce for this opportunity to appear before it, and I urge the Subcommittee to act favorably on H.R. 8882.

Thank you.

WETLAND ACQUISITIONS IN SOUTH DAKOTA AND THE NATION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ABDNOR. Mr. Speaker, in May of last year I initiated correspondence with the Assistant Secretary Nathaniel Reed in an effort to learn of the wetland and wildlife management plans of the Federal Government for my State. My letter and Assistant Secretary Reed's reply were reprinted in the June 20, 1977, edition of the RECORD—page 19867.

In light of the ascendancy of the new administration and particularly President Carter's announcement of a $50 million budget increase to purchase waterfowl habitat, I wrote the present Assistant Secretary for Fish, Wildlife, and Parks, Mr. Robert Herbst, to inquire if Mr. Reed's comments were still valid, as well as to learn what the additional funds would mean to my State. Assistant Secretary Herbst's reply was reprinted in the June 29, 1977, RECORD—page 21639—and prompted my further inquiry as to whether planned wetland acquisitions would take place disproportionately in States like South Dakota.

For the benefit of those who have an interest in this matter, my letter of June 30 and Assistant Secretary Herbst's reply of August 18 follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 30, 1977.

MR. ROBERT L. HERBST,
Assistant Secretary for Fish, Wildlife, and Parks, U.S. Department of the Interior, Washingon, D.C.

DEAR MR. HERBST: Thank you for your reply of June 24, 1977, to my inquiry of June 3, 1977, concerning wildlife management and habitat acquisition policies of the Carter Administration.

I appreciate being apprised of your estimate that about 5,000 acres of wetlands per year are being drained privately in South Dakota and a total of 48,900 acres during the period from 1964–1974. Can you tell me how many total acres of wetlands remain in my state as compared to how many would have existed without the activities of man?

Also, can you provide a state-by-state (or regional) tabulation of total acreages of wetlands—existing, drained, and planned for protection (in fee title and by easement) by the Department? Is it true, as we are given to believe, that the planned acquisitions of wetlands will occur disproportionately in certain states, like South Dakota?

Thank you for your consideration in responding to these questions.

Sincerely,

JAMES ABDNOR,
Member of Congress.

FISH AND WILDLIFE SERVICE,
Washington, D.C., August 18, 1977.

HON. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: This further responds to your June 30 letter to Assistant Secretary

Herbst requesting information on wetlands remaining in South Dakota, and on total acreages of wetlands in the United States—existing, drained, and planned for protection through acquisition by the Department of Interior.

The most recent figures we have on total wetlands in South Dakota were assembled early in 1975. About 1,381,000 acres of types 1, 3, 4, and 5 wetlands existed throughout the State of which 287,000 acres had been protected by the Fish and Wildlife Service. These four types include nearly all of the natural prairie wetland types that occur in South Dakota.

We cannot tell you how many wetland acres would have existed without man's activities, i.e., the original acreage that existed in the State. No wetland inventory comparable to our current data is available for the pristine condition. We can only estimate wetland losses during relatively recent times. As indicated in our earlier letter, some 48,900 acres were drained between 1964 and 1974.

The last comprehensive wetland inventory covering all the lower 48 States was conducted in the mid-1950's. The acreage estimates from that inventory are believed to be considerably lower than those actually existing because many areas were not surveyed and some wetland types were excluded in areas that were surveyed. Only natural wetlands that had been little altered by man's activities were included. Wetlands smaller than 40 acres were generally excluded as were many wooded swamps. The 1954 nationwide inventory estimated that about 74.4 million acres of wetlands were in the United States at that time. This represented a reduction of more than 40 percent from the 127 million acres estimated to have existed originally. Our best information on wetland losses indicates that at least 6 million acres have been destroyed during the past 20 years. About 19 million wetland acres are considered to be of moderate to high value to waterfowl for breeding, migration, and wintering habitat.

The most serious wetland losses during at least the past 25 years have been in the prairie pothole region and adjacent States of the upper midwest and in the lower Mississippi River bottomland flood plain, or Mississippi Delta, of Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, and Missouri. Several coastal areas, such as in Texas, have also experienced serious wetland losses or alteration, although destruction of coastal wetlands has been reduced significantly through various State and Federal regulatory programs.

I have tabulated below some of the more significant losses of wetlands that have occurred in certain regions of the United States during relatively recent times. The information is taken from several publications and other sources.

Total acres lost during period

Coastal [1]

Region and period:	*Acres*
North Atlantic, 1950–89	2,500
Middle Atlantic, 1950–69	77,000
Chesapeake Bay, 1950–69	5,000
South Atlantic, 1950–69	42,300
Biscayne and Florida Bay, 1950–69	21,100
Gulf Coast, 1950–69	426,700
California Coast, 1950–89	46,200
Oregon-Washington Coast, 1950–69	21,000

Inland

Region and period:	
Prairie Pothole (ND, SD, MN), 1964–74	295,000
Nebraska, as of 1958	90,000
Mississippi Delta (forested wetland), 1950–69	4,063,000

[1] Source: National Estuary Study, 1970. U.S. Department of the Interior, Vol. 2.

The Service plans to complete by 1979 a new nationwide inventory of wetlands using automated and remote sensing techniques. This inventory will provide better estimates of existing wetland acreages and locations on a State and regional basis. It will be updated to provide current information on wetland losses.

As for the Service's planned acquisition on a State or regional basis, I am enclosing a list of acquisition objectives for migratory waterfowl proposed to be accomplished over the next 10–15 years. A map is included which illustrates the general location of each of the top 15 priority categories where major acquisition is proposed. The numbers on the map coincide with the habitat priority categories in the table. Purchases in categories 16–33 will be limited almost exclusively to inholdings on existing refuges.

The major criteria used in establishing objectives and priorities for the Service's acquisition program are the relative importance of the habitat to waterfowl and the threats to that habitat. Since wetlands or high importance to waterfowl are not evenly distributed throughout the Nation, and major threats are somewhat limited to certain regions and wetland types, acquisition objectives are higher in some areas than others. The prairie pothole region contains the most important duck breeding habitat in the United States and is also highly threatened as demonstrated by continuing and unregulated drainage of a large acreage of wetlands each year. In order to address this problem it is necessary to carry out a larger program in this area, including South Dakota, than in many other regions where wetlands are either of less importance to waterfowl or have a greater degree of protection.

I hope this information is useful. I apologize for not being able to provide you with better data on State and regional wetland acreages, but adequate information on this is unavailable until our current national wetland inventory is completed. If I can be of further assistance, please feel free to contact me.

Sincerely yours,

Acting Associate Director.

Enclosure.

PROPOSED U.S. FISH AND WILDLIFE SERVICE MIGRATORY WATERFOWL HABITAT ACQUISITION PROGRAM, BY NATIONAL PRIORITY CATEGORY, FISCAL YEARS 1977–86

Priority	Flyway [1]	Geographic location	Habitat type [2]	Group/species	Primary habitat not protected by public agency acres	Minimum proposed for FWS preservation [3] acres	Estimated cost (1975 prices, millions)
1	C	Prairie Pothole (North Dakota, South Dakota, Montana)	B	Canvasback, redhead [4]	1,000,000	(F) 275,000	$61.8
2	C	do	B	Other ducks		(E) 550,000	24.8
						825,000	86.8
3	M	Prairie Pothole (Minnesota)	[redacted]	All	200,000	(F) 150,000	37.5
4	P	California—Central Valley	W	All	63,000	60,000	11.0
5	A	Coastal (North Carolina to Massachusetts)	W	Black duck	50,000	40,000	11.5
[redacted]	[redacted]	Coastal, California	W	All	70,000	60,000	24.4
7	M	Mississippi Delta (primarily Arkansas, Mississippi, Louisiana)	W	Wood duck Mallard	2,000,000	200,000	15.0
8	C	Coastal (Nebraska, Texas Laguna Madre)	W	All	350,000	190,000	13.2
9	M	Coastal (primarily Louisiana)	W	All	1,300,000	100,000	25.2
10	P	Great Basin (Idaho, Utah, Nevada)	B	Redhead	60,000	40,000	10.9
11	M	General (Wisconsin, Michigan, some Iowa)	[redacted]	Ducks	100,000	100,000	24.6
12	A	Coastal (Chesapeake Bay, Delaware Bay, Georgia, North Carolina, South Carolina, Florida).	W	do	350,000	50,000	14.3
13	C	General (excludes glaciated prairie)	[redacted]	do	250,000	100,000	14.1
14	P	Coastal (Washington)	W	All	13,000	13,000	8.2
15	P	Coastal (Oregon)	W	All	9,000	5,000	2.5
		Subtotal, categories 1–15			5,815,000	1,843,000	299.2
16	A	Inland (primarily North Carclina, South Carclina, Georgia)	W	Wood duck	2,000,000	7,350	4.3
17	P	Inland (primarily California, Washington, Oregon, Idaho)	B	Ducks	6,000,000	26,750	4.6
18	A	Inland (scattered bogs, ponds, etc. New England)	[redacted]	do	150,000		
19	M	Inland	W	All	(5)	17,100	7.7
20	P	do	W	All	10,000	6,750	3.6
21	P	Great Basin	B	Geese	(5)	400	.1
22	A	Inland (mostly Virginia, south)	W	All	300,000	2,650	.8
23	C	Inland (Texas, Colorado, New Mexico, Oklahoma, Kansas)	W	All	(5)	1,900	.7
24	P	Coastal (Oregon, Washington)	M	All	6,000	2,050	1.2
25	A	Coastal (primarily New Jersey to Maine)	M	All	100,000	8,300	3.1
		Subtotal			8,566,000	73,250	26.1
26	M	Inland	B	Geese	(5)		
27	C	do	B	do	(5)		
28	C	Coastal	M	All	(5)		
[redacted]	P	Inland	M	All	(5)	1,600	.4
30	M	Inland (Upper Mississippi and Illinois River Valleys)	M	All	(5)	1,750	1.1
31	A	Inland	M	All	(5)	13,850	6.1
32	C	do	M	All	(5)	13,600	6.5

Priority	Flyway[1]	Geographic location	Habitat type[2]	Group/species	Primary habitat not protected by public agency	Minimum acres proposed for FWS preservation[3]	Estimated cost (1975 prices, millions)
33	All		R			30,800	$14.1
		Subtotal					
		Subtotal, categories 16-33			8,566,000	104,050	40.2
		Grand total:					
		Priority categories 1-15			5,815,000	1,843,000	299.2
		Priority categories 16-33			8,566,000	104,050	40.2
		Total, all categories			14,381,000	1,947,050	339.4
		Administrative overhead					67.9
		Total costs					407.3

[1] Flyway symbols = P—Pacific; C—Central; M—Mississippi; A—Atlantic.
[2] Habitat type = B—Breeding; M—Migration; W—Wintering; R—Recreation.
[3] Fiscal years 1977-86. Combined fee and, in some cases, easement. It is expected that some habitat shown in the lower priority categories (16-33), particularly those not yet approved by MBCC, will not be preserved by FWS during 10-yr period. Also, techniques other than fee purchase by FWS for maintaining habitat will be considered before FWS acquisition 1a.
[4] Canvasback and redhead habitat acres for priority No. 1 are included in priority 2.
[5] Acreage undetermined.

WORST CONGRESS IN YEARS—OR IS IT?

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. OBEY. Mr. Speaker, frequently the last few years when conversations lull, the stylish thing to say has been that Congress is "limp wristed" or "stupid" or even "no damned good!" There is not a person in this country who has not seen a continuous drumbeat of stories about the sad shape of Congress. To only a small segment of the American public has the story gotten through that, as the old song goes, "there've been some changes made."

One of the few stories I have seen lately which attempts to place today's Congress in historical perspective is an analysis in U.S. News & World Report by Thomas J. Foley, chief of U.S. News' Congress staff who has covered the House for more than 20 years. That analysis shows what we all know here: We are far from perfect but we are trying and for the most part the trying has been for the good.

I commend it to my colleagues and to anyone else who does not mind a bit of balance now and then in analyses of our effort to represent the American people in a fair and sensible way.

WORST CONGRESS IN YEARS—OR IS IT?

This Congress is proving as adept as any in memory at giving itself one black eye after another.

First came the pay raise. It was handled in a way that won lawmakers blame both for taking the raise and for initially refusing to vote on it.

Then came the disclosure that for years the House and Senate have been drastically understating the costs of overseas junkets, which have long been a sore point with taxpayers.

Next was the blowup over the South Korean bribery scandal, which has filled the air with charges of cover-up and foot dragging.

Eight months into the new legislative session, it is no wonder that opinion polls continue to show public confidence in Congress hovering near an all-time low. Many Americans clearly believe that their national legislature is worthy of ridicule and disdain.

Are they correct? Judging from the headlines alone, it would seem so. Yet when you stand back and look at Congress in broad perspective, you see a much more encouraging picture.

Taking 1967 as a point of comparison, you find sweeping changes over the last decade in the way the House and Senate operate. In at least six important ways, Congress today shapes up as a better institution.

1. Congress is more democratic.

Ten years ago, fewer than 50 of the 535 members of the House and Senate, the chairmen of the standing committees, held a near monopoly on legislative power.

Chosen by seniority and serving until retirement, the chairmen were largely a law unto themselves. They were elected to Congress by a tiny fraction of the national electorate, yet they could almost singlehandedly reshape bills to suit their fancy. Or they could kill a proposal altogether, thumbing their noses at junior legislators, party leaders and Presidents alike.

Today this has changed. The toppling of three veteran House chairmen in 1975 shattered the tradition of tolerance for dictatorial excesses. Chairmen remain important figures, but their powers now are constrained by the consensus on their committees, in Congress and in the country.

What does this mean for Americans generally? It means a Congress more responsive than ever before to the sweep of voter opinion and less prone to the throttling of popular legislation by parliamentary maneuvers.

2. Legislative leadership is more widely dispersed, with younger lawmakers now playing a bigger role.

A decade ago, committee chairmen usually held a hammer lock on chairmanships of key subcommittees, too.

One result: Younger members, no matter how talented, were generally excluded from even these secondary leadership positions until they had accumulated many years of seniority and often lost any desire to examine existing policies critically.

Another result: Aging chairmen often had their hands so full that they could not give their responsibilities the attention needed.

Today, the hoarding of subcommittee chairmanships by senior legislators is forbidden. In the Senate, 57 of the 61 members of the Democratic majority, including 7 freshmen, chair at least one subcommittee. In the House, 145 of the 289 Democrats are committee or subcommittee chairmen, including some in their second terms.

In short, Congress has "spread the action," as reformers term it. Voters who send a talented newcomer to Capitol Hill can expect to see their representative carve out a niche of some influence within a few years.

3. The secrecy surrounding lawmaking has been largely stripped away.

Ten years ago, when committees met to vote on legislation, they locked their doors to public and press. When legislation reached the House or Senate floor, important amendments often were decided in unrecorded votes.

This kind of secrecy worked against a basic democratic principle: keeping Congress responsive to the people. It was an open invitation to hypocrisy, deceit and special-interest lawmaking.

By contrast, the closed door now is the exception on Capitol Hill, the open door the rule. Committees mark up bills in open meetings, with the press and interested citizens looking on. What's more, it is rare for an important question to be decided in the House and Senate chambers nowadays without a roll-call vote.

There is no question that plenty of behind-the-scenes maneuvering by special interests still goes on. But it is harder than ever before for legislators to pull the wool over their constituents' eyes. With key decisions now spread on the public record, voters can better judge whether elected officials are properly using their powers.

4. Congress's ethical restrictions have been significantly beefed up.

In the late 1960s, both houses of Congress for the first time imposed codes of conduct on their members. The standards were weak, vague and ridden with loopholes.

The House had an anemic requirement for public disclosure of Representatives' outside income that often concealed more than it revealed. In the Senate, no public disclosure at all was required, except for speaking fees. In neither chamber were there any limits on the income legislators could earn outside of Congress.

In sum, Capitol Hill was an ethical wilderness. Whether the question involved a conflict of interest, an office slush fund rustled up by special interests or a mistress on the payroll, the rule for many seemed to be: If you can get away with it, it's ethical.

In today's situation, a tough new ethics code, approved last spring, is being phased in fast. It bars acceptance of private money for office expenditures and acceptance of anything from lobbyists beyond the most minor gifts. It requires almost total public disclosure each year of lawmakers' financial holdings, and it clamps sharp limits on all outside earned income.

How rigidly the standards will be enforced remains to be seen. But the new rules are likely to achieve two things:

Make it a lot tougher for legislators to sell out to special interests.

Give voters solid information for determining whether a Congressman is looking out for the public interest or some private interest of his own.

5. Congress is more responsible in fiscal matters.

Ten years ago, the House and Senate handled spending measures in a chaotic, head-in-the-sand fashion. Money bills were dealt with piecemeal as they came up, with scant regard for the effects of each on total Government spending, the deficit and the economy.

Congress no longer flies by the seat of its pants in its spending decisions. Under a new budget-control system set up in 1974, a binding ceiling is placed on federal spending each year. Every money measure must be tailored to insure that the ceiling is not breached.

Under these procedures, Congress agreed in mid-September on a 458.2-billion-dollar spending ceiling for the fiscal year beginning October 1.

The system is no cure-all for deficits; it was not meant to be. But it insures that Congressmen will have as clear a picture as possible of the impact of their spending moves, and enables voters to call lawmakers to account for that impact.

6. Congress works harder.

A decade ago, the House and Senate were both following work schedules that smacked of the horse-and-buggy era. Congress ordinarily worked only three full days a week. Behind this truncated workweek was the habitual truancy of the so-called Tuesday-through-Thursday Club—the many lawmakers addicted to skipping home for long weekends in their districts.

Even when the legislators were in Washington, their pace was far from impressive. Committee meetings seldom were scheduled to begin before 10 a.m., usually began late and ended before noon. As for meetings of the full House and Senate, floor sessions started at noon and normally petered out after three or four hours, except during the end-of-session rush.

Such sleepy habits are now only a dim memory on Capitol Hill. While long recesses still are taken frequently, Congress puts in a full five-day work-week most of the time it is in session. Committees sometimes are gaveled to order as early at 7 a.m. Floor sessions often begin at 10 a.m. and stretch through the afternoon and into early evening or later. Thus, while congressional salaries—$57,500 per year—are at a level that many Americans consider outrageous, most legislators are working harder than ever before to earn their pay.

Not all of these changes in Congress' way of doing business are unmixed blessings. The unhorsing of autocratic committee chairmen and general dispersion of power are changes, for example, that have come at a price. They have complicated the tasks of both Congress' leaders and the White House in hammering out broad national policies.

Instead of consulting a handful of senior legislators, the norm only a few years ago, leaders now must cope with an often mercurial throng of 535 lawmakers. The result sometimes is delay and deadlock. It makes Congress look to many Americans like a headless and erratic force thrashing about wildly while national problems fester.

House Speaker Thomas P. ("Tip") O'Neill solved the problems on President Carter's energy legislation by naming an ad hoc committee to oversee work on the package. However, problems remain in the Senate.

What's more, the sweeping changes of recent years have left some big institutional problems yet to be solved.

One is the Capitol Hill bureaucracy. It has been growing hand over fist, and now numbers almost 20,000. Accompanying the staff explosion has been greater delegation of power, leading to worry that crucial decisions are being made by unelected officials.

No one would argue that Congress is about to lose the knack of getting under people's skin. In any body of elected politicians as diverse as the House and Senate, that is inevitable. But voters might find solace in the thought that Congress, after all, could be worse than it is.

Not so long ago, it was.

REPUBLIC OF CHINA (TAIWAN) MERITS OUR SUPPORT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McCLORY. Mr. Speaker, there is continuing apprehension that our Government may take action to reduce or eliminate our ties with the Government of the Republic of China on Taiwan. Mr. Speaker, in my opinion the relationship which we have maintained with the great people of the Republic of China and their political leaders during the past 30 years should be maintained—or strengthened.

Mr. Speaker, one of the great success stories of this era is the economic, social, and political progress which has occurred in Taiwan. The people of that island nation have united in a manner which should be an example to the entire world. From my personal observation, I can attest to the advancement of democratic principles, political freedom and economic progression flowing from individual and collective initiative.

Mr. Speaker, no one can question but that the Government and people of Taiwan have been both friendly and cooperative with the people of our Nation. We should work to solidify that relationship notwithstanding that we may wish to enlarge lines of communication and improved relations with the People's Republic of (Communist) China. Now, Mr. Speaker, an article by Franz Michael appearing in a recent issue of Policy Review published by the Heritage Foundation is most illuminating on the question of U.S. strategy as related to our China policy. Mr. Speaker I am pleased to attach that article for examination by my colleagues and for our leaders in the executive branch for their thoughtful consideration:

WHAT CHINA? WHAT POLICY?

(By Franz Michael)

There are the strong arguments on both sides of the speculation about the possibility of Sino-Soviet reconciliation. Those who hold that the gap is unbridgeable and that at the very most some civility in diplomatic relations between the two Communist powers may return, argue in terms of historical incompatibility, of national interests and pride, and of historical claims and problems along the Sino-Soviet border. The question is, how valid are most of these arguments in the world of 20th Century communism?

If one seriously considers the possibility of a Sino-Soviet realignment, the question has to be answered, on what basis the conflict could be overcome? On the positive side of Moscow-Peking relations there remains a common doctrinal basis and commitment to communist strategy. Both sides assert their belief in, and support of, world revolution, revolutionary wars, and wars of national liberation. Though, in line with the conflict, Moscow and Peking accused each other of betraying these common revolutionary goals, such accusations could be easily discontinued; there is no disagreement on the basic final goal of a communist world order. The conflict may have started largely as a move by Chairman Mao to counter the Soviet de-Stalinization policy, moving on from there to challenge the Soviet leadership of the socialist camp and to follow his vision of perpetual revolution; with the death of Mao, these policies could be quietly abandoned, indeed the change can already be discerned. But there are by now other obstacles in the way of Sino-Soviet reconciliation resulting from competitive policies that have hardened and have created entrenched positions on both sides, hurdles that might be more difficult to remove.

If the United States has "de-recognized" the National Government on Taiwan, and invalidated the security treaty, a Taiwan venture by Peking with Moscow backing could become a rationale for a new Sino-Soviet cooperation. It is in this light that the United States government should weigh the decision on the conditions for normalization of U.S. relations with Peking.

The United States' role as power broker has not increased the confidence of friends and allies. The United States has lost a great deal of credibility and trust because of weakness and retreat. We have to assert most emphatically that we are loyal to our commitments and alliances and that behind these commitments and alliances are principles for which we stand and which are stronger than the doctrinal games of the Marxist-Leninist world. United States relations with both Peking and Taiwan will be a test case of this policy and United States credibility and willingness to stand by commitments.

PEACE STUDY GROUP SUPPORTS ILO

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FRASER. Mr. Speaker, sentiment for the United States to remain in the International Labor Organization has been growing steadily in recent weeks. Just last week, the Commission to Study the Organization of Peace, a group of well-known scholars, civic leaders, and experts dedicated to analyzing problems of international organizations released a statement supporting continued U.S. participation in the International Labor Organization. The commission is chaired by Prof. Louis B. Sohn, Bemis professor of international law, Harvard Law School. The 76 members of the Commission who signed this statement have recommended that President Carter should rescind the 1975 letter of intent to withdraw from the ILO and have offered six reasons why we should work to strengthen ILO from within as a fully participating member. I commend this statement to your attention and insert it in the RECORD:

THE UNITED STATES AND THE INTERNATIONAL LABOR ORGANIZATION

On November 5, 1975, the United States in a letter to the Director-General of the International Labor Organization gave notice of its intention to withdraw from the Organization at the end of two years time—November 1977—which is the time required in the ILO Constitution for notice of intention of withdrawal. The United States can, if it wishes, rescind its notice prior to November 1977, and remain in the Organization. This statement is a review of the situation prompting the withdrawal notice, a comment about what is happening currently, and a summary of reasons why withdrawal at this time would not be in the interests of the United States and would not be consistent

with efforts to strengthen international cooperation on peace and human rights among the nations of the world.

The ILO, founded in 1919 at the urging of the United States and in particular of the leader of the American labor movement, Samuel Gompers, is mandated to promote the social and human rights of workers such as freedom of association and collective bargaining, the elimination of forced labor and discrimination in employment, and the improvement and protection of workers' conditions of employment. Although the United States did not join the ILO until 1934, it has participated in the Organization since that time. An American, David A. Morse, was the ILO's Director-General for over twenty years (from 1948 to 1970); and an American, John McDonald, is today a Deputy Director-General (1974–). The Organization is unique in many ways among international governmental organizations. Its General Conference has a tripartite structure with government holding two seats, management one seat, and labor one seat. As a consequence it is the only organization in the United Nations family which permits non-governmental representatives to participate fully in making policy. The ILO is also unique in the machinery it has developed for drafting international conventions and for monitoring compliance with these conventions.

In recent years, both the U.S. Government and the representatives from labor and management serving on the U.S. delegations, have felt that the tripartite principle was being eroded because so many countries belonging to the ILO did not permit independent labor and management organizations to exist. Moreover, the United States has charged that instead of focusing on its mandate to improve labor standards throughout the world, the ILO has tended to become embroiled in political issues, particularly those concerning the dispute in the Middle East between the Arab States and Israel.

The United States also has objected to what it believes is an abandonment of accepted ILO procedures, whereby fact-finding conciliation machinery has been undermined as many countries seem to have preferred taking votes on issues before such machinery has been allowed to be used. Finally, the United States has accused member countries of selective application of ILO conventions protecting human rights and decent working conditions.

These criticisms of ILO practices and decisions in recent years prompted the U.S. letter of notice of withdrawal. The letter indicated that the United States did not want to withdraw but that it believed that in order to rescind its letter genuine reforms should take place.

During the period from November 1975 until July 1977, a number of actions took place in the ILO, some of which were conciliatory toward the U.S. complaints and some of which were not. With respect to the latter, the United States was especially angered by a majority of countries abstaining on two resolutions, considered important by the United States, at the ILO Conference meeting in June 1977. The large number of abstentions meant that the resolution failed of passage. At this point the U.S. Delegates voiced their conviction that withdrawal was almost inevitable. The U.S. Congress, in passing the appropriations bill covering U.S. contributions to international organizations, made clear that the U.S. contribution to the ILO (which is 25 percent of the organization's budget) had been deliberately omitted, a sign that withdrawal was imminent. President Carter is currently consulting his Cabinet and others on what should be his final decision in the matter. A Cabinet-level Committee, consisting of the Secretaries of Commerce, Labor and State and with representatives from AFL/CIO and the United States Chamber of Commerce, has been set up for this purpose.

Having examined many facets of the working of international organizations over the past thirty-five years, including the ILO, the Commission to Study the Organization of Peace recommends that the President should rescind the letter of his predecessor and make it clear that the United States will continue to work to strengthen the ILO from within as a fully participating member.

The Commission's reasons for this recommendation follow:

1. Of all the international organizations in the UN system, the ILO has the most impressive record of strengthening human and social rights. Over the years it has developed careful and elaborate procedures to investigate claims of violations of human rights, and as a result many countries have abided by ILO recommendations. Countries are required to report to the ILO about their observance of ILO conventions, including those on human rights; and it is this practice, while by no means perfect or universal in its application, that other UN agencies have been encouraged to emulate. If the United States withdraws at this time from the ILO, the effort to strengthen trade union, workers, and other human rights will have suffered a significant blow. Other countries in the ILO, such as Western European democracies, Japan, and India, will find it more difficult to continue their efforts on behalf of human rights without assistance from the United States.

2. The ILO has accomplished a great deal to raise labor standards throughout the world. It is to the interests of the American public, its workers and businesses, that cheap wages, forced labor, and poor working conditions be eliminated ultimately. American workers and companies suffer when they must compete against such bad and inhuman situations. Without the U.S. influence in the ILO, an important force for peaceful and constructive change will have been removed. The United States itself cannot be considered to be a model ILO member in striving to make the organization more effective; although scores of conventions to improve human rights and working conditions have been adopted the United States has only accepted seven, and these dealing only with one subject, maritime conditions.

3. At its Conference in June 1977, the ILO adopted an important strategy to work for upgrading and meeting basic needs—food, shelter and employment—of people in developing countries. All government, labor and employer delegates are pledged to develop and implement a program to this end. Actually, since World War II, significant ILO-administered technical assistance has enabled many workers, businesses, and governments of developing countries to improve their industrial, agricultural, and mining capabilities. The United States is better off pursuing these meritorious objectives in concert with other nations, rather than trying to accomplish them by itself acting outside the international community.

4. The Carter Administration has been in office less than nine months, but has during its tenure thus far adopted a new diplomacy. It wants to work with people and governments of developing countries and to reduce confrontations that have arisen owing to demands by the poorer nations to realize a better share of the world's wealth. It would be unfortunate, perhaps a tragedy, for the United States to leave the ILO before this new diplomacy has had an opportunity to show results. The Congress and the American people, in order to lessen tensions and to minimize confrontations, should encourage the President and his Cabinet and Ambassadors to pursue the new diplomacy vigorously. This requires that the United States remain in the ILO and pursue the new diplomacy there.

5. If the United States leaves the ILO, there is the possibility of adverse consequences, both in the ILO and in other UN bodies. Israel would find itself isolated in the ILO and the criticisms against it in the World Health Organization and UNESCO may increase, thus putting both Israel and the United States in an extremely difficult position in those bodies. To forestall unfortunate decisions in other UN bodies, the United States is more likely to succeed by staying in the ILO than by leaving.

6. Finally, it is not in the spirit of compromise, negotiation, peaceful change, and great-power status for the United States to leave an organization when it finds itself in a minority on a few issues during what thus far is a relatively brief period. The United States would not want other countries to behave in such a manner. We deplore the absence of France and China, for example, from disarmament negotiations. We want the Soviet Union to participate in international organizations, despite the fact that over the years that country has very often found itself in a minority. There is every indication that the vast majority of countries, including the Soviet Union, other communist countries, and Arab States do not want the United States to leave the ILO, and the Western democracies and Japan have strongly urged that the United States remain in the Organization. For these reasons it is imperative that the President's decision be that the United States remain in the International Labor Organization.

The following 76 members of the Commission approved the issuance of this statement. Concurrence means approval of the general principles underlying the Statement, but not necessarily of all the details:

Leonard P. Aries
David A. Baldwin
Abraham Bargman
Kathleen Bell
*Nelson Bengston
*Clarence A. Berdahl
Richard B. Bilder
Donald C. Blaisdell
Roy Blough
Thomas Buergenthal
Harrison Brown
Robert W. C. Brown
J. Michael Cavitt
*Daniel S. Cheever
Carl C. Christol
Francis T. Christy, Jr.
Joseph S. Clark
John R. Coleman
*Norman Cousins
Aaron L. Danzig
Oscar de Lima (1)
Samuel DePalma
*Clark M. Eichelberger
*Luther H. Evans
*Vernon L. Ferwerda
Lawrence S. Finkelstein
Roger Fisher
Annette Baker Fox
Gerard Freund
*Margaret E. Galey
Samuel Goldenberg
*Leland M. Goodrich
*James Frederick Green
*Donald Szantho Harrington
H. Field Haviland, Jr.
John Herz
Philip E. Jacob (2)
Harold K. Jacobson
Anne Hartwell Johnstone
Robert S. Jordon
Donald F. Keys
Walter M. Kotschnig
*Betty Goetz Lall

*Officers and Members of the Executive Committee.

Arthur Larson
Joseph P. Lash
Walter H. C. Laves
David A. Morse
*Raymond D. Nasher
*Leslie Paffrath
James Patton
*Mildred E. Persinger
Jean Picker
Josephine W. Pomerance
Charles C. Price
*Clinton A. Rehling
William R. Roalfe
J. William Robinson
Ruth B. Russell
Oscar Schachter
Enid C. B. Schoettle
*Louis B. Sohn
Eugene Staley
C. Maxwell Stanley
Alonzo T. Stephens
John G. Stoessinger
*Richard N. Swift
Howard Taubenfeld (3)
Paul W. Walter
Edward Wenk, Jr.
*Urban G. Whitaker, Jr.
Francis O. Wilcox
Sidney H. Wilner
Atwood C. Wolf, Jr.
Harris L. Wofford, Jr.
*Richard R. Wood
Christopher Wright

COMMENTS

1. I would omit, because it is irrelevant and not constructive, the last sentence of the Commission's "reason" listed in "2".

2. I support the Statement, but would greatly prefer omitting point #5 which introduces an element of special interest that deters from the otherwise powerful case for global concerns. In fact, it is so slanted as to virtually contradict the other points which emphasize the interests of mankind generally and not of particular countries.

3. I strongly suggest adding specific wording about the very important "equal pay for equal work: and anti-discrimination treaties." The Statement should be more specific in places; most do not really know much about the ILO.

THE MYTH OF ARMS CONTROL

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, in my lifetime I have seen the technological and innovative advances that my grandparents read about in Jules Verne's novels—airplanes, men to the Moon, around the world in much less than 80 days, weapons with which to conquer the world. I am also aware of those innovative actions which the other kinds of scientists—political and social—have introduced into the American society. I am thinking of laissez-faire school curricula which produce children who cannot read, write, or do simple arithmetic calculations without electronic help. I am also thinking of that great political body, the League of Nations, which probably did as much to encourage World War II as any other human activity. And now there is the United Nations with 149 members. This proliferation of city-States which experience difficulty in surviving could lead to the chaos which prevailed in the dark ages.

Of all the nontechnological innovative myths perpetuated on the American people, the one called "arms control by unilateral example" is the most dangerous. SALT I was a step in that direction. SALT II could be worse. Being second best in a one-on-one confrontation means defeat, no matter what else you call it or how you pontificate about it.

Much has been written about learning a lesson from the pitfalls of SALT I, particularly how not to get trapped under a SALT II treaty. I am not certain that the U.S. negotiators understand what is being told them by those outside the administration. So that we might better understand these pitfalls, I request unanimous consent to include after my remarks a significant article from the October 3 issue of the Wall Street Journal entitled, "The Myth of Arms Control." I quote the last sentence:

> With a [arms control] treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

Worrying about the national debt and social programs may be an exercise in futility in the long run, if we cannot defend ourselves. Unilateral arms control, or arms control agreements which cannot be policed and verified, will place us in that position very quickly. I recommend the message carried by the Journal article to my colleagues:

THE MYTH OF ARMS CONTROL

When the first strategic arms agreement was concluded back in 1972, we wrote that for the Soviet Union, the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building." And as that agreement expires today, we look back on five years of a steadily mounting Soviet threat.

During this period of arms control, the Soviet Union expanded its missile submarine force by more than 60%, surging to 909 missiles from 560 while the U.S. remained constant at 656. To facilitate this surge within the terms of the agreement, the Soviets have retired a few land-based missiles, dropping their total to 1,477 from 1,530, while the U.S. remained constant at 1,054. The Soviet long-range bomber force is counted at 135 today compared to 140 five years ago, while the U.S. force has dropped to 441 from 552.

Out of SALT-I, we got the retirement of 53 obsolete Soviet missiles. This is the price we received for agreeing not to exploit the lead in anti-missile technology we held in 1972. Our ABMs have now been deactivated, while the Soviets retain the older system they have around Moscow, and have expanded fixed air-defense missiles to 12,000 from 10,000.

As the agreement expires, further, the Soviet momentum shows anything but signs of slackening. They have only started to replace their land-based missiles with a more modern generation with multiple warheads and high accuracy. Defense Secretary Brown recently revealed that they have already started to develop four even newer missiles as follow-ons for the generation now going on line.

In addition they are deploying the mobile SS-20, a modern ballistic missile with ranges that threaten our European allies. The SS-20 is the top two stages of the intercontinental SS-16 and could easily be upgraded into a mobile intercontinental missile. The Soviets have upgraded their conventional forces in Europe and their navy. They are steadily deploying their new Backfire bomber, insisting it is not a strategic weapon though it could reach the U.S. In any event, the Backfire is a potent threat to Europe.

The U.S. force shows nothing like the same across-the-board surge. Measured in constant dollars, the U.S. defense effort fell through most of the five-year period, and has only now started to revive. Still, its force was improved in significant ways during the interim agreement. The most important development was the introduction of more multiple warheads for both land and sea forces. This has allowed the U.S. to retain a sizeable lead. 11,000 to 3,800, in deliverable warheads. This advantage is so far only partly offset by the larger size of Soviet missiles and warheads, but it will shrink as multiple warheads are installed on more Soviet missiles.

The U.S. also retains several technological advantages. It continues to lead in warhead accuracy. It is building its new Trident submarine, though the B1 bomber has been killed. The U.S. is developing a new mobile intercontinental missile, the MX. Its most promising development is the subsonic but highly accurate cruise missile. The cruise missile will be needed if the U.S. bomber fleet ever has to penetrate the heavy Soviet air defense. It will be even more important as a tactical weapon, with either nuclear or conventional warheads. In particular the cruise missile is the answer to the threat of the SS-20 and the Backfire in the European theater.

This, then, is the balance at the expiration of SALT-I's interim agreement on offensive weapons: the defensive treaty against ABMs goes on in perpetuity. However optimistically or pessimistically one judges the current balance, it is a balance stuck by the fears and ambitions, resources and will, of the two sides. It is hard to discern where SALT-I made more than a marginal difference, except perhaps in delaying U.S. recognition of the true magnitude of the Soviet arms-building thrust.

This experience begs to be recognized as we negotiate in SALT-II. In retrospect, the 1972 negotiations are best seen as a Soviet drive to stop U.S. ABM technology. The negotiations today are best seen as a Soviet drive to stop U.S. cruise missile technology. If they can constrain cruise missiles through SALT, this affects the cost-benefit calculations for the entire cruise missile program. If the constraints are tight enough the entire program could die, as the ABM did.

The first is the European theater. The cruise missile is the key to reinvigorating the NATO alliance, though other steps are also needed. Under the treaty the Soviets want, land-based cruise missiles would be limited to a range of 600 kilometers, and we could not circumvent this by selling the technology to our allies. But the SS-20 would not be limited, though its range is some 4,000 kilometers. Our allies' subsonic weapons could not reach Russia, though they will be under the guns of ballistic missiles based there. Are we then to ask them to do more for the joint NATO effort?

The second problem is the impossibility of detecting Soviet cheating on any cruise-missile limits. We have had enough trouble monitoring their behavior under the SALT-I treaty, which concerned large and mostly stationary objects. The cruise missile is small and mobile. Range limits are particularly ludicrous, since range essentially depends on how much gas you put in the tank. The Soviets have large numbers of cruise missiles already deployed, and there will be no way to tell if the crucial guidance technology is installed in them. If a treaty limits the cruise missile, the only safe assumption is that the Soviets will have the weapon and we will not.

Yet such a crippling treaty, to judge from our experience in watching these negotiations, is by no means out of the question. Indeed, our experience makes us especially nervous when we hear optimistic talk about SALT from a President who badly needs a foreign-policy spectacular to obscure domestic political reverses.

There is driving force, as well, in the myth that arms control is the only route to safety in a nuclear world. With the offensive-arms agreement expiring today, the world will be no more or less dangerous tomorrow. Safety is maintained by a stable military balance, which treaties can impede as well as enhance. As we read the lessons of SALT-I, a safe military balance will depend only marginally on negotiated agreements. With a treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EDWARDS of California. Mr. Speaker, the case of the Wilmington 10 continues to weigh heavily on the conscience of this Nation. Americans continue to be outraged that a black minister and eight black high school students could be sentenced to a total of 282 years in prison for allegedly burning a white owned grocery store in Wilmington, N.C. That outrage is compounded by the fact that the primary witnesses in the case for the prosecution have admitted to committing perjury in exchange for gifts and leniency promised by the assistant district attorney.

Recently Vernon Jordan, Jr. of the National Urban League recapped these events in the Raleigh News and Observer. His story highlights the human rights issues involved in the case of the Wilmington 10. I commend Mr. Jordan's account to my colleagues:

HUMAN RIGHTS ISSUE CITED—ARGUMENT CONTINUES FOR FREEING "WILMINGTON 10"

(By Vernon E. Jordan, Jr.)

NEW YORK.—While the United States government maintains pressure on foreign countries that violate human rights and imprison people on politically-inspired, trumped-up charges, the Wilmington 10 are still behind bars.

Their continued presence in North Carolina's jails makes a mockery of our human rights pretensions. Our country has been forced onto the defensive by penny ante dictators who justify their own repressions by pointing to the fact that the Wilmington 10 have been sentenced to nearly 300 years' imprisonment under circumstances that smell of rigged trials and racial vengeance.

The story of the Wilmington 10 goes back to 1970, when court-ordered desegregation of New Hanover County's school system led to escalating racial tensions generated by diehards fighting the entrance of blacks into all-white schools.

The mounting troubles led to black boycotts and demonstrations and culminated in a full-scale riot in Wilmington in which two people died and millions of dollars of property was damaged. In March, 1972, about a year after the riot, the police arrested a number of people, including Reverend Benjamin Chavis, a civil rights worker sent to the area at the request of local blacks by the Commission for Racial Justice of the United Church of Christ.

Reverend Chavis came as a peacemaker, trying to cool a potentially dangerous situation, but local segregationists tagged him a troublemaker and decided to get him. Chavis and his co-defendants were charged with burning a store and conspiring to assault officers during the riots.

Their trial was shot full of errors—defense lawyers appealed on the basis of some 2,800 trial errors that were found. Some were quite important—errors in the jury selection process that resulted in a racially-unbalanced jury, cover-ups of evidence, hiding facts from both defense and jurors, and concealing favors to prosecution witnesses.

The jurors never knew that key witnesses were under criminal charges themselves, a major point since knowledge of that fact would have led jurors to consider whether they may be perjuring themselves to save their own necks.

After the conviction of the Wilmington 10, North Carolina courts knocked down their appeals. But in the meantime the prosecution's star witnesses came forward with stories about how their testimonies had been bought.

So the original trial stands revealed as a farce that violated the constitutional rights of Chavis and his co-defendants.

This is not just a down-home affair; it's something that concerns national integrity and the international drive for human rights.

AIR BAG ISSUE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RAHALL. Mr. Speaker, I would like to bring to the attention of my colleagues some information that I feel brings the controversial air bag issue into its proper perspective.

Although I am not a member of the Interstate and Foreign Commerce Committee, I wholeheartedly support Secretary Adams' June 30 decision regarding passive restraint systems. The fact that passive restraint systems will not only save lives, but they will drastically reduce maiming and crippling accidents, is reason enough to support this issue.

Opponents of the air bag argue that "big government" is forcing an unwanted device on the American consumer. However, "big government" has been responsible for life-preserving, life-saving devices such as pasturized milk, fire codes in buildings, collapsible steering columns, and safety plate glass. Some will argue that "free people have the right to choose to do foolish things even if it is harmful to themselves," and I wholeheartedly agree that free people should have the right to do foolish things—but only if it is harmful only to themselves.

Also, much has been said about the cost of air bags. However, it has been estimated that air bag systems would cost from $113—according to National Highway Administration figures—to $200—according to the automobile industry's volume production figures. Neither estimate seems extravagant when weighed against the thousands of lives that will be saved, and the serious injuries that will be reduced. In addition, insurance industry representatives have publicly testified that expected savings on bodily injury premiums will ultimately result in lower insurance rates.

Specifically, I want to call to the attention of my colleagues the following information that has been prepared by Allied Chemical Corp., the world's largest producer of seat belts. The following information succinctly and briefly answers many questions which have been raised as a result of the misinformation recently circulating in the Congress. I cannot state the potential benefits of air bags better by saying that the time and attention my colleagues give to this matter now may someday save their lives.

The material follows:

QUESTIONS AND ANSWERS

1. Q: Have seat belts been an effective safety device in the U.S.?

A: Seat belts, when used, are effective; but the majority of the citizens of our country choose not to wear them.

2. Q: What percentage of people uses seat belts?

A: 19% only. Take a look when you drive, starting with yourself and those riding in your car.

3. Q: Do laws mandating seat belt use in other countries work?

A: Laws mandating seat belt use do work in other countries; but usage rates vary considerably, depending on degree of enforcement.

4. Q: Is a passive restraint system more effective from a safety standpoint than an active restraint system such as a seat belt?

A: Laboratory tests prove unquestionably that air bags provide far better protection than seat belts in frontal crashes, where 55% of fatalities and serious injuries occur.

5. Q: Have air bags been tested?

A: Air bags have been tested thoroughly by suppliers and car companies. For example, Allied Chemical has conducted more than 8,000 tests on inflators and air bags and more than 3,000 tests on crash detectors.

6. Q: What will air bags cost?

A: In volume production, front seat air bags will cost the consumer anywhere from $198 to $250, according to the auto companies; $113 according to NHTSA.

7. Q: What is the replacement cost of an air bag?

A: The air bag system is a highly reliable device which must be replaced totally after deployment, resulting in a replacement cost equal to the initial cost plus bump shop labor to remove the used system and to install the new system, probably doubling the initial cost.

8. Q: Will insurance costs rise as a result of air bags?

A: The insurance industry has publicly stated that savings on bodily injury premiums over the life of a car would more than pay for the air bag insurance costs.

9. Q: How long does an air bag last in a vehicle before it needs to be repaired?

A: Air bags are designed, built and tested to last the lifetime of the vehicle. In addition, in case something does go wrong, a diagnostic system will indicate the air bag system should be checked.

10. Q: Who can repair a defective air bag system?

A: Any mechanic with a testing device, and training, can determine which part of the system is at fault, remove the faulty element and replace it in the vehicle, just as is done with numerous other devices in the vehicles of today.

11. Q: How fast does an air bag inflate?

A: An air bag inflates in anywhere from thirty to eighty thousandths of a second, depending primarily on the size of the bag. Faster than you can blink your eye.

12. Q. Does the sound of an air bag inflating cause damage to the ear?

A: None of the real world air bag inflations has caused any known ear damage to the occupants of the vehicles involved. In fact, most people do not even remember hearing the air bag inflate.

13. Q: What happens to a child standing in the front seat when air bag inflates?

A: Special bag folding techniques can be utilized to minimize the adverse effect on a standing child to the point that, in dummy crash simulations, the deceleration on the child dummy is no worse than in a 30 m.p.h. barrier crash which, with an air bag, is very survivable.

14. Q: Is the air bag effective in double impact crashes?

A: Laboratory tests show that air bags do work in double impact situations; e.g., a vehicle strikes a parked vehicle, the air bag inflates, and the vehicle continues forward and impacts a barrier.

15. Q: Is the air bag effective in a rollover accident?

A: The rule issued by NHTSA requires that the test dummy remain in the vehicle during a rollover accident. This is best accomplished by using a lap belt. However, if the occupants are unrestrained (the majority are), air bags should provide improved protection as the occupants bounce around the interior of the vehicle.

16. Q: Does the air bag work on a side impact collision?

A: If the forward deceleration resulting from a side impact is sufficient to cause the crash detector to fire the air bag system, the occupants of the vehicle will move forward and be protected by the air bags.

17. Q: What's the story on sodium azide?

A: Sodium azide, in its raw form, is toxic but is not explosive. In the air bag system, the azide is completely sealed in an inflator housing. In a crash, the azide generates inert harmless nitrogen gas to fill the bag. When the vehicle is junked, the air bag should be fired or removed from the vehicle for controlled disposal.

18. Q: Is there an alternative to sodium azide?

A: Allied Chemical has a viable, tested, proven alternative to sodium azide; i.e., a hybrid inflator which uses a combination of stored inert argon gas and a small amount of non-azide propellant to inflate the bag.

19. Q: Would any gases or chemicals in any type of air bag inflator be accessible to the motorist?

A: No. Regardless of what kind of propellant is ultimately used, it will be in a completely sealed container and inaccessible.

20. Q: Should government force the driving public to buy safety devices against its will?

A: This is a matter of philosophy, but air bags are really no different than all other mandated passive safety materials and devices already in use in cars, such as the collapsible steering column, side door beams, safety windshield glass, recessed interior knobs, improved brakes, tires and so forth.

AGRICULTURAL TRADE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MATHIS. Mr. Speaker, on October 12, the Subcommittee on Oilseeds and Rice, which I chair, and the Subcommittee on Livestock and Grains, chaired by Congressman POAGE, will hold a hearing on problems and prospects for increased foreign sales of rice, soybeans, peanuts, grains, and livestock products, which now account for about two-thirds of our agricultural exports or 17 percent of total U.S. exports. Secretary of Agriculture Bob Bergland and Ambassador Robert Strauss, the special trade representative, are expected to appear to brief the subcommittees on international trade issues affecting these commodities. Various industry representatives have also agreed to testify.

With the United States now experiencing a record trade deficit and facing a continued devaluation of the dollar, the future of agricultural exports is an especially timely issue. Secretary Bergland outlined the importance of U.S. farm exports during a recent speech to the Agricultural Leaders' Trade Conference, sponsored by the National Council of Farmer Cooperatives. Furthermore, the New York Times on October 4 published an article entitled "Farm Exports: A Decline Likely After Record Year," which quotes the Department of Agriculture's new General Sales Manager, Dr. Kelly Harrison, as saying "We are concerned about the probable decline in agricultural trade."

Because agricultural trade is crucial to the well-being of the American economy, I am including the remarks of Secretary Bergland and the Times article in the RECORD:

REMARKS BY SECRETARY OF AGRICULTURE BOB BERGLAND

American agriculture and agricultural trade are playing a larger role than ever before in this country's economic life. The nonfarm public is more aware of agriculture than it has ever been. But too often this awareness stems from the wrong cause—a negative impact from such things as rising food prices and food-shortage scares in past years, cost figures on the new farm program bandied about, and publicity about milk and other marketing orders—things that farmers understand but the general public does not.

The public is aware that farm exports are good for agriculture and good for the nation, but few know why. The positive side needs to be told and retold by everyone of us who is interested in the American farmer.

Agriculture is a bulwark of the U.S. economy. Our 2.8 million farms constitute one-fifth of all the private business in this nation. Farmers this year will spend about $85 billion on production expenses and another $40 billion, earned on and off the farm, on family living. They operate more than 4 billion tractors and about 3 million trucks. They maintain assets of around $600 billion and pay interest on more than $90 billion in loans. The production, processing and distribution of food and fiber accounts for one-fifth of the U.S. GNP, and provides jobs for 15 million people—more than 15 percent of civilian workers.

Exports have become basic to U.S. farm growth and income. Farmers harvested 337 million acres last year—the most in two decades, and about 100 million of those acres produced for export. That is double the number in the late 1950's and half again the acreage for export late in the 1960's.

Exports this year will total about 100 million tons—double the volume of the middle 1960's. U.S. farmers have been exporting one-half or more of their wheat, soybeans and cattle hides; one-third of their cotton and tobacco; a fourth of their feed grains, and sizeable shares of many other commodities.

Farm export value this fiscal year is expected to be a record $24 billion. This is the fourth consecutive year of foreign shipments above $21 billion. It is triple the value of those exports just five years ago. Exports alone now bring in about one-fifth of farm income and generate more than one million jobs, on and off the farm.

Agriculture has contributed a surplus to the U.S. trade account every year since 1960. This has become of paramount importance since our petroleum import bill shot up after the oil embargo of 1973. It takes foreign exchange to pay for those imports, and agricultural exports have earned more than $20 billion in foreign exchange every year since the embargo. Agriculture's trade surplus—its positive contribution to the balance of payments—has been near or over $12 billion in each of those post-embargo years. (This year it will dip to around $10 billion, largely because of higher-priced coffee and cocoa imports.)

As U.S. agriculture has become more dependent on foreign markets, foreign countries have become more dependent on U.S. agriculture. In recent years, U.S. farmers have supplied about 16 percent of the value of agricultural commodities that move in world trade, compared with 12 percent in 1971. They supply about half the world grain exports, a third of the cotton, most of the soybeans and a fifth or more of the vegetable oils. U.S. food grains are important in sustaining life in developing countries, and U.S. feed grains support livestock production in developed nations as consumers strive to improve their diets.

There is no magic to the rapid rise in U.S. farm exports over the past five years. You are familiar with the story. Rising populations and rising incomes worldwide created demand for more food. Crop shortfalls in major regions dropped production below that demand. Here at home, more competitive pricing policies for U.S. farm products starting in the mid-1960's pointed agriculture toward the foreign market. When the big export opportunity came, U.S. farmers seized it, putting all their resources to work filling the gap between global supply and demand.

The grain situation has changed. Shortfalls gave way to record world grain production last year and what we estimate to be production not far short of that record this year. World grain stocks have increased by 45 percent the past two years, with almost 60 percent of the increase in the United States.

The trade situation has changed. Protectionism is rising. Oil-poor importers cut back on food imports to try to save foreign exchange. Food exporters distort trade to unload surpluses.

A sustained, active effort is required to keep farm exports moving, and the Administration has started such an effort. The domestic farm program is oriented to world markets; we have new flexibility in the use of P.L. 480; we are examining new uses for CCC credit, and are reorienting the total market development program toward countries and regions of greatest potential. At the same time, and most important, we have moved the Multi-lateral Trade Negotiations off dead center. You can't sell a product if you can't get it into a market on a competitive basis.

Freer agricultural trade is in the self-interest of American agriculture, for reasons I have described. But it is also in the self-interest of everyone, everywhere. The reason is that while the grain and trade situations have changed in two years, these things have not:

(1) National economies are in reality a single, global economy in which food is crucial to economic and political stability, as well as basic to human survival.

(2) No nation today can meet the expec-

tations of its people on its own—we are all interdependent on this planet.

(3) Short of conquest, trade is the only avenue by which these expectations can be fulfilled.

FARM EXPORTS: A DECLINE LIKELY AFTER RECORD YEAR

(By Thomas E. Mullaney)

WASHINGTON.—Almost obscured in the gloom that has enshrouded the nation's foreign-trade picture this year has been another outstanding performance by American agricultural exports. In the fiscal year ended last Friday, the value of this country's shipments of farm products to markets abroad reached a record level.

The flow, which exceeded official expectations of a year ago by about 5½ percent; has helped maintain the United States' favorable agricultural balance as a significant offset to the seriously negative figures resulting from other types of trade, notably high-cost petroleum imports. The $10 billion surplus for agriculture in the last fiscal year has helped to limit the overall American trade deficit, estimated at more than $25 billion for calendar 1977.

While Government officials have been heartened by the sustained strength of the agricultural sector through a fifth straight year, they are concerned about a possible decline in the value of export volume in the current fiscal year. The prospect is that the dollar value of American farm exports will drop by 5 to 10 percent. That could mean a significant narrowing of the agricultural surplus since the value of imported crops, which rose by $3.5 billion, or 33 percent, in the last year is expected to climb further in the next 12 months.

One new element that might enter the picture is the possibility of larger purchases of American wheat and corn by the Soviet Union than originally expected. There are trade reports that such buying has begun, based on a reduced estimate of this year's Soviet grain crop.

"Of course, we are concerned about the probable decline in agricultural trade," said Dr. Kelley M. Harrison, the nation's new general sales manager for agricultural products at the Agriculture Department in a recent interview. "Our resources are limited, but we'll do everything we can to try to minimize the decline."

He said that export-promotion efforts would be pursued as vigorously as possible through advertising, public relations and trade-fair promotions under the small $13 million budget the Agriculture Department has for such purposes, plus the similar amount put up by the private agricultural sector. The Government will also continue to push exports under the 1954 statute that set up Public Law 480, which allows the department to finance foreign Government purchases of American farm products with long-term concessionary-loans.

"We also have the Commodity Credit Corporation export sales credit program, a short-term plan under which the C.C.C. borrows money and they relends it to foreign buyers for the purchase of United States farm commodities," Dr. Harrison said.

"In the last year, our budget for that was $1 billion, and we'll use it all," he cautioned. "We never lost money on that financing in all the years we've had the program. Very shortly, we will request approval for a sizable increase in that borrowing authority."

Dr. Harrison, who recently left an agricultural economics professorship at Michigan State University to assume responsibility for the promotion and development of the nation's export potential in agricultural products, did not indicate the size of the additional borrowing ability he would like for the C.C.C. program. However, reports indicate the department's request is expected to be ready within the next few weeks.

What the Agriculture Department does not intend to do, several officials indicated, is to seek any reinstatement of the old export-subsidy program. The controversial program was ended in 1972 after many years of operation in which large amounts of direct payments—often as high as 50 cents a bushel on wheat and sometimes even higher for some products—were granted to producers to expand export activity. The peak year for payments was fiscal 1962, when $655.7 million was granted in subsidies, mostly for wheat.

An effort was recently made by one large grower group to seek reinstatement of the subsidy program, but the Agriculture Department, happily, wants to avoid that route. It would prefer to see surplus problems resolved by better management of world commodity stocks to avoid big price swings rather than through subsidies to make up for income losses to farmers from declining prices.

Wheat surpluses have built up the last two years under the influence of abundant crops and favorable weather in other growing areas of the world, which helped to moderate demand. It is estimated that the surplus of what equals 14 percent of world consumption.

Meanwhile, the export preformance by American agriculture this year has been highly surprising in the face of considerable difficulties.

The value of American exports of a wide range of farm commodities—particularly soybeans, cotton, animal feeds, hides, rice, vegetables, fats, poultry and dairy products—has increased by $1.25 billion in the last 12 months to a record $24 billion.

Meanwhile, shipments of wheat to foreign sources have dropped 26 percent in volume and 41 percent in value because of the vastly improved world supply picture and the substantial price drop.

As for the new fiscal year, the outcome will depend on things such as the 1977 crop harvests, the price impact of new farm policies in this country, the competitive actions of other producing nations, the outcome of discussions at the trade negotiations in Geneva and the general level of prosperity in both the industrialized and developing worlds.

AMERICAN CITIZENS BEING DETAINED IN SOVIET UNION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MIKVA. Mr. Speaker, today is the opening of the Belgrade Conference. It is, therefore, a particularly appropriate time to bring to the attention of Congress and the American people the plight of two American citizens being detained in the Soviet Union. Abe Stolar and his son, along with Mr. Stolar's wife, a Russian national, are currently being subjected to punishment by bureaucratic redtape tactics that the Russian Government is using with increasing frequency. Mr. Stolar and his family would like to leave Russia and emigrate to Israel. Indeed, he obtained permission to do so at one time. That permission was revoked under plainly false pretenses just before the Stolar family was to depart, and has not been restored.

I am inserting in the CONGRESSIONAL RECORD, a copy of a letter which Members of Congress have cosigned to protest the conduct of the Soviet authorities. I urge my colleagues to carefully examine this case. I am convinced that pressure exerted by this body will help to stop the violations of the human rights of Mr. Stolar and his family, as well as so many others living in the Soviet Union:

WASHINGTON, D.C.,
September 20, 1977.

His Excellency LEONID I. BREZHNEV,
Chairman, Presidium of the Supreme Soviet of the U.S.S.R., Moscow, U.S.S.R.

DEAR CHAIRMAN BREZHNEV: We are writing to express our deep concern for the welfare of two American citizens, Mr. Abe Stolar and his son, Michael, and Mr. Stolar's wife, Mrs. Gita Stolar, a Soviet citizen. The Stolar family resides at Prospekt Vernadskogo 117, Apartment 151, Moscow, RSFSR, USSR.

Mr. Stolar was born in Chicago, Illinois, and his son, Michael, holds derivative American citizenship. Both Mr. Stolar and Michael hold valid American passports.

On May 27, 1975, the Stolar family was issued exit visas for Israel, where they hoped to join Mr. Stolar's sister, who is his only living relative. On June 19, 1975, the Stolar family was detained at the airport as they prepared to depart for Vienna. They were informed that they would be permitted to leave on the next flight, but instead, their exit visas were revoked by the Office of Visas and Emigration. Officials of OVIR informed the Stolar family that they would not be permitted to leave the Soviet Union because of Mrs. Stolar's alleged knowledge of state secrets. The Stolars know of no time when Mrs. Stolar had access to classified documents, and she has never had a security clearance.

The government of the USSR considers the Stolar family to be Soviet citizens since Soviet law does not recognize dual citizenship. However, Mr. and Mrs. Stolar had great difficulty obtaining state pension checks and were told they had no right to them because they were foreign nationals, yet when they request exit visas as foreigners, they are told they are Soviet citizens.

We would be very grateful if you could use your good offices to determine when exit visas might be issued to the Stolar family. We would be particularly pleased if visas could be issued prior to the opening of the Belgrade Conference. Please express our strong interest and concern in this regard to your government.

Sincerely,

Abner J. Mikva, Max Baucus, James J. Blanchard, William M. Brodhead, Philip Burton, William R. Cotter, Christopher J. Dodd, Don Edwards, Robert F. Drinan, Mickey Edwards, Joshua Eilberg, Millicent Fenwick, Donald M. Fraser, Bill Frenzel, and Willis D. Gradison, Jr.

Elizabeth Holtzman, Jack F. Kemp, Edward I. Koch, John Krebs, Raymond F. Lederer, Parren J. Mitchell, Joe Moakley, Richard L. Ottinger, Melvin Price, William Lehman, Charles B. Rangel, Benjamin S. Rosenthal, Paul Simon, Stephen J. Solarz, Frank Thompson, Jr., Henry A. Waxman, Charles Wilson (Texas), Leo C. Zeferetti, Bill Archer, and Gladys Noon Spellman.

NATIONAL WATER RESOURCE POLICY

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. JOHNSON of Colorado. Mr. Speaker, once again I wish to bring to the attention of my colleagues a sampling

of reaction to the administration's current review of national water policy. The concerns of those of us who live in the West, where water is such a precious commodity, are well stated in the remarks of Mr. Robert N. Miller, district attorney for the 19th Judicial District in the State of Colorado. The statement follows:

STATEMENT BY ROBERT N. MILLER

I am Bob Miller, District Attorney for Colorado's Nineteenth Judicial District which covers a significant part of one of the finest, most productive agricultural areas of the United States—the South Platte River basin.

The strong economic base here, diversified with international industrial plants, institutions of higher education, commercial and recreational opportunities, affords its residents a fine way of life. This way of life would be impossible without the aggressive development and conscientious conservation of water.

I see many of Colorado's policies and laws reflected in the Option Papers in the July 15, 1977, Federal Register. For instance, Colorado was a leader in recognizing the relationship between surface flows and ground water. Colorado has enacted minimum stream flow legislation. Anti-waste laws have been with Colorado since statehood and the state's concern about water quality is shown by the activities of the Colorado Water Quality Control Commission. I believe the Issue and Option Papers are on the right track when they follow the Colorado pattern.

The earliest water resource development here was done entirely by individual effort and private enterprise. It was not until the Colorado Big Thompson Project of the 1930's/1950's that Federal assistance and cooperation was used. And what a fine plan to study: A reliable source of irrigation water for 750,000 acres, a hydro-electric power system generating 759 million kilowatt hours annually, ten major reservoirs affording multipurpose recreational uses and it is financially solvent! Environmentalists should take note: the CBT project guaranteed a minimum stream flow on the upper Colorado River 30 years before it became "fashionable" to demand such.

Some of the July 15, 1977, Issue and Option Papers were drafted without knowledge of the Colorado water story. Had the writers been familiar with this system, some of the silly questions would not have been made.

For instance, there is no need to promote Federal condemnation of water rights and auction them to the highest bidder. Colorado water rights are property rights which can be (and are) sold and transferred readily. The development of new water rights in Colorado may be curtailed because of over-appropriation of the existing water supplies, but this is not what is stopping the energy development here. Existing water rights can be purchased and Colorado water law is flexible enough to accommodate changes of water use. Many Colorado Water Court decrees have been entered in recent years which recognize changes in existing water rights.

And the notion that water is too cheap is silly because it is out-of-date. Industry and municipalities have been into the water market actively. Costs of pumping, transporting and storing water all have risen sharply. In the last seven years since I became the District Attorney, the market value of water shares in the Colorado Big Thompson Project has quadrupled.

Which raises some serious questions about the Federal Reserved Rights Paper in the July 25, 1977, Federal Register. The western economy, certainly Colorado's strong economy, hinges on water availability. This economy did not develop overnight. A century of far-sighted planning, hard work, ingenious development, and cooperation with the Federal government and other states has led to Colorado's present water system. The recognition of any significant Federal Reserved Rights doctrine at this date (historically) could be disastrous to our economy and our fine way of life.

By Congressional approval of the many interstate water compacts; by federal cooperation on water projects based on state water rights; and by Federal inaction over nearly 100 years in developing any supposed reserved water rights; the Federal government should be legally—and certainly morally—estopped from claiming them now to the detriment of the citizens and the states. Colorado has conscientiously worked at developing and formalizing, through adjudication, a water rights system. In an analogy to my work in criminal law, the Federal government is guilty of an illegal "seizure" if it takes Colorado's water system with Reserved Rights.

Yes, there should be a National Water policy. I suggest you follow Colorado's lead and propose the fine aspects of its system as a plan for consideration in other states with regional coordination through the river basin commissions.

SOUTH AFRICA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, our policy toward South Africa continues to greatly concern me. The recent recognition of Vietnam adds another anti-U.S. vote in the United Nations, while our friends dwindle. South Africa is, despite our heavy-handed insistence in interfering in its domestic affairs and our refusal to extend recognition until it conforms to our idealistic standards of equality, one of those friends.

Far more important is South Africa's strategic location at the tip of Africa, dominating passage between the Atlantic and Indian Oceans, a route over which is carried the preponderance of the Free World's oil. To emphasize South Africa's value to us. I wish to include a letter to President Carter from one of my constituents, Charles D. Doerr, who warns that U.S. security requirements will be impaired by the continuation of our present attitude toward South Africa.

The letter follows:

QUANDARIES-EXPLORATION-DECISIONS,
La Jolla, Calif., August 17, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As a civic group concerned about the national defense and security of our United States of America, we wish to express our deep concern about the deteriorating situation on the southern African continent. We therefore request your careful consideration of the following statement as a matter of urgency.

Success in carrying out your oath of office to "preserve, protect and defend the Constitution of the United States" obviously requires that the preservation of our independence, territorial integrity, and existing social, political, and economic systems constitute the primary and overriding objective governing our relations with all foreign nations, whatever their ideological or political orientation.

Our free institutions and our very survival as a nation are threatened by the spread of an alien political, social, and economic Marxist-Leninist philosophy, advocated and supported worldwide by the aggressive military and political leadership of Soviet Russia. These leaders, in common with their predecessors, have never deviated one iota from their declared purpose to extend their system to all the countries of the world.

In recognition of the community of interest among other nations similarly threatened, the United States has entered into various mutual security arrangements, foremost of which is the North Atlantic Treaty. In common with the United States, the European members of NATO depend for their economic well-being and military security on oil from the Persian Gulf area, most of which must be transported by sea, currently around the continent of Africa. Our own economy, the foundation and source of our military capabilities, is heavily dependent, not only on Persian Gulf oil but also on the importation of crtical raw materials from the continent of Africa. Soviet appreciation of this fact is evidenced by their continuing—and so far successful—efforts to set up Marxist-Leninist regimes throughout Southern Africa in order to obtain bases for present and future military operations which will substantially augment their present capability to interdict this flow of materials critical to the survival of the West.

The Republic of South Africa provides the optimum strategically-based area from which the sea lanes whose focal point is the Cape of Good Hope can be protected. It possesses well-trained and capable military forces suited to this purpose. Further, the Republic is ideologically oriented toward the NATO nations, sharing with them a common heritage and an economic system based on private ownership of property and free enterprise. It is an industrialized nation, possessing important deposits of critical materials required to sustain the economy of the United States. Under the present government of the Republic, these materials would not be subject to preemption or denial in emergency under pressure from the Soviet Union—in marked contrast to the situation in other African countries.

It is true the the Republic pursues policies with respect to its "non-white" populations which are disapproved of by your Administration and by a segment of our population. This has resulted in the application of diplomatic, political, and economic pressures intended to bring about, in the name of "majority rule", a transfer of political power in the Republic and a radical transformation of South African society.

We regard these actions as flagrantly discriminatory and most unwise.

They are discriminatory because an overwhelming majority of the nations with which the United States maintains friendly relations or formal military security agreements—including most black-ruled African countries—do not grant any meaningful political liberties to their peoples, being under dictatorships or single-party political systems. We make no effort to interfere with the internal affairs of these countries. Our policies toward the Republic contrast sharply with those toward the other countries which fail to meet our standards of democratic government, including those under Marxist-Leninist regimes which pose a potential direct threat to the security of the United States.

We deem these policies unwise because they obviously are based primarily on domestic political considerations rather than on enlightened self-interest regarding the vital requirements of our national security.

We therefore urge you to take the lead in reorienting the political and economic policies of the United States toward the Republic

of South Africa so that they support, rather than undermine, the obvious and compelling security requirements of the United States.

Speaking for the members of QED, I am,

Sincerely,

CHARLES D. DOERR,
Chairman.

OIL CARGO PREFERENCE BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McCLOSKEY. Mr. Speaker, yesterday, Merchant Marine Chairman JACK MURPHY and I were privileged to debate the oil cargo preference bill before Members of the freshman and sophomore classes of the 95th Congress. Unfortunately, much of our debate came down to differing allegations of fact by Mr. MURPHY and myself. I think therefore it may be useful to examine one by one, some of the issues on which Mr. MURPHY and I disagree.

When I urged the necessity of subpenaing James Barker, president of the National Maritime Council—because he was named in a Federal indictment as having allegedly bribed former Committee Chairman Garmatz—Mr. MURPHY responded that Mr. Garmatz' alleged offense was one solely related to misuse of campaign funds and violation of the Federal election law.

Here, as in many of our disagreements, Chairman MURPHY is just plain dead wrong. The indictment of Chairman Garmatz was filed on August 1, 1977, in the U.S. District Court of Maryland, criminal action No. H-770379, and refers specifically to the bribery statute, 18 U.S.C. 201(g). Paragraphs 12 and 13 of the indictment read as follows:

12. From at least as early as September, 1971 and continuing thereafter until April, 1973, the exact dates being to the Grand Jury unknown, in the State and District of Maryland and elsewhere, the defendant Edward A. Garmatz together with other persons, did knowingly, willfully and unlawfully conspire, combine, confederate and agree to commit certain offenses against the United States in violation of Title 18, United States Code, Sections 201(g), that is:

A. Directly and indirectly, to ask, demand, exact, solicit, seek, accept, receive, and agree to receive a thing of value for the use and benefit of the defendant Edward A. Garmatz, being a public official of the United States, that is a member of the House of Representatives, otherwise than as provided by law for the proper discharge of his official duties, because of official acts to be performed by him, to wit: his sponsorship, support, vote, and decision on certain passenger ship legislation which might at any time be pending before him in his official capacity and in his position of trust and profit.

13. It was further a part of said conspiracy that on or about November, 1971, James R. Barker caused $5,000.00 in United States currency to be transported from New York, New York, to Washington, D.C. and delivered to Robert McElroy for the use and benefit of the defendant Edward A. Garmatz.

If we are to remove the cloud of public suspicion that understandably relates Congress to charges of bribery by maritime industry leaders, I hope the House will agree that we should not consider the cargo preference bill until Mr. Barker is required to appear and testify as requested by the Merchant Marine Committee.

The full indictment is here inserted in the RECORD.

[U.S. District Court, District of Maryland, Criminal No. H-770379, title 18, United States Code, Section 371]

UNITED STATES OF AMERICA VERSUS EDWARD A. GARMATZ

The Grand Jury in and for the District of Maryland, sitting in Baltimore, charges that:

1. At all times mentioned in this Indictment up to and including December 31, 1972, the defendant Edward A. Garmatz, was a United States Congressman and Chairman of the House Merchant Marine and Fisheries Committee and was a public official, as that term is defined in Title 18, United States Code, Section 210(a).

2. At all times mentioned in this Indictment Moore McCormack Lines, Inc. was a Delaware Corporation. Up to and including August 4 and August 21, 1972, respectively, it owned two American flag passenger vessels, the *S.S. Brazil* and the *S.S. Argentina*, which were constructed in 1958 with subsidies from the United States Government, under the terms of the Merchant Marine Act of 1936.

3. At all times mentioned in this Indictment, the Merchant Marine Act of 1936 required that vessels built with construction subsidies remain documented and registered under the laws of the United States.

4. At all times mentioned in this Indictment, James R. Barker was President of Moore McCormack Lines, Inc.

5. At all times mentioned in this Indictment, up to and including February 5, 1973, United States Lines, Inc. was a Delaware corporation that owned the *S.S. United States*, an American flag passenger vessel, which was constructed in 1952 with subsidies from the United States Government under the terms of the Merchant Marine Act of 1936.

6. At all times mentioned in this Indictment, Edward Heine was the President and Chief Executive Officer of United States Lines, Inc.

7. At all times mentioned in this Indictment, Robert McElroy was the Chief Clerk of the House Merchant Marine and Fisheries Committee.

8. At all times mentioned in this Indictment, up to and including their date of sale or transfer, the *S.S. Argentina*, *S.S. Brazil*, and *S.S. United States* had been laid up and taken out of active service as a result of operating losses incurred by Moore McCormack Lines, Inc. and United States Lines, Inc.

9. At all times mentioned in this Indictment up to and including May 16, 1972, Moore McCormack Lines, Inc. and United States Lines, Inc. sought legislation in the Congress of the United States which would authorize the sale or transfer of the *S.S. Argentina*, the *S.S. Brazil* and the *S.S. United States* to foreign ownership. Alternatively, United States Lines, Inc. sought legislation in the Congress of the United States which would authorize and direct the Secretary of Commerce to purchase the *S.S. United States* at its depreciated cost, less the unpaid principal and interest on the vessel's mortgage.

10. On or about February 12, 1971, Moore McCormack Lines, Inc. entered into a contract to sell the above mentioned ships to Nederlandsch-Amerikaansche Stoomvaart Maatschappij, N.V., a Netherlands corporation, for approximately twenty million dollars, which contract was conditioned upon appropriate legislation being passed by the Congress of the United States, exempting the above-mentioned ships from the terms of the Merchant Marine Act of 1936, thereby permitting their sale to the buyer and their transfer to foreign registry. On or about August 4, 1972, Moore McCormack Lines, Inc. transferred title to the *S.S. Brazil* pursuant to said contract to Cruiseship No. 7 N.V., a wholly owned subsidiary of Nederlandsch-Amerikaansche Stoomvaart Maatschappij, N.V., and on or about August 21, 1972, it transferred title to the *S.S. Argentina*, pursuant to the contract, to Cruiseship No. 6 N.V., another wholly owned subsidiary of Nederlandsche-Amerikaansche Stoomvaart Maatschappij, N.V.

11. On or about February 5, 1973, United States Lines, transferred title to the *S.S. United States* to the United States Government.

12. From at least as early as September, 1971 and continuing thereafter until April, 1973, the exact dates being to the Grand Jury unknown, in the State and District of Maryland and elsewhere, the defendant Edward A. Garmatz together with other persons, did knowingly, willfully and unlawfully conspire, combine, confederate and agree to commit certain offenses against the United States in violation of Title 18, United States Code, Sections 201(g), that is:

A. Directly and indirectly, to ask, demand, exact, solicit, seek, accept, receive, and agree to receive a thing of value for the use and benefit of the defendant Edward A. Garmatz, being a public official of the United States, that is a member of the House of Representatives, otherwise than as provided by law for the proper discharge of his official duties, because of official acts to be performed by him, to wit: his sponsorship, support, vote, and decision on certain passenger ship legislation which might at any time be pending before him in his official capacity and in his position of trust and profit.

13. It was further a part of said conspiracy that in or about November, 1971, James R. Barker caused $5,000.00 in United States currency to be transported from New York, New York, to Washington, D.C., and delivered to Robert McElroy for the use and benefit of the defendant Edward A. Garmatz.

14. It was further a part of said conspiracy that on or about January 20, 1972, Edward J. Heine, on behalf of United States Lines, caused at least $5,000.00 in United States currency to be transported from New York, New York, to Washington, D.C., to be paid to the defendant Edward A. Garmatz.

15. It was further a part of said conspiracy that on or about January 21, 1972, Robert McElroy received $1,000.00 in United States currency from the United States Lines for the use and benefit of the defendant Edward A. Garmatz.

13. It was further a part of said conspiracy that on or about February, 1972, Robert McElroy received $5,000.00 in United States currency for the use and benefit of the defendant Edward A. Garmatz from James R. Barker in New York, New York.

17. It was further a part of said conspiracy that on or about August 11, 1972, United States Lines paid the defendant Edward A. Garmatz $4,000.00 in United States currency in Baltimore, Maryland.

18. It was further a part of said conspiracy that between September 1972 and April 1973, the defendant Edward A. Garmatz requested from Edward J. Heine, the payment by United States Lines of an additional $10,000.00 in cash or as a fictitious consulting fee.

19. It was further a part of said conspiracy that the defendant performed other and further acts in order to conceal the conspiracy and prevent detection thereof.

In violation of Title 18, United States Code, Section 371.

OVERT ACTS

In furtherance of the conspiracy and to effect the object thereof, the defendant committed and caused to be committed the following Overt Acts:

1. On or about November 3, 1971, at Washington, D.C., Edward J. Heine met with the defendant Edward A. Garmatz.

2. On or about November 8, 1971, Edward J. Heine had a telephone conversation with James R. Barker.

3. In or about November, 1971, Robert McElroy received $5,000.00 for the use and benefit of the defendant Edward A. Garmatz.

4. On or about December 9, 1971, at Washington, D.C., Edward J. Heine met with the defendant Edward A. Garmatz.

5. On or about January 17, 1972, Edward J. Heine had a telephone conversation with James R. Barker.

6. On or about January 21, 1972, Robert McElroy received $1,000.00 in cash for the use and benefit of the defendant Edward A. Garmatz.

7. In or about February, 1972, Robert McElroy received $5,000.00 in cash for the use and benefit of the defendant Edward A. Garmatz from James R. Barker.

8. On or about May 18, 1972, Edward J. Heine met with the defendant Edward A. Garmatz at Washington, D.C.

9. On or about August 11, 1972, the defendant Edward A. Garmatz received $4,000.00 in cash in Baltimore, Maryland.

10. On or about September 20, 1972, Edward J. Heine met with the defendant Edward A. Garmatz.

11. On or about September 20, 1972, Edward J. Heine met with Robert McElroy.

12. On or about October 4, 1972, Edward J. Heine spoke with Robert McElroy on the telephone.

13. On or about October 4, 1972, Edward J. Heine spoke with the defendant Edward A. Garmatz on the telephone.

14. On or about October 13, 1972, Edward J. Heine spoke with Robert McElroy on the telephone.

15. On or about January 8, 1973, Edward J. Heine spoke with Robert McElroy on the telephone.

16. On or about January 26, 1973, Edward J. Heine and Robert McElroy had breakfast at the Hay Adams Hotel in Washington, D.C.

17. On or about February 20, 1973, Edward J. Heine met with Robert McElroy and the defendant Edward A. Garmatz at the Lord Baltimore Hotel in Baltimore, Maryland.

18. On or about April 13, 1973, Edward J. Heine met with Robert McElroy for breakfast at the Hay Adams Hotel in Washington, D.C.

All in violation of Title 18, United States Code, Section 371.

WHAT THE TREATIES REALLY MEAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. DORNAN. Mr. Speaker, there are some Americans who are perplexed about the meaning of the Carter-Torrijos canal treaties.

These Americans know that the canal belongs to the United States and always has. They learned that in the first grade.

But these same Americans also learned something else in the first grade: to believe their Government and their President. It is these two lessons which are contradictory in this instance and which have led to the perplexity about the Carter-Torrijos treaties.

These perplexed Americans know that the canal is U.S. property and has never belonged to Panama. But their President has told them that the canal will be "returned" to Panama.

These perplexed Americans know that the Marxist strongman, Torrijos, is a close friend of Castro and is modeling his regime after the Cuban dictatorship. But their State Department has told them that Torrijos is a friend of the United States and not of Cuba.

These perplexed Americans know that Torrijos is anxious for closer ties to the Soviet Union and has just signed a long-range treaty with the Soviet Union. But their State Department has assured them that Torrijos is no friend of Communist Russia.

It is no wonder that there is confusion in some quarters and that some usually clear-thinking Americans are being misled.

To help these Americans understand what the Carter-Torrijos treaties really mean, I would like to have reprinted in the CONGRESSIONAL RECORD a recent address given by Mr. L. Francis Bouchey, Secretary, Council for Inter-American Security. I had the pleasure of sharing the dais with Br. Bouchey when he gave this address to the California Republican Assembly on September 24, 1977. It is one of the clearest explanations of what the Carter-Torrijos treaties really mean and how they will affect the U.S. presence in the canal, the zone, and in Panama itself.

It should clear some clouded eyes. The address follows:

SPEECH BY MR. L. FRANCIS BOUCHEY

Madam Chairman, distinguished guests, ladies and gentlemen.

The U.S. Canal at Panama, sometimes called the Panama Canal, and its future is a matter which is, and ought to be, troubling a good many people these days.

The treaty gives away a piece of our national patrimony, an American accomplishment which grade school teachers taught me was one of the 7 wonders of the modern world.

Building that canal was, in fact—technologically—the moon shot of its day. We bought it, we built it, we paid for it. We paid more for it than any other U.S. territorial acquisition. Now we are asked to give it away and pay the benefactors to accept it. That strikes many people as ludicrous! Still, a case might be made for some new arrangement concerning the control, status and operation of the U.S. Canal at Panama.

The 1903 treaty is not a divinely inspired document, and it is a mistake for opponents of the proposed Carter-Torrijos treaty to debate the subject as if there was no alternatives other than the original treaty arrangement or continuation of the 1903 based status quo. In other words, saying "no" to the treaty negotiated by Bunker, Linowitz, Carter and Torrijos does not and should not preclude a U.S. openness to exploration of alternative arrangements other than those which exist presently. Saying "no" to the Carter-Torrijos treaty leaves open the possibility of negotiating a different and better treaty, hopefully with a better and different Panamanian government.

The simple fact of the matter is that the treaty President Carter is asking the Senate to ratify is a bad treaty, which does not accomplish what the Administration and State Department purport. And it is that treaty which must be given close attention. The future of the U.S. Canal at Panama should be left aside as an open question—for the time being. Because that issue must not be confused with the particular treaty proposal now before the United States Congress and the American people.

Even if you hanker to give away the most expensive U.S. territorial acquisition and to pay—in McGovern fashion—every man, woman and child in Panama at least $1000, which is what the proposed treaty would do, there are compelling reasons to reject this Carter-Torrijos treaty.

What are they?

In the first place there are 2 treaties involved in the agreement which was signed in Washington, D.C. on September 7.

First, there is the canal transfer treaty. Secondly, there is the neutrality treaty. Finally, there is implementing legislation which will be necessary to effect the treaty provisions.

These are complex documents. I do not pretend to comprehend every nuance. However, the Council for Inter-American Security, together with a team of legal experts, has been analyzing these documents since they were made public. And we know enough to know that the agreements should be rejected.

Consider first the canal transfer treaty. It does two things. Upon the effective date of the treaty, which occurs 6 months after exchange of ratification documents at Panama City, actual and nominal sovereignty over the canal and Canal Zone passes completely, absolutely, and irrevocably to Panama.

From that date hence U.S. involvement in the operation and defense of the canal at Panama will be solely as a surrogate of the Republic of Panama. And that U.S. surrogate role would be subject to unilateral abrogation or cancellation by Panama.

The principal reason for the intricate provisions of the second part of this first treaty, providing for a 23 year long phased U.S. pullout, is a recognition by Panama that it currently lacks the technical expertise to run the canal. The other reason for the intricate second part of the first treaty is to facilitate the payment of U.S. taxpayers dollars to Panama.

The Administration's claim that this Panama Canal treaty was the product of long years of thoughtful negotiations is not credible to anyone who examines the document. For instance, what was supposed to be an exemption from dual taxation of U.S. citizens working for the canal—that is taxation of them by both Panama and the United States—turned out to read as an exemption from taxation by anybody. Why? Because the document was rushed to completion and the text was evidently never even carefully proof read.

That one is funny, but other ambiguities, unresolved issues and potentials for conflict are not. Article 11, which provides for the termination of the last vestiges of U.S. involvement in the year 2000 is so confused that it almost guarantees that final U.S. withdrawal would be exceedingly problematical.

Now, as I have already said, the United States gives up its sovereign rights, its exclusive control of the canal and Canal Zone upon the effective date of the treaty. It is not phased in over the next 23 years. What then happens between the effective date of the treaty and the year 2000, aside from the fact that Panama stands to collect slightly less than $2 billion? The U.S. Panama Canal Company is dissolved. In its place there is established a Panama Canal Commission with 9 members. For the first 13 years, only until 1990, the U.S. will have a majority on the Commission which will operate the canal. But in 1990—13 years from now—Panama will have a 5-4 majority on the Commission and the canal's chief operating executive will be a Panamanian.

After that, the U.S. will maintain some de-

fense forces in Panama, on a diminishing scale, until the year 2000. And, of course it will continue paying money to Panama.

Let us now consider the so-called neutrality treaty. What about the U.S. defense rights which President Carter assures us are provided in the treaty? Basically, there are none, aside from what Panama grants. There is no right, no right of U.S. intervention in Panama to protect the canal once our troops are removed, except by force of arms which would mean an act of war by the United States against Panama.

The best explanation of that second or neutrality treaty came from General Torrijos' chief negotiator, Romulo Escobar Bethancourt, in a news conference broadcast from Panama City on August 24:

"Now, there is the question of whether this does or does not give the United States rights to intervene in Panama.

"Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated and what is stated is that Panama and the United States will maintain a neutrality of the canal. What is the meaning of 'will maintain?' In practice, the meaning of 'will maintain' is that, if neutrality is ever violated, Panama on one hand and the United States on the other, or the two countries jointly, will determine how they will guard the canal against such a violation."

Continuing on the subject of neutrality, Escobar maintained that "the neutrality pact *does not* provide that the United States will say when neutrality is violated. That is simply not provided there. There *is* an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remain open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not."

Turning to an equally contentious subject, the rights of passage, Escobar uses some very curious diplomatic language and notes: "As to the famous 'expeditious passage', which seems to be what concerns Panamanians the most, whether the gringos' ship is going to pass before the Venezuelans'. We are struggling for our independence and we recognize that there are problems of greater concern. As to 'expeditious passage' there is no confusion. When I say that the United States may use the term 'expeditious passage' as privileged passage, what I am saying is that they are using all the means available to sell a treaty which their people and their Senate do not want to swallow."

If a dispute were to arise over the question of expeditious passage and its meaning, then, as Escobar explains, "The provision would be brought up and in the provision it would be seen that expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage *was rejected* and it was pointed out quite specifically that expeditious passage means passage as quickly as possible. If after examining the provision that gringos with their warships say, "I want to go through first,' then that is their problem with the other ships waiting there."

As Escobar makes clear, the United States cannot, in any sense, be said to benefit from Panamanian control.

One final element in the neutrality treaty must be brought into focus in order to round out a picture of what Americans are being asked to accept.

The neutrality treaty states quite clearly in Article III(e):

"Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance."

I wonder if the Senate wants to assent to a treaty by which the United States would be required to insure the safe passage through the canal of warships of the U.S.S.R. at a time we would be at war with the Soviets? Do you want the Senate to assent to that?

We cannot forget that "neutrality" is a vague, abstract concept which is defined by the rules and regulations set forth by the sovereign or the authority that controls the waterway. Clearly, after year 2000, that will be Panama, exclusively. We have that exclusive right today. Even before 2000, Panama could give us trouble on this point since she will have very substantial authority over the canal.

Panama, after 2000 A.D., can define "neutrality" as meaning no U.S.S.R., no U.S.A., no anybody through the canal whose policies she does not like, should that be her whim.

What is the prospect that the Carter-Torrijos treaty will be rejected? The answer to that is not quite as complex as the treaty package, but almost. There are any number of factors at work. But before reviewing them let me anticipate my conclusion and tell you "yes" Carter and Torrijos, Linowitz and Escobar Bethancourt can be defeated. Why do I think so? For two reasons. The more closely the treaty is examined the worse it is found to be. In order to secure an agreement, the Carter negotiators made every conceivable concession. Men like Senator Robert Byrd are going to have trouble voting for it.

The facts of the treaty must be made known. And that is up to you. As the facts of the treaty are made known, popular outrage will grow as we go into the election year. The House of Representatives must vote on the disposal of the property of the United States. Article IV of the Constitution declares that only the Congress has the authority to dispose of "the territory or other property of the United States". Our elected representatives are going to be reluctant to vote for it, if we, as opponents of the Carter-Torrijos agreement, maintain constant, relentless pressure.

And that, ladies and gentleman, is up to you and countless other Americans.

AIR BAGS AND CHILD SAFETY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WAXMAN. Mr. Speaker, I believe the current debate on the need for passive restraints has gotten off track. Attention seems to be focused on the proposition that the Department of Transportation regulation will somehow compromise the personal freedom of automobile purchasers. Little consideration seems to be paid, however, to the lifesaving qualities of these safety devices; particularly with respect to the safety provided small children.

Opponents of the ruling have suggested that individual automobile purchasers should have the right to select the acceptable standard of safety in their personal transportation. If auto makers were in fact willing to offer consumers a choice in crash protection, and if automobile purchasers were the only users of automobiles, this argument might be credible.

Experience has demonstrated that the automobile industry is seldom willing, in the absence of Government prodding, to incorporate lifesaving devices into automobile design. Even more significant than industry's historic reluctance to build crashworthy cars is the fact that the vast majority of automobile drivers and accident victims are not original purchasers, but the purchaser's family and friends. Even if optional safety systems were available, these individuals, particularly children, would have little input into the initial decision to forgo purchase of such automobile safety devices.

The communal qualities of the automobile make safe operation the responsibility of the driver and safe design the responsibility of the manufacturer. However when industry is unwilling to accept the responsibility for the structural safety of its products Government has a necessary obligation to accept the burden.

I recently received a letter from Dr. Thomas E. Reichelderfer, chairman of the Committee on Accident and Poison Prevention of the American Academy of Pediatrics. His comments cut to the heart of the passive restraint debate and provide one of the most convincing arguments in favor of these lifesaving devices.

Dr. Reichelderfer points out that more children between ages 1 and 14 are injured or killed in automobile accidents than any other disease or illness. In 1975 alone, 5,000 children became automobile fatality statistics and another 60,000 suffered serious injuries. A recent survey conducted by the Insurance Institute for Highway Safety revealed that 94 percent of children riding in automobiles either do not wear seat belts or are improperly restrained.

The most startling point raised by Dr. Reichelderfer was that for children under age 4 or who weigh less than 40 pounds, conventional seat belts, if worn, are ineffective and in some cases can cause serious abdominal injuries. For these children, the only effective crash protection are specifically designed restraint devices used in combination with passive restraints such as air bags.

Dr. Reichelderfer's comments have much merit. The passive restraint debate is an opportunity to exhibit one's support for personal freedom. It is an opportunity to support the right of every American to freedom from unreasonable risk of injury. I believe this a a freedom worth preserving and urge my colleagues to support Secretary Adams' decision.

Mr. Speaker, I insert the letter from the American Pediatrics Association in the RECORD at this point:

SEPTEMBER 23, 1977.

Hon. HENRY WAXMAN,
House of Representatives,
Washington, D.C.

DEAR MR. WAXMAN: The Committee on Accident and Poison Prevention of the American Academy of Pediatrics has long been concerned with automobile safety for infants, children and adolescents. In view of the large number of deaths and serious injuries incurred by this age group, you are asked to give your support to Secretary Adams' passive restraint decision.

More children between the ages of one and 14 years of age are injured or killed in automobile accidents than by any other disease or illness. In 1975, approximately 5,000 of these deaths occurred with an estimated 60,000 additional serious injuries as a result of these accidents. Head injuries, the most common cause of epilepsy, are sustained more frequently than any other type of injury. Automobile accidents constitute the major disease entity threatening our children yet could be largely prevented by the use of suitable restraints. However, at the sufferance of adults, children ride in automobiles without the protection that car restraints provide. A survey by the Insurance Institute for Highway Safety has demonstrated that 93% of all children riding in cars are unprotected and another 1% are improperly restrained. Hence 94% of that population most likely to sustain serious injury or death are completely unprotected. In order to provide at least minimal protection for all children, passive restraints should be required as standard equipment in all cars.

Recent technical developments have made passive restraint measures available and practical. Cars equipped with air bag devices in which children were front seat passengers have demonstrated a remarkable ability to provide increased protection against death/severe injury. This ability was vividly recounted in a recent incident in Florida involving two children ages four and six, otherwise unrestrained, in a head-on collision. With the protection afforded these children by the air bag, the four year old sustained only a mild limb injury while the six year old escaped unharmed.

At particular risk of injury are infants and children under age four or 40 lbs. for whom standard seat belts are inappropriate. Lap belts alone exert too much pressure on the abdominal area of a small child and may cause injuries in a frontal crash. Children under four tend to occupy more hazardous seat areas than older children which compounds their susceptibility to death and serious injury. For maximum protection such children should be restrained in restraint devices specifically designed for this age group in combination with passive restraints.

Given the data cited above, it is imperative that at least passive restraint devices be required to afford these children some measure of safety. While use of the air bag alone with infants and small children has not been totally effective, the American Academy of Pediatrics is convinced of the superior effectiveness of passive restraints as protective devices for infants and children.

When the lives of children are concerned, cost effectiveness and societal costs deserve only secondary deference. There is no excuse, now that technical means are available to reduce highway carnage, that these measures should not be put to immediate use.

Sincerely yours,

THOMAS E. REICHELDERFER, M.D.,
Chairman, Committee on Accident and Poison Prevention.

CAUTION ON SALT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FINDLEY. Mr. Speaker, I would like to pass along to my colleagues in the House the following note of caution urged upon us by the British weekly journal, the Economist: In concluding a SALT agreement with the Soviet Union, the United States must consider shared interests with our Western European allies. The United States can ill-afford to risk the confidence of our allies—a confidence that is intrinsic to the vitality of the North Atlantic Alliance—to reach an accommodation with our principal adversary.

An article follows:

CRUISE FOR EUROPE—THE UNITED STATES SHOULD NOT BUY A NUCLEAR ARMS DEAL WITH RUSSIA AT THE PRICE OF ITS ALLIES' CONFIDENCE

President Carter already has enough problems in reaching an agreement with Mr. Brezhnev over nuclear weapons not to want another; it is now highly probable that the October 3rd deadline originally set for a Salt-2 agreement will pass without one. But another problem has to be added to his list. The nuclear deal Mr. Carter eventually strikes with the Russians—if he does—should not include a clause preventing the United States from helping some of its European allies to make cruise missiles.

Britain, in particular, may need the cruise missile for its own nuclear armoury, and Germany is keen that it should also be deployed in Europe with non-nuclear warheads by the Nato alliance. These tiny super-accurate hedgehoppers will be a cheaper way of keeping the British nuclear deterrent in existence than building a new generation of missile submarines. But Britain's decision whether to replace its present Polaris submarines with cruise missiles some time in the 1980s will depend in part on how much it will cost to do so. That in turn will depend on how much of the technology can be obtained from the United States and how much of this particular wheel Britain will therefore not have to reinvest on its own.

For the United States to accept any limits at all on cruise missiles would be a large concession. Certainly its present willingness to offer a three-year moratorium on deployment, while development of this complex piece of technology continues, is the farthest its allies should agree to its going, and even that requires a matching moratorium on Russia's deployment of its huge new SS-18 missile. The Americans have always insisted that they will make no deal with the Russians about nuclear weapons actually deployed which cannot be checked by some sort of inspection. Successive American administrations have stuck to this principle through thick and thin, and Mr. Carter has reaffirmed it. But checking cruise missiles on the ground, when that time does come, seems likely to be almost impossible. They are easily hidden, and even if they are seen it is impossible to tell whether they have nuclear or nonnuclear warheads, or to guess their range to within a thousand miles. If the American government promises to obey certain rules about cruise missiles the New York Times and the Washington Post will make sure it honours its promise. When Russia too makes cruise missiles—as it eventually will—Pravda is unlikely to perform the same service.

The Russians also want a guarantee that the United States will not transfer cruise-missile technology to its allies. The Americans should have no truck with such a notion from a country which argues that its new Backfire bombers and its medium-range SS-20 missiles should not be included in the American-Soviet nuclear negotiations because they can reach only as far as western Europe. These weapons pose the problem Europe has to deal with. If Russia wants to talk about the problem, it will have to talk to the Europeans.

The Russians will not like this; it will at the least delay a new Salt agreement. But the United States is in the position of many great powers before it: it has to choose between an accommodation with its adversary and the confidence of its allies. It can stand ready to share the cruise missile, or it can run a very real risk of damaging the alliance on which its own security, as well as Europe's, depends.

TEXTILE WORKERS UNIONS MAKE J. P. STEVENS LOOK LIKE CHOIR BOYS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ASHBROOK. Mr. Speaker, I got a little sick when I listened to the debate today on H.R. 8410. The bad guys are the employers, the businesses. None of the speakers on the Democratic side even made a passing reference to any of the long list of threats, violence, union fines to discipline members, and unfair labor practices on the part of the Textile Workers Union. They would have you believe the No. 1 bad guy in America is J. P. Stevens.

Well, look at some of the unfair labor practices which the Textile Workers have been adjudged guilty. Also read my speech on violence, particularly those portions that deal with the Textile Workers Union, also in today's CONGRESSIONAL RECORD. J. P. Stevens looks like a collection of choir boys when you compare their record to the union.

Here are some of the citations involving the Textile Workers Union:

LISTING OF LAW VIOLATIONS COMMITTED BY THE TEXTILE AND CLOTHING WORKERS UNION

1. *International Packings Corp.*, 221 NLRB 479 (1975) (Textile Workers Union unlawfully caused the discharge of an employee and threatened employee.)

2. *Altman* v. *Clothing Workers*, — F. Supp. —, 90 LRRM 2777 (S.D.N.Y. 1975) (Amalgamated Clothing Workers motion for summary judgment denied in action charging the union with discriminating against former union official by preventing him from obtaining employment and getting him discharged after he found employment.)

3. *Amalgamated Clothing Workers (Shutzer Mfg. Co.)*. 210 NLRB 831 (1974) (Amalgamated Clothing Workers Union violated its duty to bargain in good faith.)

4. *Kayser-Roth Corp.* v. *Textile Workers*, 479 F. 2d 525 (6th Cir. 1973) (Textile Workers Union was ordered to pay over one million dollars for damage caused during violent strike.)

5. *Hartner* v. *Joint Board*, 339 F. Supp. 1257 (D. Md. 1972) (Clothing Workers Union violated union member's right to be free of improper disciplinary action when union disqualified member from running for union office for one year.)

6. *NLRB* v. *Textile Workers, Local 1029*, 409 U.S. 213 (1972) (Textile Workers Union violated the law by interfering with the rights of employees.)

7. *Corder* v. *Clothing Workers*, 305 NYS 2d 739, 72 LRRM 2878 (N.Y. Sup. Ct. 1969) (Retired Clothing Workers Union member sued union for pension benefits alleging fraud on the part of the union.)

8. *Blue Jeans Corp.* v. *Clothing Workers*, 169 S. E. 2d 867, 72 LRRM 2661 (N.C. Sup. Ct. 1969) (Clothing Workers Union and union members held in contempt of court for disobeying restraining order. Union members engaged in intimidation and harassment of employees, blocked traffic, and used vulgar and insulting language toward employees, all in violation of court's order.)

9. *NLRB* v. *Amalgamated Cothing Workers of America*, 430 F. 2d 966 (5th Cir. 1970) (Clothing Workers Union violated the law when it threatened employees that they would lose their jobs unless they joined the union.)

10. *Clothing Workers (Canton Mfg. Corp.)*, 171 NLRB 641 (1968) (Amalgamated Clothing Workers violated the law by interrogating employees and refusing to process employee grievances in an attempt to discourage the employees from consulting the National Labor Relations Board.)

11. *Simmons* v. *Avisco, Local 713, Textile Workers Union*, 350 F. 2d 1012 (4th Cir. 1969) (Textile Workers Union was sued by one of its own members for damages caused by the union's unlawful suspension of the member during an investigation of alleged election fraud. The jury's award of $15,000 in damages was upheld on appeal.)

12. *Clothing Workers Union (Jaymar Ruby, Inc.)*, 151 NLRB 555 (1965) (Union violated the law when it threatened two employees that they would lose their insurance benefits if they failed to pay fines imposed for missing union meetings.)

13. *North Carolina* v. *Walker*, —— S.E. 2d ——, 47 LRRM 2981 (N.C. Sup. Ct. 1960) (Several members and officers of Textile Workers Union were found guilty of conspiracy to explode a bomb in a textile plant in order to make a strike there more effective.)

14. *Textile Workers Union (Charles Weinstein Co.)*, 123 NLRB 590 (1959) (Textile Workers Union business agent unlawfully restrained and coerced employees by threatening and kicking company vice president who was entering plant gate. Employees were threatened and assaulted by union members in violation of the law.)

15. *Taylor Fibre Co.* v. *Textile Workers Union*, 151 A. 2d 79, 44 LRRM 2110 (Pa. Sup. Ct. 1959) (Court properly issued injunction prohibiting Textile Workers Union from continuing to engage in illegal mass picketing, threats and intimidation during strike.)

16. *National Automotive Fibres*, 121 NLRB 1358 (1959) (Textile Workers Union violated the law when it caused employee to be discharged because he did not pay union dues while he was on layoff. Employee tried to withdraw from union when on layoff but union refused because employee owed the union a fine for not attending meetings.)

17. *Ex parte Evett*, 89 So. 2d 88, 38 LRRM 2287 (Ala. Sup. Ct. 1956) (Textile Workers Union held in contempt of court for disobeying the court's restraining order against unlawful picketing including coercion, intimidation and use of physical restraint against employees and job applicants. Strikers severely beat applicants so that medical care was required, called them abusive names, threatened them, and broke their car windows.)

18. *New Orleans Laundries*, 114 NLRB 1077 (1955) (Clothing Workers Union violated the law when its business agent threatened employees that they would be discharged if they continued to support rival union and engage in activity on behalf of rival union. Clothing Workers Union also violated labor law by refusing to process grievances of employees who were trying to get different union.)

19. *Wortex Mills* v. *Textile Workers Union*, 109 A. 2d 815, 35 LRRM 2132 (Penn. Sup. Ct. 1954) (Textile Workers Union was enjoined from engaging in unlawful mass picketing which the court found to be accompanied by threats and intimidation of employees. Union was also required to pay employer over $66,000 in damages caused by the unlawful strike.)

20. *Anniston Yarn Mills, Inc.*, 103 NLRB 1495 (1953) (Textile Workers Union violated labor laws by causing employer to cancel a nonunion employee's seniority because of her failure to participate in a strike and her nonunion status.)

21. *Royal Cotton Mill* v. *Textile Workers Union*, 67 S. E. 2d 755, 29 LRRM 2142 (N. C. Sup. Ct. 1951) (North Carolina Supreme Court upheld contempt of court citations against members of Textile Workers Union for wilfully and contemptuously disobeying court order prohibiting mass picketing and assault of nonstriking employees.)

22. *NLRB* v. *Acme Mattress Co.*, 192 F. 2d 524 (7th Cir. 1951) (International Union held liable for wrongful acts of Textile Workers Union representative who caused discharge of employee in return for calling off strike and signing contract.)

23. *Erwin Mills* v. *Textile Workers Union*, 67 S. E. 2d 372, 29 LRRM 2092 (N. C. Sup. Ct. 1951) (Textile Workers Union members were held in contempt of court for not obeying restraining order which prohibited mass picketing and acts of violence, force, coercion and intimidation.)

24. *Grist* v. *Textile Workers Union*, 82 A. 2d 402, 28 LRRM 2405 (R. I. Sup. Ct. 1951) (Textile Workers Union picketed nonunion plant during nationwide strike. Pickets used threats, insults and force to keep nonunion employees from entering plant.)

25. *Bloomsburg Mills* v. *Textile Workers*, 26 LRRM 2024 (Pa. Ct. Com. Pls. 1950) (Court issued injunction against Textile Workers Union engaged in unlawful picketing. Court found that picketing was accompanied by violence, threats, assault, intimidation and molesting of nonstriking employees. Pickets also found to have damaged employees' cars and trespassed on private property. Several employees, including women, were kicked and assaulted as they attempted to enter the plant.)

REVOLUTIONARY TEACHING SYSTEM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McKINNEY. Mr. Speaker, a constituent, Dr. Peter C. Goldmark, has developed an electronic teaching device that encompasses a number of significant technological breakthroughs. If fully utilized the system could serve to bridge cultural and educational gaps in this country and throughout the world.

The system, known as rapid transmission and storage (RTS) embodies several unique capabilities. Dr. Goldmark has developed a highly technological process that enables the "packing" of up to 30 hours—60 half-hour lessons—of audio and visual information onto a conventional 1-inch magnetic tape. The lessons consist of a continuous sound format accompanied by still pictures. The still pictures are used to conserve space on the tape, however, moving pictures can be used when it is necessary for clarity. The tape is played back on a small mobile piece of transmission equipment, similar to a portable tape machine. The machine when hooked up to conventional television sets can transmit the 60 different half-hour lessons simultaneously to as many as 30 different television monitors. An electronic coding method enables each professor to chose any one of the 60 different lessons.

The system can also be used in conjunction with an educational or commercial television station. During the 8-hour period when the station is normally off the air, over 240 different half-hour lessons can be transmitted and received for the next day's use in a designated learning center. The material can be used as many times as is desired. When a sufficient quantity and variety of instructional material is developed and available, the RTS system would permit the transmission and storage of 40 hours of instructional material to be received and shown on one's home TV set.

North Carolina's community college system is the first to put the RTS to work. Lesson material is in preparation for 10 study centers in the Charlotte area, and lessons will eventually be extended to the 57 other institutions in North Carolina's community college system. Other community colleges joining in the initial RTS program are in Chicago and Glen Ellyn, Ill., Costa Mesa, Calif., Eugene, Oreg., and Kansas City. It is hoped that these programs will be able to expand the ability of the community colleges to deliver educational services closer to where people live and work, without a large investment in additional facilities.

I would like to gratefully recognize the contribution of the Department of Housing and Urban Development (HUD) whose funding of the rural society project enabled Dr. Goldmark to develop the RTS system. It is my hope that the system will reduce the gap between the city and country, giving those in less populated areas access to the many cultural and educational advantages that exist in the more densely populated areas.

Dr. Goldmark is president of his own company, the Goldmark Communications Corp. of Stamford, Conn. He holds more than 160 patents and is responsible for the invention of the long-playing record and the color television.

SENATE—*Wednesday, October 5, 1977*

(Legislative day of Tuesday, October 4, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

The PRESIDENT pro tempore. Our guest chaplain this morning is the Reverend E. J. Singletary, Church of the Nazarene, Jackson, Miss.

PRAYER

The Reverend E. J. Singletary, Church of the Nazarene, Jackson, Miss., offered the following prayer:

Our Father, we thank You for present privileges and past blessings. We come to share with these men in a prayer for Your blessings upon the proceedings of this day.

Grant us that sincere humility which gives You entrance into our affairs. Help us to pray, for no other resource offers such promise, as the apostle reminds us in James 1: 5: *If any of you lack wisdom, let him ask of God, that giveth to all men liberally* * * *.

We ask that the judgments here shall bear the scrutiny of time, that the solutions will not return to haunt us but to bless us. Wisdom too late is a luxury we cannot always afford.

Breathe upon us that our work may be done with diligence and dignity. Oil the machinery of these proceedings by Your spirit. Give the peace which attends men and women of good will.

Father, we pray for the personal needs of these here today. They are bone of our bone and flesh of our flesh. Where there is sickness, heal; where there is sorrow, comfort; and where there is disappointment, encourage.

Grant that we may lift our spirit to You. "The world is too much with us" (William Wordsworth), and we are not enough with You. Give us of yourself that we may give our best to those we serve. Amen.

RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, October 4, 1977, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on tomorrow, October 6, to consider judicial nominations, and recodification.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be permitted to meet until 12 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. ON THURSDAY, FRIDAY, AND SATURDAY.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, and Friday, it stand in recess, respectively, until the hour of 9 o'clock a.m. on tomorrow, Friday, and Saturday. Of course, this can be changed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time.

The PRESIDENT pro tempore. The Senator from Alaska is recognized.

MORATORIUM ON HUNTING OF BOWHEAD WHALES

Mr. STEVENS. Mr. President, the Eskimo people of Alaska need help in combating the adverse impact of the International Whaling Commission's ruling on a moratorium on subsistence hunting of bowhead whales.

I was delighted to learn that the Association on American Indian Affairs has joined those of us who have urged that the United States object to this moratorium.

In a well-reasoned statement, William Byler, executive director of AAIA, has urged our Federal Government to support the Eskimo people's continued utilization of the bowhead whale for subsistence purposes.

There are no people in the world who would seek the extermination of the bowhead whale less than the Alaskan Eskimo. They do not take these whales for commercial purposes; rather, as their forefathers have done since the beginning of Eskimo life, they have based a substantial portion of their culture and their social life on subsistence whaling.

I have urged that fears for the bowhead be met by enabling the Eskimo people to establish a voluntary self-imposed quota system. Any precipitate action by the Federal Government on a mandatory basis is doomed to failure.

I ask unanimous consent that Mr. Byler's statement be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM BYLER

The Association on American Indian Affairs urges that the United States object to the moratorium on subsistence hunting of bowhead whales by Alaska Eskimos voted by the International Whaling Commission. Our recommendation is based on the following consideration:

(1) The Commission has no jurisdiction over Alaska Eskimo subsistence whaling;

(2) The Eskimos possess aboriginal, constitutional, and statutory rights that would be abrogated by the imposition of a moratorium, and it is the duty of the United States as trustee to assert these rights;

(3) The United States and the Commission do not have the information necessary to support a conclusion that a moratorium should be imposed;

(4) The facts available to the United States indicate that a moratorium should not be imposed;

(5) Enforcement of any moratorium, in the absence of community consent, is likely to prove ineffective and could provoke serious social conflict;

(6) The imposition of a moratorium would have a devastating impact on Eskimo culture and society, on the mental health of the whaling villages, and on the psychosomatic wellbeing of the individuals affected; and

(7) A moratorium could produce a result opposite of that intended.

The work of the International Whaling Commission in the past has helped safeguard Eskimo life by protecting the bowhead from extinction through commercial exploitation. It would be senseless and tragic for the United States to succumb to the Commission's assault on Eskimo whaling and destroy the communities that have benefited most from the Commission's achievements.

The International Whaling Convention of 1946 is founded on the principles of voluntary compliance and self-regulation. These same principles should be permitted to operate in Eskimo villages today as in the past, because they have proven effective in protecting the bowhead whale.

The Eskimos of Alaska's whaling villages do not claim a right to exterminate the species. Such a proposition would be unthinkable to them since the bowhead is the basis of their unique culture and society, their identity. They claim a right to survive as a people.

ABORIGINAL RIGHTS AND JURISDICTION

The International Whaling Convention was designed to save the bowhead whale from extinction through the regulation of commercial whaling. It was not intended to regulate aboriginal subsistence hunting. Consistent with this interpretation, the United States has resisted any quota on bowheads taken by Alaska Eskimos for subsistence purposes until the 29th Session of the Commission, when it abstained.

It is a well-established principle of federal law that any limitation on aboriginal rights may not be lightly inferred from the acts of Congress, and these rights are presumed valid unless expressly taken. The convention contains no language authorizing the Commission to regulate or abolish Eskimo subsistence whaling. Congress, in ratifying the convention, had an opportunity to amend it to accomplish this purpose and did not do so. The inescapable conclusion is that Congress, with its plenary power over Indian affairs, chose not to delegate its power to the Commission and, therefore, the Commission lacks jurisdiction to limit the aboriginal rights of Eskimo whalers.

Since the acquisition of Alaska in 1867, the United States has acknowledged and respected the aboriginal rights of Alaska natives. The Treaty of Cession, the Alaska Organic Act of 1884 establishing a territorial government, and the Alaska Statehood Act of 1958 contain provisions prohibiting the disturbance of native populations in the use and occupancy of their lands in order to protect their aboriginal property rights and their subsistence activities. The Alaska Native Claims Settlement Act of 1971 is based on Congressional recognition of the continuing importance of subsistence hunting and fishing and conveyed to the natives title to forty million acres of land to protect their traditional economies and to permit them to develop their lands for income and employment.

Congress has repeatedly and expressly confirmed Alaska native hunting and fishing rights in its conservation legislation. For more than a century, acts of Congress limiting or prohibiting the killing of fur seals, wild animals, and wild birds and restricting fishing in Alaska have provided exceptions for subsistence use. International conventions ratified by Congress for the protection of the fur seal and migratory birds contain like exceptions.

Similarly, Congress exempted Eskimo subsistence whaling from the general provisions of the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. In so doing, Congress reaffirmed aboriginal rights and chose not to predicate them on the actions of the Commission.

Eskimo subsistence whaling is an integral and essential part of Eskimo culture and social structure, and these are constitutionally protected. Although the legal rights of Alaska Eskimos to cultural and social integrity are not absolute, the United States may subordinate these fundamental rights only upon a clear showing of a compelling and substantial government interest. This

interest cannot be pursued by means that broadly stifle personal liberties when the end may be achieved more narrowly.

The draft Environmental Impact Statement of August 1977 demonstrates no compelling and substantial interest of the United States that would be served by acceding to the Commission's action to justify truncating the fundamental liberties of its Eskimo citizens.

The DEIS suggests that, were the United States to exercise its legal right to object to the action, it "could lose credibility as a conservation force and its efforts in other international conservation forums may be compromised." To subordinate the constitutionally protected rights of Eskimo whaling communities to tactical considerations in international conservation negotiations is unworthy of the nation's high principles. The efforts of the United States to protect endangered species are successful because they are based on a strong ethical foundation and are supported by the American public. Its success and its public support could be eroded were the government to sacrifice the Alaska Eskimos to expediency in its efforts to limit internationally the commercial exploitation of species other than the bowhead whale.

The DEIS also states that objection to the Commission's action would contradict President Carter's public statements and actions. To the best of our knowledge none of these address the issue of the Commission's jurisdiction over Eskimo subsistence whaling. It is evident, however, that acquiescence to the Commission's ban on Eskimo whaling could compromise the President's campaign to strengthen human rights around the world and may impair our credibility with nations that view our national attitudes toward race and minorities with misgivings. Further, it would contradict the President's avowed support for policies that will strengthen rather than destroy Native American family and community life.

Congress did not intend that the Executive branch subordinate these vital government interests and the personal liberties of its Eskimo citizens to the actions of the Commission.

Failure to file an objection to the Commission's action would also violate the requirement that the United States must employ the least drastic alternative in seeking to preserve the bowhead whale. The Commission's action resorts to the most drastic alternative, and the United States would be called upon to enforce it against armed and unwilling village populations.

Under the Marine Mammal Protection Act and the Endangered Species Act, the United States has ample and unquestioned authority to halt any wasteful whaling practices and generally to regulate subsistence whaling if it is required to protect an endangered species. Regulation under these acts is likely to prove more temperate and humane.

Nevertheless this federal intrusion into the culture and society of Eskimo whaling communities is unwarranted. Community self-regulation, with federal encouragement and support, is the least drastic, most socially responsive alternative. It places the primary responsibility for preservation of the bowhead on those who have the most to lose by its destruction.

In light of the powers of Congress and its clear intent, compelling and substantial government interests, and the aboriginal and constitutional rights of the Eskimo, the United States is required to object to the Commission's action on Eskimo subsistence whaling.

THE EVIDENCE

The only possible justification for imposing a ban would be reasonable proof that the kill clearly and immediately threatens the survival of the species. That is, it must be shown that the Eskimos are a danger to themselves. This is not supported by the facts.

Before the United States can make an informed and valid judgment it is necessary to know with some reasonable degree of accuracy the abundance of the bowhead whale and its reproduction rate in order to assess the impact of Eskimo whaling and determine an acceptable level of harvest.

Estimates of current bowhead population abundance vary widely. Rice (1964) estimates a population size of 1,000; Harry (1973) between 1,000 and 3,000; Durham (1974) 2,500; Mitchell (1974) the high hundreds or low thousands; Fay (1975) about 1,000; and Scheffer (1976) 2,000. Marquette (1977) states, "A preliminary analysis of data obtained by OCSEAP surveys in 1976 suggests that as many as 800 bowhead whales may have migrated past Barrow during the spring survey period (25 April to June); given the protracted migration period (March until July) and the evidence of sightings and past catches of bowheads in the Chukchi Sea during the summer, it is unlikely that this number totally accounts for the current stock size."

Three 1977 reports by the Northwest and Alaska Fisheries Center of the National Marine Fisheries Services agree that present abundance estimates cannot now be made with the requisite precision and accuracy:

"Further examination of survey methodology will be required before the questions concerning precision and accuracy of estimates of total bowhead abundance might be answered."—Tillman.

"The question of bowhead population abundance remains unanswered. From data collected in 1976 a total estimate cannot be made."—Braham and Krogman.

"Reliable information on the natural history, numbers of animals, and migratory patterns with resepct to the bowhead population is not now available for proper evaluation of the biological effect of the Eskimo harvest and of the potential effect of oil spills."—Marquette.

The Marquette report indicates huge gaps in our knowledge of the natural history of the bowhead:

Little information on the biology of these animals is available;

Little is known about the reproduction and growth of bowhead whales;

The mating season for bowheads is not well defined;

The gestation and calving periods . . . are also not well defined for this species;

Information concerning fetuses and newborn calves of bowheads has been rarely recorded in the literature; and

We do not know how long the lactation period is nor how long calves remain with their mothers.

The DEIS confirms this glaring lack of information. With this as a basis for judgment, the Executive branch clearly has no scientific justification for acceding to the Commission's ban on Eskimo subsistence whaling or for imposing its own.

Available information on the Eskimo harvest past and present indicate that the United States should not impose limits on subsistence whaling.

A number of observers over the past fifty years note an increase in the bowhead population: Bailey and Hendee (1926), Rainey (1947), Mansfield (1971), Mitchell (1974), and Fay (1975). Marquette (1977) states Eskimo observers also report increased populations. Rice (1974) estimates that there was no population change during this century despite Eskimo whaling.

If, in fact, the population is increasing or stabilized—and there is no contrary indication—then contemporary subsistence hunting will not endanger the species, unless the kill is increased over time to the point of depletion. Concern has been expressed over recent increases in the number of bowheads harvested, those killed but lost, and those struck but lost. Available information suggests that the results of recent whale hunts probably fall within acceptable limits.

Data for the period 1973–75 indicate a 60% decrease in the number of bowhead whales harvested: 37 in 1973, 20 in 1974, and 15 in 1975. Eskimo hunters attribute the poor results in 1975 to ice conditions. The total harvest of 72 whales in this three-year period represents a 15% decrease over the period 1970–72, when 86 whales were taken.

Opposite to this trend is a sharp increase in the 1976 harvest when 48 whales were taken. Eskimo hunters attribute this to a greater abundance of whales and to good weather. A comparison of the harvest in the 1976 spring hunt (36 whales) and the 1977 spring hunt (26 whales) shows an overall decrease of 28 percent, despite a significant increase from 13 to 19 in the number of bowheads taken at Barrow.

The harvest of bowhead whales appears to have remained fairly constant throughout this century, except at Barrow. At Point Hope it has ranged between 0–10 for 53 of the 60 years reported and averaged 4.4 bowheads per year for the 60-year period. The most intensive harvest was during the four reported years in 1922 and 1924–26 when an average of 13 bowheads per year were taken. Over the past decade Point Hope has caught an average of 6.5 whales per year. In the three years 1975–77 it has taken an average of 6 whales and in 1977 it took only 2 whales. At Wainwright, the harvest has ranged between 0–3 bowheads for each of the 27 years reported and averaged 1.4 whales per year for a 27 year period. Over the past decade Wainwright has averaged 1.8 whales per year, and the result for the last three years falls slightly below this average. Kivalina has taken only 5 whales in the nine years reported and the one whale that it harvested in 1977 was its first whale in five years. Other villages harvested 0–3 bowheads in 27 of the 31 reports available and reported a total of only 71 bowheads taken since 1908.

The harvest at Barrow has been far more erratic over time than at other villages. In a number of years during the early part of this century, Barrow took fewer whales than Point Hope, but this has not occurred in the last 18 years. Since 1949 there have been 17 years when the harvest has ranged between 0–10 whales (including five years when no whales were taken) and 11 years when it ranged between 11–23 whales. Over the past decade Barrow has harvested an average of 13 whales per year compared with less than 6 whales per year for each of the two decades preceding it. However, during the years 1925–31, Barrow harvested an average of 10 bowheads per year and in 1925 took 19 whales, a harvest since exceeded only in 1976.[1]

The DEIS estimates that the harvest in the last decade is higher than at any other time. However, its data for the early years is based largely on reports from only two villages, Barrow and Point Hope, while in recent years, owing to improved monitoring, its data reflect results from nine villages. Our analysis of the data from these two villages indicated that the harvest falls within historic limits. The greatest annual harvests occurred in 1885 with 40 whales taken, 1896 with 39, and 1908 with 36. The greatest total harvest over two consecutive years occurred in 1908–09 when 60 whales were taken. (During this same year 10–12 whales were harvested at Icy Cape.) The decade when the most intensive harvesting occurred appears to be the 1920s.

[1] The results of the 1977 fall hunt are not available at this time.

There are undoubtedly many factors that determine year-to-year fluctuations in the harvest and the relatively constant rate of harvesting over time. A number of these are beyond the direct control of the whalers, among them: the exigencies of the weather, its affect on migration patterns, and the sheer luck of the chase. These would tend to balance out over time.

It appears that the most important human factor limiting the harvest is the level of effort, measured in the number of crews engaged in whaling. The evidence suggests that this, in turn, is governed by traditional, self-imposed community restraints on excessive hunting and that these restraints are directly related to community needs.

The DEIS suggests that the increased harvest in 1976 and the general increase in the past decade may be attributable to a sudden affluence resulting from the Alaska Native Claims Settlement Act of 1971 and from wage work, enabling more whalers to purchase boats and equipment. On the other hand, an increase in the cash economy could reduce community dependence on subsistence whaling, and time spent working for wages could reduce time available for hunting.

We suggest that one factor which most directly influences the number of crews whaling appears to be the result of the prior whaling season—that is, need.

The importance of the success of the prior season in determining the number of crews whaling is illustrated by the following table, which shows (a) the number of bowheads taken in the spring and fall seasons from 1973 to 1977 and (b) the number of crews whaling during the spring seasons.

	1973		1974		1975		1976		1977	
	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)
St. Lawrence	6	----	2	8	1	23	8	----	2	----
Kivalina	0	----	0	5	0	5	0	3	1	----
Point Hope	7	11	6	10	4	13	12	14	2	----
Wainwright	3	6	1	2	0	4	3	8	2	----
Barrow:										
Spring	15	28	6	21	10	30	13	36	19	----
Fall	2	----	3	----	0	----	10	----	----	----

In the spring of 1973 Point Hope, Wainwright, and Barrow reported a total of 45 crews whaling and a harvest of 25 whales. Barrow took 2 whales in the fall. In the spring of 1974 each village shows a decrease in the number of crews, with the most significant decreases occurring at Wainwright and Barrow. In the spring of that year, 33 crews engaged in the hunt, a 27% decrease over the prior year, and they harvested 13 whales, a 48% decrease. Barrow took 3 whales in the fall. Then in the spring of 1975, apparently to compensate for the sharp decrease in the 1974 harvest, the number of crews from these three villages increased to 47—the 1973 level; but, owing to weather conditions, the results were poor and only 14 whales were taken. Barrow took none in the fall. In the spring of 1976, following this same pattern, the number of crews increased to 58 and the number of whales harvested rose to 28—twice the spring harvest of the prior year, but only slightly above the level for 1973. The fall harvest at Barrow rose to the unprecedented level of 10 whales. The experience at St. Lawrence Island shows a similar pattern: the number of crews rose 300% to 23 in 1975 following poor results in 1974 when only 2 whales were taken. The significance of reports from Kavalina are obscured by the fact that no whales were taken from 1973 to 1976, but they probably reflect a maximum level of effort by this small village.

The importance of factors of opportunity and chance beyond the hunters' control are reflected in the lack of direct correspondence between the number of crews whaling and the number of whales harvested. The following table shows the total number of boats operating at Point Hope. Wainwright, and Barrow in the spring hunts; the number of whales taken; and the average number of whales taken per crew:

	Crews	Whales taken	Harvest per crew
1973	45	25	0.55
1974	33	12	.40
1975	47	14	.30
1976	58	28	.48

This is most vividly shown by the results from St. Lawrence Island where 8 crews took 2 whales in 1974 and 23 crews took only 1 whale in 1975.

The number of crews whaling in 1977 appears to indicate an important change in the factors controlling need. Owing to the great harvest in 1976, it would be expected that the number of crews would decline; but preliminary reports indicate that approximately the same number of crews were engaged in the spring of 1977. A decline in the cash economy and/or restrictions on the hunting of other species probably account for this. Greater federal efforts to enhance and stabilize the cash economy of the villages and conservation management based on the human ecology of the region rather than by species should reduce this sudden increase in reliance on the bowhead.

What causes special concern is the recent sharp increase in the numbers of bowheads reported killed but lost and struck but lost. Barrow accounted for all eight animals reported killed but lost in 1976 and 11 of 13 reported between 1973–76. Barrow and Point Hope together accounted for 30 of the 35 whales reported struck but lost in 1976 and 75 of 99 reported in 1973–76. The number of whales struck but lost in the spring of 1977 rose alarmingly to more than twice the number for the prior year.

The DEIS suggests that one of the factors contributing to an increase in the number of whales lost may be increased hunting by inexperienced crews of young men. It is presently impossible to guage the impact of inexperienced crews.

Improved monitoring may account, in part, for the increase in the number of whales reported lost. This might help explain differences among observers on the ratio of whales harvested to whales struck. Johnson et al. (1966) estimates that the ratio is 1:4 and Durham (1974) estimates 1:4 or 1:5. Scott (1951) and Marquette (1977) estimate 50 percent of all whales struck are not recovered. But monitoring is inherently difficult. Eskimo hunters point out that there may be considerable duplication in the count of whales lost. For example, a wounded whale is more likely to be struck again; a mortally wounded whale as struck but lost may be counted again as killed but lost. Occasionally a whale counted as struck but lost is harvested in another season. Abnormal weather conditions, an abundance of whales, and chance undoubtedly are factors in animal variations in the number of whales lost. For example, the number of St. Lawrence Island crews engaged in the hunt in 1974 and 1975 increased from 8 to 23, but the number of whales lost only increased from 2 to 4. At Barrow, the number of crews whaling in the spring of 1974 and 1975 increased from 21 to 30, but the number of whales lost decreased from 20 to 11. In any case, the number of whales lost by new crews can be expected to decline with experience. Federal funds for a program to assist whaling villages in training new crews might accelerate the learning process.

There is general agreement that equipment failures and a change in whaling methodology at Borrow contributes to an unnecessarily large number of whales struck but lost.

Eskimo whaling communities are acutely aware of the hazards associated with any significant increase in the number of whales killed and are seeking means to limit this without impairing their culture and society, and their health and general wellbeing. They have invited the United States to assist them in their efforts.

Eskimo community restraints have worked effectively in the past to limit the number of whales killed and the species has survived and may be increasing. There is no reason to believe that they will not work in the future and no evidence to support the Commission's drastic action.

ENFORCEMENT

The key to international conservation efforts is agreement by governments and peoples that the regulations imposed are just solutions to international problems. To the Eskimo people of Alaska, the action of the Commission to ban subsistence whaling is capricious and arbitrary. For the United States to disregard its own laws and fail to object to the action can only help undermine Eskimo respect for our laws.

It is virtually certain that Eskimos will not comply voluntarily and will attempt to continue to hunt. Enforcement of the action on an unwilling population that feels betrayed would be extremely difficult, with grave politcal consequences. At a minimum, one can foresee massive civil disobedience. At worst, the federal government might have to resort to armed intervention against its own people and order military occupation of Native villages in order to compel obedience to an international ruling in violation of long-standing American principles.

CULTURAL IMPACTS

Opposite to the uncertainty surrounding the impact of Eskimo whaling on the survival of the species is the certainty that a sudden, arbitrary and capricious ban on whaling would seriously disrupt, and might destroy, a complex economic and social structure that has evolved over thousands of years. The federal government has had two centuries in which to observe the devastating effects of its intervention into Native American community life.

It has long been the policy, if not the practice, of the United States to recognize and respect the cultural integrity of minority populations. The thrust of federal programs for Indian and Alaska Native people has been based on the recognition that cultural pluralism is a source of national strength. Where, as here, governmental intervention is proposed into a matter that is of such profound consequence for the survival of a people, the government must examine carefully and critically the importance of and the rationale for its action.

The destructive impact of government intervention is indicated by Alexander H. Leighton, M.D.[2], a member of our National Committee on Indian Health, in his statement objecting to the Commission's action:

"Subsistence whale hunting is of the first order of importance in terms of traditional Eskimo culture. It is vital to the development of skills, dignity, and cooperation; and these are important values to the mental health and psychosomatic wellbeing of Eskimo whale hunters. Any interference with the opportunity to continue the traditional hunt is a very serious matter and would undoubt-

[2] Dr. Alexander H. Leighton is Professor of Behavioral Sciences Emeritus, Harvard University; National Health Scientists of Canada; and Professor of Psychiatry and Preventive Medicine, Dalhousie University Medical School.

edly have adverse affects on mental health in the whaling villages and on the self-image and personality structure of the people affected."

"Eskimo hunters are the first to acknowledge that protecting the whale is essential to the preservation of their culture. For thousands of years, community self-regulation has proven successful in safeguarding the species. It should be encouraged, rather than thwarted, by government action."

Calories are not culture. The solution reached by the Soviet Union—using state whaling vessels to harvest bowheads and deliver them to its Eskimo population—provides for Eskimo physical needs but undermines their cultural integrity. For the United States to resort to solutions such as this would begin the transformation of independent, self-reliant and self-sufficient American Eskimo communities to welfare ghettos. The caloric intake of Eskimo people from bowhead whales can be replaced; but the cultural fabric of Eskimo life that is woven around the whale hunt cannot be.

Federal intervention would undermine vital family and social structures. These would in turn contribute to the circumstances leading to the break-up of Eskimo families, already a widespread problem in Native Alaska. Children separated from their families may suffer such severe distress that it interferes with their physical, mental, and social growth and development. Government intrusion into the cultural life of the community disrupting its subsistence economy and its traditional mechanisms for self-regulation could ultimately lead to the creation of a "culture of poverty" where large numbers of people feel hopeless, powerless, and unworthy, and where state intrusion becomes the norm rather than the exception.

Government intervention apparently has already begun dismantling the Eskimo economy. Federal and state interference with the Eskimos' ability to harvest other foods—including caribou, walrus and migratory birds—seems to have caused the villages to become more dependent on the bowhead than before and this in turn may ultimately threaten the species.

IMPACT ON CONSERVATION

Since the Bering Sea stock of bowhead whales became the subject of special attention by the Commission's Scientific Committee in 1972, the Commission has encouraged the United States to study the population abundance and natural history of the bowheads and the impact of Eskimo whaling on the species. It has also sought to limit waste—that is, the number of whales struck but lost. The failure of the United States to act promptly and the sharp increase in the number of whales lost led to the Commission's drastic action in 1977.

This action, if enforced, would help to defeat the Commission's own goals. To impose a ban on Eskimo harvest before the results of the studies in progress are analyzed is unscientific and unjustified. To interrupt subsistence whaling now would seriously impair the validity of studies seeking to understand the changing Eskimo subsistence economy over time and the impact of Eskimo whaling on the species. Moreover, if the Eskimos believe, as they now have reason to fear, that the information they have generously shared with scientific investigators will be used against them, they may refuse to cooperate any longer. This would result in a loss of the best source of information for learning more about the bowhead's natural history.

Moreover, successful enforcement of the ban could lead to an increased harvest of other whales and marine mammals, possibly endangering these species.

The leadership role of the United States in world conservation agreements has been made possible by the support of the American public for such efforts. Acquiesence by the federal government in an action that is arbitrary, in violation of domestic law, and dangerous to the Eskimo people can only lead to an erosion of this support. If the United States is required to employ military measures to suppress a defenseless aboriginal people, which it has pledged to protect, on the pretext of saving them from themselves, the impact on world public opinion could be catastrophic.

CONCLUSION

For the reasons stated above, we urge that the United States exercise its legal right to object to the Commission's action to ban Eskimo subsistence whaling, and we further urge that the federal government encourage and support Eskimo community self-regulation.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

PANAMA CANAL TREATIES—NO. 12

Mr. ALLEN. Mr. President, this is the 12th speech in a series dealing with the proposed Panama Canal treaties. Yesterday I testified before the Senate Committee on Foreign Relations, and in lieu of full remarks in the Senate on the canal treaties, I obtained unanimous consent to have printed in the RECORD my testimony at the Foreign Relations Committee hearing. Today, Mr. President, I will discuss the historical background against which the United States negotiated the Hay/Bunau-Varilla Treaty, the treaty of 1903, which made possible the construction of the Panama Canal. Frankly, there is so much misinformation on this subject that perhaps the Senate will find advantage in a review of the facts as they actually occurred.

Although an isthmian canal had been contemplated from the time of Cortez, the first significant event leading to the construction of the canal was the treaty of 1846 with Colombia, then known as New Granada. Under the provisions of the treaty, New Granada guaranteed to the United States the exclusive right of transit across the Isthmus of Panama—the State of Panama, which was then a province of New Granada—"upon any modes of communication that now exist or that may be hereafter constructed."

So this language is really the forerunner of the rights and the property rights that the United States gained under the treaty of 1903 "upon any modes of communication that now exist or that may be hereafter constructed." In exchange, the United States guaranteed "positively and efficaciously" the "perfect neutrality" of the isthmus—I repeat, this sort of language goes away back, more than 100 years; the United States guaranteed "the perfect neutrality" of this area "positively and efficaciously," and further guaranteed New Granada's right of sovereignty in the isthmus. Pursuant to this agreement, the United States constructed the Panama Railroad, which now crosses the isthmus in the vicinity of the Panama Canal.

The discovery of gold in California in 1848 intensified the interest of the United States in a route across the isthmus. Ultimately, however, the single event which focused the full attention of U.S. citizens on the desirability of constructing a canal was the dramatic 1898 voyage of the battleship *Oregon* at the beginning of the Spanish-American War from the west coast of the United States around the Horn and into the Caribbean. Our first true modern battleship, the *Oregon* was in San Francisco when the *Maine* blew up in Havana Harbor. Victory over Spain in the Caribbean was dependent on the *Oregon's* presence. The warship was a beautiful and well equipped vessel, and with determined sailing, she did arrive off Cuba in time to play a crucial part in the battle of Santiago Bay. However, the trip took almost 70 days, highlighting the great necessity for an Isthmian Canal for expedited American naval operations. The long voyage of the *Oregon* was the great catalyst in firming American resolve to sever the continents.

Years prior, in 1850, as a first step, the construction of the Panama Railroad had begun. The railway was finished 5 years later at a cost of $8 million, six times the initial estimate. The world's first transcontinental railroad, its high construction cost which would just be a drop in the bucket compared to the costs today, of course, made it the most expensive rail line on Earth. Nevertheless, at a price of $25 in gold for a one-way ticket, it earned massive profits for its stockholders. Twenty-five dollars in gold, Mr. President, a high price in that day, was nevertheless considered quite a bargain inasmuch as a passenger could thereby reduce greatly the length of time required to remain in Panama during a transit from one ocean to the other. Panama was considered the most unhealthy region in the civilized world, and the less time spent there by a traveler, the better. During the construction of the railroad, for example, more than 6,000 construction workers died of cholera, dysentery, yellow fever, malaria, and smallpox—all diseases for which there was then no known cure.

So, Mr. President, thanks to this treaty of 1846 with New Granada and thanks to American initiative, the isthmus at Panama was spanned. So we have a long history of operations in Panama, in moving from one ocean to the other, then by railroad and now by canal. Under the terms of the treaty with New Granada, the United States was obliged to keep the railroad open and to protect it against any potential enemy, by force of arms if necessary. As a result, U.S. naval vessels were customarily stationed in the Caribbean off Colon and Panama City.

Way back then, Mr. President, we were given the right to defend the railroad and to keep the railroad open. So there is a parallel history between the situation regarding the canal today and the Panama Railroad of a century and a quarter ago.

That is one of the big objections to this treaty today, that it does not properly provide for defense of the canal. The construction of the terms of the treaty are in doubt, with Panama saying one thing and our negotiators saying another. I would say, Mr. President, that the express terms of the treaty would indicate to my mind that the Panamanians have the proper construction of what the treaty means.

Way back 125 years ago it was provided that we would have a right to defend this method of going from one ocean to another, transiting the isthmus.

Now the point of recalling these facts, Mr. President, is to refute some of the present-day mythology surrounding the history of the efforts of our country in the Isthmus of Panama. The true facts are that the United States was deeply involved in Panama from a very early stage and that the work of the United States has been the critical element in establishing and maintaining safe routes of travel between the two oceans. A reexamination of the history of U.S. efforts in Panama confirms the tremendous investment of life and materiel required of the United States in its great national adventure in the Isthmus at Darien.

Most of us, for example, have forgotten the hard work of Admiral Ammen, who led seven expeditions to Central America between the years of 1870 and 1875 for the purpose of obtaining knowledge about where a canal should be built. Frankly, Mr. President, it was not at all obvious that the best route was the route ultimately taken, and much debate, as well as engineering surveys, ensued from the time of Admiral Ammen's initial expeditions until the time of decision to use the present route. The expeditions of Admiral Ammen were carefully done, and his results formed a basis for future efforts. Commenting on the Ammen expeditions, then President Grant commended the canal project to the American people with the statement, "An American canal, on American soil"—not a bad recommendation and certainly a sound concept.

To be sure, Mr. President, other nations attempted to compete with the United States in efforts to connect the oceans. Most notable of these was the effort made by the French under the leadership of Ferdinand de Lesseps. De Lesseps' claim to fame was considerable since he supervised the construction of the sea level canal at Suez. However, Suez had no relationship to Panama and de Lesseps met with no success when he tried to transpose the methods used at Suez to the pestilent-ridden jungles of Central America. The French effort collapsed in 1889 amid charges of embezzlement and corruption. Subsequent attempts to renew French construction succumbed rapidly to the returning jungle.

In 1899, after the events of the Spanish-American War, the United States established the Isthmian Canal Commission and placed the agency under the leadership of Rear Adm. John G. Walker. The Commission was charged with selecting a route somewhere across the isthmus and was given the further objective of recommending the type of canal to be built. Nicaragua, not Panama was recommended, and candidly, Mr. President, absent political considerations, the Nicaraguan route may well have been the proper choice and indeed may well be the proper choice now if the United States does choose to construct a sea level canal for the transit of major warships and supertankers.

So, Mr. President, Nicaragua was the preferred route; Nicaragua was viewed as a country with a healthier climate and a more stable government than Panama; Nicaragua had very strong support in the Congress, particularly in the Senate under the leadership of the great Senator from Alabama, John Tyler Morgan. Senator Morgan, of course, is known as the father of the Panama Canal, even though initially he supported the Nicaraguan route. Once the decision was made to construct a canal in Panama, Morgan, as chairman of the Senate Committee on Interoceanic Canals, threw his full energies into the Panamanian project.

But as I said, Mr. President, initially Nicaragua held the favored route; ultimately, however, at the culmination of what was then known as the Battle of the Routes, Congress on June 28, 1902, passed the Spooner Act to authorize the construction of an interoceanic canal in Panama.

This is in support of the discussion today, as to whether the entire Congress has to pass an act in addition to the Senate giving its advice and consent to the treaty.

You know, Mr. President, back in those days it was thought that the Congress had to authorize the President to take a major step in foreign policy, such as the initiative required to obtain canal rights in Panama. So they did pass this act called the Spooner Act to give to the President the authority to proceed. The Spooner Act involved the acquisition of territory, and we have certainly come a long way since those days because now we have an administration asserting, notwithstanding the clear language of the Constitution, that there is not even a need to obtain congressional authorization to cede U.S. territory to another nation. Yes, Mr. President, we are light-years removed from the way Government was conducted in 1902, even though only 75 years have elapsed.

The Congress gave the President authority in the Spooner Act to acquire from the Republic of Colombia "perpetual control of a strip of land" not less than 6 miles in width from the Caribbean Sea to the Pacific Ocean, and having obtained such property, thereafter to excavate, construct, and "perpetually maintain, operate, and protect thereupon a canal." So the Congress authorized the President to acquire this strip of land, and of course eventually President Theodore Roosevelt did acquire the strip of land. Yet the 95th Congress is being avoided entirely now that the administration wants to give this strip of land away.

But look at this, Mr. President. The Spooner Act contained some further provisions which should be of interest to the Senate. The President under the Spooner Act was further directed to maintain U.S. "jurisdiction over said strip and the ports at the ends thereof to make such police and sanitary rules and regulations as may be necessary to preserve order and preserve the public health thereon and to establish judicial tribunals as may be agreed upon thereon as may be necessary to enforce such rules and regulations."

The point I am making, Mr. President, is that this canal was no project lightly entered into by the United States. The Congress and people were deeply involved every step of the way. Great forethought went into the negotiations with Colombia and later with Panama. Great forethought went into the conditions under which the United States felt it would be acceptable for the United States to undertake the tremendous financial and human sacrifice that would be required to build this manmade wonder of the world. The matter was debated, studied, fought over, covered extensively in all the periodicals of the time, and only when great national consensus emerged was the project finally initiated.

How much different is the situation we face today. Our people are united in their resolve against these ill-advised, imperfectly drafted, and dangerous treaties, yet the administration and much of the national mass media have joined forces to attempt to ram these proposals down the throat of the Senate, to attempt to revise history, to attempt to reeducate our people—our people, Mr. President, understand already the history of the Panama Canal, because most of them grew up being told in their homes that its construction was perhaps our Nation's greatest peacetime accomplishment.

So, Mr. President, our people are going to have to be reeducated quite a bit if their resolve in opposition to these treaties is to be seriously shaken. It is going to take around-the-clock work by revisionist historians to convince our people that the construction of the Panama Canal was not a glorious achievement representing the very best of what is good about our country, a great work for peace and for humanity, an effort which produced benefits in medical science we are still enjoying today, and an achievement which lifted the Province of Panama from abject poverty, ignorance, and misery to a position of wealth and respect among Central American nations.

Efforts to revise history are well underway. For many months now and with greater and greater frequency, we hear accounts implying that the United States stole the Canal Zone from Panama and somehow, through intrigue, euchred the Panamanians out of their most valuable asset. These accounts conveniently overlook the simple fact that the only asset held by Colombia and later Panama was an accident of geography covered by a jungle into which only the brave or foolhardy dared to tread and from which few emerged.

Tomorrow, Mr. President, I plan to discuss the final events leading to the negotiation of the treaty of 1903, the Hay/Bunau-Varilla Treaty. My purpose will be to explain the circumstances under which the treaty was agreed upon and hopefully to refute the allegations of misconduct on the part of the United States in obtaining our rights in Panama. In my judgment, study of the history of

the treaty of 1903 is a worthy pursuit for all of us, because the American people are being told by many that we have something to be ashamed of in our acquisition of the Canal Zone. Mr. President, rather than shame, Americans should feel—and do feel—an immense sense of pride. A reexamination of the history of the period, rather than causing embarrassment, should reinforce our sense of appreciation for a great national achievement and should strengthen already strong resistance to any proposal which would tear down a work well done.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. SCHMITT. I yield.

AMENDMENT TO UNANIMOUS-CONSENT AGREEMENT—S. 2114

Mr. ROBERT C. BYRD. Mr. President, I am informed by Mr. MELCHER that he was unaware of the agreement entered into last night on the utility rate reform bill, S. 2114, and that he has an amendment he wants to call up. I, therefore, ask unanimous consent that a time limit of 1½ hours on the Melcher amendment be divided in accordance with the usual form.

Mr. BAKER. Reserving the right to object, and I will not object, Mr. President, Senator MELCHER spoke to me about this matter. We have no objection to amending the unanimous-consent request in that respect.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 1863

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the distinguished minority leader and with the chairman of the committee and the ranking member.

I ask unanimous consent that at such time as S. 1863, Calendar Order 418, is called up and made the pending business before the Senate, there be a time agreement thereon of 3 hours to be equally divided between Mr. MCINTYRE and Mr. TOWER, that there be a time limit on any amendment of 30 minutes, a time limit on any debatable motion, appeal, or point of order of 20 minutes, and that the agreement be in the usual form.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1863 (Order No. 418), a bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from New Hampshire (Mr. McIntyre) and the Senator from Texas (Mr. Tower): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

THE 20TH ANNIVERSARY OF SPUTNIK SATELLITE

Mr. SCHMITT. Mr. President, a number of Senators a few days ago had planned to enter into the RECORD statements related to the 20th anniversary of the first artificial satellite to be launched into orbit around the Earth; namely, the satellite of the Soviet Union commonly known as sputnik. That event occurred on October 4, 1957.

As a consequence of the activity surrounding the recent energy debates, we were unable to get together and suitably honor the beginning of the space age yesterday.

Today, individually, and I am sure for possibly several days, we will try to so honor that event.

It is hard for me to believe that it has only been 20 years for all that has happened to have happened as mankind has begun to move civilization off this planet and into space.

As with a few other historic events in our times, many individuals could remember exactly what they were doing and where they were when the announcement of the Soviet Union's success in space was made.

I happened to be on the west coast of Norway in a small farming community pursuing studies related to a line of research as a geologist that I was pursuing at the time, and living with a farm family in the area known as Sunnmörre. As I struggled through the use of Norwegian as the language of the area, I occasionally took a break from that effort to listen to the Voice of America. In so doing, I was informed of this great accomplishment by the Soviet Union and by mankind. I did not get much sleep that night as I reflected on something I had not thought about, other than in the reading of science fiction as a child. Then, as the days and months went by, during my year as a student at the University of Oslo, I began very quickly, I think, to realize the profound psychological impact that this event was having on the young people of the world.

The Oslo student community was not just Norwegians and Americans. It was Soviets, Polish, Indonesians, Africans, South Americans, young men and women from all over this world. There was almost no conversation during that time that I can remember that did not eventually end up discussing not only the event itself but the impact that space activities would have on the history of nations and the history of mankind. One could not be exposed to that interest in young people and not realize that the space era upon which we had entered would be a major, if not the major, influence on the future history of mankind.

Sputnik had great influence on the direction of science and the direction of engineering, technology, and education in the United States of America. We thought for some period of time that we were in a race, a very critical race, with the Soviet Union to reach the Moon. As it turned out, in 1968, for a variety of reasons, it was clear to most observers of the space scene that there was, in fact, no race; that the technological contest was unequal; that the United States was clearly capable of going to the Moon with men and returning those men safely to the Earth; that the Soviet Union was not, and I still believe today, is not capable of so doing.

That does not mean that the Soviet Union and other nations lack capability to operate in space with men and operated satellites, but the question of deep space travel and exploration and, in fact, civilization, is still largely a question that only the technological base of the United States can face. I think it more important, on, this 20th anniversary of the launching of the space age, that we should reflect on what history will think of this 20-year effort, largely dominated by the United States, what history, 100 years from now or 500 years from now or 1,000 years from now, will record as being the significant point or points during these two decades.

Mr. President, I believe very strongly that we can put ourselves roughly in the position of the historians of that future time and look back on the history of science, of technology, of nations and of mankind, and draw some general conclusions about what they will write. In the history of science, these historians will, I believe, view the effort to explore the Moon and to study space scientifically from space as a unique event in the history of science, an event that marked the time when scientists and man in general obtained their first-order understanding of a second planet. For the first time and only time could that be said.

The Moon offers a great insight into the early history of the Earth and now, for the first time, mankind could tap that insight. Man suddenly realized that his understanding of the Sun as viewed from the Earth was extremely primitive and that science now had a new platform outside the atmosphere from which to study the Sun, which drives this solar engine we call the Earth, around which we circle, and upon which we depend for our lives.

In the history of technology, these historians again, I think, will view the experience of the last 20 years as, roughly, a single event in time, for mankind, for the first time, vastly expanded the technological base on which we stand as a species to do new things, to do things that will solve crises such as energy crises, that will solve the crises of poverty, education, communications, disease, and so on; a technology base that, for the first time in human history, developed as a consequence of essentially peaceful activities and not the activities of war or activities related to war. To have another way of doing things, of developing a technology base should be taken, and I think will be taken, with great encouragement by future generations.

Those historians in that distant time that will look at the progress and history of nations also, I believe, will look upon the last 20 years as a unique event. They will record that the first truly spacefaring nation, the United States, was also the only nation of that time that was capable of defending, protecting, and replanting the very fragile seed of individual freedom—not only on the planet Earth, but elsewhere in space. That the United States, the only nation with both the idealism and the power to protect that fragile seed, should be, in fact, the first and leading spacefaring nation of the time will be a fact not lost on these future historians. In a very real, analogous sense, the United States has the same position in history that was maintained by the British nation for several centuries, when they were the dominant seafaring nation on this planet. It was through that dominance, directly or indirectly, that the seed of freedom came that our ancestors from all parts of the Earth planted on this land. It was through that influence and dominance that that seed was protected and grew and was nourished here.

We hold the same position in the broad scheme of things, I believe, with respect to space and the future of freedom, not only here on this planet, but elsewhere in the solar system.

But there are many, Mr. President, that would say the most critical element is, what will the long-term history of mankind record as a consequence of our efforts?

There I think we find the deepest and most psychologically impelling reason to honor this 20th anniversary and to continue to do so as time goes by, because mankind as a species through this 20-year period demonstrated that through the use of its technology, its minds, and its hope and dedication that it was willing to leave the planet Earth, to leave the planet of its origins, and commit itself to gravitational fields, to environment, completely alien to the evolutionary sequence through which mankind had evolved in the commitment to a representative or representatives of that species to orbit around the Moon.

A very fundamental bond was broken and new bonds were established in space.

Some day on the Moon, or on Mars, or somewhere in space, new civilizations will develop and those civilizations will tie their beginnings to the space era that beban 20 years ago.

Among the young people alive today, there are very probably the parents of the first Martians.

Mr. President, I reserve the remainder of my time.

Mr. GOLDWATER. Will the Senator yield?

Mr. SCHMITT. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, it is a distinct honor for me to follow the previous speaker, the Senator from New Mexico (Mr. SCHMITT), who was one of the few men to stand on the Moon. In fact, it is rather unique that in this body of 100 men we have the Senator from Ohio (Mr. GLENN) who was the first American to orbit the Earth and Dr. SCHMITT—as I first knew him—one of the few men to have walked on the Moon.

But, Mr. President, I would like to say a few things about the 20th anniversary of Sputnik, which occurred yesterday.

The Soviets beat us to it. But it was more the fault of our people that this happened because a man we remember too lightly, Dr. Robert Goddard, had for many years out on the deserts of New Mexico, been testing his rockets, testing his theories of rocket propulsion.

Mr. President, these theories were later applied by our scientists to the problem of propelling a rocket that would leave the gravitational force of the Earth and be allowed to orbit and be allowed to go out of orbit and to travel to the Moon, to Mars, and now we have rockets on their way to further planets.

I will never forget the day, Mr. President, that we sat in joint session in the House and heard President John Kennedy say that we were going to the Moon. I imagine that 98 percent of the people in that room thought that the President was a little off that day. But, sure enough, he knew what he was talking about. He had his plans well laid, his thoughts worked out, and we eventually did just that.

But in the doing of that, we accomplished far more than just putting a man on the Moon, or men on the Moon. We accomplished far more than bringing back species of rocks that we found up there.

To begin with, we had to create an organization to make this possible. So NASA replaced the old NACA and went to work on the massive problem of solving the problems that had to be solved to allow us to do what we have done in space.

The first head of NASA was Mr. Webb, who put this together. Then he was followed by Mr. James Fletcher, who in my mind did a wonderful job on this because it was he who put it together in a way that made it work.

The problem immediately came up, not so much as how to get there, because our scientists knew what they had to do, they had Dr. Goddard's experiments to go on, but we then had the problem of assembling young men who could become astronauts. We, naturally, turned to the flying services of the Air Force and the Navy, and these men came to study at the established base, which was Cape Canaveral in Florida from which the launchings took place.

These were remarkable young men. They were very carefully selected. They went into the type of training that very few of us even in our younger days could have survived, leave alone survive and then do the job.

I might just say parenthetically at this point that Senator SCHMITT was, I believe, the only man who was not a pilot, who did not come out of the ranks of pilots. But I can say this to his credit, that he went to Williams Air Force Base near my home and there learned to fly jet aircraft without any previous experience or background and became a very proficient pilot.

I mention that because not many people know that.

Mr. President, the Senator from New Mexico has discussed the history and gone somewhat into what he sees in space.

I want to talk for a moment about what this means to America and, following up Senator SCHMITT's thoughts, what potential it has in its meaning to freedom and the creation of freedom around this world.

We have in space what we call the spinoffs. Many people have criticized the United States, the Congress, for having spent over $40 billion in the efforts in space. But already, Mr. President, the spinoffs, the developments from the inventions that were needed to make space exploration possible, spinoffs numbering in the tens of thousands, have returned this money to our Treasury.

I make this prediction, that within 5 years, with the operation of the Shuttle, the $40 billion will be returned every year and will continue to grow as we learn to apply more and more what the science of space has taught us.

I see particularly the payoffs in energy. I think I will live to see the day when petroleum will be used only to make medicine, and we will have solved the problem of the atom to the point that some place in the Capitol will be a black box, perhaps 8 to 10 inches square, out of which will come all the electricity this building will use forever. This also will apply to our homes, although the black box might be 2 or 3 cubic inches in size.

I think we will see whatever means of transportation we are using in 20 years propelled by fuel other than gasoline—some exotic fuel that today NASA is exploring.

With respect to the advent of the Space Shuttle, we already have more than 8,000 applications for the use of this Shuttle. When we complete other equipment, we expect to see perhaps a shuttle trip a week, continuing on and on and on, to satellites in stationary orbit, containing men and workshops, where we can do things that cannot be done on Earth.

I often have talked about one little thing that can be done in such a shop. We are limited on Earth in the manufacturing of crystals. You say, What is important about a crystal? Well, a crystal runs our radios; it controls our frequencies; it controls anything that depends on frequency. It also can change

alternating current to direct current and do it in reverse. But a crystal this size, about 14 centimeters in length, cannot be manufactured on Earth because of a gravitational force which would cause impurities in the crystal. These crystals can be manufactured in space.

You say, What good are they? These crystals, used in connection with a stationary satellite some 22,000 miles over any city in the world, placed there to collect the rays of the Sun, could change those rays into radio waves. Transmitted to the Earth and then changed into electricity, these crystals could change it from direct to alternating current, or in reverse. In fact, even today, if we had these crystals, it would be possible, with the existing electricity that New York City uses, to use crystals; and with a new technique of transmitting electricity at far below zero underground the present electricity would be more than New York ever could use.

We will find developments in medicine. We do not know what weightlessness will do for the human body. We will find out within a few years, and great advances will be made in medicine.

So, Mr. President, on this 20th anniversary of sputnik, it is not just the fact that we have orbited the Earth, that we have put men on the Moon, that we have put equipment on Mars that has enabled us to tell what Mars is like, that we are on our way to the outer reaches of what we know of space. Those are very important things. But the important thing to me is that this has given science, in this country and in the world, a great shot in the arm.

I sometimes wonder if history has not proved to us that man can go only so far with doing the things we have always done. Our governments do not seem to change much. Our society does not seem to change much. Our relation to each other does not seem to change much. There comes a time when freedom disappears because of the weakness of men. I think the future of freedom and the future of our country rest more in the continuation of the explorations of science, in the encouragement of young people to get into the fields of science. I believe that we can depend on the continuation of freedom if we will learn to learn more and to apply the learning, such as we are doing today, from what we have learned in space.

As a taxpayer, I do not begrudge one dime we have spent in space, because it is going to make my life better. It is going to make the lives of my children and my grandchildren and my great-grandchildren—and on ad infinitum—better. That is what we always should be striving for—the betterment of freedom and the betterment of life on Earth.

So I salute NASA today. I salute the genius of Dr. Goddard. I salute the farsightedness of President John Kennedy. I salute those men who made it possible to build the devices which have gone into space. I salute, probably as much as any of them, those men who have guided those devices into space and back to Earth.

The PRESIDENT pro tempore. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

Mr. MATHIAS. Mr. President, I associate myself with the remarks that have just been made by the distinguished Senator from New Mexico and the distinguished Senator from Arizona. They have spoken eloquently and accurately about the impact of this new space science on the world, a science whose birth is generally recognized, I think, from the time Sputnik climbed into the upper reaches of space around this planet.

As they have said, there have been heroes in this new field of space science; and it should be noted here that they, themselves, are two of the heroes of space science.

Senator SCHMITT, as an astronaut, as one of the men who actually has gone into space, who knows it not as an academic science but as a field of personal adventure and exploration, is one of the men whose names will be recorded as the pioneers of space science.

Senator GOLDWATER, who has been the ranking Republican member of the Space Committee, who has had a lifetime of dedication to advances not only in this field of science but also in science in general, has contributed by his strong support, his unwavering support, and by his deep personal interest which transcends simply his professional responsibilities in the Senate. This is obvious from the way in which he has educated himself in many of the fields of science.

So when they speak about the space age and space science, they are speaking about a subject with which they are intimately familiar and about which they know a great deal.

Of course, I am not only proud of them, I also am proud of the many thousands of Marylanders who have made a particular contribution to the space age through their work at the Goddard Space Flight Center. That has been one of the pioneer organizations which has helped to plan the strategy and to execute the tactics which have brought the United States into the forefront of space science.

I think we owe a great debt of gratitude to all of the people at NASA over the years, those who are there now and those who have gone before them, for what they have done for the United States. They have brought us from a position in which we were not first into a position where we are not only first but way ahead of all the world in this remarkable science.

Of course, the first steps in this direction were laid by a very far-seeing President of the United States, President Dwight D. Eisenhower, in whose administration the space age began with the launching of Sputnik.

But I wonder, in a philosophical way, what it is that these people who have worked at NASA over the years have given to their country. Well, they have given us some magnificent spectacles. Anyone who remembers that moment when man first reached the Moon has to thrill a little bit with the sense of participation in this tremendous spectacle which mankind, not only in the United States but all over the globe, gloried in. It was a great step for mankind, and the people at NASA gave us that spectacle.

Then, as the Senator from Arizona has suggested, they have given us lots of very practical things. They have given us the spinoff, things which are used in medicine today, practical, everyday, medicine; the healing arts have been advanced by the work of the people at NASA.

A commonplace but important thing like the transmission of electricity over long distances will be improved, I believe, by the work that has been done at NASA, something which could reduce the electric bills for the average household by 25, 30, 40 percent, because of what NASA has done.

So the spinoff at NASA has given us a lot of practical results whose economic benefits are becoming embedded in our society, and they are probably so varied and so widespread today that they would be hard to compute.

But I would suggest, Mr. President, that the people at NASA have given to the United States something more important than the spectacle, something more important than these practical benefits. They have given to this Nation the right to be confident about the 21st century. They have given us the right to say that we can find solutions to problems; that we can find new techniques, that we can find new frontiers, that we can be pioneers, that we can look to the 21st century with confidence.

I believe that.

I believe we can be confident about the 21st century. I think this Nation, with its knowledge, with its skill, with its remaining resources can find answers to even the tremendous problems that plague the world and plague us as a nation for the years immediately ahead. There is no more convincing evidence of this than the work of the people at NASA.

So I say, Mr. President, that of all the great contributions that the men and women of NASA have given to us no gift is greater than the sense of confidence that we, as a nation, can still surmount our problems, and face the future with a calm assurance that we still have the capacity to meet all the demands and all the challenges that may be laid upon us, and I express my deep appreciation to them.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. MATHIAS. I would be happy to yield.

Mr. SCHMITT. The Senator's remarks are extremely profound. I could not agree with him more. I think he is absolutely correct that we can face the next decades and the next century with extreme confidence.

I would only add slightly to that, and as a point only in confirmation, that during the period of time of the 1960's when this Nation's greatness was tested and verified by our activities in space we were undergoing as a nation tremendous other internal stresses, psychological as well as practical, with the war in Vietnam, the student unrest, and the other

problems our society was faced with at the time. But still for most evenings, on the evening news, television or radio, there was something having to do with the very positive course this Nation had chartered for itself. That course was in space.

I know we will never quantify the effect of that positive psychological influence on this country, but I happen to believe it helped us, if not insured, that we would survive those times, that we would see a brighter future not only for ourselves but for the rest of the world; and what the Senator says about the confidence we can have in the next century is not misplaced.

One aspect of that confidence, I think, comes from one of the first major applications of space technology, and that is in communications. Through the positive and, I believe, generally altruistic motives of this country we encouraged and have established global communications satellite systems, and the Goddard Space Center has played the commanding role in that activity, and still does today.

I think the Senator is to be complimented on his support of that center's activities, and of this Nation's activities in insuring that at the very least the world can communicate with each other and, in so communicating, hopefully, will find answers to the problems we face today and will face in the future.

I compliment the Senator on his remarks and also the Senator from Arizona for his, and I thank both of you for your kind remarks.

Mr. GOLDWATER. Mr. President, if the Senator will yield, talking about communications, it is my pleasure once in a great while to talk through our amateur radio satellite, which we call OSCAR, to different parts of the world. This goes on daily right around the clock. At one time I recall with great pleasure having a debate with a secretary of state counterpart in England and France, and I was sitting in New York, and I was trying to watch the monitor, as we always do. But the distance the signal had to travel was enough time so that there was a lip lag, and I had to quit looking at the monitor.

But the Senator is so correct. We are even doing it now on the desert of Arizona where we are using satellite television transmission to take care, in a testing way, of the Papago Indians, and we are doing it on the Navaho reservation.

So I agree with what both of you gentlemen have said about the future of this country.

While I do not think the future of this country can depend on mere man, I think it can depend on science. Thank you very much.

Mr. MATHIAS. Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Nebraska is recognized for 15 minutes.

RESOLUTION CONCERNING A NATIONAL WATER RESOURCES POLICY

Mr. CURTIS. Mr. President, I am about to send to the desk for consideration a resolution concerning a national water resources policy, and later on will make a request for its immediate consideration.

This resolution, which is unprinted, has 35 cosponsors. Most of my colleagues should have had the opportunity to familiarize themselves with this proposal, and I hope we can have immediate consideration.

On September 22, seven colleagues and I sent a letter to all Senators which discussed the proposal. The cosponsors also have copies of the resolution as well as copies of resolutions and policies which I will discuss here briefly.

Mr. President, the resolution I am proposing today expresses the sense of the Senate with regard to establishment of a national water resources management policy.

My colleagues all should be familiar with the current activities and efforts by the administration to study and establish a new national water resources policy. The administration is proceeding with a study for a new policy under the authority delegated to it by the Congress in the 1965 Water Resources Planning Act, Public Law 89–80.

However, there has been considerable concern expressed by the States and the public because of the short time afforded them for input and comment on the administration's proposals to date. Indeed, from the first announcement of regional hearings to be held on the proposals the States and public had just 1 month in which to prepare comments and recommendations.

On June 28 the Water Resources Council announced that regional hearings would be held around the Nation on July 28–29, and August 1–2. But, it was not until July 15 that the administration's issues and options papers, which were to be the subject of those hearings, were first printed in the Federal Register. Thus, the States and the public had less than 2 weeks in which to prepare comprehensive responses.

Because of the many complaints about the short time for comment and input, the administration did extend the period for public comment; first from August 12 to August 20, then to September 15, and finally to November 20. The new timetable of the administration calls for final recommendations on a new national water policy by the President in February of next year. But, in spite of the recent extensions of time for the public to comment on the proposals, the administration has not seen fit to grant further opportunity for input, comment, and recommendations by the States on the final proposals.

Mr. President, I repeat that the administration does now have the authority to develop national policy in this area. We, the Congress, gave such power to the administration in the 1965 act.

However, because of the outcry of the States, and because of the importance of this matter to every State, and because it appears that the States are not being provided the opportunity to have real input, and because the administration appears to be going beyond the intent of Congress in the 1965 act, and because the ultimate responsibility for national policy rests with Congress under the Constitution, I believe Congress should act positively to bring this matter back before it.

The concern of the States is very real. Those of my colleagues whose States have experienced severe drought in the past 3 years are aware of the serious concern about water resources. For those who have been fortunate in having their States escape the drought I can only say that water resources are important for the entire Nation.

This is not a regional issue of the West or the South or of any other area. Drought has hit the West, the Midwest, the South, and some of the Atlantic Coast States. Furthermore, drought is not the only concern of water resources as it affects agriculture. Water is also of major concern for domestic consumption, for commercial and industrial uses, and for environmental, recreational and other purposes.

In the material distributed to the cosponsors today are resolutions and policy statements which oppose the current proposals and procedures of the administration to establish a national water resources policy. These documents were all adopted unanimously. On September 9 the National Governors' Association, representing all of the 50 States, adopted such a resolution. On September 2 the Western Governors' Conference adopted a policy statement, and on August 31 the Interstate Conference on Water Problems representing all of the States unanimously adopted such a policy.

Mr. President, the resolution we are introducing today does not pit environment against development. It does not address any single water resource project or development. It is not concerned with the merits or demerits of water resources developments, programs or projects.

But it is concerned with States' rights, and with historical precedence, and with public and State concerns, and with the authority and responsibility of the legislative branch of Government in the area of national policy.

While recognizing the authority of the administration to set water policy in accord with the Water Resources Planning Act of 1965, our resolution also recognizes the constitutionally based responsibility for national policy with Congress.

The resolution itself does not preempt or preclude any new national policy guidelines by the administration, but seeks to insure proper input and consideration for the States, as well as opportunity by Congress to review proposals before they are implemented with the impact and effect of law. As my colleagues know, once a law is passed or a regulation is put into effect it is very

difficult to change it. So, this resolution today will serve to insure against the need for later change by providing for full airing and input and consideration of new policy proposals by the States and the Congress and not just the administration.

Simply put, Mr. President, our resolution would establish a 6-month moratorium on implementation of any new national policy recommendations during which Congress is in session and from the time of publication of those final recommendations. It would also express the sense of the Senate that the States should be provided with copies of the proposals and the materials on which they are based, and that the States should then have 2 months in which to respond and make input and recommendations to the administration and the appropriate committees of Congress.

After that the States would have 1 more month in which to meet within regional and river basin commissions to make recomendations which would also go to Congress and to the administration. Finally, Congress would have 3 months in which to hold hearings on the matter.

I point out at this time that among the 34 cosponsors of my resolution we have majorities of both the Environment and Public Works and the Energy and Natural Resources Committees.

Mr. President, this should not be a controversial matter. It is simply a sense of the Senate resolution regarding the current activities and procedures of the Federal Government concerning national water policy. It recognizes the concerns and sentiments of the States as expressed in the resolutions adopted in opposition to the current efforts by the Federal Government. It insures the rights of the States and of the citizens to have input in matters of Federal legislation and regulation.

I have additional remarks which I shall make for the record. First, I will send a resolution to the desk, and I urge its swift approval by the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. CURTIS. I am happy to yield to the distinguished leader.

Mr. ROBERT C. BYRD. Did I understand the distinguished Senator from Nebraska to indicate he was going to call up this resolution for immediate consideration?

Mr. CURTIS. Yes. That is my intention.

Mr. ROBERT C. BYRD. May I ask the distinguished Senator as to whether or not the chairmen of the committees involved have given their approval for the immediate consideration of this resolution?

Mr. CURTIS. I am happy to respond that the chairmen of both committees which would have jurisdiction of this matter have approved the immediate consideration and agreeing to of this resolution.

Senator JACKSON, who is chairman of the one committee, is a very great authority on water in his own right, and he is a cosponsor as well as most of his committee, and he has sent us a note authorizing the immediate consideration of the resolution at this time and agreeing to the resolution.

The other committee involved is headed by the distinguished Senator from West Virginia, Mr. JENNINGS RANDOLPH. He, too, has authorized us to go ahead and proceed with the resolution and agree to it at this time.

It is a sense of the Senate resolution and as I say it is not pro or con anyone's project, but it is to help work out an orderly timetable with little delay in developing a policy, and I think that it will serve all parties very well in that regard.

Mr. ROBERT C. BYRD. I have one further question. Does the distinguished Senator from Nebraska know of any opposition to the resolution on either side of the aisle?

Mr. CURTIS. No, I do not. It is something the Governors are interested in as well as the various interstate groups that consider these matters. It has been widely discussed by individual Senators on the State level.

The letter signed asking for cosponsors carried a list of seven bipartisan names, so it is something that has ample consideration and there is no opposition.

Mr. ROBERT C. BYRD. I do have one further question that just occurs to me. The Senator has no intention of offering any amendment to the resolution as it is now written?

Mr. CURTIS. No, not at all.

Mr. ROBERT C. BYRD. Very well.

I apologize to the distinguished Senator for interrupting him.

I have no objection to the introduction and immediate consideration of the resolution.

Mr. CURTIS. I thank the distinguished majority leader very much, and he need not apologize for interrupting me. I am always glad to be interrupted with good news, and I thank him for the good news.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CURTIS. Mr. President, at this time I wish to read into the RECORD the names of the cosponsors.

I have introduced this resolution for myself, Mr. JACKSON, Mr. HASKELL, Mr. LAXALT, Mr. GARN, Mr. GRAVEL, Mr. MCCLURE, Mr. HART, Mr. WALLOP, Mr. MCGOVERN, Mr. HANSEN, Mr. YOUNG, Mr. EASTLAND, Mr. TOWER, Mr. DOMENICI, Mr. HAYAKAWA, Mr. CHURCH, Mr. HATFIELD, Mr. STEVENS, Mr. GOLDWATER, Mr. DECONCINI, Mr. METCALF, Mr. CANNON, Mr. SCHMITT, Mr. BURDICK, Mr. HATCH, Mr. BARTLETT, Mr. HUDDLESTON, Mr. DOLE, Mr. PEARSON, Mr. FORD, Mr. THURMOND, Mr. BENTSEN, Mr. MELCHER, Mr. MOYNIHAN, and Mr. HELMS.

ESTABLISHMENT OF A NATIONAL WATER RESOURCES MANAGEMENT POLICY

Mr. CURTIS. Mr. President, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SASSER). The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 284) to express the sense of the Senate wiht regard to establishment of a National Water Resources Management Policy.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CURTIS. Mr. President, at this time I call the attention of my colleagues to the situation regarding administration efforts to establish a new national water resources policy.

I have a resolution prepared on this subject, and though it has not been printed, copies of the resolution have been distributed to each Senator's desk along with other materials which provide background information on this matter. Several other Senators have joined me in cosponsoring this resolution, which I will discuss in a short while.

Mr. President, I am bringing this matter before the Senate at this time because of the serious concerns I have heard expressed around the country regarding future water supplies and the current Federal procedures for establishment of a national water resources policy.

I need not remind my colleagues from the Western States and those others that have experienced drought problems in the past 3 years of the concern over water resources. But, for the benefit of those Senators who have been fortunate in having their States escape the drought, it is important that we all be reminded of the seriousness of the situation and of the importance of water generally. I believe that the issue of future water sufficiency for our Nation may be the most important domestic concern we will have to face, overshadowing even the energy shortage of this decade.

Mr. President, I am not here to argue the merits or faults of particular water resources projects, or to debate the tradeoff between water resources development and environmental concerns. My purpose is not to engage in argument over the specifics of water resources projects or of environmental protection programs. Rather, it is to call the attention of the U.S. Senate the basic problems concerning water resources policy generally, and to provide for affirmative action by Congress in this area.

While sides have developed over issues of specific water resources developments, and over Government positions and philosophies concerning water resources generally, there is no disagreement that I know of concerning a need for some new direction in water resources policy. The disagreement that does seem to persist within this understanding concerns priorities and levels of Federal control and authority. For that reason, I believe it is important that Congress take an active role in any Federal proposals and plans for a national water resources policy.

NATIONAL WATER POLICY

As my colleagues know, the administration is now in the process of developing a new national water resources policy. In this effort the administration is proceeding under the authority delegated to it for policy implementation under the 1965 Water Resources Planning Act, Public Law 89–80.

However, in its efforts to date the administration has made some proposals and preliminary recommendations which appear to be far beyond the scope of policy authority intended by the Congress in the 1965 act. In the course of regional hearings and various meetings on these proposals, severe concern and opposition have been voiced by most of the States.

Thus, I feel it imperative that the Congress reinsert itself into the policy area of water resources and take up its responsibility in this area as provided under the Constitution. The action I am proposing here directly is to protect the States and to assure their autonomy in this area of natural resources.

To understand why the problem and controversy has come about in this matter we should review the developments by the administration to date.

On May 23 the President delivered an environmental message to the Congress in which he said that there would be a study made by the administration to develop a national water resources management policy. While not setting a date or time for the study, the President said that it would be directed by Interior Secretary Cecil Andrus as Chairman of the Water Resources Council, and that the study would be conducted by and coordinated among the Water Resources Council, the Office of Management and Budget, and the Council on Environmental Quality.

On June 28 the first public notice of such a study was made when the Water Resources Council distributed a press release announcing that eight regional hearings would be held around the Nation to solicit public comment and input. The press release announced that hearings would be held in some of the regions on July 28 and 29, and in others on August 1 and 2.

On July 6 the first published notice of the hearings appeared in the Federal Register, and it was not until July 15 that the Federal Register carried the issue and option papers on which the hearings were to be held.

From the published notices and information by the administration to date, it is clear that the administration intended the regional hearings to be the opportunity for the States and the public to comment.

I point out that the time for the States and public to prepare for the hearings was just 1 month from the first announcement of hearings by the Water Resources Council, and that it was less than 2 weeks from the publication of the issue and option papers. It is interesting that the administration gave the Federal agencies 6 months in which to develop a water resources management policy, but that it gave the States and public less than 1 month in which to comment and respond. I doubt that any of the States had the resources or capability for developing any comprehensive recommendations in such short time.

It later developed that there was some confusion about how long the administration would keep the record open for comment in this matter. The June 28 press release of the Water Resources Council said the record would be open until noon on August 9. The Federal Register of July 15 said the record would remain open for comments until August 20, and another press release of July 20 from the Water Resources Council said the record would remain open until the close of business on August 12.

If the discrepancies in these announcements are puzzling to my colleagues, think how they must have been regarded by the States and the public.

While regional hearings were being held around the Nation on the administration's proposals, I wrote Interior Secretary Andrus to protest the short amount of time the States and public had in which to comment, to urge extension of that time, and to request a followup opportunity for the States to comment on finalized recommendations once those were prepared by the administration. I am aware that many of my colleagues also wrote the administration on this matter, and most of the States also requested further hearings.

The result was that we had two further extensions of time. On August 19 the Water Resources Council published in the Federal Register a notice of extension of the time for public comment to September 15. Finally, on September 1 a Federal Register announcement extended the comment period to November 20, and set the deadline for recommendations by the President for February of next year.

STATES' CONCERNS

Mr. President, since the announcement of a national water policy study by the administration, and its activities in that area, there have been many concerns expressed by the States—Governors, legislatures, and water resources directors—individually and in meetings around the country.

In May of this year the Second National Conference on Water, sponsored by the Federal Government, was held in St. Louis. Some 500 State and local officials and private citizens representing various interests attended that conference. The results and conclusions of that conference were delivered to the President.

It is interesting to note that the findings and conclusions of that conference were the same as those expressed later by the Interstate Conference on Water Problems, by the National Governors' Association, by the Western Governors' Conference, and by various regional river basin and water resources organizations.

Principal among the conclusions voiced by these groups and individuals were that:

First, while there is a need to streamline, refine, and improve upon the present Federal structure and procedures involving water resources, there is no feeling of a need to change completely the existing institutional structure;

Second, there is a need to centralize water resources policy in a single Federal agency which is independent of all other Federal agencies, biases and influences; and

Third, there is a need to strengthen the roles, responsibility and authority of the States in water resources planning and policy, and to retain the autonomy of the States in the complex issues of water resources.

OPPOSITION

Mr. President, the administration received thousands of pages of testimony, statements and comments during the regional hearings which were held around the Nation in late July and early August In addition comments continue to pour into the Water Resources Council from the States and the public.

My colleagues may be interested to know that as of last week I was advised that the record of those hearings had not yet been transcribed, although the administration itself appears to be proceeding with development of its policy.

The Interstate Conference on Water Problems, which is an official organization sponsored by the 50 States concerned with water resources, attended and monitored those regional meetings. The ICWP on August 12 published a briefing paper on the hearings. The paper included general comments from the eight regional hearings and the Washington, D.C. hearing, and also had specific random comments of Governors and other officials of several States including Idaho, Wyoming, North Carolina, South Carolina, Ohio, Texas, Massachusetts, Arizona, California, and Georgia.

The statements and comments of all those officials reflected concern about the ongoing Federal procedures and administration efforts concerning a national water resources policy. Most of the State officials requested a time extension for further comment, and most also insisted that there be an opportunity for further State input.

At this point I cite in part the August 12 report by the Interstate Conference on Water Problems which summarized the administration's regional hearings:

> Many of the States and other hearings participants were unable to develop detailed comments in reaction to the issues and option papers for the July 28 and 29 and August 1 and 2 hearings. In fact, some States had not even received the second issue of papers published in the July 25 *Federal Register* before the hearing in their region. There was also an attitude by some States that the options and problems, as presented, were less than adequate statements of the situation as it relates to water resource management, with some misleading and erroneous descriptions and inferences.
>
> In addition to the simple lack of time available to develop input, the States also expressed concern over the procedures used to develop the issue/option papers. States indicated their willingness to assist and complained that their expertise was untapped because the study procedure did not allow for non-Federal input in formulating viable options. Some States thought that the involvement of existing regional entities, such as River Basin Commissions, should have been more involved in formulating the National Water Policy Option Papers.
>
> Nevertheless, there was some agreement that the Administration's overview of existing National Water Policy was welcome and that some measure of reform was to be expected.

The States were in common agreement in their testimony that the Administration's comprehensive review of water policy should differentiate sharply between a "National" water policy and "Federal" water policy. Issue papers should have been directed more at defining a National Water Policy, its goals and objectives, rather than focusing on administrative changes and procedural revisions.

States inferred from the option papers, and from the process that was used to develop the option papers, that there is an underlying Federal policy emerging. That policy is thought to be increased Federal guidance, regulation and direction, with a concurrent reduction in Federal funds to support state management programs and state and Federal projects.

Additionally, states inferred from the option papers a Federal attitude that does not recognize the capabilities of the States. Specifically, States believe that the Federal option papers reflect an attitude as follows:

1. That the States have not in the past effectively or appropriately managed their resources.

2. That the States are not now effectively or appropriately managing their resources.

3. That the States cannot (and/or will not) effectively and appropriately manage their resources without a massive infusion of Federal regulation, direction and guidance.

The States generally found the above inferences to be contradictory to their experiences, since all major Federal resource programs in recent years have been modeled after programs which were originally conceived and implemented in one or more States. States suggested that to deny their innovative and initiating role was to deny the history of the existing Federal programs.

Invariably, the States were aggressive in defining existing State prerogatives and responsibilities and stated that they be respected and maintained in the development of recommendations to the President. It was emphasized that water resource management is the proper responsibility of State governments. Many States are of the opinion that they are better prepared than the Federal agencies to solve problems which are unique or peculiar to the States. The proper role for the Federal agencies was viewed as support of State water management activities, whether in the development, management or use of the resource, through provision of financial and technical assistance and programmatic support. Also, through a more effective coordination of Federal agency efforts in conjunction with State water plans and activities, State management needs can be more adequately attended to. States indicated that Federal programs should not be competitive with State and other non-Federal programs.

Mr. President, among the materials I have distributed with this resolution are copies of resolutions and policy statements expressing opposition to the current administration efforts and activities toward development of a new national water resources policy. These resolutions and statements were all adopted unanimously, and include positions taken by the National Governors' Association, by the Western Governors' Conference, and by the Interstate Conference on Water Problems.

In summary, all positions make strong cases for continued State autonomy in water resources matters, policy and law; they take issue with the proposals made to date by the administration; and they protest the methods of the administration in pursuing its study to date, particularly with regard to the short amount of time for the States and public to prepare comments for the hearings and to respond to administration proposals.

CONGRESSIONAL ACTION

Mr. President, with all of the controversy now in this matter, and with the unanimous outcry from the States, it is clear that the time has come for the Congress to intervene and to reassert itself in the area of water policy.

The Committee on Environment and Public Works is aware of the seriousness of the situation and already this year has held several days of hearings around the Nation on a national water policy.

At the first day of hearings on March 31, the Subcommittee on Water Resources heard from the Acting Chairman of the Water Resources Council, Mr. Christopher Farrand. In his statement on past administration activities regarding national water policy, Mr. Farrand said "there has been an unwillingness or inability to work with the Congress during the development of recommendations". He went on to say that there "has been lack of full involvement of the States, and frankly, the attention of the Congress has not always focused on water policy development".

If we are to believe all of the statements emanating from the administration these days, it is clear that there is a recognized need for greater coordination by the Federal Government with the States. But, whether or not such a belief or feeling has converted into action is questionable.

As recently as September 9 of this year, in a statement on reform of the Federal grants-in-aid system, the President said there would be greater coordination by the Federal Government with States and local governments in the development of regulations at the earliest stage. I quote from the President's September 9 statement:

Early in my administration, I directed the heads of all executive departments and agencies to consult with State and local officials when Federal regulations, budgets, and policy and reorganizations proposals were first being formulated. This procedure, a sensible and long-overdue reform, is now becoming routine. I further directed each agency head to make specific senior officials responsible, full-time, for consulting with States and local leaders and for insuring that their views are reflected in the development of departmental policy. These senior officials are now on the job.

In mid-October, I plan to issue an Executive Order which will require agencies to take positive steps to improve the process by which regulations are developed and issued. This will include soliciting public advice, including that of affected State and local governments, early in the process of developing regulations. It will also call for the publication of a semi-annual schedule of significant regulations on which they plan to begin work.

Now, Mr. President, I am sure my colleagues share my endorsement of such a policy by the administration. We hear constantly from the States about problems they have with Federal agencies in the implementation of regulations, so it is welcome news that the administration will be seeking greater coordination with the States and input from them.

The President's statement, and those of other administration officials in recent months, do give me cause to wonder though, in the case of the current activities for establishment of a new water resources policy.

I have already pointed out that one of the major objections to this activity from the States has been the short notice given for comments after publication of the administration's initial proposals, and the lack of any real administration effort to have State input in the proposals themselves. To my knowledge there was no consultation by the administration with any of the States for their input. The President in his September 9 statement clearly says that he directed his agency heads to consult with State officials when policy proposals were first being formulated.

That being the case, I wonder why the administration had not consulted with the States before development of the policy proposals for a national water policy.

I would be interested to know, as I am sure all of my colleagues would, just who the full-time senior official is in the administration for consulting with the States on water policy. All of the statements made by the various States at the National Governors' Association Conference, at the Western Governors' Conference meeting, and at the annual meeting of the Interstate Conference on Water Problems indicated that the States had not had advance notice or consultation from the administration on its proposals for a new national water resources policy.

What we have here, Mr. President, appears to be a clear issue of a double standard. The administration is saying one thing but doing another. I seriously doubt the intentions of the administration to get State input where it has proceeded as it has on a national water resources policy.

If these words seem too strong for some of my colleagues, I would just point out one other action taken by this administration which speaks for itself. For the past several years the Interstate Conference on Water Problems has served as an official representative organization of the States to the Water Resources Council. The ICWP has been a voice of the States in Federal water policy. But this year the administration eliminated the ICWP in this role. We now have no voice of the States at the Federal level in water resources policy. Again I point out the President's statements, and ask where the States are being consulted or have the opportunity for input.

NEEDED INPUT

Mr. President, the fact is that the administration has not consulted with the States in the development of a new national water resources policy. If there had been any consultation the States would not have known about it. If there had been any consultation the States would have known about it. If there administration's activities. If there had been any consultation the views of the States would have been reflected in the

proposals, as the President himself has said such views should be included in Federal proposals.

It should be clear to all that in the case of the administration's proposals for a new national water resources policy, we have the Federal Government working to establish a national policy and regulations from the bureaucracy in Washington without regard to the States, localities, and regions of the country.

What we should have, Mr. President, is the administration pursuing a national policy based on the policies and positions of the States. Only in that way can a national policy for such a complex subject as water truly reflect the needs and peculiarities of the various States and regions of the country. That brings us to the resolution we have before us today and which I am introducing for myself and several of my colleagues.

SENATE RESOLUTION

Mr. President, my resolution would express the sense of the Senate regarding the current study and timetable by the administration for establishment of a new national water resources management policy.

The introductory part is self-explanatory. It gives the historical developments as a basis and need for the resolution. I would just point out that the introductory part begins with recognition of the authority of the executive branch for development of national water policy according to the 1965 Water Resources Planning Act; and it concludes with a statement of the vesting of responsibility for such national policy under the Constitution in the Congress.

The main body of the resolution carries two provisions, one regarding a moratorium on implementation of any new national water policy, and the other establishing a timetable for action on a national water policy.

Basically the resolution states that it is the sense of the Senate that no new national water resources management policy shall be implemented without congressional concurrence, and no proposed regulations for such a policy shall take effect for a period of 6 calendar months during which Congress is in session, from the time of publication of any proposed regulations in the Federal Register and notification by the administration of such proposals to Congress.

The resolution also provides that upon completion of any final proposals by the administration, the administration should transmit those proposals along with other documents and related information, to the States. The States would then be given 2 months in which to develop their responses to the administration proposals, and to develop their own recommendations. Those responses and recommendations would then be sent by the States to the Water Resources Council and to the appropriate congressional committees.

After the 2 months period alloted for the States to comment, there would be an additional 1 month period for the States to meet within river basin or regional commissions for recommendations of regional policies. The regional recommendations would also be sent to the Water Resources Council and to the congressional committees.

Finally, Congress would have 3 months in which to conduct hearings and develop any recommendations, policies, or legislative proposals.

Mr. President, the significance of this resolution is that it puts the administration on notice of the intent of the Congress and of the concern we hear expressed about the administration's activities to date in the development of a new national water resources policy. It is also significant because it represents the first official step by Congress to regain some of the policy authority from the administration which Congress delegated in the 1965 Act.

Beyond that this resolution shows the awareness by the Senate of the concerns expressed by the States, and it shows the firm intention of the Senate to do something positive. The resolution would provide the very input opportunity for the States which the administration has not provided in matters of national water policy, and the resolution puts the States on notice that if they want to have input they must respond accordingly.

Finally, the resolution states the intent of the Congress to act on the responses to the administration's proposals by conducting hearings toward development of any national policy.

Mr. President, if nothing else has been provided by the drought of the past 3 years it has at least been shown that water is our most precious resource. If nothing else has been learned about the procedures of the administration to date on a national water policy it has at least been shown that the States share a deep and serious concern about water resources and the rights of the States concerning policies regarding these resources.

I believe the States' rights should be considered in the development of any new national water resources policy; and that if they are to be considered it will be only as a result of congressional action. This resolution sets the stage for a thorough airing of the controversy over a national water resources policy, and I believe Congress has a responsibility to reassert its authority in this area.

Mr. HANSEN. Mr. President, it is with pleasure that I join with my very good friend, the senior Senator from Nebraska, in cosponsoring a resolution to assure a full hearing and input by the States and Congress before any national water resource policy is effected.

Ever since gold was panned in California, the concept of prior appropriations has been the system upon which the West has relied in the utilization and development of its water. Based upon this system and the State water laws developed around it, farms and ranches were created from the frontier. Based upon this system, industry developed. Based upon this system, cities and towns grew up. For over 100 years the arid West has relied upon this system and developed in accordance with it and grown strong and economically prosperous because of it.

Of the positions advocated and advanced in the issue papers promulgated by the Water Resource Council, the one of most concern to me is the one which appears to advocate a Federal takeover or at least the imposition of a heavy Federal hand to alter the system of prior appropriations as it exists in the West.

Despite the success which we as a State and as a region have enjoyed with our system of water law, and despite the constant improvements which we have made to that system, the WRC finds our system somehow deficient, somehow lacking, filled with, in the words of issue paper No. 3, "inflexibility, inefficiencies and inequities."

Mr. President, it is not necessary at this time to engage in a point by point refutation of the rather general imprecise and inaccurate conclusions drawn in the issue papers concerning the state of Western water law. Suffice it to say that, Wyoming water law does take cognizance of the relationship between ground and surface water, does allow for an expanded definition of beneficial use in order to meet public policy, does prohibit waste, does encourage conservation in the marketplace, does permit transfer of water rights and does provide for instream flow needs.

It is my belief that the concern of the WRC is less with the adequacy of State water laws than with the likelihood or ability of various States to achieve the objectives considered desirable by those in the administration. Thus I welcome the ability to cosponsor a resolution which will attempt to insure the full participation of Congress in ariving at a national water policy.

Mr. DOMENICI. Mr. President, I wish to state my support for Senate Resolution 284.

As the ranking Republican member of the Subcommittee on Water Resources, I believe that the consideration of a coordinated water policy must be a major undertaking of this Congress and the administration.

Such a national policy will only be effective when it is developed with effective and meaningful consultation by the States and in coordination with the Congress. Such a cooperative attitude is what this resolution seeks to encourage. I support that goal wholeheartedly, and I am proud to be a cosponsor.

I wish to commend our colleague from Nebraska (Mr. CURTIS) for his most effective leadership on this issue.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 284) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the 1965 Water Resources Planning Act authorizes and delegates to the Executive Branch the establishment of certain Federal water resources policies;

Whereas the Executive Branch has proposed establishment of a national water resources management policy;

Whereas procedures have been initiated toward establishment of such a policy;

Whereas the timetables set by the Executive Branch permit public comment only until November 20, 1977, on Executive Branch proposals, with final policy approval by February 28, 1978;

Whereas the States have expressed opposition to certain proposals and procedures of the Federal government in the policy study, and have expressed concern that States' needs and concerns have not been addressed or considered;

Whereas the Interstate Conference on Water Problems on August 31, 1977, unanimously adopted a water policy statement supporting the States' roles in water management policy and opposing the Federal proposals;

Whereas the Western Governors' Conference on September 2, 1977, unanimously adopted a policy statement asserting the rights of the States in management of water resources;

Whereas the National Governors' Association representing all of the 50 States on September 9, 1977, unanimously adopted a resolution opposing certain Federal policy proposals and supporting the roles of the States in water resources management;

Whereas most States have ongoing research, study and activities in water resources management which would be affected by or which would affect any national policy on water resources management;

Whereas management expertise in water resources now exists in most of the States and the authority and domain over most water resources in the United States has historically been vested in the individual States and is now so vested;

Whereas the proposals as published in the Federal Register to date show the intent of the Executive Branch to assume certain functions previously exercised by the States, and as such appear to be contrary to the intent of Congress as stated in the 1965 Act;

Whereas any national water policy must provide for differences in topography, geology, hydrology and other criteria concerning water resources in the various States and regions; and

Whereas the responsibility for and authority over Federal policy is clearly vested under the Constitution with the Legislative Branch: Now, therefore, be it

Resolved, That it is the sense of the Senate that no new national water resources management policy shall be implemented without Congressional concurrence, and no proposed regulations for such a policy shall take effect for a period of six calendar months, during which the Congress is in session, from the time of publication of proposed regulations in the Federal Register and of notification by the Executive Branch of such proposals to the Congress, provided further that—

(a) the Executive Branch shall cause to have all recommendations and proposals transmitted to the States, and shall make available transcripts, documents, and material collected and prepared at and as a result of regional hearings conducted on such proposals;

(b) the States shall be provided two months in which to develop their responses to the Executive Branch proposals, and to develop recommendations, which responses and recommendations should be transmitted to the Water Resources Council and the appropriate Congressional committees;

(c) the States shall be provided an additional month in which to meet within river basin or regional commissions for recommendations of regional water resources management policies which should be transmitted to the Water Resources Council and the appropriate Congressional committees; and

(d) the Congress shall have an additional three months in which to hold hearings on establishment of a national water resources management policy.

Mr. CURTIS. Mr. President, I wish to pay tribute to Mr. Jack Odgaard of my staff, who has worked long and hard and been in contact with the Governors, other officers, and many other people with regard to this resolution on national water policy, and I am very much indebted to him for his help.

Mr. President, I thank the Chair, and I yield the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has any time been yielded back by Senators under the orders previously entered?

The PRESIDING OFFICER. A number of Senators have not used all the time in their 15 minute orders.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that I may control the time that was not used by those Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without prejudice to any Senator under the orders entered, and I ask unanimous consent that the time be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, we will soon be confronted with a problem which demands a thorough investigation. That is the issue of the cargo preference legislation which the President has proposed. I believe, Mr. President, that the questions raised thus far about this legislation are sufficient to cause us to investigate it with all the intensity and vigor we can develop.

I therefore urge that the Commerce Committee schedule and hold such additional hearings as may be necessary to fully explore all aspects of the merits of the cargo preference legislation, as well as the means by which the decision of the administration to propose it was made.

As proposed by the President, "cargo preference" legislation would require that by 1982 at least 9.5 percent of our imported oil would have to be carried on American flag ships. Other legislation has been proposed in Congress which would require that as much as 20 percent or 30 percent of imported oil be carried on American ships.

At first blush, it does not seem altogether unreasonable for us to prefer American ships over those of other nations. But once you get past that first blush, the idea of a cargo preference requirement begins to look a whole lot less attractive.

To hear the proponents of cargo preference legislation tell it, the only significant effect which will result from this idea is more jobs for Americans in the maritime industries. Mr. President, the plain fact of the matter is that while there may be some increase in maritime jobs, the net result of this legislation is going to be a tremendous pain in the pocketbook for the American consumer.

The potentially staggering costs of this legislation are not merely figments of my imagination, Mr. President. Cost figures on this legislation have been amply documented by numerous agencies of government, including the General Accounting Office, the Federal Trade Commission, and others.

When the President first submitted his proposals to the Congress, the administration claimed that the price tag of the legislation would be about $110 million to consumers. Not long thereafter, the GAO and the Federal Trade Commission both came forward with studies that showed the actual cost would be closer to $240 million—more than double the administration estimates. Since that time, the GAO has come out with a new estimate showing the probable cost to be over $610 million—over five times the administration estimate.

The increased costs of energy to the consumer stem from the fact that American flag ships are significantly more expensive to build and to operate than are other vessels.

Examination of these cost figures clearly indicates that the American consumer is going to pay a tremendous price for the purpose of creating a few hundred jobs in the maritime industry. It has been estimated that the cost of each additional maritime job created as a result of this legislation would be a whopping $110,000. If creating maritime jobs is the objective, cargo preference legislation is obviously a terrible way to do it.

This is just another case of robbing Peter to pay Paul. The American consumer is getting robbed and the maritime business, with the willing support and cooperation of the administration, is doing the robbing.

In addition to the tremendous costs this legislation would shift to the American consumer, it is also likely to spark retaliatory, protectionist measures by other countries. Such a response by others would demonstrate most dramatically the counterproductive nature of cargo preference legislation. It is not difficult to imagine circumstances under which the Soviet Union, for example, might require that all American wheat shipped to Russia be carried in Russian ships. Then where would the maritime interests be?

Mr. President, when these factors are considered, it is indeed difficult to understand why the administration would persist in its determination to recommend cargo preference legislation. The decision has been rendered even more questionable by the revelation which has recently come to light that the Departments of State, Defense, and Treasury, as well as the President's own Council of Economic Advisors and the Office of Management and Budget, argued against this legislation on one ground or another.

Mr. President, the evidence mounts that this decision by the administration is little more than a blatant political payoff. An estimated $200,000 was pumped into the Carter campaign by the maritime unions and related interests.

Various internal memorandums suggest that the decision by the administration was merely for the purpose of paying the President's political debts to the maritime interests.

The American people are entitled to know the real reasons for an administration policy that would cost the consumer millions in unnecessary costs. And they are entitled to know the extent to which such policies are the result of an unholy alliance between the President and the maritime unions, both of which may be seeking this legislation for reasons that have absolutely nothing to do with the public interest.

It is therefore essential that the Senate, through the appropriate committees, fully explore every aspect of the cargo preference decision. That consideration should include indepth discussions with many, if not all, of the key administration officials who played a part in this decision. It is essential that we know whether cargo preference will stand on its own merits or if it is just a political deal with a special interest group.

If we find, as I expect we will, that cargo preference legislation will not stand on its own merits, then we should insist that the President repudiate any deal with the maritime interests and withdraw this legislation. Given the President's willingness to repudiate promises made to the American people, such as the one he made last year regarding the deregulation of natural gas, I should think he would be most willing to reconsider an ill-advised private deal made with a special interest group, if that is the case.

I realize that some of my colleagues may have more enthusiasm for investigating the sour odors of a milk fund scandal than they do for investigating the bubbling bilge of a maritime bailout. But our responsibilities as Senators require that we fully and forthrightly address the issues which have been raised about cargo preference legislation before we even consider enacting it into law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2114, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Deborah Merrick, Marjorie Gordner, Mike Harvey, Dan Dreyfus, Ben Cooper, Jim Bruce, and Bob Szabo be accorded the privileges of the floor during consideration of S. 2114, the Public Utilities Regulatory Policy Act of 1977.

I also request unanimous consent that the following staff members be given floor privileges during the consideration of and voting on S. 2114:

Jack Odgaard, Fred Craft, Danny Boggs, Tom Imeson, Carol Sacchi, Faye Widenmann, Judy Foley, and Mary McKenna.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Erich Evered, of my staff, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Kathy Bruner, of Senator HAYAKAWA's staff, have the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Tom Graham, of Senator DURKIN's staff, have the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. Will the Chair tell the Senator from New Mexico what the unanimous-consent agreement is on this bill?

The PRESIDING OFFICER. Time for debate on this bill is limited to 4 hours, to be divided and controlled by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Mexico (Mr. DOMENICI), with 2 hours on any amendment in the first degree, except for one amendment each by Mr. GRIFFIN, Mr. GLENN, and Mr. JOHNSTON, and on two amendments by Mr. TOWER, on each of which there will be 1½ hours, on one amendment by Mr. MELCHER, on which there shall be 1½ hours, and on one amendment each by Mr. DURKIN and Mr. FORD, on each of which there shall be 1½ hours, with 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order.

Mr. DOMENICI. I thank the Chair.

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

Mr. President, the Public Utilities Regulatory Policy Act of 1977 is the fifth and last major portion of President Carter's proposed National Energy Act reported by the Committee on Energy and Natural Resources this session.

S. 701, providing energy conservation assistance to schools and hospitals, was passed by the Senate on July 20, 1977;

S. 977, the coal conversion bill, was passed on September 8, 1977;

S. 2057, the omnibus energy conservation bill, passed on September 14, 1977; and

S. 2104, providing for a natural gas pricing policy, passed on October 4, 1977.

The Committee on Energy and Natural Resources completed action on the Public Utilities Regulatory Policy Act on September 19, 1977, and filed its report on September 20, 1977.

I ask unanimous consent that a summary of the bill and a copy of the cost estimate provided by the Congressional Budget Office be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 2114: THE PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

S. 2114 requires State regulatory authorities and each nonregulated utility above a certain size to report biannually to the Secretary of Energy information about variations in the demand for electricity or gas among various classes of customers as well as information on the costs of serving these classes of customers. If the information requested is not already available in the files of these institutions, the Secretary must reimburse the authority or utility for the cost of gathering any additional information required.

The Secretary of DOE is authorized to intervene on his own initiative in any utility rate or rate design proceeding held before a State regulatory authority. However, the purpose of the intervention is limited to advocating: (1) energy conservation, (2) efficient use of facilities and resources, or (3) equitable rates to consumers. The Secretary would have the same rights as any other party in the proceeding, except that he could not initiate or join in an appeal using authority under this Act. Authority to participate in ratemaking proceedings granted to the Administrator of the Federal Energy Administration in Title II of the Energy Conservation and Production Act (which will be vested in the Secretary of Energy on October 1, 1977) is not affected by the bill.

In the case of a nonregulated utility, the Secretary could intervene in any convenient proceeding dealing with rates or rate design. If no such proceeding is available, the Secretary may review the utility's rates and make recommendations to promote the three purposes cited above.

The Act instructs the Secretary to examine the methods electric utilities use in determining rates in order to assess how well their rates reflect variations in cost of service due to daily and seasonal time of use as well as the relationship between rates and the marginal cost of providing service to customers. He is also to consider to what extent the three purposes cited above may

be furthered by various rate reform approaches listed in the Act.

The Secretary is to report annually to Congress on the progress of the State regulatory authorities and nonregulated utilities and to report recommendations for further Federal action to achieve the three purposes of the Act.

The Secretary is also to study and report to Congress on gas utility rate design and address the effect of specific rate reform approaches listed in the Act on various aspects of gas utility service. Based on the study the Secretary shall develop proposals on gas utility rate design and include any recommendations of the Federal Energy Regulatory Commission. The study is to include an analysis of projected savings in natural gas and likely changes in the price of natural gas if the proposals were to be implemented.

The Secretary shall also report on any financial burdens the Act will impose on State regulatory authorities and the views of these authorities on the need for and desirability of Federal financial assistance.

The Act establishes a National Regulatory Research Institute under the auspices of the National Association of Regulatory Utility Commissioners and authorizes $2 million for each of fiscal years 1979 and 1980 for the Institute.

In order to encourage cogeneration of electricity and the production of electricity from solid waste or renewable resources the Secretary is authorized to exempt cogenerators and small power producers (less than 30 megawatts) from the requirements of certain Federal laws applicable to utilities. The exemption applies only to persons not primarily engaged in generating or selling electric power. The Secretary shall also issue guidelines to State regulatory authorities on regulatory steps that will encourage development of these sources of power.

In addition, those low-head, hydroelectric demonstration projects authorized in the Senate bill authorizing appropriations are exempted from the licensing requirements of the Federal Power Act. $10 million is authorized for guaranteed loans to fund feasibility studies for such small hydroelectric projects.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 23, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2114, the Public Utilities Regulatory Policy Act of 1977, as reported by the Senate Committee on Energy and Natural Resources on September 20, 1977.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
SEPTEMBER 22, 1977.

1. Bill number: S. 2114.

2. Bill title: Public Utilities Regulatory Policy Act of 1977.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on September 20, 1977.

4. Bill purpose: This bill would amend the Energy Conservation and Production Act by promoting conservation, efficiency, and equitable rates in electric and gas utility systems. The bill would require three reports to Congress: (1) rate making and load management practices, (2) gas utility rate design study, and (3) financial burdens of state regulatory authorities. The bill would also establish and authorize appropriations for a National Regulatory Research Institute to provide state regulatory authorities with information. Lastly, the bill would authorize up to $10 million in loans for hydroelectric project feasibility studies.

5. Cost estimate

[By fiscal years, in millions of dollars]

Fiscal year 1978:	
Authorization level	[1] $15.8
Estimated costs	5.4
Fiscal year 1979:	
Authorized level	2.0
Estimated costs	8.8
Fiscal year 1980:	
Authorized level	2.0
Estimated costs	6.5
Fiscal year 1981:	
Authorized level	------
Estimated costs	3.7
Fiscal year 1982:	
Authorized level	------
Estimated costs	3.1

[1] Includes estimated cost of studies authorized in Sections 8, 9, 10 and 12.

The costs of this bill fall within budget function 300.

6. Basis for estimate:

Section 5: Information and Reports.—This section of the bill would allow the Secretary of Energy to reimburse utilities for the cost of obtaining information on shifts in electric loads and costs of consumption. No cost for this section is included in this estimate, since it is not possible at this time to project the likely data requirements of the Secretary of Energy, and the extent to which reimbursement of utilities will be required in order to obtain such information.

Section 6: Federal Participation.—This section would allow the Secretary of Energy to intervene in state regulatory proceedings. For the purposes of this estimate it was assumed that a staff of 40 would be necessary to carry out the purposes of this section. The estimated costs in fiscal year 1978 would be $1.5 million, increased annually thereafter for inflation.

Sections 8, 9, and 10: Studies.—These sections of the bill would require reports to Congress on (1) rate making and load management practices, (2) gas utility rate design study and (3) study of financial burden of this action regulatory authorities. For the purpose of this estimate, it was assumed that the first study on rate making would not require additional funds, since it falls within the scope of present FEA activities. The gas utility rate design study was estimated to cost $5 million, with a disbursement rate of 40 percent and 60 percent the first and second years, respectively. The last study on the financial burden on regulatory authorities was estimated to cost $300,000 with the entire amount spent the first year.

Section 11: National Regulatory Research Institute.—This section would establish a National Regulatory Research Institute under the auspices of the National Association of Regulatory Utility Commissioners. Section 15 would authorize the appropriation of $2 million in each of the fiscal years 1979 and 1980 for this purpose. It is estimated that these funds would spend out 90 percent the first year and 10 percent the second year, based on disbursement rates of similar organizations.

Section 12: Cogeneration Guidelines.—This section would require the Secretary of Energy to provide guidelines on requiring electric utilities to offer to sell and purchase electric energy to and from other cogenerators or small power producers. The costs of this section are estimated to be $500,000, with a disbursement rate of 80 percent and 20 percent the first and second year respectively. These costs are estimated to cover manpower requirements for developing these guidelines.

Section 14: Hydroelectric Projects Feasibility Studies.—This section would authorize the Secretary of Energy to make loans to municipalities, electric cooperatives, industrial development agencies, and non-profit organizations to assist them in studying the feasibility of utilizing a hydroelectric project for electric generation. It was assumed that the loan would begin to be paid back after five years, the interest rate would be 7 percent, and the entire $10 million authorized in Section 15 would be disbursed over a five-year period beginning in fiscal year 1978. One third of the loans are assumed to be cancelled due to infeasibility of the project. The net outlays are estimated to be $1.2 million in fiscal year 1978, $2.3 million in fiscal year 1979, $2.9 million in fiscal year 1980, $1.8 million in fiscal year 1981, and 1.3 million in fiscal year 1982.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 9, 1977, CBO prepared a cost estimate of H.R. 8444 as passed by the House of Representatives. Part V of H.R. 8444 is similar to this bill. The differences in costs are attributable to various provisions in H.R. 8444 for loans and grants for hydroelectric projects, and grants to state agencies.

9. Estimate prepared by Leslie Wilson.

10. Estimate approved by C. G. Nickols, for James L. Blum, Assistant Director for Budget Analysis.

Mr. JOHNSTON. Mr. President, the committee deliberations on this legislation were characterized by a strong consensus among members with respect to the basic policy reflected in S. 2114. This bill, which is supported by members of both the majority and minority of the committee, is fundamentally different from the proposed legislation submitted by the administration. The bill has even less in common with the House counterpart, H.R. 8444.

The committee is united in the belief that the policy direction taken by S. 2114 is a correct one. Let me explain why.

The legislation originally proposed by the administration, part E of S. 1469, contemplated a radical extension of Federal authority into the highly complex matter of the design of retail rates for electricity. These rates have been traditionally set at the State level, of 10 by persons elected for this purpose. Retail electric utility rate policy has in the past been shaped by a host of decisions arrived at on the local level, taking into account unique conditions of geography, climate, social and economic structure and the desire of the people of a State. The diverse character of rate structures in the various States in many respects reflects the diversity of the country.

The administration bill proposed to establish Federal policies with respect to the methodology of ratemaking and to superimpose these policies on the decisionmaking process at the State level. If, in the judgment of a single Federal official, the Administrator of the Federal Energy Administration, a State failed to implement Federal policy in designing rates, the Federal Government would then step in.

The committee felt strongly, and the committee hearing record clearly showed, that at present there is no clear justification for such an extension of Federal authority. At a later time, after more study and experimentation with alternative rate structures, it is conceivable that a case for enforcement of some sort of

Federal standards could be made. But that case simply cannot be made based on the record available at this time.

Accordingly the committee has reported a bill to the Senate which adopts a far more cautious approach than that contained in either the administration or House bills. The committee does recognize the need for a statement of Federal purposes in the area of utility ratemaking and for a means of conveying Federal recommendations to State regulatory authorities and nonregulated utilities. Therefore, the legislation reported sets forth as broad national purposes the encouragement of: First, energy conservation; second, the efficient use of utility facilities and resources; and third, equitable rulemaking, and authorizes the Secretary of Energy to intervene in rulemaking procedures before State commissions in support of policies which further these purposes.

Enactment of the committee bill would in no way foreclose stronger action by Congress at a later time. In fact, S. 2114 is specifically designed to bring about conditions under which intelligent decisions can be made with respect to a national policy on utility rates.

The bill contains broad Federal information gathering authority to permit assessment of State capabilities with respect to ratemaking, analysis of costs of providing utility service and identification of the factors which determine the demand for electricity and natural gas.

The bill provides for a vigorous advocacy role for the Federal Government in encouraging the adoption by State commissions of rate structures which are energy- and capital-conserving and which are equitable to consumers. This authority is established in addition to, and not in any way in limitation of, authority available in other law. However, the role of the Federal Government is one of advocacy only. The power to decide would remain where it is, in the hands of local officials.

The committee would oppose at this time any amendment to S. 2114 that would confer upon the Federal Government the authority actually to interfere and impose on a State government a Federal decision with respect to the rates in that State. Unless the Senate directs us otherwise, we intend to adhere to this principle steadfastly in conference with the House.

Mr. President, the committee bill is silent on one of the questions of policy raised by the administration in part E of S. 1469. This is the issue of the authority which should be granted to the Federal Energy Regulatory Commission to order—physical interconnection among electric utilities; the "wheeling" of electric power between two utilities across the transmission facilities of a third; and the pooling of the generation facilities of different utilities to assure the most efficient use of resources.

The committee felt that the issues in this area were particularly complex, and that difficult questions which have little relevance to energy conservation or the efficient use of facilities and resources are inextricably intertwined with these proposals. At the committee's direction my subcommittee held an additional hearing on these issues after S. 2114 was ordered reported. The testimony at that hearing confirmed the committee's judgment concerning the complexity of the issues, but also provided guidance concerning the nature of the limited authority which could be justified. As a result, I will offer an amendment which is cosponsored by Senators DOMENICI, JACKSON, and FORD addressing FERC authority to order the physical interconnection of utilities. The authority granted by the amendment is limited to the achievement of specific purposes, which I believe are justified. The amendment does not address the much more complex issues of wheeling and pooling, which really involve value considerations unrelated to the purposes of a bill dealing specifically with energy conservation and efficiency.

Mr. President, together with this amendment, I believe that we will have a good Senate bill that will lead to regulatory reform and thus result in the conservation of energy as well as in more efficient utilization of utility facilities and resources. And yet we will accomplish this without the transfer of a vast amount of regulatory power from the States to the Federal Government. It is a sensible bill, a bill we can defend in conference with the House. We recommend that it pass.

Mr. President, this has been energy year with the Energy Committee. We have held hearings beginning at 7 a.m. and 8 a.m., and we have had hearings lasting 6 hours at one time, all in an effort to get out the tremendous press of business which has come to the Energy Committee. We have dealt with all parts of the Carter energy program except those which dealt with tax. Indeed, even with the tax aspects of that energy program we have held hearings. To say that the workload was monumental is not an overstatement.

One of the bills of the Carter energy program has been utility rate reform. I would prefer "rate change," because the word "reform" does not always apply just because something is changed.

The elements of that program, as initially conceived, may well be reform and may well be in the interests of the American people, the American consumer. But, Mr. President, changes in electric rate reform are also very dangerous in that if changes are made at the Federal level to upset a longstanding superstructure and infrastructure of rules and regulations all of which are well-known and well understood by the utility industry, then by that change, and by the uncertainty which that change in Federal regulations will bring, we could well dry up the sources of funding for all of the utility expansions which need to be made over the next few decades.

For that reason, the Energy Committee felt it appropriate, indeed necessary, to go into this field of utility rate reform with the greatest degree of caution, and not to move unless we understood precisely what we were doing and precisely what the effects of what we were doing were on the utility industry, as well as on the American consumer.

We considered such things as lifetime rates, time of day rates, whether we ought to come up with Federal rules that require the State regulatory bodies to enact these kinds of rules.

We heard a great deal of testimony within those difficult time constraints we had. The overwhelming bulk of the testimony was that these things are in an experimental stage now, such things as time of day rates, lifeline rates, and all the other changes; that we should not proceed into those things now but rather do some experimenting before we move.

For that reason, the committee, I believe, was first of a mind just to kill the whole program and say, "Let us wait and come back next year, in an orderly manner when we have the time to consider it, and have the time to consider what the effects of doing some of these things will be."

After more mature consideration we thought that the best way to experiment, the best way to find out what these effects are, and to bring this whole matter out in public debate, would be to allow the Secretary to intervene on his initiative in State regulatory proceedings, and in that intervention to argue for the changes they ought to have, to argue for lifeline rates, if that happens to be the thing before the Secretary at that time, or time of day rates, or all the other things which can be viewed by the Secretary as reform. In other words, to put out these ideas, reinforced by the tremendous capacity the Secretary has to acquire facts and data, but to be able to go before the State regulatory commissions and argue for those changes. If they accept them, fine. If they do not, then we do not authorize any additional right of appeal of the Secretary, either in State court or in Federal court or, indeed, to even join in that appeal, the reason being that we do not want to create a whole new common law built up at the behest of the Secretary, and established on a case-by-case basis.

We want, rather, for the time being, to have the Secretary go to the marketplace of ideas, the forum being the State and regulatory bodies, and have them make the decision based on the force of the logic and persuasion that the Secretary has, rather than on the big Federal club which we refuse to give him.

So that, essentially, Mr. President, is the direction of this bill. I wish to emphasize that this is no defeat for the Carter administration. This is no battering in the head of an essential element of Carter's energy program. It is true that this is one of the five parts of the Carter energy program. But in making these changes, we have not, in my view, taken away one of the mainstays of the Carter program. The mainstays of the Carter program have to do with oil, gas and coal, and conversion to coal and whether we enact the crude oil equalization tax, promote insulation, and those sorts of things. This bill is but a small part of it.

We are not saying no to change and reform in utility rates, we are saying that it is too early. This is the first year we have had hearings in the Senate on utility rate reform. We are not ready to move. We feel very strongly that we are not ready to move.

Let me say one further thing on the question of the Carter energy program, and I think the administration would do well to take this unsolicited advice. That is to realize that their energy program was put together in a period of 90 days, from January 20 to April 20. It was a monumental job, calling for great courage, great ability, and a great amount of work, performed under huge constraints and pressure. I think it was performed very well. I think it was a great act of leadership for the President, not only to put together the program, but then to sell it to the American people in television broadcasts and tell them that they were going to be called upon for sacrifices and tell them that it is the moral equivalent of war. This was the act, I think, of a great President, to do that.

Having done that great work and having made those courageous acts, for the administration or the President now to say that that product, put together in a period of 90 days, must be enacted without change and must be enacted in all its substantial parts, I think, is not only wrong, but is unrealistic. I think it is wrong for energy, for conservation, and for the American public.

The committee acted in that spirit of cooperation with the President, but with the recognition that to move too far too fast too soon in some of these fields would be unwise for everybody, including the consumer, including those who are most interested in conservation. I know that last category includes the members of the committee.

So, Mr. President, we think we have a good start on utility rate reform. This is not the last chapter or the last word, but it is a start that we felt we could not step beyond on pain of taking great risks with the American public, with conservation, and with the future of the utility industry in this country.

I yield the floor to my distinguished friend from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

I rise to associate myself with the remarks of the distinguished junior Senator from Louisiana. I want to comment briefly on how I view what the committee did and where we are.

First of all, Mr. President, the goals of this legislation are clearly stated. They are to try to conserve energy and maximize the utilization of facilities. Those were the two prime goals of the President's package with reference to utility ratemaking in the United States. The committee added a third goal, to seek to do equity.

The only questions we had were, how do we accomplish these three goals and what is the Federal role with reference to the individual States and their utility ratemaking commissions? I think it is safe to say for the U.S. Senate that the committee, by a rather compelling majority, concluded that there are a couple of things that we did not want to do. Among those are that we did not want, at this time, to preempt the ratemaking role of the commissions in the individual States; that we did not know enough; that we might cause confusion and delays in an already fragile-capitalized industry, where delays would amount to less development, less building, less construction. So the committee, by a rather compelling majority, concluded that, whatever we do, we did not want to preempt and dictate to the ratemaking commissions in the country.

Second, we did not decide that the Federal Government knew how to tell each State to effect these new kinds of ratemaking schemes, whether it be marginal ratemaking or time of day, whether it be any of the three of four suggested approaches. We know they are good conceptually, but the committee, by a rather compelling majority, indicated clearly that we did not want the Federal Energy Office to be down at the State level at this point in time, imposing these new systems by operation of law. So I believe that, rather than do nothing, we came up with a rather good scheme.

The real inherent parts of this scheme are to indicate our goals with reference to electric energy production. They are that we have the goal to conserve, to maximize and utilize the facilities in this country, built now and built in the future, and to seek to do equity. Once having established those goals, we said that we thought it was appropriate for the Federal Government to make an effort to push the States ahead, to move them, to cause them to look clearly at these new approaches. We would give our Federal Government the right to intervene in rulemaking hearings at the local and State level, but this intervention is very clearly defined by the committee. It means that, as a matter of right, they can get involved and go before these tribunals and make the case for this new approach. They can participate, ask questions, submit their position, be very public, bring evidence and facts before them that encourage them to move in that direction, or call facts to their attention. At that point, this bill says, the Federal Government's intervention is finished. That means they do not take this cause and go through the court system, delay the procedings as if we had told each State, "That is what we want," because we do not know within that State whether that would end up being good in terms of our overall goals or whether it would, because of certain peculiarities in the State, cause harm.

As I view this, when we couple that part of the bill with the obvious efforts to bring facts to the National Government as we proceed through this kind of limited intervention, to bring backup to the Federal Government, and thus to Congress, what is happening with the State regulatory commissions in the next 2 or 3 years—when we couple those two, factfinding and limited intervention for these particular goals—I think we have a package that deserves the support of the Senate. It will, indeed, send a clear signal to those States that, through their commissions, do not care or appear to be calloused or think there is nothing new in the field of ratemaking, that this energy crisis has brought into focus something that they ought to consider. It will bring intervention there; it will bring public notoriety there; it will bring facts up to the National Government as to what and how they are doing this in the intervening years.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMENICI. I yield myself an additional 2.

This is certainly short of preemption. It is a cautious but firm approach. It signifies a genuine interest on the part of our National Government toward the utility industry and ratemaking bodies in this country, that we want conservation, maximum utilization of facilities, good planning, and equity, if possible.

I think the committee has done the right thing in being cautious, but firm.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, S. 2114, the Public Utilities Regulatory Policy Act, is the first legislation reported by the Committee on Energy and Natural Resources dealing with public utility rate policy. We received this jurisdiction earlier this session with the adoption by the Senate of Senate Resolution 4.

The committee has devoted more hearing time to this issue—6 days—than to other provisions of the President's energy bill because the issue is a complicated one and also because our experience with it is not extensive. The legislation we have presented to the Senate reflects the concern and caution our committee feels about the issue of electric utility policy. S. 2114 is not as far-reaching as the bill the administration proposed in April. However, to report more ambitious legislation dealing with this policy area, legislation in line with that proposed by the administration, it would be necessary to ignore both the committee's hearings, as well as our own collective judgment.

The overwhelming message of those hearings and the mail received by the committee and its members has been to warn of the danger of attempting radical changes in Federal policy with respect to public utilities without extensive additional study and analysis. S. 2114 as reported by the committee will insure that this learning and study process is accelerated. Through the gathering of information and data and through active participation in utility ratesetting procedures at the State level, the background for an intelligent and carefully thought-out Federal policy toward the Nation's public utilities can be developed.

I believe I speak for both the majority and minority when I say that we feel that S. 2114 is a good bill. It is an appropriate bill, one which faithfully reflects the clear preponderance of advice given the committee at its hearings.

The Nation's utilities have borne the brunt of the enery crisis. They have had no choice except to pass rising energy

costs on to their customers. Their construction programs have been devastated by inflation and their operating costs have been multiplied by the same acceleration in energy prices. Public utilities send each customer a monthly reminder of the crisis in energy costs, and each customer resents the utility for it. There is no more pervasive source of public discontent than the outrage Americans feel over utility bills.

It would be nice to say that we have reported legislation which will offer some relief from this widely detested increase in consumer cost. But no one has proposed such a bill. The administration proposal will not do it. The House bill will not do it; and S. 2114 will not do it. Utility rates are going to continue to rise, both because fuel prices will continue to rise and because national policy has been unable to bring down the rate of inflation.

There is no simple answer to these rising utility rates. We will be struggling to establish policies to deal with the problems of the Nation's public utilities in several future sessions of Congress. The bill we are considering today represents a responsible beginning of what will be a long-term responsibility for the Federal Government in encouraging the adoption of rate structures which are equitable, which encourage the efficient use of existing and proposed utility capital facilities and which slow the rate of growth in energy consumption without being economically disruptive.

The Committee on Energy and Natural Resources recommends that the Senate proceed cautiously in establishing new Federal utility policies, by gathering information, investigating innovative approaches and techniques and advocating enlightened utility regulation at the local level. S. 2114 reflects this view.

I strongly urge my colleagues to accept the committee's advice. I urge them to refrain from offering amendments which would carry Federal involvement in the regulation of utilities beyond the point of the prudent beginning set forth in the reported bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. BARTLETT. Will the Senator yield to me briefly?

Mr. CURTIS. Mr. President, I yield briefly to the distinguished Senator from Oklahoma (Mr. BARTLETT).

Mr. BARTLETT. Mr. President, I will be very brief, and I thank the distinguished Senator from Nebraska.

I want to congratulate the two floor managers for a lot of hard work and for doing a good job, taking a bill that I think would have definitely gone too far at this time and changing it after lengthy hearings and deep consideration to a bill that I think moves in the right direction. It provides the Federal Government an opportunity to present its case, to enter into the arena of debate, to have an opportunity to have its ideas heard, but not to be in a position of dictating or of establishing a new order in the utility ratemaking area.

I think the utilities, since they are based in a State and are subject to very close scrutiny by the press and the people of that State, because their activities affect virtually every consumer's pocketbook, are trying to do a very good job and that the regulatory bodies in the various States that control the utilities are also trying to do a very good job to protect the interests of the consumers and the interests of the citizens of that State.

So I think the steps that are taken here are steps that will be carefully watched. It will give the Federal Government a chance to present its ideas, but it will also retain the responsibility within the States of governing their own utilities, which I think at this stage certainly is called for, and it might be that it should be retained forever.

I would have to be convinced that the utilities were completely out of line and that the Government bodies in the various States had not done a good job before I would be convinced that the Federal Government should intervene.

I personally do not think that is the case. But we will have a chance to see. We will have an opportunity to observe just what the Federal Government has in its mind and then just what the governing bodies in the various States have done.

Commissions which do regulate the utilities are right under the gun of the consumers and the citizens of the State and, by and large, I think they have done an excellent job. Certainly in our own State I am convinced of that, and I think in the other States that undoubtedly is also true.

I thank the distinguished Senator for yielding to me. I withhold the remainder of my time, Mr. President.

Mr. President, would the Senator yield further for just a moment?

Mr. CURTIS. Yes.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mike Crisp of Senator BAKER's staff be granted privileges of the floor during consideration of this matter, and also Darla West and Ron Shiflet, of the staffs of Senators DOMENICI and MCCLURE, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Will the Senator yield?

Mr. CURTIS. I am happy to.

Mr. FORD. Mr. President, I ask unanimous consent that Jim Fleming and Mike Gatlieb of my staff be granted privilege of the floor during the debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Senator.

UP AMENDMENT NO. 863

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an unprinted amendment numbered 863.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add a new section:

"SEASONAL DIVERSITY ELECTRICITY EXCHANGE

"SECTION —. To encourage and expedite benefits to the public of the bulk exchange of electric power between certain areas having diverse peak demand seasons and thereby to increase fuel efficiency and to reduce use of natural gas and foreign oil, upon issuance of a Presidential Permit for transmission facilities at the international border with Manitoba, Canada, to exchange electric power among electric utilities which together provide service in Manitoba, Canada, and in North Dakota, South Dakota, and/or Nebraska the permittee or permittees shall be entitled to exercise the power of eminent domain of the United States to take and secure lands, easements, rights-of-way, and other interests for the construction, operation, and maintenance of electric transmission lines and appurtenant facilities to accomplish such exchange. The district courts of the United States in which such property interests are located shall have jurisdiction of proceedings to acquire such property interests under this section, and the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure, provided, however, that the petitioner or petitioners may exercise the right of the United States to file with the petition or at any time before judgment a declaration of taking in the manner and with the consequences, but in its or their name, provided by sections 258a, 258b, and 258d of Title 40, United States Code. This section does not supercede the authority of the State public utility commissions to regulate the transmission facilities within their respective States in any manner not inconsistent with the purpose of this section or supercede any right of any person to appeal a decision of such a commission in the courts of the State."

THE MANDAN ELECTRIC TRANSMISSION EXCHANGE PROJECT

Mr. CURTIS. Mr. President, this amendment is to authorize the use of Federal eminent domain for construction of the Mandan electric transmission line.

Mr. President, the Mandan project would involve construction of a 450/550 AC/DC transmission line from Manitoba, Canada, through the States of North Dakota, South Dakota, and Nebraska. The project would be the first international and interstate electric transmission exchange system built in the United States. It would provide an electrical transfer capability of 1,000 megawatts and is now scheduled for completion by 1984. The estimated cost of $550 to $600 million would be borne totally by the participating utilities. They include Manitoba Hydroelectric Board, the public corporation providing electrical service for the Province of Manitoba, Canada; and in the United States, four electric utilities including one private utility, Otter Tail Power Co. of Minnesota, and three public utilities: Minnkota Power Cooperative of North Dakota, Basin Electric Power Cooperative of North Dakota and South Dakota, and Nebraska Public Power District.

The Mandan partners provide retail and wholesale electricity for nearly 1 million customers. The project will be of primary benefit to the retail and wholesale customers and members of the for U.S. utilities in the States of North Dakota, South Dakota, Nebraska, and Minnesota; of direct benefit to other utilities

interconnected and with exchange agreements with the U.S. partner utilities in the States of Montana, Wyoming, Colorado, Kansas, Missouri, and Iowa; and of indirect benefit to a larger area of electrical customers who are interconnected with the U.S. utilities in the Mid-Continent Area Power Pool.

Mr. President, the Mandan project is not controversial. It involves no Federal funding or future Federal authorizations or appropriations.

The project will provide up to 40 percent more electrical energy for the participating utilities during their peak electrical demand periods. The project will operate by providing a transmission exchange with the southern utilities in Nebraska and South Dakota transferring excess electric generation to the northern utilities in Canada and North Dakota during their peak demand seasons in winter time; and with the northern utilities transferring their excess electrical generation to the southern utilities in South Dakota and Nebraska during their summer peak demand.

Mr. President, here is an unusual opportunity at a time that we have energy shortages and wish to conserve. A plan is worked out for us to exchange energy with Canada so that they may supply our needs here when we need it, particularly during the irrigating season, and we, in turn, can send to Canada excess power that they need in the winter time.

The Mandan project will provide for a substantial increase in electrical energy that would not otherwise be available except by huge capital outlays and construction of additional power generation facilities by the partner utilities in the United States. The winter excess generation from the summer utilities will be provided from generation facilities now existing or under construction in those areas. The excess winter generation for use during the summer peaking periods in the south would likewise come from generation facilities now existing or under construction in the north. The primary facility making this exchange transmission system possible is the new large hydroelectric transmission plant on the Nelson River in Canada.

The Mandan project will take advantage of nonpolluting clean sources of energy and of peak production capacity of the partner utilities to maximize efficient use of generation capacity, thereby providing a maximum conservation of electrical energy and natural resources.

Mr. President, my amendment to provide Federal eminent domain will insure timely completion of the project and maximum utilization of the available electrical energy. Although the U.S. utilities now have the authority for eminent domain in the States in which they are located, provisions of State law in those States could lead to lengthy delays in the acquisition of rights-of-way for construction of the line. My amendment provides for normal recourse and settlement in Federal district courts under the Federal eminent domain provisions.

The Mandan project will be the first of its kind providing for transmission exchange on an international and interstate basis. It will serve as a model project for possible future similar projects between Canadian and United States utilities across the northern tier of States from the east to the west coasts. The Mandan project could be the forerunner of a series of transmission exchange systems to provide a substantial increase in electrical supplies for the United States at a time when the Nation is facing a serious energy situation.

Mr. President, this is a good project. It is not controversial and requires no Federal funding or appropriations. The Mandan would be a model project for transmission exchange between the United States and Canada, and as such it can be the forerunner of a series of systems to help provide badly needed energy for our Nation.

I hope that my colleagues will see the value and potential from this project, and I ask that my amendment be accepted on the energy bill we have before us at this time.

Mr. President, I should like the attention of the distinguished Senator in charge of this measure, to see if he might agree to the adoption of this amendment.

I presented this matter in an earlier bill from the same committee. At that time, Senator JACKSON expressed no opposition to it but suggested that we take it up on this bill as a more appropriate vehicle.

Mr. JOHNSTON. I yield myself 1 minute.

Mr. President, this amendment, as we understand, has been cleared all around. It involves no Federal regulation or Federal money. It simply involves getting the power of eminent domain as adjusted by and consistent with State law. It will serve the ends of energy conservation and efficient use of generating facilities by combining about five different generating facilities and allowing them best to use their facilities.

For that reason, we will accept the amendment. I congratulate the Senator for offering it.

Mr. CURTIS. I thank the Senator.

In response to the question of the manager of the bill, as to the clearance of this amendment, I wish to advise him as follows:

The distinguished chairman of the committee, Senator JACKSON, knows of this amendment. I presented it on a previous bill and he asked me to withhold and present it on this bill. The distinguished Senator from Wyoming, the ranking minority member on the committee, approves of this amendment as does the minority manager of the bill, Mr. DOMENICI. The States of North Dakota, South Dakota, and Nebraska all favor this bill. It has been taken up with the Governors of each State. The utility districts have all been in on negotiations and there is no objection to the passage of the resolution by any of them.

The Senators representing North Dakota, South Dakota, and Nebraska have been informed what we are doing here. The Senators from the State of South Dakota expressed some questions about the amendment. It was for that reason that the last sentence of the amendment was added.

So in response to the question as to clearance, it has been cleared with everyone, so they know that it was to be taken up at this time and there has been no request to hold or delay or withdraw it.

Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CURTIS. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, for the minority, we concur in the remarks of the Senator from Louisiana. We have no objection.

Mr. CURTIS. I thank both distinguished Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

(Later the following occurred:)

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote on the amendment offered by the distinguished Senator from Nebraska.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CURTIS. I thank the Senator.

Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 864 (PRINTED AMENDMENT NO. 1394)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposed an unprinted amendment numbered 864.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 18, insert a new section 15 as follows, and renumber succeeding sections accordingly:

INTERCONNECTION

SEC. 15. (a) Section 202 of the Federal Power Act is amended by adding a new subsection (g) to read as follows:

"(g)(1) Whenever the Commission, upon application of any State Regulatory Authority or any qualifying cogenerator as defined in the Public Utility Regulatory Policy Act of 1977 or any electric utility, and after notice to each State regulatory authority, qualifying cogeneration or electric utility affected and after opportunity for hearing, finds such action necessary or appropriate to carry out the purposes of paragraphs 2(a) or 2(b) of the Public Utility Regulatory Policy Act of 1977, it may by order direct an electric utility (other than a Federal agency)—to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator; and to order such utility or qualifying cogenerator to sell energy to, to exchange with, and otherwise to coordinate with said parties only as necessary to effectuate the intent of the interconnection.

"(2) Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order to be determined by negotiation among said parties. *Provided*, That said terms and agreements shall be subject to approval by the Commission and in the event that the parties do not reach an agreement approved by the Commission, the Commission may prescribe the terms and conditions of the agreement among the parties affected by such agreement, including the apportionment of cost among them and the compensation or reimbursement reasonably due to any of them. *And Provided further*, That if in the Commission's judgment, time is of the essence, the Commission may issue an order under the authority of this subsection prior to or during the negotiations among the parties.

"(3) The Commission shall have no authority under this subsection to—

"(A) compel the enlargement of generating facilities for purposes of this subsection, or

"(B) take any action that would result in an uncompensated economic loss to the electric utility or its customers, place an undue burden on such utility, unreasonably impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

"(4) Except as provided in this subsection, compliance by any electric utility with an order issued under this subsection shall not subject any electric utility to regulation under the Federal Power Act if any such electric utility is not otherwise subject to regulation under such Act.

(b)(1) The first sentence of section 201(b) is amended by inserting "(other than section 202(g))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(g) shall apply to the electric utilities and other persons specified therein."

(2) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(g))" before the period at the end thereof.

(c) Upon the effective date of the Department of Energy Organization Act (Public Law 95-91) the authorities vested in the Federal Power Act by this section shall be transferred to and vested in the Federal Energy Regulatory Commission.

(5) For the purposes of this subsection the term: "electric utility" means a utility as defined in the Public Utility Regulatory Policy Act of 1977 which sells or exchanges electric energy;

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself, the distinguished Senator from New Mexico (Mr. DOMENICI), as well as Senators JACKSON and FORD. It deals with the question of interconnection.

Mr. President, in the House there was a very broad provision relating to wheeling, pooling, and interconnection. In the House bill, the Commission was given authority to order any of these things to a full and complete extent—either wheeling, pooling, or interconnecting—and to do so at its own motion or discretion or on application of any interested party.

Frankly, it sounded very appealing to us on the committee when we first heard it, and we came very close to enacting the provisions in the form it came from the House, without a hearing. But some of us on the committee, out of an abundance of caution, even though we had this huge press of work, decided that we should at least call 1 day's hearing on this matter.

We did, and we found how very complicated and controversial and difficult is the whole field of wheeling, pooling, and interconnection. So, after a hearing which was supposed to last 2 hours but which spilled over for 4½ hours, and after further consideration by the members of the committee, we have come up with a consensus of the committee, which is this amendment.

First of all, it does not deal with wheeling. The reason it does not deal with wheeling is that the committee did not want to use the power of the Federal Government, at least not on the basis of the record and the hearings we have had, to permit what some utilities regard as piracy—that is, to require a utility to wheel the power from some other utility's generating plant to one of its own wholesale customers; in effect, to require a utility to furnish the rope to hang itself or to risk losing some of its retail or wholesale customers.

We tried to deal with that question and tried to make the effect of wheeling neutral as between competing utilities or rural electric groups, and we found that neutrality language, first, was very difficult to draft. We did not have a sufficient hearing record to draft properly the language of neutrality—if, indeed, that is possible. Second, we found that it did not please anybody to try to enact language of neutrality. It does not satisfy any of the competing forces—the public power group that wants wheeling, the rural electrification people who want wheeling—and it does not satisfy the utilities, either. In effect, we found that the subject of wheeling is a very great subject in itself which justifies a whole series of hearings, and it is not necessary to achieve the purposes of energy conservation or of efficient utilization of generating facilities.

This bill deals with the triple goal of energy conservation, efficient use of facilities, and equitable rates for consumers. Wheeling has nothing to do with that. Wheeling does have something to do with competition among various generating groups.

So what we did was to construct a very narrow provision on interconnection, which provides that, on the application of the State regulatory commission or a qualifying cogenerator or an electric utility, the commission may order interconnection if it serves one of the three goals I have just mentioned—that is, conservation, efficient use of facilities, or equitable rates for consumers.

The Commission itself cannot on its own initiative order this interconnection, but it must be on the application of one of the three parties I have just mentioned. Upon the application of one of these three parties the Commission must give notice to the parties involved, setting a reasonable time for them to negotiate. During that time, they can negotiate all the terms and conditions of the interconnection and then present those back within a reasonable time for the Commission to approve. If they do not agree within a reasonable time, or if time is of the essence, of if their own provisions are unreasonable, then the Commission can proceed to order the interconnection.

Under this amendment, the Commission shall have no authority to compel enlargement of generating facilities or to take any action which would result in an uncompensated economic loss to the electric utility or its customers, or to place an undue burden on such utility or unreasonably impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

Mr. President, except as provided in this amendment, compliance by any electric utility with an order issued under this amendment shall not subject any electric utility to regulation under the Federal Power Act, if any such electric utility is not otherwise subject to it. What this means is that in a situation such as in Texas, where the Texas utilities most probably will be ordered to interconnect with the central-southwest group, the order to interconnect will not otherwise, except to the extent provided in this amendment, subject them to regulation under the Federal Power Act.

In effect, what we are doing here is to take a very narrowly constructed amendment which gets to that basic purpose we are trying to consider here, and that is energy conservation. Where you have a conservation problem or where you have a problem of inefficient use of utilities, then you can get the commission to order that interconnection, with the attendant pooling necessary to carry out that purpose.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Did I hear the Senator state there was a situation in Texas and Louisiana that would most probably be ordered under this new section? I do not think you meant that if you said it. It may be, but they may work it out themselves without it ever coming to the Federal Power Commission.

You did not intend to say we are prejudging anyone who might apply as coming under the jurisdiction and being ordered?

Mr. JOHNSTON. Well, of course not. I do not mean to prejudge that decision.

I will say I think that an interconnection will result either under the terms of this bill or voluntarily. I would hope that they would do it voluntarily. But much of the testimony we heard about this was related to that specific situation and, as I say, I do not mean to prejudge where justice is and what the terms of any interconnection ought to be. But it seems clear to me that an interconnection will result, and I hope it will occur voluntarily.

Mr. DOMENICI. Mr. President, will the Senator further yield on this point?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Mr. President, we can take this out of my time. Let me say I concur that we heard substantial evidence on this particular dispute that has existed for a long time and, obviously, the testimony impressed this Senator favorably in terms of there being a need.

I would like to, however, make this point so that the rationale for this bill will be understood, and see if the Senator from Louisiana agrees with me on this point.

As I envision this, what we were doing was causing the gradual evolution of the Federal Power Commission's involvement in this kind of situation.

The old act clearly defined a limited area of jurisdiction, after which if they had jurisdiction they had very broad jurisdiction with reference to the companies. Then this situation comes along, and we are not willing to give the Federal Power Commission a broad jurisdiction for these kinds of cases over which they had no jurisdiction intrastate, totally intrastate distributors, for instance, as one; REA as one, municipally owned is another, but rather we are saying if that kind of nonjurisdictional situation exists the parties or a State commission can ask the Federal Power Commission to assume jurisdiction for the very limited purposes stated here, the interconnect we have described here so specifically.

As we debated this and discussed it, it was my thinking that because this jurisdiction might be called upon by some of these parties that heretofore could not call upon it because of jurisdiction, it was my hope this would force them to sit down and bargain and enter into their own agreements. I think the Senator from Louisiana, as chairman of the subcommittee, agreed with that premise.

The reason I raise it here is it could very well be that the particular companies we heard about, Texas, Louisiana, and Oklahoma, Houston, and another company, may very well now be able to iron out their disputes if this becomes law or their differences, because if they do not, then for the limited purposes stated here the Federal Power Commission may be in position to order them to do it.

Is that how the Senator understands the strength of this, and one of the possible ways it will be of assistance in the market place?

Mr. JOHNSTON. That is precisely correct

I think the real answer to that is found on the first three lines of subsection 2 which says:

> Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order, and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order to be determined by negotiation among said parties.

So it is with precisely the spirit the Senator from New Mexico defines that we set about to effect this amendment; that is, that the Commission first gives notice, sets a reasonable time for negotiation and tells the parties to go adjust their own differences.

I think in that particular dispute between Louisiana and Texas utilities both parties recognize that it is in the interest of conservation and efficient use of facilities to have the interconnection.

I frankly think part of the reason that the Texas utilities resisted was because they did not want all the attendant Federal regulation that would be brought on them, and that is one of the reasons why we limited the scope of the act.

Mr. DOMENICI. Then, might I say to the Senator, on page 3 of the bill, line 16, you have alluded to the fact that if jurisdiction vests, if the Federal Power Commission is called upon by one of the parties, that can bring about the jurisdiction, and the committee in its report, and the Senate in its ratification of this, if they approve of this bill today, clearly intend that even after such jurisdiction vests, and even if such an order is effected, that the jurisdiction of the Federal Power Commission is still limited after that particular interconnect consortium to the powers granted to the Federal Power Commission by this section and not by the existing Federal Power Commission jurisdiction and authority; is that correct, Senator?

Mr. JOHNSTON. Precisely so. Subsection 4 sets that out in unmistakable terms.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT addressed the Chair.

Mr. HART. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that Leigh McDermott and Peter Gold, of my staff, be accorded floor privileges during the consideration of this measure and all the amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Hal Brayman, of the staff of the Committee on Public Works, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BARTLETT. I congratulate the two floor managers of this bill on this amendment. I would like to associate myself with this amendment——

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield the Senator as much time as he desires.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that I be included as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I want to voice my support for the passage of the amendment to S. 2114 proposed by Senators JOHNSTON, DOMENICI, JACKSON, and FORD.

This amendment would provide limited jurisdiction of the Federal Regulatory Commission under section 202 of the Federal Power Act to order the physical interconnection of the facilities of electric utilities by authorizing the FERC to order, after an evidentiary hearing, a completely intrastate utility, now apparently beyond the FERC's jurisdiction, to establish such interconnection. They could also order a utility to sell and exchange power and to engage in other coordinating actions incidental to the interconnection, where this will further the overriding national interest in the conservation of scarce fuel resources and the most efficient use of facilities. In addition, reliability of service must be maintained.

This amendment will, among other things, provide a forum for effective resolution of the bitter interconnection controversy now going on in the Southwest, and open the door for the interconnection of utilities in that area, to the ultimate benefit of many thousands of consumers.

The amendment is carefully drawn so as to eliminate any possibility that the FERC might order an interconnection or coordinated action which will require the utility so ordered to enlarge its generating facilities, will impair its ability adequately to serve its customers, will expose it to uncompensated economic loss under standards currently applied by the courts, or will lower its reliability to an unreasonably low level.

Since the purposes that the FERC can pursue under this amendment are of critical concern to every electric utility customer in our Nation, and since the amendment likewise protects the legitimate interests of a utility with which an interconnection and coordinated action is sought, I believe that the amendment is in the public interest and should be passed.

I certainly like the idea of bringing the two sides together in the case where there is a desire to work out an interconnect and pooling, limited pooling, in connection with that interconnect, and I think it is desirable to see if the two parties can reach an agreement themselves.

I would like to ask the distinguished floor manager why, if they reach agreement, on page 2 in section 2 it would call for that agreement reached voluntarily by discussion between the two sides to be subject to the approval of the Commission? I can understand the second part of that passage which says that in the event the parties do not reach an agreement approved by the Commission the Commission may prescribe the terms and conditions.

I think if they have not reached an agreement I can see that the Commission then should be given the authority after the evidentiary hearing to prescribe the terms and conditions. But if they reach an agreement voluntarily, I wonder why section 2 would call for approval by the Commission?

Mr. JOHNSTON. Well, for two reasons: First, we would want to determine that that agreement is reasonable. But, secondly and more importantly, under this act the parties have it available to them to avoid FPC jurisdiction except to the limited extent of this act. So that by doing an act which would otherwise subject them to Federal Power Commission authority they are getting what amounts to a special exemption under this amendment. So if they are going to get that special exemption we feel the terms should be reasonable.

Mr. BARTLETT. It would seem to me if, without this provision, they today wanted to agree on an interconnect with limited pooling they could do so.

Mr. JOHNSTON. Well, no; they could do so only in pain of FPC jurisdiction.

Mr. BARTLETT. At the present time?

Mr. JOHNSTON. Yes; in other words, if you had a Louisiana and a Texas utility that interconnected, which would be interstate commerce, they would by that voluntary act be subject to FPC jurisdiction.

Mr. BARTLETT. Would that require FPC approval at that point?

Mr. JOHNSTON. I do not believe that interconnection would require approval, but they would come under the jurisdiction of the Federal Power Act 100 percent by making that voluntary interconnection.

Mr. BARTLETT. And this provides that they do not come under it?

Mr. JOHNSTON. That is right. In other words, if they want to use this act, they go to the Commission and ask the Commission to order it.

Mr. BARTLETT. And approve it, if it is a voluntary agreement.

Mr. JOHNSTON. That is right. Then they can avoid being subjected to any other regulation under the Federal Power Act if they are not otherwise subject to it.

Mr. BARTLETT. I see.

Mr. JOHNSTON. So that is the primary reason for having that approval.

Mr. BARTLETT. I thank the distinguished Senator.

Mr. JOHNSTON. Mr. President, I believe I am ready to yield back the remainder of my time, if my distinguished friend from New Mexico is also ready.

Mr. DOMENICI. Mr. President, I say to the Senator from Louisiana I know of no one who has any desire to be heard on this amendment.

This amendment was not filed previously, was it? It is an unprinted amendment, or was it a matter of record?

Mr. JOHNSTON. No; this amendment was introduced on September 27 and has been printed.

The PRESIDING OFFICER. It is printed amendment No. 1394.

Mr. DOMENICI. When the Senator was discussing the interconnect amendment, the Senator did not intend to state that the purposes for that amendment were the same three purposes as in the whole section 2 of this bill, conservation, efficiency and equity?

Mr. JOHNSTON. No; only the two, only conservation and efficiency. If I said conservation, efficiency and equity of rates, I misspoke myself. We include in this amendment only the A and B of the three purposes.

Mr. DOMENICI. I thank the Senator from Louisiana.

Mr. BARTLETT. I yield back the remainder of my time, and I am ready to vote on the amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ANDERSON). All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lie on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

UP AMENDMENT NO. 865

(Purpose: To exempt small hydroelectric projects of 15 megawatts or less on existing conduits from Federal Power Commission licensing requirements)

Mr. CRANSTON. I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 865:
>
> On page 17, after line 11, insert the following—

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 17, after line 11, insert the following:
>
> Part I of the Federal Power Act is amended by adding the following new section at the end thereof:
>
> "SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall grant an exemption from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—
>
> "(1) is located on non-Federal lands, and
>
> "(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.
>
> "(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.
>
> "(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—
>
> "(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and
>
> "(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.
>
> "(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

Mr. CRANSTON. Mr. President, I am offering this amendment on behalf of Senator CHURCH, Senator HAYAKAWA, and myself. The amendment provides that the Federal Power Commission shall exempt small hydroelectric projects constructed on conduits from the provisions of the Federal Power Act, including the licensing provisions. The amendment is limited to projects which are located on non-Federal lands and which have an installed capacity of 15 megawatts or less.

Mr. President, there is a potential of nearly 700 megawatts of hydroelectric power in existing conduits throughout the United States. I am particularly interested in this matter as there is a potential of approximately 200 megawatts in my State alone. However, this small hydroelectric project's potential has not been fully developed because of the large costs involved in complying with the Federal Power Commission licensing requirements. I understand, for example, that the city of Portland recently spent $500,000 on its application for two small hydroelectric projects totaling 36 megawatts.

In addition, the application processing time is quite lengthy, sometimes taking as much as 6 years, and this discourages applicants for small projects. By waiving the licensing requirement, this amendment should encourage the development of the small hydroelectric power potential.

Mr. President, the amendment does not exempt these small projects from environmental or any other State or Federal law. It does subject the projects to the provisions by the U.S. Fish and Wildlife Service and the State agency responsible for fish and wildlife resources. The amendment requires that the projects be modified if so recommended by these agencies.

Mr. President, it has been erroneously stated that this amendment would be dispositive of the current case before the FPC involving the Escondido Mutual Water Co. et al. I would like to make clear that this is not the case as the amendment pertains only to non-Federal lands and the Escondido case involves Indian trust and Federal lands. It certainly is not the intention of the amendment to interfere with the important test case of the FPC licensing procedures when Indian lands are involved.

Mr. President, this amendment is identical to the Moorhead amendment already approved by the House of Representatives. I hope it can also be adopted by the Senate.

Mr. JOHNSTON. Mr. President, we have had no hearings on this amendment, and therefore in its present form we would have to oppose it. I would wonder, however, if the Senator would be willing to amend section 31(a) to read as follows:

Except as provided in subsection (b) or (c), the commission shall have authority to grant an exemption, in whole or in part.

In other words, amend the phrase by stating "have authority to grant" in lieu of "grant", and add after "exemption" the words "in whole or in part."

Mr. CRANSTON. That is perfectly satisfactory to me. I so modify the amendment.

The PRESIDING OFFICER. The amendment is so modified. Will the Senator send his modification to the desk?

The amendment, as modified, is as follows:

On page 17, after line 11, insert the following:

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall have authority to grant an exemption in whole or in part from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agriculture, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

Mr. JOHNSTON. Mr. President, with this modification we will accept the amendment. What it does in its present form is grant to the Commission the authority to consider the application on its merits, and to give them authority to grant in whole or in part the exemption.

We are informed that the present Chairman of the FPC has relayed word to the committee that if he is confirmed as Chairman of the Federal Energy Regulatory Commission, which I am sure he will be, he will take such action as is within his authority to see that the Commission will expeditiously consider whether the California aqueducts should be exempted, assuming, of course, that this amendment is enacted.

So, with this authority, they will move expeditiously, and they will give the matter consideration.

Mr. CRANSTON. I thank the Senator very much.

Mr. DOMENICI. Mr. President, could I ask the Senator from California and the Senator from Louisiana a question?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. By giving the Federal Power Commission the authority to to grant this exemption, as the Senator from California does now with the amendment, and then saying "in whole or in part," I am a little bit confused, because I thought we were granting them authority to make exceptions not only for the specific ones the Senator has enumerated, but also for any kind that fit this, that are a part of hydroelectric facilities that have these characteristics.

Are we talking about that generically, or just the Senator's particular projects?

Mr. CRANSTON. Nationwide, generally.

Mr. DOMENICI. And the Senator from Louisiana understood that and that is what he desires?

Mr. JOHNSTON. Yes. That is the reason for the amendment, to give them the authority. In the original form the amendment would have required this exemption. In its present form, it will simply permit it.

Mr. DOMENICI. But it gives them the power to make this exemption in a general way if they so desire for this kind of facility that fits this definition.

Mr. JOHNSTON. That is correct.

Mr. DOMENICI. I have no objection.

Mr. DURKIN. Will the Senator yield for a unanimous-consent request?

Mr. JOHNSTON. Yes.

Mr. DURKIN. Mr. President, I ask unanimous consent that Tom Grahame, Chris Burke, and Ed Tanzman, of my staff, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, could I discuss for a moment with the Senator from Louisiana——

Mr. PEARSON. Will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. PEARSON. Mr. President, I ask unanimous consent that Ron Johnson, of my staff, be granted the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. DURKIN). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President. I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I want to thank both Senators.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

UP AMENDMENT NO. 866

Mr. STAFFORD. Mr. President, I have an unprinted amendment to the pending legislation, which I send to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes unprinted amendment numbered 866.

On page 16 after line 17, add the following:

"(c) In addition to the authority of this section and in those cases where a public agency or electric cooperative requests it, the Secretary of the Army, acting through the Chief of Engineers and in cooperation with the Secretary, is authorized to provide technical assistance for any proposed small hydroelectric rehabilitation project at an existing dam, former industrial site, millrace, or other type of existing facilities."

Mr. STAFFORD. Mr. President, I yield myself so much time as I may require.

The Senate, on June 22, adopted my proposal to include in H.R. 5885 a small hydropower section which directed the Army Corps of Engineers to make a careful, national survey of former industrial sites and other old hydropower sites for reuse as new publicly owned powersites, then to offer the local agency the technical advice necessary to rehabilitate the site. This means that the corps will do the plans and design for the new project, then turn it over to local officials to implement.

This section directs the Chief of Engineers, acting with the Secretary, to develop the potential for new hydropower projects by rehabilitating former industrial sites, where such potential exists at places such as millraces, gristmills, waterwheels, and dams. This section does not authorize the corps to build any such power facilities, but to provide engineering and design services to local public agencies so that such agencies can go forward on their own to provide such power. This section is intended to serve rural and small communities, because that is where I believe the potential is most likely to exist. But it does not preclude its application elsewhere.

As one example, there are estimated to be 3,000 old damsites in New England, of which up to 30 percent have been estimated by the Corps of Engineers as possibly adaptable for new hydropower use today. In New England, 60 percent of the electric power is produced by imported oil; New England industry pays an average of 67 percent more for power than industry elsewhere in the Nation.

Even if only a fraction of those sites proved economical, I believe that the use of several hundred such projects, built by local interests and providing clean power locally and economically, must offer a real benefit to the economy of the region.

It should be noted that this approach should have a valuable historical as well as environmental benefit. By rebuilding some of these older industrial sites, this Nation will be preserving much of the heritage upon which our society is based.

Mr. President, it is the hope of this Senator that the managers of the bill, with whom we have consulted, will be willing to accept the amendment.

Mr. JOHNSTON. Mr. President, as I understand it, the Senator has taken the word "directed" out of the amendment.

Mr. STAFFORD. This is correct, I say to the distinguished manager of the bill.

Mr. JOHNSTON. Mr. President, we are pleased to accept this amendment, because it will have a real potential for restoring hydroelectric rehabilitation to many of the old sites that, in years past, did generate electricity and did provide power. We think this is an appropriate use of our Corps of Engineers' design capacity. The corps, under this amendment, is not directed to provide this, but is authorized to do so. We expect that the corps would use the full extent of their authorization in any project that they think is at all feasible. The corps' help will be of great assistance because that technical assistance will include design on some of these projects.

We are glad to accept this amendment, Mr. President.

I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, for the minority, we are willing to accept the amendment. We commend the Senator from Vermont. This is, in my opinion, not only a good amendment, but a very appropriate use of the corps. There is much discussion about what they ought to be doing. It seems quite obvious to me that, with the engineering skills and technical skills that they have, if they can assist local groups in determining whether such a project is feasible and, if so, how to do it, I think it is an excellent utilization of existing expertise and we are willing to accept it.

Mr. STAFFORD. Mr. President, I appreciate the statements of the managers of the bill. I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 867

(Purpose: To provide Federal guarantees of financing for small hydroelectric projects)

Mr. DURKIN. Mr. President, at this time I call up an unprinted amendment. I do want to note that this is not the amendment that I have the time reserved for on the consent agreement.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 867.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I ask unanimous consent that Senators HATHAWAY, STAFFORD, and GRAVEL be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, this amendment to the Public Utilities Regulatory Policy Act of 1977, would accelerate low-head hydroelectric development. As many know, low-head hydroelectric power is energy which can be derived from small existing dams by installing turbines and other generating equipment. A recent study by the Army Corps of Engineers, ordered by the President, concluded that the equivalent up to 727,000 barrels of oil per day could be saved if every one of the approximately 49,000 existing dams across the Nation were outfitted to generate electricity. Obviously, many factors could prevent development of all of this potential. But the fact remains that low-head hydroelectric power offers a chance to reduce our reliance on foreign oil imports without many of the environmental costs which so often accompany other alternatives.

It has become evident that our energy crunch demands a program to begin commercialization of every feasible existing technology at the earliest possible date. A national workshop on low-head hydroelectric power, sponsored by ERDA during the week of September 5, stressed that a comprehensive Federal effort is needed to assist low-head hydroelectric development. My amendment represents a carefully limited approach to do this.

The amendment is intended to reduce the risk associated with rehabilitation of low-head dams so that local towns, utilities, electric cooperatives, nonprofit organizations, individuals, and corporations can take advantage of this energy source in a manner which is appropriate to their needs. It does this in two ways:

First. It authorizes Federal guarantees over the next 3 years to cover up to 75 percent of the cost of outfitting dams with generating equipment. With respect to public agencies, it guarantees 90 percent. Guarantees will be issued only where necessary to assure financing.

Second. It directs the Secretary of Energy to simplify and expedite the process of licensing small hydroelectric development in existing dams to reduce the time and expense of getting necessary Federal clearances.

Thus, this amendment creates a limited Federal program to reduce bureaucratic obstacles and provide assurances necessary to induce private capital investment. Lack of experience in the financial community with this energy source would otherwise make lenders leery of risking their money. It is a carefully restricted program, much less ambitious than the direct construction grants and loans called for by a similar version which already has cleared the House. It is the minimum necessary to induce low-head hydro development.

The President's energy program, as well as most of the energy initiatives Congress has taken this session, all aim at the same basic problem: increasing energy supplies to the maximum and reducing demand to the minimum. Low-head hydroelectric development offers a way to increase supplies—the more desirable of these two goals—without the problems associated with many other alternatives. A Federal program is needed in the short run to get it off the ground to make electricity available at the earliest possible date and help the financial community gain experience with the associated risks so that future Federal assistance is not necessary. I urge the Senate to support me in adding this amendment to S. 2114.

This has import not just in New England. There are several other areas of the country, the Atlantic and Gulf region, Mississippi, Arkansas, as well as New England, plus the northwest, that have potential for this.

Just Sunday, we heard, quite to our shock, that the Secretary of Energy is going to propose a $5 a barrel tax on oil imported into New England. We are about 55 percent dependent on imported oil. That would be the equivalent of declaring economic war in New England. That is why we have to go down the road to low-head hydro.

Mr. President, I am happy to yield to the Senator from Vermont.

Mr. STAFFORD. I thank the Senator for yielding.

Mr. President, I want to take a brief moment to say that I strongly support the Durkin amendment.

I would like to call particular attention to the provision that calls for a 90-percent guarantee for projects by public agencies on which the Corps of Engineers has done the study work under the new section 14(c) of the bill.

The revival of small hydropower projects holds real potential for our Nation, particularly in the Northeast, which is the area of the Nation most dependent on imported petroleum products.

This amendment would assure all communities the opportunity to participate in the hydro revival effort with an added incentive for small communities and electric cooperatives.

Mr. PRESIDENT, I hope the amendment will be accepted.

Mr. DURKIN. I thank the Senator from Vermont and I appreciate his support.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. DURKIN. I am happy to.

Mr. JOHNSTON. As I understand it, in general there is to be a 75-percent guarantee, based on the total cost of the project. But a publicly owned project, on which the study work is done by the Corps of Engineers, is to have a 90-percent guarantee, is that correct?

Mr. DURKIN. Yes; that was the suggestion of the Senator from Vermont, which I was happy to incorporate into our amendment, the feeling being that the public agencies in contemplation were small communities, municipal co-ops, and what have you.

Mr. JOHNSTON. My concern is this, and let me say at the outset that I support low-head hydroprojects. I think they offer great possibilities for generation of power in all kinds of parts of the country, even in my part of the country.

As the Senator knows, in committee I strongly supported him in getting the study which I believe is essential to build these. I do not believe we will be able to grant financing of them this year, anyway. I think we first have to study.

But my concern is with this amendment, if I understand it correctly, 75 percent of the cost of the total project can be loaned.

So, in effect, a private group could put together a corporation to build a low-head hydroproject, have no capitalization at all, and be able to borrow, with 100 percent Federal guarantee, 75 percent of the cost of the project without having any other assets, without taking any risk at all of private capital.

Now, am I correct in that?

Mr. DURKIN. No. Twenty-five percent, the loan guarantee to a nonpublic entity, municipal, co-op, whatever, would be a loan guarantee of a maximum of 75 percent.

So that the utility or the group organizing to utilize the low-head hydro would have to be on the hook, the 25 percent, so it is not——

Mr. JOHNSTON. My concern is this, let us say that a couple of engineers who are anxious to get some work decide it would be a good idea to dam up the creek over here.

Mr. DURKIN. If the Senator will yield, I think we can take care of the problem. The first thing we have to have is a dam. We are talking about, the major thrust of the program, existing dams that, for the most part, at one time or another did contain generating equipment.

The change is with the new type turbines. The much more efficient European turbines, and then hopefully the next generation of American turbines, which will be even better than the European ones, will be more efficient, where in the old days it was cheaper to import the oil than to utilize the water resources.

Now, in the existing dam site, in most of them, even if they have sold the dam, the community sold the dam or the utility sold the dam, they reserve the electricity generating rights, in some cases in perpetuity.

So I do not think we run into the problem that we have two or three engineers.

Mr. JOHNSTON. It applies only to existing dams?

Mr. DURKIN. Right.

The Senator made a point earlier that there would be trouble spending the money this year.

We do have $10 million for site-by-site feasibility studies, but there are some studies that have been going on. ERDA has been doing some work and there are sites that will be ready to go this year if that loan guarantee money is available.

I know of communities and I know of corporations that have old dams. They are ready to go if the loan guarantee money can come up this year.

Mr. JOHNSTON. What private corporation would own these dams?

Mr. DURKIN. In the old days, like in northern New Hampshire, the paper companies owned the dams on the rivers. That is the way, before trucks, they moved the logs.

Mr. JOHNSTON. Let me follow up and ask these questions.

Say we have a privately-owned dam and let us say we had the engineer, or whoever wanted to promote a project, so they form the ABC Corp. The ABC Corp. has no assets at all. They go to the paper company and say, "Gentlemen, we will build a dam on your project if you will give us"——

Mr. BUMPERS. I have a unanimous-consent request.

Mr. JOHNSTON. I will yield for the uanimous-consent request.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe, Richard Arnold, and Pat Moran of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Very well.

The engineers get together. They make a deal with a paper company whereby they say that for the first rights to use of the dam to generate electricity, they will pay the company x dollars per kilowatt hour of any electricity generated.

They have no assets in their corporation. They have a dam which would cost $5 million to build.

They then go to the Federal Government and say, "We have a good plan here. It will cost $5 million to build this dam. Would you lend us 75 percent of $5 million?"

At that point, can the Federal Government lend them 75 percent of $5 million?

Mr. DURKIN. First, it would not be a loan.

Mr. JOHNSTON. A loan guarantee. It is a 100-percent loan guarantee, is it not?

Mr. DURKIN. No, it is a loan guarantee of only 75 percent. It is a loan guarantee, as opposed to hard cash, and it is only 75 percent.

I point to page 2 of the amendment. Section (d) touches the area of the Senator's concern in a couple of places.

Mr. JOHNSTON. Permit me to interrupt.

I thought it was 100 percent of 75 percent of the project.

Mr. DURKIN. It is a loan guarantee.

Mr. JOHNSTON. It is a loan guarantee, but of 100 percent of 75 percent of the project.

Mr. DURKIN. That is correct.

Mr. JOHNSTON. So that in the situation I just presented to the Senator, these promoters——

Mr. DURKIN. No. If the Senator will look at page 2 of the amendment, in two places it touches the Senator's concern.

Subparagraph (d), in the middle of the page, gives the Secretary the authority to make the commitments and guarantees in such manner and subject to such conditions as he deems appropriate. That is the first part.

Second, one of the conditions the Administrator or the Secretary has is that there be an existent dam, that it has received all necessary licenses and other required Federal, State, and local approvals. I do not think the Secretary is going to authorize a license to a group of entrepreneurs who are sitting in a ski lodge and look out some day and see a dam and then pick up the Whole Earth Catalog in a neighborhood and say, "This is the way for us to skin the system." I think we have to take care of that by the requirement that the Secretary has set the conditions.

Mr. JOHNSTON. The point I make is that most of the loan guarantees I am familiar with are only for a percentage of each dollar, but this is a guarantee of 100 percent of the first 75 percent of the project's cost.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. I think what the Senator is saying is that if you take an SBA loan, you find 90 percent in there; but it is 90 percent of the loan, so that the applicants are responsible personally for part of a loan, whether it is 95 or 75.

The way the amendment is drafted, it appears that the Senator has used 75 percent of the project that can be the subject of the loan, so the loan would be 100 percent federally guaranteed, if you put in the old dam as your 25 percent equity. I think that is the question the Senator is raising. Am I correct?

Mr. JOHNSTON. There is no requirement here I can see of 25 percent equity.

Mr. DOMENICI. Of the project. I do not know whether it will have to be equity.

Mr. JOHNSTON. It appears to me that they could come in and say, "We have a million dollar project and we want $750,000," and they never would be liable for the last $250,000. That is my concern.

Mr. DURKIN. It is a loan guarantee. This is not unusual language. This is the loan guarantee language that is adopted in all the ERDA authorizing language prior to this time. We lifted that language, virtually word for word, from the existing ERDA loan guarantee programs currently authorized.

Mr. JOHNSTON. Which ERDA program? Does the Senator recall?

Mr. DURKIN. Fiscal 1978—alternate fuel source.

Mr. JOHNSTON. In other language, where we were going to make loan guarantees, we would require that there be some minimal risk, at least.

Mr. DURKIN. Would the Senator be agreeable to changing it to 90 percent? Would that solve the Senator's problem?

Mr. JOHNSTON. If the owners of the dam would have to put up something at risk, that would make me feel a great deal better.

Mr. DURKIN. If it is all right with my cosponsor, we would make it a 90-percent loan guarantee of that 75 percent portion. If this is agreeable to the Senator from Louisiana, I ask that the amendment be so modified.

The PRESIDING OFFICER (Mr. HASKELL). Does the Senator ask that his amendment be modified?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. DURKIN. I will do so in a moment.

The PRESIDING OFFICER. The amendment will be so modified, when received at the desk.

Mr. JOHNSTON. I should like to see the amendment when the Senator has prepared it. I will move on, in the meantime.

Why does the Senator pick the figure of $300 million? That is a great deal of money. What kind of basis does he have for determining that total sum?

Mr. DURKIN. Our research indicated that the loan guarantees might ultimately result in very little expenditure of Federal moneys. That would provide for 50 projects over a 3-year period. That would be roughly—I am sure it will not break down this way—one per State. By the time we have 50 projects coaxed along and encouraged by the Federal loan guarantee, with the increase in the price of oil and gas and the supply problem and the coal conversion problem, the European turbine will have proved itself, and there is money in the ERDA 1978 authorization to do studies and research upon even more advanced turbines than the American turbines. So by that time, with that combination of circumstances, the thing will fly by itself, and private financing will find it economically advantageous. But right now, it does need the boost of the Federal loan guarantee.

Mr. JOHNSTON. I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. First, I say to my good friend that I do not know much about this kind of energy production, but I understand that it is available. It certainly is going to be clean, and it is something we should attempt to develop. I just have a couple of basic questions.

Can the Senator explain to me why we need loan guarantees in this situation? I assume the Senator is saying that, but for this, some projects will not get ordinary marketplace funding, be it general obligation bonds or revenue bonds or private capital; that some of these kinds of projects will not find their way into feasibility and completion. I do not understand why.

Mr. DURKIN. That is correct. The language in the other body refers to hard loans—solid Federal cash. We adopted the loan guarantee approach because we felt that that gave the incentive, that gave the security, without putting up Federal cash per se, at least from the outset. We think most of these projects will be successful and that the loan guarantee will not be used. The reason why the Federal incentive is needed is that the utility companies, as a rule, turn up their noses at low-head hydro. So there is a disincentive in the utility industry to turn to low-head hydro.

That, combined with the reluctance of the banking community to bankroll something that some of the utilities frowned upon, has been one of the reasons why there is not more low-head hydro generation.

All the recent studies have shown that there is tremendous potential. Once we can demonstrate it to the utilities, demonstrate it to the environmental groups which have some concerns about this type of generation of power, as well as the financial community, and with the increase in oil and gas and coal conversion, this will take off by itself. This will have impact not just in New England but in the South and West as well.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Robert Lyon of my staff be allowed on the floor during the consideration of S. 2114.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Is the Senator saying because this is not very typical and has not been for quite a few years, that the typical marketplace is reluctant to recognize it and, therefore, we need some kind of guarantee program to get it started?

Mr. DURKIN. To demonstrate on-site generation of power at a lowhead hydrosite. That will convince the utilities, the banking community, and the public as a whole.

Mr. DOMENICI. On page 11 of the amendment——

Mr. DURKIN. Excuse me. There is tremendous potential here. When you take a remote site solar installation and a cogeneration installation, and take the paper industry which is on a stream, and then add a lowhead hydrodam with that paper facility, whether it be in New Hampshire or Maine or Georgia, or wherever, out in the Pacific Northwest, that will become almost energy self-sufficient with the combination of cogeneration, remote site solar, and lowhead hydro. We have to demonstrate to the financial community and others. Now it is a small band of people pushing it. But once we can demonstrate it is economically and environmentally sound—even the environmentalists are scared about it, putting another dam and Grand Coulee built on top of each other.

It is so that we can demonstrate to the environmental, economic and financial communities that this is a viable way to go.

Mr. DOMENICI. I am not opposed to all of these new approaches, and I think we will see 10 or 15 years from now precisely what you have said in many areas where there are just little localized, isolated ways to develop local energy which we have just completely abandoned in the last 30 years.

On the other hand, I am not adverse to Federal loan guarantees to develop new sources of energy. I just want to be sure that I, for one, am convinced it is needed, and that the marketplace will take care of it. Not because I do not want the Government involved, but I have a tendency to think when we do get involved we usually buy projects that do not work. We either accumulate an inventory of pink elephants, or whatever you call them, or we put our money in and they do not work. I just wanted the Senator's explanation of how this is it and why.

One technical question: On page 11 you talk about the "commission shall take such steps as are necessary," and then you say "within its existing authority to require," and then you enumerate "each utility within its jurisdiction will establish physical connection with all small hydropower projects; second, to establish conditions of service which require that any small hydroelectric project shall be provided with backup generation service from a utility at reasonable prices which do not discriminate," et cetera.

Do they already have that authority or not?

Mr. DURKIN. Well, the reason for that, Senator, is this is one of the problems. Again, the cogenerators, the small sources of generating capacity, whether they be remote sites solar or lowhead hydro, the utility will not buy the excess power for them or will not provide them backup power. That, plus the lack of assurance in the financial community, has left most of these programs with feasibility site studies. This does not abrogate State law because not only do I share the Senator's concern with another C–5A, and all the list of, the parade of, horribles the Federal Government has bought several times over, but I do not want to abrogate State law with respect to the regulation of utilities, at least not at this time, until we have given them a chance to reply and the Secretary to intervene.

So this does not get into the interconnection question. That has been raised before, that we were getting into the whole question of wheeling, pooling, interconnection, and all those exotic things we discussed in committee.

This just says if you have that—and we put this in the cogeneration and the other program as well, that they cannot, the utility cannot, deny the lowhead hydrosource backup power or they have to buy the excess power at cost, at not any subsidized rate.

Mr. DOMENICI. Well, the Senator did not answer my question. I understand the Senator's explanation. Does the Federal Power Commission have the authority to do these things now or are we giving them this authority in the Senator's amendment?

Mr. DURKIN. We do not give them any new authority.

Mr. DOMENICI. Why do we need it in the bill?

Mr. DURKIN. Because to get around the concern I mentioned before. If you have that lowhead hydrodam and turbine, and there is no place to peddle the power, and if the utility wants to cause difficulties, they will not buy it. We did not intend to give them any additional authority. But, to be honest with you, I am not sure of the extent of their authority today.

Mr. DOMENICI. I would say to the Senator I do not know whether I will end up supporting his amendment or not, but I might say I really would object to putting this kind of authority in as a mandate. I would support, if you would strike it, I would support the language that would indicate the extent of this power since this is a policy of our Government to encourage these, that we would expect the Federal Power Commission to see to it that they are not discriminated against in terms of their needs which, I think, is what the Senator is trying to get at.

Mr. DURKIN. I would have no objection to it, and I would be happy to accept the suggestion of the Senator

I ask unanimous consent that the amendment at the desk be modified in accordance with the suggestion of the Senator from New Mexico.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it is so modified.

Will the Senator send his modification to the desk. The Chair is informed that the previous modification by the Senator from New Hampshire has not been received at the desk either.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, as I understand the modifications now made by the distinguished Senator from New Hampshire, he has limited the amount of the loan guarantee to 90 percent of the loan; in other words, the guarantee would extend only to 90 percent of the amount actually loaned and the amount guaranteed can be only 75 percent of the project. So in other words, you have 90 percent of the 75 percent. Am I correct on that?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON. As I also understand it, the Senator has reduced the total amount authorized to be guaranteed from $300 million total to $100 million total, that $100 million being available during the next fiscal year or until fully used and this act will be available for such additional amounts as Congress may authorize. Am I correct?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON addressed the Chair.

Mr. DURKIN. Mr. President, will the Senator yield 1 second?

Mr. JOHNSTON. Yes.

Mr. DURKIN. I ask unanimous consent to add Senator HART of Colorado as a cosponsor to the amendment that has been modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, if the Senator will yield for a further question before we complete this, is the third modification the one I requested that paragraph (p) on page 11 is stricken now from the modified amendment?

Mr. DURKIN. The Senator is correct.

Mr. DOMENICI. I thank the Senator.

Mr. DURKIN. I thank the Senator.

Mr. JOHNSTON. Mr. President, with these modifications we are constrained to accept this amendment and take it to conference. The House of Representatives goes a good deal further than this. Our hesitation has nothing to do with our enthusiasm for low-head hydro. We very much support that, particularly where there are existing dams and the principal amount of the investment has already been made.

A guarantee could not be made in the first place unless it appeared to the commission that it was going to be a financially feasible proposition providing substantial outlook for full repayment.

So we congratulate the Senator from New Hampshire. We think this may be a very, very significant step in energy conservation.

I am prepared to yield back the remainder of my time.

Mr. DURKIN. I thank both floor managers. I appreciate their help, and I think it is a better amendment as a result.

Mr. DOMENICI. The minority is willing to accept the amendment on the conditions stated by the floor manager, and I have no objection.

Mr. GRIFFIN. Mr. President, I support the objective of this amendment by the Senator from New Hampshire (Mr. DURKIN) to encourage the development of small hydroelectric projects in connection with existing dams which are not currently being used to produce electricity.

As David E. Lilienthal, former chairman of TVA and the AEC observed in a recent issue of Smithsonian magazine:

> This is a resource very substantial in volume, for more than half of it is still to be developed; it renews itself, unlike oil and coal and uranium; and its cost will not rise as the years roll on. It provides a form of energy which does not pollute the air, and need not make a violent impact on the environment; it is widely, though not uniformly, distributed throughout America, and is often available right where it is required.

Because development of hydroelectric plants at existing dams should be stimulated, I introduced an amendment (No. 1396) which in many respects, is similar to the amendment of the Senator from New Hampshire. However, my amendment would provide direct loans and grants rather than loan guarantees, the Durkin approach.

To be sure, the grants envisaged by my amendment would cost the Government more money. But the $50 million per year in grants and loans which my amendment would authorize is relatively a small amount compared, for example, with the nearly $8 billion that President Carter seeks to raise with his crude oil equalization tax.

I would prefer the direct grant approach because I know it would provide greater incentives. Furthermore, that is the approach taken by the House passed bill.

However, I recognize the handwriting on the wall. At this stage, I realize the Durkin amendment is preferred by those who are handling this bill for the committee.

Under the circumstances, I will support the Durkin amendment. It is a step forward, and its adoption should assure that some kind of a provision to encourage small hydroelectric projects will survive in the Senate-House conference agreement.

Frankly, I hope our Senate conferees will look closely at the House approach, and will be persuaded to provide some grant money for this very worthy purpose, particularly in situations where guaranteed loans would be of little or no assistance.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to, as follows:

On page 16, between lines 17 and 18 insert the following:

LOAN GUARANTEES

SEC. 15. (a) The Congress declares that, because of the increasing shortages of natural gas and petroleum, and the urgent need to develop environmentally acceptable sources of electric energy to meet the needs of the Nation, the public interest requires the rapid development of the hydroelectric potential of the numerous existing dams on the Nation's waterways which are not being used to generate electric power where such development is technologically feasible, economically beneficial, and not environmentally harmful.

(b) The Secretary of Energy (hereinafter referred to as the "Secretary") shall establish a program to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric projects in connection with existing dams which are not being used to generate electric power.

(c) The Federal Energy Regulatory Commission (hereinafter referred to as the "Commission") shall establish a program to use simple and expeditious licensing procedures under the Federal Power Act for such projects in connection with such existing dams in such manner as the Commission deems appropriate, consistent with the applicable provisions of law.

(d)(1) The Secretary is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this section) as he deems appropriate, the payment of interest on and the principal balance of bonds, debentures, notes, and other obligations issued by, or on behalf of any municipality, electric cooperative, industrial development agency, non-profit organization, or other person to finance not to exceed 75 per centum of the project costs of any small hydroelectric project which he finds—

(A) will be constructed in connection with any existing dam,

(B) has received all necessary licenses and other required Federal, State, and local approvals,

(C) will provide useful information as to the technical and economic feasibility of—

(i) the generation of electric energy by such projects, and

(ii) the use of energy produced by such projects,

(D) will have no significant adverse environmental effects, including effects on fish and wildlife, on recreational use of water, and on stream flow, and

(E) will not have a significant adverse effect on any other use of the water used by such product.

(2) An applicant for financial assistance under this section shall provide information to the Secretary in such form and with such content as the Secretary deems necessary.

(3) Prior to issuing any guarantee under this section, the Secretary shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) Any loan guarantee under this Subsection shall be increased to up to 90 per cent on any project under which the Secretary of the Army, acting through the Chief of Engineers, has provided the technical assistance under the terms of Section 14 (c) of this Act.

(e) The Secretary, with due regard for the need for completion, shall guarantee or make a commitment to guarantee any obligation under this section only if—

(1) the Secretary is satisfied that the financial assistance applied for is necessary to encourage financial participation;

(2) the amount guaranteed to any borrower at any time does not exceed an amount equal to 75 per centum of the project cost as estimated at the time the guarantee is issued;

(3) the Secretary has determined that there will be a continued reasonable assurance of full repayment;

(4) the maximum maturity of the obligation is not more than 35 years;

(5) the Secretary has determined that, in the case of any facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location; and

(6) the obligation provides for the orderly retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Secretary. Prior to approving any repayment schedule the Secretary may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals.

(f)(1) Obligations guaranteed under this section, may at the option of an issuer which is a municipality or industrial agency, be subject to Federal taxation as provided in paragraph (2). In the event the taxable obligations are issued and guaranteed, the Secretary is authorized to make and to contract to make, to the extent provided in an appropriation Act, grants to or on behalf of the issuer to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the issuer. There are authorized to be appropriated such sums as may be necessary to make grants under this paragraph.

(2) With respect to any obligation issued by a municipality or industrial development agency which such municipality or industrial development agency has elected to issue as a taxable obligation pursuant to paragraph (1), the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(g) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligations, except as to fraud or material misrepresentation on the part of the holder.

(h)(1) If there is a default by the borrower, as defined in regulations promulgated by the Secretary and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Secretary. Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Secretary.

(2) If the Secretary makes a payment under paragraph (1) of this subsection, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Secretary to continue to pursue the purposes of the facility if the Secretary determines that this is in the public interest. The rights of the Secretary with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

(3) In the event of a default on any guarantee under this section, the Secretary shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (i) from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

(4) For purposes of this section, patents and technology resulting from the project, shall be treated as assets of such project. The guarantee agreement shall include such detailed terms and conditions as the Secretary deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Secretary to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the project shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as assets of such project for disposal purposes under this subsection, unless the Secretary determines in writing that it is in the best interests of the United States to do so.

(i) With respect to any obligation guaranteed under this section, the Secretary is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Secretary finds that—

(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

(2) the amount of such payment which the Secretary is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

(3) the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which are satisfactory to the Secretary.

(j) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section and any amendments thereto shall be issued in accordance with section 553 of title 5, United States Code.

(k)(1) The Secretary shall charge and collect fees for guarantees of obligations authorized by subsection (d)(1), in amounts which (A) are sufficient in the judgment of the Secretary to cover the applicable administrative costs, and (B) reflect the percentage of projects costs guaranteed. In no event shall the fee be more than 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

(2) All guarantee fees received by the Secretary shall be paid into the fund established under subsection (l) which shall be available for the payment of any claims pursuant to a guarantee made under this section.

(l) (1) There is hereby created within the Treasury a separate fund (hereafter in this section called the "fund") which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by this section.

(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Secretary as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Secretary under this section shall be paid from the fund subject to appropriations. If at any time the Secretary determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

(4) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities as authorized by this section, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the

Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

(m)(1) The guarantees or commitments to guarantee under this section shall not exceed an aggregate outstanding liability of $100,000,000 beginning in fiscal year 1978 and such further increments as may be authorized by Congress in subsequent Acts.

(2) No guarantee or commitment to guarantee may be made after September 30, 1981.

(n) The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

(o) In issuing licenses for small hydroelectric power projects under the Federal Power Act, the Commission shall encourage joint participation, to the extent permitted by law, by those eligible to receive grants or loans under this section.

(p) Every licensee of a small hydroelectric power project licensed pursuant to the Federal Power Act shall furnish the Commission with such information as the Commission may require regarding equipment and services proposed to be used in the design, construction, and operation of such projects and the Commission shall have the right to forbid the use in such project of any such equipment or services it finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Commission may make public information it obtains under this subsection, other than information which may not be released pursuant to section 1905 of title 18, United States Code.

(q) Before issuing any license under the Federal Power Act for the construction or operation of any small hydroelectric power project (whether or not in connection with an existing dam) the Commission—

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structure), and

(2) shall consult with the Council on Environmental Quality, the Environmental Protection Agency, and the Department of Interior with respect to the environmenal effects of such project.

Nothing in this subsection shall be deemed to exempt such project from any requirement applicable to any such project under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

(r) Nothing in this section authorizes the guarantee of a loan or simple and expeditious licensing for construction of any new dam or other impoundment.

(s) For purposes of this section and section 14, the term—

(1) "small hydroelectric power project" means any project of not more than twenty thousand horsepower (or fifteen thousand kilowatts) of installed capacity;

(2) "electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(3) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

(4) "project costs" means the cost of all facilities and services used in the design and construction of a project, including the cost of any feasibility studies;

(5) "utility" means any person engaged in transmission, or distribution, or both, of electric energy for profit;

(6) "nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501 (a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization); and

(7) "existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement (other than repairs or reconstruction) of impoundment structures in connection with the installation of any small hydroelectric power project.

On page 16, line 19, strike out "Sec. 15." and insert in lieu thereof "Sec. 16.".

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 7769 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7769, which has come over from the House of Representatives, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

UP AMENDMENT 868

(Purpose: To preserve competition)

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 868.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4 following line 9, insert the following and renumber succeeding sections:

PRESERVATION OF COMPETITION

SEC. 5. (a) General Authority of Commission.—Section 205 of the Federal Power Act is amended by adding at the end thereof the following:

"(k) Whenever the Commission determines on its own initiative or upon complaint, after affording an opportunity for evidentiary hearing, that an electric utility is engaging in any unfair method of competition, or that an electric utility has filed any contract, agreement, tariff, or method of competition, it shall issue an order prohibiting any such unfair method of competition, or reject such a filing.".

(b) New Bulk Power Facilities.—Section 202 of such Act is amended by adding at the end thereof the following new subsection:

"(h)(1) If any bulk power facility is proposed to be constructed in any regional district, any electric utility may apply to the Commission for an order under paragraph (3) if such utility is engaged in the generation, transmission, or sale of electric energy within the regional district in which such facility is proposed to be constructed. This subsection shall not apply to a utilization or production facility required to be licensed under section 103 of the Atomic Energy Act of 1954.

"(2) Whenever an application is received under paragraph (1), it shall be transmitted to the Attorney General, who shall, within a reasonable period of time (but not to exceed 180 days), advise the Commission as to whether (absent an order under this subsection) the ownership or use of such facility would create or maintain a situation inconsistent with the antitrust laws.

"(3) If the Commission, after giving consideration to the advice of the Attorney General and after public notice and an opportunity for hearing, determines that such ownership or use would create or maintain a situation inconsistent with such laws, the Commission shall issue an order conditioning the construction of such facility on compliance with such requirements as it determines appropriate to prevent or remedy such a situation (including providing for joint ownership of such facility). The Attorney General may participate as a party to any proceeding concerning such application.

"(4) The Commission may prescribe such rules as it determines appropriate to carry out this subsection.".

Mr. KENNEDY. Mr. President, I am sending to the desk an amendment to S. 2114—an amendment which would provide that antitrust considerations be kept in mind by the Federal Energy Regulatory Commission in its regulation of the electric utility industry.

Part of this amendment is substantially similar to a portion of the Electric Utility Coordination Act which was favorably reported a year ago by the Senate Commerce Committee. It is also modeled on provisions in the House bill but which were not carried forward when the House finally passed that bill. It had solid administration support in the House, and should clearly be included in the Senate version.

Basically, my amendment would do two things. First, it would require the Commission to examine contracts, tariffs, and other materials at the time of filing for provisions which might result in unfair competition. Where these offending provisions are found, the Commission would hold an evidentiary hearing. If it then finds that unfair competition would result, the Commission may issue an order prohibiting the unfair competition or it may reject the filing completely.

The type of unfair practices I have in mind can be illustrated by taking an example of a group of utilities joining to form a power pool under conditions which would deny access to pool power on equitable terms to other smaller, municipal, and private utilities.

In other cases, large utilities have insisted on exclusive wholesale supply contracts with retail distribution utilities lacking their own generating facilities—saying in effect, that "if you want to get any of your power from us, you have to get all of it from us."

Other examples of unfair conditions can be found in the Antitrust Subcommittee's 1970 hearings on "Competitive Aspects of the Energy Industry."

In the past, the Federal Power Commission has been reluctant to exert any antitrust oversight, even when courts have on occasion said the agency should. With this amendment, the newly constituted Commission is presented with a clear congressional mandate to regulate in a way that preserves as much competition as possible. This amendment clarifies and emphasizes that mandate.

The second provision establishes procedures by which, under certain conditions, there may be antitrust review by the Department of Justice of proposed plans for the construction of nonnuclear bulk power generating facilities. As to this section, I would like to make two things clear right at the outset:

First. The review procedure would not be automatic in the case of nonnuclear facilities—as it is for nuclear facilities. It cannot be arbitrarily invoked by the Commission, the Department of Justice, or any other Federal agency.

Second. Where antitrust review does take place, the Attorney General's opinion to the Commission is advisory only. The Commission must take this opinion under consideration in arriving at its own decision—but, the antitrust opinion is never in any sense a veto of the proposal.

I emphasize these points because of misinterpretations of this provision among some Members.

To understand how it would work, let us assume that a large utility is going to construct a new bulk generating plant in a regional district. There are also smaller independent utilities in the area, some of which may have limited generating capacity and others which may be simply retail distributors of wholesale power.

Clearly, the extent to which the new bulk plant will meet growth requirements of the whole district, the willingness of the builder to permit participation by other utilities in the district, the conditions under which wholesale power might be sold from the new plant—these are all matters of enormous competitive consequence to the whole regional district.

Under the amendment I am offering, any of these other affected utilities in the district—not the Commission itself or the Department of Justice—would have the right to apply for an FERC order which would establish certain competitive standards under which the bulk facility could operate.

The application would be forwarded to the Attorney General for antitrust review and advice. The antitrust opinion would have to be given 180 days, as it is under the nuclear plant regulatory legislation. While this opinion would have to be considered by FERC, it would not be binding upon FERC.

FERC would then hold an evidentiary hearing, at which other utilities who might be affected by the proposed bulk facility could testify. If this testimony and the Attorney General's opinion persuade FERC—but only if this is the case—FERC is empowered to issue an order outlining competitive conditions which must be met by the new plan: sales of power to other utilities, and so forth. It could not, and would not, delay plant construction.

This provision was stricken from the House bill during floor debate. The reasons used were that a similar provision in the 1970 amendment of the Atomic Energy Act has caused horrendous delays in the construction of nuclear plants, and extension to nonnuclear facilities would cause similar delays in coal and oil-fired plants.

The allegations of extreme delays from antitrust review procedures with respect to nuclear plants are completely unfounded. Since the amendment was passed in December 1970, the Antitrust Division has reviewed 88 nuclear plant applications. There were no problems with the vast majority of these. In only 18 instances has the Attorney General recommended hearings on competitive aspects of the applications. Many of these are resolved without hearings: for example, Duke Power, involved in 3 of the 18 hearing recommendations, accepted NRC conditions before hearings. At this point three full hearings have been held, one very limited hearing, and one more full hearing is in progress.

We need this amendment because, even though they may have the power, regulatory agencies are notoriously reluctant to assume any procompetitive responsibilities. The December 1970 amendment to the Atomic Energy Act is a case in point. The original act had provided for antitrust review of commercial reactor projects. The distinguished Senator from Vermont, George Aiken, appeared before the Senate Antitrust Subcommittee in May 1970 to explain why the amendment he supported was necessary: The AEC was deliberately ignoring the basic act.

At the time Senator Aiken testified, there were 16 nuclear powerplants in operation, 48 more under construction, another 34 for which reactors had been ordered, and still 8 more in preliminary planning. They had to be commercially feasible, according to Senator Aiken, for the SEC to approve financing. Beyond this, the ones in operation were supplying commercial power and were in the utility rate bases. Yet, Senator Aiken told us:

It is shocking to learn that every plant in operation or under construction today has been licensed under the medical therapy section of the Atomic Energy Act as a research project.

It took another act of Congress to directly order the AEC to provide for antitrust review.

Similarly, the Federal Power Commission has been reluctant to consider competitive policies of any kind. The excuse was always that antitrust considerations were not in the agency's jurisdiction, or at least its expertise. Despite court decisions to the contrary in Otter Tail and several other cases, the FPC has all too often avoided any responsibility for structuring its orders to enhance rather than suppress competition. This amendment is essential to remedy that attitude—to inform the present commission that Congress takes a serious view of this matter.

As I mentioned earlier, just last October the Senate Commerce Committee reported out the electric utility coordination bill, S. 3311, with a provision relating to unfair methods of competition which appeared to be even stronger than the first part of my amendment. The Commerce bill had other sections designed to preserve competitive rights in interconnections, wheeling, and other interutility relationships.

The second part, preconstruction review of operating plans for nonnuclear bulk generating facilities, is similar in some respects to what Congress has already voted for the nuclear industry. The Department of Justice is firmly on the Record in support of the provisions in this amendment.

It seems to me that if we are really talking about public utility regulatory reform, we should show our faith in free, competitive enterprize by adopting my amendment.

Mr. MATSUNAGA. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MATSUNAGA. What is it that the amendment would prevent utilities from doing?

Mr. KENNEDY. There are a number of instances of, potential anticompetitive acts which have been revealed in this industry in the past. For example, a contract requiring utility B to buy all its power from utility A or none at all; second, a contract in which utility A requires B not to sell to a third utility; and, a similar requirement not to sell to other utilities unless they grant concessions in their territorial areas. There have been these practices which have been evidenced in the past with which this attempts to deal. I think this would maximize the opportunities for actually increasing energy through promoting competitive access to bulk power.

Mr. MATSUNAGA. So the Anititrust Division will have 10 days to review each case?

Mr. KENNEDY. 180 days to make a comment on it, but it would not be empowered to halt construction. All it would be empowered to do is to review the agreements and contracts and to insure that they are not anticompetitive. The legislation itself provides that in a general way. This is somewhat more specific.

The legislation before us says that it authorizes nothing violative of the antitrust laws, but this makes it more specific in a way which I think has proven successful with the other regulatory agencies.

Mr. MATSUNAGA. I thank the Senator from Massachusetts.

Mr. DOMENICI. Mr. President, I have discussed the amendment briefly with the Senator from Massachusetts. I will have to object. I have talked with some members of the minority. This matter was not before the committee although it was reported by the Commerce Committee in the House. It was stricken on the floor of the House.

While the Senator from Massachusetts makes the point that a similar process has been used in the Nuclear Regulatory Commission, that is, to hold up construction while this kind of investigation occurs, I think there are some substantial differences.

First of all, the Nuclear Regulatory Commission has taken so long to approve nuclear powerplants that it probably does no harm to anyone to waste another 6 or 8 months, or at least to take that much time, whereas such has not been the case in this situation because the Federal Power Commission has not even had jurisdiction heretofore over the construction of nonnuclear new bulk sources.

While this might be a good amendment, it appears to me that we are asking for additional jurisdiction to be vested in the Federal Power Commission when most of the complaints we are getting are about the excessive delays which are occurring now.

I regret to have to object, but because many of the Members on my side have concerns, I will have to do that.

I say to the Senator from Massachusetts I believe the amendment is subject to a point of order under the time agreement. I do not want to raise the point of order until we are through discussing it. I would have to raise it based upon some of the Members on this side instructing me that they do not want to accept the amendment.

Mr. KENNEDY. Mr. President, if I understand correctly, there is an antitrust provision on page 4. It refers to the antitrust laws in section 4. The original bill contained similar provisions as the amendment I offer today.

Of course, the amendment is on the list of the amendments which the committee circularized. I was hoping that we would take this to conference and consider it in the conference.

Mr. DOMENICI. Mr. President, I want to say again to the Senator from Massachusetts when an amendment such as this comes along, I have to do my best to try and clear it or not clear it. In this instance, I cannot clear it.

Therefore, Mr. President, I will make the point of order that this amendment is not in order under the time agreement.

The PRESIDING OFFICER. The point of order is not in order until all time has either been yielded back or used up.

Mr. JOHNSTON. Mr. President, speaking for the committee, we are inclined to accept this amendment and take it to conference, notwithstanding some concern about delay and about the far-reaching nature of the remedies given to the Commission, such as ordering joint ownership of the facilities. Notwithstanding those concerns, we are prepared to accept this and take it to conference, with the understanding, of course, that we shall have to consider very carefully such evidence as we can determine between now and then, assuming that it survives the scrutiny of the point of order. On that basis, Mr. President, we are prepared to accept the amendment.

Does the Senator from Alabama wish time?

Mr. ALLEN. Yes, at the proper time. I want to join in the point of order the distinguished Senator from New Mexico has made. I wish to ask a question of the Chair.

Assuming that all time on the amendment is yielded back and a point of order is made, if the point of order is not sustained, would the amendment then be open to amendment in the second degree?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that it would be.

Mr. ALLEN. I thank the Chair.

I assume that the distinguished Senator from New Mexico will make the point of order after all time has been yielded back.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time. I appreciate the indication by the floor manager of his acceptance.

Mr. DOMENICI. Mr. President, I make the point of order that I made just a few moments ago, that the amendment is not germane and, under the present unanimous-consent agreement, it must be germane.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the bill deals with antitrust matters in a certain portion of the act, appearing on page 4. For that reason, I therefore indicate that the amendment is, in fact, germane.

Mr. DOMENICI. May I make further inquiry of the Chair?

Is the Chair referring to section 4 of the bill that says nothing in the act shall affect the applicability of the antitrust laws?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. And on that basis, the point of order is deemed not well taken?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield so I may take a couple of minutes at this point, without losing his right to the floor?

Mr. ALLEN. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, will the manager of the bill let me have 2 minutes?

Mr. WEICKER. Yes; I yield 2 minutes.

ANNOUNCEMENT OF APPOINTMENT OF AD HOC COMMITTEE ON RULE XXII

Mr. ROBERT C. BYRD. Mr. President, I am, today, appointing an ad hoc committee of Democratic Senators to study rule XXII in an effort to develop proposed changes to that rule to expedite the consideration and disposition of a measure once cloture has been invoked.

For the information of the Senate, I want to emphasize that this committee, composed of Senators NELSON, NUNN, MOYNIHAN, and the majority whip (Mr. CRANSTON), ex officio, will be requested to concentrate their study and recommendations solely on postcloture procedures in view of the difficulties encountered by the Senate on the Natural Gas Pricing Act, and the "filibuster by amendment" after cloture had been invoked.

During consideration of that bill, it may interest the Senate to note, before cloture was invoked, the Senate spent 6 days—including a Saturday—32 hours and 39 minutes in deliberation on that measure, conducting 5 live quorum calls and 18 record votes. After cloture was invoked, the Senate spent 3 days and 1 night, including a Saturday—94 hours and 27 minutes—with 35 live quorum calls and 114 record votes, before the bill was finally passed.

I believe these figures starkly illustrate the necessity of careful study of rule XXII to expedite final Senate consideration of a measure once cloture has been invoked.

The leadership is not unaware of the criticism which has resulted from the attempt by the leadership to establish precedents to expedite the Senate's business once cloture has been invoked. While that is not the primary reason for the appointment of this ad hoc committee to make recommendations to the Senate with respect to postcloture rule changes, it nevertheless makes clear that a way must be found for the Senate to have an opportunity, in a calm and deliberate atmosphere, to consider the course it wishes to take with respect to this issue.

I hope this appointment of the committee will meet with the approval of the Senate and that all Senators will provide the committee with comments, suggestions, and recommendations.

Mr. BAKER. Mr. President, would the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, as I announced on the floor recently, I, too, have appointed an ad hoc committee to consider and make recommendations for changes to rule XXII. At that time, I believe I announced the appointment of Senator MCCLURE, Senator MATHIAS and Senator CHAFEE. I would like to add to that the distinguished minority whip (Mr. STEVENS) as an ex officio member of the committee.

It is my understanding our committee has already begun to solicit views and suggestions. I would hope that as matters progress a little further, in the balance of time here this year, the two committees might get together and compare notes so that when we arrive at the time when possible changes to rule XXII are to be undertaken, we could at least explore the possibility of finding common ground.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

I say to the distinguished minority leader that I have instructed the members of the ad hoc committee on my side of the aisle to work with the ad hoc committee that was appointed by the distinguished minority leader so that we could have broad based, bipartisan support in this event.

Mr. BAKER. I thank the majority leader.

Mr. MORGAN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MORGAN. I wonder if the distinguished majority leader would be willing to ask the Parliamentarian to make a compilation of the rulings that were made during the debate this week, with regard to the precedents they may set for the future, and also a record as to whether or not there was precedent on these particular points before.

I think there were some that will have far-reaching effect and I think, in all fairness, we in the Senate ought to know what it is, or what they really were, and what the precedent for them will be.

Mr. ROBERT C. BYRD. Yes. I think that is a good suggestion. I am sure the Parliamentarians would do that in the normal course of things. But I certainly support the distinguished Senator from North Carolina in urging that the Parliamentarians proceed with this matter.

Mr. MORGAN. I wonder if the distinguished majority leader would ask the Parliamentarian to disseminate that to the Members of the Senate once he has made a compilation of it.

Mr. ROBERT C. BYRD. I will not do that at this time. I will discuss it with the Parliamentarian and I, personally, would have no objection to it.

But there were a good many precedents set during this debate.

Mr. MORGAN. I would assume as a Member of the Senate I would be entitled to it.

Mr. ROBERT C. BYRD. The Senator would.

Mr. MORGAN. I will ask the Parliamentarian here on the record if he would make such a list and furnish it to me.

Quite frankly, it happened so fast, I could not follow what was going on and I doubt seriously anyone else did.

Mr. ROBERT C. BYRD. Let us put it this way, the Parliamentarian does this in the normal course of things and, of course, it will be available to all Senators at their request.

Mr. MORGAN. Well, I am making a request as a Member of the Senate to the Parliamentarian and I trust he will fulfill my request. If not, I will come back.

Mr. ROBERT C. BYRD. That will be between the Senator from North Carolina and the Parliamentarian.

Mr. MORGAN. If he does not—does the majority leader feel, as a Member of the Senate, I am entitled to this?

Mr. ROBERT C. BYRD. I have not said otherwise.

Mr. MORGAN. I am asking if he does not feel that way.

Mr. ROBERT C. BYRD. If I did, I would say so. As I have indicated, the Parliamentarian does that in the normal course of things. It will be available to all Members, and if the Senator from North Carolina wants the Parliamentarian to provide him with those precedents, I am sure the Parliamentarian would carry out that instruction.

Mr. MORGAN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alabama for his courtesy.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. ALLEN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. INOUYE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask for a division of the amendment. I have a right to call for that.

The PRESIDING OFFICER. How does the Senator suggest that this bill be divided?

Mr. ALLEN. As to each separate item. I would say that section 5(a) is a separate item, and (b), (h)(1) is a separate item, (h)(2) is a separate item, (h)(3) is a separate item, (h)(4) is a separate item.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. KENNEDY. Would the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. KENNEDY. It seems to me it is appropriate to divide the amendment between subsections (a) and (b). The different divisions within (b) are all interrelated.

It seems to me that would be a natural point of separation, and I would think the Senator would be most concerned about these two sections.

I would hope, in regard to (a), we could at least get a voice vote and then rollcall the (b) portion.

I offer that purely as a suggestion.

The PRESIDING OFFICER. The Chair will advise the Senator from Alabama, according to the Parliamentarian, this amendment may be divided in two parts, 5(a) and 5(b).

Mr. ALLEN. I thank the Chair.

Now, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, the Chair has ruled that the amendment is germane, basing its ruling on section 4, on page 4, which says that nothing in the act shall affect the applicability of the antitrust laws as defined by the Energy Policy and Conservation Act.

The amendment does not seek to amend the Energy Policy and Conservation Act, but the Federal Power Act.

I feel that the Parliamentarian hastily advised the Chair in this regard, but I am not seeking to overturn that parliamentary response.

But I would like to make this parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. The amendment having been divided, would not a point of order lie as to each portion of the amendment separately, since separate issues have been brought into play by the amendment, would not a point of order now lie to section 5(a)?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the point of order was raised against the whole amendment and that divisibility has nothing to do with it. It just applies to acting on the amendment.

Mr. ALLEN. I did not quite understand the Chair's ruling.

The PRESIDING OFFICER. A new point of order will not lie against section 5(a) or section 5(b) just because the amendment is divided into two parts for action.

Mr. ALLEN. Would it not be possible to approve one and not approve the other?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. And would it not, therefore, be possible to approve a nongermane portion of the amendment?

The PRESIDING OFFICER. That is correct. The Senator demanded the division, and he has a right to do so.

Mr. ALLEN. Now we have section 5(a) before the Senate, and the yeas and nays have been ordered.

The PRESIDING OFFICER. On the whole amendment.

Mr. ALLEN. But the yeas and nays that have been ordered would apply to each separate portion of the amendment as divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. Part (a), then, would be amendable in one degree.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent, on behalf of the sponsor of the amendment and on behalf of Senator ALLEN, that the pending amendment be set aside until 3 o'clock this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, as I understand, it will be called up then as the pending business. Am I correct?

The PRESIDING OFFICER. According to the unanimous-consent request, yes.

Mr. ALLEN. Mr. President, reserving the right to object, it would come back in exactly the same status that we now leave it. Is that correct?

The PRESIDING OFFICER. At 3 o'clock.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I thank the Senator from Massachusetts and the Senator from Alabama.

UP AMENDMENT NO. 869

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 869.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 23, add an "s" to the end of the word "Report."

On page 8, line 24, add "(a)" after "Sec. 8."

On page 9, line 4, strike "(a)" and insert in its place thereof "(1)".

On page 9, line 8, strike "(b)" and insert in its place thereof "(2)".

On page 9, line 13, strike "(c)" and insert in its place thereof "(3)".

On page 9, line 14, after the word "Act." insert the following new subsections:

(b) The Secretary of Energy is directed to study all major existing non-experimental utility rate reform programs in the United States in regard to time of day, load management, seasonal, and interruptible rates, and rates based on marginal costs. Six reports shall be made to the Congress; the first shall be made eight months after the enactment of his bill; the next five shall occur at intervals of six months.

The reports will address but not be limited to the following subjects:

(1) definition of the rates and a description of the process by which they were derived;

(2) the effectiveness of the rates immediately and over the course of a year in shifting lands from time periods of lower demand;

(3) the potential for additional shifting of loads in time periods of over a year;

(4) the reasonableness of the rates in regard to changes in the amounts of money paid by users;

(5) the effect of such rates on investor confidence in the utility;

(6) the effect of such rates on utility company revenues, including "excess revenues", if any, and the solutions to any revenue problems caused by such rates.

(c) The Secretary of Energy in consultation with the FERC is hereby directed and authorized to undertake two studies, with the participation of the electric power industry and an appropriate public advisory committee, to determine the most cost-effective methods of increasing electric service reliability.

These studies shall be completed within 18 months of the passage of this act. Reports shall be submitted to the Congress and the President.

(1) The first study shall consider the cost effectiveness of investments in each of the systems involved in providing electric service, including but not limited to generation, distribution, and transmission systems, and supplementary, protective, or mitigating measures at the consumer level.

In addition to cost-effectiveness, any other relevant differences (such as environmental differences) between the alternative systems shall be noted.

The study will examine utility systems typical of various types of generating capacity and various regions of the country and typical of various mixes of urban, rural, residential, industrial, commercial, and other customers. The conclusions will state what measures are most cost-effective for decreasing the number and severity of outages for each of these different systems.

In examining distribution and transmission systems, the study shall consider, at a minimum the following means of improving reliability:

Isolating faults by sectionalizing circuits through fuses and manual or automatic switches;

Provision of alternative distribution lines;

Increasing and improving maintenance of distribution networks;

Investment in improved substation equipment and power lines;

Placing power lines underground;

Dispersed generation and storage; and

Increased standardized construction.

In examining whether adding generating capacity is more or less cost-effective than improving reliability in distribution, transmission, and other parts of an electrical power system, this study shall consider the following alternatives to new generating capacity:

New inter-ties between systems;

Increasing capacity of existing inter-ties;

Energy conservation to reduce peak loads;

Power pooling arrangements;

Scheduling maintenance in off-peak periods;

Increasing investment in preventive maintenance;

Installing more reliable equipment to reduce component failure rates;

Improving in emergency operating procedures;

Interruptible loads;

Increasing capacity factors and reliability of existing plants by adding increased personnel, by better training, or by other means.

Load management devices.

The cost-effectiveness of increasing or decreasing the loss of load probability and thereby increasing or decreasing the reserve margin of a utility shall also explicitly be considered.

(2) The second study shall examine the cost effectiveness of increasing reliability by the provision of a number of smaller, decentralized conventional or non-conventional units rather than large units with the same or greater megawatt capacity. This study shall make conclusions regarding the mix of facilities of different sizes that will most cost-effectively improve reliability. This part of the study shall include all relevant cost parameters including the comparative costs of transmission and distribution lines under the different alternatives. Non-cost differences between the alternatives, such as environmental differences, shall also be noted.

Such small units may include but are not limited to medium (generally 100 to 400 megawatts) and small (generally less than 100 megawatts) conventional generators plus:

Wind, solar thermal, and photovoltaic units;

Fluidized bed combustion units;

Hydroelectric production from existing dams not currently producing electricity;

Solid waste combustion units;

Wind power in conjunction with storage facilities; and

Fuel cells.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Banta and Mr. Sussman have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Sneeley, of the Judiciary Committee staff, have the privilege of the floor during the consideration of and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the Senator's amendment included in the unanimous consent agreement?

Mr. DURKIN. No. Neither this amendment nor the next one I will offer is the amendment on which I have time reserved under the unanimous consent agreement. That amendment deals with synthetic natural gas.

Mr. President, the amendment at the desk is a relatively simple one. It has been discussed on both sides of the aisle, and there is no objection, according to my understanding.

The amendment simply requires the Secretary of Energy to report on existing experimental innovative rates and rate structures. The reports would address issues such as the actual rate structure, how it was derived, how much peak load was shifted, what the affects of these rates are on existing customers, small businessmen and women as well as the larger industrial sector.

The reliability aspect of the amendment asks that a study be done to identify the most cost-effective methods of improving reliability of electrical service. The amendment requires the Secretary to report on the existing innovative structures, such as off-peak load management, time of day pricing, seasonal pricing, interruptible service, and what have you.

For example, there was a movement in the committee and there had been legislation requiring that the Federal Government would mandate some of these innovative procedures. Seasonal pricing, for example, can be very helpful in some areas of the country, but it could increase substantially the cost of agricultural products in other areas of the country because some of the irrigation equipment utilizes electric power as its energy source.

So the committee felt that in many ways we were like the blind man feeling the elephant and not really knowing what we were up against in many of these rating questions and utility questions. That is why the committee position had been that we would not interrupt and not abrogate State law. We would ask the Secretary to intercede in the State public utility commission proceedings to raise these questions in the local context and force that utility commission to consider these innovative ratemaking suggestions in the context of the local situation.

The Secretary, under the committee bill, is empowered to go in and raise those questions in the State-by-State proceedings.

Furthermore, if we ever are going to solve the energy problem, if we ever are going to solve the electricity problem and the rate problem as applied to the interaction with the national energy picture, we need more information.

We do not have enough information, and we do not know what the nationwide impact would be.

As I say, some of these things will be excellent in my neck of the woods, and they may very well cause serious economic dislocation in other areas of the country.

So, Mr. President, if there are no questions, and I understand my friends on the other side of the aisle are willing to accept this amendment——

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. DURKIN. Yes.

Mr. BELLMON. As I understand it, this would require the filing of additional reports; is that right?

Mr. DURKIN. This would require the Secretary of Energy to file the reports, the reports on the existing ongoing experiments, with respect to rate structures in different parts of the country.

This does not directly contemplate that the utility itself will be required to make reports to Congress. This requires the Secretary of Energy.

The committee bill mandates, which is a change, that the Secretary of Energy appear at PUC or utility hearings all across the country to raise the many issues involved in reforming the rate structure. That is a periodic report contemplated there.

This requires him specifically to report on the existing. We tried to get, for example, a report on the experience in Wisconsin and the experience in New York with some of the newer ratemaking procedures, and the Library of Congress was only able to give us a very, very sketchy one, and they had to disclaim it because they said they did not have the time or the energy source.

Mr. BELLMON. Is it the intent of the these reports to move toward the involvement of the Federal Government in the ratesetting function?

Mr. DURKIN. Absolutely not; absolutely not.

Mr. BELLMON. What is the purpose of the report?

Mr. DURKIN. To get more information. I will give the Senator an example. A lot of people think that seasonal pricing is the answer to conserving fantastic amounts of electricity. The House bill mandates that this be a countrywide solution.

Well, I think you will find, and I am sure you are here and on your feet for that reason, that in the Southwest it is my understanding that an awful lot of irrigation equipment is run by electricity. The season is the growing season. If you were to increase the costs you might lower the costs of electricity in some other area, but the price of those agricultural products would be substantially higher when they get to that area.

So it is really just to get some more information as to what can be done, if anything, to streamline the ratemaking procedure.

You have the consumers on one side saying, some of the consumer groups saying, they want a sweeping mandate of Federal change. You have the utilities on the other side, saying, "Don't do anything, We are happy. We are laughing all the way to the bank."

Well, this is just to get some information to find out how much truth there is in the claims of both sides. But in no way, or I would not have introduced it, in no way is it intended nor does the implication lead to Federal intrusion.

I think the Senator from New Mexico fought alongside of me in committee not to get the Federal Government in. There is an amendment coming along later to give the Secretary the right to appeal in State proceedings. I hope the Senator from Oklahoma will be on the floor and join in fighting that measure. This in no way gets the Federal camel into the tent.

Mr. BELLMON. I am at a loss, Mr. President, to know what these reports are for. These States are presently able to consider the problems the Senator mentioned here. Why do we want the Federal authorities to be furnished information, unless we expect the Federal authorities to involve themselves in ratemaking processes? I am at a loss as to what good the reports are unless the Federal Government intends to do something with them.

Mr. DURKIN. One of the problems is the House has already done something. The act that is enacted has mandated some of these things, and it is no longer a question. Many of us on the Energy Committee, the majority by far, felt that that was moving too far, too fast, in an unknown area. In fact, many of the public utility commissions across the country have worn blinders, and it has been a major task to drag them into the 20th century. They refused to change their procedures since the days of the Salem witch trials, and they will not study anything. So I think there is a need for the study. They will not do the study.

This not only provides Congress with the information but it also provides, at least my intent is, pressure on those State commissions to do the job they are supposed to do. But we do not—and in my 5 years as insurance commissioner, we functioned best as insurance commissioners when the Federal Government was looking over our shoulders, much more effectively than had the Federal Government taken over the regulation. I think the situation is the same here.

Mr. DOMENICI. Let me say to the Senator from Oklahoma, I think had he been present and observed, as the good Senator from New Hampshire has indicated, the overwhelming majority of the Energy Committee itself, he would find a great skepticism on that committee as to what the Federal role ought to be with reference to moving ahead with better ratemaking schemes. The committee was pretty unanimous that we did not want the Federal Government doing that.

As we indicated earlier this morning, the bill as it comes to us from the House not only says these new schemes for ratemaking are good but, in a sense, puts the Federal Government in a posture where they may preempt and mandate that some of them occur to the delay of ongoing hearings, to the delay of the existing financing arrangements to get these plants built. I think what the Senator from New Hampshire is saying is that he has heard that some utility commissions have studied these various approaches, various parts of the Government may be studying and looking at parts of it, and I think his amendment is saying in lieu of moving ahead too fast, and since we have only gone a limited way in this bill, we ought to ask that the energy office of the United States do these two studies, put them all in one place so that we will know the effectiveness of State commissions in this area.

We may also find that some of these new approaches are not all that good. I think the Senator is simply saying that. The study might reveal very marginal ratemaking will not do any good.

Mr. DURKIN. Or only work in one area of the country, and then the pressure will be on the utility commissions in those areas, be it New England, the Southwest, or the South, to take that information and use it.

Mr. BELLMON. It seems to me the Senator is making my point exactly. From these reports it appears it is the intent of the author of the amendment to give the Federal authorities sort of a gun they can point at the head of the local regulatory agencies and say, "You either do these things or we, Uncle Sam, will move in and take over for you."

I frankly am not in accord with that kind of operation. It seems to me the States have this authority, and we have not shown that we are much smarter than the States at this level. So I do not know why we want to involve ourselves in something they have been doing ever since the days when utilities were set up in this country.

I frankly do not see why we need the reports unless we do something with them. If it is the intent to arm the Federal Energy Office with a weapon to use against the States, then I am not for the report.

Mr. DURKIN. Let me assure the Senator from Oklahoma that I am wearing two hats here, that of the manager, and that of the sponsor of the amendment. In neither capacity do I have any intention to get the Federal Government into the ratemaking process as far as utilities are concerned. But the fact is the States do not have the money to—a lot of the States, you cannot get a study that will take in an area. You cannot get a study that will take in the country.

For example, now, one of the things the study called for by the Federal Power Commission when the lights went out in New York, the Federal Power Commission found ConEd could have avoided the blackout, but no one knows which was the cost-effective way of avoiding such a blackout.

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DURKIN. I would be happy to.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Joseph diGenova, of my staff, be accorded the privilege of the floor during the debate on this bill and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, may I say to my friend from Oklahoma this issue of whether the Federal Government is going to be involved in rates as far as utilities are concerned is going to be here in the Chamber. It is already on the other side and it is going to bounce back and forth across the courtyard for the next several years, I am sure.

I, for one, do not think that a case has been made that the Federal Government should get in. I do not know about the Senator's mail but according to my mail we have some of the highest electric rates in the country and people who fell for those electric heat ads pay more for their electric heat than they do for the mortgage.

Now we are going to say that we are going to put on the same blinders that the State commissions have worn. We are now going to share those blinders with them.

There is absolutely no intent to get the Federal Government into the regulation of utilities other than to the extent they are now through the Federal Power Commission for the wholesale power sales and what have you.

But I think we have an obligation to find out are these things just schemes written by the pilot, the skywriter, or do these things have potential to save energy in Oklahoma, New Hampshire, New Mexico, Ohio, and what have you?

Right now we do not know. We cannot tell our constituents whether we know. Are we going to vote to pull the curtain again and just walk around in blinders?

Mr. BELLMON. I thank the Senator.

Mr. DURKIN. I thank the Senator from Oklahoma.

Mr. President, I am prepared to yield back the remainder of my time. As I say, in my second capacity I am prepared to accept this amendment on behalf of the majority.

Mr. DOMENICI. Mr. President, in behalf of the minority we are prepared to accept the amendment.

Mr. DURKIN. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 870

Mr. DURKIN. Mr. President, at this time I call up my second unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself, Mr. MORGAN, and Mr. NUNN, proposes an unprinted amendment numbered 870.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 12, insert the following new section:

SEC. The Chairman of the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, is directed to conduct a study of the legal requirements and administrration procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act for the purposes of (a) providing for expeditious handling of on the record hearings consistent with due process (b) preventing the imposition of successive rate increases before they have been determined by the Commission to be just and reasonable and otherwise lawful, and (c) improving procedures designed to prohibit anticompetitive and/or unreasonable differences in wholesale and retail rates. The Chairman shall report to Congress within five (5) months from the date of enactment of this Act on the results of the study required under this section, on the administrative actions taken as a result of this study, and on any recommendations for changes in existing law that will aid the purposes of this section.

Mr. DURKIN. Mr. President, I think the Senator from Oklahoma will be very interested in this provision.

It is a study, and it calls for the chairman of the FERC to undertake the study to study ways to shorten the process and resolve all the conflicts with respect to pancaking.

In the House of Representatives the House bill has an antipancaking provision that is very arbitrary. Friends and foes of the pancaking situation and the antipancaking provisions, off the record, both sides will admit that they do not know how to solve the problem and they really are not sure of the extent of the problem.

As one who again comes from a State where we have the highest electric rates in the country, and outside of the issue of the Panama Canal I think my mail runs greatest on the issue of electric rates.

But here is where the House of Representatives has moved, and in all due respect to the House of Representatives, they have moved rather rapidly in uncharted waters.

We looked and tried to find people who could help draft and help us draft an antipancaking amendment which would solve the problem and have it reducible to legislative language. I have to admit at this time we have been unable to find anyone with that wisdom and draftsmanship ability.

For the record, maybe I should talk about pancaking and make sure that everyone realizes it has nothing to do with anything but electric rates. Pancaking is the result of the fact that the Commission takes an average of 3 years to decide contested wholesale rate cases. The rates are in effect pending decision. Many utilities, therefore, have three or four wholesale rate cases pending decision before the FPC at the same time, and then that is the situation which leads to the term "pancaking." The rate requested pancakes one on top of another, and the consumer is paying for them all because they have all gone into effect.

On the average in each one of these cases the rate will be cut back substantially. Wholesale customers of such a utility are, therefore, paying more than they should at any one time because they are paying for three or four rate increases that will be found to a substantial degree as excessive, but quite rarely are there refunds because another rate request comes on top of that, and they always have three or four built up, three or four pancaked. So the refund is never returned to the municipality, the co-op, the public power people, or the investor-owned utilities.

Everyone admits it is a problem but no one knows how to solve it.

Mr. President, at this time I yield to my good friend from Nevada.

VISIT TO THE SENATE BY MEMBERS OF THE HOUSE OF COMMONS OF CANADA

Mr. CANNON. Mr. President, I call to the attention of my colleagues that we have distinguished Representatives here from the House of Commons in Canada, members of the Standing Committee on Management and Members' Services, who are visiting Washington and conferring with the Rules Committee and some of our appropriate staffs on the operation of our business here.

At this time, I ask them to stand, and I shall introduce them.

We have the Honorable Robert Carmen Coates, the Honorable Gérard Duquet, the Honorable John Raymond Ellis, the Honorable Bruce Halliday, the Honorable Leonard Donald Hopkins, the Honorable Joseph Adrien Henri Lambert, the Honorable Marcel Joseph Aimé Lambert, the Honorable Frank William Maine, and Ambassador Peter Towe. [Applause.]

RECESS

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members might have the opportunity to say hello to our distinguished guests.

There being no objection, the Senate, at 1:39 p.m., recessed until 1:44 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. DOMENICI. I ask unanimous consent that an amendment to be offered by the Senator from Delaware (Mr. ROTH) be in order, and that he be permitted to have 1 hour on that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object——

Mr. DOMENICI. I suggest the absence of a quorum.

Mr. DURKIN. Will the Senator withhold that?

The PRESIDING OFFICER. Does the Senator from New Mexico withdraw his suggestion of the absence of a quorum?

The clerk will call the roll.

Mr. DURKIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I do not think we have any objection.

Mr. DOMENICI. I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico? Without objection, it is so ordered.

Mr. FORD. Mr. President, does the Senator from New Hampshire have an amendment up?

Mr. DURKIN. I have an amendment pending.

Mr. FORD. I beg the Senator's pardon.

Mr. DURKIN. Mr. President, picking up where we left off, I think everyone realizes that pancaking, that has caused the problem, is the price-squeezing effect where the wholesale customer of a utility pays more for electricity than does the retail customer. There are a lot of utility companies being sued because of the price squeeze, all tracing back to pancaking.

The House just said that all decisions have to be made in 12 months. That sounds good, but some decisions cannot be made in 12 months. That goes to the heart of the problem. That is why we are asking for the study, so that we can act, hopefully, in the near future, on the basis of sound information, rather than conjecture.

That, in effect, is the problem, and that is the case for the study amendment. I understand that my friends across the aisle are willing to accept it, and, as the committee is willing to accept it, if there is no further discussion, I am happy to yield back the remainder of my time.

Mr. DOMENICI. Mr. President, in behalf of the minority, we will accept the amendment. As the distinguished Senator from New Hampshire indicates, whether one is staunchly opposed to pancaking, or even if one might think it has some place in the utility ratemaking system, the point here is that by accepting this amendment we are not prejudicing their view, nor are we saying that the ratemaking commissions in the United States, as a mandate from Congress, have to rid themselves of this kind of episode within a given period of time.

We say we do not know enough about it, but this study should give us enough information as to what the role of the Federal Government should be, if any, and should be informative for the various State commissions as to the impact of this kind of situation. So we have no objection to the amendment.

Mr. DURKIN. I thank the Senator from New Mexico.

Mr. NUNN. Mr. President, I want to commend my distinguished colleague from New Hampshire for his leadership in bringing the very serious matter of what is popularly referred to as "pancaking" to the attention of the Senate with his amendment. I believe that it is a subject which is very important to any overall consideration of problems facing public utility systems, and I congratulate Senator DURKIN for his initiative in providing the Senate with an opportunity to go on record regarding this problem.

For some time now, I have been very disturbed with the question of electric power rate increases, particularly as they affect those consumers on fixed incomes. This problem has been compounded by the inordinately long delays by the then-Federal Power Commission in reaching final decisions on such increases that are filed with them. The resulting pancaking of rate increases must not continue. The Commission's inability to reach a solution to this problem continues to create undue burdens on both our Nation's consumers and on the efficient operation of public utilities which must be corrected.

In an effort to reflect my concerns, I cosponsored two measures in the 94th Congress, S. 3311 and S. 3483, which would have, in part, required that the Commission complete action on a schedule which seeks a rate or charge increase before any new schedules could go into effect. I also wrote to Senator MAGNUSON, as chairman of the Commerce Committee which had jurisdiction over these measures, indicating that, while I realized that the measures represented only one possible approach to the problem, I was hopeful that the committee would give this problem their most careful study, and provide a legislative approach that would be both effective in preventing delays, and the most equitable for all parties concerned.

Mr. President, I do not believe any of us who are familiar with the pancaking problem pretend that there is an easy solution. There are serious equities which must be balanced, and any response to the difficulties must be fair to all parties, and not give an advantage to either.

However, I do not believe that, simply because a problem is complex, and a solution is difficult, the Senate should avoid coming to grips with it. We cannot allow the present situation to continue.

We cannot continue to allow the situation whereby wholesale suppliers collect funds which are subject to refund and, therefore, cannot be used as a basis for equity or debt financing. Nor can we continue to allow wholesale purchasers to continue to be involuntary creditors of their suppliers by having to pay increased rates before they have been found to be "just and reasonable," thereby depriving these purchasers of capital which they could use for other necessary uses.

If we do not face up to the problem of pancaking, pricing situations will continue to exist whereby the wholesale rate is higher than the suppliers' retail rate, and yet both are paid for comparable service.

I am hopeful, therefore, that at the very least, we can require a careful study of this situation to be conducted by the new Department of Energy. Senator DURKIN's amendment would provide for this. The House has already attempted to address this problem in their energy bill. I think the Senate should take to conference a strong indication of our willingness to seek equitable remedies to a problem which has been with us for quite some time, which is causing hardships for the consumers of our Nation, and which must be solved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 871

(Purpose: End-user gas, purchase and transmission)

Mr. FORD. Mr. President, I call up my unprinted amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 871.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new section at the appropriate place:

"SEC. . (a) The Commission's present policies encouraging the transportation of natural gas owned by an ultimate consumer shall continue in full force and effect subject to terms and conditions the Commission deems appropriate to further these policies: Provided, however, That where the Commission approves the transportation of gas from reserves owned by an ultimate consumer, such transportation may be for a period of not less than the life of the reserves, or shorter period as provided by contract between the consumer and the transporter.

(b) Notwithstanding any other provision of law, nothing shall be deemed to preclude the sale and transportation of natural gas purchased by an end-user at a price in excess of any price established by law where it is established to the satisfaction of the Commission that—

(1) approval of the transaction is consistent with the public convenience and necessity; and

(2) such gas will be consumed by the purchaser solely for high-priority needs as defined by the Commission.".

Mr. FORD. Mr. President, I shall not take very long. I believe this amendment is cleared on both sides. It is called an end-user amendment.

Simply stated, what it does is give an industry an opportunity to buy natural gas under contract with the transmission line, have it transported to his distribution system, and then it will go to that end-user, provided, however, that other higher priorities do not need it, for example, home heating. If it is needed in that area, then the end-user will let it go into the system; otherwise it goes to him.

Last winter in my State, many of the industries, at least one in particular, were able to salvage some 20,000 jobs for people who were not put out of work. So

this is not only a usable concept, but it has been put to work for the benefit of people in various areas.

This is an extension of section 533 of the present law. It extends only that section, not the rest. I believe it is an important amendment, not only for the industry but for the workingman.

I have found support on both sides of the question from management and from labor.

I would be very hopeful that the floor managers of the bill would accept the amendment and we can have it agreed to by a voice vote.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would say to the distinguished Senator from Kentucky from the standpoint of this Senator, I have no objection. If the Senator does not mind, I will ask for a brief quorum call to consult with a few of the members of the committee on my side.

As I understand it, this merely indicates that the existing Federal Power Commission order, which I am told is commonly known as Order 533, basically has allowed this situation under its present powers and jurisdiction. What the Senator is saying is that since we are in the process of going through changes in the natural gas law, the Senator is merely reiterating that that is encouraged, and the Senator is saying that it was good and it should continue good and beneficial under any policy we adopt.

Mr. FORD. That is correct. The Senator has said it much better than I can. I appreciate his stating it.

Mr. DOMENICI. Having said that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I have conferred with the committee members on my side and have been informed that this amendment is acceptable. We have no objection to it.

Mr. JOHNSTON. Mr. President, on behalf of the committee we accept this amendment. We think it is a proper amendment to get natural gas where it is needed with no harm to the consumer. Therefore, we accept it with congratulations to the great Senator from Kentucky.

Mr. FORD. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. DURKIN. Is it in order for me to call up my amendment now?

Mr. JOHNSTON. I would say it would be in order.

AMENDMENT NO. 872

(Purpose: Eliminate discrimination in allocation of SNG feedstocks; make facilities that manufacture and transmit SNG subject to jurisdiction of F.E.R.C., with certain grandfathering and exemption)

Mr. DURKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 872.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

SEC. 16. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following:

"(f) In exercising the allocation authority granted under this section, the President shall provide at least as favorable treatment with respect to the allocation of feedstocks for the manufacture of pipeline-quality gas as that provided any other non-Federal user. The term "pipeline-quality gas" shall mean gas the principal ingredient of which is methane and which is interchangeable and compatible with natural gas.

SEC. 17. Section 1(b) of the Natural Gas Act is amended by adding a new paragraph to read as follows:

"(3)(A) Except as provided in subparagraphs (B) and (E), the provisions of this Act shall apply to—

"(i) any facility owned or operated, in whole or in part, by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption.

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline-quality gas, and

"(iii) any natural-gas company, companies or their affiliates engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, transportation, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the manufacture of such pipeline-quality gas.

"(C)(i) If before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture, transportation, or sale for resale, in interstate commerce, of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture, trasportation, or sale for resale, in interstate commerce, of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this paragraph the term 'pipeline-quality gas' shall mean a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) that is interchangeable and compatible with natural gas as determined, by rule, by the Commission.

"(E) The provisions of this paragraph shall not apply to any local distribution company, or to any facility owned or operated by any local distribution company, or to any transportation in interstate commerce or sale for resale in interstate commerce of pipeline-quality gas unmixed, or any mixture of pipeline-quality gas and natural gas, by any local distribution company, unless such local distribution company transports in interstate commerce or sells for resale in interstate commerce more than 10 billion cubic feet of pipeline quality gas during any calendar year. For purposes of this paragraph the term 'local distribution company' means any person: (1) primarily engaged in the local distribution of natural gas at retail, and (2) regulated or operated as a public utility by a state or local government.".

Mr. DOMENICI. Will the Senator further identify this amendment? Are there any additional copies?

The PRESIDING OFFICER. The Chair will advise the Senator that copies are being made at the present time.

Mr. DOMENICI. I wonder if the Senator would agree to let the clerk read it at this point while the copies are being prepared.

Mr. DURKIN. It is rather long. I would be glad to explain it while we are waiting for copies.

Mr. DOMENICI. I have now received a copy. I thank the Senator.

Mr. DURKIN. I apologize for not having copies.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, this is the amendment that I asked to be included in the consent agreement. This is two amendments that originally were contemplated for the natural gas bill. Due to the parliamentary snag, they never got out of the starting gate.

There are just two problems.

Mr. President, the purpose of this amendment is to extend the jurisdiction of the Federal Energy Regulatory Commission to synthetic gas plants and facilities to assure that the construction and operation of such facilities meet a public convenience and necessity test.

Such amendment is necessary to create a climate in which such projects are undertaken in the magnitude needed to help alleviate the natural gas shortage and to assure that, when undertaken, they are carried to successful conclusion in a manner most conducive to the public interest. Coal gasification is one of the principal means of supplementing the supply. These plants are very costly to build and operate. Without the protection afforded by a certificate of public convenience and necessity authorizing their construction and operation, it is doubtful i. projects will be undertaken to the extent needed by the energy shortfall.

In adopting a national energy plan, synthetic gas is an important ingredient which cannot and must not be overlooked.

Mr. JOHNSTON. Will the Senator yield?

Mr. DURKIN. Yes.

Mr. JOHNSTON. Is the purpose of this amendment to grant to the manufacturers of synthetic natural gas the same kind of allocation that the Federal Natural Gas Act has?

Mr. DURKIN. That was amendment 1282. That is part of this amendment. That is the first part. The second part is the grandfathering provision which will cover the gas plant at Freetown, Mass.

Mr. JOHNSTON. Grandfathering what?

Mr. DURKIN. It grandfathers that Algonquin plant. All of the others in operation were grandfathered.

Mr. JOHNSTON. Grandfathered for what purpose?

Mr. DURKIN. Exempting them from the Federal Power Commission certificating process. There are plants that furnish vital gas supplies in New England. The others were grandfathered. As I understand the situation—I am not sure how it came to pass—the others were grandfathered and this one was left out.

Mr. JOHNSTON. I wonder if the Senator would agree to temporarily withhold the amendment until we can find out about this Algonquin plant problem. We were familiar with the SNG part of this amendment but not the Algonquin part

Mr. DURKIN. I would be glad to set it aside for a half hour.

Mr. JOHNSTON. Well, until we have a chance to work it out, if it takes longer than that.

The PRESIDING OFFICER (Mr. CLARK). Without objection, the amendment is temporarily laid aside.

Mr. DOMENICI. Mr. President, we have not agreed on a time certain. How long will it be set aside?

Mr. JOHNSTON. Just temporarily.

Mr. DOMENICI. I will say to the Senator from New Hampshire we may need a half hour or so to check it out. Before it is called up, I would appreciate it if the Senator would check with us. That might save some time.

Mr. JOHNSTON. Mr. President, if there are no amendments to be called up at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JOHNSTON. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I will repeat briefly what this amendment does.

Two amendments were lingering around after the ox got out of the ditch yesterday, and by unanimous consent they are part of this unanimous-consent agreement.

They do two things: No. 1, in the event that the House language brings the SNG plants under jurisdiction—there are only 13 currently operating, to my knowledge—they would not have to go back through the very cumbersome and expensive FPRC certificating process. These plants are vital to the gas supplies of New England and eastern States, and we cannot risk the loss or the possible loss of their gas because they are caught up in a recertification provision. They have been functioning. There is no question about that. If the language of the House is adopted, it just eliminates the possibility that these very valuable plants would have to devote considerable time, money, and energy to getting recertified.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays?

Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURKIN. Mr. President, the second part of this amendment is to extend the jurisdiction of the Federal Energy Regulatory Commission to synthetic gas plants and facilities, to assure that the construction and operation of such facilities meet a public convenience and necessity test.

This works two ways. It protects the public, to make sure that adequate consideration is being given. It also makes it easier and cheaper in the long run to construct these very vital and necessary plants.

The third part of the amendment solves a problem that is designed to modify existing FEA policy during the allocation of feedstocks used in the production of synthetic natural gas. The present policy of the FEA discriminates against SNG production. FEA regulations presently limit existing plants to 1972–73 level in usage, whereas non-SNG uses of naphtha receive allocations of 100 percent of current requirements, without any regulatory hassle.

The third aspect of the amendment rectifies the imbalance created by the FEA and just gives the SNG equal chance, equal opportunity, to get feedstocks.

Again, this has a regional impact, and that is one of the reasons why I am interested in it.

As the President alluded in his April 20 statement, the SNG plays a vital role in this country, but especially in the Northeast. We would not have made it through the winter last year if we had some of the problems faced by the people in Ohio and in the Midwest, had it not been for SNG and the SNG plants. So this amendment solves those problems. It eliminates the need to go back through the recertification process for the existing plants. It brings the new plants under the Federal Energy Commission certificating process. Third, it gives the plants an equal shot at the feedstocks.

Mr. HATFIELD. Mr. President, I commend the Senator for bringing this matter to our attention. I believe we have had consideration of this matter during the long period of natural gas deregulation discussion, and I do not really feel that it belongs on this bill at this time.

In no way do I denigrate the importance of the amendment by indicating that I think we would have to oppose the amendment at this time.

Mr. JOHNSTON. Mr. President, the issues brought forth in this amendment by the distinguished Senator from New Hampshire are very important, and I think that after a hearing, we may well go along with these changes. But these are very fundamental changes.

Under the present law, plants making synthetic natural gas are not regulated by the Federal Power Commission for price in the sale of their natural gas. Under this amendment, as I understand it, these plants that would manufacture this synthetic natural gas would be subject to such price control. That means that in the building of these plants, the cost would have to be figured into the rate base and the rates determined in accordance with cost-based figures.

This, in fact, may be a very good thing. We may decide after hearings that that is what we want to do. But the one thing we do know is that it would have a very dramatic effect upon whether or not synthetic natural gas plants are going to be built. That simply is not a question that this Senator or the committee is prepared to rule on in a definitive way at this time.

It is, as I say, a very far-reaching amendment affecting synthetic natural gas and, for that reason, we would hope the distinguished Senator would be willing to defer this matter until the first of the year when we can have hearings on this and, at that time, hopefully, report it out. But at this time, with respect to that part of the amendment, we would have to oppose it.

Now, with respect to the Algonquin plant, the committee, I think, is in somewhat of a state of lack of information with respect to the Algonquin plant. The Algonquin plant, as I understand it, makes synthetic natural gas from naphtha, and under this amendment they would be deregulated and would not be subject to Federal Power Commission control.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DURKIN. I know the Senator from Kentucky is vitally interested in it as well as I, and we can both count, and with the combined opposition on both sides of the aisle I think we would have to be very persuasive in 15 minutes, and this probably is most likely to go down the drain.

I think that would be unfortunate because it might keep it down the drain for a longer period than would be the case if I could get assurances—and I think I speak for the Senator from Kentucky—that we could get a hearing on these very, very vital issues involved here, the three issues, because I am concerned about the equal allocation of feedstocks, as well as the grandfathering of the existing plants, and licensing of the new SNG plants.

I look at it from a safety point of view, and what-have-you, and if I can be assured that we will get full hearings and early hearings, early in January, I think my cosponsor from Kentucky has no objection, and we would withdraw this amendment at this time because of the assurance of early hearings in January.

Mr. JOHNSTON. I can assure the Senator that at our first opportunity—I cannot assure him January, but I would say, and undoubtedly not later than February—we could have full and complete hearings from the standpoint of the chairman of the subcommittee. I am not opposed to this amendment. We simply do not know enough about it. I think we would have those full hearings at our first opportunity after the first of the year, and we would be inclined fully and sympathetically to consider it at that time.

Mr. FORD. Mr. President, if I may, I agree with the Senator from New Hampshire that if we get early hearings, I am willing to join him in withdrawing this amendment.

I think a vote on this, when there will be more Senators to look at it and have an opportunity to know what it means, and think about it a little bit, even if it goes down the drain—and there are very few people listening here, and Senators walk in the back door and find out who is for it and who is against it—synthetic natural gas is important to New England, and the grandfather clause you have is important to your area, and I think you ought to fight for the best interests of the people in your area, and I think you are doing right.

But we are realists and we understand it. Both sides of the committee are opposed to us, and the numbers will be tough for us to get.

So, on the basis that we will get an early hearing, hopefully in January but no later than February, we will have the opportunity to bring this back. I see the chairman of the committee is here now, and I am hopeful he will concur in this request that the Senator from New Hampshire and I would agree to, and if it is agreed to we will withdraw this amendment.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. FORD. I am through.

Mr. DURKIN. The chairman of the full committee has just assured me that we would get early hearings.

Mr. FORD. On that basis, Mr. President, I will join with the Senator from New Hampshire in withdrawing the amendment.

Mr. DURKIN. Mr. President, so far as the withdrawal process is concerned, I ask that the record reflect that Senator FORD is a cosponsor, as well as Senator MCINTYRE from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that an additional amendment by Mr. DURKIN be allowed to be substituted for this amendment, as per the original unanimous-consent agreement on this bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, earlier in today's consideration, the distinguished Senator from Massachusetts (Mr. KENNEDY) offered an amendment relating to antitrust examination of new nonnuclear plants. At that time I had stated on behalf of the Democratic side of the committee that we were inclined to accept the amendment and take it to conference.

I did that even though we had sent out word informally that the committee did not feel inclined to accept any amendments that were nongermane to the bill, and that extended Federal control over State matters.

Since I made that statement on behalf of the committee, a great deal of opposition has come to my attention, and I have, therefore, sent word to the distinguished Senator from Massachusetts that we would have to object to this amendment.

As I understand it, it is scheduled to come up at 3 o'clock. I will tell that to the distinguished Senator from Massachusetts as soon as he comes on the floor. But I wanted to say it at this point to give other Senators who may be on the floor notice of that fact.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. HATFIELD. As the Senator knows, during the markup session I raised some questions concerning section 11 on page 12 of the bill which purports to establish a National Regulatory Research Institute.

What I would like the Senator to clarify for my understanding is what happened thereafter since I had a conflict of committee sessions.

At the time that I raised questions involving this National Regulatory Research Institute it was indicated by the committee record that this would be withheld until information that I had requested was provided.

I have not received such information subsequent to that action by the full committee, and I read in the committee report the language that is supposed to clarify this section and, frankly, I only find it more confusing because I would draw the Senator's attention to page 17 of the report language when it says:

This section establishes an institute intended to provide economic and technical research to state regulatory authorities on utility regulatory policy issues. It is the committee's understanding that the National Regulatory Research Institute was established by the National Association of Regulatory Utility Commissioners (NARUC). The Institute is to be a nonprofit unit of the Ohio State University under the direction of a Board composed of members chosen from NARUC, the university and the general public. The institute is to carry out research and related activities directed to the needs of State regulatory commissioners, to assist the state commissioners with developing innovative solutions to State regulatory problems, and to address regulatory issues of national concern.

Is the institute in existence and, if so, what is its generic heritage? If it is to be established by this act then what is the report language as it indicates the fact that it was already established by the National Association of Regulatory Utility Commissioners?

I am frankly confused as to exactly the status of this particular institute, and I also object strenuously to appropriating $2 million to provide 80 percent of its costs, which means it would have a budget of some $2.5 million, when we know little about its structure or about its existence or about its responsibilities.

Could the Senator comment on these questions?

Mr. JOHNSTON. Yes. First of all, I would like to say that this was heard in full committee or at least it was considered in full committee. But, nevertheless, as the chairman of the subcommittee I was not aware of the Senator's concern. Perhaps I should have been, and perhaps it was even said at a time when I was present. But if it was I was not aware of the Senator's concern. If I should have been more observant, I apologize to the Senator. I was not at that time aware of it.

As I recall from memory, after the markup it was stated that this institute is in existence; that it is in existence at Ohio State University, and it is supported by the National Association of Regulatory Utility Commissioners.

Since that time we have found that the National Regulatory Research Institute is in existence only to the extent that it has bylaws that have been effected, but no ongoing structure; that it has no staff, and the director has yet to be selected.

It, as I say, does have bylaws that provide for a director, its relationship to the university, the powers of the board, the membership of the board, the chairman of the board and secretary, meetings of the board, nominating committee, quorum, manner of acting, amendments, and that Ohio State University and NARUC will make contributions. But it is not in existence in the sense that it does not have a staff and does not have a director.

Mr. HATFIELD. Is the Senator aware that 6 weeks ago in the Wall Street Journal there was an advertisement, asking and recruiting for a director for this Institute? My question then is who is governing the institute now and who is hiring, or who is recruiting a director? What is the governing body that is in existence?

Mr. JOHNSTON. The governing body is the National Regulatory Research Institute, established by the National Association of Regulatory Utility Commissioners.

Mr. HATFIELD. What is that body? Is that a board of regents, trustees, or board of directors? Who appoints them because in this bill it indicates the Institute shall be governed by, and then it says who shall appoint? So this again leads to my question as to what are we really appropriating or authorizing here when we know so little about it.

Mr. JOHNSTON. I can tell the Senator from the bylaws how it is made up. First of all, the Institute is a unit of the university under the office of the provost. It shall have a director, who shall be a member of the university's faculty, and shall be responsible for managing the operations of the Institute.

The board is to advise the director on the policies and research programs to be carried out by the Institute and shall report to the Institute from time to time. There are three classes of members on the board with equal rights. There shall be university association and public classes of members with five members in each class.

Mr. HATFIELD. Is that board now chosen? Is that board now in existence?

Mr. JOHNSTON. I am advised that it is not in existence.

Mr. HATFIELD. Then who is recruiting the director?

Mr. JOHNSTON. I understand they have an ad hoc committee presumably made up of National Association of Regulatory Utility Commissioners, and a temporary director who is Dr. Donald V. Flower, dean of the Ohio State University College of Engineering.

Mr. HATFIELD. Mr. President, again I wish at some appropriate time when the author of this section, Senator METZENBAUM, I believe, is present——

Mr. JACKSON. He is on his way here.

Mr. HATFIELD (continuing). To have a chance to respond, but I would frankly like to have this section removed from the bill.

I speak from a little bit of experience when I say that establishing an institute that is to be an adjunct to a university with a separate board of governors and have funding from the Federal Government raises some very profound problems and questions. We can take and give examples from Stanford University's Food Institute and SRI, the Stanford Research Institute, the Hoover Institution of War, Revolution, and Peace. All of these are at one university, and I can cite other universities as well.

Until we have a clearly established definitive body it is premature for this Congress to authorize expenditures of public funds which in effect is really launching an institute rather than making a judgment on the validity and the capacity of that institute to perform a service because it is not other than on paper at this time. We have many Federal agencies that can perform all kinds of economic services for and render technological advice to various regulatory agencies, without buying this sort of nebulous concept before it has really been established and buying the headaches that go with it. The first thing that is going to happen is we are going to get in all kinds of regulations from HEW as it relates through the university administration, and we are going to have conflicts there that we are going to have to resolve because of these Federal funds.

I just feel very strongly that we should remove it, and I must say that if we do not see fit to remove it, I will have to put the Senate on notice that I will certainly fight, as a member of the Appropriations Subcommittee, at least funding it until we can get this kind of clarification of exactly what this institute is all about. I may be an enthusiastic supporter of the institute and public funding of it once it is established and clearly identified. But, right now, with this kind of rather vague proposal that we are really going into major support, with up to 80 percent of the funding—let us say it is 80 percent—$2.5 million can buy an awful lot of economists, and I am not sure that we want to buy that many or $2.5 million can certainly get an awful lot of technical people into some kind of a roundtable discussion. It seems to me we are moving much too quickly to support something that is yet to be really defined and established.

Mr. JOHNSTON. I must say to the Senator I was under the impression that it was further along in its creation than I am now advised. But I think it would be appropriate for the distinguished Senator from Ohio (Mr. METZENBAUM) to reply to the Senator.

Mr. HATFIELD. I agree, and I will withhold any motion until he arrives on the floor.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Is there another amendment to be called up?

UP AMENDMENT NO. 873

(Purpose: Expansion of cogeneration analysis)

Mr. HART. Mr. President, I send to the desk, on behalf of myself and Mr. SASSER, an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART), for himself and Mr. SASSER proposes an unprinted amendment numbered 873.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, between lines 21 and 22, insert the following:

WASTE HEAT ENERGY RECOVERY POLICY ANALYSIS

SEC. 14. (a) The Secretary is authorized and directed to conduct, in consultation with the Environmental Protection Agency, the Federal Trade Commission, and other appropriate agencies, a full and complete analysis of the economic, social, environmental, and technological feasibility and consequences of implementing, on a nationwide scale, various waste heat energy recovery and use techniques. The policy analysis shall include the development and application of industry-by-industry surveys of existing and projected patterns of steam- or heat-energy generation, according to steam pressure, size of installation, load curve characteristics and other appropriate criteria, to ascertain the national potential for recovering and using waste heat energy and for the development of industrial and utility site cogeneration systems. At or before the expiration of each six-month period following the date of the enactment of this Act, the Secretary shall submit to the Congress and to the President an interim report on the status of the policy analysis provided for by this section. A final report, in three parts, shall be prepared and submitted as hereinafter specified.

(b) PART 1. FEASIBILITY AND CONSEQUENCES.—At or before the expiration of the twelve-month period following the enactment of this Act, the Secretary shall submit to the Congress and to the president part 1 of the policy analysis final report. The scope of part 1 shall be the potential benefits and impact of a national policy promoting the recovery of waste heat energy and the development of industrial and utility site cogeneration systems. Part 1 of the final report shall include a thorough examination and assessment of at least the following subjects:

(1) the net potential energy, capital, and consumer savings realizable from maximum development of waste heat recovery systems and industrial and utility site cogenerators;

(2) the effects of industrial site electric power generation on the United States electrical network;

(3) the reliability and defense security of multi-source versus larger single-source systems;

(4) and and all air, water, solid waste, or other possible environmental problems associated with waste heat recovery systems and industrial and utility site cogenerators and with various coal-burning technologies such as fluidized bed combustors;

(5) the effect of existing public policies, including subsidies and economic incentives and disincentives, on efforts to recover and use waste heat energy; and

(6) waste heat energy conservation and recovery practices and policies in foreign countries.

(c) PART 2. COMPETITION IN THE ELECTRIC UTILITY INDUSTRY.—At or before the expiration of the eighteen-month period following the enactment of this Act, the Secretary shall submit to the Congress and to the President part 2 of the policy analysis final report. Prepared in consultation with the Bureau of Competition of the Federal Trade Commission, part 2 shall analyze the interrelationship between increased competition in the electric utility industry and the objective of promoting the recovery of waste heat energy and the development of industrial and utility site cogeneration systems. Part 2 of the final report shall include a thorough examination and assessment of at least the following subjects:

(1) appropriate ownership arrangements for equipment, transmission lines, and energy required or created by application of cogeneration and other waste heat recovery techniques;

(2) the feasibility and consequences, from a regulatory, economic, and technological standpoint, of separate ownership and operation of facilities for generating, transmitting, and distributing electric energy, and means to promote such separate ownership and operation;

(3) the effect on competition, and on the ability to compete, of tax and other public policies relating to the sale of electric energy;

(4) means to reduce legal and regulatory restrictions on entry into the business of generating, transmitting, and distributing electric energy;

(5) means to promote greater use of wheeling and sales of electric energy for resale; and

(6) the feasibility and consequences of separate ownership and operation of facilities for electric energy and for natural gas distribution.

(d) PART 3. PROPOSALS FOR GOVERNMENTAL ACTION.—At or before the expiration of the twenty-four month period following the enactment of this Act, the Secretary shall submit to the Congress and to the President part 3 of the policy analysis final report. Part 3 shall identify the legal, regulatory, economic, and social factors impeding the rapid development and implementation of industrial and utility site cogeneration systems and other waste heat energy recovery techniques. In addition, part 3 shall contain specific proposals for governmental action designed to reduce or eliminate existing impediments to such rapid development, and shall include a thorough examination and assessment of at least the following subjects:

(1) JURISDICTION.—Identification of the governmental authority or authorities most properly charged with regulating the development and operation of industrial site and utility site cogeneration and other waste heat recovery systems and related transmission, distribution, and other facilities, including specifically—

(A) the determination of rates or guidelines for rates for sales of electric power from industrial site cogenerators and other waste heat recovery systems to utilities and for sales of electric power from utilities to such cogenerators and systems; and

(B) the establishment of a forum and procedure for the fair and efficient resolution of disputes between generators, transmitters, and distributors of industrially generated electric power;

(2) REGULATORY MEASURES.—Identification of such regulatory action as may be appropriate to promote increased waste heat energy recovery and use, including:

(A) requiring that electric utility transmission facilities be deemed common carriers, with wheeling services available to all producers of electric power at a published tariff rate;

(B) reducing standby demand charges to industry in consideration of industrial assumption of a portion of the burden of providing electric power;

(C) granting industrial generation of electric power for sale to the utility system a priority use status in any national allocation of fuels;

(D) requiring industrial site cogenerators to provide auxiliary electric power generation capacity for use during industrial plant shutdown periods;

(E) assessing peakload pricing as a policy tool for encouraging waste heat recovery and use;

(F) evaluating the effect of proposed rate structure changes such as time-of-day pricing, life-line costing, marginal pricing, and constant industry and residential rates on extensive development of waste heat conservation and recovery practices; and

(3) INCENTIVES AND DISINCENTIVES.—Identification of measures calculated to encourage private action leading to increased waste heat energy recovery and use, including—

(A) amendments, addition or exemptions to or from those provisions of the Federal Power Act, Public Utility Holding Company Act, related Federal legislation, and State and local public utility regulations having the greatest effect on waste heat conservation, recovery, and use techniques;

(B) employing waste heat charges as a waste heat conservation, recovery, and use strategy;

(C) various tax incentives and disincentives such as an increased investment tax credit and accelerated depreciation for properties and equipment dedicated to waste heat energy conservation and recovery uses, and increased taxes on enterprises wasting excessive quantities of heat energy;

(D) regulatory disallowance, in determining just and reasonable rates, of capital costs for the construction of additional electric utility generating capacity where industrially generated electric power is available; and

(E) fuel taxes on enterprises requiring significant quantities of steam or heat energy that do not adopt measures to conserve, recover, and use that energy.

ANNUAL REPORT

SEC. 15. Beginning one year following submission of part 3 of the policy analysis final report and continuing at annual intervals thereafter, the Secretary shall report to the Congress and to the President on the progress made toward definition and implementation of an effective national policy promoting waste heat energy recovery and development of industrial and utility site cogeneration systems. The Secretary's annual reports shall include at least the following subjects:

(a) current forecasts of technological, economic, social, and environmental factors bearing upon effective implementation of the national policy;

(b) perceived trends and changed circumstances anticipated to affect the national policy;

(c) effectiveness of policy measures thus far adopted; and

(d) proposed additions or modifications to the national policy as then constituted.

ADDITIONAL PERSONNEL

SEC. 16. The Secretary and the Director of the Bureau of Competition of the Federal Trade Commission are each authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates, to appoint and fix the compensation of such additional personnel as may be necessary to enable the Secretary and Director to carry out their functions under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated a sum not to exceed $3,000,000 during each of the fiscal years 1978, 1979, and 1980 to carry out the provisions of sections 14, 15, and 16 of this Act.

RESEARCH, DEVELOPMENT, DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM

SEC. 18. (a) The Administrator of the Energy Research and Development Administration shall initiate and carry out a research, development, demonstration, and technology transfer program for the purpose of (1) improving the efficiency and performance of industrial and utility site cogeneration and other waste heat recovery systems and (2) providing industrial and utility site cogenerators and other such systems a capability to use effectively coal or fuels other than natural gas or petroleum as the primary energy source. Such a program shall be formulated and carried out to effect a smooth transition from petroleum and natural gas to coal, and to a lesser degree, synthetic fuels derived from coal and oil shale, or alternate fuels derived from nonopetroleum sources, especially solar energy. Technology development shall focus on improving the cost effectiveness, performance, and efficiency of prime movers and ancillary equipment of the scale required for cogeneration and other waste heat recovery systems. Ancillary equipment development shall emphasize heat recovery components with a view to improving existing powerplants and providing the necessary technology base for optimizer heat recovery systems in new powerplants. To facilitate eventual replacement of present generation cogeneration and other waste heat recovery system prime movers that normally require distillate or natural gas as fuel, emphasis shall be placed on prime mover technology that will permit durable operation on lower grade heavy petroleum fuels with an ultimate capability for conversion to synthetic or alternate fuels when they are commercially available.

(b) Prime mover alternatives shall also be developed to permit future commercialization of more optimized cogeneration and other waste heat recovery systems. These shall include options such as external combustion engines capable of efficient operations with fluidized beds of all scales and other methods for environmentally acceptable coal utilization, fuel cells capable of operation with coal or gasified coal, and topping cycles that can extend the upper temperature operating limit and substantially increase the efficiency of cogeneration and other waste heat recovery systems while retaining the capability for virtually complete fuel source flexibility.

(c) The Administrator of the Energy Research and Development Administration shall take such action as may be necessary to assure that a reasonable proportion of the demonstration programs under this title are sited in electricity deficient areas of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated a sum not to exceed $5,000,000 during fiscal year 1979 to carry out the provisions of section 18 of this Act.

On page 15, line 23, strike out "Sec. 14." and insert in lieu thereof "Sec. 21.".

On page 16, line 19, strike out "Sec. 15." and insert in lieu thereof "Sec. 22.".

On page 17, line 11, strike out "14" and insert in lieu thereof "21".

Mr. HART. Mr. President, I offer this amendment to devise a comprehensive congressional approach to waste heat recovery.

Waste heat recovery quite obviously refers to recovering heat that we now waste for reuse for a number of purposes.

Heat is energy—a fact still taught in grammar school. If you merely use fuel once, you really only squeeze out about a third of its energy—the other two-thirds of that fuel is simply wasted. Right now, we are dissipating mass quantities of useful thermal energy into our skies, rivers, and streams.

Two-thirds of all the energy used by manufacturing firms and electric utilities—the equivalent of over 8 million barrels of oil a day—is unnecessarily thrown off as waste heat. Those two types of industries alone waste as much energy as we import—needlessly.

All over the world, people are recovering and reusing their energy waste to produce needed thermal, mechanical, and electrical power. Well over half of Denmark's home and other heating needs will be met by utility site cogenerators in 1985. Besides making electricity, these Danish utilities use their waste steam to heat people's houses—houses that can be cooled in the summer from the same, otherwise wasted, energy resource.

In this country, industrial firms wasted enough heat energy last year to meet 80 percent of all our electricity needs. But unlike Sweden, West Germany, and other countries, which produced over 20 percent of all their electrical needs from waste heat, less than a pitiful 4 percent of our electric power was cogenerated.

Cogeneration sounds technical, but the concept is very simple. About a fifth of our total energy budget is used by industry to make steam for manufacturing

products like paper, glass, chemicals, textiles, and petroleum. Again, two-thirds of this energy is wasted. But cogenerating industries use their waste steam to also generate electricity—at less than half the usual cost.

The amendment I offer now sets this country on a rational course for a better future in this regard.

First, a comprehensive series of policy analyses are required, with Federal Trade Commission and Environmental Protection Agency participation. The goal of these analyses is to propose within 2 years a range of alternative courses of action for establishing a national waste heat recovery policy.

Industrial cogeneration is only a part of any real effort to recover waste heat. My amendment provides for an analysis of not only cogeneration, but also district heating, energy cascading, and the concept of total energy systems. District heating lets us use otherwise wasted steam to heat homes and even farmland so that fields can be productive year-round. Total energy systems combine presently separate industrial processes in order to squeeze out the total energy value from fuel.

Second, an oversight mechanism is created within the Department of Energy. My amendment would direct the Secretary to make annual reports to Congress on the progress of the waste heat recovery policy, including proposals to improve it.

Third, my amendment gives specific statutory authority for the successor agency to the Energy Research and Development Administration to commence an intensive research, development, demonstration, and technology transfer program. The first year authorization for the program is $5 million—this figure is five one-hundredths of 1 percent of the annual savings from cogeneration alone in a decade.

This amendment has the full support of industry and environmental groups. It has the support of the National Rural Electric Cooperative Association. It is supported by the Governor of Tennessee, the scientific community, and even some State regulatory commission members nationwide.

This amendment does nothing controversial. It studies waste heat recovery—not just industrial electricity generation. It provides answers for us, and will give us a range of options from which to choose for enacting a national waste heat recovery policy. And it provides for an automatic oversight mechanism to make sure that what we intend to have happen does, indeed, happen.

To speed up the development and application of improved ways to use waste heat, the amendment provides for an extremely modest R. & D. program.

Mr. President, I hope the Committee will see its way clear to support this very straightforward amendment. One which will help pave the way for a very sound national policy in the very near future to help recapture some of this country's needlessly wasted energy.

I ask unanimous consent to have printed in the RECORD a statement setting forth further facts in support of the amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Cogeneration doubles the usefulness of fuel. A study for the Federal Energy Administration concludes that we can save 1.86 million barrels of oil-equivalent every day by 1985 if only 3 industries—paper, chemicals and petroleum—cogenerate. At $15 a barrel, that equals a savings of nearly $28 million dollars every day, or over $10 billion every year! And this $10 billion a year savings is in reduced fuel costs alone.

Cogeneration could cut the environmental damage of our present, wasteful practices substantially.

Cogeneration could alleviate the need for some additional nuclear powerplants. If only half of all the new industrial steam-raisers coming on-line in the next ten years also cogenerate electricity, the Library of Congress states that enough power would be produced to replace the need for between 10 and 14 giant new nuclear powerplants. Experts at Princeton University write that cogeneration can reduce ERDA's estimate for needed nuclear power capacity in the year 2000 by exactly one-half.

The cogeneration saves our capital resources. A study by Dow Chemical Company states that cogeneration can cut the need for new capital investments to make electricity by about $5 billion every year in the next decade.

Cogeneration can save consumers money. The same Dow Chemical study concludes that cogeneration can save household consumers as much as $3.6 billion every year in reduced utility bills.

Why are they cogenerating in Sweden, Denmark and every other industrialized country except the United States?

Fifteen years ago, 15 percent of our electricity was cogenerated. Today we are down to about 4 percent.

The reasons for this reduction fall into 4 categories:

First, there are technological barriers. Coal-burning cogenerators can produce only a quarter of the electric power that oil- or natural gas burners can make.

There are promising solutions to this problem, however.

Fluidized bed combustors have operated successfully in Europe, and even in this country. These combustors can burn coal or any other organic material for fuel, virtually pollution free. Connect a fluidized bed to a cogeneration system, and you match the electrical production of an oil-burner.

Is there any widespread effort to apply the fluidized bed concept to waste heat recovery? No, not in this country.

The artificially low price of energy means that it is not profitable for industry to develop waste heat recovery systems. It will be profitable in a few years, but can we afford to wait at a cost of $10 billion a year?

It is in the public interest to develop more and better ways to recover and re-use our waste heat energy resources—totaling over 8 million barrels a day. Clearly, the Federal government has a duty to help push fluidized beds and other promising waste heat recovery technologies to the marketplace. But there exists no statutory authority for such a development effort.

My amendment provides long-needed statutory authority, and authorizes a modest sum to begin an intensive waste heat recovery R&D effort—$5 million in fiscal year 1979. If we devoted as much money to find ways to recover and re-use waste heat as we will save in the future from cogeneration alone, the technological barriers to waste heat recovery would be eliminated in short order.

Second, there are economic barriers to cogeneration. Until we find a way to reflect the real benefits of conservation on corporate balance sheets, we cannot realistically expect industries or utilities to conserve.

The best way to resolve the economic barrier? We do not know, precisely. President Carter and I support granting an additional 10 percent investment tax credit for purchases of waste heat recovery equipment. My amendment to the energy tax bill would have the credit automatically expire at the end of 3 years. By that time, Congress will have absorbed the range of solutions that the study required by this amendment will have proposed.

Third, there are regulatory barriers to cogeneration. Industries are prohibited from cogenerating in some places. Federal laws are ambiguous about cogeneration, and some provisions of the Federal Power Act and the Public Utility Holding Company Act are too burdensome for small power producers to cope with. The bill, as reported by the Committee, addresses this problem by authorizing the Secretary of Energy to exempt cogenerators from those two Acts.

Fourth, and the most difficult obstacle to overcome, are institutional barriers.

The fact is that private utility companies have historically REFUSED to permit cogeneration in their service areas. Lower electricity and capital costs mean less gross profits.

The study required by my amendment will give us a broad range of choices from which to select for addressing the institutional barriers to cogeneration and other ways to recover and re-use waste heat.

But at a potential future cost of $10 billion a year, we cannot afford to delay addressing this critical issue. This can be best accomplished, on an interim basis, by a moderate amendment I support to the energy bill now pending in the Finance Committee.

COGENERATION

Mr. SASSER. Mr. President, I would like to express my strongest possible support for the approach to cogeneration advanced by my colleague from Colorado (Mr. HART). The reasons for adopting these amendments are compelling, and I would like to commend the Senator for his fine amendment.

First, let us consider carefully and judiciously how crucial the actions of the Federal Government are in promoting a greater degree of waste heat recovery and onsite generation of electricity. We should examine the issue from its broadest possible perspective.

A few statistics should make abundantly clear the centrality of waste heat recovery strategy to our national energy policy.

First, the production of steam for generating electricity and for use in industrial processes accounts for a staggering proportion of our national energy budget. Fifty percent of our Nation's energy consumption results from just these two energy intensive activities.

Second, due to the second law of thermodynamics, only one-third of the steam which industry creates is ever used for the purpose for which it is created. Two-thirds of this steam is literally wasted. The amount of this daily waste is about equal to the energy value of the foreign oil our Nation imports each day. Mr. President, on this day alone we are discharging into rivers and into the sky the thermal equivalent of 8 million barrels of oil.

Third, a moment ago I mentioned that utility and industrial generation of proc-

ess steam use roughly half the Nation's energy. This figure becomes even more startling when we consider that our country consumes about one-third of the world's energy. So the approach we decide to take to waste heat recovery today will have a significant influence upon global efforts to cope with energy supply depletion.

Fourth, the area of energy consumption to which these waste heat utilization amendments address themselves is fully 15 percent of the energy consumed by this entire planet, Mr. President.

The basic waste heat recovery concept is fairly well understood, but, we must take positive actions if industry is to tap this energy resource.

I would like to emphasize how some of the waste which takes place is in ERDA's own backyard. In Oak Ridge, Tenn., there is a gaseous diffusion plant which enriches uranium for subsequent sale to electrical utilities with nuclear powerplants. That gaseous diffusion plant uses fully 10 percent of the energy which our Tennessee Valley Authority generates. This one plant, one of four large energy wasters which ERDA runs, wastes the thermal equivalent of 1,400 megawatts an hour. The Senate recently debated, at length, the Clinch River breeder reactor when this committee brought the ERDA fiscal year 1978 nuclear authorization to the floor. The subject of that debate is a proposed nuclear plant which would generate, at full capacity, only one-quarter of the energy potential which is wasted by this one gaseous diffusion plant.

President Carter has called for recovery of the waste heat from this plant and from others at Portsmouth, Ohio; Paducah, Ky.; and Savannah River, S.C. I know that the people of Tennessee would like to see this energy reclaimed and used in industry, in agriculture, in fishponds, and in heating homes in the area of the plant.

A recent study by the Oak Ridge Chamber of Commerce showed the job-creation potential of recovering this waste heat. Using only 5 percent of this waste heat in such uses would produce 900 jobs in an area which needs to diversify its economic base. Even more jobs would be created if we could get full use of this waste heat potential.

But unless an appropriate emphasis is placed upon the development of the technology to make use of this uranium enrichment plant—waste heat—which comes out in the form of hot water in the range of 140° to 160° Fahrenheit, the heat will not be fully recovered for several more years.

I am sure the Members of the Senate realize the need for a strong research, development and technology transfer effort in the areas of waste heat recovery and cogeneration. This amendment begins the job.

Mr. President, I have discussed this bill from several perspectives—from world and national energy consumption, from the perspective of technology research, and from the interests of my State of Tennessee.

I would like to end on one final theme which also merits the attention of the Senate. We all know conversion to coal has a number of undesirable impacts about which we are only beginning to learn. There is widespread concern over increasing the level of carbon dioxide in the world, increasing pollution particulates, and possibly setting in motion a greenhouse effect which could raise global temperatures.

President Carter has asked for at least $1.5 million just to study the greenhouse effect. And other climatological research efforts are being stepped up.

My point in raising these concerns is this—to the extent that we recover waste heat energy and use it for productive purposes, we are reducing the amount of fossil fuel energy we shall have to burn. Coal combustion has far greater environmental effects than the combination of either natural gas or oil.

We should seek to maximize the amount of energy we produce whenever we use coal to fire a boiler or produce steam to turn a turbine. When we cogenerate electricity or otherwise utilize waste heat, we are preventing some very serious environmental effects. Cogenerated power causes only half as much pollution and uses half the energy as the most efficient central station powerplants.

Enacting these amendments would be a preliminary and prudent step toward full recovery of our waste heat energy. I would remind the Senate of the President's words:

> Our energy problems and our environmental problems have the same causes—wasteful use of resources.
>
> Conservation helps us to solve both problems at once.

I can think of no more succinct explanation of why these thoughtfully constructed amendments merit adoption.

Mr. JOHNSTON. Mr. President, we very much commend the distinguished Senator from Colorado for his leadership, not only in the area of cogeneration but in other forms of energy conservation, solar as well as any number of other initiatives in which he has taken the leadership in the Senate.

Cogeneration, as he states, is a very promising sort of energy conservation, to catch that waste heat which is ordinarily lost under present industrial and electric generating practices.

However, Mr. President, we must oppose this amendment. We do so, not because of opposition to cogeneration; quite the contrary. This amendment could, by calling for a 2-year study, actually delay, in some respects, the implementation of total cogeneration, because it could be used as an excuse to delay in the meantime.

I must say that the principal objection, however, is with the proliferation of Federal dollars. This study would involve some $14 million in all: $3 million for each of 3 fiscal years, 1978, 1979, and 1980, to carry out the study, together with $5 million for an ERDA program for research, development, and demonstration and technology transferring.

Mr. President, ERDA is already directed, under S. 2114, to recommend guidelines on cogeneration to State regulatory authorities. Implicit in that requirement is the necessity for the Department of Energy to study the problems associated with cogeneration.

In a word, the committee simply opposes given carte blanche authority to hiring and fixing compensation for more employees in the Department of Energy and FPC. I guess you would say our bottom line is too many employees and too many dollars; and while we support cogeneration, we believe this is too much at this time.

Mr. HART. First of all, Mr. President, I am not sure what it is that the Senator from Louisiana, the distinguished floor manager, contemplates would happen in the field of cogeneration in that 2-year study period.

Second, I point out that the study is divided into three parts, the first of which is to be completed in 12 months, the second in 18 months, and the third in 24 months. So it is spaced over a 2-year period.

The first part of that study would provide the kind of analysis that is necessary to indicate the major steps in determining the long-range policy directions that must eventually be taken. The study would provide a necessary information base to implement waste heat recovery programs nationwide, and would better insure that these programs will yield net energy and consumer savings. We can wish for this to happen and dream about it. But unless we take these rational and logical steps to provide us with the analysis that we need to legislate further, it is wishful thinking to believe that such an important energy conservation alternative will evolve by itself in the best possible way for the country. A 2-year study will not, logically, prevent us from enacting an interim program of incentives to encourage cogeneration. Of course, these incentives must be appropriate to the knowledge and understanding of the issue that we do possess.

This very modest legislative proposal shall improve our understanding of the major policy issues raised by waste heat recovery so that Congress can enact legislation which will get this country into the 20th century. It will also allow us to catch up with our other industrialized friends and allies.

Mr. JOHNSTON. Well, it is the position of the committee that the Department of Energy, which is required to recommend guidelines to the State regulatory authorities, will already do the necessary research.

Testimony before us, however, indicates that the main problem with cogeneration is not that we do not understand the techniques and the technology, but the reason why it has not been used in the past has been, for the most part, simply economic: Fuel was so cheap that you did not have to worry about locating facilities together so as to capture the wasted heat or wasted energy. As the price of fuel has gone up, that has become necessary not only from the standpoint of conservation but from the standpoint of economics.

So testimony before us has indicated that, yes, they might well need some tax incentives, and this Senator will probably be very kindly disposed toward those tax incentives; and if we had more of a problem with technology and more of a

problem with research, I might say an expenditure of $14 million for additional studies and additional employees might well be warranted. But since DOE is already required to recommend the guidelines and will have to do the necessary research and data commensurate with making those guidelines, the basic purpose of the Senator's amendment is already accomplished under the existing bill, without having the money and the employees and incurring the cost.

Mr. HART. First, I would merely point out to the Senator from Louisiana, that there is nothing in this amendment which requires hiring any additional employees. Many of these tasks can be contracted out to separate and private entities if the secretary desires. The argument concerning massive new employees is not really true.

Second, I believe the testimony before the Senator's committee also indicated the substantial regulatory, institutional, and even technological barriers to recovering and reusing our hidden waste heat energy resources.

UP AMENDMENT NO. 868

The PRESIDING OFFICER. The hour of 3 p.m., having arrived, the amendment of the Senator from Colorado is temporarily set aside, and the Senate will resume consideration of the amendment of the Senator from Massachusetts (Mr. KENNEDY) unprinted amendment 868. The yeas and nays have been ordered on division 1.

UP AMENDMENT NO. 874

Mr. ALLEN. Mr. President, I send an amendment to the Kennedy amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 874 to part 1 of the Kennedy unprinted amendment numbered 868.
>
> At the end of Part 1 of the amendment add the following: "Any such order or any such rejection of such a filing shall be appealable by any such utility to the Federal District Court wherein the principal place of business of such utility is located and such order or such rejection shall not become effective until there has been a final adjudication of the issue in the Courts."

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, how much time is allotted to the Senator from Alabama?

The PRESIDING OFFICER. There are 30 minutes, and the Senator from Alabama has 15 minutes.

Mr. ALLEN. I thank the Chair. I send copies of my amendment to the desk, Mr. President. I might say the Kennedy amendment is not printed either. I believe few Senators have seen a copy of the Kennedy amendment. It injects something into the bill which is new, that is, in my judgment, nongermane.

It seeks to amend the Federal Power Act, which I believe is not referred to in the bill. It depends for germaneness, according to the Parliamentarian, on section 4 of the bill appearing on page 4, wherein it is provided:

> SEC. 4. Nothing in this Act shall affect the applicability of the antitrust laws (as defined in section 3(9) of the Energy Policy and Conservation Act (42 U.S.C. 6202)) to utilities.

So this amendment to the Federal Power Act really is not germane to the bill.

Of course, we are under a time agreement of, I believe, 1 hour for each amendment. I am appealing the Chair's ruling on the germaneness of the amendment.

Inasmuch as the amendment offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) is not printed, and I rather imagine there are few copies of the amendment—as a matter of fact, someone of the staff said a moment ago he thought I had one of the few copies of the amendment available—I thought it might be well to read at least a portion of the amendment.

The amendment is in two parts. At the request of the Senator from Alabama the amendment has been divided. What we are considering is only part I of the amendment. That is, section 5(a). It provides:

> General authority of the Commission—
>
> Section 205 of the Federal Power Act is amended by adding at the end thereof the following:
>
> (k) Whenever the Commission determines on its own initiative or upon complaint—

I have a later amendment to add when this one has been voted upon, and either agreed to or rejected, to knock out the words "on its own initiative." I do not believe the Commission ought to be going around all over the country nosing into various aspects of the handling of the business of companies engaged in this business, but to leave it to a complaint. If anyone should complain to the Commission, they could have a hearing, but it should not be on the Commission's own initiative. I think that is just carrying it a little too far to do that.

I was not knowledgeable to this amendment being offered so I am somewhat at a loss to understand such a far-reaching amendment of this sort. We will get to the far-reaching part of the amendment when we get to division 2, I might say. Well, that is a far-reaching amendment which I will explain at a proper time.

I am advised that this amendment, and if I am incorrect in this assumption, I am sure the distinguished Senator from Massachusetts (Mr. KENNEDY) will correct me as to the facts—I do not serve on the Energy Committee but I have been informed, I hope correctly—was not considered by the committee.

To offer a far-reaching amendment here on the floor where Senators are not advised as to its content—I just wonder how many Senators here have seen this amendment. For the edification of the Senator from Alabama, I wish all Senators who have studied this amendment would raise their hand, just for the information of the Senator from Alabama. I wonder how many Senators have read this amendment.

I hope for the information of the Senator from Alabama, all Senators who have read this amendment would kindly raise their hand.

Mr. CULVER assumed the chair.

Mr. JOHNSTON. Will the Senator from Alabama yield?

Mr. ALLEN. No, I want to ask a question, first. I am just asking how many Senators have read this amendment. I see the Senator from Massachusetts reading something there. Maybe he is reading the amendment at this time.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. JOHNSTON. Yes.

Mr. LONG. Is it not correct that a similar provision is already in law with regard to existing nuclear plants? Is it not true that in some cases this amendment about antitrust has led to delays as long as 3 years, in one case, in the construction of a plant in Louisiana, as well as increasing the cost by somewhere around $200 million?

Mr. ALLEN. I understand that is correct. I did not have knowledge of the particular instance. I do have knowledge of something that happened in my own State where there was a long delay at a cost to the ratepayers of Alabama of some $10 million.

Something that is going to have such far-reaching effects, to be offered here on the floor of the Senate, without even being printed—when I asked for a show of hands of Senators who had bothered to read this amendment, had access to the amendment and read it, not one single Senator raised his hand.

Mr. LONG. Will the Senator yield for a further question?

Mr. ALLEN. Yes.

Mr. LONG. Is the Senator aware of the fact that an amendment similar or parallel to this one, relating to nonnuclear generating plants, was considered in greater depth in the House and rejected by a margin of 100 votes?

Mr. ALLEN. Yes, sir, it was defeated on the floor. My distinguished colleague from Alabama, Representative FLOWERS, led the fight, and it was soundly defeated on the floor.

I believe this amendment needs a little more consideration in committee. I think it might be well to initiate a move of this sort in committee. I am hopeful that we shall have the opportunity to have committee consideration of this important matter.

What section 2 does I shall get to later, if we ever get to it, but I fear we shall never get to section 2. That would apply to making fossil fuel electric generating plants subject to the same long delays that are applicable to atomic energy plants. We all know it takes some 10 years to get an atomic energy plant on line. I think that if we are going to try to put the same sort of delay over on fossil fuel, coal-powered generating plants, the person it is going to affect is the billpayer, the electric utility customer, because these charges are passed on to the consumer.

I do not know how it is in other States—I do, too. I know electric rates are going out the ceiling. That is the situation in Alabama. This $10 million cost that was added to the bills of the consumers of electricity in Alabama is something I do not want to see dupli-

cated here. That is what there is danger of having happen.

As I say, there are two parts to the amendment and this first does not seem to be nearly as bad as the second, but it is bad enough. The amendment of the distinguished Senator from Massachusetts, in part 1, provides that the Federal Power Commission, on its own initiative or upon complaint, can say that an electric utility is engaging in any unfair method of competition or that an electric utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, and it shall issue an order prohibiting such unfair method of competition or reject such a filing.

The amendment the Senator from Alabama has offered would provide an end to this amendment, this part 1, would add to the section that any such order or any such rejection of such a filing shall be appealable by any such utility to the Federal district court wherein the principal place of business of such utility is located, and such order or such rejection shall not become effective until there has been a final adjudication of the issue in the courts.

I do not believe, Mr. President, that the Federal Power Commission, sitting in august splendor in its ivory tower in Washington, should say that an electric utility in my State or in any Senator's State is engaging in unfair competition. Most of them are, more or less, monopolies, except for the REA co-ops. That is what a utility is; it is governed by a regulatory body and its rates are controlled. So I guess that, in some instances, it is a near monopoly. But if the Federal Power Commission, on its own initiative, made this finding after the evidentiary hearing we speak of here, it does not provide anything in here for an appeal. We might say, well, under the general law, an appeal is provided for. But I do not know if that is correct or not. All this amendment that I have offered would provide is that this order of the Federal Power Commission is stayed pending appeal. If it works out that the courts find that that was a proper finding on the part of the Federal Power Commission——

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. ALLEN. I am sorry, Mr. President. I had some other facts I wished to bring out, but I shall not ask for more time. Possibly on another amendment, I can bring out the same points.

I thank the Chair.

Mr. KENNEDY. Mr. President, I listened with some interest to the arguments of the Senator from Alabama about the consideration that has been given to this particular amendment by Members of the Senate. The Senator from Alabama neglected to mention that this issue was considered by the Committee on Commerce. A similar provision reported out of the Commerce Committee last year in its utility bill. So to suggest on the floor of the U.S. Senate that this is wholly new matter that has never before been considered ignores the work of one of the important committees of the U.S. Senate. And it ignores the fact that the provision was accepted by the members of that committee. And of course, the same language as my amendment was considered in the appropriate House committees.

I should like to consider the amendments that the Senator from Alabama offers. In part 1 of the amendment in which it strikes "on its own initiative," it seems to me that this would be acceptable. I should like to talk briefly about all three amendments and then get to some comment by the Senator from Alabama.

It seems to me that his first proposal retains the opportunity for independent utilities to raise the issues of competition, which they agreed were basically the issues in the Alabama case. There, the Alabama Power Co. refused to coordinate its bulk power supply with Alabama Electric, a cooperative, when it performs in coordination with other utilities. That is a clear violation, in terms of discrimination and refusal to deal, of the antitrust law.

Second, it attempted to get the cooperative to agree on territorial allocations, clearly an unlawful territorial allocation. The third was a requirement in the contract that all or none of the power purchased at wholesale come from Alabama Power—a sole source requirement—which the cooperative was unprepared to do.

All of those three incidents were actually clear violations that were determined by the Attorney General and NRC. But irrespective of those particular factual situations, directing attention to the amendment of the Senator from Alabama, I think his first recommendation, that strikes the words "on its own initiative," does not do injury to our objectives and could be accepted.

A second amendment suggests that any of the regulatory rulings of the Commission could be appealed to the Federal district court. I think that could be acceptable if it were to go to the court where Federal Power Commission appeals regularly go, which is not to the district court but to the courts of appeals. I would be willing to consider those two amendments of the Senator from Alabama acceptable.

The third one, of course, is his amendment that says that a Federal regulatory decision would be appealable to the State regulatory body.

Now, as the chairman of the Separation of Powers Subcommittee understands, that is not done in terms of any regulatory law. It basically offends the supremacy clause of the Constitution. So it would be unacceptable.

But I would be willing to accept those first two amendments and also to ask unanimous consent to include as an additional modification that would say, "nothing in this subsection would empower the Commission to require an electric utility to delay construction of any plant."

The fact of the matter is, Mr. President, that there is no power within the Federal Government to license the construction of nonnuclear facilities. So the argument that is made here that it will delay construction is basically a specious argument, because there is no Federal authority at the present time in existence.

So it is basically raising a strawman and then trying to dispose of it.

I think this could, in fact, expedite any question that might be raised in the whole area of competition by establishing a procedure where these issues can be resolved administratively. It could actually move the whole process much more expeditiously than protracted litigation.

So if the Senator from Alabama would consider this as a counterproposal, then I would be willing to ask that the amendment so reflects those two amendments of the Senator from Alabama, as well as my additional modification, and to ask that it be taken to conference and to permit the conferees to consider the proposal.

I would be glad to yield a couple of minutes to the Senator from Alabama if he needs it to reply to that proposition.

Mr. ALLEN. I appreciate the suggestion of the distinguished Senator from Massachusetts.

I think that the amendments that I have offered, and that seem, in general, to be acceptable to the Senator from Massachusetts, would improve part 1 considerably. I would feel that if part 1 were the only part involved that we could reach agreement on this.

I wonder if the distinguished Senator from Massachusetts would be willing to take Part 1 as so amended, and we could work out the amendment in proper language, and then if he would withdraw part 2 and take part 1 to conference.

Mr. KENNEDY. The fact is, Mr. President, although part 1 is a reaffirmation and probably a clearer statement of the antitrust authority presently in the Commission, the part 2 obviously provides new procedures by which it can be carried forward with no delay in construction.

It is always nice to see those words on competition and to breath some life into them, but part 2, obviously, provides the mechanism by which Commission authority can be implemented and, with the additional amendment that I was prepared to offer, I do believe that it meets the objection of delay, which is the concern of the Senator from Alabama.

Mr. ALLEN. That is one of the concerns.

I would like to inquire of the distinguished Senator, he states that this, similar language, was reported out of the Commerce Committee as part of some of its legislation. I would like to ask him what has become of it, if it was in that legislation, why is it necessary to encumber this bill with that language that was approved by the Commerce Committee and reported to the floor? Why duplicate the effort?

Mr. KENNEDY. I answer the Senator that, as the Senator understands, S. 3311 was never considered by the Senate. It was reported out in October 1976. The Electric Utility Coordination Act, S. 3311, to amend the Federal Power Act.

Mr. ALLEN. Is it still on the calendar?

Mr. KENNEDY. I do not believe that there has been action by the Commerce Committee this year.

Mr. ALLEN. I understood the Senator to say it had been reported out.

Mr. KENNEDY. By the committee last year.

Mr. ALLEN. I see.

Mr. KENNEDY. As the Senator understands, it is a new Congress.

But I would refer under this particular bill that was reported out, the provisions of section 205, regarding unfair methods of competition, where it spells out procedures which are virtually similar to the provisions which have been included in the first part of this particular amendment.

Mr. ALLEN. Obviously, the amendment did not have overwhelming support in the Senate if it died on the Senate calendar. I just do not feel——

Mr. KENNEDY. The Senator remembers the long discussion we had on antitrust legislation that took many weeks in this body and ate up a great deal of time. The Senator must remember that.

Mr. ALLEN. Yes.

Mr. KENNEDY. Informed and prolonged discussion and debate that we had on it.

Mr. ALLEN. In that bill, or another, not reached, because of that discussion?

Mr. KENNEDY. I think a few matters got prolonged discussion, and that was certainly one of the reasons that this bill was not considered.

But, in any event, it was considered and acted favorably upon by the Commerce Committee.

Mr. ALLEN. I appreciate the Senator's kind offer, but we will doubtless have other amendments to this same part.

But as soon as time has been yielded back, I am going to suggest the absence of a quorum, Mr. President, in order that we might have an opportunity to see which we might agree on and then go on from there.

But I am not saying other amendments will not be offered to part 1, and, certainly, a multitude of amendments need to be offered to part 2, if we ever get to that.

Mr. EAGLETON. Will the Senator yield?

Mr. ALLEN. I do not have any time.

Mr. JOHNSTON addressed the Chair.

Mr. EAGLETON. May I ask a question?

Mr. ALLEN. I was speaking on the time extended to me by the Senator from Massachusetts.

Mr. EAGLETON. When the Senator said he would suggest the absence of a quorum, in that time could I call up an amendment, and then I intend to withdraw it, and to use that time to advantage?

Mr. ALLEN. And then the Senator will put in a quorum call?

Mr. EAGLETON. Yes, but——

Mr. ALLEN. I would have no objection to that, if the Senator from Massachusetts would not.

Has all time been used?

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. There are 2 minutes remaining on the Allen amendment No. 874.

Mr. ALLEN. Has all time been consumed, Mr. President?

The PRESIDING OFFICER. Two minutes remain on the amendment.

The Chair would like to advise the Senate, in the event that perfecting amendments are accepted, it will require unanimous consent for such purposes in view of the fact that the yeas and nays have been ordered, if they are accepted as modifications.

Mr. ALLEN. Yes. But I suggest we have to decide the wording, if that has not been agreed upon yet, and I have no objection to continuing with the yeas and nays, for that matter.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, when this matter initially came up this morning, I advised the Senator from Massachusetts that, while we had had no hearings on this matter and while we were not intimately familiar with it, we were constrained to accept the amendment.

I also indicated sometime later, after having made that statement, that information had come to me that this amendment might work a delay on the contruction of powerplants. Indeed, I must say that some constituents from Louisiana who speak with a particularly persuasive voice indicated that it would work a great delay in my own State.

Mr. President, that may or may not be true, but it is at least persuasive evidence enough to convince me and I think the committee that at this time, without hearings, this matter should not be enacted. I hope the distinguished Senator from Massachusetts will be willing to consider pulling the amendment down and having early hearings on this matter, so that we can give full attention and full emphasis to the matter of antitrust, which presently governs the construction of utility plants.

I should not that S. 2114 has a specific provision saying that nothing in this bill shall affect the applicability of the antitrust laws to utilities. And nothing in this bill takes away power from the FPC with respect to the construction of electric powerplants or with respect to anything else pertaining to this bill.

So there is in the present law a definite authority and mandate to the FPC to monitor the construction of these plants. I hope that existing Federal authority would be sufficient, so that we could come back at a later time and have hearings on the matter and consider it fully.

However, for the time being the committee would have to oppose the amendment in chief. We take no position on the Allen amendments.

Mr. KENNEDY. Mr. President, I am glad that we are hearing from the various utilities, whether it is Alabama Power & Light or Louisiana Power & Light. The fact is that I speak also from experience, where we found the major utilities trying to squeeze out the smaller municipals and public power firms in our own region of New England.

I do not have the intention to delay this bill. I hope that, if we can get the changes on the first part——

The PRESIDING OFFICER. All time has expired on the Allen amendment.

Mr. JOHNSTON. Mr. President, I yield the distinguished Senator 3 minutes on the bill.

Mr. KENNEDY. I would be glad to make the change on the first part, according to two Allen amendments, and hope we could get a voice vote, if there is no objection, and have a yea and nay vote on the second part.

In the remaining time, I wish to indicate what the Commerce Committee said in terms of their section 230. This is in section 205, talking about the Federal Power Act:

> Section 205 of the Federal Power Act (as amended by this Act) is further amended by adding thereto the following:
>
> "(g) The Commission shall give due consideration to such evidence as may be provided in any proceeding before it with regard to whether the activities considered in the proceeding would create or maintain a situation inconsistent with the antitrust laws as specified in section 211 of the 'Electric Utility Coordination Act' and shall make a finding thereon. Whenever the Commission determines on its own initiative or upon complaint, after affording an opportunity for evidentiary hearing, that a public utility is creating or maintaining a situation inconsistent with the antitrust laws, or is engaging in any unfair method of competition, or that a public utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, it shall issue an order remedying such situation inconsistent with the antitrust laws, or prohibiting such unfair method of competition, or rejecting such contract, agreement, tariff, or schedule. Section 201(f) shall not apply to this subsection.".

It was reported by the Commerce Committee.

We are not talking about NRC here, where utilities have to get Federal licensing. They do not where, for example, coal-burning plants are involved.

We want to get the Senate on record in terms of competition, and I am prepared to vote. I have no illusions as to what the outcome is going to be. I am prepared to vote. I have no interest in delaying the Senate, but these are the questions we will have to start dealing with in terms of competition.

It seems to me that we are either going to be serious about competition or we are not. We are going to have a number of opportunities to vote on this kind of issue over the next several years, and we might as well get used to voting on it.

I am prepared to expedite the handling of the matter. I appreciate the dilemma of the Senator from Louisiana, but I am prepared to see a vote, if the Members are.

Mr. ALLEN. Mr. President, will the manager of the bill yield me 3 minutes on the bill?

Mr. JOHNSTON. I yield the distinguished Senator from Alabama 3 minutes.

Mr. ALLEN. The distinguished Senator from Massachusetts spoke of hearing from the utilities involved. What he is hearing from is the consumers of this gas, because the Senator knows that a public utility is allowed to make a certain percentage of return on its investment. These added costs are not coming out of the companies' coffers, because they pass these costs on to the consumers, as the distinguished Senator knows.

So the imposition of a $10 million charge on the customers of the Ala-

bama Power Co., who are about 80 percent of the people of Alabama, on account of regulations such as this—that is the estimated cost of the delays under the atomic energy licensing bill, even though this particular installation in Alabama was grandfathered in and was not supposed to be subject to all these delaying tactics.

So, Mr. President, what we are appealing for is the people, rather than the companies. I certainly want that understood.

I yield back the remainder of my time, and I suggest the absence of a quorum.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

A vote now properly should occur on the Allen amendment.

Mr. JOHNSTON. Mr. President, I heard some suggestion that we vacate the order for the yeas and nays.

Mr. KENNEDY. On the first part of the Allen amendment.

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Allen amendment.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, a point of inquiry: Are there to be back-to-back votes in this matter? Has an order been issued to that effect?

Mr. ALLEN. Not back-to-back votes, because the Senator from Alabama has a series of amendments to offer, and he probably is going to request the yeas and nays on all of them. So there will be an intervening period between votes, because part 1 needs to be amended in several particulars.

I hope the distinguished Senator from Massachusetts will follow the suggestion of the manager of the bill, that this bill not be encumbered with this provision and that the bill be allowed to proceed, so that it can go to the other body without this surplusage added.

Mr. KENNEDY. Mr. President, given the attitude of the Senator from Alabama, I feel constrained to object to intervening business until we are able to get consideration of these amendments.

I have indicated that I would take two out of three of his amendments and that I am prepared to vote. If we are going to get into a different situation, I would feel constrained to insist this particular issue, that we reach a final resolution of it.

Mr. JOHNSTON. Mr. President, has the Senator from Massachusetts agreed to accept the pending Allen amendment?

Mr. KENNEDY. I have indicated what the position would be, that I would be willing to accept two of the three Allen amendments and ask unanimous consent to modify the provisions with respect to the Commissions initiative and in terms of appeal of the decision to an appropriate court, the circuit court, and then offer my additional amendment.

I would be prepared to, but, obviously, we are not even then going to get to a vote. There is very little incentive on my part to agree with the Senator from Alabama because apparently it will not do very much good even if we make those kinds of adjustments.

Mr. ALLEN. I did not accept the generous offer, and I say that in all sincerity, the generous offer of the Senator from Massachusetts to accept two out of the three amendments and then add one of his own because I understood he would have tacitly, or if I had accepted it I would have tacitly, been agreeing to a final vote on part 1 of the amendment, and I was not willing to agree to that, I will say to the distinguished Senator from Massachusetts. Therefore, I did not accept his generous offer. I would ask for rollcall votes at the proper time on my amendment.

Mr. JOHNSTON. I wonder, Mr. President—I yield myself 1 minute on the bill—if the Senator from Alabama has considered the fact that both the majority and minority are opposed to the amendment and, with that in view, whether he thinks it might not be better to let the amendment as proposed to be amended by the Senator from Massachusetts go straight to a vote. I would suggest to him that that may be the best way to achieve——

Mr. ALLEN. The manager of the bill, of course, has it within his authority to move to table part 1, and I would hope he would do that. But the Senator from Alabama does not want to do that. I would feel that coming from the distinguished manager of the bill, supported by the distinguished minority manager, it would have a whole lot more weight with the Senate than coming from the Senator from Alabama.

Mr. JOHNSTON. Mr. President, parliamentary inquiry. The request for the division has been granted on part 1 and part 2?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. And that would adhere also to a motion to table which would have to be subject to a division as well?

The PRESIDING OFFICER. The Senator could only move to table on an individual basis due to the fact it has been separated.

Mr. JOHNSTON. I wonder if the Senator from Alabama would withdraw his request for a division and let us have a tabling motion on the entire thing?

Mr. ALLEN. It has already been divided, and I would not wish to recall the motion because if the motion to table fails then the Senator would not be allowed to ask for a division. It would just take two motions to table, I will say to the distinguished Senator. If he prevails in one he probably will prevail in the other.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to move to table parts 1 and 2 of the Kennedy amendment, and that the rollcall vote on part 1 be 15 minutes, followed by a 10-minute rollcall vote on part 2.

Mr. ALLEN. Reserving the right to object, the Senator seems to anticipate that his motion to table would not prevail. Why would he ask that there be rollcalls on the two parts if the motion to table carried? There would be no parts left.

Mr. JOHNSTON. If part 1 is tabled, then part 2 would still be in existence.

Mr. ALLEN. I understand the Senator asked to table both of them in one motion.

Mr. JOHNSTON. No. I really wanted a 10-minute rollcall on the second rollcall at the request of the Senator from Georgia.

Mr. ALLEN. On your motion to table, not on the amendment itself.

Mr. JOHNSTON. Yes. That is why I asked the Senator to withdraw his request for a division so that we could have one motion to table.

Mr. ALLEN. No, I would have no power to withdraw the request, and I would have no inclination to do so. The Senator would have the ability to move to table.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. No, I do not object to his request on the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, all you are asking is that you have two 10-minute rollcalls on your motions to table parts 1 and 2 of the Kennedy amendment; is that correct?

Mr. JOHNSTON. Fifteen-minute rollcall on part 1 to table and 10-minute rollcall on part 2.

Mr. ALLEN. Both your motions being motions to table?

Mr. JOHNSTON. That is correct.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Does the Senator from South Carolina desire to be heard before I move to table?

Mr. THURMOND. Mr. President, I yield myself such time as may be required on the bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, this proposal by Senator KENNEDY, the distinguished Senator from Massachusetts, is an antitrust amendment.

There have been no hearings in the Subcommittee on Antitrust and Monopoly or in the Judiciary Committee on any bill containing the substance of his amendment.

First, I oppose his amendment as being prematurely brought to the Senate floor. It has not had the scrutiny of full and fair hearings by the institutions of the Senate established to do that job.

Second, I oppose it on the same grounds as were pointed out in the House of Representatives where it was stricken from the House energy bill, H.R. 8444, by a vote of 257 to 160.

Mr. President, I would like to read just a few excerpts from the statement by Congressman FLOWERS in the House:

Section 548—

Which is the same as the Kennedy amendment here—

provides that each time an electric utility company wants to expand its generating capacity, that company would be subject to an anti-trust review by the Justice Department. The results of that investigation would then be turned over to the Federal Power Commission, which could take as much time as it wanted before making a determination.

At present such an antitrust review is required only when a nuclear powerplant is being proposed. This new section would provide for similar reviews for conventional fossil-fired electric generating plants, hydroelectric plants and even transmission lines.

It puzzles me, Mr. Chairman, that we are seeking to build in new delays into the construction process just at the time when we need the additional generating capacity as quickly as we can get it.

H.R. 8444 is a bill supposedly aimed at encouraging the conservation and production of energy. Why, then, should we include section 548—a section whose provisions would clearly inhibit the production of electric power?

Under the existing regulatory process, it takes from 7 to 10 years to build a fossil-fired plant. But if we add another layer of bureaucracy—together with a lengthy process of hearings and appeals—who knows how long it will take to build a plant?

I have not heard anyone promoting the present antitrust process in the nuclear area as a good model to follow. If section 548 remains in the bill and its provisions are enforced with the same degree of speed and efficiency as the current law affecting nuclear plants, we will all be in trouble.

I know firsthand of a case involving an electric utility company. This company first applied for permission to build a nuclear powerplant in 1969—a full year before the 1970 amendments to the Atomic Energy Act which established the antitrust review process.

Construction by the company was "grandfathered" in under these amendments, while the Justice Department's antitrust review proceeding for this one plant has dragged on for 7 years with no end in sight. Tens of thousands of pages of testimony and exhibits have been presented and nearly 200 days of hearings have been held but the issue still is not resolved.

The result is that this massive powerplant stands completed but unused. In the meantime, the company is spending nearly $2 million a week to buy power that otherwise would come from the plant.

Obviously, this delay is costing Alabama consumers dearly. I do not know which situation would be less costly—not to have constructed the plant—or to have constructed it under these circumstances.

Mr. Chairman, I think the case against section 548 is overwhelming. If we allow this section to remain in the energy bill, we will mandate long delays in the construction of powerplants, we will slow down energy production, we will sentence our people to paying even more for electricity, we will create unemployment in the construction industry and we will overburden our regulatory system.

Mr. President, those are some excerpts, as I stated, from Congressman FLOWERS' statement in the House.

An excerpt from a statement by Mr MCCLORY of Illinois on this subject in the House of Representatives:

I hope and would expect that with respect to any substantial plant expansion the Antitrust Division would have information and could get information. They could utilize the civil investigative demands—CID's—for which we have provided. Of course, information is freely available as between the various agencies of the great bureaucracy. However, to require with respect to every substantial expansion of a utility that it would have to, first of all, wait and then be confronted with the suggestion that here is an antitrust violation or prospective antitrust violation would seem to me to be inconsistent with what we are trying to do.

Mr. President, an excerpt from a statement of Mr. WIGGINS in the House of Representatives:

Mr. Chairman, a long time ago it used to be lawful to engage in any conduct, commercial or private, unless it was explicitly against the law. That maximized our freedom. We could pretty well do whatever we wished unless the law made it illegal to do so.

However, in recent years, we have been moving in a different direction. It is now not enough that one should be in violation of the law. Now we are asking Government to take a look at our conduct prospectively and make a determination as to whether our plans—and now I quote those exquisitely vague words in the bill—"may create or maintain a situation inconsistent with the anti-trust laws."

Mr. President, another excerpt from Congressman WIGGINS' statement:

The language contained in this bill is not unique. It merely reflects a growing trend in other legislative areas to have prior review by the Attorney General with respect to the antitrust laws.

That is not good policy. People should not have to go to a police agency to expose their plans and ask for an advisory opinion as to whether or not it may be inconsistent with the law. If you do that, the chief of police, or, in this case, the Attorney General, will surely give his advice. He will say that the plan is all right, but—and then make some suggestions which, of course, one is afraid to disregard.

Mr. President, I think the excerpts from statements of the gentleman who handled this bill in the House of Representatives are self-explanatory. As I say, the House killed this amendment 257 to 160, and I hope the Senate will do likewise here.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, I suggest to the distinguished Senator from Massachusetts that what he wants to accomplish in this bill is basically provided for under the present law. Under the existing law in cases the FPC, from which the FERC derives its power, has authority and, in fact, the duty to take competitive matters into consideration right now, and we recognize that they have that power and duty. The FPC and, in turn, FERC can presently consider and take action to prevent unfair methods of competition and to maintain situations consistent with antitrust laws and policies.

The FERC should be sensitive to antitrust issues and sensitive to competition under the present law. The Antitrust Division and private parties may still sue under the Sherman Act to enjoin or seek damages for violations of the law. So the amendment of the distinguished Senator from Massachusetts, while it would clarify certainly the Commission's powers and duties and it would standardize its procedures, in terms of powers it really does not vastly expand what the Commission should and can do under present law. We recognize that and we have no opposition to what the Senator wants to achieve in terms of anticompetitive examination and requiring FERC to be sensitive to these matters. Our opposition is simply based on the fact that it may work in some instances a delay. We are not opposing at all what we consider to be the substance of the Senator's amendment because that is already provided for, I believe, as we interpret it under present law.

Was the Senator aware that we interpreted the present law in that way?

Mr. KENNEDY. I think that is very reassuring in terms of the legislative history. It seems to me that that is a very helpful commentary about the role of competition in the decisionmaking of the Commission and I think that that is very important. It obviously was not our intention to delay the process of moving forward on this bill.

I wish to see if the committee or the staff of the committee would do a review of what the potential delays would be if a procedure similar to this were followed. I think that it would be useful if the Energy Committee did such a study, since that is, as I understand it, the principal concern that has been voiced here today. If we could get the staff to do a study and work with the Antitrust Subcommittee, and if I had the assurances of the chairman that he would work closely with us on matters relating to the competitive aspects of the industry, this would be helpful.

The Antitrust Subcommittee, under Senator HART, held extensive hearings on utilities in 1970. He found during the course of those hearings widespread violations of the antitrust laws. It is really against that record that I concluded this kind of language would be extremely important, valuable, and useful.

With the strong commitment that the Senator from Louisiana has given in the legislative history about the role of FERC in insuring that antitrust laws will be followed, and with the review by the staff of the delay issue, I am prepared to withdrew my amendment. I want to work closely with the chairman of the Energy Committee on the competitive aspects of these issues, with obviously the clear understanding that we will be able to address this again in the future. It is very clear to me that even if we were successful in winning against the tabling motion, we are going to have amendment after amendment after amendment to confront. This is obviously a key part of the administration's program and I won't hold it up.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. Mr. President, will the Senator yield me another minute?

Mr. JOHNSTON. I yield the Senator another minute.

Mr. KENNEDY. It does seem to me, if that is agreeable with the Senator from Louisiana, I would be willing to ask consent to withdraw the amendment.

Mr. JOHNSTON. Mr. President, we would certainly be glad to work with the Senator and have the staff make that review and we would certainly work very closely with his staff in so doing.

I concur with everything the Senator says about the need for these antitrust examinations. I also concur that we have not done this very assiduously and consistently in the past. That has not been, in the view of the committee, because of

a lack of authority, but because of a lack of either resources or will to make those investigations and inquiries. So we would certainly first accede to what the Senator wants in terms of a study and, second, agree with him that the present law provides the framework within which this can be done, given the will to do it.

Mr. ALLEN. Mr. President, will the Senator yield me 1 minute?

Mr. JOHNSTON. I yield 1 minute.

Mr. ALLEN. I thank the Senator.

Mr President, I have the honor of serving with my distinguished chairman on the Antitrust Subcommittee of the Committee on the Judiciary, and I want to assure the distinguished chairman that I, too, will study this question in more detail, so that I will be able to discuss it more fully when the matter comes to the floor.

Mr. KENNEDY. I would expect no less, Mr. President.

I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendments are withdrawn.

Mr. JOHNSTON. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The question now recurs on agreeing to amendment No. 873, offered by the Senator from Colorado.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1414

(Purpose: To reaffirm intent of Congress with respect to disposition of power and energy by the Southwestern Power Administration)

Mr. EAGLETON. Mr. President, I call up my amendment No. 1414.

The PRESIDING OFFICER. There is an amendment pending at the desk that has been called up. It would require unanimous consent to withdraw the amendment presently before the Senate.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Missouri be permitted to call up his amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an amendment numbered 1414.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

One page 16, between lines 17 and 18, insert the following new section:

"SOUTHWESTERN POWER ADMINISTRATION

"SEC. 15. The Congress hereby reaffirms and directs that power and energy marketed by the Southwestern Power Administration pursuant to section 5 of the Act of December 22, 1944 (16 U.S.C. 825s), shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual agreement. In no event shall agreed points of delivery be changed unilaterally.

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 16.".

Mr. EAGLETON. Mr. President, the purpose of my amendment is to clarify and reaffirm the intent of Congress with respect to marketing of Federal hydroelectric power by the Southwestern Power Administration under the Flood Control Act of 1944.

The act authorizes the Secretary of the Interior, in the alternative, to construct transmission lines "from funds to be appropriated by Congress" or to use the transmission lines of other utilities to transmit hydroelectric power, that is, the Secretary "is authorized to—acquire, by purchase or other agreement—transmission lines and related facilities."

In implementing the Flood Control Act and other similar acts, the policy of Congress always has been to encourage the Secretary to contract with other utilities to use their transmission lines, rather than to construct transmission lines with appropriated funds. And our policy always has been that rates to ultimate customers should be uniform and nondiscriminatory, whether the power is transmitted over Government-owned lines or lines made available by contract or lease. This is the concept of "postage stamp" rates—uniform rates for power delivered to load centers, regardless of the nature of the transmission lines' ownership.

The State of Missouri represents an example of the policy of Congress. In the 1950's and 1960's, Congress decided not to appropriate funds for constructing transmission lines in Missouri, but instead Congress directed the Federal marketing agency—the Southwestern Power Administration—to lease the transmission lines of privately owned electric utilities and rural electric cooperatives, paying rentals adequate to carry operating costs and debt service of the money which the cooperatives borrowed from REA. Thus, we were spared the necessity of appropriating millions and millions of dollars to construct transmission lines.

That is how the matter stood until 1970 when the Nixon administration, taking note of growing SPA deficits, ordered a special transmission charge levied on Missouri cooperatives above and beyond the basic SPA rate charged everywhere else.

The rationale was that the payments made by SPA for lease of the Missouri lines was a cost, and since the agency was charged by law to recover all costs, it was only appropriate to offset the lease payments by levying a transmission charge on the cooperatives receiving those payments.

The net effect of this circular argument is that Missouri cooperatives are providing transmission service free of charge to SPA. In the other States served by SPA, transmission lines either were built with Federal funds or leased from private power companies, but no special cost-recovery charge is levied on customers. Only in Missouri has that been the case.

To add to the inequity, Missourians continue to pay the basic SPA rate which is designed to recover all costs of the system, including amortization of the Federal investment in transmission lines outside of Missouri. In short, Missourians are helping to shoulder the cost of delivering power to other States but are being asked to assume the total cost of delivering SPA power in their own State.

The discriminatory transmission charge would increase the cost per kilowatt to Missouri cooperatives more than 60 percent above the price per kilowatt charged to users of peaking power in other States.

Commitments made by SPA to deliver power to all customers at the same basic rate without distinction as to whether the users were served over Government-owned or Government-leased lines were simply ignored. The long history of congressional approval of the arrangement between SPA and Missouri cooperatives was shunted aside.

With the imposition of the transmission charge, SPA effectively relieves itself of its obligation to compensate Missouri cooperatives for use of their transmission facilities. The cooperatives, however, remained obligated to repay the REA debt which they incurred to build the lines for SPA.

My amendment will remove this discrimination and assure equal treatment for customers in all States in the Southwestern Power Administration system.

Mr. JOHNSTON. Mr. President, we are conversant with the problem that the Senator from Missouri speaks of. It involves what at least on first appearance seems to be an injustice, and what appears to be the kind of ratemaking which is discriminatory against those within the postage stamp area by requiring to be included in their rate base the cost of delivering the power to them. On first impression, without looking deeply into the matter, it seems to be a case calling for some kind of legislative correction.

However, Mr. President, this matter has been in litigation, and because of that fact, and also because of the fact that we are not intimately familiar with all the facts, and we do feel that there should be a hearing within which all parties are allowed to explain their views, we would suggest to the Senator from Missouri that we would bring the matter up for hearings early next year. I would think we could do that in a 1-day hearing, and then I would guess that the committee would be inclined to react favorably to the legislative request.

So if the Senator would be willing to withdraw the amendment at this time, I can assure him that the committee will hold those hearings.

Mr. EAGLETON. Mr. President, I

thank the distinguished floor manager for being eminently fair. This is a complicated matter. To me it is a very inequitable situation, but it is not the kind of matter that can be gone into ab initio on the Senate floor. I realize the position of the Senator from Louisiana.

Thus, with his assurance that he himself, very early next year, would be willing to preside at a 1-day hearing where this matter could be ventilated with the Southwestern Power Administration and other interested parties, I think that is a very fair response, and since the Senator has been so obliging in that promise, I will withdraw amendment No. 1414.

Mr. JOHNSTON. I thank the Senator.

Mr. BARTLETT. Mr. President, will the Senator delay that withdrawal until I can be recognized to make a very brief statement?

The PRESIDING OFFICER (Mr. BAYH). The Senator from Oklahoma.

Mr. BARTLETT. It is my understanding that the problem the Senator addresses has been adjudicated in the courts, and that the different prices that have been charged by the Southwestern Power Administration in Missouri, and I think partly in Oklahoma, have been upheld by the courts.

I certainly have no objection to the hearing. I think that it would yield useful information. I am pleased the Senator is withdrawing the amendment, because I think it is a complicated issue. It does impact on our State and I certainly would otherwise have opposed the distinguished Senator from Missouri in his amendment.

I am not as familiar with this as I would like to be, but I did want to say that I certainly agree that it would be wiser for us to proceed rather slowly than to jump into this right now and adopt this amendment.

Mr. EAGLETON. The Senator is correct as far as this matter having been subject to litigation in the courts. The court found with the REA's. The court of appeals said they were not able to fully ascertain congressional intent and they did reverse the district court finding. We believe that congressional intent is clear. The district court is almost imploring us to, with greater specificity, detail through legislation what our actual intent is. That we would seek to accomplish early next year by the hearing and subsequent legislation which may come out of that hearing.

Mr. BARTLETT. I thank the Senator from Missouri. I am pleased that a hearing will be held.

Mr. EAGLETON. I thank my colleagues from Louisiana and Oklahoma.

Mr. President, I withdraw amendment No. 1414.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 873

The question recurs on amendment No. 873, an amendment of the Senator from Colorado.

Mr. HART. The amendment which I offered earlier, unprinted amendment number 873, was being discussed with the Senator from Louisiana when we were interrupted by a previous order. I merely want to summarize where we stand by saying that I do not believe the provisions of the committee-reported bill itself are specific enough to answer the questions which need to be answered—of a technical nature, of a jurisdictional nature, of an economic nature—to permit this country to enter into the kind of cogeneration and waste heat recovery to save literally tens of billions of dollars for the consumers in the next couple of decades—let alone the enormous amounts of energy we will save.

The specific direction which this amendment gives to the series of very nominally priced studies to be conducted by the Administration, the Federal Trade Commission and the Environmental Protection Agency is absolutely imperative to afford us the necessary detailed understanding of the issues so that we can enact a coherent, comprehensive National Waste Heat Recovery Policy, in a year or two that will be able to last for some time without major resolutions.

I believe that position is supported by documentation provided us by ERDA and by the Administration. I am hopeful that the Senator from Louisiana will accept this amendment. The Senator from Colorado, as sponsor of the amendment, is not absolutely adamant as to the amount of money contained in the amendment. I think if we got these studies underway and continued the funding in the next fiscal year, we would get the detailed understanding we need in order to legislate properly. I am completely amendable to suggestions from the floor manager as to what the dollar figure should be for the studies in the amendment.

Mr. JOHNSTON. Mr. President, as I said in my opening remarks, we very much support cogeneration and doing what is necessary. I have just talked to my Republican counterparts on the committee. After that conversation we are prepared to accept a total of $2.5 million, if that would be sufficient to the Senator from Colorado. That is, $.5 million for each of the three-year studies and $1 million for ERDA. In the opinion of the Senator from Colorado, would that be sufficient to get this matter going?

Mr. HART. I appreciate the cooperation of the manager of the bill, though his suggestion is certainly far short of what we had contemplated. To the degree this offer of compromise would not prejudice the future funding of these studies in the next fiscal year, or in any way suggest that they could be done solely for that amount of money, I think the Senator's suggested funding level would get the studies off the ground, get them going, and lead to the kind of data base which will be necessary to approach this problem in a comprehensive and long-lasting way in the future. Of course, I would like a few more dollars for this, but I think that the Senator's suggested modification is certainly better than nothing. I will accept it.

Mr. JOHNSTON. I thank the distinguished Senator from Colorado.

One of the things we need to study is how much proliferation there is of the studies of cogeneration throughout the various Federal departments. This amount of money will get started with those studies. If we find there is not too much proliferation we may well want to come back later and increase these amounts. This recognizes the principle of what the Senator wants to have done and allows for the structure of the study which he provides for. It does get those studies started. I thank the Senator from Colorado.

Mr. HART. I totally agree that the Secretary's first priority should be to compile and provide easy public access to the information that is already available. This problem is one we have all run up against on this issue, and I commend the Senator for his good sense of priorities.

Mr. BARTLETT. I would say to my distinguished friend from Colorado that I join with the manager of the bill. I am doing this a little reluctantly because I think it is important that the committee address matters such as this in great detail and after further study. I know the Senator contributes greatly on the committee when the ERDA authorization bill is before us. I think that is really the time and place to go into this kind of a problem, which is a very technical problem. It is hard to come up with any precise answer to the question he is presenting to us. I do join with the manager of the bill in supporting the $2.5 million.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to modify the amendment in accordance with the terms of the manager of the bill.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The request is granted. Please send the modification to the desk.

Mr. HART. Mr. President, I move adoption of the amendment, as modified.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. BARTLETT. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado, as modified.

The amendment, as modified, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BARTLETT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Doug Logan, of Senator STEVENS' staff, be granted the privileges of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator from Louisiana suggest whether it would be in order for the Senator from Colorado to call up his other amendment at this point?

Mr. JOHNSTON. I would not tell the

Senator who should come first. I know the Senator from Massachusetts has a series of amendments.

Mr. HART. The Senator from Colorado is prepared to go forward with his other amendment, if the floor manager wishes.

Mr. JOHNSTON. I would have no comment.

Mr. HART. Mr. President——

Mr. BARTLETT. Will the Senator withhold that for a unanimous consent request?

Mr. HART. I yield.

Mr. BARTLETT. I ask unanimous consent that Eve Dublin, of Senator BAYH's be granted the privileges of the floor during all debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1399

Mr. HART. Mr. President, I call up amendment No. 1399 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an amendment numbered 1399.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 2, strike out "and".

On page 2, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 2 between lines 4 and 5, insert the following new subsection:

"(d) to provide an interim solution for the subsistence residential electrical needs of the elderly while Congress attempts to construct an equitable electric utility structure which adequately meets the needs of all classes of consumers;

"(e) to promote equity in electrical costing; and

"(f) to demonstrate the effects of lifeline costing on electric utility rate structures, consumption patterns, and the operation of electric utilities, and to demonstrate the feasibility and desirability of action by Congress to extend lifeline costing to other segments of our society.".

On page 16, between lines 17 and 18, insert the following new sections:

"LIFELINE RATES

"SEC. 15. (a) No rate of an electric utility shall provide for a rate under which the charge per kilowatt-hour to an elderly residential consumer for a subsistence quantity of electric energy in any month for such consumer's principal place of residence exceeds the lowest charge per kilowatt-hour to any other electric consumer to whom electric energy is sold by such utility (or any electric utility which controls, is controlled by or under common control with, such utility). Such rates shall not exceed the average of residential rates in effect on the date of enactment of this Act. The relevant regulatory authority shall consider seasonal and climatic variations as they affect electric consumption in determining the subsistence electric needs of elderly residential consumers.

"(b) For purposes of sections 15, 16, 17, and 18 of this Act, the term—

"(1) 'subsistence quantity' means the number of kilowatt-hours per month which the relevant regulatory authority determines is necessary to supply the minimum subsistence electric needs of elderly residential electric consumers at their principal place of residence for the following end uses: Heating, lighting, cooking, cooling, food refrigeration, medical, or other essential purposes as determined by the relevant regulatory authority;

"(2) 'elderly residential electric consumer' means an individual who demonstrates to the supplying electric utility for such individual that such individual is—

"(A) (i) at least sixty-two years of age; and

"(ii) the head of a household or principal income earner; or

"(B) (i) is receiving social security benefits from the Social Security Administration; or

"(ii) is receiving railroad retirement benefits from the Railroad Retirement Board;

"(3) 'relevant regulatory authority' means the regulatory body which has ratemaking authority with respect to electric rate schedules within its jurisdiction.

"ENFORCEMENT

"SEC. 16. (a) No electric utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved, or allowed to go into effect by a regulatory authority. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 15 of this Act.

"(b) If any person alleges that a regulatory authority's action, or failure to act, violates subsection (a)—

"(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State court of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

"(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

"(B) if there is no such statutory review proceeding applicable to such action or failure to act, by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

"(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

"(A) may be reviewed by any State court of competent jurisdiction, and

"(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

"(c) Any individual found guilty of fraudulently misrepresenting his or her status as a residential electric consumer shall be punished by a fine not to exceed $5,000 or imprisonment for not more than three months or both.

"FEDERAL ASSISTANCE

"SEC. 17. The Secretary shall provide technical assistance, including grants, or such other financial assistance as he deems necessary and appropriate to State and municipal regulatory authorities to assist these bodies in the establishment of subsistence electrical standards for the elderly.

"REPORTING REQUIREMENTS

"SEC. 18. (a) The Secretary shall submit a report to Congress within eighteen months after the date of enactment of this Act on the effects of this Act on electric utility rate structures, electric consumption, and the operation of electric utilities.

"(b) Additionally, the Secretary shall study the extent to which cost-justified changes in rates will require incremental pricing (including but not limited to long-term incremental costing, peakload pricing, and so forth) whereby the incremental costs will exceed the average costs of electricity. In cases where the incremental costs will exceed the average cost of electricity, the Secretary shall study the extent to which subsistence quantities of residential electric consumption may be priced at lower levels, so that total revenues and costs are brought into balance.

"(c) The Secretary shall also study the extent to which such a pricing schedule would alleviate the difficulties which low-income residences experience in paying electricity bills.

"(d) The Secretary shall also study the impacts of such a pricing schedule on conservation efforts of all classes of consumers.

"LIMITED AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 15, 16, 17, and 18 of this Act.

"EFFECTIVE DATE

"SEC. 20. The provisions of sections 15, 16, 17, and 18 of this Act shall take effect ninety days after the date of enactment and shall remain in force for a period not to exceed three years thereafter.".

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 21.".

On page 16, line 20, immediately after "out" insert the following: "sections 1 through 14 of".

Mr. HART. Mr. President, I call to the attention of my colleagues that the Senator from Minnesota (Mr. ANDERSON) and the Senator from Rhode Island (Mr. PELL) are cosponsors and supporters of this amendment.

Mr. President, the spiraling cost of home energy in recent years has created severe economic hardships for America's elderly—many of whom exist on low, fixed incomes. This amendment would reduce this burden by extending seniors a basic amount of electricity at the lowest cost afforded to any class of consumer.

Additionally, this initiative would require the new Department of Energy to expand on efforts currently underway to design electric rate structures which promote conservation, equity and economic efficiency and, at the same time, provide users with low-cost electricity.

I commend the members of the Senate Special Committee on Aging and the committee's distinguished chairman (Mr. CHURCH) for conducting extensive hearings on the impacts of higher energy costs on the elderly. In regional hearings held by the committee last March in my home State of Colorado, witnesses testified that higher utility costs may now be the greatest concern of older persons in that part of the country.

America's elderly now number over 28 million, or 13 percent of our population. In 1975—the most recent year for which accurate information is available—over half of the families headed by an older person had incomes of less than $7,300. Ninety percent of the elderly households had incomes of less than $10,000.

A more poignant statistic is the fact that nearly 7 million seniors exist below the poverty level. In 1975, one-fourth of the elderly families in America reported

incomes below $5,000, as compared to less than one-tenth of younger families.

Social security and other retirement income sources have not kept pace with increasing home energy costs. Between 1973 and 1976, social security payments increased by 30 percent. At the same time, energy costs for seniors increased by as much as 61.4 percent in the North-Central region of the Nation. The West experienced the smallest increase—a substantial 44.8 percent. Currently, the elderly spend 30 percent of their disposable income on home fuel expenses, whereas younger families spend less than 10 percent of their income on home energy needs.

Nearly 85 percent of the noninstitutionalized aged have at least one chronic ailment. Recent studies indicate that the inability to absorb higher energy costs can intensify health problems, particularly for the infirm or frail.

In general, seniors tend to be more frugal than other segments of our society in their consumption of energy. Many already practice energy conservation techniques and can do little more along this line to compensate for the higher cost of electricity and other home energy needs. In this light, it is not surprising that many seniors are forced to reduce their food purchases in order to compensate for additional energy costs.

Mr. President, current electricity rate schedules are scandalous from the standpoint of equity. Residential consumers may pay 4 to 5 cents per kilowatt-hour for electricity needed for their health and welfare, while large commercial and industrial consumers pay, on the average, less than half the residential rate—around 2 cents per kilowatt-hour. The declining block rate structure—which charges quantity discounts to those consumers who use the most electricity and the highest rate to those who use the least—is regressive and needs to be changed. This practice promotes wasteful consumption by commercial and industrial users, while residential consumers must bear a greater burden for price increases necessary to increase the electric utility's generating capacity.

This amendment would require utilities to extend a subsistence quantity of electricity to elderly residential consumers at the lowest cost that the utility affords to any class of customer. A "subsistence quantity" of electricity would be the minimum amount necessary for cooking, lighting, heating, medical, and other essential purposes as determined by State and local regulatory authorities.

Lifeline rates, as they are called, would be equivalent to the lowest rates in the declining block rate structure. However, this amendment is not intended to validate this kind of electric pricing. Rather, it would provide an easily-administered, interim solution to the well-documented problems faced by seniors in meeting high home energy costs while Congress addresses the larger issue of electric utility rate reform in the coming months and years.

Although there are wide variations in the price that customers pay for electricity in different regions, the Library of Congress estimates that my lifeline proposal would save seniors a national average of 40.8 percent on their electric bills. If every eligible senior citizen were to sign up for lifeline rates, approximately 2 percent of utility revenues would have to be redistributed among other classes of consumers. Clearly, lifeline rates for seniors would not create a significant burden for utilities or other classes of customers.

I am certain that my colleagues are interested in knowing whether a lifeline for the elderly program would be easy to administer and acceptable to the nonelderly. Lifeline rates have, to date, been the most commonly implemented rate reforms at the State and local level, and various lifeline for the elderly programs have already been proven successful in both large and small communities. There have been demonstration projects in States such as Maine, and ongoing programs elsewhere.

The city of Los Angeles instituted a lifeline rate in 1975. Senior citizens who have an annual income below $7,500 are eligible for a 50-percent discount over the regular domestic rate for an amount of electricity deemed essential for two adults.

We have an assessment of this lifeline program by Dr. Jan Acton, an economist at the Rand Corp. in California, who served on Mayor Bradley's blue ribbon committee to review the water and power rate structure for Los Angeles. His assessment of the Los Angeles program is that it has been easy to administer; that the number of elderly who have participated is about what was expected; that the elderly have definitely been helped; and that the other electric consumers in Los Angeles have strongly supported the program.

Another example of the success of lifeline for the elderly is the experience of Aztec, N. Mex.

This community of 6,400 initiated a "senior citizens" rate for electricity in January of this year. Any resident who is 65 years of age, the head of a household and whose annual income from sources other than social security does not exceed $3,000 per year is provided an unlimited quantity of electricity at the same rate as the city government pays—30 to 40 percent below the average residential rate. Some of the 90 individuals who have been accepted in this program were living on monthly fixed incomes of less than $100. The Aztec city clerk, who is solely responsible for administering the senior citizens' rate, records a universally favorable response to this program by members of this small community.

More often than not, however, individual States cannot afford to risk rate structure reforms such as lifeline. As Gov. Brendan Byrne of New Jersey testified before the Energy Conservation and Regulation Subcommittee, reform usually means higher energy costs for industry, and all too often industry will abandon States with higher energy costs for those with lower costs. A national lifeline program would alleviate the possible competitive disadvantages which might result from piecemeal action.

The second part of this amendment would require the DOE to explore an alternative electric rate design—long-run incremental costing. This design would generate revenues sufficient to extend a subsistence quantity of electricity to all residences at significantly reduced rates. Under such a plan, all consumers—large and small, residential and commercial—would pay the same price for electricity per kilowatt-hour.

This price would reflect the cost of expanding electrical generating capacity, which is considerably higher than the low rates charged to high quality users and slightly higher than the rates charged to others. As a result, quantity discounts for large consumers would be discontinued. The higher prices paid by all users would result in total revenues which exceed the total current costs of expanding electric generating capacity. These excess revenues would be distributed to consumers by reducing the price per kilowatt-hour for a subsistence quantity of electricity for all residential consumers.

In addition to providing relief for low-income consumers, this new rate design would do much to promote conservation of electricity. Residential consumers would have two electrical prices: A lower one for an amount up to their necessary consumption and a higher one for any larger amounts. As a result of the higher rates above needed amounts, consumers will perceive a greater reward for conserving electricity than is currently the case. Business and industry would be similarly inclined to conserve.

Recent forecasts by the U.S. Weather Service predict another cold winter for 1977–1978. Mr. President, we cannot in good conscience permit the elderly to endure another winter of cold and economic hardship. My electrical lifeline amendment addresses this critical need while Congress devises a comprehensive national utility rate reform policy.

Mr. President, because of a clerical error, Senator RANDOLPH's name was inadvertantly omitted from the list of cosponsors of amendment No. 1399, electrical lifeline for the elderly. This was a regrettable error and I would like to set the record straight.

Mr. President, Senator RANDOLPH has been an ardent supporter of the lifeline amendment adopted by the Senate earlier this week as part of S. 2114, the Public Utilities Regulatory Policies Act. I deeply appreciate his efforts on behalf of this proposal, which is certain to ease the financial burden that millions of senior citizens face in dealing with spiraling energy costs.

Senator RANDOLPH has long played a leading role in issues benefiting this Nation's elderly. Over the past many years, his accomplishments in this regard have won him wide acclaim both among his colleagues and the public at large. I commend him for his distinguished record and would again like to extend my gratitude for his strong support of the lifeline amendment.

Mr. President, I urge my colleagues in the Senate to support this amendment as a much-needed interim solution to what

is a substantial problem in this society among the senior citizens.

Mr. JOHNSTON. Mr. President, the subject of lifeline rates is fairly new in consideration in this country, but it is a subject and a concept which has received wide conversation and, I might say, among many groups, wide acceptance.

The concept is that elderly people, in the case of this bill, age 62 and older, in a day of ever-escalating utility costs should receive some relief.

With that concept, Mr. President, I, and I am sure the members of the committee, can very much agree, can enthusiastically agree.

But, Mr. President, the subject of lifeline rates when considered on a Federal basis, when considered on the basis of putting it in this bill, has two principal drawbacks.

The first drawback is the general strong feeling of the committee at this time that we should not depart beyond the bounds of energy conservation and consider other social ends, laudable though they may be, because we simply had so much work to do in the field of conservation during the past month that it was all we could do, having 7 o'clock and 8 o'clock hearings, to stay on top of the conservation issue, and that issue alone.

For that reason, we did not have hearings on the subject of lifeline.

The second feeling of the committee was that we were not prepared to inject the Federal Government into State regulation, not just because of the feeling of States' rights, but more importantly, because it would put a wild card into the proposition of ratemaking when we bring the Federal Government in and superimpose them on top of State regulatory authority.

State regulatory authority is a long way from perfect. It is full of fault, not only in its procedures, but in the substance of what they have ordered and in what many people regard as inequities in rates in various States around this country.

However, Mr. President, as many of the people involved in the bond market told us, when we inject Federal regulation, which makes the rate base of utilities unsure, as it would in this case, we might jeopardize the plans for expansion and for building of new plants.

For that reason, the committee took a very strong position that we did not want to inject ourselves at this time on the basis of the data which we had into the business of determining how States should regulate, I mean, what the rules should be for fixing their own rates in each State.

I think we will come back and consider that when we have more time to do so.

Is the Senator going to ask a question?

Mr. HART. If the Senator will yield, since we have some colleagues on the floor for that, I will ask for the yeas and nays.

Mr. JOHNSTON. Yes.

Also, Mr. President, on the motion to table.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on both at the same time?

The Chair hears no objection.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, that was the general philosophical view of the committee, philosophical and practical view of the committee, at the time when we were determining what to do about all kinds of different rate changes for State utilities.

When we get into the specific problem of lifeline rates, it is very appealing. But the Senator states in his amendment, for example, that people above age 62 would receive the lowest charge per kilowatt hour of any other electric customer to whom electric energy is sold by such utility.

Mr. President, there are all kinds of bulk rates by kilowatt hours for different customers. Some utilities have what are known as dump rates where they have, generally, an industrial plant which generates its own power, but which in times of excess power, unused power on the part of the utility, will take that utility's power at a very low rate and shut down its own generating facilities.

This would occur at times when there are offpeak hours, and that sort of thing, and would be on an interruptible basis.

These rates would be very low.

On its face, this has great appeal because, as I say, the old folks should not be charged any more than any other customer. But in this case, what the other customers might be taking is interruptible power, off peak power, and power that is sold in large bulk rates which would justify on a cost basis an extremely low rate.

Not only is that rate likely to be extremely low, it is likely to vary dramatically from utility to utility.

So what we would be doing here in this bill is telling each public service commission around the country that they have to adhere to that lowest rate, and they must give that low rate to these people 62 years of age or older and that then, in turn, they must charge all of their other customers 62 years of age and under a surcharge, in effect, to pay for the older people.

There are a lot of problems involved, Mr. President. There are a lot of these older folks, even though they are on social security, who might be very well to do and they would be getting a subsidization of their rates by people, say, on welfare, who would have to pay the increased charge.

What I am saying, Mr. President, is that the problem of lifeline rates is a difficult one which ought to be considered by each public service commission in each State, based on what they see is possible in their States.

They ought to make a study in their States as to what are the appropriate rates and who are the appropriate recipients.

I do not think at this time that this committee would be prepared to dictate to the various States that they come up with a requirement for a patchwork rate structure for lifeline rates that would result in the subsidization of people 62 years of age or older, whether they need it or not, by people 62 years of age and younger.

It is the kind of thing that really should be studied.

I ask the distinguished Senator whether he would consider changing this amendment into a study and perhaps have hearings on this subject in the Energy Committee next year. We simply do not have the data base to come in and require each State to go into these lifeline rates at this time. Would he consider such a study amendment?

Mr. HART. Let me respond to the Senator from Louisiana.

First, Mr. President, I cite the fact that endorsements of this proposal have come from the National Council of Senior Citizens, the National Association of Retired Federal Employees, the Urban Elderly Coalition, the Sierra Club, Environmental Action, the National Indian Council on Aging, the Seattle Department of Human Resources, and others.

Second, the Senator from Colorado is faced with a sort of Hobson's choice on the one hand in designing an amendment which would be simple to administer. Problems are raised of the sort which the Senator from Louisiana suggests as to elderly citizens who are well off. That is a small price to pay, I think, for giving absolutely necessary assistance to the more than 90 percent of the elderly who are not well off financially.

We could have designed a very complicated amendment that involved features of income levels and other factors that would have made this perhaps more equitable from the standpoint of windfalls to the wealthy elderly. However, at the same time, income requirements would have made lifeline extremely difficult to administer.

This is a straightforward qualification that can be met by a social security card or proof of age, which makes it easy for any State in the Union to adopt.

Second, by not establishing Federal standards except the age classification, the entire matter is left in the hands of the local and State utility commissions. So they can administer and apply this principle according to the rate structures of their own States. Of course, that makes a patchwork. Some people in one State will be paying less than people in others, and so on across the country. But this is the way our rate structure is applied now.

Rather than making a uniform rate structure, we have merely put the burden on the State utility and local utility commissions to permit those senior citizens to qualify for the lower rates.

The economic impact is not that great. It is 2 percent of all electric utility revenues, according to the Library of Congress. That 2 percent of possible lost revenue to utilities would be absorbed by the other 98 percent of the consumers.

I do not think that is going to be a substantial impact on the financial structure of utilities across this country. It certainly is not going to throw into doubt the rate structures of those utilities so that they cannot go out and have bond issues and float their financing for increased generating capacity, where necessary.

Consequently, I think the arguments which the Senator from Louisiana raises are interesting ones and might be important under other circumstances. But the fact is that as much as we might want to convenience the committee and not have it address issues which are outside the parameters agreed to in drafting this bill, old people are going to be cold this winter because they will not be able to pay utility prices. Just because it is easier to draw a boundary and say we are not going to adopt any amendments or proposals that affect the State utilities structures because it will be easier to get a bill through here, I do not think that is a valid justification to turn our backs on the senior citizens who are cutting back on their medical care, who are cutting back on their nutrition to provide enough electricity for their homes, their apartments, their cooking and other necessities of life.

These are real hardships, and I do not think it is appropriate for a Committee to decide that it is easier for us to set aside a whole category of issues to get a bill out of here, if we have to make people suffer another year or two in the process.

I think my lifeline proposal is a simple, straightforward approach to this problem. It will be easy to administer. It will not disrupt services. It will not disrupt financing of utilities, and it will not have substantial impacts on other consumers. Why not do it?

There are tens of millions of senior citizens in this country who are hard-pressed, people to whom Congress and the Nation have an obligation.

I am not trying to get this amendment adopted on an emotional appeal. All of us represent the sovereign and individual States of the Union. We do not want to unduly influence State utility structures. But now is the time to act. We know this system and concept works in several States, in large and small communities. It is one that can be applied easily by every State or local utility commission in this country.

So my answer to the Senator's question about a study is that I prefer that we go forward and adopt this amendment, and I urge the committee to withdraw its opposition and not try to table this amendment.

I yield to my colleague from Colorado.

Mr. HASKELL. I thank the Senator. I congratulate him on putting forth this concept which, as he has stated, will benefit millions of elderly people across the country.

I particularly compliment him on the simplicity of the approach which is adopted here. I think we all realize—this is true in our State, and I assume it is true in other States—that the so-called fuel adjustment factor in the monthly utility bill sometimes exceeds the basic charge.

I believe we are all aware of the elderly people who have paid for their houses in the anticipation that they would live out their retirement in their homes. Now they find themselves, by virtue of utility charges, unable to occupy these houses and are forced to sell.

This is an economic problem, a social problem, and a human problem. Inasmuch as I am a member of the committee, I understand the desire not to place the Federal Government in a position of mandating rates to State utility commissioners. My colleague has adopted what I consider a very simple approach—one which leaves up to the PUC of each State the manner in which lifeline for the elderly is to be implemented.

Mr. President, I express my hope that the committee will find its way clear to accept the amendment. If it does not, I hope that a favorable vote will prevail in the Senate.

Mr. HART. Mr. President, I thank my colleague.

I ask unanimous consent to have printed in the RECORD a memorandum prepared by the Library of Congress, Congressional Research Service, dated October 5, 1977, directed to me, with respect to the modest economic impact of my lifeline proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
Washington, D.C., October 5, 1977.

To: The Honorable Gary Hart. Attention: Lee McDermott.

From: Economics Division.

Subject: Lifeline rates for senior citizens.

A lifeline rate is defined as a minimum charge for a basic amount of electric service needed to supply the minimum needs of a consumer. The minimum needs usually include lighting, cooking and refrigeration but many also include water heating and space heating. Thus the number of kilowatt hours (Kwh) included in a lifeline rate vary considerably depending upon the number and types of electric appliances owned by the consumer. The minimum need would also vary according to regional climatic conditions.

The Bureau of the Census reports that for 1975 the total number of persons in the U.S. age 62 and older was 27,808,000 or 13.05 percent of the total U.S. population (excluding military overseas).

The Edison Electric Institute reports annual sales and revenues for the U.S. electric utility industry.[1] Those figures are reprinted in the attached table for 1975, the latest year for which data is available. While the exact impact of a lifeline rate on the utility industry would obviously depend on the amount of price reduction implemented through a lifeline rate, some estimate of the impact can be derived through the figures shown in this table. It should also be noted that these figures are an industry average. The effect of a lifeline rate on each particular utility would vary greatly depending on the amount of service (in kwh) covered by the lifeline rate (which would presumably vary from location to location due to the reasons stated earlier) and on the number of persons 62 years and older in each utility's service area.

If it is assumed that all electric service consumed by persons age 62 and over is purchased through a lifeline rate, and that amount of service is proportional to the percentage of the aged in the population as a whole, then 13.05 percent of total residential sales would be purchased at the lifeline rate. Using the data supplied in the attached table, this amount would be 76,492,444,000 kwh.

If it is further assumed that the lifeline amount of service is purchased at the average price of 1.92 cents per kwh (which is the average price for large ligh and power customers, and a reduction of 40.18 percent as compared to the average price for all residential customers) rather than at the 3.21 cents per kwh average price for residential customers, then the revenue produced from these sales would be $1,468,654,900. If this same amount of kwh were sold at the average price for all residential customers, $2,455,407,400 of revenues would result. The "loss of revenue" to the electric utility industry as a result of a lifeline rate for persons 62 years of age and older would then be $986,752,500.[1]

Total electric utility industry—Total energy sales and revenues by customers class, 1975

Total sales (millions of kilowatt-hours):	
Total sales to ultimate customers	1,733,024
Residential	586,149
Small light and power	418,069
Larger light and power	661,558
Total revenues (thousands of dollars):	
Total sales to ultimate customers	46,853,456
Residential	18,803,156
Small light and power	13,486,624
Large light and power	12,707,490
Average revenue per kilowatt-hour (cents):*	
Total sales to ultimate customers	2.7
Residential	3.21
Small light and power	3.23
Large light and power	1.92

[1] Of course the revenue "loss" would be made up through increased charges to the other utility customers.

*Revenue per kilowatt-hour is calculated from the EEI figures by dividing total revenues by total kilowatt-hour sold.

Source: Edison Electric Institute. Statistical Year Book of the Electric Utility Industry for 1975; tables 19–S and 33–S.

[1] Edison Electric Institute, Statistical Year Book of the Electric Utility Industry for 1975.

Mr. BARTLETT. Mr. President, I have been listening to my distinguished friend from Colorado—in fact both of my distinguished friends—and they have referred to this bill as a simple bill, and I would agree that it is a simple bill. But I think it is a complicated subject, and I think it is difficult to deal with this problem from the Nation's Capital for all the States without creating a lot of extra unfairness.

As an example, the Senator from Colorado, the junior Senator, said the utility companies can afford this. Well, the cost, of course, is going to be borne by the customers.

The utilities in our State right now are appearing before the Corporation Commission, the commission which regulates them, and they are seeking increases in the rates they charge their customers, and they are receiving increases in those rates. So the costs here would be borne by the customers and passed on to them by the utility.

This amendment applies benefits to the wealthy as well as to the poor. It is a welfare proposal not financed by the taxpayers but financed by the consumers, and some of these consumers are poor. The poor who pay rent, for instance, and in their rent are paying for their utilities, would be paying their share of the cost of this program.

I would like to point out that a study was made by TVA on lifeline rates, and in the sample of that study the lifeline rate produced higher electrical bills for 26 percent of the low-income families, those already facing hardships under the conventional rates and, at the same time, meant reduced electric bills for 49 percent of high-income families. In other words, this lifeline rate would have resulted in 26 percent of the low-income families helping to subsidize 49 percent of the high-income families, clearly a self-defeating result.

It is my understanding that virtually all of the State utility commissions have rejected lifeline, although not all of them. I point out, too, that this would affect the elderly irregularly even if we were dealing just with those who were poor.

For example, a couple living in a trailer using electricity for all their uses, including heat, would be more or less a high consumer of electricity; whereas another person who might live in a very snug home that was well-insulated and heated by gas would be a relatively low consumer of electricity.

The bill provides that the lowest charge per kilowatt hour to any other electric consumer to whom electric energy is sold by such utility, or any electric utility which controls or is controlled by or under common control for such utility, would be the governing rate. It also says such rates shall not exceed the average of residential rates in effect on the date of enactment of this act. That would mean it would lock in a ceiling at that level no matter what happened to inflation and escalating costs, and I think that would not be a good provision.

But I would point out to the distinguished Senator from Colorado that one area might have located in it a huge consumer of electricity, for instance a copper concern, that would get a very, very low rate. Other areas might not have such a low rate, so the rates charged would vary from area to area.

Then, I think, there are a lot of other variables that need to be considered, the matter of climate, the matter of the number in the family, the size of the house. All these would vary the benefit that is received.

This is really a welfare program that would be financed by consumers of electricity, and it seems to me this is not the kind of way of financing such a program.

I would also point out that, I believe it is on page 3 of the Senator's amendment, section 16(a) says:

> No electric utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved or allowed to go into effect by a regulatory authority.

Now, in some States some large municipals are not controlled or governed by a regulatory authority. In that particular case the way I read that language that utility would not be permitted to sell electric energy. I am simply drawing attention to a place where I think there needs to be a change in the language.

Mr. HART. Mr. President, I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Stuart Brahs of my staff and Robert Faust of Senator PELL's staff be granted privileges of the floor during debate and all votes on the Public Utilities Regulatory Policy Act.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HART. Yes.

Mr. PERCY. Mr. President, I ask unanimous consent for floor privileges during debate and vote on the pending measure for Chris Palmer and Ron Lanque.

Mr. MATSUNAGA. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that a member of my staff, Dr. Tak Yoshihara, may be permitted privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, let me respond as briefly as possible to the Senator from Oklahoma's comments.

He said this is a welfare measure. I do not know why, if we are going to offer favorable rates to bulk consumers, that is not considered a welfare measure, and when we offer it to senior citizens it is welfare. All this amendment asks is that senior citizens be treated the same way as bulk consumers.

Second, he says this will lock us into a specific rate structure. The amendment clearly says it is to last for a maximum of 3 years while Congress is considering a comprehensive utility rate reform policy. It will insure that we do not penalize the elderly people in our society during that period.

On the other hand, he says there are going to be varying rates, and elderly people in one State may end up paying more for their energy than elderly people in other States. Obviously. The managers of the bill have been urging us not to intervene in State utility rate structures, and what I am trying to do is accomplish a specific purpose here without doing that.

The whole purpose here is to let the States set up the system and operate it in the context of their ongoing rate regulations.

The Senator from Oklahoma says this is subsidization. If I said that it was going to cost the utilities money I did not mean to say that. Obviously, it is going to cost the consumers money.

The total economic and financial impact of this proposal is going to be a reduction of about 2 percent of the total revenues of the utilities in this country. Obviously, that is going to be spread among those who pay the other 98 percent. But that is a judgment, I think, that the U.S. Senate can make.

Finally, the Senator from Oklahoma talks about people in trailers as opposed to people in houses, and they use disproportionately large amounts of electricity. The amendment requires the State utility commissions to establish what constitutes a subsistence amount of electricity for all senior citizens, and every senior citizen, whether living in a castle or a trailer, would get the same subsistence amount of energy in that jurisdiction at the lowest amount. So I think that may help solve some of the problems raised by the Senator from Oklahoma.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Oklahoma.

Mr. BARTLETT. In the interest of time I am not going to cover every point. I would just like to cover really only one, and that is a point made about the large consumers of energy. In general, the larger companies and those engaged in some program that uses a lot of energy pay rates that are cost-related. It is not a welfare for the large companies. It is based on cost. This is how the rates have been established and maintained over the years.

I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, is the Senator from Colorado ready to vote?

Mr. BAYH. Mr. President, will the Senator yield to the Senator from Indiana?

Mr. HART. Yes.

Mr. BAYH. Having been in the Presiding Officer's chair I listened with a great deal of interest to the dialog here. I do not want to prolong it. However, I must say that I think the Senator from Colorado is opening a door that portends a great deal of equity for a lot of citizens who are otherwise passed by.

My comment here is relative to what might happen if his effort does not succeed. I would hope that the whole issue of lifeline of a unit rate structure would be studied carefully for all households. I want to help the elderly. But I hate to see poor people and middle-income people have to pay a much higher rate than industrial users. So I see the Senator from Colorado approaching this as a positive first step. But I would hope that in the relatively short period of time in the future we could have an assessment of how we say to the middle-income American or the poor-income American who is out there trying to pay rent or pay mortgage payments, "We are going to get you a rate that is more commensurate with equity rather than have you pay a significantly higher fee than industrial users."

Mr. HART. I would like to respond briefly to the Senator from Indiana. The amendment does exactly what he is proposing. It requires the Secretary to submit a report to Congress within 18 months after the enactment of this provision, studying the extent to which cost justified changes in electric rates will make possible the extension of a subsistence quantity of electricity to all residences at reduced rate. So although this amendment will not require the implementation of a program to solve that problem, it takes the first step in identifying options and obtaining information

upon which this Congress can legislate in the future.

Mr. BAYH. If the Senator will yield, and I am happy to hear this from the vantage point of the Presiding Officer's chair, the only thing I heard was assistance to older people over age 62 which I think we can say amen to, but when we talk about equity in the rate structure I think we all have to recognize there is a good deal of equity existing up and down the chronology of the life span and going to the burdens borne by homeowners and nonhomeowners of all age groups. I am glad that is in the amendment.

Mr. HART. The Senator is absolutely correct and, because the committee did not want to venture too far into that field, we merely put this reporting requirement in there to lay the groundwork for that kind of legislation in the future.

Mr. President, I am prepared to yield back the remainder of my time.

I emphasize that I do not think it would be fair to reach the conclusion that the committee, by opposing this amendment, is turning its back on the senior citizens. I understand the floor manager's problems. I understand the committee's problems. But I do believe, and I believe very strongly, that this is a step that can be taken without breaching the conditions which the committee laid down for itself. It addresses an immediate problem for a class of citizens in our society who are in tremendous difficulty. I think it can be adopted, and I hope it can be supported by the committee even in the context of its strong desire not to go too far in instituting utility rate reforms.

Mr. JOHNSTON. Mr. President, I appreciate the distinguished Senator from Colorado putting the opposition of the committee in proper context, not overstating the basis of our opposition but stating it very accurately, that we are not insensitive to the old folks. We would like to do something in this field. We have serious doubts that this is the right approach but in any event, it should be studied after hearings.

For that reason, Mr. President, I am ready to move to table and yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. How much time does the Senator desire?

Mr. MATSUNAGA. Two minutes.

Mr. JOHNSTON. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. As the Senator from Colorado knows, while a Member of the House of Representatives, I was a member of the Committee on Aging and, as a member of that committee, I championed many a cause for the elderly citizen.

As a matter of fact, when I first came here the Stevenson amendment was about ready to dispose of the Committee on Aging here, and I joined with Senator CHURCH and was in the forefront to save that committee because I thought that committee would look after the affairs of the elderly.

As a member of the Energy Committee, however, I am troubled that this amendment is being offered to the pending measure. I was one of those in the committee who insisted that this bill, the utility rate bill, be limited to making the Federal Government an adviser, educator, and a promoter of good rate structure among the State utility and local utility companies.

While I fully appreciate what the Senator from Colorado is trying to do and I am in full sympathy with the plight of the elderly with reference to their energy needs, I am constrained to vote against the amendment because it would impose and it would require by Federal mandate the setting of rates for a special class of citizens, and I regret that this amendment is being offered to this bill. I will join with the Senator from Louisiana in saying, if the Senator would withdraw this amendment, we will immediately get into a hearing and establish the facts in the matter and perhaps bring out a bill which would take care of the problem which the Senator from Colorado so ably pointed out.

Mr. HART. Mr. President, the record of the Senator from Hawaii in this field is well known and his concern, I think, is documented throughout his distinguished career in Congress. I think all of the senior citizens in the country owe him a great debt in this regard.

I am hopeful that he will not oppose this measure. I think there are some things that transcend the simplicity of committee operations and the attempt to make our legislative lives clean and orderly. These are immediate and strongly felt human needs. I do not mean to imply that by voting against this amendment Senators are insensitive to those needs. I just want to emphasize that the senior citizens who are going to be cold this winter are not going to take much consolation in the fact that the committee tried to limit its jurisdiction on this bill. Whenever hearings are held, the problem is still going to be there and the idea of the Federal Government requiring States to adopt a simple and straightforward reform of this sort is still going to be before us. One more winter will have gone into the record books and into the lives of the people who are most hurt by our failure to act.

Mr. MATSUNAGA. If the Senator will yield, that is the exact point I am trying to make, that this is properly a State matter. The State of Hawaii has entered the field by payment of half of all the utility bills of those on welfare rolls. I am inclined to feel that that is where it belongs.

Since your State and my State have taken care of those who are really in need of this type of special treatment, then perhaps we can encourage the other States to do it without imposing a mandate, as we are inclined to do now; and, being an advisory agency, as the Office of the Secretary of Energy will be as provided in the bill, I would think that we should try this system first in an advisory capacity, in this bill, at least. Throughout the hearings and throughout the markup sessions, this was the thing that dominated the philosophy of the entire bill: That the Federal Government will serve in an advisory, educatory, and promotional capacity, not one of imposing mandates and absolute requirements upon the State facilities.

Mr. HART. Mr. President, today the Senate will have an opportunity to cast a vote for legislation which will greatly ease the economic hardship faced by many of our Nation's elderly in dealing with the spiraling cost of home energy.

America's elderly now number over 28 million—about 13 percent of the total population. Most of these individuals live on fixed incomes. But social security and other retirement income sources have not kept pace with increasing home energy costs. Between 1973 and 1976, social security payments increased by 30 percent. At the same time, energy costs for seniors increased by as much as 44.8 percent in the West, and 61.4 percent in the north-central region of the country.

Recent forecasts by the U.S. Weather Service predict another cold winter for 1977–78. We cannot in good conscience permit the elderly to endure another winter of cold and economic hardship.

Mr. President, a number of organizations have endorsed this lifeline proposal, including the National Council on Senior Citizens, the Urban Elderly League, the National Association of Retired Federal Employees, the National Indian Council on Aging, Environmental Action, the Sierra Club, Seattle Department of Human Resources, and the National Association of Counties. In addition, the Colorado Congress of Senior Organizations, the city and county of Denver, and the Boulder County Lifeline are also supporters of the lifeline concept.

Mr. HART. Mr. President, I would only say in conclusion that the system of various States adopting their own proposals threatens to place them at a competitive disadvantage. To the degree that utility rates are raised for nonelderly consumers to help make up the difference in the lower rates paid by seniors, industries, and large commercial users may decide, because of that rate differential, to locate in States which do not have lifeline programs. This possibility is a strong disincentive for a State to enact this kind of law in isolation.

I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time, and I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table, on which the yeas and nays have been ordered.

Mr. HART. And also on the amendment itself.

The PRESIDING OFFICER. And also on the amendment itself. The pending question is on agreeing to the motion to lay on the table the amendment of the Senator from Colorado (Mr. HART). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 527 Leg.]

YEAS—35

Allen	Garn	McClure
Bartlett	Glenn	Morgan
Bellmon	Goldwater	Moynihan
Bentsen	Griffin	Nunn
Bumpers	Hayakawa	Proxmire
Burdick	Hollings	Scott
Byrd, Harry F., Jr.	Huddleston	Sparkman
Chafee	Jackson	Stennis
Curtis	Johnston	Stevenson
Eastland	Laxalt	Talmadge
Ford	Long	Wallop
	Matsunaga	Young

NAYS—61

Abourezk	Hart	Pearson
Anderson	Haskell	Pell
Baker	Hatch	Percy
Bayh	Hatfield	Randolph
Biden	Hathaway	Ribicoff
Brooke	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Inouye	Sarbanes
Case	Javits	Sasser
Chiles	Kennedy	Schmitt
Church	Leahy	Schweiker
Clark	Lugar	Stafford
Cranston	Magnuson	Stevens
Culver	Mathias	Stone
Danforth	McGovern	Thurmond
DeConcini	McIntyre	Tower
Dole	Melcher	Weicker
Domenici	Metzenbaum	Williams
Durkin	Muskie	Zorinsky
Eagleton	Nelson	
Gravel	Packwood	

NOT VOTING—4

Hansen	McClellan	Metcalf
Humphrey		

So the motion to lay on the table was rejected.

Mr HART. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that the order for the yeas and nays on the amendment be withdrawn and I move the adoption of the amendment.

Mr. BELLMON. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Louisiana will state the point of order.

Mr. JOHNSTON. I am advised that this amendment pertains in part to financial assistance, that there is no financial assistance provision in the bill, and it therefore is not germane.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, this amendment does not relate to financial assistance, it relates to utility rates. It does not include any financial assistance whatsoever.

Further, it is the understanding of the Senator from Colorado that the unanimous-consent agreement which included this amendment was, in itself, an agreement that amendments under that unanimous-consent order were germane.

The PRESIDING OFFICER. Will the Senator forbear for a moment while the Chair consults as to the germaneness?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state the parliamentary inquiry.

Mr. HART. Will the Chair inquire of the Senator from Louisiana, or would the Senator from Louisiana advise the Senate, as to what part of this amendment is financial assistance?

Mr. JOHNSTON. Mr. President, the whole thrust of this amendment is for financial assistance to the elderly and it does not pertain to conservation. The whole thrust is inconsistent with that of this bill, which is a conservation bill.

Mr. HART. Mr. President, on its face, this amendment does not involve financial assistance and, therefore, is not out of order.

The PRESIDING OFFICER. It is the view of the Chair that the thrust of the amendment offered by the Senator from Colorado deals with the subject of rate-making, which is the subject matter dealt with by the bill, and that the amendment is, therefore, germane. The point of order is not sustained.

Mr. JOHNSTON. Mr. President, in view of the fact that the Senator from Colorado won on the motion to table by an overwhelming margin, in view of the fact of the lateness of the hour and that we are trying to get out of here, I hope that we can suspend the rollcall vote. I, therefore, ask unanimous consent that this matter be allowed to go on a voice vote and that the order for the rollcall be vitiated.

The PRESIDING OFFICER. Is there objection to the request that the order for the yeas and nays be vitiated?

Mr. BELLMON. Mr. President, I renew my objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. Mr. President, is it in order for me to ask the Senator from Colorado a question at this point?

The PRESIDING OFFICER. If time is yielded to the Senator from Arkansas, which would have to be off the bill for that purpose.

Mr. BUMPERS. Does the Senator from Colorado yield to me?

Mr. HART. I have yielded back all my time on this.

The PRESIDING OFFICER. The time on the bill is under the control of the managers.

Mr. JOHNSTON. I yield such time to the Senator from Arkansas as he needs.

Mr. BUMPERS. Mr. President, I have some difficulty with this amendment and I voted to table it. It is the sort of amendment that any Member of this body would have a very difficult time voting against.

I was troubled about it for one reason: I could not see that there were any income limitations. For example, it provides that if you are over 62 and on social security, you are qualified for the best rate available.

Is that correct?

Mr. HART. The Senator is correct.

Mr. BUMPERS. Would that mean, for example, if a person were over 62, he would have to be on social security to be eligible?

Mr. HART. No, that is not correct.

Mr. BUMPERS. If he is over 62, he is eligible?

Mr. HART. That is correct.

Mr. BUMPERS. If he happens to be president of General Motors, he is still entitled to the rate?

Mr. HART. The Senator is correct. The debate on this issue went into rather elaborate detail. The reasons for that were for purposes of simplicity.

It was the view of many Members of the Senate that they do not want the Federal Government imposing conditions on the States in their rate structures. The managers of the bill and the Senator from Colorado debated that at some length. The statistics offered by the Senator from Colorado in support of the fact that the number of elderly who are not only not the president of General Motors but below the poverty line, are significant enough that, at least in the view of, apparently, close to two-thirds of the Senate, it is enough to justify encouraging a mandate on the existing State commission to adopt a rate structure which addresses that fact.

Mr. BUMPERS. Does the Senator have any figures on what it means to the utility companies in rates? Utility companies all have a lot of bonded indebtedness, and have a set rate of return. I assume this provision, which provides lower rates for everybody over 62, would mean that, in order for a utility company to maintain its present rate of return and also amortize its indebtedness, it would have to shift the burden of whatever benefits are granted to those people over 62 to all the others under 62?

Mr. HART. The Senator is correct and the Library of Congress study, which is in the record in the debate, was a study of some length, but to the Senator from Colorado, it was to the effect that if every citizen of this country over 62 enrolled for these benefits, the maximum impact on the revenues of utilities across this country would be no more than 2 percent and probably less. The burden would be paid by the 98 percent of those not covered.

Mr. BUMPERS. Is anybody covered except those persons over 62?

Mr. HART. No.

Mr. CHAFEE. Mr. President.

Mr. JOHNSTON. Mr. President.

The PRESIDING OFFICER. Who yields time? The time is under the control of the manager of the bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. All time on the amendment was yielded back. The time must now be yielded from the bill.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Arkansas has pointed out a very good point.

The PRESIDING OFFICER. Will the Senator suspend for a moment until we obtain a little better order in the Senate? Would Senators please take their seats and clear the aisles?

Mr. JOHNSTON. Mr. President, I will be very brief. Let me just say that for those Senators who think that by voting for this amendment we can do something very politically popular and help the old folks, therefore, it will be very much appreciated, let me say that this is but the first step into Federal regulation of State regulatory processes.

If we do this, the next step, next week, next month, or next year, the poor folks will be in, and then after that I guess the young folks, then after that the whole panoply of Federal standards for State regulation.

Many people think we ought to have Federal standards for State regulation, but for those who do, let me say that they ought to proceed only after hearings. We have not had hearings on lifeline rates. There are many lifeline rates instituted by States already in operation.

This is going to throw those lifeline rates out and substitute a Federal rule that says that 62 years of age is all we have to have and we qualify for a lifeline rate. We get subsidized at 62 by a poor person who is under 62.

If that is the kind of Federal rule we want to declare, then I say that we ought to proceed only after hearings.

That is the only basis for objecting to this. Let us at least have a modicum of hearings before we impress Federal regulations on State regulatory proceedings.

Let me say just one more thing and I will sit down.

The most salient point that was made against Federal control of State regulatory proceedings is what it will do to the rate base in the State and, in turn, the ability of States to procure money on the bond markets.

Every one of the Wall Street people we had testify before our committee stated that to put this wild card in, Federal regulation with Federal delays and Federal uncertainty, in a field we know nothing about, is going to deprive utilities of the ability to go into the bond market and finance their—

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. JOHNSTON. Mr. President, I will yield 2 minutes to the Senator from Colorado, and we want to bring this to a conclusion.

Mr. HART. I was prepared several minutes ago.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado was recognized for 2 minutes by the Senator.

Mr. JOHNSTON. Mr. President, if I may first yield to the distinguished Senator from Rhode Island 2 minutes because he had asked before, then I will yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. Mr. President, just a couple of quick questions to the Senator from Colorado.

As I understand it, this bill, as it says, mandates that the States do this, is that correct, they have to do this?

Mr. HART. Yes, the Senator is correct.

Mr. CHAFEE. The second point, no matter how wealthy a person is at 62, he can get this?

Mr. HART. The Senator is correct.

Mr. CHAFEE. And under the Senator's statistics, that will increase the rates of everybody else, to some degree. How much is debatable, but to some degree.

Mr. HART. To a very slight degree.

Mr. CHAFEE. Well, 2 percent, or whatever it is.

And, therefore, am I further correct that this could well work out that an impoverished person who is less than 62 has his electric rates go up to pay for the president of General Motors who is over 62 who gets this benefit, is that correct?

Mr. HART. The Senator is correct.

But as I observed on the same question from the Senator from Arkansas, every senior citizen in our society is not the retiring president of General Motors.

Mr. CHAFEE. That is absolutely so.

Mr. HART. And 7 million senior citizens in this country, which is about 20 percent of the elderly population, live below the poverty level. The median income of elderly households was $7,300 in 1975. One-fourth of the elderly families in America received incomes below $5,000.

Now, if we want a simple proposal to take care of a serious problem in this country, then this is the way to do it.

If we do not want to hedge about it, and conform to the limited Federal regulation the Senator from Louisiana claims he wants, this is the way to do it.

Mr. STEVENS. Will the Senator yield?

Mr. CHAFEE. Of my 2 minutes, if I may ask, how much time have I got?

The PRESIDING OFFICER. One minute remains.

Mr. CHAFEE. Let me just say, this is a case in which the Federal Government is mandating that every State do something. He talks about the older people. While we are dealing with people over 62, we are imposing a higher rate on those who are younger and in many cases cannot afford this additional rate. It seems to me it is the ultimate in big brother, and the Federal Government telling States what they should do.

I thank the Chair.

Mr. STEVENS. Will the manager of the bill allow me to have 2 minutes on the bill?

Mr. BARTLETT. Yes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 2 minutes.

Mr. STEVENS. May I say to the Senator from Colorado, I voted not to table the amendment because I heard part of the discussion in which the manager of the bill urged that some sort of study be made concerning this proposition.

I say to the Senator from Colorado, I will vote against the amendment if I have to do so. I do think he has a very good idea, one we ought to pursue, but one we ought to know a little more about before it becomes law. I would hope that he would accept the suggestion of the Senator from Louisiana to have some sort of provision in the bill to start the process that will achieve the objective that I believe we mutually seek.

But I do not think that now is the time, or that I know enough about it, to impose it in this bill and make it mandatory to the States at this time.

I came back to this discussion to urge the Senator to accept the offer of the Senator from Louisiana. We did not want to see it tabled, nor the idea destroyed, but we want to see—for myself I would like to see—a greater amount of knowledge and more specific information concerning how it could be achieved.

For instance, I am not so far from the age of 62. My kids live in my house up in Alaska. But our utility bill is paid by me.

Now, they are working. Are they going to get a preferential rate on my place in Alaska when I am 62?

Mr. HART. That would depend on the Alaska Public Utilities Commission.

Mr. STEVENS. I think a lot more knowledge should be gathered on this, particularly in terms of its impact as to where this total rate readjustment is going to come.

Again, I think the Senator is right, that the older people in this country are facing higher and higher real property taxes, higher and higher taxes for energy, they are facing the problems of inflation on fixed incomes, and we need to do something to help them.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BARTLETT. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I would like to point out to my colleagues that the bill for this welfare program is going to be paid by the consumers of electricity, not the utilities. The utilities, of course, in their rate-making appeals and applications through the various agencies of the State government that regulate them, will be granted this amount of money.

I also point out that there was a TVA study made, and in this sample, the lifeline rate, on the average, produced higher electric bills for 26 percent of the low-income families, those already facing the highest bills under conventional rates, and at the same time meant reduced electric bills for 49 percent of high-income families. In other words, this lifeline rate would have resulted in 26 percent of low-income families subsidizing 49 percent of the high-income families, clearly a self-defeating result.

I also point out that the poor who pay rent will have this in their rent, and they are going to be subsidizing—if their energy costs are in the rent—this along with all the other consumers.

So I think it gives very little leeway to the States. The State regulatory agencies, as I understand it, can only set the

amount of energy involved as a minimum subsidy for the elderly. I feel very strongly that this needs a lot of work before the Senate should pass on it.

PRIVILEGE OF THE FLOOR

The privilege of the floor was requested by the following Senators for various staff personnel, for which unanimous consent was obtained: Senator HARRY F. BYRD, JR., Senator GLENN, Senator GRAVEL, Senator LEAHY, Senator JAVITS, Senator ZORINSKY, Senator BARTLETT, Senator HATCH, Senator HEINZ, Senator WALLOP, and Senator DANFORTH.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. There is time on the bill to be yielded by the managers, if they choose to do so.

Mr. ALLEN. Mr. President, will the Senator yield about 2 minutes, so that I can ask the sponsor of the amendment a question?

Mr. JOHNSTON. Yes, I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. ALLEN. I ask the distinguished author of the amendment what the meaning is of section 19, on page 7, which says that there is authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 15, 16, 17, and 18 of the act. Section 15, of course, is the one that mandates that this low rate shall be put into effect.

The question I ask is this: Does that mean the Government would provide a subsidy for the putting in of that rate?

Mr. HART. Mr. President, will the Senator yield me time to answer the question? I do not have any time.

Mr. JOHNSTON. The Senator has 2 minutes.

Mr. ALLEN. I have 2 minutes.

Mr. HART. Mr. President, the purpose of this amendment is not for the Federal Government to finance the rate changes, first, since they will be modest in any case and merely need to be changes made by respective State utility commissions.

Section 19 could be clarified, and I will be more than happy to clarify it, that its intent and purpose is to provide the necessary funding for carrying out the study provisions of this amendment, which are to look into the necessity of overall incremental pricing rate reforms.

Mr. ALLEN. Does not the Senator agree that the wording would indicate that the Government was going to provide a subsidy to provide for this low rate?

Mr. HART. No, that is not the intent, nor do I think it says that—necessary to carry out the provisions of the section. That should be altered only to reflect the study provisions of the amendment.

Mr. ALLEN. Will the Senator ask for permission to have a modification of that portion of the amendment?

Mr. HART. Yes.

Mr. President, I ask unanimous consent that it be in order to modify the amendment to delete, in section 19, sections 15, 16, and 17.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I thank the Senator from Alabama.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. HART. I do not have the floor.

The PRESIDING OFFICER. The 2 minutes yielded to the Senator from Alabama have expired.

Will the Senator send the modification to the desk?

The modified amendment is as follows:

"LIMITED AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 18 of this Act.

"EFFECTIVE DATE

"SEC. 20. The provisions of sections 15, 16, 17, and 18 of this Act shall take effect ninety days after the date of enactment and shall remain in force for a period not to exceed three years thereafter.".

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 21.".

On page 16, line 20, immediately after "out" insert the following: "sections 1 through 14 of".

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to amendment No. 1399, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. CANNON assumed the chair.)

Mr. GOLDWATER (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Illinois (Mr. STEVENSON). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Illinois would vote "nay."

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. HANSEN) and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 57, nays 36, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—57

Abourezk	Gravel	Nelson
Anderson	Hart	Packwood
Baker	Haskell	Pearson
Bayh	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Riegle
Case	Javits	Roth
Chiles	Kennedy	Sarbanes
Church	Lugar	Sasser
Clark	Magnuson	Schmitt
Cranston	Mathias	Schweiker
Danforth	McGovern	Sparkman
DeConcini	McIntyre	Stone
Domenici	Melcher	Thurmond
Durkin	Metzenbaum	Tower
Eagleton	Moynihan	Weicker
Ford	Muskie	Williams

NAYS—36

Allen	Garn	McClure
Bartlett	Glenn	Morgan
Bellmon	Griffin	Nunn
Bentsen	Hatch	Proxmire
Bumpers	Hayakawa	Stafford
Burdick	Helms	Stennis
Byrd, Harry F., Jr.	Hollings	Stevens
Chafee	Huddleston	Talmadge
Culver	Johnston	Wallop
Curtis	Laxalt	Young
Dole	Leahy	Zorinsky
Eastland	Long	
	Matsunaga	

ANSWERED "PRESENT"—1

Goldwater

NOT VOTING—6

Hansen	McClellan	Scott
Humphrey	Metcalf	Stevenson

So amendment 1399 was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. BROOKE. I yield.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with Mr. BROOKE, the author of the amendment, and with Mr. NELSON, the manager of the bill.

I ask unanimous consent that each of the amendments by Mr. BROOKE be reduced in half as to time with the exception of the first one.

Mr. DURKIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Without objection——

Mr. DURKIN. No.

Mr. BUMPERS. Reserving the right to object.

Mr. DURKIN. Mr. President, there is a strong possibility that the Senator's amendment numbered 1404 is subject to a point of order in that it deals primarily with financial assistance and there is no financial assistance in the bill before us. As long as this unanimous-consent request will in no way impede anyone's ability to raise that point of order and to have that point of order sustained, if this unanimous-consent request in no way impacts on that, then I do not think I would have an objection.

Mr. ROBERT C. BYRD. Mr. President, could we except amendment numbered 1404 so that there will be no problem involved in my time request?

Mr. DURKIN. Mr. President. I have not had a chance to look at the other amendments. They might be equally deficient.

Mr. ROBERT C. BYRD. All right. I withdraw my request.

Mr. JOHNSTON. Mr. President, I wonder if the Senator will bring up that amendment at this time and have that ruled on before we have debate on it?

Mr. BROOKE. Mr. President, I shall call up my amendment and I wish that we proceed in the usual order. I think at

the appropriate time if the Senator wishes to raise the point of order he can raise the point of order. But I wish to proceed with my amendment.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. BROOKE. I yield to the Senator from Colorado.

Mr. HASKELL. Mr. President, I thank the Senator from Massachusetts for yielding to me.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 875

(Purpose: To prevent discrimination by utilities against certain energy consumers utilizing alternative energy sources)

Mr. HASKELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 875.

Mr. HASKELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 8, after "COGENERATION" insert a comma and "BACK-UP POWER,".

On page 13, between lines 16 and 17, insert the following new paragraph:

"(c) Not later than one year after the date of enactment of this Act, the Secretary of Energy shall, after consultation with representatives of State regulatory authorities, electric utilities, and alternative energy industries and consumers, recommend to State regulatory authorities guidelines for the purpose of preventing utilities from engaging in any conduct which results in unreasonable or discriminatory rate or pricing structures or practices against consumers that utilize power facilities other than those provided or otherwise supplied by any such utility including, but not limited to solar, geothermal, photovoltaic, wind, and other power sources as the Secretary may decide.".

Mr. HASKELL. Mr. President, a problem which is not addressed in the pending Public Utilities Regulatory Policy Act, S. 2114, is the matter of discrimination by utilities against certain energy consumers who utilize alternative energy systems. Although section 12 requires guidelines for prohibiting discrimination against cogenerators and small power producers, this section does not address the problem of discrimination against other alternative energy systems which require backup power for varying periods of time, such as solar hot water and space heating systems. Unless backup power is available for these systems at reasonable rates and under equitable conditions, the economic feasibility and marketability of many alternative energy systems will be inhibited. As a result, the widespread use of these alternative energy systems which have the potential to conserve large quantities of nonrenewable fuels will not be realized.

Although reports of discrimination are not widespread yet, they are numerous enough to cause concern, especially if we are serious about expanding the utilization of alternative energy systems in the near future. The most recent example of discrimination was reported in the September 30 issue of New Times in an article entitled "Sun Wars." In this instance a builder had installed solar units in a large residential complex and the local gas utility arbitrarily changed the development's classification to "nonresidential." In essence, this means that unlike other housing developments, this one would be subject to having its fuel supply interrupted or curtailed in times of shortages.

In addition to this instance, we have received information from a number of State energy offices recounting cases of alleged discrimination. While alternative energy systems which require backup power should pay their fair share, they should not be discriminated against. This amendment will require that the Secretary of DOE recommend guidelines for utilities which are designed to insure that practices and rate structures do not arbitrarily discriminate against these promising new technologies. The Secretary would develop guidelines for utilities, not rules, which would thus insure responsiveness to regional differences and be consistent with the position adopted by the committee in reporting S. 2114. Moreover, a provision similar to this one passed in the House.

Mr. President, it is my understanding that this amendment has been cleared with both sides of the aisle.

Basically what it does is say that the Secretary of DOE is required to recommend guidelines to State public utility commissions so that there will not be any discrimination in their ratemaking or other practices which has an adverse effect on alternate energy systems, such as solar hot water and space heating systems There have been examples of discrimination reported in California and Massachusetts and one close call in Colorado where the utility eventually rescinded its order.

I think we all agree that this goes directly against the national energy policy goals.

Mr. President, I, therefore, ask that my amendment be adopted.

Mr. JOHNSTON. Mr. President, this amendment is consistent with the general thrust of the committee's consideration of this bill. It provides for guidelines relating to nondiscriminatory practices. It does not put a Federal mandate on the State, but rather requires them to come up with their own guidelines.

Mr. HASKELL. That is correct.

Mr. JOHNSTON. We think it is an excellent amendment and we support it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BARTLETT. Mr. President, I shall make a very short statement.

I concur with my colleague who is managing the bill. This permits the Federal Government to make recommendations, but those recommendations are not binding on the agencies which regulate the utilities.

I think this is the understanding, and I support this amendment and accept it.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. BARTLETT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HASKELL. Mr. President, I thank my friend from Massachusetts very much.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I ask unanimous consent that Meg Powers, of my staff, be accorded the privilege of the floor during the consideration of the bill presently before the Senate and any and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, there is no longer any question that the availability and management of electric utilities——

The PRESIDING OFFICER. Who yields time to the Senator from Massachusetts?

Mr. DURKIN. Mr. President, how much time does the Senator need on the bill?

Mr. BROOKE. I need 30 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. DURKIN. How much time remains on the bill?

The PRESIDING OFFICER. The Senator from Louisiana has 36 minutes, and the Senator from New Mexico has 57 minutes.

Mr. BROOKE. Mr. President, under those circumstances——

Mr. DURKIN. How about 5 minutes?

Mr. President, I reserve my right to object to any Senator's request.

The PRESIDING OFFICER. The Senator always has a right to object. No unanimous-consent request is pending.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BROOKE. I am very pleased to yield.

Mr. BARTLETT. Is the Senator handling the time or if he is not handling the time, I shall yield? I wish to make sure the Senator has time.

Mr. BROOKE. I was asking for 30 minutes.

The PRESIDING OFFICER. The Chair is inquiring who yields time to the Senator from Massachusetts.

Mr. BARTLETT. I yield 30 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. Thirty minutes is yielded to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, there is no longer any question that the availability and management of electric utility energy is a matter of national concern. Energy resources in general did not become a matter of public policy with the introduction of the President's energy program. For over 2 years, the Nation has been implementing laws whose sole

public purpose is the conservation and production of our domestic energy resources.

And electric energy in particular dominates a large part of the energy sector. Twenty-nine percent of our primary fuel resources are consumed by the electric utilities which produce therefrom 12 percent of the end-use energy consumed. Furthermore, electricity's share of our consumption is increasing and may well double before the end of the century.

And no one seriously questions that utilities have general problems whose impact falls on consumers across the Nation. Every Senator is aware that customers are begging for relief from escalating utility bills. Some of the price increases that horrified us so much in the last 3 years are now leveling off to a steady rate of increase rather than to the sudden upward swings to which we became so unhappily accustomed. But, in the past year, electric bills nationally rose more than 9 percent, almost 3 percent higher than the general cost of living. Indeed, since the Arab oil embargo, the average utility bill in the United States has increased over 70 percent. And in areas like my own where we depend on imported fuel for peak load power in our utilities we have seen those costs escalate even more. The northeast pays the highest electricity bills in the Nation, with Massachusetts being the highest cost State, second only to New York City, in its rates. This is in spite of the fact that we have taken the risks of relying more heavily on nuclear powered generation than has any other part of the country. In fact, we have three times the national average of nuclear baseload generating capacity. But there is virtually no region of the country, and there is surely no U.S. Senator, that has not identified utility prices as a major problem and a continuing dilemma.

Not only is it perfectly evident that managing electric power is of national interest. It is also clear that there are management strategies, particularly restructuring of rates, which can increase the efficiency of precious basic energy resources, save power, reduce the growth of energy demand, reduce the need for energy capital, and maximize economic and procedural justice to end-users of electricity.

Mr. President, I suggest, therefore, that the overall definition of the policy problem and even the nature of the most effective solutions to that problem are fairly obvious. The only thing that is not yet obvious is what the Congress of the United States is going to do about it. And those of us who have worked on these issues for some years are deeply disappointed. The apparent response of the Senate Energy Committee is to do simply nothing.

There is really no other way to interpret this legislation before us. The accompanying report characterizes development of standards as "an unnecessary intrusion" without any adequate explanation. Instead, we are presented with a bill which provides that the Secretary may collect information and make suggestions about rates to commissions, or to nonregulated utilities, which happen to be holding hearings. These suggestions are to be essentially ad hoc, based on no formalized body of Federal policy. And the Department's ability to be a presence at all depends on future appropriations for staff. Also, the Secretary's rights as a party in any proceeding are so limited by this measure that they are less than those of any other party to the case. The Secretary may not appeal even an arbitrary and capricious rate decision. Thus, nothing requires consideration of her or his recommendation. Indeed, there may be a bias against such consideration since regulators usually feel a need to protect their decisions against possible appeal. Finally, we are asked to enact a great many studies, including a continuation of the kind of research efforts we authorized 2 years ago precisely so that by this time we could make some policy determinations about appropriate Federal strategies.

I think if we are frank about what has happened in the course of consideration of this measure, we will be forced to admit that the timidity of this approach is a direct result of the emotional symbolic appeals that have characterized discussions of this issue.

A massive and expensive campaign of letters to stockholders following a format suggested by utilities' national trade associations has caused unwarranted fears among those who depend on utility stocks for income. The kind of rhetoric that is typical in the letters from the utilities to their owners include such threats as "the very survival of the United States as a free nation is threatened," or "this is a doomsday plan" or "this is an attempted power grab by Washington federalists"—a phrase which many companies seemed to fancy, and finally, "the free enterprise system will be doomed." I have some examples of this widely disseminated nonsense and I ask unanimous consent that they be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, no elected official wants to confront an electorate that has been frightened by such demagogic and simplistic appeals. But we in the Congress have a responsibility to provide leadership on these energy issues and if we had done so sooner it is very likely that this kind of reactionary and uninformed response would never have arisen at all. As things stand, I am sure we can establish a sound policy initiative and explain it to the American people who are entitled to all of the facts.

Of course, it is only natural that many elected officials see the problems of the utilities as so complex that they feel there will be no obvious political reward from the sophisticated, yet not highly visible, solutions that Federal action might advance. Indeed, most of us here realize that there is no magic answer to continuing increases in consumer electric bills. But that is no reason for the Congress of the United States to abandon the problem to the 50 States and to let State officials absorb the political reaction that utility regulation sometimes evokes. I appeal to all of my colleagues to realize that, if the utilities' problems of cost, inefficiency, growth rates, and dependence on fossil fuels are not resolved the Congress will eventually be required to find a solution anyhow. And we will be under far greater pressure than we now find ourselves. These issues will be coming right back here to us in the long run. We should not wait for a full blown crisis to take the responsibilities that are rightfully ours.

Mr. President, I submit that congressional passage of any half-way measure like the one before us today would send a clear and negative signal to regulators at the State level. It would say that the expectation of clear Federal policy guidance and direction under which State commissions have operated in the last 4 years, is not to be fulfilled. It will signal that there will be no minimal policy that could equalize ratemaking among jurisdictions. Thus, we would again be saying that progressive States which might act to establish policies which could further advance us toward our national energy goals will be penalized in competition for new industry. If the Federal Government's embryonic energy leadership is to be shackled by the Congress in the way this committee proposes, then the day when consumers can evaluate the true value of their energy demand and modify their behavior to reduce current wasteful practices has been indefinitely and unnecessarily delayed. The interjurisdictional competition to provide cheap electric power on convenient terms, regardless of the energy consequences, could well resume. And all this, Mr. President, at a time when we could instead be providing real guidance which would reduce future energy demands and save consumers money.

The committee's approach suggests that States can essentially do the job on their own. I think it is important to examine the record more realistically, as this is probably the fundamental dispute between the committee and the coalition backing my amendments.

To be sure, there is a new awareness on the part of State commissioners that there is a changing environment for utilities. There is a fair amount of studying underway. The National Association of Regulatory Utility Commissions is gathering data under the auspices of Electric Power Research Institute in the industry's first general attempt to analyze rate design improvements. DOE has funded various small demonstrations in 15 States. Overall, 25 States have studied or are studying rate redesign in serious evidentiary hearings.

On the surface, this seems to be progress. But the true test is whether a firm commitment is made to act. And 12 of those 25 States have already decided to take no action. It is essential to recognize that according to DOE in every case States have not made this decision, because they find rate reform inappropriate to the State's needs. Rather these commissions cite lack of data and inability to get it readily as their reason for not instituting change.

Only four States—New York, California, Wisconsin, and Michigan—have ordered rate reforms into effect in selected service areas. Virginia will do so in PEPCO's service area in 1979. Pennsylvana and Vermont have optional time-of-day rates in effect in some areas. And only three more—Connecticut, Maryland, and North Carolina—have asked utilities to file time-of-day rates for certain industrial customers for specific commission consideration. This means 10 States have some rate reforms in effect in some areas. The rest are awaiting either further assistance and resources and/or further signals as to how other States are going to act.

There can be no question that commissions recognize they do not have the resources to proceed to reform their practices alone. One indication of their weakness is that on the average, expenditures by commissions for State utility regulation in the United States amount to less than one-tenth of 1 percent of the revenues of the regulated utilities. About half of all State commissions employ 20 or fewer staff, including part-time, clerical, and support personnel, for gas and electric utility regulation, and about half the larger commissions employ 50 or fewer. With such small staffs, commissions can do little more than react to the expensive and sophisticated presentations of utilities and their more active customers who are usually well represented by skilled counsel.

The fact that 23 commissions had to be turned away from funding they had applied for under ECPA title II on the first round of grants and that 27 were refused on the second round of grants shows the crying need at the State regulatory level. In the face of such demands for help, the committee cannot argue that all is well at the State regulatory bodies.

We are all familiar with the essentially conservative bias built into State regulatory processes. And that bias, explains the slow pace of change at that level.

First, the capital-intensiveness and traditional stability of utilities have created a very cautious, conservative industry, and regulatory system. Second, utility ratemaking has long been used to expand energy sales and to subsidize certain groups of customers, not always industrial customers, to be sure. Relatively little attention has been paid to overall "system optimization." Third, the recent public outcry over rate increases, nuclear plant siting, environmental protection, and other utility issues has made rational discussion of ratemaking almost impossible, especially in the absence of technical resources. And finally, most commissions are too cautious to act in such a manner as to harm major customers' competitive position when there is no guarantee other States will take any kind of similar action. Mr. President, this refusal by the committee to establish a Federal policy direction does not free the State commissions. It leaves them shackled to the status quo, without support or leadership.

This review of the continuing prospects for State inaction shows that a failure to establish a clear Federal policy on electric energy would plainly be irresponsible. On the other hand, I would agree with anyone who suggested that a Federal takeover of regulation would be equally, if not more, irresponsible. For it is perfectly true that no central authority today exists as is able to propose regulation for local situations. However, it is time to face honestly the fact that no bill considered by the Congress this session envisioned any such takeover as the rhetoric of the industry opponents tried to suggest. We may disagree among ourselves about the subjects and procedures concerning which there should be broad Federal standards. And we may reasonably argue what the legal force of those standards would be. But I feel strongly that we cannot question our responsibility at least to establish a general policy and to insure that it is taken seriously. And, although I have long personally favored a much tougher kind of Federal standard, my amendments are designed only to assure that a clear message about the importance of reform go forward from the Senate today.

In essence, the five amendments, which the bipartisan coalition supported by the administration is offering, taken together, would put the Senate on record as taking utility reform seriously. We propose to offer the States enough staff and financial support to do the difficult analysis required in any serious rate reform undertaking. We propose to make the Secretary's rights and thus the views of the United States equivalent to those of any other intervenor. Finally, we propose that the Secretary establish a written body of ratemaking policy guidelines for all States to draw on. And we will assure that every State gives those recommendations serious consideration as being the expression of a national policy of encouraging fair and efficient electric energy usage.

Mr. President, the Secretary of Energy has offered full support to our efforts to strengthen this measure. I ask unanimous consent that his letter to me be printed in full following my remarks. But I would like to quote the section in which Dr. Schlesinger writes:

> The amendments you and your cosponsors have proposed would aid the federal government and state utility commissions to ensure that regulatory policies promote conservation in accordance with unique needs and circumstances of each state.

I have previously inserted in the RECORD letters of support from the United Auto Workers, the Sierra Clubs, and Environmental Action. Today I ask unanimous consent that letters of support from the Public Citizen/Congress Watch, the American Public Power Association, and the National Association of Rural Electric Cooperatives be printed in the RECORD following my remarks, and also, editorials from the Washington Post and the Boston Globe supporting the position that the committee stand on this bill is as the Post said, "spurious."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROOKE. Mr. President, our amendments represent a very modest attempt to institutionalize a Federal policy on electric energy conservation. There has really been no serious opposition to this particular package, and a number of us wish it could be even stronger. Only those who wish to abdicate policy responsibility completely could oppose these improvements to the bill. I submit to my colleagues that the time to assume our rightful responsibilities is now.

EXHIBIT 1

ENERGY POLICY TASK FORCE,
Washington, D.C., October 5, 1977.

Re S. 2114 Public Utilities Regulatory Policy Act of 1977.

DEAR SENATOR: The Energy Policy Task Force of the Consumer Federation of America, the nation's largest consumer organization strongly urges you to support the proposed amendments to Senate Bill 2114, which address electric utility reform. These include amendments by Senators Sasser, Kennedy and Bayh to encourage utility reform for wholesale power suppliers and amendments cosponsored by Senators Brooke, Cranston, Percy, Hart, Riegle and Anderson on retail utility rate reform.

Specifically, we urge you to vote for the:

(1) Sasser Amendment to provide the Federal Energy Regulatory Commission with authority to order wheeling of bulk power and interconnections of electric utilities and cogeneration.

(2) Hart-Sasser Amendment to encourage cogeneration.

(3) Kennedy Amendment to provide for preconstruction antitrust review of non-nuclear fired power plants.

(4) Bayh Amendment to provide for equitable curtailment of service to retail customers of wholesale power suppliers and purchasers.

(5) Amendments prohibiting "pancaking" of wholesale electric rate increases.

The wheeling, pooling and interconnection amendments are indispensable in ensuring the efficient use of resources, in preventing duplication of transmission lines, and minimizing the number of new generating facilities. They will further help preserve the continued operation of smaller publicly owned utilities.

The antipancaking amendment will prevent undue regulatory lag in deciding wholesale rate increases, would eliminate problems involving refunds of overcharges, and would prevent the loss of working capital for wholesale purchasers.

(6) Brooke Amendment enabling the Secretary of the Department of Energy to prescribe voluntary guidelines concerning the determination of costs, load management systems and ratemaking methods to ensure that state regulatory agencies have the necessary information available for the determination of efficient rate structures.

(7) Brooke Amendment empowering the Secretary to issue advisory guidelines to reduce or eliminate master metering. Recent studies show that master metering consumes nearly 30 percent more energy than individual metering.

(8) Brooke Amendment to reform the present inequities and waste in the fuel adjustment clause.

(9) An amendment to require states to establish certain procedures before service to customers can be cut off. Last winter, many low income families suffered tragically when service was discontinued because they could not afford to pay their exhorbitant utility bills.

We believe that the above mentioned reforms are sorely needed. The electric utility industry has been saddled with increasing fuel costs, declining efficiency in the use of generating capacity, as well as steeply rising costs of expanding capacity. These circumstances have led to skyrocketing energy costs for all American families, as well as the un-

necessary consumption of valuable fuels. Declining efficiency has and could result in expensive and often unwarranted expansion of plant capacity.

None of the amendments mentioned above remove the power of the state regulatory authorities. They are intended to insure greater effectiveness and fairness by the state agencies to encourage more efficient use of our valuable natural resources, and to ensure more equitable rate-setting procedures.

The Energy Policy Task Force of the Consumer Federation of America strongly urges your support of these amendments.

Sincerely,

LEE C. WHITE,
Chairman.
ELLEN BERMAN,
Director.

COLUMBUS SOUTHERN,
Columbus, Ohio.

DEAR SHAREHOLDER: This quick note is written as a matter of extreme urgency. In order to protect your interests, it is imperative that you immediately write, call, or wire your Congressional Representatives in Washington and urge them to defeat any measure now being considered by the House Rules Committee to limit debate and amendments to the National Energy Policy Bill (H.R. 8444) which the House is expected to vote on the middle of this week (week of August 1).

It is vital that you do everything you can—and please urge your acquaintances to do likewise—to stop what amounts to a "railroading" of a national energy bill through the House that will effectively transfer regulation of all the electric utilities in the nation to the bureaucrats in Washington.

This House bill, as it now stands, will have the effect of raising electric rates by unsound rate re-structuring, needless regulatory delays at the federal level, and, most importantly, will thwart future economic and industrial growth by reducing or eliminating jobs for our people who will not have any—or not enough—electric energy to work with.

There are many aspects to this bill, but its essential thrust—and make no mistake about it—is an attempted power grab by Washington Federalists at the expense of the States.

Attached you'll find a summary of the National Energy Act as it now stands.

Perhaps the most damaging amendment calls for increasing control at the federal level . . . it endows the Federal Power Commission (FPC) with nearly all the responsibilities now being effectively managed at the state and local levels. We question what background the government brings to justify their taking over a predominant share of management authority of electric utilities in our state. Further, the reputation for efficiency and management expertise among Washington organizations leaves something to be desired.

Under these amendments, FPC would be supervising and reviewing ratemaking activities of the Public Utilities Commission of Ohio, significantly reducing the ability to address the problems of the people of the state of Ohio. FPC would have final decision on what kinds of power plants and what type of transmission lines are to be built and every other major factor that we believe is better decided by the people who built this state's electric service . . . decisions best monitored by a state regulatory body, like the Ohio Power Siting Commission or Ohio Environmental Protection Agency. Certainly one of our biggest concerns is that the regulatory process is too involved now. Building a generation station is about 60% paperwork and takes as long as 15 years to complete. With more federal control, more delays are inevitable.

Other amendments deal with stringent qualifications for directors of investor-owned utilities, subsidized residential rates, advertising suppression, et. al. Curiously enough, public-owned systems are all exempt from these amendments. We feel that these amendments do not coincide with the national energy objectives, and indeed are not compatable with President Carter's original proposal.

We feel that you should not be denied the right to have these issues given further examination.

Right now, this bill is in the hands of your Senators and Congressmen. We urge you to contact them and ask what purpose these proposed amendments will serve.

Do they fulfill the need for realistically priced energy or do they increase rates to pay for increased regulation?

Do these amendments effectively make local and state regulatory agencies into rubber stamp organizations?

Won't more regulatory delays cost jobs?

Are these anti-free enterprise amendments? We believe they are.

Your effort to discuss this matter with your Senator is of vital importance.

R. J. GRUESER.

MISSISSIPPI POWER & LIGHT CO.,
Jackson, Miss., July 22, 1977.

YOUR HELP IS NEEDED NOW! ENERGY PLAN THREATENS NATION!

To all Mayors of MP&L service area:

The very survival of the United States as a free nation is threatened by the administration's so-called "National Energy Act," now pending in the House of Representatives in H.R. 6831, "National Energy Act," and a companion piece of legislation in the Senate. It is a direct attack on a vast segment of the private enterprise sector of unbelievable magnitude!

Immediate contacts are needed now with Senators and Representatives in the Congress of the United States in opposition to this drastic legislation.

The proposals will result in energy famine for the United States, exorbitant prices, and ultimate nationalization of the energy industry. When this happens, the free enterprise system which has made our country great will be doomed! It is just that serious.

On the attached pages I have summarized briefly in my own words, but more importantly in the words of others, some of the implications of this legislation for you and for our country. You will note from parts of the attached materials that this program holds most serious dangers for the South and Southwest and should be vigorously opposed by people in these areas.

It is not a national energy plan; it is an energy famine plan; it is a doomsday plan.

Congress is going to act on this legislation in early August. (Because of this time consideration, it has not been possible to personalize this letter as I would have liked to do. Unless the American people are heard from, this legislation will become law.

I earnestly hope that you will contact Senators and Representatives in Congress in opposition to this legislation, and that you will communicate with friends, relatives and business connections in other parts of the country, urging them to do likewise.

Please reproduce the enclosed summary and send it to other officials and opinion leaders, if you think it will be helpful. In opposing these far-reaching proposals our company is not simply opposing the administration, but we are simply fighting for our customers and Mississippians as a whole.

Thank you for your efforts in helping to save your country.

Sincerely,

DONALD C. LUCKEN.

Enclosure.

EXHIBIT 2

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
Washington, D.C., September 30, 1977.

Hon. EDWARD W. BROOKE,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BROOKE: It has come to our attention that when S. 2114, The Public Utilities Regulatory Policy Act of 1977, comes to the Senate floor, you will offer an amendment which would provide and enlarge authority for Federal grants to assist regulatory commissions and non-regulated utilities such as electric cooperatives and municipally owned systems in improving rate design, load management techniques, and related energy conservation practices.

Rural electric cooperatives, together with the other segments of the electric utility industry are most anxious to cooperate with Federal authorities in conserving energy and in designing rate schedules, load management techniques, insulation programs, and other procedures calculated to achieve that purpose. The major difficulty, however, is that none of these concepts are susceptible to valid theoretical analysis. Therefore, the effectiveness of conservation oriented rate design and load management plans can only be proven by actual application in practice. In addition, there are very substantial differences between public response curves to various energy conservation techniques depending on the particular geographical locality and population mix to which they are applied. For all of these reasons we feel that the program which you propose for funding demonstration projects designed to measure the conservation effectiveness of various electric utility rate schedules, load management techniques and consumer premises insulation procedures would be extremely valuable.

The National Rural Electric Cooperative Association is the National service organization for over 900 non-profit cooperative type electric utility systems which serve more than 25 million consumers in the sparsely populated agricultural areas of 46 states. I am certain that our people will welcome your proposal and will be eager to participate in any program which it makes possible.

Very sincerely yours,

CHARLES A. ROBINSON, Jr.,
Deputy General Manager.

SEPTEMBER 30, 1977.

HON. EDWARD W. BROOKE,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BROOKE: I understand that when S. 2114, the Public Utilities Regulatory Policy Act of 1977, comes to the floor of the Senate you intend to offer an amendment which would continue and expand authority for Federal funding of demonstration projects designed to improve rate design, encourage load management, and develop conservation practices. American Public Power Association, which represents more than 1,400 local public power systems in 48 States, supports this goal.

The amendment would (a) make it clear that local public power systems and rural electric cooperatives are eligible to participate in Federal rate, load management, and conservation demonstration projects, and to receive financial and technical assistance in carrying out such efforts; and (b) extend for another two years and raise the level of authorized appropriations for grants for this program.

During Congressional hearings on portions of President Carter's national energy plan related to electric rates and conservation, APPA testified that:

"Federal leadership in encouraging conservation-oriented rate structures should be based on operating data from experimental programs that have effectively demonstrated their success in reaching target conservation goals. We support a continuation and expansion of sound Federal and locally supported experimental programs to weigh the effectiveness of load management and/or time differentiated rates. The current programs for rate structure and load management experiments now partially funded by FEA and ERDA should be greatly increased in number, types of systems involved, geographical areas and resource, and load mix.

"A Federal rate information program could provide a neutral arena to display the results of all ongoing rate experiments. The current arguments which have raged over various rate structures and their possible contributions to efficiency, conservation, and equity, are extremely difficult to evaluate. Often proponents of special approaches toward rate structures have contributed to this confusion by overselling the virtues and downplaying the weaknesses of their special points of view—and often, in extravagant statements. Such active partisan promotion of these views has often been useful, for otherwise it is possible that these ideas might not have been given the attention they deserved. The Federal government could play a vital role in providing "hard" information to all segments of the electric industry and to the general public concerning the impact of various proposed rate structures on power use and power costs. The industry and consumers generally would benefit from this service. Such a Federal rate information service should be factual, timely and unbiased. Assumptions, when they are required, should be totally revealed. The material should be presented in a clear and objective manner. The information should be based on the statistics which are gathered as part of Federal and local programs and in conjunction with electric rates and use data generally gathered by the government."

APPA believes that your suggested amendment to S. 2114 would help achieve these aims.

Enclosed for your information is a resolution on retail rates approved by APPA members at the Association's 1977 annual conference.

Sincerely,

LARRY HOBART.

PUBLIC CITIZEN,
Washington, D.C., September 28, 1977.

DEAR SENATOR: Public Citizen strongly urges you to support the amendments to S. 2214, the Public Utilities Regulatory Policy Act of 1977, offered by Senators Brooke, Cranston, Percy, Hart, Riegle, and Anderson.

When President Carter unveiled his energy plan, only one part provided the potential for direct dollar savings for consumers—reform of electric utility rates. The plan, as originally conceived, could have provided the following benefits:

1. Elimination of wasteful competition between the states for industry; which led to anti-consumer rate schedules;
2. Savings of 250,000 barrels of oil per day;
3. 50,000 megawatt reduction in capacity requirements; this translates into a $13 billion net savings in the cumulative capital requirements for the utility sector (one new nuclear plant has a capacity of 1,000 megawatts).

Unfortunately, the Energy and Natural Resources Committee eliminated much of the legislation, thereby undercutting the impetus for rate reform by the states and consumer savings. The proposed amendments would put the legislation back on track.

The arguments for reform are overwhelming. In recent years the electric utility industry has been afflicted with a number of complex problems. These include declining load factors, increasing fuel costs, rapidly rising costs of new capacity, lower than expected plant reliability and a virtual end to the economies of scale associated with increasing the size of generating plants. Load factor, the ratio of average utility load to peak load, is a measurement of the efficiency with which a utility uses its existing generating capacity. Between 1965 and the present, the average annual load factor has been declining—reflecting a substantial reduction in utility generation efficiency. In the past five years the cost of fuel has risen approximately 400%. Plant capacity costs continue to rise steeply as evidenced by a 68% rise, between 1970 and 1975, in the costs per kilowatt of new plant capacity.

This presents three problems. First, higher costs have meant much higher electric bills for the consuming public. Second, increasing inefficiency has resulted in consumption of scarce fuels and increasing U.S. reliance on imported fuels. Third, declining efficiency has resulted in a costly, and unnecessary, expansion of capacity.

While some utilities and States have begun experiments to eliminate the waste and inefficiencies, many have not. Unfortunately, many states assume, whether correctly or not, that significant reform of their electric utility rate structure would jeopardize their economic base. This belief has been strengthened by lobbying and other efforts by large industrial corporations in recent State debate on the question. Additionally for rate reform to be accomplished sensibly, it should be accompanied by the kinds of cost data which many regulatory authorities have neither required nor been furnished. And, finally rate design reform needs adequate and trained staff. Many state regulatory authorities have been understaffed and unable to implement rate design reform. For example, as late as the end of 1975, Delaware had only 7 full-time employees at its regulatory commission.

The amendments begin to address some of these problems. With funding for state commissions, some of the staffing problems will be removed. Voluntary guidelines will provide the state regulatory authorities with the necessary base of information to properly construct new and efficient rate structures; and finally, the Secretary of Energy should have the right to be a true advocate for reform, and therefore the right to appeal from those regulatory decisions which are arbitrary, capricious or not based on substantial evidence.

There are other amendments that also deserve your careful consideration. During the past winter, some senior citizens were not able to pay their very high utility bills. As a result, their electricity and/or gas was shut off. Injury and occasionally death resulted. To insure that this winter does not provide more such horror stories, an amendment will be introduced to require states to establish minimum procedures before service can be terminated.

There is almost unanimous agreement that centrally metered buildings use more energy than buildings with individual meters. An amendment will be introduced which will allow the Secretary to establish voluntary guidelines regarding master metering. In comparison tests, buildings with master meters used approximately 30% more energy.

To insure efficient use of scarce fuels, an amendment may also be offered which would encourage more efficient use of fuel and limit the waste potential of the fuel adjustment clauses. We encourage your support of this amendment as well.

None of these amendments undermine state authority. Rather they provide information and financial assistance to the states, and the prod of federal advocacy to insure that minimum reform occurs. These amendments would help make state regulation effective, rather than the sham it now so obviously is, and they promote the kind of economical use of energy that we should all support. A vote against these amendments or against the bill, in our view, will be a vote for utilities, big business, efficiency and energy waste.

Sincerely yours,

MARK GREEN.
MARTIN H. ROGOL.

DEPARTMENT OF ENERGY,
Washington, D.C., October 4, 1977.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: In response to your request for comments, the Administration supports the amendments you and your co-sponsors are offering to S. 2114, the proposed Public Utility Regulatory Policy Act. These amendments provide for:

Financial assistance for State regulatory agencies;

Voluntary guidelines with respect to ratemaking, automatic adjustment clauses, and master metering; and

Appeal rights for the Federal Government in cases where it intervenes pursuant to S. 2114.

I welcome these efforts to strengthen the capability of the Department of Energy to assist State utility agencies and increase the potential effectiveness of utility rate modernization efforts.

State efforts are needed to achieve energy savings and protect consumer interests but only a few State and local authorities have the necessary manpower and financial resources. Your proposed amendment would help overcome this problem.

The voluntary guidelines amendments preserve the primacy of the States in utility regulation and assure that State policies will not be mandated by the Federal Government. They provide, however, that the Federal Government will propose new procedures and the States will consider them.

The final amendment provides for appeal rights in those cases where the Federal Government intervenes in State regulatory proceedings, pursuant to S. 2114. If the Department of Energy is to be effective, it should have the right to appeal adverse rulings to State courts like any other party.

The Administration proposed and the House supported a different approach to utility rate modernization. If, however, the approach contained in S. 2114 were to be favored by Congress, it should be implemented in as effective a manner as possible. Your amendments would significantly assist in achieving this goal.

The amendments you and your co-sponsors have proposed would aid the Federal Government and State utility commissions to ensure that regulatory policies promote conservation in accord with the unique needs and circumstances of each State.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

[From the Washington Post, Sept. 19, 1977]

THE ENERGY BILL

President Carter's energy plan is now halfway through Congress, and it's time to take stock. As the legislation now stands, it provides neither a complete strategy for the next eight years, nor any great protection in the interim against foreign disruptions and price rises. The President's plan has one primary purpose: to reduce this country's dangerous dependence on foreign oil. The bill, as the House passed it, does not promise to reduce oil imports. It would only hold

down the rate at which things are getting worse. That is the central thought to keep in mind, as the Senate now threatens to throw out large sections of the plan.

The history of this massive bill, over the summer, is interesting mainly as further demonstration of the very narrow limits of political possibility in regard to energy. Most of Congress understands perfectly well the need to cut down. But it is exceedingly difficult to persuade people to make provision for a shortage of which there is no visible sign yet. There is also great uncertainty among the experts over the effects of rigorous energy conservation on the national economy. With the unemployment rate back up over 7 percent, not many people in Congress are inclined to try anything that might interfere with economic growth.

As it passed the House, the legislation would cut oil consumption mainly by pushing industry and utilities more heavily onto coal as their primary fuel. Most of the rest of the gain would be picked up through conservation. The method is a series of carrot-and-stick devices, mostly imposing higher prices, sometimes accompanying them with tax credits for investing in insulation or more efficient machinery.

The legislation has serious flaws, but some of them were inevitable. It is, for example, far too complex and rambling. But that only reflects the reality that the country has not arrived at any consensus on energy policy. The authors of the bill have attempted, as usual, to splice together various irreconcilable ideas of efficiency and fairness. That can't be remedied. But the Senate is in a position to fix another defect, the lack of strong incentives for new oil and gas production in the United States. The administration drew up the bill on the assumption that it was impossible to raise domestic production much, and a waste of money to try. That rather pessimistic judgment may well prove to be correct, but it deserves to be tested more vigorously than the House bill permits.

The outlook for this legislation in the Senate, unfortunately, is not promising. Last week the Energy Committee voted to throw out the whole section on electricity rates in response to a spurious states'-rights argument. If the senators do not like the tangled provisions of the House bill, they can improve its language. But it is absurd to say that there is no national interest in reforming rates to discourage wasteful and expensive patterns of using power. Beyond that, and much worse, a number of senators are now organizing an attack on the crude-oil tax that is basic to the whole Carter plan. The tax would raise the price of most oil products—including gasoline, but not home-heating oil—by 7 cents or more per gallon over the next three years.

If the crude-oil tax is defeated, there will be little left in the energy program but a slow-moving effort to push industries into greater use of coal. The Carter plan has consistently underestimated the difficulties of a widespread expansion of coal production and use. Shifting oil-fired industrial boilers to coal is a necessary part of a national energy plan. But, by itself, it is very far from adequate.

For all of its shortcomings, the House energy bill is a creditable and, you could even say, courageous attempt to meet a national danger that is genuine. The chances of working out a better bill next year are very poor, since 1978 is an election year. If the Senate now throws out large pieces of the bill, the effect can be measured in increased vulnerability of the American economy to the shocks and surges of a radically unstable world oil supply.

[From the Boston Globe, Sept. 16, 1977]

SHORTCIRCUITING REFORM

The Senate Energy Committee has cut out an important innovation in energy management by excising from the Administration's bill a provision for national guidelines for the regulation of electric utilities. Unless the proposal can be restored by amendment on the floor of the Senate, the House version should prevail when the bill goes to conference.

The main thrust of the Administration proposal was to make electric utilities charge rates that reflect more accurately the actual costs of generating the electricity and getting it to customers. It would have banned automatic reductions in rates for large users except where actual economies of scale could be demonstrated. It would have encouraged higher rates for users during peak hours and peak seasons. And it would have expanded consumer-complaint opportunities and limited the domination by bankers and businessmen of the boards of directors of utilities.

Utilities have fought the proposal with great vigor. Their complaints have centered on the inability of a national regulatory policy to reflect local conditions that are well understood by state regulatory commissions. It is at least refreshing to hear words of support for state commissions—not often voiced in recent years.

But the important principle involved in the bill is one of treating electric-rate reform on a national rather than a state-by-state basis. Last year an attempt was made in Massachusetts to introduce flat rates. The Globe opposed that proposal on the grounds that it would tend to place Massachusetts industry at a disadvantage with industries in neighboring states. The Administration proposal gets around that problem by guaranteeing that no state would gain undue advantage over any other by structuring below-cost rates for business to lure it from other areas.

There are aspects of the bill that could be argued. The provisions for limiting directorships seem overblown, for example. But opposition from the utility industry is also overblown—a reflection of its conservatism and resistence to change. Congress has an opportunity to work real rate reform into the energy bill and it should reverse the Senate Energy Committee's stand as soon as possible.

EMINENT DOMAIN AND THE MANDAN PROJECT

Mr. McGOVERN. Mr. President, the Senate has approved the seasonal diversity electricity exchange amendment to S. 2114—the Public Utilities Regulation Policy Act.

This amendment, essentially, provides for the constructing authority to utilize the power of eminent domain to obtain right-of-way and construction rights for a transmission line running between Manitoba, Canada, and certain points in Nebraska. It is basically for an exchange of power between the Nebraska Public Power District and the Province of Manitoba.

This line, however, will run through the States of North and South Dakota. The two principal cooperatives in the direct area involved, Basin Electric Power Cooperative of Bismarck, N. Dak., and the East River Electric Power Cooperative of Madison, S. Dak., have taken an "officially neutral" position on this line which is known as the "Mandan project."

This neutrality, however, does not—and should not—imply total agreement at this point with the concept of the Mandan project. We are obviously concerned that the Dakotas have an opportunity to participate in this power exchange to the full extent we are capable of doing so.

Basin Electric, while taking part in the feasibility study of the project, has not, thus far, signed on as an active participant. East River Electric which, to a degree, depends on Basin generating capacity, is not taking part. To me, this means we granted the right of eminent domain to a power line crossing two States, when the States are not participants in the power exchange at this time. Beyond that, I am somewhat troubled with the proposed extension of eminent domain authority in a matter such as this. South Dakota has not, in recent years, had a very good experience with mandatory acquisition of private land and/or right-of-way privileges.

For example, the Oahe irrigation project, whose funding for the current fiscal year was denied by the Senate, lost some degree of local support because of eminent domain. The proposal by the Energy Transportation Systems, Inc. (ETSI), for eminent domain authority to construct a coal/slurry pipeline from the western coal fields to Arkansas has not thus far found favor in the Congress.

A compelling case can be made that if this line has merit, that it could be constructed under a "willing buyer—willing seller" concept rather than reverting to the extraordinary procedure of eminent domain.

I very much hope that the proponents of the Mandan Line will be prepared to make some accommodation with power interests in South Dakota and North Dakota. Unless this is done, it is certainly possible that this matter may, again, be brought before the Congress.

Mr. JOHNSTON. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. JOHNSTON. It is the feeling of the majority and minority that we should not have any votes after 7 p.m. I am wondering whether we would be in a position to vote on any of the Senator's amendments prior to that time. If not, with the Senator's concurrence, we could announce there would be no more votes this evening.

Mr. BROOKE. No, we would not be able to vote prior to 7 p.m. on any of my amendments.

Mr. JOHNSTON. Very well. Could the Senator tell us when we would be in a position to vote on his first amendment?

Mr. BROOKE. We have several Senators who want to speak. This is the first amendment that I would call up, the one for which I had mentioned to the distinguished majority leader I needed 2 hours.

Mr. JOHNSTON. Will the Senator repeat that, please?

Mr. BROOKE. The majority leader and I had entered into an agreement, which was subsequently ratified by the Senate, that I will cut the time for my amendments to 1 hour, those that had 2 hours, with the exception of one amendment which requires 2 hours. The one that I will call up first requires 2 hours. There are other speakers on that amendment.

Mr. JOHNSTON. Is the Senator saying he would prefer to vote tomorrow?

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. I wonder if we can set a time to vote on the amendment. Would 10 o'clock be satisfactory? We are starting on the bill at 9 a.m.

Could we vote on the Senator's amendment at 10?

Mr. BROOKE. What time will the distinguished majority leader convene the Senate tomorrow morning?

Mr. ROBERT C. BYRD. We will start on the bill at 9 a.m. We may have some special orders. In any event, those special orders will be pushed ahead of 9 o'clock so we would begin at 9 o'clock on the Senator's amendment.

Mr. BARTLETT. I understand there will be a meeting for western Senators at the White House the first thing in the morning. I wonder if we can back it up to 11 o'clock and then proceed with the amendments of the Senator from Massachusetts.

Mr. ROBERT C. BYRD. I do not want to hold up votes. We have already used some of the time tonight. I would hesitate to say no votes until 11 o'clock because surely those Republicans will not be at the White House until 11 o'clock.

Mr. BARTLETT. They will be there at least until 10:30.

Mr. ROBERT C. BYRD. I would hope that we could vote at 10 o'clock. They are having breakfast, are they not?

Mr. BARTLETT. This is a meeting of the Western Senators, not Republican Senators.

Mr. BROOKE. I am trying to be of assistance to the distinguished majority leader.

Mr. ROBERT C. BYRD. I was hoping to set a vote for 10 o'clock, but perhaps we should just take it as it comes.

Mr. JOHNSTON. May we assure Senators that there will be no more votes tonight?

Mr. ROBERT C. BYRD. Yes. We will begin at 9 o'clock tomorrow morning on this bill. Can we agree on that?

Mr. JOHNSTON. Yes.

Mr. BARTLETT. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. Would there be any objection, if some Senators cannot be here, that we would just put it off a little bit?

Mr. ROBERT C. BYRD. We certainly want to do everything we can to accommodate the Western Senators. I thought it might be possible to agree on a vote at 10 o'clock. If we cannot, we will not persist in the effort. I thank the Senator for yielding.

Mr. President, if the Senator will allow me, I will note that there will be no more rollcall votes this evening.

Mr. BROOKE. Mr. President, I yield to the Senator from Illinois for a question.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, there has been a reversal in the economics of electric power generation in the last decade. Ten years ago electric companies were still building powerplants bigger and bigger, reaping thereby the benefits of economies of scale. Plenty of low-cost imported oil seemed to be available. Electric rates continued their historic decline.

Today, oil and gas markets are both sellers' markets. Engineers seem to have reached the limit of improvements in powerplant efficiency to be derived from building them bigger. General inflation, and attendant rises in the cost of money, have hit capital-intensive industries especially hard. Environmental damage from powerplants is something we are now willing to prevent, added cost notwithstanding. Electric bills have soared accordingly.

The basic economies of the utility industry have been fundamentally altered. Unfortunately, political and institutional change often lags economic change. Policies governing the electricity business have not caught up with the hard facts. Electric rates still encourage volume use of power by charging less per unit as consumption increases. Moreover, utilities have been reluctant to adopt rate schedules which charge customers according to the time of day they use electricity which could help lessen the impact of peak loads, in addition to how much they use it.

State regulatory commissions have the authority to implement electric rate reform, but two powerful barriers obstruct action. Rate reform within one State is extremely difficult: some businesses which benefit from volume discounts could pack up and leave. In addition, State public utility commissions often lack the expertise and funding to perform the arduous task of redesigning electric rates.

The result, as Dr. Chichetti of the Wisconsin Public Service Commission told the Energy Committee recently, is that only four States nationwide have implemented or are about to implement electric rates which reflect the true costs of providing service to different classes of customers.

Mr. President, the distinguished minority members of the House Committee on Interstate and Foreign Commerce made the following comment when reporting out its version of the utility rate reform bill:

> The basic principle of . . . basing electric utility rates on the cost of providing electric service is an eminently sound one. The cost-of-service principle strikes the appropriate balance between the need to provide adequate funds for the generation of electricity and the need to provide adequate price signals to consumers to avoid the wasteful use of electricity.

Mr. President, we must change the presumption of the status quo. Some Federal levers are needed to promote rate structure reform in order to conserve both energy and investment capital. That is why I support the Brooke amendments to the Public Utilities Regulatory Policy Act, S. 2114.

Mr. President, I also wish to state that I am sympathetic with those who oppose the House version of this utility reform legislation. That bill would set explicit Federal standards for the entire country. It would authorize the Federal Government to take over State regulatory functions and also to deprive electric utilities of needed rate increases in cases of noncompliance.

It is possible that the challenge of rate reform will at some future time prove so difficult that a largely expanded Federal role will be warranted. Today, however, I cannot in good conscience support a Federal takeover of so many State prerogatives. I therefore oppose the House version of the reform legislation.

At the same time, the utility legislation as reported by the Energy Committee will generate only paper, not action. The Department of Energy is directed to make annual reports to Congress on rate designs and their financial implications. DOE is given the authority to submit testimony in State evidentiary hearings, and to pay State commissions to collect data. I realize that to mandate studies is a politically low-cost solution to issues on which there are strong opposing views, but in this instance, such studies are worse than no action. They will delay urgently needed rate reform pending the outcomes of the studies. Such a situation is intolerable.

Mr. President, the Brooke amendments establish a formula which allows a Federal role before State commissions, but prevents actual takeovers of utility commission and electric company rights. The Secretary of Energy would be allowed to intervene in State rate hearings, as he would be under the Energy Committee bill, S. 2114. The Secretary would also have the right to set guidelines for cost-of-service-based rates in individual States.

Judicial review of State commission decisions could be sought in State courts. The Secretary of Energy could not seek temporary injunctions against utilities or commissions. Any actions taken would be civil, not criminal.

These amendments, unlike the Energy Committee bill, allow the Secretary to step into State ratemaking processes. Unlike the House bill, they do not allow the Secretary to step on the State commissions. It is because of this distinction that I support these amendments. I hope that my colleagues will join in a recognition of the need for electric rate reform.

Mr. President, I should like to propose a few questions to the author of the amendments (Mr. BROOKE).

I ask him, first, how many States today have cost-of-service electric rates?

Mr. BROOKE. I say to my distinguished colleague that some claim that they do. DOE says none really has established cost of service according to true economic principles.

Mr. PERCY. How many States have moved to eliminate volume discounts in rate structures?

Mr. BROOKE. Many have improved their structures, but none has generally eliminated it.

Mr. PERCY. How many States have time-of-day electric rates?

Mr. BROOKE. They have mandatory rates in some areas—New York, Wisconsin, California, and Michigan. One will have it next year; that is Virginia. Two have voluntary time-of-day rates. Those are Pennsylvania and Vermont.

Mr. PERCY. How about time-of-day electric rates for residential consumers?

Mr. BROOKE. I say to my colleague, none that I know of.

Mr. PERCY. So that, really, even though the utilities have a tremendous problem of raising money now for additional plant capacity, we still are not doing anything through the pricing mechanisms to really move us toward minimizing the peak loads. It is the peak loads that require the capacity now.

My distinguished colleague confirms,

then, that very little is being done. So leaving it to the States simply is not an adequate answer. The States are not doing enough.

Mr. BROOKE. Precisely.

Mr. PERCY. The States have rights, but the States are sitting on those rights. Certainly, if we ever had a national problem, we have one in the energy problem. It us up to the Federal Government to say that this is now established national policy. The States must then conform to that and adapt their policy so it meets the national need. Is that right?

Mr. BROOKE. That is exactly correct. My distinguished colleague has stated the case very clearly and succinctly.

I might add to what he has said that we are not even trying, as some have said, to regulate at all. We are not trying to take the regulation away from the States. We are merely hereby establishing national guidelines that they can follow. They should take them under serious consideration, to be sure, but they are not even mandated under this amendment to take those national guidelines. But they must give them serious consideration.

That is the very least that can be done in order to get the States moving, because, as the distinguished Senator from Illinois has said, the States are not doing it.

Mr. PERCY. Has not the distinguished Senator from Massachusetts heard that same old refrain many, many times before—States' rights, leave those rights to the States, let the States, in their sovereign capacity, act? We have adopted a consensus that we have a national problem—certainly the Congress, the President, and every one else realizes that we have an energy problem. We have it, and it has been imposed upon us from the outside, by our own consumption, and by our failure to take into account that energy supplies are finite, not infinite. In times past, have we ever really moved on a problem until we said, "Look, we have a problem, now let us adopt a policy and have the States conform to that?" Is that not true in this very case?

Mr. BROOKE. Exactly.

Mr. PERCY. How many State public utility commissions have held hearings on rate structures, and then declined to implement them? And what were the reasons for the negative decisions?

Mr. BROOKE. I touched on this subject in my opening statement. Twelve States have refused to act after holding hearings on rate reform. They all pleaded lack of knowledge of the impact of their decisions.

Mr. PERCY. Can the distinguished Senator from Massachusetts give us any indication as to reports that have told us how much energy and money we would save from full implementation of rate reform? What is the potential saving?

Mr. BROOKE. Yes. The Project Independence energy information system says 250,000 barrels a day; that is $13 billion net savings.

Mr. PERCY. The distinguished Senator knows that both the Commerce Committee and the Committee on Governmental Affairs have been studying regulatory reform for the past year or so. One of the recurring problems that comes up is the delay involved in the whole regulatory process. I want to be absolutely certain that we understand the implications of the distinguished Senator's amendments, as to whether they would contribute to regulatory delay.

The investment community, for instance, is seriously worried that the Dingell-Moffett provisions in H.R. 8444 would delay rate proceedings and cause serious financing problems. This certainly is of great interest to a Senator representing the investment community in Boston. James O'Connor of Commonwealth Edison in Chicago informs me that his company considers delay in proceedings, and the financing problems that might result, to be very serious. Would the Senator's amendments cause any delay in regulatory proceedings?

Mr. BROOKE. Let me assure the distinguished Senator from Illinois that it would not. My answer is emphatically no. The Secretary would be just one more party in a scheduled proceeding. While consideration of rate policy issues may take longer than passing on simple increases, that hardly qualifies as redtape bureaucracy.

I think that would be an appropriately deliberate process, so I do not think we have to worry. I think the investment community should be relieved of its fears, because there is no necessity for it at all by this provision in the bill.

Mr. PERCY. Would the Secretary of Energy be allowed to become a party to a suit in which one of the parties asked for an injunction against an electric company?

Mr. BROOKE. No, the Secretary can only be a party to the appeal. I want to make that clear, because that question has been raised by some of my other colleagues. He is only a party to the appeal. He is not allowed to seek an injunction. If another party seeks an injunction, the Secretary cannot support the request.

The PRESIDING OFFICER. The Senator's 30 minutes have expired.

Mr. BROOKE. I ask for an additional 2 minutes.

Mr. BARTLETT. I yield an additional 2 minutes to the distinguished Senators.

Mr. BROOKE. The Senator from Illinois has had long experience in the business community, with a very distinguished record as an executive of Bell and Howell. He is very knowledgeable about business matters. I would like to ask how he feels about the economic effect of these statements?

Mr. PERCY. I have taken a look at this. Incidently, I wish to state for the record that I did not do this by traveling around in Bell & Howell corporate jets. They are nonexistent, I understand. But I have made a few surveys.

James O'Connor, whom I have mentioned already, of Commonwealth Edison, and other utility industry figures, oppose the House provisions because of concern about delay in regulatory proceedings. To allow the Federal Government to preempt State commissions, and to hold rate increases hostage, creates such problems.

But the Brooke amendments allow no injunctive relief, and no preemption. DOE would have no rights in a proceeding other than those granted any other intervenor. The Brooke amendment will not lead to delay, so far as the Senator from Illinois can determine.

Dr. Irwin Stelzer, vice president of National Economic Research Associates, a utility consulting firm says there can be no effect on utility financing if there is no delay. He feels the Brooke amendments are acceptable.

Mr. Tony Osborne, utility analyst with Salomon Bros., says since the amendments create no authority to affect a final determination in a rate case, they create no problems.

James McCabe and John Kellenyi, utility analysts from Donaldson, Lefkin & Jenrette, have written that the President's proposals, which go much further than the Brooke amendments, would have no adverse impact on utilities' ability to raise capital.

So I think the evidence is rather conclusive there would be no adverse effect whatever on raising capital.

Mr. BROOKE. I thank my distinguished colleague. I have always respected his business acumen, and those others who he cited in his remarks. It gives me encouragement.

I assure him and others that is my intent with these amendments. I am very pleased to have him say unequivocally this would not be an adverse economic effect.

So I am most pleased to have shared in this colloquy with my distinguished colleague from Illinois. I thank him for his original statement, for his responses, and for his questions.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BARTLETT. Mr. President, I ask unanimous consent that there be a quorum call with neither side being charged time.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. Will the Senator withhold that?

Mr. BARTLETT. Yes, I withold it.

Mr. BROOKE. Mr. Persident, I would like to say to the distinguished majority leader, in view of the fact that I have had a colloquy on the floor already with one of the Senators, I will enter into a unanimous-consent agreement for all of my amendments to be reduced to an hour, if that would be helpful.

Mr. ROBERT C. BYRD. May I say that I have been asked by Senator DURKIN to not enter into any agreement on any amendments while he was off the floor.

But I thank the Senator for his consideration.

The PRESIDING OFFICER. Who yields time?

Who yields time? Time will be charged to both sides.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 1522) to increase the appropriations authorized for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. Res. 286. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 897. Referred to the Committee on the Budget.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 2100. A bill for the improvement of Roberts Field, Redmond, Oregon (Rept. No. 95-470).

By Mr. CRANSTON, from the Committee on Human Resources:

With an amendment:

S. 2108. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes (Rept. No. 95-471).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary: Roy A. Smith, of Ohio, to be U.S. marshal for the southern district of Ohio.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama.

M. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri.

Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado.

Edward N. Kellikoa, of Hawaii, to be U.S. marshal for the district of Hawaii.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida.

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois.

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern district of Illinois.

Edward H. Johnstone, of Kentucky, to be U.S. district judge for the western district of Kentucky.

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia.

Thomas Tang, of Arizona, to be U.S. circuit judge for the ninth circuit.

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois.

Hugh H. Brownes, of New Hampshire, to be U.S. circuit judge for the first circuit.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the third circuit.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that he presented the following enrolled bills to the President of the United States:

On September 30, 1977:

S. 1435. An Act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act; and

On October 5, 1977:

S. 667. An Act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 2174. A bill to permit the leasing and transfer of flue-cured tobacco allotments or quotas in certain disaster areas for the year in which such disaster occurred; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 2175. A bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency; to the Committee on Finance.

By Mr. STONE (for himself and Mr. CHILES):

S. 2176. A bill to provide for the establishment of a Veterans' Administration outpatient clinic in Broward County, Florida; and

S. 2177. A bill to provide for the construction of a Veterans' Administration hospital in Broward County, Florida; to the Committee on Veterans' Affairs.

By Mr. ZORINSKY:

S. 2178. A bill for the relief of Mrs. Maria Avola; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 2179. A bill to permit pharmacists to use generic drugs in the filling or refilling of prescriptions made by physicians; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 2174. A bill to permit the leasing and transfer of Flue-cured tobacco allotments or quotas in certain disaster areas for the year in which such disaster occurred; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. THURMOND. Mr. President, I am introducing legislation today which will allow the Secretary of Agriculture to permit the lease and transfer of Flue-cured tobacco allotments and quotas across county lines when farmers in certain areas have suffered a substantial loss to their tobacco crop. The bill is designed to assist producers of Flue-cured tobacco who have incurred damage to their tobacco crop from inclement weather or other natural disaster conditions. Under current legislation, transfer of Flue-cured tobacco allotments across county lines is prohibited under any circumstances.

Mr. President, a substantial loss in their tobacco crop places many farmers in a financial strain. They are in need of working capital for the next crop year, and can obtain some of this by leasing their unused poundage to some other producer who was fortunate enough to have produced excess tobacco. In some instances, such an arrangement may enable the farmers who have suffered a loss to continue their farm operations.

Mr. President, legislation was adopted in 1973, 1974, and 1976 which would allow the cross-county transfer of tobacco quotas or allotments for that year. Cross-county leases were allowed when one or more counties experienced a loss of 10 percent or more in the number of acres planted or expected production from the planted acreage and when the leases and transfer would not impair the effective operation of the tobacco marketing quota or price support program. Specifically, this legislation would give the Secretary of Agriculture the permanent authority to permit the transfer of Flue-cured tobacco quotas for any year when certain emergency conditions exist. It would allow owners and operators of a farm which has suffered a loss of 10 percent or more in the number of acres of tobacco planted or the expected production from the planted acreage in a qualifying county to make transfers. Transfers could be made to a farm in the same or any other county within the same State and to a farm having a current tobacco allotment or quota of the same kind of tobacco.

In the past, by the time the need for this type emergency legislation was established and legislation could be introduced and acted upon, it was not in time to be of any help to the farmers who needed it. For example, just this year legislation has been introduced in the House of Representatives, H.R. 9143, which would allow the cross-county transfer of tobacco quotas for 1977 for certain disaster areas in South Carolina. However, the tobacco markets in South Carolina will be closing in just a couple of weeks, and it does not appear the schedule in the House and Senate will permit passage of this legislation.

Additional impetus is given to the need and justification for the legislation I am introducing by a letter dated September 21, 1977, from the Secretary of Agriculture, the Honorable Bob Bergland, to the chairman of the House Agriculture Committee, the Honorable Thomas

S. Foley. The letter, in reference to the position of the Department of Agriculture on H.R. 9143, notes similar legislation was introduced in 1973, 1974, and 1976. In addition, the Secretary states:

In light of these experiences, it would appear more appropriate to enact legislation authorizing cross-county transfers under specified disaster conditions and not specify counties, States and crop years.

Mr. President, the legislation I am introducing offers a solution to the problems associated with enacting emergency cross-county leasing in certain years for specified areas while maintaining the intent and spirit of emergency cross-county leasing of tobacco. This legislation would be of great benefit, in years of disastrous weather conditions, to tobacco farm families by allowing them to transfer their unused tobacco quotas across county lines.

Mr. President, I send the bill to the desk, and ask unanimous consent that it be referred to the appropriate committee for prompt consideration, and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 316(i) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1314b(i)), is amended to read as follows:

"(i)(1) Notwithstanding any other provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines that with respect to any crop of flue-cured tobacco—

"(A) any county has suffered a loss of 10 per centum or more in the number of acres of such tobacco planted (or expected production from planted acreage), and

"(B) that a lease of all or a portion of the flue-cured tobacco allotment or quota of such county will not impair the effective operation of the marketing quota or price support program,

the Secretary may permit the owner or operator of any farm within any such county which has suffered a loss of 10 per centum or more in the number of acres of flue-cured tobacco planted (or expected production from the planted acreage) of such crop to lease all or part of the allotment or quota for such farm to any other owner or operator in the same county, or other county within the same State, for use in such same county or other county in such crop year on a farm or farms having a current flue-cured tobacco allotment or quota.

"(2) In no case may a lease and transfer be made under this subsection of all or part of a farm acreage allotment or quota between farms in two different counties unless one or both of such counties has suffered a loss as described in clause (B) of paragraph (1) of this subsection.

"(3) In the case of a lease and transfer by an owner or operator in one county to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.".

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 2175. A bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency; to the Committee on Finance.

Mr. DURKIN. Mr. President, ever since the first OPEC oil embargo, the economic life of new Hampshire and New England has hung by a slender thread, our industry and consumers forced to depend on unpredictable and expensive imports for over half our oil needs. We can neither live with nor without that oil.

Now, energy czar James Schlesinger threatens the administration will cut that thread by imposing $5 per barrel fee on imported oil if the Congress doesn't enact a tax on domestic crude oil. Secretary Schlesinger's threat, if realized, would be nothing less than a declaration of economic warfare on the people of New Hampshire and New England. That being the case, I hope to deny the administration the ammunition they need to fire the first shots across our bow.

Today Senator HATHAWAY and I are introducing legislation to amend the Trade Expansion Act of 1962, as amended, to prevent the administration from imposing additional fees on imported oil. Congressman MARKEY is introducing an identical measure in the House.

Because we in New Hampshire and New England import more than half our oil, and are more dependent on imports than any other region of the country, a proposal to cut oil imports is a proposal to cut our supplies. A proposal to add a $5 per barrel fee on imported oil is a proposal to increase our cost of gasoline, to increase our cost of home heating oil, and to increase our cost of electricity, which is already the highest in the country. It is a proposal to send shock waves of inflation rippling throughout our entire New England economy. With many New Hampshire and New England citizens going into debt to pay this year's energy bills, it is unthinkable to so substantially increase next year's energy bills.

Additionally, to do so would be to deny what has allegedly been a guiding principle of the President's energy program from its inception—equity. Addressing a variety of regional and economic differences between various energy consumers, the program purports to make all citizens bear equally the sacrifices we will be asked to make. I have been given the President's personal assurances that New Hampshire and New England would be asked for no more than any other region and that the disproportionate energy-cost burden we bear would be alleviated. This is essential to creating a comprehensive and effective energy policy which can unite the Nation around this critical issue. And yet, Secretary Schlesinger tells us the administration is considering a regionally discriminatory import fee, without even the benefit of congressional consideration.

Our amendment, which is in keeping with the equitable principles expressed by President Carter, would prevent the administration from imposing any tariff, duty, fee, or other exaction on imported oil.

Mr. President, this amendment merely says that if we are to enact a comprehensive national energy policy, it must be a policy which does not shift the economic burden to one region of the country but rather distributes it evenly throughout the country. This amendment represents fundamental fairness, and I urge its passage.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That this Act may be cited as the "Imported Oil Tax Prohibition Act of 1977."

SEC. 2. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the President shall have no authority to impose any tariff, duty, fee or other exaction nor otherwise adjust imports of petroleum or petroleum products other than for periods for which—

"(A) the Congress declares war,

"(B) United States Armed Forces are introduced into hostilities pursuant to specific statutory authorization,

"(C) a national emergency is created by attack upon the United Sttaes, its territories or possessions, or its armed forces, or

"(D) United States Armed Forces are introduced into such hostilities, situations, or places, or are enlarged in any foreign nation, under circumstances which require a report by the President to the Congress pursuant to section 4(a) of the War Powers resolution (50 U.S.C. 1453(a)).

Mr. HATHAWAY. I am pleased to join with Senator DURKIN in introducing this bill to restrain the authority of the President to impose tariffs or duties on imported petroleum products.

On Sunday, October 2, Secretary of Energy Schlesinger threatened to impose a duty on imported oil if Congress failed to adopt the administration's proposed crude oil equalization tax. This is a case of political blackmail. It goes to the heart of New England. The proposed import duty would add $15 billion to the cost of energy in the Northeast, an area with energy costs 30 percent higher than the rest of the Nation.

The President currently has authority to adjust imports under the Trade Expansion Act of 1962, subject to a resolution of disapproval by the Congress. In 1976, the Supreme Court upheld the authority of President Nixon to impose a $2 per barrel duty on crude oil imports.

The bill I am introducing today would amend the Trade Expansion Act to prohibit any tariff, duty, fee or other exaction from being imposed on petroleum or petroleum products after September 30, 1977.

This legislation is necessary to protect the residents of Maine, of the Northeast, and of the country in general, from an arbitrary and capricious use of power by the President attempting to force us to adopt an energy plan which he and his advisers believe to be in the national interest. Clearly, there is room for differing opinions in energy; but there is no room for a railroad policy which is inimicable to the interest of our constituents and our States.

I ask that the text of FEA against Algonquin SNG, Inc. and the analysis of the joint committee concerning oil imports from the Finance Committee staff study No. 6 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

III. OIL IMPORTS

1. BACKGROUND

The Trade Expansion Act of 1962,[1] delegates to the President discretionary authority to adjust imports to the extent which he deems necessary so that they will not threaten to impair the national security.[2]

Adjustments to limit imports may take the form of either equantitative restrictions, called quotas, or monetary exactions, usually called tariffs, duties, or import license fees.[3]

Currently, specific import license fees of 21 cents and 63 cents are imposed on each barrel of imported crude petroleum or petroleum products, respectively. Statutory import duties of 5 or 10 cents per barrel, depending on the gravity of the oil, are also imposed. However, these duties reduce the amount of the import license fees.

Under the present crude oil entitlements program for U.S. refiners, the average price paid by domestic refiners for a barrel of crude oil is lower than the world price for oil because the entitlements bought and sold by the U.S. refiners results in their cost being an average of all prices paid for crude oil (both domestic and foreign) by all U.S. refiners. The foreign crude oil price used in determining the average price for the present entitlements program does not reflect the cost of the import license fees imposed on foreign crude oil brought into the United States. As a result, U.S. refiners of lower price domestic oil pay refiners of imported crude an entitlement which does not reflect U.S. import fees. Thus, refiners of domestic oil benefit more from the entitlements program than do U.S. refiners of foreign oil because the entitlement program does not require refiners of domestic crude to compensate refiners of foreign crude for the import fees paid by the latter.

The proposed crude oil equalization tax includes the import fees on imported crude in determining the world or market price. Thus, U.S. refiners of domestic crude would lose their current relative advantage vis a vis U.S. refiners of foreign crude.

Some domestic refiners contend that the proposed crude oil tax could put U.S. refiners, who would pay a price equal to the world price plus U.S. import fees for oil, at a disadvantage compared to their current position vis a vis foreign refiners. Some fear that this will result in an increase in foreign refining and more imports or refined petroleum products into the United States with a concomitant decrease in U.S. refining.

On an overall basis, the competitive position of U.S. refiners vis à vis foreign refiners depends on all costs, including, for example, transportation, labor, and taxes, and not just one expense item alone. Therefore, any effects of a crude oil tax on imported products is hard to predict, and even more difficult to measure. Moreover, the President might exercise his authority to adjust import fees, duties, and tariffs (or to impose quotas) if he determines that imports, such as refined petroleum products, threaten to impair the national security.

2. PRESENT LAW

In determining whether any imports threaten to impair the national security, the Trade Expansion Act of 1962 specifically requires the President to consider, without excluding other relevant factors:

(1) domestic production needed for projected national defense requirements;

(2) the capacity of domestic industries to meet projected national defense requirements;

(3) existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense;

(4) the requirements of growth of industries, supplies and services essential to the national defense, including the investment, exploration, and development necessary to assure such growth; and

(5) the importation of goods in terms of their quantities, availabilities, character, and use as those affect industries essential to the national defense and the capacity of the United States to meet national security requirements.

In administering actions taken under this authority, the President must also recognize the close relation of the U.S. economic welfare to national security, and must consider the impact of foreign competition on the economic welfare of individual domestic industries. In addition, any substantial unemployment, decrease in Government revenues, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports are to be considered, without excluding other factors, in determining whether such weakening of the U.S. internal economy may impair the national security.

[No. 75-382. Argued April 20, 1976—Decided June 17, 1976]

FEDERAL ENERGY ADMINISTRATION ET AL. v. ALGONQUIN SNG, INC., ET AL., CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Section 232(b) of the Trade Expansion Act of 1962, as amended by the Trade Act of 1974, provides that if the Secretary of the Treasury finds that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the President is authorized to "take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not threaten to impair the national security." When it appeared that a prior program established under § 232(b) for adjusting oil imports was not fulfilling its objectives, the Secretary of the Treasury initiated an investigation. On the basis of this investigation the Secretary found that crude oil and its derivatives and related products were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security, and accordingly recommended to the President that appropriate action be taken to reduce the imports. Following this recommendation, the President promptly issued a Proclamation, *inter alia*, raising the license fees on imported oil. Thereafter, respondents—eight States and their Governors, 10 utility companies, and a Congressman—brought suits against petitioners challenging the license fees on the ground, *inter alia*, that they were beyond the President's authority under § 232(b). The District Court denied relief, holding that § 232(b) is a valid delegation to the President of the power to impose license fees on imports, and that the procedures followed by the President and the Secretary in imposing the fees fully complied with the statute. The Court of Appeals reversed, holding that § 232(b) does not authorize the President to impose a license fee scheme as a method of adjusting imports, but encompasses only the use of "direct" controls such as quotas. *Held:* Section 232(b) authorizes the action taken by the President. Pp. 558–571.

(a) Section 232(b) does not constitute an improper delegation of power, since it establishes clear preconditions to Presidential action, including a finding by the Secretary of the Treasury that an article is being imported in such quantities or under such circumstances as to threaten to impair the national security. Moreover, even if these preconditions are met, the President can act only to the extent he deems necessary to adjust the imports so that they will not threaten to impair the national security, and § 232(c) sets forth specific factors for him to consider in exercising his authority. Pp. 558–560.

(b) In authorizing the President to "take such action and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," § 232(b)'s language clearly grants him a measure of discretion in determining the method used to adjust imports, and there is no support in the statute's language that the authorization to the President to "adjust" imports should be read to encompass only quantitative methods, *i.e.*, quotas, as opposed to monetary methods, *i.e.*, license fees, of effecting such adjustments; so to limit the word "adjust" would not comport with the range of factors that can trigger the President's authority under § 232(b)'s language. Pp. 561–562.

(c) Furthermore, § 232(b)'s legislative history amply indicates that the President's authority extends to the imposition of monetary exactions, *i.e.*, license fees and duties, and belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to confine the President's authority to the imposition of quotas and to bar him from imposing a license fee system such as the one in question. Pp. 562–571.

171 U.S. App. D.C. 113, 518 F. 2d 1051, reversed and remanded.

Marshall, J., delivered the opinion for a unanimous Court.

Solicitor General Bork argued the cause for petitioners. With him on the briefs were *Assistant Attorney General Lee, Mark L. Evans, Leonard Schaitman,* and *David M. Cohen.*

Francis X 'Bellotti, Attorney General of Massachusetts, and *Harold B. Dondis* argued the cause for respondents. With them on the brief were *S. Stephen Rosenfeld* and *Thomas R. Kiley,* Assistant Attorneys General, *James S. Hostetler, William F. Griffin, Jr.,* and *William R. Connole.*[*]

Mr. Justice Marshall delivered the opinion of the Court.

Section 232(b) of the Trade Expansion Act of 1962, 76 Stat. 877, as amended by § 127(d) of the Trade Act of 1974, 88 Stat. 1993, 19 U.S.C. § 1862(b) (1970 ed., Supp. IV), provides that if the Secretary of the Treasury finds that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the President is authorized to

"take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not threaten to impair the national security."[1]

All parties to this case agree that § 232(b) authorizes the President to adjust the imports of petroleum and petroleum products

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[1] Public Law 87–794 (as amended).

[2] Section 232(b).

[3] In *Federal Energy Administration* v. *Algonquin SNG, Inc.* 426 U.S. 548 (1976), the Supreme Court upheld as proper under section 232(b) of the Trade Expansion Act of 1962, Presidential action changing from adjustment of oil imports through quotas to adjustment through the imposition of monetary exactions called import license fees.

Footnotes at end of article.

by imposing quotas on such imports. What we must decide is whether § 232 (b) also authorizes the President to control such imports by imposing on them a system of monetary exactions in the form of license fees.

I

The predecessor statute to § 232(b) was originally enacted by Congress as § 7 of the Trade Agreements Extension Act of 1955, c. 169, 69 Stat. 166, see n. 21, *infra*, and amended by § 8 of the Trade Agreements Extension Act of 1958, Pub. L. 85-686, 72 Stat. 678. The advisory function currently performed under § 232(b) by the Secretary of the Treasury was performed by the Director of the Office of Defense Mobilization (ODM) under the 1955 and 1958 statutes. But, like § 232(b), those statutes allowed the President, on a finding that imports of an article were threatening "to impair the national security," to "take such action as he deem[ed] necessary to adjust the imports of [the] article. . . ." In 1959, President Eisenhower, having been advised by the Director of ODM that "crude oil and the principal crude oil derivatives and products are being imported in such quantities and under circumstances as to threaten to impair the national security,'" invoked the 1958 version of the provision and established the Mandatory Oil Import Program (MOIP). Presidential Proclamation No. 3279, 3 CFR 11 (1959–1963 Comp.). The MOIP, designed to reduce the gap between domestic supply and demand by encouraging the development of domestic production and refinery capacity, imposed a system of quotas on the importance of petroleum and petroleum products.

The program was not wholly successful, however, and in the face of domestic consumption which continued to grow faster than domestic production, Presidents Kennedy, Johnson, and Nixon each felt compelled to amend it by raising the permissible quota levels. App. 211–212.

In light of a Cabinet task force conclusion that the MOIP, as then constituted, was not fulfilling its objectives,[2] President Nixon, acting pursuant to § 232(b), radically amended the program in 1973. Presidential Proclamation No. 4210, 3 CFR 31 (1974). The President suspended existing tariffs on oil imports and provided "for a gradual transition from the existing quota method of adjusting imports of petroleum and petroleum products to a long-term program for adjustment of imports of petroleum and petroleum products through . . . the institution of a system of fees applicable to imports of crude oil, unfinished oils, and finished products . . ." *Id.*, at 32. This amended program established a gradually increasing schedule of license fees for importers. With respect to crude oil, the fee was scheduled to increase from an initial 10½ cents per barrel on May 1, 1973, to 21 cents per barrel on May 1, 1975. With respect to most finished petroleum products, the fee was to rise gradually from 15 cents per barrel on May 1, 1973, to 63 cents per barrel on November 1, 1975.[3] *Id.*, at 36. While initially some oil imports were exempted from the license fee requirements, the exemption levels were scheduled to decrease annually so that by 1980 the fees would be applicable to all oil imports.

President Nixon's 1973 program apparently did not wholly fulfill the objectives to which it was directed. Accordingly, the Secretary of the Treasury, acting pursuant to § 232(b), see n. 1, *supra*, initiated an investigation on January 4, 1975, "to determine the effects on the national security of imports of petroleum and petroleum products." Memorandum from Secretary of the Treasury Simon to Assistant Secretary of the Treasury MacDonald (Simon Memorandum), App. 154. While § 232(b) directs the Secretary "if it is appropriate [to do so, to] hold public hearings or otherwise afford interested parties an opportunity to present information and advice" as part of such an investigation, 19 U.S.C. § 1862 (b) (1970 ed., Supp. IV) the Secretary found that such procedures would interfere with "national security interests" and were "inappropriate" in this case. Simon Memorandum, App. 154. The investigation therefore proceeded without any public hearing or call for submissions from interested governmental parties.

The Secretary submitted a report on his investigation to President Ford on January 14, 1975. Intimating that the measures then in force under § 232(b) had indeed not solved the problems to which they were directed, the Secretary indicated that the United States' dependence on foreign oil had continued to increase since 1966 and that foreign sources currently accounted for well over a third of domestic consumption. The Secretary concluded that

"crude oil, principal crude oil derivatives and products, and related products derived from natural gas and coal tar are being imported into the United States in such quantities as to threaten to impair the national security [and] the foregoing products are being imported into the United States under such circumstances as to threaten to impair the national security." App. 133.

On the basis of these findings, the Secretary recommended to the President that

"appropriate action be taken to reduce imports of crude oil, principal crude oil derivatives and products, and related products derived from natural gas and coal tar into the United States. . . ." *Ibid.*

The President agreed with the findings of the Secretary's investigation and concluded that it was necessary and consistent with the national security to further discourage importation into the United States of petroleum, petroleum products, and related products. . . ." Presidential Proclamation No. 4341, 3A CFR 2 (1975). Invoking § 232(b), he issued a Proclamation on January 23, 1975, which, effective immediately, raised the so-called "first-tier" license fees that were imposed in 1973, see *supra*, at 553, to the maximum levels previously scheduled to be reached only some months later.[4] Presidential Proclamation No. 4341. The Proclamation also imposed on all imported oil, whether covered by the first-tier fees or not, a supplemental fee of $1 per barrel for oil entering the United States on or after February 1, 1975. The supplemental fee was scheduled to rise to $2 a barrel for oil entering after March 1, 1975, and to $3 per barrel for oil entering after April 1, 1975.[5] Finally, the Proclamation reinstated the tariffs that had been suspended in April 1973. Soon after issuance of the Proclamation, the Federal Energy Administration (FEA) amended its oil import regulations in order to implement the new program. 40 Fed. Reg. 4771–4776 (1975).

Four days after the Proclamation was issued, respondents—eight States and their Governors,[6] 10 utility companies,[7] and Congressman Robert F. Drinan of Massachusetts—challenged the license fees in two suits filed against the Secretary of the Treasury, the Administrator of the FEA, and the Treasurer of the United States in the United States District Court for the District of Columbia. Seeking declaratory and injunctive relief, they alleged that the imposition of the fees was beyond the President's constitutional and statutory authority, that the fees were imposed without necessary procedural steps having been taken, and that petitioners (hereinafter the Government) violated the National Environmental Policy Act of 1969 (NEPA) 83 Stat. 852, 42 U.S.C. § 4321 *et seq.*, by failing to prepare an environmental impact statement prior to the imposition of the fees.

The District Court denied respondents' motions for preliminary injunctions and filed findings of fact and conclusions of law which, at the request of respondents, it later declared to be final. See 171 U. S. App. D. C. 113, 124, 126, 518 F. 2d 1051, 1062, 1064 (1975) (appendix to dissenting opinion in Court of Appeals). The court found that § 232(b) is a valid delegation to the President of the power to impose license fees on oil imports. *Id.*, at 128–129, 518 F. 2d, at 1066–1067. It further ruled that the procedures followed by the President and the Secretary of the Treasury in imposing the license fees fully conformed to the requirements of the statute. *Id.*, at 130, 518 F. 2d, at 1068. Finally, the court held that "in view of the emergency nature of the problem and the need for prompt action," *id.*, at 131, 518 F. 2d, at 1069, the Government was not required to file an environmental impact statement prior to imposition of the fees and hence was not in violation of the NEPA. *Ibid.*

Respondents appeals from these judgments were consolidated with their petitions to the Court of Appeals for the District of Columbia Circuit for review of the FEA regulations implementing the license fee program. The allegations in the challenges to the regulations were substantially the same as those raised in the District Court actions, adding only a contention that the FEA had failed to follow certain procedural provisions of the Federal Energy Administration Act, 88 Stat. 97, 15 U.S.C. §§ 761 *et seq.* (1970 ed., Supp. IV). The Court of Appeals, with one judge dissenting, held that § 232(b) does not authorize the President to impose a license fee scheme as a method of adjusting imports. 171 U.S. App. D. C. 113, 518 F. 2d 1051 (1975). According to the court, reading the statute to authorize the action taken by the President "would be an anomalous departure" from "the consistently explicit, well-defined manner in which Congress has delegated control over foreign trade and tariffs." *Id.*, at 117, 518 F. 2d, at 1055. In the court's view, § 232 (b)'s legislative history indicated that Congress' authorization of the President to "adjust the imports of [an] article" encompassed only the use of "direct" controls such as quotas and did not encompass the use of license fees. *Id.*, at 121, 518 F. 2d, at 1059. Finding no need to address any of the other issues that were raised, the court reversed the judgment of the District Court, instructed that court to enter appropriate relief for respondents, and set aside the challenged FEA regulations.

We granted the Government's petition for certiorari, 423 U.S. 923 (1975),[8] and now reverse. Both the language of § 232(b) and its legislative history lead us to conclude that it authorizes the action taken by the President in this case.[9]

II

A

Preliminarily, we reject respondents' suggestion that we must construe § 232(b) narrowly in order to avoid "a serious question of unconstitutional delegation of legislative power." Brief for Respondents 42. Even if § 232(b) is read to authorize the imposition of a license fee system, the standards that it provides the President in its implementation are clearly sufficient to meet any delegation doctrine attack.

In Hampton & Co. v. United States, 276 U.S. 394 (1928), this Court upheld the constitutionality of a provision empowering the President to increase or decrease import duties in order to equalize the differences between foreign and domestic production costs for similar articles. There, the Court stated:

"If Congress shall lay down by legislative act an intelligible principle to which the [President] is directed to conform, such legislative action is not a forbidden delegation of legislative power." Id., at 409.

Section 232(b) easily fulfills that test. It establishes clear preconditions to Presidential

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action—inter alia, a finding by the Secretary of the Treasury that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security." Moreover, the leeway that the statute gives the President in deciding what action to take in the event the preconditions are fulfilled is far from unbounded. The President can act only to the extent "he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security." And § 232(c), see n. 1, supra, articulates a series of specific factors to be considered by the President in exercising his authority under § 232(b).[10] In light of these factors and our recognition that "[n]ecessity . . . fixes a point beyond which it is unreasonable and impracticable to compel Congress to prescribe detailed rules . . .," American Power & Light Co. v. SEC, 329 U.S. 90, 105 (1946), we see no looming problem of improper delegation[11] that should affect our reading of § 232(b).

B

In authorizing the President to "take such action, and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," the language of § 232(b) seems clearly to grant him a measure of discretion in determining the method to be used to adjust imports. We find no support in the language of the statute for respondents' contention that the authorization to the President to "adjust" imports should be read to encompass only quantitative methods—i.e., quotas—as opposed to monetary methods—i.e., license fees—of effecting such adjustments.

Indeed, reading respondents' suggested limitation into the word "adjust" would be inconsistent with the range of factors that can trigger the President's authority under § 232(b)'s language. Section 232(b) authorizes the President to act after a finding by the Secretary of the Treasury that a given article is being imported "in such quantities or under such circumstances as to threaten to impair the national security." (Emphasis added.) The emphasized language reflects Congress' judgment that "not only the quantity of imports . . . but also the circumstances under which they are coming in: their use, their availability, their character" could endanger the national security and hence should be a potential basis for Presidential action. 104 Cong. Rec. 10542–10543 (1958) (remarks of Rep. Mills). It is most unlikely that Congress would have provided that dangers posed by factors other than the strict quantitative level of imports can justify Presidential action, but that that action must be confined to the imposition of quotas. Unless one assumes, and we do not, that quotas will always be a feasible method of dealing directly with national security threats posed by the "circumstances" under which imports are entering the country, limiting the President to the use of quotas would effectively and artificially prohibit him from directly dealing with some of the very problems against which § 232(b) is directed.

Turning from § 232's language to its legislative history, again there is much to suggest that the President's authority extends to the imposition of monetary exactions—i.e., license fees and duties. The original enactment of the provisions in 1955 as well as Congress' periodic reconsideration of it in subsequent years gives us substantial grounds on which to conclude that its authorization extends beyond the imposition of quotas to the type of action challenged here.

During congressional hearings on the Trade Agreements Extension Act of 1955, there was substantial testimony that increased imports were threatening to damage various domestic industries whose viability was perceived to be critical to the national security.[12] In an effort to deal with the problem, the Senate Committee on Finance considered several proposals designed to supplement the existing statutory provision, known as the Symington Amendment,[13] that barred reductions in duties "on any article if the President finds that such reduction would threaten domestic production needed for projected national defense requirements." Act of July 1, 1954, Pub. L. 464, § 2, 68 Stat. 360.[14] Among these amendments was one proposed by Senator Neely which provided in relevant part:

"[T]he President shall take *such action as is necessary* to restrict imports of commodities whenever such imports threaten to retard the domestic development and expansion or maintenance of domestic production of natural resource commodities or any other commodities which re determines to be essential to the national security. . . ." Hearings on H.R. 1 before the Senate Committee on Finance, 84th Cong., 1st Sess., 1033 (1955) (hereinafter cited as 1955 Senate Hearings) (emphasis added).[15]

In explaining what action would be authorized under the Neely Amendment, Senator Martin, one of its cosponsors, explained that it authorized the President "to take such action as is necessary, including the imposition of import quotas *or the increase in duties*, to protect the domestic industry concerned." 1955 Senate Hearings 2097 (emphasis added). Thus, the Neely Amendment clearly would have given the President the authority to impose monetary exactions as a method of restricting imports.

While the Neely Amendment was not reported out of committee, it is strikingly similar in language to the Byrd-Millikin Amendment—the substitute provision that was reported out and eventually enacted into law. The Byrd-Millikin Amendment authorized the President, after appropriate recommendations had been made by the Director of the ODM, to "take such action as he deems necessary to adjust the imports of [an] article to a level that will not threaten to impair the national security." S. Rep. No. 232, 84th Cong., 1st Sess., 14 (1955).[16] Given the similarity in the operative language of the two proposals, it is fair to infer that if, as Senator Martin stated, the Neely Amendment was intended to authorize the imposition of monetary exactions, so too was the Byrd-Millikin Amendment.

The debate on the Senate floor lends further support to this reading of the Byrd-Millikin Amendment. Senator Millikin himself stated without contradiction that the Amendment authorized the President "to take whatever action he deems necessary to adjust imports . . . [including the use of] tariffs, quotas, import taxes or other methods of import restriction." 101 Con. Rec. 5299 (1955). As a statement of one of the legislation's sponsors, this explanation deserves to be accorded substantial weight in interpreting the statute. *National Woodwork Mfrs. Assn.* v. *NLRB*, 386 U.S. 612, 640 (1967); *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394–395 (1951).[17]

Senator Millikin's statement does not stand alone. Senator Byrd, another of the Amendment's sponsors, explained in colloquy with Senator Saltonstall that the Amendment put all commodities "on the same basis as agricultural commodities. It simply leaves to the President the power, in his discretion, to decide whether to impose a quota or to reduce the imports." 101 Cong. Rec. 5297 (1955) (emphasis added). The reference in the emphasized phrase is to § 22 of the Agricultural Adjustment Act, the subject of an earlier exchange between Senator Byrd and Senator Thye. 101 Cong. Rec. 5296 (1955). Section 22 allows the President under certain circumstances to "impose such fees . . . on such quantitative limitations" as he finds necessary to protect the domestic production of an agricultural commodity. 49 Stat. 773, as amended, 7 U.S.C. § 624(b) (emphasis added). Senator Byrd's comparison of § 22 and the Byrd-Millikin Amendment thus appears to reflect his understanding that Presidential authority under the Amendment extended to the imposition of fees.[18]

Finally, we note two other statments on the floor of the Senate which lend direct support to the Government's reading of the Byrd-Millikin Amendment. Senator Bennett stated that it was his understanding that the amendment would authorize use of "the entire scope of tariffs, quotas, restrictions, stockpiling, and any other variation of these programs in order to protect a particular industry." 101 Cong. Rec. 5588 (1955).[19] And Senator Barkley, a member of the Senate Committee on Finance, expressed his understanding that the Amendment would allow the President to "impose such quotas or take such other steps as he may believe to be desirable in order to maintain the national security." Id., at 5298 (emphasis added).

In the House debate following Senate passage of the Byrd-Milliken Amendment, *id.*, at 5655, and its acceptance with a minor modification by the House conferees, H.R. Conf. Rep. 745, 84th Cong., 1st Sess., 2, 6–7 (1955), we find further indications that the Amendment authorized the imposition of monetary exactions. In explaining the provisions of the Amendment, Congressman Cooper, chairman of the House Ways and Means Committee and a member of the Conference Committee, indicated his concern that "*any modification of a duty* on imports or a quota would [because of retaliation from abroad] inevitably result in a curtailment of exports by the United States." 101 Cong. Rec. 8161 (1955) (emphasis added). Furthermore, as part of his explanation of the Amendment, Cooper presented a letter he had received from Gerald D. Morgan, Special Counsel to the President, which expressed the Administration's understanding that under the Amendment, the President's action to adjust imports "could take any form that was appropriate to the situation." *Id.*, at 8162.[20] Thus, when Congress finally enacted the Byrd-Millikin Amendment's national security provision, 69 Stat. 166,[21] as part of the Trade Agreement Extension Act of 1955, not only had Members of both Houses indicated that the provision authorized the imposition of monetary exactions, but the Executive Branch, too, had advised the Congress of its understanding of the broad scope of the authority granted by the Amendment.[22]

Three years later, in the context of its consideration of the Trade Agreements Extension Act of 1958, Congress re-examined the Byrd-Millikin national security provision. In the course of its deliberations, the Subcommittee on Foreign Trade Policy of the House Ways and Means Committee had before it a 1957 report submitted to it by the ODM, expressing the views of the Executive Branch that "the imposition of new or increased tariff duties on imports . . . [was] authorized by the language adopted."[23] Fully aware that the Executive Branch then, as in 1955, understood the provision as authorizing the imposition of monetary exactions, the Committee did not recommend any change in its wording to confine more narrowly the bounds of its authorization. On the contrary, the Committee in its report indicated with approval its own understanding that the statute provided "those best able to judge national security needs . . . [with] a way of taking *whatever action is needed* to avoid a threat to the national security through imports." H. R. Rep. No. 1761, 85th Cong., 2d Sess., 13 (1958) (emphasis added).

While Congress in 1958 made several procedural changes in the statute and established criteria to guide the President's determination as to whether action under the

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provision might be necessary, it added no limitations with respect to the type of action that the President was authorized to take.[24] § 8, 72 Stat. 678. The 1958 reenactment, like the 1955 provision, authorized the President under appropriate conditions to "take such action" "as he deems necessary to adjust the imports. . . ." *Ibid.*

When the national security provision next came up for re-examination, it was reenacted without material change as § 232(b) of the Trade Expansion Act of 1962. In its analysis the Court of Appeals placed great emphasis on the fact that in the course of Congress' deliberations the Senate passed and the Conference Committee deleted, H.R. Conf. Rep. No. 2518, 87th Cong., 2d Sess., 13 (1962), an amendment which provided:

"Notwithstanding any other provision of law, the President may, when he finds it in the national interest, proclaim with respect to any article imported into the United States—

"(1) the increase of any existing duty on such article to such rate as he finds necessary;

"(2) the imposition of a duty on such article (if it is not otherwise subject to duty) at such rate as he finds necessary, and

"(3) the imposition of such other import restrictions as he finds necessary." 108 Cong. Rec. 19573 (1962).

The Court of Appeals inferred from the rejection of this amendment that Congress understood the then existing grant of authority to be limited to the imposition of quotas. According to the court, the amendment would have "explicitly [given] the President the same authority he claims derives implicitly from § [232(b).]" 171 U.S. App. D.C., at 121, 518 F.2d, at 1059, and Congress' refusal to enact the amendment was tantamount to a rejection of the Government's interpretation of the statute.

We disagree, however, with the Court of Appeals' assessment of the proposed amendment. The amendment was in reality far more than an articulation of the authority that the Government finds to be contained in § 232(b). Unlike § 232(b), the rejected proposal would not have required a prior investigation and findings by an executive department as a prerequisite to Presidential action. Moreover, the broad "national interest" language of the proposal, together with its lack of any standards for implementing that language, stands in stark contrast with § 232(b)'s narrower criterion of "national security" and § 232(c)'s articulation of standards to guide the invocation of the President's powers under § 232(b). In light of these clear differences between the rejected proposal and § 232(b), we decline to infer from the fact that the Senate amendment was proposed, or from the fact that it was rejected, that Congress felt that the President had no power to impose monetary exactions under § 232(b).

Only a few months after President Nixon invoked the provision to initiate the import license fee system challenged here, Congress once again re-enacted the Presidential authorization encompassed in § 232(b) without material change. Trade Act of 1974, Pub. L. 93–618., 88 Stat. 1993. Making no mention of the President's action, both the Senate Committee report and the conference report recited the language of the statute itself to reaffirm that under § 232(b) the President "may . . . take such action, and for such time, as he deems necessary, to adjust imports so as to prevent impairment of the national security." H.R. Conf. Rep. No 93–1644, p. 29 (1974); S. Rep. No. 93–1298, pp. 96–97 (1974). The congressional acquiescence in President Nixon's action manifested by the re-enactment of § 232(b) provides yet further corroboration that § 232(b) was understood and intended to authorize the imposition of monetary exactions as a means of adjusting imports.

Taken as a whole then, the legislative history of § 232(b) belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to limit the President's authority to the imposition of quotas and to bar the President from imposing a license fee system like the one challenged here. To the contrary, the provision's original enactment, and its subsequent reenactment in 1958, 1962, and 1974 in the face of repeated expressions from Members of Congress and the Executive Branch as to their broad understanding of its language, all lead to the conclusion that § 232 (b) does in fact authorize the actions of the President challenged here. Accordingly, the judgment of the Court of Appeals to the contrary cannot stand.

C

A final word is in order. Our holding today is a limited one. As respondents themselves acknowledge, a license fee as much as a quota has its initial and direct impact on imports, albeit on their price as opposed to their quantity. Brief for Respondents 26. As a consequence, our conclusion here, fully supported by the relevant legislative history, that the imposition of a license fee is authorized by § 232(b) in no way compels the further conclusion that any action the President might take as long as it has even a remote impact on imports, is also so authorized.

The judgment of the Court of Appeals is reversed and this case is remanded to that court for proceedings consistent with this opinion.

So ordered.

FOOTNOTES

**Peter Buck Feller, John D. Heckert,* and *David M. Repass* filed a brief for McClure & Trotter as *amicus curiae* urging affirmance.

[1] Section 232(b) provides in full:

"Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of the Treasury (hereinafter referred to as the 'Secretary') shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this subsection. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security."

Section 232 (c) of the Act, 19 U.S.C. § 1862 (c) (1970 ed., Supp. IV) provides the President and the Secretary of the Treasury with guidance as to some of the factors to be considered in implementing § 232 (b). It provides:

"For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to asure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security."

[2] See Cabinet Task Force on Oil Import Control, The Oil Import Question 128 (1970).

[3] Under President Nixon's plan, the fee for motor gasoline was scheduled to reach its maximum of 63 cents on May 1, 1975. App. 97.

[4] The Proclamation did not alter the schedule by which exemptions from the first-tier fees were not to be eliminated until 1980.

[5] The supplemental fee increases scheduled to go into effect in March and April were twice deferred. See Presidential Proclamation No. 4355, 3A CFR 26 (1975); Presidential Proclamation No. 4370, 3A CFR 45 (1975). While the $2 fee finally went into effect on June 1, 1975, Presidential Proclamation No. 4377, 3A CFR 53 (1975), it was never increased to $3. Indeed, on January 3, 1976, President Ford eliminated the $2 fee. Presidential Proclamation No. 4412, 41 Fed. Reg. 1037. See n. 8, *infra*.

[6] The States joining in the suit together with their governors were Connecticut, Maine, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. The State of Minnesota intervened as a plaintiff after the complaint was filed and is also a respondent here.

[7] The 10 utility companies are Algonquin SNG, Inc., New England Power Co., New Bedford Gas and Edison Light Co., Cambridge Electric Light Co., Canal Electric Co., Montaup Electric Co., Connecticut Light and Power Co., Hartford Electric Light Co., Western Massachusetts Electric Light Co., and Holyoke Water Power Co.

[8] Subsequent to our granting certiorari, the President signed the Energy Policy and Conservation Act of 1975, Pub. L. 94–163, 89 Stat. 871, 42 U. S. C. A. § 6201 *et seq.* (1970 ed., Supp. V). That Act is aimed at encouraging domestic oil production by gradually decontrolling the price of domestically produced crude oil. On January 3, 1976, indicating that "the purposes of the supplemental [oil import license] fee" will be served by the Act, the President announced the elimination of the supplemental fees imposed by Presidential Proclamation No. 4341, 3A CFR 2 (1975). Presidential Proclamation No. 4412, 41 Fed. Reg. 1037. He did not, however, eleminate the "first-tier" fees originally imposed by Presidential Proclamation No. 4210, 3 CFR 31 (1974). Since respondents seek to enjoin the first-tier as well as the supplemental fees, the question here whether § 232(b) grants the President authority to impose license fees remains a live controversy.

[9] Respondents' suits are not barred by the Anti-Injunction Act, 26 U. S. C. § 7421(a), which in relevant part provides that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person . . . ." The Anti-Injunction Act applies to suits brought to restrain assessment of taxes assessable under the Internal Revenue Codes of 1954 and 1939. 26 U. S. C. §§ 7421(a), 7851(a)(6)(A), 7851 (a)(6)(C)(iv). The license fees in this case are assessed under neither Code but rather under the authority conferred on the President by the Trade Expansion Act of 1962, as amended by the Trade Act of 1974. The fees are therefore not "taxes" within the scope of the Anti-Injunction Act.

[10] Respondents rely on our decision in *National Cable Television Assn.* v. *United States*, 415 U. S. 336 (1974, to support their delegation doctrine argument. But we find that case clearly distinguishable from the one before us today. In *National Cable Television*, we held that the fees to be imposed on community antenna television systems should be measured by the "value to the recipient" even though the language of the general statute allowing fee setting by federal agencies, 65 Stat. 290, 31 U. S. C. § 483a, permits consideration not only of "value to the recipient" but also of "public policy or interest served, and other pertinent facts." The Court's conclusion that the words of the last-quoted phrase were not relevant to the CATV situation was apparently motivated by a desire to avoid any delegation doctrine problem that might have been presented by a contrary conclusion. 415 U. S., at 342. But what might be considered the open-ended nature of the phrase "public policy or interest served, and other pertinent facts" stands in contrast to § 232(b)'s more limited authorization of the President to act only to the extent necessary to eliminate a threat of impairment to the national security, and § 232(c)'s articulation of standards to guide the President in making the decision whether to act. See n. 1, *supra*.

[11] The amount of oil exempted from the "first-tier" license fees, see *supra*, at 553, imposed in 1973 varies among five geographical districts within the Nation. See Presidential Proclamation No. 4341, 3A CFR 2 (1975), Presidential Proclamation No. 4210, 3 CFR 31 (1974). Respondents seize on this fact to argue that the "first-tier" fee schedule contravenes Art. I, § 8, cl. 1, of the Constitution which requires that import duties be uniform throughout the United States. But that issue is not properly before the Court. Sustaining respondents' Uniformity Clause argument would call, not for invalidation of the entire license fee scheme, but only for elimination of the geographical differences in the exemptions allowed under it. This would represent not an affirmance of the judgments below, which effectively invalidated the entire scheme and its implementing regulations, but rather a modification of those judgments. But since respondents filed no cross-petition for certiorari, they are at this point precluded from seeking such modification. See *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375, 381 n. 4 (1970).

[12] See, *e.g.*, Hearings on H.R. 1 before the House Committee on Ways and Means, 84th Cong., 1st Sess., 1006 (analytical balance industry), 1264 (petroleum industry) (1955); Hearings on H.R. 1 before the Senate Committee on Finance; 84th Cong., 1st Sess., 602 (lead and zinc mining industry), 721 (coal mining industry) (1955).

[13] The Symington Amendment is currently codified in somewhat modified form at 19 U.S.C. § 1862(a).

[14] In contrast to the Senate Committee on Finance, the House Committee on Ways and Means concluded that the Symington Amendment was adequate to deal with any potential threats to the national security posed by foreign imports. H.R. Rep. No. 50, 84th Cong., 1st Sess., 44 (1955).

[15] A separate portion of the Neely Amendment would have placed quotas on petroleum imports. 1955 Senate Hearings 1033.

[16] Unlike the Neely Amendment, see n. 15, *supra*, the Byrd-Millikin Amendment did not single out any named industries for protection by quotas.

[17] Differing with the Court of Appeals, we do not believe that the fact that Senator Millikin represented a State that might have benefited from an expansive reading of the statute "blur[s] [the] probative value," 171 U.S. App. D.C. 113, 120, 518 F. 2d 1051, 1058 (1975), of his explanation. Many if not most pieces of legislation are sponsored by Members of Congress whose constituents have a special interest in their passage, but we have never let this fact diminish the weight we give a sponsor's statements.

[18] Moreover, Senator Byrd's reference in the above-quoted exchange to the power of the President under the Amendment "to impose a quota *or* to reduce the imports," 101 Cong. Rec. 5297 (1955), also suggests that he understood that power to extend beyond the imposition of quotas. See Note, 89 Harv. L. Rev. 432, 435 n. 31 (1975).

[19] The Court of Appeals characterized Senator Bennett's remarks as going to "the entire bill and other existing laws". 171 U.S. App. D.C., at 119, 518 F. 2d, at 1057. Our examination of the context of his remarks persuades us, however, that they were more probably made with specific reference to the Byrd-Millikin Amendment.

[20] A copy of the Morgan letter was also sent to Senator Byrd, Chairman of the Senate Committee on Finance. See 101 Cong. Rec. 8162 (1955).

[21] As finally enacted the Amendment provided:

"In order to further the policy and purpose of this section, whenever the Director of the Office of Defense Mobilization has reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security, he shall so advise the President, and if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made to determine the facts. If, on the basis of such investigation, and the report to him of the findings and recommendations made in connection therewith, the President finds that the article is being imported into the United States in such quantities as to threaten to impair the national security, he shall take such action as he deems necessary to adjust the imports of such article to a level that will not threaten to impair the national security."

[22] We are not unmindful that, as respondents point out, much of the congressional debate referred to the Byrd-Millikin Amendment in the context of giving the President the power to impose import quotas. See, *e.g.*, 101 Cong. Rec. 5572 (1955) (remarks of Sen. Humphrey); *id.*, at 5582 5584 (remarks of Sen. Douglas); *id.*, at 5593 (remarks of Sen. Monroney). But nowhere do the congressional debates reflect an understanding that under the Amendment the President's authority was to be *limited* to the imposition of quotas. In light of this fact, we feel fortified in attaching substantial weight to the positive indications discussed above that the authority was not so limited.

[23] Foreign Trade Policy, Compendium of Papers on United States Foreign Trade Policy, Collected by the Staff for the Subcommittee on Foreign Trade Policy of the House Ways and Means Committee 643 (1958).

[24] Indeed, while under the 1955 provision the President was authorized to act only on a finding that "quantities" of imports threatened to impair the national security, the 1958 provision also authorized Presidential action on a finding that an article is being imported "under such circumstances" as to threaten to impair the national security. 72 Stat. 678. See *supra*, at 561.

By Mr. STONE (for himself and Mr. CHILES):

S. 2176. A bill to provide for the establishment of a Veterans' Administration outpatient clinic in Broward County, Fla.; and

S. 2177. A bill to provide for the construction of a Veterans' Administration hospital in Broward County, Fla.; to the Committee on Veterans' Affairs.

Mr. STONE. Mr. President, today I am introducing two bills to provide for the establishment of a Veterans' Administration health care facility in Broward County, Fla. The first bill calls for the establishment of a veterans' hospital, and the second bill would provide for a VA outpatient clinic.

On August 10, 1977, I wrote to Dr. John Chase, the Chief Medical Director of the Veterans' Administration, requesting that the VA conduct a study of the Broward County area in order to determine the need for a VA health facility. I have not received a reply to my letter. In response to several other letters to the VA requesting that it consider locating a health facility in Broward County, the only response I received is that there are no plans to establish such a facility. Mr. President, Broward County veterans can wait no longer for action by the Veterans' Administration.

As of December 31, 1976, there were 108,353 veterans living in Broward County, most of whom are elderly and served in World War I or World War II. The nearest VA hospital is in Miami, 24 miles away from Fort Lauderdale, the Broward County seat. The nearest VA outpatient clinic is 40 miles from Fort Lauderdale in West Palm Beach and it is more remote. Many of the veterans in Broward are unable to drive and the public transportation to these facilities is inadequate because local governments have not been able to keep up in recent years with the tremendous population growth. The veterans hospital in Miami is overcrowded so that veterans must often wait hours to see a doctor, and the treatment received is not always up to the high standards which veterans deserve. Furthermore, the need for a veterans' health care facility in Broward County becomes greater every day. Estimates are that between 800 and 1,000 veterans move to this county every month.

Recently, the Governor and the cabinet of the State of Florida adopted a resolution recognizing the critical need for a medical facility in Broward County and urging that the Veterans' Administration establish such a facility in an accessible location. I ask unanimous consent that this resolution be printed along with my remarks. I have received similar resolutions from the City Councils of North Lauderdale, Plantation, and Tamarac. I would also like to note that companion legislation has been introduced in the House by Representative J. HERBERT BURKE, who for years has

sought to have a facility established in Broward County to provide health care for the many veterans living there.

Mr. President, I hope that my colleagues agree with me that Broward County, Fla., veterans deserve better treatment from the VA and will join in support of this legislation.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the Governor and Cabinet recognize and appreciate the vital and honored services rendered to our state and nation by the many veterans of Florida who have protected our national defense and preserved our democratic institutions and way of life, and

Whereas, the Governor and Cabinet fully support proper and convenient medical care for veterans in this state and throughout the nation in recognition of their contributions and sacrifices for the defense of our people, and

Whereas, numerous veterans and veteran organizations such as the Broward County Veterans Council, representing mobile chapters of the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Jewish War Veterans, the Retired Officers Association, Fleet Reserve, Paralyzed Veterans Association, World War I Barracks, and other veteran and auxiliary organizations, have expressed need for a Veterans Administration Out-Patient Medical Facility to be located in Broward County, and

Whereas, although there is a Veterans Hospital in Miami, travel by an out-patient from Broward County often represents great hardship because of the distance involved and extended delay at the Miami Veterans Administration Hospital which cannot accommodate the influx of ever-increasing Dade and Broward veterans requiring medical attention, and

Whereas, although Palm Beach County has an out-patient veterans facility in Riviera Beach, the population of Broward County is almost double that of adjoining Palm Beach County, and the facility at Riviera Beach is too distant for out-patient care for most Broward veterans, and

Whereas, Broward County has the second largest population of any county in the State of Florida and the number of veterans in Broward County exceeds 100,000 and is growing rapidly.

Now, therefore, be it resolved that the Governor and Cabinet:

1. Recognize a present need for a veterans' out-patient medical facility in Broward County.

2. Urge the Veterans Administration to establish such a facility in a readily accessible location in Broward County, giving consideration to population density and geographical factors and with the site selected in cooperation with the Florida Division of Veteran Affairs.

3. Direct that a copy of this resolution be forwarded to Senator Lawton M. Chiles and Senator Richard Stone, Congressmen Paul G. Rogers, J. Herbert Burke and William Lehman, and Congressman Ray Roberts, Chairman, Committee on Veterans Affairs.

Mr. CHILES. Mr. President, it is my pleasure to join with my colleague Senator STONE in sponsoring legislation for the establishment of a Veterans' Administration outpatient clinic in Broward County, Fla. Broward County, located on the southeast coast of Florida is one of the fastest growing areas in the State and in the Eastern United States. Included in this tremendous growth has been a sizable influx of veterans. Younger veterans have been attracted for business and occupational opportunities while retired veterans have chosen this area because of the climate and the many recreational opportunities. The veterans population in this county presently numbers well over 100,000.

Along with any rapid growth in the veteran population of a given area comes a responsibility to provide for their medical needs. While VA medical facilities exist in Dade County to the south and Palm Beach County to the north, it is often difficult for Broward County veterans and their dependents to utilize these facilities. Travel to the VA hospital in Miami or the outpatient clinic in Palm Beach County is difficult due to limited transportation facilities and once the veteran arrives at his or her destination, long waits often result. I have always felt we owe a tremendous debt of gratitude to the veterans of our country and the establishment of an outpatient clinic in Broward County would go a long way toward meeting the medical needs of the over 100,000 veterans now residing in this area.

By Mr. MATHIAS:

S. 2179. A bill to permit pharmacists to use generic drugs in the filling or refilling of prescriptions made by physicians; to the Committee on Human Resources.

Mr MATHIAS. Mr. President, the bill I have sent to the desk, the generic drug dispensing bill, is designed to eliminate excessive advertising, marketing, and promotion of brand name drugs.

The pharmaceutical industry spends an estimated $1 billion a year to promote brand names of prescription medicines. Those brands are commonly priced much higher than the same drugs marketed under generic names. Such intensive promotion is aimed at influencing physicians to prescribe brand names of drugs, even though the generic equivalents are as effective.

The cost of medicines is a substantial part of the cost of health care, especially among aged citizens and others who require prolonged medication. Disadvantaged Americans, such as the near-poor, the elderly, and the chronically ill will gain the most by the bill I am introducing, but all Americans will benefit. My bill will save the Nation's ill as much as $2 billion a year on prescription medicines.

Senior citizens comprise only 11 percent of the population but buy 25 percent of all prescription drugs. Elderly Americans spend up to 45 percent of their limited incomes for prescription drugs. These citizens must sometimes choose between medicine and food when money runs low.

My bill:

Requires pharmacists to fill or refill prescriptions with the least costly preparation of the prescribed drug in his inventory;

Allows the physician to direct the pharmacist to fill or refill the prescription only with the drug identified in the prescription;

Allows physicians to direct the pharmacist to fill or refill the prescription with a specific formulation of the prescribed drug; and

Allows patients to request the pharmacist to fill or refill the prescription with a drug other than the least-cost drug, except for those patients for whom medicare pays benefits for the prescription.

Mr. President, 32 of the 50 States in the Union have enacted drug substitution laws. It is time the U.S. Senate showed its concern for citizens who must purchase prescription drugs.

Mr. President, I ask unanimous consent that the text of the generic drug dispensing bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Generic Drug Dispensing Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) the cost of drugs is a substantial part of the cost of health care especially among aged citizens and other citizens who require maintenance doses for prolonged periods;

(2) drug costs are commonly not prepaid through health insurance;

(3) drug costs may preclude patients from receiving the health restoring benefits of the medical and pharmaceutical sciences or defer or prevent the attainment of other economic priorities; and

(4) physicians are subjected to intensive promotions of the proprietary formulations of drugs which are commonly priced much higher than the same drug marketed under the generic name and therefore may prescribe a drug by proprietary name when, in fact, they are concerned solely with the active ingredients and not with the proprietary formulation.

SEC. 3. (a)(1) Except as provided in paragraph (2), if a drug to be dispensed pursuant to a prescription of a physician, licensed by law to administer the drug, and such drug is identified in the prescription by a proprietary name or designation, any pharmacist shall fill or refill the prescription with a generic drug if—

(A) the physician does not specify in the prescription (in the case of a written prescription) or in transmitting the prescription to the pharmacist (in the case of a prescription ordered orally) that such prescription is to be filled or refilled only with the drug so identified; and

(B) the cost of the substitute drug to the patient for whom the prescription is made is less than the cost to such patient of—

(i) the drug so identified; and

(ii) any other generic drug in the inventory of the pharmacist at the time such pharmacist fills or refills the prescription involved.

(2) A pharmacist may not select a generic drug to be used to fill or refill a prescription under paragraph (1) if the patient for whom the prescription is made requests such pharmacist to fill or refill such prescription with an available drug other than the generic drug selected by such pharmacist.

(b)(1) Except as provided in paragraph (2), if a drug to be dispensed pursuant to a prescription of a physician, licensed by law to administer the drug, and such drug is identified in the prescription by its generic name, any pharmacist who fills or refills the prescription shall fill or refill the prescription with the generic drug whose cost to the patient for whom the prescription is made is less than the cost to such patient of any other drug in the inventory of the pharmacist at the time such pharmacist fills or refills the prescription involved.

(2) The provisions of paragraph (1) shall not apply if—

(A) the physician involved specifies in the prescription involved (in the case of a written prescription) or in transmitting the prescription to the pharmacist involved (in the case of a prescription ordered orally) that the prescription is to be filled or refilled with a specific formulation which would be required under paragraph (1), except that, in any case in which more than one formulation of the drug conforms to the specification made by the physician, the pharmacist shall fill or refill a prescription with such formulation—

(i) which conforms to such specifications; and

(ii) whose cost, to the patient for whom the prescription is made, is less than the cost to such patient of any other formulation of the drug which would conform to such specification and which is in the inventory of the pharmacist at the time such pharmacist fills or refills the prescription involved; or

(B) the patient for whom the prescription is made requests the pharmacist to fill or refill such prescription with a drug other than the generic drug which would be required under paragraph (1).

(c) Any substitute drug used to fill or refill a prescription under subsection (a) or (b) shall be in the same quantity and dosage form as prescribed in such prescription.

(d) For the purposes of this section, a drug is a generic drug identified in a prescription (either by a proprietary name or designation or by the established name of such drug, if any) if such drug has the same established name as the drug so identified.

EXEMPT TRANSACTIONS

SEC. 4. In the case of any individual participating in the insurance program under part B of title XVIII of the Social Security Act, the filling or refilling of any prescription for such individual, with respect to which benefits are payable under part B of title XVIII of the Social Security Act, shall not be subject to the provisions of sections 3(a)(2) or (3)(b)(2) of this Act.

EFFECT ON STATE LAW

SEC 5. No State or political subdivision of a State may establish or enforce any law or practice which prohibits a pharmacist from taking any action authorized by section 3(a)(1), or any action required by section 3(b)(1) in connection with the filling or refilling of a prescription for a drug by a physician licensed by law to administer such drug.

ENFORCEMENT

SEC. 6. (a) Any violation of any provision of this Act (or any regulation promulgated hereunder), shall constitute a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) and shall be subject to enforcement under the Federal Trade Commission Act.

(b) Nothing contained in this Act shall be construed—

(1) to prevent or interfere with the enforcement of the provisions of any antitrust act or any act to regulate commerce; or

(2) to alter, modify, or repeal any antitrust act or any act to regulate commerce.

DEFINITIONS

SEC. 7. For the purposes of this Act—

(1) the term "act to regulate commerce" has the meaning given it by section 4 of the Federal Trade Commission Act (15 U.S.C. 44);

(2) the term "antitrust act" has the meaning given it by section 4 of the Federal Trade Commission Act (15 U.S.C. 44);

(3) the term "drug" has the meaning given it by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (g)(1));

(4) the term "established name" has the meaning given it by section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)(2)); and

(5) the term "State" means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

EFFECTIVE DATES

SEC. 8. (a) Except as provided in subsection (b), the provisions of this Act shall take effect 6 months after the date of enactment of this Act.

(b) The authority of the Federal Trade Commission to prescribe regulations to carry out the provisions of this Act shall take effect on the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 961

At the request of Mr. CRANSTON, the Senator from New York (Mr. JAVITS) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 961, to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, and for other purposes.

S. 1245

At the request of Mr. GRIFFIN, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1245, the Corrections Construction and Program Development Act of 1977.

S. 1503

At the request of Mr. THURMOND, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1503, relating to the ban on the use of Tris.

S. 1571

At the request of Senator MCINTYRE, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 1571, a bill to incorporate the National Ski Patrol System.

S. 1587

At the request of Mr. STONE, the Senator from North Carolina (Mr. MORGAN) and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes.

S. 1726

At the request of Mr. BYRD, on behalf of Mr. HUMPHREY, the Senator from Colorado, Mr. HASKELL, was added as a cosponsor of S. 1726, a bill to amend the Small Business Act to declare a national small business economic policy, to provide for an ongoing program of advocacy and economic research and analysis for small business, and to increase the exchange of pertinent information and the level of cooperation between the Small Business Administration and other departments, agencies, and instrumentalities of the Federal Government.

S. 1928

At the request of Mr. CRANSTON, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1928, to amend the Social Security Act to strengthen and improve the program of Federal support for foster care of dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

S. 1974

At the request of Mr. CULVER, the Senator from Mississippi (Mr. EASTLAND) was added as a cosponsor of S. 1974, the Regulatory Flexibility Act.

S. 2014

At the request of Mr. RIEGLE, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2014, a bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers.

S. 2096

At the request of Mr. CRANSTON, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 2096, the Financial Privacy Act.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE CONCURRENT RESOLUTION 37

At the request of Mr. BARTLETT, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Concurrent Resolution 37, disapproving Federal motor vehicle safety standard on occupant restraint system.

AMENDMENT NO. 849

At the request of Mr. CULVER, the Senator from Mississippi (Mr. EASTLAND) was added as a cosponsor of amendment No. 849, to be proposed to S. 1974, the Regulatory Flexibility Act.

AMENDMENTS NOS. 1010 AND 1020

At the request of Mr. TOWER, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of amendments Nos. 1010 and 1020, to be proposed to S. 1871, the minimum wage bill.

AMENDMENT NO. 1018

At the request of Mr. WILLIAMS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of amendment No. 1018, to be proposed to S. 1871, to amend the Fair Labor Standards Act.

SENATE RESOLUTION 285—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A REPORT

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 285

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with sections 313, 202, and 306(e) of Public Law 91-604, The Clean Air Act as amended) entitled, "Progress in the Prevention and Control of Air Pollution in 1976" be printed, with illustrations, as a Senate Document.

SEC. 2. There shall be printed one thousand additional copies of such document for the use of the Committee on Environment and Public Works.

SENATE RESOLUTION 286—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 897

(Referred to the Committee on the Budget.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 286

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 897. Such waiver is necessary because hearings were delayed in order to accommodate the Administration in formulating its position on nuclear nonproliferation and to await its substantive testimony which did not occur until May 6, 1977. Furthermore, the Administration bill, S. 1432, was not introduced until April 29, 1977, and three committees were given jurisdiction over it. The number of hearings which were required in order to receive input from all necessary groups of witnesses made the May 15 deadline impossible to meet.

The effect of defeating consideration of the authorization will be to substantially reduce the program of cooperation and assistance to developing countries for the purpose of developing indigenous energy resources. In particular, a program to promote exchange of United States scientists, technicians, and energy experts with those of developing countries will have to be deferred.

The desired authorization will not delay the appropriations process and can be easily accommodated in a supplemental appropriation.

An authorization of this kind was contemplated in the congressional budget. There is a $5 million authorization for "international cooperation" in the Fiscal Year 1978 ERDA Authorization Bill. The present authorization raises this amount to $10 million.

This authorization is sufficiently small that it will not significantly affect the congressional budget. However, its impact in terms of nuclear proliferation will be considerable in relations to its size, it is therefore considered an important part of the Nuclear Nonproliferation Act of 1977.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1417

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

AMENDMENT NO. 1418

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

AMENDMENT NO. 1420

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

ADMISSION OF CERTAIN INDOCHINESE REFUGEES—H.R. 7769

AMENDMENT NO. 1419

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. HUMPHREY, Mr. CRANSTON, Mr. HAYAKAWA, Mr. JOHNSTON, Mr. MOYNIHAN, Mr. PELL, Mr. INOUYE, Mr. MATSUNAGA, and Mr. BUMPERS) submitted an amendment intended to be proposed to the bill (H.R. 7769) to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

PUBLIC UTILITY REGULATORY POLICY—S. 2114

AMENDMENT NO. 1422

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself and Mr. DURKIN) submitted an amendment intended to be proposed to the bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

AMENDMENT NO. 1423

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2114), supra.

AMENDMENT NO. 1424

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON (for himself and Mr. FORD) submitted an amendment intended to be proposed to the bill (S. 2114), supra.

AMENDMENT NO. 1425

(Ordered to be printed and to lie on the table.)

Mr. SASSER (for himself, Mr. METCALF, Mr. NELSON, Mr. ZORINSKY, Mr. EAGLETON, Mr. KENNEDY, and Mr. ANDERSON) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2114), supra.

Mr. SASSER. Mr. President, on behalf of myself and others, I submit an amendment to S. 2114, the utilities rate bill. This amendment deals with interconnection and wheeling.

I ask unanimous consent that a fact sheet on this amendment be printed in the RECORD.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET ON INTERCONNECTION AND WHEELING

1. What is interconnection?

Interconnection is where two utilities are hooked up so as to allow a transmittal of power between them. Interconnection under this amendment refers only to "bulk", or wholesale, power transfers.

2. What is wheeling?

Wheeling is where one system is paid for the use of its underutilized transmission lines to effect a transfer of electrical energy between others. The utility located in the middle of the diagram below is wheeling power.

UTILITY A—UTILITY B—UTILITY C

3. What are the benefits of wheeling and interconnection?

(a) Increased reliability of service.

(b) Achievement of economies of scale.

(c) Reduction in the need for reserve capacity.

(d) Reduction in capital investment requirements.

(e) Reduction in the rate base, and reduction in consumer utility bills.

(f) Competition in bulk power sales.

(g) Enhanced environmental protection.

(h) Less risk of blackouts and brownouts.

4. What about the environment?

Power lines crossing the countryside leave scars upon the landscape. Wheeling allows the maximum use of these transmission lines. Transmission lines require some ten to twenty acres of easements and condemnations per mile of line, and they often invade farmlands and pristine public lands. In North Dakota today, new 365 kv transmission lines require a capital investment of $175,000 per mile. This figure is in the lower range of capital costs because of relatively favorable terrain conditions in that State. Wheeling permits more efficient use of existing facilities.

5. What about energy savings?

While there is a dearth of information on national figures, regional examples show the energy savings available from interconnection and wheeling.

The Senate Subcommittee on Energy Regulation took testimony at hearings held in September, 1977 which revealed that if the Texas utility pool, ERCOT, was interconnected with Louisiana and with the five States which make up the Southwest Power Pool, the savings between 1975 and 1980 would have been between $600 million and $2 billion.

According to the Bonneville Power Administration, a contracted transfer of hydroelectric power from the Pacific Northwest to the Pacific Southwest results in an annual savings of 15 million barrels of oil. At today's prices, this amounts to about $216 million in OPEC oil.

6. Why should the Federal Energy Regulatory Commission (FERC) be able to order wheeling?

Because voluntary wheeling has not been fully effective. Utilities are sometimes reluctant to interconnect and to wheel because making the transportation of electricity more fluid tends to increase competition in the sales of bulk power from one utility to another. Some utilities will argue that wheeling can mean a loss of wholesale customers. The fact is they don't want the competition.

In 1973, the Supreme Court ruled that one such refusal to wheel was a violation of Section 2 of the Sherman Antitrust Act. The case was *Otter Tail Power Company* v. *United States*. It involved a private utility firm's refusal to wheel energy or to sell energy to four municipal electric systems. Writing from the majority of the Court, Justice William O. Douglas described the situation:

"The critical events centered largely in four towns—Elbow Lake, Minnesota, Hankinson, North Dakota, Colman, South Dakota, and Aurora, South Dakota. When Otter Tail's franchise in each of these towns terminated, the citizens voted to establish a municipal distribution system. Otter Tail refused to sell the new systems energy at wholesale and refused to agree to wheel power from other suppliers of wholesale energy."

The Court found that these extreme actions were taken solely to protect the company's monopolistic position. The Court's remedy was to order wheeling of power by Otter Tail to the municipal power systems.

7. What can a utility do now if it is the victim of an unreasonable refusal to wheel or to interconnect?

The Federal Power Commission cannot order wheeling, except in emergencies. It can order interconnections in certain circumstances. To rectify a refusal to wheel, a utility would have to initiate an antitrust suit under the provisions of the Sherman Antitrust Act, which is an expensive and lengthy process.

This is impractical for small municipal electric systems and rural electric cooperatives with limited resources. In the *Otter Tail* case, one of the four towns, Hankinson, N.D., reluctantly decided to renew Otter Tail's contract after Otter Tail refused to wheel.

Granting the Federal Energy Regulatory Commission the authority to order wheeling in such cases would at least provide an incentive for good faith bargaining between the parties involved.

8. Will the wheeling and interconnection amendment adequately protect utility companies which may be ordered to wheel?

Yes, Utilities already are assured a fair and reasonable return on their investment by virtue of several Supreme Court rulings dating back to 1898. These include: *Smyth* v. *Ames* (169 U.S. 466), *Wilcox* v. *Consolidated Gas Co.* (212 U.S. 19), *Bluefield Water Works* v. *West Virginia Public Service Commission* (262 U.S. 679), and *Federal Power Commission* v. *Hope Natural Gas* (320 U.S. 591).

Further, under the Sasser wheeling and interconnection amendment, the following rigorous requirements would have to be met before the Federal Energy Regulatory Commission could issue a wheeling or interconnect order:

(1) application by a State utility commission, utility or qualified cogenerator;

(2) public notice and notice to each utility commission, utility, and cogenerator affected;

(3) full hearing and investigation;

(4) demonstration that the utility or qualified cogenerator is ready, willing and able to provide reimbursement reasonably due for the costs (including capital and operating costs) incurred by the utility or owner which is required to interconnect or to wheel; and

(5) allowance of sufficient time for negotiation between the parties involved.

Finally, the Commission would have no authority to order any of the actions provided for in the amendment which would result in either (1) the enlargement of generating facilities owned by the utility subject to such order, or (2) result in any undue burden on that utility, significantly impair the reliability of the system of that utility, or impair its ability to render adequate service to its customers.

9. What is the Administration position?

President Carter has proposed wheeling and interconnection authority for the Federal Energy Regulatory Commission. Wheeling and interconnection powers are included in S. 1469, the President's original energy bill. The April 29 National Energy Plan states:

"Utility interconnections and power pools make possible economies of scale, reduction in aggregate capacity requirements, and sharing of power during emergencies. Expansion of interconnections and achievement of maximum efficiency from pools are primarily the responsibility of the utility sector, which has been active in this area.

"The Federal Government will follow closely the further progress of the utility sector. A proposed amendment to the Federal Power Act *would remove a major gap in the authority of the Federal Power Commission by authorizing it to require interconnections* between utilities even if they are not presently under FPC jursdiction. *The FPC would also be authorized to require wheeling the transmission of power between two noncontiguous utilities across another utility's system.*" (Emphasis added.)

10. What precedents are there for the Senate to take this action?

Besides the Supreme Court's landmark decision in the case of the Otter Tail Power Company's refusal to wheel, there are other precedents:

(1) The House has already adopted the essence of the President's proposal on interconnection and wheeling, which goes considerably further than the Sasser amendment in granting ordering powers to the Federal Government.

(2) In 1976 the Senate Commerce Committee approved a measure on interconnections and wheeling S. 3311 very similar to the Sasser amendment. The bill was not considered by the Full Senate due to the press of other business at the end of the 94th Congress.

(3) Also during the 94th Congress, the Senate voted by a 47–23 margin to require wheeling of federal power by any utility which received a right of way for a transmission line over federal land.

(4) The Interior Department routinely requires companies which use government easements to construct their power transmission lines to wheel electricity over those lines.

(5) Since 1970, the Nuclear Regulatory Commission has 27 signed interconnection and wheeling orders and consent decrees under a pre-licensing antitrust review law. This law, passed by Congress in 1970, requires that the government as a prerequisite to the issuance of nuclear power plant permits be satisfied that utilities requesting such permits do not engage in anticompetitive practices. This policy reflects the same principle embodied in the Sasser wheeling and interconnection amendment.

MILITARY PROCUREMENT AUTHORIZATIONS—S. 1863

AMENDMENT NO. 1421

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. MATHIAS) submitted an amendment intended to be proposed to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR, COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor will hold 3 days of oversight hearings on the Employee Retirement Income Security Act of 1974 (ERISA). The dates of the hearings are Tuesday, October 11, Thursday, October 13, and Friday, October 14, 1977, in room 4232, Dirksen Senate Office Building, beginning on each day at 9:30 a.m. The hearings will include consideration of S. 2125—a bill to permit the Pension Benefit Guaranty Corporation to postpone mandatory termination insurance coverage for multiemployer plans for up to 18 months. Other matters to be considered by the subcommittee will include a proposal by the Pension Benefit Guaranty Corporation to raise premium rates for single employer plans, and certain administrative and substantive ERISA implementation issues, including dual jurisdiction, application of the Federal securities laws to ERISA-covered employee benefit plans, the effects of the prudent man rule on investment policy, the special problems of multiemployer plans and small employer plans, preemption of State law, and ERISA improvements. Further information may be obtained by contacting Steven J. Sacher, special counsel to the committee, (202) 224–1097.

POSTPONEMENT

Mr. CRANSTON. Mr. President, for the information of Senators, the Committee on Veterans' Affairs hearing originally scheduled for Thursday, October 6, has been postponed due to an unavoidable scheduling conflict.

The hearing has been rescheduled for Monday, October 17, at 10 a.m., in an as yet undetermined room and will be the second day of testimony on the National Academy of Sciences report, "Health Care for American Veterans" and the Veterans' Administration's response to that report. Witnesses will include representatives from the National Academy of Sciences, the General Accounting Office, the Association of American Medical Colleges, the National Association of VA Physicians, and the Veterans of World War I.

ADDITIONAL STATEMENTS

MIDDLE EAST PEACE SETTLEMENT

Mr. PACKWOOD. Mr. President, on Saturday, the United States and the Soviet Union issued a joint declaration outlining broad objectives for an Arab-Israeli peace settlement. Unfortunately, this latest attempt by the Carter administration to pull a diplomatic rabbit out of the hat may do much more harm than good to the prospects of bringing about a lasting peace in the Middle-East.

I am particularly concerned by the administration's blatant disregard for previous agreements between the United States and Israel. In September 1975, U.S. Secretary of State Kissinger and Israeli Foreign Minister Allon signed the United States-Israeli Memorandum of Agreement in which the United States pledged to "continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338. The United States Government will consult fully and seek to concert its positions and strategy at the Geneva Peace Conference on this issue with the Government of Israel. Similarly, the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states. It is understood that the participation at a subsequent phase of the conference of any possible additional state, group or organization will require the agreement of all the initial participants."

Numerous statements in the latest proposal abrogate the spirit of that 1975 agreement. Of critical importance is the failure of the United States to consult closely on the issue of Palestinian "rights" with the Israel Government prior to its release of the document. According to press accounts, Israel was handed the text of the Soviet-American communique only 24 hours in advance and was asked only for comment. Only the most naive would call such actions by the United States in "concert" with the government of Israel.

The text of the Soviet-American statement also fails to reassert some of the

most basic understandings between the United States and Israel. There is no mention of U.N. Resolutions 242 and 338, long considered by all legitimate parties to be the formula for a lasting peace in the Middle East. This serious omission is further compounded by the failure of the communique to speak forthrightly of the necessity of a peace treaty between the parties, a basic prerequisite according to United States-Israel understandings. Instead, the agreement talks in vague terms of "the establishment of normal peaceful relations" between the parties.

I am also concerned, Mr. President, about what I believe to be a shift in the U.S. position toward the recognition of the Palestine Liberation Organization. Although the communique does not mention the PLO, neither does it affirm the traditional American policy that the PLO will not be recognized until it recognizes publicly Israel's right to exist and accepts Security Council Resolutions 242 and 338. Unfortunately, it is becoming commonplace for the administration to sidestep this most important issue by turning a phrase or retreating into ambiguity. Such a policy can only create misconceptions for Arab and Israeli alike and provide hope to a terrorist organization that its existence may soon be legitimized by actions of the United States.

Finally, Mr. President, I am concerned by the new foothold the Soviet Union has gained in the Middle East through the issuance of this joint statement with the United States. For years the Soviet Union has attempted to gain influence in the Middle East by supporting the most militant Arab groups. Only recently, Foreign Minister Gromyko met in Moscow with Yassir Arafat, head of the PLO. This policy has brought the Soviets mixed results.

Now, the United States welcomes a Soviet presence into this most volatile area with open arms. When he was Secretary of State, Henry Kissinger worked patiently and methodically to diminish the influence of the Soviet Union in the Middle East. His policy succeeded. Now, with one stroke, we undercut America's principal ally and the only democracy in the Middle East, we welcome back the Russian bear, and we even confound those Arab governments who had chosen to cease reliance upon Russian support. And what has the United States gained for this? Nothing. What has the Middle East gained? Nothing. What has Israel gained? Nothing.

Mr. President, I firmly believe that what is now needed is an American policy based not on ambiguity but one that insists on face-to-face negotiations between the legitimate states in the Middle East. Ambiguity in American policy only encourages the Arab belief that our Nation will acquiesce in the isolation of Israel and will pressure Israel into a precipitous retreat. Such an action is a formula for war, not peace.

PROGRESS IN SOLID WASTE MANAGEMENT IS REVIEWED—URGE MORE MONEY BE APPROPRIATED FOR NEW FEDERAL PROGRAM

Mr. RANDOLPH. Mr. President, recently, I called attention in remarks in the Senate to the progress being made in the drive for better solid waste management and resource recovery.

In that statement I stressed the important contribution being made to that effort by private industry, labor and business working in close cooperation with each other and with Government in a common cause. I can now add another chapter—and another element—to that report. It concerns the way individual citizens are becoming a part of that effort and how much their involvement can mean to its present and future success. That was attested to in the program and the kind of participation by a Clean Community System Seminar which I had the honor of addressing here on September 28.

The CCS concept was fostered by Keep America Beautiful as a means of ridding cities of trash and garbage. It has already spread across much of the country and even into some overseas areas.

Among those leaders with whom I shared the seminar luncheon were David Lewis, director-general of the Keep Britain Tidy Group, Brighton, England; and David Jackson, executive director of Keep South Africa Beautiful, Johannesburg. Other active participants were Robert Hobson, Charlotte, N.C., public works director; Lewis E. Reid, chief of environmental affairs, Bureau of Outdoor Recreation and chairman of the Steering Committee of the Keep America Beautiful National Advisory Council; Time Magazine Publisher Ralph Davidson; Mayor Buckner F. Melton of Macon, Ga.; and Mayor David Vann of Birmingham, Ala.

More than 340 persons representing a cross-section of business and labor, State and Federal agencies, congressional offices, solid waste specialists and environmental interest groups, were present. A seven-member delegation from Shizuoka-shi, Japan, gave further evidence of international interest in the theme of the event.

I was impressed by this program and by the promise it holds for future progress in the solid waste management field. To share information about the program with the Senate, I ask unanimous consent that sections of my remarks to the seminar luncheon be printed in the RECORD. I also include my letter to Chairman PROXMIRE of the HUD-Independent Agencies Appropriations Subcommittee asking that additional money be provided in the supplemental appropriations bill to more adequately fund solid waste management and resource recovery activities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COOPERATIVE EFFORT BUILDS A BEAUTIFUL AMERICA

I have faith in the ability and capacity of the American people to come to grips with their problems and to find ways of resolving them. Federal, State and local governments have a responsibility, of course, in providing guidance, leadership and assistance to the private sector in those instances where a major effort is required. But that alone is not enough.

The will, the enthusiasm, the cooperation and the active involvement of individual citizens in partnership with business, labor and industry are essential elements of the formula for success of such efforts. There is persuasive and even dramatic evidence of that fact in what is being done here.

It is evident that this seminar has a twofold purpose. It is intended to spotlight and underscore the true dimensions of a national dilemma—that of finding ways to rid ourselves of the trash, garbage and other solid wastes that have too often and in too many places blighted the face of America. For those of you not already familiar with the details, it is also intended as a graphic illustration of what a dedicated and informed business-citizen coalition can do in one very important aspect.

Credit for fashioning that coalition goes first to the Keep America Beautiful organization which conceived the Clean Community System on which today's seminar is focusing. The degree of the program's success is also a tribute to leaders like KAB President Roger W. Powers; Time Magazine Publisher and KAB Chairman Ralph Davidson; Director Lynn Greenwalt of the Fish and Wildlife Service who serves as Chairman of the National Advisory Council and Mrs. Pillana Desha, President of the National Federation of Business and Professional Women's Clubs and a member of the KAB Board of Directors. We are deeply concerned about the implications of the solid waste problem. I consider it a privilege to participate in today's program with them.

Mayors William Hudnut of Indianapolis and Buckner Melton of Macon typify the vision and dedication of authorities who have contributed so much to making the CCS concept a viable reality. They and their counterparts have been able to make it a "people program" in which garbage is a concern of everyone from the highest city official to the housewife and school child and the desire for a cleaner community becomes a common goal. The extent to which the idea has captured the public imagination is reflected in the almost explosive growth rate of the program. The statistics are impressive. They warrant mention now, even at the risk of possible repetition.

In the planning stage only since 1972 and initiated as a demonstration program in only three cities in 1974, CCS is now in full operation in 74 cities across our country and more than 100 additional communities are preparing for certification. Weirton, West Virginia, is high on that list of future qualifiers.

You will be impressed by the fact that virtually all of the areas where the program is in full effect have achieved very sizable reductions in the volume of litter—many from 25 to 50 percent and up to 70 percent in several instances. That, in itself, is a laudable achievement and, standing alone, would justify the effort.

There is also, however, the potential for other spin-off benefits. In the long run they may be fully as important as the original objective—perhaps even more so. Efforts to cope more effectively with trash and garbage are contributing to a better understanding of the nature and complexity of the solid waste problem as a whole, and of the inherent possibilities of converting it to some degree from a burden to a benefit.

Thanks to the professional guidance, technical information and educational materials being provided to operators of the CCS projects, these already are taking place to a significant degree in the more advanced city programs. The trend is expected to continue and widen in the immediate future.

In some instances, the cities are holding their own workshops on waste management. Operating committees are being called on to give technical advice and assistance to regional authorities and other cities where the program is not yet in operation.

In the process, the citizen and business participants in first phase of the drive for better solid waste management are securing the knowledge and motivation they need to form the nucleus of a strong moving force in the effort to deal with the bigger and more complex aspects of the dilemma that require resolution.

Additional impetus can also be expected to come in the form of a new program launched only a few days ago by the United States Brewers Association. Called Positive Reduction, the concept calls for utilization of techniques tested in earlier Association campaigns. It is now proposed for use of municipal and county governments throughout the country. The plan is to be promoted through the Association's field staff after a series of five regional meetings which opened last week in Atlanta and will conclude in Boston on October 5.

Persons who have come face to face with the problem know better than others that there are no easy answers or quick solutions, with economic and social factors having to be weighed with environmental considerations in any decision on how to proceed. I am sure you are aware that those decisions must be made and we can ill afford to delay them for long. That necessity has become increasingly evident. Even with the significant progress achieved through CCS, too many areas are struggling with only limited success against excessive accumulation of trash and garbage.

Their efforts have been complicated by the difficulty in finding and maintaining environmentally acceptable sites for sanitary landfills or other disposal procedures. There is growing realization that much valuable materials is being thrown away which could be salvaged for re-use or even converted into a practical new energy source through advances in research and technology. It is conceded that until recently the solid waste problem was something of an environmental stepchild. Even with the passage of the Solid Waste Disposal Act of 1965 and the Resource Recovery Act of 1970, the subject was not adequately addressed because the Congress was preoccupied with development of comprehensive programs to control air and water pollution.

The necessity for more specific action was recognized, however, with enactment last October of the Resource Conservation and Recovery Act which became Public Law 94-580. I had the responsibility for sponsoring that bill which has the essential purpose of giving States a larger role in planning and coordinating local and regional resource recovery programs while providing Federal assistance in carrying them forward.

Within that general concept the measure addresses three major areas of concern. The first is research and demonstration projects relating to environmental problems associated with land disposal, particularly in management of hazardous wastes. The second concerns development of methods to reduce waste volume and to recover and recycle material. Thirdly, the program provides technical and financial help to States and local governments for development of most cost effective and environmentally sound solid waste management practices.

These objectives are consistent with, and a logical extension of, the goals of the Clean Community Systems. I have confidence in American ingenuity and motivation. Those objectives are wholly attainable, given the level of policy commitment and funding necessary to implement the provisions of the legislation.

The support has, unfortunately, not yet been forthcoming to anything like the required level. The Fiscal 1978 budget provided less than $15 million of the approximately $99.5 million which had been requested for first-year implementation.

I have asked the Senate Appropriations Committee to substantially increase this support for the solid waste program through the supplemental appropriations bill which will be developed before the end of this Congressional session. It is essential that adequate financing be provided in the crucial first years of the program. Without that support, a program start will be difficult, if not impossible. The Congress and the Administration should adequately implement the new Act.

It will take that kind of Federal involvement to realize the full potential for waste management and resource recovery. It is also important to understand that much progress has already been achieved through the initiatives of private industry and government agencies at State and local levels.

These gains could not have been achieved if there had not been a public and private partnership willing to explore new ground in the field of solid waste management and resource recovery and ready to invest time and resources. Even with those gains, we have much to do and a long way to go. It will take the combined best efforts of vital segments of our society and individual commitment to overcome what is a problem of staggering proportions. I do not doubt that it can and will be done and that the concept of resource recovery will one day produce rich wards for our economy and our environment.

U.S. SENATE,
Washington, D.C., September 28, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, HUD-Independent Agencies Subcommittee of Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR BILL: In the near future, the Committee on Appropriations will consider supplemental appropriations for fiscal year 1978. The regular fiscal year 1978 appropriations bill for Housing, Urban Development and Independent Agencies (H.R. 7554) recently approved by the Congress, provided only $36.5 million for activities by the Environmental Protection Agency under the Solid Waste Disposal Act.

I ask you to recommend that the supplemental appropriations bill increase the funding for this vital program by $38 million. This is far short of the authorizations contained in the 1976 amendments to the Act (P.L. 94-580), but such an increase is essential if the program provided in the law is to have any chance of realization.

The 1976 Act authorized $30 million in fiscal year 1978 for grants to States and local and regional agencies, for the development and implementation of solid waste management planning. I understand that the Agency's zero-base budgeting exercise indicates an increase in solid waste funding for fiscal year 1979. But a large part of this work must be done, or at least begun, during fiscal year 1978. The $12 million included for this purpose in the regular appropriations bill is not adequate to begin this work, particularly if such limited funds must also be used for the open dump inventory process and for Senate hazardous waste programs, as the Environmental Protection Agency apparently contemplates.

That limited funding level would hinder the development of State solid waste management planning, and allow nothing for support of local and regional solid waste management planning efforts. The 1976 Act contained a strong mandate to develop local and regional responsibilities at the same time as State capacity to deal with solid waste is enhanced. Without adequate funding in fiscal year 1978, this will be impossible. The additional funding for solid waste planning under the section 208 program is not adequate for this purpose.

For these reasons, I ask the Appropriations Committee to provide $30 million, the full authorization, for grants to States and local and regional agencies to support solid waste management planning and programs. In addition, I believe the Committee should increase the authorization for general program activities by $10 million to allow for the costs of the open dump inventory. This was supposed to be a Federal responsibility under the 1976 law; while it is fully appropriate to have it carried out by the States, the funds for the open dump inventory should not be taken out of limited program funds.

A third area for which I ask the Appropriations Committee to consider supplemental appropriations for solid waste activities is for grants to States for hazardous waste program development. The 1976 Act's most ambitious regulatory program is the management of hazardous waste disposal. The Congress strongly intended that program to be operated by the States. If they are not able in fiscal year 1978 to begin development of hazardous waste permit programs, that intention will be frustrated. Future costs to the Federal government may be much higher if it must begin implementation of this program. An appropriation of $10 million (only 40 percent of the authorization) would allow interested States to continue progress toward assumption of the hazardous waste management program.

I realize these recommendations call for substantial supplemental appropriations for solid waste activities over those recently passed. The total appropriation with the recommended supplemental increases, however, represents just slightly over 50 percent of the non-research authorizations for fiscal year 1978. Without this increased funding, the Act's push toward solid waste management and planning at the State and regional level, including hazardous waste disposal control, may be seriously impaired during fiscal year 1978. It may prove impossible to ever regain the necessary momentum.

I would appreciate your help in having these funds included in the fiscal year 1978 supplemental appropriation bill when it is considered by the Committee on Appropriations.

With kind personal regards, I am

Truly,

JENNINGS RANDOLPH,
Chairman.

REMARKS OF HARRY BELL, PRESIDENT, SOUTH CAROLINA FARM BUREAU FEDERATION

Mr. THURMOND. Mr. President, this morning I had the great pleasure of meeting with members of the South Carolina Highway Users Conference. At this meeting, Mr. Harry Bell, president of the South Carolina Farm Bureau Federation, presented the energy policy statement of the conference in a very succinct and eloquent fashion. Such a direct and complete delivery is not unusual for a man of Harry Bell's stature and accomplishments. His tireless efforts on behalf of the farmers of my State have resulted in a very large and comprehensive federation in South Carolina which serves her many agricultural needs. In addition, Mr. Bell was a fitting spokesman for the conference with respect to its views on the many energy problems which face our Nation today.

I ask unanimous consent Mr. President, to have Mr. Bell's presentation printed in its entirety in the RECORD.

There being no objection the presentation was ordered to be printed in the RECORD, as follows:

PRESENTATION BY MR. HARRY BELL

President Carter has said that our country's energy situation is perhaps the biggest challenge of our lifetime. We couldn't agree with him more.

While many people seem to believe the energy problems facing this country are merely problems of the energy producing companies, we do not share this opinion. We believe the energy problems facing this na-

tion are the business of everyone—particularly highway users.

For highway transportation, the question of adequate petroleum supplies is a matter of survival of this industry and—consequently—to the lifestyles to which Americans have grown accustomed. Under present technology, there is no substitute for petroleum energy for highway transportation.

We are vitally concerned with the proposed energy program that has been before Congress for some time and have already corresponded with you on a number of its components.

There are a number of positive steps contained in the President's proposal. They include the belief that energy prices should reflect their true replacement cost; the concern over continuing dependence on foreign oil and its adverse impact on our balance of payments; the rejection of divestiture of the oil companies; the objective of making government energy policies and programs predictable and dependable; the strong emphasis on conservation; and, the spreading of the responsibility for energy problems across the entire economy. However, we have serious reservations about some parts of the proposed plan.

We supported the elimination of the proposed increase in the motor fuel tax to discourage consumption. It would take a huge tax to force conservation and the result would have been inflationary and damaging to the economy.

About two-thirds of all automotive travel is considered essential. Transportation costs are built into the costs of products and services. Right now for example, one-third of the price urban residents, in some areas of the country, pay for their food is in over-the-road transportation. Commerce and our food supply moves, not only by large trucks, but by an extraordinary number and variety of small vehicles. Medical services, utilities, plumbing, television, milk delivery and hundreds of other services move this way and there is no conceivable way they could be replaced by other modes. Increased fuel taxes would drive up the cost of these services to consumers unnecessarily. We do not disagree with the need for highway user taxes to provide needed roads for those who pay for them. But, we commend Congress for rejecting the punitive motor fuel taxes in the energy bill and we will continue this kind of taxation in the future.

Also, we are opposed to the so-called crude oil equalization tax. As you know, this would raise the price of all motor fuel by about seven cents per gallon without doing anything to increase our fuel supply. Highway users would rather see any increase in fuel prices go toward encouraging producers of oil to drill more wells—not for some proposed rebate system. The South Carolina Highway Users Conference has gone on record supporting speedy development of our nation's outer continental shelf for oil and gas production. We oppose any changes in the federal government OCS leasing system that would delay production of offshore petroleum.

We agree with the President that the energy crisis is one of the nation's greatest challenges. However, he has said nothing about relaxing some of the environmental laws which have caused much of this dilemma.

The emissions control equipment on cars is one of the most paradoxical situations which has developed. Paradoxical because, on the one hand, Congress and the Administration is working to solve our energy problems but, at the same time, is in the process of passing laws in the environmental area which greatly increase gasoline consumption. For example, the emissions control equipment on automobiles, in 1974, was estimated to be causing the consumption of an additional 600,000 barrels of oil per day. If all the new cars were 1974 or newer models, they would be contributing only about one-half of one percent of the totals of such chemicals as carbon monoxide and oxide of nitrogen to the atmosphere. Without the federally mandated equipment, automobiles would be producing less than five per cent of the total carbon monoxide and much less than one percent of the oxide of nitrogen. Nature produces 93 percent of the carbon monoxide in the atmosphere and 99 percent of the oxide of nitrogen.

We appreciate the part that the S.C. delegation played in the passage of the New Clean Air Act which freezes the present emission standards for the next two years and we believe any further application of automobile emissions control equipment is unnecessary.

Some of the changes brought about by the environmental movement have been positive—others only complicate our energy problems. We urge Congress to insist on proof positive for the allegations being made by these interests with respect to additional environmental rules and regulations.

There are other recommendations that we would make. First of all, we do not look upon this as an oil shortage or an oil crisis. There is plenty of oil at the present time, if we want to pay the price and rely on uncertain foreign oil imports for nearly half of our needs.

We feel that the United States should make every effort to develop all energy sources, but recognize that oil, gas and coal are the only ones that can possibly make a significant contribution to our needs in the immediate future, or, at least, in the next two decades. Therefore, we have no choice but to concentrate our efforts on hydrocarbons, especially oil and gas, until other sources of energy are able to share the load. But one thing is clear: we must have more production.

An essential part of this approach, would be the return to a free market situation for energy. We favor decontrol of crude oil and gasoline prices and deregulation of natural gas prices. If we decontrol the price of oil and natural gas, we will have higher prices. Although basically unpopular, higher prices would help correct our energy situation in two ways: first, they would, over a long period of time, slow our demand; second, they would spur domestic exploration drilling, which would eventually increase both our production and reserve.

Only about 35 percent of known oil deposits is recoverable using present technology. Higher prices would allow technological advances which, in turn, would contribute to improvements in recovery rate of existing oil reserves.

We must greatly increase the production and use of coal because it represents our most abundant and easily accessible source of domestic energy. Where possible, oil and natural gas users should be using coal. In some industries, conversion to coal will be difficult. For example, 38% of all energy used on the farm is natural gas. Most of this is processed gas for fertilizers, chemicals and plastics. Gasoline accounts for 27% of farm energy uses, diesel fuel 15%, LP gas 9%, distillate 5%, electricity 3% and coal and residual oil 1%. Coal for agricultural use will be limited. But, other industries can covert to coal and enable our vital farming industry to utilize needed oil and natural gas for production of food and fiber. For example, we should not use natural gas to make electricity because the conversion factor represents an energy loss over 30 percent.

Another environmental issue which has caused a waste of fuel is the elimination of lead in gasoline. Again, even though there has been no scientific evidence that this causes any serious health problems, lead has been banned as an additive to gasoline, resulting in far less efficient engines and a subsequent waste of gas. It is becoming increasingly apparent that we must all become reasonable about environmental constraints. We also need to review many questionable governmental regulations and take a more rational approach to the prudent use of nuclear energy. Finally, research must be increased to develop every practical energy source as rapidly as possible. In regard to the so-called "exotic forms of energy," we must also be realistic. Between now and the year 2000, these will only make a miniscule contribution to our overall energy production.

The development of our alternate energy sources is so compelling that we believe it borders on the absurd to restrain any company from entry into this endeavor. Such measures have been proposed for the oil industry. They are known as horizontal divestiture laws. They would prohibit many of the most experienced companies in energy production from developing coal, nuclear, solar, etc. We oppose horizontal divestiture proposals because they would hamper an all-out effort to solve the country's energy problems.

We support all reasonable and effective conservation measures. For instance, ride sharing is one of the most effective means of reducing rush hour energy consumption. Increasing commuter ride sharing by 20 percent would reduce gasoline consumption by as much as 250,000 barrels a day.

Toward this goal we recommend, as an incentive, an investment tax credit for employers against the capital costs of starting and operating vanpooling programs.

Employer-sponsored vanpooling has proven to be a cost-effective way of reducing rush hour automobile use. At the 3M Company—the pioneer in employer-sponsored vanpooling programs—more than a thousand employees now ride to work in 92 vans. Each van takes six or seven cars off the road. The company estimates that in 1976, vanpooling saved two million vehicle miles of travel and 165,000 gallons of gasoline.

Offering an investment tax credit would bring many more employers into vanpooling programs by allowing them to offset administrative costs and pass greater savings on to employee riders.

But transit, in some instances, can cost energy. Rail mass transit as any number of studies show, uses more energy than buses besides being prohibitively expensive. We believe Congress should discourage any further investment in fixed rail systems for mass transit without proof of a cost-effective relationship.

We would be remiss if we did not state the Conference's position on highway safety. The Conference is a strong supporter of federal and state highway safety programs. We believe that the 55 mph speed limit saves lives and fuel and should be strictly enforced.

We hope that our presence here today emphasizes our concern about the energy problems faced by highway users and all Americans.

DANGLING JUSTICE

Mr. GOLDWATER. Mr. President, for too long now, we have witnessed the ever-growing practice in the field of criminal law of "Trial by the media." Unfortunately, the news media have been aided and abetted by the various agencies which have the responsibility to investigate and prosecute any cases of criminal wrongdoing. In their unseeming haste to "right all wrongs," under their newly discovered code of morality, these agencies and their people have beaten a path to the doors of the news reporters with a handful of allegations, innuendoes, and half-truths.

The essence of this new morality is wrapped in the catchall "buzz-words" of "Rights of Americans." What this says is that we will forget the times and temperament and the fact that honorable men were acting on direct orders of their superiors. Instead, we will destroy them all in the name of a new, vaguely defined code of morals and ethics.

The sad result of all of this is that the victims of this peculiar brand of justice have had their names and reputations forever damaged with little or no hope of rehabilitation. On top of this, instead of a quick resolution to the problem, the victims of this charade have been left to "dangle endlessly in the wind." In this regard, a very timely editorial appeared in the October 10 issue of U.S. News & World Report.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DANGLING JUSTICE

(By Marvin Stone)

Appointment of a free-man committee at the Justice Department to investigate whether Bert Lance violated any criminal laws means that the President's close friend has been added to a prize selection of present and former officials who have been hung out on the line to dangle endlessly in the wind.

A prominent example of what we are talking about is the case of Richard Helms, the former CIA Director, who has faced the possibility of indictment for perjury for well over two years now. He admittedly gave a misleading answer to a Senate committee in a public hearing in 1973. Yet two Attorneys General under two Presidents claim they have been unable to reach a decision on whether he should be prosecuted. So Helms is left to dangle.

Another example is former FBI Special Agent John J. Kennedy. He was indicted last April for his alleged use of illegal techniques in the pursuit of members of a terrorist group. More than a year ago, two former top officials of the Bureau said publicly that they ordered such activities. Attorney General Bell has said on several occasions that the possibility of further indictments was under consideration. But months have gone by without a decision. Meanwhile, those who face possible indictment dangle in the wind, and FBI morale sags.

Still another example: The indictment of Tongsun Park in the "Koreagate" case was delayed until Park had returned to Korea, which does not have an extradition treaty with the U.S., after a long stay in England, which does have such a treaty. For months, Justice officials were unable even to interview him, let alone return him to stand trial.

The Lance case fits the pattern—a grievous inability of the Justice Department to do its business in an expeditious manner. For a year, the U.S. Attorney's office in Atlanta had in its files a case involving possible illegal actions by Lance as a Georgia banker. The case gathered dust all that time. It was only when the appointment of Lance to top post in the new Administration seemed imminent that the Department brought itself to make a decision—to close the case. Whether or not the case should have been closed is now being debated.

With the possible exception of the Korean bribery investigation, where facts are still being gathered, each of these cases appears to present a fairly simple, straightforward situation, requiring a decision based on the law and the evidence already in hand.

A question to be asked is whether the Justice Department has become a morass where private reputations and public business simply disappear in the quicksand.

It is important to ask that question now because the Justice Department is fighting vigorously to keep the Government's legal business to itself—to be the lawyers for virtually all the executive branch. It has 3,689 attorneys on its staff, and does not like to see other agencies adding—as they have—their own lawyers by the thousands, and stealing its thunder.

The Department's latest struggle is with the Federal Energy Administration over who should prosecute cases involving several billions of dollars of alleged overcharges for oil in the aftermath of the Arab oil embargo of 1973. Some administrative Ping Pong is going on here, while justice is being delayed and taxpayers' money is being eaten up.

Government-reorganization studies now being made by the Office of Management and Budget show that at present 25 different agencies and departments have won the right to take their own cases to court. The study is seeking to determine whether greater responsibility should be concentrated in the Justice Department for conducting the nation's legal business.

If the Department is to be given such broad responsibility, we have a right to expect it to do a much more efficient and expeditious job than it seems to be doing.

A YOUTH OPPORTUNITY PROPOSAL

Mr. HATCH. Mr. President, shortly the Senate will start debate on minimum wage legislation during the course of which Senator SCHWEIKER and I, as well as others, will advocate the inclusion of a youth opportunity proposal. We view such a proposal as absolutely essential when one considers the mounting evidence establishing the causal effect between a reduction on entry-level job opportunities and raising the wage.

The recent looting which occurred in New York during the blackout has been blamed by many on the high rate of unemployment, particularly among young people and minority groups—where unemployment runs as high as 40 percent. I am positive in my own mind that the sense of despair existing among young people in that circumstance contributed to the shame of that evening. Of equal shame is the unwillingness of the Congress to provide, at least on a test basis, a program by which all youth, not just those students or those few who qualify for public service jobs or training have a chance for a permanent job in the private sector—where meaningful and lasting employment exists.

Increasingly, those who seek to to find entry-level jobs for teenagers have come to oppose any rise in the minimum wage at this time because of the rise in unemployment among the young which seems inevitably to follow all minimum wage hikes. Employer witness after witness who testified on this subject before the Labor Subcommittee recounted their experience with each rise in the minimum resulting in layoffs, with entry-level jobs usually the hardest hit, as well as curtailed hiring of entry-level personnel, and thus fewer job opportunities.

At a time when excessive unemployment concentrated among the young and minority groups is a critical national concern, the potential impact of raising the minimum and a youth opportunity differential should be studied extensively prior to enactment of this bill.

To aid my colleagues in their deliberations I will insert following my remarks the Labor Subcommittee testimony of two black economists who really told it like it is on the burdens assumed by minority youth when the minimum wage is legislatively increased. Prof. Walter Williams and Thomas Sowell are renowned experts in this area and in my view they lay to rest any theory that hiking the wage does not operate to the severe disadvantage of the already disadvantaged. I hope my colleagues will study and heed well their excellent testimony.

I ask unanimous consent that the testimony of Prof. Walter E. Williams and Thomas Sowell on S. 1871 be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

RESTRICTIONS ON ECONOMIC OPPORTUNITIES FOR YOUTH AND MINORITIES

(Statement by Walter E. Williams, Associate Professor of Economics, Temple University)

Persistently high rates of unemployment in several segments of the United States labor force is one of the most difficult unresolved economic problems of the post World War II era. The segments of the labor force that produce the most seemingly intractable problem are its youth and minority. Youths, particularly minority youths, face high rate of unemployment even when there are relatively prosperous times and when the adult segment of the labor experiences a relatively low rate of unemployment. This evidence shows that governmental efforts to reduce unemployment through vigorous monetary and fiscal policy produces disappointing results for the youth segment of the labor force. Furthermore, there is not much hope that future monetary and fiscal policy will substantially change the situation over what it has been for well over a decade. What is needed are institutional changes which will free markets, and hence employment opportunities, for the relatively disadvantaged worker.

High youth unemployment would not be such a critical problem if youth employment was considered only as a means to supplement family income or earn spending change. The absence or presence of early work experiences have effects which may spell the difference between a successful or unsuccessful future work career. Early work experiences, even in the most menial of tasks, aids the individual in the acquisition of skills and attitudes that will make him a more valuable employée in the future.[1] Early work experiences (1) teach individuals effective job search techniques; (2) teach effective work habits such as promptness, respect for superiors and other work habits; (3) provides self respect and confidence that comes from being financially independent or semi-independent; (4) provide the valuable opportunity to make mistakes at a time when mistakes are not likely to be as costly as they would be when the worker has dependents counting on him for a continuous source of income. The absence of early work experiences not only deny youths the acquisition of these skills, but may also act as distincentives to the continuation of their formal training. Moreover, the absence of job opportunities is likely to contribute to many kinds of anti-social behavior.

High youth unemployment has effects which are undesirable from both an individual and social point of view. Quite naturally, at least two questions arise: (1) Why are youths, particularly minority youths, so disproportionately represented among the unemployed and (2) what should government policy be with respect to the matter? The first question is one of cause and effect. Economic

Footnotes at end of article.

theory can readily approach this kind of question. On the other hand, what government should do about teenage unemployment opens up the potential for unending debate. This is because no theory, including economic theory, can answer questions that are essentially normative. That is, while economic theory can say who bears the burden of what policy, it cannot in any moral sense justify a policy or its distribution of burden and benefits. Therefore, what follows is the analysis of the factors that cause the high rate of youth and minority unemployment.

MINIMUM WAGE LAWS

The Congress of the United States has the power to legislate increases in the minimum wage at which a labor transaction can occur. However, the Congress, and for that matter no one else, can legislate an increase in worker productivity. Moreover, though the Congress can legislate the minimum wage at which a labor transaction can be made, it has not chosen to legislate that the transaction actually be made. To the extent that the minimum wage law raises the pay level to that which may exceed some workers' productivity, employers will make adjustments in their use of labor. Such an adjustment will produce gains for some workers at the expense of other workers. Those workers who retain their jobs and receive a higher wage clearly gain. The most adverse unemployment effects fall upon those workers who are most disadvantaged in terms of marketable skills, who lose their jobs and income. This effect is more clearly seen if we put ourselves in the place of an employer and ask: If a wage of $2.65 per hour must be paid no matter who is hired, who does it pay the firm to hire? Clearly the answer in terms of economic efficiency is to hire the worker whose productivity is the closest to $2.65 per hour.[2] If such workers are available, it clearly does not pay the firm to hire those whose output is, say, $1.50 per hour. Even if the employer were willing to train such a worker, the fact that the worker must be paid more than his output is worth, plus training costs incurred, makes on-the-job-training an unattractive proposition.

The impact of legislated minimum wages can be brought into sharper focus if we ask the distributional question: Who bears the burden of legislated minima? As I said earlier, workers who are most disadvantaged by minimum wage legislation are those that are the most marginal. These are workers who employers perceive as being less productive or more costly to hire in some sense than other workers. In the U.S. labor force there are at least two segments that share the marginal worker characteristic to a greater extent than do other segments of the labor force. The first group consists of youths in general. They are relatively low skilled because of their age, immaturity and lack of experience. The second group are some racial minorities, particularly the youth, who not only share the handicaps of youths in general but are further burdened by unusually poor schooling, racial discrimination and other socio-economic factors leading to lower skill levels. While low skills can explain low wages, low skills cannot explain unemployment absent some kind of market interference. It is no accident that teenagers, particularly minority teenagers, are disproportionately represented among unemployment statistics as shown in Tables 1 and 2.

Footnotes at end of article.

Table 1 shows that for most of the years with an increase in the minimum wage law there was an associated increase in teenage unemployment relative to adult unemployment. Arthur F. Burns, in a study of the impact of legislated minimum wages, said:

"During the postwar period the ratio of unemployment rate of teenagers to that of male adults was invariably higher during the 6 months following an increase of the minimum wage than it was in the preceding half year. The ratio of female adults to that of male adults has behaved similarly. Of course, the employment of teenagers and women depends on a variety of other factors—certainly on business conditions as well as on minimum wage. I have tried to allow for this in a more refined analysis. It appears whether we consider the unemployment rates of teenagers or that of women, that its primary determinants are, first, the general state of the economy as indicated by the unemployment rate of adult males, second, the ratio of the minimum wage to the average in manufacturing. The influence of the wage ratio turns out to be particularly strong in the case of nonwhite teenagers." [3]

TABLE 1.—COMPARISON OF TEENAGE AND GENERAL UNEMPLOYMENT RATES

Year	Unemployment rates both sexes: General	Unemployment rates both sexes: 16–19	Ratio teenage, general
	(1)	(2)	(3)
1948	3.8	9.2	2.42
1949	5.9	13.4	2.27
1950	5.3	12.2	[1] 2.30
1951	3.3	8.2	2.48
1952	3.0	8.5	2.83
1953	2.9	7.6	2.62
1954	5.5	12.6	2.29
1955	4.4	11.0	2.50
1956	4.1	11.1	[1] 2.70
1957	4.3	11.6	2.70
1958	6.8	15.9	2.34
1959	5.5	14.6	2.65
1960	5.5	14.7	2.67
1961	6.7	16.8	[1] 2.50
1962	5.5	14.7	2.67
1963	5.7	17.2	[1] 3.02
1964	5.2	16.2	3.12
1965	4.5	14.8	3.28
1966	3.8	12.8	3.37
1967	3.8	12.9	[1] 3.39
1968	3.6	12.7	[1] 3.53
1969	3.5	12.2	3.49
1970	4.9	15.2	3.10
1971	5.9	16.9	2.86
1972	5.6	16.2	2.89
1973	4.9	14.5	[1] 2.96
1974	5.6	16.0	[1] 2.86
1975	8.1	21.9	[1] 2.68
1976	7.8	19.0	[1] 2.66

[1] Year Federal minimum wage was increased.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics 1975—Reference Edition," p. 145.

A number of other studies have evaluated the impact of legislated minimum wages on unemployment. The conclusions of some representative studies are cited here.

David E. Kaun [4] using census data found that statutory wage minimums caused plant closures and the replacement of labor by other productive inputs. Also the most adverse effects of statutory minimums were concentrated among minorities, teenagers and families.

Yale Brozen [5] in two studies discusses the impact of the minimum wage law. First he shows that the rate of teenage unemployment relative to that of the general population rose and the ratio of nonwhite to white teenage unemployment rose following increases in the federal statutory minimum. In another study he concluded that workers adversely affected by the statutory minimum crowded into uncovered areas, such as domestic housework, increasing employment and depressing wages in the uncovered areas.

Kosters and Welch [6] conclude that the minimum wage law has had the effect of reducing job opportunities for teenagers during periods of normal employment growth and making their jobs less secure in short-term changes in the business cycle. They go on to conclude that a disproportionate share of the cyclical vulnerability is borne by nonwhite teenagers and the primary beneficiaries of shifts in employment patterns are white adult males.

Edward Gramlich [7] argues that a 25 percent increase in the minimum wage law lowers the employment of low wage earners by 10 to 15 percent. Furthermore, Gramlich finds a defect of other studies causing them to understate the true effects of the minimum wage law. Gramlich presents evidence that shows that a rise in the minimum causes a shift toward more part-time employment away from full-time employment. This loss in hours worked does not show up in many studies because they do not distinguish between an individual employed full-time and one employed part-time. Thus, the reduction in hours worked may be greater than the fall in employment alone suggests.

Jacob Mincer [8] reports the adverse effects of the minimum wage on youths and minorities:

The net minimum wage effects on labor force participation appear to be negative for most of the groups. The largest negative effects are observed for nonwhite teenagers, followed by nonwhite males (20–24), white males (20–24) white teenagers, and nonwhite males (25–64).

The net employment effects are negative with the exception of nonwhite females (20–0), for whom the positive coefficient is statistically insignificant. The largest disemployment effects are observed for nonwhite teenagers, followed by nonwhite males (20–24), white teenagers, and white males (20–24).

The weight of academic research by economists is that unemployment for some population groups is directly related to statutory wage minima.[9]

MINIMUM WAGE AND NEGRO YOUTH

So far my discussion has focused mainly on youth unemployment in general. Now I want to make some comparisons between black youth unemployment and white youth unemployment. Table 2 shows male black/white unemployment statistics by age groups over the past several decades.

TABLE 2.—COMPARISON OF YOUTH AND GENERAL UNEMPLOYMENT BY RACE

	General	White 16 to 17	Black 16 to 17	Black/white ratio	White 18 to 19	Black 18 to 19	Black/white ratio	White 20 to 24	Black 20 to 24	Black/white ratio
Year:										
1948	3.8	10.2	9.4	0.92	9.4	10.5	1.11	6.4	11.7	1.83
1949	5.9	13.4	15.8	1.18	14.2	17.1	1.20	9.8	15.8	1.61
1950	5.3	13.4	12.1	.90	11.7	17.7	1.51	7.7	12.6	1.64
1951	3.3	9.5	8.7	.92	6.7	9.6	1.43	3.6	6.7	1.86
1952	3.0	10.9	8.0	.73	7.0	10.0	1.43	4.3	7.9	1.84
1953	2.9	8.9	8.3	.93	7.1	8.1	1.14	4.5	8.1	1.80
1954	5.5	14.0	13.4	.96	13.0	14.7	1.13	9.8	16.9	1.72
1955	4.4	12.2	14.8	1.21	10.4	12.9	1.24	7.0	12.4	1.77
1956	4.1	11.2	15.7	1.40	9.7	14.9	1.54	6.1	12.0	1.97
1957	4.3	11.9	16.3	1.37	11.2	20.0	1.79	97.1	12.7	1.79

General	16 to 17	White 16	Black 16 to 17	Black/white ratio	White 18 to 19	Black 18 to 19	Black/white ratio	White 20 to 24	Black 20 to 24	Black/white ratio
1958	6.8	14.9	27.1	1.81	16.5	26.7	1.62	11.7	19.5	1.66
1959	5.5	15.0	22.3	1.48	13.0	27.2	2.09	7.5	16.3	2.17
1960	5.5	14.6	22.7	1.55	13.5	25.1	1.86	8.3	13.1	1.58
1961	6.7	16.5	31.0	1.89	15.1	23.9	1.58	10.0	15.3	1.53
1962	5.5	15.1	21.9	1.45	12.7	21.8	1.72	8.0	14.6	1.83
1963	5.7	17.8	27.0	1.52	14.2	27.4	1.93	7.8	15.5	1.99
1964	5.2	16.1	25.9	1.61	13.4	23.1	1.72	7.4	12.6	1.70
1965	4.5	14.7	27.1	1.84	11.4	20.2	1.77	5.9	9.3	1.58
1966	3.8	12.5	22.5	1.80	8.9	20.5	2.30	4.1	7.9	1.93
1967	3.8	12.7	28.9	2.26	9.0	20.1	2.23	4.2	8.0	1.90
1968	3.6	12.3	26.6	2.16	8.2	19.0	2.31	4.6	8.3	1.80
1969	3.5	12.5	24.7	1.98	7.9	19.0	2.40	4.6	8.4	1.83
1970	4.9	15.7	27.8	1.77	12.0	23.1	1.93	7.8	12.6	1.62
1971	5.9	17.1	33.4	1.95	13.5	26.0	1.93	9.4	16.2	1.72
1972	5.6	16.4	35.1	2.14	12.4	26.2	2.11	8.5	14.7	1.73
1973	4.9	15.1	34.4	2.28	10.0	22.1	2.21	6.5	12.6	1.94
1974	5.6	16.2	39.0	2.41	11.5	26.6	2.31	7.8	15.4	1.97
1975	8.1	19.7	45.2	2.29	14.0	30.1	2.15	11.3	23.5	2.08
1976	7.9	19.7	40.6	2.06	15.5	35.5	2.29	10.9	22.4	2.05

Source: Adapted from Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics 1975—Reference Edition" (Washington, D.C.; U.S. Government Printing Office, 1975), pp. 153–55.

While most people are knowledgeable of the current deteriorated market position of black youngsters relative to white youngsters, not many are aware of black/white youth employment statistics for earlier periods in our history. The most striking feature of Table 2 is that in 1948 black youth unemployment was roughly the same as white youth unemployment. Only among black youths (20–24) was the unemployment rate significantly higher. *However*, for black youths age 16–17 their unemployment rate was *less* than of white youths—9.4 percent unemployment compared to 10.2 percent of white youths unemployed. Now, and for the last decade, black youths age 16–17 have suffered an unemployment rate considerably more than twice that of white youth. In fact for *every* age group among youths black youth unemployment is more than twice that of white youths. The statistics cited here understate the true nature of the problem by a wide margin. The reason is that they are national statistics and do not reflect the fact that much youth unemployment is concentrated in our major metropolitan areas. Black youth unemployment in some of those areas has been estimated to be as high as 60 percent!

Another part of this dismal picture is the labor force participation rate among black youth compared to white youth. Table 3 shows this comparison. In earlier periods, black labor force participation rates for *all* age groups exceeded that of whites. In fact, historically, black labor force participation has always exceeded that of whites. Until the mid-sixties blacks, as a group including black youth, had a labor force participation rate equal to or greater than whites.[10] For black youths age 16–17 their labor force participation rate is now slightly over one-half that of white youths. Black youths (18–19) the labor force participation rate is now three quarters that of white youths (18–19). Black youths (20–24) now have a labor force participation rate 90 percent of white youths (20–24). Not only are the labor force participation rates of black youth less than white youths but they are falling.

TABLE 3.—MALE CIVILIAN LABOR FORCE PARTICIPATION RATIO BY RACE, AGE

	Black/white males 16 to 17	Black/white males 18 to 19	Black/white males 20 to 24	Black/white males 16 and over
1954	0.99	1.11	1.05	1.00
1955	1.00	1.01	1.05	1.00
$1 per hour:				
1956	.96	1.06	1.01	.99
1957	.95	1.01	1.03	.99
1958	.96	1.03	1.02	1.00
1959	.92	1.02	1.04	1.00
1960	.99	1.03	1.03	1.00
$1.15 per hour:				
1961	.96	1.06	1.02	.99
1962	.93	1.04	1.03	.98
1963	.87	1.02	1.03	.98
1964	.85	1.01	1.04	.99
$1.25 per hour:				
1965	.88	1.01	1.05	.99
1966	.87	.97	1.06	.98
$1.40 per hour:				
1967	.86	.95	1.04	.97
$1.60 per hour:				
1968	.79	.96	1.03	.97
1969	.77	.95	1.02	.96
1970	.71	.92	1.00	.96
1971	.65	.87	.98	.94
1972	.68	.85	.97	.93
1973	.63	.85	.95	.93
$2 per hour: 1974	.65	.85	.95	.92
$2.10 per hour:				
1975	.57	.79	.92	.91
$2.30 per hour:				
1976	.57	.77	.91	.90

Source: Computed from U.S. Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics 1975—Reference Edition" (Washington, D.C.: U.S. Government Printing Office, 1975), pp. 36–37.

Faced with these facts one naturally asks why have labor market opportunities deteriorated so precipitously for black youths relative to white youths? Can racial discrimination explain this kind of reversal? Probably not. It would be very difficult for anyone to sustain an argument which held that business and society have become more racially discriminatory than they were in the past. The answer lies elsewhere as has already been suggested—the minimum wage law.

Earlier I said that economic theory predicts that when a wage is legislated that exceeds worker productivity firms will have inducement to make adjustments in its use of labor. Though not intended this adjustment which firms can rationally be expected to make has racial effects. That is, one type of adjustment is to hire not only *fewer* youths, relative to other inputs, but seek among those youths hired the ones with higher qualifiations. As it turns out for a host of socioeconomic reasons with which we are all familiar, white youths, more often than black youths, have better educational backgrounds. Therefore, as reflected in the unemployment statistics, increases in the minimum wage law can be expected to impose a greater unemployment burden on black youths than on white youths. Observations such as those that I have cited are those which prompted Milton Friedman, our economist Nobel prize winner, to say that the minimum wage law is the most anti-black law on the books.

CURRENT MINIMUM WAGE LAW PROPOSALS

The proposed 1977 amendments to raise the minimum wage and index it to the average wage of production workers in manufacturing will have serious unemployment consequences for youth. The rise in the minimum wage will raise youth unemployment. Gramlich has recently argued that a 25 percent increase in the minimum wage would lower the employment of low wage youth by 10 to 15 percent.[11] This calculation implies that a rise in the minimum wage from $2.30 to $2.85 per hour will decrease low wage youth employment by 9.6 percent to 14.4 percent.

Indexing the minimum wage will reinforce the unemployment effects of the rise in the minimum wage. Inflation has the effect of lowering the effective minimum wage. That is, inflation lowers the *real* wage, i.e., the money wage deflated by the price index. Therefore, if inflation can be said to have any beneficiary effects, it is that inflation erodes the legislated minimum wage and hence mitigates some of its adverse impact on youth. Indexing the minimum wage to the average wage in manufacturing will eliminate this effect and hence exacerbate youth unemployment.

One hope against the predicted large increase in youth unemployment, should the proposed amendment pass, is the inclusion of a significant youth differential. If Congress wants to reduce the expected unemployment effects of the proposed amendment, firms should be permitted to hire youths at rates considerably less than the adult rate.

Should the proposal pass as it is now the likely result is a mixture of the two following outcomes. Taxpayers are going to be called upon to tax themselves to support massive federal programs to provide income for the nation's disadvantaged who will not be employed by the private sector. The more tragic alternative is that millions of youths will become discouraged and permanently drop out of the labor force.

CONCLUSIONS

My testimony at these hearings could include many other federal regulations and laws that make it almost impossible for present disadvantaged minorities to enter the mainstream of American society as have earlier disadvantaged minorities. The point that I wish to make in the strongest fashion possible is that many laws, though well-intentioned, spell disaster for a large segment of black, Hispanic and other disadvantaged minority groups. The most tragic element of this is that society will come to view the difficulty that these groups have in fully entering the mainstream of American society (in spite of the billions of dollars spent, in spite of civil rights legislation, in spite of thousands of civil rights litigation cases) as group incompetence, and as such the most racist elements of society will have their prophecies realized. Hardly anyone acknowledges that many, if not most, of the problems encountered are neither due to group nor individual incompetence but due to the excesses of government influenced by politically powerful interest groups. Many of these groups in the pursuit of their objectives contribute to the enactment of laws which spell disaster for disadvantaged Americans.

FOOTNOTES

[1] Many argue that "deadend" jobs deny the individual career-related skills. However, many of the skills absent among many of our youth and hard-core unemployed can be obtained in any job. Furthermore to assign certain jobs as deadend is unfortunate because it creates false and unrealistic labor market expectations among our youth.

[2] Actually the compensation that employers have to pay is higher to the extent that Social Security and fringe benefits are paid.

[3] Arthur F. Burns, "The Management of Prosperity," (New York: Columbia University press, 1966), pp. 47–48.

[4] David E. Kaun, "Minimum Wages, Factor Substitution, and the Marginal Producer," *Quarterly Journal of Economics* (August, 1965), pp. 478–486.

[5] Yale Brozen, "The Effect of Statutory Minimum Wages on Teenage Unemployment," *Journal of Law and Economics* (April, 1969), pp. 109–122; Yale Brozen, "Minimum Wage Rates and Household Workers," *Journal of Law and Economics* (October, 1962), pp. 103–109.

[6] Marvin Kosters and Finis Welch, "The Effects of Minimum Wages on the Distribution of Changes in Aggregate Employment," *American Economic Review* (June, 1972), pp. 323–332.

[7] Edward M. Gramlich, "Impact of Minimum Wages on Other Wages, Employment and Family Income," *Brookings Papers on Economic Activity* (Washington, D.C.: The Brookings Institute, 1976), pp. 409–451.

[8] Jacob Mincer, "Unemployment Effects of Minimum Wages," *Journal of Political Economy* (August, 1976), pp. 87–105.

[9] Other studies showing these effects are: William G. Bowen and T. Aldrich Finegan, *The Economics of Labor Force Participation* (New Jersey: Princeton University Press, 1969); Thomas G. Moore, "The Effect of Minimum Wages on Teenage Unemployment Rates," *Journal of Political Economy* (July/August, 1971), pp. 897–902; Terrance Kelly, "Two Policy Questions Regarding the Minimum Wage," The Urban Institute, February, 1976, mimeo; Robert Golfarb, "The Policy Content of Quantitative Minimum Wage Research," Industrial Relations Research Association Proceedings, December, 1974, pp. 261–268. Many other references can be found in the bibliographies and footnotes of these studies.

[10] In 1910, 71 percent of blacks over 9 years of age were employed compared to 51 percent for whites. See U.S. Bureau of Census, *Negro Population, 1790–1915* (Washington, D.C.: U.S. Printing Office, 1918), pp. 166.

[11] American Enterprise Institute, *Minimum Wage Legislation* (Washington, D.C.: American Enterprise Institute for Policy Research, 1977), p. 15.

MINIMUM WAGE ESCALATION

(By Thomas Sowell)

The presently proposed minimum wage legislation raises two major sets of issues: (1) the question of the real effects of minimum wages, as such, and (2) the effect of the new principle of automatically escalating minimum wage levels, tied to earnings elsewhere in the economy.

Because of inflation, minimum wage levels have been periodically reviewed, and therefore the general issues and growing evidence on the actual effects of the Fair Labor Standards Act have also been reviewed. What an automatic escalation provision means is that we stop looking at the evidence. And we would stop at a time when a growing body of research by independent economists around the country is documenting the negative effects of the minimum wage law—and particularly its devastating impact on job opportunities for minority teenagers.[1]

Minimum wage laws have been aptly described as "anathema to economists."[2] Even though 88 percent of academic economists supported the "war on poverty," 61 percent of those same economists opposed the minimum wage law.[3] In short, this is not opposition based on philosophy or political leaning, but on economic analysis and on the mounting factual evidence that the law increases unemployment among the very people intended to be benefitted. Moreover, economic research has also revealed a disturbing correlation between teenage unemployment and teenage crime rates.[4] In view of this, this seems like a particularly inappropriate time to stop looking at the evidence by putting in an escalator clause that will give the law a life of its own, independent of its effects on people.

The minimum wage law might be discussed in terms of philosophical, political, or economic theory, but the real issues turn on facts. The crucial factual question is whether eliminating wage rates below some designated level also eliminates jobs. As a realistic matter, few people of any philosophical, political, or economic persuasion would want to see either (a) job-seekers unemployed with a hypothetical right to a "living wage," or (b) people employed at very low wages when they could be equally fully employed at normal wages.

While facts are crucial, they are not easy to get, for a number of reasons which will be discussed. It will also be necessary to consider a number of standard (or stereotyped) arguments about the minimum wage effects which have persisted over the years. Finally, I would like to venture a few suggestions about the continuing need to assess the impact of the law and some ways that assessment might be improved.

I. FACTUAL STUDIES

There are serious problems inherent in trying to study the unemployment effects of minimum wages, as well as other problems that derive from the way the U.S. Department of Labor chooses to approach the issue.

One problem that plagues minimum wage effects studies is getting statistical data for the specific workers directly affected by the minimum. Such workers are often only a small fraction of the total workforce. Even where a substantial proportion of the directed affected workers lose their jobs as a result of a minimum wage increase, this effect can be lost statistically in the random fluctuations in employment of the much larger number of workers whose wages were always above the minimum. The statistical extraction of the relevant changes is analogous to trying to receive an electronic signal through a heavy background of static noise. Different economists use different methods and devices to mute the background statistical "noise" in order to read the signal. As a result of their different procedures for grappling with this problem, economists' numerical estimates of the unemployment effect of the law differ—a variation seized upon by proponents of minimum wages[5]—but it is increasingly clear that the consensus of these studies is that the law does cause substantial unemployment, and that is more fundamental than the question of exact numbers.

One of the simplest ways of reducing the statistical "noise" in the data is by selecting some age-group which is known to receive very low wages, so that a relatively high percentage of the people in the category chosen are earning low enough wages to be directly affected by minimum wage changes. Teenagers are an obvious choice, and nonwhite teenagers even more so. Here the serious unemployment effect of minimum wage rates has been repeatedly demonstrated by economists operating independently of one another and using different statistical methods.[6]

Extremely high unemployment rates among black teenagers have been so highly publicized in recent years, and so automatically attributed to employer discrimination, that certain historical facts must be noted. Large racial differences in teenage unemployment are of relatively recent vintage. In the late 1940's and early 1950's, there were no such large differences, and indeed, black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets.[7] Surely no one is going to claim that there was less employer discrimination then than now. We all know better. What was the difference, then? Minimum wages had not yet begun the rapid rise and spreading coverage which has been the dominant pattern since then.

The unemployment effect of minimum wages can also be seen in international comparisons of countries that do and do not exempt young people from the adult minimum wage. In countries where such exemptions are slight or nonexistent—such as the United States and Canada—youth unemployment is some multiple of adult unemployment. But where there are exemptions that are large and cover a number of working years—as in England, Germany and the Netherlands[8]—there are no significant differences between youth unemployment rates and adult unemployment rates.[10]

These findings may reflect the special vulnerability of teenagers as an inexperienced and relatively unskilled group—or they may reflect the greater statistical ease of determining the facts for this group. A recent survey of minimum wage studies notes "the lack of acceptable continuing data on low-wage adults."[11] The same things known to be happening to teenagers may also be happening to other very low-wage people, who happen not to be grouped together statistically. There are some scattered clues that this is in fact the case. For example, an older study of domestic servants, before they were covered by the Fair Labor Standards Act, showed that their ranks tended to be increased in the wake of minimum wage increases, suggesting the displacement of low-skill women from other employment that was covered by the Act.[12]

Factual studies by independent (usually academic) economists must be sharply distinguished from studies by the U.S. Department of Labor. The Labor Department itself has recently been forced to acknowledge the gap between its perennially optimistic conclusions and the consensus of independent studies, the latter "using advanced economic and statistical analyses."[13] The crudity of the Labor Department studies has been scathingly criticized by academic economists.[14] However, even so, the actual numbers appearing in Labor Department studies of minimum wage effects often show employment declines in the wake of minimum wage increases, even though the stated conclusions of these very same studies may be that the minimum wage did not cost people their jobs.[15] Congressman Dent is correct only in the narrowest sense when he asserts that "Not once in the history of the minimum wage has there been an adverse report" from the Labor Department about "the lessening of job opportunities."[16] In this context, such a statement is far from reassuring. It will hardly be the first clean bill of health given by an agency evaluating itself or the legislation on which its own appropriations and staff depends. This is especially unsurprising to me, as one who worked inside the Labor Department on minimum wage research, and who personally experienced the pressures to reach conclusions consistent with the Department's interests.

II. ASSUMPTIONS AND CLAIMS

The economic analysis which concludes that minimum wages increase the unemployment of low-wage workers rests essentially on the belief that labor is no exception to the general rule that less is demanded at a higher price than at a lower price. Attempts to overturn this basic economic principle usually reduce to one of four assumptions or assertions: (1) there is a fixed number of workers demanded, more or less without regard to wage rates; (2) low-wage workers are victims of employer monopoly power rather than low productivity, so that raising their wage rates will not price them beyond their value to the employer and therefore will not price them out of a job; (3) higher wage rates will cause employers to use labor more efficiently, so that workers will then become valuable, and so will not lose their jobs; and (4) the increased "purchasing power" caused by higher minimum wages will lead to a greater demand for goods, and therefore a greater demand for labor, offsetting any tendency toward unemployment. These arguments will be examined in order.

Fixed demand: The idea that an employer "needs just so many men"[1] is an old one, which dies hard. Factually, it can hardly stand up in face of declining employment after wage increases, or the virtual elimination of such occupations as Western Union messenger and elevator operators (despite the continued existence of telegrams and elevators). As a theory, it implies that the substitution of capital—and of higher priced labor—is impossible. The problem is not when the theory is stated directly and explicitly, but when it is implicitly assumed (and therefore insulated from critical scrutiny), as in the belief that more jobs for teenagers means fewer jobs for adults.

Employer monopoly power: Under special conditions, where there is only one employer in a labor market or a group of employers acting in concert, wages can be kept below what equally productive workers would earn otherwise. There is a special economic theory for such "exploitation" situations, and a minimum wage increase under those conditions would not produce unemployment.[17] Unfortunately, low-wage workers are very unlikely to be in such situations. All sorts of firms, industries, and even households employ unskilled workers, and collusion under these conditions is out of the question. Even such a staunch advocate of minimum wages as the late Senator Paul H. Douglas noted that the market for unskilled labor was one of "almost perfect competition."[18] The sad fact is that low-wage workers are not so much underpaid as underskilled, and there is no easy way around this problem without pricing them out of a job.

"Efficiency": Theories of offsetting rising wages by increasing efficiency have long been used to claim that minimum wage increases will not reduce employment. Unfortunately, those who argue this way have not distinguished real efficiency—larger output from given combinations of input—from a mere substitution of one input for another as their relative prices change. The examples they cite of "better" or "more efficient" methods of production after a minimum wage increase are methods well-known to employers before the imposed wage change, and were not used then simply because they were not the cheapest methods available under the previous input prices. If higher wage rates lead to the substitution of capital for labor, then by definition there will be more output per unit of labor, but it is mere word play to call this more "efficiency" if the product now costs more to produce and society has to support unemployed wokers as well.

Purchasing power: The doctrine that workers' increased purchasing power after a minimum wage increase will sustain employment has many problems with it,[19] but the most fundamental problem is that it assumes the very thing that is at issue: that the workers keep their jobs and work as many hours as before. If not, their hypothetical right to a higher wage rate will not buy anything. Workers can only spend real earnings, not hypothetical rights. Once this is realized, it is hardly necessary to go into the other deficiencies of the theory, such as the fact that inflationary increases mean that more spending power is not more purchasing power.

III. CONCLUSIONS

The minimum wage law addresses a serious social problem, but creates no new options for dealing with it. In fact, it simply reduces the set of existing options available to the parties—employers and employees—who must voluntarily agree if there is to be a job. Trying to make people better off by reducing their options seems questionable even as a theory. In practice, what has happened has been that fewer transactions (less employment) have taken place when there were fewer options open to the parties. It would be very surprising if it were otherwise.

The great unsolved problem remains of what to do about the poor in general, or the low-wage workers in particular. Low-wage workers are not changed by calling them higher-wage workers, any more than students are improved by calling them B students instead of C students. The tragic educational results from the process of upgrading by fiat is hardly a recommendation for extending this practice into the economic sphere. In both cases, it is of course much harder, much slower—and more heartbreaking—to try to create real skills and real achievements. And yet nothing else will really do the job.

Automatic escalation compounds the problems of the minimum wage law by making it possible to close our eyes to its effects hereafter. This seems unconscionable when those affected are poor, vulnerable, powerless, and inarticulate. If the Congress does not monitor what happens to them, there is no other power institution to do so. The set of incentives confronting the U.S. Department of Labor makes it unrealistic to expect it to critically evaluate minimum wage effects, and nearly 40 years of history makes it painfully apparent that it has no intention of doing so. Labor unions have their own imperatives and constraints. For them, the minimum wage law presents the same kind of opportunity that a tariff presents to a business firm. It is a way to price competitors out of the market. That this is accompanied by humanitarian statements may be a matter of rhetorical, or perhaps political, interest but it changes no economic fact. In the Union of South Africa, minimum wage laws were applied to native black Africans for the explicit purpose of stopping their competition with European workers.[20] In the days of the British Empire, British unions and manufacturers attempted to get minimum wages applied to India for similar reasons, though with different rhetoric.[21] American unions and businesses have been doing something very similar in Puerto Rico and other affiliated territories where minimum wages are set by tripartite boards of mainland Americans, often from competing firms.

The point here is not to depict anyone as particularly evil. The point is that powerful institutional incentives exist to use the minimum wage laws for purposes very different from those announced in the Act, and that these institutional incentives are likely to persist through turnovers of personnel in the future as in the past.

Special interests, recognized as such, may be kept within bounds. For the special interests revolving around the minimum wage laws, Congressional oversight seems especially needed, and therefore automatic escalation seems especially dangerous.

Finally, my hope would be that some way might be considered to have the statistical analysis of minimum wage effects performed by some organization other than the agency whose own fate is intertwined with that of the Fair Labor Standards Act.

FOOTNOTES

[1] Marvin Kosters and Finis Welch, "The Effects of Minimum Wages on the Distribution of Changes in Aggregate Employment," *American Economic Review*, June 1972; Thomas G. Moore, "The Effects of Minimum Wages on Teenage Unemployment Rates," *Journal of Political Economy*, July/August, 1971; Michael C. Lovell, "The Minimum Wage, Teenage Unemployment and the Business Cycle," *Western Economic Journal*, December 1972.

[2] Peter B. Doeringer and Michael J. Piore, *Internal Labor Markets & Manpower Analysis* (D. C. Heath & Co., 1971), p. 182.

[3] Jacob J. Kaufman and Terry G. Foran, "The Minimum Wage and Poverty," *Readings in Labor Market Analysis*, ed. J. F. Burton, Jr., *et al.* (Holt Rinehart & Winston, Inc., 1971), p. 508.

[4] See note 1 above.

[5] "... the estimated magnitude of these employment impacts and the distribution of these impacts vary among the studies." Statement of Assistant Secretary of Labor, quoted in *Minimum Wage Legislation* (American Enterprise Institute, 1977), p. 14.

[6] See note 1 above.

[7] *Employment and Training Report of the President* (Government Printing Office, 1976), pp. 242, 243.

[8] *Minimum Wage Legislation*, p. 2.

[9] U.S. Department of Labor, Bureau of Labor Statistics, *Youth Unemployment and Minimum Wages*, Bulletin 1657 (Government Printing Office, 1970), p. 138.

[10] Ibid., p. 149, Table 10.1. It should be noted that the Netherlands did not have a minimum wage before 1966, so the entry in the table for 1960–64 is misleading.

[11] *Minimum Wage Legislation*, p. 15.

[12] Yale Brozen, "Minimum Wage Rates and Household Workers," *Journal of Law and Economics*, October 1962.

[13] Quoted in *Minimum Wage Legislation*, p. 14.

[14] George Macesich and Charles T. Stewart, Jr., "Recent Department of Labor Studies of Minimum Wage Effects," *Southern Economic Journal*, April 1960. See also Thomas Sowell, "The Shorter Work Week Controversy," *Industrial and Labor Relations Review*, January 1965.

[15] Numerous specific citations of Labor Department studies are listed in Sowell, *op. cit.*; 243.

[16] Representative Dent quoted in *Minimum Wage Legislation*, p. 10.

[17] Albert Rees, *The Economics of Work and Pay* (Harper & Row, 1973), pp. 75–78.

[18] Paul H. Douglas, *The Theory of Wages* (Augustus M. Kelley, 1964), p. 78.

[19] See Sowell, *op. cit.*, pp. 241–242.

[20] P. T. Bauer, "Regulated Wages in Underdeveloped Countries," *The Public Stake in Union Power*, ed. Philip D. Bradley (Univ. of Virginia Press, 1959), p. 346.

[21] *Ibid.*, p. 332.

THE INADEQUACY OF THE OPPOSITION'S ARGUMENTS AGAINST THE GENOCIDE CONVENTION SUGGESTS IMMEDIATE RATIFICATION

Mr. PROXMIRE. Mr. President, the Genocide Treaty has been debated several times since its introduction in 1948. This delay in ratification of a treaty which outlaws the extermination of human beings, a crime abhorred by all, is very perplexing to many. It is difficult to comprehend any objections to such a seemingly necessary treaty.

During May of this year, the Committee on Foreign Relations held extensive hearings on this treaty. At this time the Honorable Arthur J. Goldberg, on behalf of the ad hoc committee on the human rights and genocide treaties, summarized and refuted the arguments offered by the opposition to the convention. I urge the Senate, upon reading Mr. Goldberg's remarks, to realize there is no substantial argument remaining that has not been answered. With that realization, I believe the Senate will finally act to ratify this important pact.

Mr. President, I ask unanimous consent that a portion of the testimony presented by Mr. Goldberg be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Let me comment on the arguments that have been given particular prominence by the opponents of ratification:

1. The contention that the Constitution prevents ratification of the Genocide Convention because genocide is a "domestic" matter is without foundation.

It would be a curious result if the United States were constitutionally barred from ratifying a Convention already ratified by 75 other countries, including such friends and democracies as the United Kingdom, Canada, France, Mexico, the Scandinavian Countries and Israel. Fortunately, there is nothing in our Constitution that imposes such a unique disability upon us.

By any objective standard, genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention, and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared genocide to be a crime under international law in 1949 and that 75 members of the United Nations are parties to the Genocide Convention is further evidence that genocide can no longer be considered a matter wholly within domestic jurisdiction.

The protection of human rights is a matter of international concern. The United States has shown that it agrees with this view by ratifying the World War II peace treaties, the United Nations Charter, the Slavery Convention of 1926, and more recently the Supplementary Convention on Slavery (1967) and the Supplementary Convention on Refugees (1968). In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, chaired by retired Supreme Court Justice Tom C. Clark:

"Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States . . . It may seem almost anachronistic that this question continues to be raised." I agree with my former colleague, Justice Clark, that there is no real basis for challenging the authority of our country under our Constitution to enter into the Genocide Convention. The constitutional arguments against the Convention are indeed, as the committee said, anachronistic and without foundation in law.

2. The contention that the Genocide Convention would alter the balance of authority between the States and the Federal Government is unfounded.

The Constitution specifically gives Congress the power to "define and punish . . . offenses against the law of Nations." Genocide is an offense against the law of nations and is thus within the power of Congress to outlay. Moreover, as the ABA's Section on Individual Rights and Responsibilities said in its report:

"Ratification of the Convention will add no powers to those the Federal Government already possesses."

3. The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Vietnam on trumped-up charges of genocide is wholly false.

There is nothing in the Genocide Convention that would provide warrant for charges by North Vietnam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of genocide. As the Foreign Relations Committee pointed out in its report, Hanoi can make trumped up charges of genocide against our servicemen, with or without reference to the Genocide Convention. In the words of the committee:

"Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention."

Moreover, under the Genocide Convention, extradition would only take place in accordance with laws and treaties in force, and we have no extradition treaties with North Vietnam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. Moreover, we do not grant extradition in any event unless a prima facie case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law.

In reading the testimony of the prior hearings I have noted the discussion of concurrent jurisdiction under the Convention—jurisdiction of the state of which the offender is a national as well as the state in which the offense of genocide occurs. I noted the concern expressed on this matter by the senior Senator from Kentucky, Senator Cooper. Any expression from Senator Cooper deserves serious attention, and I have given it the serious attention that it warrants. I found in my own review of the legislative history that there was an agreed interpretation by the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state. The Foreign Relations Committee reached the same conclusion in its report. Nevertheless, I commend the committee for meeting this concern by recommending an appropriate understanding on this point. I note further from the testimony of administration witnesses that the Government could refuse to extradite where an accused American was standing trial in the United States or where the U.S. Government elected to try him here.

4. The argument that ratification of the Genocide Convention would subject the U.S. Government to irresponsible charges of Genocide arising out of Vietnam or our treatment of American Negroes is without foundation.

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even without ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the United Nations. If anything, ratification would improve our position, because the Convention requires an "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such." The tragic events in Vietnam and the terrible loss of life, both military and civilian, that has occurred there do not meet the treaty definition. Charges of genocide in relation to the treatment of the Negro community in the United States, which admittedly has suffered widespread discrimination for many years, also are not within the scope of the treaty. Ratification of the Convention would, if anything, help us rebut such charges by subjecting our behavior to a precise legal definition of genocide.

5. The argument that provision for the settlement of disputes by the International Court of Justice would override the Connally amendment and unreasonably limit our sovereignty is without substance.

This charge also lacks substance. The Connally amendment applies only to our acceptance of Article 36(2) of the Court's Statute, the so-called "optional clause" providing for compulsory jurisdiction across-the-board. Cases arising as a result of our adherence to the Genocide Convention would come under Article 36(1) of the Court's Statute, which covers the Court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court as is contained in the Genocide Convention.

Among such treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified just last year. A list of these treaties is contained on page 215 of this subcommittee's 1970 hearings. Indeed, our country in the ratification of many treaties has proposed that the International Court have jurisdiction over disputes. Interestingly enough, our efforts in this direction have frequently been frustrated by the Soviet Union, not Congress, whose members on numerous occasions have advocated increasing resort to the International Court.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of genocide against us considered in a judicial forum like the International Court, rather than more politically motivated forums. Of course, by this provision we do undertake a commitment limiting our freedom of action in a limited sphere, as do the other parties to the Convention. This exchange of commitment is inherent in any treaty to which we become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

6. The argument that various provisions in the Convention—"in whole or in part", "mental harm," "direct and public incitement to commit genocide"—are loosely drafted and potentially harmful to our interests is without foundation.

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the Convention itself and by the records of the negotiation.

Thus "in whole or in part" does not mean that the killing of a single individual becomes genocide. As the negotiating history makes clear, substantial numbers must be involved, and the acts of homicide must be joined by a common intent to destroy the group, for the definition of genocide to be satisfied. The understanding recommended by the Foreign Relations Committee to confirm this point is wholly consistent with the drafting history.

"Mental harm," in turn, would not support propaganda charges of harassment of minority groups, as charged by some critics, because mental harm becomes an element of genocide only when done with an intent to destroy a group. Moreover, as the negotiating history shows, it was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as from the forcible application of narcotic drugs.

"Direct and public incitement to commit genocide" does not cover constitutionally protected speech. It covers speech which calls for the commission of mass murder, which is actionable under our Constitution as in other countries.

As the Supreme Court declared in *Brandenburg* v. *Ohio*, 395 U.S. 444, "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.*" (Emphasis added.) In any case, no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention will be interpreted in accordance with the first amendment.

In conclusion, I find the objections to ratification of the Genocide Convention without substance. The reasons for ratification, as I suggested earlier, seem to me compelling. Some cynics doubt that the Genocide Convention really "matters". Some say it ranks at the bottom of our foreign policy priorities. Some even say it is "an exercise in futility".

I do not agree. We have heard this argument now for over twenty years. I believe the time has come to devote more of our energies and resources to the long-term task of constructing some kind of decent world order. Ratification of a convention outlawing the most blatant crime against humanity will not by itself provide the answer. But it is surely a good place to begin. It should be one of the foundations of the rule of law among nations—a rule of law which, in the long run, is the only assurance of lasting peace.

THE MYTH OF ARMS CONTROL

Mr. GOLDWATER. Mr. President, the press in the last 2 days has been filled with statements made by President Carter as to the nearness of arms control agreements with the Soviets. This is wishful thinking stretched to its most dangerous point. Frankly, there is no such thing as arms control, and it can never be effective if only two countries are involved. The Wall Street Journal has a very fine editorial entitled, "The Myth of Arms Control," which I think should be read by every Member. Therefore, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE MYTH OF ARMS CONTROL

When the first strategic arms agreement was concluded back in 1972, we wrote that for the Soviet Union, "the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building." And as that agreement expires today, we look back on five years of a steadily mounting Soviet threat.

During this period of arms control, the Soviet Union expanded its missile submarine force by more than 60%, surging to 909 missiles from 560 while the U.S. remained constant at 656. To facilitate this surge within the terms of the agreement, the Soviets have retired a few land-based missiles, dropping their total to 1,477 from 1,530, while the U.S. remained constant at 1,054. The Soviet long-range bomber force is counted at 135 today compared to 140 five years ago, while the U.S. force has dropped to 441 from 552.

Out of SALT-I, we got the retirement of 53 obsolete Soviet missiles. This is the price we received for agreeing not to exploit the lead in antimissile technology we held in 1972. Our ABMs have now been deactivated, while the Soviets retain the older system they have around Moscow, and have expanded fixed air-defense missiles to 12,000 from 10,000.

As the agreement expires, further, the Soviet momentum shows anything but signs of slackening. They have only started to replace their land-based missiles with a more modern generation with multiple warheads and high accuracy. Defense Secretary Brown recently revealed that they have already started to develop four even newer missiles as follow-ons for the generation now going on line.

In addition they are deploying the mobile SS-20, a modern ballistic missile with ranges that threaten our European allies. The SS-20 is the top two stages of the intercontinental SS-16 and could easily be upgraded into a mobile intercontinental missile. The Soviets have upgraded their conventional forces in Europe and their navy. They are steadily deploying their new Backfire bomber, insisting it is not a strategic weapon though it could reach the U.S. In any event, the Backfire is a potent threat to Europe.

The U.S. force shows nothing like the same across-the-board surge. Measured in constant dollars, the U.S. defense effort fell through most of the five-year period, and has only now started to revive. Still, its force was improved in significant ways during the interim agreement. The most important development was the introduction of more multiple warheads for both land and sea forces. This has allowed the U.S. to retain a sizeable lead, 11,000 to 3,800, in deliverable warheads. This advantage is so far only partly offset by the larger size of Soviet missiles and warheads, but it will shrink as multiple warheads are installed on more Soviet missiles.

The U.S. also retains several technological advantages. It continues to lead in warhead accuracy. It is building its new Trident submarine, though the B1 bomber has been killed. The U.S. is developing a new mobile intercontinental missile, the MX. Its most promising development is the subsonic but highly accurate cruise missile. The cruise missile will be needed if the U.S. bomber fleet ever has to penetrate the heavy Soviet air defense. It will be even more important as a tactical weapon, with either nuclear or conventional warheads. In particular, the cruise missile is the answer to the threat of the SS-20 and the Backfire in the European theater.

This, then, is the balance at the expiration of SALT-I's interim agreement on offensive weapons; the defensive treaty against ABMs goes on in perpetuity. However optimistically or pessimistically one judges the current balance, it is a balance struck by the fears and ambitions, resources and will, of the two sides. It is hard to discern where SALT-I made more than a marginal difference, except perhaps in delayng U.S. recognition of the true magnitude of the Soviet arms-building thrust.

This experience begs to be recognized as we negotiate in SALT-II. In retrospect, the 1972 negotiations are best seen as a Soviet drive to stop U.S. ABM technology. The negotiations today are best seen as a Soviet drive to stop U.S. cruise missile technology. If they can constrain cruise missiles through SALT, this affects the cost-benefit calculations for the entire cruise missile program. If the constraints are tight enough the entire program could die, as the ABM did, for budgetary reasons. If this ever happens, we had better get a lot more in return than 53 obsolete ICBMs. In the wake of President Carter's decision to kill the B1, the cruise missile weighs much heavier in the strategic balance. Beyond that, there are two particular problems with limiting it by treaty.

The first is the European theater. The cruise missile is the key to reinvigorating the NATO alliance, though other steps are also needed. Under the treaty the Soviets want, land-based cruise missiles would be limited to a range of 600 kilometers, and we could not circumvent this by selling the technology to our allies. But the SS-20 would not be limited, though its range is some 4,000 kilometers. Our allies' subsonic weapons could not reach Russia, though they will be under the guns of ballistic missiles based there. Are we then to ask them to do more for the joint NATO effort?

The second problem is the impossibility of detecting Soviet cheating on any cruise-missile limits. We have had enough trouble monitoring their behavior under the SALT-I treaty, which concerned large and mostly stationary objects. The cruise missile is small and mobile. Range limits are particularly ludicrous, since range essentially depends on how much gas you put in the tank. The Soviets have large numbers of cruise missiles already deployed, and there will be no way to tell if the crucial guidance technology is installed in them. If a treaty limits the cruise missile, the only safe assumption is that the Soviets will have the weapon and we will not.

Yet such a crippling treaty, to judge from our experience in watching these negotiations, is by no means out of the question. Indeed, our experience makes us especially nervous when we hear optimistic talk about SALT from a President who badly needs a foreign-policy spectacular to obscure domestic political reverses.

There is driving force, as well, in the myth that arms control is the only route to safety in a nuclear world. With the offensive-arms agreement expiring today, the world will be no more or less dangerous tomorrow. Safety is maintained by a stable military balance, which treaties can impede as well as enhance. As we read the lessons of SALT-I, a safe military balance will depend only marginally on negotiated agreements. With a treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

TRIBUTE TO KENNETH BOUSQUET

Mr. STENNIS. Mr. President, I have been very saddened to hear that Mr. Kenneth Bousquet died in his sleep in Sun City, Ariz., early on Wednesday, October 5. Until his retirement 5 years ago he had been for many years a key staff member of the Senate Appropriations Committee.

Ken became the subcommittee clerk of the Public Works Appropriations Subcommittee when it was chaired by the late Senator Carl Hayden, Subsequently he served in turn under the late Senator Allen Ellender, and during the early part of my chairmanship. He rendered distinguished and outstanding service to the subcommittee and to the Senate. He was truly an expert in the fields of water resources and atomic energy, and was a dedicated and valued assistant to all of us on the Appropriations Committee.

After Ken's retirement from service with the Government he worked in private industry, and again retired this year. He and his wife Margaret moved to Arizona less than 2 months ago.

My deepest sympathy and every condolence is extended to Mrs. Bousquet and to their two sons, in their sudden and tragic loss of this fine man.

UNITED STATES-MIDDLE EAST POLICY

Mr. DANFORTH. Mr. President, it was with disbelief that I read this past weekend of the latest American position on the Middle East, issued as a joint United States-Soviet statement. The joint statement, together with Dr. Brzezinski's interview on Canadian television, indicates a shift in the administration's position which will impede the cause of peace in the Middle East.

Although I am disturbed by the joint statement as a whole and by the Brzezinski interview, three concerns deserve special comment.

First, I am concerned about what the administration means when it calls for "insuring the legitimate rights of the Palestinian people." We are told by the administration that Palestinian "rights" are no different from Palestinian "interests" which America has said in previous statements must be recognized. The ad-

ministration maintains the exact nature of what constitutes "legitimate rights" could be worked out at Geneva.

Such explanations may suffice among those uninformed about the subtleties of Middle East diplomacy, but to believe that such an explanation could possibly be accepted by the antagonists in the Middle East reflects sophomoric thinking by the Carter administration. We all know that the language of diplomacy often contains code words which have meanings far beyond their dictionary definition. Just as the phrase Palestinian "homeland" has a meaning critically different from Palestinian "entity," so Palestinian "rights" are in no way comparable to Palestinian "interests."

To the PLO the "legitimate rights of the Palestinian people" means their right to exercise sovereignty over the land of Israel. Most simply put, this innocent sounding phrase means, in the language of the Middle East, the destruction of the State of Israel. The use of these inflammatory code words can only harden the positions of both sides, undermine any voice of moderation, and further delay a peaceful resolution of the conflict.

Second, the October 1 statement conspicuously omits any reference to Resolutions 242 and 338. Until last weekend, the Carter administration had affirmed the policy of the prior administration that these resolutions formed the foundation for a peace settlement, and that any recognition of the PLO depended on PLO acceptance of these resolutions and recognition of Israel's right to exist.

All these references are conspicuously missing in the new statement, and their absence strengthens the position of the PLO. Instead of referring to 242's "secure and recognized boundaries" which, by implication, could be defended unilaterally by Israel, we now find that the security of borders is to depend on international guarantees, with the possible introduction of Soviet and American troops. Under this kind of arrangement, the United States and the Soviet Union would be embroiled in the Middle East affairs indefinitely. I do not believe that this is the path to peace. Prior to the bizarre joint statement issued this past weekend, I am unaware of any responsible party who has seriously advanced the possibility of dispatching American troops to the Middle East, much less troops of the Soviet Union. Such a possibility is, to me, unthinkable.

Finally, the United States-Soviet agreement gives the clear appearance of an attempt by the great powers to impose a settlement on the parties to the dispute. This is a contravention to our 1975 memorandum of agreement with the Government of Israel to consult fully with it. It is also a sudden and totally unexplained reversal of previous public statements made by President Carter. Dr. Brzezinski gave additional credence to the possibility of an imposed settlement when he stated Sunday on Canadian television that:

> The United States has a legitimate right to exercise its own leverage, peaceful and constructive, to obtain a settlement.

The role of the United States should not be to exercise leverage for the purpose of imposing a settlement on our ally, Israel. Rather our steady support for Israel should provide the basis for a durable peace. Previous commitments aside, I would hope that history has taught the administration that imposed settlements cannot achieve a true and lasting peace—not when the causes of a conflict are rooted deeply in cultural and religious differences—and not when either side views the externally contrived "solution" not to be in its long-term interests.

Mr. President, this year has seen a dramatic change in the U.S. commitment to South Korea and a diminution in our commitment to the Republic of China. Now, as the administration has determined to play super power politics with the Russians, our commitment to Israel appears to be weakening.

In August 1976, candidate Carter said:

> One of the things that has aggravated the Mideast situation is the uncertainty lately about where our nation stands that makes the leaders of Israel and the people of Israel uneasy and that builds up false hopes in those countries that are probing for weaknesses in Israel or weaknesses in our commitment to Israel.

At best, this administration's policies are guilty of these charges. At worst, the hopes building in the Arab countries are not false. In either case, the position of this administration is wrong and invites disaster in the Middle East.

TASK FORCE ON HOUSING COSTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him on the convening of a Task Force on Housing Costs, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

I am pleased to advise my colleagues that on October 5th and 6th a Task Force on Housing Costs, appointed by Secretary Patricia Harris, will be convened at the Department of Housing and Urban Development. Secretary Harris has asked the Task Force, whose membership includes experts in a wide variety of housing-related fields, to recommend to her ways in which the Federal Government, particularly HUD, might act to reduce the cost of new housing to the consumer. Certainly the need for such an analysis is long overdue.

We are all painfully aware that housing costs have been escalating so fast in recent years that the goal of owning a home is now beyond the reach of an ever-increasing number of American families. The phenomenon is one that affects potential home buyers in many income brackets. Thus, wide segments of our constituencies are finding it increasingly difficult to afford the kinds of homes they could have purchased only a few years ago. Fortune magazine reported that in 1950, 70 percent of American families could afford the median priced new home; in 1975, the percentage had dropped to 40 percent. Time magazine reports the MIT-Harvard Joint Center for Urban Studies finding that the monthly cost of owning a new home has increased 102.3 percent since 1970, while median family income has increased only 47 percent in the same period.

Rising construction costs have placed a similar burden on apartment dwellers. The attainment of the goal of a decent, safe, and sanitary dwelling for all Americans is rapidly being impeded by the high cost attached to its achievement. Middle income residents who can no longer afford to purchase a home may soon find they can neither afford to move to a new apartment. Low income residents will find fewer subsidized units available as the higher costs of production will ensure a diminishing number of such units.

In recent decades, the Federal Government has consistently pursued a policy of encouraging home ownership through the adoption of a variety of measures such as tax incentives and mortgage insurance programs. These efforts have been successful in enabling a greater percentage of families in America to own homes than in any other nation in the world. The Federal Government has also provided housing subsidies to permit senior citizens and other lower income individuals to live with dignity in decent housing. Present circumstances threaten to thwart this established policy. I therefore believe the Federal Government has an obligation to assist in reversing this trend.

The factors responsible for the rising cost of new housing are varied and complex. We must seek to understand them. We must also recognize that it may not be possible for the Government to control some, while controlling others may threaten to undermine competing public policy objectives, such as the preservation of the environment. The solution will be no simpler than the problem, but this is no excuse for evading it. It is for this reason that the comprehensive approach contemplated by Task Force Chairman William J. White, HUD's General Manager of the New Community Development Corporation, is so appropriate.

Recognizing that the first task of government at every level is to assure that its own actions do not contribute unnecessarily to the price its constituents must pay for housing, Mr. White formed a working group of HUD officials to prepare a report for the Task Force's consideration focusing on Federal, State and local government regulations—such as environmental reviews, building codes, zoning restrictions, and FHA processing requirements—which affect the production and cost of new housing.

The second task will be to identify ways in which the government can encourage the private producers of housing to reduce their own costs and to pass these savings along to the consumer. As the first step in this effort, Secretary Harris has asked that the reasons for the skyrocketing costs of lumber and insulation be investigated. The input of Task Force members from the private sector should prove to be of great assistance in devising ways to cope with the rising costs of these and the other component commodities employed in housing construction.

The Task Force faces a difficult assignment indeed, and it may be years before its efforts will have an impact on the housing market. Nonetheless, its creation represents the first necessary step the Federal Government must take if it is to hope to exert some control on the rising cost of housing. The Secretary of the Department of Housing and Urban Development is to be commended for her leadership in this endeavor. I am confident that the Task Force under the competent direction of Mr. White will prove to be of great assistance to all concerned with combating the rising costs of housing.

SOVIET CIVIL DEFENSE

Mr. HATCH. Mr. President, in today's world everything that we do or every Soviet action attracts some amount of attention. It has become common knowledge in recent years that the Soviet Union has placed more and more emphasis on civil defense. Under the leadership of Deputy Minister of Defense, Colonel General Alexander Attunin, the Soviet Civil Defense system has reached its peak. Immediately after World War II, the Soviets began an intensive program to protect civilian, military, and industrial centers. The Soviet Union has established a series of civil defense training centers in each of its major cities. These centers conduct intensive training to insure the survivability of the working people so that the Soviet industrial capacity will not be destroyed in time of war. Every major factory is now equipped with a giant underground shelter that will withstand the attack of nuclear weapons. Every new civilian apartment house is being built with a shelter underneath the building. This will protect much of the Soviet working force.

The people in the Soviet Union accept this as their way of life. Here in the United States we have tended to push aside the thought of nuclear attack. It has been over 150 years since the British brought warfare to the United States on its home soil. All of the succeeding wars in the world have been fought on foreign ground. Yes, the United States has fought in World War I and II, the Korean war, and even the Vietnam war, but we sent our troops abroad to fight. After World War II the United States had the advantage of being the only nation with the capability of carrying out atomic warfare. With the development of the B-36, the world's first intercontinental bomber, the United States had the ability to inflict total destruction upon any nation which it saw as an aggressor upon the security of our borders. Then Secretary of State John Foster Dulles, under the direction of President Eisenhower, stated that the United States would rely on a new strategic doctrine which would base, in an unprecedented degree, the Nation's security on a single weapon, the nuclear deterrent. This doctrine became known as "massive retaliation."

This approach by the United States prompted the Soviet Union to step up its civil defense and nuclear development programs. In 1957, just 20 years ago this week, the bubble of security of the United States was exploded. The Soviet Union launched Sputnik and served notice that it now had the capability to threaten the very heartland of America. The reaction in this country was one of panic followed by a wave of construction of residential bomb shelters. Gradually the scare diminished as we went from the cold war to the age of détente. Bomb shelters became playhouses for the kids, and the supplies in public civil defense shelters throughout the United States were stolen or ruined by neglect and improper storage.

In the Soviet Union, the civil defense program continued. The people there could not forget the horrors of the German blitzkrieg in World War II. When the Soviet Government ordered its citizens to prepare to endure warfare at any time, the people understood all too well. The Soviet population had grown up in a much rougher political climate than their counterparts in the United States. Many older Russians remembered the Communist Revolution of 1917 and even further back to the time of the Czars. They continued preparations for surviving an attack and today the Soviets have the world's most complete civil defense system. Our SALT negotiators must realize that the Soviet Union is ready to go to war at any time and if the Soviets feel that an advantage can be gained in talks with the United States by threatening war, they will do so. This Nation must take a tougher stand in the current SALT talks and at the same time make a strong effort to improve our own civil defense. I recently read an article that discusses this matter in detail in the October edition of the Air Force magazine. The article, entitled "Soviet Civil Defense and U.S. Strategy," by Thomas H. Etzold, professor of strategy at the U.S. Naval War College, raises some vital and interesting questions. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET CIVIL DEFENSE AND U.S. STRATEGY

(By Thomas H. Etzold)

Recently, Soviet civil defense and war survival programs have seemed fundamentally to threaten the strategies intended to ensure the security of the United States. Mutual assured destruction and associated ideas about the "sufficiency" of strategic nuclear forces in an era of parity have depended on the idea that, without terminal defenses against ballistic trajectory weapons, the citizens of the United States and the Soviet Union would be hostages, a situation that would enhance mutual deterrence. Yet, Russian developments in civil defense, as outlined in the February '77 issue of Air Force Magazine, have raised the disturbing possibility that soon only Western populations may be sufficiently vulnerable to deter their governments from effective political-military pursuit of national interests.

Indeed, Russian war survival measures have assumed impressive dimensions. The Soviet government has begun civil defense training for much of the population, and it has continued to train and equip troops for nuclear, biological, and chemical warfare. There are special "civil defense troops" and a civil defense academy in the Soviet military. The Russians are dispersing industry and hardening industrial and military sites including command, communications, and missile installations; they are storing grain; and they are endeavoring to protect high government officials and significant numbers of workers through a program of shelter building and city evacuation planning.

In the context of the Russian civil defense effort, three questions require attention. There is first the question of what problems Russian civil defense may raise for American strategy. Second, there is the deceptively difficult question of just what these programs may mean. And, finally, there is the immediate question of how the U.S. should respond to Soviet activities in this field.

THE PROBLEMS FOR AMERICAN STRATEGY

Most commentators on Soviet civil defense have concentrated on the problems it may pose for Western strategy. Three types of difficulties are evident. One relates to general nuclear war, a second to limited strategic options, and a third to ordinary political intercourse, sometimes known as diplomacy.

The implications of Soviet civil defense have been most alarming to observers who consider the possibility of full-scale nuclear war. Analysts cited in this magazine in February concluded that, as a result of civil defense measures, only about four percent of the Soviet population would perish from blast, fire, and initial radiation, vs. forty percent or more in the West. Similarly, these analysts estimated that the Soviet Union might be able to recover from nuclear war in two to four years, or three to six times faster than the U.S. They have reasoned that the United States is losing the ability to destroy the percentages of Soviet population and industry long thought necessary to deter Soviet leaders from initiating nuclear war or other major aggression. Coupled with the widespread misgivings about détente and trends in the overall strategic arms relationship, Soviet war survival measures have seemed palpably to menace American security.

However, the reasons for anxiety about Soviet civil defense in relation to a strategic nuclear exchange should be offset to some extent by several factors. One little-known fact or bearing on the problem is that in recent years plans for employing American strategic nuclear forces have not envisioned the kind of one-time strike usually used as the basis for calculating casualties and damage. As Gen. Maxwell Taylor has noted in his book, *Precarious Security* (W. W. Norton, New York, N.Y., 1976), in recent US strategy, assured destruction capability has meant the ability to kill X percent of the Soviet population and destroy X percent of Soviet industry *X times at intervals*. If general nuclear war should come, the Soviet Union would have to expect to be attacked on an assured destruction scale several times and at intervals varying from a few weeks to several months.

In succeeding strikes, due to reduced warning and political direction, depletion of emergency stocks, and damage to transportation and other facilities, the consequences of follow-on strikes would be severe. The more the Soviets concentrated population to begin reconstruction in the aftermath of a first or second phase of attack, the more effective further attacks would be. The more they dispersed to avoid such consequences, the slower recovery would go forward. In addition to the effects of concussion, firestorm, and radiation, there would be the incalculable tolls of disease, infirmity, and disruption of complex communal life. There might also be unexpected consequences from the selfishness and violence that the initial survivors of holocaust could be expected to display.

In short, estimates of Soviet casualties and damage have been based on inadequate appreciation of American targeting doctrine and its implications. Understandably, Secretary of Defense Harold Brown has expressed confidence that Soviet civil defense efforts are insufficient to blunt significantly the effects of general nuclear attack by the United States.

The second strategic problem facing the US in connection with Soviet civil defense programs grows out of contemporary scenarios concerning crisis bargaining, coercion, and the attractiveness of possessing, perhaps using, limited strategic options. In the Nixon-Schlesinger years, officials argued that the absence of limited strike options eroded the credibility of American strategic deterrence, because it left a too-wide gap between all-out war and doing nothing in the face of limited attack or provocation.

Those concerned over the effects of Soviet civil defense have suggested that because the Soviets have dispersed and hardened industrial and military targets as well as increased the numbers of launchers and associated facilities, the effects of a limited strike would be trivial, and therefore, acceptable to the Soviet Union. But, because of the collocation of American military installations and cities,

and due to the lack of hardening and population protection measures, similar limited attacks on the United States would produce results by no means trivial or acceptable.

Further, in this view, the growing Soviet capability to evacuate and/or shelter the populations of major cities strengthens Russian immunity to the threat of a limited strike, say, against one or two cities. To trade New York for Moscow, or St. Louis for Leningrad, never seemed a happy prospect. Now, so the argument goes, in addition to being a catastrophe it may be a bad trade.

In the case of limited option strategy, as in that of general nuclear war, there are countervailing considerations. One is that the effects of using nuclear weapons have always been presumed to be both psychological and physical. There is a correlation between the two, to be sure; but it is probably not an exact correlation. This point is important because the leadership of the Soviet Union is uniquely sensitive—even vulnerable—to internal disruptions. It fears challenges to authority and potential losses of control even in the most minor contexts, as the interesting and pronounced reaction to recent explosions in the Moscow subway demonstrated. The detonation of a nuclear device on or over Soviet territory would pose an enormous hazard to the political stability of Soviet leadership, and is, therefore, something they would want to avoid.

Even more important in keeping the limited options open, however, are such easily available technological alternatives as dedicating a specific, small portion of US strategic forces to limited strike operations and fitting them with dirty warheads, or perhaps employing ground-burst weapons in limited strike situations. Indeed, there are many alternatives available to ensure that the consequences even of limited strike will not seem trivial to Soviet leaders.

The third category of strategic problem, that of ordinary political intercourse, may seem both out of place in this discussion of strategy and relatively minor by comparison with the foregoing two topics. But it is neither mislocated nor of small concern. Both general nuclear war and limited strike operations remain remote, though unpleasantly real, possibilities. In contrast, the difficulty of pursuing national interests in more or less peaceful competition with the Soviet Union is a daily problem, and it is a problem of strategy as well as of diplomacy. For the weight of a state's views has always depended in large measure on its ability to compel agreement. It may be true that, as the great diplomat Francois de Callieres wrote nearly 400 years ago, "Every Christian prince must take as his chief maxim not to employ arms to support or vindicate his rights until he has employed and exhausted the way of reason and of persuasion." It is no less true, in George Kennan's words, that "You have no idea how much it contributes to the general politeness and pleasantness of diplomacy when you have a little quiet armed force in the background."

The argument with regard to ongoing political relations is that if the Soviets believe they possess genuine capability to survive nuclear war, and if correspondingly they feel less than deterred, they may become politically more assertive, more willing to run risks. The result might then be many more of those individually marginal but cumulatively costly Soviet gains so typical of the cold war in the 1950s and 1960s. Of this possibility, more later.

WHAT THE RUSSIAN PROGRAMS MAY MEAN

The purpose of introducing this category of questions is to raise doubts, not to provide answers. As noted above, most American comment on Soviet civil defense programs has—perhaps rightly—focused on the problems of strategy. However, the unfortunate side effect of this focus has been the emergence of an unproven but widening conviction that the Soviets intend principally to affect the East-West strategic relationship, to bring opportunities and direct gains to themselves, and that, therefore, Russian civil defense immediately threatens the West.

As a result of the conviction mentioned above, too few questions about the Soviet effort are coming up for discussion. Many of the undiscussed issues are of pressing relevance to strategic circumstances. Is, for instance, the Soviet civil defense effort in fact an indication of Russian intention to "go to the brink" from time to time, and so to intimidate the West into concession? Or are war survival programs evidence of Russian pessimism regarding the ability of the powers to avoid nuclear war sometime in the future, no matter how hard they may try to do so? Is it a sign of concern over Western intentions, or over Chinese? To what extent is it related to Russian perception of the hazards of nuclear proliferation?

There is another extremely important set of questions. Is it possible that the Russian civil defense programs are more internal than external in their origins and implications? Could they be the result of bureaucratic politicking, as are many of our most costly and visible programs? Could they be designed to give the leadership enhanced control over the population, or the population increased dependence on and confidence in the leadership? Is the dispersal of industry a sign of Russian determination to complicate Western targeting, or is it merely a normal accompaniment to the development of Russia's still-primitive internal transportation system? Are grain stockpiles accumulated to anticipate holocaust, or are they a way of explaining perennial agricultural shortages and, possibly, hedging against price fluctuations in world commodities markets?

So far, the foregoing questions have received inadequate public attention. All of them, however, deserve careful analysis before one reaches conclusions on the meaning, implications, and requirements of Soviet civil defense for the West.

HOW THE UNITED STATES SHOULD RESPOND

With the issues of strategy and the possible meaning—or meanings—of Russian civil defense efforts clearly in view, what should the United States do in response to Soviet programs? An answer here must comprise three elements: one practical, one doctrinal, and one political, and in that order of importance.

First the practical element. As the editors of this magazine suggested in February, the U.S. should immediately augment its present meager efforts in civil defense. It is evident that the United States is not going to devote resources to such programs in amounts anything like those the Soviet Union has spent in recent years, and that the U.S. cannot really expect to attain equivalency in this area soon, if ever. Indeed, there is no reason to believe that equivalency in such measures is necessary either to stable deterrence or to adequate freedom of decision in political matters. There is, however, reason to think that both friends and enemies would consider increased attention to civil defense an indication that this country was determined to hold its own in working out inevitable conflicts of interest with the Soviet Union.

It is possible that, with further study, the U.S. could determine how to derive the most immediate benefits from moderate increases in civil defense spending. In practice, this would probably mean that protection of high government leaders, military communications and command facilities, and some additional strike forces or other military installations would take precedence over civilian shelter plans. In the short run, to be sure, this would be impressive to enemies, and, if adequately explained, tolerable to the American people.

Second, the doctrinal element. It is essential here to keep in mind that definitions of strategic sufficiency have always been arbitrary. There is no magic attached to such figures as the traditional requirement of killing twenty-five percent of Soviet population and destroying fifty percent of Soviet industry to achieve mutual assured destruction and thereby deter the Russians. Such figures were originally the result of "flat of the curve" reasoning; that is, they were the figures at which force planers of the early 1960s ran out of targets substantial enough to result in significant additional increments of damage. Forces then were sized to achieve redundancy for the sake of reliability as well as for the phased-attack plans mentioned above.

There is no evidence that the leaders of the Soviet Union are willing to risk casualties and damage in a nuclear exchange, even at much lower levels than the twenty-five to fifty percent formula. On the contrary, they give every evidence of fearing nuclear war and desiring to avoid it. As the New York *Times* noted in May 1977, the present Administration believes that the goals of mutual assured destruction, even as modified during the tenure of James Schlesinger as Secretary of Defense, were not only abstract and arbitrary, but imprecise.

Deterrence does not depend on equal security for each side, but on unacceptable insecurity for both. Increasingly, recent studies have pointed to the low level of nuclear damage either side may be willing to tolerate rather than to the high level of risk and sacrifice each may accept.

Finally, the political element, the most important of all. Here I return to the difficulties of the third category of strategic prolem, that occurring in the context of ordinary political intercourse and relating to the Soviets' potential as aggressive risk-takers.

It is essential to recognize that the more the U.S. makes of Soviet civil defense, the more political advantage it forfeits. By exaggerating the real threats and strategic challenges posed by these developments, Americans run the risk of talking themselves into weakness of will, and in that sense of doing the Soviets' work for them. As argued here, Russian civil defense is virtually without strategic meaning in terms of the actual difficulties raised in the event of general nuclear war; and the difficulties of the limited strategic options scenarios are relatively simple to overcome. But Russian efforts are politically meaningful if the United States scares itself and its friends to the point that it shows political timidity or weakness in bargaining.

The immediate response required of the U.S. by Russian civil defense and war survival measures is not to scurry about in frantic or futile attempts to redress the balance of capabilities, even if some gestures toward improved civil defense should be made for psychological reasons. Instead, the immediate requirement is to affirm that deterrence works. This country possesses adequate strategic systems today. The United States government and the American people ought, therefore, to behave with the confidence that, for the present, the Russians are fully as deterred as we are. They ought also to keep in mind that the continuation of mutual deterrence will depend on the coherence of the relationship between strategic systems and strategic doctrine. Both will require improvement in the coming years.

BLACK VOTING POWER

Mr. BAYH. Mr. President, some of our Nation's black leaders have expressed concern with my proposed constitutional amendment which would provide for the direct election of both the President and Vice President of the United States. Their concerns are predicated on the hypothesis that minorities will be the biggest losers in the transition to direct election. This hypothesis, which I might add is totally untested, is an offspring of the premise that large urban areas elect Presidents because such areas are located in States with substantially large electoral votes. A second premise is that since a large proportion of the black population live in such areas, their vote, therefore, is often instrumental in the election of the President. Thus, it is argued if our system adopts the direct election in lieu of the electoral college, the minorities in the urban areas will sacrifice their relatively advantageous position in the electoral process for a much less position.

Mr. President, such is not the case. There is a growing body of research which indicates that, first, blacks do not enjoy an electoral advantage under the present system, and second, blacks will in fact be the losers if we keep the present system.

One reporter who has taken the time to logically examine the voting power of blacks within the electoral college is Tom Wicker. Because Mr. Wicker has presented a very coherent article on the question of black voting power within the electoral college, I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

BLACK VOTING POWER

(By Tom Wicker)

Politically concerned blacks have usually opposed abolition of the Electoral College and the substitution of direct popular voting in Presidential elections. But now that the Senate Judiciary Committee has approved a constitutional amendment to that effect, black leaders owe it to their constituents at least to re-examine their position.

When Vernon Jordan, executive director of the Urban League, criticized President Carter last summer for paying too little attention to the needs of blacks, for example, one of his specific targets was Mr. Carter's support for abolishing the Electoral College. Mr. Jordan's position was amplified, as follows, in later testimony to a Senate subcommittee by Eddie N. Williams of the Joint Center for Political Studies:

"Blacks are ten percent of the national electorate; they are strategically concentrated in the metropolitan areas of key states with large numbers of electoral votes; historically they have tended to vote as a block; and they are widely regarded as being able to wield a balance of power in close elections in key states."

That view apparently was reinforced by last year's election, in which the Joint Center calculated that black voters were directly responsible for Carter victories in Ohio, Pennsylvania, Missouri, Texas, Louisiana, Mississippi and Maryland—more than enough states to account for Mr. Carter's slender 297-to-241 electoral-vote margin.

But that leaves out of account the fact that Mr. Carter lost Illinois, in which he had heavy black support, as well as Michigan, Indiana and Virginia, in each of which more than 90 percent of black voters supported Mr. Carter. The winner-take-all effect of the Electoral College nullified every one of those black votes; and it greatly diminished the electoral significance of hundreds of thousands more in states Mr. Carter won by wide margins (he'd have gotten the same number of electoral votes with a popular plurality of one vote).

Mr. Carter won the popular vote, moreover, by about 1.7 million votes. Therefore, it would have taken a switch to Gerald Ford of about 850,000 non-black votes to change the popular outcome. But just 9,245 non-black votes switching from Mr. Carter to Mr. Ford in Ohio and Hawaii would have given Mr. Ford an Electoral College victory, while hardly changing the popular-vote totals. What would all those black votes for Jimmy Carter—nearly six million—have been worth in that event?

Besides, since Senator John F. Kennedy defended the Electoral College in the 1950's on the ground that it increased the importance of minority voting, more sophisticated statistical studies have been made possible by computer techniques and game theory. They show as conclusively as statistics ever do that blacks actually are disadvantaged by the Electoral College and that suburbanites—who are mostly white—benefit most from electoral voting.

Lawrence D. Longley of Lawrence University has shown, for example, that only the six largest states are given added voting power by the Electoral College, with the others suffering from it; a California resident, for example, had 2,546 times as much potential for determining the outcome of the Carter-Ford race as a citizen of the most disadvantaged Electoral unit, the District of Columbia.

But only 37.1 percent of the black population lives in those six largest states. On the other hand, states where the percentage of blacks is higher than their percentage of the national population are generally Southern states where voters are most disadvantaged by electoral voting.

Working from such figures, Mr. Longley and a colleague, John H. Yunker, calculate that a black voter on the average has 2.4 percent *less* voting power in the Electoral College than the average American voter. And in a separate, unpublished study, Douglas H. Blair of the University of Pennsylvania also concluded that suburban whites consistently had the most weight in electoral voting, while blacks, were among the most disadvantaged groups.

The outlook now is for Senate and House debate on the Electoral College amendment to be delayed until next year, when there will be time to outlast the expected filibuster. Numerous other arguments will be made against the change; but as for black voting strength, much evidence appears to confound the old assumption. As Professor Blair put it in a letter to me, abolition of the Electoral College actually "would largely benefit those social groups now relatively deprived of both political and economic power in American society."

VIOLATION OF HUMAN RIGHTS IN LITHUANIA

Mr. HEINZ. Mr. President, in August, Soviet authorities arrested Lithuanian human rights activists, Viktoras Petkus and Antanas Terleckas in Vilnius, the Capital of Lithuania. Petkus is a member of a Lithuanian group to promote observance of the Helsinki agreements of the U.S.S.R. The aim of the group is to promote the observance and fulfillment of the humanitarian articles of the Final Act of the Conference on Security and Cooperation in Europe. The group concentrates on those articles which relate to human rights and basic freedoms, including freedom of thought, conscience, religion, and belief. It also seeks to obtain adherence to the agreement's protecting free contact between people in cases such as the reunification of families, meetings with relatives, residence in other countries. Terleckas is a longtime dissident—having been already imprisoned three times—the first time when he was only 17 for supposed participation in an anti-Soviet partisan group by the KGB.

In the spirit of the Helsinki accord, we all must vigorously protect such a gross injustice. This incident is just one in a long history of continuing disregard for human rights by the Soviets. The arrest of Viktoras Petkus and Antanas Terleckas is illustrative of the tragedy of the suppression of freedom of Lithuanians by the Soviet authorities.

Despite continued oppression, the dream of freedom still lives on in the hearts and minds of Lithuanians now living under Soviet rule, and in the hearts and minds of the over 1 million people of Lithuanian heritage now living in the United States. This constant reminder of the sustained struggle for freedom in Lithuania serves as an inspiration for all people.

We cannot remain silent—to do so would be to ignore our obligation to the Helsinki accords and to those struggling toward the realization of the dream of freedom. Because the arrest of Petkus and Terleckas is a violation of the Helsinki accord, we must protest this action by the Soviet Government.

LABOR REFORM ACT OF 1977

Mr. HATCH. Mr. President, at this moment the House is engaged in debating the Labor Reform Act of 1977 under a very restrictive rule which prohibits amendments to any section of the Taft-Hartley Act not included within the scope of H.R. 8410. It is indeed unfortunate that the rule as adopted will foreclose the opportunity to offer many of the provisions contained in H.R. 8310 and its counterpart S. 1855, the Employee Bill of Rights, which I and Senator TOWER have introduced in the Senate.

For the information of my colleagues, the Labor Subcommittee of the Human Resources Committee has commenced hearings on labor law reform and the hearing process will be continuing after the Senate recesses this session.

The entire subject of labor reform encompasses many technical issues which only labor lawyers seem to understand. One thing comes through loud and clear in our committee deliberations—labor reform is a subject which requires extensive education and study to really determine the impact of the changes proposed by S. 1883, the Labor Reform Act of 1977.

As evidence of what I am saying I refer my colleagues to the first editorial published in the Chicago Tribune on the labor reform bill. The tenor of that article was to support certain of the proposed changes called for in S. 1883 because they struck the editorial staff as fair. The text of that article will appear following the conclusion of my remarks.

A recent and more telling editorial dated October 4, 1977, clarifies the paper's position and announces support

for many of the provisions of my bill and opposition to many of the reprehensible features of S. 1883. A quote from the editorial that I believe summarizes the heart of the paper's apparent "about-face" is:

If in some instances unions deserve some protection against employer power, union members themselevs clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

The object lesson is, Mr. President, that with adequate study and reflection, people of reasonable objectivity can filter out what is, or is not, in the public interest. I trust this will be a subject where we can learn a lesson from the Chicago Tribune.

I ask unanimous consent that the text of the two Chicago Tribune editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

IN FAIRNESS TO LABOR

As powerful as organized labor has become, it still has some problems when, in striving for collective bargaining, it bumps heads with employers. The National Labor Relations Board, for example, has no time limit to force an election; this enables some employers to stall for up to a year with legal challenges to the validity of employe authorization cards.

The White House is expected to support compromise legislation to be introduced by Sen. Harrison Williams and Rep. Frank Thompson, both pro-labor Democrats from New Jersey. One provision would require such union-representation elections in small, uncontested cases within 15 days. For large, contested cases, the NLRB would have to act within 75 days. That would seem to give either side reasonable time to exercise its rights adequately. But because legitimate disputes in this area are complex, a limit of anything less than 2½ months would be unfair.

Another organizing problem for labor is that employers can fire key workers for engaging in union activities and thus intimidate other employes. Although such firings are illegal, the severest penalty now is likely to be the payment of back wages. Labor originally wished to triple the penalty. But that would probably produce a flurry of triple-pay suits regardless of merit.

It would also unduly inhibit employers from firing incompetent workers who might claim that they were being fired for union activism. Even the bill's compromise proposal to double back wages would be inhibiting, but to a lesser degree, while striking what seems to us as a fair balance between the rights of employers and employes.

The bill's proposal to help speed up cases by increasing NLRB membership to seven from its current five should benefit both sides, which is more than we can say for the notion of having "routine" appeals from NLRB hearing officers' ruling decided by only two board members. Appellants may not consider their cases any more routine than persons who appeal civil or criminal disputes to the Supreme Court, where having two justices out of nine decide would be more like legal lottery than constitutional review.

Automatic enforcement of NLRB decisions unless an appeal is filed within 30 days of an order, as proposed by the bill, also seems to be a way to expedite decisions without unduly restricting the ability of either side to respond.

More dangerous is the proposal to deny U.S. government contracts to employers who "willfully" violate labor laws.

This would do more than redressing a possibly legitimate grievance. It would tend to discourage employers from lifting a finger against intolerable employe actions for fear of losing the case before the NLRB and the courts and therefore of losing federal contracts upon which the livelihood of employers and workers alike may depend. That would represent the kind of unhealthy shift in balance between employers and employes that has got both sides into trouble in the sagging economies of other industrial nations.

We support certain of these proposed changes because they strike us as fair. If there has been an agreement whereby the Carter administration will support the Williams-Thompson proposals in exchange for labor's abandonment of its more obnoxious proposals such as prohibiting state right-to-work laws, good enough; many of these proposals remain what they always have been—monopolistic special interest schemes that penalize the average worker as well as the consumer.

THE LABOR REFORM BILL

Since expressing some sympathy two months ago for the labor law reforms proposed by the unions and endorsed by the administration, we have been overwhelmed by the affection of new-found friends in organized labor.

The truth is that our editorial "In fairness to labor" was considerably less than a profession of undying and unconditional support for the bill now before the House Rules Committee. So before this affair gets out of hand, and before the committee sends the bill to the House floor in a form which makes amendments difficult, as the AFL–CIO would like, let us repeat and emphasize what it is that we support about the bill and what we oppose.

What we support is the effort to make sure that our labor laws succeed in their proper purpose, namely to enable employes to form or join a union when it is clear that a majority want to do so, and to make sure that the employer deals with that union in good faith and without undue delay.

There have been too many instances in which organizing efforts have become bogged down in the obstructionist tactics of employers and their lawyers. The proposed bill, H.R. 8410, would generally require that union elections be held within 15 days, 45 days, or 75 days of the receipt of a petition by the National Labor Relations Board, depending on the nature of the case and the decision of the NLRB. For contested cases, we said in our earlier editorial and repeat here, 75 days is a fair maximum. Fifteen days is too short a period to enable both sides to present their respective cases—which is in itself a professed goal of the bill.

One unacceptable section would temporarily deny U.S. government contracts to employers who "willfully" violate labor laws. As we've said before, that would do more than redress a possibly legitimate grievance. It would, in fact, discourage employers from legitimately moving against intolerable employe actions for fear of losing the case before the National Labor Relations Board and the courts. The resultant loss of federal contracts, upon which the livelihood of employers and employes alike may depend, would mean that a punitive element had been introduced into U.S. labor law never intended to be there. Established unions, often already too powerful, would have their powers still further enhanced.

Another pseudo-reform that should be deleted from H.R. 8410 would, in effect, empower the NLRB to write a labor-management contract spelling out what the parties would have agreed to if they had completed negotiations. The idea is to assure financial relief for employes victimized by an employer's refusal to bargain. Such employer delaying tactics are more properly addressed by the traditional weapon that keeps the issue between the contracting parties and doesn't invite in Big Brother. That weapon is the strike.

Another employer-opposed provision would double the allowable penalty against employers who fire key workers for engaging in union activities. The severest penalty now is likely to be merely the payment of back wages. Labor originally wished to triple that penalty but accepted doubling it as a compromise. This strikes us as fair to both sides.

H.R. 8410 has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it. Among the measures that deserve inclusion, furthermore, are some of those in H.R. 8310, sponsored by Rep. John Erlenborn [R., Ill.] and in a similar Senate bill. These would guarantee secret-ballot union elections, limiting the fines unions themselves can levy against their members, and the judicial enforcement of no-strike clauses. If in some instances unions deserve some protection against employer power, union members themselves clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

NEW McCLELLAN COMMITTEE IS NEEDED

Mr. GRIFFIN. Mr. President, for several years, I have urged my Senate colleagues to reestablish a select committee to investigate abuses in the labor-management field, similar to the McClellan Committee of the 1950's.

Unfortunately, the Senate has taken no action on my proposal, (S. Res. 89) but the instances of corruption and abuse continue to increase.

Recently an article appeared on the front page of the September 14 issue of the Wall Street Journal which poignantly illustrates the situation. In that article Jonathan Kwitny and James Carberry report that, aided by some labor unions, the Mob has lifted millions of dollars from New Jersey banks. As a result of these developments four banks have folded.

I ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIDED BY SOME UNIONS, THE MOB LIFTS MILLIONS AT NEW JERSEY BANKS

(By Jonathan Kwitny and James Carberry)

Back in the 1960s, Mafia big shots like Little Pussy Russo and Bayonne Joe Zicarelli used the influence of their allies in politics to help get millions of dollars in loans from major New Jersey banks to finance their shady enterprises and freewheeling life styles.

Now, after a series of anti-corruption prosecutions in the state during the 1970s, many of those political allies are out of office. So the Mob has come up with a new method for breaking the banks in New Jersey. And it has been working like the key to the mint.

The new method exploits the continuing power of one group of Mafia allies whom the anti-corruption prosecutions didn't touch: leaders of at least two big unions in the state, the Teamsters and the Retail Store Employees. It also exploits a state banking law passed in 1969. The legislation made it more profitable to start a bank, and thus

it has produced a plethora of new, small banks whose officers are drooling for a few heavy depositors who can launch them into the big time.

What happens is this: A union leader approaches a fledgling banker and offers to deposit hundreds of thousand of union dollars; the money may come from pension or severance funds, or the union treasury, or both, the interest rates are negotiable and secret. In return—sometimes by tacit understanding, sometimes even by a blatant formal agreement—the banker promises, apparently illegally, to approve loans for any "customers" recommended by the union leader. It is suspected that there is often some kickback money, too, to sweeten the deal for the bank executive—especially after he catches on to what's really happening and to the risks that he himself is running.

EXTENT OF LOSSES

Under such agreements, at least $10 million, and maybe much more since about 1973, has been lent to, and not paid back by, a parade of characters whose names read like the index to the Valachi hearings on organized crime. At least four banks have folded because of these dealings (three were taken over by larger banks and a fourth was liquidated), and there are indications of possible trouble at others.

The "borrowers" have included loan sharks, alleged murderers and ex-cons of all types.

One borrower, a reputed Mafiosi named Patrick Pizuto, a twice-convicted armed robber and a suspect in a gangland murder, got his loan from State Bank of Chatham (now closed) while serving a seven-to-10-year sentence in Trenton State Prison. He came into the bank and applied for the loan one day while out on a work-release program. Then, so he could spend the money he borrowed, he commuted his own prison sentence. He achieved this feat by having an accomplice slip him a blank form of the kind used in appellate-court decisions, then he forged three judges' names to it and mailed the "court order" for his release to the warden, who promptly released him. He picked up his loan money the same day.

Mr. Pizuto now is back behind bars, but his return to prison is just one of the reasons his loan is still outstanding. He "borrowed" only $2,500. Most of his criminal colleagues each have gotten some $30,000 to $40,000 (that tends to be the limit on an individual bank officer's authority to approve loans to one customer).

PHONY BUSINESS NAMES

Some hoods have incorporated themselves under a variety of phony business names so they could go back for numerous $30,000 to $40,000 loans. One set of loans from State Bank of Manville (now closed) reached about $750,000, all benefiting a firm run by Robert Gooding, a convicted extortionist and sometime partner of feared Mafia enforcer Anthony "Tony Tumac" Acceturo.

Some series of loans seem to have been arranged by a single loan shark or bookie, who appears to have been authorized—presumably in exchange for a cut of the take—to bring around his recalcitrant clients to borrow cash to pay their debts to him. Then the customers who were welching on the loan shark can welch on the bank instead.

The U.S. attorney's office and the Federal Bureau of Investigation in Newark have been investigating this situation for more than a year. They have achieved an impressive body count—45 persons have been indicted over allegedly fraudulent loans from seven banks—but the lawmen acknowledge they are a long way from winning the war. The investigation is continuing, and so, evidently, are the bank losses.

NOTING THE PATTERN

A pattern in the bank failures and criminal indictments regarding bank fraud in the past 18 months has been noted by PROD Inc., a Washington-based group of dissident Teamsters that has long been trying to clean up the Teamsters union. Earlier this year PROD prepared a long, detailed report alleging that the bank looting was the result of a carefully orchestrated plot being carried out by the old Genovese Mafia family. The report concluded that "labor racketeers . . . have taken over the loan policies of entire banks."

PROD submitted the report to the House Ways and Means Committee with a request for an investigation; the committee is involved in supervising enforcement of the 1974 pension-fund regulation law. Several weeks ago, without authorization from PROD, a committee staff member sent the report to several newspapers, including this one. The Journal began its own investigation, relying on thousands of pages of documents and testimony in civil and criminal court cases, other official state records and numerous interviews. While there appear to have been a few factual errors in the report sent out by the Ways and Means Committee aide, independent evidence overwhelmingly supports the gist of it.

Meanwhile, of the 45 persons indicted so far in federal court, 16 have pleaded guilty, eight have had charges against them dismissed, and 21 are awaiting trial. One, Robert Prodan, former president of the new defunct Bank of Bloomfield, underwent a nine-week trial earlier this year; the jury was hung, and he is to be retried this fall. In addition, Mr. Gooding, who isn't one of the 45, is under indictment in state court on charges that he bilked an eighth bank.

Punishment has been light. Of 10 persons who have been sentenced, only four have received jail terms—the longest being for one year.

But the Mafia may be imposing its own sentences on figures in the investigation who have cooperated with the government, welched, or otherwise gotten out of line. Two borrowers have been shot to death—one outside his produce store, the other in a Manhattan parking lot in what seem like classic Mob hits. One victim, according to acquaintances, was murdered hours after leaving the FBI office in Newark, where it is believed he opened up about his loan-shark friends.

One bank officer who was giving information to the government while under indictment in the case involving Mr. Gooding died in the crash of a small private plane he was flying—a crash that law-enforcement officers term suspicious. The death of a second bank officer who was involved was ruled a suicide.

And the FBI reportedly has a tape recording of a conversation in which the former president of State Bank of Chatham was told by a prominent lawyer who is connected both politically and to the Teamsters, "We're gonna lay you out alongside Hoffa." The recipient of the alleged threat, Alexander Smith, has pleaded guilty to conspiracy and was given three years' probation.

TWO UNIONS CITED

One union that deposited hundreds of thousands of dollars in various banks just before they started lending to mobsters is Local 1262 of the Retail Store Employees Union, based in Clifton, N.J. The local was put in trusteeship by its international in 1958 and again in 1967 because of alleged corruption among its leaders. Frank Rando, longtime kingpin of the local, pleaded guilty Jan. 11 to having an illegal deposits-for-loans deal with Mr. Smith at State Bank of Chatham. He got three years' probation and was fined $2,500. The union says he no longer is connected with it.

The other union whose money most frequently has gone into banks at about the time mobsters have taken money out is Local 945 of the International Brotherhood of Teamsters; this large union covers the New Jersey garbage-collection industry, in which the Mafia has long been involved. The key figure in the local is Ernest Palmeri, whose title is business agent—and who comes from a prominent Mafia family.

Like Local 1262, Local 945 was put into trusteeship by its international in the late 1950s because of a corruption scandal. To clean up the local, Teamster overlords sent in outside leadership: the notorious Mafia boss Anthony "Tony Pro" Provenzano. When Mr. Provenzano had the local running to his liking, he turned it over to the current leadership.

Disclosure statements of total bank balances and total interest income show that both Local 1262 and Local 945 have kept hundreds of thousands of dollars in low-interest or non-interest-bearing accounts. Disclosure of the terms of specific accounts isn't required.

DENIES KNOWING OF LOANS

Mr. Palmeri hasn't been accused of a crime in connection with his union's bank deposits. In a brief telephone interview, he said such matters were handled by the local's treasurer, not by him, although other people say Mr. Palmeri personally set up many deals. "I know nothing at all about loans given out to unions," he said in the interview. "I don't want to talk to you or anybody else about it. It's a crock of bull."

Another man whose name pops up prominently in the scandal, and who hasn't been accused of any crime, is George Franconero, former law partner of New Jersey Gov. Brendan Byrne. Mr. Franconero is close to Mr. Palmeri; according to the New Jersey Alcoholic Beverage Commission, they shared hidden ownership of a bar and restaurant in Bergen County and improperly employed an ex-con to run it.

Mr. Franconero, according to uncontroverted testimony at Mr. Prodan's trial, was attorney for a purported leasing corporation that arranged for phony documents to be used as collateral in a series of fraudulent loans at Bank of Bloomfield. The documents purported to show that industrial equipment that really didn't exist was delivered to companies set up by racketeers to receive loans to buy the nonexistent equipment. By this method, mobsters and alleged mobsters contributed to the apparent loss of some $4.7 million by the bank in bad loans.

Mr. Franconero also was attorney for a title company that, according to Mr. Smith, was used to channel kickbacks from Bank of Chatham to Mr. Rando of the Retail Employees Union. Allegedly, the company billed the bank for services the company didn't perform. Mr. Franconero also helped introduce banks to some of the bad borrowers.

One client of the law firm with which Messrs. Byrne and Franconero were connected in the early 1970s was mobster Thomas "Timmy Murphy" Pecora. The firm represented Mr. Pecora extensively in civil matters and successfully fought to get him freed from jail on reduced bail when he was arrested on gambling charges. Mr. Pecora's brother, Joseph, runs Teamster Local 863, also in New Jersey, whose pension fund had six-figure deposits in State Bank of Chatham just before the bank went under because of bad loans in 1975.

Mr. Franconero refers all questions now to his lawyer, Martin Greenberg, another former member of the Byrne law firm. Mr.

Greenberg, who is a Democratic state senator, says Mr. Franconero won't discuss the bank situation because he considers himself the "target" of a current federal investigation.

The question of whether Mr. Franconero will be indicted has added political overtones to the situation, because under the pressure of prominent Democrats in the state, President Carter is replacing the U.S. attorney, Jonathan Goldstein, with Robert Del Tufo, a Byrne appointee in the Democratic state administration. Several persons involved in the investigation have expressed fear that the switch in prosecutors may affect the fate of Mr. Franconero and others.

EASY TARGETS

What makes a bank officer go on approving crooked loans even after he realizes they are costing his bank more than it can make from union deposits? The presidents of some banks involved are easy targets for bribe proposals because their own salaries are surprisingly low—often under $30,000 a year, even though they are empowered to lend out more than that with a stroke of their pen.

Ralph Stein, a business associate of some Mafia loan sharks, has used many kinds of influence. He has been sentenced to jail for helping wreck Springfield State Bank last year by extracting more than $300,000 in phony loans. The Teamsters put several hundred thousand dollars into the Springfield bank, and Mr. Stein also bribed its president, Donald Spears, who has pleaded guilty and awaits sentencing.

Mr. Stein used blackmail to loot another bank, according to a knowledgeable banking-association official. Visiting a difficult loan officer, Mr. Stein is said to have casually walked off with the officer's briefcase. Inside he found love letters indicating that the loan officer, who was married, was having an affair with a woman employe of the bank, who also was married. The briefcase was returned without the love letters, and the loan officer suddenly became cooperative. The situation came to light, the source says, when the woman spoke up in a successful effort to forestall prosecution of the loan officer.

CASES OF TWO BANKS

The individual shady loans on record in the current scandal are numerous. What follows are brief accounts of how only two of the hardest-hit banks were moved in on and what happened to them.

Bank of Bloomfield—Soon after Robert Prodan arrived in 1973 to succeed the retiring president, he went looking for big depositors and pulled in at least $1 million from various Teamster groups, including Mr. Palmeri's Local 945. Then dozens of hoods—big-time and small-time, from New England to Michigan to Florida—signed up for deals that drove the bank into receivership by December 1975.

Mr. Prodan had met Arnold Daner—a key figure in these developments—in 1967 when both worked as young accountants in a small commercial finance concern. When Mr. Prodan took up a career with large banks in the New York area and Mr. Daner founded an import firm, they remained friends. Mr. Prodan invested heavily in Mr. Daner's business, which failed.

Mr. Daner moved to Florida in 1972 and started a company that financed leases (similar to financing installment purchases) of industrial equipment. He says Mr. Prodan stayed on as his partner; Mr. Prodan says he considered that but declined.

In 1973, a loan customer of Mr. Prodan's at Franklin State Bank in Newark, who also happened to be chairman of the much smaller Bank of Bloomfield, invited Mr. Prodan to fill the presidency of the Bloomfield bank. Mr. Prodan accepted, and, at about that time, Mr. Daner moved the leasing business to New Jersey, too.

CONSPIRACY CHARGED

Mr. Daner and the government say there was a conspiracy among him, Mr. Prodan and their Mafia buddies to loot the Bloomfield bank. Mr. Daner has pleaded guilty and has been relocated by the government for his protection. Mr. Prodan denies he was in a conspiracy or had any Mafia buddies—at least until Mr. Daner introduced them to him. The jurors at Mr. Prodan's trial this spring couldn't decide which man to believe; a new trial is set next month.

But aside from the questions of whether Mr. Prodan was in on the conspiracy and whether he got the tens of thousands of dollars in kickbacks that Mr. Daner and the government say he got, other facts are largely beyond dispute.

The hoods lined up at the leasing firm for equipment leases totaling $6 million. The leases then were discounted to Bank of Bloomfield, which shelled out $4.7 million in cash for the right to collect on the leases.

Millions of dollars of equipment supposedly being leased didn't exist. Equipment that did exist was inflated in value. In December 1975, the Federal Deposit Insurance Corporation took over the bank and is still winding up its affairs.

Much of the phony equipment was in the garbage-collection, disposal and recycling field. The private cartage business has long been infiltrated by mobsters, so there were plenty of Mafia-owned garbage firms ready to file phony leases. Moreover, Mr. Daner had lined up a garbage-equipment manufacturer in Florida to give him documents in blank, which he could fill in; thus he could make it appear that a piece of equipment was delivered to a company when actually it wasn't.

MOBSTERS MOVE IN

Two mobsters, Dominick Troiano and Charles Musillo, moved in as Mr. Daner's partners. Mr. Musillo, an ex-con, and his 21-year-old son, Michael, used vast sums taken in from leases on nonexistent garbage equipment to finance a loan-shark operation; they have pleaded guilty and await sentencing. Mr. Troiano, who also pleaded guilty and awaits sentencing, helped bring in customers, including his relatives, for the "leases."

Among the many Bank of Bloomfield lease patrons familiar to law-enforcement authorities are Thomas Milo, a Westchester County, N.Y., garbage carter whose father, Sabato, and uncle, Thomas Sr., were cited in the Valachi hearings as members of the Genovese Mafia family specializing in gambling, shylocking and narcotics; Anthony "Buckalo" Ferro, identified in the hearings as a Genovese soldier in gambling and shylocking; convicted felon Joseph Scappatone and his son, William "Skippy" Scappatone (who used $50,000 in bank funds to pay loan sharks, according to Mr. Daner); and a Detroit garbage firm, Central Sanitation Co., founded by Raffael "Jimmy Q" Quasarano and Dominick "Sparky" Corrado, whose respective narcotics and labor racketeering deals have been described in congressional testimony. (Thomas Milo says that he is paying back two loans and that papers for a third loan were forged and he never received the money.)

According to Mr. Daner's trial testimony, not disputed in Mr. Prodan's testimony, Mr. Palmeri had a part in some of these leases, including the one to Central Sanitation for $85,000. When Central Sanitation failed to make initial payments in the summer of 1975, outside directors became suspicious, and the entire scheme was threatened. Mr. Daner testified that Mr. Prodan brought him to Mr. Palmeri in a restaurant and "told me that Ernie was a very powerful man in New Jersey, told me that nothing goes on in the state in the garbage business without his blessing . . . told me that he (Mr. Palmeri) would be able to collect the money if he had to break the guy's head with a pipe."

IN BANKRUPTCY PROCEEDINGS

Still, the Central Sanitation lease wasn't paid, and the Detroit firm now is in bankruptcy proceedings. Many other leases were paid in part, though; some $500,000 in proceeds from the phony leases was used to keep up the payments to the bank on other leases, so the operation would seem to be working.

The Daner leasing company also financed $150,000 in equipment—apparently genuine—for the restaurant in which Messrs. Palmeri and Franconero are said to have an interest. Mr. Daner testified that Mr. Franconero, who won't comment, was a lawyer for the leasing firm.

In other Daner testimony not disputed by Mr. Prodan at trial, the two men met for dinner in New York's Little Italy with famed mobster Matthew "Matty the Horse" Ianello and other mobsters, including Mr. Musillo, to discuss forming a garbage company in Florida with New Jersey bank money. Mr. Prodan acknowledged cosigning a $20,000 loan at another New Jersey bank to help finance the garbage company. He said Mr. Musillo was involved in the firm, though he didn't mention Mr. Ianello.

Mr. Prodan's lawyer says that although the allegations weren't rebutted at trial, Mr. Prodan denies ever meeting Mr. Ianello or ever saying that Mr. Palmeri would hit someone with a pipe.

Mr. Daner also told how $25,000 in Bank of Bloomfield funds went indirectly, through loan sharks, to Carmine Galente, who some law-enforcement officers think is the most powerful Mafiosi in the country.

State bank of Chatham: Shortly after the bank opened on March 27, 1972, Mr. Smith, its president, was introduced to Mr. Rando, the Retail Employees official, by George Fiore, a bank director. Mr. Smith, who previously was a senior vice president at National Bank of North America in Manhattan, says he was delighted to learn over lunch that not only had Mr. Rando purchased a certificate of deposit at the Chatham bank, but also that he was prepared to line up prospective borrowers.

That same day, Mr. Smith recalls, he accompanied Mr. Rando to a jewelry store run by Anthony Cilli, a friend of Mr. Rando's. Mr. Cilli last November pleaded guilty to conspiracy in connection with the use of an estimated $100,000 of Chatham bank loans for loan-sharking. But at the time, Mr. Smith says, "I didn't think he was a Mafia type. He didn't look like a hardened person."

Subsequently, the bank agreed to make loans to Mr. Rando's friends in return for deposits of union funds in the bank. Shortly thereafter, Mr. Smith says, the union's deposits jumped to around $360,000 from $120,000. Mr. Smith says he made the rounds of other unions, trying to drum up deposits. His entree to the Teamsters local run by Mr. Palmeri was helped, he adds, by his acquaintance with Mr. Palmeri's sister. Ultimately, the union local became a major depositor at the Chatham bank. Money also poured in from other unions.

And Mr. Rando's friends started coming round for loans. One was Henry Rudnitsky, a produce-market owner, who is believed to have used more than $100,000 of bank borrowings to pay off debts to organized-crime figures. Mr. Rudnitsky was shot to death two years ago in what looked like a mob "hit" shortly after he had begun to cooperate with law-enforcement officials. Now the bank is trying to collect from some of his friends who guaranteed his notes.

BANK BEING LIQUIDATED

In 1975, Mr. Smith quit his $34,000-a-year Chatham bank presidency to become president of another New Jersey bank, but he resigned that post when he learned that federal authorities had begun investigating his Chatham bank dealings. Last year, as a result of the Chatham bank's problem loans, another local bank, Chatham Trust Co., began liquidating State Bank of Chatham with FDIC support. Chatham Trust assumed the deposits and those loans of Bank of Chatham that it thinks can be worked out, says Frank Stetson, Chatham Trust's president. Attorneys for Bank of Chatham are trying to recover the bank's investments in the remaining loans.

Mr. Smith last November pleaded guilty to a federal indictment for conspiracy and was placed on three years' probation for his role in Bank of Chatham's demise. And Mr. Smith, Mr. Franconero and George Piccola, a business partner of Mr. Franconero, recently individually settled a lawsuit brought in a New Jersey state court by Bank of Chatham's attorneys. The suit accused them, among other things, of conspiring to defraud the bank by having it lend money beyond the amount permitted by law and by making loans that were financially unsound, inadequately secured and in disregard of the bank's interests.

The settlement requires Mr. Smith to pay the bank more than $1 million. How he will come up with the cash is uncertain, since he is currently unemployed and says he has exhausted his financial resources in attorneys' fees and other expenses.

In an interview, Mr. Smith depicts himself as a somewhat naive executive taken in by others. He says he was motivated simply by a desire to increase the loan volume and therefore the profits of a bank in which he, at the time, had a $45,000 equity interest. And, he adds, he didn't get any kickbacks from borrowers.

But in an affidavit filed as part of his settlement, Mr. Smith admits that he concealed from the bank's directors that he approved loans solely on the recommendations of the Retail Clerks' Mr. Rando and others to borrowers lacking good crdeit records. And, he concedes that "some of the loans were for illegal purposes."

Without admitting any wrongdoing, Mr. Franconero and Mr. Piccola, whose own business venture or those of their acquaintances obtained a number of Bank of Chatham loans, also settled with the bank. The terms of Mr. Franconero's settlement haven't been disclosed publicly, but Mr. Piccola has agreed to repay the bank nearly $129,000. Mr. Franconero declined to be interviewed, and Mr. Piccola couldn't be reached for comment; but some of their relationship with the bank have come to light in depositions filed in Mr. Piccola's bankruptcy proceedings in a federal court.

According to Mr. Franconero's deposition, the bank lent him $30,000 directly and also channeled another $13,000 to him through a shell corporation owned by Mr. Piccola. Mr. Franconero says Mr. Smith wanted the $13,000 loan made through a corporation so the bank could get a higher interest rate than that permitted on personal loans. But a bank attorney contends in the bankruptcy proceedings that loans were made to this and other shell corporations owned by Messrs. Franconero and Piccola to conceal "an illegal concentration of credit" in their hands in violation of state banking laws.

JUSTICE DENIED WILMINGTON 10

Mr. BAYH. Mr. President, the struggle of the Wilmington 10 has now evolved into a test of our judicial system. The question of the guilt or innocence of Ben Chavis and the other nine defendants has received national as well as international attention. In essence, our legal system is once again on trial. Because the final adjudication of this case essentially represents a test as to how far we have progressed since the Scottsboro case, I ask unanimous consent that Mr. Vernon Jordan's recent article concerning this trial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE DENIED WILMINGTON 10

(By Vernon E. Jordan, Jr.)

While the United States government maintains pressure on foreign countries that violate human rights and imprison people on politically-inspired, trumped-up charges, the Wilmington 10 are still behind bars.

Their continued presence in North Carolina's jails makes a mockery of our human rights pretensions. Our country has been forced onto the defensive by penny ante dictators who justify their own repressions by pointing to the fact that the Wilmington 10 have been sentenced to nearly 300 years' imprisonment under circumstances that smell of rigged trials and racial vengeance.

The story of the Wilmington 10 goes back to 1970, when court-ordered desegregation of New Hanover County's school system led to escalating racial tensions generated by diehards fighting the entrance of blacks into all-white schools.

The mounting troubles led to black boycotts and demonstrations and culminated in a full-scale riot in Wilmington in which two people died and millions of dollars of property was damaged. In March, 1972, about a year after the riot, the police arrested a number of people, including Reverend Benjamin Chavis, a civil rights worker sent to the area at the request of local blacks by the Commission for Racial Justice of the United Church of Christ.

Reverend Chavis came as a peacemaker, trying to cool a potentially dangerous situation, but local segregationists tagged him a troublemaker and decided to get him. Chavis and his co-defendants were charged with burning a store and conspiring to assault officers during the riots.

Their trial was shot full of errors—defense lawyers appealed on the basis of some 2,800 trial errors that were found. Some were quite important—errors in the jury selection process that resulted in a racially-unbalanced jury, cover-ups of evidence, hiding facts from both defense and jurors, and concealing favors to prosecution witnesses.

The jurors never knew that key witnesses were under criminal charges themselves, a major point since knowledge of that fact would have led jurors to consider whether they may be perjuring themselves to save their own necks.

After the conviction of the Wilmington 10, North Carolina courts knocked down their appeals. But in the meantime the prosecution's star witnesses came forward with stories about how their testimonies had been bought.

One key witness admitted he lied. He said the prosecutors tricked him into giving false testimony. Another witness, who was only 13 at the time, admits he lied too, and had been promised a bike by the prosecutor. Still another, also a teenager at the time, said he was pressured into lying and had been coached by the prosecution.

So the original trial stands revealed as a farce that violated the constitutional rights of Chavis and his co-defendants. Appeals in the state courts have proven fruitless, so now there are two basic ways in which the wrongs may be redressed.

One way is for North Carolina's governor to use his powers to free the defendants. The injustice of wrongful convictions would stand but at least the revolting state of continued imprisonment would be ended.

Another is for the federal courts to overturn the convictions. Appeals have been filed, but the federal government should intervene in the process by revealing the results of its investigation of the trial and filing a brief to overturn the convictions.

The Wilmington 10 case, along with the case of the Dawson 5 and similar apparent miscarriages of justice reveal the stain of the past on today's South. All the rhetoric about a New South will sound hollow so long as the region's jails house people railroaded for political and racial reasons.

This is not just down-home affair; it's something that concerns national integrity and the international drive for human rights.

PANAMA CANAL TREATIES

Mr. PERCY. Mr. President, our distinguished colleague from Virginia (Mr. SCOTT) has made a detailed study of the proposed Panama Canal Treaties and indicated a number of concerns with regard to various provisions contained in them. Senator SCOTT testified today before our Committee on Foreign Relation and, in light of his well-researched presentation, and also in viewing the fact that he testified in the afternoon when some of our colleagues had schedule conflicts, I ask unanimous consent that the statement made by Senator SCOTT be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WILLIAM L. SCOTT

Mr. Chairman, I appreciate this opportunity to appear before the Foreign Relations Committee and to express my personal views on the important matter now under consideration. I am aware that the administration in urging ratification has stressed the long period of negotiations under four presidents, emphasized the support of Latin American countries and the need to yield to world opinion to relinquish the Canal Zone to Panama. However, in this country sovereignty resides in the people and not the president or the officials who negotiated the proposed treaties. Therefore, it would seem that the will of the people should be reflected in our decision. There is little doubt that the American people are opposed to the ratification of the treaties, and I have great faith in the collective will of the majority. My own mail is roughly 5 percent in favor of the treaties and 95 percent in opposition, and I expect each Senator's mail is quite heavy. So perhaps in the final analysis rather than the White House educating the American people, the President and the Department of State may receive an education in American Government. I would certainly hope that this will prove to be the case.

My views are based not only on mail from constituents. But upon two recent trips to Panama and South American countries, a thorough reading and rereading of the treaties and background information, independent investigations, listening to testimony before the Subcommittee on Separation of Powers of the Senate Judiciary Committee and studies made by the Library of Congress.

There appear to be many objectionable provisions in the canal treaty which should be eliminated or clarified, such as the prohibition against the United States constructing a new canal anywhere within the isthmus without the consent of Panama, and

the doubtful interpretation of "expeditious passage".

However, the beginning of article I of the Panama Canal Treaty, to my mind, is by far the most objectionable feature because it provides for the abrogation of all prior treaties with the phrase, "This treaty terminates and supersedes" the treaties of 1903, 1936, 1955 and "all other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal. . . ."

Under the 1903 treaty we guaranteed the independence of the new country of Panama, paid $10 million and agreed to an annual payment of $250,000 and obtained both title to the canal zone and sovereignty over it. Other actions taken by our government to perfect our title included the purchase of the French canal properties for $40 million; what was tantamount to a quitclaim and recognition of our title from Columbia for the sum of $25 million; and the purchase of private rights from owners and squatters expressly excluded from the 1903 treaty. All this, however, would be vitiated by the first sentence of article I of the present canal treaties.

It is true that under numbered paragraph 2 of article I, the Republic of Panama grants to the United States for the remainder of this century "the rights necessary to regulate the transit of ships through the Panama Canal and to manage, operate, maintain, improve, protect and defend the canal." But we would be managing, operating, maintaining, improving, protecting and defending property belonging to the Republic of Panama rather than American property as the situation is today.

Mr. Chairman, as you know, a valid contract must contain consideration. We speak of something of value flowing from one party to the other, mutuality but in my judgment these treaties are for the benefit of Panama alone. I find no new benefits for the United States.

It does not appear, Mr. Chairman, that there is serious concern within the executive branch of government to the role of the Congress under article IV of the Constitution. As you know, the second paragraph of section 3 of the article provides: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: . . ."

To determine the proper role of the House under article IV, I requested a study be made by the Congressional Research Service which responded with an excellent and objective legal memorandum dated August 4, 1977, concluding that precedent indicates Congress has exclusive power to dispose of property in the Canal Zone. I ask, Mr. Chairman, to include a copy of this memorandum in the record.

Attorney General Bonaparte, in an opinion dated September 7, 1907 (26 Att'y Gen. 376), stated that sovereignty over the Canal Zone was not an open or doubtful question and applied what he stated was the first rule of construction, "that plain and sensible words should be taken to mean what they say." The Attorney General added: "the omission to use words expressly passing sovereignty was dictated by reasons of public policy, I assume; but whatever the reason the treaty gives the substance of sovereignty, and instead of containing a mere declaration transferring the sovereignty, descends to the particulars 'all the rights, power and authority' that belong to sovereignty, and negatives any such 'sovereign rights, power, or authority' in the former sovereign."

Now, Mr. Chairman, I realize that some of our people in the executive branch are attempting to convey the impression that we do not possess either title or sovereignty but this is contrary to the opinion of Secretary of State Hay in 1904 who stated, "that the grant accomplished by the treaty was a grant of land and sovereign right thereover, and not a mere concession or privilege, is shown by the granting clauses and also by the references to the grant in subsequent clauses of the treaty; . . ." Later he said: "it cannot escape observation that the legislative branch of the government of the Republic of Panama by legislative enactment declared the zone to be 'ceded to the United States,' and dealt with accordingly." And still later he stated: "the United States at all times since the treaty was concluded has acted upon the theory that it had secured in and to the canal zone the exclusive jurisdiction to exercise sovereign rights, power and authority." Mr. Chairman, I ask that this entire letter of Secretary Hay be inserted in the RECORD.

The Supreme Court in the case of *Wilson* v. *Shaw*, 204 U.S. 24 (1907), stated that we hold a valid title to the canal zone and compared our title with the then Territory of Alaska. The court added: "It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

Mr. Chairman, I ask that a copy of this unanimous opinion by the Supreme Court also be included in the RECORD.

In 1971, the Fifth Circuit Court of Appeals in *U.S.* v. *Husband R.* (*Roach*) 453 F. 2d 1054, cert den. 406 U.S. 935 (1972), stated: "The canal zone is an unincorporated territory of the United States." So, Mr. Chairman, the first article of the canal treaty is attempting to transfer United States property and sovereignty over the canal zone.

These are opinions of both cabinet officers and our highest court made near the time we acquired the zone and the exhaustive study of authorities made by the Library of Congress in its paper dated August 4, 1977. The only rationale I know for persons presently holding positions within the executive branch of government to deny that we hold title or sovereign rights in the canal zone is to close ranks in support of a treaty signed by the President.

I wonder if each Senator early in his school experience didn't learn that he United States acquired the canal zone, rid the area of disease, constructed the canal and has operated it under the American flag since the beginning of this century. At a time when world domination is being sought by a form of government entirely different from our own, it appears untenable to give away this vital artery of commerce, to pay Panama for taking it and to commit ourselves to defend it.

This view is shared by Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff from 1970 to 1974, who testified before the Senate Subcommittee on Separation of Powers. Toward the end of his testimony on July 22 of this year, Admiral Moorer made these statements: "Surrender of U.S. sovereinty over the canal zone would inevitably lead to the transformation of the entire friendly character of the Caribbean and the Gulf of Mexico. Everything would depend on the attitude of those who held sovereignty and ownership. . . I might say that in military affairs there is no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace."

Of course, Mr. Chairman, Admiral Moorer retired as our number one military officer and is in a position to candidly express his opinion at this time and I believe we can well understand the hesitancy of some active members of our military forces publicly disagreeing with their commander-in-chief. We need only to reflect on General Singlaub being called back from Korea and being reassigned because of a candid statement made by him and the rebuke of General Starry by the Secretary of the Army to realize that active duty officers and even civilian government officials are not entirely free to express opinions contrary to the administration's position.

Before these rebukes, however, on March 11, 1977, during a closed session of the subcommittee on manpower and personnel of the Committee on Armed Services, Admiral Maurice Weisner, presently commander-in-Chief, Pacific, or in other words, the commander of all of our armed forces for one half of the globe, with headquarters in Hawaii, responded to specific questions regarding the importance of the canal to the United States. This testimony is reported at page 2378 of the hearings on military procurement for the fiscal year 1978 and I ask unanimous consent, Mr. Chairman, to include the page in the record. He was asked for his views as to the importance of the Panama Canal; whether there would be any adverse effect on his command if the Panama Canal were not under the control of the United States. Let me quote his response: "I can see adverse effects, Senator Scott. It takes considerable time to move items by sea from the east coast to the Pacific. Without the Panama Canal, you are adding 3 weeks' time in shipping critical items such as ammunition from an east coast port rather than from a west coast port."

Then I asked the admiral if he would see a need for an increase in our naval strength if we did not control the Panama Canal. Admiral Weisner responded: "Yes; we would have to put these critical items being shipped by sea over a greater area." This, of course, is a response of an active duty military commander before the Singlaub affair.

Returning briefly now, Mr. Chairman, to the conclusion of the testimony by Admiral Moorer before the Judiciary Committee, he states, and I quote: "Anyone in this country who thinks that Soviet Russia is not staring down the throat of the Panama Canal is very naive, and I think it says something to note that the Soviets understand the importance of the Panama Canal apparently far more than many in our own country."

On September 8th of this year, retired Admiral John S. McCain, Jr., also testified before our subcommittee on separation of powers and I am quoting this 4-star admiral: "From my combined military experience which includes Europe, Asia, the Pacific, the Caribbean and the United Nations, it is my conviction that U.S. interests are best served by keeping the canal, by retaining undiluted sovereignty over the U.S. Canal Zone." He added, and again I quote: "Finally, I would like to re-emphasize the importance of the June 8, 1977 letter of the four greatly distinguished chiefs of naval operations to the president that was quoted in the testimony of Admiral Moorer. Their conclusions reflect a vast background, including combat experience, and are more pertinent today than ever. Retired military officers are completely free to voice their innermost convictions. Active duty officers have an obligation to support the policies of their commander-in-chief."

I would hope, Mr. Chairman, that this commitee will call more retired military officers in whom you have confidence and who are free of constraints from their commander-in-chief and ask their candid, personal opinions on the dangers of our government parting with title to the canal and the gradual turnover of full control to the republic of Panama.

Mr. Chairman, we sometimes hear that Latin America favors the transfer of title and control of the canal zone from the United States to Panama but I have taken two trips to Latin America this year and have had the opportunity to talk with chief executives and other principal officials of a number of Latin American countries, with embassy personnel, with intelligence officers, with American citizens, as well as foreign nationals within the countries visited.

In Colombia I learned that because of kinship with an adjoining Latin country, Colombian officials do favor the transfer of the canal but are very much concerned about the contemplated increase in tolls, stating that the only practical way to transfer material from one part of their country to another is through the canal.

Brazilian officials didn't seem to have any real concern regarding the proposed transfer, referring to it as a matter between the United States and Panama. Perhaps this is because Brazil fronts on the eastern coast of the South American continent and is not among the prime users of the canal.

In Argentina, officials indicated that they did not make extensive use of the canal but expressed fear that it might come under Communist control.

Chilean officials were even more concerned of the possibility of Communist influence or control of the canal indicating that 95 percent of their commerce used the canal and that they could not afford an increase in tolls or to have this vital artery subject to direct or indirect control by Communists. Chilean officials indicated that our contemplated action in giving up the canal appeared to be contrary to the best interest of he world community and they would much prefer that we retain complete control of the canal.

In Peru, we again heard that Panama was a neighboring country and because of this they favored the transfer to Panama. However, officials indicated their country would suffer greatly if the tolls were raised as appears to be inevitable if the treaties now under consideration are ratified. Contrary to some suggestions, officials of every South American country visited indicated that there would be no repercussions from their country if the Senate failed to ratify the treaties.

Within the canal zone itself, we heard the strongest opposition and the greatest fear of Communism. American citizens complained of violation of human rights, they spoke of lack of expertise and management ability, of the differences between salaries within the zone and the Republic of Panama. Many indicated that they would not continue to work within the canal zone if it came under the control of Panama.

I inserted a detailed statement of the Panamanian trip in the August 4, 1977 Congressional Record and included a statement by the heads of various civic groups within the Canal Zone. Should any Senator have any doubt about the feeling of American citizens living in the Canal Zone, he might want to refer to this statement. It concludes, and I quote: "for ourselves as U.S. citizens living and working thousands of miles from our homeland, we can say, 'pack us up tomorrow. We're ready to go.' But for the sake of U.S. commerce and the U.S. national interests in general in the western hemisphere we urge you to examine the proposed treaty in minute detail. We urge you to visit here for more than three days, to observe the situation with your own eyes and not to depend solely on briefings by U.S. or Panamanian government officials. The new treaty with Panama will have long-range repercussions that coming generations will have to live with; we urge you not to ratify a new treaty solely because the State Department says that a treaty is the cure-all to problems with Panama. The Russia-Cuba axis and the American electorate are waiting to see which way the treaty goes. A hasty decision on the part of our Congressmen without giving deep and thoughtful study to the question would please the former and infuriate the latter."

Now, Mr. Chairman, on this question of Communist influence, Mr. Charles Conneely, a member of the professional staff of the Armed Services Committee, and myself talked privately in a number of Latin American countries with embassy officials, with military intelligence officers, with CIA officials, with both American citizens and foreign nationals about the possibility of Communist influence. We first visited in Panama and were somewhat skeptical, or thought perhaps Americans living within the zone might tend to exaggerate the question of Communist influence. Yet, the statements they made were verified in private conversations with the American intelligence community in various Latin American countries. In acting upon this treaty we may well be considering not only future control of the Canal Zone but future control of the Caribbean. Therefore, it would seem important enough to the defense of our own country and that of the free world to have military and civilian intelligence officials, both active and retired, to testify under oath in closed sessions regarding Communist influence, within Panama and other nations of Latin America. Time after time we heard the names of leading political figures in Panama identified as Communists and were told that there were strong Communist influences throughout the Panamanian government. I call these statements to the attention of the committee because of their repetition by so many people during our South American visit and suggest that the committee endeavor to ascertain the truthfulness or falsity of these allegations.

I believe the committee and the Senate will want to consider these factors in determining whether to advise and consent to the treaties.

My own opinion, Mr. Chairman, is that these treaties should be defeated. But I would hope that the administration could then be encouraged to negotiate an arrangement for joint control by the United States, Panama and a limited number of Latin American countries but with ownership of the Canal Zone remaining in the United States.

THE MIDDLE EAST

Mr. BROOKE. Mr. President, it is with deep concern that I feel compelled to speak critically of the recent administration initiatives regarding the Middle East. My concern stems not only from my dismay over the content and implications of the recent Soviet-American statement on the Mideast, but also from an abiding distress over the fact that our country continues to be an "uncertain trumpet" in the world. There is grave danger in the apparent tendency of the present administration to make marked departures in U.S. policy without properly consulting with the Congress beforehand. Lacking compatibility of purpose and views between the two branches of the Government, we erode our capacity to protect our interests and fulfill our commitments.

As far as I have been able to determine, no effort was made by the administration to enter into consultations with the Congress in a meaningful way prior to issuing the statement with the Soviet Union. Even if the statement had been nothing more than a bland reiteration of existing policy, such consultation should have taken place. But the joint statement was not such a reiteration of policy. It implies substantive modifications in U.S. efforts to encourage the Middle East negotiations process. It should not have been issued prior to full and extensive discussions with the Congress.

The defects in the statement are many:

First, no mention is made of resolutions 242 and 238, which form the only legal framework for negotiations on a Middle East settlement. A charitable assumption would be that this is an unintentional oversight. A less charitable but perhaps more tenable explanation is that the administration purposely is abandoning the framework for negotiations provided for by these resolutions. If such is the case, the basic unanswered question is "Why?"

Second, for the first time the United States, in a formal declaration, has used the phrase "insuring the legitimate rights of the Palestinian people" as a prerequisite to a settlement. On its face, the term "rights" appears innocent enough. Yet, anyone who has studied the Middle East conflict in any depth will recognize that word is rife with meanings in the Arab world, most if not all of which would be unacceptable as a basis for a settlement. I do not know of any official declaration by any Arab State that has defined exactly what is meant by the "rights" of the Palestinians". Indeed, I believe the most common response of Arab spokesmen when asked about the subject is to state that a definition of "Palestinian rights" is an issue for the Palestinians to decide. In this regard, as far as the PLO is concerned, its definition of such "rights" appears to encompass the "right" to replace the state of Israel with a nonsecular Palestine.

While I do not believe for one moment that the administration accepts that as a "Palestinian right," I do fear that by joining with the Soviet Union in using this loaded word in the Joint Statement, it has substantially compromised the credibilty of its commitment to oppose any solution that would increase the danger to Israel's survival as a Jewish homeland. Again the question—"Why has it done so?"

It should also be noted that the Palestinian view on "rights" includes the option for Palestinian refugees to settle in areas in what is now Israel or to receive compensation for properties lost, not by themselves in many cases, but by parents or relatives. Implicit in the joint statement's reference to "Palestinian rights" is a growing tolerance of this viewpoint. If the administration is receptive to the so-called "right of return," it is accepting the settlement in Israel of possibly 2 to 2½ million Palestinians who, advocating the right of self-determination, would then be in a position to agitate forcefully for a secular Palestine. Does the administration honestly believe that encouragement of such a "dream," indeed a fantasy, contributes to the negotiation process? No Israeli Government could accept or could be expected to accept such a threat to Israel.

There can be no question that compensation for individual Arabs who were the unwitting victims of the turbulence of the birth of Israel is a legitimate subject for negotiations. Similarly, those Jewish inhabitants of Arab lands at the time of upheaval or subsequent to that

time who also have suffered material losses have a just claim for compensation. Yet, in the joint statement, there is no implicit recognition and acceptance of this.

Third, the joint statement makes no reference to the necessity of a peace treaty as a precondition of a just settlement. It calls for the ". . . termination of the state of war and establishment of normal peaceful relations . . .," but offers no indication as to the proper sequence of events in achieving that goal. Past gyrations of the administration on the "timing-sequence" indicates a willingness to pressure Israel to make substantive concessions now regarding territory and "Palestinian rights" in return for vague promises of peace at some unspecified future date. The failure of the joint statement to state specifically that a peace treaty that conforms to the true meaning of that much-abused term will be brought into effect simultaneously with what will be asked of Israel is a further disquieting indication of the administration's willingness to risk the chance for true peace by "cutting corners" to reconvene Geneva regardless of whether or not the proper conditions exist to justify doing so.

Fourth, the joint statement contains no reference to such concepts as "termination of claims of belligerency" or "freedom of navigation of international waterways" for all States in the Middle East.

These concepts would be crucial elements in a settlement that it would be honorable for the United States to give its support to. Does failure to mention them constitute an administration willingness to compromise on these issues?

Fifth, implicit in the joint statement is the assumption that legal borders defining the State of Israel already exist. This simply is not the case. There are armistice lines extending back to the late 1940's. But there are no recognized borders. That is one of the crucial subjects for negotiation. Yet, the administration, in agreeing to the wording of the joint statement, weakens the basis for negotiations on this subject. I can discern no wisdom in or reason for doing so.

Sixth, the joint statement comes dangerously close to defining "security of borders" as meaning the establishment of demilitarized zones, the stationing of U.N. troops or observers and the provision of international guarantees of those borders. While these elements should not be excluded from consideration as possible components of a regimen for "secure borders," they certainly are not sufficient in and of themselves. The United States would never tolerate a security regimen based on such a shaky foundation. Is it any wonder that Israel feels compelled to resist an attempt to impose such an approach on it?

Finally, the joint statement and the manner of its genesis indicate an administration intent to abrogate the 1975 United States-Israel memorandum of agreement. There was no effort on the part of the administration to discuss the subject matter of the joint statement with Israel prior to its issuance. Yet, in the 1975 memorandum the United States and Israel agreed to:

> . . . concerted action to assure that the conference will be conducted in a manner consonant with the . . . declared purpose of the conference.

By no stretch of the imagination can one reasonably argue that the joint statement does not alter the assumption regarding the Geneva Conference that prompted the signing of the 1975 memorandum. Moreover, in the memorandum it was also agreed that—

> . . . [T]he Geneva peace conference will be reconvened at a time coordinated between the United States and Israel.

The joint statement calls for the reconvening of the Conference "not later than December, 1977." There is no evidence that the administration discussed this artificial and precipitous deadline with Israel.

There are other serious deficiencies in the joint statement. But overarching the justifiable concerns regarding the statement's contents is the question of why the administration felt it to be necessary to issue a joint declaration with the Soviet Union at this time. Does it have assurances that the Soviet Union is ready to abandon its traditional approach of "fishing in troubled waters" in the Middle East. Is Moscow ready to eschew a policy of "no war-no peace" in the Middle East? Will it abandon its effort to increase its influence in the area at the expense of the suffering of both Arab and Jew?

What did the administration receive in return for its willingness to accept, at least implicitly, the view that Moscow should play a role equal to that of the United States in the negotiations process? I pose these questions because the joint statement and what it indicates about present administration thinking portends a willingness on the part of the administration to not only compensate for Soviet action in the Middle East but to encourage actively an upgrading of the Soviet influence in the negotiations process, even to the point of contemplating a Soviet military presence on the ground in the Middle East. What has occurred to make such an approach a reasonable alternative?

Mr. President, the latest initiatives of the administration on the Middle East have certainly complicated an already complex situation. The question that recurs again and again upon a reading of the joint statement is why this particular step? The Congress and the American people have a right to a detailed answer to this question.

I fear we may have embarked upon a course of action fraught with danger, not only for our traditional ally in the Midle East—Israel—but also for the Arab countries and ourselves. The creation of excessive expectations in the Arab world that cannot be fulfilled without the United States dishonoring its values and commitments can only lead to Arab disillusionment with the United States. This, in turn, will increase the incentives for mischief from those in the Middle East and elsewhere whose goals are far different than that of peaceful and productive relations between Israel and her Arab neighbors. The United States inevitably would be increasingly drawn into such a worsening situation.

I do not defer to anyone in the desire for peace between Israeli and Arab. Each has much to offer the other. But I am convinced that the only peace agreement that will last is one that they hammer out together. One imposed from without will not be able to withstand the inevitable frictions that will characterize the Middle East situation for many years to come. The administration claims it is not seeking an imposed settlement. Its latest actions raise serious questions as to the sincerity of its claim.

RUGGED NEW VISTAS FOR THE HANDICAPPED

Mr. PERCY. Mr. President, I would like to share with my colleagues an article from the May/June 1977 issue of Scouting magazine which was recently brought to my attention by Mr. William McCahill, chairman of the National Advisory Committee on Scouting for the Handicapped. The article entitled, "Rugged New Vistas for the Handicapped," which was written by Scout Leader Paul Brozak, is about his handicapped Scout troop from Ottawa, Ill. It is a dramatic example of why our handicapped citizens are today winning the respect of every American. This troop of nine handicapped boys earned their own travel expenses to the "Philmont Scout Ranch and Explorer Base" in Cimarron, N. Mex., and covered 58 miles of mountainous hiking in 12 days.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RUGGED NEW VISTAS FOR THE HANDICAPPED

(By Paul Brozak)

When you say "Philmont Scout Ranch and Explorer Base" you're likely to picture strapping kids rock hopping and threading Rocky Mountain trails 9,000-, 10,000-, 11,000-feet high. It's a place for Explorers and older Scouts who are used to working together and are self-dependent. The consequences of bringing any less-qualified kids could be for one of them to tumble down a graveled path, get lost in the wilderness or suffer acute homesickness.

So it would seem that Philmont is hardly the place to take a crew of physically and mentally handicapped youngsters—or is it?

If my experience with nine handicapped Explorers and two adult leaders is any indication, a trip to Philmont *can* be tailored to suit them. Our Sea Explorer ship is sponsored by Friendship House-Echo School, Inc., a work activity center for the handicapped located in Ottawa, Ill., about 80 miles west of Chicago. I serve as the Skipper.

When we asked Philmont's administrators about our Explorers coming to the New Mexico ranch, and assured them that no seriously physically handicapped Explorers would be climbing any mountains, they gave us an itinerary their planners felt our youngsters could handle. We were off and running.

After a car trip during which we tented out in private campgrounds or state parks, we arrived at Philmont. During our check-in, we met with Jeff Phipps and his parents. Some time before, Philmont had alerted Mr. and Mrs. Phipps that our ship would be attending. They asked if we would take Jeff, mentally handicapped, with us. We were flattered and delighted to be able to say, "Yes, we'd love to have him."

Philmont ranger Kelly Reese was one key to our getting along well on the trail. He particularly asked to go with us. He helped us trim down our packloads by omitting unnecessary gear. His instructions, as for all rangers, were to remain with us until he felt we were doing well enough to continue on our own. Two days later he headed back to camping headquarters and we were alone.

The boys didn't disappoint us. They got organized into well-functioning crews. They pulled together as a team instead of acting as loners. This was a major accomplishment for them. We used Ponil camp in the north central part of the ranch as our base and set out on short trips from there.

Our Explorers tasted a variety of experiences. First, as we headed east to Indian Writings, we experienced a lofty elevation change of 800 feet after 1½ hours on the trail. Highlight of the day was the two burros along to help carry our gear. Our own wranglers, Rick Gaffney and Marne Cochran, took such gentle care of the animals that when we returned them, the staff reported that the burros were minus the usual cinch marks and sore spots. These injuries usually are the signs of greenhorns tightening the animals' straps too tightly or packing unbalanced loads on the burros.

We might have skipped the horseback riding as part of our Philmont adventure. But that would have cheated the boys. They had behaved so well that we took the chance. We were glad that we did. Jeff and all the other boys had the times of their lives—and no one got thrown from his mount.

Westward to Pueblano we headed. This campsite offers training in logging and pole climbing, use of the two-man saw and, as an extra, survival training where we learned about edible plants. Nobody leaves Philmont before he gets drenched by afternoon thunderstorms. We were no exception. The rain caused us to shorten our stay at Pueblano and to cancel our trip to Bent camp. On our return we were initiated into the Order of the Wet Boot. We forded swollen streams that the day before we had negotiated by jumping from rock to rock. Today the rocks were submerged.

Though we didn't hike much of the southern part of the ranch, we did tour it by van and short trips on foot. We even met the challenge of climbing Philmont's landmark, the 9,000-foot-high Tooth of Time. In five hours from our start we were atop the tooth, waving to tiny figures below.

We returned to camping headquarters after 58 miles of backpacking to check in our gear, clean up and prepare for our return home. While packing up we asked the boys how they felt about returning to Philmont. Marne Cochran's eyes sparkled as he thought of the highest peak on Philmont, the 12,441-foot-high, Baldy Mountain. Speaking for the whole crew he said, "Absolutely! Next year, Baldy Mountain!"

We capped the trip with an appearance at the adult training center. There our Sea Explorers decked out in dress white uniforms presented a formal boarding ship ceremony and reported on our trek to those attending the conference of Scouting for the Handicapped.

As we leaders reflected on our accomplishment of successfully helping nine handicapped Explorers through a rugged, delightful, 12-day-long Philmont experience, we arrived at several conclusions:

We consider that through our persistence and preparing our kids, another door had been opened to the handicapped.

Such a high-adventure trip helped immensely with our boys' social development. They advanced their self-confidence, and several showed that they were able to function well as crew leaders.

Our Philmont crew had worked hard to earn money for the trek. It was an excellent lesson for them to know they had helped pay their own way.

We hope that our success encourages other leaders to try those adventures that they once thought were impossible for the handicapped.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years vice Thomas A. Olsen.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, October 12, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee may have consent to meet daily inasmuch as it has the remaining legislation dealing with energy, and social security financing legislation, which has to be enacted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the General Legislation Subcommittee of the Armed Services Committee be authorized to meet during the session of the Senate on Thursday, October 6, to consider legislation on civil defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce may be authorized to meet until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD ASSEMBLY ON AGING AND WORLD YEAR ON AGING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 424.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 238) to express the sense of the Senate that the United States Delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The resolution, with the preamble, reads as follows:

Whereas the United Nations has within recent years intensified its research and information exchange activities relating to aging;

Whereas a question relating to broadening the United Nations program on aging will be considered this autumn at the thirty-second session of the General Assembly;

Whereas the discussion of such question will offer a timely forum for discussion of a proposal for a World Year on Aging and an intergovernmental Assembly on Aging;

Whereas recent United Nations reports provide impressive evidence that aging populations worldwide will cause widespread economic and social dislocations unless extensive and informed efforts are made to take full advantage of the beneficial and far-reaching opportunities afforded by an increase in the proportion of older persons; and

Whereas there is reason to believe that widespread support for a World Assembly and World Year on Aging can be developed among member nations of the United Nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations represented at the United Nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–458), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE ACTION

Senate Resolution 238 was unanimously approved by the Senate Foreign Relations Committee on September 19, 1977, and ordered favorably reported.

COMMITTEE COMMENTS

Aging is a worldwide phenomenon and will be one of the crucial social policy questions for the remainder of the 20th century. It is, therefore, important to recognize the social problems inherent in the increasing numbers of older people and their specialized needs. With the increasing emphasis on control of birth rates, better public health practices, and the increase in life expectancy, societies are being restructured by a disproportionate increase of older persons.

The purpose of this resolution is to urge the U.S. delegation to the United Nations (U.N.) to work with other member nations to convene a World Year on Aging and a World Assembly on Aging in 1982. The current General Assembly session is already scheduled to consider expansion of the U.N. research and information programs on aging.

Demographically, a revolution is underway. There will be both absolute and relative increases in worldwide aging populations. The U.N. notes there were 291 million people 60 years of age or older in 1970. By the year 2000 this population will increase to nearly 585 million people, an increase of 101 percent. However, the world's total population is estimated to increase only 80 percent, from 3.6 billion to 6.5 billion. The less-developed nations face a projected increase of 158 percent of those over 60 years of age as compared to their total population increases of 98 percent. Meanwhile, the developed countries will experience a total population increase of 33 percent, but the age 60 and older population will increase by 50 percent. Thus, there is a need for governments to consider the significant social and economic changes already taking place.

Although significant progress has been made in the relatively youthful science of gerontology, there has been, according to the U.N., "a lag in the application of the knowledge * * * to social policies." Thus, this resolution could provide the catalyst in bringing together the international community to cooperate on a universal problem.

A World Assembly on Aging, however, would not be simply an occasion for the exchange of research. Rather, political leaders, government specialists and citizens will gather to identify needs and resources, assist national governments in policy formulation, and better coordinate the actions of individual agencies of the U.N. system.

Cross-national policy discussions on aging, therefore, are desirable as the world approaches the 21st century. Existing social services and health practices will be drastically altered. Hence, a World Year and Assembly on Aging would enable nations to begin to confront this growing phenomenon.

Such international discussion on aging cannot take place until 1982 because other U.N. "international years" are scheduled in 1979 through 1981. "International Years" are a common U.N. practice and previous subjects have included population (1974), education (1970), women (1975), racism (1971), human rights (1968), and tourism (1967).

Specialized agencies of the U.N. have previously emphasized problems of the aging. The World Health Organization has examined the provision of health and social services. The International Labor Organization has stressed retirement and pension programs. The Food and Agriculture Organization has investigated the particular difficulties of the rural elderly. Three earlier U.N. General Assemblies have passed resolutions affirming concern about the elderly.

In addition, the U.N. Office at Geneva has held seminars on aging problems in various European countries since 1955.

The Department of State has stated that it:

"Fully believes the cause of the aging to be a worthy one and action by the U.N. in this area would be highly desirable. There is growing concern in the United States and elsewhere over the problems of the aging, and we support an exchange of views and information among countries on these problems in the U.N. context."

This resolution was unanimously supported by representatives of 15 private international organizations on aging at a meeting at the U.N. on September 8, 1977. Further the American Association of Retired Persons—the National Retired Teachers Association, the Association for Gerontology in Higher Education, the International Center for Social Gerontology, the National Council of Senior Citizens, Inc., the Urban Elderly Coalition, and the National Indian Council on Aging, Inc., have endorsed the resolution.

TRANSFER OF S. 1582 TO THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is a measure on the calendar that is cleared for action by unanimous consent. I ask, therefore, that the clerk transfer Calendar No. 425, S. 1582, to the Unanimous Consent Calendar.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

TRANSFER OF CERTAIN MEASURES FROM THE GENERAL ORDERS CALENDAR TO THE CALENDAR OF SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following calendar orders be transferred from the General Orders Calendar to the Calendar of Subjects on the Table, with the understanding that they will retain the same status that they would otherwise hold on the General Orders Calendar: Calendar Nos. 4143, 144, 279, 336, 369, and 395.

This is with the proviso that at the beginning of the next session, those calendar orders are restored to their place on the General Orders Calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DISCHARGE OF COMMITTEE ON FINANCE FROM CONSIDERATION OF H.R. 4018

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 4018 and that all after the enacting clause be stricken and that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. It is my understanding that the last bill that was placed on the calendar was for the purpose of utilizing it for the utility rate reform bill.

Mr. ROBERT C. BYRD. Yes. H.R. 4018 has been placed on the calendar for the purpose of using it as the vehicle for the utility rate reform bill to be sent to conference. I am glad the Senator explained that for the record.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 10 seconds.

The motion was agreed to, and the Senate, at 7:07 p.m., on Wednesday, October 5, 1977, adjourned until 7:07 p.m., the same day.

AFTER ADJOURNMENT

WEDNESDAY, OCTOBER 5, 1977

The Senate met at 7:07 p.m., pursuant to adjournment, and was called to order by Hon. ADLAI E. STEVENSON, a Senator from the State of Illinois.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is morning business closed?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration of the utility rate reform bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, that bill is the unfinished business now, is it not?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POST-CLOTURE FILIBUSTERS AND THE ROLE OF THE MAJORITY LEADER

Mr. PELL. Mr. President, the Senate's most recent experience during the past 2 weeks with the filibuster as a parliamentary tactic has underscored dramatically the necessity of coming to grips with the problem.

I have great respect and admiration for our majority leader. He bears the heavy burden and the exacting responsibility of assuring that the Senate as an institution meets its constitutional obligations to conduct its policymaking legislative function. He bears at the same time the responsibility of assuring that the rights and privileges of each Senator, as an elected representative of the people, are preserved and protected. We all know that our majority leader is acutely aware of both of those responsibilities.

That dual responsibility—to the Senate as an institution and to individual Senators—will sometimes come into conflict, as they did so dramatically and traumatically during this past week. In this regard, after 13 days of the Senate making a spectacle of itself, I will not fault our majority leader for his handling of a situation that had to be resolved.

I believe, too, it is patently unfair to place this burden of balancing the rights of the Senate against the rights of a Senator solely on the shoulders of the majority leader.

The truth is that this conflict, this dilemma, is an institutional one, and each of us shares the responsibility of resolving it.

In my view, it is unfair and wrong to place leadership requirements on our leadership without providing at the same time, through the rules of the Senate, the procedures through which the leadership can fulfill those responsibilities.

It is my view, and one which I believe is widely shared in the Senate, that once the required majority of the Senate has invoked cloture, the Senate should proceed expeditiously to vote on and resolve the issues before it. Once cloture has been invoked, the Senate rules should not permit a minority to thwart indefinitely the will of the majority.

In the issue of the natural gas regulation, the subject of this most recent post-cloture filibuster, I was among those supporting and voting with the minority of the Senate. But even as a member of the minority, on this issue, I believe very strongly that the majority must be permitted to work its will.

Let us give due credit to our majority leader. After some sad experiences in the second session of the 94th Congress, the majority leader made strong efforts through the Committee on Rules and Administration of which he is a member, to revise our Senate rules so that dilatory, post-cloture tactics would not be permitted. He did not receive the strongest and broadest support in that effort. It is wrong for those who failed to provide strong support for needed rules changes to now criticize the majority leader for doing the very best with the Senate procedures provided, to end a post-cloture filibuster. I hope we will now see a renewed effort to strengthen our rules to prevent post-cloture filibusters.

The majority leader is a man who is totally dedicated to the interests of the Senate as an institution and also a leader who is not fearful of making hard choices. I for one respect him very much for these qualities.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 8:45.

After the two leaders have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, after which, by unanimous consent, the Senate will resume consideration of the then unfinished business, the utility rate reform bill.

There will be rollcall votes throughout the day on that measure, and upon its disposition tomorrow, we hope to be able to go to the minimum wage bill, if indeed it is possible to pass that bill tomorrow evening. There is a possibility that the Senate would go instead of the DOD authorization bill, but that decision will have to be made tomorrow, upon the disposition of the Utility Rate Reform Act.

It is hoped by the leadership that before the week is out the Senate can complete action on those three measures, the utility rate reform bill, S. 2114; the minimum wage bill, S. 1871; and the Department of Defense authorization bill, S. 1863, in addition to other measures that may be cleared for action.

If action can be completed on all three of these bills by Friday night, there will be no Saturday session. In the event that is not possible, then there will be a Saturday session.

In any event, on Monday, which is Columbus Day, the Senate will be in session and doing business as usual with roll call votes.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:45 tomorrow morning.

The motion was agreed to; and at 7:10 p.m. the Senate recessed until tomorrow, Thursday, October 6, 1977, at 8:45 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 5, 1977*

The House met at 10 o'clock a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

OCTOBER 5, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Blessed is the nation whose God is the Lord. Let Thy mercy, O Lord, be upon us, according as we hope in Thee.—Psalms 33: 12, 22.

"God bless our native land!
Firm may she ever stand,
Through storm and night;
When the wild tempests rave,
Ruler of wind and wave,
Do Thou our country save
By Thy great might!

For her our prayer shall rise
To God, above the skies;
On Him we wait:
Thou who art ever nigh,
Guarding with watchful eye,
To Thee aloud we cry,
God save the state!

Not for this land alone,
But be Thy mercies shown
From shore to shore;
And may the nations see
That men should brothers be,
And form one family
The wide world o'er."

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes; and

H.R. 9354. An act to amend the Act of August 25, 1958, with respect to staff allowances for former Presidents.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of The George Washington University.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is

requested, a bill of the House of the following title:

H.R. 9005. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 9005) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. BURDICK, Mr. DECONCINI, Mr. HOLLINGS, Mr. MAGNUSON, Mr. INOUYE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG, to be the conferees on the part of the Senate.

LEGISLATION TO NAME NEW DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE BUILDING IN HONOR OF SENATOR HUBERT H. HUMPHREY

(Mr. QUIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIE. Mr. Speaker, I am today introducing legislation in the House to name the new Department of Health, Education, and Welfare building in honor of Senator HUBERT H. HUMPHREY.

Two days ago, Senator BOB DOLE introduced identical legislation in the Senate, and I hope the Congress will act quickly on this legislation naming the new South Portal Federal Office Building, 200 Independence Avenue SW., Washington, D.C., in honor of the distinguished leader and friend.

Mr. Speaker, HUBERT HUMPHREY is one of the few men who gives the Nation a sense of the future. His vision, compassion, and service truly make him a giant among men.

HUBERT HUMPHREY's unselfish dedication to people spans three decades of public service, ranging from mayor of Minneapolis to U.S. Senator to Vice President of the United States to nominee of his party for President of the United States.

He is the kind of person who has strong feelings, gut feelings, who expresses sympathy, patience, and understanding for the poor, the old, the sick, the young, and the disadvantaged. He has touched and enriched the lives of millions of people through legislation he feels will help them.

Scores of "people programs"—the landmark 1964 Civil Rights Act, medicare, Head Start, the Community Mental Health Act among them—show a consistent pattern of compassion through action.

Education has become the primary ingredient in the Humphrey recipe for improving the quality of life. Even today, HUBERT in no way feels the need to be silent. For the past several weeks, he has been on the telephone to Washington, speaking to colleagues on issues he feels strongly about—indeed, on any issue he is asked about.

The author of Proverbs must have had a man like HUBERT in mind when he wrote, "He that hath mercy on the poor, happy is he."

Let us honor the "Happy Warrior" to whom we, as a nation, owe so much.

AUTHORIZING MARINE MAMMAL PROTECTION ACT APPROPRIATIONS, 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes, with Senate amendments to the House amendments, and concur in the Senate amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

(1) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 4. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.".

(2) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) It is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal lock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York that the Senate amendments to the House amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland objected to concurrence in these amendments last night because they contain a nongermane amendment dealing with Puget Sound in Washington limiting the size of oil tankers that can enter that body of water. That amendment was offered in the other body by the Senator from Washington, Mr. MAGNUSON.

I know that it is not within the rules to comment upon the other body, but it is within the rights of the Members of the House to use available parliamentary vehicles to express their feelings.

It is this Member's feeling that the continued deadlock over the HEW appropriation bill and the Hyde amendment in some way has to be broken. So far the other body has been intransigent in the face of repeated votes by this House.

The only reason I am withdrawing my objection today is because I have discussed the pending matter with the distinguished gentleman from Washington (Mr. CUNNINGHAM). He has explained to me that he was the author of a similar State law and this is very important to him and to the State of Washington. He is a very able Member and his arguments were most persuasive.

Mr. Speaker, solely for that reason and not because of the authorship of the amendment, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

LABOR REFORM ACT OF 1977

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentlemen from New Jersey (Mr. THOMPSON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 5, not voting 45, as follows:

[Roll No. 626]

YEAS—384

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Pascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
Maguire
Mahon
Mann
Markey
Marks
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Quillen
Railsback
Rangel
Regula
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Tribble
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—5

Bauman
Broomfield
Dickinson
Lloyd, Calif.
Wilson, Bob

NOT VOTING—45

Ambro
Anderson, Ill.
Beilenson
Bolling
Burke, Fla.
Chisholm
Clay
Conyers
Cornwell
Dent
Derrick
Duncan, Oreg.
Foley
Forsythe
Gammage
Giaimo
Goldwater
Howard
Johnson, Calif.
Kemp
Koch
McCloskey
McCormack
McDonald
McKinney
Madigan
Marlenee
Martin
Michel
Minish
Mitchell, Md.
Nolan
Oakar
Pepper
Pursell
Rahall
Reuss
Rhodes
Roe
Stokes
Teague
Vander Jagt
Whalen
Wolff
Young, Mo.

Mr. TRAXLER changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8410, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 4, 1977, all time for general debate had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 1 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. There being no amendments to section 1, the Clerk will read.

The Clerk read as follows:

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. No more than a simple majority of the members of the Board shall be members of the same political party. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a quorum of a group designated pursuant to the first sentence of this subsection may, in appropriate cases, upon motion of the prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion and the response thereto shall be filed with the Board and presented to a quorum of a group designated pursuant to the first sentence hereof within thirty days after the decision of the administrative law judge.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 16, line 11, delete the words " a quorum of". Strike page 16, line 16 through line 19 and substitute: "A motion for summary affirmance shall be filed within 10 days after the decision of the administrative law judge, any response shall be filed within 20 days thereafter, and the motion and response shall then be presented for decision to a group designated pursuant to the first sentence of this subsection."

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, without prejudice to my distinguished colleague, I would like to express my concurrence with this amendment and the Committee will accept it.

Mr. QUIE. Mr. Chairman, first, I want to say I appreciate the gentleman from New Jersey indicating support for the amendment. With that indication of support, I will not take much time.

Mr. Chairman, section 2 of the bill provides for summary affirmation of decisions by administrative law judges by only two members of the Board, instead of three-member panels, and further provides that a motion and response for summary judgment be filed within 30 days.

My amendment would allow the Board to establish a summary judgment procedure whereby there would be review by a three-member panel of the Board with the motion for summary judgment to be filed within 10 days and the response within 20 days.

The time limits of my amendment have exactly the same time limitations of the committee bill, but clarify that the prevailing party has 10 days to file its motion, and the responding party has 20 days to respond. The time limits are clearly necessary, or else the prevailing party may wait until the last day, giving the responding party little or no time to respond. The reason the prevailing party has the lesser time is simply that the decision would be in his favor and he would need less time to meet his burden of showing that the case is proper for summary review. Obviously, the party who does not prevail will need more time to state his case.

The Board, under existing law, is authorized to delegate to a panel of three. Under existing law, a panel of three is a majority of the Board. The committee bill does not change the delegation to a panel of three. It is thought that three-member panels can continue even if the Board has expanded to seven. With more three-member panels, it seems logical that a delegation of powers, even under the summary judgment procedure, should be to all three-member panels. I do not think we should take this very important new procedure and allow only two of the members to review the case. For one thing, it is very possible to have many one-to-one splits. A third member may decide that division. Further, consideration by only two members in this procedure could cause some problems because the Board would be treating some cases differently—causing more appeals.

I do not think any case should be given cursory examination by the Board. Assuring that at least three members sit on a panel that is intended to speed up case processing assures that full examination will be given all cases.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, an additional portion of this section was to remove a party's right to review of these summary affirmations by the whole Board. Does the gentleman's amendment address that portion of the proposal in the bill to remove review by the whole Board?

Mr. QUIE. Now the bills says the motion and response shall be filed within 30 days, what that would have meant is they could have been held on the motion say 29 days, which would have left the respondent only one day for the response.

It now provides that 20 days shall be reserved for the response.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, if the three-member panel does affirm an administrative law judge's decision and one of the parties would like to have that reviewed by the whole Board, is that right maintained, as it is now, or is that right denied, as the bill would do it?

Mr. QUIE. It would be maintained.

Mr. ERLENBORN. They still would have the right to be reviewed by the Board?

Mr. QUIE. That is right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 15, line 8, strike section 2(a) and redesignate section 2(b) on page 16, line 5, as section 2.

Mr. ERLENBORN. Mr. Chairman, this amendment goes to section 2(a) of the bill, which is the provision to increase the National Labor Relations Board from its present five members to seven members. The thrust of this bill has been to speed up and make more timely the action of the National Labor Relations Board.

It has been the contention of the sponsors that tight time limits on representational elections and other things in this bill would have that effect. I submit that increasing the size of the Board from five to seven will have just the opposite effect. It is apparent from the testimony of the present Chairman of the Board, John Fanning, that he is also questioning this proposal, although he endorsed the basic concepts of the bill. He indicated in his testimony before the committee that the present practice of circulating the proposed decision of a three member panel with the entire Board would be continued, most likely, even though we would have a seven-member Board.

That means that in the event a panel decision is circulated to the Board, instead of having five members who devote the time to review and either concur or disagree, we now would have seven members. In addition, to get a quorum to agree, to have affirmation of the panel decision, it would take four members rather than the present three.

I believe that the increase in the size of the Board will do nothing to speed up the procedures, and will in fact most likely lead to further delay in the work of the Board. I would hope that this amendment would be adopted.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the time it takes to get a decision in an unfair labor practice case is increasing. In 1976, the time from a charge to a Board decision was 358 days, on the average. By the third quarter of 1977, the figure was up to 374 days.

Now, a basic cause of this increase in time is the rapid expansion of the Board's case load. The number of contested cases decided by the Board has increased by one-third since 1960. Under existing authority, the present five-member Board can delegate its powers to panels of three or more members, with two members constituting a quorum. Increasing the Board to seven members, while maintaining the present panel system, would allow more panels to operate at any one time.

This would significantly augment the ability of the Board to handle its case load. The labor law section of the American Bar Association recommended expanding the Board to nine members. The Board's work has also been impaired by delays in the appointment of new members to replace those whose terms have expired, thereby causing any number of delays because of 2-to-2 deadlocks and the inability of the Board to function properly.

By increasing the terms of the numbers from 5 to 7 years, the Board would have fewer such disruptions. Section 2 would increase the Board to seven, extend the terms to 7 years, and establish four rather than the present three as a quorum of the full Board.

It also provides that no more than a majority of the Board can be members of the same political party, a practice which has been in existence since the very institution of the Board. I might say that the Board is one of the most effective of all the Federal agencies, and that the legislation as it is would make it even more effective.

I, therefore, respectfully ask my colleagues to defeat this amendment and to agree with the committee bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 28, noes 37.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2? If not, the Clerk will read section 3.

The Clerk read as follows:

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production, assure that if an employer or employer representative addresses the employees on its premises or during working time on issues relating to representation by a labor organization during a period of time that employees are seeking representation by a labor organization, the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organization;

"(B) for classes of cases in which either the distance from the Board's regional office to the election site or the number of employees involved in the election makes it infeasible to comply with the time limits stated in subsection (c)(6)(a) of section 9, to extend to a maximum of fourteen days the period for directing an election stated in that subsection, and to a maximum of twenty-one days the period for the holding of such an election stated in that subsection;

"(C) to facilitate agreements concerning the eligibility of voters; and

"(D) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act and only on the grounds that the Board prejudicially violated the requirements of subchapter II of chapter 5 of title 5, United States Code, or that a rule or regulation of the Board is arbitrary or capricious, contrary to a specific prohibition of this Act, or of the Constitution. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals for the District of Columbia Circuit. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to grant appropriate relief.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would like to know whether the amendment has been printed in the RECORD.

Mr. ERLENBORN. Mr. Chairman, the amendment has been printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 17, line 5, strike all of subparagraph (A) down through line 15, page 17, and renumber the subsequent subparagraphs accordingly.

Mr. THOMPSON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) reserves a point of order against the amendment.

Mr. ERLENBORN. Mr. Chairman, for the information of the gentleman from New Jersey (Mr. THOMPSON), this is an amendment that would strike a proportion of section 3. I think it is clearly in order.

Mr. Chairman, the bill before us, in section 3, provides what is called equal access to the employees of a proposed bargaining unit prior to the representation election. At the present time, we have 42 years of precedents, built up through Board decisions and court decisions, that have established a fine balance of the rights of employees, employers, and the labor organization which is seeking the right to represent the employees.

The bill before us, in the section that I am seeking to strike, would change these ground rules in the name of "equal access." At the present time, as an illustration, an employer is prohibited from going into the home of an employee to talk about the issues of a pending representation election. The employer is prohibited from making certain statements or promises, whether it be in the plant, whether it be verbally or by written communication.

The careful balance of election campaign rights would be completely upset by this so-called equal access provision.

What this bill provides is that if the employer takes advantage of an opportunity of speaking to his employees at the plant during working hours, then the union will have the same right to come into the plant and speak to the employees during working hours on the property of the employer, probably at the expense of the employer. That has a superficial aura of fairness about it, but think how contrary this is to the other provisions of the bill.

As I pointed out in general debate yesterday, we have a 15-day election provision. That means that from the time the union files the petition or, as amended by the committee, from the time the employer is served with notice of the petition until the election is actually held, no more than 15 days may elapse. As a matter of fact, as I pointed out in colloquy with the gentleman from New Jersey (Mr. THOMPSON), the 15-day period is a maximum length of time, not a minimum length of time. So the election may be held within 5 days or within 2 days or within 10 days of notification being served upon the employer.

Let us take the example of a small businessman who is unsophisticated in the ways of the National Labor Relations law. He is probably living tens or hundreds of miles from the nearest lawyer who specializes in the National Labor Relations Act. This unsophisticated employer steps into the shop and says to his employees, "Fellows, what's wrong? I didn't know that we had any problem. If you want higher wages, let's talk about it, but I don't understand why you filed this petition for an election."

That action would trigger this equal access section, and there might be only 2 days or perhaps 10 days or 5 days left between that time and the election. In that event, how in the world are we going to have the union go before the Board and have a determination made? They are entitled to have equal access and have the Board enter an order establishing the time and the circumstances under which the union can come into the plant and make its presentation to those same employees.

I think, therefore, the equal access provision is totally unworkable, especially in the light of the time limits and the other restrictions imposed by the committee, and I think it is neither fair nor equitable to give the union the opportunity to come on the property of the employer to make a presentation to the employees during business or working hours.

It is not even clear in this provision whether that can be done during working hours, but I think it can be. If that happens, the employer will be paying employees for nonproductive time while the union is engaged in lobbying, if you will, or electioneering prior to the representation election.

I would exhort the Members to keep the law as it is today and uphold the 42 years of precedents. Let us not upset the law with this equal access provision.

Mr. Chairman, I hope the Members will support my amendment to strike this provision.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. First, the Chair would like to inquire whether the gentleman withdraws his reservation of a point of order against the amendment.

Mr. THOMPSON. I do, Mr. Chairman.

The CHAIRMAN. The gentleman withdraws his reservation of a point of order and is recognized for 5 minutes in opposition to the amendment.

Mr. THOMPSON. Mr. Chairman, this is an extremely crucial, albeit innocuous-looking section of the act; and before us is an ostensibly innocuous amendment.

Section 3 would require the National Labor Relations Board to develop reasonable and appropriate rules designed to give employees an opportunity to hear both sides before making their choice in a secret-ballot election. The provision mandates that the Labor Board formulate rules assuring that when an employer makes a campaign speech to employees on plant premises or during working hours, the union will be given an opportunity to communicate with the workers in an equivalent manner.

Mr. Chairman, this provision is triggered only in circumstances when the employer, with his employees in the plant, as is frequently done, shuts down the operation of the plant for a time, gathers his employees together, and makes a speech to a captive audience against the organization of the plant or against the collective bargaining agreement.

If the employer does not engage in a captive-audience practice, circumstances remain as they are; and the employee has no more rights than he has right now. The fact of the matter is that in many, many instances the employer, having really effective control over the workers in the plant, frequently, all too frequently, shuts everything down, makes a speech against the organization or against the collective bargaining agreement, and the employees are there. They are coerced in these circumstances to such a degree that in many instances they are afraid to get up and respond or are not allowed to respond.

Mr. Chairman, if the employer wants to take the chance of having a captive audience, then he is saying and we are saying that the employees should have the same opportunity to rebut right then and there, if necessary. Mr. Chairman, in the decision in the 18th or 19th Stevens case, which came down from the Second Circuit Court of Appeals less than a month ago, the court in that instance went far beyond this. In that instance the court gave the J. P. Stevens employees the opportunity not simply to have access, but in any circumstance—and although the court went that far, this does not go nearly that far—where the J. P. Stevens management has its workers as a captive audience and makes an antiorganization or anticollective-bargaining speech under that decision, the management representative must be accompanied by an employee, who has an immediate right of rebuttal.

Furthermore, the court went so far as to order J. P. Stevens to mail all of its present and past and prospective employees essential information which they had theretofore been denied.

Mr. Chairman, the bill itself is much more reasonable than that.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the chairman, the gentleman from New Jersey (Mr. THOMPSON) for yielding. I would simply like to ask the gentleman is there anything in the existing law that prevents or inhibits an employer, prior to the time of notification, or the filing of the petition, is there anything that inhibits an employer from addressing his employees and even going so far as discouraging them from unionizing?

Mr. THOMPSON. There is none.

Mr. RAILSBACK. In other words, even before there is any issue an employer does have the right to address his employees and speak to them on the company's premises, and so forth?

Mr. THOMPSON. The gentleman is exactly correct.

Mr. RAILSBACK. As I understand the bill before us it would limit employee access, or equal access, so as not to disrupt the continuity of the production on the employer's premises. Is that correct?

Mr. THOMPSON. That is correct.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, just quickly, I would like to tell the committee that the bill as it is currently written is in response to a rather extensive study as to elections held under this act. In that study they found that while most people, when they signed cards, had pretty much made up their minds that they wanted to join a union, or those that refused to sign cards had made up their minds that they did not want to join a union, the one activity that led to the changing of their minds was if they attended either an employer's meeting or a union meeting. Further, they found that there was a clear advantage to the employer having a meeting in that he held it on his premises and he gave time off to attend the meeting, or they were paid to attend the meeting, or their pay continued while they attended the meeting. Further, while only 36 percent of the employees attended a union meeting, 85 percent of the employees attended an employer's meeting.

So, what we are establishing in the law as it is written, as this bill is written, is an equality, whereby the employee can have the same access, the same time granted to him by the unions as he would have by the employer.

The thing that the committee should remember is that it is up to the employer as to how he wants to trigger this mechanism. If he wants to hold a 3-day seminar then he is going to have to give the union equality and equal access to the employees. If he wants to tack up a sign in the lunchroom, or if he wants to have an informal discussion during the lunch hour, that is all the union is entitled to. So the employer gets to make the choice. Because, if you read the bill as it is currently written, it says that:

> . . . the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organizations; . . .

So, it is really up to the employer. And this is not the extreme case of the employer dropping by and saying, "Hi, buddy, I hear there is going to be an election." The employer will have to calculate as to how they will approach their employees, and the union will have the same right, it will be as extensive or as limited as the employer chooses.

So, Mr. Chairman, I urge that we defeat this amendment and leave the language in the legislation which has been based on facts and on studies, and I believe we ought to go along with that provision.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think several things should be recognized concerning this whole problem of elections, electioneering, and access problems. In the first place, a union has many advantages, according to the Board's interpretations and rulings that management does not have.

Further, a union, during its organizing drive, can make all sorts of promises, whereas, if the employer makes any specific promise or similar promise on raising wages, then that is an unfair labor practice. Unions have many advantages in electioneering. They can make unreasonable statements and promises that cannot be kept, and that is not an unfair labor practice, they can violate them.

Second, subsequent to the filing of a petition for an election, the unions have an additional opportunity to present their views through the use of the list that is supplied under the Excelsior case, which requires the employer to give a list of all of its employees to the union, which, in turn, can be used by the unions for mailings, or contact, and so forth.

This rule was established by the NLRB to balance the fact that unions do not have access to employees on company time and property. As I say, that was a balancing practice by the NLRB. Now all we are talking about is just one more process, one more tip on the scales on the union organizer's side. Armed with this list, the union representatives may go into an employee's home to present their case to the employees.

Under present Board decisions, management may not go into the home of the employee during his election drive but only at their peril. They can go in, but it can be held as something that constitutes conduct that can set aside an election. So that is the second area where it is unfair, where it is tipped in the area of the unions. Not only do they have the lists as provided by the employer, but they can go into the employee's home, make any promise they want, and the employer cannot under Board rulings present his case in the home of an employee. So it is obvious that there has been some balance.

This access provision would tilt that much more in favor of the union organizer. For example, what do they mean when they say the employee shall be assured equal opportunity to obtain in an equivalent manner. What do the words "equivalent manner" mean? I happen to think that is going to bring forward many more cases, many more interpretations by the Board. Maybe sometime they will say as a part of "equivalent manner" that means access to the company's house organ, their publication. I cannot say that will not happen the way Boards traditionally expand their interpretations to cover such situations. What do they mean by "equivalent manner"?

My contention is this section, No. 1, is not needed. There is that balance that the Board has given by its directives, by the Excelsior case and other rulings.

Secondly, this language has a number of traps that all of us on the floor today, including the sponsors and those of us against it, cannot look in a crystal ball and see how the Board will interpret it. I think this should be rejected. The equal time proposal contained in this bill is totally unnecessary, and it calls, secondly,, for rulemaking. It is not a precise definition of what shall or shall not be done, under what terms the employer or the employer's organization shall conduct itself. It gives the Board rulemaking authority to interpret such words "equivalent manner."

For all of these reasons I suggest that we support the Erlenborn amendment, leave the law where it is, and let the parties work out their elections in the process that has already been set out by the National Labor Relations Board.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words. I think the operative phrase in Mr. ASHBROOK's amendment is at the very end of his remarks. I think we should leave the law the way it is. After all of the years that this problem has been studied, that is the one thing that no one in this country who has addressed the problem, including the gentleman from Ohio (Mr. ASHBROOK) really wants to do. He spent most of yesterday, as a matter of fact, complaining that he could not go much further than this bill goes in changing the law from the way it is. He complained very bitterly yesterday that the rule under which we are operating does not permit him to open up the entire National Labor Relations Act so that he could rewrite the entire National Labor Relations picture and change the law very dramatically and drastically, without arguing about whether his proposals are wise or unwise. It is very clear in this record that he and those who support his position have wanted dramatic and drastic change in the law. Now when they come to a provision in the bill that bothers them a little bit, they say the logical thing to do is to strike the section from the bill and leave the law the way it is. I am surprised the gentleman in this early stage in this debate under the 5-minute rule is showing so much satisfaction with the present state of the National Labor Relations Act and the way in which it is administered. The really important thing that is involved in this section that has not been talked about is found in the language at the top of page 17, if the Members will address themselves to the bill.

> "(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

And then one of the kinds of rules that we would direct the Board to address itself to and draw regulations for within 12 months would be a rule that would provide equal access on an employer's premises, once the question of unionization becomes in fact an issue.

As the gentleman from Illinois (Mr. RAILSBACK) so appropriately raised the point a few moments ago, this has nothing to do with the years of effort, with whatever method the employer might wish to use to convince his employees in advance that if anybody ever shows up around here and encourages the employees to join a union shop, here is why they should not do it. That is perfectly proper. They can open the door and they can begin business. Often they do. But once the employees have the question put to them in the form of a petitioning, at that point the provisions of the NLRA take over.

At present we are operating under rules which do today what we would expect the NLRB to do, but they have been sort of fashioned out of jungle warfare over a period of time. Someone seeks access and is denied and files a complaint. Someone actually goes onto the premises and is ejected. There are cases, for example, where the court has held that a company rule that prevents people from approaching fellow employees in the parking lot was enforced only when they approached fellow employees to sign a card to join a union, but it was not enforced when they were selling hot merchandise or numbers or whatever else was occurring in the parking lot. In that case, all the court said was that this was not a rule to limit the access to employees one to another on the premises, because it had not been equally applied but only was applied when there was a question of representation by the unions which was being considered by the employees and they were trying to deny employees their right to free speech.

The gentleman from California (Mr. MILLER) has already outlined very well the parameters of the rule we would expect by the Board. The parameters are set forth in this to provide a rule for equal access, but remember what we are saying is equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organizations.

If the employer determines that he is going to be satisfied with a mail campaign, this has no impact on it. If he wants to buy local television time, this has no impact on it. But if he wants to pay time and a half for overtime and have the employees go to the cafeteria and have some hot shot come in from outside to explain the evils and wickedness of organized labor, this would apply.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the law as it is today recognizes, and case law for a quarter of a century has recognized, that unions have and may properly use alternative means of contacting employees. Absent this amendment offered by the gentleman from Illinois (Mr. ERLENBORN) we are requiring the employer not only to finance his own employee relations efforts but also to subsidize the organizing efforts by the unions.

We need to keep in mind that the J. P. Stevens case is not a typical case in labor-management relations under the current law, and it is a mistake to change the entire labor-management relationship based on this one case.

Mr. Chairman, I yield to my friend, the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I think a point worthy of repetition has just been made. We have heard already that this is justified by the J. P. Stevens case. There has been talk, and I think we are going to continue to hear more of it today, that the justification for what we are doing is the J. P. Stevens case.

If we were writing a law applicable only to the J. P. Stevens Co., or applicable only to large employers, I might be willing to support a bill that is altogether different from what we are considering here today, which I oppose.

Last year the median size of the bargaining units in elections supervised by the NLRB was 49 employees. That means there were elections involving smaller units. We are talking about a law that is applicable to every employer in the United States. How are we going to explain to our constitutents, say the fellow that has a print shop and a dozen employees in the back room, who has never had labor problems before and does not have the benefit of a skilled labor lawyer? Suppose he is served with notice by an outside union organizer and he unwittingly responds to his employees in a fashion which will open him up to a law which will give the union organizer the opportunity to come into his shop or company and to try to organize his company shop. Can you imagine his sense of outrage and bewilderment?

We are not talking about the case where you have employees trying to convince their fellow employees of the wisdom of joining a union. You do not need equal access at that time. We are talking about outside, nonemployee, union organizers coming in for the purpose of instigating a union drive for which there is no support among employees.

Remember, what we are doing here is applicable to all employers, to the small employers of our districts. The equal access rule is only really applicable when it is an outside union agitator who wants to come inside the employer's work place and use the employer's time and the employees' time and the employer's property to try to organize that shop.

Be careful voting against this amendment. You may have to account for it later to your own constituents.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, with all due respect to my distinguished colleague, the gentleman from Illinois (Mr. ERLENBORN), the description that the gentleman gives does not square with my awareness of real life situations. The gentleman suggests that there are employers by great numbers throughout this country who have been conducting their own business and negotiating with their employees and have been aware of unionization and organization efforts through all these years inside and outside their own plants, but they are not going to be aware of the fact that a law has been passed which, in fact, allows equal access on the premises of the employer to the employees, seeking union organization as that which the employer has. It just simply does not square with the facts in the real world.

The fact is also, Mr. Chairman, that although J. P. Stevens has been the most notorious harasser of employees in the recent history of this country and has achieved a well-deserved reputation for evil conduct throughout this land, it is not the only employer who has engaged in this great effort to destroy unions and their employees' rights. With the legislation that is before us, what the amendment of the gentleman from Illinois (Mr. ERLENBORN) seeks to do is to place employees on an equal footing, at least as far as this particular aspect of employer-employee relations is concerned. It is not

giving an unfair advantage. It is striving to provide a fair balance.

Mr. Chairman, I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I would like to ask the chairman of the committee a key question which concerns the issue of captive addressing. Realizing that the NLRB is going to issue rules, but also realizing that Congress will set the guidelines for those rules, as I understand it from the earlier remarks, addressing an audience in terms of this section means "verbally" addressing a captive-type audience, in a mass meeting type of situation.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, that is correct in the sense that the employer has the right to put out information in the mail or even in pay envelopes without it being captive, triggering the section.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, what if the employer wanted to talk to his employees on a person-by-person basis, without being in a captive situation?

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, this would not necessarily trigger it. He has that right and no doubt will exercise it, subject to the Blue Flash doctrine just as the organizers will stand outside the plant gates and gather where their friends and coworkers are and talk to them.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, one further question. I know it is implied, but until such time as the Board issues its equal access rules, until such time those rules are implemented, then these provisions do not become applicable; is that correct?

Mr. THOMPSON. The gentleman is correct.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I think it would be wise for the Committee to strike this portion of the bill, simply because there is a great misunderstanding about its provisions. It is loosely written. It can be interpreted in a varied number of ways. In fact, my experience with the bill so far is that the interpretation by the supporters of the bill and those who oppose it differ severely with those who would benefit from it.

I have spoken with people from labor organizations. It is their opinion that what they are seeking is an opportunity to have such a provision to be able to speak with a man in a parking lot, or be able to have some literature available to men in the plant, and so forth. I could support that type of provision if it was tightly drawn, but I think the gentleman from Michigan (Mr. FORD), in his support of this provision of the bill, mentioned his opinion, which is of most concern to me, that an employer may in fact find himself in the position of having to take some of his own funds in direct support of an organizing effort in opposition to him if he happens to choose to spend some of his money in a situation of having a meeting in which an employee is paid.

Mr. Ford believes, if an employer uses some of his money against an organizing effort, has a meeting and pays for time spent at a meeting on a voluntary basis, he will find himself required to do the same for the organizing effort. It seems to me there is a real question of violating property rights. We are dealing with individuals who are entrepreneurs, whether corporations or individuals, and they do have property rights. I think the Congress should concern itself as to what is the rightful position of the Government with respect to those individual property rights.

The courts have spoken, I believe, in precedents where organizing efforts have truly been blocked from adequate access to the employee, and have made available an access on the employer's premises during periods of times, either lunch time or prior to working hours or after working hours. I think that as long as the courts have those precedents, that does give protection to an adequate access.

I think it is quite obvious that the committee, in support of this portion of the bill, is not tracking well with those people who are lobbying for the bill when they come out with strong statements saying that the employer, if he decides to have a meeting, will have to pay for a meeting of the organizing effort. That is not what the labor organizations have said to me in my office. They have said, "We simply want to be able to talk to the employees so that we can get our side across to them. We do not want the employer to have to pay for facilities, to pay for overtime. That is not what we are asking for."

The major concern expressed to me by labor organizations and individuals was that, on a last minute blitz, an employer would bring people together, whether they pay for it or not, and thrust on them some sort of threat against them. I happen to think that is an offensive way for an employer to operate in an organizing effort. I could support an amendment, and I have an amendment ready should this one fail, which would tighten up the provision to a limited number of days as they near an election, but to have an open-ended situation where an employer could not choose how to spend his money while the organizing effort can spend its money any way it wishes, is unfair.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I think I should remind the gentleman and other Members on the floor—and I am sure the gentleman is aware—that present law prohibits the employer from making promises or threats, either express or implied, so that we really do not have to worry about that. That is already covered by present law. What we are really talking about here is giving an outside organizer the right to come into the plant

Mr. GARY A. MYERS. I am glad the gentleman mentions that, because in the same conversation I had with labor groups, they were not looking for outsiders. In some cases, they agreed that if a provision were put in that outsiders could not come into the plant under this provision, they would support that type of amendment. I would hope that at least we would be wise enough to protect the work place in any relationship we develop toward people who are either employers or employees of that facility.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I will say to the gentleman from Pennsylvania that I think we have to keep our eye on this: That we are not here in this bill trying to write into legislation a set of rules that would apply to all situations at the same time.

What we are trying to do is say to the Labor Board, "You will write a rule that the kind of small businessman that the gentleman from Illinois (Mr. ERLENBORN) is concerned about will be able to pick up and read, if he cannot afford to have a hot-shot labor lawyer telling him, that there are 52 court cases, each of them a little bit different, that will define what his rights are."

The way it is now, a small employer has no one place where he can go and determine what kind of access he has to give, what kind of restriction he can put on union organizers. He has to depend on whatever knowledge he has of the present existing virtually common law, because the rules by which the game is now played have not been made by the Board and put into some book which somebody with normal intelligence and limited experience can read and understand. They are made by a series of court cases arising out of first amendment rights decisions, and they are very complex. A labor lawyer who works at it all the time has no great difficulty telling his client, "You can do this; you can't do that; you can do this if you do it in the parking lot; and you can't do another thing in the parking lot." But the little guy that the gentleman from Illinois (Mr. ERLENBORN) is talking about does not have access to that kind of expertise. What we are saying is that the National Labor Relations Board should write a rule so that everybody understands how the game is to be played and the union and employer will know their rights.

Mr. GARY A. MYERS. Mr. Chairman, I am concerned about the National Labor Relations Board writing fair rules based on premises we have given them where there is a previous history. What concerns me is the statement that the gentleman made with respect to what our interpretation of this provision is. The gentleman stated earlier, in going to the point that if an employer paid some overtime in his effort in opposition to an organizing effort, it was the opinion of

the gentleman from Michigan that this provision of the bill would require the employer to do the same for the other side.

Mr. FORD of Michigan. No, no.

Mr. GARY A. MYERS. So that when the rules are written, we are giving them rather broad authority here. And if they come back to the legislative history that is being developed on the subject and they read those remarks, I want to say that I can in no way support that an individual employer will also have to spend money in support of that opposition effort. I think we have to be very careful. That is my concern.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has again expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. I do not have any disagreement where rules are clear and there is established a history of what is a fair situation and there has been an opportunity to challenge the development of the rules. What we are asking here is to have rules drawn up in a whole new area. What we are saving here today and what is being said and put in the record will in fact contribute to how those new rules are drafted.

Mr. FORD of Michigan. If the gentleman will yield, I call the gentleman's attention to the fact that the language, in section 8, which deals with equal opportunity to sustain an equivalent manner is actually a limitation on the ability of the Board to write a rule which gives unlimited access of union organizers or spokesmen of the union movement, because it says that the rule will be limited to provide for access to do something equal to or equivalent to or in the same manner as the employer does it, not to go beyond that.

Mr. GARY A. MYERS. I would like to say that I have heard a number of people speak on this provision, and that is a dilemma we are in, that we have different concepts of what is going to be the result of this provision.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I would say that we are listening to some Alice-in-Wonderland talk here by the gentleman from Michigan, who suggested that the Board is going to write rules that the layman can easily understand.

Most of these Board rules are hard for the labor lawyers to understand, to say nothing of the laity.

How is the small employer, who has never before heard of the act, going to get a copy of those rules and read them and understand them in the 5 or 10 days he has from the time he is served with notice of election and the time the election is held? He probably does not even know there is such a thing as the rules of the NLRB.

So I think it is a lot of hogwash when we suggest that every small employer is going to have a copy of these rules and will understand them.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has again expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, this is a very serious matter, but I would like the record to show that my good friend, the gentleman from Michigan (Mr. FORD), who is a very ardent critic and a very able attorney, was smiling all the time he made his last statement.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the chairman of the subcommittee, the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, in response to the argument of the gentleman from Illinois (Mr. ERLENBORN) with respect to the small employer, the statistic he quoted in terms of the average number of employees is right. The average number of employees throughout the United States is under 50 or at about 50.

It is inconceivable to me that an employer, with so few employees working for him and with the advice of his supervisors and his foremen, is so totally ignorant that he is going to be absolutely unaware of any union activity. If that poor fellow is such a bungler, it is probably a miracle that he is still in business and is making a profit.

There is a protection provided here for him. Any employer has a right at any time to address his employees, speaking against a union or in any other way. Under this provision the employees have a right to respond. Under the law, that is the case up until the last 24 hours, during which period of time neither the employer nor the employee can continue to campaign. It is that simple.

Mr. Chairman, this amendment to strike should be defeated.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would like to emphasize what the gentleman from New Jersey, the chairman of this subcommittee, just pointed out.

I am probably one of the few Members in this room who has run NLRB elections, and I must point out the procedures we had at the NLRB after a petition was filed. There is this wonderful invention called the Government Printing Office, and the NLRB would write up "Do's" and "Don'ts," have it printed at the Government Printing Office and we made sure that every employer who had a petition filed got one immediately.

The employer got all this information as soon as possible at the time I worked for the NLRB. It was not as though we were waiting in the bushes ready to spring on employers. We wanted to give them whatever information they needed about Government rules.

I am sure that will continue to be the policy of the NLRB. I am sure the employers know the information is there, and they know the Board has information on policies.

So, Mr. Chairman, I think a lot of this talk about employers not being able to know what to do is being "drug" out here as just some kind of a "Bogeyman."

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentlewoman from Colorado (Mrs. SCHROEDER) for her contribution, and I thank my colleague, the gentleman from Michigan (Mr. KILDEE) for yielding.

The rules and regulations will be published, they are published, and they will be available to any employer who can understand them. If he is bright enough to be an entrepreneur, if he hires employees and is making money, he is certainly going to have available to him in simple terms an explanation of what the rules and regulations are and what they are going to be. I believe he will be able to understand them.

I have great confidence in the small American employer, infinitely more confidence than has the gentleman from Illinois (Mr. ERLENBORN).

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think we are all aware of the fact that union membership around the country has apparently dropped off, and the word is that the union officials feel the need for additional tools in order to increase union membership.

So I suspect that, as the gentleman from Illinois (Mr. ERLENBORN) has indicated, what these small businessmen do not need—those who have been characterized as possibly unworthy of remaining in business because they may be unable to read rules issued by the NLRB and those who have been demeaned in this way—is to have some outside professionals come in and show them how to organize their plants and how to conduct their businesses.

I do not think that that is the wish of the small business community or of those who are part of our great private enterprise system, and who are trying to run these small businesses of 50 employees or less around the country.

My experience and my observation has been that when plants are organized, they are organized under the present system from the inside pretty much; the opportunity for employees to talk to each other during business hours or nonbusiness hours, or during lunch hours or whenever, is freely available. That is the way, it seems to me, that employees in a plant may be organized business or remain unorganized.

Mr. Chairman, I would like to ask the gentleman from Illinois (Mr. ERLENBORN) whether or not there are any present restrictions on employees talking to each other with regard to what they consider to be in their best interests insofar as organization or nonorganization is concerned. Is there any limitation which impels us now to provide this kind of pro-organized-labor legislation so that we can enhance the numbers of labor union members by bringing in the outside professionals in order to organize these small plants?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman raises a valid point. Certainly, under the current condition of the law, fellow employees are quite free at the workplace or elsewhere to communicate with each other. If there is internal movement toward getting a labor organization to represent the employees, they will be able to communicate with each other, discuss the matter, and try to convince one another.

Mr. Chairman, the real thrust of this amendment, I would repeat, is to make it possible for the labor organizer from outside to come into the plant because the access of fellow employees is already there. I would agree with the gentleman with respect to that.

The thrust of this provision, as well as that of most of the provisions of the bill, is to reverse a current trend that has shown a reduction in the total numbers of labor union members, a trend showing that over half of the contested representation elections have been lost by the unions in recent years. They want additional advantages in order to reverse that trend.

Mr. McCLORY. Mr. Chairman, at the present time there is a much greater awareness on the part of employers to do the right thing by their employees and there is no compelling need to invite organized activity from outside in order to bring the employees the benefits of higher wages, better working conditions, and all of the things which contribute to a harmonious working relationship between management and labor.

Mr. Chairman, I am in general opposition to H.R. 8410, the so-called labor reform bill.

Two of the most onerous provisions of the bill are the contract debarment remedy and the equal access provision. The first injures the employees at least as much, and probably more, than the employer against whom it is directed for its violations. The second provision, equal access, is unnecessary and understandably disturbing to employers to require them to allow union organizing activities on company premises and company time. Especially is this so when unions, but not employers, can go to the employee's home. Hopefully this kind of inequity will be eliminated from the bill.

This equal access rule would place employers in the position of subsidizing or financing union election campaigns. Under present law, an employer need not grant company time or facilities to a union organizer to reply to a company speech, so long as the union organizer is not barred by the employer from communicating his views to employees at the union's expense during nonworking hours. The current law protects employees by assuring that they will have adequate access to information from both the employer and the union organizer so that an informed choice can be made regarding union representation. The proposed change would require the employer to permit strangers to come on his property and the employer will have to pay his employees while such strangers try to persuade them to become union members.

Furthermore, at the present time the Board looks extremely critically at any statements made during a union organization drive by employers and will often find careless employer statements to be unfair labor practices. This happens most often when statements are made anywhere but at carefully prepared addresses to employees. The practical effect of this provision may be to completely take away the ability of an employer to get across to employees his point of view. And remember, an employer's statement found to be an unfair labor practice during a union representation campaign has often led the Board to certify a union without even conducting an election.

Mr. Chairman, if an employer plans a party for employees the union immediately files unfair labor practice charges. Yet the union is allowed to visit employee homes as often as it wants and to hold meetings whenever and wherever it pleases. It also can solicit near the employer's property and use media contacts. It also gets the Excelsior list of names and home addresses of the employees involved. Would this amendment eliminate the need for the Excelsior list? Would it allow employer representatives to visit the homes of employees? Should not some thought be given to the property and free speech rights of the employer that are being invaded by this amendment under the guise that the section 7 rights of the employees are paramount? Another point to be considered is that this type of assistance to a labor organization has been found to be violative of section 8(a)(2) of the act.

The Federal contract debarment would permit the Board, upon its finding that a party is willfully violating a final Board or court order, to identify the person to the Secretary of Labor who could then take steps to prevent that person from being able to do any work for the Federal Government for a period of 3 years. There is no apparent right of appeal to the Board's debarment determination, which means the Board serves as prosecutor, judge, and jury.

This new punitive sanction is akin to killing a fly with a sledgehammer. The sole purpose of this provision is to punish the employer rather than to remedy a violation of the law. Furthermore, that punishment to the employer will probably be accomplished only at the expense of jobs for employees. For example, if an employer did a substantial amount of Government contract work and was subsequently debarred because of this provision it could mean the loss of hundreds or thousands of jobs to employees. The debarment order would apply to the entire company even if the willful violation occurred at only a single facility.

Finally this punishment flies in the face of the fact that there are remedies under the current law which can be used against willful violators. Court contempt procedures should be and have previously been used to go after willful violators. The Federal contract debarment provision is in reality a Government sanctioned boycott of a business.

The existing contempt of court proceedings available to the Board can clearly solve this problem, which only exists with a fraction of 1 percent of employers who appear before the Board. The contract prohibition has not been effective under the Office of Federal Contract Compliance and no reason exists to think it would work under the NLRB.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

I would just like to take this opportunity to ask a question of the gentlewoman from Colorado (Mrs. SCHROEDER), since she did work, evidently, for the NLRB.

Mr. Chairman, I ask the gentlewoman whether she found the NLRB was in a position of properly using their 15-day work time with respect to an employer's needs, so that the communications to which the gentlewoman referred, which went out to the employer were in his hands, not only in his hands within the 15-day time frame, but in his hands early enough in that 15-day time frame so that he could handle the matter adequately and could go to an attorney and get his side of the story in such condition that he could present it adequately.

Is that the position that the NLRB has been in?

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, my answer is absolutely; that was the position in our region.

We went all out to make sure that the employer had a booklet which contained very plain English. It was very simple. As I recall, it was 5 or 6 pages long. It told him the "do's" and "don't's" and so on and so forth.

We did everything we could to show that we were an independent party as between the two parties involved.

Mr. GARY A. MYERS. What would be the average time within which they would get all that information from the NLRB once the petition was filed?

Mrs. SCHROEDER. We would get it to them just as fast as we could.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, the gentlewoman from Colorado (Mrs. SCHROEDER) used the phrase "as fast as possible."

"As fast as possible" is rather ambiguous. I would like to have a figure.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield further, very often if they were in the area where I was, there was a majority. More often than not, the majority of the people affected were right in that area. They were rarely up in northern Wyoming.

Mr. GARY A. MYERS. There are some people up in northern Wyoming, too.

Mrs. SCHROEDER. That is right. They would come up and pick it up, so that they could be notified. We did it as fast as we could. We would mail it in the most expeditious manner possible. We tried to do our very best.

Mr. GARY A. MYERS. I thank the gentlewoman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 24, noes 38.

The CHAIRMAN. The Chair would like to advise all visitors in the gallery that there must be no applause. We are delighted to have you with us but no applause, please.

RECORDED VOTE

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote.

Mr. THOMPSON. Mr. Chairman, regular order.

The CHAIRMAN. The Chair will state that the gentleman was on his feet.

Mr. GARY A. MYERS. Mr. Chairman, I ask for a recorded vote.

The CHAIRMAN. A recorded vote has been requested.

Mr. THOMPSON. Mr. Chairman, I respectfully suggest that the gentleman was not on his feet and he is out of order.

The CHAIRMAN. The Chair would like to advise the gentleman from New Jersey (Mr. THOMPSON) that the Chair observed the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Pennsylvania (Mr. MYERS) on their feet at the time the division vote was announced.

Mr. THOMPSON. Mr. Chairman, I would withdraw my statement. I did see the gentleman from Illinois (Mr. ERLENBORN) on his feet, but he is usually in that position.

The CHAIRMAN. Will the gentleman from Pennsylvania (Mr. GARY A. MYERS) please restate his request.

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote, and, pending that, make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and six Members are present, a quorum.

A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 247, not voting 19, as follows:

[Roll No. 627]

AYES—168

Abdnor
Addabbo
Allen
Andrews, N.C.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Bevill
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Coleman
Collins, Tex.
Corcoran
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Flippo
Flowers
Flynt
Ford, Tenn.
Fountain
Frenzel
Frey
Fuqua
Ginn
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hefner
Holland
Holt
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McDonald
Madigan
Mahon
Mann
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Panetta
Pettis
Pike
Poage
Pritchard
Quayle
Quillen
Rhodes
Roberts
Robinson
Rogers
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Taylor
Thone
Thornton
Treen
Trible
Tucker
Vander Jagt
Waggonner
Walker
Watkins
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NOES—247

Akaka
Ambro
Ammerman
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Davis
Delaney
Dellums
Dent
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Ford, Mich.
Fowler
Fraser
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Gonzalez
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Hubbard
Hughes
Jacobs
Jeffords
Jones, Okla.
Jordan
Kasten
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pressler
Preyer
Price
Pursell
Quie
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Simon
Sisk
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steers
Steiger
Stratton
Studds
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
White
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—19

Anderson, Ill.
Badillo
Burke, Fla.
Eckhardt
Foley
Forsythe
Howard
Johnson, Calif.
Koch
Marlenee
Mikva
Rodino
Roe
Steed
Stokes
Teague
Whalen
Wolff
Young, Alaska

Messrs. UDALL, RANGEL, and KREBS changed their vote from "aye" to "no."

Mr. LEVITAS, Mrs. LLOYD of Tennessee, Messrs. O'BRIEN, ALLEN, COLEMAN, BOB WILSON, JONES of Tennessee, GORE, LONG of Louisiana, and BYRON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the gentleman's amendment in the RECORD?

Mr. ASHBROOK. Yes, Mr. Chairman, on page 32063.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation.

Mr. ASHBROOK. Mr. Chairman, it is obvious the membership does not want to reject the access provision, so I am going to give them an opportunity to make the access provisions fair and

equal. I think we should balance these access provisions, so one might call this the Even-Steven amendment and apply to all elections—representation and decertification—and all matters of access. Anything the employer can do, the employee union can do. Anything the employee union can do, the employer can do.

I would not say the situation would be exactly equal, because even with my amendment it is still going to be tilted, I would say, 60 to 40 in favor of the union and the union organizers. So even with my amendment, you would not have an equal situation. You would not, for this reason: When the employer speaks on his premises he pays his employees and, therefore, must pay his employees for the same time when the union organizing committee speaks, as part of the equal access.

On the other hand, if an employer goes into the union hall or the home of the employee, which balances off the union's basic right to address those forums, on those occasions, obviously, you do not have the same captive audience. The membership may show up; it may not. The union organizer may want to talk to them in the home; it may not want to talk to them in the home. So you really cannot equalize the situation.

As long as you are forcing the employer to pay for his communication to employees, you can never equalize the situation. But at least my amendment is part of the old American tradition of fair play. What is fair for one is fair for the other. I believe my amendment is eminently fair. It insists that the Board make rules and regulations to provide reasonable conditions which have due regard for the needs of the employer to maintain the continuity of production, the precise same language that is in H.R. 8410, on page 17; but it goes on to require the Board to make rules and regulations for the right of a labor organization to conduct their meeting without undue interference. In other words, the Board will lay down the guidelines. You just cannot charge in and say, "I want to speak." You will also lay down the guidelines to permit the privacy of the employee in his home. But at least whatever rules are laid down, there is some effort to have balance in the situation where the organizing union has the right to access and speech and the employer has the same rights to access and speech.

I do not see how the membership could fail to support this amendment. If we believe in balance, if we believe in fair play, and if we believe in free speech than I think my amendment should be adopted, and I certainly urge its adoption.

Currently, the rights of employers and unions to address employees concerning representation issues are governed by Board and court decisions that attempt to balance the employees' need for access to information against various competing interests the employer's need to maintain production, the union's interest in conducting free and uninterrupted meetings, and the employees' right of privacy. H.R. 8410 would change this balance by requiring rules that would give unions access to a forum now available only to employers—in-plant speeches. It would not, however, change the existing rules which bar employers from other forums now open only to unions—union hall meetings and visits to employees' homes.

This substitute amendment carries out the principle of greater access to information about representation issues, but does so more evenhandedly than H.R. 8410, by giving both parties fully equivalent means of communicating with employees. At the same time, it assures against undue intrusion upon the rights of the employer, the union or the employees. Also, this amendment unlike the subsection of H.R. 8410 which it replaces, applies equally whether the employees are seeking to bring a union in or vote out an incumbent union.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I can find little, if anything, to quarrel with in what the gentleman from Ohio (Mr. ASHBROOK) has said about his amendment. But that is not what the amendment says; that is not what it does.

If we will read the amendment, we find it says this: That we go to page 17 and strike all the language from line 5 through line 15, which is exactly what we just voted on; and then, having done that, we would substitute therefor a new provision which has a really extraordinary aspect to it, one that I find quite frightening. That provision would, as I read it—and this is what the gentleman from Ohio describes as "evenhandedness"—permit both the union and the employer to invade the private home of an employee, simply because there was an issue of a forthcoming election to determine whether or not there would be a union in the plant.

First of all, I do not see how constitutionally we can extend the Labor Act to permit the representatives of labor and the representatives of an employer, simply because that issue has been raised, to go into the homes of individual employees.

The gentleman from Ohio (Mr. ASHBROOK), in his explanation of the amendment, said that what he wanted was free access to go into the union hall and talk to the membership. I have no objection to that. I have no problem with that concept, but that is not what the gentleman's amendment says. It says, "and of the employees to enjoy the privacy of their homes, assure that," and the implication is that the gentleman is not talking about simply going into the union hall or anyplace where the employees are meeting on a regular basis to discuss the upcoming election, but he is talking about going beyond that and approaching the employees in their homes.

There is a type of unfair labor practice that we could conceive that might develop by this amendment. Would we want to have an unfair labor practice filed against an employee who refused access to his home?

Let us take the case of a man who may not have signed up for the union. Presumably, they do not have all the employees signed up in favor of the union when they start an election. This may be an employee who has had nothing to do with the organization, has had nothing to do with talking with anybody from the union, and he may or may not be interested in whether there is going to be a union in the plant. He is now going to be subjected to what the gentleman from Ohio (Mr. ASHBROOK) calls even handed treatment by being approached in his home. And would that employee be in danger of being accused of being involved in an unfair labor practice by refusing access to his home to somebody from the labor union or from the company? That is ridiculous, of course.

The gentleman from Ohio (Mr. ASHBROOK) is one of the best labor lawyers ever to serve in this body. He is also a strong orthodox conservative, one who has, in my 13 years of serving with him, consistently and incessantly fought for what he calls individual rights. I have been on his side in most of those fights.

I believe what is at stake here, in what I suggest is an inadvertently and hastily constructed amendment, is an amendment that invades the most basic right that people have in this country, and that is the security of their homes. I suggest that if the gentleman's amendment were to be adopted, we would have an awful lot of pressure presented against us in a couple of years because I suspect that at least in my part of the country, if somebody from the union or somebody from the company would break into a house and force their way in to talk to an employee, there would be a shotgun waiting for him.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, this really should be characterized as the "trick or treat" amendment or the "doorbell" amendment.

I think the concept of access to union halls is entirely acceptable, but in this area let us not lose sight of the fact that a tremendous number of employers own the very homes in which their employees live. Those employees have to pay rent in many cases, and they buy all their supplies at the company store.

In the Darlington case, when they closed the mill, although they had sold a number of the homes to the employees, the company actually had control over the water supply for the town, and they shut off the water.

Under this amendment, what are they going to have to provide for each house, a new doorbell or a new doorknocker and let them in? I just cannot see that concept.

Mr. Chairman, I oppose this amendment very strongly.

Mr. FORD of Michigan. Mr. Chairman, I might suggest to the gentleman that the gentleman from Ohio (Mr. ASHBROOK) has been a long-time, articulate advocate of the separate gate theory, and that was evident when we discussed situs picketing.

Perhaps he has in mind some sort of rule similar to the separate gate for access to be provided at people's homes.

I yield to the gentleman from Ohio (Mr. ASHBROOK).

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. THOMPSON and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Mr. Chairman, the gentleman already has yielded to me.

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I ask the gentleman which door is this, the back door, the front door, or all doors? Is it the cellar door?

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, I do not know. I do not think we want it to apply to cellar doors.

Mr. THOMPSON. How about the windows? Can I knock on the windows?

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further. I have several points on which I would like to comment.

First, the Board must make rules, as the amendment indicates, because it is in the Board rulemaking section, which are subject to reasonable conditions, without undue interference with the employees' right to enjoy the privacy of their own home.

Therefore, first of all, we are talking about rules; and we certainly are talking about the constitutional right of somebody in his own home to tell both the union and employer to go to blazes. Therefore, I do not think that anyone will ever have an unfair labor practice because he did not talk to a union representative.

Second, under the law the Board decisions as they now stand provide that the union organizer can go into the employee's home. I do not think that he can force his way in. He can go into the employee's home, but the employer, during the organizing drive, cannot go in.

Mr. FORD of Michigan. Mr. Chairman, let me reclaim part of my time.

That is precisely the point. We are operating on the assumption that every employee is willing to invite the union organizer into his home, and therefore, it should follow that the employer should have equal access.

What about the employee who does not want the union organizer to come into his home? Under the provisions of the gentleman's amendment, if he invites the employer in and says, "I have worked at your mill for all these years and under poor conditions," cannot the union organizer come in and unionize him in like fashion?

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, it would be subject to what the Board regulations prescribed.

I stand here fully aware in my own mind that the Board is going to write regulations to make impossible everything I am talking about. We know what kind of liberal Board it is going to be; but all of this is going to be subject to what the Board promulgates, with due consideration for the employees to enjoy the privacy of their homes.

They may negate the whole purpose of my amendment, but I think the concept that they are going to be able to force their way into the employees' homes so that there is some invasion of constitutional rights, certainly is the type of argument that cannot be advanced here.

I do not think that anybody contends that the employee does not have the right to say to the union organizer, "I do not want to talk to you" or to say to the employer, "I do not want to talk to you."

Mr. Chairman, all this does is to bring some balance into this matter and get around the Peoria Plastics decision and other decisions that favor the union organizer which in effect say, the employer cannot communicate with the employee in his home even though the union organizer may.

Mr. Chairman, the amendment has balance. I think it is equitable, and I urge its adoption.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, during the recess in August, the gentleman from Ohio, the chairman of the subcommittee, the gentleman from Michigan (Mr. KILDEE) and I had occasion to go to the fabled home of the J. P. Stevens mills in Roanoke Rapids, N.C.

We got some impression at that time as to what would happen or could happen, given an unscrupulous employer.

One evening we were at the Holiday Inn, and those of us who happened to be in our hotel rooms were subjected to the loudest of knocking. Some employee of either J. P. Stevens or of the hotel came bursting in with piles and piles of material. Those who happened not to be in their rooms had their rooms entered in any event, without any leave or permission of any kind.

Mr. Chairman, it seems to me that if J. P. Stevens is willing to do this to the rooms of Members of Congress, I can imagine what they would do to their own employees.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I was there that evening. When I came in I had the same material there. I also had a message from a member of the committee staff saying that he was at the bar and that I could meet him there.

I did not think they invaded my room. They simply left a message with the bellman who delivered the message like most bellman do.

Mr. WEISS. The gentleman has a greater tolerance than most of the Members of the House do.

Mr. FORD of Michigan. Now I will yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman from Michigan (Mr. FORD) for yielding to me, but I would prefer to seek my own time to ask some questions.

Mr. FORD of Michigan. I yield back the balance of my time.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask my friend the gentleman from Ohio (Mr. ASHBROOK) some questions to make certain that the legislative history is clear. I might also say I am not at all sure that, even though I disagree with many of the amendments that the gentleman has had printed in the RECORD, that we are being entirely fair to the gentleman with respect to this particular amendment.

Let me ask the gentleman from Ohio, am I correct, it is not your intention to in any way negate the language that appears in the committee bill which would afford a union organizer his or her equal right with the employer, to talk about a potential union. It is not your intent, am I correct, to negate in any way the right of the union organizers to have equal access on the employer's premises?

Mr. ASHBROOK. Absolutely not; they should have opportunity for the same type of speeches, the same type of equal captive audience communications that the language in H.R. 8410 now provides. As a matter of fact, I have used the same language down to that point, merely adding the "union hall" and the "home".

Mr. RAILSBACK. Am I also correct that it is your belief and intent that if the Board promulgates rules, those rules will take into account employee privacy, as is stated in your proffered amendment?

Mr. ASHBROOK. That not only is my intent, but my overall understanding of the courts and the judicial system, and, even though a representation election is important, there is no situation under which I believe a court would say that an employee has to admit anyone to his home, even if it relates to a union election. I think that any determination that you are going to have to open up your home, simply because there is going to be an election, does not give away the constitutional rights that have been protected by our judicial system. The Board will promulgate rules to bring about equality. If the union organizer can go in that home at least the employer should have the same opportunity. Maybe the employee will not want either one of them in his home. No one alters that basic right.

So I think the fears of the gentleman from Michigan (Mr. FORD) are completely without merit.

Mr. RAILSBACK. May I ask? Suppose that an employee is willing to see the union organizer but for some reason or other he does not want to open his door to the employer. Subject to the conditions and standards promulgated by the Board, if he chooses to see one he does

not have to see the other if he does not want to, is that correct?

Mr. ASHBROOK. That is correct.

In the first instance we are talking about a certain privileged right of access, the right of access to the employer's property to address the employees. Second, we are talking about a privileged right of access to the union hall. But, when you come to a home, I do not think anybody has the privileged right of access, except, maybe the IRS man or a police officer with subpena, but certainly not a union organizer or an employer.

Mr. RAILSBACK. I am not sure that the IRS man has such a privileged right, either.

But, let me say in closing that I happen to believe that the gentleman is trying to provide equal access and I find it very hard to quarrel with the gentleman. I intend to support his amendment.

Mr. ASHBROOK. I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, and members of the committee, I think you have got to understand that the last amendment we had under consideration was in response to the employer having a captive audience situation, where the inducement to come to a meeting is that you get time off, or you get paid to come to the meeting, and it was on the basis of a subtle intimidation that it was your employer who paid your wages, and he wants you to attend the meeting.

Now, in this amendment, if you invite a union organizer to come to your house, then you have also given the right to the employer to come to your house. I am not questioning, and I do not really care whether he can get in my door or not, because I suspect in my case he cannot do it if I do not want him to. I am concerned about the fact that he has a right to come and annoy me. I am concerned, just as we now have people who call on the phone. I have the right to hang up, but I would prefer that they do not get me up from what I am doing so that I have to answer the phone.

I think there is an invasion of privacy here, and there is because I am taking affirmative action to ask somebody else to come and give me some information that I have given another person the right to do. That is far different from the captive-audience case. Furthermore, I want to just challenge this Congress, do we really want this Board to promulgate rules based on an interpretation of what is an undue influence on their privacy, because I want to tell the Members something, that my belief about my privacy, and my constitutional right to privacy is far different from anyone else's here. And it also changes on Sunday afternoon. It changes after I have been in a fight with my wife. It changes after I come home from work and I am tired.

And I want to see the regulations that are going to be filed under this one. If the Members are concerned about paperwork, I want to see the unfair labor charges that are going to be brought on this one on the basis of what is a person's interpretation of what is an undue influence on their privacy.

I do not think this Congress ought to start giving people the right to go to people's houses to harass or harangue them because they have made a voluntary movement.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

The employer now has the right to mail materials to the employees' homes to make his pitch. That is an absolute right which he enjoys and which he can take full advantage of. He has access in that sense, and it ought to be limited to that. He can put leaflets in the pay envelopes. He can pamphlet. He can do anything under his first amendment right.

As the gentleman from California puts it, all of us have a different version or different view from time to time of our right of privacy. I do not want anybody knocking on my door and bothering me if I am in a humor like the gentleman from California is. I would not want to be his wife and have a fight with him. I think he is too big.

Mr. MILLER of California. I do not think the employers under the history of this act have ever run out of innovative ways to get the best of an employee in his privacy. The best one used by the employer is a message in his pay envelope. You figure out the connection.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from California has given a very eloquent argument why we need to offer protection against invasion of the right to privacy. I think we all agree with that. What he failed to mention was the fact that the unions do at this point have the power to do exactly the same thing that he wants to prevent the employer from doing.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I think through this debate that there has been an attempt to use a word that should not have been interjected. Members on the other side continually talk about the right of visiting a home. Nobody is talking about a right. As a matter of fact, I would propound this question to the gentleman from California or the gentleman from New Jersey: where in any law anywhere, anyplace, relating to labor law, any Board decision or regulation, does anyone have a right to go into anybody's home? What we are talking about, quite simply, is under Board regulations union organizers have the opportunity to go to the home of the prospective union member who is going to vote. They have the opportunity to go, not the right, not the right to knock on the door and say, "I am here. I am your friendly union organizer. You have to let me in." That is ridiculous. There is no such right. But the union organizer does have the opportunity to visit the home of the employee to present his case. If he is George Miller who says, "Don't come in," I would suggest he could punch him in the nose when he forces his way across his threshold. There is no law that says he can force his way in.

They have used the word "right" either because they have not read my amendment or because they are trying to spread on the record something to show a hidden intention I have in this amendment. All the amendment does is afford the employer the same opportunity, not the right but opportunity, to visit the home.

Secondly, we are talking about regulations that will be handed down by the Board. We are talking about a regulation that the Board will promulgate which is subject to reasonable conditions, including due regard for the privacy of their homes, to assure that subsequent to the filing of a petition, employees shall obtain from their employer, and such labor organization in an equivalent manner, information relating to representation.

The rulemaking probably will severely limit the employer's right and opportunity to go to the home no matter what we say, but at least we are talking about the opportunity, not the right. They cannot point to any section of any law that says an employer has any right to go to any employee's home. I would like to see it if they can.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I would like to say the gentleman from Ohio serves on the Judiciary Committee with me, and I know of no one in the House who has expressed more concern over his years of service than the gentleman from Ohio as to the right of privacy. There is no one who has any better record or reputation in that respect, so I am surprised that the gentleman from California has questioned the gentleman's amendment as to the right of privacy.

I think the amendment offered by the gentleman from Ohio is drafted to take account of the right of privacy. It is eminently fair to the union and to the employer. It says if the union organizer can go to the home on a Sunday afternoon, then the employer should have the same opportunity.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I draw a distinction—the House can make up its own mind—between the ability of the union organizer who has no control over an individual to approach him in the home and for a person who signs the paycheck to come to one's home and try to gain access and talk about one's job. There is a little difference in the pressure. The NLRB has found consistently that is undue influence and in any case intimidates the employee, and I am baffled, given the credentials of the

gentleman from Ohio, about his position on this.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I just do not think we improve this situation by compounding the felony. I do not agree that either side should be granted the privilege of accosting an employee at his home. Say my door is knocked upon and my wife answers and the gentleman says:

I am Mr. Ashbrook. I am president of Local so and so. I would like to talk to your husband about matters concerning his job.

Or the door is knocked upon and the gentleman says:

I am Mr. Ford. I am president of ABC company, and I am your husband's boss.

I think that puts undue pressure on the employee, his wife and the entire family. Such activity does not belong at the home. I think this is bad law on both counts.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(On request of Mr. O'BRIEN, and by unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I simply want to respond to what the gentleman from Oklahoma said. The employer does not have the upper hand but we hear this. I do not want to get into intimidation but it is injected frequently into our debate. Say I work for a company and the very day before there had been violence at the plant, violence of the type I have had printed in the RECORD of yesterday at page H10587. There had been overturning of cars, an officer of the international union had ordered his henchmen to prevent people from going in even if it means stripping off their clothes, they had daily implantation and reimplantation of nails and broken glass on company driveways. That is more than just intimidation. I do not think the record should show it is one sided. The employer does not have all the cards. Say Mr. Benton who orchestrated this violent activity yesterday comes to my home, would not there be an intimidation in this case. Any number of union organizers resort to tactics which make it likely to have them admitted into the home. So on balance I think we are talking about an opportunity to come to the home by both the employer and the union organizer, both of whom have some cards to play, but it should not be left on the record that it is one sided, that only the employer has the upper hand and, in effect, intimidates the employee.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I think it is correct to say that the union organizer can be at least as intimidating as the employer, and I think this amendment goes a long way toward making it equitable for both sides.

I would suggest that the gentleman from California might want to support the amendment because of the gentleman's great concern over intimidating persons coming to the front door.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK: Page 17, line 7, strike the word "assure" and substitute the word "provide".

Page 17, line 15, after the word "organization" and ", and, with due regard for the rights declared in Section 7, the right of such labor organizations to conduct meetings without undue interference, and the right of the employees to the privacy of their homes, provide also that the employees are assured an equal opportunity over-all to obtain such information from the employer and such labor organization."

Mr. FORD of Michigan. Mr. Chairman, the language of my amendment reads very much like the language of the amendment of the gentleman from Ohio (Mr. ASHBROOK), except that it is an addition to the language in the bill, rather than a substitute for the language in the bill. It acts to modify and further expand the rights of the employer and employee representatives with respect to equal access to employees, wherever they may be found; but it has the one salutary advantage, the fact that it is structured in a way that it does not create the legislative intent that the gentleman's amendment seems to create, suggesting that the Labor Board provides rules that get into the question of access to people's private homes.

What it does, in effect, is what the gentleman said he wanted to do: it provides that the employee and the employer organization will have equal access to the employees on premises used for the purpose of discussing a forthcoming election.

We then go on and provide further that the employees are assured an equal opportunity overall to obtain such information from the employer and from such labor organization.

For the record, it would be my belief that that means that if they are having a rally at the local Knights of Columbus hall or the Legion hall for the purpose of advocating people to vote yes on getting the union, that the company should have equal time to appear at that rally and speak out on why they should vote the other way.

I have no problem at all with my opponent in an election having the ability to meet with me in any kind of public forum or any place that people go voluntarily to assemble. I do have problems with the right of my opponent and my right to harass people in their homes or go beyond and approach them some place where they go voluntarily for the purpose of considering a political issue. I do not think that the union or the company ought to be able to pursue me into my church. They should not be able to pursue me into my lodge hall and they surely are not going to pursue me in my home. Of course since I have a free and uncoerced choice, I can permit a union representative into my home. So I am attempting to do what the gentleman said the gentleman wanted to do; that is to make sure that wherever there is an assembly point for the dissemination of information or propaganda in favor of the union, there will be equal access to that assembly point for those opposed to the union.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman, whom I will assume will be in favor of the amendment.

Mr. ASHBROOK. Mr. Chairman, the amendment does not go as far as mine goes. The membership should know, the way the gentleman's amendment is worded, it does not go across the board as my amendment does. It only applies to certification elections. It does not apply to decertification or deauthorization.

If the gentleman would accept the 9(c)(1) and 9(e) proviso contained in my amendment I would accept the amendment.

Mr. FORD of Michigan. Mr. Chairman, the gentleman is telling me there is something here that I did not even know.

Mr. ASHBROOK. My amendment applies to all elections, certification, decertification, authorization and deauthorization. It applies to all employees and all employers.

The narrow purpose of H.R. 8410 is simply the certification elections, not decertification. I think we should have the same elements of democracy and the same elements of giving employees an opportunity to cast off their unions.

My friend, the gentleman from Michigan, would limit his amendment to only one of the three major areas of elections.

Mr. FORD of Michigan. My apologies to the gentleman from Ohio. My amendment is structured to accommodate the part that I can agree with, of what he said his amendment was intended to do. He is now indicating to me that his amendment went considerably further than anything we argued against up until this point.

Mr. ASHBROOK. I talked about all elections; we talked about all elections. I think applying the same standard on all elections, I do not think my friend from Michigan can say that we only ought to apply narrow standards for union certification where the union is trying to get a favorable vote as a bargaining agent, but we should not employ different federal standards where the employees might want to certify that union.

Mr. FORD of Michigan. The gentleman does understand my amendment does not touch the language on lines 1 through 4.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. THOMPSON and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. I believe the gentleman's concern was with the language on line 3. My amendment does not strike that. It leaves it the same way.

Mr. ASHBROOK. But 9(e) is what applies to decertifications. My amend-

ment says, "Subsequently to the filing of a petition pursuant to 9(c)(1) and 9(e) * * *"

That includes all three elections. What my friend is trying to do is limit it to just elections for certification. Maybe that is not his intention, but as I understand it, that is what the language will do.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. The difference in the substitute, which I endorse because I believe in granting access to the fullest possible extent short of invasion of privacy, is that the substitute is limited to the period up to the election, or under the 24-day rule. The gentleman from Ohio would go beyond that, so that visits to homes can continue virtually forever. I think this in an absolutely reasonable compromise, and it is a very definite improvement in terms of access rights of the employer.

Mr. FORD of Michigan. I thank the gentleman. I would like to observe that the problems we are trying to address with this section of the bill arise out of an election that takes place when employees petition the National Labor Relations Board for an election on the question of whether or not there shall be a union, and whether or not union A, B, or C will be selected as the collective bargaining agent. It does not attempt to get at all questions between the employer and his employees. I suspect that all during the previous discussion, the gentleman from Ohio was the only one on the floor—certainly I do not think anyone on our side was—who was aware that he wanted to go as far as he did.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mrs. FENWICK and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Will the gentleman yield?

Mr. FORD of Michigan. I yield.

Mrs. FENWICK. I thank my colleague for yielding to me. I am confused. I think this is an excellent amendment that the gentleman in the well has offered; but do I understand that he did not intend that this should apply to all three types of elections, but only to the certification for union members; or would he be perfectly happy to have this principle of equal time, equal access, apply to everything?

Mr. FORD of Michigan. What I said was that since the gentleman did not discuss it in the way it came through to me, and I did not discuss it with that in mind, I had not given any thought to anything except the question of representational election.

Mrs. FENWICK. But surely the gentleman is agreeable to the idea of equal time, equal access, equal justice for every type of election? Certainly, I am.

Mr. FORD of Michigan. Stated in the terms the gentlewoman uses, of course. However, I do not know when we start talking about time in the certification cases. I would be glad to discuss it with the gentlewoman.

Mrs. FENWICK. I meant "equal time" in the figurative sense. What I meant was, the equality the gentleman has described in his amendment, which is so fair and so just, it seems to me certainly should obtain, and I am sure it was the gentleman's intention that it should obtain, in all types of elections. I voted for the right of access on the employer's time in the previous vote, and I think this is a splendid amendment. But, I would like to make sure that the gentleman wants it to apply across the board.

Mr. FORD of Michigan. Let me put it this way. If the gentleman can suggest to me the amendment he would like to suggest to my substitute, which I gather would not be in order at this point, we can perhaps work it out. If my amendment is adopted, I would be glad to consider the issue that is now raised. Frankly, I am caught without being able to really understand the dimension, I will say to the gentleman from Illinois.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, first, I would like to note that, although the gentleman from Ohio (Mr. ASHBROOK) had tagged his amendment as the even-Steven amendment, I think it would more likely be called the even worse than J. P. Stevens amendment.

Second, I am not particularly satisfied with the clarity of the substitute amendment. I am wondering if the gentleman from Michigan would clear up one point for me.

It is not suggested, as I assume it is not, if the substitute is adopted, that the employer would have the right to station a representative at the union hall so that in fact he could be present, or his delegate could be present under all instances to see whether any employees are being spoken to about the upcoming election? That is not what is intended by this amendment; is that right?

Mr. FORD of Michigan. No, not at all. Nor do I expect that the union would be able to station someone inside the plant to watch every foreman as he talks to an employee. I think we would expect the Board to set up some rules, saying, "If you have some method of establishing a method of propagandizing issues on both sides, you play fair." That would have to fall within the language of the reasonable efforts to protect the rights of the employer with its access to the premises and reasonable right to protect the right of the union to carry on its position when it is not there. If they are having a debate on what the amount the dues ought to be, or electing officers, the company has no business involving in that. But if they are meeting for the purpose of encouraging people who have not signed up to come forward to see what a great idea it is that they have a union, they would have to invite the employer.

Mr. WEISS. If the gentleman will yield further, I thank the gentleman for his response. The reason for my concern is that I think there might be a chilling effect otherwise on those considering union participation.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment offered by Mr. FORD of Michigan: as a substitute for the amendment offered by Mr. ASHBROOK: Before the period at the end thereof, insert the following: *Provided*, the rule shall apply to elections conducted pursuant to sections 9(c)(1) and 9(e)".

Mr. ASHBROOK. Mr. Chairman, as hastily as I can, without the advantage of a fast reading course, I have gone over the language of the amendment offered by my colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I wish to reserve a point of order against the amendment.

The CHAIRMAN. The gentleman's request comes too late. The gentleman from Ohio had been recognized and had began debate.

Mr. FORD of Michigan. Mr. Chairman, I might call the Chair's attention to the fact that I do not have the gentleman's amendment. I am standing here, trying to work it out from what I hear from the Clerk. Nothing was presented to us in writing. I am trying to accommodate the gentleman, and I am standing here the whole time trying to see what the amendment says. As soon as I see what it says, I am reserving my point of order. I do not want to make a point of order on the ground that the gentleman did not present a copy of the amendment.

The CHAIRMAN. The Chair will advise the gentleman from Michigan that his reservation comes too late.

The Chair again recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, as I was saying, I do not see that much difference between the language of the amendment offered by my friend, the gentleman from Michigan (Mr. FORD), and my language, which is the amendment printed in the RECORD on Monday.

I do not like the inference that there is something in my amendment that all of a sudden just dropped down on everybody. My amendment was printed on page 10524 of Monday's RECORD.

As I indicated in my 5-minute remarks on this amendment, I wanted this to be even-steven so it would apply to all elections and would apply to all situations that relate to both the employer and the employee organization or union.

If the gentleman from Michigan (Mr. FORD) would accept my amendment to his amendment, since I have no pride of authorship, I would be very glad to accept his substitute, as amended.

As my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), so ably pointed out, what is wrong with having the same provisions apply to all three classes of elections? If the Members on the majority side can give a good reason why these same provisions should not apply to all three types of elections, then I would assume my amendment should fail on its merits. But if we are just talking about the narrow area, as I have maintained all along—and this seems to prove the point—of reforming the National Labor Relations Act to assist organizing drives, if that is all we are talking about, then we should reject 9(c)(1) and 9(e) elections.

I do not believe that is what the majority of the Members of this body want, and I think all the good things that are going to come from equal access should apply to all three elections, whether it is in the union's interest, whether it is in the employees' interest, or whether it is in the employer's interest. That is all I am asking.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS TO THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS to the amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK: Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election,".

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization".

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. The Chair will be glad to hear the gentleman on his point of order.

Mr. THOMPSON. Mr. Chairman, my point of order is that this amendment is inconsistent with the substitute as we have just amended it. It expands the substitute to include decertification and other matters which are not relevant.

The gentleman from Pennsylvania (Mr. GARY A. MYERS) had an opportunity earlier to perfect the amendment by offering an amendment to the substitute, and he did not avail himself of that opportunity. This, in my judgment, is out of order.

The CHAIRMAN. The Chair would like to advise the gentleman from New Jersey (Mr. THOMPSON) that, as the Chair observes the situation, the amendment that has been offered is an amendment to the substitute offered by the gentleman from Michigan (Mr. FORD).

Does the gentleman from Pennsylvania (Mr. GARY A. MYERS) desire to be heard?

Mr. THOMPSON. Mr. Chairman, may I be heard further?

The CHAIRMAN. The gentleman from New Jersey may proceed.

Mr. THOMPSON. Mr. Chairman, the amendment to the substitute is the language which appears in the amendment being offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) at this moment.

The CHAIRMAN. The Chair will be glad to hear from the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, my opinion is that this simply limits the provisions which the substitute would provide and that it does not affect the language of the substitute. On the contract, it expands upon it. It simply makes an addition to the substitute as a section of the bill.

The CHAIRMAN. The Chair is ready to rule.

The Chair would like to advise the gentleman from New Jersey (Mr. THOMPSON) that the Chair cannot rule on the consistency of the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the substitute amendment offered by the gentleman from Michigan (Mr. FORD).

Therefore, the Chair would have to state that the gentleman has not raised a proper point of order.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. GARY A. MYERS. I yield to the gentleman from Ohio.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. I raise this parliamentary inquiry for the purpose of making sure that the gentleman's amendment, should it be adopted, in no way alters the amendment of the gentleman from Michigan and myself.

I note that when he drafted the amendment to H.R. 8410, as it stood then, it was to page 17, line 15. Since then there have been amendments.

Mr. Chairman, it is my understanding that the gentleman's amendment would come after the amendment that I have pending, if it were to be adopted; is that correct?

The CHAIRMAN. The Chair will state that that is the Chair's understanding.

Mr. ASHBROOK. I thank the Chair.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes.

Mr. GARY A. MYERS. Mr. Chairman, this amendment simply gives the House an opportunity to accept the position that many of the labor lobbyists in support of this bill have said is their understanding of what would be provided.

First, a major concern was expressed that a last-minute blitz by a corporation or a company being organized would bring together their employees in a captive audience in such a way that the organizing effort would be precluded from answering any charges presented there.

Mr. Chairman, in order to prevent that from happening, this amendment simply would provide that the provision of this section of the bill would only take place in the last 7 days prior to an election, so that if a corporation did, in fact, have a meeting on their facilities within that 7-day period and make any charges, whatever they might be, this amendment assures the organizing effort the opportunity to have whatever the Board feels is equal access to the employees within that 7-day period.

Mr. Chairman, I think it is a fair provision and one which addresses the concern of those fearing a so-called last-minute blitz with erroneous material being presented.

Mr. Chairman, the second provision of the amendment is, again, putting before the House what a number of labor lobbyists have told me, and that is that it is not their intention to have the corporations pay money to employees to attend a meeting simply because they have done it on their own behalf. Their major objective is simply to be able to have the meeting and equal access to the men in the same way.

Mr. Chairman, they agreed with me—those who visited me—that it was not their interpretation of the bill that the people who attended the meeting would need to be paid by the corporation.

Again, Mr. Chairman, these are simply limitations, as I say, that are needed.

I do not think we should be requiring an individual, an entrepreneur, or a corporation to pay people to attend a meeting of an organization's efforts in opposition to them. I think this addresses the concerns many people, who might be organized, have about it. It seems to fit in well with the objectives of the bill.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, what really troubles me about this amendment is the first part of it which I will refer to as the 7-day rule. As I understand it, this would permit the employer to conduct anti-union campaigns without any time limit on company premises without any corresponding right on the part of union organizers. In other words, the union organizers would be entitled to equal access for only 7 days.

Mr. GARY A. MYERS. I am trying to address the concerns that the labor unions have told me that they have about the practice as it now stands. Their claims about the employer bringing the employees together in a captive way—if you can believe in that sort of a phrase—

brings them together at the 11th hour and presents them with some information which they do not have time to rebut.

It is my opinion that if we are going to run on the shaky ground of invading the privacy of individuals, their rights on their own property, that we should tighten it up.

Mr. RAILSBACK. May I just say, as I read this, that what could happen is you could have an employer, after a petition is filed, hold perhaps some 5 straight days of meetings without being required to give that equal access to the employees until that 7-day period began. I do not think that that is fair.

Mr. GARY A. MYERS. The assumption is that the remaining period of time is adequate for the organizers to have access to the employees.

What the labor unions have said to me is that they did not think, after this activity at the 11th hour took place, that they would be able to contact the employees. And I can see that in the last couple of days that to have a meeting could be difficult, for them to advise all employees of them individually. But I am admittedly trying to tighten this up, trying to provide a proper balance for the employees as well as the employer. I do not think there is anything unreasonable about that. I think that certainly it gives the House an opportunity to act in a more modified way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. THOMPSON Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, the gentleman from Pennsylvania (Mr. GARY A. MYERS), when he is talking about the 11th hour, has lost sight of the rule prohibiting activity within 24 hours by either the employer or the employee. So that is not really correct.

Mr. GARY A. MYERS. I have not lost sight of that, I have expanded it by 7 days in order to address the objections that the labor lobbyists who have visited my office said that they were most concerned about. I can understand that even within the last 24 hours, or if you go to 2 days, you can still have a difficult time, but to do it within a week's period of time you should be able to contact a significant number of individuals.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I am sure that the gentleman from New Jersey (Mr. THOMPSON) would want the record to be clear. The only rule prohibiting activity for the 24 hours preceding the election is the captive audience activity, not other activity that would relate to the election, but only the captive audience. I am sure the gentleman wants the record to be clear on that.

Mr. GARY A. MYERS. I thank the gentleman and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take the full 5 minutes.

In adopting the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) a few moments ago, we attempted, as I understood the will of the House expressed in that vote—and, very frankly, if I had been able to understand it more quickly and grasped it as quickly as the gentleman from Ohio is able to put these things together, I would have gladly accepted the amendment, and I have told the gentleman so.

But now the gentleman from Pennsylvania comes back with an amendment that applies only to representation elections and, notwithstanding the expected debate we are going to have later on, on the question of the time elements, pins the ability down to the last 7 days before a representation election. This would seem to take us back in the direction from which we came when the Ashbrook amendment was adopted.

For that reason I would oppose the amendment and at this point ask support for the adoption of my substitute.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I agree thoroughly with him. I just wanted to make the record clear with respect to the 24-hour rule. That has been the law since about 1960 in the Peerless Plywood case. It does restrict captive audiences by either side within the last 24 hours on the premises.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I would respond to my colleague that I do believe in consistency, and if I were to support the Myers amendment, I would want it to apply to all elections not just representation elections. The gentleman is correct. It only applies to representation elections and I think on that basis, and the House's will having been expressed only a few moments ago, this would run counter to that and should be rejected.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I would like the record to be clear. The gentleman stated that the Myers amendment would affect the Board in the last 7 days. That clearly is not true. What this does is the Board does not have to become involved in the last 7 days, so it is not a factor of becoming involved and making a decision. The rules would be promulgated so that this activity would be well known in the printed-out material that the gentleman spoke of earlier, and would be in the hands of the organizers and the employers, and they would know, if in fact something like this went on in the last 7 days, what their rights are.

Mr. FORD of Michigan. I realize that with a series of amendments these issues would sometimes get complicated. But I would remind the gentleman that what we are amending is that provision in the act that empowers and directs the Board to make rules and do certain things, and the gentleman is putting a limitation on the power of the Board that affects any period of time except the last 7 days before the election. That not only goes against the broadening effect of the Ashbrook amendment, but it even goes against my more narrowly construed and constructed amendment. Now that we have brought it out the way the gentleman from Ohio (Mr. ASHBROOK) suggested, it does not make sense to go back and concentrate all our efforts on a simple 7-day period before an election.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment to the amendment offered as a substitute for the amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS TO THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS to the amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK.

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization."

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order mainly because I have not seen the amendment. I would be pleased to reserve it until the gentleman has explained his amendment, if that would be helpful.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I think the gentleman from Michigan (Mr. FORD) probably in reading the amendment will clearly understand the intent. The intent here is simply to prohibit new rules which would require the employer to pay wages in support of an organizing effort which is being organized against him. In other words, the example to use is if an employer has a meeting and offers wages, to people attending, the employer would not be required to pay wages to employees while they attend a meeting which would be provided on the premises under the regulations, should this bill pass.

Here again I only say what the labor organizations said to me when they came to my office, which was that they had no intention to require small businessmen or larger businesses to pay wages while people attended the meetings which were provided under the equal

access provisions of an act. They agreed that the organizers as well as the employers do in fact spend funds during an organizing effort, and each one makes his priorities and allocations as to how he feels the funds are best spent. They seemed to agree if an employer decided spending funds for a meeting was his choice, and that that should not obligate him to spend money for employees to attend a meeting in opposition to the employer's position.

I think the amendment is clear and simple and relieves the financial burden on a number of small businesses in particular.

I think it happens to be the only rightful position the House could take with respect to what equal access means and what rights are and whether or not we invade the privacy of an employer.

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) insist on his point of order?

Mr. FORD of Michigan. I do not, Mr. Chairman. I withdraw my reservation of a point of order.

Mr. Chairman, I would rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, at first blush the gentleman's amendment would appear to prohibit the payment of compensation for an employee while he was being influenced by someone to join a union, but in fact what he does is put a limitation on the ability of the Board to write a rule to do that sort of thing. But the final language really invites a mischievous situation. It says, "Reimburse employees for such time used to obtain such information from such labor organizations." If we are thinking only in terms of a formal, organized call to a meeting, this seems to make sense, but if we are thinking about the time on the way to a restroom that an employee stops to take a look at the employer's propaganda and the union's propaganda on the bulletin board and someone has some hard feelings developing toward some of the employees at the time, we might really be asking for a new and somewhat mischievous class of unfair labor practice allegations that we just do not need.

The employer does not need what purports to be protection afforded to him by this amendment for at least two reasons, the first being that he is in complete control as to whether the premises will be used for this purpose or not and the manner in which they will be used. If he restricts his activity to leafleting and posters and that sort of thing and broadcasts, that is the limit on the union. If he chooses to hold meetings he, the employer, decides what the forum for the exchange of ideas will be in any instance where that exchange of ideas is going to take place on his premises. And, furthermore, we have a provision already in the principal section of the act that will remain intact if we go forward as we were before this amendment, that guarantees that no rule that the Board makes will allow interference with production in the plant, that they will not make a rule that says they have to let them have a meeting or hearing on company time or affect the production schedules while they are ongoing.

If the employer chooses to ask employees to stay after work for a meeting he calls to discuss the forthcoming election, then he need only afford to the union an opportunity to meet after work in the same hall or something comparable for the other side to present their case.

Therefore I must oppose the amendment because I think it is buying for us a whole lot of trouble in the future that employers would not appreciate us giving them.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, if I understand correctly, if an employer calls a meeting during working hours to tell the employees he does not want them to join the union and puts forth the reasons therefor and pays them during that time, if this amendment passes, that the union would not have the opportunity of having a meeting during working hours and talking to the men and having the employees paid. It seems to me it would be grossly unfair if the boss is going to have a meeting, and that has some implication of "you better attend" attached to it, and pays them while they are there, to tell the union on the other hand if they call a similar meeting it has to tell the employees, "If you come you will not get paid."

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I would like to ask the gentleman from Colorado if in fact he believes it would be unfair for the employer if we address the issue of on-time meetings while production is going on, does it go to that time after as well?

The provision goes to that time afterward as well. If this amendment is not adopted, if the employer offers a meeting during a period of time which is not paid time normally or offers to pay time and a half or straight time or anything for attendance there, he will have to pay them for the organizing effort to have the same meeting. In that situation, what I am trying to get at, recognizing the fact that the organizers do spend money in behalf of their organizing effort, then in all fairness the employer should be able to choose how he wants to spend his money as well. Most employers would not address the issue on productive time. They would offer a meeting afterward, if they choose to. Is that not a legitimate right they have?

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, that is not the way I understand the gentleman's amendment, because the gentleman's amendment would allow the employer to call a meeting of his employees with the implicit suggestion that, "You better attend," and offering to pay straight time or overtime, while denying the equal paid time to employees for the purpose of hearing arguments in favor of the union.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, if the gentleman does not support the amendment, the gentleman will have to go back and tell the small businessman, those particularly who are hit hard by this, that if they choose to have a meeting with their employees on times other than production time, he will have to pay them also for an organizing effort.

I do not think that is a fair position to put a businessman in.

I think the gentleman from Michigan mentioned that it is mischievous. I do not have any intention of my amendment being mischievous.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, I will have no difficulty at all going back home and maintaining my position.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, I thank the gentleman. I just wanted to be sure the gentleman understands that the implications of the amendment are not the way the gentlemen stated.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, it looks like everybody in this debate is looking for fairness and equity. I would say the amendment offered by the gentleman from Pennsylvania would give us that. If the gentleman from Colorado and the gentleman from Michigan want complete fairness, they should have offered an amendment that the union pay the wages of employees. Then it would be evenhanded.

Mr. ASHBROOK. Mr. Chairman, I think what the gentleman is saying, I said I would hope it would be even-Stephen, but it is about 60–40 and the advantage is still on the side of the union organizer, because they will still address a captive audience that the opponents are paying for.

I guess 60–40 or 40–60 is pretty close to even-Stephen. Maybe I should settle for that.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, it is putting a strain on our friendship, I know, but I just cannot stay silent while the gentleman continually attacks the competence of corporate management in this country by suggesting they are totally incapable of understanding simple language in the law on the protection of their proper interests. The gentleman continually talks about all corporations involved by this law are populated by bubbling idiots, that they cannot understand English.

Mr. ASHBROOK. Mr. Chairman, I will almost stipulate that. I will not withdraw that comment.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I would like to point out a situation which the gentleman addressed only peripherally. If we do not adopt this amendment, management can have a meeting on its premises after working hours, offer no incentive in the way of pay, and the unions will, therefore, be able to come on the premises and have a meeting, but offer to pay the people who come to the meeting. There is no prohibition to prevent that from happening; so if the unions can pay as an incentive to bring people into a meeting on the premises, why should not the corporation be able to pay without the necessity of having to pay for the other side?

We have to recognize that what we are talking about is equal access. Even if the management does not pay for the employees to come to a meeting, it is possible once the meeting is established for an organizing effort, it is possible to have a very high incentive pay by the organizing group.

Mr. ASHBROOK. I think the record should show the part of my remarks where I attribute the ignorance of corporate management in this country comes not from representational elections, but other elections in which many of us have an interest.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I would like to join with the gentleman from Ohio and the gentleman from Michigan (Mr. FORD) in that one need look only at the Dow Jones average to realize the corporate management has been very good.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment, as amended, offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The question was taken.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 408, noes 8, not voting 18, as follows:

[Roll No. 628]

AYES—408

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Selberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Trasler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOES—8

Burton, John
Burton, Phillip
Carr
Delums
Mann
Miller, Calif.
Myers, Gary
Roybal

NOT VOTING—18

Anderson, Ill.
Boggs
Burke, Fla.
Conyers
Dent
Forsythe
Giaimo
Howard
Johnson, Calif.
Leggett
Marlenee
Mikva
Rogers
Slack
Stokes
Teague
Whalen
Wolff

Mr. GARY A. MYERS changed his vote from "aye" to "no."

Mr. DIGGS changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. THOMPSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just having adopted the amendment we did, guaranteeing access by employers to the union halls, I think we have made this legislation infinitely more fair.

I do hope, Mr. Chairman, since time is running and I do not intend to try to suppress debate or free speech, that we can move along as quickly as possible from now on.

I do hope that the Members will be so kind as to pay careful attention to the committee and support the remainder of this really splendid bill.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following: "A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.".

The CHAIRMAN. The Chair would like to inquire whether the gentleman's amendment has been printed in the RECORD?

Mr. RAILSBACK. Yes, Mr. Chairman, it has.

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order against the amendment in that the amendment is wholly extraneous to the bill before us, H.R. 8410. The amendment deals with the authority of the board to make rules. Nothing in H.R. 8410 even remotely deals with such authority. H.R. 8410, in the area of rules, deals only with procedural rules in the narrow area of election campaigns.

The CHAIRMAN. Does the gentleman from Illinois (Mr. RAILSBACK) desire to be heard on the point of order?

Mr. RAILSBACK. Yes, Mr. Chairman, may I please be heard on the point of order?

The CHAIRMAN. The Chair will be delighted to hear the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I expect to be supportive of the legislation that we have before us. My feeling is that the legislation generally has a very valuable thrust and is certainly going to, in my opinion, improve employees' rights and maybe eliminate some abuses that have occurred.

Let me just say, though, that I express a concern which has been expressed by many Members on this floor. Once again, the Congress is giving very broad and expansive authority, under this particular bill, to the National Labor Relations Board to promulgate rules and regulations.

Section 3 of the bill, which begins at the top of page 17 and runs all the way to page 18, really contains a litany of rulemaking mandates which could have a great effect on labor relations. What my amendment could do is what has been done by this House on many occasions, it would provide for congressional review of rulemaking and provide that if one House disapproves, then that rule would not be valid.

I think there there is no question but what, under the bill, there are broad rulemaking grants of authority and I cannot imagine that it would be subject to a point of order.

Mr. THOMPSON. Does the gentleman agree that this applies only to representation elections?

Mr. RAILSBACK. What it is limited to, it says:

A rule or regulation issued by the board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, . . .

Mr. THOMPSON. I respectfully will say to the gentleman that I withdraw my point of order.

The CHAIRMAN. The gentleman from New Jersey withdraws his point of order.

The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, generally speaking, I share the concern expressed by the chairman that we do not want to draw this out at all. I think in addressing the point of order I have kind of given my reasons for wanting some kind of congressional review. I would to my friends on the other side of the aisle simply say this, if they are worrying about any kind of arbitrary disapproval by the Congress, it would certainly be up to their side to see that that legislative veto was adopted. In other words, they have complete control.

My real reason for offering this amendment is that we give such expansive authority to the National Labor Relations Board, it makes sense to me that that Board know that whatever they do by way of rulemaking or regulationmaking is going to have to come back to Congress for review. I might add that it is a very limited 30-day review. I would hope, Mr. Chairman, that we would adopt this amendment. I think that maybe it would take a big step in trying to alleviate the concerns of some of the Members of the House.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have generally and strongly supported the idea of congressional review of rulemaking, but the form of the gentleman's amendment gives us some difficulty because he is very specific about what happens in the instance of a rule promulgated after the beginning of a regular session of Congress and while Congress is in session, but it leaves us with a real question of what happens to a rule that is promulgated when we are not in session. Moreover, the time limitation that is involved here creates a situation where the rule might be promulgated and no real opportunity for its examination is afforded by the schedules of the Congress, the time in which it comes to us, and in fact we are unable to act. We then find ourselves in the position of, by not acting, being subject to the interpretation by the American public that we have approved the rule. The way the gentleman has structured the amendment, he exposes us to that. If there were any inclination on the part of a person writing rules to escape the intent of the gentleman's amendment, it would in effect not only prevent the Congress from acting but create at the same time the impression that our failure to act was tacit approval of the proposed rule. For that reason I suggest that it just is not going to work for the type of rules that we are talking about.

As I understood the exchange between the gentleman from Illinois and the gentleman from New Jersey a few moments ago, they both understand that the very narrow application of this amendment would be to rules promulgated under subsections 1 and 2 of this section of this bill, which relate entirely to representation elections and would not get to any of the other general rulemaking powers of the Department of Labor, which in fact is what perhaps the Members would like to do.

I am reluctant to oppose the amendment because the principle the gentleman seeks is one that I cannot in good conscience argue against. But the gentleman's amendment is, in my opinion, fatally defective because it would create a situation that will prove, in my opinion, to be an embarrassment to the House.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

May I just say that if the gentleman is saying that he is willing to offer an amendment that would be more encompassing than the amendment that I have offered here, I will offer, because of my respect for the gentleman, to withdraw mine. In other words, if the gentleman would put it in any form he likes and make it cover the entire bill, I will withdraw my amendment, and I will support the gentleman's amendment.

Mr. FORD of Michigan. I would not encourage the gentleman to withdraw his amendment on the assumption that we can come to an agreement on language, because we have wrestled with this in the committee without success. But I would assure him that I am most willing to take the time now to try to work something out with him, if he has some staff over there who can come up with a better idea than we have been able to come up with.

Mr. RAILSBACK. I wonder if the gentleman from Michigan would yield to permit me to withdraw my amendment under those circumstances.

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 18 strike all of line 6 down through line 9.

Page 18, strike "or (2)" on lines 11 and 12.

Page 18, line 20, strike all after the comma down through the comma on line 22.

And renumber all subsequent subparagraphs accordingly.

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order against the amendment. I will withhold while the gentleman explains his amendment. We do not have a copy of the amendment.

Mr. ERLENBORN. Let me assure the gentleman from Michigan that not only

did we furnish him with a copy of the amendment which is at the desk, but as I recall the majority required us to print all these amendments in advance to make them in order, and I assure the gentleman from Michigan this also was printed in the RECORD. And not only that, but also we furnished the gentleman with an index, and this is No. 4, as numbered on the index.

Mr. Chairman, this amendment would strike from the bill the mandate that the Board engage in rulemaking to establish what proper units are for bargaining purposes.

Mr. Chairman, the Board has had broad rulemaking authority during just about all the time that there has been a Board and, under that broad authority, the Board has had the authority to adopt rules to designate what would be the proper units for bargaining purposes. The Board has consistently rejected petitions filed for the purpose of asking them or encouraging them to adopt such rules.

Rules that establish ahead of time in all cases what proper units for bargaining purposes would be are just not proper and cannot be drawn by the Board. As a matter of fact in reporting this bill the majority has relied heavily on the testimony of former members of the Board, former Chairmen of the Board, and the current Chairman of the Board. I think with one exception they have been opposed to this provision or certainly have not openly supported this provision for unit rulemaking.

Former Chairman McCulloch has said that rulemaking was a "cumbersome process * * * that necessarily impedes the law's ability to respond quickly and accurately to changing industrial practices."

In a petition filed in 1971 before the Board asking for rulemaking involving units in colleges and universities the Board said this in ruling against that petition:

> The Board considers that the Petition properly points out that the Board's unit determinations in this area should take into account certain practices and organizational structures which do not parallel the traditional practices and organizational structures in private industry. The Board's information to date, however, suggests that there is also a great variety in this regard within the academic community, and also that the practices and structures in universities and colleges are undergoing a period of change and experimentation. The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adapting its approach to a highly pluralistic and fluid set of conditions. Accordingly, the Board shall deny the Petition.

This is applicable to every situation covered by the National Labor Relations Act. In addition, the rules would have to be applied to a specific factual situation. Without question, there would be disputes on the facts, as well as on whether the proper rules apply in unit determination.

Again, the Members should understand that the decision relative to unit decisions is not appealable. It is not appealable. The only way the employer if he should want to contest that decision is after the election. In other words, upon a certification of the union as a bargaining agent, the employer must reject the bargaining agent in the first instance and then go before the Board and contest whether the unit determination was proper. If he is unsatisfied with that, he then would have access to the courts.

I think it is obvious that putting in inflexible rules relative to bargaining units has been rejected by the Board and has been rejected for good reasons. The Board should retain the discretion to make a decision of this very important and very touchy situation.

So I would urge that we support this amendment, support the Board's position.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

The CHAIRMAN. Does the gentleman from Michigan withdraw the point of order?

Mr. FORD of Michigan. Mr. Chairman, I withdraw my point of order.

Mr. Chairman, if I understand the gentleman's amendment correctly, if I have the right one in my hand, if the gentleman will confirm it, this is the amendment to strike all the language on lines 6, 7, 8, and 9, on page 18.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, it does that. It is numbered 4.

Mr. FORD of Michigan. Is there anything beyond striking the language in the amendment?

Mr. ERLENBORN. If the gentleman will yield, there are conforming amendments on page 18, lines 11 and 12.

Mr. FORD of Michigan. Just renumbering the sections?

Mr. ERLENBORN. Yes.

Mr. FORD of Michigan. No substitute?

Mr. ERLENBORN. That is right.

Mr. FORD of Michigan. Mr. Chairman, the language that the gentleman seeks to strike is at the very heart of expediting the election process for determination as quickly as possible for all concerned, whether there is or not going to be a union bargaining unit for the employees of a given employer. This section is in the bill, as a matter of fact, at the request of members of the National Labor Relations Board, who point out that in the absence of their ability to write rules for those who recognize those clearly identifiable types of units once they go through the process they will be approved, anyhow, and what we end up with is the kind of unnecessary preliminary skirmish where, simply speaking to the construction of the unit that is to be represented, subjects the whole matter to a hearing by the Board before the Board can go to the next question of establishing a date and time for the next election.

It is not likely that the Board will be able to construct rules that would eliminate this kind of concern altogether, but it is likely that a very large number, I might say parenthetically that I believe this year there were over 40,000 cases brought to the National Labor Relations Board and by April of this year there were over 20,000 unresolved matters pending.

This is an attempt where everyone understands that you have a plant in a particular place and the description of the bargaining unit for that plant is everyone below the rank of foreman employed in that plant, they can go ahead and set the election without having a hearing over a question of what everyone knows before they go into the hearing.

It is absolutely essential if the expedited elections portion of this bill is to mean anything that we get rid of the frivolous redtape and jockeying for position that now rises as a temptation by permitting the Board to write some clearly understood rules for the types of units that there really is no serious argument about.

There is nothing in the language in the bill that prevents a challenge to the rule of the Board, because all of the rulings made by the Board remain subject to challenge. What it does prevent is this frivolous argument of whether all the employees in a particular plant be allowed to vote, or only those in certain departments, and so forth, where clearly under other provisions of the law the answer is a foregone conclusion.

For that reason I oppose the gentleman's amendment, and hope that it will not be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 18; noes 40.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:
>
> "(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I insist upon my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FORD of Michigan. Mr. Chairman, the amendment offered is to section 3 of the bill, which in its present form amends section 6 of the National Labor Relations Act, which is the rulemaking authority of that act. Under section 3, the Board is directed to make rules that: First, affect union actions during representation campaigns; second, define classes of representation cases; and third, schedules governing the holding of elections.

The amendment proposed effectively

changes section 8(c) of the National Labor Relations Act, not before us in this bill, which deals with unfair labor practices. As such, it is not directed at the limited subject and scope of this bill in dealing with rulemaking amendments, as H.R. 8410 directs.

It is not in keeping with the act, and the bill, which provides broad discretion to the Board in its rulemaking capacity. Rather, it restricts absolutely the nature and substance of the rule the Board is directed to make.

The amendment deals not only with organization campaign and representation cases, which is the subject matter of this bill, but with strikes, lockouts, and other labor disputes which are not within the parameters of H.R. 8410, or section 3 of the committee bill.

Mr. Chairman, the amendment is therefore nongermane.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard?

Mr. ASHBROOK. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. ASHBROOK. Mr. Chairman, on page 17 of the bill, starting with line 1 of this act, it says:

> The Board shall within 12 months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

And it goes on, as a matter of fact, on lines 3 through 15 in the subject matter we just dispensed with a few moments ago. We specifically dealt with the subject matter of both employers and employees attempting free speech, speaking to those employees, I think, going back again to page 16 and talking about making the regulations, referring to rules and regulations as may be necessary to carry out the provisions of this act.

Mr. Chairman, in the very preamble of this act it says:

> To amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

Mr. Chairman, I feel that this amendment, calling upon the Board to issue rules, in addition to the rules that are in H.R. 8410, is within the parameters of the debate and therefore the point of order should be overruled.

The CHAIRMAN. The Chair is ready to rule.

The Chair has carefully followed the remarks of both gentlemen. The Chair is of the opinion that the point of order made by the gentleman from Michigan (Mr. FORD) should be sustained.

The Chair would like to state that under section 3 of the committee bill that is now before the Committee it amends section 6 of the National Labor Relations Act and restates the existing authority of the NLRB to promulgate rules and regulations to carry out the provisions of the act, specifically including certain authority to make procedural rules governing elections and governing the period of initial stages of organizational activity. The section of the bill does not go to newly mandated directions to the Board to promulate regulations to implement section 8 of the act.

The amendment offered by the gentleman from Ohio (Mr. ASHBROOK), while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations, and the amendment would by its terms elevate those regulations to a position of substantive law, which regulations would conclusively pronounce what conduct shall or shall not constitute grounds for setting aside an election.

In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of whether conduct, for the first time, would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

Therefore, the point of order is sustained.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ERLENBORN: Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18.

Mr. ERLENBORN. Mr. Chairman, my amendment is in the record, and it is an amendment that strikes language from the bill.

Mr. Chairman, first, let me say that I respect the ruling of the Chair on the point of order that has just been made. But I think it is quite obvious that, under the application of the rules, we on this side now are not only prohibited from offering amendments to other sections of the act, other than those that are amended in the bill. Even those sections of the act that are amended in the bill now seem to be immune from amendment except in the way they were addressed by the committee bill. This may be an affirmation of the rule of germaneness, but it certainly does amount to a more strict application than has been the rule in other cases in the past.

This amendment I am offering cannot be subject to a point of order on germaneness because it merely strikes language from the act. I guess it is a mark of tactics on the other side that a point of order on each amendment is reserved and each one is attacked, if possible, to prohibit as much as possible the consideration by this body of amendments other than those that the majority wants to consider.

Mr. Chairman, this amendment will strike language from the bill that changes the standard for review of rulemaking. At the present time the standard of review is, if you will, the standard standard; it is the one that is applicable to review of other administrative decisions, and that is the substantial evidence test. Is there substantial evidence in the record to sustain the decision of the Board or the rule that the Board has adopted after the rulemaking procedure under the Administrative Procedures Act?

The language in the bill will make it almost impossible for a court, with this new standard, to overturn a rule of the Board.

We have to think of this in the context of the bill. The bill directs the Board to do rulemaking, something that the Board has refused to do in the past because they thought it was too cumbersome and unworkable.

The bill will stack the Board with two additional members. Although on the surface there is a political balance, there is no philosophical balance, because the Board will have two new labor-oriented members. It will only take four of the seven members, the two new members and two of the old members of the Board, to constitute a majority for rulemaking and other decisional purposes, and now whatever they do will not even be subject to ordinary review. We are really making this a captive Board—not really captive, but a loaded Board—making decisions that will be almost impossible to overturn in the courts.

What is the new standard, other than the substantial evidence test which has historically been the test for this agency and all others? The only grounds would be that the Board prejudicially violated the requirements of subchapter II of chapter 5 of title 5 of the United States Code. They would not have to just violate them; they would have to prejudicially violate the requirements.

Another ground would be that a rule or regulation of the Board is "arbitrary or capricious, contrary to a specific prohibition of this act, or of the Constitution."

So it is going to be almost impossible, with this new standard of review, to overturn any of the rulemaking of the Board.

This is not the only place in the act, by the way, where standards of review are going to be changed. Later in the act there is another provision that makes a change in the making of decisions by the Board on unfair labor practices, and so forth. This standard is applicable to rulemaking.

Mr. Chairman, I think this kind of provision amply justifies the type of editorials we have been seeing this week in newspapers across the country. Yesterday there was read into the RECORD an editorial from the Washington Post. I read into the RECORD a portion of an editorial of the Chicago Tribune. Today I call the Members' attention to the Washington Star editorial: "Tilting the Labor Law." I am not going to read this editorial, but I do encourage all the Members to read it, because it points out exactly what provisions such as this are doing—tilting the labor law so prounion that editorial writers across the country cannot stomach what is going on in this Chamber and are calling on the Congress to reject a bill that is as one-sided as this.

Mr. Chairman, I hope my amendment will be adopted.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like to call the attention of the Committee to the language of the legislation. The standards are very simple. The language says that one has to show it is arbitrary, and if it cannot be shown that a rule is arbitrary, then it is not arbitrary.

The language also states that one has

to show it is capricious, and if it is not shown to be capricious, it is not capricious. One has to show it is contrary to specific law, but if they cannot show that, the assumption is that it is not contrary to specific law.

One has to show it is unconstitutional, but if they cannot show that it is, it is presumed not to be unconstitutional, and the rule stands. That is all the legislation says.

I do not think that that is a great threshold which would create any trouble in overcoming because if we look at the history of the courts, words like "arbitrary and capricious" and "contrary" and "specific provisions of the law" are liberally interpreted to protect people against arbitrary and capricious actions by regulatory bodies.

Mr. Chairman, I think it is very clear, and insofar as the threshold is concerned, it is nothing new in the provisions of the law.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I think it is also worth noting that although the gentleman from Illinois (Mr. ERLENBORN) has stated that the two new members are going to be prounion members, the legislation, on page 15 and the top of page 16, specifically states as follows:

> No more than a simple majority of the members of the Board shall be members of the same political party.

Mr. Chairman, I think what the gentleman was doing was attacking things that are not in the bill because he cannot find enough within the bill to attack.

Mr. MILLER of California. I thank the gentleman.

I would also like to draw attention to the fact that regardless of the markup of the Board, the provisions put forth in this legislation prohibit them from being arbitrary and capricious or from working contrary to specific prohibitions of this act or of the Constitution.

Mr. Chairman, I suggest that everybody's rights are fully protected within the language as it is currently written in this legislation.

Mr. Chairman, I urge that we reject the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am going to yield to my friend, the gentleman from Illinois (Mr. ERLENBORN), but before I do, let me say that the gentleman pointed before to the editorial that was in the Washington Star. There are many similar editorials appearing across the country.

We have been told for quite some time now that when H.R. 77 went by the boards and H.R. 8410 replaced it we began dealing with a piece of legislation that was reasonable and fair and just and one that all reasonable men could agree with.

While that may or may not be debatable, I would say to my friends on the other side of the aisle, who I know to be reasonable people, that there reaches a point if we deny the right to judicial review that we begin to tilt the scales so far that it becomes no longer a question of a fair and reasonable bill in any manner, because if there is a basic right that the American people ought to have it is the right to go to the courts to review what is being done by the agencies that are governing them.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield at this point?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

Let me point out that in debating this amendment on the other side, there has been no indication that there was any evidence in the record that there is any problem with the present standard of review. I again reiterate that the present standard of review is the same standard that is applicable to other agencies in appealing their decisions.

Mr. Chairman, there is no reason for this change except to tilt the law in favor of the unions.

My colleague, the gentleman from New York (Mr. WEISS), says that there is a provision that the two new members must be from different parties, or that there should not, as the bill says, be more than a simple majority of four belonging to the same party. That is what it really says, "no more than a simple majority may belong to the same party," which means that we could have four Democrats, one Republican, on Liberal, and one Conservative; or let us leave the Republicans out altogether by having an Independent, a Liberal, and a Conservative as well as four Democrats.

Mr. Chairman, the question is not the political affiliation, as the gentleman indicates by his comment in saying that political affiliation obviously is the same as being pro or antiunion. That we know is not true. However, there is no reason, whether we are changing the numbers on the Board or appointing new members, to change the standard of review unless there has been some miscarriage of the law or some delay in operating under the present standards.

Mr. Chairman, there is not one bit of evidence in the record to indicate that there has been delay because of the present standard. Of course, we could even save more time if we would prohibit review altogether. Further, I imagine that if we had the kind of captive audience that some are looking forward to, some people might like to do that except that they might be going so far that they could not even get their side of the aisle to adopt that kind of provision.

Mr. Chairman, I hope that this provision, which is so obviously unfair, will not be supported on this side of the aisle either.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I wonder whether the gentleman from Illinois (Mr. ERLENBORN) will indicate whether or not it is not so that up to this point there has been a division between the Democratic and Republican parties on the basis of the simple majority between the two on the Board.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, yes, that has been historically the case, even though there has not been any requirement of the law that there be a political balance.

Mr. WEISS. That is right.

Mr. ERLENBORN. However, I am not concerned about political balance.

As a matter of fact, that obviously is not of concern to your side either because they adopted that amendment. It was only one of two that was adopted since the bill was introduced. So you are not worried about political ballots and neither am I. What I am concerned about are philosophical ballots. It makes no difference at all as to how a man registers with his state election agency, or as to which primary ballot he uses. That does not show a philosophical predilection when it comes to being in favor of or overly in favor of the labor movement, or whether he is prounion or antiunion. Politics simply have nothing to do with that at all.

Mr. WEISS. Mr. Chairman, is the gentleman stating that it has been his conclusion that the board members have been unduly partial and prounion? Is that what the gentleman is saying?

Mr. ERLENBORN. Obviously the gentleman is not listening or the gentleman would not ask that question, because I have not made that charge. What I am saying is that the opportunity is there.

Mr. WEISS. The answer is "No" then?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The CHAIRMAN. The Chairman would first inquire of the gentleman from Michigan (Mr. FORD) whether the gentleman has withdrawn his point of order?

Mr. FORD of Michigan. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Chairman, with all due respect to the very enlightening philosophical discussion to which we have just been treated, what is at stake here is a request by the gentleman from Illinois (Mr. ERLENBORN) to strike from the bill a very simple legal test on how you get into court in the event that you, for whatever reason, believe that a ruling by the National Labor Relations Board is not to your liking.

What the bill says is that all of the rulings made by the Board are judicially reviewable. But when you go to court you must allege that the Board prejudicially violated one of your rights under the Administrative Procedures Act, the whole array of administrative fairness that is protected by that act; or that the ruling that you got was arbitrary or that it was capricious, or that it is not in conformity with the law or that it is unconstitutional.

I would like to know if there is any lawyer in this body who can explain to me why anybody who cannot allege one

of these things has any business to take up the time of the courts?

The mischief that we are trying to get at is that a very small number of people in this country have chosen to subvert the process of constitutional due process by using it in the overcrowded Federal court system as a way to delay the inevitable.

So what would be the case in the event the gentleman's amendment was adopted? It would be, I suppose, the ability to argue before the court that a motion for summary judgment goes to a fact that the pleadings did not allege any one of these factors as a basis of fact, that the Board's decision could not be upheld by the court, because we would have said that this is not the test, this is not, in fact, the test that the courts would apply. Moreover, there are recent decisions that, since the intent and purpose of this legislation is to broaden the discretionary rulemaking power of the National Labor Relations Board in order to facilitate quicker disposition of these matters, that the court would take into account, in interpreting the provisions of this act, that the gentleman's amendment would most directly affect in the broadest form, which is to sustain the action of the Board.

So the question of whether a person is prolabor or against labor, or is a liberal, or not, is all nonsense, because the real question is what they decide on as a basis they had for a decision, and what a Federal judge decides when it comes before him, at least on the pleadings that are presented to him.

All we say is if you do not have a case, you simply cannot run down to the Federal court and pay a filing fee and throw the matter into the terribly overcrowded hopper of the Federal courthouse, and then have it sit there for 5 years while waiting for it to come to trial, while everyone who is affected by that, awaiting that progress day by day, is damaged, not by the ultimate outcome, because they win, but damaged, because it takes so long to get to the final outcome.

The effect of the gentleman's amendment would be really, in my opinion, Mr. Chairman, to grant the impression to the courts that we did not want them to examine people coming to the courts to determine whether or not they are coming with a legitimate matter of concern and controversy, or they are coming frivolously, using the availability of an appeal process for the sole purpose of delaying the final outcome of the dispute.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Let me just ask this one question: Since the gentleman indicates that the criteria set forth under the bill are adequate to get anybody into court at any time they properly should be in court, let me ask the gentleman if, under the criteria currently in the bill, the Board applies a rule improperly, if there is just simply an improper application of the rule, does the gentleman contend that under this language a party would have a right to appeal judicially?

Mr. FORD of Michigan. We are talking about the promulgation of rules here.

Mr. EDWARDS of Oklahoma. No; we are talking about the right to judicial review.

Mr. FORD of Michigan. The question is on the promulgation of a rule. That is what we are talking about on review, and our language goes to the condition or status of the rule itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. ASHBROOK. The amendment was printed in the RECORD on Monday.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: Page 19, line 1, strike all after the comma on line 1 through line 5, and insert in lieu thereof the following: "may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, it should not take 5 minutes to explain this amendment. I would say with somewhat of an apology to my friend, the gentleman from Illinois, it seems as though he gets the hard one and I get the easy one on this section. I do not know how anybody could vote this one down. His, although it was appropriate, was difficult to understand, and probably we could not prevail. But what we are talking about is if we are not going to strike that provision, at least strike in a rifle shot the single provision that requires an aggrieved party to come to the District of Columbia for an appeal on these rules on timeliness. If one lives in Colorado or Idaho or elsewhere throughout the country, by what stretch of the imagination are we requiring his constituents to file their appeal before the Court of Appeals only—I underscore "only"—in the District of Columbia? H.R. 8410 says, and I quote:

> . . . may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals for the District of Columbia Circuit. . . .

If you can argue back home, if you can go back home to New Mexico or Maine or Colorado or Idaho and stand up and say, "I have included in H.R. 8410 a provision that says you only can appeal in these limited rulemaking areas in Washington; pack up and go to Washington; there is only one forum for your appeal"—if you can justify that back home, then I would suggest you vote down my amendment. More than that because I concede this is of very limited interest, we have the more important concern of establishing a dangerous precedent in appeal of rulemaking cases.

My amendment in no way restricts any of the other provisions of this section of H.R. 8410. Nowhere does it restrict any of the procedures that we have discussed in the previous amendment. It only relates to where the rules can be reviewed, and I am saying they should be reviewed in any court of appeals in any district where the petitioner resides. If the Members will note at the end of my amendment it says: "Or the District of Columbia. * * *" It does not say "only." It says in the court of appeals where the petitioner resides or in the District of Columbia. I see no reason whatsoever for requiring every petitioner everywhere in the country to file his petition only in the Court of Appeals for the District of Columbia. It is a dangerous precedent.

Mr. Chairman, I yield back the remainder of my time.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if we were talking about the general question of the rights of parties to do judge shopping and forum shopping, which we know now occurs, some of what the gentleman says has a great attraction particularly to the lawyers. It certainly would spread the action around. But what we are talking about is judicial proceedings to review the rulemaking authority of the National Labor Relations Board. That is not scattered around the country and it is not situated in Colorado, which I think he used as an example. It is situated in Washington, D.C.

When one of these cases comes to the court, I might suggest to the gentleman as a great fiscal conservative, I think we ought to have an economic impact statement as to what it would cost to transport the proceedings and witnesses and records to Colorado and back. All of the people who would be appearing before the Board and all of the records are here in Washington. They are not elsewhere around the country.

Do not confuse this with the court of appeals actions that are now taken by a party with respect to other actions in the NLRB, which are permissible at the present time in a court where they can show that the circuit had jurisdiction because of the situs of the company, the citizenship of the company, or they can still come back here to Washington.

As a matter of fact, if one thinks the present law is not generous, I suggest what can be done is to read the litany in some of the cases about how many courts and how many different places the same company has been in. They already have virtually unlimited right to go forum shopping in that area.

Finally, Mr. Chairman, the whole purpose of the NLRB and the whole purpose of dealing as we are dealing here so specifically with the power of the NLRB to make rules that apply with equal force in all of the 50 States, is that there should be one set of rules, one predictable way that we resolve a conflict between labor and management with a

minimum of acrimony and delay, and that is all we are seeking to do.

If we permit parties feeling themselves aggrieved to go forum shopping in all 10 of the major circuits of this country, we might find ourselves with a situation where the rule in one part of the country is that the rule is good and that the rule in another part of the country is that the rule is bad, and someplace in the future where somebody with the money to do so gets to the U.S. Supreme Court, then we will have one labor relations law, but until then we will have a different interpretation in each of the 10 different circuits in the country, and certainly we do not want to expose ourselves to that possibility.

Therefore I must oppose the amendment offered by the gentleman.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, I just want to make sure that in this limitation to appeal to the court of appeals in the District of Columbia we are talking strictly and only about the rules promulgated by the National Labor Relations Board, is that correct, and not to individual cases?

Mr. FORD of Michigan. Yes. The gentleman is amending the part of this bill that deals in its entirety—and we have had points of order argued on the floor that clearly define how narrow this portion of the bill is, and what we are dealing with is the Board in its rulemaking capacity and not in the broader sense.

Mr. ALLEN. It has nothing to do with disputes that might arise all over the United States between management and labor?

Mr. FORD of Michigan. No. If one is looking for a ruling on a company in Georgia, he goes to his local judge and gets a decision.

Mr. ALLEN. I thank the gentleman.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, what is the applicability to other Federal agencies who issue rules, the Federal Trade Commission, the Securities and Exchange Commission? Are they bound by the limited jurisdiction of the District of Columbia Circuit Court or is this the first agency that is so bound, because I think all Federal agencies should be treated the same way.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the specific answer to the question of the gentleman from Kansas, I would say that the Barlow case coming up this year relates to an OSHA case in Idaho where across-the-board rules are challenged. I know of no other case that you can challenge a rule in the District of Columbia.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I am afraid we have here again an inability on the part of the gentleman from Michigan to read the amendment. Possibly the gentleman did not have time. The gentleman is talking about forum shopping as though the parties could go anywhere they wanted in the United States and choose the court of their appeal.

I would call to the attention of the Members the language of the amendment before us. It says that the appeal may be filed where the petitioner resides or has its principal office or the District of Columbia. There are only two places that are authorized under this amendment. It is where the petitioner or the aggrieved party resides or the District of Columbia.

Talking about forum shopping, it is the drafters of this bill, those folks down there at the AFL–CIO who have gone forum shopping and they found that they like the District of Columbia Appellate Court. Talk about forum shopping, they are telling your constituents they cannot have their cases heard in their own area. They have to have their cases heard here in the District of Columbia. Now, that is forum shopping to a fare-thee-well.

Let the AFL–CIO dictate to your constituents that if they live in Colorado they must come here to the District to contest a rule that affects them.

MR. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just say, I thought the question asked by the gentleman on the other side of the aisle was extremely relevant and apt. I wonder whether we are being asked to treat the rulemaking by the NLRB in a different fashion than we treat rulemaking under other laws that grant rulemaking authority. If so, I am inclined to think we should not so limit it.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for bringing that up. I think the flip answer of the gentleman from Michigan was not an adequate response to the gentleman from Kansas.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, in the second place, let me say in answer to the gentlemen from Michigan making it sound that rules are not that important, rules are the whole ball game. Just an hour ago we voted on a section of this bill that requires the Board to promulgate rules that relate to access. Now, if somebody wants to review those, they are going to affect virtually every union, every employee, every employer throughout the country. Are we going to say that is not important, that you have to pack up, come into the District of Columbia? It runs contrary to the gentleman's previous argument when the gentleman said we want them to issue rules that the little businessman can understand, rules that will be clear, that you do not have to go see a lawyer.

Now they not only have to get a lawyer, they have to get a Washington lawyer if this passes.

So to say that rules are not important, rules are the whole ball game by which unions, employers and employees play the game. To say the rules are insignificant and not important and, therefore, they have to come to the District of Columbia overlooks the basic thrust of this legislation.

Mr. ERLENBORN. Mr. Chairman, the gentleman raises an important point about our constituents having to hire Washington lawyers. Knowing how many of us are lawyers and how many, when we retire, stay in the District of Columbia to practice law, maybe we have some reason to have our constituents come here when we represent them in these cases.

I think that it is hardly sufficient reason to support this provision in the bill.

I would say this. The Board has offices throughout the United States. It is no big imposition on them to go where your constituent resides to have the case heard. I think if we are going to inconvenience the bureaucrats, let us inconvenience the lawyers for the Board. Let us not inconvenience your constituents and mine.

Mr. Chairman, I hope the amendment will be adopted.

Mr. BLOUIN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, this question of inconvenience is quite interesting. That presupposes that the only persons interested in the rule are one corporation from some remote part of the country, and the Board that is hearing it. When the Board is promulgating rules, and they have been published, people will be coming into one central place to testify before that Board and influence the outcome of their decision from throughout the United States.

Now, if a large number of people on the west coast and in the Northwest have a particular interest in the rule, and they can shop around and go down and appeal the matter in the Southeastern United States, whom are we inconveniencing? It is not the bureaucrats hauling the records to the court; it is the people coming from throughout the country.

The fact of the matter is that the situs of the rulemaking activity is here. It should be borne in mind that under the present rules, without the gentleman's amendment, a company can go to the circuit court of appeals where it resides, where they sit now, and question the rule. So, they are not stuck with just the court here in Washington. They have the power now to go. But, that is as far as they can go. They cannot go running all over the country looking for the best

place to get their answers, and use the pendency of these appeals to delay them.

What is at the bottom of all of this is the fact that, as the gentleman from Illinois (Mr. ERLENBORN) quite honestly puts it, the question of whether or not they are going to be able to keep poor people waiting for courts to unscramble procedural problems for years when they are not on the payroll and do not have a way to support their families. Let us not forget what we are legislating here. We are not legislating for the lawyers. I hope that was not an announcement by the gentleman from Illinois of his future plans, because I enjoy his company on the committee so much, and also I think he would be a terribly formidable Washington lawyer to deal with. But, even our friends practicing here in Washington have to have something. I know that none of the lawyer friends of mine in Michigan are going hungry.

But, there are an awful lot of workers going hungry because they have been out of work while the courts, in their wisdom, argue for years about whether they are in court.

Mr. BLOUIN. I think the gentleman states the case very well. Our friend from Ohio said that rules are the whole ball game. I agree with him completely. When we play the ball game, the rules ought to be the same no matter where we are in the country. The rules ought to be uniformly interpreted.

We have to realize, as the gentleman from Kansas I think is trying to get at, that we are dealing with one of the very few agencies in Government today that really serves as a referee between two competing parties. If that agency is going to operate properly, there has to be one person, one unit, interpreting consistently and uniformly the rules and regulations of that agency. If we end up with the conceivable situation of 10 different Federal courts interpreting a rule 10 different ways, we are going to defeat the purpose of the very section of the bill that we are trying to establish.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I just do not happen to agree. The Securities and Exchange Commission and the Federal Trade Commission, issue rules every day which are judicial in orientation. Nobody has answered my question yet; are there other Federal agencies whose rules are treated as they are in this bill? Do they have to go to one specific circuit court for interpretation? I want to know if we are treating this agency differently.

Mr. BLOUIN. We have differing opinions on that—we will try to get the gentleman an answer before the final vote. It is my understanding that there are some other Federal agencies that have this kind of approach, but even if there are not, I do not think we should create legislation on the basis of what we have done to other agencies. We ought to deal with them as they come up. If uniformity is the basis of this, and I think it is, I think we ought to do what we can in this act and move on from there.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. In one instance about which I feel quite sure, under certain sections of the Voting Rights Act, the precedent is established that they come to this District, to the Circuit Court in the District of Columbia.

Mr. BLOUIN. I thank the gentleman. I think I have a final point, Mr. Chairman.

Unlike the impression that is being left, we are not dealing with every case that comes before the NLRB. We are dealing with rules and regulations and their promulgation only.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. ERTEL and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Has anyone determined what the impact of this would be on the Court of Appeals for the District of Columbia? We are going to have all of the appeals going to that court. Are we going to be faced with the fact that we will have a backlog in that court, and we will not be able to get decisions?

Mr. BLOUIN. It is my understanding that the District is in line for two new judges so that they would be able to handle any case load increase that would come.

I will have to yield to the floor manager for further clarification of that, if the gentleman would desire that.

Mr. ERTEL. I would like to accept the answer that was informally given on the floor. But I have one other question. Is it not true that the court of appeals obtains a variety of opinions from across the Nation, and one of the reasons we have cases on appeal to the U.S. Supreme Court is because we have conflicts in the opinions of the courts of appeals? That is why we have the Supreme Court, to iron out the differences. It seems to me it is logical to have the Supreme Court make these decisions.

Mr. BLOUIN. Would it not be a lot quicker and simpler to have a disagreement with one district court and go right to the Supreme Court, rather than having to wait for decisions from 10 different courts?

Mr. ERTEL. The only difficulty with that is that you may not get a decision.

Mr. BLOUIN. If they turn that down, they would turn down a ruling from any bench.

Mr. ERTEL. One of the reasons to get a ruling from the court of appeals is that if there is a conflict in two circuits, there will be a final decision from the Supreme Court.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. We are dealing with that agency of the Federal Government that is charged with the responsibility of establishing Federal labor law policy.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. FORD of Michigan and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. If the gentleman will yield further, there may be a situation where you can find, out of 10 circuits, 1 circuit that, for whatever reason, does not like the makeup of the present Board, or the present chairman, or whatever, and waits for the chance to give them a kick in the pants whenever they can. You can be sure, the inconvenience to the contrary notwithstanding, that is where they will end up. If there happens to be a court in San Diego and that is the best place to take a crack with the new rules of the Board, that is where you will have the decision. That does not make any sense. I take it that the underlying suspicion is that Federal judges are different, although they are appointed by the same President, when they sit in one part of the country or the other. That may or may not be true.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am hoping to vote in favor of this, but I am confused by what the gentleman has said. The gentleman said earlier, if I understood correctly, that, as matters stand now, the company may either go to the district court in its place of citizenship or where it is located, or it may come to Washington.

Mr. FORD of Michigan. Right.

Mrs. FENWICK. It seems to me that we are removing only the phrase "Only in the District of Columbia." It would not change existing law. Where does all of this shopping around come in?

Mr. FORD of Michigan. I see the gentleman is smiling. I am sure he can explain it to the gentlewoman. The fact is we narrow it to jurisdiction in the district court only for rules and regulations, not to any dispute with the NLRB. All of the courts in the country are going to deal with those as they do now.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, before I yield to my friend, the gentleman from Ohio (Mr. ASHBROOK), I would first like to make one slightly political observation, because whenever we vote on labor legislation in this Chamber Members always seem to look at the political ramifications of what we are doing.

I would like to remind my friends in the majority that if they vote to say that those people who are in the business community in their districts are going to

have to foot the cost of coming to Washington, D.C., from California, from Michigan, from Iowa, and from Tennessee for this purpose, then those constitutents certainly have every right to remember that. I think this is an area where we are imposing a level of unreasonableness and I think it will come back to hurt some Members politically.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would simply like to say in response to my friend, the gentleman from Kansas (Mr. GLICKMAN), that the gentleman from Iowa (Mr. BLOUIN) promised, before we have a vote, that an answer would be forthcoming to the question the gentleman from Kansas propounded. The only answer that was given was a response by my friend, the gentleman from New Jersey (Mr. THOMPSON), who referred not to an agency but referred to the Voting Rights Act.

I would point out that OSHA, for example, which is one of the last major comprehensive labor laws enacted by this body, has in its provisions the provision that rules and standards are reviewable in any circuit court. Let me repeat that. Those rules and standards are reviewable in any circuit court.

So in answer to the gentleman from Kansas (Mr. GLICKMAN), I would say it is rather strange that in this particular area we are saying there is only this one review of these rules, narrow as they may be, and restricted to timeliness. And in this respect, the gentleman from Tennessee (Mr. ALLEN) was correct. We are not talking about unfair labor practices; we are talking about rules. To say that only in this area are we going to make them come to Washington does not make sense.

They do need more judges here, and as I understand it, there are two more court of appeals judges in the bill before us but as I understand it, there is a considerable backlog right now.

I do not think our constituents, be they unions, employees, or employers, should be told that "the Delphian oracle" is only in the District of Columbia. Never mind your own district court of appeals. Only in Washington can you ask for a review of rulemaking in this particular area.

So I think I should point out again that the answer to the question of the gentleman from Kansas (Mr. GLICKMAN) was not forthcoming. If any Member can name another area in labor law or pertaining to an agency where they do not have the right to challenge that in their districts, I think that should be put in the RECORD, because obviously we are going to be voting on this amendment very soon.

Moreover, this would be a precedent. A year from now when some other Member would ask a question similar to that propounded by the gentleman from Kansas, there would be a precedent. We do not need a limiting precedent like this to be expanded to other rulemaking bodies. Now is the time to stop this trend before it does become a precedent. The rulemaking here relates only to a small area but the precedent would be serious.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I agree with the gentleman from Ohio (Mr. ASHBROOK). I do believe this is an area where we have the potential, without doing great harm to what the majority is trying to do with this bill, to accept an amendment that will be very beneficial.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, some of us have been listening to the debate, and we thought it might be appropriate to draft an alternative amendment that might solve the problems of the gentleman from Michigan (Mr. FORD) and other Members on the other side. That would provide that the AFL–CIO will have to approve all judges sitting on labor cases in anyplace in the country.

Do the Members think that might solve the problem?

Mr. EDWARDS of Oklahoma. I would not advise that the amendment be offered. I am sure the majority would support it.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I am sure that would not be in order under the rule.

Mr. EDWARDS of Oklahoma. Probably not.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to my fellow Michiganite, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman from Ohio (Mr. ASHBROOK) will take out his copy of the bill and read through it with me, I think that might be helpful, because perhaps we have been having this agency dance on the head of a pin for nothing. As I read it, what we are talking about is where we go in the event the rule is not promulgated within the time prescribed by the law.

Turning to the bottom of page 18, the first full sentence on line 18 reads as follows:

> The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals . . .

The gentleman's amendment simply changes that language, and it is much ado about nothing. The only thing we are talking about as far as reviewing is concerned here is a situation where somebody wants a rule made and they do not act in a timely fashion, so they go over to the U.S. Circuit Court of Appeals for the District of Columbia and they say they want them to get busy on this rule.

It does not have anything to do with the substance of the rule at all, and I apologize to the gentleman because I do not think that either he or I have been talking about what his amendment really does.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, do I understand that, in essence, any issue relating to the substance of the rules and regulations, such as arbitrariness and capriciousness, still can be appealed to any Circuit Court of the United States and that the only issue we are talking about with respect to its being restricted to the District of Columbia Circuit Court is the issue of time?

Mr. FORD of Michigan. It would be any circuit court that otherwise would have jurisdiction because of the residen e of the party or something else of that nature.

Mr. PANETTA. I understand.

Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 30, nays 39.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 174, not voting 14, as follows:

[Roll No. 629]

AYES—246

Abdnor	Butler	Erlenborn
Alexander	Byron	Ertel
Ambro	Caputo	Evans, Del.
Ammerman	Carter	Evans, Ga.
Andrews, N.C.	Cavanaugh	Evans, Ind.
Andrews, N. Dak.	Cederberg	Fenwick
	Chappell	Findley
Applegate	Clausen, Don H.	Fish
Archer	Clawson, Del	Fithian
Armstrong	Cleveland	Flippo
Ashbrook	Cochran	Flowers
Ashley	Cohen	Flynt
Badham	Coleman	Fountain
Bafalis	Collins, Tex.	Fowler
Barnard	Conable	Frenzel
Baucus	Conte	Frey
Bauman	Corcoran	Fuqua
Beard, Tenn.	Cornwell	Gammage
Bedell	Coughlin	Gephardt
Benjamin	Crane	Gibbons
Bennett	Cunningham	Gilman
Bevill	Daniel, Dan	Glickman
Boland	Daniel, R. W.	Goldwater
Bowen	de la Garza	Gonzalez
Breaux	Derrick	Goodling
Breckinridge	Derwinski	Gradison
Brinkley	Devine	Grassley
Brooks	Dickinson	Gudger
Broomfield	Dornan	Guyer
Brown, Mich.	Duncan, Oreg.	Hagedorn
Brown, Ohio	Duncan, Tenn.	Hall
Broyhill	Edwards, Ala.	Hamilton
Buchanan	Edwards, Okla.	Hammer-schmidt
Burgener	Emery	Hanley
Burleson, Tex.	English	Hansen
Burlison, Mo.		

Harsha	Mann	Sebelius
Heckler	Marks	Shuster
Hefner	Marriott	Sikes
Hightower	Martin	Sisk
Hillis	Mathis	Skelton
Holt	Mazzoli	Skubitz
Horton	Michel	Slack
Hyde	Milford	Smith, Nebr.
Ichord	Miller, Ohio	Snyder
Ireland	Mitchell, N.Y.	Spence
Jeffords	Montgomery	Stangeland
Jenkins	Moore	Stanton
Jenrette	Moorhead, Calif.	Steed
Johnson, Colo.	Murphy, Pa.	Steers
Jones, N.C.	Myers, Gary	Steiger
Jones, Okla.	Myers, John	Stockman
Jordan	Neal	Stump
Kasten	Nichols	Symms
Kastenmeier	O'Brien	Taylor
Kazen	Pettis	Thone
Kelly	Pickle	Thornton
Kemp	Pike	Treen
Ketchum	Poage	Trible
Keys	Pressler	Van Deerlin
Kindness	Preyer	Vander Jagt
Kostmayer	Pritchard	Waggonner
Krebs	Quayle	Walgren
LaFalce	Quie	Walker
Lagomarsino	Quillen	Walsh
Latta	Railsback	Wampler
Leach	Regula	Watkins
Lent	Rhodes	White
Livingston	Rinaldo	Whitehurst
Lloyd, Calif.	Risenhoover	Whitley
Lloyd, Tenn.	Roberts	Whitten
Long, Md.	Robinson	Wiggins
Lott	Rogers	Wilson, Bob
Lujan	Rose	Wilson, Tex.
McClory	Rousselot	Winn
McCloskey	Rudd	Wirth
McDade	Runnels	Wydler
McDonald	Ruppe	Wylie
McEwen	Santini	Young, Alaska
McHugh	Sarasin	Young, Fla.
McKay	Satterfield	Young, Tex.
McKinney	Sawyer	Zeferetti
Madigan	Schulze	
Mahon		

NOES—174

Addabbo	Fascell	Moss
Akaka	Fisher	Mottl
Allen	Flood	Murphy, Ill.
Anderson, Calif.	Florio	Murphy, N.Y.
	Foley	Murtha
Annunzio	Ford, Mich.	Myers, Michael
Aspin	Ford, Tenn.	Natcher
AuCoin	Fraser	Nedzi
Badillo	Gaydos	Nix
Baldus	Ginn	Nolan
Beard, R.I.	Gore	Nowak
Bellenson	Hannaford	Oakar
Biaggi	Harkin	Oberstar
Bingham	Harrington	Obey
Blanchard	Harris	Ottinger
Blouin	Hawkins	Panetta
Boggs	Heftel	Patten
Bolling	Holland	Patterson
Bonior	Hollenbeck	Pattison
Bonker	Holtzman	Pease
Brademas	Hubbard	Pepper
Brodhead	Huckaby	Perkins
Brown, Calif.	Hughes	Price
Burke, Calif.	Jacobs	Pursell
Burke, Mass.	Jones, Tenn.	Rahall
Burton, John	Kildee	Rangel
Burton, Phillip	Koch	Reuss
Carney	Krueger	Richmond
Carr	Le Fante	Rodino
Chisholm	Lederer	Roe
Clay	Leggett	Roncalio
Collins, Ill.	Lehman	Rooney
Conyers	Levitas	Rosenthal
Corman	Long, La.	Rostenkowski
Cornell	Luken	Roybal
Cotter	Lundine	Russo
D'Amours	McCormack	Ryan
Danielson	McFall	Scheuer
Davis	Maguire	Schroeder
Delaney	Markey	Seiberling
Dellums	Mattox	Sharp
Dicks	Meeds	Shipley
Diggs	Metcalfe	Simon
Dingell	Meyner	Smith, Iowa
Dodd	Mikulski	Solarz
Downey	Mikva	Spellman
Drinan	Miller, Calif.	St Germain
Early	Mineta	Staggers
Eckhardt	Minish	Stark
Edwards, Calif.	Mitchell, Md.	Stratton
Eilberg	Moffett	Studds
Evans, Colo.	Mollohan	Thompson
Fary	Moorhead, Pa.	Traxler
Tsongas	Volkmer	Yates
Tucker	Waxman	Yatron
Udall	Weaver	Young, Mo.
Ullman	Weiss	Zablocki
Vanik	Wilson, C. H.	
Vento	Wright	

NOT VOTING—14

Anderson, Ill.	Giaimo	Stokes
Burke, Fla.	Howard	Teague
Dent	Johnson, Calif.	Whalen
Edgar	Marlenee	Wolff
Forsythe	Moakley	

Messrs. BROOKS, KOSTMAYER, and BUTLER changed their vote from "no" to "aye."

Messrs. RICHMOND and SIMON changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. EDWARDS of Oklahoma: Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

Mr. EDWARDS of Oklahoma. Mr. Chairman, I respectfully look to my colleague, the gentleman from New Jersey (Mr. THOMPSON) in the hope that the gentleman will rise in support of my amendment, which I know is consistent with the gentleman's understanding of fair judicial review.

Now that we have turned the tide and the steamroller is rolling on our side, as the gentleman will acknowledge.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield on that point?

Mr. EDWARDS of Oklahoma. On that one point, I will be glad to yield.

Mr. THOMPSON. Mr. Chairman, I readily concede that the steamroller is rolling in the gentleman's direction; but may I caution the gentleman to get out of the way before it rolls over the gentleman, because the gentleman from Oklahoma is a very nice fellow.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman from New Jersey.

Mr. Chairman, during the debate earlier we were talking about the right of judicial review. I made the point at that time that the language in the bill limits the right of judicial review to matters that are arbitrary or capricious and that we have omitted one area that should be open to judicial review. In its present form section 6(b)(3) of the bill would permit a reviewing court to consider only whether a rule promulgated by the Board is arbitrary, capricious or contrary to a specific prohibition of the act, but not whether the rule had been applied properly by the Board in the particular case before the court.

Mr. Chairman, all this amendment would do is correct this deficiency to insure that an affected party would be entitled to a court review of whether or not the Board has misapplied the rule.

I think it is an eminently fair and reasonable amendment and I hope my colleague, the gentleman from New Jersey (Mr. THOMPSON), will rise in support.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment. Whenever possible, I like to agree with my distinguished friend from Oklahoma, but in this case the gentleman has gone a little too far and essentially this is a bit of mischievousness.

It unnecessarily extends the normal scope of judicial review, the normal tests of judicial review, and those that are stated in the bill. The gentleman would extend them unnecessarily, and indeed mischievously. I therefore rather strongly urge that this amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. EDWARDS).

The question was taken; and on a division (demanded by Mr. EDWARDS of Oklahoma) there were—ayes 33; noes 55.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the gentleman's amendment printed in the RECORD?

Mr. ASHBROOK. It was printed in the RECORD on Monday, Mr. Chairman.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: Page 19, after line 5, insert the following new paragraph (c):
>
> "(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. THOMPSON. Mr. Chairman, the amendment offered by my colleague and friend from Ohio (Mr. ASHBROOK), although in some ways meritorious, is offerred to section 3 of the bill which amends section 6 of the National Labor Relations Act, the rulemaking authority. Under section 3, the Board is directed to make rules, first, that assure equal access during representation campaigns, which we have done; second, that define classes of representation cases; and three, schedules governing the holding of elections.

The amendment offered, in effect, changes section 8 of the act relating to unfair labor practices. It is directed, therefore, at a subject not contemplated in the bill and establishes a new unfair labor practice, and is not germane to the committee bill or to section 3.

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) desire to be heard on the point of order?

Mr. ASHBROOK. Yes, Mr. Chairman.

I will give, in substance, my previous statement in support of my contention

that the point of order should not be upheld, in the hope that the Chair would not repeat the previous ruling.

I believe this does come under the general rulemaking. It is in section 6. Furthermore, when we refer to willful violations, on page 22, in section 7, this bill does refer to unfair labor practices, and I think under the previous precedents established, where we open up a section referring to unfair labor practices, it is now not timely for the chairman to say that this bill does not amend unfair labor practices. Section 7 clearly refers to unfair labor practices, as does my amendment to section 3, and I would hope the Chair would overrule the point of order.

The CHAIRMAN. The Chair is ready to rule.

The gentleman from Ohio (Mr. ASHBROOK) has offered an amendment that, while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations. The amendment would really reach issues of substantive law. since the regulations would conclusively pronounce that certain union conduct shall constitute an unfair labor practice under section 8. In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of conduct which for the first time would constitute an unfair labor practice beyond the period of initial stages of organizational activity. a matter not addressed by the committee bill in section 3.

The reference of the gentleman from Ohio to the provisions of section 7 does not alter the fact that an amendment must be germane to the pending section.

For that reason. the Chair must sustain the point of order.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I reoffer the amendment that is at the desk which would amend this section, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. THOMPSON. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following: "A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.".

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for yielding.

The subject matter of this amendment, as the gentleman well knows, is before the Supreme Court of the United States on the question of the one-House veto. The House is an amicus in that case. Ultimately the decision will be made by the Supreme Court.

One never knows what the Court is going to do next, but I am willing to take my chances on what they are going to do, and the gentleman must recognize, of course, that if they rule a one-House veto to be not constitutional, then it would nullify the amendment. In the event they rule otherwise, the amendment would be law, and I have no objection to it.

Mr. RAILSBACK. Mr. Chairman, I appreciate the gentleman's comments very much.

Let me just say that there were some objections to the amendment that I had printed in the RECORD, and I have been negotiating with some of the Members on the gentleman's side who are more familiar with the traditional boilerplate language. I believe they are studying it right now, and it is my understanding that they are going to offer a substitute which would be acceptable to me. I am not sure if they have had quite enough time, and I am not sure that the gentleman from California (Mr. PANETTA) has studied it completely.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, it is my understanding that the gentleman from California (Mr. PANETTA), in order to at least attempt to clarify this issue, is prepared to offer an amendment for a two-House veto. In the event the Court comes down on that side, the gentleman's thesis will be supported in any event.

Does the gentleman from Illinois (Mr. RAILSBACK) not agree with that?

Mr. RAILSBACK. Mr. Chairman, the problem is that the amendments must have been printed in the RECORD or some Member can object, so I have to go through with this. As I understand it, even though I may have withdrawn my amendment, I have a right to reoffer it while we are still considering the same section. I have checked with the Parliamentarian on that.

Mr. THOMPSON. Mr. Chairman, I would suggest that the gentleman from Illinois (Mr. RAILSBACK) yield at this time to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, one of the problems we have with this matter is that in the form in which the gentleman's amendment is written, the amendment repeals the judicial review provisions in the bill. We would simply add the language to the provisions in the bill. If we can get the veto provisions without affecting the judicial review provisions, we would have no problem with it.

So, Mr. Chairman, I would ask unanimous consent, if it is agreeable with the gentleman from Illinois (Mr. RAILSBACK), that we be permitted to modify the gentleman's amendment so that the language is in addition to and would not strike the other language of the bill.

Mr. RAILSBACK. Mr. Chairman, it is not my intent to repeal the judicial review provisions of the bill, so I will join in the unanimous-consent request.

Mr. FORD of Michigan. Mr. Chairman, I think the gentleman should make that unanimous-consent request.

Mr. RAILSBACK. Mr. Chairman, I do make that unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. COHEN. Mr. Chairman, reserving the right to object, will the gentleman from Illinois (Mr. RAILSBACK) inform me as to what the intent of the proposed amendment would be? In other words, would it still retain the one-House veto as opposed to the two-House veto?

Mr. RAILSBACK. Yes, as I understand it, it would.

Mr. Chairman. if the gentleman will yield, the substitute for my amendment providing for a one-House veto would substitute what has become boilerplate language providing for a limited 30-day congressional review, plus the one-House veto. The benefit we would have with the substitute that is to be offered for my amendment is, I believe, the fact that they would make it more inclusive.

In other words, instead of applying only to subsections (1) and (2), it would make it apply across the board to all of the rulemaking provisions under the bill.

Mr. COHEN. Mr. Chairman, further reserving the right to object, it would still require only a single House veto; it would not require a joint veto?

Mr. RAILSBACK. Yes, that is correct.

Mr. Chairman, if the gentleman from Maine will yield further, may I just make an inquiry of the gentleman from California (Mr. PANETTA)?

The substitute still preserves the one-House veto provision, the boilerplate language?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I have reviewed the language of the amendment and, as I understand it, it is the boilerplate language for legislative review. It provides for a two-House veto rather than a one-House veto.

Mr. RAILSBACK. Then I was mistaken.

Mr. COHEN. Mr. Chairman, further reserving the right to object, is this what the gentleman from Illinois (Mr. RAILSBACK) is prepared to accept?

Mr. RAILSBACK. Mr. Chairman, that was certainly not my intent.

May I ask, is the majority adamant about this?

Mr. THOMPSON. Mr. Chairman, if the gentleman from Maine will yield to me, I would not characterize our position as "adamant." We are in sympathy with the gentleman's thought.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. THOMPSON and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. Mr. Chairman, if the gentleman from Maine will yield further, what we have thought out is, as I referred to earlier, the possibility that the Supreme Court may come down either way on this, and we want to protect the theory of the gentleman's amendment. We do think that a two-House veto is the safer course at this moment.

Mr. RAILSBACK. Mr. Chairman, I would like to tell the Members the way I feel about it.

Mr. COHEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Maine (Mr. COHEN) insist upon his reservation of objection?

Mr. COHEN. Is my reservation of objection still in order, Mr. Chairman?

The CHAIRMAN. The reservation is still in order. The gentleman may proceed.

Mr. COHEN. Mr. Chairman, further reserving the right to object, as I understand it, what the gentleman in the well is seeking to do is to have a one-House congressional veto, as opposed to a two-House veto, and the amendment that would be substituted for his amendment would provide for a joint review. That is not what the gentleman's intent was originally.

I am concerned, Mr. Chairman, because on two or three occasions this year this House has passed one-House review legislation. There was no objection. to my knowledge. raised about that at that time.

Mr. Chairman. it seems to me that just because the matter is pending we should not be encouraged to take a different course. Let the Supreme Court rule on the issue as it comes before it; but in the meantime. we should go forward with the gentleman's amendment as written.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I say to my distinguished friend, the gentleman from Maine (Mr. COHEN), that there are valid arguments on both sides of this matter.

It is true, as the gentleman has said, that we have passed some legislation with a one-House veto. I think they are in jeopardy, and I think that the intent of the gentleman from Illinois (Mr. RAILSBACK) can be best achieved if we adopt the Panetta substitute. I do not think that the gentleman could take issue with the argument that there ought to be a veto, be it by one or two Houses.

We cannot guess what the court is going to do. Perhaps I should say that we can guess, and the answer to that is that they might do anything.

Mr. COHEN. Mr. Chairman, I renew my reservation of objection.

Mr. RAILSBACK. Mr. Chairman, may I speak to the gentleman's reservation of objection.

The CHAIRMAN. The Chair would like to advise the committee that the matter before the committee at this time is the unanimous-consent request of the gentleman from Illinois (Mr. RAILSBACK) that his amendment be modified.

Before we proceed further, in order for the Chair to understand, the Clerk will report the first part of the amendment, the modification portion.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK. Page 18, immediately before line 10, insert the following:

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. COHEN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Maine (Mr. COHEN) reserves the right to object.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just say to my colleague that the thrust of my amendment was to provide, as has been correctly suggested by the gentleman from Maine (Mr. COHEN), a limited, 30-day congressional review, with the right to disapprove by one or the other House.

As I understand it, Mr. Chairman, what had happened was that the gentleman from Michigan (Mr. FORD) indicated that he would prefer to make it more inclusive. I think he indicated he preferred to have the traditional, standard. boilerplate language. That made no difference to me because I think the beneficial effect of having congressional review is that the members of the Board, of the NLRB, are going to know that whatever they promulgate is going to have to come back to Congress for our consideration.

Mr. Chairman, I like the idea of that; but my feeling is that if somebody is going to offer a substitute which basically encompasses what I am trying to do, I am going to accept that substitute.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, may I offer a suggestion and that is that the gentleman substitute for his amendment the one-House veto, with the provision that if it is ruled unconstitutional, there will be a two-House veto, which will cover the gentleman in all instances, and he must also eliminate the striking out of the judicial review provision in the amendment.

Mr. RAILSBACK. Mr. Chairman, the only problem with that is that I cannot offer a substitute to my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois (Mr. RAILSBACK) that his amendment be modified?

Mr. COHEN. Mr. Chairman. I still reserve the right to object.

The CHAIRMAN. The gentleman from Maine (Mr. COHEN) reserves the right to object.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

The CHAIRMAN. For the information of the Chair, would the gentleman's langauge which was agreed to by the committee be inserted on page 18 at line 10?

Mr. RAILSBACK. That is correct, Mr. Chairman.

The CHAIRMAN. The gentleman may proceed.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the language that I would be prepared to offer as a substitute is essentially the boilerplate language that has been offered on all other proposals dealing with legislative veto. That language does provide for a two-House veto, and it is that language that is subject to judicial review at the present time.

The purpose of my amendment, and it really follows along the lines, as I said, of the amendments that have been accepted by the House and proposed by the gentleman from Georgia (Mr. LEVITAS) is merely to enact the same language that we have enacted before.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I say to my friend the gentleman from Maine (Mr. COHEN), that it would be my hope that the gentleman would not insist upon his point of order because I think what we may end up with may provide a meaningful review regardless of whether it is a one-House veto or a two-House veto.

Mr. COHEN. Mr. Chairman. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. PANETTA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RAILSBACK

Mr. PANETTA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. PANETTA as a substitute for the amendment offered by Mr. RAILSBACK:

Page 18, immediately before line 10, insert the following: Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation, the National Labor Relations Board promulgating or repromulgating the

rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the National Labor Relations dealing with the matter of _____, which rule or regulation was transmitted to Congress on _____', the blank spaces therein being appropriately filled; or

"(B) within 90 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1)(A).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved."

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

Mr. PANETTA. Mr. Chairman, the purpose of my substitute is essentially to deal with the same problem raised by the gentleman from Illinois (Mr. RAILSBACK). My amendment provides that the legislative review of rules and regulations be the same language adopted by the House in previous legislation dealing with the legislative veto. I concur with the objectives of the gentleman from Illinois in the sense that we are dealing with an area that involves complex issues that should not be left entirely in the discretion of a Federal agency. It is necessary for Congress to review the rules and regulations as they are developed by the National Labor Relations Board. For that purpose, I feel that it would be appropriate to enact our standard language on the legislative veto as normally proposed by the gentleman from Georgia (Mr. LEVITAS). That is what is contained in the amendment that I am offering as a substitute. I would urge the House to adopt that amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would like to understand as clearly as I can what is being proposed by my colleague from California. Is the language the gentleman is proposing, as a substitute, exactly the same as the congressional veto language we have added to other legislation?

Mr. PANETTA. That is correct.

Mr. LAGOMARSINO. Will the gentleman yield further?

Mr. PANETTA. I will be happy to.

Mr. LAGOMARSINO. I would like to very strongly urge adoption of the gentleman's substitute. I think that, especially when we are in an area as controversial and with as much need for exact and precise rules and regulations, Congress should keep a rein, the power of veto. I believe it is very appropriate to apply that particular qualification to this legislation.

Mr. PANETTA. I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that I have had a chance to consider the substitute. I take it to be reflective of the intent that I had in offering the initial amendment, so I would urge adoption of the substitute.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

I would like to understand where we are now. Is it the gentleman's understanding that by the unanimous-consent request of the gentleman from Illinois his amendment, to which this substitute runs, was amended so it did not strike in any way any of the judicial review language of the bill, and that the substitute, if adopted, would be additional language to the bill and would not affect the judicial review section?

Mr. PANETTA. That is correct. It was certainly not my intent in any way to affect the judicial right of review.

Mr. FORD of Michigan. In that case, we have no objection to the amendment, and we accept it.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

I want to be sure that we understand the parliamentary situation. Is it correct tha we will vote on the gentleman's substitute first? If that subsitute carries, then there will be joint House consideration?

Mr. PANETTA. That is correct.

Mr. BEDELL. If the gentleman's amendment fails, there would then be a single House veto of such rulings, and we would vote whether or not we accept it as a single House; is that correct?

Mr. PANETTA. The gentleman is correct.

Mr. BEDELL. I thank the gentleman.

Mr. PANETTA. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA) as a substitute for the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to this section?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 17, line 5, insert "(1)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under section 9(c)(6) of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

The CHAIRMAN. The Chair would like to inquire of the gentleman from Ohio (Mr. ASHBROOK) if this amendment which was reported by the Clerk is printed in the RECORD?

Mr. ASHBROOK. Mr. Chairman, I would say the amendment was printed in the RECORD. The Chair previously ruled it out of order and I have struck certain language to make it conform with the ruling of the Chair.

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make the point of order that the amendment was not printed in the RECORD, notwithstanding the attempt of my good friend to revise it in such a way as to indicate that it was.

The CHAIRMAN. Does the gentleman make a point of order against the amendment to that effect?

Mr. THOMPSON. I do.

The CHAIRMAN. The Chair would have to sustain the point of order.

Mr. ASHBROOK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Ohio will state it.

Mr. ASHBROOK. Mr. Chairman, is the Chair indicating an amendment that was printed in the RECORD on Monday and ruled out of order for parliamentary reasons cannot be revised and offered as a substitute?

The CHAIRMAN. The Chair would like to advise the gentleman that the amendment was not printed in the RECORD in

the form in which the gentleman now presents it as an amendment to the bill.

Mr. ASHBROOK. The gentleman from Ohio would concede that.

The CHAIRMAN. And the Chair would be constrained to sustain the point of order.

There being no further amendments to section 3, the Clerk will read.

The Clerk read as follows:

SEC. 4. Section 9(b)(3) is amended by striking ", or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards." and substituting "nonguard employees of the same employer at the same location, or if such organization is directly affiliated with any national or international labor organization which represents nonguard employees of the same employer at the same location".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk completed the reading of section 4.

The CHAIRMAN. There being no amendments to section 4, the Clerk will read.

The Clerk read as follows:

SEC. 5. Section 9(c) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed and served on the employer, in accordance with such regulations as may be prescribed by the Board, by an employee or group of employees or any individual or labor organization acting in their behalf alleging that their employer declines to recognize their representative as the representative defined in subsection (a) in a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, that a majority of the employees in that unit have designated that individual or labor organization as their representative defined in subsection (a), and that no individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the bargaining unit defined in the petition, the Board shall investigate such petition. If the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing and serving of the petition direct an election by secret ballot not more than fifteen days after a petition is filed and served under this subparagraph and shall so notify the representative named in the petition and the employer.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than forty-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than fifteen days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than seventy-five days after the filing and serving of said petition.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall promptly serve the parties with a tally of the ballots.

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, object to the election on the ground that conducted contrary to a rule relating to election declared by the Board pursuant to its authority under section 6 or conduct contrary to a rule of decision declared by the Board in a proceeding under section 10 did affect the result of the election.

"(ii) With regard to challenged ballots, the Board shall, where such ballots are sufficient in number to affect the outcome of the election, investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided*, That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of section 5.

Mr. THOMPSON (during the reading). Mr. Chairman, I renew my unanimous-consent request that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ERLENBORN. Mr. Chairman, reserving the right to object, could I inquire what section is being read now?

The CHAIRMAN. Section 5.

Mr. ERLENBORN. Mr. Chairman, further reserving the right to object, I wonder if the gentleman from New Jersey would agree, if we allow the unanimous-consent request for section 5 to be considered as read, the gentleman would also agree to a unanimous consent request for the gentleman from North Carolina (Mr. ANDREWS) to offer an amendment to section 4, although we have passed that section. The gentleman just unfortunately was not on the floor and had been called off the floor.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, I regret that I cannot so agree.

Mr. ERLENBORN. Mr. Chairman, in all fairness, we ruled an awful lot of amendments out of order. We at least ought to let the gentleman offer an amendment that is germane and not use parliamentary tricks to stop the gentleman from offering the amendment.

Mr. Chairman, further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, it is a source of genuine regret to me, but no parliamentary trickery was pulled. The sections had been open. We have not tried to close debate. They have been read. They have been passed and it is with deep regret that I would object.

Mr. ERLENBORN. Mr. Chairman, it is with sincere and with deep regret that I object. I wonder whose concern is deepest?

The CHAIRMAN. Objection is heard.

The Clerk concluded reading the section.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would like to inquire if the amendment is in the RECORD?

Mr. QUIE. Yes, it is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 19, line 18, insert after the comma: "or a labor organization pursuant to subsection (C)(1)(A) or (e)(1) of this section 9,";

Page 20, line 6 insert after the comma: "or that a majority of employees in a unit currently certified or recognized designate that they no longer desire representation, or that a majority of the employees covered by an agreement made pursuant to section 8(a)(3) designate that such authority be rescinded,"; and

Page 20, immediately after line 7, insert: "unit covered by an agreement pursuant to section 8(a)(3), or is a unit where the certified or currently recognized representative is no longer desired, or is a".

Mr. QUIE. Mr. Chairman, section 5 of the committee bill provides for what has been termed as "quickie" elections. These elections are conducted within 15 days where a majority of the employees have designated a representative in a union ruled appropriate by the Board, or in a decision in the applicable industry. The committee bill does not provide for these quickie elections in other types of elections.

My amendment provides that an expedited election can also be held in other types of elections. These elections are decertification elections, which are elections where the employees want to vote the union out; the other one is the deauthorization election, which are elections where the employees no longer desire to have a union security clause applicable to them.

The amendment does not apply to petitions filed by the employer, for it would be very unlikely that the employer would know the desires of the majority of the employees. My amendment simply brings elections other than representation petitions under the expedited election procedure, and only affects elections where a majority of the employees have, in some way, expressed their desires.

This amendment then, if accepted,

would bring equity to the bill where we have the quickie election not only for the representation, but in decertification and deauthorization as well. I offer this amendment without any change in the quickie election. I might say to my colleagues who are looking over the amendment. That one will come later.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word. I would like to address a question to the author of the amendment.

It is my understanding from the gentleman's explanation of the amendment that he would apply the 15-day provision to a decertification election also.

Mr. QUIE. Decertification and deauthorization.

Mr. MILLER of California. And deauthorization?

Mr. QUIE. That is right.

Mr. MILLER of California. So that the provision in the bill as it is now outlined for the election process after the union has been determined is not touched?

Mr. QUIE. Not by this amendment. I have a subsequent amendment which will touch on that. That is what the gentleman from Wisconsin will want to offer a substitute for.

Mr. MILLER of California. The gentleman would broaden that provision to decertification and deauthorization?

Mr. QUIE. That is right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie: Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "twenty-eight";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy-five" and insert in lieu thereof "ninety";

Page 21, line 5, immediately before the period insert: ": *Provided*, That the Board may extend the period for holding of a twenty-eight day election and a sixty day election for a period of up to 30 days if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote"; and

Page 17, line 16 strike all of subparagraph (B) therein through line 24, page 17, and reletter the subsequent subparagraphs accordingly.

Mr. QUIE. Mr. Chairman, the committee bill not only provides for this expedited election of 15 days that we spoke of just a moment ago, but also, in the case that there is between 30 percent and 50 percent of the employees who have indicated the desire for an election, and then they have 45 days in the bill, then, in the case of an extremely complicated election, the maximum is 75 days, and that is the maximum in the bill.

I believe these time limits, which are maximum, I must point out, that the Board can set the election in a shorter time than 15 or 45 or 75 days, are too short. I believe we should extend them. Therefore, what this amendment does is to extend the time for holding the election to 28 days instead of 15; to 60 days instead of 45; and to 90 days instead of 75.

This is a compromise.

I indicated yesterday that I am still skeptical that the Board can comply with this. But it does appear that the elections have been held more expeditiously than they are doing right now.

While I question writing those mandatory time limits into the statute, if it must be done—and I can understand the problems we have had with some companies where they have dragged it out for a long period of time—that it may be necessary to put these limits on.

Therefore, I believe, however, if we are going to put the limits on, we should not have them on too short of a period of time. The great majority of elections are now held within 45 days and different forms of consent elections are held on a median time of 12 days to 44 days. I believe the Board can adequately cope with the time limitation in the compromise I have suggested. I further believe the limit extension of our amendment is enough to aleviate the management fears that the elections are going to be imposed without some protection to them. The extension is also needed to give the Board the necessary time to work out the consent and the stipulations for consent. These voluntary agreements must not be interfered with, or the Board would have a task which really would be impossible for them to perform. So what I have done is provide for 20 days to be used by the Board. And during this time there should not be any problem with investigating the situation and making their decision. So far as the Board is concerned, if they use the full amount of time. it will now be 20 days instead of 7 days, as in the bill, which still would leave 28 days in which the election could be held.

The last part of the amendment provides that if the Board finds that this 28 days or the 60 days was too short a period of time in order to afford a representation complement of employees an adequate opportunity to vote, they would then be able to extend that to 30 days, to give the time for the Board to work it out. I believe it would remove a tremendous amount of antagonism and hardship that would be imposed on the strict limitation of time that is provided in the bill.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I myself, personally, think there should be more time than what we have. But obviously the gentleman from Minnesota is adding time to what is in H.R. 8410, and I would also point out that this only applies to representation elections where 50 percent or more of the workers or employees have petitioned.

Mr. QUIE. That is right.

Mr. ASHBROOK. So, with that safeguard, I think this is a reasonable compromise, and I certainly support it. I thank the gentleman for offering his amendment.

Mr. QUIE. Mr. Chairman, I should also point out that in the bill it provided that you could extend for another 7 days because of the distance from the headquarters and the number of employees.

However, what I take care of with this amendment is to insure that an adequate complement of employees may be available for the vote, and I give them the additional 30 days in that regard. I believe that will still continue the principles that have been laid down by the proponents of the bill and at the same time provide more protection for fairness and equality in the bill.

AMENDMENT OFFERED BY MR. CORNELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. QUIE

Mr. CORNELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CORNELL as a substitute for the amendment offered by Mr. QUIE:

Page 17, strike line 16 through line 24.

Page 18, line 1, substitute "(B)" for "(C)".

Page 18, line 3, substitute "(C)" for "(D)".

Page 20, line 14, substitute "seventeen" for "seven".

Page 20, line 15, substitute "twenty-five" for "fifteen".

Page 20, lines 22 to 23, substitute "fifty" for "forty-five".

Page 21, line 5, after the period add: "In computing the time limits stated in this paragraph the days of the week during which a majority of the employees involved in the election are on vacation shall not be included."

Page 19, line 18, after the word "employer" add "or the individual or the labor organization that is the representative defined in subsection (a) of this section."

Page 20, line 18, after the period add "(ii) Asserting that a majority of the employees in a unit appropriate for the purposes of collective bargaining do not wish to be represented by the individual or labor organization which has been certified or is being currently recognized by their employer as the representative defined in subsection (a), or do not wish to be covered by an agreement between their employer and a labor organization made pursuant to subsection (a)(3) of section 8, the Board shall investigate such petition. If the Board has reasonable cause to believe that a question of representation affecting commerce, or a question covering an agreement made pursuant to subsection (a)(3) of section 8, exists and that the other conditions specified in this subsection have been met, the Board shall within 17 days after the filing and serving of the petition direct an election by secret ballot which shall take place within 8 days after such election is directed by the Board, and in no event more than 25 days after a petition is filed and served under this subparagraph, and the Board shall so notify the representative named in the petition and the employer."

Mr. CORNELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. CORNELL. Mr. Chairman, the proposal in H.R. 8410 for expedited elections is certainly one of the bill's most important changes in the current law. The committee bill provides that in representation cases in which a showing is made that a majority of the employees in a plainly appropriate bargaining unit have selected a union to represent them and in which their employer wishes to have that showing checked in a Board-conducted, secret-ballot election, the election shall be directed within 7 days after the election petition is served on the employer and shall be held within 15 days from the service of the petition.

The bill further provides that these time limits can be increased to 14 days for directing the election and 21 days for holding the election under certain circumstances. During our committee markup, the gentleman from Illinois (Mr. ERLENBORN) moved to give the Board 15 days from the service of the petition to direct expedited elections and a total of 30 days from service of the petition to hold such elections. That amendment was rejected. The gentleman from Minnesota (Mr. QUIE), in his amendment, now suggests 28 days.

It is my judgment that H.R. 8410's expedited election provision is basically sound but must be amended to correct three defects.

The proposal is sound in that it recognizes that Board elections are a means for settling an industrial dispute and should, therefore, be promptly held where there is good reason to believe that the employees wish to bargain and where the unit appropriate for bargaining has been clearly established. H.R. 8410, as reported by the committee, is, however, defective in the following respects:

First, the bill is overly complex in that it sets two time limits for the holding of expedited elections. Moreover, the shorter time limit may well prove to be too confining. In this regard I am particularly concerned about the Board's ability in only 7 days to make a proper investigation of a petition in order to determine whether the unit sought is as, alleged, plainly appropriate or whether a hearing on the unit question is required.

Second, H.R. 8410, as was pointed out by the gentleman from Minnesota (Mr. QUIE) in offering his amendment, does not recognize that where employees are presently represented, they may show a clear desire to remove that representative. The right of the employees in that circumstance to be free of their unwanted representative and to refrain from union activity without delay is just as legitimate as the right of employees who wish to organize to begin bargaining promptly.

Third, it has been pointed out that the expedited election provision would permit the filing of a petition just before a scheduled vacation period. This could limit the employee's opportunity to hear the views of the employer and the union.

In order to retain what is sound in the expedited election provision and correct the defects I have noted, my substitute amendment provides three things:

First, it provides that the Board shall have a 17-day period from the service of the petition on the employer in which to direct an election in a plainly appropriate bargaining unit and an overall 25-day period in which to hold the election.

This schedule is halfway between the two confining period included in H.R. 8410 and what I regard as the somewhat too long period suggested by the gentleman from Illinois (Mr. ERLENBORN) in committee and by the gentleman from Minnesota (Mr. QUIE) in his amendment.

Mr. Chairman, part 2 extends the expedited election procedure to employee decertification petitions as proposed by the gentleman from Minnesota (Mr. QUIE), and also provides the period of time as 25 days.

Part 3 assures that the days of the week in which the majority of the employees in a bargaining unit are on vacation are not to be counted toward the time limits for directing and holding representation elections, as scheduled in the bill.

What it comes down to is this, therefore, Mr. Chairman, that the bill provides 15 days for expedited elections.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. CORNELL) has expired.

(By unanimous consent, Mr. CORNELL was allowed to proceed for 2 additional minutes.)

Mr. CORNELL. To continue, Mr. Chairman, the gentleman from Illinois (Mr. ERLENBORN) has suggested 30 days, and that was voted down in committee. The amendment of the gentleman from Minnesota (Mr. QUIE) provides for 28 days. I believe that my proposal for 25 days is a reasonable compromise.

Mr. Chairman, there is a time-honored saying: "In medio stat virtus," which means, "Virtue stands in the middle."

Mr. Chairman, I urge my colleagues on both sides to join me on the path of virtue.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment offered as a substitute.

I would like to address a question to the gentleman from Wisconsin (Mr. CORNELL), if I may.

In the amendment, which I have at hand, it says,

And in no event more than 4 weeks after the petition is filed and served under this subparagraph, and the Board shall so notify the representative named in the petition and the employer.

I do not understand how that applies. As I understand, after 25 days, they have to have the election.

Mr. CORNELL. Mr. Chairman, if the gentleman will yield, the change was made to "17" and "8," and then the total would be 25.

Mr. QUIE. What is the "4 weeks?"

Mr. CORNELL. That was a mistake. The amendment has been corrected and changed.

Mr. QUIE. How does that read now?

Mr. CORNELL. "Twenty-five days."

Mr. QUIE. In the language just before that, is that "20" and "5"?

Mr. CORNELL. That is "17" and "8."

Mr. QUIE. That is so that they both conform; is that correct?

Mr. CORNELL. It reads:

The Board shall within 17 days after the filing and serving of the petition direct an election by secret ballot, which shall take place within 8 days after such election is directed by the Board, and in no event more than 25 days after a petition is filed and served.

Mr. QUIE. Mr. Chairman, there are two basic differences here. One is that the gentleman has a shorter period of time, 25 days instead of 28; 50 days instead of 60; 75 days instead of 90, on the length of time, a much shorter period of time. I think we ought to have a longer period of time.

The second part is that the gentleman provides only that the time limits stated in the paragraph, the days of the week in which the majority of the employees involved in an election are on a vacation, shall not be included.

However, what my amendment provides is that the Board could extend 30 extra days to insure that a full complement of employees can vote.

Mr. Chairman, in many industries there is a seasonal time or there is a time when some of the employees are not available to work. Some of the plants in my district at times have a third of their employees absent.

It seems to me, Mr. Chairman, that the Board ought to be able to take into consideration that factor in election matters. That is why I give an extra 30 days, to the Board, so that it will be fairer to the employees who are normally working there, thereby giving them an opportunity to vote.

In that regard, therefore, my amendment would be more sensible and fairer to the employees who are normally working in the plant.

Mr. CORNELL. If the gentleman will yield further, Mr. Chairman, that would be quite less definite, though. It seems to me, in view of the fact that my amendment provides for a majority, that is not subject to interpretation.

As we know, of course, in many plants they take a vacation such as a summer vacation, and they close down the plant for a week or 2 weeks.

Mr. QUIE. I recognize that there are some plants which do that, but we cannot be that definite on how each plant operates.

If we give some latitude to the board, as I do in my amendment, then it seems to me they can reflect the peculiarities or the differences that exist. In my amendment it would in no way let the employer get by with what the proponents are trying to prevent by including the time limits on the election or in no way do I endanger the policy as developed by the proponents of the bill. But I do believe it is an unreasonable restriction in the latitude of the board in order to make their decision on when the election should be held, and in the most favorable and

equitable way for the employees in the plant.

Mr. CORNELL. As I stated, a majority of the employees in the bargaining unit may happen to be on vacation for a period of time but there is not going to be a majority through the whole period prior to the election, so employees will have an opportunity, of course, to be informed about the election.

Mr. QUIE. What the gentleman really has done is only add 4 days to what is in the bill, I would say to the gentleman when one considers the language on page 17 which would have extended the 15 days to 21 days in some cases.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to my colleague, the gentleman from Minnesota (Mr. QUIE) that I have had some time to review both of the amendments. Could the gentleman from Minnesota indicate the basic areas of difference between the gentleman's amendment and the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) as a substitute?

Mr. QUIE. Mr. Chairman, if the gentleman will yield, as I indicated, there is a difference in time, where I have 28 days in the quickie election instead of 25, in the Cornell amendment and then my amendment provides 60 days instead of 50 days in the Cornell amendment in the cases of between 30 percent and 50 percent of the employees. And then in the case of a complex election, the substitute has 75 days instead of 90 days in my provision.

But, even more importantly, it seems to me that the only latitude beyond that is that they do not count the days when a majority of the employees are out on vacation. In my provision we permit the board to extend for up to 30 days if they find this necessary because a full complement of employees will not be able to participate in the election.

Mr. ASHBROOK. I thank the gentleman for his response. And during this discussion we have taken enough time to allow the gentleman from Illinois to draft an amendment. So I will yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered as a substitute.

Mr. Chairman, I would like to compliment both the gentleman from Minnesota (Mr. QUIE) and the gentleman from Wisconsin (Mr. CORNELL) for working as hard as both of them have, particularly since we considered this matter in the committee in an attempt to reach some sort of a reasonable compromise on the mandatory time provisions of this bill, inasmuch as there has been so much concern expressed by people on all sides of the question about what length the time limits should be.

Further, Mr. Chairman, I believe it is evident that there is something of importance involved when these two gentlemen of good will for labor have worked as hard as they have, and we now find them 3 days apart.

The important thing is that neither of them are talking about the extreme case that was proposed in the committee, nor are either of them talking about the specific time that was suggested in the committee bill which I think was a reasonable time. But that both Members have concluded and understand the probability that the election process could not work well in any short time frame.

There is, as I say, a 3-day difference between Mr. QUIE's compromise and Mr. CORNELL's compromise, but there is also the difference involved here that the Cornell compromise deals with the question of decertification elections, that are now a relative of and require adjustment as a result of the amendment that was adopted just a few moments ago. For these reasons, at this moment, the Cornell amendment is more comprehensive, and, while it does not seem that there is a great deal of difference between the 25 days of Quie and the 28 days of Cornell, at this point the committee would have to prefer the 28 days of Cornell.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. CORNELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. QUIE

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment:

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. CORNELL as a substitute for the amendment offered by Mr. QUIE:

Page 17, strike line 16 thru line 24.

Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "twenty-eight";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy-five" and insert in lieu thereof "ninety";

Page 21, line 5, immediately before the period insert: ": *Provided*, That the Board may extend the period for holding of a twenty-eight day election and a sixty day election for a period of up to 30 days if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote"; and

Page 17, line 16, strike all of subparagraph (B) therein through line 24, page 17, and reletter the subsequent subparagraphs accordingly.

Page 21, line 5, after the period add: "In computing the time limits stated in this paragraph any day in which 30 per centum or more of the employees eligible to vote in the election are on vacation or on temporary layoff shall not be included."

Page 19, line 18, after the word "employer" add "or the individual or the labor organization that is the representative defined in subsection (a) of this section."

Page 20, line 18, after the period add "(11) Asserting that a majority of the employees in a unit appropriate for the purposes of collective bargaining do not wish to be represented by the individual or labor organization which has been certified or is being currently recognized by their employer as the representative defined in subsection (a), or do not wish to be covered by an agreement between their employer and a labor organization made pursuant to subsection (a)(3) of section 8, the Board shall investigate such petition. If the Board has reasonable cause to believe that a question of representation affecting commerce, or a question covering an agreement made pursuant to subsection (a)(3) of section 8, exists and that the other conditions specified in this subsection have been met, the Board shall within 17 days after the filing and serving of the petition direct an election by secret ballot which shall take place within 8 days after such election is directed by the Board, and in no event more than 25 days after a petition is filed and served under this subparagraph, and the Board shall so notify the representative named in the petition and the employer."

Mr. FORD of Michigan. Mr. Chairman, I would like to reserve a point of order against the amendment and yield to the gentleman from Illinois while I ask him a question. I tried to follow the amendment. I will say to the gentleman from Illinois. Am I correct that his amendment simply restated the entire Cornell substitute with a change in the numbers on page 20, line 14, from 7 to 20?

Mr. ERLENBORN. If the gentleman would yield, what the amendment does is to adopt the time limitations in the Quie amendment of 15 days being changed to 28, 7 days being changed to 20, 45 days to 60, and so forth, and then leaves in the proviso for the extension as it was in the Quie amendment. Then after that it picks up the Cornell amendment and would make those times applicable to decertification and deauthorization as well. It was done in haste, I must admit, and in checking with the gentleman from Minnesota (Mr. QUIE), he has suggested that if the times are to be proper, on page 2 of my amendment—if the gentleman has a copy of it there——

Mr. FORD of Michigan. We do not have the amendment. That is why I ask.

Mr. ERLENBORN. I have a copy of it here. Mr. QUIE has suggested that to make these times track properly, the 17 days about the seventh or eighth line on the second page should be 20, and the 25 days on the third line from the bottom should be 28. There was in haste an error made there, but otherwise it would be a combination of the Quie and Cornell amendments.

If the gentleman would not object and if no one would object, I ask unanimous consent to amend my amendment to the Cornell substitute by changing the "17" to "20" and the "25" to "28" on the second page, as I pointed out.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, there is no objection, that is, as to the gentleman's most recent request.

Further reserving the point of order, Mr. Chairman, I have to confess to being somewhat confused now as to whether or not we are in fact dealing with an amendment to the Quie amendment or an amendment to the Cornell substitute.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, it is an amendment to the Cornell substitute and what it would be is a compromise between the Quie amendment and the Cornell substitute.

Mr. FORD of Michigan. That is a little bit more like a shotgun marriage.

Mr. ERLENBORN. If that pleases the gentleman, we could make it that.

Mr. FORD of Michigan. Mr. Chairman, I will reserve the point of order until the gentleman explains his amendment.

Mr. CORNELL. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Wisconsin.

Mr. CORNELL. Mr. Chairman, I certainly hope the gentleman from Illinois would not want to involve me in such a marriage.

Mr. ERLENBORN. If the gentleman from Wisconsin would like to officiate, perhaps that could be arranged.

Mr. CORNELL. I would like to comment on the gentleman's statement that it was a combination of Cornell and Quie. I find nothing but material from the Quie amendment, which is essentially the time element involved in the election process.

Mr. ERLENBORN. I can tell the gentleman from Wisconsin that in cutting and pasting we picked up his amendment beginning where it says "page 21, line 5" and it is his amendment with some small changes thereafter.

Mr. CORNELL. Relatively speaking.

Mr. ERLENBORN. Relatively speaking.

The CHAIRMAN. The gentleman from Illinois may proceed.

Mr. ERLENBORN. Mr. Chairman, I offer this amendment to the Cornell substitute in a spirit of compromise. Whether it be a shotgun marriage or not, it will extend the time period as suggested by the gentleman from Minnesota (Mr. QUIE) in his amendment.

I know that this has been one of the sections of the bill that has drawn the most criticism on both sides of the aisle. The 15-day limitation on elections where 50 percent of the employees have signed cards of intention has been viewed, I think, universally as being an unreasonably short time limitation. This would, as the Quie amendment suggests, extend those days to 28 days instead of 15, and the 45 days election would be extended to 60 instead, and the 75 would be extended to 90, and it would allow the Board even some additional discretion.

I think there is a willingness on the part of the majority on both sides of the bill to see these time periods extended to make the bill more appealing, and frankly it is a difficult decision for me whether to be a part of this procedure, but I suspect the bill will be amended in any event by either the Quie amendment or the Cornell substitute, which will make the bill more appealing.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

At this point the Chair would like to inquire of the gentleman from Illinois (Mr. ERLENBORN), in the modification already agreed to by unanimous consent, the last seven lines of the amendment, is the Chair correct in that beginning on the line that starts "the Board shall within," that would be 20 days?

Mr. ERLENBORN. That is correct.

The CHAIRMAN. Next, "within 8 days after such election," that figure would be "8"?

Mr. ERLENBORN. That is correct.

The CHAIRMAN. The next number would be "28" instead of "25". Is that correct?

Mr. ERLENBORN. The Chair is correct.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. Chairman, I hope that this effort at compromise between the two positions which have been staked out by my colleagues will be supported. It will make more reasonable the time limitations. I am still convinced that the evidence before our committee is not such that would indicate that we really need to force the Board to move more quickly. Representation elections have been held relatively promptly. The delays to Board procedure have been in unfair labor practice charges, rather than in the conduct of elections; but if we are to have time limitations, these would be more reasonable and would be more broadly supported.

As I say, I offer this with mixed emotions. It may make the bill more appealing. It may mean that the bill will be supported by more on final passage.

I hope my amendment will be adopted as an amendment to the Cornell substitute and then with that adopted, we can proceed with consideration of the substitute.

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) insist on his point of order?

Mr. FORD of Michigan. No, I do not, Mr. Chairman. I withdraw the point of order.

Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, if we were in conference and we had the Quie and the Cornell proposals to deal with as a House and Senate provision, I have the feeling that the Erlenborn compromise, as the gentleman calls it, would be out of order, because it would be outside the scope of the conference.

I have the feeling that the gentleman picks up that part of the Quie amendment that we are separated on, picks up another part of it, and then the gentleman ends up with the part of the cow that gives the milk, but we get the part that eats.

Mr. Chairman, I think we would be better off if we rejected the Erlenborn amendment and then settled the question of 25 days or 28 days, upon which the entire history of this country must surely hinge, by voting on either the Cornell or the Quie amendment; my recommendation being that we vote for the Cornell amendment, but I think the Erlenborn amendment rather than providing a compromise between the two, just muddies them up.

I think it would be cleaner and quicker to reject the Erlenborn amendment and vote up or down the 25- or 28-day options left pending.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Chairman, first of all, I really cannot understand why my distinguished colleague is so afraid of allowing extra time for the Board to act. Is there some unseen reason that the time frames suggested by my colleague, the gentleman from Illinois, which are not unreasonable extensions beyond what the bill provides for, why is the gentleman so fearful of extending the time?

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I wanted to ask my colleague, the gentleman from Michigan, first, because I think I will get a better answer.

Mr. THOMPSON. Do not be too sure.

Mr. FORD of Michigan. Mr. Chairman, I think it should be apparent from the fact that two very powerful intellects, like the sponsors of the original amendment and the substitute therefor, have labored so many days and find themselves 3 days apart. They are both people of good will. They have worked very hard. Members of the committee conscientiously worked on this issue for a long period of time. I think the very fact that even this much length of time remains, there is still a 3-day difference, ought to be evidence to the gentleman from California and to the Members of the House that each day is fought for very bitterly by the respective factions that are concerned with the impact of this provision in the law on the future of organization efforts.

The fact is that the overwhelming majority of problems that arise do arise during the period after the time for the election and the petition for the election and the shorter we make that period, frankly, the less temptation there is for things to go wrong and things that ultimately lead to litigation to occur.

On the one side we have people saying 15 days is too long and on the other side people saying 2 months is not enough. I think we are left with two viable alternatives now, the 28 days of the gentleman from Minnesota (Mr. QUIE), and the 25 days of the gentleman from Wisconsin (Mr. CORNELL). If anybody can explain this later, I suppose the appropriate time of arrival is about this time in 1978, if anybody can explain what the significant difference was back in their districts, they are welcome to try.

The Erlenborn amendment just fogs the whole thing up and confuses the issue.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I might say to my friend from California that I served for a number of years with the gentleman from Michigan, and I have yet to see him be afraid of anything that is right. He is not afraid, nor are those of us who are supporting the Cornell amendment and advocating the defeat of the Erlen-

born amendment to it. It is simply a matter of independence.

The average number of days for an election is 45. We think that it is acceptable to extend from 15 days, as the bill does, to the period of time suggested.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. THOMPSON and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. THOMPSON. We have considered as utterly reasonable the amendment offered by the gentleman from Wisconsin (Mr. CORNELL). It is not a matter of fear at all. It is a matter of equity and speeding up the whole process.

Mr. ROUSSELOT. Will the gentleman yield briefly?

Mr. FORD of Michigan. I yield.

Mr. ROUSSELOT. I wonder if the gentleman could expand a little bit further on his fear that this would be beyond the scope of the conference we might face in the future. I did not quite understand that.

Mr. FORD of Michigan. I am unable to perceive the changes that Mr. ERLENBORN suggests as being something between a vote with QUIE and a vote with CORNELL. He tries to make it a part of both.

Mr. ROUSSELOT. He said it was an obvious compromise.

Mr. FORD of Michigan. I described it as a shotgun marriage. I strongly suspect it would probably be the kind of marriage prohibited by law.

Mr. ROUSSELOT. I doubt that, with Father CORNELL presiding at the wedding ceremony.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield.

Mr. ERLENBORN. I want the gentleman to know that I tried to be as fair as possible. I cut the amendment right in half and glued one on the top and the other on the bottom.

Mr. FORD of Michigan. Then I suggest that we vote against the Erlenborn amendment. That gives us a half vote against Quie and a half vote against Cornell, and Members can take their choice between the 25 and 28 days.

Mr. CORNELL. Mr. Chairman, I move to strike the last word, and I rise to oppose the Erlenborn substitute amendment.

First of all, I would like to point out, as Mr. FORD said, the objective of this part of the legislation is to expedite the elections. The committee bill provided for 15 days and 45 days. The Erlenborn-Quie amendment says 28 and 60 days. My proposal is for 25 and 50 days, so I think Mr. ERLENBORN is quite incorrect in characterizing his substitute to my substitute as a compromise. I believe that the term properly belongs to the Cornell substitute.

I would like to address a question to Mr. QUIE. As I understand it, in the gentleman's amendment the period for decertification would remain at 15 days. Is that right?

Mr. QUIE. No. In my amendment it would be the same as when we have a recognition election, so in decertification and deauthorization it will be the same as in the regular recognition election, 28 days.

Mr. CORNELL. Then I would like to know exactly what the difference is between the gentleman's amendment and the substitute amendment offered by Mr. ERLENBORN.

Mr. QUIE. I would say the difference is that it includes the vacation requirement, that they do not count the vacation time. That would be added to mine. It includes the provision in mine where I give the Board the authority to extend up to 30 days.

So, what the Erlenborn amendment does is to include both the vacation time and the period that I give to the Board in order to insure a representation complement of employees an adequate opportunity to vote.

Mr. CORNELL. So the extent to which it is a compromise is simply that it includes the vacation period that I have in my substitute?

Mr. QUIE. That is right. Let us take both of them, is the way it looks to me. I have no objection to taking both of them because I have no objection to the part of the gentleman from Wisconsin, but I do object to leaving out the part I have, leaving out the authority of the Board in order to make sure all the employees can vote. What it boils down to is a question of 25 or 28 days.

I started out thinking we ought to add 30 days to the 15, making it 45 days, because 82 percent of all of the elections are held within 45 days now. Why not have it within that period of time as is presently the case. But I recognize that that might be requiring the proponents to go too far. So I came down to 30 days. That had a little magic in it, because the 30 days was defeated in committee.

Mr. CORNELL. The whole objective is to expedite the election. If the gentleman says most of them are within 45 days, that does not mean we should extend it as long as we possibly can.

Mr. QUIE. I doubt the proponents of the bill thought the 45 days was the offensive part of it, but rather the 18 percent that went beyond 45 days—I suspect that was the case—where elections sometimes took 5 years and longer. What we are doing now in this bill, if we take my language, is, in 28 days, when 50 percent of the employees sign a petition, the election is held in that period of time. If there is between 30 percent and 50 percent, it will take 60 days, 2 months, which does not seem out of line. And in the event there is a real complexity to the election, it never will take longer than 90 days under any circumstances, even under the flexibility given to the Board.

Mr. CORNELL. The gentleman from Minnesota is willing to accept the compromise of the gentleman from Illinois (Mr. ERLENBORN). I am afraid I cannot. I do not think he would qualify to be called another Henry Clay.

Mr. STEERS. Mr. Chairman I move to strike the last three words and speak in favor of the amendment.

Mr. Chairman, I rise to clarify the record, primarily. I do not want my remarks to be interpreted as an attack on labor. I believe in their sincerity. But they have issued a booklet here, which they gave me, in connection with this bill, and it is entitled "Slowness and Delay in a Nutshell." It probably has been broadly disseminated. It has a subtitle, "What's Wrong * * * Why Labor Law Reform Is Needed." In the middle of that leaflet it says:

> In the vast majority of all cases involving efforts to get a union to represent the workers . . . it took over 45 days from the filing of a petition to the holding of an election.

I was given by management a statement in direct contradiction to that, in which they said:

> Of the more than 9,000 representation elections held by the NLRB in 1975, 7,466, or 82 percent, were held in a period between 12 and 44 days from the filing of the election petition.

So I went to the trouble of asking management to cite me the authority for their statement, and last night I received the citation orally. This morning they delivered it in printed form. And their citation is entitled "Oversight Hearings on the National Labor Relations Act. Hearings Before the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, House of Representatives, 94th Congress."

These hearings were held on February 17 and 19, on various dates in March, April, and May, and those hearings contained the following language:

> Consequently, 7,466 elections were conducted within a period ranging from 12 to 44 days after the petition was filed.

This 7,466 figure divided by the total of 9,000 comes to 82 percent.

The AFL–CIO has acknowledged to me verbally that they are talking about the same 9,000 contested cases, and they were unable in any way to show that the statement they had made that a vast majority of the cases took over 45 days was true. In effect they have acknowledged that it is very clear that 82 percent took fewer than 45 days. So I consider this a very vital piece of information.

I do not think that it is necessarily determinative, and I do not accuse organized labor of having intentionally misled anybody. However, I think they have in fact put out information which is misleading, and I wanted to correct the record.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. So our own hearings in this House by this Committee substantiate the fact that the overwhelming majority of cases have been settled in 45 days or less?

Mr. STEERS. The gentleman is correct, less than 45 days.

Mr. ROUSSELOT. Then what is all the hoop-de-do about? We should vote for the Erlenborn-Quie amendment.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, there is no hoop-de-do. Some of the Members just do not understand the difference between ipsy-dipsy and hoop-de-do.

Mr. ROUSSELOT. Oh, I do. I have been listening to the gentleman all day.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 28, noes 34.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 229, not voting 20, as follows:

[Roll No. 630]

AYES—185

Abdnor
Ammerman
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Bennett
Bowen
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Fenwick
Findley
Fish
Flowers
Flynt
Fountain
Fowler
Frenzel
Frey
Gilman
Glickman
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hall
Hansen
Harsha
Heckler
Hefner
Hightower
Hillis
Holland
Holt
Ichord
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Lagomarsino
Latta
Leach
Lent
Livingston
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCloskey
McDonald
McEwen
McHugh
McKinney
Madigan
Mahon
Mann
Marriott
Martin
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Pettis
Poage
Pressler
Preyer
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steers
Steiger
Stockman
Stump
Taylor
Thone
Thornton
Treen
Trible
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Wylie
Young, Fla.

NOES—229

Addabbo
Akaka
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clay
Conte
Conyers
Corman
Cornell
Cornwell
D'Amours
Danielson
Davis
Delaney
Dellums
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flippo
Flood
Florio
Foley
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Grassley
Gudger
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Horton
Hubbard
Huckaby
Hughes
Jacobs
Jenrette
Jones, Tenn.
Jordan
Kastenmeier
Kildee
Koch
Kostmayer
Krebs
Krueger
Le Fante
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, La.
Luken
Lundine
McCormack
McDade
McFall
McKay
Maguire
Markey
Marks
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Rahall
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Siak
Smith, Iowa
Solarz
St Germain
Staggers
Stark
Steed
Stratton
Studds
Thompson
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—20

Anderson, Ill.
Beard, Tenn.
Boland
Collins, Ill.
Cotter
Dent
Forsythe
Giaimo
Guyer
Howard
Hyde
Ireland
Johnson, Calif.
Marlenee
Price
Spellman
Stokes
Symms
Teague
Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Dent against.

Mr. Anderson of Illinois for, with Mr. Howard against.

Mr. Beard of Tennessee for, with Mr. Stokes against.

Mr. Guyer for, with Mr. Cotter against.

Mr. Symms for, with Mr. Boland against.

Mr. JONES of Tennessee changed his vote from "aye" to "no."

Mr. CHARLES WILSON of Texas changed his vote from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE), as amended.

The question was taken; and the Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CORNELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 418, noes 0, not voting 16, as follows:

[Roll No. 631]

AYES—418

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Boling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel

Hightower	Miller, Calif.	Sarasin
Hillis	Miller, Ohio	Satterfield
Holland	Mineta	Sawyer
Hollenbeck	Minish	Scheuer
Holt	Mitchell, Md.	Schroeder
Holtzman	Mitchell, N.Y.	Schulze
Horton	Moakley	Sebelius
Hubbard	Moffett	Seiberling
Huckaby	Mollohan	Sharp
Hughes	Montgomery	Shipley
Ichord	Moore	Shuster
Ireland	Moorhead, Calif.	Sikes
Jacobs	Moorhead, Pa.	Simon
Jeffords	Moss	Sisk
Jenkins	Mottl	Skelton
Jenrette	Murphy, Ill.	Skubitz
Johnson, Colo.	Murphy, N.Y.	Slack
Jones, N.C.	Murphy, Pa.	Smith, Iowa
Jones, Okla.	Murtha	Stanton, Nebr.
Jones, Tenn.	Myers, Gary	Snyder
Jordan	Myers, John	Solarz
Kasten	Myers, Michael	Spellman
Kastenmeier	Natcher	Spence
Kazen	Neal	St Germain
Kelly	Nedzi	Staggers
Kemp	Nichols	Stangeland
Ketchum	Nix	Stanton
Keys	Nolan	Stark
Kildee	Nowak	Steed
Kindness	O'Brien	Steers
Koch	Oakar	Steiger
Kostmayer	Oberstar	Stockman
Krebs	Obey	Stratton
Krueger	Ottinger	Studds
LaFalce	Panetta	Stump
Lagomarsino	Patten	Taylor
Latta	Patterson	Thompson
Le Fante	Pattison	Thone
Leach	Pease	Thornton
Lederer	Pepper	Traxler
Leggett	Perkins	Treen
Lehman	Pettis	Trible
Lent	Pickle	Tucker
Levitas	Pike	Udall
Livingston	Poage	Ullman
Lloyd, Calif.	Pressler	Van Deerlin
Lloyd, Tenn.	Preyer	Vander Jagt
Long, La.	Price	Vanik
Long, Md.	Pritchard	Vento
Lott	Pursell	Volkmer
Lujan	Quayle	Waggonner
Luken	Quie	Walgren
Lundine	Quillen	Walker
McClory	Rahall	Wa'sh
McCloskey	Railsback	Wampler
McCormack	Rangel	Watkins
McDade	Regula	Waxman
McDonald	Reuss	Weaver
McEwen	Rhodes	Weiss
McFall	Richmond	White
McHugh	Rinaldo	Whitehurst
McKay	Risenhoover	Whitley
McKinney	Roberts	Whitten
Madigan	Robinson	Wiggins
Maguire	Rodino	Wilson, Bob
Mahon	Roe	Wilson, C. H.
Mann	Rogers	Wilson, Tex.
Markey	Roncalio	Winn
Marks	Rooney	Wirth
Marriott	Rose	Wolff
Martin	Rosenthal	Wright
Mathis	Rostenkowski	Wydler
Mattox	Rousselot	Wylie
Mazzoli	Roybal	Yates
Meeds	Rudd	Yatron
Metcalfe	Runnels	Young, Alaska
Meyner	Ruppe	Young, Fla.
Michel	Russo	Young, Mo.
Mikulski	Ryan	Young, Tex.
Mikva	Santini	Zablocki
Milford		Zeferetti

NOES—0

NOT VOTING—16

Anderson, Ill.	Guyer	Symms
Beard, Tenn.	Howard	Teague
Brown, Calif.	Hyde	Tsongas
Cotter	Johnson, Calif.	Whalen
Dent	Marlenee	
Giaimo	Stokes	

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. QUIE. Mr. Chairman, I have an amendment at the desk, but the gentleman from California (Mr. PANETTA) has a unanimous-consent request, and I will be glad to yield to the gentleman.

TECHNICAL AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I ask unanimous consent to offer a technical amendment to my amendment, beginning on page 19, after line 5, which has been previously agreed to.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I would simply say that the gentleman from California (Mr. PANETTA) has very graciously showed his amendment to this side. I did speak with the gentleman from Illinois (Mr. RAILSBACK), who also worked with this amendment. We agree it is technical. It has nothing of substance.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Technical amendment offered by Mr. PANETTA: On Page 19, after line 5, add a new subsection "(4)" providing as follows: "'(a) Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation, the National Labor Relations Board promulgating or repromulgating the rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as providing in paragraph (2), the rule or regulation shall not become effective, if—

(1) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the National Labor Relations Board dealing with the matter of ————, which rule or regulation on was transmitted to Congress on ————, "the blank spaces therein being appropriately filled; or

(2) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(b) If at the end of the 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1)(A).

"(c) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved."

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.'."

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued reading the technical amendment.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the technical amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. PANETTA)?

Mr. ROUSSELOT. Mr. Chairman, I do not think I have any great difficulty with this amendment offered by the gentleman from California and I think many of us on this side do not. However, we are in effect going back in to passed over sections of the bill and opening up elements on which we have already concluded action. Yet a moment ago, when the gentleman from North Carolina (Mr. ANDREWS) tried to get permission to offer an amendment that had been properly printed in the RECORD we did not allow him that same privilege.

I wish the gentleman could tell us what the difference is. I might ask that question of the chairman of the subcommittee.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes, I yield to the gentleman. Is the answer just that the gentleman favors this amendment but he did not favor the amendment by the gentleman from North Carolina?

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will recall, earlier in the day the gentleman from Illinois (Mr. RAILSBACK) offered an amendment. I rose on behalf of the committee to oppose the amendment, and I said I was doing so reluctantly because I thought the principle the gentleman was trying to reach was a good principle. But I did not like the form of the amendment, and our counsel had some difficulty with it.

The gentleman asked for and received unanimous consent to withdraw that amendment, and then he negotiated with us to see if there was a common solution that could be reached. In an attempt to do that, the gentleman from California (Mr. PANETTA) came forward with a substitute that incorporated language which has previously been adopted in other bills to accomplish the same purpose.

We put the amendment together on the floor as quickly as possible, with the Members trying to cooperate with other Members. In the process of doing that, we left a couple of rather technical gaps which the two principal proponents of the original amendment and the substitute amendment felt needed to be resolved.

It just makes good sense for us, rather than to wait for the conference where presumably we could clean this up, to put the bill in a proper form and show the American people that we have enough sense, when we make a little mistake, to solve it.

There is no substantive reason for not going back to do this, because there is no disagreement, as I understand it, in the House over the substance of what the two gentlemen on this side and the other side are trying to do.

In the case of the gentleman from North Carolina (Mr. ANDREWS), who asked to reopen a section of the bill that had already been passed over, there was a substantive difference of opinion involved, and we could have been here for over 2 hours arguing over that section. In any case, the gentleman's request was just not timely.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I think I have made my point. I really believe that the amendment offered by the gentleman from California (Mr. PANETTA) is a good one. I just think it is an interesting display of some partisanship and unfairness and I am sorry that we did not allow the gentleman from North Carolina (Mr. ANDREWS) to go back to that section and offer his amendment that relates to security guards.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, there was no partisanship involved in my action in objecting to the request of the gentleman from North Carolina (Mr. ANDREWS). I did it with great regret. The gentleman is a member of my party, and he is a member of the Committee on Education and Labor. My reason for objecting was, frankly, that there was a great deal of controversy about it.

It had been printed in the RECORD, and circumstances beyond his control kept that gentleman from being on the floor.

Mr. ROUSSELOT. We realize that.

Mr. THOMPSON. Will the gentleman yield further?

Mr. ROUSSELOT. Yes. Many of us do not understand why you have denied Mr. ANDREWS the chance to offer his amendment.

Mr. THOMPSON. Mr. Chairman, we are at a point now where it is getting late in the day, and we have not tried to limit debate at all. However, I would respectfully ask that we try to expedite debate from here on out although I would rather choose not to try to limit debate.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, I appreciate the gentleman's comments that he will try not to limit debate.

Mr. THOMPSON. Mr. Chairman, I will do the best I can.

Mr. ROUSSELOT. Yes; I appreciate the great cooperation of the gentleman.

My disappointment is that many of us have read the amendment of the gentleman from North Carolina. We are familiar with it. It is a constitutional amendment. He asked for the simple cooperation of the gentleman so as to obtain a vote and allow it to be debated.

The gentleman knew in advance what the amendment was, even though he did not agree with it. I think it was too bad that we did not give the House the opportunity to vote on that issue.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, the fact is that had I not objected, any number of other Members would have.

Mr. ROUSSELOT. We should have tried it, in any event.

Mr. THOMPSON. If the gentleman will try it again. I will object to it.

Mr. ROUSSELOT. The gentleman may try to do it again.

Mr. THOMPSON. Then I will object.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. PANETTA).

There was no objection.

Mr. PANETTA. Mr. Chairman, I would like to say with respect to this nonpartisan matter that the changes which are at the desk are purely technical changes relating to the numbering of the amendment within the bill. Therefore, I would urge its adoption.

The CHAIRMAN. The Chair would like to advise the gentleman from California (Mr. PANETTA) that the unanimous-consent request has accomplished the change and that no further action is necessary.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chiarman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 21, line 8, after the word "shall" add: ", unless under a rule adopted pursuant to subsection (b)(1)(D) of section 6, the ballots have been impounded,".

Page 21, line 21, after the word "challenges" add "; *Provided*, That nothing contained herein shall preclude resolution of the eligibility questions raised by such challenges in a subsequent unit clarification proceeding,".

Mr. QUIE. Mr. Chairman, the committee bill provides that a tally of ballots will be served on the parties and implies that only challenges which affect the results of the election would ever be resolved.

My amendment provides that the Board resolve issues before it serves the parties with a tally of ballots where there are substantive issues yet to be resolved. Recently, the Board implemented a "vote and impound" procedure when certain substantive issues are left unresolved. The amendment I offer would allow the Board to continue with that procedure prior to serving a tally of ballots. I direct the Members' attention to page 98 of the appendix to the minority views for an explanation of the "vote and impound" procedure. This procedure allows the election to be held when scheduled, but likewise, allows the substantive issues to be resolved before the parties or the Board knows how the Board's determinations of the substantive issues will affect the results of the election.

I do not believe the intent of the sponsors was to eliminate the "vote and impound" procedure, but the way the bill is written would cause confusion. I offer this amendment to clarify that the "vote and impound" procedure should be given an opportunity to be implemented before it is discarded by legislative oversight.

This amendment also requires the Board to resolve the challenges where they do not affect the results in the manner it presently does. The committee bill would imply that challenges should only be resolved when they affect the results of an election. I feel that employees whose ballots are challenged should know whether they belong in or out of the unit, whether those challenged ballots affect the results or not. I also feel that the employer and union should know who is in or out of the unit they will be bargaining about. Therefore, I think challenges should be resolved at some time. The amendment allows the Board to entertain a unit clarification petition if the challenges do not affect the results of the election in the same manner it does now.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I might say to my distinguished friend and ranking minority member, the gentleman from Minnesota (Mr. QUIE), that the majority sees no objection to this amendment and would be pleased to accept it.

Mr. QUIE. Mr. Chairman, I thank the gentleman.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for his contribution. It is an additional constructive amendment, and I thank the gentleman for offering it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 5? If not, the Clerk will read.

The Clerk read as follows: Page 22, line 3:

SEC. 6. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution?.

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I think this is such a short section that we can listen to it.

Mr. THOMPSON. On the other hand, I think it is so short that we ought to let it just be considered as read.

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of section 6.

The CHAIRMAN. Are there any amendments to section 6?

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole".

Mr. RAILSBACK. Mr. Chairman, the amendment substitutes a standard of review of certification which is similar to the standard of review in section 10 of the act; that is, the "substantial evidence" test.

REASONS

The bill, H.R. 8410, provides that no certification can be set aside unless the Board "prejudicially" violated the "procedural" requirements of the APA, or contrary to the act or Constitution, or acted arbitrarily or capriciously. In effect, the committee bill changes the standard of judicial review (in the representation section of the act) from the current "substantial evidence" test (in the enforcement section of the act) to a test which will automatically sustain the Board's certification unless it acted arbitrarily or capriciously. This effect further narrows the already limited scope of NLRB determinations in representation proceedings. The committee bill is inappropriate because it: First, imposes on the courts the difficult task of applying two different standards in labor appeals, possibly conflicting standards; second, it deviates from a previously unquestioned uniform standard applicable to judicial appeals from all types of administrative hearings; and third, it creates a bad precedent.

My amendment would restore the substantial evidence test, and restore the ability of the courts to check the power of the Board.

In the *Universal Camera Corp* v. *NLRB* (340 U.S. 474 (1951)) case, the Supreme Court stated the substantial evidence test is identical to the substantial evidence test found in the APA, 5 USC 706 (2)(E). Cases disclose that the substantial evidence test has been applied to decisions of the Department of Agriculture, Civil Aeronautics Board, Civil Service Commission, Department of Defense, Federal Trade Commission, ICC, Veterans' Administration, HEW, Commerce, Interior and the SBA. The "substantial evidence" test has been applied to the NLRB, which conforms to the APA standard.

With the adoption of my amendment, the enormous body of law developed under the universal standard would not be overturned. Without adoption, it is possible that other agencies would seek to receive the relatively unchecked power the Board would have under the "arbitrary and capricious standard."

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I waited to listen to the gentleman's explanation. The amendment which he proposes has been discussed earlier with us. I thank him for his consideration, and we are delighted to accept it.

Mr. RAILSBACK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to section 6? If not, the Clerk will read.

The Clerk read as follows: Page 22, line 11:

SEC. 7. The first sentence of subsection (10)(b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section, prohibiting interference with, restraint or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization,

and that said violation occurred within three years of the entry of the order violated,

the Board, or any agent or agency designated by the Board for such purposes, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Chairman, I am constrained to object.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield briefly.

Mr. ROUSSELOT. Yes, but do not talk to me about my stationery again.

Mr. THOMPSON. I hope the gentleman has the keys to his automobile in his pocket.

Mr. ROUSSELOT. I do. I do. Right here.

Mr. THOMPSON. If the gentleman will yield further, he will find when he goes to his office that the door has new locks and he has no telephone.

Mr. ROUSSELOT. I need a new key anyway. I will be pleased to have a new telephone.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. I object. I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded reading section 7.

The CHAIRMAN. Are there amendments to section 7?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment. It was printed in the RECORD Monday.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 22, after line 10, insert the following new section 7 and renumber the subsequent section accordingly.

SEC. 7. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

Mr. ASHBROOK. Mr. Chairman, the purposes of the bill as stated are to expedite and to speed up the processes. I think we have a situation where an amendment of this type can easily speed

up the processes. In many cases we have grievances that can be settled by arbitration and yet we have a procedure where many of the parties will want it both ways. They will go to arbitration, and if the arbitration is not exactly what they want, they will take exactly the same subject to the NLRB.

What I am saying is very simple. Once a party has elected to take a case to arbitration or under the terms of their agreement could take it to arbitration, they may not, merely because they are dissatisfied with the results of the arbitration, seek a remedy in a different forum.

This provides for a selection of remedies, and when the remedies are agreed upon this election of remedies is binding and I think it should be binding only if the arbitrator before the moving party first elects to proceed with the case on its merits. Under the decisions as we have them in the Collyer Insulated Wire case in 1971 the NLRB referred to arbitration a dispute involving an employer's rights. The Board deferred. In subsequent cases sometimes they did and sometimes they did not. So we are really changing the basis of the Collyer law. We are simply saying forum shopping is not good form for the disposition of disputes in labor-management relations. Previous to Collyer, the dispute could be submitted to arbitration or to the Board concurrently.

I am saying that if the parties determine to use their procedures in the contract that they can freely enter into that and they should not forum shop. They should not want to have it both ways.

I do not think it is the province of the Board to tell the parties which way to go, but if the parties in their contract can or elect to go to arbitration, I do not think when it is about to be finalized they should say they want to go to the Board.

As I said earlier, this is in accordance with the objectives of the bill. I think it would help unclog some of the dockets and expedite the procedures under the act.

I urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the effect of the gentleman's amendment is to attempt to, I suppose we could say correctly, reverse the Collyer decision he is talking about in terms of the present interpretation. This amendment would write into the statute a Board doctrine which would say that the Board would not pass on unfair labor practice cases if the subject matter of that case was also the subject of potential arbitration under an arbitration agreement contained in a collective-bargaining agreement.

The gentleman's amendment says this would apply not only to an unfair labor practice case involving the union and company or a charge against either the union or the company but also to those cases where individual employees have a claim for violation in the nature of an unfair labor practice.

It would disqualify the Board from considering the unfair labor practices if the subject matter had been subject to arbitration.

Now, as a matter of fact, what it does is make arbitration under an arbitration arrangement contained in the collective bargaining agreement the sole remedy available not only to a union or to an employer, but to individual employees or groups of employees, whether the union is interested or not.

The effect of that, of course, is to reduce the options available to an individual to seek redress of the alleged violation.

Most importantly, arbitrators are not equipped to deal with unfair labor practice complaints in the text of an unfair labor practice. Their normal function is to settle contractual differences, interpretations of contracts, interpretations of data that would trigger particular relief in the contract or rights in the contract. It is not their job to be conversant with how to interpret the complaints of unfair labor practices as a violation of law.

Arbitration does not provide normally in an arbitration contract for investigators and people to do the necessary investigative work that the Labor Board does with its employees, nor would the arbitrator have access to subpena power to subpena records or subpena witnesses to gather information. The procedures, in other words, while the subject matter contained in both of them might be similar, there might be the same set of circumstances that give rise to both procedures, but it does not dictate that the result you get in both forums is the same or the method of arriving at the result is the same.

The effect of the gentleman's amendment would be to deprive both the employer and the employees of the option not only to submit to arbitration those parts or questions that are raised that are appropriately reached by arbitration, but, nevertheless, having done that, also seek the redress of their grievance by filing an unfair labor practice with the Labor Board and allowing the Labor Board in the normal course of their affairs to consider it.

Arbitration decisions are appealable to the courts, but there is where we start to get into a lot of procedural redtape again. If we force employers or employees into using arbitration as the only solution and the exclusive remedy, we are guaranteeing that an appeal from the procedure that either party takes is going to, first, have to go to the district court and then from there to the circuit court of appeals; while on the other hand if the matter if brought before the National Labor Relations Board as an unfair labor practice and the employer feels that the Board has been a little heavy on the employer, it does not agree with the decision, the employer can go directly to the circuit court of appeals and skip this whole duplicative court procedure.

One further thing I might say, the Board has the authority to enforce its decision to arbitrate. After arbitration, you must still resort to the courts for the enforcement of its determination. It is an inadequate remedy.

Mr. Chairman, I urge defeat of the amendment and at this point I would like to provide my colleagues with a few additional reasons, based on court decisions, for my opposition.

First. The Collyer doctrine was accepted by the courts not as a requirement of the act but as a permissible exercise of the Board's discretion over the processing of cases. Even at that, the acceptance was not without cautionary qualifications, e.g., *Local 2188 IBEW* v. *NLRB*, 494 F.2d 1087, 1091 (C.A.D.C.) cert. denied, 419. U.S. 835.

Second. The policy of the doctrine and the amendment is contrary to the basic theory of the act that the rights protected are public rather than private, for it subordinates statutory procedures and board remedies to private remedies. If a member of the public wants to submit his/her public law claim to the private justice system established in a bargaining agreement, that is one thing. It is something else entirely to force such a surrender of public rights and forums.

Third. The amendment, like the doctrine, reverses the accepted principle that where the same conduct gives rise to more than one basis for relief, the aggrieved party has a choice of which remedy to pursue. As Justice Holmes wrote,

Of course, the party who brings a suit is master to decide what law he will rely upon . . ." (*The Fair* v. *Kohler Dye & Specialty Co.*, 228 U.S. 22, 55).

Fourth. In an analogous area—claims under title VII—the Supreme Court has upheld the opening of both public and private forums, stating as to the legal system created by the NLRA that "(t)here, as here [under title VII], the relationship between the forums is complementary since consideration of the claim by both forums may promote the policies underlying each. Thus, the rationale behind the election of remedies doctrine cannot support the decision below." (*Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36, 50–51).

Fifth. Arbitration proceedings are simply inadequate to protect statutory rights. They are created to deal with transgressions of a common agreement, not claims of bad faith and intentional deprivation of legal rights. They are significantly less able than the Board (if indeed they are able at all) to compel the production of information by one party at the demand of the other. And they are wholly incapable of preventing future violations. They are, moreover, expensive for the contracting party to pursue, and this in itself requires unions to be carefully selective as to which grievances will be pursued to arbitration. Arbitration proceedings are thus manipulable by employers to drain union treasures, and to discourage employees by requiring the filing of more grievances than can be pursued to the end.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, the gentleman from Michigan has given us a learned discourse on whether arbitration is a

good remedy or not. I am not going to challenge the statement of the gentleman. We might disagree on the validity of arbitration, but remember this, no one in this amendment by voting for it is going to force arbitration on anyone who has not agreed to it. This is not saying that any employer or union or employee must use arbitration without having agreed to do so.

As far as the employees are concerned, the gentleman said that they are losing some remedy. Remember, each employee is free to choose his own course and do for himself as he sees fit in seeking a level of wages, fringe benefits, remedies, and all other conditions of employment. But, when the employee chooses to be represented by a union, he gives up his individual rights. That is the whole thing in unionization, in collective bargaining. It is collective decisions for the collective good, and the individual employee gives up his right to bargain for the wage rate he wants or the fringe benefits he wants, and all other things. He no longer has the right as an individual to pursue his rights, but has given that up to the collective. That is collective bargaining.

What the gentleman from Ohio has provided here is an amendment that says that if one has a collective bargaining situation and the union has negotiated and reached an agreement with the employer, and that agreement provides the remedy to be arbitration, then we are going to see that the agreement is enforced; the collective decision of all of the employees to defer to arbitration rather than to go into courts, rather than to seek a remedy at the Board, will be enforced.

Now, if the employee does not like that, he can tell his union not to negotiate it. If the union thinks this is not a valid remedy, they need not agree to it when they bargain across the table; but if they have agreed to it, if a contract has been signed and the contract says that arbitration is the remedy, why should it not be enforced as the remedy? That is all the gentleman is suggesting, that we give full force and effect to collectively bargained agreements.

I think the gentleman from Michigan would not be here arguing against a provision that would say that the employees must give up their other rights, as they do in the collective-bargaining situation. Why should this one right be proscribed that is contrary to the contract, contrary to what the union has agreed to?

The other point to be made is this: The thrust of this bill is supposed to be taking the burden off the Board so as to permit the disposition of election contests and unfair labor practice charges in as rapid a fashion as possible. We will be taking a burden from the Board and from the courts if we enforce these collectively bargained agreements and have deferral to arbitration. Of course, what is done now is that very often there will be successive deferral to arbitration; if they do not like the decision, they go to the Board; if they do not like that, they go to the courts. We wind up with three actions instead of one. Or, they may bypass arbitration, because they think it is too expensive and too cumbersome, and violate the agreement and go directly to the Board.

I do not think we should let this happen. There should be sanctity of the contract reached between a union and the employer, and I would hope that the amendment offered by the gentleman from Ohio is adopted.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding to me.

I think the thing that surprises me the most about the statement of my friend from Michigan is that it runs away from the Collyer decision. It does not in any way separate itself from the Collyer decision; it implements it. My friend from Michigan (Mr. FORD) on numerous occasions has talked about sound labor-management policy and public policy.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. ASHBROOK and by unanimous consent Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. The essence of sound labor policy and sound public policy is to encourage settlement of contractual disputes by contract. Of course, the parties have rights in most cases for appeal to courts and to go to the National Labor Relations Board. We should encourage the resolution of differences under the terms of the contract, which is a part of the labor-management process. This is exactly what this amendment would do. It certainly is supported by public policy as well as expediting the remedy to both labor and management.

Mr. ERLENBORN. I thank the gentleman. Would not the gentleman agree that the only arbitration that would be required under the amendment is if the union representing the employees has entered into a contract on behalf of those employees calling for arbitration?

Mr. ASHBROOK. Absolutely. There would be no other instance where this amendment would even apply.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I am sure that both the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Ohio (Mr. ASHBROOK) are in agreement that we should encourage agreements between labor and management to arbitrate differences wherever that is possible. But I am afraid that the effect of the Ashbrook amendment is to fly in the face of that, because if you are going to draw a provision in a collective bargaining agreement between union and management that is going to set the parameters of those matters that they agree to submit to arbitration, you are going to be very cautious in the future, should the Ashbrook amendment be agreed to, so that you do preserve, by not having a broad commitment to arbitration, the right to preserve the public remedy.

There are two remedies involved, frequently, out of the same set of circumstances. There may be a set of circumstances under which the contractual relationship of the employer-employee, governed by a collective bargaining agreement, gives rise to a dispute that can be resolved by arbitration. But not all matters that give rise to a dispute subject to arbitration are by any stretch of the imagination unfair labor practices. They may be differences of opinion between the parties or a dispute over what the provisions of the contract mean. But that does not mean you go to the Board and file an unfair labor practice action.

The gentleman's amendment says that on those occasions when the transaction carries with it conduct by either management or an employee that amounts to an unfair labor practice, once they have determined that the transaction comes within the purview of arbitration, the complaint for the unfair labor practice goes out the window and the public remedy to assure that people are law abiding in their conduct is gone.

I do not know how one can construe this as a prolabor or promanagement sort of an issue, and I do not think the gentleman from Ohio (Mr. ASHBROOK) or I perceive it that way, because it is entirely possible that an employer would, given a course of conduct by employees, want to have available to him then the complaint for the unfair labor practice as a deterrent to a repetitious course of conduct on the part of an employee that he thought was particularly damaging and was not able to reach through arbitration under the collective bargaining agreement.

It narrows the choices available to both the employee and employer in such a way as to discourage in future collective bargaining agreements broad submission of issues to arbitration, and that is not what I think the gentleman and I would like to see happen.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, could I ask the gentleman from Michigan this question: What happens now? In other words, I understand that, as the gentleman says, this might limit the number of contracts that provide for arbitration. But is the gentleman proposing that, when the contract provides for arbitration, it may be broken?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield so that I may respond to the question of the gentlewoman from New Jersey?

Mr. KILDEE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. The gentleman's amendment would reverse the present practice. The present practice allows the person who has submitted to or is submitting to arbitration to nevertheless press his claim for unfair labor practice against the person they feel has committed the wrong.

Mrs. FENWICK After they have been through with arbitration?

Mr. FORD of Michigan. It does not have anything to do with arbitration.

Mrs. FENWICK. I am trying to find out what happens now.

Mr. FORD of Michigan. In the arbitration, I am trying to get you as my employer to pay up the overtime you owe me.

Mrs. FENWICK. Right.

Mr. FORD of Michigan. But in the course of the same transaction there is some conduct by you that I allege to be a violation of the act and, therefore, an unfair labor practice.

That is an entirely different remedy. We arbitrate over how much back pay I may have, but we do not arbitrate over your violation of the law. The gentleman's amendment would have arbitration over the back pay issue blocked, and there would be no consideration by the Board of the violation of law. That goes beyond my individual right. The public has the right to have the law enforced. My individual right to the wages should not preclude the public remedy which provides for punishment of somebody who is a public wrongdoer.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. KILDEE) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. KILDEE was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Michigan (Mr. FORD) is, of course, not only absolutely correct in his explanation, but the amendment really goes further than has been suggested. It would not apply only in those situations where the parties have agreed to submit a dispute to binding arbitration or where they have acted to submit it to binding arbitration; it would also apply in those situations where the contract said they could submit it.

So their right to go to the Board would be wiped out if the contract simply said they could have submitted it to binding arbitration. I think that is absolutely depriving people of their rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 19, noes 29.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 7?

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ERLENBORN. Mr. Chairman, I have amendments that amend both sections 7 and 8. The amendment to section 7 is technical and conforming in nature. The substance of the amendments is to section 8.

I would ask the chairman if I might offer my amendments now, or should I want until section 8 has been read?

The CHAIRMAN. The Chair will advise the gentleman from Illinois (Mr. ERLENBORN) that if the gentleman desires to offer his amendments as one amendment, he will have to obtain unanimous consent to do so, either now or when section 8 is read.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments to sections 7 and 8, and I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. FORD of Michigan. Mr. Chairman, reserving the right to object, will the gentleman tell us which amendments these are?

Mr. ERLENBORN. This is the one numbered 17. It has to do with debarments and it was printed in the RECORD on Monday.

Mr. FORD of Michigan. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: Page 22, line 14, strike "(1)"; page 22, line 15, strike "or" the second time it occurs and all that follows through line 5, page 23;

Page 23, line 22, strike all therein through line 7, page 24;

Strike "(3) by" on line 8, page 24;

Change "paragraphs:" to "paragraph:" on line 9, page 24;

Strike line 10, page 24 through line 6, page 25; and

Strike "(3)" on line 7, page 25.

Mr. ERLENBORN. Mr. Chairman, this amendment strikes the remedy contained in the bill which is a new remedy and is referred to as "debarment."

The remedy is, in my opinion, and in the opinion of many, too severe a sanction to be used in the labor-management relations field.

By the way, Mr. Chairman, it represents the addition of a punitive remedy to the Act, for the first time, an act that has in the past been remedial rather than punitive.

Mr. Chairman, as far as has been shown, the debarment remedy, where it is now available, has not proven to be effective, to achieve compliance, as an example, with the equal opportunity regulations or laws. Both in OFCC and in EEOC the remedy of debarment is available and has proven to be inadequate and not an efficacious remedy.

It is obvious that the debarment remedy was devised to deal with repeat offenders such as J. P. Stevens. However, this proposed remedy affects all who are found to have willfully violated an unenforced order of the Board or a court order. Besides failing to define what is "willful," the committee bill also fails to allow an appeal from the findings of debarment and removes any discretion on the part of the Board to determine whether debarment is an appropriate remedy.

Mr. Chairman, let me list some of the deficiencies of contract debarment.

First, it is a remedy which changes, as I say, the nature of the act from remedial to punitive.

It is a remedy which tends to punish the very employees whom the act is designed to protect, as Lou Poulten, the associate general counsel of the International Association of Machinists testified before the Congress last year and again in this Congress.

The debarment remedy selectively penalizes only employees working for employers who contract with the Government.

The proposed remedy is not applicable to possible flagrant violators of the law if they happen not to contract with the Government.

The proposed remedy is effective for an arbitrary period of 3 years, far longer than is necessary, probably in most cases to neutralize the violation, and far longer than required to neutralize otherwise more egregious conduct.

It would appear that such a remedy would cause employers to be reluctant to settle any first violations, because having been found guilty, even in an agreed situation that first time, the next time they are charged with a violation they would be subject to debarment as a remedy.

Further, it is alleged to be addressed against repeated or flagrant transgressors, but it could be directed against any respondent found guilty of any type of violation, even one that was minor and was settled.

In sum, Mr. Chairman, debarment is not a proper remedy in the way it is provided in this bill, which makes its application even worse.

If we are to have any debarment—and I submit that we should not—it ought to be applied at the discretion of the Board or of the Secretary of Labor; and the time of debarment ought to be discretionary rather than to have an arbitrary 3-year application of debarment.

Mr. Chairman, I would hope that this amendment would be supported and adopted.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendments.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Chairman, the Erlenborn amendment would effectively strike the debarment section.

The debarment section has come about not only because of one violator, but because of a considerable number of chronic violators.

I hasten to concede that the great majority of employers in the United States, no matter where they are located, are law-abiding, reasonable, honest and de-

cent people. However, there are a minority who so flagrantly violate the law, who so flagrantly abuse the law and cause terrible hardships to so many people that the debarment remedy is necessary.

In the course of this, I will concede that on occasion—my friend, the gentleman from Ohio has enumerated—labor unions themselves have been in violation—and in those occasions the violators should be punished whether they be the union or the employer.

The debarment section, after careful consideration, I feel might adversely affect some people who could exculpate themselves, indeed might even affect a few employees here and there. Therefore, the gentleman from Minnesota (Mr. QUIE) will have an amendment, following the Erlenborn amendment—which I urge the defeat of—that the gentleman from Minnesota and I have agreed upon.

PARLIAMENTARY INQUIRY

Mr. THOMPSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr THOMPSON. Mr. Chairman, I wonder if it is possible parliamentarily for the gentleman from Minnesota (Mr. QUIE) to offer an amendment to the bill at this point.

The CHAIRMAN (Mr. NATCHER). The Chair would advise the gentleman from New Jersey (Mr. THOMPSON) that an amendment to or a substitute for the motion to strike would not be in order.

Mr. THOMPSON. But an amendment to the bill, rather than a substitute to strike, would be in order, Mr. Chairman?

The CHAIRMAN. The Chair would advise the gentleman from New Jersey that, as the gentleman knows, section 8 is not open for amendment at this time, other than the Erlenborn amendment, and perfecting amendments to that section are not yet in order.

Mr. THOMPSON. I thank the Chairman.

The CHAIRMAN. Unless the gentleman obtains unanimous consent to dispense with reading of section 8, then it would be open.

Mr. THOMPSON. I shall not make that attempt.

If I may conclude by saying that I urge the defeat of the Erlenborn amendment and the adoption of the proposed Quie amendment which would substantially reduce the impact of the penalty of debarment, which I consider absolutely necessary, but which would give an offending employer an opportunity, within a reasonable time, to clean his act up and, therefore, relieve himself of the penalty of debarment.

I consider that this is of enormous importance, Mr. Chairman, and members of the committee. At the appropriate time—and I assure the members of the committee that the time is coming soon—when the gentleman from Minnesota (Mr. QUIE) will introduce an amendment relating to debarment, in a sense softening it. I shall support it and I shall indeed add a proviso to soften that penalty even more for the law-abiding employers.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 2 additional minutes.)

Mr. THOMPSON. Under the proposal in H.R. 8410 the only circumstance under which an employer would be debarred would be if he is found guilty a second time of violating the law in the sense that he continued to do what he had been ordered to cease doing. We think that this is completely and utterly reasonable and necessary. However, the gentleman from Minnesota (Mr. QUIE) and I discussed this matter. We think that there might be unwitting violators a second time who would be debarred who then could clarify their situation and who could be reinstated if they cleaned up their act and abided by the law.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this amendment would strike the debarment remedy from section 8 of the bill. If this amendment is adopted the inequities and deficiencies inherent in the concept will wreak havoc with the lives of innocent employees and businessmen.

The provision is touted by the bill's sponsors as being intended to do nothing more than to preserve the integrity of the Federal contracting process. In reality, it would have no effect whatsoever on the integrity of that process, for the conduct to which the remedy is addressed has nothing to do with the process by which Government contracts are bid and awarded.

The debarrment remedy transforms the National Labor Relations Act from a remedial statute into a severely punitive one—a transformation which turns the 42-year-old purpose of the act on its head. There is no standard of willingness included in the measure, so that conduct of employers which leads to debarment is undefined.

Even though the remedy is severely punitive, it does not distinguish between employers who violate the act in a repeated, flagrant and severe fashion, establishing a pattern of contempt for the statute, and employers who commit a minor, isolated violation.

All employees, whether union or nonunion, would suffer under a debarment as much as any employer. The Office of Federal Contract Compliance programs estimates that 350,000 businesses either directly or indirectly do business with the Federal Government. These 350,000 business establishments employ, according to OFCCP, almost 40 percent of this country's labor force. A debarment remedy would have a serious effect on these business establishments and their employees. If debarment were to take place, employees who are supposed to be protected by the law would lose their jobs. Chairman THOMPSON, during markup, acknowledged the implications that the adoption of this proposed sanction would have upon employees who are employed by employers who have contracts with the Federal Government. It seems obvious that loss of employment is far more serious than the effect of any unfair labor practices.

Finally, the debarment remedy is so severe that its chilling effect will inhibit employers from exercising the rights under the act, rather than run the risk of mistakenly violating the act and having themselves declared "willful" violators under such vague criteria as contained in section 8 of the bill.

I ask my colleagues to vote with me in striking from this bill this ill-advised and potentially disasterous remedy.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the Chairman.

Mr. THOMPSON. I thank the gentleman for yielding.

The gentleman uses the phrase "chilling effect." A chilling effect on an employer will occur when a court first finds that he has violated the law. To some employers it will give a moderate chill; on others it will virtually freeze them. But there is a whole body of law as to what "willful" is.

I thank the gentleman for being kind enough to yield to me.

Mr. ASHBROOK. It does not necessarily have to be a court order. It may be an order of the Board, which might be entirely different.

Mr. THOMPSON. That is quite right, but there is a whole body of Board law which the gentleman supports very, very much.

Mr. ASHBROOK. That is true. What about a violation of posting an order? That certainly would not be a flagrant violation, but it could be a willful violation. Does the gentleman want that to be the subject for counting, No. 1, in this countdown process?

Mr. THOMPSON. If it is willful, yes.

Mr. ASHBROOK. It would be my hope the Board would not, but my point is we have no assurance whatsoever in how the Board will interpret willful violation. H.R. 8410 does not in any way indicate what we mean by willful violation.

Mr. THOMPSON. If the gentleman will yield further briefly, the report spells out very specifically the willful aspect which worries my friend, the gentleman from Ohio, so much. I thank the gentleman for yielding.

Mr. ASHBROOK. But as I understand it, in some fair interpretation of law willful can be any deliberate act. It does not necessarily have to be severe, flagrant, or the kind that is really abusive of employee rights.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

With regard to willful violation, in my home State there is a statute that uses that language. The gentleman from Illinois (Mr. ERLENBORN) is familiar with the structural wording of it. I always thought willful was close to intentional, but our courts interpret willful as knowing, and from knowing to should have known. That is a far cry from willful, but it gives us an idea of what that word can mean if somebody does not define it.

Mr. ASHBROOK. And a Board can mold decisions along whatever philosophical standpoint they desire in order to implement this act. I believe this will have an extremely chilling effect on employers. Maybe that is what is wanted. I hope not.

Mr. O'BRIEN. I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. MILLER of California. Mr. Chairman, earlier today, this morning, we were told we should not look at the J. P. Stevens case when we were considering the legislation, that this applied to a lot of small businesses and little businesses and good people. Now we are told somehow this section of the law as written in this bill has a chilling effect.

Let me tell the Members what they have to do before they get chilled. They have to go out and violate in a willful manner an order of the Board or they have to go out and violate in a willful manner an order of the court. In fact they have to be in contempt.

Let me tell the Members what the court tells people when they tell them not to do something. They spell out very clearly what practices they were engaged in that the court thought was an unfair labor practice and the court says they must not do that in the future. That is very clear. All they have to do is have such respect for the court or Board as to read their orders.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, on page 45 of the report is this language in the bottom paragraph:

> The term "willful" under this bill simply means a voluntary, intentional violation of a known legal duty. (See *United States* v. *Pomponio*, 429 U.S. 10, 12.) Misconduct which is willful in this sense can result in imprisonment under the misdemeanor and felony sections of this Internal Revenue Code, see *id.* and this standard is fully adequate to protect employers against debarment for negligence.

I thank the gentleman for yielding.

Mr. MILLER of California. Mr. Chairman, I appreciate the comments of the chairman of the committee.

I think anyone here who has gone to law school understands very clearly what the term "willful" means. I think the courts understand.

Let me give the Members an example of why J. P. Stevens does not understand. They were told not to curtail the rights of the people who were trying to organize. So they were chilled. Their rights were chilled. Their rights were so chilled that they bugged the hotel room of the people holding these meetings in the hotel room because it was the only place they could find to hold their organizational meetings. They were so chilled as to say: "Our employees did it. We did not direct them to do that." Very clearly the court told them not to put surveillance on these people who were trying to hold a meeting in this facility.

Very clearly we find out this company has willfully and intentionally violated the order of the court time and time again. That is what this section speaks to. So before any of our good-intentioned employers or small businesses have their rights chilled, the first thing they have to do is to be in contempt of court and be in contempt of the Board.

If Members want to endorse that kind of practice and protect that kind of practice and somehow feel that we are somehow chilling the rights, and regardless of what the law of the country is, I do not think the Congress of the United States ought to endorse that, and we ought to reject this amendment.

Mr. THOMPSON. Mr. Chairman, If the gentleman will yield further, those on the subcommittee found our rooms were entered without our permission and J. P. Stevens literature was put into the rooms, which was rather chilling, and at the very same time they gave rise to a worry about bugging, for instance, Mr. ASHBROOK's rooms. I would not want that done because maybe he was watching the Redskins that evening, but at the same time, during that very time, our rooms were entered, we having paid for them, and on the very next day there was an announcement of a $3 million Federal contract for J. P. Stevens. They really were not even slightly chilled. The Second Circuit Court in the decision to which the gentleman is referring should chill them—and as a matter of fact should deep-freeze them.

Mr. MILLER of California. I thank the chairman.

In fact, I would just like to say that we hear about a lot of amendments that gut a bill. To take this provision out is to allow lawlessness on the part of this small number of rogue employers.

Mr. Chairman, if the Business Round Table or the Chamber of Commerce wants to throw their arms around these people, that is fine; but the U.S. Congress should not.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. MILFORD, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I just suggest one remark about this chilling argument that has been going on. I admit the gentleman has some points, but the real chilling thing to me in this whole debate is those people working at that company. Taking their jobs away from them for 3 years seems to me to be the real life situation that is bothering me. There are some innocent people that are not big lawyers, big organizers, but will be innocent people that will get hurt.

Mr. MILLER of California. I think we will get into that when we get into the program, because you will find out if you take away this provision, you take away back pay, because it is cheaper to go to the courts, cheaper to be found in contempt and you can go along this road for 10 or 15 years and you find there is profit in it, just as there was profit in slavery in the old days and there is profit here in violating the law. That is what we have to stop.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, having read the report of this committee, and I suppose that is dangerous, I read on page 80 of the committee report the following:

> Mr. Louis P. Poulton, associate general counsel of the International Association of Machinists & Aerospace Workers, registered the organization's objection to debarment because of its potential—

Mr. Chairman, I want to get the attention of my colleague, the gentleman from New Jersey, because this is an important answer to the gentleman's question. I will repeat this. In the report it says:

> Mr. Louis P. Poulton, associate general counsel of the International Association of Machinists & Aerospace Workers, registered the organization's objection to debarment because of this potential for idling workers.

In other words, if I read what he said correctly, he talked about the job destruction possibility of totally innocent workers as a result of this particular provision in the bill.

Mr. Chairman, I would like to yield to my colleague, the author of the amendment Mr. ERLENBORN. Can the gentleman describe the concerns that this assistant general counsel of the Association of Machinists and Aerospace Workers had about idling workers? Could the gentleman explain that further?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield.

Mr. ERLENBORN. Mr. Chairman, obviously there is reason to be concerned about the provision in this bill. Just as one example, if you have a conglomerate corporation that has say 40 plants across the United States and in one plant they have been found guilty of this sort of willful violation and debarment, which is automatic——

Mr. ROUSSELOT. The debarment is automatic.

Mr. ERLENBORN. It is automatic, there is no discretion; disbarment is ordered against that corporation, not one of its 40 plants across the United States can do business with the Government because the parent corporation is debarred. Every one of its plants across the country is incapable of contracting with the United States.

Mr. ROUSSELOT. So if the debarment provision is automatic, those workers in all those plants can be thrown out of work, if they have Government contracts even if they are innocent bystanders.

Mr. ERLENBORN. Absolutely.

Mr. ROUSSELOT. Mr. Chairman, is that the intention of the gentleman from New Jersey, to throw all those people out

of work, all those innocent workers?

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield. I could not believe the gentleman would want to throw all those innocent people out of work.

Mr. THOMPSON. Mr. Chairman, the gentleman shows the most remarkable degree of compassion.

Mr. ROUSSELOT. I knew the gentleman would acknowledge that.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, in light of the gentleman's record of going against jobs bills, the gentleman has an utterly and wonderfully qualified record.

Mr. ROUSSELOT. I knew the gentleman would recognize my record in working to provide permanent jobs. I appreciate those compliments.

I have an International Association of Machinists Union local headquarters in my district. They are very concerned about this debarment provision, because there happens to be, incidentally, a substantial number of aerospace workers in California. Those workers are very concerned about the arbitrary nature of this provision in the bill.

Now, I would be delighted, unless my colleague, the gentleman from New Jersey, wants to comment on why he wants to throw these people out of work, I would be delighted to hear what my colleague, the gentleman from California (Mr. MILLER) has to say.

Mr. MILLER of California. I do not think anywhere in the law is there found, of a business, whether it is a conglomerate, a multi-national corporation, a small business or a partnership, a defense to violating the law.

Mr. ROUSSELOT. Of course not no one would defend anyone violating the law. But the gentleman knows that thousands of innocent workers could be imperiled because, as the author of this amendment has stated, the debarment proceeding in this bill is automatic. Is that not correct under this bill, is it not automatic?

Mr. MILLER of California. Yes, it is——

Mr. ROUSSELOT. The gentleman has answered my question, and I appreciate it.

Mr. MILLER of California. All that has to happen is that they have to obey the law.

Mr. ROUSSELOT. Nobody suggests that they should not obey the law. We are just saying that those innocent people who are not involved in abusing the law should not be thrown out of jobs, and I think the best answer was Mr. Poulton's testimony. I appreciate the gentleman recognizing that unfortunately under this bill disbarment is automatic.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the gentleman from California have 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. THOMPSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KILDEE. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, you know, very often we complain that the left hand does not know or does not care what the right hand is doing, and we have a perfect example of that here in the Federal Government. For several years the Federal Government has been trying to get the J. P. Stevens Co. to obey the law. At the same time, the right hand of that same Federal Government has been enriching the J. P. Stevens Co. by giving them multi-million-dollar contracts. The left hand should be concerned about what the right hand is doing.

I think it is essential that we turn this gutting amendment down. We will have the opportunity to have a modified debarment provision as Mr. QUIE and Mr. THOMPSON have been discussing, but I think it is time that we show our concern that the left hand of government know and must be concerned about what the right hand of government is doing when it deals with lawbreakers.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. First, I would like to apologize to Mr. ROUSSELOT. It has not been my habit to object, but it is getting late and the objections from that side kind of get infectious. I am going to cleanse myself sometime later.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. THOMPSON. I do not have the floor.

Mr. ROUSSELOT. The other gentleman is not paying any attention anyway.

Mr. KILDEE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. I just checked with my office, and the gentleman has not locked the doors. I appreciate it.

Mr. ROUSSELOT. I think the gentleman looked to see if his car is there?

Mr. ROUSSELOT. It is there.

Mr. THOMPSON. Check the tires.

Mr. ROUSSELOT. The tires are flat just like this bill.

Mr. THOMPSON. The only possibility to arrive at a decent and reasonable and honorable compromise. Mr. Chairman and members of the committee, is to defeat the Erlenborn amendment which is pending, and to support the Quie amendment which will be offered to make more reasonable the debarment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 32, noes 74.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 301, not voting 22, as follows:

[Roll No. 632]

AYES—111

Abdnor	Evans, Del.	Montgomery
Alexander	Flynt	Moore
Andrews, N.C.	Forsythe	Moorhead, Calif.
Archer	Fountain	Myers, John
Armstrong	Frenzel	Pettis
Ashbrook	Frey	Poage
Badham	Goodling	Preyer
Bafalis	Gradison	Quayle
Bauman	Grassley	Quillen
Bowen	Gudger	Rhodes
Brown, Mich.	Hagedorn	Roberts
Brown, Ohio	Hall	Robinson
Broyhill	Hammer-schmidt	Rose
Burgener	Hansen	Rousselot
Burke, Fla.	Harsha	Rudd
Burleson, Tex.	Holland	Satterfield
Butler	Holt	Schulze
Carter	Horton	Sebelius
Cederberg	Johnson, Colo.	Shuster
Clausen, Don H.	Jones, Okla.	Snyder
Cochran	Kelly	Spence
Collins, Tex.	Ketchum	Stangeland
Corcoran	Lagomarsino	Stockman
Crane	Latta	Stump
Cunningham	Leach	Treen
Daniel, Dan	Livingston	Vander Jagt
Daniel, R. W.	Lujan	Waggonner
de la Garza	McClory	Wampler
Derrick	McDonald	White
Devine	Mahon	Whitehurst
Dickinson	Mann	Whitley
Dornan	Marks	Whitten
Duncan, Oreg.	Marriott	Wiggins
Duncan, Tenn.	Martin	Wilson, Bob
Edwards, Ala.	Mathis	Winn
English	Michel	Wydler
Erlenborn	Milford	Young, Fla.

NOES—301

Addabbo	Cleveland	Ginn
Akaka	Cohen	Glickman
Allen	Coleman	Gonzalez
Ambro	Collins, Ill.	Gore
Ammerman	Conable	Hamilton
Anderson, Calif.	Conte	Hanley
Anderson, Ill.	Conyers	Hannaford
Andrews, N. Dak.	Corman	Harkin
Annunzio	Cornell	Harrington
Applegate	Cornwell	Harris
Ashley	Coughlin	Hawkins
Aspin	D'Amours	Heckler
AuCoin	Danielson	Hefner
Badillo	Davis	Heftel
Baldus	Delaney	Hightower
Barnard	Dellums	Hillis
Baucus	Derwinski	Hollenbeck
Beard, R.I.	Dicks	Holtzman
Bedell	Diggs	Howard
Bellenson	Dingell	Hubbard
Benjamin	Dodd	Huckaby
Bennett	Downey	Hughes
Bevill	Drinan	Ichord
Biaggi	Early	Ireland
Bingham	Eckhardt	Jacobs
Blanchard	Edgar	Jeffords
Blouin	Edwards, Calif.	Jenkins
Boggs	Eilberg	Jenrette
Boland	Emery	Jones, N.C.
Bolling	Ertel	Jones, Tenn.
Bonior	Evans, Colo.	Jordan
Bonker	Evans, Ga.	Kasten
Brademas	Evans, Ind.	Kastenmeier
Breaux	Fary	Kazen
Breckinridge	Fascell	Kemp
Brinkley	Fenwick	Keys
Brodhead	Findley	Kildee
Brooks	Fish	Kindness
Brown, Calif.	Fisher	Koch
Buchanan	Fithian	Kostmayer
Burke, Calif.	Flippo	Krebs
Burke, Mass.	Flood	Krueger
Burlison, Mo.	Flowers	LaFalce
Burton, John	Foley	Le Fante
Burton, Phillip	Ford, Mich.	Lederer
Byron	Ford, Tenn.	Leggett
Caputo	Fowler	Lehman
Carney	Fraser	Lent
Carr	Fuqua	Levitas
Cavanaugh	Gammage	Lloyd, Calif.
Chappell	Gaydos	Lloyd, Tenn.
Chisholm	Gephardt	Long, La.
Clay	Gibbons	Long, Md.
	Gilman	Luken
	Ginn	Lundine

McCloskey	Panetta	Smith, Nebr.
McCormack	Patten	Solarz
McDade	Patterson	Spellman
McEwen	Pattison	St Germain
McFall	Fease	Staggers
McHugh	Pepper	Stanton
McKay	Perkins	Stark
McKinney	Pickle	Steed
Madigan	Pike	Steers
Maguire	Pressler	Steiger
Markey	Price	Stratton
Mattox	Pritchard	Studds
Mazzoli	Pursell	Taylor
Meeds	Quie	Thompson
Metcalfe	Rahall	Thone
Meyner	Rainsback	Thornton
Mikulski	Rangel	Traxler
Mikva	Regula	Tribble
Miller, Calif.	Reuss	Tsongas
Miller, Ohio	Richmond	Tucker
Mineta	Rinaldo	Udall
Minish	Risenhoover	Ullman
Mitchell, Md.	Rodino	Van Deerlin
Mitchell, N.Y.	Roe	Vanik
Moakley	Rogers	Vento
Moffett	Roncalio	Volkmer
Mollohan	Rooney	Walgren
Moorhead, Pa.	Rostenkowski	Walker
Motti	Roybal	Walsh
Murphy, Ill.	Runnels	Watkins
Murphy, Pa.	Russo	Waxman
Murtha	Ryan	Weaver
Myers, Gary	Santini	Weiss
Myers, Michael	Sarasin	Wilson, C. H.
Natcher	Sawyer	Wilson, Tex.
Neal	Scheuer	Wirth
Nedzi	Schroeder	Wolff
Nichols	Seiberling	Wright
Nix	Sharp	Wylie
Nolan	Shipley	Yates
Nowak	Sikes	Yatron
O'Brien	Simon	Young, Alaska
Oakar	Sisk	Young, Mo.
Oberstar	Skelton	Young, Tex.
Obey	Skubitz	Zablocki
Ottinger	Smith, Iowa	Zeferetti

NOT VOTING—22

Beard, Tenn.	Guyer	Ruppe
Broomfield	Hyde	Slack
Clawson, Del	Johnson, Calif.	Stokes
Cotter	Lott	Symms
Dent	Marlenee	Teague
Edwards, Okla.	Moss	Whalen
Giaimo	Murphy, N.Y.	
Goldwater	Rosenthal	

The Clerk announced the following pairs.

On this vote:

Mr. Beard of Tennessee for, with Mr. Dent against.

Mr. Del Clawson for, with Mr. Stokes against.

Mr. Goldwater for, with Mr. Cotter against.

Mr. Guyer for, with Mr. Murphy of New York against.

Mr. Teague for, with Mr. Rosenthal against.

Mr. Lott for, with Mr. Moss against.

Mr. Symms for, with Mr. Whalen against.

Messrs. TUCKER, MILLER of Ohio, and BIAGGI changed their vote from "aye" to "no."

Mr. TREEN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. QUIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would like to advise the gentleman from Minnesota that the Chair understands the gentleman's amendment is to section 8, and the amendment is not open at this time.

The Clerk will read section 8.

The Clerk read as follows:

SEC. 8. Section 10(c) is amended by—

(1) inserting "(1)" after "(e)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding at the end thereof the following new paragraphs:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identification of that person to the Secretary of Labor. Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list to all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Notwithstanding any other law, no contracts shall be awarded to such person during the three-year period immediately following the date of the Secretary's certification, unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source for the material or services furnished by the person affected by the Board order.

"(3) In a case in which the Board determines that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employee are seeking representation by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, the measure of backpay for the period until a valid offer of reinstatement is made shall be double the employee's wage rate at the time of the unfair labor practice. In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may award to the employees in that unit compensation for the delay in bargaining caused by the unfair labor practice which shall be measured by the difference between (i) the wages and other benefits received by such employees during the period of delay, and (ii) the wages and fringe benefits such employees were receiving at the time of the unfair labor practice multiplied by the percentage change in wages and other benefits stated in the Bureau of Labor Statistics' average wage and benefit settlements, quarterly report of major collective-bargaining settlements, for the quarter in which the delay began. If the Secretary of Labor certifies to the Board that the Bureau has, subsequent to the effective date of the Labor Reform Act of 1977, instituted regular issuance of a statistical compilation of bargaining settlements which the Secretary determines would better effectuate the purposes of this subsection than the compilation specified herein, the Board shall, in administering this subsection, use the compilation certified by the Secretary.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment. My amendment is printed in the RECORD. However, I want to change a few words in it, and I ask unanimous consent that it be offered in the revised form.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. QUIE

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following:

"Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party; *Provided*, That this subparagraph shall restrict the award of contracts solely to the products or service performed at the particular facility or facilities where the willful violation occurs or of the business entity legally responsible for the willful violation or to the local, intermediate, national or international labor organization legally responsible for the willful violation.".

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. ROUSSELOT. Mr. Chairman, I object. Since the gentleman has made changes, could we please have it read?

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. Is there objection to the offering of the amendment as modified?

There was no objection.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I will very briefly explain the amendment so everybody understands it, but first I will yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I have read this very carefully, counsel has read it, the majority has read it. It is a very constructive and splendid solution

to the debarment problem. I urge its acceptance.

Mr. QUIE. Mr. Chairman, the committee bill inserts a new penalty of "debarment" into the law and that penalty applies to all "persons." As the word "persons" can be widely construed, I have offered this amendment that would apply the debarment remedy to those plants, facilities, or labor organizations which have willfully violated the act.

For instance, if one GM plant engaged in a willful violation, I do not think all the GM plants all over the country should be debarred from Federal contracts. Similarly, if one local of an international union engaged in willful violations, I do not think the international and the international's other locals should be refused apprentice funds.

The flagrant and repeated violator could still be covered under the debarment remedy. When we look at the Second Circuit's recent contempt citation against J. P. Stevens, we see that more than one plant or facility engaged in contempt of the court's order. I would expect that same type of consideration here.

The committee bill provides for debarment for a stated 3-year period.

My amendment allows the Secretary of Labor some discretion in the time the debarment applies.

Debarment is a harsh penalty. It may affect many employees as well as the employer and the public. Such a harsh penalty deserves some relief.

Since under Federal procurement regulations, the period of debarment may be reviewed and some relief granted—see page 8, Minority Views—I believe that penalty should be reviewed here and some relief granted.

Mr. Chairman, the debarment section was of deep concern to many of my colleagues and many Members voted against striking debarment with the expectation that this amendment would be offered. Let me state to the Members that the Secretary of Labor need not debar. He may debar for a shorter period than 3 years but not more than 3 years and he may reinstate.

The penalty shall not be necessarily against the entire corporation but only to the facility or facilities that engaged in the willful violation. However if the decision to violate occurred in the board room of the corporation, when they instructed the plant, then the entire business entity if it is legally responsible could be debarred.

The same would be true with the union. It would be limited to the local union if the violation occurred there, but if it was caused by the national or international union and they were responsible, then the debarment could go to them.

Also I would say to the Members, Mr. Chairman, that I shall ask for a record vote in order that Members might get on record on this.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I have some slight concern as to how we establish the proof of a decision being made in the board room.

Mr. QUIE. Using the words "legally responsible," they would have to be proven to be responsible. But in this case again if we use the J. P. Stevens case, where it occurred in various plants, then I do not think they would have any difficulty there. But for most of them the violation I understand occurred in the local plant or local plants and we would have to punish them.

Mr. ASHBROOK. Using J. P. Stevens as an example, has it been shown or proven that their violations occurred in a corporate board room?

Mr. QUIE. I do not believe it has been proven because the debarment provision was not in the present law so there never was a question of going into that, but this is a case where they would have to prove they were legally responsible for that.

Mr. ASHBROOK. I thank the gentleman for that explanation.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment offered by the gentleman from Minnesota (Mr. QUIE) is intended to soften the otherwise rather strict provision that is in the bill. In reading the amendment I am not certain that it does accomplish that. First of all the amendment still uses the word "willful." The U.S. Supreme Court has defined "willful" in at least one case as a word of many meanings, its construction often being influenced by its context. The word denotes an action which is intentional rather than accidental.

Those who practice in the labor law know that there is only one way to test a union determination under a bargaining order and that is to refuse to bargain for the additional contract, which then is intentional, not an accidental violation of the bargaining order that could well trigger the imposition of the debarment penalty, and so this could make them suffer a penalty which is wholly too harsh for the so-called crime of trying to have an opportunity to contest a union determination before the Board or the court.

In addition, the gentleman from Ohio was talking about decisions made in the board room. That is really not clear from the language of the amendment.

The amendment says debarment shall restrict the award of contracts solely to the products or services performed at the particular facility or facilities where the willful violation occurs, which is fine so far; but then it says:

> Or of the business entity legally responsible for the willful violation.

Now, under the doctrine of agency, if a corporation with 40 different plants has at one plant a violation committed by the plant manager, who is acting as the agent of the overall corporate owner, then the corporate owner is legally responsible for the actions of that plant manager. I think we are right back to the situation where a violation occurring in one part of the country will debar the corporation from contracting with the Federal Government at any one of its 40 facilities.

I am afraid that the intention of the author of this amendment will not be carried out in any kind of rational interpretation of the amendment and the amendment should be defeated.

The CHAIRMAN. The question is on the amendement, as modified, offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. QUIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 394, noes 8, not voting 32, as follows:

[Roll No. 633]

AYES—394

Abdnor	Cleveland	Gephardt
Addabbo	Cochran	Gibbons
Akaka	Cohen	Gilman
Allen	Coleman	Ginn
Ambro	Collins, Ill.	Glickman
Ammerman	Conable	Gonzalez
Anderson, Calif.	Conte	Gore
	Conyers	Gradison
Anderson, Ill.	Corcoran	Grassley
Andrews, N.C.	Cornell	Gudger
Andrews, N. Dak.	Cornwell	Hagedorn
	Coughlin	Hall
Annunzio	Crane	Hamilton
Applegate	Cunningham	Hammer-schmidt
Archer	D'Amours	
Armstrong	Daniel, Dan	Hanley
Ashley	Daniel, R. W.	Hannaford
Aspin	Danielson	Hansen
AuCoin	Davis	Harkin
Badham	de la Garza	Harrington
Badillo	Delaney	Harris
Bafalis	Dellums	Harsha
Baldus	Derrick	Hawkins
Barnard	Derwinski	Heckler
Baucus	Devine	Hefner
Bauman	Dickinson	Heftel
Beard, R.I.	Dicks	Hightower
Bedell	Diggs	Hillis
Beilenson	Dingell	Holland
Benjamin	Dodd	Hollenbeck
Bennett	Dornan	Holtzman
Bevill	Downey	Horton
Biaggi	Drinan	Howard
Bingham	Duncan, Oreg.	Hubbard
Blanchard	Duncan, Tenn.	Huckaby
Blouin	Early	Hughes
Boggs	Eckhardt	Ichord
Boland	Edgar	Ireland
Bolling	Edwards, Ala.	Jacobs
Bonior	Edwards, Calif.	Jeffords
Bonker	Eilberg	Jenkins
Bowen	Emery	Jenrette
Brademas	English	Johnson, Colo.
Breaux	Ertel	Jones, N.C.
Breckinridge	Evans, Colo.	Jones, Okla.
Brinkley	Evans, Del.	Jones, Tenn.
Brodhead	Evans, Ga.	Jordan
Brooks	Evans, Ind.	Kasten
Brown, Calif.	Fary	Kastenmeier
Brown, Mich.	Fascell	Kazen
Brown, Ohio	Fenwick	Kelly
Broyhill	Findley	Kemp
Buchanan	Fish	Ketchum
Burgener	Fisher	Keys
Burke, Calif.	Fithian	Kildee
Burke, Fla.	Flippo	Kindness
Burke, Mass.	Flood	Koch
Burlison, Mo.	Florio	Kostmayer
Burton, John	Flowers	Krebs
Burton, Phillip	Flynt	Krueger
Butler	Foley	LaFalce
Byron	Ford, Mich.	Lagomarsino
Caputo	Ford, Tenn.	Le Fante
Carney	Forsythe	Leach
Carr	Fountain	Lederer
Carter	Fowler	Leggett
Cavanaugh	Fraser	Lehman
Cederberg	Frenzel	Lent
Chappell	Frey	Levitas
Clausen, Don H.	Fuqua	Livingston
	Gammage	Lloyd, Calif.
Clay	Gaydos	Lloyd, Tenn.

Long, La.	Oakar	Smith, Iowa
Long, Md.	Oberstar	Smith, Nebr.
Lujan	Obey	Snyder
Luken	Panetta	Solarz
Lundine	Patten	Spellman
McClory	Patterson	Spence
McCloskey	Pattison	St Germain
McCormack	Pease	Staggers
McDade	Pepper	Stangeland
McDonald	Perkins	Stanton
McEwen	Pettis	Steed
McFall	Pickle	Steers
McHugh	Pike	Steiger
McKay	Poage	Stockman
McKinney	Pressler	Stratton
Madigan	Preyer	Studds
Maguire	Price	Stump
Mahon	Pritchard	Taylor
Mann	Pursell	Thompson
Markey	Quayle	Thone
Marks	Quie	Thornton
Marriott	Rahall	Traxler
Martin	Railsback	Treen
Mathis	Regula	Trible
Mattox	Reuss	Tsongas
Mazzoli	Rhodes	Tucker
Meeds	Richmond	Udall
Metcalfe	Rinaldo	Van Deerlin
Meyner	Risenhoover	Vanik
Michel	Roberts	Vento
Mikulski	Robinson	Volkmer
Mikva	Rodino	Waggonner
Milford	Roe	Walgren
Miller, Calif.	Rogers	Walker
Miller, Ohio	Roncallo	Walsh
Mineta	Rooney	Wampler
Minish	Rose	Watkins
Mitchell, Md.	Rostenkowski	Waxman
Mitchell, N.Y.	Rousselot	Weaver
Moakley	Roybal	Weiss
Moffett	Runnels	White
Mollohan	Ruppe	Whitehurst
Montgomery	Russo	Whitley
Moore	Ryan	Whitten
Moorhead, Calif.	Santini	Wilson, Bob
	Sarasin	Wilson, C. H.
Moorhead, Pa.	Satterfield	Wilson, Tex.
Mottl	Sawyer	Winn
Murphy, Ill.	Scheuer	Wirth
Murphy, Pa.	Schroeder	Wolff
Murtha	Schulze	Wright
Myers, Gary	Sebelius	Wydler
Myers, John	Seiberling	Wylie
Myers, Michael	Sharp	Yates
Natcher	Shipley	Yatron
Neal	Shuster	Young, Alaska
Nedzi	Sikes	Young, Fla.
Nichols	Simon	Young, Mo.
Nolan	Sisk	Young, Tex.
Nowak	Skelton	Zablocki
O'Brien	Skubitz	Zeferetti

NOES—8

Ashbrook	Erlenborn	Ottinger
Burleson, Tex.	Holt	Rudd
Collins, Tex.	Latta	

NOT VOTING—32

Alexander	Goodling	Rosenthal
Beard, Tenn.	Guyer	Slack
Broomfield	Hyde	Stark
Chisholm	Johnson, Calif.	Stokes
Clawson, Del	Lott	Symms
Corman	Marlenee	Teague
Cotter	Moss	Ullman
Dent	Murphy, N.Y.	Vander Jagt
Edwards, Okla.	Nix	Whalen
Giaimo	Quillen	Wiggins
Goldwater	Rangel	

So the amendment as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. YOUNG of Missouri. Mr. Chairman, I would like to express my support for the Labor Law Reform Act of 1977.

For many years, congressional hearings have shown the need for the reforms contained in this bill. And now it is time for the House to act on these pressing problems.

The National Labor Relations Act of 1935 established the policy that American workers should be given a fair chance to organize into unions and bargain collectively with their employers.

Since that time, the Labor Relations Act has been amended twice—and both times, penalties against unions were added. The result is a law that allows some employers to delay or deny the rights of their employees to organize.

At the same time, the National Labor Relations Board has become so bogged down by a huge caseload and outmoded procedures that it sometimes takes 2 or 3 years just to process complaints and administer the laws.

These are the problems that we are addressing today. We will decide whether some unscrupulous employers will be allowed to continue to use weaknesses in the law to deny the rights of their workers. And I am confident that this Congress will give the workers the rights they so fully deserve.

H.R. 8410 will expand the National Labor Relations Board, set time limits for holding union elections, stiffen the penalties against those who violate labor laws or ignore NLRB orders, and allow the NLRB to affirm Administrative Law Judge decisions in unfair labor practice cases.

It will make Federal labor law an efficient, meaningful instrument that will allow worker democracy. It will redeem national promises made 42 years ago, and balance the scales to make the National Labor Relations Act work.

This bill is not meant to discriminate against employers. The majority of union organizing elections under present law are conducted within the time limits set by this bill. The election provisions of this bill will just prevent companies from dragging out the election process.

Another provision of this bill authorizes the NLRB to compensate employees for lost pay if the employer unlawfully refuses to bargain for an initial contract. This provision is extremely important, mainly because the present law often makes it more profitable for employers to defy NLRB orders to start bargaining procedures than to comply with those orders.

As it stands now, the only way that employees can stop this delay is to take their case to court and obtain an order. And in the meantime, the employees are denied their benefits. This bill would make such delaying tactics less profitable for employers, and help speed the bargaining procedures.

There are many other provisions of this bill, but the main goal of this package is to give workers the opportunity to decide—without unnecessary delays or harassment—whether they want to be represented by a union.

These changes are not radical, they are just overdue. Congress should have acted long ago on these matters, and now we have the opportunity to help make labor-management relations work more efficiently and equitably.

Once again, I urge my colleagues to vote in favor of this bill.

Mr. THOMPSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, chairman of the Committee of the Whole House on the Senate of the Union, reported that that Committee, having had under consideration the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act, had come to no resolution thereon.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill H.R. 8410.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute.)

Mr. BRADEMAS. Mr. Speaker, I have asked for this time for the purpose of explaining that I would like, after certain unanimous consent requests have been completed, to offer a concurrent resolution that would provide that when the House adjourns on Thursday, tomorrow, October 6, it stand adjourned until noon, Tuesday October 11, 1977.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I would be happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

It is my understanding the plan of the majority is to adjourn tomorrow afternoon by 3:30; is that correct?

Mr. BRADEMAS. Mr. Speaker, I may say to the distinguished minority leader that I have not had that conversation with the Speaker, and therefore, I would not want to take that responsibility on myself. I would only express the hope that indeed the information of the minority leader is correct.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

ADJOURNMENT FROM THURSDAY, OCTOBER 6, 1977, TO TUESDAY, OCTOBER 11, 1977

Mr. BRADEMAS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 372) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 372

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, October 6, 1977, it stand adjourned until 12 o'clock meridian on Tuesday, October 11, 1977.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8390, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

Mr DELANEY from the Committee on Rules, submitted a privileged report (Rept. No. 95–664) on the resolution (H. Res. 815) providing for consideration of H.R. 8390 to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman assure us that this is for hearings only and that there will be no markup of any bills?

Mr. EILBERG. If the gentleman will yield, Mr. Speaker, it is for hearings only, hearings on the Prisoner Exchange Treaty.

Mr. ROUSSELOT. And this matter has been cleared with the minority, has it?

Mr. EILBERG. It has been cleared with the minority.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A WELCOME TO 147 GRADE SCHOOL STUDENTS

(Mr. MARRIOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARRIOTT. Mr. Speaker, I simply want to make a point that today 147 young grade school students from the Great Falls School have visited the Capitol Building here to improve their education with respect to our system.

I simply want to applaud that effort and make that point for the record, Mr. Speaker.

REPUBLICAN LEADERSHIP CO-SPONSOR ROTH-KEMP TAX REDUCTION ACT AND SIGN DISCHARGE PETITION TO GET IMMEDIATE ACTION ON BEHALF OF AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, the American people need a 30-percent reduction in their tax rates to restore incentives for work and production and investment.

Rising unemployment and inflation in America today are unacceptably high, while real investment and aftertax incomes of Americans are lagging.

On top of this situation, some are proposing huge tax increases for social security and energy, the Internal Revenue Service wants to tax fringe benefits, and the administration's tax reform efforts are aimed at raising taxes on investment income and capital gains.

At the same time, inflation continues to increase everyone's taxes daily, as individual incomes are pushed up into higher tax brackets. This phenomenon has been calculated to raise individual income tax revenues 1.5 percent for every 1 percent rise in the Consumer Price Index. It will raise the real tax burden on the American people by approximately $5 billion this year alone, and will raise effective tax rates on all Americans by as much as 30 percent by 1980 if unchecked.

We believe that immediate, decisive action is needed to reduce taxes and get the economy moving again, and restore a high level of real growth and job creation without inflation. This can only be done by reducing the tremendous burden of taxation on the American people, which is discouraging incentives to work, production, saving, and investment. Increasing the aftertax reward for work and investment will lead to an increase in real output of goods and services, thus creating prosperity for the people and more revenue for all levels of government.

We cannot wait until 1979 or 1980 to see tax reduction implemented. The American people and the American economy need it now, particularly in the Northeast where the aftertax disposable income of the people, adjusted for cost of living and inflation, is among the lowest in the country. By lowering the Federal tax rates, the Northeastern States will receive tremendous economic benefits, without penalizing other areas of the country in the process.

Mr. Speaker, in the early 1960's President Kennedy initiated some of the most sweeping tax rate reductions in American history. Today, another Democratic President is initiating some of the most sweeping tax increases in American history.

The Republican Party believes that the American economy is already overtaxed and that now is the time for tax reduction, not tax increases. Therefore, I am today reintroducing the Tax Reduction Act of 1977 with the support of Minority Leader RHODES and Minority Whip MICHEL, and initiating a discharge petition to get this bill out of committee so that the Congress may vote on it as an immediate answer to the unemployment and inflation problems afflicting our economy.

This brings to 51 the number of Members who have joined me in this bipartisan effort to restore incentive to the American economy:

1. Mr. Rhodes.
2. Mr. Michel.
3. Mr. Rousselot.
4. Mr. Carter.
5. Mr. Robin Beard.
6. Mr. Cohen.
7. Mr. Cunningham.
8. Mr. Livingston.
9. Mr. Railsback.
10. Mr. O'Brien.
11. Mr. Badham.
12. Mr. Bafalis.
13. Mr. Burgener.
14. Mr. Cleveland.
15. Mr. Corcoran.
16. Mr. Derwinski.
17. Mr. Dornan.
18. Mr. Goldwater.
19. Mr. Guyer.
20. Mr. Hyde.
21. Mr. Kindness.
22. Mr. Lent.
23. Mr. Lott.
24. Mr. McClory.
25. Mr. Moore.
26. Mr. Austin Murphy.
27. Mr. Quayle.
28. Mr. Quie.
29. Mr. Spence.
30. Mr. Stockman.
31. Mr. Symms.
32. Mr. Walker.
33. Mr. Bob Wilson.
34. Mr. Levitas.
35. Mr. Winn.
36. Mr. Clarence Brown.
37. Mr. Cederberg.
38. Mr. Cochran.
39. Mr. Mickey Edwards.
40. Mr. Glickman.
41. Mr. Goodling.
42. Mr. Hagedorn.
43. Mrs. Holt.
44. Mr. Rudd.
45. Mr. Sarasin.
46. Mr. Trible.
47. Mr. Coleman.
48. Mr. Crane.
49. Mr. Lagomarsino.
50. Mr. McEwen.
51. Mr. Marks.

Mr. Speaker, this is a bipartisan strategy for economic prosperity without inflation. As President John F. Kennedy said in August 1962:

> The single most effective fiscal weapon available to strengthen the national economy is the Federal tax policy. The right kind of tax cut at the right time is the most effective measure that this Government could take to spur our economy forward. For the facts of the matter are that our present tax system is a drag on economic recovery and economic growth, biting heavily into the purchasing power of every taxpayer and every consumer.

I would only add that not only is our present tax system biting into the purchasing power of American taxpayers and consumers, but it is strangling the incentives for investment and saving that are so necessary to the production of goods and services.

To put a balanced budget ahead of full employment without inflation is not only cruel politics, it is poor economics.

Just as President Kennedy's tax reduction was enormously successful in the early 1960's, we believe that a tax rate reduction of similar magnitude will have similar results today.

Our bill is the exact replica of the Kennedy tax strategy and which had been used in the 1920's.

We want to:

Reduce all individual income tax rates by an average of 30 percent over 3 years. This will reduce the highest individual tax rate from 70 percent to 50 percent, the lowest rate from 14 to 8 percent, and all other rates in between by a comparable amount;

Reduce the corporate tax rate from 48 to 45 percent over 3 years; and

Immediately increase the corporate surtax exemption for small business from $50,000 to $100,000. By the way more than one half of all new jobs are created by smaller businesses in America, and they need our immediate help in capital formation.

Almost two-thirds of the tax reduction will go to families with adjusted gross incomes below $30,000, 40 percent will go to families with incomes below $20,000. As inflation has pushed more and more families into higher tax brackets in recent years, more incomes have been affected by the progressive nature of our marginal tax structure. For instance, in the early 1960's about 5 percent of all tax returns were subject to the marginal tax rate of over 30 percent. Today, nearly one third of all tax returns are in 30 percent tax brackets or above and it's increasing daily.

This increase in aftertax income can be expected to have a highly expansive effect on the economy, as the incentive to work, produce and invest is encouraged. The estimated effect on employment and gross national product is the following:

[In billions of dollars]

Year	GNP	Employment
1978	+$43.4	+1,218,000
1979	+$95.5	+2,547,000
1980	+$157.4	+4,000,000

Source: Norman B. Ture, Inc.

Because of this increase in employment and GNP, Government tax revenues will increase also. Indeed, within a short time the Government will be collecting more tax revenues than it would have in the absence of a tax cut, because the tax base itself will be expanded.

This is exactly what happened following the Kennedy tax rate reduction, as this table demonstrates:

	1963	1964	1965	1966	1967	1968	Total
Treasury-estimated revenue losses	−$2.4	−$5.2	−$13.3	−$20	−$23.7	−$24.4	−$89
Actual revenue gains	+7.0	+6.0	+4.0	+14	+19.0	+4.0	+54

Lower tax rates will not only provide incentives that encourage work effort and production, but to the extent that these tax reductions reduce the cost of labor to employers they will encourage additional job creation and employment opportunities. Lower tax rates will increase the supply of jobs, generate more taxable income, more tax revenues and lower Government deficits. Further, the reduction of tax rates will diminish the incentive of people to escape taxation and thus have the effect of raising additional taxes from the wealthy. Our proposed legislation maintains the tax rates in proportion to ability to pay. But experience shows that excessively high rates do not produce large revenues. Experience is all in the other direction because when the tax rates on large incomes become too high, revenues disappear, and capital is diverted into unproductive channels, production and investment are discouraged and the small taxpayers and workers are left to bear the entire tax burden of Government spending and borrowing. The only way to relieve the small taxpayer is by getting the largest possible taxes from people with large incomes.

But we do not need a tax rate reduction just for wealthy people, nor do we need it just for low and middle income people—we need to reduce tax rates for all the people to encourage employment, production and economic growth.

Unless the Tax Reduction Act is enacted this year, inflation will increase taxes on the American people by at least $6 billion this year alone. This is because inflation pushes people up into higher tax brackets such that they pay more than a proportional increase in taxes. By way of illustration, a married couple earning $12,000 per year pays 18.8 percent Federal income tax on that income. But every dollar they earn above $12,000 is taxed at the rate of 25 percent. This becomes a powerful discouragement for every taxpayer to work, invest and try to raise his standard of living.

As the following table shows, when one takes into consideration the effects of inflation and the tax increases proposed by President Carter for social security and energy conservation, the income tax burden on the American people will almost triple by 1982:

PROJECTIONS OF FEDERAL BUDGET RECEIPTS BY SOURCE

[By fiscal years; in billions of dollars]

Source	1976 (actual)	1977 (Third Concurrent Resolution)	Projections 1978	1979	1980	1981	1982
Individual income taxes	130.8	149.4	183	216	252	294	339
Corporation income taxes	41.4	54.2	58	65	71	78	85
Social insurance taxes and contributions	92.7	108.7	123	137	156	175	189
Excise taxes	17.0	17.9	18	19	19	20	20
Estate and gift taxes	5.2	5.9	6	6	7	7	8
Customs duties	4.1	4.7	5	6	6	7	8
Miscellaneous receipts	8.0	6.9	7	8	9	10	11
Total	299.2	347.7	400	457	520	590	660

Source: Congressional Budget Office.

With unemployment continuing at an unacceptably high rate and the economy at a standstill, the prospect of a tax increase of this magnitude cannot help but further depress the country. This is the basis for the Tax Reduction Act.

We are less concerned with the exact percentage of rate reductions than we are that a permanent cut in tax rates be implemented immediately. It's not only economically sound, but politically bipartisan. The people of America must understand that this is their fight, they alone can win it by making their wishes known to the administration and the Congress without regard to partisan politics. They must speak out now and not allow rhetoric to be a substitute for encouraging the industriousness of our free enterprise economy.

UKRAINIANS CONTINUE THEIR STRUGGLE FOR HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 4 the Belgrade conference began meeting to review the progress being made to implement the final act of the Conference on Security and Cooperation in Europe. I was glad to write to President Carter earlier this year on behalf of my constituents who are members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. USA urging his intervention for freedom in Ukraine, and a copy of that letter follows:

MAY 20, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On the request of my constituents who are members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. USA, I am writing

to convey to you their request that you bring up at the Belgrade Conference, in which you will be participating in the early future the four points listed in the attached correspondence, as follows:

1) Bring our matter to the attention of President Carter before his departure for the Belgrade Conference where Mr. Brezhnev will represent the USSR. We ask that President Carter put on the Agenda of this conference the situation in Ukraine.

2) Since the Helsinki Accords was made without any representation for Ukraine, and for other enslaved nations, using the precedent of the United Nations Palestinian problem we ask the President to initiate for the next Conference an invitation to the representatives of Ukraine and other enslaved nations to defend their rights where the violation of national and human rights exists.

3) To demand from Mr. Brezhnev the withdrawal of police control over the private and social family lives of the political prisoners and restore to them their constitutional rights.

4) To release from concentration camps Ukrainian political prisoners both men and women, particularly those who are sick, invalids, veterans of UPA (Ukrainian Insurgnt Army) and those who have served 25 years in concentration camps. We make a special appeal for the release of Jurij Shuchwych, Valentyn Moroz, Ivan Svitlychny, Swiatoslaw Karavansky, Wasyl Stuc, Vyacheslaw Chornovil, Evhen Swerstiuk, and Alexander Serhijenko.

I do hope you will find it possible during the course of the discussions in Belgrade to bring up the issues listed above which are of such grave importance not only to Ukrainian Americans in our own country but to freedom loving peoples everywhere. Your intervention and assistance to help insure the release of the Ukrainian Political prisoners and restoration of human and constitutional rights to them will be deeply appreciated. Thank you for your cooperation.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

Mr. Speaker, many Ukrainians are continuing their heroic struggle to free their nation and their people from the brutal tyranny of communism, and a newspaper article from the Svoboda Ukrainian Daily follows outlining the activities of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords. The aspirations of the Ukrainian people for freedom will never die, and we as Americans must continue to do all that we possibly can to encourage the Ukrainians in their struggle for human dignity.

The article follows:

KIEV GROUP APPEALS TO WORLD CONSCIENCE ON EVE OF BELGRADE CONFERENCE

WASHINGTON, D.C.—After a seven-month hiatus, interspersed by arrests of four of its leading members, the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords, based in Kiev, transmitted to the West a batch of appeals and documents which call on the Western signatories of the Helsinki Accords to speak out in defense of human national and individual rights in Ukraine.

The documents are in the possession of the Washington based Helsinki Guarantees for Ukraine Committee, according to the "Smoloskyp" Ukrainian Information Service.

The Kiev group was formed last November, which led to the immediate establishment of the Washington committee.

The Kiev group had sent a declaration and Memorandum No. 1 to the West, which were subsequently published in the original Ukrainian and in English translation, and disseminated widely in this and other countries.

Upon announcement of the establishment of the group in Kiev, in the wake of the formation of similar groups in Moscow and Vilnius, Lithuania, the Soviet Secret Police (KGB) harassed its members and ultimately arrested its head Mykola Rudenko and members Oleksa Tykhy, Myroslav Marynovych and Mykola Matusevych.

These arrests, coupled with the previous incarceration of hundreds of Ukrainians, as well as other human rights activists in the USSR, generated an outpouring of protest in the West.

The most recently received documents include Memoranda Nos. 4 to 9 (Nos. 2 and 3 have yet to make their way to the West), appeals of Nadia Svitlychna, Oksana Meshko and Raisa Rudenko, Mykola Rudenko's wife, an autobiography of Osyp Terelia, a long-time political prisoner, an appeal of Oles Berdnyk to M. Shcherbytsky, first secretary of the Communist Party of Ukraine, a declaration of the Initiative Council of Alternative Evolution, which includes O. Berdnyk and Petro Kharchenko, a graduate student of biology from Kiev, appeals of the Kiev group to the Supreme Soviet of the USSR and to the U.S. Congress, and an appeal of M. Rudenko to the International College of Jurists, written prior to his arrest.

The Washington committee, said the press service, also received documents of the Lithuanian group, the Armenian organization for independence, and other materials on repressions in Ukraine and elsewhere in the USSR. The accompanying letters request that the materials be passed on to the governments of the Helsinki Accords signatories.

Members of the Kiev group, said the press service, have authorized the Washington committee to represent them in the West and before the governments of the Helsinki Accords signatories.

"It seems as if the KGB wanted to finish us before the Belgrade conference," said the letter, according to the press service. "Our group is experiencing hard times, but we believe in victory. It is of utmost importance to demonstrate our solidarity in conjunction with the arrests. Involve all Ukrainians in the world in this action, so that a tornado of protests bursts forth in defense of Rudenko and Tykhy."

The "Smoloskyp" Publishers are now readying the materials for publication in both the Ukrainian original and in the English translation. The Publishers say that the documentation will be ready prior to the Belgrade conference, scheduled to convene June 15th.

The Washington committee has called on all persons and organizations to return petitions in defense of human rights.

POLITICAL REPRISALS OF IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise only for the principal reason of saying that I have come across and uncovered a situation that is reminiscent of and raises profound questions concerning the period we associate with the Watergate period. This involves a very sensitive area of the Government, the Internal Revenue. I will document this tomorrow. I will do so because of the lateness of the hour. I just wanted to advise the Members that in the RECORD tomorrow it will be my hope to set forth, in a documented form, some of the things I have come across on the basis of the Freedom of Information Act, and some of the machinations of a very disturbing kind, on a political reprisal basis, on the part of the Internal Revenue Service, which they called Project Southwest. Which in essence, and in short, meant that the Southwest component of the Internal Revenue Service were to meet and did have a meeting of supervisors and district directors. They met in Washington. They met for a stated purpose, and kept minutes of the meeting, in order to pursue, for political reasons, taxpayers on a selective basis.

This is most reprehensible. It has caused me to write to the Secretary of the Treasury, Secretary Blumenthal, and to the chairman of the subcommittee in the House that has jurisdiction, the gentleman from Florida (Mr. GIBBONS). I sent them a copy of those documents over 2 weeks ago. I will set those forth because I am very much concerned that some of these practices are still very possible, even up to this time. That is the reason that I appealed to Secretary of the Treasury Blumenthal to make sure that he would be alerted and that he would assure us that this kind of thing will not be allowed under this administration.

THE PLEA OF THE POOR: AN ADDRESS BY PRESIDENT JULIUS NYERERE OF TANZANIA

The Speaker pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 10 minutes.

Mr. DIGGS. Mr. Speaker, on August 5, 1977, one of the most respected and admired leaders of Africa visited our Nation's Capital, and addressed himself to the issues now facing his country and ours. President Julius Nyerere of Tanzania, at the invitation of President Jimmy Carter, shared with us his wisdom and experience on the world front. At an appearance at Howard University, where he was awarded the honorary doctor of humanities degree, President Nyerere gave an eloquent address which I would like at this time to share with my colleagues. His thoughtful approach to the major issues of developing countries is evident, and his analysis of the solutions open to us gives further proof of his stature as a world leader.

THE PLEA OF THE POOR: NEW ECONOMIC ORDER NEEDED FOR THE WORLD COMMUNITY

(By Julius K. Nyerere)

Tanzania has the doubtful distinction of being included among the United Nations list of the 25 poorest countries of the world. Perhaps it is not surprising, therefore, that I am one of those people who complain bitterly about the present world economic system and loudly demand that it should be changed. I will attempt to explain what—as we see it—the problem is, and why the poor nations are demanding fundamental changes.

Through contact with what are called the developed market economies, we in the Third World have become conscious of the 20th century world. During the Second World War, our soldiers—in Burma and in North Africa—were told they were fighting for freedom; in the colonial schools we heard of the demand, "No taxation without representation." These teachings made the anti-colonial struggle intellectually logical, and also reinforced our own instinct for self-government. The call for human equality and justice was—and is—incompatible with racism. Therefore, it backs up our national opposition to apartheid and the racial discrimination of which we have been victims for so long. Also, the demand for a welfare state, and the abolition of poverty, reverberated from the developed nations to the poor ones. A life of poverty and inequality was being rejected everywhere in the world.

The political demand for freedom leads to a separation of the colonized and the colonizer. But, economically, the situation is very different; our nations are locked together. It is not possible—much less desirable—for a newly independent nation to cut all economic links with its metropolitan trading partner or other developed nations. But a re-examination by the new state of the economic relationships which grew during the colonial period is inevitable. Experience, combined with analysis, quickly teaches the young and poor nations that the present international economic system works automatically and inevitably to their disadvantage. There is an automatic transfer of wealth from poor countries—where it is needed to provide the basic necessities of life—to rich countries, where it is spent on creating and meeting new wants.

This is not an ideological judgment. Capitalist and Socialist Third World countries recognize the same truth. Nor is it a comment, for example, on capitalism within the U.S.A., or socialism within Tanzania; each nation has the right to choose its own social and economic system. It is an assessment of the arrangements under which nations deal with each other on economic matters.

Nations which are rich and poor, Socialist and Capitalist, have an equal interest in economic matters, although the quantity of Third World involvement in international exchange is very unequal. International trade across the economic divide is important to America, which imports more than 30 percent of its oil, as well as many other raw materials, from underdeveloped nations. About a third of America's exports are sold to poor nations. Tanzania could probably survive at subsistence level without trade with the developed economies, but it could not do much more. Trade and investment relations between rich and poor nations are important to both. Therefore, both should participate in their regulation. At present, it is not so.

The complaint of poor nations against the present system is not only that we are poor, both in absolute terms and in comparison with the rich nations, it is that within the existing structure of economic interaction we must remain poor and get relatively poorer.

What poverty means for the poor countries is not understood in a country like the United States. It has been estimated that poor nations have more than 70 percent of the world's population and only about 17 percent of the gross national product. More important, this imbalance is getting progressively worse. The average per capita income in the poorest nations increased by roughly $2 per annum (in constant money terms) between 1965 and 1975, and the per capita income in the rich nations increased by about $130 per annum during the same period.

Tanzania's per capita national income is now $140; that of the United States is $7,100. And although there is no such thing as an "average" Tanzanian or American, figures expressed in these terms do illustrate the wealth which is available for use and distribution. On that basis, it would take the average Tanzanian—whose life expectancy is 45 years—more than 50 years to earn what the average American earns in one year.

What really matters, however, is not the statistics; it is what these contrasts mean for people's lives and the services which are available to them. In Tanzania, the infant mortality rate is about 152 per 1,000; in America it is about 18 per 1,000. My country, which is bigger in area and population than Texas and Oklahoma combined, has a total of 1,400 miles of tarred roads as against 31,000 in those two States. Our per capita consumption of sugar is less than a quarter of that in U.S.A.; malnutrition is still widespread; education and health care are—in world terms—an aspiration, not a fact.

This poverty does not arise exclusively from actions by Tanzania—or lack of them. A hard-working Tanzanian peasant family, if the weather is kind, can by a combined effort earn from farming just a little more than is needed for subsistence. It takes years of saving to buy a bicycle. A school-leaver in this country, [U.S.A.] who may work in the storeroom of a firm distributing the sisal Tanzanian peasants grow, will receive an income sufficient to run a car.

Such contrasting living standards are connected—they result from the distribution of the wealth produced by the combined efforts of farmer, shipper and distributor. And that distribution is arranged by men, i.e. by the systems of production and international exchange which men have created.

THE INTERNATIONAL ECONOMIC STRUCTURE

The present international economic and legal structure has developed gradually out of the interaction between the different nations of Europe, the United States and the British Dominions. Their cultures were basically similar, their knowledge—or their access to it—was never greatly different from one another. Even so, there were great economic conflicts—even wars—before the evolution of those conventions, institutions and practices which are now regarded as the normal—even natural—rules and mechanisms of international exchange.

In this process, the countries which are now known as Third World were not involved. They were either colonies of one or the other major powers, or were so weak or so far away from the mainstream of economic intercourse that they were ignored.

The dominant philosophy of international exchange which we met at independence—and which still prevails—is that of a "free market." In theory, this means unfettered competition and bargaining between equals, with prices being the result of the combined actions and wishes of sellers and buyers. In practice, international exchange does not operate in such a free manner, yet the theory continues to be taught and advocated, with young countries lectured on its virtues and admonished not to try to interfere with it.

Unfortunately, the theory bears little relation to fact. Equality between nations of the modern world is only a legal equality—it is not an economic reality. Tanzania and America are not equal. A man who needs to sell his labor in order to buy bread and the man who controls both his employment and the price of bread are not equal. Their relationship is one of dependence and dominance.

Also, it is not true that prices are determined by the operations of a free market—that is, by discussion and compromise between sellers and buyers. The price of manufactured goods is fixed by the producers and if any competition enters into the situation at all, it is between giant firms like Ford, General Motors, and Volkswagen. It is certainly no use for the Tanzanian Motor Corporation to try to argue with any of these firms about their prices. If it is not willing to pay what is asked, the vehicles will wait in stock and Tanzania will continue without transport.

Conversely, the price of primary products is fixed by the purchasers. The producers put on the market whatever they have managed to grow or mine; the goods are often perishable and in any case the poor nations are desperate for foreign exchange and have no facilities for storage—known facts which further weaken their bargaining position! A small number of purchasers then decide how much they will buy, and at what price. Only if natural disaster has made the year's supply unusually low will their competition push the price up.

The primary producing countries which need to import manufactured goods are thus price-takers—not price-makers, both as sellers and as buyers. We sell cheap and we buy dear, whether we like it or not. This is the position of most Third World countries—with the recent exception of the oil producers who now fix prices for the oil they sell. It is perhaps not surprising, therefore, that the terms of trade between the developing and developed countries have moved so steadily and consistently against the former. Taking 1963 as a base, the World Bank gives the commodity term of trade index as 87 for 1972. It was 122 in 1953! We in the poor countries don't think in such statistical terms. What we know is that we have to sell more and more sisal, cotton or copper, to get the foreign exchange needed to import identical machines in successive years.

To break out of this foreign exchange trap, and at the same time to benefit from the multiplier effect of expanded economic activity, the poor countries endeavor to build up their industrial sector, to become price-makers, even in a small way. Naturally, we start with the processing of our own primary products. It seems logical to export cloth rather than cotton lint, and twine or rope rather than sisal. Such simple manufacturing processes can provide a little platform for further industrialization. But having established these factories at enormous expense, we discover that processed commodities and manufactured goods are not so easy to export as raw products. They meet tariff barriers, quota regulations, or other devices intended to keep them out of the markets of the rich. The "free market" becomes less free! For these goods are said to be the products of sweated labor, although the employees in such factories have higher incomes than workers who produce the raw commodities. The president of the World Bank has estimated that the undeveloped nations could sell an extra $33 billion worth of goods to the developed world if existing trade barriers were lifted. Even allowing for the inevitable inaccuracy of such figures, it does appear that such actions could enable us to reduce our beggary to some extent!

Further, the poor nations have to ship both their imports and their exports in ships owned and managed in the developed countries. The freight rates are mostly fixed by a shipper's cartel (OPEC did not invent the idea of combining to fix the price of a vital commodity) which has an apparently ineradicable bias against carrying processed goods away from East Africa: for a ton, it costs $41 to ship raw sisal and $73 to ship twine from and to the same port, with similar differentials between cotton lint and textiles, hides and leather, and other goods.

POVERTY BREEDS POVERTY

Success breeds success and riches breed riches. Poverty also breeds poverty. It is easier and cheaper to start an industry or expand the saleable output of a crop when electricity and good roads exist; but infrastructure needs money before it can be created. The rich can supply security for loans and are a good credit risk; the poor are less educated, less experienced, therefore, more likely to fail in new enterprises. Also, they have little or no wealth to offer as collateral.

Further, poverty breeds inefficiency, corruption, and social unrest—all of which are in mical to economic development. For example, if a poor country gets desperately short of foreign exchange, it cannot buy and stock spare parts which may never be needed, and it does not have a spare transport capacity in case a crop is larger than normal. Also, such a country will usually be short of technicians to deal with mechanical breakdowns when they occur. Trying to husband scarce resources and allocate them in accordance with human needs means that licenses and permits abound, with all the temptations for corruption they bring. Nor are people suffering from endemic diseases famous for their hard work and initiative or their resistance to spurious promises of quick salvation.

The poor nations of the world remain poor because they are poor and because they operate as if they were equals in a world dominated by the rich. The tendency is not different within nations—the farming communities and the urban poor remain poor, and become progressively worse off relative to the rich because they operate within an economic structure dominated by the latter. But within nations—even within Capitalist America—counteracting steps are taken by the state. Progressive income tax, welfare payments, Medicaid, farm support programs, as well as antitrust legislation, may still be politically contentious issues; they may or may not be very efficient in fulfilling their purposes. But hardly anyone denies the need for some organized countervailing power, some method of counteracting the built-in tendencies for the rich to get richer because they are rich and for the poor to get poorer because they are poor.

There is no organized international mechanism designed to correct—or even ameliorate—the workings of the free market. On the contrary, such institutions and practices as do exist give further impetus to the growth of inequalities between nations, and to the misuse of the world's resources for high living by a few, rather than their use for the basic needs of the masses. Let me give just a few examples.

The international financial system is regulated by the I.M.F. [International Monetary Fund] and the World Bank, helped or hindered by unilateral actions of major powers like U.S.A., E.E.C. [European Economic Community], Japan, and a few other developed nations. Given that voting power in the governing bodies of the I.M.F. and the World Bank is determined by the proportion of the capital contributed by different nations, the results are perhaps inevitable. The richer you are—and the more you trade in the world—the greater the support you can get in times of crisis and the greater will be your allocation of international credit.

The low international purchasing power of poor nations is a factor in keeping them locked in their poverty. To expand output, we need plants, equipment and machines, as well as technology and the know-how embodied in the production and use of such goods. The developed countries have those goods and services to sell, but we cannot buy them because we are not entitled to more than our poverty-based "quota." Instead of facilitating growth in the world by enabling the poor to buy more—mostly capital goods from the rich—international credit has been used to promote trade between the rich countries.

It is very difficult for Third World nations to obtain by more orthodox means the foreign exchange needed for development. International aid is certainly not the answer, especially as it is offered by most countries as if it were charity for which we should be "deserving poor" in the best traditions of feudalism—also very grateful!

All the poor countries—including Tanzania—welcome capital and technical aid when it is given without political strings. But aid is unreliable and insufficient in quantity; it is frequently counter-balanced by the adverse effects of movements in the terms of trade between our imports and exports. In the 1960s, most developed countries committed themselves to using 0.7 percent of their national income for official development assistance to the Third World. Up to now, only three have done this—the Netherlands, Sweden and Norway. The United States (which has not even accepted the target) comes 13th on the list of 17 countries.

The whole idea of aid is wrong because it is both ineffective in dealing with the problem of poverty, and humiliating to the receiver. Within nations, we no longer think it proper to deal with the problem of poverty through the personal charity of the rich. Yet voluntary charity by the rich nations is what is being advocated as the method for dealing with the poverty of nations!

Like the workers of the industrialized countries, what poor nations need is the right to work, and a fair return for our labor. We want equity not charity. For we want to depend upon our own efforts and to plan on the basis of those efforts. At present we cannot do so. Thus, world commodity prices fluctuate violently; sensible development decisions are almost impossible for countries dependent for their export earnings on one or two products. All we know for certain is that the prices of what we sell will keep falling in relation to those we buy. Between January 1974 and now, the price of copper has danced about within a price range of £500 and £1,300 a ton [about $1,080 and $2,300], but mostly at the lower end of the scale. The current absurdly high price of coffee arose partly because the average coffee price before the boom discouraged new tree planting—and it takes four years for a tree to come into production. Coffee consumers need not worry very much because the price of coffee is bound to fall and that of tractors is bound to rise!

THE RESPONSIBILITY OF THE POOR

None of these things—indeed nothing at all—changes the responsibility of the poor to overcome their poverty. The demand for a new international economic order is a way of saying that the poor nations must be enabled to develop themselves according to their own interests, and to benefit from the efforts which they make. The poor should not find themselves trying to run up the down-escalator while the rich sail upwards on their up-escalator. They should at least be moving in the same direction—hopefully, with the poor moving faster!

The traditional remedies for poverty will certainly not—on their own—bring progress. Hard work is necessary, but an undernourished person cannot work hard for very long. With only a hoe as his tool, the peasant cannot cultivate large areas; nor does it help very much if he sweats to produce more cotton where there are no trucks to carry the cotton to the railhead, or where there are no passable roads between the village and the factory.

The poor nations are told to reduce their high birth-rate. But it is development which brings down the birth rate, not the other way round. The best contraceptives are a standard of living high enough for confidence that your children will not die before maturity, a reasonable level of education—and electricity: (I was reminded recently that nine months to the day after New York had its first major power-failure, the number of children born took a phenomenal jump!).

We are told to remove the beam in our own eye before we complain about inequalities between nations. For it is true that within the nations of the Third World the contrasts between wealth and poverty are frequently disgusting. Tanzania is one of the poor countries which endorses the demand for internal economic justice, and tries to implement it. We carry our land reform, or we end the exploitation of our workers and our nation by nationalizing the mines or major industries and financial institutions; we impose heavy taxes on the rich, and concentrate our public spending on services needed by the poor, and so on.

But such actions do not always receive the applause of the developed world, because, the individuals adversely affected are the educated citizens—the ones with international contacts, the ones whom American businessmen know to be pleasant, intelligent and hard-working people—or else they are foreigners who owned our land or our businesses according to past law and against whom no legal offence can be proven. The result of our reforming action—when it is not the kind of intervention we saw in Chile—is a hostile world environment for the poor nation. Sometimes World Bank loans, or Western aid, are refused on the grounds that we have nationalized without adequate and prompt compensation. A long history of exploitation is regarded as irrelevant.

That is not all. Change of organization or ownership—however beneficial in the long run—always has short-term costs. For example, if a country like Tanzania reorganizes its medical services and sends doctors to the rural areas, some of the doctors may emigrate; when we hold down the top salaries so as to reduce appalling wage differentials, some experienced managers and professional people will be tempted by higher incomes they can get in developed countries. The "brain drain" is another transfer of needed resources from the haves to the have-nots!

Again, the poor nations are told to invest more—to sacrifice present consumption for the sake of future development. Speaking of my own country, we try to do that. By deliberate government action, including strict foreign exchange control and high taxation on non-essential goods, we discourage unnecessary consumption so as to extract from current output the maximum for investment. The result is that 20% of our gross domestic product [G.D.P.] is devoted to gross fixed capital formation. The United States spends 18% of its G.D.P. on fixed capital formation. But whereas our 20% yields about $418 million, America 18% produces something like $244,000 million a year. Put differently, from his average annual income of $140, a Tanzanian sets aside $30 for development; an American sets aside $1,200 out of of $7,100. Yet that $30 means a greater sacrifice for the Tanzanian than $1,200 means to the American.

The poor countries are advised to encourage private investment as a means of promoting economic growth. For a poor country like Tanzania that means foreign investment—we never had any indigenous capitalists. Yet it is not only young and weak countries like Tanzania that find worrying the prospect of external control of their economics. I understand that in 1975 a Committee on Foreign Investment in the United States was established by the President to "guard against the potential problem of foreign investments"!

Quite apart from nationalistic considerations however, private capitalists are not generally very interested in development investment in poor countries which do not have oil. For poor countries do not have the economic and social infrastructure private investors require—and which is necessary for maximum efficiency and high company profitability. To attract foreign investors, we would have to spend money, offer tax and personnel privileges, and promise that even if our people starve because of a drought the investors will still be able to export their profits!

In any case, contrary to theory, foreign investors are not major exporters of capital to the developing nations—if they can avoid it—which they can if left untrammelled. In Latin America, between 1965 and 1968, about 78% of the manufacturing operations of U.S.-based transnational corporations were financed out of locally-raised capital, but 52% of the profits made from these activities were exported! And, private investors are rarely interested in projects designed to meet the needs of the poorest people or the rural areas, for these do not generate much profits to the firm.

There are two aspects to the fight against poverty in the Third World—the first is the responsibility of the undeveloped countries to work and organize for their own development and to build up self-reliant economies; the second is the world responsibility to re-structure the international economic order so that it facilitates rather than hinders the efforts made by the poor. Both these tasks need to be carried on at the same time. The inequities of the international economic arrangements do not excuse economic and social injustices within poor nations; and continuing exploitation of the poor within Third World states is no justification for the automatic depredations suffered by the poor countries through the present mechanisms of international exchange.

THE NEED FOR INTERNATIONAL ACTION

Very many economic experts and commissions have analyzed the current international situation, and there is widespread intellectual agreement in principle—as well as agreement among the poor—about what needs to be done.

First, and in some ways the most fundamental, is that the poor nations should have a greater voice in the world's economic decision making. The economic policy of the United States (including the creation of credit and matters relating to trade, transport patterns and costs, the powers of private firms, the environment, and so on) is dominated by the federal government, which represents all citizens and states. There is no comparable government in the world. But it is imperative the institutions like the I.M.F. and the World Bank should cease to be under the almost exclusive control of the rich and powerful states. It is absurd, if not immoral, that the representation of the poor on the governing bodies of these institutions should continue to be in proportion to their poverty!

Changes in the representation on major international economic institutions are not wanted for prestige purposes! The establishment of a link between development and the creation and distribution of international credit, and other actions to counteract the economic power of the wealthy, could be expected to follow. For the purpose of this demand for change is that the requirements of the war against poverty in the world, as well as the interests of all sovereign nations, should be considered in international councils as of right, and not simply out of charity or compassion.

It must be frankly admitted that this will require a deliberate transfer of resources from the rich countries to the poor on reasonable terms. But this need not be the only method.

On international trade, there is a need for measures to stabilize prices of primary commodities, in the short term by buffer stocks and in the longer term by assisting the poor to make long-term adjustments to changes in demand or supply. There is also need to make compensatory payments to poor nations which are affected by sudden changes in world demand or by natural disasters which decimate their export capability.

It is also necessary for the community of nations to agree on deliberate actions to hasten industrialization in the developing nations. The objective, that the share of Third World countries should be raised from its present 7 percent to 25 percent of world industrial production, will not happen through what are called the natural forces of the market! Bilaterally, by region, and multilaterally, the nations of the world have to sit together to work out the steps forward, and the adjustments which have to be made. The poor nations cannot overcome their poverty without industrialization and without trade in manufactured goods—some of them cannot survive without it.

The rich also have an interest in the poor having a greater share of the production and trade in manufactured goods, even although this will require lifting the barriers against the industrial exports of the Third World. For poor nations cannot forever buy goods without being able to sell their own products. On matters of industrial production and trade, co-operation and co-ordinated action between the two sides of the poverty divide is needed if unnecessary conflict and suffering is to be avoided in rich states as well as poor ones.

Nor is it only trade between the rich and the poor nations which has to be stepped up. Greater co-operation—both in trade and in production—is vital between the underdeveloped nations themselves. They can help each other to develop. To what extent this co-operation among the poor becomes a trade union of the poor—acting in combination against the rich—depends on the actions of the rich nations. Confrontation is not a desired strategy of the weak; but if reason, justice, and dialogue fail to bring the changes needed to win the war against world poverty, then economic conflict is bound to follow. The roots of OPEC were nourished by decades of gross exploitation and price-fixing by the major oil companies; its fruit jolted the whole world!

Economics is only a part of life. Political freedom, social equality and respect, freedom of worship, freedom to live in peace and harmony with your fellows—all these things are very important to mankind. People have been willing to kill for them, but economics is about the means of life—it is basic. In poor countries, if there is a clash between individual freedom and economic development, it is generally not possible to give priority to the former. For people are dying unnecessarily because they do not have clean water, enough good food, or basic medical care—which is what economic development means to us. The most basic human right of all is the right to life itself, and a life which is not made miserable by hunger, ignorance or preventable disease.

The present economic order governing international production, development, and exchange does not in practice ensure progress towards meeting those basic needs for all people, all over the world.

The plea of the poor is a new international economic order "which embraces for its objective the happiness of mankind."

AMENDMENT TO DEFENSE AUTHORIZATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LLOYD) is recognized for 5 minutes.

Mr. LLOYD of California. Mr. Speaker, I plan to introduce an amendment to H.R. 8390, the defense authorization bill. My amendment will cut funds in the amount of $20 million which have been earmarked for research and development of the FB-111H stretch version of the current F-111 fighter. I offer this amendment because I feel the funds are a backdoor approach to equipping the Air Force with a penetrating bomber. We heard this spring that such a bomber was unnecessary when a decision was made to halt production plans for the B-1 bomber. These FB-111 funds represent a decision in conflict with the B-1 production halt decision and I feel we should take a closer look at the whole issue through fiscal 1979 authorization and appropriations processes. If we are to have a manned penetrating bomber, let us get the best we can get. We need a competition. We do not need a hasty decision to go ahead on the FB-111H. My amendment follows:

Page 3, line 17 is amended by striking "$306,500,000" and inserting "$286,500,000".

SENIOR CITIZENS ALUMINUM TASK COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, it gives me a great deal of pride to share with you a letter to the editor, published in the Hinton Daily News, a newspaper in Summers County, in West Virginia's Second Congressional District.

This letter sums up a very worthwhile project undertaken by the active Senior Citizens of Summers County.

This fine organization created the Senior Citizens Aluminum Task (SCAT) Committee, to collect all-aluminum cans. They were assisted by the Summers County Commission and the city of Hinton in furnishing collection boxes for the public to deposit their all-aluminum cans. The Reynolds Aluminum Co. buys them for 17 cents per pound. Thus the three basic needs of recycling are met. One, the public knows where to put their saved material; two, they have a method to pick up the material; three, they have a market for it.

This is an outstanding example of cooperation by our senior citizens, city and county officials, local business, and national industry in a project to conserve our resources and energy.

Much credit goes to the Reynolds Aluminum Recycling Co. in making a market for this material. The Reynolds Co. started the consumer recycling idea in 1967 and has paid recyclers more than $55 million for cans since that time.

This seems to be a project where everyone wins. Therefore, I recommend it highly to senior citizens and other groups who may be interested in such a project for their own home communities.

The letter to the editor follows:

DEAR EDITOR:

Response to our appeal for saving all-aluminum cans for recycling has been so great we feel recognition of businesses for this extra effort on their part should be publicly announced and thanked; and we are proud to name new businesses at the end of our already steady all-aluminum can savers:

Hinton Hot Dog Stand, L&J Billiards, Jimmy's TV, Guy's Lock and Fix It, YMCA, Park Avenue Exxon, Jane's Tavern, Pipestem Lodge (Mrs. Calvin Robbins); Bluestone State Park (Ms. Vest); Willow Wood Golf

Club, (Curtis Meadows); Pence Springs Flea Market.

New all-aluminum can savers: Persingers Store (Pence Springs); Mrs. Emmett Fox Store, Barksdale; Doyle's Grocery, 3rd Ave., Bluestone Tire-Laundramat, 3rd Ave., Gore's Autobody and Outboard Clinic, 109 Maple Street, Bellepoint, Carper Parts Co., (auto), Avis.

This is, indeed, a tremendous response by people who believe in saving, and our committee makes it possible. Please remember that all-aluminum cans sides will NOT stick to your magnet.

Nearly all beverage cans are coming out in all-aluminum, but Strohs is still just plain tin—so throw all Strohs cans in to your trash—as that is all it is—just plain trash.

C. B. RUSHFORD, Sr.,
SCAT Committeeman.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, legislative matters prevented me from voting on some recent rollcall votes. Had I been present on Thursday, September 29, for rollcall No. 607, a motion for the House to resolve itself into the Committee of the Whole House, I would have voted "yes." Had I been present on Friday, September 30, for rollcall No. 615, the Butler amendment to the Victims of Crime Act of 1977, I would have cast a "no" vote. Had I been present on Wednesday, October 5, for rollcall No. 627, the Erlenborn amendment, I would have voted "no," and for rollcall No. 628, on the amendment, I would have voted "aye."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORSYTHE (at the request of Mr. RHODES), for today until 5 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) and to revise and extend their remarks and include extraneous matter:)

Mr. GOLDWATER, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. AKAKA) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. RUSSO, for 5 minutes, today.

Mr. LLOYD of California, for 5 minutes, today.

Mr. DIGGS, for 10 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous matter:)

Mr. ARMSTRONG.

Mr. GRADISON.

Mr. SHUSTER.

Mr. STEERS in three instances.

Mr. WHALEN.

Mr. FREY.

Mr. EDWARDS of Oklahoma.

Mr. CAPUTO.

Mr. O'BRIEN.

Mr. WYDLER in two instances.

Mr. LENT in two instances.

Mr. VANDER JAGT.

Mrs. HOLT.

Mr. LAGOMARSINO.

Mr. CONTE.

Mr. FINDLEY.

Mr. PRESSLER.

Mr. ABDNOR.

Mr. SPENCE.

Mr. HANSEN.

(The following Members (at the request of Mr. AKAKA), and to include extraneous matter:)

Mr. MURPHY of New York.

Mr. CARNEY in two instances.

Mr. HAMILTON.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. BRECKINRIDGE.

Mrs. MEYNER.

Mr. JENRETTE.

Mr. MILLER of California.

Mr. WAXMAN in two instances.

Mr. NEDZI.

Mr. MCDONALD in five instances.

Mr. KASTENMEIER in three instances.

Mr. RUSSO.

Mr. ALLEN.

Mr. ROSENTHAL.

Mr. CORRADA.

Mr. LEHMAN.

Mr. PEASE.

Mr. ROGERS in five instances.

Mr. MANN.

Mr. EILBERG.

Mr. FLORIO.

Mr. MAZZOLI.

Mr. DOWNEY.

Mr. BROOKS.

Mr. MITCHELL of Maryland.

Mr. MINETA.

Mr. OTTINGER in two instances.

Mr. FRASER.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to the enrolled bills of the Senate of the following titles:

S. 1060. An act to amend the act of February 9, 1821, to restate the charter of The George Washington University; and

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5742. An act to amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act;

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 6655. An act to amend certain Federal laws pertaining to community development, housing, and related programs;

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes; and

H.R. 9354. An act to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 4, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 5645. To raise the limitation on appropriations for the U.S. Commission on Civil Rights;

H.R. 6550. To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes; and

H.R. 9290. To increase the temporary debt limit, and for other purposes.

ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Thursday, October 6, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2513. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting the second annual report on programs and activities under the Women's Educational Equity Act, pursuant to section 408(f) of the act (Public Law 93-380); to the Committee on Education and Labor.

2514. A letter from the Chairman, Federal Power Commission, transmitting the Commission's final report on its activities under the Freedom of Information Act, covering the period January 1 through September 30, 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2515. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of three new records systems for the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2516. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2517. A letter from the Records Officer, U.S. Postal Service, transmitting notice of four new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2518. A letter from the Attorney General, transmitting the annal report for calendar year 1976 on the administration of the Foreign Agents Registration Act of 1938, as amended, pursuant to section 11 of the act; to the Committee on the Judiciary.

2519. A letter from the Deputy Staff Director, U.S. Commission on Civil Rights, transmitting a draft of proposed legislation to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes; to the Committee on the Judiciary.

2520. A letter from the Comptroller General of the United States, transmitting a report on the Farmers Home Administration's business and industrial loan program (CED-77-126, September 30, 1977); jointly, to the Committees on Government Operations, and Agriculture.

2521. A letter from the Comptroller General of the United States, transmitting a report on programs for the prevention of mental retardation (HRD-77-37, October 3, 1977); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

2522. A letter from the Acting Comptroller General of the United States, transmitting an evaluation of the administration's proposed nuclear nonproliferation strategy (ID-77-53, October 4, 1977); jointly, to the Committees on Government Operations, International Relations, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949 (Rept. No. 95-638, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana. Committee on Rules. House Resolution 766. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; with amendment (Rept. No. 95-651, Pt. II). Referred to the House Calendar.

Mr. SMITH of Iowa: Committee on Small Business. Report on allocation of budget totals to subcommittees for fiscal year 1978 (Rept. No. 95-660). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. House Resolution 688. Resolution to disapprove Reorganization Plan No. 1 of 1977 (Rept. No. 95-661). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. Report on subdivision among subcommittees of budget allocation for fiscal year 1978 (Rept. No. 95-662). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 8681. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended; with amendment (Rept. No. 95-663). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 815. Resolution providing for the consideration of H.R. 8390. A bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes (Rept. No. 95-664). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. House Concurrent Resolution 368. Concurrent resolution calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games. (Rept. No. 95-665, Pt. I).

Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BYRON (for himself, Mr. BEILENSON, Mr. BOLAND, Mr. BRODHEAD, Mr. BROYHILL, Mr. CLEVELAND, Mr. CONTE, Mr. D'AMOURS, Mr. DUNCAN of Tennessee, Mr. HARRINGTON, Mr. KINDNESS, Mr. KOSTMAYER, Mr. MARKEY, Mr. MITCHELL of Maryland, Mr. PEASE, Mr. WHITEHURST, Mr. YOUNG of Alaska, and Mr. LAGOMARSINO):

H.R. 9442. A bill to amend the National Trails System Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.R. 9443. A bill to prohibit federally insured banks from making loans to provide for the purchase of bank stock, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HILLIS:

H.R. 9444. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. JENRETTE:

H.R. 9445. A bill to prohibit actions under certain antitrust laws against associations engaged in the export trade unless the Federal Trade Commission has given such associations a reasonable opportunity to readjust their business to comply with applicable law; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. MCHUGH (for himself, Mr. WEAVER, Mr. BEILENSON, Mr. PANETTA, Mr. CORNELL, Mr. LAFALCE, Mr. HUGHES, Mr. VENTO, Mr. OBERSTAR, Ms. KEYS, Mr. LLOYD of California, Mr. EDGAR, Mr. MURPHY of Pennsylvania, Ms. HOLTZMAN, Mr. PATTISON of New York, Mrs. FENWICK, Mr. EDWARDS of California, Mr. RICHMOND, Mr. LUNDINE, Mr. NOLAN, Mr. SIMON, Mr. BALDUS, Mr. KILDEE, Mr. MAGUIRE, and Mrs. COLLINS of Illinois):

H.R. 9446. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committee on Agriculture, and International Relations.

By Mr. MILLER of California (for himself, Mr. AKAKA, Mr. LOTT, Mr. PATTERSON of California, Mr. ROE, Mr. ROGERS, and Mr. WHITEHURST):

H.R. 9447. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage to employees engaged in the manufacture, repair, serving, or sale of recreational boats; to the Committee on Education and Labor.

By Mr. PEPPER:

H.R. 9448. A bill to amend section 312(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. QUIE (for himself, Mr. FRASER, Mr. FRENZEL, Mr. OBERSTAR, Mr. HAGEDORN, Mr. NOLAN, Mr. VENTO, and Mr. STANGELAND):

H.R. 9449. A bill to name a certain Federal building in Washington, D.C., the Hubert H. Humphrey Building; to the Committee on Public Works and Transportation.

By Mr. ALLEN:

H.R. 9450. A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director relationships between depositary institutions, to amend the Federal Deposit Insurance Act, to amend the National Bank Act, to encourage officials of Federal agencies responsible for the supervision of financial institutions to complete their terms of office, to establish a Federal Bank Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FINDLEY:

H.R. 9451. A bill to provide for the review of the behavior of individual justices and judges by three-judge panels; to the Committee on the Judiciary.

By Mr. ICHORD (for himself and Mr. TAYLOR):

H.R. 9452. A bill to amend title II of the Social Security Act, the Internal Revenue Code of 1954, as amended, and the Railroad Retirement Act of 1974 to permit combined reporting of wages by employers for old-age, survivors, disability, and health insurance and income tax withholding purposes on an annual basis, and for other purposes; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. RHODES, Mr. MICHEL, Mr. CUNNINGHAM, Mr. CARTER, Mr. ROUSSELOT, Mr. BEARD of Tennessee, Mr. RAILSBACK, Mr. O'BRIEN, Mr. COHEN, and Mr. LIVINGSTON):

H.R. 9453. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. WIRTH, Mr. REGULA, Mr. ABDNOR, Mr. AKAKA, Mr. AMBRO, Mr. BADILLO, Mr. BAUCUS, Mr. BROWN of California, Mr. CARR, Mr. CONYERS, Mr. DRINAN, Mr. ECKHARDT, Mr. EDGAR, Mr. EDWARDS of California, Mr. FARY, Mr. FISHER, Mr. FRASER, Mr. FRENZEL, Mr. GUYER, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HARRIS, and Mr. HEFTEL):

H.R. 9454. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself, Mr. MOFFETT, Mr. BYRON, Mr. HILLIS, Ms. HOLTZMAN, Mr. JEFFORDS, Mrs. KEYS, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEGGETT, Mr. LEHMAN, Mr. MCCLOSKEY, Mr. MAGUIRE, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. ROE, Mr. RICHMOND, Mr. SIMON, Mrs. SPELLMAN, Mr. STUDDS, Mr. VAN DEERLIN, Mr. WHALEN, and Mr. WOLFF):

H.R. 9455. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways; to the Committee on Public Works and Transportation.

By Mr. MARKEY (for himself and Mr. MOFFETT):

H.R. 9456. A bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself and Mr. STARK):

H.R. 9457. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. SARASIN (for himself, Mr. BLANCHARD, Mr. COUGHLIN, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. ERTEL, Mrs. LLOYD of Tennessee, Mr. JOHN T. MYERS, Mr. PEASE, Mr. SCHULZE, Mr. SEBELIUS, Mr. THONE, and Mr. WALKER):

H.R. 9458. A bill to improve the safety of products manufactured and sold in interstate commerce, to reduce the number of deaths and injuries caused by such products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself and Mr. KEMP):

H.R. 9459. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FLYNT (for himself, Mr. ADDABBO, Mr. BARNARD, Mr. BRINKLEY, Mr. EVANS of Georgia, Mr. GINN, Mr. JENKINS, and Mr. MCDONALD):

H.J. Res. 613. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.J. Res. 614. Joint resolution to authorize the President to proclaim the last Friday of April each year as National Arbor Day; to the Committee on Post Office and Civil Service.

By Mr. DENT (for himself, Mr. PERKINS, Mr. GIBBONS, Mr. QUIE, Mr. ERLENBORN, and Mr. CONABLE):

H. Con. Res. 369. Concurrent resolution to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans; jointly, to the Committees on Ways and Means, and Education and Labor.

By Mr. RYAN (for himself, Mr. BADHAM, Mr. BEDELL, Mr. BEILENSON, Mr. BONIOR, Mr. CONABLE, Mr. CORMAN, Mr. DINGELL, Mr. DRINAN, Mr. EDWARDS of California, Mr. FASCELL, Mr. FRASER, Mr. GILMAN, Mr. HARRINGTON, Mr. HEFTEL, Ms. HOLTZMAN, Mr. JEFFORDS, Mr. LENT, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. MURPHY of Pennsylvania, Mr. ROE, Mrs. SPELLMAN, and Mr. STUDDS):

H. Con. Res. 370. Concurrent resolution urging the International Whaling Commission to implement a 10-year moratorium on the commercial killing of whales, and for other purposes; to the Committee on International Relations.

By Mr. RYAN (for himself, Mr. STARK, Mr. THOMPSON, Mr. ULLMAN, Mr. VENTO, Mr. WALGREN, Mr. WAXMAN, and Mr. YOUNG of Florida):

H. Con. Res. 371. Concurrent resolution urging the International Whaling Commission to implement a 10-year moratorium on the commercial killing of whales, and for other purposes; to the Committee on International Relations.

By Mr. OBEY (for himself, Mr. PRICE, Mr. MEEDS, Mr. HAMILTON, Mr. D'AMOURS, Mr. FRASER, Mr. EDGAR, Mr. BLOUIN, Mr. EILBERG, Mr. CORNELL, Mr. VENTO, Mr. MAZZOLI, Mr. FASCELL, Mr. BINGHAM, and Mr. BALDUS):

H. Res. 816. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; divided and referred as follows: Titles I, II, III, IV, V, and VII to the Committee on Rules; and title VI to the Committee on House Administration.

By Mr. PRESSLER:

H. Res. 817. Resolution to amend rule XXI of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. YATES:

H. Res. 818. Resolution disapproving proposed deferral of budget authority No. D78-19 in the amount of $12 million for Trust Territory of the Pacific Islands, Office of Territorial Affairs, Department of the Interior, for construction of an airport in the Kosrae District of the Trust Territory of the Pacific Islands; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Ms. MIKULSKI (by request) introduced a bill (H.R. 9460) for the relief of Marian Cybula; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9375

By Mr. OTTINGER:

Page 10, line 17, strike out "$167,000,000" and insert in lieu thereof "$186,000,000".

H. RES. 766

By Mr. FRENZEL:

On page 50, strike line 12 and all that follows through line 24.

Strike section 607 in its entirety.

EXTENSIONS OF REMARKS

LEGISLATION TO PROVIDE MEDICARE COVERAGE FOR HYPERTENSION SCREENING, DIAGNOSIS, AND TREATMENT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. PEPPER. Mr. Speaker, on July 21, the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair, conducted a hearing to examine the problem of hypertension among the elderly. To some, high blood pressure may be an unexciting subject—nothing to make a fuss about. But to those who suffer from hypertension and its devastating consequences—stroke, heart attack, cardiovascular disease, and kidney failure—it is clearly a matter of life and death. Hypertension, or high blood pressure, affects some 23 million Americans. As its prevalence increases with age, a disproportionate number of Americans over 65 suffer from high blood pressure. While those over 65 comprise only 10.7 percent of the population, they account for almost 40 percent of the hypertensive population. It is also very discouraging to note that between 35 and 40 percent of the population over 65 suffer from high blood pressure.

Mr. Speaker, officials of the Department of Health, Education, and Welfare have estimated that hypertension causes at least 200,000 deaths a year because of its involvement with serious illness. And the Social Security Administration has indicated that high blood pressure and its consequences are responsible for the largest number of disability claims. Moreover, the costs to Federal medical programs and to private insurance of treatment and rehabilitation for heart attack and stroke victims is enormous.

Taken in hard, cost-effective terms, treatment of hypertension before it gets out of hand could save the Federal Government billions of dollars in disability benefits and medicare payments. The Social Security Administration estimates that the Federal Government made $3.4 billion in disability payments resulting from heart and kidney diseases in 1976. Some 175,000 new heart cases were added to the rolls that year alone. It is estimated that medicare will have paid out some $6.5 billion in 1977 for all kinds of care related to circulatory ailments. These figures do not even take into account the enormous expenditure that is made by Federal and State governments under medicaid.

On the other hand, screening, diagnosis, and treatment for high blood pressure can be relatively inexpensive. It has been estimated that the cost of detecting hypertension is 50 cents. According to the National Center for Health Statistics, the annual cost for treatment of hypertension averages $200 per person, including laboratory costs, physician visits, and medication. But expert testimony presented during the July 21 hearing placed the yearly cost of treatment at $95, and the first year, including an initial work-up, at $120.

This is a small sum for the Federal Government, when you take into consideration the overall cost-savings and social benefits of preventing serious illnesses.

In light of the prevalence of high blood pressure and its serious consequences among the elderly, and the cost-saving which could be realized by detection and treatment of hypertension in its early stages, I am today introducing a bill which would amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension.

It is my strong belief that the administration and the Congress should give early and favorable consideration to this legislation. I have been encouraged by President Carter's willingness to place greater emphasis on preventive health care. In a speech before the American Public Health Association last October, then-candidate Jimmy Carter said:

> Prevention is both cheaper and simpler than cure. But we have stressed the latter—cured—and we have ignored, to an increasing degree, the former—prevention.

We can translate this commitment into

solid progress by enacting the bill I introduce today. This bill will make it possible for individuals to obtain diagnosis and treatment under medicare. Witness after witness indicated that hypertensives would be likelier to seek treatment and remain on medication if the cost of these services was covered.

Mr. Speaker, the proposal I offer has been endorsed by the American Heart Association, the Citizens for the Treatment of High Blood Pressure, Inc., whose chairman is Michael E. DeBakey, M.D., renowned heart surgeon, and the American Nurses Association. I insert letters I have received from these organizations to be printed at this point in the RECORD:

[Mailgram]

DALLAS, TEX.,
July 29, 1977.

Hon. CLAUDE PEPPER,
U.S. Representative, Rayburn House Office Building, Washington, D.C.
Attention Lou Bracknell.

DEAR SIR: The American Heart Association would like to commend you for introducing a bill amending title XVIII of the Social Security Act to include coverage of preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension. As an agency dedicated to reducing premature death and disability from heart and blood vessel diseases. The Heart Association has placed the control of high blood pressure or hypertension among its foremost national priorities. Barring technical points with which we may be unfamiliar, your bill merits and shall receive our strongest support. As you are well aware, the population that could be reached through enactment of this amendment to the Social Security Act represents only a small portion of the over 24 million hypertensives in this country. In a substantial number of these persons, the disease is not adequately controlled. Leading to greater risks of coronary heart disease, stroke, congestive heart failure, and kidney failure. At your invitation, the American Heart Association would be delighted to work with you to design a more comprehensive approach to this major national health problem.

The Heart Association and its more than 100,000 lay and professional members are prepared to offer whatever support you may need in securing passage of this bill into law. Please advise us as to the actions that would best assist you.

Very truly yours,

HARRIET P. DUSTAN, M.D.,
President,
American Heart Association.

CITIZENS FOR THE TREATMENT OF HIGH BLOOD PRESSURE, INC.,
Washington, D.C., August 12, 1977.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging, U.S. House of Representatives, New Jersey Avenue SE., Washington, D.C.

DEAR CONGRESSMAN PEPPER: Citizens for the Treatment of High Blood Pressure is a voluntary organization of people vitally interested in a national campaign to treat and control hypertension. I have the honor of being Chairman of the Board of Directors of the organization since 1972, when it was founded.

We heartily endorse the legislation which you have proposed to amend the Medicare law in order to provide coverage for the screening, diagnosis and treatment of hypertension. At the hearings which you held in July on this matter, your Committee received in testimony from both government officials and non-governmental witnesses a clear and devastating picture of the cost in lives as a consequence of his disease. Doctor Robert Levy, Director of the National Heart, Lung and Blood Institute, testified that high blood pressure is the most important factor contributing to the development of strokes which kill approximately 200,000 persons and disable over 250,000 each year in the United States. Doctor Levy also pointed out that hypertension is a major factor in 65 percent of the 650,000 heart attack deaths that occur each year in the United States.

The elderly are the hardest hit by this disease, since the prevalence rate of definite hypertension increases rapidly with age. Among those of our citizens in the 65–74 age bracket, approximately 40 percent or 5,600,000 have definite hypertension. Furthermore, in the age group above 74 years, an additional 40 percent—estimated at 3,200,000—have high blood pressure.

We can point to some solid successes in the five years since our organization along with other medical and voluntary health organizations joined forces in this campaign. Over six million previously undiagnosed patients have been detected. Since 1972, heart attacks in this country are down more than ten percent and deaths from strokes have declined by twenty percent. With these gains, the average life expectancy of Americans has increased by over one year in the past five years and we now have the lowest death rate in our nation's history.

However, despite these truly miraculous gains, we still have a long way to go. Of the approximately 23 million Americans with high blood pressure, seven million are unaware of their condition and another ten million, while aware that they have high blood pressure, are either not on treatment or they are on inadequate therapy to control their disease.

We, therefore, are in enthusiastic support of the proposed legislation and will do everything we can to insure its passage.

Sincerely,

MICHAEL E. DEBAKEY.

SEPTEMBER 6, 1977.

Hon. CLAUDE PEPPER,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN PEPPER: The American Nurses' Association (ANA) is pleased to endorse and comment on your proposed bill to include Medicare coverage for screening, diagnosis and treatment of hypertension. The ANA is represented on the Coordinating Council of the National High Blood Pressure Education Program and was a sponsor of the Task Force on Nursing in High Blood Pressure Control.

Registered nurses have been very active in the care of patients with high blood pressure, and many such special clinics are directed by nurses in consultation with a physician. As Dr. Frank Finnerty stated in his testimony before your committee on July 21, 1977, ". . . incorporating the nurse and paramedic into the long-range management . . . greatly enhances patient compliance and adherence. . . ." In addition, he said that "With a trained nurse effectively directing the clinic in consultation with a physician and assisted by two paramedics, 30 to 40 patients can be easily seen per day."

With the above in mind, we would recommend for your consideration the following minor additions and changes of language in your proposed legislation. These changes, we feel, will ensure that payment under Medicare would be provided where registered nurses are primarily directing the care of the hypertensive patient.

On page 2 of draft bill, Sec. 1861(s)(2), new subparagraph E, line 5, add after "physician," the words "or in consultation with a physician," and; "Sec. 1835(a)(2), new subparagraph E, second line from bottom of page 2, delete "physician" and insert "primary health care provider."

We believe these changes will not in any way detract from the intent of your proposed bill and should, in fact, broaden the covered services to many elderly patients.

The ANA appreciates the opportunity to comment on, and endorse, this proposed legislation and hope that we can continue to work with you on any aspect of health care for the elderly population. If we can provide you with further information on this bill, please contact Ms. Jackie Brunell of our office who is legislative coordinator.

Sincerely,

CONSTANCE HOLLERAN,
Deputy Executive Director, Government Relations Division (Washington Office).

INSTITUTE FOR POLICY STUDIES CONTINUES KGB AGENT LETELIER'S "HUMAN RIGHTS" PROJECTS ON CAPITOL HILL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McDONALD, Mr. Speaker, the Marxist intellectuals of the Institute for Policy Studies (IPS) and its Transnational Institute subsidiary have smoothly picked up the so-called "human rights" campaign begun by KGB agent Orlando Letelier despite some initial embarassment caused by Letelier's exposure following his death last year.

As my colleagues will recall from the text of the letters and other documents from Letelier's briefcase which I earlier placed into the CONGRESSIONAL RECORD Letelier's mission as an "agent of influence" of the Soviet KGB spy apparatus assigned to work with a Cuban case officer using diplomatic cover at the United Nations was to cultivate leading liberal congressional figures, administration officials and academics to use the "human rights" and "political repression" issues in such a way as to split the United States from its traditional allies in Latin America and other parts of the world.

Letelier's Washington, D.C., activities were being financed with money from Communist Cuba and from the Helsinki-based World Peace Council (WPC), the principal Soviet front urging disarmament of the West on one hand while providing logistical support to the many Soviet-sponsored terrorist movements on the other. Letelier used this money to pay for the expenses of congressional and private figures so that they would participate in WPC-initiated international Communist front activities.

A letter from Orlando Letelier to Beatrice Allende Fernandez, the wife of a top-ranking Cuban secret police official, CONGRESSIONAL RECORD, June 23, 1977, which was dated March 29, 1976, discussed a Human Rights Committee being run in Washington by his wife, Isabel Letelier. The letter said:

> As you know, it was desired to maintain this Committee as an apolitical or non-partisan scheme, oriented solely to the problems of human rights. The object is to mobilize the "liberals" and other people who do not identify with us from an ideological point of view, but who do at least do so in matters of human rights. * * * It is incredible that Isabel and a small number of people have been able to put together an apparatus that

includes an office, a program of work, a lot of prestige, etc.

Letelier urged Mrs. Fernandez not to publicize Isabel Letelier's Human Rights Project from Cuba lest Congressmen and other prominent U.S. liberals associated with it should realize its link to Cuba, become suspicious and drop their support. He also stated in the letter that his wife would be writing directly to Beatrice Allende in Cuba "giving you the information about the Committee." Incidentally, Letelier's Cuban expense accounts, paid from Havana, list a monthly expense of $130 for "office rent."

Other Letelier letters to leaders of the Marxist Unidad Popular coalition living in East Germany described how useful Letelier's position as director of the IPS Transnational Institute was to his real work, providing him with travel money and "academic cover" for trips to meet with foreign revolutionaries, agents, and terrorists.

Did Orlando Letelier's coworkers at IPS reject his activities and projects after his role as a top Soviet agent was exposed? No, not at all. Instead IPS chieftains Richard Barnet, Marcus Raskin, and Letelier's replacement as TNI director Saul Landau formed a propaganda team to denounce divulgence of Letelier's documents and claim a "smear."

IPS then picked up itself the costs of Mrs. Isabel Letelier's "human rights" apparatus, as her husband so frankly termed it, and put her on the TNI payroll. For fund-raising purposes, IPS set up the "Letelier-Moffitt Memorial Fund" which then assumed sponsorship of the Human Rights Education Project (HREP) headed by Mrs. Letelier. HREP's initial offices were in the quarters vacated by the Indochina Resource Center (IRC) and Indochina Mobile Education (IMEP) Project which closed down in December 1976. Closely associated with IPS, the IRC and IMEP leaders were Fred Branfman, now active in California with IPS's National Conference of Alternative State and Local Public Policies (NCASLPP); Don Luce, now codirector of the "anti-imperialist" Clergy and Laity Concerned (CALC) and continuing his activities on behalf of the Vietnamese Communist regime; and D. Gareth Porter, again an IPS fellow and organizer of an anti-South Korea conference on Capitol Hill held September 19–20, 1977.

Gareth Porter and Jeff Stein imported as the principal Japanese elected for their conference on Capitol Hill, CONGRESSIONAL RECORD, September 26, 1977, 30995 and following pages, Hideo Den, a member of the House of Councilors elected on the Socialist Party ticket. Hideo Den is also a leader of the Japan-Korea Association, a front controlled by the North Korean Workers (Communist) Party and the North Korean Government. Mr. Den is helping to organize a 1978 international conference in support of Korean "reunification" that is being sponsored by the U.S.S.R.-run World Peace Council and which is to be held in Tokyo.

As a preliminary to the IPS Congressional Conference on Latin America, IPS/TNI sponsored a small award ceremony on September 19 at which Isabel Letelier, now a TNI fellow, and Michael Moffitt received the first Letelier-Moffitt Human Rights Award.

The award ceremony was also used to promote the commencement of HREP's first nationwide tour focusing on "repression of human rights" in the "Southern Cone" countries in Latin America—Argentina, Chile and Uruguay. It is noted that each of these countries has been engaged in fighting major Cuban- and Soviet-backed terrorist movements, and that these terrorist organizations—the Argentinian ERP, the Chilean MIR, and the Uruguayan Tupamaros—work together and coordinate their activities.

By "represention of human rights," the Castroites and U.S. revolutionaries are actually referring to the suppression of revolutionary terrorism and subversion in countries in which a de facto civil war existed.

Despite Letelier's exposure as a KGB influence peddler on Capitol Hill, the organizations with which he worked and developed his masters' scenarios such as IPS, the Council on Hemispheric Affairs (COHA), the Institute for International Policy of the Fund for Peace, the Fund for the New Priorities in America and the like are continuing the program Letelier established.

Attached is an account of the conference, "United States-Latin American (Southern Cone) Policy and Human Rights," held last week which appeared in the latest issue of the Information Digest, a newsletter on U.S. political and social movements:

(Article follows:)

SON OF LETELIER: CONGRESSIONAL CONFERENCE ON LATIN AMERICA

A conference entitled "U.S.-Latin American (Southern Cone) Policy and Human Rights" was held in the Dirksen Senate Office Building, September 27, 1977. The "Southern Cone" conference had its origins in plans for a virtually identical conference announced early in the summer by Laurence R. Birns, director of the Council on Hemispheric Affairs (COHA). However following COHA's exposure as a pro-Castroite pressure group established with the assistance of the late Orlando Letelier, a KGB agent active with the Institute for Policy Studies (IPS), the IPS' Transnational Institute (TNI), the Center for International Policy (CIP) and the network of Chilean Marxist exile and support groups, and after COHA was roundly condemned by Senator Jesse Helms (R–SC) and other Congressional figures for unethical and unauthorized use of their names, COHA was unable to maintain credibility or develop sufficient support. Thus overt sponsorship of the Latin American conference mainly reverted to those groups from which COHA had selected its trustees. These included:

Funds for New Priorities in America (FNPA), a New York based pressure group whose members are drawn from the McGovernite and Americans for Democratic Action (ADA) wings of the Democratic party and from the more "socially acceptable" Old Leftists from the trade unions, academia and business such as sponsor the National Emergency Civil Liberties Committee.

Institute for Policy Studies (IPS), a New Left Marxist think-tank based in Washington, D.C., developing scenarios for a radically altered America while doing what it can to hasten the collapse of the present society by a variety of tactics ranging from developing programs to dismantle and cripple the U.S. foreign and domestic intelligence-gathering capability through hiring members of terrorist and revolutionary organizations to making direct contacts with Administration and Congressional officials and staffers.

Americans for Democratic Action (ADA), a liberal political action organization now headed by Senator George McGovern (D-SD).

Clergy and Laity Concerned (CALC), a self-described "anti-imperialist" organization which has said its task "is to join those who are angry and who hate the corporate power which the United States presently represents" to help "liberate" both the Third World and the U.S. "from its reactionary and exploitative policies." CALC leaders include Don Luce, formerly of the Indochina Resource Center; Cora Rubin Weiss, daughter of IPS/TNI financial backer Samuel Rubin and wife of principal IPS trustee, Peter Weiss.

Center for International Policy (CIP), a project sponsored by the Fund for Peace and staffed principally by IPS associates of which Orlando Letelier was a director. The several FFP projects such as the Center for Defense Information (CDI) and Center for National Security Studies (CNSS) which are also staffed by IPS veterans have ties to the World Peace Council, an international Soviet front for mobilizing "world public opinion" on one hand while providing logistical support for Soviet sponsored terrorist groups on the other.

Washington Office on Latin America (WOLA), a "human rights" pressure group funded by several religious denomination administrative bodies which has sponsored Marxists supporting Castorite terrorist groups as experts on human rights abuses.

Amalgamated Meatcutters and Butcher Workmen of North America, a trade union whose international vice-president, Abraham Feinglass, an identified Communist Party, U.S.A. member, is one of the leading activists in the "Chile solidarity" movement in support of the Unidad Popular. Feinglass was a featured speaker earlier this year at an FNPA banquet in New York to honor Senator McGovern.

National Council of Churches, Human Rights Division.

United Methodist Church, Board of Church and Society.

United Federation of Social Workers.

American Public Health Association.

United Auto Workers (UAW), a trade union which provides COHA's Larry Birns with a headquarters and message center when he is in Washington, D.C. COHA head Larry Birns had lobbied heavily for the appointment of UAW Washington International Director Estaban Torres's appointment as Assistant Secretary of State for Inter-American Affairs, the position filled by Terence A. Todman. Although invited to participate in the conference, Mr. Torres did not attend: two weeks earlier he had been appointed U.S. delegate to UNESCO.

Conference moderator was Fr. Thomas Quigley of the U.S. Catholic Conference Office of International Justice and Peace. The opening speaker was Abelardo Valdes, Assistant AID Administrator for Latin America and Deputy Coordinator of the Alliance for Progress, who said that Latin American peasants were "catalytic agents of social and economic change." After stating that "political systems where the people participate in economic and social decisions that effect their lives" needed to be developed in Latin America, the Administrator went on to describe several U.S.-funded legal aid programs for Latin American Indians and women which, he said, were already having an effect.

State Department Administrator of the Office of Humanitarian Affairs Patricia Derian described the step-by-step "consciousness raising" and manipulation of Latin American government officials on the "human rights" issue. She predicted that "in the next few years we'll see some aggressive actions" by the Administration on human rights, but cautioned that "a lot will depend on continued pressure." Mrs. Derian's Deputy Administrator, Mark Schneider, a writer closely associated with IRS and Orlando Letelier who left Senator Kennedy's staff to take the State Department post, was slated to speak, but did not appear.

Rev. Brady Tyson, an aide to Ambassador Andrew Young at the United Nations, saw the U.S. entering a "post polemical" stage in which "ideological diversity" would be respected. Said Tyson, a founding incorporator of the North American Congress on Latin America (NACLA), "there are forms of dignity in socialist countries we need to learn about."

A luncheon meeting was keynoted by Senator McGovern who supported the new human rights policies as being "on the right track." Senators Gravel, Kennedy, Javitz and Mathias made brief appearances; however the principal Congressional speaker was Representative Tom Harkin (D–IA).

In an emotional opening, Harkin stated, "I defy anybody in this room, anybody in the Administration * * * to show me one military government at any time in history that respected human rights. They don't do it; it's not where their heads are. * * * It's not in their mind-set." He described his visit to Chile accompanied by Joe Eldridge of WOLA during which he met with Unidad Popular supporters, some of whom had been detained by the military junta. He then severely criticized the U.S. for not admitting large numbers of Chilean Socialist Party members on the grounds they were communists. Rep. Harkin appeared totally oblivious to the fact that the Chilean Socialist Party was in fact a Castroite communist (Marxist-Leninist) party that had worked for over a decade in intimate coalition with the more traditional Moscow-dominated Communist Party.

Ramsey Clark, who in 1975 with Peter Weiss tried to join the Baader-Meinhof defense team, attacked U.S. admittance of Vietnamese refugees as a "rip-off by the U.S. of Vietnamese resources," possibly indicating agreement with the Vietcong/Khmer Rouge view that "manpower" is a state resource.

Other speakers included:

* Roberta Salper, an IPS/TNI fellow who under KGB agent Letelier's direction ran the IPS/TNI Ad Hoc Working Group on Latin America of which staff members of the private Linowitz Commission were members. Salper in 1973 was a member of the U.S. Zone Central Committee of the Castroite Communist Puerto Rican Socialist Party (PSP).

Richard Fagen, Linowitz Commission consultant, IPS/TNI Ad Hoc Working Group member, COHA trustee, and sponsor since its 1967 founding of the U.S. Committee for Justice to Latin American Political Prisoners (USLA), a front of the Trotskyist communist Socialist Workers Party (SWP). Fagen has sponsored the Venceremos Brigade's 26th of July celebrations and other pro-Cuban endeavors. Fagen received Ford Foundation grants in 1967–68, 1969 and 1972–73, during which latter period he lived in Chile under the Allende regime. In 1969 he traveled to Cuba with a group of U.S. revolutionaries, most of whom were members of the SDS Weatherman faction, to meet with a group of Communist North Vietnamese and Vietcong officials. Mrs. Patricia Weiss Fagen, active in campaigns to bring into the U.S. Chilean "refugees," is now on the staff of the CIP, whose literature was extensively distributed during the conference and provided a basis for discussion. CIP credited its accounts of human rights violations in Argentina, Chile, Nicaragua and other countries resisting Castroite terrorist movements to assistance from the North American Congress on Latin America (NACLA), the Pacific Studies Center (PSC), CALC, WOLA, the Military Audit Project, Amnesty International, the Coalition for a New Foreign and Military Policy (CNFMP), Friends of the Filipno People (FFP), and the Argentine Commission on Human Rights (ACHR), headed by a U.S. citizen named Olga Talamante who was arrested in Argentina in the company of members of the terrorist Montoneros and ERP and who since her release has been working with a support group for the Chilean terrorist MIR called Non-Intervention in Chile (NICH).

William Goodfellow, CIP economist and former director of research for the Indochina Resource Center, until its demise at the end of 1976 a source of uncritically approving literature on the new communist regimes in Vietnam, Laos and Cambodia.

Leonel Castillo, Immigration and Naturalization Service Director, who assured the conference that ways were being developed to bring U.S. refugee admittance standards into alignment with the U.N. so that refugees from anti-Marxist governments could soon be freely admitted.

Laurence R. Birns, COHA director and ubiquitous figure during the day-long conference, taking a leading role in making sure the discussions stayed on the correct track—coordinating Congressional cut-off of military and economic assistance to Latin American countries allied with the U.S. who are fighting major revolutionary terrorist and subversive threats, and seeking Congressional restrictions on private investments in those countries.

Additional speakers and participants included Ruth Gage-Colby of the Women's International League for Peace and Freedom (WILPF); Sam Chavkin, FNPA; Joe Eldridge, WOLA; Juan Ferreira, a Uruguayan staffer at WOLA who also runs the Uruguay Information Center; Hector Sandler, "a leader of the democratic and progressive sector of the Peronist Movement, exiled in Mexico" since the 1976 Argentinian military coup; Chilean former Allende cabinet minister Sergio Bitar now living in Venezuela; Bolivian Socialist Party leader Marcelo Quiroga-Santa Cruz, teaching at Mexico's National University since 1971; Martin Rothstein, FNPA; Georgio Solimano, Columbia University College of Physicians and Surgeons; and William E. Lang, Deputy Director of the Defense Security Agency. It is noted that "Dear Colleague" letters circulated by Rep. Harkin and Senator McGovern netted some thirty-two Congressional cosponsors.

AIRLINE DEREGULATION DESERVES FULL ATTENTION OF CONGRESS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RISENHOOVER. Mr. Speaker, the issue of airline deregulation deserves the full attention of Congress. In our consideration, the views of those who do the flying deserve full attention.

A veteran commercial pilot, Capt. John O'Donnell who is president of the Air Line Pilots Association, recently testified before the House Government Operations Committee on the impact of deregulation on aviation safety.

With my own 3,000 hours of flying time in the Air Force, I certainly have an open mind and keen interest in what Captain O'Donnell, with his 25 years of experience, has to say about deregulation and air safety.

I include Captain O'Donnell's statement to be included in the RECORD:

STATEMENT OF CAPT. JOHN O'DONNELL

Our concerns for air safety precipitated by the deregulation legislation can be organized into three major areas, namely, increased competitive airline activity by: 1) present certificated carriers, 2) uncertificated commuter airlines, and 3) new entrants into air transportation. Each of these presents a different set of circumstances relating to safety.

Before analyzing each, it is essential to briefly summarize the present day operational environment which currently influences the safety of air carriers. The Federal Aviation Regulations governing certificated carrier operations generally fall into Part 121 and represent *minimum* safety standards. Mr. Chairman, I stress the word *minimum*. The operating practices, training and procedures for cockpit crews, cabin crews, and ground crews are developed by manufacturers and airlines. Although basically approved by the FAA; in almost every case, they substantially *exceed* the minimum requirements of the Federal Aviation Regulations.

A few examples of where airlines have exceeded the minimum standard established by the FAA are:

(1) The FAA authorizes circling approaches to airports when the ceiling is 500 feet and visibility is 1.5 miles. TWA and Delta do not authorize these circling approaches unless the ceiling is at least 1,000 feet and the visibility is greater than three miles. This is a practice of most U.S. airlines.

(2) Some turbine engines experience surging. The FAA does not require an engine change after that engine fails the surge test. Most airlines require engine change within 50 hours after that engine fails the surge tests.

(3) In order to avoid in-flight engine shut downs some airlines, have a more stringent engine vibration limit test and turbine blade crack test than that allowed by the FAA.

In addition to the above examples, most airlines have a policy of incorporating safety changes and modifications prior to the time prescribed by the Airworthiness Directives of the FAA.

Operating in this manner is a very costly endeavor. It is naive to suggest that justification for incurring such costs would *not* be influenced by increased competition. It does not require an economist to predict that these extra costs will be among the primary cost-cutting actions carriers will be obliged to take in a cut-throat competitive environment.

In addition to the self-imposed high safety standards, the reality of the air transportation industry safety record is heavily dependent upon self-monitoring. The overburdened and understaffed FAA would be hard pressed to supervise compliance with operations and maintenance standards manated under Part 121 of the Federal Air Regulations (FAR's) without the aid of the certificated airlines. Self-monitoring by the industry has made it possible therefore, to achieve and maintain the enviable safety record which the public now enjoys.

In Miami, for example, one FAA Principal Maintenance Inspector (plus one back-up inspector), is responsible for the surveillance of Eastern Air Lines' primary maintenance base, employing 3,500 personnel. Another inspector is responsible for National Airlines' 1,000-man maintenance operation. In addition to his principal workload, this National Inspector is charged with supervising the on-line maintenance operations of Airlift International, United, Braniff, and Delta. This small FAA staff must also oversee the 129 odd-flying clubs operating large aircraft, as well as foreign owned, but U.S. registered aircraft.

Miami, is by no means an isolated case. One FAA inspector surveys the enormous 2,500-man Delta Air Lines' primary maintenance base in Atlanta, while the principal Southern Airways inspector has the primary responsibility for "only" 300 technicians. However, he also has the "secondary" assignment of overseeing 1,000 Eastern Air Lines personnel in addition to the smaller United, TWA and Piedmont maintenance operations.

Thus, the FAA's mandate of supervising safe maintenance procedures has evolved into one of monitoring airline's maintenance logs. Any vision of vigilant FAA inspectors checking the maintenance operations of every airplane is more myth than reality. In fact, the lion's share of maintenance necessarily takes place in the midnight shift, long after the "8–5" working inspectors have gone home. In effect, the responsibility for safe maintenance has been delegated to the airlines themselves. This essentially good faith system works only because the safety standards of today's air carriers almost always exceed those of the FAA.

This fragile airline-FAA relationship, in our view, cannot survive the effects of deregulation. Relaxed entry provisions are designed primarily to provide more opportunity for new companies to get into the airline business. Representatives of a number of them testified in support of deregulation in hearings before the Senate Small Business Committee last year, and before the House Aviation Subcommittee this year. There is no question that these entrepreneurs are anxious to get started, and they are looking to deregulation to provide them with their opportunity. It is equally certain that they will not bring with them into the business the enormous investments in safety facilities and programs, and experienced personnel which have been a major part of the overhead of established airlines for years.

The relative inexperience of the maintenance personnel of new airlines could very well cripple the current FAA inspection/monitoring system. Their lack of expertise will force the FAA to lessen its dependence upon airline personnel in order to adequately insure compliance with the FAR's. But, the FAA, already spread too thin, will not have the available manpower to substitute their personnel for airline personnel. The result will be an overall decline in maintenance surveillance—and as the pressure for competition escalates, this will most certainly mean an overall decline in safety.

A similar situation exists with respect to flight operations, where almost all check rides are conducted by the company check airmen. The only requirement for actual FAA involvement is to approve the initial Type Rating and to observe each Pilot in Command at least once a year.

The ability of the FAA to monitor operations and maintenance of air carriers becomes even more limited in the case of commuter airlines. In most instances, their operations and maintenance is under the jurisdiction of the local General Aviation District Office (GADO). GADO's do not have the manpower to assign a Principal Maintenance Inspector, Principal Avionics Inspector and Principal Operations Inspector to each air taxi and commuter airline. We are told that in regard to the 4,000 operators falling into this category, the FAA has sufficient resources to inspect only a handful of the larger operators, and then only at two-year intervals. We have also been told by the FAA that if there were a significant increase in the number of airlines, a proportionate impact on field resources would result. They went on to say that they were simply not staffed to cope with such an increase in the number of carriers. In addition, a considerable lead time would be necessary to secure and train any additional personnel authorized, before the FAA would be operationally geared to handle the increased workload generated by deregulation. This clearly predicts a staggering increase in FAA manpower and potentially more, not less, regulation.

Experience shows that the present air transportation system safety record is not achieved because of close, government surveillance, but rather by responsible industry employees, unions, and industry managements concerned for the safety of the travelling public. If our present regulatory framework is modified to place more demands on the FAA system and to discourage the present system of self-monitoring, one can only conclude that a serious degradation of safety is inevitable.

Let us return for a moment to the problem which might be presented by a substantial relaxation of entry criteria. First, for those airlines already established and certificated, relaxed entry clearly represents increased competition and a prospect of changing markets and competitors. Such an environment will greatly increase the pressure to reduce operating costs.

Deregulation, we believe, will lead to severe financial instability for a number of airlines And the degree of safety is inextricably related to financial stability. A 1972 National Transportation Safety Board study of commuter airlines discovered a direct connection between profitability and safe airline operations—there is no reason to believe that the situation is any different for certificated airlines. A marginal operation, facing stiff competition from other carriers, will be pressed to meet its schedule on every flight, even if that means flying substandard equipment. When the operations schedule takes precedence over the maintenance schedule, safety will suffer. Coupled with the inability of the FAA to adequately enforce the regulations it imposes, the flying public will no longer be able to take air safety for granted.

One of the obvious reactions to achieve this end would be a regression of operational procedures to the existing minimum FAA requirements. Further pressures will result in other reduced safety margins where FAA monitoring is difficult or non-existent. This trend will unquestionably lead to a deterioration of safety margins—a situation which ultimately translates into accidents.

The second byproduct of deregulation that will adversely affect the level of safety in air travel is the substitution of commuter airlines for certificated airlines in small and medium-sized communities. This has been heralded as a major reform which would reduce costs and increase the frequency of service to consumers in these communities.

Indeed, the basic operating costs for typical commuters are substantially below those of certificated carriers. This is not, however, entirely due to more efficient management, more efficient aircraft or lower labor costs, as some would have us believe. A large proportion of the operating cost difference between certificated carriers and commuter airlines stems from the fact that these operators of small aircraft are governed by a different set of Federal Aviation Regulations. Part 121 of the FAR's which governs certificated carriers establishes considerably higher minimum standards of safety than those dictated by Part 135, which governs the commuter airlines. Those differences not only reflect substantial difference in margins of safety, but also result in considerable operating cost disparity between these two members of the air transportation system. An increasing reliance upon commuters may increase frequency of service, and possibly even reduce costs, but not without certain tradeoffs in the level of safety.

Commuter airlines operate under a different, and less stringent, set of FAR's than certificated carriers—Part 135 rather than Part 121. Without engaging in an overly technical discussion of the discrepancies between Part 135 and Part 121 the following broad areas of differences can be identified:

(1) Higher workloads for commuter crews resulting in increased stress and fatigue.

(2) Lower qualifications for commuter pilots.

(3) Lack of safety equipment on commuter aircraft.

(4) No copilots required in commuters.

(5) No aircraft dispatchers in commuter operations.

(6) Much less stringent maintenance requirements for commuter aircraft.

These differences become especially significant in light of the findings of an August, 1976 Aviation Consumer Action Project study of Commuter Airline Safety. The study concluded that the basic accident rate of commuters was five times greater (per million departures) than that of trunk carriers. Furthermore, most of the commuter accidents could be directly attributed to the differences between Part 135 requirements and those of the more stringent Part 121.

The safety implications of the commuters' less stringent maintenance requirements are well illustrated by a PRINAIR accident of July 11, 1975. This non-fatal accident resulted from the separation of one of the aircraft's propeller blades. The NTSB investigation concluded that PRINAIR "did not follow, nor was it required under existing regulations to comply with, manufacturer's recommendations." Although the manufacturers of the Continental engines used in PRINAIR's DH–114's recommended that the engine be overhauled every 1,500 hours, PRINAIR had been operating the engine 4,500 hours between overhauls—despite the manufacturer's warnings that such prolonged operations could precipitate undue propeller stress.

Similarly, PRINAIR ignored the propeller manufacturer's recommendations to overhaul propellers every 1,000 hours instead of every 1,500. In fact, just two weeks before the accident, on May 30, 1975, the manufacturer had advised PRINAIR of the seriousness of the matter, explaining its rationale for the imposition of rigid inspection procedures.

The 1972 NTSB study of commuters and air taxi operators concluded that there was a direct connection between the profitability and safety of commuter operations. "The financial condition of commuters is very closely related to the level of safety at which they operate." The study further noted that "when a commuter air carrier's profitability becomes marginal, safety considerations and priorities are usually the first to be strained and compromised." This is an alarming statement because almost all commuter operations are marginal—there has been an extremely rapid turnover in commuter airlines. Furthermore, as PRINAIR tends to show, not even the largest of the commuter airlines approaches the level of safety of even the smallest of the certificated carriers. Finally, commuters suffer from a lack of adequate FAA surveillance—the oversight is even scantier than for certificated carriers.

Yet despite this substantial safety differential, the airline consumer is being asked to entrust the commuters with a growing share of the nation's air travel. This appears to be a fundamentally unfair, as well as unsafe, demand. The NTSB study noted that at least part of the commuters' problems could be associated with the rapid expansion of the scope of their operations: "The rapid expansion of the commuter airlines does not permit stabilization within the industry and could prove detrimental in the establishment of safe practices." And this rapid growth will come at a time when the FAA, according to an internal briefing memorandum, is "not staffed to handle the expected increase in certification activity, and, further, even an authorized increase in personnel, would be largely unproductive over the near term due to the lead time required to obtain and train new inspectors."

It is also important to note that the actual FAA monitoring of commuter airline operations is quite different from that for Part 121 operations. We have pilot members who fly for commuter airlines and they have, what only can be described as horror stories to illustrate the inherent inability of the FAA to cope with the present level of operation. With further expansion of the operation, under an increased competitive environment, we have grave concerns for the total degradation of aviation safety in the United States due to the practical limits of manpower and finances available to the FAA.

OFFERING FOUR AMENDMENTS TO H.R. 1037

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McCLOSKEY. Mr. Speaker, on H.R. 1037, the so-called oil cargo preference bill scheduled for floor debate tomorrow, it is my intention to offer the following 4 amendments:

AMENDMENT NO. 1

On page 7, line 6, after "both" add ": *Provided*, That any rate which is more than 50 per centum higher than the applicable rate for the most efficient non-preference vessels available may not be deemed fair and reasonable".

EXPLANATION

The sole Administration witness for the bill, Maritime Administrator, Robert A. Blackwell, testified that the additional costs of carriage of 9½ percent oil imports would not exceed $110 million, using an estimated oil import level of 8 million barrels of oil per day, current transportation charges for oil are $2.18 billion per annum, and for 9½ percent, approximately $220 million per annum. A 50 percent increase in this current additional cost would approximate the 110 million testified to by Mr. Blackwell. Therefore, if Mr. Blackwell's testimony is to be believed, cargo preference should not result in a rate increase of more than 50 percent of current transportation costs. This amendment would fix, as a matter of law, an obligation on the part of the Maritime Administration to assure that transportation costs did not increase more than 50 percent as the Administration has estimated.

AMENDMENT NO. 2

On page 6, line 18, after "shall" insert ", if the Secretary of the Treasury certifies that such steps will not reduce total national employment and gross national product,".

Explanation

The primary purpose of the oil cargo preference bill has been alleged to be the creation of additional jobs in the American maritime industry. The sole testimony in the record from the Council of Economic Advisors and the Treasury Department, however, indicates the possibility that imposition of cargo preference could decrease the total national employment as well as decrease the gross national product. The proposed amendment would require simply that the Secretary of Treasury certify that any steps taken to implement cargo preference will not cause either of these unfortunate results.

AMENDMENT NO. 3

On page 9, line 4, strike "(or if at" and all thereafter through "and" on line 8.

Explanation

This amendment simply deletes the requirement in the current bill that tankers used for oil import preference cargo need be constructed in the United States.

At the present time, there are approximately 32 million dead weight tons of unused tankers laid up around the world. Many of these tankers are fast, modern ships with far greater safety and anti-pollution features than many of the existing U.S. flag tankers which are presently being used on U.S. trade routes.

These new, modern tankers can be purchased for as little as $10 million compared to the construction cost for similar new U.S.-built tankers of $150 million or more (Congress recently authorized two new navy oilers at a cost of $161 million each).

AMENDMENT NO. 4

On page 6, line 18, after "shall" insert ", if the Secretary of State certifies that such steps will not violate any Treaty of Friendship, Commerce and Navigation with any nation which is a member of the North Atlantic Treaty Organization,".

Explanation

In 1974 Assistant Secretary of State, Raymond Waldman, testified: "Any measure by the U.S. government extending a preference to U.S. flag vessels for commercial cargoes . . . would cause us to violate those treaty obligations."

This year, in Secretary of Treasury Blumenthal's memorandum to President Carter dated June 17, 1977, Secretary Blumenthal said: "The bill would violate U.S. treaties with more than 30 countries."

TAX REFORM ACT

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, I have received a number of letters from businessmen in my district regarding the change effected by section 1011 of the Tax Reform Act of 1976 relative to the taxation of income earned abroad by American citizens.

I would urge the House Ways and Means Committee to reconsider this action in the next round of tax reform hearings and, in the interim, commend to my colleages' attention a letter I recently received from Mr. O. Morris Sievert, president of Solar:

SEPTEMBER 23, 1977.

Hon. BOB WILSON,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR BOB: During our recent meeting in your office in Washington, we talked about the extremely serious nature of some of the provisions of the Tax Reform Act of 1976. You asked that we provide some specific information for you and we offer the following:

The Tax Reform Act of 1976 and recent Tax Court rulings relating to allowances paid to U.S. citizens abroad have seriously eroded the ability of U.S. firms to compete overseas.

The United States is the only major industrial nation in the world which taxes its citizens living and working abroad. In an endeavor to increase foreign trade, Congress, in 1925, allowed an exclusion from taxation of earnings of citizens employed outside the U.S.

This unlimited exclusion of foreign-earned income was later limited to $20,000 in 1953 to prevent the abuse of this tax-saving device by highly paid movie stars and entertainers. During the early 1960's, the exclusion was increased for employees residing overseas for three years or more.

The intent of Congress during the early years of this Section 911 exclusion was consistent with its objective of encouraging foreign trade, while eliminating abuses by those claiming residence abroad in order to escape income taxes at home.

A logical extension of this Congressional intent would dictate that the Section 911 exclusion should be increased to compensate for inflation which has occurred since the original limit of $20,000 was set in 1953. The general price level between 1953 and 1976 has increased by about 126 per cent. An exclusion of $20,000 in 1976 was the equivalent of an exclusion of only $8,850 in 1953. Had Congress maintained its original intent, the Section 911 exclusion would be $45,200 in 1977.

The Tax Reform Act of 1976 reflects a change in this traditional Congressional intent to encourage foreign trade. The result of this change will be increasing deficits in our balance of trade, loss of competitive position and influence overseas, and loss of jobs at home and abroad.

The Tax Reform Act of 1976 reduces the Section 911 exclusion to $15,000. In addition, the exclusion is credited at the lowest tax brackets. This results effectively for 1977 in a Tax Credit of $1,701 for a married individual filing a joint return. The Act also provides that such items as foreign taxes paid and relocation expenses on excluded income will not be allowed as a credit or a deduction. This means that an employee with large foreign taxes or relocation expenses could pay a higher tax than he would have, had there been no exclusion. If this individual elects not to have the Section 911 exclusion apply, he must receive approval from the IRS to have the exclusion later reinstated.

Because of inflation, the average American working abroad is directly feeling the impact of the revisions in Section 911. This situation is further compounded by the fact that benefits or allowances provided for the employee are taxed as income, even though the individual derives no real financial gain from them. In order to provide a level of services or standard of living similar to that available in the U.S., employers must frequently make reimbursements to Americans overseas to compensate for cost differentials in housing, schooling, relocation, and other living expenses. These reimbursements may easily cost $50,000 to $100,000 in addition to an average salary of about $22,000 in areas such as the Middle East and Far East. Recent court rulings interpret these items as includible in income for purposes of calculating income taxes.

If it is the intent of Congress to encourage foreign trade by Americans as promulgated in the original Act, then the current Section 911 must be changed. It is in America's best interest to provide an exclusion which will reduce the competitive tax advantage of our international competitors and to encourage Americans to accept the hardships of overseas assignments. Cost reimbursements provided to overseas employees from which the individual derives no financial gain should be excluded from income. Such items as housing, schooling, cost-of-living adjustments, relocation expenses, etc., paid by the employer to compensate for living cost differentials should be excluded from income and be free of tax to the employee.

The current tax law and recent Tax Court rulings impose an excessive tax burden on U.S. citizens working abroad. It is inequitable to assess an American overseas, away from most Government services which his taxes pay for, a tax burden far in excess of that which would be paid at home.

The net result of all of the above is that

exporters, such as we at Solar are, will have an extremely difficult time keeping our people in high-cost overseas locations. What may be more serious, however, is that Americans working for engineering and contracting firms will undoubtedly be returning to the U.S. en masse. The net result will, of course, be that their jobs will be filled by people from other parts of the developed world. Under those circumstances, I can assure you that it will be very difficult for American-made exports to be competitive on the worldwide scene.

Sincerely,

O. MORRIS SIEVERT.

HON. HENRY REUSS ON URBAN POLICY

HON. CLIFFORD ALLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ALLEN. Mr. Speaker, the chairman of the Committee on Banking, Finance and Urban Affairs, Representative REUSS of Wisconsin, has written a committee print titled "To Save a City." This publication addresses one of the gravest problems the country faces, the saving of the great American cities now in perilous decline. I can report myself in agreement with most of the recommendations therein and completely convinced by the logic of the case for action in that area. One of our great newspapers, the Little Rock (Ark.) Gazette, recently printed a most cogent editorial endorsing Representative REUSS' proposals and I include that editorial with my remarks:

A PLAN FOR URBAN AMERICA

An interesting and probably workable proposal for dealing with some specific problems of urban life in the United States has been advanced by Representative Henry S. Reuss of Wisconsin, chairman of the House Banking, Finance and Urban Affairs Committee. It is not yet in legislative form, perhaps awaiting the formal presentation of an urban proposal by the Carter administration.

What impresses about the Reuss plan in its tentative form, however, is the flexibility it would bring to addressing such specifics as high urban unemployment and the need to revitalize housing in the central city. It would use money, but it would not, in effect, shoot dollars in shotgun fashion and hope that some would hit the correct targets.

Spending money on urban problems, unfortunately, is getting to be unfashionable these days. Senator William Proxmire of Wisconsin, incidentally, joined in the litany of disapproval in a speech last week at the University of Arkansas at Little Rock.

But the issue is not whether federal money is needed. Instead it is how discerning we as a nation should be in applying what is available. A lot of federal money, probably more than that which is now being spent, will be necessary whatever remedies are sought. A nation that denies this is only kidding itself, engaging as it were in a wistful exercise.

Back to specifics.

In an effort to reduce unemployment Reuss would create a computerized national job bank so that the opportunities on a national basis could be readily identified. And with the jobs identified, Reuss' program would provide federal assistance to send the unemployed to the jobs' locations. Matching skills to needs in such a manner could be a helpful device in many cases, but there is no suggestion that it would provide a panacea. Unemployment is just too complicated to be addressed in broad strokes. For some, Reuss would provide national service jobs along the lines of FDR's Civilian Conservation Corps. Of course such programs would cost some money, but unemployment, in direct and insidious ways, can cost a great deal more in human travail and economic decline.

Instead of funneling federal urban aid money so broadly that much of it goes to communities with little real need, Reuss would have the federal government be more selective, directing what is available to the specifics of rejuvenating downtown areas so that they become more economically viable and more appealing as places of residence. The emphasis would be on rehabilitation of older housing near the city's middle instead of new housing, which only gives encouragement to more urban sprawl. Rejuvenation of American cities, in Reuss' view, "could be the great growth industry of the 1980s." Yes, it could be, and it really should be.

There are many other particulars in the Reuss proposal and there are indications that the Carter administration is thinking along parallel lines in some of these particulars. We hope that administration minds are ready to respond with such good will and sophisticated judgment that workable legislation can be fashioned with congressional leadership such as that offered by Representative Reuss. All of us are getting a pretty good idea of what should be done in America's cities. It is time to set shoulder to the task.

HELP FOR TROUBLED TEENAGERS

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ARMSTRONG. Mr. Speaker, I rise today to commend a volunteer group that is making significant progress in the fight against drug abuse and alcoholism among young people.

Ron Rubanowitz, Duane Geerdes, Peggy Pottenger, and their friends form the heart of a group called the Untouchables in Denver, Colo. They take their name from the "Untouchables" television show of some years ago, which featured Elliot Ness and his squad of incorruptible law enforcement officers. Their goal is to make the young people they help "untouchable" by alcohol or narcotics.

The Untouchables have been far more successful in their efforts to implement that goal than most of the agencies of Government seeking the same end, and the Untouchables do their good work at no cost to the taxpayers. If the Untouchables are able to realize their plans for the future, their group will become entirely self sufficient and be able to finance its good works without the need to rely on private contributions.

I insert into the CONGRESSIONAL RECORD at this point two newspaper accounts, one from the Rocky Mountain News of August 7, 1977, and the other from the Denver Sentinel newspapers of September 7, 1977, which tell the story of the Untouchables and their good works more completely than I could.

[From the Denver (Colo.) Rocky Mountain News, Aug. 7, 1977]

NEW UNTOUCHABLES OFFER HELP TO YOUTHFUL ADDICTS

(By Pamela Avery)

Remember Elliot Ness and the Untouchables, those combative good guys of television fame who struck fear into the hearts of the Chicago Mafiosi?

Well, now there's Ron Rubanowitz and his Denver-area Untouchables. Only instead of striking fear, they offer youngsters hooked on drugs and alcohol a chance to get straight.

Rubanowitz, former manager of a Boulder Mister Taco restaurant, formed the Untouchables counseling service eight years ago after he became disturbed about the drug and alcohol abuse among his young clientele.

He rallied an army of young volunteers whose mission was to stake out teen-age meeting places—dance halls, pinball emporiums and amusement parks—and provide on-the-spot assistance to youngsters with drug, alcohol and family problems.

During the past eight years the Untouchables developed into a 60-member counseling squad with headquarters at 3422 S. Bannock St., Englewood.

They've served thousands of area youngsters—many of them in the 9 to 11 year-old age group, according to Rubanowitz' 16-year-old brother, Eric, the Untouchables assistant manager.

Young Rubanowitz, who sports the jeans and tattered sneakers of the teen-aged set, serves as publicity man and statistician for the counseling service.

Last year, he said, the Untouchables saw more than 4,180 youngsters and helped 400 kick their drug and alcohol habits.

Rubanowitz attributes the success of the program to the youth of the counselors—most are between 18 and 26—and their counseling approach.

"We don't badger the kids about their problem. And we don't talk down to them," said Rubanowitz, adding that he feels this is where professional drug and alcohol abuse counselers go wrong. "We let the kids come to us. The counselors are at all the places that the kids go."

The Untouchables also supply 160 temporary homes for young runaways. Last year 1,114 sought counseling; 875 of these eventually returned to their homes.

During their stay in temporary homes the runaways are exposed to "dirty work," said Rubanowitz. "They're asked to clean toilets and work on the grease pits. This is to show them what they can expect if they do not go back and get their high school diploma."

The Untouchables maintain a job placement service for teen-agers who return to high school, and provide more permanent foster homes for youngsters unable to return to their parents, Rubanowitz added.

Although the group has come a long way since setting up shop in a Boulder taco stand eight years ago, more needs to be done, the young manager pointed out.

"We'd like to see teen centers developed, places where kids and parents can go and not be exposed to drugs and alcohol," he said. "And we would like to establish some halfway houses for kids working on kicking their habits."

To do this the non-profit organization needs more paying sponsors, said Rubanowitz. He and others are conducting a fund-raising campaign to finance the first teen center.

"Once we have that we can start to generate some of our own revenue," he added. "We can use what we earn to develop the rest of the programs."

An open house for Untouchables sponsors and potential sponsors will be 9 a.m. Sunday in the group's Englewood center.

[From the Denver (Colo.) Sentinel Sept. 7, 1977]

OUT OF DANGER, BUT NEVER OUT OF TOUCH

(By Marlene Morton)

In a single recent weekend, 32 preteen girls sought medical attention, encouraged and aided by The Untouchables. Diagnosis—gonorrhea.

An Untouchables "street worker" discovered a 7-year-old San Antonio runaway on the streets of Denver. A telephone call to her home produced a drunken couple completely unaware that the child was missing. The Untouchables paid the youngster's fare to her grandmother's home in another Texas town.

A 9-year-old boy, drinking a six pack of beer a week and smoking a lid of grass every two to three weeks, dropped a $10 bill into the Untouchables donation pot.

"Why would you want to donate to us?" asked Ron Rubanowitz, founder and director of the non-profit organization. "We're against everything you like to do."

"I don't want to stop now," the lad replied, "but I want you to be around when I do."

The Untouchables have taken their name from Elliott Ness and his TV Untouchables. "Nobody could buy them out," explained Duane Geerdes, 21, assistant director of the youth counseling service. "And when kids get through our program, they're 'untouchable' by drugs."

The Untouchables are 8 years old, but only recently did they gain a roof over their heads. Last May 1 they moved into a small building at 3422 So. Bannock St., where they provide Mexican food, sandwiches, pinball games, listening ears and all the help they can give. Volunteer counselors continue to show up where the kids are, at fast-food and foosball joints, with an eye for the lost soul who appears to need what the Untouchables can offer.

The organization was sparked into life after a 10-year-old girl overdosed in a Boulder taco shop and nearly died.

"It was then that I decided to get involved," said Ron Rubanowitz, then-manager of the Boulder Restaurant.

Rubanowitz' volunteer crew has grown to 60 metro-area counselors, young people between 18 and 26. 75 to 80 pct. of whom are graduates of the Untouchables program.

Geerdes describes them as "people who care, who've been down the same road, who have the same 'street knowledge' as the kids."

They've also been through a rigid eight-and-one-half-month education program and have proved themselves with another eight and a half months of "clean living."

They know exactly how various drugs and alcohol act on their bodies, they learn that organized crime is making a heap of profit in the drug world, and they're trained in citizenship, responsibility, and leadership.

They've seen alcohol use and venereal disease climb among an increasingly younger set. When the Untouchables began, they were counseling 16- and 17-year-olds. Today, the average child aided is 13½ and counselors have seen children 12, 11, 9 and even 8 years old.

"Fifth and sixth-graders are dealing drugs," Geerdes said. The 7-year-old runaway was the youngest of their contacts.

"It's frightening," said Rubanowitz citing government reports that 10,000 kids a day are running away from home. "And if 32 girls under 13 years of age are coming in with gonorrhea in one weekend, how many are out there who don't know they have it?"

During 1976, more than 4000 youngsters from all over the metro area made contact with The Untouchables. (To be counted, one must "touch base" at least three times.) Among them were 1100 runaways, 975 marijuana users, 750 alcohol users, 600 hard drug users, 450 with venereal diseases and 30 pregnant girls. Problems of another 260 fell into the "miscellaneous" category.

Runaways get a heavy dose of "every crap job there is (for people) without education"—cleaning toilets, scrubbing floors. The medicine persuades most—875 out of 1100 in 1976—to return home.

"Most of the time they didn't appreciate what they had at home," Rubanowitz said. If home conditions are really so bad the youngster won't return, they'll work with social services agencies to get him in a foster home.

"In eight years, we've only had to put three in foster homes," Rubanowitz said.

Geerdes recollects a 14-year-old girl who came to them after she had run away from an Arapahoe County shelter care center.

It turned out she was scheduled to go home to an alcoholic mother who beat her, and of whom the girl was petrified.

The Untouchables talked to officials from the Dept. of Social Services. They thought they had persuaded the agency not to send the girl home—but before long, the girl appeared again. She was about to be returned home again.

They turned to the late Judge Phillip Gregg, who was very supportive of The Untouchables' work, and after appropriate legal proceedings, they arranged for her to live with an out-of-state relative.

"It all could have been avoided if she had been allowed to use the services the county was providing, but her social worker said, 'You're a strong girl—you can make it at home'." Geerdes said he doesn't blame the Dept. of Social Services, indicating it may be forced into decisions by funding problems.

Why are segments of today's youth turning to alcohol, drugs, child sex and other bad scenes? The reasons are admittedly complex, Rubanowitz said. But over and over, counselors hear tales of a hypocritical, materialistic older generation willing to give its children money and possessions—but too sparing of time and love.

Last year, 400 youngsters graduated from The Untouchables program. Another 83 completed the rigorous education course, but failed to keep the organization's high standards for the required eight and one-half months. If they want to become Untouchable, they have to start the program anew.

"There's one string attached to becoming an Untouchable", Rubanowitz said. "You have to commit yourself to helping others."

Some elect to work through the Untouchables organization, but many select a different route. "We have one kid that's working hard on the multiple sclerosis drive", Rubanowitz said. "I'm really proud of him."

The organization is endorsed by many businessmen, Denver Bronco Lyle Alzado, all state legislators, Reps. Tim Wirth (D-Colo.) and Bill Armstrong (R-Colo.), and Sen. Gary Hart (D-Colo.). Last week, The Untouchables had word that Armstrong will read their accomplishments into the Congressional Record.

Untouchables—including Geerdes and Rubanowitz—are unsalaried, but the organization would like to pay wages to some of its full-time workers. Currently supported by donations and profits from candy sales and sandwiches, Untouchables wants to open a nonalcoholic teen club, offering food and dancing to live bands, but no counseling. Profits would go for wages—and to support halfway houses for youngsters with nowhere to go.

In July, besides the $265 monthly rental for the Bannock St. building, The Untouchables spent $730 on food for runaways, $230 for pizza, $48 for milk and $48 for snacks. Another $210 went for clothing and shoes for down-and-out kids, and $118 went into the gas tank.

Their files contain a touching assortment of mail.

"You've made me realize that life will have its ups and downs. For me, it's mostly downs. . . ."

From a girl who had taken a bottle of sleeping pills: "I want to thank you for being there when I needed you . . . I was too scared to go to the hospital . . . I realize now that life isn't so bad, and I'm glad, now, that I'm alive."

BALANCE(S) OF POWER: PART VI (VII)(A) THE NAVAL BALANCE: THE ROLE OF THE MODERN SOVIET NAVY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. BRECKINRIDGE. Mr. Speaker, in the September 27 issue of the CONGRESSIONAL RECORD, pages 31280–31282, I was privilegd to insert as a part of my ongoing Balance(s) of Power series the first part of Ruben Ainsztein's translation of Soviet Fleet Adm. Sergey G. Gorshgov's "The Sea Power of the State," as it appeared in the January-February 1977 issue of Survival magazine. I am inserting today, Mr. Speaker, the conclusion of Admiral Gorshgov's revealing look into the goals and priorities of the Soviet Navy. The conclusion of the article follows:

Parallel to the construction of intercontinental ballistic missiles, we proceeded at full speed to build an ocean-going navy which rapidly acquired all the features of a strategic factor in any future war. The building of an ocean-going navy capable of preventing the potential aggressor from attacking the Soviet Union from the ocean was complicated by the fact that our country does not have overseas territories and bases, which our navy could have used to ward off such an attack. The Western press regularly prints reports on the existence of Soviet naval bases on the territories of countries friendly to the USSR, but they are nothing but libellous inventions the purpose of which is to justify the attempts of the imperialist powers to widen their network of bases on foreign territory. At the same time one must emphasize that the Soviet Union, in pursuing her peace-loving Leninist foreign policy, does not attempt to acquire such bases. The solution of the problem of how to maintain our ships on the oceans over long periods without land bases was found in the application of the most advanced technology and naval construction. This now allows our squadrons to stay over long periods in the most distant areas of the World Ocean and satisfy all their requirements without having to sail to any land bases.

Our country now has a modern navy and has dispatched it into the oceans in order to safeguard her state interests and to defend her effectively from strikes launched from the oceanic vastnesses. The decisive turning point in the second stage was the liquidation of the United States nuclear monopoly. It is no longer a secret that already at the beginning of 1954 the Soviet Army and the Soviet Navy had nuclear weapons of varying power, including hydrogen bombs, and proceeded to explore the practical ap-

plications of these weapons under combat conditions. This opened a new stage in the development of the Soviet Navy—the stage when we created and developed a nuclear-powered ocean-going fleet armed with nuclear missiles, which consolidated the position of our country as a great naval power.

The basic directions followed in the qualitative transformation of our navy under the impact of the scientific and technological revolution caused by atomic power and nuclear weapons have been: (1) the building of a nuclear-powered submarine fleet; (2) the introduction of guided rockets and nuclear missiles and the creation of launching systems delivering ballistic missiles from submerged submarines; (3) the creation of a naval aviation capable of oceanic flights; (4) the introduction of aircraft carriers; (5) the qualitative changes in the methods and weapons used in anti-submarine warfare; (6) the introduction of the latest inventions in radio electronics, remote-control guidance of weapons and weapon systems, and the use of computers.

The experience of naval warfare has shown that the principal, most universal and most effective naval weapons are submarines and aviation. Today the chief branches of our navy are therefore its submarines and naval air force, and its chief weapons are ballistic and guided missiles with nuclear warheads. To give our submarines reliability in combat and all-round protection, our navy includes surface ships of various types and aircraft designed to deal with the enemy's submarine and anti-submarine forces and for other specific tasks. They are armed with torpedoes, rockets of various kinds, cannon and other types of naval weapons.

Soviet nuclear submarines constitute first-class modern ships, which can fight anywhere in the World Ocean. They are not only carriers of tactical weapons, but also form an integral part of the strategic nuclear shield of our homeland. This is known to the potential aggressors and they cannot but take into account the terrible retaliation that may reach them from the oceanic vastness should they dare to launch a nuclear war.

The technological perfection of modern submarines has made it possible to review completely the organization of their operational activities. In World War II submarines predominantly operated each on its own, and only in the operational sense acted together with surface ships and aircraft, the difficulty of mutual recognition and communication forcing the surface ships to avoid encounters with their own submarines. We now have a completely different situation: it is now possible to reach a state of close co-operation, both in battle and operationally, between submarines and surface ships, which will increase tremendously their battle effectiveness.

It must also be pointed out that our submarine force represents a highly advanced arms system that is being constantly improved and differs in many respects from that of other maritime powers. Its uniqueness stems from the fact that, apart from submarines carrying strategic nuclear missiles, it also comprises submarines armed with guided missiles and long-distance torpedoes.

Similarly our surface ships differ greatly from those built during World War II and in its immediate aftermath. New weapon systems have given our surface ships completely new battle capabilities and have widened their range of operational effectiveness through their combined armament of long-range guided missiles, guns and torpedoes. They are therefore capable of repulsing more effectively attacks by the enemy aircraft and beating off combined attacks by formations of enemy ships.

Surface ships therefore remain the essential—and often the only—combat weapon for securing the deployment of the chief striking force of our navy: its submarine fleets. World Wars I and II have shown that it was wrong to assume that the submarine, because of its concealment after leaving its base, could by itself ensure its invulnerability. Surface ships have one great advantage, which is that it is possible to maintain constant communications between the land-based command posts and themselves. This considerably facilitates the problem of command and ensures that the essential information and orders reach the ships in time, which is of the greatest importance in the pre-war period, when the time factor becomes of the greatest significance.

Surface ships also constitute an essential component of landing forces and provide essential support for landing operations. They play the major role in dealing with mines and in defending the communications of landing forces. In closed theatres of war and in coastal areas they can be used against the enemy's sea communications. Examples of such operations are provided by the actions of the guided-missile boats of the Egyptian Navy, which sank the Israeli destroyer *Eilat*, and those of the Indian Navy, which attacked the Pakistan Navy concentrated off Karachi.

Armed conflicts since the end of the war have shown that surface ships are capable of dealing with a number of operational tasks in local wars. They have been used extensively to provide artillery support for land forces, as was the case in Korea and Vietnam; for landing operations; and for establishing naval blockades. With the assistance of surface ships the US Marines were able to penetrate deep inside South Vietnam, using the rivers and canals. Most of our surface ships are designed to deal with the enemy's submarines. They are divided into ships capable of operating over long periods on the oceans and those operating in coastal areas. One must point out that our anti-submarine surface ships surpass similar ships in the Western navies by their construction, armament and power. At present the surface forces of our Navy, which consist of various ocean-going and coastal ships, are capable, by acting on their own or in combination with submarines and aircraft, to carry out a wide range of tasks on the oceans and in the closed sea theatres of war.

Until the appearance of guided missiles, aircraft were the essential and only deliverers of nuclear weapons. Therefore it was their task to demolish and destroy important targets on land and to wipe out the enemy's striking forces at sea and in their bases, which could not be effectively dealt with by other branches of the armed forces. With the creation of land-based and submarine-carried missiles, aircraft ceased to be the only means of delivering nuclear weapons.

This does not mean, of course, that naval aviation will not be used for attacking stationary land targets. But under present conditions one should not regard such strikes as being the basic task of naval aircraft, but as an exception to the general rule, for the tasks to be dealt with by naval aircraft under present conditions have changed. Naval aircraft will now direct their main efforts against the enemy's striking forces of surface ships, submarines, and troop and supply transports at sea and in harbours, as well as against small, highly manoeuvrable targets at sea. However, insofar as nuclear-powered submarines, including submarines carrying intercontinental rockets, are joining in ever greater number the navies of several powers, the chief task of naval aviation has become to deal wtih them. Consequently, the role and importance of antisubmarine aircraft, capable of effectively searching for and destroying submarines in the most distant theatres of war, have grown immensely.

Taking into account the importance of the tasks carried out by naval aviation, and considering the likely character of the war at sea, one may logically conclude that, compared with the last war, the importance of naval aviation in any future conflict will be even greater.

We may say that the relationship of forces on a world scale, as well as the unprecedented growth in the potential of modern navies to affect the outcome of every aspect of armed conflict, provide us with the grounds to state that the role of navies in any future conflict, both in absolute and relative terms, will indisputably be greater than ever in the past.

The arming of navies with nuclear rocket weapons has further strengthened the growing importance of naval actions against land targets. An analysis of the views of experts in various countries over the last ten-to-fifteen years concerning the development of naval capabilities and armaments leads one to conclude that under existing conditions the role of navy-against-navy operations, the purpose of which is to ensure the success of other types of operations, is continuing to grow. However, the course and outcome of a major war will be determined by events of a global nature and decided by decisive operations to achieve definite aims. The striking power of the navies will be used for precisely this purpose. In other words, forms and methods of naval warfare aimed directly against land targets will play an ever greater part in any future major conflict. The progression of naval warfare from an operational—tactical level to a higher strategic level places its actions against land targets in a future conflict in the category of actions of a decisive nature, which determine and subordinate all other kinds of operations, including those aimed at gaining the mastery of the seas. Therefore, whereas in the past the main efforts of a navy were directed against the enemy's navy, in a future conflict its chief objectives will be enemy land targets and the defence of its territory against the strikes of the enemy's navy.

As regards the navy's actions against land targets, one must bear in mind that they are as old in naval warfare as the actions of one navy against another. The most striking examples are those of the transportation of large armies and landing them on enemy territory under naval protection. At present the navies of the great powers in their operations against land targets possess the capabilities to carry out tasks whose purpose is not merely territorial occupation, but to exert a direct influence on the course and even the outcome of the war.

At present our navy, in its operations against land targets, possesses the capability not only to carry out tasks aimed at effecting territorial changes, but to affect directly the course of the war and even to determine its outcome. Because of this the operations of navies against land targets have assumed an overriding importance in naval warfare and to them are subordinated both the policies of naval construction and the development of the art of naval warfare. This is corroborated by the fact that in the US Navy nuclear missile-carrying submarines form part of the strategic force, whereas all the other ships are classified as of general purpose.

The new capabilities of navies against land targets, and the terrific threat of aggression from the oceans that has emerged as a result of these capabilities, will determine the actions of our navy in the struggle against the enemy navies. The most important task of our navy in this strugele will be to use our naval power against the enemy's seaborne strategic nuclear systems in order to prevent, or to weaken as far as possible, their striking power against our own land targets. For this reason the struggle between our navy and the enemy navies has become a secondary task compared with the tasks of our navy against land targets.

In the light of this, the importance of such traditional forms of naval action as attacks on the enemy's communication lines and the defence of our own sea lanes has undergone a change. These operations have now become for our navy one of its most important tasks in the totality of its efforts aimed at destroying the enemy's military-economic potential. Operations directed towards interrupting and curtailing the enemy's sea communications, which in the past were directly achieved by using one's navy against the enemy's navy, have now assumed a new dimension. By forming part of the overall system of naval actions against land targets, they strengthen further the special capabilities of our navy, acquired as a result of modern armaments and technology: its ability to carry our offensive operations of a strategic nature by directly attacking the enemy's sources of military power.

Thus the traditional operations of navy against navy, which since antiquity have been typical of the struggle to interrupt or maintain sea communications, will take place in a new, decisive dimension of warfare: in naval actions against land targets. This new form of operational-strategic use of naval power is already dominating naval thinking and will become the principal element of naval warfare, all the other elements being subordinated to it on all operational levels.

LOOKING AT $10 MILLION SALES

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. STEERS. Mr. Speaker, I would like to call attention to the accomplishments of John McIntire, chairman and chief executive officer of McIntire Hardware, Inc., and chairman of Chevy Chase Bank & Trust Co.

In these days of big business, Mr. McIntire's 28-year career can serve as an example of the rewards that can still be reaped by an individual's hard work and dedication.

I would like to take this opportunity to extend personal congratulations to Mr. McIntire. I cite a portion of an article from the Washington Star, August 16, 1977, "Business Profile—Looking at $10 Million Sales", by Rudolph A. Pyatt, Jr.:

BUSINESS PROFILE—LOOKING AT $10 MILLION SALES

(By Rudolph A. Pyatt Jr.)

John McIntire paused between bites of soft shell crab, then conservatively estimated that "within a year or so we ought to be looking at $10 million" in sales by his family's hardware chain.

McIntire's estimate is probably far more than George Washington McIntire ever dreamed of while operating his hardware store in Thomas W. Va. That first family hardware store, according to John McIntire, began as a partnership between his father, C. N. McIntire and his grandfather, G. W.

"The family was always in hardware. I grew up in a hardware store," McIntire remarked, as he traced the family's involvement in the business.

C. N. McIntire later bought out his father's interest in the company and moved his family across the state line to Oakton, Md., where he opened the Oakton Hardware & Furniture Co.

The first Washington area store was opened in 1949 in Kensington by John and a brother, Carl McIntire.

"I moved down here (from Oakton) and never went back home," said John, who is chairman and chief executive officer of McIntire Hardware, Inc.

McIntire is also chairman of Chevy Chase Bank & Trust Co.

Last month, McIntire Hardware, Inc., purchased 10 or 11 units from Peoples Hardware Stores, expanding the chain to 21 stores in the Washington area. The purchase price was not disclosed, but the chief executive of the surviving chain described it as "multimillion-dollar deal."

The acquisition of the Peoples stores also makes McIntire one of the largest independently owned hardware chains on the East Coast. And although McIntire insisted earlier that his chain will not attempt "to go head-to-head" with the larger chains in the sale of building products, he and other company officials disclosed in a recent interview that major expansion plans are under consideration.

KATHLEEN JOHNSON TESTIMONIAL DINNER

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. CARNEY. Mr. Speaker, on Sunday, October 23, 1977, a testimonial dinner will be held for Mrs. Kathleen Johnson of Youngstown, Ohio. The former director of the home-school visitation program—school social work—for the Youngstown public schools, Mrs. Johnson is being honored for her many years of dedicated service to the underprivileged children of our community.

Born in Cincinnati, Ohio, Mrs. Kathleen Williams Johnson moved to Youngstown shortly thereafter, and she has lived in Youngstown practically all of her life. She is married to Mr. Kenneth Johnson, Sr., an employee of Ohio Bell; the Johnsons have two grown children, Kenneth, Jr., and Mrs. Joy DeSalvo, and four grandchildren, Jeffrey and David Johnson and Matthew and Joy DeSalvo.

An honors graduate from North High School in 1939, Mrs. Johnson received a bachelor of science degree, cum laude, from Youngstown State University in 1966, and a masters degree in education from Kent State University in 1969. She did additional graduate work, primarily in the field of human relations, at eight other colleges and universities.

Some of the educational, civic, social welfare, and religious organizations in which this extraordinary woman has been active include: board member of the Methodist Community Center and chairwoman of the personnel committee; secretary of the Poverty Coalition; vice president of Altrusa, International Women's Service Group; board member of First Christian Church of Youngstown for many years; past chairwoman of First Christian Church Education Department and teacher in the church school for 10 years; Citizen's Advisory Board of EDATA; planning committee of Inter-Agency Communications and Staff Development; State education team of the Ohio First Christian Church; past president of the School-Community Human Relations Organization; past board member of: East Side Action Credit Bureau; Women in Community Service (WICS); Volunteer Service Bureau; Youngstown Reading Council; John White PTA; Voluntary Action Center.

Also, member of: McGuffey Center; International Institute; NAACP; North High Band Boosters—she and her husband helped form this group and headed the drive for new band uniforms; Christian Women's Fellowship; United Church Women; Kappa Delta Pi—Women's Honorary Education Society; Delta Kappa Gamma; Ohio Association of Elementary School Principals; Ohio Council of International Reading Association; Elementary, Kindergarten and Nursery Educators, and Ohio Visiting Teachers Association.

Her business and professional experience includes: 1940, General Fireproofing Co., advertising department, later, coeditor of its GF News; U.S. Government, Office of Price Administration, during World War II; 1949, First Christian Church, initiated and directed the first nonprofit nursery school in the Youngstown district, excluding Christ Mission, for 5 years a full-time paid staff member as the church's "associate in membership visitation," she and another woman were the church's first women elders; 1963, Youngstown State University, advisor to the international students, initiated its first faculty advisory committee, appointed by the President to assist in the compilation of YSU's original application to the National Accreditation for Teacher Education, which resulted in ongoing accreditation for YSU; 1966, appointed to the newly organized home-school visitation program of the Youngstown public schools, the first program to be funded under title I of the Elementary and Secondary Education Act of 1965—served as its director from April 1966 to September 1977.

While serving as director of the home-school visitation program, Mrs. Johnson went far beyond the normal requirements of her job. Through her leadership, hundreds of volunteers from Youngstown State University worked with children in the public schools. She helped make it possible for hundreds of poor children to attend residential summer camps.

Recognizing the need for coordination of social services to families with problems, and also realizing that good human relations is a prerequisite for effective social action, she initiated an outstanding in-service training program for those with whom she worked. More importantly, she has set an example of good human relations in her personal life through democratic leadership, shared decisionmaking, respect and empathy. Her profound belief in the basic worth and dignity of the individual human being, as well as her belief in the ability of every child to grow into a responsible, loving adult, manifests itself in her daily life, and provides an inspiration to all the people whose lives she has touched.

Mr. Speaker, Mrs. Kathleen Johnson is truly a pioneer in human relations. Children know when a person genuinely cares about them, so they know that Mrs. Johnson is such a person, and they have responded enthusiastically. Her love for children, her warmth, her sincerity, and her commitment, have had a positive, beneficial effect on the lives of countless children in the Youngstown area. Because of her efforts, our community is a better place in which to live. It is certainly fitting and proper that we recog-

nize the accomplishments of this wonderful lady. When her many friends join in honoring her, I plan to be there.

SAFEGUARDS AGAINST GOVERNMENT SURVEILLANCE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KASTENMEIER. Mr. Speaker, at the recent annual meeting of the American Bar Association in Chicago, Vice President WALTER MONDALE discussed the administration's commitment to establishing stronger safeguards against the abuse of Government surveillance powers. I commend the Vice President's remarks to my colleagues:

REMARKS PREPARED FOR DELIVERY BY VICE PRESIDENT WALTER F. MONDALE TO THE OPENING ASSEMBLY OF THE AMERICAN BAR ASSOCIATION'S ANNUAL MEETING

CHICAGO, ILL., August 8—Following is the text of a speech prepared for delivery by Vice President Walter F. Mondale to the Opening Assembly of the American Bar Association's Annual Meeting at Orchestra Hall here:

In coming here this morning, I was thinking about the various ways the American Bar Association contributes to our society. And it struck me that beyond any specific program, the ABA and state and local bars throughout the country serve to remind all lawyers that we have special and unique responsibilities.

As members of the Bar, we're more than a trade group or a guild. We're officers of the courts—sworn to defend and uphold the Constitution and laws of the United States.

The ABA has helped meet those responsibilities in many ways—through your leadership on court reform under Justin Stanley and others, by screening judicial appointees and through correctional reform.

But there was no more important moment in the ABA's history than in the mid-sixties, when Sargent Shriver asked for your support for the first federal program of legal services to impoverished Americans.

I fought for that program in the United States Senate. And there is no doubt in my mind that without the unanimous endorsement of your House of Delegates, and the leadership of Lewis Powell, this vital program would never have gotten off the ground.

And when legal service attorneys began to become effective on behalf of their clients, and pressures grew to curtail the program, once again, it was the ABA which reminded the Congress of the meaning of our canons of ethics. You made it clear it would be a mockery of justice to tell a lawyer he could pursue the rights of a poor client only so far and no further.

Finally, when it became clear that this program had to be insulated from improper political pressure, the ABA provided the critical support to those of us in the Congress who were proposing an independent Legal Services Corporation. And today this vital program is moving forward with increased staff and funding.

All of these efforts have helped uphold the principles of law and justice in our society. But there is another important challenge to the rule of law in America, all of us have a stake in meeting, which I would like to talk to you about this morning—and that is the abuse of power by government itself.

I served for nearly two years on the Senate Select Intelligence Committee investigating abuses of power by intelligence and law enforcement agencies. I chaired the Subcommittee which investigated domestic intelligence activities. In frightening detail, we learned what happens when high government officials lose sight of the law and ignore our Constitution.

Much of the attention during that period was focused on the Watergate scandal. But our Committee discovered that those abuses were only the tip of the iceberg. And we have had a chilling reminder of that fact in the recent revelations of secret, behavior-control experiements carried out by the CIA in the 1950's and 1960's.

Our investigation found that the roots of many of these abuses could be traced back to a frame of mind born in the early days of the cold war—to the belief that America could not be defended without more deceit and illegality than democracy permits or more cynicism and hypocrisy than our beliefs would allow.

A 1954 report to the President put it this way: 'There are no rules in such a game. Hitherto aceptable norms of human conduct do not apply. . . . Long-standing American concepts of fair play must be reconsidered.'

Operating in secret, and freed from traditional legal and ethical restraints, some officials of U.S. intelligence agencies plotted to influence free elections, subvert popular governments and even plotted assassination attempts aimed at foreign leaders.

And before long the tactics adopted to fight our enemies overseas came back to haunt us at home. In Macbeth's words, 'The invasion returned to plague the inventor.'

Thus:

Agents of the CIA came home to launch 'Operation CHAOS'—a surveillance program directed against American citizens—even though that agency is forbidden from exercising internal security functions.

Army officials spied on groups ranging across the political spectrum—from Carl McIntyre's conservative Christian Action Movement and the John Birch Society, to the Urban Coalition, the Anti-Defamation League, and even the Chamber of Commerce.

Members of the FBI and CIA illegally opened over 300,000 first class letters of private citizens like John Steinbeck, Senators Church and Kennedy, and organizations like the Federation of American Scientists.

The National Security Agency obtained and read copies of all private telegrams sent overseas by American citizens and businesses.

In 1969, the Internal Revenue Service established a "Special Services Staff" to examine the tax returns of individuals—not because they had violated the tax laws—but because some people in government did not like their politics.

Eventually, officials in some of these agencies resorted to the commission of common crimes. Agents in the FBI and CIA illegally broke into the homes and businesses of American citizens—the so-called "black-bag jobs"—to obtain information they considered necessary. Official liaison even occurred with organized crime in undertaking assassination plots.

James Madison could have been speaking for our time when he wrote to Thomas Jefferson in 1778: "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger real or pretended abroad."

Perhaps the most dangerous and frightening abuse of power during this period was a program in the FBI called COINTELPRO.

This program went beyond illegal surveillance. Government officials set themselves up as a judge and jury to harass and punish anyone whose political views or activities were not considered proper. Tactics were employed to break up marriages, destroy reputations, cause innocent people to lose their jobs and sabotage political campaigns. Dr. Martin Luther King, winner of the Nobel Peace Prize, was bugged, wiretapped and photographed during the last five years of his life. And, in perhaps the most disgraceful episode, someone in the FBI sent a tape and an anonymous letter to Dr. King which he interpreted as an effort to induce him to suicide.

Throughout the investigation, our Committee kept trying to come back to the question why these abuses happened, and what was on the minds of the officials involved. And what we found was equally disturbing.

For example, when I questioned the individual who ran the FBI's intelligence division for over a decade, this is what he told me:

"Never once did I hear anybody, including myself, raise the questions: 'Is this course of action which we have agreed upon lawful . . . is it ethical or moral.' We never gave any thought to this line of reasoning, because we were just naturally pragmatic."

Or listen to an internal memorandum from the Deputy Director of the CIA justifying a program of secret tests of dangerous drugs on unsuspecting citizens—a program which cost the life of at least one American. It read:

"While I share your uneasiness and distaste for any program which tends to intrude on an individual's private and legal prerogatives, I believe it is necessary that the agency maintain a central role in this activity. . . ."

Implicit in these views was the belief that the law did not matter. Soon, we witnessed a President of the United States proclaim a doctrine that the President is a sovereign and has the implicit right to break the law. In a sworn statement to our Committee, former President Nixon said:

"There has been and will be in the future, circumstances in which Presidents may lawfully authorize actions in the interest of the security of this country which if undertaken by other persons, or even by the President under different circumstances would be illegal."

One high presidential aide was asked whether this claim of inherent authority of a President could include the right to murder. He answered, ". . . I don't know where the line is, Senator."

The first recommendation of our Committee for reform was to draw that line clearly by re-establishing the principle that there is no inherent constitutional authority for the President, or any intelligence agency, to violate the law.

This administration has rejected absolutely the doctrine that any government official, including the President, is above the law. President Carter has made it clear that he, and everyone who serves under him, has a duty to obey the law just like every other citizen.

To ensure adherence to the rule of law, we are committed to establishing clearer lines of authority within the Executive Branch, greater accountability of officials, and stronger safeguards against abuse. This will be done by:

Spelling out and strengthening the responsibility of the Attorney General to ensure lawful conduct by the FBI.

Involving the Department of Justice at every level in the policy making process for sensitive intelligence activities to ensure that these policies are consistent with the law.

Upgrading the stature of the Intelligence Oversight Board so that it will have greater capacity to prevent illegal or improper intelligence activities. The President has pledged that he will personally review the IOB's findings regarding abuses and take responsibility for ensuring that they are corrected.

And lastly, reorganizing management functions within the intelligence community to eliminate waste and duplication, but more importantly, to be sure that there is a clear need and policy justification for activities that are undertaken.

As part of this effort we are trying to end excessive secrecy which both conceals and fuels abuse;

By fully informing Senate and House Intelligence committees about the activities of the agencies they oversee;

By promptly reporting abuses as Admiral Turner did when new information came to light about past drug experiments by the CIA;

And, by upholding both the spirit and the letter of the Freedom of Information Act. Attorney General Bell has directed that requests for information should not be denied simply because a plausible legal justification can be found to do so, but *only* when it can be shown that demonstrable harm would result.

Each of these steps is important. But it would be shortsighted to think reforms within the Executive Branch, alone, can prevent abuse. It would imply that all of these abuses over several decades were caused by evil people and that all we have to do is change the cast of characters and the problem will be solved.

But the truth is, as our Committee found, most of the officials in these agencies were dedicated Americans who honestly thought what they were doing was in the national interest.

Part of the problem was that these agencies were given responsibilities impossible to fulfill. They were asked to predict or prevent every crisis, respond immediately with information on every question, act to meet all threats, and through it all, to anticipate the special whims and political caprice of Presidents—Democratic or Republican.

We now have a more realistic view of what these agencies should and should not do. But we continue to live in a dangerous world, and we would be kidding ourselves if we thought that the pressures these agencies faced could never reappear.

That is why the problem is more than the character of the people who are entrusted with power; the problem is power itself—if it is unchecked, unrestrained and unaccountable.

In searching for a solution, our Committee discovered one simple thing: that the best answer to this problem could be found by re-reading two documents—the Federalist Papers and the Constitution.

No one has explained and addressed this dilemma with greater genius than James Madison in Federalist Paper No. 51 when he said:

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions."

Madison's "auxiliary precautions" are the checks and balances within the Constitution, which in his own words, "correct by opposite and rival interests the defect of better motives." Lasting reform lies in restoring and strengthening those essential checks and balances.

President Carter, as one of his first actions in office, asked me to work closely with the Congress and officials in the Executive Branch to rebuild these critical institutional safeguards.

First, we are developing statutory charters for the FBI, CIA, and other intelligence organizations which spell out the appropriate responsibilities of these agencies and specifically what they are permitted to do under the law, and what they are not permitted to do.

Control of these powerful agencies cannot rest in one branch of government alone. Charters established by Executive Order, as proposed by the last Administration, are not enough. Binding statutes must be adopted that can be changed only with the consent of Congress and can be enforced by the full power of the courts.

These charters will:

Prohibit conduct such as the COINTELPRO program of covert harassment;

Stop "domestic security" investigations of the politics of people and concentrate instead on apprehending terrorists and foreign spies;

Prohibit any electronic surveillance, mail opening or searches of premises in the United States without a warrant based on probable cause;

Prohibit domestic spying against Americans by the CIA;

Provide a strong system to oversee CIA clandestine operations.

Next, we need legislation to protect the American people against improper use of electronic surveillance and to strengthen the power of Congress and the courts to halt abuse. A major Administration proposal dealing with electronic surveillance was submitted to Congress in mid-May.

This legislation contains three important protections. First, it eliminates by law any claim of inherent Executive authority to install a tap or bug within the United States without a warrant from a court. The test will no longer be whether it pleases a member of the Executive Branch to tap the phone of an American citizen, but whether it is found proper and necessary by a court of law. Second, this legislation would allow a court, for the first time, to examine and challenge a request for a warrant based on national security. The courts would have the power to ensure that warrants are based on the national interest, not the narrow interests of any person or political group. Third, it will make clear the operations of the technologically-powerful National Security Agency are subject to legal restrictions covering surveillance. Beyond this measure, new proposals are being developed to extend similar wiretap protections to Americans overseas.

Finally, the success of all these efforts depends on continuing and vigorous oversight by the Congress.

The creation last year by the Senate of a permanent Intelligence Committee was of crucial importance. The Administration has worked closely with Tip O'Neill and others in the House of Representatives to support and encourage the recent creation of the House Intelligence Committee as well. This Association should take special pride in the fact that bar groups and members suggested many of the procedures and guidelines which Congress adopted.

As you know, the effectiveness of these Committees depends upon three essential powers.

Access to Information. First, they need the full facts about intelligence programs, including timely notice of all covert operations. They will have this information.

Public Disclosure. Second, when disputes arise between the Executive and the Congress over questions of secrecy, remedies must be available. Procedural remedies have been established so that Congress will be able to expose abuse and uphold the public's right to know.

Power of the Purse. Third, the Committees must have accurate and detailed information about the budgets of the agencies they oversee. This is the only way Congress can exercise effectively one of its most important Constitutional checks: the power of the purse. These Committees will receive complete detailed information about the budget of each intelligence agency.

Our Administration is cooperating fully and willingly with the Congress to strengthen these oversight powers. But what is equally important is that these Committees do not depend on our good will, or that of any future Executive, to do their job. They will have the tools to detect, expose and stop abuses by government agencies on their own. And that is exactly what our founding Fathers had in mind when they devised the Constitution.

Each of these reforms is needed to ensure lawful government. But they are needed to make government effective as well. The dangers of the past abuses well deserve attention. But another striking aspect of what went on was the enormous waste, in spending the manpower and resources of these agencies spying on countless people like Eleanor Roosevelt and Helen Keller and dozens of legitimate organizations.

We need a tough, respected FBI to go after organized crime, combat terrorism and prevent espionage against the United States. We need a strong, effective intelligence community to protect America's vital interests in the world. That is why dedicated leaders and employees in these agencies are deeply involved in reform efforts. They know we can best pursue these goals within the law and in keeping with the values we share as Americans.

Our Constitution provides all the power government needs to defend our nation's interests and still protect the rights of the American people.

It set up a system of government, which in James Reston's words, "was shrewdly designed to be strong enough for leadership, but in which power was diffuse enough to assure liberty."

No other system of government has arrived at the almost blessed balance found in our Constitution between liberty and authority. Our system has shown itself stronger than the abuse of any demagogue or leader who is so certain of himself he thinks that the law and the public's attitude need not be considered.

We sometimes take this system for granted. And we would do well to recall John Gardner's words when he wrote:

"When our nation was founded, there was a Holy Roman Emperor, Venice was a Republic, France was ruled by a King, China and Japan by an Emperor, Russia by a Czar and Great Britain had only the barest beginnings of a democracy. All of these proud regimes and scores of others have long since passed into history, and among the world's powers, the only government that stands essentially unchanged is the Federal Union put together in the 1780's by 13 states on the east coast of North America."

Our Constitution and our system of government have been sorely tested in recent years. But we have met those tests as we always have in the past. And our country is stronger for it.

I have been privileged to represent our country on two extended trips abroad. And everything we've been through in our nation—the civil rights movement, struggles for social justice, and even the challenge to our Constitution by a President of the United States has made us stronger and more respected in the eyes of the world.

The public demonstration—that even the highest officer in the land must live under the law and be accountable to the people and if not, can be removed through our institutions, peacefully, and legally—has permitted our country to stand before the world and speak without hypocrisy once again on behalf of the great causes and values we believe in—liberty and justice and human rights.

It all comes back to that revolutionary doctrine which Chief Justice Marshall put so well, "The United States (is) a government of laws and not of men." All of us have a stake in upholding that law and no group understands the importance of that responsibility better than you.

Judge Learned Hand summed up the meaning of that law to us when he said:

"Without the law we cannot live; only with it can we ensure the future which by right is ours. The best of man's hopes are enmeshed in its success; when it fails they must fail; the measure in which it can reconcile our passions, our wills, our conflicts is the measure of our opportunity to find ourselves."

SOCIAL SECURITY REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. GRADISON. Mr. Speaker, if social security revenues and payments were to keep up at the current rates, the disability insurance fund would be bankrupt by mid-1979 and the old age and survivors trust would follow it in the early 1980's. How did we get in such bad shape?

In 1972, the Social Security Administration began the process of "coupling," which was designed to increase benefits in accordance with the cost-of-living increases. The problem is that when the formula for indexing was drawn up, a serious error was made, which resulted in the indexing of benefits twice. This mistake has been corrected in the social security reform bill, which is now before the House Ways and Means Committee. This correction, called "decoupling," allows benefits to be indexed once, as is just. This correction alone reduces the estimated deficit by 50 percent.

During the same period, 1972–77, our economy experienced high rates of inflation which caused social security benefits to rise greatly—and doubly, as I mentioned above. Thus, payments by the system increased above estimates. Finally, the high rate of unemployment reduced the expected number and size of wages that could be taxed to provide the necessary funds for benefit payments.

This, then, is where we stand. Due to a technical error and aggravated by the recession, the social security system is in deep trouble financially and in need of reform.

The bulk of new funding for the social security system should come from the existing payroll tax method. Small tax rate and wage base increases will be sufficient for a good deal of the deficit. These increases should, however, maintain the historical parity between the employer and employee. There is no need or reason to increase the burden on employers alone. The principle on which social security is based asserts that benefits are to be supplemental retirement income funded by the present production of goods and services. Sharing the burden equally is the strongest support of the mutual responsibility that both employers and employees have to provide this supplemental income to the retired elderly.

Finally, provisions should be made for universal coverage of social security. At present, Federal, State, and local government employees are not covered by social security. The historical reason for this is that when the Social Security Act was created, public employees had a strong pension plan and were not in need of supplemental retirement income. However, the authors of the act made it clear that one day all workers should be covered. The principle that social security should be funded by the generation of income by present production should include all workers, not all but public employees. It is unfortunate that universal coverage is not being proposed on its own merits, but also as a method of financing the short run deficit. But this does not negate the underlying principle of universal coverage.

Changes in the benefits provided are another important aspect of the Social Security Reform Act. Extremely significant, although minor in terms of outlay, is the elimination of all gender-based or discriminatory policy that existed in the Social Security Act. One provision would shorten the duration of marriage requirement for aged divorced spouse's benefits from 20 to 5 years. Another would provide that remarriage would not cause any reduction in the benefits paid to retired widows or widowers. I strongly support these revisions.

More substantial changes will come in the form of more liberalized ceilings on the earnings limit. I favor these increases simply because the present rates are too restrictive and insufficient in the face of the inflation we have experienced over the past few years. I also favor these measures because I feel any law that keeps Americans from working is wrong.

These reforms that I hope will come to the social security system are long overdue. the Subcommittee on Social Security has worked very hard to create a balanced, equitable approach to social security reform, and I hope that the final bill that emerges will be comprehensive and complete.

FOREIGN POLICY OR CHAOS?

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mrs. HOLT. Mr. Speaker, when I reflect on the foreign policy of the Carter administration, I am reminded of nothing so much as a strange contraption flashing many colored lights and roaring platitudes as it rolls toward the brink of a chasm.

We have watched the administration promoting Marxist terrorism in southern Africa, welcoming Communist Vietnam into the U.N., undermining the security of Japan by withdrawing American troops from Korea, planning to give away the Panama Canal in treaties with a leftist dictator, and awkwardly causing a new eruption to prominence of the old Red China-Taiwan controversy.

But the gravest and most immediate danger arises from the administration's heavy-handed ventures in the Middle East, where the most sensitive kind of diplomacy is required. Henry Kissinger, where are you now that we need you?

What the administration has succeeded in doing is dragging the Soviet Union directly into the Middle East peacemaking effort, opening the way for many varieties of mischief.

Worse yet, the joint American-Soviet statement calling for a Geneva peace conference in December represents a go-for-broke approach toward Middle East problems bringing the Soviets back into the area.

Mr. Speaker, I invite the House to recall the sensitive "step-by-step" progress toward a peaceful Middle East settlement initiated by Henry Kissinger. His method was to find a modest area of agreement between the adversaries that would enable each side to achieve something of value. When such agreement was ratified, he would move on toward another step, searching diligently for a point of agreement which would satisfy the adversary parties. It was a process of building peace one step at a time. The hostilities created over centuries cannot be erased in one big, flashy negotiation covering all points.

Kissinger also was extremely anxious to keep the Russians out of the game. Their goal is control of Middle East oil resources on which the Free World depends for economic survival. Their strategy is to use the Arab-Israel conflict to gain influence.

A Geneva conference would present the Soviet Union with a grand and gaudy opportunity to achieve its goals.

The Soviet intention is to disrupt the good relations we have carefully developed with Arab nations without sacrificing our commitment to the survival of Israel. A Geneva conference could enable the Russians to achieve this objective.

A Geneva conference could succeed only if the Arabs and Israelis had arrived at some reasonable foundation for a general settlement before the conference. This seems very unlikely to happen in the near future. There are many critical points that are unresolved, many "steps" to be taken before a general settlement would be even remotely possible.

A Geneva conference that failed would be much worse than no conference at all. The danger is a war that could threaten the security of the entire Free World and embroil the United States and the Soviet Union in direct military confrontation.

I admire Israel and have supported her right to existence, her right to recognition by her neighbors, and a nonnegotiable American commitment to her survival.

The Free World has developed a great admiration for Egyptian President Anwar Sadat, who courageously ended Soviet influence in his nation and has risked his own political survival in efforts to achieve peace.

Mr. Speaker, the only hope for settlement is long range, and can be achieved only by a step-by-step approach between the countries involved.

THE AIR BAG LOBBY'S FUNNY NUMBERS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. SHUSTER. Mr. Speaker, the air bag lobby attempted to intimidate me last week in a rather ingenuous fashion by reporting that seatbelts are worn by only 5 percent of the people in my congressional district, based on a study done by a Nader group with the high sounding name "Center for Automobile Safety." In typically strident language they said I was "working to insure that 45,000 people continue to die on the Nation's highways every year."

The problem with their study, aside from the viciousness of their rhetoric and the fact that they are obviously biased, is that the supposed 5-percent usage figure does not even come close to matching other studies quoted by the air bag lobby. For example, a recent national study they promote shows that about 20 percent of the people wear their seatbelts. That is the figure generally quoted by the National Highway Traffic Safety Administration.

There are two basic flaws even in the 20-percent figure. First, the studies were conducted at traffic lights in 11 cities. People buckle up less in city driving than they do in long distance driving, so the studies were not representative. Second, it is unfair to compare today's seatbelt usage with projected 1984 air bag experience. It is fairer to use the experience recorded by NHTSA on 1975 cars involved in towaway crashes, since 1975 cars have the better harness belt system and most do not have the buzzer-interlock, as it was repealed in October 1974. That usage according to NHTSA data is 44 percent.

It may not be accurate to suggest that 44 percent of the people buckle up today, as I thought when I first got into this issue. It is reasonable, however, to believe that 40- to 50-percent usage can be attained in future years as older, more cumbersome belt systems are retired and people are made aware of the importance of wearing seatbelts.

It should also be noted that the air bag lobby survey made 97 percent of its observations at traffic lights in Altoona and Chambersburg rather than on the open road, further biasing their results.

Volunteers from the Surface Transportation Subcommittee staff and my congressional office conducted a seatbelt survey in my congressional district On Saturday morning, October 1, 1977. They stationed themselves at the intersection of Interstate 70 and route 30 in Breezewood, Pa., and at the traffic lights in Everett, Pa. They recorded the actual observation of drivers in those cars equipped with the modern three-point lap and shoulder harness. They observed 143 such drivers, 46 wearing the belt and 97 not wearing the belt or 32 percent seatbelt usage.

Interestingly, the belt usage coming off Interstate 70 was 38 percent—23 of 60 observations—and 28 percent inside the borough of Everett—23 of 83 observations. While we make no claim at this survey being the scientific last word, the results are markedly different from those reported by the air bag lobbyists, but much closer to unbiased national studies.

FARM EXPORTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, October 5, 1977, into the CONGRESSIONAL RECORD:

FARM EXPORTS

Few people other than farmers understand that farm exports, which now capture the produce from one crop acre of every four in production in this country, have become a major national asset.

American farmers have been exporting more than one-half of their wheat, one-half of their soybeans and one-fourth of their feed grains. The average farmer depends on farm exports for about one-fifth of his net farm income.

Agriculture, which is the largest U.S. industry, depends on exports to sustain its production and for its only source of significant growth. Without exports there would be costly surpluses or chaotic cutbacks in farm production. The export dollars earned by the farmer, which may top $23 billion this year, move quickly through the economy, and generate an estimated several million jobs. Consumers benefit from exports because the exports allow farmers to be more efficient by maintaining full production at the lowest possible unit cost; taxpayers benefit from exports because the farmer can depend on the market and not the government for his income. Farm exports have brought about sharp reduction in the cost of government farm programs. Agriculture, which has contributed a surplus to the U.S. trade account for more than ten years, enables the country to import both oil and many other items, ranging from Toyotas to television sets. Exports are also a powerful influence in foreign affairs. Food aid has helped countries to build their economies, to provide stability after devastation, and to feed millions of hungry people.

A surge in farm exports began in late 1972 because of increased sales to the Soviet Union, an accelerating demand for livestock products, poor harvests abroad, and the devaluation of the dollar. In the decade prior to this surge, the U.S. agricultural trade surplus hovered around one to two billion dollars a year. Since then it has been around $12 billion annually.

In the past four years the United States could export almost every bushel of grain and pound of fiber that it had available, but today conditions are shifting toward greater competition in world trade. Although the total value of exports may exceed last year's total, reduced exports of wheat and feed grains are anticipated this year.

Part of the shift is due to the remarkable occurrence of successive years of favorable harvests around the world. Record harvests are expected again this year. Major exporting countries will be competing with the U.S. for export markets. Exports to South Asia and Latin America will fall about 15% this year. Around 10 to 15% of all U.S. farm exports go to communist countries, with the Soviet Union taking the largest part. But due to an exceptionally large grain harvest in the Soviet Union in the last two years, farm exports to the Soviet Union will drop about 45% this year. If diplomatic conditions improve between the United States and China, there is a possibility of larger exports to China, but that does not appear likely in the near future and sales are expected to be minimal. The potential exists for very large increases in farm exports with the communist countries of Eastern Europe and Asia, but there must be an improvement in overall relations before that is likely to happen. Progress in trade negotiations, which if successful could open up more markets for farm exports, has been stymied by the efforts of the European community to protect its small farmers.

All of these factors lead to increased competition for American farm products in world markets. To increase farm exports, the United States must take several steps. The government must avoid restraints on exports, which have been applied three times in recent years. It must improve its marketing techniques, insure quality control with careful inspection systems, and become more aware of the food preferences and marketing facilities in the countries of Asia. The U.S. must be prepared to deal with the market procedures of state trading nations, such as the Soviet Union, and insure the capacity to alleviate the shortages that occur after devastation. We must develop the best possible intelligence about world supply and demand, and improve the institutional framework for handling U.S. farm exports.

Since periods of high protected tariffs have inevitably led to restricted exports for U.S. farmers, the United States must push hard to reduce these barriers during forthcoming trade negotiations. American agriculture stands to benefit from a policy of expansion of trade.

NOW COMES THE CARTER YOUTH—TO SPY ON MOMMIES AND DADDIES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. SHUSTER. Mr. Speaker, a WRTA radio editorial by Lou H. Murray, vice president, on Tuesday, September 18, 1977, put in proper perspective the Carter administration's "Youth Energy Program." I commend it to my colleagues:

NOW COMES THE "CARTER YOUTH"—TO SPY ON MOMMIES AND DADDIES

The Carter Administration has come up with a plan straight out of Nazi Germany. Hitler used the kids to spy on Mommie and Daddy . . . the Carter Company is considering using our kids to check up on our compliance with their energy edicts. It will be called "The President's Youth Energy Program" and it would recruit local youth groups and schools to send volunteers out to check on their neighbor's energy use practice. The "Team Manual" published with taxpayer funds, suggests that the youths start on the outside; checking off energy problems, like the tire pressure on the family car.

Then the little snoopers would knock on your door . . . tell you your "outside score" and offer to come in and check the inside of your house. In something between 45 minutes and an hour, Carter's Junior version of the Nixon plumbers will go over your house from top to bottom, including a check on the water level in your toilet tank. Since a great percentage of our crimes are committed by youth think of the excellent opportunity these young White House sponsored snoopers will have to "case the Joint."

The White House says the plan is not designed to turn the kids into government Snoopers, spying on their neighbors, or even their parents for the President.

Maybe and maybe not, but to us the whole idea of giving our kids a government check list is repulsive to everything this country stands for, and anyone who could think of such a scheme is someone to watch very carefully. The plan is scheduled to go into effect the first of the month . . . unless enough pressure from citizens forces the President to stop it. But Jimmy Carter isn't a man to listen to the voice of the people. The force-

feeding of the Panama Canal sell out is a typical example. But in this, if he fails to heed the voice of the people . . . then the parents of America should call a halt to this Carter Caper by refusing to allow their children to be used in such a manner.

MORE PANAMA CANAL TREATY INTERPRETATIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LAGOMARSINO. Mr. Speaker, Senator BOB DOLE, Republican of Kansas, has submitted information which, as he says, proves "beyond a doubt" that United States and Panamanian officials have far different interpretations of key defense provisions in the Panama Canal treaties.

I submit that the information does prove the Senator's contention:

DOLE: "CONFIDENTIAL" CABLE PROVES PANAMA CANAL TREATY FLAWED

WASHINGTON, D.C.—Senator Bob Dole today released the text of a Confidential State Department cable which he said proves "beyond a doubt" that U.S. and Panamanian officials have far different interpretations of key defense provisions in the proposed Panama Canal Treaties. Dole has requested comments from Secretary of State Cyrus Vance on the contents of the cable, which the Senator received a copy of on Monday of this week. "This document demonstrates beyond a doubt the vast differences in interpretation of the most important part of these treaties—that portion which bears directly on our vital national defense interests," Dole said.

Senator Dole, who is due to testify before the Senate Foreign Relations Committee Wednesday morning, said that the Senate "must clarify our defense rights by *Amendment*, not by weak 'understandings' that have no legal and binding effect." Senator Dole is the only Senator to have introduced Amendments and Reservations to change the language of the Canal Treaties proposed by President Carter.

The State Department cable was received from the American Embassy in Panama last Thursday, September 29, and described Panamanian negotiators as "disturbed" over testimony by Secretary of State Vance and U.S. Ambassadors Ellsworth Bunker and Sol Linowitz before the Senate Foreign Relations Committee last week. One Panamanian negotiator confirmed that the U.S. would have no military intervention rights under the Treaty, and there would be no "preferential passage" for U.S. warships through the Panama Canal. Secretary Vance, along with several other Administration witnesses, indicated in his testimony last week that such American rights were "understood" within the language of the Treaties.

Senator Dole said it is "essential" that the United States retain unilateral authority to step in and defend the Canal militarily at any time it is threatened. He said it is also essential to have clear-cut rights to priority passage through the Canal during wartime. Senator Dole has already introduced Amendments to the Treaties which would guarantee both rights to the United States permanently.

In other remarks prepared for the Committee, Doel said defects and omissions in the Treaties must be corrcted by Amendment or Reservation, both of which would be legally binding, rather than by Understanding or Declaration, which have only an interpretive purpose for the party that makes them.

Dole described in detail his six Amendments and two Reservations which, in addition to those described above, would cut U.S. payments to Panama in half; guarantee the U.S. right to construct a new interoceanic canal any place in the Western hemisphere; extend the transition period for transfer of U.S. jurisdiction over the Canal Zone; insist on human rights obesrvance in Panama for U.S. and Panamanian citizens; and give the House of Representatives a right to act on the Treaty proposals.

NEGOTIATOR'S CONCERN OVER HEARINGS

1. The political counselor called Carlos Lopez Guevara on another matter this morning and found him disturbed over some of the testimony before the Senate Foreign Relations Committee—particularly the first day. Two matters seemed to trouble him most:

A. Interpretation of the expeditious-passage clause that U.S. war vessels get "preferential" treatment or that they may "go to the head of the line". Lopez Guevara said that Royo and Escobar tentatively accepted preferential treatment for U.S. and Panamanian war vessels, but in a later session this was specifically rejected by Panama and the word "expeditiously" was substituted.

B. Assertions that the treaty gives the U.S. any right to "intervene" in Panama. He said that Article IV means nothing more than what it says. "Intervention is simply forbidden by international law," he said. "Panama cannot agree to the right of the U.S. to intervene." He urged that U.S. officials stop using the term "intervention" in describing its rights under the treaty. He also expressed the view that those testifying before the committee on Monday had made too much of General Torrijos' statement that Panama was under the umbrella of the Pentagon. "The general was stating a fact, not giving the U.S. any right to intervene." He said he had no way of knowing what Torrijos thought of the testimony, but he, Lopez, personally was disturbed with many of our interpretations. He promised to "set the record straight" in a speech he is to make tonight.

2. The political counselor pointed out some statements which Panamanian negotiators had made which do not accord with our understanding of the neutrality agreement. He said that, on balance, the positions on neutrality given by Escobar and Royo, while not identical with our interpretation, were moderate in the Panamanian context. However, certain statements taken by themselves and out of the overall context, have proved difficult to explain to skeptical senators. He pointed out that most of the difficulties in the Senate so far have come from uncommitted Senators such as Baker and Stone, rather than hardline treaty opponents. He suggested that it might be useful if the Panamanians would establish a standard position, rather than speak extemporaneously on this delicate question.

3. Lopez Guevara said he understood the difficulties which U.S. negotiators face and asked for copies of some of the offending remarks. However, he cautioned that, no matter how necessary in the American process, there were some things that no Panamanian government could accept.

4. Comment: As the negotiators are aware, Lopez Guevara, though a moderate and reasonable man, is relatively inflexible on some questions. As he pointed out, he was at the head of those who did not accept the concept of priority passage for U.S. war vessels. He is considered a technician within the government, but he is influential. As we talk with other negotiators and officials who are campaigning for the treaty here, we will urge caution on any statement concerning U.S. rights under the neutrality treaty. But we are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged here.

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. MILLER of California. Mr. Speaker, legislation to reform the serious shortcomings of the foster care system appears stalled, because of political posturing on wholly unrelated issues. The House approved H.R. 7200 over 3 months ago, in time for enactment during this session of Congress, and implementation of some of the major features of the program reform later this year.

Now, that timetable appears to have been pushed back considerably. The provisions of H.R. 7200, which have received such widespread support from virtually all sectors of the child welfare community, and which have been so overwhelmingly approved by the House, face a very uncertain legislative future.

But the tragedy which precipitated H.R. 7200 continues full scale, and failure to put the provisions of H.R. 7200 into effect as quickly as possible will result in many thousands of children needlessly entering or remaining in foster care this coming year.

The record of hearings, both in the House and Senate, indicate the workability of the reforms contained in H.R. 7200. Across the country, people are anxious to begin the work of putting its provisions into effect. The accompanying recent article from the Village Voice is just the latest piece of evidence indicating the continuing need for foster care reform by the Federal Government:

BIG BUCKS VERSUS LITTLE KIDS

(By Barbara Lovenheim)

Joanne von Graevenitz is a healthy, white, adopted, 17-year-old girl with above-average ability. At the age of six she was abandoned by her father and surrendered to foster care by her mother. Joanne has lived in one orphanage, two foster homes, one group home, and several temporary adoptive homes. In her second foster home, she and her younger sister were confined to their room for three years. They went out only for meals and school, ate frozen pot pies and "leftovers" when the family dined on steak, weeded the garden when others swam in the prefabricated pool, and rarely saw their natural mother. When the social worker from the St. Cabrini Agency visited them, they were afraid to speak out because their foster parents were always present.

Joanne's mother died in 1970 when she was 10. Under provisions of New York State law, Joanne became eligible for adoption at that time. The agency took no action to legally free her—a matter of obtaining the appropriate court papers—until 1973; one year later she was adopted. Joanne had spent eight years in foster care at an average cost to the city of $3000 to $4000 per year. One-half of that money went to her foster parents; one-half went to the agency to provide supportive services. Yet, during those years almost no attempt was made to help Joanne's mother, investigate her foster parents, free Joanne promptly, or find a permanent home for her.

Carol and Christian von Graevenitz have two other adopted children. Jennie age nine, is half-black and half-Jewish. Jennie was placed in a foster home when she was two months old. Two years later, her foster parents handcuffed her to her bed every night so that she couldn't get up and walk around. When Jennie wet the bed, they hit her. When she was adopted six years ago, she guarded her food judiciously and recoiled in fear when her new parents tried to touch or kiss her.

The youngest child, Michael, four, is also biracial. He was abandoned by his parents shortly after birth; he came to live with the von Groevenitzes when he was eight months old. They wanted to adopt him immediately. He has just been legally freed.

Joanne, Jennie, and Michael are lucky. Unlike the vast number of children in the city's overflowing reservoir of homeless youth, they have found a permanent home with parents who want them and love them. But they are still recovering from their painful experiences as the wards of a system which seems to thrive on the perpetuation of abuses it was designed to remedy.

Currently, there are 29,000 children in foster-care homes and institutions in metropolitan New York. Twenty-five thousand of these children are under the care of some 85 private voluntary agencies, most of which are affiliated with the major religious federations—the Catholic Charities of New York and Brooklyn, the Jewish Federation or Philanthropies, and the Protestant Welfare Federation.

The majority of children committed to foster care are black and Hispanic. They come from the streets, from juvenile courts, and from homes where parents are alcoholics; drug addicts, indigent, confined to institutions, serving prison sentences, on welfare, or simply not interested in raising children. The overwhelming number of these children will never find a permanent refuge.

A recent audit released by the New York City comptroller's office reveals that more than one-third of these homeless children—11,000—have been kept in foster care an average of 5.5 years longer than necessary at a cost of $233 million in public tax money. According to Dr. George H. Strauss, who directed the audit, "Agencies have fallen short of the goal of achieving permanent homes for foster children. The agencies and the city have a lot of reasons—or excuses—for this, but they don't hold up very well under examination."

A policy statement on permanence issued by the Human Resources Administration in December 1976 states: "If return [to natural parents] is not possible . . . the child [should] be freed for adoption as quickly as possible and placed in a suitable adoptive home." The policy concludes: "Given a proper mix of appropriate attitudes, efforts and resources, an adoptive home can be found for any child who needs one."

But agencies make little effort to free children on time or find permanent homes for them. And little pressure is imposed on them to do so. Policies are profuse: laws are loose. The wording in the contract between the city and the voluntary agencies is vague and filled with loopholes. Adoption in most agencies is the rare exception rather than the rule.

Fewer than one-half of the foster-care agencies have adoption departments. This past year, 1976, less than 3 per cent of the children in foster care were adopted. In Los Angeles, a city with a similar urban complexion where all foster children are in direct public care, the number of foster children has decreased dramatically from 15,000 in 1970 to under 10,000 at the present time. The rate of adoption is almost four times that of New York City.

The audit also revealed that agencies do not register all freed children with the New York State Adoption Service, a government office created one year ago to find adoptive homes for eligible children. It found that out of 498 freed children under the care of the five agencies audited, 117—23.5 per cent—were not registered with the adoption service. Under state law this constitutes a violation which can result in the withholding of state funds from the social service district responsible.

Despite these flagrant violations of law and public policy, agencies are not penalized systematically and the comptroller's office continues to pay them and overpay them. Agencies receive per diem payments for every child in foster care ranging from $13 per day for children in foster homes to $36 per day for children in institutions. Agencies retain most of this money and are responsible for disbursing it to foster parents (who receive half), institutions, suppliers, administrators, lawyers, social workers, and themselves. This past year the city paid voluntary agencies $228 million. The only ones being penalized are children who want permanent parents and parents who want permanent children.

Angel Guardian, the second largest foster-care agency in the city, placed 3.2 per cent of its children in adoptive homes in 1975. Sixty-five per cent of its children had inadequate plans for long-term care. That same year. Angel Guardian received over $9 million in funds to care for its 2054 children. It has a rich history of being overpaid by the city, in recent years it has received more than $1 million in overpayments and it is currently contesting $273,606 which the city is trying to recover.

But Angel Guardian is not the only fallen dicinity. Overpayments are Miltonic in scope. Another agency owes the city almost $1 million. Audits dating back to 1970 reveal that agencies have received $5 million in overpayments; some of this money has been returned, but not all. Yet the agencies have a combined net worth of $300 million. Why are these agencies getting fat when their children are eating frozen pot pies? Why are they continuing to receive public funds when they continue to defy public policy? Who is pulling the financial strings?

Ask Thomas J. Cuite, the second vice-president of the board of directors of the Angel Guardian Home and the majority leader of the City Council. Are permanent foster care and permanent foster-care payments a part of the permanent government? According to Marcia Lowry, the director of the Children's Rights Project at the New York Civil Liberties Union, these agencies are protected by the powerful political figures who sit on their boards. "Agencies are free to thwart public policies because they are autonomous. They have been protected from criticism because they have powerful people on their boards—people who may not be putting money into their own pockets, but people who have political connections which protect the agencies they govern from gerater inspection, control, and supervision."

Representatives from the voluntary agencies call the audit a "political" document, designed to make Comptroller Harrison Goldin shine in an election year. Joseph Gavrin, the executive director of the New York State Council of Voluntary Child-Care Agencies, disputes allegations that agencies are not doing their job. Charging that the audit is a "typical management study" which looks at "cost benefits only," he contends the report is idiosyncratic and not comprehensive. "It gives the impression of being a factual audit or research document, but has used facts selectively to prove a preexisting thesis. It presumes that children are like bags of potatoes."

According to Gavrin and other defenders of the foster-care faith, the major problem agencies face is finding suitable adoptive parents. "There is a problem in the imbalance between the desires of people who want to adopt and the types of children available," he asserts.

But evidence suggests the contrary. In 1976, a total of 1266 people made inquiries to the five test agencies studied by the audit. Of these, 40 per cent wanted a child age four or older; 8 per cent wanted a child eight or older; and 30 per cent wanted nonwhite children. In one agency, Brooklyn Catholic Guardian, 20 requests came in for Hispanic children. The agency wrote back stating that none were available, even though 37 per cent of the children in the agency were Hispanic.

Mary Walker, the director of Family Services for the Council on Adoptable Children (COAC), supports these findings. COAC, a private nonprofit service, receives numerous calls from black parents interested in adopting school-age children between the ages of eight and 12. The majority of these prospective parents earn between $8000 and $12,000; many earn more. Yet, typically they must consult three or four agencies before finding one which will even accept them into "home study"—the evaluative procedure performed by each agency on prospective parents. "One of the biggest problems we have is that parents calling us reported that adoption or foster-care agencies told them no children were available. Of the 900 adults calling us this year, 700 are still trying to get into home studies," Walker stated.

Many other critics charge that agencies use discriminatory policies to discourage interested parents. New York State law stipulates that children should be matched with parents of the same religion whenever "practicable." According to Judith Schaffer, the former executive director of COAC, this gives the Catholic agencies license to discriminate against black Protestant children as well as parents of different religious faiths. The von Graevenitzes say they were rejected by the New York Founding Home, the largest agency in the city, because they were not Roman Catholic.

Adults who are single, handicapped, hypertensive, and fertile also experience problems finding agencies which will serve them. A black veteran, disabled in Vietnam, states that he waited two years to adopt a child and finally went to a black agency (Harlem-Darling) after being rejected by several others because he knew it was the only one which would consider him. "I felt I wanted a child because I have a lot of love and a lot of time and there are a lot of other disabled vets, like myself, who have been discouraged by the rigid set up." James Green, a single businessman who is also black, says that he had to wait three years to adopt children because of the "old tradition that children had to have two parents." He now has three adopted sons.

Monsignor Robert Arpie, the director of child care for the Catholic Charities of the Archdiocese of New York, which oversees 22 agencies, claims that the failures in the system are symptomatic of the inevitable "people failure" that exists in every area of our social-service system. But ultimately, he charges, the responsibility lies with the government and its failure to develop a "successful accountability system."

Despite the monsignor's apparent desire for firmer governmental control, agencies have a history of resistance. In April 1976, an organization representing most of the city's child-care agencies protested a plan by Goldin to start strict "head count" audits of the children in foster-care homes. Two years before that, representatives from the

voluntary agencies tried to block the appointment of James Dumpson as HRA administrator because he supported a lawsuit charging the agencies with religious and racial discrimination.

Carol Parry, the assistant commissioner of Special Services for Children, the HRA division responsible for controlling the agencies and conducting audits, admits that their procedures have not been as rigorous as possible. She attributes this to the tremendous fragmentation of the foster-care system, the relatively recent concept of adoption as a viable alternative to foster care, and the lack of adequate computer facilities. She also admits that the financial self-interest of the agencies is a major obstacle. "I won't deny that there is an institutional interest in foster care—for agencies who are in the business of foster care, survival is the issue."

Money—and not moral welfare—is the key that unlocks the agencies' door. Foster-care children are big business. They provide salaries, jobs, rents, services, supplies, and even status. And this is essentially what the audit concludes: The causes of this deplorable—and avoidable—situation include a lack of effort by the agencies; lax monitoring by responsible city and state departments; and a fiscal incentive structure that pays agencies for keeping children in foster care, but does not reward them for discharging children or penalize them for not moving children out of foster care and into permanent homes when such plans are appropriate."

It's a Catch-22 situation. The better you do your job, the more likely you are to lose it.

The audit has shown how much money we have wasted and how many lives we have jeopardized by needless spending and lax controls. According to Peter Edelman, the state commissioner of youth, the whole system is geared wrong. "We pay heavily for taking children out of troubled families and placing them in artificial situations; we pay almost nothing for preventive services or rehabilitative ones." The real question now is: What is the city going to do? Are we going to continue to support a system that rewards people for keeping children in fragile and transient situations?

U.S. POLICY IN THE MIDDLE EAST

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LUKEN. Mr. Speaker, I rise to introduce into the RECORD the following letter which I sent to the President today. Some of my colleagues who share these sentiments are sending a similar letter to the President. I find nothing in the so-called accord or breakthrough on the Geneva peace meeting announced today by the President to allay the concerns I express in the following letter:

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I want to express my grave concern at the joint U.S.-Soviet communique issued over the weekend on the subject of the Middle East.

Both in substance and in the sudden and unexpected manner of its issuance, the joint statement came as a shock. It is highly significant that the statement has been hailed as a victory by the P.L.O. and various Arab Governments, and has been met with dismay and a sense of betrayal in Israel.

The most disturbing aspect of the communique is that it suggests the United States and the Soviet Union are now moving in the direction of an imposed peace in the Middle East, instead of seeking to promote direct negotiations among the nations involved.

Through the use of the words "the legitimate rights of the Palestinian people," the United States has apparently accepted a phrase which has particular significance for the Arabs in sustaining a partisan Arab viewpoint. It has been asserted that this is "an important change in policy," and that is precisely what we fear.

We urge you, Mr. President, to continue to reaffirm that the United States continues fully to support U.N. resolutions 242 and 338, and will agree to no amendments that are not acceptable to all the nations involved. We trust also that you will reaffirm the basic commitment of the United States to the survival and well-being of Israel within secure and defensible borders, to the necessity for a genuine peace, and to the principle that the only road to such a peace is through direct negotiations among the nations involved.

Sincerely,

THOMAS A. LUKEN,
Member of Congress.

TEXTILE INDUSTRY FACES DEVASTATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. MURPHY of New York. Mr. Speaker, the largest manufacturing industry in this country is in danger of devastation.

The textile and apparel industry is the employer of 2.3 million Americans, many of whom are minorities and women. These jobs, and the industry as a whole, will be put in jeopardy if steps are not taken to regulate the flood of imported goods into this country.

The American textile industry has been on the losing end of this country's balance of trade for the last 20 years. According to the Department of Commerce, the U.S. trade deficit in textiles and apparel in 1975 was $1.658 billion. In 1976, this rose to $2.594 billion; a 1-year jump of 56 percent. For the first 7 months of this year our textile trade deficit has already reached $1.582 billion. We cannot allow this trend to continue.

In New York City there are currently 175,000 people employed in the textile industry compared to over 200,000 only a few short years ago. The loss of these jobs has further crippled an already limping municipal economy, reducing the tax rolls and increasing the welfare rolls.

While foreign trade is both desirable and necessary for the overall economic health of our country, this trade must not be allowed to continue unchecked when the survival of a domestic industry is at stake. Textile imports need not be halted nor arbitrarily reduced. However, any further international negotiations entered into by this country should make every effort to tie import quotas to developments in the domestic market. In addition, any attempt to reduce tariffs on goods imported into this country should specifically exempt the textile and apparel industry.

This latter step is necessary, because imported textiles are already entering this country at prices below domestic goods. This is true largely because of the cheaper labor costs abroad. Lowering the tariffs further will only increase the advantage that already exists and aggravate the stability of the industry.

While I certainly do not oppose foreign trade, I do oppose any trade policies which damage the well-being of heretofore prosperous U.S. industries. I urge the administration to give careful thought to its position on this matter during all future trade negotiations.

MOST STUNNING SCENERY

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mrs. MEYNER. Mr. Speaker, I am often reminded that the 13th Congressional District contains the most stunning scenery in New Jersey. An area of hills, farms, and rushing streams, the natural beauty of northwestern New Jersey is truly impressive. But there is another type of beauty in the State—the wild, silent, and lonely beauty of the Pine Barrens of southern New Jersey. This region, comprising one-fifth of the State's total land area, is among the greatest natural and historical resources along the Atlantic coast. Since the publication of Dr. Henry Charlton Beck's "Forgotten Towns of Southern New Jersey" in 1936, naturalists and historians have become increasingly aware of the fragile ecosystem that is the Barrens.

Those of us who cherish the varied environment of New Jersey recognize that immediate action is needed to preserve the Pine Barrens from urbanization. The greater Camden-Philadelphia metropolitan area continues to expand eastward, and the impending renaissance of Atlantic City will have a similar effect in the opposite direction. The consequences are clear. Lying between these two urban poles, the Barrens will be seriously compromised if we fail to act. New Jersey will at the same time lose a magnificent resource of national significance.

The Pine Barrens must be considered as a single organic entity rather than a park encompassing several dozen often competing municipalities. While regular consultation with local officials is necessary and desirable, strong direction must also be shown by the State and national governments. For this reason I have cosponsored H.R. 6625, a bill offered by my colleague Representative FLORIO which would enable New Jersey to develop and administer a plan for a Pine Barrens National Ecological Reserve. The bill would permit the Federal Government to acquire and grant to New Jersey the most ecologically critical area of the Barrens after the State has established a management study area and a management commission consisting of 12 individuals expert in resource technology and planning.

I am pleased that the Subcommittee on National Parks and Insular Affairs of the House Committee on Interior and Insular Affairs is currently holding hearings on this important legislation. I urge favorable action by the committee and hope that these hearings will underscore the urgency of preservation.

The Pinelands have traditionally been regarded as desolate, mysterious and forboding by those who know the region only from the monotony of superhighways crossing the Barrens. This perception is unfortunate, for the Pine Barrens are a land of people living in harmony with nature and history. This viewpoint is eloquently expressed in an article appearing in the September issue of the Sierra Club Bulletin. I commend this article to my colleagues and hope that through it they will come to appreciate a national treasure of great drama and beauty:

IT IS NOT SO BARREN IN THE PINES

(By John G. Mitchell)

If one were to lay a straight-edge along the axis of America's most densely inhabited supercity, the center point would fall on or about Jenkins, New Jersey. People once called the east-coast megalopolis "Boswash." But "Richport" seems more like it now, since the little boxes and all the urban demographics that go with them already sprawl from the Virginia hillsides of Richmond to the precincts of Portsmouth, New Hampshire, where Governor Meldrim Thomson to the contrary notwithstanding, the likes of God's Country do yet miraculously prevail.

As for Jenkins, New Jersey, its centrality to Richport is somewhat deceptive and strictly geographic. Jenkins sprawls nowhere. You pass through it on a two-lane thoroughfare in half a minute. The population is 45. Haines' cranberry bog is up the road a piece. Mick's Gulf station sits by the roadside, dispensing soda pop and aluminum canoes. The canoes are for rent. The canoes at Mick's outnumber the people of Jenkins four-to-one. Strangers from the more densely populated parts of Richport—say, from Philadelphia and New York—come to Jenkins to float the Wading River, or the Oswego, or the Batsto, or the Mullica. In the heart of Supercity, sweet water meanders to the sea through dense stands of Atlantic white cedar, red maple and black gum, through dangleberry and greenbriar, sheep laurel and turkey beard. And back from the watercourses, low sand hills roll in every direction under pitch pines and blackjack oaks. Philadelphia is only thirty-miles away, northwest. Manhattan is seventy miles, northeast. South twenty miles are the budding casinos of Atlantic City, New Jersey's Las Vegas-by-the-Sea. Yet here you are in Jenkins, epicentered on the largest, strangest, wildest, richest, most precious, most vulnerable, least protected, least celebrated body of open lands remaining in the eastern U.S. In short, the Pine Barrens.

In historic halcyon times, before Richport began to glue itself together with interstate highways, the Pine Barrens covered a quarter of New Jersey. There has been a good deal of shrinkage in recent years, but the unfettered area is still substantial. In the East one does not scoff at 1,500 mostly forested square miles, nearly one million acres. Or in the West either. Not when one could take Kings Canyon, Sequoia, and Arches national parks and drop them side by side into the Pine Barrens with room to spare. This is not to say that the Pine Barrens constitute a wall-to-wall wilderness. It would be more accurate to describe The Pines' pine-oak forest ecosystem as a set of scatter rugs, ranging in individual size from 1,000 acres to a 100,000 or more, the whole lot distributed generally across south-central New Jersey between the Garden State Parkway on the east and the industrial outskirts of Camden-Philadelphia on the west. Tucked away here and there in The Pines (a term preferred by local folk over the pejorative and inaccurate "Barrens") are a handful of mapped settlements not unlike Jenkins: Bulltown and Atsion and Tabernacle and Friendship and Retreat, among others; a few unmapped outposts such as Speedwell and Hog Wallow, and three or four truly operational villages such as New Gretna and Chatsworth, the latter of which is generally conceded to be the First City of The Pines. When *New Yorker* writer John McPhee visited Chatsworth a decade ago (with splendid results: *The Pine Barrens*, Farrar, Straus & Giroux, New York, 1968), he counted "three hundred and six people, seventy-four houses, ten trailers, a firehouse, a church, a liquor store, a post office, a school, two sawmills and one general store." To the best of my knowledge, no one has undertaken so comprehensive an inventory since then. And possibly no one needs to, for Chatsworth remains pretty much the same.

It is a different story on the edge of The Pines, for there the fabric of wild places and backwoods ways is fast unraveling. In Ocean County, northeasternmost of the six counties that make up the Pine Barrens, some eighty percent of the state's retirement communities are now located or a-building. On the west, pines are falling under the creeping exurbs of Camden. And on the south and east, tidewater communities are girding for the growth that is certain to come with onshore facilities supporting offshore oil development in the Atlantic's Baltimore Canyon. New Jersey is already the nation's most densely populated state, 953 humans to the square mile. In The Pines region, however—and this includes the larger towns on the edge—the density drops to about 135 per mile; in the interior, near Jenkins, it drops to fewer than fifteen. The people of The Pines want to keep it that way. They do not want to be stacked up like cordwood. They want Retreat, not Richport. And, not so curiously, a number of people who are not residents of The Pines want to keep it that way, too; they know that should Richport come to Retreat, the pines and the cedars, sweet water and salubrious air will be finished, and nothing to show for what now is the best-of-what's-left on the northeastern seaboard.

The Pines are unique. I know that is a hackneyed, shopworn claim too often bandied about in the rhetoric of landsaving. Some time ago I promised myself that I would eschew such hyperbole forever. I break the promise here because I have to. The Pines *are* unique. Nothing quite like this forest exists anywhere in North America, or in the world for that matter, though some travelers, discounting botanical differences, perceive a striking visual similarity between The Pines and certain areas of spruce-dominated taiga in the Alaskan interior. Surely, no other forest in eastern North America contains such a wide range of overlap between northern and southern plant species. Within The Pines more than 100 southern species have established the limit of their northernmost range; some twenty northern species have staked out limits heading the other way. Also within The Pines are at least two plants—sand myrtle and the Pickering morning glory—that grow nowhere else. The curly grass fern, a curiosity extant in only two other locations outside The Pines (Long Island and Nova Scotia), was first discovered by science in 1805 on the banks of the Batsto River, at Quaker Bridge. And not far from Jenkins is a place called "the Plains." The Plains encompass 27,000 acres of dwarf pines and oaks which, over the millennia, acquired stunted height (two to five feet at maturity) through adaptation to the cyclical ground fire that periodically runs through the forest and, in so doing, enables the dwarf pines to reproduce.

Among the region's notable wildlife are the white-tail deer, the beaver, and the gray fox, though perhaps they are not quite so notable as the Pine Barrens tree frog, the carpenter frog, and the northern pine snake. Beyond The Pines, the range of these three are said to be highly restricted. There are not many fish, a couple of dozen species—the water is too acid. Butterflies abound, though: ninety-one species in the region, with wonderful names like the Pearly Eye, the Lakehurst Satyr, the Southern Wood Nymph, the Variegated Fritillary, the Hoary Elfin, and the Copper Bog.

Through and underneath it all runs the water: pure, hard, cooled by springs that bubble to the surface at a constant temperature of fifty-four degrees Fahrenheit, clear after rain but at other times a rich reddish-brown from the leaching of bog-iron deposits and from tannin in the bark and roots of the riverbottom cedars. The color of the water is deceptive. One is reminded of root beer. Yet according to a study by the Interior Department's Bureau of Outdoor Recreation, the quality of The Pines' water approaches that of "uncontaminated rain water or melted glacier ice." Even more impressive is the quantity of it—an estimated 17.7 trillion gallons stored in a shallow aquifer known to geologists as the Cohansey Formation. To comprehend such a quantity of water, one must try to imagine a lake covering 2,000 square miles and 37 feet deep—a lake the size of Connecticut. The Cohansey is a valuable aquifer, and it prevails. It is also vulnerable. The overlying mantle of loose sandy soil that serves as a sponge to the rain is likewise capable of soaking up urban wastes. Which is another splendid reason why Richport has no business sneaking up on Retreat.

The Pines has been a retreat of one kind or another for more than 200 years. The area was not attractive to the earliest settlers. The forest did not beckon hospitably to homestead farming. So the region was left largely to a handful of charcoal colliers and others with reason to cherish the scant density of their peers. Over the early years, such types included fugitive Tories, Hessian deserters from His Majesty's Service, pirates and privateers, smugglers, highwaymen, rascals and thieves, not to mention a sizable contingent of Quakers who, for one reason or another, had failed to live up to the rigid codes of conduct expected of Quakers elsewhere.

BLUEBERRIES AND BOG IRON

Life in The Pines in Colonial times was not always as bucolic as some would have liked. Iron works appeared at Atsion and Batsto. Bog iron, mined in The Pines and forged over pine-oak charcoal, provided cannon and shot for General Washington's army. Jersey bog iron was resistant to rust. It would command much of the ferrous market in this country until the 1850s, when Allegheny ore became the favored raw material, and coal replaced charcoal under the nation's forges. Later and at various places in The Pines, sand and gravel were quarried and glass manufacturing enjoyed a certain vogue. But, by and large, after the iron works played out, the region's principal products were and are agricultural—mainly blueberries (in production of which, thanks to The Pines, New Jersey ranks first nationally), and cranberries (New Jersey ranks third).

Aside from these endeavors, the region's only other significant commercial enterprise over the years has been a wanton merchandising of land. For more than a century hucksters have painted The Pines as a veritable residential Eden, garnishing their sales pitch with such come-hither communities—existing on paper only—as Fruitland and Prosperity Park and Paisley. In his classic profile of the region, John McPhee describes how some prospective buyers were hoodwinked by promoters who "tied pears and apples to the limbs of pine trees and stationed fishermen in boats . . . with dead pickerel on the ends of their lines and instructions to pull the fish out of the water every ten minutes."

Meanwhile, the state of New Jersey in its wisdom proceeded to acquire vast tracts in The Pines; the Wharton Tract, for example, covers 96,000 acres and is managed as a state forest. Lesser state holdings comprise an additional 65,000 acres. And in the north, the federal government presides over substantial pineland acreage at the Fort Dix Military Reservation, McGuire Air Force Base and the Lakehurst Naval Air Station. Altogether, about one-quarter of the region is now in public ownership (if one is willing to stretch the imagination to embrace Defense Department lands as public). As for the rest of The Pines, they are still up for grabs.

Possibly the most ruthless grab ever proposed for The Pines was the 1964 scheme to bulldoze fifty square miles near Jenkins into a super jetport, with ancillary "new" cities housing a quarter-million people. Fortunately this plan found few friends within the Federal Aviation Administration or among the proprietors of New York City's existing airports and, after much public fuss, was ignominiously scrapped. No doubt historians will note a curious similarity between The Pines Jetport and The Everglades Jetport, which was laid to rest in Florida some four or five years later. In any event, there was a time in the 1960s when this singular threat to The Pines seemed quite real and imminent—so imminent, in fact, that environmentalists began to clamor for some measures of permanent protection for the place. But everyone's measure was not quite the same. Some friends of The Pines demanded national park designation. Others espoused monument status. By 1972, says one veteran of the preservation wars, "the Pine Barrens had been studied and rejected for just about everything the Park Service has to offer short of a national battlefield park. Considering all the sound and fury, maybe a battlefield park for the Barrens isn't such a bad idea."

No doubt the most realistic solution at present is Representative James J. Florio's effort to create a Pine Barrens National Ecological Reserve. Toward this end, the *Camden Democrat* last April introduced a measure without precedent—a bill that would establish a cooperative federal-state mechanism to protect and manage 970,000 pineland acres. Hearings are expected to be held soon by the House Subcommittee on National Parks and Insular Affairs.

Florio's measure is rooted in the "Greenline Parks" concept, an approach to preserving recreational landscapes first espoused in 1975 by Charles E. Little, environmental policy specialist for the Congressional Research Service of The Library of Congress (and coauthor of the 1973 Sierra Club Landform book, *A Town is saved, not more by the righteous men in it than by the woods and swamps that surround it*). As Little defined them, greenline parks would help avoid overextending the resources of the National Park Service, would preserve significant natural areas through access agreements and land-use controls as well as by acquisition, and would place the federal government in the role of provider of front money and technical assistance to state commissions that would manage the "parks." The concept, Little noted, is "akin to national park practice in England and Wales," and, but for the lack of federal participation, is somewhat similar to the approach adopted in New York State's management of its Adirondack Park.

Specifically, the Florio bill would authorize expenditures of $50.5 million to establish the ecological reserve—$500,000 in planning grants to a management commission (to be appointed by the governor of New Jersey); $25 million for direct acquisition of up to 50,000 acres of critical land in The Pines, including the pygmy forest, with authorization for the Secretary of the Interior to transfer these lands to the state commission upon approval of its management plan; and $25 million in management grants to the state. Under the bill, the latter grants could be used to compensate landowners for access rights and to provide payments in lieu of taxes to local governments where acquisition of land would result in a loss of revenue.

Not surprisingly, the proposed ecological preserve enjoys wide support from the New Jersey congressional delegation as well as from local, regional and national environmental organizations. Two such organizations, in fact, have already launched their own effort to protect critical pineland areas: the North Jersey Conservation Foundation and The Nature Conservancy are engaged in a joint fund-raising drive to finance acquisition of some 20,000 acres.

Sentiments in The Pines regarding the bill are mixed, as they always are in home-rule backwoods places. Some residents of the region view the Florio plan as a federal "takeover." In Jenkins and thereabouts, a few people regard it as a thinly disguised scheme to steal the aquifer's water and pump it upstate to the burgeoning North Jersey suburbs. A substantial number of residents, however, agree with Mayor Floyd West of Bass River. *"Something* has to be done to protect The Pines," says West. "Development is out of control. Each municipality plans its affairs as if the ones next-door did not exist. And the outside interests, the absentee landlords from New York and Philadelphia, are taking advantage of that." West claims he represents a pinelands majority in supporting the concept of an ecological reserve. "I'm not a conservationist," he says. "I just happen to believe in common sense."

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LEHMAN. Mr. Speaker, last week I missed a number of votes because of my participation in the 64th Inter-Parliamentarian Conference in Sofia. Had I been present, I would have voted in the following way:

Rollcall vote No. 583, "yes."
Rollcall vote No. 584, "yes."
Rollcall vote No. 585, "yes."
Rollcall vote No. 586, "no."
Rollcall vote No. 587, "yes."
Rollcall vote No. 588, "yes."
Rollcall vote No. 589, "yes."
Rollcall vote No. 590, "yes."
Rollcall vote No. 592, "yes."
Rollcall vote No. 594, "yes."
Rollcall vote No. 595, "yes."
Rollcall vote No. 596, "yes."
Rollcall vote No. 597, "no."
Rollcall vote No. 598, "yes."
Rollcall vote No. 599, "yes."
Rollcall vote No. 601, "no."
Rollcall vote No. 602, "yes."
Rollcall vote No. 603, "yes."
Rollcall vote No. 604, "yes."
Rollcall vote No. 605, "yes."
Rollcall vote No. 607, "yes."
Rollcall vote No. 608, "yes."
Rollcall vote No. 609, "yes."
Rollcall vote No. 610, "yes."
Rollcall vote No. 611, "yes."
Rollcall vote No. 612, "no."
Rollcall vote No. 613, "yes."
Rollcall vote No. 614, "no."
Rollcall vote No. 615, "yes."
Rollcall vote No. 616, "yes."
Rollcall vote No. 617, "yes."

BIKEWAY TRANSPORTATION ACT

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KOCH. Mr. Speaker, today I am reintroducing the Bikeway Transportation Act of 1977, H.R. 955, and I am pleased to report that this legislation is now cosponsored by 50 Members of the House. This legislation will supplement and improve on the existing authority in the Federal-Aid Highway Act, which allows a limited amount of highway funds to be spent by the States for bicycle transportation improvements. The Bikeway Transportation Act would create a separate category for bikeways and related bicycle facilities authorizing up to $45 million in Federal funds annually for these purposes. State and local communities would be required to provide a 20-percent matching share for each bike facility or bike path constructed.

Under the provisions of the legislation I am introducing today communities of population 2,500 or larger as well as larger cities would be eligible to apply for bikeway funds. Bicycle paths could be constructed to facilitate commuting within towns and cities, to connect towns and cities with each other, or to link local, State or national recreation areas with population centers. As originally introduced, H.R. 955 would have provided funds only in larger cities and towns of population 50,000 or greater. Because a number of people pointed out that this would fail to address the need for facilities and the potential for increased bicycle use in less-populated areas, I have modified the legislation to allow Federal bikeway grants to be made in any community of population 2,500 or greater.

I believe that communities of every size will want to encourage the increased use of bicycles both for transportation and for recreation. It has been estimated that if only 5 percent of those who currently commute to work by automobile were to switch to bicycles, the United States would save over 780 million gallons of gasoline per year. In addition, the bicycle is a nonpolluting means of transportation which provides benefits to bicyclists in the form of improved cardiovascular health.

Recently the Subcommittee on Surface Transportation of the House Public Works and Transportation Committee held a day of hearings on bicycle legislation, and I was pleased that H.R. 955 was discussed in some detail. I was interested in the testimony in favor of increased Federal funding of bicycle facilities which was presented by James J. Hayes of the Bicycle Manufacturers Association of America. I think that Mr. Hayes summarized some of the important statistics on bicycle use, and I was pleased that his organization chose to support the legislation that I have introduced. For the benefit of my colleagues, I am appending the text of Mr. Hayes' testimony:

SUBCOMMITTEE ON SURFACE TRANSPORTATION, HEARINGS TO CONSIDER TESTIMONY ON LEGISLATION FOR THE CONTINUATION OF THE HIGHWAY AND MASS TRANSIT PROGRAMS, INCLUDING H.R. 955

Thank you, Mr. Chairman, and members of the Committee. It is an honor to testify before this Committee of the House of Representatives, and a privilege to be allowed to comment on H.R. 955, one of the meaningful and far-reaching pieces of legislation this Committee has under consideration.

My name is James J. Hayes. I am Executive Director of the Bicycle Manufacturers Association of America, a trade association representing the producers of over 80% of all domestically manufactured bicycles. For nearly 40 years, one of the principal purposes for the existence of the Bicycle Manufacturers Association has been the support and promotion of programs that provide for the safer and more pleasant use of its products.

It is because this Committee is considering such a program—the Bicycle Transportation Act of 1977—that I have asked permission to testify, and I am grateful for the opportunity you have extended to me.

H.R. 955, and its companion bill in the Senate, S. 1495, are particularly deserving of favorable consideration at this time. For while they speak specifically to the need for expanded bicycling facilities, what millions of bicyclists, highway officials and traffic safety officers see in the passage of this legislation is the elimination of existing barriers to the safe and convenient use of the bicycle for commuting, short-haul transportation and recreation.

There are more than 80 million bicycles in the hands of the American public, ridden by more than 100 million persons. Eight million new bicycles were pumped into the traffic mix last year, and the industry expects sales to increase to nine million this year. Fifty-eight million bikes were bought by Americans in the last five years—that's 10 million more than the 48 million passenger cars that entered the market place during the same period.

While many continue to mistakenly think of the bicycle as a child's toy, the fact is that from 50 to 75% of all sales in the last five years have been lightweights—fully equipped touring bicycles designed expressly for transportation and recreation by young adults and adults.

A recent survey by a reputable research organization estimated that by 1980 bicycles sales will rise to 11 million annually and reach 19.2 million annually by 1990. The number of bicycles owned will grow dramatically from 379 per 1,000 persons in 1980 to 500 bicycles per 1,000 persons in 1990. Lightweights ridden by young adults and adults will be the chief beneficiary of this growth.

These millions of riders will be using their bikes on the nation's highways and byways for a variety of purposes—commuting to work, which we see growing evidence of here in Washington, cycling to schools, supermarkets, playgrounds, ballfields, parks, museums, and other places of scenic, historic and recreational interest. It is useful, utilitarian cycling. People riding bikes instead of driving cars—contributing to greater energy efficiency, reducing air and noise pollution, and providing positive health benefits to themselves.

In introducing H.R. 955, the far-sighted Mr. Koch and his co-sponsors, Congressmen Wirth and Regula, pointed out that if just five percent of the commuters now using cars converted to the bicycle, the saving in gasoline alone would add up to more than 780 million gallons.

Mr. Chairman, it's hard to put a price tag on that kind of annual energy conservation, compounded over the life span of the kind of cycling facilities H.R. 955 will fund. But it is obvious that bicycles are an untapped energy-saving resource already available to over 100 million Americans—with millions more looming in the future.

If energy conservation is, indeed, as President Carter has proposed, to have the moral equivalency of war, certainly the increased use of the bicycle for transportation and recreation is at least one of the weapons to be developed for the nation's energy arsenal.

This was the conclusion reached by the House when it adopted the recommendation of the Ad Hoc Energy Committee a few weeks ago. The precedent-setting amendment to the National Energy Act it adopted called for a major study by the Secretary of Transportation on how best to stimulate increased use of the bicycle by all Americans as an energy-saving device. The study will examine the legal, physical and personal obstacles involved in establishing a comprehensive program to meet such goals.

Coincidentally, we have been advised that Secretary of Interior Cecil Andrus on his own initiative has moved in the same direction. He has proposed a joint effort with the Department of Transportation and his agency to develop far-reaching programs which would intensify their activities in behalf of promoting bicycling and bikeways. A nationwide plan of action is being developed for joint implementation.

The cold facts, however, show plainly, as in the Federal Highway Administration program itself, that increased use follows, not precedes, increased availability of facilities. Just as more good Federally-assisted highways brought more and safer automobile use, so will more Federally-assisted bikeways, routes, lanes, parking and other facilities bring increased use of the bicycle.

Funds must be authorized and appropriated to exploit the vast potential of cycling as a transportation and conservation resource. When the Federal Aid Highway Act of 1973 authorized $40 million for independent bikeway and walkway projects, it failed to satisfy the growing need because funding was not exclusively designated for that purpose. Consequently, funds could and were diverted to other highway priorities. Despite Congressman Bob Edgar's amendment increasing the authorization to $45 million annually in the Federal Aid Highway Act of 1976, in the five years since Federal aid was sanctioned only a little more than $9 million has been spent on independent bikeway projects.

Last year, though, the Senate Appropriations Committee authorized an expenditure of $6 million for the Bikeway Demonstration Program proposed by Senator Bob Packwood. This resulted in the funding of 41 bikeway demonstration projects in 31 states. When the program was announced, 495 project applications with a combined Federal-State-Local cost in excess of $141 million flooded the Federal Highway Administration regional offices in 50 states.

The Packwood provision—important as it was—was a drop in the bottomless bucket of need, Mr. Chairman—like trying to harness the energy of the atom with a department store chemistry set. But it did demonstrate what those deeply involved in the bicycling movement in this country knew—that there is an insatiable demand for bikeways to assure a safer environment for bike travel in our country.

The $45 million annually authorized by this bill is not a massive proposal by any Federal standard. But it will be a positive step toward the construction of both on-road and off-road bicycle facilities so necessary if bicycling for transportation is going to take that quantum leap forward. Only then can this inexpensive, non-polluting vehicle become a positive factor in the nation's energy program.

While we strongly urge passage of Congressman Koch's legislation, we would propose one change which would tend to broaden its scope. We suggest that grants to States and municipalities for bikeway projects apply to those within an "urban territory," designated by the Bureau of Census as areas with populations of 2,500 or more.

It is our understanding that Congressman Koch and his co-sponors favor this change in their bill which presently refers to "urbanized areas," limiting grants to populations of 50,000 or more. Thus H.R. 955 would read exactly as S. 1495 is now written. This would eliminate any conflict when both bills have been approved and reach the conference for clearance.

Thank you for your time, your attention, and your consideration in this matter.

REPEAL OF NEW YORK STOCK EXCHANGE RULE 390, WHICH LIMITS OFF-BOARD TRADING

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. WYDLER. Mr. Speaker, the Securities and Exchange Commission recently concluded hearings in anticipation of taking action which will have a profound effect on this nation's securities industry and, in particular, on investor confidence in our securities markets.

Broadly stated, the SEC would nullify traditional stock exchange rules which require that a public customer's order in a listed security be sent to an exchange for execution.

Instead, the SEC proposal would allow brockerage firms to make markets in listed securities in their offices. Brokerage firms would acquire an inventory of stocks and, when a customer's order is received, they would execute that order against their own inventory.

The implementation of this rule would have a profound effect on the New York financial community, which has always been the linchpin of the New York area economy.

A thoughtful article on this proposal appeared recently in Financial World and I commend it to the attention of my colleagues:

KILLING THE AUCTION MARKET: A BAD EXECUTION

Why is it that dolphins, alligators and whales seem to have a bigger constituency concerned with their survival than does the auction market?

The traditional rules under which the major exchanges operate provide that all orders from the public come to the floor, where the highest bids are matched with the lowest offers on a first-come first-served basis. This auction market concept has always seemed to me to provide the best and fairest method for the orderly handling of securities purchases and sales. But now it's in danger of a fate akin to the buffalo—if not total extinction, certainly less prominence. And the only proffered reasons I can find to justify this travesty are ignorance and self-interest.

For years the public, by intuition, has put its faith more in the N.Y.S.E. than the over-the-counter market. While some of this is due to the nature of companies whose securities are traded in one market versus the other, that is not the primary or even the most compelling reason. The feeling is that a dealer's market, where orders are negotiated and where brokers can act as principals rather than agents, is not an environment in which the best execution can be structurally assured. This the public knows intuitively, if not technically. And when the newspapers report that the S.E.C. is suggesting the elimination of rule 390, it is not perceived in the public consciousness that this rule is the cornerstone of the auction market and without it the market may die. Rule 390 mandates that Member firms are prohibited from trading in listed securities off-board. The effect of this is to centralize orders on the floor of the Exchange; the sine qua non of the auction market. I'm sure if the public comprehended this, investors en masse would decry the elimination of this rule.

Members of the securities industry understand the implications and a group of 19 of them, in a rare meeting for the securities industry (one where they got together and agreed on something), issued a strong statement of warning that proposals which weaken the auction market system will mean an additional loss of public confidence and participation in the equity market—something this country is already experiencing and can further ill afford.

One firm was conspicuous by its absence at that meeting—the nation's largest securities dealer, Merrill Lynch. Either it is more concerned with self-interest (if the rule changes I would expect it would begin making an off-board market in listed securities), or it believes Charles E. Wilson's old saying that what's good for G.M. is good for the public and has applied it to Merrill Lynch, Pierce, Fenner & Smith Inc.

Where is the S.E.C. in all of this? As usual, in the forefront of advocacy. It feels that the most expeditious way to a national securities market is by breaking down the walls of the N.Y.S.E. Its recent proposals are designed to do this. Forgotten is the investor. The S.E.C. wants the public to get the best execution at the cheapest price and in a central market. The only problem is that every proposal it makes toward that end is backed by so little understanding that the net result is less efficient markets and higher costs to investors. Killing the auction market is a bad execution.

THE AMERICA WAY

HON. GUY VANDER JAGT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. VANDER JAGT. Mr. Speaker, yesterday I had the privilege of meeting and visiting with Mr. George C. Foerstner, president of the Amana Co., Amana, Iowa, manufacturers of appliances.

Mr. Foerstner left me with a very unique and an extremely interesting statement that he had just issued to all Amana employees. I want to take this opportunity to urge all my colleagues to read this very special memo which I am including with this brief statement. I hope, too, that President Carter and members of his administration will read it as well. And, more importantly, I would "adopt" the American way that Mr. Foerstner so well advocates. In light of the administration's present handling of the steel import difficulties, with thousands of American workers now or soon to be unemployed, it is doubtful that it would join in such a position. Nonetheless, perhaps they will be convinced that the Amana American way is the approach they should be considering rather than one of inaction.

Very briefly, Mr. Foerstner focuses on the serious difficulties confronting our steel industry and very logically suggests a good course of action.

He concluded his special employee memorandum by stating:

Amana's position is firm, too. We will continue to buy American steel exclusively, to help the U.S. economy and business remain strong.

Earlier in his memorandum he wrote relative to the Youngstown Steel shutdown:

This affects us at Amana in a variety of ways. We do a lot of business in Youngstown and other steel areas hit by layoffs and employee cutbacks. In addition to us not being able to buy their steel anymore, these people—who are jobless and with no income—can no longer be our customers. They don't have any money to buy Amana products.

I submit, Mr. Speaker, with many Members now joining the special steel caucus, that the administration not only heed Mr. Foerstner's logic but that they adopt it. It is the American way.

TO ALL AMANA EMPLOYEES

You've probably read or heard lately about the serious difficulties the steel industry is facing because of more and more foreign steel being purchased in the U.S.

In recent weeks, several steel companies have fallen victim to this increasing imported steel trend. For example, Youngstown Sheet & Tube Co. has discontinued plant operations, putting 5,000 employees out of work.

This affects us at Amana in a variety of ways. We do a lot of business in Youngstown and other steel areas hit by layoffs and employee cutbacks. In addition to us not being able to buy their steel anymore, these people—who are jobless and with no income—can no longer be our customers. They don't have any money to buy Amana products.

We've been in contact with Maytag Company and they have communicated a similar position to employees:

Import Woes. The steel industry, which employs about 417,000 people, is facing serious problems because of the rising tide of foreign steel being purchased in the U.S. Thousands of steel industry employees have found themselves out of work, plants have been closed, income is down and expansion plans have been halted.

Another problem is that an estimated 2.5 million Americans will buy foreign cars this year—a situation that hurts both the steel industry and one of its biggest customers, the auto industry.

Loss of business results in people being put out of work, and unemployment has an adverse effect on the nation's business climate. People without jobs don't have money to buy goods, like appliances and services.

Steel is the largest single raw material used by Maytag, and none is purchased from foreign companies. We buy steel from seven of the eight largest steel companies in the U.S.

Amana's position is firm, too. We will continue to buy American steel exclusively, to help the U.S. economy and business remain strong.

GEO. C. FOERSTNER,
President.

October 4, 1977.

THIS IS NO TIME TO SELL OUT ISRAEL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LENT. Mr. Speaker, I have been shocked and dismayed by this weekend's Soviet-American declaration on joint objectives for a full Arab-Israeli peace settlement, followed by public remarks of President Carter's chief foreign policy adviser, Zbigniew Brzezinski, of U.S. intentions to "exercise its leverage" to obtain a settlement. These two statements signal a further deterioration in the support of this administration for Israel's interests, and a major step toward the imposed settlement the United States has long promised it would never let happen. This shift has been hinted at numerous times by members of the administration, but it is now abundantly clear where the President stands on the Mideast situation, and those of us who have supported Israel in the past—and that includes most of the Members of this body—should be deeply concerned.

On June 5, 1976, the Presidential candidate Carter stated, "I do not believe that the road to peace can be found by United States-Soviet imposition of a settlement." Indeed, the joint declaration is not only at direct odds with this statement but also with the platform of Mr. Carter's own party, which stated that the imposition of an externally devised settlement of the Middle East conflict should be avoided.

Much more important, however, than Mr. Carter backing down on promises made in the heat of a Presidential campaign is the fact that this declaration violates a commitment which this Nation made to Israel on September 1, 1975, as a part of the Sinai disengagement agreement. At that time, and in exchange for Israel's return of the captured Abu Rudeis oilfields to Egypt, the United States promised Israel to "consult fully and seek to concert its positions and strategy at the Geneva peace conference" with respect to the PLO question. That same memorandum gave Israel the U.S. Government's assurance that it would not approve of any alteration of U.N. resolutions 242 and 338, which provide the framework for Mideast peace negotiations. These documents recognize the right of Israel to exist within secure borders and exclude the PLO as a party to negotiations. The U.S. Government has repeatedly given Israel assurances that these resolutions constitute the sole basis for the convening of a Geneva Conference.

The new United States-Soviet declaration, prepared in secret, and handed to Israel only 24 hours in advance of publication, makes no reference at all to resolutions 242 and 338. It clearly violates our pledge to Israel of "close consultations."

There are other broken promises to Israel:

First, the joint declaration calls for the "withdrawal of Israeli Armed Forces from territories occupied in 1967." This statement contravenes resolution 242, and takes on the meaning of requiring Israel to cede back all of the territory it occupied in 1967.

The thrust of this part of the joint initiative is that Israel will be required to make immediate concessions upon the promise that the Arab states will eventually seek normalized relations with Israel.

Second, the joint declaration calls for "insuring the legitimate rights of the Palestinian people." For years, this phrase has been a euphemism for the establishment of a Palestinian state under the domination of the PLO. The quoted language goes far beyond resolution 242, which speaks only of a "refugee problem," and presupposes a process Israel equates with its own destruction.

We continue to ignore the fact that Israel will not negotiate directly with the PLO, a terrorist organization which continues to take credit for acts of violence claiming many innocent Israeli lives. We continue to fail to make the distinction between the peaceful Palestinians whose situation cries out for settlement, and the PLO, which is dedicated not to peace but to Israel's destruction.

What is additionally puzzling is why the U.S. Government has taken this opportunity to enhance the influence of the Soviet Union in the Middle East. During the Ford administration, the role of the Soviets in the Middle East had been steadily declining as U.S. influence was on the rise. By our joining the Soviet Union in the joint declaration, we have succeeded in putting the Russians back into a position of influence where they will have increased opportunity to promote goals they have long favored and the United States has long opposed.

The Ford administration was roundly criticized for its policy of détente, because many people felt we were giving away too much to the Soviet Union. On the face of it, this Soviet-U.S. declaration represents a sellout of major proportions. Perhaps the President or Secretary of State could explain it. I, for one, wish they would.

Mr. Speaker, to be blunt, the Carter administration almost destroyed a chance for peace in the Middle East. We have truly backed Israel against a wall, exhausting its options and imposing unacceptable conditions. We should not be surprised if Israel never goes to Geneva. Worse, we have let down one of our oldest and truest allies in the world, and we have done so in a callous and deplorable way—by broken promises. I hope that President Carter will take the opportunity presented by the convening of the United Nations to reaffirm the commitment of the United States to the principles embodied in U.N. resolution 242.

RESOLUTION TO IMPEACH ANDREW YOUNG

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. McDONALD. Mr. Speaker, in order to clarify just what the resolution, House Resolution 805, introduced yesterday on Andrew Young says and does not say, I am today placing the entire text in the RECORD in order that no misunderstandings may arise. House Resolution 805 clearly sets forth why Ambassador Young does not and should not represent the United States in the United Nations or in any other diplomatic capacity. This is not a personal matter with me, but a matter of representing the United States, its principles and its best interests. It is my hope that those in the House, who agree with what is said in the resolution will join me in this effort and cosponsor this effort. The resolution and the list of cosponsors follows:

H. RES. 805

Whereas, the U.S. Ambassador to the United Nations has declined to oppose the admission of communist Viet Nam to the United Nations; and

Whereas, the U.S. Ambassador to the United Nations has sought to transfer the governing power in anti-communist Rhodesia to the pro-Marxist guerrilla coalition which calls itself the "Patriotic Front"; and

Whereas, the U.S. Ambassador to the United Nations has, while on official diplomatic business in the anti-communist nation of South Africa encouraged persons in that country to undertake economic boycotts; and

Whereas, the U.S. Ambassador to the United Nations has pledged to increase U.S. taxpayer funding for the Marxist government of Guyana from the current $1.1 million to $12.3 million over the next three years; and

Whereas, the U.S. Ambassador to the United Nations has characterized two recent Presidents of the United States, Gerald Ford and Richard Nixon, as racists; and

Whereas, the U.S. Ambassador to the United Nations has condoned the presence of communist troops in Africa from Castro's Cuba, as a "stabilizing force"; and

Whereas, the U.S. Ambassador to the United Nations has forecast that racial conflict in the United States would be predicated on events in Africa; and

Whereas, the U.S. Ambassador to the United Nations declared in Playboy Magazine that Alabama Governor George Wallace formerly, "was advocating bombings—of Black folks"; and

Whereas, the U.S. Ambassador to the United Nations has said, "It may take the destruction of Western Civilization to allow the rest of the world to emerge as a free and brotherly society"; and

Whereas, the U.S. Ambassador to the United Nations has harbored in his home members of the family of Robert Sobukwe, leader of the Communist-terrorist Pan Africanist Congress; and

Whereas, the U.S. Ambassador to the United Nations has said that the decent and democratic state of Israel must negotiate with the international terrorists of the Palestine Liberation Organization; and

Whereas, the U.S. Ambassador to the United Nations served as co-sponsor to the Communist Party promoted "National Coalition to Fight Inflation and Unemployment"; and

Whereas, the U.S. Ambassador to the United Nations has accused our British Allies of "inventing racism"; and

Whereas, the U.S. Ambassador to the United Nations has criticized the people of Sweden as "terrible racists"; and

Whereas, the U.S Ambassador to the United Nations has averred that Black American soldiers would not be willing to fight African Communist Forces if called upon to do so; and

Whereas, the U.S. Ambassador to the United Nations has stated "Communism has never been a threat to me"; and

Whereas, the U.S. Ambassador to the United Nations supported the action of his aide, Brady Tyson, who used his official position on the U.N. delegation as a platform for denouncing U.S. opposition to the Marxist Regime of Salvatore Allende; and

Whereas, the U.S. Ambassador to the United Nations actively supported the appropriation of a $100 million fund to assist a transition to Marxist rule in Africa; by supporting Red Forces in Tanzania, Mozambique, and Angola; and

Whereas, prior to his appointment, the present U.S. Ambassador to the United Nations, as a member of the "Gulf Boycott Coalition" evidenced his active support for a Marxist victory in Angola and worked for the election of Angela Davis and other avowed Communists to the Board of the Gulf Oil Corporation; and

Whereas, prior to his appointment, the present U.S. Ambassador to the United Nations, in 1975, was a co-sponsor of the Communist Party-backed second National Conference in Solidarity with Chile; and

Whereas, the U.S. Ambassador to the United Nations has worked to increase U.S. taxpayer subsidies to the Castroite Marxist Regime in Jamiaca;

Whereas, The sponsors of the resolution manifest deep concern regarding the performance of United Nations Ambassador Andrew Young and convey their lack of trust and confidence in his fitness to continue in that positions: Now, therefore, be it

Resolved, That—

(a) he shall be impeached under Article II, Section 4, of the United States Constitution.

ROCKVILLE: A THREE-TIME WINNER

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. STEERS. Mr. Speaker, I would like to bring to the attention of my colleagues Rockville, Md., an All-American City.

Founded in 1860, and located just 12 miles from Washington, D.C., Rockville was named an All-American City for 1976–77 by the National Municipal League. Cited for citizen involvement in community programs, this is the third

time Rockville has achieved this distinction in the 29-year history of this competition. Only two other cities—Worcester, Mass., and Philadelphia, Pa.—have received this award three times.

I would like to take this opportunity to salute the citizens of Rockville for their community spirit and to congratulate them for their achievements. I include an article from Municipal Maryland, July 1977, "Rockville: A Three-Time Winner," by Sue Patterson, Rockville public information officer:

ROCKVILLE: A THREE-TIME WINNER

(By Sue Patterson)

Citizen involvement in community development is a major reason why Rockville has maintained its sense of community and identity in spite of its location only 12 miles from the nation's capital and in spite of the mobility of its population.

It is also why Rockville was named an All-America City for 1976–77 by the National Municipal League (NML). A winner in 1954 and 1961, Rockville now joins only two other cities—Philadelphia and Worcester, Massachusetts—that have been named All-America Cities three times in the 29-year history of the competition.

Rockville was cited specifically by the NML for its citizen involvement program, ranging from publication of its bi-weekly newsletter delivered to all City households to development of citizen ad hoc task forces; for organization of a beautification awards program and initiation of the Bicentennial Wave a Flag with Flowers project, and for citizen-set priorities for the Community Development Block Grant program.

To celebrate winning the All-America City Award, almost 5,000 community residents participated in All-America City Day on May 1. Planned as a day for family renewal and community rededication, the event, which was sponsored by the City government, included a wide range of activities and events aimed toward all age groups. The formal ceremony of the event was the presentation of the All-America City Award to Rockville by Franklin P. Hall, member of the NML Board of Directors, and an ecumenical blessing of the City and its people composed by local religious leaders.

In a telegram to Rockville Mayor William E. Hanna, Jr., President Jimmy Carter commended the City for winning the award and noted that Rockville's "exemplary spirit as a community working together to solve common problems serves as an inspiration for all the cities of our nation."

According to Mayor Hanna, Rockville is a three-time winner of the All-America City Award because of "the successful blending by Rockville residents of such 'old-fashioned' concepts as sense of community, concern for one's neighbors, and civic responsibility to meet the diverse needs and goals of contemporary citizens."

Rockville's population of nearly 50,000 is a healthy mix of varied income levels, age groups, and races. Its people include long-time residents as well as many newcomers who arrive in the area for jobs with the federal government or new research and development industries. The City's neighborhoods reflect this diversity. They include streets with Victorian structures that have put Rockville in the National Register of Historic Place, high-rise apartments, contemporary developments, moderately-priced homes, and public housing.

It is citizen involvement that pulls these diverse elements together, that makes Rockville a community. The City's 18 citizen boards and commissions advise the Mayor and Council on important issues covering not only the traditional functions such as human rights, planning, and zoning, but also encompassing such functional service areas as traffic and transportation, senior citizens, recreation and parks, and economic development. Citizen ad hoc task forces have been established to provide initiative in such areas as the Bicentennial Year, energy, and alternative community service for first offenders. To ensure that the volunteer commissioners represent all segments of the community, openings on these bodies are widely publicized and members actively recruited.

Many residents also work as volunteers in a variety of City programs; their contributions range from physician services for the Rockville Free Clinic to assisting swim team instructors.

In Rockville, citizen involvement in City programs is only one of many facets of activism. Concern for the community starts at the grass roots, with the 24 civic associations that monitor their neighborhoods and inform City Hall of their needs and concerns. Another major resource for community participation in Rockville is its business community. In addition to working with the City to attract desirable new business and development to Rockville, the 450-member Chamber of Commerce is represented on the Economic Development Commission and annually sponsors an outing for senior citizens, provides prizes for a golf tournament, and publishes a Community Guide.

Rockville's Community Development Block Grant program is its major effort to preserve residential areas. The program includes code enforcement, low interest loans and grants for home improvements and historic preservation, and public improvement projects in target areas. When Rockville was awarded more than $6 million in federal funds for this program, it was natural that spending priorities be developed through a process of intensive citizen involvement. Projects were selected by area residents and their recommendations presented by neighborhood spokespersons before the Mayor and Council. All final citizen recommendations have been approved by the City, demonstrating that citizen participation in Rockville has a real impact.

Winning the 1976–77 All-America City Award is bringing both local and national recognition to Rockville for its accomplishments. In addition to coverage by area weekly and daily newspapers and radio and television stations, Rockville was the subject of articles in Southern Living magazine and NML's National Civic Review, a tabloid put out by the Montgomery County Sentinel and a special "7:30 Live" television program produced by a Washington metropolitan area television station.

Rockville's active citizenry will continue to be its strongest asset in maintaining community identity, solving community problems, and initiating community-wide activities. To cope both with the mobility of its population and the sense of rootlessness that is affecting much of the nation's population, Rockville works hard to offer a sense of "place" and "neighborhood." Long-time residents help newcomers to establish roots of their own, and all newcomers to the City now receive a "Welcome to Rockville" packet which includes information which eases transition into the community.

These are important steps toward drawing new residents into Rockville's community life, into becoming citizen activists. In this way, the Rockville experience can be passed on to succeeding generations.

A BILL TO IMPROVE OUR BALANCE-OF-TRADE DEFICIT

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. JENRETTE. Mr. Speaker, today I am introducing a very simple bill which could have enormous effects toward improving our country's balance-of-trade deficit and at the same time, stimulate trade and commerce among the average American producer.

The Webb-Pomerene Export Trade Act, enacted in 1918, provides a limited exemption from the antitrust prohibitions of the Sherman Act for cooperative export by U.S. producers to foreign markets through export trade associations. In practice, these associations are alternately described as "Webb-Pomerene Associations," "Webb Associations," or "ETA's." The act exempts export associations "entered into for the sole purpose of engaging in export trade and actually solely engaged in such export trade" from the prohibitions of the Sherman Act, provided that the association's acts are not "in restraint of trade within the United States" or "in restraint of the export trade of any domestic competitor of such association." The act contains the further provision that the association shall not enter into any agreement or understanding to do anything which "artificially or intentionally enhances or depresses" prices within the United States or "otherwise restrains trade therein."

The Webb-Pomerene Act was enacted because Congress believed an exemption was necessary to allow American exporters, particularly smaller companies, to meet foreign competitors on equal terms in international commerce. Congress felt that American firms needed the power to form joint export associations in order to compete with foreign cartels. The act was intended to help American firms compete in foreign markets by allowing the formation of selling organizations large enough to exact fair prices from foreign buying cartels and by allowing smaller firms to compete with foreign firms and selling cartels by permitting them to join together in an association for export purposes.

The Webb-Pomerene Act provides limited exemptions from both the Sherman Act and the Clayton Act. The Sherman Act prohibits contracts, combinations, and conspiracies that cause an unreasonable restraint of trade. The Sherman Act applies to foreign commerce, but the Webb-Pomerene Act enables companies to combine their export activities while keeping their domestic activities separate. The Clayton Act restricts mergers, but the Webb-Pomerene Act exempts export marketing organizations from these restrictions.

A Webb-Pomerene Association is permitted to engage in a number of restrictive practices that would otherwise violate the antitrust laws. The impact of the Webb-Pomerene Act is therefore to enable American companies to increase export profits through raising prices and reducing costs.

Webb-Pomerene associations are allowed to fix prices and other terms of sale—delivery, insurance, and credit. This authorization applies to all members of the association, but not to nonmembers. Consequently, it is advantageous to have a large portion of an industry included in a Webb-Pomerene association.

The provisions of the Webb-Pomerene

Act that I am concerned with here today are in the fifth section of the act and relate to the administration of the act itself.

The Federal Trade Commission under section 5 is permitted to conduct investigations into alleged misconduct and, if it appears the Webb-Pomerene provisions have been violated, recommendations may be issued. If the Webb-Pomerene association fails to comply with these recommendations, the Commission can refer its finding to the Attorney General for further action. In addition, the Commission has the powers given it by the Federal Trade Commission Act for enforcing the export trade provisions. Since 1944, the Justice Department has also exercised concurrent jurisdiction over Webb-Pomerene associations.

The Webb-Pomerene Act gives the Federal Trade Commission jurisdiction to enforce its provisions although that jurisdiction does not now preclude independent actions by the Department of Justice. It is this concurrent jurisdiction that has frightened off the potential member from forming a Webb association and entering into the export trade business. The fear of treble damages and intimidation in court by the Justice Department is too great a burden for the average businessman to overcome.

It is the purpose of my bill therefore to eliminate the concurrent jurisdiction of the Justice Department in regards to Webb-Pomerene associations by prohibiting action by the Justice Department unless the Federal Trade Commission has given such association a reasonable opportunity to readjust their position to comply with applicable law.

With the passage of this bill, I hope to see the reluctance of American businessmen, farmers, and manufacturers to enter into the export market disappear and the cost-cutting advantages of the Webb-Pomerene Act become available to members of Webb associations. This would stimulate the growth of foreign commerce and assure a more favorable balance of trade. Public awareness of a means available to them for entering the export market is necessary along with certain incentives for investment in foreign markets if our balance of trade is to ever return to a normal flow.

I insert a copy of my bill to be printed in the Extensions of Remarks:

H.R. —

A bill to prohibit actions under certain antitrust laws against associations engaged in the export trade unless the Federal Trade Commission has given such associations a reasonable opportunity to readjust their business to comply with applicable law

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second full paragraph of section 5 of the Act entitled "An Act to promote export trade, and for other purposes" (15 U.S.C. 65) is amended by adding at the end thereof the following new sentence: "No action may be instituted under section 4, 4A, or 4C of the Clayton Act or under section 1 or 2 of the Sherman Act against any association of persons engaged solely in the export trade unless the Federal Trade Commission has made recommendations under this paragraph to such association for the readjustment of its business and has given such association a reasonable opportunity to comply with such recommendations.".

VETERANS RIGHTS IN FEDERAL EMPLOYMENT

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. O'BRIEN. Mr. Speaker, the legal right of American veterans to preference in Federal employment is again under attack. A most cogent and thorough discussion of this issue was presented to the House Subcommittee on Civil Service today by the American Legion. Speaking for the Legion was Mr. Al Keller of Kankakee, Ill., the chairman of the National Economic Commission of the American Legion.

Al Keller is especially well qualified to discuss the veterans preference rules that have been in effect since as far back as the end of the Civil War.

Al Keller is a past Illinois State commander of the Legion and has served as commander of Legion Post 85 in Kankakee. Mr. Keller is the administrative assistant to the Kankakee County board of supervisors and serves on the Kankakee city council as the alderman for the sixth ward.

I commend Mr. Keller's statement and resolution by executive committee of the American Legion to the attention of my colleagues:

STATEMENT OF AL KELLER, JR.

Mr. Chairman and Members of the Subcommittee:

My name is Al Keller, Jr., and I am Chairman of the National Economic Commission of the American Legion. On behalf of the 2.7 million members of The American Legion, I am pleased to have this opportunity to express the views of the Legion in connection with these oversight hearings on veterans preference in Federal employment.

Veterans preference in Federal employment dates back to 1865, when Congress passed legislation giving special consideration to disabled war veterans. In 1919 preference in connection with appointments in the classified service was extended to all honorably discharged veterans. In 1921 an Executive Order established "Reduction in Force" preference for "honorably discharged soldiers and sailors whose ratings were good." Another Executive Order two years later added 10 points to civil service examination source for disabled veterans and 5 points to honorably discharged nondisabled veterans. In 1944 the Veterans Preference Act, which was strongly supported by The American Legion, was passed by Congress with only one dissenting vote and has since been the basic Federal law regarding veterans' preference benefits in Federal Employment. A 1953 amendment to the Act enabled veterans sufficiently disabled to receive disability compensation to "float to the top" of civil service registers.

Congress, impelled by the high unemployment of Vietnam era veterans, has passed various measures to help them find employment in the private sector. Currently the administration is engaged in a three-point employment program to help Vietnam and disabled veterans find private employment or be placed in public service jobs or training programs under the Comprehensive Employment and Training Act of 1973 (CETA). Outside of amending the Veterans Preference Act to establish eligibility only for periods of conflict, Congress left the Act untouched. Only two Congressional mandates have been directed to encourage Federal employment of the most recent veterans, those of Vietnam, and these are not part of the Veterans Preference Act. The "Vietnam Era Veterans Readjustment Assistance Act of 1974" put into statute earlier measures by Executive Orders to provide special provisions for certain Vietnam era veterans who, it was believed, could not qualify for Federal employment under the regular merit system, to expire June 30, 1978, and also directed that affirmative action plans of Federal department and agencies for the hiring, placement, and advancement of handicapped individuals as required by concurrent legislation, should include a separate specification of plans to carry out such affirmative action for disabled veterans and Vietnam era veterans. The rate of hiring disabled veterans in both the private sector and the Federal government is disgraceful, and we believe much more effective action is necessary.

The American Legion's position on veterans' preference is that it should be restricted to those who serve in wartime, in peacetime campaigns, or in expeditions for which campaign badges or service badges have been authorized. This mandate justified the Legion's support for the elimination of veterans' preference for those entering the armed forces after 14 October 1976. The American Legion has in an oversight capacity opposed abuse of veterans' preference benefits by veterans themselves. As an example, in 1928 The American Legion was represented on a panel headed by the President of the U.S. Civil Service Commission, which recommended that 10-point preference be granted only when officially established by records of the armed services.

Mr. Chairman, as you are well aware, the very concept of special preference for veterans has come under attack from certain organizations. The Civil Service Commission's attitude was expressed in a recent "option paper.": ". . . Veterans' preference in the Federal Government unduly restricts management's flexibility to choose from among the best qualified candidates in filling jobs; introduces nonjob-related factors into the employment and retention process; has an adverse impact on certain groups, especially women; and impedes good personnel management practices." It also claims that "veterans' preference is perhaps the most extreme inhibitor of diversity within the Federal work force."

The American Legion takes exception to those conclusions.

First of all, we believe that it is necessary to bring certain aspects of the problem into perspective. A statistic often quoted by the Chairman of the Civil Service Commission is that "veterans comprise over 50 percent of the Federal service but only 22 percent of the total work force." That is simply not true. There are nearly 30 million veterans in this country, about 26 million of whom are employed, and at least 24 million of them full-time. The "total work force" includes members of the armed forces, both the employed and the unemployed, and full-time, part-time, and seasonal employees. The employed civilian work force amounts to about 85 million—51 million men and 34 million women. However, only about 70 percent of the men—about 36 million, are employed full-time the year around, and only 42 percent of the women—a little more than 14 million—fall in that category. Thus in terms of full-time employment, the only meaningful comparison to Federal employment, veterans account for nearly half of the national work force, which is approximately equal to the ratio of veterans in Federal service.

Another matter that should be put into perspective is how veterans are distributed within the Federal Government, for to say

that "veterans comprise over 50 percent of the Federal service" may give the impression that that ratio holds true "across the board." In fact, more than 75 percent of the veterans employed in the Government are employed by three agencies: the Department of Defense (DOD), the United States Postal Service, and the Veterans Administration. DOD, which employs 560,000 veterans—40 percent of the total—includes many military-oriented positions for which those with specialized military training and experience have a clear competitive edge over non-veteran job applicants, and employs more than 70 percent of the Government's 500,000 "blue collar" workers, almost all of whom are male and in many instances happen to be veterans. Although the Civil Service Commission claims that "veterans' preference . . . is not a job-related criterion," in the case of the DOD it clearly is.

The Postal Service employs 420,000 veterans, 30 percent of the total. Because of the nature of postal work, the Postal Service has not appealed to women as a career, so it is 85 percent male. Thus it is not surprising that 60 percent of its 680,000 employees are veterans. Finally, the VA employs about 88,000 veterans, about 40 percent of its 220,000 employees and 6 percent of all veterans employed in the Federal Service. Although the VA is hardly looked upon as a private preserve of veterans, as in the case of the DOD, prior military service is often a "job-related criterion."

Veterans thus account for only 37 percent of the Federal jobs outside those three organizations. That is a significant figure, but it is considerably lower than the ratio of veterans in the full-time national work force.

We should also mention a few salient facts about the employment of women and minorities in the Federal Government. Minorities, who account for about 15 percent of the nation's population, hold about 20 percent of all Federal jobs. Women hold nearly 35 percent of all Government jobs and more than 40 percent of the General Schedule jobs. That is lower than the ratio of women to the total population, but is significantly above the 20 percent of the full-time, year-round jobs they hold in the civilian work force, which includes Federal employment. In 1975, minorities held 28 percent of the Federal jobs at the GS 1–4 level; 22 percent of the jobs at the GS 5–8 level; and nearly 12 percent of the jobs at the GS 9–11 level. Women accounted for more than 65 percent of the GS 1–7 "white collar" jobs and 25.5 percent of the GS 7–12 "white collar" jobs.

In terms of total employment and the lower and lower-middle grade levels, minorities and women are reasonably well represented and, as the Civil Service Commission acknowledges, in some respects overrepresented. It is the upper-middle and upper grade levels, GS–12 and above, that are of most concern to the Civil Service Commission. It points out the fact that "veterans account for over 60 percent of those Federal employees in grades 15 and above" and that "The percentage of 5-point veterans grows rapidly as one goes up the grade and pay scale, reaching almost 65 percent of the GS 16's."

Once again, we believe that everything should be put in perspective. First, the great majority of people in the upper grade levels have more than 10 years of seniority on the job. Due to various socio-economic factors, there has traditionally been a higher turnover rate among female Federal employees than among males. Only 21 percent of the Federal employees with 10 years or more than 20 years of service are female. Most of the veterans in those positions are World War II and Korean War veterans who have many years of continuous service. Second, more than 60 percent of the Federal employees at the GS–15 level and above hold advanced degrees. Despite progress made by women in recent years, there is still a great disparity between males and females with regard to graduate education; the male-female ratio among those with more than four years of college is 2.5 to 1. That ratio is even higher in such Government-related fields as law, physical and life sciences, business administration and management, economics, and engineering. As recently as 1974 women earned only 6 percent of the 34,000 advanced degrees awarded in the business and management fields. In 1955 women earned only 3.5 percent of the law degrees conferred, and that ratio had increased to only 8 percent by 1973. The educational disparity between the majority and the minorities is even greater. Third, it should be pointed out that veterans' preference does not apply to promotions.

In fact, the dominance of males and thus veterans at the higher levels of the Government is reflected in our society as a whole. Some 65 percent of our Senators are veterans, as are 80 percent of the members of the House of Representatives. Two-thirds of the members of President Carter's Cabinet are veterans. In all probability, an analysis of the higher levels of most professional groups would show a preponderance of males and veterans. To say this is not to express approval or disapproval of domination by males and veterans in our society and Government, but to point out that it would be inaccurate to blame that situation on veterans' preference.

The General Accounting Office, we understand, in a recent report on the Federal government's equal employment opportunity program, pointed out that scarcity of women and minorities in some occupations and competition from private industry make it difficult to attract women and minorities.

The General Accounting Office report, of September 29, 1977, on the effect of veterans' preference on the hiring of women, concludes that veterans' preference does diminish employment of women since they seldom have veterans status. The main difficulty is because veterans are scoring too high on the examinations, and the addition of the five points puts them over other qualified persons. Some agencies reported all-, or nearly all-veteran registers. If the goal is hiring qualified persons, the present method of veterans' preference is successful. It is possible that some agencies are using veterans' preference as a scapegoat for not hiring more women. Certainly, the questionable procedures given as a way to bypass veterans on the registers in order to hire women are the same methods agencies have been using for years, although not for the purpose of hiring women. When asked why their hiring of veterans was low, most of the Federal agencies responded that most of their jobs were predominantly female oriented or too technical and professional for veterans.

Veterans are accused of being selected for jobs in the middle-level area out of proportion to qualified women. However, upon analyzing the statistics provided, its obvious that the real disparity is between nonveterans and veterans; nonveterans, both male and female, received 71 percent of the jobs, leaving 29 percent to the veterans. Some of the veterans' preference eligibles, of course, were women.

I believe I have shown that the Veterans Preference Act, in recognizing the debt this country owes its war veterans, has not harmed the employment of other qualified persons. There is no doubt that veterans' preference restricted management's flexibility; it was the *intention* of Congress to encourage Federal employment of qualified war veterans. Veterans' preference, as a "job-related criteria," is a recognition that it is for service to the country from which the preference flows. By not escalating an ending date, Congress also acknowledged that war veteran status never ceases. The impact of the experiences, the memories, never go away.

The American Legion would not only like to express its opposition to any alteration of veterans' preference benefits, except for limiting them to wartime veterans, but would also like to take advantage of this opportunity to point out the fact that veterans' preference laws already on the books are being increasingly ignored or circumvented. Over the past three years there has been a 4 percent decrease in veteran employment. During the last half of 1975, 43 percent of the new hires were women and veterans' preference appointments—including the women who used it—amounted to only 25 percent, with only 2.6 percent of the appointments going to disabled veterans. We have requested Civil Service statistics regarding the frequency at which it has permitted Federal agencies to "bypass" eligible veterans on Civil Service registers during the past several years, but have not yet received that information.

The Veterans Preference Act provides that selection for job vacancies shall be made from the three highest names on a certificate of eligibles. It is being recommended that this requirement be changed to achieve greater "flexibility." Such enlargement of the pool of eligibles would nullify the concept of selection of the basis of job-related qualifications; selections could be made of persons far down on the scale on the basis of whatever preference was currently fashionable. The American Legion has a specific resolution opposing any change in this "rule of three" which I am attaching to this statement.

Another instance of evasion of the Veterans Preference Act is the situation in the United States Postal Service in which the Civil Service Commission has not exercised the enforcement authority of the Act to stop the Postal Service from using a so-called "realignment" procedure which the Civil Service Commission itself had earlier recognized as a reorganization to which reduction-in-force procedures should apply. Another is the widespread use of contracting out of custodial and protective services which by law are to be restricted to veterans' preference eligibles as long as such applicants are available.

Still another is the Civil Service Commission extension—its third—to the Department of Defense of a waiver from veterans' preference in overseas hiring. I believe the Subcommittee is aware, also, of the widespread circumvention of veterans' preference in both hiring and retention rights in various Federal agencies.

I am attaching a copy of our Resolution No. 220 adopted at our National Convention in August. The American Legion pledges to strenuously oppose any and all attempts to weaken or reduce veterans rights or benefits in federal employment as provided in title 5, United States Code.

It has been traditional philosophy in this country, and in The American Legion, that, "those who were preferred to serve their Nation in the armed forces in time of war should be preferred to serve their Nation in a civilian capacity when qualified." Removal of this preference is a matter that goes beyond any question of "flexibility," greater employment of other groups, or like concerns. It is really a question of whether this is a country that feels free, in time of national emergency, to call upon its very best to serve in its armed forces and face death, injury, disruption of normal life, and all the other conditions of that service, and then for the country to discard them as veterans, to announce they must compete "as equals" against all nonveterans, except for such nonveterans as may be given preference in recruiting, examination and selection. Right now we have no need for an emergency armed service, but if the need arises, the response will be forthcoming. However, the law should be there, needing only a slight amendment on qualifying dates of service, to acknowledge that the Nation that calls for sacrifice will also hire its veterans when qualified.

In conclusion, we believe that President Franklin Delano Roosevelt's endorsement of the Veterans Preference Act of 1944 is still appropriate today: "I believe that the Federal Government, functioning in its capacity as an employer, should take the lead in assuring those who are in the armed forces that when they return special consideration will be given them in their efforts to obtain employment. It is absolutely impossible to take millions of our young men out of their normal pursuits for the purpose of fighting to preserve the Nation, and then expect them to resume their normal activities without having any special consideration shown them."

Thank you for this opportunity to appear here today and express the views of The American Legion on this matter, which we see to be of equal importance to all war veterans and to the Federal merit system.

[National Executive Committee of the American Legion]

RESOLUTION NO. 28

OPPOSE ANY EXPANSION IN THE PRESENT "RULE OF THREE" IN FEDERAL CIVIL SERVICE

Whereas, The Veterans' Preference Act, now codified under title 5, United States Code, and the Civil Service Rules and regulations relating thereto, provided that when an appointing officer is to fill a vacancy by appointment of persons who have qualified through Civil Service examination, he shall ask for, and the Civil Service Commission shall certify from the top of the appropriate register of eligibles, a number of names sufficient to permit the nominating or appointing officer to consider at least three names in connection with each vacancy; and

Whereas, The nominating or appointing officer shall make selection for each vacancy from not more than the three highest names available for appointment on such certificate of eligibles, a method known as the "rule of three;" and

Whereas, There have been in the past, and continue to be from time to time, efforts to expand this "rule of three" into a system which would require a greater number of names, with suggestions ranging from four to as many as fifteen, to be provided from the appropriate register of eligibles; and

Whereas, The "rule of three" provides a selecting official with a discretionary choice among the top-rated applicants; and

Whereas, Expansion of the number of applicants to be considered would create untenable administrative burdens, such as increasing the number of applicants to be interviewed and evaluated and thereby increasing the length of time necessary to fill vacancies; and

Whereas, An increase in the number of applicants to be submitted to appointing officers would also nullify the concept of selection from those applicants most qualified, and would increase the possibility of selection on the basis of factors irrelevant to merit; and

Whereas, It has been traditional American Legion philosophy that "those who were preferred to serve their Nation in the armed forces in time of war should be preferred to serve their Nation in a civilian capacity when qualified;" and

Whereas, In line with that philosophy, The American Legion supports the system of veterans' preference, as set forth in Title 5, United States Code, as an integral part of the Federal merit system, with the result that an action that damages the merit system also weakens and might destroy the present system of veterans' preference; now therefore be it

Resolved, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 4–5, 1977, that The American Legion strenuously oppose any expansion in the present "rule of three" system as stipulated in the Veterans' Preference Act of 1944, as amended and codified under Title 5, United States Code, and rules and regulations of the Civil Service Commission, which require the nominating or appointing officer to make selection for each vacancy from not more than the highest three names available for appointment on a certificate of eligibles.

TWO LAETRILE SUCCESS STORIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. McDONALD. Mr. Speaker, in recent months there have appeared a series of news stories relative to the possible harm of using laetrile. They have appeared to be in response to the nationwide drive to legalize the use of laetrile in the various States. And, of course, it is certainly true that no two people may react alike to the same substance, be it aspirin, penicillin or laetrile. However, that does not prove it should not be on the market, nor that it is useless. Laetrile, when properly used, is helpful in cancer cases. In that connection, I wish to call the attention of my colleagues to two recent success stories from the Rome (Ga.) News-Tribune of September 21, 1977, and the Register (of Santa Ana, Calif.) for September 7, 1977. The two items follow:

[From the Register, Sept. 7, 1977]

IN TESTS ON MICE—LAETRILE TRIGGERS CANCER REMISSIONS

CHICAGO.—A team of scientists at Loyola University here has succeeded in triggering a complete remission of breast cancer in laboratory experiments with mice by the use of Laetrile.

A formal announcement of the breakthrough and a complete outline, step by step, of the experimental procedure will be made here Saturday at the National Health Federation's annual convention by Dr. Harold Manner, 52, who headed the scientific team.

Dr. Manner is chairman of the Biology Department at Loyola University. The team members are five graduate students in Dr. Manner's department.

"We have been working with Laetrile for 4½ years," Dr. Manner said. "The first three years we spent in a low-profile investigation, covering the basic mechanisms of Laetrile—determining if it is toxic or not, where does it break down in the body, etc.

"We published our findings on toxicity in the Science of Biology Journal, and the enzyme data in the Missouri and the Illinois journals of science.

"We then duplicated the National Cancer Institute and the Sloan-Kettering Institute work on testing Laetrile, and came up with the same results as these two groups had determined, namely Laetrile (by itself) has no value in treating cancer.

"I gathered my five graduate assistants together and we evaluated our work.

"We decided that we were looking at the entire Laetrile question in the wrong light in a completely different light than we should.

"Let's consider cancer a nutritional disease . . . a nutritional deficiency disease . . . and see what Laetrile can do when applied in this light," we said.

Dr. Manner said the U.S. government has declared cancer to be a nutritional deficiency disease.

"So we began adding a lot of different things to Laetrile, such as vitamins and enzymes, and the results began to get better, but still not good enough.

"So we began experimenting with different combinations of enzymes and vitamins with Laetrile, and about 4½ months ago things really look off. "We were getting a complete remission of breast cancer.

"We didn't want to come out with our results at that time, so we repeated our experimental procedures a second time, and then repeated them a third time . . . with the same results each time.

"We knew, then, that our work can be reproduced," Dr. Manner said.

"I wish to make one point crystal clear," Dr. Manner said.

"I am in complete agreement with the rest of the science community on the necessity for reproductability of scientific results.

"Experimental data means nothing until some other experimental group or laboratory team repeats the original experiments and gets the same results.

"We want our experiments to be verified. That is why we are going to release a step-by-step outline of what we did.

"We know some other group will repeat our procedures and will validate our work."

[From the Rome News-Tribune, Sept. 21, 1977]

PATIENT IMPROVES AFTER TREATMENT WITH LAETRILE

TOPEKA, Kan. (UPI).—Harry Walker, who had been confined to a wheelchair with terminal lung cancer, walked unaided Tuesday to the surprise of his physician who had reluctantly consented to Walker's wish to try Laetrile treatment.

"This morning when I came into the hospital—at quarter to seven—he came down the hall, trotting," said Dr. Sidney Cohen. "He scared me to death."

Last week Walker, 43, was confined to a wheelchair when he met with reporters. He and Cohen said he could not walk. The giant tumor on the front of his right shoulder had not responded to radiation or chemical therapy.

Since then he has received five shots of the controversial cancer drug Laetrile, one each day since Friday. Cohen, who became involved in the Laetrile issue reluctantly at Walker's urging, said he still does not believe in Laetrile, but admitted his patient's improvement has been remarkable.

Even Walker said he doesn't know if the drug—an extract of apricot pits banned by the Food and Drug Administration—works.

"I believe something is helping me," said Walker. "I believe something is helping me tremendously. I don't know whether it's Laetrile, whether it's physical, psychological, or faith in the doctors or in the good Lord."

". . . or Harry Walker," Cohen added.

Whatever is causing it, Walker of Rossville, Kan., feels better. Wearing street clothes and sitting at a desk, Walker shook slightly from nervousness. He said he had less pain, was using fewer pain killers, and was sleeping better. He said he did not expect to be fully cured by the controversial drug, but only hoped to keep his condition from becoming worse.

Cohen said the improvement in Walker's condition has caused him to change his prediction that Walker had only two weeks to live.

"I didn't think it was possible," the doctor said.

ABRAHAM L. KAMINSTEIN

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KASTENMEIER. Mr. Speaker, on September 14 I engaged in the sad duty of informing my colleagues about the recent death of Abraham L. Kaminstein, former U.S. Register of Copyrights. At this time I would like to share with the House several letters which I have received from representatives of organizations among whose members Abraham Kaminstein spent his professional life.

The letters follow:

ASSOCIATION OF AMERICAN PUBLISHERS, INC.,
Washington, D.C., September 15, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: I am writing on behalf of myself and the Association of American Publishers to express our feelings of loss over the death of Abraham L. Kaminstein, former Register of Copyrights.

Mr. Kaminstein was dedicated to the principles of copyright and made a significant contribution to beginning the revision efforts. Much of his drafting and work are reflected in the new copyright law of 1976. Mr. Kaminstein was an outstanding Register and he will be greatly missed.

Sincerely,

TOWNSEND HOOPES.

THE AUTHORS LEAGUE OF AMERICA, INC.,
New York, N.Y., September 14, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, Washington, D.C.

DEAR CHAIRMAN KASTENMEIER: Abraham L. Kaminstein, who died on September 10th, was a dedicated public servant and distinguished copyright expert who played a significant part in the creation of the 1976 Copyright Revision Act, by far the most important statute Congress has enacted to allow and encourage the production of literary, dramatic, musical, and artistic works by American authors.

The Authors League, on behalf of thousands of professional writers and dramatists, takes this opportunity of expressing to the Congress, through you, its sorrow at Mr. Kaminstein's passing, and its appreciation of his efforts to maintain effective protection for the rights of authors, composers, and artists.

As Register of Copyrights, during most of the decade in which Congress worked to fashion the new Copyright Act, Mr. Kaminstein labored mightily in this cause. Under his guidance, the Copyright Office produced multi-volumed studies of copyright law, held numerous hearings, prepared drafts of the complex Revision Bill, and frequently gave testimony before your Subcommittee.

Mr. Kaminstein's work in this important legislative process and in the day-to-day administration of the Copyright Act, touched every profession, craft, and industry engaged in the creation and communication of literary, dramatic, musical and artistic works. Mr. Kaminstein distinguished himself by his energy and devotion to these tasks, his professional ability, and—above all—by his fairness and coolheadedness in the face of often-bitter controversies that swirled about so many major provisions of the Copyright Revision Bill.

The Authors League and its members join with you and the members of your Subcommittee in paying tribute to this distinguished public official.

Sincerely,

JOHN HERSEY,
President.

THE COPYRIGHT SOCIETY OF THE U.S.A.
New York, N.Y., September 16, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, House Judiciary Committee, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: The name "Kami" bespoke the informality of a distinguished national and world leader in intellectual property, Abraham L. Kaminstein. His combination of scholarship, commitment and humanity made him a uniquely effective public servant. In honoring him last May, the Copyright Society noted his "inspiration, wisdom, time and unstinting efforts" invaluably contributing to the Copyright Act of 1976 with which you and your Subcommittee are so familiar.

He will be missed.

Sincerely yours,

E. GABRIEL PERLE,
President.

MOTION PICTURE ASSOCIATION OF AMERICA, INC.,
Washington, D.C., September 19, 1977.

Hon. ROBERT W. KASTENMEIER,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: "Life is a flame," said Ralph Waldo Emerson of a young contemporary poet. Abraham Kaminstein's life was a flame of splendor which warmed and illumined all areas he touched.

In his long and constructive years as Register of Copyrights, Kami was the guardian of the incalculable intellectual treasure of America. Himself an intellectual, he knew the true value of the mind, and respected the intelligence of others. He knew that knowledge sheds its abundance among all humankind.

His achievements as Register will always be writ large in the multi-dimensional spheres of art and communication and expression.

Kami was a good man who radiated goodness. His example is our legacy.

JACK VALENTI,
President.

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS,
New York, N.Y., September 14, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Judiciary Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I write on the sad occasion of the passing of our mutual friend and colleague in the copyright vineyard, Abraham L. Kaminstein.

More than 20,000 composers, authors and publishers of music who comprise the American Society of Composers, Authors and Publishers held Kami in high esteem and had warm affection for him. Many people worked long and hard and contributed, in greater or lesser degree, to the 1976 Copyright Act. Very few contributed as much as Kami.

Kami's contributions were made at considerable personal sacrifice, including sacrifices in his health. It was fitting that you called on him to be the second speaker, after the Acting Librarian of Congress, John Lorenz, and the first copyright authority to support H.R. 2223.

Listening to Kami that day was a heart-warming experience. He spoke with wisdom and with modesty and it was typical of him to conclude his remarks with the hope that you, Mr. Chairman, would "feel the personal satisfaction that comes with a job well done."

Authors have lost a good friend. But not only authors. The entire intellectual and artistic community is the poorer today for the loss of Abe Kaminstein and that, of course, means the whole country has suffered a real loss.

Sincerely,

STANLEY ADAMS,
President.

BROADCAST MUSIC INC.,
New York, N.Y., September 21, 1977.

Chairman ROBERT W. KASTENMEIER,
Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: Abraham Kamenstein, or "Kammy" to his friends, was a true public servant, laboring earnestly for the rights of American creativity. His disconcerning intellect recognized early the meaning of "intellectual property" and he strove mightily for its increased protection. To him, as much as to any single individual, belongs credit for long-awaited revision of copyright law in the United States. It will be his monument.

Very truly yours,

EDWARD M. CRAMER,
President.

AMERICAN GUILD OF AUTHORS/COMPOSERS,
New York, N.Y., September 21, 1977.

Chairman ROBERT W. KASTENMEIER,
House Judiciary Committee, Washington, D.C.

DEAR CHAIRMAN KASTENMEIER: The American Guild of Authors and Composers, representing over 3,000 songwriters expresses its condolences on the passing of the Hon. Abraham Kaminstein, former Register of Copyrights. It was through his untiring efforts while Register that our members have seen the fruits of his labors in the passage of Public Law 94-553. This long-needed legislation to whom our members owe a great debt to its many authors, including yourself and the present Register, Barbara Ringer, would still be a dream today if Mr. Kaminstein had not laid the groundwork for its enactment. We would appreciate the insertion of this letter in the Congressional Record to serve as a public notice to an estimable gentleman.

Sincerely yours,

ERVIN DRAKE,
President.

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.,
New York, N.Y., September 21, 1977.

Hon. ROBERT H. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, Washington, D.C.

DEAR BOB: In accordance with the memo from Irwin Karp, I am sending herewith a tribute to Kami. I think this is so very appropriate and I am sure that everyone is as pleased as I to have an opportunity to say pubicly what we feel so keenly individually.

NMPA as an organization and I as an individual share with all members of the world copyright community a feeling of deep sadness on the death of Abraham L. Kaminstein—a sadness tempered by a keen awareness and appreciation for that heritage which he has left. His contribution was by no means limited to his leadership, determination and intellectual influence in shaping our own new law, but also to his diplomatic participation in overcoming the international copyright crisis of the late 1960's and early 1970's.

We recall, too, the breadth of his interests his warm companionship and the pleasure of his company. We shall miss Kami, a rare good friend.

Sincerely,

LEONARD FEIST,
President.

A CLEARHEADED VIEW OF JUVENILE JUSTICE

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. NEDZI. Mr. Speaker, Jim Lincoln, of Wayne County's Juvenile Court, is not only Detroit's leading authority on juvenile justice but is one of the top people in the country on the subject.

Judge Lincoln has been on the bench for 17 years, during which time he has dealt with a vast number of juvenile problems, especially crime.

I have known Judge Lincoln for almost three decades. He came out of a small but remarkable law firm which produced G. Mennen Williams, Hicks Griffiths, Martha Griffiths, Horace Gilmore, and himself.

Williams became a six-term Governor of Michigan, Assistant Secretary of State for Africa, Ambassador to the Philippines, and now Michigan supreme court justice. Hicks Griffiths was briefly a probate judge. Martha Griffiths was a judge before becoming a distinguished Member of Congress for 20 years. Horace Gilmore is a circuit judge and author of a monumental treatise on civil procedure. And Jim Lincoln was on the Detroit City Council before becoming a judge. There was a sixth partner, Jack Schoen, who used to joke, "Somebody has to do the law work around here."

Recently, Don Ball, prize-winning reporter with the Detroit News, wrote a probing piece on Judge Lincoln in which the judge made shrewd, blunt, and acerbic comments based upon his experience. I agree with most of what Judge Lincoln said and believe that his reflections are worthy of our attention.

Under leave to extend my remarks, the article appears below:

[From the Detroit News, Sept. 18, 1977]

JUVENILE JUSTICE LAGS PERILOUSLY, SAYS RETIRING JUDGE LINCOLN

(By Don Ball)

James H. Lincoln hasn't changed much in his 17 years as judge of Wayne County's Juvenile Court.

But the whole field of juvenile justice has changed dractically—and not always for the better, says Lincoln, who is planning to retire some time before December.

Lincoln, 61, long an acerbic critic of society in general and the bureaucratic mind in particular, ran true to form in a recent interview. Leaning back in his chair, with feet propped on the desk, he mixed acid comments with nostalgic recollections about his years in the old red-brick Juvenile Court Building on Forest.

The 120,000 abuse, neglect and delinquency cases which have flooded Lincoln's court in 14 years have convinced him that Juvenile Court is a dumping ground for society's failures. "In my lifetime the physical sciences have gone from the horse and buggy to walking on the moon, but the social sciences are still in the alchemy era," he said. "There has been a continuous destruction of the traditional family unit in the past quarter century. This year the nation will have as many divorces as weddings. In the very near future, half the babies born each year in large cities will be illegitimate.

"Right now more than 35 percent of the children born in Detroit are born out of wedlock, and most of them to very young mothers. The state places these young, immature mothers on welfare with their babies, and it is a case of a child raising a child."

Schools are a particularly sore point with the judge. "This country has failed miserably in educating one-third of its citizens," Lincoln said. "About eight million youngsters will drop out of the nation's schools in the next decade and they will have few constructive activities to occupy their long, idle days.

"School failure is the common denominator among juvenile delinquents and prison inmates. Right now there are 40,000 juvenile school failures roaming the streets and raising hell in Detroit. They read at the fourth or fifth grade level, have no job opportunities—even if the law permitted them to work—and few recreational facilities. It's a measure of our times that we spend more in a single year for an expressway interchange than we do for recreational facilities for the young."

Lincoln said his juvenile judge experience has taught him that all reform movements invariably go too far. "I was among the pioneers in the early 1960's who worked to make 'emotional neglect' grounds for removing a child from the custody of his parents," he said. "It was enacted into state law a few years ago.

"Now, under the federal Child Abuse and Prevention Act, a mother yelling at her child in the backyard might be defined as mental injury or child abuse. The federal government is using grants of funds to persuade states to adopt such standards, and you known state officials go after grants like hounds after a rabbit.

"As a result, the federal government will play an ever-increasing role in determining state laws and practices . . . An army of social workers will be prying into family affairs. In my opinion, we can expect a massive invasion of privacy over the next decade under the guise of searching out and dealing with child abuse."

Sweeping changes have transformed juvenile courts into a close approximation of adult criminal courts, Lincoln said.

"When I started, the court was a paternalistic institution which held informal hearings to determine what was best for a youngster in trouble, as well as for society, without a lot of legal jargon," he said. "Today we have very nearly all the trappings of adult court. Some of them were needed, but we've gone overboard."

Lincoln gestured at a stack of paperbound books. "Those are the proposed new juvenile court procedures drafted by the American Bar Association," he said. "The trend in juvenile justice today is the same as in adult court—an overriding concern for procedures rather than substance. For instance, we spent $31,000 annually a decade ago for court-appointed attorneys to represent youthful offenders. This year we'll spend $1 million.

"I believe in treating youths with compassion and consideration, but there must be some balance. Our judicial system now gives more protection to the accused than any system ever devised, and it's time to enact legislation directed at giving more protection to the citizens who are being assaulted."

Lincoln lavished scorn on reforms proposed recently by the state Juvenile Justice Services Commission, especially the proposal to abolish juvenile code provisions prohibiting school truancy and running away from home. "The question is," Lincoln said, "shall the children of Michigan regardless of age be permitted to choose not to live with their parents even when the parents have not legally abused or neglected them? If the answer is 'yes' then we should also repeal all laws making parents responsible for either the acts or the support of their children. Those who advocate removing all legal control over runaways and truants while continuing parental responsibility for those children's acts propose a tyranny that exceeds anything King George III inflicted on the 13 colonies."

On a commission proposal to give juvenile courts jurisdiction over 17-year-old offenders, who are now tried in adult court, Lincoln said: "The commission proposal shows a certain detachment from reality. It doesn't even discuss the lack of state training school space for case-hardened delinquents and the additional facilities which will be needed for 17-year-old offenders, if we get jurisdiction over them. It is nonsense to give juvenile courts more problems requiring additional training school facilities."

On a commission proposal to merge northern Michigan counties into regional juvenile service authorities, Lincoln said: "I reached the firm conclusion from bitter experience some years ago that regional agencies with no taxing power are about as effective and efficient as the monkeys they used to keep in the Belle Isle Zoo. I suggest the commission get out of Alice in Wonderland and start being practical."

Lincoln said the state Department of Social Services has compounded the problems of juvenile courts by constant changing of policies for handling juvenile offenders.

"It's like women's dress styles, a new look every year," Lincoln said. "For instance, some years ago the department decided that putting delinquents into state training schools was wrong, so it decided to keep offenders in their communities. As a result, the state cut back sharply on training school spaces for delinquents.

"Now the policy has changed and the department is back to putting offenders in state institutions, but there's no room for them. The state needs at least 400 training school spaces, but legislators are saying, 'If we go ahead and spend this money for new facilities, how do we know you're not going to change your policy again?' I don't blame them."

Jim Lincoln looked, walked and talked like a farm boy when he appeared on Detroit's political scene a quarter century ago. The rustic appearance hasn't changed over the years except the corncob pipe is gone. At age 61, he still has a wrestler's neck and shoulders. He still wears open shirt collars and baggy sport coats—and still leans toward rustic humor.

"I grew up in a farmhouse lighted by kerosene lamps," he quipped recently. "The plumbing was out behind the lilac bush. The first part of my life was spent looking at the rear ends of horses—which was excellent training for politics."

Lincoln was born and reared on a farm near Harbor Beach in the Thumb area and plans to retire there with his wife, Kim.

He looked fresh off the farm on Aug. 1, 1953, when he strolled into Old City Hall, puffing on his corncob, and filed as a candidate in the mayoral primary election. But he held a bachelor's degree in history from the University of Michigan, where he earned varsity letters in football and wrestling. He also had been an aide to U.S. Atty. Gen. Frank Murphy, earned a law degree from Detroit College of Law, put in two years as executive assistant to a U.S. senator and spent five years as an assistant Wayne County prosecutor.

He finished second in the mayoral primary but was defeated in the runoff by the late Mayor Albert E. Cobo, Lincoln's first political victory came in 1954 when he was elected to the City Council. He served until May 5, 1960, when he was appointed probate judge of Juvenile Court. In later years he chose to stay a juvenile judge. He has gained a national reputation as a progressive judge, chaired a national committee to draft child custody legislation, served as president of the National Council of Juvenile Court Judges in 1971–72 and is in demand as a lecturer and speaker.

Lincoln once went to bat for a young man with a delinquency record. He had completed law school and needed the judge's support to be admitted to the bar. The man became a lawyer, real estate dealer, and certified appraiser. Later he was indicted for FHA fraud and convicted arson, and is now a fugitive. "That's one of the cases everybody hears about," Lincoln said. "Nobody is much interested in the thousands who made good when given a second chance. Recently I had a request from a young man to expunge his record of a sexual assault conviction when he was 16. He completed college, lived a clean life for seven years and needed a clean record to get a good job he has been offered. What would you do?"

The controversial judge isn't leaving the field completely. He expects to serve occasionally as a visiting judge.

Of his activities on the bench, Lincoln takes greatest satisfaction in the more than 30,000 adoptions he has granted. "There is no use pretending to be modest about it," he said.

Nothing, however, holds a candle to his pride in his wife and their two daughters, two sons and three grandchildren. "The family," he said, "that's what it is all about—isn't it?"

CARTER AND THE PLO

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ROSENTHAL. Mr. Speaker, many of us in Congress and across the Nation were very upset by the joint United States-Soviet statement last weekend on the Middle East. We saw it as a tilt to the Arab position, leaving Israel isolated and subject to immense pressure.

A key problem with that joint statement was its endorsement of the code words "legitimate rights of the Palestinians." As any knowledgeable observer of the Middle East knows, that phrase represents the twin goals of the terrorist Palestinian Liberation Organization: establishment of a PLO state on the West Bank and the eventual elimination of Israel.

It is sad that the Carter administration, knowingly or not, has embraced these code words as it seeks to elevate the role and importance of the PLO in any Geneva peace conference.

I commend to my colleagues an excellent column in today's New York Times by Rita E. Hauser on "Carter and the PLO." Ms. Hauser is an international lawyer and chairman of the Middle East Committee of the American Jewish Committee. The column follows:

CARTER AND THE P.L.O.
By Rita E. Hauser

The central thrust of President Carter's policy in the Middle East is the reconvening of the Geneva conference in the near future. This is a laudable and wise goal that should actively be pursued by the United States—provided the reconvening is not accomplished at a price that would make difficult, if not impossible, the achievement of peace agreements between the parties.

At present, the stumbling block to a renewed conference is the issue of Palestine Liberation Organization representation. Despite disclaimers, it is apparent that Mr. Carter believes the direct participation of the P.L.O. is an essential ingredient both to get the Arab countries to Geneva and for a successful outcome to the negotiations. The State Department is doing everything in its power to get the P.L.O. to the table, in one guise or another.

The joint American-Soviet statement on an approach to the Geneva conference on the Middle East is but another move in this direction, shortsighted and bound to be counter-productive.

Of course, Israel resists this approach, not merely for the obvious distaste it has in dealing with a terrorist group, but because P.L.O. representation will inevitably mean an Arab demand at the conference that the P.L.O. gain recognition and accomplish its goal: the domination of a Palestinian state that the conference would presumably establish. The battle now looming over P.L.O. representation is therefore far more than it appears, for, as is often the case at international conferences, who attends determines the substantive end result.

President Carter has been convinced, on the flimsiest of evidence, that the P.L.O. can be made to moderate its current stance, just repeated recently, that it will not recognize Israel and that it still pursues its stated goal of seeking the destruction of the Jewish state.

Despite the fact that renunciation of this goal by the P.L.O. was explicitly agreed to between the United States and Israel as the condition for any dealings with the P.L.O., this Administration appears quite ready to compromise the point. Almost any gesture will suffice to prove a change of heart on the part of the P.L.O. as far as the Administration is concerned, and, once it is found to exist, Israel inevitably will be asked to alter its stand and abandon its opposition to treating with the P.L.O. at Geneva.

This approach is both unsound and immoral, but, even more pertinent, it is clearly doomed to failure. The P.L.O. shows every indication that it will not make the slightest concession in its stated purpose of destroying Israel. Should it alter its posture, or should the Administration pronounce that it has, Israel nevertheless will insist on what it is entitled to: United States adherence to its commitment that the P.L.O. must renounce its destructive goal explicity and without condition before Israel can be expected to deal with this organization.

Israeli public opinion will not budge on this issue, no matter what pressure Mr. Carter may bring to bear, and friends of Israel in this country will stand behind Israel all the way. The Administration is seeking to cut corners on an essential issue, one that goes to the heart of peace in the Middle East, and it will not succeed if it persists in this foolishly simplistic approach.

The reality in the Middle East dictates another avenue to Geneva. The P.L.O. is at its nadir, because of the past and current price it is paying in the continuing conflict in Lebanon. The Arab states, by common accord, are far weaker militarily than Israel, and the Soviet Union seems unwilling for the time being to get sucked into another losing battle on behalf of the Arabs. The conference table is thus far more important to the Arabs than to Israel, and it is *they*, not Israel, who must seek a way around the P.L.O. dilemma.

Indeed, it has long been clear, as the recent fighting in Lebanon demonstrates, that the Arabs, much more than Israel, need to tame, if not exhaust, P.L.O. energies as a necessary condition for a lasting peace within a stable region.

This Administration is, wittingly or not, seeking to inflate and render durable the P.L.O., a mistaken policy and one that can only serve to prevent achievements of Mr. Carter's pursuit of a Middle East peace.

If the United States really wants a Geneva conference, it ought to be pressing for a conference limited to states. Palestinians residing in Jordan, Lebanon and Syria could of course be represented in the delegation each of these states would send to Geneva. When the issue of displaced persons is reached, then it is entirely proper for the P.L.O. to be heard as one among several spokesmen for the Palestinian refugees.

There is no historic precedent or sound reason to elevate the P.L.O. to the status of a representative delegation at a Geneva conference unless, of course, as many now suspect of the Carter Administration, it has already decided that the conference will create a state on the West Bank and that the P.L.O. will be anointed as its government.

Those who oppose this result are correct in joining issue now with Washington. Satisfying the P.L.O. would promote an era of conflict and destruction, and any peace conference premised on that result would be a hollow achievement for President Carter.

YOUNG AMENDMENT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. WHALEN. Mr. Speaker, this week the conference report on H.R. 7797, the foreign aid appropriations bill, will come before the House for further consideration. Permit me to discuss some of the House amendments which still remain in disagreement.

The first is the so-called Young amendment which would bar indirect as well as direct aid to seven specific countries—Uganda, Cambodia, Laos, Vietnam, Angola, Mozambique, and Cuba. This is not, despite some views to the contrary, the same as the Harkin-Badillo amendment to the international financial institutions authorization which passed the House earlier this session and is now on the President's desk. Whereas the latter was designed to establish a consistent U.S. approach to human rights issues, the Young approach, if approved, would force U.S. political judgments on multinational organizations to which our country belongs. No other nation has claimed the right to dictate beforehand how its individual contributions shall be used.

As our colleague, the gentleman from Iowa (Mr. HARKIN) stated on September 30:

Tying our contributions to these banks would set a dangerous precedent for other contributors . . . Furthermore, the banks maintain they cannot legally accept our tied dollars. The international banks need redirection, but they don't need to be destroyed.

Moreover, aid from multilateral lending institutions is targeted primarily at third world countries and efforts increasingly are being made to direct assistance to the "poorest of the poor" in those countries. Unless we delete the restrictive House language from this legislation, the United States effectively will be taking the lead in the politicization of developmental aid. In so doing, we would hinder efforts to guarantee the basic human right to a decent standard of living throughout the world.

In fact, by earmarking our contributions, we would precipitate the breakdown of U.S. relations with multilateral institutions and threaten the very existence of those institutions.

H.R. 7797's second controversial amendment bars use of U.S. contributions to initiate or expand in recipient countries the development of three specific commodities: Sugar, palm oil, and citrus. For the reasons previously stated, earmarking U.S. contributions can only have an unfortunate effect. Too, such a selective, protectionist provision surely is misplaced in cooperative international development efforts.

At this time I would like to direct my colleagues' attention to the League of Women Voters' statement on these two issues. In addition, I would like to share a letter from the U.S. Catholic Conference and a recent joint statement by seven former Secretaries of Treasury further enforcing the necessity for a foreign aid appropriations bill free of crippling amendments:

LEAGUE OF WOMEN
VOTERS OF THE UNITED STATES,
Washington, D.C., September 1977.

To: All Members of the House of Representatives.
From: Ruth C. Clusen, President.
Re Restrictive amendments to H.R. 7797, foreign aid appropriations.

Within the next few days, the full House will be asked to provide further instructions to House conferees on two amendments to the foreign aid appropriations bill, H.R. 7797. The two amendments are the Young Amendment and the Moore Amendment. The League of Women Voters of the United States adamantly opposes these amendments. We urge you to vote against insisting upon these amendments which wil so seriously cripple U.S. efforts to provide economic development aid to the poorest of the poor.

The first amendment of concern to us was offered by Representative Bill Young (R FL). It prohibits U.S. funds from being used either directly or indirectly in certain selected countries. During their consideration, the Senate deleted the indirectly prohibition which would affect U.S. contributions to multilateral institutions. The League of Women Voters supported the deletion of the indirectly prohibition. We oppose the Young Amendment for the following reasons:

(1) It is a restrictive amendment that subverts the multilateral aid process. Placing conditions on U.S. participation in multilateral institutions politicizes the process that was developed as a way of providing aid on a non-political basis. Because multilateral institutions are not governed by any one country, the U.S. and other donor countries can meet their aid obligations in a manner acceptable both to the donor and recipient countries. Viewed from this standpoint, the question is not a matter of refusing aid to certain countries, but whether the U.S. wishes to continue to participate in multilateral institutions.

(2) The Young Amendment violates the charters of the development banks. The IFIs cannot accept conditional contributions from any country. A precedent for the refusal of conditional contributions was set by the Inter-American Development Bank (IDB) in 1975 when the Senate Subcommittee on Foreign Operations earmarked $50 million of the appropriation to go to intermediary lending institutions in the recipient countries. Although the IDB was not opposed to lending to intermediaries, and in fact, ultimately provided more than $50 million to them, the IDB refused to accept the earmarked $50 million contribution because it violated the IDB's Articles of Agreement.

Moreover, in a letter to Secretary of the Treasury Blumenthal, Robert McNamara, President of the World Bank, stated that if the United States conditions its contribution, the Fifth Replenishment to the International Development Association (IDA)—the replenishment to which the FY78 appropriation is the first installment—cannot become effective. Mr. McNamara went on to say that conditional participation in the World Bank and the International Finance Corporation would also be unacceptable.

The second League-opposed amendment was offered by Representative Henson Moore (R. La.). Its provisions stipulate that none of the funds contributed by the U.S. to the IFI's shall be used to initiate or expand the production of palm oil, citrus and sugar. The League opposes the Moore Amendment for the following reasons:

(1) It is a restrictive amendment placing conditions on the banks and violating their charters in a way similar to the Young Amendment.

(2) It contradicts the purpose of the banks. On the one hand, the U.S. is supporting the development of developing nations by contributing to the IFI's. If the Moore Amendment is retained we are in effect undercutting that development, and denying them the means to compete on the world market. As developing nations expand their economies and begin to produce commodities for export, trade with other nations is the primary way in which they sustain that economic expansion. For the United States, liberal trade agreements with those developing nations are an integral part of our economic development programs. It secures markets for U.S. exports and at the same time stabilizes the world economy by providing developing nations the means for the necessary exchange of currencies.

Moreover, the IFI authorizing bill contains provisions addressing the concerns of those who fear an adverse effect on the U.S. economy because of increased imports. The authorization bill, H.R. 5262, instructs the U.S. representative to the banks to oppose loans for the production of palm oil, citrus and sugar when those products are to be exported to the United States and when they threaten a reduction in domestic production of like or competitive commodities. We believe that this is a far more reasonable approach, especially when considering the fact that, if retained, the Moore Amendment would apply in all cases—even when the commodities are not to be exported to the United States.

In summary, we urge you not to insist upon these amendments that will so seriously cripple and perhaps end U.S. participation in multilateral institutions.

THE CATHOLIC CONFERENCE,
September 30, 1977.

DEAR REPRESENTATIVE: The United States Catholic Conference wishes to convey to you our grave concerns about the threat to vital *multilateral economic assistance programs* posed by the House amendments to the Foreign Assistance Act of 1978 (H.R. 7797), which attach certain conditions to the use of U. S. contributions to international financial and other development institutions. As you know, the Conferees on H.R. 7797 could not agree on these amendments.

We urge you to carefully reconsider the serious implications of these restrictive House amendments and to support instead the Senate position which is opposed to the denial of U.S. contributions to multilateral aid agencies for (1) assistance to seven specified developing countries, and (2) projects to expand palm oil, citrus or sugar production.

These conditions would seriously curtail the activities of multilateral development agencies which legally cannot accept contributions subject to such constraints and would be very damaging to overall U.S. foreign policy. Hardest hit would be the International Development Association, which provides soft loans to the poorest nations and which would soon have to terminate its lending operations.

We fully support the application of human rights criteria to the operations of multilateral assistance agencies. However, we believe the appropriate way to do this is by requiring U.S. executive directors to international financial institutions to oppose loans or other assistance to countries guilty of gross violations of human rights, except for programs which clearly serve the basic needs of people, as provided by the Harkin amendment to H.R. 5262. H.R. 5262 also contains language to cover the interests of U.S. sugar, vegetable oil and citrus producers which does not raise legal problems for multilateral assistance agencies.

We also support the application of human rights criteria to U.S. *bilateral aid programs*. Prohibitions or reductions of bilateral aid to specifically designated countries we believe is an appropriate way to apply these criteria since such action has no adverse multilateral implications. We therefore support the House amendments to eliminate or curtail U.S. military assistance to such countries as Argentina, Brazil, El Salvador, Uruguay, and the Philippines. The severity of human rights repression in these countries is well documented. Moreover, since the aid is military, not economic, there is a strong presumption it will be used to support efforts to violate human rights.

With cordial good wishes, I am
Sincerely yours,
REV. J. BRYAN HEHIR,
Associate Secretary.

JOINT STATEMENT BY FORMER SECRETARIES OF THE TREASURY

As former Secretaries of the Treasury, we reaffirm our belief that United States participation in the international financial institutions—the World Bank and the regional development banks—is vital to American economic and political interests.

Continued U.S. participation in these lending institutions is now totally dependent on the Congress of the United States. The Fiscal 1978 Foreign Assistance Appropriations Act is pending before Congress. The restrictive amendments contained in the House version of this bill would effectively end U.S. participation in the Banks. The charters of these multilateral institutions simply would not permit them to accept funds so conditioned by individual members.

Such a result would gravely undermine the world economy and the future well-being of the American people. Indeed, our contributions of about $2 billion are essential to mobilize contributions of $5.5 billion—almost three times as much—from other donor countries.

If the institutions are cut off from these funds, lending that would benefit hundreds of millions of poor people throughout the world would cease. U.S. relations with the poor countries would be shattered. Our relations with the other donor countries—our closest allies in Europe, Canada and Japan—would be disrupted, for they have already decided to contribute their fair share of these institutions on the assumption that we would contribute ours. As a result, the international cooperation which is so critical to the stability and growth of our world economy would be severely jeopardized.

Over the past several decades successive Presidents of the United States—Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford—supported with strong bipartisan backing in the Congress, have encouraged the development and expansion of the role of the World Bank and the regional development banks.

As Secretaries of the Treasury during this period since World War II, we have consistently urged this feature of our foreign economic policy as an indispensable element of an effort to engage the other wealthy industrialized democracies in sharing our burden and responsibility to assist the poorer, less developed nations in providing some hope and progress for their peoples. We firmly believe that these multilateral financial institutions are essential to peace and prosperity. Continued U.S. support and participation in a leadership role is vitally necessary to a continuance of these organizations as effective instruments for international cooperation.

Therefore, we hope that the Congress will modify the restrictive amendments and vote out the appropriations so that the World Bank and regional development banks can accept the U.S. subscriptions.

ROBERT B. ANDERSON.
JOSEPH W. BARR.
JOHN B. CONNALLY.
DOUGLAS DILLON.
HENRY H. FOWLER.
DAVID M. KENNEDY.
GEORGE P. SHULTZ.
WILLIAM E. SIMON.
JOHN W. SNYDER.

CASIMIR PULASKI MEMORIAL DAY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FLORIO. Mr. Speaker, 198 years ago on October 11, 1779, Gen. Casimir Pulaski died of mortal wounds which he received while heroically leading a cavalry charge during the Battle of Savannah 2 days earlier. Thus culminated the brief, though remarkable, life of one of the most distinguished American patriots. Few men in history have devoted themselves as selflessly and diligently to the cause of freedom as General Pulaski. He and his family fought for this goal in Poland where he lost both family and fortune. Undaunted, he turned his attention to the noble struggle which General Washington was commandeering—the American Revolution.

Casimir Pulaski merited the immediate respect of General Washington and shortly was commissioned as a brigadier general. His exploits in the American cause took him throughout the Colonies from Brandywine to Savannah. General Pulaski was not content with rank and status alone but ardently desired to make a full and lasting contribution to the Revolutionary War. Never having his zeal for freedom diminished, he persisted before Washington and the Continental Congress for a more activist, substantive role in the fight for independence. He achieved his desire, ultimately giving of his young life.

It is with great respect and pride that I ask to join our Polish-American friends in the memory of Casimir Pulaski to celebrate Pulaski Day. We can never repay the debt owed to General Pulaski for his donation to democracy. By this small measure of recognition we hope to justly memorialize his life. But perhaps, more importantly, Pulaski Day is not merely recognition of a great patriot but of a great people—the Polish Americans. Our Nation and the world is enriched because of our Polish-American citizenry and I would like to offer a personal salute to them and to their admirable fellow countryman, Gen. Casimir Pulaski.

MIDDLE EAST DEBACLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. OTTINGER. Mr. Speaker, the joint United States-Soviet statement on the Middle East issued last weekend dangerously undermines our firm commitment to Israel, and marks a significant shift in U.S. policy by signaling the imposition of a peace settlement from the outside.

The clear conclusion one can draw from the statement is that it exhibits alarming pro-Arab tendencies, and calls into question the intent of the Carter administration and the credibility of the United States on the question of a meaningful and lasting peace in the Mideast.

By agreeing to the basic tenets of the joint statement, the Carter administration has moved to weaken the bonds between the United States and Israel.

The language of the joint agreement which calls for "insuring the legitimate rights of the Palestinians" in the design of a comprehensive settlement is very disturbing for several reasons.

First, never before has the United States recognized Palestinian "rights," as those rights have historically included the right to return to their homes in pre-1967 Israel and the right of self-determination, or a separate Palestinian state.

Second, by not making a distinction between the Palestinian Liberation Organization and other Palestinians, the United States has made a frightening shift in past policy.

In fact, the omission of such a distinction is in direct contradiction to another agreement signed in 1975 by the U.S. Secretary of State and the Israeli Foreign Minister which stated that the United States is pledged to "continue to adhere to its present policy with respect to the Palestinian Liberation Organization, whereby it will not recognize or negotiate with the PLO so long as the PLO does not recognize Israel's right to exist and does not accept Security Council resolutions 242 and 338." So far as I know, the PLO has never modified its expressed commitment to Israel's destruction.

The Soviet-American statement makes no specific mention of a peace treaty between the parties involved. This aspect of a peace settlement has always been a basic prerequisite according to past U.S.-Israeli understanding. I hope that the United States has not abandoned its commitment to such a treaty because without such an agreement chances for a meaningful and lasting peace in the Mideast are decreased significantly.

Last weekend's statement ignores another aspect of the 1975 U.S.-Israeli agreement under which the United States guaranteed to consult with Israel on the question of the participation of any "additional states" in the Geneva Peace Conference. The joint statement indicates that representatives of all parties involved in the Mideast conflict will participate in the conference, including those of the Palestinian people. This position on the part of the United States seems to enforce the pro-Arab implications of the statement, and certainly detracts seriously from our longstanding commitment to Israel.

Finally, last weekend's action injects the Soviet Union into the Mideast situation and into a role which it lost a long time ago. The U.S.S.R. has always been a destabilizing force in the Mideast conflict, and I do not believe that the Soviets' intentions bode well for the development of a constructive and lasting Mideast peace.

CONGRESSMAN STEVE SYMMS ON NATIONAL HEALTH INSURANCE

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. EDWARDS of Oklahoma. Mr. Speaker, the August 1977 issue of Private Practice magazine contains an article by my colleague from Idaho, STEVE SYMMS. Congressman SYMMS makes an excellent case against government intervention in medicine and also described the politics of the issue on Capitol Hill by explaining why it is imperative that opponents of national health insurance and socialized medicine not compromise on this issue. Congressman SYMMS' article follows:

A CONGRESSMAN'S APPEAL TO THE AMA: "STOP HELPING MEDICINE'S OPPONENTS"

(By the Honorable STEVE SYMMS)

"If you like the US Postal Service, you'll love National Health Insurance." This comment that I saw on a bumperstrip is quite a message, one that proponents of National Health Insurance—including the AMA—should consider.

A Federalized postal service has been characterized by expensive inefficiency. Additionally, the postal workers became unionized and now only work specified hours under specified conditions. What happened to neither rain, nor snow, nor sleet, etc. . . .? During periods of heavy mails, the service becomes even more stymied—all mail slows down. Christmas cards and junk receive the same treatment as insurance forms, tuition payments, and car payments. Clearly the importance of the mail is not discerned by anyone but you, the consumer. Only if you choose to pay a little more for special delivery or registered mail does your most important mail receive better service. Even then your choice is limited to one the US. Postal Service offers. And now there is talk of a 16 cent stamp.

Rumors fly that the postal service in smaller communities will have to be eliminated. Many cities now have only five-day mail service and there is talk about four-day mail service. All of this shows what a Federal postal service has accomplished.

In addition to the US Postal Service, when considering socialized programs, we can look to the nationalized medical systems of other countries.

Based on experience, what is likely to happen in a Federalized medical care system? Costs will zoom. This is a certainty based on a good deal of evidence, including the national budget and the trend of taxes. Also, with every American covered under a form of health insurance, and standardized rates, some Americans will be forced to pay more than they would have chosen to pay in a system governed by freedom of choice. Others will be receiving a lower quality health care than they would have chosen in a free system. Cost may well be standardized, but the healthy Americans will be forced to subsidize the unhealthy and hypochondriacal. The cost of medicine care in this country will substantially increase, and HEW projections of a comprehensive National Health Insurance program range from $77 billion to $167 billion for the first year.

These funds will come basically from the general revenues and it is the taxpayers of this country who provide the general revenue funds. Taxpayers will be faced with another Federal ripoff that will warrant a revolutionary attitude.

Cost, however, is not the primary argument against NHI, but rather what NHI will mean for the medical care of American citizens. America should have a system that provides the best medical care, allowing personal freedom of choice as to physician, hospital, clinic, etc. Additionally, competition in the medical profession should be encouraged. Patients should have the privilege of choosing a doctor or hospital because they want "the best."

To subsidize doctors is to invite those with little moral fiber to provide less than the best in treatment. These doctors know that they will receive their payment from the government regardless of the care they administer. Clearly this has been manifest in the Medicare and Medicaid systems. Yet those advocating a National Health Insurance plan that will drastically increase government subsidization of medical care use these abuses resulting from current government involvement as bases for advocating more government intervention. Completely subsidized medicine in this country already exists in several areas, most notably the armed services Do we really wish to force every American to submit to impersonal medical care comparable to that provided in the armed services?

In areas where HMOs operate, in over-extended emergency rooms, the idea of taking a number and waiting to be serviced has already begun in this country. While such situations are certainly limited in our present system (which has been Federalized to some extent), we need only to look to Britain for some examples of the situation which those patients in a national system of health care can expect. 1966 figures from Britain disclosed that over 100,000 elderly and chronically ill persons were on waiting lists (having taken their numbers) to get into hospitals. In 1975, the reported figure soared to 700,000 Britons on waiting lists for hospital treatment. A 1975 report disclosed that nearly 80,000 people are waiting at any one time for tonsillitis operations. These thousands of patients become little more than numbers to the GPs or consulting specialists. And numbers do not receive the compassionate, quality care from the doctor on duty that an individual would from his private physician.

That government bureaucrats advocate both government subsidization of the medical care system and the impersonalization of treatment is not surprising, for we have seen the empire-building attitudes pervading the bureaucracy. We who fight socialized medicine and growing government interference in all areas know that the bureaucrats and the advocates of a powerful centralized government are our adversaries We can battle the known enemy. The grave problem which we face is the attitude of the American Medical Association. The AMA has conceded a point which I refuse to concede, which the majority of private physicians refuse to concede, which many of my peers refuse to concede, and which has no factual basis: that a Federalization of the medical care system in this country will benefit our citizens. By accepting the premise that a) there is a health care crisis and b) a Federal solution is the only solution, the AMA has sided against a private medical system guaranteeing the maximum in personal, quality medical care.

The AMA is advocating its own version of mandatory medical care, HR 1818, with a strong emphasis on the national health care aspects of the plan. While the AMA would allow private heath care plans to continue, we need only check the record to observe the difficulty private projects have competing with government-subsidized projects. As with the postal service, competition will be quickly eliminated in some areas. Private services will be forced out of existence by being priced out of existence. Similarly, private physicians will become more regulated by PSROs, and more Medicare and Medicaid programs. Finally, retirement will be a superior alternative to cookbook medicine for committed, caring physicians.

The AMA has lost the will to fight to preserve the profession it purports to represent. It has failed the members of the medical profession who wish to serve patients to the best of their abilities, free from the dictates of Big Brother in Washington. What good is the AMA, except as another force seeking to deliver doctors into the clutches of the bureaucracy that demands socialism in the area most needful of individual care?

Under socialization, unionization of doctors and medical workers cannot be discounted as unlikely. The British system is controlled in part by union contracts. Hospital trade unionist-cooks, maids, laundry women, orderlies, etc. can disrupt the entire medical care system by striking. Specialists work for the National Health care system by contract By simply refusing to work beyond their contractual hours, these consultants can affect thousands of patients.

The family doctors in the National Health Service have threatened to resign as a body unless they receive salary increases. Who suffers when the trade unionists strike or the consultants adhere strictly to their contracts or the family doctors resign? Patients suffer—not the bureaucratic administrators nor the politicians. To propose submitting our elderly, our chronically ill, even our healthy citizens to such a system is outrageous.

With respect to the demand on such a system, and the resulting impersonal treatment, one can look to many examples in this country to determine the outcome. What happens when department stores have sales? The stores are jammed with shoppers there to take advantage of sale prices. Back in the days of gas price wars, the gas stations used to be jammed with consumers taking advantage of the lower prices. Offers for free trips, free products, free tickets all create a crush of contestants for the prizes. When consumers believe they are getting "a good deal" or someone else is "paying the tab," they are very likely to take advantage of the offer. Medical treatment will be in much greater demand if the consumer believes he will "get more than he pays for" or "someone else is paying the bill." To confirm such a theory, one can look at the British system once again. Consider that every GP in Britain is responsible for 3,000 National Health Service patients on the average. He may see 100 patients in his office daily plus house calls plus any private patients he might have. Contrast that with the recent U.S. figures that indicate the average American physician sees 169 patients per week. The crushing demand makes it physically impossible for British physicians to devote time for psychological as well as medical treatment for the average patient. Sick people need to believe that their doctor cares; psychological healing is often as important as physical healing. We in America need to guard this important aspect of care for our citizens. Further, our citizens need to reaffirm that attitude by voting against members of Congress who support the theory that everyone should have identical medical care, that socialized medicine is best.

While many persons believed that government control of natural gas prices would assure us a steady flow of cheap gas, last winter's shortages indicated otherwise. Clearly, the artificially low price of gas created a demand for that resource rather than encouraging further development of alternative sources of energy. Additionally, the low cost did not prompt frugality with the resource on the part of the consumer until the shortage was upon us. Further, fewer investors find development of gas wells profitable and turn to other, more profitable enterprises increasing the possibilities of shortages. These points are directly related to the medical situation. Artificially low costs for medical care will increase demand and make consumers less discriminating about their use of medical facilities and doctors. We will have shortages of both facilities and doctors, as physicians turn to other occupations for reasons of personal incentives, satisfaction, and reward.

The AMA has abandoned the battle against National Health Insurance, rejected the evidence that shows government to be a detrimental force in medicine, and joined the other side. It is possible that the members of the AMA could persuade the organization to rejoin the battle on the right side, beginning anew with the premise that the American system of private medical care is the best in the world?

As long as doctors, nurses, pharmacists, researchers, lab technicians, and others involved in our medical system are free to use their knowledge in making individual decisions, our system will remain outstanding in providing high quality, compassionate medical care. The AMA should begin by dropping its own National Health Insurance bill. The AMA's concessions, and the prestige they give to the NHI pushers, are among the worst problems we have.

Those of us in Congress who believe in private medicine will continue the battle to keep the medical profession and patients free from government control, allowing our people the freedom to choose freely the best medical care they wish. A vigorous AMA on the side of liberty could make all the difference.

STATE OF THE JUDICIARY/ACCESS TO JUSTICE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KASTENMEIER. Mr. Speaker, the Subcommittee on Courts, Civil Liberties

and the Administration of Justice, which I chair, recently held extensive oversight hearings on the state of the judiciary and access to justice. During these hearings we inquired into the problems posed by congestion in the Federal courts and the effect these problems have on access to the Federal judicial branch.

One of the salient concerns that emanated from our many illustrious witnesses was that a dual approach should be adopted: On one hand, we should attempt to reduce caseloads and make court procedures run more smoothly; on the other, we should provide access to the courts by passing legislation, in such areas as standing and class actions, to aid the maximum number of individuals. In this latter regard, we should especially be cognizant of the rights of the poor, oppressed, underprivileged; that is, those who have the most to gain from judicial relief.

I believe that these points were wisely and forcefully made by Mr. Vice President MONDALE in a speech on September 10, 1977, to the Second Judicial Circuit Conference. I therefore commend to the reading of my colleagues this excellent speech by the Vice President:

ADDRESS BY VICE PRESIDENT WALTER F. MONDALE

BUCK HILL FALLS, PA., September 10.—Following is the text of an address prepared for delivery by Vice President Walter F. Mondale to the annual meeting of the Second Judicial Circuit Conference, held at the Buck Hill Inn here.

Our meeting tonight, and this conference, mean, many things. It is a gathering of distinguished American jurists. It is an important contribution to the national debate on judicial reform. But perhaps, most importantly, this conference represents the triumph of an idea.

When our nation was founded, the belief that government exists to protect the rights of citizens and to establish justice was a revolutionary idea. It remains so today.

Alexander Hamilton put it plainly in the Federalist Papers:

"Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it can be obtained, or until liberty be lost in the pursuit."

We have survived for over 200 years as a free society, because, whatever our failings, the pursuit of justice of which Hamilton spoke has never ended. We have never allowed ourselves to become frozen into any permanent caste or class in America. We have never accepted the notion that there are two standards of justice for Americans. Despite the injustices suffered by many, the promise of justice has remained alive.

As federal judges, you have been on the cutting edge of the fight for social justice in our nation. In recent decades, your courtrooms have become the arena where black Americans and other minorities, the poor, women, and all those denied the full promise of America have come to claim their rightful place. These citizens and millions more continue to look to your courts for justice today.

That is why this conference on guaranteeing access to justice is so important. As federal judges, you understand perhaps better than anyone that the judicial crisis we face today is much more than an administrative problem.

The problems of overcrowded dockets; rising legal costs; and mounting delays are not just a headache for judges. They threaten to close the courtroom door on the very people who need judicial relief the most—the poor and the weak, middle income citizens, minorities and the powerless. The procedural logjam clogging our courts excludes millions of citizens for whom justice in the courts is the only hope of overcoming generations of prejudice and neglect. The inability to obtain legal services leaves millions more with no access to justice at all.

The challenge we face could not be more urgent. The task we face could not be more clear. That great jurist Learned Hand could well have been addressing this conference when he wrote:

If we are to keep our democracy there must be one commandment: Thou shalt not ration justice.

The dimensions of the problem we face are familiar to every judge in this room. In the last 15 years, alone, the number of cases filed in federal district courts has nearly doubled. Those taken to courts of appeals has quadrupled. Delays of two, three and four years are not uncommon.

There are no villains in this story. Neither the Congress, the Executive or the Judicial Branch can be blamed for the crisis in our courts today.

Instead, the problems we face remind me of the predicament of the man in one of Griffin Bell's favorite stories who was taken before the court on charges of drunkenness and setting his bed on fire. The judge asked the man how he pleaded. The man replied. "Your honor, I'm guilty of the first charge. I was drunk. But I'm innocent of the second. The bed was on fire when I got into it."

At bottom, the problem is simply that history has caught up with us. We operate under a judicial structure largely unchanged from the one designed 200 years ago for a handful of new Americans in 13 small states on the eastern seaboard. We expect the same system, today, to meet the needs of 210 million very different kinds of people spread over 53 separate jurisdictions in the most modern and complex society ever seen on the face of the globe.

There's nothing to be gained by searching for scapegoats; we must search for solutions.

This conference is an important step in the right direction. We must go on to tackle what Judge Kaufman calls the "twin demons" of cost and delay. We must reduce court congestion and overcrowded dockets.

But in all these efforts, it is important to keep in mind that our final goal is not simply to reduce caseloads or merely make our courts run more smoothly. Our goal is, and must be, to provide access to justice for all our people. Judicial reform—if it is to deserve our support—must preserve the courts, particularly the federal judiciary, as the forum where fundamental rights will be protected and the promise of equal justice under law will be redeemed.

The ABA Task Force on the administration of justice, which Griffin Bell chaired, stated that goal well:

"Neither efficiency for the sake of efficiency, nor speed of adjudication for its own sake are the ends which underlie our concern. . . . The ultimate goal is to provide the fullest measure of justice for all."

We are fortunate that today the author of those words is the Attorney General of the United States. As a distinguished federal judge Griffin Bell was one of the most respected leaders in our nation for progressive judicial reform. Today he has a few more resources at his command to continue the job. He has the full support of the President of the United States—and this entire Administration—to launch a far-reaching national effort to improve and upgrade our entire system of justice.

As one of his first acts, Judge Bell created a new Office for Improvements in the Administration of Justice—the first of its kind in the Justice Department. This office has a broad mandate to work with the federal judiciary, the Congress, the organized bar and the public. We want and need your ideas and support.

Under Judge Bell's leadership, this Administration is already moving forward on a wide variety of fronts.

To cut costs and delays and relieve overcrowded courtrooms.

To create new, imaginative alternatives for settling disputes.

To open up our judicial system to those denied an effective voice.

And to give the poor and the disadvantaged the resources to protect their fundamental rights.

As a first step, we're backing a series of reforms to provide quicker and less expensive ways to settle many of the disputes that have been languishing in our courts for years.

One new piece of legislation backed by our Administration would authorize federal magistrates to decide civil cases and try misdemeanors if the court and the parties agreed. This reform—which has already passed the Senate—could reduce the yearly caseload in District Courts by as many as 16,000 cases.

We are developing new legislation to allow experiments in District Court with compulsory non-binding arbitration in certain civil cases. In one state where arbitration is currently used, 95 percent of the cases have been settled before they have gone to trial.

Finally, we are making a long overdue effort to tackle the problem of diversity jurisdiction. Giving a citizen the right to sue someone from another state in federal court made sense at a time when rivalry between states and regions was sharp. Today it is the judicial equivalent of a dinosaur—a relic of a bygone age.

In 1976, nearly one in four federal cases was a delivery matter. That just doesn't make sense when so many burning public issues demand the court's attention. The Justice Department is backing a proposal to prohibit a plaintiff from filing a diversity suit in the state where he or she lives. If enacted it could reduce the number of diversity cases before the federal courts today by as much as half.

Secondly, we are looking beyond the courts to find new, alternative forums to deliver simple justice.

Shortly before the American revolution, Edmund Burke noted that more copies of Blackstone's Commentaries on The Law had been sold in the 13 colonies than in all of England. He concluded that Americans were a peculiarly litigious lot.

I'm a resident of Washington, D.C. the lawyer's capital of the world. So I can't dispute that claim. If you want to hold a bar association meeting in Washington all you have to do is to stop the first hundred people you see on the street and go find yourself a tent.

But despite our reliance on lawyers and law in this country, the fact remains that courtrooms aren't necessarily the best place to settle disputes.

To many Americans, a court of law is still an awesome, strange, and, often frightening place. Family squabbles, friction between neighbors, minor commercial disagreements usually wind up in court—if they're settled at all—because there's no other place for them to go.

As our society gets larger, and more complex, and more and more bureaucratic, we sometimes forget that people need personal, community forums where they can settle differences simply, directly, and even, sometimes part as friends. One of the most exciting experiments in alternatives to the courtroom are Neighborhood Justice Centers supported by the Justice Department. These

Centers will be run in, and by, the communities they serve. Neighborhood residents will be trained to mediate disputes, arbitrate differences and reconcile parties. Only if the dispute can not be settled will the parties be referred to a court or government agency.

We expect to fund three Neighborhood Justice Centers for trial periods in Los Angeles, Atlanta and Kansas City. We are hopeful they will become models for the nation of a new kind of justice in action.

Each of the reforms I have mentioned will cut back on the caseload in federal courts. They will provide quicker, less expensive ways, to settle many disputes. Most important of all, these proposals will free the time and resources of federal judges for the awesome responsibility the founders of our nation placed in your hands as the ultimate guardians of constitutional rights.

But clearing court dockets and freeing judges' time is only half the battle. We must make sure that those in need of justice receive their day in court. For many citizens today technical barriers increasingly bar the federal courthouse door to millions of poor and middle income Americans simply can not afford to go inside.

Access to Federal court is often the only way the individual consumer, the taxpayer and the ordinary citizen can effectively challenge the massive power of a modern corporation or the far-reaching power of government itself. Closing the courthouse door leaves them no other place to go.

President Carter and this administration are committed to opening up the judicial system to those in need of its support. In his recent consumer message the President asked the Congress to give citizens broader standing to sue government agencies to give the Federal courts more authority to reimburse legal fees and to expand opportunities for filing class action suits.

Nothing is more destructive to a sense of justice than the wide-spread belief that it is much more risky for an ordinary citizen to take $5 from one person at the point of a gun than it is for a corporation to take $5 each from a million customers at the point of a pen. Consumer class actions are one of the few ways a nation of individual consumers can defend itself against fraud and deceit in the marketplace today.

The Justice Department is working closely with the Office of Consumer Affairs to develop workable procedures to insure that class actions will be used responsibly. But we believe giving citizens access to justice must include this important tool.

Finally, this administration is committed to the principle that no American should suffer injustice because the price of justice is too high.

For all too many impoverished Americans, the promise of justice remains just that a promise. For the 16 million poor citizens who have no access to Federal legal services, it is a promise waiting to be fulfilled.

The justice these Americans are seeking is rarely the stuff of which headlines are made it will not often be carved in stone on our courtroom walls.

It is the justice sought by:

A 13-year-old girl in Maine whose teeth were so poor she could not eat who was denied treatment she deserved under Medicaid;

A 16-year-old mentally retarded child living with her disabled grandmother who was illegally denied entrance to school;

An elderly New York couple living on Social Security charged four times the going rate by a fraudulent home improvement scheme; and

Or a 64-year-old Mexican-American from California given a legal runaround for four years by a lumber company which hoped he would die before they had to pay him his pension.

For these and thousands of other clients of the Legal Services Corporation access to counsel has meant more than a vindication of their legal rights. It has meant a vindication of their humanity a vindication of their dignity and a vindication of their right to be something more than a victim the fate too often reserved for the poor.

I was a sponsor of the original legal services program in the Senate. Like many of you I fought for the establishment of the Legal Services Corporation. President Carter and I are deeply committed to this vital program. We supported a major increase of $50 million for legal services this year. With the additional support of the Congress, and the help of state of local bars, the Legal Services Corporation is well on its way toward reaching the goal of guaranteeing some access to legal help for every impoverished American by 1979.

Much more remains to be done to ensure access to justice, not only for the poor, but for millions of middle income and working families for whom an extended legal battle is an expense they cannot bear.

All of us in the Bar, in the executive, the Judiciary, and the Congress must continue to search for ways to deliver justice to all Americans at a price all Americans will be able to afford.

The reforms I have mentioned tonight are important steps forward. But they alone will not do the job. As Justice Cardozo has written.

"The process of justice is never finished, but reproduces itself, generation after generation, in ever-changing forms. Today, as in the past, it calls for the bravest and the best."

We can reform our judicial system, and we must. But in the end, the success or failure of our efforts will depend not on a system, but on the men and women who uphold it. It will depend, more than anything else on you.

For millions of Americans in recent years a courageous federal judiciary has been their last, best hope for justice. You remain their last, best hope today.

In the years to come we pledge our commitment and our support for your efforts, I am confident that working together the promise of justice in America will continue to be redeemed.

CONGRESSIONAL RETIREMENT BENEFITS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. PRESSLER. Mr. Speaker, I have just become aware that once again Congress is taking an increase in benefits without a rollcall vote. Last week a bill was slipped through the House which will allow a substantial increase in retirement pensions. Basically the bill will allow Members to base their retirement pensions on their single highest year of earnings rather than an average of the three highest. The civil service retirement program, which is separate, requires that a 3-year average be used. Why have hearings not been held? Why is the congressional retirement program so much more generous than any other?

Mr. Speaker, I am not against increases where they are needed—but I want to vote on them. I shall have more to say on this matter on the floor next week.

JUDICIARY NEEDS POWER TO POLICE ITSELF

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FINDLEY. Mr. Speaker, Congress is once again considering the need for additional Federal judgeship across the Nation. Chief Justice Warren Burger complains of a "near crisis situation" and congressional inaction on the judiciary's 4-year-old request for desperately needed district and circuit judges.

He charges that the need for new Federal judgeships has been caught up in the complexities of politics, elections and other irrelevant considerations and suggests that perhaps some other way ought to be found to provide the judiciary with additional judgeships. At issue in his proposal are 132 additional lifetime judicial appointments.

Few would quarrel with the fact that most Federal judges are hard-working, honest, and extremely capable. Yet few also would quarrel with the fact that not all Federal judges fit that description. There are exceptions.

For example, a Federal district judge in Philadelphia, Herbert A. Fogel, has invoked his constitutional right against self-incrimination before a Federal grand jury investigating the questionable 1971 award of a $78 million General Services Administration lease to his uncle, Philadelphia developer Mathew Weinstein. As reported in the Washington Star:

The lease was given to Weinstein even though his bid was millions of dollars higher than two other bids and did not meet legal requirements, according to a study made later by the Government Accounting Office.

For some time, Justice Department officials have been trying to persuade Judge Fogel to resign, but currently there is nothing that anyone can do, but politely ask him. Under the Constitution, as Fogel is quick to point out, a Federal judge "is a lifetime appointee." Today there is no way that he can be forced to leave office short of impeachment.

A few years ago, a judge of the U.S. Court of Appeals continued to hold office and receive compensation for an extensive period of time while appealing a conviction for perjury and conspiracy. Once the possibility of appeal was exhausted, the judge wisely chose to resign. But the decision to resign was his own. Even in these circumstances no external authority forced him to leave the bench.

Just as not all judges are entirely honest, the hearings held on the Judicial Conference's request for 132 new judgeships indicate that not all judges are overworked, either. A senior judge from a Western State, who requested that another Federal judge be assigned to his court, admitted to the Senate Judiciary Committee:

Our statistics here might not measure up. But the fact remains that we go to work early and quit late; we work hard. I get there at

8 o'clock in the morning and don't go home until 5.

Just what an additional judge would be expected to do under those circumstances was left unclear, but undoubtedly he would help ease the burdens of office that a Federal judge's salary of $54,500 is unable to meet. Perhaps it would even provide time for the senior judge to get in an afternoon of golf.

Another judge from a border State, attempting to show how overburdened he is, testified:

I keep a briefcase in the trunk of my car with three or four records in it. Instead of reading the evening paper in the length I would like, I read one of those every night.

Wisely, the House Judiciary Committee has not blindly accepted the Judicial Conference's recommendation and has deleted some of the less essential requests.

Still, these two examples indicate a much larger problem which the judiciary is currently unable to deal with effectively. Judicial appointments are for life and, except for impeachment, there is no external control over the behavior of Federal judges and no way that the judiciary itself can exercise even the slightest supervision of an individual judge's conduct and work on the bench.

Once appointed, U.S. judges are almost totally beyond discipline and review. They remain in office as long as they wish. While most may be hard working, some are lazy and do little to ease the ever-rising caseload. Others perform well in early years and later become incompetent. The only way a judge has been forced from the judiciary in the past has been by impeachment. But impeachment is a process far too cumbersome and time consuming to provide a satisfactory means of dealing with incapacity and incompetence in the judiciary.

Happily, a statutory correction to this problem is possible.

The Constitution does not require that impeachment be the only means of removal. It provides only that—

The Judges, both of the Supreme and Inferior courts, shall hold their offices during good behavior.

Congress has never tried to define "good behavior" except during those very infrequent moments when the Congress has decided that the behavior of a particular judge has been so errant as to justify the impeachment process.

I believe it would be reasonable for Congress to spell out in legislation the meaning of "good behavior" and provide a means through which the conduct of a judge can be measured. In the last Congress, I introduced H.R. 10439, a bill to do just that. Today, I am reintroducing the proposal to establish by law a mechanism through which the judiciary itself can pass judgment on the behavior of its members. Under this bill, the Chief Justice of the United States would be authorized, either on his own initiative or upon the request of two other judges, to establish a three-member panel of Federal judges for the purpose of reviewing the performance of any judge or justice whose behavior has been brought into question. If the panel were to decide the behavior of the judge does not meet the constitutional standard, the person involved would be removed from the bench. The panel's decision would be appealed only to the Supreme Court. The decision of that Court would be final. If the behavior of the Chief Justice is called into question, the most senior Justice on the Supreme Court would select the panel. No Justice of the Supreme Court could sit in review of his own conduct.

In evaluating the behavior of a judge or justice the panel should examine a wide range of questions: Physical capacity, moral turpitude, attentiveness to duty, quality of decisions, and any aspect of behavior unconnected with the judiciary but detrimental to an individual's performance.

The existence of this mechanism would improve the efficiency of the judiciary and encourage each judge to cooperate fully with the rest of his or her colleagues in the judicial system. Such cooperation is essential to the proper administration of justice. It would give appropriate authority as well as title to the Chief Justice of the United States. Yet, while the mechanism would enhance the power of the Chief Justice, it is adequately safeguarded against caprice and vengeance. Two members of the panel would have to agree that the conduct of the judge under inquiry was constitutionally deficient, and the decison could be reversed by the nine-member high court. At the same time, because this mechanism for removal is contained entirely within the judiciary, it would also be satisfactorily insulated from pressures by other branches of Government. Neither the President nor the Congress would have any role.

The chairman of the Subcommittee on Courts, Mr. KASTENMEIER, with bipartisan support, introduced similar legislation earlier this month which would empower the Chief Justice to establish a Judicial Commission comprised of seven Federal judges who would have the authority to remove a colleague from the bench for misbehavior. The bill is a good one and deserves the support of all Members of Congress. I hope that the subcommittee will schedule hearings on it and similar proposals at an early date and report a bill to the floor of the House in time for the 95th Congress to send it to the President for signature.

Some have assumed that impeachment is the only means contemplated by the Constitution through which the performance of judges can be reviewed and measured. Such a concept is manifestly incorrect. Indeed, the Constitution of the United States provides no express means for removal of unfit judges. Only by defining the term "civil officers of the United States" in article II, section 4, to include Federal judges, has Congress been able to remove judges by the impeachment process in the past.

Classed by stature also as civil officers are officers of the Executive, who are subject to removal by the President as well as by impeachment. If this group of civil officers is subject to such summary removal in a manner not specified in the Constitution, there can be little foundation for the argument that Federal judges are removable exclusively by impeachment just because no other manner for their removal is specified in the document.

A study of the judicial system as it was in force in England and in some colonies when the U.S. Constitution was written, leads to the conclusion that the framers did not intend that removal of Federal judges be limited strictly to the impeachment process. Instead, they gave judges tenure during "good behavior" which was the same accorded many English jurists. In England, judges who were found to have violated the good behavior standard could be removed by the judiciary upon a writ of scire facias. Under that procedure, a complaint of illegal, unethical, or intemperant conduct would be heard either by a jury impaneled for that purpose or by the judges' fellow jurists. The accused judge would answer the charges levied against him and then the question as to whether he would continue to hold office would be decided by the normal judicial process—either by the jury or by his colleagues on the bench.

Based upon their understanding of the system in England, the framers probably did not specifically mention removal of judges, because they expected that the judiciary would police itself as was the custom. Consistent with this theory the Supreme Court has held that the President is capable of removing subordinate members of his branch and each House of Congress is given the power to "punish its members for disorderly behavior and, with the concurrence of two-thirds, expel a member." Surely the other branch of Government, the judiciary, should be expected to police itself also. The integrity of the separation of powers would be preserved untarnished. At the same time the burdensome and time-consuming process of impeachment would remain as a last resort in the system of checks and balances so ingeniously incorporated into the Constitution.

Now that Congress is undertaking a review of the needs of the judiciary for additional judgeships, it should also establish a mechanism to insure integrity and efficiency within the judiciary. In fact, it is hard to imagine how the Chief Justice or the Judicial Conference can make a fair evaluation of the needs of the judicial system for more judges in the absence of a system which permits review of the work of the individual judges. The bill I am introducing today provides such a mechanism:

H.R. —

A bill to provide for the review of the behavior of individual justices and judges by three-judge panels

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 462. Review of behavior of justices and judges

"(a) The Chief Justice of the United States may on his own initiative, or shall on the request of two other justices of the United States, or two judges of the United States, or one other justice of the United States and one judge of the United States, establish and select a panel of three members to review the behavior of any justice (other than the Chief Justice) or judge of the United States whose behavior is being questioned under such initiative or request. If, after affording the justice or judge whose behavior is being reviewed by such panel an opportunity for a hearing, a majority of the members of such panel determines that the behavior of such justice or judge is not good, such justice or judge shall cease, as of the thirtieth day after that determination, to hold office as a justice or judge of the United States; except that if such justice or judge takes an appeal to the Supreme Court under section 1259 of this title within thirty days after that determination, such justice or judge shall cease to hold such office only upon the affirmation of that determination by the Supreme Court and as of the time of that affirmation.

"(b) The associate justice having precedence under section 4 of this title shall on the request of two associate justices of the United States, or two judges of the United States, or one associate justice of the United States and one judge of the United States establish and select a panel of three members to review, under subsection (a), the behavior of the Chief Justice of the United States whose behavior is being questioned under such request.

"(c) A panel of three members established under this section may consist of any combination of justices and judges of the United States but shall not include any justice or judge of the United States who initiated or requested the review by such panel or whose behavior is being reviewed by such panel.

"(d) For the purposes of an appeal to the Supreme Court under section 1259 of this title, the determination of a panel of three members under this section shall, to the extent practicable, be deemed to be a judgment of a Federal court.".

SEC. 2. The table of sections for chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following:

"462. Review of behavior of justice and judges.".

SEC. 3. Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Direct appeals from decisions of panels which review the behavior of justices and judges

"Any justice or judge of the United States, whose behavior is reviewed by a panel of three members under section 462 of this title may appeal the determination of such panel to the Supreme Court, if the appeal is taken within thirty days after such determination.".

SEC. 4. The table of sections of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following:

"1259. Direct appeals from decisions of panels which review the behavior of justices and judges.".

WAR AGAINST THE ATOM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. CONTE. Mr. Speaker, I received a visit last week here in Washington from President John R. Silber of Boston University. Dr. Silber was in town to testify in support of an appropriation to establish a model intercultural center at the Fletcher School at Tufts University. It was typical of President Silber's graciousness and vision that he was here in Washington to assist a sister institution from the New England area. The Senate subcommittee has deferred without prejudice any action on the appropriation for the two model intercultural centers for which we recommended funding.

President Silber, during his visit, left with me an article written by his very able administrative assistant, Samuel McCracken, "War Against the Atom" which appeared in the September 1977 issue of Commentary. Mr. McCracken presents a very cogently argued analysis of a most important issue for our Nation. I commend this article to my colleagues as reasoned discussion of the controversy surrounding nuclear power. Copies are available in my office for anyone who might be interested.

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The August 1977 list includes:

NATIONAL DEFENSE

Sharing The Defense Burden: The Multinational F-16 Aircraft Program. PSAD-77-40, August 15.

Civil Defense: Are Federal, State, And Local Governments Prepared For Nuclear Attack? LCD-76-464, August 8.

How The Army Planned For Three New Divisions And How This Can Be Improved. LCD-76-454, August 4.

Military Compensation Should Be Changed To Salary System. FPCD-77-20, August 1.

Shipbuilders' Claims—Problems And Solutions. PSAD-77-135, August 9.

The Operations And Financial Needs Of The United States Soldiers' And Airmen's Home. HRD-77-123, August 1.

Improvements Are Needed To Fully Recover Transportation And Other Delivery Costs Under The Foreign Military Sales Program. LCD-77-210, August 19.

Methods Used For Determining Conventional Ammunition Requirements. LCD-77-401, July 20.

Proposed Closure Of Kincheloe Air Force Base, Michigan. LCD-77-321, April 29.

Letter reports

Release of $126.2 million of impounded budget authority for the Navy's Patrol Hydrofoil Missile Program. OGC-77-24, July 29.

The Navy should have considered using naval shipyards to repair tactical data systems aboard ships before contracting with an outside firm. PSAD-77-149, August 11.

Potential problems in recruiting Reserve and National Guard personnel. FPCD-77-68, August 12.

How the Defense Department can improve the settlement of noncompliance with cost accounting standards. PSAD-77-158, August 17.

The Department of Defense should establish a single manager for the Military Affiliate Radio System. LCD-77-119, August 23.

Suggestions for improving the management of personnel involved in data processing activities at the Naval Sea Systems Command. FPCD-77-63, August 25.

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PROMISES, PROMISES, PROMISES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. SPENCE. Mr. Speaker, in this age when such a great emphasis is, with good reason, being put on truth in Government—when we have elected a President who promised "I will never lie to you"—I am advising my constituents to take with a grain of salt anything they receive in the way of promises from any Federal agency. Why? Because time changes things; but, so many bureaucrats seem to regard their every pronouncement as eternal, unchangeable, and possessed of an intrinsic verity of its own.

In order that the public may be protected against such fantasyland, pie-in-the-sky, promise-making, it has seemed appropriate to me to place in the CONGRESSIONAL RECORD an example of the false and misleading promises of Government agencies. Perhaps, with a bit of "educating," the American public will begin to learn that they ought to question anything they are told by the Government, with this variation on the old song title—"How Can I Believe You When You Tell Me What You Tell Me When I Know You've Been A Liar All Your Life?" There would then be far fewer irate and disappointed people in the country. And, if and when the Government was really able to do something for us that did not cost us more than we benefited and really turned out the way its proponents said it would—well, think how sincerely delighted and pleasantly surprised we would be.

In what appears to be the first informational bulletin published by the Social Security Board, entitled "Security In Your Old Age," and issued by the Government Printing Office sometime prior to November 24, 1936, we find this statement, under the heading "Your Part of the Tax.":

The taxes called for in this law will be paid both by your employer and by you. For the next 3 years you will pay maybe 15 cents a week, maybe 25 cents a week, maybe 30 cents a week or more, according to what you earn. That is to say, during the next 3 years, beginning January 1, 1937, you will pay 1 cent for every dollar you earn, and at the same time your employer will pay 1 cent for every dollar you earn, up to $3,000 a year. Twenty-six million other workers and their employers will be paying at the same time.

After the first 3 years—that is to say, beginning in 1940—you will pay, and your employer will pay, 1½ cents for each dollar you earn, up to $3,000 a year. This will be the tax for 3 years, and then, beginning in 1943, you will pay 2 cents, and so will your employer, for every dollar you earn for the next 3 years. After that, you and your employer will each pay half a cent more for 3 years, and finally, beginning in 1949, twelve years from now, you and your employer will each pay 3 cents on each dollar you earn, up to $3,000 a year. That is the most you will ever pay.

Note that last sentence:

That is the most you will ever pay.

Now, "ever" is a long, long time.

Today, of course, fewer than 30 years later, the employee and employer each pay 5.85 cents on every dollar the employee earns, up to $16,500. That means some folks are now paying, not 15, 25, or 30 cents a week, but upwards of $18.50 a week. And the social security trust fund is on the verge of bankruptcy. To bail it out, the House Committee on Ways and Means has just approved another increase in the tax rate and maximum wage base. The tax rate will go up to 6.05 cents on every dollar and the wage base goes up to $19,000 on January 1, 1978. By 1986, only 9 years from now, the tax rate would be at 6.9 percent on a wage base of $37,500. That works out to nearly $50 per week in the top bracket. From 30 cents to $50 in less than 40 years—well, folks, if anybody tells you that is the most you will ever pay, try not to laugh in their faces.

GUNARS RODE PETITIONS TO BE RELEASED FROM SOVIET CITIZENSHIP

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KOCH. Mr. Speaker, for some time I have followed with interest the situation of Gunars Rode, a Latvian dissident who has just been released from 15 years in prison. In 1962, Mr. Rode, who is now 43 years old, was sentenced by a Soviet court to 15 years imprisonment for alleged "nationalism and anti-Soviet agitation." In fact, this sentence resulted from Gunars Rode's participation in an informal Baltic organization which sought human rights and cultural autonomy for Estonia, Latvia, and Lithuania. Those countries were invaded by the Soviet Union in 1940, and have subsequently been annexed as republics in the Soviet system.

Throughout his imprisonment, Rode refused to repent his views on Latvian cultural rights, and there was some question whether the Soviet authorities would release Rode, when his sentence expired in 1977. Last May, along with 38 other Members of the House, I wrote Leonid Brezhnev, General Secretary of the Communist Party of the Soviet Union, asking him to intervene to assure Rode's release, when his sentence expired. I also placed a telephone call to the prison where Rode was held, attempting to ascertain Rode's health and whether he would be released on time.

Happily, the Soviets did finally release Rode in May, but I am now informed that he is under virtual house arrest in his home city of Riga. Despite his 15 years imprisonment, Gunars Rode still refuses to accept the Soviet domination of his native land, and he is now petitioning the Soviet Government to release him from Soviet citizenship. Rode became a Soviet citizen, when he was issued a mandatory internal passport and forced to sign papers "requesting" Soviet citizenship at the age of 16.

I have been given a translation of Gunars Rode's petition to General Secretary Brezhnev, asking to be released from Soviet citizenship. Because it effectively summarizes his predicament and eloquently restates the human rights situation of Rode and others who seek to retain their national heritage, I am appending it for the benefit of my colleagues. I hope others will read it and do all they can to help Gunars Rode, a Latvian patriot and dissident whose courage and conviction sets an example for all of us. In the spirit of the Helinki Accords, I call on the Soviet Union similarly to respect the character, person, and human dignity of Gunars Rode and others like him.

I am appending the petition:

PETITION

From: U.S.S.R. Dissident, Gunars Rode, Gramzdas iela 9–1, Riga 29, Latvia, U.S.S.R.

To L. I. Brezhnev, General Secretary, CPSU Central Committee:

I request that you free me from the citizenship of the Union of Soviet Socialist Republics, which without basis was forced upon me.

I have not been born in the USSR, since on my birthdate in 1934, Latvia was an independent nation and my parents—its citizens. Therefore, I was not born a citizen of the USSR.

The fact that in 1940 the Soviet Union forcibly occupied Latvia could not have been a reason for an automatic change of citizenship. In 1950, when, at the legal age of 16, I was issued my first internal Soviet passport, I was in fact "requested" to apply, in writing, to be granted the citizenship of the USSR. For my attempt to refuse to write such a request, the 7th security police district of Riga threatened me with arrest and repressions against other members of my family. Faced with such threats, I was forced to comply and write the request. Thus, I formally became a citizen of the USSR.

In the summer of 1958, after completing the fourth year at the Riga Teacher's Institute, I was expelled for unfounded political reasons; on May 15, 1962, I was arrested by the KGB for the same reasons. On December 28, 1962, again on unproven politically motivated accusations, Soviet Latvia's highest court, basing its actions on paragraphs 65, 15, 67 and 59 of the Soviet Latvian Criminal Code, sentenced me with taking away my freedom for 15 years, seven of which I spent at the Vladimir Maximum Security Prison. Also, during my imprisonment at Vladimir, I was refused the request to know the USSR Supreme Court's decision in my case, that court also judging "political" crimes. However, on the other court documents, those of Soviet Latvia's and of the Mordovian Republic's, the official seals were scratched off. Thus, I have spent my 15 years of imprisonment without an officially documented court decision.

Now, after 15 years of imprisonment, I am under official "observation" or house arrest for the maximum of one year, this having begun on May 16, 1977. Based on a July 27, 1966, order of the CPSU Central Committee, such observation periods can be extended for a period up to the original sentence of imprisonment. For me, this observation period could go on for 15 years.

Without delving into the contradictions between this Soviet observation policy and the innumerable human rights documents signed by the USSR, as well as the Soviet Constitution, I will mention only the limitations imposed on me by this policy:

(1) I am forbidden to leave my dwelling between the hours of 10:00 p.m. and 6:00 a.m.

(2) I am forbidden, without official permission, to leave the vicinity of Riga.

(3) Every month I have to register with the Riga security police.

(4) My hunting license has been revoked, again restricting my freedom of movement.

These limitations, which could possibly last my life time, in reality are similar to those which must be observed by all foreigners living in the USSR. Therefore, my situation is now practically that of a non-citizen.

While in imprisonment, I made ten earlier requests to be freed from Soviet citizenship. I requested nothing else—not to suspend my sentence because of unproven accusations, nor to be allowed to leave the USSR. My only wish then—as now—is to have nothing in common with those who support and follow the policies of the USSR and who formulate the internal and external political status of the USSR which has nothing in common with internationally accepted human rights standards. I did not want, and do not want now, to have anything to do with those people who are transforming the Latvian people into a minority in their own land, who cripple the truthful Latvian historical and cultural values and people.

To all my requests for freedom from USSR citizenship, the answer was identical: "The matter can be dealt with after your sentence has been completed."

In response to this refusal of my constitutionally guaranteed rights, in January of 1965, I wrote to the General Secretary of the CPSU Central Committee that I flatly deny any further responsibility as a citizen of the USSR and no longer consider myself as such.

It is unknown to me whether this correspondence was actually received by the General Secretary. On my many inquiries while at Vladimir, I was told only that my statement had been taken into consideration.

Shortly before the ending of my imprisonment, I made another request to the Soviet Latvian KGB, to which a Major Kondrakov of that organization replied: "Well, then, simply don't accept a pass." According to the 193d paragraph of Soviet Latvia's Criminal Code, it is well known that one's freedom can be taken away for being without an internal passport.

Thus, since 1950, when I was unwillingly registered as a citizen of the USSR, there is a gross contradiction between that citizenship as exemplified in my documents, and citizenship as otherwise universally acknowledged, the latter which I support.

The aforementioned, as well as my life's experience, prove that I have never considered myself as a citizen of the USSR, thus, I request that my Soviet citizenship be annuled, that which in 1950 was forced upon me.

From this day on, please consider me as a non-citizen living in the territory of the USSR and also provide me with the opportunity to obtain the appropriate documents.

July 31, 1977, Riga.

GUNARS RODE.

AMERICAN LEGION ON INEQUITIES OF GI BILL

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. DOWNEY. Mr. Speaker, during the past week there have been several responses in the CONGRESSIONAL RECORD to a Washington Post article on the inequities of the GI bill and the reluctance of the leadership of the House Veterans' Affairs Committee to accord meaningful and equitable readjustment assistance to many of our most needy and deserving veterans.

These remarks have implied that only a handful of people are concerned about the readjustment needs of Vietnam veterans and that support is lacking for readjustment program initiatives. These contentions are not supported by the facts.

I am proud to be among the 95 House cosponsors of H.R. 2231, Congressman LESTER WOLFF'S Comprehensive Veterans Readjustment Assistance Act. The most important feature of this bill would allow veterans who demonstrate need and can complete their education in less than their 45-month entitlement period to utilize their excess entitlement to pay education expenses.

The Senate Veterans' Affairs Committee unanimously reported a similar provision this week.

This accelerated tuition assistance concept is supported by the American Legion which includes approximately 700,000 Vietnam veterans in its ranks (by far, the largest concentration of Vietnam veterans in any veterans organization). The concept also has the support of Vietnam veterans groups, such as the National Association of Concerned Veterans, and the National Association of Veteran's Program Administrators.

Structural changes are necessary to make the GI bill meaningful and effective for all deserving veterans. Congressional intransigence toward these changes is a disservice to many of our nation's veterans.

I wish to submit for the RECORD an article, "The Sorry State of Vietnam Vets' Education—and What To Do About It," which was authored by Robert E. L. Eaton and appeared in the June 1974 issue of the American Legion Magazine. As national commander of the American Legion, General Eaton was an eloquent and purposeful advocate for the Vietnam veteran. His article is as timely today as when it first appeared:

THE SORRY STATE OF VIETNAM VETS' EDUCATION—AND WHAT TO DO ABOUT IT

(By Robert E. L. Eaton)

In recent months, newspapers and TV stations have begun to make the public more aware of the plight of thousands of Vietnam veterans in attempting to go to college under their GI Bill.

Many of them (typically those most in need of help) cannot go to school at all.

Their GI Bill benefits, which are far short of the WW2 benefits in the education they can buy, are too meager for them to make out.

Each Vietnam vet who wants to go to school on his GI benefits but can't, represents a failure of the program, but a windfall for the government.

Last year, the Vietnam GI Bill benefits for a full-time, single, college student came to $220 a month or about $55 a week—known as a subsistence allowance. For a normal nine-month college program, this came to $1,980. For each Vietnam veteran who could see no way to pay for his tuition, books, college fees, room, board and transportation on $55 a week for nine months, Uncle Sam simply saved himself the whole $1,980, while the Vietnam vet got no allowance and no education.

The chief difference between the WW2 GI Bill education program and the Vietnam benefits is that in addition to a subsistence allowance, the WW2 veteran got up to $500 toward his tuition, books, etc. In those days, this covered the entire cost of tuition and books at most colleges.

The American Legion estimates that a similar allowance, not to exceed the actual cost of tuition, fees, books, etc., and with a ceiling of $1,000 would serve fairly well under today's soaring education costs.

But Vietnam veterans get no such allowance at all. The subsistence allowance is their entire GI benefit. If they can't pay for their tuition, books, fees, etc. out of their $55 a week "subsistence" they can forget about school unless they have ample means from other sources.

The average cost for books and miscellaneous fees at most colleges today is put at about $216, or just about one month's Vietam GI "subsistence." Tuition fees range all up and down the scale, and are going up. In some state universities, tuition is free for veterans of that state, which is a real break for as many resident veterans as they'll accept. In others, it is as high as $890 for residents and $1,000 or more for non-residents. Private colleges and universities may charge up to $5,000 or more with no break for state residents. Some purely technical schools below college level charge over $2,000 in tuition. Tuition in the neighborhood of $700, which is quite common and due for a further raise next fall, would take every cent of 13 weeks subsistence allowance.

Small wonder that TV stations have had little trouble finding Vietnam veterans to put on the air to make cynical remarks in the order of: "Yeah, I could make it to college if I didn't eat, and slept in the gutter."

Nevertheless, the program has worked "well" enough to permit a large number of rosy statements from government sources citing its success". Large numbers of Vietnam veterans have been able to use their GI benefits. But citing the raw numbers hides the discrimination against the neediest veterans that is built into the meagerness of the Vietnam education program to date.

The $55 a week has been of great value to those veterans who have enough money of their own to make up for its inadequacy or whose parents can afford them substantial help, or who have been able to qualify for substantial scholarships or loans, or who are lucky enough to live in those states with the most progressive state university programs for their young citizens.

State aid seems to account for a large percentage of college attendance by Vietnam veterans for which the federal government has tended to credit the Vietnam veteran's GI benefits. California, with an excellent state university program, seems to have a veterans enrollment of about 37%. Vermont, whose state program is no match for California's, shows about 14.2% veteran enrollement. West Virginia, Indiana and quite a few others don't show a great deal more. This situation has been continuous since the first substantial number of Vietnam veterans began to be discharged nearly ten years ago.

Many borderline Vietnam veterans (financially) are going to college but can hardly be considered a success for the GI program. They have made it by shopping around for the cheapest course in the cheapest college, often abandoning the course of study they preferred because it wasn't offered in the schools they could afford to attend. Any WW2 vet who was accepted for admission could have made it to Harvard Business School financially, in 1946, granted he would take the usual student jobs if he was personally on his uppers. His GI Bill was sufficient to scratch through somehow. This is impossible for a Vietnam veteran if his chief asset is his GI benefits.

The worst situation by far, however, is the plight of the Vietnam veteran without other resources, who simply cannot go to school at all.

It is remarkable that a nation which expresses a great concern for the needy has for years gone along with a GI education program whose workings favor those veterans with the most means and deny any benefits at all for those with the least.

I am hopeful that the sudden interest of the news media will help push forward a speedy reform. The Legion has been seeking improvement for some years but without much support from other segments of the public. Two years ago the Harris poll took an interest. It reported, after a survey, that 59 percent of Vietnam veterans didn't apply for GI school benefits, and as many as 83 percent of these indicated that there was no point in applying because there was no way they could afford college even with their GI benefits.

The media have as yet largely failed to pinpoint where the trouble has been or what the remedy is. Some TV programs have done an excellent job of portraying the plight of the veterans, but have then explained that it was the fault of the public, of the viewers, of you and me, because we just had too little sympathy for Vietnam veterans and were "turned off" on their war.

The nub of the problem is quite simple. Vietnam veterans need a tuition and book allowance on top of their subsistence payments. The TV viewers never did anything to prevent it. Only the Congress and the President can provide it. Neither President Johnson nor President Nixon ever gave Administration support for GI tuition and book allowances. News programs sometimes blame the Veterans Administration. The VA has consistently opposed tuition payments while issuing statistics about the success of the present benefits. It does this as an arm of an Administration which is opposed to tuition aid. But the VA cannot grant tuition allowances until the Congress enacts authorization, and if it does, the VA then must pay the allowances. The Congress has never approved tuition allowances and has rejected the appeals of Vietnam students and the Legion, working together.

Not until the 7th of April of this year have I seen any of the media indicate where the center of resistance has been in Congress. On that day, William Greider reported in the Washington Post that Rep. Olin E. Teague, of Texas, has opposed veterans' tuition allowances since 1950 when, as a young member of the House Veterans Affairs Committee, he led an investigation of the rackets which colleges, universities and their faculties made of the tuition and book allowances granted WW2 veterans.

This is an old story to the Legion Rep. Teague rose to be Chairman of the House Veterans Affairs Committee, and held the chairmanship until quite recently, when he voluntarily left it to head a different committee. During his years he did a great deal for veterans, but he became a stone wall of oppocition to tuition allowances for Vietnam veterans. In his powerful position he refused to report out any bill authorizing them.

In 1971, Gil Moody, the state Legion Commander in Rep. Teague's own state of Texas, wrote him beseeching him to report out some kind of tuition payment to Vietnam veterans. The answer was a flat no, because the colleges had cheated the government after WW2 by abusing the tuition allowance as it was then administered.

In 1972, when Legion National Commander John Geiger was trying desperately to get tuition payments authorized, the Legion's Director of Rehabilitation and Veterans Affairs, Edward Golembieski, advised in a letter of Jan. 2, that there was almost no point of the Legion even putting in a tuition bill "in view of the Chairman's adamant opposition." We did put it in, and, as predicted, it was never reported out.

What we were able to get was a gradual increase in the subsistence allowance to the $55 a week in effect last year. The House of Representatives has recently approved a 13 percent increase for next year, bringing the weekly allowance for a single, full-time student to about $62. Though any increase would help, this would hardly solve the problem. In fact, its chief effect would be to keep the present situation from getting worse in the face of mounting educational costs, every aspect of which is rising faster than the cost of living.

It is ironical to think that it was the sins of the colleges and universities a generation ago which have been invoked to deny an education to the Vietnam veterans who need help the most—and not the nature of the Vietnam war, as many have said.

It is entirely possible for Congress to devise a program granting tuition which the colleges could not so easily abuse, and I am happy to report that the Senate Veterans Affairs Committee is now considering several bills to provide a tuition allowance to Vietnam vets.

Since there is no such provision in the House bill—while the President and the Veterans Administration actively oppose tuition—I hope that the public will now get in the act and write vigorous letters to their Representatives and Senators to support such a measure. I hope the media will keep it up, too, and will do more to spell out what their audiences can do to help. It isn't very hard to do. Demand reasonable tuition and book allowances for Vietnam veterans, so that the neediest veterans can benefit as much as those with more ample resources.

VIOLENCE ON TELEVISION

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FREY. Mr. Speaker, I would like my colleagues to be aware of a significant report adopted by the House Subcommittee on Communications on September 29 condemning the excessive use of violence on television. The report, entitled "Violence on Television," reflects the efforts of the subcommittee to address the increasing and continuing problem of the portrayal of violence on television and its possibly harmful effects on the viewing public.

As one of the authors of "Violence on Television," I realize that this report will be subject to close scrutiny and debate by those on all sides of the issue. I am hopeful that our subcommittee, in serving as a forum for those concerned about television violence, has helped to bring about new approaches and new solutions to the problem. Obviously, as I am sure my colleagues will agree, there are many different approaches and solutions to the very complex issue of television violence, and, in view of the very clear restraints of the first amendment on broadcast programing content, finding answers is a difficult task.

Although the Subcommittee on Communications, after 2 years of involvement with the subject, has adopted a report on television violence it is my hope that the Congress will continue to maintain close oversight on the problem of excessive and needless violence on TV. With this oversight, as well as increased public concern and scrutiny, the pressure can, and should, be kept on those responsible for violence to do a better job than they have done in the past.

Since our subcommittee's report is too lengthy to reprint here, I am taking this opportunity to restate the five conclusions which we have reached in the report.

CONCLUSIONS

First. The level of violence on television continues to be a cause for serious concern. Although it may be impossible at this time to "prove" a precise cause-and-effect relationship between televised violence and aggressive behavior, excessive viewing of violence may have harmful effects.

Second. Responsibility for the present level of violence on television rests largely with the television networks, which exercise substantial control over the programing that they purchase and make available to their affiliates and, to a lesser degree, with broadcast licensees, program producers, advertisers, and the viewing public.

Third. Parental supervision is probably the most effective way to curb the negative effects of excessive viewing of televised violence by children.

Fourth. Industry self-regulation is a potentially effective way to limit the level of televised violence, and, indeed, to adjust broadcast content of any kind to the tastes and concerns of the general public, or segments of that public. The subcommittee, however, is concerned with the results to date of the industry's efforts to regulate itself.

Fifth. There are avenues through which the subcommittee, the Federal Communications Commission, and the public can address the problem of televised violence consistent with the first amendment.

THE OPTICAL DELUSION—PART I

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a major investigative series written by the New York Daily News examining the $2 billion retail eyeglass industry. The main writer of the series was William Sherman, assistant to metropolitan editor. He was assisted by Hugh Wyatt and Kiki Levathas.

Part I of the series focuses on the extent to which prices for basic eyeglass equipment such as lenses and frames varies from store to store. The article paints a picture of rampant consumer exploitation to the tune of $400 million annually in excessive prices. The News actually sent their reporters to stores to purchase equipment. The results were at best astounding. The article states—

Although both reporters asked for the same model glasses at each store, the prices from place to place varied by as much as 155%.

The article also points to insufficient eye examinations and inaccurate prescriptions for eyeglasses. This series, which I will insert in its entirety, merits close attention by all Members. Some 112 million Americans wear eyeglasses. An estimated 94 percent of Americans over 65 wear glasses. Our elderly Americans as well as all consumers must be protected from the type of fraud that is discussed in this article.

Part I of "The Optical Delusion" follows:

[From the Daily News, Monday, Sept. 26, 1977]

THE OPTICAL DELUSION

(By William Sherman)

The retail eyeglass industry is robbing the American public blind.

If you are one of the 112 million Americans who wear eyeglasses, the chances are they don't fit properly, you aren't seeing as well as you might, and you probably paid five or six times their actual cost.

An investigation by News reporters in New York City and federal studies conducted around the nation have found that in most instances, eyeglasses are sloppily prescribed and fitted.

Instead of good eye care, eyeglass retailers emphasize the sale of high-fashion frames and lenses with a hyped promise of sex appeal.

Prices run as high as the unsuspecting market will bear. Frames costing $5.50 wholesale, for example, are routinely peddled on Madison Ave. for $40. The consumer, with little basis for comparison shopping, is left a sucker.

National standards for prescribing and dispensing ophthalmic goods rarely are adhered to. Neither the federal nor state governments have made any major effort to inform the public of the many intricacies in buying glasses.

The industry itself according to economists who testified before the Federal Trade Commission, left the consumer in the dark in order to keep prices high. In most states, there are full or partial bans against advertising eyeglass prices. And the bans are usually supported by local optometric associations.

To get at the facts, two News reporters were examined at length by optometrists at the State University of New York's optometric center. Then, as consumers, they visited more than 30 optometrists and opticians in the five boroughs. Most of the places visited were large commercial establishments.

The prescriptions and the glasses they received from these practitioners were evaluated by the optometrists at the center and checked against the original examinations. These findings were later double-checked by another optometrist.

In addition, the prescriptions written by the optometrists in the survey were checked against the prescriptions of the glasses that were bought.

Reporter Hugh Wyatt, who is nearsighted and astigmatic, visited 20 stores ranging from the cheapest discount houses in Brooklyn to the elegant shops on Manhattan's Madison Ave. At each store, where he was examined, he asked for the identical frame, an American Optical Co "stadium" frame which wholesales for $5.50. The lenses, left up to the retailer's discretion, cost no more than $5—complete package, $10.50 wholesale.

Reporter Kiki Levathes, who is very mildly astigmatic, visited 20 stores. She asked how much it would cost to duplicate her own Bausch and Lomb Ray Ban aviator glasses, a total wholesale package of about $16.

Both reporters' prescriptions are common and the lenses were all prefabricated or "stock"—punched out by the thousands and ready for fitting into frames with no special grinding necessary.

Their findings:

Not one pair of the 20 glasses Wyatt purchased matched his prescription as determined by the doctors at the Optometric Center. In many cases, the stores apparently

ignored their own examinations and simply used his old glasses to make duplicates, but the resulting duplicates bore no resemblance to the old pair.

Fifteen pairs of glasses that Wyatt purchased had defects. Frames were improperly stretched, and every pair of lenses was either too weak or too strong for his prescription. In one case, the dispensing opticians confused the prescription of his left eye with his right eye.

In many cases, he was rammed through the examinations and prescribed glasses in 10 minutes. Many eye tests that should have been conducted weren't. Doctors at the optometric center said a thorough eye examination takes at least 45 minutes.

Although both reporters asked for the same model glasses at each store, the prices from place to place varied by as much as 155%. Levathes' Bausch and Lomb Ray Ban sold from a low of $36 to a high of $83.50 for the identical glasses. Breaking up the total tab into separate prices for lenses and frames, the lenses varied from a low of $14 to a high of $46.50 and her frames varied from a low of $22 to a high of $48.50.

Prices for her glasses also varied at different stores in the same chains. In one instance, two sales people in the same store quoted her different prices for duplicating her glasses—same frames, same lenses.

Prices for tinting lenses—a process the optometric center described as "something you could do in your kitchen sink with a brush and a bowl of $2 dye" ranged from a low of $6 to a high of $50.

There appeared to be no correlation between the quality of glasses purchased and the price paid. In fact, some of the most expensive glasses turned out to be the worst quality, according to the evaluations at the optometric center.

In many of the stores, both Wyatt and Levathes were pressured to buy higher priced glasses by sales personnel. Every hustle and appeal to personal vanity were applied. Levathes was told she should wear the "more comfortable" soft contact lenses even though that type of contact lens is not appropriate for astigmatics. In other cases, when she asked questions about the price of her glasses, sales-people became suspicious and asked her why she was so curious.

One Manhattan optician read the prescription from her own glasses—a simple two-minute procedure where the glasses are placed under a calibrated viewer called a lensometer—and then refused to tell her the result unless she bought glasses.

Wyatt, a fashionable dresser, had an equally tough time getting what he wanted. He was repeatedly urged to buy a flashier, more expensive model than the relatively plain "stadium" frame. Some stores refused to order this frame for him and instead substituted what they called their "cheapest model."

In some stores, Wyatt had to demand his inexpensive "stadium" frame. After several conversations with a reluctant salesgirl named Jill he called her on the telephone.

"I want those frames. I ordered them," he began.

"They're creepy," Jill replied. "I hate them."

"But that's what I want."

"You look too old in them."

"Listen," Wyatt persisted, "I only need them for reading; nobody will ever see me in them."

"They have no class."

"Please," Wyatt pleaded.

"We have so many other nicer models," she countered.

Finally, Wyatt gave up on her, asked for the manager and got his stadium frame.

Both reporters had been wearing glasses since adolescence and were baffled by their experience. In fact, according to the optometrists at the optometric center, the glasses they had been wearing for several years were also inaccurate.

After examining Kiki Levathes, the center optometrist told her, "You don't really need glasses at all . . . or maybe every other Tuesday. The prescription is very mild. But since you've been wearing them so long, it's okay."

Hugh Wyatt's old glasses, a $52 pair, were also inaccurate. Not just a little bit, but every way you could imagine. The lenses were too big, the prescription was too weak in both eyes, the correction for astigmatism was wrong and the distance between the centers of both lenses were off.

He had continued to wear them through occasional headaches and blurred vision, because it was too much bother to have them checked.

"Anyway," Wyatt said, "I thought it was something wrong with my eyes, not my glasses. After all, I have bad vision to begin with."

The reporters' experiences were not unusual. Earlier this year, the FTC asserted that "various industry practices may cost American consumers as much as $400 million a year in excessive prices." This amounts to 20 percent of the $2 billion a year Americans spend buying eyeglasses.

In various southern and western states, investigators found sophisticated forms of price rigging that combined to produce retail markups of 500 percent on lenses and frames.

And while News reporters found prices high in the metropolitan area, they are even higher in the South, where there is less competition between retailers. For example, comparing the same pair of glasses priced in Mississippi and New York City, 19 out of 28 retailers in that southern state charged more. The average price in Mississippi was $51.88 for the pair—25 percent higher than the average New York City price, $41.38.

The quality of glasses surveyed in other states was as erratic as the prices. In Alameda County Calif., for example, 14 pairs of lenses were purchased from retailers and one nationally known wholesale lens producer. The lenses were tested independently by two laboratories for conformance to prescriptions according to standards developed by the American National Standards Institute. The laboratory analysis found that 12 of the 14 pairs did not meet the standard and that there was no correlation between price and quality.

Theoretically, however, what happened to Levathes and Wyatt and the results of the other surveys could not have been expected. The eyeglasses industry, which nationally supports 50,000 retail practitioners, is almost fully automated from the top, where manufacturers produce frames from molds and stamp out finished lenses by the thousands, to the bottom, where examining optometrists use the most sophisticated equipment to measure vision and test for eye diseases.

HOW IT ALL CAME TO LIGHT

Until the beginning of this century, peddlers roamed the country with trial lenses and test kits with frames asking customers only whether they could see through the sample pair. Those early specs were bulky imprecise affairs and there were no regulations as to who could prescribe and dispense eyeglasses. Opthalmology, the study of the eye and the treatment of its diseases by medical doctors, did not exist.

But with the development of precision instruments for refraction, a process where lenses are ground to a specific prescription, specs became eyeglasses and an industry was born.

Practitioners were roughly divided into three fields: optholmologists, medical doctors licensed to diagnose and treat all eye conditions ranging from complex surgery to prescribing glasses; optometrists, licensed to examine eyes for vision problems and prescribe glasses, but not allowed to make definitive diagnoses of disease or practice surgery; and opticians, technicians who grind lenses and fit eyewear who are not allowed to examine or treat eyes in any fashion.

For years, members of the three professions have been feuding over who has the right to do what. In some states anybody can practice opticianry without a license; in New York, an examination and licensure is a prerequisite. Opthalmologists and optometrists have been quarreling over who has the right to detect diseases of the eye.

Despite the spats between the groups, the industry, with technological advances, had grown into a multibillion-dollar-a-year business. Two years ago, 52.6 million pairs of corrective lenses were manufactured for domestic consumption. The two giants of the industry, the American Optical Co. and Bausch and Lomb, share about 70% of the domestic wholesale frame and lens business.

AND HOW IT SHOULD BE

Asked to comment on the results of The News survey, Charles W. McQuarrie, president of the American Optometric Association said, "There will always be a variation among optometrists on judging the right prescription for an individual. But when the glasses come back with the prescription improperly filled as in your cases, that is inexcusable, just sloppy work . . .

"I would never perform an examination in less than 45 minutes. A first visit should take an hour. In five minutes you can hardly take a case history. Anybody who does that kind of testing and who doesn't check the finished glasses to see if they match the prescription written isn't doing his job."

THE PLO: ITS GOALS HAVE NOT CHANGED

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. EILBERG. Mr. Speaker, President Carter and Secretary of State Vance have been told by Egyptian President Sadat and other Arab leaders that the Palestine Liberation Organization has moderated its stance toward Israel.

Sadly, recent events have not confirmed this judgment, and I think it would be helpful to set the record straight on the PLO's failure to demonstrate that it seeks a true peace with Israel. I commend to the attention of my colleagues the following analysis prepared by Dr. Michael Curtis, of Rutgers University, for the American Professors for Peace in the Middle East:

[From the Middle East Review, Fall 1977]

THE MYTH OF THE MODERATION OF THE PLO

(By Michael Curtis)

For some time the myth has been propagated that the Palestine Liberation Organization was becoming more moderate in its attitude toward the Arab-Israeli conflict, was prepared to enter into a peace settlement based on compromise and was no longer determined to destroy the State of Israel. In February of this year President Sadat of Egypt had assured Secretary of State Vance that the PLO was moderating its position. In August the same view was presented to Secretary Vance during his mission to Saudi Arabia.

The myth of moderation has been dispelled by the outcome of the meeting of the

Central Council of the PLO in Damascus on August 25 and 26, 1977. The statement issued after the meeting constituted not only a rejection of the attempts currently being made by the United States and moderate Arab states to introduce moderation into Middle Eastern affairs, but also an affirmation of the basic aims of the PLO as laid down in its Charter.

The United States had hoped that the PLO would accept President Carter's proposal for talks, but the Council rejected "all the United States and Zionist maneuvers." President Carter had also hoped that the PLO would accept United Nations Security Council Resolution 242 as a basis for a peaceful solution of the conflict. But the Council refused to accept Resolution 242 which "ignores the national rights of our people and which deals with our cause as a refugee case."

The statement of the Central Council rejected any attempts "aimed at liquidating the resolutions of the Palestine National Council" or efforts to "change the Arab attitude . . . as far as the rights of our people and their representation are concerned." It refers back to the resolution of the Palestine National Council at its March 12–20, 1977 meeting in Cairo and to the 15-point political program which was adopted at that time.

In the organization of the PLO, the Central Council is the intermediate body between the National Council, the highest policy making body, and the Executive. It therefore clearly expressed the view of the leadership of the organization and in August 1977 it reaffirmed all the resolutions adopted by the National Council.

The March 1977 meeting of the National Council stressed that the PLO continued to adhere to the Palestine National Covenant which denies Israel's right of self-determination and statehood, which calls for the "liberation of Palestine" in a number of articles, which claims in article 19 that the establishment of the State of Israel is fundamentally null and void, and which in article 15 states that it is a "national duty" to purge Palestine of the "Zionist presence." The March 1977 statement reaffirmed pursual of armed struggle as well as political and mass struggle to reach its objectives.

The Central Council statement of August insists on the importance of increasing the continuous armed struggle against "Zionist occupation." The true meaning of this becomes apparent with the related statement that the Council "highly praises the heroic and struggling role of the masses of our people in the occupied territories and its national leadership in Galilee, West Bank and Gaza." Clearly, it is the whole area of the West Bank, including Israel, which is to be the battleground for the armed struggle. The emphasis on terror in the statement was given almost immediate expression on August 26 by the bombs in the market of Gaza and at the Jaffa Gate in Jerusalem.

It is sad to conclude that the PLO continues to oppose all attempts to resolve the Arab-Israeli conflict by negotiation, regarding these attempts as "plots aimed at striking against the Arab liberation movement and at liquidating the Palestinian cause." It is disappointing that the PLO has not moderated its position in any fashion, refusing to make peace with or to recognize the State of Israel, that the PLO continues to emphasize armed struggle as the means of liberating Palestine, and that it refuses to accept Resolution 242, the one international agreement approved by both Israel and the Arab states as a basis for negotiation. Instead it appeals to UN General Assembly Resolution 3236 of November 25, 1974 which, passed by the Soviet-Arab inspired majority, refers to the "inalienable rights" of the Palestinian people to self-determination. The PLO insists that it will determine the nature of those "rights." The continuing rejection of the Security Council Resolution 242 at the August 1977 meeting and the adherence to the basic program and objectives of the Palestine Covenant and to the resolutions of the Palestine National Council indicate that the ultimate aim of the PLO remains the destruction of Israel.

SOUTH DAKOTA WETLANDS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ABDNOR. Mr. Speaker, in attempting to become familiar with Federal wetlands acquisition plans for my State I have corresponded with Mr. Rolf L. Wallenstrom, manager of the South Dakota-Nebraska area office of the U.S. Fish and Wildlife Service.

His responses have been enlightening to me, and I would like to publish them in the RECORD for the benefit of others who may be interested in South Dakota's wetlands and their possible acquisition by the Fish and Wildlife Service:

FISH AND WILDLIFE SERVICE,
Pierre, S. Dak., August 17, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN ABDNOR: Your letter of July 28, 1977 asked for specifics of Carter's program in relation to wetlands acquisition in South Dakota. We assume you are talking about his Bicentennial Land Heritage Program (BLHP) and proposals that have been made to increase land acquisition for wildlife purposes. While on a national basis, the BLHP calls for an increased emphasis on wildlife protection through the National Wildlife System, as far as we know, there is no program at this time to step-up acquisition in the prairie pothole states. Most of the increased emphasis in land acquisition under the BLHP is from the Land and Water Conservation Fund and there is no scheduled acquisition under this fund in South Dakota in either fiscal years 1978 or 1979. The Small Wetlands Program operates with money from the Migratory Bird Conservation Fund. This fund receives its money from the sale of duck stamps and advances currently authorized under the Wetlands Loan Extension Act of 1976. The information we have is that there will be less money available for acquisition under the Migratory Bird Conservation Fund in the North Dakota, South Dakota, and Montana portions of the Central Flyway in fiscal year 1978 than there was in fiscal year 1977.

We understand that you have also written to our Washington office and you will probably be receiving additional information about the specifics of current land acquisition programs in South Dakota from those sources. If you have further questions in the meantime, I will be glad to provide whatever information is available.

Your letter and several news releases we have seen lately have discussed hearings scheduled in early October regarding the Wetlands Acquisition Program. I would appreciate it if you would notify me as soon as you know the exact dates of those hearings and where they will be held. This will allow me sufficient time to ensure that I can be present to address any technical questions that may arise.

Sincerely yours,

ROLF L. WALLENSTROM,
Area Manager.

FISH AND WILDLIFE SERVICE,
Pierre, S. Dak., September 7, 1977.

Hon. JAMES ABDNOR,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN ABDNOR: Your letter of August 24, 1977 asks for additional information on the overall plan for acquisition of small wetlands in South Dakota. I have enclosed the current inventory figures available for South Dakota wetlands. These figures were compiled in 1964 and statistically updated during the winter of 1974–75. They reflect the current knowledge on the extent and types of wetlands in the State. A new National Wetlands Inventory is currently being conducted and should be available in two or three years.

The inventory data can give you an idea of where acquisition may be greater in future years. However, there is not a one-to-one correlation between the total number of wetland acres in a given county and how much may eventually be acquired. For example, you will note that in Day County there are 14,180 acres of Type V wetlands but only ten wetlands comprising those acres. These are large, open-water lakes which would not be considered suitable for the Small Wetlands Program. In general, we attempt to purchase Type IV and smaller Type V wetlands to serve as nucleus brood areas. Wetland easements are used to compliment these nucleus areas.

There are many other factors which will influence where we work in the future. Some of these factors include local acceptance, willingness of landowners to sell, other programs which may protect suitable acreages, and the availability of qualifying land.

Perhaps a review of our program the last few years can give you a better understanding of this. For example, in Day, Edmunds, and Marshall Counties, three counties with large acreages of wetlands, only 110 acres of fee title land have been optioned since 1973. This breaks down as follows:

Edmunds County, no fee options since 1973.

Marshall County, no fee options since 1973.

Day County: 39 acres of fee options in 1974; 71 acres of fee options in 1975; 0 acres of fee options in 1976; 0 acres of fee options in 1977.

Your letter indicates you have heard that a large number of landowners have expressed an interest in offering wetlands for sale. The Fish Wildlife Service has no waiting list of people who wish to sell qualifying land under the Small Wetlands Program. In the 17 years since the Small Wetlands Program became operational, 845 landowners have willingly participated in the fee program and an additional 5,082 have participated in the easement program. We are presently handling about 25 fee and 250 easement cases a year.

Once again, I am hopeful that this information will meet your needs. Part of the problem in conveying our ideas accurately is the difficulty in expressing the questions and answers adequately on paper. I feel it would be most beneficial to meet with you personally to discuss the future of wetlands conservation in South Dakota.

Sincerely,

ROLF L. WALLENSTROM,
Area Manager.

Enclosure.

INVENTORY OF TYPES I, III, IV, V, WETLANDS IN SOUTH DAKOTA

[Revised 1964 inventory with correction factor to add Type I wetlands]

County	Total Type III, IV, V, wetland acres	Type I correction factor [1]	Total Type I, III, IV, V, wetland acres
East River counties:			
Aurora	19,151	1.667	31,925
Beadle	23,989	1.667	39,990
Bon Homme	3,198	1.667	5,331
Brookings	17,804	1.250	22,255
Brown	24,176	1.667	40,301
Brule	15,839	1.333	21,113
Buffalo	2,010	1.333	2,679
Campbell	21,537	1.333	28,709
Charles Mix	21,235	1.667	35,395
Clark	49,669	1.250	62,086
Clay	314	1.667	523
Codington	33,755	1.250	42,194
Davison	4,561	1.667	7,603
Day	71,974	1.250	89,968
Deuel	20,151	1.250	25,189
Douglas	11,864	1.667	19,777
Edmunds	59,990	1.667	100,003
Faulk	55,107	1.667	91,863
Grant	10,431	1.250	13,039
Hamlin	30,677	1.250	38,346
Hand	36,981	1.667	61,647
Hanson	6,596	1.667	10,995
Hughes	3,834	1.333	5,111
Hutchinson	6,649	1.667	11,084
Hyde	19,344	1.333	25,785
Jerauld	7,708	1.667	12,849
Kingsbury	55,889	1.250	69,861
Lake	29,936	1.250	37,420
Lincoln	1,487	1.667	2,479
Marshall	38,587	1.250	48,234
McCook	14,776	1.667	24,632
McPherson	61,517	1.333	82,002
Miner	16,274	1.667	27,129
Minnehaha	9,047	1.250	11,309
Moody	3,134	1.250	3,918
Potter	11,655	1.333	15,536
Roberts	40,398	1.250	50,498
Sanborn	16,942	1.667	28,242
Spink	13,384	1.667	22,311
Sully	17,378	1.333	23,165
Turner	3,910	1.667	6,518
Union	1,794	1.667	2,991
Walworth	9,810	1.333	13,077
Yankton	2,985	1.667	4,976
Subtotal, East River counties	927,447	[2] 1.423±	1,320,062
West River counties:			
Bennett	9,504	1.111	10,559
Corson	5,961	1.111	6,623
Dewey	10,724	1.111	11,914
Haakon	2,571	1.111	2,856
Jackson	230	1.111	255
Jones	3,912	1.111	4,346
Lyman	10,121	1.111	11,244
Stanley	1,859	1.111	2,065
Todd	920	1.111	1,022
Tripp	5,817	1.111	6,463
Ziebach	3,660	1.111	4,066
Subtotal, West River counties	55,279	1.111	61,413
Grand total	982,726	[2] 1.406±	1,381,475

[1] Correction factor estimates are uniformly applied to counties occurring in specific physiographic regions of South Dakota (using South Dakota Game, Fish, and Parks inventory as a base from which estimates were established): 1.111 represents 10 percent of wetlands being Type I, 1.250—20 percent, 1.333—25 percent, 1.667—40 percent. (SD) Type I total 398,749 acres (average 29 percent of total wetlands). (ER) Type I total 392,615 acres (average 30± percent of total ER wetlands). (WR) Type I total 6,134 acres for 11 counties (average 10 percent of total WR wetlands).

[2] Average.

Note: Projections of inventory totals based on drainage surveys and acquisition program accomplishments: Estimated drainage losses (all wetland types), 1964 through 1974 equals 48,913 acres. Wetland acres protected by the acquisition program through 1974 equals 286,602 acres. Current, January 1975, wetland inventory (including protected wetland acres) equals 1,332,562 acres. Current, January 1975, unprotected wetlands equals 1,045,960 acres.

INVENTORY OF TYPE III, IV, AND V WETLANDS IN SOUTH DAKOTA (REVISED 1964 INVENTORY—DECEMBER 1974)

County	Type III		Type IV		Type V		Total	
	Number	Acres	Number	Acres	Number	Acres	Number	Acres
East River counties:								
Aurora [2]	1,341	7,585	112	5,615	25	5,951	1,478	19,151
Beadle [2]	4,195	16,720	249	5,220	4	2,049	4,448	23,989
Bon Homme [1]	400	1,946	56	1,132	4	120	460	3,198
Brookings [1]	432	4,034	158	7,760	8	6,010	598	17,804
Brown [4]	3,359	18,310	62	5,282	4	584	3,425	24,176
Brule [1]	1,064	10,240	39	5,599			1,103	15,839
Buffalo [1]	229	1,442	6	568			235	2,010
Campbell [3]	5,552	12,526	328	5,225	24	3,786	5,904	21,537
Charles Mix [1]	1,852	10,535	204	5,670	21	5,030	2,077	21,235
Clark [3]	5,608	22,200	492	22,239	48	5,230	6,148	49,669
Clay [1]	29	191	7	123			36	314
Codington [4]	2,437	8,648	503	12,969	77	12,138	3,017	33,755
Davison [1]	584	3,486	64	1,075			648	4,561
Day [1]	7,166	29,733	966	28,061	10	14,180	8,142	71,974
Deuel [1]	4,032	7,329	604	10,862	8	1,960	4,644	20,151
Douglas [3]	1,136	10,113	39	1,751			1,175	11,864
Edmunds [3]	17,188	48,239	548	11,108	4	643	17,740	59,990
Faulk [3]	16,636	52,713	192	2,394			16,828	55,107
Grant [3]	3,436	6,313	248	4,118			3,684	10,431
Hamlin [3]	1,279	5,278	234	8,966	18	16,433	1,531	30,677
Hand [2]	7,544	26,655	196	9,771	16	555	7,756	36,981
Hanson [1]	648	4,982	33	1,614			681	6,596
Hughes [1]	381	3,646	4	188			385	3,834
Hutchinson [3]	820	5,900	20	273	1	476	841	6,649
Hyde [1]	3,568	15,377	39	3,967			3,607	19,344
Jerauld [1]	1,040	4,280	58	2,914	1	514	1,099	7,708
Kingsbury [4]	4,022	23,579	245	23,664	16	8,646	4,283	55,889
Lake [4]	1,779	16,137	221	10,819	19	2,980	2,019	29,936
Lincoln [3]	227	1,188	9	198	1	101	237	1,487
Marshall [4]	7,051	15,330	821	14,227	82	9,030	7,954	38,587
McCook [4]	1,378	7,478	425	5,806	17	1,492	1,820	14,776
McPherson [3]	19,408	39,576	1,212	21,008	16	933	20,636	61,517
Miner [1]	1,884	7,432	368	5,924	55	2,918	2,307	16,274
Minnehaha [3]	452	3,760	96	4,418	5	869	553	9,047
Moody [3]	242	1,470	42	1,349	5	315	289	3,134
Potter [3]	1,756	8,293	32	3,362			1,788	11,655
Roberts [3]	12,840	21,711	876	17,663	16	1,024	13,732	40,398
Sanborn [1]	2,832	13,878	132	2,538	6	526	2,970	16,942
Spink [1]	4,728	10,520	68	2,864			4,796	13,384
Sully [1]	1,920	13,826	36	1,552	4	2,000	1,960	17,378
Turner [1]	421	2,929	36	794	1	187	458	3,910
Union [1]	28	304	4	1,291	2	199	34	1,794
Walworth [3]	2,364	5,346	28	2,864	4	1,600	2,396	9,810
Yankton [3]	252	2,087	52	898			304	2,985
East River Subtotal	155,540	533,265	10,164	285,703	522	108,479	166,226	927,447
West River counties:								
Bennett [1]	184	1,390	25	4,812	12	3,302	221	9,504
Corson [3]	1,856	3,705	124	2,256			1,980	5,961
Dewey [1]	413	3,621	229	7,103			642	10,724
Haakon [1]	152	1,276	64	1,295			216	2,571
Jackson [1]	4	30			1	200	5	230
Jones [1]	168	3,435	16	477			184	3,912
Lyman [1]	356	9,077	36	890	1	154	393	10,121

Footnotes at end of table.

County	Type III		Type IV		Type V		Total	
	Number	Acres	Number	Acres	Number	Acres	Number	Acres
Stanley [1]	141	1,397	12	462			153	1,859
Todd [1]	131	640			2	280	133	920
Tripp [1]	520	2,498	84	3,071	1	248	605	5,817
Ziebach [1]	85	3,660					85	3,660
West River subtotal	4,010	30,729	590	20,366	17	4,184	4,617	55,279
Grand total	159,550	563,994	10,754	306,069	539	112,663	170,843	982,726

[1] Original 25 percent survey, 1964—USFWS.
[2] Original 100 percent survey, 1964—USFWS.
[3] Corrected 25 percent survey, 1964 done in 1972—USFWS.
[4] 100 percent survey by SDGFP.
[5] Corrected 25 percent survey, 1974.
[6] USFWS projection of GFP raw data in 1964.

RECOGNITION OF WOMEN AIR FORCE SERVICE PILOTS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. STEERS. Mr. Speaker, yesterday, I met with 4 of the 12 women Air Force Service pilots (WASP's) who reside in Maryland's Eighth Congressional District to discuss legislation (H.R. 5171) to provide for recognition of their service to our country during World War II. This legislation would deem such service to have been active duty in the Armed Forces of the United States and, thus, entitle these women to benefits accorded to all veterans.

I am a cosponsor of this legislation because I am convinced that the WASP's are entitled to veterans' benefits. As a World War II veteran, I have firsthand knowledge of the dedication of these women and of the importance of the services they rendered.

The program whereby 1,097 women pilots served in the Army Air Corps was a military program. Although the WASP's were volunteers and joined under the civil service program, the civil status of the WASP's was intended to be temporary. The WASP's anticipated militarization, in a program similar to that for the WAC's and the WAVES.

This program was formed during World War II when women pilots were employed to release military pilots for combat. These women pilots were militarized in every aspect of training and operational procedure. The WASP's flew more than 60 million miles on operational flights. Military activities were required of, and accorded to, WASP personnel. Flight activities, not assigned to other civil pilots, assigned to WASP's included the ferrying of pursuit aircraft, flying radio controlled aircraft in a "restricted" project, towing targets for antiaircraft firing live ammunition, towing targets for air-to-air gunnery practice, test flying new jet aircraft, graudating from pursuit and bomber flight school, and assignment as pilots to Air Force bases with "restricted" projects. It should be noted that 38 of these women lost their lives during the course of the war.

Other civilian organizations made significant contribution to the war effort; however, none operated under the military pay system and the military disciplinary system with the exception of the WASP's. No other civilians were recommended for militarization by the War Department. If legislation had been introduced in the 78th Congress in 1944 only to militarize the WASP's then on active duty, it is probable, I believe that such a measure would have been passed. Legislation was not introduced, and the WASP's were denied militarization.

One reason the WASP's were not militarized was their sex. The law allowed the Army Air Force to commission only men as flight officers. The question of legality of commissioning women pilots directly into the Army on the basis of their qualifications was first raised in 1944. But, the Comptroller General decided that the authority extended only to men and could "not be regarded as authority for commissioning women as officers in the Army of the United States."

At the same time, in May 1944, Henry L. Stimson, Secretary of War, told the press that—

The War Department believes that presently qualified women pilots should be commissioned in the Army of the United States and that provisions should be made for additional appointments as the need arises. It is believed further that provision should be made for the appointment of qualified women as aviation cadets who, upon completion of training, may be commissioned as second lieutenants or flight officers in the Army of the United States.

Interest in providing WASP's veterans' benefits has been revived in view of concerns for "equal pay for equal work" and related issues. We cannot continue the discriminatory practice of denying WASP's veterans' benefits because the only reason they were not initially taken into the service was their sex.

If enacted, this legislation is projected to cost only $80,000 to $120,000 a year to entitle the approximately 850 WASP's known to be living at this time to enter a veterans' hospital and to provide some scholarship money for their children.

I enthusiastically endorse this legislation and the recognition of the role the WASP's performed for America during World War II. Passage of this legislation would supplement the WASP's de facto Army Air Force and aviator status and entitle them to veterans benefits.

I urge prompt and favorable action by the House Veterans' Affairs Committee on this important legislation in order to bring it before the House for a vote.

STOCK EXCHANGE—OFF-FLOOR TRADING PREMATURE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. OTTINGER. Mr. Speaker, I have followed with interest the Securities and Exchange Commission's recently concluded hearings on off-floor trading restrictions and am concerned that precipitous action by the SEC on this front might cause irreparable harm to our securities market. I am particularly concerned about the possible impact on the small investor if off-floor trading rules are rescinded before a national market system is in place.

The individual is still the backbone of the American capital system. Yet, the SEC's contemplated action would devastate public confidence in our capital markets. The New York Times recently expressed its distress with this situation. So that my colleagues may have the benefit of their comments, I am inserting the September 19 editorial:

PLAYING CHICKEN AMONG THE BULLS AND BEARS

The Securities and Exchange Commission wants to foster a freely competitive national marketplace. It has decreed, therefore, that as of Jan. 1, 1978, members of the New York Stock Exchange do not have to take stock sale and purchase orders to the exchange floor. They can trade stocks in their own offices, on street corners, or anywhere else. The commission hoped, by this action, to induce the various stock exchanges and securities associations to create a national electronic system which would display instantly every offer to buy and sell. The stock exchanges say their progress in setting up such a system is slow because there has been no leadership from the S.E.C. to design the system it wants.

So it is now drawing on all parties that on Jan. 2 the trading of securities is likely to fragment into minimarkets, with some loss of continuity and flexibility. The large, well-capitalized brokerage firms will use their resources to build inventories of stocks, so that they can match buy and sell orders in their offices. The 25 largest New York Stock Exchange firms already possess almost two-thirds of the capital and handle two-thirds of the gross revenues of the 378 member firms. The trend toward merger and concentration would be accelerated by the dispersal of trading, since the larger firms would pick up most of the business that leaves the floor of the exchange. The S.E.C. heard testimony that half of the New York Stock Exchange volume might leave in the first year, 90 percent in the second year, and within three years the exchange might be out of business.

Even Merrill Lynch, the largest firm and likely to be the biggest, beneficiary of the change, warns that the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace.

Historically, the securities industry, has resisted change, and greeted each reform proposal as a threat to capitalism. But the reformers, in their zeal for pure competition, seem sometimes to forget that the existing system does function efficiently. In its current effort to force greater competition, the S.E.C. has whetted the appetites of the large firms, frightened the small ones, and confused the interested public.

All parties agree that a national electronic marketplace, open to brokers everywhere, is a plausible and workable idea. And Wall Street, by and large, has accepted the end of the quasi-monopoly of its exchanges. But the electronic market does not now exist and is not likely to come into being in the next 90 days. The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "chicken" to persist between the securities industry and its regulators. It is time to get on with the transition to an electronic market system that is both open and orderly.

JAMES HAYWOOD HARRISON

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. MITCHELL of Maryland. Mr. Speaker, on the evening of September 27, 1977, the Faith Baptist Church in Baltimore was filled to overflowing. No standing room was left in the aisles, in the church gallery, nor in the church basement. The crowd spilled out on the pavement surrounding the church. We were there for Haywood Harrison's funeral.

He was not an elected or appointed city official. He was a man who lived life so well that all of us wanted to pay tribute to him. The resolution which follows, tells the story well. He will be missed in my community:

[Omega Psi Phi Fraternity, Inc., Pi Omega Chapter]

A RESOLUTION

Issued by the Brothers of Pi Omega Chapter, Omega Psi Phi Fraternity, Inc. Upon the passing of Brother James Haywood Harrison, B.S., M.A., Ed.D.

The lights dimmed and finally faded, and the final curtain has now fallen on the Serene and Extraordinary beautiful life of our beloved fraternity brother and friend, James Haywood Harrison . . . Gentleman, Professional Educator, Scholar and Lecturer, Creative Statesman, Christian Servant and Friend to All.

The members of The Omega Psi Phi Fraternity, Inc. are fully aware of the fact that we are poorer and impoverished and suffered an immeasurable loss as a result of the triumph of our dear brother over the toils of this complicated life. James Haywood Harrison became a member of our Brotherhood in December, 1950 while a student at Morgan State College, Baltimore, Maryland, and the impact of his initiation was felt immediately. He charged and challenged the Fraternity to a commitment to Excellence and to the service to others. Throughout our more than twenty-seven years of association with him, he was a model Brother, who always demonstrated the real meaning of brotherly love, and genuine human decency and concern.

Upon being graduated from Morgan State College with honor and distinction, he completed his post graduate studies at the University of Chicago, the Johns Hopkins University and the University of Maryland. Armed with impeccable academic qualifications, he affiliated with Pi Omega Chapter and proceeded to carve out for himself an enviable profile of selfless services to this community and to the Fraternity. It was in Pi Omega Chapter that his life style, strong, imaginative, and creative ideas served as an early barometer that his would be a life of sterling and unstinting service to the Omega Psi Phi Fraternity. He remained active with our Brotherhood until the time he expired, September 24, 1977 at the place closest to his heart. Morgan State University.

It will be extremely difficult to visualize Omega without Haywood. We will remember Brother Harrison for his scholarly oratory, humorous, witty, glibe, sometimes pungent and direct, but always in the spirit of one of our Cardinal Principles, "Uplift." We will further remember Brother Harrison for the singular dignity and responsibility which he brought to the fulfilliment of all tasks asked of him during his membership in our Fraternity. His devotion to Pi Chapter at Morgan State University as advisor for more than 15 years, and the mental, moral and physical support that he gave to all students, earned for him the Distinguished Service Award from the Second District. He was again named Outstanding Citizen of the Year in 1976, because he had significantly touched the lives of so many people in so many positive ways. Who among us has not been inspired by this giant among men?

Brother Harrison was an instigator of thought and innovator of programs. Consequently, it was by no mere happenstance or political maneuver that he was elected 2nd Vice Grand Basileus of our beloved Fraternity, a distinction sought by many but achieved only by a few. He gave unstintingly of his time, personal resources, and he gave of himself. He gave, and he gave, and he gave, and then, he gave somemore, always with refreshing efficiency and dedication. When the High Court of History sets in judgment on this dear brother and friend, when the jury has deliberated and reached a verdict, they will conclude that he was truly a man of integrity, truly a man of exceptional good judgment, and truly, truly a man of phenominal dedication.

In spite of his effervescence and charisma of his own distinction, in his life the men of the Omega Psi Phi Fraternity, Inc. see a real challenge. For in his daily bearing was the embodiment of gentleness, the paragon of human decency, the epitome of love, devotion and kindness. Haywood demonstrated, "that order is better than Chaos, creation better than destruction, and that gentleness is to be preferred to violence, forgiveness to vendetta." His was an inspiring life, an example encompassing our Cardinal Principles . . . Manhood, Scholarship, Perseverance and Uplift.

The unquestionable respect for Haywood, the faith in him, that extends far beyond the narrow confines of our Fraternity, can be attested by the overwhelming popularity that he enjoyed all over this nation. For we saw in him that spark of dignity that is innate to all men, and so crucial to the sense of community and goodwill that civil men champion. It is because of his life, his splendid and extraordinary example, his devotion and love for the Fraternity, that the men of Phi Omega Chapter, Omega Psi Phi Fraternity, Inc. would have it Resoved:

That the members of Brother James Haywood Harrison's family, his mother, Mrs. Maggie Harrison Jones, his brothers, Miles and Jerome, his sister Bettye, his uncles, aunts, nephews, nieces, cousins, and in-laws, know that we share your grief, and express our deepest sympathy in the loss of Our dear Brother and Friend, whose love for him we share with you.

Be it further resolved that the members of the Omega Psi Phi Fraternity and the Morgan State University Community take particular note of his devotion to cause, and his scholarly deeds: these accomplishments represent a significant turning point in the History of the Fraternity, the History of this City and the History of this State.

Be it further resolved that the members of the Omega Psi Phi Fraternity pledge themselves to appropriately taking note of the passing of Brother Harrison in order to assure that his excellent example will be forever enshrined in the hearts and minds of all of us who have been the beneficiaries of his christian living, strength of character and warm friendship.

Be it finally resolved that we once again find in Brother Harrison's life the real meaning of our beloved Brotherhood, and so involve ourselves in the struggle for Excellence and Service to mankind, that our lives will be more viable and responsive, and like that of Brother Dr. James Haywood Harrison will not be in vain.

May the Supreme Being of the Universe send down devine blessings and compassions to comfort all of those who mourn this tremendous loss.

THE BWCA PROBLEM: PASSIONATE SUITORS FOR A WILD PARADISE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FRASER. Mr. Speaker, most of our offices have heard, in one form or another, from people concerned with the fate of the Boundary Waters Canoe Area in northern Minnesota. The House Interior Committee's Subcommittee on National Parks has held 5 days of hearings on the BWCA: two in early July in Minnesota to take local testimony, one in early August to receive comments from the U.S. Forest Service, and two in the middle of September before the full Washington subcommittee. The subcommittee is now faced with the unenviable task of sorting through the information and advice it has been given and formulating a bill that will settle, once and for all, the disputes that have plagued the area for over 75 years.

The October 10 issue of Sports Illustrated included an article on the controversy entitled "Passionate Suitors for a Wild Paradise." Bill Johnson, the author, visited the BWCA this summer, observed the September hearings, and discussed the situation at length with the principal parties. His article captures the complexity and emotion of the issue. Quoting Sigurd Olson, a naturalist and chronicler of the great northwoods, Johnson draws attention to the timeliness of our deliberations:

I have been in this fight since I was a very young man, and others were in it long before me. If we lose now, if the Boundary Waters Canoe Area is dismembered, we will never get it back. This is it. The issues have never been so clearly cut before: do we want to dismantle this wilderness or is it precious enough to save? That is the crux of it.

I commend the article and the publisher's forward to my colleagues' attention. The article follows:

LETTER FROM THE PUBLISHER

(By Jack Meyers)

Senior Writer William O. Johnson, whose article about the controversy surrounding Minnesota's Boundary Waters Canoe Area begins on page 50, has a special and long-term interest in that great wilderness.

"I was born in southern Minnesota," Johnson says, " a land of farms and small towns, straight roads and church steeples on the horizon. It was rolling or flat terrain, cultivated about as far as the eye could see, with endless rows of corn or fields of wheat. In short, where I grew up was in no way wild. But there was always the country 'Up North,' the north woods, where most of the state's celebrated 10,000 lakes are located.

"When I was a small boy, in the 1930s and early 1940s, my father, mother, brother and I would make an annual summer trek Up North—to Lake Mille Lacs, Cross Lake, Lake Superior, Gull Lake—to fish for northern pike, bass and walleyes. This country of tall, dark green trees and the purest fresh-water lakes imaginable seemed to a little boy to be a forest primeval. When we went fishing, we rarely used a canoe, preferring big wooden rowboats—no motors in those days, they were luxuries, not common—and we would spend hours on those grand lakes. It was always cool or cold at night. During the day, the water was chilly for swimming, but we swam a lot anyway. And I remember the scent of the woods, the pine needles and the almost indefinable smell of decay and of new things growing on the forest floor.

"Of course, all this wasn't the splendid pristine stuff of the Boundary Waters. What I knew was relatively tame even then. There were roads and gas stations, electricity in most places, tourist cabins, roadside grocery stores. But compared to southern Minnesota, it was an impressively uncivilized place. The possibility of getting lost was quite real, and there were bears and wolves and eagles. It was certainly enough to engender the idea in me, and at a very early age indeed, that there was something unique about the wilderness.

"But the wilderness has come to be an 'artificial' part of American life in the 20th century, something that must be carved out and protected, as carefully planned and designed as man's cities or his monuments. Much of the north woods that used to be so enthralling in my childhood, so seemingly remote, has been settled and logged and commercialized. The town of Ely, now "Canoe Town USA," has an eyesore of a main street, with signs and bars and sporting-goods hucksters. It is almost as ugly at 42nd Street in New York. All through the former villages and camping clearings of the north woods are superhighways, Burger Kings, shopping centers, snowmobile shops, motorboat rentals. The lakes are abuzz day and night with the snarl of motors.

"It is not a total wasteland. The woods are still there, as are the smells, although a whiff of gasoline is no surprise. But Up North in Minnesota now is not as different from the rest of the state, the rest of the world, as it once was.

"I've never been an avid, hard-working environmentalist, but the idea of BWCA preserved from loggers and motors appeals to me as a native Minnesotan, recalling, as it does, the north woods I knew as a child."

PASSIONATE SUITORS FOR A WILD PARADISE

(By William Oscar Johnson)

It is a conflict of immense bitterness, a classic battle that combines the fanaticism of a religious war with the deep and indelible passions of an ancient feud between families. It is a controversy with roots that reach back 100 years and, some think, might well continue for another 100. The fight is over a million acres of land that are among the most beautiful on the planet—the Boundary Waters Canoe Area, a lake-dotted wilderness along the Minnesota-Canada border. Among its treasures are the famous Ely Greenstone, one of the oldest rocks on earth, having been formed 2.75 billion years ago, and some of the world's most majestic stands of red pine, some of which were seedlings in the 16th century, years before the doughty voyageurs canoed through the area.

The dispute is over the future of this land: Will it be a wilderness protected against incursion by commerce? Or will huge tracts of it be permanently open to all manner of activity—logging and logging roads and God only knows what forms of motorized mass recreation?

There is anger and intransigence on both sides, harsh accusations and huge exaggerations. Yet there can be no doubt that this is a critical point in the history of the Boundary Waters wilderness. Sigurd Olson, 78, the author-guru of the Minnesota north woods, put it this way: "I have been in this fight since I was a very young man, and others were in it long before me. If we lose now, if the Boundary Waters Canoe Area is dismembered, we will never get it back. This is it. The issues have never been so clearly cut before: do we want to dismantle this wilderness or is it precious enough to save? That is the crux of it."

True enough. But though the issues may be clear and the crux plain to see, the resolution of the controversy is by no means easy to predict. Last week the fate of the Boundary Waters Canoe Area, of its lakes, its Greenstone, its red pine, its bald eagles, timber wolves and beavers was bound up in the intricate machinery of the U.S. Congress—held hostage, as it were, to politics.

This is nothing new, for over the years the BWCA has come to be as much an appendage of politics as the defense budget or the interstate highway system. There may be no other section of wilderness in America that has been more frequently threatened with various forms of damage or destruction—and that has been more consistently rescued by the enlightened acts of politicians. Indeed, the current status of the BWCA is no more than a logical—perhaps even inevitable—extension of its history as a political by-product.

At the turn of the 20th century, this region included one of the last large areas of true wilderness in the U.S. In 1902 a farseeing Minnesota forestry commissioner named C. C. Andrews persuaded the U.S. Land Office to set aside as public domain vast tracts of it. In 1909 Teddy Roosevelt issued Presidential Proclamation 848 making the area—1,019,000 acres—part of the national forest system. In 1926 Secretary of Agriculture William Jardine, who was an otherwise all but anonymous public servant, issued an executive order designating it a "wilderness area," thereby excluding roads from 1,000 square miles of the best canoe country anywhere. Nevertheless, the notorious timber baron E. W. Backus declared he was going to begin large-scale logging in the area and, more than that, he planned to build a series of hydroelectric dams in the hitherto pristine chain of lakes along the border. After a bitter fight in Congress, a bill was passed that blocked all of Backus' schemes. In the late 1940s there was another threat to the region: bush pilots began regularly flying fishermen to lakes deep inside the forest. A thriving resort industry burgeoned. Sigurd Olson, among others, protested that the wilderness was becoming polluted, ruined by these squads of flying fishermen.

In 1948 Congress passed an act allowing the government to buy up and destroy the resorts. The following year Harry Truman was persuaded to sign an executive order that banned all flights into the BWCA. Steadily over the years there have been various executive orders, acts of Congress and lawsuits that tightly controlled lumbering in the area, limited the use of motorboats and reduced and ultimately forbade mining. In 1973 a federal court issued an injunction against all logging until an environmental impact study could be made. The injunction was overturned last year, but the logging companies agreed to a temporary moratorium. In 1976 the Secretary of Agriculture issued an order banning all snowmobiles, which were originally allowed in as "winterized motorboats."

By and large, the wilderness has been well served by politics and public officials. However, at one point in 1964 the BWCA became the subject of a legislative compromise. and all the troubles of today rise from that compromise. When Congress passed the 1964 Wilderness Act—a tough law stating that any areas designated as wilderness were to be off limits to anything mechanized and to any kind of commerce—a last-minute loophole removed the BWAC from full protection.

It continued to suffer incursions that other designated wildernesses did not, and its status became ambiguous. The current conflict has to do with clarifying that status once and for all. That is what proposed legislation in Congress is attempting to resolve.

Two contending bills have been written, almost exactly opposite in their substance, by two Congressmen from Minnesota. James L. Oberstar, of the congressional district that includes the BWCA, drafted a bill that would transfer 319,000 acres into a National Recreation Area, for multiple use, open to logging and motors. Although the other 700,000 acres would remain a designated wilderness, tranquil and untouched, the huge bite the Oberstar bill would take for motors and logging could open up a wedge for further commercialization, and this is what has enraged environmentalists so much. They prevailed upon an interested Congressman, Donald Fraser of Minneapolis, to draft some opposing legislation—a bill that flatly defined the entire million-plus acres, plus several new tracts, as wilderness, all to be absolutely free of motors, commerce and development. The two bills were submitted to the Interior Committee of the House and wound up in the Subcommittee on National Parks and Insular Affairs.

Upon the introduction of the contending bills, all of the long-standing emotionaliam and bitterness between the opposing factions—and philosophies—then broke loose. Preservationists were pitted against developers, motor men against pure canoeists, little-government advocates against big-government supporters, small town against big city, economics against esthetics. There was even a basic class conflict that matched blue-collar motorboat men and snowmobilers with a white-collar elite which seeks an abstraction called "the wilderness experience." About the only factions not in head-on battle over the bills were the two political parties: Oberstar and Fraser are both Democrats.

In the towns located on the edge of the Boundary Waters, residents were aroused over attempts by "outside agitators" to come in and dictate the use of the land, in Ely, the village sometimes called Canoe Town USA, bumper stickers appeared saying Sierra Club Kiss My Axe. At one point a Forest Service building was burned, tires were slashed on vehicles owned by pro-wilderness people and an outfitter who leaned toward the Fraser bill had the display window in his store broken a couple of times. During hearings last summer in Minnesota over the bills, there was much shouting and finger point-

ing. People claimed that making the BWCA a full wilderness would deplete the local tax base to a critical degree. Resort owners swore they would go bankrupt. Loggers said they would not have enough softwood if they were banned from the BWCA. An organization was formed called the Boundary Waters Conservation Alliance and its slogan was keep the BWCA Open to Everyone.

On the other side, a group was formed called Friends of the Boundary Waters Wilderness. Its campaign included a poster with a magnificent photograph of canoe country and two lines of small white type: "The Boundary Waters Wilderness—Take a Long Last Look Before It Vanishes." The group enlisted backing from the national environmental establishment and managed to get 53 members of the House to cosponsor Fraser's full-wilderness bill. Intense lobbying went on. A number of pro-wilderness editorials appeared around the country. The *Chicago Tribune* said, "Failure to enact the policy of the Fraser bill would subject the BWCA to immediate diminution. . . . In our increasingly crowded, polluted, noisy and paved world, legislative changes affecting the Boundary Waters Canoe Area should defend rather than impair its wilderness status."

In Washington, during two days of hearings in mid-September, a good deal of heat was generated—but there was also some light. The Carter Administration introduced a third proposal for the BWCA that delighted environmentalists by disallowing logging, snowmobiling, and mining in the BWCA, but disappointed them enormously by opening up several new areas to motorboats. The governor of Minnesota, Rudy Perpich, testified. He, too, pleased the pro-wilderness crowd by outside the BWCA, but he, too, crushed their hopes by insisting that motorboats and snowmobiles be allowed.

The chairman of the subcommittee is Phillip Burton of California, who ranks only a step or two below Speaker Tip O'Neill in terms of making things happen the way he wants them to happen. Despite 10-hour hearings on both days, without so much as a break for lunch, Burton displayed a remarkably calm and well-focused presence. He sat patiently and politely through a number of emotional and basically uninformative harangues from both sides, but he repeatedly fired sharp questions at witnesses.

Whatever bill finally comes out of the subcommittee, it will bear Burton's name—as well as his idea of what it should say. One thing is certain—he has no intention of reclassifying any part of the BWCA as a National Recreation Area; he declared this unequivocably during the September hearings. Thus Congressman Oberstar's plan to take 319,000 acres out of the wilderness and open it to "multiple use," with all its inherent ambiguities and commercial potential, will certainly fall by the wayside. However, there are still some serious questions which must be answered about which sections of the BWCA will be open to motors, and whether there is to be a gradual phasing out of logging or an immediate ban.

There is a sense of urgency about getting a bill out of the subcommittee soon. The self-imposed moratorium on logging had been kept in effect by timber companies since December 1976, but on Sept. 15 it came to an end. Unless legislation is passed in both chambers of Congress the timber companies could begin logging again in parts of the BWCA in early November. The consensus is that the big companies will continue that moratorium voluntarily, but no one is certain what some smaller firms may do.

Ultimately, the question is: Where is the middle ground between Oberstar and Fraser? In August, Oberstar had submitted a new version of his bill that set a limit on the horsepower of allowable motors in the area (10 hp on most small lakes, 25 on the largest) and closed more sections to logging than the earlier bill had. At the same time, Fraser declared that *his* bill could be altered by adding clauses that would provide federal funds to improve snowmobile routes and to enhance Forest Service management of areas outside the BWCA that might aid softwood logging. He also suggested that funds be made available to buy resorts on lakes bordering the BWCA if owners wish to sell and offered to "give serious attention" to including a 10- to 15-year phaseout of motors on certain peripheral lakes and possibly keeping others open to motors permanently. Obviously, both sides were yielding ground.

At the same time, neither side is willing to speak openly about further compromises. And Burton has been preoccupied with other legislation and has not come up with any way of resolving the impasse. One of Burton's problems is that any pro-wilderness bill must be composed in a way that saves face for Oberstar, a fellow Democrat.

It is possible that some legislation can pass the House this term, that is, before it adjourns for the year on Oct. 27. But as each day passes that possibility becomes dimmer. The Senate, which intends to adjourn on the 15th, would also have to act, and that, too, appears unlikely. The pro-wilderness forces are more amenable to putting off the issue until 1978 because they feel public opinion is probably on their side and they would be compelled to make fewer compromises as time passes. Also, the snowmobile ban would be in force for still another winter.

Still, if Burton does come up with a version of the bill that satisfies both sides, it would be possible to suspend the rules of the House and get it to the floor for an immediate vote in a very short time. There is pressure on everyone to do something, particularly from canoe and wilderness buffs who regard the BWCA with almost religious veneration. Some kind of victory for the wilderness seems almost a historical imperative, considering what has happened in the past. As Sigurd Olson says, "We have had to win *all* of the battles we fought over the BWCA. If we hadn't won *all* of them, there would be no BWCA today."

GEORGETOWN UNIVERSITY HONORS ROSE FITZGERALD KENNEDY

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ROGERS. Mr. Speaker, on Saturday, October 1, Mrs. Rose Fitzgerald Kennedy was doubly honored, by a university and by a son. In a ceremony at Healy Hall, Georgetown University conferred upon Mrs. Kennedy an honorary degree in recognition of her work on behalf of the mentally retarded and their families. From her son, Senator EDWARD M. KENNEDY, she received tribute in recognition of her work as a mother.

Rose Kennedy has been a leader in the field of mental retardation and medical ethics; through her initiatives we have seen great strides in the recognition of this disease and its treatment. Thousands of families across the country have benefited from her work, and it was most fitting that Georgetown University should honor her in this special degree conferring ceremony.

There were other messages, from the President of the United States, from the Queen of England, from Pope Paul. But those of us who were present were most touched by the words of son for mother, words which embody the American family ideal, words with which many of my colleagues must feel a kindred spirit.

I therefore insert in the RECORD the remarks of Senator KENNEDY, followed by the program for the degree conferring ceremony. I know I join all of my colleagues in extending our congratulations and thanks to Mrs. Kennedy, our appreciation to the university for its thoughtful recognition of this strong and tireless woman, and our admiration for the Senator's eloquent statement of family love.

REMARKS OF SENATOR EDWARD M. KENNEDY

Four score and seven years ago, our Fitzgerald ancestors brought forth on this continent, in the North End of Boston in the Commonwealth of Massachusetts, a daughter whom they christened Rose, the Queen of Flowers, whom we honor on this proud occasion.

On behalf of my mother, I am honored to accept the degree that Georgetown University has so graciously and eloquently conferred on her this morning. Speaking for the three generations of the Kennedy family who are gathered here, I express the deep gratitude of all the Kennedys and Fitzgeralds and Shrivers and Smiths and Lawfords—and unto the 29th grandchild—for this extraordinary honor and recognition the university has given to our mother.

No mother more richly deserves this place in the sun. As the Fourth Commandment that Moses brought down from the mountain teaches us, "Honor thy father and thy mother."

Her children's pride in the honor she receives today is exceeded only by the pride we know our often-honored father would also share in this occasion, as her husband and lifelong partner in the shaping of our lives and works.

Others, could they be here, would also share the pride:

Joe, her first born, who gave his life in war, and for whom she proudly wore the Gold Star of our country.

Jack and Bob, who fulfilled so well the mission she instilled of excellence in serving others.

Kathleen, who gave us all such joy in our early years.

Rosemary, her oldest daughter, named for the founding grandmother, the immigrant from County Wexford—our Rosemary, whom we love and whose courageous life has been the inspiration for so many efforts by mother and others to push back the frontiers of knowledge about her disability.

Because of mother and her devotion to our sister, America is shedding its degrading medieval attitudes toward the retarded. Because of Rose, a black child in Bedford-Stuyvesant has hope beyond the ghetto. Because of Rose, a Spanish Jesuit with a degree from Georgetown is teaching ethics and child development at the University of Barcelona. Because of Rose, hundreds of thousands of retarded children have won the right to play, as they swim and run and jump and skate and throw a ball in their own Olympic Games in their own communities.

Our family is especially proud of the close ties we have established with Georgetown University. The Joseph and Rose Kennedy Institute for the Study of Human Reproduction and Bioethics, established on this campus, is the culmination of mother's dream. The Institute is bringing help and hope to those who are mentally retarded. It is breaking new ground in dealing with the complex scientific, medical and ethical

challenges involved in the care and prevention of this affliction.

Three distinguished scholars of philosophy, theology, and medicine hold the Georgetown University chairs that are named for my parents and my sister Rosemary. We are proud of the Kennedy Institute and its emerging role in building better bridges between science and the humanities. For us, this university is the ideal setting for the Institute, with its outstanding facilities for medical care and research and its equally outstanding religious tradition.

In our lives, mother means many things to all of us. As Henry Ward Beecher wrote in Proverbs from Plymouth Pulpit, "The mother's heart is the child's schoolroom." Rose is the finest teacher we ever had. She made our home a university that surpassed any formal classroom in the exciting quest for knowledge. With her gentle games and questions, she could bring the farthest reaches of the universe to our dinner table, or transform the daily headlines into new and stimulating adventures in understanding.

She was also the quiet at the center of the storm, the anchor of the family, the safe harbor where little ones could tow their capsized boats and set their sails again, confident her hand was on the rudder.

She could diagram a sentence, bisect an angle in geometry, or conjugate a Latin verb. She could spot a hole in a sock from a hundred yards away. She could catch an error in our grammar, or sense a wandering eye at the grace before our meals. She could recite the ride of Paul Revere, name the capital of any nation in the world, and bring alive the history of every place we went. Woe be to her child who did not have a map of Africa or the Declaration of Independence in a prominent place in the front hall.

She did everything nine times. And now she's doing everything twenty-nine times again. For half a century in ways like these, she has been gently stretching each child and grandchild toward her goal of excellence. And always, she mixed her tonic of education and self-improvement with a dose of love so overflowing that her potion was irresistible.

Wordsworth wrote that "The rainbow comes and goes/And lovely is the rose." Jack called her the "glue that held the family together." To Bob, she was "the stabilizing influence, performing all the functions that a mother can for children."

For all of us sons, and daughters, she has been the rock and foundation of our lives, making our family standards both livable and reachable. She has shaped our dreams and goals, supported our public and private causes, encouraged us in our service to others in return for the many blessings we have had.

Her children have been doubly blessed. We have had our father's drive and our mother's grace, our father's love of action and our mother's love of history and scholarship, our fathers' gift of athletics and our mother's gift of politics.

Her pre-eminence in politics is secure. Rose has always been the mayor's daughter, the best campaigner any of us ever had. Her thirty-three teas in Jack's Senate race in 1952 became a legend. Henry Cabot Lodge gave her perhaps her greatest campaign tribute, when he said, "It was those damn tea parties that did me in."

Above all, our mother has been a keeper of her faith, a witness for the work of God on earth. Her religion is the sun that lights her world. As the Irish poet Thomas Moore wrote:

"What would the rose with all her pride be worth.

"Were there no sun to call her brightness forth?"

She instilled her faith in us. Because of her, the Rosary, the Meditations of Cardinal Newman, and the Stations of the Cross are meaningful in our lives.

We have shared the joy and sorrow, the times to laugh and the times to weep. She taught us early that the birds will sing when the storm is over, that the rose must know the thorn, that the valley makes the mountain tall. By her example, we more easily endured together the shocks and the tragedies of recent years, and have carried on where others might have faltered or retreated.

Mother has received fine tributes in the past, but none perhaps as fine as the tributes she receives today. She is honored by this degree. She is honored that His Holiness Pope Paul has taken this occasion to praise the faithful daughter of his church. She is honored by a special greeting from the Queen Mother of Great Britain, renewing once again the friendship they established in the Ambassadorial years. And she is also honored by a handwritten letter from President Jimmy Carter, expressing the nation's love and admiration for mother and her achievements.

For us, Rose Kennedy is Everywoman, America's Irish Rose, the Queen Mother of America. She is a symbol of the best in us, a constant inspiration that helps us meet the challenges of the future.

As these messages from the distinguished leaders of Church and State reveal, the strength and character that her family knows so well are admired and honored now by millions in our own nation and throughout the earth. In a world of doubts and shifting values, she has become an eternal flame, a symbol of the timeless virtues like faith and family that are at the root of civilization for so many different peoples in so many different lands.

Now, at 87, mother's work goes on. Age has not withered her, nor dimmed the power of her spirit. She had already reached the age of three score years and ten when her son took office as the Thirty-Fifth President of the United States. Because of her, millions of older Americans have understood that life can begin at 70. In so many ways, she is the fulfillment of the ancient wisdom of the poet Pindar, who wrote, "A graceful and honorable old age is the childhood of immortality."

In honoring Rose today, we honor all who share her ageless youth and faith and spirit. With affection and admiration, we express our appreciation to all of you, as we join now in this great tribute to the Rose of all roses, the Rose without thorns, Rose of Old Boston.

HONORARY DEGREE CEREMONY FOR MRS. ROSE FITZGERALD KENNEDY

I. Opening of the ceremony, Rev. Aloysius P. Kelley, S.J., Executive Vice President for Academic Affairs.

II. Invocation: Veni Creator, Georgetown University Glee Club.

III. Reading of the University Charter, Virginia M. Keeler, Secretary of the University.

IV. Reading of degree citation, André E. Hellegers, M.D., Director, Kennedy Institute for the Study of Human Reproduction and Bioethics.

V. Conferring of the degree, Rev. Timothy S. Healy, S.J., President of the University.

VI. Remarks, Senator Edward M. Kennedy.

VII. Benediction, Rev. Joseph Kadlec, S.J., Kennedy Institute.

THE PRESIDENT AND DIRECTORS OF GEORGETOWN COLLEGE: TO ALL WHO SHALL VIEW THESE PRESENTS: GREETINGS AND PEACE IN THE LORD

Ours is an age in which many people, seeing evil in the world, have lost hope in the future—and have translated that lack of hope into a reluctance to bring children into the world. Today it is important that we look at those who have throughout history had no such doubts. This morning we honor such a person in Rose Fitzgerald Kennedy of Boston, Massachusetts.

Born and raised in an age and family where the title of "Child of Mary" was the greatest badge of honor that could be conferred on young ladies, she became a true "Child of Mary." Later she married and raised a large family. Mrs. Kennedy devoted to that task an intensity of parenting, which in this more technical age might well be called "intensive care." This care, freely given, was not devalued by being considered a duty as well.

In the course of time, Rose Fitzgerald Kennedy came to be the wife of an Ambassador, the mother of a President of the United States, the mother of three United States Senators, the mother of one son who gave his life for his country in war, and she came to be the animator of a philanthropy, whose work was to be carried out by her daughters.

As a result she has consistently been voted one of the most admired women in the world.

Yet, while recognizing these badges of honor, this University wishes to pay her special tribute for her leadership in another area.

Faced with the grief—shared by many millions of other parents—of knowing one of her children to be mentally retarded, she chose, unlike so many of her contemporaries, not to hide the fact. Rather she turned this affliction into the occasion for beginning a crusade on behalf of all others similarly afflicted. It is this crusade which this University particularly wishes to honor today. Through the establishment of institutions for care and research and institutions reflecting on ethical problems relating to such care and research, Mrs. Kennedy has given hope to countless millions here and abroad. Today we see school children and college students, sports stars and public figures no longer shying away from the mentally retarded, but working on their behalf in Special Olympic games, in legislatures, in hospitals and in homes. They have derived inspiration from her quiet leadership.

Because Mrs. Rose Fitzgerald Kennedy has shown us how, in the words of Rudyard Kipling, "to meet with triumph and disaster and treat those two imposters just the same" and how "to fill the unforgiving minute with sixty seconds worth of distance run," the President and Directors of Georgetown University, in virtue of their Charter from the Congress of the United States, proudly and respectfully name as a daughter of Georgetown forever Rose Fitzgerald Kennedy, Doctor of Humane Letters, Honoris causa.

In testimony whereof they have issued these their formal letters patent, under their hand and the Great Seal of the University at Georgetown in the District of Columbia, this first day of October, nineteen hundred and seventy-seven.

TIMOTHY S. HEALY, S.J.,
President.

MICHAEL P. WALSH, S.J.,
Chairman, Board of Directors.

VIRGINIA M. KEELER,
Secretary.

SALUTE TO THE HENRY S. RICHARDS BOYS CLUB

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. CAPUTO. Mr. Speaker, I would like to take this opportunity to salute the Henry S. Richards Boys Club—of

which I was myself a proud member 20 years ago—for winning the 1977 Yonkers Little League Baseball Championship. The players and coaches exhibited dedication and sportsmanship in the finest tradition of American sports. Yonkers is proud of these young champions: Ronnie Moellentine, RF; Tommy Giordano, RF; John Falco, CF; Vinnie de Maria, P; Emil Pellino, C; Billy Agatone, 1B; Frankie Della Camera, 1B; Eddie Delmarter, 2B; Jay Gorstein, 2B; John Cioffi, LF; Brian Dimple, LF; Bobby Manzi, SS; Alex Mirante, 3B; John Cioffi, manager; Tom Mirante, coach; Dom Malandro, coach; John Falco, coach; George Manzi, coach; Ray Alfini, president, and Anthony Romeo, commissioner.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 6, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 2093, to require that Treasury Department administrative expenses be covered by regular appropriations; and on the use of the Exchange Stabilization Fund to support international monetary policy objectives.
6226 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
457 Russell Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on OPEC surpluses, and U.S. contribution to the "Witteneen Facility" of the IMF.
4221 Dirksen Building

Human Resources
To continue hearings to receive testimoney from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building

Select Indian Affairs
To mark up S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes; S. 661, to restore Federal recognition of certain Oklahoma Indian Tribes; and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortage instruments.
5302 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings to explore the function of prisons in society, with emphasis on rehabilitation.
2228 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for September.
1202 Dirksen Building

10:30 a.m.
Appropriations
To mark up proposed supplemental appropriations for fiscal year 1978.
S-128, Capitol

OCTOBER 10

9:00 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To hold hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To begin oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 11

9:00 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To receive testimony concerning labor union insurance programs.
3302 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agriculture and Rural Electrification Subcommittee
To hold hearings on S. 312, S. 2126, and S. 2146, providing for changes in the farmer loan programs of the FHA.
322 Russell Building

Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building

Human Resources
Labor Subcommittee
To hold hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until noon 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Judiciary
To hold hearings on the nomination of Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit.
2228 Dirksen Building

10:30 a.m.
Judiciary
To hold hearings on the nominations of Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation, Department of Justice.
2228 Dirksen Building

OCTOBER 12

9:00 a.m.
Governmental Affairs
Permanent Investigation Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1114 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2103, to require the additional labeling of explosive materials for the purpose of identification and detection.
1224 Dirksen Building

10:00 a.m.
Governmental Affairs
To hold hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Rules and Administration
To hold hearings on and to consider S. Res. 268, providing for radio and television coverage of Senate proceedings during consideration of the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.), to hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate, to be followed by a business meeting on pending committee business.
301 Russell Building

Conferees
On H.R. 9005, making appropriations for the District of Columbia for fiscal year 1978.
S-207, Capitol

OCTOBER 13

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2152, to authorize U.S. participation in the supplementary financing of the International Monetary Fund.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee.
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 14

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

2:00 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Investigation Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

*Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Room to be announced

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

OCTOBER 18

9:00 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigation Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Special on Aging
To hold hearings on proposed extension of the Older Americans Act (P.L. 93-29).
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 19

9:00 a.m
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 20

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965
4232 Dirksen Building

OCTOBER 21

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and ex-

pedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
*Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

*Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, October 6, 1977*

The House met at 10 o'clock a.m.

Rev. D. Charles Elson, senior pastor, First United Methodist Church, Decatur, Ind., offered the following prayer:

Eternal Spirit, so high above us that we cannot comprehend You and yet so deep within us that we cannot escape You, make Yourself real to us now. Seek us out, everyone, in the special circumstances that each soul faces and speak to the needs and hungers of our hearts.

We thank You for Your love and mercy that surrounds our lives. We thank You for companions and children in our homes who love and believe in us far beyond any of our deserving. O God be merciful to us as we pray for our families. May Your love sustain them.

And we pray for ourselves. We are needy people. Walk through the secret corridors of our souls. Make us to be better than we are. Forgive our sins. Strengthen us in temptation. Steady us in the midst of our anxieties. Give us indignation against things that are base and vile.

O God bless this land of our inheritance. Save us from the pitfalls of selfish pride and misused power. Guide those who are entrusted with the leadership of our Nation. Grant them stability and inner resources of spiritual strength. Deepen their faith and lead them in the way everlasting.

We ask in the name of Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. BRADEMAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Without objection, the Journal stands approved.

Mr. BRADEMAS. I object.

The SPEAKER. The Chair understands the gentleman objects. The question is on the approval of the Journal.

Mr. BRADEMAS. I object——

The SPEAKER. The gentleman objects on the ground that a quorum is not present and makes the point of order that a quorum is not present.

Mr. BRADEMAS. Yes, Mr. Speaker.

The SPEAKER. Evidently a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

Does not a motion have to be made to approve the Journal before the gentleman can object to the vote on the ground of no quorum? If so, I will be glad to move the approval of the Journal.

The SPEAKER. The Chair put the question.

Mr. BAUMAN. The gentleman from Maryland was listening carefully, and he missed that completely.

The SPEAKER. Would the gentleman like the Chair to run through that scenario again? He feels as though he did it. He did back up and did it in the proper manner, but if there is an objection, he will do it again.

Mr. BAUMAN. The gentleman from Maryland has implicit trust in the Chair and would not so ask.

The SPEAKER. The Chair respects the gentleman.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 16, answered "present" 1, not voting 53, as follows:

[Roll No. 634]

YEAS—364

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Armstrong
Ashbrook
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Roussel ot
Rudd
Runnels
Ruppe
Russo
Ryan
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Stangeland
Stanton
Stark
Steed
Steers
Stockman
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—16

Aspin
Brown, Mich.
Forsythe
Glickman
Goodling
Heckler
Jacobs
Latta
Lloyd, Calif.
Mitchell, Md.
Oakar
Quayle
Sarasin
Walker
Wilson, Bob
Young, Fla.

ANSWERED "PRESENT"—1

Skubitz

NOT VOTING—53

Ambro
Archer
Ashley
Beard, Tenn.
Bellenson
Boggs
Bonker
Buchanan
Burton, John
Burton, Phillip
Byron
Chisholm
Clawson, Del
Conyers
Cornwell
Cotter
Crane
Dent
Dicks
Diggs
Dingell
Eckhardt
Goldwater
Harsha
Ireland
Johnson, Calif.
Johnson, Colo.
Ketchum
Koch
Lott
Madigan
Marlenee
Mikva
Pepper
Railsback
Rose
Rosenthal
Roybal
Santini
Scheuer
Sisk
Staggers
Steiger
Stokes
Symms
Teague
Tucker
Udall
Vander Jagt
Whalen
Wiggins
Young, Alaska
Young, Tex.

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PASTOR D. CHARLES ELSON

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, I am pleased that today's opening prayer has been given by Pastor D. Charles Elson of the First United Methodist Church of Decatur, Ind.

Pastor Elson has served Methodist congregations in many Hoosier communities including North Manchester, Ft. Wayne, New Albany, Kokomo, and Muncie before going to Decatur. His father provided many years of service in the Methodist ministry throughout Indiana also. Pastor Elson and his wife Betty have been an inspiration to many Hoosiers, including my wife and me. They have served selflessly in the church and in the many communities where they have lived.

I want to thank the Chaplain, Dr. Edward G. Latch, for making it possible for us to hear Pastor Elson.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5289. An act for the relief of Joe Cortina, of Tampa, Fla.

CONGRESSMAN BURKE OF MASSACHUSETTS DENIES RETIREMENT STORY

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to call to the attention of the Members an inaccurate story that appeared today in the Washington Post, a story written by a Mr. Walter Pincus. He said in his story, "Meanwhile, back in the House, several Members * * * have announced their retirements." The story went on to say that among those is one, Congressman JAMES BURKE, Democrat of Massachusetts, a close friend of Speaker O'NEILL.

The only accuracy about that story is that I am a close friend of the Speaker.

I have not announced my retirement. I come from a family of long livers. Of my two grandfathers in Ireland, one lived until he was 92 and the other lived until he was 93. My grandmothers on both sides lived until they were over 95.

Over in the Senate, there is a newly elected freshman Senator who was elected when he was 70 years of age, and when there was some question raised about that, he said,

I don't know what you are getting concerned about. It's only a 6-year term.

It is my intention to stay around here as long as I am physically able to do the work. Since I came out of the hospital, I have attended every committee meeting and answered every rollcall. I have a 99-percent record of attendance in my legislative service of almost 30 years. If I could not keep that record up, I would not run for reelection.

I have not announced my retirement. I intend to wear out; I am not going to rust out like some would have me do. They are not going to put me out to pasture as long as I keep the fighting spirit that I have. I believe in accentuating the positive.

Mr. Speaker, I hope that Mr. Pincus will have the decency to print this denial. I will announce my own retirement; Mr. Pincus will not.

REPUBLICAN TAX REDUCTION PROPOSAL

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I think that the entire Washington press now realizes there is a sign out that says: "Do not tread on JIMMY BURKE."

Mr. Speaker, I rise today to urge my colleagues to join me in an extraordinary effort—to cut the taxes of all American taxpayers.

H.R. 8333, the Tax Reduction Act, has languished in committee since last July and there is no sign that it will ever be given consideration by the majority. I ask the Members of the House to sign the discharge petition for H.R. 8333 and allow the overburdened taxpayer to have a vote in the House on reducing taxes for all Americans.

H.R. 8333 was introduced by Congressman JACK KEMP and Senator BILL ROTH. It is designed to reduce all individual tax rates by an average of 33 percent over 3 years. The legislation is weighted to give lower and middle-income taxpayers the greatest tax relief—to retrieve their earning power from the jaws of inflation which has steadily pushed them into higher brackets and eaten away after-tax purchasing power.

We all feel the impact of higher taxes and its incessant erosion of our disposable income. It is time we ended this economic hardship on American taxpayers and gave them the relief they need and deserve. If the Committee on Ways and Means will not move on its own, then we owe it to our taxpaying constituents to do whatever we can to force action on this essential legislation.

A tax cut will not only provide relief for individuals, but will be a strong shot in the arm for our economy—stimulating production and creating more jobs.

President Carter has clearly shown his intention to increase the tax burden on individuals by "indirect" taxes—such as on energy, waterway user fees and through higher social security taxes. The House has always been considered the "peoples" branch of Congress. I think Members ought to be aware of the growing revolt over taxes and should act positively to reduce the already heavy burden.

Sign the discharge petition on H.R. 8333. I commend Congressman KEMP for initiating this needed legislation, urge all my colleagues to carefully review it, and call upon them to sign the discharge petition now—before the voters ask them why they did not in November 1978.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate my friend, the distinguished minority leader, yielding. I thank him for his outspoken leadership on this issue.

I just want to point out to the Members of this body that the whole purpose of reducing the tax rates for the American people 30 percent across the board on a permanent basis is to reintroduce into our economy the principle of incentive for the American people for work, for savings, investment, and production.

Let me give some examples of how our steeply graduated income tax rates are counterproductive to a growth economy.

A married couple with $12,000 taxable income face an 18.8-percent tax rate. But every dollar they earn over $12,000 is taxed at a 25-percent tax rate. This is the marginal tax rate and which is discouraging the incentives for effort and production so important to the health of our Nation.

The same couple with a $20,000 income is taxed at the rate of 21.9 percent. But every dollar they earn over $20,000 is taxed at the rate of 32 percent. This discourages and in fact inhibits savings and investment.

A couple earning $44,000 is taxed at the rate of 31.9 percent but taxed at 50 percent for every additional dollar, thus encouraging tax shelters rather than productive investment in job-creating enterprises.

Mr. Speaker, lower tax rates will today as it did in the early 1960's not only increase Government revenues, but it will raise more revenue from wealthy people. This strategy is not bipartisan, it is equitable and more fairly based upon people's ability to pay.

When John Kennedy used this strategy in 1962 and 1963, he said "a rising tide would lift all boats," and I want to join with my minority leader in this bipartisan effort to get the economic tide rising again. The American people have a direct stake in the economic tide of America, and I suggest that this Congress will go a long way in helping the American economy by encouraging people to work and save and produce and invest by increasing the after-tax reward for those activities through lower tax rates. If we do not lower the rates, in the next 3 years each American taxpayer will have a one-third increase in their income taxes without so much as a vote by this Congress. That is a real scandal.

Mr. RHODES. Mr. Speaker, I appreciate the remarks of the gentleman from New York (Mr. KEMP) and I thank him for having introduced a most important piece of legislation, which I hope will become law.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET TODAY DURING THE 5-MINUTE RULE

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce may be permitted to meet today during the 5-minute rule for the purpose only of holding hearings.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman can assure us that the reason for this request is only for the purpose of holding hearings and that there will be no attempt to conduct markup sessions?

Mr. MOFFETT. Mr. Speaker, if the gentleman will yield, I can assure him that the request is made for the purpose of hearings only. The hearings are being held to hear witnesses brought by the minority.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REVELATIONS VIS-A-VIS RECENTLY CONCLUDED PANAMA NEGOTIATIONS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, revelations in the other body yesterday with respect to the recently concluded Panama negotiations sent shock waves through the minds of the uninitiated. They came as no surprise to those of us who have been aware of the duplicity and deceit of those involved.

How long will it take our State Department to learn that you cannot do honorable business with dishonorable men?

SUPPORTING LOS ANGELES BID TO HOST 1984 SUMMER OLYMPIC GAMES

Mrs. BURKE of California. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 368) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 368

Whereas the Olympic games further the cause of world peace and understanding; and

Whereas the nation that hosts the games performs an act of international goodwill; and

Whereas the summer Olympic games have not been held in the United States since 1932: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the International Olympic Committee be advised that the Congress of the United States would welcome the holding of the 1984 summer Olympic games at the city of Los Angeles in the State of California, the site so designated by the United States Olympic Committee; and be it further

Resolved, That the Congress of the United States expresses the sincere hope that the United States will be selected as the site for the 1984 summer Olympic games, and pledges its cooperation and support toward their successful fulfillment in the highest sense of the Olympic tradition; and be it further

Resolved, That the Secretary of State is requested promptly to transmit the text of this resolution to the United States Olympic Committee and to the International Olympic Committee.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I appreciate the effort of the gentlewoman from California (Mrs. BURKE) to make sure that the concurrent resolution brought before the House would not embody any financial burden on the Treasury.

I compliment her on her willingness to write this House concurrent resolution in such a manner so that it would not place an extra burden on the already overloaded taxpayers.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the concurrent resolution was reported unanimously from the Committee on Interstate and Foreign Commerce. The concurrent resolution does not carry with it any authorization of appropriations. If that were to occur, it would have to be done by other action of the committee.

Mr. ROUSSELOT. Mr. Speaker, anything that could come to the House unanimously out of the Committee on Interstate and Foreign Commerce must have something right about it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. BURKE of California. Mr. Speaker, this resolution is an outgrowth of House Concurrent Resolution 318, which was introduced with a host of cosponsors on July 29. The U.S. Olympic Committee, on September 25, selected the city of Los Angeles to be the American nominee before the International Olympic Committee for the right to host the 1984 summer Olympic games.

This resolution expresses the hope of the Congress that the United States will be selected as the site for the games, and pledges the cooperation and support of the Congress toward the successful fulfillment of the games. A resolution of this kind is required under International Olympic Committee rules which state that "every candidature must be supported by the government of the country in which the (host) city is located."

The difference between House Concurrent Resolution 368 and House Concurrent Resolution 318 is that the earlier resolution called for Federal financial assistance and did not specify the American bid city. House Concurrent Resolution 368 pledges the "cooperation and support" of the Congress and reflects the selection of Los Angeles as the bid city.

Each resolution was referred jointly to the Committee on International Relations and to the Committee on Interstate and Foreign Commerce. House Concurrent Resolution 318 was reported favorably by the Commerce Subcommittee on Transportation and Commerce chaired by Mr. ROONEY. On September 27 the full Commerce Committee reported the resolution favorably by voice vote.

I wish to thank Committee Chairman STAGGERS and Subcommittee Chairman ROONEY for their time and effort in considering the resolution.

In the International Relations Committee, House Concurrent Resolution 318 was referred to Chairman FRASER's Subcommittee on International Organizations, which held 2 days of hearings. Although the resolution was neither an authorization nor an appropriation, Mr. ROSENTHAL of the subcommittee objected to the words "appropriate financial assistance." The words "cooperation and support" therefore were substituted.

However, as the hearing record makes clear, no member of the subcommittee would object to Federal financial assistance for the 1984 summer Olympic games if the need for such assistance is shown and if the request for assistance is subject to the regular procedure for authorization and appropriation.

Although this resolution in no way bypasses any step in the appropriation process, Chairman ROONEY of the Commerce Subcommittee on Transportation and Commerce indicated that when a request comes before his subcommittee, he will give every consideration to the financial needs of the 1984 summer Olympic games.

The Department of State, in an executive comment to Chairman ZABLOCKI of the International Relations Committee, expressed its support for the resolution and indicated that the Office of Management and Budget had no objection to the resolution.

I wish to thank Mr. ZABLOCKI and Mr. FRASER for their assistance and time in considering the resolution.

In order to accommodate Mr. ROSENTHAL's request in the International Relations Subcommittee, I introduced House Concurrent Resolution 368 on October 4. It was reported favorably by the Committee on Interstate and Foreign Commerce. In order to expedite passage of the resolution, Mr. ZABLOCKI stated in a letter to Mr. STAGGERS that the International Relations Committee would have no objection to the consideration on the House Floor of the resolution as reported by the Commerce Committee.

I would like to thank Mr. STAGGERS for his further assistance and for his consent in allowing me, in his absence, to bring up this request for unanimous consent.

The United States has not hosted the summer Olympics since 1932 in Los Angeles, and there is a feeling worldwide that it is our turn.

It should be pointed out that there are recent precedents for Federal support of international athletic events. Congress appropriated funds for the 1960 Winter Olympics in Squaw Valley, Calif., for the 1979 Pan-Am Games in San Juan, Puerto Rico; and for the 1980 Winter Olympics in Lake Placid, N.Y.

Labor, business, and industry all would benefit directly from the staging of the 1984 summer Olympic games. The benefits are not restricted to the host city, since the prestige of the entire Nation would be enhanced. Athletes from every State participate in the games, and for the first time in 52 years would enjoy the advantage of competing in their own country.

The 1980 games will be held in Moscow and promise to be spectacular. If the United States is selected as the site of the 1984 Olympics, world attention will focus on our efforts to stage the games. The time is approaching when only countries with existing Olympic facilities will be permitted to act as hosts, and in the future the games may be rotated among the five or six existing international sites.

The International Olympic Committee is considering such a decision in order to expedite the staging of future Olympics. As a result, 1984 may be our last chance to be the host country.

I hope we can take advantage of this chance.

I urge Congress to favorably consider House Concurrent Resolution 368.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BURKE of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4297, MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AUTHORIZATION

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 798 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 798

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. All points of order against the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. Under the rule, the gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 798 provides for the consideration of H.R. 4297, a bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of this act for fiscal year 1978. The resolution provides for an open rule with 1 hour of general debate, to be equally divided between the majority and minority.

H.R. 4297 is a simple 1-year extension of authorization, with one exception.

Title I of the act provides for mandatory regulation of the dumping of harmful wastes into the ocean. The authorization provides $4.8 million in fiscal year 1978 for this purpose.

Title II of the act provides for research by the National Oceanic and Atmospheric Administration into the long term effects of ocean pollution. The bill authorizes $6 million for this purpose in fiscal year 1978.

Title III, the Marine Sanctuaries program administered by NOAA "NO–AH" is authorized at $500,000 for fiscal year 1978.

The Committee on Merchant Marine and Fisheries added an amendment to the 1-year authorization provisions of H.R. 4297. This amendment adopted by the committee could possibly be construed as nongermane to a 1-year authorization extension because it requires the termination of dumping municipal sewage sludge into ocean waters as soon as possible but no later than December 31, 1981. The Committee on Rules granted a waiver of points of order against this committee amendment on the basis of nongermaneness.

Mr. Speaker. It is most important that we protect our Nation's vital ocean and coastal resources from contamination. I therefore urge the adoption of House Resolution 798 so that the House may take up this important bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us is a 1-hour, open rule providing for the consideration of H.R. 4297, a bill authorizing fiscal year 1978 appropriations for the Marine Protection, Research, and Sanctuaries Act of 1972. The rule waives all points of order against the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill for failure to comply with clause 7 of rule XVI, the germaneness rule.

H.R. 4297 was referred to the Committee on Merchant Marine and Fisheries and later was sequentially referred to the Committee on Science and Technology. The Merchant Marine and Fisheries Committee version authorizes a total of $11,300,000 for fiscal year 1978 to carry out the provisions of the Marine Protection, Research and Sanctuaries Act. In addition,the legislation provides that the dumping into ocean waters of municipal sewage sludge which may unreasonably degrade the marine environment be ended as soon as possible, and in no case be continued beyond December 31, 1981.

The Science and Technology Committee amended the bill to increase from $6,000,000 to $6,500,000 the amount to be used for research. The total figure authorized by that committee's version of the measure is $11,800,000.

To my knowledge, Mr. Speaker, there is no opposition to the rule; and I urge its adoption at this time.

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. BRADEMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 2, not voting 44, as follows:

[Roll No. 635]

YEAS—388

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Goodling
Gore
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
St Germain
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Roncalio
Runnels

NOT VOTING—44

Ambro
Ashley
Beard, Tenn.
Bellenson
Bingham
Blanchard
Clawson, Del
Conyers
Cotter
Dent
Eilberg
Fascell
Gilman
Glickman
Goldwater
Gradison
Harsha
Holtzman
Johnson, Calif.
Koch
Krebs
Lehman
Levitas
Lott
Marlenee
Richmond
Rosenthal
Roybal
Scheuer
Siak
Solarz
Spellman
Staggers
Stokes
Vander Jagt
Waxman
Weiss
Whalen
Wiggins
Wilson, Tex.
Wolff
Yates
Young, Alaska

The Clerk announced the following pairs:

Mr. Dent with Mr. Beard of Tennessee.
Mr. Stokes with Mr. Gradison.
Mr. Cotter with Mr. Whalen.
Ms. Holtzman with Mr. Bellenson.
Mr. Eilberg with Mr. Del Clawson.
Mr. Bingham with Mr. Gilman.
Mr. Richmond with Mr. Lott.

Mr. Rosenthal with Mr. Harsha.
Mr. Wolff with Mr. Marlenee.
Mr. Staggers with Mr. Glickman.
Mr. Koch with Mr. Krebs.
Mr. Ambro with Mr. Johnson of California.
Mr. Fascell with Mr. Goldwater.
Mr. Roybal with Mr. Lehman.
Mr. Scheuer with Mr. Levitas.
Mr. Yates with Mr. Siak.
Mr. Conyers with Mr. Vander Jagt.
Mr. Weiss with Mr. Ashley.
Mr. Waxman with Mr. Blanchard.
Mrs. Spellman with Mr. Marks.
Mr. Charles Wilson of Texas with Mr. Wiggins.
Mr. Solarz with Mr. Young of Alaska.

Mr. RUNNELS changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 9005, DISTRICT OF COLUMBIA APPROPRIATIONS, 1978

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us what this is all about?

Mr. NATCHER. The request, Mr. Speaker, is to send the District of Columbia appropriation bill for fiscal year 1978 to conference. The bill, as the gentleman from California knows, has passed the House. It passed the Senate this week. We are now ready to go to conference.

The conference will be held after the recess, and sometime after Tuesday of next week. The Senate has requested a conference. That is the purpose of the request this morning, to send it to conference.

Mr. ROUSSELOT. Why is it necessary to send this bill to conference by unanimous-consent request instead of asking for an appropriate rule?

Mr. NATCHER. That is the usual procedure in all matters where we send bills to conference.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I say to the gentleman that I had considered the possibility of offering a motion to instruct the conferees against the funding of the D.C. Civic Center, but in view of the decision of the other body overwhelmingly rejecting the funding by a wide margin, I see no point in doing that. I would suggest that the request is proper.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and, without objection, appoints the following conferees: Messrs. NATCHER, GIAIMO, CHARLES WILSON of Texas, MCKAY, Mrs. BURKE of California, Messrs. BENJAMIN, MAHON, BURGENER, KEMP, and CEDERBERG.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 8309, NAVIGATION DEVELOPMENT ACT

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 776 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 776

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. No amendment to title II of said substitute, and no amendment in the nature of a substitute changing title II of said substitute shall be in order, except amendments offered by direction of the Committee on Ways and Means, and said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. DELANEY) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 776 provides for the consideration of H.R. 8309, the Navigation Development Act.

This is a modified, open rule, allowing amendments to titles I and III of the bill and prohibiting amendments to title II except by direction of the Committee on Ways and Means.

Two hours is to be granted for general debate. The time is to be divided equally between the Committee on Public Works and Transportation and the Committee on Ways and Means with majority and minority allotted time in the usual manner. The rule also provides for one motion to recommit with or without instructions.

The bill is to be read for amendment under the 5-minute rule by title rather than by section. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation and now printed in the bill as an original bill for purposes of amendment. No amendment to title II including an amendment in the nature of a substitute would be in order except amendments offered by direction of the Committee on Ways and Means, and such amendments would not be subject to amendment.

The resolution waives points of order under clause 7, rule XVI, relating to germaneness, for the amendment in the nature of a substitute. This is necessary because H.R. 8309 as introduced did not contain the provisions of title II which are included in the substitute.

The resolution further provides for a waiver of section 402(a) of the Budget and Impoundment Act so that the bill might be considered. This waiver is necessary because the bill contains an authorization for fiscal year 1978. The Congressional Budget Act would prohibit the consideration of any authorization for fiscal year 1978 which had not been reported on or before May 15, 1977. The bill H.R. 8309 was reported on July 28, 1977. Due to the unusual circumstances surrounding the consideration of this measure, the Budget Committee recommended and the Committee on Rules granted a waiver of section 402(a) of the Budget Act.

The specific budget violation in H.R. 8309 pertains to an authorization of $432 million for the construction of a new Locks and Dam 26 on the Mississippi River. Previously, H.R. 5885, a bill containing an authorization identical to that found in H.R. 8309, was passed by the House on May 17, 1977. In the Senate this bill was amended on June 22, 1977, to provide for certain waterway

user fees. When the bill was sent back to the House, it was tabled. Since article I of the Constitution requires all revenue measures to originate in the House of Representatives, it was considered inappropriate to proceed with further action on the measure. H.R. 8309 was introduced on July 14, 1977, and jointly referred to the Committee on Public Works and Transportation and the Committee on Ways and Means. The two committees worked closely on the bill, and it was reported on July 28, 1977, by the Committee on Public Works and Transportation with an amendment in the nature of a substitute including title II as adopted by the Committee on Ways and Means.

Mr. Speaker, H.R. 8309, authorizes $432 million for the construction of a new Locks and Dam 26 on the Mississippi River. It would impose a tax on fuel used by commercial vessels on the inland waterway system. The fuel tax would total four cents a gallon beginning in October of 1979 and rising to six cents a gallon in 1981. The bill also requires a joint study by the Departments of Commerce and Transportation to investigate the various types and levels of user charges that could be imposed on waterway traffic in future legislation as well as the impact of user charges on carriers, shippers, consumers, and regions affected.

Mr. Speaker, H.R. 8309 is an important bill, and I urge my colleagues to adopt House Resolution 776 so that we might proceed to its consideration.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I think it should be emphasized at the very outset that what we are considering in House Resolution 776 is a modified closed rule providing for the consideration of H.R. 8309, the so-called Navigation Development Act.

The fact that I would like to call to the attention of the Members of the House this morning is that the rule is even more closed than the one the Committee on Ways and Means had requested in the letter which it sent to the Committee on Rules under date of July 6, 1977. That was a letter from the chairman of that committee. The Committee on Ways and Means had asked for a rule prohibiting any amendments to its section of the bill, which is title II, the tax on fuel used in commercial transportation on inland waterways, except it was willing to accept one motion to strike the entire title.

What the Committee on Rules did, instead, was to adopt a totally closed rule on that title, and this rule will bar even a motion to strike the title.

It was a Member from this side of the aisle—and I am pointing, of course, to the Democratic side of the aisle—the gentleman from Iowa (Mr. BEDELL), who appeared before the Committee on Rules and requested that the title be opened up, at least to the extent that he could offer a single amendment, an amendment that would raise the users' fees over a phased-in, 5-year period to recover ultimately 25 percent of the cost of operation and maintenance of the Inland Waterway system, and then also to recover new construction costs.

At the same time the Committee on Rules received a letter containing a petition that was signed by 46 Members of this body, Members from both sides of the aisle, supporting that request on the part of the gentleman from Iowa (Mr. BEDELL).

Notwithstanding the facts that I have just recited, the Committee on Rules voted for a totally closed rule, on the very specious ground that opening that title to amendment would somehow open up the entire Internal Revenue Code. We got the same argument from that committee that we have traditionally received on tax bills that come before this body, the argument being that we cannot open up the entire code.

I think the time has come, Mr. Speaker, to lay that bugaboo to rest. An open rule on title II would not open up the entire Internal Revenue Code to amendment. There is no Member who can successfully defend that statement on the floor of this House today.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I want to support what the gentleman from Illinois (Mr. ANDERSON) has said.

It seems to me that a well-drawn rule permitting amendments to the code that are related only to this particular subject would certainly avoid the problems brought up by the Committee on Ways and Means, and unless such an amendment is in order, I will certainly vote against the rule and I will vote against the bill, because I think we must establish the principle that the inland waterways are to carry some reasonable portion of the cost of constructing and operating them.

Without that, I think we are simply undermining other forms of transportation such as highways and railroads, and then when they are adversely affected, we will turn around and subsidize them some more. This bill provides us with the opportunity to start getting away from that ridiculous posture.

Mr. Speaker, I support the gentleman's position.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Ohio (Mr. SEIBERLING). He has stated precisely the position that I hold.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would just like to commend the gentleman in the well for his statement and for articulating the position which I hope to articulate later.

The gentleman in the well, I think, made a good point before the Committee on Rules in terms of pointing out that in the process of studying waterway user fees, we should take a look at the existing studies.

Since 1936 or so, we have had a series of reports that have indicated that we probably should move in the direction of the policy issue of imposing waterway user fees. I think the rule before us today excludes our opportunity to have that full and open debate here on the floor of the House of Representatives.

Mr. Speaker, I think the gentleman in the well carefully notes the fact that this is not opening up a Pandora's box and that we can, as reasonable people, deal with an issue like title II in a reasonable way, without impacting negatively on the total tax code.

Mr. Speaker, I thank the gentleman for his comments.

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate the gentleman's contribution and the point that he and the preceding speaker have just made is quite true, that an open rule on title II of this legislation would make possible amendments to the proposed section 4042 of the Internal Revenue Code dealing with fuel taxes for commercial transportation on inland waterways.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I want to thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman in the well.

I want to commend the gentleman from Illinois (Mr. ANDERSON) for the courage he has in standing up to try to see that the House has an opportunity to openly debate issues of this nature so that we might give the public an opportunity to know how we vote, why we vote, and what we believe.

Again, Mr. Speaker, I want to associate myself with the remarks of the gentleman from Illinois (Mr. ANDERSON), and I thank him for his courage.

Mr. ANDERSON of Illinois. Mr. Speaker, I think it was the gentleman from Iowa (Mr. BEDELL) who pointed out in his testimony before the Committee on Rules that the 4 to 6 cents a gallon that is provided for under the committee bill, under title II of the committee bill, would permit the recovery actually of only about 7 percent of the operation and maintenance and the new construction costs of these waterways.

The other body has already passed a bill that would call for user fees sufficient to recover 100 percent of the operation and maintenance costs and 50 percent of the new construction costs.

The amendment which the gentleman from Iowa (Mr. BEDELL) wanted the Committee on Rules to make in order, and which the committee refused to do, would have been a compromise in two areas which are obviously very far apart. It would simply compromise those two extreme positions by eventually permitting the recovery of 25 percent of both the operation and the maintenance and the new construction costs.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I appreciate the gentleman yielding. While it is not my intention to engage the gentleman in debate—I do not feel that I can let the statement stand without explanation—that this tax will only yield 7 percent of the operation and maintenance

of the inland waterways. While I am sure that figure is correct—it is not true that all of that O. & M. is chargeable to navigation of commercial vessels.

The study provided for in title 3 should allow the Department of Transportation and the Department of Commerce determine how much of the O. & M. is chargeable to commercial navigation.

Let me tell you just some of the benefits included in the Corp. of Engineers O. & M. expenses which I do not believe are chargeable to navigation of commercial vessels.

INCLUDED IN O. & M. EXPENDITURES

WATER QUALITY MANAGEMENT

Water Supply.
Low Flow Augmentation.
Public Use Plan Studies (Great).
Rainfall Gauging.
Stream Flow Gauging.
Water Quality Investigation.
Silt Reduction.

RECREATION

Small Boat Channel Dredging & Maintenance.
Dredging To Small Boat Ramps.
Visitor Facilities At Dams & Other Areas:
a. Toilet Facilities & Sewage Treatment;
b. Paving Maintenance; and
c. Clean-up.
Safety Shelters For Small Boats.
Use of Locks (Many Not Used By Commercial Craft).
Beach Erosion.
Aquatic Plant Control.
Fish & Wildlife Habitat Enhancement.
Dredging For Ecological Enhancement.
Stable Calm Water Pools.

AGRICULTURE PRODUCTION

Silt Reduction.
Bank Protection.
Drainage & Run-off Control.
Fishing Enhancement:
a. Commercial; and
b. Game.
Stream Flow Reduction Reducing Erosion.

OTHER O. & M.

Area Redevelopment.
Salinity Control (i.e. Old River Lock & Dam).
Maintenance Of Bridges Across Navigable Structures.
Bank Stabilization:
Protects Roads.
Protects Cities.
Protects RR Right of Way.
Regulatory Costs:
Permits.
Contract With Local Law Enforcement (Protection of Visitors).

Recently, the Ways and Means Committee eliminated fuel tax from mass transit on the theory that mass transit is the most energy efficient way to move passengers. It seems inconsistent that we now want to penalize consumers by adding an additional tax on the most energy efficient way of moving commodities.

Mr. ANDERSON of Illinois. Mr. Speaker, I think what the gentleman has just said illustrates the point that I am really trying to make.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 5 additional minutes.

Mr. Speaker, I had not intended to get into a debate on the substantive merits of this legislation. As a matter of fact, I support completely my friend the gentleman from Illinois (Mr. FINDLEY) who believes that it is important that we have an authorization, as we do in title I of this bill, for the construction of a new 1,200-foot long lock on the Mississippi River near Alton, Ill., to replace the present locks and dam 26. I think it is a badly needed new facility that would permit an increase in the capacity and alleviate some of the delays that are presently caused by double lockages at the existing facility. I object to the provisions of title I for the same reasons, if we adopt this rule in its present form, under the procedure under which we will be operating, we simply are not going to have the opportunity to get into the kind of full discussion of title II that we should. I know it is October. I know we have other legislation pending on the floor, and all of that, but this is a terribly important principle, whether or not the users of our inland waterway system of this country, on which we annually expend hundreds of millions of dollars, ought to pay a more equitable share of the cost of maintaining those waterways. I fear—indeed, it is more than a fear, it is a realization that we are simply locked in under the terms of this rule to the point where we could not even strike the title, let alone do as the gentleman from Iowa (Mr. BEDELL) sought to do, offer an amendment.

So, despite my willingness to accept the position of my friend, the gentleman from Illinois (Mr. FINDLEY) that we ought to get on with the authorization of the new 1,200-foot long lock on the Mississippi River, I do not like the procedure that the Committee on Rules has ordained under this particular resolution. I think we should vote against the rule and we ought to come back with an amendment—and, let me say, if we defeat the previous question, I would offer an amendment to the rule. The amendment would simply provide that:

On page 2, at line 14, insert the following words after the comma: "and an amendment printed in the Congressional Record of September 19, 1977, beginning at page E5657, by Representative Bedell,".

We are not going to open it all the way, so do not have any fears that we are going to be bogged down here for many weeks considering all kinds of amendments. But I think it is fair that we have one opposing point of view to the position taken by the Committee on Ways and Means opened for debate on the floor when we do debate this bill.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, I thank my colleagues for yielding.

I just noted that three of the Members on the other side who are opposing this modified closed rule today, voted contrary to that position last week on the rule on H.R. 8410 when they all voted for a modified closed rule that day.

Mr. ANDERSON of Illinois. Mr. Speaker, as the gentleman from Indiana (Mr. JOHN T. MYERS) well knows, consistency is a virtue that is not always practiced in this body.

I repeat, Mr. Speaker, that when the question is put, I shall ask for a no vote on the previous question, simply so that I may then have the opportunity, if we prevail, to offer the amendment that would make in order the amendment by the gentleman from Iowa (Mr. BEDELL).

Mr. DELANEY. Mr. Speaker, I yield 12 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. I rise in opposition to House Resolution 776, the rule on H.R. 8309, the Navigation and Development Act of 1977.

H.R. 8309 provides for a new lock and dam at Alton, Ill., as well as for a user tax. House Resolution 776 would permit floor amendments to titles I and III, but would grant a closed rule on title II—the section of the bill which would impose a 4 cents per gallon tax on diesel fuel used by cargo vessels on our inland waterways.

I object to the adoption of a closed rule on title II. By prohibiting floor amendments and thus effectively precluding meaningful consideration of alternative user fee proposals, House Resolution 776 does a great disservice to the House and to the American people. It assures that the current policy of Federal subsidization of commercial barge traffic, which is no longer justifiable on policy grounds and which costs taxpayers millions of dollars each year, will continue.

Allow me to put the user fee issue into better perspective.

The Federal Government currently builds, maintains, and operates a network of inland waterways that are used by barge operators to carry about 11 percent of our domestic freight. This policy of providing inland waterways free of user charges dates back to the early days of the Republic when it was the intent of the Government to create a viable water transportation system by protecting canal operators against other forms of competition.

This Federal policy has proven quite successful. Today, the Federal Government maintains more than 15,000 miles of inland waterways which are deep enough to accommodate commercial traffic. In many cases, these waterways are navigable only because the Federal Government has invested billions of dollars over the years in locks and dams and dredging operations.

These waterways have greatly facilitated commercial water transport. The success of this Federal effort was documented in a study released by the General Accounting Office in the fall of 1975. This study reported that since 1950 the large industry—

Has enjoyed rapid growth and profit. Cargo tonnage has doubled and ton-miles have increased almost fivefold. Since 1960, the industry's investment and percentage of return on total investment nearly doubled and carriers' revenues have gone up more than 120 percent.

It is important to note that, at present, the users of our Nation's waterways enjoy the use of a Government built and maintained river system without having to pay anything for the privilege. At the same time, competing forms of trans-

portation do pay charges. Trucks pay fuel taxes, permit fees, and tolls to operate the Nation's highways. Aircraft pay fuel and ticket taxes plus landing fees. And railroads pay substantial property taxes and provide their own railbeds. This situation has given the barge industry a competitive advantage over other forms of transportation in movement of bulk commodities—and not an insignificant advantage at that. In fact, a recent Congressional Budget Office study on the user fee issue reported that:

> Federal subsidies are equal to about 42 percent of all barge revenues, compared with 3 percent for railroads, 1 percent for trucking companies, and no subsidy at all for pipelines.

Also, the cost to the Government has been substantial. Over the history of its involvement with domestic water transportation, the Federal Government has spent more than $14 billion to subsidize the barge companies. Our inland waterway system is currently prospering, and massive Federal subsidies for waterway traffic continue.

In my judgment, the question of whether the operation of the inland waterway network should continue to be financed out of general revenues or whether the users of our waterway system should be required to pay all or part of the cost is an important public policy issue which should be an integral component of any discussion of the user fee issue. House Resolution 776 would foreclose meaningful consideration of this important aspect of the issue.

There are those who would challenge my assessment of this situation by pointing out that title II would implement a user charge—a 4-cent tax on diesel fuel. My response is that there are several important aspects to the user fees issue which title II totally ignores. It does not adequately resolve the question of sufficiency of revenue which a 4-cent tax would raise, this year and over succeeding years.

It does not allow consideration of the issue of whether current Government policy, which provides waterway users with a substantial advantage over competing modes of transportation, is justifiable in light of present realities. And, most importantly, it does not address the essential question of how much of the maintenance and construction cost of our inland waterway system commercial users can reasonably be expected to bear. All it does is allow for passage of a fuel tax which would recover only about 6 percent of Government spending on construction and operation of our inland waterway facilities.

In short, the House is being called upon to make a significant policy decision without being afforded an opportunity to consider all the factors and options which should form the basis of that decision. House Resolution 776 has made sure of that.

At this point, I think that it is important to point out that the Senate has already passed a waterway user charge which would require that users pay 100 percent of operation and maintenance costs and 50 percent of construction costs at the end of a 10-year phasein period. The administration is on public record as supporting the Senate-passed provision. In fact, in testimony before the House Public Works Committee on July 18, 1977, Secretary of Transportation Brock Adams, stated that:

> The President has made clear . . . that he will not sign an authorization bill for a 1200 foot lock at Alton unless Congress also enacts legislation that provides for waterway user charges that will recover a substantial amount of the government spending on construction and operation of inland waterway facilities. I believe that a substantial level would be 100% of operating and maintenance costs and at least 50% of the costs of new construction. Obviously, user charges that lead to this level of recovery should not be imposed overnight. A phase-in period of up to ten years is acceptable to the Administration.

Yet, despite the Senate action and the administration's testimony in favor of "substantial" recoupment, the bill we will consider today, H.R. 8309, will result in recovery of only 6 percent of Government spending on construction and operation of inland waterway facilities.

Mr. Speaker, last week I appeared before the Rules Committee to request that I be allowed to offer one amendment to title II of H.R. 8309 which would constitute a compromise between the committee bill and the Senate-passed user fee provision and which would provide the House with an opportunity to debate and vote on a stronger user fee proposal. My proposed amendment would have provided that users pay 25 percent of construction, operation, and maintenance costs, phased in over a 5-year period at 5 percent per year, through a combination user charge and fuel tax. Such a plan would not have committed us to 50 percent or 100 percent cost share as is provided in the Senate bill, but it would have given us an opportunity to try out the concept of a given percentage user charge. It would also have allowed us to review its practical application before reaching a definitive judgment on the user fee issue. Unfortunately, the Rules Committee denied my request and granted a closed rule on title II.

I believe that the concept of given percentage user charges is crucial to any meaningful recoupment plan, for whenever a user of Government services is required to pay a set percentage of the cost of such services, that party will serve as a watchdog to prevent unnecessary waste. Why? Because such waste would come directly out of that user's pocket.

Mr. Speaker, the President of the United States supports higher user fees. The United States Senate favors higher user fees. And, there is significant support in the House of Representatives for higher user fees. Yet, under House Resolution 776, this body will only be able to consider a 4-cent fuel tax.

I fully understand the rationale for limiting amendments on tax legislation. I did not ask for an open rule on title II. However, I do think that it is appropriate to grant a rule which would permit a vote on a single amendment, such as I proposed, which would require that users pay a set percentage of the cost of construction, operation, and maintenance of our inland waterway system, phased in over a given period.

I personally believe that the time has come to impose equitable and meaningful cost sharing. And I do not feel that the fuel tax provision in H.R. 8309 would accomplish this objective.

But, beyond that, I think that the refusal of the Rules Committee to allow the full House to decide the issue for itself is extremely unfortunate. The House should have an opportunity to consider alternative user fee proposals, and to then work its will. House Resolution 776 denies us this opportunity, and I cannot support it.

Mr. Speaker, I believe it is very important that the House understand exactly what the issue is as we consider this rule. First of all, we should be aware of the fact that the legislation that was passed in the other body called for 50 percent of the construction costs to be charged to the barge industry and 100 percent of the operations and maintenance to be phased in over a 10-year period.

Secretary Adams in testifying testified in effect that that was supported by the administration. His testimony also indicated that there was even a question as to whether a bill that did not contain such language would even be signed by the President. It was my desire, as I went to the Committee on Rules, that we have an opportunity to consider one amendment.

My request, as has been explained by the gentleman on the other side of the aisle, was that we have permission to consider one amendment which would have phased in 25 percent of those costs over a 5-year period. My request was that the House have a chance to debate and consider this important issue. I am not here to debate the merits for or against the issue at this time. I do not think that is the proper thing. I only ask that the House in public debate have a chance to debate and be recorded on this matter, which I consider to be a special interest matter, as we consider it herein.

I believe the problems that we have with special interests in this House of Representatives can only be attacked when we debate them fully, in the open, in front of everyone, and where we all vote for it. Indeed, I think I could have phrased an amendment in such a manner that I probably could have gotten around this rule and brought it forth, but I believe we are arguing something much more important here today than what type of a user fee we have on our barges. I think we are debating today whether or not we are going to continue to have rules in the House which say that important issues will not be debated here on the floor of the House but will be determined by committees.

I am well aware of the fact that this rule will probably pass. I am well aware that this will probably be the way things will happen here today, but I would hope that we would start to move, at least as we face these issues, toward the time when the Members of this House would say, if we were elected, let us consider and discuss the issues that affect our people, and we are going to bring those matters

up in the House of Representatives, so that important issues such as this, which are important policy issues of our country, will, indeed, have an opportunity to be debated on the House floor.

Mr. Speaker, I yield back the remainder of my time.

Mr. DELANEY. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I think that it is an important and historic moment when we come before the House to ask for a rule. The committee asks for that rule to be closed simply because it wants to not allow a full and open discussion of policy issues. I think that it is necessary for this House to look closely at the rule that is being put forward here, because the rule suggests that no amendment can be offered to title II.

The gentleman from Iowa (Mr. BEDELL) has provided this House a great service. He has constructed a compromise amendment. He placed that amendment in the CONGRESSIONAL RECORD so that everyone could have access to the wording of that amendment. He simply requested that a modified rule be brought forward so that the policy issue of waterway user fees and taxes could be one of open discussion.

I would suggest to my colleagues that it looks to me, from the outside looking in, that an agreement has been reached among the chairman of the Committee on Public Works and the chairman of the Committee on Ways and Means and the Speaker to approve as little a waterway user fee as possible. I would remind the House that a 4-cent imposition of tax would have only the slightest impact to the waterway industry.

In fact our estimates are that it will only recover about $32 million annually of an annual authorization and appropriation of somewhere in excess of $400 million in this area. Brock Adams, our Secretary of Transportation, came before both the Public Works Committee, on which I serve, and the Ways and Means Committee and pleaded with the Members of both groups to move towards the recovery over a 10-year period of 100 percent of the operation and maintenance and 50 percent of the construction costs of our inland waterways. He was reflecting what was in virtually every report that has been brought forth out of the executive branch of the Government since Franklin Roosevelt was President of the United States.

I brought here this morning just a few of the reports that have been put together, some of which in the last 10 years have looked at and analyzed and computerized the impact of the waterway user fees phased in over a 10-year period. Some Members suggest it is too soon; that the 25 or 30 or 40 years of reports are somehow insufficient and that we should wait for the Transportation Policy Commission report or wait for the report in title III.

I suggest if we allow the amendment by my colleague, the gentleman from Iowa (Mr. BEDELL), to be placed before us and if in fact we vote "yes" on that amendment, it would be phased in so gradually that by the time those reports came before us we would have an opportunity to alter whatever taxes or fees were imposed.

I further suggest that even if those reports come back, as all the other reports have done, and say that the imposition of fees should take place, this body, this House and the Senate and the administration are not compelled to abide by what those studies indicate.

I think the evidence is in. I think the waterway users' fees should be phased in over a long period of time. I think we should start balancing our transportation policy and I would urge my colleagues to read the reports, leaf through the executive summaries, and move quickly to defeat the rule, and accept the modified rule which will be offered by the gentleman from Illinois (Mr. ANDERSON).

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the acting chairman of the Public Works Committee.

Mr. ROBERTS. Mr. Speaker, I appreciate the gentleman yielding. The gentleman is a member of the Public Works Committee and the gentleman from Iowa is not a member of that committee. The only section in question is the section of the Ways and Means Committee. It has been 200 years and we have had no tax on the waterways. This is the first time we have ever instituted any form of tax there. The Public Works Committee has gone through it over a long period of time, but of course, the only section or title in controversy here is title II from the Ways and Means Committee.

Mr. DELANEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I thank the chairman for yielding.

Our waterways are absolutely necessary to the operation of this country. My distinguished colleague; the gentleman from Pennsylvania, did not bother to say that the railroads, the trucks, all of the industries so far as I know are in support of this bill as it comes before this group. It is something that is absolutely necessary.

If there is one failure of that existing 600-foot lock, all of the balance of the Mississippi River and all of the area above Alton, Ill., is that the river is going to be closed to barge transportation.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I appreciate the gentleman's statement. I would have to say from my own conversations with the truckers and the railroads, the only reason they are accepting this bill is that they think they can win the battle on the Senate side. I think it would be inaccurate to say to the House that everyone is satisfied with what we have done on this side.

Mr. ROBERTS. I think when the bill came out of the committee there were two or three votes against it. I do not know what the situation was on the other side. I was in receipt yesterday of a letter from the Secretary of Transportation wholly endorsing the bill although he was opposed to it in the original form. It is a good bill and I hope my colleagues will support the Rules Committee.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I thank the chairman for yielding.

I think it is very interesting that the gentleman from Philadelphia is here arguing for more of a tax on shallow draft vessels and he has not said a thing about deep draft. I think if we are going to do it we ought to do it all the way.

Mr. EDGAR. If the gentleman will yield, the gentleman knows in the full committee I indicated my willingness to look at that issue.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I confess a particular interest in this bill because Lock and Dam 26, which has become the most celebrated lock and dam in all the world, lies within my district; but that fact gives me, perhaps, a special perspective. I doubt if there is anyone in this Chamber who is more conscious of the difficulty that has been encountered over the years by those who would seek to establish a user fee. It has not been an easy task.

I do not often disagree with my esteemed colleague, the gentleman from Illinois (Mr. ANDERSON), but I do rise in strong support of the rule. I think the modification of the rule in this case is thoroughly justified. I say that for two reasons. First of all, because I agree with the acting chairman of the Committee on Public Works that this is truly an historic decision that the House has before it. Never before in the history of the Republic has a user fee been established upon barge traffic. Frankly, I share the view of those who feel it is long overdue, but getting the various interests involved in dealing with this very contentious issue together to agree upon a package that they can live with has been a very difficult task.

I think those who believe in the user fee as a concept should rejoice that the House has before it this modified rule and ought to enthusiastically embrace it.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the distinguished gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, in view of what the gentleman has described as an historic decision, should it not be a decision made by the whole House?

Mr. FINDLEY. Yes, of course.

Mr. ANDERSON of Illinois. And under the terms of the rule, we cannot even strike title II and that is more than even the Committee on Ways and Means asked for in their letter requesting the rule. The Committee on Rules by requesting this kind of rule has eliminated this entirely from the historic decision of which the gentleman speaks.

The SPEAKER pro tempore. The time

of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. FINDLEY. Mr. Speaker, this body has several options. It can reject or accept the rule, it can approve the bill or approve it in modified form; so I do not think the House is denying itself any important options in approving the modified rule, assuming the House really wishes to move forward on the issue of a user fee.

Now, I realize that there are those who would like to have a higher user fee and I am sure the opportunity will come along at some later date for a consideration of higher user fees. I am sure the issue will not die, but I repeat what I said earlier, that those who really believe in the concept of the user fee have cause for rejoicing in the presence of this modified rule before the Chamber at this time.

Mr. Speaker, there is another reason why I feel that this is an important issue. The Lock and Dam 26 is truly the bottleneck in our giant vital river transportation system. It has been held up, it has been snared by the user fee controversy now for 3 years. I know full well, because I have been involved in all these proceedings. Therefore, I think on both counts, on the need for improvement of this bottleneck and on the need for a breakthrough on the user fee concept, we should rejoice that the modified closed rule is before us. I think the rule deserves the support of this whole body.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to say to the gentleman, it seems to me what we are talking about is an industry-oriented tax that will do the least amount of damage. When they came before the committee they said, "Don't kill this one now, because we have one that will nauseate us a little bit," and we are actually imposing just that one.

The SPEAKER pro tempore. The time of the gentleman from Illinois has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I just cannot allow that statement to stand, because I know out of my experience year after year of the diligence with which the barge lobby has been able to resist user fees. For them to come to the point where they can accept the adoption of the user fee concept is truly a historic advance.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I thank the gentleman for this statement. I know no one knows this problem better than the gentleman from Illinois knows it. I subscribe fully to what the gentleman has told the House this morning. I hope the House will support the committee action.

Mr. SHIPLEY. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois.

Mr. SHIPLEY. Mr. Speaker, we know that sometimes we have rules that we do not all agree on, but in this case I happen to be for any rule or vehicle that will give us an opportunity in Illinois, Iowa, and Missouri, to be able to do something to move the products we need to have moved that we cannot do with other modes of transportation.

The SPEAKER pro tempore. The time of the gentleman from Illinois has again expired.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. Mr. Speaker, we need some type of vehicle to solve the problem. Throughout the Midwest, we have been able to grow and produce more corn, more soybeans, more wheat than we can use in this country, but everywhere at harvest time there are not enough trucks, not enough railroad cars, to ship what we produce. We can feed the world, but we have to have some method of transportation to move what we produce.

Illinois has enough coal to last this country 300 years, but we cannot move it on the highways and on the trains we have today. We simply cannot move it. So, I am for any type of rule that will give us a chance to move forward in that part of the country to produce and ship what we produce and make them available to the whole world.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I would like to thank the gentleman from Illinois for yielding to me. I think what we have before us today is a carefully crafted rule which, as one Member mentioned earlier, is going to establish a historical precedent in putting a user fee on the waterway transportation system.

There are two things, as far as I am concerned, that we should consider. If we are going to move ultimately in this direction, we ought to do it bilaterally, on both the deep draft navigation system as well as the shallow draft navigation system. Also I find it surprising that some people propose to lay on a much higher shipping cost on the American farmer. Because farmers and agribusiness use about 75 percent of the shipping capacity, I think, is reason enough to reject the change in the rule which they are proposing in trying to put this increased cost on farmers.

So, to lay on an increase in transportation costs, even if it is only 1 or 2 cents per bushel, is not good national policy. How much do the Members think the farmer can afford at a time when we have a depressed farm economy in the country? Farmers are going broke across the nation, in every county and State. I think that is the real issue right now. We ought to accept the rule, establish the precedent and move forward with this legislation as quickly as possible.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Has the gentleman heard of another oppressed group called the American taxpayers?

Mr. HAGEDORN. I am very surprised to hear the gentleman from Ohio talk about the oppressed taxpayers, because they are getting the benefits of the result when the grain moves down the Mississippi River and into our foreign export markets where $24 billion of farm commodities went in the last fiscal year.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in support of the rule. I would like to associate myself with the remarks of the gentleman from Illinois. This is indeed precedent-establishing and properly so.

I would also like to commend the chairman, the gentleman from Texas (Mr. ROBERTS) for his skill in bringing forth this piece of legislation, which is delicately balanced and accomplishes the almost impossible. The users at long last are willing to pay user fees, after decades of traditionally resisting any imposition of such fees, have seen the error of their ways and have realized that they have a responsibility that is comparable to the responsibility of the shippers in the Oil Liability and Compensation Act which this House passed.

They too resisted any imposition of fees. But they realized that there was a greater objective and hence agreed to pay. We should not lose sight of the greater objective. In the Oil Liability Compensation Act there was a question of seeing that the oil spills were dealt with and that those who reported damages were compensated. Here we also have an opportunity to address ourselves to a greater objective.

I urge my colleagues to vote for the rule.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Speaker, I rise in support of the efforts of the gentleman from Illinois (Mr. ANDERSON) to defeat the rule and to allow the House to debate this important issue.

Mr. Speaker, I have been supporting the proposal to repair locks and dam 26. That is not an issue with me. I have continuously voiced my opinion that this proposal should not be held hostage to the waterway users fee. But I also believe the House should be able to benefit, with its ability to cope and allow all of the Members to debate the issue and put on the record as to where they stand.

As I listened to the debate to this point, most Members are saying they will support 4 to 6 cents that should be levied on the industry. I think if we face that particular position we are saying that we will guarantee at least 4 to 6 cents. I think we should give the Members an

opportunity to debate at least an alternative above that.

The gentleman from Ohio has mentioned a very important element here. It is not a question of whether or not we are going to raise revenues with no intention of where we are going to spend them. The question is whether or not the people who use the waterways are going to share a fair responsibility of keeping those waterways useful and their customers supporting them.

Mr. Speaker, I come from a region that does a lot of shipping, the steel industry. I know I have been severely criticized by some of my constituents for supporting any waterway users tax. I think we should at least be subjected to a legitimate debate on the floor of the House as to whether or not they are paying their fair share of the tax burden that we are encumbering.

Mr. Speaker, I heartily support the efforts of the gentleman from Illinois (Mr. ANDERSON), and I ask that we come back with an open rule to allow open debate on this issue.

Mr. PICKLE. Mr. Speaker, I am in opposition to the rulemaking in order H.R. 8309. I hope that my colleagues will not accept this rule which does not allow for full debate and consideration of the waterways user fee in title II of the bill.

The issue of imposing a waterways user fee has been seriously considered for the past four decades and now that we have finally reached the point where the full House of Representatives will vote on this issue, we find ourselves with a take-it-or-leave-it situation.

I personally believe that the amount of tax that we will be asked to vote on in this bill is much too low. The 4-cent tax in 1979 and the 6-cent tax in 1981 will come nowhere near the revenue recovery level that we should have from our Nation's inland and intracoastal waterways. I also recognize that the figure recommended by the administration is way too high. But somewhere we need to find a fairer approach.

I have no objection to the replacement of Locks and Dam 26 on the Mississippi River. I think that this is probably a very good project that will ease a major bottleneck on the Mississippi River. However, it is obvious that this improvement, along with all of the other maintenance and operation costs that the Government pays for, goes to benefit one sector of the transportation industry. I think it is time that the barge industry begin to share these costs with the Federal Government and a mere 4 cents per gallon is not a large enough share.

I do not know how many of my colleagues agree with my position that the tax should be greater than the amount in the bill. I know that there are many Members who would like to see no tax at all on the barge industry. But my point is that this issue is too important and has been brewing for too long for us to consider it under such a restrictive rule. I think we should at least have the option to consider some of the various proposals that have been offered over the past 40 years rather than have the choice between an inadequate tax or no tax at all.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I could not help but wonder where I was when I listened to this debate. There is no doubt in my mind that this rule is going to pass, and it is going to pass for one simple reason: The people who are objecting today have not objected when closed rules have been rammed down their throats in the past. If Members are going to vote for closed rules or semiclosed rules on October 4, they should not come in on October 6 and protest basically the same thing. They should at least have the decency to leave the body in the grave a week or two before all of a sudden raising the question of the rights they did not worry about on Tuesday. I can hardly bear the crocodile tears of these Members. I have been on the floor for 2 days and I have not been able to offer the amendments I wanted to offer. Members on this side were not able to offer the amendments they wanted to offer. I think four or five Members now protesting a gag rule would like to have the RECORD corrected. Their votes for gag rules appear on page H10550, rollcalls No. 623 and No. 624.

There is an old saying around here, "Play ball with us and we will hit you over the head with the bat." Members have played ball on the closed rules in the past. Do not come in now and talk about all of those areas where you want to offer amendments. At least have the decency to wait a week or two. We went through this exercise a few days ago and you did not worry then. Gag rules and closed rules are a leadership tool. We all know that. If you want to be used Tuesday do not complain on Thursday.

This is going to pass because the four or five Members who have objected today did not object before. I am a Member who has always been against closed rules. I have even voted against closed rules when they were against my interests. I remember voting against a closed rule when the antiwar people wanted to offer an amendment which they proposed. Although I was against their amendment, I voted to open up the rule so they could offer their amendment. I have been consistent.

If we are going to object to closed rules, we should be consistent; they should not just do it once in a while. They should not object on Thursday when they would not object on Tuesday.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the gentleman does not want to tell us who those Members are, does he?

Mr. ASHBROOK. They know who they are. There are so many, as I read the RECORD, that it would take 5 minutes to read their names.

The SPEAKER pro tempore. The Chair will inform the gentleman from Illinois (Mr. ANDERSON) that he has 4 minutes remaining.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I take this time only to suggest to the gentleman from Ohio (Mr. ASHBROOK) that I am not one of those Members of whom he was speaking.

Mr. ASHBROOK. Absolutely. I understand that.

Mr. ANDERSON of Illinois. Mr. Speaker, I have demonstrated consistency. On Tuesday of this week I opposed a closed rule on the legislation in which the gentleman from Ohio (Mr. ASHBROOK) is particularly interested at the moment, the so-called labor reform bill, and today I oppose making a decision which has been characterized as a historic decision on the basis of a closed rule, which in effect means it is a decision of one committee of this House rather than a decision of all 435 Members.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I would just like to make this one point for the benefit of all these Members who are complaining about not being able to have their amendments considered.

Just look at the narrow interpretation I got. Yesterday I had to rewrite an amendment to make it conform to the rule. The Chair ruled that it did not conform. I struck the language from the amendment that would make it conform, and when I offered it, what did the Chair say?

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, to continue my thought, the Chair said: "The Chair would like to advise the gentleman that the amendment was not printed in the RECORD in the form the gentleman now presents it as an amendment to the bill."

I said, "The gentleman from Ohio concedes that."

But just think of that. All the words that were in my second amendment were printed in the RECORD, but because they were not printed in the RECORD exactly in the manner as they appeared in the amendment, the Chair ruled against me. I deleted the sentence that was out of order, and I was then told I could not offer that amendment because the amendment was not in the exact language as it appeared in the RECORD.

They talk about a gag rule, but I say, "Don't make me gag." That is the point I want to stress to the Members.

Mr. ANDERSON of Illinois. Mr. Speaker, I sympathize with the gentleman from Ohio (Mr. ASHBROOK), and I urge the Members to cast a "no" vote on the rule.

The SPEAKER pro tempore. The time

of the gentleman from Ohio (Mr. ASHBROOK) has expired.

The gentleman from Illinois (Mr. ANDERSON) has 2 minutes remaining, and the gentleman from New York (Mr. DELANEY) has 16 minutes remaining.

The Chair recognizes the gentleman from New York (Mr. DELANEY).

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

As many as are in favor of the adoption of the resolution will vote "aye," as many as are opposed to the adoption of the resolution will vote "no."

Mr. ANDERSON of Illinois. Mr. Speaker, on that question, I ask for a recorded vote.

The SPEAKER pro tempore. A recorded vote has been requested.

Does the gentleman from Illinois (Mr. ANDERSON) ask for the yeas and nays?

Mr. ANDERSON of Illinois. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The yeas and nays have been requested.

As many as are in favor of taking this vote by the yeas and nays will stand.

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ANDERSON of Illinois. Mr. Speaker, is my understanding correct that the question before the body is on ordering the previous question?

The SPEAKER pro tempore. No, the Chair will state to the gentleman that the question is on the adoption of the resolution.

Mr. ANDERSON of Illinois. Mr. Speaker, I was on my feet seeking recognition in order to get a recorded vote on ordering the previous question. I made it clear throughout his debate that that was the object of this exercise.

The SPEAKER pro tempore. Does the gentleman from Illinois (Mr. ANDERSON) ask unanimous consent to vacate the order under which the previous question was ordered?

Mr. ANDERSON of Illinois. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, so ordered.

There was no objection.

The SPEAKER pro tempore. The question now is on ordering the previous question.

As many as are in favor will vote "aye," as many as are opposed will vote "no."

In the opinion of the Chair, the noes have it.

Mr. DELANEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Does the gentleman from New York (Mr. DELANEY) ask for the yeas and nays?

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. DELANEY) object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present?

Mr. DELANEY. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New York (Mr. DELANEY) objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

Evidently a quorum is not present. A rollcall is automatic.

Those in favor of ordering the previous question will vote "aye," those opposed to ordering the previous question will vote "no."

Members will cast their vote by electronic device.

The vote was taken by electronic device, and there were—yeas 241, nays 169, not voting 24, as follows:

[Roll No. 636]

YEAS—241

Abdnor	Eilberg	Leach
Addabbo	English	Lederer
Akaka	Ertel	Leggett
Ammerman	Evans, Colo.	Lehman
Anderson, Calif.	Evans, Ga.	Levitas
	Evans, Ind.	Livingston
Andrews, N.C.	Fary	Lloyd, Calif.
Andrews, N. Dak.	Fascell	Lloyd, Tenn.
	Findley	Long, La.
Annunzio	Fithian	Luken
Applegate	Flippo	McCormack
Aspin	Flood	McFall
AuCoin	Florio	McKay
Baldus	Flowers	McKinney
Barnard	Flynt	Mahon
Baucus	Foley	Mann
Beard, R.I.	Ford, Mich.	Mathis
Beard, Tenn.	Ford, Tenn.	Mazzoli
Bennett	Fountain	Meeds
Bevill	Fowler	Metcalfe
Biaggi	Frenzel	Milford
Blouin	Fuqua	Miller, Ohio
Boggs	Gammage	Minish
Bolling	Gephardt	Moakley
Bowen	Giaimo	Mollohan
Brademas	Gibbons	Montgomery
Breaux	Ginn	Moorhead, Pa.
Breckinridge	Gonzalez	Moss
Brinkley	Goodling	Mottl
Brodhead	Gore	Murphy, Ill.
Brooks	Gradison	Murphy, N.Y.
Brown, Calif.	Grassley	Murphy, Pa.
Buchanan	Gudger	Murtha
Burke, Calif.	Hagedorn	Myers, Michael
Burke, Mass.	Hall	Natcher
Burlison, Mo.	Hamilton	Nedzi
Carney	Hammer-schmidt	Nichols
Carter		Nix
Cavanaugh	Hanley	Nolan
Cederberg	Hannaford	Nowak
Chappell	Hawkins	O'Brien
Chisholm	Heftel	Oberstar
Clausen, Don H.	Hightower	Obey
	Hillis	Patten
Clay	Holland	Patterson
Cleveland	Holt	Pepper
Cochran	Horton	Perkins
Collins, Ill.	Howard	Pettis
Conable	Hubbard	Poage
Corman	Huckaby	Pressler
Cornwell	Ichord	Preyer
Danielson	Ireland	Price
Davis	Jeffords	Quie
de la Garza	Jenkins	Quillen
Delaney	Johnson, Colo.	Rahall
Dickinson	Jones, N.C.	Railsback
Dicks	Jones, Okla.	Rangel
Diggs	Jones, Tenn.	Reuss
Dingell	Jordan	Risenhoover
Dodd	Kastenmeier	Roberts
Duncan, Oreg.	Kazen	Rodino
Duncan, Tenn.	Kelly	Roe
Eckhardt	Krueger	Rogers
Edwards, Ala.	Le Fante	Roncalio
Rostenkowski	Steed	Weaver
Roybal	Steiger	White
Runnels	Stump	Whitley
Santini	Taylor	Whitten
Sarasin	Teague	Wiggins
Schulze	Thompson	Wilson, Bob
Sebelius	Thone	Wilson, C. H.
Shipley	Thornton	Winn
Shuster	Traxler	Wright
Sikes	Treen	Wylie
Simon	Tucker	Yates
Skelton	Ullman	Yatron
Slack	Van Deerlin	Young, Alaska
Smith, Iowa	Volkmer	Young, Mo.
Smith, Nebr.	Waggonner	Young, Tex.
Snyder	Walgren	Zablocki
St Germain	Walsh	Zeferetti
Stangeland	Watkins	

NAYS—169

Allen	Fish	Moorhead, Calif.
Anderson, Ill.	Fisher	
Archer	Forsythe	Myers, Gary
Armstrong	Fraser	Myers, John
Ashbrook	Frey	Neal
Badham	Gilman	Oakar
Badillo	Glickman	Ottinger
Bafalis	Guyer	Panetta
Bauman	Hansen	Pattison
Bedell	Harkin	Pease
Bellenson	Harrington	Pickle
Benjamin	Harris	Pike
Bingham	Heckler	Pritchard
Blanchard	Hefner	Pursell
Boland	Hollenbeck	Quayle
Bonior	Holtzman	Regula
Broomfield	Hughes	Rhodes
Brown, Mich.	Hyde	Richmond
Brown, Ohio	Jacobs	Rinaldo
Broyhill	Kasten	Robinson
Burgener	Kemp	Rooney
Burke, Fla.	Ketchum	Rosenthal
Burleson, Tex.	Keys	Rousselot
Burton, John	Kildee	Rudd
Burton, Phillip	Kindness	Ruppe
Butler	Kostmayer	Russo
Byron	Krebs	Ryan
Caputo	LaFalce	Satterfield
Carr	Lagomarsino	Sawyer
Clawson, Del	Latta	Scheuer
Cohen	Lent	Schroeder
Coleman	Long, Md.	Seiberling
Collins, Tex.	Lujan	Sharp
Conte	Lundine	Skubitz
Corcoran	McClory	Solarz
Cornell	McCloskey	Spellman
Coughlin	McDade	Spence
Crane	McDonald	Stanton
Cunningham	McEwen	Stark
D'Amours	McHugh	Steers
Daniel, Dan	Madigan	Stratton
Daniel, R. W.	Maguire	Studds
Dellums	Markey	Symms
Derrick	Marks	Trible
Derwinski	Marriott	Tsongas
Devine	Martin	Udall
Dornan	Mattox	Vanik
Downey	Meyner	Vento
Drinan	Michel	Walker
Early	Mikulski	Wampler
Edgar	Mikva	Weiss
Edwards, Calif.	Miller, Calif.	Whitehurst
Edwards, Okla.	Mineta	Wirth
Emery	Mitchell, Md.	Wolff
Erlenborn	Mitchell, N.Y.	Wydler
Evans, Del.	Moffett	Young, Fla.
Fenwick	Moore	

NOT VOTING—24

Alexander	Goldwater	Sisk
Ambro	Harsha	Staggers
Ashley	Jenrette	Stockman
Bonker	Johnson, Calif.	Stokes
Conyers	Koch	Vander Jagt
Cotter	Lott	Waxman
Dent	Marlenee	Whalen
Gaydos	Rose	Wilson, Tex.

The Clerk announced the following pairs:

Mr. Dent with Mr. Goldwater.
Mr. Cotter with Mr. Lott.
Mr. Koch with Mr. Marlenee.
Mr. Jenrette with Mr. Harsha.
Mr. Stokes with Mr. Stockman.
Mr. Ambro with Mr. Whalen.
Mr. Gaydos with Mr. Vander Jagt.
Mr. Alexander with Mr. Bonker.
Mr. Ashley with Mr. Conyers.

Mr. Waxman with Mr. Sisk.
Mr. Staggers with Mr. Charles Wilson of Texas.
Mr. Rose with Mr. Johnson of California.

Mrs. KEYS and Messrs. D'AMOURS, BINGHAM, and BROWN of Ohio changed their vote from "yea" to "nay."

Mr. DICKINSON and Mr. BARNARD changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 766, PROVIDING FOR REFORM OF ADMINISTRATIVE ORGANIZATION AND LEGISLATIVE MANAGEMENT SERVICES OF HOUSE OF REPRESENTATIVES

Mr. LONG of Louisiana, from the Committee on Rules, submitted a report (Rept. 95–667) on the resolution (H. Res. 819) providing for consideration of House Resolution 766 providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the day and for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, it is the plan now to go immediately back into the Committee of the Whole House on the State of the Union to complete consideration of the bill, H.R. 8410, the Labor Reform Act of 1977.

When that bill has been completed, it is the plan of the leadership that we will adjourn for the day and for the week. It is hoped by the leadership that that will occur by approximately 3 o'clock or 3:30. We do not intend to stay in session today beyond 4 o'clock at the very latest. We hope it will be earlier than that.

When we adjourn today, we will adjourn to meet at 12 o'clock noon on Tuesday next. On Tuesday we have no bills scheduled on the Suspension Calendar. We expect to have general debate on two pieces of legislation; those two for which rules have just been voted, H.R. 4297, marine protection authorization, and H.R. 8309, the Navigation Development Act. That is the program for Tuesday, with general debate only.

On Wednesday, the House will again meet at noon and take up the conference report on the bill H.R. 7797, foreign assistance appropriations. Then we will take up House Resolution 766, the administrative reform resolution, that is the Obey Commission report. It comes under a modified open rule, with 2 hours of general debate. It is our plan to conclude that debate and that action on Wednesday, however late it may require us to go.

On Thursday and Friday we will come in at 10 a.m. First, we expect to consider the conference report on the bill H.R. 7555, Labor-HEW appropriations. We will then take up H.R. 9375, supplemental appropriations. From there we will go to H.R. 3816, FTC amendments of 1977. We plan to vote on amendments and the bill.

Thereafter we will consider H.R. 8309, Navigation Development Act, voting on amendments and the bill.

Then we will consider House Resolution 688, Government Reorganization Plan No. 1. That is the reorganization plan that concerns the Executive Office of the President.

Then, time allowing, we will take up H.R. 2176, Federal Banking Agency Audit Act, voting on amendments and the bill.

We will then consider H.R. 4297, marine protection authorization, voting on amendments and the bill.

The House will adjourn by 3 o'clock p.m. on Friday of next week and by 5:30 o'clock p.m. on all other days, except Wednesday.

Of course, conference reports may be brought up at any time and any further program will be announced later.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I would like to know if there is any agreement between the majority and the minority that there will be no rollcall votes on Tuesday next?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, do I understand the gentleman's request to be whether or not there are expected to be rollcall votes on Tuesday?

Mr. OTTINGER. That is right.

Mr. WRIGHT. Mr. Speaker, the program does not anticipate any. The plan is merely to conclude general debate on these two bills for which rules have just been granted. Of course, the majority leader is not able to give the gentleman absolute assurance that there will be no votes demanded on such things as the approval of the Journal or whether there will be questions on going into the Committee of the Whole or things of that kind, procedural type matters.

But, as to substantive matters, it is planned that there will be no votes.

Mr. OTTINGER. I thank the gentleman.

Mr. PRICE. Mr. Speaker, will the gentleman yield for the purpose of addressing a question to the majority leader?

Mr. RHODES. I yield.

Mr. PRICE. I note in the announcement of the program that the gentleman has not scheduled consideration of H.R. 8390, defense supplemental authorization. Yet, he has scheduled for action the Appropriations Committee bill on the same supplemental.

Mr. WRIGHT. If the gentleman would yield further, I would respond to my distinguished friend simply by saying that we have attempted to take these matters in the order that they already have been announced on various programs. There is not any disposition on the part of the leadership to delay unduly the authorization committee.

Mr. PRICE. The only thing is, it is more orderly to take the authorization bill in advance of the appropriation bill on the same subject.

Mr. WRIGHT. If the gentleman will yield further, there is no argument about that. That is the ordinary procedure, and usually it is done in that way. But, in this instance, because of certain urgencies and the request of the Appropriations Committee and the fact that appropriations are always privileged items on the floor, we have scheduled the appropriation bill to be heard first.

Mr. PRICE. I think it would be more orderly to put the authorization in advance of the appropriation. Since the authorization bill is ready and has been reported out, I assure the gentleman that it would not take more than an hour to consider it.

Mr. RHODES. As I am sure the majority leader is aware, there are other matters in the supplemental appropriation bill. It is not completely a supplemental appropriation which has defense as its subject. I think there are some five or six other subcommittees of the Appropriations Committee which have possibly urgent matters. It is apparently out of order.

Mr. WRIGHT. Of course, I certainly agree with what the gentleman from Arizona has said, and I am sorry that I did not mention that fact to the gentleman from Illinois. I think that fact does dictate this decision with respect to the order of the two bills.

PERMISSION TO FILE REPORT ON S. 1811, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1978, BY MIDNIGHT TOMORROW

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, October 7, 1977, to file a report on the Senate bill S. 1811.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LABOR REFORM ACT OF 1977

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the

Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 8410, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, October 5, 1977, section 8 had been considered as read and open to amendment at any point.

Are there further amendments to section 8?

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 25, line 19, strike all after the period through line 17, page 26.

Mr. ERLENBORN. Mr. Chairman, the amendment that has just been reported is a very simple amendment, but it is very important. It will strike the so-called make whole remedy that is contained in the bill.

Mr. Chairman, I would like to describe what the make whole remedy is. It is giving the Board in effect for the first time the power to write the contract for the parties, to determine for the employer and the employees wage and fringe benefits that have not been collectively bargained. The make whole remedy is available in the event that the Board would find that the employer has been guilty of refusal to bargain for the first contract. And it is only applicable in that situation. The Board is directed, if they so find, to make retroactive wages and fringe benefits that the parties have not been able to agree upon, and a formula is directed. The Board is to look at a quarterly report of the Bureau of Labor Statistics as to any major collectively bargained contracts, involving units having in excess of 5,000 employees during that quarter and to utilize the average percentage increase in those major collectively bargained contracts to determine what the wages and fringe benefits should be for the parties. Having calculated the increased rate of wages and fringe benefits, the Board then retroactively computes the wages and benefits back to the date the Board finds the refusal to bargain in good faith began.

What is wrong with this? First of all, the formula that is dictated in the act refers to an index, published by the Bureau of Labor Statistics, involving just major contracts, of units of 5,000 or more employees. Any employer against whom the make whole remedy is sought may have 5 or 10 or 20 employees. And certainly the kind of wages and fringe benefits paid in small units of employees have no relation at all to the kinds of wages and fringe benefits paid in large untis of 1,000 to 5,000 employees.

What else is wrong with it? It is another example of how one-sided this bill is. If the drafters of the bill really were serious in having a remedy that would be fair, they would have also provided some means for an employer to appeal a decision relative to the determination of the unit for purpose of the first union election.

Under the law as it is today, a unit determination is not a final order and is not appealable, which means that once the Board has made that determination and they have ordered an election, the election must go ahead without any intervening appeal as to the decision and composition of the unit.

After the election, if the union has been successful, the only way the employer can test the validity of the Board's decision as to the size and composition of the unit is to refuse to bargain, and this is a common way of getting an appeal on that question. This is not a refusal to bargain because the employer refuses to recognize the union or is being intransigent. It is the only legal device whereby the employer may get to the Board and, beyond that, to the courts to question the Board's determination as to the unit.

Under this provision there is no new appellate avenue which the employer can utilize. If he does follow the current practice of refusing to bargain, he stands the risk, if he loses the appeal, of having the Board write the contract. Besides that, he also runs the risk of debarment, as we found out yesterday, because refusal to bargain in this case is willful; it is not accidental.

The only way the employer can test this question is by a willful refusal to bargain. It is a common device, and it has been used very often in the past.

I suggested in subcommittee that if we were to have this so-called make whole remedy removed, we should provide a legal remedy which allows the employer to test the Board's decision as to the size and composition of the unit so the employer would have an alternative route. But as we know, nothing has been done.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, as we know very well, nothing was done in subcommittee to mark up this bill. No attempt at any compromise for making the bill fairer was engaged in.

I must say that even though we did have amendments offered and considered in the full committee, the effect was the same. No amendments were seriously considered by the majority, and the bill still came out of the committee in a very one-sided form. I might at this point say that with the amendments adopted so far, the bill continues to be as one-sided as was described in the Washington Star editorial last night.

Mr. Chairman, if there is any sense of fairness in the House, if there is to be any attempt at having a bill that makes some sense without being completely one-sided and that was meant for the private relief of union organizers, I would think that this amendment should be adopted.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 8 minutes in opposition to the amendment.

Mr. THOMPSON. Mr. Chairman, the issuance of a certification is intended to put an industrial dispute to rest if the employees have voted for representation to start the collective bargaining process. At present, however, there is no incentive at all for the employer to recognize the union. If he does not, a bargaining order issued months or years later merely requires him to do what he should have done originally—open good-faith negotiations.

Section 8 of H.R. 8410, therefore, provides that the Board may, as a remedy for a refusal to bargain prior to the entry of the first agreement, award the affected employees compensation for delay in bargaining caused by unfair labor practices; and they must be so established as unfair labor practices.

The measure of such damages is an objective one. It consists of the difference between the wages and other benefits received by the employees during the period of unfair delay and the wages and other benefits they were receiving at the time of the unfair labor practice, multiplied by a factor which represents the change in such wages and benefits elsewhere in the same industry, as determined by the Bureau of Labor Statistics.

The need for a remedy to compensate employees for delay in bargaining was recognized by all the members of the Board in Ex-Cell-O Corp., 185 NLRB 107, the case in which the majority determined that it presently lacked authority to grant such a remedy, and the majority wrote this:

> We have given most serious consideration to the Trial Examiner's recommended financial reparations order, and are in complete agreement with his finding that current remedies of the Board designed to cure violations of section 8(a)(5) are inadequate. A mere affirmative order that an employer bargain upon request does not eradicate the effects of an unlawful delay of 2 or more years in the fulfillment of a statutory bargaining obligation. It does not put the employees in the position of bargaining strength they would have enjoyed if their employer had immediately recognized and bargained with their chosen representative. It does not dissolve the inevitable employee frustration or protect the Union from a loss of employee support attributable to such delay. The inadequacy of the remedy is all the more egregious where, as in the recent NLRB v. Tidee Products, Inc. case, the court found that the employer had raised "frivolous" issues in order to postpone or avoid its lawful obligation to bargain. We have weighed these considerations most carefully. For the reasons stated below, however, we have reluctantly concluded that we cannot approve the Trial Examiner's Recommended Order for monetary losses incurred as a consequence of Respondents' determination to refuse to bargain until it had tested in court the validity of the Board's certification. (185 NLRB at 108).

The dissenting members of the Board agreed that a remedy for the losses resulting from bargaining delay was essential to effectuate the purposes of the act, and argued that the Board presently has authority to grant such a remedy.

Even a hasty examination of the proposal should make it clear that the Board would create no contract but would rather order the payment of a sum of money to employees. The remedy is an essence a backpay award to employees which in no way creates a "union contract" or any other kind of contract. The terms of the actual first contract between a union and an employer would remain to be bargained out between them.

The proposal provides for an award only for the period of delay in reaching that contract caused by the unfair labor practice. Indeed, the employer's obligation would be cut off before the first contract was reached, since it would run only until he begins to bargain in good faith. Thus, there is no inconsistency whatsoever between this remedy and the national labor policy that the Government should not intrude into the substance of collective bargaining.

Second, if the employer's objection to the bargaining order, including the underlying representation case determination, is well taken, no remedy will be imposed. But, if that objection is not well taken it is entirely fair to place the risk of loss attendant to the appeal of the employer. A failure to provide the remedy would be at the expense of the employees who would suffer the delay without compensation even if the employer turns out to be wrong.

Under the present law an employer can litigate any issue relating to the propriety of the bargaining order, regardless of its inherent practical importance or unimportance. If he wins, he avoids bargaining entirely. If he loses he avoids bargaining during the period it takes to litigate. It is therefore the current law which is manifestly unfair. The controlling principle was succinctly stated by the unanimous Supreme Court in *Consolo* v. *Federal Maritime Commission*, 383 U.S. 607, 624–625. The Court said:

> (I)t has never been the law that a litigant is absolved from liability for that time during which his litigation is pending. *Labor Board* v. *Electric Cleaner Co.*, 315 U.S. 685; *Louisville & Nashville R. Co.* v. *Sloss-Sheffield Co.*, 269 U.S. 217. During this time Flota was able to postpone the predictable demise of its discriminatory contract and Consolo continued to suffer injury.

Mr. Chairman, this is desperately needed. Referring, again, to the J. P. Stevens experience—and it is not alone in J. P. Stevens; it exists in Monroe Auto, in Florida Steel, and in a number of other cases—the union won an election.

The employer is under statutory obligation to bargain and has refused for a period of at least 2 years to bargain. The courts have held the J. P. Stevens Co. in contempt. The second court of appeals less than a month ago called them the most recidivist employer.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. The purpose of this action which the gentleman from Illinois would strike is to do economic justice to the workers who have won an election, following which there is an order to bargain and the employer unlawfully refuses to bargain. These people should be and must be compensated for that period of delay.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my friend, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman putting the air back in my tires last night.

Mr. THOMPSON. Thank you. We will check your battery today.

Mr. ROUSSELOT. I believe my battery is all right. Thank you for yielding.

I know that the gentleman believes in constitutional concepts. Unless we pass the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) is it not true that we could be going contrary to the constitutional guarantee that ex post facto laws shall not be passed.

Let me explain my concern:

Under the committee bill this pre-first-contract remedy would require that an employer who refuses to bargain with a union retroactively pay his employees wages and fringe benefits from the time they would have received benefit increases had the employer bargained and reached agreement with the union, the amount of payment to be determined by a nationwide survey of bargaining settlements in employee units of 5,000 or more employees. Again, this remedy applies only in first contract bargaining situations.

The remedy is, of course, punitive and seeks to threaten employers with massive retroactive payments in order to deter them from refusing to bargain a first agreement with a union.

In reality, however, this so-called remedy will operate to coerce employers to keep them from exercising their right to court review of Labor Board decisions in representation cases. Indeed, an employer's refusal to bargain a first contract with a union is not a serious Labor Act violation—rather it is his only means of obtaining court review. Thus, it has long been held that the Board's decisions in a representation case are not immediately appealable to the courts of appeals. Therefore, in order for an employer to legally contest the Board's determination of unit or other representation issues, it must refuse to bargain with the union. Thereafter, the General Counsel issues a complaint alleging the refusal to bargain by the employer, the Board issues an order finding that the employer has refused to bargain and the case then goes to the court of appeals. At that time, the employer is free to argue that the Board's determinations in the representation case were wrong. That is the only way in which such Board orders are court reviewable. To impose a penalty upon an employer merely because he seeks to pursue his only avenue for court review is, at best, unfair.

And the remedy as proposed is particularly unfair, for it requires payments by small businesses determined by bargaining agreements in big business units of 5,000 or more employees. Again, 75 percent of all Board elections last year were held in units of less than 50 employees, 98 percent were held in units of less than 400 employees, and in 1976 the Board reported no election in a unit of 3,000 or more employees.

Therefore, we are compelled to conclude that the so-called make-whole remedy provisions set forth in this bill is intended to secure union election victories by threat of punishment to an employer who seeks legitimate court review, and retroactively at that.

Mr. THOMPSON. No, it does not, absolutely not.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. THOMPSON was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. I do not know where the gentleman dredged up that theory.

Mr. ROUSSELOT. This is not a dredged up theory it is a very real problem. Let us say the negotiations go on for 6 months, which, in some cases, they do, why does the gentleman want to have the retroactivity concept imposed?

Mr. THOMPSON. It is not retroactive, it goes back to the time of the unfair labor practice. It is perfectly constitutional. If this is passed and if it is unconstitutional, it will be challenged. I am sure a distinguished gentleman, such as my friend the gentleman from California would do sq.

Mr. ROUSSELOT. But there is no reason to go ahead and write into law something on which there might be a question of constitutionality, and I know that the gentleman does not favor the concept of ex post facto laws.

Mr. THOMPSON. I am in favor of the Constitution and therefore I urge a vote against the Erlenborn amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

Mr. Chairman, I would like to make three quick points in support of the amendment. I suppose the die is already cast but let us take a look at what we are being asked to support.

In the first place, section 9(d) of the National Labor Relations Act says specifically:

. . . but such obligation does not compel either party to agree to a proposal or require the making of a concession. . . .

That is precisely what they are doing in this so-called "make whole" or "imposed" agreement. The majority members are requiring employers to accept something that is handed down to them, not in negotiations, not through their contract, but simply ordered by bureaucratic fiat.

Also, it runs completely counter to existing constitutional law as it has been interpreted by the courts, and I am reading directly from the syllabus of H. K. Porter Co. against National Labor Relations Board:

Though the NLRB has power under the Act to require employers and employees to negotiate, it does not have the power to compel either to agree to any substantive contractual provision of a collective bargaining agreement.

Again, is that not precisely what we would do if we support H.R. 8410 and this so-called make whole or imposed agreement section?

Third, and this will be the last point I will make, it is strange that my friends on the other side of the aisle would take a "make whole" provision and apply it to employers but they make no effort whatsoever to apply a "make whole" or "imposed" agreement on the unions.

I could fill the record with cases where the NLRB says:

We are powerless to act, the NLRA simply does not give us the authority to make whole the employer.

Take the case of Roofers Local No. 30. It is in 94 LRRM 1624. I have a copy in front of me. As recently as January 24 here is what the court found—these are not my words—

Local union violated LMRA by (1) engaging in mass picketing and blocking entry to industrial park, (2) physically assaulting employees and supervisors, (3) making threats as to assault and inflict bodily harm on employees, employers, supervisors, and their wives and families, (4) chasing and pursuing employees and supervisors with threats of bodily harm, and (5) damaging and destroying employers' materials, equipment, and property.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I really respectfully do not see that what the gentleman is saying is relevant to this section, but if he would be kind enough to yield, I would like to clarify a point. If this becomes law, it does not take effect until the signing of the law and would not go back even in the J. P. Stevens case. It would begin at that point.

Mr. ASHBROOK. It would only apply to employers, though.

Mr. THOMPSON. They are the only ones who, in reality, can refuse to bargain.

Mr. ASHBROOK. There are a number of situations where a person should be made whole. Many employees have been put out of work, have not been able to work, have a legitimate right to sue their union, or come before the National Labor Relations Board to be made whole. They can. The gentleman wants to make whole certain employees when it relates to their employer, but he does not want to make whole workers when it comes to their unions.

What did the NLRB find in the Roofers case in January of this year—the same as it has always stated:

Local union will not be ordered to make employers whole for any repairs or replacements of equipment or supplies or rehabilitation of building necessitated by unlawful acts of local's agents.

See the double standard in a couple of isolated instances where the employer has been guilty of unfair labor practices or violating the law. Pass a bill that will make whole the employees in that situation, overlook the broad area of making whole employees across the board, whether it be because of a union or whether it be because of the employer. This is just one more aspect of this bill which shows its tilt to one side. It is tilted only toward the union, which we are going to make whole. Why do we not at least make whole across the board? It is a dangerous remedy. It runs counter to the National Labor Relations Act policy at the present time; it runs counter to the case law. In addition, it is one sided.

I wholeheartedly support the amendment of the gentleman from Illinois.

I support the Erlenborn amendment which strikes the "make whole" or the "imposed agreement" remedy of H.R. 8410.

The "make whole" remedy of H.R. 8410 is clearly a governmental intrusion into the substance of collective bargaining, contrary to the statement of Secretary of Labor Marshall, who stated the administration does not "believe in interferring directly in collective bargaining . . ."

This governmental intrusion into the substance of collective bargaining constitutes a total departure from our national labor policy. The intrusion of the Government into labor-management relations historically has been to bring the parties to the bargaining table—not to write a contract for them. It seems that both employers and unions should be opposing this new approach to federally mandated final and binding arbitration.

Besides inserting the Government directly into the collective bargaining process by setting the terms of the partys' so-called agreement during an interim period this proposal is subject to the following criticisms:

First. The proposal to impose the terms of a contract on the parties is another drastic change in labor laws that changes the direction or philosophy of the Act from remedial to punitive.

Second. The "make whole" proposal operates to coerce employers from exercising their legal rights to seek legitimate review of Board decisions in representation cases. An employer's refusal to bargain is his only way of seeking Court review in representation matters. Under this "make whole" proposal, an employer may be deterred from exercising his due process rights because it will subject him to a harsh and unfair penalty.

Third. The ruling in H. K. Porter versus NLRB, 397 U.S. 99, would be substantially overruled. In that case the Court held that the Board could not dictate the terms of a contract nor compel a party to accept any particular proposal. The ruling in that case is compatible with the aims of our basic national policy. The ruling of that case is compatible with the rule of law that an agreement or contract is reached only after a "meeting of the minds." Thus, the imposition of contract terms, in any way, is incompatible with historical contract law.

Fourth. The proposed remedy is a little like the "indexing" proposal in the minimum wage bill since it is linked to BLS statistics governing major collective bargaining agreements. Why is this arbitrary index picked? Who is to say what the parties would have agreed to? Often a union will retreat from an economic demand to secure a more important union security clause. Furthermore, the only way the bargain will go will be up, based on the settlement imposed by the arbitrary proposed penalty.

Fifth. The index that the "make whole" proposal is linked to is inappropriate for the great majority of bargains. The Average Wage and Benefit Settlements of Major Collective Bargaining Settlements covers wage and benefits settlements for units 5,000 or more. However, the great majority—75 percent—of units found appropriate under the NLRA consist of less than 50 employees.

Sixth. This proposed remedy was not endorsed by either the present Chairman of the NLRA nor by all the previous Secretaries of Labor for whom Mr. Dunlop spoke—including both Republican and Democratic secretaries.

In sum, the "make-whole" suggested remedy should be rejected. There does not seem to be an area of compromise about this proposed penalty. It should be struck from the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count; 46 Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further

proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote. Does the gentleman insist upon his request?

Mr. ERLENBORN. Mr. Chairman, I do.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 250, not voting 22, as follows:

[Roll No. 637]

AYES—162

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Boggs
Bowen
Breaux
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Fisher
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Hammer-schmidt
Hansen
Heckler
Hollenbeck
Holt
Horton
Hughes
Hyde
Johnson, Colo.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Long, La.
Lujan
McClory
McDade
McDonald
McEwen
McKinney
Mahon
Mann
Marks
Marriott
Martin
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, John
Neal
Nichols
O'Brien
Pettis
Poage
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rogers
Rousselot
Rudd
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stump
Symms
Taylor
Teague
Thone
Treen
Trible
Waggonner
Walker
Walsh
Wampler
Watkins
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Wydler
Wylie
Young, Fla.

NOES—250

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gammage
Gaydos
Gephardt
Ginn
Glickman
Gonzalez
Gore
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Holtzman
Howard
Hubbard
Huckaby
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
Madigan
Maguire
Markey
Mathis
Mattox
Mazzoli
Meeds
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stark
Steed
Steers
Stratton
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—22

Anderson, Ill.
Bolling
Cederberg
Cotter
Dent
Fowler
Goodling
Harsha
Johnson, Calif.
Koch
Levitas
Lott
Marlenee
Metcalfe
Mitchell, Md.
Roberts
Sisk
Staggers
Stockman
Stokes
Vander Jagt
Whalen

Messrs. YOUNG of Texas, AMBRO, and JACOBS changed their vote from "aye" to "no."

Messrs. STUMP, LONG of Louisiana, and RINALDO, and Mrs. HECKLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 25, line 9, after "(a)(3)" insert the following: ", (a)(1), (b)(1)".

Mr. QUIE. Mr. Chairman, the committee bill provides for double backpay for violations of section 8(a)(3), which is employer discrimination, and also 8(b)(2), which is causing an employer to discriminate during organization and prior to an initial contract.

It appears to balance this new remedy then between the employers and the unions but, as a practical matter, there is no balance. It cannot be denied that seldom, if ever, does an 8(b)(2) violation occur during organization or prior to an initial contract. So, in effect, this remedy is directed at the employers only.

My amendment gives this new remedy a little balance by providing that double backpay will be provided when a union engages in an 8(b)(1) unfair labor practice, that is where a union restrains or coerces an employee in the exercise of his section 7 rights. It seems to me where a union unlawfully keeps an employee from working by mass picketing, threats, or the like, then the union, too, should be responsible for double backpay during those times stated in the bill.

Then in order to make certain that it is balanced again I included 8(a)(1) as well.

I believe that this will make the double back pay provision more of a fair and balanced situation than presently is the case.

AMENDMENT OFFERED BY MR. THOMPSON TO THE AMENDMENT OFFERED BY MR. QUIE

Mr. THOMPSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON to the amendment offered by Mr. QUIE: Page 25, line 19, after the word "practice" add "less the wages the employee has earned during that period".

Mr. THOMPSON. Mr. Chairman, if this amendment to the amendment offered by the gentleman from Minnesota (Mr. QUIE) is accepted, it is our intention to express our gratitude to the gentleman from Minnesota (Mr. QUIE), and to accept the amendment as amended. This addition to the Quie amendment would further soften the double backpay provision.

The law now provides for backpay less such amount earned or the amount that should have been earned. Now, that is the rub, the speculative amount that should have been earned. This gives a handle to the employer to litigate for years denying all remedies while they argue the amount that "should have been earned" which is the present law. Was there a job available 20 miles away, 2 years ago, which the employee should have tried for? That is the kind of issue which cannot be answered.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Minnesota.

Mr. QUIE. I understand the gentleman's amendment is different from mine in that my amendment would have included the words "could have been earned with reasonable diligence during that period."

Mr. THOMPSON. Exactly, that is it. Now if I may finish?

Mr. QUIE. Well, I did not offer that as my amendment. All I offered is that we add (b)(1) and (a)(1) to the amendment that now includes 8(a)(3) and 8(b)(2), if the gentleman would take a look at my amendment.

Mr. THOMPSON. The gentleman's

amendment is to page 25, line 19, after (a)(3) you refer to (a)(1) and (b)(1).

And I added page 25, line 9, after "(a)(3)" insert the following: "(b)(1) and 8(a)(1)."

After the word "practice" add "less the wages the employee has earned during that period". So all my emphasis is on line 9, not line 19, after (a)(3) insert (a)(1) and (b)(1). That is the extent of it. The gentleman may be referring to an amendment that I was thinking of offering which would have also added in line 19, "less any wages the employee earned or could have earned with reasonable diligence during that period." I did not offer that. It sounds as though the gentleman is offering his amendment in opposition to one I did not offer.

Mr. THOMPSON. That was not my intention.

PARLIAMENTARY INQUIRY

Mr. QUIE. Perhaps I could ask a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. QUIE. If I had offered an amendment which included (a)(1) and (b)(1), and then another amendment is offered which adds the language in 19 as an addition which reads after the word "practice" "and less the wages the employee has earned during that period", and then also an amendment which does the same thing as mine which says, "after (b)(3) insert the following (b)(1) and (a)(1)", is that an amendment to my amendment, or is that a substitute for my amendment?

The CHAIRMAN. The Chair would like to advise the gentleman from Minnesota that the Chair is not in a position to be able to speculate on the effect of the amendment to the amendment. The Chair does not know the answer to the gentleman's question, but it would appear that in any event the gentleman's original language will remain intact if the amendments are agreed to.

Mr. THOMPSON. In that case, why do we not proceed?

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. As I was saying, the amount under the law that "should have been earned" is an enormously difficult determination. This is the kind of an issue that cannot be answered but is argued time and time again for purposes, I submit, of delay. I refer, of course, to the famous Darlington case, where the Deering Milliken Co. closed a textile plant in Darlington, S.C., in the mid-1950's when the employees voted for a union.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. In 1961 or 1962 the Supreme Court ruled that the plant closing was illegal. It chilled unionism in other plants owned by the same company, and the Supreme Court ordered back pay for the workers who had been laid off in violation of the law.

Believe it or not, at our recent hearing in North Carolina, Darlington workers testified that they had yet, after all those years, to receive anything for the period of 20 years which has expired since they closed the plant illegally, moved it, and laid them off. The company was still arguing the question of what they should have earned.

I favor mitigation of damages, and we mitigate by deducting the amount of wages—and this is the intent of my amendment—actually earned and easily proven. But that is a far cry from Darlington and is, in my judgment, a rather happy solution to virtually an insoluble problem. It does admittedly soften the double back pay, but makes much easier to determine by the employer the amount that he actually would owe as a result of this unfair labor practice.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I will be glad to yield to the gentleman.

Mr. QUIE. I will be glad to accept the amendment.

Mr. THOMPSON. I thank the gentleman, and I will be glad to accept his.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) to the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to this section, section 8?

Mr. RAILSBACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I could ask the chairman of the committee some questions about the provisions which we are dealing with right now. I think many Members are concerned that we may have small businessmen who are unionized that may then have imposed upon them rather large wage benefits settlements as a result of the remedy provisions in the bill. I am wondering if the gentleman has any idea, for instance, as far as the percentage increases by the Bureau of Labor Statistics, whether in fact there is a great difference between percentage increases in respect to the larger industries as compared to the small businesses. I am just curious.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, I think not, in answer to the gentleman.

Mr. RAILSBACK. Mr. Chairman, I wonder if anybody on the gentleman's side of the aisle has any information that would be supportive of his answer. Would the gentleman from Michigan (Mr. FORD) have that?

Mr. FORD of Michigan. I am sorry, I was distracted.

Mr. RAILSBACK. I will tell the gentleman what my concern is.

As I understand the remedy provision, we are going to be using the quarterly Bureau of Labor Statistics to determine what wage and benefit increases may be imposed as a penalty, and I am wondering how that would interact between large business increases compared to small business increases.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, we do not have BLS statistics, but as the gentleman knows, this is a remedy. The percentage is applied to the actual amount that the employee is earning, the amount, whether it be in a large manufacturing institution or a small shop.

Mr. RAILSBACK. So what the gentleman is saying is the percentage is applied upon the salaries in the particular business, the salaries paid in that particular business.

Mr. THOMPSON. Yes.

Mr. RAILSBACK. I think it would be very comforting to a lot of us if in the general BLS statistics showing the percentage increases for quarterly wage and benefit increases, there really would not be a great difference between big business and little business. I kind of think that might be the case, but I am not certain.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I have discussed with the gentleman a proposed amendment that he had which would have added to the end of the section language to that effect.

Mr. RAILSBACK. In a comparable industry.

Mr. FORD of Michigan. I think it is in a comparable industry.

Mr. RAILSBACK. Right.

Mr. FORD of Michigan. And I expressed to the gentleman my concern that the present state of the labor statistics is not such that I believe we could with any degree of certainty make the kind of distinction he would like to make. However I draw to the attention of the gentleman the language of the bill on line 9, page 26, which says:

If the Secretary of Labor certifies to the Board that the Bureau has, subsequent to the effective date of the Labor Reform Act of 1977, instituted regular issuance of a statistical compilation of bargaining settlements which the Secretary determines would better effectuate the purposes of this subsection than the compilation specified herein, the Board shall, in administering this subsection, use the compilation certified by the Secretary.".

It contemplates that the Secretary will in fact develop a statistical base not now available to us that would go in the direction the gentleman intended.

Mr. RAILSBACK. So it would be the gentleman's hope and even his belief that information like that can reflect the breakdown in the kinds of industries and maybe the size of the industry—that is his intent, that there then be authority to apply that kind of figure.

Mr. FORD of Michigan. It is my very strong belief that is why the Secretary of Labor wanted us to put that language in the bill, because he does intend to develop that kind of base.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, I would like to add for the purpose of legislative history that it is our intention that the record should show that the compensation received is a function of the size of the wages actually received. I can assure the gentleman that is our intent.

The CHAIRMAN. If there are no additional amendments to section 8, the Clerk will read.

The Clerk read as follows:

SEC. 9. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end thereof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within thirty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within fifteen days of service on it of said petition, file a further petition for review".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c)."

Mr. ASHBROOK. Mr. Chairman, I would inform the Members that this is probably one of the last amendments. We have two more major amendments left and we can probably conclude consideration of this bill very shortly.

This amendment would amend section 9 of H.R. 8410 to insure that employees will no longer be deprived of their right to a secret ballot election in representation cases. Under existing law a union is certified as the exclusive representative for purposes of collective bargaining when it has been determined that a majority of employees in an appropriate bargaining unit desire to be represented by a labor organization. Of great concern is the fact that the National Labor Relations Act does not expressly require that the will of the majority of employees be determined in a secret ballot election. As a result, the Board and the courts have interpreted the act to permit the majority will to be determined by methods other than secret ballot elections.

Under the U.S. Supreme Court's 1969 decision in *N.L.R.B.* v. *Gissel Packing Co.*, (395 U.S. 575), the NLRB is permitted to decide whether the employees in a particular unit are capable of making their own free choice in an election. If the Board finds that they are not, then it may impose the choice on them, forcing the employees to accept a union, simply because at some point during the organizing period the union was able to obtain signatures of a majority on "authorization cards." Practically everyone familiar with the use of such cards has agreed that they are not a reliable indicator of the employees' wishes. Indeed, a Federal court of appeals has described them as "notoriously unreliable." *N.L.R.B.* v. *Flomatic Corporation*, 347 F. 2d 74, 78 (2d Cir. 1965).

Our national labor policy is founded upon majority rule, and the Board's decision regarding representation is binding not only on the employer, but also on any nonconsenting portion of the employees within the bargaining unit. Thus, it is vitally important that the process through which the majority makes its selection be fair, effective and reliable. My amendment, by requiring secret ballot elections in all cases, modifies the Gissel decision to assure that employees are given the opportunity to accept or reject union representation with the least amount of interference by employers and union organizers.

Strict use of the secret ballot would also help to overcome the Board's occasional problems of delayed decisionmaking for exclusive reliance on secret ballot elections provides the most expeditious, as well as the fairest, means of settling questions of representation. As one observer has commented:

The utility of elections lies in final, definitive and unchallenged results; elections become useless when the results are challenged, uncertain or rejected. Elections are intended to establish and stabilize representation, not leave it unsettled and in dispute. Samoff, *N.L.R.B. Elections: Uncertainty and Certainty*, 117 U.Pa.L.Rev. 228 (1968).

However, where the unions majority status is sought to be determined by authorization cards, litigation often arises because of the inherently unreliable nature of authorization cards. Because of the nature of such litigation, it is particularly time consuming and results in needless delay of the Board's processes.

In conclusion, under my amendment the NLRB could no longer impose union representation on units of employees who never had the opportunity to vote on the matter in a secret ballot election.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK: Amend section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive: *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with subsection (c) of section 9 or has been determined to be a representative defined in subsection (a) of section 9 by the Board in an order entered pursuant to subsection (c) of this section: *Provided*, That no such order shall be entered where the employer has not engaged in conduct, unlawful under this Act, which undermines a free and fair election under subsection (c) of section 9: *Provided further*, That any representative designated or selected prior to the effective date of this Act shall remain such representative under this provision unless such designation or selection is withdrawn by the employees in the unit appropriate for the purposes of collective bargaining in an election under subsection (c) of section 9: *And provided further*, That where the employer agrees to recognize an individual or labor organization as a representative defined in subsection (a) of section 9 on the basis of proof of majority support other than a Board certification and such support is in fact demonstrated, the individual or labor organization so chosen shall be considered to be a representative for purposes of subsection (a) of section 9.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. ASHBROOK. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, at some risk I am attempting to fashion another Ashbrook-Ford amendment. I do not know whether the career of either of us can survive very many more of these, but this substitute accepts the principle embodied in Mr. ASHBROOK's amendment presently before us, but is intended—because we did have an opportunity in advance to anticipate the amendment—to correct what we think are three difficulties that the amendment, perhaps inadvertently, creates.

First, the principle of the amendment and of my substitute, for that matter, is to codify the rules stated in Linden Lumber Division against NLRB, that, "Unless an employer has engaged in an unfair labor practice that impairs the electoral process, a union with authorization cards purporting to represent a majority of the employees, which is refused recognition, has the burden of taking the next step in invoking the Board's election procedure."

We all favor that principle; Mr. ASH-

BROOK, I am sure, and those of us on this side of the aisle.

The first proviso in the substitute codifies also the exception recognized in Linden Lumber, and that is a previously declared principle from the unanimous Supreme Court in the Gissel Packing case. As a matter of fact, the history of this principle goes back long before the Gissel case to Labor Board against Franks Brothers, and stands for the purposes that the Board has the authority to require an employer to bargain without a Board certificaton where the employer's unfair labor practices undermine the election processes. In other words, absent this kind of an exception to the Ashbrook amendment, an employer who engaged in a continuing series of unfair labor practices that prevented the holding of an election could never be brought to the bargaining table, and there would be no jurisdiction in the Board to deal with the problem. To encourage employers to discharge union sympathizers or to otherwise interfere with their employees' section 7 rights by allowing such employers to benefit from their own wrongdoing would, unfortunately, be the result of the adoption of the Ashbrook amendment without my substitute.

The second and third provisos in the substitute recognize that, historically, many unions have lawfully been recognized by employers on the basis of a majority showing other than a Board certification. It should not come as a great surprise that there are many employers in this country, once they are approached by their employees and informed that they wish to form a union, are satisfied to sit down right there at that point and accept that union, and that union can be in existence; collective bargaining agreements can be reached, and the process can go on for years.

Without my proviso, the effect of Mr. ASHBROOK's amendment is that that relationship that starts off and, for whatever reason, runs onto the rocks and shoals of the future, would be dissolved automatically by law, regardless of the fact that it is the kind of relationship that really should be protected.

Under the amendment without our proviso, all the bargaining relationships which were created in the past on the basis of this kind of acquiescence and good will would come to an end. This, in my opinion, would result in chaos in labor-management relations, and certainly is not good Federal policy to encourage people not to settle their differences amicably and in a friendly manner.

The final proviso in my substitute codifies the rule that is presently in effect, that where an employer agrees to determine whether the union has been selected by a majority by means other than an election he cannot thereafter say, "Aha, you did not have the election, so therefore it is not legal." That is not something we should encourage. If an employer wants to use a different device, and has only 25 members and knows most of them personally and wants to sit down in a meeting and ask them, "Do you want a union," and abide by their oral indication that they want a union, we should permit him to do that and not make him go through a series of elections.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) insist upon his point of order?

Mr. ASHBROOK. I do, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ASHBROOK. Mr. Chairman, I raise the point of order on the basis of the Chair's previous construction of H.R. 8410 and amendments offered thereto.

I point out to the Chair the amendment offered by the gentleman from Michigan (Mr. FORD) is not within the scope of the bill. It refers in three places to section 9(a) of the National Labor Relations Act. Section 9(a) is not opened up, as the Chair can determine, by H.R. 8410. It is nongermane to my amendment. It goes beyond the scope of my amendment. The gentleman from Michigan himself has indicated that what he is trying to do is codify a principle in case law. That in effect is a substantive effort

Mr. Chairman, for these three reasons I think the point of order should be sustained.

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) desire to be heard?

Mr. FORD of Michigan. I do, Mr. Chairman.

Mr. Chairman, I agree with the gentleman that I am attempting to codify the case law, but I thought that I was agreeing with his attempt to codify the case law because we are both citing the same case as authority for the language we would now have as a part of the statute.

As to that part of the change in the amendment that is common to both his amendment and mine, the basis of the case law we have cited is exactly the same. Mine certainly could not be found not to be germane, inasmuch as we rely on exactly the same basis for the language. Moreover, there is nothing in my substitute that makes substantive changes in the law with respect to the rights of employers and employees. It has to do only with procedural practices in keeping with the entire thrust of this bill to improve and streamline and codify for that purpose past practices and procedures.

With respect to section 9 of the act, while it might be said that these procedures refer to section 9 of the act, for that matter they refer to all of the act. But they are limited, and this amendment is limited to affecting the method by which these improvements achieve the end of the act and not intended in any way to effect a substantial change in the sections of the act that are subject to this procedure.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I would merely want to reiterate that the gentleman's amendment clearly refers to section 9(a). Section 9(a) has not been opened up by this act. It is not a proper substitute. The Chair on several occasions has taken a very strict interpretation of H.R. 8410 as it relates to the National Labor Relations Act, and I do not believe it can be opened up at this point inconsistent with those rulings.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Michigan (Mr. FORD) as to how his substitute would affect section 9(a) of the act.

Mr. FORD of Michigan. 9(a) of the bill?

The CHAIRMAN. In a manner not affected by the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mr. FORD of Michigan. Did the Chairman say 9(a) of the bill or 9(a) of the act?

The CHAIRMAN. 9(a) of the act.

Mr. FORD of Michigan. And the question is: How do I affect 9(a) of the act different from the gentleman from Ohio?

The CHAIRMAN. The gentleman is correct.

Mr. FORD of Michigan. Mr. Chairman, I do not believe that I do. I believe that the gentleman limits the method by which a collective bargaining arrangement can come into being, and we simply return to the existing law.

If the gentleman would make a change in existing law, we stay with the existing law.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The question, of course, pertains to the germaneness of the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK). That is the test.

The substitute amendment offered by the gentleman from Michigan (Mr. FORD), down to section 9, in the middle of the first page, contains the same language of the amendment offered by the gentleman from Ohio (Mr. ASHBROOK). From that point in the substitute, the Chair is of the opinion that the substitute sets forth exceptions to the Ashbrook amendment and incorporates definitions contained in section 9(a) of the act without amending other sections of the law, and it seems to be related to and is germane to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Therefore, the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The amendment as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to section 9 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 10. The first sentence of section 10(1) is amended to read as follows:

"(1) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of—

"(1)" subsection (a)(3) or (b)(2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employees are seeking representation by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, or

"(2) subsection 4 (A), (B), or (C) of section 8(b) or section 8(e) or section 8(b)(7), the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.".

Mr. THOMPSON (during the reading). Mr. Chairman, I respectfully ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there amendments to section 10 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 11. Section 10(m) is amended by inserting "under circumstances not subject to section 10(1)," after "section 8,".

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. THOMPSON. Mr. Chairman, this amendment amends the Norris-LaGuardia Act of 1932 prohibiting Federal courts from issuing injunctions in labor disputes.

It also amends title II, the National emergency dispute provision of the Labor Management Relations Act of 1947. It eliminates the 80-day cooling-off period provided in title II. It rewrites the definition of what constitutes an emergency to be any situation in which "the public interest would be served."

H.R. 8410 is limited to the subject of remedies and procedures relating to the right of employees to organize and bargain collectively. Amendments to Norris-LaGuardia and Taft-Hartley are not germane.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ERLENBORN) desire to be heard?

Mr. ERLENBORN. I do, Mr. Chairman.

Mr. Chairman, in all honesty, I do not recognize my amendment because of the way in which the gentleman from New Jersey (Mr. THOMPSON) describes it.

My amendment, as I think the Chair is aware, amends section 10 of the National Labor Relations Act. Section 10 is amended in the bill before us.

This amendment would add section 10 (n) to that act. It is remedial, it is procedural, and it is consonant with the bill before us as reported by the committee.

Mr. Chairman, I think it is clearly a remedial, procedural amendment to a section of the act which has been amended by the committee bill and is in order under all of the previous rulings of the Chair.

The CHAIRMAN. The Chair is ready to rule.

The amendment offered by the gentleman from Illinois (Mr. ERLENBORN) adds a new section to the bill. The bill as a whole does not deal exclusively with the period of initial organizational activity as it relates to remedies. Certain remedies in the bill go to post-organizational conduct. The amendment adds a new remedy.

In the opinion of the Chair, the amendment is germane to the bill as a whole and the point of order is overruled.

The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN) for 5 minutes.

Mr. ERLENBORN. Mr. Chairman, I think this is a most important amendment; and I wish we had more Members in attendance to hear the debate.

This amendment is one that is described as a remedy against stranger picketing and wildcat strikes.

It provides the Board with the authority to seek injunctive relief in the Federal courts to enforce agreements providing for no strikes and to stop wildcat strikes where members of a workforce, contrary to their agreement and contrary to the instructions of the union that represents them, go out on strike.

Mr. Chairman, it prevents some of the activity that we have seen all too often, particularly in the coal fields, of strangers coming in and setting up picket lines at the workplace, and because of the time-honored tradition of unions not to cross picket lines, even though these are strangers who are not employees at that workplace, the employees refuse to cross those picket lines; and the workplace is shut down.

Mr. Chairman, there have been all kinds of stranger picketing situations in West Virginia and Kentucky in the coal fields, situations where stranger pickets come into a mine and set up a picket line because they are unhappy about the contents of school textbooks that their children are using in the region. The mine is shut down and coal is not produced.

Pickets are set up because you see pickets being thrown up by strangers who are unhappy about a new imposition of a gas tax, for instance in the State of West Virginia, over which the employer, the union and the employees have no control. The result is that the employees refuse to cross that picket line and the workplace is shut down.

Mr. Chairman, just recently in the coal fields whe have had rampant wildcat strikes contrary to the wishes of the union representing the employees over the question of benefits in the United Mineworkers health and welfare fund. These strikes in the coal fields have exacerbated the situation because the United Mineworkers health and welfare fund is supported by a so many cents-per-ton contribution to the fund based on every ton of coal that is mined. When the mine is shut down, coal is not mined and the funds stop flowing into the health and welfare fund.

Mr. Chairman, in 1974 there were over 1 million man-days lost as a result of this kind of activity in the coal mines of the United States, payroll losses of $53 million and the trust fund of the United Mineworkers lost some $10 million dollars that it otherwise would have received. It has grown every year since. In 1975, 1,400,000 man-days were lost, and almost 2 million man-days in 1976 were lost. And so far this year alone, and the year is not completed, we have had 5,800,000 man-days lost as a result of this kind of illegal activity.

There is no remedy. I repeat there is no remedy. There is no authority on the part of the employers to go into the Federal courts or the State courts to seek relief. There is no remedy for the National Labor Relations Board to go into the Federal courts to seek relief.

This amendment, if adopted, will give us relief. It will allow the Board, when they think it is proper, to go into the Federal courts to obtain an injunction to stop this kind of illegal activity so as to keep our coal mines open and therefore make it more possible for us to be energy independent and to have that coal that we will be so desperately relying on in the coming years. Keep the coal mines open so that funds can flow into the United Mineworkers Health and Welfare Fund, so that the miners can

receive the benefits they have been promised.

Mr. Chairman, I think this is a most important amendment. I am pleased that the chairman has ruled this amendment in order. I would hope that I would receive the support of the majority managers of the bill. There were even private expressions of support in the committee when I offered the same amendment, though they said they could not support it in the committee. They said that they did understand the seriousness of the situation and the fruitlessness of having no relief available.

I would hope that the amendment would be adopted.

AMENDMENT OFFERED BY MR. THOMPSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. THOMPSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON as a substitute for the amendment offered by Mr. ERLENBORN: Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, the Board, if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person not authorized by a representative of employees of the employer being struck or picketed within the meaning of subsection (a) of section 8 from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

Mr. THOMPSON. Mr. Chairman, for reasons already stated I believe the pending amendment before us to be unsound. I do not want to go back, all the way back to Norris-LaGuardia, but since the mood of the House is to move on, I am offering this substitute which corrects the two most serious defects in the proposal. My substitute provides that only the Board will have the power to seek an injunction, for I am convinced that section 10, which is designed to vindicate public rights, should not be expanded to create remedies in favor of private parties. My proposal also provides that only true stranger picketing that causes a strike in breach of a contractual no strike commitment that is, picketing not authorized by a union representing the employer's employees, is subject to being enjoined. This merely confines the pending amendment to its stated purpose.

It seems to me that the gentleman from Illinois finds himself in disagreement with the Supreme Court's decisions.

The substitute of mine, I reiterate, provides that only true stranger picketing, not authorized by a union representing an employer's employees, is subject to being enjoined. That is what should be done. It should be stopped, and under my substitute it will.

Mr. ERLENBORN. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, let me first say that the whole procedure on this bill I have found to be very strange. The majority side is protected under the rule by having our amendments printed last Monday, and they have had all that time to look at them, and then they have come up with amendments of their own and we have not even seen them until they are offered. And we only get copies very often if we run over to the other side and ask for them. It makes it very difficult to legislate properly. The majority wants their rights protected by having our amendments printed in the RECORD days ahead of time, and then do not give us the courtesy of letting us even know when they are going to offer amendments or what is going to be in them.

Mr. Chairman, I am not certain that the gentleman from New Jersey has properly described his amendment. I am not certain that I want to oppose his amendment either, because the way I read it, it is not too bad. The way the gentleman from New Jersey has described his amendment it says that it will only stop stranger picketing. I do not think that is really true. It will stop wildcat strikes as well, because the only one who will be protected, as I read his amendment, in strike activity is one who has been authorized by a representative of the employees of the employer being struck or picketed. So it appears to allow relief against the true stranger picket coming in from outside and in addition, appears to allow relief against wildcat strikers who are employees of the employer being struck, but who have not been authorized to engage in that strike by their union.

Really, the only thing that this amendment appears to change is who may petition for relief, whether it be one of the parties involved or only the Board.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman.

Mr. THOMPSON. First, I would like to commend the gentleman for a very accurate, albeit quick, study of the Thompson substitute. He is obviously a splendid lawyer.

The gentleman from Michigan (Mr. FORD) and I have been discussing the situation over here, and we find ourselves both pleased and somewhat amazed by the number of Ford-Ashbrook agreements and Thompson-Erlenborn agreements.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I do not think they should be called agreements. They were somewhat like, in union bargaining, forced agreements.

Mr. ERLENBORN. Mr. Chairman, as suggested yesterday, it may be more like a shotgun marriage and Father CORNELL, of course, is here. He can officiate.

Mr. THOMPSON. I will pay for the license.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) as a substitute for the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. There being no further amendments to the section, the clerk will read section 12.

The clerk read as follows:

SEC. 12. Except as otherwise specifically provided in this Act, the amendments made by this Act shall take effect sixty days after the date of enactment of this Act.

Mr. DERWINSKI. Mr. Chairman, despite the fact that there have been a number of amendments adopted, I do not believe that H.R. 8410 in its final form is in such a condition that I could vote for it.

This bill is intended to aid the unions, not the rank and file union member. Certainly, any "labor reform" should be balanced, objective, should benefit rank and file members and protect the general interest of the public who, after all, is to be the ultimate beneficiary of the product or service involved.

Unfortunately, this is not the thrust of the bill since its clear purpose, as I indicated, is to increase the muscle of labor unions. Government administration of labor laws should not reflect the political bias that obviously motivates this measure.

Mr. LEGGETT. Mr. Chairman, in 1853 Charles Dickens' novel "Bleak House" sparked a reform movement in England with his exposure of the failures of the English legal system. Dickens' story described in robust detail how the English legal system was collapsing under its own weight. He revealed a grossly inadequate case law system, overburdened courts, and cumbersome procedures which failed to provide efficient and equitable justice. "Bleak House" described a legal action that was often incomprehensible to the parties of interest and which failed to resolve the dispute in anything approaching a timely fashion. In fact, years dragged by before a judgment was rendered, and the plaintiffs were financially destroyed by the delays themselves. In the world Dickens' described, delaying

tactics were routinely and effectively used to thwart the most elementary notion of justice.

An examination of the history of labor-management relations since the enactment of the Wagner Act in 1935 leads me to conclude that many of the problems Dickens identified in the English legal system are with us today in the administration of the National Labor Relations Act. The legislation we will vote on this afternoon addresses these problems forcefully and deserves the support of the House of Representatives.

President Franklin D. Roosevelt signed the Wagner Act in 1935. Since that time the Congress has adopted only two laws modifying the original legislation, the Taft-Hartley Act of 1947 and the Landrum-Griffin Act of 1959. However, neither of these acts addressed the body of law governing the conduct of union representation elections. These sections of the Wagner Act are at the heart of a fair labor-management policy in our country because they concern the initial selection of a union and the beginning of the collective bargaining process.

Needless to say, the nature of labor-management relations has changed and matured over the past 42 years. H.R. 8410 addresses these long-ignored provisions of the Wagner Act, and presents a well-thought-out adjustment of the balance between employer and employee that is long overdue.

The Wagner Act has served our country well; it has fulfilled its goal of bringing peace and orderly procedures to the relationship between labor and management. A dispassionate examination of the history of labor-management relations since 1935 reveals that most employers and employee organizations have voluntarily complied with both the letter and the spirit of the Wagner Act. However, a minority of employers have continuously taken advantage of the procedural failings of the Wagner Act to behave as though the National Labor Relations Act never existed. It is the abuses of the law by such employers that H.R. 8410 justifiably seeks to eliminate.

The well-drafted legislation reported by the Committee on Education and Labor incorporates the three elements essential to insure meaningful reforms of the Wagner Act; provisions providing for procedural fairness for all parties, while prohibiting unreasonable delays; remedies for injured parties; and penalties to deter those who would abuse the law.

In the area of procedural reform, H.R. 8410 requires the NLRB to establish rules to govern the union representation election process, thus ending the much criticized case by case system now in place. Fixed deadlines are provided to insure that elections are not unreasonably postponed for tactical reasons or to consciously thwart the law. Existing provisions which allow three Board members to operate as a panel are expanded so that the panel can affirm Administrative Law Judge rulings, thus removing one of the more glaring causes of the unacceptable delays we have experienced under the provisions of the 1935 act. The membership of the NLRB is expanded from five to seven members to help the Board cope with the increasing workload. A wise safeguard is built into this section of the act to insure that no more than a majority of the members can be from the same political party. These provisions go far in eliminating the bleak House conditions that now inhibit effective administration of the Wagner Act.

Effective remedies are a major improvement in the Wagner Act offered by this bill. H.R. 8410 provides that workers may seek a court injunction to force the employer to reinstate them if they have been illegally fired because of their efforts to organize a union. The right to seek injunctions is available to the employer under the current provisions of the Wagner Act, and it is appropriate that employees have access to this avenue of redress also. Lastly, the bill provides adequate compensation for economic losses suffered by an employee improperly fired because of his union activities.

Strong deterrents are provided to discourage employers from failing to bargain once ordered to do so by the courts. Lastly, flagrant violators of the National Labor Relations Act face the possibility of losing their eligibility to compete for Federal contracts.

H.R. 8410 is a well-designed and moderate proposal which goes far in addressing the faults of the Wagner Act that we have identified over the past 4 decades. I fully agree with the assessment of the veteran NLRB member, John Fanning, that this legislation does not favor one interest over another in the labor-management area. Rather, this is a balanced bill which will significantly help fulfill the promise of the National Labor Relations Act adopted in 1935. This legislation is a long overdue, carefully considered compromise that deserves the support of the House.

Mr. BRADEMAS. Mr. Chairman, I am sure that Members of the House will read with great interest a prayer that was delivered 2 nights ago at a labor law reform dinner sponsored by Americans for Justice on the Job. The invocation, which was offered by the Reverend Monsignor George G. Higgins, secretary for research, U.S. Catholic Conference, follows:

INVOCATION

(By the Rev. Msgr. George G. Higgins)

O God, our Father, we ask You to bless all here present and to grant them perseverance and steadiness of purpose in pursuing the worthy objective which has brought them together in such great numbers. Their common objective, which is altogether right and just, is to call upon their elected representatives to amend our nation's basic labor legislation in such a way as to guarantee—more than forty years after the enactment of that legislation—the right of workers to organize for the purpose of collective bargaining. Exercising their constitutional right freely to petition their government for greater equity in the field of labor-management relations, they have come here this evening to dramatize their determination to correct the procedural delays and other defects in the present law which make it difficult, if not impossible, for millions of workers freely to exercise this basic human right. Encouraged by the forthright support of the President of the United States, they are here to remind the Congress that justice delayed is justice denied and to call upon that body to remedy this situation which, to a degree which can no longer be tolerated, serves to thwart the original purpose of the National Labor Relations Act and the official policy of our government with regard to collective bargaining. As clearly stated in the preamble to the Act, it has been the policy of our government for more than forty years "to encourage the practice and procedure of collective bargaining . . . by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

We ask You to bless our Chief Executive and his Vice President, Walter Mondale, who has honored us with his presence this evening. We ask You to bless the members of the President's Cabinet, our legislators, judges and administrative officers. Theirs is a noble calling. May they exercise their constitutional authority with diligence, honor and unimpeachable integrity and may we, the American people, accord them in turn our full cooperation.

Almighty God, our Father, you have charged us with the task of building on their earth a home where all nations may dwell in unity, with liberty and justice for all. We pray for peace and all that makes for peace, for the generosity to share the goods of this earth with those less privileged than ourselves, and for the steadfast courage to overcome the barriers that stand in the way of peace, justice, and human solidarity.

Blessed be Your name, our God and our provider, for the food that we are about to receive from Your gracious bounty. Bring us together in this sharing. Let this occasion nourish us with faith in Your providence and with care for one another, especially for those less fortunate than ourselves. We know that we can only thank You with a good conscience if our sharing reaches out to all who are in need.

And so we pray, in the words which You have taught us.

Our Father, who are in heaven, hallowed be thy name;
thy kingdom come, thy will be done on earth as it is in heaven.
Give us this day our daily bread;
and forgive us our trespasses as we forgive those who trespass against us;
and lead us not into temptation, but deliver us from evil.
For the kingdom, the power, and the glory are yours,
now and forever. Amen.

The CHAIRMAN. There being no further amendments to the bill, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures

under such act, pursuant to House Resolution 799, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. Mr. Speaker, if the rule still allows me, I am very much against it.

The SPEAKER. The Chair presumes from the gentleman's remarks that the gentleman is opposed to the bill.

Mr. ASHBROOK. Mr. Speaker, I think that would be in order.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK, of Ohio, moves to recommit the bill, H.R. 8410, to the Committee on Education and Labor with instructions to report the bill forthwith back to the House with the following amendment:

Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement or the dissemination thereof, whether in written, printed, graphic visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under section 9(c)(6) of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

Mr. ASHBROOK. Mr. Speaker, we have waited two days to get an amendment that cannot be watered down or revised or substantially changed by amendment. Whether that is good or bad, I guess the Members will have to withhold their judgment until later.

Mr. Speaker, my motion to recommit would amend section 3 of H.R. 8410 to direct the Board, through rulemaking, to protect freedom of expression which does not contain a threat or promise, by ensuring that such expression would not result in the invalidation of a Board-conducted election. The NLRA provides that the expressing of any views, arguments, or opinion in written, printed, graphic or visual form shall not constitute or be evidence of an unfair labor practice if such expression contains no threat of reprisal or force or promise of benefit.

Although Congress added this requirement in the Taft-Hartley Act of 1947 to protect the free speech rights of all parties involved in labor disputes, subsequent NLRB and court decisions have seriously eroded this protection. The decisions have had the regrettable effect of intensifying the regulation of both employer and union campaign activities. I refer to *General Shoe Corporation*, 77 *NLRB* 124 (1948), *Celanese Corp.* v. *NLRB*, and *Allis-Chalmers Mfg. Co.* v. *NLRB*, 261 F. 2d 613 (7th Cir. 1958).

Holdings such as these subvert the purpose of the NLRA to insure that employees have the necessary information to make an informed decision concerning representation. This amendment would rectify this situation and reaffirm the original intention of the act to protect freedom of expression which does not contain a threat or a promise of benefit. It would eliminate the Board's sanction of setting aside elections solely on the basis of noncoercive communications. At the same time, the Board would still be allowed to set aside an election if the communication was in fact coercive, the test being whether the expression contained a threat of reprisal or force or promise of benefits.

The amendment would also have the effect of making the Board's case handling process more efficient. Studies of NLRB election processes have found that the Board's readiness to intervene and set aside elections has had a destructive impact on the handling of representation questions where prompt resolution demands high priority. For the Board to intervene and invalidate elections unnecessarily not only has an adverse effect on the interest of the parties immediately involved, it also diminishes the overall ability of the Board to provide effective regulation of the election process where it is needed.

Mr. THOMPSON. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I am sure that my very, very good friend from Ohio does not really want to take this whole thing back to the committee and come back here again.

This proposal would be an unnecessary and inappropriate interference with the NLRB's oversight of the election process.

Much of what is proposed by this amendment is already current law as a result of the NLRB's recent decision in the Shopping Kart case. It would be inappropriate, however, to freeze that decision into the statute. The NLRB ought to have enough flexibility to set aside elections where it determines that deliberately false statements have seriously corrupted the election process.

If this provision became law, either side in a representation election could lie to their hearts content, secure in the knowledge that no matter how wild or egregious their falsifications, they would be absolutely immune from negative consequences. It would put a premium on falsehood.

Furthermore, this provision would apparently eliminate the 24-hour rule and other regulations of the NLRB which attempt to guarantee the fairness of the election process. This is a matter much better left to the careful administration of the NLRB.

I strongly oppose the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 139, nays 279, not voting 16, as follows:

[Roll No. 638]

YEAS—139

Abdnor
Anderson, Ill.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Corcoran
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Findley
Flynt
Forsythe
Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Holt
Huckaby
Hyde
Ichord
Jeffords
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Lujan
McCory
McDonald
McEwen
Mann
Marriott
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, John
O'Brien
Pettis
Poage
Pressler
Pursell
Quayle
Quie
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Waggonner
Walker
Wampler
Watkins
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.
Young, Tex.

NAYS—279

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Chisholm
Clay
Cohen
Coleman
Conte
Conyers
Corman
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stark
Steers
Stratton
Studds
Teague
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—16

Cederberg
Collins, Ill.
Cotter
Dent
Harsha
Johnson, Calif.
Koch
Lott
Marlenee
Moakley
Shipley
Sisk
Staggers
Stokes
Vander Jagt
Whalen

The Clerk announced the following pairs:

Mr. Dent with Mr. Vander Jagt.
Mr. Moakley with Mr. Whalen.
Mr. Stokes with Mr. Lott.
Mr. Staggers with Mr. Cederberg.
Mr. Koch with Mrs. Collins of Illinois.
Mr. Cotter with Mr. Harsha.
Mr. Shipley with Mr. Marlenee.
Mr. Sisk with Mr. Johnson of California.

Messrs. JONES of Oklahoma, PRESSLER, and POAGE changed their vote from "nay" to "yea."

Messrs. LONG of Maryland, DICKS, McHUGH, and RUPPE changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 257, nays 163, not voting 14, as follows:

[Roll No. 639]

YEAS—257

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Cunningham
D'Amours
Danielson
Delaney
Dellums
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Jacobs
Jeffords
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pike
Price
Pritchard
Pursell
Quie
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stark
Steed
Steers
Steiger
Stratton
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—163

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bevill
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Findley
Flowers
Foyntt
Forsythe
Fountain
Fowler
Fuqua
Ginn
Goldwater
Goodling
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Hefner
Hightower
Holland
Holt
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kasten
Kazen
Kelly
Kemp
Ketchum
Lagomarsino
Latta
Leach
Levitas
Livingston
Lujan
McClory
McDonald
Madigan
Mahon
Mann
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, John
O'Brien
Pettis
Poage
Pressler
Quayle
Quillen
Regula
Rhodes
Roberts
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Taylor
Teague
Thone
Treen
Trible
Waggonner
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Winn
Wylie
Young, Fla.

NOT VOTING—14

Cederberg
Cotter
Dent
Harsha
Johnson, Calif.
Koch
Lott
Marlenee
Moakley
Sisk
Staggers
Stokes
Vander Jagt
Whalen

The Clerk announced the following pairs:

Mr. Dent with Mr. Marlenee.
Mr. Cotter with Mr. Johnson of California.
Mr. Stokes with Mr. Lott.
Mr. Koch with Mr. Vander Jagt.
Mr. Moakley with Mr. Whalen.
Mr. Staggers with Mr. Cederberg.
Mr. Sisk with Mr. Harsha.

Mr. LEVITAS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 8410, just passed.

The SPEAKER. Is there objection to

the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I would like to take this opportunity to thank the Members in the minority for their courtesies. I deeply appreciate them.

PERSONAL EXPLANATION

Mr. MOAKLEY. Mr. Speaker, I unavoidably missed the vote on the final passage of H.R. 8410 due to being at the Department of Transportation receiving word that Massachusetts Mass Transit Authority had been granted over $100 million for expansion of the mass transit system. I would have voted "aye."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 3, 1977:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5262. An act to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes;

H.R. 6111. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; and

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

On October 4, 1977:

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes; and

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9090, EXEMPTING DISASTER PAYMENTS IN CONNECTION WITH CERTAIN CROPS

Mr. DELANEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–669) on the resolution (H. Res. 820), providing for consideration of H.R. 9090 to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE A REPORT

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tomorrow to file a report on the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961, as amended, with respect to the activities of the Overseas Private Investment Corp.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PARLIAMENTARY INQUIRY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, I propound this parliamentary inquiry to the Chair. The gentleman from Maryland for the last 4 days has been seeking permission from the Clerk of the House to examine the report of the Clerk of the House covering January through June 1977 which was submitted to the Speaker 2 months ago. The report includes official expenditures of all Members, committees, and others.

It is my understanding that this report was to have been printed within 60 days of its submission and is in galley form and could be made available for my inspection. On at least four occasions I have been told by the Clerk of the House or his staff that I would be able to examine the report, most recently that it would be available this afternoon.

I have just been informed that it is still not available. I ask the Chair what right a Member of the House has to an official report, and whether or not the Chair might consider interceding on behalf of all Members to allow them to examine a copy of this report prior to consideration of the Obey Commission proposals next week.

The SPEAKER. The Chair would like to inform the gentleman of this point: That it is his understanding that it is presently in galley form. There are approximately 600 different pages which are looseleaf, some of which would have to be cut and folded. It will be available to all Members on Tuesday next.

Mr. BAUMAN. Mr. Speaker, the Government Printing Office Assistant Printer, Mr. Boyle, informed me yesterday that copies now are available for my inspection and would be sent to my office. The Clerk subsequently vetoed that and told me that there would be a copy in his office available this afternoon. I have again been refused access to this, and have further been told that bound copies will not be available to Members or the public until next Thursday, after consideration of the Obey Commission resolution.

The SPEAKER. While there has been some confusion, it is the policy that a document should not be available to just one Member of Congress alone, but it should be available to all Members at the same time. For that reason, while it would have been available to the gentleman, it would not have been available to all Members.

The Chair would say that the Clerk has acted within his rights. He has not tried to refrain from giving the gentleman a copy, but is working in the interests of the House and doing what he thinks best for the House and all of its Members.

Having been aware of this, the Chair ordered that it be handled in an expeditious manner. It is the understanding of the Chair that it will be ready on Tuesday next for every Member of the House.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. RHODES. Would it not be possible, since the gentleman from Maryland has repeatedly expressed his interest in this particular report, for the gentleman from Maryland to be allowed, as an individual Member, to go to the office of the Clerk or wherever the report now is, to look at the report in whatever form it now is in, rather than to await the time that might be available for the inspection of all Members?

The SPEAKER. It is my understanding that the copy is not available in the Clerk's office, and it is at the Government Printing Office.

The Chair will make a request to the Printing Office that a copy be sent to the Clerk's office and remain in the Clerk's office, available for any Member who so desires to look at it. The Chair will direct the Parliamentarian to call the Office of the Printer and have them deliver it to the Clerk's office. It will be available to any Member who wishes to peruse it in the Clerk's office.

Mr. BAUMAN. I thank the Chair.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 11, 1977, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 11, 1977, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, October 12, 1977, may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROPOSALS TO STRENGTHEN PUBLIC BROADCASTING SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–239)

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to stifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

—Devote more resources to high-quality national programing.

—Set long-range goals by which its progress can be judged.

—Plan how public television and radio signals can be brought within reach of all citizens.

—Provide greater accountability to the public.

—Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programing.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the 10 years since the Public Broadcasting Act first provided Federal funds for programing, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, State, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

—Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

—Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

—Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programing, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

—Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal, and fewer than two-thirds can receive public radio.

—Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

—Increase employment, training, and ownership opportunities for minorities and women.

—Support local, State, and regional programing. Programing of local interest is an important resource.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of $152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total $1.041 billion. This includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. It also includes a separate grant program of $30 million annually for technical facilities in fiscal 1979 and 1980, and $1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at $200 million after the second year. Such leveled funding will ensure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in

light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programing in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fundraising from private sources and government agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programing staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

—Reduces CPB's effectiveness as a political insulator.

—Reduces its ability to focus on long-range planning and new educational services.

—Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programing. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

—CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

—Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

—CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR NATIONAL PROGRAMMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only $17 million of its current $103 million appropriation directly to national programming. In addition, about $19 million of the $58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25% of funds appropriated to CPB in future years shall be used for a National Programming Fund for bloc grants for such productions. This will insure that by FY 1982 up to $50 million, depending on the appropriation level, would be earmarked for national programming. These programs will continue to be produced on a decentralized basis, by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25% of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by any other mechanism. This would provide a total of up to $100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have leveled off.

As a former Governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requires the system to raise $2.50 for every $1.00 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to $2.25-to-$1.00. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present $30 million annual authorization.

I also propose changes in the Facilities Program to:

—Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

—Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

—Make regional networks and other groups of stations eligible for facilities funds.

—Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. publice television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPB, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decisionmaking levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, Blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately $25 million was contributed to public broadcasting directly by four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedule, as well as many local and State productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rules for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to parity with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvements priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighed.

I urge Congress to consider promptly, and to pass, the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER.

THE WHITE HOUSE, *October 6, 1977.*

FIRST BAPTIST CHURCH OF HOMER, N.Y., CELEBRATES 150TH ANNIVERSARY

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, I would like to take a moment to bring attention to an historic occasion for some residents of New York's 32d Congressional District. They are celebrating the 150th anniversary of a beautiful community landmark, the First Baptist Church of Homer.

Cortland County historical records indicate that the First Baptist house of worship was built on the site of the present Cortland Memorial Hospital in 1811. Sixteen years later, in 1827, due to crowded conditions, a branch was established in the Village of Homer with 25 members. The pastor of the mother church, the Reverend Alfred Bennett, served as first pastor of this new branch.

The first church was built on the site of the present parsonage, and served until the present church was constructed in 1893. Prior to its dedication, the church was organized under the new State centennial law, and took the name of the First Baptist Church of Homer.

Additions and remodeling have taken place over the years. New equipment, such as a pipe organ, electric lights, and steam heating, were added as needed. One can understand the contribution the First Baptist Church of Homer has made to mankind, let alone the village of Homer, when one learns that the church has been a missionary church throughout the years. Since 1829, when Cephas Bennett, son of the first pastor, went to Burma as a missionary, the church has continuously, to the present time, had a member on the active mission field. The latest example is Dr. Dan Fountain, who was commissioned as a missionary in 1960, and is now serving as a physician in Zaire.

In 1880, Almon Bacone, a member of the church, founded Bacone College in Oklahoma, which was the first college established to educate the American Indian. Over the years, the church has produced at least 15 men who have gone into the Christian ministry.

These are but a few examples of the work that members of the First Baptist Church of Homer have performed for their fellow man. I am certain that my colleagues join with me in offering heartfelt thanks and congratulations to the Reverend Max T. Wiant and his congregation on this most historic and joyous occasion for the First Baptist Church of Homer.

CIVIL RIGHTS FOR THE HANDICAPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. O'BRIEN) is recognized for 30 minutes.

Mr. O'BRIEN. Mr. Speaker, 1977 is supposed to be the Year of the Handicapped. The White House Conference on Handicapped Individuals was held in June. The long-awaited section 504 antidiscrimination rules were finally issued by the Department of Health, Education, and Welfare.

The record of the House in the Year of the Handicapped has been modest. More than 449 bills affecting the handicapped have been introduced. Only eight have been passed into law. None of the eight can be described as major initiatives.

H.R. 3477 provides tax deductions for the portion of a person's home used for trade, business, or as a day care center involving handicapped individuals;

H.R. 4877 included an additional $958,000 for Gallaudet College, the national college for the deaf;

H.R. 6692 extended and renewed the Education for the Handicapped Act;

H.R. 7557, the transportation appropriations bill, carried a new provision protecting the rights of handicapped persons under the Urban Mass Transit Act; and

H.R. 11, the Local Public Works Act, required that the funded projects be designed and constructed to permit access by handicapped individuals.

All in all, not record of great distinction. Certainly a record not to be denigrated, but hardly the clarion call for action that we might have expected at the beginning of 1977, the Year of the Handicapped.

The record of the Carter administration in the Year of the Handicapped is less than enthusiastic.

The 504 antidiscrimination regulations as finally issued by the Department of Health, Education, and Welfare are, at best, a mixed blessing to America's 35 million handicapped citizens.

The administration's decision to not seek funding for implementation of the antidiscrimination rules leaves somewhat hollow the high-sounding declarations by the Cabinet Secretaries addressing the White House Conference.

Secretary Califano now proposes to extend the diluted blessing of his section 504 antidiscrimination regulations to all Federal departments and agencies.

The Departemnt of Housing and Urban Development has created a new Office of Independent Living to push development of more housing available and accessible to handicapped persons.

The Transportation Department has decided to require all mass transit buses purchased with DOT funds—that is, all new mass transit buses after September 30, 1979—to be accessible to the handicapped and elderly.

Secretary Califano has created a HEW Administration for Handicapped Individuals by rearranging five existing offices, boards, administrations, and committees significant to handicapped persons.

The Department of Labor has begun prosecution of only three cases involving employment discrimination against handicapped persons since January.

The Department of Transportation has not exactly been a stern taskmaster in modernizing the airline rules that discriminate against the blind and disabled in air transportation. Significantly, two of the three cases involving employment discrimination against the handicapped pushed by the Department of Labor are against TWA and United Airlines.

Taken together, the Carter administration has not exactly declared the "moral equivalent of war" on behalf of America's handicapped citizens.

The bright promise of January, when the Year of the Handicapped began, has dimmed to the hazy prospect of October. The House has a disjointed and desultory record at best. The Carter administration has acted in fits and starts.

The Year of the Handicapped can yet be saved. The Congress could, with one, simple, dramatic act make 1977 truly a landmark year.

The Congress should extend the protections of the Civil Rights Act of 1964 to the handicapped. In one decisive action the House should say to the millions of handicapped Americans whose hopes were raised by the ambitious language of the White House Conference on Handicapped:

It is the national policy of the United States of America that no person shall be discriminated against on the basis of a physical handicap.

That is what H.R. 1107 does. In section 703 of the Civil Rights Act of 1964, where it says, "It shall be unlawful . . . to limit, segregate, or classify . . . because of such individual's race, color, religion, sex or national origin," add "physical handicap." That is all.

None of the problems of Secretary Califano's herky-jerky anti-discrimination (sec. 504) rules. No legalistic sleight of hand to define alcoholics and drug addicts as handicapped.

Just the clear, unmistakable, direct statement that no American shall be denied any of his rights because of the presence of a physical handicap.

No American will ever again be evicted from his rented apartment because his handicap is "unsightly and offensive." No American teacher will ever again be dismissed from teaching because his wheelchair makes a bad impression on the students.

I ask my colleagues in the House today to join with me and the cosponsors of H.R. 1107. Let us add those two words to the Civil Rights Act. Let us say that it shall be unlawful to limit, segregate, or classify because of such individual's race, color, religion, sex, national origin, or physical handicap. Let us make it clear national policy.

Let 1977 be the year that Congress extended the full coverage of the Civil Rights Act to America's 35 million handicapped citizens. Let 1977, in truth, be the Year of the Handicapped.

I yield to my good friend, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and rise in support of legislation being introduced today by my esteemed colleague from Illinois, Mr. O'BRIEN, which I am cosponsoring and which amends the Civil Rights Act of 1964, making illegal employment practices which discriminate against the handicapped solely on the basis of a physical handicap.

This legislation is long overdue. It is the responsibility of the Congress to insure that every American be given equal opportunities to pursue the most fulfilling life that is available to them. For too long, the handicapped have been exempt from this right, having been passed over by employers who have chosen not to look beyond the individual's physical handicap and who have allowed physical handicaps to interfere in professional relationships. This is an unfair practice, and I cannot stress how crucial it is that this prevailing thought be abolished from employment practices.

With the advent of section 504, which modifies the Rehabilitation Act of 1973, Americans have become increasingly aware of the need to create an atmosphere which is both acceptable to and accepting of the handicapped. This legislation would reinforce the mandate of section 504, by including the handicapped under the provisions of the Civil Rights Act—a document which, in recent years has become the "ticket to freedom" for millions of men and women. This freedom should be extended to the handicapped immediately, as the debilitating effects of discrimination persist, and lessen the quality of life for the handicapped and for the American people as a nation.

An article appearing in the Washington Post this morning illustrates a positive experience in the employment of the handicapped. The article entitled "Chain of Photo Service Kiosks Employs Mostly the Handicapped" explains the experience of a handicapped individual who operates almost 60 photo service kiosks in the southeast region of the United States, employing 180 handicapped employees. The chain of photograph equipment stores has grown tremendously within the last year, and the company represents a $1.4 million investment by the owner, Gerald Crowder, and several bankers. Crowder's "Handi Photo" chain is, in many respects, a model enterprise, employing individuals with a range of handicaps from paraplegia to epilepsy.

The article points out the problems that handicapped persons experience with insurance and employment opportunities, and illustrates the anticipated success that many others may look forward to when the physically handicapped are given the same protections as others under the Civil Rights Law.

We have heard many new phrases coined in the past few years in reference to the handicapped, and we have had the opportunity to translate those phrases from mere language to reality. One of those phrases "a barrier-free environment" has been used to describe the ideal, but realizable conditions which would improve the quality of life for the handicapped. Let us take this phrase one step further and extend the barrier-free environment to attitudes.

The most significant barrier for handicapped individuals is, indeed, attitudes—the stigma that pervades all facets of life for the handicapped. Discriminatory practices and attitude are most prominent in employment. It is time that such a stigma be lifted from the millions of handicapped individuals.

Accordingly, I urge our colleagues to join with us in supporting this legislation, and in joining the fight against discriminatory practices in employment and all areas of handicapped participation.

CARTER PLAYS INTO HANDS OF RUSSIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, I fear that the new Carter Middle East policy through which the United States and Russia are jointly trying to force Israel to negotiate directly with the PLO plays into the hands of the Russians by enhancing their stature in a region where they had been discredited, and had lost most of their friends.

After we have spent many years and many billions of dollars in a successful exorcism of Russian influence in the Mideast, our new policy almost invites the Russians to replay their former role of disruption.

I believe the President has made a serious policy error which carries the unnecessary risks of a renewed Soviet hegemony in the area.

Our previous policy in which the United States stood by as a staunch ally of Israel and as a trusted mediator for all of the countries in the area was a successful one. To abandon it entails grave risk without compensating advantages.

PERSPECTIVE ON PANAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 30 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, I wish to present today to my colleagues, a matter of great concern—a "Perspective on Panama" as I see it.

I do so in the hope that my sharing some of my experiences in the "negotiating process' relating to political status questions during my service on the territories subcomimttee of the House and as a member of the Ad Hoc Advisory Group on Puerto Rico wil be helpful to the congressional process.

I will attempt to relate where I have seen the negotiating process fail in the course of the Puerto Rican negotiations and also comment on the lessons to be learned from the very successful negotiations with the Marianas covenant which were carried on with the full support and knowledge of the Members of the House and Senate having jurisdiction over and responsibility for the legislative matters that were to be involved.

The Panama Canal and the proposed treaty are the subject of much discussion, confusion, distortion, dissension, concern, and debate—throughout the country and in the halls and cloakrooms of Congress.

While the ratification of international treaties is the traditional and constitutional responsibility of the U.S. Senate, there is a growing body of opinion in our country, as reflected in the communications to my office, that the American people want and, indeed, expect the full Congress—the House and the Senate—to be involved in the Panama issue. A very emotional issue, I might add, both here and throughout Latin America. You have heard and read multitude of comments such as: "We bought and paid for it, don't give it away" or "If the Treaty isn't approved—there will be guerrilla warfare all over the Western Hemisphere."

These are but two examples representative of the extreme points of view.

Tonight, I would like to share a few thoughts with you and, hopefully, give you a little different "Perspective on Panama".

I would like to share some thoughts and concerns I have with regard to the "negotiating process," some chronological and historical data; what some of the people in Washington are saying; what the alternatives are if the treaty is not approved in its present form, and; finally, why I think we need a new approach to our relations with Panama and all of Latin America—including the resources, security, and stability of the Western Hemisphere.

The "negotiating process" on the Panama question, really "leaves me cold" and in my view is the major contributor to the problems we face in dealing with this controversial issue.

This process started in the Johnson administration, in response to the riots in Panama during the midsixties, and was carried forward through the Nixon, Ford, and Carter administrations.

My fundamental disagreements with the "negotiating process" are, I believe, consistent with expressions most often heard from the American people.

What are they saying?

(1) As my elected representative in Congress, don't give away the canal.

(2) What are we doing negotiating with a nonelected military dictator?

(3) What do the *people* of Panama really want and have to say about their future destiny and political status?

(4) What do the people of the United States really desire in the way of a relationship with Panama?

What do I read from all of this? My people want me to be involved in the process so as to express their concern and point of view.

They find it difficult to accept a "negotiating process" that regulates the U.S. House of Representatives to a followup role of having to vote to "pay the bills" for a vital economic and security package which was drafted by others and which the House had no opportunity to approve or reject.

The bitter experiences of Vietnam, starting in the early sixties and escalating in the midsixties by unilateral Presidential action is another case in point where the Presidents of that era took the action and then said to Congress "pay the bill."

This costly experience has caused the American people to demand a check and balance effort from the Congress.

They want us to be consulted and more involved in the total process.

They want us to be fully involved in the process during the negotiations and not be put in the position where: "you've got to accept what has been negotiated by the Executive because, to reject it, would cause embarrassment to the President and the country."

I say it is ridiculous even to suggest that the Congress must accept a position the executive branch has announced just because someone might be embarrassed.

I have seen successes and failures in the negotiating process.

The failures occur when Presidents try to go it alone without adequate consultation, advice, and involvement in the negotiating process with the Congress.

Our most successful ventures in foreign policy are those that had maximum involvement and cooperation between the Executive and the Congress—because

all know they would be held accountable to the people that elect them.

Panama has the potential for failure unless they revise and/or establish this type of joint negotiating process.

I am in the process of communicating my strong concerns to the Members of the Senate.

For one experienced in Washington politics, the current dissension on Capitol Hill over the ratification of the new Panama Canal Treaty was fully predictable. My committee assignments in the House of Representatives—Public Works and Interior and Insular Affairs—provide an opportunity for me to participate actively in international negotiations and to deal with Inter-American affairs. I know that international political negotiations are apt to succeed only when both branches of Government act as co-participants.

For example, in 1972, the President appointed me to the Ad Hoc Advisory Group on Puerto Rico. The President charged us to meet with our Puerto Rican counterparts to hammer out a new political status for the island. Three years later, hard work, a draft compact of free association was developed and presented to the U.S. Congress for enactment. Unfortunately, from the start, the compact was doomed to fail. Although the document was sensitive to the political and cultural aspirations of Puerto Rico, the details—especially the intricacies of tax, trade, and immigration matters—were hazy at best. Why? Throughout the negotiations, the executive branch failed to supply the mainland negotiators with the expert advice and administrative experience necessary to fashion a compact in consonance with legal precedent and Federal practice. Accordingly when put to the scrutiny of various congressional committees and Federal agencies, discrepancies emerged of sufficient magnitude to kill the draft compact. In other words, of the two pillars upon which successful negotiations must stand—political sensitivity supplied by the Congress and administrative expertise afforded by the administration—input from the executive branch was absent.

In addition to the inadequacy of the administrative expertise furnished by the United States, the makeup of the Puerto Rican delegation clearly was not representative of the major established political interests in Puerto Rico at that time.

In spite of the good faith of all concerned and the importance of the issue, the Puerto Rican compact could never get off the ground. Although the American system of government is the finest in the world, it is like any other delicate mechanism. To be effective, all components must be operable.

But all negotiations undertake by Washington do not end so abysmally. Once again, let me draw again from personal experience.

Following World War II, the United States agreed under the U.N. Charter to administer those Pacific islands, known as Micronesia, which were wrested from the Japanese by American amphibious forces during the war. Many of these island names—Kwajalein, Truk, Peleliu, Saipan, Tinian—will be familiar to many of you, especially if you served as a member of the Armed Forces in those bloody Pacific battles. As a carrier pilot, the Navy first introduced me to the Mariana Islands—one of the three archipelagos that comprise Micronesia. Ironically, and proudly, I might add, it was these same islands—the Marianas that became the ones I assisted, in the determination and development of their own political future, 30 years later as a Member of Congress.

Under the U.N. trusteeship agreement, the United States is obligated to "promote development toward self-government or independence in accordance with the wishes of the people * * *."

The story of the negotiations—the give and take on both sides, the integrity and sincerity displayed by all participants—is too long to relate to this forum. Let it suffice, that in my political experience, I have never witnessed a better example of "working democracy." Within the Federal Government, a special White House office was established to undertake the ramifications of negotiations. Dedicated American officials from the Defense, State, Justice, Treasury, and Interior Departments were brought together to work out the details of this new, innovative approach in American federalism. Within Congress, we were continuously kept abreast of progress in the negotiations. Congressional input into the negotiating process was conspicuous. Following a plebescite in the Marianas, wherein nearly 80 percent of the people endorsed the covenant's provisions, the President submitted the pact to the Congress for approval. The Congress, having been consulted and kept fully informed from its very inception, had no doubt of the covenant's contents. Here was a negotiated document to which all parties concerned had access—a document freely chosen by the people. Congressional passage was assured. On July 1975, on the floor of the House, I stated:

> Mr. Speaker, although the population of the Mariana Islands is small and the amount of Federal expenditures envisaged is relatively small, the political, legal, and social precedents to be established with approval of the Marianas Covenant are salient. Foremost, a new sytem of local government, unique in the annals of U.S. history, will be enacted. Secondly, new patterns of economic and social advancement for the undeveloped world will be launched; and finally America's leadership in the Pacific basin takes on a new and very constructive dimension.
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> Regarding the negotiating process, I wish to commend highly, Ambassador Haydn Williams, the President's personal representative for Micronesian political status negotiations, for the diligence he displayed in keeping members of the Interior Committee informed on progress made throughout the negotiating process. * * * In my 13 years as a Member of Congress, I have never witnessed a closer or more cooperative relationship established between the Congress and the Executive Branch.

On March 24, 1976, there was no one in the East Room of the White House with more pride than I as I stood behind President Ford and watched him sign the covenant into law.

At this point, you may be saying, all very interesting, but how does this concern the new Panama Treaty? Although the political status of Puerto Rico, the Marianas and Panama may differ; in all three instances, vital U.S. interests were at stake; namely, America's leadership role in the Pacific and the Caribbean. Moreover, U.S. economic ties with the underdeveloped world hung in the balance. Also, national security interests, specifically, the preservation of air and sea lanes, upon which this Nation is dependent, were in jeopardy. But even more importantly, the lives of people—their freedom of choice were—cogently involved. American citizens, as well as aliens, were dependent upon the good auspices of the U.S. Government to protect their individual rights.

Therefore, with the understanding of the delicacy of international negotiations, it becomes clear that the negotiations of the United States and Panama over the past 13 years have been too narrow in scope in at least two ways.

First, the two groups deliberating as representatives of Panama and the United States were not truly representative, in any sense of the word, of the people of the two nations. For our part, as I have mentioned, the bargaining was done by career diplomats without sufficient input from the legislative branch of our Government let alone the views of the many people and groups in our country who have an interest in the canal issue.

Similarly, the existing regime in Panama has operated its side of the negotiations with a combination of bluff and threat. It needs a broad-based negotiating team that could represent the people of Panama rather than its dictator.

It is rather paradoxical that on the one hand this dictator, who holds his position through power rather than popular support threatens that failure to ratify the treaty will lead to insurrection, sabotage, or guerrilla warfare while on the other hand we are being asked to entrust long-range security interests of future American generations to the good intentions and stability of this regime. If Panama is to have an increased role in the canal, then that role must be one which the Panamanian people understand and are willing to accept.

The Panama Canal is an asset of the Western Hemisphere and should be considered in that context rather than the exclusive property of either the United States or Panama. In my view, the Organization of American States was afforded no more opportunity to influence the contents of the Panama treaties than America's elected representatives in Washington or the people of Panama. To exclude multinational participation in determining the political and economic future of the Hemisphere is inexcusable.

This short-sightedness in the negotiating process—this callous disregard for the concerns of the people of both Americas—has raised a storm of protest over Capitol Hill. The likelihood of attaining the two-thirds majority in the Senate necessary to ratify the treaties becomes less likely with each day. But if the treaties fail, what next?

Obviously, the relations between the United States and Panama are strained; tensions can be eased only through open and forthright discussion. In the next round of negotiations, we must be assured of a broad base.

There is a very important principle involved. The United States is the major advocate of a free and open society, and has raised concepts of human rights to a level unprecedented in history. We are a government of, by, and for the people. Whatever we do in the negotiating process should reflect and project that principle.

As demonstrated in the Northern Marianas negotiations, the United States can no longer rely exclusively on the State Department to conduct proceedings which are politically sensitive at home. Rather an administrative task force—composed of the best political, economic, and military talent available—must be established under the President's personal direction and charged with formulating an agreement that truly reflects the desires of the American people. In the process, both Houses of Congress must be active participants. Similarly, members of the OAS should also be invited to join in. As for Panama, strong international pressure must be placed on the Torrijos' regime to insure that all factions of the Panamanian society are represented at the negotiating table.

One option might be to form closer political and economic ties with Panama. The concept of "free association" is one receiving more and more attention as nations, whose economies and histories are inextricably intertwined, seek to maintain national identity in a world of ever expanding complexity. Free association involves the recognition of the political dependency of one national entity upon another but simultaneously maintains a discrete legal identity recognized by international law. Such a status becomes increasingly important for small states which have been drawn into a power struggle between the great powers or have an insufficient economic base to support its population. At this moment, for example, the United States and Micronesia are involved in negotiations which, if successful, will establish the free associated State of Micronesia, wherein Micronesia will retain its sovereignty for internal matters while the United States assumes responsibility for the islands' foreign affairs and national defense. It is conceivable that a similar arrangement could be worked out with Panama. In any event, this option should not be overlooked. Of course, any such change in political relationships would require the consent of the Panamanians, freely expressed at the polls.

Beyond the procedures of the talks on the future of the canal, however, lies the fact that the canal is not simply an issue affecting Panama and the United States—its strategic and economic importance affects every nation in the hemisphere.

This is not just a Panama-United States problem but rather an inter-American problem and requires an inter-American solution.

My suggestion is that we begin new and expanded negotiations on the future of the canal and all related economic, political and security matters. These negotiations should be bilateral between the United States and Panama on economic, political status, and operational matters. The security matters should be inter-American in scope and solution, and every interested nation of the Western Hemisphere should be offered the opportunity to participate. The canal is very important to some Latin nations, like Mexico, Chile, and Peru, and is relatively less important to others. The special concerns of each nation should be represented in an inter-American solution.

Until such time as a solution satisfying the security interests of the immediately concerned nations, as well as the special interests of Panama and the United States is concluded, the United States can continue to operate on a free access basis just as it has for over 70 years.

This concept recognizes the legitimate economic and security interests of the North, Central, and South American countries, and it is the only course that can offer a final, permanent, and acceptable solution.

It would permit decisions to be made in a constructive atmosphere of give and take rather than under the threat of another so-called "revolution" in Panama, because its rights are supposedly ignored.

My principal objection at this time is the manner in which the treaty was drawn. In this case, it has led us to the position where our only choice is confrontation. What we really must strive for is coordination, communication, and cooperation between all the countries of the Americas, but in particular we need to communicate to the people of Panama the advantages that will accrue to them through a more mature, fair, and strengthened partnership with the United States.

As I mentioned in relation to the Puerto Rican compact, successful negotiations hinge upon two propositions: First, administrative expertise, and second, political awareness. In the case of the Panama Treaty, we had an over-abundance of technical advice with little sensitivity demonstrated for political questions.

And what of the people—Americans and Panamanians alike? Do the provisions of the treaty meet with their desires? Or, like the Congress, are they merely being handed a fait accompli with all options closed.

Congress has a vital role to play in such proceedings. The President can and should expect the American Congress or the American people to revamp this outmoded style of international negotiations—to endorse procedures similar to those evoked by the previous administration in formulating the Marianas' Covenant—to open the international negotiating process to the will of the people through their elected congressional representatives.

I am not sure if we know specifically how the people of Panama feel about the treaty or what they really would like to see evolve in the way of an economic and political relationship with the United States.

When you are dealing with a military dictatorship that got its power by force, you cannot be certain what the feelings of the people would be if they were free to express them.

I believe we can move ahead to an improved relationship with the people of Panama through a modernization of the canal which could allow the investment of large economic resources into our future ties with Panama.

This is the message we can and should take to the people of Panama. If we adopt the "negotiating process" I have outlined, we can assure them that our diplomacy will have the necessary institutional stability to insure equitable, fair, and just results.

While this would be an investment in our own interest, it would allow participation from Panamanians that would benefit them in every social, economic, and cultural way.

The gospel I preach—and one many of you have heard me on before—is that the nations of North, Central, and South America have the potential to be totally self-sufficient as a group.

Hemispheric self-sufficiency would be in our best interest and, in my judgment, ought to be one of our primary goals.

In a nuclear age in which security needs and economic values are so closely intertwined and so absolutely vital to our future, and when the requirement for a coordinated, integrated, and balanced international transportation system has never been greater, the United States must plunge ahead, not pull back.

We have a responsibility to demonstrate bold, innovative leadership in our relationship with our hemispheric partners.

The Santa Rosa Press Democrat editorialized that—

> We need a new approach to our relations with Latin America, we need more trade agreements and exchanges of technical assistance.

I could not agree more with this statement.

In discussing U.S. policy toward Latin America, I have often said:

> We do not wish to be looked upon as your fathers; we prefer to be your brothers.

Behind this phrase, there is a long history of continuing debate as to what the proper relationship should be between us and our neighbors to the South. That debate spans long periods of our history from the Monroe Doctrine, through the good neighbor policy, and the alliance for progress, up to the present. Each phase of our evolving policy toward Latin America responded both to an assessment of U.S. interests and of

the realities of our relationships in the Hemisphere.

The change in our desired role from being "fathers" to "brothers" goes to the very core of our concept of the "mature partnership" we wish to have with our Latin American friends. As I have observed our working relationship during the sessions of the Pan American Highway Congresses I have attended, I have come to the firm conclusion that we are all proud of our national heritage, yet we are also willing to share ideas that will be helpful to all.

Why must we move to this new policy and new diplomatic style?

We have realized that our Latin American neighbors have made great strides in recent years in the complicated tasks of nation building and economic and social change. These nations are increasingly flexing their "muscles of maturity" as they develop their self-confidence, as they thrust ahead in their efforts to modernize, and to bring the benefits of economic growth and social progress to more of their people.

We, too, have assessed our national interests and the realities of contemporary Latin America.

We have come to the conclusion that the special relationship we seek with our Latin American friends must be such, as to assist the processes of change in an atmosphere of mutual respect, confidence, and cooperation.

As this partnership develops and mellows with time, we not only help each other, but strengthen the quality of our political, social, and economic institutions that bind us together in the inter-American system.

In presenting my personal assessment of our relations of the past, I am of the firm opinion that we must all accept a proportionate share of the blame for the problems that have not been resolved in an orderly manner.

Why has this occurred?

In my view, we have all wavered from one extreme to another—all the way from "benign neglect" on the one hand to the "bear hug" on the other.

When we needed each other desperately, we would join together to meet a common threat to our respective interests.

After the threat had passed, we would fail to communicate adequately, to "keep in touch," thereby neglecting to recognize or deal with promptly the increasing problems associated with the challenges of change in this jet-space-technological age.

The result has been smothering paternalism wrapped in a blanket of immaturity, misunderstanding, unfulfilled promises, and mounting uncertainty.

The sweeping changes in world economic conditions imply a sharp increase in U.S. economic interests in Latin America.

In facing these U.S. interests, what is the position of Latin America? What are its goals?

A chief Latin goal remains the modernization and diversification of their economies, via industrialization, including increased processing of raw materials. Latin America's needs for capital and especially technology suggest that it will certainly continue to want foreign investment. But the terms must be right: The investment must be perceived to promote their own goals of industrialization, better balance-of-payments positions, reduced unemployment, technological advance, and the like.

The new economic strength of Latin America has led to a dramatic improvement in its bargaining position vis-a-vis the United States. But it has also laid out the continued needs of the Latins for external markets, especially for their manufactured products, and for infusions of capital and technology.

There is a wide array of options available to the United States and to Latin America.

The special relationship between the United States and Latin America now needs to be a new kind of special relationship, in which each works together to promote global programs of joint benefit to both. A vision of such expanded and diversified progress together should animate United States-Latin American economic relations in the new world economy and policy of the late 1970's and beyond. And since economic issues will almost certainly lie at the heart of the overall United States-Latin relations for the foreseeable future, the realization of such progress could provide the basis for stability and progress throughout the Western Hemisphere for some time to come.

The time has come for all Americans, North, Central, and South, to stand up and be counted on a man-to-man basis—treating each other with mutual respect in a true spirit of brotherly love, as intended originally by our Creator.

We are all constructive, creative, dedicated, and determined individuals and nations.

We must all realize, however, that by maximizing our economic organizational and institutional interdependence, we can greatly enhance our individual and cherished goals of independence. This is, in truth, what has happened in our United States of America. The lessons we have learned in the course of our experiment in functioning democracy have relevance, purpose, and potential application to all the Americas. I sincerely believe the nuclear age and the long term security interests of the United States and our inter-American friends make an improved relationship necessary—the potential for resource self-sufficiency make it desirable, and the projection of economic and political solidarity, coupled with security, organizational cooperation among the Americas will have a very sobering and stabilizing influence on the entire world community.

A new, expanded, and updated "negotiating process" can make this a reality.

The concerned, confused, uncertain, and fearful people of the world are "hungry" for this type of bold and imaginative leadership from the recognized "champion of freedom and justice."

I hope and pray the United States will rise to meet this challenge. The potential for action is unlimited. The consequences of inaction can be devastating to the hopes and aspirations of free men and women in every corner of the globe.

CONGRESSMAN KEMP INTRODUCES LEGISLATION TO AID THE ARTS AND HUMANITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, on Thursday, September 29, I introduced H.R. 9379, a vitally needed piece of legislation that would aid the financially strapped arts and humanities throughout the United States. These institutions are faced with inflationary increases in expenses and corresponding decreases in private, corporate and foundation donations to the arts and humanities. The situation is fast approaching the critical level.

The survival and growth of the arts and humanities should not solely depend on the generous givings of philanthropic people and institutions. The private sector should be urged and encouraged to povide a steady source of supplementary income.

THE LEGISLATION

The bill I introduced provides a tax credit equal to 50 percent of the contribution or gift to any qualified organization whose primary purpose is the support of the arts and humanities. This credit is limited to $200 per person per year and may not exceed an individual's total tax liability.

What this means is that a person could give up to $400 per year to the arts and humanities and it would only cost him $200.

Clearly, this method will be of especially great benefit to moderate income taxpayers who would like to support the arts and humanities but cannot afford to give as much as they would like. In effect, it will enable them to double their financial support.

The benefit of a tax credit, however, is generally limited to low income taxpayers. In order to encourage corporations, foundations, and higher income individuals to also support the arts and humanities in greater number, I am also proposing a tax deduction equal to 120 percent of the contribution to these organizations.

In other words, for every dollar contributed an individual or business could deduct $1.20 from its taxable income. So no matter how much money you make, be you rich or poor, a foundation or a corporation, H.R. 9379 will provide an opportunity to give to a favorite college artistic effect, opera, ballet, or museum and receive either a tax credit or an additional tax deduction.

This legislation takes the Federal Government out of the giving process. No longer will an institution have to rely on the National Endowments for the Arts and the Humanities for the bulk of their financial support. A person may

give to whatever institution he or she wishes. The arts would receive a significant commitment from all sectors of the society, from individual donors, the corporate sector, and through public funding.

Private colleges, symphony orchestras, dance and ballet companies are all experiencing severe financial strains. Just read the headlines of recent news stories in the New York area. The Joffrey Ballet has cancelled its entire spring season. The Metropolitan Opera succeeded in salvaging its 1977 season by raising $12.5 million dollars in emergency funds and now needs just $11 to $14 million more to open annually.

Joseph Papp announced his decision to withdraw from New York's Lincoln Center, and to close down all operations of the New York Shakespeare Festival at the Vivian Beaumont Theatre. The Saratoga Performing Arts Center cut down its orchestra season by one quarter this summer. The American Shakespeare Festival at Stratford, Conn., did not open for its 1977 season and its future is in serious doubt. These organizations are only a handful of organizations throughout the country that face similar woes.

A perfect example is our Buffalo Philharmonic Orchestra which is the envy of most cities' symphony orchestras for its creative achievements in the past few seasons under the skillful direction of Michael Tilson Thomas. The philharmonic has raised the number of series subscribers by an amazing 150 percent from 3,000 to 7,500 and it has enjoyed increased ticket sales at the box office. But the economic position of the orchestra has not shown any improvement.

Last season the orchestra ended up with a deficit of close to $600,000. The accumulated deficit for the philharmonic is more than $1 million. The reasons for the deficit are many, including sharply declining Government grants with State and county cutbacks totaling $192,975. The labor costs for the 1976–77 season resulted in $184,000 in increased costs and the nonrecoverable income and expenses as a result of the blizzard amounted to $50,000. However, the most costly factor that influenced the philharmonic's plight was inflation, and the same is true for our great art gallery, Albright-Knox Studio-Arena Theatre, and others.

An already difficult situation for the arts and humanities is exacerbated by inflation which has risen according to the Consumer Price Index by 25 percent over the last 3 years. The arts as an industry are faced with the same budgetary squeeze that threatens other industries in the country. Arts and humanities organizations cannot easily lay off musicians, dancers, actors, singers, stage hands, curators, and technicians without seriously jeopardizing the very quality the public has come to expect and demand from these institutions. There is a danger in raising ticket prices because the arts may price themselves out of reach of their new-found public.

THE GROWTH OF THE ARTS AND HUMANITIES

The new-found public is very large and arts expansion in the United States is very genuine. A survey of leisure time activity published in the May 23, 1977 issue of U.S. News and World Report showed that 62 million persons attended a live theater performance at least once in 1976; 78 million people went to a museum; 54 million went to popular music performances; 27 million went to classical music performances and 24 million attended the ballet or another form of dance.

The large attendance figures are paralleled by the growth of arts and humanities organizations in the last 12 years. From 1965 to 1977 professional orchestras grew from 58 to 125; museums from 1700 to 1900; developmental theaters from 10 to 200; community arts agencies from 175 to 1200; professional theaters from 15 to 70 and small literary magazines grew from 450 to 1106.

We are thus faced with the paradox of a healthy state of the art form but an unhealthy state of the arts situation. The arts and humanities have been encouraged to grow and expand, yet the necessary help is being withdrawn or withheld.

According to a National Endowments for the Arts economic survey, many artistic organizations have been forced to put their new programs into cold storage until the funds to implement them are found. Few new programs are being introduced unless they are totally underwritten in advance or can meet their own costs from earned income. Fiscal discipline remains tight and has virtually become a way of life for arts organizations.

The net artistic effect of prolonged economic stringency is to postpone the plans of many artistic groups to extend or diversify programing in response to public demand. There is little evidence of specific damage to the quality of current programing, but a large majority of the sample surveyed by the National Endowments reported a backlog of well-considered plans waiting for the money to put them into production. Many groups are in danger of artistic stagnation. These groups have the potential to grow stronger, but their primary energies must go toward the negative goal of meeting already present economic pressures that have hit the arts.

The economic pressures have been evident in increased costs for salaries of artists and administrative personnel, utilities—increases even more by this January and February's severe cold—production expenses, exhibition materials, transportation, printing, postage, shipping, advertising, supplies, and insurance. For most institutions sampled, the increases were anticipated, although some reported rises in pension costs, health benefits, production expenses, and utility and insurance rates caught them off guard.

ARTS AND HUMANITIES ORGANIZATIONS ARE CUTTING CORNERS TO MAKE ENDS MEET

Arts and humanities organizations now are searching for ways to cut as many corners as they can. Staff salaries are in some cases being held at previous levels or decreased in order to balance rising costs in other areas. Some organizations are deferring the acquisition of needed equipment, while others are undertaking cooperative efforts to raise funds for the purchase of vital supplies and services. In the opinion of most organizations that were surveyed, these cutbacks have been virtually exhausted so that the emphasis has been shifted to generate more earned and unearned incomes.

The net effect of rising costs is more the curtailing of efforts to expand or to achieve higher artistic goals than damage to the quality of current programing. Some institutions continue to cut public service programs—like providing low-cost tickets for the young, underprivileged, the handicapped, and the elderly—judged to be marginal, and others report they are now at the edge with no margin left.

However, many institutions have made some additions to their activities. For performing groups, the number of performances rather than the number of productions have been increased in an effort to make existing resources go further in generating earned income.

Most groups report an increase in earned income this year due to a rise in attendance and higher ticket prices. In some cases, increases were effected by reducing or eliminating discounts or subscriptions. Some organizations are expanding revenues by altering seating plans to expand the number of seats in the higher price ranges. There remains a reluctance in principle to raise prices, but most institutions say they will continue to pass along at least part of the future inflationary increases to the audiences.

NEW SOURCES OF SUPPORT ARE VITALLY NEEDED

New sources of support must be found to meet the increasing costs of presenting really first rate exhibitions, drama, music, and dance. The arts are an essential part of American life. Their influence is not solely limited to the museum or the concert hall or the theatre. They are not the product of just a composer, a painter, or an actor. They grow from the spirit and creativity of the whole American people and in one way or another they touch and enrich the lives of everyone. Therefore, it would be incorrect to think of the arts and humanities as a luxury to fill the idle time of the wealthy. They are a necessary part of every community in the country and should be extended in influence and enlarged in their accessibility. Therefore, I urge my colleagues to support this legislation.

TOWARD A COMPREHENSIVE PROGRAM FOR FOREIGN SALES OF AMERICAN AGRICULTURAL COMMODITIES

The SPEAKER pro tempore (Mr. BRADEMAS). Under a previous order of the House, the gentleman from Mary-

land (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, I have today introduced a joint resolution on behalf of myself and the gentleman from Virginia, Mr. WAMPLER; the gentleman from Kansas, Mr. SEBELIUS; the gentleman from Illinois, Mr. FINDLEY; the gentleman from Nebraska, Mr. THONE; the gentleman from Idaho, Mr. SYMMS; the gentleman from Vermont, Mr. JEFFORDS; the gentleman from Iowa, Mr. GRASSLEY; the gentleman from Louisiana, Mr. MOORE; the gentleman from North Dakota, Mr. ANDREWS: the gentleman from Virginia, Mr. ROBINSON; the gentleman from Indiana, Mr. JOHN T. MYERS; the gentleman from Minnesota, Mr. STANGELAND; the gentleman from Ohio, Mr. ASHBROOK; and the gentleman from California, Mr. LAGOMARSINO.

The joint resolution orders the President of the United States, the Secretary of Agriculture, and officials of the Foreign Agricultural Service and the Department of State, to develop and implement a comprehensive program for foreign sales of American agricultural commodities.

Mr. Speaker, this year the American agricultural community is suffering the worst depression in 41 years, in fact, according to statistics released by the U.S. Department of Agriculture. When adjusted for inflation, the net income our American farmers will receive is the lowest since 1936. This means that the 2,750,000 American farmers sharing a net income of only $10.7 billion, are averaging a net income of $5,721 if you base this on 1967 dollars. Many will have no net income at all. At the same time, in those 41 years the Consumer Price Index has quadrupled from 41.5 to 182.6. All of us realize that the farmers have suffered enormous increases in production expenses, including all commodities that are necessary for farming, seeds, fertilizer, machinery, herbicides, labor, and energy.

Mr. Speaker, it is also well that while we note the plight of American agriculture, that we should remember that the debts of American farmers have increased from $81 billion in 1974 to an estimated $102.1 billion currently. The result is that American farmers have had to sell fixed assets, borrow heavily against future income, and many face bankruptcy. At the same time the international balance of payments of the United States is facing an enormous deficit in 1977 of approximately $25 billion, according to Government estimates, and, as we all know, American agricultural exports have been the major export commodity that has held down this deficit in the balance of payments.

Mr. Speaker, I believe that most American farmers would prefer a free market approach to farming and the economy. I think it is also well to note that there exists abroad numerous opportunities for sales of American agricultural commodities which, if pursued and properly developed by the administration, could result in an enormous reduction of existing surpluses of wheat, corn, feed grains, rice, and many other commodities.

The result of that, of course, would be a badly needed increase in prices for American agriculture. It is, therefore, the intention of my colleagues and myself that this resolution will direct the President and the Secretary of Agriculture, and other appropriate officials of the U.S. Government, to formulate plans for the expansion of sales of American agriculture commodities abroad, including increased food for peace sales under Public Law 480 and private international sales as well.

The resolution would direct that agricultural attaches and officials at all American embassies abroad seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located.

Lastly, it will direct the President to report to the Congress of the United States of the plans formulated and implemented under the authority of the resolution no later than January 30, 1978.

Mr. Speaker, the genesis of this resolution comes from a number of comments made by members of the agriculture community in my district, in the State of Maryland, and all across the United States, including officials of the American Farm Bureau. I would hope that the appropriate committees of the House, the Committee on International Relations and the Committee on Agriculture, can consider and expedite hearings and action on this resolution, and that the administration will respond with the comprehensive plan that we seek.

I will be circulating this resolution next week for cosponsorship of other Members of the House, and, hopefully, we will obtain a great many such sponsors in order to show the congressional support for American farmers in their time of need.

H.J. RES. —

Joint resolution ordering the President of the United States, the Secretary of Agriculture and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas American agriculture and the production of food and fiber, worth $82 billion last year, constitute the most basic and indispensable industry in the economy of the United States, without which the Nation's domestic and international position would be seriously jeopardized; and

Whereas historically the economic distress of American agriculture has preceded and deepened national and international economic dislocations and depressions; and

Whereas the net income after cost of production for American farmers in 1977 is projected by the U.S. Department of Agriculture to be less, when adjusted for inflation, than farmers received in 1936, the lowest net income in 41 years, with 2,750,000 American farmers sharing a net income of only $10.7 billion, or an average net income worth $5,721 for each farmer in 1967 dollars; and

Whereas the consumer price index has more than quadrupled since 1936 from 41.5 to 182.6 and production expenses in recent years have increased enormously for all farming necessities, including seed, fertilizer, machinery, herbicides, labor and energy, while farm income has declined; and

Whereas the total debt owed by American farmers has increased from $81.8 billion in 1974 to an estimated $102.1 billion currently, causing many thousands of farmers to sell fixed assets, borrow heavily against future income, and many to face bankruptcy; and

Whereas the deficit in the U.S. balance of international payments is expected to be nearly $25 billion in 1977 and American agricultural exports are the major export commodity of the Nation; and

Whereas the majority of American farmers prefer a free market approach to farming and the economy; and

Whereas there exists abroad numerous opportunities for sales of American agricultural commodities which if pursued and properly developed could result in a reduction of existing surpluses of wheat, corn, feed grains, rice and other commodities, thus producing a rise in agricultural commodity prices which have plunged below actual costs of production: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States hereby directs the President of the United States, the Secretary of Agriculture, and all appropriate officials of the U.S. Department of Agriculture, the Foreign Agricultural Service and the Department of State to formulate and implement a plan for the expansion of sales of American agricultural commodities abroad, including increased Food for Peace (PL 480) sales as well as private international transfers of food:

Further Resolved that the Congress hereby directs agricultural attaches and officials at United States embassies to seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located;

Further Resolved that the President of the United States shall transmit to the Congress a report of plan formulated and implemented under the authority of this concurrent resolution no later than January 30, 1978.

THE TRIBLE SMALL BUSINESS EXTENSION AGENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE), is recognized for 10 minutes.

Mr. TRIBLE. Mr. Speaker, I believe that the small business community is on the verge of being taxed, inflated, and regulated out of existence by the Federal Government. We need to reverse this trend. I am convinced the Federal Government must do all it can to encourage increased participation of small business in our economy. It is time to do something for—instead of to—small business.

Recently, the Small Business Administration estimated that 400,000 small businesses fail each year, while big businesses prosper because they can afford in-house experts or expensive outside consultants. The large number of small business failures indicates many small businessmen and businesswomen do not have access to the management and technical assistance which they need.

This is especially true for minority businesses.

It is for this reason that I am today introducing the Trible Small Business Extension Agent Act. Patterned after the U.S. Agricultural Extension Service, this program will make small business extension agents available to offer small businessmen and businesswomen the technical and general assistance needed to cope with a mountain of Government redtape and a rapidly changing business environment.

As you know, the tremendous success of the Agricultural Extension Service places the United States in a position as a leading world food producer. I think this success with the small farmer is worth duplicating.

The Small Business Extension Service Agent could improve the quality of management currently practiced by many independent owners of these businesses. The key elements in the agent's job will be: First, working directly with businessmen and businesswomen to solve their individual problems; and second, serving as a supporting specialist and advocate in government for small business.

As an employee of the Small Business Administration, the agent would be trained and experienced in both general and specific fields of business management and Government procurement, contracts, and regulations. By working directly with local businesses on a regular basis, the agent would be a friend and advisor of the businessman and businesswoman. Hopefully, this relationship would reduce the number of business failures, increase profitability, foster community development, and cut redtape. All this will mean real economic growth and the development of jobs for Americans.

As a traveling consultant expert, the agent would offer free knowledge to businessmen and businesswomen within a defined geographical area. The extension agent would be capable of aiding the business novice as the "wiley" veteran. In carrying out this primary concern—that of solving business problems, the agent would use proven business techniques to help small businessmen and businesswomen acquire additional knowledge, make sound economic decisions, and plan wisely for the future.

In addition, the agent would also be responsible for reducing the burden of redtape on small businesses. The agent would be trained to advise small businessmen and businesswomen on how to complete the almost endless stream of Government forms which now plague them.

This should at least permit the small businessman and businesswoman to reduce the amount of time wasted filling in the blanks on Government forms and allow time for people to run their businesses. In the long run, the extension agent should be able to identify unnecessary paperwork which can be eliminated and further free businessmen and businesswomen from the tangle of Government redtape.

For too long, I believe the thrust of Government programs has been to do something to the small business. My bill would develop a Government program to do something for the small business.

THE TAXMAN—OR THE POLITICAL AXMAN?

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last night I gave notice that I would today document political abuses of the Internal Revenue Service during the Nixon administration. I do this because the case I have learned of has not been disclosed before, because it is one of immense importance, and because we need to ask whether this kind of abuse can occur again. That is precisely the question that I raised in a letter to Secretary Blumenthal on September 12, and again in a letter to my distinguished friend, SAM GIBBONS, whose subcommittee has oversight of the Internal Revenue Service.

By way of background, let me say that I was profoundly disturbed to find that within 60 days of the inauguration of Richard Nixon, I found clear evidence of official misconduct. This case was the very first documented evidence of corruption in the Nixon administration. The matter involved a special assistant to the Administrator of the Small Business Administration, who connived to obtain an interest in a business that sought a loan from SBA. At first, this corruption was stoutly denied, but in the end those involved were convicted and sent to prison.

During the course of that situation, I had the feeling that the Justice Department would not prosecute the case, if it could be at all avoided. But finally, it became clear that the administration would be more embarrassed if it failed to act, than it would be if justice was done. At that point I got a call from the Assistant Attorney General, Will Wilson, who assured me that proper action would be taken. Reassuring as it was to hear from such a lofty figure, I could not help but be disturbed that any official would feel compelled to assure anyone that justice would be done. I soon found out why.

Mr. Will Wilson was an ex-Democrat, and a passionately partisan man, in the manner of those who have been frustrated in earlier ambitions, and been converted to a new persuasion. I learned that Wilson had ordered that all Federal agencies having any adverse information about prominent people in Texas should make that information available to Wilson.

As it happened, Wilson himself was a Texan. The first fruit of this was a minor indictment against three Texas banks for violation of an obscure 1907 statute that has since been repealed. The banks were acutely embarrassed, for they were made to appear as having given special favors to certain political figures. Nothing ever came of the charges, but the banks no doubt became exceedingly sensitive about doing business with people who were running for office. It was clear that the charges had been more political in nature than anything else, an early sign to me that Nixon and his friends meant to use every conceivable lever of power. All this became manifest only years later.

We saw the signs first in Texas. I have mentioned the Small Business Administration case, and the banking matter—situations that I warned about, but which most people dismissed as being minor aberrations rather than evidence of a pattern of abuse.

Not long after that banking case, a Houston banker by the name of Frank Sharp found himself immunized against Federal charges arising from the abuse of his bank, the Sharpstown State Bank, and manipulation of other interests. I charged at the time that Sharp had been given immunity because Assistant Attorney General Wilson was an old friend and associate of his. I proved it, and Wilson was forced to resign on October 15, 1971. He was the first major Nixon appointee to resign as the result of scandal, well before Watergate.

The important thing about Wilson was that he typified the Nixon pattern. He used his office to further political ends. He wanted to embarrass those in political office who were opposed to Nixon, or who might support someone other than the Republican administration. He wanted especially to do this in Texas, because it represented a possible source of great new power for the Republican Party. It was years later before Watergate revealed how pervasive this pattern was—encompassing, as it did, everything from Malek's effort to politicize the civil service, to the channeling of community action money to friendly hands.

It is significant to remember that in the articles of impeachment reported by the Judiciary Committee, the first specification of the abuse of powers article charged corruption of the Internal Revenue Service. These are the exact words of that charge:

(1) He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner. (House Report 93-1305)

Unknown to the Judiciary Committee at that time, there had been at least one, and documents indicate more, elaborate Internal Revenue Service projects directed against political targets. In Texas, the operation was known as Southwest Project, or sometimes Project Southwest.

The existence of this project came to light through a Freedom of Information Act suit.

Southwest Project was clearly a political operation. One IRS document stated the purpose in these words:

. . . to learn as much as we can about Texas political relationships, influence and possible pay-off (sic).

Its No. 1 target was defined in another document as the "Texas State Power Structures."

Interestingly enough, the project started with a meeting in the Dallas conference room of the regional Internal Revenue Service Commissioner, February 15, 1972—months before the famous Watergate breakin, and timed well ahead of the national election. In that meeting, according to the minutes, Regional Commissioner Brisbin had a message: The district offices were not "program oriented." They did not "have the feel of possible political corruption in Texas." Brisbin reminded his subordinates of successes elsewhere in political corruption cases. He warned that the National Office wanted the Texas IRS to become "program oriented." It was a shorthand way of saying that Nixon's people wanted some action against Texas Democrats.

That very day, Southwest Project was set up as a top priority item, with, the minutes say—

. . . our sights, aimed on high level state positions or in areas such as County Commissioners or other areas that would lead upward to state offices.

Project Southwest was off and running.

By the time of the 1972 election, IRS had 24 revenue agents assigned to the project, plus 6 special agents, a force which the project leaders hoped to see doubled in size. They wanted no less than 13 revenue agents and 9 special agents assigned to cover the "Texas power structure" target alone.

Nothing in the record shows that the massive array of manpower assigned to this project ever produced any results that justified the elaborate, high-powered scheme employed. That it was a large operation is beyond question; one key participant warned that careful planning was essential to keep the operation from becoming too unwieldy. Documents show that by November 1972 the project involved 164 audits. Nor is there any question that from beginning to end it was a politically oriented project, as indicated by one person who asked whether he should limit his work to State officials, or include members of the Texas congressional delegation as well. He was told to go after everybody, "be aware of the names of Federal officials and watch for any payments to these officials."

It was a classic case of the abuse of governmental power—deliberate, and with malice aforethought. We need to ask ourselves whether such abuses of the IRS can take place today. Is there any safeguard against the use of this powerful agency to intimidate political opponents, to embarrass or penalize or punish those an administration happens to have political differences with? That is the importance of this case. It was not a case alone; it was a project among many, all with political malice in mind. It was part of a pattern of general abuse and corruption. Could it happen again? We need to know.

In order that the House can have documents to consider, I am offering for the RECORD certain papers related to Project Southwest, all of which were obtained through a Freedom of Information Act case. I also offer for the RECORD my letters to Secretary Blumenthal and Chairman GIBBONS, together with a brief response from the Secretary.

Despite the assurances from Secretary Blumenthal, I have knowledge of recent questionable actions by IRS, obviously politically motivated—and even involving Members of Congress.

I intend to speak out on this.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 12, 1977.

Hon. W. MICHAEL BLUMENTHAL,
Secretary, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: Lord Acton commented trenchantly on the corruption that arises from excessive power. A less exalted, but also worthy warning is carried in a folk saying, which goes to the effect that a grant of power to the government ought to be made only on the understanding that Satan might one day exercise the power.

The Internal Revenue Service, needless to say, has immense powers over individual citizens. My purpose in writing is to remind you that past administrations have allowed that power to be abused, and to ask what actions you have taken, or would recommend be taken, to prevent a recurrence of such blatant abuse.

It was little noticed at the time, but Article II of the Resolution of Impeachment against Richard Nixon proposed by the House Judiciary Committee (the abuse of powers article) mentioned first the abuse and the misuse of the Internal Revenue Service. The specification was this:

(1) He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner." (House Report 93-1305)

The abuses mentioned, included actions against Governor George Wallace and Democratic Party Chairman Lawrence O'Brien. I have recently learned that the abuses apparently went far beyond that, and in fact may have been nationwide in scope.

The famous Watergate break-in took place on June 17, 1972. Months before that, however, the Internal Revenue Service had been deployed to take actions against political figures. Among the actions not listed in the impeachment report was a program called Project Southwest, which was initiated on February 15, 1972.

On that date, according to a document from the IRS, a meeting convened in the Dallas regional commissioner's conference room to hear Mr. Al Brisbin, representing the IRS National Office, say that the two Texas IRS districts "were case oriented rather than program oriented." Brisbin complained that the Texas districts "do not have the feel of possible political corruption in Texas."

In other words, the National Office program was to begin a wide scale investigation of Texas political figures—anyone in any important political office, or anyone who could help make a case against anyone in a high office.

Brisbin elaborated in a March 21 memo:

"Our aim is to learn as much as we can about Texas political relationships, influence and possible pay-off . . ." (sic)

By November, 1972, the IRS had 24 revenue agents and 6 special agents assigned to Project Southwest, and projected a need for 40 more people—altogether, 47 revenue agents and 22 special agents. Of these, 13 revenue agents and 9 special agents were supposed to work on something called the "Power Structure."

The documents that are available to you relating to Project Southwest will indicate the full extent of the effort undertaken, and the results, which, so far as I know, were minimal, and in no way sufficient to justify the immense effort and high priority invested.

It seems very likely that Project Southwest was, in fact, a political effort, aimed either at intimidating or embarrassing anyone who opposed the Nixon reelection effort or who might be a contributor to the Democratic Party.

I believe that you should undertake every effort to learn how the IRS was abused in the Nixon years, and why efforts like Project Southwest were undertaken. Was it in fact a political project, an abuse and corruption of law enforcement? What did Brisbin mean when he accused the Texas districts and regional offices of not being "program oriented?" What was the program? Was it political?

Second: I believe that if you do find that Project Southwest and others like it were political abuses, you should determine who was responsible and take appropriate action against those persons, to the extent that any may remain in offices of real responsibility.

Third: Most important, you should learn whether such abuses continue today, or whether it is possible to mount such actions today. Any misuse of the IRS should never be tolerated, and if the integrity of law enforcement is to be insured, every possible administrative precaution should be taken to prevent future abuses like those cited in Article II of the impeachment resolution, and others which Project Southwest seems to represent. If you see need for changes in our statutes, I hope that you will not delay in making the necessary recommendations.

I am enclosing a copy of two Project Southwest documents I have cited, for your ready reference. You will have in your files a complete set of the documents, which will contain information not available to me, owing to limitations on the disclosures of certain private information.

Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

MINUTES OF MEETING

Re: Southwest Project.
Time and Place: 10:00 A.M., February 15, 1972, Regional Commissioner's Conference Room, Dallas, Texas.
Present: Al Brisbin, A. G. Weaver, Bob Phinney, John Potchernick, Howard Longley, Bob Elledge, George Stephen, Sid Lynch, Jim DePrato, Jim Kean, John Byrne, Hugh Loyd, Tom Fontecchio, Bernie Vice, Gene Boren.

Mr. Brisbin opened the meeting stating that the National Office felt that because we have two districts in Texas, which causes problems of coordination, that we do not have the feel of possible political corruption in Texas. He said the National Office referred to successes in this area. Also, he

said the National Office felt we were case oriented rather than program oriented.

Mr. Phinney said he disagreed with the National Office thoughts; however, he would support the proposed project as long as the District Directors and the Chiefs were not taken out of the picture with the project being run out of the region. He said he was glad for Gene Boren to see what was done in the past in this area.

Mr. Elledge stated that the object of the program was to pull all background data and work done in the past together and add new information developed in order to have one gathering point to be used in a program oriented concept in the political corruption area.

Mr. Brisbin said his idea included an operation under a Board of Directors made up of the two District Directors, their staffs, and the Regional staff. It was agreed that line authority would remain with the districts with Gene Boren responsible for the coordination. Boren said he would need the help of the districts in accumulating the past and current information.

Several areas of possible inquiry were set forth by Mr. Elledge:

(a) Kickbacks from sales of voting machines;
(b) The state insurance commission;
(c) The possibility that we may have to take a new look at the matter;
(d) Deposit of state funds in no-interest accounts;
(e) Construction kickbacks;
(f) Political contribution area;
(g) Vending machine legislation;
(h) Railroad Commission activities;

Staffing for the project was reported as follows: Gene Boren—Intelligence; Jim Kean—Audit; Tom Fontecchio—Counsel; Ralph Bradbury—Counsel.

Inquiries were being made for a secretary for Boren. George Stephens stated that one clerical position was available from the Austin district and could be used by the ARC-Intelligence. Boren will physically be located in the office of ARC-Intelligence.

Initially, the project would be operated under the Joint Compliance Program using the facilities of the Information Gathering Teams in both districts to accumulate information and obtain returns. The project will be included in the Joint Compliance Program quarterly reports. A special report may be required periodically. In obtaining information from the various state agencies, Boren should contact George Stephens.

It was brought out that we should be alert point of specific investigations, manpower needs and the source of manpower will be determined.

It was brought out that we should be alert for Title 18 violations, including briberv and extortion, since the Department of Justice may want Internal Revenue Service to make these investigations.

The project will be called "Southwest Project". Another meeting of the "Board" will be held in approximately 90 days to review progress, discuss any recommendations and to determine needed manpower.

Mr. Phinney suggested that our sights be aimed on high level state positions or in areas such as County Commissioners or other areas that would lead upward to state offices.

After discussion, it was decided that Boren would make on site and on-going type reviews before cases in this area are closed.

Mr. Phinney suggested that we continue our present policy in that unless overriding fraud issues occur on a case involving a current political candidate, we will not make third party contacts. All agreed.

MEMORANDUM

MARCH 21, 1972.

To: District Directors, Austin and Dallas Districts.
From: Regional Commissioner Southwest Region.
Project: Southwest project.

Initial exploration of past and current information pertaining to possible political corruption in Texas reveals that a number of the potential central figures are currently under examination as a result of the Scrutiny of the transactions and relationships in cases appears to be one of our best sources of insight into political corruption.

If we are to gain a meaningful understanding of any patterns that may exist, it will be necessary to make in-depth examinations of the principals and the corporations they control. There is immediate need for close coordination between examiners in the two districts. It now appears there are five or six cases located in the Dallas area that should be opened as soon as possible under the

I've asked Jim Kean and Gene Boren to serve as Region's Audit and Intelligence coordinators for the cases. Please designate district coordinators to serve as points of contact for Jim and Gene.

We'd like for District and Regional representatives to meet in Room 511 in the Regional Office at 9:00 a.m. March 27, 1972 to agree on the initiation of examinations not presently planned and to set up the lines of coordination on cases involving related persons and transactions.

If this time is not convenient please let us know.

It is not our intent to bring the cases under control of the Southwest Project. Our aim is to learn as much as we can about Texas political relationships, influence, and possible pay-off by a very close analysis of the questionable transactions coming out of the District Directors, Austin and Dallas Districts.

Please do not close any cases that are related to without first clearing with Jim Kean. He has previously made some informal requests of your people for the sake of expedience.

ALBERT W. BRISBIN.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 14, 1977.

Hon. SAM M. GIBBONS,
Chairman of Subcommittee on Oversight, Committee on Ways and Means, Rayburn House Office Building.

DEAR SAM: I have learned of a most disturbing Internal Revenue investigative effort mounted prior to the 1972 elections. This project which was code named "Project Southwest" was aimed at, among other things, the Texas "power structure." All of this is detailed in the enclosed copy of my letter of September 12, to Secretary Blumenthal.

Judging from the documents I have seen, "Project Southwest" was not the only one of its kind. It is possible, and I think quite likely, that a considerable number of other IRS projects also existed at that time, and the evidence points toward more of a political motivation than anything else.

I believe an investigative effort by your Subcommittee is warranted in order to determine extent of IRS abuse during that period, or any subsequent time. I suggest this, not because of any desire on my part to stir old ashes, but because the IRS is the last government agency Congress should tolerate abuse of, and especially political abuse. If the scope of misuse of the IRS can be determined, it would then remain to ask could something like this happen again? What assurance do we have that the IRS will not once again, at some future time, become a political instrument.

You would be doing a great service if your Subcommittee were to raise these questions and develop safeguards against any future perversion of the enormous powers of our tax service.

With best wishes.

Sincerely yours,

HENRY B. GONZALEZ, M.C.

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 23, 1977.

Hon. HENRY B. GONZALEZ,
House of Representatives, Washington, D.C.

DEAR MR. GONZALEZ: Thank you for your thoughtful letter dated September 12, 1977. I was not previously aware of the information that your letter calls to my attention, and I will of course have it looked into promptly.

I can assure you that from the day I assumed office I have made it clear in public statements and privately to Treasury officials that the Internal Revenue Service must act independently and free from all political influence. Commissioner Kurtz and Deputy Secretary Carswell have both made similar strong public and private statements. We are doing everything we can to see that this commitment is lived up to. However, as you rightly point out, the possibility for abuse of power always exists, and you have my further assurance that if it should develop that we need additional legislation in this area, I will be zealous in proposing it.

With best wishes,

Sincerely yours,

W. MICHAEL BLUMENTHAL.

CHICAGO'S 1977 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, On Monday, October 10, the people of the city of Chicago will celebrate the discovery of America by Christopher Columbus in our traditional grand style with a gigantic parade on State Street. The extravaganza will be televised live by WGN-TV.

The Vice President of the United States, Honorable WALTER F. MONDALE, will be the guest of honor at the great event, along with the Italian Ambassador to the United States Roberto Gaja, and Jeno Paulucci, a Duluth industrialist, humanitarian, and chairman of the board of the Italian American Foundation, Inc.

Each year, Chicago celebrates Columbus Day with a series of specially planned events culminating in the spectacular parade on State Street. The theme for this year's parade is "20th Century Italians." The parade will not only honor Christopher Columbus, but also the achievements of 20th century Italian-Americans who have worked to make America a land of freedom and greatness.

Christopher Columbus dared to explore unknown parts of the Earth and led in the opening of the new world for future generations of immigrants. The United States and all of the ethnic groups who are part of America have benefited by this heritage of bold imagi-

nation and perseverance, and this inheritance has made our Nation a beacon light of inspiration for the world.

Mr. Speaker, the President of the United States has issued a proclamation in celebration of Columbus Day 1977, and a copy of that proclamation follows:

PROCLAMATION 4527, COLUMBUS DAY, 1977

On October 10 we once again pay tribute to the great Italian mariner and explorer whose historic voyage of discovery led to the permanent settlement of the New World by the Old.

With the support of the Spanish Crown, Columbus journeyed across uncharted waters to open the way for future generations of immigrants who would found the new nations of the Americas.

As his heirs, we take pride in commemorating the spirit of Christopher Columbus as part of our national heritage.

In tribute to the achievement of Columbus, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), requested the President to proclaim the second Monday in October of each year as Columbus Day.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Monday, October 10, 1977, as Columbus Day and invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in honor of the great explorer.

I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

In witness whereof, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

Mr. Speaker, Monday's Columbus Day celebration will begin with a concelebrated Mass at Our Lady of Pompeii Church at 9 a.m. The principal celebrant will be His Eminence The Most Reverend John Cardinal Cody, Archbishop of Chicago. The concelebrants include Very Reverend Monsignor Edward M. Pellicore, Very Reverend Monsignor Armando Rotondi, M.D.; Very Reverend Umberto Rizzi, C.S.; Reverend Valentino Alberton, C.S.; Reverend Lawrence Biondi, S.J.; Reverend Angelo Canadra, C.S.; Reverend Lawrence Cozzi, C.S.; Reverend Peter Corbellini, C.S.; Reverend DaiZovi, C.S.; Reverend Gino Dalpiaz, C.S.; Reverend Salvatore DeVita, C.S.; Reverend Charles V. Fanelli, Reverend August Feccia, C.S.; Reverend Louis Gandolfi, C.S.; Reverend August Lovatin, C.S.; Reverend Leonard Mattei, Reverend Daniel F. Montalbano, and Reverend Alex Peloso, C.S. The homily will be given by Angelo Calandra, C.S., Pastor of Our Lady of Pompeii Church, and the Master of Ceremonies is Reverend Bruno Massacavollo, C.S., assisted by Deacon Joseph Tofanello, C.S.

Following the mass, there will be a laying of the wreath ceremony across the street at the Columbus statue in Arrigo Park, and I shall be proud to present Vice President MONDALE with a plaque on behalf of Chicago's Italian-American community in appreciation for his efforts in making our Columbus Day extravaganza a success. At 3:30 p.m., following the parade, the Order Sons of Italy in America will lay a wreath at the Columbus statue in Grant Park.

Chicago's monumental Columbus Day parade will step off from the corner of State Street and Wacker Drive at 1 p.m. and will include 154 floats and marching units depicting the theme of the parade. Some of the floats will be dedicated to Judge John Sirica, Congressman PETER W. RODINO, Guglielmo Marconi, Enrico Fermi, Amadeo P. Giannini, Rocky Marciano, Vince Lombardi, Rocco Petrone, and Rose Basile Green. Traditional native costumes of Italy will be worn by participants in the parade representing the culture of various parts of the Italian peninsula. Theme coordinator Mrs. Frank R. Petrone, authentic Italian costume chairman Dr. Mary Ellen Batinich, and float personnel committee chairman Lawrence Spallitta have done an outstanding job on their parts in making the pageantry of the parade a stunning success.

In addition to our honored guests, the parade will be led by the Honorable Michael A. Bilandi, mayor of Chicago; the Honorable James R. Thompson, Governor of Illinois; the Honorable George W. Dunne, president of the Cook County Board of Commissioners; Anthony Paterno, president emeritus of the Joint Civic Committee of Italian Americans; virtually every Italian American political leader in the Midwest, the Italian American War Veterans of Illinois, and many other political dignitaries, civic leaders, members of the judiciary businessmen from the community, labor leaders, and others too numerous to mention.

Each year the Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day Parade and other related activities. Many local groups cooperate with the Joint Civic Committee in this community-wide tribute to Columbus, and Anthony Sorrentino, consultant for the Joint Civic Committee, has helped to coordinate the various activities of the parade for many years.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, one of my constituents from the 11th Congressional District I am honored to represent, Donna Marie Errera, 5048 North Ottawa, was chosen to reign as queen of the Columbus Day Parade. I extend to Miss Errera my heartiest congratulations on this honor.

Judged on her beauty, poise, and personality, Donna Marie Errera, as winner of the Columbus Day Queen Contest, received an all expense paid weekend in New York City from the Daprata Travel Service; a Columbus Day necklace, a Queen's Crown and Trophy, and $500 from the Joint Civic Committee of Italian Americans; $100 from Mr. Jerome Cosentino, the Parade's General Chairman for 1977, and a bouquet of roses.

The queen has also made an appearance on the Louis Farina Show, and will make appearances on the Ray Raynor Show, at the Sons of Italy Columbus Day Banquet, and at Chicago's Holiday Folk Fair.

The members of the Queen's Court are Janice Angela Ruggiero, 2836 South Emerald Avenue, Chicago; Laura Sferazo, 1216 Elsie Drive, Melrose Park; Mary Antoinette Anzalone, 8618 West Berwyn, Chicago; and Debra Ann DiMaggio, 6044 Elston Avenue, Chicago.

Judges for the final Columbus Day Queen Contest were Franz Benteler, a violinist; Joseph Caliendo, a designer and furrier; Don Case, director of D.A.C. Enterprises; Robert Clementi, an attorney and former National Commander of Italian American War Veterans; Bob Del Giorno, a disc jockey for radio station WIND; Celeste Del Giudice, passenger sales clerk for Northwest Orient Airlines; John DoCurro, consultant on union fringe benefits; Rose Farina, producer and coordinator at the Daley Civic Center; Adrienne Levatino, author and consultant; Carol Lopez, coowner of Flare Nail Creations; and the Honorable Philip Romiti, a justice of the Illinois Appellate Court.

The Columbus Day Parade in Chicago is one of the highlights of the year and as many as 1 million people will view the parade in person and one to 3 million will watch it on television. The parade will be sponsored over WGN–TV by Anthony Paterno, of Paterno Imports; Frank Armanetti, of Armanetti Liquor Stores; Dominick Di Matteo, of Dominick's Finer Foods, and Alphonso Di Benedetto, of the Banco di Roma. The telecast of the parade will be narrated by Domenick Di Frisco and Vince Lloyd, narration prepared by Mrs. Frank R. Petrone, and the reviewing stand commentators will include James L. Coli, Louis Farina, and Charles Porcelli.

The massive Columbus Day celebration will close with a reception at the Fontana D'Or, 6425 West Grand Avenue, in honor of all of the guests, the officers, subcommittee chairmen, and members who participated in making this event a success.

As honorary parade chairman on this eighth celebration of Columbus Day as a national holiday, I commend the members and officers of the Joint Civic Committee of Italian Americans for their dedication, hard work, and resourcefulness that went into the creation of a tremendous civic and patriotic event such as the Chicago Columbus Day Parade Our city and our people are proud of these outstanding citizens.

Mr. Speaker, the officers and members of the 1974 Chicago Columbus Day Parade Committee are as follows:

COLUMBUS DAY PARADE COMMITTEE

Jerome A. Consentino, general chairman 1977.

Congressman Frank Annunzio, honorary parade chairman.

Tony Judge, grand marshal.

JCCIA Officers:

James E. Coli, President.
Dr. James F. Greco, 1st Vice President.
John C. Porcelli, 2nd Vice President.
Joseph Tolitano, 3rd Vice President.
Jerome N. Zurla, 4th Vice President.
Rudy L. Leone, 5th Vice President.
Anthony Morizzo, Treasurer.
Charles Carosella, Secretary.

President Emeritus, Anthony Paterno.
Honorary chairman:
Hon. Michael A. Bilandic.
Hon. George W. Dunne.
Hon. James R. Thompson.
Past Presidents:
Joseph Barbera*.
Peter R. Scalise.
Dr. Mario O. Rubinelli.
Vincent E. Ferrara*.
Victor J. Failla.
Anthony Bottalla.
Charles C. Porcelli.
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Consultant: Anthony Sorrentino.
Past parade chairmen:
Martin Buccieri.
Dr. Mario O. Rubinelli.
Anthony Paterno.
Honorable Frank Annunzio.
Victor J. Failla.
Nello Ferrara.
Frank Armanetti.
Fred Bartoli.
*Arthur Pullano.
Anthony Botalla.
Dominick DiMatteo.
James E. Coli.
Anthony Terlato.
Honorable Frank Annunzio.
John C. Porcelli.
Rudy L. Leone.
Pasquale M. De Marco.
Joseph Lizzardo, Jr.
Tony Judge.

SUBCOMMITTEES

Chaplain: Reverend Armando Pierini, C.S.
Television sponsors:
Anthony Paterno, Chairman.
Frank Armanetti.
Alfonso Dibenedetto.
Dominick Dimatteo.
Theme coordinator: Mrs. Frank R. Petrone.
Religious Program and Organizations:
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Joseph Pope, Chairman.
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Rev. Armando Pierini, C.S., Advisor.
Rev. Lawrence Cozzi.
Chief Anthony Pilas.
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Mrs. Mary Spallitta, Co-Chairman.
Mrs. Tena Amico.
Mrs. Norma Battisti.
Mrs. Stella Boschelli.
Mrs. Gene Bruno.
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Mrs. Edda D'Amico.
Mrs. Elena Frigoletti.
Mrs. Judy Guzaldo.
Miss M rlene Leonardi.
Mrs. Mary Mento.
Mrs. Ann Parisi.
Mrs. Marie Pedi.
Mrs. Annette Salvatore.
Mrs. Phyllis Schoene.
Mrs. Aurelia Tornabene.
Mrs. Ann Yelmini.
Mrs. Angeline Tufano.
Finance and souvenir book:
Rudy Leone.
John C. Porcelli, Chairmen.
Frank N. Catrambone, Sr., Co-Chairman.
Sam Cerniglia, Co-Chairman.
Mathew J. Alagna.
Anthony Apa.
Charles Carosella.
Marino Mazzei.
Salvatore Palandri.
Laura Raymond.
Michael R. Rosinia.
George Salerno.
Joseph Scilabra.

*Deceased.

Ann Sorrentino.
Virginia Page.
Business and Professional:
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Vincent Lucania, Co-Chairman.
Anthony Terlato, Co-Chairman.
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Dr. James F. Greco.
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Mrs. Ann Sorrentino.
Miss Diane Torti.
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Congressman Martin Russo.
Senator John D'Arco, Jr.
Hon. Alexander Adduci.
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Hon. Vito Marzullo.
Hon. John Merlo.
Hon. Michael Nardulli.
Hon. Lawrence Petta.
Hon. Sal Pullia.
Hon. Paul Ross.
Hon. Fred Roti.
Hon. Ronald Stearney.
Hon. Louis Viverito.

Women's Divsion Mrs. Norma Battisti, President.

West Suburban Chapter, Women's Division, Mrs. Aurelia Tornabene, President.

Young Adult Division, Joe Rio, President.

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Amerital Unico Club of Chicago.
Club Calascibetta Lodge No. 75, IANU.*
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Victor Arrigo Post (Italian American War Veterans).
Villa Rosa Lodge No. 67—I.A.N.U.
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*Life Membership

THE PRESS AND "KOREAGATE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PIKE) is recognized for 5 minutes.

Mr. PIKE. Mr. Speaker, if anyone had ever told me that Jerry Landauer of the Wall Street Journal would be taking on the media and talking up the Congress, I would have been incredulous. Mr. Landauer has made a pretty fair career out of "investigating," "exposing," and otherwise needling the Congress. Accordingly, the following man bites dog story just might deserve to be considered as credible:

[From the Wall Street Journal, Oct. 6, 1977]

THE PRESS AND "KOREAGATE"

(By Jerry Landauer)

WASHINGTON.—For months, starting early last year, newspapers, television and radio carried endless allegations of influence-peddling in Congress by agents of the South Korean government.

In recent weeks, however, the South Korea scandal faded from the front pages and the TV news shows—bumped for a while by a new subject for saturation coverage, Bert Lance. The Korea story may well heat up again. But except for occasional flurries, as when the U.S. Government indicated Korean businessmen Tong Sun Park and Hancho C. Kim for illegally conspiring to influence members of Congress, the media's interest in "Koreagate" seems to be flagging. All of this suggests some significant lessons about the power and the priorities of the press.

To begin with, in the capital these days a scandal isn't a scandal until important segments of the media "discover" it. Once perceived, a scandalous situation is likely to dominate the news, for no newspaper editor or television executive wants to miss another Watergate. Then, as more news people pounce on the story, competitive pressures can overshadow fair play, resulting in overstated coverage that may not end until another "scandal" comes along to divert the media's attention.

Obviously, this doesn't mean that a foreign effort to subvert Congress isn't a legitimate subject for tough, incisive reporting. But so far the available facts about South Korean influence schemes seem to cast doubt on whether the lavish media attention has been warranted.

Attorney General Griffin Bell said in a recent interview in the Los Angeles Times, for example, that the Justice Department still hasn't uncovered proof of widespread misconduct by members of Congress. He said "very few" criminal charges are anticipated, and Justice Department officials add that the cases currently contemplated are against former Congressman only. Asked about newspaper stories that a "very broad scandal" may be in the making with "a lot of Congressmen involved," Mr. Bell replied, "Well, if there is evidence, we haven't found it."

Notwithstanding such pronouncements, the Korean lobbying story may yet turn out to be a major scandal. But a close examination of the coverage up to now suggests that the media often has shot from the hip with speculative charges that could unfairly tarnish Congress as a whole.

SLIPPING $100 BILLS

Ironically, the chronology of the news media's handling of the Korean affair begins with the silence that greeted testimony to a House International Relations subcommittee more than two years ago by Jai Hyon Lee, a defector from the South Korean diplomatic service. Mr. Lee alleged an "overall scheme of clandestine operations" in the U.S. by the South Korean Central Intelligence Agency, including payoffs to American politicians. In vivid detail he described how his boss the ambassador had slipped $100 bills into unmarked envelopes just before journeying to Capitol Hill.

By any journalistic standard here was a matter worth pursuing. But though Mr. Lee appears to be a responsible person (ironically, too, he teaches journalism now at Western Illinois University) the media ignored him. For at least six months South Korea failed to catch the fancy of the press.

Then The Washington Post reported in February 1976 that two members of Congress were being investigated by the Justice Department for taking South Korean bribes. By October 15, on the Post front page, the number of representatives under investigation had swelled to 22. On Oct. 27 The New York Times struck, saying the bribery investigation is "focusing on the possible involvement of 90 members." And in July this year a lead article in the Times said as many as 115 former or current Congressmen might be "involved" in unethical conduct. The 115 figure subsequently turned up in other reports, including the "World-Wide" column on this newspaper's front page.

Officials at the Justice Department and the special investigating staff of the House ethics committee are mystified by the escalating numbers. "Whatever the 115 number was meant to represent, it is exceedingly misleading," says John W. Nields Jr., a lawyer who works under special counsel Leon Jaworski.

The sums of money assertedly disbursed by South Koreans likewise kept growing. In one front page story last November, The Washington Post cited "allegations" that Seoul's agents had dispensed "$500,000 to $1 million a year since 1970 in cash, gifts and political contributions to U.S. Congressmen and other officials." By Dec. 9 these anonymous charges had hardened to "substantial evidence" in the Justice Department's possession. On Jan. 29, the Post credited Mr. Park alone with spending $500,000 to $1 million a year to influence Congress, and in April the vast sums he supposedly spread became a matter of "previously assembled evidence."

By contrast, the government's multi-count indictment against Mr. Park last month lists campaign contributions, slush fund donations and other suspicious payments totaling $144,500 in eight years to former and current members of Congress. Most of the lawmakers who received Mr. Park's campaign donations recorded them on public records, in accordance with law.

Most of the contributions were made prior to 1974 when it was legal to accept political donations from foreign nationals unless the recipient knew the donor was a foreign agent. The law was revised in 1974 to basically prohibit contributions by anyone other than U.S. citizens, although still permitted are donations by permanent resident aliens. Contributions by agents of foreign governments, of course, remain illegal.

Along with numbers games, newspaper readers were treated to premature visions of accused politicians being hauled into court. On Feb. 17 this year the Post reported that indictments naming four to six former or current Congressmen were expected "within the next few months." More than five months and no indictments later, on July 25, the Los Angeles Times settled on five indictments "soon" against five former Congressmen; the next day, Scripps-Howard News Service shortened the waiting period to "days." (To date, no indictments have been issued.)

SLICK AND HOT STORIES

"These kinds of stories generate tremendous pressure on other reporters" to beat the competition, explains Brit Hume, a correspondent for ABC. "When I worked for Jack Anderson we wrote our stories slick and we wrote them hot. But I've never seen hyped-up stuff like this," Mr. Hume adds, speaking of the Korean coverage generally.

Indeed, competitive pressures intensified once the broadcast networks were fully mobilized to chase the South Korean story.

In one attention-getting series of broadcasts, ABC-TV reported that top Democrats such as House leader Jim Wright of Texas "may be guilty of unethical conduct." The network also issued a press release trumpeting its scoop. But when ABC's "authoritative" source sent Rep. Wright a telegram denying what had been attributed to him, the network shunned responsibility; in broadcasting the denial ABC referred not to its original account but merely to some unidentified "report."

On CBS, House Democratic Whip John Brademas of Indiana was said to have "publicly acknowledged" the receipt of campaign contributions from Tong Sun Park—contributions that Mr. Brademas had disclosed on public records years ago. And NBC erroneously suggested to millions of listeners that five members of the House ethics committee "may have taken" South Korean favors. "In retrospect I don't think I should have used that story," says the NBC correspondent who prepared the report. "I should have waited until I did what I did later on—that is, check it out first."

Soon the rash of news accounts suggesting or asserting widespread corruption in the House reached the Senate, for scandals must always seem to be "growing," "spreading" or "widening," lest they appear stale.

Scripps-Howard kicked off the Senate coverage on July 20, with a story saying unnamed members were "implicated in the spreading Korean influence-buying scandal." Next the Post chimed in with "mounting evidence being accumulated by the Senate ethics committee." The Times reported new "evidence of senatorial misconduct," and raised to 50 the number of former or current Senators "mentioned" in connection with the Korean investigation. The Washington Star cited "solid evidence of Senate involvement." And The Christian Science Monitor, venturing numbers that were flashed across the country by United Press International, said perhaps a dozen incumbent Senators were "seriously involved."

Scripps-Howard completed the cycle by disclosing that the Senate committee's chairman—Democratic Sen. Adlai Stevenson of Illinois—has "secretly briefed" President Carter about misconduct by "top Senators." Mr. Stevenson's press aide, Harold Levy, says the Senator didn't discuss the committee's work, much less "spell out details," for the President.

In short, after a week of what is called investigative reporting, the media had cast an unsavory scent over the entire Senate, without identifying a single questionable act by even one named member. Other stories have put politicians on the front page and then let them twist slowly in the wind.

UNDER FBI INVESTIGATION

For example, one day in February 1976 Democratic Rep. Joseph Addabbo of New York found his smiling picture in the Post, over a headline saying he was under FBI investigation for pocketing South Korean bribes. On Oct. 15, the newspaper said the government's case "has progressed furthest on allegations involving" Mr. Addabbo, among other lawmakers. On Oct. 26, federal agents were said to be "far along in probing" Mr. Addabbo's suspected bribery. Still another story later on identified the New Yorker as the target of several "investigations," all far advanced. Last spring, the Post, without explanation, dropped Rep. Addabbo from its listing of current or former Congressmen "generally believed to be the subjects of greatest scrutiny."

It should be emphasized, of course, that many newspapers and broadcast reports tracking the South Korea story have been balanced and accurate. The Washington Post has won a major journalism award for its coverage. And there is no question the press should vigorously pursue any evidence of influence-buying in Congress. But what should be questioned is the scandal-happy trend of post-Watergate journalism, in the rush to be first, reporters and editors should not forget that it's more important to be fair.

TOWARD FURTHER IMPROVEMENT OF UNITED STATES-CUBA RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, the visit to Washington this week of Cuban Minister of Foreign Trade Marcelo Fernandez Font, the highest level Cuban officials to visit the United States since Castro was last here more than 16 years ago, was an occasion for reflection on the progress we have made in recent months toward improving United States-Cuban relations.

I have a longstanding interest in Latin America and particularly Cuba, dating back to 1939, when I visited the island, the first of five visits to Latin America. As chairman of the Subcommittee on International Trade and Commerce in the 94th Congress, I conducted extensive hearings on resuming trade relations with Cuba based on legislation which I and others introduced to lift the U.S. embargo of Cuba. My visit to Cuba in February of this year, and my talks with Trade Minister Fernandez, Vice President Rodriguez, and President Castro have been credited with stimulating progress in United States-Cuban relations. While I think the impact of that visit has been exaggerated, I like to think it was at least helpful in prompting the improvements that have been achieved.

The bulk of the credit must go to the leaders of the two Governments. To date, the Carter administration and the President himself have demonstrated courage, realism, and imagination with respect to United States-Cuban relations, and I hope and believe that that will continue. Similarly, President Castro and the other officials of his government have demonstrated a really remarkable lack of bitterness and willingness to take a fresh approach to their giant neighbor to the north.

There are, of course, selfish interests among the motives of both governments. But there is also, I think, a feeling and realization on both sides that it simply no longer makes sense for two nations only 90 miles apart, whose people have no animosity toward each other even now, to continue hostile and isolationist policies. That attitude exists despite the fact that each of the nations can survive and go on perfectly well without the other, and despite the deep differences in the two social and political systems.

The steps that have been taken to improve United States-Cuban relations—the removal of U.S. travel restrictions, the signing of a fishing agreement to clarify the effects of the 200-mile limit claimed by both countries, increased cultural and sports exchanges, and finally the opening of diplomatic "interest sections" in Havana and Washington on September 1—were not easily achieved. They required concessions by both sides.

One gesture on the part of the United States which was not widely publicized, but which I think is most commendable and significant, is the sharing of information with the Cuban Government on anti-Cuban terrorists known or believed to be operating against Cuba. Such sharing of information, which I hope will continue, should go a long way toward dispelling any lingering suspicion that the United States is in any way supporting or furthering such acts against Cuba. In the past, both the United States and Cuba have trained and supported terrorists, and now it has become a plague on both our houses. I am persuaded from my conversation with President Castro that he realizes this, and that his own attitudes and policies with respect to promoting terrorism have changed over what they once were. On our part, we must—as I recommend in the report I issued on my visit to Cuba—do everything possible to deter, through strong laws and vigorous prosecution, all forms of terrorism, including anti-Cuban terrorism which might occur within our legal jurisdiction.

The U.S. business community has been a target of some of this terrorism—for example the bombing of Mackey Airlines in Florida when it announced flights to Cuba—so it should certainly support stepped-up U.S. efforts against terrorism.

Such incidents, of course, have occurred many times against Cubans themselves. My visit in February came 6 months after 57 Cubans had been killed when terrorists bombed an Air Cubana plane leaving Barbados. Cuban leaders considered the United States responsible for that bombing as part of an ongoing pattern of terrorist activities against Cuba. U.S. responsibility, in their view, stems both from the fact that many of the individuals allegedly responsible for these acts had at least former ties to the CIA, and from the fact that U.S. enforcement of its own laws against terrorism has been lax. While I assured Cuban officials that, to the best of my knowledge, the United States no longer adheres to any policy of harassment or terrorism against Cuba, I expressed my personal condolences over this tragic loss of innocent lives. I think it is deplorable that the United States made no official statement of sympathy at the time the Cubana incident occurred. To my knowledge, it has still not done so, at least publicly. While it is now very late, such an official expression of sympathy would still be appropriate and helpful in improving United States-Cuban relations.

Difficult as the progress in improving United States-Cuban relations has been to date, the next steps seem to me even more so. With lines of communication now open, we come face to face with the toughest issues that separates us—on the Cuban side, the U.S. trade embargo—or, as it is more graphically called in Cuba, the blockade—on the American side, compensation of U.S. claims for expropriated American property, American prisoners in Cuba, questions of human rights in Cuba, and some aspects of Cuban foreign policy, especially in Africa.

I continue to believe, as I have for some time, that the U.S. trade embargo of Cuba should be lifted without preconditions. If the embargo ever made any sense, it no longer does. It has not brought down the Castro Government, and there is no evidence it will. It has not been effective in denying Cuba needed goods, virtually all of which are available from other sources. It is no longer multilateral. Since it no longer applies to foreign subsidiaries of U.S. corporations, we have the absurd situation of American workers being deprived of the opportunity of work to provide goods that foreign employees of American companies are providing and benefiting from.

The U.S. embargo now serves only as an outdated and embarrassing monument to American economic interventionism. It is a vestige of a tradition of U.S. paternalistic policies toward the Caribbean which we are trying to reverse. It gives credence to charges at the U.N. and elsewhere of American imperialism. It is particularly senseless in view of the fact that we have removed our embargo of China, and never even attempted one against the Soviet Union. It simply no longer serves any U.S. interest.

With that in mind I have reintroduced in the House, the bill which I first introduced in 1975, a bill (H.R. 9402) to lift the embargo. I have not reintroduced it hitherto in this Congress in view of the progress that was being made at the initiative of the new administration, and the view which I still hold that the executive branch should take the initiative and exert the leadership to improve United States-Cuban relations. I feel it appropriate to reintroduce the legislation now not because I feel that there is sufficient support in the Congress, or that it would even be appropriate, to direct the President by law to lift the embargo. Rather, I reintroduce it as an indication and reminder to the administration that there is support in the Congress for further Presidential action.

There remains, of course, a vociferous minority in this country opposed to lifting the embargo. That minority poses a serious political obstacle to action by the Congress or by the President. The President, particularly, does not need another fight when he has controversies like the Panama Canal Treaty to resolve.

Faced with changes in American attitudes toward Communist countries reflected in the U.S. policy of détente, there has been a shift in the emphasis of the anti-Castro minority away from opposition based on representing Castro and Cuba as Soviet puppets, to opposition based largely upon a human rights appeal. Such an appeal, of course, finds considerable sympathy everywhere along the political spectrum. I have, myself, strongly supported human rights measures in the Congress, as well as the human rights policies enunciated by the Carter administration. I have had direct contact on several occasions with Cuban

exiles here who have family members in Cuban jails, including the family of Huber Matos, the best known Cuban prisoner who has been in jail since 1960 for allegedly leading a counterrevolutionary effort after having been one of Castro's most trusted lieutenants.

The concerns of these families, as well as individuals and businesses that suffered losses through expropriation in Cuba, cannot be taken lightly. At some stage in the process of improving relations with Cuba, these and other issues must be dealt with and satisfactorily resolved. The essential question, really, is at what stage.

Opponents of lifting the U.S. embargo argue that there should be a concrete quid pro quo—settlement of claims, release of political prisoners, and a removal or schedule for removal of Cuban troops from Africa.

In my view, that is simply not going to happen. I do not believe Castro will pay such a price in advance for a lifting of the U.S. embargo, though I think he will negotiate at least some of these issues seriously after the embargo is lifted. While lifting the embargo guarantees nothing, I believe it will vastly improve chances of a reasonable and successful resolution of claims and other United States—Cuban disputes. Without a lifting of the embargo, those disputes will simply continue to fester.

It is of interest, I think, that Cuba has settled its claims with Canada, France, and other countries, though the amount of those claims was substantially less than the $1.8 billion in American claims, and Castro just last week stressed huge counter claims Cuba is prepared to press to recover the costs to Cuba of past U.S. "aggression."

In view of all this, some form of step-by-step approach to further improvement of United States-Cuban relations seems needed. One way to break the deadlock would be partially to lift the embargo—perhaps to allow trade in food stuffs and medicines, as has been suggested by Senator MCGOVERN. Even that, however, may be politically difficult for the President to initiate.

I suggest another alternative; namely, that the U.S. initiate discussions that might lead to a Helsinki-type agreement, on a bilateral basis between the United States and Cuba, or possibly even on a multilateral basis aiming at accords to which all nations of the Western Hemisphere could become signatories.

The Helsinki accords were signed by 30 countries of Eastern and Western Europe, plus the United States and Canada, in 1975. They set forth agreed principles and common goals to be pursued in three areas known as baskets: Respect for borders and "confidence building" measures; economics and trade; and questions of human rights, freer travel, and communications.

Similar areas of concern and disagreement exist between Cuba and the United States, as well as among various nations of the Western Hemisphere. Just as the Helsinki agreement has served—and is serving—as the basis for discussion and gradual cooperation between East and West Europe, so might such an agreement for the Western Hemisphere be a basis for cooperation between the United States and Cuba. It would, I believe, provide the kind of political reassurance and building of confidence that should satisfy all but the most extreme skeptics with respect to lifting the U.S. embargo of Cuba.

In "Helsinki" terms, basket 1 would provide a framework for discussions of issues like curbing terrorism—both Cuban and U.S. inspired—and status of our naval base at Guantanamo. Discussions of specific problems of trade and claims might be undertaken within the general goals and principles of basket 2. And basket 3 would serve as a basis for discussion of improved travel and visitation rights, as well as other questions of human contacts and freedoms.

As in the case of the Helsinki agreement, a similar agreement with Cuba and other Western Hemisphere countries would involve no expectation or commitment to solve all these problems at once—only to discuss them, in a two-way dialog, within certain understandings and guidelines spelled out in the agreement.

Real resolution of some of these issues might take years. But a Helsinki-type agreement would provide improved assurance and guidance toward such ultimate solutions.

Such an approach may seem disappointingly cumbersome and time-consuming, especially to businessmen who look at Cuba as a promising market for the near future. But if there is real desire on the part of both the Cuban and the American Governments, as I think there is, to create an atmosphere in which the embargo can be lifted and trade resumed, then such an approach offers hope of progress within a reasonable time. The alternative, I am afraid, is no progress at all.

Mr. Speaker, these remarks are similar to those I made earlier this week at a conference in Washington on United States-Cuban trade prospects sponsored by the East-West Trade Council, a nonprofit organization devoted to improving East-West trade. Cuban Minister of Foreign Trade, also appeared and spoke. His statement reflects a rather demanding position by the Cuban Government with respects to claims and Cuban counterclaims, but at least indicates a willingness by Cuba to acknowledge and begin to address this essential question. The text of Trade Minister Fernandez statement follows:

REMARKS OF THE HONORABLE MARCELO FERNANDEZ FONT, CUBAN MINISTER OF FOREIGN TRADE, BEFORE THE EAST-WEST TRADE COUNCIL, OCTOBER 3, 1977

Gentleman: First of all, we wish to thank the East-West Trade Council for the opportunity of participating in this conference on the outlook of trade between the U.S. and Cuba. I am sure that this initiative represents a positive step towards a better understanding between our two countries.

I will begin by giving a brief rundown on Cuba's foreign trade, as well as an explanation of how our Ministry is structured and how it works.

The Ministry of Foreign Trade emerged as a necessity of our economy's planned direction, imposed by the development of the revolutionary process.

One of its main tasks is to implement the trade policy formulated by our government.

Another of our Ministry's important tasks is to carry out the Foreign Trade Plan and see that the foreign trade enterprises fulfill it. These enterprises are divided into import and export enterprises, depending on their functions; we also have an enterprise for the control and supervision of shipping.

The scope of the enterprises has been determined by the common characteristics of the products they handle.

I must explain that there are some foreign trade enterprises that do not fall under the Ministry of Foreign Trade, from an administrative point of view, although functionally they operate as such, as is the case with some importing and exporting enterprises that import complete plants and equipment.

In addition to most of the foreign enterprises, the Chamber of Commerce of Cuba also belongs to our Ministry, and one of its main functions is to facilitate communication between national and foreign enterprises, as well as to participate in both domestic and foreign fairs and commercial exhibitions.

We also have 32 commercial offices abroad and carry out operations with more than 80 countries, including the most industrialized ones except for the United States.

The Ministry's structure and organization has been changing to adapt to the development attained by our trade exchange over the years. As an example, here are some figures that describe this development.

In 1959—first year of revolutionary power—total trade amounted to 1,310.8 million pesos; seventeen years later, in 1976, it rose to 5,765.5 million pesos, i.e., it more than quadrupled in spite of the economic blockade imposed by the United States Government and the so-called "black list" that covered all ships carrying goods to or from Cuba, and prohibited them from entering US ports from the moment they were put on that list.

Cuba's almost total dependency on one market, the United States, and that country's application of economic blockade against our country, led to a total geographic redistribution of Cuban foreign trade. At present, most of our trade relations are with the socialist countries, mainly the Soviet Union.

The following data will give you an idea of the geographic spread of our foreign trade in 1976:

Total trade: 5,765.5 (million pesos).
Socialist countries: 3,922.0 (68%).
Capitalist countries: 1,843.5 (32%).

This same year, 75.5 percent of our exports and 61.6 percent of our imports were to and from socialist countries.

The importance of foreign trade for a country with an "open economy" like ours is indisputable. Especially a country that is poor in natural resources, underdeveloped and practically monoexporting, as a result of an economic structure deformed by long years of colonialism first and then neocolonialism which means that every peso of national production or every export peso will have a high imported content.

Cuba is a great importer of foodstuffs, fuel, industrial raw materials, chemicals, metals, and machinery and equipment.

Its main exports are, in first place sugar, and then minerals, tobacco, fish products, rum and citrus.

Where trade is concerned, our country has adopted the maxim of the apostle of our independence José Martí, who said that Cuba should trade with the whole world and not just a part of it.

As we already mentioned our country has trade relations with more than 80 countries.

Following this policy, our trade has developed with all geographic regions.

Thus, important trade and economic cooperation agreements have been signed with the USSR and the other socialist countries, as well as with Spain, Canada, France, Italy, the United Kingdom, and Belgium, among others.

In spite of the difficulties that arose, in some cases because of the isolation imposed and in others because of the so-called "competitive nature" of similarly structured economies, trade with Latin American and Caribbean, African and Asian countries has gradually developed in recent years.

Along with the other underdeveloped countries, Cuba has participated in different international conferences of economic organizations called in recent years, such as the UNCTAD and other United Nations specialized organizations, GATT, the International Sugar Conferences, and has actively participated in the creation of new organizations for defending common economic interest in the Latin-American sphere, such as GLACSEC, SELA, NAMUCAR and others.

Although this is a summary explanation, we should not overlook the special economic relations of cooperation that have developed between Cuba and the Soviet Union over these years. Numerous trade agreements and protocols as well as economic collaboration accords have been signed with that country guaranteeing long-range planned and uninterrupted trade in both directions based on fair prices for our exports, correlated in turn with prices on products imported from the Soviet Union, so that price changes on import products do not cause trade terms to deteriorate and Cuba is guaranteed a favorable exchange relationship.

It is not hard to imagine how economically advantageous this is to a country like ours which basically exports sugar and imports some nine million tons of oil a year, at a time when the world price of oil has reached levels that are prohibitive for the underdeveloped non-oil producing countries and create serious financial problems in their balance of payments.

Gentlemen: We would like to end this explanatory section on our foreign trade and move on to a subject which undoubtedly interests you all, trade between Cuba and the United States.

At this moment and for reasons that are beyond our control and yours as well, we are sure, there is no direct trade between Cuba and the United States. There is, at this moment, some trade between U.S. subsidiaries and our country following the partial modification of the blockade, which has allowed U.S. companies operating in third countries to make certain trade transactions with us under specific conditions. But this trade is far from the volume that could be achieved if there were direct trade between our countries.

Historically, let us remember that, before the triumph of the Revolution, 67 percent of our exports went to the United States and 70 percent of our imports came from this country, although it must be recalled that these percentages represented a total of 1,510.6 million pesos in trade, the figure reached in 1958.

Taking into account that Cuba's total trade has quadrupled since then, we say that—with the lifting of the blockade—the United States could be an important trading partner for Cuba among the non-socialist countries. We are talking in absolute terms of an annual volume of imports and exports worth several hundred million pesos.

But it cannot be overlooked that Cuba has diversified its sale and purchase markets in other non-socialist countries over these years, and has made commitments to continue trading with those countries. It is no less true that the reopening of the United States market is going to mean the appearance of a strong competitor for all those countries as far as Cuba is concerned.

Cuba does not and will not apply any type of trade or political discrimination against any country; commercial and economic factors alone will determine the geographical orientation of our trade with the non-socialist countries and our sale and purchase policy, based mainly on price, quality, delivery, credit facilities, etc.

It is a principle of international trade that in order to buy one must sell. Cuba's income in freely convertible currency depends on the export of one basic product—sugar—which is subject to great price changes on the international market. It is logical that, in the case of trade with the United States, a partial lifting of the blockade in one direction only will not contribute to the development of trade between the two countries, because if Cuban products are not sold in the market, we can't acquire the monetary resources to cover our purchases of US agricultural and industrial products.

Should the blockade be lifted, Cuba would be prepared to purchase a broad range of US products, specifically: foodstuffs, raw materials for animal feed, drugs, ferrous and nonferrous metals, chemicals, fertilizers, industrial raw materials, textile yarns, machinery, equipment, industrial plants, etc. In exchange, we could sell you sugar, molasses, nickel, copper, chrome, tobacco, cigarettes, coffee, fruits and vegetables, rum and shell fish.

A factor that will play a very important role in the development of future trade relations between Cuba and the United States is the matter of tariffs. It would be fair to offer Cuba the same preferences granted exporters to the U.S. market whose state of economic development is comparable to ours.

It should not be forgotten that Cuba and the United States, as founding members of the General Agreement on Tariffs and Trade (GATT), granted each other mutual favored nation treatment. In addition, preferential trade agreements exist between the two countries and were incorporated into the General Agreement under which the two countries granted each other more than favored nation treatment.

Both treatments, that of most favored nation and of preferential, were unilaterally abrogated by the United States in violation of international law. Any of you, out of curiosity, can go over the United States Tariff and Customs provisions and you will easily find the preferences we have mentioned, product by product.

We must also mention the existence of the 1974 Trade Law that establishes very rigorous requirements for granting a socialist country such as Cuba most favored nation treatment and including it in the General System of Preferences. Even after the lifting of the blockade these obstacles must be overcome if we really want to develop our trade relations.

Gentlemen: We are certain that during the following session, your questions will complete any matter of interest to you that we may have omitted in our presentation.

Many thanks.

QUESTIONS AND ANSWERS

(The following are staff notes of questions asked of Mr. Fernandez, and his responses. They have not been edited or reviewed by Mr. Fernandez, and should therefore be regarded only as a general and partial reflection of the question and answer discussion.)

Q. If the U.S. Government permits the sale of foodstuffs and medicine to Cuba but will not purchase Cuban goods, would this be acceptable? (Sorenson)

A. Trade should be done on a reciprocity basis. They would agree to a partial lifting of the blockade but only if it was in both directions.

Q. What will be done regarding claims? (Castle & Cooke)

A. They believe claims are important, not only U.S. claims but Cuban claims. Cuba should be compensated for damages the economy has received because of the economic blockade these many years. This includes damages due to aggression during this period—Bay of Pigs. A recent declaration of Castro's has mentioned the possibility that Cuban side should be compensated by U.S. Government and the Cuban side would then be permitted to compensate U.S. firms. We must think in both directions. "This is not a problem just for the U.S. side." Castro's declaration opens the possibility.

Q. What about a Helsinki Accord type of arrangement between the U.S. and Cuba to resolve issues. Is this a constructive suggestion or a waste of time re Bingham's suggestions?

A. Cuba is not a member and does not participate in the Helsinki Agreements but both countries could discuss these matters in light of the Helsinki Agreement. Trade limitations and human rights should be in agenda of discussions.

Q. What is the magnitude of counterbalancing claims?

A. Damages suffered in Cuba are of a higher magnitude than U.S. claims against Cuba.

Q. Regarding the sale of tobacco and liquor, does Cuba feel it will get a better price in the U.S. than other countries?

A. Trade has been so far away for so many years. There is interest from the U.S. public to obtain these products. It would be sensible to buy directly from Cuba. They would have to explore the U.S. market regarding prices. One firm has done a market study for Cuba.

Q. Cuba maintains a sales organization in other countries to sell Cuban products. If the embargo is lifted would Cuba deal with U.S. importers or maintain a Cuban sales organization? (Gellert)

A. The sales organizations are part of the Cuban system. When enterprises from every country and interest wish to promote products from Cuba they come to Cuba and sign agreements. Commercial offices abroad are basically for Cuban interests. It can be done both ways. Cuba has an import plan and a export plan. They are divided by areas—socialist and capitalist. Trade for the whole year is specifically stated for socialist countries. In practice there is high flexibility for capitalist countries. There is a definite number for imports and exports.

Q. In which products might you be able to expand if you have greater markets?

A. There is a margin for increasing all products except possibly tobacco. Cuba will not increase productivity if quality must suffer. They expect a harvest of 7 million tons of tobacco. Nickel production will increase. They are building a new plant with a 30,000 ton capacity. This product is of interest to the U.S. market. A new rum factory is also being completed.

The blockade should be lifted not dependent upon anything else. Cuba maintains no blockade against the U.S. The U.S. could export to Cuba today. The blockade was a unilateral mission and should be lifted unilaterally.

Q. How do you see tourism?

A. This is a very important field. Not so much economically but politically. Tourists would explain to their friends that Cuba is not so bad. Earnings from tourism is $50 million. This could increase to $300 million. This would be an economically and politically good move. They are building hotels and tourist facilities. They may have an increase this year in tourists.

Q. How will Cuba finance its exports?

A. This is something that worries us.

1. U.S. must lift blockade.

2. This is a serious limitation that must be resolved before real normalization of trade.

3. MFN must be restored. Under the regulations of the Trade Act of 1974, once the embargo is lifted there will be no MFN.

4. This is a disadvantageous position for Cuba.

5. Sugar tariff was 1.875 cents per pound with MFN. Sugar tariff is 1.9875 cents per pound without MFN. Tobacco tariff with MFN was 1.98 per pound. Tobacco tariff without MFN is 4.50 per pound.

Almost all foreign trade is financed. This does not mean the buyer is paid immediately. The National Bank might obtain loans like any other country. Tariffs and financing are problems. When they are resolved trade will be normalized.

Q. What tariff treatment would American products receive in Cuba?

A. This would be on a reciprocity basis. Cuba is hoping for MFN and U.S. products would receive the same.

Q. Will with private companies be allowed to open offices in Cuba after the embargo is lifted?

A. We already have other countries represented in Cuba and hope that this is the same situation for the U.S.

Q. Will Cuban representatives in U.S. offices in Cuba be necessary?

A. A Cuban commercial office would be established here in the U.S. They would receive U.S. entrepreneurs in Cuba depending upon U.S. firms' interest in promoting trade. There are trade opportunities for exports to Cuba in 1979 of $290 million and $350 million by 1980. Total imports are 1.2 billion pesos from capitalist countries. Trade between Cuba and the U.S. could reach $300 to $350 million in the first year of normal trade.

THE INDEPENDENT LOCAL NEWSPAPER ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, today I am introducing legislation that recognizes the public interest in and importance of maintaining independent local newspapers. For this purpose, the bill provides estate tax relief to the owners of such newspapers as an inducement not to sell their newspapers to the giant group organizations. The benefits in this bill are available to owners of daily and weekly newspapers, as long as they are not a part of a chain—two or more newspaper publications—or publicly traded corporations.

At this time, almost two-thirds of the daily newspapers in the United States are owned by chains. Because of the diminishing numbers of available independent local newspapers, chains have been buying other chains. One of the major reasons for the decline in the number of independent local newspapers is the devastating effect of estate taxes upon the owners of such newspapers. More and more newspaper owners, in contemplation of the fact that their estates will not be able to both pay the estate taxes and maintain their newspapers, have opted to sell their newspapers in tax-free exchanges for the stock of chains and other publicly traded corporations.

The proposed legislation will provide a means to set aside sums during the lives of newspaper owners for payment of their estate taxes, and also to defer payment of estate taxes for a reasonable period after the deaths of the owners of such newspapers.

The bill allows the owners of an independent local newspaper to establish an advance estate tax payment trust, to be funded by corporate earnings with not more than 50 percent of pretax income of the newspaper in any year. The contributions to and income of the trust may be invested solely in obligations of the United States. Excess funding of the trust is expressly prohibited. The funds accumulated in the trust may be used only to pay the estate taxes of the owners of the newspaper.

This advance estate tax payment trust offers major tax benefits to owners of independent local newspapers. The funding is with pretax income of the newspaper, and sums in the trust are not a part of the owner's estate for tax purposes. If, however, owners of the newspaper having established such a trust sell their newspaper, the bill provides for penalties which would amount to some 118 percent of the moneys in the trust. Thus, there is a "carrot" to induce maintaining independent local newspapers, and there is also a "stick" to preclude an attempt to take advantage of this proposal.

In addition, the bill provides for an extension of the time for payment of estate tax where the estate includes the interests in an independent local newspaper. Such extensions would be subject to payment of interest as now provided under the tax laws.

In April of this year I spoke before the National Press Club and expressed my deep concern about the social implications if local independent newspapers continue to be absorbed by the chains. The trend toward bigness and absent ownership signifies a very real loss to our society—the publisher with roots in the community. In the course of discussion about this issue I have repeatedly said not all independent newspapers are good, not all chains are bad. But we are in a situation where the family-owned, independent newspaper is an endangered species. I believe it is an institution in this Nation worth preserving from extinction.

We changed the tax code to protect the family-owned farm. We can also do it to save the local independent newspaper.

COMMON CAUSE REPORT ON SUNSHINE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, just over 1 year ago the Government in the Sunshine Act—Public Law 94-409—was signed into law. The act, which became effective on March 12, 1977, was a major effort toward openness and accountability in Government. According to a report recently issued by Common Cause, however, the high expectations at the time of its passage were not fully met during the first 3 months of operation under the act. I believe that the high number of meetings which remained closed to the public during this period—39 percent—is, for the most part, the result of the sweeping change in the mandated open manner in which regulatory agencies must now do business, rather than widespread or deep-seated recalcitrance. Nonetheless, the figure indicates there is a clear need for vigorous oversight by the Congress.

In this regard, I urge my colleagues to keep the Subcommittee on Government Information and Individual Rights, which I chair, apprised of all concerns they may have over the actions taken by agencies to close meetings. The subcommittee will utilize these materials in its oversight of the Government in the Sunshine Act. We plan to hold detailed hearings early next year.

I commend to my colleagues the following summary issued by Common Cause on its report:

COMMON CAUSE STUDY SHOWS EXECUTIVE BRANCH AGENCIES CONTINUE TO OPERATE IN SECRET

In the first three months of operation under the Sunshine Act, a majority of federal agency meetings have remained closed to the public, a Common Cause study has found.

The study released today reveals a strong tendency on the part of federal agencies to close their meetings under one of the Sunshine Act's ten exemptions despite the Act's clear presumption in favor of openness.

Calling the implications of the study "plainly disturbing", Common Cause President David Cohen said, "Despite enactment of the Sunshine law mandating openness in Executive Branch agencies, despite President Carter's call for a new era of Executive Branch openness, the prevailing pattern is secrecy as usual—decisions made behind closed doors."

"When, in the first three months under the Sunshine Act, far fewer than half of all meetings are fully open to the public, serious questions are raised about the extent of agency compliance," Cohen continued. Cohen urged the Congress to begin in-depth oversight hearings on compliance with the Sunshine Act, saying, "Agency witnesses must be brought to testify before Congress to determine whether the exemptions set forth in the Act are being abused."

The Common Cause study—"Shadows Over the Sunshine Act: A Common Cause Study of Federal Agency Compliance With the Government in the Sunshine Act of 1976"—is based on a survey of the 47 agencies covered by the legislation. Common Cause monitored the number of open, closed and partially closed meetings held by these agencies during the first quarterly period since the legislation took effect—from March 12, 1977 to June 12, 1977. The study found that:

39 percent (or 232) of 591 meetings held during the quarterly period were entirely closed to the public;

24 percent (or 143) of 591 meetings held during the quarterly period were partially closed to the public;

37 percent (or 216) of all 591 meetings were entirely open to the public;

exemptions relating to financial information accounted for 38 percent of the closed meetings;

national security accounted for 1.5 percent of the exemptions used to close meetings; and

unwarranted invasion of privacy accounted for 9 percent of the exemptions used to close meetings.

"A suspiciously high percentage of meetings have been closed to allegedly protect financial information," Cohen said. "Congress should move quickly to examine the manner in which these financial exemptions are being used."

The Government in the Sunshine Act, enacted September 13, 1976, aims to make government more accountable by opening to the public the decision-making process within executive branch and independent agencies. However, many of the agencies seem to view the Act as "a procedural burden to be circumvented when possible," Cohen said. The resulting secrecy makes it extremely difficult, if not impossible, for citizens to compete with the behind-the-scenes influence of special interests," Cohen noted. "Secrecy perpetuates abuse of power, thwarts citizen participation, and diminishes the accountability and responsiveness of government."

The study cites the Federal Reserve Board and the Interstate Commerce Commision as two agencies that appear to have misused the exemptions of the Sunshine Act. Of some 37 meetings held by the Federal Reserve Board, 30 were entirely closed to the public. The fact that the Board closed one of its meetings to consider a proposed office furniture design as well as the Board's building renovation project raises serious questions about the Fed's willingness to comply with the spirit and meaning of the Sunshine Act, Cohen said.

Although not reflected in the study data because it occurred after June 12, the Interstate Commerce Commission closed its June 28, 1977 meeting at which it was scheduled to determine tariff rates on the transportation of oil in the Alaska pipeline. "Certainly a question of such national importance should have been considered in open session," Cohen remarked.

Cohen called on President Carter to take steps to insure meaningful compliance with the Sunshine Act. "President Carter has an obligation to establish uniform standards of openness in the Executive Branch in order to carry out the theme of openness he has set for his Administration." Cohen recommended that the President:

Issue a directive to the agencies covered by the Act affirming the Administration's commitment to openness in government and requiring that agency regulations conform not only to the letter but also the spirit of the Act; and

Direct the Office of Management and Budget to review each agency's regulations to ensure that they meet the Administration's high standards of openness.

Cohen urged that the Congress and the Carter Administration work to determine if:

The exemptions in the Act are being properly used;

The presumption of openness is being ignored;

The existing exemptions, especially those relating to financial matters, need to be more narrowly defined; and

The expedited closing procedure, which allows agencies to dispense with notification of meetings in the Federal Register, is being abused by the agencies.

The Government in the Sunshine Act provides that meetings of multi-member federal agencies—a majority of the members of which are appointed to their positions by the President with Senate confirmation—be open to the public. The Act provides ten defined exemptions to the openness rule under which agencies may close meetings. Included among these exemptions are meetings concerned with: classified national security; personnel rules; trade secrets; formal censure or accusation of a crime; invasion of privacy; law enforcement investigatory records; regulation of financial institutions; and subpoenas or civil actions. The Act also sets forth a clear presumption of openness.

METHODOLOGY OF STUDY

The Common Cause findings in this report were based on the number of open, closed, and partially open/closed meetings held by the affected agencies during the first quarterly period under the Act. Partially closed meetings were those in which a portion of the meeting was closed to the public under one of the Sunshine Act's ten exemptions. Much of the data contained in the study was taken from the Sunshine Act meeting notices section of the Federal Register and reflects the information submitted by each agency.

Agencies were contacted by Common Cause and asked to review the list of meetings for any omissions or errors and to provide any corrected information. Where appropriate, corrections offered by the agencies have been incorporated in our data.

Copies of the complete study—"Shadows Over the Sunshine Act: A Common Cause Study of Federal Agency Compliance With the Government in the Sunshine Act of 1976"—are available from the Common Cause press office.

ANNOUNCEMENT OF HEARINGS ON GRAND JURY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of public hearings on Thursday, October 13, to consider H.R. 94.

This bill would establish certain rules with respect to the appearance of witnesses before grand juries in order to better protect the rights and liberties of such witnesses, to require notice to a grand jury of its rights and duties, to provide for independent inquiries by grand juries, to require periodic reports to Congress, and for other purposes.

The hearing will be held in room 2237, Rayburn House Office Building and will commence at 9:30 a.m.

Testimony will be received from: Gary Naftalis, Esq., coauthor of a book on the grand jury system; David Rein, Esq., Coalition To End Grand Jury Abuse; Rod Sager, Esq., former U.S. prosecutor; Hon. William B. Sessions, U.S. district judge, El Paso, Tex.; and Hon. Bruce Babbitt, attorney general, State of Arizona.

LEGISLATIVE GOALS OF NONCOMMISSIONED AND PETTY OFFICERS ASSOCIATION OF U.S.A.

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, it is my privilege today to bring to the attention of my colleagues the legislative goals of the Noncommissioned Officers Association of the U.S.A., the largest group of quasi-military organizations representing active duty noncommissioned and petty officers of the armed services in this country.

As a few of my colleagues probably know, this organization has recently seen fit to name me to be the 1977 recipient of its "L. Mendel Rivers Award for Legislative Action," an award made in remembrance of one of the finest chairman the Armed Services Committee has ever had.

It is an honor to share with you the goals of the NCOA. I hope they will receive the careful consideration of this body:

NON COMMISSIONED OFFICERS ASSOCIATION OF USA 1977–78 LEGISLATIVE GOALS

PREAMBLE

In continuity of the Association's understanding of a patriotic responsibility to the United States of America, we the delegates assembled in convention at San Antonio, Texas, this 28th day of June 1977, rededicate ourselves to the common defense of our beloved Nation and to our fellow comrades-in-arms; the Noncommissioned and Petty Officers of the United States Armed Forces on active duty, retired, or in the reserve or guard, or in a veteran's status; and to the men and women who have served, are serving, or will serve these United States as members of the Army, Navy, Marine Corps, Air Force, or Coast Guard.

In renewing this dedication, we the members of the Non Commissioned Officers Association pledge our devotion, loyalty, and honor toward the fulfillment of these goals.

NATIONAL DEFENSE

In the year subsequent to the Non Commissioned Officers Association of the USA (NCOA) convention assembly of 1976 many national and international events and developments transpired that have placed new and undue stress on further detente with the Soviet Union.

Relations with the U.S.S.R., our most probable adversary, are at a critical level, the coolest since the 1962 Cuban crisis. The incumbent Administration's demand from all world nations to adopt a policy of human rights is not acceptable to the Soviet Union. This has caused a confrontation with the Soviets who believe their internal affairs are their own and not the concern of the United States of America.

The Soviets are denouncing United States' policies and continue to warn American officials that they will reject a compromise in the nuclear arms race. They also continue to amass greater strength in conventional forces while the United States haggles over the high cost of defense, manpower and the necessary production of strategic and conventional weapons. Meanwhile, the Soviets provide an urgent threat in both Africa and Europe.

The overall ambitions of the Soviet Union, coupled with other alarming worldwide factors such as nuclear proliferation, dwindling energy resources, over-population, economic instability, and racial conflict, place greater emphasis on the United States to maintain a military defense second to none.

Therefore, the Non Commissioned Officers Association of the USA (NCOA) commits itself to increased efforts in urging the Congress and the President of the United States to rebuild U.S. military strength to a position of relative superiority.

MILITARY PERSONNEL

The Non Commissioned Officers Association of the USA (NCOA) again this year sounds a warning to the Nation that the unwar-

ranted and unnecessary attacks on military personnel have reached a dangerous level.

Although officials of the Department of Defense and the military departments are promising to do what they can to halt the erosion of pay, allowances, and benefits, Congress, with some suggestion from the incumbent Administration, continues to act to reduce or terminate certain emoluments.

We are concerned and alarmed that the Commander-in-Chief of the U.S. Armed Forces has demeaned honorable service in the military by commissioning acts of pardon or forgiveness to persons who failed to give their best to the Nation and their fellow countrymen.

We are concerned and alarmed that despite overwhelming support for military commissary subsidies there exists a determined effort by certain elements to phase-out these appropriations. The justification is that military commissaries add nothing to the defense of the Nation; however, Com-Stores continue to be of value in strengthening the morale and welfare of our military personnel—and military manpoyer is the lifeblood of our Nation's defense.

We are also concerned and alarmed that military medical and dental care and CHAMPUS programs lack the support of Congress. More and more military retirees and their dependents are being denied these benefits that are of a moral obligation on the part of the federal government.

We are also concerned and alarmed that the Commander-in-Chief of the U.S. Armed Forces and certain elements of Congress are critical of retired military personnel now employed by the federal government and are suggesting or proposing inequitable legislation that denies military retired pay to future federal employees.

For the first time in three decades, young men turning 18 years of age no longer need to register for possible military service. Full reliance is now on the success or failure of the All Volunteer Force (AVF) concept.

Yet, larger appropriations for personnel recruitment programs are becoming questionable. The AVF has scored a shortfall not only in the active forces numbering some 30,000 but in the Reserve and National Guard for more than 80,000.

Today the U.S. Armed Forces are at their lowest strength since the Korean War. Shortages and reductions in manpower place greater demands on fewer people. Between this and the steady erosion of benefits, more real than perceived, U.S. military personnel are thinking more and more of possible relief and protection through unionization.

Therefore, the Non Commissioned Officers Association of the United States of America (NCOA) commits itself to actively oppose any and all efforts to further erode pay, allowances, and benefits promised to or earned by personnel of the U.S. Armed Forces whether active, retired, or in the Reserve or National Guard.

Further, the Association is charged to petition the incumbent Administration and the Congress and to actively work: to maintain adequate military force strengths; to provide equity in the law as it pertains primarily to military enlisted personnel and to military personnel in general; to oppose unionization of military personnel; to support legislation that fulfills the moral obligations of the government to its military community; to terminate any further actions to demean or profane honorable service in the U.S. Armed Forces or to erode additional emoluments for those who are serving or have served in the U.S. Armed Forces.

Also, the Association shall initiate, propose, enjoin and program its legislative activities to fulfill its commitment to the men and women of the U.S. Armed Forces.

VETERANS AFFAIRS

The Non Commissioned Officers Association of the USA (NCOA) continues to support the veterans' community by providing assistance to those who seek its available services. Additionally, the Association will concern itself with veterans' affairs legislation that is related to its eligible and existing membership.

Therefore, the Non Commissioned Officers Association of the USA (NCOA) is committed to the pursuit of necessary and equitable legislation for the veterans' community.

VETERANS EMPLOYMENT

The Non Commissioned Officers Association of the USA (NCOA) shall continue to support the veterans' community by providing assistance to the veteran, his or her family and other eligibles, by advocating a strong stand in retaining the veterans' preference in Federal, State, and Local governments those programs of employment activity through the U.S. Department of Labor's Veterans Employment Service (VES) that are mandated by legislation and pursuant to Title 38, U.S. Code, Chapters 40, 41 and 42 as pertains to CETA, HIRE, and the National Outreach and Public Information program.

And further, that the Association shall support the recent legislation to upgrade the U.S. Department of Labor's VES and provide for the position of a Deputy Assistant Secretary of Labor for Veterans Employment whose authority and responsibility is commensurate with other Deputy Assistant Secretaries within the U.S. Department of Labor.

Therefore, the Non Commissioned Officers Association of the USA (NCOA) resolves to support its veterans' employment goals with every resource available to the Association's employment and legislative departments.

GENERAL

The membership assembled commits the Association to continue its efforts in behalf of previous conventions' legislative goals and resolutions that are still active and necessary for the well-being of the membership; the Noncommissioned and Petty Officers Corps of the U.S. Armed Forces and the military and veterans' community.

Further, the Association shall have the mandate of this assembly to actively support or oppose any legislation, where convenient and necessary but not in competition with priority commitments, that is or is not in the best interests of the Association, its membership and/or the military and veterans' community.

THE CHARITIES DISCLOSURE BILL

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, very early in the year, our distinguished colleague from California, the Honorable CHARLES WILSON, introduced H.R. 41, the charities disclosure bill. It is now late in the year. Unfortunately, the bill has not advanced. It is still in the House Committee on Post Office and Civil Service to which it was referred. It appears that no further action is anticipated this session. A similar lack of support was received by H.R. 10922, introduced in the last Congress with the same goals. It would require organizations soliciting charities to disclose some basic information on how the money is to be spent. It would protect the American public and the responsible charities from money-making schemes and operations. It has been estimated that in a large percentage of such organizations, less than 10 percent of the money raised goes to those which the organization claims to benefit.

There are hundreds, even thousands of large and small charitable organizations in this country. The number is growing. It is estimated that contributions solicited by these organizations now total more than $30 billion a year. A large percentage of these organizations have worthwhile goals and are operated in a sound manner. Unfortunately, in the case of some organizations, fraud and misrepresentation creeps into their programs. H.R. 41 has such fraud and misrepresentation as its target. without subjecting legitimate charities to unnecessary and expensive reports or procedures.

In essence, H.R. 41 would require a solicitation to be accompanied by a statement telling how the donation will be used, the proportion of the money collected which will be spent on administrative costs, versus the proportion which will actually go to the charity itself, and an offer to provide further information if requested. Clearly, such disclosure gives the potential donor a greater ability to choose those charities which he or she feels are deserving of support.

The public should have the protection this bill would permit. It would protect the public and reputable charities from unscrupulous charity operators who have given philanthropy a bad reputation in recent years. It has been strongly endorsed by a number of well-known charitable organizations.

TILTING THE LABOR LAW

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House is in the process of approving legislation which significantly changes a number of labor laws now on the statute books. It has particular application to the National Labor Relations Board and it makes major changes in the method of operations of that organization. I have serious concern regarding this bill and I am particularly disturbed by constant reference to it as an "anti-South" bill.

Unquestionably, it would tilt NLRB more toward organized labor. Organized labor deserves fair and equal treatment, but considerable harm could be done to free enterprise and the competitive system if the laws affecting labor were too strongly oriented to benefit organized labor.

The bill was discussed in a candid and comprehensive manner by the Washington Star in an editorial published October 5. It is entitled, "Tilting the Labor Law." I insert it in the CONGRESSIONAL RECORD:

TILTING THE LABOR LAW

The National Labor Relations Act was passed 42 years ago, in the midst of the Great Depression, to give industrial workers the right to organize to bargain collectively. It

was not intended to be a lever to force employes into unions.

But a "reform" package currently under consideration by the House might well tilt the law in the direction of forced unionism.

This is the bill that leaders of organized labor want above all others in the 95th Congress. Why? Because they believe it will make it easier to organize non-union industries, particularly in the South.

The main thrust of the bill is to speed elections among workers on whether they want to unionize and to penalize employers severely for violations of labor laws.

Elections would have to be held within 15 days after petitions are filed by a majority of workers, and within 45 days after petitions are filed by 30 to 50 percent of workers. Employers, of course, should not be allowed to drag out the election process unduly but the deadlines proposed hardly give adequate time for employers to argue their side and for employes to make considered judgments.

Among the bill's penalty provisions is one that would require double back pay, rather than the straight back pay provided by existing law, to workers deemed by authorities to have been fired illegally for union organizing activity. Opponents argue, correctly in our opinion, that the law is not intended as a deterrent or to provide recompense for suffering but as a means of making an illegally fired employe financially whole.

Another provision would authorize the National Labor Relations Board to bar companies that willfully violate final NLRB orders from government contracts for three years. Such a procedure not only would penalize employers but would defeat the purpose of the bill, which is to protect employes. Fewer contracts mean fewer jobs.

Opponents argue that a major shortcoming is that the bill does not address coercive and illegal union activities. Alternate legislation introduced by Rep. John Erlenborn, R-Ill., and supported by business groups, would require secret ballots in determining whether employes want union representation and on whether to call or maintain a strike, would sharply restrict a union's ability to fine its members, would bar union payroll check-off for political purposes and would broaden the range of unfair labor practices by unions.

Not only has the Erlenborn bill been shuffled into oblivion but House leaders sent the labor-backed bill to the floor under a "closed rule" to prevent any such amendments being offered. Amendments were limited under the "closed rule" to issues addressed specifically in the bill before the House.

The bill before the House was written by friends of organized labor, and some of its supporters make no bones about their hope that it will lead to the end of open shops. Frank Thompson Jr., chairman of the House Labor subcommittee and sponsor of the bill, was quoted recently as saying: "I hope this bill will . . . protect workers . . . by doing away with open shop havens which entice industry with the siren song of cheap and docile labor."

The danger in the bill is that it could so overload the National Labor Relations Act on the side of the unions that employers might decide it simply would not be worthwhile to resist unionizing efforts. If employers find it easier to deliver their employes to unions than to argue the case against them, where then is there freedom for workers to join or not to join a union?

REINSTATING DETAILED MINUTES OF THE FEDERAL RESERVE SYSTEM'S OPEN MARKET COMMITTEE.

(Mr. HANNAFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANNAFORD. Mr. Speaker, today along with my distinguished colleagues Representatives JOHN J. CAVANAUGH, JIM HANLEY, JIM MATTOX, PARREN MITCHELL, MARY ROSE OAKAR, JERRY PATTERSON, and BRUCE VENTO, I am sponsoring legislation to reinstate detailed minutes of the Federal Reserve System's Open Market Committee. The Federal Open Market Committee (FOMC) serves as the monetary policy formulating body of the central bank and its decisions affect every citizen in the Nation.

With the FOMC's decision to discontinue these minutes in May 1976, the Board announced that its brief summaries of FOMC activities—the records of policy action—would be expanded somewhat and that their release would be expedited. The prompt release of FOMC records of policy action should be encouraged and the Board is to be commended for that decision.

However, these summaries do not suffice as complete records for future research on monetary policy decisions. This aspect of the termination of detailed FOMC minutes is a justifiable concern of the academic community and of congressional oversight committees involved in analyses of monetary policies. Additionally, these minutes can serve as useful references to individual Open Market Committee members. Furthermore, Mr. Speaker, such documentation promotes accountability on the part of the officials who serve on one of the Government's most vital economic policysetting units.

Mr. Speaker, the merits of this legislation, therefore, are evident; and its provisions in no way attempt any politicization of the Federal Reserve System. Required detailed minutes of FOMC meetings would be protected in our legislation from premature disclosure by delaying their release until 3 years after the date of the meetings to which they relate. However, the FOMC would not be prohibited from the disclosure of any part of the minutes prior to the expiration of the 3-year period.

Mr. Speaker, this legislation is clearly in the public interest and encourages accountability on the part of policymakers in the Federal Government. Equally important, this measure asserts that responsible public officials should be willing to go on record and to be held accountable for their decisions.

HEALING THE SCARS OF THE VIETNAM WAR

(Mr. WEISS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WEISS. Mr. Speaker, with the arrival in New York City of Vietnam's new delegation to the United Nations, another step has been taken toward healing the scars remaining from the Vietnam war. It is with deep regret, therefore, that I read a September 28 statement in the CONGRESSIONAL RECORD by the gentleman from Illinois (Mr. MICHEL) and a September 29 "Dear Colleague" from the gentleman from Florida (Mr. YOUNG).

Both men were unfairly critical of a September 26 ceremony in New York that welcomed the new Vietnamese U.N. delegation to the United States and called on President Carter to offer financial assistance for Vietnam's reconstruction. The gentlemen were especially unhappy because Mr. Sam Brown, the Director of ACTION, attended the ceremony and spoke in favor of aid to Vietnam.

In discussing the ceremony, the gentlemen's comments were ill-timed, unfriendly, and inflammatory, and served only to open old wounds. I believe their actions reflect poorly on our country. Individual Americans, such as the 2,500, including Mr. Brown, former Attorney General Ramsey Clark, and myself who attended the New York reception, were extending the American hand of friendship and attempting to fulfill a national commitment our country made near the end of that tragic war when the Nixon administration promised to help rebuild that war-torn country.

The Vietnam war was a horrible chapter in American history. Attacks such as those engaged in by Mr. MICHEL and Mr. YOUNG are only a painful reminder of all the destruction that took place during those years, not only to the country of Vietnam but to the American conscience. Now is a time for rebuilding, not tearing down, Vietnam and our ties to its people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. DENT (at the request of Mr. WRIGHT), for an indefinite period on account of medical reasons.

To Mr. COTTER (at the request of Mr. WRIGHT), for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program, and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 5 minutes, today.

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. BAUMAN, for 5 minutes, today.

Mr. TRIBLE, for 10 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. CORNWELL) to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PIKE, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mr. HOLTZMAN, for 15 minutes, today.

Mr. PREYER, for 5 minutes, today.
Mr. EILBERG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MOORE) and to include extraneous matter:)

Mr. COLLINS of Texas.
Mr. ARCHER.
Mr. BOB WILSON.
Mr. DERWINSKI in two instances.
Mr. CUNNINGHAM in two instances.
Mr. ANDERSON of Illinois.
Mr. ASHBROOK in three instances.
Mr. WYDLER.
Mr. SAWYER.
Mr. RUDD.
Mr. FRENZEL in three instances.
Mr. FINDLEY.
Mr. RUPPE.
Mr. WHALEN.
Mr. CARTER.
Mr. ABDNOR in three instances.
Mr. YOUNG of Alaska.

(The following Members (at the request of Mr. CORNWELL) and to include extraneous matter:)

Mr. CORRADA.
Mr. MONTGOMERY.
Mr. OTTINGER.
Mr. RODINO.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MAZZOLI.
Mr. THOMPSON.
Mr. BLANCHARD in two instances.
Mr. SIMON.
Mrs. SPELLMAN.
Mr. MINETA.
Mr. DRINAN.
Mr. THORNTON.
Mr. PEASE.
Mr. KOSTMAYER.
Mr. BEDELL.
Mr. LLOYD of California.
Mr. FORD of Michigan.
Mr. PICKLE.
Mr. HANNAFORD.

RECESS

The SPEAKER pro tempore. The Chair will observe that the House has completed its business and, without objection, the House will stand in recess subject to the call of the Chair to await a message from the Senate.

There was no objection.

Accordingly (at 3 o'clock and 24 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 o'clock and 42 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 372. Concurrent resolution providing for an adjournment of the House from October 6 until October 11, 1977.

ADJOURNMENT TO TUESDAY, OCTOBER 11, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of House Concurrent Resolution 372, 95th Congress, the Chair declares the House adjourned until 12 o'clock noon on Tuesday, October 11, 1977.

Thereupon (at 3 o'clock and 43 minutes p.m.), pursuant to House Concurrent Resolution 372, the House adjourned until Tuesday, October 11, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2523. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting notice of the Defense Department's intention to obligate funds available in the Army Stock Fund for additional war reserve inventories, pursuant to section 735 of Public Law 94–419; to the Committee on Appropriations.

2524. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–83, "To enact Regulation 73–22, A Regulation Governing Human Rights," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2525. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the views of the Canadian Government on section 602 of the Tax Reform Act of 1976, concerning the deductability of expenses for conventions held outside the United States; to the Committee on Ways and Means.

2526. A letter from the Comptroller General of the United States, transmitting a report on the U.S. Great Lakes commercial fishing industry (CED–77–96, September 30, 1977); jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. Report on allocation of budget totals to subcommittees (Rept. No. 95–666). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 819. Resolution providing for the consideration of House Resolution 766. Resolution providing for the reform of the administrative, organization, and legislative management services of the House of Representatives, and for other purposes (Rept. No. 95–667). Referred to the House Calendar.

Mr. TEAGUE: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1978 (Rept. No. 95–668). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 820. Resolution providing for the consideration of H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949. (Rept. No. 95–669). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL (for himself, Mr. HEFNER, Mrs. LLOYD of Tennessee, Mr. WHITEHURST, Mr. SATTERFIELD, Mr. ROBERT W. DANIEL, Jr., Mr. DAN DANIEL, and Mr. GUDGER):

H.R. 9461. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Overmountain Men Victory Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. CUNNINGHAM (for himself, Mr. KINDNESS, Mrs. SPELLMAN, Mr. BADHAM, Mr. GUYER, Mr. PRITCHARD, Mr. EILBERG, Mr. ROE, Mr. DERWINSKI, Mr. PANETTA, Mr. STANGELAND, Mr. BEVILL, Mr. MURPHY of Pennsylvania, Mr. CRANE, Mr. HARRINGTON, and Mr. BURKE of Florida):

H.R. 9462. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. KETCHUM, Mr. WALGREN, Mr. SPENCE, Mr. MARRIOTT, Mr. KINDNESS, Mr. BUCHANAN, Mr. DAN DANIEL, Mr. WALKER, Mr. EILBERG, Mr. CORCORAN of Illinois, and Mr. MANN):

H.R. 9463. A bill to assure that the policies of the executive branch of the Government of the United States protect employment opportunities for U.S. citizens, and for other purposes; jointly, to the Committees on Education and Labor, and Government Operations.

By Mr. DON H. CLAUSEN (for himself, Mr. JOHNSON of California, Mr. HARSHA, Mr. ROBERTS, Mr. SNYDER, Mr. ANDERSON of California, Mr. ROE, Mr. BREAUX, Mr. GINN, Mr. OBERSTAR, Mr. NOWAK, Mr. STUMP, Mr. WALSH, Mrs. PETTIS, and Mr. LAGOMARSINO):

H.R. 9464. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. HANNAFORD (for himself, Mr. CAVANAUGH, Mr. HANLEY, Mr. MATTOX, Mr. MITCHELL of Maryland, Ms. OAKAR, Mr. PATTERSON of California, and Mr. VENTO):

H.R. 9465. A bill to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings be released to the general public 3 years after the date of the meeting to which they relate; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KEMP:

H.R. 9466. A bill to reaffirm the use of our national motto on currency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KETCHUM:

H.R. 9467. A bill outlining procedures by which a change in status may be considered for any member of the uniformed services who is in a missing or POW status after the year and a day mandatory review under sections 555 and 556 of chapter 10, title 37, United States Code while serving in Southeast Asia; to the Committee on Armed Services.

By Mr. LAFALCE:

H.R. 9468. A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director relationships between depositary institutions, to amend the Federal Deposit Insurance Act, and to encourage officials of Federal agencies responsible for the supervision of financial institutions to complete their terms of office, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 9469. A bill to amend the Emergency School Aid Act with respect to eligibility for assistance; to the Committee on Education and Labor.

By Mr. LEDERER (for himself, Mr. BADILLO, Mr. RANGEL, Mr. EDGAR, Mr. CORRADA, Mr. GUYER, Mrs. HECKLER, Mr. DAN DANIEL, Mr. EILBERG, Mr. SCHULZE, Mr. BEDELL, Mr. MICHAEL O. MYERS, Mr. VENTO, Mr. MURPHY of Pennsylvania, Mr. COHEN, Mrs. SPELLMAN, Mr. MCCORMACK, Mr. RINALDO, Mr. ERTEL, Ms. HOLTZMAN, Mr. WAXMAN, Mr. BUCHANAN, Mr. DUNCAN of Oregon, Mr. D'AMOURS, and Mr. MAGUIRE):

H.R. 9470. A bill to amend the Tariff Act of 1930 with respect to the marking of wearing apparel assembled abroad from U.S. products exported for purposes of such assembly; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. NIX, Mrs. SPELLMAN, Mr. UDALL, Mr. CHARLES H. WILSON of California, Mr. FORD of Michigan, Mr. LEHMAN, Mr. HARRIS, Mr. SOLARZ, Mr. HEFTEL, Mr. HOWARD, Mr. RYAN, Mr. LEACH, Mr. ROUSSELOT, and Mr. GILMAN):

H.R. 9471. A bill to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. HEFNER, Mr. RAHALL, Mr. LLOYD of California, Mr. MONCALIO, Mr. MCFALL, Mr. YOUNG of Missouri, Mr. SNYDER, Mr. DON H. CLAUSEN, and Mr. GOLDWATER):

H.R. 9472. A bill to amend the Federal Aviation Act of 1958 to authorize U.S. international air carriers to carry domestic traffic between U.S. cities on flights operated in foreign air transportation; to the Committee on Public Works and Transportation.

By Mr. MINISH:

H.R. 9473. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MITCHELL of Maryland:

H.R. 9474. A bill to amend the Davis-Bacon Act to provide that a laborer or mechanic hired by a contractor shall be paid appropriate mechanics' or apprentices' wages for periods during which such laborer or mechanic uses the materials, equipment, or tools of the trade involved, and for other purposes; to the Committee on Education and Labor.

By Mr. NEDZI (for himself, Mr. LE FANTE, Mr. MCKAY, Mr. TSONGAS, Mr. MCDADE, Mr. GAYDOS, Mr. KETCHUM, Mr. LEHMAN, Mr. LEGGETT, Mr. WALGREN, Mr. HANLEY, Mr. MCFALL, Mr. WALSH, Mr. SARASIN, Mr. MOAKLEY, Mr. FASCELL, Mr. EDGAR, Mr. WOLFF, Mr. RINALDO, Mr. LLOYD of California, Mr. MARKEY, Mr. CHARLES H. WILSON of California, Mr. FLOOD, and Mr. RYAN):

H.R. 9475. A bill to amend the Local Public Works Capital Development and Investment Act of 1976 to authorize funds for certain smaller cities and townships; to the Committee on Public Works and Transportation.

By Mr. NEDZI (for himself, Mr. EARLY, Mrs. HECKLER, Mr. FISH, Mr. HARRINGTON, Mr. OTTINGER, Mr. DANIELSON, Mr. MARKS, Mr. MILLER of California, Mr. WEAVER, Mr. CUNNINGHAM, Mr. BEARD of Rhode Island, Mr. PEPPER, Mr. HANNAFORD, Mr. MOFFETT, Mr. KAZEN, Mr. THOMPSON, Mrs. MEYNER, Mr. ST GERMAIN, and Mr. BURKE of Florida):

H.R. 9476. A bill to amend the Local Public Works Capital Development and Investment Act of 1976 to authorize funds for certain smaller cities and townships; to the Committee on Public Works and Transportation.

By Mr. O'BRIEN (for himself, Mr. BURGENER, and Mr. GILMAN):

H.R. 9477. A bill to amend the Civil Rights Act of 1964 to make it unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

By Mr. SAWYER:

H.R. 9478. A bill to amend title 18 of the United States Code to provide penalties for certain activities relating to the taking of children by parents from legal custodians; to the Committee on the Judiciary.

By Mr. SEIBERLING (for himself, Mr. BONKER, Mr. BRECKINRIDGE, and Mr. WALGREN):

H.R. 9479. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

By Mr. SKUBITZ:

H.R. 9480. A bill to amend the act of August 31, 1965 commemorating certain historical events in the State of Kansas; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR:

H.R. 9481. A bill to increase the authorization of appropriations for the development of Wilson's Creek National Battlefield, Mo.; to the Committee on Interior and Insular Affairs.

By Mr. THORNTON:

H.R. 9482. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture.

By Mr. TRIBLE:

H.R. 9483. A bill to amend the Small Business Act to establish in the Small Business Administration a Small Business Extension Service; to the Committee on Small Business.

By Mr. UDALL:

H.R. 9484. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 9485. A bill to amend title 5, United States Code, to credit time spent in the Cadet Nurse Corps during World War II as creditable service for civil service retirement; to the Committee on Post Office and Civil Service.

By Mr. BINGHAM (by request):

H.R. 9486. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; to the Committee on International Relations.

By Mr. BAUMAN (for himself, Mr. WAMPLER, Mr. SEBELIUS, Mr. FINDLEY, Mr. THONE, Mr. SYMMS, Mr. JEFFORDS, Mr. GRASSLEY, Mr. MOORE, Mr. ANDREWS of North Dakota, Mr. ROBINSON, Mr. JOHN T. MYERS, Mr. STANGELAND, Mr. ASHBROOK, and Mr. LAGOMARSINO):

H.J. Res. 615. Joint resolution ordering the President of the United States, the Secretary of Agriculture and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on International Relations.

By Mr. HYDE (for himself and Mr. SCHULZE):

H.J. Res. 616. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. WALKER):

H.J. Res. 617. Joint resolution designating the week in each year during which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT (for himself, Mr. RHODES, Mr. BEDELL, Mr. JOHN T. MYERS, Mr. PREYER, Mr. MONTGOMERY, Mr. BRINKLEY, Mr. ROUSSELOT, Mr. QUIE, Mr. BONKER, and Mr. SKELTON):

H.J. Res. 618. Joint resolution to express the sense of Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the National Day of Prayer for the year 1977, and respectfully to request that the President, under the provisions of Public Law 82–324, issue a proclamation designating such date as a National Day of Prayer for the Year 1977; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. BEARD of Tennessee, Mr. BLOUIN, Mr. BYRON, Mr. ROBERT W. DANIEL, Jr., Mr. DELANEY, Mr. DORNAN, Mr. DEVINE, Mr. EILBERG, Mr. FISH, Mr. KETCHUM, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Ms. MIKULSKI, Mrs. MEYNER, Mr. PRICE, Mr. QUIE, Mrs. SPELLMAN, Mr. SKUBITZ, Mr. SPENCE, Mr. STANGELAND, Mr. TREEN, Mr. WHITE, Mr. CHARLES WILSON of Texas, and Mr. WYDLER):

H. Con. Res. 373. Concurrent resolution to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia to the Committee on International Relations.

By Mr. GILMAN (for himself, Mr. BOB WILSON of California, Mr. YOUNG of Florida, and Mr. ZEFERETTI):

H. Con. Res. 374. Concurrent resolution to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia; to the Committee on International Relations.

By Mr. MOTTL (for himself, Mr. APPLEGATE, Mr. LUNDINE, Mr. MADIGAN, Mr. BROOMHEAD, Mr. QUIE, Mr. MURTHA, Mr. NEDZI, Mr. FRENZEL, Mr. FARY, Mr. BROOMFIELD, Mr. HYDE, Mr. TRAXLER, Mr. BLANCHARD, Mr. ANNUNZIO, Mr. MURPHY of Illinois, Mr. DERWINSKI, Mr. METCALFE, Mr. ZABLOCKI, Mr. DINGELL, Mr. GUYER, Ms. MIKULSKI, Mr. BROWN of Ohio, Mr. ASHBROOK, and Mr. LATTA):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress that the proposed toll increases on the St. Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

By Mr. LONG of Louisiana (for himself, Mr. SISK, and Mr. BROOKS):

H. Res. 821. Resolution amending the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House; to the Committee on Rules.

By Mr. THOMPSON:

H. Res. 822. Resolution dismissing the election contest of Elsa Debra Hill and Felix J. Panasigui against William Clay; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

276. The SPEAKER presented a memorial of the Legislature of the State of California, relative to workers' compensation; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 9487. A bill for the relief of Edward J. Shea; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 9488. A bill for the relief of Roselyn Garcia Veloria Capriano; to the Committee on the Judiciary.

By Mr. STOCKMAN:

H.R. 9489. A bill for the relief of Pik Yee Tang; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

285. The SPEAKER presented a petition of Local 103 of Greater Boston, International Brotherhood of Electrical Workers, Dorchester, Mass., relative to the Labor Law Reform Act, which was referred to the Committee on Education and Labor.

SENATE—*Thursday, October 6, 1977*

(Legislative day of Wednesday, October 5, 1977)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God who rulest from everlasting to everlasting, we thank Thee that Thou hast given us a part in shaping the future of this Nation and the world. Give us the needed grace and the wisdom to do what must be done. Spare us from doing the wrong things.

When we cannot see the distant scene help us to do with courage and faith what can be done.

Keep us hopeful, resolute, and steadfast. Confirm our trust in the triumph of justice and the invincibility of love. Grant us to know that amid the uncertainties of our time, Thine alone is the kingdom, the power, and the glory forever and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 6, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, October 5, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 5 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, the Senate at 8:48 a.m., on Thursday, October 6, 1977, adjourned until 8:48 a.m., the same day.

AFTER ADJOURNMENT

THURSDAY, OCTOBER 6, 1977

The Senate met at 8:48 a.m., pursuant to adjournment, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routinue morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If there be no further morning business, morning business is closed.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Now, Mr. President, do we have some special orders?

The ACTING PRESIDENT pro tempore. After the leaders have been recognized, the Senator from Alabama (Mr. ALLEN) is to be recognized.

Mr. ROBERT C. BYRD. Mr. President, I do not have any need for my time and I yield it back.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BAKER. I thank the Chair for recognizing me. I have a request for part of my time under the standing order by another Senator who is not now in the Chamber. If there is no problem, I would like to suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I would like to have my time returned to me and I will assist the distinguished minority leader in the utilization of that time for the quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

PRIVILEGE OF THE FLOOR—S. 2114

Mr. BAKER. Mr. President, I ask unanimous consent that during the continuation of the pendency of this measure and any rollcall votes on it two members of my staff, Mr. Everett Wallace and Mr. Rick Garrett, be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Kansas such time as may remain to me under the standing order.

The ACTING PRESIDENT pro tempore. The Senator from Kansas (Mr. DOLE) is recognized.

Mr. DOLE. I thank my distinguished colleague.

THE PANAMA CANAL TREATY CABLE

Mr. DOLE. Mr. President, I want to take just a few minutes to comment on a matter of grave concern to me and—

I hope—to many of my colleagues. That is the question of just how far this administration is prepared to go to protect itself from embarrassment over the proposed Panama Canal Treaties.

On Monday of this week, I was handed a copy of a September 29 State Department cable which gave me great cause for concern. The cable contained information—previously unavailable to either the Senate or the general public—which conflicted with testimony presented by key administration witnesses on the canal treaties last week. That was testimony on American rights under the proposed treaties to protect our defense interests.

The cable verified what many of us suspected all along: That American and Panamanian negotiators have far different interpretations of just what rights we would keep under the permanent neutrality treaty provisions.

Since this vital question bears directly on the Senate's decision as to whether the treaties should be ratified, I felt it should be brought to the attention of the Foreign Relations Committee. And since the administration has been promoting an entirely different interpretation of these treaties before the American people, I felt they were entitled to know the full story, as well.

Yesterday, State Department sources contacted the Ethics Committee staff to inquire as to whether my action in releasing the cable might have violated some Senate rule or ethic. I resent and reject that clear effort at intimidation.

A "CONFIDENTIAL" CABLE

My copy of the cable indicated it had been classified "confidential" and for "limited distribution." Why it was classified in this way, I cannot begin to understand.

The cable contained no military secrets. Instead, it described a Panamanian negotiator as "disturbed" over descriptions of the treaties being promoted by American officials. It was obvious that its release would in no way endanger our national security. In fact, its release appeared more likely to enhance our national security by revealing just how much the treaties jeopardize our interests in the Panama Canal passageway.

So why was this cable—which directly contradicted administration testimony on treaty "protections"—to be so carefully guarded from Congress and the public?

I am forced to conclude that this cable was classified for narrow, short-term political advantage. Contradictory information about America's defense rights under the treaties was being concealed under a questionable "confidential" classification. If this was not intentional misuse of a "national security" cover, then it was at best an error in judgment that deserved correction.

Whatever became of the "open government" that our President promised during his campaign last year? If there is one thing that the people of this Nation have learned from the mistakes of the past, it is that political coverups at the highest levels of Government are themselves hazardous to our national security. Indeed, we should ask: Just whose confidence was at stake in this "confidential" cable? Was it the administration's, or was it the confidence of the American people in the integrity of administration spokesmen?

Whether intended to advance a cause, or to prevent political embarrassment, government coverups have no place in the American system.

PUBLIC ACCESS TO FACTS

What else do we not know about the proposed Panama Canal treaties? What else is being "glossed over," because full disclosure might embarrass the Carter administration? I believe the State Department should provide the Senate with copies of all documents, memorandums, and cables, I might say, as requested by the distinguished minority leader on more than one occasion, anything exchanged between our two countries during the negotiations. And I commend the Foreign Relations Committee and the distinguished minority leader, Senator BAKER, for their repeated efforts to obtain these materials.

In my opinion, the greatest danger that could arise from the Panama Canal issue would be in giving the public too little information about these treaties, not too much.

I challenge the Carter administration to lay all its cards on the table, and let the American people judge for themselves whether or not the Panama Canal treaties are worthy of their support. Only then can the Senate proceed confidently in its ratification responsibilities next year.

Mr. President, I yield.

Mr. BAKER. Mr. President, I commend the distinguished junior Senator from Kansas for his statement this morning, for his interest in this matter, and for his service to the country.

On the first day of the hearings before the Foreign Relations Committee I indicated that I had decided not to decide how I will vote on those treaties until those hearings were finished.

At that time Secretary Vance, Ambassador Linowitz and Ambassador Bunker testified. I brought to the attention of those three gentlemen certain statements attributed to high Panamanian officials which seemed at variance with their interpretation, the American interpretation of the treaties, particularly the neutrality treaty as suggested by the Senator from Kansas.

At that time I suggested that the Foreign Relations Committee and indeed the Senate itself as a full constitutional partner in this matter should have full access to the negotiating transcripts, the minutes, the cable traffic, the Presidential review memoranda, and any other document in the possession of the executive department that would aid and assist our reconciling the apparent difference in the interpretation between the American point of view and the Panamanian.

I also said then that if that information was not forthcoming I felt it would seriously prejudice and jeopardize the final advice and consent of the Senate to the ratification of these treaties.

Mr. President, the disclosure yesterday of this cable by the Senator from Kansas, which I think was appropriately brought to the attention of the Senate Foreign Relations Committee, intensifies the absolute requirement that the Senate be given access, on whatever reasonable conditions the executive department may require, to the source material that will enable us to decide how the Panamanians view the interpretation of these treaties, particularly on two points:

One, the expeditious passage through the canal of American war vessels—whether or not that is privileged, priority, or routine; and, two, the right of the United States to intervene unilaterally to protect the regime of neutrality after the year 2000 as contended by the U.S. negotiators and interpreted by the administration.

Mr. President, I believe the Senator from Kansas has done a great service in highlighting this problem.

Moreover, I believe that now, in the face of this new information, it is imperative that the administration give the Senate full access, freely and voluntarily and without any concern for separation of powers or executive privilege or any other legalism, to the source data and material that will permit the Senate as a constitutional partner to make its judgment on these treaties.

Mr. President, I have still not made up my mind on how to vote on these treaties. I am not threatening. I deplore the action of the administration in contacting the Ethics Committee yesterday and I say to them now that if that is the game they are going to play, these treaties are going to be in for a tough time.

I have still not made up my mind, but unless the President of the United States and the Secretary of State decide to give the Senate the material we need to make an honest judgment, now that this matter has been brought to our attention, I believe there is no chance that these treaties will be approved.

Mr. DOLE. Mr. President, I thank the distinguished minority leader, and I will say that I do not understand why the State Department finds it necessary to contact the Ethics Committee to see if the Senator from Kansas may have violated something. It seems to me that they may have violated the confidence of the American people by not disclosing the very documents the Senator from Tennessee has been trying to obtain for 2 or 3 weeks.

Mr. BAKER. I thank the Senator.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, if I have time remaining I am happy to yield to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. ALLEN. Mr. President, if there is no objection, this can come out of my allotted time.

I commend the distinguished minority leader, the Senator from Tennessee, (Mr. BAKER) and the distinguished Senator from Kansas (Mr. DOLE) for the expression of their views with respect to the differing interpretations placed upon the language of the treaty by the Panamanians and by our negotiators.

I believe, however, I differ somewhat from what I perceive to be the position of the distinguished Senator from Tennessee with respect to the method of curing this grievous wound to the treaties. I do not believe it will be sufficient to exchange notes or exchange correspondence between the negotiators. What we have before the Senate is the wording of the treaties, and any extraneous matter, any interpretation that we gather by exchange of notes or exchange of correspondence is not going to remedy the defect in the conflicting interpretations that the negotiators place on it.

This treaty has been faulted. It contains this serious fault, and the only way to cure the fault would be to amend the language of the treaty—not a reservation, not an understanding, but an amendment of the treaty.

We all know the instability of the Panamanian dictatorship; and whereas we might have some sort of understanding in correspondence and exchange of notes between Panama and the United States as to the meaning of the treaty, suppose there is a change in the government down there. Suppose another dictator comes in. Suppose the force of public opinion down there requires them to repudiate any understanding that is reached as to the meaning of this treaty. Why must we have each nation interpret the meaning of a treaty? The meaning ought to be plain and explicit in the language of the treaty itself.

So to suggest that possibly this needs to be straightened out by statements and correspondence is not going far enough. It cannot be straightened out through exchange of notes by the parties. This treaty must be amended.

What happens after the amendment? It goes back for further negotiations. A new treaty has to be entered into. It has to go through the same process this treaty is going through. But in my judgment it would be folly indeed for us to give our advice and consent to the treaty relying upon an exchange of correspondence or notes between the parties. An out and out amendment, stating exactly what the understanding is, must be insisted upon. I believe that the treaties have been faulted beyond repair. I do not believe that the treaty can recover from the damage that has been done by the disclosure of this conflicting interpretation by the parties.

Mr. BAKER. Mr. President, if I have any time remaining under the standing order, I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES—NO. 13

Mr. ALLEN. I thank the Chair. I have already commented on my views as to the conflicting interpretations placed upon the language of the treaty.

The disclosure of this cable is not the first time that it has been apparent that there is a difference of opinion between the interpretation that the Panamanians place on the treaty and the interpretation that the U.S. negotiators place on the treaty, because Dr. Escobar, their chief negotiator, reported to the Panamanian legislative body these very two points of difference of interpretation: That is, first, on the right of the United States to send in troops to defend the canal, the right of the United States to determine when the neutrality of the canal is in danger, Dr. Escobar says that right is not given under the treaty. Second, Dr. Escobar says that the interpretation we place on the expeditious passage of our warships is not the interpretation they place on that. Dr. Escobar says that our ships would just have to get in line with other ships that might be wanting to transit the canal.

Minister Barletta of Panama also raises the same point, and gives a differing interpretation to the language of the treaty. So throughout their government, it is quite obvious that they place a different interpretation on the treaty from that which we place on it.

Suppose they do say, "Well, we are wrong in our interpretation. The gringos," as Dr. Escobar calls us, "are right in their interpretation."

Well, that is not going to stand up. You cannot amend a treaty by exchange of notes. That is just not possible.

Even though the negotiators, the separate teams of negotiators, worked for 13 years on this treaty, I will have to say they did not do a very good job of drafting the language, if it is susceptible of so many different constructions. I believe we can wait another 13 years, Mr. President, while they give attention to redrafting these treaties, and then submit them back to us here in the Senate.

How could there not have been a meeting of the minds? We all know that in a contract—and a treaty is a contract; it is a high level contract, but it is a contract, and as in all contracts, there has to be a meeting of the minds. There has to be an understanding, where both parties have the same understanding, for it to be valid.

A treaty is the same way. If one party leaves the negotiating table and says that the treaty means this, and the other party to the negotiations leaves the negotiating table and says the treaty means something diametrically opposite, we have not had a meeting of the minds. It is elementary as to a contract—and as I say, a treaty is a contract—that you must have a meeting of the minds, and since there has been no meeting of the minds, the treaty has been faulted, as I see it.

So it is going to be necessary to amend this treaty in many particulars. We have got to amend the provision that says that for 23 years we cannot even negotiate with another nation on the building of another canal. Well, we certainly do not want to build another canal in Panama, because we are having to give them this canal, and I assume they would want the other canal. If we cannot negotiate with Panama, whom are we going to negotiate with? Well, we cannot negotiate with anybody under this treaty for 23 years.

I do not know whether the present canal will take care of the traffic for the next 23 years. As I say, we certainly do not want to build Panama another canal at the expense of the American taxpayers. So that has got to be changed.

This treaty needs to be changed in at least seven or eight major particulars.

What would be the effect then? Well, even if the treaty is approved with these major changes in it, it could not then be agreed to by Panama by accepting our amendments. It would require renegotiation of the treaty. The treaty, if amended in these particulars, would be a nullity insofar as being a treaty is concerned. This document so amended, while not valid as a treaty—and Panama could not breathe life into it—would serve as a guideline.

We hear a lot about guidelines here in the Federal Government. This document would serve as a guideline to our negotiators.

They could take this treaty draft as amended by the Senate and they would be armed with the view of the United States Senate in further negotiations.

Well, the Senate ought to have been in on this anyhow, Mr. President. For 13 years, the negotiators negotiated without any consultation, so far as I know, with Members of the U.S. Senate. Nobody knew what was in the provisions. Nobody knew the progress that was being made in the negotiations. It was a carefully-kept secret. That is one of the failures in this negotiating process, that the U.S. Senate, which is supposed not only to consent but to advise, was not given any opportunity to advise in the treaty negotiation process.

President Wilson, at the end of World War I, fell into this very same trap. We have not learned any lessons from the history of the Versailles Treaty. I am a great admirer of President Wilson, but he took upon himself to negotiate the Versailles Treaty. He did not have Senators involved in the negotiations, and when it came back to the Senate, the Senate felt that it was something that they had no part in, and they were just asked to consent to the treaty rather than to advise and consent.

So, Mr. President, after this treaty is amended in these particulars that I speak of, then the Senate would have given some advice to the executive department as to what the people of the United States, speaking through their U.S. Senators, speaking through the Senate of the United States, are willing to accept. So the amendment process is what we need to follow in the Senate with respect to this treaty and let that document, as so amended, serve as the guideline to our negotiators as they negotiate again.

I would be perfectly willing, as a Member of the Senate, to see this annuity that we pay Panama—something like $2.3 million a year now—increased tenfold or even more out of the canal revenues. But I feel that we definitely must keep sovereignty over the Canal Zone. We must keep the operation and management of the canal. We must keep the rights to defend the canal. So I would not object to an overall amendment of this treaty, raising this annuity, but leaving all other provisions of the 1903 treaty in full force and effect. I could conscientiously vote for that.

I do not think we need to pinch pennies. It is not a question of the money involved, though I do not look with favor on this multibillion dollar subsidy that is being arranged in the manner of loans, plus the addition to the annuity. But I do not think we should be too much concerned about the cost of raising the annuity. As I say, I would be willing to see it raised tenfold or more. Let us keep the sovereignty of the zone. Let us continue to operate and manage the canal. Let us continue to defend the canal.

Mr. President, yesterday I reviewed in some detail the events leading up to the passage of the Spooner Act, which directed the President to acquire from the Republic of Colombia perpetual control of a strip of land not less than 6 miles in width from the Caribbean to the Pacific and instructed the President to excavate, construct, and perpetually maintain, operate, and protect an interoceanic canal. Today, I will trace the history of our negotiations with Colombia and with Panama for the purpose of making plain the fact that the United States did not behave improperly in acquiring the Panama Canal Zone and for the further purpose of demonstrating the folly of ratifying these dangerous treaties out of some misplaced feeling of obligation to Panama or out of some vague desire to correct a past wrong which is more imagined than real.

After adoption of the Spooner Act, several months of arduous negotiation ensued between then Secretary of State Hays and Tomas Herran, chargé d'affaires of Colombia. The result was a canal treaty very favorable to the United States. The treaty was concluded and signed by both parties on January 22, 1903, and consented to by the U.S. Senate on March 17 of that same year. The Colombian Senate was called into session on June 20, 1903, to consider the treaty. However, the Colombian Senate declined to give its assent.

Many have assumed that Colombia failed to ratify the Hay-Herran Treaty out of motives of patriotism and national pride. Although to be sure those elements may well have been factors in the debate at Bogotá, careful students of the matter recognize that foremost in the minds of a majority of Colombian senators must have been the fact that the rights of the French company, the so-called New Panama Canal Co., were due to expire in the course of several months and as a result the Colombians would be eligible to receive a $40 million payment scheduled by the United States for payment to the French company for the purchase of its rights, all with the result of increasing Colombia's take from $10 million to $50 million.

So, Mr. President, Colombia, motivated at least in part by greed, decided to gamble by rejecting the Hay-Herran Treaty in the hope that in a few months a better deal, a more lucrative deal, would result. Of course, from Colombia's point of view, the unfortunate outcome was the secession of Colombia's province, Panama, and the negotiation of the treaty of 1903.

A web of outrageous misinformation has been spun by the Department of State and supporting propaganda has been shrilly proclaimed by Panama's dictator, all for the apparent purpose of creating the impression that the United States instigated the Panamanian secession in order to seize control of the Panamanian canal route. I would not be surprised, Mr. President, if even a majority of the Senate has adopted the false belief that the U.S. Navy landed troops and seized the Canal Zone from the Panamanians under duress.

The opposite is the truth. Panama seceded from Colombia under leaders who understood exactly what they were doing. Panama seceded from Colombia entirely out of motives of self-interest, seeking enrichment and the vast benefits destined for the new nation if the United States could be induced to undertake the canal project. Panama argued hard against the Nicaraguan route and actively sought the support and protection of the United States for her secession from Colombia. The United States, on the other hand, did not intervene, did not land troops, and did not prevent the landing of troops from Colombia sent to quash Panama's secession.

Why was the Panamanian revolution entirely bloodless, and why did Colombian troops in Panama rapidly make terms with insurgent forces and in some instances even change sides? The principal reason was near unanimity among Panamanian leaders in their desire to conclude a treaty with the United States for the construction of a canal. These leaders, who effectively controlled Panamanian politics, were Jose Augustin Arango, Dr. Manuel Amador, Frederico Boyd, Nicanor de Obarrio, Carlos C. Arosemena, Manuel S. Espinosa, Tomas Arias, and Ricardo Arias. They each understood that rejection of the Hay-Herran Treaty by the Colombian Senate meant the United States would switch to the favored Nicaraguan route. Panama, in short, would remain a jungle pesthole.

The first meeting of the secession movement was held on July 25, 1903, soon after the rejection by Colombia of the Hay-Herran Treaty. Panamanians always had held the government in Bogota in low regard, but its rejection of the Hay-Herran Treaty was the final straw and animated the secession conspiracy. The uprising occurred on the evening of November 3, 1903, and was conducted entirely by the Panamanian insurgents. The presence of U.S. Naval vessels off Panama City and Colon did, to be sure, inhibit Colombian actions in attempting to retake the province of Panama, but effectively the coup d'etat was accomplished within 24 hours, making Colombian efforts largely unavailing. Many Colombian troops joined the rebels, many others withdrew, and at no time were shots fired by either side.

Thereafter, the successful conspirators formed a provisional government and designated Bunau-Varilla as the new country's negotiator for a canal treaty. Bunau-Varilla was named to this important post because the Panamanian leaders believed correctly that Bunau-Varilla would be in a position to persuade the United States to stand by the Panamanian route, notwithstanding the continued efforts of Senator John Morgan and others in the American government to urge negotiation of a treaty with Nicaragua.

The Treaty of 1903 was signed by Secretary of State Hay and Bunau-Varilla on November 18, 1903. Its provisions were quite similar to the provisions of the Hay-Herran Treaty, save that they contained many amendments offered by Senator Morgan when the Herran Treaty was under consideration in the Senate. These amendments were included in the text of the Treaty of 1903 to preclude Morgan's objections. In any event, the text of the treaty was cabled immediately to the provisional government in Panama and was unanimously approved by the new Republic of Panama on December 2, 1903, before the U.S. Senate acted to give its own assent to the treaty's ratification.

Mr. President, the Republic of Panama was born under the protection of the United States. The Panamanians received from the United States what they most desired: construction of an interoceanic canal by perhaps the only country in the world capable of undertaking that task successfully. The Panamanian economy boomed; the new nation received a tremendous good endowment and was assured of regular gold annuity payments and the benefits of massive U.S. investment.

The lesson taught by this history is simple. Men tend to forget what is convenient to forget and to hold fast to that which is of present value. I trust that the people of the United States will hold fast instead to the facts, will recognize the great and good role our country played in constructing the Panama Canal, and will reject totally the concept that we should adopt these treaties, dangerous to our own national economy, out of motives of shame.

I yield back the remainder of my time.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today, for the purpose only of considering one nomination for the Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2114, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

The Senate resumed consideration of the bill.

(The following proceedings occurred later in the day and are printed at this point in the RECORD by unanimous consent.)

NEW YORK CITY TEACHER ASSIGNMENTS

Mr. JAVITS. Mr. President, I wish to comment on a matter of great concern and importance in the city of New York.

Last month the New York City Board of Education and the U.S. Department of Health, Education, and Welfare signed an agreement which alters the method of assigning teachers to the public schools. I have reviewed this agreement and the background and facts which led to its signing. In my view, the agreement represents a difficult but necessary resolution to an extremely grave situation. New York City had Federal school aid funds at stake of $35 million in 1977 and at least as much in succeeding years. Considering New York City's financial condition, these moneys were vital to the city's educational system.

Working together, representatives of the board and the Office of Civil Rights of HEW overcame what had appeared earlier this year to be an insurmountable obstacle. There has been no validated claim that the New York City Board of Education has acted intentionally to discriminate by race in hiring teachers. But an examination of actual assignments in individual schools showed that assignments had resulted in a segregated faculty. As this violates constitutional protections and civil rights laws, it was imperative that a remedy be sought and achieved.

I can understand the outrage expressed by my colleague, Senator MOYNIHAN, about a week ago in this connection, in connection with this agreement between HEW and the New York City Board of Education. He has great experience both as a teacher and a Presidential adviser on these sensitive issues. Thus, it is understandable and he had every reason to express distress at the assignment of teachers on the basis of race. The provisions of the agreement are indeed offensive to some of our most basic concepts of individual and civil rights. I, too, am repelled by the idea that otherwise qualified individuals would be designated on the basis of race.

Likewise, I can appreciate the comparable view taken by the President of the United Federation of Teachers, a big New York City teachers union, President Albert Shanker, who signed the agreement between the city, the board, and HEW under grave protest. But, the problem was that we were reaping the results of longstanding policies in New York City which had the unintended effect of segregating our public school faculty. The law required New York City to correct it to be entitled to Federal aid to education; the question was how. We were faced with a question if the cure is worse than the disease. Here I must aline myself with the proposition that the cure (the agreement) has a limited application and duration and therefore was to be preferred to the disease. Our task now must be to assure that New York City never again finds itself in a situation which segregates its public school faculty.

Now that the Federal aid is assured, a new New York City mayor should be able to review the case and construct an alternative which is within the legal requirements. I will gladly lend myself to such a course. But as I see no alternative right now, I do not presently see that city authorities or the union of teachers had any other choice than to enter into the agreement which was made.

THE AGREEMENT

Along with new methods of teacher assignments, the agreement maintains some significant safeguards.

The major provisions are:

First. Through affirmative action, the assignment of teachers will reflect the racial composition of teachers in the entire system. Schools have a 3-year period to attain this goal.

Second. The Board must seek a change in State law governing teacher hiring. Testing methods of teacher qualifications will be validated, and hiring lists of qualified applicants will be merged without regard to application date and rank.

Third. The Board will study the relevant qualified labor pool of teachers, and by September 1980 must attempt to have the number of minority teachers and supervisors within the range of existing qualified labor pool.

Fourth. The Board will undertake affirmative action programs for hiring women in supervisory positions.

Fifth. The Board must submit a plan to HEW with annual interim objectives for hiring teachers and supervisors, and report periodically on its progress under this plan.

The safeguards to individuals are equally important.

The Board is not required to lay off any teacher already assigned.

No unqualified teacher may be hired.

The agreement specifically states that it does not establish quotas.

Because of the terrible budget cuts of the last 2 years which stripped the school system of 1 of every 5 teachers, the initial plan is based on the reassignment of 3,500 previously laid off teachers.

Unlike other faculty desegregation agreements in major cities like Chicago and Los Angeles, teachers in established positions were not reassigned in New York City. In order to comply with Office of Civil Rights requirements, other cities agreed to reassign hundreds of teachers from their present positions to new assignments in other schools.

So the agreement did have the result of reassigning 3,500 previously laid off teachers, and this was a development devoutly to be wished. It is one of the reasons why the teachers' union signed the agreement, even under great protest.

RESULTS OF AGREEMENT

First, the HEW Office of Civil Rights has carried out its legal responsibilities, with a voluntary agreement, and without resorting to the final cutoff of Federal funds to the school board.

Second, the Board will act to redesign the selection process for teachers and supervisors to eliminate those aspects which produced a segregated effect. This is to be done within reasonable safeguards as outlined above.

Third, the New York City Board of Education will receive Federal funds previously blocked by alleged noncompliance with civil rights law. At stake was a total of $35 million in Federal funds from the Federal manpower and desegregation assistance programs (Comprehensive Employment and Training Act—CETA; and the Emergency School Assistance Act—ESAA). The New York City schools were entitled to these funds only if they met all legal requirements. Compliance with the Federal civil rights laws is a legal requirement. Thus, the funds were blocked until the Board and HEW could resolve questions about compliance with these laws.

Fourth, the agreement places the New York City school system fully in compliance with Federal civil rights laws regarding assignment of teachers.

LEGAL BASIS

In enforcing civil rights laws, Federal officials are guided by both statutes and relevant court decisions. In the landmark Singleton case, the Federal Fifth Circuit Court of Appeals determined that where previous teacher assignments had resulted in a segregated faculty that affirmative action to restore racial balance is required. This Singleton principle has been upheld by many Federal courts and affirmed by the U.S. Supreme Court in several desegregation decisions, including cases in the North, such as Denver, Colo., and the South, such as Montgomery, Ala. The Office of Civil Rights advises me that this Singleton principle is the legal basis for their agreement in New York.

Mr. President, in conclusion, none of the parties considered this a pleasant situation—and I certainly did not. But segregation is ugly and rooting out its vestiges requires trying decisions by the responsible public officials. That is what happened here.

An editorial of October 1, in the New York Times, sustains the view I have expressed.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD, at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 1, 1977]

THE RACE LOTTERY FOR TEACHERS

The 3,500 recently rehired teachers in New York City are being assigned to schools through two doors, one marked "whites," the other "black and Hispanics." This normally offensive, stigmatizing routine is necessary, according to the Board of Education, to make certain that more whites are assigned to schools with heavy black and Hispanic enrollments and that more blacks end up teaching in schools with mostly white students. The teachers union is complying reluctantly. The deplorable assignment by race is necessary, they add, to satisfy a Federal order for greater integration of teaching staffs and to avoid a cutoff of Federal funds.

The Federal Office of Civil Rights says the order was necessary because the city had for too long hired and assigned teachers by means that either discriminated against minorities or had a segregating effect. The Board of Education denies discrimination, acknowledges imbalances, wishes it had time to apply less distasteful remedies but acquiesced in a three-year schedule of correction—markedly less onerous than any imposed on other cities—to keep the Federal money coming.

The news of this racial lottery brought an intemperate shout from Senator Moynihan that Federal bureaucrats were imposing Hitlerian race laws. Albert Shanker, for the teachers union, railed against a breach of President Carter's promise to oppose racial quotas. The Board of Education writhes in discomfort.

Responsible leadership would have made two things plain. First, that the only issue between Washington and New York is whether past practices sanctioned racial segregation and separation. If so, a remedy is imperative; if not, the Federal finding should have been disputed in court. Second, the choice of remedy was left to the board and union leaders. It was they who decided to deal racially with the relatively few returning teachers instead of subjecting large numbers of them to truly random reassignment and the system to major disruption.

The available evidence suggests that New York schools have not done as well as other cities in recruiting teachers from the pool of qualified minority applicants. It also suggests that minority teachers, once hired, were disproportionately assigned to schools with large minority enrollments. And the situation was aggravated by decentralization. Some of the imbalance was caused by arcane assignment procedures, rigid seniority rules and artificially precise interpretations of test results. And some was caused by the decision to let predominantly black and Hispanic schools hire (mostly black and Hispanic) teachers out of turn and on the basis of a national rather than local test.

The results aroused Federal civil rights officers and they forced the Board of Education to agree to the three-year corrective program. It requires that the number of minority teachers be raised to a range representative of the relevant labor pool—from about 16 percent to more than 20 percent, with plenty of leeway for defensible shortfalls. It also stipulates that the assignments be judged by whether elementary and junior high school staffs are integrated in proportion to the total teacher pool, give or take 5 percent—or a fair excuse.

To meet these targets, the Board of Education decided wisely not to abandon merit testing—although it has not resolved the question of whether its tests impose severe or irrelevant standards, as charged; minority spokesmen prefer examinations of the Educational Testing Service, which schools with mostly minority students have been allowed to use instead. The board also decided wisely not to deprive laid-off teachers of their seniority in favor of minority recruits. That left a choice of reassigning huge numbers of teachers at random, reassigning a smaller number by race, or, as finally decided, reassigning only the returnees by race and calling on other teachers to volunteer for transfer.

That remedy is unpleasant but it is not a quota and certainly not a Nuremberg law. It is distasteful but defensible, since to a considerable degree New York did bring the problem upon itself.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I ask unanimous consent that my colleague may have 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New York is recognized for 5 minutes.

Mr. MOYNIHAN. I thank my colleague from New York, the majority leader, and the Chair.

Mr. President, I fully support Senator JAVITS' proposal that the next mayor of New York City, as he put it, "review this case and construct an alternative which is within the legal requirements." I will certainly join in that effort.

I have not the least difficulty with the finding that the previous teacher assignment procedure in New York was not free of ethnic bias, and that a remedy is in order. My own preference would be for a "random" assignment process, or as close thereto as possible, one in which an individual's "race" plays no part.

Let me state four principles which will guide me in this matter.

First, I am for diversity in our schools, as elsewhere. In 1970, Nathan Glazer and I issued a second edition of "Beyond the Melting Pot." We observed that ethnic relations in our city were growing more rigid as national influences were brought to bear. In place of the variegated and shifting pattern of our long and surprisingly successful experience of diversity, we were succumbing to a crude division of mankind into two categories. The Federal bureaucracy has been called many things. It has never been called subtle.

Second, I believe in affirmative action. I was Assistant Secretary of Labor under President Johnson when the Civil Rights Act of 1964 was passed. I participated in the drafting of Executive Order 11246 which established the affirmative action program. The basic assignment of responsibility was to the Department of Labor, which in turn delegated educational matters to the Department of Health, Education, and Welfare. I have consistently supported this principle, though it is often misunderstood, and sometimes distorted.

Third, I am against quotas. I do not believe that a successful affirmative action program, intended to equalize opportunity and to move us toward a truly "color blind" society, permits a quota system, whether in the assignment of teachers or in other matters. If quotas enter the elementary and secondary school system, the Federal bureaucracy will implacably extend them, first to the City University, then to the other institutions of our city. I believe this would be unfortunate.

Fourth, I expect the unexpected. Government actions almost always produce a result different from the predicted one. There is a sense in which government never knows what it is doing. The only thing it can be certain about are the principles upon which it is proceeding. What arouses me in this matter is that thought that the Federal Government may be accepting the principle that access to the learning and teaching professions can be circumscribed by reason of "race"—whatever that may be. The Federal Government must surely know that any day now, it will be called upon in some tribunal or other to come up with a biological definition of what it means by "black," "white," "Hispanic" and such like. An appalling thought. I will not be satisfied by the predictable protestation by the Federal Government that it means nothing of the sort.

My comments of September 23 have brought many responses from New York citizens. I have been encouraged by the total agreement of these correspondents with my point that teachers in our school system should not be labeled by race.

(This concludes proceedings which occurred later.)

The ACTING PRESIDENT pro tempore. The time for the debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Mexico (Mr. DOMENICI); 2 hours on any amendment in the first degree, except on one amendment each by Mr. GRIFFIN, Mr. GLENN, and Mr. JOHNSTON, on two amendments by Mr. TOWER, on each of which there shall be 1½ hours, and one amendment each by Mr. DURKIN and Mr. FORD, on each of which there shall be one-half hour; with 30 minutes on any amendment in the second degree; and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, for Senator STEVENS' staff, I ask unanimous consent that Steven R. Perles may have the privilege of the floor for today during debate and rollcalls.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to suggest the absence of a quorum, to be charged equally against the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MINE SAFETY AND HEALTH ACT OF 1977—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Williams, I submit a report of the committee of conference on S. 717 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining

industry, to prevent recurring disasters in the mining industry, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1977.)

Mr. WILLIAMS. Mr. President, I am privileged to bring to the Senate the conference report on S. 717, the Federal Safety and Health Amendments Act of 1977. As chairman of the committee of conference, I wish to commend my fellow conferees from the Senate and especially Senator RANDOLPH as well as the leader of the House conferees, the gentleman from Kentucky (Mr. PERKINS) and the manager of the bill in the House, the gentleman from Pennsylvania (Mr. GAYDOS), for their dedication and commitment to improving the safety and health of our Nation's miners.

Mr. President, it is time for us to enact comprehensive new legislation for the protection of our Nation's miners. The United States has one of the worst mine safety and health records of any major mining nation. We have, for too long, paid for our energy and minerals in a dreadful currency of human suffering and death.

However, this new mine safety law, which we are about to enact, will go a long way toward assuring the safety and health of our miners.

Our Nation is now turning to the intensive development of its energy and natural resources. Therefore, it is of the utmost importance that we act now to provide for improved safety and health conditions.

Mr. President, this legislation combines the best features of Senate bill 717 and the House amendment to that bill. Most of the much-needed changes in procedures under the Federal Coal Mine Health and Safety Act of 1969, which were passed by the Senate, have been adopted by the conferees.

I would like to mention some of the principal improvements to our mine safety and health laws which are accomplished by the conference substitute:

An expedited procedure for the development and promulgation of standards:

In the past, standard making has been slow and complicated. The conference report will go a long way toward speeding up and streamlining this process. Time limits are placed on each step of the process consistent with the need to develop a complete understanding of the issues. And, once the need for a standard is recognized, it can be developed and promulgated within a reasonable period of time.

Requirements for the development of comprehensive standards to insure the health of miners:

Mining disasters grab the headlines, but thousands of miners also suffer from diseases and illnesses which result from mining employment. In the past, our national effort has not adequately addressed the problems of mining-related diseases.

This conference report, therefore, contains provisions insuring the development of comprehensive standards.

An independent mine safety and health review commission to adjudicate matters under the act:

In the past, the Secretary of the Interior was given the responsibility both for the enforcement of the act and for the administrative review of enforcement actions. Parties displeased with the Secretary's enforcement actions could take an appeal to the same Secretary. The conference report adopts the provisions of the Senate bill which establishes an independent commission to review enforcement actions. This will insure fairness and due process, and will also encourage the development of a sound and definitive body of case law which will enable the Secretary, the miners, and the mining industry to adopt a consistent course of conduct in every case.

Expedited procedure for the assessment and collection of civil penalties and review of orders and citations:

Under the current Coal Act, the administrative procedure for the assessment and collection of civil penalties, and for the review of orders and citations is so complex and slow moving that it often takes months to complete a case. This long delay between the citation of a violation and the collection of the penalty severely limits the effectiveness of penalties. If a penalty is to be an effective inducement to compliance with the act, it must be proposed, assessed and collected with reasonable promptness. The conference substitute adopts many of the provisions of the Senate bill and will assure a fair and fast procedure for review of penalties and orders.

Parties are provided every opportunity to obtain administrative and judicial review, yet the procedure is designed to permit a final decision as rapidly as possible.

Mr. President, the conference substitute contains numerous other provisions which, in the opinion of the conferees will result in a vastly improved national commitment to the safety and health of our miners. Enforcement responsibilities are assigned to the Secretary of Labor. There will be a single mine safety and health law and a uniform commitment to safety and health throughout the mining industry. A minimum number of inspections of each mine is mandated each year; but the Secretary is permitted to intensify enforcement at problem mines. New sanctions are provided to deal with grave dangers, and with chronic violators of the law.

I commend the conference report to the Senate. The conferees have put together a comprehensive bill, which will greatly improve our mine safety and health program. Our Nation and our Nation's miners and the mining industry deserve no less.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided between both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 876

Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. LEAHY). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 876.

The amendment is as follows:

On page 17, after line 11, add a new Section 22 as follows:

"To encourage voluntary conversion from natural gas to heavy petroleum fuel oils in major fuel burning installations and electric powerplants.

"Section 22. (a) In order to assure that electric powerplants and major fuel burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than ninety days after the date of enactment of this Act, promulgate regulations which:

"(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

"(2) provide, for a period of not to exceed five years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to—

"(A) the cost of heavy petroleum fuel oil substituted for natural gas,

"(B) the cost of fuel transportation, handling and storage,

"(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

"(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however*, That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further*, That in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service, and

(3) provide that,

(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline or

(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

(b) the rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(c) In order to implement this section only, any contractural provision

(1) prohibiting the sale or comingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

(d) For purposes of this section

(1) the term "heavy petroleum fuel oil" includes No. 4, 5 or 6 fuel oil, petroleum pitch and other similar heavy petroleum refined products.

(2) the term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(3) the term "pipeline company" means any person engaged in the transportation of natural gas in commerce.

Mr. JOHNSTON. Mr. President, this is an amendment relative to conversion from fuel oil or heavy residual oil to natural gas. It was added to the Johnston substitute to the natural gas bill and adopted in the Senate by a vote of 74 to 18 on Wednesday, September 28. It allows utilities to sell natural gas under contract on a voluntary basis and to get for that sale the replacement cost of heavy fuel oil.

In other words, if they have a supply of natural gas which they are now burning and if they have the ability to burn heavy fuel oil in their facilities, they can use the heavy fuel oil, sell the natural gas, and get for the price of that natural gas the cost of the heavy fuel oil, together with the cost of transporting the fuel oil to them and those minor costs of the difference in efficiencies of burning the heavy fuel oil and natural gas.

Mr. President, I ask unanimous consent that an excerpt from the RECORD of Wednesday, September 28, 1977, containing the colloquy and votes in relation to amendment No. 1058 be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

AMENDMENT NO. 1058

(Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants)

Mr. JOHNSTON. Mr. President, I call up my amendment No. 1058 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

"The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment No. 1058."

Mr. JOHNSTON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk read as follows:

"Add a new section 28 as follows:

"TO ENCOURAGE VOLUNTARY CONVERSION FROM NATURAL GAS TO HEAVY PETROLEUM FUEL OILS IN MAJOR FUEL-BURNING INSTALLATIONS AND ELECTRIC POWERPLANTS

"SEC. 28. (a) In order to assure that electric powerplants and major fuel-burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than 90 days after the date of enactment of this Act, promulgate regulations which:

"(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel-burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

"(2) provide, for a period of not to exceed 5 years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel-burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters, or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to—

"(A) the cost of heavy petroleum fuel oil substituted for natural gas,

"(B) the cost of fuel transportation, handling, and storage,

"(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

"(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however*, That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further*, That, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service, and

"(3) provide that—

"(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline, or

"(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

"(b) The rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

"(A) low-priority users served by such pipeline, and

"(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

"(c) In order to implement this section only, any contractual provision—

"(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

"(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

"(d) For purposes of this section—

"(1) The term 'heavy petroleum fuel oil' includes number 4, 5, or 6 fuel oil, petroleum pitch, and other similar heavy petroleum refined products.

"(2) The term 'local distribution company' means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

"(3) The term 'pipeline company' means

any person engaged in the transportation of natural gas in commerce."

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I yield myself 4 minutes. If my colleagues will give me their attention. I think I can explain very simply an amendment which is being introduced on behalf of myself and the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Let us hear the Senator from Louisiana.

Mr. JOHNSTON. This is a very, very far-reaching amendment, which is very important for the energy crisis—and it is very simple. It is the kind of amendment about which one might think, "Why did we not think of it before?" Here is the situation.

We have in the States of Louisiana, Oklahoma, Texas, and New Mexico, some 12,636 megawatts of electric generating capacity which is burning natural gas, but has the capacity to burn residual fuel oil. That is over 12,000 megawatts of electric generating capacity. Translated into natural gas, that consumes about 1.3 trillion cubic feet of natural gas per year. Under the coal conversion bill, that we have passed earlier in this session, those plants do not have to convert to coal until 1990. In the meantime they will continue to burn natural gas. Coincidentally we have some 500,000 barrels of (unused) Alaskan heavy crude arriving off the west coast each day. We have a glut or a surplus of heavy crude which is uniquely suited to the production of residual fuel oil. The President has said we cannot exchange this Alaskan crude with Japan, so we must use it in this country. Yet we presently have no use to which this heavy crude may be put. To give you an example of what this Alaskan heavy crude excess can mean, a barrel of South Louisiana sweet, light crude, when refined in a normal gasoline-type refinery yields about 5.5 percent of the barrel as residual fuel oil. When west Texas intermediate crude is used, you get about 10 percent of the barrel as residual fuel oil. But Alaskan heavy crude, when used in an ordinary gasoline refinery, yields 26 percent of the barrel as residual fuel oil. If you confine a refinery to yield a maximum amount of heavy crude, a barrel of Alaskan crude oil will yield 55 percent residual fuel oil.

Mr. BUMPERS. Is the Senator using heavy crude and residual fuel oil as being synonymous?

Mr. JOHNSTON. Excuse me. Residual fuel oil is produced from heavy crude. Heavy crude is a thick viscose oil such as we have in Alaska. I might add that an excess of Alaskan crude will be greater when we go to full capacity on the Alaskan pipeline. So here we are. We have almost 1.3 trillion cubic feet of natural gas being used where residual fuel oil could be used and we have a surplus of the type of crude oil which is uniquely suited to residual fuel oil production. All this amendment does is authorize those industries which have a supply of gas but can use residual fuel oil, voluntarily to sell that gas for the replacement cost of the residual fuel oil.

That gas is going to be expensive because buying and transporting the residual fuel oil to their factories or to their generating plants is going to cost probably in excess of $3 per thousand cubic feet of gas sold. Hence, we have made our program entirely voluntary. But the proposal can release enough gas to make the difference between shortages in future winters and no shortages. Specifically, shortages in the winter of 1977 were 936.4 billion cubic feet, and we have 1.3 trillion cubic feet which could be released under this proposal.

Mr. President, I also point out that this amendment is very environmentally sound. It is much cleaner to burn this residual oil than it is to burn coal. This amendment, however, is not going to retard the conversion to coal because, first, coal conversion is not mandated until 1990, and, second, this amendment authorizes the sale of gas only for a period of 5 years. This amendment is aimed at the short-term problem and the next 5 years is going to be the most critical in terms of natural gas.

Mr. NELSON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes. Let me say one thing before I do, and then I will yield to my distinguished colleague from Wisconsin.

I must tell you that we have been in contact with the new Chairman of the Federal Power Commission, which will change because the Federal Energy Regulatory Commission—FERC for short—and we are advised that the amendment needs some fine tuning. We are perfectly willing and anxious and happy to do that. The fine tuning will be made when we get to conference in this amendment. We will have to make it clear that the gas that could be sold under this amendment cannot be that gas which is subject to FPC curtailment orders because this in turn would conflict with the problems of the FPC or with FERC. We are perfectly happy to do that.

We also want to make perfectly clear that the incremental pricing scheme under this amendment is limited to the gas released under the amendment.

So, Mr. President, I think that this can be one of the most significant amendments that we have considered during this whole gas bill. This provides a way to permit gas to be released voluntarily to those who need the gas—and hopefuly avoid the problems we had last winter.

I will yield to my distinguished colleague from Wisconsin.

Mr. NELSON. I just had two questions.

Mr. JOHNSTON. Yes.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator has used his time. Each Senator now is charged with the time he uses in answering questions; is that right? Is that the procedure?

Mr. JACKSON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I think it is charged to the Senator.

The PRESIDING OFFICER. All right. The Chair understands it better now. All right.

Mr. JACKSON. Mr. President, what price would be allowed for the released gas? Could the Senator give an indication?

Mr. JOHNSTON. Yes; the price is not specifically stated, but rather is to be fixed by the FPC based upon the cost of burning that individual fuel oil. The price will include the cost of buying the resid, the cost of transporting the resid, and minor modifications to the oil-burning capacity.

Mr. JACKSON. But not capital, large capital investment?

Mr. JOHNSTON. Not capital expense, no. Absolutely not.

Mr. JACKSON. Are we talking about $3, or what is the ball park figure?

Mr. JOHNSTON. The ball park figure would be over $3 and less than $4. I would guess $3.50.

Mr. JACKSON. Let me ask, Would interstate pipelines be able to buy the released gas?

Mr. JOHNSTON. Yes.

Mr. JACKSON. This becomes very important. If so, what impact would this have on the curtailment plans? The Senator started to allude to that.

Mr. JOHNSTON. We want to make perfectly clear, and I am willing to fine tune the amendment to make it perfectly clear, that the amendment has no impact on curtailment plans. In other words, we would not want to allow an industry that is going to be subject to curtailment next month to sell its gas at this premium price when next month it would not have the gas because it would be curtailed. So we are perfectly willing and anxious to fine tune it accordingly.

Mr. JACKSON. The whole purpose of the Senator's amendment is to provide an incentive and an inducement for the large utilities and industrial users, as I understand it, who are now burning natural gas, to turn to resid.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. This is especially true in connection with the large amount of oil that will be coming down from Alaska by way of the canal. Is this not correct?

Mr. JOHNSTON. That is correct.

Mr. JACKSON. And the Alaskan oil is a heavy oil and the resid content runs percentagewise very large. Is that correct?

Mr. JOHNSTON. That is right. We have to do something to get some incentive for domestic refiners to obtain the capacity to refine this heavy crude. Over two-thirds of our domestic refiners cannot now do so. One of the great things about this amendment is that it will help create a market for the heavy crude.

Mr. JACKSON. Is this limited to intrastate users that are now using intrastate gas, or is it both? What gas would be eligible?

Mr. JOHNSTON. In its present form it is not limited to intrastate gas. But we want to fine tune the amendment in conference to make sure that it is either limited to intrastate gas or, if we include interstate gas, then that gas is not subject to curtailment because it is not the intent of his amendment to avoid any curtailment jurisdiction.

Mr. JACKSON. As I understand it this would not have an adverse impact on curtailment plans as I understood the response earlier.

Mr. JOHNSTON. Absolutely not.

Mr. JACKSON. Is that correct?

Mr. JOHNSTON. That is the intent of the amendment.

Mr. JACKSON. There is a rather large amount of gas, so we all understand, I think we are talking here—I do not know whether the figure includes interstate, or just intrastate—but it is close to a trillion cubic fee.

The PRESIDING OFFICER. Let us have quiet. Senators go outside and carry on their business.

Mr. JACKSON. What is the approximate estimate of the gas that would be eligible under this amendment?

Mr. JOHNSTON. We calculate 1.3 trillion cubic feet is eligible. It is a voluntary program.

Mr. JACKSON. That is out of a total of about 20 trillion cubic feet or at least that is the demand factor.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. At least the use factor last year or this year has run about 19 point something.

Mr. JOHNSTON. That is right. If all eligible gas is released under this amendment, more gas would be released than was curtailed in 1977.

Mr. JACKSON. Mr. President, because of the restrictive rule that we are operating under, it is not possible to modify the Senator's amendment here on the floor. I would be willing, if this matter is in conference, to see if we could not work out a solution which will provide the incentives that we seek in moving from gas to the residual oil, which will appear in substantial quantities over and above what is now in the Gulf State market area. I would be willing to accept the amendment.

Mr. METZENBAUM. Will the Senator yield?

Mr. EAGLETON addressed the Chair.

Mr. JACKSON. I understand the same matter impacts on the State of Missouri.

Mr. EAGLETON. Mr. President, I am pleased to join the distinguished junior Senator from Louisiana (Mr. JOHNSTON) in sponsoring this amendment.

Last winter, industries across this country, including some in my own state of Missouri, were forced to shut down or eliminate shifts because of shortages of natural gas. Regardless of what Congress does about the pricing of gas, shortages of this kind are going to continue for many years to come. I think it is imperative to take advantage of every cubic foot of gas that can be diverted from nonessential use to help meet such shortages. It has been estimated that more than a trillion cubic feet of gas could be made available to the interstate market by the amendment now before the Senate, more than the total of last winter's shortages. The companies that have this gas under contract cannot be expected to give it up out of altruism, even though they have the capability of switching to heavy heating oil. It has to make cents—dollars and cents—for them to do so and that is what this amendment provides.

Briefly, it would allow utilities and other major users which have supplies of natural gas under contract but which have the capability of burning heavy fuel oils to offer that gas in the marketplace at a price calculated to offset the added cost of burning oil. Without such an assurance of covering conversion costs these companies will certainly take advantage of the low-cost gas available to them even for such wasteful practices as firing boilers.

A second benefit of this amendment is that it would create a market for heavy residual fuels which are the unavoidable byproduct of refining gasoline and diesel oil. In many parts of the country today these residual oils are in surplus. That surplus will grow in the years ahead as a larger and larger proportion of domestic oil production will be made up of sour crude. Usually, the higher the sulfur content of oil, the heavier the gravity of that oil and thus the greater the amount of residual oils produced. Alaskan oil, for example, is expected to produce 25 percent residuals compared to less than 10 percent for low sulfur Louisiana sweet crude.

Mr. President, I think this is an excellent amendment which will help us weather the gas shortages that are inevitable in winters ahead. It is not an answer to our energy problem, but it can buy us time while we seek to provide those long range solutions. I urge adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. SCHMITT. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I do not have the floor, but I shall be happy to yield for a question only, if the Senator can get the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Will the Senator from Louisiana say again what the inducement is for the utility or any other user to shift to the use of residual fuel oil?

Mr. JOHNSTON. These utilities or other users have a supply of natural gas now, but also have the ability to burn oil. Under the amendment, they can sell that natural gas at the replacement cost of residual fuel oil. In other words, let us say it costs the utility or user the equivalent of $3.50 a thousand cubic feet of gas to burn the residual fuel oil. Then, an amendment would allow him to sell his gas for $3.50, buy residual fuel oil, and burn it in his oil-burning boilers.

Mr. SCHMITT. I just wanted to be sure that incentive was clear.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I understand that the proposal by the distinguished Senator from Louisiana would provide that the Federal Energy Regulatory Commission would make these different computations that are called for on pages 2 and 3 under A, B, C, and D, among other factors, in arriving at the replacement cost of the natural gas that might be released if an alternate fuel were to be burned.

My question is, suppose the clerk went through that exercise and concluded that the replacement cost of natural gas would be $3.50 a thousand. Let us assume further that no interstate pipeline is willing to pay that amount. My question is, may the utility or whatever it is that is switching over from one fuel to another under this proposal, negotiate whatever sort of price might be mutually arrived at between the fuel-burning installation and the pipeline company?

Mr. JOHNSTON. Well, so long as they negotiate this price below $3.50, if that is the price that the FPC has determined.

Mr. HANSEN. That is in my question, of course.

Mr. JOHNSTON. Yes, they can do that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I raise a point of order. I do not believe this amendment is germane. It covers a different subject than that which is covered in the original amendment.

The PRESIDING OFFICER (Mr. ZORINSKY). the Chair reads the amendment as having the prime purpose of converting from natural gas to residual fuel oil. There is nothing in the bill or either of the substitutes dealing with conversion. Therefore, this amendment introduces a new subject and the point of order is sustained.

Mr. JOHNSTON. Mr. President, this is a pricing amendment. It deals with the price of natural gas and the deregulation of the price of gas sold by industrial users because they switch to residual fuel oil.

Mr. METZENBAUM. Regular order, Mr. President. The Chair has ruled.

Mr. JOHNSTON. Mr. President, I ask the Parliamentarian to reconsider. I think the ruling is just dead wrong.

Mr. METZENBAUM. Mr. President, regular order. The Chair has ruled.

The PRESIDING OFFICER. The Chair will read the purpose of the amendment as stated by the drafter himself "Purpose: To encourage voluntary conversions from natural gas to heavy petroleum fuel oils by electric powerplants." The point of order is sustained.

Mr. JOHNSTON. Mr. President, I ask for the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Ohio may think he has accomplished something very nice by having this amendment ruled out of order. The State of Ohio suffered more, I guess than any other State by last winter's curtailments. Mr. President, we are trying in the Senate to achieve a natural gas policy and an overall energy policy. The rules of the Senate can be stretched all over the lot if we want them to be. But I suggest to the Senator from Ohio that he ought to start thinking about the State's supply of natural gas and how he is going to get natural gas in Ohio. This is one way he could have gotten it from people in Louisiana.

I am not going to seek to overrule the Chair, although I think the Chair was dead wrong. But I can say that if we do not do something, people are going to be unemployed in Ohio. I do not know whether the Senator saw the New York Times article of yesterday. It shows that 20 to 40 percent curtailments in Ohio are predicted for next winter. I do not know what the Senator is going to do about that. I had an amendment here that was designed to help. It may not have been a perfect amendment but it was designed to help. I offered to go to conference and try to fine-tune it if there were some objections to it.

I think it is time for the Senator from Ohio to think about what he is doing here and what he is trying to accomplish. I think it is time to accomplish something for natural gas supply in this country and not just a time to stretch the rules to try to stop any legislation.

Mr. EAGLETON. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NUNN. Mr. President, will the Chair state the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Shall the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment?

Mr. HANSEN. Will the Chair repeat that, please?

The PRESIDING OFFICER. Should the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment, which the Chair held was not germane?

Mr. BUMPERS. Mr. President, before the rollcall starts, for the edification of all Members, will the Chair state what the ruling is and what it is based upon?

The PRESIDING OFFICER. The Senator from Ohio made the point that the amendment of the Senator from Louisiana was not germane and therefore, not in order under rule XXII, since cloture has been invoked.

Mr. Bumpers. Will the Chair state what the ruling was that is being appealed?

The PRESIDING OFFICER. The Chair held it was not germane because of the primary purpose of the author of the amendment, himself, which is stated as "To encourage conversion by powerplants." There is nothing in the bill or either of the substitutes dealing with conversion.

Mr. EAGLETON. One further question: An aye vote would sustain the ruling of the Chair; a nay vote would reverse the ruling of the Chair.

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 22, nays 70—as follows:

[Rollcall Vote No. 466 Leg.]

YEAS—22

Abourezk, Bayh, Biden, Brooke, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Culver, Hatfield, Huddleston, Inouye, Kennedy, Long, McGovern, Metzenbaum, Moynihan, Proxmire, Ribicoff, Talmadge, Wallop, Weicker.

NAYS—70

Allen, Anderson, Baker, Bartlett, Bellmon, Bentsen, Bumpers, Burdick, Chafee, Chiles, Church, Clark, Cranston, Curtis, Danforth, DeConcini, Dole, Domenici, Durkin, Eagleton, Eastland, Ford, Garn, Glenn, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hathaway, Hayakawa, Heinz, Helms, Hollings, Jackson, Javits, Johnston, Laxalt, Leahy, Lugar, Mathias, Matsunaga, McIntyre, Melcher,

Muskie, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Randolph, Riegle, Roth, Sarbanes, Sasser, Schmitt, Schweiker, Scott, Sparkman, Stennis, Stevens, Stevenson, Stone, Thurmond, Tower, Williams, Young, Zorinsky.

NOT VOTING—8

Goldwater, Humphrey, Magnuson, McClellan, McClure, Metcalf, Morgan, Stafford.

So the ruling of the Chair was rejected.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Louisiana, amendment No. 1058.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 25, nays 67, as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—25

Abourezk, Brooke, Case, Clark, Culver, Durkin, Hathaway, Hollings, Inouye, Javits, Kennedy, Mathias, McGovern, McIntyre, Metzenbaum, Moynihan, Muskie, Proxmire, Ribicoff, Riegle, Sarbanes, Sasser, Scott, Talmadge, Weicker.

NAYS—67

Allen, Anderson, Baker, Bartlett, Bayh, Bellmon, Bentsen, Biden, Bumpers, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Chafee, Chiles, Church, Cranston, Curtis, Danforth, DeConcini, Dole, Domenici, Eagleton, Eastland, Ford, Garn, Glenn, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hatfield, Hayakawa, Heinz, Helms, Huddleston, Jackson, Johnston, Leahy, Long, Lugar, Magnuson, Matsunaga, Melcher, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Randolph, Roth, Schmitt, Schweiker, Sparkman, Stennis, Stevens, Stevenson, Stone, Thurmond, Tower, Wallop, Williams, Young, Zorinsky.

NOT VOTING—8

Goldwater, Humphrey, Laxalt, McClellan, McClure, Metcalf, Morgan, Stafford.

So the motion to lay on the table Mr. JOHNSTON's amendment (No. 1058) was rejected.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. JOHNSTON. Mr. President, I suggest that the call for a quorum is dilatory in view of the fact that a quorum was just established by the past vote.

Mr. LONG. It is dilatory to suggest the absence of a quorum.

The PRESIDING OFFICER. The point of order of the Senator from Louisiana is well taken.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table that appeal.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the motion to lay the appeal on the table.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. There has been intervening business since the last quorum call.

Mr. LONG. Mr. President, a quorum is present. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. LONG. Mr. President, we have voted on this previously. When there is clearly a quorum present, and we have voted on this, then it is dilatory to suggest the absence of a quorum.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The point of order is well taken.

The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I seek recognition on this.

The PRESIDING OFFICER. It is not debatable.

Mr. ABOUREZK. The point of order is debatable.

Mr. LONG. A point of order is not debatable.

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt and requests a division.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Those in favor will stand.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I anounce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 74, nays 18, as follows:

[Rollcall Vote No. 468 Leg.]

YEAS—74

Allen, Anderson, Baker, Bartlett, Bayh, Bellmon, Bentsen, Biden, Bumpers, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Chafee, Chiles, Church, Clark, Cranston, Curtis, Danforth, DeConcini, Dole, Domenici, Eagleton, Ford, Garn, Glenn, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hatfield, Hayakawa, Heinz, Helms, Huddleston, Jackson, Javits, Johnston, Laxalt, Leahy, Long, Lugar, Magnuson, Matsunaga, Melcher, Moynihan, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Randolph, Roth, Sarbanes, Sasser, Schmitt, Schweiker, Scott, Sparkman, Stennis, Stevens, Stevenson, Stone, Talmadge, Thurmond, Tower, Wallop, Williams, Young, Zorinsky.

NAYS—18

Abourezk, Brooke, Case, Culver, Durkin, Hathaway, Hollings, Inouye, Kennedy, Mathias, McGovern, McIntrye, Metzenbaum, Muskie, Proxmire, Ribicoff, Riegle, Weicker.

NOT VOTING—8

Eastland, Goldwater, Humphrey, McClellan, McClure, Metcalf, Morgan, Stafford.

So Mr. JOHNSTON's amendment (No. 1058) was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I have just been advised of the amendment. This is the amendment we passed earlier when we were considering the natural gas matter as an amendment to the Jackson substitute; is that correct?

Mr. JOHNSTON. That is correct. The vote was 74 to 18.

Mr. BARTLETT. I supported it then and I support it now.

I yield back the remainder of my time.

Mr. JOHNSTON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 876.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I might say at this point there was some slight interest in another amendment I had relative to crude oil pricing. I might say for the benefit of those who were out frantically working for that—I know no one could have been working against it—but for those working for it I may say they may defer their efforts to another day. I had permission to bring up one nongermane amendment, and we just adopted it, and it is not one relative to crude oil pricing. So they may get word to all our beavers out there who are working for passage of my bill. [Laughter.]

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that suggestion?

Mr. JOHNSTON. Yes.

Mr. ROBERT C. BYRD. Mr. President, the two cloakrooms have been asked to alert Senators to bring their amendments to the floor, to call them up, so that the Senate will not be delayed unduly in reaching a final decision on this bill.

I will say to the distinguished manager of the bill I hope Senators will appear shortly to call up amendments.

Mr. JOHNSTON. Mr. President, does the majority leader think we might be ready to move to third reading very quickly if no one shows up?

Mr. ROBERT C. BYRD. Eventually I would think that would be the case.

Mr. JOHNSTON. I would think about another 10 minutes would be sufficient.

Mr. ROBERT C. BYRD. In another 10 minutes we ought to get some amendments stirring. I would hope shortly we could reduce the time on amendments. The general time has been limited to 2 hours. I would hope that could be reduced to 1 hour and thus shorten the work on the bill. But for now, Mr. President, I suggest the absence of a quorum, and ask that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ALTERATION OF TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, the time limitation on amendments in general on this bill was 2 hours. I ask unanimous consent that that general time provision be altered to provide for 1 hour on each amendment rather than 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. Pres. ent, I suggest the absence of a quorum.

Mr. BARTLETT. Mr. President, will the Senator withhold that?

Mr. ROBERT C. BYRD. I withdraw that suggestion.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Did not the distinguished Senator from Massachusetts (Mr. BROOKS) want 2 hours on the first amendment?

Mr. ROBERT C. BYRD. This would not affect that.

Mr. BARTLETT. It would not? I have no objection.

The PRESIDING OFFICER. Who yields time?

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

INTERCONNECTION

Mr. DOMENICI. Mr. President, from reading unprinted amendment No. 864, adopted yesterday, it appears that the intent was to specifically not include any provision which would provide Federal authority to order wheeling and pooling, as well as interconnections, as was the case in the administration bill.

Mr. JOHNSTON. The distinguished Senator is absolutely correct. We feel that in order to effectuate the purposes of the bill, the Federal Government should have the authority, after an evidentiary hearing, to order an interconnection. Of course, a mere interconnection would not necessarily serve those purposes, so we specified that sales and exchanges of energy over the interconnection could also be ordered where appropriate. It is hoped that under the provisions of the amendment, the details regarding such sales and exchanges would be worked out among the parties affected. However, the amendment does provide authority for the commission to prescribe the terms and conditions where the parties are unable to reach agreement.

Mr. DOMENICI. I note, however, that in what would become section 202(g)(1) of the Federal Power Act, the amendment goes further than discussing physical connection of transmission lines or "interconnections," and even beyond a discussion of sales and exchanges of energy. The phrase "and otherwise to coordinate with" is used. I am uncertain as to what this phrase could mean.

Mr. JOHNSTON. As used in this amendment, "coordinate" refers to the practice by which two or more interconnected electric utility systems may establish planning and operating standards generally relating to service reliability; they exchange information on system additions, retirements, modifications and maintenance schedules and, by periodic review of such matters, they assure that the interconnected systems meet the standards they have so established. A grant of authority to the commission to compel transmission service or wheeling was contained in early drafts of this legislation; but the committee deleted such authority and did not mean to reinsert it through use of the different term "coordinate with." In fact, in my introductory statement on September 27, when this amendment was printed in the RECORD, I stated that as a result of the information generated at the special hearing held by my subcommittee on September 20 on the issue of interconnection, wheeling and pooling, that we had determined that new authority with respect to interconnections should be granted to the Federal Energy Regulatory Commission. I further stated, "We have further concluded that any legislation respecting the more complex economic issues associated with wheeling and pooling should be deferred until in-depth hearings and study can be completed."

This amendment would not change the status quo with respect to the absence of authority to order wheeling and pooling, which, under existing law, are voluntary arrangements entered into by utilities for their mutual benefit and for that of their customers. Nor would the authority in this amendment be used to remake the structure of any utility system.

At the same time, there was no intent for this amendment to affect the existing authority of the Federal Government under section 202 (c) and (d) of the Federal Power Act under which the Federal Government may order temporary interconnections and transmission of electric energy which, in the judgment of the commission, is required to meet emergency situations.

Mr. DOMENICI. I thank the distinguished Senator from Louisiana for clarifying this important point.

"LIFELINE RATES"

Mr. BUMPERS. Mr. President, yesterday I voted to table Hart amendment No. 1399 to the pending utility rate reform bill, S. 2114. After the motion to table failed, I voted against the amendment. This is the so-called "lifeline" amendment, which forbids any electric utility to charge rates in excess of its lowest rate per kilowatt hour to "elderly residential consumers."

Mr. President, these were extremely difficult votes for me to cast. There is no question that our elderly citizens are in need of some kind of help against the rising tide of inflation, manifested most cruelly in the increasing costs of heat and light. As is well known to all of us, these citizens are typically on fixed incomes and are not usually affluent. Only the strongest considerations of policy could have led me to oppose the amendment, and I would like to take this opportunity to explain my reasons.

Utility rates have traditionally been based on cost of service. That principle of ratemaking is almost universally agreed to. As a matter of fact, S. 2114 itself is based upon this concept. Another provision of the bill strongly recommends that State public utility commissions adopt marginal cost ratemaking principles, which represent perhaps the purest form of the cost of service concept. The amendment of the Senator from Colorado, of course, has nothing to do with cost of service. It simply commands a certain level of pricing for certain types of consumers, without regard to the cost of serving them. As a matter of fact, the cost of serving elderly consumers is obviously no greater and no less than the cost of serving consumers who are younger.

Second, the Hart amendment is not limited to those who need help. The term "elderly residential consumer" is defined to include all persons who are at least 62 years old and are heads of households or principal income earners. If the president of General Motors or, for that matter, the president of Consolidated Edison Co., is 62 years old, he gets the low rate. The welfare client or working mother down the street who is 61 does not. Indeed, the amendment even goes farther than that. It extends to any person re-

ceiving social security benefits or railroad retirement benefits, whatever his age. I understand that 8 million people are in this category. That is, they are less than 62 years old and receive either social security benefits or railroad retirement benefits. Quite obviously, the amendment goes far beyond aid to the elderly. The author of the amendment did insert in the RECORD a memorandum from the Library of Congress estimating the cost to the electric utility industry from enactment of the amendment. This estimate is $986,752,500, or almost $1 billion. That figure is by no means negligible, of course, but we must also consider that it includes only the cost of low rates for persons 62 or older. It does not include the eight million other people who would be covered by the amendment.

Mr. President, under the Hart amendment, it would not be unusual for an affluent 30-year-old widow drawing social security for herself and minor children, to get the most beneficial utility rate, while a widow drawing AFDC benefits would not. This would constitute a gross injustice.

These costs will have to be borne by someone, Mr. President, and the natural consequence of the Hart amendment will be for utility rates to go up for consumers who are not in the favored class. I seriously question whether this kind of choice should be made by Congress on a national basis. Utility rates have traditionally been fixed by commissions in the several States. Some of these commissions are considering lifeline rates, some have approved them, and some have not. There may come a time when the concept is so well worked out as to be nationally acceptable, but the period of experimentation with this kind of rate structure has, in my view, not yet run.

Certainly I would be prepared to consider a more narrowly drafted proposal to help our older citizens meet the crushing burden of increased utility costs. Perhaps a study of the concept by the Department of Energy, or a direction by Congress to State utility commissions to consider the concept and adopt it unless they find a compelling reason not to, would be a fruitful approach. But I cannot in conscience at this time support the nationwide imposition of a utility rate favoring a particular class of customers.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 877

Mr. DURKIN. Mr. President, I have an unprinted amendment which I send to the desk and ask to have it considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 877.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 13, strike "so."

On page 13, line 14, strike "exempted:" and insert in lieu thereof "exempt from the Federal Power Act:"

On page 13, line 20 and on page 14, line 11, after the word "power" insert "(other than in connection with the ownership or operation of cogeneration facilities or small power production facilities)."

On Page 14, line 12, between "-duces" and "electric" insert "only."

On Page 14, line 14, strike "thirty" and insert in lieu thereof "eighty."

Mr. DURKIN. Mr. President, this is not the amendment that I have reserved, the nongermane amendment which I have reserved under the terms of the consent agreement.

Mr. President, this amendment is a clarifying amendment. It is a very simple amendment, that has been cleared on both sides of the aisle.

Basically, what it does is clarify the language of the bill so that it is clear that cogenerators and small power producers, not customarily in the business of selling electricity, will be eligible for streamlined regulations in section 12 of S. 2114. As the Presiding Officer knows, just the other day, in the State of New Hampshire, there was a conference on low-head hydrocogenerators with the small producers of power, which involved people from the State of Vermont and people from the State of New Hampshire on one of the impediments to developing alternative sources of electricity, that small sources, not major generating sources, but cogenerators—and the other people who are interested in small site utilization of existing heat and what have you, from burning waste from small-site power productions, are not inundated with redtape, not inundated with Federal reports.

One of the gentleman at the panel—the two-State Vermont-New Hampshire panel—indicated that for just one little aspect of the low-head hydro operation, they had to fill out a series of forms 88 to 90 pages apiece. That paperwork is drowning what should be an alternative source of electricity that is important not just to New England, not just in those two States, but also all across the country.

This amendment allows small power production facilities of up to 80 megawatts, if owned by people not customarily in the business of selling electricity, to be available for section 12 exemptions from the provisions of the Public Utility Holding Company Act. This prevents a nonutility company that is experimenting with large biomass generators of 60 or 70 megawatts from facing the possibility of being divested under the PUHCA.

As I say, I believe there is no conflict, this has been cleared on both sides of the aisle. If the distinguished floor managers of the bill concur, as was the position last night, I would be willing to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, we understand the Durkin amendment. It permits exemption from the Public Utility Holding Act for up to 80 megawatts of generating capacity. It does not exempt from the Federal Power Act any facility over 30 megawatts. Am I correct?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON. What it really does—the real purpose—is to protect an existing facility in New Hampshire from dismemberment under the Public Utility Holding Act, and thereby really promotes the ends of energy conservation. Am I correct in that?

Mr. DURKIN. That is correct. But it is not a New Hampshire site. It is not a generating site in New Hampshire. It is a New Hampshire corporation which has been one of the leaders in the conservation of such sources of energy.

Mr. JOHNSTON. Mr. President, this amendment serves energy conservation very well. More facilities are involved, the amount of fuel which they save can be significant, and they should not be dismembered under the Holding Company Act. If they were, that would mean they would have to go to more expensive means of producing power.

We accept the amendment.

Mr. BARTLETT. Mr. President, I concur in the remarks of the distinguished floor manager of the bill and in his decision that this amendment by the Senator from New Hampshire is acceptable.

I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DURKIN. Mr. President, if the managers are willing, I have another very short amendment, my nongermane amendment, that I can call up at this time and keep the ball rolling.

Mr. JOHNSTON. I have no idea what the Senator's amendment is.

Mr. DURKIN. The amendment would provide $10 million for the offices of consumer services in the States so that they may be funded adequately to represent the various consumer offices in the particular States, in appearing before the various public utility State commissions.

In essence, it is section (b) of the amendment of the Senator from Massachusetts (Mr. BROOKE). As I understand, the Senator's amendment, No. 1404, will be impaled on a point of order.

I share the concern of Senator BROOKE that there be adequate funding so that the State regulatory commissions will have consumer representation in the office of consumer affairs in the various States and will have adequate funding to argue these issues at the State level, where I think they should be argued, rather than transferring, either impliedly or directly, such responsibility to the FEA or the successor organization in Washington.

One of the reasons I am here is that the people of New Hampshire bought the major thrust of my campaign, which was that we were going to reduce the Federal involvement in our daily lives. To get the Federal Government into the utility regulating business, I think, would be a gross mistake and would run directly counter to the major thrust of my campaign promises to the people of the State of New Hampshire.

Mr. BARTLETT. Mr. President, will the Senator yield for a question?

Mr. DURKIN. I yield.

Mr. BARTLETT. Is the purpose of this amendment to increase the appropriation to the State consumer offices?

Mr. DURKIN. The Senator is correct. The reason for that is quite simple and quite basic.

The thrust of the energy committee has been to force the various public utility commissions around the country to consider innovative ratemaking procedures, to consider ways of making electric generation more efficient, and possibly, thereby, to reduce the peak load demand which gives rise to the tremendous capital expenditures involved in some of the new generating plants.

What the committee wanted to do was to raise these issues, and that is the reason why the committee gave the Secretary of Energy the mandate to go into these State rate proceedings and raise these issues, so that the PUC could consider those under local conditions.

I, for one—at least at this time in history—feel that the electric rate reform proposals are regional at best and not national; because what may well appear to be an innovative reform of the ratemaking procedure in the State of Oklahoma may increase the cost of electricity to a substantial number of small business people in the State of New Hampshire or any other New England State or, for that matter, in any State in the northern tier—and vice versa. There are innovative ratemaking suggestions that may help one area. However, like seasonal pricing, it sounds good; but the Southwest seasonal pricing may raise the cost of agricultural products because a lot of irrigation is powered by electricity.

So the committee felt, and I strongly felt, that what we should be doing is forcing some of the public utility commissions, which have not considered any change in rates or rate structures since the days of the Salem witch trials, to consider in their own local area the applicability of these procedures. Therefore, we would get a basis for further consideration at a later date.

So this would increase the appropriation to the offices of consumer services, or consumer affairs, whatever they are called in the States, and given authority to go in at the State level to do this.

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire that in order to have time to debate his amendment, he will have to call up the amendment. Otherwise, time will have to be yielded to him on the bill. Does the Senator wish to call up his amendment?

Mr. DURKIN. I will be happy to.

UP AMENDMENT NO. 878

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 878.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 22 and 23, insert the following:

Financial Assistance for Consumer Representation

SEC. 7A. Title II of the Energy Conservation and Production Act is amended by amending section 207(b) to read as follows:

"(b) There are authorized to be appropriated to carry out section 205 for such fis-years not to exceed $10,000,000."

Mr. BARTLETT. Mr. President, will the distinguished Senator from Massachusetts answer a question?

Is the division in the bill as outlined by the Senator from New Hampshire similar or the same as that outlined in the bill the Senator discussed last night?

Mr. BROOKE. In response to the question of my colleague, I have looked at the amendment of the Senator from New Hampshire. It is identical with section (b) of section 207 of the amendment that I introduced.

Mr. BARTLETT. I thank the distinguished Senator.

Mr. DURKIN. Mr. President, in light of the fact that amendment No. 1404 of the Senator from Massachusetts inevitably will be impaled on a point of order, this is one part of that amendment that I think the Senator from Massachusetts has a valid concern with. Because I did have the nongermane amendment engrafted on the consent agreement for the bill, I was hoping, with the support of the Senator from Massachusetts, we could resurrect and salvage at least this part of that amendment which goes to a very real concern, a very real issue.

That is, giving the offices in the States the adequate funding to go in and raise these issues in the State context, in the various States, before the State public utility commissions.

It really strengthens the function of State regulation of utilities. There is no way it can be construed to be the precursor of federalization of the whole utility question, inasmuch as we do not give the Secretary of Energy the right to appeal, because if we give the Secretary of Energy the right to appeal in these cases when he intervenes, giving the Secretary that right, really, starts us down the road to having decisions made in one of the concrete marble palaces downtown, rather than made in the State capitals where it should be made.

I will resist efforts to give the Secretary of Energy the right to appeal in the State proceedings.

But this gives the State consumer offices the right to adequately represent their interest in the State proceedings and it gives them the right to appeal as well.

I know, for example, a consumer group in the State of New Hampshire not too long ago could not even get a transcript from the State public utilities commission. After many months of haggling they finally allowed them to look at the one copy of the transcript between 1 a.m. and 3 a.m. in the morning, or some ridiculous set of circumstances.

So this would eliminate that. It would let the State consumer offices go in and aggressively represent the interests of the consumers at the State level, give them the necessary funding, give them the funding to bring in experts, their own experts, and give them the funding to take those cases up to the State courts by way of appeal, all in the State context.

But I really want to stress, there is no effort, expressed or implied, to get the Federal Government in. In fact, we really want to strengthen the State's consumer offices so they can perform.

I can distinguish this between the other section of amendment 1404 which would provide $40 million for the States to beef up the public utility commissions.

The problem there is that in most States, the office of public utility commissioners, or whatever we want to call it, has the authority to assess the utilities for the operational expenses of their office.

So the fact that certain States do not adequately fund the Public Utilities Commission is not the reason for Federal funding. It does not provide an adequate justification, because if the States are going to regulate the rates, and I think they should, then they ought to do it on the basis of State funds and not a Federal care package, because that Federal care package will have strings and what we will have is the situation analogous to the State blue sky law.

When I was commissioner of insurance it was one of the best kept——

Mr. JOHNSTON. Will the Senator yield?

Mr. DURKIN. I am happy to.

Mr. JOHNSTON. Does the Senator know how much was in the House bill?

Mr. DURKIN. I will in just a minute.

I believe it is an identical sum in the House bill, but that is three-quarters intuition at this point. We are looking it up.

Mr. JOHNSTON. We are advised it is $5 million.

Quite frankly, Mr. President, we feel that this function really ought to be played, under our bill, played by the administrator who is given the right to intervene in State regulatory proceedings.

However, this does already exist in the law, this right of consumers to be represented, and it is funded at $2 million in the law at present.

Mr. DURKIN. Will the Senator yield?

Mr. JOHNSTON. Therefore, if the Senator would like to modify his amendment to provide $5 million, we would be inclined to accept it at that figure.

Mr. DURKIN. Mr. President, my intuition has been reinforced by research. The House language, page 236 of the House bill, says that there is not to exceed $40 million and not to exceed any

$5 million in any fiscal year. So that the House language is, in effect, $5 million.

Mr. JOHNSTON. Would the Senator be inclined to modify his amendment to $5 million?

Mr. DURKIN. Would the Senator from Massachusetts (Mr. BROOKE), who in many ways has led this, be willing to modify the amendment to $5 million inasmuch as he has been the moving force in this area up, until a potential point of order?

Mr. BROOKE. I thank my colleague.

Mr. President, I do have serious problems with such a modification.

First of all, if I may propound a parliamentary inquiry on this matter.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Mr. President, the Senator from New Hampshire has introduced section (b) of section 207 of my amendment 1404 of the bill.

I first ask, is that subsection germane?

The PRESIDING OFFICER. The amendment is not germane, but, at the same time, it is not subject to a point of order because of the previous unanimous-consent agreement.

Mr. BROOKE. I ask further does the Chair's ruling also apply to the entire section 207?

The PRESIDING OFFICER. The Chair was ruling only on the pending amendment by the Senator from New Hampshire which is only section 7A.

Mr. DURKIN. Mr. President, may I make a statement? The net effect of what my amendment has done is to lift section (b) on lines 21 through 23 of Senator BROOKE's amendment and reintroduce it as a new amendment sponsored by myself and Mr. HATHAWAY, and that new amendment is protected under the nongermane provision that I have in the consent agreement. Otherwise it would be impaled on the same parliamentary point of order that threatens amendment 1404 of the Senator from Massachusetts.

Mr. BROOKE. I thank the Chair and I thank my colleague from New Hampshire.

What the Senator from New Hampshire will do then is to deny assistance to PUC's, is that not correct?

Mr. DURKIN. That is correct.

Mr. BROOKE. That is the Senator's intent.

Mr. DURKIN. Could I yield for a unanimous-consent request to the Senator from Ohio?

Mr. GLENN. Mr. President, I ask unanimous consent that Len Bickwit, of my staff, be permitted floor privileges during the consideration and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Judy Heffner of Senator LEAHY's staff have the privileges of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, in response to the Senator from Massachusetts, the effect of my amendment is not to deny aid to State public utility commissions. That is not part of my amendment. The problem is that the amendment 1404 is most likely impaled on a procedural snag inasmuch as it is not germane and does not have any relation to the unanimous-consent request that is before us today.

So the effect of my amendment, and ultimately I would hope the Senator from Massachusetts would be a cosponsor, is to provide $10 million for the Office of Consumer Affairs in 50 States so they can go in and keep the toes of the utility commissioners to the fire and adequately represent the Consumer Affairs Office in the States, and have the right to appeal so that you have a meaningful administrative position in the States and the right to appeal, thereby not only strengthening State regulation but protecting the consumers on a State-by-State basis.

Mr. BROOKE. Mr. President, if the Senator will yield, I should be the last to object to the Senator's amendment. In fact, the Senator has already said it is identical with a portion of the amendment which I introduced.

However, it only covers one part, and I certainly am interested not only in the purpose of the Senator's amendment, but I am also interested in assisting rural cooperatives, municipal and other nonregulated utilities, and gas utilities, and I am also interested in helping PUCs as well. All of those, of course, would be covered under my amendment.

So strongly do I feel about it that if I do get an adverse ruling on germaneness from the Chair, it is my intent to appeal that ruling of the Chair and have a vote on that.

So it would incorporate what the Senator is trying to do by his amendment. I can certainly understand in his effort to salvage a part of it, since he feels the rest of it is going to fall. But I would prefer to have the Senator stand with me and fight on the amendment itself even on an appeal from the ruling of the Chair if it is adverse, so that we could include assistance for rural cooperatives, and municipal and other nonregulated, and gas utilities, and PUCs, as well.

Mr. DURKIN. Mr. President, how much time do I have left on the amendment?

The PRESIDING OFFICER. The Senator has 7 minutes remaining on his side. There are 15 minutes on the opposition's side.

Mr. DURKIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. DURKIN. The difficulty I find, while I wholeheartedly endorse the effort of the Senator from Massachusetts to give the Office of Consumer Affairs in the various States the actual tools to do their job to protect the consumers on a State-by-State basis, and to keep the big fat toes of the utility commissioners to the fire, I have to part company with him on the basis of a Federal care package going back to the State utility commissions.

I feel strongly that the States, at least for now, can better regulate utilities than the Federal Government. The last thing we need is another new concrete and marble palace downtown housing the Federal Utilities Commission or whatever you want to call it.

But with that States' rights argument and with the States' rights approach I think it is the right of the States to raise the money to regulate the utilities on a State-by-State basis, and most States have that authority today inasmuch as they can assess the utilities operating in their States an amount necessary to adequately carry on the functions of that office.

I really think it is going the wrong way in this day and age, where my mail, as I am sure the mail of everyone in this Chamber, is arguing against further Federal encroachment, for the Federal Government to say to the States, "You regulate it but we are going to send you a Care package so you can regulate it adequately," because what is going to happen, just as it happened in the securities industry, as I was saying earlier, one of the best-kept secrets of State government is that there is a State securities commissioner in most States.

You have the SEC regulating on one level. You have the State blue sky law commissioners regulating on another level. You have dual regulation, and what happens most of the time is most of the energy is expended in fighting jurisdictionally between the States and the Federal entity to see who is going to prevail. So I am afraid if we have Federal money going to the States to help the States regulate utilities, we are backing into a dual regulation situation which is not going to help anyone's problem. You are going to increase the problem. And where two people think they have the responsibility for the job, neither will do it adequately, so we will not have the regulation of utilities that consumers need, but we will have dual expenditures of State and Federal funds, and we would be going down that path we have been going down in this country for the last 25 years where every problem that becomes a bit sticky in a State capital will be farmed out to Washington, "send it to Washington" and, hopefully, get it lost in the Tidal Basin.

I would hope, I think the fact that I am standing on the Senate floor is testimony to the fact that the people of New Hampshire are fed up with that approach, and I think all across the Chamber the mail reflects that people are fed up with the Federal Government's sticking its nose into everything.

This is just a precursor. If we are going to send them money we are going to end up with dual regulation. That is why I have to part company with my good friend from Massachusetts, although I do applaud his efforts to help strengthen the Consumer Affairs Offices so they can go in and argue State by State the issues of regulatory reform, rate reform, adequate rates on a State-by-State basis in State proceedings, and they can appeal that to the State court.

The PRESIDING OFFICER (Mr. CHILES). The Senator's 2 minutes have expired.

Mr. BROOKE. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The substitute will not be in order until all time has expired on the original amendment.

Mr. BROOKE. I withdraw my request.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I repeat the question I asked earlier: Would the Senator be willing to modify his amendment by reducing the amount to $5 million?

Mr. DURKIN. Inasmuch as there is only $2 million in this year's appropriation, and inasmuch as I can see we are running into what could be classified as not completely smooth seas, I would be willing to modify the amendment to $5 million. I gather that would make it much easier for the distinguished floor managers on both sides of the aisle to accept that.

Mr. JOHNSTON. Mr. President, has the Senator so modified his amendment?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. The Senator has modified his amendment.

Mr. DURKIN. Yes.

The PRESIDING OFFICER. Is the modification at the desk?

Mr. DURKIN. It is en route.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 8, between lines 22 and 23, insert the following:

FINANCIAL ASSISTANCE FOR CONSUMER REPRESENTATION

SEC. 7A. Title II of the Energy Conservation and Production Act is amended by amending section 207(b) to read as follows:

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $5,000,000."

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield myself 2 minutes, Mr. President.

There is presently in the law at 42 U.S.C. 6805, section 205, a provision for grants for an Office of Consumer Services which is now funded at $2 million. What the Senator would do would increase that to $5 million, and we have no objection to that, Mr. President, because it is an existing program.

We would have had objection to the figure of $10 million. It was the idea of the committee that the Secretary would have the right to intervene in State proceedings and to fight for "equitable rates to consumers" of both natural gas and electric energy. So what we are doing here is not proliferating the efforts at intervention but simply funding the amount for these independent consumer efforts at the State level.

So we will, therefore, accept the amendment as modified.

Mr. BARTLETT. The minority accepts the amendment and I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

UP AMENDMENT NO. 879

Mr. BROOKE. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

Mr. DURKIN. Mr. President, a point of order. All time was not yielded back.

The PRESIDING OFFICER. All time was just yielded back.

Mr. DURKIN. He cannot yield back my time.

The PRESIDING OFFICER. Does the Senator from New Hampshire have time remaining?

Mr. DURKIN. I have 5 minutes remaining.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes remaining.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire does not have sufficient time remaining to ask for a quorum call, he having only 5 minutes remaining. Where there is less than 10 minutes of time remaining a quorum call will not be in order. The Chair rules the call for a quorum is not in order.

Mr. DURKIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The Senator from Massachusetts.

Mr. JOHNSTON. Mr. President, a point of order. The substitute amendment of the Senator from Massachusetts is not in order, being nongermane to the main bill.

The PRESIDING OFFICER. The point cannot be raised. The clerk has not stated the amendment.

Mr. JOHNSTON. I am sorry.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. CRANSTON, Mr. PERCY, Mr. METCALF, Mr. RIEGLE, Mr. ANDERSON, and Mr. HART proposes as a substitute amendment an unprinted amendment numbered 879.

In lieu of the language proposed by the Senator from New Hampshire insert the following——

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 22 and 23, insert the following:

FINANCIAL ASSISTANCE FOR CONSUMER REPRESENTATION

SEC. 7A. Title II of the Energy Conservation and Production Act is amended by adding the following new paragraph at the end of section 202:

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $10,000,000."

"(8) the term 'nonregulated utility' means a utility which is a public agency or privately organized cooperative not subject to the ratemaking authority of a utility regulatory commission.".

(b) Such title II is amended by amending section 204(1) to read as follows:

"(1) assist utility regulatory commissions and nonregulated utilities in improving rate design, load management, and related energy conservation practices by providing (A) financial assistance, through contracts and grants, and (B) technical assistance, including voluntary guidelines.".

(c) Such title II is amended by amending section 207 to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for each of the fiscal years ending September 30, 1978, and September 30, 1979, not to exceed $45,000,000 of which not more than $5,000,000 may be used for purposes of section 204 (2) and (3).

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $10,000,000.".

(d) Such title II is amended by adding a new section 208 to read as follows:

"APPLICABILITY TO GAS UTILITIES

"SEC. 208. The provisions of this title, with the exception of section 203, shall apply to the activities of any person, State agency, or Federal agency, with respect to the retail sale of natural gas in the same manner as such provisions apply to activities relating to the retail sale of electricity by electric utilities.".

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The point of order would not lie, because we are under a time agreement, until all time has expired. If the point of order did lie, the Chair would be disposed to rule that the amendment is in order, that it is germane, but the Senator can raise that point after the time of the Senator from Massachusetts has expired.

Mr. JOHNSTON. The Chair would rule it is germane?

The PRESIDING OFFICER. That is correct.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, in early 1975, the Federal Energy Administration (FEA) began providing assistance to utility regulatory commissions to promote the improvement of utility rate design, load management, and conservation practices.

Assistance to commissions initially took the form of funding for experiments and studies. The financial assistance strategy was later expanded by the Energy Consumption and Production Act of 1976 to include intervention in State or local regulatory proceedings upon invitation. The objective of such intervention was to be helping the commission build an evidentiary record for regulatory decisions. Finally, an expert technical assistance capability is now being added to the program, drawing upon both DOE and an independent resource center—the National Regulatory Research Institute.

Through the history of FEA's rate design program, the policy position advocated by the United States has been that rates should be based upon an accurate application of cost-of-service principles, including time of day pricing. FEA policy has been designed to increase overall efficiency and eliminate rate discrimination. This policy, which differs markedly from the narrower perspectives of most intervenors, will, I am told, be continued under DOE.

Mr. President, I ask unanimous con-

sent that the 1976 annual report of FEA on electric utility rate design initiatives be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, the importance of the FEA interventions can best be understood when we consider that every one of the States I listed in my opening remarks as having adopted or suggested rate reforms held a proceeding to which the FEA was a party. And in these final rulings, FEA's testimony was invariably cited. The need for future DOE assistance and intervention is mostly clearly evident in the States own requests for assistance, requests which could not be met under the low annual authorizations of $10 million which expired last Friday.

For example, only $2 million was available in fiscal year 1977 to fund Utility Consumer Offices to assist underrepresented utility customers in ratemaking proceedings. Over 41 States applied for this money, and of these only the top 12 could be funded. Similarly, of the 33 States applying for experimental demonstration funds in fiscal year 1976, only 6 could be funded. Even with the much stiffer eligibility requirements of the fiscal year 1977 pilot demonstrations, which required a written commitment to action—not just studies—nearly one-third of the State applicants could not be funded.

Mr. President, I ask unanimous consent that the lists of States still awaiting funds be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROOKE. In addition, there must be a continued strengthening of DOE's staff capability in this area. Although the staff doubled in size in fiscal year 1977 and substantially broadened its technical base, with only 24 professional positions it cannot meet the growing States' needs for quick-response technical assistance. The existing staff does include a broad mix of both training—engineering, economics, law, business administration—and experience—utility, regulatory, Federal program management—and is expert in the full range of assistance activities contemplated in Public Law 94-385, S. 2114, and our proposed amendment.

Our amendment continues authority given the Secretary under ECPA to make grants to assist utility regulatory commissions in improving rate design, encouraging load management, and developing other related energy conservation measures and practices such as forcasting long-range load demand. It also clarifies the Secretary's authority to provide technical assistance directly from the Department of Energy. It confers new authority for making such grants and providing assistance to nonregulated utilities and cooperatives as well as to natural gas utilities.

This measure extends the ECPA grant making authority from its present expiration date of September 1977 to December 1980. And it authorizes appropriations of up to $45 million per fiscal year, of which $40 million goes directly to the States and nonregulated utilities, instead of the $12 million currently authorized. $5 million will be spent for the intervention program of the Department before State regulatory commissions instead of the $1 million currently authorized.

In addition, $10 million is authorized for consumer representation at the State level instead of the $2 million currently authorized.

I hope the distinguished floor managers will recognize that, whether or not the committee bill is amended, the final version will put a great burden on the States and on the Secretary of DOE to undertake sophisticated analysis and argument. The public power and cooperative utility associations are firmly behind this amendment as are most State governments. We cannot impose major responsibilities on the States and nonregulated utilities and leave them to fend for themselves. I trust this amendment can be accepted by the committee.

EXHIBIT 1

ELECTRIC UTILITY RATE DESIGN INITIATIVES

(Annual report for 1976)

BACKGROUND

The purpose of Title II of the Energy Conservation and Production Act of 1976 (Pub. L. 94-385) is to require the Federal Energy Administration (FEA):

1. To develop proposals for improvement of electric utility rate design and transmit such proposals to Congress;

2. To fund electric utility rate demonstration projects;

3. To intervene or participate, upon request, in the proceedings of utility regulatory commissions; and

4. To provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

Section 206 of the Act requires FEA to submit an annual report to the Congress with respect to activities conducted under Title II, together with recommendations as to the need for and types of further Federal legislation.

RATE DESIGN PROPOSALS

Section 203 of the Act requires FEA to develop and transmit to Congress, within 6 months of enactment, proposals to improve electric utility rate design. The proposals are required to cover, at a minimum:

Cost-effective load management techniques;

Rates reflecting marginal cost of service or time-of-use of service, or both;

Ratemaking policies which discourage inefficient fuel use and encourage economical fuel purchases; and

Policies which encourage equipment and system reliability.

Analysis of these proposals is required to consider energy savings, capacity or capital savings, and changes in costs.

On March 4, 1977, FEA submitted to Congress an extensive Interim Report on Electric Utility Rate Design Proposals. The Interim Report, prepared by FEA staff with the assistance of several contractors and in conjunction with an independent *ad hoc* advisory group, represents the first comprehensive, objective assessment of the full range of rate design concepts currently under consideration nationwide.

A copy of the Executive Summary of the Interim Report accompanies this first annual report. The final report, to be submitted later in 1977, or early in 1978, will include a more quantitative and detailed analysis and specific recommendations for further action, if justified.

RATE DEMONSTRATION PROJECTS

Funds needed to implement the requirement for rate demonstration projects have not yet been appropriated. Thus, such projects have not been funded under the Act.

Prior to enactment of Public Law 94-385, however, FEA had initiated a number of electric rate demonstrations under the more general provisions of the Federal Energy Administration Act of 1974. A total of 16 such projects have been initiated, seven in Fiscal Year 1975 and nine more in Fiscal Year 1976. Funding for these demonstrations is summarized below, in chronological order of initiation:

[Funding ($000)]

Regulatory jurisdiction	Fiscal year 1975	Fiscal year 1976
1. Vermont	360	----
2. Connecticut	230	130
3. New Jersey	160	555
4. Ohio	220	168
5. Arkansas	210	160
6. Arizona	210	----
7. Los Angeles	170	350
8. Wisconsin	----	200
9. Michigan	----	200
10. New York	----	237
11. California	----	355
12. Puerto Rico	----	357
13. North Carolina	----	533
14. Edmond, Okla	----	203
15. Washington	----	281
16. Rhode Island	----	----
Total	1,560	4,004

The purpose of these projects is to prove the feasibility of time-of-use rates, and to gather experimental data with respect to conditions under which cost-effectiveness is uncertain, i.e., for residential customers. Several of the experiments have yielded tentative findings, as presented in the Interim Report.

When appropriations are forthcoming pursuant to Title II of Public Law 94-385, FEA plans to use these funds in two quite distinct ways. First, continuation support will be provided for experimental projects initiated in previous fiscal years. Second, a limited number of new projects will be initiated not for experimental purposes, but to demonstrate the feasibility of permanently adopting new rate forms for an entire class of customers within a utility service area or regulatory jurisdiction. Federal funds will be used to defray the front-end costs of analysis rate design, customer education, and transition period rate adjustments.

RATE REFORM INITIATIVES

Section 204(1)(B) of Public Law 94-385 authorizes FEA to fund regulatory rate reform initiatives of a non-demonstration nature, as contrasted with the demonstration funding authorized by section 204(1)(A). Pursuant to this authority, FEA plans to undertake a comprehensive technical assistance program to help utility regulators develop and implement energy conservation programs to be pursued through the regulated utilities.

Utility conservation programs to be mandated by regulatory commissions would be grounded upon rate reform, specifically the elimination of declining block energy charges, but would also feature any one or more of the following ancillary measures:

Customer education;

Energy audits;

Conservation/loan management financing;

Elimination of master metering;

Energy efficiency criteria for new service hookups;

Penalty charges for energy inefficiency in existing facilities.

Given the great diversity of utilities, it is important that any utility conservation program be sensitive to the particular local characteristics of the utility in question. FEA's technical assistance activities will be designed to help each regulatory commission carefully assess its needs, formulate a utility conservation program which effectively meets these needs, and implement the program in a reasoned, practical manner.

FEA resources for pursuing these objectives will include agency personnel, contracted technical assistance teams of the highest professional caliber, volunteer help from exemplary utilities and commissions, and various educational and analytical "tools." Examples of such tools include instructional case studies, computer simulation models, and information systems.

REGULATORY INTERVENTION

Section 204(2) of Public Law 94-385 authorizes FEA, at the request of a State, a utility regulatory commission, or any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, to intervene and participate in such a proceeding. Pursuant to this authority, FEA participated in utility rate proceedings in three States as of December 31, 1976. Prior to the enactment of this Act, FEA had participated in rate cases in 13 States under the general authorization of the Federal Energy Administration Act of 1974.

The purposes of the intervention activities, initiated in 1975, are (1) to advocate utility rate structures that provide consumers and distributors of utility energy the incentive to use energy more wisely; and (2) to provide assistance to utilities and their regulators in the practical implementation of utility rate reform and allied conservation activities. The intervention activities are also designed to support the demonstration projects, by ensuring that the results of the demonstration projects are considered in those forums where most ratemaking decisions are finally made, i.e., in State utility rate proceedings.

In some jurisdictions, FEA has been a full party to the proceedings while in others it has participated in an *amicus curiae* capacity. FEA has participated in both generic rate cases and specific rate application hearings. A list of proceedings that FEA has participated in through December 31, 1976 is shown below.

SUMMARY OF REGULATORY PARTICIPATION

Docket No. and utility	FEA status	Testimony filed	Brief filed
California PUC No. 54279 et al (Pacific Gas and Electric).	Amicus		Apr. 2, 1975.
California PUC No. 56408 (Southern California Edison).	Party	Aug. 30, 1976	Dec. 16, 1976.
Colorado PUC No. 935 (Colorado Public Service).	Amicus	Oct. 8, 1975	
Connecticut PUCA No. 760204 (Generic Hearings).	Party	Oct. 1, 13, 1976	
Dallas, Tex. (undocketed) (Dallas Power & Light).	Amicus	Feb. 14, 1976	
Delaware PSC No. 829 (Delaware Power & Light).	Party	Feb. 2, 1976	
Maryland PSC No. 6808 (Generic)	Limited party	Feb. 27, 1976	Sept. 2, 1976.
Massachusetts DPU No. 18810 (Generic Ratemaking).	do	Sept. 15, 1976	
Minnesota PSC No. ER2-1 (Northern States Power).	Amicus		Sept. 23, 1975.
Nevada PSC No. 579 (Sierra Pacific Power.	do		May 17, 1976.
New Hampshire PUC No. DR 75-20 (Generic Party Hearings).	Limited party	Jan. 20, 1976	
New York PSC No. 26806 (Generic Hearings).	Party	Aug. 11, 1975; Jan. 27, 1976.	Mar. 20; Apr. 9, 1976
North Carolina UC No. E-100, Sub. 21 (Generic Hearings).	do	Dec. 10, 16, 1975	
South Dakota PSC No. F-3062 (Northern States Power).	do	Apr. 26, 1976	July 12, 1976.
Tennessee Valley Authority (Generic Invest.).	Participant	June 7, 1976	
Wisconsin PSC No. 01-ER-1 (Generic Ratemaking).	Party	Sept. 6, 1976	

In addition, FEA has begun participation this year in regulatory proceedings in Pennsylvania, Arizona, Oklahoma, Hawaii and Colorado.

FEA's influence on State utility rate decisions cannot be precisely gauged, because of the difficulty of imputing a cause and effect relationship between the submissions of any party to an adjudicatory proceeding and the outcome to that proceeding. However, many observers familiar with the current regulatory environment nationally have suggested that FEA's intervention activities have played a key role in accelerating and guiding rate reform decisions in at least several key jurisdictions.

GRANTS FOR OFFICES OF CONSUMER SERVICES

Section 205 of the Act authorizes FEA to make grants to States, or to an office of consumer services established by the Tennessee Valley Authority, to provide for the establishment and operation of the offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Grants made pursuant to this section shall be provided only for consumer service offices which operate independently of such utility regulatory commissions and must be made available only in addition to, and not in substitution for, funds made available to consumer services offices from other sources.

The offices of consumer services must be empowered to:

Assess the impact of proposed rate changes and other regulatory actions on all affected consumers;

Assist consumers in their presentations before utility regulatory commissions;

Advocate a position which it determines represents the position most advantageous to consumers.

Although implementing funds for Section 205 have not yet been appropriated, FEA is proceeding in the development of guidelines for the disbursement of grants under this section. It is anticipated that these guidelines will serve as the basis for selection of applicant jurisdictions.

RECOMMENDATIONS AS TO FEDERAL LEGISLATION

Section 206 of the Act requires that the annual report required under this provision include recommendations as to the need for and types of further Federal legislation. The Executive Office of the President, with staff assistance from FEA, is currently preparing comprehensive recommendations for Federal legislation in this area. These specific recommendations, if adopted by the President, will be included in the President's Energy Message of April 20, 1977, and are not presently available.

EXHIBIT 2

Utility conservation pilot project: Round II

SUMMARY SHEET

State/municipality:	*FEA funds requested*
Minnesota	500,000
South Dakota	297,383
Iowa	296,000
Springfield, MO	231,500
Ohio	338,400
Connecticut	395,860
Grand River Dam Authority	160,200
Oklahoma	
Seattle, WA	477,641
California	499,960
North Carolina	442,485
NOT FUNDED	
Massachusetts	398,229
Wisconsin	441,405
Rhode Island	193,006
North Dakota	191,700

OFFICES OF CONSUMER SERVICES: GRANT PROGRAM

Applicant:	Requested level of funding
Arkansas	185,913
Indiana	200,000
Massachusetts	199,974
Guam	59,928
Idaho	200,000
Georgia	196,462
New Hampshire	40,000
Illinois	196,462
New York	200,000
District of Columbia	126,495
Michigan	200,000
New Mexico	200,000
NOT FUNDED	
Texas	200,000
Alabama	200,000
Pennsylvania	200,000
Kansas	202,681
South Dakota	164,000
Utah	120,000
Colorado	199,259
Connecticut	124,200
Montana	83,100
Delaware	131,325
Arizona	200,000
West Virginia	200,000
South Carolina	200,000
California	200,000
Rhode Island	199,999
Kentucky	197,146
Virginia	200,000
Hawaii	200,000
North Carolina	174,351
New Jersey	200,000
Missouri	182,232
Washington	183,121
Louisiana	200,000
Oklahoma	200,000
Ohio	200,000
Minnesota	177,311
Maine	65,000
Vermont	109,964
Maryland	Nonresponsive

Mr. BROOKE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, we oppose this amendment. It is a proliferation of Federal spending in an area where we have already provided that money.

We have just agreed to accept the Durkin amendment, which increases by $5 million the amount that consumers can have to intervene in State regulatory proceedings. We also invest the Secretary with the authority and the duty to intervene in State regulatory proceedings to fight for equitable rates.

Mr. President, what this amendment does is further proliferate Federal expenditures and Federal employees, which, in turn, proliferates the efforts. We ought to try to get some kind of centralized effort in this respect. One Federal agency and one State agency ought to be enough, but we are talking, in this amendment, about $45 million, plus $10 million under section 205. We think that is much too much, and we strongly oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, just a brief remark. I associate myself with the remarks of the distinguished floor manager, and would point out that during the hearings on this matter, a number of the PUCs, and also the States, were represented at those hearings, and they did not register a desire for increases in these areas.

So this is not a response to a request to fulfill a need by the States, but I feel that it is a proliferation of Federal control and Federal bureaucracy in an area that has been, until fairly recently, wholly the domain of the States. I feel that the further intrusion is not in the best interests of fiscal responsibility or in the best interests of the management of consumer affairs.

Mr. DURKIN. Mr. President, will the Senator from Louisiana yield me 2 minutes?

Mr. JOHNSTON. I yield the Senator from New Hampshire 5 minutes.

Mr. DURKIN. Mr. President, I, as I say, hate to speak out in opposition to the substitute amendment of my good friend from Massachusetts. He has spent a lot of time, energy, and effort, as all of us from the committee have.

We in the Northeast face the highest electric rates in the country. The people who fell for those electric heat ads pay more for their electricity that they do for their mortgages, in many areas of my State and the northern part of Massachusetts.

But as much as I agree with the Senator from Massachusetts on the problem, I have to oppose this amendment or this substitute, because I do not think the answer is sending a $40 million CARE package addressed to the public utilities, to do with what they want. The public utilities commissions in the States have adequate powers to generate sufficient revenue to represent the consumers and also carry out their obligation to the stockholders of the utility companies.

I think we can strengthen the PUC's efforts and resolve the problem on a much more realistic basis and a cheaper basis by giving the State offices of consumer affairs the money that is provided in my amendment, so that they can go in and aggressively argue their cases State by State, and appeal to the State courts.

I feel that to go down this road is really starting us down the road to at least a dual regulation of the utilities, with all the inherent problems that would involve, and worse yet would be to have the Federal Government trying to regulate the utilities in 50 different States, with a myriad of different problems. I think the American public is fed up with Washington deciding they can solve all the problems and usurping jurisdiction from the States. For that reason, I have to oppose the substitute of my good friend from Massachusetts, and urge that it be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, I yield myself 3 minutes to respond to my colleagues.

Let me assure them that it is not my intent to have Federal regulation of the utilities. Nothing could be further from my intent, and certainly nothing is further from the intent of the committee, because the committee certainly went as far as it could in getting away from any Federal presence at all, so far as the regulation of utilities is concerned.

The committee intent would appear to be that they want to let the States do it. The fact is that in many instances the States are not doing it, and consumers are being injured. The States do not have regulatory agencies with sufficient staffs that have the necessary expertise, because they do not have the money to do the job.

Mr. President, you cannot have it both ways. If you want the States to do it, you have to give the States something with which to do it. Oftentimes we mandate things for the States, and then we do not give them the money to do them. In the field of education, we have said to the States, "We want you to educate all handicapped children," and then do not give them money to do it. Many of the States are reeling; they do not have sufficient funds, the cities and towns do not have sufficient funds, and the States are faced with the mandate and no funds to carry out that mandate.

We are not trying to run the States. We are letting the States regulate the utilities, without any question about it. But when they fail to do so, the consumer is injured. In my State, for example, some people are paying more for their electricity than for their mortgages, and it is going up and up and up. We have to find ways of conserving. We have to find ways of testing to find out the best thing to be done in order to bring that price down for the consumer. If we do not provide the funds for the State agencies with which to work, the job will not be done.

I am not suggesting that we do it ourselves. I am suggesting, we let the States do it, but I am suggesting that many States lack sufficient funds. The Senator from New Hampshire has said he would want this in certain instances, but he does not want it in certain other instances. I am just saying, see that they have sufficient funds.

To say that this is a great expansion of Federal bureaucracy is just not right. This is not any expansion of Federal bureaucracy at all. It is just to provide funds to help the States do what they should do, and help them do it properly.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. BROOKE. On the Senator's time, because I am running out of time.

Mr. DURKIN. Mr. President, I do not have any.

Mr. BROOKE. I think the floor manager has time.

Mr. DURKIN. Will the Senator from Louisiana yield to me?

Mr. JOHNSTON. I yield the Senator 2 minutes.

Mr. DURKIN. In our political system, with the Massachusetts State government, which has a budget of approximately $1 billion, is it not much more likely that the consumers in northern Massachusetts and the consumers in southern New Hampshire who are paying those electric rates that are higher than their mortgages, does the Senator not think they have a better chance of rectifying that injustice if they have a State agency, funded by State revenue, that can be an issue in the gubernatorial races in those States, rather than having it down here where we are walking down that path to Federal regulation, where it will be done by those impersonal, faceless bureaucrats whom no one knows, who will identify with no concern for the people of northern Massachusetts or southern New Hampshire?

If you have Federal dollars, you will have a Federal presence, and then Federal regulation. I served 5 years as State insurance commissioner of my State. Just as in anything else, there are good State insurance commissioners and there are bum State insurance commissioners, but the State commission function, and they began to rebuild their staffs all over the country when the Federal Government expressed an interest in the regulation of insurance, and they had a much more effective impact on the regulation of insurance than would the usurpation of regulation insurance companies by the Federal Government.

I am afraid that when we start sending a $40 million CARE package to addressee unknown, State capitol, any State capitol across the country, we are just going down the road which will lead, if not to Federal regulation, to dual regulation, which is yet worse.

Mr. BROOKE. Mr. President, I certainly understand and respect the concern of the distinguished Senator from New Hampshire. I shall not repeat what I said previously, but I hope that I have, in some degree, allayed his fears. I assure him that I am not concerned with having Federal regulation of the State utilities. That is far from what I want. I want to be sure that the States are able to carry out their responsibilities. I find that rural cooperatives and municipal and other nonregulated utilities and gas utilities are just not covered and that is just not the case. I hope that the Senate will recognize that this is not an attempt at Federal regulation.

UP AMENDMENT 880

Mr. BROOKE. Mr. President, I send to the desk a modification of my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes a modification, unprinted amendment numbered 880, to unprinted amendment numbered 879:

On page 1 after "amended by" insert "striking the period at the end of section 202(7) and adding the following "or any State agency given the authority under State law to study and develop various forms of ratemaking techniques and rate designs for use by the agency with ratemaking authority," and by".

Mr. BROOKE. Mr. President, this is a simple modification, if I may have the attention of the manager and Mr. Durkin.

Mr. DURKIN. Mr. President, does that require unanimous consent in order to be considered?

The PRESDIING OFFICER. The Senator has the right to modify his amendment. There has been no action on it.

Mr. DURKIN. I have no objection, anyway.

Mr. BROOKE. I just wanted to explain to the distinguished Senator from New Hampshire that, a while ago, I learned that the authority to conduct studies under this section has been transferred to a new agency in the State of New Jersey. The modification makes it clear that they are covered by this measure and eligible for these grants. I do not know that it applies to any other State, because I do not know that any other State has changed its agency that recently. This just qualifies New Jersey, together with the other States.

Mr. President, I am prepared to yield back the remainder of my time, but I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there a sufficient second? There is not a sufficient second.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

Mr. JOHNSTON. Mr. President, on whose time?

The PRESIDING OFFICER. Under the precedent, the Senator from Massachusetts does not have sufficient time to call a quorum. He may wait until all time has been used or yielded back and then ask for a quorum.

Mr. BROOKE. I am prepared to yield back my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, for reasons previously stated, we oppose the amendment. If no one else has anything to say, I shall yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. JOHNSTON. Mr. President, I move to lay the amendment on the table.

Mr. BROOKE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—54

Allen	Gravel	Nelson
Baker	Hansen	Nunn
Bartlett	Hatch	Packwood
Bellmon	Hatfield	Pearson
Bentsen	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Roth
Cannon	Huddleston	Schmitt
Chiles	Inouye	Scott
Church	Jackson	Sparkman
Curtis	Johnston	Stennis
Danforth	Laxalt	Talmadge
Domenici	Long	Thurmond
Durkin	Lugar	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Young
Ford	Metzenbaum	Zorinsky
Garn	Morgan	
Goldwater	Moynihan	

NAYS—43

Abourezk	Glenn	Muskie
Anderson	Griffin	Pell
Bayh	Hart	Percy
Biden	Haskell	Ribicoff
Brooke	Hathaway	Riegle
Bumpers	Heinz	Sarbanes
Burdick	Javits	Sasser
Byrd, Robert C.	Kennedy	Schweiker
Case	Leahy	Stafford
Chafee	Magnuson	Stevens
Clark	Mathias	Stevenson
Cranston	McGovern	Stone
Culver	McIntyre	Williams
DeConcini	Melcher	
Dole	Metcalf	

NOT VOTING—3

Humphrey	McClellan	Weicker

So the motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted staff members: Mr. METZENBAUM: Roger Berliner; Mr. CASE: Jack Vandenberg; Mr. SCHMITT: Dick Burdette; Mr. MELCHER: Bill Wetzel, Ben Strong, and Janine Volsky; Mr. SASSER: Paul Clark and Dave Johnson; Mr. STONE: Bill Morris.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New Hampshire.

COMMITTEE MEETINGS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Financial Institutions Subcommittee of the Banking, Housing, and Urban Affairs Committee be authorized to meet during the session of the Senate today to conduct oversight hearings on alternative mortgage instruments.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Rural Housing Subcommittee of the Banking, Housing, and Urban Affairs Committee be authorized to meet during the session of the Senate today to consider legislation on rural housing, S. 1150.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from New Hampshire.

Mr. JOHNSTON. Mr. President, I think all time has been yielded back.

The PRESIDING OFFICER. The Senator is correct. All time has been yielded back.

Mr. DURKIN. Will the Senator yield for 1 minute?

The PRESIDING OFFICER. The Senate will be in order. The Senator cannot continue until there is order.

Mr. JOHNSTON. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Mr. BAYH be added as a cosponsor of my amendment, and that the amendment be conformed to the modification I have at the desk which inserts instead of "such", "1978 and 1979".

The PRESIDING OFFICER. Is there objection to the modification?

The Chair hears none and it is so modified.

The amendment as further modified is as follows:

On page 8, between lines 22 and 23, insert the following:

Financial Assistance for Consumer Representation

Sec. 7A. Title II of the Energy Conservation and Production Act is amended by amending section 207(b) to read as follows:

"(b) There are authorized to be appropriated to carry out section 205 for fiscal years 1978 and 1979 not to exceed $5,000,000."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire, as modified.

The amendment, as modified, was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment—the Senator from Massachusetts.

Mr. JOHNSTON. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BROOKE. I yield.

Mr. JOHNSTON. Will the Senator yield for a small colloquy between the Senator from Illinois and myself?

Mr. BROOKE. I yield.

Mr. PERCY. Mr. President, on August 1, I introduced an amendment to the administration's utility bill.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BROOKE. Mr. President, I yielded to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. I thank my distinguished colleague. We will just have a short colloquy on small power producers.

Mr. President, a tremendous transformation is occurring in the way this Nation obtains its electric energy. Fuel shortages may ultimately make obsolete the oil- and gas-fueled powerplants which are our mainstay today. Nuclear and especially coal will supply much of our future capacity. But it is also important that we experiment with a variety of new technologies in order to keep our options open.

Electric companies have fueled the growth of our economy in the last few decades. They have provided electrical energy at rates among the most favorable in the world. They built increasingly larger powerplants to reap the benefits of economies of scale.

But today the cost curves have shifted. The potential of small-scale powerplants, using solar power, wind, and small water turbines, has suddenly blossomed as the cost of traditional powerplants has rocketed.

Mr. President, I do not claim that windmills or wood-fired generators will solve our energy problems. Known technology cannot provide such easy solutions. All I claim is that we should not inadvertently foreclose our options.

There are thousands of small inventors around the country. These persons are conducting their own energy R. & D. program right now, often with no outside money or technical help. They are testing the windmills, solar electric cells, and other systems which too many here in Washington mistakenly believe to be only on the drawing board.

Mr. President, how many of us for instance are aware that more than five dozen small electric systems of this type are now in operation feeding small amounts of power back into electric company lines? This work is underway and we should take its potential into account.

We are somewhat more familiar with the case of small hydroelectric dams. The tireless efforts of Dr. David Lilienthal have inspired many to explore the potential of abandoned mill dams, aqueduct dams, and flood control dams. Within the next 4 years we could see hundreds of these dams restored to service. Now no one claims that small hydro sites will ultimately add more than a percent or two to our electricity supply. But for some medium-sized towns a small hydroelectric project could mean that they can attract a new industry, or keep several hundred jobs at a declining mill. Incidentally, I commend the Senator from New Hampshire (Mr. DURKIN) and the Energy Committee for having included in S. 2114 $10 million for loans to conduct feasibility studies of small dam rehabilitation.

Mr. President, three important stumbling blocks face the various small producers. First, the electric rates they face for sales and purchases of power determine the economics of these systems. It is possible that a local electric utility might be unnecessarily apprehensive about the long-term implications of small producers, and would either refuse to serve them or charge discriminatory rates. This has indeed happened in a few cases.

Second, there is the threat that small power producers could have to file mountains of paper with State and Federal regulators because of public utility laws. Most State public utility commissions would of course be likely to treat a rancher with a windmill differently from a multibillion-dollar electric company. Unfortunately, the threat of mountains of paperwork is still there, and may hinder use of innovative technologies.

Finally, small producers face a potential threat of antitrust prosecution under the Public Utility Holding Company Act. Under that act it is difficult to both sell electricity and, at the same time, engage in another line of business.

On August 1, I introduced an amendment to the administration's utility bill to protect small producers. I am very pleased that Senator DURKIN of New Hampshire introduced, and the Energy Committee passed, a version of my amendment. This section of the bill, section 12, allows for guidelines on rates, and actual exemptions from Federal utility laws. It goes a long way toward answering the problems which cogenerators and small producers face.

However, I have decided not to call up this amendment for the following reasons:

First. The bill already allows the Secretary of Energy to intervene in any proceeding before a State utility commission.

Second. The Energy Conservation and Production Act of 1976, section 204, allows the Secretary to join in any appeal of a rate proceeding to which he is a party, provided one of the other parties involved so requests.

I have some question for the Senator from Louisiana on the issue of small power producers:

First. Is there any reason why the Secretary of Energy would not be allowed to use the powers I just mentioned to assist cogenerators and small power producers?

Mr. JOHNSTON. Absolutely not, because section 2 of the act specifically states that the purpose of the act is to encourage overall conservation in electric and gas utility systems, to encourage the optimization of the efficiency of use of facilities and resources by electric or gas utility systems, in addition to fostering equitable rates for consumers.

Those are the purposes for which the Secretary can intervene in addition to the other provisions of law outside of this act.

So I would say that small cogenerators would fit precisely into that category. So that in order to preserve and foster energy conservation and optimization of facilities, the Secretary certainly could intervene.

Mr. PERCY. I thank my colleague for that interpretation.

Does the Senator agree that the Federal guidelines in section 12 of the bill are needed to insure that cogenerators and small power producers receive fair treatment from electric utilities?

Mr. JOHNSTON. Yes. I certainly think so.

Under section 12, the Secretary of Energy is required to recommend guidelines to the State regulatory authorities.

Clearly these guidelines ought to protect and foster cogeneration.

Cogeneration can save a great amount of energy and we hope the States will follow those guidelines under section 12.

Mr. PERCY. I thank my colleague.

The Department of Energy will soon have an Office of Small-Scale Technology to promote decentralized energy sources. Would the distinguished floor manager of this bill say that such an office can and should play an important role in the promotion of certain small power producers, such as solar and windmills?

Mr. JOHNSTON. Yes. I believe it should.

Mr. PERCY. Finally, is it the intent of the Energy Committee that the Secretary of Energy shall use the powers granted him in this bill and in the Energy Conservation and Production Act to promote cogenerators and small producers?

Mr. JOHNSTON. Absolutely.

Mr. PERCY. I thank my distinguished colleague from Louisiana very much, indeed, and I thank my distinguished colleague from Massachusetts for yielding.

I am deeply disappointed that the amendment the Senator from Massachusetts offered was tabled. I felt it was a major step forward and would have insured that State utility commissions have adequate staffing and funding to correct many of the abuses that we pointed out in our colloquy last night. But I trust Senator BROOKE will offer additional amendments now, and will afford the Senate another opportunity to move forward in this direction.

Mr. BROOKE. I thank my colleague.

I share his disappointment, but I hope that since we got such a good vote in the conference between the House and Senate that will be corrected.

AMENDMENT NO. 1400

Mr. BROOKE. Mr. President, I call up my amendment numbered 1400 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. CRANSTON, Mr. PERCY, Mr. ANDERSON, Mr. RIEGLE, and Mr. HART, proposes an amendment numbered 1400.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 6, line 7, strike out ", except that nothing in this Act shall authorize him" and substitute "and is authorized".

Page 6, line 10, before the period insert: ", except that the Secretary may not—

"(1) seek or obtain any injunctive relief respecting the effectiveness of any rate in any such appeal or other proceeding for judicial review of any such decision, or

"(2) seek or obtain any relief respecting the effectiveness of any rate which would apply for any period before the final determination of such appeal or other proceeding.

Mr. BROOKE. Mr. President, the Committee on Energy and Natural Resources has reported a bill which sharply limits the role of the Secretary in matters of rate design to one of advocacy. I think that my colleagues will agree that if we place such limitations on the Secretary that we should not prevent her or him from being an effective advocate. But the committee bill, in flatly prohibiting the Secretary from seeking judicial review of the decisions of regulatory authorities in rate and rate design proceedings, has seriously undercut the ability of the Secretary even to serve as an effective advocate of energy conserving rate design improvements. The right to appeal the final decisions of administrative bodies is a basic right enjoyed by every other party to State regulatory proceedings. Indeed, I would say that the possibility of parties exercising this right of appeal provides incentives for administrative bodies to render well-considered decisions. But, if this committee language were enacted, a regulatory authority would know from the start that the Secretary is powerless to seek judicial review of its decisions. Such an authority, therefore, would have a strong incentive to lean toward the views of the parties which could precipitate an appeal.

Furthermore, passage of this language would tend to weaken the Secretary's existing authority. The ECPA permits appeals from proceedings to which the Secretary is a party. While this does not repeal that authority, it is a later expression of the apparent intent of Congress. Any opposing attorney could certainly argue against a Secretary exercising the mandate given in ECPA to intervene in appeals there. This seems to me to be just one more example of the Senate trying to cut the heart out of any general Federal commitment to the serious purpose of electric energy conservation.

My amendment would strike the bar to judicial review sought by the Secretary. However, it attaches important limitations to the remedies which the court may grant the Secretary. First, the Secretary would not be permitted to seek injunctive relief respecting the effectiveness of any rate. Second, any fiscal relief sought by the Secretary may only be prospective in nature. As such, no refunds of past rates may be occasioned by relief granted the Secretary upon appeal. In addition, the Secretary must pursue her or his appeal in State courts. No Federal cause of action is created which would allow the Secretary access to Federal courts. Fourth, the court would be reviewing the compliance of the authority or utility with State laws and regulations. My amendment contains no enforceable Federal standards or rulemaking authority.

What this means in simple terms is that only when the State body either acted in an arbitrary or capricious manner or it did not act on substantial evidence could there be grounds for appeal. And any appeal could be based on only the record of the proceedings, not on the substance of Federal policies or advisory guidelines.

I think that, with these limitations, appeals taken by the Secretary to State courts could not be regarded as potentially obstructions or as a "power grab." I think my amendment is the minimum we can do to permit the Secretary to be an effective advocate of national energy conservation policy as such policy relates to generating and supplying gas and electricity.

Mr. President I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I sent to the desk an amendment——

The PRESIDING OFFICER. The Chair would advise the Senator from Arkansas that an amendment is not in order at this point.

Mr. BUMPERS. A parliamentary inquiry Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Why is it not in order?

The PRESIDING OFFICER. There is an amendment pending.

Mr. BUMPERS. This is a perfecting amendment to the amendment offered by Senator BROOKE.

The PRESIDING OFFICER. The Chair would advise that that amendment would not be in order until all time on this amendment has been used or yielded back.

Mr. BUMPERS. I am sorry. I did not understand there was time.

Mr. JOHNSTON. Mr. President, there is already a right to appeal in ECPA, section 204, which provides that the Administrator, on the request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and third, on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and participate in such action.

So that there is that right of appeal already in the law.

Mr. President, the committee specifically discussed this amendment during markup sessions. The committee has a very strong feeling we should not supplant State regulation with Federal guidelines.

We do believe these ratemaking innovations all the way from lifeline rates to time-of-day rates to declining block rates, all of these things are very interesting, and they, in sum, might offer great promise to State regulatory commissions to try to experiment with and eventually to adopt.

But there is one thing that came through very loud and clear in our hearings, and that was we do not know enough at the Federal level to supplant the efforts of State regulatory people on the State level, and to attempt to do so simply adds uncertainty and adds delay to the State regulatory process, and it is upon that State regulatory process and the surety of it that the ability of utilities to get money for new plants depends.

To the extent that you make it uncertain, to the extent that you delay it, you make it that much more difficult to build new generating plants. And the need for new generating facilities in this country is something close to a crisis in itself.

Now, somewhere we had to draw the line to determine at what point the Federal Government is actually interfering with this process. Well, at this amendment is where we drew the line, because if you give the Administrator the right not only to intervene but then to appeal on his own motion you give the Administrator the right to eventually set up what you might call a federally established common law relative to regulatory proceedings.

So he would have the right then to go into a State commission and push for a certain point of view, and if they did not accept that point of view he could then appeal up through the courts and sooner or later he would get a court that was friendly and would order that, and you would have a precedent, and he could selectively set up a whole series of precedents of a Federal ratemaking, federally inspired ratemaking, to supplant that of the States, and, in the process of that, we would have delay.

The committee very carefully considered that and rejected it, and keeping in mind we still have the right of appeal which presently exists in ECPA.

So. Mr. President, the committee has considered this and rejected it very strongly, and I would urge the Senate to reject it.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield to me for some discussion?

Mr. BROOKE. I would be glad to yield.

Mr. BUMPERS. It was my intention, Mr. President, to offer an amendment this morning which would be offered as a perfecting amendment to the amendment of the Senator from Massachusetts,

the effect of which would provide that if the Secretary intervened in the public service commission hearings in the original hearing, he could appeal a decision with which he disagreed, but that if he did not intervene in the original proceedings he would not be eligible to appeal.

I am now advised that, perhaps, that was the Senator's intention with his amendment, without a perfecting amendment; is that correct?

Mr. BROOKE. The Senator from Arkansas is correct. That is my intention, yes.

Mr. BUMPERS. Let me say this: I understand the parochial interest of some of the people here in the fear that ratemaking is going to start emanating from Washington. I do not share that fear. Ratemaking is a very independent process, at least in my State, and I have no reason to assume it is less independent in other States.

But I do think the bill that came out of the Senate committee is not quite rigid enough. I do think the voluntary guidelines are satisfactory, and that the Secretary ought to issue voluntary guidelines to cover, for example, time-of-day pricing, and that sort of thing.

But I think they become empty unless the Secretary at least has the opportunity to go into a hearing at the local level and tell the public service commission of that State why he thinks one or more of those guidelines would be applicable to that particular rate case.

Further, I think if he chooses to appeal from a decision, he ought to have the authority.

As I say, I recognize all of those apprehensions and reservations that Members of this body have about ratemaking occurring here. But if this is going to be the moral equivalent of war we cannot have one set of guidelines in one State and another set of guidelines some place else, if a guideline happens to be patently correct and ought to be adopted in a particular State.

So for my concern, if the answer of the Senator from Massachusetts is "yes," then that satisfies this Senator, and I will not offer the amendment either by itself or as a perfecting amendment.

Mr. BROOKE. I thank my colleague from Arkansas. The Secretary does have the right to appeal. I think it has been stated sufficiently well, but I think this colloquy between us clarifies any ambiguity that may arise as to the differences between us.

Mr. BUMPERS. I thank the Senator.

Mr. DURKIN. Mr. President, will the Senator yield? I realize this might not be the most popular position at this particular time in history, and it is not a parochial interest. I do have a certain amount of experience in the State regulatory ranks. I spent 5 years as insurance commissioner in the State of New Hampshire, and some of these things, innovations we started in the State of New Hampshire, have been adopted all across the country, and have been clearly recognized as tremendous advances for the consumer. So it is not a parochial interest.

I am not trying to preserve the domain of three public utility commissioners in the State of New Hampshire. For the most part, I have been at odds with them all along. But the bill mandates that the Secretary intervene, so he has to intervene in every case.

An official from downtown in the new building of the energy czar called me the other day. He thought I was on his side, and he said:

> You know, if we do not have the right to appeal we cannot push those State utility commissioners around to make them adopt the things we want them to adopt.

So what we have here is dual regulation heavily weighted in favor of that same faceless bureaucrat hidden in a concrete palace downtown, who is going to dictate to every utility commission across the country.

Fifteen or so of the utility commissions are elected, and the Federal bureaucracy will go in there in an election year and say, "If you do not adopt the scheme we think is best from Washington," having no consideration for the situation in the local community, the local area, "we are going to appeal, and we are going to mess you up in your reelection campaign."

What we are going to have is the same pressure even in States where the utility commissioners do not run for office.

The Senate bill, the committee bill, says the energy czar is mandated to go in and raise these issues in the local context, so that time-of-day, offpeak, marginal pricing, all of these things can be raised in the context of the local situation. But if we give them the right to appeal, we give them a blackjack. We give them a hammer to coerce every utility regulatory commissioner in the country. Then what we have is we have the worst of Federal regulation. We have responsibility vested here, and we found over the years that it is very, very——

Mr. BROOKE. Mr. President, will the Senator yield for an inquiry?

Mr. DURKIN. Just 1 second.

Mr. BROOKE. Is the Senator talking on the time of the opposition, or is he talking on my time? I just want to be sure.

Mr. DURKIN. I think I am talking on the floor manager's time.

Mr. DOMENICI. Mr. President, I will yield the Senator time on the bill on our side so there will be no misunderstanding.

Mr. BROOKE. I thank the Senator.

Mr. DURKIN. Again, I repeat, I came to this Chamber on the basis and thrust of my campaign that the lowest level of government that can get the job done should be the highest level of government to have that responsibility. That discontent and that feeling is rampant all over the country.

Here we are sitting down in this lovely Chamber talking virtually to ourselves, deciding that we are going to vitiate the will of most of the people in this country that they do not want the Federal Government sticking its nose into everything, and we are going to have the Federal Government forcing the hands of the utility commissions based on policy which is decided downtown.

I think it is a serious mistake. I think it goes too far. I think it is really dual regulation which is heavily weighted in favor of the Federal Government and it is going to produce more uncertainty. We know now you cannot budge the Federal Power Commission unless you have a satchel full of dynamite at their head.

So we are going to wind up where half of the agencies downtown have been seduced by the industries they are supposed to regulate and no average citizen can have any impact whatsoever, and we are going to do the same thing with utility rates and utility regulation if we give the Secretary the right to appeal because we have mandated that he appear. So if we give him the right to appeal in those cases where he appears we should take into consideration that appearance is mandated and we have given him a blackjack and a hammer to coerce the States into adopting things that may well be detrimental to the interest of the particular State.

I think it is another step down the wrong path at the wrong time.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time remains in opposition to the amendment?

The PRESIDING OFFICER. The Chair advises 24 minutes remain.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the time of the Senator from New Hampshire be charged against that rather than against our time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield me 5 minutes in opposition to the amendment?

Mr. JOHNSTON. I yield the Senator from New Mexico such time as he desires.

Mr. DOMENICI. First, Mr. President, I might say to the good Senator from New Hampshire that I commend him for his astute observation of what this amendment, appearing on its face to be rather than innocuous, really means.

If the Senate wants to put the new Energy office in a position of getting its way across this land in terms of utility ratemaking processes, then adopt the amendment of the Senator from Massachusetts.

There can be no doubt that if the Federal Government, in addition to appearing before these tribunes that are setting rates for the consumers and people of their State, has the added option of going into the courts of the State or the Federal system to appeal a ruling adverse to its position we might just as well today have adopted the approach that the Federal Government shall preempt ratemaking across this land, for that is basically the effect. And it is even worse because it is done under vague guidelines that were intended as goals because the

committee did not even know whether, in many instances, those would be good for the consumers or bad for the consumers in respective States.

This will end up as regulations by intimidation. Make no doubt about it. Almost every Senator in this institution from time to time comes to the floor and talks about the faceless bureaucracy and talks about how they are usurping everyone's rights and how they are taking advantage of the laws by which we vested authority in them. Let me assure you that in 2, 3, or 4 years Senators supporting this amendment will be down here complaining about the lawyers in the Department of Energy who are intimidating the States by this right which they have for incessant delay and threats to go to court. All they will have to do is take a few of them to court and you will see who will control the ratemaking process in our States.

I tell Senators who are interested that they will have a right to appeal even if the State regulatory commission thinks they are wrong, even if every consumer group in that State thinks they are wrong, because all of those groups think in that State what the State regulatory commission thought was best is by some lawyer in the Department of Energy thought not to be in the interest of carrying out some national goal that he or the Department of Energy for the United States thought should be the rule of law.

It appears innocuous, but let me assure Senators that this is the time to make sure we do not give this kind of authority to super regulators, not 2 or 3 years from now and those who support it should know that they stand responsible for this broad open-ended authority and when it gets abused in some State they may be reminded that we warned them here today so they do not have to come down and blame the then-Secretary of Energy for usurping his authority because under this bill, as modified by this amendment, the authority implicit and implied is absolutely incredible. If this Senate wants to push the ratemaking commissions into new approaches as the bill came out from committee, then make no bones about it. With this amendment that is not a gradual push. That is putting the Federal Government right into the ratemaking in each of the 50 States of the Union when we do not know what is right but we are going to trust some faceless bureaucracy to determine in courts of law what is right.

I close by saying the evidence before the committee is absolutely conclusive that what already is wrong with ratemaking are delays. We cannot get utilities financed because of delays and uncertainties. It is costing more because of that. The market in terms of financing new facilities is fragile because of that. If you want to add another layer to that already fragile one, then put the Federal Government in the posture that this amendment will put them and you will have uncertainty compounded. You will have delays at the whim of the Department of Energy.

In the final analysis, the ratemaking commissions, the Governors and the consumers in a State have all kinds of rights to intervene and appeal and that will be buttressed by our bill, without this amendment, by the Federal Government coming in and helping with factfinding and interrogation. If you do not think that is enough to protect the consumer, then give the Department of Energy the right to appeal and go to court, perhaps take it to the Supreme Court, and let that new ratemaking process, which will determine whether we have a new facility, sit around with incessant delays while they decide as lawyers how far they want to take their position.

I honestly believe this could even work ultimately to the detriment of consumers and what is best for any State because we are trusting the Deparment of Energy and its lawyers with making decisions as to what is right for citizens of States, for utility ratemaking commissions, for Governors, and for State legislatures, and I do not think we should do that. I think that the bill is one step forward but with this one it is four steps backward.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, may I say this to my dear friend from New Mexico: I think some of us may have fallen into the pit which has been set by some of the utility companies, rhetoric and propaganda. I just want to assure him that there is nothing in this amendment which gives the Secretary of the Department of Energy the right to appeal in any Federal court. The Senator from New Mexico said go all the way to the Supreme Court. How can they go through the courts when they are not even in the Federal system?

Mr. DOMENICI. I do not know whether they are or not. I am not expert enough to say so.

Mr. BROOKE. But the Senator said so. In his statement he said carry it all the way to the Supreme Court. How can you carry it all the way to the Supreme Court?

Mr. DOMENICI. If that is significant in my argument then I will strike it. I do not believe that there is any more or less chance of delay whether you are using the Federal or the State system. So I will strike all the reference to Federal courts from my argument. Where I implied the U.S. Supreme Court, I will substitute the supreme courts of the States.

Mr. BROOKE. The highest court of the State.

What we are talking about is appeal to State courts on purely State law which is the governing law insofar as these Regulatory issues to agencies are concerned and the appeal can go only to the record of the original proceedings. There was never any intention or any attempt, and there is nothing here which allows new issues or Federal laws or guidelines to be the subject of appeal, and I ask my friend fom New Mexico to show me anything here that gives the Secretary of Department of Energy the right to go to any Federal court.

Mr. DOMENICI. I tell the Senator that if he is talking about delays we might have been more right if we were talking about the Federal system because, as a matter of fact, other than to the U.S. Supreme Court, litigants would get through the Federal system quicker than through most State courts. So I think my argument is still valid.

Mr. BROOKE. I did not know the Senator was talking only about delays. But at any rate it is State law that governs these laws permit appeals only from an arbitrary decision or incomplete or improper proceding.

I just want to make that clear for the RECORD, and I thank the Senator from New Mexico for correcting his statement to show that the Federal courts are not involved.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I just have another minute. I also wish to point out that where there are arbitrary or capricious holdings, the Secretary would go in anyway with an appeal. That ought to be made clear.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. JOHNSTON. Is the Senator saying that the Federal Government has no right to raise any Federal questions in the State proceedings?

Mr. BROOKE. I am sorry; I did not hear the Senator.

Mr. JOHNSTON. Is the Senator saying that the Federal Government, under the intervention or under the appeal, has no right to raise any Federal question; any 14th amendment question, for example?

Mr. BROOKE. All I am saying is that whatever the State law is, that would govern. The State law would govern; that is all we are concerned with here, the State law. We are not concerned with the Federal law at all.

Mr. JOHNSTON. Is the Senator saying that under the right of intervention and under the appeal——

Mr. BROOKE. Right.

Mr. JOHNSTON. There is no right to raise any Federal constitutional question, that only the State law furnishes the basis for the intervention and the appeal?

Mr. BROOKE. All I have stated is that the State law governs the proceedings before the rate commission.

Mr. JOHNSTON. The procedural law?

Mr. BROOKE. Yes.

Mr. JOHNSTON. And the substantive law would be governed by——

Mr. BROOKE. By State law as well. You can raise an issue of the Federal Constitution in the State courts, as my colleague very well knows; but other than that, I am saying that the procedural law would be governed by the States.

Mr. JOHNSTON. I just want to establish that when you say State law governs, you mean State law governs as to how to

perfect your appeal and your delays. But the Federal law governs under this act, and what you have a right to raise in that appeal and what you can end up with is federally inspired common law, as a sleeve over the State regulatory bodies that are governed by this whole body of common law brought about by these appeals.

I might also point out that you do have an appeal to the U.S. Supreme Court from the highest court of the State.

Mr. BROOKE. If you have a constitutional question involved, you can appeal from the State courts.

Mr. JOHNSTON. A constitutional or a Federal question; and a Federal question is presented right under this act itself.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. BUMPERS. Lest this have an appearance of an intraparty concern, let me say to the Senator from New Mexico, the Senator from Louisiana, and my fellow Senators, I would like to point out that the amendment of the Senator from Massachusetts does not go much farther than present law. I doubt whether there are very Members of this body who realize that right now the Admininstrator has a right to participate in any rate-making case where he is invited by any participant. That could be the utility company, the Attorney General, or anyone who is a bona fide participant who invites him.

I quote the law because I want it to go into the RECORD to slow what the Senator from Massachusetts is proposing.

Under section 204 of Public Law 94–385:

> The Administrator may—
>
> (1) fund (A) demonstration projects to improve' electric utility load management procedures and (B) regulatory rate reform initiatives,
>
> (2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commisison which relates to electric utility rates or rate design, intervene and participate in such proceeding, and
>
> (3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under Paragraph (2), intervene and participate in such action.

So the only difference between what the Senator from Massachusetts is offering now and the present law is that the Administrator may on his own initiative intervene, and under present law he simply has to be invited. I would say that one would not have to be very ingenious to get an invitation.

Mr. BROOKE. Mr. President, the Senator is absolutely correct. To me, it appears that what the committee has actually done is try to weaken that part of the present law by now denying the Secretary the right to take an appeal under this new act in cases where she or he has intervened on her or his own initiative.

The Senator is absolutely correct. Under the present law, the Secretary has that right if invited. What we are proposing here is that he can intervene on his own motion, and, this is the point that this Senator wanted to correct, that only if he or she is a party to the original proceeding can there be an appeal. Certainly if there is an intervention, he or she would have the right to go all the way with an appeal as can every other party to the case. So I think the Senator is absolutely correct; we are not really very far from existing law. But the committee, by its action, may raise questions.

Mr. JOHNSTON. Mr. President, will the Senator from Arkansas yield?

Mr. BUMPERS. I do not have the floor, Mr. President. The Senator from Massachusetts yielded to me.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, we were aware of those provisions. I quoted those earlier in the debate, and stated that we had no intent to vary them, and pointed out those provisions as a reason for defeating the amendment and not as a reason to pass it, which I think it is.

Mr. President, I think the case has been made against the amendment, and I think that to the extent a case can be made for the amendment, it has been made, and we are ready to yield back the remainder of our time.

Mr. BROOKE. Mr. President, the Senate has previously passed favorably on the question of the Secretary's right to intervene and appeal on his own motion. We passed it and, as I understand, it was dropped as a result of a compromise in conference with the House of Representatives. This is nothing new nor revolutionary; it is a question on which the Senate has already acted last year. I am prepared to yield back the remainder of my time, and I ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I shall move that the amendment be laid on the table, and ask for the yeas and nays on that, and if we do not prevail, I am prepared to abide by the result of a voice vote on the amendment.

Mr. BROOKE. I beg the Senator's pardon?

Mr. JOHNSTON. I say I plan to move to table, which we can get the yeas and nays on, and I would plan to abide by the results, after that, of a voice vote.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. I move that the amendment be laid on the table.

Mr. BROOKE. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts (Mr. BROOKE). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 530 Leg.]

YEAS—59

Allen	Goldwater	Metcalf
Baker	Gravel	Morgan
Bartlett	Hansen	Muskie
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Burdick	Hatch	Proxmire
Byrd, Harry F., Jr.	Hatfield	Randolph
	Hathaway	Roth
Cannon	Hayakawa	Schmitt
Chiles	Heims	Schweiker
Church	Hollings	Scott
Curtis	Huddleston	Sparkman
Danforth	Johnston	Stennis
Dole	Laxalt	Stone
Domenici	Leahy	Talmadge
Durkin	Long	Thurmond
Eagleton	Lugar	Tower
Eastland	Matsunaga	Wallop
Ford	McClure	Young
Garn	Melcher	Zorinsky

NAYS—37

Anderson	Griffin	Pearson
Bayh	Heinz	Pell
Biden	Inouye	Percy
Brooke	Jackson	Ribicoff
Bumpers	Javits	Sarbanes
Byrd, Robert C.	Kennedy	Sasser
Case	Magnuson	Stafford
Chafee	Mathias	Stevens
Clark	McGovern	Stevenson
Cranston	McIntyre	Weicker
Culver	Metzenbaum	Williams
DeConcini	Moynihan	
Glenn	Nelson	

NOT VOTING—4

Abourezk	McClellan	Riegle
Humphrey		

So the motion to lay on the table amendment No. 1400 was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Who seeks recognition?

Mr. JOHNSTON. Mr. President, are there further amendments to be offered?

The PRESIDING OFFICER. If there are no further amendments, third reading.

Mr. BUMPERS. Mr. President, have all amendments now been offered?

Mr. JOHNSTON. I think Senator GLENN has an amendment.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will please take their seats. Staff members will please take their seats in the rear of the Chamber.

Does the Senator from Louisiana desire to be recognized?

Mr. JOHNSTON. No.

Mr. MELCHER. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Will the Senator furnish the Chair with the number of the amendment?

Mr. MELCHER. The one I just handed in at the desk.

The PRESIDING OFFICER. Is it an unprinted amendment or is it printed?

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

Mr. JOHNSTON. Mr. President, will the Senator withhold that?

Mr. MELCHER. I withhold.

Mr. McINTYRE. Mr. President, I ask unanimous consent that William Donovan, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, yesterday the Senate adopted unprinted amendment No. 870 to S. 2114, sponsored by the distinguished Senator from New Hampshire, Mr. DURKIN. This amendment called for the Chairman of the Federal Energy Regulatory Commission "to conduct a study of the legal requirements and administrative procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act." Among other things, this study would involve an investigation into the so-called pancaking of wholesale rate increases; that is, the imposition of second and subsequent rate increases before the Federal Power Commission has passed on the first such request for an increase.

I fully supported this amendment. Indeed, there is much merit in the much stronger provisions contained in the House bill, which I shall discuss shortly.

In the past several years, because of inflation and rapidly rising fuel costs, wholesale suppliers have been requesting higher rates with increasing frequency. The Commission has not acted upon these rate applications in an expeditious manner and regulatory lags of 3 and 4 years have not been uncommon, giving rise to numerous problems. For example, funds collected by wholesale suppliers subject to refund cannot serve as the basis for equity or debt financing and in some cases must be excluded for purposes of meeting the interest and preferred stock coverage tests necessary to further debt and preferred stock financing. Wholesale purchasers, on the other hand, by paying increased rates before they have been found to be "just and reasonable" become the involuntary creditors of their suppliers, and are deprived of capital which they could use for other purposes. The purchaser must also attempt to establish new retail rates based on the inherently uncertain wholesale rate schedule. Once the case is resolved and the refund is made, they must attempt to distribute the refund in an equitable manner.

The most recent FPC data indicates that at least 14 wholesale suppliers have two or more applications pending at the same time, affecting approximately 371 wholesale purchasers. The regulatory lag and resulting pancaking of rates frequently gives rise to a price squeeze whereby the wholesale rate being paid is in fact higher than the supplier's retail rate for comparable service, a situation which is inequitable and which can have an anticompetitive effect.

In North Carolina, for instance, there are currently three "pancakes" on the plate. On January 2, 1975, Carolina Power & Light requested a 97-percent wholesale rate increase. On May 1, 1976, an additional 34 percent was requested on top of the requested 97 percent. In December of this year, another 7.5 percent increase request is contemplated. This represents a total of 184 percent increase from the pre-1975 rate. Yet the Commission has issued no final order on any of these increase requests.

There is little disagreement in the electric utility industry that the regulatory lag, payments subject to refund, and pancaking, works to the detriment of all parties—purchasers and sellers alike. This is a very real problem. Often, when the FPC finally renders its decisions, a great portion of the requested increase is denied. Mr. President, I ask unanimous consent that a sample list of requested rate increases, showing, in many cases, great differences in the amount requested and the amount granted, be printed at this point in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

Comparison of settlement increases approved by the Commission and requested increase

[In thousands]

Docket No.	Increase requested	Increase approved by Commission
E–7705	$1,140	$742
E–7711	879	879
E–7726	1,100	1,100
E–7742	1,700	1,400
E–7769	1,700	1,500
E–7803	1,715	1,030
E–7929	509	140
E–8052	934	934
E–8159	479	230
ER76–110	8,200	6,850
E–8424	1,200	1,200
E–8815	293	200
E–8823	1,833	1,664
E–8882	943	943
E–8927	975	975
E–8949, E–8445	487	410
E–8997	195	154
E–8999, E–9000, E–9001	528	406
E–9091	31,200	31,200
E–9521	325,000	325,000
E–9140, E–9136	25,200	13,000
E–9145	271	230
E–9147	20,600	13,000
E–9148	2,219	1,794
E–9155	994	994
E–9198	5,000	4,000
E–9200	287	200
E–9216	1,756	1,450
E–9294	7,700	4,400
E–9388	5,658	3,496
E–9407	826	736
E–9446	955	783
E–9496	14,700	10,000
ER76–45	5,000	4,000
ER76–46	8,200	6,900
ER76–150	1,186	540
ER76–157	200	158
ER76–206	1,400	1,100
ER76–209	4,500	2,900
ER76–211	7,200	4,269
ER76–221, ER76–788	1,800	1,300
ER76–301	9,500	5,200
ER76–308, ER76–386	328	328
ER76–331	4,100	1,500
ER76–505	4,400	3,900
ER76–818	1,450	1,250
ER76–496	175	101

Mr. HELMS. The challenge, then, is to devise a system which is equitable for all parties without giving advantage to either, while providing an incentive to all parties to seek as rapid a resolution of the case as possible. Section 543 of H.R. 8444, passed by the House on August 5, 1977, contains such a solution.

Section 543 would prevent rates from going into effect until the Commission had rendered a final order—thus eliminating the rebate problem—but would require a final order within 12 months from the time the application was accepted—thereby preventing regulatory lag. Specifically, the section provides that the applicant provide 30-days advance notice to the Commission and its wholesale purchasers of its intent to file for a rate increase. Once filed, the Commission would be required to hold an evidentiary hearing and reach a conclusion within 10 months. If the Commission has not acted within that time, then the Chairman of the Commission would be required to conclude the evidentiary hearing, if necessary, and issue a final order within 2 months.

It may be true, as some argue, that the House solution is too simplistic and a 12-month cutoff too arbitrary. My experience with the bureaucracy, however,

has taught me that in their view any deadline is arbitrary and without a deadline nothing ever gets resolved. In any case, perhaps prudence does indictate that studies be first conducted, and that is the rationale of the Durkin amendment. But the call for a study should not indefinitely postpone decisive action on a problem which demands a quick solution. I am hopeful that the Senate-House conferees, if they do not adopt some variation of the House language, will at least reach some understanding in regard to an expeditious solution.

AMENDMENT NO. 1395

Mr. GRIFFIN. Mr. President, on behalf of the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. MOYNIHAN), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. HAYAKAWA), and myself, I ask that amendment No. 1395 be called up and made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN), for himself, Mr. WILLIAMS, Mr. MOYNIHAN, Mr. JAVITS, Mr. BROOKE, Mr. BIDEN, and Mr. HAYAKAWA, proposes an amendment numbered 1395.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 16. No action by the Federal Power Commission pursuant to this or any other Act shall, directly or indirectly, take from a natural gas distribution company any volumes of gas which such company demonstrates resulted from energy conservation measures: *Provided, however*, That such conserved volumes shall be applied first to existing residential customers, second to existing small commercial customers, third to existing industrial customers with nonsubstitutable natural gas requirements, and fourth to other customers.

For purposes of this section, the term "natural gas distribution company" means any utility which sells natural gas.

For purposes of this section, the term "energy conservation measures" includes but is not limited to measures taken pursuant to a residential energy conservation plan as defined in the National Energy Conservation Policy Act.

The PRESIDING OFFICER. Is this the amendment which has a time limitation of 1½ hours?

Mr. GRIFFIN. I am advised it is 1 hour. Either will be sufficient.

The PRESIDING OFFICER. There is a special order for the Senator from Michigan to have one amendment with a 1½-hour limitation.

Mr. GRIFFIN. Either will be fine, Mr. President.

The PRESIDING OFFICER. The Senator has 1½ hours under the unanimous-consent agreement.

Mr. GRIFFIN. Mr. President, this amendment was offered during consideration of the National Energy Conservation Policy bill. At that time, the floor managers of the bill were ready and willing to accept it. Senator METZENBAUM, of Ohio, raised some questions, and because of those questions we agreed to offer the amendment again during the consideration of another energy bill. This amendment and this procedure conforms with an understanding reached with the distinguished Senator from Louisana (Mr. JOHNSTON) and also the Senator from Ohio (Mr. METZENBAUM).

Furthermore, there have been modifications in the amendment which are intended to respond to some of Senator METZENBAUM'S concerns.

The amendment is intended to provide an extra incentive, in addition to those in the energy conservation bill, to conserve natural gas by assuring that a local gas distribution company will be able to keep for use in its service area the gas which results from conservation efforts within that area.

The precise use of that gas would remain subject to the authority of State public service commissions. The end use of any gas resulting from conservation efforts would continue to be regulated by State public service commissions. State and local authorities are uniquely equipped to do this. They are the only regulatory bodies fully acquainted with local supply and demand conditions, the utilities' load profiles, and the local impacts of energy distribution.

Without a provision such as this, local natural gas distribution companies and their customers who conserve natural gas would be adversely affected in two significant ways. First, and most obviously, those conserving distribution systems could very well lose the gas resulting from their own efforts to other distribution systems in other parts of the country served by the same pipeline and which have not promoted and cooperated in the program to conserve gas.

Second, if conserved volumes of gas are taken from the conserving distribution system, the price of the remaining gas to that system's customers will rise because fewer volumes would be available to cover the cost of utility service.

Accordingly Mr. President, without an amendment such as this, conserving systems would essentially be penalized by higher consumer costs and by the loss of gas to systems which do not cooperate in the effort to conserve gas.

Now, emergency supply problems are, of course, another matter and would remain subject to emergency supply provisions such as those in the Emergency Natural Gas Act of 1977.

This amendment would not affect emergency situations. Accordingly the utility's right to retain access to any gas volume saved would be subordinated in a time of severe emergency where human needs and utility service are seriously threatened.

So, Mr. President, I would hope that considering the time we have had to reflect on this, the cosponsorship we have for this amendment, and the earlier acceptance by the managers of the bill, that the Senate will adopt this amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that two staff members, Mr. Nedelman and Mr. Holtz, be granted the privileges of the floor during consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment has been shown to several staff attorneys from the FPC, which has responsibility for administering the program, and the Bureau of Natural Gas of the FPC urges us to oppose this amendment in toto.

However, on the chance that we would not be constrained to oppose it, I understand that the FPC has gotten together with groups that support the amendment and come up with a substitute amendment which embodies virtually the identical language with some changes.

For example, "to the extent practical" is put in, which, while they do not like it even as redrafted, they like it more than they do the original version.

So we would feel constrained to accept the substitute, if the Senator would so offer it. We will accept the substitute.

Mr. GRIFFIN. I would respond by saying that it is a sad day when we let the Federal Power Commission write our legislation around here.

The very reason we are offering this amendment is to make sure the Federal Power Commission does not penalize the local gas distributing companies and their customers that cooperate and engage in the very conservation practices that we are encouraging them to undertake.

The FPC version, as I understand it, would just throw it right back to the Federal Power Commission and give them so much flexibility that they could continue to do just exactly what we are concerned about.

So I would urge the manager of the bill not to be hoodwinked by the Federal Power Commission and I urge that we adopt this amendment.

Mr. JOHNSTON. I can give the Senator all the arguments of the Federal Power Commission for opposing the whole amendment.

I believe the American Gas Association and the FPC attorneys have both gotten together and worked out the substitute amendment. I think it gives the Senator about 95 percent of the loaf. I would urge him to accept it.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. Mr. President, in its present form, we would have to oppose the amendment. Reluctantly—I am sorry the Senator would not go along with a substitute—we would oppose it in its present form.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "yea."

The result was announced—yeas 73, nays 19, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—73

Allen	Eagleton	Nunn
Anderson	Ford	Pearson
Baker	Garn	Pell
Bartlett	Goldwater	Percy
Bayh	Griffin	Proxmire
Bellmon	Hansen	Ribicoff
Biden	Hart	Riegle
Brooke	Hatch	Roth
Bumpers	Hatfield	Sarbanes
Burdick	Hathaway	Schmitt
Byrd, Robert C.	Hayakawa	Schweiker
Cannon	Heinz	Scott
Case	Helms	Sparkman
Chafee	Hollings	Stafford
Chiles	Javits	Stennis
Church	Leahy	Stevens
Clark	Lugar	Stone
Cranston	Magnuson	Talmadge
Culver	Mathias	Thurmond
Curtis	McClure	Tower
Danforth	McGovern	Weicker
DeConcini	Meicher	Williams
Dole	Morgan	Young
Domenici	Moynihan	
Durkin	Nelson	

NAYS—19

Bentsen	Huddleston	Metzenbaum
Byrd, Harry F., Jr.	Jackson	Muskie
Eastland	Johnston	Randolph
Glenn	Kennedy	Sasser
Gravel	Long	Stevenson
Haskell	Matsunaga	Zorinsky
	McIntyre	

NOT VOTING—8

Abourezk	Laxalt	Packwood
Humphrey	McClellan	Wallop
Inouye	Metcalf	

So amendment No. 1395 was agreed to.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT 881

Mr. GLENN. Mr. President, I have an unprinted amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GRAVEL). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 881.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, after line 11, add a new section to read as follows:

"EMERGENCY CONVERSIONS OF UTILITIES AND OTHER FACILITIES

"SEC. 16. (a) During a natural gas emergency declared under section 3 of the Emergency Natural Gas Act of 1977 (15 U.S.C. —), the Secretary may, by order, prohibit any electric utility powerplant or major fuel-burning installation from burning natural gas if the Secretary determines that:

"(1) such electric utility powerplant or installation had on September 1, 1977 (or at anytime thereafter) the capability to burn petroleum products without damage to its facilities or equipment and without interference with its production processes;

"(2) an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 792(a)) has not been issued with respect to such electric utility powerplant or installation;

"(3) significant quantities of natural gas otherwise burned by such electric utility powerplant or installation are expected to be saved prior to the termination of the emergency declared under section 3 of the Emergency Natural Gas Act of 1977 (15 U.S.C. —); and

"(4) petroleum products will be available during the period the order is in effect.

"(b) The Secretary may specify in any order issued under this section the periods of time during which such order will be in effect and the quantity (or rate of use) of natural gas that may be burned by an electric utility powerplant or major fuel-burning installation during such period, including the burning of natural gas by an electric utility powerplant to meet peak load requirements. No such order may continue in effect after the President terminates the emergency declared under section 3 of the Emergency Natural Gas Act of 1977 (15 U.S.C. —).

"(c) The Secretary shall exempt from any order issued pursuant to this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility.

"(d) The Secretary shall modify or suspend any order issued pursuant to this section to the extent necessary to alleviate short-term air quality emergencies or other danger to the public health, or welfare.

"(e) Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued under this section.

"(f) For purposes of this section, the term 'electric utility powerplant' means a fossil-fuel-fired electric generating unit, including a gas turbine unit or a combined cycle unit, that produces electric power for the purposes of sale or exchange.

"(g) For purposes of this section, the term 'major fuel-burning installation' means a unit other than an electric utility powerplant consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(A) has a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination of two or more such units (excluding, if determined appropriate by the Administrator, any such unit having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming such fuel at a fuel heat input rate of 250 million Btu's per hour or greater."

The PRESIDING OFFICER. The Chair asks the Senator from Ohio if this is the amendment on which he has a time limitation of 1½ hours?

Mr. GLENN. That is correct.

Mr. President, I do not anticipate I will use more than a few minutes of that time. I believe we have it worked out so that this can be accepted by the floor managers of the bill.

Basically, under present Department of Energy authority, mandatory conversions from natural gas to coal can be ordered where coal-burning equipment is available and other specified conditions are met. DOE, however, does not presently have authority to mandate such conversions from gas to oil even in an emergency situation and even where tanks, burners, and equipment are in place available for use and where oil is available to replace critically needed gas. My amendment would provide that authority.

This amendment was earlier offered to S. 977, the coal conversion bill, but was defeated. The only argument which was raised against the amendment at that time was that it would be more suitable as an amendment to the natural gas legislation then about to be reported to the floor. In fact, the floor manager of S. 977, Senator HASKELL, while opposing the proposal as an amendment to the coal conversion bill, did agree to support it as an amendment to the gas legislation. Of course, because of the parliamentary situation on the natural gas bill, it was not possible to offer the amendment at that time.

The administration strongly supports this amendment. The Department of Energy believes it is a valuable addition in the implementation of its winter emergency plans. The proposal was strongly endorsed by the Ford administration in 1975 and was, in fact, passed by the Senate as part of the natural gas legislation which was considered that year. That legislation, however, died in the House of Representatives, and the amendment was, therefore, not enacted.

We have gone through the details of this with the floor managers of the bill, and I believe it is acceptable. I am glad to respond to whatever comments the floor managers might make and hope we can get this amendment agreed to in a few minutes.

Mr. JOHNSTON. Mr. President, this is sort of a sister amendment to that amendment adopted earlier today relating to switching from natural gas to heavy fuel oil. Earlier today we agreed to an amendment which had, in turn, been

adopted as part of the natural gas bill earlier which provided that an industrial plant which had a supply of natural gas but which also had the capability of burning fuel could sell that natural gas at the replacement cost of the fuel oil and thereby voluntarily switch to fuel oil.

What this amendment does is provide that in times of emergency when they do not do it voluntarily they can be required to do so, and in times of emergency we think that should be done.

Mr. President, to conform this amendment to the amendment of earlier today and to be sure that those who are required to switch get the full replacement costs of the fuel oil which they are required to burn, I ask unanimous consent that at this time it be in order to send up an amendment to the Glenn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 882

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 882 to amendment No. 881. At the end of the amendment add a new section to read as follows:

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add a new section to read as follows:

"(h) The Commission shall, not later than ninety (90) days after the date of enactment of this Act promulgate regulations which shall provide for just compensation to all parties involved in the sale and transportation of natural gas made available as a result of any order issued under this section. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to,

(A) the cost of heavy petroleum fuel oil substituted for natural gas,

(B) the cost of fuel transportation, handling and storage,

(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however*, That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles made in connection with conversion from natural gas to heavy petroleum fuel oil capability, provided further that, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service."

Mr. JOHNSTON. As I understand it, Mr. President, what the amendment does is give to the owner of that gas the full replacement cost of his heavy fuel oil which he would burn in lieu of natural gas, and it conforms it to the amendment adopted earlier today.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. RANDOLPH. I want to hear again the reference to coal.

Mr. GLENN. Mr. President, I will be glad to reply to the distinguished Senator from West Virginia. Under existing Department of Energy authority, the Secretary may order facilities capable of burning coal, but burning alternate fuels, to convert to coal in order to free up natural gas for more critically needed purposes.

This amendment would, pursuant to a Presidential declaration of natural gas emergency, provide the Secretary with similar authority to require conversion of facilities from gas to oil as he has with respect to conversions from gas to coal. In such natural gas emergency situations where the burners are in place, where tanks, perhaps, are in place, and a fuel truck is outside ready to deliver, the department could mandate that that change would be made. The Department of Energy does not have that gas-to-oil conversion authority at the present time.

What the amendment of the Senator from Louisiana would do is conform it to his earlier amendment that passed today. It insures that those who are required to convert their facilities from gas to oil during a natural gas emergency are sufficiently compensated for the natural gas freed up so as to offset the higher cost of heavy petroleum fuel oil substituted for the gas.

Mr. JOHNSTON. Mr. President, if the Senator will yield, this amendment has nothing to do with coal.

Mr. RANDOLPH. I know, but the Senator talks about coal when he discusses his amendment.

Last winter in Ohio you had periods of time—perhaps several weeks—when, had this provision which the Senator proposes been in effect, your State would have been helped; is that correct?

Mr. GLENN. That is correct; it could have helped us last winter at a time when we had gas-related unemployment in the United States of 1.4 million. There was one period of several weeks in Ohio when we had a half million of that number just in our State. This conversion authority would have been of substantial help at that time.

Mr. RANDOLPH. For that reason, Mr. President, I want to endorse the approach of the amendment. I think it is reasonable and valid, and gives us the necessary flexibility at a time when we have severe weather, such as you had last winter in Ohio.

Mr. GLENN. I appreciate that.

Mr. RANDOLPH. You have participated in helping Ohio and perhaps other States this winter, when we could not have done it last winter.

Mr. GLENN. Yes. It would also, I might say, affect the State of West Virginia.

Mr. RANDOLPH. I realize that. Our need is reflected in the fact that during 4 months last winter curtailments of natural gas totaled nearly 12 million cubic feet. This was 20 percent of the need of our glass, steel, and other industries. I ask to be a cosponsor.

Mr. GLENN. Mr. President, the Senator from West Virginia (Mr. RANDOLPH) has asked to be a cosponsor, and I am happy to add his name to the roll of cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I am happy to yield back the remainder of my time if there is no further discussion on each of these amendments.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Have we voted yet on the amendment of the Senator from Louisiana?

The PRESIDING OFFICER. The question now before the Senate is on agreeing to the amendment to the amendment offered by the Senator from Louisiana.

Mr. JOHNSTON. I yield back the remainder of my time on that amendment.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Ohio.

Mr. DOMENICI. Mr. President, let me state for the minority, the amendment having been amended by the Johnston amendment, we have no objection to the amendment of the Senator from Ohio. In fact, we think it is an excellent amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio, as amended.

The amendment was agreed to.

UP AMENDMENT NO. 883

Mr. ALLEN. Mr. President, I have an amendment at the desk which I call up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following at the end of the bill:

SEC. 2. Section 2 of the Act entitled "An Act to provide for the disposition, control, and

use of surplus real property acquired by Federal agencies, and for other purposes" (49 Stat. 886) is amended—

(1) by inserting "(a)" immediately after "SEC. 3."; and

(2) by adding at the end of such section the following new subsection:

"(b)(1) The Administrator of General Services is authorized, notwithstanding any other provision of law, or any opinion of the Comptroller General of the United States, or any opinion of the Attorney General of the United States to the contrary, to renegotiate the provisions of any contract to which the Administrator or the United States is a party, and with respect to which the Administrator exercises any function as agent for the United States, for the lease of real property for the benefit of the United States in order to pay adequate compensation to the lessor of such property for increased costs in connection with the operation or use of such property arising out of increased utility costs, including, but not limited to, natural gas, electricity, or other fuels.

"(2) The Administrator may require payment for such increased costs in accordance with the provisions of subsection (a) of this section.

"(3) Paragraph (2) of this subsection shall be applicable to any lease agreement in effect on or after January 1, 1973.".

Mr. ALLEN. Mr. President, this is a minor amendment. It does not require that anybody do anything. It is permissive in nature.

What it provides is that the GSA shall have the right to renegotiate leases in hardship cases, where the amount of the lease does not cover the cost of the services required of the lessor under the lease.

I have particular reference to a situation in Alabama where a constituent leased a building to GSA for the Soil Conservation Service, and the lease provided that the lessor would furnish the utilities, including the gas and electricity. It was an unwise provision, but nevertheless it was made.

I have a letter here from my distinguished colleague over in the House of Representatives, Mr. BILL NICHOLAS, pointing out that this man, who is also his constituent, is losing $1,500 a month as a result of the high rise in utility rates, and all this amendment would do would be to make it permissive that the GSA may, if it sees fit, renegotiate the lease in this hardship case.

It is of general application, not just applicable to this particular matter.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ALLEN. I am happy to yield.

Mr. JOHNSTON. As I understand it, the only ground on which the GSA can renegotiate a lease would be because of the increased cost of fuel?

Mr. ALLEN. Of utilities, yes.

Mr. JOHNSTON. I mean of utilities.

Mr. ALLEN. Yes, that is right.

Mr. JOHNSTON. He could not renegotiate other parts of the lease?

Mr. ALLEN. Taxes, upkeep, and maintenance are not covered, as the amendment provides. It is based on utility costs.

Mr. JOHNSTON. Mr. President, this is a nongermane amendment, but it appears to be simple and equitable, and this may be "the last strains of Georgia" this year, so we feel inclined to accept it.

Mr. ALLEN. I appreciate that.

Mr. DOMENICI. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. Yes.

Mr. DOMENICI. As I understand it, in addition to the limitation expressed by the Senator from Louisiana, this is totally permissive?

Mr. ALLEN. Entirely permissive.

Mr. DOMENICI. It is not directive to anyone to do anything, but simply says if they find it equitable, this is their authority to do it?

Mr. ALLEN. That is exactly right.

Mr. DOMENICI. For the minority, Mr. President, we will not object to taking it to conference. During the intervening time, there will be an opportunity to explore it with the conferees, to see if this is the appropriate vehicle. Certainly the justifications are there; the Senator from Alabama has made a real showing. This is a real problem for the constituent, and for the minority we accept it.

Mr. ALLEN. I thank the Senator from New Mexico and floor manager.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I ask unanimous consent that certain documentation in support of the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL PROPERTY LESSOR ASSISTANCE ACT

The Arab oil embargo of 1973 triggered the national energy crisis for which we are now still seeking a solution. Certainly, all in this chamber are hopeful that the national energy program to be announced by the President will provide a basis for resolution of the crisis. But, Mr. President, many thousands of additional problems have arisen as an indirect result of the energy crisis in areas not specifically associated with energy production and distribution.

So, Mr. President, I am hopeful that the President's program will provide a framework in which we can seek remedies for the dilemma we now face. But, Mr. President, there is one problem which I do not believe the President intends to address and which ought not to wait any longer for Congressional attention. Although thousands of individuals are not involved, the injustice suffered by those few who are involved is so great that I believe Congress should act to provide specific relief.

Mr. President, the General Services Administration has taken the position that it is prohibited by an opinion of the Comptroller General, 26 Comp. Gen. 365, from renegotiating the provisions of a fixed-term office space lease notwithstanding the fact that the lease terms are ruinous to the lessor as a clear result of the unforeseeable utility rate increases which have occurred since the Arab oil embargo. As I am sure most Senators recognize, leases now negotiated with the General Services Administration ordinarily contain an escalation clause to protect the lessor from the erratic and skyrocketing costs of utilities. Unfortunately, prior to the oil embargo many leases were negotiated without a provision permitting such escalation. As a result, the unforeseeable action of these foreign states has brought many of those involved to the brink of bankruptcy.

I am convinced the General Services Administration has misapplied existing statute and case law in refusing to consider a renegotiation of office space leases in order to take account of these radically changed circumstances; however, inasmuch as the General Services Administration has taken that somewhat obdurate position, I believe Congress ought to clarify the matter and ought to give to the Administrator clear-cut authority to take the action he now asserts he is not authorized to take.

Accordingly, I am today introducing a bill which, if enacted, ought to make crystal clear the Administrator's authority to renegotiate federal property leases in order that the changed circumstances which have occurred in the past years and months could be taken into account. The bill would thereby help to correct a major injustice by taking from the shoulders of a few individual citizens the concentrated and heavy burden of massive utility cost increases which in the last analysis were caused primarily by an unforeseeable foreign response to the international policies of the same federal government on whose behalf the Administrator now refuses to act.

JULY 27, 1977.

Hon. JAMES R. SASSER,
Chairman, Subcommittee on Civil Service and General Services, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN SASSER: On April 7, 1977, I introduced S. 1273, the Federal Property Lessor Assistance Act. The bill is designed to aid lessors of federal property who are suffering tremendous financial losses as a result of unforeseeable recent increases in utility rates. The bill was referred to the Committee on Governmental Affairs and thereafter to your Subcommittee on Civil Service and General Services. As you may know, many lessors of buildings to the federal government throughout the country in the early 1970's negotiated fixed-term office space leases covering a period of years without provision for renegotiation. In many instances these lease terms have become ruinous to the lessor as a direct result of the massive unforeseeable utility rate increases which have occurred since the Arab oil embargo. Of course, since that event, leases now negotiated with the General Services Administration ordinarily contain an escalation clause to protect the lessor from the erratic and skyrocketing costs of utilities.

Although I personally am of the opinion that the General Services Administration already has authority to renegotiate leases of the type described above, the terms of which now border on being unconscionable, the GSA has taken the somewhat obdurate position that it is prohibited by an obscure opinion of the Comptroller General (26 Comp. Gen. 365) from conducting such renegotiations. Therefore, legislation is apparently necessary to convince the GSA that the Administration is authorized to relieve lessors of the onerous burden now placed on them as a result primarily of the action of foreign states in denying oil and other energy products to the United States. I might add parenthetically that many of the lessors involved will face bankruptcy if they are held to the terms of existing leases through the coming winter season.

Although the number of lessors involved is not great, the injustice down to them is of considerable magnitude, and I therefore do respectfully request that you hold hearings on S. 1273 at the earliest practical date following the end of the August recess of the Senate.

With kindest personal regards, I am

Very truly yours,

JAMES B. ALLEN.

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 16, 1977.

Mr. TOM COKER,
Administrative Assistant to Hon. JAMES B. ALLEN, *State Capitol, Montgomery, Ala.*

DEAR TOM: During my day's visit in my Opelika office last week I had a visit from our mutual friend, Monk Wright, relative to the possibility of changing his contract with GSA for the rent on his building which houses the Soil Conservation Service. Monk tells me that he has spoken with you about this and that he is losing approximately $1,500 per month due to the increase in utilities and other items which go into the maintenance and upkeep of the building.

I have a similar situation with GSA on the Sylacauga Post Office which is owned by the City of Sylacauga and I was unable to effect any reconsideration on the part of GSA.

If you know of any way that we could prevail on GSA to provide some relief to our friend Monk during the remaining 55 months please advise.

With best wishes,
Sincerely,

BILL NICHOLS, M.C.

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, without objection, the amendment is agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 884

Mr. BENTSEN. Mr. President, I have an amendment at the desk which I ask be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 884: On page 17, after line 11, insert the following new section 16 as follows:

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17 after line 11, insert the following new section 16 as follows:

"HEARING REQUIREMENT

"SEC. 16. Rate schedules prepared under authority of section 5 of the Flood Control Act of 1944, 58 Stat. 890, as amended, shall be confirmed and approved by the Federal Energy Regulatory Commission on the record after opportunity for an agency hearing.".

Mr. BENTSEN. Mr. President, under the Flood Control Act of 1944 as amended, the Secretary of the Interior is authorized to sell surplus power and energy generated by Federal dams. However, in carrying out this act the FPC and the Department of the Interior have failed to grant adversary hearings. It has resulted in a number of lawsuits, all of which are still pending. These suits, which have proven very costly to both the Federal Government and the customers, challenge rates approved by the Federal Power Commission. Most of these suits could have been avoided by having adversary hearings on the record. That is what I am trying to do by this amendment.

Mr. JOHNSTON. I wonder if the Senator would agree, if we could have hearings on this question early next year?

Mr. BENTSEN. Let me say what I would really like to have: An assurance from this committee that it will push the appropriate agency to provide for an adversary hearing on the record. I understand we are in a transitional period with the reorganization of the energy agencies, and I do not want to see this work duplicated. But once that is accomplished and the consolidation brought about, all I am seeking is an assurance that there will be such hearings at the appropriate time and at the appropriate level.

Mr. JOHNSTON. In the Federal regulatory agency?

Mr. BENTSEN. Yes, in the process of setting the rate, that adversary hearings be held and that the matter be of record. That is all I am asking, and that the committee push for that.

Mr. JOHNSTON. I think the Senator's request is entirely reasonable. I can assure the Senator that we on the committee will use our influence to see that these hearings are held. I think they ought to be held.

Mr. BENTSEN. With that understanding, Mr. President, I withdraw the amendment.

The amendment was withdrawn.

UP AMENDMENT NO. 885

Mr. MELCHER. Mr. President, I call up an amendment that is at the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 885.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE II

DEFINITIONS

SEC. 104. As used in this title.

(a) The term "Secretary" means the Secretary of the Department of the Interior.

(b) The term "Northern Tier States" means Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(c) The term "Inland States" means those States other than a Northern Tier State and other than California in the continental United States.

(d) The term "crude-oil transportation system" means a crude oil pipeline within and subject to the jurisdiction of the United States, and including, but not limited to, the port, terminal, tank farm, pumping stations, off-take points, and other related facilities, associated with moving volumes of Alaskan-crude oil by pipeline to Northern Tier or inland States.

(e) The term "Northern Tier project" means that proposed crude oil transportation system referred to in section 102(f)(i) of this Act and generally described in an "Application for Right-of-Way Across Federal Lands" filed by the Northern Tier Pipeline Company with the Department of the Interior, Bureau of Land Management, on April 18, 1977.

(f) The term "Long Beach-Midland project" means that crude oil transportation system referred to in section 102(f)(ii) of this Act and which was the subject of and generally described in the "Final Environmental Impact Statement, Crude Oil Transportation System: Valdez, Alaska to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior at 42 Federal Register 28008, June 1, 1977.

(g) The term "applicant" means the person or entity who has applied for some or all of the Federal, State, or local permits, rights-of-way, or other authorizations necessary for or related to the construction, operation, and maintenance of one of the crude oil transportation systems referred to in subsections (e) and (f) of this section.

EXPEDITED DECISIONMAKING ON CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 105. (a) Upon any applicant's written request that is filed with the Secretary within fifteen days of the date of enactment of this Act, the Secretary shall review the status of that applicant's rights-of-way, permits, leases, and other authorizations necessary for construction, operation, and maintenance of a crude oil transportation system from the west coast to any of the Northern Tier States or inland States. The Secretary shall establish a schedule for the preparation, in consultation with the Environmental Protection Agency, by January 15, 1978 of any draft environmental impact statements and by March 1, 1978 of any final environmental impact statements which may be required, if not already completed.

(b)(1) Following the Secretary's review of applications and the completion of any required environmental impact statement, the Secretary, after consultation with, and approval of, federal agencies that under federal law must authorize, issue, or enforce permits or authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system, shall determine no later than April 1, 1978 with respect to the Northern Tier project and no later than November 15, 1977 with respect to the Long Beach-Midland project whether the crude oil transportation system proposed by the applicant shall be approved under this Act.

(2) The Secretary shall make his decision for each project subject to this Act upon its own individual merits. The Long Beach-Midland project and the Northern Tier project are not and shall not be considered as mutually exclusive crude oil transportation systems.

SEC. 106. The Congress hereby authorizes and directs the Secretary of the Interior and other Federal officers and agencies to issue, no later than thirty days from the date of the Secretary's decision to approve, and take all necessary actions to administer and enforce rights-of-way across Federal lands, Federal permits, Federal leases, and other Federal authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system approved by the Secretary pursuant to this Act.

SEC. 107. Actions seeking judicial review of the approval of the Secretary or the actions of the Federal officers under Sections 105 and 106 concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of any crude oil transportation system approved by the Secretary may only be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession of the United States, or the District of Columbia, shall have jurisdiction of any claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceedings shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

ANTITRUST LAWS

SEC. 108. Nothing in this title, and no action taken hereunder shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

SEPARABILITY

SEC. 109. If any provision of this title, or the application thereof, is held invalid, the remainder of this title shall not be affected thereby.

The PRESIDING OFFICER. The Chair asks if it is understood that this is the amendment on which there is an hour and a half limitation?

Mr. MELCHER. That is correct, Mr. President.

Mr. President, more than 30—almost 40—of us have cosponsored a bill which is, in effect, the amendment I am offering at this point. I shall read through the cosponsors alphabetically: ABOUREZK, BARTLETT, BAYH, BELLMON, BENTSEN, BURDICK, CANNON, CHURCH, CURTIS, DECONCINI, DOMENICI, EAGLETON, FORD, GARN, GRAVEL, HANSEN, HASKELL, HATCH, HAYAKAWA, HUMPHREY, JOHNSTON, LAXALT, LUGAR, MCCLURE, MCGOVERN, myself, METCALF, PEARSON, RIEGLE, SCHMITT, STEVENS, STEVENSON, TOWER, WALLOP, WEICKER, YOUNG, and ZORINSKY.

There is no money involved in this amendment, Mr. President. It is an amendment that seeks to satisfy the problem we have with a surplus of Alaskan crude now on the west coast. Remember, in the Trans-Alaska Pipeline Act, the line itself was designed to carry 1.6 million barrels of oil daily down to Valdez, to come by tanker from Valdez to the lower 48 States, and to be used within the lower 48 States for our refining needs here. In protection of that, we made it extremely difficult for any sales to foreign governments. If the Alaskan oil were to be sold to Japan, for instance, we would require that the President make a finding that such is in the national interest or that crude oil available from Alaska is surplus to domestic needs. The President has emphatically stated that he will not make a finding that it would be in the national interest to sell Alaskan crude oil to Japan. That, of course, meets with emphatic approval of Congress and the country. We need the oil here in the United States.

We further stated, in the Trans-Alaska Pipeline Act, that the crude oil from there must be equitably distributed within the lower 48 States. We followed that up last year in section 18 of the Alaskan Natural Gas Act, in which the President was directed, within 6 months of enactment of that act, to review the situation for Northern Tier States on oil.

We put a section 18 in that act that dealt with oil supplies for the Northern Tier States, taking note that the oil that had been coming from Canada was being phased out and that refiners in Northern Tier States were running out of crude oil supplies. We told the President to come back within 6 months' time and suggest remedies for that situation. The 6 months ended in April.

The Federal Energy Administration reported that, indeed, there was a problem, that some pipelines would have to be constructed within the United States, particularly in the northern tier area, to correct the lack of supplies for those refiners. Subsequent to that time, we introduced the bill that is represented here by this amendment. We consulted with the administration, with the new Secretary of Energy, even prior to the time that he became Secretary of Energy. We consulted with the Federal Energy Administration; we consulted with the Department of the Interior. At all points, we made clear what we hoped could be done to expedite the construction of pipelines from the west coast to inland States.

We have had one hearing on this bill in the Commerce Committee, almost a month ago. We reviewed then the recommendations of the administration. We heard from refiners that were involved. We heard from the people who would like to construct these pipelines.

At this point, we are offering this as an amendment to this bill because, in the limited time remaining this year, there will be no opportunity for the committees to complete action on the bill and bring it out in the regular fashion.

The reason for bringing it up at this time is that this is the last energy bill that the Energy Committee will bring before the Senate this year. So we are hitching it onto what may be the last horse that is available for consideration of the issue this year. It is necessary to have consideration this year. I will describe briefly the contents of the bill.

This amendment does two things to try to speed resolution of the dual problem of surplus oil on the west coast and the prospect of other parts of the country facing shortages of gasoline, heating oil, and other products or being locked into a foreign supply that is both expensive and subject to being cut by some future embargo.

First, it requires expedited consideration of applications filed by those seeking Federal permits or Federal authorizations they need in order to build pipelines within the United States to bring oil from the west coast into the northern tier and inland States. And second, it provides for expedited court consideration of any legal challenges which may result from the decisions made under the act. I will explain these provisions in greater detail but I first must emphasize that it in no way affects State authority.

Mr. President, I yield to the distinguished chairman of the Energy Committee.

Mr. JACKSON. Mr. President, this bill was referred jointly to the Commerce Committee and the Committee on Energy and Natural Resources. Hearings have been held by the Commerce Committee. Unfortunately, with the heavy legislative schedule we have in the Senate on energy, it has not been possible to pursue the hearings during the last 2 or 3 weeks.

Holding hearings during the next couple of weeks is going to be rather difficult, in light of the conferences we will be scheduling, starting next week, in connection with the various energy bills. This is the fourth one that will be in conference.

I recommend that we take this amendment. I ask this of the Senator from Montana: It is similar, is it not, to the bill he introduced?

Mr. MELCHER. Mr. President, if the Senator will yield, the answer to that is "yes." It is similar in substance and does not vary from the intent of the bill introduced.

Mr. JACKSON. As I understand the amendment, within the time specified, it will be necessary for the Secretary of Energy to report back to Congress with recommendations. Is that not correct?

Mr. MELCHER. No, that is not correct. The Secretary is directed to expedite the procedures of determining whether or not the permits can be granted, and he must consult with and get the approval of other Federal agencies before he can make a decision that the permits should be granted.

Mr. JACKSON. As I understand it, the Senator's bill has been amended so that the Secretary of Energy is to determine, no later than April 1, 1978, with respect to the northern tier project, and no later than November 15, 1977, with respect to the Long Beach Midland project, whether the crude oil transportation proposed by the applicant shall be approved under this act. Is that correct?

Mr. MELCHER. That is correct, except that it is the Secretary of the Interior who shall make the determination.

Mr. JACKSON. On the land permits. These permits relate to the public domain.

Mr. MELCHER. That is correct.

Mr. JACKSON. I ask this of the Senator: What is the administration's position on the bill or the amendment at this time?

Mr. MELCHER. If the Senator will yield, I will read from page 9 of a state-

ment by Douglas G. Robinson, Alaskan Oil Project Coordinator, Department of Energy, in testimony he gave to the House Interior Committee this morning.

Mr. JACKSON. I understood that the FEA Administrator, Mr. O'Leary, in behalf of the administration, opposed the pending bill at the hearing of the Commerce Committee.

Mr. MELCHER. The testimony of Mr. O'Leary, speaking for the administration, at that hearing in mid-September, was to the effect that the administration supported the concept of the bill but would recommend some amendments to the proposal.

I read from Mr. Robinson's statement this morning:

> Coupled with the urgent necessity for a solution to the northern tier supply problem which has led us to support the concept of expediting legislation . . .

Their position at our hearing at the Commerce Committee was that they supported the concept and that they would recommend some amendments. They testified this morning before the House Interior Committee that they still feel that way and they would work up a proposal which they hope to have before that committee before markup, presumably next week.

Mr. JACKSON. I would be willing to take the amendment to conference, if it is revised to provide that, in addition to the two routes that are mandated in the bill, the administration would have the option of selecting another route or, rather, recommending another route. In that way, they will have the flexibility to deal with the overall problem of transportation of petroleum from Aslaska. I think they need that flexibility, and I assume the Senator would accept that.

Mr. MELCHER. I would have to see the specific language. However, I have to be very emphatic about the fact that the proposition we are presenting here, in this amendment, has nothing to do with Canada. If a proposal is made that we should be directing our attention to Canada, I have to state that Kittimat, the only viable Canadian proposal that is acceptable to both Senators from Washington, is not one that is before the Canadian National Energy Board. They have withdrawn their application. There is not consideration within the Canadian Government of the Kittimat proposal because the application has been withdrawn. It is at this time not a viable proposal.

Mr. JACKSON. I am not getting into other routes. I just want to give to the executive branch of the Government sufficient discretion to make a decision not limited to these two alternatives. If there is another pipeline route—I do not know whether there is—they should have the discretion to make that recommendation. What is wrong with that?

Mr. MELCHER. I would only say this: The time for definitive action is upon us now. If we do not have action that expedites the clearance of these Federal permits at this point, a whole year's construction will be lost.

We have waited a long time to get this far. Any further delay in expediting this would only further delay the time when construction would start. Our aim is clear that we want the redtape cut so approval of permits can come quickly and construction start next year.

Mr. JACKSON. What is the Senator's position on that amendment? I will say if he does not want to give the administration that discretion, which I think they have, I will have to move to table the amendment. I just do not think it is fair to try to mandate with incomplete hearings two routes and no others in this proposed amendment.

Mr. MELCHER. Might I ask the chairman if he is aware that that opportunity would be available to them under any circumstances?

Mr. JACKSON. Not under the Senator's amendment. He makes findings here.

Mr. MELCHER. I should advise the Senator that the findings are not part of the amendment.

Mr. JACKSON. I have the amendment right here, unless I have the wrong amendment.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that this amendment be temporarly laid aside to consider a technical amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 886

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 886.
>
> On page 12, line 2: Strike out "A" insert "The Secretary is authorized to provide financial assistance to the".
>
> Line 2: add a comma at the end of the line.
>
> Line 3: strike out "shall be".
>
> Line 4: add a comma after "commissioners".

Mr. JOHNSTON. Mr. President, this amendment is purely technical and nonsubstantive.

Mr. McCLURE. Mr. President, we have no objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Will the Senator yield for a unanimous-consent request?

Mr. BAYH. I am glad to.

Mr. HART. Mr. President, I ask unanimous consent that Peter Gold of my staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. Mr. President, I shall not take much of the Senate's time.

The PRESIDING OFFICER. Who yields time to the Senator from Indiana?

Mr. BAYH. Will the Senator from Montana yield?

Mr. MELCHER. I will yield such time as he may consume.

Mr. BAYH. I appreciate that.

Mr. President, I shall not take an inordinate amount of the time of my colleagues. But I do want to address myself to the amendment of the Senator from Montana which I have had the good fortune to be able to support in its present form, as an amendment, as well as to cosponsor as an original bill.

We have had a rather extensive debate over the past few years relative to the disposition of natural resources that exist in our largest State—Alaska. They are extremely valuable to the Nation and I think it is in the national interest that they be distributed as equitably and expeditiously and economically as is possible.

Some, of course, were concerned at the time the oil pipeline route was being debated on the floor of the Senate that to proceed with the proposed Alaskan route would lead to a glut of oil on the west coast, thus denying the Midwest and Northeast—the areas with the shortest energy supplies—the areas with the greatest need for energy—any access to the important natural resource which would be shipped through the pipeline.

That battle has been fought, and those of us who were trying to pursue the trans-Canadian alternative which would have brought oil into the heart of the country, so it could be shipped east or west, lost the battle.

I do not intend to refight that battle now, because oil is moving through that pipeline and it is in the national interest to keep it moving. Hopefully we will find new supplies and they, too, will be made available to the entire country.

This summer, I had the opportunity to be on official business in Alaska and discussed Alaskan energy reserves with the distinguished junior Senator from Alaska. He is convinced that, indeed, we have just seen the beginning of the development of Alaskan oil and gas. I am hopeful he is right because it will be helpful to Alaska and helpful to the entire country.

But unfortunately, Mr. President, while the battle over the route of the Alaskan oil pipeline is behind us, the problem of equitable distribution of Alaskan oil has not been resolved. The west coast glut, which was predicted back

in 1973, exists and we have not been able to find a way to efficiently move that large quantity of oil into the heartland of the country.

The proposal of the Senator from Montana, it seems to me, presents a reasonable solution to the distribution problem and should be acted on quickly, as part of our energy package.

I think the proposal of the Senator from Montana, which would facilitate the construction of one or more pipelines to transport this oil east is the best solution I have seen.

We must act quickly to find an alternative to shipping Alaskan oil through the Panama Canal, which adds unnecessarily to consumer costs. We must move quickly to get this sorely needed crude out into the heartland, to the industries, schools, homes, factories, and farms of Middle and Northeast America which desperately need it.

I urge the Senate to adopt this amendment.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JACKSON. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

Mr. DOMENICI. Reserving the right to object—very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL REGULATORY RESEARCH INSTITUTE

Mr. HATFIELD. I expressed concern yesterday on the establishment and viability of the National Regulatory Research Institute. I would like to know what level of Federal funding is expected to support this institute in the future.

Mr. METZENBAUM. Section 15c authorizes $2 million in each of fiscal year 1979 and fiscal year 1980 to support the Institute. Beyond that it is hoped that a declining level of Federal support will be needed, with the balance to be taken up by State regulatory agencies and grants from foundations. By 1983 the total budget may be about $3 or $4 million.

Mr. HATFIELD. What is the present level of funding?

Mr. METZENBAUM. An FEA contrac tof fiscal year 1977 funds to be spent in fiscal year 1978 covers $1,070,000; Ohio State University support is $118,000 for fiscal year 1978; and the National Association of Regulatory Utility Commissioners (NARUC) support is $15,000 for seed money, to help with recruiting and so forth.

Mr. HATFIELD. What is the present level of staffing?

Mr. METZENBAUM. The acting director is Dr. Donald Glower, dean of Ohio State's College of Engineering; the associate director is John Cuddy; there are four full-time professionals plus about a dozen graduate students, making up the equivalent of about seven full-time personnel.

Mr. HATFIELD. How do you anticipate spending the Federal authorization of $2 million in each of fiscal year 1979 and fiscal year 1980?

Mr. METZENBAUM. During fiscal year 1978 the Institute will grow substantially through the addition of new staff, and a broadening of the range of studies to include transportation, communications, and other areas that the Institute is not now active in. Next spring, the fiscal year 1979 budget of the Department of Energy will be reviewed by the Senate Appropriations Committee, at which time the level of support appropriate to the Institute can be defined more precisely.

Mr. HATFIELD. How will the Institute remain free of Federal domination if 80 percent of it's funding comes from the Federal appropriation?

Mr. METZENBAUM. This question has been considered in structuring the bylaws of the Institute. The governing board of the Institute will be composed of five Ohio State professors, five members appointed by the NARUC, and five members from the public sector jointly chosen by Ohio State and the NARUC. It is their job to make sure that the Institute remains an independent body, responsive to the needs of the State regulatory commissions. I share with the Senator from Oregon his concern that the Institute remain an independent organization and not become an adjunct of the Federal Government.

Mr. HATFIELD. Section 11 mentions two distinct activities: technical analysis and an improved data base. What is the expected split between these two activities at the institute?

Mr. METZENBAUM. About 2 to 1 in favor of technical analysis. The overall goal of section 11 is to support an institute that will help the State regulatory agencies to carry out the objectives outlined in section 2 of this bill.

AMENDMENT NO. 1425

Mr. SASSER. Mr. President, yesterday an amendment offered by the Senator from Louisiana, the distinguished floor manager of this bill, was adopted. It authorizes the Federal Power Commission to order interconnections between utilities. An amendment I have considered offering today strengthens that authority to grant to the FPC, and its successor agency, the Federal Energy Regulatory Commission, the authority to order wheeling of electricity sold at wholesale, as well as ordering interconnections as the Johnston amendment proposes.

The PRESIDING OFFICER. If the Senator will yield, in order to continue, he would have to call up his amendment.

Mr. JOHNSTON. I will yield to the Senator. Does he have an amendment?

Mr. SASSER. I am not going to offer an amendment. I need about 10 minutes.

Mr. JOHNSTON. I yield 10 minutes on the bill.

Mr. SASSER. I thank the distinguished Senator from Louisiana.

Mr. President, I believe it is necessary that this authority be granted to this new Federal body which is to regulate wholesale electric power. Wheeling, as my colleagues know, is simply a tranesportation service. It means that utility A, which is purchasing bulk power from utility B not located adjacent to its service area, would use the transmission lines of utility C to transport the power. This would occur only, of course, if there was excess capacity to transmit the power on utility C's lines. There are other protections also in my amendment for the utility subject to the wheeling order.

First, however, I would like to point out some of the benefits of wheeling. Where utilities within a given region are interconnected, and there exists an agreement to wheel electricity and exchange energy, significant economic and environmental advantages can be anticipated. Within such an interconnected district, there is an incentive for several electric systems to join together in the construction of powerplants. Since the energy can be delivered anywhere within the interconnected system by using wheeling, the generating unit may be built at the most environmentally appropriate site in the district.

Thus, such systems facilitate appropriate land use planning, since, in addition to environmental considerations, generating units may be located at sites within a district to take maximum advantage of existing transmission lines and to decrease losses of electricity resulting from transmission over long distances. The number of transmission lines which ribbon the country would be minimized in the future, and benefits of economies of scale of large electric generating units would be available to all types of utilities.

Mr. JOHNSTON. Mr. President, will the Senator yield? I wonder if the Senator would send his amendment to the desk so that we can get time on it.

Mr. SASSER. Mr. President, I call up my amendment No. 1425.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Tennessee.

The legislative clerk read as follows:

> The Senator from Tennessee (Mr. SASSER), for himself, Mr. METCALF, Mr. NELSON, Mr. ZORINSKY, Mr. EAGLETON, Mr. KENNEDY, and Mr. ANDERSON, proposes an amendment numbered 1425.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill insert the following new section:
>
> INTERCONNECTION AND WHEELING
>
> SEC. . (a) Notwithstanding any other provision of this Act, section 202 of the Federal Power Act is amended by adding a new subsection (h) to read as follows:
>
> "(h)(1) Whenever the Commission, upon application of any State commission or of any electric utility or any qualifying cogenerator (as defined in the Public Utility Regulatory Policy Act of 1977), and after public notice and notice to each State commission and electric utility and qualifying cogenerator affected, and after opportunity for hearing, finds it necessary or appropriate to carry out the purposes of paragraphs 2(a) and 2

(b) of the Public Utility Regulatory Policy Act of 1977, it may by order direct an electric utility (other than a Federal agency) to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator, to sell energy to or exchange energy with, or provide wheeling for such utility or cogenerator. For purposes of this paragraph, the term 'wheeling' means an electric operation wherein the transmission facilities of one electric utility are used to transmit the electric energy generated by another electric utility to effect the delivery of electric energy to an electric utility or qualifying cogenerator: *Provided*, That such term does not include the transmission of electric energy to an ultimate consumer (other than to a qualifying cogenerator for purposes of providing backup power, as determined by the Commission).

"(2) The Commission may not issue an order under paragraph (1) upon application of any electric utility or any qualifying cogenerator to direct an electric utility to establish physical connection or to provide wheeling services unless the electric utility or qualifying cogenerator which makes an application for such connection on wheeling demonstrates to the Commission that such electric utility or qualifying cogenerator is ready, willing, and able to provide reimbursement reasonably due for the costs (including capital and operating costs) incurred by the electric utility or owner which is requested to make physical connection or to wheel electric energy.

"(3) Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order the authority of this subsection prior to said parties: *Provided*, That said terms and agreements shall be subject to approval by the Commission and in the event that the parties do not reach an agreement approved by the Commission, the Commission may prescribe the terms and conditions of the agreement among the parties affected by such agreement, including the apportionment of cost among them and the compensation or reimbursement reasonably due to any of them: *And provided further*, That if in the Commission's judgment, time is of the essence, the Commision may issue an order under the authority of this subsection prior to or during the negotiation among the parties.

"(4) The Commission shall have no authority under this subsection to—

"(A) compel the enlargement of generating facilities, or

"(B) take any action that would place an undue burden on such utility, significantly impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

"(5) Nothing in this subsection shall affect the application of any Federal statute governing the disposition of electric energy generated by a Federal agency.

"(6) For the purposes of this subsection the term 'electric utility' means a utility as defined in the Public Utility Regulatory Policy Act of 1977 which sells or exchanges electricity energy.

"(7) Except as provided in this subsection, compliance by any electric utility with an order issued under this subsection shall not subject any electric utility to regulation under the Federal Power Act if any such electric utility is not otherwise subject to regulation under such Act.".

(b)(1) The first sentence of section 201(b) is amended by inserting "(other than section 202(h))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(h) shall apply to the electric utilities and other persons specified therein."

(2) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(h)" before the period at the end thereof.

(c) Upon the effective date of the Department of Energy Organization Act (Public Law 95-91) the authorities vested in the Federal Power Commission by this section shall be transferred to and vested in the Federal Energy Regulatory Commission.

Mr. SASSER. Mr. President, my amendment would fully protect all electric systems. I should note that the Federal Energy Regulatory Commission could not unilaterally order a utility to wheel or to interconnect. As in Senator JOHNSTON's interconnection amendment, wheeling could not be ordered on the Commission's own motion, but only on application to the Commission by an electric utility, a State utility commission, or a qualifying cogenerator. Even then the Commission could not mandate interconnection or wheeling except after an opportunity for a hearing which results in a finding that such an order is necessary or appropriate in the public interest. The public interest would be judged according to standards such as the savings of energy to be anticipated and the ultimate savings in costs.

No such order could be issued if it would place "an undue burden on a utility, significantly impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers." To prevent a utility or qualifying cogenerator from using a wheeling agreement to "pirate" retail customers within the service area of another utility, "wheeling" is specifically defined to exclude the "transmission of electric energy to an ultimate consumer." Further, it is not intended that any utility will receive a "free ride" through the issuance of Commission orders to interconnect or wheel electricity.

Before such an order may issue, the Commission must find that the applicant is ready, willing and able to provide reimbursement reasonably due for the costs incurred by the party required by the order to provide such connection or to wheel. In addition, the Commission is specifically authorized to "prescribe the terms and conditions of the arrangement—including the apportionment of cost" between the parties and the "compensation and reimbursement reasonably due to any of them" if the parties cannot reach agreement within a reasonable time.

The Commission could not, under this section, require any utility to enlarge its generation capacity or to take any other action which would diminish its ability to serve adequately its own customers.

The adoption of my proposal would have a procompetitive effect. Electric utility systems purchasing wholesale power for all or part of their needs are frequently islands within the service area of a larger utility system. Absent an agreement by the larger utility to wheel power—transmit electricity from a distant source across its own lines for delivery to another system—these wholesale purchasers of electricity are captive customers of the larger system with no opportunity to "shop" for power. The refusal to wheel has in the past been used as a means of retaining customers while charging more than a just and reasonable price for wholesale sales. Such anticompetitive practices can be eliminated if the Commission is granted the authority to require wheeling.

Mr. President, in 1973, the Supreme Court considered an antitrust case in which a utility refused to wheel power to four small town electric systems in the States of Minnesota, North Dakota, and South Dakota.

Justice William O. Douglas wrote, in Otter Tail Power Co. against United States:

> The critical events centered largely in four towns—Elbow Lake, Minnesota; Hankinson, North Dakota; Colman, South Dakota; and Aurora, South Dakota. When Otter Tail's franchise in each of these towns terminated, the citizens voted to establish a municipal distribution system. Otter Tail refused to sell the new systems energy at wholesale and refused to agree to wheel power from other suppliers of wholesale energy.

The Court found that these extreme actions were taken solely to protect the company's monopolistic position.

The Court's remedy was to order wheeling of power by the Otter Tail Power Co. to the Municipal Power Systems.

The Federal Power Commission cannot today order wheeling, except in emergencies. It can order interconnections in certain circumstances. To rectify refusals to wheel, a utility still has to initiate an antitrust suit under the provisions of the Sherman Antitrust Act, which is an expensive and lengthy process.

This is impractical for small municipal electric systems and rural electric cooperatives with limited resources. In the Otter Tail case, one of the four towns, Hankinson, N. Dak., reluctantly decided to renew Otter Tail's contract after Otter Tail refused to wheel.

Granting the Federal Energy Regulatory Commission the authority to order wheeling in such cases would provide an incentive for good-faith bargaining between the parties involved.

Where refusals to wheel have occurred, they have generally been the refusal of large systems to wheel power to small systems. Such small systems can only realize economies of scale, in most cases, by pooling resources and power.

Finally, let me emphasize what I view as the primary benefits of granting the Federal Energy Regulatory Commission the authority to "wheel" bulk power as well as order interconnections. Such authority would insure equality of opportunity to all electric utilities to engage in transactions which allow access to economies of scale in electric power generation and transmission. It would aid in slowing down rate increases to consumers, help protect against possible power shortages, and, most importantly, save resources by making better use of existing facilities and by encouraging more comprehensive planning for future facilities.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. SASSER. One moment and I will yield.

Mr. President, I would note that the

Senate has not taken a position on wheeling ordered by the Federal Power Commission or the prospect of wheeling being ordered by the Federal Power Commission.

I would most respectfully differ with my able and distinguished colleague from Louisiana on this particular score. I note in remarks which he made yesterday he indicated that, perhaps, the committee had taken a position on this particular matter. In conversation with other Senators I have been unable to ascertain that a position has been taken.

I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Tennessee.

I rise to commend the Senator from Tennessee. I think his amendment will be very beneficial to the cooperatives in our State and the co-ops around the country.

I have argued quite strenuously today on the floor that the lowest level of government that can get the job done should be the highest level to get the responsibility. But this is one area, I think, where the Federal presence is required. It is a problem that can only be solved by the Federal Government, and I believe it is consistent with the approach I have taken to the utility regulatory reform proposals that we have been wrestling with in the past couple of days.

It is an area where only the Federal Government can solve this problem. It does not unduly increase the presence of the Federal Government. In fact, it is a beneficial presence of the Federal Government. In fact, it is a beneficial presence, and it is one that in many respects, in my mind, is long overdue.

I thank the Senator from Tennessee for giving me the time, and I commend him for this amendment, and I hope that before this bill gets to the President's desk the essence of the amendment of the Senator from Tennessee is incorporated in the final package.

Mr. SASSER. I thank the distinguished Senator from New Hampshire for his kind remarks.

Mr. NELSON. Mr. President, today I am pleased to cosponsor an amendment to S. 2114, the Public Utilities Regulatory Policy Act.

Under current law, the Federal Power Commission is generally not required to order interconnections of electric power transmission lines between electric utility companies or wheeling—whereby one electric utility company is paid for the use of its spare transmission capacity lines to effect a transfer of electric energy between two other utilities. These services may only be undertaken on a voluntary basis.

This has worked to the detriment of many small cooperatively and municipally owned electric utilities. The record is replete with evidence of large utilities refusing to provide some of these services on a voluntary basis when they are indeed capable of providing them. The result is that many small utilities have been cut off from essential power supplies. The net effect of refusal to provide some of these vital services is that cooperatives and municipally owned systems may have to go out of business and thus what little competition there is in the industry is reduced.

Alternatively, the utility requesting the wheeling or interconnection service may have to build facilities duplicating already existing ones. And if the requesting utility does not construct its own generating facility, it is forced to purchase power from the large utility companies at exorbitant wholesale rates. The fact of the matter is that the large electric utility companies simply do not want the competition from the small cooperative and municipally owned electric companies.

The amendment which Senator SASSER has offered and which I have cosponsored, would amend the Federal Power Act to provide an opportunity for systems requesting interconnection and wheeling services to have recourse to the FPC. The FPC would be required to order interconnection and wheeling services where efficiency and necessity dictate. These orders would be applicable to virtually all types of utilities—municipally, cooperatively, and investor-owned. They would apply only to the transmission of wholesale electric service, not to any retail sales of the wholesale customer. In other words, one electric utility company could only wheel electric power to another company, not to retail customers. This prohibition prevents a utility from raiding the retail customers of another company.

Opponents of this amendment argue that it might place an unfair burden on utilities ordered to provide wheeling and interconnection services. This is not the case. Under this amendment the FPC must find in an evidentiary hearing, that the order would be in the public interest. This is a standard which the FPC now uses in much of its decisionmaking.

Moreover, under the provisions of this amendment, the FPC must find that there is spare capacity on an existing line if it is to order wheeling, that system reliability will not be impaired and that, in the case of an interconnection, a utility requesting such interconnection is ready, willing, and able to pay for it. The costs determined by the FPC are to include both capital and operating costs.

This legislation is long overdue. Today, the FPC only has the authority to order interconnections, for purposes of selling or exchanging energy, upon the filing of a complaint, and then only if certain conditions are met. Making explicit the power to require transmission and coordination services as specified in this amendment is a very logical extension of the Federal Power Act in light of current conditions.

The control of electric transmission rights can provide a utility with a make-or-break grip over another utility which seeks support or access to other suppliers. By setting arbitrary conditions or unreasonable prices, the utility controlling transmission can extract excessive rates from the purchasing utility, thus forcing unreasonable rates upon its customers. Transmission control can be employed to kill or cripple a competing utility. FPC responsibility to initiate action to solve these problems and to assure fair answers is needed.

Utilities are granted and entrusted with special powers by Government to condemn land for transmission rights-of-way and they use public thoroughfares to move electricity. It would, therefore, seem abundantly clear that the public has a significant interest in insuring that these powers are not abused to promote monopolistic practices.

Finally, I would note that voluntary arrangements will not be precluded by this amendment. In fact, it may be that this amendment will provide companies with the necessary incentive to enter into more voluntary agreements. However, the protections embodied in this amendment are needed in the event that such arrangements cannot be made.

Mr. SASSER. Mr. President, I wish at this time to withdraw my amendment 1425.

Mr. JOHNSTON. Mr. President, will the Senator withhold that just one moment?

Mr. SASSER. I will withhold it.

Mr. JOHNSTON. Mr. President, I commend the Senator for his interest in this matter.

Originally the Senate bill had wheeling as part of the amendment. After having a 1-day hearing on the matter of wheeling we decided, informally to be sure to put in the amendment with only interconnection and such pooling as was necessary to carry out the purposes of the interconnection, leaving wheeling to another day. It was not a formal committee position, and I want the Senator to understand that. If I gave the impression yesterday that it was a formal committee position with a committee vote, that is not correct. But it was an informal one with, I think, all of the members of the committee aware and most joining in the action. We decided to put in the amendment with only interconnection and such pooling as was necessary to carry out the purposes of the interconnection, leaving wheeling to another day. And as I explained yesterday, the reason for that is that wheeling is an extremely complicated subject involving great moment not only in the field of energy conservation and efficient use of energy generating facilities but also on the question of competition, and it became quickly apparent to us that we could not deal adequately with all the parties interested and all the issues involved in the short period of time that we had to deal with that.

For that reason, we left the question of wheeling out of this amendment and that does not mean that the committee has, as a committee, a mind set against wheeling. It does not mean that at all. It means that at this late date in the committees' hearing process we simply did not have time to deal with it, and we welcome the Senator's interest in that for another day at another time.

Mr. SASSER. Mr. President, I thank the distinguished manager of the bill for his remarks. I hope that we may be in a posture to take a closer look at wheeling in the very near future.

Having said that, Mr. President, I withdraw my amendment No. 1425.

The PRESIDING OFFICER. The amendment of the Senator is withdrawn.

The question now recurs on the amendment offered by the Senator from Montana which was temporarily laid aside.

Mr. JOHNSTON. Mr. President, they are still working on that amendment. I ask unanimous consent that it continue to be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, is any further amendment going to be proposed?

Mr. BAYH. Mr. President, the Senator from Indiana wishes to advise his colleague that he has an amendment which he had discussed with my friend from Louisiana. I hope to offer that in the near future.

Mr. JOHNSTON. We are ready to take it at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SARBANES). On whose time?

Mr. JAVITS. That will be for the managers to decide.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the quorum call proceed without being charged to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ANDERSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS

Mr. ANDERSON. Mr. President, at the request of the chairman of the Committee on Armed Services, Mr. STENNIS, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1339.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate the amendments of the House of Representatives to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes.

(The amendments of the House are printed in the Houte proceedings of the RECORD of September 29, 1977.)

Mr. ANDERSON. Mr. President, on September 29, the House of Representatives passed the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, with amendments. I move, Mr. President, that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to; and the Presiding Officer appointed Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. NUNN, Mr. HART, Mr. TOWER, Mr. THURMOND, and Mr. BARTLETT conferees on the part of the Senate.

DEFENSE DEPARTMENT REORGANIZATION

Mr. ANDERSON. Mr. President, at the request of the chairman of the Committee on Armed Services, Mr. STENNIS, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1372.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1372) entitled "An Act to amend titles 10 and 5, United States Code, to disestablish one of the positions of Deputy Secretary of Defense and establish an Under Secretary of Defense for Policy, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) section 134 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "There are two Deputy Secretaries" in the first sentence and inserting in lieu thereof "There is a Deputy Secretary", and by striking out "a" in the second sentence immediately before "Deputy Secretary";

(2) in subsection (b), by striking out "Deputy Secretaries" in the first sentence and inserting in lieu thereof "Deputy Secretary" and by striking out "Deputy Secretaries, in the order of precedence, designated by the President" in the second sentence and inserting in lieu thereof "Deputy Secretary";

(3) in subsection (c), by striking out "The Deputy Secretaries take" and inserting in lieu thereof "The Deputy Secretary takes"; and

(4) in the section heading, by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

(b) The item relating to section 134 in the analysis of chapter 4 of title 10, United States Code, is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

SEC. 2. (a)(1) Subsection (a) of section 135 of title 10, United States Code, is amended to read as follows:

"(a) There are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering. The Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.".

(2) Subsection (b) of such section is amended by striking out "The Director performs" and inserting in lieu thereof "The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Under Secretary of Defense for Research and Engineering shall perform".

(3) Subsection (c) of such section is amended by striking out "Director" and inserting in lieu thereof "Under Secretary of Defense for Policy", by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary", and by adding at the end thereof the following new sentence: "The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.".

(4) The section heading for such section is amended by striking out "Director of Defense and Research and Engineering" and inserting in lieu thereof "Under Secretaries of Defense".

(b) The item relating to section 135 in the analysis of chapter 4 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Under Secretaries of Defense".

SEC. 3. (a) Section 136(e) of title 10, United States Code, is amended to read as follows:

"(e) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.".

(b)(1) Clause (2) of section 171(a) of title 10, United States Code, is amended by striking out "a" and inserting in lieu thereof "the".

(2) Clause (6) of such section is amended to read as follows:

"(6) the Under Secretaries of Defense;".

(c) Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

(d)(1) Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretary of Defense.".

(2) Section 5314(32) of such title is amended to read as follows:

"(32) Under Secretaries of Defense (2).".

Amend the title so as to read: "An Act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.".

Mr. ANDERSON. Mr. President, on September 19, the House of Representatives passed the bill, S. 1372, with an amendment in the nature of a substitute, and an amendment to the title. The bill, as originally passed by the Senate, would eliminate one of the two positions of Deputy Secretary of Defense and establish the position of Under Secretary of Defense for Policy, and change the title of the Director of Defense Research and Engineering to that of Under Secretary of Defense for Research and Engineering. The amendment of the House is technical in nature and relates to the form of the bill.

I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

Mr. ANDERSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Minnesota make the unanimous-consent request that the time for the quorum call not be taken out of the time on either side?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I ask unanimous consent to modify my amendment now at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 885—AS MODIFIED

Mr. MELCHER. Mr. President, at the suggestion of the chairman of the Committee on Energy (Mr. JACKSON) the amendment has been modified, taking into consideration his recommendations. That modification is now at the desk.

A parliamentary inquiry, Mr. President: Should I seek reading of that modification at this point?

The PRESIDING OFFICER. The modification to the amendment has already been made.

The modification is as follows:

At the end of the bill add the following new Title.

TITLE II

DEFINITIONS

SEC. 104. As used in this Title

(a) The term "Secretary" means the Secretary of the Department of the Interior.

(b) The term "Northern Tier Estates" means Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(c) The term "Inland States" means those States other than a Northern Tier State and other than California in the continental United States.

(d) The term "crude oil transportation system" means a crude oil pipeline within and subject to the jurisdiction of the United States, and including, but not limited to, the port, terminal, tank farm, pumping stations, off take points, and other related facilities, associated with moving volumes of Alaskan crude oil by pipeline to Northern Tier or inland States.

(e) The term "Northern Tier project" means that proposed crude oil transportation system referred to in section 102(f)(i) of this Act and generally described in an "Application for Right of Way Across Federal Lands" filed by the Northern Tier Pipeline Company with the Department of the Interior, Bureau of Land Management, on April 18, 1977.

(f) The term "Long Beach-Midland project" means that crude oil transportation system referred to in section 102(f)(ii) of this Act and which was the subject of and generally described in the "Final Environmental Impact Statement, Crude Oil Transportation System, Valdez, Alaska to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior at 42 Federal Register 28008, June 1, 1977.

(g) The term "applicant" means the person or entity who has applied for or applies in the future for, some or all of the Federal, State, or local permits, rights-of-way, or other authorizations necessary for or related to the construction, operation, and maintenance of one of the crude oil transportation systems referred to in subsections (e) and (f) of this section, or any other such system.

EXPEDITED DECISIONMAKING ON CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 105. (a) Upon any applicant's written request that is filed with the Secretary within fifteen days of the date of enactment of this Act, or, if the application is filed after the date of enactment of this Act, within 60 days after filing the application, the Secretary shall review the status of that applicant's rights-of-way, permits, leases, and other authorizations necessary for construction, operation, and maintenance of a crude oil transportation system from the west coast to any of the Northern Tier States or inland States. With respect to applications for the crude oil transportation systems referred to in subsections (e) and (f) of Section 104, the Secretary shall establish a schedule for the preparation in consultation with the Environmental Protection Agency, by January 15, 1978 of any draft environmental impact statements and by March 1, 1978 of any final environmental impact statements which may be required, if not already completed. With respect to applications for any other such systems, the Secretary shall establish such a schedule so as to complete a final environmental impact statement within one year after filing the application.

(b)(1) Following the Secretary and the Secretary of Energy's review of applications for the systems referred to in subsections (e) and (f) of Section 104 and the completion of any required environmental impact statements, the Secretary and the Secretary of Energy, after consultation with, and approval of, federal agencies that under federal law must authorize, issue, or enforce permits or authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system, shall determine no later than April 1, 1978 with respect to the Northern Tier project and no later than December 15, 1977 with respect to the Long Beach-Midland project whether the crude oil transportation system proposed by the applicant shall be approved under this Act.

(2) The Secretary and the Secretary of Energy shall make their decision for each project subject to this Act upon its own individual merits. The Long Beach-Midland project and the Northern Tier project are not and shall not be considered as mutually exclusive crude oil transportation systems nor as the only alternative systems to be considered. Each decision made by the Secretary and the Secretary of Energy shall consider pipeline and terminal safety, environmental and land use considerations, cost and timing of construction, and the net national economic benefits to be realized through alternate methods of crude oil and petroleum product distribution.

SEC. 106. The Congress hereby authorizes and directs the Secretary of the Interior and other Federal officers and agencies to issue, no later than thirty days from the date of the Secretary's decision to approve, and take all necessary actions to administer and enforce rights-of-way across Federal lands, Federal permits, Federal leases, and other Federal authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system approved by the Secretary pursuant to this Act.

SEC. 107. Actions seeking judicial review of the approval of the Secretary and the Secretary of Energy or the actions of the Federal officers under Sections 105 and 106 concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of any crude oil transportation system approved by the Secretary may only be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession of the United States, or the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceedings shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

ANTITRUST LAWS

SEC. 108. Nothing in this title, and no action taken hereunder shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

SEPARABILITY

SEC. 109. If any provision of this title, or the application thereof, is held invalid, the remainder of this title shall not be affected thereby.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. It is my understanding that the unprinted amendment previously offered has been substantially changed. I want to be sure that the most recent revision is at the desk. There is no need to read it.

The PRESIDING OFFICER. The Senator's amendment was modified by unanimous consent. The effect of that modification is placed before the Senate, in the modified version.

Mr. JACKSON. My only point was that I think this is the second modification, so I just want to make sure.

Mr. MELCHER. I shall briefly describe the modification.

Mr. DURKIN. Will the Senator yield for a parliamentary inquiry?

Mr. MELCHER. Yes, I yield.

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. Is the modified amendment which is now at the desk subject to further amendment?

The PRESIDING OFFICER. It is in the first degree and, therefore, is subject to further amendment.

Mr. MELCHER. Mr. President, the modifications refer to the points that the chairman of the Energy Committee, Senator JACKSON, made—that is, the allowance for other alternative routes to be considered by the Secretary of the Interior and the Secretary of Energy. Those modifications have been incor-

porated in the amendment as it is now drafted.

The Secretary of the Interior and the Secretary of Energy shall also base their decision on considering such factors as pipeline and terminal safety, environmental and land use consideration, cost and timing of construction, and the national economic benefits to be realized through ultimate methods of crude oil petroleum products distribution.

My amendment recognizes that at present there are two specific pipelines proposed to bring Alaskan and other crudes from the west coast eastward into other areas of the country. One is the northern tier project which would involve some 1,500 miles of pipe between Port Angeles, Wash.—which is outside Puget Sound—through the northern tier States to connect with existing pipeline systems at Clearbrook, Minn. Close to 1 million barrels of oil daily could be made available through this line for refineries in the northern tier, Midwest, and as far east as Buffalo, N.Y.

The other pending project is the one proposed by Standard Oil Co. of Ohio to use an abandoned gas line with some new construction in order to provide a system capable of carrying approximately 500,000 barrels of oil each day from Long Beach, Calif., to Midland, Tex. There, the oil could be made available to gulf coast area refiners or put into existing pipeline systems for delivery into the midcontinent. This is clearly of benefit to Northeastern and Atlantic States which depend upon products which are refined along the gulf from foreign oil and then are shipped north. These pipelines would reduce foreign dependency for the Southern, Central, and Northeastern States.

The amendment makes it clear that these two proposals are not to be considered mutually exclusive—that both are needed. It is also pointed out that, while these proposals are to be viewed on their own merits, they are not the only systems which may be considered. Others may be proposed although none is presently pending.

Within 15 days following the signing of my amendment into law, the two applicants I have mentioned could seek review by the Secretary of the Interior of the status of their applications. Future applicants seeking Federal approvals would have 60 days for such review. After reviewing the applications, the Secretary would be required to establish time schedules for their consideration. In the case of northern tier, the Secretary would have to set a schedule for completion, in consultation with the Environmental Protection Agency, of a draft environmental impact statement by January 15, 1978, and a final environmental impact statement by March 1, 1978.

Then the amendment requires that no later than April 1, 1978, the Secretaries of Interior and Energy jointly make a decision as to whether the northern tier project shall be approved, after consultation with, and approval of, all Federal agencies which have related responsibilities under other Federal laws. I want to emphasize that the time schedule provides adequate time for these considerations, although on a compressed schedule, and is necessary in view of the urgency of the oil supply situation in the northern tier.

In the case of the Long Beach-Midland project, a decision is required by December 15 of this year. However, the environmental impact statement is completed on that project and it is only awaiting final approval of such major items as a natural gas line abandonment proposal before the Federal Power Commission, rights-of-way grants issued by the Department of the Interior, and Corps of Engineers port facility construction and dredging permits, all of which are expected to be forthcoming within the deadline period. The same Federal agency consultations and approvals are required.

Within 30 days of any approval of a pipeline system under the amendment, all Federal rights-of-way, leases, or other authorizations necessary for the construction, operation, and maintenance of the system would have to be issued.

The amendment also sets up the expedited judicial review process I mentioned earlier. It says that any suits seeking judicial review of an approval by the Secretaries of Energy and Interior or actions by other Federal officials under the amendment's provisions must be filed in a U.S. district court within 60 days of the approval or action. That court is to move any such cases to the head of the docket and expedite them to as great an extent as is possible. Appeal would be directly to the Supreme Court without the right of injunction in the meantime.

I want to stress here that in no way do we intend to prevent any parties from exercising their right to go to court if they feel that Federal laws have been violated or their rights denied because of some action taken under our amendment. Our sole purpose is to have such court challenges expedited so that decisions can be made promptly.

Mr. President, I have attempted to outline the intent and the provisions of my amendment. In doing so I stress once again the urgent national need to use our Alaskan oil as a key to solving the crude oil supply problems we are presently facing. With the Federal Energy Administration projecting possible petroleum product shortages as high as 35 percent in my State of Montana and 12.5 percent in eastern Washington as early as next year, I am convinced, as I am sure all 35 other sponsors of this amendment are, that we must act promptly to move off dead center on this issue. By shuffling available crude supplies and perhaps shipping expensive products into crude-short areas we may be able temporarily to postpone refiner shutdowns, gasoline shortages, and cold homes in the northern tier. But the long-term supply of oil to these States must be assured as we are attempting to do under this amendment by clearing out Federal redtape so construction of these lines can begin next spring or summer.

State siting permits or other approvals are a separate matter not addressed in my amendment, and I hope they will be acted upon promptly as well by the States involved.

We urge approval of this amendment as a crucial first step toward an end to the west coast oil surplus, equitable distribution of Alaskan oil, and having a stable oil supply.

In addition these lines will be built in the United States with American labor and American steel. The Northern Tier and Sohio proposals amount to almost $2 billion of construction for nationally needed oil distribution. A half billion dollars of American steel is needed and almost a billion dollars for American labor will be spent.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I yield.

Mr. METZENBAUM. Do I correctly understand that this amendment only provides for a study of the subject and then a report back to Congress before any final action is taken, or does this amendment make it possible for the pipeline to be built without any further congressional action?

Mr. MELCHER. This amendment would make it possible for the issuance of the permits in an expedited fashion and would set time frames for expediting those permits. It does not require coming back to Congress for issuance of such permits.

I say to the Senator from Ohio that we have no provision in law that requires the Secretary of the Interior or the Secretary of Energy to come back to Congress for the issuance of such permits, except in the general provision of law now, that approval of permits for an oil or gas pipeline, greater than 24 inches in diameter, that crosses public lands, must be reported to the appropriate committees in the House and in the Senate. That is existing law and applies to all oil and gas pipelines that cross public lands.

Mr. BAKER. Mr. President, will the Senator from Montana permit me to interrupt for a moment to take care of a necessary housekeeping matter?

Mr. MELCHER. I yield to the Senator from Tennessee.

ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES FROM OCTOBER 6 UNTIL OCTOBER 11, 1977

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 372.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 372, which will be stated.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 372) providing for an adjournment of the House from October 6 until October 11, 1977.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. BAKER. Mr. President, I thank the Senator from Montana for permitting me to do this, which probably prevented us from being hung in effigy by

our friends and colleagues in the other body.

Mr. MELCHER. I was delighted to yield.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. MELCHER. Mr. President, in further answer to the question posed by the Senator from Ohio, I point out that the existing law does require the Secretary of the Interior, at the time he agrees to issue permits for oil and gas pipelines 24 inches in diameter or greater to cross public lands, to notify the committees of the House and the Senate that the permits will be granted. Existing law, then, gives the opportunity for consideration within those two appropriate committees and a possible resolution of the objection. That is the law as it is now, and it would not be changed by this amendment.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I yield.

Mr. DURKIN. My question is this: Would the Senator from Montana be willing to accept a further modification of his proposal? I agree with his proposal. We in the East have to get that Alaskan crude as far East as possible. For that reason, I commend the Senator for pushing very diligently this important measure—important not only to the northern tier but also to the Midwest and the east coast.

Would the Senator be willing to accept an amendment which would prohibit an all-events tariff being used to finance this pipeline or any interstate gas and oil pipeline? The Federal Energy Regulatory Commission now could allow an energy company to charge an all events tariff, which is charging consumers for gas or oil whether or not they receive any oil, whether or not the project is completed, whether or not it is interrupted. In effect, the all events tariff is a form of involuntary consumer financing and risk-sharing.

If a project is worthwhile, there is no difficulty in obtaining financing in the private sector.

However, if a project is marginal then there is a possibility, with the all-events tariff, that the consumer who never gets an ounce of gas or an ounce of oil can be called on to finance that project.

I ask the Senator from Montana if he could accept this amendment. I think it not only would expedite the oil to the east coast and the Midwest but also would eliminate the possibility for all time, in connection with this pipeline—which surely is going to receive more than adequate private financing—that the Federal energy officials could stick the consumer with projects that otherwise would not fly because they were not economically feasible.

Mr. MELCHER. I say to my friend from New Hampshire that the amendment we have before us has been modified to take care of the objections and the constructive suggestions of the chairman of the Energy Committee, Senator JACKSON. I am not knowledgeable in the subject matter that the Senator from New Hampshire proposes. I should think that the two committees that might be involved with this, both of which the Senator from New Hampshire serves on, would want to consider that proposal. I reluctantly decline to accept a further modification of my amendment.

I ask Senator JACKSON, the chairman of the Energy Committee, whether the committee can accept my modified amendment.

Mr. JACKSON. Mr. President, I should like to state briefly what the particular issue is about.

The Secretary of the Interior does have authority to grant permits across the public domain for the construction of pipelines. When he proposes to grant the permits for the pipelines, over 24 inches in diameter—notice of his intent is sent to Congress. I think we have one pending at the present time in connection with the so-called pipelines from the west coast to the east.

Mr. President, what is involved here is legislation that will expedite the procedures under which the Department of the Interior and the Department of Energy would move in connection with the applications for Federal permits for pipelines designed to move crude oil from Alaska from west to east.

When this matter came up earlier in the day, the way the amendment was drafted it was pretty well limited to the so-called Sohio route or the northern tier route. I suggested, in a colloquy, that the Secretary of the Interior and the Secretary of Energy should have an opportunity to look at the alternative routes so that the executive branch of the Government would be in a position, if they did not like either one of the applications, to pick another route.

The point that has to be made, I suppose, is that we have or will have a surplus of 600,000 to 700,000 barrels of oil a day on the west coast.

Mr. President, that oil has to be moved east. Currently, it is being transported by tanker from Valdez, Alaska, down to the Panama Canal, offloaded into smaller tankers to pass through the canal—big tankers cannot be taken through the canal—and then brought into the Gulf of Mexico where it is refined.

Mr. President, what we are trying to do here is to act expeditiously so a decision can be made without delay regarding the possibility of another pipeline from the west coast going east to meet the needs of the Eastern States, including the northern tier States.

I would point out, Mr. President, that, in addition to possible transfers on the west coast of the United States, there is also the possibility of a route through Canada. One which has been discussed is Kitimat, British Columbia. There may be other routes.

All I am suggesting is that in the amendment we worked out with the modifications I suggested, the administration would have the option of looking at more than just the two which were in the original amendment. It is that simple. I would hope it would be approved.

With reference to the Durkin amendment, I would point out that the issue of tariffs is not involved here. This is a matter the Commerce Committee will look into. It would not be involved at this stage of the proceeding. I commend the Senator from New Hampshire for bringing out this particular point, but I would say to him that the Melcher amendment would not affect in any way the procedures which have to be followed in connection with the authority vested in the Interstate Commerce Commission or under the new Department of Energy Act, in the Federal Energy Regulatory Commission.

Mr. DURKIN. That is correct. It would not in any way impede the authority today or in any way impede the very notable motive of the Senator from Montana. I share his motive. We want to get that oil east, as much as possible and as fast as possible.

Mr. JACKSON. The Senator is correct.

Mr. President, I would hope the Senator would withdraw his amendment in light of the colloquy. I hope that the Melcher amendment could be taken to conference so we can have an opportunity to review with the House the proposals as outlined in this amendment. This will give the administration time to go over it so we can act in an expeditious manner. I believe that is the main issue.

Mr. MELCHER. Mr. President, might I inquire of the chairman of the Energy Committee, does he accept the amendment?

Mr. JACKSON. Mr. President, I recommend approval of the amendment as most recently modified.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Montana, as modified.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 887

(Purpose: To exclude use of "all events tariff" on oil and gas pipelines.)

Mr. DURKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 887.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

SEC. (a) Notwithstanding any other section of this statute or any other provision of law, the Federal Energy Regulatory Commission shall not permit any tariff, or recommend the allowance of any certificate or proposed certificate which permits tariffs, regarding any interstate pipeline or proposed interstate pipeline, unless such tariffs provide for the termination of payments or obligations to pay for any natural gas or petroleum product

not delivered in the event delivery of such natural gas or petroleum product is interrupted or reduced for any peri d.

(b) For purposes of this section (1) "natural gas" shall have the same meaning as in the Natural Gas Act.

(2) "Petroleum product" shall have the same meaning as in the Energy Policy and Conservation Act.

Mr. DURKIN. Mr. President, I would like to briefly explain the amendment and then suggest that this amendment be set aside until later in the proceedings on this bill so we may touch base with the chairman of the Commerce Committee. This does impact on the Commerce Committee as well as the Energy Committee.

Mr. FORD. Will the Senator yield?

Mr. DURKIN. Yes.

Mr. FORD. Since the Senator is going to set his amendment aside, I have an amendment which I believe would be agreeable to both sides. I would like to go forward with my amendment.

Mr. DURKIN. Mr. President, I ask unanimous consent that the amendment I have called up be set aside, with the opportunity to get back to it no later than 5 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

AMENDMENT NO. 1424

(Purpose: Provision of office space for National Association of Regulatory Utility Commissioners)

Mr. FORD. Mr. President, I call up amendment No. 1424 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 1424.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 7, insert the following at the end of line 7: "Section 205(f) of the Interstate Commerce Act (49 U.S.C., 305(f)) is amended by inserting 'without charge' between the words 'assign' and 'for' in the last sentence.".

Mr. FORD. Mr. President, the Congress in enacting the Federal Motor Carrier Act of 1935 required the General Services Administration (GSA) to furnish the National Association of Regulatory Utility Commissioners (NARUC) with office space in or close to the Interstate Commerce Commission building to strengthen Federal-State cooperation in the regulation of utilities and carriers. The NARUC has continuously occupied such office space without charge for over 40 years.

However, the GSA is now seeking to charge the NARUC with annual rental of approximately $25,000 for such space pursuant to the 1972 amendments to the public buildings law.

The NARUC contends that there was no congressional intent in this law to repeal the 1935 law under which the NARUC receives Federal office space without charge. It is a cardinal rule of statutory construction that repeals by implication are not favored, and that a specific statute will not be controlled or nullified by a later general statute unless there is a clear congresional intent to the contrary.

The NARUC is a quasi-governmental nonprofit organization founded on March 5, 1889. Within its membership are the governmental agencies of the 50 States and of the District of Columbia, Puerto Rico, and the Virgin Islands engaged in the regulation of utilities and carriers. Also included as members are the CAB, DOT, FCC, FPC, ICC, NTSB, NRC, PRC, and SEC. The chief objective of the NARUC is to serve the consumer interest by seeking to improve the quality and effectiveness of public regulation in America.

Mr. President, we have been giving this office space rent free. By language, we are inadvertently going to charge them. All this amendment does is revert back to its present position of no charge to this distinguished agency. If there are any questions, I would be glad to answer them. If not, I think it is acceptable to both sides and I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, they say that possession is nine points of the law. This commission has been in possession of these premises for 40 years, and that which has been going on for 40 years we do not want to abruptly change with this act. We thank the Senator from Kentucky for recognizing the justice of that position.

Mr. DOMENICI. We concur in the remarks of the Senator from Louisiana. We think this is justified. Congress would always retain the right to change it. We have no objection to the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 888

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 888.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

"SEC. . Rates made available to elderly residential electric consumers by Section 15 of this Act shall, notwithstanding the provision of that section, be available to persons within 125% of the poverty level as defined by the Office of Management and Budget and to no other persons.

Mr. BUMPERS. Mr. President, let me say first of all to the Senators on the floor that this amendment is designed to correct what I personally feel is an omission in the Hart amendment which we adopted yesterday dealing with lifeline rates for the elderly.

I think everybody knows that I bring this amendment up with some reservation because the Senator from Colorado has pointed out a very serious problem in this country. The elderly are having a problem, not only paying their utility bills, but keeping body and soul together.

Yet, while the amendment has a great deal of merit, I think it is also flawed to the extent we ought to correct it before we send this amendment and this bill to conference.

I think there was some misunderstanding about the amendment. For instance, I heard one Senator say there were income limitations, and there are not any.

I have talked to a number of Senators today who had similar misconceptions about the bill. One did not realize, for example, it covered all of the people in this country under 62 years of age who are on social security or drawing railroad retirement.

Mr. President, I would like to say as cogently and as preciselv as possible why I think the Hart amendment should be further amended and what I think the basic problem with it is.

The Hart amendment provides the best utility rate that anv utility company provides its best customer.

In my State, for example, the aluminum industry uses 15 percent of all electricity used in the State of Arkansas. Everybody who knows anything about the manufacturing of aluminum knows it is the most energy-intensive industry in the country.

Arkansas Power and Light Co., based on a cost-of-service rate, gives them a very advantageous rate because they use such massive quantities, and, once the capital investment is made, it does not cost them a great deal to service the plants.

Under the Hart amendment, this would mean that everybody in the State of Arkansas who is over 62 years of age will be entitled to that rate.

Mr. President, I would like to pause just a moment to point out that one of

the purposes of this whole bill is to try to encourage State public service commissions to base rates on cost of service. Yet we move away from that with this amendment.

That is not my main quarrel. However, everybody in the State of Arkansas over 62 years of age will get the rate that the aluminum industry in my State gets based on cost of service.

I still have no quarrel with that because there is not anybody in his right mind who does not know these people are having a tough time. If the Hart amendment stopped at that point, I might not be here right now. But it does not.

It also says that everybody under the age of 62 who is on social security or railroad retirement is also eligible for that same rate.

Mr. President, let me point out some of the more egregious problems this is going to create.

That old saw that is so popular nowadays that Government cannot be all things to all people is a very good one. It is worth repeating from time to time. Yet, I think that the highest duty of the U.S. Congress is to tell the American people that we are going to be even-handed and balanced in our approach to the energy problem and will do our very best to see those people who need help will get it.

But let me give the example I raised on the floor yesterday afternoon. If the President of General Motors is over 62 years of age, he is going to get this rate.

The argument can be made that he is also entitled to Meals-on-Wheels if he wants to go down to the center to get them.

Mr. JOHNSTON. Will the Senator yield?

Mr. BUMPERS. I am happy to.

Mr. JOHNSTON. Do I understand by this amendment that a person age 62 or older would not be eligible for this unless they were within 125 percent of the poverty level?

Mr. BUMPERS. That is what my amendment to the Hart amendment would be.

Mr. JOHNSTON. Very well.

Someone within 125 percent of the poverty level means the poverty level plus 25 percent?

Mr. BUMPERS. That is correct.

Mr. JOHNSTON. And that would have to be as designated by OMB?

Mr. BUMPERS. If the Senator will let me continue, I think I will explain it to everybody's satisfaction.

Mr. JOHNSTON. Very well.

Mr. BUMPERS. Under the Hart amendment, everybody, regardless of economic status, who is over 62 years of age will be entitled to the lifeline rate. It does not make any difference what his income is or what his net worth is. He is entitled to it if he is over 62 years of age. He does not even have to be on social security or the railroad retirement. Just anybody.

I still have no big quarrel with that. But it goes further than that.

It says that all those people under 62 who are on social security are also entitled to it, and that raises this problem.

Let us assume for hypothettical purposes—and I hasten to say hypothetical because the figure is not relevant—but let us assume that I die today—and there may be a school of thought that would be in favor of that—but let us assume I die and leave a $1 million estate to my widow after taxes.

Let us assume further that her pension benefits and other retirement benefits, plus income from the $1 million, would give her a monthly income of $5,000.

I use that because my minor daughter will make my widow eligible for social security, and my wife and my daughter will both draw social security until my daughter reaches her majority or is a full-time student and under 21.

This would mean that my widow would be one of the more affluent people in the community, yet she would be entitled to this rate, and somebody living down the street and receiving AFDC payments for the benefit of children would not.

My principal objection to what we did yesterday, my colleagues, is that it does not reach the poorest of the poor. I recognize it would be an administrative burden, and I know the Senator from Colorado feels strongly that we do not want to set up another bureaucracy. You can administer the Hart amendment by simply saying everybody on social security gets this rate.

Mr. President, 33 million people in this country draw social security. The Hart amendment does nothing for those people who are drawing aid for dependent children, who are striving desperately to keep body and soul together. I think it is a terrible injustice and a terrible inequity that ought to be corrected before we let this bill out of here.

Finally, Mr. President, although I am not opposed to the concept, I have some difficulty with the U.S. Senate solving social problems by legislating utility rates. Some people in my State work for $2.30 to $3 an hour, in a shoe factory, for example. It is not always the most pleasant place in the world to work, and it is not always the highest-paying place in the State. Who subsidizes the benefits that all the people get under this amendment? Some of those people who are struggling to support themselves are going to have to subsidize it because the utilities must have the same income they have right now in order to amortize their bonded indebtedness.

I have a problem with that, and I think some of the poor people of my State, which is 49th in per capita income, will have trouble with it.

But I feel strongly about this amendment, and I believe that the Senator from Colorado is trying to redress a problem that certainly does exist. It exists in my State, and in the past few years, because of the number of retirees moving into my State, we are second only to Florida in the percentage of our people over 65, so I would need a political saliva test if I were opposed to this, and I am not.

All I am saying is let us tighten it up. There will be administrative problems with it, but if we abdicate our responsibility to the people of this country who really need help, because it creates an administrative problem, we might as well fold up the tent and steal away.

Now, Mr. President, those are essentially my arguments on behalf of my amendment, which simply says that everybody in the country, whether they are over 62 or under 62, receiving an annual income of less than 125 percent of the poverty level, will be entitled to these rates. It gets to the heart of helping the people who really need it.

The Senator from Colorado this morning said or asked, "Are you against rich people getting it? Are you in favor of poor people getting it?"

My answer is both. I do not want the president of General Motors or anybody else who does not need the kind of help we are talking about here getting it. I recognize that may be only 10 percent of the people over 62, but that is 10 percent, and I do not believe the argument of an administrative burden is enough to offset giving it to 10 percent of the people who do not need it and neglecting about 20 percent of the people under 62 who do need it.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. BUMPERS. I would be happy to yield.

Mr. BURDICK. One of the problems I saw with this legislation yesterday is that during a rough survey of the community in which I live I find that many of these senior citizens are renters. In fact, I believe a majority of them are renters. They have a room or they live in a highrise or in a low-cost home or elderly home of some kind, and there are no electric meters in these homes or in their apartments.

How would they get any benefit from this?

Mr. BUMPERS. I am not sure they would, Senator.

Mr. BURDICK. I thank the Senator.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. The Senator refers to persons within 125 percent of the poverty level as defined by the Office of Management and Budget. Does that mean the Office of Management and Budget is free to set their own poverty standards or are they meant to adopt the same poverty standards that are found elsewhere in the law?

Mr. BUMPERS. Senator, this definition of 125 percent of the poverty level is currently used to determine the eligibility of the Community Services Administration, the weatherization program, and is used to determine eligibility for food stamps. It is a determination made periodically for almost every program in the United States, and it would be keyed to this very simply.

Mr. JOHNSTON. All right. I thought that is what the Senator meant. But that standard, as I understand, is not set by OMB, is it?

Mr. BUMPERS. I believe it is, Senator.

Mr. JOHNSTON. Whether it is or not, at least——

Mr. BUMPERS. It may be set by HEW. But I believe that OMB, based on certain economic indicators that they get, actually sets this rate. It is published by the Department of Commerce.

Mr. JOHNSTON. Yes, the Department

of Commerce, right. It is intended to be consistent with that standard?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. All right.

Now, the standard used by the Department of Commerce, as I understand it, defines poverty in terms of a family of one, two, and multiple numbers.

Mr. BUMPERS. The Senator is correct.

Mr. JOHNSTON. Did the Senator mean to have this interpreted in terms of a family or in terms of individuals?

Mr. BUMPERS. Both.

Mr. JOHNSTON. As far as eligibility.

Mr. BUMPERS. The poverty level standard is set on families of one through six persons. For example, the present poverty level is $7,770 for a family of six.

Mr. JOHNSTON. What I have reference to——

Mr. BUMPERS. Senator, under my amendment, the eligibility level would be 125 percent of the poverty level, and this is approximately $10,000 for families of six.

Mr. JOHNSTON. My question is this: If a person had an income of $7,500 which, as an individual, would be above the poverty level, but he has a family of multiple persons which would bring him below the poverty level, you mean to use the family definition?

Mr. BUMPERS. Oh, yes, absolutely.

Mr. JOHNSTON. Is the same true for eligibility—I mean for subsistence amounts because the amendment in its original form speaks in terms of a subsistence amount of electricity, and you mean to use that as a unit? In other words, if you slip below this poverty level, you get one unit of subsistence electricity, even though you may be a family of 10?

Mr. BUMPERS. I am not certain. On the amendment we adopted yesterday it covers everybody on social security. As the Senator knows, you may have a husband and wife both drawing social security, and I do not know whether that provides them with two units or one living together. I think it would be one.

Mr. JOHNSTON. It is a customer, and if a customer lives in a house with a family of 10 it is still one?

Mr. BUMPERS. Right; that is correct.

Mr. JOHNSTON. Did I understand the Senator to say it is all persons within 125 percent of the poverty level regardless of age?

Mr. BUMPERS. I am sorry, Senator. Would you repeat the question, please?

Mr. JOHNSTON. I did understand the Senator to say it is all persons within 125 percent of the poverty level regardless of age?

Mr. BUMPERS. That is correct.

Mr. JOHNSTON. In other words, you do not have to be 62 and above to get this amount.

Mr. BUMPERS. If I may respond to that point, and I will let you continue with your questioning, but there are 33 million people in this country on social security and railroad retirement under 62 who would be eligible for this benefit under the Hart proposal.

Mr. JOHNSTON. And under the Senator's proposal they would not be eligible?

Mr. BUMPERS. Some of them might be. That is right. Some would and some would not.

Mr. JOHNSTON. Can the Senator tell me how many people would be eligible under this amendment?

Mr. BUMPERS. 14 million.

Mr. JOHNSTON. Under the Senator's amendment?

Mr. BUMPERS. 14 million.

Mr. DOMENICI. 14 million families.

Mr. BUMPERS. 14 million households, not 14 million people. But this would be essentially 14 million meters that would be affected.

Mr. JOHNSTON. I see.

Mr. BUMPERS. I cannot tell the Senator how many households are affected under the Hart amendment. I know there are 33 million social security recipients. I do not know how many railroad retirement beneficiaries there are.

Mr. JOHNSTON. Under the Hart amendment, as I understand it—and perhaps the Senator from Colorado can further elucidate on this—in setting the subsistence amounts under the Hart amendment there is intended to be a subsistence amount per utility meter and those are not intended to vary by the number of people in the family.

Mr. BUMPERS. That is my understanding. The Senator from Colorado can address that.

Mr. JOHNSTON. Perhaps I could ask the Senator from Colorado.

Under his amendment he defines a subsistence amount of electricity. It is his intent that each State regulatory commission would set a subsistence unit available, in effect, for a utility meter, and they are charged a low price for that subsistence amount whether the household is two or more?

Mr. HART. The Senator is correct.

Mr. JOHNSTON. Or no matter how many people are in the family.

Mr. HART. The Senator is correct.

Mr. JOHNSTON. And as adopted by the Senator from Arkansas that same definition would exist, is that correct?

Will the Senator from Arkansas yield for a question?

Mr. BUMPERS. I yield.

Mr. JOHNSTON. And that is consistent. The Senator would agree with the explanation just given by the Senator from Colorado.

Mr. BUMPERS. That is correct.

Mr. HART. Mr. President, will the Senator from Louisiana yield to me 5 minutes on his time on the amendment to respond to some of the argument?

Mr. JOHNSTON. I yield 5 minutes to the Senator from Colorado.

Mr. BUMPERS. Mr. President, if the Senator will withhold a second, I wish to say that Senator MUSKIE, Senator HATFIELD, Senator SASSER, and Senator CULVER all join as cosponsors of this amendment.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Colorado is recognized for 5 minutes.

Mr. HART. Mr. President, for the 95 of our colleagues who do not hear the presentation of the Senator from Arkansas I think they will find the record available to them tomorrow very interesting because it is literally impossible to tell from the arguments that he made whether he favors this proposal or not.

He made a lot of arguments against the Hart amendment and then proceeded to try to amend it by expanding it dramatically.

So it is going to be extremely important, I think, for Senators who may eventually have to vote on this to find out whether the Senator from Arkansas, who proposes this amendment, likes it or does not like it. Most of the arguments I heard in support of his amendment were opposed to the concept. Now the Senator says that a lot of Senators will vote against who misunderstand what is going on.

I only point out to our colleagues that the amendment which the Senator from Colorado presented was available to them for a period of a week or two in a Dear Colleague letter with factsheets and all the information available. There was a great deal of staff contact explaining what its provisions were. So I think it ill behooves people after a 20-vote margin agreeing to the amendment now to say they did not know what they were voting on. If that is the case no one came up to me and explained that to me.

If in fact the arguments which the Senator from Arkansas offers in support of his amendment and against mine are valid, why expand the program?

The Senator from Arkansas makes all these arguments as to why this is bad, why it is unfair, and why it is the wrong approach to solve the problem, and then attempts to dramatically expand the program by offering his amendment. He says he is concerned about unjust enrichment of wealthy people. The fact of the matter is, Mr. President, there are something like seven-tenths of 1 percent of the households in this country over the retirement age that have incomes of $50,000 or more. He talks about rich widows and the retired presidents of General Motors. It is a fraction of a percent.

We are talking here about 95 to 99 percent of the elderly people in this country. There are fewer than 10 percent of the people of retirement age who have incomes of above $10,000.

The Senator points out that there are, in fact, a lot of programs which do not have a means test particularly for the elderly. He is absolutely right. Almost all the legislation which Congress enacts does not impose a means test for the elderly for a variety of reasons, not the least of which is the ease of administration.

For example, the Kennedy-Thurmond proposal on the national prescription drug costs program has no means test. It is available to all senior citizens. Centers which offer health care and meals have no means tests. They are available to all senior citizens. Information referral services under the Older American Act and nutrition and feeding

programs have no means test. You do not have to demonstrate that you are poor to get under those programs.

I assume the retired president of General Motors and the rich widows can go in and get those meals as well.

If the Senator from Arkansas is so concerned about that, he should repeal those provisions and put a means test in so the old people who benefit from these programs have to demonstrate they are impoverished. That is what he wants to do with this amendment.

How much is a retired president of General Motors going to be enriched? About $6 or $8 a month. That is how much he is going to be enriched. How much is it going to cost to administer the program which the Senator from Arkansas proposes to cut out this unjust enrichment? We have no idea.

I would expect it is going to be quite a few millions of dollars just to make sure that the retired president of General Motors, the thousands of retired presidents of General Motors out there, do not get a break on their utility bill every month of $6 or $8 for a subsistence amount of energy. That is the issue here.

I do not frankly know whether the amendment of the Senator from Arkansas expands this program or reduces it. He says it does both. What is the cost of expanding the program?

The Senator from Louisiana objected to my amendment yesterday because it was welfare legislation.

I wish to know whether this is welfare legislation or not. The Senator from Colorado offered his amendment in the way that it was offered because it was identifying a class of people, the senior citizens in this country, whom we have tried to help in a variety of ways, and it was a demonstrated need, and it was easy for those people to demonstrate that they were above the retirement age.

The Senator from Arkansas wants to expand the program to all poor people, and he wants to put a means test in for the elderly, contrary to all the older American legislation that has gone before this Congress for the last 10 years. He is worried about a subsidy.

The city of Los Angeles has this system, and the Rand Corp. has studied it. They demonstrated that the increased rates to all other consumers did not exceed 1 percent increase to their bills, and there has been no citizen opposition to

The citizens of Los Angeles, the bulk that program in Los Angeles.
consumers and the pool consumers, are not afraid of helping the senior citizens of Los Angeles out at a fraction of the cost to them. That is what is at stake here.

Finally, Mr. President, for the 56 Senators who voted for that amendment yesterday, if they want that amendment to become law they better not support the Bumpers amendment. The best way I know for that amendment to be defeated in conference is to add the provision which the Senator from Arkansas provides.

For the 36 Senators who voted against the amendment which the Senator from Colorado offered yesterday, if they want to stop that amendment, I suggest that they vote for the amendment of the Senator from Arkansas because that would be exactly the effect.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I commend the Senator from Colorado for his remarks, and I will not repeat any of them.

But I wish to discuss here a myth that is presented by the Bumpers amendment. Our Government has historically in the past and will for many years to come be taking care of the poor people in our country, whom the Senator is addressing, under welfare programs, whether they be the present ones or reformed welfare programs that are much needed.

Where does most of that money come from for helping our poor people? It comes from the graduated income tax. That is a very important point as contrasted with what the Senator from Arkansas is going to do to the average working family in this country.

You talk about the rich people who are going to get helped by the Hart amendment. Let us talk about the average Americans who are going to have to pay higher utility bills so that we can put into effect his amendment to let their next-door neighbor get some of their money because they are going to have a reduced utility bill.

It appears to me that is absolutely the wrong approach in this country. If we want to help our poor people, then we should not do it by subsidizing their utility bill by charging the average working man and woman in America a higher utility bill. That is what is going to happen.

The Senator can get up and say it will not happen. But if it is not going to happen then there is a Santa Claus around because if the total cost of utilities to our homes is anywhere right in terms of a total level of income then I would ask where is the extra money going to come from for reducing the rates of those who are poor, other than by raising the rates of their next-door neighbors who may only make $500 more than them and may have five children.

One neighbor will be getting a reduced rate because he fits this definition. I submit that this will be the beginning of absolute canabalizing in America: taking things like utilities and using them for a welfare system; soaking the middle income and distributing the money to the poor through utility rates.

The approach of the Senator from Colorado is consistent with all of the laws that we put on the books to help the senior citizens. We have not considered them to be part of the welfare system. Social security is not welfare. All of the programs put in there say, "You have reached a status in this society when everyone is willing to pay to help you," if I understand his reasoning correctly. That is what his amendment is predicated on.

Now we are turning it on its head and saying, "Let the average homeowner in America who is not within the poverty level pick up the difference between this reduced rate that we are going to give to the poor, who we all know are having a hard time with utility rates, and the rate which he must pay."

I think this is absolutely the wrong approach, in addition to the management problem which the Senator from Colorado so eloquently describes, and I do hope that Senators will not vote for it, because I think it witnesses the demise of the Hart approach, whether it comes out of conference permissive or mandatory. I believe if we start building onto the utility system, a subsidization of the welfare system in our country, we will get nothing, permissive or mandatory, with reference to helping the older people in our country.

I thank the Senator from Louisiana for yielding me time.

Mr. BUMPERS. Mr. President, I yield such time as he may require to the Senator from Maine (Mr. MUSKIE).

Mr. MUSKIE. Mr. President, I have listened with interest to the righteous indignation expressed by the Senator from New Mexico and other Members of this body. I do not suppose there is a Member of this body who indulges in righteous indignation more than does the Senator from Maine. I am not going to do so in connection with this amendment, or the Hart amendment.

I voted for the Hart amendment yesterday, because I recognized the problem that it sought to address, but not because I thought it had resolved all the questions raised about its effectiveness, about the precision of its targeting, and so on.

The Hart amendment is not my first exposure to the so-called "lifeline" approach to utility ratemaking. I have had occasion to consider it before. It has been considered by the Maine Legislature; it has been considered by the Maine Public Utilities Commission; and its objective is one with which no one in this body can quarrel. I certainly do not.

My principal concern about it, or one of my concerns about it, is the one so eloquently expressed by my good friend from New Mexico (Mr. DOMENICI). We are not dealing, in this lifeline amendment, with public funds. When you are dealing with public funds and public programs, to know whether or not you have a means test is a legitimate question. A lot of these programs have no means test, because a means test, when used in connection with a public program of assistance to groups whose case has struck us as meritorious, can often be used to deny assistance to people who, under the merits of a particular case, deserve assistance. So means tests, we have found, are two-edged swords, and we tend to go against means tests for programs to fit situations in which our so-called senior citizens find themselves and in which other citizens find themselves.

What troubles me about the Hart amendment is not its purpose. I voted for it because I applaud its purpose. But I am concerned about it, first because it is financed by rates paid by users of electricity, whoever they are. It is not Government funds we are talking about. We

are talking about shifting the cost of service from one group of ratepayers to another group of ratepayers.

I am not expert enough on the rate structures of all 50 States to assure myself that each of those 50 commissions will make that shift in an equitable fashion. I have seen that sort of shift made in inequitable ways too many times to believe it is going to be done in an equitable fashion. I find it difficult to comprehend the possibility that a general mandate of this kind by the Congress of the United States will result, in each of those commissions, in an equitable distribution of the cost of the utility system in each of the 50 States. I just find that very difficult to comprehend.

Mr. HART. Mr. President, will the Senator yield?

Mr. MUSKIE. I will not take more than another minute. Not all of those who are burdened by unacceptably heavy utility costs will be benefited by the Hart amendment. Rather, they are going to have the carry the rate burden of the Hart amendment.

Senators may say it is insignificant. But if it is insignificant for the poor who will not be benefited, then the argument should be made that it is insignificant for the elderly whom it would seek to help. Again, it cannot be significant for the poor who are beneficiaries and insignificant for the poor who have to carry the burden. I find that a very difficult kind of a balance to strike, on any scale.

Because of the unknowns as to what will happen, I am deeply troubled about whether or not the Hart amendment is the best way to deal with the problem, which, ought to be dealt with.

Last year I was the originator of a program called SCIP. SCIP means "special crisis intervention program." Sometimes we get off the bench in the titles we designate for these programs.

Congress provided $200 million last year to help the poor with the cost of keeping warm last winter. We were so long in approving the program that it actually did not come on until spring; yet it was used, and on the whole used very effectively, to help about 2 million Americans with unexpectedly high utility bills and other fuel bills. I ask unanimous consent to have printed in the RECORD a State by State and region by region worksheet which shows how these funds were distributed to the poor.

There being no objection, the worksheet was ordered to be printed in the RECORD, as follows:

REDEFINED REGION—STATE WORKSHEET

[Oct. 6, 1977]

FIPS Code No.	State	Total allocation	Households certified	Individuals served	Households request service	Obligated funds	Percent of total	Unobligated funds	Percent remaining
	Region I (Boston):								
09	Connecticut	3,020,000	20,100	54,320	22,900	3,020,000	100.0	0	0
23	Maine	3,140,000	23,000	82,000	26,000	3,140,000	100.0	0	0
25	Massachusetts	5,120,000	24,500	79,625	31,000	5,000,000	97.7	120,000	2.3
33	New Hampshire	1,880,000	9,807	39,200	12,007	1,880,000	100.0	0	0
44	Rhode Island	1,620,000	10,259	35,500	14,000	1,620,000	100.0	0	0
50	Vermont	1,680,000	5,532	22,128	5,808	855,000	50.0	825,000	49.1
	Total	16,460,000	93,189	313,179	111,715	15,515,000	94.3	945,000	5.7
	Region II (New York):								
34	New Jersey	5,080,000	29,000	101,500	35,000	5,080,000	100.0	0	0
36	New York	21,140,000	55,102	168,205	59,000	17,000,000	80.4	4,140,000	19.6
72	Puerto Rico	830,000	15,000	60,040	10,250	280,000	33.7	550,000	66.3
78	Virgin Islands	50,000	303	1,556	374	30,000	60.0	20,000	40
	Total	27,100,000	99,405	231,301	94,624	22,390,000	82.6	47,710,000	17.4
	Region III (Philadelphia):								
10	Delaware	840,000	3,300	9,000	4,500	840,000	100.0	0	0
11	District of Columbia	980,000	4,331	10,820	8,330	764,594	78.0	215,406	22
24	Maryland	2,540,000	8,000	20,000	8,998	2,540,000	100.0	0	0
42	Pennsylvania	14,160,000	57,370	143,425	68,152	13,803,758	97.5	356,242	2.59
51	Virginia	3,280,000	13,000	31,000	21,500	3,280,000	100.0	0	0
54	West Virginia	2,920,000	15,000	30,000	32,000	2,920,000	100.0	0	0
	Total	24,720,000	101,001	244,245	143,480	24,148,352	97.7	571,648	2.9
	Region IV (Atlanta):								
01	Alabama	2,380,000	16,568	66,272	20,801	2,373,867	99.7	6,133	.3
12	Florida	1,540,000	13,000	40,000	17,000	1,400,000	90.9	140,000	9.1
13	Georgia	2,840,000	19,500	58,000	20,400	2,840,000	100.0	0	0
21	Kentucky	4,600,000	15,200	65,000	22,300	1,360,000	29.6	3,240,000	70.4
28	Mississippi	1,820,000	35,000	132,000	37,500	1,700,000	93.4	120,000	6.6
37	North Carolina	4,020,000	40,713	130,000	45,000	4,020,000	100.0	0	0
[illegible]	South Carolina	1,640,000	9,000	36,000	9,900	750,000	45.7	890,000	54.3
47	Tennessee	3,480,000	16,854	66,000	22,800	3,181,800	91.4	298,200	8.6
	Total	22,320,000	165,835	593,272	195,701	17,625,667	79.0	4,694,333	21
	Region V (Chicago):								
17	Illinois	13,640,000	75,000	215,000	225,000	13,440,000	98.5	200,000	1.5
18	Indiana	5,740,000	41,392	91,062	49,670	4,013,632	69.9	1,726,368	30.1
26	Michigan	13,260,000	80,033	184,075	240,033	13,260,000	100.0	0	0
27	Minnesota	8,500,000	33,248	80,044	46,792	8,500,000	100.0	0	0
39	Ohio	13,300,000	37,067	56,671	37,067	9,000,000	07.7	4,300,000	32.3
[illegible]	Wisconsin	7,980,000	32,178	102,569	45,800	7,111,466	89.1	686,534	10.9
	Total	62,420,000	298,918	729,821	644,362	55,325,098	88.6	7,094,902	11.4
	Region VI (Dallas-Fort Worth):								
05	Arkansas	1,980,000	8,500	23,800	9,200	1,115,677	52.3	864,323	47.7
22	Louisiana	1,420,000	8,107	24,321	8,900	1,350,000	95.1	70,000	4.9
35	New Mexico	1,160,000	7,884	29,565	10,656	1,160,000	100.0	0	0
40	Oklahoma	2,180,000	18,444	24,321	19,369	1,275,122	58.5	904,878	41.5
[illegible]	Texas	4,080,000	23,583	90,000	50,000	4,080,000	100.0	0	0
	Total	10,820,000	66,508	192,007	98,125	8,980,799	82.3	1,839,201	17.7
	Region VII (Kansas-City):								
19	Iowa	4,300,000	17,000	42,000	20,000	4,240,000	98.6	60,000	1.4
20	Kansas	2,120,000	23,000	46,000	25,000	1,140,000	53.8	980,000	46.2
29	Missouri	5,800,000	40,000	80,000	43,000	4,800,000	82.8	1,000,000	17.2
31	Nebraska	2,300,000	6,400	20,000	10,000	1,424,000	61.9	876,000	38.1
	Total	14,520,000	86,400	188,000	98,000	11,604,000	79.9	2,916,000	20.1

FIPS Code No.	State	Total allocation	Households certified	Individuals served	Households request service	Obligated funds	Percent of total	Unobligated funds	Percent remaining
	Region VIII (Denver):								
08	Colorado	2,680,000	11,261	39,414	13,138	2,530,000	94.4	150,000	5.6
30	Montana	1,480,000	1,703	6,642	1,863	234,068	15.8	1,245,932	84.2
38	North Dakota	1,760,000	2,250	4,960	2,981	523,031	29.7	1,236,969	70.3
46	South Dakota	1,620,000	1,160	1,740	1,295	250,000	15.4	1,370,000	84.6
49	Utah	1,280,000	5,581	23,324	6,080	900,000	70.3	380,000	29.7
56	Wyoming	540,000	106	343	167	10,321	19.1	529,679	80.9
	Total	9,360,000	22,061	74,423	25,524	4,447,420	45.5	4,912,580	54.5
	Region IX (San Francisco):								
04	Arizona	560,000	1,500	1,600	1,600	160,000	28.6	400,000	71.4
06	California	3,380,000	4,905	15,359	15,000	251,131	74.5	3,129,269	25.5
15	Hawaii	300,000	2,512	10,044	3,169	288,386	96.1	11,614	3.9
32	Nevada	520,000	1,500	4,500	2,000	307,711	59.2	212,289	40.8
75	Trusts								
	Total	4,760,000	10,417	36,003	21,769	857,228	64.6	3,753,172	35.4
	Region X (Seattle):								
02	Alaska	1,200,000	486	2,468	625	87,000	7.2	1,113,000	92.8
16	Idaho	1,380,000	5,100	17,850	7,700	850,000	61.6	530,000	38.4
41	Oregon	2,080,000	2,700	10,800	3,200	200,114	9.6	1,879,886	90.4
53	Washington	2,860,000	986	3,451	1,108	100,248	35.1	2,759,752	64.9
	Total	7,520,000	9,272	34,569	12,623	1,237,362	16.4	6,282,638	83.6
	Nationwide, grand total	200,000,000	953,015	2,638,920	1,441,923	161,857,526	80.9	38,142,474	18.1

Mr. MUSKIE. I would hope, Mr. President, that that program might be continued in the winter that is coming, because the predictions are that this coming winter will be colder than normal, although not as cold as last year. The problem will be with us next year, and the SCIP program is one way of meeting it.

In addition, the administration has only recently proposed to provide assistance to low-income persons through the Department of HEW. That proposal would expand the existing emergency assistance program under title IV of the Social Security Act. Currently, title IV emergency assistance is available only to needy families with dependent children. It provides only short-term assistance, 30 consecutive days in any 12-month period, and requires a 50-percent State match. Beyond that, 30 States currently do not participate in the program.

The administration proposes to modify the eligibility criteria and include low-income families without children, and also individuals.

That program is designed to become another approach to the problem of assisting low-income persons, whether elderly or not, to help meet these unprecedently high utility bills which are such such a burden on them.

The Hart proposal is another legitimate proposal. I do not quarrel with its legitimacy. I joined with Senator BUMPERS in this amendment because it strikes me that the Bumpers amendment goes some way—not totally; I am sure refinements could occur to us indefinitely—toward targeting the Hart amendment to those who are really needy, excluding those who are not. The Hart amendment would include me, I say to the Senator from Colorado. I am 63. I assume I am eligible under the Hart amendment. My heating bill in Maine in June of this year was $200, so I could use some help. I would be eligible.

On the other hand, the intent of the Bumpers proposal is to exclude those who do not need this kind of assistance and, since the purpose of the Hart amendment is to focus on those who do need such assistance, to include others who also need it.

It does complicate the administration, of course, in the sense that some more thought has to be given to the guidelines for the rate structure, and that may not be possible. It may not be possible to administer a rate structure in such a way as to focus rates precisely to need, as the Bumpers amendment attempts to do. But as long as we are attempting to make this kind of approach work, I am sympathetic to the Bumpers objective, just as I am sympathetic to the Hart objective. It is for that reason that I join in this amendment.

In joining in it, I have no intention whatsoever to denigrate Senator HART's objective, his proposal, or his heart. He knows that. I voted with him yesterday in spite of my objections, because I am sympathetic.

Mr. JOHNSTON. Mr. President——

Mr. HART. Will the Senator from Louisiana yield so I may ask a question of the Senator from Maine?

Mr. JOHNSTON. I yield to the Senator from Colorado for one question.

Mr. HART. The Senator from Maine, as I understand it, with all the reservations he has both ways, principally argues that he is concerned about the Hart amendment because it might skew the rate base. Does he understand that the dual effect of the Bumpers amendment, as I understand it—and I am still very confused—would be not only to target, presumably, arguably, to target on impoverished older people, which I think most of us agree is the vast majority of older people, but also all impoverished people, and therefore would dramatically expand the effect of this proposal and therefore dramatically skew the rate base that he is concerned about?

Mr. MUSKIE. On that score, as I understand the Bumpers amendment, there are 14 million households it will affect. Senator HART's proposal is for 33 million individuals who are recipients of social security. I do not know how 33 million individuals can be compared to 14 million households, but the effect would seem to me to be at least equal, if not greater. But, I do not have that figure.

Mr. HART. I do not think even the sponsor does, because it has not been offered to me. But we have no idea what the Bumpers proposal would mean to consumers. The Library of Congress study I spoke of yesterday indicated that my amendment would affect 2 percent of the people.

Mr. MUSKIE. I suspect the Bumpers amendment would be no greater.

Mr. BUMPERS. The Congressional Research study the Senator speaks of did not include the 8 million people under 62.

Mr. JOHNSTON. Mr. President, yesterday, when the Hart amendment was pending, one of my colleagues came up to me and said, "Bennett, you dare not oppose this; this is election year and this is goodies to the old folks." I proceeded to oppose it and got voted down. I suppose what I am going to do now is expiate my guilt with the old folks and tell them why I did it, and tell them why I oppose this amendment. I think I am right, and I think the old folks will understand.

Mr. President, the President of the United States sent down a message earlier this year, talking about the hodge-podge, about the mess that we have in welfare now. The President said that we have a mess in welfare; why? Because we have a proliferation of programs, for one thing, where some people, who are drawing up to $16,000 a year, as I recall, are eligible for food stamps. There are all kinds of different programs, from housing allowances to medical care to food stamps, to aid to dependent children, and all the other welfare programs. The President and Mr. Califano and all the rest say that is bad, that we ought to have a uniform approach, we ought to consolidate these so that a person is given what he needs, based on his income, and so that we can have some control over that. Everybody agreed with that and we heard praise for the concept across this country. Yet, every time one of these

programs comes along, we have some new patchwork put on the welfare program. And that is what this is.

To be sure, everybody is for the old folks. But the Bumpers amendment points out a very glaring fault in the Hart amendment. That fault is that it goes to everybody 62 years of age or older, whether they need the help or not. It goes to a number of our colleagues in the Senate—not very many, because most of us are very young. But it goes to one or two of us in this Chamber. Senator BUMPERS recognizes that that is wrong.

Mr. President, what we are doing here is not only voting a benefit, under the Hart amendment for people under 62 and under the Bumpers amendment, for everybody within 125 percent of the poverty level. But we are not having to pay for that. That, to a politician, is very appealing, you vote the benefit and let somebody else pay for it. As Senator DOMENICI says, all the next-door neighbors are going to pay for it.

Do we really have the wisdom to supplant our knowledge for that of the State regulatory bodies? Many of the State regulatory commissions now have lifeline rates adapted to their States, their communities, their life styles, what they perceive to be their needs. Yet we are supplanting that; saying, "No, whatever test you have is not good enough; you have to have this Federal test to supplant that."

The first question is, Why 62? If a State wants to use the age of 70, for example, that the House of Representatives just used on the retirement bill—they said 65 is too young, they wanted to put it to 70 for mandatory retirement. Why should a State not be able to say 70 or 65 or 78, or some other age? Why do we have such wisdom in this body to dictate 62, inconsistently with what we have done in other areas?

Why only the poor? Why not include rich old folks? Can we say in this body that rich old people ought to be included and that their poor neighbors, people on welfare, ought to pay for the rich old folks?

Mr. MUSKIE. Will the Senator yield for a question?

Mr. JOHNSTON. In just a moment, if the Senator will let me make a couple more points.

Mr. MUSKIE. The Senator might cover my question in his succeeding points.

Mr. JOHNSTON. I yield for one question.

Mr. MUSKIE. I just want to have it clear in my own mind what the distinguished floor manager's preferences, what his druthers, are—neither the Hart nor Bumpers amendment, one; or, two, the Hart amendment rather than the Bumpers amendment if he must have one or the other?

Mr. JOHNSTON. I do not like either one of them. We have the Hart amendment. I, frankly, toyed with the idea of accepting the Bumpers amendment because it illustrates very well that neither one is very sound because it shows that we are groping around, trying to find a formula to help people who ought to be helped. But we have not had any hearings.

Not only have we not had any hearings, but we have not made these hard choices; why 62? Why only old people who have electric meters?

Mr. MUSKIE. If the Senator will yield, I think those are legitimate questions. The purpose of the Bumpers amendment was to try to narrow the area of concerns. It does not at all eliminate all of the questions the Senator is phrasing now.

So I simply am wondering what the Senator's recommendation to the Senate would be when we come to vote. The Bumpers amendment would allow us to modify what the Senate already has done. I wonder whether the distinguished Senator from Louisiana is going to give us the benefit of a recommendation.

Mr. JOHNSTON. I will come to that in a minute. I will move to that conclusion.

Mr. President, the next question is, why should the only people to benefit be those who have electric meters? Most of the old folks in this country live in rented homes, I understand. Most of the poor people live in rented homes. Most of the rented homes do not have meters. The tenants are charged through a master meter for the whole apartment house. So those who are poorest do not get any help. Why is that? Should we say that is what we want the Federal Government to dictate to the States? We freeze the rates at today's levels; so that if this bill stays in effect for another 30 years, they still will be getting today's rates, not affected by inflation.

If the rates 10 years from now should be the same as they are today, why not lower them today and let them gradually creep up? In effect, they are frozen today, and they will go down from here on, because inflation goes up.

What effect will this have on minimum rates? The eligible customers can be charged no more than the minimum rate charged to the lowest industrial customer. That is going to be different from State to State and from utility to utility.

If we know so much, why not fix a minimum rate? Or, if we do not know how to do it, why do we not let HEW do it?

The point is, Mr. President, that we really do not know what we are doing in this matter other than we are helping some people who need some help. I believe the best way to help them is to let the States do it until we at least have time to have hearings, and that will give us some information on this matter. What is the cost? What is the appropriate age? Should it be rich or poor; and if poor, how defined? What are the appropriate rates? All these questions need to be answered.

Mr. President, I really oppose both amendments. I must say that the Bumpers amendment seeks to correct a good bit of the fault I find in the Hart amendment but adds some faults of its own.

So, speaking for myself, I oppose both amendments with equal fervor.

Mr. BUMPERS. Mr. President, I am almost prepared to yield back the remainder of my time. I want to make a few observations.

This thing boils down to a very simple proposition: Is the specter of the administrative expense of my amendment sufficient to say that we are going to give 33 million social security recipients the benefit of the Hart amendment, whether they need it or not—and many of them do not—to the exclusion of millions of people in the country who do need it?

If Senators are going to base their votes solely on the cost of administering the program, let us make it easy. Let us just raise social security benefits by $6 each. Who is going to pay for it? Precisely the same people my distinguished colleague from Maine mentioned a moment ago—the working people. They are going to subsidize through higher utility rates the cost of the Hart amendment or who, through increased social security deductions, will subsidize the $6 increase. But if it is a question of administration, let us just raise the payment to social security recipients by $6 per household, and—voila—it is all over.

Mr. President, I did not come to the U.S. Senate to abdicate my responsibilities to the poorest of the poor. It has gotten to the point mentioned by the Senator from Maine. When we discuss welfare, food stamp recipients, or AFDC, it is enough to chase every Member of this body under his desk. It is most unfortunate that that is the case.

There has been some suggestion here that I may be for this amendment or I may be against it. Of course, I am for helping the elderly poor of this country who need help. My amendment would give them help.

The Senator from New Mexico talked about welfare earlier. In the great State of Arkansas, we pay the sum of $240 a month to a couple who are 61 years of age. What do they get out of the Hart amendment? Not a thin dime.

Senator HART says he has not talked to anybody who is confused about his amendment. I was on the floor yesterday about 2 minutes and I said, "Senator HART, is anybody covered under your amendment except persons over 62?" Answer: "No." I was confused. This is the RECORD from yesterday.

Mr. HART. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. HART. I apologize to the Senator, because I misconstrued it.

Mr. BUMPERS. I would not have mentioned that, except that some Senators were confused. It is only normal.

Mr. HART. I apologize. I said that no Senators came to me who were confused because all the facts were available for a large number of days, and what the Senator was asking about, after the motion to table, had been addressed during the debate.

Mr. BUMPERS. Mr. President, I am simply saying that if this body wants to take the position that in the future we are going to help the people who come in a category to which it is easy to administer benefits, if that is going to be the criterion in the future, I would like to resign my Senate seat now. On the other hand, if our criterion here is going to be to try to help the people in need, I will be happy to stay and take pride in being a Member of this body.

I am for my amendment. I am for

most of the Hart amendment. I offer this amendment with serious trepidation.

Everybody knows that the Senator from Colorado and I have enjoyed a great, close relationship since we have been here, and I applaud him for bringing this to our attention. By the same token, I think we would be seriously remiss if we did not redress the most serious flaws in this program.

Mr. President, if the managers are ready, I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDENT OFFICER. The question is on agreeing to the amendment.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. KENNEDY). The Senate will be in order. Senators will take their seats.

The Senate is still not in order.

The second assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until the Senate is in order. The Senate is not in order. Senators will clear the well.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arizona (Mr. DECONCINI), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—34

Baker	Glenn	Muskie
Bayh	Gravel	Nunn
Biden	Hatfield	Packwood
Brooke	Hathaway	Percy
Bumpers	Javits	Ribicoff
Burdick	Magnuson	Riegle
Cannon	Mathias	Stevens
Case	Matsunaga	Talmadge
Chafee	McClure	Weicker
Culver	McGovern	Williams
Dole	McIntyre	
Durkin	Metzenbaum	

NAYS—59

Allen	Byrd, Robert C.	Domenici
Anderson	Chiles	Eagleton
Bartlett	Church	Eastland
Bellmon	Clark	Ford
Bentsen	Cranston	Garn
Byrd, Harry F., Jr.	Curtis	Goldwater
	Danforth	Hansen
Hart	Leahy	Schmitt
Haskell	Lugar	Schweiker
Hatch	Melcher	Scott
Hayakawa	Morgan	Sparkman
Heinz	Moynihan	Stafford
Helms	Nelson	Stennis
Hollings	Pearson	Stevenson
Huddleston	Pell	Stone
Inouye	Proxmire	Thurmond
Jackson	Randolph	Tower
Johnston	Roth	Wallop
Kennedy	Sarbanes	Young
Laxalt	Sasser	Zorinsky

NOT VOTING—7

Abourezk	Humphrey	Metcalf
DeConcini	Long	
Griffin	McClellan	

So UP amendment No. 888 was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CLARK. I move to lay that motion on the table.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I send an unprinted amendment to the desk.

UP AMENDMENT NO. 887

The PRESIDING OFFICER. The Senate now resumes consideration of amendment No. 887 offered by the Senator from New Hampshire.

Who yields time?

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will be in order. The Senator will withhold that inquiry until the Senate is in order.

The Senate is not in order. Senators will take their chairs or retire to the cloakrooms for conversation.

The Senate still is not in order. Conversations by staff members will cease or they will be asked to retire from the Chamber.

The Senator from Colorado will state his parliamentary inquiry.

Mr. HASKELL. Mr. President, my parliamentary inquiry, is there an amendment of the Senator from New Hampshire pending?

I had assumed that this amendment of the Senator from Arkansas was an amendment in and of itself.

The PRESIDING OFFICER. Under the agreement, this was to be laid aside temporarily and would automatically be brought up at the conclusion of the earlier amendment.

Mr. HASKELL. I thank the Chair.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. DURKIN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. It is my understanding that unanimous-consent agreement contemplates returning to my amendment any time prior to 5 o'clock this evening.

The PRESIDING OFFICER. It would be no later than 5 o'clock.

Mr. DURKIN. Under that set of circumstances, I think it would be best to go back to that amendment now and not be foreclosed in my own unanimous-consent request.

The PRESIDING OFFICER. The Senator from New Hampshire has 27 minutes remaining. The Senator from Louisiana has 30 minutes.

Mr. DURKIN. I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from New Mexico?

Mr. DURKIN. For what purpose?

Mr. DOMENICI. I would like to inquire of the Chair what the last ruling was; I did not hear it.

Did I hear the Chair say something about germaneness at this point?

The PRESIDING OFFICER. The Chair made no ruling about germaneness.

Mr. DOMENICI. And there has been no issue put to the Chair about this amendment in the last 2 minutes?

Mr. DURKIN. No.

Mr. DOMENICI. I thank the Chair, and I thank the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is entitled to be heard. The Senate will be in order.

Mr. DURKIN. Mr. President, if the Senator from New Mexico is going to make a point of order on germaneness, I think we could expedite the work of the Senate if he would make it now. I know this is all interesting, but it is taking up time. If he is going to make a point of order, I ask that he make it now, rather than listening to all this.

Mr. DOMENICI. It is my understanding, Mr. President, I could not make a point of order at this point without unanimous consent in that time remains on the amendment.

Mr. DURKIN. To expedite the work of the Senate in this issue, so we will get it done and to conference——

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senator from New Mexico be permitted to make a point of order at this point which would be with regard to this amendment.

Mr. DURKIN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Reserving the right to object, Mr. President, that this unanimous consent in no way impacts on my ability to call up this amendment if his point of order is ruled without merit.

The PRESIDING OFFICER. If the point of order is well taken the amendment is not germane.

Mr. DURKIN. Mr. President, I ask for the basis of the ruling inasmuch as the amendment is an amendment to an amendment that was protected.

Mr. DOMENICI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. If the amendment would not have been germane under the basic bill but the amendment was adopted, would an amendment to that amendment be germane?

The PRESIDING OFFICER. The Chair will consult with the Parliamentarian.

The Chair is advised that the amendment was not covered in the unanimous-

consent agreement, and there has been no special protection in terms of germaneness.

Mr. DOMENICI. Mr. President, I make the point of order that this amendment is not germane.

Mr. DURKIN. Mr. President, point of order. I think I can help the Chair.

The PRESIDING OFFICER. I think the Senator probably can help the Chair, too. But before the Senator does the Chair will say it would take unanimous consent for the point of order to be made before the time has expired, and I want to ask whether the Senator from New Mexico was asking for a unanimous-consent request to be able to make the point of order at this time.

Mr. DOMENICI. Mr. President, I thought I did, and I thought the Senator agreed. But I repeat that request.

The PRESIDING OFFICER. Is there objection to the Chair's considering the point of order made by the Senator from New Mexico?

Mr. DURKIN. Mr. President, reserving the right to object, and I will not object, as long as we agree that it does not impact on the basic issue that my amendment is in order because it is an amendment to a nongermane amendment which was covered by the consent agreement and covered by the unanimous-consent request I made when I asked to set aside to yield to the Senator from Kentucky and call it up at 5 o'clock. I think the fact that I got unanimous consent to call it up no later than 5 o'clock eliminated any procedural impediments, and eliminated the possibility of it being ruled out of order.

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire that his interpretation is not correct. If he does not reserve the right to object to the unanimous-consent request, then the Chair will rule on the issue of germaneness prior to the time having expired.

Mr. DURKIN. Reserving the right to object, and I will not object, because if the point of order was going to be sustained half an hour from now or an hour from now, whatever the time agreement, even though I think it is a very important issue, it is a vital issue, if the point of order is going to be sustained after we go through the exercise of debating it, in a sense it will drag the Senate through an extra hour of debate, so I will not object to the unanimous-consent request because a point of order will be inevitable at the time, and it will save a half hour of the Senate's time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. Is the Senator making a point of order?

Mr. DOMENICI. I have made the point of order, Mr. President.

The PRESIDING OFFICER. The amendment does introduce new subject matter and, therefore, it is not germane and the amendment falls.

Mr. DOMENICI. I thank the Chair.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 889

(Purpose: To amend the Energy Policy and Conservation Act to clarify reporting requirements contained therein)

Mr. HASKELL. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 889.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 12, insert the following:

ENERGY POLICY AND CONSERVATION ACT REPORTING REQUIREMENTS

SEC. 16. Section 503 of the Energy Policy and Conservation Act is amended by adding a new subsection to read as follows:

"(d) This section 503 is intended to apply only to the development of accounting practices required for the preparation of the reports to be filed with the Department of Energy for use in compiling a reliable energy data base; nothing contained in this section 503 shall be construed to establish or to affect the establishment of generally accepted accounting principles for financial reporting purposes.".

Mr. HASKELL. Mr. President, this amendment is designed to clear up some confusion that apparently has arisen in connection with section 503 of the Energy Policy and Conservation Act of 1975. That provision requires uniform accounting by energy companies in order to arrive at a reliable and consistent data base.

I will ask to be printed in the RECORD correspondence between myself and the chairman of the Securities and Exchange Commission, Mr. Williams. This correspondence is relevant to the proposed rulemaking filed by the SEC, which has apparently utilized section 503 of the EPCA as a basis for developing and requiring uniform financial accounting and reporting standards for oil and gas producing activities.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., September 29, 1977.

Hon. HAROLD M. WILLIAMS,
Chairman, Security and Exchange Commission, Washington, D.C.

DEAR MR. WILLIAMS: As you may know, I have a certain amount of interest in the provision of the Energy Policy and Conservation Act (42 USC 6383) which requires the Securities and Exchange Commission, for purposes of developing a reliable data energy base, to assure the development and observance of accounting practices to be followed by firms engaged in the production of crude oil or natural gas. I have consistently favored initiatives intended to provide the Congress, the Executive branch and the public with reliable and understandable energy information, including, especially, information relating to the economics of the energy industry. To this end, as a member of the Conference Committee which reported the Energy Policy and Conservation Act, I strongly supported the decision of the conferees to direct the SEC to prescribe rules respecting financial accounting practices applicable to producers of crude oil or natural gas or to recognize (or by other appropriate means make effective) practices developed by the Financial Accounting Standards Board, a private professional accounting organization. Recognition of, or reliance on practices developed by the FASB, would be authorized under the Act if the SEC is assured that such practices will be observed to the same extent as would result if the SEC prescribed such standards by rule.

My intent, and I believe that of a majority of the conferees, was that the accounting practices developed under this authority be used to provide the Federal government with financial information which would permit comparison among firms engaged in crude oil or natural gas production on a uniform and consistent basis. Such comparison is needed, indeed is essential, in my opinion, if an effective energy policy is ever to be developed or administered.

It has come to my attention that the SEC may be considering requiring firms producing crude oil or natural gas to observe accounting practices developed under the EPCA authority for the purposes of preparing financial reports to the stockholders of such firms and the public required by other law. This may or may not be a practice which is helpful to the firms, investors and the public. In any event, these matters were not within the purview of the Conference Committee and no judgment on this issue should be read into the bill the Committee reported. The legislation specifically states that Commission action pursuant to the Act be "for the purposes of developing a reliable energy data base related to the production of crude oil and natural gas". The attainment of this limited goal was the only reason for specific authority granted respecting accounting practices.

Because of the concern which has been expressed to me that the SEC contemplates use of EPCA authority to require reporting of financial information to investors and the public using standards recently developed by FASB, I would like a prompt and definitive reply describing the relationship between the accounting practices developed by FASB in response to EPCA and the requirements of the SEC which will be used for such firms for reporting to investors or the public. In particular, this response should review your statutory authority in this area, and identify the source of SEC's legislative mandate to require crude oil and natural gas producers to follow a given accounting methodology in reports to investors and the public. Because of the strength of concern in this matter I would hope your reply would be available by noon Friday, September 30, 1977.

Yours truly,

FLOYD K. HASKELL,
Chairman, Subcommittee on Energy Production and Supply.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., September 30, 1977.

Hon. FLOYD K. HASKELL,
Chairman, Subcommittee on Energy Production and Supply, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR HASKELL: Thank you for your letter of September 29 asking the Commission to comment on the relationship between the accounting practices developed by the Financial Accounting Standards Board in response to Energy Policy and Conservation Act of 1975 and the reporting requirements applicable to reports of public company's registered with the Commission. The Commission shares your concern over the importance of these practices.

The FASB's mandate is generally to develop financial reporting standards to be followed by all companies preparing financial reports in accordance with generally accepted accounting principles. Accordingly, while the FASB is cognizant of EPCA, it is addressing the issue on the basis of good financial reporting for oil and gas companies.

Various acts give the Commission statutory authority for determining the practices to be used in preparing financial statements required to be filed with the Commission. See, *e.g.*, Sections 9, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 15(d) and 23(a) of the Securities Exchange Act of 1934. Adoption of EPCA does not change those responsibilities. As your letter stresses, the EPCA did give the Commission the additional mandate of developing accounting practices necessary for oil and gas producers to report certain financial and operating data to the Federal Energy Administration "for the purposes of developing a reliable energy data base related to the production of crude oil and natural gas." The Commission expects to adopt appropriate rules in this area by the end of the year.

The question of appropriate public financial reporting for oil and gas companies has been under consideration for several years. The passage of EPCA made it clear that this question had to be addressed currently. In accordance with its policy announced in Accounting Series Release No. 150, the Commission will rely, in the first instance, on the ongoing consideration by the FASB for determination of accounting principles for public financial reporting for oil and gas companies. Because of the relation of these issues to the EPCA, the Commission expects to publish the final standards adopted by the FASB and to request public comments as to whether it should rely on those standards for purposes of public financial reporting. Thus, anyone who believes the Commission should *not* rely on those practices will have an opportunity to present their views.

In the interest of meeting your need of a response by September 30, we have not attempted a detailed description of the actions taken by the Commission regarding this matter during the past two years. We would be happy to furnish additional information if you so desire.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5861, 34-13910, 35-20158]

ACCOUNTING PRACTICES—OIL AND GAS PRODUCERS—FINANCIAL ACCOUNTING STANDARDS

Proposed amendments

Agency: Securities and Exchange Commission.

Action: Proposed rules.

Summary: This release is a rulemaking proposal which would amend the Commission's regulations to incorporate certain financial accounting and reporting standards required by the Energy Policy and Conservation Act, Pub. L. 94-163 (the "EPCA"), to be developed by December 22, 1977. The Commission is proposing these rules pursuant to authority granted it by the EPCA and the accounting practices required to be developed will be applicable to persons engaged in the production of oil and gas who will be required under the EPCA to file reports with the Department of Energy, including those who are not subject to the filing requirements of the Federal securities laws. The amendments are proposed to place the Commission in a position to adopt by December 22, 1977, financial accounting and reporting standards for oil and gas producing activities. The proposed amendments are the same as the standards contained in the proposed Statement of Financial Accounting Standards. "Financial Accounting and Reporting by Oil and Gas Producing Companies," issued on July 15, 1977, by the Financial Accounting Standards Board.

Date: Comments should be submitted on or before October 14, 1977.[1]

Address: Comments should refer to File S7-715 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. All comments will be available for public inspection.

For further information contact:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1671).

Supplementary information: For purposes of developing a reliable energy base related to the production of crude oil and natural gas, the EPCA requires the Commission to assure the development by December 22, 1977, and observance of accounting practices to be followed by persons engaged in the production of crude oil or natural gas in the United States. The authorizes the Commission to prescribe rules with respect to the accounting practices to be developed pursuant to the Act or to make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board if the Commission is assured that such practices will be observed to the same extent as would result if the Commission had prescribed such practices by rule. The FASB, the private sector body responsible for establishing financial accounting and reporting standards, has recently published an exposure draft of a proposed Statement of Financial Accounting Stanards (the "FASB Exposure Draft") entitled "Financial Accounting and Reporting by Oil and Gas Producing Companies." The FASB Exposure Draft would require oil and gas producing companies to follow a form of the successful efforts method of accounting. This release proposes amendments to Regulation S-X (17 CFR Part 210) to incorporate the FASB's proposed standards as rules of the Commission.

The Commission's proposal of these amendments is not indicative of any change in its policy regarding its relationship with the FASB. The timing of this action is necessitated solely because of the need for the Commission to ensure that it can comply with the deadline imposed by the EPCA in the unlikely even the FASB does not adopt final standards by December 22, 1977.

BACKGROUND

In Accounting Series Release No. 150 (39 FR 1260), the Commisison issued a statement of its policy on the establishment and improvement of accounting principles and practices. The policy provides that the Commission will continue to look "* * * to the private sector for leadership in establishing and improving accounting principles and standards through the FASB with the expectation that the body's conclusions will promote the interest of investors * * *"

The EPCA requires the Commission to assure the development of accounting practices to be followed in the preparation of accounts by persons engaged in the production of crude oil or natural gas in the United States. A deadline of December 22, 1977, was established for the development of these accounting practices.

The EPCA explicitly recognizes the Commission's policy with respect to the FASB. The Act provides that the Commission is authorized "* * * to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule * * *." The EPCA further provides that the Commission shall afford interested persons an opportunity to submit written comment with respect to whether the Commission should exercise its discretion to recognize or otherwise rely on such accounting practices developed by the FASB.

In anticipation of the enactment of the EPCA, the FASB added to its technical agenda in October, 1975, a project entitled "Financial Accounting and Reporting in the Extractive Idustries." In connection with that project the FASB appointed a task force of 18 persons to advise it in preparing a Discussion Memorandum analyzing issues related to this project. The staff of the Commission prepared part of one of the chapters in the Discussion Memorandum to discuss certain issues relating to the SEC's responsibilities under the EPCA. The Discussion Memorandum was issued on December 23, 1976.

The Commission in Securities Act Release No. 5801 (42 FR 8237) called attention to the publication of the FASB Discussion Memorandum and encouraged interested parties to comment on the issues presented therein and to participate in the FASB's public hearing on this project. In that release the Commission indicated that "* * * consistent with its policy most recently expressed in Accounting Series Release No. 150, (the Commission) contemplates that the Financial Accounting Standards Board will be providing the leadership in establishing financial accounting principles and standards for producers of oil and gas." The FASB received 140 position papers, letters of comments, and outlines in response to this Discussion Memorandum and held a public hearing on this project on March 30 and 31 and April 1 and 4, 1977. Thirty-nine presentations were made at the hearing.[2]

The Commission has followed closely the deliberations of the FASB in connection with this project. A member of the Commission's staff served as an observer of the FASB's task force. The Commission's staff received and reviewed all written responses to the FASB Discussion Memorandum, and a member of the staff of the Commission attended the FASB public hearing. Since the public hearing, an active liaison between the FASB and the Commission has been maintained to exchange views on different issues involved in the project.

Purpose of the Release

This release is issued for two purposes: (1) To propose amendments pursuant to the EPCA which would be applicable to persons filing reports with the Federal Energy Administration[3] and (2) to propose concur-

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[1] However, comments on the FASB Exposure Draft are due September 22, 1977. See the discussion below at "Comments to FASB."

[2] Transcripts of the public hearing and copies of the response to the FASB Discussion Memorandum are available for inspection or purchase from the Financial Accounting Standards Board, High Ridge Park, Stamford, Conn. 06905.

[3] Section 505(a) of EPCA amends the Energy Supply and Environmental Coordination Act of 1974 by adding a provision that the Federal Energy Administrator (in the future the Deparment of Energy) require by rule" * * * that persons engaged in whole or in part in the production of crude oil or natural gas—(A) Keep energy information in

rently amendments pursuant to the Federal securities laws. These proposed rules would incorporate the provisions of the FASB Exposure Draft.

The Commission does not generally adopt statements of the FASB as its rules. It is proposing rules in this case to ensure that it can comply with its responsibilities under the EPCA. The EPCA provides that the Commission can extend the December 22, 1977, deadline for the development of the accounting practices to allow for a meaningful comment period with respect to whether it should determine to rely on the accounting practices promulgated by the FASB. The FASB has informed the Commission that it expects to issue a final standard prior to December 22, 1977. However, in the event that the FASB does not adopt a final standard prior to December 22, 1977, the Commission will be in a position to adopt the proposed standards, revised as it considers appropriate on the basis of comments submitted in response to this release and to the FASB Exposure Draft.

In this release, it is the intention of the Commission to propose rules which are the same as the provisions of the FASB Exposure Draft. The provisions of the Exposure Draft have been rearranged to facilitate adoption as rules of the Commission. Comments are specifically requested on any matters where these rearrangements resulted in possible deviations from the provisions of the FASB Exposure Draft.

Disclosure Matters

The proposed rules do not include the provisions of the FASB Exposure Draft (paragraphs 42–55) pertaining to disclosure of financial and operating data. The EPCA requires that oil and gas producers report to the Federal Energy Administrator (the reporting responsibilities under the EPCA have been since assigned to the Department of Energy) certain financial and operating data, some of which are similar in many respects to those proposed for disclosure in financial statements by the FASB. The Commission in Securities Act Release No. 5837 (42 FR 33135) requested comments from interested parties relating to the reporting of these financial and operating data. In that release, the Commission also indicated that it is considering revising its disclosure requirements related to these types of data in filings under the Federal securities laws. Comments on that release were due August 12, 1977.

The Commission intends to propose rules relating to reporting these supplemental financial and operating data after reviewing the responses to its request for comments in Securities Act Release No. 5837. In connection with the development of these reporting requirements, the Commission will consider and coordinate its proposed requirements with those set forth in the FASB Exposure Draft.

Mr. HASKELL. Now it may be that the SEC probably does have this rulemaking authority based upon other statutes and nothing in this amendment is intended to indicate whether these rules are just or not. I merely wish to emphasize, by way of this amendment, that the purpose of section 503 was to arrive at a reliable and uniform energy data base for the purposes of national information. It had nothing to do whatsoever with what might be considered proper internal corporate accounting. This amendment merely clarifies the original intent of this section.

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accordance with the accounting practices developed pursuant to Section 503 of the Energy Policy and Conservation Act, and (B) Submit reports with respect to energy information kept in accordance with such practices."

I understand the managers of the bill are familiar with this amendment, and I would ask for their reaction.

Mr. DOMENICI and Mr. JOHNSTON addressed the Chair.

Mr. JOHNSTON. Mr. President, this amendment is consistent with what we tried to do, I think, with the bill in 1975, and we would accept it.

Mr. DOMENICI. Mr. President, the minority finds the amendment acceptable and we have no objection.

The PRESIDING OFFICER. The question is on agreeing to amendment 889.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Colorado for introducing this amendment, and I ask unanimous consent that I be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, the purpose of developing accounting standards under the provision of the Energy Policy and Conservation Act of 1975 resulting from an amendment by the Senator from Colorado, was to enable the Federal Government to compile a national energy data base, and not to control the financial reporting of individual companies.

The Federal Accounting Standards Board has issued a proposal which will unfairly discriminate against many companies, and even force some of them out of business. They have proposed that all oil and gas companies be required to adopt the "successful efforts" method of accounting.

Adoption of the successful efforts accounting method industrywide will unfairly work a hardship on the smaller, more aggressive independent operator.

Mr. President, this amendment will help prevent unfair discrimination due to accounting procedures.

I ask unanimous consent that a copy of the proposal be printed in the RECORD.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

FASB PROPOSAL ON FINANCIAL ACCOUNTING BY OIL AND GAS PRODUCING COMPANIES

A provision of the Energy Policy and Conservation Act of 1975 requires the Securities and Exchange Commission to assure the development and observance of accounting standards for oil and gas producing companies. As allowed under the Act, the SEC has relied on the Financial Accounting Standards Board to propose these practices. The purpose of developing these standards was to enable the Federal Government to obtain a National Energy Data Base and not to control the financial reporting of individual companies to their shareowners.

The FASB has proposed that all oil and gas producing companies be required to adopt the successful efforts method of accounting which is more applicable to larger and more mature operators than to smaller and more rapidly growing exploration and production companies. Under the "successful efforts" method proposed b ythe FASB, all oil and gas producers are required to write off most geological and geophysical expenses and the cost of dry holes as incurred, even though the company's overall exploration program is successful.

In contrast, most growing exploration companies, including a majority of independent producers, use the "full cost" accounting method under which all exploration and development expenditures in a successful exploration program are capitalized and then amortized against oil and gas revenues as reserves are produced and sold, thereby achieving a proper matching of costs to revenues.

Most independent oil and gas producers, who account for more than 80 percent of the exploratory wells drilled in the United States, will be seriously hurt by the FASB's proposal. For most independent producers, the change from full cost to successful efforts accounting would

Result in an arbitrary and misleading reduction in the reported earnings, asset carrying values, and net worth;

Create the unwarranted and incorrect impression that past earnings and balance sheet values were inflated;

Penalize companies for expanding their exploration programs;

Increase the difficulty of financing independent oil and gas producing operations; and

Understate the earnings of successful, growing exploration and production operators.

The consequences of requiring all oil and gas producing companies to adopt "successful efforts" accounting would be anti-competitive and run counter to the national goal of increasing domestic energy supplies and availability. The mandatory adoption of successful efforts accounting would

Raise serious barriers to the expansion of many successful producers by penalizing earnings and increasing the difficulties of financing exploration operations.

Discourage the entry of new competitors into oil and gas exploration because the FASB's accounting rules would force them to report operating losses (and prevent them from reporting reasonable earnings) for an extended period of time even on programs which are clearly successful in terms of the quantity and value of reserves discovered.

UP AMENDMENT NO. 890

(Purpose: To eliminate certain conditions in connection with the establishment of university coal research laboratories)

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 890.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 16. Section 801(a) and 801(b)(1) of the Surface Mining Control and Reclamation Act of 1977 are deleted and in lieu thereof, the following is inserted:

"SEC. 801. (a) The Administrator, Energy Research and Development Administration (hereafter referred to as "Administrator" in this title), after consultation with the National Academy of Engineering is authorized to and directed to designate fifteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made in fiscal year 1979 and the remaining five shall be made in fiscal year 1980.

(b) In making designations under this section, the Administrator shall consider the following criteria:

(1) Those ten institutions of higher education designated in fiscal year 1979 shall be located in a State with abundant coal reserves."

Section 806 of the Surface Mining Control and Reclamation Act of 1977 is deleted and in lieu thereof the following is inserted:

"SEC. 806. There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 and $22,500,000 for the fiscal year ending September 30, 1980 (including the cost of construction, equipment, and startup expenses), and $11,250,000 beginning with the fiscal year 1981 and each fiscal year thereafter through the fiscal year ending September 30, 1984, to carry out the provisions of this title."

Mr. ROTH. Mr. President, this amendment is also sponsored by Senator THURMOND, Senator CRANSTON, and Senator BIDEN.

I am offering an amendment to the Surface Mining Control and Reclamation Act of 1977 which was enacted earlier this year. The amendment is very straightforward and would provide for five additional coal research laboratories.

Under the strip mining bill in section 801(b) of title VIII, the administrator of ERDA was authorized to designate 10 institutions of higher education as coal research laboratories. However, section 801(b)(1) of the act requires that the designated institutions be located in a State with abundant coal reserves.

This requirement, together with one in 801(c), precluded institutions in States with moderate or negligible coal reserves from competing for the ERDA research grants.

Many of the States, like Delaware, have institutions with ongoing coal research programs which would be ineligible for the special designation under the Strip Mining Act.

Mr. President, I have been consulting with a number of people, including the distinguished senior Senator from West Virginia, the Senator from California, and a number of others, including Senator FORD, and it seems to me it is very important that we utilize the other institutions, the other universities, that already have ongoing studies and research programs in the area of coal, but which are not located in coal rich States.

As I say, my amendment would provide for 15 institutions instead of 10, but the additional 5 would not be initiated until fiscal year 1980, which is 1 year later than the first 10 are started. At that time 5 new schools would become eligible for the same kind of financial support that the original 10 now on the books are eligible for.

Mr. DOMENICI. Mr. President, will the Senator yield at this point?

Mr. ROTH. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. If this amendment is adopted in 1980 when five more come on board, is there more money for the then 15 to split among themselves or is it the same amount that the 10 would have had?

Mr. ROTH. No. I am happy to say to the Senator from New Mexico that there would be additional funds so that we are not diluting the funds that would be available to the original 10 institutions. What we are trying to do is put the new five in the same status, so additional funds would be offered in 1980.

Mr. DOMENICI. I thank the Senator.

Mr. ROTH. I might say that I think this is an important amendment for a number of reasons. As a member of the Finance Committee trying to arrive at a program that will enable this country to become at least semi-independent of foreign oil, I think all of us have to recognize that the one practically unlimited resource we have is coal. It offers the greatest hope to this country of obtaining a relatively independent position in the not too distant future. I think it is perfectly obvious that the more coal we use the less oil we are going to have to import from abroad. There is no question, however, that many problems remain in the utilization of this vast resource. For example, coal gasification offers great hope and great promise, but much remains to be done before it becomes a reality. So it seems to me of extreme importance that we put more effort in our research and development in these areas and that we utilize those higher institutions that are already making major efforts in this area, but that could do a great deal more if they were given assistance from the Federal Government. So that is what I am proposing by this amendment.

I point out to Senators that under the present law it would appear that roughly only 10 States would be eligible for such a coal institution. They include, Colorado, Illinois, Indiana, Kentucky, Montana, North Dakota, Ohio, Pennsylvania, West Virginia, and Wyoming.

What I am trying to do by my amendment is to give the opportunity to the other 40 States to participate in this program and to provide some much-needed research and development.

I think one of the advantages is institutions like my own University of Delaware are already involved in this kind of work, and I think it would be a terrible mistake for this country not to take advantage of this valuable resource.

At this stage I am happy to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment by the distinguished Senator from Delaware (Mr. ROTH) upon which I was pleased to join as a cosponsor.

In my home State, there currently exists at the University of South Carolina a number of coal research laboratories and programs.

These laboratories have three regular faculty members, two post-doctoral fellows—which are the equivalent of faculty—and 16 graduate students currently engaged in the various aspects of coal research. The programs operate on a budget of approximately $400,000 per year with funds derived from the university, the Federal Government, and private industry, and currently have ongoing projects in Pennsylvania, West Virginia, Virginia, Kentucky, Colorado, and Wyoming. Their expertise in this field is well known and documented, and the laboratories are constantly called upon by Government and industry to contribute to solutions in coal mining and exploration problems. These laboratories are among the leaders in the study of roof control problems in underground coal mines, computer treatment of coal exploration data, treatment of surface mined areas, and coal land evaluation. South Carolina is in the unique position of having peat deposits—precursor to coal—within the State, and the study of such deposits leads to more effective exploration and development of coal deposits. If such a connection appears tenuous, it can be pointed out that two major coal companies have requested short courses with the laboratories concerning this particular topic.

Mr. President, to further support this claim for recognition as a State institution outside the coal field which is contributing to coal research, I should like to list those agencies which have supported their work or have especially requested program graduates for employment:

United States Bureau of Mines.
United States Environmental Protection Agency.
Alabama Geological Survey.
Kentucky Geological Survey.
Tennessee Geological Survey.
Virginia Geological Survey.
West Virginia Geological Survey.
Atlantic Richfield Company.
Bethlehem Steel Corporation.
Carter Oil Company (Exxon Coal).
Consolidation Coal Company.
Island Creek Coal Company.
New Jersey Zinc Company.
Penn Virginia Land Company.
Pocahontas Land Company (N. & W. RR.).
Rochester and Pittsburgh Coal Company.
Rock Mountain Energy Corporation (Union Pacific RR.).
United Pocahontas Corporation.
United States Steel Corporation.
Utah International Coal Company.
Westmoreland Coal Company.
Zapata Coal Company.

Therefore, Mr. President, this institution is an example of one with ample evidence of achievement and potential in coal research which was nevertheless excluded under the provisions of the Surface Mining Act which set up coal research laboratories only in States with large coal reserves. I should emphasize that placing funds within States with ample coal reserves is a good idea relative to solving problems in that particular State. It should also be emphasized that such institutions tend to be limited to the activities within that State. In contrast, institutions such as the one at the University of South Carolina which are geographically near coal producing areas and which have special expertise or experience, can apply these talents on a national level and thereby contribute on a nationwide effort.

Therefore, Mr. President, I respectfully urge my colleagues to give this amendment their favorable consideration.

Mr. President, the University of South Carolina is an example where they have done good work, they are now doing good work, and we feel that such an institution should not be excluded but should have a chance. I say have a chance. We do not say they be selected but they should have the opportunity to be selected for this important coal research.

And I mentioned all of these agencies now, Government agencies and private companies, for which they are doing coal research at present.

We hope this amendment will be adopted. We think it is reasonable. We think it is in the national interest, and we think it is important to the energy situation and the energy problem in this Nation.

I commend the able Senator from Delaware for sponsoring this amendment, and I was very pleased to join him on it.

Mr. ROTH. Mr. President, I wish to add to that list I mentioned earlier four other States including New Mexico, Alaska, Missouri, and Utah.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, when I came to the Interior Committee in 1973, one thing was perfectly obvious about the energy efforts in this country, and that was that they were proliferated in too many areas, with too many fingers in the pie, too many different agencies involved in energy research and energy development, as well as in energy regulation.

So we created first, the Department of Energy Research and Development, and then the Department of Energy, in order that we might have some coordination of all of the energy efforts in this country.

Now, the Energy Research and Development Administration, which has a centralized administration for energy research and development, has been generously funded, and they have been particularly generously funded in the area of fossil fuel. This year, Mr. President, the Energy Research and Development Administration is spending $700 million on fossil fuel. About two-thirds of that goes to coal. That is almost half a billion dollars we are spending on coal research in this country right now.

Let me say that again: Half a billion dollars being spent in this country right now by ERDA for coal research.

ERDA can subcontract that out to universities or any other private groups that they want to. They set the priorities, and determine whether they will do it in-house or contract it out.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. Not just yet.

In addition to that, when we went to the strip mining conference, made up largely of Senators and Representatives from coal mining States, we provided for 10 different universities in coal producing areas to engage in coal research. I am not going to say whether that was needed or not needed; I am simply saying that was a product of the strip mining conference back, as I recall, in 1975.

We brought that forward in this year's strip mining bill. It is a part of the law now. We do not seek to disturb that law. I am sure they are doing a marvelous job.

But to expand that program from $5 million this year up to $22.5 million, when we already have half a billion dollars under ERDA, in my opinion, is wasting the taxpayers' money. As my senior colleague (Mr. LONG) said about another program on another occasion, it is like getting up on top of the Washington Monument and throwing out hundred-dollar bills.

In this case, million dollar grants are going to some universities that can use them, and I am sure we would all like to have them. It is great for the universities, and I am sure they have wonderful professors, and I am sure they can give excellent pay raises to their professors and have nice programs, and all that. But the question is, are we going to spend our dollars for research and development in the best way?

If we are, we ought to do it out of the half billion dollars we have now, and not have any more proliferation of these Federal programs. It seems to me that half the amendments we have had come along on this bill, Mr. President, are to create new programs, to provide new grants, new employees, and new burdens on the taxpayer. It is time we realized, Mr. President, that this is not a free lunch, that it is not free money, that it comes out of the taxpayers, and that we must begin to stop this proliferation.

As much as we love the University of Delaware and the University of South Carolina—in fact the universities in my State would probably be standing in line for this money if we would give it to them. They would be able to spend the money; we would have more laboratories, more new Ph. D.'s with more study papers, theses, and grant applications than you could shake a stick at.

But, Mr. President, let us come down to earth. Let us realize that we created ERDA to spend half a billion dollars for coal research. Let them do the job, and we ought not to try to give some goodies to every deserving university in the country.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. THURMOND. The Senator said that the choice could be made among institutions. If that were the case, that might be all right, but that is not the case.

Mr. JOHNSTON. No, I was talking about the half billion dollars for ERDA. I am not talking about $7.5 million presently in the law, which must be spent in universities in coal producing areas.

Mr. THURMOND. Under the Surface Mining Act, only the States with large coal reserves now have these laboratories. In other words, the University of South Carolina might have one of the best in the Nation—and we do have; I just read all these agencies that are dealing with them now, the U.S. Bureau of Mines and all those others, and yet they are not even allowing us to apply.

Mr. JOHNSTON. Let me tell you why: Because we had that strip mining conference back in 1975, and I was on that conference. We had mainly coal-producing area Senators and Representatives on that conference, and, with the best of motivations, they saw the chance to get the money for their local universities. As I say, I am not trying to rib them on that program. It is a great program, I am sure. All we are saying is, just because we did it back in 1975, let us not do it any more.

The universities are all eligible, the University of South Carolina, the University of Delaware, LSU, and all the rest are eligible for some of the half billion dollars that ERDA gets. If ERDA feels they can best spend some of that money by giving it out to these universities, there is no impediment. It is true that under this strip-mining bill they cannot get any of the money; that goes to universities in the coal-producing States.

Mr. ROTH. Mr. President, will the Senator yield at that point?

Mr. JOHNSTON. I yield.

Mr. ROTH. That figure of $7.5 million the Senator has been using is not correct. The first year the 10 schools presently authorized receive $30 million.

Mr. JOHNSTON. For starter costs, that is correct.

Mr. ROTH. For each following the present 10 would get $7.5 million. I propose an extra $15 million, which is equivalent to half the $30 million, so we can start five new centers.

Mr. JOHNSTON. The Senator is correct. All I am pointing out is that the amendment would, any way we cut it, be adding $15 million—$15 million this year, and I forget how much next year. The program is not going to end there. I just think we do not need it, and I think ERDA, with half a billion dollars, has enough money.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. THURMOND. It is clear now that some States are not classed as States with large coal reserves, and thus are not eligible; although they may have one of the best teams in the Nation to do this research, you are excluding them. You exclude them now. All we are asking is an opportunity for them to come in under this program if they see fit to select a university that is not in a coal producing State. Is that not fair?

Furthermore, I want to say that with the shortage of energy today, we have to do more and more with coal. We have to do research to bring oil out of that coal. We have to do research along the line of the pollution problem with coal. We have a lot of research to do. It is said that we have hundreds of years of coal supplies in this country; why not spend a reasonable amount of money on research to determine all the purposes for which this coal can be used, and the best manner in which it can be utilized to conserve the energy supplies of this Nation? It seems to me that just by spending a few million dollars more there, we can accomplish a lot that would help this Nation in the end.

Mr. JOHNSTON. I thank the Senator. Mr. President, I am prepared to yield back the remainder of the time.

Mr. DOMENICI. Mr. President, I need some time yielded to me.

Mr. JOHNSTON. Yes; I yield the Senator from New Mexico such time as he may need.

Mr. DOMENICI. I thank the Senator. May I say to the Senator from Louisiana, I am not going to totally agree with him, but first I ask if he will yield 5 minutes to me.

Mr. JOHNSTON. Yes, I yield.

Mr. DOMENICI. First let me ask the Senator from Delaware if I correctly understand what he is saying. If I understand what he is saying, it is "All right, the Senate has seen fit to conclude

that the best universities and institutions to do coal research are in coal-abundant States." If I understood him correctly, he is saying we already did that.

Mr. ROTH. That is correct.

Mr. DOMENICI. But he is saying he is not so sure that is a totally right decision. Is that what the Senator is saying?

Mr. ROTH. I say to the Senator from New Mexico, that is absolutely correct.

Mr. DOMENICI. So he is saying there just may be a very good institution or university that is not in a State that has coal abundance. Is that correct?

Mr. ROTH. That is absolutely correct.

Mr. DOMENICI. And the Senator does not like the idea that all of this money for these institutes is coming from coal use and coal extraction all over America and we have already written them out.

Mr. ROTH. That is absolutely correct.

Mr. DOMENICI. It seems to me that the Senate may not even know that all but 10 States have been written out. Is that what the Senator might be suggesting here today?

Mr. ROTH. I think that is the difficulty. I think that is correct.

Mr. DOMENICI. And with the Senator's amendment, he is going to let them know that only the States with coal abundance are going to get any of this money, is that correct?

Mr. ROTH. That is correct.

Mr. DOMENICI. And he is saying that the appropriate officials should be permitted to pick some State universities or institutes where there is not a coal abundance if they find them to be as good as the other ones that are in coal-abundant States, is that right?

Mr. ROTH. I think it is in the national interest that be done.

Mr. DOMENICI. I wonder if it would not be appropriate to consider amending the Senator's proposal so that there would be at least two or three such institutes that are not in coal-abundant States for consideration. Would the Senator consider changing his 5 to 3 and leaving all the others the same?

Mr. ROTH. I would be willing to consider that.

Mr. DOMENICI. What would the Senator from Louisiana say if we accomplished that?

Mr. JOHNSTON. It goes from 5 to 3 and from $15 million to what?

Mr. DOMENICI. Whatever three-fifths is. I guess that is nine.

Mr. THURMOND. Mr. President, I hope the Senator will agree to that.

Mr. JOHNSTON. Mr. President, having just been warmed by my own rhetoric to the idea that we do not need any of this, I hate to agree to any of it, but I can go with two.

Mr. HUDDLESTON. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. HUDDLESTON. I do not think we ought to leave the impression that the Senate acted without knowledge of what it was doing. There was a very logical reason for limiting the research to those States that have an abundant supply. That is a key factor in whether or not an institution can conduct the proper kind of research. It was not a question that some institutions are better than others and that institutions outside of this area are not qualified and could not perform adequate research. A key factor of the whole program was that the research laboratories should be located where there is an abundant available supply. That is the reason it was written that way. I think it was a very logical reason, as a matter of fact, Mr. President.

Mr. ROTH. I point out that there was very little debate at the time it came up on the Senate floor. What we are talking about is not only involving those States with an abundance, but it is a national issue. The thing that concerns me the most is that we need to make some major breakthroughs in this area. I think the State of Delaware can take great pride that it has led in many areas of research and development. It is known for what it has done in chemicals. To me, what we do not want in research is centralized research. We want to give the opportunity to as many institutions as possible which are equipped to contribute in this area.

I point out that I know that there are a number of institutions, including my own in Delaware, that are well able to provide some very valuable contribution to this most serious problem. I think it is a mistake to try to limit it to those areas that have what they call an abundance of coal, or 10 States.

Mr. JOHNSTON. Mr. President, I think we are moving to a consensus here of two and six. Will my friend from Delaware agree with that? I am engulfed here with an overwhelming number of Senators who are saying two and six are the right figures. I wonder if the Senator from Delaware would agree with that.

Mr. DOMENICI. It is two institutes with $6 million funding that is the proposal.

Mr. THURMOND. Mr. President, as a cosponsor of the bill, I had hoped that that would not be done, but, realizing the practical circumstances here, I agree to that as a last resort.

Mr. ROTH. If I may make a suggestion, I would prefer to have three institutions at $2 million.

Mr. JOHNSTON. In other words, have the $6 million, but have it——

Mr. ROTH. Available for three institutions.

Mr. JOHNSTON. Up to three institutions with $6 million?

Mr. ROTH. Yes.

Mr. THURMOND. Mr. President, I agree to that amendment.

Mr. JOHNSTON. Mr. President, with that modification, which will take us just a couple of minutes, we agree to accept that.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. DOMENICI. Mr. President, while that is occurring, I commend the Senator from Delaware for his efforts. I have worked on this legislation from the outset, as well as other legislation relating to coal and coal research. I know that absent the coal reserve "abundance" requirement the University of Delaware would almost certainly have been designated as one of the original 10 research centers.

Delaware has already made great contributions to our coal gasification research and will now be able to expand and amplify on its fine program. The noncoal States owe the Senator their thanks.

While the senior Senator from Kentucky is here, let me say I do not disagree to the present dominant research being done in coal-abundant States. I think ours will be one of those States. But let me remind the Senator that Massachusetts Institute of Technology is in Cambridge, and it probably knows more about oil and gas than many State universities that are located in the middle of natural gas and oil deposits. So I assume there is a good point being made by the Senator from Delaware that we ought to let them try a little bit.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. JOHNSTON. Mr. President, while we have this consensus, may we get this amendment passed?

Mr. RANDOLPH. Mr. President, just a moment. I have a statement I want to question.

I do not want it to be indicated that Massachusetts Institute of Technology knows more about oil and gas and coal than some other universities in this country.

Mr. JOHNSTON. I want to associate myself with that statement.

Mr. DOMENICI. Let me say "as much as."

Mr. THURMOND. Mr. President, I express my appreciation to the able Senators from Louisiana and New Mexico for the consideration they have given to this matter.

Mr. JOHNSTON. Mr. President, the Senators from Delaware and South Carolina are very persuasive to get me to do what we really did not want to do. But their case is so persuasive that we have gone along with them.

Mr. ROTH. Mr. President, I shall take only a minute to express my appreciation to Senator RANDOLPH for his help and advice in this area.

I also want to thank the Senator from New Mexico. I know that his university has one of the outstanding programs in the country and gives some support to the original contention.

I appreciate also the help from Senator JOHNSTON and the others who have helped.

I yield back the remainder of my time.

Mr. JOHNSTON. I thank the Senator.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Will the Senator send the modification to the desk?

The PRESIDING OFFICER. Without objection, the amendment is modified.

The modification is as follows:

Sec. 16. Section 801(a) and 801(b)(1) of the Surface Mining Control and Reclamation Act of 1977 are deleted and in lieu thereof, the following is inserted:

"Sec. 801. (a) The Administrator, Energy

Research and Development Administration (hereafter referred to as "Administrator" in this title), after consultation with the National Academy of Engineering is authorized and directed to designate up to thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made in fiscal year 1979 and the remaining five shall be made in fiscal year 1980.

(b) In making designations under this section, the Administrator shall consider the following criteria:

(1) Those ten institutions of higher education designated in fiscal year 1979 shall be located in a State with abundant coal reserves."

Section 806 of the Surface Mining Control and Reclamation Act of 1977 is deleted and in lieu thereof the following is inserted:

"Sec. 806. There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979, and $13,500,000 for the fiscal year ending September 30, 1980 (including the cost of construction, equipment, and startup expenses), and $9,750,000 beginning with the fiscal year 1981 and each fiscal year thereafter through the fiscal year ending September 30, 1984, to carry out the provisions of this title."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CONSIDERATION OF S. 1871

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this bill, the Senate proceed to the consideration of Calendar Order No. 400, S. 1871, the minimum wage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. While I have the floor, I should state that the Senate will be in rather late this evening, working on that measure, because it is hoped that, if the Senate can complete consideration of this measure and the DOD authorization bill tonight and tomorrow, there will then be no session on Saturday.

Mr. BAKER. Mr. President, reserving the right to object.

I am happy to say that we have agreed on this sequence of activity for the Senate. There is no objection to proceeding next to the consideration of the minimum wage bill. I hope, if the majority leader can share his thoughts with me for a moment, that we might get some estimate of how late "late" might be tonight. I understand it may be tomorrow before we are able to finish the minimum wage bill, in any event. Without jeopardizing the avoidance of a Saturday session, I wonder if the majority leader could give us some estimate of how late "late" is.

Mr. ROBERT C. BYRD. I really do not have any idea, because I do not know how many amendments will be called up to the minimum wage bill. There is a time agreement on the bill. I would expect several hours to be spent on that bill. But the more work that is done on that bill this evening, the less work will remain to be done tomorrow. I would expect the session to go fairly late today, and possibly late tomorrow, in order to complete the work, and thus avoid a Saturday session.

Mr. BAKER. The majority leader expects that we will have to continue with the minimum wage bill on tomorrow?

Mr. ROBERT C. BYRD. Yes. I do not think we could finish it tonight. I would love to see that happen, but I doubt that we can, inasmuch as we already have reached 5 p.m. I think there is one more amendment to the pending bill.

Mr. JACKSON. Yes.

Mr. BAKER. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY ACT OF 1977

The Senate continued with the consideration of S. 2114.

UP AMENDMENT NO. 891

(Purpose: To provide for reports regarding shortages of electric energy)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 891.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. CONTINUANCE OF SERVICE.

(a) CONTINUANCE OF SERVICE.—Section 202 of the Federal Power Act is amended by inserting the following new subsection at the end thereof:

"(g) In order to assure continuity of service to customers, of utilities presently regulated by the Commission, the Commission—

"(1) shall require, by rule, each presently regulated public untility to report promptly any anticipated shortage of electric energy which would affect such utility's capability of serving its customers, and

"(2) shall, by rule, require each presently regulated public utility to submit contingency plans respecting electricity supply shortages, which plans shall give due consideration to the public health and safety and shall provide that such utility's customers will be treated without undue prejudice or disadvantage to any person in the event of such shortages."

Mr. BAYH. The amendment is quite simple, Mr. President. It amends the Federal Power Act to require a public utility to promptly report to the Commission any anticipated electric energy shortages which would affect its ability to serve its customers and to submit contingency plans to deal with energy shortages should they arise. The contingency plans would give consideration to the public health and safety and would provide that the utility's customers would be treated in a nondiscriminatory manner.

The amendment is necessary. Mr. President, because there has been a threat by large electric utilities to cut off power to certain cities and small electric distributors that buy power from the utilities at wholesale, for distribution to city residents, and industries at retail. Eleven cities in Indiana and Michigan, six cities in Virginia, and one in Nevada were threatened with cutoffs by suppliers projecting power shortages in their systems. Henderson, Nev., is served by a small private power company which buys power from Nevada Power Co. The other cities have municipally owned electric systems which have long purchased power from subsidiaries of private utilities.

If any of these cities could be successfully cut off from its source of power, the end result could be its elimination as an independent electric system, for it may have no alternative supplier, or no access to wheeling or transmission from an alternative supplier on affordable terms, and neither the financial resources nor the lead time to build a generating plant. The system may have no option but to sell out to its supplier.

There is no energy saving to the Nation in this case, Mr. President, and ironically there may ultimately be no energy saving to the supplier—for with the purchasing systems eliminated, their customers would fall into the service area of the supplier, which would again have to manage any shortages through equal sharing by all customers. The supplier would, however, have succeeded in eliminating competition in the area and in increasing the size of its own service area.

Furthermore, if these cities, the first to be endangered by cutoffs, could be successfully curtailed, then so can any other city in the country that buys power at wholesale from a power company which can plausibly project a future electric energy shortage. There are over 1,000 such cities and other local public power systems in this country, located throughout the States. In fact, nearly 70 percent of the total number of U.S. electric utilities buys all or part of its power at wholesale, including 65 percent of municipal systems, 93 percent of rural electric cooperatives, and 29 percent of private power companies.

The Virginia and Nevada curtailment cases were finally settled with agreements between the utilities providing for continued services. But the 10 Indiana cases and 1 Michigan case remain before the FPC, with the outcome unknown. As long as their cities' power supply is in jeopardy, the power supply of an unknown number of other cities is in potential jeopardy. If we do not take the necessary action now, we may have to live with the likely consequences, the vitiation of competition, of pluralism, and of a critical yardstick for comparing price, service, and responsiveness in the electric utility industry.

The Federal Power Act does not say explicitly that curtailments of power must not discriminate between customers. Nondiscrimination is implicit in the Federal Power Act, but the Commission has made no ruling as yet. There have been conflicting rulings by two FPC administrative law judges: in one case, an ALJ held the supplier had a higher responsibility to retail than to wholesale customers; in another an ALJ held that public utilities must serve all customers without discrimination. The split of decisions is a clear indication that the Congress should address the situation.

My amendment would require utilities to submit contingency plans for power shortages. Those plans would have to provide that customers would not be discriminated against. Under its plan, a utility would not be able to curtail services to wholesale customers unless it curtailed services to its other customers in the same manner. The amendment would also require prompt reporting of shortages as they become more imminent in order that the Commission could give close attention to the implementation of the contingency plan.

Mr. President, I would add that the question of service curtailment to wholesale customers is currently under the sole jurisdiction of the Commission. The issue, as I said before, is before the Commission at this time. This amendment would simply make clear that discrimination should not be permitted. It will in no way extend Federal authority to matters previously regulated by the States.

I hope my colleagues will support this amendment. It is of vital importance to communities across the country which are served by wholesale suppliers of electricity.

Mr. President, during the last several hours, the Senator from Indiana has discussed this matter with the distinguished floor managers of the bill, and I understand we have an agreement on the thrust of what we are trying to do.

To be succinct, this amendment is directed at some rather unfortunate and discriminatory practices that have taken place throughout the United States, and, in particular, in my State. It is designed to prevent large private utilities from discriminating against smaller public utilities, municipal utilities, and rural co-ops in the event of a power shortage.

The language is designed to assure that in the event there is a shortage of power, major suppliers, major private utilities, would have to distribute power in a nondiscriminatory manner.

Frankly, Mr. President, I think that is what the act says right now, but I want to make this intent absolutely clear for future reference, since we are now addressing a number of issues touching the electric utility industry.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. As I understand it, the Senator from Louisiana is prepared to accept the amendment of the Senator from Indiana. It is my understanding that it was agreed to accept the amendment because it has been modified and the language "in a nondiscriminatory manner" has had substituted for it language that is presently in the Federal Power Act: "any undue prejudice or disadvantage."

Is that correct?

Mr. JOHNSTON. It is my understanding that the amendment now reads, in its last line:

Customers will be treated without undue prejudice or disadvantage in the event of such shortages.

The phrase "without undue prejudice or disadvantage" does appear presently in the Power Act.

As I understand it, the Senator from Indiana believes that the phrase "without undue prejudice or disadvantage" means the same as "in a nondiscriminatory manner." On the face of it, the words appear to have a similar ring to me. I do not know whether they are words of art or whether there is any difference. On its face, it certainly appears that way to me. We certainly would be willing to accept the amendment on that basis.

Mr. DOMENICI. Does the Senator from Indiana concur in the statements made by the manager with reference to the modification?

Mr. BAYH. The amendment was not modified, because it had not been sent to the desk. The original text of the amendment before the Senate is as the Senator from New Mexico described it—"without undue prejudice or disadvantage."

Mr. DOMENICI. So there need be no modification to get to the point.

Mr. BAYH. No modification. I honestly do not see how people with reasonable judgment can look at that language and come to a different conclusion than the one I have stated. In instances of a power shortage, it seems clearly prejudicial and disadvantageous to me to cut off all services to the customers of smaller wholesale purchasers before taking any action at all against customers of the private, larger utilities. Indeed, shortages should be dealt with in a nondiscriminatory manner. If there is going to be some hardship, it should be handled in an equitable manner, across the board. Citizens in a town served by a municipal utility should not lose their light and heat and other essential services just because they are served by a public utility.

Mr. JOHNSTON. The argument of the Senator from Indiana is not without logic. Therefore, we accept the amendment.

Mr. DOMENICI. I say to the Senator from Indiana that the minority has no objection to the amendment, and we are willing to accept it.

Mr. BAYH. I appreciate the consideration of my two colleagues.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. METZENBAUM). The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

INTERCONNECTION

Mr. HUDDLESTON. Mr. President, I wish to make a statement which pertains to the colloquy appearing in the October 5, 1977, CONGRESSIONAL RECORD regarding the antitrust amendment which was offered and then withdrawn by Senator KENNEDY.

It has long been recognized the only efficient way to provide electric service to any given geographical area is through a single electric system. This avoids the duplication and waste of overlapping supply and delivery systems. This recognition led to the regulation of the utilities permitted to operate these systems.

The purposes of S. 2114 are conservation, efficiency, and equitable rates. Consideration has been given to the promotion of competition amongst electric utilities by mandating the wheeling of electric power. This concept would be contrary to the purposes of the legislation and against the public interest. It tion and the inefficient use of facilities and the waste of resources essential to the construction of those facilities.

We commend the committee for its decision to limit the new authority of the FERC to ordering interconnection for the purposes of conservation and the efficient use of facilities and resources. To have gone further and order wheeling would be to promote consumption and the inefficient use of facilities and resources.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. Mr. President, H.R. 4018 is the House vehicle which has been chosen to carry out the unanimous-consent order that was entered into some days ago.

Mr. JOHNSTON. Mr. President, I understand that, consistent with the previous unanimous-consent agreements, the amended bill will: First, include the text of part 5 of title I of H.R. 8444, page 173, line 1, through page 266, line 7, as passed by the House, to become a new title II of the amended bill; and, second, add the following language as a new section at the conclusion of the amended bill:

UP AMENDMENT NO. 892

SEC. . The provisions of Title II of this Act shall not be effective so long as the provisions of title 1 remain law.

The PRESIDING OFFICER. Under the previous order the text of S. 2114, as amended, the pertinent text of H.R. 8444, and the new section, referred to by the Senator from Louisiana, are added as amendments to H.R. 4018.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that H.R. 4018 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 4018.

The PRESIDING OFFICER. Without objection, it is so ordered.

The House bill will be read the third time.

The bill was read the third time, as follows:

A bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 86, nays 7, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—86

Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Hansen	Nunn
Bayh	Hart	Packwood
Bentsen	Haskell	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Inouye	Sarbanes
Case	Jackson	Sasser
Chafee	Javits	Schweiker
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Leahy	Stennis
Cranston	Long	Stevens
Culver	Lugar	Stevenson
Curtis	Magnuson	Stone
Danforth	Mathias	Talmadge
DeConcini	Matsunaga	Thurmond
Domenici	McClure	Tower
Durkin	McGovern	Wallop
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Metzenbaum	Young
	Morgan	Zorinsky

NAYS—7

Bellmon	Helms	Scott
Garn	Laxalt	
Hatch	Schmitt	

NOT VOTING—7

Abourezk	Humphrey	Pearson
Dole	McClellan	
Griffin	Metcalf	

So the bill (H.R. 4018), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATHAWAY. I move to lay that motion on the table.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to commend Senator JOHNSTON, the manager of S. 2114, the regulatory rate reform bill for his skillful handling of this important legislation.

I also commend Senator DOMENICI, the minority manager of the bill for his able assistance in the passage of this bill.

I would like to point out that this is the second bill dealing with the President's energy package successfully floor managed by Senator JOHNSTON, who also guided S. 2057, the energy conservation bill through its passage in the Senate.

The bill passed today, S. 2114, is the last part of the President's energy package which will come out of the Committee on Energy and Natural Resources, and the fourth of the five-part total energy package; only the tax provisions of the package remain for Senate action.

I believe the distinguished chairman of the Energy Committee, Senator JACKSON, and the ranking minority member, Senator HANSEN, deserve the Senate's gratitude for their dedicated efforts to bring these complex bills to the floor and their untiring efforts in securing their ultimate passage.

I also wish to commend the able staff of the Energy Committee—Gren Garside, Mike Harvey, Dan Dreyfus, and all the professional staff of the committee who have worked extremely long hours in committee and on the Senate floor in assisting the chairman and the managers of these bills.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1871, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE AND AUTOMATIC ADJUSTMENT IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) during the period beginning on January 1, 1978, and ending December 31, 1978, not less than $2.65 an hour; during the period beginning January 1, 1979, and ending December 31, 1979, not less than 52 per centum of the average hourly earnings (excluding overtime) of production and related workers on manufacturing payrolls for the twelve-month period beginning with the first pay period after June 30, 1977, and ending with the last pay period beginning before July 1, 1978; and during the year beginning January 1, 1980, and during each succeeding calendar year not less than 53 per centum of the average hourly earnings (excluding overtime) of production workers on manufacturing payrolls for the twelve-month period beginning with the first pay period after June 30, and ending with the last pay period beginning before July 1, preceding such year; except as provided otherwise in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture during the period beginning on the first day of January 1978, not less than the minimum wage rate in effect under paragraph (1).".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages of the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at the following rate: Effective on and after the first day of January 1978, not less than the minimum wage rate in effect under subsection (a)(1).".

(d) Section 6(a) is amended by adding after and below paragraph (5) the following:

"The Secretary shall each year round the amount of the wage rate specified in paragraph (1) of this subsection to the next highest amount which is divisible by 5. Not later than November 1 of each year the Secretary shall publish in the Federal Register the hourly earnings (excluding overtime) of production and related workers on manufacturing payrolls during the twelve-month period ending with the last pay period beginning before July 1, of the preceding year".

(e)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and substituting the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each suceeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendation of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by section (a)(5) of this section would otherwise apply, and whose hourly wage increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increase prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended—

(i) by striking out "subsections (a) and (b)" and substituting "subsection (a)(1)",

(ii) by inserting "(A)" before "heretofore", and

(iii) by inserting before the period the following: ", and (B) which prescribes the wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended—

(i) by striking out "subsection (a) or (b)" and substituting "subsection (a)(1)", and

(ii) by striking out "such subsection" and substituting "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(A) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(B) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

TIP CREDIT

SEC. 3. (a) Effective January 1, 1978, section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50 per centum" and inserting in lieu thereof "45 per centum".

(b) Effective January 1, 1979, such section is amended by striking out "45 per centum" and inserting in lieu thereof "40 per centum".

(c) Effective January 1, 1980, such section is amended by striking out "40 per centum" and inserting in lieu thereof "35 per centum".

(d) Effective January 1, 1981, such section is amended by striking out "35 per centum" and inserting in lieu thereof "30 per centum".

(e) Effective January 1, 1982, such section is amended by striking out "30 per centum" and inserting in lieu thereof "25 per centum".

(f) Effective January 1, 1983, such section is amended by striking out "25 per centum" and inserting in lieu thereof "20 per centum".

PENALTIES

SEC. 4. (a) Section 16(b) (29 U.S.C. 216(b)) is amended by adding immediately after the first sentence the following new sentence: "Any employer who violates the provisions of section 15(a)(3) of this Act shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 15(a)(3), including without limitation, employment, reinstatement, or promotion or the payment of wages lost, and an additional equal amount as liquidated damages.".

(b) Section 16(b) is further amended by—

(1) inserting "(1)" after "section 17 in which"; and

(2) striking the period at the end of the last sentence and substituting the following: "or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3).".

EFFECTIVE DATE

SEC. 5. (a) The amendment made by section 2 of this Act shall take effect on the first day of January 1978, except that on and after the date of enactment of this Act the Secretary of Labor shall take such administrative action as may be necessary.

(b) The amendment made by section 4 shall take effect on January 1, 1978.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CLARK. Mr. President, I ask unanimous consent that Marge Baker of my staff be granted the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, a similar request for Lora Hartson and Jane Yanulis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. A similar request, Mr. President, for Charles Peck.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. The same request for Bonnie Jean Mathieson and Bob Hunter of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Hamilton Horton of my staff be granted privilege of the floor during the discussion and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the same request for Judy Heffner of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, a similar request for Romano Romani.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. May we have order in the Senate? Will Senators in the rear of the room please clear the Chamber?

The Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that the following may be granted privilege of the floor during consideration of this bill: Mike Roush of Senator BARTLETT's staff, Tim Smith of the Human Resources Committee staff. Don Zimmerman, John Rother, of the Human Resources Committee staff, and Chris Brewster of the staff of Senator DANFORTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

Mr. WILLIAMS. Mr. President, a similar request for Stephen Paradise, Darryl Anderson, Michael Goldberg, Michael Forscey, Gerald Lindrew, and Martha Woodman.

The PRESIDING OFFICER. Without objection, it is so ordered.

The privilege of the floor was also requested by the following Senators for various staff personnel, for which unanimous consent was granted: Mr. WALLOP and Mr. SCOTT.

Mr. WILLIAMS. Mr. President, it is always with resolve and conviction that I bring to the Senate floor proposed legislation to increase the minimum wage.

Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to and, when agreed to, be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I think I ought to take the floor at this time to state it is the intention of the leadership——

Mr. STENNIS. Mr. President, may we have order? We would like to hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished manager of the bill for allowing me to make this statement at this time. I feel constrained to take the floor to state to Senators that it is the intention of the leadership to stay in session tonight until 10 o'clock so that Senators may make their plans accordingly. I say this because it is desirable to complete action on this bill and on the DOD authorization before the close of business tomorrow evening. That will spare us a Saturday session. Otherwise we will have to be in Saturday to complete the work.

A good many Senators have been wondering how late we would stay tonight. So I think that statement might be helpful.

Mr. STENNIS. Mr. President, will the Senator yield to me for one sentence?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. It is certainly important that we get this military authorization bill moved on out this week. There is nothing complicated about it, as I see it now. It will not take a great deal of time. But if we get it moving, then the appropriations can move. Otherwise we are in a jam. I thank the Senator for passing on it tomorrow.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I wonder if there is a possibility, or whether we could explore the possibility, of reducing the time allocated under the unanimous-consent order for amendments?

Mr. JAVITS. Mr. President, will the Senator yield? I think the two main amendments are the indexing amendment Senator WILLIAMS and I are sponsoring, removing indexing, and Senator BARTLETT has an amendment. I think in view of the fact that there is an amendment to our amendment, I would seek a reduction from 2 hours to 1½ hours. But I would point out the unanimous-consent order gives 2 hours on all amendments in the first degree, so I do not think we would want to reduce ours unless it was done across the board.

Mr. BAKER. Mr. President, why do I not try to inquire on our side to see what reaction I get to that. Perhaps if any Members on the floor have views on that subject they can express them to me for a moment.

Mr. ROBERT C. BYRD. Very well, that would be helpful.

Mr. SCOTT. Mr. President, if the Senator will yield, I do have an amendment respecting older Americans where I would be agreeable to 1½ hours, but I feel that if the distinguished Senator from New York does require an hour and

a half for his amendment, that all of us ought to have equal time.

Mr. JAVITS. I said an hour or an hour and a half. I think Senator WILLIAMS concurs, and we will agree to an hour.

Mr. SCOTT. I would be willing to agree to whatever time the distinguished Senator from New York and the distinguished Senator from New Jersey agree to.

Mr. BAKER. I thank both the Senator from New York and the Senator from Virginia, and we will use that as a point of departure and see if we can improve on this.

Mr. ROBERT C. BYRD. Very well. I hope we can agree on that.

Mr. MORGAN. Mr. President, I ask unanimous consent that my staff assistant, Alfred Pollard, be allowed the privileges of the floor during the consideration and vote on the bill pending

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent——

Mr. MAGNUSON. Mr. President, there was some unanimous consent on a time limitation, and I was on the telephone, but I was hearing it on the speaker. The Senator from Maine has an amendment and he is not here, and I thought I would protect him because I want to join with him.

The PRESIDING OFFICER. Will the Senator from Washington use his microphone?

Mr. MAGNUSON. I reserve the right to make a request.

Mr. ROBERT C. BYRD. We have not made the request.

Mr. MAGNUSON. But we will ask for some time.

Mr. CHILES. Mr. President, I ask unanimous consent that Mr. Rick Farrell of my staff be given the privilege of the floor pending debate and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, the minimum wage has been raised many times since 1938; and it is our purpose and intent, as the preamble to this legislation stated in 1938, to find ways of eliminating from our commerce and industry "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of our workers."

As President Franklin D. Roosevelt stated in his 1937 message to the Congress:

> Our Nation, so richly endowed with natural resources and with a capable and industrious populaton should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work. A self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reasons for chiseling workers' wages or stretching workers' hours.

The legislation which we are considering today has been given full and careful consideration by the Human Resources Committee. In the course of our consideration, we have studied numerous alternative proposals; and we have modified and refined our own ideas in accordance with the information and views which we have received.

The bill as it was introduced, and as it was reported by the Labor Subcommittee, contained three basic provisions. First, it would increase the minimum wage to $2.65 per hour effective January 1, 1978.

The present minimum wage is $2.30 per hour. It yields an annual income of only $4,800 per year to a full-time, year-round worker. This falls far short of providing even a poverty-level income for a nonfarm family of four. The Department of Labor estimates that, for the head of a family of four to have earned the nonfarm poverty income, the minimum wage would have had to have been $2.78 per hour in 1976 and $2.90 per hour in 1977. By these standards, this bill is quite modest.

A second major provision of this bill concerns the credit which some employers are permitted to take against the minimum wage for gratuities which are paid to their employees. This so-called "tip credit" allows employers with tipped employees to pay them only 50 percent of the otherwise applicable minimum wage. This provision was inserted in the Fair Labor Standards Act when that act's protections were first extended to the employees of hotels and restaurants in 1966.

It is a glaring exception to the general principle that every covered employer should be required to pay his employees at least the minimum wage.

In addition to the fact that the tip credit contravenes the general principle that employers should be required to pay a minimum wage, it has the effect of denying employees the benefit of tips which customers intend to bestow upon them. Under present law, the first $1.15 per hour which is earned by an employee in tips does not go to the employee, as the customer intends, but to the benefit of the employer instead.

No fewer than 26 States have recognized this inequity by limiting the tip credit to a greater extent than under Federal law. This legislation will, over a 5-year period, gradually reduce the tip credit to a level of 20 percent. As the committee report shows, this amount places Federal law in line with those States which have already legislated.

Finally, we have explored, through this legislation, the possibility of maintaining the minimum wage at its customary level in our economic system, relative to other wages. This could be done by indexing the minimum wage to the average straight time, hourly wage paid to production workers in manufacturing.

Indexing the minimum wage is not a novel concept. The Congress considered indexing the minimum wage to other wages as long ago as 1949. Since that time, the indexing of benefits or wage rates has become accepted throughout our economy. The Federal Government, for example, uses the Consumer Price Index (CPI) to adjust the level of benefits under several Federal programs. And many privately negotiated wage agreements include a concept of automatic adjustments in response to changes in the economy. The index included in this bill was carefully considered and selected to meet the needs of minimum-wage workers without generating any significant pressure in other sectors of the economy.

This was done by selecting a wage index which would not include a substantial number of minimum wage workers; thus, we avoided the possibility of creating a self-generating upward spiral. As the committee report explains, the indexing formula provided in the bill would keep the minimum wage at approximately 47 to 49 percent of current manufacturing wages. This is precisely in line with our experience over the past 25 years.

Nevertheless, it is recognized that there have been many concerns expressed about the concept of indexing. These concerns include the automatic manner in which indexing would operate, and the resulting difficulty we might have if we chose to depart from the wage schedule which would be established through indexing.

Recently, the House of Representatives voted to delete the indexing mechanism provide in its bill and to replace it with a series of specific minimum wage increases.

I recognize the sincereity and the depth of concern over indexing the minimum wage. It has been, and continues to be, personally my view that the indexing proposal in this bill is a reasonable and important step toward providing adequate minimum wages for our workers. Nevertheless, in light of the concerns which have been expressed, I am proposing and I will be joined in this by my colleague from New York, the ranking minority member of the human resources committee, (Senator Javits) to forego the establishment of indexing for the minimum wage, at least for the next few years.

I have, therefore, sponsored an amendment which will replace the indexing provision of the bill with minimum wage increases in specific amounts. These amounts approximate the rates which would have been set if indexing had been established. However, after 4 years, it will be necessary for Congress to return to the consideration of minimum wage legislation.

The rates which we propose are $2.65 per hour beginning January 1, 1978; $2.90 per hour beginning January 1, 1979; $3.15 per hour beginning January 1, 1980; and $3.40 per hour beginning January 1, 1971. These increases will not bring our minimum wage workers completely up to to a poverty-level wage. However, it is the least we can do to provide a fair wage for these workers and to prevent them from suffering a further reduction in their already meager standard of living.

As may colleagues are aware, the theoretical economic import of this legislation has been the subject of vigorous debate. We will have more to say on this subject during the course of our deliberations on this legislation. But I do want to make several observations at this time. First, I observe that the opponents of minimum wage increases have rather blatently distorted the economic arguments. The highest cost estimates which the committee has received appear to be inflated several-fold.

Even the most carefully reasoned economic arguments against the minimum wage have proven to be no more than theoretical models which do not reflect the reality of our economy. As one distinguished economist stated:

> We have 40 years of experience with the Fair Labor Standards Act. No one has been able to demonstrate with any degree of certainty that maintaining the minimum at 50 percent of the average industrial wage has led to inflation, unemployment, or any other economic catastrophy. On the other hand, there have been considerable benefits to many people at the lowest income levels of our society. There is no reason to believe that the amendments proposed in S. 1871 will produce effects different from those of similar amendments in the past.

This is the statement of Prof. Walter Galenson, of Cornell University.

This year, even more than in the past, we have heard from the proponents of special subminimum wages which would discriminate against particular segments of our economy. The entire concept of singling out groups, or segments, of workers to pay them less than the minimum wage is contrary to the purposes of the Fair Labor Standards Act. It is unjust and discriminatory to assign a value less than the minimum wage to any person's labor.

I understand that amendments will be offered to this legislation which would establish a subminimum wage for young workers. This will be strongly opposed. These proposals are not only unfair, and discriminatory in their effect on the young workers to whom they would apply, but they also pose a substantial threat to adult workers. The same economic models which are used as the theoretical underpinning of a youth subminimum would also lead to the conclusion that the youths who might be hired would replace full-time adult workers.

I can see no justification for replacing an employed adult worker, with family responsibilities and the necessity of supporting himself and other people, with an unemployed teenager. I have over the years sponsored and worked for legislation to help our unemployed teenagers; but I do not regard it as sound social policy to adopt an approach to minimum wages which would employ them at a subminimum at the expense of full-time workers.

Mr. President, your committee has examined the economic arguments surrounding these issues and we are convinced that the minimum wage, and these minimum wage increases, pose no threat to our economy. The minimum wage has proven to be a sound economic concept over the past 40 years, and it will, I am sure, with the enactment of this legislation continue to improve the lot of our working poor.

Mr. HANSEN. Mr. President, some years ago I listened with great interest to the testimony presented before the Finance Committee on several welfare issues. During the course of that testimony, the witness, Dr. PAT MOYNIHAN, now the distinguished Senator from New York, suggested that increasing the minimum wage was actually one of the most counterproductive things we could do if we actually intended to improve the lot of the poor people of this country. He showed quite conclusively that an increase in the minimum wage works against those individuals who have the fewest skills to bring to the marketplace. If employers must pay their workers higher wages, they expect to get more productivity and service from their employees. Accordingly an individual with few skills cannot be as productive as other individuals, and so it is not economically beneficial for the employer to hire that individual with the limited skills. He went on to say that the same argument held true for young people. Now, Mr. President, it has always been my understanding that the objective of the minimum wage was to provide a decent standard of living for all American workers. If that is the objective of the minimum wage, then it certainly seems to me that we are not well advised to enact legislation which assures the continuation of poverty and unemployment.

I am certain, Mr. President, that there are among my constituents some individuals who believe that my opposition to the minimum wage is simply a concession to big business and to the ideologies of conservative rhetoric.

Let me assure my constituents and my colleagues that this is not the case. I can cite many local examples. For instance, one pharmacist who lives in a small town of about 1,000, called me to tell me that if the new minimum wage standards went into effect without a youth differential, he would be forced to lay off one of his six employees. Now one cut of six people does not sound like too many, except that if you think in percentage terms that is a 16-percent increase in unemployment in his particular business. If you extend that decrease across town to the local hamburger stand, to the grocery store, to the service station, and to the mom and pop grocery store, you can see that just in one little town in Wyoming, there could be substantial unemployment increases. This pharmacist who called me also told me that it would be awfully hard to train a teenager and make his work profitable if he were forced to pay that teenager the new minimum wage. He went on to say that he really would like to employ teenagers, because their youthfulness gives them energy and vitality that older workers sometime lack. Furthermore, no one can argue against the merits of training our young people to know the dignity of having a good job.

That is one specific example that comes from Wyoming. Let me cite to my colleagues here in the Senate some interesting studies I have read recently on youth unemployment. The May 1977 issue of the Harvard Review of Economics and Statistics carries a lead article on minimum wages and the youth labor market. Let me quote the conclusion of that study:

> The policy implications are obvious: with less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement can be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented, . . . aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth unemployment rate 3.8 percentage points lower. . . . In particular, the adverse effect remains even after the impact of manpower programs and changing youth supply are accounted for.

A 1976 Brookings Institution study draws similar conclusions. The Brookings study particularly emphasizes the need for a youth differential. The Brookings study asserts that minimum wages are either too low or about right for adults, but that they are just too high for teenagers. Nonetheless, the Brookings study asserts that a youth differential is a desirable goal, because it has the effect of evening out teenagers and adult wages and thus reducing unemployment rates.

I am not unmindful of the dilemma that a youth differential raises. The practical problem of course is that a differential seems to have built into it an incentive for employers to lay off high-wage adults and hire teenagers. Some people feel that this would particularly discriminate against adult females. I do not deny that this is a potential difficulty. Nonetheless, I reassert vigorously my own belief that a youth differential is essential.

One reason I make this assertion is that I believe that the greatest service we could perform for the young people of America is to teach them the dignity of good hard work. The first time I met Senator SAM HAYAKAWA, another learned and scholarly Member of this body, he and I discussed the issue of young people working. His broad background as an educator and as a university professor and as a student of anthropology, had led him to believe that one important cultural phenomenon was the passage of youth into adulthood. He noted that in many instances our culture deprives young people of this right. No young person today goes out and kills a bear, or performs a ritual dance, or goes through any similar rites of passage. He suggested, and I have to believe he is right, is that one rite of passage we could grant to our young people is the opportunity to have a job. If a young person has a job, he has money to spend, and he learns the duties and responsibilities that having an income generate. He has the privilege of contributing to his own support, and sometimes even the support of a family. He learns responsibility in following direction and making a contribution in the way of valuable service to others. He learns that it is better to labor than to be idle, always in search of some relief of the boredom of joblessness. Finally, he sets into his own lifestyle a pattern of productivity which, hopefully, would stay with him for the rest of his life.

The future of our country requires that we train our young people to labor and work. Indolence and idleness did not build this country. Hard work did. Accordingly based on the reputable scholorship of others, the first-hand examples provided by my own constituents, and the desire I have to assure the security of this country by teaching our young people to work, I will oppose any increase in the minimum wage, and will wholeheartedly support a youth differential.

Mr. BAKER. Mr. President, today the Senate is considering the fifth major re-

vision in the Fair Labor Standards Act since this measure was enacted in 1938. Over the years, the Congress has provided for successive increases in the minimum wage in order to maintain the purchasing power of low-income workers, and it has expanded coverage of the law to include more and more workers within the minimum wage umbrella.

One of the major issues raised in connection with minimum wage legislation during this session of Congress has been whether or not we should provide for future automatic increases indexed to a percentage of the average hourly wage in manufacturing. While I appreciate the humanitarian motivation of those who support indexing, I believe that such a provision would result in built-in inflationary pressures and provide little incentive for management and labor to hold the line on prices which affect all Americans, regardless of income.

The aspect of the indexing proposal which I find most disturbing is the likelihood that it would most harm those people least able to cope with rapidly accelerating prices—the young, minority groups, and those in the lower economic strata of our society. Moreover, there now seems to be a consensus in both the House and Senate that indexing is not an appropriate means of computing future minimum wage increases and that it would hinder the long-range efforts of the Congress to avoid a repetition of the serious economic difficulties which we have experienced during the last few years.

For these reasons, I am pleased that Senators WILLIAMS and JAVITS have introduced an amendment to the bill which will provide for minimum wage increases through 1981 without indexing. I intend to support this amendment, for I believe that the Congress must remain faithful to the goal it established almost 40 years ago in enacting the Fair Labor Standards Act. That goal—to insure the working poor a minimum standard of living which would provide them with an income adequate to obtain the basic economic necessities without relying upon public assistance—can only be attained through regular increases in the wage floor designed to keep pace with rising living costs.

We are all aware, Mr. President, that the earnings of an employee working year-round at today's minimum of $2.30 per hour amount to less than the poverty-level for a nonfarm family of four. More than 3 million workers are now paid at the minimum wage, most of them women who work out of economic necessity. There seems little point, in my view, for the Congress to attempt welfare reforms designed to make working more attractive than being on welfare if we, at the same time, fail to provide the minimum wage levels needed to insure that working will produce at least a subsistence income. While the minimum wage increases contained in the amendment will still fall short of poverty-level income standards, we will have narrowed the gap which now exists to a considerable extent.

There are several other issues raised by this legislation which I hope the Senate will address today—all relating to the impact of minimum wage increases upon specific groups in the workforce. One of these is the impact of minimum wage increases upon youth employment. The unemployment rate among teenagers in the United States today is 17.5 percent—among black teenagers it is 40.4 percent. Historically, each time the minimum wage increases, so does youth unemployment, both in the aggregate and as a percentage.

Many of the 1.6 million teenagers who are in need of work today have never worked before. Without work experience and skills, they are poor competitors in the job market, and they often require costly training which potential employers must bear in addition to the cost of their wages. I would strongly recommend, therefore, adoption by the Senate of a "youth opportunity wage" which will give employers an incentive to hire young people by permitting them to pay less than the minimum wage for a limited period. As skills and experience increase along with age, the rate of remuneration should be increased. By providing penalties to insure that employers do not replace older workers with young ones or hire and fire young workers just to take advantage of the lower minimum, I believe we would be able to provide an effective mechanism to reduce youth unemployment and prevent teenagers from being frozen out of the labor market, because employers find it economically impossible to hire them at an increased minimum wage.

Another amendment which I urge my colleagues to approve would retain the 50-percent tip credit contained in current law. The tip credit, which permits employers of tipped employees to count tips toward payment of up to 50 percent of the minimum wage, is vitally important to both employers and employees in the restaurant industry. In the Southeastern United States; for example, restaurants which provide table service at moderate prices face tough competition from fast-food operations. An increase in labor costs such as that which would result from repeal of the tip credit could well make the difference for many restaurants between retaining tipped employees and reducing the labor force, placing many tipped employees out of work.

An additional matter which I expect will be considered today relates to the impact of minimum wage increases upon small business. In recognition of the unique needs and character of small businesses and the positive contributions which small businessmen have made in the American economic community, Congress has, for the last 10 years, provided an exemption from the minimum wage provisions of the Fair Labor Standards Act for independently owned and operated retail and service establishments. The exemption currently applies to those businesses with annual gross sales under $250,000.

While this figure may have been adequate some years ago, Mr. President, inflation has steadily eroded it so that, today, the exemption is worth only $115,000 in 1967 dollars. Small businesses, however, have seen their dollar volume of sales increase substantially because of rising prices while the value of the exemption has been reduced. As a result, many businesses which qualified for the exemption 10 years ago no longer qualify—even though they are no larger or richer than they were before. In my view, equity demands that the Congress restore the dollar value of the small business exemption, and I hope that an amendment will be approved to that effect.

Mr. President, I am confident that all of these issues will be discussed in depth as consideration of S. 1871 proceeds. I believe that, with adoption of amendments such as I have outlined, the Senate will have fashioned an equitable and a responsible minimum wage bill that will serve the country well during the next few years.

Mr. MUSKIE. Mr. President, I support this bill, which provides an increase in the minimum wage from $2.30 to $2.65 per hour, both as a needed boost to the earnings of low-wage workers and as a matter of economic policy. As chairman of the Budget Committee, I want to explain the reasons for my support of this bill.

One of the major responsibilities of the Budget Committee is the formulation of appropriate fiscal policy to deal with unemployment and inflation. The committee is concerned with national economic policies which provide for, in the language of the Budget Act, the "balanced growth and development of the United States." The level of the minimum wage is a major economic policy issue and, therefore, has important significance for the Budget Committee.

The major effect of the increase in the minimum wage will be to raise the incomes of many of our poorest workers. It is estimated that about 4½ million workers would be affected in 1978 if this legislation were adopted.

The proposed increase in the minimum wage does no more than restore the average relationship between the minimum wage and earnings in manufacturing which has existed since 1960. The minimum wage has failed to keep up with manufacturing earnings in the 1970s, because of the high rate of inflation. It is distinctly unfair to force the lowest paid workers in society to bear a greater burden from inflation. Even at the proposed level of $2.65 per hour, the minimum wage would provide only $5,512 in earnings per year, which is below the projected 1978 poverty level of about $6,200 for a family of four. It is often said that public policy tends to discriminate against the working poor in our society. We should not compound this difficulty by allowing the continual erosion of the real value of the minimum wage.

Mr. President, I would now like to deal with several objections to raising the minimum wage which have been offered by opponents of this legislation, and which are of interest to the Budget Committee. Specifically, I wish to address the argument that an increase in the minimum wage will raise labor costs and thereby increase unemployment and inflation.

Let me be very candid. Obviously raising the minimum wage will increase total wages and labor costs—that is the

objective of the policy. Higher labor costs are likely to have some negative effect on the level of employment and the price level. This should surprise no one. Policy decisions almost always involve difficult choices between competing goals. But the relevant policy issue is the size of these effects. Are the effects on unemployment and inflation large enough to make a 15-percent increase in the minimum wage undesirable?

The available evidence indicates that this increase in the minimum wage would have only small effects on unemployment and inflation. These economic effects were anticipated by the second budget resolution and are consistent with the economic assumptions of the resolution.

The committee staff estimates that the increase might add 0.2 percent to the unemployment rate, and some recent research by Prof. Edward Gramlich of the University of Michigan implies that the net job loss might be even smaller. In any case, the employment effects of the minimum wage will be dwarfed by the effects of fiscal and monetary policy, by changes in consumer spending, by swings in housing and business investment, and by fluctuations in U.S. exports. The minimum wage is simply not an effective instrument for solving the unemployment problem.

The inflationary impact would also be small. The increase from $2.30 an hour to $2.65 might add as much as 0.5 percent to the price level by 1979. But this would be a one-time change resulting from the restoration of the real value of the minimum wage—it would not add to the rate of inflation in subsequent years. I believe the 15-percent increase in the minimum provided in this legislation is moderate and responsible in terms of its impact on prices.

Mr. President, there is a more fundamental point to be made about the costs of fighting inflation and unemployment. Those who would fight unemployment and inflation by holding down the minimum wage while other wages and prices are rising are asking the lowest wage workers to bear the entire cost of the fight. Such a policy is both unfair and inefficient. Our goals of full employment and lower inflation should be pursued by appropriate fiscal and monetary policies which apply to all citizens, and by jobs programs targeted on the unemployed. The way to reach those goals is to make sure our fiscal and monetary policies maintain the economic recovery. Reducing the real wages of many of our poorest workers is not sound policy.

Mr. WILLIAMS. Mr. President, I have mentioned that there is an amendment at the desk that I am honored to have cosponsored with the ranking minority Member, the Senator from New York. That amendment deals with indexing and it reflects our thoughts as we refined them during the hearing and in consultation after the report of this bill. The amendment is at the desk.

AMENDMENT NO. 1018

Purpose: To provide for an increased minimum wage at a fixed hourly rate.

Mr. WILLIAMS. Mr. President, I call up the amendment No. 1018 and ask that it be stated.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. JAVITS. We wish to have the amendment stated first.

Mr. BAKER. All right.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Mr. JAVITS proposes an amendment numbered 1018.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on line 9, page 6, strike through line 5, page 7, and substitute the following:

"INCREASE IN MINIMUM WAGE

"SEC. 2. (a) Section 6(a)(1) is amended to read as follows:

"'(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.15 an hour during the year beginning Janunary 1, 1980; and not less than $3.40 an hour after December 31, 1980, except as otherwise provided in this section;'".

Beginning on line 18, page 7, strike through line 3, page 8.

On page 8, line 4, strike "(e)" and substitute "(d)".

On page 8, line 13, strike "and".

On page 8, lines 14 and 15, strike "and January 1 of each succeeding year, by $0.30" and substitute "by $0.25".

On page 8, line 17, strike "committee." and substitute "committee, and".

On page 8, insert between lines 17 and 18 the following:

"(ii) effective January 1, 1980, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such special industry committee.".

On page 8, after line 24 add the following:

"(ii) effective January 1, 1979, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and".

On page 9, line 1, strike "(ii) effective January 1, 1979," and substitute "(iii) effective January 1, 1980,".

Mr. BAKER. Mr. President, will the Senator yield 2 minutes?

Mr. JAVITS. I yield 2 minutes to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the distinguished Senator from New York, and I apologize for the interruption, but this deals with the matter at hand.

I advise the majority leader that since our last colloquy I have done an inventory of requirements on this side, and I am happy to report that we can improve on the unanimous-consent agreement in this respect:

Senator SCHWEIKER's amendment, 1 hour; Senator HELMS' amendment, 1 hour; Senator TOWER's two amendments, 1 hour; Senator GARN's amendment, one-half hour; Senator BARTLETT's amendment, 1 hour; Senator SCOTT's amendment, 1 hour; Senator STAFFORD's amendment, one-half hour; Senator CURTIS' amendment, 1 hour; and Senator HATCH's amendment, 1 hour.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. If it is agreeable then with the distinguished manager of the bill and the ranking minority member, perhaps we could reduce the time on all amendments in the first degree from 2 hours to 1 hour and leave in the exceptions the minority leader has mentioned as being willing to take a half-hour. If that is agreeable, I make that unanimous-consent request.

Mr. WILLIAMS. All right.

Mr. JAVITS. That is agreeable.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. TOWER. Mr. President, if the Senator will yield, reserving the right to object, and I shall not object, I think both of my amendments will be offered. I have two amendments, and I wish to have an hour on them.

Mr. JAVITS. That is provided.

Mr. TOWER. That is provided?

Mr. JAVITS. An hour in the first and second degree.

Mr. TOWER. All right.

Mr. JAVITS. Equally divided, Mr. President.

Mr. BAKER. Mr. President, I thank the majority leader and I especially thank the distinguished managers of the bill.

Mr. JAVITS. Mr. President, equally divided, if the Senator will yield, equally divided as provided in the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, as was stated in the opening debate on this legislation, we are fully cognizant of the many expressions of concern which have been voiced about the indexing provisions included in this bill.

During committee consideration of this legislation, many responsible business leaders indicated that they could understand and accept the necessity of increasing the minimum wage; but they were, nevertheless, very concerned about the concept of indexing the minimum wage to provide for an automatic adjustment in the future. We have also heard sincere and thoughtful expressions of concern from some of our Senate colleagues, including the Senator from New York (Mr. JAVITS), who is a cosponsor of this legislation. As I am sure Senators know, the House of Representatives deleted the indexing provisions from the House bill before it was passed on September 15th of this year.

I will not belabor the arguments, pro and con, about indexing at this point. I am convinced that the indexing provisions in the bill are sound and would contribute substantially to our efforts to provide a fair and adequate wage to our working poor, and to our efforts to eliminate poverty in this country. However, in recognition of the concerns which have been expressed over the indexing provision, I proposed to delete it from this bill and to substitute wage increases in specific amounts for the next 4 years.

The amendment I am proposing, which is cosponsored by Senator JAVITS, provides a minimum wage rate of $2.65 per hour beginning January 1, 1978. Thereafter, the minimum wage rate would go to $2.90 per hour beginning January 1, 1979; $3.15 per hour beginning January 1, 1980; and $3.40 per hour beginning January 1, 1981.

The amendment also changes the rate

at which minimum wage levels in Puerto Rico and the Virgin Islands must be increased. This change will insure that the mandated wage increases there are not unduly rapid, given the elimination of the indexing provision from this legislation.

I would like to emphasize that the wage levels proposed here are reasonable, I suggest, even modest, given the economic facts of life which we face for the next 4 years.

The Department of Labor predicts that the poverty-level income necessary for a nonfarm family of four will be more than $7,400 per year by 1981. This assumes that the poverty level will increase at a rate of 5 percent a year. The wage increases which will be provided by this amendment will, nevertheless, fall almost 5 percent short of the poverty level in 1981.

For those of us who are striving to insure to all our able-bodied working men and women a fair day's pay for a fair day's work, it is very difficult to accept the fact that we are still consigning full-time, year-round workers to an income below the poverty level.

Nevertheless, I recognize, just as I did when the bill was introduced last July, that there are practical limitations on the with which we can solve these problems. That is why Senator JAVITS and I are proposing this compromise today.

I would also like to emphasize that the schedule of minimum wage increases which we propose, including the increase to $3.40 per hour in 1981, is a high priority objective of the administration. Minimum wage rates are very important to the administration's welfare reform program, which was written to take advantage of the rates which would have been set through indexing.

One key aspect of the welfare reform proposal is that workers should have some incentive to work rather than to receive welfare payments. This is a general principle which advocates of the minimum wage have understood for a long time. It is particularly apposite, however, when we are legislating minimum wage increases in the context of a comprehensive effort to reform and improve our welfare system. Thus, it is necessary to have the 4th year of minimum wage increases legislated early, and at the proper level, to assure that the welfare reform proposal can properly include this important provision.

The wage levels which we propose by this amendment are, in my view, more than reasonable. They are the least which we must do for our poverty-level workers. For the reasons which I explained in my opening statement on this legislation, and for the reasons which I have just stated, I certainly urge that this amendment be agreed to.

Mr. JAVITS. Mr. President, will the Senator yield me time on the amendment?

Mr. WILLIAMS. I am happy to yield the Senator such time as he needs.

Mr. JAVITS. Mr. President, Senator WILLIAMS and I have again joined in urging the Senate to approve labor legislation, reporting it out of the Human Resources Committee.

This bill, to increase the minimum wage to make it compatible with the economic situation we face in the country today and the price situation, has the strong backing of the administration as well as of a broad coalition of organizations concerned with the condition of working Americans at the very bottom of the wage scale.

Mr. President, to put the matter in focus, we ought to know how many people are affected. There are, in round figures, 4.5 million Americans below $2.65 per hour today. That is 8.7 percent of the labor force covered by the Fair Labor Standards Act.

That figure is very critical, for two reasons. First, it shows how many human beings are involved. Second, it shows that this does not represent, by any means, the totality of the American employment system. In short, it does not fly in the face of the fears of those who feel inflation, and at the same time it fits the human requirements of those who deal with the minimum wage as an underlying subsistence level wage, below which we should not ask any human being in this country to work.

I hope, Mr. President, that Senators will take those figures very seriously, because they are the key to this debate: 4.5 million people affected; 8.7 percent of the working force.

The last minimum wage legislation, enacted in 1974, did not anticipate the extraordinary increases in living costs that have since taken place. As a result, million of Americans are being paid minimum wages which, even if they work full-time, do not provide a poverty level standard living for an urban family of four. These low minimum wage levels do not fulfill the basic congressional purpose of enacting the Fair Labor Standards Act, which is "the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of workers."

Mr. President, to support a family at the poverty level today, a minimum wage of $2.95 per hour is required. And even under our amendment, Mr. President, on January 1, 1978, we are setting a minimum wage of $2.65. It will not go to $2.90 until January 1, 1979.

Mr. RANDOLPH. Mr. President, will the able Senator yield?

Mr. JAVITS. Yes, of course.

Mr. RANDOLPH. I would not break the continuity of the Senator's thorough discussion. However, as we consider a minimum wage of $2.65 per hour, I can think back to 1938, when it was my responsibility to help write the first Fair Labor Standards Act of that year.

At that time, we were attempting to provide a 25-cents-an-hour minimum wage an interstate commerce—not intrastate commerce—employment. That shows the tremendous inflationary spiral that has continued through the years, as we have worked to bring the original law into conformity with the times of which we are a part. Oppressive child labor, in dimly lighted lofts, also had to be stopped. And we did it.

I commend the Senators from New Jersey and New York for speaking of the need to have a wage applicable to these times, just as we were trying, in those pioneering days, to have a breakthrough of 25 cents an hour.

We had strong opposition, even then, as certain selfish interests argued that business could not pay increased wages and survive. But business did continue, creative and energetic business, and America as a whole was strengthened.

Mr. JAVITS. I recall it very well.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. YOUNG. Mr. President, would this proposed minimum wage level apply to a farmer who hires one or two people?

Mr. JAVITS. It would not. There is a minimum 500 man-day provision with relation to the applicability of the minimum wage to the employees of a farm.

Mr. YOUNG. How about a small restaurant, with two or three employees?

Mr. JAVITS. We have a small business exemption, which is $250,000 in volume, and most small restaurants do not have that volume. I think some effort is going to be made to increase that figure; in fact, I am informed that the figure now sought by amendment is going to be $500,000. I am not sure the Senator from New Jersey and I are willing to go quite that far. But certainly a small restaurant will not be affected.

Mr. YOUNG. I thank the Senator.

Mr. JAVITS. Certainly, a small restaurant will not be affected.

Mr. YOUNG. I thank the Senator.

Mr. JAVITS. Mr. President, I want my colleagues to know that I opposed indexing very strongly in the committee. Though I was beaten on a vote in the committee, it is a tribute to the objectivity and the general fairness of the chairman of the committee that when he recognized that this was the wrong way to go in terms of adding rather than subtracting from inflationary thrusts, he came with me on this amendment, which eliminated indexing. I was not put in the position of having to go it alone. But I opposed it very strongly in the committee.

Mr. President, our amendment steps up the minimum wage in 25 cents-per-hour steps in 1979 and 1980, and again in 1981. This will just about keep step with the effects of a 6- to 7-percent inflation.

(Mr. DECONCINI assumed the Chair.)

Mr. JAVITS. Our proposed amendment also has the important advantage, which to me was critical, of a time limit. In our amendment, it is 4 years. Under the indexing mechanism which was in the bill as originally introduced, the trend would have been self-perpetuating without any regard to the general economy of the country. The uncertainty of the nature of our economy and of the future of inflation, in my judgment made it essential that there be a time limit no matter what we did. I am very pleased to see that Senator WILLIAMS has now joined me in that regard.

Mr. President, there are a good many other amendments to this bill. There will be those seeking to roll back some of the protections offered under the Fair Labor Standards Act. It is very difficult for me to see how, considering the minimal nature of this increase, we can lend ourselves to these rollbacks. Those that particularly affect me, Mr. President, are those relating to children, to youth, to small business and, to domestic workers.

We must remember that we are dealing here with a rock-bottom minimum and that today's minimum wage of $2.30 per hour means $4,784 a year gross wages for a full year of full-time employment. There is nothing rosy or easy about that.

I beg my colleagues to bear in mind the figures I gave on the number of human beings affected and, at the same time, their percentage of the work force, showing that it is not that overwhelming a proposition in terms of the total economy. I ask that they will also keep in mind, in terms of the individual, where he stands and that the streets of the United States are not paved with gold on any such minimum wage.

Also, Mr. President, I understand we shall be considering a child labor amendment respecting agricultural workers, with the usual romance about the question: How does it hurt kids to get out there in the field to pick some berries or to pick some other fruit or vegetable? Mr. President, we are talking about children under 12 and we are talking about work which is classed as one of the most hazardous among all the classifications of labor.

The proper place for such children of such a tender age is in school, not working long hours in fields where pesticides are used, where stoop labor is an absolute requirement, where trucks and tractors and various farm machinery are employed.

Also, Mr. President, I shall be very unhappy if domestic workers are excluded from the protection of the law. The present law exempts only casual babysitting. But for those who perform either child care or other domestic services as a way to earn a living, surely no one can argue that such workers do not deserve even the most rudimentary protections of the Fair Labor Standards Act when helping us care for our young and our elderly. These are people we want very much to keep these jobs. It seems very hard to justify a reduction for them in terms of the minimum wage.

The various proposals to establish subminimum wages for youth all suffer, in my judgment, from the fatal defect of adult substitution. Regardless of what controls are used, any subminimum wage that is low enough to encourage substantial new youth employment will also have the effect of depriving some adults of employment opportunities. Although youth employment is now unacceptably high, it is no answer to simply substitute unemployed adults for unemployed teenagers. We cannot rob Peter to pay Paul. Adult minimum wage workers are much more likely to head families, and to live on poverty level incomes, and to be more dependent upon steady work, than are teenagers. In view of the other job training and youth employment programs—for which I have been an indefatigable champion—that are answers to the problem of teenage unemployment, it is simply bad social policy to choose a course that tries to cure one economic ill only at the risk of aggravating a much more serious malady.

Also, Mr. President, we shall have to look with a very careful eye at an effort to increase the small business exemption. The present definition of a quarter of a million dollars covers the truly "Mom and Pop" operation for which compliance with the Fair Labor Standards Act would be a hardship.

Again, the protective purposes of the act, which benefit all employees, regardless of the size of their employer, require a narrow interpretation of the small business exemption. We should not withdraw the protections of the act for as many as 4 million working Americans in the name of small business beyond the definition which today seems to me a very reasonable one.

Mr. President, there is a lot of thought about the working poor in this country and how we should deal with them. There is no measure which affects them more directly. This is for the working poor. It represents a vital increase in the income of those who must labor at the bottom of the wage scale. In light of the economic condition of these workers, we certainly must not exclude them from coverage or ask them to work for less, based on their age, occupation, or on their employer's size.

I hope very much, Mr. President, that this bill will be looked at in the terms which I describe, that we shall start on the right foot with the adoption of the amendment which the Senator from New Jersey and I are sponsoring and which is now before the Senate.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS. I just make this observation. Over the years, the Senator from New York and I have been, on measures that came from our committee, in almost perfect harmony. On this question of indexing, we were not, but now we are. I should have known at the beginning, I suppose, that we would end up where my colleague is and, back at this point of harmony. We have recognized the sentiments of our colleagues as well as the community that reached us and have eliminated indexing. I hope that this amendment will be favorably received.

Mr. SCHMITT. Mr. President——

Mr. JAVITS. If the Senator will wait just 1 second, I want to emphasize, Mr. President, the salient point that not only have we eliminated indexing, but we have put a term upon whatever we have done. This is a very critical difference from the original bill, which made automaticity apply to the minimum wage on an indexing basis. If anything, I regard the term aspect as even more important than removing indexing.

Mr. President. I yield the floor.

Mr. SCHMITT. Will the Senator yield 5 minutes on the bill?

Mr. JAVITS. Of course, I yield 5 minutes on the bill to the Senator from New Mexico.

Mr. SCHMITT. I thank the Senator from New York, who deserves the Senate's compliments, as does his colleague on the committee (Mr. WILLIAMS) for their part in this bill and their diligent work in this area. We may not always agree on basics, but we can certainly agree on the diligence and strong efforts needed to produce a minimum wage bill that will be acceptable to the Senate.

Mr. President, I shall be brief in my opening comments, and I hope to be brief in all other comments on this measure.

I am extremely sympathetic to what I believe is the fundamental pressure upon us to raise the minimum wage, that pressure being inflation. Inflation is the most insidious tax upon our population. It is what hurts the old, the young, the middle aged, all economic groups. Everyone in this country, including the Federal Government, is suffering from inflation.

As a consequence of inflation, the pressure to raise the minimum wage will continue until we conquer that monster that seriously damages our ability to progress economically as a Nation.

Having said that it is a response to inflation and, as a corollary, that so long as minimum wage increases are no greater than inflation they would not be fundamentally inflationary in themselves, I must, however, say that that is not the only issue that faces us.

Unfortunately, the consequence of raising the minimum wage is to increase unemployment. We must balance those two desires—that is, to have a wage that keeps up with inflation as well as a wage that does not increase unemployment.

The effect on my own State of New Mexico will be considerable. It has been in every instance in which the minimum wage has been raised. The estimates vary, and I will not go into that; but, there is no question that those people at the lower end of the wage scale suffer at every point and every time the minimum wage is increased. It is particularly harmful among the youth. I hope we will have a very free, open, and stimulating discussion as to the effect of the minimum wage increases on youth unemployment.

If there is anything that we can do to hurt the unskilled and the inexperienced young person, it is to increase the minimum wage and, not to provide a differential or youth opportunity wage for the young people who are just entering our job market.

We must, in some way, give the young people of this country, the millions of unemployed teenagers in the very formative years, a hand with which they can grasp their future.

Mr. President, a great deal of thought must be given to this effort. I share the concern of my colleagues for the high level of unemployment among our youth, and especially among our minority youth. It is for this reason that I have cosponsored the youth opportunity wage (youth differential) being offered by Senator SCHWEIKER.

The fact that in February of this year 1.6 million of our teenagers, the equivalent of more than three congressional districts, were unemployed is a national disgrace. We must, however, consider more than just the numbers. The other factors involved in this dangerously high level of unemployment are more difficult, if not impossible, to measure but are of grave importance.

First, we must keep in mind the effect that unemployment has on the individual. The first attempt of many teenagers at finding a job to feel useful and to receive training and experience ends in failure. This rejection cannot but have

a deep psychological effect on these young people.

Second, most employers seek individuals with at least the basic job skills. Young people are thrown into a vicious cycle of not being able to find a job due to lack of experience and inability to gain experience because of a lack of a job. We must face the fact that most teenagers are not as interested in the money that they earn as much as the experience, the training, and the skills which they learn and which will influence their future earning ability. The fact is that 95 percent of the teenagers 16 to 19 years old are not heads of households. This does not mean that their earnings do not contribute to the family income. It does, but studies by Edward Gramlich of the University of Michigan show that only 7 percent of the young people with minimum wage jobs are from low income families, 47 percent are high income, and the rest are at the middle income level.

Third, as individuals become disillusioned with the system because they cannot find a job, they are more apt to turn to crime. Statistics show that crime among unemployed teenagers is higher than among any other segment of society. Perhaps it is for this reason that many mayors who must deal with these problems on a daily basis have endorsed a youth opportunity wage. Included in this list are Mayor Tom Bradley of Los Angeles and Mayor Ken Gibson of Newark.

Last, we must look at the costs to both the individuals and to society. The disillusionment at an early age may have lasting consequences. The vicious cycle of lack of experience and, therefore, no jobs does continue into later life. Society pays a dear price for this situation in terms of both increased welfare costs and the even greater cost of increased crime.

Often we talk about the statistics: 20 percent unemployment, 40 percent unemployment, or 1.6 million unemployed. Often the fate of the individual becomes lost in these figures. We must deal with the individuals who are denied the opportunity to reach the first rungs on the ladder; to get their first job; and to learn the skills which will permit them to get better jobs at higher wages later in life.

Numerous studies indicate a definite correlation between increases in the minimum wage and youth unemployment. A Brookings' study indicates that when the minimum wage increases approximately 25 percent, there is a 3 to 6 percent increase in youth unemployment. The New York Federal Reserve study indicates that the increase in the minimum wage in 1966 resulted in a 3.3 percent loss in teenage employment. According to Kansas State University's James Ragan, "only" 225,000 teenage jobs were involved in that 3.3 percent. Those 225,000 teenagers make-up about 14 percent of the teenage unemployment total.

This elimination of teenagers from the workforce hits minority youth greatest. The respected black economist, Dr. Walter Williams, in testimony before the Senate Human Resources Committee, stated that the minimum wage has been especially devastating to job opportunities for minority youth. The unemployment statistics which shows that unemployment among minority youth has remained at about twice the level of that for white youth substantiates Dr. Williams' position.

We cannot combat youth unemployment by passing legislation that creates public service jobs for a limited number of young people on the one hand and then destroy the incentive for the training of young people by the private sector on the other hand. The fact is that people just entering the job market often do not even have good work habits much less other skills. These young people require greater supervision and training than experienced workers. It has been brought to my attention that in one industry there is an average of one supervisor for every 200 adult workers, but an average of one supervisor for every 25 teenage workers. This involves greater expense for the business. We must face the fact that jobs for young, inexperienced job-seekers will not be created in the private sector unless there is an economic incentive; otherwise, the cost is just too great for the employer.

Concern has been expressed that teenagers at the youth opportunity wage will displace older workers. This amendment has provisions to insure that this does not take place. In addition, States and other countries which do have youth opportunity wages have not experienced this problem. The Bureau of Labor Statistics reports that adult employment has not been affected adversely by lower than minimum wage rates for teenagers in countries such as Great Britain, the Netherlands, and Japan. In these countries and other European countries we are not talking about a 75-percent youth differential; we are talking about a 60-percent and even a 30-percent differential.

Mr. President, I urge my colleagues to consider the fate of the individual looking for his first job and unable to find one. If we are seriously concerned with helping him, then we must offer business the incentive to hire and train this young person. The intentions of some of my colleagues to provide all people with a higher income is well meaning but counterproductive. As Dr. Paul Samuelson of MIT said about the proposed 1971 minimum wage increase to $1.60:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Mr. President, I urge the adoption of this youth opportunity wage amendment for our young people. During the past few months I have received considerable mail from both young and old, employers and employees in New Mexico urging my support for a youth opportunity wage. Just 2 weeks ago, a high school teacher called my office alarmed at the prospect of his students being unable to find part-time and summer jobs without such a differential. In addition, Students, Inc., a nonprofit youth employment program in New Mexico, has endorsed a youth opportunity wage. I ask unanimous consent that their letter be included in the RECORD.

Mr. President, with such strong support for this amendment from all segments of society, it is important that we give our teenagers and students an opportunity to work. I urge passage of this youth opportunity amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STUDENTS INCORPORATED,
Las Cruces, N. Mex., August 5, 1977.

Hon. HARRISON SCHMITT,
Senate Building,
Washington, D.C.

DEAR SENATOR SCHMITT: I recently heard your comments on the new minimum wage law increase and was pleased by your position on a lower wage scale for young people.

Students Incorporated is a private nonprofit youth employment program serving Dona Ana County and parts of Southwestern New Mexico. Every day we are faced with the contention of many small businessmen that they cannot afford to pay a youth $2.30 per hour. In most cases, the employer would like to hire a youth, but minimum wage and lack of experience or a proven work record makes them hesitant at taking a chance and instead they will hire a working mother or a retired person.

Young people, especially at high school and college age, need to work and develop work records if they are to be successful and productive in the job market later in their lives. Anything you can do to influence your fellow congressmen to vote in favor of a lower youth wage scale and enable young people to have the chance to work will be appreciated.

Sincerely,

HUBERT QUINTANA,
Director.

Mr. SCHMITT. Mr. President, I say to Senator JAVITS and Senator WILLIAMS that I hope that in the process of examining the various amendments and coming to a final decision on this bill, we will remember the very delicate balance that our economy lies upon, the delicate balance upon which the future of this country depends. That future is our young people, who, as we all realize, need something more than just another decision by Congress that reduces their chance for a future.

Mr. President, I yield the floor.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. STONE, Mary Repper; Mr. HELMS (for Mr. WALLOP) Deral Wiley; Mr. TOWER, Pam Turner; Mr. STAFFORD, Michael Francis; Mr. HAYAKAWA, Dr. John Becker; Mr. SCHMITT, Eugene Iwanciw.

Mr. BARTLETT. Mr. President, I inquire of the distinguished floor manager, Mr. WILLIAMS, whether he plans to continue discussing his amendment. It is my understanding that my amendment, which I plan to offer as a perfecting amendment, is not proper until the Senator uses up all the time or yields it back.

Mr. JAVITS. Mr. President, I will see if we have any speakers who wish to speak, either for or against the amendment which Senator WILLIAMS and I have offered, or if any member of the committee—there are two members on the floor—desires to engage in general debate. I inquire of my two colleagues on the minority if they wish any time to engage in general debate.

Mr. HATCH. I will speak to the youth opportunity amendment.

I compliment both the Senator from New Jersey and the Senator from New York for withdrawing the indexing provision of the original bill. I think it is a very wise and judicious decision and one which will tend to deter the inflationary spiral in our society—at least from this standpoint.

Mr. JAVITS. I thank my colleague.

Mr. STEVENSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Gary Welch and Phil Davis, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have canvassed to see if any Members want to speak to the pending amendment at this time, and they do not.

In order to move ahead with amendments that will be offered—the Senator from Oklahoma has the next amendment that would be offered to this, in terms of a perfecting amendment—I yield back the remaining time of the proponents on the pending amendment.

Mr. JAVITS. Mr. President, I am a cosponsor. No one has claimed the opposition time. Therefore, I yield it back.

The PRESIDING OFFICER. Mr. STONE). All time is yielded back.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Rick Sloan, a member of my staff, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 893

(Purpose: To establish a fixed hourly minimum wage)

Mr. BARTLETT. Mr. President, I send to the desk my amendment to amendment No. 1018.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 893 to amendment numbered 1018:

On page 1, line 6, strike all through page 2, line 5 and substitute the following:

"'(1) not less than $2.50 an hour during the year beginning January 1, 1978, not less than $2.70 an hour during the year beginning January 1, 1979, and not less than $2.90 an hour after December 31, 1979, except as otherwise provided in this section;'.".

Mr. BARTLETT. Mr. President, I advise my colleagues that the unprinted amendment that was just offered and read is the same as my amendment 1420, except that it is made a perfecting amendment to amendment 1018, rather than being a substitute to the bill.

Mr. JAVITS. I thank my colleague.

Mr. BARTLETT. Mr. President, this perfecting amendment to amendment 1018 of Senators WILLIAMS and JAVITS is offered in an effort to prevent the Senate from passing what I believe would be a counterproductive measure.

The increases in the minimum wage that I propose are approximately 8 percent increases over the next 3 years. The present minimum wage for most workers is $2.30 per hour. Under my amendment, this would be increased to $2.50 per hour on January 1, 1978; to $2.70 per hour on January 1, 1979; and to $2.90 per hour on January 1, 1980.

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I yield.

Mr. WILLIAMS. I am not sure that I heard the Senator accurately when he said that the amendment he is now offering carries the same rates as another amendment.

Mr. BARTLETT. The same rates as amendment No. 1420. The amendment I presented to the Senator earlier was an unprinted amendment, but it was an alteration of amendment No. 1420 by the Senator from Oklahoma.

Mr. WILLIAMS. So we are dealing with amendment No. 1420, and the Senator from Oklahoma is not referring to any other printed amendment?

Mr. BARTLETT. We are dealing with 1420 as altered, as I presented it to the Senator. The Senator will notice that it is an amendment to amendment 1018, and it amends on page 1, line 6, to strike all through page 2, line 5, and substitute the following. Then it relates the figures and the language on lines 6 and 7 of amendment 1420 and on lines 1, 2, and 3 of the second page.

Lines 6 and 7, page 1, of 1420 and on the reverse side.

Mr. WILLIAMS. Two dollars and 50 cents, $2.70, and then $2.90?

Mr. BARTLETT. That is correct. Does that answer the question of the Senator?

Mr. WILLIAMS. That answers my question. I thought I heard reference to another amendment.

Mr. BARTLETT. I thank the Senator.

Mr. President, this perfecting amendment to amendment 1018 of Senators WILLIAMS and JAVITS is an effort to prevent the Senate from passing what I believe would be a counter-productive measure. The increases in the minimum wage that I propose are approximately 8-percent increases over the next 3 years. The present minimum wage for most workers is $2.30 per hour: under my amendment this would be increased to $2.50 per hour on January 1, 1978; to $2.70 per hour January 1, 1979, and to $2.90 per hour on January 1, 1980.

I am pleased to see that the indexing provision of the bill is stricken by Senator WILLIAMS' amendment, yet the increases he proposes remain as high as, or higher, than what would have prevailed under the original indexing provision. I believe his increases to be so large as to be counter-productive, so large that there will be substantial disemployment effects, especially among teenagers, so large that consumer price levels will be forced up, so large that any supposed benefits will not go to the poor who are most in need. In short, I feel that my proposed increases in the minimum wage will better retain the benefits of a fixed wage floor without calling forth the negative effects that Senator WILLIAMS's large increases would.

If we were discussing an increase to, say, $5 per hour, I think most everyone would admit we were going too far and could readily see the potential for economic mischief. Everyone could see that many people would be priced out of the labor market, that inexperienced and unskilled workers would have extreme difficulty finding a job, that the number of people forced on welfare would increase, and that consumer prices would be forced upward. Senator WILLIAMS' amendment, though not as drastic as my example, calls for increases that will have the same effects. As Dr. Edward M. Gramlich concludes in a recent study for the Brookings Papers on Economic Activity, 2:1976, entitled "Impact of Minimum Wages on Other Wages, Employment, and Family Incomes," "At some point these complications make it unwise to boost the minimum wage any more, and that point is likely to be not much above the present minimum." I recommend the study to all those interested in this issue, but since it is rather long I will not request that it be put in the RECORD in its entirety. I do, however, request that its conclusions be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLICATIONS

Two important questions arise in the determination of minimum-wage policy. The first is obviously how high the minimum should be set. While the results here do not give a precise answer because one cannot put utility weights on all the outcomes, the basic facts are clear. As the minimum wage is increased beyond its historical range of 40 to 50 percent of the median wage, more and more workers confront the grab-bag combination of a higher wage but a reduced probability of having a job. This uncertainty is not innately disturbing, but it magnifies many of the undesirable implications of minimum wages that have appeared throughout this paper; compliance difficulties will no doubt intensify; more workers will either lose their jobs or have to take part-time jobs; more of the benefits will go to high-income families; and the impact on factor costs and product prices will grow disproportionately. At some point these complications make it unwise to boost the minimum wage any more, and that point is likely to be not much above the present minimum.

The second important policy question is whether the minimum should be differentiated according to the age of the worker. The results here suggest casting a moderately strong vote for a differential. If anything, minimum wages seem too low or about right for adults and too high for teenagers. The practical problem in introducing a differential has been the fear of internal substitution: What is to prevent employers from laying off high-wage adults to hire teenagers? The employment-deemed relationships estimated here suggest some existing substitution of this sort between low-wage teenagers and adult females, though the prevailing low elasticities estimated here and in most other studies of labor demand also provide evidence to the contrary.[28] Whatever the case, the "youth differential" seems a desirable goal—in effect evening out teenage and

[28] Some indirect evidence supporting the idea that teenager-adult substitution elasticities are not terribly high is given in Philip G. Cotterill and Walter J. Wadycki, "Teenagers and the Minimum Wage in Retail Trade," *Journal of Human Resources*, vol. 11 (Winter 1976), pp. 69–85; and Alan A. Fisher, "Adult Disemployment Effects of a Youth Minimum Wage Differential" (U.S. Department of Labor, Office of the Assistant Secretary for Policy, Evaluation and Research, June 1976; processed).

adult wages less and unemployment rates more; and it seems eminently feasible to introduce this differential gradually, monitoring the internal substitution and stopping when and if adult disemployment becomes too great.

While the results for adults are sufficiently mixed that different observers would arrive at different conlusions, my own view is that as long as minimum wages are kept low relative to other wages, they are not terribly harmful and in fact even have slightly beneficial effects both on low-wage workers and on the overall distribution of income. They are far from the best way of redistributing income, however, and there are definite limits to how high the minimum can be raised. Usually, the important limit is the disemployment effect, but in my results this limitation is overshadowed by others. On balance, disemployment does not seem sufficient to negate the benefits to low-wage workers of higher minimum wages. But a whole series of other complications does cause problems; employers resist paying the minimum in the first place; the minimum can have noticeable impacts on overall wages and prices; it can produce undesirable changes in the composition of jobs for teenagers and some adults; and it can provide income support for families who do not need it. These, more than the disemployment impact, make the most persuasive empirical case against raising the minimum wage too sharply.

Mr. BARTLETT. Mr. President, we have seen in recent years how the definition of full employment in our economy has changed. At first some people thought that zero unemployment was the proper definition, then 3 percent unemployment, then 4 percent, then 4.9 percent, and now some people are even saying that our current 7 percent unemployment is as good as the economy can do. I reject anything near 7 percent unemployment as an acceptable full employment level.

Personally, I do believe that it could be considerably lower. It is actions of Government, however, like increasing the minimum wage too much, which create such conditions as to make it difficult for the economy to operate at an acceptable full employment level.

We cannot afford to accept 7 percent or even 5 percent unemployment as the best we can do—but we, in Congress, must stop causing the problems ourselves.

I consider it a dangerous logic that says that government public works jobs will be the answer to our unemployment problems when the Government is one of the big causes of the problem in the first place.

I would point out that, of all the workers, the young and the inexperienced, including the blacks and others, are generally the last hired and the first fired. Public works jobs are not the solution to their problems. In most cases, I believe the solution is a job in the private sector. In the private sector they can have the opportunity of learning the kind of work habits expected in the private sector, and also build up seniority which, I would like to point out, is very important to all inexperienced workers in continuing their employment during a recession.

I do not think there is any opportunity for us to build an economic system with reasonable employment levels unless it is strong and unless it provides the jobs in the private sector and gives the opportunity for the inexperienced and the young to gain experience and to gain seniority.

With the unemployment rate of white teenagers in the neighborhood of 20 percent and in the neighborhood of 40 percent over minority teenagers, I cannot understand the rationale for sharp increases in the minimum wage at this time. I believe that almost all studies on the effects of the minimum wage on teenagers bear out the conclusion of James F. Ragan, Jr., "That minimum wage legislation reduces youth employment rates. The policy implications are obvious: with less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate." This conclusion appears in a study, "Minimum Wages and the Youth Labor Market," that Mr. Ragan published in the "Review of Economics and Statistics." I ask unanimous consent that the full text of Mr. Ragan's study appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. Mr. President, I ask unanimous consent that a portion prepared for the use of the Joint Economic Committee, which recommends substantially the same thing, also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BARTLETT. Mr. President, other Senators will argue for a special teenage minimum wage. All I wish to add to my remarks concerning teenagers is that all the arguments that will make for such a wage differential can be made for the moderate minimum wage increases that I am proposing. I hope my colleagues will recognize this and support my amendment.

One of the main arguments of those advocating large increases in the minimum wage is that by doing so we can help raise the incomes of the poor. It sounds obvious and appealing, but I have not seen any evidence that it is true. In fact, the evidence that exists on the question supports the contentions that minimum wages will never be effective antipoverty measures and that minimum wage legislation has no place in a plan to eliminate poverty.

Two recent studies on the income redistribution effects of minimum wage legislation undercut the assertion that increases in the minimum wage will "give the poor a raise." The first, by Terence Kelly for "The Urban Institute," concludes that the relief of poverty by raising the minimum wage is "amazingly small." The second, part of the same paper by Dr. Gramlich mentioned earlier, concludes that "The generally loose correlation between wages and family incomes implies that minimum wages will never have strong redistributive effects."

The reasons that minimum wage increases do not give the poor much of a raise, if any, are because minimum wages have their primary effects on teenagers, because a large proportion of low-wage teenagers are members of average- to high-income families; because many poor families have no working members or have members who work only occasionally, so that wage raises do not much help their income levels; that as minimum wages increase, it pays employers to obtain the services of employees who are better qualified, often leaving the currently poor out in the cold and still poor; and because increases in the minimum wage force the whole wage structure upward and leave the poor in the same relative position. This latter result forces the inflation rate upward.

Mr. President, I ask unanimous consent that three editorials dealing with the relationship between poverty and the minimum wage be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 25, 1977]

SENSE AND NONSENSE

Remember the story about the woman who asked for a pound of butter, and when the grocer charged a dollar she complained that it cost only 75¢ down the street. "Then why don't you buy it there?" the grocer asked. "Because they're out of it," she replied. Whereupon he said, "Oh, well when I'm out of it, I sell it for 50¢."

If that explanation sounds reasonable, then you're well equipped to grapple with the underlying logic of the minimum wage law. For while it is advertised as a boon to low paid workers, its principal effect is to deprive many of those workers of employment of any kind. Notwithstanding, its principal support has come from politicians who pride themselves on being friends of the poor.

Economists of every stripe have long understood the relationship between higher minimum wages and higher rates of unemployment among teenagers and other low productivity workers. But recently other important folks have stopped talking about "compassion" long enough to examine the record, and they are increasingly discomfited by what they see.

For example, Labor Secretary Ray Marshall now admits that minimum wage increases can have an adverse effect on teenage unemployment. To be sure, he defends those increases anyway, arguing that their bad effects can be more than offset by the administration's youth employment program. Even if that were not largely wishful thinking, it would be a costly way of trying to solve an avoidable problem. But what is most important here is that Mr. Marshall's candid admission marks perhaps the first time that a Secretary of Labor, Democrat or Republican, acknowledged that minimum wages had any shortcomings at all.

Then there is the study prepared last year for the liberal Brookings Institution. University of Michigan economist Edward Gramlich concluded that as the minimum wage is increased beyond its historical range of 40% to 50% of the median wage, "more and more workers confront the grab bag combination of a higher wage but a reduced probability of having a job." He also found that an increase in the minimum wage had a particularly disproportionate effect on teenagers.

A recent New York Times editorial cogently explained to any Doubting Thomases among its readership why increased minimum wages have nothing to do with compassion but a great deal to do with making it "more difficult for unskilled workers to find employment on their own." The editorial's very title—"The Cruel Cost of the Minimum Wage"—speaks volumes.

Finally, Harvard Prof. Andrew Brimmer, former governor of the Federal Reserve, last year told a Senate committee that unemployed teenagers would benefit more from a lower minimum wage than from public works jobs. His testimony is especially important in that Prof. Brimmer, a black, realizes that the crushing burden of unemployment falls heaviest upon blacks and especially black teenagers (whose unemployment rate, say some economists, is probably closer to 65% than the 40% figure usually given).

Notwithstanding this recent shift in intellectual opinion, however, Congress is again preparing to raise the minimum wage—from $2.30 to $2.65 an hour. It isn't that it doesn't understand the baneful effects of minimum wages. It's just that so many Congressmen are beholden to organized labor, and George Meany is calling in his markers.

What's worse, Congress is not merely raising the minimum wage once, but mandating a whole string of increases in the future. The proposals before it would peg the minimum wage at 52% of the national straight-time manufacturing wage. In other words, just when more and more people are becoming aware of the damage wrought by minimum wages, Congress intends to tie them to an escalator clause. Even if the new awareness should spread to Mr. Meany's successors, the minimum would be virtually impossible to remove.

The timing just does not make sense. But then not much about the minimum wage bill does make sense. Even our friendly grocer mentioned above would have no trouble seeing through the illogic of preferring large numbers of teenagers and low skilled workers unemployed at a high minimum wage, rather than gainfully employed at a lower wage.

[From the New York Times]

THE CRUEL COST OF THE MINIMUM WAGE

The Democratic Congressional leadership and the President are struggling to design effective job programs. How then can they support new minimum wage legislation that will make it more difficult for unskilled workers to find employment on their own?

Next month the House will vote on an Administration-backed plan to raise the minimum wage from $2.30 to $2.65 an hour, with a provision to maintain it in the future at 53 percent of average manufacturing wages. The plan is a compromise, adopted in the face of strong opposition from the President's economic advisers; organized labor pushed hard for $3.00. Even at $2.65, though, most economists expect that the new minimum will cost jobs. Those affected will be workers on the lowest rung of the employment ladder—the very young and old, minorities, and the handicapped.

A higher minimum wage, to many, is a simple matter of economic justice. People who work hard 40 hours a week deserve their share of the good life. Yet a full-time job at the prevailing $2.30 minimum—$4,600 a year—hardly pays for food and shelter, let alone first-run movies or weekend barbeques. The working poor could indeed use more than they now earn. But to raise incomes by raising the minimum wage means that some would lose their chance to work altogether.

A business hires workers only if their labor produces earnings at least equal to their wages. If the business is compelled to pay $2.65, it cannot hire those whose work produces less than that. So although a $2.65 minimum would improve the lot of many who work below that wage today, it would at the same time destroy the jobs of those at the very bottom. Any increase in the minimum wage would be a mistake.

Even those who favor raising the minimum wage are having second thoughts about its impact on teenagers. Unemployment among the young seeking their first jobs already hovers around 20 per cent; black teenage unemployment is probably closer to 40 percent. A hike to a $2.65 minimum could eliminate jobs for about 100,000 of the five million 16-to-19-year-olds now in the labor force.

These doleful statistics have led a number of House members to propose exemptions for teenagers. Illinois Republican John Erlenborn's amendment to set the wage floor for teenagers at 75 percent of the adult minimum was narrowly defeated in the House Education and Labor Committee. Proponents are expected to try again when the House debates the minimum wage bill next month.

If there must be any increase in the minimum wage at all, at first glance, some form of youth differential does seem attractive. As a group, teenagers are most adversely affected by minimum wages because a high percentage of them have no skills or experience. But on closer examination, there is no compelling case for a special break for teenagers. It is individuals, finally, not groups, who suffer from unemployment. A 40-year-old textile worker with a family has just as much right to a job as a 17-year-old high school dropout. There is no justification for Congress to give employers incentives to hire the young at the expense of others.

Michigan economist Edward Gramlich's research provides another argument against treating young workers differently. A large proportion of poorly paid, unskilled teenage workers come from middle-income homes. Fully 40 percent live with families whose incomes exceed $15,000 per year. Thus a minimum-wage exemption designed to aid Harlem teenagers is as likely to provide jobs for suburban 18-year-olds. And they may displace adult workers who support families.

The basic effect of an increase in the minimum wage, then, would be to intensify the cruel competition among the poor for scarce jobs. If we are serious about insuring a decent income for those willing to work, let us do so directly by creating jobs through government programs and subsidizing the labor of those who are unproductive. Minimum-wage legislation has no place in a strategy to eliminate poverty.

[From the Wall Street Journal]

LABOR'S HIGH PRICE

George Meany was furious about the defeat of the common situs picketing bill in the House. His temper was improved not at all when the President proposed a watering down of the minimum wage bill now before Congress. Mr. Meany is no doubt wondering what labor is getting for all the money and effort it spent to elect Democrats last fall.

But if labor feels it is being short-changed, there is a simple reason why: It is asking too much.

The minimum wage bill is the salient example. If Mr. Carter could operate in a political vacuum, simply following the advice of eminent economists on what would be best for the American economy, he would call for elimination of the minimum wage. There are few serious studies of this law which do not show that it generates unemployment, particularly among teen-agers. Teen-age unemployment is regarded by Mr. Carter, quite accurately, as one of his foremost economic problems.

But Mr. Carter is not operating in a political vacuum. He recognizes a debt to organized labor and is trying to pay it. Thus, he is ignoring expert advice and proposing that the federal minimum wage be raised initially to $2.50 an hour from $2.30. And he has embraced a very dubious labor concept, in principle at least, by proposing that the minimum wage be indexed, so that it would climb automatically as wages rise generally. Mr. Carter would set the minimum at 50% of the average straight time wage in industry. His Labor Secretary, Ray Marshall, figures it would then jump from the $2.50 level to $2.73 on July 1 next year and $2.92 by July 1, 1979.

While some of us think that this is a very generous price for the American public to pay to make organized labor happy, labor doesn't think it generous at all. It wants a $3 minimum to start and 60% indexing thereafter. Now it is up to Congress to mediate between Mr. Carter's bad minimum wage law and labor's really rotten one.

Labor's arguments on behalf of the minimum wage have always been cloaked in the superficial logic that the minimum wage benefits the lowest paid workers in the economy. If you pass a law raising their wages, they will live better and the entire economy will benefit from their increased purchasing power. They will no longer earn less than what the government regards as a poverty level.

But the real reason for labor's advocacy is somewhat different, as labor itself comes very close to admitting at times. The real reason is that it is hard for unions to bargain for substantial pay increases when it is possible for employers to get labor at substantially lower prices. If the minimum wage is allowed to lag behind the growth of the average wage in manufacturing it becomes a drag on union bargaining. The minimum wage is a protection not for low-paid unskilled workers but for organized labor. If labor can win the indexing provision, the protection will be that much stronger.

But what about that low-paid worker? In a Brookings paper last year, Michigan economist Edward M. Gramlich concluded that:

"As the minimum wage is increased beyond its historical range of 40% to 50% of the median wage, more and more workers confront the grab bag combination of a higher wage but a reduced probability of having a job. This uncertainty is not innately disturbing, but it magnifies many of the undesirable implications of minimum wages . . . : compliance difficulties will no doubt intensify; more workers will either lose their jobs or have to take part-time jobs; more of the benefits will go to high-income families, and the impact on factor costs and product prices will grow disproportionately. At some point these complications make it unwise to boost the minimum wage any more, and that point is likely to be not much above the present minimum."

When a public policy is attacked with such devastating understatement by someone who does not oppose it in principle, it should be in serious political trouble. It is clearly not in the general public interest to have a law on the books that will contribute towards the growth of those twin ogres, inflation and unemployment. This appropriate policy for these times would be either to leave the minimum wage alone or, better yet from the point of view of unskilled workers, repeal it altogether. If not that, at least provide a lower minimum for teen-agers.

Mr. Carter's proposal hardly does that. He has gone a long way to humor labor. Mr. Meany has nothing at all to be furious about but the rest of us do have.

Mr. BARTLETT. In summary, I do not believe any of the arguments for such large increases in the minimum wage as are contained in Senator WILLIAMS' amendment are valid or can be validated. I should point out that the increases proposed in my perfecting

amendment are almost identical to what would have been in effect if the President's initial proposals on minimum wage legislation had been accepted.

Large increases in the minimum wage will increase unemployment, particularly among the young and unskilled. Large increases in the minimum wage will increase inflation by moving the whole wage structure upward and by increasing consumer prices. Large increases in the minimum wage will not help the poor, and, in fact, will make their conditions worse.

Mr. President, I ask unanimous consent that the results of a Chamber of Commerce study of the inflation and unemployment effects of increasing the minimum wage as proposed by Senator WILLIAMS be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—LOSS OF EMPLOYMENT, INCREASE IN LABOR COSTS AND CONSUMER PRICE EXPECTED FROM THE PROPOSED INCREASE IN THE MINIMUM WAGE AS ADVOCATED BY THE CARTER ADMINISTRATION AND THE AFL-CIO (H.R. 3744 AND S. 1871)

State (Senators), congressional district, Congressman	Impact of minimum wage increase from $2.30 to $3.15 in 3 steps through January 1980			Impact of automatic escalator (indexing) (assuming no youth differential)			Impact of youth differentia teens (16 to 18) (assuming an automatic escalator), jobs preserved by imposing a differential of—	
	Job loss (thousands)	Labor cost increase (percent)	Consumer price increase (percent)	Job loss (thousands)	Labor cost increase (percent)	Consumer price increase (percent)	15 percent (thousands)	25 percent (thousands)
Alabama	35.0	4.8	3.2	21.0	2.8	1.8	6.0	11.0
Alaska	1.0	2.7	1.8	1.0	1.6	1.0	1.0	1.0
Arizona	21.0	4.1	2.7	13.0	2.4	1.6	4.0	7.0
Arkansas	24.0	5.5	3.7	14.0	3.2	2.1	3.0	6.0
California	142.0	3.8	2.5	109.0	2.2	1.5	32.0	54.0
Colorado	27.0	3.9	2.6	16.0	2.3	1.5	5.0	9.0
Connecticut	31.0	4.1	2.8	18.0	2.4	1.6	6.0	10.0
Delaware	6.0	3.9	2.6	4.0	2.3	1.5	1.0	2.0
District of Columbia	3.0	3.6	2.4	3.0	2.1	1.4	1.0	1.0
Florida	79.0	4.9	3.3	47.0	2.9	1.9	13.0	22.0
Georgia	51.0	5.1	3.4	30.0	3.0	2.0	8.0	14.0
Hawaii	9.0	4.3	2.8	5.0	2.5	1.7	2.0	3.0
Idaho	9.0	4.2	2.8	5.0	2.5	1.7	2.0	3.0
Illinois	102.0	3.7	2.4	61.0	2.2	1.5	20.0	33.0
Indiana	50.0	3.6	2.4	30.0	2.1	1.4	9.0	16.0
Iowa	28.0	3.7	2.4	17.0	2.2	1.5	6.0	9.0
Kansas	27.0	4.2	2.8	16.0	2.4	1.6	6.0	10.0
Kentucky	31.0	4.2	2.8	18.0	2.4	1.6	6.0	10.0
Louisiana	33.0	4.1	2.7	19.0	2.4	1.6	5.0	8.0
Maine	13.0	5.2	3.5	8.0	3.1	2.0	3.0	4.0
Maryland	42.0	3.9	2.6	25.0	2.3	1.5	7.0	12.0
Massachusetts	59.0	4.4	2.9	35.0	2.6	1.7	12.0	20.0
Michigan	80.0	3.2	2.1	47.0	1.9	1.3	16.0	27.0
Minnesota	49.0	3.9	2.6	29.0	2.3	1.5	11.0	18.0
Mississippi	25.0	5.6	3.7	15.0	3.3	2.2	3.0	6.0
Missouri	46.0	4.1	2.8	27.0	2.4	1.6	8.0	14.0
Montana	7.0	3.7	2.5	4.0	2.2	1.5	1.0	2.0
Nebraska	17.0	4.4	2.9	10.0	2.6	1.7	4.0	7.0
Nevada	7.0	3.7	2.5	4.0	2.1	1.4	1.0	2.0
New Hampshire	9.0	5.0	3.3	5.0	2.9	1.9	2.0	3.0
New Jersey	44.0	4.0	2.7	34.0	2.3	1.5	10.0	17.0
New Mexico	12.0	5.4	3.6	7.0	3.2	2.1	2.0	4.0
New York	139.0	4.0	2.7	83.0	2.3	1.5	22.0	37.0
North Carolina	71.0	5.6	3.7	42.0	3.3	2.1	12.0	20.0
North Dakota	8.0	4.6	3.0	5.0	2.7	1.8	2.0	3.0
Ohio	97.0	3.6	2.4	58.0	2.1	1.4	18.0	30.0
Oklahoma (Bellmon, Bartlett)	25.0	4.5	3.0	15.0	2.6	1.7	5.0	8.0
1. James R. Jones (Democrat)	4.0	4.7	3.1	2.4	2.3	1.9	.8	1.3
2. Ted Risenhoover (Democrat)	4.1	4.6	3.1	2.5	2.7	1.8	.8	1.3
3. Wes Watkins (Demcorat)	4.3	4.6	3.0	2.6	2.6	1.8	.9	1.4
4. Tom Steed (Democrat)	4.3	4.6	3.0	2.6	2.6	1.8	.9	1.4
5. Mickey Edwards (Republican)	4.0	4.7	3.1	2.4	2.8	1.9	.8	1.3
6. Glenn English (Democrat)	4.2	4.6	3.0	2.5	2.7	1.8	.8	1.4
Oregon	19.0	3.6	3.0	11.0	2.1	1.4	3.0	6.0
Pennsylvania	108.0	4.0	2.7	64.0	2.4	1.6	19.0	33.0
Rhode Island	11.0	5.1	3.4	6.0	3.0	2.0	2.0	4.0
South Carolina	33.0	5.5	3.7	20.0	3.2	2.1	4.0	7.0
South Dakota	8.0	4.7	3.1	5.0	2.8	1.8	2.0	3.0
Tennessee	41.0	5.0	3.4	24.0	2.9	1.9	6.0	10.0
Texas	125.0	4.3	2.9	74.0	2.5	1.7	22.0	37.0
Utah	16.0	4.9	3.2	10.0	2.9	1.9	3.0	6.0
Vermont	5.0	4.8	3.2	3.0	2.8	1.8	1.0	2.0
Virginia	52.0	4.9	3.3	31.0	2.9	1.9	8.0	13.0
Washington	28.0	3.4	2.3	17.0	2.0	1.3	5.0	9.0
West Virginia	14.0	3.9	2.6	8.0	2.3	1.5	2.0	4.0
Wisconsin	53.0	3.7	2.5	32.0	2.1	1.4	11.0	19.0
Wyoming	5.0	3.9	2.6	3.0	2.3	1.5	1.0	2.0
United States	1,977.0	4.1	2.7	1,208.0	2.4	1.6	364.0	617.0

Mr. BARTLETT. Mr. President, Senators will note that this is a State-by-State study so that they can see the possible effects of amendment No. 1018 on their own State. The totals for the entire United States are 1,977,000 jobs lost and a 2.7-percent increase in consumer prices.

America cannot afford the large increases in the minimum wage contained in amendment No. 1018; small businesses cannot afford them; teenagers cannot afford them; and the poor cannot afford them. Therefore, I commend my compromise increases to my colleagues and earnestly hope for their adoption.

EXHIBIT 1

MINIMUM WAGES AND THE YOUTH LABOR MARKET

(By James F. Ragan, Jr.*)

Teenagers[1] have in recent years experienced increased difficulty in obtaining work,[2] something which many authors attribute to federal minimum wage legislation. The effect of a minimum wage remains very much in contention, however, with empirical studies often contradicting one another.[3] Using a richer specification than previous authors and an unexploited set of data, this study will examine the impact of the minimum wage on youth employment, unemployment, and labor force participation.

To the extent it forces firms to pay higher wages for youths, minimum wage legislation reduces the demand for youths and, therefore, youth employment.[4] Because coverage is incomplete,[5] some youths displaced from the covered sector may obtain employment with uncovered firms; but, as long as others do not, the fraction of youths employed will decline. Barring a commensurate drop in youth labor force participation,[6] youth unemployment rates will rise. Therefore, it is

* Mr. Ragan is Assistant Professor of Economics at Kansas State University. This article is based on a doctoral dissertation completed at Washington University in St. Louis, Missouri. The author has benefited from comments by Edward Kalachek, Frederic Raines, Murray Weidenbaum, and an anonymous referee.

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hypothesized that minimum wage legislation reduces the fraction of youths employed and increases youth unemployment rates.

I. THE EQUATIONS

To test these hypotheses, a two-equation empirical model is developed. Dependent variables are the fraction of the youth population employed and the fraction in the labor force. Coefficients from these regressions are then used to construct unemployment rate elasticities.

The minimum wage variable is defined as the nominal minimum deflated by average hourly earnings of production workers and weighted by estimated youth coverage.[7] This variable was chosen for both its sophistication and its wide acceptance in the literature. It is similar to the variables of Kaitz (1970), Lovell (1972), Mincer (1976), Welch (1974), and Kosters and Welch (1972). The average hourly earnings measure standardizes for the erosion, due to rising prices and growing productivity, of a minimum wage's effectiveness; the coverage factor forces recognition that the fraction of a group covered by minimum wage legislation is as important as the level of the minimum wage.

If the minimum wage variable is to be successful, the influence of other forces must be netted out; therefore, a number of standardizing variables are added to the equations. The first is a set of seasonal dummies.[8] Next comes a cyclical variable, U, the unemployment rate of males aged 25–54, lagged one quarter.[9] In both equations the predicted sign of U is negative; employment and labor force participation should be greater in tight than in slack labor markets. There is, however, no reason to believe the coefficients of U will be identical for each demographic group. Given downward wage rigidities, if nonwhites are discriminated against, or if they tend to be less productive, they will display a greater cyclical sensitivity than whites. Likewise, students, because of a lesser commitment to the labor market, may be more cyclically sensitive than nonstudents.[10] There may also exist different cyclical response by age or sex. These hypotheses will be tested.

If manpower programs employ (draw into the labor force) individuals who would not be employed (in the labor force) in their absence, an expansion of manpower programs should be associated with an increase in employment (labor force participation), i.e., manpower enrollment should exert a positive influence on both the employment and the labor force ratios.[11] Included, therefore, is a manpower variable, NYC, which is defined as one plus the percentage of the youth population enrolled in the Neighborhood Youth Corps—in the in-school Neighborhood Youth Corps program for student groups and in the out-of-school program for nonstudent groups.[12] Since the variables are in log form, the value "one" is necessary if this variable is to be defined in the pre-1965 period when there were no manpower programs. The manpower variable is based on Neighborhood Youth Corps enrollment for two reasons: (1) For youths enrolled in manpower programs, the vast majority were in the Neighborhood Youth Corps. (2) Data for the Neighborhood Youth Corps were more reliable and easier to obtain than data for other manpower programs.

The ratio of a group's population to total population sixteen and older serves as the supply variable. If the youth population bulge has created employment problems for youths, the supply variable should have negative coefficients. A negative coefficient in the employment equation would indicate that youth employment has been unable to keep pace with the growing youth population—that an increase in the youth population share is associated with a reduced rate of youth employment.[13] If the coefficient in the employment equation does have a negative sign, so should the coefficient in the labor force equation; a reduction in relative employment opportunities can be expected to discourage labor force participation. Nonnegative coefficients would imply that increases in the youth share of the population should not have resulted in labor market difficulties.[14]

$$N/P = AU_t^{\alpha} MIN_t^{\alpha} NYC_t^{\alpha} POP_t^{\alpha} \times \exp(\alpha_1 SEAS1 + \alpha_2 SEAS2 + \alpha_3 SEAS3)\epsilon \quad (1)$$

$$L/P = BU_t^{\beta} MIN_t^{\beta} NYC_t^{\beta} POP_t^{\beta} \times \exp(\beta_1 SEAS1 + \beta_2 SEAS2 + \beta_3 SEAS3)\epsilon' \quad (2)$$

where

N/P = Employment ratio (fraction of the youth subgroup employed).
L/P = Labor force ratio (fraction of the youth subgroup in the labor force).
U = Cyclic variable.
MIN = Minimum wage variable.
NYC = Manpower variable.
POP = Supply variable.
$SEAS$ = Set of seasonal dummies (fourth quarter the excluded one).
ϵ, ϵ' = Error terms.

The equations are estimated over the period 1963I–1972IV for each of 16 youth subgroups.[15] Demographic characteristics are age (16–17, 18–19), race (white, nonwhite), sex, and school enrollment status.[16], [17] The estimating technique is ordinary least squares.[18]

I. THE FINDINGS

Initial estimation revealed that for females the Durbin-Watson statistics were unacceptably low. Since this suggested that an important explanatory variable had been omitted, an exponential time trend was added. Once it was, the Durbin-Watson statistics took on acceptable values. The trend was therefore retained. Although the Durbin-Watson values for males were good to begin with, a time trend was also tried in their equations. It was insignificant and contributed nothing to the explanatory power of the equation; consequently, it was dropped.[19]

Estimates of the male employment and labor force equations are presented in tables 1 and 3; estimates of the female equations, in tables 2 and 4. Three general observations are in order. (1) The R^2 and Durbin-Watson statistics are in most cases quite good. The F-statistic of the regression, used to test the hypothesis that all coefficients are zero, exceeds the critical value (at the 0.05 significance level) in every equation. Although some Durbin-Watson statistics are in the inconclusive range, only once is a value below the lower limit (for the 0.05 significance level). (2) Consistent with previous studies, more of the variance can be explained for white groups than for nonwhite. No doubt, this is partially a result of better data for whites. (3) Variables in the male equation display a slightly greater tendency towards significance than do variables in the female equation. Perhaps, because of factors like changing home productivity, the relations between the independent variables and population ratios are less stable or less important for females.

TABLE 1.—MALE EMPLOYMENT REGRESSIONS

Class	U	MIN	NYC	POP	C	SEAS 1	SEAS 2	SEAS 3	R^2	D.W.
MEA	−0.26	−0.12	0.12	0.25	−0.073	−0.096	0.12	0.23	0.909	1.92
	(7.52)	(2.26)	(2.64)	(1.40)	(.11)	(5.63)	(2.39)	(1.18)		
MNA	−.10	−.018	.10	.41	2.11	−.075	−.52	−.94	.848	2.21
	(2.96)	(.23)	(2.64)	(8.05)	(6.98)	(3.51)	(9.92)	(10.18)		
MEB	−.65	−.69	.069	−1.56	−10.76	−.17	−.42	−1.66	.762	.97
	(6.33)	(2.96)	(1.05)	(3.45)	(4.01)	(2.53)	(3.26)	(4.03)		
MEB [1]	−.61	−.75	.088	−1.76	−11.99	−.14	−.45	−1.83	.838	1.73
	(4.18)	(2.24)	(1.37)	(3.62)	(4.26)	(3.00)	(3.41)	(3.99)		
MNB	−.096	−.41	.021	.14	.34	−.14	−.25	−.42	.428	1.63
	(1.46)	(2.60)	(.64)	(.62)	(.20)	(2.78)	(1.38)	(1.27)		
MEC	−.27	−.051	.074	.015	−.86	−.011	.11	−.19	.814	1.56
	(4.43)	(.39)	(.35)	(.12)	(1.54)	(.33)	(2.65)	(1.34)		
MNC	−.076	−.10	.018	−.0019	−.18	−.040	−.037	−.062	.705	1.73
	(4.67)	(2.54)	(.51)	(.05)	(1.09)	(3.93)	(3.36)	(3.12)		
MED	−.59	−1.02	.021	−.49	−4.95	.033	−.013	−.68	.594	1.59
	(5.13)	(2.69)	(.14)	(1.95)	(2.93)	(.42)	(.15)	(3.12)		
MND	−.15	−.11	−.0054	−.25	−1.89	−.072	−.020	.029	.742	1.81
	(5.28)	(1.05)	(.35)	(2.85)	(3.48)	(4.03)	(1.10)	(.79)		

[1] Cochrane-Orcutt technique for 1st-order autocorrelation was used.

Notes: (1) Variables except the constant (C), seasonal dummies, and (for females) time trend are in natural logarithms. (2) M = male, F = female; E = enrolled in school, N = nonenrolled; A = white 16- to 17-yr olds, B = nonwhite 16- to 17-yr olds, C = white 18- to 19-yr olds, D = nonwhite 18- to 19-yr olds. (3) Absolute values of t-statistics are in parentheses. For a 1-tailed test, critical values are 1.70 (α=.05) and 2.45 (α=.01).

TABLE 2.—FEMALE EMPLOYMENT REGRESSIONS

Class	U	MIN	NYC	POP	TIME	C	SEAS1	SEAS2	SEAS3	R^2	D.W.
FEA	−0.25	−0.23	0.059	0.33	0.0088	−0.17	−0.13	−0.060	0.18	0.895	1.70
	(4.53)	(2.09)	(.69)	(1.46)	(5.41)	(.19)	(5.22)	(1.01)	(.75)		
FNA	−0.14	.26	.055	.93	.0042	4.53	−.054	−.91	−1.60	.885	1.75
	(.23)	(1.83)	(.57)	(6.07)	(1.50)	(4.76)	(1.44)	(6.26)	(5.84)		
FEB	−.46	−.59	.24	−1.38	.013	−10.82	−.18	−.48	−1.34	.708	1.92
	(3.18)	(2.12)	(2.89)	(2.65)	(1.48)	(3.40)	(2.42)	(3.64)	(2.66)		

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TABLE 2.—FEMALE EMPLOYMENT REGRESSIONS—Continued

Class	U	MIN	NYC	POP	TIME	C	SEAS1	SEAS2	SEAS3	R^2	D.W.
FNB	−.12	−.025	−.023	.33	.0075	1.11	−.094	−.38	−.48	.405	2.77
	(1.00)	(.10)	(.30)	(1.01)	(1.31)	(.46)	(1.18)	(1.80)	(1.11)		
FEC	−.091	.021	−.061	−.14	.011	−2.19	.001	.005	−.51	.834	1.89
	(.94)	(.78)	(.04)	(.69)	(4.39)	(2.26)	(.03)	(.10)	(2.42)		
FNC	−.080	−0.13	−.044	.27	.0024	.73	−.039	−.10	−.16	.895	1.35
	(4.54)	(.17)	(.73)	(2.40)	(3.72)	(1.36)	(3.36)	(7.57)	(4.04)		
FED	−.27	.53	.14	−.86	−.012	−6.92	−.015	−.14	−1.20	.716	1.27
	(1.70)	(1.25)	(.61)	(2.06)	(1.30)	(2.28)	(.14)	(1.41)	(3.40)		
FND	−.19	.040	.062	−.099	−.0012	−1.29	−.088	−.13	−.098	.623	.179
	(3.37)	(.29)	(1.41)	(.45)	(.55)	(.95)	(2.46)	(3.38)	(1.26)		

Turning to the employment equation, one is struck with how cyclically sensitive youth employment is. The regression coefficient for U is negative in all 16 equations and is significant (at the 0.05 level) in 12 of them. In addition, there is evidence that the employment of students and nonwhites is more responsive to cyclical conditions than is the employment of non-students and whites. In all 8 cases a_1 is greater in absolute value for students than for nonstudents of the same age, race, and sex; and in all but one instance the difference in regression coefficients is significant. With only one exception a_1 is more negative for nonwhites than for whites from the same age, sex, and enrollment class; this difference is significant 4 times.[20] There is no discernible difference in cyclical response for sex or age characteristics.

The coefficient of MIN, a_2, is less than zero in 12 of 16 runs, significantly so in 7. The impact of this variable is especially conspicuous for males. For them the coefficient is negative all 8 times and signficant 5. This is strong support for the hypothesis that federal minimum wage legislation reduces youth employment. To obtain some indication of the magnitude involved, the coefficients from tables 1 and 2 were used to estimate the employment loss in 1972 attributes to the 1966 minimum wage amendment. This amendment extended coverage and, in five steps (the first occurring in February 1967, the last in February 1971), raised the minimum wage to $1.60 per hour. According to our model, aggregate youth employment would have been 225,000 or 3.3% higher had the 1966 amendment not been implemented. Nonwhite employment would have been 13.8% higher; white employment 2.4% higher.[21]

For 16–17 year olds the manpower coefficient is positive seven of eight times and significant (at the 0.01 level) three times. Hence, manpower programs provide work for some young teenagers who would not otherwise be employed. For 18–19 year olds, on the other hand, their impact is nebulous; the coeficient is positive in five equations but never significant. Virtually all 16–17 year-old manpower participants were in the Neighborhood Youth Corps, but for 18–19 year olds other programs were also important. The inferior performance for the older group could result from the failure to consider these other programs. To test for this we tried replacing for 18–19 year olds "percentage of the group enrolled in the Neighborhood Youth Corps" with "percentage enrolled in the Neighborhood Youth Corps", JOBS, on the Job Training, or Public Employment Program." For no groups did this change lead to significance of the manpower variable. This suggests that the manpower programs may simply be more important for young teenagers, who have fewer alternative sources of employment.

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TABLE 3.—MALE LABOR FORCE REGRESSIONS

Class	U	MIN	NYC	POP	C	SEAS1	SEAS2	SEAS3	R^2	D.W
MEA	−0.087	0.055	0.17	0.17	−0.32	−0.089	0.11	0.15	0.762	2.18
	(1.85)	(.74)	(2.87)	(.69)	(.35)	(3.86)	(1.66)	(.59)		
MNA	.032	.084	.087	.16	.74	−.015	−.25	−.52	.909	1.91
	(1.44.	(1.64)	(3.62)	(5.09)	(3.90)	(1.14)	(7.40)	(8.99)		
MEB	−.36	−.62	.10	−.97	−7.21	−.18	−.31	−1.01	.662	1.20
	(4.20)	(3.15)	(1.87)	(2.54)	(3.19)	(3.22)	(2.84)	(2.92)		
MNB	−.0035	−.23	.34	.064	.062	−.072	.13	−.34	.517	1.72
	(.01)	(1.82)	(1.32)	(.35)	(.04)	(1.84)	(.88)	(1.28)		
MEC	−.15	.018	.13	−.041	−1.05	−.017	0.98	−.21	.793	1.71
	(2.95)	(.17)	(.73)	(.40)	(2.31)	(.60)	(2.99)	(1.81)		
MNC	.011	−.021	.0007	−019	−.19	−.013	−.017	−.054	.792	1.86
	(.98)	(.79)	(.03)	(.82)	(1.70)	(1.92)	(2.28)	(4.07)		
MED	−.32	−.38	.12	−.58	−5.11	−.006	−.046	−.70	.533	1.77
	(3.41)	(1.25)	(1.000)	(2.84)	(3.76)	(.09)	(.69)	(4.01)		
MND	−.37	−.11	−.0099	−.18	−1.31	−.025	.016	.026	.635	1.51
	(1.70)	(1.35)	(.80)	(2.60)	(3.08)	(1.77)	(1.09)	(.91)		

TABLE 4.—FEMALE LABOR FORCE REGRESSIONS

Class	U	MIN	NYC	POP	TIME	C	SESA 1	SESA 2	SESA 3	R^2	D.W.
FEA	−0.14	−0.16	0.046	0.22	0.0092	−0.54	−0.15	−0.030	0.074	0.864	2.40
	(2.36)	(1.37)	(0.51)	(0.91)	(5.35)	(0.57)	(5.72)	(0.48)	(0.29)		
FNA	0.041	0.26	4 0.11	0.80	0.0022	3.92	−0.067	−0.74	−0.45	0.898	1.77
	(0.83)	(2.29)	(1.39)	(6.47)	(0.98)	(5.14)	(2.23)	(6.43)	(6.56)		
FEB	−0.34	−0.34	0.16	−0.65	0.0085	−5.91	−0.19	−0.22	−0.63	0.602	2.17
	(2.42)	(1.25)	(1.93)	(1.25)	(1.02)	(1.87)	(2.62)	(1.72)	(1.26)		
FNB	−0.029	0.021	−0.0045	0.34	0.0039	1.61	−0.11	−0.25	−0.59	0.394	2.36
	(0.33)	(0.11)	(0.08)	(1.21)	(0.89)	(0.79)	(1.92)	(1.44)	(1.61)		
FEC	0.019	0.0027	−0.10	0.044	0.0099	−1.27	−0.029	0.075	−0.29	0.774	2.33
	(0.17)	(0.01)	(0.22)	(0.19)	(3.50)	(1.14)	(0.53)	(1.27)	(1.19)		
FNC	−0.020	0.10	−0.034	0.30	0.0019	1.00	−0.024	−0.075	−0.16	0.896	1.60
	(1.45)	(1.65)	(0.72)	(3.33)	(3.55)	(2.33)	(2.63)	(6.84)	(5.11)		
FED	0.0087	0.61	0.13	−0.58	−0.0031	−5.05	−0.080	−0.22	−0.82	0.456	1.67
	(0.06)	(1.49)	(0.65)	(1.45)	(0.36)	(1.75)	(0.88)	(2.48)	(2.40)		
FND	−0.023	−0.030	0.020	0.51	−0.0007	2.63	−0.055	−0.067	−0.20	0.520	1.51
	(0.51)	(0.27)	(0.58)	(2.20)	(0.39)	(1.84)	(1.95)	(2.26)	(2.64)		

For nonwhites the coefficient of the supply variable, a_4, is negative in six of eight cases and significant in five. The increasing population share of nonwhite teenagers has apparently contributed to their employment problems. In terms of coefficient size and t-statistics, the impact is especially deleterious to nonwhite students. For whites the story is different. For them a_4 is negative only twice and in neither case significant. It seems that demand for white teenagers has been growing as rapidly as their supply, i.e., white teenagers have not, as a result of their expanding population, experienced increased difficulty in obtaining employment.

Why have white youths been able to withstand an increased population share when nonwhite youths have not? First, their

population grew only two-thirds as fast over the sample period as the nonwhite youth population. Second, white youths were concentrated in occupations and industries with faster than average employment growth; nonwhite youths were concentrated in slow-growth occupations (see Stevenson, 1973). Finally, since many employers prefer white workers, an increasing supply of youths may induce substitution of youths for nonwhite. If so, increase in the minimum wage, which aggravates excess labor supply, should reduce employment of nonwhite youths proportionately more than employment of white youths. It does.

As predicted, labor force participation varies procyclically (see tables 3 and 4). The coefficient b_1 is negative in 11 of 16 equations and significant in 7, including 6 student equations. This difference in significance suggests that market tightness is more important for students; so does the finding that in 6 of 8 cases b_1, is more negative for students than nonstudents. In addition, though the difference is sometimes quite small, b_1 is without exception more negative for nonwhites than whites. Thus, the findings in the employment equations of cyclical sensitivity and, more specifically, differential student-nonstudent, white-nonwhite sensitivities are duplicated in the labor force equations.[22]

For whites the minimum wage coefficient in the labor force equation is negative twice and positive six times, once significant (based on a two-tailed test at the 0.05 significance level). For nonwhites the coefficient is negative six times, once significant, and positive twice. The low values of the t-statistics indicate that minimum wage legislation has not markedly affected labor force participation. The difference in signs is of some interest, however. The implication is that if there has been any impact, it has been one of encouragement for whites and discouragement for nonwhites.

From the coefficients of the employment and labor force equations, a_2 and b_2, unemployment rate elasticities were constructed for the minimum wage variable. These elasticities are presented in table 5. The elasticities in column I are computed using the estimated value of β_2, i.e., b_2. The elasticities in column II are likewise based on b_2 provided that the coefficient's t-statistic, in absolute value, exceeds unity; otherwise, β_2 is assumed to be zero. For both series the elasticity is positive twelve times, zero twice, and negative twice. This demonstrates that minimum wage legislation, in addition to reducing youth employment, raises youth unemployment rates.

TABLE 5.—UNEMPLOYMENT RATE ELASTICITIES FOR MINIMUM WAGE VARIABLE

Class	Males I	Males II	Females I	Females II
EA	0.99	0.69	0.40	0.40
NA	.54	.54	0	0
EB	.31	.31	.42	.42
NB	.47	.47	.08	.05
EC	.43	.32	−.11	−.13
NC	.68	.85	.86	.86
ED	1.67	1.67	.16	.16
ND	0	0	−.16	−.10

Note: (1) Estimates in col. I are based on the minimum wage coefficients of tables 3–4. In col. II these coefficients are replaced with the value zero if their t-statistics do not exceed unity in absolute value. (2) See note 2, table 1, for class definitions.

Presented in table 6 are estimates of the degree to which the 1966 minimum wage amendment altered youth unemployment rates. Overall, it is projected that the teenage unemployment rate in 1972 was 3.8 percentage points higher than it would have been without this amendment. Mean values of the increase were the same for students and nonstudents but differed for other demographic characteristics. Males were affected much more than females and 16–17 year olds slightly more than 18–19 year olds. Finally, unemployment rates were raised a greater amount for whites than nonwhites—something which results from minimum wage coefficients in the labor force equation being positive for whites but negative for nonwhites.

NYC's performance in the participation equation mirrors its performance in the employment equation. For 16–17 year olds b_2 is greater than zero seven of eight times and significant (at the 0.05 level) four times. The coefficient for 18–19 year olds, although positive five times, never attains significance. Thus, 16–17 year olds are drawn into the labor force by manpower programs, but apparently 18–19 year olds are not.

For whites the coefficient of the population variable is negative twice but insignificant both times. For nonwhites it is negative five times and significant three. Consistent with the findings of the employment equation, it seems that only for nonwhites has market activity been adversely affected by a relative increase in population.

TABLE 6.—ACTUAL YOUTH UNEMPLOYMENT RATES, 1972 AND THE RATES PREDICTED IN THE ABSENCE OF THE 1966 MINIMUM WAGE AMENDMENT

Class	Actual	Predicted[1]	Difference
MEA	20.6	15.1	5.5
MNA	12.7	7.7	5.0
MEB	46.5	42.1	4.4
MNB	29.0	21.3	7.7
MEC	15.1	13.0	2.1
MNC	11.8	7.4	4.4
MED	33.5	11.7	21.8
MND	25.0	25.0	0
FEA	16.8	13.1	3.7
FNA	17.2	17.2	0
FEB	44.5	33.6	10.9
FNB	33.6	32.4	1.2
FEC	14.0	14.9	−.9
FNC	11.9	6.9	5.0
FED	48.9	46.3	2.6
FND	36.9	38.5	−1.6
White	14.2	10.3	3.9
Nonwhite	33.5	30.5	3.0
Enrolled	19.5	15.7	3.8
Nonenrolled	14.8	11.0	3.8
Male	15.8	11.3	4.5
Female	16.7	13.8	2.9
16 to 17	18.4	14.4	4.0
18 to 19	14.6	11.0	3.6
Total	16.2	12.4	3.8

[1] Unemployment rates predicted in the absence of the 1966 amendment—based on estimated minimum wage coefficients from tables 1–4. As in table 5, col. II, the estimated coefficient in the participation equation is replaced with zero if its $|t|<1$. For greater elaboration, see Ragan (1975, p. 113).

III. CONCLUSIONS

The minimum wage has little effect on labor force participation, however. There is the hint that a higher minimum attracts additional white youths into the labor market while discouraging nonwhite youths, but these forces are quite weak. The employment loss is at best partially offset by a decline in labor force participation—which means youth unemployment rates rise. The policy implications are obvious: with less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement can be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented, our model indicates that aggregate youth employment would have been 225,000 persons higher in 1973 than it actually was and the youth unemployment rate 3.8 percentage points lower.

The finding that minimum wage legislation adversely affects youths is not novel.[23] This study does, however, strengthen that finding. In particular, the adverse effect remains even after the impact of manpower programs and changing youth supply are accounted for.

Other empirical findings include the following. Employment and labor force participation are more cyclically sensitive for students (nonwhites) than for nonstudents (whites). Manpower programs increase employment and labor force participation of 16–17 year olds but apparently have little effect on 18–19 year olds. For nonwhites a higher population share is associated with lower rates of employment and labor force participation; for whites it is not.

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FOOTNOTES

[1] The terms "youth" and "teenager" are used interchangeably to describe the 16–19 year-old population.

[2] Folk (1968), Kalachek (1969), Gavett (1970), and Fisher (1973) all demonstrate that, apart from cyclical movements, youth unemployment rates contain upward time trends.

[3] For a review of previous empirical studies, see Ragan (1975).

[4] Other low-productivity workers will also be affected; but, for data reasons, the minimum wage's impact is examined only for youths.

[5] Currently, one out of five nonsupervisory employees works for uncovered firms, i.e., firms exempt from the federal minimum wage. Prior to the 1966 minimum wage amendment, the figure was two out of five.

[6] Labor force response to a decline in employment should be less than proportional. According to Tella (1965), an employment reduction of ten youths leads to a labor force reduction of four. In fact, because of higher wages in the covered sector, labor force participation may even rise.

[7] Operationally, this variable is defined as

$$MIN \equiv \sum_i (I_i(p_i MP + n_i MN))/AHE$$

where

MP = Minium wage for previously covered workers.
MN = Minimum wage for newly covered workers (workers covered by the most recent minimum wage amendment).
AHE = Average hourly earnings of nonsupervisory employees in the private nonfarm economy.
I_i = Fraction of youth employment coming from industry i.
p_i = Fraction of nonsupervisory workers in industry i covered by previous minimum wage legislation.
n_i = Fraction of nonsupervisory workers in industry i covered by the most recent minimum wage amendment.
i = Major industry division (wholesale trade and retail trade considered separate divisions)

This variable is lagged one quarter. Alternative lags yielded similar results, but short simple lags performed best. The minimum wage and coverage data came from *Minimum Wage and Maximum Hours Standards* and earnings data from *Employment and Earnings*.

[8] Seasonally unadjusted data have an advantage, as explained by Kaitz (1970, p. 35): "Since our methods of seasonal adjustment allow for changing patterns of seasonality, we may perhaps be removing, via adjustment, some aspects of labor force behavior that should have been retained. This suggests that some other labor force models be examined separately for the in-school and out-of-school youth, and possibly not-seasonally adjusted data." Previously, the only author to use seasonally unadjusted data was Welch (1974).

[9] The source of this data is *Employment and Earnings*.

[10] One contribution of this study comes from breaking down the youth population according to enrollment status. If the responses of students and nonstudents differ, correct estimation calls for separate student-nonstudent equations. Until now, the only time-series studies to do this were those of Folk (1968) and Easley and Fearn (1969). Unfortunately, because the authors used dummy minimum wage variables and data solely from the month of October, little confidence can be placed in their findings.

[11] The importance of manpower programs has been emphasized by the Labor Department (1972, p. 95): "Over a million youth 16 to 21 years of age were first-time enrollees in Federal manpower programs during fiscal 1971. . . . These programs almost certainly had a significant effect in preventing even higher rates of unemployment than have prevailed . . . (I)f the manpower programs represented an alternative to unsuccessful jobseeking for only two-thirds of the enrollees, the jobless rate for Negro youth would have been 43 percent in July 1971 without the programs instead of the actual 28 percent." Manpower variables have, nevertheless, appeared in only two studies—those of Kaitz (1970) and Welch (1974), and Kaitz used dummy variables.

[12] Quarterly data are available for both the in-school and out-of-school Neighborhood Youth Corps programs. Data for 1965–67 come from Cohen (1969), and later data, unpublished, from the U.S. Department of Labor, Manpower Administration. Although these data are available separately by age, race, and sex breakdowns—see the *Manpower Report of the President*—there are no cross tabs to indicate the fraction of enrollees from a particular age-race-sex subgroup. This is estimated as the product of three numbers: the fraction of enrollees that age, the fraction that race, and the fraction that sex. This approach is valid as long as the distributions of age, race, and sex characteristics are independent of one another.

[13] Although an increase in the relative supply of youths may make it more difficult for youths to find jobs, especially if youths and adults have low substitutability, many studies neglect the supply variable. In studies containing the unemployment rate as the dependent variable, the most common type, there is a controversy over whether or not a supply term is appropriate. If wages are sufficiently flexible—and in uncovered firms they may be—an increase in relative youth population need not increase unemployment rates. A decline in labor force participation should be the only effect. An advantage of using population ratios as the dependent variables is that, even if youth unemployment rates remain unchanged, the population ratio should pick up any reduction in youths' rates of unemployment or labor force participation. Thus population ratios provide a more detailed picture of how youths' labor market activity is affected.

[14] A linear version was also tried. Its t-statistics and R^2 were somewhat lower, but its general performance was quite similar.

[15] A longer sample period would be desirable, but detailed data for these subgroups do not exist prior to 1963. The data—civilian noninstitutional employment, labor force, and population—were based on the monthly *Current Population Survey* and obtained from the Bureau of Labor Statistics. Although these data were available through 1973IV, the decision was made to fit the equation over the period ending 1972IV and then, using the estimated coefficients, to predict in the final four quarters. Prediction results, presented in Ragan (1975), indicate a reasonably good fit, especially for white youths.

[16] The term "in school" is used to describe those individuals whose "major activity" is going to school. In the monthly *Current Population Survey*, individuals are classified according to major activity. A person who goes to school but works full time has work as his major activity and, consequently, is not counted among the in-school group. Data on whether or not an individual attends school, regardless of wheher this is his major activity, are available only for the month of October. To obtain quarterly observations, it is therefore necessary to use "major activity: school" as the enrollment variable. The two concepts are quite similar however. In October 1963 (the only month for which we have both types of data) 97% of the 16-19 year-old males in school and 100% of the 16-19 year-old females had school as their major activity.

[17] Although age, race, and sex characteristics are independent of market conditions, enrollment status may not be. In particular, there is the possibility that enrollment and labor force decisions are made jointly. In that case, enrollment should be a function of the key determinants of labor force participation. To test for this enrollment rate equations were estimated as a function of U, MIN, a time trend, and seasonal dummies. Other variables were also considered, including one attempting to capture the effects of the draft. There was no tendency for U, MIN, or other key variables to be significant or take on the expected sign. It is possible that enrollment varies with market conditions, but of a more narrowly defined market—e.g., that for recent college graduates. Alternatively, enrollment relationships may have been masked by a variable response pattern: the decision to enter or leave school may not be carried out until the next semester or next academic year. But, whatever the case, no systematic relationship was found between market variables and the enrollment rate—which justifies treating the enrollment decision as given.

[18] Zellner's seemingly-unrelated technique was also considered. The intergroup correlation of error terms was quite low, however, indicating that this technique would actually reduce the efficiency of estimation.

[19] There remains the question of what the time trend is capturing. The increase in female employment and labor force ratios may be partially due to changes in social, cultural, and legal conditions. It is likely, however, that economic factors are also important. Marginal productivity of home work relative to market work has been declining over time (see Kalachek, 1973). For teenage females this is undoubtedly important; but for teenage males, who devote a smaller portion of their time to home work, it is probably not. This suggests that the relative decline in home productivity has led teenage females to substitute market work for home work, thereby contributing to the observed increase in their market activity.

[20] Tests of significance are reported in Ragan (1975).

[21] The estimated employment loss by demographic group is reported in Ragan (1975) or can be obtained from the author.

[22] Despite the tendency for b_i to be negative, labor force ratios are less cyclically sensitive than employment ratios. For each youth subgroup $a_i < b_i$, implying that the unemployment rates of teenagers and adults move together.

[23] Mincer (1976) and Welch (1974) found that federal minimum wage legislation reduces youth employment while Burns (1966), Adie (1971, 1973), and Moore (1971) concluded that it increases youth unemployment rates. These findings and ours are broadly consistent, although there remains some discrepancy as to the quantitative impact. In particular, this study found the unemployment sensitivity of nonwhites to be less than reported by Adie and Moore.

EXHIBIT 2

YOUTH AND MINORITY UNEMPLOYMENT

(A Study Prepared for the Use of the Joint Economic Committee, Congress of the United States)

(By Walter E. Williams)

MINIMUM WAGE LAWS

Federal and State minimum wage laws are an act of governmental intervention in the labor market that are intended to produce a pattern of events other than that produced in a free market. In practice minimum wage laws specify a legal minimum hourly wage to be paid. Certain industries and worker classes are exempted from the law. Among the major exceptions are highly seasonal amusement area workers, restaurant employees who receive part of their wages in gratuities, employees in small firms (less than $500,000 in annual sales), some agricultural employees and college students doing summer work.

The debate over the desirability of the minimum wage law has continued for well over 50 years, producing little agreement between advocates and opponents. However, most economists agree on a number of issues concerning wage rates in general which can be helpful in evaluating the effects (not desirability) of governmental intervention in the labor market.

The minimum wage law raises the wage to a level higher than that which would have occurred with uncontrolled economic forces. Legislative bodies have the power to legislate a wage increase; this much is clear. But when they legislated a wage increase, have they also legislated a worker productivity increase? That is entirely unlikely. To the extent that the minimum wage law raises the pay level to that which may exceed some worker's productivity, employers will make adjustments in their use of labor. Such an adjustment by employers will produce gains for some groups of workers at the expense of other groups Those workers who retain their jobs and receive a higher wage clearly gain. The most adverse employment effects fall upon those workers who are most disadvantaged in terms of marketable skills, who lose their jobs and their income. This effect is more clearly seen if we put ourselves in the place of an employer and ask the question: If a wage of $2.30 per hour must be paid no matter who is hired, who does it pay the firm to hire? Clearly the answer, in terms of economic efficiency, is to hire the worker whose productivity is the closest to $2.30 per hour. If such workers are available, it clearly does not pay the firm to hire those whose output is, say, $1.50 per hour. Even if the employer were willing to train such a worker, the fact that the worker has to be legally paid more than his output is worth plus training costs incurred makes on-the-job training an unattractive proposition.

The impact of legislated minimum wages can be brought into sharper focus if we ask the distributional question: Who bears the burden of legislated minima? As we said earlier, workers who are the most disadvantaged by minimum wage legislation are those that are most marginal. These are workers whose employers perceive them as being less productive or more costly to hire, in some sense, than other workers. In the U.S. labor force, there are at least two segments that share the marginal worker characteristic to a greater extent than do other segments of the labor force. The first group consist of youths. They are low-skilled mostly because of their age, immaturity and lack of work experience. The second group, which contains members of the first group, are some ethnic groups such as Negroes, who as a result of racial discrimination and a number of other socio-economic factors are disproportionately found among marginal workers. Other segments of the labor force represented among marginal workers in disproportionate numbers are women, the uneducated, and the physically handicapped. Unemployment statistics showing a comparison of teenage and general employment rates for the period 1948 to 1975 are presented in table 3.

TABLE 3.—COMPARISON OF TEENAGE AND GENERAL UNEMPLOYMENT RATES

Year	Unemployment rates both sexes		Ratio teenage general
	General	16–19	
	(1)	(2)	(3)
1948	3.8	9.2	2.42
1949	5.9	13.4	2.27
1950	5.3	12.2	[1] 2.30
1951	3.3	8.2	2.48
1952	3.0	8.5	2.83
1953	2.9	7.6	2.62
1954	5.5	12.6	2.29
1955	4.4	11.0	2.05
1956	4.1	11.1	[1] 2.70
1957	4.3	11.6	2.70
1958	6.8	15.9	2.34
1959	5.5	14.6	2.65
1960	5.5	14.7	2.67
1961	6.7	16.8	[1] 2.50
1962	5.5	14.7	2.67
1963	5.7	17.2	[1] 3.02
1964	5.2	16.2	3.12
1965	4.5	14.8	3.28
1966	3.8	12.8	3.37
1967	3.8	12.9	[1] 3.39
1968	3.6	12.7	[1] 3.53
1969	3.5	12.2	3.49
1970	4.9	15.2	3.10
1971	5.9	16.9	2.86
1972	5.6	16.2	2.89
1973	4.9	14.5	[1] 2.96
1974	5.6	16.0	2.86
1975	8.1	21.9	2.68
1976	7.8	19.0	2.66

[1] Years when there were changes in either the amount or coverage of the Federal minimum wage law.

Source: U.S. Department of Labor, Bureau of Labor Statistics "Handbook of Labor Statistics 1975—Reference Edition," p. 145.

Columns 1 and 2 show the unemployment rates for the general labor force and the teenage labor force. Column 3 expresses teenage unemployment as a ratio of the general labor force's unemployment rate.

Table 3 shows that with increases in the Federal minimum wage the teenage unemployment rate relative to adult unemployment usually rises, i.e., the ratio increased (with the exception of 1956, 1968, and 1973). In each year, except 1956, 1968, and 1973, adult unemployment declined relative to that of teenagers following an increase in the Federal minimum. Arthur F. Burns, in a study of the impact of legislated Federal minimum wages, said:

"During the postwar period the ratio of unemployment rate of teenagers to that of male adults was invariably higher during the 6 months following an increase of the minimum wage than it was in the preceding half year. The ratio of the unemployment rate of female adults to that of male adults has behaved similarly. Of course, the unemployment of teenagers and women depends on a variety of factors—certainly on business conditions as well as on minimum wage. I have tried to allow for this in a more refined analysis. It appears whether we consider the unemployment rates of teenagers or that of women, that its primary determinants are, first, the general state of the economy as indicated by the unemployment rate of adult males, second, the ratio of the minimum wage to the average in manufacturing. The influence to the wage ratio turns out to be particularly strong in the case of nonwhite teenagers."

While most studies agree on the affect of the minimum wage law on youth unemployment, there is some disagreement on the magnitude of the effect. The U.S. Department of Labor conducted an investigation of the impact of the minimum wage law on youth unemployment. It reached the conclusion that—

"Increases in the level and coverage of the Federal minimum wage may have contributed to the employment problems of teenagers, but it is difficult to disentangle such effects from numerous other influences. * * * The long run rise in the unemployment rate of teenagers relative to that of adults—especially marked since 1962—appears to have been associated with many factors. Compounding problems have been the increase in the relative size of the teenage population, the increase in the proportion of youth enrolled in school, and the shift of employment out of agriculture."

One response to an increase in the minimum wage law is not to hire fewer teenagers but to hire teenagers with higher productivity. The Bureau of Labor Statistics found some evidence that this was occurring. They found that whenever an employer raised age or education requirements for any group, the most common reason given was increased costs of training and hiring and the second most common reason was the minimum wage.

Perhaps in recognition of the adverse effects of the minimum wage legislation on youth employment, most States have established a differential wage minima for youth based on age, education, or work experience. Most have a youth minima ranging from 75 to 85 percent of the adult minima. The Bureau of Labor Statistics findings are mixed on the impact of youth wage differentials on youth unemployment. Some of the States surveyed report that the youth differential is irrelevant to hiring decisions while others thought that youth unemployment would be higher without the differential.

Other factors play a role in reducing job opportunities for youth. Factors such as child labor laws which restrict hours of work, the tedious process of employers and employees to get work certificates, and the attitudes and conduct of some youth.

STATISTICAL STUDIES OF THE MINIMUM WAGE

A number of other important studies have tried to evaluate the effect of legislated wage minima on unemployment. The conclusions of some representative samples of these studies will be summarized in this section.

David E. Kaun using census data found that statutory wage minimums caused plant closures and the replacement of labor by other productive inputs. Also the most adverse effects of statutory minimums were concentrated among minorities, teenagers and fameless.

Yale Brozen in two studies discusses the impact of the minimum wage law. First he shows that the ratio of teenage unemployment to that of the general rate of unemployment rose and the ratio of nonwhite to white teenage unemployment rose following increases in the federal statutory minimum wage. In another study he concluded that workers adversely affected by the statutory minimum crowd into uncovered areas, such as domestic household work, increasing employment and depressing wages in the uncovered areas. See appendix tables at the end of the study for data supporting Brozen's conclusions.

Kosters and Welch conclude that the minimum wage has had the effect of reducing job opportunities for teenagers during periods of normal employment growth and making their jobs less secure in short-term changes in the business cycle. They go on to conclude that a disproportionate share of cyclical vulnerability is borne by nonwhite teenagers and the primary beneficiaries of shifts in employment patterns are white adult males.

That increases in statutory legal minimum wages reduce employment opportunities for youth is not without dissenters.

Hugh Folk, using Department of Labor data statistically analyzes the impact of minimum wages on youth unemployment and youth labor market participation rates. The study concludes that in no instance was the minimum wage variable statistically significant in explaining either teenage unemployment or labor market participation rates. Folk's study, however, finds a significant relationship between the overall trend of teenage unemployment and the minimum wage law.

Michael C. Lovell, in an analysis of the minimum wage law and teenage unemployment stresses the importance of the size of

the teenage labor force, which grew as a share of the total labor force by over 50 percent between 1954 and 1968, as a cause of high teenage unemployment. Lovell feels that since teenagers are not perfect substitutes for adult workers, the increase in the teenage population would have pushed unemployment rates up in the absence of any change in the minimum wage.

Bowen and Finegan, in a statistical study of the 100 largest metropolitan areas, report:

To state the most important conclusion first: Metropolitan areas with high wage levels for teenage males tended to have relatively low activity rates for all three groups, although the coefficient for males 20–24 is small and just shy of significance at the 10 percent level. These are important findings because they provide strong support for the hypothesis that a generally high level of wages deters participation via a reduction in employment opportunities.

In addition to the finding that low labor market participation rates are associated with high teenage wage levels, this study also finds that the intercity differences in teenage unemployment is associated with artificially high wage levels. The study points out that wage level differentials *are not* caused by strictly market forces such as systematic productivity differences or high demand for teenagers. The differences are more likely to be associated with institutional forces such as legislated wages, community and union pressures.

The weight of academic research is that unemployment for some population groups is directly related to statutory wage minima. As mentioned earlier, the debate on the effects and the extent of those effects continues without full consenus. However, a consenus reached implicitly in all minimum wage studies, those of opponents and supporters, is that increases in statutory minimums do not increase job opportunities for the marginal or disadvantaged segments of the labor force.

REDUCTION OF RESTRICTIVE PRACTICES IN THE LABOR MARKET

The major thrust of this study is that market restrictions exacerbate employment problems of youth and minority workers. As I have said earlier, the fact that the 2:1 black/white unemployment ratio, and the 3:1 teenage/adult unemployment ratio are not very responsive to high aggregate demand shows that improved performance of the national economy is not a sufficient prescription. The reduction and elimination of these ratios will require changes in the structure of the labor market. This means that revision in the institutional structure of the labor market must be the primary emphasis of Federal policy to reduce unemployment among the youths and minorities in this country.

The focus of these changes should be to promote voluntary and free exchange between workers and employers in a manner consistent with our democratic values. Such a change should include a reduction in the influence held by powerful interest groups over labor legislation and labor policy in the United States. More specifically, I recommend the following changes in labor law:

1. Abolition of Federal and State minimum wage laws. Failing this, there should be amendments in both Federal and all State laws to provide for a substantial wage differential for persons under the age of 21.

2. Revision of child labor laws and a reduction in the school leaving age. This will allow many youth, to whom school is nothing more than a day care center, to begin their careers, gain maturity and perhaps at a later time continue their education.

3. Radical modification of the National Labor Relations Act and its subsequent amendments to allow for the possibility (in practice) of independent work contract negotiation between the individual worker and employer. This recommendation in no way should be interpreted as being against voluntary associations (such as labor unions). In fact this recommendation serves to reinforce the right of voluntary association.

4. Reevaluation of current licensing and certification requirements are necessary not only to promote opportunities for on-the-job training but to improve market opportunities for individuals who already possess requisite skills. There are many areas of employment and/or business that are licensed solely for the purposes of entry restriction in order to protect the incumbent practitioners from increased competition. These should be abolished.

These policy recommendations are no doubt radical and will touch on the sensitivities and nerves of many vested interest groups. They do so because, if implemented, sharing in the Nation's resources would depend less on political power and affiliation and more on individual initiative and ambition. However, these are changes that are necessary to make the dream of equality of opportunity a reality for all Americans.

APPENDIX TABLES

TABLE 1.—COMPARISON OF TEENAGE AND GENERAL UNEMPLOYMENT RATES (AVERAGES OF MONTHLY SEASONALLY ADJUSTED DATA)

	Unemployment rates (percent)		Ratio teenage/general	Minimum wage
	Ages 16–19	General		
February 1949–January 1950	13.9	6.2	2.2	$0.40
February 1950–January 1951	11.6	5.0	2.3	.75
March 1955–February 1956	11.0	4.2	2.6	.75
March 1956–February 1975	11.0	4.1	2.7	1.00
September 1960–August 1961	16.4	6.6	2.5	1.00
September 1961–August 1962	15.4	5.8	2.7	[1] 1.15 (1.00)
September 1962–August 1963	16.[illegible]	5.6	2.9	1.15 (1.00)
September 1963–August 1964	16.6	5.4	3.1	1.25 (1.00)
September 1964–August 1965	15.6	4.8	3.3	(1.15)
September 1965–August 1966	13.2	3.8	3.5	(1.25)
February 1966–January 1976	12.6	3.8	3.3	1.25
February 1967–January 1968 [2]	12.9	3.8	3.4	1.40 (1.00)
February 1968–December 1968	12.7	3.6	3.6	1.60 (1.15)

[1] Minimum wage figure in parenthesis is for jobs not currently covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: Yale Brozen, "The Effect of Statutory Minimum Wage Increases on Teenage Unemployment," Journal of Law and Economics (April 1969), p. 116.

TABLE 2.—COMPARISON OF TEENAGE UNEMPLOYMENT RATES, NONWHITE AND WHITE (BOTH SEXES, 16–19)

	Teenage unemployment (percent)		Ratio, nonwhite/white
	Nonwhite	White	
February 1949 to January 1950	17.4	13.4	1.3
February 1950 to January 1951	14.8	11.2	1.3
March 1955 to February 1956	15.8	10.2	1.5
March 1956 to February 1957	18.1	10.0	1.8
September 1960 to August 1961	27.4	15.0	1.8
September 1961 to August 1962	25.3	13.9	1.8
September 1962 to August 1963	29.2	14.9	2.0
September 1963 to August 1964	28.4	15.0	1.9
September 1964 to August 1965	26.1	14.2	1.8
September 1965 to August 1966	26.5	11.9	2.3
February 1966 to January 1967	25.1	11.1	2.3
February 1967 to January 1968 [1]	26.3	11.0	2.4
February 1968 to December 1968	25.4	11.0	2.3

[1] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: Yale Brozen, "The Effect of Statutory Minimum Wage Increases on Teenage Unemployment, "The Journal of Law and Economics (April 1969), p. 118.

Mr. BARTLETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes remaining.

Mr. BARTLETT. I thank the Chair.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. JAVITS. Mr. President, as one of the managers of the bill, I am constrained to oppose the amendment. The amendment to $2.50 an hour simply increases the minimum wage 20 cents an hour from the present wage and does not begin to keep track of even the accumulated past increases in the cost of living. It will simply perpetuate the present injustices of the low minimum wage.

Even if we figure a minimal 6 percent inflation, and the President hopes by 1981 to bring it down to 4 percent, but, in the meantime, the estimate is around 6 percent, the minimum wage worker is going to fall behind further than he is today under this amendment.

Our report to the Senate on this bill makes that very clear. He is already today falling, if he earns the minimum and works full time, $1,285 per year short of the 1975 poverty level.

Mr. President, this is simply intolerable for us to think that represents any measure of justice for those who are in this particular bracket.

Mr. NELSON. Will the Senator yield for a unanimous consent?

Mr. JAVITS. Certainly.

Mr. NELSON. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. Sawall of my staff be granted privilege of the floor during the course of consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. JAVITS. Mr. President, one other thing that is important, as I see it. Senator BARTLETT has put into the RECORD a table prepared by the Chamber of Commerce of the United States on the impact of the minimum wage analyzed by States.

I just cannot understand, Mr. President, how these conclusions can possibly be valid.

In the first place, we are told that the impact of the minimum wage with the indexing, that is, with the automatic escalator clause, is going to mean a lesser loss of jobs according to the Chamber of Commerce than the fixed minimum, which is specified in our particular amendment, and that only two-thirds of the number of jobs will be lost, according to their estimate, compared to the number of jobs which would be lost at these fixed rates.

These fixed rates are strictly based upon the anticipated inflation, which there does not seem to be any great argument about, and I just cannot understand how their figures can be supported.

We have a Labor Department analysis which shows the annual wage bill increase to be increased by four-tenths of 1 percent if our amendment carries, and that goes for the years 1978, 1979, and 1980.

Yet, we find in Chamber's table an alleged increase of 4.1 percent in labor costs.

Again, on the face of it, it seems to be unreasonable and I do not know how it can be explained, 4.1 percent being 10 times as much as four-tenths of 1 percent.

So, Mr. President, they are basing the amendment upon these calculations which simply do not, in my judgment, lend themselves to reason. We simply cannot just blindly accept such figures just because they are written on a chart by an economist of the Chamber of Commerce of the United States which is dead set against any increase in the minimum wage.

It seems to me Mr. President that on that record alone let alone the humanitarian record, the effect upon the total wage bill of American business, and the number of employees affected the amendment should definitely be rejected.

This is very important Mr. President at the lowest end of the scale. I can hardly see how Members, in conscience, could completely frustrate justice for the poorest element of our population that works, that has the will and the desire to earn its way.

We are always talking about that. I could not think of anything which would be more discouraging or depressing than if the Senate voted this kind of an amendment.

I hope very much the Senate rejects it.

Mr. BARTLETT. Will the Senator from New York yield on my time?

Mr. JAVITS. Of course. I yielded the floor.

Mr. BARTLETT. Let me comment, Mr. President, on the question raised by the distinguished Senator from New York. He wondered why there was as much difference between the job loss in the impact of the wage increases of the amendment No. 1018 and the impact of indexing at 45 percent.

The impact of the wage increases advanced by amendment No. 1018 would be the same as indexing at 53 percent. The other indexing is at 45 percent of the average manufacturing wages, and that does make that much difference in the consumer price increase, labor cost increase, and the job losses.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I yield myself time.

It impresses me that the compelling arguments against the amendment; the arguments for the rejection of the amendment offered by the Senator from Oklahoma, have been advanced by my colleague from New York.

There are a couple of concerns, though, that I think are properly raised in response to this schedule that is offered by the Senator from Oklahoma.

I said several times earlier that the schedule we propose of hourly increases over the next 4 years would at every level still not bring a full-time minimum wage worker up to an income that is described by our Government as the poverty-level income. At every stage in the 4 years the minimum wage earnings would be below that.

Under the amendment that is before us, this perfecting amendment, a full-time workers' income would be substantially further below the poverty level.

It just strikes me as the greatest lack of wisdom to be legislating a minimum wage that falls further and further behind a wage that people need for just the barest, the barest necessities of life. This $2.50, $2.70, $2.90 would just perpetuate for the lowest paid workers, a life of true deprivation.

I ask unanimous consent, Mr. President, to include here a schedule for the years from 1959 through the last year covered by the amendment 1018, that compares poverty level over the years, together with the income return at the minimum wage.

I note that the last year that is included in 1018, the poverty level income for a four-person family, nonfarm, is $7,429.

The closest we get to the poverty level under amendment 1018 will be in 1981, and that will still be $300 below poverty at $7,072.

I ask unanimous consent to include this table from the Employment Standards Administration, Division of Evaluation and Research, Department of Labor, in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 5.—RATIO OF MINIMUM WAGE WORKER INCOME AND RATES PROVIDED IN S. 1871 TO THE POVERTY LEVEL INCOME OF A 4-PERSON FAMILY, 1959–77 AND PROJECTED ESTIMATES FOR JAN. 1, 1978–JAN. 1, 1983

Year	Consumer price index (all items 1963=100)	Poverty level income 4-person family		Minimum wage earnings [1]									Ratio of minimum wage to poverty level income		
				Old coverage			New nonfarm coverage			Farmworkers					
		Nonfarm	Farm	Hourly rate	Effective date	Annual earnings	Hourly rate	Effective date	Annual earnings	Hourly rate	Effective date	Annual earnings	Old coverage	New nonfarm coverage	Farmworkers
1959	95.2	$2,973	$2,539	$1.00	March 1956	$2,080							70		
1960	96.7	3,022	2,576	1.00	do	2,080							69		
1961	97.7	3,054	2,602	1.15	Sept. 1961	2,392	$1.00	September 1961	$2,080				78	68	
1962	98.8	3,089	2,632	1.15	do	2,392	1.00	do	2,080				77	67	
1963	100.0	3,128	2,664	1.25	September 1963	2,600	1.00	do	2,080				83	66	
1964	101.3	3,169	2,701	1.25	do	2,600	1.15	September 1964	2,392				82	75	
1965	103.1	3,223	2,750	1.25	do	2,600	1.25	September 1965	2,600				81	81	
1966	106.0	3,317	2,831	1.25	do	2,600	1.25	do	2,600				78	73	
1967	109.1	3,410	2,906	1.40	February 1967	2,912	1.00	February 1967	2,080	$1.00	February 1967	$2,080	85	61	72
1968	113.6	3,553	3,034	1.60	February 1968	3,328	1.15	February 1968	2,392	1.15	February 1968	2,392	94	67	79
1969	119.7	3,743	3,195	1.60	do	3,328	1.30	February 1969	2,704	1.30	February 1969	2,704	89	72	85
1970	126.8	3,968	3,385	1.60	do	3,328	1.45	February 1970	3,016	1.30	do	2,704	84	76	80
1971	132.3	4,137	3,527	1.60	do	3,328	1.60	February 1971	3,328	1.30	do	2,704	80	80	77
1972	136.6	4,275	3,643	1.60	do	3,328	1.60	do	3,328	1.30	do	2,704	78	78	74
1973	145.1	4,540	3,871	1.60	do	3,328	1.60	do	3,328	1.30	do	2,704	73	73	70
1974	161.1	5,038	4,302	2.00	May 1974	4,160	1.90	May 1974	3,952	1.60	May 1974	3,328	80	78	77
1975	175.8	5,500	4,695	2.10	January 1975	4,368	2.00	January 1975	4,160	1.80	January 1975	3,744	79	76	80
1976	185.9	5,820	4,970	2.30	January 1976	4,784	2.20	January 1976	4,576	2.00	January 1976	4,160	82	79	84
1977	[3] 195.2	6,111	5,219	2.30	do	4,784	2.30	January 1977	4,784	[4] 2.20	January 1977	4,576	78	78	88
Estimated rates under S. 1871:															
1978	[3] 205.0	6,417	5,480	2.65	January 1978	5,512	2.65	January 1978	5,512	2.65	January 1978	5,512	86	86	101
1979	[3] 215.3	6,738	5,754	2.90	January 1979	6,032	2.90	January 1979	6,032	2.90	January 1979	6,032	90	90	105
1980	[3] 226.1	7,075	6,042	3.15	January 1980	6,552	3.15	Janauty 1980	6,552	3.15	January 1980	6,552	93	93	108
1981	[3] 237.4	7,429	6,344	3.40	January 1981	7,072	3.40	January 1981	7,072	3.40	January 1981	7,072	95	95	111
1982	[3] 249.3	7,800	6,661	3.65	January 1982	7,592	3.65	January 1982	7,592	3.65	January 1982	7,592	97	97	114
1983	[3] 261.8	8,190	6,994	3.90	January 1983	8,112	3.90	January 1983	8,112	3.90	January 1983	8,112	99	99	116

[1] Minimum wage earnings based on earnings of full-time year-round workers (2,080 hr) at minimum wage.

[2] Ratio of farmworker minimum wage to poverty level income for families residing on farms.

[3] Based on an estimated 5 percent annual increase.

[4] Beginning Jan. 1, 1978, $2.30 an hour effective under FLSA amendments of 1974 for farmworkers.

Note: Annual poverty level incomes were derived from the revised method of adjusting the Social Security Administration's 1963 poverty thresholds for changes in the CPI (all items).

Mr. WILLIAMS. I believe it has been said that under the minimum wage schedule that is proposed in the amendment that the Senator from New York and I have introduced will create the risk of increased unemployment; that this somehow will be a disemployment factor In other words, it will cause unemployment.

This has been said every time Congress has dealt with a minimum wage bill, and has increased the minimum wage. The same argument has been made since the beginning of time, at least the beginning of the time of a minimum wage legislated here.

I will go back as far as 1950, when the same argument was advanced. In January 25, 1950, when the proposal under debate was to increase the minimum wage from 40 to 75 cents; the argument was made that this would result in unemployment, more unemployment. It was argued, then, that people will not be able to get jobs because of an increase in the minimum wage.

When we look at the employment figures of the year prior to that minimum wage increase and the year after that minimum wage increase, we find not that there was increased joblessness because of this, but that there was a substantial increase in employment. This same result follows all through the years right down to the last time the minimum wage was increased. The figures show not a reduction in total employment but an increase in total employment every time there was an increase in the minimum wage.

So, the suggestion that the minimum wage is causing unemployment it is purely speculative. It is on somebody's model, but that model is unrelated to reality. I suggest that is exactly what we are hearing now. It is almost as if the wage is the only factor that is involved and, therefore, if we increase the wage employers will decrease the employment.

There are many factors that go into these decisions: managers' judgments of how many workers they need on the job, and the minimum wage is evidently a minor factor because over the years, 27 years that I have noted, employment has gone up and it has gone up right after a minimum wage increase.

So I would just hope this great institution will do its best to get the minimum wage up to almost the poverty level. We are not asking more than that. We are asking to advance a little so that we do not fall farther and farther behind. Our measure deals with the poorest, the lowest income workers in our country.

I hope this perfecting amendment, which would have a devastating effect, I think, on our lowest income workers, will be rejected. Disemployment is a hard word. Rather I would hope the minimum wage that we would establish will encourage people to be on the job.

Mr. HANSEN. Mr. President, I wonder if the distinguished Senator from Oklahoma might yield to me a little time to make some observations?

Mr. BARTLETT. Mr. President, I yield—how much time would the Senator want?

Mr. HANSEN. Five minutes.

Mr. BARTLETT. I yield 5 minutes to the dintinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I have nothing but the greatest respect for the distinguished floor managers of this bill, but I must say the information I have does not support the contention just made by my good friend from New Jersey, if I understood him correctly in what I thought he said that there was nothing to support the contention that increasing the minimum wage contributed to unemployment.

In the May, 1977 issue of the Harvard Review of Economics and Statistics the lead article on "Minimum Wages and the Labor Market" makes these observations:

> The policy implications are obvious. With less stringent minimum wage legislation or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement cannot be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was, and the youth unemployment rate 3.8 percentage points lower. In particular, the adverse effect remains even after the impact of manpower programs and the changing youth supply are accounted for.

I would like to say in supporting the amendment offered by the distinguished Senator from Oklahoma that it seems to me to make good sense. As a former Governor of the State of Wyoming I recommended to the State legislature that our State law provide that the minimum wage at that time in Wyoming be increased from 75 cents to $1 per hour. On the basis of my recommendation, the legislature passed the necessary legislation, and the minimum wage thus was increased, certainly in part by my recommendation, 33⅓ percent.

I have listened very carefully to what one of our outstanding freshmen Senators from the State of New York, the distinguished junior Senator said when he was testifying a few years ago before the Committee on Finance on some of the welfare proposals that were offered by the Nixon administration.

While I cannot quote him precisely, I refer as well to what he and I visited about as do I refer to his precise testimony before the Finance Committee. In a word, what he was saying was that it was his observation that raising the minimum wage tended to make it more difficult for young people with fewer merchantable skills to get jobs than would otherwise be the case, that raising the minimum wage adversely impacted upon young people and upon minority groups.

I am not trying to quote Senator MOYNIHAN specifically, but I think I am fairly relating the essence of the message that he brought to the Finance Committee and to me personally.

All of us would hope that everyone in this country might live better. We certainly have particular concern for poor people, but in supporting the amendment of the distinguished Senator from Oklahoma I do so firmly and fully believing raising the minimum wage is the wrong way to try to achieve the goal that all of us could embrace.

I think that the amendment offered by the Senator from Oklahoma is meritorious as I compare those provisions with others in this bill, because it would seem to me to have the smallest negative impact upon employment in the United States of any of the proposals before us.

So I will support that amendment and I would hope that my colleagues might be persuaded by the logic of his statement in order to support it.

Mr. BARTLETT. Mr. President, I would comment on the remarks recently made by the distinguished floor manager, the Senator from New Jersey, and quote from the Gramlich study that I previously put in the RECORD and did previously refer to and quote from. He says in part, paraphrasing.

> What is happening can be seen more clearly in table 6 that high minimum wages produce unemployment among teenagers, or may force many of them into part-time employment.

He also says that:

> If one of the goals of minimum wage legislation is to eliminate sweatshop low-wage jobs for teenagers the law appears to be counterproductive.

Almost all studies show some disemployment among teenagers as far as substantial or large increases in minimum wages are concerned. Among adults there is no convincing empirical study showing increase in adult employment.

So, I feel that the statements that were made by the distinguished floor manager are disagreed in by any studies on the subject.

Mr. GOLDWATER. Mr. President, will the Senator yield so I may ask a question?

Mr. BARTLETT. I yield to the Senator from Arizona.

Mr. GOLDWATER. I listened with great interest to the remarks made by the Senator from New Jersey, and I wonder if he has any statistics on what percentage of the labor force would fall in the brackets that he was discussing. I think we have now over 90 million people employed in this country at the highest per capita income in the history of the country and if he has the number of people that he has referred to as falling under the so-called poverty level I think it would be nice to have that in the RECORD.

Mr. WILLIAMS. Yes. In response to the Senator from Arizona, as to the number of covered workers, we have the documentation.

The number of employees affected in January of 1978 would be 4,530,000; in January, 1979, 4,992,000; in January, 1980, 5,541,000; and in January 1, 1981, 5,541,000, the same figure. That is the number that would be affected by the minimum wage.

Mr. GOLDWATER. Roughly 5 percent.

Mr. WILLIAMS. It runs at 4 percent, about 4 percent.

Mr. GOLDWATER. The Senator from Arizona is a little puzzled as to why there is a long history of minimum wage increases. This situation has not bettered itself. I have heard the same arguments made all the years that I have been here. We have not caught up with the so-called poverty level.

Mr. WILLIAMS. Why we have not?

Mr. GOLDWATER. I say I have heard the argument used that we have not caught up with the poverty level and this is used to argue for an increase.

Will this increase erase this problem?

Mr. WILLIAMS. The problem is that the increases that are in the amendment that the Senator from New York and I have introduced will not bring wages at the minimum wage level up to the poverty level. The perfecting amendment offered by the Senator from Oklahoma would insure a still larger gap between the earnings of a full-time worker at the minimum wage and the poverty level. The reason is, of course, that it has not been generally accepted here that these workers, the minimum-wage workers, should advance to that level by action of law. Other workers who may often bargain for their increases with their employer have been able, probably, to stay a lot closer to the increases in the cost of everything they need to live.

We have not been able to do that for the minimum wage earner. I had subscribed to the indexing that would relate the minimum wage worker to the wages in another sector, manufacturing. We can compare over the years manufacturing average wages and the minimum wage. And what we see is that after a minimum wage bill is passed by the Congress, the minimum wage comes up to about 51 percent. Very briefly, it comes up to 51 percent of the average manufacturing wage. Then there will be the 3-year period before Congress again deals with the minimum wage and that percentage of minimum wage as it relates to average manufacturing wage drops down. As a matter of fact, when we last dealt with the minimum wage, it was about 30 percent of the average manufacturing wage. We are always behind in legislating for that group that is not in a position or has not been in the position to bargain for itself, and keeps itself closer to a decent living wage. Once again the minimum wage is as it has always been—below the poverty level, the level that has been defined as that income which is sufficient for a family of four to have the barest necessities of life.

Mr. GOLDWATER. Mr. President, I appreciate what the Senator has been saying. In fact, he uses pretty much the same argument that I have used against the minimum wage in my years here. The minimum wage is a triggering device. You can argue for it or against it. But in my years in business when the minimum wage was increased it was increased all the way up the line, so that the person whom we are trying to help with the minimum wage remained in the same position.

I know that the Senator is disturbed about this, and it disturbs the average businessman. The argument I have heard on the floor—again, this is repetition, I know—is that it affects employment. I can tell you from my personal experience in a field that is probably affected as much by the minimum wage as any other, which is the retail business, that when the minimum wage goes in, the retail business has to let out the very kind of people that the Senator would like to see remain employed, namely, members of older groups who do not want to work fulltime, and younger people who do not have the necessary skills.

I wish this were not true, but it is. A businessman can only pay a certain percentage for salaries. If he goes above it, he is in trouble. This is the reason why I have always opposed minimum wages, because I have found through experience in the field that it just has not worked, and if it has not worked in all of these years, I would think that the legislative bodies should be looking at some other way.

Of course, there is always, as the Senator has suggested, the possibility of bargaining, but bargaining is becoming less and less popular in this country. The unions are losing members.

So I would hope we could find some better way to solve this problem that the Senator sees in reaching a so-called poverty level, whatever that may be.

I yield to my friend from Texas.

PRIVILEGE OF THE FLOOR

Mr. TOWER. Mr. President, I ask unanimous consent that Joanne Snow of Senator GARN's staff and Ned Kelly of Senator SCHWEIKER's staff be accorded the privilege of the floor during the debate on this measure and amendments hereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I yield to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I ask unanimous consent that Lucius Webber of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I make the same request for Alan Boyd of Senator CASE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 3 minutes in opposition to the amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, there are two points I would like to make. First, a point about youth and youth unemployment. The fact is that while about half of the unemployed are youth, a very much smaller portion of the employed are youth. When we are dealing with 4.5 million affected by the minimum wage, the youth quotient in that may be as 1 to 5 with relation to the number of youth who are unemployed. Therefore, what we are asked to do in the name of youth which has become an unemployment problem is to destroy the wage base for the vast number of people who have no relationship to it.

Mr. President, we have done something, not nearly enough, about youth unemployment. We must do more. We have a youth employment bill, we have big public works bills, we have a special provision for municipalities hard hit by unemployment. I am very much for special ways to train and educate youth, and to use the necessary resources for that purpose in inducing private enterprise to do it.

But the way to accomplish it is not to destroy the wage base for millions of people who have no relationship to that particular problem, any more than any other citizen.

The next point, Mr. President, is that the figures that Senator WILLIAMS gave respecting the number of employees affected and the percentage of the "work force" relates not to the total work force—millions in the work force are self-employed or otherwise exempted from the Fair Labor Standards Act—but he was talking about the percentage of covered employees, that is, those who are actually affected by the Fair Labor Standards Act, and the percentage is, for 1978, an estimated 8.7 percent.

As I have pointed out before, that indicates a relatively small relationship of the problem, but in numbers of human beings affected so very adversely, it is a very large portion of the problem we are dealing with here.

So I hope we will reserve our arguments about youth for the youth differential or whatever else Members wish to bring up about it, but will not plead that the whole wage base for millions unrelated to the youth problem should be the base, because we do have a youth problem.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, I yield 2½ of my 3 remaining minutes to the distinguished Senator from California (Mr. HAYAKAWA).

Mr. HAYAKAWA. Mr. President, I would like to read a passage from Prof. Thomas Sowell, at present with the Hoover Institution and whose regular job is with UCLA. I mention him because he is black. I quote a few words from a statement by him on this subject:

> Automatic escalation compounds the problems of the minimum wage law by making it possible to close our eyes to its effects hereafter. This seems unconscionable when those affected are poor, vulnerable, powerless, and inarticulate. If the Congress does not monitor what happens to them, there is no other powerful institution to do so. . . . Labor unions have their own imperatives and constraints. For them, the minimum wage law presents the same kind of opportunity that a tariff presents to a business firm. It is a way to price competitors out of the market. That this is accompanied by humanitarian statements may be a matter of rhetorical, or perhaps political, interest but it changes no economic fact. In the Union of South Africa, minimum wage laws were applied to native black Africans for the explicit purpose of stopping their competition with European workers. In the days of the British Empire, British unions and manufacturers attempted to get minimum wages applied to India for similar reasons, though with different rhetoric . . . . The point here is not to depict anyone as particularly evil. The point is that powerful institutional incentives exist to use the minimum wage laws for purposes very different from those announced in the Act, and that these institutional incentives are likely to persist through turnovers of personnel in the future as in the past.

I thank the Senator for yielding me time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, we have no further requests for time in opposition.

Mr. BARTLETT. Mr. President, I understand I have 30 seconds.

The PRESIDING OFFICER. The Senator has one-half minute left.

Mr. BARTLETT. Oh, I have one-half minute? I would like to thank the distinguished Senator from Wyoming for his kind remarks, and also to express my gratitude for the very fine remarks of the Senator from Arizona and the Senator from California.

I am ready to yield back my remaining seconds.

Mr. JAVITS. Mr. President, we yield back the remainder of our time in opposition.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 17, nays 72, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—17

Bartlett	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Talmadge
Curtis	Hayakawa	Thurmond
Danforth	Helms	Tower
Goldwater	Laxalt	Wallop
	McClure	Young

NAYS—72

Allen	Clark	Heinz
Anderson	Cranston	Hollings
Baker	Culver	Huddleston
Bayh	DeConcini	Inouye
Bellmon	Domenici	Jackson
Bentsen	Durkin	Javits
Biden	Eagleton	Johnston
Brooke	Eastland	Kennedy
Bumpers	Ford	Long
Burdick	Garn	Lugar
Byrd, Robert C.	Glenn	Magnuson
Cannon	Gravel	Mathias
Case	Hart	Matsunaga
Chafee	Haskell	McGovern
Chiles	Hatfield	McIntyre
Church	Hathaway	Meicher
Metzenbaum	Proxmire	Sparkman
Moynihan	Randolph	Stafford
Muskie	Ribicoff	Stennis
Nelson	Riegle	Stevens
Nunn	Roth	Stone
Packwood	Sarbanes	Weicker
Pell	Sasser	Williams
Percy	Schweiker	Zorinsky

NOT VOTING—11

Abourezk	Leahy	Pearson
Dole	McClellan	Scott
Griffin	Metcalf	Stevenson
Humphrey	Morgan	

So Mr. BARTLETT's amendment (No. 893) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

The privilege of the floor was requested by the following Senators for various staff personnel, for which unanimous consent was granted: Mr. HEINZ, Mr. DANFORTH, Mr. BROOKE, Mr. THURMOND, Mr. KENNEDY, Mr. HARRY F. BYRD, JR., Mr. GLENN, Mr. RIBICOFF, Mr. MCCLURE, Mr. HELMS, Mr. JAVITS, Mr. PACKWOOD, Mr. PERCY, Mr. DOMENICI, and Mr. ROTH.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question recurs on amendment No. 1018.

The Senator from Texas.

UP AMENDMENT NO. 894

(Purpose: To establish a 3-stage increase in the minimum wage)

Mr. TOWER. Mr. President, I send to the desk an amendment to the pending amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) (for himself, Mr. DOLE, Mr. GOLDWATER, Mr. HAYAKAWA, and Mr. SCHMITT), proposes an unprinted amendment numbered 894 to amendment No. 1018.

Mr. TOWER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 7, beginning with "$2.90", strike out through "1980" on line 4, page 2, and insert in lieu thereof the following: "$2.85 an hour during the year beginning January 1, 1979, and not less than $3.05 an hour after December 31, 1979".

Mr. TOWER. Mr. President, I applaud my colleagues, the chairman and ranking minority member of the Human Resources Committee, for seeking to eliminate from S. 1871 that provision which sets up an automatic indexing procedure for annual wage increases. As the senior Senator from New York so aptly stated in his additional views to the committee report on this bill:

Congress needs to have the opportunity to examine from time to time the appropriateness of the Federal minimum wage level from the standpoints of equity and the economy.

Although I fully agree that no indexing vehicle should be legislated to establish minimum wage rates, I cannot agree with the specific wage rates which my colleagues suggest as an alternative to indexing. The fact that these rates were determined by the very process which my colleagues acknowledge to be undesirable simply underscores the fact that what we have here is back-door indexing.

We eliminate the formula, but keep the results. And these results, I might add, will guarantee an inflation rate of at least 7 percent a year.

In reading through the committee's report on the bill, I notice that a good deal of attention is focused on the various economic projections concerning wage rate increases. I noted with particular interest the comments of Labor Secretary Marshall. Mr. Marshall, it appears, would have us believe that those economists who predict increased unemployment as a result of increased wages simply fail to understand the complexities of the issue. In his words, "the people who do oppose the increase in minimum wages are likely to be those who know the least about it." It is only his labor economists, he tells us, who understand, and are concerned about, the world we live in.

If Mr. Marshall is sincerely concerned about the "real world", then maybe he should spend a little more time among the folks back home in Texas. He would find out very quickly, I think, that the real world has some real problems with this proposed wage hike. During my recent travels through well over 50 cities and towns in Texas, the message I have received is that proposed increases in the wage rate will cause layoffs, higher prices, and a general reduction in services available to the public.

For example, a rental service employer in Lubbock says:

We are needing to hire two or three additional employees. If this bill is passed, we will not be able to do this, plus we will be forced to lay off two more workers presently in our employ.

Another comment from El Campo, Texas—

In my own small business the first increase will mean $700 to $800 per month more wages. With a volume derived from a small town, there is no way to increase prices that much . . . if we're able to survive at all, it would mean a reduction of two or three employees.

And from a department store president in El Paso comes this observation:

Speaking generally, the point is that an arbitrary artificial increase in the minimum wage, when it has nothing to do with productivity, automatically reduces individual productivity and increases the cost of the individual. Such increases cannot be borne whether by the large or the small employer, and the ultimate result has to be less job opportunity than if wages were set by the market instead of by the government.

I have no doubt that many of my colleagues have been receiving similar reports from their constituents in my view, the real "experts" in this matter are the people back home who will have to live with these new rates, and not the Federal bureaucrats here in Washington.

Leading economists warn up that steep increases in the minimum wage will fuel inflation. This warning is implicit in the study conducted by Edward M. Gramlich. And in a recent issue of Time magazine, Arthur Okun was vivid in terming price boosting regulatory and legislative actions such as this minimum wage boost "self-inflicted wounds". In the view of both Okun and Gramlich, even the initial increase to $2.65 is considered too high. I might add here, that neither of these economists are considered "conservatives".

Now let me turn here to the subject of compromise. Quite frankly, I would prefer an initial wage boost to $2.50, as originally proposed by President Carter before he was persuaded, shall we say, by organized labor to support a higher figure. As I recall, organized labor wanted an immediate increase to $3. So the amendment I propose, with an initial rate of $2.65, is a compromise.

My amendment, which would set rates of $2.65 for 1978, $2.85 for 1979, and $3.05 for 1980, represents the compromise between the earlier, lower proposed rates of $2.50, $2.73, and $2.92, and the higher rates proposed by my colleagues here of $2.65, $2.90, $3.15, and $3.40. The Williams-Javits amendment would sanction excessive inflation for the next 4 years. I would hope that my colleagues will reject this unwise move, and support the less inflationary rates I propose.

I would point out also that my amendment sets three rates, rather than the 4 years in the Williams amendment. I think it is unwise for the Senate to make a value judgment about what the economic situation will be 4 years from now. Four years is a long time, and we can only speculate what our economic condition will be then. While that speculation can be useful, I do not think it provides a sound base for establishing pay rates for people.

What if, 4 years from now, we are in a big depression? We will really exacerbate the problem, even if we are in a minor recession, by this substantial increase in the minimum wage.

I am aware of the keen interest which my colleague from New York has in this inflation issue, and we have worked together on many occasions to seek constructive remedies. As he states in his additional views on this present bill, "I believe our economy has entered upon a very sensitive and delicate state in its recovery from the 1974–75 recession, during which inflationary expectations easily may be rekindled, and a new wage-price spiral unleashed upon our country. If, indeed, our economy has entered a watershed in its evolutionary process, we will witness over the next 2 to 3 years either a return to a stable, long-term noninflationary economic growth or a recurrence of erratic spasms of inflation and recession."

I agree. The next 2 to 3 years will be telling ones for our economic situation, and it makes little sense to go beyond that in setting new wage rates. As I see it, the only advantage in setting a 4-year increase would be to relieve the Senate from having to act on a complex and sensitive matter. Ducking the issue is hardly a responsible action.

That is what we are doing. We are assuring that we can duck the issue for 4 years.

I urge rejection of the fourth year of rates in the Williams-Javits amendment. That fourth year is simply a subterfuge for indexing rates far into the future. As legislators with a responsibility to make periodic value judgements on this subject and be accountable to our constituents, we cannot shirk this duty by putting minimum wage rates away for the next 4 years. I urge the adoption of a 3-year rate structure as proposed in my amendment.

In my State of Texas, the "general store" is not only a charming part of our colorful past, but, in several areas, is a vital part of our modern way of live. There are 53 operators of small, general merchandise stores in Texas. These people have anywhere from 2 to 12 stores in small Texas towns. Since they do have more than one store and do a combined volume of business in excess of $250,000, they are covered by minimum wage. These people have told me that these proposed wage increases will mean the elimination of jobs—and what is even worse, the closing of low volume stores in rural communities.

While those stores are not very big, they are a significant factor in a town of 1,400 to 2,000 people, they provide that community with a service which, if not locally available, would force the residents to travel a good many miles to buy the goods they need. What I am saying is that large increases in the minimum wage not only create unemployment, but also work to the disadvantage of the consuming public in rural areas.

Of course we have concern for the consuming public, but George Meany says this is what organized labor wants, and then the interests of the consumer are generally subordinated to that desire.

Those who favor high wage rates make the claim that these rates are needed by a wage earner who is supporting a family of four, and that even with those rates, that family lives in poverty. We all have a great deal of sympathy for citizens who fall into this category. That is why we have enacted welfare programs, to relieve this suffering.

However, I think the committee report on this bill is somewhat misleading when it alludes to the predicament of those wage earners who are at the minimum-wage level. The report states that roughly 3 million people earn the minimum wage, presently $2.30. This wage rate provides an annual income of $4,784 which is below the $6,111 poverty-income level for an urban family of four. It is, however, considerably above the poverty-level income for an individual, which is $2,797.

What the report implies is that all of those 3 million people are the sole support for an urban family of four. I would suggest that this is far from the case. According to the Labor Department, and other sources I have contacted, there are no accurate figures to answer this question. I think it is safe to say, however, that the majority of these people are secondary wage earners, students, and individuals who do not have families to support.

In his study, Edward Gramlich points out that for every $1 billion increase in minimum wage payments, only $350,000 goes to people in the poverty category. The rest goes to teenagers and middle-income families, operating as a supplement of these family incomes. The minimum wage is not doing its job. It is not putting more money in the pockets of the very poor. What it is doing is paying inflated wages to a large majority who are not in dire need. And worse, it is drying up job opportunities for the young, the unskilled, and minorities.

In the marketplace, rates of pay are calculated on the base of the productivity of the worker. Retail and service industries, which employ most of the minimum wage workers, commonly provide entry into the job market for young workers. What is happening now is that Congress will be pricing these people right out of the labor market.

I think that Stanford University economist Thomas Sowell—and he is, I might add, a labor economist, which would fit with Secretary Marshall's requirement for expertise in this area—sums the problem up very well. He says:

Talk about people being unemployable is just so much rubbish. Everybody is unemployable at one wage rate, and everybody is employable at another.

In a similar vein, from a Dallas Morning News editorial last March comes this comment:

If the cost of hiring an unskilled worker is more than he can add to the business firm's revenues, the firm will use a machine, allocate the work to other employees or take some other alternative to hiring a new worker. The plain fact is that there are jobs to be done in our economy that are not worth $3 an hour.

I simply wish to point out to the Senate that we are treading a dangerous path in legislating high-wage rates. I would prefer to begin with an increase to $2.50, as the President originally considered appropriate. I will have to confess I would prefer no increase at all.

My amendment represents a compromise between the smaller, and in my view more sensible rates, and the rates proposed by my colleagues from New Jersey and New York. I urge the Senate to support this compromise position.

I want to add one further thing, Mr. President.

It seems ridiculous to me that we try to control costs and prices by applying ceilings, but we have never tied increases in the cost of labor to the increases in productivity or related them at all to laws of supply and demand.

Organized labor can demand and get, because of its unique power, increases that operate outside the marketplace. As a matter of fact, they can get increased wages for reduced productivity in many instances.

Let us look at the hospitals and health care costs. The President wants to put a cap on hospital cost increases of 9 percent. Last year, in a survey of the Dallas area hospitals—and I would imagine

they are not untypical—the payroll costs of the Dallas area hospitals were $140,765,000.

The higher minimum wage will increase this cost to $162,161,000, a gain of 15.2 percent.

This could mean an increase of $12 per patient per day expense, for an $87 additional cost for admission.

It does not make any bloody sense at all to try to put a 9-percent cap on hospital costs when we, by this legislation, are going to increase their cost 15 percent.

So let us think about these things when we pass this minimum wage, supposedly to give people more money. It, in fact, gives fewer people a little more money, raises costs, precipitates unemployment at a time when we face an unemployment problem in this country.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, just a few minutes.

I think the debate that we had in connection with the Bartlett amendment could be read in connection with this amendment.

Again, we have a rate suggested by the Senator from Texas that will just insure that minimum wage workers will stay well below the poverty level.

It would seem to me that as we are trying to focus on the poorest people in this country, and we are relating welfare to wages, we should use every opportunity we have to encourage people to work for a living, rather than having to collect welfare for the necessities of life.

If we stay at the wage that is suggested here, we will have a wage earner, whose family depends upon him, and who is not making enough to take care of his family even by staying on the job. So he will still have to cue up for welfare later, any way.

That seems unconscionable to me.

Mr. TOWER. The solution is to put more people on the unemployment rolls by raising the minimum wage to an extent the small businessman cannot afford to pay.

Mr. WILLIAMS. I suggest to my good friend from Texas this argument has been used over the decades now.

Mr. TOWER. And historically proven to be true.

Mr. WILLIAMS. I refer to the record, as we have it in our report, around page 4, which shows that following minimum wage increases there was no loss of employment in this country. As a matter of fact, for a variety of reasons, and I am not saying the minimum wage was the reason for increased employment; but after the minimum wage increased, employment went up every single time. I must dispute the supposed great inflationary effect of increases in the minimum wage.

I am not going to take the time now. It is here in the report and I will include it in the RECORD. It shows that after minimum wage increases, unemployment did not increase.

There is not a close relationship between the minimum wage and unemployment.

This has been the record over the years.

I know the argument is raised each time we have a minimum wage bill. I thought maybe that might appeal to the Senator when we had the indexing, that we would not go through this debate time after time.

But we are eliminating indexing so we will have this debate tonight and maybe again in years to come.

Mr. TOWER. The committee report shows employment rose up in numbers. It shows nothing about unemployment. It completely left out the unemployment figures that followed in the wake of the increase in the minimum wage.

Mr. President, I am prepared to yield back the remainder of my time if my friends on the opposite side are prepared to do so.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. The points made by Senator TOWER have been partially answered in the debate on the Bartlett amendment. But also a few things need to be noted.

One, the figures which Senator TOWER has given us are the House figures. If we adopt these figures there is no negotiation between the House and Senate of any kind on the amount of the minimum wage. That is the end of it. They were contained in the Erlenborn amendment, and the arguments made are exactly the same arguments, in substance, as were made for Bartlett, with one exception, and that is the fourth year. Why the fourth year?

Now, in the first place, the House adopted 3 years. Why the fourth year? One reason is that it provides on attractive alternative proposal in order to dispense with the indexing. I could not see indexing as remotely reasonable. So as a reasonable approach to the elimination of the index we picked 4 years.

Another reason, Mr. President, was that it is only in the fourth year that we approach 95 percent of the poverty level even if we pay the $3.40. Then we approach something like the poverty level. But it takes 4 years to do it. Right now we only start at about 80 percent of the poverty level and that, it seems to me, is a very conclusive reason why we should go to the fourth year.

Lastly, Mr. President, the argument has raged, as Senator WILLIAMS has said, for years about whether employment has increased or diminished or whether there is opportunity or not opportunity.

The point I make is that the overwhelming mass of the people have to live on this minimum wage. They are not unemployed or looking for a job. They have to live on a minimum wage, and they cannot. So if we really mean it when we want to encourage people to work rather than not work, at least let us have a realistic base figure which will induce them to work.

That is what this really comes down to. So, Mr. President, we are at the rock-bottom minimum. The 4 years are needed even to approach the poverty level, and the figures given are simply realizing actuality, to wit, what is the poverty level for living.

The reason for the difference between 3 million that Senator TOWER speaks of who get the minimum wage today, and 4.5 million who are affected by the increase in the minimum wage is precisely that. There is an increase in the minimum wage. Therefore, those who are getting a minimum between $2.30 and $2.65 are going to be increased to that minimum, and that means another 1.5 million people. That these additional millions will be helped is a very good reason for enacting the amendment which Senator WILLIAMS and I have proposed.

So I hope very much the Tower amendment is rejected, as the Bartlett amendment was, and for very much the same reason.

Mr. WILLIAMS. We are prepared to yield back our time, as the Senator from Texas is.

Mr. TOWER. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Vermont (Mr. LEAHY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 32, nays 60, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—32

Allen	Hansen	Roth
Bartlett	Hatch	Schmitt
Bellmon	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Sparkman
	Hollings	Stennis
Chiles	Johnston	Stevenson
Curtis	Laxalt	Talmadge
Danforth	Lugar	Thurmond
Domenici	McClure	Tower
Eastland	Morgan	Wallop
Goldwater	Nunn	Young

NAYS—60

Anderson	Brooke	Case
Baker	Bumpers	Chafee
Bayh	Burdick	Church
Bentsen	Byrd, Robert C.	Clark
Biden	Cannon	Cranston
Culver	Jackson	Pell
DeConcini	Javits	Percy
Durkin	Kennedy	Proxmire
Eagleton	Long	Randolph
Ford	Magnuson	Ribicoff
Garn	Mathias	Riegle
Glenn	Matsunaga	Sarbanes
Gravel	McGovern	Sasser
Hart	McIntyre	Schweiker
Haskell	Melcher	Stafford
Hatfield	Metzenbaum	Stevens
Hathaway	Moynihan	Stone
Heinz	Muskie	Weicker
Huddleston	Nelson	Williams
Inouye	Packwood	Zorinsky

NOT VOTING—8

Abourezk	Humphrey	Metcalf
Dole	Leahy	Pearson
Griffin	McClellan	

So Mr. TOWER's amendment (No. 894) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on amendment No. 1018. All time has expired.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. Are further amendments to the amendment in order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from New Mexico will state his parliamentary inquiry.

Mr. DOMENICI. Is a further amendment to the amendment in order?

The PRESIDING OFFICER. It is in order. Does the Senator have an amendment?

UP AMENDMENT NO. 895

(Purpose: To provide a 3-stage increase in the minimum wage under the Fair Labor Standards Act of 1938)

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 895:

On page 2, line 2, beginning with "during" strike out through "1980" on line 4 and insert in lieu thereof the following: "after December 31, 1979".

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. HATFIELD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Jack Robertson of my staff be accorded the privilege of the floor during the consideration and voting on this measure and amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, this is a very simple amendment which strikes from the pending amendment the last year's increase in the minimum wage.

Mr. President, could I have order, please?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversations. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the pending amendment before the Senate goes through the year 1981, and raises the minimum wage, at that point, to $3.40.

The House of Representatives did not go through the year 1981, but stopped at the preceding year. What this amendment does is merely remove from the amendment that is pending the last year, which mandates a minimum wage of $3.40. The bill passed by the House of Representatives stopped in 1980 and established a minimum wage of $3.05. Amendment No. 1018 would establish $3.15 in lieu of the House passed $3.05 in the third year. I do not seek to change that. I merely want to limit the Senate bill to 3 years instead of 4.

I would submit to the Members of the Senate that since the notion of indexing has basically been discarded by both Houses, the Senate ought to go with 3 years instead of 4 years, with the clear understanding that the Williams-Javits proposal is higher than the House proposal. If we are discarding the notion of indexing, then it appears to me, from both sides of the concern—whether the minimum wage is too high or too low—that we ought to stop at 3 years, and not project our supposed wisdom into the fourth year.

My amendment would delete the last year of the pending amendment and leave it at 3 years, while retaining the minimum wage figures contained in the Williams-Javits proposal.

Mr. TOWER. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I yield.

Mr. TOWER. Let me point out that if we do not adopt the amendment of the Senator from New Mexico, what we have done here is stop indexing, because what they have done in the Javits-Williams amendment is simply achieve the result without the formula. So if you want indexing, you will vote against Mr. DOMENICI, but do not try to tell anybody that you have voted against indexing if you fail to support the amendment of the Senator from New Mexico, because that is precisely what the Javits-Williams amendment is: It is back-door indexing. It is the same result without the formula. What you will have done is saddle us with a 4-year increase in the minimum wage through indexing. I think that should be made clear.

Mr. DOMENICI. I thank the Senator from Texas.

Mr. President, I want to say to the Senate in all honesty, I do not think the Domenici amendment prejudices the minimum wage at all. If Congress is going to opt for determining the minimum wage in lieu of something automatic, such as indexing, then I would submit that, with the economic times being what they are, we are really playing with the economic future of our Nation in a way that we should not be, by setting the minimum wage for 4 full years.

I am merely saying that I think we ought to leave it as flexible as possible for future legislative input. Why set a fourth year at $3.40, when we do not even know what the economic times are going to be? Why not go with 3 years, with the Williams-Javits' figures amendment, but limit it to 3 years as the House did?

Both bodies have indicated they do not want indexing. I agree with the Senator from Texas that if you go 4, 5, or 6 years you have just about gone to indexing.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JAVITS. I would like to answer the last question first. Why to 4 years instead of 3, 5, or 6? And I could add, 7, 8, 9, or 10. But we are not going to 3, 5, 6, 7, 8, or 9; we are only going to 4, and there is a good reason for it. The reason, as I have explained before—we have now had two debates in which this is half the issue—the reason is that it is only in the fourth year that we approach, with the minimum wage, the poverty level. We attain, in the fourth year, with the $3.40 rate, a wage equal to 95 percent of the poverty level. This is from an analysis by the Employment Standards Administration, Division of Evaluation and Research, of the Department of Labor.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. DOMENICI. The poverty level as determined when?

Mr. JAVITS. As projected forward, the same as anybody has got to do. We have to project forward by the estimated rate of inflation, which is roughly 6 percent.

The rub in what the Senator has said is that it is not even a good business angle, because what business wants beyond anything else is certainty.

By the way, I am very flattered by my colleagues calling this the Javits amendment. I do not know why; maybe there will be fewer votes for it.

Mr. CASE. Oh, no; the Senator knows better than that.

Mr. JAVITS. But as a matter of fact, it is Senator WILLIAMS', the chairman of our committee, and mine, and really it is the Williams-Javits amendment. I acknowledge that with pleasure.

But, Mr. President, to get down to the merits, that is the essence of the thing. The essence is that it is the only way that we could, without indexing, get nearer than we are today to the poverty level. We do not know whether that will

run away or not. But on the President's calculations and everybody else's calculations that deal in the economic future, that seems to be the indicated position: we shall get to 95 percent of the poverty level in the fourth year.

Finally, my colleague argues, well, we are looking in a crystal ball; who knows what is going to happen? Well, who knows for certain what is going to happen in 3 years or 2 or 1? We simply do the best we can based on reasonable projections.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield 5 minutes to the Senator in opposition.

Mr. PERCY. I would like 5 minutes on this amendment and also to comment on the Williams-Javits amendment.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. PERCY. Mr. President, I want to say to my distinguished colleague why I intend to oppose this amendment. A month ago, I would have felt that 3 years would be just as good as 4. But I finally became convinced that indexing the minimum wage was such a disastrous idea that it ought to be killed once and for all, now and for as long as we can.

I have always supported reasonable increases in the minimum wage level and I intend to do so again whenever it is necessary. I was deeply disturbed, however, when I learned about some features of this legislation when it was originally proposed. Not only would it have provided for an increase in the legal minimum wage paid to American workers but it called also for a change in the method by which future increases in the minimum wage would be determined, a proposal which I felt was damaging to both the average worker, particularly the skilled worker, and the economy as a whole. I decided to take my case to the State of Illinois AFL-CIO convention a week ago Monday in Peoria. I discussed it first with all the members of the executive council at a luncheon, with the executive board, and then with the 1,700 delegates.

I indicated to them at that time that I generally supported an increase in the minimum wage level but I also told them that I was deeply disturbed by the idea of indexing it to the average of all other hourly wages.

I felt—and I told them quite frankly—that this is a blow to the skilled worker. It is a blow to the worker who has a skill, an ability, based on education, training, and experience on the job. If we simply index the minimum wage to that level, in a sense then, we would not be working on behalf of the uncommon man—the person with real ability. We would be working, in a sense, to level wages and to have a commonality here that I did not think was in the interest of the average worker.

At that time, I took the position that if they would drop this idea of indexing, and I hoped for good, that I could and would support, and cosponsor, the Williams-Javits amendment, to extend the minimum wage for 4 years.

Though I did not take indexing to a vote at the convention or ask for a vote—I would not ask them to vote against a position taken by their own international union—I felt it was a sober discussion we had, both in the closed conference and in the open convention.

As originally proposed and as reported by the Committee on Human Resources, S. 1871 stipulated that increases in the minimum wage be calculated as a percentage of the average hourly rate—originally proposed at a 60-percent level, later reduced to 55 and 52 percent—being paid to American manufacturing workers at any given time. It is understandable that some workers would initially find this attractive and it is understandable why such a method would be perceived to give some assurance that minimum-wage-level workers would receive increases at reasonable intervals without having to cope with the effects of conflicting political pressures on the Congress.

The first minimum wage was based on the need to establish a floor for wages for the undereducated and the unskilled and I believe this premise is still valid. My fear was that by indexing, we would frustrate this original purpose of establishing a floor by putting a ceiling on wages instead. Under an indexing system, I feel there would have been stronger resistance on the part of management to agree to wage increases for production workers at all levels simply because they would know it would precipitate a broad ranging series of increases throughout the economy.

The PRESIDING OFFICER. The Senator's 5 minutes are up.

Mr. JAVITS. I yield 2 additional minutes.

Mr. PERCY. I find it hard to believe that a person at the bottom of the employment ladder, unskilled and undereducated is actually worth in terms of productivity 60 percent, 55 percent, 53 percent, or even 52 percent—as has been suggested—of the average hourly wage paid to American factory workers, which includes in its scale tool and die makers, automatic screw machine operators, punch press operators, quality control, and inspection personnel and assemblers.

In our market-oriented economy, there has to be a logical relationship between pay received and value of output. Indexing one person's pay as a percentage of someone else with entirely different skills and abilities is arbitrary, even irrational. The one to be most hurt by such a system is the most highly skilled worker.

In addition I felt that the inflationary effect of such indexing would impose a penalty on all of us—but especially the low-income worker—in the form of higher living costs. Recent Department of Labor statistics indicate that the level of increases in the hourly wages in this country have begun to outdistance the increases in productivity so much that the rate of increase in unit labor costs is beginning to be a cause for concern. If these fears are well founded—and I believe they are—then unit labor costs could once again accelerate to a rate that could lead to rapid inflation, reduced purchasing power, and recession. Certainly, this situation is something all of us know we do not want to live through again.

Viewed from a broader perspective, I have reservations about writing an indexing provision into law that is diametrically opposed to and inconsistent with the U.S. position in international negotiations against indexing. We have opposed the demands of developing countries to index the prices of the commodities and minerals they produce and export in relation to the prices of the goods they import from us. We particularly opposed—and I spoke to the Shah of Iran personally about this and to the heads of other oil-producing nations—the proposal by the OPEC countries to index the price of their oil exports to the price of the industrial goods they import. We cannot in good faith tell the rest of the world this is no good and then turn around and index wages for the American worker.

The Federal Government has adopted very few indexing proposals, and even then with great deliberation. Increases in the social security retirement benefits are indexed to the cost of living. This was done especially for the elderly who frequently have nowhere else to turn and for whom it is often too late in life to be looking for new sources of income. Such increases have no effect on the salaries of the average worker. Federal employee salaries also are indexed, to a certain degree, but they are adjusted to be comparable to salaries in the private sector—again they react to private sector salaries but have no effect on them nationwide.

The type of indexing proposed in this minimum wage bill is entirely different. Rather than preserving purchasing power in "real" economic terms, this indexing contributes to the continued inflationary spiral by practically guaranteeing wage and price increases. Experience in observing developing countries which have tried a variety of indexing proposals shows us that it is always difficult, if not impossible to discontinue these relationships when deflationary policy becomes necessary.

For all of these reasons, Mr. President, I am pleased to join the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS) in their attempt to strike the indexing provisions of the bill and substitute a gradual increase in the minimum wage level, retaining for the Congress the responsibility of periodically reviewing the level within the context of prevailing economic conditions.

Mr. President, what I had hope to do in Peoria, by appealing to organized labor itself, directly at its convention, was to convince them that this idea really was contrary to the interests of the average worker. We ought to pay a person what he is worth and not artificially set wages. We have enough trouble here in Congress figuring out what a person is worth at the bottom of the scale.

I ask unanimous consent to have printed in the RECORD at this point an article that appeared in the Business and Economic Research Division publication of the First National Bank of Chicago. I think it will be helpful to everyone considering the minimum wage issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MINIMIZING THE MINIMUM WAGE

Every few years, the U.S. goes through the ritual of adjusting minimum wage laws. And just as regularly, the business and labor communities engage in exaggerated discussions about either the dire consequences or marvelous benefits that can be expected as a result. In fact, increases in the minimum wage have typically been quite modest, compared with increases in other wages or prices, and the effects have been fairly innocuous.

To judge by the hyperbole surrounding minimum wage legislation, one might suppose that the fate of the Republic would be decided by a change of a few cents in one direction or another. A prominent business economist claims that an increased minimum wage would add two million to the ranks of the unemployed and 3 percent to consumer prices. A labor leader suggests that failure to increase the minimum wage would swell the welfare rolls. Someone else tells us that a higher minimum wage would boost consumer purchasing power, and thus increase employment.

Consider the simple idea that higher minimum wage rates must mean higher wage rates in general, and therefore more inflation. Evidence does not support this contention that overall wage rates rise any faster than they otherwise would in years that the minimum wage is increased. Nor is there logic to show why employers would (or how they could) raise everyone's pay just because the minimum wage was increased. Moreover, the complaint that an increase in the minimum wage will increase total wages paid ("labor costs") is somewhat inconsistent with the simultaneous claim that many fewer workers will actually get those higher wage rates.

Finally, although prices might ultimately have to rise in a few industries in which low-wage workers are an important part of costs, such a relative price increase is not inflation. If people pay more for hamburgers, they will have a little less money left with which to buy other things—total demand and overall inflation remain unaffected.

Arguments about the employment effects of a minimum wage rate have likewise been exaggerated. The minimum wage could not cause much unemployment for the simple reason that very few workers are affected by the law and increases have been small and infrequent. On the other side, however, the argument that a higher minimum wage increases consumer purchasing power depends on the questionable assumptions that an increase in wages per hour is not offset by a reduction in hours of work offered, and that the income gain of those who receive the higher wages is not offset by the income loss of the consumers who ultimately pay the higher wage.

At the present time, a little over three million workers (out of more than 90 million) are directly affected by the minimum wage. Nearly half of all employees were not even covered by the federal minimum wage law before 1961—40 percent until 1966, and 20 percent since—so that the effect of the law on total employment was even smaller in the past than it is today.

The portion of the work force that might possibly experience adverse employment effects from a higher minimum wage is tiny in comparison with cyclical causes of variations in employment.

A legislated increase in the wage floor would ultimately have to be recovered in higher prices in the few affected low-wage industries. Hamburgers in fast food franchises, for example, would be a bit more costly. If that resulted in fewer hamburgers sold, then job opportunities in that business would grow less rapidly.

The size of such employment effects however, remains unclear. If minimum wages are little higher than what would naturally result from employers bidding for labor, then there would be little employment effect. If there was little effect in one year, then a subsequent increase in the minimum wage that just kept pace with the rise in the affected prices would still have no appreciable effect.

Estimated effects of the minimum wage on teenage unemployment have not adequately accounted for the enormous growth in the number of teenagers that the civilian job market has had to absorb. The population aged 16–19 soared from 9.2 million to 17 million in the past two decades, and the shrinkage of the armed forces since the Vietnam era has reduced a major source of teenage employment. Still, the leading studies only attribute 13 percent to 17 percent of teenage unemployment to the largest past increases in the minimum wage.

To keep things in perspective, it is important to recognize the high turnover of teenage employment. In June, for example, 69 percent of the teenage unemployed had been out of work less than five weeks.

There has nonetheless been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled. Bending the law to aid teenagers at the expense of adults might create more problems than it would solve.

On the other hand, the fact that the minimum wage mainly affects teenagers undercuts the argument that it is an effective tool against poverty, since teenage workers are rarely family heads and are not necessarily from poor families.

Many of the discussions of an increase in minimum wage lose sight of a simple fact: those currently working at the minimum wage rate would get a raise in pay. Since such people far outnumber most extreme estimates of the number who might find it harder to find work at the higher wage, they deserve some consideration in a balanced assessment of the net effect.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. PERCY. If I may have another minute.

Mr. JAVITS. I yield another minute.

Mr. PERCY. When we look back 4 years from now, the effect of this minimum wage increase—35 cents the first year, 25 cents for each of the subsequent 2 years—will be innocuous. It is not going to justify all the fears that have been expressed, nor is it going to be a panacea. But people can at least live at the poverty line if they are working. There ought to be an incentive for work over welfare and not a disincentive. That is why I support the minimum wage and the reasonable levels that have been set for that minimum wage, in the Williams-Javits amendment and that is why I am proud to cosponsor it. I hope that the idea of indexing is finished.

Mr. JAVITS. I thank my distinguished colleague.

Mr. DOMENICI. How much time do I have left on my amendment, Mr. President?

I ask this question of the managers of the bill: Is it preferable to them that we vote on this amendment this evening or would they rather vote tomorrow?

Mr. WILLIAMS. We are going to be here until 10 o'clock. The Senator has 25 minutes. I think all the arguments have been made against it. I am about ready to suggest that we yield back our time, and if the Senator will yield back his time, we can vote very shortly.

Mr. DOMENICI. It is going to take me a little while to apologize for not including the name of the Senator from New Jersey as a prime cosponsor.

Mr. WILLIAMS. I have acknowledged that my wounded feelings have been assuaged by the Senator, and I feel fine. If he is ready to yield back his time, I will do so, and we will have a vote.

Mr. DOMENICI. I want to use a few more minutes, but I will not use all 25 minutes.

I would like to ask Senator JAVITS, with reference to his stated position that, if we stay on the 4-year schedule and get to the $3.40, we will move minimum wage earners above the poverty line. I am informed—and perhaps you can confirm whether I am informed correct or incorrect—that you are using as your basis statistics that relates to an urban family of four where the wage earner, receiving the minimum wage, is the head of the household. I could be wrong, but I understand that is what you are referring to when you say we will move people above the poverty level 4 years hence.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. JAVITS. To answer that, that is the standard of comparison. I will put the whole table in the record. It is table 5, ratio of minimum wage worker income and rates provided in S. 1871, with the poverty level income of a 4-person family $5,977, and projected estimates for January 1, 1978–January 1, 1983.

The figure I have goes as follows: The poverty level is estimated on January 1, 1981, to be $7,072, and the $3.40 coverage will realize 95 percent for the kind of family which I have described. It will realize 95 percent for a nonfarm family which I have described, and it will realize 111 percent for a farmworker. The farmworker is the ratio of farmworker minimum wage to poverty level income for farmers residing on farms. Of course, we are very much an urban country, so this represents very much a minority of the population.

Mr. DOMENICI. I thank the Senator.

The only point I want to make to my fellow Senators is that I hope no one is voting for a minimum wage, whether it be for the next 3 years or the fourth year that I seek to eliminate, on the basis that it should be the minimum wage for heads of households in the United States. I do not.

The minimum wage in the United States has very little relevancy to heads of households, much less heads of households of urban families with four members.

I raise that point because Senator JAVITS has indicated that it is important in terms of why we should go forward with the fourth year. I will not raise it

now but I will raise it tomorrow, when we talk about a youth opportunity provision that I and others will offer.

I do not think it is at all relevant in America any more to talk about minimum wage as if it were the wage for heads of households. I do not have exact statistics, but I venture a guess that 90 percent of the minimum wage earners in America are young people who are unwed or people who are second-jobholders and not heads of households.

Actually, I do not believe that the argument that we should stay on this 4 year schedule because we will get close to the poverty level as described by the Department of Commerce is at all relevant.

Having said that, I have several comments. I hope those who vote on this amendment will not consider this amendment to be for or against the minimum wage. Rather, this amendment says that we should not try to predict what the minimum wage should be 4 years in advance. It may be wrong at $3.40, in that it might be too low. It may be wrong in that it might be too high. It is conceivable that in a couple of years we might even find that the whole notion of minimum wage is irrelevant in the country.

In any event, the House only voted in favor of 3 years. We, in the third year, are higher than the House. I see no reason to go to conference with a fourth year at $3.40.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 32, nays 58, as follows:

[Rollcall Vote No. 536 Leg.]

YEAS—32

Allen	Goldwater	McClure
Bartlett	Hansen	Nunn
Bellmon	Hatch	Roth
Bumpers	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Heinz	Stevenson
Chafee	Helms	Stone
Chiles	Hollings	Thurmond
Curtis	Johnston	Tower
Danforth	Laxalt	Wallop
Domenici	Long	Young
	Lugar	Zorinsky

NAYS—58

Anderson	Glenn	Moynihan
Baker	Gravel	Muskie
Bayh	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Riegle
Church	Kennedy	Sarbanes
Clark	Leahy	Sasser
Cranston	Magnuson	Schweiker
Culver	Mathias	Stafford
DeConcini	Matsunaga	Stennis
Durkin	McGovern	Stevens
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Metzenbaum	
Garn	Morgan	

NOT VOTING—10

Abourezk	McClellan	Sparkman
Dole	Metcalf	Talmadge
Griffin	Pearson	
Humphrey	Scott	

So unprinted amendment No. 875 was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which UP amendment No. 875 was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JAVITS. Mr. President, can we have action on our amendment?

The PRESIDING OFFICER. The question recurs on amendment No. 1018. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 76, nays 14, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—76

Allen	Eastland	Matsunaga
Anderson	Ford	McGovern
Baker	Glenn	McIntyre
Bayh	Goldwater	Melcher
Bentsen	Gravel	Metzenbaum
Biden	Hart	Moynihan
Brooke	Haskell	Muskie
Bumpers	Hatch	Nelson
Burdick	Hatfield	Nunn
Byrd, Robert C.	Hathaway	Packwood
Cannon	Heinz	Pell
Case	Helms	Percy
Chafee	Huddleston	Proxmire
Chiles	Inouye	Randolph
Church	Jackson	Ribicoff
Clark	Javits	Riegle
Cranston	Johnston	Roth
Culver	Kennedy	Sarbanes
Danforth	Leahy	Sasser
DeConcini	Long	Schweiker
Domenici	Lugar	Stafford
Durkin	Magnuson	Stennis
Eagleton	Mathias	Stevens
Stevenson	Tower	Williams
Stone	Wallop	
Thurmond	Weicker	

NAYS—14

Bartlett	Garn	McClure
Bellmon	Hansen	Morgan
Byrd, Harry F., Jr.	Hayakawa	Talmadge
Curtis	Hollings	Young
	Laxalt	Zorinsky

NOT VOTING—10

Abourezk	McClellan	Scott
Dole	Metcalf	Sparkman
Griffin	Pearson	
Humphrey	Schmitt	

So amendment No. 1018 was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 963—AS MODIFIED

Mr. HELMS. Mr. President, I have an amendment at the desk, No. 963, which I call up and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) for himself and Mr. CRANSTON proposes an amendment numbered 963, as modified.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, insert the following between lines 17 and 18:

"RELIGIOUS OR NON-PROFIT EDUCATIONAL CONFERENCE CENTERS

"SEC. 5. Section 13(a)(3) is amended by inserting after 'recreational establishment,' the following: 'organized camp, or religious or non-profit educational conference center,'".

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

On page 12, after line 25, add the following:

"(c) The amendments made by section 5 shall take effect on January 1, 1978.".

Mr. HELMS. Mr. President, if I understand, the managers will accept this amendment and I do not intend to consume much of the Senate's time.

Mr. President, the minimum wage law provides an exemption for seasonal workers in amusement or recreational establishments. The purpose of this exclusion is to permit high school and college students, schoolteachers, and other supplemental wage earners, who are not in the labor market, to be employed during the summer. For years it was assumed——

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. The Senate will be in order.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, for years, it was assumed that this exclusion included the 50,000 or so workers at religious and YMCA conference centers, who, just as summer camp counselors, usually enjoy room, board, and outdoor recreation as part of their employment.

Recently, however, the Employment Standards Administration of the Department of Labor has ruled that these conference centers, since they are more "educational" than amusement and recreation oriented, do not fall within the exemption.

So, we have an anomalous situation where young people employed as seasonal merry-go-round and shooting gallery attendants are exempted, but young people assisting at religious conference centers are not. Moreover, since summer camps are, in a very real sense, educational, the American Camping Association is fearful that their 360,000 seasonal employees—counselors, and so forth—will be next to be interpreted as coming under the Labor Standards Act.

I am confident that when the Congress permitted the seasonal "amusement and recreational" exemption, it intended that summer camps and religious conference centers would be included within the exemption.

To cure this situation, my distinguished colleague, Senator CRANSTON, and I are offering amendment No. 963 to S. 1871 which would add organized camps and religious or educational conferences to the exempt categories.

I might mention, Mr. President, also cosponsoring this amendment are Senators MORGAN, BAKER, SPARKMAN, HARRY F. BYRD, JR., STONE, MCCLURE, and HAYAKAWA.

Mr. HATCH. Mr. President, will the distinguished Senator from North Carolina yield?

Mr. HELMS. I yield.

Mr. HATCH. Mr. President, I also wish to be added as a cosponsor of this amendment, and I would hope that the distinguished floor leaders of this matter would accept this amendment. I think it is a reasonable one.

I had Boy Scout leaders from all over the country call in and suggest that this is something that we just have to have.

It is an opportunity for young people, and I just commend my distinguished friend and colleague from North Carolina for offering this amendment. I think it is excellent. I think it is the type of amendment and the spirit in which I know both of my friends who are the floor leaders on the bill will consider it. I suggest that they seriously consider this.

Mr. HELMS. I thank the Senator.

Mr. President, Mr. CRANSTON, who is principal cosponsor of amendment 963 to S. 1871, joins me in asking unanimous consent that Mr. MORGAN, Mr. SPARKMAN, Mr. BYRD of Virginia, Mr. STONE, Mr. HAYAKAWA, Mr. MCCLURE and Mr. HATCH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I would emphasize: We are not seeking an exemption from the minimum wage and hour regulations for permanent staff members who rely on this income for their living. Rather, we are talking about supplemental wage earners; such as, teenagers, students, teachers, and retired persons. The young people particularly have difficult times finding summer employment. Since many of these temporary jobs have uncertain hours, and since room and board and recreation are really a large part of the experience, the hours of work restrictions, overtime requirements for such personnel as cabin counselors, as well as hourly wages, simply do not fit the camp and conference reality.

In short, this amendment simply makes clear what we believe the intention of Congress to have always been: That seasonal employees, earning supplemental income, in our Nation's religious, YMCA and YWCA conference centers and in our summer camps, should be exempted from the Federal wage-hour law.

I urge adoption of the amendment.

Mr. CRANSTON. Mr. President, I am pleased to have joined with the distinguished Senator from North Carolina (Mr. HELMS) in working for successful passage of his proposal to include organized summer camps and religious and nonprofit educational centers in section 13(a)(3) of the Fair Labor Standards Act.

Section 13(a)(3) exempts employers who operate "amusement or recreational establishments" on a seasonal basis. The Department of Labor in administering this provision of the wage-hour law has determined that a nonprofit conference center does not qualify as an "amusement or recreational establishment." A summer camp does qualify but a conference center, apparently, does not.

This interpretation may be within the letter of the statute. But it appears to me to turn public on its head for Congress to exempt carnival employees from the law, but not counselors and staff of religious and educational conference centers. Therefore, I have joined with Senator HELMS in offering his amendment.

I am grateful that the distinguished floor managers, Mr. WILLIAMS and Mr. JAVITS, will accept the amendment as modified. I thank them both.

Will the Senator yield for a question?

Mr. HELMS. I am happy to yield to the distinguished Senator.

Mr. CRANSTON. Camps are now excluded from the operation of the Fair Labor Standards Act. Why do we need a specific exclusion for them?

Mr. HELMS. Because the educational emphasis in camping might be interpreted to take them outside the present exemption. Also, specialized camps are becoming more and more numerous, and are built around academics, art, science, ecology, learning disabilities, and other such programs. These would almost certainly be considered "educational," in spite of the fact that they offer the other advantages of conventional camping.

Mr. CRANSTON. I thank the Senator, and ask whether he would define the phrase "organized camp" used in the amendment.

Mr. HELMS. An "organized camp" is one with a program of activities, sustained supervision, provided for a set fee. Organized camps characteristically provide room and board in a rustic setting, over a sustained period of time and thus are distinguished from a personally embarked-on camping trip. The American Camping Association defines a "camp" as "a sustained experience which provides a creative recreational and educational opportunity in group living in the out of doors. It utilizes trained leadership and the resources of natural surroundings to contribute to each camper's mental, physical, social, and spiritual growth.

Mr. CRANSTON. Am I correct in supposing that this definition would include day camps?

Mr. HELMS. These would be included under the exclusion inasmuch as the only difference between day camps and the conventional residential camp, is that the "group living" aspect is only during the day, with the campers returning to their homes at night.

Mr. CRANSTON. Let me say that I am fully in support of this amendment. But I think it would be helpful if the Senator were also to define a "religious or nonprofit educational conference center."

Mr. HELMS. I thank the distinguished Senator. Let me say that these have been in existence for nearly 70 years. They have been built usually in secluded and scenic areas, and are used as meeting centers for religious, educational, and leadership growth experiences for both youth and adults. They often provide residence accommodations, meal service, and meeting and recreational facilities. Ninety to 95 percent are under the sponsorship of religious denominations. We know of none that are not operated on a nonprofit and tax-exempt basis.

Mr. CRANSTON. Will the Senator also explain why seasonal employees in camps and conference centers should be exempt from minimum wage and hour requirements?

Mr. HELMS. These seasonal employees are usually in residence and receive meals and room, as well as educational programs and recreation as a part of the employment. Moreover, counselors, and employees at camps and conference centers often choose these jobs, because of the opportunity to serve their church, or because of the opportunity for summer vacation in the out-of-doors, with wholesome food, sports, the chance to learn new skills, and to simply have a great time. It should be emphasized that these are not family breadwinners. Besides, why should carnival workers and beach lifeguards be exempt, and church conference and camp workers not? Finally, those workers who are in housekeeping, kitchen, office duties, and other work not associated with the educational and recreational activities of the camp or center will be paid, as a practical matter, the "going rate" for their work. This is almost invariably more than the minimum wage. I think that it should be pointed out that under this amendment other wage and hour regulations would be excluded. One of these would be the overtime pay requirements. These requirements for cabin counselors in camps, for example, who are literally "on duty" 24 hours a day, are unrealistic. Another difficulty involves the fact that conference center loads differ from week to week: 1 week may have 50 to 60 hours of work, the next only 20 to 25. These regulations were not designed for, and do not fit, the realities of the camp and conference cen-

ter situation. We should also note that this amendment also excludes the full-time employees of organized camps and conference centers. But this is just as the present law excludes the full-time employees of "amusement or recreational establishments" which operate no more than 7 months or whose average receipts for 6 months are no more than one-third of the average receipts for the other 6 months. The fact is, however, that the full-time employees, according to the American Camping Association and the International Conference Center Administrators, receive considerably more than the minimum wage, because the demand for their skills in the labor market is so great. Therefore, practical application of the exclusion will be only to purely seasonal and supplemental employees.

Mr. CRANSTON. I thank the Senator. How about kitchen employees?

Mr. HELMS. It is axiomatic at camps and conference centers that the cooks and the nurses are invariably the highest paid employees. Dishwashes and other kitchen help also have to be paid more than the minimum wage, according to the American Camping Association and International Association Conference Center Administrators, because the market forces higher pay for these jobs. In practice, again, virtually the only ones affected by this amendment will be the seasonal, supplemental wage earners.

Mr. CRANSTON. Can we be sure that the "conference center" exclusion will not be misused by operations which are really resorts?

Mr. HELMS. The intention of this exclusion is quite narrow and the language is no more broad than the terms "amusement or recreational establishments." We can rely on the Wage and Hour Division of the Department of Labor to insure that the salutary intent of this amendment is not subverted.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN addressed the Chair.

Mr. WILLIAMS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. HELMS. I yield the floor, yes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. I yield myself a few minutes?

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. I just wish to clarify the meaning of the present law, particularly in light of the language of the amendment, if I might ask the Senator from North Carolina.

I observe that the exemption language in this amendment includes organized camping.

Mr. HELMS. Yes.

Mr. WILLIAMS. It is acceptable to me to include that in the amendment as long as it is understood clearly that under present law organized camping is exempt.

I do not want anyone to read this amendment, as it becomes new law, to suggest that in times past organized camping was covered, because it is not. This would not create any cause of action for back wages because organized camping is not included as it is now.

So if that is crystal clear, the rest, of course, is less clear in law. This would be the clarification of the law to include educational, religious, conference, seasonal, and nonprofit activities.

Mr. HELMS. That is correct.

Mr. WILLIAMS. All of those elements.

Mr. HELMS. The Senator is correct.

Mr. WILLIAMS. That certainly fits well within the traditions of the exemption.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HELMS. I yield.

Mr. JAVITS. I notice the word "nonprofit" is inserted before educational, because it is assumed that religious conference centers are nonprofitable.

Mr. HELMS. That is correct.

Mr. JAVITS. So if there is any question about that within the context of the law of the statute the Senator will understand that we may have to work that out in conference.

Mr. HELMS. That is correct.

Mr. JAVITS. Similarly, with the fact that Senator WILLIAMS says organized campers are included in the law now and, therefore, this may be redundant, but the thrust of the amendment is acceptable to me, and we will work out whatever technical changes need to be made.

Mr. HELMS. I thank the Senator.

Mr. HATCH. Mr. President, I wish to thank my colleague.

I urge that the distinguished floor managers of the bill accept this amendment because it is in the spirit of appropriateness.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Has the Senator from New Jersey yielded the floor?

Mr. WILLIAMS. Yes, I have yielded the floor.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield to my able colleague from North Carolina, Mr. MORGAN.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I am pleased to cosponsor amendment No. 963 to Senate bill No. 1871. This amendment, I am happy to report, does not seek to expand or restrict the coverage of the minimum wage bill, rather its purpose is to clarify the law and reaffirm the congressional intent of past legislation.

In 1966, an exemption for the employees of amusement and recreational establishments which operate on a seasonal basis was added to the law. The intent of the exemption was to allow seasonal, primarily summer operations to hire young people at less than the minimum wage. This provision remains in the law today and I feel it is a worthwhile exemption with many benefits.

For years, educational and religious camps have operated summer programs to provide training for young people in religion or special fields of study. These camps often provide room and board for these young people. To help defray the cost of the tuition and room and board, the summer students are allowed to work around the camps in diverse occupations. They are paid for their work, though not the minimum wage. Through this arrangement the camps can operate more effectively, providing housing and food for more people, and the young people are able to attend the camps at a reduced cost and have some spending money for their efforts.

These camps have resumed, and I feel correctly, that they fit under the exemption for recreational organizations which operate on a seasonal basis. The Department of Labor has ruled that they cannot claim an exemption and continue the arrangement that has worked so well in the past. I believe that amendment No. 963 will clarify for the Department what the congressional intent is and allow these camps to continue to provide the most benefits for the most people.

It is proper that these seasonal establishments be exempted from the law, not only because of congressional intent, but for several other reasons as well.

Traditionally these educational and religious camps are seasonal in nature. They are nonprofit and tax exempt. They provide room and board for young people in attendance. They are the training ground for moral living and they develop a work ethic through the program of "pay as you go."

I must emphasize that these camps pay the full minimum wage to their full-time employees. Allowing summer students to be paid at less than the minimum wage displaces no heads of households and allows young people to attend camps they could not otherwise afford.

The State of North Carolina has seen fit to exempt these temporary employees from the State's minimum wage law. I think the Congress should clarify the law and reaffirm congressional intent by the enactment of this amendment. It is ironic that the result of past congressional action is to exempt the temporary workers of amusement parks but not the young people, teachers and retired persons who come to religious and summer camps to spend an enjoyable summer in a worthwhile endeavor. I do not think that is what we intended or desire and I feel that amendment No. 963 will resolve this unfortunate oversight.

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS and Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 896

Mr. STAFFORD. Mr. President, I have an unprinted amendment at the desk.

I ask for its immediate consideration and that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for himself, Mr. RANDOLPH, Mr. WILLIAMS, Mr. JAVITS, and Mr. INOUYE proposes an unprinted amendment numbered 896.

On page 11, strike lines 7 through 24 and insert in lieu thereof the following:

"SEC. 3. (a) Effective January 1, 1978, section 3(m) (20 U.S.C. 203(m)) is amended by striking out '50 per centum' and inserting in lieu thereof '45 per centum.'

(b) Effective January 1, 1979, such section is amended by striking out '45 per centum' and inserting in lieu thereof '40 per centum.'

(c) Effective January 1, 1980, such section is amended by striking out '40 per centum' and inserting in lieu thereof '35 per centum.'

(d) Effective January 1, 1981, such section is amended by striking out '35 per centum' and inserting in lieu thereof '30 per centum.' "

The PRESIDING OFFICER. By previous order, the Senator from Vermont is recognized for 15 minutes.

Mr. STAFFORD. Mr. President, what this amendment does is to eliminate the last two gradients of reduction in the tip credit, the one on January 1, 1982, which would reduce the tip credit to 30 percent, and the one effective January 1, 1983, which would have reduced the tip credit to 20 percent.

Mr. President, my amendment is a compromise with respect to the issue of the tip credit. It has been worked out with a number of my colleagues who, like me, are concerned both with the needs of workers and the needs of business. I offer this amendment as one who throughout his public life has opposed the repeal of the tip credit and still do so. But I believe we have an opportunity today to bring some degree of relief to gratuity employees without causing any adverse impact on any employers, indeed, without causing any impact on many employers in a majority of States.

Under the Federal law as it now exists, employers may take a credit against their employees' wages of up to 50 percent of the Federal minimum wage, $1.15 per hour, if their employees actually receive that amount in tips and if the taking of the credit is permitted by State law.

When first introduced, S. 1871 would have repealed the tip credit in five steps by 1983. During the deliberations on the bill in the Senate Human Resources Committee, Senator RANDOLPH and I, with other members, urged our chairman to consider more moderate alternatives. As always, Senator WILLIAMS responded to what he recognized as the legitimate felt needs of Members on both sides of the aisle. He offered the amendment to bring the tip credit gradually down to 20 percent but not to repeal it. The amendment was overwhelmingly endorsed while one amendment to retain the status quo was convincingly rejected.

The amendment which I offer today is cosponsored by Senator RANDOLPH, the chairman of the committee, Senator WILLIAMS, the ranking minority member, Senator JAVITS, and Senator INOUYE. It would reduce the tip credit by 5 percent a year until it reached 30 percent in 1981. In dollars and cents, it would permit the maximum tip credit to rise to $1.19 on January 1, 1978, then go to $1.16 on January 1, 1979, $1.10 on January 1, 1980, $1.02 on January 1, 1981.

Mr. President, there are many States where my compromise would not have any impact. They include Alaska, California, Idaho, Nevada, North Dakota, Oregon, and Washington, where no tip credit is permitted at all; and Connecticut, Minnesota, New York, South Dakota, Vermont, and Wisconsin where the maximum tip credit is less than provided in my amendment. In addition, in States such as Massachusetts and Rhode Island, the tip credit permitted by my amendment is higher than the tip credit now permitted under State law. Finally, in Montana, Hawaii, Michigan, Utah, West Virginia, Indiana, Kansas, and Nebraska, my compromise will have no impact on the small businessmen who are already covered by reduced tip credit laws in those States. For the rest of the employers of gratuity employees, my compromise will have a barely perceptible impact. For the first 2 years they will be able to take a tip credit slightly higher than now permitted. Thereafter it will be slightly lower than now permitted.

I hope my amendment will be agreeable to the floor manager and to my colleagues.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. JAVITS. Mr. President, will the Senator allow the Senator from Vermont to yield first to me?

Mr. STONE. I yield.

Mr. STAFFORD. I am glad to yield to my colleague the ranking minority member.

Mr. JAVITS. Mr. President, I merely wish to make one point.

When the bill was introduced, I thought it was going much too far to eliminate the tip credit, even by stages.

The point I wish to make with the Senator is not a forensic one. Analysis indicated that the ones hurt would be the very low paid employees. They are the ones most injured by diminution of the tip credit.

Upon analysis in detail, we believe that at the 30 percent level they will be helped rather than hurt. That, to me, was the breaking point; and I am very pleased that our colleague from Vermont is supporting it, and I hope very much the Senate will support this compromise.

Mr. STAFFORD. Mr. President, I appreciate the contribution of the ranking minority member of the committee. I am happy to yield to the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. President, I applaud the Senator for presenting this amendment to us. As is known, my position on the tip credit began when the bill provided for the ultimate elimination of a credit. I think that when people get gratuities, they are given for a reason; people appreciate service, and they like to give a gratuity, that is, a tip, to the person serving them and not to the employer.

As it is now, the first $1.15 that the employee receives, unknown to the person granting this gratuity, is not to the individual worker, but to the employer. I just think, in all equity, because we are dealing here in large measure with lower income employees, that when someone grants a gratuity, the person receiving it should be able to have it.

I could see that my approach was not getting the kind of consensus that we need in this body, so I did agree, in committee, that we would not phase it down and out, but would stop at 20 percent. Realistically, I can see that in those few situations where a hardship would be felt, it is more realistic to come to 30 percent; and I join the Senator from Vermont and hope that he will get an overwhelming vote of support.

In this regard, Mr. President, I would like to pay a special tribute to Senator RANDOLPH. No one has worked harder over the years for America's workers than Senator JENNINGS RANDOLPH. His contributions to this legislation both in committee and on the Senate floor are well known to us all, and I wish to take this opportunity to commend him for his efforts, both on this issue and on the entire bill.

Mr. STAFFORD. Mr. President, I appreciate the words of the distinguished chairman of the committee. I am happy to yield to our distinguished colleague from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I think it is encouraging that the chairman of our Committee on Human Resources and the ranking minority member of that committee, Senators WILLIAMS and JAVITS, men who took a somewhat different position, frankly, have been convinced, and they have been very frank to say here tonight that they believe the pending amendment strikes that balance which I think aids the employee and frankly does no harm to the employer. I am happy to be joined with the Senator from New Hampshire in this matter.

It has been a concern of mine over a long period of years, and I think tonight we do well, with a well-reasoned approach, in the amendment now pending

Mr. STAFFORD. Mr. President, I appreciate the statement of the distinguished Senator from West Virginia.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Who yields time?

Mr. STAFFORD. Unless there are other speakers on this amendment, I am prepared to yield back the remainder of my time on the amendment.

Mr. WILLIAMS. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back——

UP AMENDMENT NO. 897

Mr. STONE. Mr. President, I have at the desk an amendment in the nature of a substitute, and I ask that the clerk report the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 897 to the unprinted amendment (No. 896) of the Senator from Vermont (Mr. STAFFORD):

In lieu of the language proposed to be inserted by the Senator from Vermont, insert the following:

"The Secretary of Labor is directed to conduct a study on the impact of reducing the tip credit in section 3(m) on employment and the effect on wages and tipped employees."

Mr. STONE. Mr. President, in addition to the other cosponsors listed on the printed amendment, which is the basic amendment, somewhat modified, amendment No. 1410, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of this substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, in 1966 Congress included in section 3(m) of the Fair Labor Standards Act a provision that employers may credit tips received by employees toward their obligation to pay the minimum wage. This tip credit was set at 50 percent of the minimum wage. The figure represents a compromise reached by Congress between those who contended that tip income should not be considered at all and those who argued that tips are remuneration for employment and should be offset against the minimum wage in their entirety. This compromise was reached after lengthy hearings, careful deliberation, and extensive debate. Nothing has occurred in the intervening years to controvert the original soundness and fairness of that agreement and that legislation.

The original underlying purpose of the minimum wage law was and is—and we have heard it stated here this evening that the purpose remains—to place a floor under earned income, not to set a ceiling or establish an average, but to fix a guaranteed minimum remuneration for work. A Bureau of Labor Statistics survey shows that the income of tipped employees averages more than the statutory minimum. The purpose of the law is therefore being met.

The argument that a tip is a private matter between the employee and customer and should therefore not be counted as wages overlooks the significant contribution the employer makes toward the production of tip income. All tips are earned on the premises, using the employer's equipment and serving his food. The employer pays all the overhead and operating expenses, determines the price of the meal and its quality, determines the general atmosphere of the establishment, and assigns work shifts. All these factors contribute significantly to the level of tip income.

Congress, the courts, and Government agencies have consistently held that tips are remuneration for employment and taxable income of the employee. As such, it would be totally illogical to exclude them in determining whether a tipped employee's wages meet a statutorily prescribed minimum level.

Under the tip credit provision, an employee who receives tips can, in effect, never earn less than the minimum wage. The present law also has built in safeguards—the amount of the credit cannot exceed 50 percent of the minimum wage; it cannot exceed the amount of tips actually received; it must be clearly shown on the payroll records; and it cannot be used at all unless its application and limitations are first explained to the employee. Any employer who might cheat on the tip credit is the same employer who will cheat on the minimum wage rate itself. These are enforcement problems which cannot be corrected by legislating higher rates. In fact, throughout the debate no evidence of testimony has been offered to suggest that total earnings are ever less than the minimum wage.

Those who would repeal the credit have not given any solid reasons or evidence of the need to change the current system. Tipped employees, both union and nonunion, have testified before the Senate and House Committees on Labor asking that the tip credit not be reduced. The waiters and waitresses maintained that a repeal of the credit would not be enough to compensate them in wages for what they would lose in tips.

Mr. President, waiters and waitresses were not alone in their opposition to the tip credit reduction. Both President Carter and Secretary of Labor Ray Marshall have expressed similar sentiments. Economists have also given support to the current system of compensating tipped employees.

As we all know, if the employer is forced to pay higher wages through a phase-down of the tip credit, someone is going to have to pay. It is not the tooth fairy—the price of that phase-down will be borne by employees and consumers alike.

California, which last year went to a $2.50 minimum without tip credit, bears watching as the best example of what can happen when costs are raised beyond the point of being absorbed through price and labor adjustments. Although restaurant industry employment went up in the State, the evidence suggests that the growth was experienced by the nontipped section of the industry while tipped employees were experiencing reduced hours and layoffs.

In summary, I would stress that any repeal of the current tip credit will fuel inflation and add to youth unemployment. The food service industry employs 5.4 million people. It is the largest single employment sector in the United States. Reducing the tip credit will increase the costs of wages to the food industry which in turn will inevitably reduce employment in that industry. Increased charges at food service establishments will, in short, add to inflation and further reduce employment.

Mr. HANSEN. Mr. President, will the Senator from Florida yield me 1 minute?

Mr. STONE. I yield.

Mr. HANSEN. I think the points made by the distinguished Senator from Florida are accurate, they are persuasive, and I think they should chart the course that we ought to follow in trying to expand the opportunities for employment in this country or, rather, to see that they are not diminished or decreased.

I think that the evidence clearly indicates that a picture is made that will surely follow if we change this tip credit.

Mr. STONE. I thank the Senator. I want to add a personal note. In South Florida, the resort industry, both hotels and restaurants, is in serious difficulty.

Repealing the tip credit would, over the course of its several years of existence, increase the cost to the industry over 107 percent. That would devastate a tottering industry, at least in a major part of my own State.

Finally, among States which have phased down the tip credit, the State of Michigan is now phasing it up. The State of Vermont is now phasing it up. The State of Wisconsin is now phasing it up because of the experience that those States have had.

So, Mr. President, I ask that we keep the present law by adopting this substitute amendment which strikes the language proposed as a substitute and which orders, instead, a study of the effects anticipated by the reduction of tip credit.

I reserve the remainder of my time, or I am prepared to yield back the remainder of my time.

Mr. STAFFORD. Mr. President, the distinguished Senator from Florida mentioned my State, Vermont. I would like to point out that they did in fact raise the credit allowance there from 75 cents to 80 cents, which is substantially below the tip credit here under the percentages in the compromise, in any of the 4 years for which the compromise figures have been set. There has been some discussion of the adverse effect of recent experience in reductions in tip credits. There has been a recent experience in California in this field, in which we know of no adverse impact.

We have heard much talk about a potential adverse impact on employment which the restaurant industry says would result from even a slight reduction in the tip credit. On the basis of the recent experience in California, we know that there will be no adverse impact.

These projections of no adverse effect are supported by the Secretary of Labor's 1968 reports to Congress with respect to the 1966 Fair Labor Standards Act Amendments. In 1968, the Secretary reported to Congress on the economic impact of covering large segments of the food service industry and the hotel and motel industry under the minimum wage laws for the first time.

The Secretary concluded as follows:

Employment rose by an estimated 500 workers to almost 265,000 in covered hotels and motels during the 6-month period spanning the effective date of the $1.00 minimum wage. *The largest regional increase was a gain of 4,000 workers in the south. This was of particular significance since southern establishments were the only ones in which the minimum wage has a significant impact.* (Emphasis added.)

With respect to eating and drinking places, he concluded that:

Nationwide employment in *noncovered* establishments *declined* by 2,600 workers between October 1966 and April 1967 as contrasted with an *increase* of 3,900 in *covered* establishments. (Emphasis added.)

Finally, the Secretary of Labor has most recently testified that:

We can show from a gross point of view that when tip credit has been changed in states like California, that from an aggregate point of view, it has no apparent adverse effects.

Mr. President, I am prepared, like the distinguished Senator from Florida, if he still is, to yield back my time.

Mr. STONE. If the distinguished Senator will permit me 1 minute, then I am prepared to yield back my time.

I have two points. One is that the restaurant industry in this country, under the compromise minimum wage amendment that we have overwhelmingly voted here tonight, would have moderate cost increases to pay. Under this proposal, the restaurant and hotel accommodations industry would be paying 26 percent more this coming year, 50 percent more the year after that, 78 percent more the year after that, and a total of 107 percent in the fourth year. That is highly unfair and arbitrary against this particular industry.

Finally, Mr. President, I repeat that the surveys show that the tipped employes now make more on the average than the minimum wage. Therefore, the purpose of the law is being served by the existing law.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. STONE. I yield.

Mr. HATCH. Mr. President, the Senator from Vermont (Mr. STAFFORD) mentioned the comments of the distinguished Secretary of Labor. I think it would be essential at this point in the RECORD to mention some of the things that the Secretary of Labor said about this. He said:

Your bill would phase out this tip credit by 1983. The House bill would gradually reduce the maximum allowance for tips to $1.00 an hour beginning January 1, 1981. Our opposition to these provisions is based on two factors.

That is very persuasive to me, when the Secretary of Labor opposes this, because I think ordinarily his inclinations would be the other way.

One is the lack of information about whether this change would actually result in an increase in combined wage and tip earnings. A reduction in percentage terms of the tip credit may induce some employers to replace tips with a service charge. This could lower the combined wages and tips of these employees.

The other problem is the substantial additional costs to employers of tipped workers, particularly in the restaurant, hotel, and motel industries.

I believe the distinguished Senator from Florida is complaining about that as having a major impact in his State, and I think we would find that in most other States:

Taking into account the proposed new minimum wage levels, we estimate that these increased costs will run into the millions of dollars. Our figures project a cost of $65 million in 1978, $114 million in 1979, $172 million in 1980 and $185 million in the fourth year after the effective date. As a result, we oppose any change in current law.

Mr. STONE. The Senator is correct.

Mr. HATCH. I commend him for that stand, because I think it means loss of jobs, more pressures on industries in Florida and all over America. I think it would be disastrous to the restaurant business throughout America.

I ask unanimous consent that my name be listed as a cosponsor of the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the Senator.

I yield to the distinguished Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Florida.

Mr. President, I support the substitute amendment. In New Hampshire, tourism is a very important industry. It is one of the major industries in the State. I have talked to people who are vitally involved in the tourist industry all across the State, and they unanimously do not want any change in the tip credit.

I am happy to cosponsor the amendment with my friend the distinguished Senator from Florida, and I hope the Senate will agree.

Mr. STONE. I certainly thank the distinguished Senator from New Hampshire.

Mr. President, I ask for the yeas and nays on this substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STONE. Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. We yield back the time in opposition.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 42, nays 46, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—42

Allen	Domenici	Hollings
Baker	Durkin	Huddleston
Bartlett	Eagleton	Johnston
Bayh	Eastland	Long
Bentsen	Garn	Lugar
Bumpers	Glenn	McClure
Byrd, Harry F., Jr.	Goldwater	McIntyre
Chafee	Hansen	Morgan
Chiles	Haskell	Nunn
Curtis	Hatch	Percy
Danforth	Hayakawa	Roth
	Helms	Sasser
Schmitt	Tower	Zorinsky
Stone	Wallop	
Thurmond	Young	

NAYS—46

Anderson	Hathaway	Nelson
Bellmon	Heinz	Packwood
Biden	Inouye	Pell
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Cannon	Laxalt	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Schweiker
Clark	Mathias	Stafford
Cranston	Matsunaga	Stevens
Culver	McGovern	Stevenson
DeConcini	Melcher	Weicker
Gravel	Metzenbaum	Williams
Hart	Moynihan	
Hatfield	Muskie	

NOT VOTING—12

Abourezk	Humphrey	Scott
Dole	McClellan	Sparkman
Ford	Metcalf	Stennis
Griffin	Pearson	Talmadge

So unprinted amendment No. 897 was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, to help get Members away, I ask unanimous consent that the yeas and nays on the Stafford amendment be vacated.

UP AMENDMENT 898

Mr. ALLEN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 898.

On page 1 of unprinted amendment numbered 896 strike sections 3(c) and 3(d).

Mr. ALLEN. Mr. President, this amendment would be the exact middle between the Stafford amendment and the Stone amendment. The Stafford amendment would cut the tip credit down eventually to 30 percent, whereas the Stone amendment would have left the credit at 50 percent. The amendment I have offered would allow the stages of the Stafford amendment to be operative but it would stop at 40 percent.

That is exactly a midway position between Senator STONE and Senator STAFFORD. That is the long and short of it.

SEVERAL SENATORS. Vote! Vote!

Mr. ALLEN. Mr. President, I ask for the yeas and nays, unless it is agreed to.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, we have already compromised. The figure was to phase out the tip credit entirely. Then the figure of Senator WILLIAMS was 20 percent. We finally have gotten this at 30 percent, which was the compromise that united most of us.

I respectfully submit we have already compromised. This compromise on the floor is a compromise on a compromise and it does not amount to all that much, either, in the sense it is only a 20-percent

reduction of the tip credit which has been a thorn in the side of many of these employees.

Mr. President, I hope the Senate will defeat this amendment.

Mr. ALLEN. It is quite obvious there is no compromise except as between people of the same mind because the distinguished Senator from Florida offered the 50-percent amendment. So it is quite obvious there is no compromise.

Possibly Senator JAVITS and Senator WILLIAMS compromised it, but that is the only compromise.

Mr. JAVITS. Mr. President, 1 minute.

Fifty percent is the present law. There is nothing in that. Fifty percent is what the law is today.

Mr. ALLEN. That was the Stone amendment.

Mr. JAVITS. It is not an amendment. That is the law. Just keeping it today as it is. There is no amendment in that. No amendment and no compromise.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ALLEN. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to unprinted amendment No. 898 of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 42, nays 47, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—42

Allen	Garn	Morgan
Baker	Glenn	Nunn
Bartlett	Goldwater	Percy
Bentsen	Hansen	Roth
Bumpers	Haskell	Sasser
Byrd, Harry F., Jr.	Hatch	Schmitt
Chafee	Hayakawa	Stone
Chiles	Helms	Talmadge
Curtis	Hollings	Thurmond
Danforth	Huddleston	Tower
Domenici	Johnston	Wallop
Durkin	Long	Young
Eagleton	Lugar	Zorinsky
Eastland	McClure	
	McIntyre	

NAYS—47

Anderson	Burdick	Clark
Bayh	Byrd, Robert C.	Cranston
Bellmon	Cannon	Culver
Biden	Case	DeConcini
Brooke	Church	Gravel
Hart	Mathias	Randolph
Hatfield	Matsunaga	Ribicoff
Hathaway	McGovern	Riegle
Heinz	Melcher	Sarbanes
Inouye	Metzenbaum	Schweiker
Jackson	Moynihan	Stafford
Javits	Muskie	Stevens
Kennedy	Nelson	Stevenson
Laxalt	Packwood	Weicker
Leahy	Pell	Williams
Magnuson	Proxmire	

NOT VOTING—11

Abourezk	Humphrey	Scott
Dole	McClellan	Sparkman
Ford	Metcalf	Stennis
Griffin	Pearson	

So unprinted amendment No. 898 was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to amendment No. 896 proposed by the Senator from Vermont.

The yeas and nays having been previously ordered, the clerk will call the roll.

Mr. ALLEN. Mr. President, I understand the yeas and nays ordered were going to be rescinded on this. I have no further amendments. I ask unanimous consent that the order be rescinded.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last vote tonight. We will start early tomorrow morning at 9 o'clock.

(Mr. DURKIN assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 81, nays 7, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—81

Allen	Clark	Hathaway
Anderson	Cranston	Hayakawa
Baker	Culver	Heinz
Bartlett	Curtis	Hollings
Bellmon	Danforth	Huddleston
Bentsen	DeConcini	Inouye
Biden	Domenici	Jackson
Brooke	Eagleton	Javits
Bumpers	Eastland	Kennedy
Burdick	Garn	Laxalt
Byrd, Harry F., Jr.	Glenn	Leahy
Byrd, Robert C.	Goldwater	Long
Cannon	Gravel	Lugar
Case	Hansen	Magnuson
Chafee	Hart	Mathias
Chiles	Haskell	Matsunaga
Church	Hatch	McClure
	Hatfield	McGovern
Melcher	Randolph	Stevenson
Metzenbaum	Ribicoff	Talmadge
Morgan	Riegle	Thurmond
Moynihan	Roth	Tower
Muskie	Sarbanes	Wallop
Nunn	Sasser	Weicker
Packwood	Schmitt	Williams
Pell	Schweiker	Young
Percy	Stafford	
Proxmire	Stevens	

NAYS—7

Bayh	Johnston	Zorinsky
Durkin	McIntyre	
Helms	Stone	

NOT VOTING—12

Abourezk	Humphrey	Pearson
Dole	McClellan	Scott
Ford	Metcalf	Sparkman
Griffin	Nelson	Stennis

So Mr. STAFFORD's amendment (No. 896) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1393

(Purpose: to waive section 12 of the Fair Labor Standards Act of 1938, relating to child labor, with respect to certain agricultural hand harvest laborers under specified conditions)

Mr. HATHAWAY. Mr. President, I call up my amendment No. 1393.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine, Mr. HATHAWAY——

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"AGRICULTURAL HAND HARVEST LABORERS

"SEC. 5. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"'(i)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"'(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"'(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"'(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"'(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"'(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"'(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"'(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.'."

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

On page 12, after line 25, add the following new subsection:

"(c) The amendment made by section 5 shall take effect on the date of enactment of this Act.".

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

PUBLIC BROADCASTING—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to stifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

—Devote more resources to high-quality national programming.

—Set long-range goals by which its progress can be judged.

—Plan how public television and radio signals can be brought within reach of all citizens.

—Provide greater accountability to the public.

—Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programming.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the ten years since the Public Broadcasting Act first provided Federal funds for programming, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, state, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

—Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

—Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

—Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programming, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

—Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal and fewer than two-thirds can receive public radio.

—Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

—Increase employment, training, and ownership opportunities for minorities and women.

—Support local, state, and regional programming.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of $152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total $1.041 billion. This includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. It also includes a separate grant program of $30 million annually for technical facilities in fiscal 1979 and 1980, and $1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at $200 million after the second year. Such leveled funding will ensure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programming in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fundraising from private sources and government agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programming staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

—Reduces CPB's effectiveness as a political insulator.

—Reduces its ability to focus on long-range planning and new educational services.

—Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programming. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

—CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

—Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

—CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR NATIONAL PROGRAMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only $17 million of its current $103 million appropriation directly to national programming. In addition, about $19 million of the $58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25 percent of funds appropriated to CPB in future years shall be used for a national Programing Fund for bloc grants for such productions. This will insure that by fiscal year 1982 up to $50 million, depending on the appropriation level, would be earmarked for national programing. These programs will continue to be produced on a decentralized basis by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25% of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by any other mechanism. This would provide a total of up to $100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have levelled off.

As a former governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requries the system to raise $2.50 for every $1 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to $2.25-to-$1.00. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present $30 million annual authorization.

I also propose changes in the Facilities Program to:

—Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

—Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

—Make regional networks and other groups of stations eligible for facilities funds.

—Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. public television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPB, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decisionmaking levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately $25 million was contributed to public broadcasting directly by four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedule, as well as many local and State productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rules for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to parity with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvements priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighed.

I urge Congress to consider promptly, and to pass, the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER

THE WHITE HOUSE, *October 6, 1977*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 8:49 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of The George Washington University.

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

H.R. 5742. An act to amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under the Act for the expenses of the Department of Justice in carrying out that Act.

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes.

H.R. 6655. An act to amend certain Federal laws pertaining to community development, housing, and related programs.

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

H.R. 9354. An act to amend the Act of August 25, 1958, with respect to staff allowances for former Presidents.

The enrolled bills were subsequently signed by the Acting President pro tempore (MR. HARRY F. BYRD, JR.).

At 10:15 a.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has agreed to the concurrent resolution (H. Con. Res. 372) providing for an adjournment of the House from October 6 until October 11, 1977, in which it requests the concurrence of the Senate.

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendments of the Senate to the bill (H.R. 9005) making appropriations for the government of the

District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NATCHER, Mr. GIAIMO, Mr. CHARLES WILSON of Texas, Mr. MCKAY, Mrs. BURKE of California, Mr. BENJAMIN, Mr. MAHON, Mr. BURGENER, Mr. KEMP, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC–2116. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, modifications to provisions of law concerning desalting equipment for the Yuma Desalting Plant of the Colorado River Basin (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2117. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the Federal Energy Administration Quarterly Report for the period of April through June 1977 concerning imports of crude oil and other oil related matters (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2118. A letter from the Chairman of the International Trade Commission transmitting, pursuant to law, the eleventh quarterly report on trade between the United States and the non-market economy countries (with an accompanying report); to the Committee on Finance.

EC–2119. A letter, dated September 28, 1977, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–2120. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Computer Auditing in the Executive Departments: Not Enough is Being Done" (FGMSD–77–82, September 28, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2121. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "An Organized Approach to Improving Federal Procurement and Acquisition Practices" (PSAD–77–128, September 30, 1977) (with an accompanying report); to the Committee on Government Affairs.

EC–2122. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Federal Agencies Can Do More to Promote Energy Conservation by Government Contractors" (EMD–77–62, September 30, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2123. A letter from the Mayor of the District of Columbia transmitting, pursuant to law, his response to the Comptroller General's report (PSAD–77–86) entitled "The District of Columbia's New Detention Center: Careful Planning Essential for Adequate Addition" (with accompanying papers); to the Committee on Governmental Affairs.

EC–2124. A letter from the Chairman of the Civil Service Commission transmitting, for the information of the Senate, comments concerning the Presidential Management Intern Program (with accompanying papers); to the Committee on Governmental Affairs.

EC–2125. A letter from the Chairman of the Committee on the Process of Determining Student Loan Special Allowances of the Department of Health, Education, and Welfare transmitting, pursuant to law, a report containing the findings and recommendations of the Committee with respect to an improved method for determining the special allowance paid to eligible lenders under the Guaranteed Student Loan Program (with an accompanying report); to the Committee on Human Resources.

EC–2126. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report analyzing the use of achievement test scores to allocate Title I funds to states and school districts (with an accompanying report); to the Committee on Human Resources.

EC–2127. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report describing the effects of compensatory education services on the development of low-achieving children (with an accompanying report); to the Committee on Human Resources.

EC–2128. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report describing the changes in the population served and the services delivered by title I in 13 demonstration districts (with an accompanying report); to the Committee on Human Resources.

EC–2129. A letter from the Commissioner of Education transmitting, pursuant to law, a report entitled "Report on Expanding Student Financial Aid Information Services via Part-Time Personnel" (with an accompanying report); to the Committee on Human Resources.

EC–2130. A letter from the Deputy Director of the Administrative Officer of the U.S. Courts transmitting a draft of proposed legislation to make certain technical amendments with respect to the pretrial services agencies established under title II of the Speedy Trial Act of 1974 (with accompanying papers); to the Committee on the Judiciary.

EC–2131. A letter from the Deputy Director of the Administrative Officer of the U.S. Courts transmitting a draft of proposed legislation to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the Courts of the United States (with accompaning papers); to the Committee on the Judiciary.

EC–2132. A letter from the Acting Secretary of the Interstate Commerce Commission transmitting pursuant to law, notice that the Commission has approved the agreement concerning railroads per diem and mileage rates for trailers and containers within the statutory time period; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. Res. 287. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands, and for other purposes. Referred to the Committee on the Budget.

S. 280. A bill for the relief of Ludwik Kikla (Rept. No. 95–472).

With an amendment:

S 200 A bill for the relief of Bharat M. Parekh (Rept. No. 95–473).

S. 1551. A bill for the relief of In Hea Kim and Myung Sung Kwon (Rept. No. 95–4474).

With amendments:

S. 2149. A bill to create the District Court of the Northern Mariana Islands, implementing Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (preamble amendments) (Rept. No. 95–475).

Without amendment:

H.R. 1934. An act for the relief of Doctor Laurence C B. Chan (Rept. No. 95–4760).

H.R. 4836. An act to extend by seven months the term of the National Commission on New Technological Uses of Copyrighted Works (Rept. No. 95–477).

By Mr. MATHIAS, from the Committee on the Judiciary:

Without amendment:

S.J. Res. 80. A joint resolution to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day" (Rept. No. 95–478).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MAGNUSON. Mr. President, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 30, 1977, at the end of the Senate proceedings.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 6, 1977, he presented to the President of the United States the following enrolled bills:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of the George Washington University.

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EASTLAND (for himself and Mr. BENTSEN):

S. 2180. A bill for the relief of certain aliens; to the Committee on the Judiciary.

By Mr. HART (for himself and Mr. THURMOND) (by request):

S. 2181. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; to the Committee on Armed Services.

By Mr. CHILES (for himself and Mr. STONE):

S. 2182. A bill to provide for a Veterans' Administration outpatient clinic at an appropriate location in northwest Florida; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself and Mr. THURMOND (by request):

S. 2181. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; to the Committee on Armed Services.

Mr. HART. Mr. President, today, at the request of the administration, I am introducing a bill to authorize the contribution of up to 5,000 tons of tin to the International Tin Buffer Stock from the current strategic stockpile.

I want to emphasize that I have no position on this legislation, but as chairman of the Subcommittee on Military Construction and Stockpiles of the Armed Services Committee, which has jurisdiction over this matter, I am introducing the bill at the request of the State Department.

I do not anticipate that there will be any legislative action on this bill during this session of the Congress, but I feel that by introducing this legislation now, any interested party can review and comment on the provisions before the next session and I invite such comment.

I ask unanimous consent that the communication from the Department of State requesting this proposed legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., September 19, 1977.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: I have the honor to submit for your consideration the attached proposed bill, authorizing a contribution of tin metal by the United States to the buffer stock established under the Fifth International Tin Agreement.

As you know, the United States provisionally became a Party to the Fifth International Tin Agreement (The Agreement) March 11, 1976, and, with the advice and consent of the Senate, ratified the Agreement on October 28, 1976. The Agreement entered into force definitively on June 14, 1977, and will continue in force until June 30, 1981, unless extended or earlier terminated by agreement of the Parties.

The fundamental objective of the Agreement is to stabilize international tin prices within an agreed band, avoiding sharp fluctuations in prices which are harmful to both producers and consumers. A buffer stock is intended to be the primary mechanism to accomplish this objective. The buffer stock manager buys tin on the world market when prices fall, and sells when prices are high. Export quotas and production controls may also be employed, in the event that buffer stock purchases are inadequate to prevent prices from falling sharply.

The resources of the buffer stock under the Agreement consist of mandatory contributions by producing countries of 20,000 metric tons of tin metal or its cash equivalent, and voluntary contributions up to the same amount by consuming members. Six consuming members, Belgium, Canada, Denmark, France, The Netherlands, and the United Kingdom, have thus far made voluntary contributions, or have committed themselves to do so. Such voluntary contributions will total the cash equivalent of about 4,000 metric tons of tin metal.

Our experience under the Agreement indicates that the current resources of the buffer stock are not adequate to fulfill its intended function. The lack of adequate buffer stock resources, both in this and predecessor agreements, has led to excessive reliance on export and production controls. Such controls are a cumbersome mechanism in the tin industry, as there is a relatively long lag time between the initiation or relaxation of controls and the actual effect on supply and price. The effect of tight controls introduced when prices are low may be felt at precisely the same time demand has accelerated, creating shortages and high prices. This problem is exaggerated by the lack of tin metal in the buffer stock.

For these reasons, we believe that it is in the best interest of the United States to make a voluntary contribution of tin metal to the Buffer Stock. Such a contribution, particularly in the form of tin metal, will better enable the buffer stock to protect against price rises, and further may encourage those consuming members who have not done so to make a contribution.

The proposed bill will authorize a contribution of no more than 5,000 long tons of tin metal to be made out of tin already held by the Government and determined to be excess to the needs of the strategic and critical materials stockpile. This bill will not affect GSA disposal programs for tin.

Our contribution would give us a proportional right to the proceeds from liquidation of the buffer stock upon termination of the Agreement. Although there is no assurance that we will receive the full amount of our contribution upon such liquidation, at the conclusion of past International Tin Agreements (to which we were not a party) contributors have received substantially more than the amount of their contributions. The attached proposed bill provides in section three that cash proceeds will be treated as proceeds from the sale of tin excess to the Strategic Stock Pile. Any tin accruing to the United States would be added to the strategic and critical materials stockpile, if necessary, or treated as excess to the need of that stockpile.

The enclosed bill authorizes the President to attach conditions to our contribution. Article 22 of the Agreement permits consumer contributions to be made subject to conditions agreed to between the contributor and the International Tin Council (composed of all parties to the Agreement). In order to assure that our contribution of tin metal is valued for purposes of the Agreement no less favorably than those contributing cash, we intend to require that our contribution of tin metal be valued on the basis of the price received by the buffer stock when it sells the tin which we have contributed. The exact amount of our contribution will be determined such that the cash value of our contribution at the market price is proportional to our voting rights in the International Tin Council, but we do not intend to contribute more than 5,000 long tons.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation for the consideration of the Congress and that its enactment would be consistent with the Administration's objectives.

DOUGLAS J. BENNET, JR.,
Assistant Secretary for Congressional Relations.

By Mr. CHILES (for himself and Mr. STONE):

S. 2182. A bill to provide for a Veterans' Administration outpatient clinic at an appropriate location in northwest Florida; to the Committee on Veterans' Affairs.

Mr. CHILES. Mr. President, I am introducing for myself and Senator STONE a bill providing for the establishment of a Veteran's Administration outpatient clinic in the Northwest Florida area.

We are proposing the construction of such a clinic in response to the very pressing and real needs of veterans living in the Florida Panhandle area. At the present time there are no VA medical facilities in this extensive region of Florida. I hear more and more from veterans who are experiencing an increasing difficult time in securing needed medical attention. This problem can only worsen as the population of the area continues its expanding growth rate.

Northwest Florida is primarily a rural area with only a few large population centers. Distances are great and transportation resources are limited. Right now numerous Florida veterans are having to journey to Mississippi and Alabama to receive medical services as there is no Florida facility within a reasonable travel distance. Even when the travel difficulty is overcome, the veteran is then faced with an often crowded facility and long waiting periods.

The veteran in need of the services of a physician should not be faced with this kind of obstacle course in trying to avail himself of the health care promised by law. I know from talking with veterans living in the Florida Panhandle that many are foregoing treatment they very much need because of these difficulties. For the older veteran, as with all older Americans, it does little good for them to be promised assistance and services if such help remains inaccessible.

Such is not what I think the Congress wants for our veterans. They have served our country well and deserve fair and respectful treatment. The cost involved in setting up a veterans outpatient clinic is small indeed when compared with the good it will accomplish. It represents an honoring of our commitment to the veteran and I hope that the Congress will act expeditiously and favorably on this legislation.

Mr. President, I ask unanimous consent that the text of the bill we are introducing be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs shall establish and maintain a facility for outpatient medical services and treatment at an appropriate location in northwest Florida in the area comprised of the following counties: Madison, Taylor, Jefferson, Wakulla, Leon, Gadsden, Jackson, Calhoun, Liberty, Franklin, Gulf, Holmes, Washington, Bay, Walton, Okaloosa, Santa Rosa, and Escambia.

Mr. STONE. Mr. President, it is my pleasure today to join my senior colleague, Senator CHILES, in introducing a bill to establish a veterans' outpatient clinic in northwest Florida.

Mr. President, northwest Florida is far removed from the population centers of my State. The nearest veterans' medical facilities are in Mobile, Ala., and in Gainesville and Lake City, Fla. These facilities are hundreds of miles away from the far reaches of northwest Florida. Veterans who live in this region can not receive the medical treatment from the VA they have honorably earned without traveling unreasonably long distances from their homes. I do not believe that this lives up to the commitment we made to these veterans when Congress established the veterans' health care system to meet the needs of those who suffered service-connected disabilities while serving our Nation.

This bill would direct the Veterans' Administrator to establish and maintain a clinic for outpatient treatment of veterans in an area comprised of the counties of northwest Florida. It does not specify the location for such facility. That decision would be left to the Veterans' Administrator to be made on the basis of VA demographic studies of the area. It is my understanding that the VA is currently conducting such a study and the results will be known by October 31, 1977.

Mr. President, one has only to glance at a map of Florida to appreciate the great distance which veterans in the northwest counties must travel to receive treatment from a veterans' health facility. The need for an additional facility in the northwest is clear and pressing. I hope that my colleagues will join in support of this bill to assist our worthy veterans.

ADDITIONAL COSPONSORS

S. 1585

At the request of Mr. CULVER, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mr. HELMS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Pennsylvania (Mr. SCHWEIKER) the Senator from Florida (Mr. STONE), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1585, the Protection of Children Against Sexual Exploitation Act.

S. 1623

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1623, to amend the Energy Reorganization Act of 1974.

S. 2099

At the request of Mr. WEICKER, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2099, to amend the Regional Rail Reorganization Act of 1973.

S. 2142

At the request of Mr. PACKWOOD, the Senator from Delaware (Mr. ROTH), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 2142, the Tuition Tax Credit Act.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Resolution 264, authorizing additional expenditures for the Select Committee on Nutrition.

AMENDMENT NO. 963

At the request of Mr. HELMS, the Senator from North Carolina (Mr. MORGAN), the Senator from Tennessee (Mr. BAKER) the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. HARRY F. BYRD), the Senator from Florida (Mr. STONE), the Senator from California (Mr. HAYAKAWA), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Amendment No. 963, to be proposed to S. 1871, to increase the minimum wage.

AMENDMENT NO. 986

At the request of Mr. PERCY, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Amendment No. 986, intended to be proposed to the bill (H.R. 8444) to provide for a comprehensive energy policy.

SENATE RESOLUTION 287—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 2149

(Referred to the Committee on the Budget.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. RES. 287

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands. Such waiver is necessary to permit consideration of the bill in order to implement the Covenant to establish the Commonwealth of the Northern Mariana Islands.

On March 24, 1976, the President approved Public Law 94-241 which approved the joint resolution of the Congress approving the Covenant to establish a Commonwealth of the Northern Mariana Islands. Pursuant to that Covenant certification was made to the President that the Mariana Islands District Legislature and a plebiscite of voters domiciled in said islands had approved the Covenant. On April 21, 1977, the Constitution of the Commonwealth of the Northern Mariana Islands was submitted to the President for approval pursuant to section 202 of the Covenant. It is anticipated that prior to, or on or about, January 9, 1978, the President will proclaim the date or dates which terminate the Trusteeship Agreement and establish the de facto government of the Commonwealth under said Constitution and the Covenant.

Under Article IV of the Covenant, the United States agreed to establish a court of record to be known as the "District Court for the Northern Mariana Islands." S. 2149 is a bill to create such court.

Since the government of the Commonwealth will require a period of time, after the date to be proclaimed by the President, within which to legislatively create the local courts required by the Commonwealth Constitution, it is imperative the S. 2149 be enacted by the 1st session of the 95th Congress in order that the federal court required by Article IV of the Covenant can exercise judicial authority at the earliest date after the said date to be proclaimed by the President.

Enactment of S. 2149 will authorize the expenditure of funds during fiscal year 1978 from budget function 750 in an amount estimated at $418,000.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2149, as reported by the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION 49—SUBMISSION OF A CONCURRENT RESOLUTION REVISING COVERAGE SCHEDULE OF EMPLOYEE RETIREMENT INCOME SECURITY ACT

(Referred jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.)

Mr. WILLIAMS (for himself and Mr. JAVITS) submitted the following concurrent resolution:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Congress favors the proposed revised coverage schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on September 23, 1977.

Mr. WILLIAMS. Mr. President, since enactment of the Employee Retirement Income Security Act of 1974 (ERISA), the premium rate charged by the Pension Benefit Guaranty Corporation (PBGC) to single employer pension plans covered by ERISA's plan termination insurance program has been maintained at the rate that was established by ERISA is 1974, $1 per plan participant per year.

Section 4006 of ERISA provides that revision in the statutorily established premium rate may be accomplished only with the approval of both Houses of Congress to a concurrent resolution favoring a revision that has been requested by the PBGC.

By letter dated September 23, 1977, the PBGC has requested congressional approval of a new premium rate for single employer pension plans—$2.25 per participant per year. Subsequently, on September 29, 1977, PBGC transmitted a detailed analysis explaining the need for the increase, and a summary justification for its request.

Based on my review of these documents, I have concluded that the new rate is necessary to make up an already existing deficit in the single employer basic benefits program and to avoid further future deficits. According to PBGC, the increase should not have a significant impact for employers who maintain plans covered by termination insurance because it represents an increase in annual pension costs of between 0.1 percent and 0.5 percent and an increase in annual payroll costs of less than 0.01 percent.

Therefore, I have today submitted a Senator JAVITS, the ranking minority concurrent resolution, cosponsored by member of my Human Resources Committee, favoring the premium PBGC has requested. During the ERISA oversight hearings that will be conducted by the Subcommittee on Labor next week, we will hear testimony from PBGC and other witnesses concerning this request, as well as other subjects I mentioned in my statements of September 15 and 21, 1977.

Mr. President, I ask unanimous consent that the PBGC letter of September 23, 1977 and its enclosed revised premium schedule, and the PBGC letter of September 29, 1977 and the summary justification be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENSION BENEFIT GUARANTY CORPORATION,
Washington, D.C., September 23, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN WILLIAMS: Section 4006 (a) of the Employee Retirement Income Security Act of 1974 ("ERISA") authorizes the Pension Benefit Guaranty Corporation ("PBGC") to change the premiums for coverage of basic benefits under ERISA's pension plan termination insurance program, with Congressional approval. Pursuant to § 4006(b) of ERISA, I hereby transmit to the Senate Committee on Human Resources a proposed revised schedule of premiums to be prescribed for the PBGC's guarantee of basic benefits under plans that are not multiemployer plans.

Under the proposed revised coverage schedule, which would be effective for plan years beginning on and after January 1, 1978, the applicable premium rate would be $2.25 per participant. At present the PBGC's non-multiemployer basic benefits guarantee program is in a deficit position. Analysis of the policy alternatives and financial projections indicates that a $2.25 per capita premium, instituted January 1, 1978, is likely to enable the program to become fully funded within a reasonable period of time, without unduly burdening the premium-payers. I would be happy to explain the basis for this conclusion in greater detail and to provide the Committee with any other information that would be useful in its consideration of this matter.

Early approval of this request is needed to enable us to control the deficit mentioned above. Consequently, though we regret the unavoidable lateness of this request, we would very much appreciate your taking any action you can to insure its early approval by the Congress.

Sincerely,

MATTHEW M. LIND,
Acting Executive Director.

Enclosure.

PROPOSED REVISED COVERAGE SCHEDULE UNDER SECTION 4006 (a)(2)(A)(ii) OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subject to Congressional approval, the Pension Benefit Guaranty Corporation proposes to prescribe a premium rate of $2.25 per participant, to be charged to pension plans that are not multiemployer plans for the coverage of basic pension benefits under Section 4022 of the Employee Retirement Income Security Act of 1974. This proposed revised coverage schedule will be effective for plan years beginning on and after January 1, 1978.

PENSION BENEFIT GUARANTY CORPORATION,
Washington, D.C., September 29, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On September 23, 1977, I transmitted to you the formal request of the Pension Benefit Guaranty Corporation to obtain Congressional authorization to increase the premium for the non-multiemployer basic benefit program to $2.25 per participant, effective January 1, 1978.

I am now forwarding to you copies of the Corporation's analysis of the Premium Requirement for the Single Employer Basic Benefits Insurance Program. This analysis is presented in two parts. Part I contains the Summary Report and Part II, the Detailed Analysis. I will, of course, be pleased to provide any additional information which your Committee desires.

As I pointed out in my earlier letter, early approval by Congress of the request is needed if the PBGC is to bring the deficit in the single employer basic benefits program under control. Accordingly, your assistance in obtaining prompt action on this matter would be very much appreciated.

Sincerely,

MATTHEW M. LIND,
Acting Executive Director.

Enclosure.

SECTION I. MANAGEMENT SUMMARY

A. PURPOSE

The Corporation has received formal authorization of its Board of Directors to request Congressional approval of an increase in the premium for the single employer basic benefits program to $2.25 per participant effective January 1, 1978. This staff document summarizes the background and basis for the Corporation's request that was formally transmitted to Congress by the Acting Executive Director on September 23, 1977.

B. BACKGROUND

ERISA initially established the premium for the single employer basic benefits program at $1.00 per participant. This rate has been continued to date because, prior to completion of the Corporation's current analysis, sufficient experience was not available to determine what premium was needed to support the program.

This analysis now indicates that at the end of the first two years of operations (September 2, 1974 to September 30, 1976) a deficit of $41 million had been incurred in the single employer program. This deficit occurred because the current premium of $1.00 was not sufficient to finance the estimated net claims of $82 million that had resulted from plan terminations. Furthermore, projections by the Corporation indicate that, if the premium is not increased, this deficit will continue to grow. By January 1, 1978 (the date on which the Corporation is requesting that the increase be effective) the projected deficit will have increased to approximately $60 million. Without a premium increase, this deficit is expected to continue to grow at the rate of $25 to $30 million per year. Thus, by the end of 1981 (the end of the period being analyzed by the Corporation) the deficit would be almost $170 million.

C. TIMING OF PREMIUM INCREASE

It is important that the recommended increase be effective by January 1, 1978. January 1 is a critical date, since over 50% of all premium revenue is collected from plans whose plan year begins on this date. Thus, any delay beyond January 1 would result in the loss of the majority of the year's revenue derived from the increase in the premium. In order to finance the additional deficit caused by even a one-quarter delay, the future premium would have to be increased from $2.25 to $2.40.

ERISA requires Congressional approval for any premium increase in the form of a concurrent resolution and further provides that any such premium increase must receive Congressional approval at least 30 days prior to the end of the plan year to which it may apply. Thus, in order for the premium increase to be effective on January 1, Congressional action must be completed before the end of the current session.

D. BASIS FOR REQUEST

1. Forecast of Future Claims

The Corporation's recommendation for a premium increase to $2.25 is based upon an analysis of insufficient plans that have terminated to date, as well as projections of the likely number and characteristics of future insufficient terminations, based upon that experience. In brief, the results of this analysis show that the rate of termination of plans with insufficient assets to pay guaranteed benefits (which are the only plans which result in a claim on the premium) do not appear to have increased since the enactment of ERISA.[1] Rather, 80% of the claims resulting from these insufficient terminations have occurred because of the closing of a business entity and, therefore, are the result of a business decision which was made independent of the existence of ERISA. Furthermore, the number of insufficient terminations since ERISA does not appear to have occurred at a materially different rate than can be inferred from 1972 and 1974 studies of pre-ERISA terminations. For these reasons, the Corporation feels that it already has sufficient experience to provide a valid basis for projecting future claims.

The Corporation's analysis shows that a statistically valid relationship exists between the number of insufficient terminations per quarter and the unemployment rate. The $2.25 premium requirement is based upon this relationship and the official administration forecast that the unemployment rate will decrease to 4.7% by the end of 1981. The sensitivity of the required premium to this latter assumption can be seen by assuming no future improvement in the current unemployment rate of 7%. In this latter case, the required premium would be $2.65.

2. Current Funding

The Corporation is basing its request for a premium increase on the premise that its claims should be "currently funded" when they occur.[2] This means that the Corporation shall attempt to have on hand at any point in time, assets which, together with the return that can be achieved on their investment, will be sufficient to pay all benefits guaranteed by it at that same point in time. By requiring plans insured during a given period to bear the cost of claims incurred during that period, "current funding" avoids, to the maximum extent possible, having pension plans in the future assume the burden for financing the cost associated with current insufficient plan terminations. It also keeps future premium increases to a minimum and, thereby, minimizes their potential destabilizing influence on the continuation of private pension plans.

Under a "pay as you go" approach, the Corporation would be funding its liability in a manner completely inconsistent with the philosophy of ERISA. From a programmatic

[1] This is in contrast to the rate of total terminations, the vast majority of which are sufficient.

[2] This is in contrast to assuming that the program should be funded on a "pay as you go" basis which would only require that assets on hand be sufficient to pay specific monthly pension benefits when they fall due.

point of view, this funding policy would shift the responsibility for the claims of today's plans to future generations of plans. This, in PBGC's judgment, is not equitable. Furthermore, it would become increasingly more difficult to get the eventual premium increase approved, because the longer it is delayed the greater the ultimate increase would have to be. This in turn increases the likelihood that the Corporation would have to exercise its borrowing authority from the U.S. Treasury and/or have its liabilities financed from general tax revenues rather than premium income.

3. Other Key Program Assumptions

The Corporation's analysis of the premium requirement is based upon the following additional assumptions concerning the future of the single employer basic benefits program:

i. The assessability of employer liability under Section 4062 will be upheld by the courts. This Section is already the subject of active litigation. The Corporation currently projects (based on terminations to date) that 40 percent of plan asset insufficiency for all terminating plans will be collected from employers. The prospect of employer liability has discouraged termination of insufficient plans by many plan sponsors. It has caused others to make their plans sufficient prior to termination. If no employer liability can be assessed, the required premium would increase to about $3.35, given the current claims rate.

More importantly, any limitation on the Corporation's ability to assess liability is likely to induce additional insufficient terminations and, therefore, to further increase the premium needs of the program.

ii. The expected deficit of $60 million by the proposed date of the premium increase will be recovered by amortizing it over a 10-year period. A significantly shorter period was not selected in order to avoid increasing the premium by a substantial amount. However, use of a longer period would not significantly reduce the premium because of the need to continue to pay interest on the unrecovered balance.

iii. The program will not be funded so as to accumulate planned reserves for contingencies such as higher than expected claims or adverse investment performance. The mandatory nature of the program makes such reserves unnecessary.

iv. The current policies of the Corporation, including the investment of trust assets and transfer of assets from the revolving fund to the trust fund will be continued.

It should be noted that while the Corporation believes all of the above assumptions are valid, a change in any of them would cause the premium to be higher. Therefore, it is very unlikely that the Corporation's request for a premium of $2.25 per participant represents an overstatement of its actual needs.

E. SUMMARY

The $1.00 premium is not adequate to finance claims of the single employer basic benefits program on a current basis. It is the Corporation's recommendation that a premium increase to $2.25 be approved in time to become effective January 1, 1978. The sooner an increase is implemented, the lower the ultimate premium that will be required. The very large ultimate increase needed under the "pay as you go" approach presents such a great risk to the continuation of a self-financing program as to make it clearly unacceptable.

AMENDMENTS SUBMITTED FOR PRINTING

CIVIL RIGHTS IMPROVEMENTS ACT—S. 35

AMENDMENT NO. 1426

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. MATHIAS. Mr. President, I send to the desk an amendment in the nature of a substitute to S. 35, The Civil Rights Improvements Act of 1977.

On January 10, 1977, Senator BROOKE and I introduced S. 35, which is aimed at insuring the continued vitality of The Civil Rights Act of 1871 (42 U.S.C. § 1983) which has been a principal tool in this Nation's efforts to fulfill its commitment to the protection of the civil rights and civil liberties of the American people. Shortly thereafter, Congressman PARREN MITCHELL introduced an identical bill in the other body.

In the intervening months I have received many thoughtful and constructive comments with respect to S. 35, and several of these suggested changes have been incorporated in the amended version of S. 35 I now send to the desk.

Later this month, the Senate Judiciary Subcommittee on the Constitution will hold hearings on the Civil Rights Improvement Act of 1977. Given the significant changes that S. 35 would make in § 1983—Perhaps our most important civil rights statute—and the great interest the introduction of this legislation has generated nationwide, I believe it imperative that this improved version of S. 35 be introduced at this time, well in advance of the upcoming hearings. I am hopeful that the timely introduction of this substitute will insure that the scheduled hearings are both informative and productive, by allowing interested parties ample time to review the bill prior to the hearings.

Mr. President, I ask unanimous consent that the text of the amended version of S. 35 I now submit be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1426

Strike out all after the enacting clause and insert in lieu thereof the following:

"This Act may be called 'The Civil Rights Improvements Act of 1977'".

SEC. 2. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended to read as follows:

(1) by inserting "(a)" immediately before "Every"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, 'person' means any natural person, any association or combination of natural persons, any partnership, corporation or other legal entity, any State or Territory, any municipality, county, parish, or other state, territorial, or local governmental subdivision, unit, or agency, the District of Columbia, or any agency of the District of Columbia; and 'State or Territory' shall include the District of Columbia.

(c) A State, municipality, or any unit of government or agency thereof shall be liable for the conduct actionable under paragraph (a) of this section of any officer, employee, or agent of, or other person clothed with the authority of, such State, municipality, or or unit of government or agency thereof, when—

(1) for purposes of damages or other monetary relief—

(A) the conduct was authorized or required by a statute, ordinance, policy, or practice of the entity, unit, or agency, or was undertaken by a person or persons appointed or elected to make such policy;

(B) the officer, employee, agent, or other person clothed with the authority of the entity, unit, or agency engaged in such conduct at the direction or with the encouragement of a supervisory officer;

(C) a supervisory officer, with the authority to act, knew or should have known that an inferior officer, employee, agent, or other person clothed with the authority of the entity had previously engaged in such conduct or similar conduct and failed either to halt such conduct or to take reasonable steps to prevent the recurrence of such conduct;

(D) one or more officers, employees, agents, or other persons clothed with the authority of the entity, unit, or agency, engaged in such conduct and the person seeking relief under this Act cannot by reasonable effort identify such officer, employee, agent, or other person or prove causation with respect to a particular officer, employee, agent, or other person clothed with such authority;

(2) for purposes of injunctive or declaratory relief—the officer, employee, agent or other person clothed with the authority of the entity, unit, or agency engages in such conduct. Specifically, the court shall direct the State, municipality, or any unit or agency thereof, to adopt disciplinary or other remedial measures in order to prevent the recurrence of such conduct, or, when otherwise appropriate.

(d)(1) In suits against an entity, unit, or agency pursuant to subsection (c), it shall not be a defense for such entity, unit, or agency that the officer, employee, agent, or person clothed with the authority of the entity, unit, or agency, is personally immune from liability under this Act because of the existence of a common law or statutory immunity attaching to such officer.

(2) Supervisory officers having command responsibility superior to any person engaging in conduct actionable under this Act, shall be jointly and severally liable with such persons whenever under subsection (c) of this Act the State, municipality, or unit or agency thereof, would be liable.

(3) A plaintiff may join to a claim under this Act any other claim or claims arising under the laws of any State, Territory, the District of Columbia, or of the United States, against the same defendant, additional defendants, or both, if the latter claim or claims and any one claim under this Act derive from a common nucleus of operative fact; and a court of the United States shall proceed to hear all such claims, as well as any additional claims under this Act that may be joined in the action.

(e) A prosecuting attorney who prosecutes any citizen of the United States or other person within the jurisdiction thereof, under color of any statute, ordinance, regulation, custom or usage of any State or Territory, or of the District of Columbia, shall be liable for monetary damages to any aggrieved party, on account of his actions or omissions in the course of the prosecution, if, but only if—

(1) He conducts the prosecution in a manner that would have violated the criminal defendant's rights to due process of law under the fifth or fourteenth amendment to the Constitution, or, would have violated such rights if the defendant had been convicted, or, sentenced, but was not or by mesne process therein;

(2) He knows or reasonably should know that his conduct would deprive the criminal defendant of due process of law under the circumstances described in subsection (a) of this section; and

(3) His conduct consists of suppressing, concealing, destroying, altering, or failing to make timely disclosure of evidence or investigative leads to evidence.

(4) This subsection shall not be construed as affecting in any way either—

(A) the liability of a prosecuting attorney for acts or omissions that are not within the scope of his functions in the course of a criminal prosecution, or

(B) the liability of any other person than a prosecuting attorney—

under any other provision of law.

(f) Every person, except one holding an elective office, who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, or of the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to injury to reputation without good cause therefor shall be liable to any aggrieved party in an action for legal or equitable relief or other proper proceeding for redress.

(g)(1) In any action brought under this Act, a court of the United States may certify to the highest court of a State a question of state law if—

(A) the State has established a procedure by which its highest court may answer questions certified from such court of the United States;

(B) the question of state law may be controlling in the action and cannot be satisfactorily determined in the light of the state authorities; and

(C) the court expressly finds that certification will not cause undue delay or be prejudicial to the parties. Except as provided in this subsection, no court of the United States shall stay or dismiss any action under this Act for the purpose of obtaining a decision as to the law of the State from a state court.

(2) No court of the United States shall stay or dismiss any civil action brought under this Act on the ground that the party bringing such action failed to exhaust the remedies available in the courts or the administrative agencies of any State, Territory, or the District of Columbia, or subdivisions, units, or agencies thereof.

(3) In the absence of extraordinary circumstances, no court of the United States shall enjoin a pending criminal prosecution under the law of any State, Territory, subdivision of any State or Territory, or the District of Columbia, if such prosecution—

(A) was commenced prior to the time of filing of the action in the court of the United States;

(B) is maintained against the party who brings the action in the court of the United States or against a person who is in privity with such party; and

(C) provides a full and fair opportunity for the presentation and resolution in the courts of such State, Territory, subdivision thereof, or the District of Columbia, of every claim of deprivation presented in the action in the court of the United States.

For purposes of this subsection, 'extraordinary circumstances' include but are not limited to the existence of a criminal prosecution commenced or maintained in bad faith or to enforce a statute, ordinance, or regulation, that is, in whole or in part, facially unconstitutional.

(4) In an action brought under this Act, a court of the United States may enjoin a pending criminal prosecution under the law of any State, Territory, subdivision of any State or Territory, or the District of Columbia, that was commenced subsequent to the time of filing of the action in the court of the United States, and shall enjoin such prosecution if it finds that the prosecution was initiated in response to a suit under this Act.

(5) In an action brought under this Act, a court of the United States may enjoin a proceeding in the courts of any State, Territory, subdivision of any State or Territory, or the District of Columbia, which is noncriminal in nature, even if such proceeding is in aid of and closely related to the enforcement of a criminal statute, ordinance, or regulation, irrespective of whether the proceeding was commenced prior to or subsequent to the action.

(h) In an action brought under this Act, the prior judgment of a court of any State, Territory, subdivision of a State or Territory, or the District of Columbia, shall be given merger and bar effect, and no other effect, as against any claim presented by a plaintiff in an action in a court of the United States, but such effect shall be given to that prior judgment only if it—

(1) was rendered on the merits of the same claim,

(2) following a full and fair hearing,

(3) in an action commenced by the present plaintiff:

Provided, however, That when a court of the United States hears a claim not so barred, it shall not grant as relief the modification or setting aside of any judicial order with respect to damages, irrespective of whether the order has been executed.

SEC. 3. Nothing contained in this Act shall be construed to constrict the availability of relief under any other provision of federal law or impair the availability of any other remedy for denials of any rights, privileges, or immunities secured by the Constitution or laws of the United States in the courts of the United States or of any State, Territory, subdivision thereof, or the District of Columbia.

SEC. 4. In evaluating the need for relief under this Act, no court of the United States shall consider the availability of a remedy under the laws, ordinances, or regulations of any State, Territory, subdivision thereof, or the District of Columbia.

SEC. 5. This Act shall apply in any action arising as a result of any deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the United States—

(a) with respect to the amendments made by Section 2 (b) through (f) of this Act, to any deprivation occurring after the date of enactment, and

(b) with respect to the remaining amendments herein made, to any action pending on the date of enactment of this Act and to any action subsequently brought.

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1427

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under the Act, to provide for an automatic adjustment in such wage rate and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

AMENDMENT NO. 1428

(Ordered to be printed and to lie on the table.)

Mr. LEAHY (for himself, Mr. MCINTYRE, and Mr. GARN) submitted an amendment intended to be proposed to the bill (S. 1871), supra.

AMENDMENT NO. 1429

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

AMENDMENT NO. 1430

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a hearing on October 17 at 9 a.m. regarding the activities of the General Services Administration and giving specific consideration to S. 1265, S. 1267 and S. 1273.

ANNOUNCEMENT OF MEETING

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a meeting in room S-210 of the Capitol on Tuesday, October 11, at 10 a.m. to consider matters before the subcommittee, including markup of S. 1133, S. 865, S. 386 and H.R. 5054 which deal with repeal of apportionment requirements; and S. 666 which concerns retirement for Non-Indian employees of B.I.A. and I.H.S.

DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will begin consideration next week of S. 991, and four related bills, which would create a separate, Cabinet-level Department of Education in the Federal Government.

Representatives of the education community, labor, and State and local governments across the country will testify before the committee in 3 days of hearings, beginning Wednesday, October 12.

For the convenience of Members of the Senate, their staff, other interested individuals, and organizations, I ask unanimous consent that the schedule of witnesses and their affiliation be printed in the RECORD:

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF EDUCATION HEARINGS

9:30—Wednesday, October 12:

Panel I—Senator Claiborne Pell, Senator Pete V. Domenici, Senator Henry Bellmon.

Panel II—Citizen's Committee in Support of a Department of Education: James A. Farmer, Executive Director, Coalition of American Public Employees; Carl Marburger, Senior Associate, National Committee for Citizens in Education; Representative from Urban League.

Panel III—Academic Authorities: Dr. Rufus Miles, Woodrow Wilson School of Public Affairs, Princeton University; Dr. Stephen K. Bailey, Harvard Graduate School of Education.

10—Thursday, October 13:

Panel I—"Big Six"—Education Organizations: John Ryor, President, National Education Association; A representative of the Chief State School Officers; Grace C. Baisinger, President, National Congress of Parents and Teachers (PTA); Will D. Davis, President, National School Boards Association; Wesley Apker, Executive Secretary, National Association of State Boards of Education; Frank Dick, Immediate Past President, American Association of School Administrators (Superintendent of Schools, Toledo, Ohio.

Panel II—Former U.S. Commissioners of Education: Terrel H. Bell, Commissioner of Higher Education, State of Utah; Harold Howe, II, Vice President, The Ford Foundation; Francis Keppel, Director for the Program on Education, Aspen Institute Humanistic Studies; Sidney P. Marland, President, College Entrance Examination Board; Ster-

ling M. McMurrin, Dean, Graduate School, University of Utah.

10—Friday, October 14:

Panel I—State and Local Representatives: New Haven, Connecticut Mayor Frank Logue; Charles McDaniel, Georgia State Superintendent of Education; Jeannett F. Reibman, Pennsylvania State Senator; Joseph Cronin, Illinois State Superintendent of Education.

Panel II—Clark Kerr, Chairman, Carnegie Council for Policy Studies in Education; Albert Shanker, President, American Federation of Teachers.

Panel III—Higher Education: Charles Saunders, Director of Government Relations, American Council on Education; Dr. Donald L. Robinson, American Association of University Professors, Chairman of the Task Force on a Separate Department of Education; Dr. Helena Howe, Chairwoman, National Board of Directors, American Association of Community Colleges (President, Mesa Community College, Mesa, Arizona); Lawrence S. Zaglaniczny, National Director, Coalition of Independent College and University Students.

ADDITIONAL STATEMENTS

DOUBTS ABOUT THE CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, several weeks ago the chief Panamanian negotiator of the Panama Canal Treaties, Romulo Escobar Bethancourt, addressed his National Assembly.

In that address he described the terms of the treaties and gave his interpretation of the meaning of several controversial provisions.

Mr. Escobar's interpretations do not square with those of the Carter administration and this divergence of interpretation has become a major focus of Senate concern.

An article in the October 8 issue of Human Events discusses the effects of the Escobar statements and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SENATE REMAINS SKEPTICAL ABOUT PANAMA CANAL TREATIES

The Senate Foreign Relations Committee kicked off the hearings on the Panama Canal treaties last week, but the Administration, despite trotting out its heavy artillery—Secretaries Cy Vance and Harold Brown and Joint Chiefs Chairman George Brown—ran into some serious skepticism, even from such liberals as Senators Claiborne Pell (D.-R.I.) and Clifford Case (R.-N.J.).

Both Pell and Case are up for reelection next year, so that may help to explain their attitude, but there is no question that important doubts about the wisdom of the new treaties exist among many of the senators who have been called upon to give their approval.

What clearly bothers senators the most are the astonishing interpretations placed upon the treaties by Panama's chief negotiator, Romulo Escobar Bethancourt, who is clearly emerging as the Administration's No. 1 hurdle to ratification. In close to half-a-dozen instances—many of them disclosed in these pages previously—Escobar has directly contradicted our own negotiators on crucial points.

Indeed, so alarming have Escobar's statements been—and so unsatisfactory the responses of Secretary Vance and negotiator Sol Linowitz—that both Pell and Sen. Howard Baker (R.-Tenn.) have now demanded to see the negotiating minutes and other written documents for the purpose of finding out whether the Panamanians actually place the same interpretation upon these pacts as does the United States.

Baker, in fact, told Linowitz that he should get the current government officials in Panama to repudiate Escobar's explanations of the treaties, hinting that his decision to vote for or against them may hinge on such a repudiation.

The Administration, however, has not been eager to meet Baker's demands in any area of his concerns, and whether it will do so is problematical.

Just how evasive the Administration was in regard to the Escobar matter was brought out in the give-and-take between the senators and U.S. officials.

Sen. Case, for instance, raised with Vance the meaning of the "expeditious" passage provision in the neutrality treaty. Vance said it meant that U.S. vessels of war and auxiliary vessels will be entitled to go through the Panama Canal ahead of ships from other nations. But Case pointed out that Escobar specifically denied this to the Panamanians.

Linowitz then cut in: ". . . I think too much is being made of a statement that was made by the negotiator in Panama which has not been repeated. . . ." In other words, Linowitz thought "too much" was being made of the words of none other than Panama's chief negotiator!

When Baker pressed Linowitz later on in the day about Escobar, Linowitz shifted ground somewhat, this time saying he and other Administration officials had been "disturbed" by what the Panamanian was saying.

Following up on Case's point, Baker read a statement on "expeditious passage" which Escobar had given at an August 22 press conference. At that time, Escobar said "expeditious passage" did not mean "privileged passage." "As a matter of fact," said Escobar, "the concept of privileged passage was rejected" and the Panamanians did not agree that U.S. warships could go through first. "We cannot go that far," he emphasized.

Baker also read to Linowitz Escobar's statements on the neutrality provisions. While both Vance and Linowitz insist the U.S. has the unilateral right to intervene militarily to ensure that the canal remains open and is not closed off to any country, Escobar flatly stated: "The neutrality pact does not provide that the United States will say when neutrality is violated." Unless both sides concur in what the neutrality treaty means, said Baker, "there is no agreement."

Linowitz's response was hardly reassuring to Baker. "We know of these statements," Linowitz said, "We are disturbed by them. We have discussed them with our Panamanian colleagues. I don't think you will hear such statements again."

But will "we hear a repudiation of them?" asked the Tennessee lawmaker.

Sidestepping the question, Linowitz responded: "The circumstances under which they were made were that he was trying to build the kind of attitude [in Panama] toward support. . . . His colleagues with whom we have discussed his comments, and these include some people very high in the Panamanian government, have assured us that we will not hear similar statements in the future."

"Were you told," said Baker a bit later on, "that those statements were not the position of the Panamanian government?"

Linowitz again evaded: "We were told that those positions would not be asserted again in the future."

Baker also asked Linowitz: "Do you think you could successfully get a communication in writing from the Panamanian government saying this statement by Mr. Escobar in the August 22 press conference is not the position of the Panamanian government, and it does not take that position with respect either to expeditious passage or intervention . . .?"

Never promising anything, Linowitz replied: "We will try. We will ask for it."

Baker actually seemed put out with the struggle he and others had in trying to pin down the Administration on the Escobar matter. ". . . I might say," Baker finally told Linowitz, "that unless we can have a clear understanding that these [Escobar] statements are not the interpretations placed on these treaties by the Panamanians, I think the chances for advice and consent are greatly diminished."

But Baker wasn't the only one exasperated with Linowitz & Co. In discussing our rights—and the Panamanian interpretation of those rights—under the neutrality treaty, Sen. Pell told Linowitz: "The thing that concerns me the most is whether we have in perpetuity the right to ensure that our vessels, our war vessels and Merchant Marine vessels, have the right of passage through the canal. I understand from Article IV of the second [neutrality] treaty is that this right is understood by us. . . . But where is the evidence that the Panamanians have the same understanding? . . ."

Linowitz: "Senator, we wrote the language; they know how to interpret it. . . . They are certainly aware of what we are telling you today. . . ."

Pell: "The language itself does not really say that as I read it. Therefore, I would hope it would be abundantly clear [that we have the perpetual right to intervene to ensure our ships' passage through the canal]. . . . I doubt from reading the treaty that a Panamanian citizen would understand that we have this right. . . ."

Pell then pressed for a clarification of this point. "Do you have any notes from the negotiating sessions relaying the Panamanian viewpoint that would reinforce your view that this is Panama's understanding as well as ours?"

Failing to respond directly, as so often seemed to be the case, Linowitz said: "Certainly it was discussed in the course of the negotiation and certainly they know the interpretation we are placing upon the words. . . ."

But "I wonder," Pell pressed, "if there would be any way" of making those negotiating notes and transcripts "available to us in the committee"? At this point Secretary Vance leaped in, saying he would "take that under consideration and respond to you promptly."

Pell closed off his questioning: "I think this is really the key issue, the gut issue that bothers me and I think bothers many of my compatriots the most—do we have the right to [maintain the canal's neutrality] in perpetuity under their interpretation as well as under ours."

Both Case and Baker, sensing a reluctance by Administration officials to furnish the negotiating documents urgently requested by Pell, joined in the demand. Case said he would hope that "on all key matters" of this sort, "there would be no question" but that the Administration would furnish applicable material. Sen. Baker said it is "absolutely vital."

Throughout the first week of hearings, the Administration continued to duck, bob and weave about in dealing with the looming importance of the Escobar statements and the demands of the senators that there be some clear language from the Panamanians about U.S. rights under the neutrality treaty.

When senators began to talk of adding reservations to the treaties, the State Department appeared adamant against any such strategy, contending that such clarifying provisions would force the negotiations to be reopened.

And so by the end of the week many senators were wondering: How solid can these treaties be, if even our own negotiators can't readily produce any substantive evidence that the Panamanians accept the U.S. position on the pacts' most vital clauses?

OREGON'S BOTTLE BILL—THE 1977 REPORT

Mr. HATFIELD. Mr. President, when Oregon's returnable beverage container legislation became law in 1972, it was thought that the primary function of the law was to reduce unsightly roadside litter. It is an overwhelming success in that respect. It was only later, however, as energy and resource conservation consciousness began to increase, that we determined that the Oregon law was a useful tool for instilling in people a "conservation ethic." The law then became even more than just a litter prevention statute.

Currently the Resource Conservation Committee, an interagency task force created by Congress to study the returnable container issue from a national perspective, is in the process of collecting data for their report. It is my understanding that President Carter has asked that the report be released prior to the end of the year. As my colleagues are well aware, this issue has been comprehensively studied at the local, State, and Federal level in the past. The upcoming report of the Resource Conservation Committee, however, will be valuable in that it will be a compilation of information from several Federal departments and agencies, all of whom have some interest or expertise in this area.

I am awaiting the release of this report with the hope that it will once again clarify many of the issues involved in my national returnable beverage container legislation, S. 276, now pending before the Senate Commerce Committee. After having had the opportunity to review the report, I am also hopeful that the Carter administration will recognize the importance of this legislation, and endorse a legislative proposal such as the one I have offered.

In order to provide my colleagues with the latest information on the Oregon experience, I ask unanimous consent that the latest report compiled by the Oregon Department of Environmental Quality appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, as I have stressed so often in the past, the concept I am proposing is not a new one. It was not too long ago that a high proportion of beer and soft drinks were sold in returnable containers. Moreover, it is not as if I am proposing that the beverage industry embark on some untried, hare-brained experiment. It is working in Oregon and Vermont, and will soon be tried in Michigan and Maine. Furthermore, no evidence has been presented suggesting that a deposit system would not work on a national scale.

EXHIBIT 1

OREGON'S BOTTLE BILL TODAY: OUTLINE OF LAW

[ORS 459.810 to 459.890]

The basic provisions of the Oregon law, commonly called the "Bottle Bill" are:

1. "Beverage" is defined as beer, malt beverage, mineral water, soda water, and carbonated soft drinks.

2. All "beverage" containers must have a minimum refund value clearly marked, paid by distributor to dealer, and by dealer to consumer.

3. Dealers and distributors may not refuse to accept and refund the deposit on empty "beverage" containers of the kind, size, and brand which they sell.

4. A "certified" beverage container is reusable by more than one manufacturer; capacity and shape may be set by the Oregon Liquor Control Commission.

5. Minimum refund value of each container is 5¢, except for "certified" containers, for which the minimum refund is 2¢.

6. Metal "beverage" containers with pull tabs that are detachable without the aid of, a can opener may not be sold or offered for sale.

7. Redemption centers may be established by any person in order to accept returned containers.

(See Appendix for copy of law.)

SUMMARY

The Bottle Bill works in Oregon. The evidence that it is valid and effective is overwhelming. There is no basis for the rumors and misinformation continually circulated by Bottle Bill opponents across the country as they attempt to discredit the Oregon success and to stop other states' legislation. A few facts should dispel these distortions; formidable data backs our statements. Among these facts are:

Beverages sold in returnable containers cost less, as they always have, not only in Oregon but all through the nation. Post-Bottle Bill beverage price increases, associated with runaway sugar prices and general inflation, occurred in Washington and California as well as in Oregon.

Sales have not fallen. They have increased. Weather and the availability of disposable income have their usual effects on beverage sales.

Employment has increased as a result of this legislation. A study sponsored by the Federal Energy Administration projects increased employment nationwide as a result of a proposed national Bottle Bill.

State highway department expenditures for litter collection remain stable. And litter has been reduced. Clerical errors involved in the 1972–74 highway department litter survey, long since corrected, are still being trotted out by the beverage industry as evidence against the Bottle Bill.

The aluminum can has not disappeared from Oregon, nor has any container been banned. After an initial slowing in sales, beverage cans are once again claiming their share of the market in Oregon.

Oregonians support the Bottle Bill with an enthusiasm usually reserved for popular sports, motherhood and the flag. They are not disenchanted or embittered, as some industry representatives would have us believe.

The Bottle Bill gives some Americans a chance to demonstrate their real priorities: a good life and clean environment based not on consumerism but on conservation. The public does not demand a throwaway economy; it has merely responded to aggressive advertising and marketing techniques which promote waste of natural resources.

The existence of a Bottle Bill, with its high public support and participation, has greatly enhanced community awareness of and commitment to environmental concerns. It has facilitated recycling and resource recovery operations in the state, as well as public acceptance of solid waste management programs, public involvement in community air quality standards, and public protection of open spaces.

EFFECT ON SOLID WASTE AND ROADSIDE LITTER

380 million fewer beverage containers are disposed of in Oregon each year because of the Bottle Bill. It has been calculated that the number of containers entering the solid waste stream has been reduced by 88% as a result of the law. A Portland garbage hauler commented that the volume of household garbage on his route diminished by 7–10% when the law went into effect.

NUMBER OF BEVERAGE CONTAINERS PER YEAR IN SOLID WASTE

Type of container	Prebottle bill conditions	Postbottle bill conditions	Reduction
Bottles:			
Beer:			
Nonreturnable	89, 910, 000	458, 800	.....
Returnable	26, 692, 500	17, 556, 600	.....
Soft drink:			
Nonreturnable	18, 000, 000	0	.....
Returnable	36, 000, 000	21, 840, 000	.....
Total bottles	173, 602, 500	39, 855, 400	133, 747, 100
Cans:			
Beer	161, 320, 000	3, 478, 000	.....
Soft drink	102, 000, 000	8, 100, 000	.....
Total cans	263, 320, 000	11, 578, 000	251, 742, 000
Total beverage containers	436, 922, 500	51, 433, 400	385, 489, 100

Source: Oregon State University bottle bill survey.

Oregonians take great pride in the beauty of their state. They are especially proud when tourists remark that there is noticeably less roadside litter in Oregon than in neighboring states. This fact has been substantiated by several surveys. One of these was carried out in late 1976 by an Oregon newspaper, collecting and comparing litter from Oregon highways and those of its neighbor, Washington. They found 7.5 times more bottle and can litter in Washington. Roadside litter reduction was the original goal of the law and is also the most obvious result.

To document the level of the law's success, a survey of roadside litter amount (by volume and piece) and content was carried out on highways throughout the state, as provided in the bill. The survey was conducted by the State Highway Division along 30 randomly selected one-mile sites in Oregon, for one year before and two years after the law went into effect. When all the figures were in and comparable factors were checked for accuracy, they showed a significant reduction in beverage container litter. The reduction after one year was 72 percent, after two years 83 percent. The trend was clear: the Bottle Bill was indeed producing the desired result. There was no necessity for, nor had provision been made to continue the survey beyond these three years; costs of recording and analyzing masses of data made its continuation impractical.

The Oregon State Highway Division continues its normal highway program of roadway maintenance, right-of-way maintenance, litter collection, and so on. Over the past five years, litter collection costs have risen only 1.5 percent annually, well below the rate of inflation, from $589,076 in 70/71 to $633,353 in 75/76. These figures include the costs of the Oregon Youth Litter Patrol, which is funded through the sale of "vanity" license plates.

The dramatic reduction in visual pollution

along Oregon highways is a result of the greatly reduced volume of beverage container litter. The number of bottles and cans found on comparable test sites before the law amounted to 22,639; after the law had been in effect for two years, the count on the same sites was down to 3,748. Not only are cans and bottles the most visible sort of litter; are also the least biodegradable. Natural conditions can recycle a tin can to dust in 100 years, an aluminum can in 500 years, and a glass bottle in one million years.

LITTER COMPOSITION ON OREGON'S HIGHWAYS BEFORE AND AFTER THE BOTTLE BILL

	1971–72				1973–74			
	Item count	Percent of total litter	Cubic feet	Percent of total litter	Item count	Percent of total litter	Cubic feet	Percent of total litter
Deposit beverage containers	2,829	4	NA	NA	2,099	4.3	NA	NA
Nonreturnable containers	19,810	25	NA	NA	1,649	3.4	NA	NA
Total beverage containers	22,639	29	678	42	3,748	7.7	112	13
Other items	56,605	71	928	58	44,862	92.3	735	87
Total	79,244	100	1,606	100	48,610	100	847	100

Source: Oregon Highway Division.

ENERGY SAVINGS DOCUMENTED

The critical need to conserve energy has begun to receive national attention from both press and government. Bottle Bill proponents have long been aware of the need to look at all energy costs of container reuse, accounting for raw material acquisition, manufacturing and cleaning processes, and transportation at each stage. Taking into account total resource patterns, energy savings resulting from the shift to returnables have been significant. A net saving of 1.4 trillion BTU's per year has been realized in the new system in Oregon alone, enough to supply the heating needs of 50,000 Oregonians. Much higher savings would be realized with a national bottle bill. A Federal Energy Administration-sponsored study projects a savings of 144 to 169 trillion BTU's annually, equivalent to 70,000 to 80,000 barrels of oil per day saved nationally.

Higher return rates result in higher energy savings, of course. In Oregon, returnable soft drink bottles are reused about 24 times and beer bottles about 20 times. At this rate, the returnable bottle system uses one third the energy consumed in the throwaway system. Added energy savings are obtained from recycling those bottles that are not refilled. The return rate for cans in Oregon is very high, at 80%; the recovered metals are recycled, for additional savings. According to industry figures, the manufacture of aluminum from virgin materials requires 20 times the energy needed for recycling aluminum.

ENERGY SAVING CALCULATIONS—OREGON 1974

	Percent recycled (percent)	Container energy per gallon consumed [1] (Btu)	Container size (ounces)	Container energy per filling (Btu)	Container mix, 1971 (percent)	Total container for 1974 with 1971 mix (millions of fillings)	Container mix, 1974 (percent)	Total containers for 1974 with 1974 mix (millions of fillings)	Difference in container use (millions of fillings)	Energy requirement change (millions of Btu)
Beer:										
Returnable bottles	95	30,730	12	2,880	36	144	96	384	+240	+691
Nonreturnable bottles	0	64,380	12	6,040	31	124	0	0	−124	−749
Can:										
Aluminum	[2] 15	75,030	13	7,620	33	132	0	0	−132	−1,006
Aluminum	[3] 70	38,630	13	3,920	0	0	4	16	+16	+63
Subtotal, beer					100	400	100	400		−1,001
Soft drink:										
Returnable bottles	96	11,230	16	1,404	53	159	91	273	+114	+160
Nonreturnable bottles	0	53,010	10	4,141	7	21	0	0	−21	−87
Can:										
Bimetal	[4] 4	53,220	12	4,989	40	120	4	12	−108	−538
All steel	[3] 70	31,340	12	2,937	0	0	5	15	+15	+44
Subtotal, soft drinks					100	300	100	300		−421
Total energy consumption change										−1,422

[1] Based upon data from Resource and Environmental Profile Analysis of 9 Beverage Container Alternatives.[17]
[2] National average percent recycled of 15.[17]
[3] Gudger and Bailes.[1]
[4] Although the percent returned to retailers is approximately 70 percent very few are recycled.

Source: Oregon's Bottle Bill 2-yr later—Oregon Environmental Council, 1974.

PUBLIC HEALTH AND SAFETY

According to all government agencies charged with inspection and enforcement of health and sanitation standards, no problems related to the Bottle Bill have been reported, nor has any new staff been added to implement the law. Distributors and dealers are managing the flow of returned containers, efficiently sorting and handling them, with no adverse effect on health and safety standards in stores or other outlets.

Public health is protected by this law as it outlaws metal beverage containers with pull tabs. The result has been to make Oregon's recreation areas cleaner and safer. Oregon has fine public beaches that run the entire length of the coast; the Bottle Bill has helped to keep them and our campgrounds and wilderness areas free of sharp metal and broken glass which are a hazard to the health and safety of people and animals.

IMPROVING THE EMPLOYMENT PICTURE

Employment in Oregon increased as a consequence of the Bottle Bill. New jobs were created in brewing, soft drink bottling, transportation and retail sales, while bottle and can manufacturing positions were reduced as the demand for containers dropped. An estimated net increase of $1,600,000 in annual payroll ensued, with its accompanying economic benefit to the community.

A study by Gudger and Bailes estimates a gain of 365 jobs, calculated from all segments of the economy. The lowest estimate, 135 jobs gained, is from a study by ADS which was based on inadequate data, having failed to elicit enough responses from enough industry sectors.

Improving the employment picture in Oregon was not the initial goal of the Bottle Bill but has been a welcome effect.

EFFECT OF BOTTLE BILL ON OREGON EMPLOYMENT

Production labor (decrease)	350
Truck driving (increase)	140
Warehouse and handling (increase)	575
Total employment (increase)	365

Source: Oregon State University bottle bill survey.

THE ECONOMY: SALES UP, PRICES DOWN

The net economic effect of the Bottle Bill on Oregon consumers and beverage-related industries has also been positive. Excise tax records show increased beer sales. Soft drink manufacturers, distributors, and retailers reported a sales increase in 1973 over 1972 of over 10%. This figure is well above the national trend for this economically depressed period. Total operating income for all beverage-related business sectors combined was increased by $3.93 million per year in the two years following the effective date of the law. Beverage sales and price fluctuation are dependent on many factors other than refund legislation, factors which have always influenced the market, such as weather, sugar prices, spendable income, inflation, and labor costs.

Oregon consumers save money with the shift to refillable containers. The price for beverages in cans has traditionally been as much as 50¢ per ounce higher than for the same beverages in refillable bottles. These prices of beverages in refillable containers were compared with non-reused containers in an EPA-sponsored study in 24 states. Beer and soft drinks in refillable bottles were shown to be definitely cheaper, from 5¢ to

58% less, depending on the size of the container, with greater savings going to larger sizes.

Nationally, the manufacture of disposable beverage containers has grown eight times faster than the consumption of beer and soft drinks. The beverage industry believes that convenience packaging is largely responsible for sales growth; they resist refund legislation, fearing it will cut into sales volume. However, in Oregon none of these grave economic consequences predicted by the beverage industry has occurred; Oregon's economy is the better for the Bottle Bill.

OREGON BEER CONSUMPTION

Fiscal year	Gallons (millions)	Population (millions)	Consumption (gallons per capita)
1964	27.8	1.856	14.97
1965	30.0	1.906	15.73
1966	31.7	1.972	16.07
1967	33.7	2.001	16.84
1968	35.1	2.006	17.49
1969	35.7	2.055	17.37
1970	39.4	2.081	18.93
1971	40.6	2.091	19.41
1972	44.8	2.143	20.90
1973	46.3	2.183	21.20
1974	46.5	2.224	20.90
1975	48.5	2.266	21.40
1976	52.3	2.299	22.74

Source: Oregon Liquor Control Commission.

ENFORCEMENT

The Oregon refund law is self-sustaining and self-implementing, a popular law which is in effect publicly administered.

There have been no enforcement problems associated with the refund law. Its highly efficient design, based on positive reinforcement, creates built-in incentives for complying. The 18-month phase-in period, between passage and implementation, gave retailers and consumers time to understand the law's mechanisms. Complaints are rare, usually resolved informally. No state or local government agency has added staff or incurred significant added expense for enforcement of this law. Enforcement power was charged to the Oregon Liquor Control Commission; they report only five retailers prosecuted in as many years since the law went in to effect.

RECYCLING AND RESOURCE RECOVERY

Recycling centers, both commercial and non-profit have continued to flourish in Oregon since the law went into effect. Since 1970, the number of recycling programs in the state has risen to 325. Bottle Bill opponents had predicted that it would cut into voluntary recycling and discourage the harvest of other recyclable waste products. In fact, the reverse is true; the public has been educated by the Bottle Bill to recycle other items. Public participation is the basis for recycling; beverage containers are not essential to economic operation of recycling centers.

Eighty percent of beverage cans are returned in Oregon; while they are not refilled, they are recycled. Several recycling companies service beer and soft drink dealers, collecting the returned aluminum, steel, and glass containers and processing them in preparation for recycling.

The Bottle Bill has not hindered the planning or implementation of resource recovery processing facilities as part of solid waste management in Oregon. Today's technology allows recovery of energy and some materials from municipal wastes; as it develops, it must become complimentary to the concepts of recycling and reuse, if it is to conserve self. Resource recovery from solid waste cannot rely on any one source of waste, such as beverage containers, and remain economi- resources rather than serve as an end in itcally viable.

The Recycling Information Office of the Oregon Department of Environmental Quality has served as an information exchange for the public and recyclers throughout the state since 1973. Their Recycling Switchboard lists all recycling and resource recovery operations in the state; a monthly bulletin, guides for recycling projects, fact sheets, and market lists are available for recyclers, legislators, environmental groups, educators, public officials, and interested citizens.

PUBLIC ACCEPTANCE

Public acceptance is the real measure of the Bottle Bill's effectiveness. In Oregon 90% of the population approve of the law, and 95% participate in its implementation, as illustrated by the high container return rate. Energy is saved; money is saved; bottler, consumer and environment gain.

Convenience plays an important role in the Bottle Bill's popularity; containers are commonly returned to the store where they were bought, making returns easy for the consumer and the retailer. Another advantage is reduction of household garbage volume and collection cost. And, of course, pride in a cleaner landscape continues to inspire Oregonians to prefer the refillable container system.

The public opinion surveys underscore the persistence of the Bottle Bill's popularity. One, conducted by Applied Decisions Systems in 1973, showed that 95% of those interviewed had an opinion of the law and, of those, 95% approved the law. The second survey, by the Seattle Post-Intelligencer in 1975, showed 90% in Oregon in favor of the bill, and in Washington, a neighboring state, 68% in favor of an Oregon-type refund law for their state.

Oregon retailers and distributors have cooperated and supported this new law from the start, making the transition smooth. Retailers continue to handle the returns themselves rather than requesting the creation of redemption centers as provided for in the law.

Government officials and politicians look favorably on the Bottle Bill. There has been no attempt to repeal this popular piece of legislation; instead, modifications to increase its scope in various ways have been proposed in each session of the state legislature. The fact that the Bottle Bill has not increased the costs of government nor expanded the bureaucracy enhances its popularity with public and officials alike.

APPROVAL/DISAPPROVAL OF BOTTLE BILL

[In percent]

	Approve	Disapprove	No opinion
1973 All Oregon respondents	90.8	4.7	4.5
1973 Oregon soft drink consumers	90.8	4.6	4.6
1973 Oregon beer consumers	90.3	5.0	4.7
1975 All Oregon respondents	89.9	4.1	6.0
1975 All Washington respondents	68.0	23.6	8.4

Sources: Applied Decisions Systems Study 1973; Seattle Post-Intelligencer 1975.

Note: Additional information available. See bibliography.

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15. The Beverage Container Problem: Analysis and Recommendations, Research Triangle Institute for U.S. Environmental Protection Agency, Washington, D.C., 1972, Research Triangle Institute, Reference Library, Office of Administration, Research Triangle Park, North Carolina, 27711. Order No. EPA PR 2–72–059.

For more information, call or write: Oregon Department of Environmental Quality Recycling Information Office, 1234 SW Morrison Street, Portland, Oregon 97205.

* Availability varies.

COMPARISONS OF BEVERAGE PRICES IN OREGON AND WASHINGTON, OCT. 18, 1976

	Safeway Store		Vancouver Food Cntr., Vancouver, Wash.	Thriftway, Portland, Oreg.
	Vancouver, Wash.	Portland, Oreg.		
Blitz:				
6-pack, 11-oz bottles	$1.58	$1.58	$1.59	$1.58
6-pack, 12-oz cans	1.68	1.69	1.69	(1)
32-oz quart	.58	.56	.63	.56
12-pack, 11-oz bottles	3.08	3.14	.....	3.14
12-pack, 12-oz cans	3.28	3.35	3.35	(1)
Olympia:				
6-pack, 12-oz bottles	1.58	[2] 1.58	1.59	[2] 1.58
6-pack, 12-oz cans	1.68	1.69	1.69	(1)
32-oz quart	.58	.56	.63	.56
12-pack, 12-oz bottles	3.08	[2] 3.14	.....	[2] 3.14
12-pack, 12-oz cans	3.28	3.35	3.35	(1)
Ranier:				
6-pack, 11-oz bottles	1.58	1.58	1.59	1.58
12-pack, 11-oz bottles	3.08	3.14	.....	3.14
Budweiser:				
6-pack, 12-oz bottles	1.68	[2] 1.72	1.69	[2] 1.72
6-pack, 12-oz cans	1.78	1.84	1.79	1.82
32-oz quart	.68	.65	.....	(1)
12-pack, 12-oz bottles	3.48	[2] 3.39	.....	[2] 3.39
Coca-Cola:				
6-pack, 12-oz cans	1.49	1.49	.....	.....
8-pack, 16-oz bottles	1.85	1.85	.....	.....
26-oz bottles	3/1.09	3/1.09	.....	.....
7-Up:				
6-pack, 12-oz cans	1.49	1.49	.....	.....
8-pack, 16-oz bottles	1.85	1.85	.....	.....
28-oz bottle	3/.99	3/1.09	.....	.....
Pepsi Cola:				
8-pack, 16-oz bottles	1.85	1.85	.....	.....
26-oz bottle	3/.99	3/1.09	.....	.....
Tab:				
8-pack, 16-oz bottles	1.85	1.85	.....	.....
32-oz bottle	3/1.09	3/1.09	.....	.....
Cragmont: 12-oz cans	6/.99	6/.99	.....	.....

[1] No cans.
[2] 11 oz.
[3] No quarts.

Note: Vancouver prices do not include the 5.1-percent Washington sales tax. Portland prices do not include the minimum deposit.
Source: Oregon Department of Environmental Quality Recycling Information Office.

OREGON JOURNAL ROADSIDE LITTER SURVEY, 1976

Oregon highways	Average daily cars	Beverage containers in litter	Days since last pickup	Days since last pickup	Beverage containers in litter	Average daily cars	Washington highways
O-1	3,200	27	65–74	[1] 156	343	3,275	W-1
O-2	915	13	100	[1] 217	339	980	W-2
O-3	9,300	11	78–108	[1] 217	306	5,000	W-3
O-4	2,650	85	365+	[1] 217	591	2,300	W-4
O-5	3,800	48	86	(2)	423	3,900	W-5
O-6	6,500	34	111	(2)	232	6,300	W-6
O-7	1,200	23	66	[1] 139	149	1,300	W-7
O-8	3,400	97	74	73–80	144	3,000	W-8
O-9	1,050	17	78–108	[1] 217	253	990	W-9
O-10	2,500	30	65–74	[1] 217	155	1,300	W-10
Totals for 10 mi	34,515	385	.....	.....	2,935	28,345	.....
Averages per mile	3,452	38.5	.....	.....	293.5	2,835	.....

[1] Estimates only.
[2] Undetermined.

Source: Oregon Journal Oct. 25, 1976.

Appendix p. IV Oregon's Bottle Bill, 1977 report.

BEVERAGE CONTAINERS

459.810 Definitions for ORS 459.810 to 459.890. As used in ORS 459.810 to 459.890 and subsections (5) and (6) of 459.992, unless the context requires otherwise:

(1) "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

(2) "Beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar, or carton containing a beverage.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under ORS 459.880.

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

(7) "In this state" means within the exterior limits of the State of Oregon and includes all territory within these limits owned by or ceded to the United States of America.

(8) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.

(9) "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

(10) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale.

[1971 c.745 s.1]

459.820 Refund value required. (1) Except as provided in subsection (2) of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than five cents.

(2) Every beverage container certified as provided in ORS 459.860, sold or offered for sale in this state, shall have a refund value of not less than two cents.

[1971 c.745 s.2]

459.830 Practices required of dealers and distributors. Except as provided in ORS 459.840:

(1) A dealer shall not refuse to accept from any person any empty beverage containers of the kind, size and brand sold by the dealer, or refuse to pay to that person the refund value of a beverage container as established by ORS 459.820.

(2) A distributor shall not refuse to accept from a dealer any empty beverage containers of the kind, size and brand sold by the distributor, or refuse to pay the dealer the refund value of a beverage container as established by ORS 459.820.

459.840 When dealer or distributor authorized to refuse to accept or pay refund in certain cases. (1) A dealer may refuse to accept from any person, and a distributor may refuse to accept from a dealer any empty beverage container which does not state thereon a refund value as established by ORS 459.820.

(2) A dealer may refuse to accept and to pay the refund value of empty beverage containers if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the commission approving a redemption center under ORS 459.880.

[1971 c.745 s.4; 1973 c.758 s.2]

459.850 Indication of refund value required; exception; certain metal containers prohibited. (1) Every beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, or by a label or other method securely affixed to the beverage container, the refund value of the container.

(2) Subsection (1) of this section shall not apply to glass beverage containers designed for beverages having a brand name permanently marked thereon which, on October 1, 1972, had a refund value of not less than five cents.

(3) No person shall sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener.

[1971 c.745 s.5]

459.860 Certification of containers as reusable by more than one manufacturer. (1) To promote the use in this state of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the commission may certify beverage containers which satisfy the requirements of this section.

(2) A beverage container may be certified if:

(a) It is reusable as a beverage container by more than one manufacturer in the ordinary course of business; and

(b) More than one manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

(3) The commission may by rule establish appropriate liquid capacities and shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection (1) of this section.

(4) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

[1971 c.745 s.6; 1973 c.693 s.1]

459.870 Decision upon certification applications; review and withdrawal of certifications granted. (1) Unless an application for certification under ORS 459.860 is denied by the commission within 60 days after the filing of the application, the beverage container shall be deemed certified.

(2) The commission may review at any time certification of a beverage container. If after such review, with written notice and hearing afforded to the person who filed the application for certification under ORS 459.860, the commission determines the container is no longer qualified for certification, it shall withdraw certification.

(3) Withdrawal of certification shall be effective not less than 30 days after written notice to the person who filed the application for certification under ORS 459.860 and to the manufacturers referred to in subsection (2) of ORS 459.860.

[1971 c.745 s.7]

459.880 Redemption centers. (1) To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Oregon Liquor Control Commission, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

(2) Application for approval of a redemption center shall be filed with the commission. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center and the names and addresses of the dealers to be served by the redemption center. The application shall include such additional information as the commission may require.

(3) The commission shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The order of the commission approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order may contain such other provisions to insure the redemption center will provide a convenient service to the public as the commission may determine.

(4) The commission may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with its order approving the redemption center, or if the redemption center no longer provides a convenient service to the public.

[1971 c.745 s.8; 1973 c.758 s.3]

459.890 Certification and withdrawal procedures. The procedures for certification or withdrawal provided for in ORS 459.860 to 459.880 shall be in accordance with ORS chapter 183.

[1971 c.745 s.9]

THE LABOR LAW REFORM ACT

Mr. HATCH. Mr. President, in my continuing effort to keep my colleagues informed on developments relating to labor law reform, I noted with great interest two recent Washington newspaper editorials on the subject. Both the Washington Star and the Washington Post, papers of often divergent viewpoints, conclude that H.R. 8410—and by implication S. 1883 in the Senate—the Labor Reform Act of 1977, were written by friends of organized labor and address only the concerns of big labor. The Post states in part and I quote:

But if the legislation passes in anything like its present form, Congress will only have strengthened the labor laws partially and selectively and will have left a great deal undone. That is not what you would call a decent job of reforming the nation's labor laws.

And the Star explains:

The danger in the bill is that it could so overload the National Labor Relations Act on the side of the unions that employers might decide it simply would not be worthwhile to resist unionizing efforts. If employers find it easier to deliver their employes to unions than to argue the case against them, where then is there freedom for workers to join or not to join a union?

In spite of these valid admonitions, the House seems to be intent upon doing big labor's bidding by enacting a law which deforms our national labor relations policy, a policy which has worked remarkably well for the past 40 years, to punish a few so-called flagrant violators.

I trust that the Senate will be more deliberative prior to modifying this delicately balanced labor law which has worked effectively in the public interest so as to reject those statutory changes which in themselevs would make unionization irresistible and from which there would rapidly flow into the hands of union leaders, unchallengeable power.

I ask unanimous consent that the two editorials I have referred to be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 5, 1977]

TILTING THE LABOR LAW

The National Labor Relations Act was passed 42 years ago, in the midst of the Great Depression, to give industrial workers the right to organize to bargain collectively. It was not intended to be a lever to force employes into unions.

But a "reform" package currently under consideration by the House might well tilt the law in the direction of forced unionism.

This is the bill that leaders of organized labor want above all others in the 95th Congress. Why? Because they believe it will make it easier to organize non-union industries, particularly in the South.

The main thrust of the bill is to speed elections among workers on whether they want to unionize and to penalize employers severely for violations of labor laws.

Elections would have to be held within 15 days after petitions are filed by a majority of workers, and within 45 days after petitions are filed by 30 to 50 per cent of workers. Employers, of course, should not be allowed to drag out the election process unduly but the deadlines proposed hardly give adequate time for employers to argue their side and for employes to make considered judgments.

Among the bill's penalty provisions is one that would require double back pay, rather than the straight back pay provided by existing law, to workers deemed by authorities to have been fired illegally for union organizing activity. Opponents argue, correctly in our opinion, that the law is not intended as a deterrent or to provide recompense for suffering but as a means of making an illegally fired employe financially whole.

Another provision would authorize the National Labor Relations Board to bar companies that willfully violate final NLRB orders from government contracts for three years. Such a procedure not only would penalize employers but would defeat the purpose of the bill, which is to protect employes. Fewer contracts mean fewer jobs.

Opponents argue that a major shortcoming is that the bill does not address coercive and illegal union activities. Alternate legislation introduced by Rep. John Erlenborn, R-Ill., and supported by business groups, would require secret ballots in determining whether employes want union representation and on whether to call or maintain a strike, would sharply restrict a union's ability to fine its members, would bar union payroll check-off for political purposes and would broaden the range of unfair labor practices by unions.

Not only has the Erlenborn bill been shuffled into oblivion but House leaders sent the labor-backed bill to the floor under a "closed rule" to prevent any such amendments being offered. Amendments were limited under the "closed rule" to issues addressed specifically in the bill before the House.

The bill before the House was written by friends of organized labor, and some of its supporters make no bones about their hope that it will lead to the end of open shops. Frank Thompson Jr., chairman of the House Labor subcommittee and sponsor of the bill, was quoted recently as saying: "I hope this bill will . . . protect workers . . . by doing away with open shop havens which entice industry with the siren song of cheap and docile labor."

The danger in the bill is that it could so overload the National Labor Relations Act on the side of the unions that employers might decide it simply would not be worthwhile to resist unionizing efforts. If employers find it easier to deliver their employes to unions than to argue the case against them, where then is there freedom for workers to join or not to join a union?

[From the Washington Post, Oct. 4, 1977]

THE LABOR BILL

Both business and labor have been cranking up their supporters for today's debate in the House on a bill to amend the National Labor Relations Act. Listening to labor representatives describe the legislation, you might think it justly punished genuinely evil employers and gave workers their just entitlements and rights. Listening to business people describe it, you might think this was a simple power grab by unions out to destroy employers who get in their way. As in most matters of this kind, not all virtue is on one

side. The bill is neither as good or as bad as it has been depicted, and it falls far short of providing the comprehensive reform that the labor laws need.

The bill has two valid central themes. One is that the procedures of the NLRB, especially those concerning union representation elections and enforcement of NLRB orders, are too cumbersome and time consuming. Anyone who watched the NLRB with a degree of detachment knows this is true, the possibilities for delay seem endless and the most simple issues can become incredibly complex. The other theme of the legislation is that the penalties now imposed on employers who defy the law are inadequate. This also is true; the need to strengthen penalties was underlined recently in the J. P. Stevens case when a federal court said it had "grave doubts" about its ability to enforce the labor law against those who persistently break it.

But we have doubts about the way in which the bill before the House attempts to remedy those problems. It would impose, for example, fixed and short waiting periods before representation elections—a useful idea—but it would not give the NLRB enough flexibility to extend those periods in extraordinarily difficult cases. And it would make the loss of government contracts the ultimate sanction against employers who are persistent and flagrant violators of the law. While it is true that the government should not be doing business with a persistent law-breaker, there ought to be other ways to compel compliance. Taking away government contracts punishes workers as well as companies and may sometimes leave untouched the corporate officers who are responsible for the wrongdoing.

Beyond all this, the legislation being debated today doesn't consider the other side of the coin. Employers are not the only malefactors in labor disputes. Unions, too, sometimes break the law. This bill, put together by the administration, its friends in the labor movement and their friends in the House, addresses only half of the problem. Perhaps some of its shortcomings can be cleaned up as (and if) it progresses through Congress. (But if the legislation passes in anything like its present form, Congress will only have strengthened the labor laws partially and selectively and will have left a great deal undone. That is not what you would call a decent job of reforming the nation's labor laws.

THE MIDDLE EAST

Mr. RIEGLE. Mr. President, a few days ago I received an invitation to address a meeting of concerned Jewish leaders and other citizens today in Lafayette Park here in Washington. I did attend that meeting and made some remarks which I want to share with my colleagues and other readers of the RECORD.

Mr. President, I ask unanimous consent that the remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD as follows:

STATEMENT OF SENATOR DONALD W. RIEGLE, JR. ON THE MIDDLE EAST

When the invitation was extended to me to address this group today I was pleased to accept. At the same time I am very troubled about circumstances that have caused you to gather here at this time.

As people deeply committed to justice—to human rights—to the security and safe future of Israel—to policies by the United States consistant with our values and moral interests—I can understand why recent events concerning U.S. policy in the Middle East have been a cause of great concern to you.

As a member of the U.S. Senate—and one who served for ten years in the House of Representatives on foreign policy committees—I am here to say that I share your deep concern of recent days.

As a member of the Democratic Patry—and as one who has supported President Carter—I would hope that he would not misunderstand our purpose in gathering here. It is not for purposes of confrontation. It is for purposes of clarification and to allow the proper and clear expression of urgent concern about American policy in the Middle East.

We here in the U.S. are a diverse nation of many people. In the end, our national policies must be based upon the collective will of our people. The President has important foreign policy responsibilities—and yet so do the rest of us. Each Senator, each Member of Congress—every concerned citizen has an obligation to weigh these profound national questions and to speak out about them.

So we are here to participate. To let our viewpoints be expressed and heard. It is the wish of all of us to work with the Administration, and this meeting takes place in that spirit.

To understand the intensity of today's concern, one must recall the savage history faced by Jewish people. Centuries of homelessness, persecution, and then the holocaust of World War II. Finally, after centuries of suffering and misery beyond accounting, the state of Israel was created. But there has been no peace since. Wars—terrorist attacks—pressure of every form has continued against the state of Israel.

No friend of Israel over these difficult years has been better or stronger than the United States. That is as it should be. We are here to see that it continues—to reaffirm and emphasize the bond of human values, democratic principles, and yearning for justice that bind these two nations—these two peoples—together.

We come then not as dissident voices, but as an expression of reaffirmation and continuity that comes directly from the center of sound, long-established American policies and from the very core of the American system of human values.

And so we wish to be heard and will persist until we are heard.

The immediate concern that brings us together centers around the meaning and content of the U.S./Soviet guideline statement recently released. Dozens of unanswered questions arise from this new development—and we must persist in finding the answers to these questions.

Like many others, I was astonished at the timing and content of the U.S./Soviet statement. I am deeply concerned about it, as are many of my congressional colleagues on both sides of the aisle.

Many alarming implications spring from that statement. The Washington Post columnist George Will offered a stark interpretation today, and I quote Mr. Will:

"By collaborating with the Soviet Union, Israel's principle enemy, on a declaration of objectives for a Mideast settlement, the United States took a giant step toward imposing a settlement agreeable to Israel's enemies. The United States has undermined the Geneva Conference, transformed the Soviets from passive to active participants in the diplomatic process, resuscitated a terrorist organization (the Palestine Liberation Organization), hardened Arab negotiating positions and emboldened those Arabs who say negotiations are unnecessary because eventually, Israel's friend will sell her cheap.

"The most pernicious U.S./Soviet stipulation is for 'insuring the legitimate rights of the Palestinian people.' The world (including the Administration) knows, and jubilant PLO and Arab leaders know, that is a catchphrase used invariably and, until now, exclusively by Arabs who insist that the PLO must define those rights. The PLO invariably does so in terms of the extinction of Israel."

These sharply worded concerns are similar to those I am hearing from many other people.

Apparently, even Secretary of State Vance has been "surprised" by the dismay this joint communique has caused.

At best, the U.S./Soviet statement is confusing and a cause of new concern and apprehension to many of us. At worst, it has the potential, in my opinion for very great harm. So we must now seek frank answers to some very troubling questions:

(1) Does the U.S./Soviet communique stand by itself as a new policy statement on settling the Middle East conflict, or does it somehow fit into a larger U.S./Soviet arrangement that might include SALT and Helsinki, and other issues?

I am sure that I am not alone in my surprise that President Carter's second U.N. speech somehow omitted the mention of the Human Rights issue, the central focus of his first U.N. speech. It seems a conspicuous omission.

(2) Is there some negotiating deadline that has been established? Are the parties being forced to meet a scheduled date on the calendar without regard to other factors?

(3) What new facts exist that would show the U.S.S.R. to be a trustworthy party to arranging or maintaining a peace settlement in the Middle East?

Why, after so many difficult years of isolating Soviet influence in the Middle East, are we now reversing policy and appearing to reintroduce an enlarged Soviet influence in the Middle East?

(4) Why did the U.S./Soviet communique fail to call for a formal peace treaty?

(5) Why was there no mention of U.N. Resolution 242 or 338?

(6) In choosing the word "rights" to replace the word "interests" with reference to the Palestinians, did the U.S. clearly understand that to the Soviets and the PLO, that word "rights" means the elimination of the state of Israel? Does the Administration intend now to use the phrase "rights" or will it return to the previous use of the word "interests"?

(7) During the 1975 Sinai Agreements, the U.S. and Israel reached a specific agreement which stated: ". . . the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states, group or organization."

Did the U.S. keep this agreement and consult fully with Israel before signing the joint communique with the Soviet Union?

(8) Does the joint communique in any way mean that the super powers intend to impose a solution in the Middle East, or will a final settlement be left for the direct participants to work out between themselves?

These are the main questions. And there are others.

Let our gathering here underscore our collective concern and our determination to get unambiguous answers to these questions.

We have met before at moments of great urgency. We will continue to meet—as often as necessary until we understand exactly the content and basis of U.S. policy in the Middle East.

I expect all of you at any such future gatherings. And you can count on me to be there too.

CYPRUS: ESSENTIALLY A MORAL QUESTION

Mr. PERCY. Mr. President, it is 3 years since the upheaval on Cyprus which was followed by the Turkish invasion. Since then Turkey has maintained its grip on the northern half of the island. Despite all efforts to persuade Turkey to withdraw its armed forces from Cyprus and to allow the many tens of thousands of displaced Greek Cypriots to return to their homes, Turkey remains adamant.

We are well aware of the internal political difficulties of the Turkish Government which tend to delay the hard decision on troop withdrawal from Cyprus. Likewise we are aware of the difficulties of the Carter administration in seeking Turkish movement on the Cyprus issue while endeavoring to protect American security interests in Turkey.

Nevertheless, justice requires Turkish action in this matter. Turkish forces have no right to be in Cyprus. The displaced Greek Cypriots have every right to return to their homes. It is essentially a moral question.

At a time when human rights have become a world concern, Turkey should respect the human rights of the people of Cyprus. Turkey should withdraw its Armed Forces from Cyprus without further delay.

THE RISING COST OF HIGHER EDUCATION

Mr. PELL. Mr. President, the rising cost of higher education is a matter of grave concern to all of us who share the conviction that postsecondary education is of vital importance to Americans as individuals and to the economic and cultural life of our Nation.

The impact of the rising costs, of course, are felt most dramatically, and painfully, by young people now attending or entering college, and by their parents. Even more painful is the prospect confronting parents who nourish the dream of helping their children attend college 5 or 10 years from now.

Recently, the Providence, R.I., Sunday Journal published an article which clearly indicates the problem being faced today by parents of college-aged children, and the problems that parents of younger children face during the coming decade, as their children reach college age.

A few statistics from that article show the dimensions of the problem. Today, in Rhode Island, the annual cost for a student attending Brown University is almost $7,000, for a student attending Providence College it is more than $4,600, and for a student at the University of Rhode Island, the major State university in my State, it is $2,600. Those costs alone are sobering, but is estimated that 10 years from now, the annual cost at Brown University will be $15,000; at Providence College, $9,500, and at the University of Rhode Island, $5,600.

Middle-income families are being painfully squeezed by college costs today. How many middle-income families will be able to bear the costs that are projected for the next decade?

Mr. President, as chairman of the Subcommittee on Education, Arts, and Humanities of the Senate Human Resources Committee, I am dedicated to the broadening of educational opportunities for all Americans. In the years that I have chaired the subcommittee, I have had the satisfaction of initiating legislation that is today providing assistance to students who have the greatest need through the basic educational opportunities grants program.

More recently, I sponsored an expansion of that program and its income limits so that more of our middle-income families can qualify for these assistance grants. And, we in the Congress have assured continuation of the direct student loan program, to assist middle-income families, by insisting on appropriations for that program.

With these efforts, I believe we have succeeded in broadening educational opportunities, in making it possible for young people who consider a college education beyond their financial reach, to go on to higher education.

Mr. President, we cannot now permit the tide to be turned. We cannot now permit escalating college costs to narrow the educational opportunities we have struggled to broaden. And, in our society, we should not permit conditions to develop in which a middle-income family must destitute itself to provide education for their children.

As the Providence Journal article notes, the situation is not entirely bleak. Although college costs in the past decade have increased by 100 percent, the general Consumer Price Index during the same period increased by 82 percent. So while educational costs have increased more rapidly than general consumer prices, college costs have not reached the runaway rates of cost increases for health care and for fuels and energy.

There is no question that college costs, combined with sharply increased costs of fuel, energy, health care, and State and local taxes, have made gaping holes in the budget of the average family.

The gap is being filled now in several ways. Many colleges and universities are doing an excellent job of increasing their own financial assistance programs, of providing work opportunities for students, and by initiating their own loan programs for families ineligible for Government assistance.

Federal Government assistance, as I have noted, has been increased, helping to fill the gap. And, the families and students themselves have dug a little deeper, worked harder, and sacrificed more to realize their goal of higher education.

We must make certain that in the coming years the gap between costs of college, and what families can afford, is not allowed to grow, but rather is narrowed.

To achieve that goal will require efforts by all involved. Our institutions of higher education, I believe, must and will seek innovative ways of providing quality postsecondary education, at lower costs.

Students, who are determined to attend college have traditionally been enterprising, hard working and ingenious in finding ways to achieve their goals, and American parents have been willing to make many sacrifices to help them. I know we can count on a continuation of that spirit in the future.

Clearly, however, the Federal Government representing all of the citizens and the taxpayers, must also play its part in assuring that higher education does not become an impossible dream. All of our society benefits when our young people have the opportunity to realize the full potential of their creative and productive abilities through higher education, and I think we are all willing to share in the costs.

I am committed to working for additional increases in Federal higher education assistance. There are a wide variety of alternative ways of providing this assistance, and in the coming months I believe we must examine all of the alternatives to determine which measures are most responsive to the problems we face.

Mr. President, I ask unanimous consent that the article from the Providence Sunday Journal of September 29, 1977, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pennsylvania Sunday Journal Aug. 28, 1977]

HOW MUCH DO YOU NEED TO SAVE TO GO TO COLLEGE?

Present age of child	Public university: Projected 4-yr cost [1]	Public university: Annual savings required [2]	Private college: Projected 4-yr cost [1]	Private college: Annual savings required [2]
1	$47,380	$1,570	$82,830	$2,750
2	44,660	1,610	78,160	2,820
3	42,150	1,660	73,760	2,910
4	39,770	1,710	69,600	2,990
5	37,530	1,780	65,680	3,120
6	35,420	1,860	61,990	3,260
7	33,000	1,930	57,750	3,380
8	30,710	2,010	53,740	3,520
9	28,940	2,140	50,650	3,750
10	27,270	2,300	47,720	4,030
11	25,690	2,500	44,960	4,380
12	24,200	2,760	42,350	4,830
13	23,110	3,160	40,440	5,530
14	22,090	3,720	38,660	6,510
15	20,840	4,500	36,470	7,880
16	19,660	5,800	34,910	10,150
17	18,550	8,420	32,460	14,740
18	17,500	16,220	30,630	28,390

[1] Cost assumed at 6 percent annual inflation rate.
[2] Savings at 5 percent interest, compounded.

Source: Oakland Financial Group, Inc.

WHAT WILL AREA COLLEGES COST 10 YEARS FROM NOW?

[Yearly total of tuition, room, and board]

College	1967–68	1977–78	Percent change	Projected, 1987–88
Brown	$2,970	$6,625	123	$14,774
R.I.S.D.	2,750	5,425	97	10,687
Providence College	2,250	4,632	106	9,542
Roger Williams	2,020	4,170	106	8,590
Bryant	1,975	4,075	106	8,395
Salve Regina	1,900	4,010	111	8,461
Barrington	[2] 2,060	4,125	100	8,250
Johnson & Wales	[3] 1,300	3,450	165	9,142
University of Rhode Island	1,240	2,636	113	5,614
Rhode Island College	1,075	2,114	96.7	4,158
Rhode Island Junior College	220	360	64	590
Bristol Comm. College [3]	200	300	50	450
S.M.U. [3]	200	480	140	1,152
University of Massachusetts	940	2,118	125	4,766
Wheaton	3,300	6,300	91	12,033

[1] Estimated.
[2] Tuition only, no resident students.
[3] Tuition only, no resident students in 67–68.

Note: Like other middle class families, Richard and Rosemary Harrison and their children Lee Ann and Kirk face enormous college education bills. The charts show how much will be needed by other families in the future.

CAN THE MIDDLE CLASS AFFORD TO SEND ITS CHILDREN TO COLLEGE?

(By Carol J. Young)

Half way through her senior year at Toll Gate High School in Warwick, Lee Ann Harrison made a decision that will cost her parents at least $30,000. She decided to enroll this fall at Wheaton College, a private liberal arts school for women in Norton, Mass.

Although they wholeheartedly endorse their daughter's decision, raising the $30,000 won't be easy for Richard and Rosemary Harrison. With an after-tax combined income of just under $25,000, they fit neatly into the mold of the middle-class family said to be squeezed the tightest by the spiraling costs of sending children to college.

Richard Harrison knows that better than most. A director of guidance at Cranston High School East, he has watched from a front row seat as the costs of both a public and a private college education have increased roughly 100 percent during the last decade.

And, he knows better than most that he and Rosemary, a pediatrics nurse, are too "rich" to qualify for financial aid to ease the burden. Nevertheless, their savings for Lee Ann's education were virtually wiped out by the first two bills from Wheaton.

Lee Ann applied to Wheaton after she had spent some time "looking around," a ritual most college-bound students go through. She visited campuses, read course catalogues, talked to guidance counselors, discussed schools with her parents and decided that the best vibrations were coming from the small school 17 miles from Providence.

On Dec. 1, 1976, Wheaton notified Lee Ann, 21st in Toll Gate's senior class of 548 students, that she had been accepted. Discarding applications to three other private women's colleges, ready for mailing if her "first choice" rejected her, Lee Ann told Wheaton to expect her as a freshman in September.

Lee Ann's father backed up her intentions by sending a $350 deposit to the Norton campus. On August 15, he made a second payment: $4,725. In January, a third payment of $1,500 will be due.

Lee Ann's first year at Wheaton is expected to cost $6,885, a figure that includes tuition, room and board, a Massachusetts meal tax, a student activity fee, transportation, books, and personal expenses. Harrison decided to invest another $110 in a tuition-refund insurance policy in case Lee Ann drops out.

If costs climb six percent a year, as Harrison expects, Lee Ann's undergraduate education will cost $30,119. It could be more if she sticks with her plan to take Wheaton's special management science program. Under that program, she could earn both a bachelor's and a master's degree by spending three years at the Norton campus and two years at the Georgia Institute of Technology.

"It was apparent probably by the eighth grade that Lee Ann was definitely college material," Harrison said the other day as he, his wife Rosemary, and Lee Ann sat in the family's bright yellow kitchen and talked about how they will survive the financial storm of the next few years.

It was equally apparent, even then, that the cost of sending Lee Ann to college, particularly a private one, was going to require sacrifice. Beyond that, the Harrisons knew that it was just a matter of a few years before their other child, Kirk, a tenth grader at Toll Gate this year, would be considering college.

The Harrisons are not complaining. "I don't resent having to pay the way," he says. "But," he adds quickly, "buying what is tantamount to a house over a four-year period is going to be tough."

The Harrisons started putting away money for Lee Ann's education in 1973, right after they made the last major investment in the suburban home they bought seven years earlier. "The house was leaking so we decided we needed a new roof. At the same time, we modernized the kitchen," Harrison explained.

He says they would have started saving sooner if typical household expenses like the leaky roof, mortgage payments, a new heating system and medical bills for orthopedic problems had not gobbled up their earnings. With a dual income—Rosemary works at Kent County Hospital—the Harrisons live comfortably, but they can not be said to have frittered away their money.

Before buying the home in Warwick, the four-member family lived in a rented three-room, third floor Providence apartment for six years. They drive economy cars, take short vacations, and have postponed buying a dining room set and new carpeting for years.

What do they do for a fling? "I save sand," Rosemary says, nodding toward bottles of multi-colored layers of sand standing on a kitchen counter. They are reminders of future travel plans. "Whenever friends go on trips to places where I would like to go, I ask them to bring me some sand. Some day I'm going to take each one of those samples back," she says.

Richard Harrison was about $6,000 in debt when he was graduated from Brown University in 1959. Newly married, he became a high school biology teacher (salary: $3,600) and planned to pay off his college loans and enter medical school, a goal that never materialized.

Rosemary, a graduate of the Newport Hospital School of Nursing, has worked throughout their 18-year marriage. She says she wishes she could quit "every night" when she leaves for her 11 p.m. to 7 a.m. shift. But, retirement will not come until the children are both through college.

"When it was clear that Lee Ann was accepted and that she really wanted to go, I sat down and worked out what we had ($4,700, as of April 6) and what we would need to save over the next four years. Basically we are saving $100 a week right now; in the last two years, we will probably go up to $150," Harrison says.

Seventeen-year-old Lee Ann, who has held several part time jobs, also plans to contribute. As third-runner up in Warwick's annual Miss Gaspee Day contest last summer and second runner-up this year, she has won $200 in scholarships. She also has a $100 scholarship from the local Elks Club.

In May, she was named an "honorary" winner in the state scholarship program. That's the state's way of rewarding students for being bright enough to make the finals, but not poor enough to win some money.

Harrison is trying to avoid college loans. "Because of my own experience, I am very reluctant to have Lee Ann graduate from college with a big loan. I am also reluctant to borrow ourselves with another child coming up."

If Kirk goes to college, he will be a freshman during Lee Ann's senior year. "In that first year, we could have both in college simultaneously. And, if he doesn't get any aid, through his athletic ability, we will probably have to borrow extensively."

"Realistically," he says, "we have not faced that head-on yet."

The Harrisons will not be alone if they have to resort to borrowing to pay college bills. The increasing reliance on loans has become nearly as frightening to some higher education officials as the prospects of having classrooms filled only with the very rich and the very poor.

"Many are getting head over heels in debt," says Charles A. Dunn Jr., veteran financial aid director at RISD.

"It's not a pretty picture, particularly for fine arts majors. They have a heck of a time finding anything when they get out just to keep body and soul together. Holy cow, a guy starting a career with a bachelor's degree and $8,000 in debt is madness. It's got to be paid back. You can't welsh on Uncle (Sam), you know," he says.

At RISD this year, a barebones budget for room, board and tuition; supplies and miscellaneous expenses stands at $5,950 for freshmen and $6,300 for upperclassmen.

In all, 171 RISD students, 13 percent of the undergraduate study body, will receive financial aid in the coming school year. The aid packages will be worth an average of $2,842 each. Hundreds of students seek aid, but don't get it, Dunn says.

Students attending Bryant College this fall can expect to spend $4,925 if the live on campus, and $4,350 if they commute. More than 2,000 filed aid applications.

Students with a financial "need" of $1,500 or less are urged to go right to a bank, according to Fred C. Kenney, financial aid director. For others, Kenney puts together a financial aid package of grants, loans and jobs to meet roughly 60 percent of the need.

How do the students make up the difference? "Too many go to a bank and get an additional loan. We really can't control it," Kenney says.

Kenney says he doesn't have the "foggiest idea" how families will manage to cope in the future. "I don't know where this is all going to end. Not only is the cost of a college education going up, but everything else is going up also. I don't know where the end is, or how soon it will get here."

The growing fear that more and more children of middle-income families will not even apply to private schools has spurred a new kind of aid program at some of the nation's most prestigious and most expensive campuses. It's a special loan program for parents who can't meet the bills but do not qualify for federally-subsidized bank loans.

Pioneered by Harvard University in the last academic year, the approach will be launched this year at several more high-priced schools. Others, including Brown University, are considering it.

At Harvard, the 8 percent loans were available in 1976–77 to families with incomes between $15,000 and $50,000. Approximately 150 parents took out loans averaging $4,000. They are repayable over a six-year period.

The ceiling was raised to include parents in the $60,000-income bracket this year because "that's where all the interest was," says R. Jerrold Gibson, director of the office of fiscal services at Harvard. "I didn't receive a single inquiry from anybody with an income under $15,000."

For many families, the problem is not the amount of money needed but the fact that it must be paid in lump sums twice a year, according to Richard J. Ramsden, executive director of the Consortium on Financing Higher Education. "If we had to pay for houses in four years, we'd all be living in trailers."

Striking a more optimistic note than many, Ramsden maintains the burden is being eased by the spread of the new kinds of payment and loan plans. He adds that federal student aid has been increasing annually since 1972, in part because of the Basic Educational Opportunity Grant program fathered by Sen. Claiborne Pell of Rhode Island.

A recent government report saying that one out of every six students is defaulting on college loans distorts the problem somewhat, Ramsden continues. Unemployment, lax loan collection efforts, and the speed with which a bank can declare a loan in

default make the problem look greater than it is, he says.

"We have learned to live with student loans in this country. It's not a runaway problem. The program had some bugs and it has taken a while to work it out."

The consortium, formed in the early 1970s to help a small group of private institutions, including Brown, better handle financial aid and other matters, has grown to about 30 private colleges and universities.

Approximately 40 percent of the students at the consortium institutions receive financial aid of some kind, he says. "There's aid up to the $30,000-plus categories. In large measure, it's jobs and loans," he says.

VJ-Day morning was bright and sunny, perfect for having breakfast on the screened-in sunporch of the suburban home of the Tenser (not the real name) family. From the porch, one can see a meticulously-kept yard stretching like a smooth, green carpet toward a vegetable-flower garden at the rear of the lot. If things had gone differently for the Tensers a few years ago, the view would have included a swimming pool.

But, in the summer of 1973, Tenser's relatively new business venture failed. Almost overnight, the well-to-do family's lifestyle changed. Plans for installing a private pool switched to talk of how to avoid losing the house. Rather than declare bankruptcy, the Tensers remortgaged their home, consolidated their debts, borrowed from relatives, and started over.

If there was a silver lining the dark financial clouds over the Tenser home, it came in the form of college financial aid. The Tensers fell so heavily into debt that both of their children qualified.

Even with Mrs. Tenser working full time and her husband working part time, the strains are enormous. An income of $21,000 dipped to $6,000 when adjusted for taxes and debts.

The disaster hit just two months before the Tensers' son Mark was scheduled to enroll as a freshman at Brown University. College savings accounts for both Mark and his sister, Sarah, then in high school, has been invested in the business. "I was so sure about the success of the business, it was like borrowing it for a year. We got caught," Tenser says.

"It seemed like the house had fallen down on us," Mrs. Tenser says. "I remember the day I called the financial aid office at Brown. I was in tears because I knew Mark was not going to be able to go. The man said, 'Well, now, take it easy. We'll take a look at it, and if we can help, we will.' "

Brown came through with a renewable $1,500 scholarship, loan money, and job options. In addition, Mark retrieved a state scholarship. The Tensers have contributed what they could. But, mostly, they say, Mark has paid the balance on each year's Brown bills from his own summer and school year earnings.

During the four years Mark was at Brown, the cost of room, board and tuition went from $4,700 to $6,275.

He graduated in June. He has $7,600 in loans to pay back.

"Isn't that a great way to walk out the door of school?" Mrs. Tenser asked.

When it became time for Sarah to consider college, the Tensers lobbied earnestly for the University of Rhode Island, a public school with lower fees. Sarah was eyeing Tufts University, a high-priced private school.

Mark says he was "furious" with his parents. "I thought it was outrageous. Sarah's a lot brighter than I am. If I had been able to go the school I wanted, I thought she should be able to, too."

Since Sarah was considering both veterinary science and marine biology, "we thought URI would be a nice place for her to kick off from," explains Mr. Tenser. "It wasn't just a money issue."

Sarah will enter Tufts next month. Total cost per year: $6,758.

"When my guidance counselor called Tufts to find out how much, if any, financial aid I would be getting, I just sat there and stared when she wrote down the figures," Sarah says.

Her aid package: a $1,000 state scholarship; $3,100 Tufts scholarship; $400 in jobs; and a $1,000 loan. She and her parents will make up the $1,258 balance.

According to the College Scholarship Service (CSS), attending a private, four-year college this fall will cost families an average $4,905 for students living away from home. The total costs at some private colleges, including Brown, will exceed $7,500. The average for a public college or university will be $3,005 for in-state students choosing to live away from home.

The CSS is the branch of the College Entrance Examination Board responsible for establishing the generally accepted standards on financial-aid eligibility. Millions of confidential financial statements are filed and analyzed each year.

Students entering most public and private colleges in the area next month will be paying about twice as much for room, board and tuition as their counterparts did ten years ago.

During the same period, the Consumer Price Index rose 82 percent.

Operating a campus includes things like energy, books and food, all of which have been high inflationary items, says Ramsden. "The predominate cost, of course, is people. We can hold down salary increases for periods of time, but not for ever. You'll just have strikes or lose your best people to the competition."

Overall, he says, higher education's "true costs have not gone up much more over time than most other things in society."

The problem has been that some of higher education's key sources of revenue dwindled during the same period costs were hit by inflation. "Look what happened to our endowments. The fact that endowment and gift support and certain areas of governmental support didn't grow as rapidly over the last five to ten years has meant that we had to rely to a much greater degree on tuition," Ramsden says.

"Because tuition is the one thing the colleges theoretically control, the consumer has been paying for more of the total pie than he or she had to pay ten years ago.

Ramsden's assessment is built on a series of optimistic "ifs." If there is a lot of growth in annual gift support; if financial aid continues to grow; if endowment funds do well, "it will not be as bleak as everyone makes it out to be."

The Oakland Financial Group Inc., of Charlottesville, Va., an investment counseling firm, estimates that the total price of a private college degree for today's 11-year-olds will be just under $45,000, assuming a six percent inflation rate.

To cover these costs a family would have to save almost $4,400 a year for the next seven years, assuming a five percent after-tax return, the firm says.

Von R. Smith, an Oakland vice president, says he prepared tables estimating higher education costs for children from age 1 to 18 because he wanted to alert clients about the need to make concrete plans for financing their children's educations.

"I don't want people to assume that they will be able to do it all when they get there," he said. "The middle-income people really receive the royal vise. They bear the real burden in our society and don't have anywhere to turn," Smith says.

Smith says he thinks more people are "throwing up their hands" in frustration, rather than saving or trying to take steps such as remortgaging their homes to foot the college bills of their children.

"Most parents are about 45 when their children reach college age and the idea of stretching out the mortgage payments for another 20–30 years is not too appealing because they are beginning to think of their own retirements," he says.

Would middle-income people be better off not saving and hoping that their children will qualify for aid? "I wish I had an answer for that," Smith remarks. Some people refuse to save because they think the government will be paying for everything by the time their children get to college.

"That would just burden people more with taxes, and the middle-income people might end up worse off than they might have been."

Robert Bouchard-Hall, an assistant librarian at Brown University, pulled the lining out of his pockets to demonstrate a point. "I can walk around all day with nothing in my pockets and I get along just fine."

Robert and Jeanne Bouchard-Hall have two sons, Derek, 7, and Robert, 9. The Oakland firm estimates that they should be saving $4,000 a year, starting right now, if they intend to send both children to a public university.

To Bouchard-Hall, that's not a shock. It's a joke. The amount he should be saving for college bills is nearly half of his $8,648 salary at Brown.

"The reason we don't sit down and worry about it is because we can't worry about anything of that sort. We live hand to mouth, year to year, spending slightly more than we earn, borrowing, and not knowing what the future will bring.

"To try to guarantee the future would be an impossible task, so we don't even start."

Both college graduates themselves, the Bouchard-Halls expect their children to follow the same path.

"If my kids go to college, it'll be business as usual. They will spend just as much on clothes as they do here; they'll eat as much there as they do here. It shouldn't cost anymore than what goes on anyway, other than books and tuition.

"They'll buy books, instead of junk, so the only additional expense will be tuition. I'm sending them to a place that charges low tuition, or to a place where they get enough scholarship aid that the balance is minimal.

"I'm basing this optimism—or maybe stupidity—on what we have done ourselves. We piece together whatever works."

THE U.N. AS OUR GUIDE

Mr. PROXMIRE. Mr. President, the preamble to the U.N. Charter includes the following basic objectives of the organization:

To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . .

The Universal Declaration of Human Rights, which was adopted by the U.N. General Assembly on December 10, 1940, gave form to the general statements of the charter and set forth a common minimum standard of achievement for all people.

In pursuance of these charter objectives and in order to implement the Universal Declaration, the United Nations has drafted and adopted a number of international treaties relating to human rights. There are 19 major multilateral human rights treaties in respect of which the U.N. Secretary-General performs the depository function.

The United States has so far ratified or acceded to the following five treaties: First, Slavery Convention; second, protocol amending the Slavery Convention signed at Geneva on September 25, 1926; third, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; fourth, protocol relating to the status of refugees; and fifth, Convention on the Political Rights of Women.

The Convention on the Prevention and Punishment of the Crime of Genocide was signed in 1948 and submitted to the Senate in 1949. It has not yet been acted upon by the Senate.

When considering the basic goals of the organization as described by the U.N. Charter, it is incredible that the Genocide treaty has not been ratified. Everything the U.N. values, fundamental human rights and the dignity and worth of the human person, is protected by this convention. No other treaty considers this most fundamental human right—the right to life.

After 28 years of waiting, I feel it is time for the United States to support those ideals it became a party to when it joined the U.N. I urge immediate ratification of the Genocide Convention.

THE WOMEN PILOTS OF WORLD WAR II HAVE EARNED VETERANS RIGHTS

Mr. GOLDWATER. Mr. President, on January 14, I introduced S. 247, to grant veterans status to the WASP's, women pilots who served with the Army Air Corps in World War II. Their official title was "Women's Air Force Service Pilots."

Since January, as word of the legislation got around, I am pleased to report, there are 28 Senators who have joined me in cosponsoring the bill.

Hearings have now been completed in both the Senate and House Veterans' Affairs Committees, and I am hopeful Congress will soon proceed to pass the bill.

Mr. President, the WASP's have attracted an unusual amount of interest in the news media, which is natural when one considers the extreme unfairness of treatment these ladies have received under our laws compared with their great achievements and de facto military status during wartime.

Prominent newspapers in at least 40 States have printed numerous articles about the contributions of the WASP's and their struggle for recognition as veterans. Several magazines have joined in heralding the women pilots and proving that their performance as aviators was every bit as competent as that of male pilots.

The myth that designation of these ladies as veterans would set a precedent for other civilian groups to claim veterans' rights has been exposed time and again. The girl pilots were denied commissions as military officers for one reason alone—their sex.

A law which the Air Corps wanted to use to bring women pilots into the service as regular officers was ruled by the Comptroller General as not applying to women.

Horror of horrors, the interpretation of the law needed to authorize the commissioning of women would have required considering them to be "persons," since the law permitted the Army Air Corps to grant temporary commissions to "qualified persons."

The Comptroller General's ruling stated that it would be "revolutionary" to include women as "persons" and so the female pilots had to remain civilians.

Now, if there was any other group who was up against a unique and discriminatory law like this one, I would like to hear about it. I doubt if there are any, which pretty well demonstrates the fact that correction of this past injustice, whereby women could not even be considered as "persons" in the eyes of the law, would not open the gates to a flood of similar claims.

Mr. President, as I mentioned, there is a growing surge of support for the WASP's in the public media. I would like to take this opportunity to bring just one of the most recent items to the attention of my colleagues.

Therefore, I ask unanimous consent that an article entitled "WASP's: The Forgotten 'Warriors'" from the October 1977 issue of Air Line Pilot magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASP'S: THE FORGOTTEN "WARRIORS"

(By William G. Holder)

It's a sign of the times.

Some military pilots now wear lipstick instead of moustaches, just as some 18 women are now flying for 10 major U.S. airlines.

They aren't the first women to enter the world of professional aviation; only the first to be recognized for it.

During the black years of 1942–1944 women pilots were the forgotten warriors. This unique group of aviators was known as the WASP's, which stood for Women's Airforce Service Pilots. They were not actual members of the service, but contract employees—a status they fought then and are still fighting today. The 850 surviving WASP's want recognition and full veterans' rights for their wartime exploits.

There were 1,074 WASP's performing the often dull and mundane—and sometimes dangerous—flying missions at home. Although they wore military flying gear while piloting the latest aircraft of the Army Air Forces and logged some 60 million air miles ferrying a myriad of aircraft types to and from ports of embarkation, the law at that time prohibited women from being commissioned as pilots. They had a choice of being commissioned in the WAC's and limited to desk jobs or of becoming WASP contract employees in order to fly for their country.

It was Sept. 25, 1942, when the Army Air Forces set up the first squadron of women civilian ferry pilots at the Fifth Ferrying Group just outside Washington. Famous aviatrix Jacqueline Cochran was appointed director of the unit.

Training of the initial group of women pilots began in Houston, Tex., and later moved to quarters at Avenger Field, Sweetwater, Tex. Flight training, ground school, physical education, Morse code and radio techniques instruction, military conduct and military drilling of the women was identical to that of male cadets. But they did not receive gunnery, bombardment or other combat-related training.

Pay was nothing to brag about—$175 a month during training and $250 a month after. They paid for their own room and board and purchased their own uniforms.

Duty assignments were varied. The women flew everything from hot fighters to lumbering cargo planes, twin-engine bombers to the B–29 Superfortress. A WASP even checked out in one of the first jet fighters.

But the flying ladies did more than just ferry aircraft. They towed gliders, flew training missions for navigation and bombardier students, and for searchlight and tracking missions. Others served as engineering test pilots on military training bases.

While General H. H. "Hap" Arnold started the WASP program as an experiment, he concluded that the women pilots had indeed contributed during the country's pilot shortage and were capable of actively flying as part of the military forces.

A bill sponsored in 1944 by Congressman John Costello of California to recognize the WASP's was defeated by a mere 19 votes, due to the well-supported efforts of members from male civilian-pilot organizations who were facing the draft.

Thus, the WASP's, although serving under military discipline and flying military aircraft, received no military benefits of any kind. They had no insurance, no hospitalization, no educational grants (GI Bill) and no veterans' benefits. The 38 WASP's who lost their lives while in service did not receive military burials. The final blow was that the WASP's were presented an honorable certificate of service as opposed to an honorable discharge.

Through the efforts of Jacqueline Cochran, who worked for recognition of the WASP's from time of their deactivation in December 1944, the Air Force (created during unification of the services in 1947) offered to all former WASP's commissions as officers in the Air Force Reserve in 1949. Rank was commensurate with time in WASP service. However, military aircraft flying was no longer permitted.

A number of women applied for commissions—some went on active duty to become career Air Force officers; others remained in the reserve forces. These women received credit for their actual Air Force participation time, active or reserve, but not for WASP time.

Some 33 years after the first WASP bill was rejected the controversy still rages. Last year, the Senate voted to militarize them, but the bill bogged down in the House. But the former WASP's haven't given up. They've launched a letter-writing campaign to garner support. Sen. Barry Goldwater, a retired Air Force general, introduced Bill S. 247 along with two bills, HR. 3277 and 3321, introduced in the House. The results of all three of these will be known by the end of the year.

Today, things have changed in the military for the aviation-oriented female. Women are taking to the air as fully qualified military pilots, but the no combat aspect of their edict is still in effect.

The Air Force began its women pilot program during the summer of 1976. Ten women officers entered Air Force pilot training/flight screening at Lackland AFB. Of the 10 women, nine came from the active-duty force, and one from the Air Force Reserve.

In January an additional 10 women officers—nine active duty and one from an Air National Guard unit—entered pilot training. Additional female officers entered navigator training in March. No special training was designed for the women participating on an equal basis with male students.

The enactment of legislation to admit women to the service academies was the impetus which prompted consideration of Air Force pilot training for women. With the initial groups of trainees the Air Force hopes to identify any training or operational problems associated with women in previously all-male programs.

Academic and flight instruction at Lackland is aimed at screening out students unlikely to finish all-jet undergraduate pilot training (UPT).

Academic courses include flight principles and aircraft systems. The T-41, a military version of the Cessna 172, is used for flight instruction. Those who complete the three-week screening program report to Williams AFB, Ariz., for 49 weeks of UPT. During that time the students log 210 hours in the T–27 and T–38 jet aircraft. The average 12-hour duty days are crammed with 15 academic courses, physical training, flying and mission briefings. Those women who win wings are assigned to a variety of noncombat aircraft.

The Navy got an earlier start than the Air Force. It began its test in 1973. At the present time there are 12 designated female Navy pilots with eight more in training. Upon completion of flight training, the female pilots are normally assigned to support aircraft like the C–130, P–3, T–39 and C–9.

Federal law precludes Navy women from serving in aircraft which could engage in combat missions or on seagoing Navy ships, other than hospital ships and transports; their participation in naval aviation is limited accordingly. However, the Navy is developing a career path for women aviators that will enable them to fill managerial positions in aviation squadrons, positions which require flying duties. It will also allow them to compete with male officers for transport squadron commands and other shore commands not necessarily related to the aviation community.

The Army has eight commissioned female officers and 10 warrant officers who completed the Initial Entry Rotary Wing (IERW) program. One of each completed transition training in fixed-wing aircraft. More females of both ranks are now in rotary-wing training.

Maybe these recent achievements will bring the WASP's the recognition they so richly deserve.

RHODE ISLAND'S OUTSTANDING YOUNG WOMAN FOR 1977

Mr. PELL. Mr. President, it is indeed on honor to pay tribute to Mrs. Maureen Hallal Maigret of Warwick, R.I., who has been named Rhode Island's Outstanding Young Woman for 1977.

Mrs. Maigret, representing Rhode Island, will be considered along with 50 other candidates from each State and the District of Columbia for the Ten Outstanding Young Women of America Awards to be announced at a special presentation in Washington next month. The award program, honoring women between the ages of 21 and 36 for civic and professional achievement, is held annually by leaders of women's organizations.

Mrs. Maigret is a particularly well-suited candidate for this award. She is not only a professional nurse and member of several State and national nurses associations, but also a State representative for the 37th District to Rhode Island's General Assembly. She is the first female deputy majority leader in the State Assembly; chairman of the House Rules Committee; and a member of the House Judiciary and Government Operations Committees.

In addition to these numerous activities, Mrs. Maigret is actively involved in many women's groups including local, State, and National Women's Political Caucus and the Governor's Advisory Commission on Women.

Mrs. Maigret is an exceptionally talented and energetic young woman, and it is with great pleasure that I bring her many accomplishments to the attention of my colleagues.

PANAMA CANAL TREATY TESTIMONY

Mr. SPARKMAN. Mr. President, yesterday the Committee on Foreign Relations continued its hearings on the Panama Canal Treaties hearing as witnesses Senators GRAVEL, LAXALT, DOLE, SCOTT, and HELMS, and Congressmen JOHN M. MURPHY, LARRY MCDONALD, DONALD M. FRASER, and ROBERT L. LEGGETT. For the information of the readers of the RECORD, I ask unanimous consent that the prepared statements of the witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MIKE GRAVEL

Mr. Chairman and Members of the Committee. Thank you for this opportunity to appear before you in support of the newly negotiated Panama Canal treaties.

You have already heard from numerous expert witnesses on these two treaties. You have been told of their importance to the continued efficient operation of the canal, of how they preserve the U.S. interest in nondiscriminatory access, and of how they provide the surest guarantee that the military significance of the canal will be protected. You also have heard the lasting effect Senate action on these treaties will have on the whole of Latin America, and the role they can play in realizing long-standing and legitimate Panamanian aspirations.

JUSTICE

You also doubtless have heard one other reason for ratifying these treaties: Justice. We sought to ratify them because it is right to do so.

I happen to think that's one of the best reasons of all. And I don't accept the label "bleeding heart" that some would try to pin on this conviction. Justice is not, after all, out of fashion. It has always been a characteristic of the noble and the strong—not the mean and the weak—to set their injustices right.

And there can be no real doubt that the 1903 treaty with Panama fell somewhat short of complete justice. The historical record is unequivocal on that point.

On June 2, 1902, the Congress authorized the President to acquire a specified strip of land and additional rights and territory from Colombia (of which Panama was then a part) for the construction and operation of a ship canal. But when negotiations with Colombia fell apart, President Roosevelt took things more into his own hands and sent gunboats to stand off-shore while the Panamanians declared their independence. Only three days later the administration hastily recognized the new republic and immediately set about negotiating a canal treaty with a Frenchman named Philippe Bunau-Varilla, who consistently acted purely in his own self-interest and who repeatedly engaged in deceit to win approval for actions detrimental to the Panamanian national interest.

What is more, U.S. officials at the time were aware of, and therefore complicitous in, these injustices. President Roosevelt so characterized it himself in 1911 when he stated, "I took the isthmus . . ."—a statement upon which he later elaborated by explaining he took it "because Bunau-Varilla brought it to me on a silver platter."

Having ignored his instructions to consult at all points with the Panamanian government's official delegates, Bunau-Varilla drafted a treaty which was described at the time by Secretary of State John Hay as "vastly advantageous to the United States" and "not so advantageous to Panama." This document was signed at Hay's home on the evening of November 18, only 15 days after Panama had declared its independence. Not a single Panamanian was present, or had ever even laid eyes on the document. No member of the Panamanian ruling junta spoke or read English.

That same evening Panama's delegates arrived in Washington and attempted to reopen negotiations with the Department of State. They failed. Both the Department and Bunau-Varilla were now intent upon getting the treaty ratified. This they did by suggesting darkly that if Panama did not act with dispatch the Colombians might make a better treaty offer, leading the United States to withdraw its support from the new nation.

Although the Roosevelt administration had no such intention, rumors were abroad in Panama that Colombia might yet try to regain its lost territory, and the government feared for the worst. On November 26 they cabled their willingness to ratify the treaty as soon as it arrived by boat from New York. Six days later, on December 2, they did so after having the 31-page document only 20 hours, and only an English version besides.

Almost from the start, the Panamanians have been dissatisfied with the treaty. This is not hard to understand. Its terms grant to the United States "in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection" of a canal "of the width of 10 miles." The treaty further grants to the United States "all the rights, power, and authority within the zone mentioned. . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." In return for these generous concessions the United States agreed to pay the Republic of Panama $10 million and an annuity during the life of the treaty of $250,000 (raised to $1.9 million in 1955 and subsequently adjusted for inflation in 1971 to $2.3 million).

We must try to put ourselves in the Panamanians' shoes, to see it as they do. They best way I know to do this is to cite an analogy which has great currency in Panama. It goes like this:

"Imagine a strip of land extending 5 miles on each side of the Mississippi River within which a foreign power, by virtue of treaty rights granted under suspicious circumstances in 1773, exercises complete control as "if it were sovereign" and through which a resident of Illinois must pass to go to Missouri, during which passage he is subject to arrest by a foreign power and trial in a foreign court under a foreign system of laws."

Of course, we would not tolerate such a situation within our borders. The Panamanians have no choice. The United States is a superpower and they are one of the

world's weakest countries. Our military forces stationed in the Canal Zone are equal in size to Panama's entire National Guard. It is no match at all.

On their side the Panamanians have only logic. They ask us to ratify a new treaty. They point out that total U.S. control over a portion of Panamanian territory is a vestige of colonialism. They ask us to understand how it offends their national honor and pride as a people to have a U.S. police force, U.S. courts, and U.S. jails enforcing U.S. laws on Panamanian citizens within their own country. They show us how total U.S. control over land area in the Canal Zone limits the urban growth of their two largest cities, how U.S. control of all deep-water port facilities restricts the productivity of their country, and how U.S. commissaries unfairly compete with local businessmen.

How do we answer these charges?

The most common way of justifying the present treaty arrangements is to cite the benefits which have accrued to Panama. The most important of these, it can be conceded, is her independence. Without the United States she would not have had it. Admittedly, a certain turpitude may attach to the United States motives in guaranteeing it, but to the Panamanians, who had hankered after their freedom for some three quarters of a century, it is certainly a great blessing.

What is doubtful is that this justifies an arrangement under which she signed away "in perpetuity" the most important part of her birthright. To say that it does is like saying that the United States should be forever indebted to France, without whom her revolution could never have succeeded.

This is history now. The relevance of that history for today is that it shows the very structure of the relationship from the beginning was one in which we consciously took advantage of the Panamanians. All the real sacrifices were on their side. They yielded up, forever, their nation's greatest resource—the land over which the canal was constructed. What should have been theirs has become ours.

Some would suggest that Panama has been adequately compensated for this "use" of her territory by the $10 million the United States paid when the treaty was signed, plus the annuity she has been granted since. The facts belie the truth of this assertion, however. The annuity, for years set at $250,000 per annum, is today only $2.3 million per year. This is a mere pittance when compared, for instance, with the Panama Canal Company's fiscal year 1976 total operating revenues of more than $250 million. That is more, the U.S. Government has always set Panama Canal tolls at a breakeven level. The Panama Canal Company does not lose money, but neither does it make a profit.

According to a study by International Research Associates (IRA) of Palo Alto, California, the effect of this policy has been to produce a surplus to users of an amount equal to the difference between the maximum possible revenues recoverable under an alternative tolls policy and the breakeven costs actually recovered. The IRA study projects that for 1975 the magnitude of the surplus would be equal to approximately 55 per cent of the revenue recovered under present toll structures. Applying this to the IRA-projected 1975 toll revenue figure of $119.5 million, we see that the surplus which could have been recovered was on the order of another $65.5 million.

The benefits of this surplus, rather than going to the people of Panama, now accrue to three groups: (1) those who purchase commodities that pass through the canal; (2) those who produce such commodities; and (3) those who move the commodities from producers to purchasers; and (3) those who move the commodities from producers to purchasers. Rightfully, this $65.5 million should have gone to Panama as its earning on its fundamental resource.

It can, of course, be argued that Panama has received extensive indirect economic benefits from the canal, as well as improved health conditions, sanitary facilities, etc., all of which must be taken into account in assessing the present treaty. All these things are indisputably true, but they completely miss the point. They alone cannot make the arrangement either just or unjust. It is unjust by the fact that it prevents Panama from reaping the economic advantage of her primary resource. Moreover, it does so almost gratuitously. Panama can be returned the control over her resource without it materially affecting our own economic or strategic interests. In truth, our strength and greatness will lie not in continuing to demean ourselves by insisting upon some legalistic interpretation of our "rights," but in recognizing that an injustice has been done and acting to correct it.

What, indeed, are the United States interests in the Panama Canal?

ECONOMIC IMPORTANCE

Despite widespread impressions to the contrary, the canal is not of any great economic significance to the United States. It is often said that approximately 70 percent of canal traffic either originates or terminates in U.S. ports, thus making the canal vital to the U.S. economy. While this figure is correct, the manner in which it is usually presented tends to misrepresent the truth. The "approximately 70 per cent" figure is derived by adding the 40 per cent of cargo tonnage originating in the United States to the 28 per cent terminating here. But it is incorrect then to conclude that the United States accounts for 68 per cent of the tonnage passing through the canal. The United States, both as shipper and receiver, is on only one end of the transaction. Therefore this figure must be halved, revealing that only 34 per cent or one-third of all canal cargo is U.S. oriented.

But even this figure does not provide a proper measure of the economic importance of the canal. We have to ask, 34 per cent of what? If the Panama Canal is largely not used, then the fact that 34 per cent of its use is attributable to the United States becomes rather meaningless.

The United States is, in fact, the major user of the canal, but many alternative trade routes now exist for the most important products and commodities, and more would become economically competitive if the canal were closed. In terms of overall importance, the canal is much more significant to certain Latin American countries, particularly those on the west coast of South America, than it is to the United States. For instance, in 1972 only 16.8 per cent of U.S. waterborne commerce passed through the canal. For Nicaragua the figure was 76.8 per cent, for Panama 29.4 per cent, for Peru 41.3 per cent, for Chile 34.3 per cent, and for Colombia 32.5 per cent.

Increasingly, the Panama Canal is becoming outmoded. Larger and faster ships, as well as innovations such as container technology, are making alternatives to the canal more and more attractive. The shipbuilding industry—in constructing supertankers—increasingly discounts the canal, which cannot handle their size. More than 1,300 vessels are now too large to pass through the canal, and another 1,700 can use it only when not fully laden. Ely Brandes, president of International Research Associates and an economic adviser to the canal, has put it succinctly: "When it was in its financial heyday, nobody paid much attention. But now that people are fighting not to give it up, the thing isn't worth arguing about."

The most meaningful perspective from which to view the economic value of the canal is an assessment of the impact it has on the total U.S. and world economy. At present only 5 per cent of total annual world seaborne trade transits the Panama Canal. According to the IRA study on "The Economic Value of the Panama Canal," if the canal were to be closed through an act of sabotage or some other means, the total impact on the world economy for the decade 1975–85 would be only $100 million per annum. Of this amount, the U.S. share would be only $34 million annually. In our trillion dollar-plus economy, which exports in excess of $100 billion a year, this impact is utterly trivial.

This minimal impact of complete loss of the canal must be counterpoised against the harm which this volatile issue can cause in our relationship with all of Latin America, and in fact the entire Third World. The minor economic benefit which accrues to us from the canal would certainly be more than offset by the hostility we would engender by failing to resolve the canal issue in a way viewed as equitable by the world community. Even the strictly economic effect alone would surely be in excess of $34 million. Last year our exports to Latin America were on the order of $15 billion. And as was clearly demonstrated by the gathering of heads of state on September 7th, these nations have placed their prestige on the line in support of the treaties.

I do not mean to imply that the Panama Canal is of no economic importance. It is now and will continue to be for some time into the future a convenient means for waterborne transport. But in the words of the IRA study, "it cannot in any sense be regarded as either overwhelming or crucial."

MILITARY VALUE

Much the same may be said of the military value of the canal. While certainly of military significance, the Panama Canal is by no means vital to our national defense. Its primary military value lies in its contribution to strategic and logistical mobility—the ability easily to shift military forces and supplies between the Atlantic and Pacific Oceans, and to offset the shortage of U.S. port facilities on the Pacific coast.

The availability of the canal gives us an elasticity for rapid expansion of our maritime capability. Without it we could be delayed months if not years in developing the major thrust of a war effort. The capital investment to build this versatility into existing ports and other elements of our transportation network would run into the billions of dollars, and its use, except in terms of emergency, would be uneconomic. The canal is certainly the preferable alternative.

Military planners point out, however, that any fixed facility such as the canal must be considered quite vulnerable to attack, and its availability therefore discounted. U.S. strategy has, in fact, proceeded on the assumption of the canal's nonavailability, and has maintained two virtually separate navies in the Atlantic and the Pacific. The changed nature of naval vessels over the years has also significantly reduced the strategic value of the canal. Our aircraft carriers are too large to pass through, and submarines must surface to transit it, which makes it totally impractical for them to use in the event of hostilities in this hemisphere.

The vulnerability of the canal arises from the fact that it laces for 50 miles through the jungles of Panama and could be rendered inoperative for as long as 2 years by such simple means as landslides or the destruction of locks or dams. A submarine launched missile with conventional warhead could

achieve this purpose in the event of hostilities with a major world power, but it could just as well be accomplished by a single saboteur with a few sticks of dynamite. In the words of the Department of Defense, "the Panama Canal . . . can be defended, even in a hostile environment," but "the continuous operation of the canal could not be insured in that environment." This would remain true no matter what force levels were deployed in the Canal Zone.

For this reason, the good will of Panama is crucial to our ability to defend the canal. The security of the canal is most effectively safeguarded in a friendly environment through a cooperative relationship between the United States and Panama.

SEA-LEVEL CANAL

Once the emotional aura is stripped away from the Panama Canal, perhaps its most striking feature is how fast it is obsolescing. It is already of only marginal economic value to the United States, and trends in world shipping will rapidly make this true for other nations as well. Militarily the canal is important but not vital. Its vulnerability to attack severely limits its reliability, and its strategic significance is clearly not what it once was.

The most striking evidence of the dated character of the Panama Canal is its inability to handle economically the transshipment of Alaskan oil. By next spring Alaska's North Slope will be producing oil at the rate of 1.2 million barrels per day. Within a relatively short time this will be increased to 1.6 million barrels. Even at the lower 1.2 million barrel level, this will produce a West Coast surplus of 500,000 barrels per day.

This surplus oil must be moved to the nation's population and industrial heartland in the East and Midwest. At present the only way to do so is through the Panama Canal or around the tip of South America. The latter, Cape Horn route is prohibitively expensive, so that leaves only the Panama Canal. This alternative in itself is far from desirable, however.

Alaskan oil will be delivered in tankers ranging in size from 70 to 190 thousand deadweight tons (dwt). But since the present canal cannot handle ships larger than 65,000 dwt, the oil must be lightered to smaller vessels for passage through the canal and up to the Gulf Coast. Needless to say, this is a very inefficient, and costly, operation.

Where I visited Panama last March, as an Alaskan Senator I was particularly sensitive to these high costs of transporting our oil. When I sat down with the Panama Canal Company's economists I inquired about the feasibility of a new sea level canal. It was then that I learned that in 1964 President Lyndon B. Johnson appointed the Atlantic-Pacific Interoceanic Canal Study Commission to assess the practicality of building a sea-level canal.

In 1970 the Canal Study Commission completed its exhaustive, $22 million examination of the issues and reported that the construction of a sea-level canal is physically feasible. It estimated the cost of construction to be approximately $2.88 billion at 1970 price levels. In their letter of transmittal to the President, the Commissioners explained that the possibility of amortizing this cost from toll revenues would depend upon (1) growth in traffic, (2) the time when the canal would become operative, (3) interest rate on indebtedness, and (4) payments to the host country. They further emphasized that the national defense and foreign policy benefits of such a canal would justify a substantial financial risk.

In spite of these generally positive findings, action on a sea-level canal was not taken. The reasons are varied and complex, but undoubtedly the most important was that the Panamanians had no interest in becoming involved in a new canal until the dispute over the present one was resolved. This was especially true since the Commission had envisioned that the new canal would be owned and operated by the United States. It is hardly imaginable that the Panamanians could accept such terms after their years long battle to win control of the existing canal.

I believe that new attention to a sea-level canal is warranted by the following five facts:

1. Present and projected discoveries of oil and gas in Alaska have the potential of vastly improving the economic viability of a sea-level canal.

2. A new sea-level canal, fully owned by the Panamanians, has the potential of defusing the controversy over the present canal.

3. Construction of a sea-level canal will give the United States needed flexibility to avoid increasing dependence on foreign energy sources.

4. The availability of a sea-level canal will give the United States billions of dollars of investment in new energy transmission infrastructures.

5. At relatively marginal costs, a sea-level canal would greatly enhance U.S. defense capabilities.

Each of these reasons alone probably constitutes justification of further examination of the sea-level canal possibility. Together they certainly do.

Any final decision to construct a sea-level canal will be arrived at only after balancing a number of factors. The temptation is always to assume that the only matter to be evaluated is the strict financial feasibility of such an undertaking: Namely, will a sea-level canal pay for itself in a reasonable number of years? But as the Canal Study Commission pointed out, other factors, such as defense and foreign policy considerations, must enter into the equation. A sea-level canal might, all things considered, be a good buy even it we were certain it could never pay for itself in conventional economic terms. Nonetheless, its financial feasibility will be central in the decision to build a sea-level canal, if for no other reason than to determine what portion of costs might have to be written off for other purposes.

According to the Canal Study Commission's report, a reasonable basis for assessing financial feasibility is to determine if construction costs can be amortized over a 60-year period. To make this determination it is necessary to find those combinations of operating costs, payments to the host country, interest rates, canal opening dates, traffic levels, and toll rates which would permit recovery of capital costs from toll revenues.

The Commission found that the preferred canal route is financially feasible at reasonable toll rates, assuming a construction cost of $2.88 billion and a high potential traffic growth rate. While this would seem to suggest that a sea-level canal is financially feasible in its own right, certain caveats are in order.

First, inflation in this type of construction has been approximately 80 per cent since the Commission issued its report in 1970. According to the Army Corps of Engineers, the original $2.88 billion estimate must be raised to $5.29 billion. This means that toll revenues must be increased substantially to amortize costs. Of course, inflation will also have affected the level of sustainable tolls. Presumptively inflation rates will be comparable and construction costs will not seriously have outstripped the ability of tolls to amortize these costs.

Second, there is some question whether we may reasonably expect traffic growth rates at the higher level projected by the 1970 study. Traffic levels in the past six years have not, in fact, borne out this high projection. This shortfall is arguably due to the worldwide recession of the early 1970s, from which we are only now beginning to emerge. This is strongly suggested by the upward turn of canal traffic in the past year. A more thorough analysis is needed to establish that this will be a long-term pattern.

An important factor in any reassessment of a sea-level canal's feasibility will be potential traffic growth deriving from new discoveries of oil and gas in Alaska. As I have already mentioned, by next spring Alaska will be producing 1.2 million barrels of oil a day, creating a surplus of 500,000 barrels a day on the West Coast.

There is every likelihood that these figures, as high as they are, will at least double in the next several years. The probability that large quantities of oil will be recovered from the Alaskan Gulf, National Petroleum Reserve No. 4, and other areas of Alaska, both on and off shore, is very high. According to conservative projections by the U.S. Geological Survey (USGS), recoverable reserves in Alaska may be five times as large as already demonstrated reserves.

I believe it is a conservative estimate that Alaska will be producing an additional two million barrels of oil per day within 2 to 5 years, and yet another two million barrels per day within 5 to 10 years. Figures of this magnitude are confirmed by an Atlantic Richfield Company estimate that the West Coast oil surplus could be as high as 2.4 million barrels per day in 1990.

As these Alaskan oil reserves are brought to production, a sea-level canal becomes increasingly attractive. It would require 120 million tons of canal traffic per year to move a surplus of 2.4 million barrels per day through the canal. This represents almost exactly one-half of the Commission's entire potential tonnage forecast for 1990. They included in their 239 million tons per year estimate only 41 million tons of petroleum, or about one-third the volume that now appears likely to materialize.

If this oil and the accompanying gas is to reach U.S. markets where it is needed, it must be transported by tanker to the Gulf of Mexico and the East Coast, or else it must be moved inland by pipeline from the West Coast.

The pipeline alternative has considerable drawbacks. The nation's pipeline infrastructure for the delivery of oil and gas runs south to north, fanning out from the Gulf Coast States to serve the Midwest and Northeast. The explanation for this pattern in simple. Historically, oil and gas was discovered in the Gulf region and was moved to the nation's population and industrial center.

This infrastructure represents a $7 billion capital investment in the case of oil lines and $12.7 billion for gas lines. There is also an investment of approximately $19 billion in Gulf Coast refining capacity. If it were to become necessary in the next several years to move our energy supplies from west to east, rather than from south to north, much of this infrastructure would have to be replaced at capital costs much higher than the original investment.

For at least the next 2 to 3 years there is no real alternative to using the existing canal for transporting West Coast surplus oil to regions of the country which have a crude oil deficiency. But because of the inefficient lightering operations that are involved, transit charges on this route are sufficiently high that pipeline alternatives become attractive even though new pipeline investment costs would be required.

A number of such projects have been proposed to deliver surplus oil to markets in either the Central or Gulf States. (See Table

4.) The most important of these are as follows:

Trans-Mountain Pipeline. This is an existing line which at present carries oil east to west from Edmonton to the Vancouver area. Atlantic Richfield Company (ARCO) proposes a partial reversal of the flow to move 165 thousand barrels per day of Alaskan crude from Cherry Point in Washington to the so-called Northern Tier refineries in Montana, North Dakota, Minnesota, Wisconsin, and upper Michigan. The capacity of this line would satisfy the needs of these refineries. Capital investment costs would be a relatively minimal $115 million and transportation costs into Chicago would be $2.30 per barrel of oil. This project has, however, run into stiff environmental opposition in the State of Washington and may not get the necessary permits.

Northern Tier Pipeline. This proposal calls for the construction of 1570 miles of new pipe at a capital cost of $1.6 billion. It would move 600,000 barrels per day of Alaska crude from the Port Angeles area in Puget Sound to Clearbrook, Minnesota, thus serving the refineries in the Northern Tier States. It would deliver to the Chicago area at a cost of $2.78 per barrel. It faces environmental objections in the State of Washington at least equal to those confronting the Trans-Mountain project.

Kitimat Pipeline. This project would involve the construction of 753 miles of pipe from the town of Kitimat in British Columbia to Edmonton, Alberta. It would there interconnect with existing lines to serve the Northern Tier States and the upper Midwest. It would have a capacity of 525,000 barrels per day and would entail an investment of some $696 million. Transportation costs to Chicago would be $2.38 per barrel of oil. At present the sponsors of this project are inactive, but it could be revived if competing proposals fail.

Sohio Pipeline. Standard Oil Company of Ohio (SOHIO) proposes to convert to oil service existing gas lines running from Midland, Texas to Redlands, California. With the construction of an additional 219 miles of pipe, this would allow Sohio to move Alaskan crude from Long Beach to Texas at a rate of 500,000 barrels per day. This is the most economical of all the proposed pipeline projects, as it would transport the oil to Chicago for $2.29 per barrel and into Houston for only $2.06 per barrel. The Sohio project faces two major hurdles. First, the State of California has been extremely reluctant to issue the necessary permits because of concern that further degradation of air quality in the Los Angeles area might result. Second, both Federal Power Commission and California Public Utilities Commission approval are required for conversion of the existing gas lines to oil service. This approval may not be granted due to new discoveries of gas in the Mexican Yucatan. Mexico could very economically move its gas into Texas and then transport it through the existing system to California.

Trans-Guatemala Pipeline. The Central American Pipeline Company proposes to transport Alaskan crude 227 miles across Guatemala for marine delivery to the Gulf Coast. Investment costs would be $934 million for a 1.2 million barrel per day pipeline. Transportation costs would be $2.52 into the Chicago market and $2.16 into Houston. The major drawback to this proposal is that it involves the effective export of Alaskan crude, which is currently not permitted. To change this policy would require that difficult political hurdles be cleared.

To summarize, existing pipeline systems in the United States are designed to deliver oil and gas from the Gulf Coast to the Midwest and Northeast, where the nation's energy needs are the greatest. Now that our major source of domestic supply is shifting from the Gulf region to Alaska, we must either build new pipeline infrastructures at large capital costs and potentially significant environmental costs, or else we must find an economical marine delivery route that will enable us to bring Alaskan crude into Gulf Coast ports for transport through existing lines. Although a number of new pipelines have been proposed, each has severe political or financial hurdles to overcome. Moreover, even should one or two of these projects be built, their capacities would not be sufficient to handle the surplus supply of Alaskan oil expected on the West Coast ten years from now.

This set of facts, taken into conjunction with the generally positive findings of the Canal Study Commission, appear to make a sea-level canal a very attractive option. To further check this out I compared the oil transportation costs via the combined pipeline-marine routes I have just been discussing with an all marine route through a sea-level canal.

The pipeline costs vary from $2.06 to $2.73 per barrel of crude, and to be competitive transport costs through a sea-level canal would have to fall within this range. Apparently they do.

I asked Arthur D. Little, Inc., using the same computer model from which the pipeline transport costs were derived, to calculate costs between Valdez and Houston via a sea-level canal. Here is what they found:

$1.74 per barrel for 160,000 dwt vessels;
$1.35 per barrel for 225,000 dwt vessels;
$1.31 per barrel for 265,000 dwt vessels.

To these figures must be added a reasonable toll figure, which I have calculated to be 44¢ per barrel of oil. (This compares with a toll of 27¢ per barrel of oil through the present canal.)

This means that transport costs through a sea-level canal may be preliminarily estimated to fall somewhere within a $1.75 to $2.18 range. As can readily be seen the low end of this spectrum is 31¢ less, and the high end 60¢ less, than the respective low and high ends of the cost range for combined pipeline-marine routes.

Clearly, if these figures are sustained upon a more thorough analysis, a sea-level canal is a highly competitive alternative for transporting surplus West Coast oil. If we assume an oil surplus of only 500,000 barrels per day (the amount we definitely will have next spring), a sea-level canal would in ten years save the American public $1.3 billion as compared with the existing canal. Over a similar period of time, the savings would be $565 million when the sea-level canal is compared with the most economic of the pipeline routes, the Sohio projects. (See Chart 2.)

In addition to the capital investment costs for pipeline and refinery infrastructures which may be offset against the cost of construction of a canal, there are extremely important military and foreign policy values to be realized through a sea-level canal. Under agreements already entered into or soon to be concluded, much of the east coast of the United States will in the near future be dependent upon Algeria, and possibly the Soviet Union, for its natural gas supplies. Although such an arrangement is satisfactory at the present time, the desirability of long-term energy dependency on these two countries is questionable at best. The severe harm which could be done to the economy of the eastern seaboard by a cut-off of these foreign supplies is truly inestimable, but we may be certain it would run into the billions of dollars. A sea-level canal would enable us to meet these domestic energy needs with Alaskan gas, and thus provide us a great deal more foreign policy flexibility.

From a more strictly military point of view, a sea-level canal offers quite significant strategic and logistical advantages over the present canal. It would be almost totally invulnerable to long-term interruption by military attack, whereas the present locks canal can be incapacitated for as long as 2 years with relative ease. This means that the canal's important role in providing logistical support to military operations in the Pacific area would be wholly dependable. To get some sense of what this would be worth in dollar values, we may observe that since its inception in 1904 the U.S. Government has expended $5.31 billion—or approximately six times the net civilian investment in the canal—to defend the canal. These defense expenditures, as important as they are for the present locks canal, could be greatly reduced for a sea-level canal because of its invulnerability.

In addition, a sea-level canal could be transited by our aircraft carriers, which are too large for the present facility. At present, a Carrier Task Force moving from one ocean to the other must send part of its force around South America while the remainder transits the canal, only to lie idle for 10 days while the rest of the force catches up.

As an example of the strategic shortcomings and military inefficiency of the present canal, let us assume there is an emergency in the Mediterranean which calls for reinforcement from a Carrier Task Group stationed on the West Coast.

Under present conditions, the Task Group's cruiser and 15 of its destroyers would sail through the canal, reaching Gibraltar in 15 days. Meanwhile, the carrier and an additional 10 destroyer escort would steam the additional 5,000 miles around Cape Horn, not reaching Gibraltar for 25 days.

If a sea-level canal were available, the entire Carrier Task Group could reach Gibraltar in 15 days, at a savings of 47,000 barrels of fuel and $870,000. The strategic flexibility this would provide our Navy would be equivalent to adding an entire Carrier Task Group to our arsenal. In effect, this would provide us an additional $20 billion in defense capability at no extra cost to the taxpayers.

As the Committee knows, President Carter has taken a strong interest in a sea-level canal. Specifically, he instructed our negotiators to seek provisions relating to a sea-level canal in the new treaty with Panama. This was accomplished in Article XII. Unfortunately, there has been some misunderstanding of these provisions. I would like to attempt to clarify them for the Committee, as I have been involved with this issue perhaps more closely than anyone else.

Those individuals critical of this part of the treaty have centered their objections on paragraph 2(b) of Article XII. That paragraph reads as follows:

"During the duration of the Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree."

The hue and cry has gone out that in this provision the United States has given away its right to consider other countries than Panama for a sea-level canal, and that it has done so without getting anything in return.

First, I would point out that the United States did get something in return. Critics have generally overlooked or not understood the meaning of paragraph 2(a) of this same article, which reads as follows:

"No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provision of this Treaty, or as the two Parties may otherwise agree."

The effect of this language is to provide the United States a right of first refusal to be involved if a sea-level canal is built in Panama. In other words, Panama has agreed

that it will not build a new canal in cooperation with Japan, OPEC, the Soviet Union, or any other third party unless we concur.

Second—and this is equally as important—the concession we made to Panama not to build a canal in any other Central American country is of no practical consequence because Panama is the only place it makes any sense to build a canal in any case.

The Canal Study Commission initially examined 30 possible routes, one or more of which would have traversed Mexico, Nicaragua, Costa Rica, Panama, and Colombia. This field was then narrowed to 8 routes—the only ones the Commission judged sufficiently feasible to warrant in-depth investigation. Of these 8 routes, 4 were entirely within Panama, and a fifth was partially within Panama. One of the 4 routes outside Panama involved construction of a lock (not a sea-level) canal, and was studied only for comparative purposes.

The remaining 3 non-Panamanian routes were: Route 8 in Nicaragua and Costa Rica; Route 23 in Panama and Colombia; and Route 25 in Colombia.

Of these 3, routes 8 and 23 were eliminated by the Commission because they required excessive excavation. They were also longer, considerably more costly, and located in areas where no harbors to accommodate deep draft vessels were available.

The third non-Panamanian route, No. 25 through Colombia, was selected by the Commission as feasible only if nuclear excavation were employed. Otherwise it would be prohibitively expensive. But the Commission also rejected nuclear excavation as both technically and politically unacceptable. Consequently, they also rejected Route 25 as not viable.

Of the remaining 4 Panamanian routes, the Commission narrowed its choice to Routes 10 and 14, giving first nod to Route 10. (See Map 4.) This preferred route involves relatively small excavation quantities; retains the full Panama Canal capability at minimum risk during construction and for as long as desired after construction; and has good supporting facilities available. It lies approximately 10 miles west of the existing canal, just outside the present Canal Zone. Construction of a canal on Route 10 would not require a shift in Panama's metropolitan centers.

SUMMARY

Taken together, the military and foreign policy values, the savings from retaining existing energy delivery infrastructures, and the reduced transportation costs of a sea-level canal would appear to justify such a project even in the absence of strict financial feasibility, which, as we have seen, is not itself obviously lacking. But there is even one further advantage of a sea-level canal. It has the potential of defusing the controversy over the present canal.

The United States—perhaps in conjunction with other interested parties such as the State of Alaska, the international oil companies, Japan, Mexico, Venezuela, and countries on the west coast of South America—could guarantee the bonds to finance a new sea-level canal fully owned and operated by the Panamanians. It would be strictly a business arrangement with a Panamanian guarantee of access and reasonable tariffs as the only quid pro quo. This would provide Panama the economic control over her resources she demands, and would at the same time defuse the present controversy. The United States, for her part, would obtain the economic advantages already pointed out, and would achieve her ultimate goal of a defensible canal available to all at reasonable rates.

These advantages which would accrue to the United States through construction of a sea-level canal make it well worth our while to maintain the good will of the Panamanians, which I feel certain can be done if we ratify the treaties now before us.

TABLE 4.—TRANSPORTATION ALTERNATIVES ALASKAN CRUDE WEST COAST SURPLUS (JANUARY 1977)

Project	Thru-put [1]	Pro-jected start-up	Captial invest ment [2]	Transport costs by route [3]	
				Chicago	Houston
Trans-Guatemala	1,200	1/81	934	2.52	2.16
Transmountain	165	1/79	115	2.30	.....
Northern tier:					
Phase I	600	1/81	1,630	2.78	.....
Phase II	800	1/84	[4] 118	.....	.....
Sohio: Phase I	500	1/79	472	2.29	2.06
Panama transshipment			([5])	2.83	2.46
Cape Horn			([5])	3.53	3.14

[1] Thousands of barrels per day.
[2] Millions of dollars.
[3] Dollars per barrel.
[4] Incremental.
[5] Immediate.

CHART 2

SEA-LEVEL CANAL SAVINGS

	Cost of transportation [1]	Total per day [2]	Total per year	Total for 5 yr	Total for 10 yr
Existing canal	$2.46	$1,230,000	$448,950,000	$2,244,750,000	$4,489,500,000
Sea-level canal	1.75	875,000	319,375,000	1,596,875,000	3,193,750,000
Savings	.71	355,000	129,575,000	647,575,000	1,295,750,000
Sohio line	2.06	1,030,000	375,950,000	1,879,750,000	3,759,500,000
Sea-level canal	1.75	875,000	319,375,000	1,596,875,000	3,193,750,000
Savings	.31	155,000	56,575,000	282,875,000	565,750,000

[1] Dollars per barrel.
[2] At 500,000 bbl/day rate.

STATEMENT BY SENATOR LAXALT

Mr. Chairman, I am pleased to appear before this distinguished Committee to offer my views on the proposed Panama Canal treaties. Let me say at the outset that I oppose these treaties and I intend to vote against ratification when they are submitted to the Senate.

My objections range from what the treaties represent to specific problems with what they actually say. In addition, I am quite concerned about how the Carter Administration is going about "selling" them to the American people.

WHAT THE TREATIES REPRESENT

The proposed treaties pose a grievous risk of loss within 22 years and constitute a certain loss after that time of a vital strategic and economic asset for the United States. To my mind, they also set a defeatist tone for our overall foreign policy which is unworthy of our people.

For me, the crucial question to be considered in assessing the treaties for possible ratification is one of trust. In hard practical terms, how much confidence should we as one Nation put in even the most solemnly pledged word of another nation when our vital national security assets are at stake? And, in this case with respect to Panama, does the nature of its government and the character of its leader add credence to the proposed undertaking?

Mr. Chairman, I suggest in this uncertain world that we need to be very careful in selecting those upon whom we rely in basic security matters. What is more, insofar as international partners are concerned, the present Panamanian government is hardly one in which I would repose a lot of confidence much less the guardianship of a vital U.S. asset.

We must remember as we consider these treaties that in the international arena each sovereign state is the ultimate judge of its own actions. We can and we should discuss in detail precisely what is in the treaties. But, we also need to look beyond the treaty language. We need to evaluate above all the credibility of the present Panamanian government.

How close is General Torrijos to Havana and Moscow? How secure is his tenure? Is he likely to demand rapid renegotiation before the ink is dry on these pacts? Would his potential successors? As a law-abiding Nation, we tend too frequently to assume that the word of other nations is as good as our own once pledged. Many times it is. But memories of Yalta, Potsdam, and Suez, should teach us to look beyond the specific language in international negotiations to the character of our potential partners before trusting them with important assets under even the most tightly written treaty. I suggest, Mr. Chairman, that General Torrijos' Panama will fail to withstand this test if this Committee chooses to apply it with its customary rigor.

As important as the credibility of the Torrijos regime in assessing the context of the treaties is the message which Senate acceptance of them would send to our allies and adversaries around the world. I agree fully with Secretary Vance who said in his statement opening these hearings. "How we respond to an issue such as the Panama Canal will help set the tone for our relations with the rest of the world for some time to come."

Where I differ with the Secretary, of course, is in the kind of tone which I believe these treaties set for our foreign policy. In my judgment, the domestic debate on the acceptability of the treaties is between those who see them as an expression of historical generosity and those who view them as a rather abject lesson in capitulation. I am afraid that to me they represent much more of the latter and as such are decidedly unworthy of our people.

Since the end of World War II, the United States has played an active role in maintaining the balance of power throughout the world. Out of a renunciation of prewar isolationism came ANZUS, NATO, bilateral relations with Japan, Taiwan, and Israel; all of which have served our Nation very well.

In my judgment, the great architects of post-war U.S. foreign policy, General Marshall, President Truman, and Senator Van-

denburg, are owed a real debt of gratitude for this. They recognized that pre-war isolationism was not healthy either for this country or the world at large. They knew that our prosperity, our security, and even the future of our democratic institutions were all intimately bound up with the fate of other democratic nations.

I personally feel that the Panama Canal treaties pose a direct threat to the multilateral security structure created by these far-seeing visionaries. Not necessarily in isolation, but as part of a larger mosaic of U.S. hesitancy and withdrawal, serious questions will sooner or later occur to our allies and essential confidence will be impaired. Because it is this confidence which binds our security structure, that structure can only be impaired when serious discussion begins to "de-recognize" Taiwan, when proposals are made to abandon development of important strategic missile systems, and now when we propose to give away an important piece of real estate for the pure and simple reason that when push comes to shove, we do not think we can hold it?

To me this is precisely what the proponents' position boils down to. They cite fears of sabotage, guerrilla warfare and the alienation of Latin American opinion. The military leaders among them even draw distinctions between concepts of possession and use of the Canal. But, the essence of the proponents' position is that because the United States is not physically able to maintain its sovereignty over the Canal Zone, we should relinquish it before it is taken away from us.

This to me is a rather sorry spectacle. Although Santayana did say that those who do not learn from history are condemned to repeat it, I believe that we should not be frightened into giving up important strategic assets by scary specters of our own creation.

The violence argument is thus worthy of detailed comment. Ambassador Linowitz stated it in perhaps the clearest way when he said in a Voice of America broadcast:

"Expectations have been raised so high in Latin America that failure to get the treaties ratified could bring a whole range of consequences including violence."

I do not believe that the issue of potential violence should be ignored, but I do feel that we need to inquire closely as to its origins. To me, the treaties represent the worst possible way of dealing with potential security threats to the Canal from within Panama. The expectations of Panamanian extremists have certainly been raised by the prospect of taking over the Canal. But treaty proponents need to ask themselves whether those expectations will be satisfied by asking extremists to wait 22 years, or whether violence and sabotage are now possible, irrespective of Senate ratification, simply because of the atmosphere of heightened expectations which the treaties create without really satisfying.

In view of this tinderbox situation, I see Senate refusal to ratify as providing at least some deterrence to violence by demonstrating that the power of the United States remains behind its legitimate interests. Ratification of a half-way house treaty, on the other hand, because it represents a clear capitulation under threat of force without satisfying extremist expectations, would be a signal to potential rioters and saboteurs that they need not wait 22 years. All they need do is push just a little harder because the United States would have clearly demonstrated its willingness to treat with violence. Then it would be open season for extremists to attack not only the Canal but the property and persons of U.S. nationals throughout Latin America.

The Administration's eagerness to conclude a Canal agreement, under these circumstances, is of serious concern to me. A fundamental decision was made at the end of World War II that the United States could not retreat into itself and maintain its security unilaterally for long. Granted, there is a certain weariness resulting from a prolonged land war in Asia. But, that weariness has not occasioned any lack of will among our people to maintain U.S. sovereignty in an area much closer to home. Quite the contrary. Recent polls indicate that a vast majority of the American people favor keeping the Canal.

In truth, the weariness is on the part of this Administration. I believe our people without being bellicose, do want to play an active role in the world. I believe our people do recognize certain areas beyond our borders as vital to our national interests. And, I think they will decisively reject a foreign policy which falls short of their standards. President Carter has promised to give this Nation a government as good as its people, but his Panama Canal treaties simply fail to measure up.

WHAT THE TREATIES SAY

The terms of the treaties are no better than the overall tone which they set for American foreign policy. I am opposed to the front-end concession of the key principle of sovereignty. I believe the rapid turn-over of crucial support services to the Panamanians bodes ill for the effective operation of the Canal. I think the human rights of Americans left in the Zone and our ability to guarantee the neutrality of the Canal are inadequately protected. And, it is to me an absolute scandal that we are proposing to pay the Panamanians to take the Canal off our hands.

1. Sovereignty

The main purpose of the treaty is hardly concealed. The preamble to the agreement opens by "acknowledging the Republic of Panama's sovereignty over its territory." Quite clearly at the very core of the nature of the present relationship between the United States and the Panama Canal is our own sovereignty over the Canal and Cansl Zone. In my judgment, it would be bad enough if this new treaty confined itself to passing sovereignty to the Panamanian government. But, as I read the existing language, it recognizes that Panama already has sovereignty. Thus, the Panamanians could presumably exercise their right to expel the United States from their country whenever they desire. Accordingly, we are not only giving away our Canal, we are asserting that we have never had it.

2. Effective canal operation

Despite some obvious disputes over the running of the Canal, particularly reflected in demands by Panama over the years for more revenue and control of the Canal, nearly everyone agrees that the Panama Canal Company has operated an extraordinary safe, fair, and efficient operation. It has made a major contribution to the development of world trade and maintained our own security interests in the Western hemisphere.

In scrutinizing the terms of the new agreement, I cannot help but wonder whether the operation will continue in the same equitable and efficient manner in the future. Article X requires that the American work force must "within five years ... be at least 20% less than the total number" of those working there at present. And, under section four of the same Article, now non-Panamanian employees can only work for terms of five years duration (aside from some special circumstances). Thus, discrimination is mandated in the treaty against the very personnel whose qualifications are necessary for the continued operation of the Canal.

Quite simply, Panama does not now have, and cannot have within the short period of time required, the skilled personnel to fill adequately the jobs of those who will leave their present jobs, whether voluntarily or under duress. Jobs such as the ships' captains that navigate the vessels through the Canal now require twenty years of training and experience. Panama does not have such qualified people. At present, only two out of the two hundred ships' captains are Panamanians. Until recently, no school even existed in Panama to train ship's captains and the country has virtually no navy. Nonetheless, the treaty requires that Panama assume control of an increasingly large portion of the skilled jobs in the operation of the Canal.

To make matters worse, the United States does not even have the option of building an alternative Canal if the proposed arrangement with Panama does work out in practice. Under Article XII, the United States is prohibited from negotiating "with third states for the right to construct an interoceanic canal ... in the Western hemisphere" without the consent of the Panamanian government. Thus, regardless of how poorly this agreement may work out, Panama holds an absolute veto power over the United States pursuing an alternative route for the next 22 years.

3. Human rights

The worst fears of the workers who now live in the Panama Canal Zone are fully realized under the terms of the proposed treaty. In all the discussion of alleged grievances and rights of Panama, we have curiously ignored the rights of the American citizens who live in the Canal Zone. In the treaty, we consciously expand Torrijos' authoritarian rule to include the Zone without ever raising a question about the abysmal human rights record of this regime and its consequences for the Americans who live there.

Under Article XI, section 2, Panama does permit the United States to continue to have the "primary right to exercise criminal jurisdiction over United States citizens employees" of the Canal, their dependents and other American military forces. But this protecton is limited to only certain areas and, most importantly, lasts only for the transition period of thirty months. After this period of time, these people fall completely under Panamanian legal jurisdiction.

The human rights question must be squarely faced. The Zonians have lived under the mantel of freedom provided by the United States in the Panama Canal Zone. Are they now to be abandoned? Simply in anticipation of the new agreement, many employees have already left the area and in a three year period this emigration could turn into a flood.

One specific provision of the treaty reveals most conspicuously the rapid deterioration of the rights of Americans remaining in Panama. Under Article V, rather innocuously titled "Principle of Nonintervention", American nationals must "abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama". This requirement appears rather reasonable until one realizes that under the treaty the definition of Panama includes the Canal Zone area where these people live and work. Naturally, the Republic of Panama will have the right to determine what constitutes intervention and thus the definition could easily be broadly construed to include even union activities and ordinary grievance procedures, or any kind of public or private meetings even in one's own home.

4. Security guarantees

Presumably, to protect the United States' vital security interests, a separate treaty provides for the permanent neutrality of the Canal. Thus far, this entire section has

been enveloped in a conflict of interpretations between American and Panamanian negotiators. If disputes have arisen before the agreement is even ratified, this certainly bodes ill for its prospective implementation.

In the discussion thus far concerning American rights under the Permanent Neutrality Treaty, the Panamanians have made a much more convincing case for their position. Rather than a genuinely joint declaration, the Panamanians have insisted that since the main treaty acknowledges their sovereignty over the Canal, they alone can declare the neutrality of the waterway. And, under Article I for the second treaty, the language indicates only that "The Republic of Panama declares that the Canal . . . shall be permanently neutral". Thus, if Panama alone can declare neutrality, then unless other specific language indicates otherwise, the United States has no right under the treaty to proclaim unilaterally a threat to that neutrality and intervene to thwart such a threat.

In testimony before this Committee last week, Article IV of the neutrality treaty has been cited as a basis for the American right of intervention. This article does allude to both the United States and Panama agreeing "to maintain the regime of neutrality established under this Treaty". The last four words of this quote clearly mean the kind of neutrality that Panama has declared already in the treaty and not an American right to determine this. Thus, it is entirely understandable that the chief Panamanian negotiator has told his own national assembly that "The treaty does not establish that the United States has the right to intervene (that is send in troops) in Panama". Similarly, earlier this year, General Torrijos himself stated that after 31 December, 1999, "the duties and responsibilities will be assumed by our country solely and exclusively". The language of the Panamanian view of what this agreement does could hardly be more specific.

On this point, as well as many others, the most lucid discussion that has thus far appeared of the nature and direction of the negotiations has derived from the Panamanians. They have indicated that the original language proposed by American negotiators was unacceptable to them and, ultimately, on the crucial issues they have prevailed. I cannot help but conclude, as the Panamanians have, that the United States under the terms of the Permanent Neutrality Act has sacrificed all meaningful rights to maintain the security of the Canal.

5. The high cost

While most Americans oppose giving the Canal to Panama, they are literally livid at the prospect of paying Panama to take the facility off our hands. Thus, the economic arrangements require special attention by this Committee and some plausible justification must be provided to explain why, in the course of transferring this multi-billion asset to Panama, we must at the same time provide for payments to Panama of upwards of $50 million per year.

Of course, under the language of the treaty, the United States does not directly pay this money to the Panamanian government, but the net result is the same. Under Article XIII, dealing with the Economic Participation by the Republic of Panama, the agreement provides for Panama receiving $.30 per ton for each vessel transiting the Canal. Moreover, five years after the new treaty goes into effect, this figure will be adjusted upward each two years to reflect changes in the American wholesale price index.

Some have contended that this provision places a ceiling on the amounts that the tolls may rise for the next 22 years. But, more likely, the effect will be a rising floor for future toll increases. Coupled with the per ton figure, the United States also quadruples the annuity payment to Panama to $10 million and promises another $10 million if Canal revenues exceed expenses. This last provision may seem to provide an incentive for the efficient operation of the Canal, but more likely, this will simply encourage a rise in tolls that will permit the $10 million to be extracted.

All of this money derives from the revenues collected by the new Panama Canal Commission. The estimates of the total amount varies depending on the volume of cargo. But, on the basis of last year's volume of 117 million tons of cargo, this would have meant approximately $45 million, or about twenty times as much as Panama receives under the 1903 treaty. If the Canal has its anticipated rise in traffic this coming year, but still runs a deficit, this figure would rise to over $50 million.

In order to compensate for this huge new expenditure by the operators of the Canal, Ambassador Linowitz has already indicated that tolls will have to rise by 25% to 30% upon ratification of the treaty. This would represent the single largest increase in tolls since the Panama Canal began operations in 1914. This rise relates largely to compensation being provided the Panamanian government. But, as indicated in the analysis above, probably larger incentives will have to be provided to skilled workers to remain in Panama under the new treaty.

Despite the fact that the revenues going into the Panamanian treasury derive from the general operation of the Canal, the actual expense shall be borne by those ships that transit the Canal and through them the producers and consumers of the goods shipped. This could have severe repercussions on some products, such as American agricultural goods being exported from the Gulf Coast to the Orient or oil flowing from Alaska to our Gulf Coast. Therefore, although the payments to Panama are indirect, the American taxpayer will bear much of the burden of the increase which presumably will rise each year due to the indexing procedures.

Overall this constitutes a radical alteration of the concept of the Panama Canal. While the United States has always viewed the Canal as facilitating world commerce, the Panamanians clearly view the waterway as their own OPEC in miniature, their monopoly over travel from one ocean to the other. And, given the veto power they hold over the American right to negotiate building another canal, Panama can effectively stymie any prospective competition.

Having expended an estimated $7 billion over the past 74 years in order to bring into existence and operate the Canal and all its related facilities, the American people have a right to ask why they must pay to have this enormous asset, run so efficiently and fairly for so long, taken off their hands by the Panamanian government. This is particularly true when sales of only several million dollars to other nations in Latin America have been suspended due to criticisms of the nature of their government.

Yet, with respect to Panama, no concern surfaces over the nature of the military dictatorship in the country that the United States will in effect be rewarding with one of the largest gifts ever bestowed voluntarily upon another nation. If the government of Panama appeared as a reliable friend of the United States, perhaps some justification for this enormous behest might be offered on foreign aid grounds. Instead, the Torrijos regime has constantly extolled Fidel Castro as a great Latin American leader and proceeded on its own social revolution that has substantially destroyed the Panamanian economy. In my judgment, if these treaties were to be ratified, the United States would be rewarding the wrong government, in the wrong place, at the wrong time, and in the wrong manner.

THE SALES JOB

In addition to my concerns about what these treaties represent and what they say, in closing, I would also like to express my concern about the manner by which they are being sold to the American public. Governor Reagan rightfully termed the whole affair a "medicine show." And, I can only accuse President Carter's chief political strategist, Hamilton Jordan, of understatement when he told the Baltimore Sun: "We are going to spend a tremendous amount of political capital to get the treaty ratified."

I have found one of the most intriguing developments resulting from the Panama Canal treaty issue to be the negative approach most proponents have adopted in their efforts to "sell" the document to the American people. Actually, "intriguing" is not a graphic enough description of the sales effort being promoted. "Insulting," although harsh, is probably a much more accurate description of a campaign which is calculated to frighten people into accepting a bad agreement by attempting to persuade them that because the Canal is vulnerable to attack by elements within Panama, this facility can only be insulated from destruction through acceptance of the current treaty.

This "argument" is the most prominently mentioned of the reasons for relinquishing control of the waterway. According to this line of reasoning, since the Canal is susceptible to attack, and the Panamanian government has raised the spectre of guerilla warfare unless we deliver—either our country accepts the treaty negotiated and turns the Canal over or it will be put out of commission with everyone losing in the process. Upon largely this basis, the Canal treaty proponents are mounting what they refer to as an "educational" program to apprise Americans of the purported dangers.

Of all the approaches, those who favor ratification could have chosen to "educate" the people with, in my opinion, this is the least likely to succeed. It won't succeed because the American people will reject it. Treaty supporters have maneuvered themselves into the unenviable position of attempting to convince the American public that they should forego a valuable strategic asset because violent actions have been threatened if we don't knuckle under.

I personally do not believe that an "educational" program heavily resting on the foundation of the "violence argument" when there is ample evidence that the document itself is faulty, dangerous and inequitable will have any chance of success. Possibly this is the only really viable avenue of approach for treaty proponents because the treaty is so poor as to be indefensible on most other grounds.

Mr. Chairman, the whole concept of a propaganda campaign is disturbing in our American context. It is quite obvious that the Canal treaty is uniformly unpopular with the public. Polls show this to be the case as do recent political developments with the ratification vote being put off until sometime next year, maybe, when it is hoped more votes are found somewhere in the Senate.

Certainly, the Administration has the right, indeed even the obligation, to take its case to the people. But, the vehemence of their propaganda effort must be a function of the recognition that they have an uphill battle since the Panama Canal agreement certainly will not sell itself. This approach will, without doubt, be found wanting by our people. But what concerns me is the arrogance of those who, again, underestimate the capacities of the people and assume the role of pedagogue. What we have is the same tried, old coalition of elitists in government, business, and labor purporting

to prescribe to the masses for their own good while each is determined to "sell" the document for its own reasons.

There is almost a feeling of deja vu today as, one after the other, familiar names and faces of those who ran our foreign policy in the 1960s reenter the scene to bless the Panama Canal treaty. I get the distinct impression they have once again found it comfortable returning to the arena where many programs they designed a decade ago are now being carried out. Yet, this is not particularly comforting since the era of "the best and the brightest" was not one renowned for its foreign policy successes.

It looks like Big Business is concerned enough about ensuring its investments in Panama to back the treaty. It is no secret that the Torrijos regime is teetering close to the edge of financial collapse. If the walls caved in on this government, American dollars heavily invested in the country would be lost. With this treaty and its extravagant pay-off plans, the Panamanian economy would be pumped up and many American businessmen saved from a financial drubbing. Additionally, I think the business community has bought the "violence argument" and is willing to have taxpayer dollars bail them out of imagined Latin difficulties.

The third leg of the establishment triad offering support for the Panama Canal treaty is Big Labor. There is so much politics tied in with their endorsement that I am not sure the merits of the treaty were a consideration. But then, I have never been close enough to labor circles to be party to their concerns. Suffice to say that George Meany has found ways to thank the Carter Administration for its support of the labor reform package.

So, what we have it seems to me is a classic case of establishment arrogance. The power blocs which deal in this town have decided to "educate" the massess on the necessity of ratifying the Panama Canal treaty. Such patronizing is insulating to the American people.

Mr. Chairman, I sincerely doubt that any propaganda campaign, no matter how skillfully handled, could "sell" this very dangerous and inequitable treaty to the American people. The fact that there is nothing really positive to commend it has led to a campaign based largely on simple scare tactics. Mr. Chairman, Americans will not buy it. We have responsibilities which must be met now and in the future and such responsibilities will not be dismissed by threats of blackmail which carries with them undesirable precedents. It will be impossible to "educate" our people to accept something that is wrong.

STATEMENT BY SENATOR BOB DOLE

Mr. Chairman and Members of the Committee: I appreciate this opportunity to appear before the Committee today, to comment on the two Panama Canal Treaties now pending before the Senate.

You gentlemen have already had an opportunity to hear from a series of Administration witnesses on this important issue. As one who shares the responsibility of deciding whether or not these two Treaties should be ratified, I can appreciate your desire to gain as many perspectives on the issue as possible.

I, too, hope to learn a lot more about all that is involved here in the weeks ahead. But I cannot agree with many of the key assessments and conclusions about these Treaties which the Administration's spokesmen offered to you last week.

I cannot agree, for example, that our ability to continue to use the canal, and to defend the canal, is adequately guaranteed under the provisions of these Treaties. I cannot agree that our nation's economic interests are protected by granting exorbitant annuity payments to Panama, and by giving Panama a major chunk of toll revenues. I cannot agree that the United States Canal Zone territory should be turned over to Panama without the express consent of both Houses of Congress. I hope to offer some helpful perspectives at this time on how we should properly approach these Treaties in order to protect our vital interests.

On September 23, I became the first Member of the Senate to introduce amendments and reservations to the Panama Canal Treaties. I want to explain why I feel this is a responsible approach to this Treaty issue. In doing so, I will review the details of the Treaty modifications I have proposed, and explain why I disagree with the Administration's spokesmen on these critical points.

A SENATE RESPONSIBILITY

Article II of the United States Constitution gives the President the power to make treaties with other nations "by and with the advice and consent of the Senate." Our advisory role is clear. And our responsibility to scrutinize treaties before giving our consent is evident.

Yet, the Administration seems bent upon forcing the Panama Canal Treaties through the Senate without modification. We are told that anything less than "unqualified" Senate approval will jeopardize the Treaties. General Torrijos takes the same narrow view. "The negotiations are over," he says. "The Treaties have been signed. I'm not interested in what is said."

The Treaties have been signed, but the debate has only started. Our Constitution guarantees that we, on behalf of the American people, will have the final say on Treaty proposals, and I don't think we should shirk our responsibility.

MAKING MODIFICATIONS

The State Department tells us that amendments or reservations to the Canal Treaties would be fatal. It is likely that legally binding modifications like these would require renegotiation, at least on those particular portions of the Treaties.

But I do not think that proposing amendments should be equated with efforts to "kill" the Treaties. In fact, it is not an effort to destroy, but to improve these documents which bear so heavily on our national interests. I studied both Canal Treaties in detail, and found them grossly unacceptable in certain areas. I have offered reasonable proposals to modify those portions, in line with our Constitutional responsibility.

The Panamanians have understood our ratification system all along. They were aware of the Senate's responsibilities of review, and its right to modify, if necessary.

I say that we should amend if necessary, and register reservations if necessary, and at that point the ball is in Panama's court. If they refuse to reconsider these points, then the blame is theirs, not ours. But I suspect that they will be ready to renegotiate rather than to lose these Treaties which give them so much.

BEGGING OUT WITH "UNDERSTANDINGS"

One thing should be made very clear: simple "understandings" by the Senate will have no legally binding effects on the Canal Treaties. Understandings merely constitute interpretations of this or that point in the Treaties, and do not necessitate renegotiation.

However, they are *our* interpretations, not Panama's. When an issue or dispute arises in years to come, we will point in vain to our "understanding." The Panamanians will say: "That may be the way your Senate interpreted it, but this is what the Treaty says, and we interpret that differently."

If we really feel strongly about weaknesses or ambiguities in these Treaties, we should be bold enough to correct them in a straightforward and non-apologetic manner. If we must amend a Treaty provision to remove all doubt about its meaning, then so be it.

If we simply "buy time" now by deceiving ourselves with "understandings" that have no binding impact, the next generation may have to bear the consequences. It will, of course, be easy to soothe our consciences by attaching weak "interpretations" to the Canal Treaties. Politically, it may be a very easy thing to do.

But I say this: If we end up next year ratifying these Treaties with nothing more than a bunch of meaningless, half-baked "understandings" attached, we will have failed our Constitutional duty to the national interest and the American people.

Mr. Chairman, I would ask the Committee's permission to insert, at the end of my prepared statement, excerpts from several authoritative sources comparing the effects of Treaty amendments, reservations, and understandings.

AMENDMENTS TO TREATY

Mr. Chairman, in accord with my feeling that the Senate has a responsibility to modify these Treaties where necessary, I have introduced a series of six amendments and two reservations. The amendments would directly modify, or add to the language of the Treaties, while the reservations express specific conditions under which our agreement to ratify would be made. All of these would, in my opinion, better protect the nation's vital interests and substantially improve upon both the basic Canal Treaty and the Treaty on permanent neutrality.

I will not spend a lot of time describing these proposals, since I believe you have all had an opportunity to review the statement I made on September 23, at the time of introduction. I do want to emphasize, however, that I feel very strongly about the Treaty defects which prompted each of these proposals. My amendments and reservations represent sincere and earnest efforts to correct these problems, in a manner that is legally binding. Without these corrections, I think both treaties jeopardize our interests and are therefore unacceptable.

MILITARY INTERVENTION AND PRIORITY PASSAGE

Mr. Chairman, I am positively convinced of the Canal's importance to the United States' defense interests. If there was ever any question in anyone's mind about this importance, I would think that the letter to President Carter last June, signed by four former Chiefs of Naval Operations, would remove that doubt. One of those officers, Admiral Thomas H. Moorer, testified persuasively on this point before the House International Affairs Committee last week, and I would commend his testimony to the attention of this Committee.

Therefore, with respect to the Treaty on permanent neutrality, I propose to amend Article IV to specifically guarantee our authority to intervene militarily whenever we determine the Canal's neutrality to be threatened. In addition, I propose to amend Article VI to guarantee that U.S. vessels of war will have "'priority passage" rights through the Canal whenever our nation is at war. Both of these points are ambiguous within the Treaty, and have been interpreted differently by American and Panamanian negotiators. It is clear that clarification of the language is badly needed. An "understanding" will not do the job.

Last week, Secretary of Defense Harold Brown testified that "we felt strongly [during Treaty negotiations] that the United States should take whatever action was necessary to maintain neutrality," and U.S. Ambassador Sol Linowitz insisted that "it is for the United States to make the determination as to how we should respond and how we should defend our rights . . ."

However, the Chief Panamanian Negotiator, Escobar Bethancourt was quoted in an

interview on August 24 as saying that the United States will not determine when neutrality is violated, and that the Treaty "does not establish that the United States has the right to intervene in Panama."

Secretary of State Cyrus Vance testified to you that, "in practical terms, as I understand it, our ships can go to the head of the line" in gaining passage through the Canal. This is under the 'expeditious passage' clause in the Treaty. The Panamanian negotiator, on the other hand, specified that "expeditious passage does not mean privileged passage," and that if "the Gringos with their warships say 'I want to go through first,' then that is their problem with the other ships waiting there."

EMBASSY CABLE

Despite efforts by the Secretary of State, Secretary of Defense, and others in the Administration to "smooth over" these discrepancies, there is no question that serious differences in interpretation still exist.

This was brought clearly to my attention earlier this week when I was handed a copy of a confidential cable sent to the State Department by our Embassy in Panama. This cable reveals just how widely our interpretation of the "intervention" and "expeditious passage" clauses differs from that of Panama's negotiators. I have already asked the Secretary of State to comment on the contents of the cable.

Rather than read it verbatim, I will summarize its contents:

"Our political counselor at the American Embassy in Panama found one of the Panamanian Treaty negotiators 'disturbed' last Thursday morning by testimony that had been presented before the Senate Foreign Relations Committee.

"Specifically, the Panamanian Negotiator, Carlos Lopez Guevara, was said to be troubled by testimony presented on Monday regarding the Carter Administration's interpretations of the 'expeditious passage' clause, and of our rights to defend the Canal's neutrality. That would be the testimony by Secretary Vance, and Ambassadors Ellsworth Bunker and Sol Linowitz.

"NO 'PRIORITY' OR 'INTERVENTION' RIGHTS

"Guevara is said to have stated that 'preferential' treatment for American ships was specifically rejected during the negotiations, in favor of the term 'expeditious'—and as having a far different meaning.

"Furthermore, Guevara told our political counselor on Thursday that Article IV of the Treaty on Permanent Neutrality does not give the United States the right of military intervention to protect the Canal. He is quoted as follows: 'Panama cannot agree to the right of the U.S. to intervene.' He further urged that U.S. officials stop using the term 'intervention' in describing our rights under this Treaty.

"According to the cable, our counselor at the Embassy then told Guevara that certain statements by Panamanian negotiators—and I assume this refers to remarks by Escobar Bethancourt which I quoted above—are proving 'difficult to explain to skeptical Senators.' In response, Guevara is said to have stated that no matter how necessary in the American process, there were some things that no Panamanian government could accept.

"The cable ends with a notation by our Embassy that Guevara 'is influential' within his government. It is advised that the Administration is likely to be faced with 'increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged' by Panamanians."

WE CANNOT ACCEPT AMBIGUITY

Mr. Chairman, I have decided to include this cable as part of my testimony for a very important reason. It demonstrates beyond a doubt the vast differences in interpretation of the most important part of these Treaties—that portion which deals directly with our vital national defense interests.

It appears that the Panamanian officials are trying to sell one version of the Canal Treaties to their people, and that the President is presenting a totally different picture. This may be good strategy for gaining ratification, but where does it leave us in years to come during a period of crisis?

From the standpoint of our national defense interests, it is essential that the United States have unilateral authority to step in and defend the canal militarily at any time. It is also essential that we have a clear-cut right to priority passage through the canal, especially during wartime.

We cannot accept ambiguity on these points. The Senate must clarify our defense rights by *amendment*, not by weak interpretations that have no legal and binding effect. Otherwise, we will be haggling over "understandings" at some critical point in the future when our national security is directly at stake. I believe my amendments will provide the best acceptable assurance for our defense needs.

NO RESTRICTIONS ON LOCATION OF NEW CANAL

Treaty Amendment #1 ensures that the United States will not be committed to construct a new sea-level canal in Panama, if we should decide at some point that a new interoceanic route is desirable. Article XII of the Panama Canal Treaty would, in fact, bind the United States to construct such a canal in Panama. Yet, there is no commitment on the part of Panama to agree to permit construction of the canal—we are only prevented from constructing one elsewhere.

I certainly don't suggest that we rush right down and build a new canal in Central America. That project may or may not be vital to U.S. defense and economic interests at some point in the distant future. But the President has been talking a good deal lately about a new sea-level canal, and I suspect that the vast majority of American people will want to know first why we are giving up one canal in order to build another. They want to know why we would commit ourselves to build another in the same country that is now demanding possession of the old one.

My amendment will strike that section of Article XII which would foreclose our options, and substitute in its place a clause specifically rejecting any restrictions on U.S. negotiations with other countries, for the right to construct a new canal somewhere in the Western Hemisphere. In my opinion, it is absolutely necessary that this freedom of choice is maintained.

REDUCE PAYMENTS

My second amendment would reduce Panama's share of the canal operating revenues, as outlined in Article XIII of the basic Treaty. The payment provisions concern many Americans, because we already seem to be giving up so much under this Treaty.

I really think this "pay-away" plan is a puzzle. Are we providing rent, ransom, or "conscience" money?

The United States currently pays the Panamanian government an annuity of $2.3 million. By State Department estimates, Article XIII will provide Panama with between $60 and $70 million per year. Panamanian estimates place the figure at between $70 and $80 million per year. It is a windfall in any case, particularly when we consider the value of real estate and equipment that will be given without charge to the Panamanian government under the Treaty terms.

CUT PAYMENT IN HALF

The amendment I am proposing would reduce the payments provided in Article XIII by more than one-half. First, it would reduce Panama's share of the canal's annual operating revenues from 30¢ per-net-ton to 15¢ per-net-ton for each vessel transiting the canal. Second, it will eliminate altogether the biennial adjustment of this rate according to changes in the U.S. wholesale price index, as is mandated in the Treaty. Finally, my amendment will strike that provision supplying Panama with "up to" $10 million per year depending upon revenues. Although this provision is billed as contingent upon the profitability of the canal in any given year, it in fact guarantees payment of the full annuity "from operating surpluses in future years" whenever annual revenues are insufficient.

Even with this amendment, the Panamanians are still provided a fixed annual annuity of $10 million, plus an equitable share of canal revenues, plus receipt of U.S. loans and zonal property. No one, I think, can seriously dispute the generosity of this arrangement.

MINIMIZE SHIPPING COSTS

By reducing Panama's share of canal revenues, we reduce the pressure for immediate toll increases. The canal is already operating at a deficit, and the Governor of the Canal Zone testified before this Committee last week that the Treaty provisions will probably add to the need for an immediate toll increase of twenty-five to forty percent. Of course, any significant increases in shipping costs will adversely affect our ability to compete for foreign markets and could have serious negative effects on the American farmer.

Much of midwestern grain supplies, for example, are shipped to the Orient through the canal. Higher tolls would decrease American agriculture's ability to compete with Australia, Canada, and other exporting nations for Asian markets. Thus, we help protect our economic interests by assuring only reasonable and equitable payments to Panama.

NO PAYMENT IF CANAL IS CLOSED

Finally, my amendment provides that the fixed annual annuity will cease during any period in which the canal is inoperable. It would be unfair and irresponsible to continue that payment during a time in which the canal is closed, whether due to natural catastrophe, functional breakdown, or intentional sabotage. The United States would be expected to bear the major economic burden of reopening the canal in any case. It simply does not make sense for the U.S., through the Panama Canal Commission, to continue paying Panama for a passage route that is out of order. My amendment will protect the United States on this point.

EXTENSION OF TRANSITION PERIOD

Consistent with the intent of Article XI of the basic Panama Canal Treaty, to provide for an "orderly transition" of jurisdiction over the Canal Zone, I propose an amendment which would extend the period for transfer of jurisdictional arrangements. This Treaty is being marketed by the Administration as a "23-year" transition document. Careful reading of the Treaty provisions, however, suggests that this is not a 23-year transition treaty—it is a 30-month transfer of title.

Article XI returns full jurisdiction over the Canal Zone to Panama as soon as the Treaty enters into force, and transfers all U.S. judicial, administrative, and regulatory authority to Panama within 30 months. After that, American citizens will be subject to Panamanian law, and subject to Panamanian civil and criminal justice as well.

This does not constitute "orderly transition." I don't know of many Americans who are willing to subject themselves to Panamanian justice and authority. This provision

will drive Americans out of Panama. I believe we will see a mass exodus of U.S. engineers, pilots, and other canal personnel within the next two and one-half years if this provision prevails.

My amendment will permit the Panama Canal Consultative Committee to study the issue after the Treaty takes effect and, with the benefit of actual experience, make a recommendation as to when the period of transition should formally end. However, in no case will this be prior to January 1, 1990. This date coincides with transfer of the administration of the Panama Canal Commission from U.S. to Panamanian leadership. It is logical that primary U.S. authority over both the canal and the Canal Zone should expire at about the same time. By doing so, we will allow for a more orderly and gradual phase-out of American employees in the area, and of judicial and administrative control over them.

HUMAN RIGHTS

I have proposed both an amendment and a reservation to address the human rights question. My amendment would protect the civil and political rights of those who live and work in the Canal Zone region. My reservation conditions Treaty ratification on the understanding that the Panamanian government will make "significant progress" towards observing the human rights of all its citizens during the basic Treaty period.

For an Administration which has made the subject of human rights a basic element of its foreign policy, particularly towards Latin America, the White House has been strangely silent on the issue with respect to the Panama Canal negotiations. President Carter calls General Torrijos "an enlightened dictator." I'm not sure I understand exactly what that term means, but most of us are familiar with the extremely poor human rights record in Panama as identified by "Freedom House" and by Panamanian exile groups.

Why have we ignored the human rights issue altogether in Panama, while the Administration lambastes other Latin American nations on this point? I don't know the answer. Buit in the interest of moral principle, as well as consistent foreign policy, it's important that we address the subject of human rights observance within Panama. My amendment and my reservation will do this for the benefit of both U.S. citizens in Panama and for Panamanian citizens.

TRANSFER CANAL ZONE PROPERTY

Finally, my second reservation reaffirms the constitutional responsibility of the House of Representatives to participate in transfer of ownership of the Canal Zone territory. Without reviewing all of the historical precedents and court decisions which support this argument, I will simply say that disposal of Canal Zone "territory and property" clearly falls within the realm of Article IV, Section 3, paragraph 1 of the United States Constitution. As such, not only two-thirds of the U.S. Senate but a majority of the U.S. House of Representatives must approve the proposed Treaties.

My reservation clearly states that, before the Canal Treaty enters into force, "The Congress" must adopt appropriate legislation to transfer the Canal Zone to the Republic of Panama. This would protect the right and the responsibility of the House of Representatives to participate in this significant decision.

NO APOLOGIES

Mr. Chairman, I want to say that the people of the United States owe Panama no apologies for our involvement with the canal. The generosity of our government in building the canal, in operating and maintaining it for 65 years, and in thereby enhancing the standard of living for Panamanians, requires no remorse on our part. Free of any sense of guilt, we should proceed to analyze these Treaties in an objective and responsible manner.

But the Panamanian government must know that we will never relinquish our presence in the Canal Zone because of veiled threats or direct pressures. They must know that we expect priority passage for our ships during periods of crisis. They must be told that we expect to see substantial progress in the area of human rights, and that we expect to share a reasonable, but not exorbitant amount of the canal tolls with them.

I have outlined the reasons why I cannot support the Panama Canal Treaties in their present form. I have offered reasonable proposals for amending the Treaties to protect our vital national interests.

You gentlemen will have an influential voice in determining the final form of these Treaties that is voted on by the Senate. It's my opinion that the Treaties will not be approved unless modified. It's my own opinion that they *should not* be approved unless modified in a way that is truly effective—that is, by direct amendment or reservation.

STATEMENT BY SENATOR WILLIAM L. SCOTT

Mr. Chairman, I appreciate this opportunity to appear before the foreign relations committee and to express my personal views on the important matter now under consideration. I am aware that the administration in urging ratification has stressed the long period of negotiations under four Presidents, emphasized the support of Latin American countries and the need to yield to world opinion to relinquish the Canal Zone to Panama. However, in this country sovereignty resides in the people and not the President or the officials who negotiated the proposed treaties. Therefore, it would seem that the will of the people should be reflected in our decision. There is little doubt that the American people are opposed to the ratification of the treaties, and I have great faith in the collective will of the majority. My own mail is roughly 5% in favor of the treaties and 95% in opposition, and I expect each Senator's mail is quite heavy. So perhaps in the final analysis rather than the White House educating the American people, the President and the Department of State may receive an education in American Government. I would certainly hope that this will prove to be the case.

My views are based not only on mail from constituents, but upon two recent trips to Panama and South American countries. A thorough reading and rereading of the treaties and background information, independent investigations, listening to testimony before the subcommittee on separation of powers of the Senate Judiciary Committee and studies made by the Library of Congress.

There appear to be many objectionable provisions in the canal treaty which should be eliminated or clarified, such as the prohibition against the United States constructing a new canal anywhere within the isthmus without the consent of Panama, and the doubtful interpretation of "expeditious passage".

However, the beginning of article I of the Panama Canal treaty, to my mind, is by far the most objectionable feature because it provides for the abrogation of all prior treaties with the phrase, "this treaty terminates and supersedes" the treateles of 1903, 1936, 1955 and "all other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal. . . "

Under the 1903 treaty we guaranteed the independence of the new country of Panama, paid $10 million and agreed to an annual payment of $250,000 and obtained both title to the Canal Zone and sovereignty over it. Other actions taken by our government to perfect our title included the purchase of the French canal properties for $40 million; what was tantamount to a quitclaim and recognition of our title from Columbia for the sum of $25 million; and the purchase of private rights from owners and squatters expressly excluded from the 1930 treaty. All this, however, would be vitiated by the first sentence of article I of the present canal treaties.

It is true that under numbered paragraph 2 of article I, the Republic of Panama grants to the United States for the remainder of this century "the rights necessary to regulate the transit of ships through the Panama Canal and to manage, operate, maintain, improve, protect and defend the canal." But we would be managing, operating, maintaining, improving, protecting and defending property belonging to the Republic of Panama rather than American property as the situation is today.

Mr. Chairman, as you know, a valid contract must contain consideration. We speak of something of value flowing from one party to the other, mutuality, but in my judgment these treaties are for the benefit of Panama alone. I find no new benefits for the United States.

It does not appear, Mr. Chairman, that there is serious concern within the executive branch of government to the role of the Congress under article IV of the Constitution. As you know, the second paragraph of section 3 of the article provides: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: . . ."

To determine the proper role of the House under article IV, I requested a study be made by the Congressional Research Service which responded with an excellent and objective legal memorandum dated August 4, 1977, concluding that precedent indicates Congress has exclusive power to dispose of property in the Canal Zone. I ask, Mr. Chairman, to include a copy of this memorandum in the record.

Attorney General Bonaparte, in an opinion dated September 7, 1907 (26 Att'y Gen. 376), stated that sovereignty over the canal zone was not an open or doubtful question and applied what he stated was the first rule of construction, "that plain and sensible words should be taken to mean what they say." The Attorney General added: "The omission to use words expressly passing sovereignty was dictated by reasons of public policy, I assume; but whatever the reason the treaty gives the substance of sovereignty, and instead of containing a mere declaration transferring the sovereignty, descends to the particulars 'All the rights, power, and authority' that belong to sovereignty, and negatives any such 'sovereign rights, power, or authority' in the former sovereign."

Now, Mr. Chairman, I realize that some of our people in the executive branch are attempting to convey the impression that we do not possess either title or sovereignty but this is contrary to the opinion of Secretary of State Hay in 1904 who stated, "that the grant accomplished by the treaty was a grant accomplished by the treaty was a and not a mere concession or privilege, is shown by the granting clauses and also by the references to the grant in subsequent clauses of the treaty; . . ." Later he said: "It cannot escape observation that the legislative branch of the Government of the Republic of Panama by legislative enactment declared the zone to be 'ceded to the United States,' and dealt with accordingly." And still later he stated: "The United States at all times since the treaty was concluded has acted upon the theory that it had secured in and to the Canal Zone the exclusive jurisdiction to exercise sovereign rights, power and authority." Mr. Chairman, I ask that this entire letter of Secretary Hay be inserted in the Record.

The Supreme Court in the case of *Wilson v. Shaw*, 204 U.S. 24 (1907), stated that we hold a valid title to the Canal Zone and compared our title with the then territory of Alaska. The court added: "It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

Mr. Chairman, I ask that a copy of this unanimous opinion by the Supreme Court also be included in the record.

In 1971, The Fifth Circuit Court of Appeals in *U.S. v. Husband R. (Roach)* 453 F. 2d 1054, cert. den. 406 U.S. 935 (1972), stated: "The Canal Zone is an unincorporated territory of the United States." So, Mr. Chairman, the first article of the canal treaty is an attempt to transfer United States property and sovereignty over the Canal Zone.

These are opinions of both cabinet officers and our highest court made near the time we acquired the zone and the exhaustive study of authorities made by the Library of Congress in its paper dated August 4, 1977. The only rationale I know for persons presently holding positions within the executive branch of government to deny that we hold title or sovereign rights in the Canal Zone is to close ranks in support of a treaty signed by the President.

I wonder if each Senator early in his school experience didn't learn that the United States acquired the Canal Zone, rid the area of disease, constructed the canal and has operated it under the American flag since the beginning of this century. At a time when world domination is being sought by a form of government entirely different from our own, it appears untenable to give away this vital artery of commerce, to pay Panama for taking it and to commit ourselves to defend it.

This view is shared by Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff from 1970 to 1974, who testified before the Senate subcommittee on separation of powers. Toward the end of his testimony on July 22 of this year, Admiral Moorer made these statements: "Surrender of U.S. sovereignty over the Canal would inevitably lead to the transformation of the entire friendly character on the Caribbean and the Gulf of Mexico. Everything would depend on the attitude of those who held sovereignty and ownership . . . I might say that in military affairs there is no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace."

Of course, Mr. Chairman, Admiral Moorer retired as our number one military officer and is in a position to candidly express his opinion at this time and I believe we can well understand the hesitancy of some active members of our military forces publicly disagreeing with their Commander-in-Chief. We need only to reflect on General Singlaub being called back from Korea and being reassigned because of a candid statement made by him and the rebuke of General Starry by the Secretary of the Army to realize that active duty officers and even civilian government officials are not entirely free to express opinions contrary to the administration's position.

Before these rebukes, however, on March 11, 1977, during a closed session of the Subcommittee on Manpower and Personnel of the Committee on Armed Services, Admiral Maurice Weisner, presently Commander-in-Chief, Pacific, or in other words, the Commander of all of our Armed Forces for one half of the globe, with headquarters in Hawaii, responding to specific questions regarding the importance of the canal to the United States. This testimony is reported at page 2378 of the hearings on military procurement for the fiscal year 1978 and I ask unanimous consent, Mr. Chairman, to include the page in the RECORD. He was asked for his views as to the importance of the Panama Canal; whether there would be any adverse effect on his command if the Panama Canal were not under the control of the United States. Let me quote his response: "I can see adverse effects, Senator Scott. It takes considerable time to move items by sea from the East Coast to the Pacific. Without the Panama Canal, you are adding 3 weeks' time in shipping critical items such as ammunition from an East Coast port rather than from a West Coast port."

Then I asked the Admiral if he would see a need for an increase in our naval strength if we did not control the Panama Canal. Admiral Weisner responded: "Yes; we would have to put these critical items being shipped by sea over a greater area." This, of course, is a response of an active duty military commander before the Singlaub affair.

Returning briefly now, Mr. Chairman, to the conclusion of the testimony by Admiral Moorer before the Judiciary Committee, he states, and I quote: "Anyone in this country who thinks that Soviet Russia is not staring down the throat of the Panama Canal is very naive, and I think it says something to note that the Soviets understand the importance of the Panama Canal apparently far more than many in our own country."

On September 8th of this year, retired Admiral John S. McCain, Jr. also testified before our Subcommittee on Separation of powers and I am quoting this 4-star Admiral: "From my combined military experience which includes Europe, Asia, the Pacific, the Caribbean and the United Nations, it is my conviction that U.S. interests are best served by keeping the canal, by retaining undiluted sovereignty over the U.S. Canal Zone." He added (and again I quote: "Finally, I would like to re-emphasize the importance of the June 8, 1977 letter of the four greatly distinguished chiefs of naval operations to the President that was quoted in the testimony of Admiral Moorer. Their conclusions reflect a vast background, including combat experience; and are more pertinent today than ever. Retired military officers are completely free to voice their inner-most convictions. Active duty officers have an obligation to support the policies of their commander-in-chief."

I would hope, Mr. Chairman, that this committee will call more retired military officers in whom you have confidence and who are free of constraints from their commander-in-chief and ask their candid, personal opinions on the dangers of our Government parting with title to the Canal and the gradual turnover of full control to the Republic of Panama.

Mr. Chairman, we sometimes hear that Latin America favors the transfer of title and control of the Canal Zone from the United States to Panama but I have taken two trips to Latin America this year and have had the opportunity to talk with chief executives and other principal officials of a number of Latin American countries, with embassy personnel, with intelligence officers, with American citizens, as well as foreign nationals within the countries visited.

In Colombia I learned that because of kinship with an adjoining Latin country, Colombian officials do favor the transfer of the canal but are very much concerned about the contemplated increase in tolls, stating that the only practical way to transfer material from one part of their country to another is through the canal.

Brazilian officials didn't seem to have any real concern regarding the proposed transfer, referring to it as a matter between the United States and Panama. Perhaps this is because Brazil fronts on the Eastern coast of the South American continent and is not among the prime users of the canal.

In Argentina, officials indicated that they did not make extensive use of the canal but expressed fear that it might come under communist control.

Chilean officials were even more concerned of the possibility of Communist influence or control of the canal indicating that 95% of their commerce used the canal and that they could not afford an increase in tolls or to have this vital artery subject to direct or indirect control by Communists. Chilean officials indicated that our contemplated action in giving up the canal appeared to be contrary to the best interest of the world community and they would much prefer that we retain complete control of the canal.

In Peru, we again heard that Panama was a neighboring country and because of this they favored the transfer to Panama. However, officials indicated their country would suffer greatly if the tolls were raised as appears to be inevitable if the treaties now under consideration are ratified. Contrary to some suggestions, officials of every South American country visited indicated that there would be no repercussions from their country if the Senate failed to ratify the treaties.

Within the Canal Zone itself, we heard the strongest opposition and the greatest fear of communism. American citizens complained of violation of human rights, they spoke of lack of expertise and management ability, of the differences between salaries within the zone and the Republic of Panama. Many indicated that they would not continue to work within the Canal Zone if it came under the control of Panama.

I inserted a detailed statement of the Panamanian trip in the August 4, 1977 CONGRESSIONAL RECORD and included a statement by the heads of various civic groups within the Canal Zone. Should any Senator have any doubt about the feeling of American citizens living in the Canal Zone, he might want to refer to this statement. It concludes, and I quote: "for ourselves as U.S. citizens living and working thousands of miles from our homeland, we can say, 'pack us up tomorrow. We're ready to go.' But for the sake of U.S. commerce and the U.S. national interests in general in the western hemisphere we urge you to examine the proposed treaty in minute detail.

"We urge you to visit here for more than three days, to observe the situation with your own eyes and not to depend solely on briefings by U.S. or Panamanian Government officials. The new treaty with Panama will have long-range repercussions that coming generations will have to live with; we urge you not to ratify a new treaty solely because the State Department says that a treaty is the cure-all to problems with Panama. The Russia-Cuba axis and the American electorate are waiting to see which way the treaty goes. A hasty decision on the part of our Congressmen without giving deep and thoughtful study to the question would please the former and infuriate the latter."

Now, Mr. Chairman, on this question of Communist influence, Mr. Charles Conneely, a member of the professional staff of the Armed Services Committee, and myself talked privately in a number of Latin American countries with Embassy officials, with military intelligence officers, with CIA officials, with both American citizens and foreign nationals about the possibility of Communist influence. We first visited in Panama and were somewhat skeptical, or thought perhaps the Americans living within the zone might tend to exaggerate the question of Communist influence. Yet, the statements they made were verified in private conversations with the American intelligence community in various Latin American countries. In acting upon this treaty we may well be considering not only future control of the

Canal Zone but future control of the Caribbean.

Therefore, it would seem important enough to the defense of our own country and that of the free world to have military and civilian intelligence officials, both active and retired, to testify under oath in closed sessions regarding Communist influence, within Panama and other nations of Latin America. Time after time we heard the names of leading political figures in Panama identified as Communists and were told that there were strong Communist influences throughout the Panamanian Government. I call these statements to the attention of the committee because of their repetition by so many people during our South American visit and suggest that the committee endeavor to ascertain the truthfulness of falsity of their allegations.

I believe the committee and the Senate will want to consider these factors in determining whether to advise and consent to the treaties.

My own opinion, Mr. Chairman, is that these treaties should be defeated. But I would hope that the administration could then be encouraged to negotiate an arrangement for joint control by the United States, Panama and a limited number of Latin American countries but with ownership of the Canal Zone remaining in the United States.

STATEMENT OF SENATOR JESSE HELMS

Mr. Chairman, and distinguished members of the committee: I come before you today not to give you some pre-set opinions of my own, but to raise some questions which I have not yet seen fully answered by the distinguished witnesses who have appeared before you. I would not be candid if I did not admit that the texts of the treaties have done little to convince me that the basic principles of the Kissinger-Tack agreement of 1974, upon which the treaties are based, are themselves adequate to support the national interest. But no one can prudently adopt an attitude of a closed mind. Indeed, should the treaties pass—and I hope they do not—it will still be best that all aspects of the treaties and their implications be fully aired, and fully understood by all concerned. I therefore raise these questions today in the hope of creating an intelligent dialogue.

QUESTION NO. 1: THE REAL ISSUE

Let us take the slogan, frequently heard, "our true national interest is in the continued use of the Canal, not in ownership." Is not the real question rather whether the continued use of the Canal will be better protected by the present treaties or by the proposed new treaties? Will we be better able to keep the Canal open, safe, and efficient under the present system where we exercise exclusive command and control over a clearly demarcated area, or will it be easier to keep it open, safe, and efficient under the mixed administrative system with a combined defense and interlocking, overlapping areas of responsibility?

QUESTION NO. 2: U.S. SOVEREIGNTY IN THE CANAL ZONE

Let us now take the question of what kind of control we actually have there. Is it really true that the United States does not exercise the full rights of a sovereign in the Canal Zone? I am distinguishing the rights of a sovereign from the rights of a property-owner. Sovereignty is not some abstract concept like title. It means power. The 1903 Treaty is quite explicit. We exercise absolute power in perpetuity; Panama specifically quits claim to any exercise of power in perpetuity. I would like to ask the distinguished Committee if it has found any statement by the United States Congress, by any U.S. President, or by any U.S. Secretary of State—or any international agreement with Panama, previous to the Kissinger-Tack Agreement of 1974—which specifically abrogates our rights to the exercise of sovereignty as found in the 1903 Treaty. Is there a single statement of this kind?

QUESTION NO. 3: U.S. OWNERSHIP OF THE CANAL ZONE

There is a similar problem with regard to ownership. As you know, this is a separate problem from sovereignty. Many people today are making statements that we do not even own the Canal Zone. But that is obviously not true. Does not the record show that we acquired property in the Canal Zone by four different methods:

First, by a grant in perpetuity of national lands of the Republic of Panama, for which we paid $10 million;

Second, by purchase from the bankrupt French canal enterprise of lands held in fee simple, improvements, equipment, concessions, and stock in the Panama Railroad, $40 million.

Third, purchase in fee simple of individual tracts held by private owners, as well as payments to squatters who held rights through adverse possession, $4 million.

Fourth, recompense to Colombia for her reversionary rights in the French concessions, $25 million.

Is it therefore not true that we bought it and paid for it? Did not the U.S. Supreme Court in 1907, in a holding which has never been reversed, declare that it was hypocritical to contend that our title was imperfect? Did not the Court say, and I quote:

"The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial. Such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us forty years ago, but the boundary between it and the English possessions east was not settled until within the last two or three years. Yet no one ever doubted the title of this Republic to Alaska." (204 U.S. 32–33)

I would further point out to this distinguished Committee that the United Staes Congress has always treated the Canal Zone as U.S. territory within the meaning of its authority in Article IV, Section 3. Congress serves directly as the legislature for the Canal Zone. Under Article IV, it has erected a District Court, and a Canal Zone Code. The laws which we make for the several States apply or do not apply to the Canal Zone as we see fit. Congress has the right to determine that under Article IV. For example, the question of citizenship for persons born in the Canal Zone was raised here the other day as though that were a test of U.S. sovereignty. The fact is the Congress has the authority to determine the requirements for citizenship. And if you look at 8 U.S.C. 1101 (a), you will find that the definition of the term "United States" specifically includes the Canal Zone for the purposes of the law of citizenship.

QUESTION NO. 4: WILL WE HAVE REAL CONTROL

It is of course clear that Panama will exercise complete sovereignty in the area of the present Canal Zone as soon as the treaty goes into effect (except for a few transition items). But is not the effect of the treaty upon U.S. ownership nothing other than a scheduled timetable for nationalization of U.S. property—nationalization, incidentally, without compensation? We turn over some properties immediately; we turn over others on schedule. We receive nothing in return.

Even though the last parcel is not turned over for 23 years, is it really true that we will have any effective control over those properties and their operation? I note that according to the terms of the treaty, there will have to be a reduction of some 20% of U.S. citizen employees within five years. At present we have 3,395 U.S. citizen employees; 567 of these are in so-called "security" positions necessary to the preservation of civil order and to the continuity of canal operations under emergency conditions. Many of the civil order positions will be abolished and the duties turned over to the Panamanian National Guard; others are among the high-salaried, skilled and executive positions that will be most sought by Panamanian nationals. Will not practical control, as distinguished from theoretical control, rapidly diminish simpy through attrition?

And as for the legal structure of the proposed Panama Canal Commission, I note that it will be an agency of the U.S. government, but that its board of directors will be composed of five U.S. nationals and four Panamanian nationals. I have been unable to find any precedent for an operating agency of the United States government with such a strong participation of foreign nationals. Perhaps this Committee can find some; if they exist, they should be studied carefully. Will the United States be able to maintain objective control of the Commission's operations when foreign nationals are privy not only to all decisions, but also to all proprietary information and financial accounting?

In addition to the Board of Directors, the treaty and its annexes provide at least six other boards: The Combined Defense Board, the Joint Commission on Environment, the Panama Canal Consultative Committee, the Coordinating Committee for the Implementation of Article III (Operations and Management), the Coordinating Committee for the Implementation of Article IV (Combined Defense), and the Ports and Railroads Committee. There may be more that I overlooked. In each of these, the representation on both sides is equal. The U.S. does not have a majority on any of them. Is this not setting up a situation where there could easily be a stalemate over policy, or even a diplomatic incident? Do we really control these operations?

QUESTION NO. 5: DEFENSE

The same situation exists with regard to defense. The Senate Armed Services Committee is already studying the many problems which abound in this area very carefully, and I will not take the time of this committee with specific issues. But is not the very concept of combined defense the fatal flaw that makes these treaties untenable? The fundamental premise of the proposed treaties is that our present status is no longer viable because of the threat of sabotage from disgruntled Panamanians. But after we surrender our sovereign command and control, retaining only an undefined "primary responsibility" for defense, will we not be totally indefensible against the sabotage of dissidents? The treaties make our supposed vulnerability worse, not better. Will that improve our defense?

QUESTION NO. 6: THE TORRIJOS REGIME

A second fundamental premise is that the treaties will eliminate or reduce Panamanian dissidence, giving us the cooperation of a friendly Panama. But human nature is not so tractable. The treaties make us partners with a regime that is seriously flawed in many respects. There is a serious body of evidence that General Torrijos and his immediate family are heavily involved in controlling the flow of cocaine and other drugs from South America to North America and other markets. The General wields enormous personal power; he is not responsible to anyone. Although there are many military regimes in Latin America, most are composed of military juntas who took power reluctantly in the midst of social and economic chaos.

There was no such overwhelming reason when President Arias was thrown out after ten days of office. If you look at Article 277 of the 1972 Constitution of Panama, you will see the full extent of just those powers to which Torrijos admits to having. In practice, the Torrijos government is arbitrary and corrupt. By becoming a full partner, indeed, even the guarantor of this regime, do we not open the door for future agitation, particularly when the mixed administration and combined defense arrangements offer so many opportunities for misunderstandings and agitation? There is fruitful ground here for infiltration, subversion, and the overthrow of the Torrijos government by outside forces determined to control Panama and, through Panama's sovereignty, the Panama Canal.

Moreover, the background of Torrijos himself is not encouraging. Although he is probably too undisciplined and self-seeking to submit directly to Communist control, it is well known that his parents were active Communists, and that he and his brother and sister were active members of the Communist youth movement. Perhaps that is why he has gathered men around him of the same stripe: mercurial, Marxist, anti-American. Several of the negotiators themselves have been in and out of the Communist Party. Torrijos and his advisors continue to express admiration for the Cuban revolution and for Libya's Qaddafi. They have formally aligned Panama with the so-called Third World group. Even if the Torrijos regime is not overwhelmed by Communists, is this the kind of government that is going to be cooperative and friendly to our interests and our interpretation of the treaties?

QUESTION NO. 7: THE U.S. EMPLOYEES

Even those who believe that the Canal should be given to Panama will admit that the Canal's outstanding record is attributable to the dedication, loyalty, pride, and morale which the employees of the Canal have shown in their work. This is particularly true of the U.S. citizen employees. Even if Panamanians are to be phased into their jobs, we still cannot operate the Canal and train Panamanians without their assistance. Yet a recent poll indicated that 62.8 percent say that they will not remain under Panamanian jurisdiction.

These are the Americans who know the Torrijos government best. A substantial percentage of them are intermarried with Panamanian families and understand too well what will be in store for them. Some of our diplomats charge that the Zonians are a privileged caste, reluctant to give up a privileged way of life. In a sense they are privileged—in that same sense that all Americans are privileged to live under the U.S. Bill of Rights, with competent policemen, fair courts, and equal taxation. By forcing them to give up these rights if they wish to continue their jobs, we are breaching the terms of their employment contracts. The treaty does not protect their rights if they choose to leave; they get transfer rights only if their jobs are eliminated. Would it not be sensible to offer a reservation to extend diplomatic immunity to every U.S. citizen employee? The treaty provides for 20 top officials to get immunity: if it is necessary for those 20, why not for all? Including dependents, it would affect 9,400 U.S. citizens in a country of 1.6 million people.

This compares with a total of 18,879 people with diplomatic immunity in the Washington, D.C. area, with a population of 3 million. If this treaty is ratified, the U.S. will become a co-conspirator to deny these employees the civil rights they deserve as Americans. Do our diplomats think that they are the only ones who need privileges and immunities while living in a repressive society?

QUESTION NO. 8: OUR POSITION IN THE WORLD

It is often said that all of Latin America is demanding that we give back the Canal Zone to Panama. But the available evidence is rather scanty. Panama's immediate neighbors, and those Latin American countries given to Marxism, socialism, and expropriation of American investments have found the issue one more excuse to denounce the gringos. But I have been in several Latin American countries—some of the largest and most important ones in South America. I have talked to Presidents, Foreign Ministers, and Joint Chiefs of Staff. Without exception they all told me that they were deeply disturbed by the thought of the Canal going to Panama, not only for their economic interests, but because of Torrijos' Marxist leanings. They have told other of our colleagues the same thing. They are all disturbed by the lack of leadership and our apparent surrender of important international interests to a weak country. If we are so concerned about Latin America, why have we not consulted the Inter-American Defense Board with regard to this treaty? The IADB is the only independent multilateral organization concerned with the defense of the Western Hemisphere. It was organized in 1942. Would it not be wise to consult with Latin American defense experts before changing the status of a strategic defense installation?

QUESTION NO. 9: THE BY-PASSING OF THE ROLE OF CONGRESS

The final question relates to the State Department's handling of the treaty negotiations. We have a situation where the overwhelming majority of the American people are opposed to giving away the Panama Canal. It has also been clear that substantial portions of both houses of Congress are opposed and have been opposed. Yet instead of dealing honestly with the problem, the State Department has taken the position that Congress can be bypassed. Would it not have been better, given the political problem, for the State Department to have worked through Congress, rather than by-pass Congress?

For example, on the Article IV, Section 3 issue, why did not the State Department go the last mile and seek Congressional authority to dispose of the Canal Zone, instead of denying that authority was needed? For example, why wasn't the Kissinger-Tack agreement submitted to Congress as a joint resolution? It would have required only a majority vote, and the negotiators would have had a clear mandate. Why is the Administration now stating that the House of Representatives need not play a role? Why is Panama being paid benefits out of tolls, by-passing the appropriations process? Why are major military and economic benefits being funnelled through military credits and loan guarantees, by-passing the authorization process? These techniques are not calculated to reassure the American people. They will continue to ask questions and to demand answers.

STATEMENT OF THE HON. JOHN M. MURPHY

Mr. Chairman, Members of the Committee, I greatly value the opportunity to appear before this committee which has had such an important role in the history of the conduct of foreign relations of the United States.

Let me begin by emphasizing that as chairman of the House Committee on Merchant Marine and Fisheries, I do favor the concept of a new treaty relationship with the Republic of Panama with respect to the Panama Canal. For example, I indicated as long as seven years ago, when I chaired the House Subcommittee on the Panama Canal, that real estate adjustments can be made in Canal Zone boundaries. I also think we can find a way to bring additional economic benefits to Panama from the Canal, although we cannot demean the gigantic benefits that Panama has reaped from the waterway over the years. Further, every assistance should be afforded to Panamanian private enterprise to take advantage of the economic opportunities which the Canal Zone offers.

While I agree with President Carter that there is a need for a new treaty relationship, the haste and self-imposed deadline that characterized the most recent phase of the negotiations has resulted in defective treaties which do not achieve the objectives they sought to attain—"an open, safe, efficient, and neutral Canal" under a treaty relationship that "protects the national security interests of the United States". Neither will the said treaties help to endear us with our Latin American neighbors, nor will they better protect the Canal against sabotage.

I want to make clear that my observations on the treaty today are not meant to reflect in any way on the dedication and patriotism of our fine negotiators, Ambassadors Bunker and Linowitz. They worked hard in attempting to resolve one of the most difficult foreign policy questions that has ever faced this Nation. Perhaps they have come up with as good a set of documents as could be permitted by the time limitations that were imposed by Ambassador Linowitz's six-month appointment, but I submit that such haste and failure to seek the assistance and guidance of many Members of Congress has resulted in a fatally defective treaty which will create more problems than it will solve.

In this statement I will briefly outline some of the defects in these treaties which make them unacceptable in present form, and then discuss those matters with respect to the documents which, in my view, are in need of special analysis. I will also address the overstatements and inaccuracies that have unfortunately served as somewhat faulty premises for adoption of the proposed treaties.

The circumstances which attended negotiations in recent times have led to the following flaws in the Panama Canal Treaty and the Treaty for Permanent Neutrality of the Canal:

1. The bypassing of the House of Representatives in the matter of disposal of U.S. property and territory;

2. The bypassing of the House in the matter of appropriations;

3. The absence of clear and unequivocal language to allow U.S. action to protect the canal in times of hostility;

4. The absurd prohibition until the year 2000 precluding the U.S. from negotiating for a new sea level canal with any country other than Panama, a prohibition which places the U.S. in a totally dependent position without any logic or reason;

5. The formulation of an overgenerous economic compensation package which will likely ruin the economic viability of the canal as a self-sustaining operation and result in enormous U.S. subsidies to run the canal in future years;

6. The location of many key items with respect to control of the canal in accompanying executive agreements rather than in the body of the treaties, thus allowing for piecemeal erosion of the tenuous and limited rights found in the treaties themselves;

7. The pervasiveness of vague and ambiguous language, and, in fact, the absence of language, with respect to many important subject areas, including:

(a) The U.S. rights of intervention;

(b) The boundaries of the properties being immediately taken over by Panama;

(c) The taxation of canal properties by Panama;

(d) The obligation to turn over the canal to Panama in the year 2000 free from debt and in good operating condition;

(e) The Panamanian takeover and the U.S. use of docks, housing, railroad, etc.

8. The failure of the treaties to address the disposition of other relevant canal agreements such as the U.S.-Hay-Pauncefote Treaty of 1901 which sets forth the international obligations in connection with the neutral operations of the canal, and the Thomson-Urrutia Treaty of 1914, which gives to Colombia certain privileged rights with respect to transit.

In terms of precedents, the most harmful aspect of the entire treaty process could be the circumvention of the House of Representatives in disposing of the properties belonging to the United States in the Panama Canal and Canal zone. This circumvention results from the administration's incorrect interpretation of what should be the appropriate constitutional process in this matter.

You have recently heard administration officials state that the congressional power to dispose of U.S. territory and property is a concurrent Constitutional power that does not override the treaty-making powers of the President, and that the power of the Congress to legislate for the Canal Zone does not preclude the disposal of this territory by treaty. The support for this view is based on cases involving Indian treaties, boundary treaties and a few instances of congressional acquiescence which are fundamentally different from the transfer of Canal Zone properties comprising a major U.S. territory and a seven billion dollar investment.

Cases involving Indian treaties are fundamentally different from the disposal of the Canal Zone because:

1. They involve a recognition of the existing Indian rights over the particular territory.

2. In each instance the Indian tribes conveyed by treaty to the U.S. enormous tracts of land and selected members of the tribe were allowed to retain small reservations for their own use. Thus, it could be readily argued that there was no disposition of U.S. property.

3. The U.S. retained residual rights in connection with the lands reserved to the Indians and, of course, maintained its rights of eminent domain.

4. Even if such reservations could be deemed disposals, the Congress authorized the same and acquiesced to executive action over a long period of time.

5. More than a century has passed since Congress withdrew its acquiescence to transfers of property by treaty, and the Senate concurred.

6. The status of the American Indians interest in land in the U.S. is unique and entirely different from that which would entail a transfer of the Canal property to a foreign sovereign.

The boundary treaties which are put forward as one of the chief precedents for the disposal of the Canal Zone by treaty are distinguishable by reason of the fact that they involved property that, for purposes of jurisdiction, was in dispute and entailed an exchange of, rather than a disposition of, property.

If the practice of disposing of U.S. territory and property has followed various procedures, as the executive contends, then past practice with respect to the disposition of Canal property and Canal Zone territory ought to be the key to a decision with respect to relinquishing the Canal Zone. The past practice is clear. The House of Representatives has tenaciously asserted its role, and the general rule has been that the disposal of property is accomplished only by a legislative enactment of Congress. In 1932, 1937, 1942 and 1955, property was transferred to Panama after the House and Senate authorized it. If the House as well as the Senate played a key role in the process of divestment of relatively minor assets in the Canal Zone, it seems only logical to obtain House approval in the determination of the fate of the entire Canal Zone and Panama Canal and the disposition of billions of dollars of U.S. properties.

The case for the involvement of Congress under the property clause in the Constitution (article IV, section 3, clause 2) rests, of course, upon U.S. property interests in the Canal Zone. It is indisputable that we do have such property interest. On August 17, Ambassador Bunker acknowledged that interest before the committee I chair. It is sufficient for our purposes here to state that the United States holds much of the land in the Canal Zone in fee simple, that deeds to such lands were obtained, and that Panama ceded even reversionary rights to the French canal company assets and property purchased by the United States.

All of the U.S.-owned property with respect to the Panama Canal and the Canal Zone constitute property interests of the U.S. within the purview of the congressional powers vested under Article IV of the Constitution. Such ownership, of course, includes the waterway, appurtenant installations, buildings and other structures in the zone, as well as the assets of the Panama Canal organization and military departments and U.S. government agencies in the zone.

With all due deference to the Honorable Griffin Bell, I should like to respond briefly to the statements made by him on September 29th before this committee.

Attorney General Bell places great emphasis on some selected references to the constitutional debates which indicate that territorial disposal rights were of major concern in connection with treaties. This, of course, begs the question, since it could be argued that the insertion of article IV, section 3, clause 2 in the Constitution giving such powers of disposal to the Congress obviated the concern of authorizing the President to dismember the Republic by treaty.

In Elliot's Debates, p. 501, James Madison responded to Patrick Henry's concern that two-thirds of a quorum could make a treaty and "relinquish and alienate territorial rights." Mr. Madison stated:

"He thinks that, by the power of making treaties, the Empire may be dismembered in time of peace. The King of Great Britain has the power of making peace, but he has no power of dismembering the Empire, or alienating any part of it. Nay, the King of France has no right of alienating part of his dominions to any power whatsoever. The power of making treaties does not involve a right of dismembering the Union."

Article IV, section 3, clause 2 of the Constitution gives to the Congress not only the "power" to dispose of, but also the power to make "all needful rules and regulations respecting the territory or other property belonging to the United States . . ." The use of the word "all" clearly indicates that such power is exclusive.

The Percheman case, cited at page 10 of this committee, involved an attempt to confirm title to property claimed by virtue of a grant from Spain in 1815 before the 1819 treaty in which Florida was ceded to the U.S. The court held that the cession of property from one sovereign to another cannot interfere with private property. It does not explicitly or implicitly stand for the proposition that Congress' power to make all rules and regulations respecting American territory could be implemented by self-executing treaty. Nor did the court rule that power to be concurrent. The case involved statutory construction—not constitutional interpretation.

Moreover, Congress did act in connection with the 1819 treaty with Spain and authorized the President to take possession of the Spanish cessions and to provide rules for their government. By implication, it is obvious that by expressly accepting the territories of Florida, the Congress also acquiesced in the fixing of the boundary line between the two countries to the east and west of the Mississippi.

Furthermore, we are again dealing with an adjustment of a boundary line dispute which, even absent congressional approval, would be quite different from the proposed transfer to Panama.

The Congress has limited the President's power under the Panama Canal Zone Code to acquisition of additional land or exchange of land. No authority was granted by Congress to the President to dispose of land in the zone and prior practice in connection with property disposals in the Canal Zone clearly indicate that no such authority was ever intended.

It would also appear that the treaty provisions for transfer of property of the United States with Congressional approval runs counter to the language contained in the last sentence of article IV, section 3, clause 2, namely: ". . . nothing in this constitution shall be so construed as to prejudice any claims of the United States." Clearly, the United States has "claims" in the Panama Canal Zone and the treaty clause should not and must not be construed to prejudice such claims.

Governor Randolph, during the debate in the 1788 Virginia convention, in specifying the limitations and restraints of the President and the Senate under the treaty-making authority, stated:

". . . will not the last clause of the 4th article of the Constitution secure against dismemberment? It provides that 'nothing in this Constitution shall be construed as to prejudice any claims of the United States, or of any particular State.' And if this did not constitute security, it follows from the nature of civil association, that no particular part shall sacrifice the whole." (*Elliot's Debates*, pp. 504–5).

Attorney General Bell shrugs off the fact that the U.S. Supreme Court has consistently, in literally dozens of cases over two centuries, ruled that the power of the Congress under article IV, section 3, clause 2 *is exclusive*. Because these cases related to the authority of the executive and judicial branches does not diminish the relevance or impact of such clearly established authority just because "none of them dealt with the . . . power of the treaty-making authority to make such disposition." The fact is that the Supreme Court has never held that the powers of Congress under article IV are not exclusive and certainly none of the decisions dealing with Indian treaties could be so construed.

The dictum of *Holden* v. *Joy* is not controlling because of its irrelevance to the case as stated by the court in its opinion ". . . but it is not necessary to decide the question in this case, as the treaty in question has been fully carried into effect, and its provisions have been repeatedly recognized by Congress as valid."

Furthermore, the decision of the Supreme Court in a much more recent case, *Sioux Tribe of Indians* v. *United States* (316 U.S. 317) (1942) appears to be controlling. In that case the court stated:

"Section 3 of Article IV of the Constitution confers upon Congress exclusively 'the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States' . . . .

"Concededly, where lands have been reserved for the use and occupation of an Indian Tribe by the terms of a treaty or statute, the tribe must be compensated if the lands are subsequently taken from them . . .

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in these lands must be traced to Congressional delegation of its authority." (316 U.S. 317, at 342).

In *Youngstown Sheet and Tube Company* v. *Sawyer* (343 U.S. 579) Mr. Justice Jackson noted that opinions of Attorney Generals are partisan comments. Justice Jackson was, of course, a former Attorney General fully aware of the atmosphere in which the attorney General opinions are written. The attorney general is, in fact, the President's lawyer. But, if we are to look to opinions of Attorneys General in this matter, then may I refer you to an extract from an opinion rendered by Attorney General Harlan Stone in 1924 to the Secretary of the Navy:

"The Constitution (Art. IV, Sec. 3, Cl. 2) gives to Congress the power to 'dispose of . . . property belonging to the United States' and Mr. Justice Thompson, sitting in Circuit in *U.S.* v. *Nicoll* 27 Fed. Case 15879 (pp. 149–50) said:

" 'No public property can therefore, be disposed of without the authority of law either by an express act of Congress for that purpose, or by giving the authority to some department of the government, or subordinate agent.'

"It follows then that property once acquired by the Government may not be sold, or title otherwise disposed of, except under the authority of the Congress, and in the manner provided by law, and this prohibition extends to any attempt to alienate a part of the property or in general, in any manner to limit or restrict the full and exclusive ownership of the United States therein . . ." (34 Op. Att. Gen. 320, 322).

In summary, the text and history of the Constitution, case, law, and prior practice in connection with disposal of property in Panama all support the proposition that the disposal of territory and property belonging to the United States requires congressional approval.

The 1903 treaty with Panama was entered into by virtue of the powers granted by Congress (the Spooner Act of 1902). No less than full congressional approval should be required for the annulment of this historic treaty.

I hope that this committee will uphold the view that one of its previous chairmen took in 1942 when, concerning a dispute over the role of the House in disposing of canal property, Senator Connally said:

"Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty.

"Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because 'the Congress' means both bodies. The House of Representatives has a right to a vote as to whether any transfer of real estate or other property shall be made either under treaty or otherwise

"Another reason why it is not necessary to embody the provisions of the joint resolution in a treaty or treaties is that so far as Panama is concerned, most of the results sought to be attained by means of the joint resolution have already been accomplished. We already have the sites; we already are occupying them; we already are putting installations upon them for the proper defense of the Canal Zone. The instrumentalities involved comprise not only airfields, but detector stations, searchlight stations, and all the other various instrumentalities for the proper protection of the Canal and its approaches." (88 Con Rec. at 9257).

Now we are dealing with much more than sewer and waterworks systems or navigation aids or airfields. We are dealing with our entire property interests on the isthmus. I therefore urge that the only treaty the Senate ought to accept is one which includes congressional authorization for disposal of U.S. canal property as one of its provisions. Absent that provision, the treaties should be remanded to the negotiators.

I sincerely believe that we as members of Congress are trustees for the powers vested in us by the Framers of the Constitution, and as such, have the duty to preserve and protect such powers. With your permission, Mr. Chairman, I would like to submit for the record several documents, including a memorandum of law, which more fully discuss the interpreation of article IV, section 3, clause 2 of the Constitution. Also, if the committee wishes to make inquiry into the boundary treaties, the Indian treaties, or other contentions with respect to the property clause, I will be happy to address those matters.

There is another constitutional question here of great importance—and that involves the constitutional requirement that "no money shall be drawn from the Treasury, except in consequence of appropriations" (article-I, section 9, clause 7).

In spite of these requirements, the proposed treaty requires the payment of billions of dollars to Panama without specific approval by the House of Representatives.

The provisions of the proposed treaty for payment to Panama "out of canal operating revenues" are appropriations of public funds that under the constitution require prior action by the Congress.

The proposed Panama Canal treaty provides that the United States will operate the canal "by means of a United States Government agency called 'The Panama Canal Commission' which shall be constituted by and in conformity with the laws of the United States." The functions to be assigned to the new agency are now performed by the Panama Canal Company and by the Canal Zone government.

The treaty does not purport to further specify the form of the government agency to be established for the indicated purpose and the Congress might well establish the agency either as a government corporation, such as the Panama Canal Company, or as a non-corporate establishment, such as the Canal Zone government. In either case, the canal operating agency would be subject to the laws of the United States applicable to the disbursement of public funds, and payments of expenses by the new agency, including the payments to Panama, would have to be provided by appropriations. Provision for such payments out of canal operating revenues without appropriation by the Congress is clearly in contravention of Article I, Section 9, Clause 7 of the Constitution.

In addition to the paramount constitutional questions, I must, as chairman of the House committee which oversees canal operations, voice my concern as to the economic compensation package provided in the Panama Canal treaty.

The Panama Canal's commercial value rests upon the provision of efficient service at reasonable toll rates. As one financial expert said, the reliability of user charges and open disclosure of financial results are the key to the financial worth of the canal. The increase in tolls of approximately 40 percent or more that will be required immediately under the new treaty, and the inflationary indices that will cause future toll increases, will inevitably result in diversion of traffic from the canal and strike a mortal blow at the concept of operation of the canal on a self-sustaining basis. The required toll increases will simply be beyond the capacity of the canal to handle. I find it difficult to understand how we can aggressively pursue minimizing tolls at the St. Lawrence Seaway and maximizing them at the Panama Canal.

The U.S. will be forced inevitably to directly subsidize theoperation of the canal through appropriations. This result, of course, does not comport with the frequently made assertion that there will be no additional burden on the taxpayer as a result of these treaties. The discontinuance of the payment to the Treasury of interest on the investment of the U.S. in the canall, which is implicit in holding a tolls increase to 40 percent, will itself diminish the Treasury of the United States by a half-billion dollars by the year 2000, and in effect, result in payment to Panama of interest on funds invested by the United States.

In summary, the abrupt changes in canal finances that will result from the proposed treaty will have irreversible consequences that will pose a threat to use of the canal and the economies of the U.S., our allies, and nations in Latin America.

While my testimony to this point has addressed the organic defects of the proposed treaties, it is clear that the underlying premises for these treaties are a major part of the on-going debate. In very brief fashion, I would like to address the three premises upon which approval of the treaties is suggested. All three of the premises have been so overstated or inaccurately drawn that they often bear little resemblence to reality.

It is said that the Panama Canal is of diminishing and minor importance to the United States both commercially and militarily. This is incorrect. Commercially the canal is of major and continuing importance to the United States and militarily the Panama Canal and Canal Zone remain major military assets of our country, and in essence, constitute the southern flank of our defenses.

There are many statistics which point to an increasing rather than decreasing role for the canal in our commerce and security. I have appended some of those statistics to this statement and ask permission that they be inserted for the record.

It has also been said that should the treaties fail to gain approval there will be violence and sabotage of the canal. Selling these or any treaties that must endure for generations on the basis of response to a threat of violence does great injury to the conduct of our foreign relations. This issue is not a proper one for consideration.

Threats always cut two ways. If we are going to respond to threats, could that provoke disgruntled canal employees or fanatic superpatriots to proclaim they will sabotage the Panama Canal if the United States can no longer own and control it? The General United States policy to resist threats from terrorists has worked well. We must apply it in this debate on the treaties. To support or oppose a treaty because one side or another is more prone to violence is most unwise.

The Panama Canal is only one of many major facilities that are vulnerable. The U.S. Capitol was vulnerable to the Weathermen several years ago.

Finally, it is said that the Panama Canal treaties are the top issue on the Latin American agenda, and that the U.S. would face hostility from Latin America if the treaties are rejected.

This overstatement is contradicted by the experience of many of our officials in Latin America. None of us can believe that the countries on the west coast of South America or the countries in Central America will be happy about the tolls increase that is implicit in the treaty. In fact, at the gathering of the Organization of American States in Grenada this year, that organization voted 19 to 0 (The U.S. abstained, Panama did not vote) for a resolution stating that canal tolls should reflect only the actual operating costs of the waterway.

The success that Panama has had in garnering support in Latin America should be juxtaposed against the fact that Panama has consistently failed to obtain the degree of Latin American support she has sought for her position in reference to the Panama Canal. With respect to the treaties themselves, in September, despite some pressure salesmanship from the U.S. the Latin countries refused to endorse the agreements and signed only a watered-down resolution.

In conclusion, the proposed treaties should be accepted or rejected on the basis of whether they serve the best interests of the United States, not on the basis of who is supporting or opposing them, not on the basis of party, or region. A properly-conceived treaty arrangement may serve U.S. and Panamanian interests, but I do not believe the treaties should be accepted in their present form. Above all, I think we should be realistic enough to recognize that because of the manner in which these treaties were negotiated, an atmosphere has been created in which violence or stoppage of the canal will probably occur regardless of approval or disapproval of the treaties.

Thank you.

APPENDIX

DATA IN SUPPORT OF THE CONTENTION OF THE CONTINUING IMPORTANCE OF THE PANAMA CANAL AND CANAL ZONE

COMMERCIALLY

The Panama Canal is a U.S.-oriented Canal because two-thirds of the vessels transiting have a port in the U.S. as a point of origin or destination.

The Maritime Administration estimates that by the year 2000 U.S. exports through the Canal will have doubled and U.S. exports will be at 2½ times today's levels.

The percentage of the total dollar value of U.S. ocean foreign trade transiting the Panama Canal has steadily increased in the last generation, and is expected to increase in the future.

96% of the U.S. fleet and 92% of the world's merchant fleet can transit the Canal today. The great majority of those supertankers which cannot transit the Canal were built for trade routes which do not come near the Isthmus of Panama.

70% of all the cargo that has transited the Canal has done so in the last 25 years.

MILITARILY

The lack of a true two-ocean navy while the U.S. has commitments in five oceans makes the Canal's availability for transit ever more important.

98% of our naval fleet can transit the Canal. Only our Nimitz class aircraft carriers cannot transit. The trend toward naval ship design is toward a smaller and faster vessel.

The Canal has been a major resource in hostilities and confrontations that occurred in World War II, Korea, the Cuban Missile Crisis, and Vietnam.

The Canal Zone has the only major ship repair facilities within 1,600 miles on the Atlantic side and 2,500 miles on the Pacific side.

The Canal Zone also has the only U.S.-controlled air base within 1,000 miles, and it is a military and communications crossroads of the hemisphere.

The only existing trans-Isthmian pipeline for ship bunker oil and aviation fuel are in the Zone.

The lack of adequate West Coast port facilities for the loading of supplies and ammunition makes the Canal crucial to U.S. military efforts, especially those in the Pacific theater.

TESTIMONY OF REP. DONALD M. FRASER

Mr. Chairman, I appreciate the opportunity to appear today to give my full support for the approval of the Panama Canal treaties. In my statement I will concentrate on the implications of your action for Panama and the other countries of Latin America.

Geography and history determined that the United States and Latin America share a hemisphere. Both North and South America were objects of European exploration and exploitation. Both found independence from Europe through wars of revolution. Both retained in their independence the culture and politics of the parent continents.

But geography and history have also destined different developments for North and South America. The United States became a world power in the 20th Century in part through its involvement in two world wars. Latin America remained largely isolated from those conflicts and from the industrial revolution. But geography continued to link these increasingly disparate continents.

Panama is the actual and the symbolic link between these two objects of European colonization. The Isthmus of Panama not only ties us together but also blocks access to the Pacific and to the Far East. The United States, in a vigorous and determined effort, broke that barrier with the unprecedented achievement of a lock canal through the jungles and mountains of the Isthmus. It was an achievement that drew the admiration and respect of South as well as North Americans. No country is more proud of the canal than Panama itself.

But as the United States grew more powerful in the world, its enclave traversing Panama became a symbol of another kind. Why, the Panamanians asked, should our country be forever in two pieces, separated by foreign territory? Latin America waited also for the answer to that question. The continuing poverty and political instability of Latin America makes that question much more urgent for its citizens than for our own. Even today, with the treaties before the Senate, this question concerns Latin Americans much more than it does our own people.

Despite efforts to create more interest in the canal treaties in the United States, our people are much less interested in who owns the Canal Zone than they are in whether or not the canal will continue to function. In Latin America, there is a reversal of priorities. Latins assume the canal will always operate but that the territorial presence of a superpower, even a friendly one, is intolerable. We may not fully understand that intolerance, but how we deal with it may well influence our relations with Latin America for the next century.

Most of the Latin American countries are under some form of military government. But the future of political development in Latin America is uncertain. These countries have also had some experience with democratic governments. Political movements, some of them associated with European democratic parties, exist in every Latin country. There are significant pressures toward a resumption of democracy in most Latin countries. These pressures are deep and broad.

Our country has not done nearly enough to encourage these democratic tendencies in Latin America. For too long we over-valued stability and neglected the nourishment of democratic development. Happily we seem today to be on a corrective course. This Administration's attention to human rights as an important element in our foreign policy has had a strong impact in Latin America. As both the Congress and the President restated our commitment to human dignity, the Latin American countries watched carefully. They are watching today.

The Panama Canal treaties are a test of this country's sincerity. If the treaties are approved, Latins who aspire to emulate the democratic ways of the United States will be reinforced. The United States model of political and industrial development will gain new strength. A major test of fairness and open-mindedness will have been met by the United States.

Approval of the canal treaties will not solve the problems of Latin America nor of its relations with the United States. But without that approval we will forfeit a large measure of our constructive influence.

I do not know how much influence we can exert in the coming years for democracy and human rights in Latin America. But the best opportunity for influence will come if we show Latin America and the rest of the developing world that we are capable of fair play despite our great power. When that test is met, Latin America will be far more impressed with the United States than it has been in the past. If we fail that test, we would tell Latins something about ourselves that we should be reluctant to concede.

I urge, therefore, the Committee to see this issue as not a matter of the canal, whose worth and utility is unquestioned. The issue is, rather, how the United States can adjust its responsibilities in a world still seeking models of political and industrial development. It is a test and a responsibility that we ought to meet honestly, openly and affirmatively.

STATEMENT OF THE HONORABLE LARRY P. MCDONALD

Mr. Chairman. I appreciate the opportunity to testify against the give away of the United States' Canal in Panama. I say that because, after reading the proposed treaty that is before this body, there are no possible benefits for the United States. The United States is simply leaving and paying the Panamanian Dictator Omar Torrijos to take the Canal off our hands. It is a bad treaty and should be rejected forthwith.

The presentation of this Treaty to the United States Senate is the culmination of a long process that started in 1946 when Agler Hiss, then head of the Office of Political Affairs at the State Department, sent to the United Nations a list of so-called "U.S. occupied territories" which included the Panama Canal Zone. The concept was presented to the world by Hiss that this country is renting that land in Panama and some day, inevitably, America would have to give it back.

From the beginning, this was the wrong premise. Those payments to the Panamanians are in annuity, not a rental fee. The United States' sovereignty has been affirmed in repeated court decisions. All the relevant court cases are cited in the hearings held by the House Committee on Merchant Marine and Fisheries Subcommittee on the Panama Canal entitled: "Panama Canal Finances" April 6, 7, and 9, 1976. The Canal is not leased territory for which we pay Panama a rental fee but a "grant in perpetuity" for which we pay an annuity. The only real right Panama has to this land and property is a reversionary interest should the United States ever cease to exercise its treaty rights in the areas designated, nothing more.

Therefore, contrary to the ponderous announcements by the Department of State, this is United States land and property, thus requiring under Article IV, Section 3, Clause 2, of the United States Constitution that the House of Representatives concur in any transfer of land or property. In this connection, I should mention that I am a party to two law suits on this matter now before the U.S. Supreme Court, and it is my fervent hope that the Justices rule in favor of the U.S. Constitution for a change and permit the Representatives of the people to participate in this decision. The people of Panama live under a dictatorship. Their voices cannot be heard on this issue. The voice of the American people should be heard.

Now I would like to go to the question of the Canal's strategic importance. The President and the Department of State are attempting to mislead the American people on this issue. The facts are that this country now has a one ocean Navy with two ocean responsibilities. The Carter Administration

has turned its sole attention to Europe. Dangerously neglecting the rest of the world. If another war were to break out in Asia, this country would vitally need control of the Canal in Panama. The United States cannot depend on the whims of a hostile leftist dictatorship when its Navy needs to move through the Canal.

I would remind the Committee that 94 percent of the world's merchant ships can transit the Canal and so can all our warships, except the supercarriers. Let us also remember that the Canal Zone is the southern and western anchor of our position in the Caribbean, a Caribbean with Soviet nuclear submarines now prowling about. Together with Guantanamo Bay in Cuba, Roosevelt Roads in Puerto Rico and the Florida Keys area, the United States can prevent the Caribbean from being turned into a Soviet lake. Abolish our Panamanian bases and the task becomes difficult.

Thirteen major trade routes funnel through the Caribbean Sea-Gulf of Mexico-Panama Canal region. It carries all of our commerce from the prosperous sun belt, and increasingly, it carries Alaskan oil to the east coast.

Even our right to expeditiously use the Canal in wartime has been challenged under the treaty by the Chief Panamanian negotiator, Romulo Escobar Bethancourt. He told newsmen in Panama on August 24th, "The United States wanted privileged passage through the canal as a means to seek support from the Pentagon in the negotiations with Panama. This is the truth . . . And when they saw that there was no way we would allow privileged passage, then they told us: We have to seek a formula so that the Pentagon will see that we are somehow taking them into consideration.

"This is how the expeditious passage came about. Now, I do not believe that when they explain the 'expeditious passage' term they are entitled to go through first.

"They have to sell their merchandise. It is the same merchandise, but with different wrappings because they do not think as we do. They have to sell this treaty to their country, and for this reason you see that both of us give different information on the same provision."

Administration spokesmen say that this country has a right to defend the Canal after the year 2000. However, nowhere in the so-called Neutrality Protocol is this stated. President Carter has been misleading to the American people, because he has not mentioned that in the present state of international law, the word "neutrality" can be given almost any meaning.

Escobar knows that the treaty does not give this country the right to intervene. Escobar told the National Assembly of Panama on August 19th, the the Americans, "proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality.

"Panama was opposed to this concept, explaining that we did not want that with the excuse of neutrality, the United States would maintain a guarantee over the state of Panama. This was another cause of discussion that kept the negotiations detained until the United States gave up on the idea of its having a guarantee of neutrality over the canal."

Escobar's statements clearly represent the view of the Panamanian dictatorship. This was confirmed by the State Department document released by Senator Dole yesterday.

Our right to defend the Canal is nonexistent after 2000. The Senate will be derelict in its duty if it ignores this fact.

While examining provisions for the defense of the Canal after the year 2000, the distinguished Senators should not overlook the fact that most aspects of the treaty come into force much sooner than the year 2000. Only six months after ratification, the treaty will enter into force and Panama will assume technical sovereignty. At that time, Panama then grants to the United States only certain specified rights until the year 1999. Most of the treaty provisions go into full force in 30 months.

In that connection, it should be noted that after 30 months of the treaty being in effect, the Americans in the Panama Canal Zone have essentially no more rights than Panamanians, in other words none, since Panama's respect for human rights is rated on a level with the Soviet Union and Cuba. In fact, Panama has the lowest rating according to Freedom House of any non-communist nation in the Western Hemisphere.

This treaty gives Dictator Omar Torrijos control over the canal: He can close it at any time, and under the Treaty we cannot negotiate with any other country to build a canal anywhere else without his permission (until the year 2000). Thus the United States will be dependent on Dictator Torrijos or whatever or whoever replaces him.

The cost of this treaty should also be of great concern. Section 4 of Article XIII provides that from the date of the inauguration of the new agreement, Panama will henceforth receive 30 cents for every ton of cargo passing through the Canal. But beyond this, we find that this amount "will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods" every two years. Thus, the 30 cents per ton figure only remains in effect for five years and thereafter every two years it will rise by the amount of change in the American wholesale price index. This agreement will be reflected in large toll increases.

If these tolls had been in effect in 1976 on the 117 million tons of cargo that passed through the Canal, the Panamanian Dictatorship would have extracted a total of $35 million. This amount could easily be projected to $46 million by 1980. A 60,000 ton American oil tanker passing from Alaska to the American Gulf Coast would thus pay Panama $18,000. By 1985, the expected cargo of 184 million tons would give Panama $55.5 million.

The propcsed treaty in effect gives Panama an OPEC style transportation cartel for the next 22 years. Beyond the termination date even more exorbitant charges can be expected. Some Panamanians have already spoken of raising tolls by 400 percent. Even former Ambassador Linowitz has acknowledged that the Treaty will entail an immediate rise in tolls of 25–30 percent—the largest increase in the history of the Canal.

Can we expect Panama, even if its outlook were not Marxist, to smoothly operate the Canal? There are 202 men qualified to pilot ships through the Canal. Only two of these are Panamanians. Only ship captains can qualify for this position and they must have 20 years active experience to qualify. Panama does not produce ship captains and it only recently opened its first navigational school, yet Panamanians must replace those Americans who resign rather than work for the dictatorship.

A lot has been said about Omar Torrijos. He is unquestionably a dictator and a fervent admirer of Fidel Castro. However, our Department of State says that if you do not conclude a treaty with him, the leaders who may replace him are even worse. Mr. Chairman, I submit that neither Torrijos or those "worse" should have control of our shipping life line.

Cuban Communists wield enormous influence in Panama. Torrijos at one point hailed Castro as "an example and a light". The Communists have consistently demanded that the U.S. give up the Canal. Then Assistant Secretary of Defense Califano, referring to the 1964 riots said that "known and identifiable Communists, members of the Communist Party of Panama and people who belonged to the vanguard of National Action, which is . . . the Castro Communist Party in Panama," participated in these riots in which 23 Panamanians and four U.S. soldiers were killed. Reports of Cuban cadres in Panama, training selected persons in guerrilla warfare and sabotage, are too frequent to be ignored.

There is also the question of Torrijos himself. Brig. Gen. Omar Torrijos Herrera has ruled Panama since 1968 when he led Panama's National Guard in an armed uprising which overthrew the elected government. After taking power, Torrijos dissolved all political parties and exiled 20 members of the Communist Party, including Ruben Dario Sousa and the rest of the Party's top leadership. The Communist Party of Panama is officially called Partido del Pueblo and is directed by Moscow. After exiling the top leadership, Torrijos made an agreement with the remaining Communist Party functionaries that as long as they supported his policies, they could continue to function. The agreement was made with Moscow's approval, and in 1973, the exiled leaders were readmitted to Panama.

Communist Secretary-General Dario Sousa wrote in the official international Communist journal, World Marxist Review, for March 1973, that Panama is, "another weak link in the chain of imperialist oppression, one of the fronts in the great struggle for liberation." Dario Sousa expressed support for the activities of the Torrijos government in pressing for the takeover of the Panama Canal.

Torrijos maintains a personal dictatorship and has suppressed the free press. He has appointed members of his family to positions of power, including his 3 brothers and 8 sisters. One brother Moises Torrijos, also known as "Monchi", has a currently pending indictment in the United States for trafficking in narcotics. Nevertheless, Omar Torrijos appointed "Monchi" as the Panamanian Ambassador to Spain.

While Torrijos, himself, is not an ideological Communist, despite press stories to that effect, he is extremely pro-Communist and relies upon his close associate, Romulo Escobar Bethancourt, to serve as his liaison with both domestic Communists and foreign Communist governments.

Torrijos is a heavy drinker who becomes uncontrollable and incoherent while drunk. He is hardly a stable type of person and should never control a vital world sea way like the Panama Canal.

Mr. Chairman, recent history has shown the results of allowing irresponsible demagogs to control vital international waterways.

We should not forget the history of the Suez Canal following its nationalization. The Suez Canal has been closed twice since Egypt took it over, once for 8 years. Contemplate the increased costs to the American consumer if this should take place in Panama.

Who besides the Communists would benefit by our giving up the Canal? Only the banks who have loaned Torrijos money to the point where 40 percent of the Panamanian national budget is absorbed by debt service. I submit that there was a serious conflict of interest for Mr. Sol Linowitz who served as co-negotiator while retaining connections with a bank that had made large loans to Torrijos. What was the role of these New York banks in these negotiations? What have they been promised? Are the American taxpayers going to be asked to pay increased prices for their goods because we are giving Torrijos carte blanche to raise tolls in order to pay off his debts? The Senate has been disinclined to investigate these questions. I think it should investigate these

areas lest these questions forever cloud the Treaty.

Lastly, I want to discuss the alleged threat of violence used as an argument for surrender of the Canal by Administration spokesmen. It is clear that there will be violence whether or not the Treaty is approved.

Chief Panamanian negotiator Escobar incited violence against the United States during an August 12, 1977, address to the Federation of Panamanian Students, an organization with a long history of extreme anti-American violence. Escobar said, "There are still theories that we can get more, much more, through confrontation. I believe this is true . . . We are not asking for confrontation, but neither will we give permission to anybody for a confrontation. Whoever wants to start a confrontation can do so himself.

"In the past, when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. You have never asked anyone for permission. . . .

"When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation. This is not written in any book. If one triumphs, one wins, and if one does not triumph, he dies."

After Escobar's speech, the radical students were harangued by their Secretary-General Robert Gomez. He said that while the treaties, "resolve part of the problem . . . much remains to be done to totally eliminate the last symbol of the overwhelming presence of U.S. imperialism. The banners of the FEP will not be lowered in the struggle, because this struggle will be continuous and prolonged until the last invading soldier leaves.

"Contrary to what many think, the new agreement will not, and cannot, signal the end of the process or of the struggle for national liberation. . . . Hail the unity of the patriotic forces and support for the liberating process! The struggle against imperialism and its internal allies will be continuous and prolonged. Liberation or death! The FEP is on the move! No one and nothing can stop it!"

Romulo Escobar Bethancourt is the closest associate of Dictator Torrijos. He was appointed by Torrijos as Chief negotiator of the treaties now before this Committee of the Senate. Escobar is the main foreign policy advisor to Dictator Torrijos and is his personal emissary to Communist Cuba. Escobar says he was a close personal friend of Ernesto "Che" Guevara, the Communist revolutionary who helped Castro take power and who later organized Marxist terrorist groups throughout Latin America and in Africa.

Escobar was a leader of the Communist Party unit at the University of Panama and an organizer for the Party. In 1949, he violated Communist Party discipline by accepting a scholarship to leave the country and attend school in Brazil. Despite his expulsion he remained a Marxist-Leninist and in recent years has served as Torrijos' liaison with both the Panamanian Communists and with foreign Communist governments.

If the United States cannot defend the Canal against Communist guerrilla attacks and sabotage, how can we expect to defend it in wartime? The position of the United States is that it will never submit to terrorist demands. Even when the lives of American diplomats are at stake, the United States does not pay ransom. Why then should this country submit to the extortionist threats of terrorism from such tin horn bandits as Torrijos and Escobar. To yield to their extortion demands for control of our Canal will only encourage other terrorists or tyrants through out the world to view the United States as an easy target.

It is the duty of the President of the United States to protect the lives and property of Americans, terrorist threats notwithstanding. If the President were to neglect to exercise this duty he would be derelict in his duty as Commander-In-Chief.

I urge this Committee to reject these treaties, which are against the interest of the people of the United States and would only benefit our Communist enemy and those bankers that put profit above patriotism.

This concludes my formal statement.

STATEMENT OF THE HONORABLE ROBERT L. LEGGETT

As a Member of Congress concerned about this nation's posture in the world, I have been a serious student of U.S.-Panamanian relations for several years. I served as Chairman of the House Panama Canal Subcommittee during the 93rd Congress, and have been the Ranking Majority Member of the Subcommittee subsequent to that Congress. I have conducted several inspection visits of the Canal Zone since 1973, and have had occasion to discuss the Panama Canal issue with high officials of the Republic of Panama as well as individual Panamanians.

During the time I have been conversant with Canal affairs, I have tried to serve as a catalyst for new thinking and needed change in U.S. operations of the Panama Canal and Canal Zone. For example, I pushed for an end to the vestiges of discrimination which have been badges of colonialism for the U.S. in Panama. I supported the first necessary tolls increases. Finally, the knowledge that I gained convinced me of the need for serious negotiations between the U.S. and Panama respecting Canal matters.

As an indication of my support for serious negotiations, I point out my efforts in the House in 1975 and 1976 to defeat the so-called Snyder amendments to discontinue funding of the treaty negotiations. When I spoke in the House Chamber in those years in opposition to the Snyder Amendment, I colored my support for negotiations with a warning that a treaty negotiated strictly under the "8 Points" as signed by Secretary Kissinger in 1974 would not be acceptable to me or many other Members of Congress. I also stated that I was supportive of negotiations but should there be negotiated a treaty arrangement with Panama that did not adequately protect legitimate U.S. interests, I would come before the Senate Foreign Relations Committee and so indicate.

In my judgment the proposed treaties do not adequately protect U.S. interests. They do not provide the United States with adequate power to restrain Panama's desire to use the Canal to promote its own economic ends. They do not contain in any depth provisions to protect U.S. security interests. They do not provide for a continuing U.S. role in the Canal's management, and they are especially irritating in that they really foreclose without necessity the opportunity for the U.S. to have a presence after the year 2000. These are some of the problems with the two treaties and their implementing documents.

So I appear here today as a self-styled representative of a number of persons in the U.S. who are qualified to speak on the subject of U.S.-Latin American relations and who believe we should have a new treaty with Panama but not these pacts that have been negotiated. As the public becomes more educated with respect to the Panama Canal, I expect the numbers in this group to expand.

The toll levels and structure of the Panama Canal are the financial mechanisms by which that waterway either lives or dies. The attractive rates under which the Canal has operated for more than 60 years have benefited the shipping industry, Canal employees, Panama's economy, and consumers worldwide. Consumers and producers in the United States have in the aggregate a larger interest and have especially benefited by the Canal's toll rates because one-third of all the ports of origin and destination in connection with Canal transits are U.S. ports. Japan and many Latin American countries also greatly benefit from moderate stable toll rates.

There is every indication that reasonable tolls essential to the Canal will end under the proposed Panama Canal Treaty. This appears certain as a result of several factors: the reprehensible indexing provision in Article XIII for royalties; the policy likely to emerge from repeated references made by many Panamanian officials to the need for increases in tolls in the hundreds of percents; the Panamanian Government's desperate need for cash flow; and the comparative uneconomical structure of the new Panama Canal Commission.

I will handle these four factors in reverse order.

Because the present Panama Canal operation involves hundreds of separate special operations, and because it produces for itself many of the items it uses, the Canal enterprise has certain similarities to the U.S. multinational corporation—that is, the pricing policies will allow it to value the products it produces at a cost lower than that of the outside competitive market. If the proposed treaties are ratified and the Panama Canal Commission loses many of those ancillary services the Canal Company now runs, you will find an increase in the cost of some of the individual items to be purchased for the Canal.

Additionally, you will have a net loss of funds because some of the profitable ancillary activities now run by the Canal Company will be transferred to Panama.

There also may be a slight increase in overhead costs for the Canal operation because some of the supervision interrelated with the Canal now done by the Canal Zone Government will have to continue under the new treaty arrangement.

Clearly, there will be financial difficulties associated with setting up the new Panama Canal Commission, especially during the thirty-month transition period. So you would think that the Panama Canal Treaty would seek to unburden the Canal Commission of more financial commitments.

Of course, this is not the case and the money out of Canal tolls to Panama will go from $519,000 to almost $60 to $70 million immediately. One reason for this, I believe, is the fact that without immediate additional revenues, the Panamanian Government will have to roll-over more of or reschedule some of its debts.

The economic compensation package in the negotiated Panama Canal Treaty underscores the tendency of Panama to turn toward the Canal to solve its financial problems. With Panama's debt service now approaching 39 percent of its national budget, the Canal is seen as the lever for prosperity. Will Panama turn to the Canal again under the new proposed treaty to meet its debt obligations or finance politically popular projects? In my judgment it will, which is the reason we need more tolls protection.

There is a tendency with some sectors in Panama to blame the Canal for all of Panama's problems. There is a belief that there is some sort of infinite wealth there, which of course is incorrect. Unfortunately, some Administration officials now seem to be buying this same argument. Mr. Solomon, for example, in his prepared statement for this Committee, indicated that a "major cause of Panama's economic slowdown (in the 1970's) was the uncertainty over the future of the Canal." The thrust of this statement does not stand up against the facts. According to a report of the U.S. Embassy in Panama in 1976, high cost output and lack of private investment opportunities are the chief reasons for Panama's economic troubles. "Uncertainty", per se, over the Canal is not even mentioned by the Embassy as a problem for the Panamanian economy.

The initial factor I mentioned with respect to tolls policy was the indexing factor. It is difficult for me to understand why the U.S. negotiators accepted in Article XIII this idea of indexed royalties for Panama on Canal tonnage rather making Panama subject to same kind of risk-taking to which the U.S. is subjected in operating this waterway. We face the unsettling prospect under the Panama Canal Treaty of the U.S. taxpayer being forced to subsidize the Canal in the event that tolls revenues are decreasing and our payment to Panama increasing at the same time. Furthermore, the inflationary index provision is a terrible international precedent for the U.S. if, as the Administration says, the whole world is watching the Canal Treaty fight.

In answer to the prospect of tolls increases, it has been said that the Panama Canal can withstand the initial tolls increase of 40 percent as well as subsequent increases that will be necessary under the proposed treaty. I do not agree with this. In the short run of a year or so you may not lose much traffic tonnage, but the long-range effect of the initial increase could be a loss of up to 50 million tons from the initial increase.

That kind of loss will mean sooner or later we will be subsidizing the Canal because we must have it in good working condition for our naval vessels in the future even if much of the commercial traffic has been diverted.

One of the aspects of the Panama Canal Treaty which bothers me is the structure of the Panama Canal Commission. The five United States and four Panamanian Commissioners who sit to oversee Commission operations will have an enormous amount of power and I wonder who will balance that power.

The Congress of the United States, the present legislature for the Canal Zone, will have to implement the Panama Canal Treaty if it is ratified and will continue to affect Canal affairs. But the existence of executive agreements to carry out the purposes of the Treaty will take a considerable amount of authority from the Congress with respect to Canal operations and U.S. Isthmian military operations. That authority will instead be with the Panama Canal Commission and the Combined Board for defense.

Under the terms of Article III of the Panama Canal Treaty, it is clear that the Government of Panama will determine those Panamanians who will sit on the Commission. Given the nature of the present Government in Panama, that is, a military dictatorship, there is no doubt the Commission Members from Panama will be completely responsive to the dictator. I wonder whether the U.S. representatives will be as responsive to the U.S. Government. If even one is not, could the position held by a majority of the U.S. Commissioners be consistently overridden.

Perhaps this question of Commission behavior can be partially handled through U.S. legislation. But I do not think that we can underestimate the control problems associated with the majority partner being a democracy with a capital about 2000 miles away and the other partner a dictatorship on the spot.

As legislators we are deeply aware of the division in this country over the Panama Canal issue. In addition to the obvious lack of concensus in the United States that makes a long-term agreement on the Canal very difficult, I want to sugest that the consensus in Panama may not be as monolithic as perceived or as cohesive as is necessary to make these new agreements work. There are reasons why the proposed treaties have not been greeted with overwhelming enthusiasm in Panama. Even if almost all Panamanians want some sort of new treaty relationship, they may not want these treaties.

The economic compensation package to the Panamanian Government will come at the expense of the users of the Canal and Canal employees. I know that Panamanian employees in the Canal Zone, who comprise about five percent of the Panamanian national work force, are extremely concerned about the proposed agreements because many of them will be dismissed and will cease to have reasonable employment or their terms of employment will deteriorate considerably under the new arrangements. I wonder whether these Canal employees, who have worked and many of whose forefathers have had careers in the Canal Zone, will not feel some bitterness at the United States for the deterioration of their personal position. Perhaps they will be persuaded to offer it all up for the good of the greater Panama, but I do not think so.

In addition to some of the Canal employees who may not like the agreements, there is a group in Panama that considers the absence of civil liberties and human rights to be pre-eminent issue at this time. For this group consummating a treaty which expands Panama's national property is an endorsement by the U.S. of dictatorial rule in a country which has seen greater liberty in the past. Regardless of the motives of this group that opposes the dictator, whether the motives be ones of political opposition or genuine human rights concern, the U.S. would be remiss not to evaluate the presence of this group in Panama.

Also, a portion of the student community in Panama does not appear to be enthralled with the proposed treaties. I doubt that any agreements that preserve U.S. presence in any form will be endorsed by these students.

If, as has been suggested, the consent of Panama and the Panamanian people is the key to the continued safe operation of the Canal, then it seems to me we have to undertake a penetrating study of the possible effects of the proposed treaties on the attitudes of the Panamanian people as well as officials of the Government.

We should take a look at whether we are helping ourselves or whether we are in fact alienating some segments of the Panamanian populace by these tereaties. I suspect that we will find that the answer is not that simple.

Irrespective of the other issues raised by the proposed Panama Canal treaties, there is one issue which must not be ignored in the deliberations on these agreements. This issue concerns the National Environmental Policy Act's requirement for an environmental impact statement for all "proposals for legislation and other major Federal action significantly affecting the quality of the human environment."

The very fact that the Administration and treaty proponents have cited the need for a new treaty relationship in order to improve the operating environment for the Canal is reason enough to reference the importance of a good impact statement. I see the environmental impact statement raising both a hazard and an opportunity in the context of the deliberations of the Committee.

As you know, the purpose of an environmental impact statement is to ensure that the effects of major Federal actions on the human environment are considered in the formulation of policy for such actions. Unfortunately, all evidence indicates that the effects of the treaties on the human environment were given no formal consideration under N.E.P.A. by the Administration in the negotiation of the proposed Canal treaties. Surely the negotiators for the U.S. and Panama must have been constantly aware of the political ramifications of their decision, but in no event were the environmental ramifications of the treaties formally considered at the appropriate time.

According to the governing laws and regulations, a draft environmental impact statement should have been prepared when negotiations were reinitiated with Panama in 1971 or 1973. A final environmental impact statement should have been prepared and filed with the Council on Environmental Quality 30 days before the signing of the treaties on September 7. Neither of these requirements were fulfilled. It is clear that the Executive Branch has been acting in violation of N.E.P.A. and N.E.P.A.-inspired regulations to this point in time.

The Department of State's attention to these requirements may be improving, however. The deadline for comments on the draft impact statement issued a week before the treaty ceremonies has been extended. Hopefully a final adequate impact statement will be available in the future.

I stress the need for an adequate final environmental impact statement because it is possible that the courts, should they find the requirements for environmental consideration lacking, might enjoin implementation of the treaties or their effectuation upon ratification. It would be unfair to Panama and its people as well as the people of our own country to debate or pass upon a treaty which would possibly be laid aside by the courts. It would be insensitive and destructive of good relations to raise expectations and then have them dashed.

I urge the Committee to exhort the Department of State to prepare the best impact statement possible. I believe that the only adequate statement would be one that properly addresses all aspects of the treaties, including employment conditions, water quality and pollution considerations, sea-level Canal effects, the inspection of transiting vessels, and so on. If the Department of State knew the Senate would not consider the proposed treaties until a proper assessment has been completed, that would increase their attention to the task.

The environmental impact statement in connection with the treaties need not take on the hue of just an onerous obligation because the courts could be involved. It can be one of the most useful tools available to the Committee on Foreign Relations to assess the real impact of a new treaty on the Isthmus. Detractors of the treaties have said that the presentation of the agreements has been rife with hypocrisy and deceit. Since an adequate statement must be credible and take into account all relevant input, the impact statement requirement can stand as one test of the sincerity of the presentation. If those groups which are knowledgeable of the situation on the Isthmus will contribute their most puissant observations and if the Department of State makes a good-faith effort to write a responsible impact statement, then the Committee and the Senate will have available to it a body of knowledge which only months of hearings could have otherwise accumulated.

In addition to its usefulness in Senate consideration of the treaties, an impact statement would have major relevance to any Congressional consideration of the transfer of U.S. property in accordance with Article IV, Section 3, Clause 2 of the Constitution.

For your consideration, I request that several documents relevant to the environmental impact statement requirement be inserted in the record of these hearings.

In conclusion, although I have highlighted only a few of my major areas of concern, there are many other areas of the treaties that require amendment. Given the outspoken opposition of Panama's Chief of Government to any amendment of the treaties, the most practical course may be for the U.S. and Panamanian negotiators to

return to the negotiating table and attempt to fashion a new agreement, one that does not follow the "3 Points", one which may do less for some of Panama's objectives, but one which will have a much greater chance of acceptance in the United States.

In future years, as the perceptions of national interest change in the U.S. and Panama, perhaps terms similar to those embodied in these proposed treaties can be agreed upon. At the present time, however, to consent to agreements that will probably never be accepted by major sectors of the populations in the U.S. and in Panama is in my view dangerous.

IOWA'S LAKE RATHBUN FISH HATCHERY

Mr. CULVER. Mr. President, the State of Iowa has had a long and bright history in the development of fish and wildlife conservation practices, and the recently opened Lake Rathbun Fish Hatchery exemplifies Iowa's pioneering work in this field.

Located near the Rathbun Dam in southern Iowa, this $6 million facility is the largest fish hatchery in the United States. It is also the only hatchery in the Nation which uses trout culture techniques to produce warm-water fish such as channel catfish, striped bass, and large-mouth bass. The hatchery's catfish production will amount to 1 million fish per year, and 100,000 large-mouth bass will also be reared at this facility annually. Fish hatched at Rathbun, which permitted the closing of several less-efficient hatcheries in Iowa, will be stocked in streams throughout the State.

As a recent article in the Iowa Development Commission's Digest explained, this hatchery is one of the few in the United States that has been built with the visitor in mind, and over 200,000 people are expected to tour this plant annually. A gallery with a minitheater and slide presentation area, four large aquariums, and an outdoor viewing pond are among the arrangements that have been provided for visitors. Visitors will be able to view all fish culture practices and watch workmen tending the spawning tanks. In addition, the hatchery will serve as an education center for in-service training for Iowa Conservation Commission personnel.

Last August I had the opportunity to visit this remarkable facility with my family and can personally attest to what a remarkable experience a trip to that hatchery can be.

The project, which was dedicated June 11, 1977, has been in the planning stages since December 1970. Construction actually began in 1974, and funding for this facility was the joint venture of both Federal and State governments. The Iowa General Assembly appropriated $2.3 million, the U.S. Corps of Engineers provided $700,000, and another $3 million came from the sale of hunting and fish licenses, for work on the hatchery.

As chairman of the Senate Resource Protection Subcommittee, which oversees fish and wildlife issues, I believe the Lake Rathbun fish hatchery deserves recognition not only for its exceptional fish-producing capacities but also for its dedication to public education, its provisions for personnel training, and the enjoyment it provides for thousands of Iowans. An article in the Iowa Development Commission's Digest fully describes the significance of the Lake Rathbun Fish Hatchery, and I ask unanimous consent for the article to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAKE RATHBUN'S FISH HATCHERY

Of the thousands of people that will visit Lake Rathbun this year, about 200,000 may find themselves touring one of the most modern and most concentrated warm water fish hatcheries in the world.

Located southeast of the lake and just below the dam, the Rathbun fish hatchery is the only one in the U.S. using trout culture techniques to produce warm water fish such as channel catfish, large-mouth bass and stripped bass, according to Terry Jennings, supervisor of Iowa hatcheries.

"Most other hatcheries produce only about 20,000 fish in a one-acre pond, while we are producing 80,000 in 8,000 cubic feet of water," he said. At that rate, the hatchery's annual catfish production, the primary emphasis, amounts to one million fish or 100,000 pounds per year. In addition, 21 million young walleye were produced this spring, and 100,000 largemouth bass are being reared.

Although the facility was dedicated June 11, 1977, the project has been in the planning stages since December, 1970. "We knew we had to upgrade our hatchery system, so the Conservation Commission authorized a feasibility study and the Rathbun hatchery was the result," Jennings said. In turn, a number of small hatcheries and rearing ponds in the state were closed because the larger Rathbun facility was more efficient, he explained.

The hatchery, in addition to being the central one in the state, is one of the few in the U.S. built with the visitor in mind, and Jennings is expecting about 200,000 people to tour the facility this year.

The hatchery's busiest season lasts from the end of March to the end of November, when catfish and walleyes are spawning, but visitors can see the fish and watch them eat and hatch almost any time. Tour guides are available to groups if requested in advance, and there is no admission charge. Visiting hours are 7:30 a.m. to 8:30 p.m. Wednesday through Sunday and 7:30 a.m. to 4:30 p.m. Monday and Tuesday. After Labor Day, hours are 7:30 a.m. to 4:30 p.m. daily.

VISITOR CENTER

In one wing of the building, a visitor center features a gallery with a mini theater and slide presentation. Visitors should soon be able to view native Iowa fish in four aquariums to be installed in the main lobby. Jennings also anticipates that a collection of the largest fish caught in Iowa and a list of records will also be on display in the gallery.

Outdoors, a viewing pond has been designed exclusively so visitors can see various fish. "In the future, we may have peanut machines or something so visitors can feed the fish," Jennings said.

Adjacent to the viewing pond is an aeration basin, which takes in water from the lake, adds oxygen and screens out wild fish. The water in the aeration basin then goes to 20 outside ponds, each capable of holding 80,000 fish.

Indoors, an elevated ramp through the start tank room and an exterior balcony were built especially so visitors could watch workmen below tend the tanks and ponds. Many of the 40 start tanks contain hundreds of young fish at various growing stages, but some tanks have been reserved for spawning catfish indoors, a practice unique to the Rathbun hatchery, according to Jennings. "We produced quite a few catfish indoors in a controlled environment this year, and we hope to produce about 750,000 by this method next year," he said.

CATFISH PRODUCTION

The catfish began spawning May 31 and will be on the hatchery grounds until fall of 1978, he said, explaining that it takes about one and a half years to produce an 8-to 10-inch catfish.

The Rathbun hatchery began producing channel catfish July 1, 1975. "We started with 149,310 four-inch catfish, about 80,000 eight-inch catfish and 600,000 fry, or newly-hatched catfish," Jennings said. Costs for those fish amounted to over $16,700, a thin slice of the total operating expenses.

For 1977, the operating budget totaled $196,000 and was financed by sales of hunting and fishing licenses. Initial costs of the hatchery amounted to $6 million, with $3 million of the total being provided by hunting and fishing licenses. In addition, the U.S. Army Corps of Engineers provided $700,000 and the Iowa legislature voted $2.3 million from Iowa's general fund.

Jennings said he would like to have more general funds to beef up the education aspect of the visitor center, and he hopes that an appropriation from the legislature will soon make that possible. The hatchery in addition to being a good site for travelers, also serves as a fish management station and an education center for in-service training programs administered to Iowa Conservation Commission personnel.

LAW OF THE SEA CONFERENCE

Mr. PELL. Mr. President, in July, after 3 years of tedious meetings, the sixth session of the 150-nation U.N. Law of the Sea Conference staggered to an indecisive conclusion. Although the Informal Composite Negotiating Text (ICNT) produced at the session shows marginal progress on a number of issues, there are provisions dealing with the international seabed area which are fundamentally unacceptable to the United States.

Because of the seriousness of these sections, the U.S. Government is undergoing an extensive review of its negotiating goals, including the question of whether or not the United States should withdraw from the Conference.

It is my personal hope that the decision of our Government will be to put forth further effort to salvage this Conference. It is in the world's best interests to foster international mechanisms for peaceful change and to further the global development of accepted rules of international law dealing with the increasingly competitive interests in the oceans.

I ask unanimous consent that an excellent article written by Margaret L. Dickey be printed in the RECORD. This article was prepared for a panel at the Manila Conference of World Peace Through Law (August 1977). It should be noted that Mrs. Dickey, a member of the Bar of New York and the District of Columbia, has served on the National Security Council's Public Advisory Committee on the Law of the Sea and the U.S. Delegation to the Law of the Sea Conference 1974–76. Her article, "Should the Law of the Sea Conference Be Saved?" provides an incisive analysis of problems facing the Conference.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHOULD THE LAW OF THE SEA CONFERENCE BE SAVED?

(By Margaret L. Dickey)[1]

Three years after its opening session in Caracas, Venezuela in the summer of 1974, the sixth session of the 150 nation Law of the Sea Conference seesawed to an inconclusive halt at United Nations headquarters in New York in July. Its results were two: a call to still another session in Geneva next spring and an "Informal Composite Negotiating Text"—a revision of two previous drafts of 303 Articles on ocean issues, ranging from passage through straits, to pollution control, to new jurisdictional claims for purposes affecting more than one-third of the world's oceans and most of its fisheries and oil and gas, to the extraction of lumps of minerals (principally nickel and copper) from the ocean floor.

In a hastily summoned press conference after the new text appeared, Ambassador Elliot Richardson, head of the U.S. delegation, took passing note of some "true progress" but on the intensely ideological issues of the mining of the deep ocean floor called the result so "fundamentally unacceptable" as to require him to recommend to the President a review of U.S. interests in the continued negotiations.

It was a long way from the "new constitution for the oceans" described in Caracas as the goal of the Conference by the then Chairman of the U.S. delegation, Wall Street lawyer John R. Stevenson. For other and different reasons, former Maltese Ambassador Arvid Pardo, "father of the oceans," and others who ten years ago called for such a conference to create a new era of cooperative development of the economic wealth of the oceans, had long since decried the events at the Law of the Sea Conference as a territorial "smash and grab" by coastal states rivalling, said Britain's Lord Ritchie Calder, any colonial conquest in Africa and Asia.

The failure of the current session of the conference to make any real breakthrough on either of the two most fundamental issues on its agenda increases substantially the prospect that no comprehensive treaty is obtainable which would satisfy the majority of participating nations and meet the essential requirements of the major ocean powers. Some conference critics contend that a treaty along the lines of greatest agreement would be far worse than no treaty at all; others fear that the legal void in the absence of a treaty would lead to an uncontrollable territorial scramble in the oceans that cover two-thirds of the Earth.

The question is, can or should this lengthy and difficult effort to agree on new fundamentals of ocean law be saved? Should it instead be quietly shelved before further damage is done to the fabric of existing law, however inadequate? What is the price of success . . . and the cost of failure, for the United States, and for others? Is there an alternative to "success" or "failure"?

In fact, the Informal Composite Negotiating Text which represented three years of difficult negotiations during the least happy hours of the North South confrontation includes an impressive body of agreement on a large number of issues from minor to some of fundamental importance. But from the beginning there was little progress on the points that would determine the basic acceptability of this novel effort to anticipate and to forestall future conflict over ocean uses: the undisputed exercise of common high seas rights of navigation over the broad reach of the oceans, and an agreement on how nations shall undertake to mine the valuable mineral resources of the ocean bed declared by the United Nations to be the "common heritage" of mankind.

At the end of the fifth session, whose dilatory pace was laid at the door of the impending U.S. Presidential elections, Ambassador Christopher Pinto of Sri Lanka, a leader of the third world forces said, accurately, that the conference had proceeded to build what agreements it could, sidestepping the fundamental decisions that could no longer be avoided. For the United States such decisions involve a difficult to assess measure of the benefits of widely known and agreed rules particularly those affecting navigation rights as an alternative to challenge and uncertainty. The question is whether these benefits are worth the apparent cost of accommodation to a numerical majority of states which are waging an ideological battle on the single issue of ocean mining in circumstances where events and the passage of time have removed the meat and potatoes bargaining issue of the conference—jurisdiction over offshore coastal resources—from the table, leaving fewer serious players and considerably fewer cards to play with.

For developing nations, many of whose immediate interests in offshore resources and related rights are likely to be satisfied with or without a treaty, the central issue has become that of "accepting" as Ambassador Pinto put it, a right of access by developed states, about to engage in ocean mining in any case, to at least half of the potential mining areas of the deep oceans. In return for such an agreement, there would be established an international mining "Enterprise" for the other half, a venture which would in fact represent a real departure in international economic arrangements, and perhaps a significant benchmark for the future.

Considering that future mining sites cover potentially literally millions of square miles (one field of nodules running from west of Mexico to southwest of Hawaii covers 2 million square miles) and that the demand for greatly increased supplies of these particular minerals in the next two decades is not anticipated to be dramatic, it would not seem unrealistic to settle for a modest beginning. What appeared, however, to be substantial progress toward reasonable compromise at the last session was abandoned at the last minute by the Chairman of Conference Committee. One dealing with ocean mining, leaving the Conference in most respects no further ahead than it was a year ago.

Whether or not a "comprehensive" treaty can be obtained or ought even to be attempted further, the process of the negotiation alone has, for good or ill, altered irrevocably the ancient rules of the sea in ways which will affect relations between nations for years to come.

Historian Arnold Toynbee long ago predicted that the end of the twentieth century would be marked by a struggle for control of resources. The magnitude of resources of the oceans both in terms of dollars and in terms of the fundamentals of power in the modern world are reason enough for an attempt to avoid conflict over their use, and to improve upon longstanding maritime rules of law ill adapted to the new age of resource exploitation.

Petroleum reserves in the submerged offshore continental margin, extending in some places several hundred miles seaward, have been estimated in excess of 2 trillion barrels, recoverable at ever increasing depths and supplying a dramatically rising percentage of the world oil and gas requirements. World fish catch has quadrupled in a single generation from 16 million tons in 1950 to 69 million tons in 1974 with resulting pressures on fish stocks. Merchant tonnage also quadrupled in the same period. Some 200 billion dollars worth of cargoes pass annually through U.S. ports alone. In the deep oceans, beyond the continental margin, enormous resources of nickel, copper, cobalt, and manganese are found in nodules scattered like charred potatoes on the ocean floor. Commercial development of these resources is predicted variously to result in anything from an economic bust in terms of cost competitiveness, to a cornucopia of all the world's future needs. There the nodules have lain for eons of time. Modern technology has now made possible their recovery from depths of 15,000 feet and more.

The process of deciding how and by whom all of these resources should be used energizes all the fundamental forces on the late twentieth century political stage—the control of resources and resource politics, the balance of nuclear power, the division of rich nations and poor, the unifying imperatives of a shrinking globe and the centripetal forces of a latter day nationalism unloosed in an age to which it is dangerously ill-suited.

It well could be concluded that the Law of the Sea Conference was the wrong subject, in the wrong place, at the wrong time, but since what it has wrought is unlikely to go away, it is well to look at what it has done, how it got there and how the current prospects might be improved.

The central issues of the Conference, as they emerged in 1974, were not addressed to the vision of the "common heritage of mankind" but to the more mundane task of juggling competing forces: to devising a balance of navigational rights and resource rights inherently at odds, to agreeing on the extent of national control of other activities in the proposed exclusive economic zone, and to devising a means of reconciling the remains of the "common heritage" of the deep seabed, with the practicalities of who had the money and technology before ocean mining could begin at all.

Looking seaward from the land, the Conference was fairly successful in dealing with traditional rights of navigation but the tentative agreements reached were, as treaty texts, contingent upon acceptance of other parts of the "package" of greater interest to developing countries. The conference agreed on a limited extension of the territorial sea—the traditional "three mile limit" in which states exercise sovereign jurisdiction—to 12 miles, and with it to establish a new arrangement for narrow international straits to recognize continuing rights of transit through and over them. For the United States the straits provisions were the sine qua non of any treaty. Under the old three mile limit, high seas corridors existed in many narrow but vital waterways like Gibraltar, which, with an extension to 12 miles would be overlapped by coastal waters of the bordering states affecting both rights of submerged transit and of overflight. Neither are accorded by the right of "innocent passage" customarily granted foreign states in the territorial sea.

While the secrecy value of submerged transit of submarines may have limited life in the future as new subsonic detection systems illuminate the oceans, there is something to be said in any case for being out of sight, out of mind. Rights of overflight remain vital, however, in circumstances where permission to overfly land may be denied for political reasons. The last Middle East war was triggered by the closing to Israel of the straits of Tiran, and subsequently a U.S. airlift of supplies required routes of

[1] Margaret L. Dickey, a member of the Bar of New York and the District of Columbia, is a member of the National Security Council Public Advisory Committee on the Law of the Sea, member of the U.S. Delegation to the Law of the Sea Conference 1974–76, and former Adviser, Legal and International Organization Affairs, of the United States Mission to the United Nations (1965–68).

flight that did not entail permission necessary to overfly land territory of foreign states.

Beyond the territorial sea, the companion piece to acceptance by much of the conference of the relatively narrow territorial sea, and the regime of straits, was recognition of an additional 188 mile "exclusive economic zone" granting to coastal states exclusive rights to both the living resources, fish, and the nonliving resources, principally oil and gas. What was not agreed was the very nature of this zone. Was it something entirely new—*sui generis* as the Latin American lawyers called it—or did it represent only a modification of existing law by granting specific additional resource rights to coastal states and preserving otherwise the traditional rights of the high seas open to all? The distinction is not legalistic. It is fundamental.

Around the world the proposed 200 mile economic zone would encompass more than one-third of all the world's oceans, cross all of its major waterways, include the areas of greatest interest to the infant science of ocean life (and of greatest susceptibility to damage from marine pollution) and, most importantly, enfold perhaps more than 90 percent of the resources of oil and gas and fish. In terms of money and in terms of national interest, the importance of this coastal zone far exceeds the most optimistic prospects of a bonanza in ocean mining. Of this none remains to the "common heritage," with the possible exception of some revenue sharing from future development of resources on the far edges of the continental margin in those areas where it extends beyond 200 miles. For some sixty nations with small coastlines or none at all, the zone serves to exclude them from areas of the oceans to which they previously had access and affecting most importantly their fishing rights: a right of escalating magnitude as the world faces the prospect of famine where population pressures consume economic gains.

The principal beneficiaries of this territorial largesse were those who resisted it longest: the United States and the Soviet Union. Add to these a handful of others which include: Canada, Japan, Norway, Australia, New Zealand, Mexico, Brazil, and India, and collectively they will acquire one-third of the area and probably at least one-half of its resources. Add another dozen countries of similarly privileged geography and the percentage figures rise over one-half the area and considerably more of the known resources. Never have so many given so much to so few.

Such a result does raise the question as to whether, written or unwritten, this kind of thing is conducive to world stability. Inevitably the result will be to widen the gap between North and South and to accelerate the gap between what has become known as the third and fourth worlds—those raising themselves out of the poverty level, often by reason of possession of important resources, and those remaining on the knife edge. In an era of diplomatic tunnel vision on the part of nations large and small, this result must surely win an award for diplomatic myopia.

The satisfaction with which the inevitable result was greeted and anticipated by U.S. resource interests, particularly by New England fisheries, was tempered in official quarters by the difficulty in imposing limits on the grasp of coastal state control in the oceans which was the principal and compelling reason for United States participation in a comprehensive ocean negotiation in the first palce. It was an effort made far more difficult by the U.S. Congress, which preempted the Conference and legislated a 200 mile fishing zone for the United States, so destroying the credibility of U.S. willingness to impose limits on its own claim of rights when its own interests—and not very major ones at that—were involved.

Another consequence of the virtually instant agreement on the principal of the 200 mile zone, reinforced by 200 mile fisheries legislation enacted in 1976, has been to remove from the bargaining table the most readily apparent interests of the majority of the participants who are coastal states. It soon became clear that so overwhelming was the support by coastal states for an economic zone that it would become instant "customary law" even without a treaty. This leaves the major maritime powers concerned with agreements relating to freedom of navigation in relative isolation at one end of the spectrum, and at the other end, the "Group of 77" united in pursuit of an ideological triumph for a new economic order through the creation of an elaborate International Seabed Authority and an Enterprise to manage seabed mining.

What is the fuss over seabed minerals all about? There is no doubt that the known quantity of nickel, copper, cobalt and manganese contained in the manganese nodules strewn on the surface of the ocean floor are more than sufficient to meet known or anticipated requirements for generations to come. What is not so clear is if, or when, their taking will be cost-competitive with present or potential land based producers of the same minerals.

One rationale for the development of ocean sites despite the enormous initial investments would be to create an alternative to an OPEC-type consortium of land producers controlling the market. But in the case of these minerals, such a combination is highly unlikely. Copper is in oversupply anywav and efforts of producers to coordinate to stabilize world prices of copper have failed. Most of the nickel imported by the United States comes from Canada. With the exception of cobalt produced in Zaire, other minerals are available from a number of alternative sources and cobalt can be produced as a by-product of nickel. Developing countries, most severely affected by rising prices of essential industrial materials would have an interest, it would be thought, in new sources of materials. The problem here is that their negotiating forces are led by land based mineral producing countries whose chief concern is writing into a treaty a formula for controlling seabed production.

What has happened is that a highly speculative economic venture in its initial stages has become the central focus of a legal and political negotiation singularly ill-equipped to deal with it. The obvious solution would be to separate the "package" and proceed with what can be agreed upon with respect to navigation and the economic zone. The rationale for the package approach, however, was that only in such a manner would a sufficiency of differing interests be satisfied to reach an acceptable agreement on all issues. The inducement to industrial states to negotiate at all on seabed mining has been that of attaining wide acceptance of other provisions more important to industrial states.

In the spring of 1976 a revised proposed text of the Law of the Sea Conference dealing with ocean mining that would have permitted reasonably automatic access to half of seabed mine sites by seabed miners who met pre-established conditions as to site, duration and financial terms, was immediately denounced by the 114 member "group of 77" as a sell out of the "common heritage." What they wanted, they said, was not only an international body, but an Enterprise which would be its operating arm to mine the seabed directly or in combination with other countries or companies, a view that had been incorporated in the first Conference text in 1975, and rejected by developed states.

A new avenue of compromise had then appeared: there could be a dual system in which countries and companies would have direct access to half the seabed mining sites subject to objective terms and conditions in the treaty itself, and the Enterprise would have the right to manage, as it chose, the mining of the other half. Quality of sites would be equalized by an arrangement whereby an applicant would choose two mining sites without knowing which site it would be granted, the other being "banked" for the Enterprise.

A further step offered late in the session resumed in the summer of 1976 by former U.S. Secretary of State, Henry Kissinger, was to guarantee on some international basis, the financing of the initial venture of the Enterprise so it might begin operations on relatively equal terms with commercial ventures. Mr. Kissinger's offer, had it come earlier and with more financial specifics attached, might have had far greater effect. This negotiation, in fact, may have been one the former Secretary had in mind, when, in a recent speech, he sharply criticized the shortsightedness of American business interests in international negotiations. In 1975 and 1976 the influence of the mining companies on the conservative and business oriented Treasury Department in the Nixon and Ford Administrations successfully resisted any U.S. diplomatic moves to resolve the seabeds impasse. By 1977, unrelenting lobbying efforts in Congress by the American mining interests had created such concern about mining "rights" by an increasingly inward looking and resource scared Congress, that the regime for seabed mining took on an importance out of all proportion to its real place in the longer view of ocean interests.

The relative scale of expected mining is illustrated by projections which anticipate that by the year 2000, not more than 10 to 20 mine sites will be operational out of an estimated number of first generation mine sites ranging from 250 to 400. Of the minerals themselves the most valuable is nickel of which the reasonably consistent growth in the world market over the past two decades has been in the vicinity of 6%. An ocean bonanza, if there is one, is at least a generation down the road when any agreement reached today might reasonably be expected to be modified by time and circumstance. In short, the developing countries for ideological reasons, and the developed states for reasons that might come under the same heading, created an overblown situation in which it was virtually impossible to deal with the mining issue on economic rather than political terms.

Despite these inhibitions, however, a small negotiating group representing all the principal factions met before and during the last session of the Conferenec under the chairmanship of Norwegian Minister of State, Jens Evensen, to work out a compromise text on the basic arrangements of a dual system of access, financing an international Enterprise, establishing the scale of production controls keyed to the nickel market for the protection of land based miners, and a system of voting in the executive body, the Council of the International Seabed Authority, which would reasonably reflect the real distribution of interests. It was this text which at the last hour the Committee Chairman, Paul Engo of The Cameroon, failed to include and instead substituted an apparently similar, but substantially different text worked out in secret with a few representatives of third world countries with the result that was, as Ambassador Richardson described it, "fundamentally unacceptable."

Insofar as seabed mining was concerned the Conference was at ground zero or worse. Among the many unacceptable features of the new text, it appeared to require transfer of mining technology to the International Authority as a condition of application to mine. Another provision would prejudge the outcome of the proposed 20 year review of the system if no new agreement were reached within a five year period, thus opening the way to attain the single ocean management system desired by the Group of 77 by the mere process of non-negotiation if the negotiations were not satisfactory. Together with other conditions, including a substantially increased production limit on seabed mining, it is difficult to assume that Chairman Engo intended any serious effort at compromise.

Several explanations of this unexpected diversion of the work of the negotiating group are possible, but none have much validity. One hindrance to compromise has been a continuing misjudgement by a number of developing countries of the degree to which the United States could or would move on seabed issues to protect rights of navigation. To many, the United States has appeared so anxious to obtain a treaty that would protect these rights that it would ultimately, as the Wall Street Journal would say, "give away" the seabed. This widespread impression was fostered unfortunately, by the high visibility of military advisers attending some of the U.S. negotiators in the early stages of the Conference and by American exhortations to haste which made time itself appear to be a bargaining card. In fact, time, on seabed issues, now works the other way. Whether or not a tradeoff might ever have been considered—and the argument can be made that the developed countries, with possession of the technology and the financing, would be able to negotiate acceptable arrangements on the basis of economic benefits—and whether or not a more statesmanlike approach by the United States to the ideological trappings of the seabed issue would have produced a better result in the rest of the draft treaty text, is by now academic. Even were such a value to be placed upon other parts of the text, acceptance of the present mining proposals of the Group of 77 is not now politically acceptable in the Senate. If the Carter Administration is seeking to improve relations with the third world, the Congress is clearly in less global a frame of mind.

What now are the gains and losses in a treaty and for whom? Does the text achieve, in any substantial measure, its intended purpose of avoiding future conflict or does it merely institutionalize the seeds of conflict? Would the less certain but more pragmatic process of building a new body of law on a case-by-case basis decrease or increase the hazards of ocean conflicts?

These are simple questions to ask but difficult ones to answer. For the United States and for all maritime states there are definite gains on the navigational issues of original concern—the territorial sea of 12 miles coupled with provisions that preserve satisfactory rights of transit and over flight of straits. Critics of a treaty point out that the realities of power are such that these rights in any event would be maintained and this is undoubtedly so, but at some cost. Even with a treaty it is conceivable that some straits states may not ratify it absent other benefits; and even if they do, it is not unprecedented, as in the case of bases and other concomitants of modern peace keeping, that the United States will find it necessary to dispense some additional incentives to smooth its path. Nevertheless, a clearly established statement of rights is obviously preferable to a process of test and response in an area of ocean rights involving such highly charged matters as the deployment of submarines, or navigation in crowded seas like the Mediterranean which for thousands of years has been a bloody avenue of the ebb and flow of power.

The next question is whether these same treaty articles retain their value when linked, as they must inevitably be linked in a treaty, to the kind of economic zone now described in the text. In this equation the answer is less clear. The problem is described in terms of negotiating the "legal status" of the zone. Does the coastal state exercise the kind of extensive control which, with the exception of specified navigational rights, could lead to a territorial sea? Or, instead, does the area remain high seas—open to all—for non-resource purposes?

For many nations "high seas" are political trigger words. They carry with them the freight of empires past, and great powers present. Neither are popular. This makes it more difficult to create the kind of flexible balance of rights and duties which, while desirable from a strategic view, should also be desirable from the point of view of all nations which participate now or expect to participate in the future in ocean commerce. Some 60 nations, for example, will be "zone locked"—unable to reach the seas beyond a zone without transiting the zones of one or more foreign states. The opportunities for disputes are obvious.

The new text incorporates a partial compromise on the high seas question, but like many such compromises it is one which largely reserves the options of both sides by preserving the possibility of both interpretations. The economic zone is no longer described as sui generis or unique, but neither is it described as high seas. Canada, in urging the inclusion of the compromise text at the end of the last session, noted that it preserved the "special status" of the zone, while the U.S. urged the same, noting the protection of high seas rights. In other words, and given other articles which grant to coastal states extensive rights with respect to non-resource activities and with limited avenues of appeal to dispute settlement procedures, it is a very close question as to whether the danger of creep" is any more or less with or without a treaty. The best that can be said for the compromise text—and it is a worthwhile gain—is that if the conference itself fails, then the ongoing process of establishing future law by reference to the legislative history of the conference will not support an argument that there was widespread agreement that the economic zone was not high seas. This is, however, of greater comfort to lawyers than it can be expected to be a restraint upon nations and politicians.

The argument can be made that the nature of the economic zone has gone too far in the direction of national jurisdiction to serve the long term interests of most states; that the text is not substantially remediable; and that the ultimate limits of the economic zone might better be left to some reflection and to the more pragmatic approach of time and circumstance. To this is replied that the only future restraint on the grasp of coastal states will be by treaty—or by force.

To this point, if for no better reason than the concept that "the devil you know is better than the devil you don't", the treaty text, with the exception of its seabed mining provision, can probably be judged a minimal net gain for the U.S. and other maritime powers.

From a longer view world of world order it is not at all certain that the creation of new domains over the richest area of the oceans will contribute to the objective of conflict avoidance. Since, however, that possibility seems inevitable in any case, such speculations do not alter the equation.

At this balance point the weighting factor becomes the outcome of the deep mining issue. In making this judgment gains and losses are difficult to measure for they are most likely to be felt in areas unrelated to oceans, shadowing the future course of North South relations, and even of the United Nations itself.

At the present moment it appears likely that seabed mining will proceed, with legislative endorsement in the United States which will probably be followed by reciprocal legislation by other countries with mining technology, many of whom are already associated in consortiums with U.S. companies.

At the time that legislation is enacted, (and unless miraculously the chief pillars of the treaty text can be agreed at the scheduled 1978 spring session) whatever adverse effects such legislation unloose upon U.S. foreign policy objectives generally will come about in any event. Thus the principal remaining inducement for the United States to remain an active planner in seeking a further compromise will fade.

One further, and possibly in the long run the most important effect of failure might well be to set the United Nations along the way toward the fate of the League of Nations, if it proves an ineffective instrument of dealing with global problems of real and global consequences for generations to come.

What then can be done to retrieve the treaty text and make possible the kind of broad agreement which, if it fails far short of a constitution for the oceans, will at least establish an international framework for future ocean arrangements?

Substantively it is possible to attain essential improvements in the text if a majority of nations are persuaded of the benefits of a treaty. It is not, however, clear that a great many nations, having attained recognition of rights are willing to abide by their concomitant duties. Procedurally, it is likely that any further improvement can be agreed only by escalating the basic decisions from the level of conference negotiations to that of foreign ministers. This would involve shifting the negotiating process to a forum which minimizes the political influence of nations with no stakes in the outcome or with a preference for no agreement.

On the two outstanding substantive issues the shape of a workable agreement is apparent. With respect to the perservation of high seas rights in the economic zone the compromise incorporated in the new text represents some progress but not enough. It is likely that "high seas" itself is so loaded a phrase that the issue probably cannot be dealt with head on. But if it is necessary to accept an outcome which does not explicitly recognize the economic zone as being high seas for purposes other than rights accorded in the treaty, the substantive effects of the compromise can and should go further toward a genuine balance of interests. As one example, the insistence of the developing coastal states on control of scientific research in their areas is more directed at military activities of the major powers than it is at marine science.

On ocean mining the burden of compromise is now, however unfairly it may appear, largely upon the developing countries. If the cost of "recognizing the rights of a few states to half the seabeds" as Ambassador Pinto put it, seems high, even higher in the long run would be the loss of the opportunity to establish, with broad support from all participants, an effective beginning for an international mining enterprise. Still higher would be the future cost of failure of this first global effort to reach binding agreement on issues of common concern.

If the next session fails to produce acceptable compromise on the two key issues then the conference will face failure. If the chances are not good that compromises will materialize by then, are there any alternative routes to avoid either breakdown or stalemate? One alternative would in the past have seemed so antithetical to the asserted requirements of all participants as to be dismissed out of hand. That is to create under the aegis of the Conference President, veteran UN diplomat Ambassador Hamilton Shirley Amerasinghe of Sri Lanka, one or two small negotiating groups, similar to the two that were formed during the past session of the conference, and representing all major

factions in the negotiation. Their task would be to produce a recommended compromise text as a whole in a series of meetings that could require a year or more while the conference itself recessed. The objections are several and from all sides.

From the outset the United States has urged haste upon the conference lest the passage of time legitimize coastal claims and make more difficult their restraint in a treaty. This in fact has already occurred. Developing countries have feared that only an on-going Conference seemingly without end could, like the Chinese water torture, induce a compromise on ocean mining more to their liking as the price of a treaty. Still other nations object to being non-participants in the process. Finally, the Committee chairmen, who in this session successfully resisted any exercise of powers by the President to make his own changes in the text, would obviously object to the termination of their authority.

None of these objections should prevail. The passage of time has already made inevitable a 200-mile economic zone. A delay in the conference process could serve a real purpose in testing the waters of actual claims and adjustments without diminishing the prospect of obtaining a treaty acceptable to the diverse negotiating states much more than such prospect has already been diminished. Insofar as mining is concerned, if the U.S. legislation passes, ventures will be commenced regardless of the UN resolution and a differing view of the legal ownership of the minerals. Since, however, the lead time on commercial operations—time to build processing facilities and other necessities—is figured at three years, a treaty is not necessarily pre-empted. Much of the proposed legislation contemplates an eventual treaty.

Insofar as the small group negotiating process itself is concerned it has proven productive in the last session when one group produced at least a somewhat improved text on the status of the economic zone and the other, dealing with seabed mining, made progress had its results been included in the new text. The fact is that the deal must be struck between those with real interests at stake and not among those who divert the conference for political ends.

Lastly, the committee process has in most cases well served its purpose. With the exception of mining, the basic texts, subject to the nuances and adjustments required by decisions about the economic zone, have been completed. In the case of mining no procedural devices yet tried have produced any effective result. If other aspects of the conference have proceeded successfully by sidestepping the fundamental choices, it is clear that the details of a mining regime could be quickly worked out if, but only if, the decision to compromise is made first on a genuine parallel system, including its decision making processes, which can command ratification by the principal participants. Such a negotiating arrangement would also have the additional benefit of preserving the presently substantially completed sections of the text from erosion by the conference at large.

The basic requirement of any comprehensive oceans treaty is that it provides benefits for each of the major interests involved sufficient to make other less appealing provisions acceptable within its overall framework. Much time and money has been spent on an effort unique in history. It is arguable that an effort of such difficulty and complexity should not be hastened, but as each month passes the inexorable march of events tends to remove, one by one, the stuff of the negotiations. If the conference does not produce what amounts to an acceptable draft treaty text at the next session, it is not likely to do so at all. And then, as Santayana said, those who will not learn from history may well be doomed to repeat it.

If in the long view none will be the winners if the bloody history of land borders is replayed in the world's oceans, the losers are certain to be those whose voice is heard least outside an international forum such as this one. But the cost to all, great and small, can only be gauged by the awesome measure of a struggle for two-thirds of the planet earth in the 21st century. A treaty, if there is to be one, must be more than a mirror image of that uneasy prospect.

A PERSONAL SALUTE TO HALL OF FAMER LOU ATHANAS

Mr. McINTYRE. Mr. President, I was pleased to read in a recent issue of the Manchester, N.H., Union Leader that a fellow townsman and an old friend has been named to the University of Lowell Hall of Fame.

Lou Athanas, of my hometown of Laconia, N.H., will be inducted into his alma mater's hall of fame this Friday, and a more fitting honor I cannot conceive.

As the article noted, selection for the university's hall of fame was made on the basis of athletic prowess while a student, integrity, sportsmanship, character, contribution to the team or teams on which the person played, and to the university in general.

At Lowell, Lou starred as a quarterback on the football team, a first baseman in baseball, and a forward in basketball. In his senior year, he was the country's leading scorer on the basketball court, at times scoring more points individually than the competing team scored collectively. It is little wonder that he is regarded as a living legend in the history of the university.

But his record in athletics—as a college star, and later as an official, New Hampshire's State athletic commissioner for three terms, as organizer or director of countless sports programs for youth, including the phenomenally successful junior pro basketball league—is only part of the Lou Athanas' story.

He combines the jobs of clerk of the Laconia District Court and local probation officer, and in the latter role, he has exhibited admirable sensitivity to the needs of young people, particularly those disadvantaged by uncaring homes.

He not only gives fully of himself to these troubled youngsters, he enlists other adults in the Laconia community to serve not just as probationers, but as surrogate parents who provide the support, affection, and counsel these boys and girls do not get at home.

It has been said of Lou Athanas that there is not a better known sports figure in the entire State of New Hampshire. And it has also been said of him that no other man in the State has made his positive influence felt among so many youngsters over so many years.

Mr. President, I take this opportunity to salute Lou Athanas for his many contributions to my State, to congratulate him upon his much deserved induction in the University of Lowell Hall of Fame, and to ask unanimous consent to have the Manchester Union Leader article about him printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATHANAS NAMED TO HALL OF FAME

(By Earl O. Anderson)

LACONIA.—One of New Hampshire's best known athletic officials, Lou Athanas of this city, has been named to the Hall of Fame being established at the University of Lowell.

Athanas is one of but nine persons—and the only one from the Granite State—to be initially honored.

The induction ceremonies are scheduled for Oct. 7.

The Lake City man was graduated from the former Lowell Textile Institute in 1936, when it had an enrollment of under 300.

The university enrollment is now approximately 8,000. Old Lowell Tech was merged some years ago with Lowell State College to form the university.

The whole life of Athanas has been devoted largely to athletics in some capacity.

He is regarded as a "legend" in the history of athletics at the university, officials said in announcing his selection.

During his career at Lowell Tech, he was said to have excelled as a quarterback in football, a first baseman in baseball and a forward in basketball.

During his senior year, he led the country in scoring in basketball.

"On several occasions," noted the university, "Athanas scored more points than the combined efforts of his opponents. In the Greater Lowell area, collegiate stars and the name of Athanas are synonymous."

Selection for the Hall of Fame was made on the basis of playing ability while attending the university, integrity, sportsmanship, character, contribution to the team or teams on which the person played, and to the university in general.

Notification to Athanas was made by Dr. James Ciszek, director of physical education and athletics at the university.

"Members of the selection committee," he wrote the Laconia man, "after reviewing your accomplishments in athletics, are extremely proud to have had a part in honoring your 'significant' contributions to our university."

Athanas is a native of Lowell, and has lived here for many years. He met his wife, Laura, in Washington, D.C., while refereeing a hoop game in which she was playing. They have a son, Lou Athanas Jr., 16, who plays the same position in the same sports as his father, and a daughter, Felipita Athanas, 15.

Lou was appointed by three governors of New Hampshire to serve a term each as state athletic commissioner.

A fourth governor issued him a commendation.

Athanas served four years with the U.S. Marines during World War II, attaining the rank of sergeant. He captained both the basketball and baseball Marine teams in the nation's capital.

He has officiated at many college grid, hoop and diamond games throughout New England; also many high and prep school athletic games in New Hampshire.

He has served as director of the N.H. State American Legion Junior Baseball program, and also managed the Laconia City Baseball team.

He has been active in the Laconia youth sports programs, as the Little League and Babe Ruth League, and the Pop Warner football program. More recently he organized and supervised the Junior Pro basketball league, consisting of 200 boys and girls.

He is in his 13th year as clerk of the Laconia District Court, and has been a local probation officer since 1958. On one occasion he served as acting special judge.

PIPELINE COMPETITION ACT—S. 1879

AMENDMENT NO. 1397

Mr. HASKELL. Mr. President, I submitted amendment No. 1397 for printing on September 28, 1977, and asked that it be printed in the RECORD. In the confusion associated with the natural gas debate, the printing of the amendment was somehow omitted. I, therefore, ask unanimous consent that the amendment be printed in the RECORD at this time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1397

That this Act may be cited as the "Pipeline Competition Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) the Nation's energy needs require a petroleum pipeline system which is accessible to all shippers on equal terms;

(2) the Nation's energy needs require a pipeline system which operates under an incentive to quickly provide adequate capacity to meet the transportation needs of all shippers;

(3) pipelines operated by integrated petroleum companies have neither the incentive to provide access to all shippers on equal terms nor the incentive to provide adequate capacity for the transportation needs of all shippers; and

(4) the present system of regulation of petroleum pipelines is incapable of assuring access on equal terms or adequate capacity.

(b) It is the purpose of the Congress in this Act—

(1) to promote the operation of interstate pipelines as an efficient common-carrier system with open access to all shippers and adequate capacity;

(2) to require the separation of pipeline ownership and operation of petroleum pipelines from other petroleum industry operations; and

(3) to prohibit shipper-ownership of petroleum pipelines.

DEFINITIONS

SEC. 3. As used in this title the term—

(a) "person" means an individual or a corporation, partnership, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated. It does not include any authority of the United States or of the several States;

(b) "control" means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, or contractual relations which substantially impair the independent business behavior of another person;

(c) "affiliate" means a person controlled by, controlling, or under or subject to common control with respect to any other person;

(d) "asset" means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation;

(e) "commerce" means commerce among the several States with the Indian tribes, or with foreign nations;

(f) "petroleum" means crude oil, condensate, natural gas liquids, and refined petroleum products;

(g) "refine" means to change by any operation the physical or chemical characteristics of petroleum or petroleum products, exclusive of burning out of the operations of passing petroleum through a separator to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum;

(h) "refined product" means any product, whether liquid or gas, which is produced by a petroleum refinery;

(i) "marketing asset" means any asset used in the sale and distribution of gasoline or fuel oil, including diesel and distillate, to ultimate consumers at a retail motor fuel outlet, other than the initial sale with transfer of ownership to customers at the refinery;

(j) "production asset" means—

(A) natural deposits of crude oil, or condensate and natural gas liquids;

(B) any asset used primarily in the exploration for, development of or production of an energy resource including, but not limited to, an interest in real property, whether or not such real property is developed or undeveloped;

(C) geological and geophysical information;

(k) "refinery asset" means any asset used in the refining of petroleum;

(l) "pipeline" means any asset used in the transportation of petroleum in commerce within the United States by pipeline or gathering line;

(m) "Outer Contnential Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(n) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, and the Outer Continental Shelf.

(o) "Commission" means the Federal Energy Regulatory Commission; and

(p) "prohibited asset" means any pipeline the retention of which is prohibited by section 4 of this Act.

PROHIBITION

SEC. 4. (a) Notwithstanding any other provision of law, three years after the date of enactment of this Act, it shall be unlawful—

(1) for any person who owns, or controls, any interest in any refinery asset, production asset or marketing asset to own or control any interest in a petroleum pipeline; or

(2) for any person who controls any pipeline to receive for transport, store, transport or deliver, any petroleum in which such person, or any affiliate of such person, holds an interest; except for such bailment interest normally incident to a common carrier transport operation.

(b) In order to facilitate the purposes of this Act, the Commission is authorized to exempt any corporation formed or reorganized as a result of compliance with this section from the prohibitions contained in section 8 of the Clayton Act (38 Stat. 732; 15 U.S.C. 19) for a period not to exceed one year.

EXEMPTIONS

SEC. 5. The Commission may, upon application by any person required to divest interests in assets under section 4(a) or prohibited from using assets by section 4(b), exempt any such person from the operation of section 4 with respect to any pipeline upon a finding—

(1) that such pipeline is so integral a part of other assets, the retention or use of which is not prohibited under section 4 that no public purpose would be served by the divestment of or prohibition of the use of any such pipeline; and

(2) that the retention or use of any such pipeline will not tend to injure competition or otherwise subvert the purposes of this Act.

REPORTS

SEC. 6. Each person subject to section 4 of this Act shall, within thirty days from the date of enactment of this Act, file with the Commission a report listing their prohibited assets. The Commission may order subsequent reports from persons subject to section 4 and may order reports from such other persons as it requires.

PROHIBITION ON SOLICITATION

SEC. 7. It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a corporation or affiliate thereof subject to the requirements of section 4.

ENFORCEMENT

SEC. 8. (a) The Commission, in accordance with such rules, regulations, or orders as it deems appropriate to carry out the purposes of this Act, shall require each person subject to the provisions of section 4 to submit to the Commission within twelve months of the date of enactment of this Act, a plan or plans for the divestment of the prohibited asset. Such plan must—

(1) be fair and equitable to all affected persons;

(2) substantially accomplish the required divestiture within three years of the date of enactment of this Act;

(3) provide that each person owing prohibited assets shall form a separate corporate corporation and shall transfer the prohibited assets to the new corporation in exchange for the new corporation's stock which shall be distributed to the stockholders of the divesting corporation in proportion to such stockholder's holdings in the divesting corporation.

(b) The plan required under subsection (a) of this section shall be devised by each person subject to the provisions of this Act, with respect to their own interests only, in consultation with the officers and employees of the Commission and the Securities and Exchange Commission under guidelines which the Commission, with the advice and counsel of the Securities and Exchange Commission, shall promulgate.

(c) The Commission shall institute suits or actions for such relief as is appropriate to assure compliance by any person with this Act, including, but not limited to, orders of divestiture, declaratory judgments, mandatory or prohibitory injunctive relief, interim equitable relief, and the appointment of temporary or permanent receivers or trustees.

(d) In the administration of the provisions of this section, the Commission shall have primary oversight jurisdiction and responsibility for the preparation, interim approval or disapproval, and final approval of the required divestiture plans.

(e) In carrying out the provisions of this Act, the Commission and the Securities and Exchange Commission are each authorized to utilize all powers conferred upon them separately, and all sanctions associated therewith, by any other provision of law.

FAIR AND EQUITABLE

SEC. 9. Not later than ninety days after the submission of each plan, or modification thereof, under section 8(a) of this Act, the Securities and Exchange Commission shall separately and independently submit to the Commission an analysis of the conformity of each such plan and modification thereof with general standards of fairness and equity with respect to the holders of debt and equity interests of any corporation affected by the provisions of section 4 of this Act or otherwise affected under each such plan.

ADJUDICATION

SEC. 10. Pursuant to section 554 of title 5, United States Code, not later than two years and four months after the filing of each final and approved plan, the Commission shall issue orders causing the implementation of the plans in such a matter as will be fair and equitable to all persons affected and will accomplish the purposes of the Act within three years of the date of enactment of this Act.

ADMINISTRATIVE SUPPORT

SEC. 11. Notwithstanding any other provision of law, the Commission and the Securities and Exchange Commission may contract for the services of such persons including lawyers, economists, accountants, appraisers, securities analysts, neutral experts, and such other personnel as may be necessary to expeditiously carry out the responsibilities vested in each of them respectively by the provisions of this Act.

SANCTIONS

SEC. 12. (a) Any person or any officer, director, or partners thereof, who violates any provision of this Act shall forfeit and pay to the United States a civil penalty of not more than $100,000, in the case of an individual, or not more than $1,000,000 in the case of a corporation. Such penalties shall accrue to the United States and may be recovered in a civil action brought by the Commission.

(b) Any person or any officer, director, or partner thereof, who violates a lawful order of the Commission issued pursuant to this Act shall forfeit and pay to the United States, for each violation, a civil penalty of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey an order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense.

REGULATIONS

SEC. 13. (a) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to require that any plan or plans for divestment of prohibited assets shall provide for the maintenance of competitive conditions in capital markets for the sale of notes, securities, or assets pursuant to such plan or plans.

(b) The Commission shall require that the size, timing, and other conditions of sale of such notes, securities, or assets shall be such as to encourage broad participation by underwriters and potential purchasers.

(c) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to assure that competitive conditions are maintained in capital markets when loans, leases, and other financings are entered into by persons required to submit a plan or plans required pursuant to this Act during the pendency or in conjunction with such plan or plans.

AUTHORIZATION

SEC. 14. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SOUTH DAKOTANS EXCHANGE FARM VIEWS

Mr. McGOVERN. Mr. President, a recent exchange of correspondence between two distinguished South Dakotans, both knowledgeable in the affairs of agricultural policy, and both exceptionally close friends of mine, is to me significant in reflecting views in the farm community and a defense of the Food and Agriculture Act of 1977.

The initial letter is written by Mr. Loren Zingmark, the general manager of East River Electric Cooperative, Inc., of Madison, S. Dak. Mr. Zingmark heads one of the country's outstanding rural co-ops. He is close to farmers and knows their frustrations. His letter is directed to Mr. James C. Webster, Director of Congressional and Public Affairs at the U.S. Department of Agriculture. Mr. Webster recently was the Chief Clerk of the Senate Committee on Agriculture and Forestry where he served with distinction. Prior to that he worked as a key aid in my Senate office. Bob Bergland wisely asked him to come down to the Department shortly after his nomination. Both Mr. Zingmark and Mr. Webster are long time personal friends.

I know that Loren Zingmark's letter reflects the thinking of many farmers, particularly in South Dakota who after 3 dry years are now faced with depressed commodity prices. On the other hand, I think that the broad brush explanation to the farm problems so well articulated by Mr. Webster is one of the finest expository pieces on the contemporary farm situation I have read.

For purposes of perspective, Jim Webster's letter focuses sharply on the genuine efforts of Mr. Bergland to reclaim for American farmers a decent deal for the long run. Bob Bergland at the very least deserves our patience and our cooperation.

Since both letter writers furnished me copies of their correspondence, I ask unanimous consent that the text of their letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EAST RIVER ELECTRIC
POWER COOPERATIVE, INC.,
Madison, S. Dak., August 2, 1977.

Mr. JAMES C. WEBSTER,
Deputy Under Secretary for Congressional & Public Affairs, U.S. Department of Agriculture, Washington, D.C.

DEAR JIM: I read an interesting speech the other day which was dated August 25, 1976. One of the paragraphs reads as follows: "If I am elected, we will make sure that our support prices are at least equal to the cost of production. That will not guarantee a profit—no real farmer wants that—but it will give the determined farmer a chance to stay in business."

You are correct—that statement was made by then-Candidate Jimmy Carter at the Iowa State Fair Grounds in Des Moines, Iowa.

As the Assistant Secretary of Agriculture for Congressional and Public Liaison, would you please explain to me what has happened between the time that promise was made and the deplorable prices which the farmers are now receiving for their grain. Example: Last year, here at Madison, oats was being sold by the farmers for $1.65 a bushel. Today it's 79¢. Is this "at least equal to the cost of production"? No farmer in our area believes that.

Sincerely,

LOREN A. ZINGMARK,
General Manager.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 18, 1977.

Mr. LOREN A. ZINGMARK,
General Manager, East River Electric Power Cooperative, Inc., Madison, S. Dak.

DEAR LOREN: Your provocative letter of August second arrived while I was off for a few days trying to recuperate from three sometimes hectic weeks of legislative battles—eight days on the House floor and five days, up to 12 hours each, in Conference Committee on the farm bill.

Although your letter makes it sharp and clear that you're disappointed with a major element of our farm and food policy—the price and income support levels we've advanced—I'm delighted to have the opportunity to organize some of the thoughts I've had over the past few months as this political fire has threatened to go out of control.

First, let's look at the background—the price and supply situation leading up to the 1976 campaign; the farm issues in the campaign itself, where I played a bit part; the development of 1977 farm legislation through the Conference Committee week before last; and, finally, the economics and politics of it all.

So here goes; bear with me.

You remember, better than I, in the years leading up to 1972; dollar corn and dollar-and-a-quarter wheat were the rule, day in and day out, without a great deal of variation. Many years, Government-owned surpluses exceeded a billion bushels each of wheat and corn, and in some years they topped two billion.

All of a sudden, God and the Kremlin smiled simultaneously on Earl Butz and the American farmer; the carryover was wiped out and the taste of $3 corn, $5 wheat, and $9 soybeans was as sweet to farmers (and those of us who work for farmers) as 60-cent sugar.

But there were dangers in this, too: in the campaign we coined such clever phrases as, "Bust follows boom as surely as night follows day." This is nice campaign rhetoric, and it's also true.

Nine- and ten-dollar soybeans, and an unnecessary embargo, gave the Japanese the incentive they needed to invest in soybean production and handling in Brazil.

Record corn and wheat prices drove up the sale price of farmland as never before; in 1975, the average sale price of farmland in the Northern Plains States (Kansas, Nebraska, North Dakota and South Dakota) rose 36 percent in a single year. The higher crop prices were capitalized quickly into land prices; they've stayed there and are compounding.

Those cash prices also brought about an incredible amount of new production; last year's corn crop was the biggest in history, and our wheat acreage harvested was the greatest ever. It's politically fun to say that farmers planted fence-to-fence because Earl Butz asked them to, or that they did it to feed a hungry world, but the fact is that simple American profit incentive brought out production never before seen on this planet.

Right at the peak of prices, I recall a conversation with a Soil Conservation District official in western South Dakota, who told of farmers plowing up Class 4 and Class 5 grazing land for wheat—land that was a prime candidate for serious erosion without grass cover—and another conversation with an irrigation specialist at the University of Nebraska who described irrigated and fertilized corn on an acre of soil with almost no natural nutrients, compensated for by 150 pounds of nitrogen on each acre.

(We should keep in mind that all this happened with almost no recognizable Government assistance or even Government involvement; the 1973 farm bill, then in effect, started target prices at $2.05 a bushel for wheat and $1.38 a bushel for corn, and had minimum loan rates of $1.37 a bushel for wheat and $1.10 a bushel for corn.)

Those were some of the elements in the drama that was building by the time of the Iowa State Fair—August of last year. We had the August crop report by then—the first generally accurate estimate of 1976 corn production—but the 1977 winter wheat crop that's now overflowing elevators from Houston to Rapid City wasn't even in the ground.

What's more, the best minds in agriculture and the grain trade at that time were guessing wrong (and as smart as all of us like to think we are, in this game about the best we can do is guess) about the volume of exports for the rest of 1976 and 1977.

So here we are—staring at record large supplies of wheat and corn—hoping for another act of God and the Comintern to bail us out one more time. But this time, they're not cooperating: the Soviet grain crop is in the neighborhood of 220 million metric tons (it was 132 million in 1975), their third largest ever. Even India and Bangladesh, chronic importers, have had good crops.

But that's all background, and it can only set the stage for an answer to your question.

As farm issues developed a clearer focus last summer and fall, you'll recall, we adopted several general themes that fit together. We pledged to level the booms and busts, to protect farmers on the low side and consumers and export customers on the high end, but mostly to restore a little predictability to one of the biggest business gambles devised by the mind of man. The key elements of this were supports at least equal to production costs; vigorous export promotion activities; a farmer-owned, farmer-held grain reserve; and a new open door at USDA so farmers and consumers could have the influence that the grain companies and agribusiness giants then held exclusively.

These are pretty far-reaching goals, and they involve some pretty drastic changes from what's been happening here the previous eight years. I think this Administration, in its short span, has made some impressive progress toward achieving those goals.

Item. On April 4, Secretary Bergland implemented the farm-stored reserve program for at least 300 million bushels of wheat, more than one-fourth of the carryover at the end of the 1976/77 marketing year.

Item: By his selection of Secretary Bergland, Assistant Secretary Foreman and several others, the President already has delivered on his pledge to open up the Department to all Americans—a move that is paying dividends already in a far broader base of support for USDA and farm programs.

Item: Assistant Secretary Hathaway is implementing significant reorganization of USDA's overseas market development efforts, working with producer groups to design the most effective export promotion program effort ever. This isn't a one-shot effort, and it takes time.

Item: On June 22, Secretary Bergland announced that farmer cooperatives would be able to obtain price support loans on their members' wheat and feed grains, a significant alternative marketing tool for farmers who want the economic advantages of pooling their production with other farmers.

Item: On March 23, the Secretary presented to the Senate Agriculture Committee the first administration farm bill in a dozen years, with target price payments based on full planted acreage rather than historic allotments, to cover all variable production costs (fuel, seed, machinery, labor, etc.), plus a 7 percent return for management and a 1½ percent return to land based on current values.

After months of hard work and negotiation between the Administration and the Congress, the Conference Committee agreed on August 5 to a workable four-year farm bill that will protect farmers' incomes at average production costs—$2.90 a bushel for wheat, $2.00 a bushel for corn, and equivalent levels for other feed grains, in the 1977 crop years.

Frankly, Loren, I think that's a pretty good record of fulfillment of campaign promises in a half year—one-eighth of the first term of the Carter Administration.

It troubles me to see such a gaping difference of opinion between us and so many of our traditional friends and fervent supporters over what narrows down to an interpretation of that single phrase, "cost of production."

Ben Stong once told me of a meeting of wheat growers in Nebraska, many years ago—at which farmers were asked to estimate their production costs per bushel—that there were as many answers as there were farmers in the room.

Today, the debate seems to be narrowed even further—to how the cost of land is computed in production cost estimates. Senator Talmadge's bill, S. 275, used a 9 percent return to the average acquisition cost over 35 years, weighted with cash rent and share rent to reach $2.91 a bushel for wheat in 1977. The basic data he used, taking land at current market value and assigning a 3 percent return, gives you $2.90 a bushel for the same wheat.

The bill ultimately produced by the Congress (and which we at USDA find positive) sets income support payments (target prices) at a level that returns about 4 or 4.5 percent to current land values.

There are a lot of elements in our program, Loren, that will make it a great deal more popular once it's fully understood. That, of course, is a chance; it doesn't make us a great deal more popular today, but I'm convinced that it's going to work out over the next year or so.

For instance, wheat farmers are upset that their average market price last month was only $2 a bushel. So am I. But they're not selling much wheat at that price—(77 per cent of the new wheat crop is being retained by farmers). And the critics are not taking into account the deficiency payment coming in December or January—22 cents a bushel, based on existing law (the difference between the $2.25 loan and $2.47 target), or 65 cents a bushel, if the 1977 bill becomes law in September (the difference between the $2.25 loan and the $2.90 target). That could be almost $1.2 billion to farmers this year, depending on a lot of variables.

Although the change doesn't take effect until the 1978 crop (this year's crop is covered by the existing 1973 law), we're going to base deficiency payments on full planted acreage, rather than historic allotments, from here on. For most South Dakota grain producers, this is a real, but still little-known, bonus in hard cash.

The Government could, of course, support the *price* at production costs and guarantee a 9 percent return to current land value, with a wheat loan rate of $3.73 per bushel, rather than guaranteeing *income* at the level in the 1977 farm bill, as it does with target prices. But what would be the consequences?

First, it would guarantee that the U.S. would be the supplier of last resort for importing countries; the importers would buy every other exporting country dry before returning to the U.S. to make only essential purchases.

Second, it would guarantee that our farmers and taxpayers would once again hold the reserve stocks for the world, demolishing any incentive for other countries to help carry the load. The prime objective of the wheat talks in London this year are to develop a shared international system of holding stocks, and we have high hopes that agreement can be reached.

Third, it would guarantee that the Government gets back in the storage business in a big way, leading again to the political heat that farmers caught in the 1960s when taxpayers spent $1 million a day to store the surplus.

Fourth, it would guarantee a new explosion in land prices ($5,000 an acre for Iowa corn land would be commonplace), attract heavy outside investment, and practically assure that the ownership of farmland is transferred from working farmers to absentee landlords. I don't want this and neither do you.

That is precisely what the President had in mind during the 1976 campaign when he constantly qualified his pledge for support levels to cover production costs by saying he would not guarantee a profit, as he said in the Iowa State Fair speech which you quoted.

Finally, Loren, a direct response to your closing question: is a market price for oats, at 79 cents a bushel in Lake County, "at least equal to the cost of production?" Of course not, and that's precisely one of the things we're changing.

Under the existing 1973 law, there is no target price for oats. There will be under the 1977 bill, and we intend to have a target price for oats for the 1978 crop year, based on exactly the cost-of-production standard used to reach $2 a bushel for corn. Our preliminary estimate is that the 1978 oats target price will be $1.81 a bushel.

The length of this epistle is, perhaps, such as to invite criticism that I am being excessively defensive.

But the fact is that your letter expresses on one page a feeling that we've heard increasingly from farmers and farm leaders. Without question, we have sustained some political damage.

In the long run, I am convinced, we have arrived at almost final agreement on legislation that sets out a new charter for farm and food policy: one that will allow us, if we do the job right, to live up to our goal of a policy that works in the lean and fat years, too. It will allow us to put more than a billion dollars—in wheat target price payments alone—into the rural economy late this year and early next; it will provide the flexibility this country needs to stay competitive in world trade and will keep our farmers from bankruptcy.

Obviously, no one in this Department hopes that market prices remain below target prices; all of us will work for exactly the opposite—the improvement of market prices to the point that farmers can earn a decent profit and live the kind of life that we all want.

With best personal regards, I am,

Sincerely yours,

JAMES C. WEBSTER,
Director, Congressional and Public Affairs.

EAST RIVER
ELECTRIC COOPERATIVE, INC.,
Madison, S.D., September 1, 1977.

Mr. JAMES C. WEBSTER,
Director, Congressional and Public Affairs, Office of the Secretary, Department of Agriculture, Washington, D.C.

DEAR JIM: I appreciate your reply to my letter, which was rather critical of the Administration's efforts in the agricultural area. Because you took the time to explain in detail the agricultural program, I am much better versed and have a much better understanding than I have ever had in the past.

It's difficult, however, Jim to sit in the rural area and watch the farmers' crops dry out—in some cases for three years, and then when they finally get a crop, the prices are so low that they don't even get the cost of their production back. I was rather lenient when I said 79¢ a bushel for oats, now it's 61¢ and elevators don't want it.

I'm sure many farmers are still on the farm today because their land has appreciated, thereby giving them additional credit, but some day that will also run out.

Again, Jim I appreciate your letter and sincerely hope this Administration can do something for the one who tills the soil. He's never asked for a hand out, only a fair chance in the market place; he's the only person in this Nation who has no guarantee that he will get anything for his labor.

Sincerely,

LOREN A. ZINGMARK,
General Manager.

PANAMA CANAL TREATY

Mr. THURMOND. Mr. President, on October 4, I inserted in the RECORD a State Department cable which corrob-

orated my earlier testimony on the numerous differences in the Panamanian and U.S. interpretation of treaty provisions.

Today, I would like to call attention to an article appearing in the October 5, 1977, edition of The Washington Post entitled, "Canal Treaties Get a Jolt," reported by John M. Goshko, and also an article appearing in the October 5, 1977, edition of the New York Times entitled, "Dole Says U.S. Cable Shows Differences With Panama on Treaties," reported by Graham Hovey.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1977]

U.S., PANAMA DIFFERENCES CITED: CANAL TREATIES GET A JOLT

(By John M. Goshko)

The campaign to win Senate approval of the Panama Canal treaties was given a severe jolt yesterday by disclosure of a document indicating that Panama does not recognize U.S. claims to future military rights in the canal.

A confidential State Department cable made public by Sen. Bob Dole (R.-Kan.) revealed what appear to be major differences in U.S. and Panamanian interpretations of the treaties' provisions for defending the canal.

These provisions refer to the period after the year 2000, when the treaties would transfer control of the canal to Panama. At issue are questions of whether the United States will have the right to intervene militarily against threats to the canal and a right of priority passage for U.S. warships in time of national emergency.

These questions have become crucial to the Carter administration's quest for the 67 votes—two-thirds of the Senate—necessary to get the pacts approved by that badly divided body. Several uncommitted senators have said their votes will depend on whether they are convinced that the treaties secure these rights for the United States.

In testimony last week before the Senate Foreign Relations Committee, Secretary of State Cyrus R. Vance and the two U.S. treaty negotiators, Ellsworth Bunker and Sol M. Linowitz, said repeatedly that these rights are safeguarded by the language of the treaties.

Specifically they said that treaty language pledging the United States and Panama "to maintain the regime of neutrality" over the canal gives Washington a permanent right of intervention if it considers the canal threatened.

They also asserted that the provisions calling for "expeditious passage" for U.S. vessels in wartime mean that American ships would "go to the head of the line." The U.S. interpretation of these provisions was fully understood by the Panamanian government, they added.

However, their testimony seemed to be contradicted by the cable released by Dole. It was a message sent to the State Department last week by Ray Gonzalez, deputy chief of the U.S. embassy in Panama. It reported a conversation between the embassy's political counselor and Carlos Lopez Guevara, one of the Panamanian treaty negotiators.

The cable describes Lopez Guevara as being disturbed by Vance's testimony about U.S. intervention rights, and quotes him as saying: "Intervention is simply forbidden by international law. Panama cannot agree to the right of the United States to intervene."

Lopez Guevara also is quoted in the cable as taking exception to statements by Vance and other U.S. officials that Panama's military ruler, Gen. Omar Torrijos, tacitly recognized U.S. intervention rights when he said at the treaty-signing ceremonies that the agreements could place Panama under the defense umbrella of the Pentagon.

The cable quoted Lopez Guevara as saying that U.S. officials "had made too much of Gen. Torrijos' statement . . . 'The general was stating a fact not giving the United States any right to intervene.' "

On the question of what the "expeditious passage" clause means, the cable said Lopez Guevara disagreed that it allows U.S. ships to "go to the head of the line." He is quoted as saying that Panama tentatively had accepted the idea of preferential treatment for U.S. vessels early in the negotiations, but later had rejected it specifically in favor of the word "expeditious."

The cable concluded by warning Washington: "We are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost certain to be challenged here."

That referred to the fact that the treaties have extremely sensitive domestic political implications in Panama as well as in the United States. State Department officials say privately that the language of the neutrality clause and other touchy points was deliberately left vague by both sides to protect the Torrijos regime from charges within Panama that it had surrendered too much to the United States.

However, that has also enabled the treaties' foes in the United States to seize on these ambiguities.

In hammering at this theme, the American critics have been aided by statements of high Panamanian officials—of which Lopez Guevara's remarks are the latest example—that appear to contradict Vance's assurances directly.

That prompted several senators to warn Vance that the treaties' chances of getting past the Senate would be jeopardized unless the divergences in interpretation are clarified. Several said yesterday that the Lopez Guevara statements are further proof of the need to establish that Panama's understanding of the treaties conforms to that stated by the Carter administration.

That, some senators suggested, could be done by a public statement from the Torrijos government or by the Senate attaching legally binding amendments or reservations to the treaty.

Although they have promised to seek clarification, State Department officials privately express unhappiness about both ideas. Torrijos, they note, would find it very difficult from a domestic political standpoint to come out publicly in agreement with the U.S. interpretations; and any amending of the treaties by the Senate would require reopening the negotiations to obtain Panama's consent.

The State Department confirmed the existence of the cable, and issued a statement saying "We are assessing the effects of all these statements in the light of the treaty language and a statement of Gen. Omar Torrijos when the treaties were signed on Sept. 7, with the view to determining whether further clarification may be required."

[From the New York Times, Oct. 5, 1977]

DOLE SAYS U.S. CABLE SHOWS DIFFERENCES WITH PANAMA ON TREATIES

(By Graham Hovey)

WASHINGTON, Oct. 4.—Senator Robert Dole, Republican of Kansas, made public today a confidential State Department cablegram that he said demonstrated "vast differences of interpretation" between the United States and Panama on key points in the new canal treaties.

The cablegram, sent from the American Embassy in Panama last Thursday, reported that one of Panama's negotiators took sharp exception to the Carter Administration's interpretations of the right of the United States to help defend the canal after 1999 and of the "expeditious" passage through the waterway that would be guaranteed to American and Panamanian warships.

Secretary of State Cyrus R. Vance and other officials, including military leaders, have told the Senate Foreign Relations Committee that under the separate neutrality treaty the United States could do whatever might be necessary to insure access to the canal and its neutrality indefinitely.

They have testified that the "expeditious" passage guaranteed in that treaty meant that United States warships could when necessary "go to the head of the line" for transit of the waterway.

According to the cablegram made public by Senator Dole, an opponent of the treaties "in their present forms," Carlos Lopez Guevara, a veteran Panamanian negotiator, took issue with the head-of-the-line thesis, insisting that expeditious passage did not mean "preferential" transit, which he said the American side had originally demanded.

Mr. Lopez also said, according to the cablegram, that American officials should stop using the term "intervention" to describe this country's rights under the neutrality treaty. "Intervention is simply forbidden by international law," he was quoted as having said. "Panama cannot agree to the right of the U.S. to intervene."

When Brig. Gen. Omar Torrijos Herrera, Panama's Chief of Government, said at the signing of the treaties in Washington Sept. 7 that the neutrality pact left Panama "under the Pentagon's defense umbrella," he was "stating a fact, not giving the U.S. the right to intervene," said Mr. Lopez, according to the cablegram.

Administration witnesses at the Senate Foreign Relations Committee hearings have repeatedly quoted General Torrijos's statement as confirmation of their claim that under the treaty the United States could always act to protect the neutrality of the canal.

State Department specialists said today they believed Mr. Lopez had meant only to draw a distinction between the right to intervene in Panama's internal affairs, which Washington does not claim, and action to defend the canal's neutrality and accessibility.

"This is a negotiated treaty," an official said. "There is an obvious difference in approach to the same set of words. But I think this is natural and not fatal, and I believe the differences will promptly be narrowed."

But Senator Dole, who did not disclose how he obtained the secret cablegram, said Mr. Lopez's interpretations meant that the Senate "must clarify our defense rights by amendment, not by weak 'understandings' that have no legal and binding effect."

The Kansan, who was the Republican Vice Presidential candidate in 1976, will introduce six amendments and two reservations to the treaties when he testifies tomorrow at the sixth day of hearings by the Foreign Relations Committee.

Administration officials have warned that, although "understandings" of treaty clauses, attached by the Senate to the instruments of ratification, might be acceptable, amendments or formal reservations would require reopening negotiations with Panama.

Mr. Dole's disclosure somewhat overshadowed the fifth day of hearings, which were marked by heated exchanges about the integrity of Gen. George S. Brown, Chairman of the Joint Chiefs of Staff.

Senator Strom Thurmond, Republican of South Carolina, leader of a coalition opposing the treaties, said General Brown and the other service chiefs, who have strongly endorsed the Panama treaties, were "under the gun," with their careers at stake, and would be inclined to go along with the President whatever their personal opinions of the pacts.

Senator Paul S. Sarbanes, Democrat of Maryland, a member of the Committee, said with some heat that this constituted a denigration of the Joint Chiefs and an attack on the integrity of the opinion expressed by General Brown before the committee. It was "not a contribution to the debate," Mr. Sarbanes said.

THE WASHINGTON POST AS A FARM CREDIT ANALYST

Mr. MCGOVERN. Mr. President, an editorial in the Washington Post for September 27, 1977, proves that if the Nation's farmers were to rely on big city newspapers as journals of farm policy, they would be in pretty bad shape. The Post editorial is entitled "The Disaster That Wasn't" and is critical of the Department of Agriculture for declaring large areas of the United States disaster areas when in fact reasonably good crops prevailed nationally during the current growing year. The Post takes issue with the Department for making emergency loans available at the beginning of the crop year instead of at the end. The writer, however, has obviously not been in the Midwest and the far West for the last several years. If he were, he would know that in many areas drought conditions had prevailed for 2 and 3 years before this growing season started. Many of these farmers were almost flat broke and could not have put a crop in the ground this year were it not for the early loan that enabled them to meet ever expanding pre crop expenses such as gasoline, seed, fertilizer and hired help that must precede actual crop growth. Citing the end result as the sole basis for legitimate credit needs is not only shortsighted but indicates a fundamental misconception of what farmers' financial problems are.

The Post editorial writers could profit well from a September 22, 1977, report in the Aberdeen (S.D.) American News entitled "Bankers Say Farm Credit Crisis is Real." Bankers, especially in Nebraska and Oklahoma, are virtually loaned out of conventional credit money. To a lesser degree this is also true in the Upper Great Plains States. Bankers loan money at high interest rates and require substantial collateral. Farmers with 3 bad years are not the most welcome loan applicants at commercial banks and must rely on Federal Government assistance to keep going. If commercial credit sources are exhausted, and the Washington Post is critical of supplemental credit policies from the USDA, indications are good that farmers are not well off. New figures of debt to equity ratios for farmers show debts alarmingly high. Many farmers because of low prices continue to live on land appreciation and building and machinery depreciation. It would serve city readers well if the city newspapers would do more than put a scratch in the surface before they pen editorials on fundamental issues of farm credit.

Mr. President, for reasons of public policy, I ask that the two articles to which I have referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE DISASTER THAT WASN'T

The corn crop this year is the largest in the country's history. The wheat and soybean crops are huge and come close to setting records of their own. California's vegetable production is up. It's been a big year on the farm.

Now consider this curiosity: Two-thirds of the country is currenty designated a drought disaster area by the federal government. There are 3,044 counties in the United States, and some 2,100 of them are Emergency Drought Impact Areas. They include everything west of the Mississippi except parts of Texas and Washington. They also include much of the Midwest and a swath of the South from Virginia's Shenandoah Valley down to the Gulf Coast. A farmer in a drought area is eligible for special loans at interest rates as low as 3 per cent.

The weather this year has been, once again, eccentric. It was the dry winter that induced President Carter and Congress to collaborate on drought-aid legislation last spring. Then rain came—not enough to end all of the shortages in communities around the country, but enough to produce a tremendous harvest.

Drought aid has now degenerated into a kind of general relief for farmers, extended in the form of cheap credit. Most of the beneficiaries are currently threatened not by drought and shriveled crops, but by precisely the opposite condition: crops so magnificently bountiful that prices have dropped dramatically. Some of these farmers, you could argue, genuinely need help. But it's a bad practice to bend an aid program covertly from one purpose to another. That generally results in a lot of aid going to people who don't need it.

The emergency-drought program ends on Sept. 30, and the question at the Agriculture Department is whether to do it again next year. The danger of drought is certainly real. It is necessary to think carefully about the possibility that the climate—and in particular the rain pattern—may be shifting. While this summer's rain was enough for the corn and wheat, it wasn't enough to fill reservoirs and restore water tables. If next winter is as dry as last winter, a much larger number of communities will feel the water shortage. A dry summer next year would certainly justify federal aid to farmers.

But the drought aid needs to be tied to the actual effect of weather on individual farmers' final harvests. The Carter administration has been doing it the other way, providing aid on the basis of regional rainfall at the beginning of the season. As this year's experience shows, that can mean an expensive program of disaster aid when, as it turns out, there was no disaster.

BANKERS SAY FARM CREDIT CRISIS IS REAL

WICHITA, KANS.—Bankers in the Great Plains States can provide convincing rebuttal to skeptics who discount rumblings of a farm credit crisis as just another case of farmers crying "wolf."

The financial difficulties facing thousands of farmers and ranchers in the nine-state area can be seen in black and white on balance sheets of institutions ranging from the Federal Reserve Bank of Kansas City to the Kingfisher, Okla., Bank & Trust Co.

Surveys of hundreds of bankers by the U.S. Department of Agriculture, the Federal Reserve and a Kansas bankers group reveal the scope of the difficulties created by the pinch of low market prices and growing inflation.

—The USDA survey of 400 bankers in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Colorado, Montana and Texas found that one-third of farmer-borrowers, or 73,000, were being forced to refinance loans and borrow on their assets to remain afloat. The survey, taken in the spring, also found 6 percent, or 14,000, would not be able to meet their obligations.

—A July survey by the Federal Reserve Bank of Kansas City of 177 bankers in its seven-state district revealed a heavy demand for farm loans. Yet because loan volume was out-pacing deposit growth by 2-to-1, 25 percent of the banks reported they were refusing or reducing farm loans due to lack of loanable funds.

—A Kansas Bankers Association survey of 309 state banks this summer found that 45 percent of Kansas farmer-borrowers were in "serious trouble"—meaning 36 percent had to undertake major refinancing of their assets and 9 percent were unable to repay current debts. Further, it found 86 percent of Kansas' wheat producers would lose money this year because of low prices.

"I don't think a lot of city people understand the gravity of the situation and I'm not sure they do in Washington," said Odd Williams of Lawrence, Kan., who manages or owns farm property in Kansas, Oklahoma and Colorado.

"I think they think that when wheat prices were good, farmers really got wealthy and accumulated capital, and they see them driving good model automobiles and see a nice home, and they say, "Those people are not in trouble."

But although a farmer's economic outlook is cyclical fraught with ups and downs—those closest to his situation, the bankers, understand the severity of the current predicament. One need look no further than the market price listings to find out way.

Wheat sold in Kansas three years ago for as much as $5.39 a bushel; now it sells for a cash price of about $2.10, about two-thirds of what farmers say it costs to produce a bushel. Corn farmers have faced a less drastic but costly price decline and claim the present cash price of $1.60 a bushel doesn't approach their cost of production.

The financial situation could be even worse, were it not for a steady improvement in cattle prices during the past year, said Edward Harshbarger, an agricultural economist with the Federal Reserve in Kansas City.

The farmers' reliance on further borrowing and refinancing is simply "a stay of execution," Harshbarger contends.

"It's a good way of relieving some of the pressure on cash flow, but implicit in it is that things will get better down the road and the farmer can meet his obligations," he said.

The Federal Reserve economist says it will be at least 12 to 18 months before prices will improve sufficiently, barring some unexpected event such as the 1972 Russian wheat sale. Bankers who deal directly with the farmers share that prediction.

In Kingfisher, Okla., the self-proclaimed buckle of the Wheat Belt, banker Wayne Hasenfratz says a continuation of low wheat prices would eliminate as many as half of the farmers in his area.

"There is just no way that bankers or financial institutions can loan money to people who are losing money, have lost it for several years on the same crop and have little promise of recouping their losses in the foreseeable future," said Hasenfratz, president of Kingfisher Bank & Trust Co.

Hasenfratz, who calls the crisis the worst he has seen in 25 years of banking, said its height is rapidly approaching and that "somewhere down the line, I'm not going to have money to loan out. If we don't make the deposits, making loans will be difficult."

Richard Barnes, a vice president of the

North Platte, Neb., First National Bank & Trust Co., agreed that the continued high demand for agricultural loans and slackened deposits threaten the solvency of many rural banks.

Because grain farmers are being encouraged by the federal government to hold on to their crop and wait for an improvement in prices, he said, spending is down and cash needed to make loans for future operations is in short supply.

"Our bank has about loaned out what we can of deposits without undermining our liquidity," he said. "We've had to borrow through the funds market to meet loan demand and cash requirements. I would say as a general rule, everybody has a 5 to 10 per cent higher loan-deposit ratio than they've been or want to be."

The bankers agreed that continuing improvement in cattle prices will help level off the crisis, as will liberalization of government assistance programs, such as increasing the wheat target price.

Rep. Keith Sebelius and Sen. James Pearson, both Kansas Republicans, introduced emergency farm credit bills last January to improve the Farmers Home Administration's ability to assist farmers with loans. But Congress' attention was focused on the new farm bill, and the credit measure probably will not come up before the Senate and House until next year.

Most wheat farmers are placing their near-record 1977 wheat crop in storage under a USDA program allowing them to borrow money on their wheat. Corn producers are doing likewise. And the USDA is extending repayment terms and encouraging on-farm storage construction as further incentives to hold on to the grain.

For many farmers—particularly those under 35 who got into farming when grain and livestock prices were high and who borrowed heavily to start their operation—the next two years will bring hard times.

"The younger guy just can't afford to lose $1.46 a bushel and have his living expenses on top of that," Hasenfratz said. "He just doesn't have the equity built in his land to carry him, so consequently, he has either got to have one of two things: a father or father-in-law who will help carry him or a pretty glorified outside job."

One of the most common fears is that the financial crunch will eliminate the family farm, drive off the young farmers and see the entrance of large businesses into farming.

Don Pretzer, an economist with Kansas State University, recommends that with prospects for lower farm income in the year ahead, planning for 1978 production means again "farming the government programs."

"Income calculations for crops involve market price, loan price, deficiency payments and disaster payments," he said, adding that livestock prospects appear favorable as liquidation of large herds continues.

In the USDA survey, bankers indicated that more than 9 in 10 farmer-borrowers will be able to get further financing, either as additional loans or funds to refinance existing loans. But some may find the doors shut in their face. The bankers noted that in Oklahoma, for instance, additional credit could not be supplied to 18 per cent of the current borrowers.

While farmers hang on, awaiting an improvement in prices, other industries and main street businesses in the Great Plains agriculture-oriented areas will suffer with them.

The Federal Reserve survey found that two-thirds of the bankers reported both deposits and loan repayments of their agribusiness customers in rural areas have been adversely affected.

"In most rural banks," Nebraskan Barnes said, "80 per cent of the loans are based directly to agriculture and the other 10 to 20 per cent are related indirectly. That's where dollars are spent on Main Street."

HOSPITAL COST CONTAINMENT

Mr. TALMADGE. Mr. President, next week the Subcommittee on Health will hold hearings on various hospital cost containment bills, including the administration's proposal as reported by the Committee on Human Resources.

The Finance Committee has been concerned with approaches to contain hospital costs since the inception of the medicare and medicaid programs. We have been able to enact over the years a number of amendments designed to moderate hospital costs under medicare. In all honesty, those approaches have not been particularly successful.

Joined by many of my colleagues, I introduced S. 3205 in the last Congress and S. 1470 in this Congress. Both of these proposals, among other matters, deal with establishing a new approach to the reimbursement of hospitals under medicare and medicaid. In the simplest terms, our effort involves comparing each hospital with similar hospitals to determine the reasonableness of its costs and then reward efficient institutions and reduce payments to hospitals with significantly above average costs.

During hearings on S. 1470 in July of this year, the administration witnesses and others, while generally endorsing the approach, argued that what was needed was constraints on all hospital costs, not just those related to medicare and medicaid.

I then requested the staff to determine whether the S. 1470 approach could be expanded to cover more hospitals and more hospital costs. The staff has just submitted to me their outline of a possible way to expand the so-called Talmadge bill.

Mr. President, I ask unanimous consent that the material summarizing the alternative hospital cost containment approach, as well as a brief summary of the objectives, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. Hopefully, the suggestions on hospital cost containment will prove helpful in our consideration of the various proposals. My purpose in releasing the outline at this time is so that informed and concerned parties may comment on the suggestions. Following the receipt of those comments, we will then be in a position to decide whether some or all of the approach might be feasible. It may be that some of the suggestions could be used to modify other proposals, or this alternative proposal may be the way to go. In any event, I look forward to receiving constructive testimony and suggestions during our hearings next week.

EXHIBIT 1

BASIC DESCRIPTION OF HOSPITAL COST CONTAINMENT APPROACH

1. Establishes two general limitations—(1) on overall hospital revenues for inpatient care; and (2) within the overall limits, additional limitations on hospital reimbursement under Medicare and Medicaid.

2. Both the overall revenue limitation and the Medicare and Medicaid reimbursement limits are designed to ultimately determine the reasonableness of hospital revenues and costs on the basis of classification and comparison of similar hospitals.

3. Hospital inpatient costs are divided into two parts—routine costs (room, board, routine nursing, etc.), and ancillary costs (laboratory, X-ray, pharmacy, operating room, etc.).

4. Pending development and application of the uniform cost reporting and allocation of costs required under other legislation, as well as development of additional methodology, revenue limits based upon comparison of hospitals would initially be limited to adjusted per diem routine costs. (Adjustments would include taking out of routine costs highly variable expenses such as energy, malpractice premiums, capital-related items and medical staff.)

5. As the methodology for cost reporting and allocation of costs is made more precise, the system of comparing hospital cost centers to determine "reasonableness" would be expanded to include all or some ancillary service departments.

6. Ancillarly services revenues would be limited on an interim basis to annual percentage increases per admission which would be calculated based upon market changes in the wages and prices which hospitals must pay.

7. To the maximum extent possible, price changes would be based upon national patterns while wage changes would, to the maximum extent feasible, be related to general wage changes in the area in which a given hospital is located.

8. Adjustments would be made in allowable revenues for: intensity of service; approved contraction or expansion of services; changes in number of admissions; and other appropriate factors.

9. State hospital regulatory activities could be accepted in lieu of the Federal limitations where they apply to at least the same hospitals and services as the Federal program and where they are determined, in the aggregate, to limit hospitals in a State to the same or less revenues than in the Federal plan.

10. Medicare and Medicaid reimbursement would move into a system of incentive payments for hospitals with lower-than-average costs and reduced payment for hospitals with costs significantly above the average.

ALTERNATIVE APPROACH TO HOSPITAL COST CONTAINMENT

OVERVIEW

The proposal would establish annual limits on the amount of revenue for the care of patients which short-stay hospitals could collect and retain. The revenue limits would be applied to hospitals' accounting periods which begin on or after July 1, 1978. The limits would apply to a hospital's inpatient care revenues from all payors.

The routine revenue limitation would be applied on a per diem basis while the ancillary revenue limitation would apply on a per admission basis. Separate revenue limits would be calculated for the hospital's routine services (bed, board, routine nursing and supplies, etc.) and for its ancillary services (X-rays, laboratory tests, drugs, etc.). If a given hospital's revenue exceeded only one of the two limits, the excess revenues could be reduced to the extent they fell below the other limit.

Hospitals exceeding the sum of the limits placed on annual revenues for routine and ancillary services would be subject to a new excise tax equal to 100 percent of the taxable excess. Excess revenues would be netted over two consecutive years to enable hospitals to

adjust for excessive revenues received in one year by moderating revenues below limits in the other. However, excess revenue greater than two percent in any year would be immediately subject to the full excise tax. The amount taxed would be available as a rebate in the following year to the extent that the hospital's revenues in that year are under the program's limits.

The proposal would direct the Secretary of H.E.W. to utilize the uniform functional cost reporting and costs allocation system (required to be established under other legislation) for hospitals to assist in assuring that the proposed cost controls would be applied on a reasonably comparable basis to all hospitals.

The Secretary of H.E.W. would be authorized to exempt from the Federal revenue limits, hospitals in a State which has a revenue control program meeting certain requirements. These include: the State system must apply at least to the same hospitals and revenue sources as the Federal program; that the State demonstrate to the satisfaction of the Secretary that, using the State's program, total retainable revenues for hospitals would not exceed those under the national program.

Sections 1 and 2, below, describe how the two revenue limitations would be calculated and applied. Section 3 explains how Medicare and Medicaid payments to hospitals would be affected by the revenue control program and how incentive payments would be made to hospitals with routine costs below the average for similar hospitals.

1. LIMITS ON ROUTINE SERVICE REVENUE

The proposal, as the Medicare-Medicaid reimbursement proposals sponsored by Senator Talmadge in the past, would compare routine service costs of similar hospitals by: (a) grouping hospitals; (b) computing an average cost per diem for each group; and (c) then comparing the per diem cost of each hospital within the group to the group average. The routine service revenue limit would apply with respect to all items of inpatient expense except for revenues attributable to capital-related costs; costs of education and training programs; costs of interns, residents and non-administrative physicians' medical services; energy expense for heating and cooling; certain costs unique to proprietary institutions; and, malpractice insurance costs. Unlike the earlier legislation, however, this proposal would utilize this approach to determine the limit on the amount of routine services revenue a hospital may receive and retain from all sources.

The per diem, routine service revenue limit for a hospital whose annual accounting period began on or after July 1, 1978—the first month of the proposed program—would be equal to 120 percent of the average estimated daily routine service costs for the July, 1978–June, 1979 period for the hospitals in its group. (The revenue limits for hospitals whose accounting years begin later in the July, 1978–June, 1979 period would be adjusted to reflect estimated increased costs which would be incurred during these later accounting years.)

Example: Based on Medicare cost reports from hospitals, and data on current general wage and non-wage price changes and trends, the Secretary of H.E.W. determines that the routine costs (disregarding capital costs and other excluded items) of hospitals in Hospital X's group will average $50 per day during the period July, 1978–June, 1979. Hospital X's accounting period begins July 1, 1978, so that the initial calculation of the routine revenue limit for Hospital X would, subject to further adjustment as described below, be $60—i.e., 120 percent of $50.

The portion of a hospital's revenue limit attributable to wages would be adjusted if it was located in an area where general wage levels were higher or lower than the average for the hospitals in its group. (It would be assumed that the revenues are distributed between wages and non-wage items in the same proportion as the hospitals' costs for these items are divided.) The objective of this wage differential adjustment is to help in reasonably assuring that a hospital is not disadvantaged because of local wage level differences. The Secretary could initially construct wage level indices utilizing Department of Commerce county manufacturing or service industry wage data. The Secretary could, by appropriate sampling, keep such data reasonably current.

Example: Hospital X (referred to in the previous example) is located in an area with wage levels 10 percent above the average for its group. Of the revenue limit of $60, 50 percent—or $30—is attributable to salary expenses. This salary component would be increased by the 10 percent wage differential, thereby increasing the routine revenue limit by $3 (10 percent x $30)—resulting in a revenue limit for Hospital X of $53.

The routine services revenue limit for the second and subsequent years of the program would be increased by 103 percent of the estimated increase in the group average routine costs over the previous year as adjusted to take account of any wage differential.

Example: Hospital X's routine services revenue limit for the first year of the program was $63. It is estimated that routine hospital costs will increase $7 a day during the second year of the program. Of the $7 increase, $4 is attributable to wage costs. Moreover, Hospital X is located in an area whose wage levels are 10 percent above the average for its group. Therefore, Hospital X's routine service revenue ceiling for the second year will be $63 plus 103 percent of $7.40—i.e., $70.62.

The routine service revenue limit would be applied to each hospital on an annual basis; the routine per diem service revenue limit would be multiplied by the total number of days of hospital care provided in the year; the resulting amount would be compared to the hospital's total revenue from the routine services (excluding, of course, revenues for capital items and other revenues to which the controls are not applicable).

Example: Hospital X's routine services revenue limit for a year, in which the hospital provided 60,000 days of care, is $80 per day. Thus, the hospital's aggregate limit for the year would be $4.8 million. If the hospital actually received $5 million in routine service revenues, it would exceed the limit by $200,000 for the year.

Provision would be made for an exceptions process for hospitals which exceed the routine service revenue limits, as in Senator Talmadge's earlier reimbursement plans. Exceptions would be made for a hospital which demonstrates that its routine costs exceed the limit because of: (a) under-utilization of beds or facilities where such beds or facilities are necessary to meet the needs of an underserved area, or (b) an unusual patient mix which results in a greater intensity of routine care. Exception requests properly filed by hospitals would be deemed approved if not acted upon within 45 calendar days.

2. LIMITS ON REVENUES FOR ANCILLARY SERVICES

The proposal would adopt, on an interim basis, the Administration's general approach to setting limits on ancillary service revenues until a more permanent solution can be developed and applied. The base amount to which the ancillary limit would apply would be the individual hospital's average ancillary revenues per admission in its first accounting year beginning after June 30, 1976, with certain adjustments to update the base to the effective date of the program. The adjustments would be made as follows:

(a) The individual hospital's average revenues per admission for ancillary services would be calculated for its first accounting year beginning after June 30, 1976.

(b) This ancillary services revenue figure would be updated to its next accounting year (beginning after June 30, 1977) by adding 103 percent of the increase in the cost of ancillary services the particular hospital experienced between the two years. (Since revenue data for years after the base year are not available, cost increases are used as a proxy.)

(c) The same increase factor described above in (b) would also be used to update the hospital's ancillary services revenue to its next accounting period (that beginning after June 30, 1978). The average ancillary services revenue per admission, as so calculated, would serve as the limit applicable to the hospital's revenues for ancillary services for the first year the proposed program would be in effect.

Example: A review of Hospital X's Medicare cost reports indicates that in its accounting year that began July 1, 1976, it had revenue of $600 per admission from ancillary services subject to the proposed limits. The cost of providing these services increased $60 over the next accounting year so that 103 percent of this amount—$61.80—would be added to the $600 for each of the next two years to update the figure to its accounting year that begins July 1, 1978. Thus, the ancillary services revenue limit for the first year that Hospital X would be subject to the proposed controls would be $600 plus $61.80 plus $61.80—i.e., $723.60.

Beginning with the second year of the revenue control program (hospital accounting years that began after June 30, 1979), each hospital's ancillary services revenue limit would be updated annually to take account of changes in general wage levels in the hospital's locality and national changes in the prices which hospitals pay for equipment, supplies and other goods reasonably representative of ancillary departments' purchasing patterns and overall costs. (Exceptions would be allowed to adjust the ancillary revenue limit for a hospital which increases or decreases its services for such reasons as consolidation or sharing of services among hospitals.) To make this adjustment, the hospital's ancillary revenue limit for the previous year would be divided into two components—the portion attributable to labor costs and the portion attributable to the purchase costs of non-labor inputs. It would be assumed that the revenues are distributed between the labor and non-labor inputs in the same proportion as the hospital's costs for the two kinds of inputs are distributed.

As with routine costs, appropriate provision for exception would also be made to adjust for the atypical cost and revenue patterns of newly-opened hospitals.

The labor-cost component would be increased by the annual average percentage by which general wage levels in the hospital's geographic area rose during the most recent two-year period for which data is available. As noted in the discussion of the routine services revenue limit, the Secretary could initially construct such indices utilizing Department of Commerce county manufacturing or service industry wage data. The Secretary could, by appropriate sampling, keep these data reasonably current. Where the wage structure and the pattern of wage increases of the local work-force does not permit application of reasonably comparable data to the labor force of hospitals, reasonably comparable data from other areas could be used. Exceptions could be made for hospitals which demonstrate that they exceeded revenues limits because they paid their employees larger wage increases than those received by other workers in the area because the hospital employees' wages were below the level prevailing locally.

The annual increase in the non-wage component of the ancillary services revenue limit would be based upon a national index devised by the Secretary which would measure changes in the prices hospitals pay for a "market basket" of goods such as X-ray film, drugs and comparable items which hospitals purchase in order to provide ancillary services. The increase in a hospital's ancillary revenue service limit for any year would be equal to the average annual increase in the index over the previous two-year period. Beginning with the second year of the program, the Secretary could further refine the index to further take account of any differences among hospitals because of their size or type.

Example: The limit placed on Hospital X's total ancillary revenues per admission during its accounting year beginning July 1, 1982 would be based upon the limit applicable in its accounting year which began July 1, 1981, when the ancillary services revenue limit was $1,000. Of this amount, $600 was attributable to labor. During calendar years 1979–1980, the latest two-year period for which overall wage data were available, wage levels in Hospital X's area increased at an annual rate of 8 percent. Therefore, the labor portion of the ancillary services revenue limit would be increased from $600 to $648. The $400 non-labor component of the previous year's ancillary limit would be adjusted in a similar manner. Assuming the Secretary's ancillary services index for non-labor ancillary service inputs increased at an average annual rate of 6 percent over calendar years 1980–1981, Hospital X's non-labor ancillary component would be increased to $424. Thus, its revenue limit for its accounting year beginning July 1, 1982, unless adjusted further as described below, would be increased from the previous year's limit for $1,000 to $1,072 ($648 plus $424).

While the ancillary services revenue limit has been explained in terms of revenues per admission, it, like the routine service limit, would be applied on an annual, aggregate basis. Where the volume of hospital admissions fall between 90 percent and 102 percent of the previous year's level, the hospital's ancillary services revenue limit for the year would be determined by multiplying the per admission limit by the number of admissions. However, for each hospital admission beyond 102 percent, the aggregate ancillary revenues limit would be increased by one-half of the per admission limit.

Example: Hospital X had an ancillary revenues limit of $1,000 per admission in a year in which it had 10,000 admissions. It had 9,000 admissions in the previous year. Hospital X's annual limit, unless adjusted for intensity as described below, would be equal to: (a) 102 percent times 9,000 admissions (i.e., 9,180 admissions) times $1,000; plus (b) 820 admissions (i.e., the admissions beyond 102 percent of the previous year's level) times $500 (i.e., one-half of the per admission limit)—i.e., $9,590,000.

A hospital with less than 90 percent of its previous year's admissions would have its aggregate ancillary revenue limit decreased by one-half of the per admission revenue limit for each admission below the 90 percent level.

Example: Hospital X had an ancillary revenue limit of $1,000 per admission in a year in which it had 8,000 admissions as compared to 10,000 admissions in the previous year. Since 90 percent of the previous year's admissions would equal 9,000 admissions, Hospital X is 1,000 admissions below the 90 percent level. For each of these 1,000 admissions, the annual limit that would apply otherwise (8,000 admissions times $1,000—or $8 million) would be reduced by $500. Thus, the $8 million aggregate limit would be reduced by $500 times 1,000 admissions—or by $500,000.

An exception would be allowed for unusual (such as consolidation of services in one hospital) admissions increases above 102 percent or decreases below 90 percent which cause a hospital to exceed its ancillary revenue limit. Exceptions properly filed would be deemed approved if not acted upon the Secretary within 45 calendar days.

In addition, adjustments would be made in the ancillary revenue limit to accommodate approved expansion in patient care services:

(a). Operating costs directly associated with capital expansion would be disregarded, but only if the project received the prior approval of its health planning agency. The planning agency could decide on the amount or percentage of the "pass-through" at the time of approval, reducing administrative problems.

(b). A fixed percentage increase of one percent times the total ancillary revenues limit would be included to accommodate all other intensity increases, such as small capital projects or more skilled personnel, for which no approval process currently exists.

3. REIMBURSEMENT LIMITS AND INCENTIVE PAYMENTS UNDER FEDERAL PROGRAMS

The reimbursement provisions applicable to the Medicare, Medicaid and Maternal and Child Health programs would be modified. Hospitals with routine costs below the average for their group (after adjustment for any wage differentials) would receive, starting in the first accounting year beginning on or after July 1, 1979, the actual costs plus bonus payment of one-half of the difference between actual costs and the average for their group (as adjusted); the maximum bonus would be five percent of the adjusted group average. The Federal program's reimbursement for a hospital whose routine costs are significantly greater than the average for its group would have the excess costs denied.

NUCLEAR WASTES: POPULAR ANTIPATHY NARROWS SEARCH FOR DISPOSAL SITES

Mr. McGOVERN. Mr. President, earlier this year, the Senate considered an amendment, which I submitted, designed to allow individual States a voice in the placement of nuclear waste repositories within that State. It was pointed out at that time, that several State legislatures had already taken action to keep the repositories out of their States. In each case, this action came as a result of negative citizen response based on the many doubts about the safety of long-term storage facilities. Science magazine detailed the history of accidents involving the temporary storage facilities in a February 1977, article by Luther Carter. That article went on to explain the problems remaining for the Energy Research and Development Administration—soon to be transferred to the Department of Energy—before site selection and construction can begin.

The September 23, 1977, issue of Science follows up the initial radioactive waste disposal examination with a report on both the current ERDA investigations and the political impact of antipathy for the possibility of a local repository.

I ask unanimous consent to have printed in the RECORD the article titled "Nuclear Wastes: Popular Antipathy Narrows Search for Disposal Sites" by Luther Carter.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR WASTES: POPULAR ANTIPATHY NARROWS SEARCH FOR DISPOSAL SITES

Local political attitudes now loom as large as geological criteria in the government's increasingly troubled attempt to find sites for the permanent disposal of radioactive wastes. In fact, the strong popular antipathy aroused in some regions by the possibility that a waste repository might be built there seems to have led the Energy Research and Development Administration (ERDA)* to pin much of its hopes on the still sympathetic attitude found in three western states that have long been intimately involved with the atom—Washington, New Mexico, and Nevada.

Two of the states previously regarded as possible candidates for deep geologic repositories to receive "commercial" wastes from the nuclear power program have let ERDA know in no uncertain terms that all such wastes would be unwelcome. Governor William Milliken of Michigan, who had been made keenly aware through a series of hearings of a strongly negative citizens' response to ERDA's plans to investigate Michigan salt deposits for a repository site, notified the agency in May that he wanted his state dropped from the list of those in which exploratory activities were to be carried on. Then, this past summer, the legislature of Louisiana, responding to strong local sentiment, forbade the establishment of waste repositories in any salt domes within the state—and, although it did not try to stop the fieldwork ERDA had begun (and which still continues), it held out little hope that the prohibition would ever be lifted.

South Dakota, another state in which ERDA had indicated a considerable interest, also has a legislative resolution on the books telling the agency to stay out. Even little Vermont decided last spring to throw up a legislative hurdle should there be any federal move to establish a radioactive waste repository in that state.

At the same time that ERDA's commercial nuclear wastes program has received these rebuffs, there have been renewed indications—of great political potency—that any attempt to use the bedrock formation underlying the agency's Savannah River Plant (SRP) near Aiken, South Carolina, for ultimate disposal of the locally produced "military" wastes will get nowhere.

The governors of both South Carolina and Georgia fear that the important Tuscaloosa Aquifer, which overlies the bedrock, could be contaminated. And, as Governor George Busbee of Georgia pointed out in a letter to ERDA early this year, his state's position with respect to this matter was first established 5 years ago by his predecessor, one Jimmy Carter. ERDA and the SRP are now reconciled to disposing of the Savannah River wastes elsewhere despite costs of $6 billion or more. Another catch besides the extremely high potential cost is that, for the moment, there is no offside repository either in existence or definitely identified and approved for construction.

But the government may have a better than even chance of establishing repositories to receive military or commercial wastes (or perhaps both) in Washington, New Mexico, and Nevada, or at least in one or more of these states.

The search continues in a small number of states for deep-lying salt beds or domes that would be suitable for commercial waste repositories, but there is now an increased emphasis on finding out whether the basaltic rock formation underlying the Hanford reservation in Washington and the argillaceous rock formation beneath the Nevada Test Site would not lend themselves to repositories. (While ERDA's immediate concern is to identify sites in Washington and Nevada for commercial repositories, such sites, once found, could also be developed to receive military wastes.)

But New Mexico appears to be the state where the first permanent repository for high level wastes may be established. The Sandia Laboratory at Albuquerque, an ERDA facility run by the Western Electric Company, is far along with its exploratory efforts—which have included extensive field-work and preparation of conceptual designs—for a military waste repository 30 miles southeast of Carlsbad. Until recently ERDA's plans did not call for this proposed Carlsbad facility, known as the "WIPP," or Waste Isolation Pilot Plant, to receive the radiologically and thermally hot "high level" wastes, but only transuranic and intermediate level wastes; such high level wastes as might be received were to be used for experimental or demonstration purposes.

But now ERDA is thinking of having the WIPP licensed by the Nuclear Regulatory Commission as a high level waste facility—with the first regular shipments perhaps coming in the late 1980's from the Savannah River Plant. In fact, with this in mind, the agency is having Battelle Northwest at Hanford design a demonstration project in which, by 1980, a small amount of Hanford wastes—made up to match chemically the wastes at Savannah River—would be solidified in glass, packaged in a few canisters, and transported to the WIPP.

That the commercial and military waste programs should now show what seems a growing dependence on Washington, Nevada, and New Mexico may be regarded as an entirely natural evolution. For, after all, the business and political establishments which run these states have long since grown accustomed to nuclear activities, including some that might seem a lot more threatening than burying radioactive wastes deep underground.

The production of plutonium began at Hanford in 1944, and the people of Richland, Washington, have been living near a growing inventory of radioactive wastes for 30 years. There are now some 50 million gallons of high level wastes buried at Hanford in scores of underground tanks, with the total inventory there being 2½ times the size of the one at Savannah River. Yet, despite the large leaks that have occasionally occurred, there has never been any storm of complaint.

Moreover, Washington has chosen for its governor Dixie Lee Ray, a former chairman of the Atomic Energy Commission. Two members of its congressional delegation, Senator Henry M. Jackson and Representative Mike McCormack, have been members of the now-defunct Joint Committee on Atomic Energy and are strong proponents of nuclear power development.

New Mexico can claim even greater distinction as a nuclear state inasmuch as the first atomic bomb was of course detonated there at the Trinity Site near Alamogordo, in 1945. Moreover, two of the nation's major nuclear weapons facilities, the Los Alamos and Sandia laboratories, are in New Mexico and make a significant contribution to the state's economic life.

SWAYING CHANDELIERS

As for Nevada, it has experienced an almost inexpressible intimacy with the atom. For two decades now, nuclear weapons tests at the Nevada Test Site, including some powerful shots of up to 1 megaton, have been making the chandeliers sway over the gaming tables of Las Vegas.

In none of the three states does there seem to have been much of an outcry against storage or disposal of nuclear wastes, although there are antinuclear groups in all of them (the 1976 ballot initiative to curb the growth of nuclear power in Washington was rejected by the voters by more than 2 to 1). Substantial opposition could eventually develop, but those who are already opposed to waste repositories do not have the head start in mounting a campaign that like-minded individuals appear to enjoy in states such as Michigan, Georgia, and Louisiana.

Besides the apparent political acceptability of waste disposal in Washington, New Mexico, and Nevada, there are some plausible physical, demographic, and economic reasons for ERDA to investigate carefully the feasibility of establishing repositories in one or more of these states. The particular areas now being investigated are all sparsely populated desert regions that have no major freshwater aquifers or lakes in the vicinity.

(The fact that the Hanford reservation is bordered by the Columbia River could of course become a matter of concern; but ERDA officials describe the basalt formation in which the wastes would be emplaced as a "very dense, dry, tight structure" in which wastes would not be expected to migrate.)

The situation with respect to the areas of interest in the three western states is certainly far different from that in South Carolina and Michigan. For instance, in Michigan, ERDA contractors were planning to do test drilling at a site near Lake Huron.

Whatever the future of nuclear power, waste disposal is an urgent matter because of the wastes already created (Science, 18 February). There are 75 million gallons of high level military wastes alone and a smaller but radiological potent inventory of commercial wastes. The high level wastes at Hanford are of particular importance; should it be necessary to solidify them in glass or cement and ship them in steel canisters to an offsite repository, the ultimate cost of disposal could be several times greater than the $6 billion required to dispose of the Savannah River wastes.

George W. Cunningham, ERDA's director of waste management, speaks hopefully of finding a relatively low-cost way to dispose of the Hanford wastes. One possibility he mentions is to mix the wastes in a grout that could be injected into caverns created deep within the basaltic rock formation beneath the reservation. Any high level commercial wastes disposed of in this formation would of course have to arrive in solidified form and be packaged in canisters.

No geologic repository, military or commercial, will be fully operational anywhere in the United States before the late 1980's. (A stopgap solution for some commercial wastes could be provided before then with construction of one or more surface repositories for retrievable storage of spent unreprocessed fuel.) And, if ERDA were not giving a new emphasis to investigating possible repository sites in the three western states most comfortable with the atom, there might be little chance of having even one geologic repository by sometime in the next decade.—Luther J. Carter.

IRAN'S POLICY OF INDUSTRIALIZATION

Mr. GOLDWATER. Mr. President, last week, the Iranian Ambassador to the United States, Ardeshir Zahedi, delivered an address at the Electronic and Aerospace Systems Conference held in Arlington, Va., at which he discussed recent and current efforts of his people to lift themselves into a strong, self-sustaining economic system.

As Ambassador Zahedi said, Iran, the world's second largest exporter of oil, recognizes that oil, being a limited and nonrenewable natural resource, cannot finance its economic development indefinitely.

Therefore, the Ambassador stated, Iran has been pursuing a policy of industrialization since at least 1949. In his words, the cornerstone of his government's strategy is to replace Iran's "oil-based economy with a diversified, self-sustaining system."

Ambassador Zahedi emphasized:

> This system must be fully operational by the time (Iran's) oil reserves and revenues are depleted.

He said:

> That, according to the best available estimates, could mean within the next 30 years.

Thus, Iran is undertaking a spectacular effort to build from the start such major industries as chemicals and petrochemicals, steel, aluminum, machine tools, automobiles, farm machinery, and electronics.

In moving toward its future of an independent, balanced economy, Iran has relied upon a tremendous degree of imported technology from abroad, particularly from the United States, which is its No. 1 trading partner.

In fact, Ambassador Zahedi informed his audience, Iran has signed an agreement with the United States for the purchase over a 5-year period of $52 billion worth of goods and services. At the same time, the Ambassador assures us, our technology "no matter how sophisticated," has always been and will always remain safe with Iran.

Mr. President, in view of the importance of Ambassador Zahedi's remarks, both as a sign of the great progress being made by one of our country's best friends and as a reminder to Americans of the advantageous economic ties we have with Iran, I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

"THE DEVELOPMENT OF TECHNOLOGY IN IRAN

(An Address Delivered by His Excellency Ardeshir Zahedi, Ambassador of Iran to the United States of America, on September 28, 1977)

Mullah Nassredin, the hero of countless tales in Persian folklore, once approached a master flute player and asked him how much it would cost to take lessons so that he too could enchant his audience.

"Five pieces of silver for the first lesson", the master informed the Mullah, "and two pieces of silver for each lesson thereafter." "In that case", replied the Mullah "I shall begin with the second lesson."

Fortunately, not all Iranians are like the wily Mullah.

Today, I hope to show that we are endeavoring not to skip any first lessons as we strive to bring our country into the forefront of economic and social development.

Iran's concern for social, for economic and for political rights in fact dates back to the time when Cyrus the Great first issued his declaration of human rights.

It is said, and rightly so, that Iran was the cradle of civilization.

As part of the silk route from China to Europe, it was the bridge between east and west.

Iran was not only a center for commerce, but because of its unique location, it also evolved into a center for scientific and cul-

tural exchange, as attested to by the writings of Avicina and Birooni, and of Sa'adi and Omar Khayyam.

Subsequently, however, periods of historical upheaval, of invasion and of foreign intervention pushed Iran into a condition of relative obscurity from which she only really began to emerge again at the beginning of this century.

After World War II, the determination and the vision of my beloved sovereign provided the needed direction and impetus to a nation ready for progress.

Through the 19 principles of our Shah-people revolution of 1962, individual, social and economic rights are being enhanced.

The land has been given to those who cultivate it, a profit sharing system has been provided for those who produce goods and services, and enlarged educational opportunities and a system of social insurance have been afforded.

Today, Iran, with a population of over 34 million and an area one-fifth that of the United States, which is also equivalent to the total combined areas of England, France, Germany, Italy, Belgium, Holland and Denmark, is the world's fourth largest producer and second largest exporter of oil.

We recognize, however, that oil—a limited and nonrenewable natural resource—cannot finance our economic development indefinitely.

For this reason, from the initiation of the first plan in 1949, we have purposefully pursued a policy of industrialization. The cornerstone of our strategy is to replace our oil based economy with a diversified, self-sustaining system. This system must be fully operational by the time our oil reserves and revenues are depleted. That, according to the best available estimates, could mean within the next 30 years. Iran is now building its foundation for the future on industries such as chemicals and petrochemicals, steel, aluminum, machine tools, automobiles, farm machinery and electronics.

Over the past 15 years we have enjoyed a spectacular average annual industrial growth rate of 20%, including the construction industry. The per capita income, which was $160 in 1961/62, increased to $2,000 in 1975/76.

The rapid rate of growth of our entire economy, and the industrial sector in particular, has demanded a greater degree of importation of technology from abroad.

The transfer of technology has been going on for thousands of years and science and technology, as we know them today, are the fruits of the contributions of countless nations, among which I am proud to include my own.

Thus no country can claim a monopoly on science and technology.

Let me just mention as well at this point that your technology, no matter how sophisticated, has always been and will always remain safe with us.

In Iran, we are aware that the sharing of technological information among nations cannot consist simply of the rigid application of one country's method to another's situation. The successful transfer of technology is dependent upon the adaptation of foreign know-how to the specific needs and characteristics of the importing country. The ability to adopt, to apply and to build upon imported technology lies at the very heart of Iran's strategy for continued growth and prosperity.

Now let me review the development of technology in Iran since the 1950's. Iran's early efforts in industrialization were directed towards developing basic production techniques and were aimed at import substitution. During these early stages of development, all aspects of planning, construction, installation and the operation of industrial plants were carried out by foreign specialists. These were government to government package arrangements in which only limited transfer of technology took place.

Even at this level, however, the availability of skilled local manpower can impose a major constraint upon the capacity to absorb technology. In Iran, we soon learned the lesson that for technology to be viable, its transfer must include the training of local personnel. Subsequent agreements for the transfer of technology have been based, therefore, on joint ventures, selective licensing, technical service contracts, and training programs.

Since the requirements for trained, skilled manpower still exceeds the scope of specific joint ventures, efforts have been made to create professional cadres at all levels of the public and private sectors. For this reason also, we have placed stress on education and technological training, both at home and abroad. And to this end, a multitude of agreements have been made with governments, universities, research institutes and industrial enterprises throughout the world. One of the tangible fruits of such agreements is the Iran Center for Management Studies, which was established in Tehran in collaboration with the Harvard Graduate School of Business Administration.

The impact of imported technology in the field of defense is probably of interest to you. In such programs, the transfer of technology, with its important spin-off effect, plays a broader role than is often appreciated. The extensive training programs and auxiliary support which accompany defense hardware purchases are making significant contributions to our industrialization process. A major portion of our defense budget is earmarked for support equipment and infrastructure.

Thousands of young Iranians are being trained in mechanical, technical and managerial skills to operate and maintain our equipment. Entire new communities are being developed in less populated regions of the country, bringing roads, water supply, electricity, ports, housing and communications to these remote areas. Young Iranians, after completing their military service, join the private and public sectors, bringing with them the skills they have acquired through the defense training programs.

After almost three decades, we have now reached an important point in our economic and technical expansion. The accent has changed from importing basic operating technology to building up our own capacity to conceive, design, and implement industrial facilities and services.

In the shift of emphasis towards developing maintenance capability and a domestic technology, an agency of the government, the Industrial Development and Renovation Organization of Iran, (IDRO), and its affiliates, Technolog and Technicon, have a direct hand in the selection of foreign technology. IDRO also plays an important role in the field consulting and engineering services. Through its affiliates, it is directly involved in joint ventures with many leading American and European companies such as Kaiser Engineers of the United States, Krupp of the Federal Republic of Germany, and Italimpianti of Italy. Aryamehr University is engaged in the development of indigenous technology, and is carrying on advanced industrial research.

I would now like to turn to some specific areas of the development of technology in Iran. I could not talk to you on this subject without citing the remarkable case of Iran Air, which I know will be of interest to those of you in the field of aviation.

The original company, the Iranian Airways Company, was formed by a group of Iranian businessmen after the second world war. It operated only limited domestic and medium range services. In the 1960's, however, many more international companies were granted air traffic rights to Iran. In order to strengthen our own air transportation system, the airline was reorganized into an entirely publicly owned company, Iran National Airlines, (Iran Air). Since that time, Iran Air has pioneered the longest direct flight between New York and Tehran. It is one of the few airlines to fly into Peking and it offers the fastest service from Tehran to Tokyo, via Peking.

In the maintenance area, Iran Air can perform the complete overhaul of its 737's in Tehran, and it holds the U.S. Federal aviation agency's certificate, authorizing American carriers to avail themselves of its technical support and facilities.

In common with most international airlines, Iran Air now uses computers for reservations, accounting, crew scheduling, inventory control, aircraft life control and management planning. Finally, you should know that, since its inception, Iran Air has been self-supporting and has always shown a healthy profit.

Let me briefly mention the scope of technology in Iran's electronic industry. This can be divided into three main sectors—consumer goods, communications systems, and the defense sector.

Our private sector manufactures consumer electronic goods, primarily through licensing agreements with foreign companies. There is an ever increasing demand in Iran for these products. In communications, emphasis has been placed on the design, development and production of a vast array of equipment over the entire spectrum of the communications and telephonic fields. The defense sector has established extensive capabilities, not only in training for the maintenance and use of electronic systems, but also in their design, development and production.

It is worth noting that, through a series of government affiliated organizations, Iran manufactures electronic components, computer terminals and displays, and is to satisfy its computer software requirements. The major portion of our electronic industry is presently concentrating on assembly and manufacture of electronic products in collaboration with foreign companies. While we have made considerable progress in this area, the future scope and capabilities of the industry depend upon the further transfer of technology.

As my final area of consideration, I have chosen the oil industry, which is also a good example of how we are now contributing to the development of a specific technology in other parts of the world.

As a result of our long experience in this industry, we are building and even operating oil refineries in other countries. At the same time, we recognize the need for further advanced technology in the oil, gas, and petrochemicals industries. Improved methods of recovery, gas processing, and refining will require the application of more complex and sophisticated processes. Wider use of natural gas and LPG for domestic consumption, and the emergence of LNG as a significant contributor to the world's energy supply will broaden the scope and increase the complexity of gas industry development and operations.

Iran shares with the United States the awareness and knowledge that we live in an interdependent world. The Marshall Plan and the Point IV Program, which I was privileged to initiate and direct in Iran, are good examples of the outward looking approach of the United States to economic cooperation and the transfer of technology. Happily, in recent years, we too have been in a position to embark upon programs of mutual assistance. So far, out of a total of $13.5 billion allocated for mutual assistance, we have disbursed $6.7 billion.

In order to implement these programs, Iran is a member of 41 economic and technical

commissions, and is thus associated with other nations in projects and protocols whose total value exceeds $86 billion.

We have recognized that the pursuit of progress and of technological advance cannot be limited by national boundaries, and the benefits can be shared by all concerned.

The initial seed of $500,000 worth of technical assistance sown in Iran by the U.S. Government in 1950, under the Point IV Program, has born a bountiful harvest.

In 1975, Iran was able to sign a protocol with the United States, its number one trading partner, for the purchase over a five-year period, of $52 billion worth of goods and services covering energy, housing, agriculture, transportation and education.

While acknowledging that there is still scope for additional areas of cooperation, we must not forget to nurture our existing ventures.

We in Iran are determined to gear our development to the particular needs of our country and people, and to the natural resources we have available. Not only must the technology we use fit our specific needs and be in harmony with our social goals, but it must be the best that is available.

NOMINATION OF RAPHAEL E. JUAREZ

Mr. HASKELL. Mr. President, on October 5, the Committee on the Judiciary reported favorably the nomination of Raphael E. Juarez to be the next U.S. marshal for the district of Colorado. I here today recommend his confirmation.

In one sense Mr. Juarez represents what our Nation stands for: He is a naturalized citizen of Cuban birth who has managed to adapt himself to our country, build an admirable career, and raise a fine family in the best tradition. He has accomplished this without losing the fine cultral background of his Cuban heritage.

When Raphael's name was raised as a potential nominee for the position for which he is now before us, I looked closely at his background and was delighted to see that, in his nomination, we would be not only choosing someone who bears the requisite qualification but would also be letting those involved in law enforcement know that one of their own was being selected. Mr. Juarez knows what it is to be a patrolman. He spent 5 years on a beat. Raphael also represents, to those in the U.S. marshal's service, a recognition of the unique experiences they share; he served as deputy U.S. marshal for 6 years. These qualifications speak well for him and others who serve in professional law enforcement.

Even if his qualification were limited to those I have mentioned, he would be eminently qualified for our confirmation. But they go beyond that. He has some very special qualifications which tell us much about him and about the direction the new breed of law enforcement officers are headed.

Mr. Juarez spent 2 years as an investigator and conciliator for the Equal Employment Opportunity Commission and 2 years as an investigator and conciliator for the fair housing and equal opportunity section of the Department of Housing and Urban Development. This experience is consistent with the recognition that the traditional role of law enforcement has been expanded beyond strict enforcement of penal codes. The new breed has accepted the responsibility of fair treatment of all our citizens.

Mr. President, on behalf of my fellow Coloradans, I take particular pleasure in urging the confirmation of Mr. Raphael E. Juarez. Muy bien hecho, Señor Juarez y buena suerte.

THE PANAMA CANAL

Mr. McGOVERN. Mr. President, we have already read and heard a great deal of public comment on the proposed new Panama Canal Treaty. Certainly there will be more to come. The issue is both controversial and emotional. Regardless of the position we take, every Member of the Senate will be obliged to weigh his position carefully and to provide detailed answers to his constituents.

In that context, I think my colleagues might find useful a brief response written by Lawrence Brown, editor of the Nation's Center News, published in Buffalo, S. Dak., to a reader who wanted to enlist Mr. Brown and the News in the effort to prevent the give away of the Panama Canal.

This is not one of the best known newspapers in the country, and Mr. Brown, who is in the sheepherding as well as in the news business, makes no claim to being an authority on the subject. He does, however, make one argument that I have not seen explained so lucidly or sensibly in all of the other commentary and official documentation I have seen on the subject. He writes:

> . . . neither Panama, Russia nor any other country have any plans to move the canal to any other part of the world. So it is quite apt to remain where it is, and we still have the option to negotiate or fight our way through it regardless of whether we keep title or not.

Mr. Brown then suggests that there just might be several more important issues on which South Dakotans could better spend our energies and talents.

Because I think it will be helpful to my colleagues both in reaching a judgment on the Panama Canal issue and in explaining their positions, I ask unanimous consent that this exchange—both the reader's letter and the Nation's Center News response—be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Nation's Center News, Sept. 16, 1977]

LETTERS TO THE EDITOR

Dear Lawrence,

I am writing concerning the proposed "give away" of the Panama Canal to which I am totally opposed. To ratify this treaty the administration is going to need a ⅔ majority vote in the U.S. Senate. Our two Senators must hear our voices regarding this insane abandonment of U.S. property. For this reason I am urging you to join me in the Citizen's Committee to Save OUR Canal.

Our initial objective is to obtain signatures opposing the ratification of this treaty. I am enclosing for your effort, a petition to our Senators which I hope you will circulate in your area immediately and return it to me as soon as possible. Also, you will find enclosed some facts that will explain my concern over the Canal's "give away". If you should want more information or need additional petitions please contact me immediately at the above number.

Lawrence, the message we have simply got to get to those people in Washington is that regarding our canal, "we bought it, we paid for it, we built it, and we damned well intend to keep it."

Let me hear from you soon!

Your friend in the cause of freedom, Dale Bell, Box 315 Tinton Rd., Spearfish, S.D. 57783.

P.S. Lawrence, any amount of financial assistance you or any of the petition signers could help us out with will be most appreciated.

Dear Dale,

For the past 3 or 4 months there has been an article on one side or the other of this Panama thing in nearly every paper you pick up. I have never been to Panama and have no particular hankering to go now, so I'm certainly not an authority on the subject.

But from what I have read, it appears to me that Panama is like an ole hound dog that used to catch rabbits but now, only wants to eat and bite at the fellow that owns it. If we give it away we haven't lost much, and if we keep it, we can expect more problems than dividends.

The big new cargo ships can't go through the canal and its foreign trade importance to us has declined to 1% of our gross national product. Our own East Coast-West Coast trade is about 7%, and it is not a big strategic thing to our 2-ocean navy.

Besides that neither Panama, Russia nor any other country have any plans to move the canal to any other part of the world. So it is quite apt to remain where it is, and we still have the option to negotiate or fight our way through it regardless of whether we keep title or not.

South Dakota and agriculture across the nation has an economic and strategic problem 10 times as big as Panama, and if we have time and desire to raise money and circulate petitions we should be working for our bread, butter and future.

The nation has an energy shortage. American agriculture has a grain surplus that could easily be converted to energy via grain alcohol. What better food bank could this country have than maximum ag production with the surpluses going to alleviate as much of world hunger as the world is willing to pay for, and the balance going to alleviate our independence on overseas oil?

Dale, in reply to your last paragraph I say, "To Hell with Panama. Let's do something for the industry that feeds this country the best and cheapest in the history of humanity and has the added ability to solve part of our energy problem and serve some of mankind in other parts of the world.

U.S. SENATE CHAPLAIN GIVES VITAL ADDRESS

Mr. HANSEN. Mr. President, the Reverend Edward L. R. Elson, Chaplain of the U.S. Senate, recently delivered an exceptionally fine address to the annual convention of the Society of Former Special Agents of the Federal Bureau of Investigation, Inc., in Kansas City, Mo.

Because I believe the address, "At America's Heart—One Nation Under God," is of such high quality and carries such an important message it is my hope that its publication in the RECORD will make it available to a number of interested and concerned citizens.

The convention of the Society of Former Special Agents of the FBI is an organization of more than 7,500 members who do a great deal of excellent charitable and patriotic work.

I hope that its appearing in the RECORD may make its message a useful one for the times in which we live.

I ask unanimous consent that the text of the address be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AT AMERICA'S HEART—"ONE NATION UNDER GOD"

(By The Rev. Edward L. R. Elson)

May I pause briefly to acknowledge that I am able to keep this long-standing engagement because Senator John C. Danforth of this state is substituting for me by offering the convening prayer at an unusual Saturday session of the United States Senate? Senator Danforth is not only a lawyer but also an ordained clergyman of the Episcopal Church and a direct descendent of the Rt. Rev. John T. Claggett, the third Chaplain of the Senate and the first Protestant Episcopal Bishop of Maryland. I assured Senator Danforth that if he would pray in my place I would say only good things about him in his state and so far as I know only good things can be said about the distinguished Senator.

One of the most satisfying aspects of my ministry of more than thirty years in Washington derives from the fact that Mr. J. Edgar Hoover was a member of the National Presbyterian Church and I was his pastor.

Not everyone knows that he sang in the Church Choir as a boy, taught in the Sunday School and was Assistant Superintendent of the Junior Department in his youth. He was a close friend of Dr. Donald MacLeod, the Nova Scotia born Scot, who was Pastor of the Old First Church when it was on John Marshall Place.

On several occasions he told me of the tension in the pull both toward the law and the ministry. We all know which choice was made. The gain of the legal profession was a loss to the ministry.

In the days of my pastorate he served as a Trustee of the Church, was regular in attending its meetings and was a valuable committee member. For many years I made a call on him at his home on New Year's Day which was his birthday. This pastoral relationship gave me a wide acquaintance with assistant directors, agents and employees everywhere. For fifteen or more years it was my joy to act as Chaplain for the graduation exercises of the FBI Academy.

For several decades J. Edgar Hoover and the G-Men were the heroes of growing boys. And we need such heroes.

Whatever else the long long history will say, it will be true forever that J. Edgar Hoover created, recruited, trained and directed the most idealistic, competent, dedicated and patriotic corps of civil servants ever brought together in one organization in all our history. To a man (or woman) the people were self-sacrificing, self-abnegating, sincerely religious, disciplined and industrious. That body and that leadership raised a standard to which we might rally in every generation.

It is good of you to invite as your luncheon speaker a man with an FBI record.

You see, when I was a young clergyman in La Jolla, California, in 1936—one year before the founding of this Society—I made a trip to Russia with a small group of writers and lecturers. One man in our party had been a candidate for Lieutenant Governor in New York on the Communist Party ticket. There were several other Marxists in the party and, of course, we met many Marxists in Russia and elsewhere. In preparation for the trip, I had read some forty books.

That trip confirmed as nothing else has done, my belief in American Democracy and the free enterprise system.

But I gave many lectures all over the West, partly to pay for the trip which was taken during the Depression. And the FBI began a file on me. In the circumstances of that period the FBI would have been recreant not to have done so. It never occurred to me to worry for one moment over that file. If a person's loyalties are where they belong and he believes what he ought to believe as an American and if the FBI is manned by upright and trustworthy people, as it is, there is no need for any person to be concerned about the FBI carrying out its responsibilities.

On Flag Day, June 14, 1954, President Dwight D. Eisenhower stood on the steps of the Capitol Building and with his fellow citizens, for the first time, recited the pledge to the flag as it had been amended only a few days earlier.

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands, *one nation under God* indivisible, with liberty and justice for all".

To include the phrase "under God" Senator Homer Ferguson of Michigan introduced a resolution in the Senate on March 10, 1954. The House adopted its own resolution on June 7 and the joint resolution was agreed to by both bodies on June 9 and became public law 83-396 on Flag Day, June 14, 1954.

But this public law only attests what had been true about America from the beginning.

America's story opens with the first words of the Bible "In the beginning, God ——"

Before going ashore the men on the Pilgrim ship "Mayflower" assembled in the cabin and drew up a solemn Covenant which was to be the first instrument of government in the English language on the continent, across the top of which they wrote "In the name of God, Amen". The Virginia settlement was for the glory of God and the spreading of the Christian religion. Other settlements followed with quests for religious and civil freedom.

On September 7, 1774, nearly two years before the Declaration of Independence, by invitation of the Continental Congress, the Rev. Jacob Duche offered the first prayer in Congress. History has it that he appeared in his canonicals, read the 35th Psalm and then launched into a prayer which John Adams described as being the most moving experience of his days in the Continental Congress. Since that day prayers have been offered regularly in the Congress, in legislatures and civic events.

When the Constitution was adopted and Congress convened in April 1789, under its provisions, one of the first officers elected was the Chaplain of the Senate, a bishop of the Anglical Church, the Rt. Rev. Samuel Provoost. I am the forty-ninth clergyman to hold that position which has been occupied by clergymen of nine different religous denominations. And when the first amendment was adopted, containing the phrase "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof", the Congress continued its practice of electing its own chaplains and praying in its chambers. The First Amendment was intended to shelter religion not to hamper it. Thousands of chaplains have served in the Military Forces, and in legislative bodies and thousands of prayers have been uttered as part of civil ceremonies but no one religious denomination has become the established or official Church of this Nation. And that, is the crux of the "establishment" clause.

The separation of the organized institutions of religion from the institutions of government is a conspicuous reality in American life. The government is neutral as between the specific denominations but never neutral about God. Even the Supreme Court opens its sessions with an ascription to God. When the gavel sounds and the black robed Chief Justice and Associate Justices stand in their places, the Marshall gives the Court Cry which concludes as the Marshall calls out "God save the United States and this honorable Court."

The first act really uniting all the colonists into one people was the first Continental Day of Prayer. On June 7, 1775 the Second Continental Congress summoned the "inhabitants of all the English Colonies on the Continent" to a day of fasting and prayer on Thursday, July 20, 1775 "to confess our sins and offer supplications to the merciful disposer of all events". When July 20th came, the Congress set the example for the people. In the morning the members assembled in their hall then walked as a body four blocks to Christ Church where they not only prayed but heard a sermon probably twice as long as my luncheon talk. That night, they repeated their morning action by walking to the First Presbyterian Church where they prayed and listened to another sermon. It is recorded that about two million of the nearly three million people in the thirteen Colonies kept the fast and prayed in their churches and homes on this Day of Prayer. One historian wrote that this was the day the colonies became one nation. Since that day there have been 190 officially proclaimed National Days of Prayer. Last year, during the Bicentennial, President Ford issued four such proclamations:

(1) May 14, under public law 324 which requires that a day, other than a Sunday be declared a day of prayer.

(2) May 31, Memorial Day to pray for permanent peace.

(3) July 2, Bicentennial Day for Thanksgiving and divine guidance.

(4) November 25, National Thanksgiving Day (Public Law 77-379).

This synopsis attests a profound truth about America. What that phrase "Under God" summarizes is the clear historic and contemporary reality that this Nation is not founded upon atheistic, humanistic or even secular presuppositions, but upon theistic presuppositions—Faith in the transcendent God, not God as a tribal deity, but the Universal God who while being the God of all men and all nations guides, guards and judges those who seek to know Him, obey Him and to do His will.

To be a nation "under God" means that the nation is not God, not equal to God, nor a substitute for God. That would be idolatry. Only God himself is God. To keep this concept and mean it, is the surest defense against the Nazification of life as it occurred in Germany—the absolutizing of the State, investing it with the values of deity, giving the State the final, complete, absolute value and authority. To be "under God" means having a sense of God's presence, guiding and strengthening a people but also keeping them under his higher judgment.

Many streams of thought and action flowed together at the confluence of history when our nation was born. The Founding Fathers were heirs of the Renaissance, the Enlightenment, the teaching of John Locke, the Industrial Revolution, the cataclysmic 16th Century Protestant Reformation the 18th Century American Religious Awakening (only twenty-five years before our War for Independence). They were steeped in Biblical history. God's hour had struck for them "The God who gave us life, gave us liberty" wrote Jefferson. Freedom was not an attainment but an obtainment, the gift of God to man as part of his createdness. They would fight, if need be, to claim their "ancient rights".

Jefferson and Franklin were deists. Deism was a rationalistic reduction of Christianity to Old Testament moralism and natural theology. The deists believed in the eternal transcendent God as Creator, Redeemer and Judge. They believed in the moral law and the immortality of the soul. It was at least this amount of theology which was implicit in the Declaration of Independence.

Faith in God was in the public philosophy and faith in God's providential guidance was the consensus of the people.

The Declaration of Independence, the Constitution and the Bill of Rights rest upon Biblical religion—the Bible's view of reality, of God, of man, his duty and his destiny. Beyond question is the fact that our spiritual kinsmen at the beginning of our nation were profoundly influenced by the theology of the great 16th Century Reformer, John Calvin. Four-fifths of all the Colonial clergy at the time of the Independence in every denomination were tutored in the teaching of this tremendous teacher, whose message has helped shape human life and institutions for four hundred years. Our instruments of government reflect what he taught about the sovereignty of God (God great enough to be God—the only universal absolute), and the sinfulness of man—man's state of imperfection, perverseness and except when repentant and redeemed, his alienation from God.

The deists taught that man could master his own life, was capable of goodness, of self-government, self-fulfillment and self-elevation. The Calvinists insisted that because of man's sinfulness power must be limited with the result that civil government provided for checks and balances, and a series of appellate courts.

These two currents of thought—deism and Calvinism—always in tension, were synthesized in the Constitution and the Bill of Rights. The truths implicit and sometimes very explicit on which our government and our institutions are erected is the Judeo-Christian revelation and our government is the logical culmination in political terms of the Biblical record.

And this truth is deepy imbedded in the American consciousness. We are imbued with a sense of God and righteousness which is both our glory and our agony. In some, religious faith and life is intimate and personal, in others, an attitude of life derived from the social climate and cultural atmosphere produced by religion. But we are a God-infected people. At the base we are a God-motivated and God-inspired people. Our life everywhere is saturated with this concept.

Recently, we have reaffirmed what it means to be a nation "under God." Only in a nation where the people and their institutions are viewed as being "under God" would experiences described as "Watergate" be produced. The permanent significance of that event is not the revelation of what was wrong with a few people, but rather how it reveals what is right with America, its people and its institutions. Has it ever occurred to you that it is precisely because Americans have such an innate sense of what is right in God's eyes that we are pained and incensed by evil. Whatever else may be said of Watergate, one thing is clear to all who read the signposts of history, God was judging us in the historical process.

The hearings of the Senate Committee were in the Caucus Room above my office and I attended part of each day's hearing for some thirty-six days.

Day after day we saw the Ten Commandments reaffirmed—If you lie, if you cheat, if you steal, if you covet (especially power), if you bear false witness you destroy human personality just as surely as bullets destroy the body. The laws of God are as inexorable as the laws of nature. Break the moral law and you break yourself. We saw there the brokenness of men and the certainty of the law of God.

Justice Oliver Wendell Holmes said, "The Ten Commandments will not budge". We are children of that truth, steeped in Biblical truth in a nation agonizingly "under God".

And this concept helps mitigate the two greatest human sins—idolatry and ego-centricity or pride. The nation which is "under God" cannot itself *be* God. To absolutize the State, invest some aspect of its reality with the values of deity, is idolatory. The first law says, "Thou shalt have no other God's before me." Only God is God.

All other sins seem to have an animal ancestry, but the ego drive comes straight from hell. Pretentions to perfection, to profess to live and act by super-human standards, is to pretend too much. The only sinless, selfless man went to a Cross. Only God is God. Precisely because man is man the sinner, and not God—that nation is blessed when it remembers it is "under God".

If there is any kind of ethical excellence attainable by human beings it is the refinement of moral choice, choosing the higher over the lower moral alternatives. And from the point of view of the Scriptures it is the only tenable position.

Sometimes international diplomacy fails, peaceful procedures are no longer effective and a nation goes to war, often for high and noble reasons,—to assure national survival, to destroy tyranny, to liberate captive peoples, to protect the weak. In the prosecution of the war people are killed, property is destroyed, truth is tarnished by propaganda. In the achievement of a high objective sinful acts are performed by good men. The moral choice is always there and to choose not to use force is to allow a greater evil to prevail than war itself. Wars are sometimes fought for noble objectives and with high motivation but by actions which would be sinful and immoral under other circumstances, circumstances without sanctions. Thus, in the pursuit of a criminal, good men do what must be done to protect the public and to punish wrong doing. Power is abused when men do not make the higher moral choice, when they employ sinful acts for selfish ends.

Reinhold Niebuhr described man's predicament in the title of his book, Moral Man and Immoral Society.

Michael Novac recently wrote that "Creative action, in any field is always action in the darkness (this sinful world), partly evil and partly good. Businessmen create goods only by being willing to dirty their hands. So are great nations created, and great works of art. Nothing is worth doing without a touch of evil. The world is thoroughly enmeshed in evil. There is no pure place within it."

Men who play God, by impossible pretensions, sooner or later fall before the absolute perfection of God. Can it be that strength, real strength in this imperfect world is somehow an alloy compounded of much goodness and some evil?

The Founding Fathers understood this. They did not pretend to be perfect, to play God or set up a nation which they could make their God. God was God. At the end of the Declaration of Independence they wrote "appealing to the Supreme Judge for the rectitude of our intentions"—The only Judge who mattered to them was God and they proceeded to erect this nation "Under God."

And for two hundred years this basic premise has carried us through times of prosperity and adversity, peace and war. It has enabled us to lift the life of people everywhere, to enhance the lot of the black man who has advanced more in the last one hundred years than any other group similarly placed in all history, liberated and elevated the position of women, provided universal education and civil rights, and achieved the highest level of life for the greatest percentage of the population in any nation in all history. We have many problems yet to solve, but most of the problems are problems of success, not failure.

America thus committed has become great and strong, not simply because of vast natural resources, secured behind broad oceans and friendly frontiers but because of a creative spirit mediated to American life by a wide variety of religious denominations, each freely practicing the particularities of its own confession, and guaranteeing those of other faiths and of no religious designation to do the same.

When Americans are most truly themselves they are a people, "under God", their ideals are religious ideals, their goals religious goals, their standards, religious standards, their motivations, religious motivations. America is so much the product of this spirit that if we allow it to diminish or to be distorted the whole structure will deteriorate.

Do you remember the mighty man, Samson of ancient days, whose prodigious strength enabled him to perform astounding feats, which made him a hero to all the people? In his youth, the story goes, he killed a lion with his bare hands, later dispatched a whole battalion of enemy troops using the jawbone of an ass for a weapon. Once he tied the tails of three hundred foxes together and set them loose in the Philistines corn. Another time he stole the gates of Gaza, an ancient version of a Halloween prank by an over-grown boy. Fighting was Samson's forte.

But he had another qualification not so obvious as his strength. Samson was a man dedicated to his God, however primitive the concept. He belonged to the order of Nazarites, whose symbol of religious dedication was the long uncut hair and flowing beard. Samson, with his vast strength, his complete and disciplined dedication made him an ideal member of the ruling oligarchy.

His first marriage to a Philistine girl ended in disaster.

The years passed and Samson became a scourge in the flesh of his enemies, hated and feared by them. By and by he fell in love a second time with a Philistine woman, Delilah, and we have the magnificent love story, dramatized by Milton in poetry, Handel in music, and DeMille in the movie.

Delilah sought the secret of Samson's strength, for she was really a Philistine spy. You see her wheedling and toying with the mighty man and you want to cry out, "Don't be a fool, Samson." But she persisted and finally he disclosed the secret of his strength, that it was in his hair and beard. What this meant, of course, was that only so long as he was faithful to his God and kept his vows as a Nazarite would he retain his strength. His power would be gone when his hair was cut for that would mean that he was no longer a servant of God, but a servant of himself.

The end is familiar. Delilah cut his hair as he slept. Delilah's confederates swarmed upon him. He sprang to his feet, but was impotent, then uttered the tragic words, "He wist not that the Lord had departed from him." He was taken easily. They chained him, blinded his flashing eyes, made him do a beast's work. Finally, his hair grew back and he renewed his vows. And during a party when his enemies were doing obeisance to their God, Dagon, Samson called upon his God for help, snatched the great pillars sustaining the palace and the building collapsed, killing all its occupants.

What a lesson! So long as Samson kept close to God, he was strong, unconquerable. Does it sometimes happen that suddenly we find our strength gone—gone before we know the Lord has departed from us? It is possible

for us to awaken and find ourselves weak when all the while we thought we were strong. The strength of a man or a nation may diminish when betrayed by some Delilah of the spirit.

Among the nations of the earth, America is the one symbolized by Samson. We are rich in resources, strong in citizenry, and carry in our hands the hopes of many peoples.

The secret of our strength has been living as a people "under God". If we become rich and powerful and like, Samson, more concerned to protect and conserve the good things of life for ourselves, rather than to serve the God of our fathers, His Spirit will depart. If the shining glory of a people "under God" is shorn, we will find ourselves one day attacked by enemies we ourselves have made and the tragedy of misused power will be manifest for all history to see. A giant in strength can only preserve that strength by continuous cleansing and reanointing of the national soul and conscience.

Let us then be joined together in a fresh dedication to bring to fulfilment the words of the psalmist, "Blessed is the nation whose God is the Lord and the people whom he has chosen for his inheritance."—(Psalm 33:2)

SUPPORT FOR BEEF IMPORT LEGISLATION

Mr. McGOVERN. Mr. President, on September 20, 1977, the International Trade Commission heard over 30 witnesses urge the commission to make legislative recommendations to the Congress to strengthen the provisions of the 1964 meat import law. These hearings were conducted under authority created by section 332 of the Tariff Act of 1930.

Former majority leader Mike Mansfield and I were the principal authors of the 1964 act and at the time of its passage it was generally accepted in the cattle country as an effective answer to then-troublesome imports. Since enactment of the 1964 law, imports have more than doubled. At the recent ITC hearings, I was the lead off witness in recommending methods to strengthen the 1964 act, now 13 years old and in many respects out of date.

The September 23, 1977, edition of the Rapid City (S. Dak.) Journal carries an editorial entitled "Beef Import Law Flaws Need To Be Corrected." The editorial endorses the testimony I submitted to the commission and points out that failure to act affirmatively might present Americans with the negative alternative of an uncertain supply of domestic beef.

Mr. President, I ask unanimous consent that the text of the editorial to which I have referred be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BEEF IMPORT LAW FLAWS NEED TO BE CORRECTED

South Dakota's cattle producers and the state's congressional delegation have presented a strong case for changing laws which presently govern meat imports.

In a series of hearings before the International Trade Commission, begun in June in Rapid City and concluded Wednesday in Washington, the South Dakotans, and representaitves from othe. meat producing states, pointed out flaws in the Meat Import Act of 1964.

Those flaws should be corrected to protect the cattle industry, a basic and important industry in South Dakota. The threat is real that continued depressed beef prices will force many cattle producers out of business.

The cattlemen and legislators listed a number of things in the current system that need correcting, but their No. 1 concern was with beef import quotas.

At present, when domestic beef supplies are high and prices low, imports are allowed to increase, to put even more beef on the market. And when domestic supplies are low and prices high, the import quota can simply be suspended to allow importation of a virtually limitless amount of beef.

If your first reaction is "huh?" you are likely to agree with the cattlemen that that system doesn't make much sense.

What makes more sense is the proposal that import quotas be tightened when domestic supplies are high, and expanded when domestic supplies are low. That would guarantee an adequate supply of beef and also allow the cattleman a fair profit at the market place.

The Trade Commission, an independent agency created by Congress, will consider the testimony presented and report its recommendations to Congress.

That is when residents and legislators from the beef producing states will face their biggest challenge: persuading Congress that the statutes need revising.

And that won't be easy. Many congressmen, especially those from urban states, are under constant pressure from home to keep food prices down.

They must be convinced that relatively higher beef prices are preferable to the alternative: an uncertain supply of domestic beef.

MIDEAST: "AN ERRATIC SWERVE IN U.S. POLICY"

Mr. PACKWOOD. Mr. President, the recent accord reached by President Carter and Israeli Foreign Minister Dayan provides hope that for the moment a severe crisis in United States-Israel relations has been averted. Nevertheless, this agreement does little to undo the damage that Saturday's joint United States-Soviet communique has done toward the dream of a true and lasting peace in the volatile Middle East. Saturday's abrupt departure from traditional American policy not only welcomes the Soviet Union back into the Middle East but also locks the United States into an untenable bargaining position during future negotiations.

Mr. President, columnist George Will in today's Washington Post provides an extremely insightful look into the consequences of the new Carter administration Middle-east policy with regards to the Soviet Union. Because of the importance of this issue to our colleagues, Mr. President, I ask unanimous consent that Mr. Will's comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

MIDEAST: 'AN ERRATIC SWERVE IN U.S. POLICY'

(By George F. Will)

It is unclear whether the Carter administration's diplomatic pressure on Israel is characterized more by recklessness or incompetence. But the latest erratic swerve of U.S. policy suggests the transformation of the United States from a reliable friend of Israel into a problem for Israel.

By collaborating with the Soviet Union, Israel's principal enemy, on a declaration of objectives for a Mideast settlement, the United States took a giant step toward imposing a settlement agreeable to Israel's enemies. The United States has undermined the Geneva conference, transformed the Soviets from passive to active participants in the diplomatic process, resuscitated a terrorist organization (the Palestine Liberation Organization), hardened Arab negotiating positions and emboldened those Arabs who say negotiations are unnecessary because, eventually, Israel's friend will sell her cheap.

The most pernicious U.S.-Soviet stipulation is for "insuring the legitimate rights of the Palestinian people." The world (including the administration) knows, and jubilant PLO and Arab leaders know, that is a catchphrase used invariably and, until now, exclusively by Arabs who insist that the PLO must define those rights. The PLO invariably does so in terms of the extinction of Israel.

President Carter, who has a strange theory of representation, says the PLO, a dictatorial cabal, represents a "substantial part" of the 3 million Palestinians. (Never mind that most of them are citizens of Jordan and other nations.) Now Carter has revived and legitimized the shattered PLO.

Until 1967 the PLO could attack Israel from Gaza, Jordan, Syria and Lebanon. In 1967, the PLO was expelled from Gaza. In 1970, Jordan crushed the PLO. (Jordan's army includes many Palestinians and has killed far more PLO members than have been killed by Israeli patrols.) Syria cleared the PLO from the Golan region in 1973 and fought the PLO in Lebanon in 1976. Recently the PLO has been losing its last military base in southern Lebanon. Now the United States and the Soviets want to compensate the PLO with a diplomatic base at Geneva.

The policy of the preceding administration, though flawed, rested on an obvious truth: The Soviets should be eased out of, rather than catapulted into, a central role in the diplomatic process. The Carter administration's sudden and severe tilt in the Soviet direction (just when Egypt is completing its disengagement from the Soviets) reverses U.S. policy in several significant areas.

It reverses the policy of negotiating with Arab states without involving the Soviets directly. It embraces proposals ("international guarantees"; U.N. troops and observers with Soviet and U.S. participation) that have been rejected by Israel for many sound reasons, one of which is that they are recipes not for real peace, but for mischief. With the clumsiness that is becoming its trademark, the administration reversed policy without consulting Congress.

The U.S.-Soviet declaration does not mention and seems destined (and perhaps designed) to supplant U.N. Resolution 242. That resolution has been the basis of the Geneva conference. Yet the United States probably will be indignant about Israeli "intransigence" if Israel becomes more reluctant to attend a Geneva conference that can be so abruptly manipulated by an unreliable ally and an implacable enemy.

There is a dismaying new rhythm to U.S.-Israeli relations. First the United States takes a step—either calculated or blundering—away from Israel, toward Arab positions. An uproar ensues, so Israeli officials are summoned for soothing "clarifications." But when the dust settles, what is clear is that U.S. policy is another step closer to Arab policy.

Having now provoked another predictable storm, the administration is even more flustered than usual, claiming in effect not to have known what it was doing and not to have meant what it was saying. The Israelis, as usual, are minimizing differences. But the damage is done.

Suppose a resolution echoing the U.S.-Soviet declaration is introduced in the United Nations. The United States will have to support it. Suppose the PLO then endorses it. The United States might accept this as an adequate substitute for PLO endorsement of 242, and would begin negotiating with the PLO. The "rehabilitated" PLO would have embraced U.S. (and Soviet) policy and been embraced by the United States, without abandoning its commitment to destroy Israel.

Israel's friends must ask if an administration this reckless or incompetent (or both) can be compatible with Israel's security. Another question is whether U.S. security is compatible with an administration that so foolishly collaborates with this nation's most dangerous enemy, against a nation that is among our closest friends.

What can Israel do on its own? It should immediately discover a trillion barrels of oil beneath Galilee. Israel has nothing else to offer the United States except friendship and shared values, and the United States can't burn either in its Buicks.

THEOLOGIANS JOIN TOGETHER TO SUPPORT ABORTION RIGHTS

Mr. PACKWOOD. Mr. President, over the years that we have been debating the subject of abortion, I have always found the number of religious groups that support the right to obtain these medical services highly impressive and persuasive. It has become clear that views on when life begins, or the morality of abortion, differ widely between this country's established religious organizations. Many religious groups recognize that the quality of life for those already born can be equally, and sometimes more, important than the potential life of the fetus. The truly "prolife" concerns of these groups extend far beyond the stages of fetal development and birth to encompass "life as a whole," and the existing family unit.

I consider it extremely significant that over 200 prominent theologians have recently joined together to express their support for the right of every woman, regardless of financial status, to obtain an abortion. They are also calling upon other religious leaders to take a more active role in supporting this right.

This is the first time since the Vietnam war that such a large and diverse segment of the religious establishment has joined together on any single issue. I request unanimous consent that this list of theologians who are both prochoice and prolife be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Bob E. Adams, Southwestern Baptist Theological Seminary.
James Luther Adams, Harvard Divinity School.
James E. Allen, School of Public Health, University of North Carolina.
Joseph L. Allen, Perkins School of Theology, Southern Methodist University.
Alan B. Anderson, Wilberforce University.
Grover C. Bagby, United Methodist Board of Church and Society.
Robert C. Batchelder, Trinity College.
Waldo Beach, Duke University Divinity School.
Rabbi Jack Bemporad, Southern Methodist University.
John C. Bennett, Union Theological Seminary (NYC).
Walter F. Bense, University of Wisconsin.
Elizabeth Bettenhausen, Lutheran Church in America.
Robert W. Blaney, University of the Pacific.
Sheldon H. Blank, Hebrew Union College.
Joseph L. Blau, Columbia University.
Richard Bond, Ramapo College of New Jersey.
Jack S. Boozer, Emory University.
Eugene B. Borowitz, Hebrew Union College—Jewish Institute of Religion.
Howard H. Bright, Jr., West Virginia Wesleyan College.
Charles S. Brown, United Theological Seminary (Dayton).
Glenn R. Bucher, The College of Wooster.
Carol F. Chase, Elon College.
Henry B. Clark II, University of Southern California.
W. Royce Clark, Pepperdine University.
Don F. Colenback, Episcopal Divinity School (Cambridge).
James H. Cone, Union Theological Seminary (NYC).
Wilmer A. Cooper, Earlham School of Religion.
Warren R. Copeland, Wittenburg University.
John P. Crossley, Jr., University of Southern California.
Dwight W. Culver, The College of St. Catherine.
Paul Deats, Boston University School of Theology.
Richard L. Deats, Fellowship of Reconciliation.
Alvin L. Denman, Antioch College.
L. Harold DeWolf, Wesley Theological Seminary.
John F. Dietz.
Herbert O. Edwards, Duke University Divinity School.
J. Ronald Engel, Meadville/Lombard Theological School.
Marvin D. Erisman, Los Angeles Baptist City Society.
Charles W. Fisher, Metropolitan State College.
John C. Fletcher, Clinical Center, National Institutes of Health.
Newton B. Fowler, Jr., Lexington Theological Seminary.
George L. Frear, St. Lawrence University.
E. Clinton Gardner, Emory University.
John M. Gesell, School of Theology, University of the South.
Alan Geyer, Churches' Center for Theology and Public Policy.
Ray Gibbons, Council for Christian Social Action, U.C.C.
Boyd Gibson, Susquehanna University.
William E. Gibson, Centre for Religion, Ethics and Social Policy.
J. Herbert Gilmore, Jr.
Rabbi Ronald B. Gittelsohn.
David M. Graybeal, Drew University.
Ronald M. Green, Dartmouth College.
William A. Greenlaw.
Elly H. Haney, Concordia College.
Beverly Wildung Harrison, Union Theological Seminary (N.Y.C.).
Paul M. Harrison, Penn State University.
Hideo Hashimoto, Lewis and Clark College.
Roger D. Hatch, Central Michigan University.
H. Katherine Havice.
Arnold W. Hearn.
Karl H. Hertz, Hamma School of Theology.
Carter Heyward, Episcopal Divinity School (Cambridge).
Richard A. Hoehn, Texas Christian University.
Clyde A. Holbrook, Oberlin College.
Clint Hopkins, Virginia Baptist General Board.
Joseph Hough, School of Theology at Claremont.
William H. Jennings, Muhlenberg College.
Major J. Jones, Gammon Theological Seminary.
Mark Juergensmeyer, University of California (Berkeley).
Loyle Shannon Jung, Virginia Intermont College.
Charles L. Kammer, III, St. Olaf College.
George D. Kelsey, Drew University.
Patricia A. Kendall, Pennsylvania Commission of United Ministries in Higher Education.
Huber F. Klemme.
Hugh A. Koops, New Brunswick Theological Seminary.
Clark A. Kucheman, Claremont Men's College and Claremont Graduate School.
Joseph A. LaBarge, Dept. of Religion, Bucknell University.
William H. Lazareth, Department for Church and Society, Lutheran Church in America.
Karen A. Lebacqz, Pacific School of Religion.
Paul Lehmann, Union Theological Seminary (N.Y.C.), (Professor Emeritus).
Murray H. Leiffer, Professor Emeritus, Garrett-Evangelical Theological Seminary.
Edward LeRoy Long, Jr., Drew University.
Harold L. Lunger, Brite Divinity School, Texas Christian University.
Charles P. Lutz, The American Lutheran Church.
Marjorie Reiley Maguire.
R. Kenneth Manning, Jr., Cumberland School of Law.
Richard M. Martin, Medical College of Georgia.
Margaret N. Maxey, University of Detroit.
Hayden McCallum, Episcopal Divinity School.
Dennis McCann, Reed College.
Robert McFadden, Bridgewater College.
Thomas R. McFaul, University of Houston.
Daniel B. McGee, Baylor University.
Russell L. McIntyre, College of Medicine and Dentistry of New Jersey.
Stuart D. McLean, Graduate Seminary, Phillips University.
M. Douglas Meeks, Eden Theological Seminary.
John Giles Milhaven, Brown University.
Donald E. Miller, University of Southern California.
Haskell M. Miller, Wesley Theological Seminary.
Howard M. Mills, United Church of Canada.
Robert C. L. Moffat, University of Florida.
Roy D. Morrison II, Wesley Theological Seminary.
Stephen Charles Mott, Gordon-Conwell Theological Seminary.
Phillips P. Moulton, University of Michigan.
Eric Mount, Jr., Centre College.
Walter G. Muelder, Dean Emeritus, Boston University School of Theology.
James A. Nash, Massachusetts Council of Churches.
F. Burton Nelson, North Park Theological Seminary.
Gordon L. Nelson, Augsburg College.
Randy A. Nelson, Luther-Northwestern Seminaries.
N. Leroy Norquist, Lutheran School of Theology at Chicago.
Russell Bradner Norris.
Victor Obenhaus, Professor Emeritus, Chicago Theological Seminary.
Thomas W. Ogletree, Divinity School, Vanderbilt University.
Richard P. Olson.
David B. Parke.
David Parks, Oklahoma City University.
Jane Cary Peck, Andover-Newton Theological Seminary.
Edwin L. Plowman, High Point College.
William Puffenberger, Elizabethtown College.
Terry A. Purvis-Smith.
John C. Raines, Temple University.
William W. Rankin, Durham, N.C., County Department of Social Services.
Guy H. Ranson, Trinity University.

Larry L. Rasmussen, Wesley Theological Seminary.
Janice G. Raymond, Five-College Faculty, Amherst.
Robert D. Reece, Wright State University.
Darrell Reeck, University of Puget Sound.
George C. Reese, Thiel College.
Rosemary R. Reuther, Garrett-Evangelical Theological Seminary.
Charles H. Reynolds, University of Tennessee.
Dan D. Rhoades, School of Theology at Claremont.
Francis E. Ringer, Lancaster Theological Seminary.
Michael Germinal Rivas.
J. Deotis Roberts, Sr., Howard University.
Keith A. Roberts, Bowling Green State University.
D. B. Robertson, Syracuse University.
Isabel Rogers, Presbyterian School of Christian Education.
Charles J. Sabatino, Daemen College.
Richard E. Sanner, Wheaton College (Massachusetts).
Harold M. Schulweis, Hebrew College, Los Angeles.
Steven S. Schwarzschild, Washington University.
Lee Osborne Scott, Denison University.
Timothy F. Sedgwick, Blackburn College.
Harvey Seifert, Professor Emeritus, School of Theology at Claremont.
Robert Paul Sessions.
Talbert O. Shaw, Howard University School of Religion.
Earl E. Shelp, Texas Medical Center Institute of Religion.
Robert L. Shelton, University of Kansas.
Franklin Sherman, Lutheran School of Theology at Chicago.
Roger L. Shinn, Union Theological Seminary.
Morton Siegel, United Synagogue of America.
Donald W. Shriver, Jr. Union Theological Seminary (N.Y.C.)
Paul D. Simmons, Southern Baptist Theological Seminary.
Ervin Smith, Methodist Theological School in Ohio.
Kenneth L. Smith, Colgate Rochester/Bexley Hall/Crozer Seminary.
James F. Smurl, Indiana University.
David J. Snider.
T. Richard Snyder, Inter-Seminary Theological Education for Ministry.
Howard F. Sohn, Mount Holyoke College.
A. McLean Spaulding, Hood Theological Seminary.
Charles M. Spring, West Virginia University.
Glen H. Stassen, Southern Baptist Theological Seminary.
Dave Steffenson, University of Wisconsin—Green Bay.
Robert L. Stivers, Pacific Lutheran University.
Ronald H. Stone, Pittsburgh Theological Seminary.
Jack L. Stotts, McCormick Theological Seminary.
Carl Benton Straub, Bates College.
Maynard H. Strothmann.
Douglas Sturm, Bucknell University.
Stanley J. Sutphin, Elizabethtown College.
John M. Swomley, Jr., St. Paul School of Theology.
Charles Teel, Jr., Loma Linda University.
Richard Tholin, Garrett-Evangelical Theological Seminary
Foy Valentine, The Christian Life Commission of the Southern Baptist Convention.
William Vander Marck, DePaul University.
Philip W. Van Vlack, The Educational Center of Hartford.
Elizabeth Lam Vieg, Retired Administrator, International Education Exchange.
Kenneth Watson.
John R. Warner Jr., West Virginia Wesleyan College.
Joseph C. Weber, Jr., Wesley Theological Seminary.
Robert F. Weir, Oklahoma State University.
Edwin H. Welch, Lebanon Valley College.
Charles C. West, Princeton Theological Seminary.
L. Elbert Wethington, Lebanon Valley College.
Stephen W. White, East Tennessee State University.
Walter E. Wiest, Pittsburgh Theological Seminary.
Dana W. Wilbanks, Iliff School of Theology.
Herman Will, Board of Church and Society of The United Methodist Church.
James E. Will, Garrett-Evangelical Theological Seminary
Wallace A. C. Williams.
Robert E. Willis, Hamline University.
Gayraud S. Wilmore, Colgate Rochester/Bexley Hall/Crozer Theological Seminary.
Gibson Winter, Princeton Theological Seminary.
J. Philip Wogaman, Wesley Theological Seminary.
Wilson Yates, United Theological Seminary of the Twin Cities.
George D. Younger.
Bruce Boston.
Leonard Kravitz, Hebrew Union College—Jewish Institute of Religion.
Robert Rue Parsonage, National Council of Churches.
Rabbi Lawrence Hoffman, Hebrew Union College—Jewish Institute of Religion.
Leo Pfeffer, American Jewish Congress.
Rabbi Ludwig Nadelmann, Jewish Reconstructionist Foundation.
Thomas A. Bland, Southeastern Baptist Theological Seminary.
Max D. Ticktin, B'nai B'rith Hillel Foundation.
Lynn N. Rhodes, Boston University School of Theology.
Balfour Brickner, Union of American Hebrew Congregations.
James Reynolds.
Levi A. Olan, Central Conference of American Rabbis.

NATIONAL WATER POLICY MEETING

Mr. WALLOP. Mr. President, this morning 23 Senators from Western States met with President Carter, Vice President Mondale, and Secretary of the Interior Andrus to discuss water policy as well as other matters.

I feel that the meeting was fruitful for both the Western Coalition and the President. We left with his assurances that a final national water policy will not contain a Federal takeover of State water rights, and that there is no hard deadline for issuing a final proposal. Arbitrary time frames will not lead to sound recommendations or the best public policy.

As a spokesman for the Western Coalition, I ask unanimous consent that the following remarks which were submitted to the President be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WATER RESOURCE POLICY STUDY, WESTERN COALITION PRESENTATION TO THE PRESIDENT, OCTOBER 6, 1977

The Western States which we represent have common interests in water policy which transcend their individual boundaries, the separate drainages, and our political party lines. That common interest has been forged of necessity and predates federal water development and even statehood. The special significance of water and its use in the West is not taken for granted. That common interest and concern is manifested in our presence here.

It is important that you are aware of the depth of our interest in water policy and the necessity for total state involvement. Unanimous resolutions in support of states' roles in water policy have been adopted by the Western Governors Conference, and the Interstate Conference on water problems. Twenty-three of us, Senators representing thirteen western states most dependent on water resources, were concerned enough to call for extended comment time and for this meeting, and we thank you for granting both.

In addition to individual statements which we have or will make concerning the study, we as Senators representing Western States, subscribe to the several principles which we believe should be reflected in any national water policy.

It is imperative that upon announcement of national water policy decisions, that states be given adequate opportunity to review and comment on them prior to their implementation. Our federalism, and practical necessity, have resulted in strong state roles in the development and implementation of water policy. Our water policies are complex, and cannot be dealt with in a cursory manner. Both the time frame and exclusive nature of the federal forum for this study will work against the quality of the finished product.

In this regard, most western Senators have cosponsored S. Res. 284 which was adopted yesterday. The resolution does not seek to hinder the development and announcement of water resource policy decisions. But once announced, it recommends that the implementation of those policies be held in abeyance pending limited further review and comment by States, river basin commissions, and the appropriate congressional committees. Some State comment has already been provided for. However, the scope of the issues and options presented is so broad, that more narrowly focused review is essential to the development of a sound policy. Twenty-five problem statements and 111 options have been difficult and frustrating to analyze. Many who wished to comment have, out of necessity, been forced to focus on these concepts they considered most flawed and the options most dangerous to implement. While this may prevent the adoption of the worst case options, it will not provide sound recommendations for the development of the best public policy.

The assurance of adequate and fair opportunity for comment, and a proper forum for discussion is our primary concern. We also hold in common, principles of water resource policy which we view as vital.

We believe that any national water policy must take into consideration geographical differences. It must in particular recognize the special circumstances of water-short regions. For too long, Federal water policy has been formulated by eastern people who think they live with a surplus, and are unaware they live with different water law.

Before contemplating any conformation of State water law with Federal, there is clear need for clarification and improvement in coordination of Federal water policy among the Federal agencies. This coordination can and should be effected without unwarranted intrusions into the affairs of States and State agencies.

The principles and rules governing the appropriation and use of water in the western States have evolved over a long period as a

natural and inevitable outgrowth of conditions and needs in the west. As representatives of the people of the western States, we are unified in our determination that the principles and rules of western water law as administered by the several States, upon which the people of the States have come to rely, and have every right to rely, shall not be precluded or abridged.

We have been assured by Secretary Andrus that it is not the administration's intention to interfere with State systems of water allocation. We are gratified to hear this and hopeful that the final water resource policy decisions reflect that principle. But we remain concerned.

The option and issue papers published in the Federal Register have been the public's only indication of the direction which Federal water policy might take. Throughout them, the bias is clearly toward coercing States, requiring States, leading States, and ignoring States.

One problem statement in the papers indicated that the States' water rights systems have developed without regards to the relationship between groundwater and surface water. This is a statement which would be questioned by many of us present here today. But of the four options presented for discussion on the perceived problem, three involved Federal involvement in changing State water allocation systems, and the fourth required Federal review of all licenses, contracts and permits to ensure that they were consistent with a federally perceived "integration" of ground and surface water resources.

Another problem statement charged that the concepts of "beneficial use" and "diversion" which are integral to most Western States' water law systems, impaired superior environmental values. Once again, the options presented were slanted toward increased Federal control. This included the development of Federal sanctions to require states to adopt strategies, as well as the establishment of a new institution at the Federal level which might discontinue valid state water rights and provide compensation for those deprived.

In addition to states' systems for the allocation of their water resources, we are no less concerned with the States traditional role in determining the priority of water uses within their boundaries. While I am not familiar with the constitutions of other Western States, I do know that Wyoming's constitution States, "The water of all natural streams, springs, lakes or other collections of still water, within the boundaries of the State, are hereby declared to be the property of the State." (Art. 8 Sec. 1) pursuant to that power, we have developed water use priorities based upon local needs and desires. Options which suggest that the Federal Government might acquire water rights by emminent domain and reallocate them to the "most socially desirable or economically productive use," are directly counter to almost one hundred years of state law and practice. We urge you to scrutinize the overall social consequences of such a policy, with the utmost skepticism. It is a license to steal. Small towns, agriculture and other small users would fall victim to large population centers and heavy industrial users.

And finally, Mr. President, is the matter of Federal reserved, and Indian water rights. Though not identical, the principles of Federal reserved water rights and Indian water rights are so similar that any policy cannot be developed or implemented without a coordinated policy development of Indian water rights. They do co-mingle. Any quantification of water under either doctrine separately, would give the impression of a complete and final determination of a limited resource, any later doctrine would again divide up the whole of the remaining water. Holders of private water rights perfected under state systems, often before the enunciation of either doctrine, would almost certainly be the losers. If it is your intention not to consider policy toward Indian water rights in this study, Federal reserved water rights should be similarly excluded.

While we believe that the time frame for the completion of the study and the announcement of a National water policy is unreasonably short, we compliment you and secretary Andrus for the extension which was granted and your willingness to make yourselves available for additional public and congressional comment.

WORLDWIDE ATTENTION TO AGING

Mr. CHURCH. Mr. President, the Senate has approved Senate Resolution 238, which calls for the President to instruct the U.S. delegation to the United Nations to work with other U.N. delegations toward a World Assembly on Aging and a World Year on Aging not later than 1982. I welcome this action on my resolution—cosponsored by Senators CHILES, BROOKE, DECONCINI, PERCY, MATSUNAGA, and GLENN—because I believe that the time is ripe for extensive attention to the worldwide implications arising from the "aging" of entire populations, if by "aging" we mean significant increases in the proportions of persons past age 60 or 65.

As I said in my remarks when I introduced S. 238 on August 3, the 291 million persons of age 60 or over throughout the world in 1970 will increase to nearly 585 million by the year 2,000, a gain of more than 100 percent. In the same time period, the percentage of the population of persons 60 and over will increase by 50 percent in the more developed nations, and 158 percent in the less developed regions.

Such dramatic projections tend to cause apprehension about impact on programs for retirement income, health insurance, housing, and social services, even in nations which have such systems well in place. An international exchange of information among nations can help us measure such impact more accurately and can suggest additional lines of international communication and cooperative action. What is needed, in addition to apprehension, in my view, is the realization that a growing proportion of older persons can become a rich source of talent and experience which can be tapped for a wide array of worthy purposes.

The Senate action is timely because the United Nations will soon consider a question to expand its research and information program on aging. The forum thus provided should serve as an appropriate vehicle for discussion of a World Year and a World Assembly on Aging.

Senate Resolution 238 has received the support of the Association for Gerontology in Higher Education, the Gray Panthers, the International Center for Social Gerontology, the National Association of Counties, the National Council of Senior Citizens, the National Indian Council on Aging, the National Retired Teachers Association-American Association of Retired Persons, and the Urban Elderly Coalition.

ORDER FOR JOINT REFERRAL

Mr. WILLIAMS. Mr. President, I send a concurrent resolution to the desk dealing with the Pension Benefit Guaranty Corporation (S. Con. Res. 49). I ask unanimous consent that it be jointly referred to the Committees on Human Resources and Finance.

The PRESIDING OFFICER. Without objection, it is so ordered, and the resolution will be jointly referred.

Mr. BAKER. Mr. President, could the Chair restate what the unanimous-consent agreement was?

Mr. WILLIAMS. It was that the pension benefit guaranty measure go to both committees. Both committees have jurisdiction.

The PRESIDING OFFICER. It deals with a subject which came out of both committees.

Mr. BAKER. Mr. President, I just inquired, because I was not aware that it had been cleared on this side, but I have no objection to it.

Mr. WILLIAMS. It is a standing request from the Committee on Finance.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW, AND FOR RESUMPTION OF THE UNFINISHED BUSINESS THEREAFTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order tomorrow morning, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes, that the Senator from Alabama (Mr. ALLEN) then be recognized for not to exceed 10 minutes, and that the Senate then resume the consideration of the minimum wage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR UNDER SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I believe there is one measure on the calendar that I would like to ask unanimous consent be placed on the calendar under Subjects On The Table. It is the bill that was passed by the Senate today, S. 2114, and the text of which was attached to a House vehicle.

I ask unanimous consent that S. 2114, the public utilities rate bill, be placed under Subjects On The Table, with the understanding that it retains the same status which it presently holds on the General Orders Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION TO MEET DURING SESSIONS OF SENATE ON OCTOBER 18, AND 19, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet during the sessions of the Senate on October 18 and 19 to hold hearings on the Amateur Sports Act of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR EXTENSION OF TIME TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation have until midnight Saturday, October 8, 1977, to file reports on Senate Concurrence Resolution 31 and Senate Concurrence Resolution 37.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be rollcall votes throughout the day tomorrow, and the Senate will proceed to work on the minimum wage bill until it completes action on that measure.

Following action on that bill tomorrow, the Senate will take up the Department of Defense authorization bill, S. 1863, on which there is a time agreement, and votes are expected on that bill.

It is important that the Senate complete action on the DOD authorization bill tomorrow, so that the Appropriations Committee may proceed, following action on the authorization bill. If action is completed on both those bills tomorrow, Mr. President, the Senate will not then be in on Saturday.

So I would suggest that Senators be prepared for a reasonably late session on tomorrow, and I hope we can get a good running start in the morning, and get action on amendments. I hope Senators who have amendments will come to the floor early and be prepared to call them up, so as not to delay action on the minimum wage bill and the followup bill.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and, at 10:40 p.m., the Senate recessed until 8:30 a.m. on Friday, October 7, 1977.

EXTENSIONS OF REMARKS

LAW ENFORCEMENT OFFICERS POLLED ON GUN CONTROL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ASHBROOK. Mr. Speaker, the Second Amendment Foundation has completed a comprehensive survey of America's law enforcement officers on the issue of gun control. Approximately 14,000 chiefs of police, sheriffs, and police officers received questionnaires, over 6,000 of whom responded.

The results of this survey indicate strong support for the private ownership of firearms. More than 86 percent of the officers responding said they would keep a firearm for their own protection if they were ordinary citizens. Over 83 percent expressed the opinion that criminals rather than citizens would benefit the most from the banning of handguns. Almost 64 percent stated their belief that an armed citizenry serves as a crime deterrent.

For the information of my colleagues I am including a press release issued by the Citizens Committee for the Right to Keep and Bear Arms that discusses the survey and its results in more detail.

RECENT SURVEY SHOWS POLICE WANT GUNS FOR PERSONAL PROTECTION

WASHINGTON, D.C.—A recently completed professional survey indicates that more than 86% of America's law enforcement officers would keep a firearm for the protection of their family and their property if they were ordinary citizens, John M. Snyder, Director of Publications and Public Affairs of the Citizens Committee for the Right to Keep and Bear Arms (CCRKBA) and Treasurer of the Second Amendment Foundation (SAF), announced today.

The survey, the Crime Control Research Project, conducted by GMA Research Corporation, was prepared for the Second Amendment Foundation.

Questionnaires were sent out to 14,000 Chiefs of Police, Sheriffs and Rank and File Police Officers in the United States. Responses were received from over 6,000 of them.

The survey also showed that nearly 80% of the law enforcement officers surveyed thought gun control legislation currently in effect had had no effect on crime in their area.

More than 47% indicated they believed that if a Federal law were enacted prohibiting the importation, sale, purchase, transfer receipt, possession, or transportation of handguns by the general American public, it would have no effect on crime.

Two-thirds indicated they believed that if a Federal law were passed calling for the registration of all firearms, it would have no effect on crime.

Nearly 54% indicated they believed that if a law were passed calling for the Federal registration of all firearms, it would remove no guns from criminal access.

Nearly 82% indicated they felt that if a law were passed demanding a mandatory prison sentence for persons convicted of committing a felony with a firearm, it would reduce crime somewhat amongst repeated offenders.

Nearly 64% indicated that they felt that armed citizenry serves as a deterrent to crime.

More than 83% indicated they felt criminals rather than citizens would benefit the most from the banning of handguns.

Copies of the 200-page report, which cost $10,000 to produce, will be presented to every Member of the Senate and House of Representatives, Snyder said.

A MILLION DOLLAR HOUSE TV NETWORK?

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, question: What if the House established its own million dollar TV network to cover its debates at public expense, and the public could not watch?

Answer: No problem since Members could still use the costly closed-circuit broadcast system to monitor floor proceedings on TV sets in their offices.

Mr. Speaker, the situation I just described might be funny if the prospects of its happening were not so real. If things do turn out that way I, frankly, cannot imagine people chuckling while filling out their tax returns next April or their ballots the following November. And make no mistake about it. I strongly favor broadcasting our proceedings, a majority of our Members do, and a majority of the American people do. But what we all have in mind is making coverage of our debates available to the public, not simply to ourselves.

Mr. Speaker, the Select Committee on Congressional Operations has just released its report, "Televising the House," in which it proclaims its 90-day broadcast test of our proceedings, "successful," and recommends "the establishment of a permanent system of television and radio coverage of the daily proceedings of the House," utilizing House-owned, state-of-the-art, remotely controlled and computer programable, minicameras.

While the select committee has recommended that this coverage be made available to the public "following the extension of the closed-circuit House broadcast system throughout the House, but not later than the beginning of the 96th Congress," it apparently failed to check with any technical experts or policy personnel from commercial broadcast networks and stations to determine whether the coverage would be usable or used by them. I would think that before we make an investment of this magnitude we would want to find out if there is, indeed, a market for our product beyond these walls, unless, of course, all we really have in mind is dealing ourselves another cushy perk.

Mr. Speaker, last spring when this whole broadcast test was taking shape

I took a special order on March 8 and raised a question of privilege on March 15, in which I questioned whether our ultimate objective was to provide a service for Members or a service for the public. I expressed the belief that "the public interest should be our primary objective" because "the public has already become cynical enough about self-serving actions by this Congress." I went on to express the hope that the test be "conducted from the outset with a view to producing the type of quality broadcast coverage which will be suitable for commercial use by our networks and stations."

It was with this in mind that I had earlier written to the Speaker on March 7 recommending that he invite the executive committee of the House Radio and Television Correspondents Gallery "to appoint a technical advisory group to work with you in determining which equipment and techniques used during the test period will insure the best broadcast quality coverage should the House later decide to make this coverage available for public use."

And yet, to my amazement, there is no indication in the select committee's report on the test that commercial broadcasters were ever consulted or brought in to view any portion of the live coverage or evaluate any of the videotapes made of it. Moreover, there is no discussion of the policy question raised by a House owned and controlled broadcast system, and that is whether broadcasters would use coverage controlled by the very people being covered. While I am neither a philosopher nor a journalist I would think this raises a serious question of journalistic ethics.

Instead of consulting with broadcasters on these major technical and policy questions, the select committee has taken it upon itself to unilaterally declare that its proposed system "make it possible to obtain a broadcast quality—if not studio quality—picture, suitable both for closed-circuit and public broadcast purposes"; and House management of the system "need not and should not imply in any way the imposition of editorial control or any form of censorship of the content of televised coverage of House proceedings," and "by its nature allows(s) untrammeled exercise of editorial judgment by the users."

Mr. Speaker, all this reminds me of a former Senator's proposal to win the war in Vietnam: declare that we have won and get out. By the same token, the select committee is saying, "We've provided you with a broadcast quality picture and editorial freedom, by our definitions, therefore, we have provided coverage to the public." While that solution did not work for Vietnam since people could see on their TV's what was really happening, it just might work in the House since people will not be seeing on their TV's what they are missing—unless, of course, they wander into their Congressman's office some day.

SOUTH AFRICA'S JUDICIAL SYSTEM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BONKER. Mr. Speaker, the death of 21 people while in detention in South Africa over the past 18 months is cause for great concern to those favoring a peaceful resolution to conflicts in South Africa. The recent death of Steve Biko has focused world attention on South Africa's judicial system, its laws concerning political dissent, and the treatment of detainees.

The Carter administration's expression of concern regarding the circumstances surrounding Mr. Biko's death, while laudable, did not address some troublesome questions.

I would like to insert for the record a letter I recently sent to the South African Ambassador to the United States on this matter. In addition, I would like to insert a letter I transmitted to President Carter containing recommendations concerning further actions which need to be taken as quickly as possible.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1977.

His Excellency DONALD SOLE,
Ambassdaor of South Africa, Embassy of the Republic of South Africa, Washington, D.C.

DEAR MR. AMBASSADOR: I am writing to express my deep concern over the circumstances surrounding the death of Stephen Biko while in detention in your country. I appreciated the opportunity to talk with Mr. Herbert Beukes, an official in your embassy, who made a visit to my office late last week. Mr. Beukes' responses to my questions were helpful in gaining an idea of your government's perspective on this matter. However, in my judgment there remain several additional concerns associated with this case.

I have enclosed a copy of a letter to the President which sets forth recommendations which I feel represent effective responses to several lingering questions. The death of Stephen Biko has brought substantial international attention to South Africa's treatment of political dissidents. At an early mutually convenient date, it may be helpful for us to discuss these recommendations.

Sincerely,

DON BONKER,
Member of Congress.

Enclosure.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express my support for the concern your administration has demonstrated about the circumstances surrounding the death of Mr. Stephen Biko while in detention in South Africa. However, as a member of the House African Affairs Subcommittee I feel there are certain recommendations which our government should make which in my judgment have compelling merit. Acceptance of these recommendations by the government of South Africa might serve to improve understanding between our two countries as well as serve as a constructive response to the reasonable concerns expressed from several sources in the international community.

Recommendation 1: That the International Committee of the Red Cross be allowed to conduct an autopsy of the body. There is great concern that the case of Mr. Biko's death has become so politicized that it will be very difficult for the pathological examinations conducted thus far to proceed in an impartial manner. There is also a possibility that the three pathologists who have been involved in the case thus far may not agree on their findings. The I.C.R.C. is an internationally recognized humanitarian organization capable of performing a pathological examination in an impartial manner. If I am not mistaken, the I.C.R.C. has an office in Pretoria and visits South African prisoners from time to time. I.C.R.C. involvement at this time would not constitute any kind of judgment on the capabilities of the South African medical profession. Rather, the I.C.R.C. approach would in my judgment be an effective means of de-fusing concern about pressures, political and otherwise, currently operating on the South African pathologists involved in the case.

Recommendation 2: That there will be a full investigation into the death of Mr. Biko and twenty others who have died over the past eighteen months while in detention. This investigation should occur with international observers who can attest to the impartiality and thoroughness of the findings. Full efforts should be made to prosecute those found responsible, possibly, for any foul play which might have occurred in connection with these deaths. I am troubled by the equivocal and rather callous remarks of Justice Minister Kruger concerning the death of Stephen Biko. Such remarks do little to dispell the concern of many in the international community for the treatment accorded political detainees in South Africa.

Recommendation 3: That certain safeguards be established to prevent deaths occurring under similar circumstances in the future by repealing the Terrorism Act of 1967 and the Internal Security Act of 1976, among others, or at the very least, removing measures contained in these acts which do not appear to be consonant with the decent Western-style democracy South Africans claim exists in their country. Issues of particular concern are inter-alia: the detention of a person indefinitely without charge or trial, holding a detainee incommunicado without visitation rights accorded to close members of the detainees families, lawyers, and clergy, and finally, the presumption of guilt of those detainees found by administrative officials to have probably engaged in acts of "terrorism". Such wide divergencies from Western legal norms do little to further the cause of developing international understanding for South Africa's position.

The death of Stephen Biko has brought substantial attention both domestically and in other parts of the world to South Africa and its treament of political dissidents. In my judgment the recommendations offered above for inclusion as part of official U.S. policy would constitute a reasonable and constructive approach to the legitimate concerns evoked by the Biko case.

Mr. President, your concern for human rights and decency in government serves as an inspiration for those members of Congress responsible for overseeing the policy of the U.S. vis a vis South Africa. Again allow me to reaffirm my support for the position which has been expressed thus far concerning the death of Stephen Biko, as well as to express my sincere hope that this position can be expanded to incorporate the recommendations described above.

Sincerely,

DON BONKER,
Member of Congress.

VETO OF THE ERDA AUTHORIZATION BILL RECOMMENDED BECAUSE OF THE CLINCH RIVER BREEDER REACTOR PROJECT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BROWN of California. Mr. Speaker, the President will receive much advice about the fiscal year 1978 ERDA authorization bill, and how he should view the conference committee language on the Clinch River breeder reactor project. I would like to stress that the conference committee report did not change the basic issue with Clinch River, which is should we proceed or curtail this project? The conference report says proceed, and although the dollar amount is reduced, the CRBRP still has enough funds to proceed with little, if any, delay.

The editorial in today's New York Times gives the view, which I know is widely shared in the Congress, that the ERDA bill should be vetoed as long as the Clinch River funds are in it.

The editorial follows:

[From the New York Times, Oct. 6, 1977]

THE RIGHT REACTION TO CLINCH RIVER: VETO

The Clinch River Breeder Reactor, a demonstration power project that could become the Edsel of the nuclear industry, appears to have survived its latest journey through Congress. House and Senate conferees have agreed to authorize about $80 million for the project in fiscal 1978. That figure is being described as a compromise to avoid a veto by President Carter, who has staked considerable prestige on stopping the project. But the proposed funding would only give momentum to a probable technological and diplomatic fiasco. If the Clinch River item remains in the bill authorizing energy research, as seems all but certain, it would make an excellent target for Mr. Carter's first veto.

The justification for the Clinch River project is no longer valid. It was originally deemed desirable to demonstrate the commercial feasibility of a breeder reactor, a highly efficient nuclear plant that would greatly increase nuclear fuel supplies. But the slower growth of nuclear power and an increase in estimates of uranium resources push back the day when a breeder would be needed, probably into the next century. Meanwhile, the design of the project was essentially frozen—at a size that the Government's own experts now consider too small, and at a level of technology that many consider already outdated.

It is not just the rabid opponents of nuclear energy who consider the project a technological turkey. The Carter Administration's top energy experts oppose it, and even Edward Teller, a nuclear advocate nonpareil, calls it "obsolete before it has been started."

The Clinch River reactor would not be high technology; it would be high pork—a make-work project that would eventually cost an estimated $2.2 billion to demonstrate a technology that probably will never be marketable.

The cost to our diplomatic efforts to curb nuclear proliferation could also be great. Mr. Carter pledged to halt the American rush toward a commercial breeder as a symbol of our willingness to forgo dangerous technologies that produce not only energy but also the material for bombs. Capitulation to Congress now would open the entire policy to charges of hypocrisy. Fortunately, through quirks in legislative procedure, Mr. Carter could veto the bill without disrupting most other energy research. The Administration has made it clear that it endorses nuclear power and will continue to explore better breeder reactor designs. But this particular project would demonstrate the wrong design at the wrong time and send the wrong international signal. It should be abandoned.

FILL-UP RIGHTS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MINETA. Mr. Speaker, for years now our U.S. international air carriers have been trying to obtain the right to carry domestic traffic between U.S. cities on flights operated in foreign air transportation. This issue, referred to as "fill-up rights" is not simply an issue which would benefit those international carriers. It cuts across many of the major philosophical issues the Congress is currently dealing with in the matter of aviation regulatory reform, like carrier management decisions, efficiency of operation, fuel conservation and accommodation of the travelling and shipping public.

The closed-door restrictions of the current law have denied passengers and shippers access to convenient services and have penalized everyone by forcing seats and cargo space to go to waste. Despite the obvious public benefits and good economic sense in the proposal to open the doors of existing flights to domestic traffic, U.S. international carriers have generally been unable to obtain such authority from the CAB. It is a compelling example of the damage which can result from the interference of unnecessary CAB regulation in our aviation system.

I believe these restrictions are grossly inefficient and inequitable and there is simply no justification for continuing them. The impact of fill-up rights on domestic carriers will be minimal. These flights are keyed to international departure and arrival times and their domestic segments fly at off-peak hours. The one-way nature of the flight further reduces their competitive position vis-a-vis domestic carriers.

Both the House and Senate versions of aviation regulatory reform legislation contain provisions to correct the "closed door" problem. Both versions would permit U.S. international airlines to carry local U.S. passengers and cargo on the domestic segments on their international flights.

The provision contained in the House bill is, however, more restrictive than the Senate version. It would provide authority for fill-up rights on one flight per day in three markets the first year and in two markets in subsequent years. In addition, these fill-up rights would be substituted for any option under discretionary entry authority. I believe this additional restriction denies an essential and deserved flexibility to our U.S. international carriers.

The bill I am introducing today directly parallels the unlimited fill-up rights contained in the Senate bill. It authorizes carriers to transport persons, property, and mail between points served in any State on one roundtrip flight per day in each city-pair market, without the additional burden of requiring that the fill-up rights be substituted for discretionary entry. I believe fill-up rights and discretionary entry are separate issues and should be treated as such. The choice of one should not prejudice a carrier's option to utilize the other. Only in this way will we eliminate any potential discrimination against our U.S. international carriers.

This legislation will serve to emphasize the importance of fill-up rights in the comprehensive regulatory reform bill. It will furthermore emphasize to the House Committee the concern of myself—and my colleagues who joined as cosponsors—that fill-up rights should be treated separately and without discriminatory restrictions.

U.S. POLICY MUST NOT FORSAKE ISRAEL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, a sense of real apprehension continues to pervade the Jewish community following the issuance of the joint, United States-Soviet statement on the Middle East. While some of the feelings of betrayal have been minimized by yesterday's talks between President Carter and Foreign Minister Moshe Dayan, some fundamental questions remain unanswered.

To what extent will this Nation advocate participation of the Palestine Liberation Organization in Middle East peace talks? To what extent will the United States promote the concept that the PLO has "rights" in a Mideast settlement? To what extent should we allow ourselves to form a coalition with the Soviets for a Middle East peace?

Without any doubt, the PLO matter is the thorniest issue with which we must deal. How can we expect to achieve a Middle East peace involving Israel, when one of the parties to the negotiations is committed to the destruction of the nation of Israel? Further, can this Nation, which denounces terrorism throughout the world, so compromise itself as to align with the PLO—one of the most organized terrorist groups in the world—in a Mideast peace?

What kind of Mideast peace can we hope for with the PLO participating in its formation and the Soviet Union playing an integral role? Unless this Nation unequivocally reaffirms its support for the maintenance of Israel's sovereignty, peace will result in a greatly weakened Israeli position. Implicit in the Soviet Union's deep involvement, is their promotion of Arab interests in a Mideast peace. Any weakening of U.S. ties with Israel will encourage the Arabs to demand more concessions from Israel.

These are troubling times for Israel. They find themselves in the paradoxical position of being railroaded by the United States. I believe it is time for the Carter administration to reassess its position. We must bargain for peace from a position of strength for Israel. Rapprochement with the PLO should be used as a last resort, rather than an essential ingredient for achieving peace. How can we ask the nation and people of Israel to forget the horror of Munich—the massacre at Lod Airport—the killing of innocent children at Ma'alot? These acts were committed by units of the PLO; the very same group we are expecting the Israelis to negotiate with.

From Israel's historic inception in 1948, the United States has been its strongest ally. Now, as Israel approaches her 30th birthday, the nation's future remains uncertain. Peace in the Mideast is hoped for by all. Certainly a resumption of fighting would have ominous consequences for the security of the world. Yet peace cannot come at the expense of weakening Israel's position as a nation. It is a diplomatic tightrope we must walk, but our ability to do so will result in a balanced and peaceful Middle East.

BANKING REGULATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DERWINSKI. Mr. Speaker, I direct the attention of the Members to an editorial broadcast by Chicago Radio-TV Station WGN, on September 21, which discusses the adjustments taking place in the financial regulatory arena.

This editorial certainly dramatizes the fact that the Congress, affected industries, and the general public are too often caught in the grasp of the self-perpetuating bureaucracy. This often adds to the problem rather than the solution which it attempts to address:

BANKING REGULATIONS

Bureaucracy, it seems, breeds more bureaucracy. Legislation has been introduced on Capitol Hill to consolidate the three major agencies which regulate banking in this country, the Federal Deposit Insurance Corporation, the Federal Reserve Board and its dozen regional Federal Reserve Banks . . . and the Comptroller of the Currency. These three agencies regulate only banks, leaving to other parts of government regulation of the savings and loan associations which, to many consumers, are just like banks.

The three agencies involved in the proposed merger are, as could be expected, opposed to the merger. They agree that there could be better coordination of banking regulations. But, they have another way to do it. They want to create another agency, the Federal Bank Examination Council, to provide uniform rules and procedures for bank examinations.

To us, this is ridiculous. There is obvious need for bank regulation. But, the idea of three bank regulating agencies proposing a fourth is just too much.

Perhaps if we had a single regulating agency, with a single set of rules, we wouldn't be devoting so much public attention and energy to the banking policies of Bert Lance.

BUYING YOUR WAY IN GOVERNMENT

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. HANSEN. Mr. Speaker, as an American citizen concerned over national security and a representative of a rural Western State whose economic well-being depends heavily on the successful marketing of sugar crops, I have for some time expressed deep concern for the inordinate influence on U.S. business and foreign policy exerted by a handful of highly paid, highly placed American attorneys and law firms in behalf of foreign governments and commercial interests.

This influence has been spectacularly evident in the financial provision proposed in the new Panama Canal Treaty, particularly with regard to negotiator Sol Linowitz, a Washington, D.C., attorney. Mr. Linowitz was given a special short-term appointment by President Carter which allowed him to bypass the legal and legitimate scrutiny of the U.S. Senate for such positions with regard to possible conflict of interest and unusual political campaign contribution involvement.

Thus the Senate could never get the lowdown on Linowitz before he pulled off his 6-month sleight-of-hand sellout of the Panama Canal—this remarkable ripoff of American taxpayers and consumers consummated just hours before his appointment expired.

Early revelations by myself and other Members of the House and Senate showed Mr. Linowitz to be heavily involved financially in Latin America directly as a registered foreign agent representing various nations and special interest groups and indirectly as a member of the boards of directors of prominent international firms such as Marine Midland Bank of New York and Pan American Airways.

Whether his membership on the board of directors of Time magazine had any effect on the ability of his critics to demonstrate his blatant apparent conflict of interest in representing the U.S. Government in areas where he and his colleagues stand to gain financially is probably not provable.

Nevertheless it is a fact that Mr. Linowitz resigned from the board of directors of the Marine Midland Bank which has large loans to the Government of Panama which can likely be serviced and repaid by extravagant, financial windfalls to Panama proposed in the treaty. This amounted to a tacit admission of the untenable position of Mr. Linowitz attempting to serve two masters.

The same kind of financial funny business has been going on to the detriment of agricultural producers and processors in sugar beet, sugar cane, and corn sweetener areas. An insensitive administration under great pressure from special interest groups represented in high places by the legal elitists in the lobbying world has allowed a glut on the Nation's sugar market with resultant depressed prices and severe damage to key farm production interests of the Nation.

The legal lobbyists have "hogged" a disproportionate share of the sugar market and are jockeying for position to even further complicate the situation by promoting renewed trade ties with sugar-exporting Cuba. It is unfortunate that American agricultural organizations are not sufficiently organized and financed to be able to successfully bid with foreign governments and special interest groups for the high-powered, high-paid legal lobbyists who are capable of exerting such an inordinate influence in high places of government.

To bolster my statements I submit for the RECORD an article in the October 3, 1977 Washington Post by Stuart Auerbach which discusses how law firms give foreign clients many services. It is interesting to note that the article finds that 70 American lawyers and law firms who have registered with the Department of Justice as agents of foreign governments or businesses have collected $3½ million during the latest 6 months reporting period.

This amounts to an average of $50,000 each and gives some idea of the kind of competition domestic interests are up against. It is interesting to note how the pyramiding of retainers from a number of interests plus regular charges can amount to huge sums.

The article is most interesting and goes into some detail with regard to several firms but conveniently and noticeably it does not include Mr. Sol Linowitz or his firm of Coudert Bros. The article follows:

LAW FIRMS GIVE EXTRA SERVICE TO FOREIGN CLIENTS

Frederick G. Dutton performs lots of odd jobs for his $200,000-a-year legal retainer from the government of Saudi Arabia—including finding doctors to treat members of the royal family and buying chairs for King Khalid. He even gives legal advice.

While Dutton's fee is on the high side, the variety of work ranging from pure legal representation to more personal services is typical of the almost 70 American lawyers and law firms who have registered with the Justice Department as agents of foreign governments or businesses.

These lawyers collected $3.5 million during the latest six-month reporting period, according to documents submitted to the Justice Department, and compiled by the New York Law Journal.

Dutton is not the only lawyer to move out of his usual orbit on behalf of foreign clients. Clark Clifford's high-powered and high-priced law firm, which generally stays out of police matters, investigated for Algeria a Nevada traffic accident in which one Algerian student was killed and another injured.

Other Washington firms that generally deal with U.S. government agencies handled real estate transactions for their clients—including the construction of the new residence for the Japanese ambassador.

Beyond that, many lawyers hired by foreign governments said they try to explain U.S.

policy to their clients. "I try to bridge the cultural gap and tell the Saudis what is on America's mind," said Dutton.

In the 1960s, the high fliers were lawyers representing sugar-producing nations angling for a larger share of the nation's sugar imports, especially when trade with Cuba ended and its quota was thrown up for grabs. Indeed, the wide-open lobbying of the sugar lobby brought about stiffer reporting requirements in 1966.

Now, however, the fight to win American landing right for the Concorde, Saudi Arabian and Algerian gas and oil interests, and Japan are producing most of the foreign business for American law firms.

Three firms, for example, have made more than $1 million in less than two years from the Concorde flight—and that figure excludes the legal costs of the court suits, which do not have to be listed.

The New York firm of Rogers & Wells, with former Secretary of State William P. Rogers as senior partner, has been paid $646,654 in the past two years for representing Air France. In Washington, Hydeman, Mason & Goodell—the firm of former Sen. Charles P. Goodell—has been paid $336,949 in the last two years for representing the French government. Recently, the Winston & Strawn, with Democratic political power John R. Riley as a partner, has been hired by France. It has made $21,552 so far.

Algeria has paid more than $4 million since 1971 to three American law firms, including $1.7 million to Clark Clifford's firm, and the Saudis have paid more than $300,000 to two firms, including the one that former Senate Foreign Relations Committee Chairman J. William Fulbright is associated with.

While not paying the highest fees, the Japanese have hired the most law firms—15—including one—Vorys, Slater, Seymour & Pease—that was paid $3,000 for a study on the effects of withdrawing U.S. ground forces from Korea.

Moreover, the Justice Department filings revealed that former Interior Secretary Stewart L. Udall, known for his pro-environment positions, received a $30,000 retainer to get American support for a pipeline to carry natural gas across Canada from Alaska to the lower 48 states. He apparently succeeded: President Carter and Canadian Prime Minister Pierre Elliott Trudeau announced it would be built.

His $200-an-hour fee was the highest reported. The top Wall Street law firm of Milbank, Tweed, Hadley and McCloy, for example, reported its fees as $100 to $150 an hour for work done by partners and $45 to $85 an hour if it is done by associates.

The Washington firm of Danzansky, Dickey, Tydings, Quint & Gordon listed its fees as $70 to $150 per hour, depending on the qualifications of the attorney, whereas Winston & Strawn and Hydeman, Mason & Goodell charge $80 an hour.

The Justice Department files provide one of the few authentic peeks at how the nation's largest law firms earn their money.

Under the Foreign Agents Registration Act, lawyers along with other representatives here of foreign governments must list their income and expenses on behalf of foreign governments; report what they do to earn that money, and tell what government officials they dealt with on behalf of their foreign clients.

This kind of information is as closely guarded as state secrets by law offices in most situations.

Take Clark Clifford, for example. The hottest item of gossip among Washington lawyers recently is how much he got paid by Bert Lance, but that's a secret few people know for sure—maybe only Clifford, his accountant and Lance.

Its no secret, though, how much Clifford's firm—Clifford, Glass, McIlwain & Finney—were paid by their two foreign clients, the government of Algeria and the Australian Meat Board. It's all listed clearly in the Justice Department files.

Since 1971, Clifford's firm has been paid $1,725,000 by the Algerian government. The contract calls for a $150,000-a-year retainer.

The Australian Meat Board has paid the firm $930,000 since 1969. It is on the books for an $8,000 annual retainer.

Algeria also uses the giant Wall Street firm of Shearman & Sterling for legal business in this country—mostly regarding oil and gas exploration contracts for its New York corporation, Sonatrach Inc. That firm has received $2,154,563 from Sonatrach since April, 1975, including a half-million dollar fee for the six months that ended last January.

In addition, Algeria paid former Attorney General Richard C. Kleindienst $260,000—about $10,000 a month—from November, 1973, to July, 1976, soon after he left the Nixon administration.

Not all the big money comes from well-known foreign clients. Myron Solter, for instance, is a Washington lawyer who was paid $142,000 from November to March for representing a range of Asian business and trade groups before American agencies setting tariffs on such imports as mushrooms, bikes, handbags, television sets and footwear.

Millbank, Tweed, Hadley & McCloy received $185,000 from 18 foreign clients, including the government of Zaire ($64,498) and Nippon Telegraph and Telephone Public Corp. ($59,538) in the six months ending last July. In the previous six months, the firm took in $191,623 from foreign clients.

What do law firms do for their money?

Dutton, a former assistant secretary of state for legislative affairs in the Kennedy and Johnson administration, said his work for Saudi Arabia mixes legal advice with personal services and political counseling.

But he said he stays away from lobbying on Capitol Hill or in the State Department. He was involved in the attempt of Prince Saud Faisal, the Saudi foreign minister, to buy a New York co-op apartment.

His biggest legal assignment, he said, is negotiations with major American corporations to build petrochemical plants in Saudi Arabia. For these jobs he has hired other lawyers to help him, including his wife Nancy ($35,000) and his partner, Nick Zumas ($21,190).

He also helps the 5,000 to 6,000 Saudi students in this country with any legal scrapes they may get into—auto accidents and broken leases for example.

He also finds himself involved in some very unlawyerlike situations—such as the time Ambassador Ali Alireza asked him to find top medical specialists to fly to Europe to take care of a member of the Saudi royal family or to buy $2,400 worth of chairs for the king. One expense account item is $1,570 to buy a clock.

The Saudis don't depend on Dutton for all their legal advice. Last year the government hired Hogan & Hartson, paying a $50,000 yearly retainer "for counsel and guidance in connection with the laws and policies of the United States, possible congressional or other action affecting those as well as commercial and other ventures . . ."

According to a letter from Ambassador Alireza to Fulbright, "It is understood you will personally be in charge and handle the work done for us."

Fulbright, considered a supporter of the Arab cause who was defeated when supporters of Israel sent money to his opponent, Dale Bumpers, in the 1974 Democratic primary in Arkansas, also pulled the United Arab Emirates into the Hogan & Hartson firm for a $25,000 a year annual retainer.

Some of the most detailed reporting on what they do for their foreign clients comes from the lawyers in the Clifford firm.

On May 24, 1976, for example, Paul Warnke, a Clifford partner now the Carter administration's chief arms control negotiator, took Col. Malcolm MacArthur of the Australian Meat Board to see Federal Maritime Commission Chairman Karl E. Bakke "to enable Col. MacArthur to become acquainted with Mr. Bakke."

Warnke met in 1971 with State Department officials to help get permission for El Paso Natural Gas to import natural gas from Algeria. And when Richard Parker, present U.S. ambassador to Lebanon, was sent to Algeria in 1974 he asked to meet with Clifford.

Other well known firms with foreign clients include:

Sidley & Austin of Chicago, which has been paid $289,984 since last August by the Canadian Pacific Railroad and Canadian National Railroad.

William C. Cramer, the former Florida congressman and general counsel to the Republican National Committee, and his law firm have been hired by Nicaragua at $100,000 a year, half for expenses, to fight a threatened cutoff of U.S. aid. The firm has been paid $55,000 since 1974 to represent Nicaragua's industrial development organization.

The Japanese Embassy paid the law firm of former Maryland Sen. Joseph Tydings a $10,000 yearly retainer for advice on trade, food and population problems. The firm—Danzansky, Dickey, Tydings, Quint & Gordon—also gets a $10,000 a year retainer from Antiqua.

Patton, Boggs & Blow was paid $33,855 to help Korea determine its fishing rights near the Alaska coast. The firm also represents the Central American Sugar Council, which paid it $38,677. Thomas Boggs is the son of the late House majority leader Hale Boggs. His mother, Lindy Boggs, is a congresswoman from Louisiana.

Former Massachsetts Gov. Endicott (Chub) Peabody is being paid $2,000 a month to represent the government of Haiti. "I have also expressed my interest in the problems of human rights and you stressed the interest of your government in this area as well," Peabody wrote Haitian Ambassador George Salomon in a letter accepting Haiti as a client.

Former Congressman James V. Stanton was paid $8,000 to advise the Korean ambassador, Pyong-Choon Hahn on the congressional and Justice Department investigation of Korean influence peddling.

SPANISH VISIT WORTH $45,000

Here's an example of what one Washington law firm did to earn its $45,000 fee to coordinate the visit of Spain's king and queen to America last year.

According to documents on file with the Justice Department, the O'Conner and Hannan law firm prepared briefing papers on:

"Rules that prevail when high personages or officials talk with the media in the United States, differentiating between 'on the record", 'off the record' and 'not for attribution.'

"An advance memorandum on the backgrounds, political orientation and any-special attitudes toward Spain that have been expressed by journalists who will attend the breakfast in Washington."

"A similar memorandum describing the backgrounds and, where known, any special views held by the media executives who will attend the breakfast in New York."

A memorandum on the Senate and House foreign relations committees."

THE ISSUE IS JOBS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. CUNNINGHAM. Mr. Speaker, every American citizen needs to have the opportunity to work, to produce, and to participate in our free enterprise economy. Unfortunately, too many of our citizens are now losing jobs or being threatened with the loss of employment. These people want to contribute, to pay their own way, and to be a vital part of our Nation's economy.

Since my election to Congress, I have been attempting to find out why jobs are being lost to American citizens in the face of foreign competition, trade and tariff policies, the proposed amnesty of illegal aliens, environmental laws that may be too strict, and other factors. Mr. I. W. Abel of the industrial union department of the AFL–CIO has pinpointed some of the causes of this job leakage in a recent issue of Viewpoint magazine.

Building on those thoughts and the reactions of people in my own congressional district, I have authored H.R. 9119, the Jobs Protection Act of 1977. It is not a perfect bill but I believe it is a step in the right direction. It determines that policies of the U.S. Government are costing jobs in the private sector of the economy. And it mandates a short-term, low-cost study by the General Accounting Office to bring recommendations to the Congress to turn around these policies. That is the best way to guarantee jobs to our own people.

I might add that I am pleased to see the founding of the steel caucus and the active work of the gentleman from Ohio (Mr. CARNEY) as its chairman as well as dozens of other Members from all over the country. The American steel industry suffers more than most from Government policies that discourage modernization and seem to be playing into the hands of foreign competitors. I have joined the steel caucus, but it only looks to problems in one industry.

The Jobs Protection Act (H.R. 9119) goes beyond one industry, one section, one problem. We can take positive steps to protect the employment of American citizens. Today, I am reintroducing the Jobs Protection Act with cosponsors. I invite other Members to join in this effort to keep America working.

For the benefit of those Members who are not familiar with H.R. 9119, I ask that the bill be made part of the permanent RECORD:

H.R. 9119

A bill to assure that the policies of the executive branch of the Government of the United States protect employment opporopportunities for United States citizens, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Jobs Protection Act of 1977".

FINDINGS

SEC. 2. Congress finds that—

(a) the American economy is currently suffering from dangerously high rates of unemployment in the private sector;

(b) one of the major factors causing unemployment for American citizens is an unfavorable climate to protect the jobs of United States citizens by the executive branch of the Government of the United States; and

(c) the Congress of the United States and the executive branch of the Government of the United States have the responsibility to assist in assuring the prosperity of citizens of the United States by assuring that their jobs are protected.

JOBS PROTECTION STUDY TASK FORCE

SEC. 3. (a) The General Accounting Office shall create a Jobs Protection Study Task Force. This Task Force shall be made up of representatives of the Office of Management and Budget; the Environmental Protection Agency; and the Departments of Labor, Treasury, Commerce, State, Defense, and Agriculture.

(b) No later than twelve months following the passage of this Act, the Jobs Protection Study Task Force shall report to the Government Operations Committee of the United States House of Representatives and the Governmental Affairs Committee of the United States Senate, and to the American people on the policies of the executive branch of the Government of the United States which are costing citizens employment in the private sector of the economy.

(c) The Jobs Protection Study Task Force shall report, at the same time, its suggestions for specific alternative policies to be carried out by the Government of the United States to provide protection of employment for citizens in the private sector of the economy. This report may include suggested changes in legislation, by repeal, addition, or amendment better to guarantee jobs for citizens of the United States.

(d) Factors to be considered in the preparation of the study by the Jobs Protection Study Task Force shall include, but not be limited to—

(1) the effect of arms sales prohibitions;

(2) export of technologies to other countries;

(3) the presence of large numbers of illegal aliens in the United States and their effect on jobs which could and should be held by citizens;

(4) tariff and trade policies of the United States which encourage the production and importation of goods into the United States which are produced by manufacturers in the United States;

(5) the exportation of raw materials for processing outside the United States into manufactured items or processed goods which are then imported to the United States;

(6) the drawing down of strategic stockpiles which, if produced in the United States, would protect jobs of citizens;

(7) the effect of environmental legislation, if any, in costing jobs of American citizens by the creation of higher costs or other deleterious conditions;

(8) the effect of required Government paperwork on the job climate in the private sector of the economy, especially when such paperwork may cost jobs in small business;

(9) the effect of the Government rulemaking process in costing jobs to citizens;

(10) and other policies not enumerated which cost jobs to American citizens.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Such sums as are necessary to carry out and disseminate the report of the Jobs Protection Study Task Force are hereby authorized to be appropriated.

(b) Any unexpended sums which have been authorized shall be returned to the Treasury of the United States.

ST. FRANCES DE CHANTAL CHURCH—50 YEARS IN SERVICES TO GOD AND THE COMMUNITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, it is my pleasure to take note of an important religious celebration; namely, the 50th anniversary of the Church of St. Frances de Chantal, located in my home district in the Bronx, N.Y.

The history of the St. Frances de Chantal Parish is as rich as it is long. The origins of the church could best be described as humble. Its initial facility consisted of a tent with an altar, and folding seats for the congregation. At that time, which was prior to its formal establishment, St. Frances was part of the Holy Family Parish of the Bronx.

In 1927, Cardinal Hayes decided to establish the new parish of St. Frances de Chantal. A short 3 years later, the "tent" parish had grown tremendously, and to meet the need, a three-story church building was opened. Later that year, the school was opened for 150 students in grades 1 through 4.

The early successes of the St. Frances Parish were due to the tireless efforts of its pastor, Rev. William J. Jordan. Combining a sense of future vision with a commitment to meeting present needs, Pastor Jordan transformed St. Frances de Chantal into one of the most dynamic parishes in the entire city of New York. The church recognized his efforts by elevating him to the rank of monsignor. As one of his last deeds, Monsignor Jordan built a convent for the Sisters of Divine Compassion who worked in the school and church. Monsignor Jordan's death in 1955 brought deep mourning to the St. Frances community. Yet, the legacy of service and commitment he established endures today. St. Frances de Chantal remains a vibrant parish, providing spiritual guidance to thousands.

In 1955, the parish leadership was assumed by Father John J. Halpin. At this point in history, St. Frances was again experiencing enormous growth, and the community was undergoing major changes. It was apparent that changes in the parish would have to be made. Father Halpin was acutely aware of this and provided the necessary direction. Plans for a new, larger church were finalized, and the number of classrooms in the school were doubled. On October 25, 1970, 40 years after the first church was opened, the new church was formally dedicated. It was praised as one of the most beautiful religious facilities in the entire city. The parish was characterized as "young and mighty." For the parishioners, it was a joyful day, especially those who saw it as the fulfillment of the dreams of the two pastors.

In 1973, after 18 years of service and guidance, Monsignor Halpin retired. He, too, was honored for his work by being bestowed with the rank of domestic prelate and the designation of right reverend monsignor by Cardinal Spell-

man. Fortunately for the parish, Monsignor Halpin has not left; he remains as its pastor emeritus, continuing his service.

Presently, the Church of St. Frances de Chantal is under the able leadership of Msgr. Joseph F. Devlin. Prior to his assignment at St. Frances, Monsignor Devlin served with distinction as the first pastor of St. Aedan's Church in Pearl River, N.Y. He brought his considerable talents to St. Frances at an especially important juncture in its history. From its lowly origins, St. Frances has grown to a parish with more than 3,000 families. Its school services more than 1,000 children. In addition, Monsignor Devlin provides the spiritual direction for a large group of priests and nuns, as well as more than 20 different religious, social, and athletic organizations and clubs.

Monsignor Devlin has assumed this challenge with the same dedicated and innovative leadership as his predecessors. The success and longevity of the Church of St. Frances de Chantal is due in large part to its active response to the growing needs of the people. It has taken on the role of the modern day church—which does not limit its service to Sunday Mass—but goes into the community to provide guidance and spiritual direction. The priests of St. Frances are true servants of God in total dedication to serving their fellow men.

The ability of a religious institution to survive for 50 years is a reflection on the stability of a community. The Church of St. Frances de Chantal has been a central force in the lives of several generations of people.

I pay tribute to the priests and nuns at St. Frances, as well as the loyal supporters in the community. This anniversary is most significant. However, the history of St. Frances dictates that they will not be content to rest on past laurels. Another half century of work lies before them. They deserve commendation for what they have done, and support for what they have yet to do.

At this point in the RECORD, I wish to insert the message sent to St. Frances by His Eminence, Terence Cardinal Cooke, Archbishop of New York:

AUGUST 17, 1977.

Rev. Msgr. JOSEPH M. DEVLIN,
Pastor, Church of St. Frances De Chantal, Bronx, N.Y.

DEAR MONSIGNOR DEVLIN: On the occasion of the celebration of the 50th Anniversary of St. Frances De Chantal Parish, I wish to congratulate you, the priests of the parish, the devoted religious and the loyal parishioners.

I join with all of you in thanking God for the many blessings and graces that have come to this parish from the bountiful hands of Our Heavenly Father, through the powerful intercession of St. Frances De Chantal throughout the past half century.

It is my prayer that Almighty God may continue to bless the priests, religious and parishioners of St. Frances De Chantal Parish in order to enable them to continue to work for their own sanctification, the glory of God and the welfare of our beloved country.

With best wishes and kind personal regards, I am,

Faithfully yours in Christ,
TERENCE CARDINAL COOKE,
Archbishop of New York.

VOTER REGISTRATION—POTENTIAL FOR FRAUD?

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. FRENZEL. Mr. Speaker, on Saturday, September 24, the Minneapolis Star ran an editorial interview with Minnesota Secretary of State, Joan Anderson Growe, about our election day registration system.

I invite your attention to the secretary's responses to the questions relating to proper identification. I believe they illustrate the weakness of the current identification system.

Also, I believe it proper to point out that in Minneapolis, after years of experience with instant registration, and after training sessions for precinct election officials, 48 percent, or nearly half of walk-in voters were found to be registered illegally. These figures do not represent the total city, but only about three-fourth of the wards that have been reviewed in the 9 months since the last election.

I commend the article to my colleagues:

VOTER REGISTRATION—POTENTIAL FOR FRAUD?

ALNES. Richard Smolka's report on election-day voter registration, written for the American Enterprise Institute, came to the conclusion that voter turnout was slightly increased in Minnesota, and that the potential for fraud was quite large—although it didn't really nail down an instance where fraud occurred. What was your reaction to the report?

GROWE. I think you're talking about two aspects of the report. First, whether election-day registration increases voter turnout, and I won't disagree with Dick Smolka's statistics, but he uses a different base than we do. We concluded that 75 percent of eligible voters turned out at the polling place in 1976. Voter turnout was better in Minnesota than the rest of country, where it went down 1 or 2 percent in most places. We had about 454,000 who registered and voted on election day in Minnesota in 1976.

ALNES. What about potential for fraud?

GROWE. You have to view that in a very large picture. There's potential for fraud in the system Minnesota has now; there was potential for fraud in the system we had before 1973. Before then, in cities of 10,000 or more voters had to pre-register. In all communities less than 10,000 anyone could walk in on election day, sign the poll register and vote.

But if you talk about voter fraud, you have to look at where we've been historically. We have not seen fraud in Minnesota, and if you look around the country where voter fraud has occurred—we all think of Cook County, Ill., I guess, and the recent revelations in Texas and the case in Louisiana—you find that voter fraud was perpetrated by election administrators, not by voters.

WEHRWEIN. But they need the help of voters to do it, don't they?

GROWE. Sometimes they do and sometimes they don't. Sometimes an election judge or administrator can do it all by themselves.

WEHRWEIN. By just cooking up the numbers?

GROWE. That's right. Sometimes there's been collusion with voters. If some individuals in Minnesota decided they were going to fraudulently register and vote, I think they could figure out a way to do it.

WHITING. Are you saying that this system could work as well in other places, such as Cook County, as it does here?

GROWE. I say the system works well in Minnesota. I think it could work in most of the country. Some Chicago officials I heard testify were crying "fraud," but what they in fact were saying was this: We know 30 days before the election names and addresses of everyone who's registered, so we know who to go out and get to the polls. If people could go in and register on election day, those people could determine the outcome of the election.

Well, I thought that's what elections were all about—citizens voting to determine the outcome.

ALNES. Are there, nonetheless, any things that Minesota could do to reduce the potential for fraud with same-day registration?

GROWE. Since the law was passed in 1973, we've seen some changes, some fine-tuning, in response to concerns of election judges, citizens, etc.

A new law passed in 1977 will require that a precinct map or precinct finder be present in every precinct on election day. We found in the past that people were registered and voted in the wrong precinct. They didn't do it on purpose, and the judges didn't know where to place them.

Another change is that the affidavit that a voucher signs for an election-day registrant will now be attached to that election-day registrant's voter registration card until it has been verified. Those were two specific changes made, and I'm in the process of proposing other changes.

WEHRWEIN. Bill Frenzel's point was that the real key to the problem was proper identification. Would you agree?

GROWE. That's basically true. It's interesting that no one has raised the question that before we had election day registration—even now—anyone who registers ahead of time, doesn't have to show any identification.

If you mail in your registration card, you don't have to have it notarized, you don't have to prove who you are at all. It's only on election day we go that additional step and require identification.

The state of Wisconsin allows identification geared especially to students. They require two pieces of identification per student. We're going to explore those possibilities.

ALNES. Can people now be registered to vote merely by having somebody stand there and say "I know that person, and he does, in fact, live in this district," and he does not have to provide further identification?

GROWE. Yes.

ALNES. Isn't that outrageous?

GROWE. I don't know if I'd use that term.

WEHRWEIN. Would you cash his check?

GROWE. Yes. I guess I've done that for some people.

ALNES. OK, but people have to present identification to cash a check, in some cases to go into a bar at some ages. You have to present identification if the highway patrol stops you or if you want to buy travelers' checks. Why shouldn't you have to do the same in order to vote?

GROWE. We've never had to in Minnesota.

ALNES. I realize that, but why shouldn't we have to? Can we assume that Minnesotans will always be honest when we go to the polls?

GROWE. I would like to assume so, but I don't think we can realistically.

ALNES. Then why not require identification?

GROWE. The identification that's now required is the body who is there vouching for you, who then signs the affidavit. We're proposing that the person who vouches be preregistered. Right now you can go in and register and then turn around and vouch for your neighbor behind you.

I'm in the middle of a series of public meetings around the state with local election people and judges. I have 25 meetings scheduled this fall. At these meetings we get input about what they think of the system and suggestions for changes.

WEHRWEIN. For all the merits of same-day registration, the real purpose is to get out as many people to vote as possible. Shouldn't the real focus be on registering as many people in advance of the election as possible? That really solves all these problems: Whatever identification, whatever procedure, it would be far simpler to put new steam behind getting people registered, period, and then some of these other questions on election day will become very minor.

GROWE. You're absolutely right, and I think the intent of the law was that the focus would be on pre-registration. Some counties don't allow pre-registration. We have different systems going on within our state now.

ALNES. Why get out the vote? If people want to be apathetic, why not accept that?

GROWE. Voting is a right, not a privilege of a select group of people, and I believe it's government's responsibility to help citizens in exercising that right.

We know the U.S. has the lowest voter turnout of any western democracy, but those who are not voting may not necessarily be apathetic. They simply may not know how to register, where to register, what is necessary or who to call to get the proper information. Election officials have to take responsibility to see that the public has information they need to vote.

ALNES. You've told us that on election day the judges work long hours at the polls handling dozens of tasks, why add one more job to that picture by asking them also to register voters?

GROWE. Elections are run for the benefit of citizens, not for the benefit of government or election officials. That's not to say we shouldn't make the election judges' jobs easier. At regional meetings I've been holding around the state, election judges say they want and need more training. The state has a responsibility to see to it that judges are trained so they are comfortable with their jobs, that they have the information they need and the proper tools to administer elections.

MICHAEL VITULLI TO BE HONORED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. OTTINGER. Mr. Speaker. I am pleased that Mike Vitulli, court officer with the Yonkers Family Court, has been selected as this year's recipient of the Columbus Day Humanitarian Award. He will be honored on Sunday, October 9, at the Yonkers Columbus Day dinner dance at the Polish Community Center.

Mike served in World War II as an aerial gunner and radio operator, having completed 31 missions in the European theater of operations. He is a member of AmVets, Rauso Post No. 40, St. John's Holy Name, and serves on the Yonkers Board of the American Cancer Society.

Fifteen years ago, Mike assembled a dozen of his friends and formulated plans for the now widely acclaimed Enrico Fermi Scholarship Fund. He was the first Yonkers chairman of the Boys Town of Italy Concert and was instrumental in setting up a Yonkers Citizens Committee to aid the renaissance drug rehabilitation program. Mike played a role in the benefit for the Florence Flood Relief Fund and in 1969 received the ACIM Community Service Award. For the past 5 years, he has cochaired the sale of daffodils in Yonkers to benefit cancer research and education along with Ann McDonald, Jeanne D'Apice, Delores "Dee" Del Bello, Jeanne Martinelli, and Fanny Piemontese.

Mike is one of the outstanding citizens of the city of Yonkers and it is most fitting that he should be honored by that city on Columbus Day.

CARGO PREFERENCE BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. McCLOSKEY. Mr. Speaker, the cargo preference bill we take up next week gets its primary support from two maritime labor unions, Paul Hall's Seafarers' International Union (SIU) and Jesse Calhoon's Marine Engineers' Beneficial Association (MEBA). In 1976, MEBA contributed $539,771.25 to Federal election campaigns. This figure amounted to $56.81 for each MEBA member, over 500 times the average given by nationwide members of the AFL–CIO, who contributed $0.11 per member. The second-ranking per capita union was the SIU, which contributed $348,720.32, or $29.06 per member. The next largest per capita contributor was the United Transportation Union, at only $2.52 per member, less than one-tenth of the SIU per capita rate, and less than one-twentieth of the MEBA rate.

The Village Voice recently published an article on the SIU's fundraising activities which provides some enlightenment as to the means by which political contributions are raised and the purposes for which these contributions are intended.

As the Baltimore News American pointed out last Sunday, October 2, some activities of the maritime or waterfront unions have helped make our U.S.-flag merchant marine unable to compete with foreign merchant marines. A careful reading of the following article by Phil Tracy may give some indication why:

THE STREET SMARTS OF A SEAFARING MAN

(By Phil Tracy)

MIAMI—A few weeks ago Fred Dent, the secretary of commerce, paid a visit to the Senate Commerce Committee to explain how the President's suggested oil import fees would affect the U.S. tanker fleet. What Dent told the senators in essence was that yes, the oil import quotas would screw the tanker companies by cutting down the amount of oil the U.S. imports, but that this didn't matter much, since their asses were already in a sling as a result of the depressed tanker market worldwide. When asked, Fred told the committee that the Ford administration's plan for dealing with the layoffs and shutdowns in the oil tanker industry was thoughtful prayer and a set of worry beads. As far as Ford was concerned, the tanker companies, and the sailors, and the shipbuilders who worked for them, were on their own.

Among the hundred or so lobbyists who showed up to watch Fred write off about half the maritime industry was a squat baldheaded guy who stood out in the crowd; looked like he had spent the night in the back of his car. What also set him apart was the fact that the outfit he works for has about half of Congress in its pocket. With any luck, before the year's end it will make mincemeat out of everything poor old Fred was sitting up there saying. You see, the guy was from the Seafarers, and when it comes to the U.S. maritime industry, the man who really calls the shots is Paul Hall, whose Seafarers International Union of North America pays cash on the barrelhead for every piece of legislation that concerns the shipping industry. It's been that way for 20 years.

Last year, for example, a fairly obscure piece of legislation came down the congressional pipeline which would have required at first 20 per cent and later, in 1977, 30 per cent of all oil imported into the U.S. to be carried in American-built ships manned by American seamen. To the average person that sounds like a fairly reasonable proposition; but then, the average person isn't aware that currently U.S. oil tankers only carry about 6 per cent of our imported oil, and we'd have to build close to 40 new tankers in order to meet the bill's requirements. Or that because of the Arab oil price hike people all over the world have cut own on oil consumption, and as a result there's a glut of oil tankers sailing around the world with half-empty tanks. And this bill would have added substantially to that pool of unused or underused ships.

Nor is the average person aware that the government spent $305 million to subsidize the shipbuilding industry in 1974, and plans to spend $281 million in 1975. Or that it spent some $219 million to subsidize seamen's wages in 1974, and will spend about the same again in 1975. Or that the ultimate cost of the bill in terms of higher prices would have run anywhere from $5 billion to $60 billion, depending on whose figures you use.

But there were 435 congressmen and 100 senators who were quite aware of all of these considerations, and the majority of them went ahead and voted to pass the bill anyway. They called it the Energy Transportation Security Act. It's a congressional tradition to try and work some national defense angle into a bill's title whenever it carries a particularly pungent odor. What they really should have called it was the Paul Hall Full Employment Act for Friends.

There were several truly aesthetic twists to this particular piece of legislation that only a connoisseur could appreciate. Big U.S. oil companies own a majority of the world's tankers, but most of them were built elsewhere—in Japan or Germany— and they are registered in places like Liberia or Panama, in order to avoid U.S. taxes. When profits on oil get too high, the oil companies simply have their shipping subsidiaries raise the price of hauling the stuff to the U.S. Then when it comes time to report profits in the U.S. the companies don't look quite so greedy. They don't pay as much in taxes, either. It's called transfer profits. One of the side benefits of the Paul Hall Full Employment Act would have been the gradual curtailment of this practice.

A bill could have been written requiring the curtailment of transfer profits without the necessity of building 40 or so tankers at an unknown cost to U.S. taxpayers. All they had to do was allow the oil companies to

reregister the tankers in the U.S. But that wouldn't have done much good for the shipbuilders, who are part of Paul Hall's power bloc. So instead the bill required that ships involved in the hauling of the preferential oil had to have been built in the U.S. It further demanded that even if the ships had been built in the U.S., but had been registered in another country, they had to go through a three-year "sanitizing" period before sharing in the preferential oil cargo.

Paul says he backed the bill written in this way because "Seamen can't go it alone. We have to help our friends in the shipbuilding industry or else they won't help us." I like to think he did it because he knew the oil companies would scream bloody murder (they'd have to buy the new ships) and their howls would give liberal legislators a populist rationale for this stone-cold giveaway. It allowed Senator Adlai Stevenson III, for example, to claim, "I support this bill because I represent American consumers, workers, and taxpayers, and oppose more oil industry rip-offs." Or Representative Shirley Chisholm, who told Fred Dent she opposed his position because "I have a tendency to look at things through humanistic eyes."

Faced with such bewildering complexities, Congress opted to do the one thing it does well: it lined its pockets. The legislators who had sold out to the Seafarers squared off against the boys who had sold out to the oil companies. The Seafarers won because, obviously, they owned more congressmen. And not just any old congressmen, but the key ones. In the House, for example, Frank Clark, a Democrat from western Pennsylvania, got $18,500 from Hall's maritime lobby last year, which alas wasn't enough to reelect him. Clark was chairman of the maritime subcommittee that reported out Hall's bill. The chairman of the full committee, Leonor Sullivan, got $5,500 in 1974. Other committee members who voted for Hall included John Murphy (New York), $6238.81; John Dingell (Michigan), $4000; Bob Eckhardt (Texas), $2500; Joel Pritchard (Washington), $2500; and David Bowen (Mississippi), $2000. Tip O'Neill, the House majority leader, got $16,000, even though he didn't have a Republican opponent last year. O'Neill gave the money to other congressmen, which helped increase his power in the House. All told, the maritime unions—Hall's Seafarers and the Marine Engineers Benevolent Association, principally—spent some $226,000 just on races in the House. With a handful of exceptions, all the money went to congressmen who voted Hall's way.

On the Senate side, the maritime boys were even more generous. Mike Gravel of Alaska clearly led the pack, with $46,300 in gifts or loans from the Seafarers and the Marine Engineers. He was followed by Russell Long, chairman of the commerce subcommittee that reported out Hall's bill. Long got $22,000. Long was also the floor manager for the bill in the Senate. Warren Magnuson, chairman of the full Commerce Committee, got $12,900. Magnuson sponsored the bill. The other Senate luminaries who voted for the bill and shared in the wealth included Alan Cranston ($18,000); Charles McC. Mathias ($19,000); Adlai Stevenson III, opponent of oil ripoffs ($12,500); the list goes on and on. The best mark of how bad things were is that Jack Javits gave back $8500 two days before he voted against the bill. The final vote in the Senate was 44–40; in the House, 266–136.

The only thing truly exceptional about the Energy Transportation Security Act, as far as the Hall's Seafarers Union is concerned, is that Ford vetoed the bill on December 30. Hall is accustomed to having even presidents do what he wants. The unique thing about Paul Hall and the seamen he represents is that the vast amount of power they wield on Capitol Hill is all out of proportion to the size of their international union. The SIU has a membership in the area of 35,000. Yet in 1974 it and its close ally, the Marine Engineers (13,000 members) spent close to one million dollars in Senate and House races. In 1938, Hall's union alone raised an incredible $1,028,458 for political contributions.

"Politics is porkchops" says the little ad that appears throughout the Seafarers monthly newspaper, Seafarers' Log. And indeed it is. Last year the government spent $501 million to keep the ailing maritime industry afloat. Yet year after year our legislators—the same congressmen and senators who voted to kill the Lockheed subsidy and scoffed at one for Pan Am—pass bills that hand millions to the maritime industry. Over the last 10 years it has been estimated that the government has poured $3.2 billion into our merchant marine. The money is used to subsidize shipyards like that in Brooklyn and the salaries of seamen who are members of the SIU.

The rationale is that since the U.S. Merchant Marine can't complete with the low salaries paid to foreign seamen or ship construction workers, the government must help offset costs by paying differential subsidies. It's not a new philosophy. Dumb and costly to the taxpayers, yes, but it goes on in other U.S. industries all the time. It's just that with the merchant marine it's become a way of life, and for Hill's Seafarers, it's nothing less than a great mandala.

Consider if you will: The government pays subsidies to the seamen. The seamen "give" contributions to the SIU political fund. The political fund, with Hall in the driver's seat, then gives the money to Congress, which in turn votes to give even bigger subsidies back to the seamen. The seamen profit. The Congress profits. And Paul Hall profits by growing stronger and stronger every day.

Of course there are a few problems. A lot of people don't recognize porkchop (Hall says it's an old sailor's term for "good eats") when they see one. Jerry Landauer of the Wall Street Journal has written a series of articles over the years about the methods Hall's Seafarers Union has used to convince seamen to contribute their part to the endless circle. He's shown how in 1974 seamen wanting to ship out were assessed "fees" to the political action fund before being given their shipping papers. The Marine Engineers prefer, according to a 1971 Landauer story, to solicit their pensioners, even though most of the retirees Landauer spoke to didn't even know their money was going to political campaigns. A lot thought they were contributing to a dental fund. And back in the late '60s, Landauer found dozens of Filipinos and Norweigian sailors working on American ships at high American wages, joyously contributing to the campaigns of American politicians. One is supposed to believe that no threat of firing or promise of employment was connected with these "donations." One can also believe in the tooth fairy.

The last example proved to be too much even for Richard Nixon's Justice Department, and in 1971 Hall and 17 other SIU officials were indicted under the Corrupt Campaign Practices Act. Then a strange thing happened. The Justice Department dragged its feet for two years and didn't prosecute the case. And in April of 1972 Judge Mark Costantino threw out the indictments because, he claimed, the Justice Department "was seeking an unfair advantage over the defendants" by not providing them certain materials: i.e., the names of their accusers. The good judge, who Bill Sherman of the Daily News revealed last fall was under investigation by the same Justice Department for possible underworld connections and an absolutely hilarious reversal rate came to his job on the federal bench by way of the Staten Island Civil Court. This is roughly equivalent to jumping from chief busboy at Blimpie's to head chef at Lutece. His appointment was arranged by Republican cronies, who pressured Javits into backing Costantino, even though the American Bar Association had found him unqualified for the post at first.

Then in October of 1972 the Justice Department decided not to appeal Costantino's ruling, reportedly at the behest of higher-ups in the Nixon administration. Three weeks later Hall's union kicked in $100,000 to the Committee to Reelect the President. The same day it made the donation, it borrowed $100,000 from Chemical Bank of New York, whose executive committee chairman, Harold Helm was also co-chairman of the Nixon Reelection Finance Committee. The loan was unsecured and reportedly given at a rate one-quarter or one-half a percentage point above the prime interest rate. Hall claimed the loan had nothing to do with the dropping of the indictments. Compared to this, the tooth fairy suddenly becomes eminently believable.

Just for the record, certain cynical reporters are of the opinion that the whole indictment, justified as it may have been, was nothing more than a sophisticated blackmailing operation designed to get Hall into Nixon's corner. The idea may have been planted in the collective head of the Nixon crowd back in 1958 when they watched the Seafarers contribute $100,000 to the Democratic party's campaign coffers only days after then Secretary of State Rusk refused

* * * * *

Seafarers Union official, who was wanted up in Canada on charges of assault. The one thing about the Nixon crowd was that they bowed to no one when it came to recognizing a good shakedown.

If the cynics are right, the efforts of the Nixon crowd paid off in more than money. When the executive council of the AFL–CIO in November of 1973 called for the resignation or impeachment of Nixon, Paul Hall's was the one lone dissenting vote. Says Hall, "He (Nixon) was a good maritime President, and as I told you, we always stick with our friends."

"We're a kind of small group," Hall had said about the strength of the Seafarers, "so we need an awful lot of friends. If I want something from you, the best way for me to get it is to be the very best friend you have, and if we have to, your worst goddamn enemy." We were sitting together in a cabana facing the pale blue Atlantic. Hall was in Miami to chair the annual winter meeting of the Maritime Trades Department of the AFL–CIO, and he was giving me one of the most effective PR jobs I have ever received. A lot of writers call Hall gruff and crusty. They must be talking about some other guy. He's smooth as bonded whiskey, playing Alabama cracker or shipping industry expert, depending which is called for. Most other union presidents make it a general rule to tell reporters to go to hell. Hall is smarter. That's why he's one of the two or three people who get mentioned whenever there's speculation about who will succeed George Meany (if the AFL–CIO head doesn't go on living forever).

Take, for example, the thing Hall was saying about his friends. It's true. The Maritime Trades Department has some 44 unions affiliated with it, most of which have little or nothing to do with the maritime industry. But they join out of friendship with Hall, friendship won when Hall sent them some money during a strike, or threw up a picket line that shut off the supplies of the offending company. I asked Hall for some examples. He mentioned a steel strike in Bay City, Michigan, where Hall's seamen had thrown up a floating picket line of small boats. He also mentioned a strike by oil company employees that Tony Sabatine, of the Oil, Chemical, and Atomic Workers, had acknowledged the day before would have been disastrous "if you fellas hadn't pitched in and helped us." The next time Paul Hall calls for a favor, like not backing some offending politician, the steel workers and the oil workers will think twice before saying no. Even if they like the politician.

Nor does it end there. The Maritime Trades Department is divided up into Port Councils sprinkled around most major American cities. Thanks to the Army Corps of Engineers, even midwestern cities are now reachable by a connecting grid of inland waterways, all built at government expense—a subtle subsidy to the maritime industry, like the highway fund was a subsidy to the truck companies. The Port Councils don't have much money for politics but they have workers who can distribute campaign literature. All of this is designed to make friends for Hall's friends. And friends of his friends friends. Which in turn leads to things like Public Law 480, which says all of the Defense Department's supplies shipped overseas must go in American ships and was quite handy, friendship-wise, when the Vietnam War got going. That in turn led to the joyous contributions of the Filipinos and Norwegians who were sailing American ships because there weren't enough American sailors to fulfill Public Law 480's requirements. Or the 1970 Merchant Marine Act, which increased shipbuilding subsidies by $58 million in one year and operating subsidies by $97 million at the same time. Friendship is a powerful tool.

There is a chance the whole superstructure could crumble. Leon Jaworski's office looked into the $100,000 Nixon gift, and while stating he could find nothing to link it to the Justice Department's actions or Judge Costantino's decision, the former Watergate prosecutor suggested the Justice Department reinvestigate the case. It is doing that right now.

"We're hotter than a whore in church," says Hall. At one time, he said, "we had four different grand juries investigating us." Currently, Hall claims, Justice is looking into the Seafarers' Maritime School, located in Piny Point, Maryland, to see if the union's bos'un program also includes instruction on how to shake down sailors coming off the ships.

Yet Hall is confident, and why shouldn't he be? In the last five years no one has been found who was willing to stand up in court and point a finger at him. The maritime industry doesn't have its rough reputation for nothing. Besides, for every penny collected for politics, the Seafarers give receipts. And right on the receipt it says the contribution must be voluntary. Imagine what a good defense lawyer could do with something like that.

So the winter meeting of the Maritime Trades Department was far from gloomy. The Florida weather was good; the speeches and discussions brief. Addressing the Executive Board, Hall said of his Full Employment bill, "We want to take it on the slow bell and light up the guns and go again." The bills to do just that have already been introduced to both houses. And despite all the blather about the wonderfully reformed new Congress we have, Hall's chances this year are just as good, if not better, than they were in 1974. John Glenn of Ohio and Gary Hart of Colorado got $20,000 and $8,000 respectively from the maritime lobby. Each of them represents inland states. Will they extend the hand of friendship to the poor, lonely sailors of America? Let's wait and see.

DEFINITION OF INLAND FRESH WATER WETLAND TYPES

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ABDNOR. Mr. Speaker, because of the large acreages of wetlands present in South Dakota, my staff and I have endeavored to become more familiar with Federal policies and programs affecting them.

Basic to an understanding of the issues surrounding wetlands is a clear definition of what they are. Although it is acknowledged that wetlands do not fit neatly into definite type classifications, the U.S. Fish and Wildlife Service has provided the following definitions for inland fresh water areas. It is felt these definitions are sufficiently distinct to serve satisfactorily in evaluations of wetlands:

Type 1.—Seasonally flooded basins or flats (pl. 1). The soil is covered with water, or is waterlogged, during variable seasonal periods but usually is well drained during much of the growing season. This type is found both in upland and depressions and in overflow bottom lands. Along river courses, flooding occurs in late fall, winter, or spring. In the uplands, basins or flats may be filled with water during periods of heavy rain or melting snow.

Vegetation varies greatly according to the season and the duration of flooding. It includes bottom-land hardwoods as well as some herbaceous growths. Where the water has receded early in the growing season, smartweeds, wild millet, fall panicum, tealgrass, chufa, redroot cyperus, and weeds (such as marsh elder, ragweed, and cockleburs) are likely to occur. Shallow basins that are submerged only very temporarily usually develop little or no wetland vegetation.

Upland depressions included in the inventory are confined largely to the three Lake States, the two Dakotas, Montana, and the Panhandle of Texas. In the northern States the presence of this temporary water stimulates high waterfowl production by providing greater area for the establishment of territories by breeding pairs. When water occurs abundantly in the Panhandle, the temporarily flooded basins (playas) are used extensively by migrating and wintering waterfowl.

The overflow bottom lands in the southern part of the Mississippi Flyway provide a major wintering area for ducks as well as good shooting sites for hunters. Particularly in good mast years, feeding ducks use bottom lands when they are flooded. Although there remain more than 10 million acres of overflow lands in Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana, most of the wintering waterfowl in this flyway concentrate in certain key areas.

Flyway area:	*Acres*
1. Pacific north	102,600
2. Pacific south	143,400
3. Central north	357,700
4. Central south	2,856,400
5. Mississippi north	1,134,000
6. Mississippi south	11,945,400
7. Atlantic north	1,200
8. Atlantic south	6,551,400

Type 2—Inland fresh meadows. (pl. 2). The soil usually is without standing water during most of the growing season but is waterlogged within at least a few inches of its surface. Vegetation includes grasses, sedges, rushes, and various broad-leaved plants. In the North, representative plants are carex, rushes, redtop, reedgrasses, mannagrasses, prairie cordgrass, and mints. In Florida, cordgrasses and various species of paspalums and breakrushes are common. Meadows may fill shallow lake basins, sloughs, or farmland sags, or these meadows may border shallow marshes on the landward side. Wild hay oftentimes is cut from such areas.

Fresh meadows are used somewhat in the North by nesting waterfowl, but in most of the country their value is mainly as supplemental feeding areas. If shallow water can be impounded on them, their value can be increased considerably.

Flyway area:	*Acres*
1. Pacific north	43,200
2. Pacific south	289,500
3. Central north	578,800
4. Central south	40,700
5. Mississippi north	2,383,300
6. Mississippi south	68,700
7. Atlantic north	30,700
8. Atlantic south	4,083,700

Type 3—Inland shallow fresh marshes (pl. 3.) The soil is usually waterlogged during the growing season; often it is covered with as much as 6 inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. Common representatives in the North are reed, whitetop, rice cutgrass, carex, and giant burreed. In the Southeast, maidencane, sawgrass, arrowhead, and pickerelweed are characteristic. These marshes may nearly fill shallow lake basins or sloughs, or they may border deep marshes on the landward side. They are also common as seep areas on irrigated lands.

Marshes of this type are used extensively as nesting and feeding habitat in the pothole country of the North Central States and elsewhere. In combination with deep fresh marshes (Type 4), they constitute the principal production areas for waterfowl. Florida and Georgia are the only States where the majority of the shallow fresh marshes are considered to be of lesser importance to waterfowl. Florida alone contains more than 2 million acres of this type.

Flyway area:	*Acres*
1. Pacific north	33,700
2. Pacific south	64,100
3. Central north	817,600
4. Central south	84,600
5. Mississippi north	758,500
6. Mississippi south	15,300
7. Atlantic north	35,900
8. Atlantic south	2,159,900

Type 4—Inland deep fresh marshes (pl. 4). The soil is covered with 6 inches to 3 feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wildrice. In open areas, pondweeds, naiads, coontail, watermilfoils, waterweeds, duckweeds, waterlilies, or spatterdocks may occur. Waterhyacinth and waterprimroses form surface mats in some localities in the Southeast. These deep marshes may almost completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or they may border open water in such depressions.

Deep fresh marshes constitute the best breeding habitat in the country, and they are also important feeding places. In the Western States they are heavily used by migrating birds, especially diving ducks. Florida and Texas are the only States in which the vast majority of these marshes are not rated as being of primary importance to waterfowl.

Flyway area:	Acres
1. Pacific north	92,500
2. Pacific south	62,500
3. Central north	686,500
4. Central south	46,800
5. Mississippi north	427,700
6. Mississippi south	21,500
7. Atlantic north	25,700
8. Atlantic south	984,100

Type 5 Inland open fresh water (pl. 5). Shallow ponds and reservoirs are included in this type. Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation (mainly at water depths of less than 6 feet) includes pondweeds, naiads, wildcelery, coontail, watermilfoils, muskgrasses, waterlilies, spatterdocks, and (in the South) water-hyacinth.

In the pothole country of the North Central States, Type 5 areas are used extensively as brood areas when, in midsummer and late summer, the less permanent marshes begin to dry out. The borders of such areas are used for nesting throughout the Northern States. Where vegetation is plentiful, they are used in all sections of the country as feeding and resting areas by ducks, geese, and coots, especially during the migration period.

Flyway area:	Acres
1. Pacific north	40,500
2. Pacific south	51,900
3. Central north	676,800
4. Central south	87,100
5. Mississippi north	1,000,200
6. Mississippi south	186,500
7. Atlantic north	12,000
8. Atlantic south	541,500

Type 6—Shrub swamps (pl. 6). The soil is usually waterlogged during the growing season, and is often covered with as much as 6 inches of water. Vegetation includes alders, willows, buttonbush, dogwoods, and swamp-privet. Shrub swamps occur mostly along sluggish streams and occasionally on flood plains. They are used to a limited extent for nesting and feeding in the North and for roosting and feeding in some of the Mississippi Alluvial Valley States. Elsewhere, shrub swamps are little used except in a few special situations.

Flyway area:	Acres
1. Pacific north	11,900
2. Pacific south	800
3. Central north	700
4. Central south	23,500
5. Mississippi north	2,912,400
6. Mississippi south	164,300
7. Atlantic north	77,800
8. Atlantic south	622,100

Type 7—Wooded swamps (pl. 1). The soil is waterlogged at least to within a few inches of its surface during the growing season, and is often covered with as much as 1 foot of water. Wooded swamps occur mostly along sluggish streams, on flood plains, on flat uplands, and in very shallow lake basins. In the North, trees, include tamarack, arborvitae, black spruce, balsam, red maple, and black ash. In the South, water oak, overcup oak, tupelo gum, swamp black gum, and cypress are dominant. In the Northwest, western hemlock, red alder, and willows are common. Northern evergreen swamps usually have a thick ground covering of mosses. Deciduous swamps frequently support beds of duckweeds, smartweeds, and other herbs.

Wooded swamps often occur in association with shrub swamps, and waterfowl often use the two types interchangeably. In the Southeast, Type 7 swamps become particularly important in years when lack of sufficient fall and early winter rains leave overflow areas dry. At such times, wooded swamps represent the only shallow water available over wide areas. This type is particularly useful to the wood duck throughout the range of this species.

Flyway area:	Acres
1. Pacific north	18,200
2. Pacific south	2,100
3. Central north	----------
4. Central south	39,000
5. Mississippi north	2,905,700
6. Mississippi south	2,813,800
7. Atlantic north	556,000
8. Atlantic south	10,473,200

Type 8, Bogs (pl. 8). These are often called pocosins, bays, and savannahs in the South. The soil is usually waterlogged and supports a spongy covering of mosses. Bogs occur mostly in shallow lake basins, on flat uplands, and along sluggish streams. Vegetation is woody or herbaceous, or both. Typical plants are heath shrubs, sphagnum moss, and sedges. In the North, leather-leaf, Labrador-tea, cranberries, carex, and cottongrass are often present. In the South, cyrilla, persea, gordonia, sweetbay, pond pine, Virginia chainfern, and pitcher-plants are common. Scattered, often stunted, black spruce and tamarack may occur in northern bogs.

Bogs have the lowest waterfowl rating, countrywide, of all the 20 types. In northern New England, however, they assume considerable significance. In Maine alone, 25,500 acres are classed as being of primary importance to waterfowl.

Flyway area:	Acres
1. Pacific north	1,400
2. Pacific south	1,500
3. Central north	100
4. Central south	300
5. Mississippi north	477,300
6. Mississippi south	46,100
7. Atlantic north	87,600
8. Atlantic south	2,733,500

INTERNATIONAL WOMEN'S YEAR: CALIFORNIA REPORTS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DORNAN. Mr. Speaker, on September 14 and 15, ad hoc hearings were held to look into the activities of the National Commission on the Observance of International Women's Year and its State and regional IWY conferences. A bipartisan panel of 16 Senators and Congressmen received 12 hours of testimony from 70 witnesses who had traveled from 40 States at their own expense to relate their experiences with their State's IWY activities. All the witnesses who presented testimony were participants at IWY meetings or had attempted to participate. At these conferences women have adopted resolutions for the elected delegates to the upcoming National Women's Conference to be held this November 18 to 21.

The activities of the National Commission, including these conferences, have been funded with $5 million of Federal taxpayer's money. Because the Commission and the national conference will submit recommendations regarding the status of women to Congress and the President, Federal law requires that membership of committees and meetings held under its provisions must "be fairly balanced in terms of the points of view represented" and that they "not be inappropriately influenced by the appointing authority or by any special interest."

Unfortunately, there are increasing complaints that IWY officials are not complying with the "fairness" requirement of Federal law. Recently, IWY officials described the national conference as a "political convention" which must be used to "build momentum" for certain partisan interests. The information brought out during the ad hoc hearings point to a substantial misuse of Federal funds in regard to the State IWY meetings.

I am pleased that Mary Schmitz of Corona Del Mar was concerned enough with these activities which so deeply affect American women to travel to Washington, D.C. at her own expense to share her report on the California State conference with Congress. I commend to the attention of my colleagues her fine report:

CALIFORNIA TESTIMONY FROM MRS. MARY SCHMITZ

Mr. Chairman: I attended the entire four day IWY California Meeting. I have with me today notorized testimonies of over 100 women who also attended the meeting and were so shocked and concerned about the misuse of our tax moneys that they prepared these statements and collected funds to send our committee here today. We also have over 30 tapes of the workshops and the pictures on these posters for documentation.

The California meeting was completely controlled, manipulated, and used exclusively by a small segment of women representing the radical "women's lib" and lesbian points of view only. This was first exhibited in the selection of the Coordinating Committee. There was not one of the 81 members appointed by the National IWY who spoke against ERA, against federally financed abortions, or against the demands of the homosexuals.

Insurmountable barriers were created for those of us holding a different view.

Women's lib groups such as N.O.W. were informed in February of the June meeting. Anti-ERA, Pro-Life, religious and philanthropic womens groups never were notified. Out of a budget of $100,000, this committee proposed to spend only $900 for publicity even though all California women were to be invited to participate. Surveys of complete communities showed no knowledge whatsoever of the California meeting prior to the conference. Even a woman reporter for an Orange County TV station never heard of its happening until it was over.

We wrote a letter asking for a balance in point of view on the ERA. Not one effort was made to give those opposing ERA any official recognition or voice.

Those for ERA, such as N.O.W., were granted their demands for financial aid and specific workshops. If you stated you were from N.O.W. and wanted financial aid, your $5 registration fee was waived. I have such a receipt here. They were given paid bus transportation for the Saturday voting.

Huge "N.O.W." and "Lesbians Fight for Rights" banners covered sides of the official registration tent.

The lesbians had display tables of their unique equipment such as female masturbating wands, clitoral vibrators, vaginal speculums for self examination, suction devices for extraction of the menstrual discharge or for performing a self abortion. One pregnant woman looking at the devices was offered instruction on how to perform an abortion on herself. There were also rubber ——— for sale.

Also displayed and worn were buttons and tee-shirts with slogans such as "Clit Power", "Anita Sucks (with a graphic display of 3 oranges)", "Anita Sucks Other Things Besides Oranges", "——— Phyllis", "Stop Phyllis", "I Have Come Out Of The Closet—Now Get The Government Out of My Bedroom", "How Dare You Presume I'm Heterosexual", "Pray to God, She Will Help You", "Jesus Was a Lesbian", "Warm, Fuzzy Dyke", etc. Pornographic literature, such as a feminist coloring book with sketches of female genitalia to be colored, feminist newspapers, lesbian newspapers, Marxist literature, and socialist books were in abundance. "Cut the U.S. Defense" and "Stop the B-1 Bomber" leaflets were widely distributed. Arrangements in advance were not permitted for pro-life, pro-family or pro-America displays. A pro-life table was set up during the meeting but destroyed by a group of radicals who threatened bodily harm.

Not one person of our point of view was permitted to participate on any of several panels or to moderate any of the more than 100 workshops. Several workshops were available for lesbians and were titled as such in the agenda. "The National Women's Strike for Peace" had a workshop.

A workshop entitled Self Help Skills showed slide after slide of the female genitalia in larger than life size and instructed how to examine yourself. Several women left in disgust. A volunteer was requested for a live demonstration, but the audience did not respond.

Many facilitators were not qualified to run workshops. Their vulgar, 4-letter word language was offensive to most women. Others followed no rules. When too many of our women attended a workshop, some facilitators changed rooms and titles after the workshops began, which resulted in confusion and dispersion of participants. Lesbians and radicals were permitted to flock in, blocking the door and sitting on the floor, outnumbering us so we could not pass resolutions. Some of us were followed from workshop to workshop by crowds of lesbians for the stated purpose of not allowing us to have a majority. Beepers and runners were used to call great numbers of radicals to a session where they were needed to outnumber us.

Those holding traditional views were harrassed and threatened. One young man taking pictures of lesbians flocking into a session was given a count of 10 to leave. The counting mob quickly moved to surround him, blocking aisles and climbing over seats and people to advance on him.

One woman was actually kicked by a monitor to keep her from the microphone.

Presiding officers were biased in conducting Plenary Sessions. They disregarded Parliamentary procedure and made up rules to fit their needs. Nomination for delegates from the floor were closed illegally without the $^2/_3$ vote.

No unbiased, paid professional parliamentarian was provided. The "Federal Officer" was an obvious sympathizer of the feminist IWY Commission.

Resolutions passed at the closing plenary session included:

1. Elimination of all veterans preferences in employment.
2. Sex Integration of prisons.
3. Federally financed free 24 hour child care for everyone, regardless of their ability to pay.
4. Federally funded lesbian mothers legal defense fund.
5. Wages for housework paid for by the government.
6. Alternative sex education to teach homosexual sex education in the schools without parental consent.

The day we voted for delegates, people were permitted to vote from out of state illegally and at least 4 bus loads of N.O.W. women were brought in and moved ahead of other participants to vote. Could the $4,000.00 in the financial statement used for busing have gone for the N.O.W. busing?

A list of names titled "Official Nominating List With Eleven Gay Substitutes" was distributed. Ninety-six delegates were elected to represent Calif. Women at the National IWY meeting in Houston this November. All except one of the delegates are from the "Gay" list.

Mr. Chairman, these women cannot represent Calif. women and the resolutions passed no way reflect the view of Calif. women.

We urge you to cancel the Houston meeting because the results can have no real meaning for Congress or the President.

With this experience with IWY, we strongly oppose any further public funding for IWY in the future.

NEWSPAPER POLL SHOWS CONGRESS ON RIGHT TRACK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, I wish to submit into the RECORD a recent poll conducted by the New York Daily News on several key issues related to the elderly.

While two-thirds of those surveyed opposed mandatory retirement at 65, the House's opposition was even more resounding. The vote on H.R. 5383, legislation curtailing mandatory retirement was a lopsided 359 to 4.

The House Ways and Means Committee yesterday voted down a proposal to increase to age 68 the time when persons could receive full social security benefits. This, too, was overwhelmingly opposed by the poll.

It is always gratifying to see Congress reflecting the views of the people. I submit the poll as clear evidence:

POLL: TWO-THIRDS OPPOSE RETIRE-AT-65

(By Mark Andrews)

Two thirds of the residents of the New York area oppose forced retirement at 65, The Daily News Opinion Poll shows.

Eight out of 10 of those interviewed said they oppose a proposal before the Carter administration to withhold full Social Security benefits until 68. And almost two thirds said they favor permitting some Social Security benefits to be paid at 60.

The poll conducted Aug. 15, 16 and 17, was a scientific random telephone sampling of 400 adults in the city and in Westchester, Rockland, Nassau and Suffolk counties. Richard F. Link of Artronic Information Services Inc. was consultant.

While the survey was being taken, Congress was considering several proposals to bar employers from requiring workers to retire at 65. On Sept. 23, the House approved and sent to the Senate a bill to prohibit mandatory retirement at any age in the federal government, and to raise the private sector's mandatory retirement age from 65 to 70.

As a companion measure to the pending bill, the administration is studying a proposal to withhold payment of full Social Security benefits until recipients reach age 68. Under current law, partial benefits may be paid at age 62 and full benefits begin at 65.

CITIES PENSION BURDEN

If people could work until they are 68 and then start receiving Social Security, the administration says, a tremendous burden could be lifted from the nation's pension system.

Respondents in the poll were asked: "Do you favor or oppose the present policy in many businesses of mandatory retirement at age 65 for employes?" The answers were:

	Percent
Favor	29
Oppose	67
Don't know	4

Forced retirement at 65 was opposed by 72 percent of those interviewed who were 50 and older, by 69 percent of those from 35 to 49, and by 60 percent of those from 18 to 34.

Those questioned were also asked: "The administration is considering withholding full Social Security benefits until age 68. Would you favor or oppose this?" The replies were:

	Percent
Favor	14
Oppose	81
Don't know	5

Another question was: "Do you think the present law allowing partial Social Security benefits at 62 and full benefits at 65 should be revised to permit some benefits at age 60?" The response was:

	Percent
Yes	65
No	27
Don't know	8

Do you favor or oppose mandatory retirement at 65?

	Percent
Favor	29
Oppose	67
Don't know	4

NATIONAL DAY OF PRAYER FOR THE YEAR 1977

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BEDELL. Mr. Speaker, I am today joining with the distinguished majority and minority leaders in introducing a joint resolution which would designate the third Thursday of December as the "National Day of Prayer for the Year 1977."

This year, the third Thursday in December is the 200th anniversary of the first congressionally designated day of Thanksgiving by the Continental Congress—December 18, 1777. This date marked the first time that a congressional sponsored day of Thanksgiving was celebrated in the United States.

I think that it is entirely appropriate for the Congress to proclaim December 18, 1977—the date of our Nation's first Thanksgiving—as a National Day of Prayer for 1977, and I am pleased that last Thursday, September 22, the Senate passed a resolution which would do just that. I hope that the House will concur with this Senate action without any unnecessary delay.

A copy of the resolution follows:

H. J. RES. —

Joint Resolution to express the sense of the Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977"

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Thanksgiving on the fourth Thursday of November (Public Law 77-379), and

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Prayer on a day other than a Sunday (Public Law 82-324), and

Whereas the third Thursday of December in the year 1977 marks the two hundredth anniversary of the first proclaimed Day of Thanksgiving by the Continental Congress, and

Whereas such a proclamation on this date has the support of the leaders and presidents of twelve national religious bodies in the United States, and

Whereas such date is already historic, patriotic, and sacred in the life of our country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that, in light of history, December 15, 1977 (such date being the third Thursday in December 1977) would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and the President is hereby respectfully requested, under Public Law 82-324, to issue a proclamation designating such date as a "National Day of Prayer for the Year 1977", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

AMENDING THE PACKERS AND STOCKYARD ACT

HON. RAY THORNTON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. THORNTON. Mr. Speaker, I am today introducing a bill to amend the Packers and Stockyards Act, 1921. It will provide that small rural auction barns operating in competition with one another will no longer be subjected to the needless burden of Federal regulation as public utilities, under which rates and charges can only be established after elaborate and costly application of Federal ratemaking machinery. However, it will not disturb the jurisdiction of the Secretary of Agriculture over the rates and charges of stockyards which operate without effective competition.

When the act was passed in 1921, the then-existing 71 terminal stockyards were, in effect, monopolies and, as such, properly amenable to regulation as public utilities. Congress therefore, appropriately gave the Secretary of Agriculture extensive jurisdiction over their rates and charges. However, by 1958 livestock marketing patterns had changed and a great volume of livestock was marketed through smaller stockyards known as auction barns, which were not subject to regulation by the Secretary. In fact, the industry had expanded to include some 1,600 such auction barns. Therefore, Congress amended the Packers and Stockyards Act in 1958 to bring the rates and charges of these auction barns under regulation by the Secretary. Unfortunately, Congress did not at that time, review the manner in which this jurisdiction should be exercised, which left in effect the old rigid, burdensome, public utility standards, standards which were entirely inappropriate in the new competitive marketing circumstances.

The decentralization of livestock marketing has continued and there are today more than 1,980 auction barns throughout the United States. Only 25 to 30 of these are of the type which Congress considered in 1921 and subjected to regulation as public utilities. In many instances, competition for business between these auction barns is fierce and these facilities serve assembly and exchange functions for a majority of the 1,437,000 farmers selling cattle and calves. The burdensome and costly Federal ratemaking procedures and standards which presently apply to the auction barns will drive many of these needed markets out of business.

The provisions of the Packers and Stockyards Act prohibiting discriminatory practices at all stockyards have served the small livestock seller and the industry well and should not be disturbed. However, there is, in my judgment, no valid reason for the Secretary of Agriculture to continue to regulate the rates and charges of small rural auction barns.

Accordingly, I am today introducing legislation to restrict the Secretary's authority to rates and charges at stockyards which either have annual sales volumes in excess of 100,000 animal marketing units or have annual sales volumes in excess of 20,000 animal marketing units and are located more than 75 miles from the nearest independently owned and operated stockyard. This bill will lift the burden of public utility ratemaking standards from small locally owned auction barns but will at the same time leave undisturbed the jurisdiction of the Secretary of Agriculture over the very large facility and the isolated facility at which there is no effective competition. In this way, the needs of the small livestock seller and the rural auction barns, will be served and the Secretary's jurisdiction preserved in those circumstances in which it is appropriate.

D.C. RETIREMENT REFORM ACT WOULD HAVE PREVENTED MASS EXODUS OF D.C. POLICE OFFICIALS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MAZZOLI. Mr. Speaker, I was disturbed to read in Wednesday's Washington Post that over 70 high ranking police and fire officials of the District of Columbia were retiring.

The Post noted that the retirements were prompted by a quirk in the police and fire retirement rules that make it profitable for employees to retire immediately before a pay increase is granted.

Under these congressionally enacted rules, a retiree's annuity is computed by averaging his highest year's pay and multiplying this base by various factors derived from length of service and disability. This annuity is then increased each time a pay raise is granted.

Thus, a policeman or a fireman retiring on September 30 would have his annuity increased by 7.05 percent on October 1. If the same policeman or fireman retired after October 1, his annuity would not be increased by the 7.05 percent.

If the other body passes the District of Columbia Retirement Reform Act, H.R. 6536, which passed the House on September 26 of this year, then this problem will be corrected.

This bill, which I sponsored, "decouples" retirement increases from current pay, and provides for annuity adjustments to be given based on increases in the consumer price index. Also, as in civil service, the increase in annuity will be given to those who retire immediately after an adjustment as well as to those who retire immediately before an adjustment.

This quirk is one of many bad practices and anachronisms in the current law that will be corrected by enactment of H.R. 6536. In view of these improvements, as well as the badly needed pension funding provisions of the bill, I hope the other body acts quickly on this measure.

I would like to insert the Washington Post article for my colleagues' information:

POLICE, FIRE VETERANS OPT OUT EARLY—MOTIVATED BY SPECIAL RETIREMENT BENEFIT

More than 70 veteran police officers and fire fighters in the District, many of them high-ranking officials, retired en masse last Friday to take advantage of a special retirement pay boost provided in recent City Council legislation.

The sudden exodus of deputy chiefs, inspectors and other officials has produced visible gaps in the hierarchy of the D.C. Police and Fire departments, U.S. Park Police, Capitol Police and the Executive Protective Service. Those officials remaining, including D.C. Police Chief Maurice J. Cullinane, say there is no reason for concern, and plenty of aggressive younger officers are eagerly awaiting promotions to fill the gaps.

The exodus, timed to beat an October 1 deadline for eligibility for an immediate 7.05 percent increase in retirement pay, includes 28 officers from D.C. Police, 22 from the D.C. Fire Department, nine from Park Police, nine from Executive Protective Service and four from Capitol Police.

Among those retiring were a deputy chief, two inspectors and two captains from D.C. Police and a deputy chief, an inspector and the only assistant chief of the Park Police.

The rash of retirements leaves the 4,185-member D.C. Police Department with only 140 officers who have 20 years or more experience.

"I'm not in the least bit worried," said Cullinane. "I've never seen the department at a loss to function . . . It will require some reshuffling of men, but) it will give some younger men a chance for promotions."

Those who will be promoted, Cullinane said, "have had in-service training, and I think the younger men will do as well as if not better than (the retirees)."

He said the retirements will give "incentive to younger men to do better."

The pay bill that triggered the retirement stampede is emergency legislation enacted recently by the City Council to give police and firemen a pay raise comparable to the 7.05 percent boost just approved by President Carter for regular GS employees of the federal and District governments.

The City Council measure provided additionally that police officers and firefighters who were eligible for retirement (20 years or more service) could tack the 7.05 percent increase directly to their retirement annuity if they retired before Oct. 1.

This arrangement proved more attractive to some officers than staying on. If an officer continued in active service after Oct. 1, the 7.05 percent increase would be applied to his salary. Under the existing formula for determining retirement pay, it could take several more years of active duty before he could reach the same retirement pay he would get immediately by retiring before Oct. 1 and having the 7.05 percent increase applied directly to his annuity.

Straight on "voluntary" retirement pay by the police on fire department is computed at 50 percent of the highest 12-month period of active duty pay for the officer.

The fire and police pay raise bill has not yet been signed by Mayor Walter E. Washington and could conceivably be vetoed by him. He has until Oct. 13 to act on the measure.

On the one hand, he is under pressure to bring police and firemen into parity with GS employees. On the other, he has an opinion from Corporation Counsel John Risher, the mayor's chief legal adviser, saying the pay bill violates an earlier act of Congress that requires collective bargaining with fire and police unions, rather than direct legislation, on pay and other compensation matters.

The mayor was faced with a similar situation last year and let a fire and police pay bill go into effect by neither signing nor vetoing it, in effect, doing nothing.

Among high-ranking D.C. police officials who opted for the Oct. 1 retirement are Deputy Chief Arthur F. DiGennaro, head of community relations; Insp. Thomas J. Wolfrey, records division commander, and Insp. George R. Suter, head of the police and fire clinic.

Fire Department officials include Deputy Chief Scott L. Seymour, head of the training division, and Battalion Chiefs Lawrence Leary and Weldon L. Crider.

In the Park Police, both Assistant Chief Franklin A. Arthur and Deputy Chief Milton R. Lomax retired.

In the Executive Protective Service, retiring officials include Chief Earl Drescher, who went out on medical disability, and Deputy John B. Brophy, head of EPS operations.

SUNSET REVIEW—AN UPDATE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BLANCHARD. Mr. Speaker, the "sunset" concept as expressed in legislation awaiting consideration in both the House and the Senate has drawn considerable attention within Congress and by editorial writers during the past year.

As the principal sponsor of "sunset" in the House and in view of the regularity with which the term, "sunset" is used, I hope it will be useful for me to outline the status of "sunset" and its objective.

I submit for the RECORD a copy of my statement about "sunset" made today before the House Budget Committee.

Mr. Chairman and Members of the Budget Committee, the "sunset" concept as expressed in legislation awaiting consideration in both the House and the Senate, is continuing to grow and evolve with time. I urge you to give it your careful consideration and support in the weeks and months ahead.

In 1975 I introduced the "Truth in Budgeting Act" which had as its goal a regular review and audit of all federal spending programs from zero dollars up. In February of 1976 I was joined by Mr. Mineta of California when we introduced the "Government Economy and Spending Reform Act" which contained a "sunset" provision in order to force the periodic audit and review of all federal spending programs. An updated version of that bill which has 140 cosponsors in the House and 60 cosponsors in the Senate now awaits consideration by the Congress. In view of the evident popularity of "sunset" and the attention it has received in the news media, I think it is useful to outline its current status and its qualities. There has been some misunderstanding and misapplication of the sunset concept in the House, with some seizing upon it as a "gimmick" to terminate programs without any real review of them or, more importantly, without review of a program in relation to other similar federal spending programs. Therefore, it is also to clarify the purpose of sunset that this testimony is offered.

The "Sunset Program Evaluation Act", H.R. 8783, which is very similar to our earlier version, H.R. 85, was approved in the form of S. 2 by the Senate Government Affairs Committee in July.

The primary goal of this legislation is to bring about a rational system for evaluating all federal spending programs on a regular basis. "Sunset", in other words, is a constructive device to bring about that review.

With this legislation, we hope to do for congressional oversight and program review what the Budget and Impoundment Control Act of 1974 did for the setting of budget ceilings. In fact, I view "sunset" as a logical step in budget reform. How can we effectively deal with the setting of overall budget ceilings if we do not review and debate the component parts of that budget on a regular basis?

With this proposed legislation we aim to:

1. Establish a regular and systematic framework for reviewing all federal spending programs.

2. Establish a review of those federal spending programs of a related nature at the same time and in relation to each other.

3. Encourage communication between different committees which are dealing with similar programs.

4. Increase Congress's ability to choose between priorities and, by so doing, to put tax dollars to work more effectively.

5. And finally, by providing a more efficient structure, to give the American people a sense that government can be controlled and managed.

The need for program oversight is obvious. The federal budget and tax burden have reached a point where they can no longer increase at the same rate as in years past. If we are to deal with new problems, we must make better use of the funds we already have.

The "Sunset Program Evaluation Act" has as its core two simple concepts. First, that all federal programs should be reviewed periodically. And second, and extremely important, that programs in the same or similar areas should be reviewed at the same time so that duplication can be avoided.

Like all simple ideas, these can become extremely complex as soon as they are exposed to the legislative process. But they are the heart of sunset.

At present, federal programs have budget authorizations ranging from a single year to indefinite or permanent. This means that in any given year, a group of major programs can come up for reauthorization, leaving the committee which oversees them no time to deal with new legislation, and often, in fact, not even enough time to decide whether they are worth reauthorizing in the first place.

Likewise, programs within a single budgetary function may come up for reauthorization at different times, be administered by different departments of the federal government, and be under the jurisdiction of different committees. Under such a system, the chance for duplication must be, and is, high.

Thus, the justification for "suset", which seeks to force periodic review of related programs.

A brief summary of the major provisions of H.R. 8783 follows.

Review: All federal spending programs are reviewed once every three Congresses.

Functional groupings: The bill provides for review of programs within a single budget function during the same year.

Termination: If a program does not undergo review and reauthorization under the process set up by the bill, its funding would end automatically. This would not, by the way, affect the substantive laws which have given rise to a program—sunset is limited to the funding authorization.

Authorization and Termination: The termination provisions are tied to authorization, since it is the authorizing committees which are supposed to be responsible for oversight. Increasing use of "permanent" and "indefinite" authorizations has resulted in steady weakening of this oversight function, which "sunset" aims to strengthen.

Intensive Evaluation: In addition to the termination and review process, the bill contains a means for Congress, and individual committees, to select individual programs for a complete, top to bottom evaluation. This provision is similar to the zero base review concept which earlier bills would have applied to all programs, and which was eventually dropped because of the enormous work load which would have resulted. By setting forth standards for such an in-depth evaluation selective basis, the bill provides more flexibility for dealing with a wide variety of possible situations. The authorizing committees retain most of the responsibility for selecting programs to be evaluated, in keeping with their oversight function.

Inadvertent Termination: H.R. 8783, like the new Senate bill, contains a safeguard against inadvertent termination which I first suggested in my original sunset bill in 1975. It provides a method by which a program can be extended without going through the full reauthorization process, but at a level of funding no greater than the previous physical year. Such a provision is necessary to prevent "back door" termination by means of filibustering, refusing to hold hearings, or other tactics which would prevent Congress from being able to vote on a program.

Review Standards: Like its predecessors, the bill sets forth criteria by which reviews are to be conducted, so that some measure of standardization can be achieved. These standards are minimums rather than maximums, so that individual committees can add them if desired or needed.

Mr. Chairman, I believe the sunset review approach to the federal budget is not only essential, but long overdue. I urge you to take this into account in your deliberations.

Mr. Speaker, I believe the "Sunset Program Evaluation Act" and its predecessors offer a logical, needed and useful extension of the budget process. I com-

mend it to the attention of my colleagues in the hope that they will share my view.

SANTA MONICA MOUNTAINS NATIONAL PARK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of California. Mr. Speaker, the Santa Monica Mountains are a unique natural resource which southern California is very fortunate to have. This coastal mountain range neatly bisects the city of Los Angeles before reaching the Pacific coast and becoming the Channel Islands several miles offshore.

Although development in our heavily urbanized metropolitan area has made inroads into the mountains, the Santa Monicas retain large areas of untouched land, harboring a vast array of scenery, wildlife, and untouched beauty. They represent an unparalleled opportunity to create a national park located virtually downtown in one of our Nation's greatest cities.

Along with my distinguished colleague from California, Representative ANTHONY BEILENSON, I have cosponsored legislation aimed at making the dream of a completely protected Santa Monica Mountains National Park a reality. Mr. BEILENSEN is to be congratulated for the efforts he has made to insure passage of the bill, and I certainly hope that we in Congress can enact this legislation during the current 95th Congress.

At this time, I would like to insert the following article from the Los Angeles Times into the CONGRESSIONAL RECORD. It gives an excellent account of the natural beauty of the Santa Monica Mountains, and of the efforts being made to preserve them:

[From the Los Angeles Times, Oct. 6, 1977]

SANTA MONICAS: U.S. PARK? THINGS ARE LOOKING UP

(By Robert A. Jones)

The Santa Monica Mountains begin at the intersection of Figueroa St. and Riverside Drive in Los Angeles and run westward for about 50 miles, through Hollywood, then Beverly Hills and finally into wilderness above the Malibu Coast.

They are neither the highest nor the most spectacular mountains in this country; in fact, they are not even close. But in one sense the Santa Monicas are unique: They are the only mountain range in this country to bisect a major American city.

Though most of the range has been heavily developed—the Hollywood Hills, for example are part of the system—the Santa Monicas still contain huge sections of open land, chaparral-covered hills, canyons filled with groves of live oaks, savannahs and mountain meadows. For 20 years the idea of a national park in the mountains has been promoted by conservationists and several government agencies. And for 20 years the idea has met with frustration and failure.

While other cities, most notably San Francisco and New York, have acquired large federal parks within or near their borders, efforts in Los Angeles have been stymied. A major problem has been price. Congress on several occasions has looked at the projected cost—now estimated at $100 million—and sent the park supporters home with their plans in their lap.

But now, almost unexpectedly, the Santa Monica Mountains have become one of the hottest federal park prospects in the nation. An ambitious proposal for a national park and seashore has been submitted by Rep. Anthony Beilenson (D-Calif.), and conservation organizations are predicting that some form of the bill will be passed by Congress next year. Perhaps more importantly, several key congressmen agree.

"I think it's gonna go," said Rep. Phillip Burton (D-Calif.), chairman of the House subcommittee on Parks and insular affairs. "We have this valuable open space in Los Angeles, it's right there waiting for us, and we should move as quickly as we can to preserve it. The mountains won't stay unspoiled forever."

The overall change in the prospects for a federal park in the Santa Monicas has not been produced by any single factor but rather by the accumulation of several smaller events. Among them are these:

New leadership in several critical congressional committees has brought congressmen sympathetic toward urban parks into positions of influence. Most important for the Santa Monicas was the appointment of Burton to head the House subcommittee on parks and insular affairs. In addition, the idea of a national park is receiving the active support of several Southern California congressmen, including Reps. Barry Goldwater Jr. (R-Calif.) and Robert Lagomarsino (R-Calif.).

The creation of the Santa Monica Mountains Comprehensive Planning Commission. Though the state commission has no authority to limit development in the mountains, it has served as a forum on the future of the Santa Monicas and focused attention on the prospects for a federal park.

A commitment by the Carter Administration to renew the federal government interest in urban parks.

A growing realization that the mountains, if not protected soon may not be worth protecting at all. "We must move quickly," Los Angeles Mayor Bradley told a congressional subcommittee recently, "(The Santa Monicas) have been preserved because the economics of development made building impracticable. That will not always be so."

In its present form, Beilenson's proposal would establish the Channel Islands and Santa Monica Mountains National Park and Seashore. Though no acreage figure is specified in the bill, it has been estimated that 30,000 to 40,000 acres would be acquired on the mainland using $100 million authorized by the bill.

Another $50 million would be used to acquire Santa Cruz and Santa Rosa islands in the Santa Barbara Channel. The bill currently has 31 cosponsors in the House, and similar legislation has been submitted in the Senate by Sen. Alan Cranston (D-Calif.)

According to Beilenson, the national park also would incorporate the 27,000 acres of three existing state parks—Malibu Creek, Topanga and Point Mugu—established in the Santa Monicas over the past decade. With the combined federal acquisitions and state parks, the total mainland acreage in the national park could reach 70,000 acres.

With the exception of the state parks, all lands for the park would be acquired from private holdings. While no precise boundaries have been established, conservationists have estimated land costs at $1,000 to $4,000 per acre.

In a recent interview, Beilenson noted that the concept of a federal park has received nearly unanimous support from local and state officials. So far his bill has been endorsed by the City Council, the county Board of Supervisors and Bradley. And at a recent committee hearing on the proposal California Resources Secretary Huey Johnston said the state "cherishes" the idea of a federal park in the Santa Monicas.

"I don't think we should take this support for granted," Beilenson said. "It's here now and we should use it. It seems to me we are in a now-or-never situation."

In part, support for the park also stemmed from a growing realization that the Santa Monicas offered a wide range of recreational opportunity.

Once considered—and still thought by some—to be a region of dusty roads and impenetrable, brush-covered hills, the Santa Monicas are increasingly recognized as a far more complex area. The oak-covered canyons can offer refuge from the summer heat; the open savannahs are often warm and sunny, even in the winter when other recreation areas are closed.

"Most people get their impression of the mountains from driving along the major roads. Unfortunately these roads pass through some of the least-interesting areas," said Joseph Edmiston, executive director of the Santa Monica Mountain Planning Commission. "You have to get off the roads to appreciate the real quality of the mountains."

Amazingly, some of the mountain areas remain nearly pure wilderness, even though they may be less than an hour's drive from 6 million people. Several families of mountain lions roam the remote hills, along with golden eagles, great blue herons and ospreys. Some of these areas have rarely if ever been visited by man.

Nonetheless, creation of a federal park in the Santa Monicas does face problems. The Carter Administration has not endorsed the plan and some local conservationists fear that a study by one federal agency, the Bureau of Outdoor Recreation, might suggest other approaches to federal recreation areas in the Los Angeles area.

"There is concern that the Bureau of Outdoor Recreation does not see the Santa Monicas as an urban park," said Susan Nelson, president of Friends of the Santa Monica Mountains. "If they regard the Santa Monicas as competing, in terms of funding, with Central City parks, they may decide to de-emphasize the mountains."

Lost of support by the Carter Administration could be crucial, but Bureau of Outdoor Recreation officials deny that their report alone will form Administration policy. "We are looking at the Los Angeles area and will make some suggestions," said planner Meg Mequire of the agency report which is due next January. "But I doubt the suggestions will be that definite. They will probably be in the form of a number of alternative approaches."

The critical question before the Carter Administration, conservationists believe, is whether the Santa Monica park would effectively serve the urban poor. "We believe the mountains are crucial to Central City needs," Mrs. Nelson said. "In 25 years the Santa Monicas could very well be within the Central City themselves. They should not be seen as competing with downtown parks and high-intensity recreation."

To help insure that the poor will not be excluded from park use, Beilenson has included in his bill a directive to the Secretary of Interior to develop a regional transportation plan for park use. Such a system likely would involve the use of regular bus service to the park from the city.

The Beilenson bill also could face problems from other members of the California delegation. Reps. Goldwater and Lagomarsino, while endorsing the concept of a federal park, both support a somewhat different approach to the park's funding and management.

The two congressmen have introduced in Congress their own proposal for a National Santa Monica Urban Park which would require matching funding by state and local governments. And the park itself would not be managed by the National Park Service—as specified in the Beilenson bill—but rather by a local park commission.

This play has only the tepid support of conservation organizations and even less from subcommittee Chairman Burton, but aides to Lagomarsino point out that it may more closely resemble the approach to urban recreation areas taken by the Carter Administration. If so, they say, approval could more easily be won from Congress.

In fact, Beilenson appears to have lost the first skirmish over the final design of the park plan. Under the Beilenson bill, the Santa Monicas would be linked to an expanded number of federally owned islands in the Santa Barbara Channel. These additions were opposed by Lagomarsino on the grounds that it would complicate passage of the bill and his arguments appear to have won over Burton.

While stating that he has no "negative disposition" toward the islands, Burton noted that the Nature Conservancy last week moved on a private basis to acquire and preserve Santa Cruz, one of the target islands in the Beilenson bill. That action, he said, has removed much of the urgency for federal protection. "The islands will have to be handled on a separate basis," he said. "I just think we are well advised to get what we can now and deal with the islands at a later time. Sometimes these things are best dealt with incrementally."

Finally the proposed national park faces a possible obstacle from the state of California. While supporting the park idea, Resources Secretary Johnston has indicated the state may insist on compensation for state parklands included in the national park, either in cash or in the form of a land trade.

While conceding that such a demand could create a wariness in Congress toward the park plan, Johnston insists that such compensation would result in additional parklands for Southern Californians through further state acquisitions.

Additionally, Johnston argued that Los Angeles area residents presently have received only about 88 cents per capita in the form of federal open-space monies. Statewide, he says, the average is closer to $5 per capita. "Los Angeles deserves better treatment than they have received in the past," Johnston said.

Though some hope that the state will not insist on compensation for its park land, local conservationists have long made arguments similar to Johnston's. Los Angeles, they say, is one of the poorest park regions in the nation. A study by the Friends of the Santa Monica Mountains showed, for example, that only about 4 percent of the city's total area is devoted to parks, as opposed to about 14 percent in New York and 16 percent in San Francisco.

"This situation is finally sinking in," Mrs. Nelson said. "We think people are becoming conscious that Los Angeles needs far more room for recreation. We think our time has come."

FB-111 MODIFICATIONS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. LLOYD of California. Mr. Speaker, I will be offering an amendment to H.R. 8390, supplemental defense authorizations. The amendment will strike $20 million in funds for FB-111 modifications. The amendment follows:

Page 3, line 17, is amended by striking "$306,500,000" and inserting "$286,500,000".

WE ARE THE ARMS MERCHANT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. KOSTMAYER. Mr. Speaker, I rise today to share with my colleagues the words of a Pennsylvanian concerned about the United States' role in the international arms market.

In recent debates on the floor of the House—including the debates on the Clinch River breeder reactor project and the ERDA authorization for the "neutron bomb"—the subject of nuclear arms proliferation has been subjected to close scrutiny. We must not forget, however, that over the recent years there has been a dangerous proliferation of sales of so-called "conventional weapons." This trend is just as frightening.

Mr. Eric Prokosch of NARMIC (National Action and Research on the Military Industrial Complex) has eloquently stated this problem in a recent article in the Philadelphia Inquirer. I commend this article to my colleagues and hope that the Congress can act responsibly when we take up the subject of arms control in the future:

WE ARE THE ARMS MERCHANT

(By Eric Prokosch)

When U.S. Senator Hubert H. Humphrey's Subcommittee on Foreign Assistance meets this month for hearings on President Carter's new arms sales policy, one problem they will want to consider is the proliferation of cruel and inhumane nonnuclear, or "conventional" weapons.

The President's recent study of U.S. arms sales policy singles out "napalm, flamethrowers and certain incendiaries, fuel air explosives (and) cluster bombs" as "weapons, the misuse of which are (sic) particularly sensitive from a political, humanitarian, or diplomatic point of view."

According to the study, proposed sales of these weapons are currently "subjected to special examination" under "informal guidelines" which "serve to retard the export of these sensitive items." But Defense Department records reveal that there have been many sales of these and other "sensitive" items.

The records are in the form of "case listings" of arms sales under the Foreign Military Sales program and were obtained under the Freedom of Information Act by the Military Audit Project in Washington and by NARMIC, the Philadelphia-based Quaker research group.

According to the case listings, which cover the years 1970–76, flamethrowers went to such diverse countries as Argentina, Spain, and Venezuela. Taiwan bought service kits for portable flamethrowers and Australia got an order of "fuel thickener," presumably for incendiary devices. Italy bought U.S. 750-pound napalm bombs.

Riot control equipment is another category well represented in the case listings. Tear gas grenades were sold to Austria, Norway and Taiwan. Australia bought 40mm. chemical projectiles and Colombia contracted for repair of portable gas dispensers. Argentina in 1975 bought "chemical agent rockets" from the United States.

The flechette, a small nail with fins, is one of the more gruesome weapons of our time. In Vietnam they were reported to have torn attackers to shreds and nailed enemy soldiers to trees. Artillery shells packed with thousands of flechettes have been sold, according to the case listings, to Spain and Israel. Shells of this type are reported to have been used in the Middle East war in 1973.

Antipersonnel cluster bombs, first used in Vietnam, are now being exported as well. These are containers filled with hundreds of small grenades or "bomblets" which are dropped from aircraft and spread to cover wide areas of ground. With hundreds of bomblets exploding into lethal high-velocity slivers of metal over an area the size of nine or ten football fields, the innocent are bound to suffer along with whatever soldiers may be in the area.

According to the Defense Department's case listings, Greece, Turkey, and Iran have been sold the CBU-58 cluster bomb—an "improved" variety of the "guava" bomb whose use in Vietnam aroused much protest.

Turkey, Iran, and Israel have bought the "Rockeye," an antitank cluster bomb that has an antipersonnel "fringe benefit" in the words of a Navy witness at a 1966 Congressional hearing: the bomblets burst into fast-moving fragments and "if you have a concentration of personnel, would be damaging to the personnel" as another Navy witness stated at the hearing.

President Carter's courageous decision last February to ban the sale of the fuel air explosive or "concussion" bomb is an important step toward the ultimate goal of ending all arms aid and trade.

It remains to be seen whether the President will take the next step by extending this ban to other weapons that are particularly abhorrent from a humanitarian point of view.

In the meantime, Senator Humphrey's subcommittee would do well to investigate the adequacy of existing controls in the light of the numerous questionable sales shown in the Defense Department case listings.

PANAMA CANAL TREATIES

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. CORRADA. Mr. Speaker, Tuesday, I testified before the Senate Foreign Relations Committee which is currently considering the provisions of the proposed Panama Canal Treaties.

In my testimony I expressed my support for these treaties as I believe they are a fair and equitable resolution to this long-continued standing controversy while assuring our national security. In addition, I am convinced the treaties are in the best interest of our Nation.

Mr. Speaker, I welcome the national debate on the ratification of these treaties and would like to include my testimony for the RECORD:

TESTIMONY OF THE HONORABLE BALTASAR CORRADA

Mr. Chairman, Members of the Committee: My name is Baltasar Corrada, Resident Commissioner of Puerto Rico to the United States Congress, and members of the House of Representatives. I am very pleased to be given the opportunity to testify today on the proposed Panama Canal Treaties. I have a short statement that I would like to read and I will then answer any questions that you may have.

I have asked to be heard by the Committee because it seems to me that we Puerto Ricans are in a very unique position as citizens of the United States as well as residents of the Caribbean of hispanic heritage, to understand the significance of these treaties for our nation and for our relations with Latin

America. Puerto Rico lies halfway between the U.S. mainland and the Canal. From our particular vantage point, I will share my views with you.

Although I am aware of the concern of some people about a possible threat to our national security, I do not believe that our safety is imperiled as a result of the ratification of these treaties. I would like to state from the outset that the proposed treaties have my full support as well as the endorsement of the Governor of Puerto Rico, the Honorable Carlos Romero Barceló. Governor Romero was one of the first governors to encourage the ratification of these treaties at the recent Southern Governors Conference held in San Antonio.

We realize and share in the strong belief that these treaties represent a fair and just resolution of a long standing and delicate dispute between our nation and the Republic of Panama. A dispute, may I add, that has become an issue in terms of our relationship with all the nations of Latin America who will judge our actions in this matter to view us as fair and open-minded or as recalcitrants who insist in perpetuating an old agreement not morally justified on the basis of today's standards for international relations.

A major question and one which I find people are most concerned about revolves around what they perceive to be a giving away of something that is rightfully ours. A close examination of the provisions of the Hay-Bunau-Varilla Treaty, particularly Articles II and III, however, will show that while the words "in perpetuity" were used in granting the United States control over the land for the purpose of the construction of the canal, and that Article III provides that "the United States would possess and exercise all the rights, power and authority (as) if it were the sovereign of the territory," the United States has never asserted sovereignty in one very important characteristic inherent to a claim of full territorial jurisdiction: the citizenship of persons born within its boundaries. Children of non-U.S. nationals which are born within the boundaries of the Canal Zone are not considered U.S. citizens. I believe this to be a very important point as we have extended our citizenship to those persons born in places where we have full jurisdiction; the absence of that policy in this case shows that we never intended to assert full sovereignty over the Canal Zone.

In addition, there are two other points which we need to emphasize in order that our people will fully understand the purpose of these treaties. First, the continued protection of our national security interests are ensured by the provisions in the treaties which continue our exercise of control over the defense of the Canal until the year 2000 and guarantees the neutrality of the Canal into the 21st century and beyond. Moreover, the United States is guaranteed passage of its ships during a time of war regardless of the nature of their cargo, and the United States will continue to supervise the access to the Canal area on both the Atlantic and Pacific ends. We are thus assured that, should the need arise, the uninterrupted use of the Canal would be guaranteed.

A third main point concerns the commercial use of the Canal. In recent years our use of the Canal has declined as it is not equipped to handle the super-tankers used today. Many people are not aware that only about 4 percent of the trade between the East and West coasts of the United States is handled through the Panama Canal today. Even so, this commercial navigability is not endangered or precluded by the ratification of the Canal Treaties; on the other hand, both the United States and Panama commit themselves to a joint study to determine the feasibility of a new sea-level canal. Such a study and possible construction, I submit, would not be possible without an overall evaluation of the 1903 Treaty. Looking at it pragmatically, by the enactment and ratification of these treaties we are ensuring the possibility of increased use of the canal by our ships and tankers through the expansion of the existing Canal or the construction of a new one, something which would otherwise have been extremely difficult, if not impossible under the terms of the existing treaty.

Lastly, we must remember that Ambassadors Bunker and Linowitz are men of vast experience dedicated to the achievement of a mutually equitable treaty. If people would read and analyze the provisions of these treaties, the notion that this is a one-sided deal, beneficial to the other party at the detriment of our interest, would be dispelled. Our interests and security have been and will continue to be protected by the ratification of these treaties.

This brings me, Mr. Chairman, to what I consider to be a significant consequence of these treaties; to enhance our reputation in the world community, particularly amongst our neighbors in Latin America. The 1903 Treaty has long been considered a blot in our international reputation. While one can understand and sympathize with the pressing need in the United States during the early 1900's for a route connecting the Atlantic and Pacific oceans, one cannot help but be critical of the 1903 Treaty. It seems inconceivable that a fair and equitable treaty could be worked out within days of the proclamation of the new Republic of Panama. It is not surprising that the Panamanians later resented and resent the terms of the treaty. The 1964 riots exacerbated an already smoldering situation and determined without question that a solution had to be reached in order to avoid a major crisis. It was impossible to maintain the status quo but it would have been foolish to undertake any precipitous agreements. The fact that the negotiations spread over a thirteen year period under Presidents Johnson, Nixon, Ford and Carter attest to the thorough deliberations that took place. We can be justly proud and sure that the ratification of these treaties will result in a better appreciation and support of our intentions in the area and in Latin America.

Mr. Chairman, the United States has traditionally been the defender of the interests and rights of other people. Here we are putting our words to action by correcting a situation which concerns our friends and allies offered grounds for criticism to our enemies. We had entered into a treaty where the two parties had not been equal in the fullest sense of the word; we can remedy that situation by the ratification of these treaties and I urge the Senate to act favorably on them.

Thank you.

PROTECT PENSION PLAN EARNINGS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. CUNNINGHAM. Mr. Speaker, several weeks ago, I received a letter from Washington Governor Dixy Lee Ray which pointed out that the Internal Revenue Service is now requiring public pension plans to file cumbersome forms to qualify for tax exemption under the law. She then said that IRS is also threatening to tax the deposited funds based on the interest earned by them if they are found not to qualify for exemption under the law.

Governor Ray referred me to legislation in the Senate sponsored by Florida Senator DICK STONE which would exempt the earnings of public pension plans from taxation until they were paid out to the fund participants. Since there was no primary sponsor in the House for this legislation, I contacted Senator STONE and have introduced identical legislation in the House, H.R. 9118.

Such legislation is favored by the National Governors Conference, the Municipal Finance Officers Association, and other organizations. In addition, I have been in contact with the National League of Cities and the National Education Association. They have expressed an interest in exempting the fund earnings of public pension plans from the threat of taxation.

If a pension fund is on a pay-as-you-go basis, it is considered exempt from taxation if it is supported by a governmental unit such as a State, a city, or a teacher retirement program. However, if a governing body has determined that the funds would better be administered by a semiautonomous body, it is very possible that the IRS may treat these public pension plans the same as private plans and seek to tax the earnings of the plans before they are paid out to participants.

Mr Speaker, I am told by the Congressional Research Service that all public pension plans are subject to the threat of taxation and the burden of filing IRS form 5500 as well as detailed antidiscrimination forms. It is possible that all of these plans filing such forms may be considered liable for taxation under the law. Already Missouri has felt the sting of this tax burden and is appealing the IRS ruling from the argument of simple equity. How can the taxpayers of a governmental unit be expected to pick up the tab for the additional taxes is might take to replenish the loss of accumulated income, drained off by such taxation? How can a retirement fund be expected to maintain its actuarial soundness if it is constantly being drawn upon for the payment of Federal taxes? Finally, Mr. Speaker, how can we expect public employees to bear the burden of double taxation of their fund contributions and earnings both while they are in the fund and when they are paid out?

H.R. 9118 simply exempts such public pension funds from taxation. There are currently 15 co-sponsors of Senator STONE's legislation in the Senate. Today I am reintroducing with cosponsors this important bill. I believe it potentially affects all public pension plans in the country.

I am pleased that more and more Members are joining me every day in support of this idea whose time has come. I am particularly appreciative of the support of Mr. KINDNESS, Mrs. SPELLMAN, Mr. BADHAM, Mr. GUYER, my colleague from Washington Mr. PRITCHARD, Mr. EILBERG, Mr. ROE, Mr. DERWINSKI, Mr. PANETTA, Mr. STANGELAND, Mr. BEVILL, Mr. AUSTIN J. MURPHY, Mr. CRANE, Mr. HARRINGTON, and Mr. J. HERBERT BURKE of Florida and I welcome other sponsors of this legislation.

For the interest of Members, here is a copy of H.R. 9118:

H.R. 9118

A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501(c)(11) of the Internal Revenue Code of 1954 (relating to teachers' retirement fund associations) is amended to read as follows:

"(11)(A) Retirement systems, trusts, or funds of a State, a political subdivision of a State, or an agency or instrumentality of a State or a political subdivision or a State.

"(B) Teachers' retirement fund associations of a purely local character, if—

"(i) no part of their earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

"(ii) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect to investments.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after September 2, 1974.

SEC. 2. (a) Section 6058 of the Internal Revenue Code of 1954 (relating to information required in connection with certain plans of deferred compensation) is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) EXEMPTION.—This section shall not apply with respect to plans maintained by a State, a political subdivision of a State, or an agency or instrumentality of a State or a political subdivision of a State.".

(b) The amendment made by subsection (a) shall apply with respect to plan years beginning after September 2, 1974.

SEC. 3. (a) For purposes of the Internal Revenue Code of 1954, a retirement system, trust, fund, or fund association described in section 501(c)(11) of such Code shall be treated as if it met all requirements for qualification under section 401 of such Code.

(b) This section applies with respect to plan years beginning after September 2, 1974.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. WYDLER. Mr. Speaker, our responsibility as legislators includes not only the enactment of laws, but also oversight and periodic reevaluation of the actual effect these laws are having in practice. All too often, I am afraid, the measures we enact either do not "work" the way Congress intended, or have a range of deleterious side effects that offset whatever good the act may be accomplishing.

In considering enactment of a measure we, of course, hear testimony from many interested members of the public. It is perhaps even more important that, in the oversight and reevaluation process, we listen to informed members of the public who are familiar with the way an act is actually working day by day.

The Subcommittee on Compensation and Health and Safety of the Committee on Education and Labor has been holding oversight hearings on the Longshoremen's and Harbor Workers' Compensation Act, and in this connection I would like to call to my colleagues' attention the following article, written by Albert J. Millus and Joseph F. Manes, entitled "The Longshoremen's and Harbor Workers' Compensation Act—A Statutory Disaster and Administrative Nightmare." This article appeared in the Insurance Advocate in April of this year.

Mr. Millus is executive director of the State Insurance Fund of New York, and also has considerable academic experience in the insurance and compensation law field. He recently testified before the Compensation Subcommittee during their hearings on this act. Mr. Manes is a practicing attorney with 25 years of specialization in the field of Federal and State compensation claims. Mr. Millus and Mr. Manes have done thorough research on this matter, having collaborated on a text book, to be published in October, entitled "The Longshoremen's and Harbor Workers' Compensation Act and Its Extensions." Their article on this subject follows, and I commend it to my colleagues:

THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT—A STATUTORY DISASTER AND ADMINISTRATIVE NIGHTMARE

(By Albert J. Millus and Joseph F. Manes)

This year marks the golden anniversary of the Longshoremen's and Harbor Workers' Compensation Act. Conceived with the best of intentions it was signed into law on March 4, 1927. But between the laying of the keel and the launching of the ship, there were many a slip so that what floated off the dry dock, in retrospect, should have been dismantled before it hit the water.

Following the passage of the original Act,[1] there had ensued a plethora of litigation for the next 35 years which defeated the concept of a self-executing statute which was intended to provide speedy medical and monetary benefits to an injured employee or his representatives with a minimum of litigation.

If legislators ever set out to write legislation which would keep judges and lawyers fully occupied for 35 years unraveling what was put together, they could not have drafted a more effective piece of legislation for this purpose than the Longshoremen's and Harbor Workers' Compensation Act.

To put the Act in proper perspective, it is necessary to review the legal history influencing the passage of the original Act and the leading decisions thereafter. The tortured tale starts with the much criticized decision in *Jensen* v. *Southern Pacific Co.* in 1917 in which the Court[2] denied benefits under a state compensation law to a widow of a longshoreman, leaving her without a no-fault remedy. During the next ten years as Jensen-type cases came before the Court, many of which on the basis of Jensen could have been decided adversely to the claimant, the Court would hold either that the matter was purely of "local concern", and hence not being "maritime" could not affect the uniformity of admiralty law or that even though "maritime," was "maritime but local." In either case, a state compensation act could validly be applied.

Not only the Court, but Congress too recognized the harsh results of Jensen. Congress tried to circumvent it by two statutory enactments which allowed the states to apply their compensation law to maritime accidents on navigable waters. The Court held both statutes unconstitutional in *Knickerbocker Ice Co.* v. *Stewart*[3] and *State of Washington* v. *W. C. Dawson & Co.*[4] In Dawson however, it told Congress how it could constitutionally provide a compensation remedy for longshoremen injured on navigable waters. Congress rose to the suggestion.

This then in a nutshell was the legal and legislative background when Congress began to hold hearings on a proposed federal longshoremen's and harbor workers' compensation act in 1926, one year before passage of the Act.

Almost immediately, the wording of the statute in regard to state compensation acts became a fertile source of litigation. Bearing in mind that the Court already allowed state acts to apply in matters of "local concern" or "maritime but local," earlier drafts of the proposed Act specifically permitted the application of state compensation acts in such cases. However, the Act, as passed, contained the clause "if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law," as a substitute for this phraseology. For the next 35 years, various district and appellate courts, including the Supreme Court, debated the meaning of this phrase. Were the federal and state compensation acts mutually exclusive? No sooner had the "mutual exclusivity" theory become generally acceptable, whereby a state's compensation act applied in maritime but local matters, than the Court established a "twilight zone" in *Davis* v. *Department of Labor* N *Industries of Washington*[5] in which either a state or federal act could apply. Apparently, the federal and state acts were either never mutually exclusive or were no longer mutually exclusive.

Congress created another fertile source of litigation when, bowing to demands of representatives of seamen, it excluded them from the no-fault compensation remedy. Claimants in most cases would seek to be adjudged seamen in order to benefit from the more favorable remedies available to seamen, i.e., a negligence action under the Jones Act (1920) or an action under the unseaworthiness doctrine. In both of these actions there is no statutory limitation on damages.

The troubled waters engulfing the Act were considerably calmed by the Court's decision in *Calbeck* v. *Travelers Insurance Co.* in 1962.[6] Calbeck in effect "repealed" the restriction in the Act that it applied only if recovery for the disability or death may not validly be applied by a state compensation law. It now applied in spite of the applicability of a state compensation act as long as the accident happened on navigable waters and the employer had one or more employees employed in maritime employment. Calbeck established the concept of "concurrent jurisdiction" between state compensation acts and the Longshoremen's Act. Seven years later in *Nacirema* v. *Johnson*,[7] the Court refused to extend the Act to maritime accidents on land. Federal jurisdiction stopped at the water's edge! Litigation was virtually brought to a standstill.

Against this background Congress in 1972 set out to amend the Act in order to upgrade the benefits, extend coverage, eliminate

Footnotes at end of article.

third party over actions against a stevedore and eliminate a longshoreman's right to sue a shipowner under unseaworthiness doctrine of no-fault liability. The end result was a trade-off of increased benefits for the relinquishment of established rights. However, saddled with the deficiencies in the original Act and overwhelmed by the monetary consideration involved in the trade-off, the final product was a poorly drafted statute, and a confused set of rules and regulations to implement it.

Confusion and uncertainty reign in every important phase of the Act such as coverage, administration, benefits, administrative decisions and, of no small significance, availability of insurance. In short, the 1972 amended Act was a statutory disaster and the rules and regulations promulgated by the Department of Labor became an administrative nightmare.

I. COVERAGE

The tranquility in litigation under the Act which took 35 years to accomplish, was shaken in one fell swoop by the 1972 amendments extending coverage landward by including within the "situs" test of navigable waters, which also included a dry dock, "any adjoining pier, wharf, . . . terminal, building way, marine railway or other adjoining areas customarily used by an employer in loading, unloading, repairing or building a vessel."

The practical results of this extension were obvious when considered in the light of the increase in compensation benefits provided by the 1972 amendment, whereby compensation under this Act exceeded that of every maritime state other than Alaska. It means that every land based accident which by any stretch of the imagination could qualify under the new amphibious Act would result in a federal claim. The myriad of cases that followed was inevitable.

Aware of the potential increase in claims under the amended Act because of land based accidents, Congress thought it advisable to state that the amended Longshoremen's Act was to apply only to "maritime" accidents. It thus established a "status" test in addition to the "situs" test. The 1972 amendments defined "employee" as a person engaged in "maritime employment," but not including a master or member of a crew of any vessel or a person engaged by the master to load or unload or repair any small vessel under 18 tons net.

Now the courts are faced with litigating 1. what Congress meant by "maritime employment" and 2. what are the parameters of accidents on land? Superimpose on these yet undefined and uninterpreted (by the Supreme Court) areas the concepts under the old Act of "twilight zone" and "concurrent jurisdiction," and the tranquility brought about by *Calbeck-Nacerima* is chured into turbulence, certainty into uncertainty, and litigation into a way of life on the waterfront.

While the Office of Workers' Compensation Programs of the Department of Labor is keenly aware of the coverage problems created by the 1972 amendments as noted in its 1974 proposed coverage guidelines,[8] more than two and a half years have elapsed and no final guidelines have been issued. Thus the maritime industry had to wait more than a year and a half for even temporary guidelines from the OWCP and is still waiting for finalization. A task force of the OWCP formed in June, 1976 recommended that general guidelines on questions of coverage be issued by the OWCP to its district offices.[9]

The absence of finalized standards has been one of the causes leading to similar fact situations regarding coverage of the Act being treated differently in different Circuits. The end result is and continues to be a geometric proliferation of cases that threatens to sink the already floundering vessel launched to provide prompt relief to injured maritime workers.

But the "standards" promulgated should be in keeping with the intent of Congress in passing the legislation being "standardized". A comparison of the pre 1972 amended Act with the post 1972 Act makes it clear that the latter established a "status" test of "maritime employment" which was not required under the original Act.[10] Thus the new Act did not cover all employees covered under the old Act. It covered only those engaged in "maritime employment". Yet the proposed guidelines of the Department of Labor[11] stated that "in amending the Longshoremen's Act Congress did not exclude any employees or areas previously covered . . ." This statement is clearly erroneous.

II. ADMINISTRATION

Statistics gathered by the OWCP prior to the passage of the 1972 amendments, indicated that approximately half of all accidents to longshoremen occurred on land. This fact alone when coupled with the increased benefits made it obvious that claims would double as a result of the 1972 amendments. As expected claims did increase tremendously after the passage of these amendments.

Injuries to covered longshoremen and harbor workers increased from 72,087 in the Government's 1972 fiscal year to 151,274 in fiscal year 1974, a 110 percent gain. In the same period, OWCP's claims activity, or case workload, rose from 19,283 to 38,358, about a 100 percent increase, and the backlog of claims increased from 2,663 to 9,772, a 265 percent increase according to a report of the U.S. Comptroller General.[12] Yet the staff of the OWCP was expanded over the same period by only 24 positions which was only a 24 percent addition to its staff.

In 1975 OWCP compounded its administrative problems by ruling that recreational boat builders and marina operators were "employees" under the Act.[13] This rule encompassed some 175,000 employers with an undisclosed number of employees thereby further adversely affecting its ability to administer the Act. The number of claims increased in subsequent years. The number of injuries reported in fiscal year 1975 rose to 166,367 and OWCP's backlog was 14,039. OWCP projected a backlog of 16,000 cases by the end of fiscal year 1976.

Injuries to longshoremen and harbor workers totaled 176,301 in fiscal year 1976 of which 101,051 or 57 percent resulted from the extended coverage under the Act.

The ancient maxim, "Justice delayed is justice denied", is not inappropriately applied, when one considers that it may well take 3 years for the claimant, in a contested case, to receive benefits.

The Comptroller General also found that: 1. The OWCP district offices are not effectively monitoring claims to assure that proper and timely compensation payments and other benefits are being provided to injured workers as required by the Act. 2. Some injured employees are not receiving payments in the amounts of time periods mandated. 3. Penalties for late reports and late benefit payments were not being assessed. 4. There were long delays in the informal processing of contested claims by the District offices and in the formal adjudication by the Administrative Law Judges (ALJ), resulting in hardships to some injured employees. 5. There were no effective programs to assist claimants processing claims or to actively supervise medical treatment as the Act intended. 6. Claimants were not being provided with legal assistance as provided for in the Act. It noted that the IWCP did not intend to establish such a program. 7. OWCP's program for vocational rehabilitation had a low priority and few claimants were enrolled in the program. 8. OWCP had failed to follow published procedures to assure adequate insurance coverage by employers for compensation payments and 9. OWCP national office had to provide more effective guidance and monitoring of the districts' program operations.[14]

Some concrete examples of the failure of OWCP to perform its assigned task are, at this point, appropriate for comment. The Second Compensation District, embracing only the States of New York and New Jersey, services as an example. In 1975 this district had a backlog of 3,799 cases, which represented an increase of 540 percent over the backlog in 1972.

The regulations governing the Act provide in part: "The Director, OWCP, through the deputy commissioners and their designees, shall actively supervise the medical care of an injured employee covered by the Act".[15] The supervision is directed to frequency, necessity, character and sufficiency of such treatment. The Director, OWCP, is responsible for the authorization of physicians to render treatment under the Act.

In a Special Report of the Waterfront Commission of New York Harbor,[16] the Commission's investigation found that a sizeable portion of the high compensation costs was due to fraudulent and exaggerated claims participated in by lay claims representatives and physicians.

One physician whose practice is largely composed of workers' compensation claimants, billed over $400,000.00 in one year for such treatment. He too, treated a fraudulent claimant and refused to testify on grounds of self-incrimination.

No disciplinary action was taken by the OWCP in any of the cases mentioned in the Report of the Waterfront Commission.

A word should be said about the view of OWCP toward the non-lawyer claims representatives. These are laymen who are not subject to any control by OWCP. At a recent conference in Washington, D.C., a representative of industry suggested that these laymen be licensed by OWCP. The suggestion was dismissed out of hand by the office of the Assistant Secretary of Labor and it is apparent that OWCP plans no action in that regard. The inability to take disciplinary action can only serve to encourage the kind of conduct outlined in the aforesaid Report.

III. BENEFITS

The 1972 amendments to the Act have enhanced, quite generously, benefits to the injured worker, his dependent survivors and others.

One of the most serious problems facing both federal and state workers' compensation boards is the issue of awards for permanent partial disability, commonly called a "schedule loss". Oft-times the disability does not result in a decrease in wages and the employee returns to work a short time after the injury. Depending on the determination of the percentage of disability, the injured worker will receive a certain sum of money for a definite number of weeks. In case after case, superficial soft-tissue injury is classified as a permanent partial disability and an award is made. These highly questionable awards for permanent partial disability where no reduction in wages results (in actual wage-reduction cases the injured claimant would be entitled to receive two thirds of the difference between his former and present wage), sap the vitality of the Act, depriving seriously injured workers of adequate and equitable compensation. Valuation of a permanent partial disability varies depending on the physician and encourages "shopping around" for a physician in the hope that a greater degree of disability will be found. To a large extent, evolution of disability depends on whether the physician is representing the carrier or claimant.

Pursuant to the regulations the deputy commissioner may appoint an impartial specialist to resolve disputed medical questions. One deputy commissioner took the position that he would have to discontinue the use of such specialists although it was perhaps the best current method of assuring that the injured worker receives all he is entitled to under the Act because referring the claimant to an impartial specialist consumed too much time. This, in spite of the fact that the same deputy noted that the use of such method did in fact reduce the overall time in handling controverted cases.

In spite of the importance of the role of the impartial specialist, the Department of Labor has issued no guidelines to objectively measure permanent disability. The American Medical Association has published such guidelines. Neither are there Department of Labor guidelines for supervising medical care or determining if an injured claimant should be transferred from the care of one physician to another.

The death benefit provided for qualified survivors, obviously inadvertently due to hasty draftsmanship, failed to include any limiting factor and directed payment to a widow or dependent widower at the rate of 50% of the decedent's average wage. One Court, in construing that question decided that the same limitation applicable to disability compensation applied to the death benefit, thereby, taking it upon itself to correct an obvious legislative oversight. Careful draftsmanship would have avoided this tour de force of correcting legislative mistakes.

In a novel approach to workers' compensation benefits the amendments now provide for death benefits to be paid to those who survive an injured worker who has a permanent total disability or a permanent partial disability and dies thereafter from any cause whatsoever. This section has been deemed to apply to those cases which arose even before the effective date of the 1972 amendments. This represents a venture into the field of life insurance not previously considered a feature of workers' compensation laws.

The rehabilitation aspects of the Act have been sorely neglected. The lack of supervision and the neglect of the rehabilitative provisions of the Act have added monumental and unnecessary financial burdens to employers doing business in the various compensation districts.

IV. ADMINISTRATIVE DECISIONS

A. Administrative law judge

The 1972 amendments and the Rules promulgated in conjunction therewith removed from the Deputy Commissioners the duty of holding formal hearings in connection with disputed claims for benefits.

While certain time frames have been set for the hearing process to be completed and an order issued, in practice this has fallen far behind schedule. It is not uncommon for a number of years to elapse between the initial claim filing and reference to the ALJ. It is also not uncommon for another year to elapse between the completion of the hearing before the ALJ and the issuance of his formal order.

B. Benefits Review Board

The 1972 amendments to the Act established another body with power to review ALJ decisions and orders. This was denominated the Benefits Review Board. This Board is comprised of 3 members appointed by the Secretary of Labor and has the duty of reviewing decisions and orders of the ALJ's office in conjunction with the Act and with similar statutes. From the number of decisions handed down by the Board, it is obvious that three individuals could not actively participate in the judicial process of deciding these cases or composing the opinions of the Board.

V. INSURANCE AVAILABILITY

But the extension of coverage was not limited only to a drastic increase in the number of claims generated. This extension in the light of increased benefits has resulted in serious problems of availability of insurance especially for small firms and marginally profitable companies. The difficulty and expense of obtaining insurance under the Act poses a serious threat to this entire industry. Due to the high benefit levels many insurance carriers have ceased writing Longshoremen's Act coverage. The problem of availability became so serious in California that a law was passed in 1976 permitting the California State Compensation Insurance Fund to write such coverage even where it was not incidental to a statewide operation, but only for a two year period which will expire July 10, 1978. The State of Washington is expected to pass similar legislation.

POSE OWN PROBLEMS

The unavailability of coverage has forced some employers into self-insurance which poses its own special problems.[17] Self-insurance, however, was never meant to be a solution to unavailability of insurance. Under those circumstances, it is like a drowning man grasping for a straw. The OWCP Task Force in its December 1976 report, suggested that recreational boat builders seek group self-insurance as a solution to the scarcity of carrier coverage. This merely emphasizes the desperate nature of their plight.

Another problem of self-insurance concerns the security bond. The uncertainty surrounding the amount of the bond to be posted and the discretionary powers vested in the OWCP in regard to the size of this bond makes the employer beholden to the OWCP.[18]

CONCLUSION

The 1972 amended Act merely compounded the defects in the 1927 Act and vitiated thirty-five years of effort by the Supreme Court ending with Calbeck, to bring harmony and order to this specialized field of maritime law. The failure of Congress to draft a statute which would clearly set out the parameters of the landward extension opened a Pandora's box of litigation and discord. Congress set forth new "situs" and "status" tests of coverage without the slightest attempt to define these concepts. But not all the blame lies with Congress. Each House set forth identical statements as to its purpose and intent. Yet, many of the decisions to date seem to totally ignore those guides. Much of the blame for the confusion and uncertainty in this field must be placed at the doorstep of the Office of Workers' Compensation Programs of the Labor Department.

OWCP was not, under the circumstances, prepared to properly administer the Act as amended. It should have been aware of the fact that the advancement of the jurisdictional limits shoreward would result in an avalanche of cases not previously subject to coverage. The elimination of the unseaworthiness doctrine as a basis for a longshoreman's claim against a shipowner and the insulation of the stevedore from a claim over by the shipowner, should have provoked an awareness on the part of OWCP that claims would substantially increase. It failed to publish adequate and finalized guidelines on the expanded coverage of the Act. It failed to provide for adequate personnel to handle the anticipated onslaught and waited some four years before establishing a Taskforce to remedy the deficiencies of the Act and its regulations.

The intent of any workers' compensation statute is to provide quick payment of benefits and afford speedy and competent medical assistance, at little or no expense, legal or otherwise to the injured worker. This goal has not been met. The OWCP has been egregiously remiss in the adjudication of claims. The adjudicative process must be speeded up. Today it takes the OWCP 270 days to process a claim. An efficiently run Bureau could do the job in one-third the time. We should demand no less from the Federal Government. OWCP must promulgate the necessary rules and regulations to accomplish this purpose.

In regard to the rehabilitative aspects of the Act, the patent incongruities of the statute and the OWCP rules and regulations should be eliminated. Rehabilitation provided for under the Act should be vigorously implemented. OWCP is on notice as to the abuses in some jurisdictions chargeable to claims representatives. A licensing program should be instituted immediately so some degree of control over the actions of these individuals can be maintained.

It should encourage and expand the utilization of the impartial medical examiner system. Steps should also be taken to withdraw the authorization of those physicians who have demonstrated their unfitness to treat or examine injured workers.

The amount of litigation in this field is directly traceable to the disparity in benefits between the Act and the state compensation laws. As long as the benefits under the Act are far superior to all states but Alaska, a multitude of claims will be brought under the Act.

Therefore, it is imperative to fix the boundaries of the landward extension and what constitutes "maritime employment." Congress failed to do so within the Act itself. As a result of the increase in litigation, the Administrative Law Judges have not been able to keep pace with the avalanche of cases and the Benefits Review Board, consisting of only three individuals cannot possibly give this voluminous number of cases the attention they merit.

Unless the Supreme Court sets a reasonable boundary on both the "situs" test and the "status" test the disparity between the benefits under the Act and those of all the states other than Alaska, will lead to unprecedented litigation under the Act everytime a worker with only a slight and remote connection with maritime activities is injured. France was once known as a nation of shopkeepers. America is fast becoming, if it is not already, a nation of litigants. The Longshoremen's and Harbor Workers' Compensation Act should not become a popular vessel for such litigation.

The Labor Department, OWCP, aside from addressing itself to the specific problems raised herein can immediately take the following steps to bring under control, a program that is now totally out of control:

1. Adequately train OWC employees in the handling of claims.

2. Through increased productivity and increased personnel where appropriate, reduce claim processing time to $^1/_3$ of that presently required.

3. Preparation of a manual of operations to effectuate uniformity throughout the country.

4. A specific time table from the time of the filing of a claim, to the time of hearing

Footnotes at end of article.

and the time of decision to speed up adjudication.

5. Exclusion in inland recreational boat builders as long as no work is done on navigable waters.

6. A retraining of all AL's to develop a uniform approach within the framework of congressional intent and the law's interpretation by the Courts so that awards are within the range of reason consistent with injuries suffered and not rewards.

7. The Benefits Review Board should be reformed or eliminated.

The implementation of the reforms suggested herein by no means guarantee the success of this Act, but will cure many of the defects resulting from the haste with which the Act was drafted and the indifference with which it was executed.

Finally, no discussion of the reformation of the Longshoremen's and Harbor Workers' Act would be complete without mentioning the disparity of benefits between the Act and the laws of all of the states except Alaska. The disparity is the root of all coverage disputes involving on-the-job injuries. It goes to the heart of the problem of availability of insurance as well.

Congress in passing the Amendments in 1972 gave little thought to their ultimate cost.

In the final anaylsis, assuming appropriate reforms are instituted, such as the scheduling of permanent partial injury benefits, the success or failure of the Act will depend on how it is applied by the adjudicating bodies. Obviously, success or failure will also depend on whether the employers subject to the Act are able to absorb the costs of the increased benefits and the overly liberal awards.

The fate of the shipping industry in America is indeed hanging in the balance.

FOOTNOTES

* All references to the "Supreme Court" or "Court", should be read as United States Supreme Court.

[1] Public Act No. 803—69th Congress, 33 U.S.C. Sec. 901 et seq.

[2] 244 U.S. 205, 37 S. Ct. 524(1917).

[3] 253 U.S. 149, 40 S. Ct. 438 (1920).

[4] 264 U.S. 219, 44 S. Ct. 302 (1924).

[5] 317 U.S. 249, 63 S. Ct. 225 (1942).

[6] 370 U.S. 114, 82 S Ct. 1196 (1962).

[7] 396 U.S. 212, 90 S. Ct. 347 (1969).

[8] Federal Register, Part III, Vol. 39, No. 101, May 23, 1974. (20 CFR Part 710).

[9] U.S. Department of Labor, OWCP Task Force Report, December 1976.

[10] Pennsylvania R. Co. v. O'Rourke, 344 U.S. 334, 73 S. Ct. 302 (1953).

[11] Note 8 supra, at 20 CFR 710.2(c).

[12] Report to the Senate Committee on Labor and Public Welfare by the Comptroller General of the United States, January 12, 1976.

[13] U.S. Department of Labor, Office of Workers' Compensation Programs, Notice No. 21, June 6, 1975.

[14] Note 12 supra.

[15] 20 CFR 702.407.

[16] Special Report of the Waterfront Commission of New York Harbor to the Governors and Legislatures of the States of New York and New Jersey, December 1976.

[17] See A. Millus and R. Tarangelo, Self-Insuring Workmen's Compensation—Fact and Fiction. Risk Management—May 1974.

[18] 20 CFR 703.301,2,3.

PERSONAL EXPLANATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. YOUNG of Alaska. Mr. Speaker, on Wednesday, October 6, 1977, I was participating in the unveiling program for the late Senator Ernest Gruening in the Rotunda of the Capitol. I missed rollcall No. 627, an amendment offered by Mr. ERLENBORN to the Labor Reform Act, H.R. 8410. Had I been present, I would have voted nay.

THE 1977 LEGISLATIVE QUESTIONNAIRE RESULTS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ARCHER. Mr. Speaker, earlier this year, all of the residents of the Seventh Congressional District of Texas were asked to respond to a series of 20 questions regarding legislative issues before the Congress.

The high degree of interest in these issues among my constituents resulted in my receiving responses from 43,010 people. I would like to share the results of my 1977 legislative questionnaire with our colleagues in the Congress, so that they might, too, benefit from this input from so many concerned citizens:

QUESTIONNAIRE RESULTS

GENERAL LEGISLATION

1. Should the U.S. provide financial assistance to Vietnam?

	Percent
Yes	6.8
No	93.2

2. Do you favor production of the B-1 bomber?

	Percent
Yes	71.5
No	28.5

3. Should the use of marijuana be decriminalized?

	Percent
Yes	41.5
No	58.5

4. Do you favor "instant voter registration" at the polling booth on election day?

	Percent
Yes	17.4
No	82.6

5. Should Congress restrict the power of the FDA to ban food additives such as saccharin?

	Percent
Yes	61.6
No	38.4

6. Do you support Section 14(b) of the Taft/Hartley Act, which permits states to pass "right to work laws?"

	Percent
Yes	88.7
No	11.3

7. Should the federal government impose penalties on employers of illegal aliens?

	Percent
Yes	77.1
No	22.9

8. Should members of our armed forces be allowed to unionize?

	Percent
Yes	3.5
No	96.5

9. Do you agree with the Carter Administration's overall handling of foreign affairs?

	Percent
Yes	37.3
No	62.7

10. Should the Hatch Act be changed to permit federal government employees to participate in partisan political activities?

	Percent
Yes	22.6
No	77.4

ENERGY ISSUES

11. Should Congress adopt President Carter's energy plan without changes?

	Percent
Yes	8.7
No	91.3

12. Do you favor the proposal to increase gasoline taxes?

	Percent
Yes	23.6
No	76.4

13. Do you approve of the proposal to assess taxes and give rebates, based upon the EPA fuel efficiency rating of new cars?

	Percent
Yes	39.5
No	60.5

14. Should natural gas be deregulated?

	Percent
Yes	83.0
No	17.0

15. Do you favor rapid mandatory conversion to coal as the chief energy source for electric utilities and industry?

	Percent
Yes	59.6
No	40.4

16. Would the break up of major oil companies help ease the energy shortage (vertical divestiture)?

	Percent
Yes	11.3
No	88.7

17. Should oil companies be prohibited from entering into the development of other energy sources (horizontal divestiture)?

	Percent
Yes	11.3
No	88.7

18. Do you agree with the President that his conservation program is "fair and equitable" to all sections of the country?

	Percent
Yes	14.0
No	86.0

19. Do you favor continued construction of nuclear power plants in the U.S.?

	Percent
Yes	85.8
No	14.2

20. Do you favor development of the fast breeder nuclear reactor?

	Percent
Yes	75.7
No	24.3

CONGRESSMAN WILLIAM D. FORD LAUDS EFFORTS OF EDUCATION COMMISSIONER TO REDUCE PAPERWORK

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. FORD of Michigan. Mr. Speaker, as chairman of the Subcommittee on Postsecondary Education and the ranking member of the Subcommittee on Elementary, Secondary and Vocational Education, I am acutely aware of the paperwork burden that Federal regulations

place on institutions and on individuals, both in terms of time and money.

The Carter administration, I am pleased to report, has been extremely responsive to this problem and has taken a number of steps to alleviate the burden.

This week, in fact, Commissioner of Education Boyer announced important steps which will complement earlier actions aimed at reducing the amount of paperwork the Office of Education has been requiring of fund recipients.

Specifically, the Commissioner ordered that the amount of paperwork required of school officials be reduced by 50 percent and announced a new, simplified application process for discretionary grant funds.

The actions follow several significant earlier efforts which include:

The establishment of a Bureau of Student Financial Assistance to consolidate the management of Federal student assistance programs;

A major reorganization of the Office of Education to increase efficiency and accountability;

The implementation of a simplified procedure for applying for student aid by eliminating the necessity of some 2.5 million families to file Federal forms;

The introduction of a common date for applying for such assistance; and

The establishment of a simplified procedure governing institutional application for campus-based student assistance funds and considerably reducing the length of the application form.

Mr. Speaker, certainly Commissioner Boyer deserves the commendation and applause of all of us concerned with the "redtape" issue for his leadership. I am also extremely impressed with the supportive role Secretary Califano has played and with his announced commitment that HEW make an exemplary contribution to the President's goal of reducing unnecessary regulation and intrusion by the Federal Government .

At this point, I would like to insert in the RECORD the HEW news releases explaining the most recent actions of the Secretary and the Commissioner:

HEW Secretary Joseph A. Califano, Jr., commended Commissioner of Education Ernest L. Boyer today for actions reducing the Federal paperwork burden and instructed the heads of all other HEW agencies to speed up their attempts to identify and eliminate unnecessary paperwork.

"President Carter committed to reduce the Federal paperwork burden by 7 million hours," the Secretary said. "With this action, HEW alone will have reduced this burden by 6.1 million hours. By the end of this year, HEW will order other paperwork reductions that alone will fulfill the President's commitment."

"Dr. Boyer is taking major steps to relieve institutions and individuals of unnecessary and duplicative reporting," Califano said.

In an action taken today, Commissioner Boyer ordered an overall 50 percent reduction in reporting required of most Office of Education grant recipients—reducing by an estimated 300,000 hours a year the time needed by grant recipients to prepare OE reports.

In May, Boyer had announced a simplified student aid procedure eliminating the need for more than 2.5 million students and their parents to file duplicate Federal forms requiring at least two hours work each, or a total of 5 million hours work. In a separate action, the Office of Education has also reduced the required amount of information on 17 other OE forms, with estimated savings of 800,000 hours work for those required to fill them out.

"This is an excellent example of what can be done in this area," Califano said.

Secretary Califano asked HEW agency heads to report back to him within 45 days specifying those reports and forms which can be eliminated, submitted less frequently, or shortened.

"President Carter is committed to reducing unnecessary regulation and intrusion by the Federal Government. I intend for HEW to make an exemplary contribution to this goal," Califano declared.

Califano emphasized that a certain amount of reporting was necessary to monitor program performance and to prevent fraud, abuse, and error.

"Only reporting that is clearly related to effective, honest program administration should be required," added the HEW Secretary.

HEW NEWS

U.S. Commissioner of Education Ernest L. Boyer today ordered an overall 50 percent reduction in the paperwork that HEW's Office of Education (OE) has required of school officials.

The paperwork reduction order was the third such action this year taken by Dr. Boyer. Last May the Education Commissioner announced a simplified student financial aid procedure that eliminated the need for more than 2.5 million students to file duplicate Federal forms. OE has also reduced the amount of information requested on 17 other forms.

The Office of Education now collects 67,000 reports and forms each year to administer 108 programs for elementary and secondary schools and institutions of higher learning. The preparation of the reports and forms in the 1976 fiscal year took an estimated 600,000 work hours. Dr. Boyer's proposal will cut the number of items required to about 31,000, and reduce the number of work hours involved in their preparation to an estimated 300,000 hours. Also a regular schedule for reporting will be established.

"In the past," Dr. Boyer said, "each program within OE decided how many reports it wished to collect. Some programs collected reports once a month, others three or four times a year. School districts with several OE programs seemed always to be filling out forms of one sort or another.

"The time and money spent by schools and colleges on the excessive reporting process can now be turned back to help students get a better education. This is what Federal aid was intended for and we are determined to see that the intent of the law is carried out. Further we should not be collecting more forms than we can read and evaluate with care."

As an example of the current paperwork burden that has been placed on school officials, Dr. Boyer pointed to the Arts and Humanities Program, which administered 89 grants in Fiscal Year 1976. These grants produced 712 reports, which the Commissioner said will now be reduced by at least 445 reports. This in turn will save nearly 5,000 work hours of report processing on the local and State levels.

"It is time," Dr. Boyer said, "for less quantity in paperwork and more quality in education. While we've made a start, I am still not satisfied. I believe more paperwork reductions can be achieved. Our goal is just one program report annually, one financial and administrative report annually, and a final report when the project is completed."

He pointed out that there may be some exceptions to the rule because of laws mandated by Congress or special requirements by the program. But he said that the number of exceptions will be very few. Commissioner Boyer said OE will announce soon which programs will be limited to annual reporting requirements and which will be allowed, because of special circumstances, to collect information more frequently.

CURRENT GRANTS/REPORTS STATUS

Offices/bureaus	Total grants processed, fiscal year 1976	Total reports received	Proposed frequency of reports reduction	Reports saved
IOC:				
Arts and Humanities	[illegible]	712	267	445
Teacher Corps	249	2,988	747	2,241
Women's Program	66	792	198	574
Career Education	109	654	327	327
Right to Read	280	2,423	840	1,583
Bilingual Education	715	4,120	2,060	2,060
Subtotal	1,508	11,689	4,439	7,250
Higher and Continuing Education	5,070	14,287	6,471	7,816
Indian Education	1,455	5,494	2,747	2,647
Occupational and Adult Education	715	1,698	715	983
Education for the Handicapped	1,419	2,153	1,419	734
Elementary and Secondary Education	14,832	31,702	15,523	16,179
Total	24,999	67,023	31,314	35,709

HEW NEWS

For the first time, HEW's Office of Education will publish a single notice of closing dates to apply for discretionary grant funds under a majority of its programs, U.S. Commissioner of Education Ernest L. Boyer announced today.

The published announcement covering nearly all of its 108 programs for Fiscal Year 1978, Dr. Boyer said, will appear in the Federal Register within the next few days. However, he added the announcement will not cover aid to students attending postsecondary schools.

"Most grants have previously been made late in the fiscal year, often after the school year begins," Commissioner Boyer explained. "Our new procedure will speed up the process and the majority of grants will be awarded by the end of June each year."

OE has been operating on a fiscal year, set up by Congress, which closes on September 30.

Under the new procedure, an applicant will receive 60 to 120 days to fill out an application, as compared with the previous 30-day requirement. The new procedure also

will provide one key source for information and one publication announcing the frequency of reports and other grant requirements.

This is another move to cut down on the paperwork OE had been requiring of its grant recipients.

The single notice will also:

Provide an early notice to applicants.

Allow applicants more time to develop proposals.

Provide grantees with early notice of approval so that they would have more time to recruit and hire project staff.

"These steps" Dr Boyer said, "represent a major improvement in the OE grant process that will be very valuable to the education community."

Closing dates for application filing will be based on an applicant's need to receive an award by a specific date. If the date is April 1, for example, the closing date will be set early enough to process the application and respond to that particular date.

The single notice will also allow OE program managers to schedule their workload and eliminate the end-of-the fiscal year crises, provide more time to the OE Grants and Procurement Staff for negotiations, and equalize the number of grants awarded each quarter of the fiscal year.

The only programs planned for omission from the single notice are those for which regulations, which govern the applications, are still being developed. Closing dates for these programs will be published as soon as possible.

NEW GRANT APPLICATION PROCESS

1. Publish list of all OE programs—Oct. 1.
2. 60 day preparation versus current 30 day requirement.
3. Deadline dates for filing aplications.
4. Most grant awards announced—June 30.

ALPHA DELTA KAPPA SORORITY

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mrs. SPELLMAN. Mr. Speaker, just last year, it was my great honor to have been selected by the Alpha Delta Kappa Honorary Sorority for Women Educators to be its Honorary Member from the State of Maryland. I am especially proud to have been so singularly designated, because this organization, comprised of over 400 educators in our state and over 69,000 internationally, sets as one of its primary goals the improvement and strengthening of education for all children.

Alpha Delta Kappa was organized in 1947, and has grown past its national status to become international in its scope. The 19 Alpha Delta Kappa Chapters in the State of Maryland have directed the energies of its members toward providing incentives for the completion of educations through charitable and benevolent projects, developing programs for enrichment of the daily lives of our citizens, and promoting high and professional standards in education.

Mr. Speaker, as a former teacher and one who is committed to excellence in education, I feel privileged to be a part of an organization which believes that through education, our Nation can lead the way to a more peaceful world for all people. The period between October 9 to 15, 1977, is Alpha Delta Kappa International Week, and I am certain the Members of this House join me in recognizing the great contributions this organization has made toward the advancement of education, and in saluting those who care enough about our country's future to believe that the enlightenment of our children must be our highest priority.

MRS. HELEN POTEPAN—A CIVIC STAR

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. HANNAFORD. Mr. Speaker, it is my pleasure to spend the next few moments speaking of a lady I look upon with warm regard. Her name is Helen Potepan, and she is to a large degree responsible for my interest and involvement in the governmental process.

She will be packing her bags and retiring from the political scene this month, and when she does the Long Beach-Lakewood area of California will be losing one of its greatest civic activists.

It was Helen Potepan, native of Long Prairie, Minn., and Californian since 1941, who first encouraged me to "Walk a precinct" for a local office-seeker back in 1954. Of course, I have since performed that function a number of times for many other candidates and on my own behalf. Her political enthusiasm has similarly infected others in the Southland, many of whom have pursued careers in public service.

Helen first exercised her right to vote in 1942 and has not missed a Federal, State, or local election since. More important, though, is the fact that she has worked in every national and State campaign starting with the Truman-Dewey contest of 1948, and she has held both elective and appointive political party offices during nearly all of these years.

Mr. Speaker, Mrs. Potepan and her partner of 30 years, Allan, have been active in community affairs for the same length of time. Helen has been particularly helpful to the American Red Cross and the American Cancer Society, though various political groups have always wondered how she finds time for such important social causes when so many of her hours are devoted to area politics.

In addition to the aforementioned pursuits, the hard-working Mrs. Potepan has been a deputy registrar of voters since early 1960 and can claim responsibility for the registration of thousands of eligible citizens.

I say goodbye to Helen Potepan reluctantly, but with the assurance that her new neighbors in another part of California will stand to gain from her vast experience and her selfless desire to share it. I wish her and Allan well.

CONTROL OF NUCLEAR TECHNOLOGY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DERWINSKI. Mr. Speaker, there is much controversy across the country and between the majority in Congress and the administration on the subject of nuclear technology.

An editorial, carried in the Chicago Daily News of September 28, very properly makes the point that there should be more effective control of nuclear technology, since logically, we cannot ban nuclear development.

The editorial follows:

NUCLEAR SPREAD: CONTROL IT, DON'T KILL IT

It takes little imagination to see that nuclear technology spread to generate power for an energy-hungry world could end up producing bombs for the arsenals of every two-bit tyrant. But, as we noted yesterday in an editorial about breeder reactors, Americans do not have to sacrifice the atom at the altar of apprehension.

The fact is that attempts to prevent development or dissemination of nuclear technology are ineffective. The effort should be to control its use, not to bar its spread.

A step in that direction came last week when the United States and 14 other nations signed a pact that would make it possible to export nuclear technology and materials with adequate safeguards against misuse.

It is a hopeful development

We need similar realism at home. Fears about health and safety have led to multiple layers of regulations that make it almost impossible for a nuclear power plant to go into operation in less than 10 years. A coal-fired plant takes only six years.

Utilities are, therefore, beginning to go for coal. There is a steep decline in new orders for nuclear reactors. Some pessimists even say the industry may disintegrate if the trend continues.

President Carter, who opposes the plutonium breeder reactor but acknowledges we must use more conventional reactors, is aware of the unfair competitive handicap imposed on the nuclear industry. He is working on legislation to reduce the lead time to six years. This would be done by streamlining procedures, not by weakening necessary safety requirements.

Under any reasonable scenario, we will be forced to depend on more and more nuclear power for at least the next two decades. So it's only reasonable that we remove unreasonable obstacles.

The question that ultimately needs to be settled is not whether nuclear power is safe. The hazards exist; they must be dealt with. Beyond that, it is really a question of weighing benefits against risks, and then deciding how much risk, if any, is acceptable.

If nuclear power fizzles out, it should fizzle out because the cost is too high, or because the environmental impact is unmanageable. It shouldn't have to go out strangled by red tape or lynched by irrational emotion. We must keep all our energy

options alive—including the nuclear one—until we can make a decision commensurate with our needs at home, our responsibilities abroad and our hopes as a nation devoted to peace. To do otherwise would be premature, foolish and dangerous.

COLUMBUS DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of California. Mr. Speaker, on Monday, October 10, the people of the United States will celebrate a national holiday honoring a man whose mission, courage, and perseverance became responsible for a major turning point in world history. For it was on October 12, 1492, that the arduous 33-day voyage of the *Ninà*, *Pinta*, and *Santa Maria* finally came to an end. Christopher Columbus, the navigator from Genoa, had discovered the New World.

Traditionally, Columbus Day has been celebrated by our citizens of Italian descent to honor their brave countryman. And in our Nation of immigrants, Columbus is seen as the original traveler to our shores. Certainly, it is a day which can be shared by all Americans, because it was Columbus who set into motion the events which marked the age of exploration, the colonization of the New World, and eventually the birth of a new world order.

When we look back at Columbus' discovery, we can only wonder at the sheer bravery he exhibited in setting sail across the Atlantic Ocean. Convinced that the world was round, Columbus believed he could establish a new trade route to the Orient by sailing across the sea directly to India. In effect, he set out to prove a theory which was far from accepted by the pundits of his day.

His voyage has been compared to those of the astronauts as they broadened the boundaries of man's knowledge. Yet in many respects, the achievement of Christopher Columbus was even greater. He did not know what he would find on the other side of the sea; he could not know how far he had to travel, or how long the voyage would last. By modern standards, his ships were small and poorly equipped. But he set forth with his conviction that the world was round, and in doing so opened up a new world for his growing civilization.

Columbus was the first person to reach the New World when man had the capability to explore, colonize, and exploit it, although earlier explorers had sighted its coast. Thus, he can truly be regarded as the discoverer of the Americas.

He has become a symbol as well. Certainly, the day celebrated in his honor is a time to recall the many contributions made by Italian Americans throughout our history. I am honored to have a sizable Italian-American community in the Congressional District I represent, and I know that in many ways Columbus Day has a very special meaning for them. Throughout the birth and development of the United States, men and women of Italian descent have played an important role. One of the signatories to the Declaration of Independence, William Penn, was the great-grandson of an Italian immigrant who was one of the original settlers of Maryland.

We are all descended from immigrants, and certainly Columbus symbolizes the spirit and drive that brought our forefathers to this Nation. This is why Columbus will always remain a very special figure in our history, for the qualities that led him across an uncharted ocean are the same which have marked our development as a nation and as a people.

COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. RODINO. Mr. Speaker, once again I come before my colleagues who represent every place in America to talk about the national holiday we will all celebrate on October 10. Columbus Day, as most of you know, is a time very close to my heart. In the year I entered Congress, 1949, I introduced legislation to make the day that Christopher Columbus discovered the New World a national holiday. Nearly 20 years later, on June 28, 1968, Lyndon Johnson signed the Monday Holiday Act into law with my bill included as one of the 2 days of the year honoring only one man.

Christopher Columbus was a complex man, courageous and eager for action and adventure, yet he was also a very sensitive man of deep faith. It was his faith and self-determination which enabled Columbus to obtain support for what so many considered an improbable or impossible venture. With his prayer upon departure, "Jesus and Mary be with us on the way," this undauntable man of faith began the voyage on September 9, 1492, that was to benefit future ages and to change the course of human civilization.

To celebrate Christopher Columbus the man is sufficient reason, in and of itself, to justify a national celebration. However, this coming Monday America will celebrate much more than the discovery of our continent. It is the timeless spirit of Columbus that has meaning for us in 1977. Columbus was the prophecy of America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many people have since turned for refuge and hope.

We are truly a nation of immigrants, and on Columbus Day, we pay tribute to the virtue of perseverance against the paralysis of baseless fear. I remind my American friends of Italian descent during this joyous celebration of Columbus Day, that were it not for the Spanish Queen who supported his venture, the Portuguese mapmakers who guided him, and the various Europeans who manned his ship, the great Italian explorer would never have made his famous discovery. And his lasting accomplishment was his inspiration to those who came after him—those people of every race, color, and, creed who landed on our shores and became responsible for our country's growth and greatness.

Columbus Day should make us ever more proud of our roots and respect the ways of life of other peoples. The more we learn about each other's heritage, the more American we truly become. This past week, Mrs. Mondale and I had the great pleasure of opening the American Folklife Festival in Washington, which celebrates all the traditions of ethnic America. By honoring America's various cultures, we honor the spirit of discovery, invention and exploration exemplified by Columbus.

It is not difficult to update the story of Columbus to make it meaningful for our own lives. That explorer fought tenaciously to distill truth from myth and once he found truth, to make it triumph. At a time when we are faced with the fears of domestic crime and the possibility of international nuclear holocaust, of the deprivation of our urban poor, of the bitter hardships of the unemployed and the neglected elderly and disadvantaged, we must rededicate ourselves toward a voyage of progress, to improve our human condition, to eliminate the undenied inequities which exist in our country and to find means to eradicate the sources of poverty, unrest, and divisiveness. These are goals not unlike those set by the immigrants who have made America great.

Like the Italian navigator who pressed onward in his quest for the New World, let us find a resurgence of the spirit of Columbus to meet the challenges of our times.

NGAUS POSITION PAPER ON U.S. MILITARY POSTURE

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MONTGOMERY. Mr. Speaker, the National Guard Association of the United States has recently developed a position paper on the U.S. military posture and the short war strategy. In view of the ongoing consideration and changes in our national security and international relations policies, I feel we should have the benefit of all responsible views. Because of its timeliness, I include the following position papers on military posture by the NGAUS for the information of my colleagues:

A POSITION PAPER BY THE NATIONAL GUARD ASSOCIATION OF THE UNITED STATES ON U.S. MILITARY POSTURE AND THE SHORT WAR STRATEGY

It has long been the practice of this Association to stand shoulder to shoulder with our national leadership on the broad outline of the United States military posture. From time to time we have differed with the Department of Defense on the avenues of approach, but only rarely have there been serious differences as to the objective.

However, it has never been the policy of this Association to forego the opportuntiy for dialogue on major issues confronting us, especially when those issues have significant implications not only for our own membership and their special interests, but for the vital interests of the nation at large.

We have watched, with mounting concern, the emergence of a military strategy which, for the want of a better name, is most commonly referred to as "the Short War strategy." We have seen it develop from one of several alternate strategies to become, in effect, the strategy.

Or, at least, "the strategy" for the employment of United States conventional forces—a subject which represents our primary concern. Today, it appears that the short war strategy is totally accepted, embraced not only by Defense systems analysts, but by military theoreticians in quasi-governmental think tanks and even by many members of the Congress.

We believe the time has come to challenge the wisdom, the efficacy, the viability and even the political propriety of the short war strategy. Obviously, we do not know all of its ramifications. But what we have been able to glean from published literature on the topic, and through countless conversations at the unclassified level, leaves us totally uncomfortable. It is a strategy which appears to commit the United States to the peculiar premise that we may have to squander our most precious resources in order to obtain a dubious stalemate, in the event of a war in Europe.

With respect to our conventional forces, current Defense thinking is clearly dominated by the perceived requirement that we be prepared to fight in Europe against the Warsaw Pact in a war which would be concluded in 30, 60, or 90 days—depending upon which Defense expert you listen to.

The short war strategists describe two basic contingencies. The first is a no-warning or short-warning attack initiated by deployed and ready Warsaw Pact divisions currently located in East Germany, Czechoslovakia and Poland. The other is an attack by those same forces but reinforced, primarily from the USSR, after a short period of mobilization and deployment.

These possible cases, it was noted in the "FY 1978 Annual Defense Department Report," "continue to be the most appropriate for the purpose of generating the United States conventional [forces] posture." The Report states that as far as can be determined "the Soviets plan for a short, violent, fast-moving attack on NATO which, if not successful, would burn itself out in a relatively short time."

We find it hard to believe that the Soviet strategy would call for launching an attack which they did not believe they could sustain to a successful conclusion.

In fact, the Russians have an impressive land force capability. They have major troop concentrations close to what might be termed the potential main battle positions. They have the advantage of relatively secure interior lines of communications to enhance their reinforcing capability.

What this suggests to us is that if their initial thrust failed to shatter the NATO defense, they would be in an excellent position to phase into more protracted warfare.

Assume, on the other hand, that they drove their initial thrust home and destroyed our deployed forces or drove them off the continent. What next? Would we attempt to return? With what? Would Soviet occupation—or domination—of all Europe satisfy their imperialistic thirst? They need raw materials and resources. Would the Middle East and Africa soon go the way of Western Europe?

Where we would be left if the short war strategy failed, is a chilling prospect to contemplate.

The conventional military forces of this nation are tailored—and constrained—by the fact that it has become economically and politically expedient to put all of our land force resources in the short war basket.

This short-war theorizing has given rise to the theme that it is now pointless to sustain forces, active or reserve, which cannot be "on the line," in Europe within 30, 60, or 90 days.

This notion has a substantial impact upon the future of the National Guard. It has, we submit, a profound meaning for the American people.

We and many of our military colleagues believe it is fallacious, perhaps even suicidal, to sell ourselves on a risky military strategy that cannot offer a good assurance of victory and may even be incapable of achieving anything more than a stalemate.

How did we arrive at the short war strategy? Is it a viable strategy or is it lulling the nation into a false sense of security? It may be the path of least resistance to contemplate at the worst a war that will be over and done with in 30, 60, or 90 days!—but is it a rational strategy on which we want to stake the survival of the nation?

In the aftermath of Vietnam, to think of protracted warfare is to think of the unthinkable. Is it any more unthinkable than a stalemate . . . or worse?

A respected former director of the Defence Intelligence Agency, Lieutenant General Daniel O. Graham, recently wrote of the effects of what he terms "an eclipse of strategic thinking *per se* in the United States." We share his concern. We also find another comment by the now-retired General Graham as relevant to this discussion. He identifies a "basic point" upon which "doves" and "the bulk of the hard-liners" agree.

This "basic point" of agreement is that "the Soviet Union has not been building up its military power for the inherent purpose of launching an unprovoked attack against Western Europe." He goes on to ask, "doesn't their pursuit of overall superiority portend a vigorous strategy of political, economic, and small-war action backed by an intimidating military establishment?"

This appears to us to be another way of saying that the Soviet Union is expanding its potential array of military options, while we foreclose on every one but the most improbable. We think that the short war strategy is an artificial solution, superimposed upon the mood of the Nation in the wake of the war in Southeast Asia. We find ourselves in agreement with General Graham and those who are suggesting that we are confronted with a broad enough range of issues "to form the base for a sensible dialogue on national strategy."

The short war strategy has brought about a sort of revolution within the military. Its most worthwhile by-product is the sense of urgency which it has instilled at all levels. Military people talk about the importance of being ready to fight and win the first battle. They talk about the array of forces we need to "be prepared to fight outnumbered, and to win."

It has given a real sense of meaning to the evolution of the Total Force policy and the conviction that the Guard and Reserve would be used alongside the Active forces to provide rapid reinforcement capabilities.

It has caused the Services to seek new ways to improve the readiness of the Guard and the Reserve. They have launched high-visibility programs that are costly in terms of Active manpower and time: affiliation, roundout, mutual support. There has been an interface of active military people with Guard and Reserve counterparts on an unprecedented scale.

On the negative side, however, the near-obsession with the short war theory has created a very clear understanding that Defense is interested only in those units which can be deployed in accordance with one of the early deployment scenarios. We constantly hear talk of the need to "purge" the system of those units which contribute only marginally to the NATO requirement—and that requirement is neatly tailored to short-war thinking!

It is this sort of discussion which leads us to conclude that the short war strategy is strewn with pitfalls for the Guard. More important by far, it is a no-win strategy that fails to serve the best interests of the nation.

What if the short war strategy is put to the test—and fails? The warring sides, we are told, could well batter away at each other for several weeks to no decision. Both would be spent and shattered. Manpower losses and equivalent shortages would be staggering. The Reserves presumably would have been mobilized, deployed and expended along with the Active force in this short, violent encounter. Since there would be little left in the United States to mobilize (and not nearly enough time to turn on the Selective Service pipeline), the emphasis would move from the battlefield to the bargaining table, according to short war proponents.

Efforts then would be launched to negotiate a political settlement. This, it might be observed, is a case of putting the Clausewitzian cart before the Stranglovian horse! Until now, in the course of world diplomatic history, it has been the traditional practice to engage in all possible political negotiations before nations resort to combat. Warfare was regarded as the extension of the diplomatic process, not the precursor.

The obvious question which suggests itself is what happens if we allow ourselves only the resources to fight a 30, 60, or 90 day war? What would be the effect upon us if the war were to turn into a more protracted affair?

Senator George L. McGovern, with whom we differ on many issues, has noted that "in the event of protracted war, even the relative economic vitality of the United States and its adversaries could easily be the decisive factor." We think the Senator put his finger on an issue cogent to a discussion of the shortcomings of the short war strategy.

Circumstances have forced us to contemplate what the Army leadership has sloganized in an effort to put the best possible face on a tough situation—the possible need for U.S. forces to engage in a "come as you are" war. This has been forced upon us by dwindling defense production lines, by the long lead time to procure new items of equipment, by the staggering loss of modern equipment in Southeast Asia, and by the stream of weapons and machines preempted by foreign military sales and/or foreign military aid programs.

As a result, units are being told to expect to go to war, if called, with whatever equipment is actually in their possession in peacetime.

Shattered is the Guardsman and Reservist's long-cherished dream of being issued shiny, new, modern equipment upon mobilization. There is a simple explanation for this: it is impossible to issue what you do not have. And so communications and electronics experts have been called in to explain how, with ingenuity, old-family radios can be made to net with new-family radios. The refurbished 20-year-old M48 tank has been upgraded by "rebuild" to become a combat asset alongside the standard M60.

The "short war" can be fought only as long as the equipment, the spare parts and the ammunition holds out. It would be an unprecedented war for the United States forces in that it would have to be fought with whatever materiel we have on our shelves. Whether it is 30, 60, or 90 days, there would be no time to gear up the industrial production base, no opportunity to produce new armaments or equipment in time to influence the action.

This strikes us as being like having a champion boxer fight a title bout with one arm tied behind his back. For what it denies to the U.S. is the capacity that has always been the long suit of the U.S.—our unparalleled ability to expand a normal peacetime industrial production base to wartime assembly and production lines capable of staggering output.

The advantages of this unique capability are denied to us in the short war strategy. Is this a prudent, acceptable risk?

The history of the past three decades forces us to conclude, along with many others, that the military strategy of the United States must be made more flexible. Its intense fixation on the "worst possible case" NATO defense requirement is a major flaw because it appears to exclude all possibilities. It has been ably pointed out by Professor Eugene V. Rostow that "there is no way for the United States to draw a Maginot line" around favored areas such as Western Europe while we "let the rest of the world go hang."

Clearly, the USSR has demonstrated in Angola and elsewhere in Africa, that it has the capacity to outflank such a strategy. The emergence of "Eurocommunism"—the specter of strong, native Communist parties capable of seizing power legally in Italy, Portugal and France and in several of the Scandanavian nations as well—suggests to us that the real nature of the Soviet threat is far more complex and dangerous in some respects than the idea of a Russian frontal assault across the German plains.

This leads us to ask how we can justify sustaining a military strategy which does not at least contemplate, and plan for, the serious possibility of protracted warfare, of multiple small wars, of operations in places and under circumstances which seem to be the logical consequences of the imperialist thrust of Soviet energy.

It appears to us that pathological dedication to the short war strategy is to base a major segment of the national defense posture on a scheme that has scant likelihood of success—and if this is indeed the case, we should design a more promising military strategy.

Having expressed the conviction that it is in the best interests of all concerned to reexamine our national military strategy, we are sufficiently pragmatic to recognize that the short war scenario may nevertheless persist. As dangerous as we find this concept to be, we feel obligated by the charter of this Association to state some of the minimum conditions that must be met if this strategy is to be anything but foredoomed to failure.

First of all, we must be willing to support active forces in being, fully capable of deterring war by providing a loud and clear signal to the Soviet Union that they will not be allowed to claim a quick and easy victory.

We must maintain forward deployed forces that are strong enough to back up this posture. Trip wire forces will not work.

We must, in the next order of priority, convince NATO allies that it is in everyone's best interests for trained *European* reserves, said to be over one million strong, to be capable of rapid deployment in organized, trained units. It is doubtful that this is within their capability at the present time but, at least, the potential exists.

We should be able to expect that our forward-deployed Active forces be strong enough to deny the enemy an early victory, to deter and slow the attack so as to win the minimum time for the rapid, yet realistic mobilization and deployment of National Guard and Reserve forces. We are told that it will be necessary to be able to mobilize and deploy our Reserve elements in a time frame so short as to be unprecedented in American history.

If the National Guard (and the Army Reserve) is indeed to be effective as the means of filling the gap between the actual force in being and the combat objective force, then a serious and significant commitment must be undertaken by the Defense Department also on a scale unprecedented in American history. Slogans and study groups are not the answers.

The fact is that up to this moment—despite valiant efforts by the Services within severe budgetary and manpower restraints—the necessary resources have been denied to the Guard and Reserve to the extent that they are virtually precluded from being ready enough to be committed to combat in the initial stages of a NATO war.

By serious and significant commitment, we mean not only incentives on a par with those available to the Active forces, but also the availability of enough equipment to enable units to be classified as deployable.

Early deployment units should be maintained at high, even intense, levels of readiness for stated periods. No unit should be held in this category for more than three years at a time. Rotational roundout or affiliation is a must if we are to keep from burning our people out.

A way must be found to dispense with "by the book" requirements for postmobilization training, which always tends to downgrade the readiness of Guard units to be deployed. Commanders and staffs at the battalion level and higher, can be trained in control techniques without having to make excessive use of troops as "training aids."

Flexibility needs to be inserted into basic training opportunities, and enlistment options need to be widened beyond the flat six-year enlistment contract, to give the Guard and Reserve an opportunity to recruit from the widest possible base of individuals who do not desire to join an active service.

Mobilization and deployment field exercises need to be programmed to include Guard Reserve participation, and there needs to be an assurance that the "lift" is available to add a sense of realism to the idea that ARNG and USAR troop units should be part of early deployment packages.

In his FY 1978 statement to the Congress, General George S. Brown, Chairman, Joint Chiefs of Staff, noted quite realistically that "readiness costs money." He noted that many dollar-savings devices actually "cause our ultimate costs to increase and fighting capability to diminish."

He said, in reference to reserves, that "forces in our current Reserve establishment—the National Guard and Reserves—exist to satisfy wartime requirements. We cannot allow their readiness to erode. When they are needed, they must be ready."

We would agree that this is and must be the ultimate objective. What remains to be validated is "when they are needed." That's what is at the very heart of the short war question. When this question is settled, it will be possible to determine what levels of support are needed from the Active establishment, the Congress and from the American people. The conclusion that "they must be ready," is not mere rhetoric provided that all of the interested parties agree that that is how it is going to be.

HOUSE ACTION NEEDED NOW ON PREGNANCY DISABILITY BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following editorial which appeared in the September 18 Louisville Courier-Journal.

I was very concerned by the Supreme Court judgment that women are not entitled to compensation for pregnancy leave.

Although pregnancy is not a disability as such, it is imperative that Congress take appropriate steps to enable women to "afford" a family.

I endorse the statements in the following Louisville Courier-Journal editorial. And, as a cosponsor of legislation to prohibit discrimination on the basis of pregnancy, I urge prompt House consideration of this needed legislation.

The article follows:

HOUSE ACTION NEEDED NOW ON PREGNANCY DISABILITY BILL

Last December, when the Supreme Court ruled that the denial of pregnancy-related disability benefits did not constitute the kind of discrimination against women barred by Title VII of the 1964 Civil Rights Act, women's groups, labor leaders and legislators chorused their agreement that the flaw in law should be remedied.

The Senate finally acted Friday. The House also has a bill in the works, which, like the Senate measure, has broad backing. But unless the House moves quickly, there isn't much hope of the amendment becoming law before the proposed October adjournment. Yet to delay its effects another year would be a shame.

It's true that many American companies are already moving to include pregnancy in their disability-insurance program; an estimated 40 percent have already done so. But many will doubtless resist to the end, unless the courts or the law insist that they do so.

Not that all firms would be required to act. Those that don't offer any disability programs at all would not be affected. But companies that do provide benefits for temporary disabilities would no longer be allowed to exclude pregnancy or any pregnancy-related condition.

The Supreme Court's 6-3 ruling that, in excluding pregnancy, businesses were not discriminating against women, was patently unjust. It was particularly inappropriate in the context of the case under review, a suit against the General Electric Company. As Justice Brennan pointed out in his dissent, it was misleading for the majority to affirm

that under the General Electric program "there is no risk from which men are protected and women are not," when such specific and solely male disabilities as prostatectomies were included.

Moreover, as Justice Brennan also observed, modern disability programs are not created in a social vacuum. The notion that most women consider work a fringe activity, subordinate to child-bearing and child-rearing, persists among many employers. Yet 70 per cent of all women who work are either the sole wage-earner or are married to men who make $7,000 or less a year.

In today's world, childbirth is for many women not the end of a working career, nor even the beginning of a long hiatus between one career and the next. Rather it is a brief interruption, a temporary disability that keeps her from her job no more than a matter of weeks. Yet unless she's protected by a disability plan, she stands to lose not only income for the weeks away from work and help with medical costs, but often seniority and vacation rights too.

Senate consideration of this bill last week was diverted for a while into a debate on whether or not disability payments would have to be made under this law for abortions. The senators eventually rejected a proposal to prohibit any such payments.

In fact, the provision of disability benefits for women who want to carry their pregnancies through to term could be a valuable disincentive to abortion. No one knows how many women presently choose abortion because they can't afford the lost income that a pregnancy leave without disability benefits would impose on them. The House should now move swifty to pass the bill.

FEDERAL LEGISLATION TO HALT CHILD SNATCHING

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. SAWYER. Mr. Speaker, I am today introducing legislation to address one of the most serious and unpublicized crimes being witnessed in modern society, child snatching.

Often unreported, the action of a parent abducting his own child against the will of the child or of the guardian or other parent who has legal custody is an increasing phenomenon in the United States. Presently, no effective sanction exists against parental kidnaping, since the Federal Kidnaping Act excludes parents from its sanction. Absent Federal legislation combined with rising divorce rates, the number of child snatchings in recent years has skyrocketed. Estimates say 25,000 to 100,000 children were taken last year alone.

The legislation which I am proposing will protect the personal rights of children against the actions of their parents. My bill will amend the Federal kidnaping law to provide penalties for the taking of children by parents from legal custodians. Specifically, it would be a Federal offense:

First, when a parent transports a minor in interstate foreign commerce taken without consent from the parent who has legal custody at the time of taking.

Second, when there is willful failure by the parent to return a minor after the period of legal custody.

Third, where a parent induces or persuades the minor to leave the parent who has legal custody.

A person found in violation of this new law can be fined up to $1,000 or imprisoned for 1 year, or both for the first offense. For second time offenders the penalties are increased to $2,000 fine or imprisonment for 2 years, or both.

At present, only civil remedies are available for the parent seeking the return of an abducted child. This can result in a heavy economic drain upon the parent's resources. Before getting the child back the parent is likely to pay the cost of detectives, attorney fees, and travel fees to another State or sometimes to a foreign country. As a result, the battle of custody is reduced to little more than a war of attrition. The parent giving up attempts to locate his child after prolonged frustration and accumulation of heavy financial burdens.

The increasing mobility of Americans since World War II along with the increasing rate of family breakup and other social changes have added to the problem of parental kidnaping. Last year in the United States for every two marriages, one divorce was granted. An increase of over 50 percent in the number of divorces issued in 1965.

The tragic case of an Oklahoma family where a divorced father kidnaped his 4-year-old son highlights the emotions and determination involved in child snatching. The mother, who was legal custodian saw the incident and gave chase to the fleeing kidnapers. During pursuit the kidnaper's car went out of control, rolled over twice and finally smashed into a tree. The child was dead on arrival at the hospital; his father died a few days later.

The real victims of squabbling parents are the children who already have suffered the effects of a broken home and are later subjected to interstate warfare over custody which is waged by parents. There is a clear need to preserve the best interests of the child and to establish effective penalties against forcible abduction of children by their parents. I hope prompt consideration can be given to this legislation which will spare children the horrible effects of this crime.

IN DEFENSE OF LEGAL ALIENS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, a most thoughtful and timely editorial appeared recently in the New York Times and I wish to bring it to the attention of my colleagues. It discusses the so-called overlooked aliens—those men and women who immigrated to this Nation in compliance with our laws, and who are now attempting to gain permanent legal status.

The attention being focused on the illegal alien has prompted some unnecessary and unwarranted stereotyping of all aliens. The illegal alien problem is completely distinct, and should be dealt with forcefully and immediately by Congress. Those here illegally must not be confused with aliens who enter our Nation legally, in accordance with our laws.

The fact is, this Nation has grown strong by the hands of the millions of legal immigrants who came to this Nation and worked with citizens for a better America. Yet the article points out that those aliens seeking to make their status permanent, are experiencing problems. The backlog of applications filed with local immigration service offices is straining their resources. If the President's plan to grant temporary legal status to millions of illegal aliens is enacted, the INS will certainly face even greater strains on its limited resources. A massive increase in INS personnel must be provided.

It is important that the distinction between legal and illegal aliens be recognized. It is simply the difference between law abiders and law violators. More importantly, legal aliens work, pay taxes and merit better treatment.

The article, "Overlooked Aliens," by Kem Balani follows:

OVERLOOKED ALIENS

(By Kem Balani)

So much exposure has been given in the news media in recent months to illegal aliens that *legal* aliens—specifically, those seeking permanent-resident status through the normal legal process—have been virtually forgotten.

At present, there are hundreds of thousands of aliens who have entered the United States legally as non-immigrants who have fulfilled their purpose in coming and who subsequently have decided that they want to stay permanently and have applied to the Immigration and Naturalization Service for adjustment of their status from nonresidents to residents. Most of these applicants have had to wait an unreasonably long time before they can be granted a green card, the document certifying permanent-resident status.

It is appalling that the proposed immigration bill that Carter has submitted to Congress—while it would grant permanent legal-alien status to those who have lived continuously in the United States since Jan. 1, 1970, temporary legal-alien status to those who entered this country between that date and Jan. 1, 1977 and deport illegals who arrived after Jan. 1, 1977.

Why hasn't President Carter said even a word about what to do with these large numbers of legal, documented aliens desiring to be residents? Why does he propose to bypass them and grant permanent-resident status to illegal aliens? Where is his sense of justice?

Legal nonimmigrant aliens have spent a lot of time, money and effort retaining lawyers, obtaining job offers and sponsorships from employees for permanent residence, or they have invested life savings in self-owned businesses and thus qualified themselves to apply for change of status to immigrants.

For most nonimmigrant aliens, the whole process of obtaining green cards is long, tedious, costly, time-consuming and exasperating. And the Carter bill, while suggesting strong measures to curb the flow of "illegals" and imposing penalties upon employers of illegals, does not propose any means to reform and speed up this vital process, which is an important part of immigration policy.

While immigration personnel say that they are overworked and underfunded and that their offices are understaffed, applicants for permanent residence endure long years of patient waiting, deferring plans to visit their families in their countries of origin and sometimes freezing career and business plans.

During this waiting, many have sleepless nights, severe tension and no peace of mind until an immigration office finally makes a decision on their application. And if the decision is negative, the appeal process takes several more years.

When the President's bill comes up for debate in Congress, it should be amended to include a broad provision granting green cards to all nonresident aliens seeking them legally—as a first priority—before tackling the problem of illegals.

Legal nonresident aliens have shown their sincerity and faith in the American system by choosing to go through the process of law in obtaining permanent residence. The plan must, therefore, first grant permanent-resident status to legal, documented, nonimmigrant aliens before it grants any form of amnesty to illegal, undocumented aliens.

TRADE BAN WITH UGANDA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. PEASE. Mr. Speaker, 2 weeks ago I introduced legislation in the House to establish a trade ban with Uganda. In part, my action was prompted by my belief that many Americans share my deep concern about Idi Amin's genocidal policies and the role that U.S. companies are playing in supporting Amin's reign of terror.

It is heartening to have received expressions of support for my legislation from all over the country. My correspondence has been overwhelmingly favorable. I want to share with my colleagues excerpts from some of the letters I have received.

From a businessman in Sandusky, Ohio:

It has recently come to my attention that you have suggested a boycott of Ugandan coffee as an economic move against Amin. I heartily endorse your proposition.

Regardless of long term political or diplomatic consideration which may arise because of any potential successor to Amin, the inhumanity of his regime must not be permitted to continue.

From a man in LaJolla, Calif.:

Congratulations on your proposal to shut off Ugandan coffee exports to the U.S. Along with millions of other Americans, I had no idea we were providing such a large percentage of Uganda's foreign exchange.

From a man in Fort Walton Beach, Fla.:

I am in total agreement with your proposed legislation to shut off the U.S. imports of coffee or any other economic sanction against Uganda's bloody dictatorial system. President Carter's human rights policy appears distinctly hypocritical when we allow Idi Amin to slay thousands of innocent people without any official reprimand or sanctions from the U.S.

From a man in Hillside, N.J.:

I am glad to see that someone had the sense to introduce a bill to boycott coffee from Uganda. Why must we support this tyrant when we preach humanity?

From a former missionary to Uganda, now living in San Francisco, Calif.:

I want you to know that many of us who are concerned with the situation in Uganda strongly support the bills you have introduced banning coffee bought from Uganda. This action is one of the very few which might force Amin from power. While worldwide boycott is needed, even an American boycott can have favorable results.

I have a great personal interest in this, having been a missionary in Uganda from 1968–1973, including two years under Amin's regime. The wholesale killings (which I estimated at 100,000 when I left in 1973) and the persecution of the Church in Uganda, plus the deep involvement of Russia and Libya in the present government, cry out for some action from America.

From a woman in Palo Alto, Calif.:

Idi Amin's vicious regime should not be kept in power by American dollars.

From a university professor in Illinois:

The United States should in no way help prop up this disgraceful regime which has cost so many black lives and promises to continue its bloody and erratic repression.

From a man in Bellaire, Texas:

I was very heartened to read in the paper of your proposed bills to ban imports from and exports to Uganda. It is the most common sense and proper piece of "today" foreign policy that has been brought up in quite awhile.

Moralizing and evangelism are not tools for the exercising of foreign policy. We must act out of our own sense of what is right and fair.

President Carter and Ambassador Young have made headlines (and little else) about Rhodesia and South Africa but haven't seemed to bothered about what surely is the greater tyranny in Uganda. There is no need to try to talk to Uganda and Amin or other African leaders about conditions in Uganda—we should just about subsidize it.

I thank you for the direction you are attempting to give our country's actions. . . . It's about time and a good deal more important than the Bert Lance affair.

From a man in San Francisco, Calif.:

I welcome and support your bills to impose a trade boycott with Uganda. If by reducing our coffee consumption by a fraction we can help rid the world of Idi Amin, by all means let's do it.

From a teacher in the Peace Corps in Nairobi, Kenya:

I am amazed any American has finally realized what is going on over here. We are all very sensitive to the Uganda "mess". Buying coffee or anything from Amin only encourages him.

Someone in the States is not only interested in the $ but is showing an active interest in human rights in Uganda. I hope your bill passes. It is very important over here.

Mr. Speaker, I am led to believe that there is public support for the Congress taking action to halt our Nation's commercial trade with Amin's government. Meanwhile, work continues around the clock in New York City to put the finishing touches upon the lavish new (8-story) building that will house Idi Amin's representatives to the United Nations. It is abundantly clear who is providing much of the money to pay for the construction of this monstrosity.

We must not continue to allow American companies to subsidize Amin's government. We must take a stand and refuse to trade with Uganda.

CONGRESSMAN BILL GOODLING OF PENNSYLVANIA SPEAKS HIS MIND ON PANAMA CANAL CONTROVERSY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. SIMON. Mr. Speaker, one of our colleagues who has shown great courage on the Panama Canal issue is Congressman BILL GOODLING, of Pennsylvania.

If this Nation is to make the right decision on the Panama Canal treaties, there will have to be people like BILL GOODLING who have the courage to put the national interest clearly ahead of what is, at least temporarily, a popular position.

I hope my colleagues will take a page from his book and follow his courageous example.

PLAIN TALK

(A weekly commentary written by U.S. Rep. Bill Goodling of Pennsylvania's 19th District)

WASHINGTON.—I will not have an opportunity to vote for or against the Panama Canal Treaty since only the Senate will have that opportunity. Nevertheless, the House could be called upon to vote on implementing legislation if any is required. Like every issue that comes before Congress, there are no simple answers. I've read numerous articles and letters people have sent me indicating that there is a simple solution. Unfortunately some of my colleagues who are apparently politically motivated have indicated the same.

I do not become disturbed with those colleagues who truly believe the canal is ours, we paid for it, and we are not going to talk about it. But I am very disturbed with many of my colleagues who are trying to make political hay from the canal treaty issue. I am afraid some of them are being politicians, not statesmen. They realize that few people fully understand the Panama Canal picture, and they also realize that many people have taken a stand against any new treaty and therefore, they find it politically expedient to jump on the band wagon.

I believe that it is our responsibility to study the whole issue and try to bring the issue in its entirety before the American public. However, I realize that in the 19th District it would be politically expedient just to join the crowd who are clamoring against any new treaty.

As I presently understand the treaties which will come before the Senate, they will do the following: First of all, the U.S. will be able to guarantee the security and defense of the Panama Canal. The U.S. will have the right to defend the neutrality of the Canal from any threat for an indefinite period. U.S. warships will have the permanent right to transit the canal expeditiously and without conditions for indefinite period.

The economic factors in relationship to the canal as I understand them are as follows: Panama will receive exclusively from canal revenues a share in tolls—30¢ per canal zone ton, $10 million a year from canal revenues and up to an additional $10 million per year only if canal traffic and revenues permit. I'm told that these arrangements will not involve any Congressional appropriations.

It is my belief there are three important factors and very necessary elements that must be in a new Treaty: One, our permanent right to defend the neutrality of the canal from any threat with the permanent right of our warships to transit the canal expeditiously without any conditions, and secondly, our investment must be considered when any financial arrangements are concluded . . . with no tax dollars involved. As I presently understand the two treaties these two concerns are satisfied. The third concern that I would have would be for the future security of the United States employees in the Canal Zone, and it is my understanding that they will be guaranteed U.S. Government jobs until retirement. They will enjoy the rights and guarantees extended to all U.S. Government employees.

These treaties are the result of 13 years of negotiations under four Presidents. There is a far greater significance to these treaty discussions than just the ten square miles of land and water under U.S. control in the middle of Panama. The future cooperation between all of the nations in Latin America with the United States rides in my estimation, on how successful we are in this negotiating process. If we fail then I truly believe we will be pushing Central and South America into Castro-communist Russia's hands.

In the foreseeable future it is my belief that we are going to need Central and South America, Mexico and Canada as very strong allies in order to secure the Western Hemisphere from forces who would like to see our way of life collapse. All Latin American nations are very concerned and closely watching the treaty development. If we are to spread the American way of life through Central and South America rather than the Castro-Communist Russian idealogy, we must develop a much better relationship with our neighbors whom we have neglected and taken for granted for too many years.

ON COOPERATION BETWEEN WATER CARRIERS, TRUCKERS, AND RAILROADS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. RUPPE. Mr. Speaker, at a time when there is heightened discussion about both the import and impact of waterway user charges, it often appears that we have contestants at opposite poles with no possibility of achieving a cooperative relationship.

It is helpful to hear a refreshing advocate of a degree of intermodalism that seeks to improve the efficiency of all transportation modes. In a recent address before the Council of Lake Erie Ports, Mr. John J. Dwyer, president of the Oglebay Norton, Co. of Cleveland, spoke of the cooperative climate of water carriers, truckers, and railroads that had much to do with the successful passage of the Railroad Rehabilitation and Regulatory Reform Act of 1976 as exemplary of what understanding cooperation can achieve.

He also reported on recent progress in Great Lakes transportation matters and the development of a much more helpful attitude on the part of the Interstate Commerce Commission toward rail-water service.

Mr. Dwyer, whose remarks were introduced into the CONGRESSIONAL RECORD of September 7 by Congressman OBERSTAR of Minnesota, also reported on recent progress in Great Lakes transportation matters and the development of a more helpful attitude on the part of the Interstate Commerce Commission toward rail-water service.

Supportive of Mr. Dwyer's discussion are the following excerpts from the American Shipper magazine of August 1977 accredited to Mr. William A. Kernan, vice president of the American Commercial Barge Line Co.:

The vice president of a major domestic barge line sees a softening of attitude on the part of at least one railroad in coordination of rail/bargs movements of coal.

William A. Kernan, vice president-traffic of American Commercial Barge Line Company, reported the change in attitude at a transportation conference on the campus of Princeton University July 27.

The railroad involved in the Louisville and Nashville (L&N), the same railroad which filed a suit last fall to block further construction of the Tennessee-Tombigbee Waterway on grounds that it would deprive the railroad of about 29,000,000 tons annually of coal business—maybe more. At the time it intervened, L&N officials said they would be willing to drop the suit if Congress imposed suitable toll or user charges against barge shipping. Such toll or user charges now seem certain following House Ways and Means Committee approval of fuel tax and lockage fees to be paid by commercial users of the nation's waterways.

Kernan foresees new rail-barge movements involving eastern coal for Gulf state electric utilities and steel moving from the Ohio Valley to Texas to meet competition of foreign steel in the Texas oil fields.

Kernan told the Princeton audience that his company is "helping eastern coal compete in the Gulf region" with the cooperation of the L & N, which is a subsidiary of Seaboard Coast Line Industries.

Kernan said the rise of marketing professionals in the railroads who have a better command of profit maximizing and energy conservation is leading to new interests in intermodalism. Railroads are beginning to consider connections with barge lines in order to get maximum utilization of equipment.

Barge lines would like to help the steel mills in the Ohio Valley meet foreign steel competition at the Gulf, Kernan said.

We are currently working with the Ohio River area steel mills to help make them more competitive at the Gulf against their foreign import rivals. Bargeload quantities of steel products assembled at Ohio River ports by connecting rail services could help make possible steel service distribution centers at Gulf ports to compete with steel service distribution centers set up for import steel.

Reduced transport costs resulting from rail-water coordination may be a large enough factor, in certain instances, to overcome the import advantage. If so, this would mean new business for railroads and barge lines as well as improved utilization for railroads on their connecting service to the Ohio River ports, Kernan said.

Kernan said the ICC had not encouraged water-rail coordination in the past but now is much more "neutral" in rail-barge cases involving coordination of service and this had proved helpful in setting guidelines.

Even traditional railroad resistance may be weakening, Kernan said.

I think there is so much pay-dirt in terms of improved profits, improved utilization of equipment and last, but not least, reduced overall rates to the customer to be achieved in the promotion of intermodal coordination, particularly rail and water, that we should all develop continuing projects to look for new movements, he said.

ATTACKING AGE DISCRIMINATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, last Wednesday, September 28, I was honored to represent the House Select Committee on Aging before the U.S. Civil Rights Commission as they continued their comprehensive hearings into age discrimination. These hearings have been conducted around the country. The distinguished chairman of the Aging Committee, Senator PEPPER testified at one hearing in Miami. Their purpose is to determine the best methods of implementing the Age Discrimination Act which takes effect in January.

Discrimination against the elderly is a national disgrace which cannot be tolerated. Whether it be subtle or obvious, it has the same result—it promotes inequality against the senior citizen. The fact that age discrimination exists in the delivery of Federal service programs is especially reprehensible and the efforts of Congress must continue until we are rid of this plague.

At this point I wish to submit my testimony for the RECORD.

HON. MARIO BIAGGI BEFORE THE CIVIL RIGHTS COMMISSION

Good morning Commissioner Flemming and Members of the Civil Rights Commission. I am Congressman Mario Biaggi and as Chairman of the Subcommittee on Federal, State and Community Services, I am representing the House Select Committee on Aging at this hearing on age discrimination in federal programs. As you recall, the distinguished Chairman of our Committee, Mr. Claude Pepper, testified before a similar hearing in Miami. I support the comments and suggestions he made during his presentation. Today I will offer additional remarks on the subject of age discrimination.

For all of my public life I have fought discrimination. It is an evil which affects many groups. While much publicity has been centered on sex, ethnic and racial discrimination, age discrimination has only recently received attention.

While "age" is not limited to any particular group or segment of our population, I believe Congress wished to draw special attention to this nation's older population by attaching the Age Discrimination Act of 1975, which authorizes your study, to the Older Americans Act. It is this group which I particularly wish to discuss today.

Age discrimination, or Ageism, is as vicious as any form of discrimination this country has known. It is a deplorable state of affairs when this discrimination is allowed to exist in the administration of federal programs. It is a situation which must be rectified. Certainly the Age Discrimination Act of 1975 is an important first step. Yet unless it is rigidly enforced, it will amount to nothing more than window dressing and will only serve to embitter our senior citizens.

One of the functions of these hearings is to develop the policies which will allow for full implementation of the age Discrimination Act. I welcome the opportunity to offer suggestions.

My efforts to combat age discrimination are by no means new. In 1970, I successfully offered the elderly and handicapped transportation access amendment to the Urban Mass Transportation Act. The intent of the amendment was clear. It states:

". . It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to the elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportaiton (including the programs under this Act) should contain provisions implementing this policy."

At the heart of my amendment was my knowledge that discrimination against the elderly with regards to transportation was in the form of inaccessibility. The result was the same as the deprivation of a fundamental right.

For six years the elderly and the handicapped of this nation waited for the for the Department of Transportation to implement the guarantees of my amendment. The regulations state that beginning in 1979, federal subsidies for buses may only be used for the purchase of low-floor, wide-door, ramp equipped buses which are accessible by the elderly and handicapped. While these regulations are an important first step, they do not totally implement my amendment, which covers all forms of mass transportation.

During the House consideration of legislation to extend the life of the Legal Services Corporation, I again detected discrimination against the elderly in the existing program and offered a legislative remedy. A survey conducted by the Legal Research and Services for the Elderly, a research arm of the National Council of Senior Citizens, showed that of 10 states surveyed, persons over 65 comprised 21.7% of their poor population yet represented only 7.2% of the Legal Services caseload. A good deal of this was due to lack of outreach by the programs and accessibility to the programs. In an effort to guarantee the elderly their fair share of legal services, I sponsored an amendment, which was approved, giving the legal service needs of the elderly priority consideration by the Corporation. Justice is for all in this country, however it can never be achieved if some are denied access to legal services.

Last week the House of Representatives overwhelmingly passed legislation which I cosponsored and fought for—legislation which eliminates mandatory retirement in the federal government and extends protection from mandatory retirement to age 70 in the private sector. This measure is an important step in guaranteeing the elderly of the nation a fundamental right—the right to work as long as they are willing and able.

During your hearing on this subject, you have heard testimony on a number of federally financed programs that discriminate against the elderly, one of the more glaring is the Medicare program, a program that is meant to benefit primarily the elderly citizens of this country. This program fails to meet the real medical needs of older persons. Covered services are more in tune with acute, short term illnesses that younger persons might experience and yet, one must be 65 years of age or totally disabled for 24 consecutive months to be eligible for medicare. Long term care for chronic illnesses, prescriptions, eyeglasses, hearing aids, dentures, items of special importance to the elderly, are not covered. As a result, even a program established for the elderly discriminates against the elderly.

I realize that most employment related activities are not within the scope of the study mandated by the 1975 Act. Public service employment under CETA, however, is specifically covered and I believe the record in this area demonstrates extensive unreasonable discrimination based on age.

The Committee on Aging has devoted particular attention to the level of services received by older persons from employment programs funded by Federal dollars. The Committee's findings indicate that older persons receive an extremely low level of services in comparison to other age groups—a level not justified by the facts. For example, the statistics at the time of our review last year showed that those 55 and over constituted less than 3.4% of the 1.5 million job holders under CETA. On the other hand, the over 55 age group represented 8.9% of the unemployed and had an average period of unemployment 2 to 3 times as long as younger workers. Since then, some small improvement has been registered but when you are starting near zero, small improvements leave an unacceptable situation.

When our Committee was undertaking this review of funding of Federal programs that benefit the elderly in the employment area and others, we ran into a major problem. Namely, there is a dirth of age related data for most federally funded programs and activities. While some agencies try to maintain some sort of records that indicate the age of the beneficiaries, most do not. Those that do, do not have similar systems that allow comparison. Perhaps one of the best recommendations that your study could make would be for the development of an age related reporting system that would provide the data base needed to determine the existence and extent of age discrimination in federally financed programs.

I would like to suggest the use of an "age audit" that would demonstrate how funds in service programs are distributed among different age groups. Like any other audit, this method would seek to account, in detail, how resources are expended. The difference is that "age" is the major independent variable and that all the others, including money and program services are related to it as dependent variables. In such an audit, a matrix is established with age variables along the vertical axis and program services or monetary allocations variables along the horizontal axis.

An age audit could become an important part of the management information system utilized by Federal agencies so that policies and programs can be assessed and modified to assure that no age discrimination occurs against older Americans in federally financed programs. Moreover, such a procedure would provide the basic data needed by Congressional Committees which may be responsible for legislative changes in our programs. By having a standard age reporting system, the various committees and federal agencies would be able to talk the same language.

Once the existence of age based discrimination in federally financed programs is detected, and I believe it will be, I feel that strong, affirmative steps must be taken to eliminate this form of discrimination. In particular, I would advocate the establishment of an affirmative action type program for older persons to insure that they receive their fair share of programs meant to serve the people of this country. I would seem to be within the spirit of the 1975 Act to require those responsible for the operation of programs and activities financed in whole or in part with Federal funds to make an age analysis of their programs and to submit an annual report which would include the findings, goals, and timetables for action to correct inbalances and discrimination.

I believe it is time for the rights of this Nation's elderly to have the same status as rights based on sex or race. The abuse or neglect of these rights over the years more than justifies the need for such an affirmative action program for the elderly.

The 1975 Act uses the term "unreasonable age discrimination" and I am sure that such a phrase may cause you and the future enforcement of the Act some problems. Should we judge the severity of discrimation? I say we should direct our efforts toward weeding it out entirely. I am hopeful that your study will recommend a very limited interpretation of what constitutes "reasonable discrimination". In fact, I hope you second the opinion of our Committee Chairman, Claude Pepper, and myself that any age discrimination is unreasonable.

Allow me to conclude with two observations. When we think of age discrimination, let us focus in directly on the elderly person being discriminated against. Consider if this person is a member of an ethnic or racial minority and has suffered discrimination all their lives. Must they now meet up with a new fom of discrimination for their remaining years? Is it not in our best interest to eliminate all discrimination before individuals must endure a lifetime of it?

Finally, Mr. Chairman, yesterday my subcommittee conducted a hearing examining aging in the world of tomorrow. We held these hearings to help determine our policies for dealing with a rapidly aging society. Yet these hearings today may help pave the way of the future for the elderly of this nation. If we are successful in rooting out discrimination against the elderly in Federal service programs, we will provide the elderly with greater opportunities to receive services in the future. Therefore, the impact of these hearings will be felt now and in the future. Let us proceed.

MOVING MILITARY INSTALLATIONS REQUIRES 60 DAYS ADVANCE CONGRESSIONAL NOTIFICATION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. STEERS. Mr. Speaker, I would like to bring to the attention of my col-

leagues a situation which has caused me—and two of my Maryland colleagues—a great deal of concern in the past several weeks.

Under Public Law 94–431, the Department of Defense is required to give Congress 60 days notification of any large-scale relocation of a military installation. On August 5, the day on which Congress recessed for 30 days, the Defense Department notified Congress of its intent to relocate over 700 employees from the Hydrographic Center at Suitland, Md., to the Topographic Center at Brookmont, Md. This is a distance of only 10 miles or so—as the crow flies. But the net impact of the relocation on the 750 employees and on the area to which they will be relocated is significant. Yet, DOD blithely announced this action on the eve of a congressional recess, failed to give notification to the two planning agencies most involved in planning efforts for that part of the metropolitan area, and did not tell any of the Brookmont residents about the planned intensification of land use at Brookmont. On top of all of that, DMA has indicated that there is no public opposition to the move. They also indicated that the appropriate governmental agencies did not interpose any objections to the move. Of course they did not—neither the public nor the local planning agencies were even told about the consolidation!

I want to share with my colleagues the testimony which I submitted to the Armed Services Subcommittee on Military Installations about this situation. I have included with this statement the observations of some of the local citizen leaders who contacted me about this matter and the manner in which the Defense Department has so cavalierly demonstrated its contempt for Congress and the people, and a letter to Chairman PRICE from Royce Hanson, chairman of the Montgomery County Planning Board. A similar letter is being prepared for Chairman PRICE by the National Capital Planning Commission, which also was not even notified of this action by the Defense Department. Finally, I am enclosing a copy of a telegram sent by Congresswomen HOLT and SPELLMAN and myself, to the Secretary of Defense setting forth the reasons why this move violates the letter and the spirit of several laws, DOD regulations, and Executive orders.

Mr. Chairman, I hope that my colleagues on both sides of the aisle will take time to review this material—for the attitude of the Defense Department in this matter transcends party affiliation and regional representation. The Department of Defense has subverted the will of Congress in this matter—and the Congress in this matter—and the Congress has been unable to "persuade" DOD at this point to reverse its decision. It is apparent to me that present law is inadequate to insure that the Congress, local officials and governing units, and affected citizens have input to DOD decisions. Therefore, I am introducing legislation which will require more thorough notification of facilities moves such as the one recently announced by the Defense Mapping Agency. Thorough notification—for complete planning—is the least which we can expect of the Department of Defense in matters which so seriously affect citizens and communities.

The testimony follows:

TESTIMONY OF THE HONORABLE NEWTON I. STEERS, JR.

I appreciate the opportunity to join my distinguished Maryland colleagues, Marjorie Holt and Gladys Spellman, to indicate my very serious concerns about the Defense Department's compliance with Section 612 of PL 94–431 in the consolidation of the Defense Mapping Agency at Brookmont, Maryland—which is located in my Congressional District. Mrs. Holt has set forth the specific actions which DMA is presently taking—irrevocable actions toward implementing the decision to consolidate—and Mrs. Spellman has told you of the cavalier attitude of DoD which the Washington Area Congressional Delegation has encountered in regard to one particular military realignment. I would like to associate myself with the remarks of both of these fine Members of Congress—for I agree entirely with their analyses of the problems we have encountered with DoD.

I find myself in a rather unusual situation in testifying before you in opposition to a move of a federal facility *into* my Congressional District. Not many Members of Congress do that. But, after reviewing the facts underlying this particular action and, in particular, on reviewing the actions of DoD in supposedly "complying" with the requirements of Section 612—I *must* take this position.

Like Mrs. Holt and Mrs. Spellman, I am concerned with the manner in which DoD notified Congress of its decision to move 750 employees from the Hydrographic Center at Suitland, Maryland to the Topographic Center at Brookmont, Maryland. We learned, in spite of repeated requests for periodic progress reports on the status of a decision, only hours before the August District Work Period, that the facilities would be merged at Brookmont. The pertinent law specifically states that no funds may be used to effect a relocation of personnel unless—

"(C) the Secretary of Defense . . . submits to the Committees on Armed Services . . . his final decision to close or significantly reduce such installation. . . ."

and that

"(D) a period of at least sixty days expires following the date of which the justification . . . has been submitted to such committees. . . ."

As Representative Holt testified, DoD began renovations of the DMA site well before the 60 days had expired and in spite of a request of the Chairman of this Committee that no such action be taken. In addition, the Congressional Notification states that the public would only be given 30 days to comment on the proposal.

We have a situation here in which Congress was given notification on the eve of a 30 day recess—effectively cutting Congressional review time in half. If DoD is permitted to establish this back-door approach as an acceptable standard of Congressional notification, the work of the Congress in adopting Section 612 is for naught. It will, for all intents and purposes, be worthless and Congressional control of the vital activities and locations of our defense installations will be forfeited to the Defense Department. I believe, and hope that this Subcommittee concurs, that the Department of Defense should be told—in no uncertain terms—that the notification period required by Section 612 was intended to mean 60 days while the Congress is in Session.

The effect of DoD's thirty day breach became clear to me just last Thursday when a delegation of citizens from the Brookmont area met with me in my office to share their concerns about this consolidation. The citizen leaders are *very* well informed individuals who work as attorneys, executives and lobbyists and who are generally very much aware of their rights. They are also very concerned about the effects of urban growth on their sylvan neighborhood. These people only heard of this proposed action last week. Vice Admiral Cramer certified that he had found "no significant public controversy" in regard to this consolidation. This is plainly untrue—as revealed in a letter to me from the Potomac Valley League which stated that "once neighbors were belatedly made aware of the proposal, considerable controversy ensued". The Glen Echo Heights Citizens Association likewise pointed out that "there has been a lack of communication which has kept this qeustion on a low profile so far".

Similarly, Glen Echo Heights points out that the DMA statement that "county agencies invited to comment have voiced no concern" rings hollow, because two of the major agencies were never notified. The National Capital Planning Commission, which has authority over all federal planning moves in the District of Columbia and has an advisory opinion on federal actions in the Maryland and Virginia suburbs, only heard of the action—by happenstance—last Wednesday. Similarly, the Maryland-National Capital Park and Planning Commission, which is the planning agency for the Maryland suburbs, received no notification—in either their Prince George's County or Montgomery County branches—until last week—again through happenstance.

Likewise, I do not believe that the Congress was given sufficient notification. The intent is to allow Congress—especially the Members who are directly affected by any particular action—an opportunity to thoroughly review the plans and the effects of those plans. In the Consolidation Study done by DMA, Defense states there was no public opposition. And as I stated, the reason for this is that DoD did not inform certain essential government agencies—nor did it notify any of the citizen groups. My impression therefore, was that the citizens viewed DMA as a good neighbor and would not object to the additional employees and activity. But as I learned last week, this was not the case. Serious question has been raised about the effect of an increase of 25% in the number of employees working at Brookmont, which is zoned entirely residential and has a strongly rural atmosphere even though it is located directly adjacent to the District of Columbia. DMA will be operating heavy map making presses and, in essence, developing a large industrial set-up. As the Potomac Valley League's letter points out, "(t)he present . . . facility . . . was established during World War II, as a 'non-conforming use.' To *expand* the non-conforming use in the residential zone to the extent proposed . . . should require, we submit, the most exhaustive justification. . . ."

If a private company were to seek permission from the County government to establish a 700 employee printing plant anywhere *near* Southwest part of the county, permission would be vigorously denied on two grounds. First, it would violate the County Master Plan as well as the Metropolitan Growth Policy Statement of the Council of Governments. Second, it would be viewed as a serious negative impact on

the Potomac Palisades—which is an historical and ecological system, recognized by the federal government—deserving preservation—not desecration.

The actions of the Department of Defense, in withholding notification to the two planning agencies which have direct jurisdiction over this area, in withholding notification to the Congress until hours before a thirty day recess—in spite of personal assurances to affected Members, as Marjorie Holt described in her statement—and the blatant disregard of the public—all combine to demonstrate to me that Section 612 has not been complied with by the Defense Department I also believe that there is a need to expand the notification procedure to insure that any federal action affecting a large number of federal employees are made known to the appropriate state, local, and regional governing authorities so that they—if not the federal government—can hold appropriate public forums to truly discuss the implications and effects of these federal moves.

To allow the federal government so greatly to impact on the lives of its employees, and its neighbors, without sufficient public consideration and Congressional notification, is far less than the people of this country deserve of their government. I hope that this committee will review the nature and purpose of Section 612. It may, as I have said, need amendment to *insure* that adequate and proper notice is given, not only to the Congress, but to the other levels of government and to the people.

Section 612 should also be reviewed as it has been "applied" to DoD in this particular instance. It is obvious to me that DMA has violated the purpose and intent of Section 612. I hope that the committee will do all in its power to halt DMA's proposed move—immediately and in no uncertain terms.

Again, I would like to thank you for the opportunity to present my views. I would like at this time to present some of the correspondence which I have received from the Brookmont area citizens and citizen groups and ask that they be inserted into the record.

SEPTEMBER 21, 1977.

Re Expansion of Defense Mapping Agency Topographic Center at Brookmont.

Hon. NEWTON I. STEERS, JR.,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STEERS: The undersigned individual citizens and seven (7) citizens associations would like to request that you oppose, on our behalf, the proposed expansion by the Defense Mapping Agency (DMA) of its Brookmont Topographic Center by adding to its operations those of the DMA Hydrographic Center now located in Suitland, Maryland.

The Brookmont DMA facility now employs approximately 2500 persons. The addition of well over 500 employees from the Suitland location constitutes an increase of over 20% in the work force and consequent operations. Since the role of the Suitland facility is different from that of the Brookmont facility (the Suitland DMA makes maps mainly for the Navy and for sale to the Merchant Marine while Brookmont makes maps of land areas, many of a secret nature), the merger of the two functions will be very difficult without some expansion of the facilities at Brookmont. Thus, there is every likelihood that this consolidation, if allowed, would shortly be followed by requests for further building expansion at Brookmont.

Any of this, if allowed, would drastically affect the character of the Brookmont residential neighborhood. The increased work force and activity will necessarily result in a large increase in traffic congestion, in noise, and in air pollution from automobile exhausts. In addition, we understand that full-time night work would begin at the Center which would have a detrimental effect on the character of the surrounding neighborhood due to increased nighttime traffic, lights, and decreased security from the influx of strange automobiles at night.

Although the environmental effects of the expansion of the Topographic Center are evident, DMA has failed utterly to follow the requirements of Federal and local law designed to protect the interests of affected citizens. Most importantly, DMA has ignored the requirement of the National Environmental Policy Act (NEPA) that an Environmental Impact Statement be prepared to allow a thorough study of the effect of the proposed expansion. To the contrary, they have prepared a brief Environmental Assessment which glosses over the detrimental effects of the proposal and, quite frankly, misstates the impact of this move on the overall area, and the fact that there is no significant controversy related to the environment associated with this action.

Indeed, the Regulations of the Department of Defense (32 CFR Part 214) recognize that an activity which is conducted near a residential area and which affects the comfort of the residents over an extended period is a specific example of a major action significantly affecting the quality of the human environment sufficient to trigger the need for an Environmental Impact Statement. The Regulation (§ 214.7(b)(3)) specifically states that in such cases:

"In keeping with NEPA, no decision should be made to take any actions until those residents have been given an opportunity to present their views and their views have been carefully considered."

Moreover, the proposal violates local zoning and planning principles. As you know, the Brookmont area is essentially residential and is so zoned. The Topographic Center is a non-conforming use and the proposal amounts to a susbtantial expansion of that nonconforming use. Inquiries which have been made to regional planning authorities disclose that DMA has failed to comply with standards for the area or to inform accurately the local authorities of the scope and effect of their proposal.

In addition to ignoring its responsibilities under NEPA and local law, DMA has also apparently attempted to avoid full compliance with the spirit—if not the letter—of Section 612 ("Base Realignments") of the Military Construction Authorization Act of 1977 (Public Law 94–431). This law requires at least a sixty (60) day notice to the Armed Services Committees of Congress in the case of a proposed closing of any military installation. However, the notice of this move was sent to Congress in the closing moments before the August recess in an apparent effort to shorten the time that the proposal would be subjected to careful review.

In short, we believe that DMA has attempted to expand its Brookmont facility in a manner which will have a severe impact on the immediate neighborhood. Most importantly, DMA has proceeded in a fashion which, if successful, would have denied Congress and citizens who are most seriously effected their legal opportunity to fully understand and comment on the proposal. Were DMA to be allowed to succeed in this manner, we feel that the precedent which would be established would prove a serious threat to the rights of others located, as we are, in the vicinity of government facilities throughout the area.

Accordingly, we ask your help in demanding that DMA postpone implementation of the proposed expansion at Brookmont at least until it has met its legal obligations to the citizens of the area.

Very truly yours,

Mrs. Howard K. Smith, Mr. Howard K. Smith, Brookmont and Vicinity Civic League; By: Robert McNulty, President, The Sumner Citizens Association; By: Nancy Davis, President, The Sumner Village Community Association; By Leonard Klingsberg, Vice President, The Glen Echo Heights Citizens Association; By Casper Seline, President, The Westmoreland Hills Citizens Association; By: Polly Bloedorn, President; The Fort Sumner Citizens Association; By Jim Lovett, Vice President, The Glen Mar Park Community Association; By: John C. Jones, Vice President.

POTOMAC VALLEY LEAGUE
OF MONTGOMERY COUNTY,
Bethesda, Md., September 21, 1977.

Re Relocation of the Defense Mapping Agency Hydrographic Center.

Hon. NEWTON STEERS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STEERS: The Potomac Valley League of Montgomery County represents 23 civic associations located in the Potomac Palisades area, bounded by the Potomac River and River Road. The League, responding to the requests of our member associations, wishes to express grave concern about the Defense Mapping Agency's proposal to transfer its Hydrographic Center to the Brookmont facility off MacArthur Boulevard at Sangamore Road.

In essence, between 500 and 700 employees will be added to the MacArthur Blvd. location, along with all the printing presses and paraphernalia required to do all the government's maritime map printing, including maps commercially sold. Were an ordinary corporation to seek Montgomery County's permission for the first time to locate that sort of commercial/industrial establishment in the residentially-zoned area off MacArthur Boulevard, public outcry and the law would prevent its being granted. It would clearly be contrary to Montgomery County's Master Plan for the area, and in contravention of the regional Metropolitan Growth Policy Statement of the Council of Governments.

The present federal mapping facility off MacArthur was established there in World War II, as a "non-conforming use." To expand the non-conforming use in the residential zone to the extent now being proposed by the Defense Mapping Agency should require, we submit, the most exhaustive justification—one which on balance would satisfy such an expansion by an ordinary commercial corporation in similar circumstances.

No such justification has been forthcoming. To the contrary, the League is informed that the policy rationale for the move has been thoroughly questioned by a majority of the employees concerned, the cost justification has been rebutted by comptrollers within the Defense Mapping Agency, and the entire transfer is being opposed by Representative Majorie Holt, in whose District the the Hydrographic Center is now located.

As a matter of principle applicable to all federal facilities now lying within the Potomac Palisades area, the Potomac Valley League believes that any substantial change in the nature or intensity of their use should conform to the local and regional master planning for the area, and that no deviation therefrom should be permitted absent truly extraordinary justification. No such justification has been shown us for the Defense Mapping Agency's proposal to transfer the Hydrographic Center to Brookmont.

Moreover, the Defense Mapping Agency has, in our view, failed to comply with the requirements of the National Environmental Policy Act. Its "Environmental Assessment" concluded that no Environmental Impact Statement was required. But the rationale used is faulty on its face in many respects, as is being pointed out in protests filed by the Civic League of Brookmont and Vicinity and by the facility's next-door neighbors, Mr. and Mrs. Howard K. Smith. And one key finding—that "no significant public controversy related to the natural environment has been generated"—is plainly untrue. Once neighbors were belatedly made aware of the proposal, considerable controversy has ensued. Under the circumstances, the Defense Department's regulations seem clearly to require the Defense Mapping Agency to prepare a full-scale Environmental Impact Statement.

We understand that the statutorily required notification of Congress was also belated, being accomplished only on the day Congress recessed for a month, a matter being taken up by Congressman Nedzi's Subcommittee on Military Installations and Facilities.

In these circumstances, the Potomac Valley League respectfully requests that you (and hopefully the other Members of Congress from our area) will—

Emphasize our concerns to Congressman Nedzi's Subcommittee on Military Installations and Facilities;

Seek Department of Defense delay of any implementation of the plan until further DOD review and justification in light of regional and local (as well as federal) planning efforts; and

Insist on proper preparation by DMA of a full Environmental Impact Statement, with appropriate opportunity for concerned citizens to supply relevant materials.

If these measures are taken, they may disclose the legitimate justification for the transfer that is now sorely lacking. We believe it more likely, however, that the proposed move will be abandoned.

We believe your assistance in dealing with the Department of Defense is justified here, and we hope that you see fit to lend your help.

Respectfully submitted,

KY P. EWING, Jr.,
President.

GLEN ECHO HEIGHTS
CITIZENS ASSOCIATION,
Glen Echo Heights, Md., September 21, 1977.

Re Defense Mapping Agency Consolidation.

Hon. NEWTON STEERS,
Member of Congress, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN STEERS: The residents of Glen Echo Heights wish to enlist your aid in opposing the proposed DMA consolidation of the Hydrographic Center with the Topographic Center at Brookmont, because we find that this move in no way compensates for the trauma it creates at every point. You have been fully informed with all the data both pro and con before you; it distresses us to note that you quote from the Environmental Assessment as though all is well. This statement has a number of errors which are obvious to residents in this area, and we will comment on these later in this letter.

Since this consolidation can be ranked as a "major federal action" involving more than 500 persons, we feel we have a right to expect the more complete and accurate treatment given in an Environmental Impact Statement. The full impact of the consolidation will be felt by all the surrounding communities through which the additional traffic will feed, incurring with it the concomitant pollution. Therefore it certainly is not a situation which is non-controversial, nor an "insignificant modification," but a matter of greatly intensified industrial use of a facility occupying a site which is in conflict with the masterplan for the Bethesda area. That the federal government could embark on a "major federal action" with only a faulty Environmental Assessment and not be challenged could set a precedent with possible future harmful consequences to the palisades, as there also exists within our environs the Navy's David Taylor Model Basin with its enormous acreage. As you know, this installation is situated along MacArthur Blvd. immediately within the Potomac palisades.

Additionally we expect the state to enact the Critical Areas legislation this October. The Brookmont site falls well within the designated strip paralleling the Potomac set aside as a conservation area. In this particular category only low density residential use would be permitted at most, otherwise only uses compatible with conservation goals. Here then is another reason to oppose the consolidation, the result of which we foresee as an ever erosive force on the area of the palisades.

It is important to emphasize that there has been a lack of communication which has kept this question on a low profile so far. Upon investigation I discovered that the Maryland National Capital Park and Planning Commission was not notified of the consolidation, nor was the National Capital Planning Commission, both of which will submit statements, but now need time to study the material. That "county agencies invited to comment have voiced no concern . . . etc." has now a hollow ring.

Now to be specific about the points we question in the Environmental Assessment, taken more or less as they appear.

a. That there are 400 unassigned parking spaces simply means that these are without specific designation; they are not necessarily unused. At the moment many employees choose to park along Sangamore Road, Sentinel Drive and in the Little Falls Mall Shopping Center.

b. "Current utilization of the Brookmont site is in complete accord with existing federal, state, and local land use plans, policies, and controls for the area . . . etc." Not necessarily true. The present federal installation constitutes an uninvited *industrial* use in a residential zone. This was imposed on the area during World War II, and in a spirit of patriotic cooperation accepted. This time however, the necessity of increasing operations by about 30% is not required by a national emergency, and its rationale, even economy-wise, is open to question. Although the Study says that no additional land will be required, more building and parking spaces will eventually be needed as the work force for HC is brought back to the its quota of 700, predicted within several years after the move.

c. The Assessment's claim that there has been no public controversy is due strictly to this before-mentioned lack of notice. Community leaders were not notified by our County Executive but learned of the impending move via the Hydrographic Center. Small wonder that the public reaction is slow or intermittant.

d. The distance between the two TC facilities at Brookmont is given as 1¼ miles, but actually is .6 mile via MacArthur Blvd. and Sangamore Road. Thus the traffic impact is more concentrated than shown.

e. Traffic division is disputed. HC claims all 500 vehicles will travel via MacArthur instead of the noted 400. At any rate this traffic moves via Sangamore to Massachusetts, then to MacArthur.

f. That the use of flextime will diminish to an unnoticeable degree the additional traffic does not solve the problem. So far flextime has had a damaging effect upon our community as traffic begins to roar through the Heights shortly after 6 A.M., and again picks up in the afternoon because the no-left-turn signs designed to preclude this traffic have not been readjusted to flextime hours. Although the county was approached with this request this summer, their response has been a stalling tactic. Apropo of the subject, it took three years of negotiating to get these signs installed in 1971.

Now the 3 P.M. flextime coincides with the hour of dismissal for the adjacent Brookmont Elementary School. Flextime also drags out the traffic in the morning to the hour that school begins.

Topo Command traffic has caused the need for two lights to be installed on Sangamore Road. A series of no-left-turn signs along Sangamore were required to restrain the 300 autos (by actual county traffic count) which sped through the Heights during the morning and evening rush hours, each way. However these signs also impede residents. It is the considered opinion of those who know at H C that there will very likely be a night shift required due to lack of space T C. If this occurs additional hours then due to flextime and the night shift will make the situation intolerable for residents.

g. The increased cost of housing is quoted as being 10 to 20 percent. We are sure this is far from accurate, being likely more than twice that figure. The 5000 new dwellings per year constructed in Montgomery county are mostly up-county, twenty or more miles north of Brookmont, presenting no advantage in moving.

Another matter of local concern would be the necessity to defend the present zoning in our area where there are several undeveloped acreages close to the Brookmont site. We expect that the proposed consolidation would create pressure for denser zoning, probably for apartments. In short, the consolidation will have a chain effect in a number of areas; the need to widen Sangamore Road being yet another likelihood.

Mr. Steers, we do not oppose government actions which actually do accomplish what they claim regarding benefits and economy, but this particular move will do not only socio-economic damage to the H C employees, but will have an erosive effect on one of Montgomery county's finest residential areas. We wish you to oppose this proposed consolidation and to demand of Defense Mapping Agency a full Environmental Impact Statement.

Resolution to oppose the DMA consolidation at the Brookmont site was passed at an executive board meeting of the Glen Echo Heights Citizens Association on September 12.

Very sincerely yours,

NORMA DANIS SPIEGEL,
Chairman,
Ad Hoc Committee on DMA Consolidation.
BETHESDA, MD.

SEPTEMBER 23, 1977.

Congressman NEWTON I. STEERS, Jr.,
U.S. House of Representatives,
Cannon House Building,
Washington, D.C.

DEAR CONGRESSMAN STEERS: I would like to reiterate in writing some of the points I made to you in your office yesterday, September 22. The Brookmont and Vicinity Civic League is basically concerned that proper and careful attention be given to any substantial changes at the Army Map Service facility.

MacArthur Boulevard, the hills that overlook it, and the river-way and canal that parallel it are unique resources both for their scenic and historic value. The Bethesda and Chevy Chase master plan recognizes this in its transportation plan and its land use plan. Therefore, it is a special area that deserves special care.

When the Department of Defense does an environmental assessment on one of its thousands of facilities around the world, economy mandates that they develop some form of percentile standards regarding increases in traffic, noise level, water runoff, etc. to determine if a "major Federal action substantially affects the quality of the environment." This is I am sure a management device to give their field officers guidance on whether an Environmental Impact Statement is required. But as I have said earlier, this is a special area that deserves special consideration as the value found in the MacArthur Boulevard corridor goes beyond our own time and current short-term property uses and even beyond the people of Montgomery County. It is a national resource, adjacent to our nation's capitol, providing a discovery experience for the people throughout the United States who visit the Washington, D.C. area.

Thus, the Brookmont and Vicinity Civic League is asking that true consideration be given to the details of this proposed change at the Army Map Service and how it would have an impact upon the MacArthur-Potomac corridor. We feel an Environmental Impact Statement is required and will provide for an in-depth view of alternatives.

ROBERT MCNULTY,
President,
Brookmont and Vicinity Civic League.

WASHINGTON, D.C.,
September 30, 1977.

Hon. NEWTON I. STEERS, Jr.,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN STEERS: Thank you for this opportunity to register our protest against the proposed expansion of the Brookmont Topographic Center (DMATC).

Our home has existed at its present location for approximately 100 years. The area is zoned only for residences but, in World War II, as an emergency measure, the Army requisitioned a 40-acre farm next door to build the Army Map Service. For reasons that defy logic, they jammed, and are still jamming, all their most polluting and noisiest operations right up against the side abutting our house, and not on any of the other three sides where they have no neighbors.

For many years we got on amicably, and a mere phone call to them was enough to alleviate nuisances to us. However, lately the Map Service has begun expanding. Their activities continue just outside our windows, and in ways that not only are unreasonable, but illegal. Here are three examples:

1. The Map Service has polluted the water table of our property by installing a fuel tank too near our well in flagrant violation of local codes and common sense. As a result of sloppy maintenance, they spilled so much oil that the ground became saturated and our only source of domestic water was irremediably polluted. For two years we have been without potable water at our house. Incidentally, that area is immediately adjacent to the MacArthur Boulevard water conduit which dates back to the Civil War and which still carries the city's main water supply. Because the conduit is constructed of brick, it, too, is sensitive to ground pollution.

2. The Map Service's south sewer was installed in violation of the local code since it was constructed of tile, with open manholes, in an area which had wells. Again, no one in charge bothered to check the code governing such installations near wells in residential areas.

3. The Map Service recently installed three air conditioning towers right next to our home, again without checking the law and the codes. We are informed that these are the noisiest commercial towers available and consume the most energy. When we pointed out that there is a noise code, and that they were about to violate it, the DMA made minor changes in the installation, but are still not in compliance with the noise code.

We have cited our personnel problems merely to illustrate the callousness of a military bureaucracy in flagrant disrespect of the law. However, we are supported in our protest by more than 30 civic organizations which are equally concerned that the manner in which this proposed expansion has been planned and executed poses a threat to their interests both in the context of the immediate impact of this expanded facility and the fact that other facilities in the area could be expanded in an equally undesirable fashion.

We, therefore, respectfully request that you and the U.S. Congress do the following:

1. Insist that an environmental impact statement be prepared by the Defense Mapping Agency as required by law (the National Environmental Policy Act) in order to identify fully the consequences of the proposed action. Indeed, this is also a requirement under the Regulations of the Department of Defense (32 CFR Part 214). Section 214.7 of those Regultaions states that a major action significantly affecting the quality of the human environment requiring an environmental impact statement is an activity to be conducted near a residential area, which might seriously affect the comfort of residents of the area over an extended period. In such case, the Regulations state that no decision should be made to take any such action until those residents have been given an opportunity to present their views and their views have been carefully considered.

The same DOD Regulation also states that:

"Certain types of actions require close environmental scrutiny because of the possibility that they may either affect the quality of the environment or create environmental controversy. It may be desirable in such cases to have a complete presentation of the environmental aspects of the proposed action available for any interested party. For these reasons, consideration shall be given to documenting the environmental effect of . . .

"Any action which, because of real, potential or purported adverse environmental consequences, is a subject of controversy among people who will be affected by the action, or which although not the subject of controversy, is likely to create controversy when the proposed action becomes known by the public."

DMA has attempted to avoid its obligation to prepare a full environmental impact statement by writing a brief environmental assessment which concludes that no environmental impact statement is necessary. However, the Regulations provide that (Section 214.7(e)):

"Even though a written assessment supports the conclusion that an action is not a (major action significantly affecting the quality of the human environment), *an environmental impact statement is to be written on a proposed action which is highly controversial because of environmental aspects.*" (Emphasis added.)

For the reasons outlined in our letter to you dated September 21, 1977, we submit that the proposed Brookmont expansion requires a full environmental impact statement.

2. Insist that the entire proposal for expansion be submitted for comment to both the National Capital Planning Commission and the Montgomery County Planning Board.

3. Take steps to prevent DOD from undermining proposed plans for creating a civilian mapping agency. We suspect that, in fear of President Carter's proposed reorganization plans, the Department of Defense seeks to retain control of all map making by mixing civilian and military mapping functions and thus creating an "omelet" that no one shall be able to take apart or take away from military control.

In this connection, we note that there is evidence that the consolidation plans "won't fly." Serious doubts as to the feasibility of the proposed consolidation have been voiced by a number of high DMA officers. For example, DMA Comptroller, R. E. Malinowski, has commented on the consolidation study and said that there is an "obvious lack of suitable working spaces (at Brookmont) and the appropriate environmental control type of buildings to accommodate the much talked about drastic changing technology soon to overtake chart/map production within DMA."

In brief, we believe that the planned amalgamation of the Suitland and Brookmont DMA facilities will not work, at least, not without additional physical expansion at Brookmont. Soon, therefore, it can be anticipated that if this consolidation is allowed, the DMA will ask for more facilities, bringing more noise and pollution—in an area along the Potomac designed as a park area.

In closing, we cite to you the President's Executive Order 11752 of December 17, 1973, which states that "the Federal government in the design, construction, management, operation and maintenance of its facilities, shall provide leadership in the nationwide effort to protect and enhance the quality of our air, water and land resources."

This sets a higher standard of conduct than just obeying the letter of the law—yet DMA does not even satisfy that minimum standard. The planned amalgamation will be an irreversible step towards the critical mass that will change and damage our residential and parkland areas beyond repair. We hope for your help in stopping it, now.

Sincerely,

BENEDICTE SMITH,
HOWARD K. SMITH.

STATE OF MARYLAND,
Annapolis, Md., October 3, 1977.

Hon. NEWTON I. STEERS, Jr.,
House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR NEWT: The Defense Mapping Agency must not be permitted to move 750 employees from Suitland to the Topographic Center at Brookmont. Neither Congress nor our local planning officials have been given sufficient time to assess the impact of this enormous transfer of personnel.

The Center is in a residential community near the Potomac Palisades. Insufficient justification has been given by the Department of Defense for the proposed shift into this neighborhood.

The employees involved are opposed to the move as are our local communtiy leaders. Many streets will be adversely impacted by substantially increased congestion and pollution.

Your testimony in opposition to the move is very helpful. Let's keep pushing.

Sincerely,

HOWARD A. DENIS,
State Senator.

[TELEGRAM]

HON. HAROLD BROWN,
Secretary of Defense, The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: Based on testimony presented before the Subcommittee on Military Installations and Facilities of the House Armed Services Committee on September 26, 1977, we urge you, in the strongest possible terms, to delay any actions whatsoever toward achieving a consolidation of Hydrographic and Topographic functions of the Defense Mapping Agency.

At the Hearings, it was revealed that your Department has not complied with the Congressional intent of Section 612, P.L. 94-431 inasmuch as "notification" was given on the day immediately preceeding a 30 day Congressional Work Period. We do not find that to be within the spirit or intent of Section 612.

In addition, we are very concerned about the callous manner in which DoD addressed the requirements of the National Environmental Policy Act, (P.L. 91-190), DoD regulations relating to environmental review (32 CFR 214 *et seq.*), the mandate of the Noise Control Act of 1972 (42 USC 4901) and Executive Order No. 11752 of December 17, 1973. The Hearings revealed that there is significant public controversy over this proposal and that this controversy developed as soon as the proposed consolidation became known to the Brookmont community. It is also known that present operations at the site do not meet local noise standards, and that an increase in activity will only make the situation worse. Finally, we know that two of the major planning agencies for the Brookmont area, the National Capital Planning Commission and the Maryland-National Capital Park and Planning Commission, did not receive any notification of the proposed consolidation, and were thus unable to review and comment on the plans.

The intent of the Congressional notification provision of P.L. 94-431 clearly has not been met, and we urge you to insure that the spirit as well as the letter of the law, (P.L. 94-431), and all other pertinent laws is complied with in this matter.

11TH ANNUAL FOLK FESTIVAL

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. THOMPSON. Mr. Speaker, as those of us who are fortunate to serve in Washington are aware, the 11th Annual Folk Festival sponsored by the Smithsonian Institution is now under way on the Mall.

The festival has become enormously popular for reasons which were beautifully stated at the opening ceremonies by Mrs. Joan Mondale, the lovely wife of our Vice President, and by our distinguished colleague, the Honorable PETER W. RODINO, Jr. of New Jersey. I am pleased to share with you their comments:

JOAN MONDALE'S REMARKS TO THE OPENING OF THE FOLK LIFE FESTIVAL

Why a Folk Festival? After the Air and Space Museum, after the Hirshhorn and the Portrait Gallery, the National Collection and the Natural History Museum, and all the other wonders of the Smithsonian—why a Folk Festival too?

Because for all that museums can teach us, even they have limitations.

Standing here, in the shadow of the Museum of History and Technology, where our craft heritage is locked securely away in humidity controlled cases, the Folk Festival reminds us that the crafts are living art forms. What is more alive than a potter at the wheel, a weaver at the loom, an ironsmith at the forge? Every crafts objects is the result of a perfect orchestration of human and natural energies—and it is only when we see the crafts in process, not just locked away in cases but actually in the process of coming into being—only then can we completely appreciate the value of the crafts in our own lives.

In this age of mass-produced, machine-made products, the crafts put us in touch with our own individuality. They affirm our sense of taste, and they inspire that spirit of communication between creator and user that is affirmed and re-affirmed each time we use a mug, a plate, a copper kettle, or a musical instrument made by one person for another.

Part of the wonder of this country's craft life is that it is so diverse.

For ten years now, the Smithsonian's Folk Festival has been able to portray the great pageant that is our Native American, Afro-American, Euro-American, and Oriental American cultures. This Festival reminds us in the most vivid way imaginable that our nation's creative and spiritual strength is rooted in the pluralism of our culture. Over the next six days, we will have the opportunity to marvel at our differences, to delight in the range of talent and the variety of vision with which this country is blessed.

I am here to thank all of you who make this experience possible.

First, the Smithsonian staff who, with intelligence and enormous energy each year turn the Mall into a microcosm of America.

And then there are the two hundred festival participants who have come here from all across the country. You have a very special assignment, for you are here to represent the creative energies of this nation.

It is an honor to welcome you to Washington and to remind you that without your work we would be a poorer nation—less colorful, less tuneful, and infinitely the poorer for the absence of the specialness you bring into our lives.

REMARKS BY PETER W. RODINO, JR., AMERICAN FOLKLIFE FESTIVAL

I am proud and honored to join you in this uniquely American event, an event in which we celebrate not just our ties to one another—but our ties to many other nations of the world. As Americans we share in the appreciation of such an event—and Mrs. Mondale, I know how keenly and deeply you feel.

Each year, for ten years now, The Smithsonian Institution has sponsored on this Mall a festival which provides us with the occasion to see within ourselves and take note of the stock from which we come. Whether you are an American of Italian descent as I am, or German, Chinese, Irish, Polish, Latvian or African or other heritage—or whether your people were here with Will Rogers' ancestors to greet the boats as they docked—there is about this festival a mood and a character which touch us all and make us proud.

And right we are to exalt these traditions, for they are derived from the most cherished cultures from all over the globe. Some people have said that "America does not have a culture of its own, that it has borrowed its culture from others." Well, it is true that when we opened up our shores to those who came from different lands, we were borrowing. But I think that this has given us a distinct, unique culture—what we call American—and it is unlike any other in the world. It is a rich heritage which combines the very best that the world has to offer. In what other country can one experience such diversity along with such harmony? It is a beautiful blending of different traditions, experiences and peoples—native American and immigrants.

As Americans, we know the value of such diversity, and I suspect we are the envy of the world because of it. I remind my American friends of Italian descent—especially during the celebration of Columbus Day—that were it not for the Spanish monarch who supported his venture, the Portuguese map-makers who guided him, and the various Europeans who manned his ship, the great Italian explorer and never have made his famous discovery, and his lasting accomplishment was an inspiration to those who came here after him—instilling courage, faith and a spirit of discovery—those peoples of every race, color and creed who landed on our shores became responsible for our country's growth and greatness.

Columbus was the prophecy of the America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many turn for asylum and hope.

There was a time when immigrants to America sought to shed their old identities and take up new ones which they felt would make them more American, make them fit in with the rest of the people of this still young country. And now—happily—we have come full circle, and men and women instead are searching out the past to find their roots—their precious heritages and stand tall and proud in that discovery. And as we rediscover our roots, we better understand ourselves. And we know that the greatness of this nation lies in the fact that it is a nation forged from so many nations and so many people.

Walt Whitman told us: "I celebrate myself and sing myself, and what I assume, you shall assume, for every atom belonging to me as good belongs to you."

And while we are here celebrating ourselves, we can also learn that what belongs to me does indeed belong to you.

Today, I salute your display of America's ethnicity—a nation of many people—a nation truly of immigrants. For the more we learn about each other's heritage, the more American we truly become—more understanding, more caring, more loving—of all peoples and of our common humanity. Each heritage is a priceless strand woven into the rich resplendent tapestry of American folklife. To be American is to appreciate all humanity and to strive for international cooperation and brotherhood and peace. The American Folklife Festival will help to preserve this important concept for future generations—strengthening our ties to each other and all nations.

Thank you.

THE CONSEQUENCES OF AN AMERICAN PULLOUT FROM THE ILO

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DRINAN. Mr. Speaker, the magazine America, the national Catholic weekly, published in its October 8 issue an excellent article detailing the unfortunate consequences of an American pullout from the International Labor Organization. As a strong supporter of continued American participation in this organization, I commend to my colleagues the America article, written by two distinguished Jesuit social scientists, Father Joe Molland and Father Peter J. Menriot:

A NEW CHALLENGE FOR WORLD LABOR

In November of this year, the United States may withdraw from the International Labor Organization (I.L.O.). This action would mean an unprecedented break with the U.S. commitment to the United Nations. The I.L.O., which was awarded the Nobel Peace Prize in 1969 for its work, is a specialized agency for labor affairs within the United Nations system. If the United States does withdraw from the I.L.O., it would be a great setback for the future of a human world order and for the ability of workers' movements to shape that order.

A tripartite organization of government, employer and labor delegates, the I.L.O. grew out of liberal reform efforts closely tied to European Catholic social movements to relieve the injustices of early industrial capitalism. Beginning as the International Labor Office of the European-focused International Association for Labor Legislation, it was taken into the League of Nations under the Treaty of Versailles in 1919, and later absorbed into the United Nations system in 1946. Historically, it started as an agency concerned with fair labor standards ratified across national boundaries in international conventions. Since the mid-20th century, however, with the spread of industrialization beyond the North Atlantic community, it has also supplied technical assistance to third-world development projects. In most recent years, the I.L.O. has begun to raise fundamental questions about the nature of development, focusing on the rubic of "basic human needs," through an ongoing World Employment Program and a 1976 World Employment Conference.

Unfortunately, these important questions about the nature of development have been obscured in the United States because of the overriding issue of withdrawal.

THE WITHDRAWAL ISSUE

On Nov. 5, 1975, Secretary of State Henry A. Kissinger filed a formal letter of intent informing the I.L.O. that the United States planned to withdraw from the organization. The withdrawal process requires a two-year waiting period, which ends this November. The driving force for the action reputedly came from the leadership of the A.F.L.-C.I.O.

Four areas of fundamental concern were voiced in Mr. Kissinger's letter: 1) the erosion of genuine tripartite representation (growing government domination of worker and employer delegates within many national delegations); 2) selective concern for human rights (resolutions condemning violations by the regimes of the right while reputedly ignoring those of the left; 3) disregard of due process (by passing of regular channels and procedures for political motives); and 4) increasing politicization of the organization, which is a diversion from the real tasks of the I.L.O.

What must be recognized is that behind all these charges expressed by the United States is the larger fact that the world political situation has, in recent years, changed dramatically. The United Nations and the I.L.O. are no longer organizations in which the United States can automatically expect that its way will predominate. To the concome together with increasingly effective power. Made up of much of the third world, the Arab nations and the Communist nations, this so-called anti-imperialist block frequently stands against the United States and, to a lesser degree, against its Western allies.

This new geopolitical situation has been building up since World War II, with the emergence of the former colonies as newly-independent states. It has received its most creative expression in the call for a new international economic order in 1974. The Arab and Communist drive to attack Israel throughout the United Nations system is its most destructive expression. Understandably, some U.S. defenders of Israel have countered with a similar attack against the Arab nations, the Communist nations and the third world in general. This is unfortunate, because the survival of Israel and the creation of a new international economic order are both defensible goals.

THE HISTORIC CONTEXT

To gain some historical perspective on this debate, it may be helpful to put the present world situation and the crisis of the I.L.O. within the context of the stages of modern industrialization and the development of the trade-union movement. The industrialization process and the consequent evolution of the I.L.O. can be viewed in three separate stages.

1. Early Industrialization. This stage was characterized by ruthless, laissez-faire capitalism. Technologically primitive, labor-intensive productive bases within the global economic system's geographic center (the Western powers) were supported by a formal colonial periphery (Asia, Africa and Latin America), which provided raw materials and limited markets for finished goods. During this stage, there were no competing socialist systems, nor were there any real challenges from the system's periphery. Out of the viciousness of this phase grew the struggling trade-union movements of the industrial centers of Europe and North America. With them grew up also the I.L.O. in its first phase of negotiating international labor standards, primarily in a first-world setting.

2. Middle Industrialization. This stage was characterized in the industrial centers by more rational, corporate, social-welfare capitalisms. These were equipped with more technologically developed productive bases, which created a prosperous capital-labor balance and financed benevolent social policies. In this stage, however, the system shifted to an informal neocolonial relationship with the developing world, which increasingly provided fresh industrial bases for more labor-intensive operations in an international division of labor as well as enlarged markets for finished goods.

During this phase, separate socialist systems also appeared. At first technologically trailing the capitalist centers, these socialist systems rapidly appropriated the industrial revolution. (The Soviet Union serves as a prime example.) The socialist systems perhaps responded more holistically, although at a lower standard, to the socioeconomic needs of their people, but were also marked by repressive premodern forms of authority that denied the individual civil and political rights of the person (e.g. Stalinism).

The trade unions of Western Europe and North America grew in strength during this period and emerged as accepted bodies. As major political forces, however, they tended to polarize along ideological lines. This generally meant support of the foreign policy of either the Soviets or the United States. (The exceptions within the trade-union movement were the small Christian trade unions, which attempted to be nonaligned.) The trade unions of the developing world, moreover, began to grow as industrialization deepened its hold.

In this stage, the I.L.O. came to echo cold-war tensions along the East-West axis over the real meaning of trade-union rights. But it also vigorously expanded along the North-South axis with sophisticated technical assistance to the industrializing periphery.

3. Late Industrialization. This is the most recent phase and is only now beginning. Projected into the future, this phase suggests a world in which the heritage of Western colonialism and neocolonialism will be greatly diminished. But, with this postcolonial age, there could possibly come, not universal justice, but a new and brutal form of global competition. This takes the form of the so-called national-security state, a state system that appropriates the worst elements of existing capitalism (large-scale unemployment, poor social services, etc.) and of existing socialisms (government by military- and police-intelligence forces.)

As the center and periphery distinction weakens and the East-West poles become less farther apart, the world may find itself with a homogeneous but vicious laissez-faire, transnational capitalism, assimilating the first, second and third worlds. Its structures would be shaped mainly by the power struggles between transnational capital and competitive national-security states of various ideologies. In addition, as the productive base swiftly moves into an automated-cybernetic (technocratic) form, the capital-intensive style marginalizes large percentages of the human family and, in fact represses many existing trade-union movements. This whole phenomenon is more advanced in the periphery (one thinks, for example, of the Brazilian "development miracle"). It is also seminally present, however, within the center (see, for example, the growing struggle of unions in the southern United States, exemplified by the organizing effort at J. P. Stevens) and in the socialist bloc (consider the recent repression of Polish workers). The unemployment rate in the United States, unofficially, runs close to 10 percent worldwide, when linked with underemployment, it probably exceeds 30 per cent.

In this new period, the only strong United Nations coalition is the short-run Communist-Arab-third world thrust, which remains united in its "anti-imperialist" goal. But, should parts of that goal be achieved through trade concessions, higher prices for raw materials, etc., the coalition would probably fragment over competing self-interests. While united in its posture of being "anti-," it holds no common, positive or cohesive social vision. Meanwhile, the United States finds itself marginalized in the United Nations system, both by the hostile "anti-imperialist" coalition and by the fragmenting of the traditional Western alliance.

During this new period, the I.L.O. has already been responding creatively with a fundamental critique of the industrialization process, namely, through its World Employment Program and its call for a development strategy focusing on "basic human needs" (see the 1976 report, Employment, Growth and Basic Needs: A One World Problem). This strategy would emphasize the three clusters of goods, services and participation of all people. The I.L.O. critique is as yet immature and perhaps too naively accepts the "international division of labor" model from the second period of industrialization. But, ultimately, it contains important resources for a powerful challenge to the development models of the first, second and third worlds.

The traditional style of the I.L.O. in this third period is confused, however, by the new

role played by states that do not operate on the liberal model (many new African states, for example). But, even more so, it is confused, as already mentioned, by the reckless and one-sided attacks on Israel, which are matched in turn, at times, by a similar counterattack by Israel and its friends. These factors are precipitating a crisis in the I.L.O. and have, in fact, led to the situation in which the United States is taking steps to withdraw from the organization. The central question to be addressed, however, is whether withdrawal is indeed the most creative and effective way to deal with these problems.

Obviously, the I.L.O. could not become a very significant organization in this new stage of a ruthless transnational and technocratic capitalism. It could provide an important force for rationalizing labor standards in the transnational market system and for helping to build a world order responding to the basic human needs of workers and the poor. And it could continue to serve, as noted labor expert Msgr. George C. Higgins has recently observed, as an important promoter and protector of the basic human rights of workers. It seems particularly sad, therefore, in the light of these possibilities, that the A.F.L.–C.I.O. would push so strongly for U.S. withdrawal from the I.L.O.

THE POSITION OF THE A.F.L.–C.I.O.

The A.F.L.–C.I.O. is, in fact, the key group in the whole withdrawal debate. The Carter Administration apparently would prefer to remain in the I.L.O.—especially in the light of the Administration's commitment to the United Nations system and its desire for forums in which to push the human-rights issue. But it may not feel so strongly about the issue as to fight the A.F.L.–C.I.O. on the point. The Chamber of Commerce, the employer-side delegate, is active in the I.L.O. to defend U.S. business interests and to balance the influence of labor, and would reputedly just as soon see all official labor voice in the United Nations system disappear. Why, then, should the A.F.L.–C.I.O. leadership be urging withdrawal?

One answer could be that the A.F.L.–C.I.O. leadership is viewing the world through the analytic eyes of the second phase of industrialization and not fully recognizing the dangerous third phase that has come upon us. The A.F.L.–C.I.O. strategy presently being pursued did, indeed, have some national foundation in the post-World War II era (during the second stage), when the A.F.L.–C.I.O. abandoned the World Federation of Trade Unions (W.F.T.U.) because of its Communist domination. It was then able to help create in its place the non-Communist International Confederation of Free Trade Unions (I.C.F.T.U.). More recently, however, the A.F.L.–C.I.O., in a strategy that anticipated what it would urge regarding the I.L.O., withdrew from the I.C.F.T.U. over ideological disputes. This presently leaves American labor without direct ties to the central body of any of the large international trade-union federations.

It is unlikely that the I.L.O. will collapse without the A.F.L.–C.I.O. or other U.S. participation. The United States and the white Western world is increasingly becoming a minority sector of the human family, and, in the future, some of its technological advantage could prove short-lived at a time of global resource scarcity. Further, the 25 percent of the I.L.O. budget that the United States pays annually (approximately $20 million) is not a large sum in a world of petrodollars. Presumably, the I.L.O. could continue as a major actor within the United Nations system even without the presence of the United States—perhaps under control of Arab-Soviet leadership.

The serious problem to be faced, therefore, is that the stance taken by the A.F.L.–C.I.O. would thereby convert what is now only a procedural victory for the new United Nations coalition into a full political victory. The United States would be driven out of a key United Nations organization. And this act could very well have a ripple effect on other sections of the United Nations family and other international institutions.

The real victim in all this would be the worldwide labor movement—including U.S. workers—since one of the world's largest trade-union bodies, the A.F.L.–C.I.O., would have lost its one official voice in the United Nations system. One significant result would be that transnational capital, including the giant transnational corporations, would have a much freer hand in bending international political institutions to its will.

The worldwide labor movement would also be the loser, because some of the important questions that the A.F.L.–C.I.O. has consistently raised about trade-union rights in the Arab nations, the third world and the Communist nations, would go unasked. The questions of trade-union rights in the Eastern Communist bloc, for example, which might at times appear to many liberal internationalists as an outdated cold-war question, actually takes on a new meaning as Communist governments deny the need for international labor solidarity when capitalist-based, transnational corporations enter into joint ventures with socialist states.

And, most important on the domestic front, the A.F.L.–C.I.O. could lose further credibility with the new-politics constituencies that have been growing in strength in this country since the mid-1960's. The A.F.L.–C.I.O. leadership now recognizes how much it lost in public esteem over its vigorous support for the war in Vietnam. It is already having difficulty communicating its insights and interests in the area of planned world trade to the liberal internationalist community and is unable to build a real dialogue beyond the polarized stereotypes of free trade versus protectionism. Pushing vigorously for the I.L.O. withdrawal might place one more very serious obstacle in the path of cooperation between the many internationally oriented social-action networks and the A.F.L.–C.I.O. That would, of course, be tragic for both sides. Labor needs the support of other social-action constituencies in its new vulnerability on the domestic and international fronts. And the new social-action constituencies need to learn from labor-movement experience and to deepen their working-class roots and contacts.

It seems very important, therefore, that social-action groups begin an immediate, thorough and sympathetic dialogue with the A.F.L.–C.I.O. leadership over the I.L.O. issue. Such groups should be open to dispel their stereotypes about U.S. labor and to learn from the treasury of experience-based insights surfacing in the labor movement today. And these groups must not naively neglect to criticize the sometimes obstructionist and destructive tactics of the Soviet and Arab blocs within the I.L.O. On the other side, it could be hoped that labor leadership would be open to reevaluating its analysis and strategy in the new global situation, and be willing to try new political initiatives to salvage the important work of the I.L.O.

In criticizing the I.L.O., the A.F.L.–C.I.O. leadership needs to listen to the answers it itself has given to recent criticisms of the U.S. labor movement for not being perfect and for containing many injustices. The easiest and most honest response has been to acknowledge shortcomings, but to insist that any labor movement is better than no labor movement. The very existence of organized labor supplies ordinary working people with a potential instrument to struggle for justice, if not with the justice itself. To abandon the labor movement because of its imperfections is to abandon the best instrument of this struggle for justice. The same argument holds true in the I.L.O. dispute.

Thus, a withdrawal by the United States from the I.L.O. at this historical stage could become, not the protest of righteousness, but the flight of surrender. Reappraising the withdrawal strategy and the analysis that undergirded it, however, could become a gesture of statesmanship. It could be the beginning within the I.L.O. of a long and fresh struggle for workers' rights in the new and dangerous stage of industrialization.

THE PRIMARY INSTRUMENT CONCEPT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. WHALEN. Mr. Speaker, a number of times this year I have used the CONGRESSIONAL RECORD as a forum for a discussion of the issue of competition in telecommunications. In my opinion, this issue is second only to energy in its potential impact on the shape of our future style of life in this country.

The subject of competition in telecommunications involves a headon clash between two conflicting trends in American policy. On the one hand, we have a tradition of encouraging and fostering responsible competition within and between industries. On the other hand, we have a specific history of regulated monopoly in the provision of telephone and certain other telecommunication services.

In recent years, many companies in the equipment and specialized common carrier lines have sought to compete with the American Telephone and Telegraph Company as well as with other governmentally authorized monopoly companies. The Federal Communications Commission and the Federal courts generally have encouraged this trend, but the movement towards limited competition in the telephone industry is being threatened by the proposed Consumer Communications Reform Act—CCRA.

In January of this year I opened my continuing discussion of telecommunications competition by placing in the RECORD a lengthy analysis of the CCRA. This was followed by a statement in support of the so-called pro-competition resolution, which I introduced along with Mr. WIRTH and Mr. OTTINGER.

Later, I placed in the RECORD a statement calling into question certain arguments made in support of the CCRA by the chairman of AT&T. And earlier this month I made a series of three statements on the issue of competition in telecommunications.

Mr. Speaker, it is no secret that I am a strong proponent and supporter of responsible competition in the telecommunications industry. Similarly, it should be evident by now that I am opposed to passage of the CCRA in its present form.

However, I must say that the CCRA has served one useful purpose in that it has forced an examination and discussion of the issue of competition. And I commend my colleagues on the Communications Subcommittee in the House for their ongoing hearings on the broad policy questions in the communications field.

At a recent hearing, the subcommittee listened to a new proposition, the so-called primary instrument concept. A telephone industry representative has given me a position paper that lays out the arguments in support of this idea.

I think the paper is helpful, in that it stimulates further thought on this relatively new concept. Although I continue to have serious reservations about the logic of some of the points made in the background paper, it is heartening to see the movement the telephone companies have made toward acknowledging the role to be played by other suppliers of telecommunications equipment and services.

At this point, I wish to insert in the RECORD the briefing paper on the primary instrument concept. The text follows:

THE FCC'S REGISTRATION PROGRAM AND THE PRIMARY TELEPHONE INSTRUMENT

BACKGROUND

For over a century telephone companies have been providing full telephone service to their customers. In the last few years, however, equipment suppliers, both domestic and foreign, have sought to expand their markets for communications hardware, including telephones. To accommodate this trend the Federal Communications Commission (FCC) adopted a policy (Docket 19528) which will allow telephone customers to buy and own all of their telephones. This program providing for "registration" of equipment, however, is devoid of any manufacturing and quality control standards or basic equipment operational requirements. It contains no provision for repair of equipment and no assurance that purchased telephones will work. As such, the program represents a radical change in this country's telephone service.

The entire national telecommunications policy issue is before the Congress for review. Pending a final Congressional redetermination of policy, the public's need for continued reliable telephone service must be adequately considered together with the FCC's program advancing the connection of telephone apparatus provided by non-regulated suppliers Clearly, there is a public interest in having telephones which work properly.

EXEMPTION FOR CARRIER PROVIDED EQUIPMENT

Significant costs will have to be borne by telephone customers if carriers are required to register their equipment, which is already subject to regulation. The industry estimates that the first year cost of this regulation will be approximately $100 million. That the regulation was unnecessary was recognized by the FCC itself in grandfathering all existing equipment. The obvious solution to this is not to require such unnecessary registration.

THE PRIMARY TELEPHONE INSTRUMENT

To resolve the problem, telephone companies should be required to provide at least one "primary" telephone instrument to each single-line customer. The telephone company would continue to be held responsible for providing and maintaining telephone service to each single-line customer. All other telephone terminal equipment could be obtained from any qualified supplier.

There are demonstrable advantages to single-line customers, as well as to the quality of service for all customers, in a system where the telephone company provides the main station: it will help to assure continuity of service; it will facilitate the making of repairs needed to maintain high quality service; it will permit orderly introduction of technological change; and it will help to promote universal service.

SERVICE

Assume, for example, that a customer owns his only set, and it needs repairs. If he disconnects it, he is without service for as long as it takes to get the set repaired. But he will have every incentive to put up with defects—a noisy set, an occasional misdialing, a set that sometimes does not ring—because he either does not want to be totally without service or because repairs are simply too expensive or inconvenient to get. Telephone companies cannot be held liable for the quality of service unless they are providing it. Under the "primary instrument" approach, however, they would continue to be responsible for not only providing, but properly maintaining the instrument as part of the price of furnishing basic telephone service.

REPAIRS

If the telephone company provides a "primary instrument" the present system of testing and repairing will continue to work, since the company would know the technical characteristics of at least that instrument. If the line and telephone company station test "OK" from the remote testing location, then any trouble would be on the customer's ancillary equipment. The customer could then solve his own problems while continuing to have quality service over the set provided by the telephone company. If the trouble proved to be on the "primary instrument", of course the company would fix it at no additional cost.

AFFORDABILITY

The provision of the primary telephone instrument by the telephone companies will further the goal of universal availability and affordability of telephone service. Today the rates for basic telephone service do not cover all the costs of all the facilities needed to provide the services. The rates for nonbasic services are set at levels sufficient to cover their direct costs and also to contribute towards recovering the common costs of providing residential basic service. Basic service rates are then set to recover only the remaining costs. If the primary single-line instrument continues to be provided by the telephone companies as part of basic telephone service, residual pricing can still be used to keep the price of the complete basic service affordable to the largest number of customers.

A TRIBUTE TO WILLIAM L. GILBERT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of California. Mr. Speaker, William L. Gilbert has long been one of the most outstanding figures in the leadership of Southern California organized labor. On October 1, 1977, Bill—as he is known to his many friends—retired after dedicating more than four decades of active leadership to the union movement.

Born in Pelham, N.Y. in 1915, Bill attended New York University night school and earned a bachelor of science degree in industrial engineering and business administration in 1936. A toolmaker by trade, he began his long association in organized labor in 1936, holding international and local positions in the International Association of Machinists and Electrical Workers from 1936 to 1940.

During the decade between 1940 and 1950, Gilbert served in several positions for the United Furniture Workers, including that of the Midwest Regional Director. Also in 1940, Bill was married to the lovely Margaret R. Holmes. Their first daughter, Joann, was born in 1942, and their second, Virginia, in 1946.

In 1950, Bill Gilbert moved to California, in order to work as an organizer for the CIO in Los Angeles and the Midwest States. The Gilbert family moved permanently to our State in 1952, and in 1955, Bill became field representative for the AFL–CIO in Los Angeles.

When the AFL–CIO, Los Angeles-Orange County Organizing Committee was formed in 1963, Bill Gilbert was appointed as its director. Under his leadership, the committee has become a model of success as the first major cooperative organizing campaign of the AFL–CIO. It is still functioning, and has served as a model for similar committees across the nation.

Bill Gilbert became AFL–CIO assistant regional director in 1968, with jurisdiction over the States of California, Arizona, and Nevada. In April, 1974, he was appointed to the position of National AFL–CIO regional director for California, Washington, Oregon, Idaho, Utah, Arizona, Nevada, Alaska, and Hawaii. Bill held this important post until his retirement, traveling extensively throughout the massive region to help further the effectiveness and growth of organized labor.

Although much of Bill's life has been devoted to union activities, he has managed to remain active in his own time as well. He has served on many public and government agencies, including wage labor board panels, wage stabilization board, and Los Angeles and California law enforcement advisory bodies.

As an active participant in political circles, Bill is a past secretary of the Los Angeles County Democratic Central Committee, was either a delegate or an alternate to the Democratic National Conventions in 1960, 1964, and 1972, and serves on the AFL–CIO Committee On Political Education (COPE).

In addition, Gilbert is a past president of the Southern California Industrial Research Association; is active on the executive committee of the American Trade Union Council on Histadrut; and has sat on the executive board of the Catholic Labor Institute. A member of the advisory and executive committee of the Jewish Labor Committee of Los Angeles, Bill also is a member of the National Association for the Advancement of Colored People; The United Nations Association; and the board of directors

of the Institute of Industrial Relations' Alumni Association, University of California at Los Angeles.

Mr. Speaker, it has been my privilege to know Bill Gilbert for many years. Few persons in my experience have combined the warmth, energy, and leadership which are the hallmarks of his personality. Now that he has retired, I understand that he plans to remain active, engaging in travel and his favorite hobbies of fishing and snorkeling.

My wife, Lee, joins with me in expressing our best wishes to Bill and Margaret Gilbert in the years ahead. His leadership and ability will certainly be missed by the labor community of the Western States, but we are positive that the years ahead will be happy and productive for him.

CLOSED-CIRCUIT RADIO READING SERVICES—COPYRIGHT EXEMPTION FOR DRAMATIC WORKS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. FRASER. Mr. Speaker, on June 29 Congresswoman GLADYS SPELLMAN and I introduced H.R. 8098. The purpose of the bill is to amend the copyright law by adding an exemption for closed-circuit radio reading services for the blind and physically handicapped. Our amendment would allow these services, without obtaining copyright clearance, to transmit a performance of a dramatic work more than 1 year old, to transmit this performance twice, and to make three copies for lending (at no cost) among themselves.

Public Law 94-553, passed last session, provides that, effective January 1, 1978, these radio reading services may transmit one live performance of a dramatic work at least 10 years old without obtaining copyright clearance.

Some 17 closed-circuit channels now operate across the country, and more are developing. These closed-circuit channels operate on the SCA channels (Subsidiary Carrier Authorization) of commercial or educational stations. Several additional radio reading services operate on regular, open channels. The bill would not pertain to these, but only to the SCA channels.

In order to receive SCA transmissions, listeners must have special receivers that unscramble the SCA transmission. Services have varying requirements for listeners to receive these sets one or a combination of the following tests are used: Satisfactory certification by the Talking Books program of the Library of Congress, medical certification that the person is unable to read or use standard printed materials, or certification by a State agency.

Since only the blind and physically handicapped are eligible to listen to the SCA, transmissions over SCA would not reach the general public.

The services have found the task of obtaining copyright clearance for dramatic works a tedious and often fruitless one. Most of the services operate on small funding programs that combine State, Federal, corporate, foundation, and individual contributions. Staffs are therefore small, and the services depend heavily on volunteers. Staff sizes for services range from about 6 to 26, with 52 to 350 volunteers per service. Most volunteers are readers who read newspapers, magazines, books, entertainment calendars, or who emcee local programing. Yet with small funding and mostly volunteers, the services reach from 400 to 4,000 listeners.

Although the Division for the Blind and Physically Handicapped of the Library of Congress provides tapes of fiction and nonfiction, the program does not provide much dramatic material. And the blind and physically handicapped do not have the same access to dramatic works that other citizens enjoy. They may be hindered by architectural problems or social pressures. Further, some blind persons are not able to appreciate the full experience of a play because they cannot see action on stage even though they can hear the dialogue. And though some dramatic works are available on record or tape, few persons served by the radio reading services have the funds to buy these recordings for one-time use.

The Library of Congress views radio reading services as community-oriented services, to link the blind and the physically handicapped more closely to the life of their communities. Transmission of current dramatic works is one way to achieve this link. Much drama fades fast in relevance. Allowing the radio reading services that transmit over SCA channels to transmit performances of dramatic works more than 1-year old would involve blind and physically handicapped citizens more in the cultural life of the community, while not harming the profits of copyright owners.

My own State of Minnesota began the first radio reading service for the blind in 1969. This revision in the copyright law would be very useful to Minnesota's services and to the services of many other States.

RECENT MIDEAST DEVELOPMENTS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BLANCHARD. Mr. Speaker, I rise to state my disagreement with, and disapproval of, President Carter's recent joint declaration with the Soviet Union on joint objectives for a peace settlement in the Middle East.

It is understandable that the President might wish to encourage a rapid, seemingly simple, solution to the problems of that area. The diplomatic process is often painfully slow, particularly in this instance where great differences separate the two sides.

The fact remains, however, that problems which have developed over several decades will not be solved rapidly. And more to the point, they will never be solved if the United States, the Nation with the greatest ability to make a positive contribution to the problem, gives an impression of vacillation and untrustworthiness. That we must avoid at all costs. Along with several of my colleagues, I intend to discuss this with the President today.

The problems which I have with the joint declaration can be summarized straightforwardly:

It is the first major U.S. pronouncement on the Middle East which does not specifically mention U.N. resolutions 242 and 338. It thereby creates the impression that we no longer consider those resolutions as the fundamental prerequisite for a settlement.

It uses the phrase "legitimate rights of the Palestinian people" rather than "legitimate interests," and thereby again breaks with traditional phrasing, giving the impression that we are more favorable toward the idea of a Palestinian state than we have been in the past.

It was issued in concert with the Soviet Union. It thereby undermines our previously carefully organized efforts to establish ourselves as the sole good faith intermediary in the Middle East, and grants the Soviet Union an influence in the area which it does not merit.

It was issue, according to press reports, without anything resembling the kind of consultation with Israel which we have employed in the past, and which we have given Israel assurance that we would continue to employ. It thereby gives a distinct, and I do not believe erroneous, impression that the administration is seeking to put distance between itself and the Israel Government.

Adding these together, its overall affect is to create further uncertainty where trust previously has existed—in an area of the world in which sensitivity to such changes is already phenomenally high.

It will not even lead toward peace—and that is the most unfortunate aspect of all—because it encourages intrasigence and the lack of moderation on the Arab side. If we were to succeed in pushing Israel toward the Arabs, their natural response would be to move a little farther back. Distance between hard bargainers is not so easily reduced.

Finally I cannot but state my profound concern and disquiet that the President may have chosen to chart a course toward attempting to make a client state of Israel, by implying a link between its future security—which depends on our military aid—and its government's foreign policy. In a region where so much blood has been spilled, and distrust and hatred are so deep, this seems to me to be most unwise. Such a course can only result in the United States and its prestige becoming ever more deeply committed in the Middle

East, in the same manner in which it was once committed in Southeast Asia. Unlike Southeast Asia, however, Israel is a democracy in the fullest sense of the word. Israel does not want to be a client state. In Israel we have a democratic ally that understands that ultimate freedom can only be guaranteed by the people who breathe it and desire it, not by well meaning cousins across the oceans. For the United States to impose or circumscribe the conditions under which another democracy should exist in freedom is a very questionable policy.

I therefore sincerely hope that the President will reconsider this position and reaffirm our previous policy in the Middle East. I believe our support of Israel must remain to be support for a sovereign and independent Israel. And finally, our support for Israel should be understood by all to be firm and unremitting if a lasting peace is ever to be achieved.

I also sincerely hope that I have misunderstood the administration's position and eagerly await today's meeting with the President.

FOREST SERVICE WILDERNESS—RARE II

HON. JAMES ABDNOR

OF SOUTH DAKOTA

Thursday, October 6, 1977

Mr. ABDNOR. Mr. Speaker, I have received a copy of the text of a speech delivered by USDA's Assistant Secretary M. Rupert Cutler before the annual meeting of the Society of American Foresters on October 5, 1977, in Albuquerque, N. Mex.

Dr. Cutler's remarks will be of great interest to many of my constituents as I am sure they will also be to other readers of the RECORD:

WILDERNESS AND THE POLITICAL LANDSCAPE

The topic I bring before you this afternoon not only aptly fits the theme, "The Political Landscape," *it is* the political landscape! This recognition is more than a mere play on words: it is a basic truth which we are going to have to deal with if we successfully resolve the wilderness classification issue.

There are among us some who lament that wilderness classification has become political—overlooking the fact that this has been the case for fifty years. Assistant Regional Forester Aldo Leopold probably engaged in a bit of personal "political persuasion" right here in Albuquerque, when he convinced his superior to set aside three-quarters of a million acres as the Gila Wilderness some 53 years ago. Certainly the pressures for competing uses were nowhere near what they are in this day, but Leopold and his boss must have felt some of the same apprehension experienced by the first man to bite into a tomato.

During that same era, Forest Service Landscape Architect Art Carhart was up against some competing land use situations. At Trappers Lake in Colorado, he convinced the Regional Forester to abandon creation of a subdivision of summer homes, thus permitting eventual inclusion of the area in the Flattops Wilderness. He kicked a hornet nest in northern Minnesota when he devised a management plan, approved by Secretary Jardine in 1926, which said that no roads would be built, that the waterways would serve as the transportation arteries. And he made today's debate over the proper boundaries for a million-acre Boundary Waters Wilderness possible.

As Bob Marshall, the Forest Service's first Director of Recreation and Lands, developed the regulations which formed the initial "system" of wildernesses, wild areas, primitive areas, and roadless areas, he was working in a "hot kitchen" but he did not get out. Instead, he saw his dedication to natural area management adopted by many others, and his efforts place the Forest Service in the preeminent position it enjoys to this day in the wilderness field. I've had the privilege of knowing Bob Marshall's brothers, George and Jim, through my Wilderness Society activity and feel that I've been exposed to Bob's philosophy through them.

For nearly two decades after Bob Marshall's death in 1939, we didn't have much time to think about wilderness matters. World War II and the Korean conflict, with attendant burgeoning technology and economic growth, held the Nation's attention. In the late '50s and early '60s, the great debate on the Wilderness Act was waged, culminating with passage in 1964. Conservation giants such as Howard Zahniser and Henry Clepper strode the stage then, debating the merits of the proposed legislation.

Many thought the issue settled in 1964, except for the Congressional actions resulting from the studies the Wilderness Act mandated. The ten-year study of specified areas was only partially completed when the Forest Service acknowledged that there were areas of National Forest which really should be managed for wilderness values but which were not mandated for study. The 1972 Roadless Area Review and Evaluation, which we now refer to as RARE I, was a bold step by former Chief Ed Cliff toward setting the priorities for wilderness study—and which was intended to close the traverse. This was not to be.

RARE I had some shortcomings. Inventory criteria were too general, some resulting inconsistencies and overlooked areas from region to region—and failure to include eastern forests—clouded the generally good aspects of the review. The public was not made a full partner in the process at an early stage of RARE I.

In jig time, the Forest Service found itself in court, challenged, in the Sierra Club vs. Butz suit, to give fuller consideration to wilderness potential for all the inventoried roadless areas. The policy adopted in late 1972 to again assess the wilderness potential of each inventoried area during the land management planning process, with the public given opportunity through the environmental statement process to comment, partially calmed the troubled political waters.

The calm following Judge Conti's dismissal of the suit was short-lived, however. The land management planning process proved incapable of jointly handling the national political nature of the wilderness question in context of the local evaluation which was the hallmark of the unit planning effort. Soon, the planning process was being impacted with appeals and court challenges. This had the effect of slowing the delivery of goods and services the American people need and expect from the National Forests. The Congress, reflecting dissatisfactions of its constituencies, began taking more aggressive action in the wilderness designation process, "piecemealing" the question out of context with comprehensive land management planning.

When the Carter Administration took office, a number of these "piecemeal" legislative proposals were on the Congressional front burner. This Administration, which favors full and prompt development of a quality National Wilderness Preservation System, was compelled to go on record early this year on several proposals without adequate time for analysis of the entire situation. This was an awkward, uncomfortable situation for me.

Working with Chief McGuire, I decided that the Nation would be best served if we could somehow bring the whole National Forest System wilderness designation process to a timely resolution, using a planned and, insofar as it can be, controlled process. There are real payoffs to all concerned if we can get this job done.

The concepts for this special planning project, which we now call RARE II for want of a better name, are straightforward. First, a completely new run must be made at the national inventory, eliminating all the inconsistency which can be accomplished within the timeframes. The public is to be made a full partner in each of the steps from the initial inventory through to final selection of alternative courses at the end of the project. There must be payouts at each end of the spectrum—wilderness and nonwilderness. Of great importance is our determination that the project be completed in a timely fashion. We are completely committed to carry RARE II to a prompt conclusion.

The two primary aims of RARE II are to determine which roadless and undeveloped areas are needed to round out a quality National Wilderness Preservation System and to determine which roadless areas should receive no further wilderness consideration but be devoted to other uses. We are not so naive as to believe that during such a short time frame each and every roadless area can be successfully dropped into one or the other of these neat categories. Some areas will have to be remanded to more traditional, but more time-consuming, planning and study processes. The measure of success, however, must be judged by how small we can keep the unresolved group of areas.

Most of you are well-versed in the methodology the Forest Service is using for RARE II, so I won't take your time to repeat it all. There are several elements, however, which I know you find bothersome. One is the criteria the Forest Service developed for the initial inventory done before the public workshops began. Before RARE I, the Congress had been generally accepting the Forest Service's relatively strict judgment as to the marks of man's activities which were not acceptable in an area to be designated wilderness—this has been dubbed the "purity" position. For the past half dozen years, however, Congress has strongly indicated that it considers minimal marks of man's activities acceptable in classification actions. The definition of "roadless area" and the criteria for developments used in RARE II are derived from study of these later expressions of the Congress. Certainly it is prudent to use criteria which are as close as possible to those being accepted by the only authority currently empowered to designate wilderness.

Another bothersome element is that there is bound to be some degree of impact on regular forest activities and programs for the duration of the review. The Forest Service, for instance, has determined that probably RARE II inventory will carry the potential to cause shortfall of timber sale volume offered in Fiscal Year 1978 of a maximum of 307 million board feet. We believe that we have the capability to reduce this maximum potential to a minimal effect through aggressive reprogramming of areas, location of alternative sale areas within the same working circles, and other positive action steps and we will use this capability.

If I get no other message across today, I

want to make certain you understand that I intend to: (1) Carry this project to its proper and final conclusion, as promptly as possible, and (2) to hold adverse impacts to absolutely the lowest level possible.

Many of you are concerned about the plans for the next steps in RARE II. Later this month, the Chief will be announcing the final inventory list. The list will be published in the Federal Register with an invitation for public suggestions on the final list. Immediately thereafter, the evaluation phase will begin. This will be an open process in which the public must be kept abreast of progress and given opportunities to provide advice and counsel. The evaluation will involve a two-step screening of all the roadless areas. First, the areas will be screened to determine which possess the attributes needed to round out a quality Wilderness System. This will include such attributes as representation of major ecosystems, and landforms, availability to visitors, distribution in relation to population centers, and several other selection criteria. The roadless areas including those which seem likely candidates to fill gaps in the existing Wilderness System will then undergo socioeconomic tradeoff analysis, performed at the regional level. Alternatives will be cast up in a nationwide programmatic environmental statement accompanying localized draft environmental statements—possibly state-by-state recommendations and alternatives.

We intend in the late summer of 1978 to have another round of formal public comment. This is the time the people will be asked for opinions on whether or not specific areas should be recommended for wilderness designation. This will provide a full field season for persons to get into and study the areas on which they wish to provide comment. At the end of 1978, we will be concluding RARE II with a final report and environmental statement, after which draft legislation to implement our recommendations will be made available to the Congress.

I want to reemphasize several points relating to the entire wilderness classification issue as well as the specific review currently underway. First and foremost, we as a Nation should resolve the issues now. Procrastination today may mean that otherwise-deserving areas will be irretrievably committed to uses that preclude them ever becoming wilderness. Continued debate and controversy over the issue is debilitating and devisive. Persons and industries depending upon goods and services from the National Forests and National Grasslands must be able to look to the future with greater assurance that the needed products and amenities will be there and available on a sustained-yield basis.

The energies of the managing agencies, whether the Forest Service, Bureau of Land Management, National Park Service, or Fish and Wildlife Service, are needed in managing the lands, some for wilderness and the rest for the various other multiple uses.

Until the National Wilderness Preservation System is rounded out to a level acceptable to the American people as a whole, all of us lose because of the static in the system—the energy wasted in coping with controversy. I pledge my efforts to move the process as close to completion as I can, as quickly as possible. All of us should capitalize on any consensus we can find for areas considered in RARE II, rather intrasigent about the honest differences some of us may have. We should fulfill the promise given the American people by the Congress in the 1964 Wilderness Act, to deliver ". . . an enduring resource of wilderness." Then we can optimize our investments of dollars, public and private, and manpower paid and volunteer, to gain full measure of public benefit from the National Forest System.

THE PANAMA CANAL TREATY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BOB WILSON of California. Mr. Speaker, I am privileged to bring to the attention of my colleagues the remarks of Senator BOB DOLE of Kansas.

The distinguished combat-disabled veteran of World War II recently addressed the Non Commissioned Officers Association of the USA (NCOA) Eastern Regional Symposium, Arlington, Va.

On hand were nearly 200 officers and trustees of the association's chapters in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Tennessee, Florida, North Carolina, South Carolina, New Hampshire, and Maine.

Also some 50 guests from military departments and associations and veterans organizations.

Senator DOLE addressed a most timely issue—the Panama Canal Treaty. His remarks are as follows:

REMARKS BY SENATOR BOB DOLE BEFORE THE NON COMMISSIONED OFFICERS ASSOCIATION

In his short time in office, President Carter has managed to throw our entire foreign policy structure into a state of disarray. Where there was once stability, we now have chaos. This administration's attitude towards our allies in Western Europe, Latin America, and Asia, and towards our adversaries in Cuba and Vietnam, has managed to confuse just about everyone.

In the same short span of time, the Carter Administration has jeopardized the fabric of our national security system by undermining the B-1 bomber program and casting doubt upon our national resolve in Western Europe and on the Korean Peninsula.

When this administration came to power, the United States was militarily strong and universally respected. A new SALT agreement was 90 percent completed with the Soviet Union. In the Middle East, the tinderbox of world affairs, we were respected by all parties to the conflict as an impartial friend in the search for peace. In Japan, in West Germany, and elsewhere in Europe our allies said that their relationships with America had never been stronger. In short, our foreign policy was as sound in practice as it was consistent in principle. And throughout most of the world, America was looked upon as a firm, steady partner in the quest for a just and lasting peace.

Eight months have passed now—and look what we have:

To the South, they're cuddling up to Castro.

To the East, they're still looking for a face-saving device to withdraw relations from the Government of Taiwan.

Not too far away from Taiwan, they're trying to retreat from our security position in Korea, and to embrace the communist government of Vietnam.

In Europe, should war come, recent accounts say we are preparing to surrender one-third of West Germany.

In the Middle East, we have managed to confuse nearly everyone, by insisting that Israel accept preconditions before going to the bargaining table.

THE PANAMA CANAL CAPER

The latest in the Administration's foreign policy fumbles is its effort to saddle the American people with a weak-spined Panama Canal treaty. This Administration has backed down on nearly every major point of contention between U.S. and Panamanian negotiators in its haste to capture a dazzling foreign policy accomplishment.

But the American people are not easily blinded by the tinsel and glitter of pomp and ceremony. The Canal treaties which President Carter sent to Capitol Hill are full of serious defects, and the American people know it. An Associated Press public opinion poll conducted after the treaty signing in Washington on September 7 shows that fully 50% of adults surveyed oppose Senate ratification of these treaties. Only 29% favor the accords, while about 21% express no opinion. The opposition cut across regional, party, age and income lines. Those who identified themselves as Democrats oppose the treaty by a margin of 44% to 34% and even the residents of Carter's home region—the South—objected to the treaties by 49%, with only 26% in favor.

TREATIES UNACCEPTABLE

I can understand the public's disenchantment with the pacts. During the past several weeks, I have made an active effort to familiarize myself with all the details of the Panama Canal Treaties, and I find them sadly lacking in logic and guarantees for our future national security. After having discussed the treaties with President Carter, former President Ford, Governor Reagan, and a variety of diplomats and scholars, I arrived at certain specific conclusions.

First, I cannot support the two Panama Canal Treaties in their present form. Both the basic treaty, and the treaty concerning permanent neutrality contain serious omissions and defects which make them unacceptable. In my opinion, the treaties leave us "high and dry" in the event of future international conflict or regional instability.

I believe it is time to move beyond the point of blind emotion on this controversial issue. I believe it is time to focus attention upon specific weaknesses in the Canal Treaties.

Just this morning, I introduced six amendments and two reservations to the Panama Canal Treaties. Each of them was carefully considered and formulated to protect the national interests of the United States against inherent risks in both treaties. When the Senate Foreign Relations Committee opens hearings on the accords next Monday, I am hopeful that each of the points raised by my proposals will be thoroughly examined. Neither the Congress nor the American people can afford to be "bulldozed" on this vital issue.

REDUCE PAYMENTS

Probably no other aspect of these treaties causes as much concern among so many Americans as the payment provisions. This "pay away" plan is a curiosity. Are we providing rent, ransom, or "conscience" money? President Carter's treaty would guarantee payments of between $70 and $80 million dollars per year to Panama out of our Canal revenues. This is a windfall by any standard, particularly when we consider the value of real estate and equipment that will be given without charge to the Panamanian Government under the treaty terms. The amendment I introduced this morning will reduce Panama's share of canal revenues by more than one-half.

Furthermore, should the canal become inoperable for any period of time, the fixed annual payment would cease for a proportionate period of time. This will protect us against canal closings by natural catastrophe, functional breakdown, or intentional sabotage. A second amendment will guarantee our authority to intervene militarily in the canal's defense whenever we determine it to be threatened by any source. In my opinion, this amendment is absolutely necessary to the protection of our national security interests. We cannot count on Panamanian agreement in every instance where we see the operation of the canal to be in jeopardy, so we must retain the right to intervene whenever we see fit.

Another absolute necessity is to guarantee that the United States Navy be given priority passage through the canal during periods of crisis. President Carter's treaty contains a clause granting us "expeditious passage", but the Panamanians have already told us that this means we get in line like everybody else and wait our turn to get through the canal.

Our national defense has never been short-circuited by a traffic jam before, and I don't think we should let it happen in the future.

OTHER POINTS OF CONCERN

Other modifications I have proposed would guarantee our right to build a new canal in any country in the Western Hemisphere, despite the provision in the President's treaty which would require that a new canal be placed in Panama. I also propose to extend the transfer period for U.S. jurisdiction over the Canal Zone far beyond the 30 month period proposed in the treaty. And my modifications will ensure that the civil liberties of U.S. Canal employees and the human rights of all Panamanian citizens are observed by the Torrijos Government in years to come.

For an administration which has made the subject of human rights a basic element of its foreign policy, particularly towards Latin America, the White House has been strangely silent on this point in the Panama Canal negotiations. But I believe that, in the interest of moral principle as well as consistent policy, it is important that we address the subject of human rights within Panama for both Panamanian and U.S. citizens.

NO APOLOGIES

If there is one message that the American people want delivered to General Torrijos and his buddies in Panama, it is that the United States will never reduce its presence in the Canal Zone because of veiled threats or direct pressures. Panamanian officials must know that we intend to reserve all rights to intervene when the security of the canal is threatened, and we expect priority passage for our ships during periods of crisis. They must be told that we expect to see substantial progress in the area of human rights and, above all, we do not intend to pay exorbitant amounts of money for the purpose of turning over control of the Canal and Canal Zone. I believe my amendments and reservations will speak for the American people in this respect. We should settle for nothing less.

Finally, I want to say—without any reservation—that the people of the United States owe Panama no apologies for our involvement with the Canal. The generosity of our Government in building the Canal, in operating and maintaining it for 65 years, and in thereby enhancing the standard of living for Panamanians, requires no remorse on our part. Without any implication of guilt, the Senate should proceed to analyze these treaties in an objective and responsible manner.

But we need the informed opinion and the sound advice of the American people at every step of the way. Whether the Panama Canal issue becomes a victory of principle or just another step along the road of retreat may well depend upon two things: the responsible and non-partisan attitude of the members of Congress, and the trend of public opinion on the matter. I am convinced the American people will not agree to a "sell-out" arrangement in Panama, and I will do my best to see that that never happens.

BAD PAPER UPGRADE

There is another matter of importance to the Non Commissioned Officers Association that I would like to discuss briefly. That is the legislation we have been considering in Congress recently to insure that veterans with a record of less than honorable service in the Armed Forces should not automatically receive veterans benefits as a reward.

As you will recall, earlier this year, President Carter pardoned all Vietnam era draft evaders. He then created a special discharge review program to upgrade the discharges of a great many Vietnam era veterans who were discharged under less than honorable conditions. This action created a situation where veterans benefits were made available to those who may have deserted or otherwise failed to meet their obligations of services to their country. In short, dishonorable service would be rewarded with veterans benefits.

HIGH STANDARDS ESSENTIAL

As professional leaders in the Armed Forces, you are well aware of the importance of maintaining high standards of service. We cannot have a strong national defense if the duty and responsibility of every citizen to serve their country is ignored. We cannot have an effective military organization if discipline and the other requirements of military service are flagrantly violated.

The Non-Commissioned Officers Corps is the backbone of our armed services. Because of your high level of professionalism and your standards of conduct, our defense establishment is the finest of the world.

But, as you well know, there could not be the high standards of performance if your subordinates knew that dishonorable conduct would be not only forgiven but even rewarded as well. To reward substandard and dishonorable service with full veterans benefits is to undermine the entire structure of the Armed Forces.

That is why the Congress acted promptly to enact legislation barring automatic eligibility for veterans benefits to individuals whose discharges have been upgraded as a result of the Carter special discharge program. Yesterday, the Senate passed the final version of this bill. Today the House approved it and sent it to the President.

This act will require that before any veteran who goes through the special discharge upgrade program can receive veterans benefits, he must meet the standards of honorable service that would have allowed him to obtain a discharge upgrade under the traditional standards that existed prior to the Carter special review program. This will require that any veteran who receives veterans benefits must meet the traditional standards of honorable service.

The one exception to this is for veterans who sustained a combat injury or an injury in the line of duty. In these cases, they will be eligible for medical benefits from the V.A. but will receive no other V.A. benefits unless they otherwise meet the traditional standards of honorable service.

This bill is essential to retaining the high standards of our Armed Services, which you have done so much to establish and maintain. The Non Commissioned Officers Association of the United States played a very significant role in developing and passing this legislation. Successful passage of this bill would have been much more difficult without your strong support.

I commend you for your dedication and your patriotism. I know that as long as we have a strong professional Non-Commissioned Officers Corps, the freedoms and human liberties we hold to be so vital will be protected from foreign enemies everywhere.

UNITED STATES SHIFT IN THE MIDDLE EAST

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BINGHAM. Mr. Speaker, on September 29 I sent a letter to the President outlining my concern about the direction of U.S. policy in the Middle East. Last Sunday's joint Soviet-United States communique only confirmed these fears and I would like to take this opportunity to share my letter to the President with my colleagues and other readers of the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing because of my growing concern about the direction of U.S. policy in the Middle East. I have not written until now in the hope that a seeming tilt in U.S. policy was merely illusory or that, if real, it would be corrected. But unfortunately a series of recent policy pronouncements and casual statements have left me convinced that U.S. policy is shifting away from forthright support of Israel and her goal of peace through direct negotiations with her neighboring states to a more equivocal stance.

The most recent evidences of this apparent movement are the State Department announcements that "Palestinians must be involved" in the peacemaking process and that the United States does not share Israel's position that PLO members must be excluded from any mixed Arab delegation at Geneva. These statements, coupled as they are with Administration insistence upon a Geneva conference this year, are widely and, I think, correctly interpreted as pressure on Israel to agree to the participation at Geneva of the PLO. This marks a retreat from the 1975 U.S. commitment to Israel which bans any U.S. recognition of or dealing with the PLO so long as the PLO rejects U.N. Resolutions 242 and 338 and denies Israel's right to exist.

My concern is on two counts. First, I have never understood the Administration's emphasis on the necessity for a reconvened Geneva conference this year or its repeated calls for substantial progress toward a settlement in 1977. There is nothing magic about 1977 and the establishment of artificial timetables can only arouse false hopes and needless fears. A thirty year stalemate is not going to end overnight or in the next 90 days. The attainment of peace will require a revolution in attitudes and modes of conduct throughout the Middle East. I see no signs that that kind of revolution is underway. I see no concrete evidence that any Arab leader, with the exception of King Hussein, is ready to commence the normalization of relations with Israel. The much proclaimed "moderation" of Anwar Sadat and Hafez Assad consists of little more than a willingness to end the state of belligerence in return for Israeli withdrawal from "every inch" of territories held since 1967. This should be welcomed as a step in the right direction but hardly indicates that peace is at hand.

Nevertheless I do believe that we should promote progress toward a peace agreement, so long as we do not sacrifice vital U.S. interests in the process. That is why I am both alarmed and puzzled by your Administration's apparent support of, or at least acquiescence in, a PLO presence at Geneva. American support for a PLO role not only undermines our goal of meaningful negotiations but it erects a roadblock in the way of such negotiations.

The position of the Israeli government is clear. On Sunday, Foreign Minister Dayan only reiterated a position held by the Meir and Rabin governments (and, incidentally, supported by the overwhelming majority of Israelis) when he said that Israel will never agree to parley with an organization which has as its sole objective the eradication of the State of Israel. Questions about whether or not the PLO will endorse the U.N. Resolutions 242 and 338 are irrelevant. The PLO's raison d'etre is, as its reaffirmed covenant states, "to purge the Zionist presence from Palestine." Dedicated to the destruction of Israel, what role could it possibly play in negotiations designed to finding a way for Israel and its neighboring states to live together in peace? Israel will not yield on this point—nor should she—and U.S. insistence on it will doom negotiations before they begin.

Moreover it hardly behooves the U.S. to bolster the PLO by alluding to ways it might win U.S. acceptance at the very time the PLO is on the wane in the Arab world. Vanquished in Jordan and weakened in Lebanon, enjoying little support among Arabs in or outside Israel, it is at its lowest point of influence in years and might be eclipsed altogether except for the occasional encouraging statements from the U.S. U.S. flirtation with the PLO is precluding the emergence of more moderate Palestinian voices which will not be heard so long as it appears that the PLO has any chance of winning U.S. recognition. We have here a situation where the U.S. is encouraging an organization which would, if it could, destroy the United States' two most steadfast allies in the Middle East, Israel and Jordan; an organization which has sown two civil wars, in Jordan and Lebanon, and which is responsible for the Munich Olympic murders, the massacre of the children at Ma'alot, and the executions of two U.S. diplomats, among hundreds of such murderous incidents. This is indefensible.

I agree that the Palestinian issue should be resolved in the peacemaking process. The Jordanian delegation, which could include Palestinians not affiliated with the PLO, is the proper place for Palestinian representation. Israel has agreed to the inclusion of non-PLO Palestinians in a mixed Arab delegation and this also makes sense. But the actual negotiating must be between the states that were involved in the four Middle East wars, Israel, Jordan, Egypt and Syria.

The Palestinian issue is not the cultural issue here. Is there any reasonable person who would claim that the wars of 1948, 1956, 1967, and 1973 were fought over the so-called t"rights of the Palestinians"? The Arab states s[illegible]ved their disregard for any such rights when they rejected the U.N. Partition Resolution of 1947 which would have established a Palestinian Arab state. Nor did the Arab states concern themselves with the need for a Palestinian homeland on the West Bank during the 19 years prior to 1967 when the West Bank was in Arab hands. Neither are the territories captured by Israel in 1967 at the core of the conflict. The Arabs went to war with Israel three times before any territories were "occupied." The central issue today, as it has been for 30 years, is the right of Israel to exist and to exist in peace in secure and defensible borders. Negotiations between Israel and her neighbors must have as their goal normalized relations between the parties—diplomatic exchange, trade, travel, commerce, and cessation of all forms of warfare. In the context of negotiations with those objectives. Israel's leaders have said repeatedly that everything is negotiable. Though Israel cannot be expected to return to the insecure borders of 1967, there is room for arrangements dealing with the West Bank, Gaza, and the Golan. In the context of a real peace, even Jewish settlements on the West Bank should pose only minor problems. Surely a negotiated settlement could allow Jewish settlers to live in the West Bank regardless of what kind of arrangement is ultimately worked out. Given a commitment to peace, everything is possible.

All these questions could be resolved in the negotiating process. But they cannot be resolved in advance. It must be said that our goal of negotiations is not being furthered by U.S. statements on the necessity of a "Palestinian homeland" or "entity" or by suggestions that Israel must give up all but minor portions of the territories gained in 1967. I find the constant U.S. demands on and chiding of Israel while Arab actions and statements go unmentioned most troubling.

There is a striking imbalance between the Administration rebukes so often leveled at Israel for various alleged provocations and the silence that greets intemperate Arab statements or moves. The State Department called Israel's legalization of existing settlements in the West Bank "illegal" and "obstacles to peace." It calls new settlements "obstacles to constructive negotiations." It has labeled various statements by Israel on the necessity of keeping occupied territories "not helpful".

Yet there was no criticism of Syria's invasion of Lebanon. There was no rebuke of President Assad when he said that there is no way to force one nation to recognize another. The U.S. took no notice when President Sadat said that "neither Jesus nor Mohammad" could persuade Arabs to open their borders with Israel. There was no U.S. condemnation of an August PLO attack on an Israeli bus. When asked to comment, State Department spokesmen refused. This borders on a solicitousness toward the Arabs that I find incomprehensible. Just what have the Arabs done to merit such sensitivity and concern on our part? It is not fair to chastise Israel for her preoccupation with her peoples' security while we commend the Arab leaders for their "moderation" in coming around to tentative acknowledgment of Israel after 30 years and four wars of aggression.

This Administration must and should encourage Arab leaders to come to terms with Israel. But that will not be accomplished by U.S. endorsement of Arab demands or one-sided criticism of Israel. Rather than promote Arab moderation these statements lead the Arabs to believe that they will accomplish their maximalist goals through U.S. pressure on Israel and that there is no need for them to make significant concessions for peace. Conversely, Israel will stiffen her negotiating posture if she feels that the U.S. commitment to her is wavering. Israeli faith in U.S. intentions is essential. Israel's knowledge that the U.S. stands behind her—economically, militarily, and diplomatically—can give her the confidence to negotiate freely with nations which have attacked her four times in thirty years. An Israel that feels abandoned cannot have that kind of confidence.

Mr. President, I share your determination to see peace achieved in the Middle East but I believe that our goal must not be a mere settlement, a quick fix which can delay war but not end it. In Clinton, Massachusetts you described the peace to which we must aspire. At that time you said:

"I think one of the finest acts of the world nations that's ever occurred was to establish the State of Israel."

"So, the first prerequisite of a lasting peace is the recognition of Israel by her neighbors, Israel's right to exist in peace. That means that over a period of months or years that the borders between Israel and Syria, Israel and Lebanon, Israel and Jordan, Israel and Egypt must be opened up to travel, to tourism, to cultural exchange, to trade, so that no matter who the leaders might be in those countries, the people themselves will have formed a mutual understanding and comprehension and a sense of a common purpose to avoid the repetitious wars and death that have afflicted that region so long. That's the first prerequisite of peace."

That is a vision we all can share. It is a peace that region needs and it is a peace that the people of the region deserve. We must settle for nothing less.

With best wishes,

Sincerely,

JONATHAN B. BINGHAM.

THE OPTICAL DELUSION—PART II

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to insert the second in a series of investigative reports into the retail eyeglass industry written by the New York Daily News' William Sherman.

This article spotlights how incomplete and inaccurate examinations and prescriptions result in thousands of persons being fitted with wrong glasses. In addition to obvious hazards to vision—this problem results in great expense to the consumer as the average cost for eyeglasses is nearly $80.

I am especially concerned about the effects of this consumer rip-off on the elderly. As a member of the House Select Committee on Aging, I intend to conduct hearings into this problem. Our committee led by the distinguished gentleman from Florida (Mr. PEPPER) has a deep concern for reducing the high costs of medical appliances needed by the elderly.

The second article follows:

[From the Daily News, Sept. 27, 1977]

ONE PAIR OF EYES GETS 20 PRESCRIPTIONS

(By William Sherman with Kiki Levathes and Hugh Wyatt)

Let's say you had acute appendicitis, but the doctor examined you so hurriedly, he diagnosed nothing more than a mild stomach ache and prescribed an antacid. Then the druggist filled the prescription wrong and gave you aspirin.

This kind of thing is happening to people who buy eyeglasses. They are rushed through examinations so quickly that many crucial tests are omitted and they wind up with glasses that are incorrectly prescribed.

Even if the prescription happens to be right, lab technicians who fill prescriptions often fail to follow instructions. Again, the buyer winds up with inaccurate glasses.

These were among the findings of a News investigation into the $4.1 billion a year American eyeglass business.

Half of New York City wears corrective lenses and News reporter Hugh Wyatt bought glasses at 20 retail stores to find out what happens to people with vision problems. Two of the stores were opticianries where his old glasses were duplicated.

Before he began his tour, Wyatt was given an hour-long battery of tests by optometrists at the State University of New York's optometric center. There, Wyatt was found nearsighted and astigmatic, problems solved with single vision lenses.

But at many retail stores Wyatt was rushed through tests in six minutes and one optometrist whisked him through in three minutes flat.

Alden Haffner, president of the optometric center said, "The tests and the workmanship were terrible."

And the results were glasses that were too strong or too weak, frames that were stretched to the breaking point, lenses that were improperly set, and in one instance, a pair where the right eye lens was switched with that meant for the left.

Optometrists at the university center who evaluated the prescriptions and purchases said it is impossible to do a thorough eye examination in less than 45 minutes.

The examination, they said, should include a lengthy case history of vision problems and tests of the cornea and retina, depth of vision, field of vision, eye reflexes, sight at near and far distances, and a scan for disease.

Here is what happened at the 20 stores Wyatt visited:

Only one optometrist asked for a case history.

None of the optometrists agreed with the university center's findings that Wyatt needs prisms in both lenses to improve his binocularity—that is to help both eyes see as a team and on the same vertical plane.

At the same time none of the shops tested for binocularity, Wyatt's particular problem. Meanwhile, one store put a prism into his lenses although it was not called for on their prescription. It was the wrong prism for Wyatt.

Many of the stores where he was examined used Wyatt's old glasses as a reference and essentially did little more than copy them. Still the copies didn't match the orignals. Some were too weak, others were too strong.

Sixteen of 20 stores didn't test for glaucoma. Ten of the stores didn't examine the retina or cornea in detail.

In 16 cases, the distance between the centers of the lenses didn't match the actual distance between the pupils of Wyatt's eyes. When this measurement is off, the eyes will "pull" to see through the actual centers. Eyestrain and headaches result.

In 11 of the 20 glasses Wyatt bought, the axis in the prescription was incorrect. Considering a lens as a clock face, the axis is that hour of the clock where the power should be placed to correct of astigmatism.

In many of the glasses, frames were improperly stretched and the wrong size lens was put in.

The total result was that none of the optometrists in the survey wrote prescriptions that would accurately correct Wyatt's vision problem, according to the center optometrists. In addition, 15 of the 20 prescriptions were incorrectly filled. And the resulting glasses did not meet tolerence levels by the Americans Optometric Association.

"Had he worn many of the glasses he bought," said university center president Haffner, "he would have been seeing incorrectly—with one eye looking up and one eye looking down—just considering that they didn't do the test for binocularity. That was just one of the problems."

At some stores, Wyatt was rushed through his examiantions so quickly, he hardly had time to say anything at all. Often, his questions were brushed aside or answered with nonsense.

At Sight 'N Style Optical, 447 Fulton St., Brooklyn, optometrist Aaron Friedland manipulated a testing device called a phoropter so fast, Wyatt became confused.

"You're not giving me a chance to accurately read the letters," he complained.

"That's the idea," Friedland replied. "When you're on the outside using your glasses, you've got to be able to see everything around you very quickly."

Wyatt's examination there was over in eight minutes. The glasses were later evaluated and the distance between the optical centers was off.

In addition, the axis correction for astigmatism was ten degrees off in the left eye according to the center optometrists' finding.

At Korvette's Optical World, 1293 Broadway, optometrist Robert Ring had six people waiting on a line behind Wyatt and Ring hustled Wyatt through in three minutes.

The university center's evaluation later showed that Ring's prescription was too weak and the axis was five degrees off. In any event, that prescription was incorrectly filled.

Optometrist Bernard Rosett of 37-03 Main St., Flushing Queen was one of those who provided a thorough examination. He spent nearly an hour with Wyatt, chatting and asking questions.

But the resulting glasses were too weak for both eyes, the optical centers were off, and the axis was five degrees off. The prescription was improperly filled.

In their evaluations of the eyeglass purchases, the optometrists at the center noted that the technical work of lenses and placing them properly in the filling the prescriptions—cutting the frames—was done by lab technicians.

Optometrists have four years training and are licensed by the state to examine eyes, and opticians are trained and licensed to fit glasses and check prescriptions. Lab men receive no formal training and, although they are not licensed, they are the technicians who do the actual work of filling prescriptions.

Usually they work in the back room of an eyeglass store where, according to the optometrists at the center, "They receive their training on the job." These "lab men," or "bench men" as they are called, average about $220 a week.

When told of the survey, Charles W. McQuarrie, president of the American Optometric Association, said that in writing a prescription, variations are understandable.

"You can go to five different optometrists and get five different prescriptions."

"But," he said, "There is no excuse for a short examination and no excuse for failing to perform the necessary tests. When a new patient comes into my office I will not spend less than 45 mintues with him. After all, it's his eyes."

"When a prescription is filled and the glasses are in hand, I always check the numbers to see if they are accurate. Anybody who doesn't isn't doing their job. That's all I can say."

HOW THE EYE MEN SAW IT

If you want a pair of perfect glasses, glasses that fit and are correctly prescribed, the following should happen: After a 45-minute exam an optometrist will write a prescription. You choose a frame. If the lenses are "stock" finished to your prescription, which they usually are, the prescription order will be given to a "lab man." He generally works at the rear of the store.

The lab man will fill the prescription, choosing the right power lenses. He will mark the lenses so the optical centers will match the centers of your eyes and he will mark the axis so the power will be in the right position after the lenses are placed in the frame.

The lenses will be cut and edged so they fit into the frame properly. When the job is done, the retailer will check to see if the prescription has been properly filled. If it isn't the retailer will make corrections.

Usually this doesn't happen, according to the News survey. Reporter Hugh Wyatt bought 20 pairs of glasses at stores around the city. All the lenses were stock and at each store he asked for the same frame, an American Optical Co. "stadium" model.

Optometrists at the State of New York's optometric center evaluated Wyatt's purchases. They checked to see whether the retail stores' prescriptions matched their own prescription for Wyatt. They also checked to see if the prescriptions written in the retail stores were filled properly.

To determine whether the retail prescriptions were properly filled, they used standards of tolerance set by the American Optometric Association and the American National Standards Institute. Those standards allow for the following margins of error in filling a prescription: three degrees in the axis and a quarter of a diopter in the power. No margin of error is allowed for the correct distance between optical centers of the eyes, according to Allan Haffner, president of the university center.

Here is a store by store evaluation of Wyatt's purchases by the university center that was double-checked by another optometrist:

Cohen's Fashion Optical Co., 767 Lex. Ave.—Totally inaccurate. Left eye reversed with right eye. Shape of lenses put into frames was wrong. Distance between lens centers off. Too weak in the left eye, too strong in the right.

Cohen's Fashion Optical, 50 East 42nd St.—Distance between lens centers 11 millimeters off. Frames too small for patient's head. Temples were each a quarter of an inch too long. Prescription too weak for both eyes. Filled prescription didn't match written prescription.

Community Opticians, 509 Willis Ave., Bronx.—Wrong shape lenses, frame stretched improperly. Distance between optical centers off. Too strong in the right eye, too weak in the left. Axis off five degrees.

Conovitz Optometrists, 37-03 Main St., Flushing.—Prescription incorrectly filled. Optical centers three millimeters off. Too weak for both eyes. Axis five degrees off.

Euphoropia "Optical Boutique," 1109 Kings Highway, Brooklyn.—Shape of lenses wrong for frame. Optical centers correct. Prescription filled accurately, but the lens power was too weak for both eyes.

Grand Central Optical Co., Inc., Grand Central Sta.—Prescription incorrectly filled. Distance between optical centers of lenses five millimeters off. Wrong shape lenses put into frames. Power too strong for both eyes.

Hillman Kohan Vision Center, 247-22 So. Conduit Ave., Rosedale—Prescription incorrectly filled. Correction for astigmatism 15 degrees off. Bridge of the frame one size too small. Distance between optical centers three millimeters off. Power too weak in both eyes.

Kalmus Optical Co., 229 E. 86th St.—Prescription incorrectly filled. Bridge on frame one size too small. Distance between optical centers two millimeters too small. Power too weak in both eyes.

Korvette Optical World, Herald Square—Three minute eye examination. Prescription incorrectly filled. Power too weak in both eyes. Axis five degrees off.

Lugene Opticians, 38 E. 57th St.—Old glass-

es duplicated, but copied totally incorrectly. The wrong prism was induced. Correction for astigmatism in left eye 15 degrees off. Distance between optical centers 14 millimeters off.

Macy's, Herald Square—Prescription filled correctly, but the lens power was too weak for both eyes. Correction for astigmatism five degrees off in left eye.

Meyrowitz Inc., 555 Madison Ave.—These opticians duplicated Wyatt's old glasses perfectly. Temples on frames were short.

Nassau-Fulton Group Optical Plan, 87 Nassau St.—Prescription incorrectly filled. Power too weak in both eyes. Correction for astigmatism five degrees off. Wrong shape lenses for the frame used.

Pildes Opticians, 147 E. 86th St.—Filled prescription, included an incorrect prism for left eye, written prescription did not. Correction for astigmatism 15 degrees off in left eye, four degrees off in right eye. Lense power too weak for both eyes.

Sandow, 665 Lex. Ave.—Grossly incorrect. Lens put in frame incorrectly. Axis correction for astigmatism found 84 degrees off in right eye, three degrees off in left eye. Distance between optical centers, six millimeters off. Prescription incorrectly filled.

South Shore Opticians Inc., 225 W. 34th St.—Distance between optical centers four millimeters off. Frame at temples one size too small. Written prescription had astigmatic correction in right eye two degrees off. Filled prescription mysteriously corrected the mistake.

Sight N' Style Optical, 447 Fulton St.—Distance between optical centers three millimeters off. Power too weak in both eyes. Axis correction for astigmatism 10 degrees off in left eye.

Sterling Optical Co., 795 Lex. Ave.—Correction for astigmatism 10 degrees off in left eye, four degrees off in right in filled prescription, although the written prescription was correct for the astigmatic component for the right eye. Power too weak in both eyes. Prescription incorrectly filled.

Ultimate Spectacle Inc., 1032 Third Ave.—Temple size in frames one size too large. Bridge of frame one size too small. Frames overheated by lab man resulting in small indentations. Distance between optical centers seven millimeters off. Prescription much too weak for both eyes. Astigmatic correction two degrees off in filled prescription, correct in written prescription.

Vision Fashion Eyewear, 6 E. 46th St.—Axis correction for astigmatism five degrees off in left eye. Lens power too weak for both eyes. Prescription incorrectly filled.

CONGRESSMAN BRADEMAS TESTIFIES ON AGE DISCRIMINATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MURPHY of New York. Mr. Speaker, my colleague JOHN BRADEMAS, the majority whip, has been one of the most effective champions of the vulnerable citizens in our society, particularly older Americans, through his work as chairman of the Subcommittee on Select Education.

He was the sponsor of the Age Discrimination Act of 1975. In addition to prohibiting unreasonable discrimination based on age in federally assisted activities, the act directed the U.S. Commission on Civil Rights to undertake a study of the problem of age discrimination. The Commission's study will aid the Secretary of Health, Education, and Welfare in formulating regulations to enforce the act. These regulations will take effect no sooner than January 1, 1979.

As part of the Commission's study, Congressman BRADEMAS testified at the Civil Rights Commission's hearing on age discrimination on September 26. At this point in the RECORD I insert Congressman BRADEMAS' eloquent statement as well as the introductory remarks by Arthur Flemming, the Chairman of the U.S. Commission on Civil Rights:

Chairman FLEMMING. Congressman Brademas. We are honored at this time to have with us Congressman John Brademas from Indiana, majority whip of the U.S. House of Representatives, Chairman of the Subcommittee on Select Education, Committee on Education and Labor. I know that if it were not for the leadership of Congressman Brademas, with the able assistance of his staff director, we wouldn't be here today. We wouldn't be holding hearings on the aged Discrimination Act of 1975. I just want to say to Congressman Brademas, how much I personally appreciate the leadership that he provided in the Congress which made it possible for this particular Act to be included in the older Americans amendments of 1975.

Its just one additional illustration of how indebted all of us who have been working in the field of aging are to you and to the quality of your leadership. We do appreciate and we're so grateful that you have found it possible to come here and be with us at the opening of these hearings. I know you have a hearing on the Hill very shortly and we will be delighted to hear from you at this time.

Congresesman BRADEMAS. Thank you very much, indeed, Chairman Flemming and distinguished members of the Commission on Civil Rights. Allow me at the outset to express my own very warm appreciation for your generous comments and to salute you and your colleagues on the Commission for the leadership that you have given in this and other fields important to securing equal opportunity for all of the people of our country.

I am delighted to be able to appear before you today to testify at your national hearings on Age Discrimination. It is perhaps appropriate that as sponsor of the Age Discrimination Act of 1975, I begin by reviewing some of the history that brings us here this morning.

As you know, the Age Discrimination Act of 1975 provides that "no person in the United States shall, on the basis of age, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance."

The Act further provides that this prohibition against age discrimination shall be implemented pursuant to regulations promulgated by the Secretary of Health, Education, and Welfare. These regulations may not take effect before January 1, 1979.

The Act also specifies that it is not a violation reasonably to take age into account when necessary in order to achieve the objectives of Federal programs.

Finally, the Act charges the Commission on Civil Rights with undertaking, "a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance."

Mr. Chairman, this law, like most laws that chart new legislative territory, was the product of compromise. My House colleagues and I were persuaded that age discrimination was a serious and shameful problem and that it should be prohibited immediately. Our Senate colleagues agreed that there was a problem, but they were troubled by the unanticipated dangers that might exist in the uncharted territory into which we were forging.

The outcome of our deliberations was the creation of a multi-staged process. We set forth immediately the principle of non-discrimination on the basis of age. We provided for the study which the Commission is now conducting and, finally, we delayed enforcement of the prohibition against age discrimination in Federally assisted programs until January 1, 1979.

Thus this Commission and your study will play an important role in the realization of the goal of ending discrimination based on age. You are a link between the recognition and enunciation by Congress of the principle that age discrimination is repugnant to the ideal of human justice in our nation and the implementation through specific regulations of that principle in day to day practice.

Your study will provide a data base and detailed analysis that will help the Secretary of Health, Education, and Welfare to formulate regulations that will be effective in ending age discrimination while at the same time producing regulations that are not arbitrary, capricious or unnecessarily burdensome in their impact.

Mr. Chairman, I would like to commend the Commission for the thoroughness and diligence with which you have undertaken your complex and difficult assignment. I am particularly impressed because you have taken your inquiry to the people. You have sought information and counsel from officials at all levels of government. You have received the views of advocate groups and representatives of a wide variety of citizens affected by age discrimination. You have aggressively pursued your investigations and research at 6 sites throughout the nation rather being a passive instrument to receive whatever constituents could find their way to Washington.

In my view, the sweep of American history as reflected in public policy reflects the unfolding of a basic theme. This theme is the progressive lowering of barriers that deny to some citizens full access to the opportunities and benefits of our society. One can trace this history from the elimination of religous qualifications for voting in the early nineteenth century, to the Thirteenth, Fourteenth, and the Fifteenth Amendments to the Constitution following the Civil War, to women's suffrage and to a national policy encouraging collective bargaining and providing workers the opportunity to have a voice in shaping their destiny in the work place.

In the last two decades this movement has accelerated.

Title VI of the Civil Rights Act of 1965 prohibits discrimination based on race, religion or national origin. Title IX of the Education Amendments of 1972 prohibits discrimination based on sex. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against the handicapped persons. The Age Discrimination in Employment Act of 1967 prohibits age discrimination in matters such as hiring, job retention and compensation. Legislation to strengthen and broaden this Act is currently pending before Congress. And most recently there is the Age Discrimination Act of 1975 which complements the Age Discrimination in Employment Act.

I believe that all of these are basic civil rights laws. They are all based on the principle that every individual should be judged on his or her merits and not on the basis of irrelevant factors like race, religion, national origin, sex, handicap or age. Each of these civil rights laws affirms that judgments about people should be based on their abilities and performance and not on stereotyped assumption and prejudices. These are legislative enactments all founded on the belief that it is a fundamental injustice to deny to any individual access to the fruits of our society based on such arbitrary criteria as age.

It was in response to the self-evident justice of the proposition that there should not be age discrimination and it was in concert with the tide of the history of American public policy that Congress enacted the Age Discrimination Act of 1975.

We also, of course, on the subcommittee which I chair, heard testimony illustrating in great detail age discrimination in education, health programs, social services, transportation, housing and nutrition programs. So we acted not only on the basis of principle but also in response to evidence of pervasive and unconscionable age discrimination in our society.

I very much hope that the Age Discrimination Act will become the national example to combat ageism in our country, for no longer can we deprive our society of the special contribution offered by older adults. I would also emphasize that the problem of age discrimination is not confined to the elderly. As you well know, even someone in his thirties can be discriminated against on the basis of age, if, for example he or she is applying for admission to medical school.

We have made some significant strides in combatting age discrimination. We still have a long way to go. But we are headed in the right direction, and I believe that we are swimming with rather than against the tide of American history. My commitment to Federal policy that enhances the dignity and civil rights of every citizen remains unwavering.

I shall not take more of your time this morning because in a sense my appearance is only ancillary to your central task of gathering hard evidence and doing careful analysis that will serve as a foundation for effective implementation of the Age Discrimination Act of 1975.

I do, however, want to take this opportunity to:

First, commend you for a job that has, thus far, been very well done;

Second, express my own continuing commitment to and support for the objective of ending ageism in our nation; and

Third, to indicate the importance that I attach to your report and my eagerness to see the finished product in the near future.

Finally, Mr. Chairman, let me just add one other word as this is the first time that I've ever had the privilege of appearing before your Commission, just to say a general word about it, I believe, there are extraordinary valuable contributions which this Commission, its present members and your predecessors have made to wider understanding of the whole range of civil rights problems to which I referred in my statement. I have a particular interest in this Commission in a personal sense, I suppose, because one of your distinguished, predecessors, Mr. Chairman, is my friend and constituent, the Reverend Father Theodore Hesburgh, the president of the University of Notre Dame. I have been deeply impressed by the contributions that Father Hesburgh has made as Chairman of this Commission. I have been equally impressed, Mr. Chairman, by the contributions that you yourself have made so I'm all the more pleased to have had the chance to appear before you this morning.

POSTAL SERVICE

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. HARKIN. Mr. Speaker, the U.S. Postal Service brass in Washington seems to have forgotten that its primary purpose for being is to provide an essential service to all Americans.

Their primary goal is profit, it is clear, and they seem ready and willing to sacrifice service to meet that goal.

They have proposed massive closings of small town post offices, elimination of 6 day deliveries, and have piled rate hike upon rate hike, regardless of the consequences, in their effort to turn a profit.

The saddest part of all this is that the Postal Service was never intended to make a profit, just as police and fire departments are not expected to show a profit. They are all basic services, provided to all Americans. They are not moneymaking propositions.

Dottie Graham, copublisher of the Beacon-Enterprise, of Tabor, Iowa, has written an excellent editorial on just what this misguided attitude of the Postal Service brass in Washington may mean for rural Americans, if it is allowed to persist.

She concludes with a ringing endorsement of H.R. 7700, an endorsement with which I wholeheartedly concur.

I commend her article to the attention of my colleagues, and insert it to be printed at this point in the RECORD:

[From the Tabor (Iowa) Beacon-Enterprise, Aug. 17, 1977]

DOTS . . . . & DASHES — — — — FROM DRG

I am not a fan of the U.S. Postal Service. For a small town weekly newspaper publisher to be a fan of the U.S. Postal Service is akin to a 19th century English prostitute being in love with Jack The Ripper.

Compared to the U.S. Postal Service, I think dove hunters are terrific.

That's how much I like the U.S. Postal Service.

Which is not to say that I am going to run down to the Tabor Post Office and bite Lyle Van Scyoc.

My quarrel is not with our local postal employees. They are as much victims of the system as anyone else.

Remember the Postal Service wants to eliminate their jobs too. They want to eliminate their jobs, my job and anyone else's job that depends on the delivery of mail in the U.S. of America.

No, my quarrel is not with the employees, those people still struggling against all odds to give service. "Service" is the last thing that the postal bureaucracy is interested in giving.

What it is interested in is something of a mystery. Perhaps what it really has is a death wish. A death wish that will certainly be fulfilled if nothing is done to change the structure of this behemouth created by the Nixon Administration.

In the last five years the second class postal rates, (for newspapers and magazines) have risen over 500 percent.

And now, with a twenty percent increase only last month, the Postal Service has filed for a new thirty percent increase.

In addition the postal service is seeking to impose a surcharge in the amount of two cents per copy for all publications receiving "newspaper treatment" or "red tag" delivery.

All of this is outrageous. But that isn't enough for the postal service. In addition to the rate increase the postal service plans to cut back on service.

You may think you already know about this part, the elimination of Saturday delivery. Hope, that's not it. One new plan calls for three-day delivery. Another plan offered calls for the slowing of overnight processing of mail—the peak period of mail volume—to save money.

As rates skyrocket and service deteriorates, more and more large volume mail users will find alternative delivery systems. And the postal service will shrink and shrink, until it is no more.

What does all this mean to the average American citizen? It means that he (and she) will be at the mercy of private delivery mail companies and the telephone companies. There will be no alternative. There will be no way to communicate except by these methods.

What does this mean to a large segment of this country's free press? Absolute disaster.

The small weekly newspaper will be a thing of the past. In fact the only newspapers that will survive will be those large enough to afford private carriers.

Out of county and out of state delivery will be so expensive that it will be prohibitive. Besides, it will take so long for delivery that it would hardly be worth it at the present price.

And when your small newspapers go, what will replace them?

Who will gather the local news, write it and present it in a permanent easy to understand form?

Who will put legal notices before the public?

How will you know when there is a special meeting of the school board or the town council, or any other governmental body, club or group?

How will you learn what the county, school and town budgets are to be?

Where will you see referendum, and ballots, biographies of local candidates and their stands on the issues of the day? How will you inform yourself as a voter?

Where will you find the birth, marriage and death notices? Sure, you can go to the courthouse, but will those records tell you what color the bridesmaids gowns were—or the contributions to the community made by the deceased? Each story, in its own way, is important, to the families involved, to the people of the community who want to be kept informed of the important moments in the lives of their neighbors and friends.

Where will the local merchants of the town advertise? With the death of the postal service, with the death of the local print media—radio and television will have eliminated a major competitor and the cost of their advertising will increase dramatically. Your local businessman may very well be shut out of the market, unable to advertise his wares, unable to compete against large chain stores, with high advertising budgets.

The small town newspaper is the voice of the community. In one issue it tells more about the high school sports program, the 4-H achievements, the honors bestowed on its citizens, the tragedies that befall them, the happiness they may be experiencing, than you could gather by yourself in a month.

And all this is being threatened. Why?

Because the so-called reform of the postal

service has created a bureaucracy that cares nothing for service. It has been commissioned to consider only "cost" in setting postal rates and in carrying out mail delivery.

Now everyone wants to be aware of cost, but the postal bureaucracy is not accountable for the cost it creates--such as the huge salary increases it granted to postal workers, salaries beyond even the generous schedules of the federal civil service.

It is not accountable for its fat administrative costs or for the inefficient use of its equipment and personnel.

We have to stop the postal service from destroying itself. The only way to do that is to 1) insure continued and increased appropriations from the public treasury to maintain the basic system and ensure continuation of adequate public service, 2) overturn a federal appeals court ruling that sets postal rates according to "cost accounting" techniques exclusively, and to establish rates which reflect public policy judgments and realistic market factors and 3) we must restore postal service public accountability.

Congress should have some say in major rate and service matters, and the President should have some mechanism for input into basic management of the postal system.

We certainly don't advocate return to the old political postal system but we should have, must have, some control over the service and the decisions made by the service which will have such dramatic effects on our American way of life.

Help save your post office; help save your local newspaper; keep the "service" in postal service.

Write to your congressmen and senators and tell them you support H.R. 7700, a bill now before the house, which will accomplish those three steps just listed.

If you don't have time to write, clip this article and send it.

Do it now, while you can still mail a letter and expect it to arrive before the end of the month.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

SENATE—*Friday, October 7, 1977*

(Legislative day of Thursday, October 6, 1977)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O Lord, our God who has taught us that "they that wait upon the Lord shall renew their strength," we thank Thee for Thy mercies which are new every morning.

We thank Thee for the beauty and wonder of the world about us. Keep us from blindness to the beauty which can be seen, or deaf to the beauty which can be heard or from feeling the beauty of human beings throbbing with life. Give us strength for the day. Watch over our going out and our coming in and lead us in the way everlasting for Thy name's sake. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 7, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, Jr., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, October 6, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

Mr. BAKER. Mr. President, I have no need for my time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without any prejudice to the Senators for whom special orders have been gotten and I ask that the time be charged against my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as the Senator from Mississippi may need. I yield my entire 10 minutes to the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized for the entire 10-minute period.

Mr. STENNIS. Mr. President, I thank the Chair and I thank the leader for this accommodation of time.

SENATE CONFIRMATION OF NOMINEES

Mr. STENNIS. Mr. President, Senate Resolution 258 has been introduced in the Senate which would change the Senate procedures relating to the confirmation of nominees for all public officials. While the general purpose of Senate Resolution 258 is commendable, I am concerned that the specific procedures included in the resolution would undermine the committee system and in the end weaken the Senate's approach to this whole important area. For this reason I make these remarks as a warning to the Senate. This resolution would establish an "Office of Nominations" and set forth some universal standards for confirmation. I believe that the judgment as to the suitability of any nominee is one that must be made by the Members of the Senate with the advice and recommendations of their colleagues in the committees that pertain to the particular nomination. It would be a serious mistake to dilute this senatorial and committee responsibility by injecting some other office between the nominees and the Members of the Senate and its committees.

The Constitution of the United States gives the Senate the responsibility and power to consent to nominations for important public offices made by the President. This is one of the major responsibilities and powers that is unique to the Senate and is not shared with the House of Representatives. As a general matter over the years the Senate has performed its confirmation role with care and diligence. We can all recall some of the controversial nominations that have come up and the fact that not all nominations are confirmed.

The Senate has used its committee system to handle nominations just as it used the committee system for other important matters. The committee members charged with responsibility for legislation and oversight of certain functions of the Government are the best ones to consider nominees who will carry out those functions. Considering and recommending to the Senate on the confirmation of key nominees is a major committee function and a key to the nominee's understanding of his functions. I believe a committee should not surrender this responsibility.

Mr. President, when I refer to members of the committee, of course, it is impractical for all members to have an intimate contact with, or conversation, or cross examination, these prospective nominees, or the nominees.

But the committee acts through specialized subcommittees, or groups within the committee, that become highly proficient, as a general proposition, in this role. It familiarizes them with the duties and responsibilities of these officers and they are the continuity of the legislative branch that has this intimate knowledge of the duties and responsibilities, and that operates within the committee in the making of judgments concerning legislation, new and old.

In that way, it is one of the not well known, but one of the finest illustrations of a coordination, but at the same time an independence between the legislative branch of the Government and the executive branch.

I think, as a whole, it is a function of the Senate that has been carried out in an unusually fine and successful way.

Frankly, I do not want to see that important function disturbed. I think it is becoming even more and more evident every year that the Senate is more and

more dependent upon its committees for a great many functions, basic functions and added functions. The strength of this body, I believe, is reflected more in the committee work than it is in debate or deliberations here on the floor. That is a change that has come about in the last quarter of a century.

But, back to the importance of the committee system.

Full confirmation responsibilities regarding nominees to the Departments over which they have jurisdiction is an integral part of the Senate committee system which is so vital to the successful operation of the Senate. The members who are most knowledgeable as to the duties and responsibilities of the Department are the more capable of passing on nominees to serve as heads of the Departments. In turn, the committee members in question have both a working relationship and a position of understanding and influence with a proposed nominee after he is confirmed. All these points clearly show that the committee in question has the responsibility and is the more capable of discharging this service to the Senate and are thus a part of a major process of the Senate.

Each Member of the Senate in the end must make a judgment on whether he will vote to confirm an individual who has been nominated for an important position in the Government. I believe that each Member is entitled to the best judgment and recommendations of the members of the committee, his fellow Senators, with jurisdiction over the function or department of Government involved.

If we are developing a trend here in the rush and volume of affairs in the Senate, the trend is that we are becoming more and more dependent upon the judgment and conclusions of our staff members in the committee, or our personal staff.

Fine as they may be, and they are fine, many of them, and essential as they may be, nevertheless, under our system it is the judgment and conclusions of the elected officials that our system of government seeks, and that is the bed of life for the system. We know by experience that it is there, with our fellow Senators who carry the same responsibilities and obligations to the electorate. There is a special value in our exchange of views and our exchange of conclusions and our formation of judgments.

I do not refer to our Armed Services Committee as a standard for anyone else to follow, necessarily, but in this field, for the past 25 years or more, the committee has engaged in a very rigorous scrutiny of these matters.

I want to emphasize that we are talking about the judgment of members of the committee—not the committee staff, and in particular not some outside office with no continuing responsibility. I for one would oppose any change that would dilute the responsibility of the committee or substitute the judgment of some administrative office for the members of the committee.

Since the screening of Presidential nominees is a committee matter the proceedings do vary among the various committees. For many years the Armed Services Committee has taken its confirmation responsibilities very seriously and has gone into this matter in detail. I want to take this opportunity to outline, for those of my colleagues who may not be aware of them, the procedures and standards used by the Armed Services Committee in screening nominees for the key positions in the Department of Defense, and certain other nominees under our jurisdiction, that require Senate confirmation.

The Armed Services Committee has for the past 25 years engaged in a rigorous scrutiny of Presidential nominees for high Department of Defense positions, in recognition of the special seriousness of conflicts or the appearance of conflicts in administering our multibillion-dollar defense effort. The committee realized long ago that no set of hard and fast rules for determining potential conflicts of interest would be applicable to all cases, and instead it deals with each case individually. In satisfying itself that all real or apparent conflicts have been avoided, however, the committee has evolved a set of general practices that are applied in the usual case. These practices impose requirements that are often much stricter than those set out in law, and stricter than those imposed by the executive branch as well. The practices require:

First. Divestiture within 90 days after confirmation of securities in all firms doing business of more than $10,000 a year with the Defense Department, unless in very special circumstances other terms are agreed to;

Second. Divestiture within 90 days of all oil company stocks, except those involved only in exploration and production;

Third. Resignation from all posts with companies or other entities doing business of more than $10,000 a year with the Department of Defense;

Fourth. No arrangements for compensation for services performed during his or her term of office from companies doing buinesss of more than $10,000 a year with the Department of Defense;

Fifth. A commitment to serve at the pleasure of the President, with no arrangement for reemployment.

I should note that some 25,000 corporations have business of more than $10,000 per year with the Department of Defense, so that the divestiture required is often very substantial.

Each nominee submits to the committee a clear written statement covering each of these items and stating his financial holdings, posts held, and the way he plans to meet the committee guidelines. It is made clear that the burden is on each nominee to reveal, explain, and dispose of all matters relating to the potential conflict of interest. Initially the chief of staff of the committee meets personally with each nominee to go over his situation in detail. The chairman and ranking minority member of the committee meet with each of the major nominees so that there is a full understanding of the situation, both on the part of the nominee and the committee. In some cases the nominee requests an interpretation or exception from the committee practices and these are taken up by the chairman and ranking minority member after study and recommendation by the staff. In most cases the matter is quickly settled and in an overwhelming percentage of the cases the committee obtains full compliance with its practices. In some cases the chairman goes over the matter in detail with some members of the committee prior to the hearing.

All of the foregoing is done prior to a hearing on the nomination. In each case the nominee's formal commitment is obtained to comply with the committee guidelines, and the reasons for any exceptions or special arrangements are clearly specified. The nominee provides in writing a statement that he has fully carried out the promised disposal once it has been completed.

We keep the rules flexible in application so as to meet personal situations. Too much rigidity would exclude many worthy nominees or possibly deter them from accepting the appointment in the first place. For example we had a nominee for Deputy Secretary of Defense who, because of special personal business circumstances could not comply with all of the general committee guidelines. However, a special arrangement was worked out between the committee and the nominee in this case which both protected the Government and yet was satisfactory for the nominee's personal situation. The gentlemen rendered outstanding service to the Nation in this highly important position for over 3 years. I do not mean to imply that committee guidelines are not followed most of the time. In fact, there have been only six major exceptions to the guidelines since 1960. However, when exceptions are necessary they can be made. This, of course, is a matter of judgment for the committee.

The procedure I have outlined has worked well over the years. It recognizes that no fixed rules will work in every case of complex business and family financial relationships, but insures that the committee charged with responsibility for screening each nominee is fully satisfied on the facts of a particular case that conflicts of interest or the appearance of conflicts has been avoided.

All of my comments thus far relate to civilian nominees in the Department of Defense. In the last 25 years the committee has passed on some 357 civilian nominees. These people exercise tremendous power and influence relating to the fundamental security of our country. They control farflung operations and billions of dollars worth of contracts of all kinds each year. We need people in these jobs who are highly capable and experienced and the committee must

keep this fact in the forefront at all times.

The constitutional requirement for the Senate to confirm appointments to important positions in the Government is an important continuing function of the Senate and its committees. It is a senatorial responsibility to pass on these nominations. I submit that it would be a serious mistake to dilute this committee responsibility by injecting some other office between the nominees and the members of a committee. With deference, I would be compelled to vigorously oppose any change that would relieve the Senate Armed Services Committee of both the responsibility and the power to make investigations and make recommendations as to nominees for the civilian officeholders in the Department of Defense and the military services.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I am sure it would be agreeable to the distinguished minority leader if I ask unanimous consent that 5 minutes of the minority leader's time be allotted to the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Mississippi is recognized for 5 additional minutes.

Mr. STENNIS. Mr. President, in this period of time, with almost minute detail on these important appointments, we have gone into them in depth and have established certain rules for guidance, not absolute in nature, but rules for guidance that go into the work and the operations with respect to the backgrounds of these nominees who have had any dealings, in the amount of $10,000 or more, with anyone connected with business with the Department of Defense.

During this period of time, we have gone into the backgrounds and examined 357 civilian nominees. I am not referring to the many thousands of nominations for military appointments that we cannot go into to that extent.

I recall one in particular, and this nominee went on to outstanding performance as Deputy Secretary of Defense. He had approximately $300 million of stock in the companies he had formed years before. Instead of disqualifying that man, we planned—and he readily agreed to and cooperated with—a system that more or less isolated him from that stock but just let him own it. His nomination was confirmed unanimously, and he rendered outstanding service. That is illustrative of many more on a lesser scale.

So before we try to solve some problem by the creation of another office, with another staff, and all the ramifications that go with it, my warning is that we have the capacity and the responsibility to do these things ourselves, and I hope we will not change that rule hastily.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. STENNIS. I yield the Senator whatever time I have remaining.

Mr. BAKER. Mr. President, I yield whatever time I have remaining under the standing order to the Senator from Mississippi.

Mr. HARRY F. BYRD, JR. Mr. President, I should like to associate myself with the remarks expressed so ably by the distinguished Senator from Mississippi.

I believe it would be a great mistake to create a new committee in the Senate to go into and make recommendations in regard to the nominees for the various departments and agencies of Government.

As the Senator from Mississippi has pointed out, each committee can do that now, should do that now, and for the most part has been doing that now.

So I see no necessity for a new committee.

As a matter of fact, I can see tremendous disadvantages to the Senate, to the membership, and to the Government by the creation of an additional committee.

Either there would be duplication of effort and divisions of responsibility—or the present committees would be shed of responsibility and authority—or the new committee would be merely window-dressing.

I hope that the suggestion which I have noted in the press, as to the possible creation of another committee, will not be accomplished. It would be a great mistake. It is a bad idea.

The Senator from Mississippi has pointed out the thorough analysis that the Armed Services Committee has given the nominees who have appeared before it. Each committee can and should screen carefully the nominees coming before it.

I recall one time several years ago when I alone queried a prospective Defense Secretary for 3 days, with more than 400 questions. The members of the committee have plenty of opportunity to go thoroughly into the nominations.

So I join my distinguished friend in urging that no additional committee be created. If Senators do not have time to do the job now, they will have no more time as members of a new and additional committee.

Mr. STENNIS. I thank the Senator very much. He and I had not had a chance to confer on this measure, but I am not surprised at all by his reaction to it. His contribution to our committee has been tremendous in this field as well as many others. I especially invite him to give some special study to this matter. I thank him again for his fine service.

Mr. President, I thank the leaders for the time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE NATIONAL DEBT

Mr. HARRY F. BYRD, JR. Mr. President, the administration, this past week, testified before the Senate Finance Committee.

In that testimony, the administration estimated that the national debt, at the end of the current fiscal year, will total $787 billion. Yes, $787 billion.

That figure is double the figure for the national debt at the end of fiscal year 1970.

To put it another way, in that short period of time—fiscal years 1970 through 1978—the national debt of our country will have doubled.

To me, this is cause for alarm.

The Nation's financial affairs are deteriorating year after year.

Huge deficits of the Federal Government are not being got under control. In fact, they are accelerating; and, as a result, the national debt will reach the fantastic figure of $787 billion at the end of the current fiscal year.

The individual citizen is affected by this in many ways. One way is that the taxpayers must pay $46 billion in the current year for the interest charges on the debt.

Mr. President, I ask unanimous consent to have printed in the RECORD a table I have prepared which shows the national debt in the 20th century, from 1900 through 1978.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The national debt in the 20th century

TOTALS AT THE END OF FISCAL YEARS 1970–78

[Rounded to the nearest billion dollars]

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	20
1933	23
1934	27
1935	29

The national debt in the 20th century—Con.

TOTALS AT THE END OF FISCAL YEARS 1970–78

[Rounded to the nearest billion dollars]

1936	34
1937	36
1938	37
1939	40
1940	43
1941	49
1942	72
1943	137
1944	201
1945	259
1946	269
1947	256
1948	251
1949	252
1950	256
1951	254
1952	258
1953	265
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
1977 *	706
1978 *	787

* Estimated figures.

SOURCES.—1900–1976, U.S. Treasury Department; 1977–1978, Office of Management and Budget (September 1977 estimates).

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has now begun hearings on the proposed Panama Canal Treaties, and, Members of the Senate are hard at work studying the texts of the treaties and familiarizing themselves fully with the issues involved.

Although the Senate will not vote on the treaties for several months, this kind of detailed and lengthy preparation is very important because the Panama Canal issue is closely tied to the economic and security interests of our Nation.

The primary focus of Senate attention should be on the actual terms of the treaties and whether they provide adequate protection for U.S. interests.

However, there is one issue outside of the terms of the treaties which should also be fully considered by the Senate—and that is the manner in which the treaties were negotiated.

The negotiations leading to those treaties actually began in January of 1965 after serious riots in Panama against the U.S. presence in the Canal Zone.

Ever since that time, negotiations have taken place under the cloud of renewed violence, and every administration since then has cited the prospect of violence as a reason for negotiating a new treaty which would give control of the canal to Panama.

The Carter administration has relied heavily on this argument in its efforts to achieve Senate ratification of the proposed canal treaties.

Just last week in testimony before the Senate Foreign Relations Committee on behalf of the treaties U.S. negotiator Sol M. Linowitz used phrases such as "smoldering dispute" and "troubling and festering presence" to describe the situation under the existing treaty.

Mr. Linowitz said:

> The simple fact is that if we do not agree upon treaties which are mutually agreeable and acceptable, the time may come when we may find ourselves in the position of having to defend the Canal by force against a hostile population and in the face of widespread condemnation by the countries of Latin America and even the rest of the world.

These same kinds of arguments were made by earlier administrations.

President Johnson, in fact, used the argument of impending violence extensively in seeking congressional support for draft canal treaties which were negotiated in 1967.

Many Members of Congress were unimpressed with President Johnson's argument and felt, instead, that the President was submitting our Nation to Panamanian blackmail. Congressional opposition prevented those draft treaties from ever being submitted to the Senate for consideration.

Now, with the completion of new treaties this year, charges are again being made that the United States has negotiated under duress and that the United States is responding to "blackmail."

The Carter administration denies this stating that "the United States has not responded to pressure."

Recently, this denial was echoed by a Member of the Senate who said there was no connection between the Government of Panama and threats of violence.

In fact, he said that the specter of violence was "raised not by responsible Panamanians but by Americans." That Senator went so far as to say that President Omar Torrijos had "specifically rejected violence."

What are the facts?

General Torrijos, the Panamanian dictator, as recently as May 7 of this year, was quoted in the Panamanian newspaper Matutino as saying that if peaceful efforts to reach an agreement fail, Panama has other nonpeaceful alternatives.

On that same day the EFE wire service quoted General Torrijos as saying that if the negotiations do not succeed, North Americans in the Canal Zone will find themselves "without water, without light, and without a canal."

One year earlier, on March 7, 1976, General Torrijos in an interview on Colombian radio warned that the Panamanians "would have to resort to the violent stage" if the treaty negotiations fail.

The Panamanian dictator was quoted in May 30, 1976, Los Angeles Times as saying:

> We are also prepared to follow the Ho Chi Minh route if necessary. That means terrorism, guerrilla operations and sabotage in a national liberation war to regain our territory.

Going a step further, Torrijos said in a November 1975 interview in the Atlas World Press Review:

> I told them (the Panamanian students) that if there were an uprising, if there were terrorism, I as commander of the National Guard would have two options: to crush them or lead them, and I can't crush them.

Thus, by rejecting the alternatives of crushing an uprising, Mr. Torrijos was announcing his candidacy to lead one.

These kinds of threats were uttered during the course of recent negotiations by other Panamanian officials as well. The Panamanian Ambassador to the United States, Nicolas Gonzales-Revilla, in an interview in the April 1977 edition of the American Legion magazine stated that—

> It is a fact that the U.S. presence makes sabotage and violence inevitable.

Even Panama's chief negotiator Romulo Escobar Bethancourt raised the specter of violence in a speech before the Panamanian Assembly just 1 month ago. He said that if the U.S. Congress does not ratify the treaties "this country will take another course. This country will take a course of violence."

The threat of violence now seems to be the major argument of treaty proponents in the attempt to achieve Senate ratification of the treaties.

These threats have come from Panamanian officials and they are being fervently repeated by treaty advocates in an effort to win Senate ratification.

The American people should be aware of this.

Without the specter of violence, is it likely that the United States would ever have to come to the point that its negotiators would be willing to accept a treaty which gives away so much?

Over the years, Panama has repeatedly pressured for changes in the 1903 treaty, but the United States maintained that it would not surrender its rights as conferred by the 1903 treaty.

In 1923, when faced with Panamanian agitation for renegotiation Secretary of State Charles Evans Hughes stated to Panamanian officials that—

> It was an absolute futility . . . to expect any American administration, no matter what it was, any President or any Secretary of State ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903.

Apparently Secretary Hughes did not foresee the give away philosophy now so prevalent in our Government.

In the 1950's, the United States started making significant concessions to Panamanian demands.

Now, just a few years later, we have come all the way to a draft treaty which relinquishes all of the United States rights acquired under the 1903 treaty and replaces them with very limited U.S. rights of a limited duration.

Mr. President, the Senate must make a decision with regard to the treaties which have been submitted by the President.

That decision should be based primarily on the content of the treaties and an assessment of how well they guard the interests of the United States.

However, the Senate should not ignore the circumstances which have surrounded the treaty negotiations and should not be swayed by treaty advocates raising the spector of violence as a reason for approving the treaties.

Furthermore, the emphasis on threatened violence shows the real weakness of other arguments being advanced in favor of the treaties.

I say that making concessions under threats of violence will only lead to more threats and more concessions—not just in Panama, but around the world.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Virginia yields back his time.

Mr. ROBERT C. BYRD. Mr. President, Mr. ALLEN, I believe, has an order for 10 minutes.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may be allotted that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE AND ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, arms sales have, in revent years, become an increasingly important instrument of U.S. foreign policy.

A number of troubling issues have arisen as a result of the scope and significance of our international arms sales. Among these issues is the question of the appropriate role of the Congress in the arms sales process.

Foreign military sales totaling almost $10 billion are expected to result from agreements concluded during the past fiscal year. Since fiscal year 1972 the total is $48.3 billion.

Because of the steep growth of our arms transfers in the past few years, Congress has taken several important steps to become more involved and exercise more responsibility in this area. Although notable progress has been made, many problems and ambiguities remain. The congressional role is fragmented. Arms sales proposals are dealt with on a piecemeal basis. Too often Congress operates with limited information and in a restricted time frame.

Arms sales are too important to be considered in this relatively haphazard manner.

Consider, for example, the existing situation. Since August 5, Congress has received notifications of proposed arms sales totaling more than $3 billion. There have been 29 separate proposals involving 15 countries.

An even more incongruous situation developed last year when Congress received notifications of 37 separate transactions with 11 countries, totaling $6 billion, in the waning days of the congressional session.

On several occasions notification of proposed sales has been sent to Congress during periods of congressional recess, or just prior to such periods. That was the case with a group of notifications which were dated August 4 and were reported in the RECORD of August 5 by the chairman of the Committee on Foreign Relations, Mr. SPARKMAN. August 5 was, of course, the last day the Senate met before the statutory recess period. The next meeting of the Senate did not occur until September 7.

Notification to Congress of the proposed issuance of letters of offer for arms sales are made pursuant to section 36(b) of the Arms Export Control Act which provides that:

> The letter of offer shall not be issued if the Congress, within thirty calendar days after receiving such certification, adopts a concurrent resolution stating that it objects to the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States.

That law further provides that any such resolution of disapproval shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. In turn, that law states that:

> For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days of which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

Thus, one provision refers to 30 calendar days while another excludes from the computation periods when either House is adjourned more than 3 days to a day certain.

The Senator from Wisconsin (Mr. NELSON) has introduced legislation—S. 1973—which would extend the period for congressional review of major arms sales, a principle which I strongly support. Senator NELSON has been a leader in the effort to assure that Congress has an adequate opportunity to review arms sales proposals.

S. 1973 would amend section 36(b)(1) of the Arms Export Control Act to extend the review period from 30 calendar days to the first period of 45 days of continuous session of Congress after the date on which Congress receives certification of a proposed sale.

Continuous session, as consistent with section 601(b) of Public Law 94–329—the International Security Assistance and Arms Export Control Act—would mean that no days during a nonlegislative period of either House of more than 3 days would count against the review period.

Our experience makes clear that a longer review period is needed. A good example of why this is true was the recent case of the proposed sale of the Airborne Warning and Command System (AWACS) to Iran.

As Senators will recall, the circumstances prevailing in the Senate at the time the AWACS proposal was originally submitted in July made it extremely difficult for the Senate to give the matter proper consideration within the 30-day period. This was particularly true because there were several developments following the original submission which complicated the issue and required further examination.

In expressing my support for a longer review period, I am not suggesting that the Senate become involved in a detailed manner in every arms sale. Under the current law, Congress is notified of proposed sales in excess of $25 million or, in the case of major defense equipment as defined in the Arms Export Control Act, those sales in excess of $7 million.

UNIQUE PROBLEMS

The procedure for congressional consideration of arms sales proposals is one of several areas in which the congressional role becomes one of disapproving or vetoing—within a specific time period—an action or intended action by the Executive.

This same concept is embodied in the War Powers Resolution of 1973 and the Budget and Impoundment Act of 1974, as well as in congressional consideration of Executive reorganization. Additionally, the Atomic Energy Act of 1954, the Trade Act of 1975, and the Fishery Conservation and Management Act of 1976 all contain provisions giving Congress the right to disapprove within 60 days agreements made pursuant to those acts.

Thus, while there is ample evidence that this procedure has become well established, there are a number of reasons why there are unique problems in applying it to arms sales.

Part of the problem is due to the fact that arms sales are occurring with considerable frequency and at many different times during the year.

Obviously, there are certain proposed sales of great significance and potential controversy which should be dealt with on an individual basis. However, Congress ought to be looking more at the broader picture. I would hope that the executive branch would present the Congress—early in each session—with an overall picture of its plans for arms sales, and especially those of major consequence.

Most of these proposed sales involve delivery at some future date—months if not years away. This is a doubly important factor. Because many of the sales will involve delivery at some future date, plus services and maintenance at even later dates, the long-term implications of these agreements are considerable. Therefore, this is all the more reason that the Executive can and should provide Congress with ample advance information and opportunity for consideration of major sales.

I know that the Subcommittee on Foreign Assistance, chaired by Senator HUMPHREY, has been following these matters closely and is well aware of some of the problems I have mentioned. As the report accompanying the International Security Assistance and Arms Export Control Act of 1977—S. 1160—earlier this year stated:

> Currently, the Congress is compelled to make its decisions on the basis of information provided about individual sales decisions and without the broader framework of an integrated plan and rationale in which to judge the broader significance and potential ramifications of the sale under consideration. Moreover, it appears that the Executive Branch makes its sales decisions on a piecemeal basis and without an overall plan based on integrated policy decisions.

PRESIDENT CARTER'S POLICY

During his campaign for the Presidency, President Carter displayed strong convictions about arms sales, stating, "I am particularly concerned by our Nation's role as the world's leading arms salesman." He said that we cannot be "both the world's leading champion of peace and the world's leading supplier of the weapons of war."

The President followed up his pledge to reduce the commerce in weapons by announcing a new arms transfer policy on May 19. It is an admirable and commendable policy.

Implementation of the policy has been difficult, however, and the results thus far have been somewhat disappointing. It is correctly pointed out by the administration that a number of sales were already in the works at the time the new policy was enunciated. The fact remains that nearly $10 billion in foreign military sales agreements were concluded in fiscal year 1977 and a number of important sales are already scheduled for fiscal year 1978.

Central to the President's policy was the statement that "in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it."

Regrettably, and with no fault of the President, that is not necessarily the way it works. The existing congressional procedure tends to put the burden on those who oppose a sale. The opponents must initiate and gain passage of a resolution of disapproval in both Houses. This is, of course, a difficult process. Hearings must be held. Senators must inform themselves about the details of a proposed sale. The resolution has to be debated and approved in both the House and Senate. All of this has to occur within the allotted time.

There is, at present, some advance consultation between the executive and the Foreign Assistance Subcommittee and this is a positive development. However, once a notification is sent to the Congress, it is essentially a take-it-or-leave-it proposition. There is no real opportunity for compromise. There is no direct means for Congress to attach reservations or conditions to a proposed sale.

AWACS AND IRAN

This brings me back to the proposed sale of the AWACS to Iran. In this particular case, because of the strong feelings in the Congress and the limited time available for consideration, the President did temporarily withdraw the original proposal. One important result of that experience was that President Carter did agree to a series of assurances designed to reduce the possible security risks involved in the sale to Iran and to met some of the other concerns expressed in Congress. I was encouraged by the President's agreement to these assurances.

Nonetheless, serious questions remain about the AWACS sale, which was resubmitted to Congress on September 7. In introducing a second resolution of disapproval of the sale—Senate Concurrent Resolution 48—on October 1, Senator CULVER stated:

> The plane and its equipment are exactly the same was proposed in July.

The disapproval resolution was cosponsored by 21 Senators. It is clear that there is still strong opposition in the Senate and that important questions remain. However, the proposed sale will apparently move forward, the 30-day period concluded today.

On previous occasions I stated my own reservations about the AWACS sale, some of which were satisfied by the President's assurances. Still, I remain concerned about the immense quantity of sophisticated military equipment which we are selling to Iran and the implications this has for future U.S. involvement in Iran. As I stated to the President in my letter of July 27:

> The sale to Iran would require substantial American technical support in Iran, where we already have a large number of American citizens, many of whom are involved in military programs.

As the St. Louis Post Dispatch recently editorialized in commenting on the growing number of American technicians in Iran:

> The more we increase the American presence in Iran the greater our stake in military events in which the Shah might become entangled and the greater the danger that we will be entangled as well.

A report by the Senate Committee on Foreign Relations last year estimated that 50,000 to 60,000 Americans will be in Iran by 1980. In an article written for Foreign Policy, Leslie H. Gelb, now a State Department official, described what he called the white-collar mercenary phenomenon:

> After the weapons are delivered, American civilians arrive en masse to do the administering and training for up to 10 years. Under pressure from Congress to reduce military training missions abroad, the Pentagon has increasingly turned these tasks over to civilian contractors who are relatively immune from government control. These civilians could become willing comrades-in-arms or hostages as well as trainers. If Washington were to choose not to support the Shah in a conflict of his choice, it would risk placing these Americans in jeopardy and risk rupturing relations with Teheran. If the Shah found that his men could not use the weapons he bought, he is not likely to blame himself.

Mr. President, according to information provided me by Gen. H. M. Fish, Director of the Defense Security Assistance Agency, since fiscal year 1972 the value of FMS agreements with Iran have totaled almost $17 billion. Of this amount, $5.5 billion in sales came during fiscal year 1977. These figures do not include the AWACS, which will be counted in fiscal year 1978 and is valued at $1.2 billion. This would bring the total sales to Iran since 1972 to $18.2 billion.

That is an astounding amount of military equipment to deliver to any country. Iran has asked for even more, including F-18 fighters, which the administration has wisely decided not to sell.

One of the assurances requested of the President in connection with the AWACS sale was that the administration conduct a detailed study of Iran's ability to continue to absorb high technology without additional requirements for U.S. technicians. The results of that study would be provided to Congress before any additional requests are made for the sale of sophisticated technology to Iran.

The administration concedes that the AWACS sale is an exception to its announced arms transfer policy. I believe that any further sales to Iran in the near future would constitute an exception to sound and prudent U.S. policy. I would urge that there be a complete moratorium on additional arms sales to Iran until the administration has undertaken a thorough analysis not only of the need for more U.S. technicians in Iran but of Iran's capacity to absorb and utilize these major weapons systems.

OVERALL PICTURE

Certainly the question of arms sales policy cannot be considered in a vacuum. The United States is not the only nation selling arms and our policies are inevitably influenced by what other nations are doing or what they might do. Nonetheless, this country accounts for more than half of the worldwide total. In his address to the United Nations earlier this week, President Carter again pledged to work with other supplier nations, including the Soviet Union, on measures to restrain arms traffic. Success in reducing U.S. arms sales will clearly be affected by the actions of other supplier nations.

In looking at U.S. arms sales in recent years, one distinct and, I believe dangerous pattern has been dominant. I refer to the move away from our North Atlantic Treaty Organization—NATO—allies as our primary customers and their replacement by countries in the volatile Mideast region—particularly Iran, Saudia Arabia, and Israel. Those three countries now account for substantially more than half of our total foreign sales.

There is another trend which must be acknowledged. As the General Accounting Office recently reported, foreign deliveries have, on occasion, adversely affected U.S. defense capabilities.

The GAO report noted that the cumulative effect of foreign sales can "aggravate the already difficult task of managing the U.S. defense posture in a peacetime environment."

It is this cumulative effect and the long-term impact with which we must be concerned. Let me mention some specific problems identified in the GAO report which I believe merit our attention:

Foreign sales agreements provide for future support, and there is a large backlog of undelivered orders. As more deliveries are made, problems with production limitations and competing demands for key components will be magnified.

Inadequate consideration has been given to the cumulative effect of foreign military sales on weapons systems with common components.

The GAO report makes a number of other points about the long-range impact of sales and the fact that insufficient attention is given to future support and supply requirements.

Mr. President, our primary concern must be the steadfastness of our own defense capability. Obviously there are cases where supplying other nations with military equipment is a matter of mutual interest. However, the arms sales program seems to have developed a momentum of its own. Arms sales should be a subordinate part of our foreign and defense policy. Congress, with its oversight responsibility in this area, has an obligation to help develop appropriate guidelines and procedures for arms sales.

SUMMARY

Primarily through the Subcommittee on Foreign Assistance, the Senate is taking important steps to increase its responsibility in the arms sales area. That subcommittee is scheduled to review this entire matter at forthcoming hearings.

However, as I noted earlier, since returning from the August recess, Congress has had some 29 separate arms sales proposals—with a value of more than $3 billion—pending before it. This has been at a time when the Senate has been almost totally preoccupied with energy matters and when the Foreign Relations Committee has begun extensive hearings on the Panama Canal treaties. Of the proposed sales which have been pending, only the AWACS sale to Iran and the sale of 14 C-130 transports and the 12 Firebee drone reconnaissance aircraft to Egypt have received any serious attention. Some of the other proposed sales are of a relatively routine nature and are not controversial. Still, this situation underlines some of the problems with the existing procedures.

Let me repeat some of the suggestions I have made and offer some additional recommendations which might bring more consistency to Senate consideration of arms sales proposals and insure that the Senate does exercise its proper role.

First. The executive branch should submit a detailed overall plan for arms sales for each fiscal year early in the congressional session. I do not believe we are well served by having notifications scattered throughout the year, which leads to their being dealt with on a haphazard basis.

Second. Congress should adopt the Nelson proposal—S. 1973—or some other measure to extend the period for congressional review of major arms sales. One alternative that has been suggested is that an additional 15 days for consideration would automatically be granted if requested by chairmen of the responsible House and Senate committees.

Third. As a general rule, the executive should not submit notifications of proposed sales during extended congressional nonlegislative periods. Specifically, I would call upon the President to submit no major proposals to the Congress in the final days of this session or following our adjournment later this year—unless the proposed sales are of an emergency nature. This, of course, should be closely coordinated with the responsible congressional committees.

Fourth. The cumulative and long-term impact of arms sales must be given more thorough consideration. Notification of proposed sales should include information about the total value of equipment already delivered to the country in question in recent years as well as information about support and services which will be needed in the future.

Fifth. Consideration should be given to requiring explicit congressional approvial—rather than a resolution of disapproval—for major arms sales; for example, sales or a combination of sales to one nation valued at more than $200 million.

Sixth. Finally, in the case of Iran, to which we have made sales of more than $18 billion in recent years, I would suggest a moratorium on further sales in the near future. No more sales should be made until Congress is provided with a thorough analysis of Iran's capacity to absorb and utilize additional major weapons systems.

I ask unanimous consent, Mr. President, to have printed in the RECORD the text of the letter to me from Gen. H. M. Fish, dated September 26, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
> *Washington, D.C., September 26, 1977.*
>
> Hon. ROBERT C. BYRD,
> *Majority Leader, United States Senate, Washington, D.C.*
>
> DEAR SENATOR BYRD: This is in reply to your letter of 12 September regarding the amounts of Foreign Military Sales (FMS) to Iran and worldwide.
>
> As of 14 September 1977, our computer records indicate that we have concluded $3,329,216,000 of FMS agreements with Iran during Fiscal Year 1977. Our records also indicate that there were $1,747,503,000 of outstanding Letters of Offer to Iran as of that date. You should be aware, though, that there is a necessary lag time (e.g., for mailing and processing) between the time sales agreements are signed and the time that they can be recorded in our computer records. Thus, we know that Iran has signed a substantial number of Letters of Offer which have not yet been recorded in our system. We estimate that the total value of FMS agreements to be concluded with Iran during Fiscal Year 1977 will be $5,465,600,000. The values of FMS agreements concluded with Iran during the five preceding fiscal years were:
>
> FY 1972—$519,110,000;
> FY 1973—$2,157,355,000;
> FY 1974—$4,373,225,000;
> FY 1975—$3,020,979,000; and
> FY 1976 (excluding TT)—$1,382,062,000.
>
> Our computer records indicate that the value of FMS agreements concluded worldwide during Fiscal Year 1977 was $6,181,699,000 as of 14 September 1977. Our records also indicate outstanding FMS offers worldwide of $3,993,235,000 as of that date. The comment previously made concerning lag times between Letter of Offer signature and computer recordation also applies to these figures. We estimate that the total value of FMS agreements to be concluded worldwide during Fiscal Year 1977 will be $9,889,100,000. The values of FMS agreements concluded worldwide during the five preceding fiscal years were:
>
> FY 1972—$3,267,644,000;
> FY 1973—$5,766,225,000;
> FY 1974—$10,642,623,000;
> FY 1975—$10,123,451,000; and
> FY 1976 (excluding TT)—$8,664,467,000.
>
> We hope that this information is of help to you.
>
> Sincerely,
>
> H. M. FISH,
> *Lieutenant General, USAF.*

ORDER TO PROCEED TO CONSIDERATION OF DOD AUTHORIZATION BILL, S. 1863

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of the distinguished minority leader, I ask unanimous consent that upon the disposition of the minimum wage bill today the Senate proceed to the consideration of the DOD authorization bill.

I annonuced last evening that this would be the plan of the leadership. I, therefore, make that request at this time.

Mr. BAKER. Mr. President, reserving the right to object, I agree with the majority leader. We need to establish the sequence, and I have no objection to that request.

I might advise my friend, the majority leader, and others who will hear this remark, that I am trying to see if we can clear on our side another measure or two for the early part of next week to proceed to as well.

I hope, for instance, that finally we will proceed to the consideration of the legal services bill. We have no time limit on it, but I tell the majority leader I will see if we can work on that. And there are one or two other items that we will try to clear as well. If we can, then I hope he might consider making a unanimous-consent request to include such items as we can agree on for next week as well.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader and I welcome the suggestion with respect to the legal services bill. Let the record show that the distinguished minority leader and I have discussed this measure quite a number of times.

Mr. BAKER. On quite a number of days.

Mr. ROBERT C. BYRD. On quite a number of days. And it has been my hope that we could get a unanimous-consent agreement on the measure, and the distinguished minority leader has tried, tried, and tried to help me to secure one, but thus far our efforts have been unsuccessful. But I do feel constrained to state that we should proceed with the measure.

Mr. BAKER. Mr. President, I have no objection to the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROVISIONAL ORDER VITIATING SATURDAY SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if action is completed on the minimum wage bill and DOD authorization bill today, then the order for coming in tomorrow at 9 a.m. be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. If.

The ACTING PRESIDENT pro tempore. If.

PROVISIONAL ORDER FOR RECESS FROM CONCLUSION OF BUSINESS TODAY UNTIL MONDAY, OCTOBER 10, 1977

Mr. ROBERT C. BYRD. And in that case, I better also add, if that situation develops, as we think it will, I ask unanimous consent then that the Senate in the alternative stand in recess at the conclusion of business today until the hour of 12 o'clock noon on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited to 3 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there further morning business?

THE SOUTH BRONX AND NEW YORK CITY UNEMPLOYMENT

Mr. JAVITS. Mr. President, I call to the attention of my colleagues the trip that President Carter took to the South Bronx yesterday in New York City.

Mr. President, the President's visit to and observation of the blight and devastation which is represented by the South Bronx, naturally because of the fact that the President is our premier personality, breaks upon the country as if it were some sudden stroke of lightning which has opened up the sky. The fact is that way back in my campaign of 1968, Mr. President, I undertook a solemn oath to try to help in this unbelievable situation which no Senator or any of his constituents living outside of New York City—I think it includes any other big city—would just believe. It literally is a devastated area as in war, and it is attributable to abject poverty, unbelievable unemployment, the incursion of new citizens who do not know our ways and have been cast into a jungle in which they can only find ways which are wrong, and it really takes superhuman efforts to cure, which the city has been unable to muster, largely financial.

We have submitted many ideas and plans to the various Government departments, notably housing, HEW, and others, and I can only hope, Mr. President. I have no complaints. I do not say that they should have known this for years and years. Human suffering has been going on there for a long time and it has been such a scourge on the city. The infection has spread to engulf the whole borough, and it is not a small place, Mr. President. It has about 1.5 million people.

But I hope now, Mr. President, that we are abreast and seized, as it were, of the knowledge Government departments will not just have a meeting today and forget about it tomorrow, because the President was there, but will really be as troubled in conscience as the whole country should be that we permit such blight to continue. The interesting thing is that it will not take a special appropriation. It will not cost any more money. It will just take some brains and the catalytic quality of the Federal Government and the existing programs intelligently applied. The people will apply that themselves. The President ran into that in what is called Sweat Capital in cooperative tenement houses which are extraordinary lights in a black sky up there.

I know the area so well. At long last the country may be proud of the turn which can and should be made.

Mr. President, I would like to place in the RECORD two articles and an editorial that appeared in this morning's New York Times on the subject of the President's trip to the South Bronx, in New York City.

First of all, Mr. President, I wish publicly to express my deep appreciation to President Carter for taking this personal interest in this profound problem of our largest city. Clearly he wants to see for himself what can be done to revivify pockets of urban decay wherever they exist.

But a point which I have been making for so long seems to have missed somewhere, to wit: That urban decay is a ease is to revive urban economies and employment. Urban decay is a result, not a cause; a symptom, if you will, not the disease itself. The way to cure the disease is to revive urban economies and create jobs. If an urban economy lacks the ability to generate employment for its citizens, then urban decline is inevitable and, if this condition is allowed to persist long enough, deterioration is the inevitable consequence.

Thus, a twofold strategy is called for: One, the short run, we need massive, targeted job slots and training slots; and two, in the long run, we need a Federal urban redevelopment policy, which should include Federal legislation to establish, among other possible programs, an urban reconstruction and redevelopment lending facility.

But, for the short run, jobs are the key. In New York City, between August 1976, and August 1977, the number of jobs actually declined, from 2,796,400 to 2,774,200. The unemployment rate did fall during this period, from 11 to 9 percent, but because the city labor force was also falling. As New York's Industrial Commissioner Philip Ross reported last week:

> Despite this apparent improvement, there were still 22,000 fewer City residents with jobs than in August, 1977 and year-to-year unemployment trends have not kept pace with improvements reported in the rest of the State.

He might have said "rest of the country," too, Mr. President, because New York City has really not yet recovered from the last recession.

In my judgment, there is clearly a need for additional Federal job slots assistance for New York City. In August 1977, 273,200 city residents were unemployed. Were it not for the public service employment programs of CETA, titles II and VI, which provide for about 28,000 jobs, the number unemployed would have been about 300,000. These programs, as well as others authorized under titles I and III of CETA, provide for about 45,000 job and training positions for some 300,000 unemployed, or only about 15 percent of need. Our Federal job assistance funds are not even remotely adequate, given the fact that private sector job creation is simply not happening in New York City. Other areas of our country, such as the Southwest, are experiencing rapid recovery in their economies and enjoy significant net new job creation. But their CETA allocations are based on last year's data, so they are receiving really what amounts to extra job assistance. New York City, on the other hand, is not receiving sufficient funds, given the endemic and deep-seated nature of its unemployment problem.

I would hope, therefore, that the President and the Secretary of Labor would consider asking for additional appropriations for existing CETA titles or, in lieu of that approach, proposing amendments to CETA to target job funds more sharply upon the hardest hit groups—youth—and the hardest hit areas of our country.

Either of these two courses of action would be a good first step in the development of a comprehensive urban policy for our country.

Mr. President, I ask unanimous consent to have these articles included in today's RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CARTER, IN BRONX, FINDS HOPE AMID BLIGHT

(By Lee Dembart)

In an effort to demonstrate a commitment to cities, President Carter, in New York on United Nations affairs, made a sudden and dramatic trip yesterday morning to the South Bronx, where he viewed some of the country's worst urban blight.

The Presidential motorcade passed block after block of burned-out and abandoned buildings, rubble-strewn lots and open fire hydrants, and people shouting "Give us money!" and "We want jobs!"

Twice Mr. Carter got out of his limousine, walked around and talked to people. He said the Federal Government should do something to help, but he made no specific commitment.

After the tour, when Mr. Carter returned to the United Nations Plaza Hotel, he said: "It was a very sobering trip for me to see the devastation that has taken place in the South Bronx in the last five years. But I'm encouraged in some ways by the strong effort of tenant groups to rebuild. I'm impressed by the spirit of hope and determination by the people to save what they have. I think they still have to know we care."

Accompanying Mr. Carter were Mayor Beame, who had been invited to the President's hotel suite yesterday morning but had not been told Mr. Carter was going to the Bronx, and the Secretary of Housing and Urban Development, Patricia Roberts Harris, whose office laid out the route.

Although the trip was kept a secret until the President was well on his way, it was no secret once he got to the Bronx, where the motorcade was led by six motorcycle escorts with sirens blaring and several police cars. Three helicopters hovered overhead as the party crossed the Third Avenue Bridge and headed up the Grand Concourse—a decaying remnant of a fashionable boulevard.

Small crowds of people watched the President's creamcolored limousine.

The two stops that the President made along the route were designed to show him one of the few hopeful projects and the much more common hopeless area of the Bronx.

The first stop was at 1186 Washington Avenue, between 167th and 168th Streets, where Mr. Carter visited a housing renovation project. There 40 people have converted a six-story tenement into a building boasting freshly painted hallways, 28 oak-floored apartments and solar heat collectors on the roof.

Claude Briley greeted the President, saying: "Hi Jimmy. I'm glad to see you're in the Bronx checking out conditions."

"How do you think we're making out?" Mr. Carter asked.

"Fine," said Mr. Briley. "We hope to make more progress."

Ramon Rueda, executive director of the People's Development Corporation, which undertook the renovation, appeared and said, "What a surprise!"

"We're proud of what you're doing," said Mr. Carter.

"We proud of you, too," Mr. Rueda said. "We have a low-interest mortgage, but we need more money, Carter. If you assist us in getting more CETA money, we could show a serious dent in the South Bronx."

Someone invited the President inside to look at the apartments, and Mr. Carter appeared about to go when an aide said there was not enough time.

"Gee whiz," said someone on the stoop, "this is really something, talking to the President of the United States on our own doorstep." The President and his party then shook hands again with the group, got back into their cars and went down the street.

"I feel ecstatic," Mr. Rueda said late. "He seemed completely sincere, and if he was putting on a show he was certainly making a good impression. I hope he will come back when we finish the next phase of our project."

$3 MILLION FEDERAL LOAN

The next phase includes a rehabilitation of five buildings in the area backed by a $3 million federally-financed loan, and funds from the Comprehensive Employment and Training Act to train the workers.

The area was recently designated as a demonstration of multifamily urban homesteading.

If Washington Avenue was the hopeful stop, the hopeless one still awaited the President's party.

On Charlotte Street near Boston Road, not far from Crotona Park, the caravan stopped in the middle of a block on which all buildings on both sides had been demolished and the bricks had been bulldozed into heaps that in some places were eight feet high.

Mr. Carter, Mr. Beame and Mrs. Harris walked through two blocks of rubble that looked like the result of wartime bombing.

"Most of this occurred in the last five years after Nixon cut off the urban renewal funds?" Mr. Carter asked Mr. Harris.

"Yes," she said.

"See which areas can still be salvaged," the President said. "Maybe we can create a recreation area and turn it around. Get a Map of the whole area and show me what could be done."

Speaking to reporters, the President said: "There's been a rapid deterioration of this neighborhood, but high rises in the midst of devastation are holding their own."

One of the spectators, Marvin N. Mitchell of 1555 Boston Road, stopped in front of the Santa Maria grocery store later and said: "It's nice the President has come here to see for himself, but someone has to tell him that the people here need help. We need jobs. Otherwise the Bronx is going to go down."

BRONX A SYMBOL OF AMERICA'S WOES

(By Richard Severo)

The Bronx that President Carter saw yesterday has become a national symbol of what is wrong with urban America.

Once famous for its feisty, but upwardly mobile, millions of European immigrants, it is now home to newer arrivals whose downward mobility seems endless.

The county was also synonymous with the Yankees, but it is known now as place where fans of the team are afraid to attend night games at the stadium.

It was once known as the county where Edgar Allan Poe had lived and worked. Today it is known now more for crimes committed by children against the elderly, for moldering neighborhoods ruled by hopelessness and dominated by drug addicts, for arson, for abandonment of property, for unemployment, for fear to walk the streets after dark, for all in American cities that is unwanted and misunderstood.

"I think we could say that the Bronx, more than any part of the city and the nation, represents the total pathology of what has been happening to major cities—except that it has suffered from it on a grander scale," said Victor Marrero, chairman of the City Planning Commission, who grew up in the South Bronx.

WHITES NOW AT 44%

Mr. Marerro, whose family came to New York from Puerto Rico, is only 36 years old, but he can remember as a child having neighbors whose backgrounds were Irish and Italian. His own commission's report issued last spring, "A Housing Strategy for the Bronx," makes it clear that where the Bronx is concerned, the traditional New York melting pot is itself melting.

In 1960, whites were 76 percent of the population. By 1975, they had declined to 44 percent. The population of 1.5 million was more than half black and Puerto Rican and they were mostly poor and unskilled. The old European stock was rapidly leaving for the suburbs.

The Bronx's relatively clean air and abundance of building lots proved its undoing. Earlier in the century, it was the preferred location for hundreds of thousands of New Yorkers who wanted to escape the crowding of the Lower East Side.

And so the buildings went up to accomodate them, big 20-century buildings, five to seven stories high and capable of holding perhaps 100 families, two or three times more than the older, smaller structures of Manhattan's Lower East Side.

Bronx construction was thus less personal, more for investment, more for landlords who did not necessarily live there. There are some, and Mr. Marerro is one of them, who feel that the absentee landlords of big buildings played a major role in the borough's decline, when blacks and Puerto Ricans began to arrive in large number.

The city estimates that, in 1974, the owners of more than 8,000 housing units were delinquent in paying taxes of more than $35 million.

A GLOOMY STATISTIC

Over the years, parts of the Bronx have appeared to cease being a part of the city. In 1969, The New York Times conducted a study of the Hunts Point section of the Bronx, and by checking death records on three streets—Simpson, Fox and Tiffany—it was learned that residents there had only a 1 in 20 chance of dying a natural death. Most were dying in homicides or from drugs.

The Times study then also noted that many city services taken for granted elsewhere in New York—such as police protection, garbage collection, some semblance of civil order—could not be predicted with certainty in Hunts Point.

In the years since then, the problems first manifested in Hunts Point and other areas of the South Bronx have tended to spread. A study conducted by The Times in early 1976 reported that abandonment of apartment buildings, which had been pretty much contained to the area below the Cross Bronx Expressway, had spread northward and that dozens of buildings, only recently middle-class, were battered, hollow and empty, except for derelicts.

At present, there is no tangible reason to be optimistic about the future of the Bronx. All data available indicate that those who are are able to leave it are doing so and that they are being replaced by poorer and poorer people, some of them with enormous problems that they inflict upon their neighbors.

THE TRIP TO THE BRONX

President Carter took time out from the United Nations to visit the South Bronx, as crucial to an understanding of American urban life as a visit to Auschwitz is crucial to an understanding of Nazism. Guided by Mayor Beame, the Washington visitors peered at the numbing landscape of tumbled brick and blinded walls, and sensed the contrast between this wreckage and the occasional bud of hope among a few of the people, particularly the young, who live there.

Like many other distinguished visitors, the President was appalled by what he saw, and asked for a detailed plan to set things right. It should provide, he said, that where housing reconstruction was impossible "recreational institutions" be established.

The vistas of destruction and despair that stretched before the President prompted him to wish them out of existence and the spirit of his response credits his humanity.

Alas, like many predecessors, the President responded to the symptom, not the cause; a reconstruction of housing that provides only the short-term work of rehabilitation leaves untouched the basic cause of the present distress of the Bronx. When its population suffered much less from stagnant unemployment, deteriorated housing was the principal problem of the borough. Now, refastening the bricks and untwisting the pipes and conduits would leave untouched the basic problem: unemployment.

The people of the Bronx—and too many other residents of this city—need places to work; playgrounds are no substitute for them. Honorable observers may disagree on how, and particularly where to provide the jobs, but there should at least be consensus on what comes first. Jobs come first.

What the President saw in the Bronx was not so much crumbled buildings as wasted lives.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will not take but just a minute. I rise only to compliment our colleague from New York for his statement this morning, and to join with him in complimenting the President of the United States on his decision to address firsthand and observe on the scene the plight of south Bronx. It is a matter that the Senator from New York has brought to our attention often and repeatedly. I am sure all of us share, as I know I share, his great concerns in that respect, and I am glad to hear his advice and follow his leadership on ways that we can be helpful in trying to remedy an absolutely unacceptable situation.

Mr. JAVITS. I am very grateful to my colleague, and thank him very much.

THE PANAMA CANAL TREATIES CABLE

Mr. McCLURE. Mr. President, 2 days ago the distinguished Senator from Kansas (Mr. DOLE) released a State Department cable confirming that the State Department itself is aware that the Panamanian interpretation of the Neutrality Treaty is sharply different from ours.

To complement the information released by my colleague, I would like to bring to all Members' attention an Associated Press interview held with Panamanian negotiator Carlos Lopez Guevara last weekend. In the course of this interview he is quoted as saying,

It is sad to see that high officials of the United States government are affirming that these treaties give the United States the right to intervene . . . This Neutrality Treaty gives the United States the right to hope that Panama and all the countries in the world will respect the right of American ships to transit the canal, but that is the only right it has received.

I feel this interview is highly significant. Lopez Guevara's statements indicate the depth of conviction with which the Panamanians hold to their interpretation—and just how far that interpretation is from our own. It is obvious that a common understanding of the treaty language will have to be reached before Senate consideration of the documents can proceed any further.

At this time I ask unanimous consent to have inserted in the RECORD a translation of a story describing the AP interview with Lopez Guevara which appeared in the Monday, October 3, Spanish-language edition of the Miami Herald.

There being no objection, the translation was ordered to be printed in the RECORD, as follows:

(The following is a translation of a story which ran in the Miami Spanish language media Monday, October 3. It provides details of the Panamanian negotiators' reaction to the official U.S. interpretation of the neutrality agreement.)

This weekend the (Panamanian) negotiators refuted and contradicted the interpretations given the new Panama Canal treaties by Secretary of State Cyrus Vance and the American treaty negotiators Ellsworth Bunker and Sol Linowitz in their presentation before the Senate Foreign Relations Committee.

The denial was in reference to the statements made last week in the Senate by these officials on the controversial neutrality pact.

"It is sad to see that high officials of the United States government are affirming that these treaties give the United States the right to intervene," said treaty negotiator and attorney Carlos Lopez Guevara. "There is nothing in it that states this nor that could serve as a basis for American intervention."

In an interview with the Associated Press, Panamanian officials confirmed Saturday that the American officials not identified by Lopez Guevara were Vance, Bunker and Linowitz.

"This neutrality treaty gives the United States the right to hope that Panama and all the countries in the world will respect the right of American ships to transit the Canal," added the negotiator, "but that is the only right it has received."

This pact is separate from the Canal treaty which establishes the transfer of control over the sea lane to Panama at the end of the century, and has become the most sensitive issue of the public debate both here and in the United States.

COMMITTEE MEETING DURING SENATE SESSION

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Transportation Subcommittee of the Environment and Public Works Committee be authorized to meet during the session of the Senate today to conduct a hearing on options to continue the Federal Aid Highway Act for fiscal year 1979 and beyond.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of S. 1871, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1393

(Purpose: to waive section 12 of the Fair Labor Standards Act of 1938, relating to child labor, with respect to certain agricultural hand harvest laborers under specified conditions.)

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1393. Who yields time?

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the names of the Senators from Oregon (Mr. PACKWOOD and Mr. HATFIELD) be added as cosponsors of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, this amendment would allow a waiver of the child labor restrictions in agriculture where the participation of children has been traditional over a long period of years. The amendment is endorsed by Senator MUSKIE and myself, speaking primarily for those in Maine who have been involved with the issue of traditional potato picking over the last 50 years if not longer, and by Senator PACKWOOD and others who speak for those who have been involved with strawberry picking for a considerable amount of time.

As background, let me say that hearings have been held on numerous occasions both in Oregon and in Maine with respect to participation of youngsters in the harvest of both strawberries and potatoes. All of the testimony has indicated that absolutely no harm has been done to the individual children involved. As a matter of fact, all of the testimony has indicated that a great deal of good has been done.

The amendment would limit the exception to children who are permanent residents of the area. That means that absolutely no migrants at all will be involved. The work cannot be deleterious to the children's health. No child can miss school because of this amendment, and all children so employed are required to return to their permanent homes every day.

The amendments of the Fair Labor Standards Act of 1974 were directed at ending the abuses of children of migrant workers. We heard extensive testimony with respect to how such children were exploited, how they missed school, how they were required to work or otherwise their parents would not be employed; but no such situation exists in Maine, in Oregon, or in any other areas where such crops as potatoes or strawberries are hand harvested by these youngsters in traditional ways.

The children who live in northern Maine are not migrants. They are indigenous to the area. They go home every night. They usually are accompanied by their own parents to the potato fields. And if not by their own parents, they go with the parents of neighbors. About 12,000 children—this is all children, of all ages—work in the potato fields during the months of September and October in Aroostook County in northern Maine, where Maine potatoes are grown mid-August so that a 1-month harvest and picked. School starts in early or recess can be taken from the middle of September to the middle of October. Thus, no child who is involved in the potato picking activity misses any time from school.

I know that those who are opposed to this amendment have the best interests of the children at heart. And let me assure the Members of this body that those of us who are for the amendment have the best interests of the children at heart. I think it would probably require a trip to the area involved by those who are opposed to get to know the people and the way of life in that part of the country, to understand why this amendment is necessary.

As I said at the outset, this is not only not harmful to the young children; it actually is very helpful to them. It allows them to get outdoors. They are not required to pick any specific number of barrels per day; they pick at their leisure. Oftentimes they are engaged in play with one another. Frequently, when they take their 8, 10, and 12-year-old children along with them the mother and father pick, so that they do not have to hire a babysitter to take care of them. The children pick as much as they want to pick, and, if they do not feel like picking, they do not pick at all. But picking or not, they are right there where the parents can watch them. Oftentimes, at this time of year, if both mother and father wanted to pick potatoes, it would be extremely difficult for them to get babysitters to take care of the young children. Probably the mother or father would have to stay home because nearly all of the young people in Aroostook County are engaged in the potato harvest.

It is a very natural thing to do in this part of the country. As I say, it is a tradition, part of the culture there, since the time potatoes were first grown.

The amendment does provide that permission for youngsters to pick potatoes is discretionary with the Secretary of Labor. The Secretary would have to find, first of all, that the application of the present law's section 12, which is a prohibition against picking by those who are 12 or under, would cause severe economic disruption in the industry of the employer or group of employers who have to apply for waivers. In the first place, the employer or group of employers would have to apply for a waiver. Even if this amendment is agreed to, it does not mean that those 12 or under can automatically help with the harvest. There has to be an application by an employer or group of employers. There has to be a decision made by the Secretary of Labor. He has to make the finding that there would be a severe economic disruption in the industry if such a group of youngsters is not allowed to participate in the harvest.

Second, the Secretary has to find that the employment of such children, to whom the waiver would apply, would not be deleterious to their health or well-being.

Third, the Secretary would have to find that the industry of such an employer has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for individuals over 16 years of age.

We think with those three findings we have covered just about every situation which could exist. There will be absolutely no exploitation whatsoever.

I know there are others who would like to speak on this amendment. Realizing there is just a half hour for each individual, I reserve the remainder of my time. The Senator from Oregon may speak on the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, today we will decide whether children under the age of 12 will be permitted to participate in the harvests of strawberries, raspberries, and certain other hand-harvested crops of the Pacific Northwest. Senator HATHAWAY has introduced an amendment which would make the Senate's minimum wage bill similar in this respect to the version passed by the House of Representatives on September 15. He and other representatives from Maine are hopeful young Maniaks can be used for certain of their potato harvests.

Until 1974, Oregon and Washington children traditionally played a major part in the community-wide efforts to harvest fruit and berries. Entire families, frequently from urban and suburban environments, go to the berry fields and fruit orchards in the mid-to-late summer to bring in the crop. Clearly, the majority of these crops are harvested by adults, but unless children are permitted to enter the fields along with their parents they must be left at home. This is usually enough of a deterrent that the parent decides it is not worth the effort to hire a babysitter or leave the children home alone. The decision by Congress to prohibit children under 12 from helping with the harvest has resulted in large reductions of the labor force. Parents simply decide to stay home or pursue other employment.

Since the 1974 decision, Northwest States have had a 30 percent drop in many hand-harvested crop acres. Crops such as strawberries and raspberries have dropped in total dollar value by even greater percentages. The result has been the displacement of adult laborers in the canning, processing, transportation and marketing of these crops.

The amendment I hope the Senate will accept was carefully drafted to preclude the possibility that any child could be endangered. The Secretary of Labor may grant a requested waiver only when he is confident the children will: First, not be subjected to unsafe conditions; second, not miss any school hours; third, not displace older persons from jobs; and fourth, work in close proximity to their permanent homes.

I realize that many States do not have crops which are, of necessity, hand-harvested. I realize therefore that many States do not need this amendment. I hope that will not mean Senators from those States will oppose this amendment. The diversity of this Nation is ill-served by uniform solutions to complex problems.

The opponents of this amendment in the past have raised legitimate objections, but ones I think we can lay to rest. I know that if they could visit the fields, as Senator HATHAWAY and I have on numerous occasions, the fears of child abuse could be eliminated completely.

The children we are talking about are under the close supervision of their parents, brothers, or sisters, and adult friends. The air is much cleaner than in a typical city street, theater, or restaurant. Pesticides are subject to severe limitations and are never used too close to harvest time.

These kids, while contributing to the community-wide effort to bring in the crops, are learning to appreciate honest labor and the value of money. Several members of my own Senate staff recall the days when they, too, picked strawberries as young children. They started savings accounts for college tuition or simply earned their own spending money.

In my view, if more young people had the opportunity for earning their own money at an early age, fewer would spend their time getting into trouble. Our cities are clogged with idle, unproductive youth who spend a majority of their time learning the idle, unproductive pursuits of adults.

We should not prevent the employment of young children if they are in a clean, safe environment, under the careful eye of parents and adult friends, during nonschool periods. Recent crackdowns on the employment of illegal aliens have also inhibited the perfectly legitimate employment of Mexican-Americans. Other factors have resulted in severe agricultural labor shortages. The increasing use of machines to harvest crops reduces the total labor force available for the harvesting of those crops which may never be machine-harvested. In short, we need to develop new sources of manpower, not cut off the traditional ones.

The amendment before the Senate today would help young children and the producers of berries and fruit. For the information of all Senators, I ask unanimous consent that the text of this amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1393

On page 12, between lines 17 and 18, insert the following new section:

AGRICULTURAL HAND HARVEST LABORERS

SEC. 5. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"(i)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of

this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individual's protection.".

On page 12, line 19, substitute "Sec. 6." for "Sec. 5.".

On page 12, after line 25, add the following new subsection:

(c) The amendment made by section 5 shall take effect on the date of enactment of this Act.

Mr. PACKWOOD. Mr. President, we are not talking about children working in textile mills 12 hours a day, with some kind of a boss who drives them until they drop or injure themselves. We are not talking about children working in wheat fields with combines and dangerous machinery. We are talking about a very customary, safe, healthy, outdoor activity which children in my State have participated in for years and years and years without injury to their bodies, their psyche, or anything else.

I would wager today that children are safer picking strawberries, raspberries, or beans than they are playing in the park. They are not likely to be mugged or robbed or raped in the strawberry fields. They may well be in the parks.

They are healthier in the fields, which are on the outskirts of our principal cities, healthier than they would be playing in the streets where the air is more polluted.

I emphasize again that we should put out of our minds the concept of child labor as we have seen it in our textbooks while growing up. This is an activity in which children engage in one of two ways: they go out often on weekends to pick strawberries, pick raspberries, pick beans, to make pin money. They cannot get any other job. This is not an alternative to working in a factory. They are not old enough to do that. They are not taking the jobs of adults. Adults choose not to pick.

Children will either do that or in equal likelihood they will go out with their families on weekends, because many of these fields are open on a "you pick" basis. On a Saturday and Sunday a mother, father, and two or three children will go out and pick all day long, for their own use for canning purposes, bring whatever they have picked back home, paying the farmer whatever the going rate is. It is very convenient for them to take their entire family with them rather than trying to find a babysitter or leave one or two children at home who may be under age. As the Senator from Maine said, the younger children may not pick but at least they are with the family.

This limitation has caused not only an inconvenience and a hardship to those who grow raspberries, strawberries, beans, and similar crops in Oregon, but it has caused a severe dislocation to a traditional way of life of families in Oregon that never were injured, never harmed, never hurt, the families or their children, in all the years before this prohibition was put into effect.

These children have not taken a single job of an adult picker. They have not been saved from any injury that they might have otherwise had prior to the passage of this limitation. Their health has not been impaired. Their work-study habits have not been deterred. Not a single thing has been gained for the alleged protection of children. All we have done is deprive them of the right to make some money. All we have done is make a great inconvenience for families as a unit to go out on weekends and engage in a very healthy avocation.

I strongly support the amendment.

Did the Senator from Maine add me as a cosponsor to the amendment? If not, I ask unanimous consent to be added.

The ACTING PRESIDENT pro tempore. The Chair will advise that has been done.

Mr. PACKWOOD. I thank the Chair.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS. Mr. President, although I cannot support the proposed amendment to permit child labor, for reasons which I will explain, I would suggest that there are certain provisions, indeed protections, that I would respectfully submit to the authors of this amendment. They would bring to the young children who would be covered under this amendment certain protections which I think are basic and most needed.

I am concerned that the amendment appears to give the Secretary carte blanche authority to extend an employment opportunity to the children covered under this amendment. I would hope we could see this amendment amended, to make it clear that the Secretary is not expected to issue an open-ended authority to employers seeking to use the labor of these children. In my judgment the employers should come forward with information which is sufficient to form a basis for the Secretary's judgment with regard to the safety criteria established in the proposed amendment.

No one, including the Secretary, would be in as good a position to provide this information as the employers who choose to use the child labor.

Therefore, I hope the Senator will accept an amendment which would require the submission of objective data by an applicant for a waiver. This could be done on page 2 of the pending amendment by striking out line 10 and inserting in lieu thereof the following:

May not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—.

Finally, I would urge the Senator to add an additional precondition to waiver by the Secretary of Labor, which would insure that young children will not be exposed to the hazardous effects of pesticides and herbicides in our agricultural fields.

It is my understanding that the potato crop of Maine is now subjected to intensive spraying of the herbicide DNBP (4-6 dinithrothenol-o-sec-butyl phenol) which is also known as dinocebe, premerge, or sinox pe.

This spraying occurs about 2 weeks before the harvest, and its purpose is to kill the foliage of the potato plant and make harvesting easier. I am informed that exposure to this herbicide can be dangerous; that it is highly toxic, corrosive to skin and eyes, and can be fatal if it is ingested. Moreover, the long-term effects of the chemical are not known, and it is presently being reviewed by the Environmental Protection Agency.

It is my understanding that the pending amendment is also intended to permit the harvesting of strawberries, cane berries, and pole beans by young children. In conferring with officials at EPA's Pesticide Registration Division, we have learned that these crops are sprayed with the pesticide thrithion (carbophenothion) and that this chemical compound is one of the class of chlorinated hydrocarbons which, in some forms, have been shown to be carcinogenic or mutagenic.

These are rather frightening facts to be considered in connection with this issue. As a minimum, therefore, I would propose that the pending amendment be amended to assure that the Secretary of Labor will look into the question of exposure to these chemicals as part of his certification process.

This could be done by amending the amendment on page 2 by striking out "and" in line 16; then, also on page 2, between line 16 and 17, insert the following:

(C) The level and type of pesticides and other chemicals used would not have an adverse affect on the health or well-being of the individuals to whom the waiver would apply; and.

In the following line on page 2, the capital (C) should be stricken and in lieu thereof a capital (D) inserted.

This amendment would insure that the Secretary give appropriate consideration to the problem of chemicals in our fields before certification is made. Together with the other amendment which I have proposed, it would also insure that employers come forward with information about the types of pesticides and herbicides they use.

(Mr. LEAHY assumed the chair.)

In addition, I would suggest, and I shall have this in full form for the Senator from Maine, that on page 2, line 6, there be a limitation of at least 10 years of age—this could be done by making two small changes on page 2 of the amendment. On line 3, insert "also" after "may".

Second, on line 6, page 2, insert after the comma, the following "but not less than 10 years of age."

We discussed this last night, and then, as I worried through the long night after adjournment about this amendment, I concluded that without these protections, the amendment of the Senator from Maine is contrary to the efforts of our committee over the years to reduce to a minimum or eliminate child labor. This amendment deals with two situations that the offerers of the amendment described to me as critical: the 6 weeks of the potato harvest in the State of Maine, and a common period in the harvest of strawberries in the State of Oregon.

I think we all have some background of healthy and happy days working as youngsters on a farm. I know my happy experience was working, as a youngster, as a farmhand on a dairy farm in the Adirondack Mountains of upstate New York, and it was a healthful thing. But we have a new kind of agriculture and it is not a frolic any more, except in rare situations where a youngster is on his uncle's farm or his parent's farm. We have taken care of these situations and permit that kind of work. But here we have a potential for problems, and it worried me, but I can also understand that society has been organized around youngsters in some of these field crops.

Last night, we discussed the special situation of potato and strawberry crops. It impressed me that if we have a cutoff at the age of 10, if we make sure that the scene is reviewed and the hazards known, and some of the hazards that are still unknown are protected against in the chemical treatment of the crop before the harvest, incorporate limitations of time in weeks, that perhaps we can, while protecting the children, also protect the economy of these particular areas.

Mr. HATHAWAY. Will the Senator yield to me for a question?

Mr. WILLIAMS. Yes.

Mr. HATHAWAY. I think that, as far as the pesticide amendment is concerned, it is a good one. I wish to read from an American Farm Bureau letter to me of September 29—and the American Farm Bureau does support this amendment. They say, talking about pesticides, that, "the only real danger is oral ingestion by the applicator driving the spray machinery," which in no case would be a youngster. The letter goes on to say that the last spraying is done 7 days before the harvest.

The chemicals, once they dry, are not toxic and actually, the practice in Aroostook County is to not stray within 10 or 20 days of the harvest. So there are an additional 3 to 13 days as a margin. Also, the EPA regulates this very strictly. But we should nevertheless incorporate the amendment which the Senator from New Jersey has suggested, just to make sure that there is no danger whatsoever from any toxic material.

I am somewhat reluctant to accept the 10-year-old minimum age, especially as I do not know whether or not it would be acceptable to the Senator from Oregon for me to do so. But I know that, in Maine, there are those under 10 and probably down as young as 8 years old, and younger, who work in the harvest. But in order to have the support of the committee chairman, the Senator from New Jersey, for this amendment, I would be willing to take that.

But I do want to ask a question about the Senator's first suggestion on changing my amendment to require that objective data must be furnished. Can we establish what we mean by the words objective data?

A farmer will come in and say, "Look, I cannot get anybody to harvest my potato crop; can I employ those who are 12 or under?" What more is he going to have to do than that in order to show that a labor shortage is going to seriously disrupt his operation? Would an assertion of need by the farmer be sufficient? I do not know what objective data he could furnish beyond that, beyond saying, "Look, I have not been able to get any other help."

Mr. WILLIAMS. The language of the proposed amendment specifies what must be shown; he must show that, "The employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being."

For example, the farmer could state that that pesticide is not wet on the vine when the kids go into the fields. The Senator has said that pesticide is sprayed 7 days or 10 days before picking. That would be an objective bit of information that would suggest that the danger had passed, because the pesticide would have dried on the vine and would not harm the picker.

Mr. HATHAWAY. That is the answer I wanted to get from the Senator. The assertion by the applicant is sufficient.

Mr. WILLIAMS. That is why I mentioned that nobody is in a better position to explain what is happening on the farm than the farmer himself.

Mr. HATHAWAY. Well, I have no objection to accepting the amendment, but I think that I should hear from my colleague from Oregon before I accept.

Mr. PACKWOOD. I am not sure I understand all the amendment. The pesticide part, that the Senator from New Jersey talked about, I think is acceptable. The EPA standards, as far as Oregon is concerned, on pesticides now require that it must be of such a low level before picking that I do not think we must change the pattern of picking now.

I did not understand the objective criteria. Did the Senator from New Jersey limit his amendment to just potatoes? I do not think you pick potatoes. Do you not dig them?

Mr. WILLIAMS. Well, you pick them off the ground. They have to be loosened from the ground. It is called potato picking.

Mr. PACKWOOD. I did not mean to draw the point out. Did we limit it to strawberries and potatoes or not? I did not hear that.

Mr. WILLIAMS. These are the two crops that were described to me as presenting a critical need for young labor to work as picking hands. Without young workers, the harvest would not be accomplished. Strawberries from Oregon and Washington and potatoes from Maine were described to me as examples of such crops.

Mr. PACKWOOD. I hope that the Senator from New Jersey will just leave the definition at handpicked crops or whatever this definition in the amendment is. At least raspberries and beans in Oregon are affected. I see the Senator from Washington. I would assume that blackberries, blueberries, currants, and crops of that nature are picked by the same type of children as potatoes in Maine and strawberries and raspberries and beans in Oregon. I shall not speak for Washington, but I would hate to see it limited solely to strawberries, which is a relatively short picking season—3 weeks, 4 at the most, if you are lucky. You can pick raspberries and strawberries and beans in succession and have a reasonable season over summer.

Mr. WILLIAMS. My position is that I want to limit the effect of this amendment to the areas that were described as critical. When you have a 3-week or 4-week harvest, a very abbreviated time, and if you cannot get your workers, then you could lose a harvest. Now, if you have a crop that continues to grow and produce, and you harvest it over a long period, then I am afraid that what we will be dealing with is much too long a period of child labor, which I think would be deleterious.

The Senator mentioned a couple of other fruit. The raspberry crop is not a long season. However, the beans go on from spring until fall.

Mr. PACKWOOD. The Senator is right. Beans can go on for a long season. But in the particular area where they are growing, because we are limiting pickers to daily commuters, they can have an area of 200 to 300 miles, but not more than 10 to 20 miles because they commute daily.

This is not like migrant labor, starting in the middle of California, to Canada, over a period of 3 or 4 months.

Mr. WILLIAMS. Is the Senator describing a crop which has what I would describe as a critical harvest period?

Mr. PACKWOOD. Yes.

The relative harvesting period of strawberries is 3 to 4 weeks. Raspberries,

about the same. Beans, where we are picking under this limitation of around the home or town where they live, would be the same.

They are short harvest periods. In Oregon we have a slightly different growing season, but they are all short harvest crops.

Mr. WILLIAMS. If there were a way to pinpoint this critical period in the harvest of crops other than strawberries and potatoes, I would consider the suggestion to include these crops. But I would also like to make sure that this almost comes to a point where there would be no harvest without child harvesters.

Mr. PACKWOOD. We have also circumscribed the amendment. Children are the traditional harvesters of these crops. They have to live at home and commute daily. There has to be a labor certification that the crops are not likely to be picked without them.

The problem is, if we just say strawberries, 50 miles away from the Portland area we will have a fair sized bean industry and not a great strawberry industry. The child around Portland will not go to Salem to pick beans. Around Salem, they will not pick anything out of those limits because they will not go 50 miles away to pick strawberries.

The limitation of June 1 to October 15, I can almost assure the Senator it will be an unusual child and an unusual geographic situation where the child will be able to pick within 15 to 20 miles, at the outside, of his or her home, to be able to pick all summer. At least Oregon's crops, growing around one area.

Mr. MAGNUSON. Will the Senator yield?

Mr. WILLIAMS. I am happy to.

Mr. MAGNUSON. I apologize for not being here for the earlier part of this discussion.

When the Senator mentions a critical crop, he is talking about the time point, is he not?

Mr. WILLIAMS. Yes.

Mr. MAGNUSON. I can assure the Senator that I would not be for any such amendment if it adversely affected better conditions for migrant workers. But we do have places in Oregon and up in my State where there are no migrant workers to harvest the crop and the harvesting period is very short. There is no place they could go. For instance, the berry crop around the area of Puyallup only extends for 2 or 3 weeks, sometimes, because of the rains, they have to get in the crop in a week.

Mr. PACKWOOD. This has never been a traditional migrant picking.

Mr. MAGNUSON. No; these are just little valleys where they raise a lot of big blackberries—the Senator would not believe it. They are about this big.

The youngsters go out—the teachers go with them—and they will make a little money to take home. They will use the money to buy new uniforms for the band and all the little activities in the little town where this happens. It is traditional. There is no way to get migrant workers in there, although we employ thousands of migrant workers as they do in the State of New Jersey.

Mr. PACKWOOD. For pears, apples.

Mr. MAGNUSON. Sometimes we do not even get them for those crops.

I recall one time when the weather was such that the apple crop had to be picked right away. In order to save the crop, the Army had to be called in. The Army let the soldiers in Fort Lewis get in trucks and go over to the orchards and within 1 week they brought that apple crop in.

Now there is a constant migrant worker population in certain areas of the State. But as to these little pockets of berry farms that the Senator from Oregon is talking about, there is just one way to harvest the crop—the youngsters handpick the berries.

The teachers go along with the children. It is almost a field expedition. There is no way to pick strawberries except by hand.

I happen to have a small place in Bainbridge Island. Bainbridge Island used to be populated by about 4,000 people, and perhaps 3,500 were Japanese. They used to take care of their own fields, and they raised the biggest strawberries in the world—outside of Japan. Their children would go out and help them. The irony of it is that, when the war broke out, we took all the Japanese off Bainbridge Island and put them in a prison camp in the Senator's area, and some of them never returned.

There is a little high school and a grade school in the community, and these kids go out and pick strawberries. In the fall, at Thanksgiving time, they go around and pick holly, with big berries. All the holly you buy in the New York and New Jersey department stores, the fine holly with the berries, comes from that one area.

The school gets a lot of benefit out of this. They have the finest band uniforms you ever saw in your life. Part of the money the kids earn goes to that. It is a family thing in most cases; but when the family does not have enough children, they have to rely upon the youngsters in the area.

Mr. WILLIAMS. I appreciate what the Senator from Washington has said. I wish I had talked to him last night. I agonized over this through the night.

The Senator has described a situation that suggests that it is a different situation than the one that compelled us to limit child labor.

Mr. MAGNUSON. I would be the last one to do so. I think no one has been more active in the field of toxic substances and pesticides than the Senator from Washington.

Mr. PACKWOOD. I would daresay that it would almost be impossible for a child to injure himself picking strawberries. It is a little bush on the ground. There are no mechanical contrivances of any kind. You are more likely to be injured swimming in a pool than you are picking raspberries or strawberries.

Mr. MAGNUSON. Or riding a bicycle along Main Street.

If migrant labor were available, that would be one story. But this is a different situation.

Mr. WILLIAMS. But we should protect the youngsters from being used in harvesting under this amendment throughout the year. We should limit the time within which they can have this opportunity for employment.

Mr. MAGNUSON. There is no suggestion that that should not be done.

It is just a quickie harvest.

Mr. WILLIAMS. The Senator from Maine is going to suggest that we include peanuts, but, I understand that the peanut harvest is mechanical, and that is exactly what we want to stay away from.

Mr. HATHAWAY. I just wanted to gain favor with the administration by suggesting that.

Mr. WILLIAMS. Again?

Mr. HATHAWAY. Again.

Mr. MAGNUSON. I hope we can make some accommodation with respect to this. The Senators from Oregon and Maine and my colleague have been pioneering in this field as hard and as long as any other Senator in this body, with respect to protection for the working people. I sometimes receive a lot of criticism for going too far the other way.

Mr. WILLIAMS. Because of the authorship of this amendment and those who supported it, I knew all the evidence I needed was there. I understood we would not be doing anything damaging to the young people of the States of the Senators: Washington, Maine, and Oregon.

Mr. President, I ask unanimous consent that Judith Hefner, of Senator LEAHY's staff, have the privilege of the floor during the debate on S. 1871.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. JAVITS. I yield myself such time as I may require.

Mr. President, I have heard, with the deepest interest, the warm personal expressions of feeling and romance expressed by my colleagues from the States which are intimately affected. I can understand their views, I can understand their feelings, and I can understand their good faith in terms of the fact that they are, without exception, Senators who, on many other battlefields, are very sensitive to human rights and to human aspirations and to the way in which human beings are used in our society. But, Mr. President, facts are facts.

I noticed that one of my colleagues, in referring to the farmers, mentioned, "He can't get anybody to harvest."

Mr. President, we are not talking about independent contractors here. We are talking about 10-year-old kids, less than half the age of consent and less than half the age which makes a contract binding upon them. What do they have to say about it? Absolutely nothing.

As to the idea that these people want pin money, of course they do. All kids do. Do we let them sell cocaine because they want pin money or steal from groceries because they want pin money? Of course, we do not.

I wish to add at once that I am not challenging for a minute the feelings of my colleagues on this subject who feel it is good for children, who feel that it is a good undertaking for them, that it is good for their communities. I am not challenging any of that. All I say is this: We are a national legislature; we have to develop and work out a national policy. We cannot—and that is why we are a nation—work out a policy which would be worked out otherwise in the individual legislature of an individual State.

It may very well be—it probably is—the fact that in each of these individual States the legislature would accommodate this situation for very obvious reasons. That does not necessarily mean that we should.

I wish to point out, too, Mr. President, that the State with the biggest harvesting activity is California. The total harvests in California is far and away greater than in Washington, Oregon, and Maine. The order of magnitude is 6 or 7 or 10 to 1.

In California child labor on the farm under 12 will continue to be prohibited because that is State law. This is not a preemptive statute, so that a higher standard in an individual State will prevail.

I make that very clear because we must realize that that will continue to be the situation, however we may fashion this particular exemption in this law.

Second, Mr. President, I think we have to insist, if we are to permit children as young as 10 or 11 years old to work in violation of minimum wage and overtime standards, that this is really essential, and that there is good public policy reason for making this exception.

In that connection, Mr. President, I think it is very useful to contrast two different points of view upon this question of exactly what the child does.

(Mr. ANDERSON assumed the chair.)

Mr. President, the amendment before us today would undo in part the landmark achievement of the 1974 Fair Labor Standards Amendments in which we established a national policy of opposition to child labor in agriculture. If this amendment is adopted, employers in agriculture will once again be permitted to reap their profits from the harvest time labor of little children.

The 1974 extension of the child labor laws to agriculture culminated a 13-year struggle, during which time this body voted thrice to ban child labor in agriculture. Thirty-seven years ago the Congress saw fit to ban the use of "oppressive child labor" in the sweatshops and factories of our cities. Since that time, those in whose interest it was to have an available and cheap supply of labor for the harvest have promulgated the myth that somehow agricultural labor by children was of a purer nature than other labor. In 1974 we put that myth to rest and outlawed the exploitation of children in these "sweatshops in the Sun."

Now it is argued that the labor which would be permitted by this amendment is healthy, that it teaches children the value of a day's work, and the value of a dollar. Child labor became a tradition that was summed up in a 1971 editorial in the Capital Journal of Salem, Oreg.:

> Besides having the comradeship of other youth in the platoon, young pickers learn the value of the dollar and the joy of recreation earned; they gain a selfrespect deep in the inner person because of having contributed to the world's needs; they help save the strawberries and beans for canning; and they have earned their own spending, clothing, and school money ... long live the early morning sack lunches, clusters of kids waiting for platoon buses, and the honest, harmless sweat.

This editorial was in response to the American Friends Service Committee report, "Child Labor in Agriculture—Summer 1970." Investigators from this organization had gone into Oregon, Washington, California, Ohio, and Maine. In each of these States some farmers used the labor of children under circumstances that forced the investigators to conclude.

> The child labor scene in 1970 is reminiscent of the sweatshop scene in 1938 . . . It should be intolerable for a sizable segment of a major industry to depend upon child labor for its survival. In America in 1970 it is not only tolerated, it is encouraged . . .

Ronald B. Taylor, a investigative reporter and noted author of "Sweatshops in the Sun," a thorough exploration of child labor in agriculture, describes the nature of work in the field done by children:

> Strawberries . . . grow close to the ground, workers kneel, crawl, bend, stoop, or sit and scrunch along, pushing a miniature wheelbarrow-like contraption that holds the "flat." One flat holds 12 quart-sized baskets and when these baskets are filled and carried to the checker, the flat is worth 80 cents to $1. This is knee-scraping, backbreaking labor. Pole beans are not much better and bush beans are worse because the full hampers weigh 30 to 35 pounds.

I seriously doubt that it is in the national interest of this country to have children as young as 10 or 11 years of age provide the labor pool for any industry. The supporters of this amendment argue that casual child labor by resident children is different from the labor which generations of young migrant laborers performed. They argue that this amendment will continue to protect against the horrors of young migrant children who, with their families follow the crops each year in an effort to earn enough money to support their families.

In the first instance, I do not believe that there is any difference between the labors of migrant children and those of resident children. If it is true that it is in the national interest to protect our young from work in the factories, then so it is true that they should be protected from the arduous work in the fields. The simple fact that the employment of children in harvesting certain crops has been traditional does not, in and of itself, mean that such employment is beneficial or healthy or proper. I remain unconvinced that the harvesting of berries and potatoes by young children is somehow intrinsically different from other types of exploitive child labor.

In late 1974 the disruption of traditional employment patterns caused by the new child labor amendments was brought to the attention of the Labor Subcommittee on which I serve as ranking minority member. At that time, the committee conducted field hearings to examine the impact of the new legislation, and determine whether an amendment such as that proposed today was justified. After conducting those hearings, the committee did not find sufficient justification for the continued employment of young children to warrant recommendation of an amendment.

For 3 years now this law has been in effect, and the crops have been harvested without the aid of these young workers. I cannot believe that the harvest will not continue without the assistance of 10-year-old laborers. If the justification for this amendment is that it will permit an expansion of agricultural industry areas where children have traditionally formed part of the work force, then I say to my colleagues that we must find other ways to foster agricultural growth than to build such expansion on the sweat of our young.

There is yet another problem about this amendment that troubles me. While the amendment itself does not apply to migrant child laborers, its provisions will, of necessity, make enforcement of the child labor laws more difficult in areas where migrants are employed. It will be necessary to determine in each instance in which the Labor Department finds children employed in the fields whether they qualify under the exemption. Inspectors will have to ascertain where the children go to school, and whether school is in session. They will need to know how long the child has worked in the field and where he lives. These additional conditions will make the already difficult job of enforcing child labor laws in agriculture all but impossible.

I would also remind my colleagues that current law permits the employment of children under the age of 12 by farm operators who are not covered by the minimum wage provisions of the Fair Labor Standards Act. These small growers may already use underage children to harvest their crops. I have seen no evidence that the existing exemption is not sufficient to supply an adequate labor force for the harvest in areas that have traditionally relied on youngsters for harvesttime labor.

After Congress banned child labor in the factories, I am sure the same justifications could have been advanced for an exemption permitting limited labor by underage children in our factories. Such labor had, I am sorry to say, been a tradition in many parts of this Nation. Certain employers were no doubt burdened by the loss of the cheap and available source of labor young children represent. But our industrial economy has survived without reliance on the young. So too has agriculture survived these 3

years, and will continue to survive. It is my hope that Congress will not take the retrogressive step of yielding to the perceived short-term needs of one small group of employers, and thereby erode the humane action of banning child labor in agriculture.

Now, Mr. President, under the circumstances, I think it is very pertinent to get the attitude of the Department of Labor. The Secretary of Labor is strongly opposed to this amendment, and I would like to read the opinion of the Secretary of Labor. I ask unanimous consent that the letter may be made part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., October 5, 1977.

Hon. HARRISON WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Labor on section 11 of H.R. 3744, the House-passed version of the "Fair Labor Standards Amendments of 1977."

We are opposed to this section of H.R. 3744, which would establish procedures under which an employer or group of employers could apply for a waiver from the Secretary of Labor which would in effect permit the employment of children under 12 years of age in hand harvest labor in agriculture on a piece rate basis.

Such legislation would reverse the trend of congressional enactments over the years to improve the protection of children; the unhealthful effects of child labor in agriculture argue for greater not lesser protection. Modern agriculture is a high risk industry. These risks are not limited to heat, sun, dust and insects, or the strains caused by stooping and lifting. Children working in the fields are dangerously exposed to toxic chemicals, pesticides and large power-driven machinery.

According to a 1976 report of the National Safety Council, almost 22 percent of all farm injuries reported in a 15 State survey occurred to children in the 5–14 year old age group. This is an inordinately high proportion, considering that children are out of school for only about three months of the year.

A recent report by the American Friends Service Committee on "Children Who Work in Commercial Agriculture," concluded that:

"Such labor continues to exist because the industry for whom it works continues to depend on an oversupply of cheap labor. If the industry took steps to develop a critical analysis of its labor needs to determine the amount and kind of labor actually needed, use that labor efficiently and pay it adequately, it could get the adult labor necessary to harvest its crops."

Given the compelling humane considerations involved, there is no justification for the Amendment.

The Fair Labor Standards Act currently permits the employment of children under 12 outside of school on farms owned or operated by their parents, or with parental consent on farms not covered by the monetary provisions of the Act under the 500 man-day exemption. Children 12 and 13 years of age may be employed on any farm outside of school hours with a parent's consent or on a farm where the parent is also employed. There is a 14 year minimum age for employment in non-hazardous agricultural occupations outside of school hours (section 13(c)(1)).

It makes no sense to encourage children to risk their health and safety to work in agriculture when growers can find an adequate supply of labor among underutilized workers in older age groups. Moreover, it seems probable that unemployed teenagers are available for such farmwork.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

/s/ RAY MARSHALL,
Secretary of Labor.

Mr. JAVITS. The letter is dated October 5, 1977, and he says as follows—it is addressed to Senator WILLIAMS, the chairman of our committee:

We are opposed to this section of H.R. 3744—

That is the House bill—

which would establish procedures under which an employer or group of employers could apply for a waiver from the Secretary of Labor which would, in effect, permit the employment of children under 12 years of age in hand-harvest labor in agriculture on a piece-rate basis. Such legislation would reverse the trend of congressional enactments over the years to improve the protection of children.

The unhealthful effects of child labor in agriculture argue for greater, not lesser, protection. Modern agriculture is a high-risk industry. These risks are not limited to heat, sun, dust, and insects or the strains caused by stooping and lifting.

Children working in the fields are dangerously exposed to toxic chemicals, pesticides, and large power-driven machinery.

Now, we are going to deal with the chemicals in Senator WILLIAMS' changes, that is, with the pesticides. We are not going to deal with the machinery, and I understand, Mr. President, that in the harvesting of potatoes machinery is an integral part in the operation in the fields. The machines, as I understand it, go through the fields and turn up the potatoes and then they are picked by the children. How the relationship exists between the time and place of the operation of that machinery and the children is something which I feel certainly the Secretary of Labor ought to have control over.

And the Secretary of Labor goes on in his letter:

Given the compelling humane considerations involved, there is no justification for the amendment.

I would like to read that again:

Given the compelling humane considerations involved, there is no justification for the amendment. The Fair Labor Standards Act currently permits the employment of children under 12 outside of school hours on farms owned or operated by their parents or with parental consent on farms not covered by the monetary provisions of the act under the 500 man-day exemption. Children 12 and 13 years of age may be employed on any farm outside of school hours with the parent's consent or on a farm where the parent is also employed.

Finally, and I still quote:

It makes no sense to encourage children to risk their health and safety to work in agriculture when growers can find an adequate supply of labor among underutilized workers in older age groups. Moreover, it seems probable that unemployed teenagers are available for such farm work.

Mr. President, we are going to hear a lot in the ensuing debate here about a differential for teenagers because they are in very widescale unemployment. The Secretary suggests that here is a very interesting area in which teenagers might be employed in a very useful and fruitful way.

But, Mr. President, I conclude as follows: What I have not heard in this debate, and what I am waiting to hear, is why we must revive the specter of child labor which is so deeply rejected in the hearts of our country and in the hearts of its people, and is the result of so much trauma and despair in other days. I am not going to go through that with the Senate; we all know it very well. What is the reason why we now have to lower the prohibition from 12 to 10 years of age?

The amendment itself, by the way, is unlimited. It could be children of 4, 5, 6, or 7. But, be that as it may, Senator WILLIAMS has already suggested 10, and the author of the amendment has accepted that, so I will not even argue that point. But I would like to hear why we have to go from 12 to 10. What is the compelling reason now for further infringing this concept of discouraging and prohibiting child labor in the United States in this particular field?

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Of course.

Mr. HATFIELD. Will the Senator indicate what the situation is in New York State as it relates to deliveries of newspapers for age limitations on this?

Mr. JAVITS. It is my understanding, I believe, that in New York we enjoy the same exemption which is in the Fair Labor Standards Act for newsboys.

Mr. HATFIELD. So newsboys are permitted at that age.

Mr. JAVITS. I do not know it is 10 years of age. I will have to check that, and I will check it.

Mr. HATFIELD. Mr. President, will the Senator yield me some time?

Mr. JAVITS. How much time does the Senator request?

Mr. HATFIELD. Five minutes.

Mr. JAVITS. I yield 5 minutes on the bill to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. HATFIELD. I thank the Senator from New York for yielding.

I think he struck an important issue, that is at hand, and that is that we should talk about facts. I think one of the first facts I wish to comment on is the term "child labor."

As Senators know, we get involved in codewords. We get involved in codewords in our society that somehow "child labor" is supposed to elicit in every case the old image of the sweatshop. I guess we all are moved from our own cultural backgrounds and environment, and so forth. Let me say to the Senator from New York that we never had sweatshops in the northwestern part of this country.

So what "child labor" elicits in the mind of the Senator from New York or some easterner is not what is true necessarily in the Northwest or in other States.

"Child labor" in the Northwest means opportunity. That is what it means. It means opportunity for kids not to have to go out and sell cocaine in order to get some spending money because they have alternatives.

To use an example that somehow because we want to permit them to go to the agricultural fields to pick strawberries, or potatoes, or some other crop is the same as we will let them go out and sell cocaine because they want spending money is ridiculous. There is no relationship whatsoever.

Let me just say very simply that I am a product of the fields, if Senators desire any personal testimony. The Senator from New York grew up in the asphalt jungles of the urban center. I grew up in the agricultural fields of the State of Oregon. I picked strawberries, raspberries, cherries, hops, beans, name it. I started when I was 6 years old because my family, my mother, and father had to go in their times off to help supplement the family income during the depression years, and so they took their kids with them. We all picked.

There were no great problems. If the Senator is so concerned about stooping, squatting, pushing, and sweating to pick a few strawberries, I suggest then he should not eat any more strawberry shortcake in the dining room and should boycott strawberries. I think this is again a facetious argument and a fallacious argument. It is not as if they were sitting there in the textile mills having to weave and do all other things at the spindle until they went blind because they were youngsters in sweatshop conditions of the early 1800's.

I wish to say that this is an opportunity for youngsters in our country. In talking to the parents, they support it. When one talks to the children, they relish this opportunity. I received more letters from the youngsters in my State when this went into effect in 1974 than letters from youngsters of that age on any other issue since I have been in the Senate.

They go to the fields under care and supervision. They go in inspected buses and transportation that has to meet safety standards. They go with platoon leaders, usually who are schoolteachers with summer employment, or they go with their parents.

Let me just say to the Senator from New York, talking about injuries, there are no machines in the strawberry field. Strawberries are little short bush kind of growth—I want to explain to these people who may never have been in the strawberry field—and they grow in rows.

We had 5,000 children in the State of Oregon under the age of 12 in the summer harvest fields in 1973, over 5,000. A total of seven were injured, according to the Workmen's Compensation Board, and the injuries ranged from a cut of the finger to a rash, and they only required minor medication. Seven injuries out of over 5,000 children working in the fields.

Those are the facts. The Senator wants facts. Those are the facts.

I can say one thing, that there would be far less juvenile delinquency if we could keep these children gainfully employed, learning work habits and learning how to be responsible. It is the idleness of these youngsters that creates the problems in much of our society. Yet the same people come in here and want us to appropriate millions of dollars to deal with the problem after the fact, always dealing with the problem and never the causes.

And one of the causes of juvenile delinquency is idleness and a lack of constructive opportunity for leisure time.

I suggest that we are dealing with something more than an agricultural problem here. We are dealing with the socioeconomic problems of our society, creating less and less opportunity for children to have chores, jobs, and some kind of employment.

If the Senator is concerned and worried about the attitude of labor unions or the labor bosses, there is not one labor union official in our State who has contacted me in opposition to this proposal by the Senator from Maine, and there is not one who has spoken out publicly that I know of because they would be embarrassed to do so in my State, and I will say that as a Republican liberal, or as a Democratic liberal, or as a conservative, or as a moderate, across the board in my State, as the Senator from Washington knows in his State. That may be said for liberals, conservatives, moderates, Democrats, Republicans, labor, management, and business. It is not an issue of labor against capital or anything else in my State.

Mr. MAGNUSON. Mr. President, the same is true in the State of Washington.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HATFIELD. I yield.

Mr. JAVITS. Mr. President, I asked one question which the Senator has not answered. I will not argue with the Senator about a lot of other things.

If we are going to debate the issue of educating children of 10 in work habits, we must recognize that we are not educating young people of 18, 19, 20, and 21 years of age in work habits. Our policies are blind in terms of what is causing our present difficulty with youth, and that needs serious study. But be that as it may, I shall ask the Senator this question. I ask one question. Why 10? Why not stay with 12? Twelve is already the law. What is the necessity these Senators show for now including 10- to 12-year-olds? Admittedly, the Senator is a very able man, a former Governor of his State. This is not volitional by the children; on the contrary, under the law they do not have that kind of volition to make a contract. The fact is that they are led by their teachers, their teachers are crew leaders, their teachers are working, and their teachers are getting paid for bringing these children out and looking after them.

As the Senator knows, we can get very highly moral about it. I am not. I am only asking a very practical question. What is the Senator's case for 10-year-olds now rather than just leaving it at 12?

Mr. HATFIELD. I shall tell the Senator what the case is. The case is simply this. In 1974 when this went into effect, we had over 1,000 growers in our State. Today we have 430 growers because we do not have the labor force, we do not have the people available to go to the fields and pick the crops. That is why. And I will say as far as the 17-, 18-, 19-year-olds, they are in the processing plants, doing the processing work for these crops, and that is where they are learning and earning their college education, as I did, and many others. The largest food processing center in the whole United States is in this great Klamath Valley. So it is a question there of having sufficient people. We have a State of 2.3 million people. We are one of the largest food processors and agricultural States in the Union.

So that is the reason, and that to me is again one of the examples that we can say to the Senator it is the same argument we could use about newsboys. The Senator is perfectly willing to permit the newsboy to go out at 4 o'clock in the morning to deliver morning newspapers when it is a dark, cold, rainy morning, and he is all alone on the streets delivering newspapers. I also say the newspaper bag weighs 80 pounds, not 30 pounds. But going out in the sunny afternoon to pick strawberries, and eat his belly full every day he wants, as well as pick some strawberries, that somehow is not right.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, will the Senator yield me some time on the bill?

Mr. JAVITS. Senator Williams has as much time as I have on the bill. We have been using a lot of it.

Mr. WILLIAMS. Mr. President, what is the time situation on this amendment?

The PRESIDING OFFICER. The time of the opposition has expired. The Senator from Maine (Mr. HATHAWAY) has 10 minutes and 4 seconds.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JAVITS. I am happy to yield.

Mr. HATHAWAY. I yield 5 minutes to my colleague.

Mr. WILLIAMS. The Senator controls the time.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, years ago the distinguished Senator from New York, Senator JAVITS, was kind enough to pay me a compliment on an occasion when I managed the model cities legislation on this floor, and I think that my efforts in that debate had a lot to do with the fact that that legislation passed. He complimented me on understanding the problems of the cities, the problems of those who live in the cities.

May I say to my good friend from New York that the problems of the less urban

areas of this country, the rural areas of this country, deserve some understanding as well. The situation in northern Maine is one with which those of us who live in Maine have been aware all our lives. We have never been conscious that what was involved was an abuse of children or what was involved was some kind of rural sweatshop.

The Senator asks, "Why 10?" Well, I ask in return, "Why 12?" It is we who impose age limitations and age thresholds by law. The people up there were managing this kind of community value fine, until we got involved, with no complaints from anyone. Never in all my public life have I heard any complaint from a soul, from the children in the area, from the parents, from the unions, or from anyone that we were somehow exploiting and abusing children.

In every community in which I have lived in Maine, the notion that children, as early as possible, should develop work habits has been very deeply ingrained. When I was 6 years old, my father owned a house with a tree-covered lot in back that he converted into a garden. Who did the work? I did, working all summer long, clearing the area of brush, picking up rocks, splitting logs, and weeding the garden. I never complained. Our neighbors did not complain to my father that I was being abused. As soon as I was old enough, I went to work weekends and summers in my father's tailor shop, learning that trade, learning that skill. I never felt abused. My neighbors did not hold my father up to ridicule and say, "What are you doing, conducting a sweat shop?"

What we are talking about in northern Maine, and I suspect it is true in Oregon as well, is a family and community endeavor. Everybody benefits; everybody. In the coastal community where I have been privileged to live, and where I spend such time in the summers now as I can, I see children all over the community cutting logs for neighbors, for whatever they can get. Nobody suggests they ought to be subject to the minimum wage law. Children of well-to-do parents do that, in order to acquire the work ethic, and they put their savings in the bank for their college education.

My son began, when he was 13 years old, carrying bags on the golf course, and I assure you he does not get the minimum wage by this standard. I do not feel I am exploiting him. Nobody else does. Unfortunately, the golf cart has reduced that opportunity, but I see him carry two heavy bags around 18 holes, and then willing to do it for another 18 holes. I do not feel he is abused.

You know, really, Mr. President, I think we carry these notions that only Washington knows what the important communuity and family values are too far. This is a legitimate enterprise that we are talking about in these rural areas, with parental supervision and community supervision. The educators of the community recognize its value. They close the schools during the harvesting season and begin the school year early in order to permit the children to do this sort of thing; and they participate in the supervision.

Yet we are told that somehow we are breaching a concept of child labor. Describing this as child labor, in the sense of child labor, is breaching a concept far older—far older, and deep in the traditions of our country—than the concept of which the Senator from New York speaks.

You know the feeling on the part of grassroots citizens in little communities across this country that somehow they no longer have any control over their lives or their children, that no longer can they do anything in order to create opportunities for them, is at the base of much of the disaffection with Government on the part of the average citizen. Parents that I am exposed to in my State these days have one overriding concern in the summer months: that their children have nothing to do. And in every community I hear parents say, "Why can't we find something for children to do?"

Here is something that they do today and that they have been doing for years, and I have not, in 30 years of public life—and I campaign in this area—in 30 years of public life I have not heard a single voice in Maine protest this custom.

And it is well known all over that State. It is well known. But the first voice of protest I heard was down here, when, in the Halls of Congress, wise men decided that what we have been doing all these years was somehow wrong, immoral, and must be destroyed.

Yes, I say to the Senator from New York, it is important that we understand the problems of the city, the problems of the children in the cities, the problems of the deprived in the city. But you outnumber us, and when you seek to impose your perspective of life on an area of the country where it is irrelevant, totally irrelevant, you are not giving us the understanding that you ask for your own community.

So for this reason I was delighted to sponsor this amendment, on which my colleague has taken the lead, and in which we are joined by the distinguished Senators from Oregon and the distinguished Senator from Washington. None of us is regarded as a conservative that I know about. I will not attempt to hobble my good friends on the Republican side with any definition of their philosophy; but I think it is clear that none of us are conservatives, and we have supported this concept.

I was instrumental in getting minimum wage legislation incorporated into Maine law, and nobody in the Maine Legislature has ever sought to modify that law, which they passed, to prohibit what we are talking about here with respect to the potato harvest in Aroostook County.

Mr. McCLURE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. JAVITS. Mr. President, I yield myself 2 minutes on the bill.

I was asked a question by the Senator from Oregon about newspapers. The law of the State of New York prohibits delivery of newspapers by any child under 12. We are trying to practice what we preach.

But, Mr. President, be that as it may, I would suggest—I think we have debated this matter very thoroughly, probably much longer than we should have. I suggest that perhaps if we had a short quorum call, not to be charged to either side, we might try to put our heads together and see what can be done about this situation.

Therefore, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JAVITS. I withhold it.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that John Haynes, of the staff of Senator Anderson, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Will the Senator yield 2 minutes on the bill before calling a quorum?

Mr. JAVITS. Yes.

Mr. McCLURE. First, I have two comments. The Senator from Maine said none of us are conservatives. He was speaking of those who had already spoken in favor of the amendment, as though there is an implication, which I would have to reject, that the exploitation of child labor is a peculiarly conservative phrase.

Mr. MUSKIE. I hasten to add that I did not mean that.

Mr. McCLURE. I would not want that implication.

Second, although from Idaho, I will support the amendment of the Senator from Maine even though we cannot send 10-year-olds out to pick Idaho potatoes. We have to send men out. If the Senator has a problem with their potatoes, we would be glad to help. [Laughter.]

Mr. MUSKIE. I am glad to hear that the Senator's part of the country is that viable. They have done a good job.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senator from California (Mr. HAYAKAWA) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, when Congress passed the Fair Labor Standards amendments in 1974 section 25 of the law, prohibiting the employment of

children under the age of 12 in agricultural harvests except under very limited circumstances, it caused grave concern among the people of Oregon.

They were concerned for good reason. As I indicated in testimony before the Senate Labor Subcommittee in December 1974, the application of section 25 that year immediately eliminated temporary summer job opportunities for over 5,000 young Oregonians; it seriously threatened the economic future of certain Oregon crops, most notably strawberries, which have historically been dependent on students of all ages for their harvest; and, by so threatening these crops, the law placed in jeopardy the future job opportunities of some 38,000 older pickers, adults, and teenagers alike. Additionally, thousands of Oregon jobs in cannery and transportation operations were threatened by this action of Congress.

Mr. President, the statistics are now in and the situation is every bit as serious as we predicted it would be in 1974. Since Congress imposed the ban on children under the age of 12 from working in summer harvests, the number of Oregon growers in the principal crop concerned—strawberries—has been reduced from 1,000 in 1974 to only 430 at the end of 1976. This immense reduction in the number of growers is expected to continue according to the Oregon Department of Agriculture. The department estimates that by the end of 1977 only 400 strawberry growers will remain in business. In similar fashion, the number of Oregon acres in strawberries has been reduced by over 25 percent since the imposition of the child labor ban by Congress in 1974, from 7,200 acres in 1974 to 5,300 in 1977. Also, 800 related adult jobs in the canneries and processing operations throughout Oregon have been lost according to agriculture experts.

These statistics, Mr. President, speak for themselves. A once healthy industry in Oregon (and the strawberry industry is certainly not alone) is withering under the well-meaning but misguided intentions of Congress. Senator HATHAWAY's amendment, which I have cosponsored, would not allow the continued abuse of migrant children, nor allow any children to work under unsafe conditions. I urge its passage.

I would further like to make clear to my colleagues the gravity of this situation in Oregon, the pressures that the agriculture industry has come under in recent years, and also statistical data and personal recollection which reflect the conditions under which Oregon children have worked for years. I am hopeful that, given the evidence that was compiled in Senate hearings, my colleagues will understand the need for an amendment to allow for children under 12 to work during vacation periods and only under safe conditions.

After the ban on children working in the fields became known, I received a storm of letters from outraged Oregonians who believed that Congress, in imposing the ban, had not taken Oregon's situation into account. In a little over a month I received 1,200 letters from children, educators, and parents. They were accompanied by editorial protests, and by telephone calls from concerned growers who saw no recourse but to plow under their crops.

Many of the letters I received were from children under the age of 12. I would like to give my colleagues some examples of what these young Oregonians had to say. From a young man:

> Will you please try to change the law about strawberry picking? I don't have any other way to make money now. My sister can't pick strawberries because my dad works and my mom picks with my sister and I can't stay home alone and I can't pick so I don't know what I'm going to do.

Or another letter, this time from a young lady:

> I am writing about the berry picking. I really think that people 9 and over are quite capable of picking berries. I am in the fifth grade and I really think that we are capable of picking berries. I wanted to save some money for a horse because I am a horse lover, I have been a horse lover ever since I was three. Now I am eleven. Well I guess there's not much more that I can say except I think the people that voted on it are like my mother, there (sic) worry warts!

These children suddenly found themselves out of work, work that gave them a feeling of independence and self-worth, work that they engaged in in the summer for an average of 3 to 4 weeks. But there was another serious factor which resulted from the elimination of these jobs. It was summed up in a telegram sent to me by then Governor McCall on May 25, 1974. The telegram read as follows:

> We urgently request all possible immediate action through legislative and administrative channels to allow children under 12 to assist in the berry and bean havest in Oregon. These young people working with their parents or brothers or sisters are not exploited child labor. They are local residents who are earning spending money and learning the value of working while helping to harvest an important food resource. An estimated forty million pounds of strawberries grown on eight thousand acres could go unharvested in the next three weeks if families are forbidden to bring their children to the fields where they work. Fifty-four percent of past crops have been picked by young people under 14 years of age and 16 percent of those under 12. The impact on the availability of adult workers will be severe if prohibited from bringing their children to the fields. An economic loss of ten million dollars is a real possibility. This loss of food is indefensible. Please exert every effort to obtain an immediate exemption.

As the Governor's telegram indicated, the detrimental effects of that legislation on the Oregon strawberry industry, one of the largest agricultural harvests in the State, was particularly dramatic. What I hope to indicate to my colleagues today is that, not only is the under-12 ban causing serious short-term damage to the industry, but that, if left unchanged, the law may signal the demise of the entire strawberry industry in Oregon.

The 1974 summer strawberry harvest was saved by a preliminary injunction granted by U.S. District Court on June 22, following a suit filed by Mr. Larry William Keely, an Oregon strawberry grower, which claimed section 25 of the act to be unconstitutional.

In September, the court ruled that the law was constitutional. But in its decision, the court clearly placed the decision on whether the law was justified in Oregon's situation, back on the Congress:

> The 1974 Amendments may be unnecessarily broad. Perhaps Congress can write more flexibility into the Act to exempt forms of agriculture in which oppressive child labor conditions do not exist. But the determination of the particular evils, conditions and persons to be regulated and the means to accomplish the protection or promotion of interstate commerce is within the exclusive province of Congress, not the Courts.

Before addressing myself to the conditions under which these children worked, I want to emphasize the critical economic importance attached to the participation of these young Oregonians in the harvesting of strawberries, and, in addition, why it is extremely difficult, if not impossible, to replace them with other sources of available labor. I might indicate at this point that I use the strawberry industry as an example only because it is the largest among all Oregon berry and pole bean crops economically dependent on the temporary participation of young people. To varying degrees, similar difficulties face other crops, such as raspberries, blueberries, and pole beans.

Estimates varied, but it was widely assumed by growers and State officials alike that an additional 5 to 15 percent of the legally eligible working force would have stayed home. These added numbers of unemployed would be brothers, sisters, or parents who would not work because the prohibited child could not accompany them to the fields to help pick.

The difficulties of this situation are, I think, obvious. If a mother chose to go to the fields, leaving her child at home with a full-time babysitter, she would by rule of Congress in another section of Public Law 93–259 be obliged to pay the babysitter the minimum wage, of $2 an hour. She would, therefore, make little, if any, profit for her day's effort in the field.

Another immediate result of the law would be the laying off of significant numbers of cannery workers as well as others whose seasonal jobs are dependent on the full harvesting of strawberry crops. It might also be predicted with certainty that the under 12 ban would cause an increase in retail price to the consumer, and that thousands of dollars in State taxes would be lost.

This, however, is only the immediate short-term impact. In response to similar economic situations, traditional belief has argued that recovery from such a labor loss will result, if prices paid to field workers are increased. If such a price increase were sufficient enough, added workers would, the argument goes, be drawn into the labor force. This sup-

posedly would compensate, in the case of strawberries, for the 16- to 25-percent labor loss Congress created by passing Public Law 93-259.

The rapid increase in international competition in the strawberry market, however, helps in proving this assumption wrong when applied to the Northwest strawberry industry. Put simply, an immediate and significant rise in prices paid to harvesters is an economic impossibility at this time, as a study of the international competitive market illustrates.

MEXICO

The major single source of competition to Oregon strawberry growers and processors does not come from inside the United States, but from Mexico. It is primarily this burgeoning competitive force which is causing the slow, economic strangulation of the Oregon strawberry industry.

Oregon deals almost solely in the production of processed—frozen—strawberries. This has been its tradition for years. Picking strawberries for processing requires less selective picking than is needed for fresh market produce. This is one reason why Oregon farmers have welcomed the temporary help of children in this pursuit, and why it is one of the few work activities that young Oregonians can engage in.

In recent years, Mexico has produced increasing amounts of processed strawberries which it in turn shipped into the U.S. marketplace. Its growth within the past decade has been extraordinary.

In 1964, according to the Department of Commerce, Mexico exported 35.3 million pounds of frozen strawberries into the United States. In December of that year, however, the bracero program was terminated. This program had allowed hundreds of thousands of Mexican laborers to legally enter the United States each year to help harvest fruit and vegetable crops in the Southwest United States.

The effect of the termination of this program on the Mexican strawberry industry was almost immediate. Spurred by private U.S. investments, imports of processed strawberries more than doubled in the 2 years, to 73.7 million pounds. The quantum growth of this industry continued until, by 1973, imports of frozen strawberries alone had reached 116 million pounds. Again I emphasize to the committee that these imports are the major source of competition for Oregon and Washington in U.S. market consumption.

The total estimated U.S. consumption of processed strawberries in 1973 was about 280 million pounds. In less than 10 years, Mexican imports increased 330 percent. With the help of private investment from this country, Mexico now controls 41 percent of the U.S. market.

In direct contrast, production of processed strawberries in the States of Oregon and Washington has dropped in proportion to the rise in competition from Mexico.

In 1973, these two Northwest States produced 64 million pounds of processed strawberries. Oregon produced 64 percent of this amount, or 41 million pounds. In 1964, before Mexican imports began an exponential growth pattern, Oregon alone produced 96.6 million pounds, or 43 percent of the total national consumption in that year. By 1973, Oregon's figure had been reduced to 14 percent. There are varied reasons for this dramatic reduction in Oregon's strawberry production. Higher labor costs, land development, unseasonable weather, and deterioration of plant conditions in some areas, all contributed to this decline. But none are more significant than the massive growth of Mexican imports.

How can this enormous growth be explained? What attracted U.S. interest below the border to compete with small growers in the States of Oregon and Washington? An examination of labor cost and other economic factors in Mexico explains a great deal.

In 1974, according to the U.S. Department of Agriculture, the average wage paid to Mexican fieldworkers was 47.89 pesos per day, or just under $4 per day. In 1964, they were paid $2 per day. In 1974 in Oregon, an average picker earns about $20 per day. Labor costs alone for Oregon growers are, then, five times greater than the labor costs incurred by their largest competitor.

In addition to cheap labor, investors in the Mexican strawberry industry pay an extraordinarily cheap price for sugar. This is a critical economic factor in that sugar consists of an estimated 20 to 25 percent of the total volume per unit of processed strawberries.

In Mexico, sugar prices are strictly controlled by the Government agency known as Union Nacional de Productors de Azwcar—UNPASA. The current price for sugar is 8.4 cents per pound. This price reflects a 48-percent increase instituted by that agency in 1970. For 12 years prior to that date, the price of sugar was 4.3 cents.

By contrast, the October 1974 price of sugar in the Northwest was 56 cents per pound or nearly seven times as great as in Mexico. Oregon strawberry processors indicate that fully half the cost of a unit of processed berries is realized in sugar costs.

Abundant sources of cheap labor and officially depressed sugar prices have combined with other factors to make Mexico the largest regional producer of processed strawberries in the world. Mexican processed strawberry imports currently are 8 cents less per pound than those produced in Oregon.

Oregon growers compete with Mexico, and with U.S. private interests in that country as well. The Department of Agriculture indicates that U.S. private investments in Mexican agriculture has exceeded $150 million in the period 1964–73. This figure, however, represents only a fraction of total investments. The Department has no data on investments in the processing, packaging, and transportation of goods to U.S. cities.

Although the Department of Commerce indicates that total U.S. investment in the Mexican strawberry industry is unknown, the extent of it is reflected in a letter sent by the president of a large strawberry packing association in Mexico to the U.S. agricultural attaché in Mexico City. The letter was dated December 30, 1966. I quote from its final paragraph:

> Before ending, I wish to mention that our Government has given every facility to all American companies who have come to Mexico, such as Del Monte, Heinz, General Foods, Nestle, Gerber, Carnation, and many others. There is much American capital invested in the strawberry industry and any action taken against this exportation . . . would greatly hurt not only the good neighbor relation and the Alliance for Progress Program, but also the American capital invested in this industry of strawberry freezing in Mexico.

Since this letter was written, Mexico imports have increased 160 percent.

The significance of this Mexican competition cannot be overemphasized. These imports affect, in the most fundamental way, any consideration about the ability of Oregon growers to survive an immediate 16 to 25 percent labor force reduction. They also govern the ability of Oregon growers to offer yet higher wages in the hope that older pickers would be attracted to the fields.

If the law is not amended to allow for children working under healthy and constructive conditions to again participate in Oregon berry and bean harvest, it becomes apparent that not only are the children's job opportunities eliminated, but others as well. By prohibiting children under 12 from participating in the harvests, Congress has dangerously added to the economic burdens of small Northwest strawberry growers. As a result of increased Mexican imports these burdens were already extreme prior to passage of Public Law 93-259. With the added difficulty of trying to replace these children by older persons who, according to a 1967 Washington State Labor Department survey, are reluctant to pick even with an economic incentive, Congress has hastened the decline of one of the largest agricultural industries in Oregon. Moreover, this decline will occur with little hope of future recovery. In that event, we are not talking about job loss for only 5,500 children, but, potentially, 38,000 teachers, students, and parents who depend on these summer harvests for added family income.

We might also add to this figure additional job losses which will surely occur in related industries. Such a loss would be intolerable during these inflationary times when families are struggling to keep pace with the high cost of living.

CONDITIONS OF EMPLOYMENT

Mr. President, these economic disruptions would have to be endured, however, if it could be proven that children under the age of 12 are indeed exploited in Oregon's agricultural harvests, or that they are working under conditions detrimental to their health and well being.

I might first speak to this matter from personal experience. I picked in the fields of Oregon as a child, using the money I earned to buy school clothes and to help my parents pay for my education. Like the majority of young Oregonians who help with the harvests, I did this for a period of 3–4 weeks. To this day I consider this temporary activity a valuable and healthy work experience that a child under 12 years of age can obtain nowhere else. I might also add that I consider a few weeks of work in the fields during the summer months to be far less dangerous than delivering papers, 7 days a week, 52 weeks a year, often in early morning hours. Yet there is an exemption for paperboys and girls under the act.

All those who help in the harvest, young and old alike, are covered in Oregon by the Workmen's Compensation Act. The Oregon Workmen's Compensation Board reports that, in 1973, a total of eight injuries to children under the age of 12. As I indicated earlier, there were over 5,000 children under 12 participating in the strawberry harvest alone. One of these eight injuries was fatal. It was suffered by a 10-year-old child who was struck by a car while riding a motorcycle on his family's farm. As you are aware, Mr. President, the 1974 amendments could not have served to avoid this accident; this ban on young children did not apply to children working on family-owned farms.

The other seven injuries were all minor, ranging from cut wrists and a cut hand both coming from falling on berry crates, to a rash that one child developed by coming in contact with a spray. These seven injuries required only minor medical attention. This short list of injuries is indicative, I believe, of the safe conditions under which these children work.

Oregon State law prohibits these children from participating in harvests while school is in session. During the summer months of harvest, the great majority of these young Oregonians are brought to work in school buses. Often a child's teacher or parent will supervise their work and their transportation to and from home. The buses leave the fields by 2 in the afternoon. This is done to avoid making children work in the hot afternoon hours.

The children are paid the same rate as adult pickers. Unlike the exploitative conditions which occurred early in this century in the factories of the East, the children in Oregon are not paid less than adults, they are not forced to work long hours near dangerous equipment and they do not labor year-round, but rather, for a few weeks in the summer months.

Mr. President, I believe the prohibition of children under 12 working in the fields was primarily born of congressional concern over the plight of the migrant families. I share that concern and in no way seek to return to the sad traditions of the past—traditions that have seen young migrant children traveling the country with their families year around, attending school infrequently and thus losing all chance to lead productive and meaningful adult lives. I applaud the efforts of Congress to stop this historic abuse of these migratory children, and to break the continuing cycle of poverty and neglect that has characterized their lives in the past.

Cosponsoring this amendment, I seek only to accomplish a change in the 1974 amendments which will allow the children of permanent State residents to again help harvest crops for a limited period of time in the healthy and constructive environment which has characterized Oregon's traditional experience with its children.

UP AMENDMENT NO. 899

Mr. WILLIAMS. Mr. President, I have an amendment at the desk to the amendment of the Senator from Maine. I ask that it be stated, and I ask unanimous consent that it not be read in full.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated by title.

The legislative clerk read as follows:

> The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 899 to amendment numbered 1393.

The amendment is as follows:

> On page 2, line 3, insert "also" after "may".
>
> On page 2, line 6, insert after the comma the following: "but not less than 10 years of age,".
>
> On page 2, line 9, after the word "employed" insert the following: "For a period not to exceed 8 weeks in any one calendar year".
>
> On page 2, strike out line 10 and insert in lieu thereof the following: "may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—".
>
> On page 2, line 11, after "(A)" insert the following: "the crop to be harvested is one with a particularly short harvesting season and that".
>
> On page 2, line 16, strike out "and".
>
> On page 2, between lines 16 and 17, insert the following:
>
> "'(C) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;
>
> (D) Individuals age 12 and above are not available for such employment; and".
>
> On page 2, line 17, strike out "(C)" and insert in lieu thereof "(E)".

Mr. HATHAWAY. Do I understand correctly that a particularly short season means a period of about 6 weeks?

Mr. WILLIAMS. I have included in another place a requirement that the period not exceed 8 weeks in any one calendar year, yes.

Mr. HATHAWAY. I have no objection to the amendment. I assume that my colleagues from Oregon and Washington have no objection, either. We shall be happy to accept the amendment.

Mr. WILLIAMS. I beg the Senator's pardon.

Mr. HATHAWAY. We are happy to go along with the amendment. I do not believe our colleagues have any objection to the amendment.

Mr. WILLIAMS. It was designed to meet the needs of the situation which was described by the Senators who spoke in favor of the amendment of the Senator from Maine (Mr. HATHAWAY). It does address these concerns that we have, that the children not be put in a position which will be harmful to them. I believe that is all that is contained in this amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. JAVITS. May the record show that I am against this amendment and I shall vote "Nay."

Mr. HATHAWAY. I yield back my time.

Mr. WILLIAMS. All time is yielded back or used up.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Now the question is on the Hathaway amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. JAVITS. Mr. President, I ask unanimous consent that we may call for a quorum without its being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1418

PURPOSE: To minimize paperwork and encourage small business to employ full-time students under the Fair Labor Standards Act of 1938.)

Mr. NELSON. Mr. President, I call up amendment No. 1418.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Wisconsin (Mr. NELSON) proposes an amendment numbered 1418.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 12, between lines 17 and 18, insert the following:
>
> "SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT
>
> "SEC. 5. Section 214 (29 U.S.C. 214) is amended by redesignating subparagraphs (B) and (C) of paragraph (4) of subsection (b) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:
>
> "'(B) To minimize paperwork and encourage small business concerns to employ students under paragraphs (1) and (2), the Secretary by regulations or order shall use a simplified application form specified in this

subparagraph for any employer to employ not more than four full-time students under paragraphs (1) and (2) when issuing special certificates under such paragraphs (1) and (2). Each simplified application shall only contain provisions—

"'(i) listing the name(s), address(es), and business of the employer;

"'(ii) providing the date the employer began operation; and

"'(iii) certifying that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.'".

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

On page 12, line 24, strike out "section 4" and insert in lieu thereof "sections 4 and 5".

Mr. NELSON. Mr. President, I ask unanimous consent that Senator DURKIN be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I modify amendment No. 1418, on page 1, line 5, strike the numeral "214" and insert section "14."

There is an error in the printing of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. NELSON. Mr. President, the purpose of this amendment is to cut the amount of paperwork facing small businesses that want to hire full-time students under section 14 of the Fair Labor Standards Act.

The amendment requires the Labor Department to prepare a simplified application form which is to be used by businesses that want to hire four students or less, instead of the long form they must now fill out.

I regret that it is necessary, as of this stage in history, to modify forms that are issued by the Federal Government on an ad hoc basis; but until they establish a method for doing so on a regular basis, I assume that is the way we will have to continue to proceed.

The Labor Department has looked over the amendment and agrees with it. The present form to be filled out by these businesses is four pages long and in great detail. The Labor Department agrees that all that is necessary is to answer three questions on a simplified form, which can be done in 3 minutes, to qualify under the statute.

Mr. PELL. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. PELL. Mr. President, I ask unanimous consent that Mr. Peter Harris, of the staff of the Human Resources Committee, have the privilege of the floor.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I like this amendment, and I am glad the Senator has worked it out with the Labor Department. I like it because I think we need to encourage this kind of part-time employment by students. Not everyone realizes how much of it there is. I understand there are almost 500,000 young workers who are so employed.

I believe the Senator's amendment is a good one. It will minimize the paperwork involved. It is acceptable to me, and I hope it will be acceptable to Senator WILLIAMS.

Mr. NELSON. I thank the Senator from New York.

Currently, the Fair Labor Standards Act lets retail and service stores hire full-time students for up to 20 hours each week and pay them 85 percent of the minimum wage. This is already on the books, and the amendment does not make any changes in the program.

This program could be a major source of jobs for young people, but it is not being used, largely—I am told by the American Retail Federation—because small businesses do not have the time or resources to handle the necessary paperwork. The federation called it a paperwork monstrosity. Out of some 3.2 million businesses that are eligible to participate in this program, less than 19,000 have applied. Less than 75,000 student jobs have been created by these businesses, compared to the 1 million students looking for work and unable to find it.

I have worked with the Labor Department on this to develop the simplest form possible, and the Department goes along with this amendment. It simply requires the name and address of the business, the date it began operating, and a promise not to displace other workers.

Its adoption will make it possible for small businesses to provide much-needed student jobs.

Mr. WILLIAMS. Mr. President, I support this amendment. I think it will make it more feasible and easier for the people covered by this provision of the law to be in employment. This has been a problem, the paperwork problem, in getting full-time students into employment that is permitted under the act. I applaud the Senator and accept the amendment, and I hope it will be agreed to by the Senate.

I yield back the remainder of my time.

Mr. JAVITS. I yield back the time in opposition.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that lines 12 through 16 of amendment No. 1393 be stricken. This is needed because of a difference in dates. By striking those lines, it will be in conformity with another provision of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

UP AMENDMENT NO. 900

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. McCLURE. Mr. President, I have an unprinted amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 900.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 5. (a) Section 14 (b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth opportunity an employer may employ any youth who has not attained 20 years of age, without prior or special certification by the Secretary of Labor, at a wage rate agreed to by the employer and employee regardless of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(E) at a wage rate agreed to by the employer and employee regardless of the otherwise applicable wage in effect under 6(c) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate agreed to by the employer and employee regardless of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate agreed to by the employer and employee regardless of the wage rate in effect under section 6(c)).

"(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"(C) Any full-time student employer pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage, except where the intention to terminate after a given period was fully disclosed by the employer to the employee prior to his employment and is understood by the employee to be a condition of his employment,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to section 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer."

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary or in accordance with the provisions of section 14, or".

On page 12, line 11, substitute "SEC. 6." for "SEC. 5.".

Mr. McCLURE. Mr. President, first of all, this is what may be a series of amendments, depending upon what the Senate does with the question of the youth differential. A great deal has been said, and I know that Members of the Senate are not surprised at all that the issue will be presented. Several such amendments have been drafted by Members of the Senate on both sides of the aisle. They have various provisions.

The one that perhaps has received the greatest publicity is the one which has been drafted and offered by the Senator from Pennsylvania (Mr. SCHWEIKER). A great many people have assumed that it will be the major argument. I should like to couch the argument in slightly different terms, at least at the outset.

The amendment I have offered is patterned after the Schweiker amendment because I had intended to offer mine as an amendment to his. Because it has had more discussions, fewer uncertainties are involved.

I will state first what the differences in this amendment are from the Schweiker amendment, and then I will address myself for a few minutes to the basic question of a youth differential.

This amendment, unlike that of the Senator from Pennsylvania, calls for a total exemption from a minimum wage for all workers age 16 through 19.

The second difference between this and the Schweiker amendment is a provision in the penalty section in which the Senator from Pennsylvania is seeking to make certain that an employer does not sequentially hire and fire young people for the 6-month period—hire them for 6 months that his amendment would permit and then fire them and hire another one, in order to take advantage of the youth differential.

It includes a provision that if the conditions of employment are known between the employer and the employee at the beginning of the employment period, that penalty provision would not apply. That is consistent with what I am trying to get across in my amendment—that young people need work experience, and they should not be inhibited from that opportunity.

The other side of it is that there are marginal jobs that are eliminated whenever the minimum wage goes up, so that the opportunity for work is reduced as the minimum wage increases. There are those jobs that, at the margin, are eliminated every time the minimum wage is increased. There should be conditions in the law which permit an employer to continue the creation of a job opportunity for a marginal employee without the threat of penalty if there is a sequential employment of several who qualify for that employment differential.

I will give an example of what I mean. Every small businessman of my acquaintance in the State of Idaho—I certainly cannot speak of other areas of the country with the same degree of knowledge—every employer on Main Street, in the small communities, used to hire young people from high school to come down after school and sweep the sidewalk, tidy up the stockroom, and do a little work that really is not totally necessary, which is not productive in the sense of increasing the return to the employer. But he is willing to pay that price to get that benefit and to give that young person the opportunity for a meaningful job. Unless he can keep that job opportunity open, fewer young people will be employed, regardless of what the minimum wage may be. I think that is one of the problems that may be inherent in our society today.

After having described briefly the differences between my approach and that of the Senator from Pennsylvania, I will state why a number of us are concerned.

Back in January, I and a number of other Senators introduced various proposals to create more job opportunities throughout the economy; but one of the very stark facts that emerged in our analysis of unemployment in this country was that unemployment among young people is remarkably higher than it is for all other segments of our economy.

The age group from 16 through 19 is only 10 percent of the work force, but 25 percent of the unemployment is concentrated in that age group.

If you expand that age group from 16 through 24 that comprises one-fourth of the labor force in the United States, but fully half of the unemployment is within that age group.

Overall teenage unemployment rose during the month of August—I have not analyzed the statistics for the month of September that were just released today, but overall teenage unemployment in the last previous month rose to 17.5 percent contrasted with a 7.1 percent total unemployment figure.

Among teenage blacks the figure is 40.4 percent, and that is more than just a statistic; it is a tragedy in the lives of these young people. It is a social phenomenon that has no parallel in modern society, that nothing can have the same kind of implications for disaster for the future of this country as the high rate of unemployment among minority youth.

A great many people are of the opinion that teenage unemployment is, because of minority unemployment, largely a problem of the city or the inner city. In gross numbers that is not true. In terms of percentage it is more starkly apparent. But youth unemployment is not confined to the inner city. It spreads across our land like a cancer.

Total unemployment among young people is almost equal in the inner city, in the suburbs, and in rural America. The percentages are different, but the total number of young people unemployed is almost equal in those three areas of our country. It is no respecter of families or persons. The teenage unemployment among upper middle class or middle class Americans is a very dominant factor in social problems with young people in those groups of our society as well.

But to the extent that wages increase more rapidly than productivity, marginal jobs are eliminated, and we are now in the midst of passing another statute which will yet more greatly exacerbate the problem of deprivation of young people in our society.

One of the things we attempted to do back in January in the Jobs Creation Act and in the Youth Employment Act was to find ways of dealing with this problem of young people being left out, finding it impossible to work their way into a meaningful job in our society.

While we were talking about means by which we can stimulate employment, we recognized there were barriers to employment that will not be overcome by artificial stimulants. One of those barriers is the minimum wage law. It is not the only impediment, but it is one of the major impediments, and I am not going to recite studies—there are stacks of them, learned analyses, statistical analyses: Ph. D. after Ph. D. have written treatises on the question of how and why young people are unemployed. But the disadvantaged throughout our society, the marginal worker, shows up more starkly among young people than among other age groups or any other group in our society. The statistics will show that every time the minimum wage law has changed, either to increase the level of the minimum wage or to broaden the coverage of the minimum wage, unemployment among teenagers has risen more rapidly than it has risen throughout the population as a whole.

I think it is important then, as we are dealing with this minimum wage law, that we recognize what it is we have done in the past and what we are going to be doing in this amendment with regard to youth unemployment, one of the gravest problems that confronts the country, and which will become yet more grave.

What has been the experience in other countries? Well, countries with relatively large youth wage differentials have lower ratios of youth unemployment than we have in the United States. For example, in Great Britain teenagers enter employment at about 30 percent of the adult wage. In West Germany youths enter employment at rates ranging from 60 to 90 percent of the adult rate. In France and Canada they have a 70- to 80-percent youth minimum. But in every instance they have a differential, and in every instance the incidence of youth unemployment is less than it is in the United States both statistically and comparatively.

What is the impact of a youth differential? It has been estimated by some,

by Jack Carlson, for one, the chief economist for the U.S. Chamber of Commerce, that a 15-percent youth differential would save 364,000 teenage jobs which would otherwise be eliminated over the next 5 years; a 25-percent differential would save 617,000 jobs for young people; and, carrying out that model, if there were a 50-percent differential approximately 1,217,000 jobs would be saved.

Mr. President, it is not my intention to burden this discussion unduly because I am certain that between now and mid-afternoon, when this issue may be finally resolved by a vote of the Senate, all of these arguments will have been explored, arguments on both sides will have been explored. But some of the most impressive evidence to come before us, either in the Budget Committee or in the Joint Economic Committee or in the other studies that have been conducted with regard to youth unemployment, some of the most impressive evidence has come from the statements of people representing the black community. They are the ones who see themselves disadvantaged most starkly. They are the ones who speak most eloquently of the need to remove this impediment to the opportunities of black young people to move into their first job in an adult society from which they are being excluded.

The mayor of Newark, testifying in regard to the summer youth employment bill, said if he were permitted to ignore the minimum wage he could give more young people job opportunities in Newark than he could under the strictures of Federal statute.

Dr. Walter Williams, a black economist, testified that the minimum wage is one of the primary reasons that black young people, who are working at the margin, are so severely disadvantaged in the current job market.

If we are going to address ourselves realistically to this problem, in my opinion, we ought to move, and move dramatically, against this most grave of social problems by totally eliminating the minimum wage for the age group of 16 through 19.

There can be nothing that has a higher priority in our society than finding a way of moving young people from idleness into productive labor, to bridge the gap from the educational system that apparently does not fit them for their first job, and give them the opportunity to hold that first job.

Mr. President, I do not know that the Congress of the United States is yet willing to confront that problem. But I want to give them the opportunity to confront that problem in realistic terms, and my amendment is a realistic amendment. It is offered seriously because I think if we are to make any kind of very meaningful step in the direction of reducing youth employment and, particularly youth unemployment among minorities, this is the most constructive single step and, perhaps, the most indispensable of the steps, that we might take here in the Congress of the United States.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, if I could ask a question or two of the Senator from Idaho. The amendment that has just been reproduced just reached me. As I go through it rapidly, it seems to say that in the age group 16, 17, 18, and 19, there will be no minimum wage; is that correct?

Mr. McCLURE. The Senator is correct.

Mr. WILLIAMS. Are there any exclusions? There seemed to be that there might be some exceptions where a person of that age group is on the job at the minimum wage now, in other words, those who are in employment at a minimum wage are grandfathered and not eligible to be reduced below the minimum wage; is that it?

Mr. McCLURE. Mr. President, I say to the Senator from New Jersey there are no limitations that deal with the question of how a younger person who has acquired job experience moves upward in the wage scale. The primary difficulty is entry into the job force not maintenance within it, but entry.

There is the grandfathering against downgrading, but I do not want to emphasize that because the second question that will follow almost inevitably on that is if they are not now employed and become employed at less than the current minimum wage, how long will they stay under that. My answer has to be that they will stay there until their productivity will justify a higher wage and then will move upward. But job experience and training are absolutely essential. An employer does not now find it possible to afford the management overhead for creating jobs for marginally or less than marginally productive workers. So there is that grandfathering against regression, but that is not the centerpiece.

Mr. WILLIAMS. This paragraph, it says, shall not apply to any youth employee who has been employed by the same employer for a period of at least 6 months or is currently employed by an employer at a rate of at least the minimum wage.

Mr. McCLURE. That is correct.

Mr. WILLIAMS. That is the grandfathering.

In other words, I do not know what the estimates are of the numbers that would by this amendment be excluded from the minimum wage. The minimum wage, which we all know, is set as it is described at a minimum, a minimum wage for the necessities of life.

The youth differential, I suggest, the subminimum wage for youth, the so-called youth differential is a snare and a dilution; it can be a problem in so many, many ways. It is described by those who offer this approach somehow as being good to young people who are unemployed and it will create job opportunities for them. The record does not suggest this at all.

But one thing it does suggest is with the kind of unemployment we have now, both young people and adults, there would be an exacerbation of the problems we face if there is an opportunity for an employer and in this case for an employer to hire any young person in these 4 years, 16, 17, 18, and 19, at a less than living wage. There will be a number of employers, I am sure, whom we can expect will use that subminimum for the young people to the exclusion of the adult. It will be a replacement job, a young person for an adult person.

We are all mindful of the need to reach for opportunities and ways to see young people into employment, and that is why we passed through this Chamber so many measures tailored to the needs of young people, their needs in employment, training, and jobs. As a matter of fact, within this calendar year we have passed programs that will reach in total 3 million young people. Just moments ago we agreed to the amendment of the Senator from Wisconsin that deals with the situation that we have tailored in the law for full-time students to be paid at 85 percent of the minimum wage in certain establishments, service and retail, and we have encouraged employers to use this by simplifying the procedures.

It would seem to me that rather than create a new problem we should positively deal with young people's employment needs and not do it by bringing them in under a low wage which is an invitation to a substitution of young people for adults on these jobs where the young people can come in below the minimum.

There shall be many ways, I suppose, that this whole idea will be presented, so I will reserve the remainder of my time and will expect that this amendment, and others, will be dealing with this and we will have considerable discussion of this proposition which is really doing that thing that should rail most with the young people, making them a different kind of citizen—same job, lower wage—and that in my judgment is one of the ways to increase the alienation of young people, if there is alienation today, with the people who work here in Congress if that should come to pass. When they do the same job they should get the same money, and remember that what money that is at the minimum wage is for the bare necessities of life.

So I yield the floor and reserve the remainder of my time.

Mr. JAVITS. Mr. President, will the Senator yield some time to me in opposition to the amendment?

Mr. WILLIAMS. I am happy to yield such time he needs within our limits.

Mr. JAVITS. Five minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the Senator from New Jersey, my colleague, partner, and friend, has pointed out the problem of substitution of youth for adults, I wish to point out the pertinency of that in a moment, and I intend to argue whether a youth differential will induce employers to hire youth.

But, first, to finish Senator WILLIAMS' excellent argument, the amendment which I now have had an opportunity to study will make it very easy for employers to cheat by the circular door proposition of taking in youths, laying them off in 6 months, and taking in more

youths, because the penalties are based on a pattern or practice of carrying this on. A pattern or practice means you can do an awful lot before you are caught up in a pattern or practice. If you just keep one inch on this side of the law, you can keep that up for a very long time and do a lot of adults out of jobs.

Therefore, the administration of such a wide open proposition inevitably will result in enormous abuse. We have the Civil Rights Act which has pattern or practice provisions and we have found it extremely difficult, unless you make it a really big Federal case, to restrain activities on the basis of pattern or practice.

Mr. McCLURE. Mr. President, will the Senator yield long enough so the Senator from Idaho might request the yeas and nays on the amendment?

Mr. JAVITS. I yield.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. I thank the Senator.

Mr. JAVITS. It will be noted, too, that the amendment extends to many youths, not only youths who are unemployed but youths who are employed. It says only that this paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least 6 months or is currently employed by an employer at a rate of at least the minimum wage.

The restrictive character of that is by no means what we think it might be in terms of limiting the groups. But the important point which I wish to make, Mr. President, is about the employer.

The popular fallacy is that youth employment will increase if an employer can get a little break in the minimum wage. My colleague does not even have a percentage; at least Senators SCHWEIKER and DOMENICI have a percentage, but he has none. Remember, these are unorganized workers, Mr. President; we are not dealing with union power, we are dealing with individual teenagers with an enormous rate of unemployment, where the pressure of getting a job would mean a real destruction of any wage expectation. We can understand that teenagers will work for anything they can get under these circumstances, and it is going to be mighty low. It is very hard to see how the minimum wage structure can stand up under that kind of pressure.

Responsible employers realize that when you work at the minimum rate, with the requirement for supervision, the displacement of a desk, or a bench, the work that can be spoiled, and the things that can be done wrong by an untrained person, it is very expensive to have such an employee. Such an employee costs much more than the minimum wage.

So the idea that employers, because it is going to be 50 cents less an hour, or 75 cents less, are going to hire youth, is a real fallacy; and that is probably the greatest fallacy in this concept of a youth differential, that employers are going to hire on that as the basis of their consideration. There are considerations far more expensive and far more important to the employer than the fact that the fellow gets 50 cents or 75 cents an hour more or less.

It is not going to be very attractive to any but the least desirable employer, and to those who are most likely to abuse the pattern and practice provisions of this amendment.

Mr. President, we are really helped by a study which we have found, and which I ask unanimous consent that excerpts be printed in the RECORD, entitled "Adult Disemployment Effects of a Youth Minimum Wage Differential," prepared for the Assistant Secretary for Planning, Evaluation, and Research of the Labor Department by California State University.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

ADULT DISEMPLOYMENT EFFECTS OF A YOUTH MINIMUM WAGE DIFFERENTIAL

I. SOME CONCLUSIONS AND IMPLICATIONS FOR POLICY

Although initial estimates of direct adult displacement from a youth differential in the minimum wage are frightening when calculated for moderate wage differentials and cross elasticities of demand, several indirect effects and constraints make the most probable net effects substantially less drastic. With reasonable and moderate long run elasticities of demand (between −0.75 and −1.0) and cross elasticities of demand (between 1.0 and 2.0), a youth differential of 15 percent should be very adequate to make important inroads into reducing teenage unemployment very substantially, except perhaps for lowest quality teenage workers. In many cases, even with a youth differential of 15 percent, the long run equilibrium wage differential between teenagers and adults would be less than 15 percent because excess supplies of teenagers would be eliminated at a lesser differential.

Because a widening of the wage structure at the low end will create more low wage jobs, net adult displacement will be less than the number of new jobs created. The greater the elasticity of demand for labor relative to the cross elasticity of demand, the lower net adult disemployment for a given increase in teenage jobs. Since the final effective youth differential would probably be between 10 and 15 percent, one can compare the low and medium estimates of net adult displacement in Table Five with estimates of new jobs for teenagers from Tables Six and Seven. For moderate differentials and estimates of direct and cross elasticities of demand, predicted adult disemployment is in the neighborhood of 60 percent of the number of new teenage jobs. To create 800,000 to 900,000 new teenager jobs, we can therefore expect net adult disemployment of something around 500,000.

The most probable trade-off of a youth differential of around 15 percent would be giving up something like 500,000 adult jobs for teenage jobs totaling a few hundred thousand more than the number of adults displaced. Any consideration of whether the long run exchange would be a net improvement for society must consider the social costs of adult unemployment compared to teenage unemployment, effects on poverty, welfare loads, social adjustment to unemployment, effects on crime, and numerous other related social issues. If the trade-off were for more teenage jobs with a one-to-one decrease in the number of adult jobs, a large majority of citizens would probably consider adult unemployment more serious than teenage unemployment and therefore reject the switch. It is unclear at what marginal exchange rate the extra teenage jobs become worth the cost of adult disemployment. Although 500,000 adults represents only 11 to 14 percent of current adult employment in the $1.90 to $2.14 wage range covered by the FLSA and 800,000 new teenage jobs represents 45 to 54 percent of current teenage covered employment in the $1.90 to $2.34 range, the 11 to 14 percent of low wage adults displaced represents an important cost.

Three final important considerations must be noted. First, within a few years the teenage population will decrease for a few years to a level as much as 20 percent below current levels. Over the same period, the "baby boom" period cohorts will be aging and moving through the age groups. One effect of these demographic changes will be to reduce the excess supplies in low wage markets in which teenagers compete. Another effect, however, is that excess supplies and crowding in career labor markets are already increasing the difficulty of young adults breaking into careers; some of these young adults are therefore restricted to low wage labor markets longer than would have been the case with a more favorable demographic mix. The net effect of these demographic changes will be increased unemployment of young adults relative to teenagers and a situation where it will be necessary to rethink through the wisdom of having a teenage minimum wage differential.

A second important point to consider is that since demand is less elastic in the short run than in the long run, short run results may be different from long run results. For example, it is reasonable to expect that the long run adjustment to lower average wages (creating more low wage jobs in the long run) may take longer to work out than the long run adjustment to lower relative wages for teenagers (leading to displacement of adults). In that case, short run displacement of adults may be greater than indicated by the overall discussion and may be almost as great as short run job creation for teenagers. Finally, as indicated earlier in the text, all calculations assume that a youth differential would be legal in all states and not frustrated by state minimum wage legislation. To the extent that the effects predicted in this paper are considered desirable, policy makers must insure that the legal framework allows the youth differential in all states.

Mr. JAVITS. This study, Mr. President, indicates that the very maximum employment of teenagers at any differential that can possibly be anticipated is 900,000, as the outside estimate, and that that will be compensated for by the fact that 500,000 adult jobs will be eliminated. When you juxtapose the one against the other, obviously it is socially and highly undesirable to go this route.

Second, Mr. President, these figures are really outside figures, and it is highly unlikely that the actual figures will represent any appreciable change in teenage unemployment as contrasted with the loss of adult jobs.

So the concerns voiced by Senator WILLIAMS are not just our theory but they are based upon a basic study of the facts.

Now, finally, Mr. President, the youth differential also breaks down the structure of the minimum wage, and breaks it down at a very vulnerable point, because the best we can do for the teenager is not this differential, as I have just ex-

plained. What we need to do for the teenager is to actually finance, as we are financing today, but inadequately, youth employment opportunities. We are doing it with a $1.5 billion appropriation in the new youth employment bill. We are providing for a type of civilian conservation corps, and we are providing for innovative projects of training and education in urban centers; and that is the way to go, Mr. President, because that is a direct attack upon the youth unemployment picture.

The problem is that it is inadequate because we are not putting up enough money. If we really are serious about reducing youth unemployment, we have to put in another $2 billion to $2.5 billion, to make a real dent in the roughly 1.6 million youths who are in that condition. Right now we are dealing with about 250,000 to 300,000, with the $1.5 billion that we have provided.

If we do this with the youth differential, we will be begging the question. It will be months if not years before we find out if it has worked, and in the meantime the youth unemployment situation will be a bad as ever. The far more direct approach is the one I have suggested, and we have a new statutory concept with which to do it. All we have to do is put a little more money in the pot.

So, Mr. President, I really believe this youth differential idea is fallacious and illusory, and would be a disaster to the wage structure. I hope we will defeat all these amendments. What we really have to do is steel ourselves to targeting employment for youth under existing law, the Youth Employment Act, which is in place and is an excellent law, worked out with the White House, which has $1.5 billion and needs $3.5 billion.

Then we will really be doing something about youth unemployment. If we do this, we will be burying our heads in the sand, and I hope these amendments, including this one, will be defeated.

Mr. McCLURE. Mr President, I will not take any great amount of time attempting to refute the arguments of my colleagues I suspect I have very little chance of persuading them to my point of view, any more than they have of persuading me to their point of view; and in view of the fact that there are not many Senators on the floor, I think there is not much point in belaboring the argument.

But I do want to make this point clear as to the substitution provision: First of all, there is a provision in the bill that grandfathers in any young person who has already been on the job for 6 months. Second, there will be substitution that occurs in the absence of a differential, but that substitution occurs at the expense of the young worker to the adult worker. If marginal activity becomes more important to the employers, they are going to look to the young worker, and will substitute the adult worker for the young worker under any proposal.

So the substitution without a youth differential will be at the expense of youth and in favor of the adult employee. That is working exactly opposite of the major problem with which we are confronted.

I know that the Senator from New York is entirely sincere in what he says. But I could not help but note—and incidentally, I am also a major sponsor of the Youth Employment Act. As Senators know, I introduced that legislation back in January. So I do not deny that that can be helpful; but how many times have we, by legislation, created a problem, and then we say, "Oh, but we can solve that other problem, and the way to solve it is just to put a little more money in the pot."

That is an all too familiar refrain in these halls.

I know that the lines are pretty well drawn. There is not much point in belaboring the argument.

Mr. President, I am prepared to yield back the remainder of my time if the opponents are prepared to do so.

Mr. WILLIAMS. I am, but I want to refer to one statistic just obtained from the department dealing with the unemployment rate for teenagers and the unemployment rate for Vietnam veterans age 20 to 24. For teenagers it is high, still high, although the general picture of unemployment is that the percentages are coming down. Teenagers were at 18.1 in September of this year, while the unemployment rate for veterans was 20.1.

If this substitution of adults losing jobs to young people picking them up with that subminimum is there, this, I would imagine, would be the single largest young adult group which would be adversely affected.

With that I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I would only respond by assuming that the Senator from New Jersey would be in favor of broadening my amendment to include that age group as well in the exemption.

Mr. WILLIAMS. Let me ask, would the Senator do that?

Mr. McCLURE. I suspect I probably would not.

Mr. WILLIAMS. I was going to say, the Senator can take every hardship group, blacks, adult women, they are highly unemployed, and substitute them, too. This could go on to every hardship category. I am sure the Senator would not extend the logic that he started with, his bad logic with youth, to those others.

Mr. McCLURE. It is not at all bad logic. The point is that we recognize for minority youth the unemployment rate is 40 percent. Certainly, somehow, somewhere, we must recognize that we are doing something terribly wrong. We must start trying to find direct answers to the big social problem this Nation confronts with that age group, with that group of young people. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The result was announced—yeas 23, nays 74, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—23

Bartlett	Hansen	McClure
Bellmon	Hatch	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Scott
	Helms	Stennis
Curtis	Hollings	Thurmond
Eastland	Laxalt	Tower
Garn	Long	Wallop
Goldwater	Lugar	Young

NAYS—74

Abourezk	Ford	Moynihan
Allen	Glenn	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bayh	Hart	Packwood
Bentsen	Haskell	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Heinz	Randolph
Burdick	Huddleston	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Roth
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kennedy	Schweiker
Church	Leahy	Sparkman
Clark	Magnuson	Stafford
Cranston	Mathias	Stevens
Culver	Matsunaga	Stevenson
Danforth	McGovern	Stone
DeConcini	McIntyre	Talmadge
Dole	Melcher	Weicker
Domenici	Metcalf	Williams
Durkin	Metzenbaum	Zorinsky
Eagleton	Morgan	

NOT VOTING—3

Humphrey	McClellan	Pearson

So unprinted amendment No. 900 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1427

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. STEVENSON. Mr. President, I call up amendment No. 1427 on behalf of myself and the Senator from Pennsylvania (Mr. SCHWEIKER).

The PRESIDING OFFICER (Mr. HOLLINGS). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment numbered 1427.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"YOUTH OPPORTUNITY WAGE

"SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"'(b) (1) To encourage youth opportunity

an employer may employ any youth who has not attained twenty years of age, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. Any employer who, before the date of enactment of the Fair Labor Standards Act Amendments of 1977, is employing any youth employee at a wage rate of at least the minimum wage may not, under authority of this paragraph, decrease any such employee's wage rate to the rate permitted by this paragraph, except that nothing in this paragraph shall prohibit any such employer, on or after the date of enactment of the Fair Labor Standards Act Amendments of 1977, from employing any new employees at the rate permitted under this paragraph.

"'(2) The Secretary is authorized under this Act to insure that the provisions of paragraph (1) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or is engaged in a pattern and practice of—

"'(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"'(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"'(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"'(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.'.

"(b) Section 13(a) (7) (29 U.S.C. 213(a) (7)) is amended to read as follows:

"'(7) any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary under section 14 or in accordance with the provisions of section 14(b), or'.".

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that Sherri Kramer of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. A similar reouest——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. STEVENSON. I yield to the Senator for a unanimous-consent request.

Mr. LUGAR. Mr. President, I ask unanimous consent that May Hayes of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have quiet so that we may hear the Senator?

The PRESIDING OFFICER. We must have order.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. BUMPERS. Will the Senator yield?

Mr. STEVENSON. Yes.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I make the same request for Barbara Dixon of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. STEVENSON. Mr. President, the figures mentioned a moment ago by the distinguished Senator from New Jersey are horrifying. As he indicated, the teenage unemployment rate has now risen to over 18 percent.

Ordinarily at this time of year, after school opens, teenage unemployment declines. Last year it declined during September by six-tenths of 1 percent. This year it rose by eight-tenths of 1 percent to a national level of 18.1 percent.

The unemployment rate for white teenagers is now 15½ percent. For black teenagers, unemployment is almost 40 percent. These statistics may be underestimates.

Nationwide, the estimate is that there are more than 2 million unemployed teenagers in the labor force.

This high teenage unemployment, particularly among minority youth, requires action, not more of the same. Yet, Mr. President, we are proposing more of the same. Another hike in the minimum wage, with no dispensation for the young, would mean more of the same—the same old system still at work, still pricing human labor out of the marketplace. About 225,000 teenage jobs, equal to about 17 percent of the teenage unemployment total, were lost after the 1966 changes in the minimum wage. Teenage unemployment rose about 13 percent, because of the 1974 increase in the minimum wage. And now many businesses have their backs to the wall, especially small business. They cannot pass along rising costs and stay in business. The old system is still at work, but the margins of existence are more narrow now. The increases in the minimum wage will take a greater toll of those at the bottom of the economic ladder than in the past.

One of the ironies of this well-intended legislation is that it benefits most those at the top of the economic ladder in labor and in business. Those who benefit most are those who can absorb or pass on the increased cost. The weak and poor at the bottom, businesses as well as workers, drop out of the system.

The minimum wage is but a small part of a system that is pricing America out of global markets and even domestic markets. We see the impact in steel and television. Little businesses and unskilled young workers are unheard and out of sight—but dropping out, too.

A youth differential in the minimum wage is one means of reducing the high rate of teenage unemployment and aiding American industry. It is a means of preserving jobs of creating jobs—of keeping small business in business.

Mr. President, this amendment would do the following things:

First, it would permit employers to hire workers between the ages of 16 and 20 at a subminimum wage of 85 percent of the adult minimum wage. It would permit employers to pay teenage workers the youth differential wage so long as the employee has not reached the age of 20. As the adult minimum wage rises annually, so would the youth differential wage;

Second, it would protect teenage employees from a reduction in their wage rates. Workers between the ages of 16 and 20 who are now employed at the minimum wage would remain entitled to compensation at the minimum wage rate for so long as they remain employed by their current employer;

Third, however, if a teenage worker leaves his current job and is hired by a different employer, the amendment would permit that employer to hire the teenager at the subminimum wage;

Fourth, the cumbersome requirements which firms employing full-time college students at 85 percent of the minimum wage must meet to be certified by the Department of Labor would be eliminated.

The discrimination for the benefit of college students, and against the poor and the other young, would be ended. These requirements now take up almost two full pages in the United States Code; and

Fifth, this amendment would also impose sanctions on employers whom the Labor Department determines to have engaged in a pattern or practice of displacing older workers to avail themselves of the subminimum wage.

Mr. President, I am aware of the pressures this issue generates and do not take this step lightly. It just seems to me that the time has come to act. Employers offered a reduction of 15 percent for teenagers they employ will have a significant economic incentive to hire them.

Just consider the fact that some 500,000 young people are already hired at a subminimum wage. They are college students. Only full-time students are able now to get jobs as a result of a subminimum wage.

This amendment would give employers a strong incentive to create jobs for youth. A recent survey of small business indicated that three-fourths of those responding—some 3,000 businesses—indicated that a youth differential would have either "moderate" or "major" effect on their desire to hire young workers. At the same time, the penalties stipulated in this amendment for employers who displace older workers would discourage firms from taking unfair advantage of the youth differential wage.

Prominent economists maintain that a dual labor market exists—one for unskilled, teenage workers and another for older, more skilled employees. Little competition takes place between members of these two different labor markets. In other words, substitution of young for old is not likely. Especially in rural and

inner city areas, this differential would enable businesses to expand. It would enable businesses to preserve jobs for young people now threatened with the loss of those jobs by an increase in the minimum wage.

Some say enactment of a youth differential wage will result in hardship for teenage workers. It will not make teenagers rich; it will only give them a start. The greater hardship is the unemployment which afflicts more than 2 million teenagers. It is better to have a job at well above the poverty level than to be on welfare. And some of the young who will receive this wage are living at home. Their living costs are relatively low. Besides, the law now provides a differential for students. It offers a subminimum wage for full-time college students. We offer this wage to those who tend to need it least. My amendment would eliminate that discrimination against the young who are poor.

It already has been mentioned that there are programs to provide jobs for the young, and there are. None of the programs which have been enacted in the recent past or are likely to be passed in the near future—the Youth Employment Act of 1977, the Public Works Employment Act of 1977, the Employee Tax Credit enacted this provision of the Tax Revision Act of 1976, the proposed urban revitalization policy—has much prospect of reducing teenage unemployment significantly. The Youth Employment Act of 1977 will provide at most some 250,000 Government jobs. This would represent approximately one-eighth of the unemployed teenage population—and all at taxpayer expense. In contrast, a 15-percent youth differential could provide additional jobs to 364,000 teenagers in the private sector over the next 5 years, almost one-fifth of the teenage unemployment—and at no taxpayer expense.

Mr. President, the time has come to talk economic sense to the American people about teenage unemployment. Economists across the gamut—from Milton Friedman of the University of Chicago, to Thomas Sowell of Stanford, to Walter Williams of Temple University, to former Federal Reserve Gov. Andrew Brimmer—support a youth differential wage. So do Mayor Coleman Young of Detroit and Mayor Tom Bradley of Los Angeles.

It is time for the Senate to provide the same job opportunities for the poor and minorities that we provide full-time college students. This amendment would create jobs for teenagers. It would assist small business. It would be particularly helpful to both in rural and inner city communities. Minority businesses as well as minority youth would benefit from this amendment.

I urge my colleagues to support it.

Mr. WILLIAMS. Again, Mr. President, we are faced with an amendment that, in the judgment of the committee, would present more problems than it would solve.

It is a very simple amendment, which says that if you lower the wages in a labor market, you would get more employment of people who have this lower wage. Perhaps there will be some employers who will only consider that cost factor, that wage factor, for employment. If that is the case—and it will be the case in some instances—we run right up against the hard fact that that is replacement work. You have a youth taking the job that otherwise, in many cases, would be filled by an adult.

The most distressing statistic that I have seen in connection with the labor market of young people is one that reached us this morning. It shows the percentage of teenage unemployment and, side by side, the percentage of unemployment of Vietnam veterans ages 20 to 24. That percentage is 20.1. The percentage of teenage unemployment is 18.1. That report comes from the Chicago First National Bank. They put it very clearly. They say:

> There has been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled.

This particular issue is an invitation to aggravate another problem we have, and that is jobs for Vietnam veterans. Right next to the age group that the Senator from Illinois deals with, through 19, is the age group of Vietnam veterans age 20 to 24.

In connection with the prior amendment, we have had many other arguments and much logic and wisdom that indicate that a subminimum wage is unfair and unjust. It puts young people in a section-class situation—same work, lower wage. The problems are many.

I hope this amendment, as with the other amendment which had the same approach—subminimum wage for young people—will be defeated and that we will continue to recognize here the problems of young peeople in getting jobs and watch over those programs we have already passed which are designed for them, which will reach millions over a period of time, make sure they work and are administered effectively, and have the resource support they deserve—all the youth employment programs that were legislated out of this body with care and intelligence.

I yield at this time 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, we have debated this issue rather thoroughly on the McClure amendments which the Senators rejected, quite properly, by a large vote. I shall not repeat those arguments. I shall emphasize the affirmative.

The affirmative is that we now have in place a youth employment and training program which is a new law, in which we have put $1.5 billion, which provides for an estimated 200,000 job slots in an addition to the regular CETA employment and training programs.

We should consider the breakdown in the minimum wage structure which is represented by this so-called youth differential, considering the point I made before, that employers will not necessarily hire youth for the slight advantage in hourly cost but, rather, will consider whether or not there is a true slot for that youth in a job; because it costs much more in terms of the compensation the worker gets, even at the reduced minimum wage, to afford the tools, the space, the supervision, the training, the insurance, and everything else that goes with hiring a new worker.

Under those circumstances, instead of breaking down the total wage structure and allowing for the type of abuse we talked about before in the hiring of youth instead of adults it is much more desirable to engage in direct programs for teenage youth rather than to go this route.

Finally, Mr. President, we have an amazing disparity between the Stevenson amendment and the McClure amendment, and it is very illustrative. Under the McClure amendment there was no limitation whatever, and the hourly rate could have been anything. The Senate roundly rejected that idea, I assume partially under the feeling that there should be some limitation.

Now, the limitation in this one, 85 percent, is really de minimis. If the Senate roundly rejected free bargaining between the teenager and the employer, that certainly had infinitely more chance than saving an employer 15 percent of $2.65.

To assume an employer will hire a worker he otherwise would not hire because he was going to save 40 cents an hour is really out of the question considering what any one of us, whether we have been in business or not, knows what it means to hire another employee. I mean, 40 cents an hour is not the consideration which will dominate us one wav or the other in that regard.

So I just think this falls short of the mark much further even than the McClure amendment. It will be no inducement at all. All it does is break down the minimum wage level with no real result, and it will divert us from what we ought to do, which is to target teenage employment and training programs for teenage emplovment, which is really what this situation needs.

We will fumble around for another year or two waiting to see how this differential is going to work and, therefore, in my judgment, it is a very ill-advised measure and I hope it is rejected.

Mr. BENTSEN. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. BENTSEN. In that small business program now they fill out a simple application form for four or less employees, a 5-line application form, and mail it, and they can get certification for teenage employment.

Mr. JAVITS. He has to be a full-time student, and he cannot spend more than 20 hours a week. There are about 600,000 under that kind of certification. We have just adopted an amendment proposed by Senator NELSON which really makes it not a 5-line but 3-line application, and we have simplified it intentionally in the hope that we will double that from 500,000 to a million.

Mr. BENTSEN. I will say to mv friend from New York that I am deeply concerned about the high level of unemployment for teenagers, particularly among blacks, which reaches as much as 40 percent. I do not believe you can put

people on a shelf and icebox them for 3 or 4 years without a profound social, physical and political impact on this country. But I think that is what we have tried to address ourselves to with this $1.2 billion program in a very positive manner.

If we take it the other approach, I do not know where you stop. I think the point has been well made whether you are talking about high levels of unemployment among women, among blacks, or any other particular group of people, you would have such a fragmented wage structure that I do not think it is the reasonable approach to the problem.

Mr. JAVITS. I thoroughly agree with my colleague, and I hope the Senate agrees with both of us.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. May we ask how much time we have left in opposition to this amendment, Mr. President?

The PRESIDING OFFICER. The opponents have 16 minutes remaining.

Mr. JAVITS. Sixteen minutes.

Mr. President, in order not to distort our positions, I will yield 15 minutes on the bill to the Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. I would like to have 30 minutes, if I may, if anyone wishes to yield some time. I wish to speak in support of the Stevenson amendment, and I wish to speak in support of the youth opportunity wage. Will Senator STEVENSON yield me some time?

Mr. STEVENSON. Mr President, may I ask of the managers of the bill is there no time on this bill allowed to opponents of the measure?

Mr. JAVITS. Yes. The proponents of the amendment have a half hour and we have——

Mr. STEVENSON. The opponents of the bill.

Mr. WILLIAMS. There is abundant time here for the Senator from California.

Mr. STEVENSON. The Senator from California asked for a half hour, and I do not have that much for him. I have that amount for myself. I hope the managers, whoever are in control—

Mr. WILLIAMS. Will the Senator yield while we find out what the time situation is?

The PRESIDING OFFICER. 120 minutes the Senator from New Jersey has on the bill and the Senator from New York has 105.

Mr. WILLIAMS. Why do we not each graciously extend 15 minutes apiece?

Mr. JAVITS. I have already given my 15.

Mr. WILLIAMS. The Senator is waiting for me to do the same, and I am happy to yield.

Mr. HAYAKAWA. I thank the Senator from New Jersey and the Senator from New York.

Mr. President, let me start with a quotation from a paper by a black economist, Thomas Sowell, who said:

> Extremely high unemployment rates among black teenagers have been so highly publicized in recent years, and so automatically attributed to employer discrimination that certain historical facts must be noted. Large racial differences in teenage unemployment are of relatively recent vintage. In the late 1940's and early 1950's, there were no such large differences, and indeed, black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets.

This is a startling fact. May I repeat that. "Black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets."

Professor Sowell goes on to say:

> Surely, no one is going to claim there was less employer discrimination than now. We all know better. What was the difference, then? Minimum wages had not yet begun the rapid rise and spreading coverage which has been the dominant pattern since those years.

That is Mr. Sowell.

May I quote then another black economist, one whom we all respect, Harvard professer Andrew Brimmer, former Governor of the Federal Reserve, the Wall Street Journal says;

> Finally, Harvard Prof. Andrew Brimmer, former governor of the Federal Reserve, last year told a Senate committee that unemployed teenagers would benefit more from a lower minimum wage than from public works jobs. His testimony is especially important in that Prof. Brimmer, a black, realizes that the crushing burden of unemployment falls heaviest upon blacks and especially black teenagers (whose unemployment rate, say some economists, is probably closer to 65 percent than the 40 percent figure usually given).

The bill which is before the Senate provides, among other provisions, for an increase of the minimum wage to $2.65 an hour in 1978 and subsequently for de facto indexing of the minimum wage. The amended bill also reduces the present 50 percent tip credit gradually to 30 percent. Supporters of the bill argue that these increases are needed to help prevent poverty among low-wage workers. Raising wages, it is said, improves the lot of the working poor. Without these minimum wage increases, many low-wage workers would fall further into poverty. Supporters of this bill further argue that a sizeable increase is needed to make up the erosion that has occurred in the minimum wage's purchasing power due to price inflation since the last minimum wage increase. Some even insist that past wage levels were inadequate to keep people out of poverty, so that current increases should overcompensate for past price increases.

Naturally, all of us are in sympathy with the goal of reducing poverty. The question is only how to achieve this goal. I, for one, believe that this bill is counterproductive. The contemplated higher minimum wages may raise wages for some workers, but they will also result in displacement from covered employment for other workers. Such displacement may cause lower real wages or even unemployment. I am afraid the side effects will be severe enough to produce an undesirable net result.

The Center for Small Business of the U.S. Chamber of Commerce has just come out with the results of a comprehensive analysis of more than 4,000 responses to a survey "The Effects of the Federal Minimum Wage on Small Business." These findings support my concern. The responses came from small firms located in more than 400 congressional districts and all 50 States.

They tell an alarming story of what small business will be forced to do when S. 1871 becomes law.

Of those 4,000 interviewed, 48 percent will cut the number of hours per week that employees work, 46 percent will cut the number of employees outright, 79 percent declare that they will hold off hiring new employees, 48 percent will purchase labor-saving devices to replace present or future employees, and 80 percent declare that they will raise prices.

Furthermore, among the respondents to this inquiry, 93 percent oppose indexing the minimum wage. Only 2 percent support it. Seventy-five percent of the firms using the tip credit will raise prices if the credit is repealed. And as far as my own State is concerned, 54 percent of California businesses questioned indicate that they will have to reduce working hours, 50 percent contemplate laying off of employees, 76 percent will hold off hiring, and only 1 percent was in favor of indexing which this bill requires.

On the other hand, 74 percent of all small businesses replying expect that a youth wage differential will have an important effect on their decisions to hire more young.

I would like to, therefore, direct my remaining comments to the problems of unemployed youth.

In discussing this matter, I bring to this subject an area of professional concern that is not shared by most of my colleagues in this distinguished body. I have been a teacher all my life, and one of the overriding concerns in my life has been how do you develop boys and girls into young men and women? How do young people, in other words, mature? What is the maturation process by means of which adults are created out of children?

Young men and women in their teen years are ready to live. They are psychologically ready to carry out adult responsibilities and to do their share of whatever needs to be done in the world.

Prof. Neal Postman of New York University, author of a book called "Education Is A Subversive Activity," is eloquent on the frustrations of the young. Why is there vandalism and absenteeism in schools as well as colleges? Why do we have this enormous teenage problem? Because many students feel imprisoned and are bored with their imprisonment. They are sick of preparing for life. They are ready to live.

What happens if socially acceptable forms of real life activity are denied to the young due to protracted schooling which often seems like no more than an expensive form of babysitting?

When this happens they are driven by inner necessity to illegal activities, whether car theft, gang wars, experiments with drugs, or as the case a few years ago—blowing up the ROTC building.

Mr. President, just as babies need love the boy or girl growing into maturity needs challenges. But what challenges are there for the young in our affluent and overprotected society?

In a fantasy, Professor Postman imagines what it would be like if New York schoolchildren from the 7th to 12th grade would be given real responsibility for the health and livability of New York City.

May I quote from Professor Postman? He says:

And so, the curriculum of the public schools of New York City became known as Operational Survival . . . On Monday morning of each week, 400,000 children had to help clean up their own neighborhoods. They swept the streets, canned the garbage, removed the littter from empty lots . . . Wednesday mornings were reserved for beautifying the city. Students planted trees and flowers . . . Each day, 5,000 students were given the responsibility to direct traffic on city streets so that policemen . . . were freed to keep a sharp eye on criminals. Each day, 5,000 students were asked to help deliver the mail . . . Several thousand students also were used to establish and maintain day-care centers . . . Each student was also assigned to meet with two elementary school students on Tuesday and Thursday afternoons to teach them to read, to write, and to do arithmetic . . .

In Professor Postman's fantasy, he says:

Most of the students found that while they did not receive an education, they were able to create a quite adequate one. They lived, each day, their social studies and geography and communication and biology and many other things that decent and proper people know about, including the belief that everyone must share equally in creating a livable city.

Professor Postman's dream is a beautiful one, but none of the items he mentions is open to teenage children from the 7th to 12th grade. There are legal and union restrictions against using them to sweep the streets, to can the garbage, to plant trees, to paint the subway stations, to deliver the mail, to help the police force direct traffic. All these things need to be done. They are capable of being done by teenagers, but there are laws against their participation in the work of society.

Every kind of work is unionized and organized under elaborate structures of job eligibility. No matter how eager educators or parents or children are for these maturing experiences, there is not a chance for young people to work in any of the ways that Professor Postman suggests.

Eric Hoffer, our philosopher-longshoreman in San Francisco, has written as follows:

There are no children any more. Our public schools are packed with mini-men hungering for the prerogatives and probably the responsibilities of adults.

And one can add in support of Hoffer's observation this curious biological fact. Young people today reach biological maturity earlier than they did in the beginning of this century. It just happens to be a biological fact that physical maturity of young people comes earlier in life. Nevertheless, we keep the young in school so much longer than we used to.

In 1910, a 14-year-old was expected to leave school and go to work, and if you did not go to work people wondered if you were going to become a preacher or something. A grade school education was considered enough for the average person, and perhaps one-eighth of the population went on to finish high school.

But if you are 14 years old in the 1970's, you are biologically the equivalent of a 16-year-old of 1910, and 50 percent of the 14-year-olds in California are bound for college. If this 14-year-old is college bound he or she is faced with 7 or 8 more years of schooling before being launched into the adult world and longer than that if he or she wants to go into the professions.

We put this enormous emphasis on academic life and there is no wonder that people rebel against it because so many young people at this stage of their careers are tired of preparing for life. As I said, they are ready to live.

Why is it there are all these teenage pregnancies, the record rate these days, girls 14, 13, 12 getting pregnant and boys getting into trouble? They are asserting their budding maturity in a society that does not let them become mature.

All the young are not studiously inclined. Many will not be interested in academic studies until later in life if they become interested at all. Young people of high school age are interested in becoming racing drivers, ball players, forest rangers, body and fender men, chefs, mechanics, horsemen, horsewomen, actresses and actors, and models. They have all sorts of career aspirations for which academic preparation is only marginally necessary, if necessary at all.

Yet we keep them in school, and we keep them in school, and we keep them in school until we drive them crazy.

I have here a story from the San Francisco Examiner, with a dateline of the Associated Press in Philadelphia:

A University of Pennsylvania professor estimates that sixty-five percent of America's black teen-agers are unemployed.

Dr. Bernard Anderson, assistant professor of industry at Penn's Wharton School of Finance and Commerce, said about 570,000 of the approximately 880,000 black youths between 16 and 19 can't find jobs.

He said:

I don't want to scare anybody. I don't want this to be a horror story. But we have a problem here. This is why we have a high crime rate. We have hundreds of kids standing around doing nothing. This is why we have a teen-age gang problem."

"Thousands of young blacks have withdrawn from the labor market," he said. "They are discouraged and have given up looking."

All this fits in with a recent study of liquor store holdups in a city in New Jersey. I call this to the attention of our distinguished colleague from New Jersey.

This study of liquor store holdups indicated that every one in this city in New Jersey had been committed by black teenagers. Before one leaps to any conclusions about blacks, one should ponder what the study says.

Most black teenagers are unemployed. They cannot get into the jealously guarded apprenticeship programs of the trades unions. Most apprenticeship programs have a ratio of one apprentice to five journeymen, and that one apprentice is likely to be a relative of one of the journeymen. What chance has an outsider got?

Unrealistic child labor laws also keep them (as well as white youths) idle on the streets. Minimum wage laws, perhaps necessary to protect adult workers, are totally unrealistic when applied to the inexperienced teenage worker. Businesses simply cannot hire them at those rates.

But teenagers of both sexes need money. If their parents cannot provide them with adequate allowances, how can they get money?

How do they? There is a simple rationality to snatching purses, robbing liquor stores and service stations: these are the only recourses left to you if you need money and society provides you with no legal way of getting it.

Teenagers are bursting with energy—and the need to prove their manhood and womanhood. Teenagers of any color—especially those who have few academic aspirations—are an ignored and oppressed class. They have got to have a chance to work and prove themselves. There have to be entry-level jobs for them.

It is time educators, union officials and legislators got together on this problem. Too many young lives are being ruined every day.

Now, 90 percent of those working at minimum wages at the present time are teenagers. They work in such occupations as fast food industries, or simple agricultural pursuits. Some of those working at the minimum wage are non-English speaking immigrants, legal or illegal, whether from Mexico or Hong Kong or Taiwan, and these people find the minimum wage a huge step up from the wages they earned back home.

Teenage employment does not displace adult workers, because most teenage employees are secondary wage earners in their families. One or both of their parents either has a job or receives generous welfare allowances; and so, in most cases, the teenage worker is a secondary wage earner.

Another illustration of this, by the way, has to do with things I heard when I was in Asheville, N.C., recently, as a guest of our distinguished colleague from North Carolina (Mr. HELMS). I had occasion to speak at church services in two black churches. And in the course of conversation with the black ladies and gentlemen there, I learned the following: That many black women who formerly worked part-time in domestic labor at the then prevailing wages of $1.50, $1.75, and so on, no longer have access to those jobs, because the minimum wage has priced them out of the market, and the women they used to work for no longer can afford to hire them. We are talking, then, about marginal jobs, jobs that are easily wiped out the moment they become a little expensive.

For example, let me talk about some agricultural jobs right in my own State

of California. In Sunnyvale, Calif., there is a Japanese-American nurseryman who has an admirable operation. He has huge nurseries, in which he grows Easter lilies, chrysanthemums, and potted plants. His potted plants require an awful lot of attention and care, but they are produced in enormous numbers.

To produce these potted plants, which are sold in supermarkets around the country, my friend in Sunnyvale has long hired high school students part-time, and paid them part-time wages.

Now the impact of minimum wage laws and child labor regulations in California has forced him to give up that kind of hiring. That kind of hiring, incidentally, was very important, because so many young people learned the responsibilities of work through working in that nursery. Many of them paid their way through college, and some few of them became horticulturists; as a result of that work experience, they found a trade, an occupation, a business of their own.

Now, with the impact of minimum wages in southern California, my friend in Sunnyvale is still prospering. He is building two more huge nurseries, but one of them he is building in Guatemala, and the other one in Taiwan. That is the only way he could keep going. We are driving jobs out of the country, in other words, by this kind of thing.

Let me talk a little bit about the fast food industry. I had the pleasure of talking with some of the executives of McDonald's hamburger chain in Los Angeles during the course of my campaign. And in the course of that, I talked with them about the problems of a specific McDonald's hamburger outlet that was being planned for San Francisco, but the plans never went through, because the unions brought enough pressure to bear upon the city council so that the board of supervisors, or whoever was responsible, did not permit that outlet to be built.

I asked how many jobs that cost, and I was told that every McDonald's that you see represents anywhere from 64 to 90 jobs for young people, mostly part-time; 64 to 90 jobs, in every one of those thousands and thousands of outlets.

It has been argued here that 40 cents an hour does not mean very much to an employer. I say it means a world of difference to, let us say, McDonald's, which has to pay the 40 cents an hour for anybody from 4 to 6 hours a day, for 7 days a week the year around, to anywhere from 64 to 90 employees. When you are putting up one new outlet for McDonald's, that 40 cents an hour represents an enormous outlay per year, of tens of thousands of dollars.

So this matter of a 15-percent differential, or even a 10-percent differential from the adult minimum wage for young workers is not a trivial matter at all. It makes all the difference in the world as to whether or not a new McDonald outlet or Jack-in-the-Box outlet or Kentucky Fried Chicken outlet is going to be put there, or whether it is not going to be put there and that many jobs are just not going to exist.

All sorts of nice things have been said about organized youth programs, in which the Government would hire hundreds of thousands or millions of young people and put them into a youth corps of one kind or another, and that we should have vast Federal programs for employment and training of young people.

I believe that such programs should exist, but I do not believe we can ever make a program big enough to take care entirely of all our country. We are pouring billions into programs now. Their effectiveness has not yet been clearly established. What are we going to get as a result of hundreds of thousands of young people learning very, very early in life that the thing to do is to go to the Government for a job? Are they going to go to the Government for a job for the rest of their lives? All of us here have complained that the Government has become too big; that the Government has become too expensive; that too many people are depending upon the Government for a livelihood, and so on. This is what some people are opposing.

I do not think it is illusory. If we have any faith in the capacity of people to make up their own minds about their own fate, then we should make it possible for young people to decide for themselves, "I will take this job. I want this opportunity, even if it does not pay very much, because it is at least a start."

When I say it is at least a start, I want to point up something very, very important regarding minimum wage legislation in general, which people seem to ignore completely.

Part of this country's greatness is due to the fact that we have had in this country for many, many years, throughout its history, emigres from foreign shores. When some of them arrived, they were in great desperation and poverty, like the emigres from the Irish potato famine in the middle of the nineteenth century. They were poor; they were dirty. They were the class of Irish whom the middle class people regarded as hardly human. And, in speaking of how they referred to the blacks, they used worse terms with regard to the Irish.

Hundreds of thousands of immigrant Jews poured into our country. While most were educated, they were not educated in the English language. Chinese coolies arrived on the west coast. We have had Japanese, Latvians, Hungarians and Portuguese, all sorts of people, coming from all parts of the world to this country.

Whatever their handicaps were when they arrived, including the inability to speak English, the lack of knowledge of the customs of this culture, there was a rung at the bottom of the ladder where they could start. There was some miserable, low-paid job in a sweat shop somewhere, or in agriculture, where they could at least eke out a living.

What we are doing in our society with minimum wage laws and all kinds of misguided attempts to protect the worker is to destroy the bottom rung of the ladder. It is all right to have a ladder going up to success, but if the bottom rung is 10 feet off the ground, I am never going to reach the bottom rung of the ladder.

Here is what we are doing: We have apprenticeship programs that will not let kids in, or one out of every few hundred who want to get in; minimum wage laws that are too high for employers to be able to afford; regulatory laws governing every kind of business which prevent people from going into business.

We are creating a situation that the Irish in the middle 19th century did not have to face, that the Chinese coolies on the west coast did not have to face, that the Jewish immigrant did not have to face. They had somewhere to start even at miserable wages. Having that somewhere to start and then work your way up has been the American dream. We are destroying all of that.

I think of the Japanese workers in Hawaii on the sugar and pineapple plantations. They were given a shack to live in and received, in the old days, $15 a month. They created for themselves a very good life out of that. What really astounds me is our distinguished colleagues, people like Senator INOUYE, Senator MATSUNAGA, former Senator Hiram Fong, are descendants of some of those plantation workers, including the present Governor of Hawaii.

Out of that $15 a month their parents or grandparents saved enough to send them to Oregon State, Corvallis, some to Harvard, some to Antioch, some to the University of California. Out of $15 a month they did that because they knew they had to work and they had to save. If they did work and if they did save, if they did educate their children, they would succeed. But they had to have a starting point on the ladder.

We have destroyed the bottom rung of the ladder. That is what is wrong.

Our economic system is fantastically productive and fantastically wealthy for those who got past the bottom rung, but we are systematically destroying the bottom rung of the ladder. We have developed this enormous welfare system to take care of those people who cannot get on the bottom rung. Then we wonder how we can do it. We have to have a welfare department and it will cost so much. Then they come along and say that welfare will cost more, and we have to reform. Then we are stuck.

There is a solution to all of this: We have to get some flexibility into the labor market. We hape to restore some bottom rungs to the ladder so that the person who is willing to work, who is ambitious, who is determined to make his place, can find a place to start. I do not mean people are contemptuous of a job at McDonald's, at the Jack-in-the-Box, or any of these places, for there is no reason to be contemptuous. Where else do young people start out learning punctuality, cleanliness, politeness to customers, cooperation, coordinating one's efforts with the efforts of one's colleagues, so as they get along in time they produce? This is all part of the history of working.

Since the U.S. Senate is a body of men, I would like to close with the subject of how boys become men. This is a subject which has concerned me throughout all of my teaching life.

The PRESIDING OFFICER. The Senator's time has expired. Does the

Senator from New Jersey yield additional time to the Senator from California?

Mr. WILLIAMS. I will ask how much time the Senator requests.

Mr. HAYAKAWA. I need 10 more minutes.

Mr. WILLIAMS. I yield.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 10 minutes.

(Mr. JOHNSTON assumed the chair.)

Mr. HAYAKAWA. Never has it been so difficult for boys to grow up into men as in our culture at the present time. Becoming a man—I will not talk about the problem of becoming a woman as I have not had that experience—is not a matter of chronology but is a matter of proof. Throughout the entire history of mankind, boys have had to prove themselves to be men. Davy Crockett "killed him a b'ar when he was only 3." Others, in order to establish themselves as men, have had to win races, have had to prove their skill at hunting, have had to show they can handle a team and plow, endure survival tests in the wilderness, bring home an enemy scalp, or drink a half pint of whiskey without passing out. There are different tests.

To become a man, it has always been necessary for boys to associate with men, as helpers on father's farm, as apprentices to craftsmen, as squires to knights, as waterboys to baseball teams. Through such association boys learn the secrets of the adult culture: What rituals to observe, how to take care of equipment, how to drink, curse, fight, and how to earn and maintain the respect of other men in a society of men.

Today most boys are separated from the lives of men. Men leave for the factory or office early in the morning, commuting many miles to work, and do not return until evening. Boys are brought up by mothers and schoolteachers. Boys often have no idea what their fathers do. They have no model male adult to follow as they grow up. They have no idea what a man does that makes him a man.

Unless a boy is a good enough athlete to make the varsity squad, or unless he joins a street gang or the Armed Forces, he is likely to spend his entire life with women around. The Armed Forces are not safe any more.

Mobs of Radcliffe girls have invaded Harvard classrooms. Yale has gone coeducational. Girls move into fraternity houses. The experience of being a man in a society of men becomes rarer and rarer.

What young men profoundly need as they grow up, says David Riesman, is to be extended to the limit of their powers. They have to experience situations in which they have to do more than their best in order to escape death, capture, defeat or failure.

But what is there in a boy's life in our affluent society to extend him to the limit of his powers? If he gets on the high school football team, well and good; he will really have to extend himself. But what of all the other students?

High school is no challenge. In most communities, if you do not learn enough to go into the next grade, they pass you anyway. For many the curriculum is so slow and repetitive that it is a bore. For others, it is simply meaningless.

Furthermore, the challenges of work in the outside world are denied to the boy by exclusionary union rules, by child labor laws and, where these do not apply, by minimum wage laws, as well as by the legal and social pressures that keep him in school whether he wants to be there or not.

So the vast majority of boys are excluded from the world of men and denied the chance to exercise their powers, physical or intellectual. Is it any wonder that there is a youth problem?

Boys need challenges. Their whole being cries out for them. To face starvation, the possibility of death or capture at enemy hands, the risks of failure in school or work or business, and then to triumph over these dangers—these are the stuff of human growth, or maturation.

If an affluent society does not provide boys with challenges, they are compelled by inner necessity to improvise their own. Is this not one of the reasons that gangs of youths try to provoke authorities into confrontations. In the years of campus uproar, did you not observe the joy in the faces of campus radicals on learning that the police have been summoned?

What about drugs and the young? If challenge and risk are what so many youths need and are not getting, is it not likely that warnings about the dangers of drugs simply make them more attractive? And stealing cars. Whatever else a boy may be doing as he tears along the highway at 90 m.p.h., trying to evade the police, he is certainly extending himself to the limit of his powers.

David Riesman says youth gangs are societies of the young. Unlike the 13-year-old Pueblo boy who joins a khiva of male elders, the gang recruit joins a group almost as ignorant and inexperienced as himself.

That is what the generation gap is about: Fathers away from home, for whatever reason, and therefore unavailable to their sons as models of male adulthood; the boys forced to improvise their own subculture, unguided by adult knowledge or experience.

That is the problem for fathers in our culture. That is a problem for all adults, or those who want to grow up into them. Is there not something we can learn from the Pueblo Indians about passing on a culture? How can we bring our sons into our lives?

It takes men to make men. Mothers cannot do it by themselves. Nor can high schools. Nor colleges. That is not their function.

It takes work to make men and women out of boys and girls. What matters is not the amount of money they earn. That is totally irrelevant. What makes adults out of children is the self-respect, the sense of responsibilities shouldered, that come from being intrusted with a real job to do.

Schools are not doing the job—perhaps it is a function that is not theirs to perform. What makes adults is responsibility in the larger world outside the home. That means a job.

I thank the Chair.

Mr. SCHMITT. Will the Senator yield?

Mr. HAYAKAWA. I yield.

Mr. SCHMITT. This address that we have just heard, I believe, is one of the most significant social addresses that has been made, certainly, in the time I have been here and maybe since anyone has been in this Chamber. I congratulate the Senator from California on it.

The key phrase that he uttered is that we are removing the bottom rungs of the ladder. I wish to join with him in hoping that the Senate, not only with respect to the Fair Labor Standards Amendments of 1977, but with everything else we do, will strive to restore the bottom rungs of the ladder. Again, I compliment the Senator on his remarks. I wish—I profoundly wish—that more had been here to hear those remarks prior to the vote on these matters.

Mr. McCLURE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator from Illinois yield to the Senator from Idaho 5 minutes on the bill?

Mr. SCHWEIKER. On behalf of the Senator from New York, I yield to the Senator 5 minutes.

Mr. McCLURE. I thank the Senator.

I want to join with my colleague from New Mexico in congratulating the Senator from California (Mr. HAYAKAWA) on a remarkable statement. I am afraid it will not receive the attention to which it is entitled, not just for the merit of the statement, but for the importance of the issue.

The statement was both profound and learned, from a man who is an acknowledged expert in this area, and deserves and demands the attention of the country to the issue which he has addressed.

It is a memorable statement and I think it will be one that, in future years, will be referred to, I hope, as one of the turning points in the thinking processes of the Senate.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I want to say, too, that while I do not agree with Senator HAYAKAWA about the youth differential amendments, he is a member of our committee, whom I honor greatly, and I have heard most of his statement. I shall read it also with the greatest respect, because he is always extremely thoughtful, extremely instructive. Having personally experienced his presidency at the University which he headed and seen students and the result of his work, I have every right to respect his views when it comes to youth, and I shall pay strict attention to him.

Mr. HAYAKAWA. Coming from the distinguished Senator from New York, my colleague and friend, I thank him very, very much.

Mr. HANSEN. Will the manager of the bill yield to me?

Mr. JAVITS. I yield to the Senator 2 minutes.

Mr. HANSEN. I compliment the distinguished Senator from California for his very thoughtful and provocative remarks. I know that no one need remind anyone in this Chamber that the Senator from California enjoys a very wide reputation as a great semanticist. I suspect that he may, indeed, merit the accolade or the definition of being a great anthropologist, as well, because it seems to me that, while we may not, having this bill before us now, come up with the solutions that he strongly recommends, my guess and my prediction is that, in time, his judgment will be vindicated. I believe sincerely that the points that he has made reflect continuing truths that can be found throughout the world.

I have read a number of speeches that the Senator has made and it seems to me that the points he has made here, today, deal with universal characteristics of people everywhere.

They are just as true in America as they are anywhere else.

While the point has been made repeatedly that we may be overconcerned, as some believe we are, in the focus given to youth employment here, figures have been made that the percentage of youths that are unemployed is twice the average of unemployment for all people.

Opponents of this amendment contend that really is not as important as it might otherwise be assumed to be because, only one-fifth of the labor force is young people. In addition to that, it is argued we have programs going that provide public employment for young people.

I think these facts—and I do not challenge their authenticity—fail to address the problem Senator HAYAKAWA has spoken about, and that is that young people need the challenge, they need the satisfaction——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HANSEN. May I have one more minute?

They need the challenge that comes from work. From what little experience I have had working around young people, and trying to recall those times when I, too, was young, I must agree that the points made by the distinguished Senator from California are very valid.

I predict that sooner or later we are going to come down on his side, recognizing that he has uttered some very timeless truths that we cannot forever be putting off.

I thank the distinguished Senator from New York for his courtesy.

Mr. STEVENSON. Mr. President, I too, wish that more Senators could have heard the Senator from California.

He said that we are cutting off the economic ladder at the bottom, and he is right. We are in danger of depriving young people of a chance, and, as he put it, a challenge, and history will not deal kindly with a nation which goes on destroying its youth.

Mr. President, this amendment, with the minimum wage schedule in the bill, would provide a subminimum wage level of $2.25 for 1978, $2.47 for 1979, $2.68 for 1980, and $2.90 for 1981.

All of those levels are well above the poverty level.

It has been said that this amendment, if approved and enacted into law, would make young people second-class citizens.

Mr. President, there already is a subminimum for young people. Some 500,000 students now take advantage of this subminimum in order to obtain jobs.

Those 500,000 students are not second-class citizens. They are privileged citizens, and that is one of the reasons for this amendment.

The present law discriminates against those who most need the benefit of the subminimum. It provides that subminimum for college students, those who are relatively well off. It discriminates in favor of those who need it least.

It has been said that it will displace jobs. Well, I have not heard that complaint about the college students who obtain work.

The fact of the matter is that it will not displace older workers from their jobs.

What it will do is save jobs that will be otherwise destroyed by these increases in the minimum wage, just as they have been in the past.

James Reagan, Jr., in the Harvard Journal has estimated—this is not a chamber of commerce or a labor economist, it is an impartial expert—that about 225,000 jobs, teenage jobs, were lost after the smaller increase in the minimum wage back in 1966.

A Brookings Institute study estimates that some 13 percent of teenage employment was lost in 1974 as a result of the smaller increase in the minimum wage then.

This amendment, Mr. President, far from displacing workers, is aimed at preserving jobs that young people already have. Already, 2 million young people, teenagers, are out of work. They are unemployed. I think it would also create jobs, and not at the expense of higher-paid and skilled workers.

There are, I should add, penalties in the bill for employers who deliberately displace their employees with young people at subminimum rates.

A final point, Mr. President. It has been said that all we have to do is put more money into more job programs.

According to the Congressional Budget Office, to create 250,000 jobs for young people, it will cost $1.5 billion. All we need is more money.

Mr. President, I support these job programs, but they are not enough and they are very expensive. This amendment, it has been estimated, will preserve in the private sector or create, and at no expense to the taxpayer, almost 400,000 jobs, and far from costing the taxpayers any money, it will give life to small businesses, including minority businesses in the ghetto, small businesses in rural areas.

It will add vitality to our economic system and increase revenues to the Federal Government.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. We are prepared to yield back our time.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 1427. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CHILES (after having voted in the affirmative). On this vote I have a live pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. McCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 39, nays 54, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—39

Allen	Goldwater	Roth
Baker	Griffin	Schweiker
Bartlett	Hansen	Scott
Bellmon	Hatch	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stevenson
Cannon	Helms	Stone
Chafee	Hollings	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
Dole	Lugar	Wallop
Domenici	Morgan	Young
Eastland	Nunn	Zorinsky
Garn	Ribicoff	
	Schmitt	

NAYS—54

Anderson	Gravel	Metcalf
Bayh	Hart	Metzenbaum
Bentsen	Haskell	Moynihan
Biden	Hatfield	Muskie
Brooke	Hathaway	Nelson
Bumpers	Heinz	Packwood
Burdick	Huddleston	Pell
Byrd, Robert C.	Jackson	Percy
Case	Javits	Proxmire
Church	Johnston	Randolph
Clark	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Culver	Magnuson	Sasser
DeConcini	Mathias	Sparkman
Durkin	Matsunaga	Stafford
Eagleton	McGovern	Stevens
Ford	McIntyre	Weicker
Glenn	Melcher	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Chiles, for.

NOT VOTING—6

Abourezk	Inouye	McClure
Humphrey	McClellan	Pearson

So Mr. STEVENSON's amendment (No. 1427) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield myself 30 seconds for a unanimous-consent request. Mr. President, I ask unanimous consent that Mark Johnson, of Senator BURDICK's staff, have the privilege of the floor during the consideration of this legislation.

I make the same request for Nancy Barrow, of Senator CHAFEE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. SCHWEIKER, which he is about ready to call up now, and I have cleared this request with him and the two managers, that the time be reduced in half, that there be a 30-minute time limitation on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1406

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. SCHWEIKER. Mr. President, I call up my amendment 1406 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER), for himself, Mr. CHAFEE, Mr. GARN, Mr. HATCH, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. MCCLURE, Mr. SCHMITT, Mr. YOUNG, and Mr. TOWER, proposes an amendment numbered 1406.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"YOUTH OPPORTUNITY WAGE

"SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth employment an employer may employ any youth who has not attained twenty years of age for a period of one hundred and eighty days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 75 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"'(2)(A) To encourage youth employment, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

"'(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"'(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"'(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or at a wage rate lower than the applicable wage rate under section 6 after the period of time specified by this subsection, or is engaged in a pattern and practice of—

"'(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"'(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"'(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"'(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.'.

"(b) Section 13(a)(7) (29 U.S.C. 312(a)(7)) is amended to read as follows:

"'(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(b); or'.".

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

UP AMENDMENT NO. 901

Mr. SCHWEIKER. I send a modification of my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Senator will suspend a moment until we get order in the Chamber. There will be order in the Chamber. The Senator cannot be heard.

The clerk will report the modification.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes a modification to amendment 1406.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to dispense with further reading of the amendment. This is a clerical and technical change.

The PRESIDING OFFICER. Without objection, it is so ordered.

This does need unanimous consent to modify the amendment. Is there objection to the modification of the amendment? The Chair hears none, and the amendment will be modified.

The modification is as follows:

On page 2, line 22, strike "85 per centum" and insert "75 per centum".

On page 3, line 1, strike "an institution of higher education or".

Mr. SCHWEIKER. The purpose of this amendment is to protect job opportunities for this Nation's youths by establishing an entry-level minimum wage for teenagers. It would permit employers to pay youths under the age of 20, 75 percent of the minimum wage for 6 months. At the end of 6 months, the employer would be required to pay the full minimum.

In addition, my amendment would modify the provisions of current law regarding the payment of lower minimum wages to full-time students by allowing employers to pay full-time students 75 percent of the minimum wage without having first obtained a certificate from the Secretary of Labor. Students would be required, however, to submit letters to their employers certifying their full-time student status. Students would also be limited to 20 hours of work per week except during vacation periods.

The amendment also includes penalties for employers who pay youths less than 75 percent of the minimum wages or who retain youths at a reduced minimum wage for more than 6 months; or who engage in a pattern and practice of substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum; or who engage in a pattern and practice of terminating youth employees and hiring other youths in order to gain continual advantage of the lower minimum.

Finally, my amendment would not apply to any youth who has been employed by the same employer for at least 6 months or is currently employed at a rate of at least the minimum wage.

Mr. President, the need for my amendment is clear. Teenage unemployment is a national disgrace. Currently, unemployment among those aged 16–19 is 17.5 percent. For black teenagers it is an appalling 40.4 percent. This means that more than 1.6 million young people are being denied the chance to work during a critical developmental stage—their early years in the job market.

Many experts believe the high rate of the minimum wage is one of the most significant factors contributing to the devastating rate of youth unemployment. A 1973 Congressional Research Service paper states that:

> Empirical evidence has traced an adverse impact between minimum wage requirements and teenage employment. Studies which show this, summarized earlier in this report, include those by: Adie and Chapin; Brozen; Burns; Easley and Fearn; Hashimoto and Mincer; Kosters and Welch; Moore; and Peterson and Stewart.

A review of quotes drawn from some of the studies cited by CRS is instructive. Adie and Chapin state that:

> The results of our study are unambiguous. Increases in the Federal minimum wage cause unemployment among teenagers; the effects tend to persist for considerable periods of time and seem to be strengthening as coverage is increased and as enforcement becomes more rigorous.

Yale Brozen concludes his article, entitled "The Effect of Statutory Minimum Wage Increases on Teenage Unemployment," by stating that:

> In the interval between the time that the minimum wage is raised and the time that productivity and inflation catch up with the increase, . . . teenagers are barred from obtaining the opportunity to learn skills which would make them more productive, and permanent damage is done to their attitudes and their ambitions.

In his study, Arthur Burns concludes:

> The ratio of the unemployment rate of teenagers to that of male adults was invariably higher during the six months following an increase of the minimum wage than it was in the preceding half year.

Prof. James F. Ragan, in a study entitled "Minimum Wages and the Youth Labor Market," which appeared in the May 1977 issue of the Review of Economics and Statistics concludes that:

> Minimum wage legislation reduces youth employment; males, especially nonwhite males, are the hardest hit.

Ragan goes on to say that youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth employment rate 3.8 percentage points lower had the 1966 minimum wage amendments not been implemented. Ragan further states that:

> The finding that minimum wage legislation adversely affects youths is not novel. This study does, however, strengthen that finding. In particular, the adverse effect remains even after the impact of manpower programs and changing youth supply are accounted for.

Opponents of my amendment will contend that the evidence is not conclusive and that other studies have shown no relationship between teenage unemployment and increases in the minimum wage. But as Prof. Walter Williams points out in "Youth and Minority Unemployment,"

> The weight of academic research is that unemployment for some population groups is directly related to statutory wage minima.

Aside from the evidence provided by academic research, commonsense suggests that increases in the minimum wage adversely affect youth employment. Teenagers often have the least to offer in the labor market. They bring to the workplace disadvantages such as a lack of job skills and work discipline. They need extra training, more instruction, and greater supervision. All of these are more costly to employers. As the minimum wage goes up it becomes increasingly more difficult for employers to assume the risk and expense involved in hiring a young person.

I believe my amendment, by providing a youth differential minimum wage, would prevent teenagers from being priced out of the labor market and enable employers to provide them with the training and experience they so desperately need. It would compensate employers for the extra training and investment needed for young workers. At the end of 6 months, after a young person had become fully attached to the labor force and acquired needed skills and experience, the employer would be required to pay the full minimum. My proposal recognizes both the need to protect job opportunities for youths and to provide them with the standard wage once they have been able to avail themselves fully of those opportunities.

The major argument raised in opposition to a youth differential is that it would result in the substitution of younger workers for older workers. However, I believe fears of displacement of older workers have been greatly exaggerated. My amendment would not provide for a permanent youth differential. It would merely establish an entry-level wage at a temporarily reduced rate—for 6 months only. This in itself should be enough to quell the fears of those concerned over the fate of older workers.

In addition, Prof. Walter Williams in an article entitled "Government Sanctioned Restraints That Reduced Economic Opportunities for Minorities," which appeared in the fall, 1977 issue of "Policy Review," suggests that those who raise the displacement objection are victims of the "lump of labor fallacy." Williams says this fallacy "assumes that there are a finite number of jobs available whereby the acquisition of a job by one person of necessity requires that another lose his job." Williams continues by saying that:

> There is no evidence to support such a contention. After all the number of people holding jobs grew from less than a million during colonial times to over 90 million holding jobs now. All evidence suggests that this trend will continue.

It should also be noted that a 1970 Bureau of Labor Statistics study, entitled "Youth Unemployment and Minimum Wages," states that:

> Reports from abroad do not show that adult employment has been affected adversely by lower minimum wages for teenagers.

The BLS study also states that:

> Youth differentials are common in most state laws with no apparent evidence of adverse effects.

Moreover, my amendment includes penalties both for employers who replace older workers with younger workers and who dismiss youths and hire other youths in order to gain continual advantage of the lower minimum.

It has also been suggested that there is no need for a youth differential minimum wage now that the Federal Government has launched a new youth employment program. I supported enactment of this program and hope it does have a positive impact on the employment prospects of our young people. However, I believe it is unreasonable and irresponsible to expect that this program will completely solve our problem.

The Youth Employment and Demonstration Projects Act is expected to create approximately 250,000 work experience and training slots at a cost of $1.5 billion. But it is clear that even with the expenditures of $1.5 billion, we can reach only a fraction of those in need of training and employment services. Let us not forget there are 1.6 million young people out of work. Moreover, the 1970 Bureau of Labor Statistics study states that:

> There is some basis for the inference that the effect of Federal manpower programs and the federal minimum wage have tended to offset each other. The analysis of quarterly data indicates that increases in employment attributed to the manpower programs have been offset to some degree, by decreases in employment attributed to the minimum wage.

In citing this conclusion, CRS aptly termed it "ironic and even pathetic." It seems public policy is working at cross-purposes.

At a time when Congress is considering a substantial increase in the minimum wage, it is imperative we consider the impact of such an action on our young people and take measures to prevent any further deterioration in their prospects for employment. We cannot afford to sit idly by and watch today's unemployed teenages become tomorrow's chronically unemployed adults. Therefore, I urge my colleagues to support my amendment. I realize it is difficult to abandon long-held notions about the inviolability of the minimum wage statute, but progress frequently demands the abandonment of outdated ideas

Mr. President, we have a gigantic crisis ahead of us in terms of our cities, in terms of our young teenagers, in terms of our young blacks.

Just today the September unemployment rate came out. What was the unemployment rate today? It is 6.9 percent for adults, and 18.1 percent for teenagers.

I do not know how long we can close our eyes to that gigantic gap, 6.9 percent for adults and 18.1 percent for teenagers; how long we can close our eyes to the horrendous social implications of that statistic and its drastic impact on our urban areas and our young people.

I want to give you a brief rundown of our leading urban areas, the inner cities, and what happens to black teenagers in terms of these figures? Baltimore, 49.6 percent of black teenagers out of work; Chicago, 42.2 percent of black teenagers out of work; Detroit, 48.1 percent; Milwaukee, 54 percent, over half; New York, 44 percent of minority teenagers out of work; Philadelphia, my home area, 47 percent of minority teenagers out of work; St. Louis, 58 percent.

How can we stand here today and pass a bill affecting youth employment and close our eyes to these facts. How can we say we are somehow going to wave a magic wand and not worsen the situation? Especially, when the situation has been getting horribly worse?

For example, seven times we raised the minimum rate of pay between 1950 and 1974. Seven times we increased the minimum rate of pay. Six of those seven times the ratio of teenagers out of work to adults out of work also increased. This has occurred each time with one exception. The number of teenagers out of work has proportionately jumped higher than the number of older people out of work.

We cannot have a much clearer signal than that. We cannot get a more clear signal that something is wrong; the system is wrong, and the system is working against the young people.

Look at the horrendous implications of 50 percent of minority group teenagers being out of work in the inner cities. There are increasing unemployment benefits, welfare benefits, crime, and the tax bases of our cities eroding. All of these things relate to this problem. Are we going to say fine? Are we going to

close our eyes here today and not do anything about this? That is exactly what we will do unless we adopt an amendment like mine.

There is a very simple reason why these statistics are piling up the way they are. It is no mystery. I can give Senators a quick profile of why it is our teenagers are in trouble.

A teenager comes for a job and an adult comes for a job. The personnel manager says: "OK. What skills do you have?"

The adult says: "I worked here at A, I worked at B, and I worked at C. There are my skills."

The teenager has not held a job. So the teenage says: "I haven't held a job. I don't have any work skills."

The next question a personnel manager asks is basically:

What kind of experience have you had? Forget your skills. Have you worked anywhere before?

The adult has 3 or 4 or maybe 6 or 10 references stemming from previous jobs. The school dropout or the teenager has none; zero.

The next question:

OK. What are your job recommendations? Who will recommend you for this opening?

Again the adult who comes in for the job has several, maybe a half-dozen, maybe one or two, or whatever it is.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SCHWEIKER. I yield.

Mr. TOWER. I think the Senator has an excellent amendment. I was curious how he meets the argument that some have that this will result in denying jobs to heads of households.

Mr. SCHWEIKER. I think the answer is very simple, that in the age group we are talking about, which is under 20, which includes 19 and under, the proportion of heads of households is very small.

So, unlike going up the ladder we have almost an automatic proviso here, since the people at that age level do not normally head up households.

So this is one very important and significant figure to counteract the argument.

Mr. TOWER. A further question. Very often in this first employment that these young people have, do they not sometimes acquire experience or training there that is valuable to them and makes them more marketable in the job market later on without our having to spend public funds to train them?

Mr. SCHWEIKER. This is an extremely good argument because it very clearly shows that we can have private employers paying for training and job experience for young people if we just give young people that hand up the first time. And that is exactly what this amendment would do.

Mr. TOWER. I do not want to detain the Senator any further. But one further question. He mentioned the appalling statistics on minority youth which I find a matter of great concern to me because not only of our large black population in Texas but also our Mexican American population. Are these figures the Senator cites applicable to minority youth of that category also?

Mr. SCHWEIKER. Tragically they are applicable to minority youth across the board and there does not seem to be much difference in the statistics between which kind of minority youth it is.

Mr. TOWER. I thank the distinguished Senator.

Mr. SCHWEIKER. Going on with the point I am trying to make, it is no mystery as to why youths are unemployed. If you put a checklist down before the personnel manager every time and say pay the minimum rate of $2.30 an hour to a teenager, and the personnel manager has a qualified person who has held three or four jobs and has skills and has recommendations, the personnel manager is going to hire that qualified person every time. He will hire him 100 percent of the time over the dropout from high school or over the person who has come out of school without any marketable skill.

That is why the system is working the way it is.

The truth of the matter is that our present system has a built-in youth bias; a bias against our young people. We tilt the scales against the people under 20, and the figures show it.

It is no wonder that since 1950 these figures have gotten worse. Of course, we are building in a bias against youths.

I anticipate two arguments I am sure will be made, and I wish to respond to those.

The first is basically that someone will take advantage of this and that it is not enforceable. All I can say is malarkey.

We have a minimum wage inspection team now. They are doing the same kind of work right now for employers who cheat on the minimum wage for adults. They can do the same kind of work here and enforce it.

In addition, this is the easiest thing to enforce and is manageable. All we have to show is that the employer hires and fires young people in order to gain continual advantage of the lower minimum. The employment card will show whether there is a pattern and practice of using young people and shoving them out the door. It is very simple to establish. We have an inspection team now, and we can get the facts as to when an employer hired and fired people. So there is no mystery as to how it can be enforced.

The next argument is that we should not interfere with our great youth jobs programs that we have erected recently. After all, we just passed a youth employment bill, I was a cosponsor and authored some sections of it. So they say do not do anything until we see how that works.

All I can say is we are going to wait until doomsday until we see if this really has any impact.

Here are the statistics, and they are pretty shocking. We have 1.6 million teenagers out of work. The youth job bill that we passed has 250,000 work experience and training slots.

If everything works like the other programs of CETA, whereby we eventually put a certain percent of enrollees into the private sector, and the jobs under this program are public slots—not private sector slots, unlike my amendment here, which would put people in the private sector; but even if it works exactly as well as the present law—and I think that is a debatable assumption—but assume it does, we will only change the number of teenage unemployed 1 percentage point. The $1.5 billion youth jobs program, that I am sure the chairman is going to cite, only has 250,000 slots. If we train people in it, and put them in the private sector at the same rate we are doing under CETA we will not produce more than 1 percentage point difference.

So our 18 percent teenage unemployment rate will drop to 17 percent. Let us not try to confuse people and say wait until that great job program comes through.

I am a party to it. I cosponsored it, and I am for it. But if we think we can solve this problem of 1.6 million teenagers out of work with any one program, we do not know what we are talking about. When we talk about 50 percent minority unemployment in our cities and 18 percent of all teenagers unemployed, it is not solvable by one program. We need a number of programs to get in and do the job.

I think it is important to say that mine is a moderate proposal. It is only for 6 months. And the theory is just the one that I espoused. Give the employer an incentive to hire the teenagers without credentials, without recommendations, without skills, without training—give the employer an incentive at 75 percent of the minimum rate, but only let him pay it for 6 months, because that should be sufficient time to train them, to educate them in the job, and to see what they can do, and to get them up to the level of the work force at large. That is all. Then at the end of 6 months the employer pays the rate that everyone else pay. He does not discriminate against the teenager. The teenager gets the automatic increase after 6 months. He will get same wage as everyone else.

So this is no cheap labor deal that someone will cheat on. We are giving the teenager a head start which they badly need, because we have a bias built in against the teenager.

That is the essence of this amendment.

I happen to think that we are very naive, with an unemployment rate among teenagers of 18 percent, 40 percent for blacks, 50 percent in the inner cities, if we think that any one Government program is going to solve that problem.

I also wonder where our economic system is heading if we are to tolerate half our young people being out of work in the inner cities. How long do we think the economic system is going to sustain itself if half our people cannot even get jobs in the hardcore inner city areas of our country?

I say this economic system is heading for serious trouble and serious repercussions. There are going to be many things that maybe people do not want to do now that they will have to do if we do not begin to address the problem and solve it now.

The only way to do it is to abandon a few old shibboleths that people still cling to, that are archaic, obsolete, out of date, and prevent our young people from finding work.

Mr. President, I think it is very important to include some kind of youth opportunity wage in this bill. I happen to have a provision here of 75 percent in my proposal, because I believe we are going to have to have some kind of incentive. I think people have to be made socially conscious of the problems of the center city, and of youth in general. I think we need that kind of incentive, but I do not think we need more than 75 percent and I hope the Senate, in its wisdom, will see fit to adopt this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, has all of the time of the Senator from Pennsylvania expired?

The PRESIDING OFFICER. Yes, all of the time of the Senator from Pennsylvania has expired.

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield 5 minutes to the Senator from Rhode Island. Would the Senator like it on the bill, or on our position?

Mr. CHAFEE. I am in favor of the Schweiker amendment.

Mr. JAVITS. Then I yielded to the Senator on the bill.

Mr. CHAFEE. Was the Senator from New Mexico waiting?

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. All right. Mr. President, I rise as a cosponsor of Senator SCHWEIKER's amendment to establish a special minimum wage for youth. I would like to take this opportunity to pose some questions to my colleagues.

Every Member of this body is committed to solving our terribly vexing problem of youth unemployment. Youth unemployment in August was an astonishing 17.5 percent, the 37th straight month over 15 percent. For black youths, the unemployment rate was 40.4 percent.

That is a horrifying figure. We have not simply closed our eyes to these startling statistics. Earlier this session we passed the Youth Employment and Training Act to establish 350,000 jobs at a cost of $1.5 billion. But 350,000 jobs——

Mr. STENNIS. Mr. President, may we have it quiet, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHAFEE. I thank the Senator. 350,000 jobs under this bill, if all goes well—and things never go the way we think they will go—that is laudable, but only a small step when we consider that 1.6 million youth are unemployed.

Now we are considering raising the minimum wage. I ask, what effect will increasing the minimum wage have on the chances of these same young people to get jobs?

There are 1.6 million young people in our Nation seeking employment. Many, if not most, of them are entering the work force for the first time. They are neither trained for the skilled jobs we see advertised in the newspapers, nor do they have job experience to offer employers. They do not have the experience, and yet somehow, after raising the minimum wage, we are expecting employers to go out and hire these untrained youngsters at this steadily increasing minimum wage.

This does not make sense. What will happen? I think we all recognize it. It is simple economic logic that as labor costs increase, business looks to make labor-saving changes in their operations. In the food service industry, for example, we see a shift from table service to fast-food and cafeteria-style arrangements. In manufacturing, further automation replaces low-skilled workers. Where will our young people look for jobs when they are priced out of the market by the minimum wage?

Under current law there is a provision which allows full-time students who work 20 hours a week or less to be hired at slightly less than the minimum wage. This provision has provided 500,000 jobs for students. That is great. Look at it: That is 150,000 more jobs than our entire youth employment program will create for $1.5 billion.

However, the existing youth wage program applies only to students. While it is important to provide this group with opportunities for part-time work, what worries me is the job prospects for those who are no longer in school. What worries me is the students who have gotten through high school, who do not have a marketable skill, who are trying to get started in life and looking for a job. How do these youngsters get started in the work force?

The first questions employers naturally ask is, do they have any experience? No, they do not have any experience. So they do not get hired. Mr. President, that is a classic "Catch 22" situation. Employers hire job applicants with experience, but young people cannot get jobs in order to get experience.

This amendment, the Schweiker amendment, establishes a special wage for youth between the ages of 16 and 19 for the first 6 months of employment. For the first 6 months, employers could pay a youth 75 percent of the minimum wage, or $2, assuming the wage rises to $2.65. At the end of 6 months, the full wage must be paid.

Our amendment includes safeguards against possible abuses suggested by critics of a youth wage. There are stiff penalties for employers who pay youth less than 75 percent of the minimum wage or retain youths at the special wage after 6 months or substitute younger workers at the youth wage for older workers to gain perpetual advantage of the youth wage.

Mr. President, it is not enough to say "we'll have a billion and a half dollar program which will take care of youth employment problems." We have trod that path many times, and it plainly does not take us far enough. It just plain does not work—the proof is there.

Is it not time we took a bold step to help our young people get jobs to gain skills and experience they need? It is vitally important that we do everything possible to introduce young people to the work environment so that they can experience that special pride which comes with a sense of accomplishment as well as a paycheck.

Mr. President, I think this is really a positive step forward, and I find it extremely discouraging when we are told, "Well, don't worry, the minimum wage is going up; that will take care of these youngsters somehow." Or, "We have got these Federal programs, that will take care of these youngsters somehow."

Mr. President, these efforts have not worked, and the proof of the pudding is in the eating. There are more of these youngsters unemployed now than there have ever been.

So I say, let us try something new. Whatever we are doing now is not working, that is for sure. So let us give this amendment a try, and venture into new approaches to help our unemployed youths. I hope that Senators will join me in support of this amendment.

Mr. DOMENICI. Mr. President, will the Senator from New York yield me some time?

Mr. JAVITS. I yield the Senator 3 minutes.

Mr. DOMENICI. Mr. President, I rise to commend the Senator from Pennsylvania and the Senator from Rhode Island for their remarks. The Senator from Rhode Island is a new Member of the Senate, who comes here unbiased by tradition. I think his words today clearly indicate that he is looking at this issue with a very fresh outlook. He makes real sense.

I want to say to the Members of the Senate that my position on this matter is that the time has come, in the United States, for us to try something new and different. It is as simple as that. I am not going to say that the 75-cent youth differential is going to completely solve the problem of youth unemployment. But an America which has not had a youth differential since the inception of the minimum wage, with a steadily rising youth unemployment rate, must take a chance on something different.

The basic truth is that 6.3 million new jobs have been created by the public and private sectors since we began our recovery from the recent recession. At a huge cost in terms of public dollars, and with a GNP that is growing rather steadily: 6.3 million new jobs have been created in 2 years. Yet youth unemployment increases. Only about 10 percent of those 6.3 million jobs went to young people. All the rest went to adults as second jobs or adults who had been unemployed for a long period of time.

Mr. President, we think we know how to put adults to work. We have done it in the last 2 years, 6.3 million jobs is an admirable rate of new employment. We absolutely do not know what to do when the economy goes up and we put adults back to work, but our youth remain unemployed in increasing numbers. That is an unequivocal statement; it is absolutely true.

All the Senator from Pennsylvania is asking in his amendment is to try an-

other policy for a while and see if it does not work. If it does not work, we can repeal it.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield to the Senator from Florida.

Mr. CHILES. I just want to say I am persuaded by the arguments that the Senator from New Mexico, the Senator from Rhode Island, and the Senator from Pennsylvania make.

When I first came to the Senate and had my first opportunity to vote on a minimum wage bill. I supported that, and I have supported each minimum wage bill that has come up.

In each instance when something has come up on the youth differential, it has always been argued that "If you do this, you are opening up the door, and you are going to see these employers take advantage of this, and it will take away a full-paying job from someone else who now has a full-paying job, and they are going to put that employee off and pay that youth they hire less than that."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield another 2 minutes to the Senator.

Mr. CHILES. I thank the Senator from New York.

I have listened to that argument. At that time we were dealing with unemployment rates of 4.5 to 5 percent. I thought, well, maybe there is something to that, even though it seemed to me that in allowing an opportunity for young people to come into the job sector some encouragement would be necessary.

When I see these figures on unemployment, and I see what is happening to the young people in this country, how turned off they are because they feel there is no opportunity for them, the young men who have come back from Vietnam, and with the unemployment rates they have with no way to break into the job market, let us try something. I agree. Let us try to put in some teeth. If somebody is abusing it, then let us get that person who is abusing it. To say we will follow the old cliche that we cannot do this because something might be wrong does not make any sense. We must find the tools to put these young people to work. Certainly, this is one of the tools. I intend to support this and other amendments to see if we can get something on this bill. I feel if we do not get something like this on the bill, I will not support the bill on final passage.

Mr. STENNIS. Will the Senator yield?

The PRESIDING OFFICER. Time has expired.

Mr. WILLIAMS. I yield time on the bill to the Senator from Mississippi. Then I will yield to the Senator from New York. I yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I appreciate the Senator from New Jersey yielding to me. I highly commend the Senator from Pennsylvania and others for their splendid work on this troublesome matter.

Mr. President, I will not quote figures here. The statistics are overwhelming. I want to speak for a few minutes about what I think is a matter of principle which is involved here.

A Member of the Congress, one of the finest we have, told me the other day about his personal experience in helping to earn his own way from the time he was 7 years of age until he was 16. He delineated the different jobs he had to contribute to the family support, and he said that now everyone of those jobs are illegal. It is unlawful to engage in these activities which meant so much not only for the money but the training it gave him in his formative years.

I believe now we must stop, look and listen, when we ban our young people from legal employment in this very critical stage, the stage that tends to train them in the ideal of pride—just plain simple pride—pride in earning their own way; pride in earning their support; pride that comes from self-support, which means self-respect and respect of colleagues.

I just believe we have gone far too far in trying to protect someone else to ban these youngsters during this period.

Let me give an illustration. I learn a lot from taxidrivers, the black ones, the white ones, all of them. The other day, one was explaining to me the trouble he was having in rearing his second family, and comparing it to when he reared his older children. It was the lack of opportunity, the lack of work to do, the lack of a chance to have something for them to do.

I said, "Well, suppose we turned the city over to you for 1 day and let you be mayor and lawmaker. What would you do?"

He said, "I would pass a law that would give every schoolchild something to do when he got home from school."

He was hitting at the idea there of trying to teach those children how to earn their way, the virtues of frugality and the need for it.

Certainly, we must make a start somewhere. I believe the Senator's amendment is a highly worthy experiment. He is very modest in what he is asking in this law, for a change, to open the doors. Yes, let us open the doors to these youngsters.

As we try to find men who are fit for service in the military, over and over again we run into those youngsters who are 18 and 19 years of age who know nothing about earning, nothing about working, nothing about the responsibility which goes with these cardinal virtues which are really the foundation of our great country, even our civilization. I hope this amendment is a turnabout and can be made into law.

Mr. President, I want to express my strong support of the amendment to provide an entry level or subminimum wage for employees under the age of 20 years. I am convinced that lowering the minimum wage rate for these employees for the initial period of their employment will encourage employers to hire these young workers and train them for better jobs.

I am firmly convinced that such a youth wage differential will prevent teenagers from being priced out of the labor market. In a very real sense, youths 19 and under are necessarily apprentices or learners. They necessarily enter the labor market without the requisite training and experience for most jobs. Since they are generally inexperienced and unskilled, there is no incentive for an employer to hire them when he can obtain a mature and experienced worker for the same hourly wage. Thus the youth who ventures into the job market finds himself competing on very unequal terms. The deck is stacked against him at the outset.

We find that this is a harsh truth by looking at the unemployment statistics. Currently, the overall unemployment rate for youths aged 16 to 19 is about 17.5 percent. For the entire population the rate is about 7 percent. This makes it very clear that about 1.6 million young people are being denied work opportunities during their early years in the job market—and this is certainly a very important stage for them in their growth and development.

There is widespread acceptance of the idea that the mandatory minimum wage is an important and significant factor in the high rate of unemployment among the young. We are now considering a substantial increase in the minimum wage. I believe this increase, if it becomes law, can only aggravate and decrease the already poor employment opportunities for a great many young people who need and desire employment very badly, but who find themselves priced out of the job market. I believe that we should consider this matter carefully and prevent the deterioration of an already bad situation by adopting the pending amendment.

Let me point out, Mr. President, that this amendment contains safeguards which are designed to prevent an employer from using the youth wage differential to defeat the application of the minimum wage standard. It permits payment of a lower wage for youths only for the first 6 months on the job. At the end of this period, after the youth has become a functioning part of the labor force and has acquired training, skill, and experience, employers will be required to pay him the full minimum wage. In addition, penalties are provided for employers who replace older workers with youths, or who terminate the employment of youths who have been on the job and hire other youths in their place in order to take continuous or repeated advantage of the lower minimum wage.

I believe that this is a sound and desirable amendment. A similar amendment lost in the House of Representatives by only one vote—210 to 211. I urge that the Senate adopt it and go to conference with the House on it. I thank the Senator for yielding.

Mr. STONE. Will the Senator from New Jersey yield 3 minutes?

Mr. WILLIAMS. I promised to yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

(Mr. METZENBAUM assumed the chair.)

Mr. MOYNIHAN. Mr. President, I thank the distinguished chairman of the

committee and his distinguished collaborator on this bill.

Mr. President, I rise to make what I hope will not be too grandiloquently described as a statement of conscience on this matter, and to state my admiration for the intellecual and polilcal courage which the Senator from Pennsylvania has shown.

If I speak of it as a matter of conscience, it is that I served as an Assistant Secretary of Labor, Mr. President, in the administrations of President Kennedy and President Johnson when it was my duty, among other things, to send to Congress annually a report on the impact of the Fair Labor Standards Act upon employment in the country. It had become a routine report. We said there was none.

These are long years back, in my life at least, 1961, 1962, and 1963.

As I look at the inexorable rise in the levels of youth unemployment in the employment and training report of the President, I wonder how well we served this country in those days, and still more do I wonder how well we serve it now by continuing, seemingly, to be unable to confront a reality which requires explanation and for which we have none in the perceived condition of manpower economics.

I would like to report one matter to this Senate which I believe would be of interest.

When the U.S. Government first began collecting unemployment data, it went through a number of years without publishing any of the breakdowns. They were not yet confident of their methodology. They simply published the total national figure.

From those first years, however, which look to be good in retrospect, two things come out very strikingly, in 1946–47. First of all, youth unemployment was only marginally greater than adult unemployment, nothing structural at all but a pure distinction, and, second, black youth unemployment was lower than white youth unemployment, and neither was high.

We have seen in the 30 years which have followed an inexorable increase. How have we responded? Have we responded by trying to deal with the problem, or, rather, have we responded by trying to deal with the symptom?

I suggest, Mr. President, rather than facing a question of why people get work or do not, we have very suddenly, and with very little acknowledgement, created a new social service in the panoply of social services in our society, to wit, the public service job.

The public service job has become a social service as familiar as income maintenance or counselling. It is an expression of failure. It is far from being an expression of strength. The public service jobs which come along, if the reality is anything like the description, are deplorable. They represent an assertion, almost, that the individual involved is "good for nothing and nothing is what you are going to do henceforth."

They are jobs for the incapable, for the socially infirm. Little by little we have legitimated this new social service without at all thinking about what it means to people who depend on it, much less those who pay for it.

Mr. President, I shall vote with this committee report. I could not vote against the judgment of two men I admire so deeply, and have over such a long period of time. But, Mr. President, I put the others on notice that if, in 2 or 3 years' time, and particularly in the early 1980's, when the demography of youth employment changes and we really have a chance, in terms of decline of new entries into the age group, if nothing has changed, I, for one, propose to change my position, as I hope, indeed, the time will come when this Chamber changes its collective mind.

I thank the President.

Mr. STONE. Mr. President, will the Senator from New Jersey yield me 3 minutes?

Mr. WILLIAMS. I yield 3 minutes to the Senator from Florida.

Mr. STONE. I thank the distinguished floor manager of the bill.

Mr. President, I simply want to tell my colleagues a true story. Before telling this true story, I want to say, as to the organizations represented in the story, I do not know how they stand on this amendment. For all I know, the NAACP, the Urban League, and the others may be against this amendment. But I still want to tell this story because, as far as I am concerned, it makes the point that persuades me to vote for this amendment.

I went to a lecture at which a current Miami city commissioner, a black preacher of great reputation in our community, was the speaker. At the end of his remarks, a lady in the back of the auditorium asked him this question. She said, "Canon, I protest every attempt by government or politicians to reduce economic opportunity programs. I vote for every candidate that pledges to work for jobs for black people."

She said, "Canon, I give every year to the NAACP, and I give every year to, and I am member of, the Urban League. What more can I do?"

And Father Gibson, now Canon Gibson, said, "Ma'am, teach them the business."

That made a deep impression on me, because if there is one thing that will solve the social problems of the inner city, it is to teach them the business. And until they can produce a profit on the work for which they are paid, they cannot learn the business. They will not be taxpayers. They will not be useful citizens, and a goodly number might resort to looting when the lights go out. But if we teach them the business, if we make it possible for them to be producers, we will not have to treat the symptoms so eloquently described by the Senator from New York just preceding me, in his remarks.

This is an amendment to help us teach them the business, and I hope that the Senate will support it.

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I rise to wholeheartedly support the youth opportunity amendment pending before the Senate.

The youth unemployment problem in our society is a national disgrace. Our answer thus far is to spend billions of tax dollars on public programs of various types which at best can only make a ripple in the sea of despair which exists among our young. These programs are helpful but there is insufficient money in the public pot to remedy the situation. The problem requires bold new initiatives to stem the adverse tide which has developed over the years inhibiting the growth of our greatest natural resource—American youth. I believe the youth opportunity proposal to be such an initiative.

Debate over the effects of the minimum wage has been going on for well over 40 years. I believe that most economists today accept the mounting factual evidence that the law increases unemployment among the very young people intended to be benefited The debate among economists is not whether the minimum wage has an unemployment effect; the debate is mostly centered around the magnitude and the distribution of the effects.

For the first time in the history of debate on raising the minimum, Secretary of Labor Ray Marshall, the chief Government spokesman in this area has estimated a job loss of up to 90,000 as direct result of increasing the minimum. That is an historic admission and one we cannot disregard. I see his estimate as conservative—Prof. Walter E. Williams who has done a great deal of creditable work in establishing a correlation between teenage unemployment rates and raising the minimum, advises that a raise to $2.65 per hour will decrease the employment of those who now earn less than $2.65 by 6 to 9 percent, a figure which could well exceed 1 million.

On the other hand, the U.S. Chamber points to recent analyses evaluating the impact on employment of excessive increases in the minimum wage rate which show that, if the minimum were increased to anywhere between the low of $2.50 and the high of $3 between 2 million and 3.1 million jobs would be lost.

Based upon S. 1871 proposed increase to $2.65, Chamber economists estimate that there will be 391,000 fewer jobs for our teenagers between the ages of 16 to 19. Overall teenage unemployment would go to 24 percent. Among black youth, where current unemployment is a devastating 40.4 percent it would approach 45 percent if the minimum wage rate were increased from $2.30 to $2.65.

The figures are indeed disturbing and outrageous. Yet Mr. President, I have not heard any of the opponents of the youth differential contradict their accuracy.

So, we have a choice to make. We can raise the minimum wage in a stated amount knowing that we will exacerbate the youth employment problem with or without any special relief for these young people. To me the answer is clear—it would be absolutely unconscionable to turn our backs on the youth by not affording them any chance whatsoever for gainful employment thru the incentives to hire created by the Schweiker amendment.

Criticism of the youth opportunity seems to center upon the thought that it will result in a displacement of older for younger lower paid employees. The Schweiker amendment addresses these, and other concerns, by providing for employer penalties for those who engage in a pattern and practice of substituting younger workers employed at less than the minimum for older workers employed at or above the minimum. I believe that in all respects, the amendment is properly structured to avoid the real fears of those who oppose the idea of this youth opportunity legislation.

Mr. President, what is not discussed in these debates and difficult to measure in a dollar sense is the minimum wage's contribution to the destruction of the black community. That is, to the extent that there are thousands of black youngsters without jobs, or the hope of jobs, a climate has been set, which we will worsen if we fail to enact a youth differential, for these youngsters to engage in many forms of anti-social activity, for example, crime. The high crime level makes all but impossible the development of economic growth in the black community. In this sense an increase in the minimum is self-defeating not only to the youth who are its victims, but also to the entire black community.

Let us not now further cut off those in our society from the mainstream by pricing them out of the market through Government controls. Let us not screen them out but screen them in through the adoption of a properly constructed youth opportunity which the Schweiker amendment represents. If we really care, this is our opportunity to prove it.

When I was talking to Dr. Thomas Sowell—who, incidentally, is black—and Dr. Walter Williams, who also, incidentally, is black, I learned that Dr. Williams is the only one who has done any definitive work on the minimum wage, and he has come to some startling conclusions. I ask unanimous consent that his comparison of youth and general unemployment by race as far as males are concerned be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLICY REVIEW—GOVERNMENT SANCTIONED RESTRAINTS THAT REDUCE ECONOMIC OPPORTUNITIES FOR MINORITIES, BY WALTER E. WILLIAMS

TABLE 2.—COMPARISON OF YOUTH AND GENERAL UNEMPLOYMENT BY RACE (MALES)

Year	General	16 to 17		Black/White	18 to 19		Black/White	20 to 24		Black/White
		White	Black	Ratio	White	Black	Ratio	White	Black	Ratio
1948	3.8	10.2	9.4	.92	9.4	10.5	1.11	6.4	11.7	1.83
1949	5.9	13.4	15.8	1.18	14.2	17.1	1.20	9.8	15.8	1.61
1950 [1]	5.3	13.4	12.1	.90	11.7	17.7	1.51	7.7	12.6	1.64
1951	3.3	9.5	8.7	.92	6.7	9.6	1.43	3.6	6.7	1.86
1952	3.0	10.9	8.0	.73	7.0	10.0	1.43	4.3	7.9	1.84
1953	2.9	8.9	8.3	.93	7.1	8.1	1.14	4.5	8.1	1.80
1954	5.5	14.0	13.4	.96	13.0	14.7	1.13	9.8	16.9	1.72
1955	4.4	12.2	14.8	1.21	10.4	12.9	1.24	7.0	12.4	1.77
1956 [1]	4.1	11.2	15.7	1.40	9.7	14.9	1.54	6.1	12.0	1.97
1957	4.3	11.9	16.3	1.37	11.2	20.0	1.70	7.1	12.7	1.79
1958	6.8	14.9	27.1	1.81	16.5	26.7	1.62	11.7	19.5	1.66
1959	5.5	15.0	22.3	1.48	13.0	27.2	2.09	7.5	16.3	2.17
1960	5.5	14.6	22.7	1.55	13.5	25.1	1.86	8.3	13.1	1.58
1961 [1]	6.7	16.5	31.0	1.89	15.1	23.9	1.58	10.0	15.3	1.53
1962	5.5	15.1	21.9	1.45	12.7	21.8	1.72	8.0	14.6	1.83
1963 [1]	5.7	17.8	27.0	1.52	14.2	27.4	1.83	7.8	15.5	1.99
1964	5.2	16.1	25.9	1.61	13.4	23.1	1.72	7.4	12.6	1.70
1965	4.5	14.7	27.1	1.84	11.4	20.2	1.77	5.9	9.3	1.58
1966	3.8	12.5	22.5	1.80	8.9	20.5	2.30	4.1	7.9	1.93
1967 [1]	3.8	12.7	28.9	2.26	9.0	20.1	2.23	4.2	8.0	1.90
1968 [1]	3.6	12.3	26.6	2.16	8.2	19.0	2.31	4.6	8.3	1.80
1969	3.5	12.5	24.7	1.98	7.9	19.0	2.40	4.6	8.4	1.83
1970	4.9	15.7	27.8	1.77	12.0	23.1	1.93	7.8	12.6	1.62
1971	5.9	17.1	33.4	1.95	13.5	26.0	1.93	9.4	16.2	1.72
1972	5.6	16.4	35.1	2.14	12.4	26.2	2.11	8.5	14.7	1.73
1973	4.9	15.1	34.4	2.28	10.0	22.1	2.21	6.5	12.6	1.94
1974 [1]	5.6	16.2	39.0	2.41	11.5	26.6	2.31	7.8	15.4	1.97
1975 [1]	8.1	19.7	45.2	2.29	14.0	30.1	2.15	11.3	23.5	2.08
1976 [1]	7.0	19.7	40.6	2.06	15.5	35.5	2.29	10.9	22.4	2.05

[1] Shows change in the Federal minimum wage law.

Source: Adapted from Department of Labor, Bureau of Labor Statistics, Handbook of Labor Statistics 1975—Reference Edition (Washington, D.C., U.S. Government Printing Office, 1975), pp. 153 155; U.S. Department of Labor, Bureau of Labor Statistics, Employment and Unemployment in 197b, Special Labor Force Report 199 (Washington, D.C., U.S. Government Printing Office, 1977).

Mr. HATCH. Dr. Thomas Sowell told me that when he was employed by the Labor Department, they came across conclusions that showed that the minimum wage discouraged youth employment and specifically black youth employment, and that this was suppressed at that time, as he believes much of the true literature on this subject is suppressed, by our Labor Department.

I thought it was pretty significant when the Secretary of Labor, Ray Marshall, came to our committee and indicated and estimated and admitted that there would be an approximate job loss of 90,000 jobs for youth.

The Chamber of Commerce came up with 391,000 jobs lost if the minimum wage goes to $2.65.

I want to compliment everybody who spoke on this subject. In particular, I think that the distinguished Senator from Mississippi, one of the true statesmen of the Senate (Mr. STENNIS) really hit the nail on the head. We just have to do something about this problem. We have to give these young people an opportunity to work as they are young. We certainly have to do something about the black problem in America. We all know the statistics. It is outrageous.

I cite something the New York Times said recently when it said:

> Even those who favor raising the minimum wage are having second thoughts about its impact on teenagers. Unemployment among the young seeking their first jobs already hovers around 20 percent; black teenage unemployment is probably closer to 40 percent.

This was in August.

> A hike to a $2.65 minimum could eliminate jobs for about 100,000 of the 5 million 16- to 18-year olds now in the labor force.

We have found that even with the Government-produced jobs, the public jobs, the majority of those are going to young middle class whites and not to the blacks and to those minority youth that really need these jobs at this time for the dignity, the self-preservation that comes from working and earning a living and gaining the dignity which Senator STENNIS so eloquently spoke about, that young people just have to have in this day and age.

As cosponsor of this bill, I certainly recommended its adoption by the Senate. I recognize the sincerity of the Human Resources Committee and the two distinguished leaders here on the floor, and I have deep regard for them. But I think, as Senator DOMENICI and Senator CHAFEE said, and as Senator CHILES has said, this is a bill that deserves a chance, I, myself, feel that if we do not get it, I cannot vote for the minimum wage bill as presently constituted.

Mr. WILLIAMS. Mr. President, I oppose a youth differential. The proponents of this amendment, who testified in favor of a youth subminimum wage at our hearings, did so on the basis of econometric models. Those models do not take into account the hard realities of the workplace.

Those realities are that full-time, year-round workers who are earning the minimum wage of $2.30 per hour are far below the poverty level. To create a subminimum for any class of workers, under these circumstances, would increase their hardship and the economic injustice for minimum wage workers.

The same econometric models which are used to oppose the minimum wage, and to support a youth differential, would have the effect of displacing adults who are working at or near the minimum wage.

I want to emphasize that I do not accept the validity of these econometric models. The distinguished labor economists who presented testimony before the subcommittee, including the Secretary of Labor, agree that these models cannot take into account the complexity of the workplace. Nevertheless, I do want to place in the record some conclusions from a study which relies on econometric models.

The study was prepared by the U.S. Department of Commerce in June 1975. It is entitled, "Adult Disemployment Effects of a Youth Minimum Wage Differential."

The study concluded that adult disemployment would range from a minimum estimate of 100,000 to a middle or moderate estimate of approximately

800,000, to a maximum estimate of more than two and one half million—2,500,000. Frankly, I regard the conclusion that adult disemployment from a youth subminimum might total 2½ million persons just as preposterous as the argument that increasing the minimum wage will have a similar effect on total employment.

Nevertheless, if we are going to deal with arguments based on econometric models, I think we should recognize that these models suggest, as a middle range, the disemployment of 800,000 adults in response to a youth subminimum.

This particular study concluded, and I quote, "that the most probable tradeoff of a youth differential of around 15 percent would be giving up something like 500,000 adult jobs for teenage jobs totaling a few hundred thousand more than the number of adults displaced."

In this same vein, I would like to emphasize some statistics which we received from the Bureau of Labor Statistics. These statistics, which were published at the beginning of this month, show that unemployment for adult women may be as serious a problem in our society as unemployment for our youth.

Labor Department figures show that there are 462,000 unemployed women who head families. These women have over 700,000 children who depend on them for their support. Thus, the unemployment of women who head families affects over 1 million people, the women and their dependents. If there is any validity to a youth subminimum, as these econometric models would have us believe, it would certainly cause severe impact on these women.

I see no justification for substituting young workers at a subminimum wage for older workers at a minimum wage, particularly when those older workers almost invariably have a greater family responsibility.

In my view, the adoption of this amendment would be a grave error. Even the increase in the minimum wage will not fully benefit people who are employed as full-time students. Lowering the student minimum wage even further below the present 85 percent provided for by the current act would place them at a greater disadvantage.

The youth subminimum is not a valid concept. It is, not one which will serve to alleviate the problems of poverty and unemployment in our society. The committee has received no evidence, which would suggest that this amendment is necessary. The real issue is whether full-time students will be permitted to maintain at least their present relationship to the minimum wage, or will be forced to work at an even lower percentage of the minimum wage as a means of gaining employment.

I would also like to point out that no Labor Department study—under any administration—has ever recommended a subminimum wage for youth. In fact, a 1970 study by the Department of Labor concluded that "the most important factor explaining changes in teenage employment and unemployment has been general business conditions as measured by the adult unemployment rate." The study also found that youth subminimums administered under State laws appeared to have little impact on the employment of youth.

Youth unemployment is a very, very serious problem; and is now at 17.5 percent. The Human Resources Committee is extremely concerned about youth unemployment. This is why we favorably reported to this body the Youth Employment and Training Act which was recently enacted into law. Under the Comprehensive Employment and Training Act of 1973 (CETA) which was amended by the Youth Employment and Training Act, approximately 3.1 million persons will be provided training and employment opportunities. Those opportunities present the best, and perhaps the only, hope of resolving our youth unemployment problem.

The concern for young people who are unemployed has been fully expressed here by all Members. It is a deep concern, sincerely felt. The answer, in the minds of some, is to permit these young people to be paid less than a living wage, to pay them a so-called subminimum wage. I just want to say that the effects of that in some areas are particularly cruel, Mr. President. The age group, 20 to 24, has a lot of veterans, Vietnam veterans. As a matter of fact, it has 165,000 in that group who are unemployed. When there is a young person who is 20, side by side with one who is 19, one will be getting the minimum wage, one a subminimum. I imagine that many of those veterans will feel the harsh impact of not getting the job—they could even lose a job they already have.

It has also been suggested that some of these young people really are earning income that is supplementary to others in the family. Maybe that is true, but the facts are that there are 561,000 young people, 14 to 19, who are heads of households. If anybody needs a minimum wage, at least, it is anybody who is head of a household.

For these reasons, I hope that we will not, even though it be done in good conscience, take this step that will have such a harsh and adverse effect.

Mr. President, I ask unanimous consent that three tables relating to unemployment rates be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE A-1.—UNEMPLOYMENT RATES FOR THE CIVILIAN LABOR FORCE, BY SELECTED CHARACTERISTICS, 1967 76

Characteristics	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
Total civilian labor force	3.8	3.6	3.5	4.9	5.9	5.6	4.9	5.6	8.5	7.7
Male	3.1	2.9	2.8	4.4	5.3	4.9	4.1	4.8	7.9	7.0
Female	5.2	4.8	4.7	5.9	6.9	6.6	6.0	6.7	9.3	8.6
White	3.4	3.2	3.1	4.5	5.4	5.0	4.3	5.0	7.8	7.0
Black and other races	7.4	6.7	6.4	8.2	9.9	10.0	8.9	9.9	13.9	13.1
Spanish origin	(1)	(1)	(1)	(1)	(1)	(1)	7.5	8.1	12.2	11.5
Veterans:										
20 to 34 yr	(1)	(1)	(1)	6.6	8.2	6.7	5.0	5.3	9.3	7.9
20 to 24 yr	(1)	(1)	5.5	9.3	12.2	10.7	8.9	10.9	19.8	17.4
25 to 29 yr	(1)	(1)	3.2	4.3	5.7	5.0	3.7	4.3	7.9	7.3
30 to 34 yr	(1)	(1)	(1)	3.2	3.5	2.9	2.6	2.7	5.9	4.8
Age groups:										
16 to 19 yr	12.9	12.7	12.2	15.2	16.9	16.2	14.5	16.0	19.9	19.0
16 and 17 yr	14.7	14.7	14.5	17.1	18.7	18.5	17.3	18.5	21.4	21.1
18 and 19 yr	11.6	11.2	10.5	13.8	15.5	14.6	12.4	13.3	18.9	17.4
20 to 24 yr	5.7	5.8	5.7	8.2	9.9	9.3	7.8	9.1	13.6	12.0
25 to 34 yr	3.2	2.8	2.8	4.2	5.3	4.6	4.2	4.8	7.8	7.1
35 to 44 yr	2.5	2.2	2.2	3.1	3.9	3.5	2.7	3.3	5.6	4.9
45 to 54 yr	2.4	1.9	1.9	2.8	3.4	3.0	2.5	2.9	5.2	4.5
55 to 64 yr	2.4	2.0	1.9	2.7	3.3	3.2	2.6	2.8	4.6	4.5
65 yr and over	2.8	2.8	2.2	3.2	3.5	3.6	3.0	3.4	5.2	5.1

[1] Data not available

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TREND IN THE NUMBER OF UNEMPLOYED WORKERS AND IN UNEMPLOYMENT RATES, JUNE 1975 TO JUNE 1977 (LATEST MONTH)

[Seasonally adjusted]

	June 1975	June 1976	June 1977	Percent change 1975–77
A. UNEMPLOYED WORKERS (IN THOUSANDS)				
Total (16 yr and over)	8,099	7,171	6,962	−14
Males (20 and over)	3,710	2,893	2,638	−19
Females (20 and over)	2,794	2,328	2,559	−8
A. UNEMPLOYED WORKERS (IN THOUSANDS)				
Teenagers (16 to 19)	1,835	1,645	1,765	−4
White	1,484	1,282	1,360	−8
Black and other	338	348	390	+15

TREND IN THE NUMBER OF UNEMPLOYED WORKERS AND IN UNEMPLOYMENT RATES, JUNE 1975 TO JUNE 1977 (LATEST MONTH)

[Seasonally adjusted]

A. UNEMPLOYED WORKERS (IN THOUSANDS)	June 1975	June 1976	June 1977	Percent change 1975–77
White workers	6,609	5,705	5,455	−17
Black and other workers	1,481	1,456	1,492	+1
Veterans (20 to 24)	195	183	170	−13

B. UNEMPLOYMENT RATES	June 1975	June 1976	June 1977	Percent change 1975–77
Total (16 yr and over)	8.7	7.6	7.1	−18
Males (20 and over)	7.0	5.9	5.0	−19
Females (20 and over)	8.3	7.2	7.2	−13
Teenagers (16 to 19)	20.8	20.5	18.6	−11
White	18.9	16.0	16.1	−15
Black and other workers	35.8	40.0	39.4	+11
Veterans (20 to 24)	19.0	19.2	18.1	−5

Source of data: Bureau of Labor Statistics.

HEADS OF HOUSEHOLDS BY AGE, SEX, EMPLOYMENT STATUS AND NUMBER OF DEPENDENTS, MARCH 1976 TO MARCH 1977

Head of household by age and sex	Number	Employed	Households with dependents
Total 14 to 19 yr old [1]	561,000	NA	NA
Male	389,000	NA	NA
Female	172,000	NA	NA
Total 16 to 24 yr old [2]	3,956,000	2,889,000	NA
Male	3,235,000	2,635,000	NA
Female	721,000	254,000	NA
Total 14 to 24 yr old [1]	4,042,000	NA	2,221,000
Number of dependents			3,156,000
Average number of dependents per household			1.56

[1] Data relate to March 1976.
[2] Data relate to March 1977.

Source: BLS unpublished data for March 1977 and Bureau of the Census Report p. 20, 311, table 6, March 1976.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, as long as this is the true truth hour, let us have it. The truth is that this minor subtraction from the minimum wage will not do remotely what any of us says it will do. We have this heavy unemployment in the midst of prosperity in the country because our economic situation and our inflation have given us a bad rap and it has been taken out on the least trained and least skilled.

We have a social and a political obligation to those people. We are not going to cure it this way. What firm in its right mind is going to hire a young person where it costs three times his wages in order to hire him, give him a place to work, supervision, insurance, and transportation and everything else that goes with the job, just because it can get him for 40 cents less an hour?

Of course, you are not going to do it. And the answer is, Mr. President, and I come now to Senator HATCH, who do you think is going to get those jobs?

The blacks? Not usually; rather the same middle-income white youths who at least have a better chance to do a better job than the black youths because they are comparatively better trained.

So, Mr. President [illegible] minimum wage has not discouraged y[illegible]oyment. We suffer from this proble[illegible] other reasons. The truth is that we [illegible] to target these jobs to the person.

I thoroughly agree, the black teenager has to be employed. But in order to employ him, we will have to subsidize a job for him, especially targeted to him. Otherwise, it is not going to happen. That is the essence of it.

This is the approach taken in this much maligned CETA program, which Senator MOYNIHAN talked about. With all respect, the CETA people are doing good and effective jobs, in police departments, in hospitals, in schools, and in a thousand other respects.

They are not boondoggling, et cetera. It is one of the most desirable programs our country has had in a very long time.

But the point, Mr. President, the fundamental point, is that we are not doing enough of it. The point is that all we have got is a youth employment bill, an admirable bill, a targeted bill, an interesting bill, both for country and for city. And how many slots have we got? 200,000. How much money have we put up? $1.5 billion.

There is one enterprise in this country, the opportunities industrialization centers, run by Leon Sullivan of Philadelphia, and Senator SCHWEIKER is one of his greatest advocates. They could do a fantastic job. They could triple, quadruple, quintuple their operation to 500,000, where he will train people, get them jobs, all blacks, practically all blacks.

But we have not got the money and we are not putting up the money.

Mr. President, we take the whole minimum wage structure and distort it and give ourselves the illusion we will do something for youth when we will not, and avoid and avert our gaze from what will do something for youth, properly targeted jobs, proper training, so these kids can get into some kind of work habits and training.

This will be a great excuse. Now, we will wait 1, 2, or 3 years until the 40 cents per hour differential will prove whether it works or does not.

Mr. President, that is the truth, if we want it. This amendment is simply a confession of the avoidance of the true problem, and nothing else.

As the Senate has with other amendments to the same effect—and this is not even as good as Stevenson, by the way, which was 85 percent, this is 75 percent—I hope the Senate will, for this very reason, reject this amendment.

Now, I yield.

Mr. HATCH. Mr. President, would the distinguished Senator from New York admit if we open up more jobs through a youth opportunity bill, such as Senator SCHWEIKER is proposing here, that it would expand jobs all across the section because it would give a stimulation to the economy to hire youth, even though they are white youths? But I think, to be frank, there would be a lot of minority youth hired, as well.

Incidentally, both the distinguished Senator from New York and the distinguished Senator from New Jersey have admitted here that the student program works very well. The fact of the matter is that there would be more than 40 cents, there would be about 65 cents or 67 cents an hour here that this youth opportunity differential would provide.

Mr. JAVITS. I say to the Senator, I have just argued it will not open up jobs for those who are in the greatest need.

Employers simply will not give any of these new jobs to minorities just because a youth subminimum is available.

As to the school operation, that is a unique situation applicable to college towns, full-time students, and we give an encouragement to the small town merchant to take on a few more boys or girls than they otherwise would.

I do not think that has any relation to this.

Mr. HATCH. I will submit that a number of employers across the country who are employing minimum wage personnel will cut it back if this expands to the extent it is and will find ways and means of automating or cutting back on youth jobs. They make it very clear, if they had this differential, that they would, instead of cutting back, expand jobs. I think that would be the opportunity.

I think the distinguished Senator would admit in good faith that neither of us fully knows, really, what the total effects will be should this youth opportunity differential be adopted here today. And that is the point that my good friend from New Mexico said, why not give it a chance, why not give it a chance since we do not know, and it may be a solution to a major problem in America.

Mr. JAVITS. Precisely because the history has shown it does not do what the Senator claims. The very same people are constantly before us saying, "Reduce the minimum wage, eliminate the minimum wage, and we'll give more employment."

It just does not happen. The most authoritative study of the Department of Commerce, which I have placed in the RECORD, indicates we lose as many adult jobs as we get youth jobs, and that is the very best face that can be put on it.

The reason I say what I do, and so strongly and firmly, is because this is nothing but a way of getting out of the struggle we have been fighting in Chambers like this for years.

We will not face the issue that in order to train people we have to pay for their training. I prefer to pay for it in private business. This is not going to do it all. All we are doing is giving ourselves a placebo with this amendment to enable us to get a couple of years more in order to point out we are in the same place we are in today.

I believe the Senate has properly turned that treatment down and I hope it will on this amendment, as well.

Mr. CHAFEE. Mr. President, who has the time?

Mr. JAVITS. I do.

Mr. CHAFEE. I think what we are hearing on the other side is extremely discouraging this afternoon. What we are hearing is that the way we should solve this, the solution is to give OIC more money. But we will not give them more money, so therefore, we will not do anything.

This problem faces the country, a serious porblem. A solution has been presented, a mild solution. It has some chances for success.

Everybody quotes studies on both sides. All we know now is whatever we are doing is wrong, so let us try something different.

But the people, the opponents of this amendment, say, "No, no, don't do anything different, keep going in the same direction we're going now."

And that is no solution to this problem.

Mr. JAVITS. That is a very good question and I would like to answer it. What the Senator is saying is, give ourselves an excuse for doing nothing. We are going to do practically nothing. The Senator is saying, give ourselves an excuse for continuing for more years doing nothing. I am saying, "Let's face the issue. This is not going to help it. All it does is give us an excuse for not acting."

And I am not for giving us that excuse.

Mr. CHAFEE. I supported every OIC expenditure that came before our committee and our distinguished minority leader on the committee knows that.

I supported the youth employment bill, but that is not going to get us very far.

Three hundred and fifty thousand jobs they talk about if everything goes well.

Here is the chance to do something different. "No, no, let's keep going down the same path that has not gotten us anywhere."

I do not think that is very venturesome for these times.

Mr. JAVITS. They will continue to go down the same old path so long as they take medicine which has no effect whatever, and that is what this is.

Mr. HATCH. Will the Senator yield?

Mr. CHAFEE. We are told that this will not do any good. We have not tried it. When your serve is not working in tennis, you try a different approach. But no, we do not even have the courage to try something different. It is for 6 months that these youngsters will be in that category. I think it is worth a try.

Mr. HATCH. Mr. President, will the Senator yield for one more comment?

Mr. JAVITS. I yield.

Mr. HATCH. I supported the OIC, and I argued for Reverend Sullivan's program because I believe it is tremendous for these people, through self-origination, to come up with targeted programs. I want to encourage that, and I voted for the CETA programs as well.

What I should like to point out is that I do not think that Government employment or public works jobs is the last answer, either. I think we are spending billions of dollars sometimes to give people jobs that do not train them one bit and do not do a thing for them. I do not think that is the answer. We should try something new, and I agree with the Senator from Rhode Island.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 3 minutes?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. WILLIAMS. I yield time to the Senator on the bill.

Mr. ROBERT C. BYRD. Mr. President, I am concerned with the proposal to create what I see as a basic inequity in minimum wage legislation. Let me express my concern in the form of a query. Should an 18- or 19-year-old head of a household who supports a spouse, child, or dependent receive the current minimum wage for the work he or she performs? This is one of the basic questions that needs to be answered as we consider the minimum wage bill.

I believe that a youth differential could adversely affect the earning potential of a significant portion of the households headed by youths between the ages of 14 and 19. There are, according to the U.S. Census, over half a million such households. I strongly believe that in an attempt, however well intentioned, to provide jobs for youths, we should not create a discriminatory, two-tiered income system.

A two-tiered system would, furthermore, do little if anything to solve the basic youth unemployment problem; that is, the lack of experience and education of youths, particularly minority youths, seeking employment in the highly competitive marketplace.

Creation of a youth subminimum wage promises more than it can deliver. A 6-month period of employment under the subminimum wage would not later place youths who suffer the dual handicap of minimal education and lack of skills in a better position to compete for gainful employment at the minimum wage. To be able to so compete, they need to acquire the training that will make them attractive to employers.

Merely allowing youths of a certain age to work for a period of time at subminimum wage does nothing to further our objective to increase their long-term employment potential. We need positive programs such as the recently enacted Youth Unemployment and Demonstration Projects Act. We must continue to establish innovative jobs and jobs training programs targeted to the diverse needs of youths in various urban and rural areas of the country.

There is another problem with the subminimum which troubles me. Let us assume for the moment that it will generate jobs for youths ages 14 to 19. Will it not then pit 20 to 24-year-olds against the younger age group? Is this the direction in which we want to go?

Mr. President, I am opposed to the subminimum for youths. Although it is a well-intentioned policy, it is not the way to resolve the problem of youth unemployment in our society.

This proposal is, on its surface, superficially attractive. But it is very risky business in light of the 5 million adults who are unemployed, and when it is placed against the 462,000 women who are heads of households and the two-thirds of our minimum wage workers who are women. Not only are we placing this against those 462,000 women who are heads of households, but also, we are getting ready to penalize 700,000 children in those 462,000 households that are headed by women.

So, while it is superficially attractive, it is risky business, and I hope the Senate will vote down this amendment.

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. JAVITS. I say to the Senator that he has put his finger on the exact point, which I am sure I did not make clear as artfully as he, which is that there is nothing in this amendment which says that the new jobs have to be from expanded employment to people who would not otherwise be employed.

What will an employer do with an unskilled job? Will he take the person to whom he has to pay the minimum, even if it is for 6 months? No. He will take the person to whom he pays the subminimum. He will rob Peter to pay Paul, and Peter will be the older people. That is what the Labor Department found when it made the survey.

Mr. ROBERT C. BYRD. Exactly. I thank the Senator.

Mr. SCHWEIKER. Mr. President, will the Senator yield me 3 minutes?

Mr. JAVITS. I yield.

Mr. SCHWEIKER. Mr. President, I have spoken before, so I do not intend to be very long, but I cannot let the last argument go unanswered.

A report entitled "Youth Unemployment and Minimum Wages," published by the U.S. Department of Labor, addresses the very issue we have just discussed. We cling to the old shibboleths, the old ways of doing business, as Senator CHAFEE has said, and ignore the truth. The truth is in this report. It says:

> There is some basis for the inference that the affect of Federal manpower programs and the Federal minimum wage have tended to offset each other. The analysis of quarterly data indicates that increases in employment attributed to the manpower programs have been offset to some degree, by decreases in employment attributed to the minimum wage.

It cannot be clearer than that. That is the issue.

Do we want to go on for 30 years closing our eyes to the truth?

It was whispered here that the report never has been printed because it tends to contradict classic theology in

this field. The culprit is identified right here—in an analysis of the Bureau of Labor Statistics. This is the issue. If a placebo is involved, Government job programs are the placebo—but we close our eyes to the truth. We say if we pass this bill, we are going to do something for everybody. We have misidentified the placebo. Here is the truth, and that is the issue.

Mr. HEINZ. Mr. President, I want to commend my distinguished colleague from Pennsylvania for his concern about the unacceptably high rate of unemployment among the young people of this Nation. For example, I agree with the senior Senator from my State that effective steps must be taken to provide hope and economic opportunities to those young people who now face only the bleak prospect of continuing joblessness. Despite my agreement with the goals my good friend seeks to achieve with his amendment, I cannot concur with the view that a subminimum wage for young workers is the road we should take to reach our mutual goals.

As a practical consideration, I am not persuaded that a subminimum wage will succeed in creating new jobs for young people. This is a point on which the experts have disagreed and where no consensus exists. The National Commission for Manpower Policy, after having looked at the findings of various studies, decided to "disregard the idea that a lower minimum wage for youth would make a significant contribution to increasing their prospects for employment." The Commission added that in this case it "saw no reason to deviate from the established American practice that pay is set by the job and that all persons, able to meet the performance standard of the job, should be paid the going rate."

In the face of the doubts have been raised about the benefits a subminimum wage will have for young workers, the concern about the detrimental effects such a policy might have on other workers becomes all the more compelling. The prospect of job substitution resulting from the enactment of a subminimum—where adult workers in the lowest paid jobs will be replaced by younger ones who can accept reduced wages—is a chilling one. It does not seem to me to be an acceptable or desirable policy to reduce unemployment among one group by creating greater unemployment for another. There are more humane and potentially more effective ways for us to proceed.

One alternative policy in which I have a great interest would permit employers to take a tax deduction or credit for some portion—perhaps up to 25 percent—of the minimum wage they pay to young people. This tax preference would be applicable during the time it takes to initially train a new worker—either for the first 6 months of employment or for a time determined by the Secretary of Labor necessary to reach adequate performance standards for specific jobs. I want to pursue this alternative with my colleagues because I think it may be a productive one that can achieve the goal the senior Senator from Pennsylvania and I both desire without undermining our Nation's wage standards. That goal is increased employment opportunity for youth and other disadvantaged Americans who seek to improve their skills and ability to earn a living the same as any other American.

Mr. HOLLINGS. Mr. President, I am pleased to join my colleague from Pennsylvania in cosponsoring this amendment to provide increased employment opportunities for the Nation's youth—aged 16 to 19. It is not necessary for me to make a lengthy restatement of the current sad state of affairs confronting the unemployed teenagers of our country. The statistics are clear and convincing: Approximately 18 percent of white teenagers and over 40 percent of black teenagers are unemployed. Over 1.6 million young people are currently unemployed and some researchers feel these figures are too low.

Congress has recognized this critical problem and has reacted by establishing such programs as the Youth Employment and Demonstration Act of 1977. However, this program will meet only a small portion of the problem. It provides approximately 250,000 jobs in the public sector. The need is greater. Quite simply private industry must be provided with the necessary incentives to respond with jobs and opportunities. The incentive, I think, is the amendment before us today. It will work hand in hand with the efforts currently underway.

Young people must have the opportunity to become productive members of the work force at an early age. They must be provided with the opportunity to prove their worth and better themselves through their hard work and initiative. This is merely the American dream. However, as we increase the minimum wage we further deteriorate employment opportunities for our young people. The entry threshhold is raised to such a high level and the young person's employment opportunity is consequently so reduced that jobs are simply not available. We must provide an entry level employment opportunity for teenagers and I am convinced that the youth differential amendment before us provides this much desired result.

Opponents of this measure might argue that the potential for employers to replace older workers with teenage workers or dismiss youths and rehire other youths in order to gain a continued advantage is so great that this measure should be rejected. I respond by saying the need for increased employment opportunities is too great. Besides, the amendment provides strong penalties in order to insure that employers do not act in that manner.

The problem before us is real and will not go away without decisive action on our part. If you feel the way about this matter that I do I strongly urge you join with me and do something about our severe youth unemployment problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENSON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—38

Allen	Eastland	Nunn
Baker	Garn	Roth
Bartlett	Goldwater	Schmitt
Bellmon	Griffin	Schweiker
Byrd, Harry F., Jr.	Hansen	Scott
	Hatch	Sparkman
Cannon	Hayakawa	Stennis
Chafee	Helms	Stevens
Chiles	Hollings	Stone
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
Dole	Lugar	Wallop
Domenici	Morgan	Young

NAYS—55

Anderson	Hart	Moynihan
Bayh	Haskell	Muskie
Bentsen	Hatfield	Nelson
Biden	Hathaway	Packwood
Brooke	Heinz	Pell
Bumpers	Huddleston	Percy
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Johnston	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stafford
DeConcini	Matsunaga	Talmadge
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Zorinsky
Glenn	Metcalf	
Gravel	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevenson, for

NOT VOTING—5

Abourezk	Inouye	McClure
Humphrey	McClellan	Pearson

So amendment No. 1406, as modified, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair has agreed to recognize the Senator from Virginia for a unanimous-consent matter.

Mr. SCOTT. Mr. President, mine is not a unanimous-consent request.

I shall call up my amendment No. 1415.

Mr. DOMENICI. Mr. President, will the Senator yield 5 minutes first?

Mr. SCOTT. Mr. President, I am glad to yield to the distinguished Senator from New Mexico who tells me he will only take about 5 minutes. Then I ask that I be recognized.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 1405

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938).

Mr. DOMENICI. Mr. President, I call up my printed amendment No. 1405 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. STONE, proposes an amendment numbered 1405.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"YOUTH OPPORTUNITY WAGE

"SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"'(b)(1) To encourage youth opportunity an employer may employ any youth who has not attained twenty years of age for a period of one hundred and eighty days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"'(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

"'(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"'(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"'(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or for a period of time longer than that specified by this subsection, or is engaged in a pattern and practice of—

"'(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"'(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"'(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"'(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.'.

"(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"'(7) any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary under section 14 or in accordance with the provisions of section 14(b), or'.".

On page 12, line 9, substitute "SEC. 6." for "SEC. 5.".

Mr. DOMENICI. Mr. President, my cosponsor, Senator STONE, does not appear to be here at this time, but I wish to say to the Senators present that I will just take only about 5 minutes to discuss this amendment.

This is basically the same amendment that the Senator from Pennsylvania just offered with one significant difference.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I am pleased to yield.

VISIT TO THE CHAMBER BY A DISTINGUISHED GUEST

Mr. MOYNIHAN. Mr. President, I have the honor to introduce to the Chamber a good friend of this country, a former Foreign Secretary of Great Britain, known to us all for many years as George Brown and now carrying the additional distinction of Lord George Brown.

[Applause.]

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, for the Senators who are here I shall state the principal difference between the Schweiker amendment and mine. The Schweiker amendment provided a youth differential of 75 percent of the adult minimum wage; mine is 85 percent.

The PRESIDING OFFICER. May we have order in the Senate? May we have order in the Senate so that the Senator from New Mexico may be heard. The Senator may proceed.

Mr. DOMENICI. That is only a 10 percent difference, but it is more workable because 85 percent of the new minimum wage turns out to be approximately the present minimum wage. So 85 percent of $2.65 will be about the present minimum wage of $2.30. If the Domenici-Stone youth differential or youth opportunity wage amendment is adopted the minimum wage for youths in the 6-month interim will be the present minimum wage.

I think that might make a difference to some Senators. Some have told me it does make a difference.

I am not going to take a great deal of time to tell Senators the arguments that they have already heard. I would like to summarize my position by saying that anyone who tells this body that there is not dramtic evidence that we need to try something different than simply continuing to raise the minimum wage for young people and then using economic stimulators to prime the economy to get our young people employed is absolutely telling us an untruth.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I am delighted to yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I commend the Senator from New Mexico for suggesting this amendment, but I would like to ask him a question.

I was approached a while ago by a representative of organized labor in the lobby, who indicated to me that this kind of proposal, offered first by the Senator from Pennsylvania (Mr. SCHWEIKER) and now by the Senator from New Mexico, is an unenforceable proposal. I would like the Senator's comment for the record as to that statement, as to what his response would be as to the enforceability of this proposal.

Mr. DOMENICI. I thank the Senator for his question. At my suggestion, the Senator from Pennsylvania had the identical penalty provisions in his amendment.

First of all, we have not been easy on those who would seek to cheat. This amendment provides a fine for the first offense of not to exceed $2,500, and up to $10,000 for a subsequent offense. It says that if the Secretary of Labor finds that any employer, as a matter of custom, is using this differential to fire young people 5 months after they have been employed, so that he can hire someone else, he may penalize the employer with this kind of a fine.

Everyone must keep hourly records when a person is hired or fired. We already have, in the labor enforcement, structure, teams that audit employment data and patterns. They could easily find any employer who is engaged in this practice as a matter of custom.

Mr. HATFIELD. Is the Senator saying there is machinery in place now, that no new machinery need be set up to enforce this proposal?

Mr. DOMENICI. Precisely, and we are adding this new civil fine as part of this amendment.

Mr. HATFIELD. So the necessary findings would be easily available under existing machinery?

Mr. DOMENICI. Under existing machinery, and then the fine could be imposed.

Mr. HATFIELD. And that existing machinery is in the Wage and Hour Division?

Mr. DOMENICI. Wage and hour teams are in the field. They can monitor any employer to determine whether they are violating the law.

I yield myself 1 more minute.

Mr. President, this amendment is similar to S. 2048, the Youth Opportunity Wage Act which I introduced on August 5, 1977. I am seeking, by this amendment, to offset the adverse impact increasing the minimum wage will have on job opportunities for young Americans. At the present time there are approximately 2 million young people unemployed and that figure can be expected to rise with the enactment of H.R. 3744/S. 1871.

There is convincing evidence that the burden of an increased minimum wage falls most heavily on the young, unskilled individual. Evidence gathered by the Bureau of Labor Statistics and the Congressional Budget Office demonstrates that a significant drop in youth employment will accompany a higher minimum wage Increasing the minimum wage to $2.65 per hour will result in a net job loss of up to 250,000 jobs. The Nation's economy simply cannot afford such job losses particularly among teenagers who already constitute one-fourth of the total unemployed.

Amendment No. 1405 would tackle this problem by establishing a "youth opportunity wage" at 85 percent of the minimum wage. This special rate will apply to youths age 19 and under and is functional only for the initial 6 months of their employment. Upon the expiration of the 6-month "training" period, the special rate is no longer available and such employees must be paid at least the full minimum wage.

This amendment also discourages any potential abuses by providing penalties in the event older workers are fired in order to hire youths, or youths are dismissed without cause at the conclusion of the 6-month training period, or wages of current young employees are reduced.

In addition, my amendment seeks to encourage the use of the current full-time student rate by simplifying the student provisions and eliminating the excessive paperwork and redtape caused by the present student differential.

Mr. President, as our Nation's economy recovers from the 1973–75 recession, we must take special care to see that our actions do not rekindle inflation, increase unemployment, or depress business and consumer confidence in the basic strength of our economy. S. 1871, which was drafted with the best of intentions by our distinguished colleagues on the Human Resources Committee, will have a detrimental affect on teenage employment unless a youth differential—such as the one I am proposing—is included in the final bill.

Amendment No. 1405 is designed to ease the impact of the pending increase in minimum wage. A 1970 Bureau of Labor Statistics survey of employers and employment has found that more teenagers would be hired at a lower minimum wage. A youth wage in Europe has resulted in increased youth employment. By allowing employers to hire and train youths for an entry period at a wage more commensurate with their initial abilities, we encourage the creation of much needed career ladder opportunities.

Furthermore, research and experience show that youth wage will not result in the substitution of younger employees for older workers. The BLS study concludes that—

> Results from abroad do not indicate that adult employment has been adversely affected by lower minimum wage rates for teenagers.

Several States have used youth differentials with "no apparent evidence of adverse effects."

Suggestions by opponents of a youth differential that there will be large scale displacement of adult workers is simply conjecture and is not borne out by the evidence. Displacement did not occur in European countries or in States which have created youth differentials.

Recent economic statistics are pertinent to the comparison of youth and adult employment. Adult employment is increasing with growth in the economy. In the past 2 years, economic growth has created over 6.3 million jobs. Adults have been the major beneficiaries of this increased employment, filling 5.6 million or 89 percent of these jobs. While teenagers make up one-quarter of the unemployed, they have filled only 11 percent of the newly created jobs.

Mr. President, the Senate has just rejected, by a narrow margin, the Schweiker amendment that would have set the youth differential at 75 percent of the minimum wage. The pending amendment differs from the Schweiker amendment in that it would set the youth opportunity wage at 85 percent of the minimum wage.

Congress recognized the need for a youth differential when it established the current student differential of 85 percent. But many of your younger people are not students. A student differential without a youth differential discriminates against those who need work the most—teenagers who are no longer in school.

An 85 percent differential for teenagers is consistent with prior Congressional action which placed the student differential at 85 percent. In addition, an 85 percent differential applied to the new minimum wage rate of $2.65 an hour will result in a youth wage which is approximately the same as the current minimum wage rate.

Economic growth alone is incapable of making a significant reduction in youth unemployment. While historically a 2.2 percent increase in the GNP will reduce the married male unemployment 1 percent, a 5.6 percent growth rate is required to reduce teenage unemployment 1 percent. For nonwhite teenagers, the required growth rate is 10.1 percent, double the economic growth rate that is projected over the next year and a half. Evidence indicates that progress could be made in reducing teenage unemployment by exempting them, in a limited and responsible way, from the provisions of the minimum wage law.

Mr. President, we have an opportunity to constructively reshape the minimum wage law to incorporate the concept of a lower entry wage that will help to bring teenagers into our Nation's workforce. Once they get on the bottom rung of the ladder they can learn much needed skills, discipline, and an appreciation for the "work ethic." Life styles can be changed, motivation improved, and a successful productive individual can take his or her place as a fully contributing member of our society.

The argument for a youth differential has been made most effectively by the country's leading conservative and liberal economists. I would like to cite a few of their most telling studies which frame more clearly the effect of minimum wage increases on our already unacceptably high unemployment rates among teenagers.

An economist with the New York Federal Reserve Bank published a study in the Harvard Review of Economics and Statistics documenting a 3.3-percent loss in teenage employment as a result of the 1966 increase in the minimum wage from $1.25 to $1.40 per hour.

In his study entitled "The Impact of Minimum Wages on Other Wages, Employment, and Family Income" which appears in Brooking's Papers on Economic Activity, Edward Gramlich notes that while minimum wages are mildly beneficial to adult employees, they are a disaster for youth:

> . . . the most reasonable verdict is that teenagers have more to lose than gain from higher minimum wages: they appear to be forced out of the better jobs and denied full time work. . . . And all these developments are probably detrimental to their income prospects in both the short and long run. . . . For teenagers the law appears to be counterproductive.

Economist James F. Ragan stated in an article entitled: "Minimum Wages and the Youth Labor Market" which appeared in the Review of Economics and Statistics that—

> Minimum Wage legislation reduces youth employment; males, especially non-white males, are the hardest hit. . . . Borne out by the data, therefore, are the hypotheses that minimum wage legislation reduces youth employment and increases youth unemployment rates. The policy implications are obvious: With less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement can be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented, our model indicates that aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth unemployment rate 3.8 percentage points lower.

In response to the 1971 proposal to raise the minimum wage to $1.60, economist Paul Samuelson of MIT stated:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Confronted by rising unemployment among minority youth Mayor Bradley of Los Angeles and Mayor Gibson of Newark both support a youth differential, as did the late D.C. City Councilman, Julius Hobson.

Dr. Bernard E. Anderson, of the Wharton School of the University of Pennsylvania, pointed out some of the limits of direct governmental programs by noting that in 1977 black youth unemployment hit record levels in spite of the fact the Federal expenditures on job programs also were the highest in our history.

Dr. Edward Gramlich's 1976 study for the Brookings Institution found that increases in the minimum wage causes shifts from full-time to part-time employment for teenagers.

Mr. President, before concluding my remarks, I would like to restate several key points which justify the Senate's prompt and favorable action on this amendment.

The sum of 1.8 million—24 percent—of the 7½ million individuals currently unemployed in this country are between the ages of 16 and 19; 345,000 young would-be job seekers have become discouraged and are no longer actively seeking employment.

Since 1975, 6,300,000 new jobs have been created but only 700,000 of these new slots went to teenagers; 40.2 percent of nonwhite teenagers are currently unemployed.

Lack of job opportunities creates an environment that is conducive to crime and social unrest.

Economic growth alone is incapable of significantly reducing youth unemployment. It would take an economic growth rate of 10.1 percent to reduce the minority teenage jobless rate 1 percent.

In 1966, the minimum wage was increased from $1.25 to $1.40 per hour and teenage employment declined 3.3 percent.

In 1974, the minimum wage was increased by 25 percent, which led an estimated 13 percent rise in youth unemployment.

Mr. President, a vote for the youth opportunity wage is a vote to help the youth of this country keep or find employment.

A vote for the minimum wage increase without the youth differential is a vote to increase youth unemployment. I believe it would be unconscionable for the Senate to vote to further increase youth unemployment in this country.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute.

Basically, this is the same amendment we just finished voting on, the Schweiker amendment. The only difference is in the percentage. All other details are the same. Every argument that has occupied this Chamber during the last 2½ hours can equally be applied to this amendment, and I certainly hope we will have the same result.

For all the reasons previously expressed, I hope the amendment will be defeated.

Mr. JAVITS. Mr. President, I yield myself 2 minutes in opposition, only to answer the question of the Senator from Oregon.

This amendment says these penalties will apply if there is a pattern or practice of substituting these special wage employees for regular wage employees.

We have had very rough experience with proof of pattern or practice. Plenty of violations must take place before you can prove a pattern or practice, and the point made by the majority leader, which I think is the big, valid one here, is that none of these amendments, including Senator DOMENICI's amendment, provide for additional employment. If the employer does not have additional jobs, he may still substitute these lower wage employees for other employees he might hire at the full minimum, or more.

That is why, in my opinion, it is proper to say that the enforcement problem in that respect is a very difficult one, and I join the Senator from New Jersey (Mr. WILLIAMS) in emphasizing the fact that we have really, I think, completely explored this subject, and I think every Senator knows how he feels.

SEVERAL SENATORS. Vote! Vote!

Mr. WILLIAMS. Mr. President, I yield back the remainder of our time.

Mr. DOMENICI. Mr. President, I want to make just one observation for those who, for various reasons, think this is not a good amendment. One of the finest things we have done in the minimum wage law was to create the full-time student differential which allows a full-time student to work 20 hours a week. He is not a head of a household; neither will the people covered by amendment No. 1405 be heads of households. That 20-hour-a-week student differential rate has put 500,000 young people in jobs. They are not up here today complaining about that provision and you do not find them complaining in your home States.

We recently expanded CETA, the comprehensive Employment and Training Act, to put young people in training jobs in our cities, counties, and States. I supported the Youth Employment Act. We are going to spend $1.3 billion on that program, but we are not going to produce as many jobs as the existing student differential wage rate has.

Who do we want to let go to work? Young people who are full-time students? Do we want to discriminate against young people who, for some reason, are not in school but are looking for jobs? If that is not turning a policy on its head, I do not know what is. Instead of the students, we ought to let those who are not students have an opportunity to get a job under a youth differential. Some years ago someone lucked out and got that student differential enacted into law. Now we are going to stick with it, defying reality, instead of trying something new.

As youth unemployment grows, even as additional jobs grow, we will do nothing new to help our young people. We will just leave it like it is because the opponents say that youth opportunity wage legislation, in some way that I cannot understand, is going to hurt someone

The mayor of Newark, N.J., who is confronted by tremendous social problems, unequivocally stated before the Budget Committee that he would prefer no minimum wage for his young people. We are not asking for that. One of the distinguished city councilmen from Washington, D.C., just before he died, prepared a local youth differential wage bill. He was a black man who was deeply concerned about the unemployed youth in this city. He said:

> If there are jobs and our young people cannot get them, let us try to give somebody an incentive to hire them. We are not taking jobs from anyone.

Mr. President, we have generated 6.3 million new jobs in the last 2 years with our antirecession efforts, and yet our youth unemployment continues to grow.

Mr. HANSEN. Mr. President, will the Senator yield for just a minute?

Mr. DOMENICI. I am delighted to yield to the Senator from Wyoming.

Mr. HANSEN. Let me make the point that in the State of Wyoming we have one 4-year university granting degrees, and seven junior colleges. One of the most compelling reasons that asserts the wisdom in the judgment of the legislature in the creation of these junior colleges has been to expand educational opportunities by providing a chance for students to have part-time work. That has made a real difference, and we have more people, I would suspect—I have not checked the figures this year—in the combined enrollment of the junior colleges than we have in the University of Wyoming. A lot of those young students would not be in school today if it were not for the availability of the jobs that they were not trained and not prepared for, but that still are there to be made available to them, at a price. Without part-time work they could not afford to be in school.

I would hope very much that this amendment by the distinguished Senator from New Mexico could carry this afternoon.

Mr. DOMENICI. Mr. President, I yield back the remainder of our time.

Mr. WILIAMS. Our time is already yielded back.

The PRESIDING OFFICER (Mr. ABOUREZK). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG (when his name was called). Mr. President, I have a pair with the distinguished Senator from Minnesota, Mr. HUMPHREY. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—44

Allen	Garn	Roth
Baker	Goldwater	Schmitt
Bartlett	Griffin	Schweiker
Bellmon	Hansen	Scott
Bumpers	Hart	Sparkman
Byrd, Harry F., Jr.	Hatch	Stennis
	Hatfield	Stevens
Cannon	Hayakawa	Stevenson
Chafee	Helms	Stone
Chiles	Hollings	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Lugar	Tower
Dole	Morgan	Wallop
Domenici	Nunn	Young
Eastland	Percy	Zorinsky

NAYS—49

Abourezk	Glenn	Metcalf
Anderson	Gravel	Metzenbaum
Bayh	Haskell	Moynihan
Bentsen	Hathaway	Muskie
Biden	Heinz	Nelson
Brooke	Huddleston	Packwood
Burdick	Jackson	Pell
Byrd, Robert C.	Javits	Proxmire
Case	Johnston	Randolph
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stafford
DeConcini	Matsunaga	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	
Ford	Melcher	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for

NOT VOTING—6

Humphrey	McClellan	Pearson
Inouye	McClure	Ribicoff

So amendment No. 1405 was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

TIME-LIMITATION AGREEMENTS

Mr. ROBERT C. BYRD. Will the distinguished Senator yield to me?

Mr. SCOTT. Yes, I yield.

Mr. ROBERT C. BYRD. I ask unanimous consent that, on the amendment that is about to be called up by Mr. SCOTT, there be a time limitation of 40 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on the amendment that will be called up by Mr. CURTIS, there be a 10-minute limitation, to be equally divided in accordance with the usual form.

Mr. CURTIS. And if the committee accepts my amendment, it will be reduced to 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1416

(Purpose: To authorize an older Americans minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. SCOTT. Mr. President, I call up my amendment 1416 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 1416.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"EXPANDING EMPLOYMENT OPPORTUNITIES FOR OLDER AMERICANS

"SEC. 5. (a) Section 14 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"'(e)(1) Notwithstanding the minimum wage rate required by section 6, any employer may employ any employee—

"'(A) to whom such rate shall apply but for this subsection; and

"'(B) who has attained sixty eight years of age or is older,

at a rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)) without prior or special certification by the Secretary.

"'(2) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than persons to whom the minimum wage rate authorized by this subsection is applicable.'.

"(b) Section 13(a)(7) (27 U.S.C. 213(a)(7)) is amended to read as follows:

"'(7) any employee to the extent such employee is exempted by regulations, order or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(e); or'".

On page 12, line 11, strike out "SEC. 5." and insert in lieu thereof "SEC. 6.".

Mr. SCOTT. Mr. President, I call for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, the purpose of this amendment is to provide a greater opportunity for older Americans. It would provide that workers otherwise subject to the minimum wage who are 68 years of age or older could be employed at not less than 75 percent of the appliable Federal minimum wage.

As you know, Mr. President, there is considerable comment at this time about raising the age for retirement of citizens generally.

Mr. STENNIS. Mr. President, I make a point of order. The Senator is entitled to the opportunity to be heard, and any Senator who wants to listen is entitled to hear him.

The PRESIDING OFFICER. The Senator's point is well taken. The Chair asks all Senators and other people besides Senators in the Chamber to kindly cease their conversations so the Senator can be heard.

The Senator will suspend briefly until we obtain order in the Chamber.

The Senator will proceed.

Mr. SCOTT. Mr. President, as you know, there is considerable comment at this time about raising the age for retirement of citizens generally and some who feel that all age limitation upon employment should be eliminated. Nevertheless, I believe that industry does tend to consider age as a factor regardless of any existing or prospective legal requirement on the subject.

An employment official apparently would prefer to have a person with the vigor of youth or middle age to that of an older American to do any work requiring physical exertion and perhaps there may even be some who feel that people over 68 may not be able to think as quickly or as clearly as one in his thirties, forties, or fifties. Therefore, in my opinion, this amendment would permit an older person to compete on a more equitable basis in the job market with younger people. Even those drawing social security or other retirement pay could work for a lower rate, full- or part-time, if they chose to supplement their retirement pay, without penalty in some cases.

I understand that the House Ways and Means Committee has approved a measure raising the amount a social security annuitant can receive, without reducing his social security benefits, to $4,000 with the prospect of it being increased to $4,500 a year later and that our own Finance Committee has under consideration a proposal to increase the earning ability, without loss of social security benefits to $6,000, which, of course, is twice the present amount that an annuitant can earn without suffering a loss in benefits.

Mr. President, there is also a psychological feature involved in that older people want to be a part of our society, performing a useful function, earning their own way, feeling important and wanted, rather than to believe that they no longer have anything to contribute to society and no one cares about them. Loneliness, in my opinion, is one of the major problems faced by an older person. Although we do have millions of older Americans living in poverty, or near the poverty borderline, who might well be employed if they did not have to compete on the same basis with those who are more physically fit, because they are younger or perhaps even more mentally alert. My amendment is somewhat akin to providing a handicap to the older Americans as we might to someone in a golf game, or in some other competitive activity.

Let me add that our office receives mail from time to time from citizens on social security or receiving veterans' benefits who appear to be confused as to some of the Government regulations regarding their earning limitations and I believe that if we would permit older Americans to work for three-fourths of the amount of the otherwise applicable minimum wage, without any termination date upon their eligibility, with an opportunity to take advantage of seasonal work or without any restrain upon the number of months or hours they could work within a given trade or craft, we would be providing greater opportunities

and greater happiness for the older American.

Now, of course, Mr. President, we all realize that there are professional people; maybe some operating their own business who earn far in excess of the minimum wage and would not in any manner be affected by this amendment. It would have no effect upon older people whose skills or expertise are in demand, but I believe would tend to provide a happy, creative, occupied, compensated lifestyle and peace of mind for our older citizens unable to compete, because of advancing years.

Frankly, there is no magic in the selection of 68 as the age of reducing the minimum wage requirement to 75 percent of the regular requirement. I had originally thought of 65 years but suggestions are being made that there be no compulsory retirement of civilian employees and laws have been passed to prevent discrimination of individuals in employment opportunities because of age, and, yet, I doubt that any Member of this Chamber believes that a private company would employ a person 68 years or older, or would train him to do a required job as readily as it would employ someone at half his age.

There are, however, a great many people over 68 years of age who are either retired or unemployed, or who were they given a reasonable opportunity to make use of their skills and to contribute to society in a meaningful way, would welcome the opportunity to work, either on a full-time or a part-time basis. It is to these persons, the discouraged older worker, who may wish to be employed but who cannot find work, or who would want to work if the opportunity were presented, that my amendment is essentially directed. I understand that Department of Labor statistics show that only 12 percent or 2.8 million of the 23 million persons 65 years of age or over are in the Nation's civilian labor force. In August, according to the Department of Labor, more than 120,000 persons 65 years of age or over were looking for work but were unable to find suitable employment. In the event this amendment should be adopted and a minimum wage differential was provided for those 68 years of age or older, I believe there would be an opening of some additional job opportunities and employers would be given an added incentive to provide job opportunities for older Americans.

We have had amendments offered, Mr. President, taking note of the difficulties faced by younger workers, youth opportunity wage differentials, and I have supported these amendments but in the case of older Americans we have a narrowly defined segment of the population, 68 years of age or older, who may even feel more helpless, more out of the socioeconomic mainstream, persons confronted with special employment difficulties somewhat different from those faced by younger people. Youth is just beginning to develop skills and industrial discipline while older Americans, for the most part, already possess skills, some very highly developed, expertise that may be of considerable advantage to the employer and to our economy generally and, yet, are not given an opportunity to utilize this skill and knowledge, because of their age. One, of course, may slow down a bit as he advances in age, he may be ill with a greater degree of frequency, he may possess some impediment that a younger person does not, but we need to think not only as a youth oriented society but one which is sympathetic so the special problems experienced by those in advancing age.

Some added benefit should be given to encourage an employer to hire an older person and I believe this amendment, to permit such persons to work for as little as 75 percent of the established minimum wage is such an incentive. I would hope that my colleagues will all give thoughtful consideration to this amendment and perhaps we might think of the people within our own circle of friends or relatives who feel left out with advancing age, who feel lonesome, who would be encouraged by doing useful, productive work once again.

Mr. President, there may well be a difference of opinion within the Senate as to the effect, if any, a raise in the minimum wage generally will have upon the overall employment problems in the country. There are many who believe that increasing the minimum wage will also increase unemployment but be that as it may, I believe that upon reflection we can understand that limiting older Americans, those 68 and above, to 75 percent of the established minimum wage will tend to counter any disadvantage to older Americans by an increase in the minimum wage requirements and I believe this amendment is in the interest of both the senior worker and society generally. It will tend to cause employers to reach out to older persons, encourage them to reenter the world of service, to remain intellectually alive and vital, to utilize their talents and skills and their wisdom that might otherwise be lost to society, a society that needs these people and certainly older Americans need the benefits that would be provided by continuing to feel like useful human beings.

Mr. President, I urge my colleagues to adopt this amendment.

Mr. WILLIAMS. I yield myself 2 minutes in opposition to the amendment.

Mr. President, I can be very brief in reply on this matter. I have two communications, from which I will quote briefly, and I will ask unanimous consent to have them printed in the RECORD.

One is from the National Council of Senior Citizens. Their conclusion:

Senator WILLIAMS, we urge you and your colleagues in the Senate to do everything in your power to oppose those individuals who support the subminimum wage in the guise of promoting employment for the elderly.

In the interest of time, I will not read it all. But this is a compelling statement from an organization that is universally respected. The National Council of Senior Citizens strongly opposes this approach to "helping older people." They feel it is just the opposite. It puts them in a category that reflects a feeling that they are worth less than those who are of younger years.

The other communication is from the National Council on the Aging. I will read two portions of this letter, which is addressed to me, also:

Supporters of a sub-minimum wage also ignore the economic need that forces many older people to seek jobs. NCOA sponsored a Louis Harris Survey of national attitudes toward again that reveals the severity of economic need among older job seekers: Forty-three percent of respondents over age 65 who wanted to work were trying to live on less than $3,000 a year. What a cruel hoax it would be to promote jobs for these people at inadequate wages.

* * * * *

In the long run, this approach can only work to the detriment of job seekers. In the short run, it promotes the belief that older people are second class citizens deserving of second class rights. We hope the Senate will not consider such a regrettable proposal.

This, very briefly, describes the core principle here involved—whether our senior citizens 68 and over should be treated less than equally and given a subminimum. We say no.

Mr. President, I ask unanimous consent to have the letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 7, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: It has come to our attention that there may be an amendment offered on the Senate floor during consideration of the Minimum Wage bill that would provide for a subminimum wage for senior citizens.

The position of the National Council of Senior Citizens is simple. We strongly oppose such a measure and do so for the same reasons we oppose a subminimum wage for teenagers.

The very implication of "subminimum" runs against the American grain and we believe that every day sees growth in the numbers of Americans who would fight against discrimination and bias of every sort. The notion of creating a second-class citizenry is increasingly abhorent to the people of this country.

The National Council has always fought on behalf of senior citizens and has done so mindful of the interests of the nation as a whole. We will never ask for special treatment and we oppose any attempt to place senior citizens in a separate category. Clearly, this subminimum wage proposal smacks of discrimination and of unequal treatment.

Our experience over the past ten years in operation of Senior AIDES, a senior citizens community service program, on behalf of the U.S. Department of Labor has demonstrated the enthusiasm, dependable, experienced service which elderly workers perform—frequently they outperform some of their younger colleagues. You should note that our National Council of Senior Citizens' Senior AIDES Program employs over 7,000 elderly workers in projects in 108 cities at an average wage of $2.90 per hour right now, and our aim is the prevailing wage rate.

Though we maintain the foregoing ethical and moral arguments are sufficient in themselves to deny the concept of a subminimum wage for seniors, we believe the economic arguments against the subminimum wage are considerable and worth noting.

A subminimum wage would amount to an across-the-board, arbitrary subsidy to busi-

ness at the expense not only of the loss of jobs for many of our children and grandchildren, but surely at the expense of our poorer members as well.

The concept of the subminimum wage was the subject of a U.S. Department of Labor study in 1970. The report studied the effects of a subminimum wage on teenage unemployment. The conclusion of the report stated that the various studies failed to establish any relationship between youth unemployment and the minimum wage. There is no reason to believe a subminimum wage would affect the unemployment of senior citizens.

The fact is, the answer to the problem of unacceptably high unemployment of all age groups in this country, especially among youth and senior citizens is not a subminimum wage but a national policy accompanied by a commitment of action to bring about full employment. Any measure short of full employment should be totally unacceptable to the American tradition.

Senator Williams, we urge you and your colleagues in the Senate to do everything in your power to oppose those individuals who support the subminimum wage in the guise of promoting employment for the elderly.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

NCOA, WASHINGTON, D.C.,
October 7, 1977.

Hon. HARRISON WILLIAMS,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: As the Senate debates minimum wage legislation, the National Council on the Aging wants to go on record in forceful opposition to the concept of sub-minimum wages for older workers. It is misguided to promote such a wage standard as a solution to the employment problems faced by our older citizens. This so-called incentive to hire does little but erode the gains of equal employment opportunities and subvert the principle of equal pay for equal work.

The implication of a sub-minimum wage is that the efforts of older workers are not deserving of full compensation. Numerous studies have proven that the older workers are as capable as younger employees. For example, supervisors who rated over 3,000 workers aged 60 and older in 81 organizations said older workers were as good as or *superior to* average younger workers with reference to dependability, judgment, work quality, volume, human relations and absenteeism.

Supporters of a sub-minimum wage also ignore the economic need that forces many older people to seek jobs. NCOA sponsored a Louis Harris Survey of national attitudes toward aging that reveals the severity of economic need among older job seekers: Forty-three percent of respondents over age 65 who wanted to work were trying to live on less than $3,000 a year. What a cruel hoax it would be to promote jobs for these people at inadequate wages.

The concept of sub-minimum wages for any worker is of questionable value. Creation of a cheap labor force offers incentives to employers to push out full-wage earners—many of whom may be older workers forced into early retirement—so that cheaper labor can be hired.

In the long run, this approach can only work to the detriment of job seekers. In the short run, it promotes the belief that older people are second class citizens deserving of second class rights. We hope the Senate will not consider such a regrettable proposal.

Sincerely,

JACK OSSOFSKY,
Executive Director.

Mr. SCOTT. Mr. President, I appreciate the comments of my distinguished colleague from New Jersey.

A job is better than no job. I believe we would have more jobs for older Americans in the event this amendment were adopted.

I am ready to yield back the remainder of my time if the floor manager is willing to do so.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Martin Jensen of my staff have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 14, nays 77, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—14

Bartlett	Hatch	Long
Bellmon	Hayakawa	Scott
Curtis	Helms	Tower
Goldwater	Hollings	Wallop
Hansen	Laxalt	

NAYS—77

Abourezk	Eagleton	Morgan
Allen	Eastland	Moynihan
Anderson	Ford	Muskie
Baker	Garn	Nelson
Bayh	Glenn	Packwood
Bentsen	Gravel	Pell
Biden	Griffin	Percy
Brooke	Hart	Proxmire
Bumpers	Haskell	Randolph
Burdick	Hatfield	Roth
Byrd, Harry F., Jr.	Hathaway	Sarbanes
Byrd, Robert C.	Heinz	Sasser
Cannon	Huddleston	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Clark	Leahy	Stevens
Cranston	Lugar	Stevenson
Culver	Magnuson	Stone
Danforth	Mathias	Talmadge
DeConcini	Matsunaga	Thurmond
Dole	McGovern	Weicker
Domenici	McIntyre	Williams
Durkin	Metcalf	Young
	Metzenbaum	Zorinsky

NOT VOTING—9

Humphrey	McClure	Pearson
Inouye	Melcher	Ribicoff
McClellan	Nunn	Riegle

So amendment No. 1416 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

VISIT TO THE SENATE BY THE DEPUTY PRIME MINISTER, THE SECRETARY FOR FOREIGN AFFAIRS, AND AMBASSADOR OF NEW ZEALAND

Mr. SPARKMAN. Mr. President, we have several distinguished guests with us this afternoon. They are the Honorable Byron Talbays, the Deputy Prime Minister of New Zealand, accompanied by the Honorable Frank Corner, Secretary for Foreign Affairs, and the Honorable Lloyd White, Ambassador from New Zealand. They are in the rear of the Chamber.

I ask our guests to stand so that Senators may see them.

[Applause.]

RECESS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members might meet our friends from New Zealand.

There being no objection, the Senate, at 4:02 p.m., recessed until 4:07 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1871.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1038

Mr. DECONCINI. Mr. President, I call up a printed amendment numbered 1038 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an amendment numbered 1038.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, insert between lines 17 and 18, the following:

"LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

"SEC. 5. (a) Section 14 is amended by striking '85 per centum' each place it appears and substituting '74 per centum'.

"(b) Section 14(b)(4)(B) is amended by striking 'four' each time it appears and substituting 'six'.

"(c) Section 14(c) is amended by adding at the end thereof the following new paragraph:

"'(4) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

On page 12, after line 25, add the following:

"(c) The amendments made by section 5 shall take effect on January 1, 1978.".

Mr. DECONCINI. Mr. President, I wish to modify that amendment reverting back to the 85 percent as now exists in section 14 of the Fair Labor Standards Act. This amendment will modify section 14 of the Fair Labor Standards Act regarding the payment of a lower minimum wage to full-time students.

Section 14 permits employers to pay full-time students at the rate of 85 percent of the prevailing minimum wage providing the employer adheres to certain restrictions.

We have heard a lot of arguments today about the success of the youth differential. Actually it has not succeeded. Less than 50 percent of the businesses that could use it use it today. However, it has brought more than 500,000 youth into the employment market.

I think it is important, Mr. President, that we address the problem regarding youth where it will actually work.

Contained in section 14 is a requirement which restricts the number of full-time students an employer may hire. An employer may receive certification to hire up to four full-time students with relatively moderate paperwork. However, if an employer wishes to employ more than four full-time students the paperwork increases dramatically.

My amendment will revise these provisions by:

First. Expanding from four to six the number of full-time students an employer may hire without having to enter into extensive and time-consuming paperwork.

Second. Exempting employers from the limitations as to the number of full-time students he may hire, providing the employer can show that such an exemption will not have an adverse effect upon full-time employment.

I am aware that businesses have not made extensive use of the current provisions in section 14. However, by increasing the number of students an establishment could hire, would, in my judgment, provide additional incentives for employers to hire more full-time students.

I am opposed to the amendments offered by Senators DOMENICI and SCHWEIKER. By providing a subminimum wage for all persons under 20 years of age, I fear we might be creating an incentive for students to drop out of school to work. This would be especially true in the case of borderline students or young people whose background might easily lead them away from the education they need to be successful in our society.

The PRESIDING OFFICER. Will the Senator send his modification to the clerk's desk?

The modification is as follows:

On page 12, insert between lines 17 and 18, the following:

tations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

On page 12, after line 25, add the following:

"(c) The amendments made by section 5 shall take effect on January 1, 1978.".

Mr. DECONCINI. Mr. President, I wish to modify that amendment reverting back to the 85 percent as now exists in section 14 of the Fair Labor Standards Act. This amendment will modify section 14 of the Fair Labor Standards Act regarding the payment of a lower minimum wage to full-time students.

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Second. Exempting employers from the limitations as to the number of full-time students he may hire, providing the employer can show that such an exemption will not have an adverse effect upon full-time employment.

I am aware that businesses have not made extensive use of the current provisions in section 14. However, by increasing the number of students an establishment could hire, would, in my judgment, provide additional incentives for employers to hire more full-time students.

I am opposed to the amendments offered by Senators DOMENICI and SCHWEIKER. By providing a subminimum wage for all persons under 20 years of age, I fear we might be creating an incentive for students to drop out of school to work. This would be especially true in the case of borderline students or young people whose background might easily lead them away from the education they need to be successful in our society.

The PRESIDING OFFICER. Will the Senator send his modification to the clerk's desk?

The modification is as follows:

On page 12, insert between lines 17 and 18, the following:

"LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

"(a) Section 14(b)(4)(B) is amended by striking 'four' each time it appears and substituting 'six'.

"(b) Section 14(c) is amended by adding at the end thereof the following new paragraph:

"'(4) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

The PRESIDING OFFICER. The Senator may proceed.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield to the Senator from Texas.

Mr. BENTSEN. Let me state my support for the Senator's amendment. As I understand it in this type of situation it also provides for a simplification, in effect, of the application for it. It uses a much easier method than otherwise.

Mr. DECONCINI. The Senator from Texas is correct.

Mr. BENTSEN. Small businesses do not have a group of lawyers to do it. They can do it on a very simplified form.

Mr. DECONCINI. I also point out to my colleagues that the Senator from Wisconsin (Mr. NELSON) today had an amendment agreed to that would streamline the paperwork and make section 14 even easier for small businesses to avail themselves.

Mr. BENTSEN. I understand they have the application down from five lines to three lines; is that correct?

Mr. DECONCINI. That is right. Hopefully we can do it by telephone.

The provisions in my amendment modify existing law to encourage the employment of students on a part-time basis during the school year with the possibility of full-time employment during periods of vacation. Thus, a situation will be created in which a student could remain in school, gaining the necessary education for future full-time employment, and also work part-time, allowing him or her to receive the work experience that will be beneficial in later years.

Further, it has been my experience that many students are not able to complete school without the financial assistance provided by a part-time job. I believe the concept embedded in existing law is a step in the right direction; but, I also believe that broadening the concept—as my amendment does—would greatly improve the opportunities for full-time students.

This amendment will also prove beneficial to businesses. In Arizona, as in many other States, many jobs, because of the tourist industry, are seasonal or require quite a few part-time employees. Restaurants, hotels, recreational businesses are but a few of the businesses requiring employees of this nature. With the adoption of my amendment, these establishments will be able to maintain and possibly expand their services.

Mr. President, I hope that my colleagues will give serious consideration to this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I am very sympathetic to this amendment, and I hope we can dispose of it very quickly, if the Senator will follow me for a minute.

In the first place, I would be opposed to it if the Senator did not retain the 85 percent. I understand the Senator proposes to modify the amendment, but I do not know whether that modification has come forward properly.

What should, then, be done would be to strike what is here listed as section 5(a) of the amendment.

Mr. DECONCINI. That has been done.

Mr. JAVITS. That has been done. Then the second thing is the change from "four" to "six". That is all right, but the staff does not understand what the Senator has in mind in the next paragraph, for this reason: If it applies to what the Senator is changing from four to six, this provision, on page 2, lines 5 to 9, would nullify it, because the Senator there says "the Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection 14(b)(4)(B)." Therefore, we think that needs to be stricken.

Other than that, I have no objection to the amendment if you clear it up, so that you keep exactly the same terms and conditions as we now have in the law, except that you increase the four to six, unless there may be some other reason which I cannot detect on the surface of the amendment.

Mr. DECONCINI. Mr. President, the Senator from New York is accurate in his interpretation. This permits the Secretary to waive all of the provisions in the existing law provided there is proof that no full-time employee would be displaced by exceeding the number of people set forth in the amendment.

Mr. JAVITS. I do not think we want to waive all the provisions of the existing law. What I am willing to take is the existing law, but raising the number four to the number six. That, I think, is an intelligent amendment which I would be happy to see taken to conference and would fight for, because I think we should provide as many opportunities in this field as we can.

Mr. DECONCINI. It is my view Senator, that in the best interests of providing the ability to put students to work on a part-time basis, the law should be flexible enough to permit the Secretary to make the exemption. It is not mandatory; he is going to comply with six if this amendment is adopted, and could make exceptions only under circumstances where a full-time employee would not be thrown out of work.

Mr. JAVITS. But that can be done if you just make it six. What worries me about this other provision is that it can be any number, if he gives an exemption, and the problem with exemptions is, it means machinery and action of the Labor Department, and we are dealing with hundreds of thousands of applications.

As the Senator knows, there are 500,000 young people employed under this section. So my feeling is that I am with

you, but I think you are taking us farther than I have any intention of going. If you just increase the four to six, it is fine with me.

Mr. DECONCINI. Mr. President, I introduced this amendment on a 74 percent basis because I thought it would really move in the direction of employing even more students, but at the urging of my colleagues changed the 74 percent to 85 percent. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to be recognized in opposition to the amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I propose, when it is time to yield back the time on the amendment, to move to strike lines 5 through 7, inclusive on page 1, and lines 3 through 9, inclusive, on page 2. That would do what I think, as I understood it, the distinguished Senator's purpose was in making this amendment, to wit, to increase the number from four to six.

But if the Senator persists in his amendment, we should all understand what he is proposing to do. He is proposing to do not one thing, but three things. The one thing which I would thoroughly agree with, and that is why I rose to speak—I hopefully thought this was going to be handled very expeditiously—was to increase from four to six the number of full-time students who could be employed at less than the minimum wage, at 85 percent.

But the other two points which are covered by the amendment are, first, that the 85 percent is reduced to 74 percent. I do not know where that figure comes from, but that is it, 74 percent.

The other point is that in addition to increasing the number from four to six, the Secretary of Labor may, by regulation or order, exempt as many as he wishes to. It could be 2 million.

It is true, as the Senator says, that that is in his discretion, but we all know that when you are dealing with such a numerous body of applicants, machinery has to be set up for the purpose of passing on exemptions, et cetera, and you are moving into a totally different ball game.

We do not contemplate that in this particular section. We never did, under the Fair Labor Standards Act; and so I again appeal to my colleague. I would hope very much that he would take this amendment and limit it to the fundamental purpose which we understood he had, and then we can take it and go forward to other business.

Mr. DECONCINI. Mr. President, I do thank the Senator from New York. Initially my amendment did reduce the 85 percent to 74 percent. I modified that amendment now so that it is 85 as is presently in the existing law. So that does away with the first point or objection.

On the second point, the Senator from New York is absolutely correct, it does increase it to 6.

The third grant only points the authority to the Secretary: "may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment."

I think this is very reasonable. It does not mean that it is going to be expanded. It only grants to the Secretary the authority to do this upon a definite showing by the employer.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The first did not have the 75 percent, or whatever it was, stricken. The second point still does remain, to wit, we are opening up a totally new channel and bureau in the Department of Labor which has no limit. It can go to any amount. The pressures upon the Department of Labor will naturally be very great. The Department will have to set up machinery to attend to this. It does not seem that that is the fundamental thrust that we want to give the Fair Labor Standards Act.

We are perfectly willing to increase from 4 to 6, which is a one-third increase. Let us see how that works before we set up some totally new piece of machinery for some totally new purpose.

Mr. DECONCINI. If the Senator will yield, the Senator said something about creating a new agency. This will be right in the Secretary's office. We are not talking about a new agency. We are talking about the Secretary exercising his judgment based on what the employer shows, and the Secretary has to make a judgment as to whether or not full-time employees would be put out of work.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is the amendment divisible?

The PRESIDING OFFICER. The Chair will advise the Senator from New York that the amendment is divisible.

Mr. JAVITS. Mr. President, I request division of the amendment.

The PRESIDING OFFICER. Will the Senator state how he would like the division to be?

Mr. JAVITS. As I understand the first division would be through page 2, line 2, and the second division would be page 2, lines 3 to 11.

The PRESIDING OFFICER. The second would be a division on page 2, lines 3 through 11?

Mr. JAVITS. Mr. President, we will not have any problem on that.

The PRESIDING OFFICER. The amendment is so divided.

Mr. JAVITS. Mr. President, I am happy to accept the first part of the amendment.

Mr. WILLIAMS. I join with the Senator in that.

The PRESIDING OFFICER. The question is on agreeing to division 1 of the amendment.

Division 1 of the amendment was agreed to.

Mr. JAVITS. On the second part, Mr. President, I hope very much the Senate will reject it. It is an open-ended proposition for a subminimum wage for college students, generally speaking, in higher institutions, though it can be any full-time students. It has no limit. We have already taken six. In fact, the Labor Department today has a very major backlog of problems in dealing with this particular section of the law. They have enormous investigating responsibilities to meet. It may interest Members to know that the backlog of minimum wage and over-time complaints has now risen about 24 percent in the last year. It is up to about 21,000.

This is a purely administrative problem. Sure, it will be in the same Department of Labor. I do not say no to that. But they have to have a separate staff, separate rules and regulations, and separate considerations of literally thousands of applications. If it is 4 or 6, there are 500,000 such youths employed, so right now there are 100,000 applications. If we go to six, we are again talking about thousands. The thing just does not add up in terms of this bill.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS. I believe I am accurate in observing that we have gone from four to six. We thought this would be the group which was to be benefitted by the simplified procedures that we passed earlier, when we adopted the amendment of the Senator from Wisconsin (Mr. NELSON). We were trying to make it easier to certify jobs for young people, full-time students, by simplifying procedures. But now I think we would establish a procedure which would work absolutely to the contrary of what the Senate has earlier today done in simplifying procedures.

Is there any possibility that I am wrong on that?

Mr. JAVITS. No; the fact is that it will not put a collar of procedure around it as to six, but it opens up a whole new backlog of cases and applications which run into the thousands. It is an enormous administrative problem which we are giving to the Secretary. As far as we are concerned, we are giving it without any limit. Remember, these jobs, which we do favor, nonetheless may tend to displace adult workers. We simply should not open it up without any constraint whatever as to number. We have already agreed with the Senator about the number of six.

Mr. DECONCINI. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. DECONCINI. The Senator makes reference to college students. This applies to any student, not just college students.

Mr. JAVITS. I understand.

Mr. DECONCINI. Second, if the Secretary and his department cannot handle it, I am not asking for an expansion of that department, but I am asking for them to have the authority to grant an exemption when there is no adverse effect upon full-time employment. That is relatively easy. If we really believe in the full-time student subminimal wage, then this is the proper thing to do.

Mr. JAVITS. It is true the Senator may think he is asking for that, but, as a matter of fact, when the Secretary is given this discretion, there will be thousands of applications to exercise the discretion upon, and he will have staff. He does not do this himself. This is an enormous department. He will have to establish machinery in order to take care of these applications and exemptions. Having gone to the higher number, we just do not see why this should be absolutely open-ended. Senator WILLIAMS and I agree on that. Frankly, I do not understand why the Senator is pressing it so hard. We have given the Senator an enormous bite at this thing with many, many more, and I am delighted to see that. But do not put us in this position of an absolutely open-ended proposition which requires some new department or agency, where we do not know what the number will be, or anything else.

Mr. DECONCINI. If the Senator will yield, this to me, is not a valid argument. This is to create jobs for full-time students. It is to give some incentive to business. If business wants to come in and say, Hey, we would like seven, or we would like something else, it is in the discretion of the Department of labor to say yes or no. But before saying yes or no, they have to come to the conclusion that there is going to be no adverse effect on full-time employment. That does exactly what the Senator wants to do, protect the heads of households or full-time employees.

I support that. I voted against some other efforts here today, because of the main argument that we do not want to put people who are heads of households out of jobs, or full-time employees.

Mr. WILLIAMS. Mr. President, I do not know whether it is timely yet, but we have been discussing this amendment all afternoon. Quite frankly, the full import was not discussed. I was rather pleased with this approach, permitting the employment of six student workers rather than four, as long as the wage rate did not go below 85 percent of the statutory minimum. But this amendment now, as outlined for my illumination, right here on the floor, by the Senator from New York, make this an entirely new amendment from the one I was applauding.

This part was not described to me until now, and is not one I could agree to. I certainly approve the expansion of the employment opportunity from four to six. I also approve keeping the wage at 85 percent of the minimum. The amendment has been divided. If the time is right, I move to table this second part of the division.

The PRESIDING OFFICER. The motion is not in order until all time has been used up or yielded back.

Mr. WILLIAMS. I yield back my time.

Mr. DOMENICI. Mr. President, may I ask a question on the time of the Senator from Arizona?

The PRESIDING OFFICER. Does the Senator from Arizona yield?

Mr. DECONCINI. I yield.

Mr. DOMENICI. Will either of the floor managers tell me what the new simplified application that we agreed to today is?

Mr. WILLIAMS. Yes; it boils down to three questions. Senator NELSON offered the amendment. The three questions are very simple.

Mr. JAVITS. The three questions are: First, the name, address, and business of the employer; second, the expected proportion of the student hours of employment to the total hours of employment of all employees for the employer on a weekly, monthly, or annual basis, which shall not exceed 10 per centum; and third, certifying that the employment of such students will not create a substantial probability of reducing the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.

So he can just answer no. That is all there is to this new simplified application.

Mr. DOMENICI. It appears to me that the Senator from Arizona, in changing from four to six, if the managers are willing to accept that, has created as much work with that as he is going to create with the second part, because he can use the same form the Senator from New York just described, put a little note on it that, as a matter of law, you cannot have more than six, but put in an application if you want eight and make the same findings, yes or no. I do not know why the objection is one of paperwork. The objection may be one that we do not want more than six.

Mr. JAVITS. No, I am sorry, but the Senator is quite wrong. The exception is that this is in the discretion of the Secretary as an exemption, based on a specific state of facts in a specific case, and he has to pass on every case. That is what this says.

I am talking as a lawyer now, not as an advocate.

Mr. DOMENICI. What is the last question about proving that you can have six if the new amendment is adopted—do you not have to find no adverse effect on adult employment?

Mr. JAVITS. The last requirement says that he certifies that the employment will not create a substantial probability of reducing the full-time employment of others.

All he has to say is no. That is as to the four or six. Now the Senator from Arizona wants to give him an open-ended proposition. There may be 100, there may be 80, there may be 20, and he is going to give him the discretion to decide there should or should not be an exemption in a given case. It is a very different thing from this.

Mr. DOMENICI. I agree that if the form is that, the Secretary, prima facie, makes the determination.

Mr. JAVITS. Of course.

Mr. DOMENICI. Does the Senator from New York think——

Mr. JAVITS. The Senator from New New Mexico knows what is going to happen here. There are hundreds of retail establishments, hundreds of colleges. Does he think they are going to let the Secretary of Labor rest? The Senator and I and all of us are going to be knocking down his door, saying "We want for Joe Doaks in Coopertown, New York, eight, 10, 12," whatever it is. This is a different question from the number. We have agreed to the number: Six. This is a totally new program.

That is what I say. If the Senate wants to go in for a new open-ended program of this kind, that is what the Senator from New Mexico is asking us to do.

Mr. DOMENICI. May I say to the Senator from Arizona that I think it is an excellent idea, since the Senate has not adopted any other youth differential. The one we have now gives us 500,000 jobs, the one he is seeking to amend. From my standpoint, I hope he will not agree to delete it. Let us vote. The Senate understands it. They may be willing to say to the Secretary, "Set up whatever you have to set up. Another half million student jobs is what we would like to have."

I hope that does not hurt his argument, but that is the way I look at it. I commend him for putting in the amendment.

Mr. HANSEN. Will the Senator yield to me for a question?

Mr. DECONCINI. I yield.

Mr. HANSEN. It seems to me, Mr. President, that we may be looking at the wrong side of the coin. I assume that most of us agree that one of the most helpful things that can be done in order to achieve upward social mobility is to gain an education, or to improve one's education. I happen to know, as a former trustee of the University of Wyoming—I was on the board for 17 years, and later I was an ex officio member for 4 more years—that the ability to find part-time work oftentimes makes the difference in a student's being able to continue his education and his being denied the opportunity to continue the education.

I think what we ought to be looking at is not to examine the motivation that may impel an employer to go to the Secretary and say, "Let me have more exemptions," but, rather, to look at the students and to understand what their problems are. I mentioned earlier this afternoon that we have one 4-year university, a degree-granting institution, in the State of Wyoming, and we have seven junior colleges. For a long time, as a member of the board of trustees at the University of Wyoming, we thought that the creation of these junior colleges would be harmful to the enrollment of the University of Wyoming. The board generally opposed the creation of junior colleges. Finally, the experience the other States were having and had had impelled

us to change the position that had been taken by the board of trustees and, with the concurrence of the legislature, junior colleges were established one after one.

Two important things took place: Lots of young people were able to stay at home and have the economies that resulted from not having to move away from home to go to school; other students from out of town or those who lived in the town could find work and work part time in order to supplement their income so as to be able to continue their education.

Surprisingly enough, the enrollment in the junior class at the University of Wyoming skyrocketed. Given the educational experience that came from participating in a junior college program for 2 years, typical students oftentimes had the added motivation that resulted in their wanting to go on and get a bachelor's degree. So the creation of these junior colleges did not detract at all from what we hoped might continue at the University of Wyoming, a strong institution made even stronger by further participation. But actually, we found some excellent students came down to the university as juniors who would not have been there at all if they had had first to enroll as freshmen.

So I make the point, and I think it is an important point to understand, that there are a great many young people in the State of Wyoming today, and many have gone out into all of the 49 other States, having better jobs, making a positive contribution to society, being part of that upward social mobility that we think typifies the best in America, who have moved up that ladder because they had a job. It is just that simple.

We can talk all we want to about what is going to happen to people who may be displaced by someone who works for a short while at less than the minimum wage, but I can attest to the fact, because I know a great many of these students firsthand, that had it not been for the opportunity to work part time at a job for which they were not trained, they would never have had the opportunity that I think the amendment by the Senator from Arizona holds out to all people in this country today.

I would hope very much that the Senator will not yield in withdrawing the second portion of his amendment because if there is one thing that can make the difference between a life of drudgery and a life that oftentimes will be characterized by unemployment and being on welfare, or making a contribution to society and having the benefit of the satisfaction that comes from being part of the system and part of society so that one can hold his head high and carry his own weight, this amendment, I think, gives that promise and assurance.

I compliment the distinguished Senator from Arizona for his perception, for his clear understanding of what the facts are. I would hope the two distinguished floor managers of the bill might turn the coin over and forget about those employers who they feel are going to be unscrupulous and seize upon what they perceive to be an opportunity to hire someone at less than the minimum wage, and look at the other side of the coin to see how they can broaden the promise that America makes for its citizens.

I thank my friend from Arizona.

Mr. JAVITS addressed the Chair.

Mr. DECONCINI. I yield to my friend from North Carolina.

Mr. HELMS. Mr. President, I, too, want to commend the distinguished Senator from Arizona. I support his amendment.

However, I wonder if the discussion this afternoon would not bewilder the American people if they could be here to hear it. Let me me ask the able Senator a question.

Is not the Senator simply proposing that institutions which desire to hire for part-time work only those students who want to work and need to work in order to pay for their education? Is that the thrust of his amendment?

Mr. DECONCINI. On the application, if the Secretary determines that such an exemption would not have an adverse effect upon full-time employment, then the Secretary could grant that permission.

The Senator is, in essence, correct.

Mr. HELMS. What an irony, Mr. President, to see this meet such opposition. The young people of America have Big Brother running their lives—in this instance forbidding them to perform productive work for employers who would like to hire them.

I was just thinking back to the days when I was in Wake Forest College, back in the late 1930's and early 1940's. I held three simultaneous jobs, because that was the only way I could stay in school. One was washing dishes in a boarding house, one was working 2 hours an afternoon in the college news bureau, and then working 8 hours at night reading proofs at a morning newspaper 16 miles away in Raleigh.

I am sure Big Brother would put me in jail today for doing that.

This whole concept of Federal regimentation is insanity. When the Senator from Arizona is forced to fight, as he is doing, to get a simple amendment like this through, Big Brother is going too far.

I daresay that the Senator's amendment will be defeated. That is too bad. This bill will pass—and that is even worse, because more and more young people will join the rolls of the unemployed.

Again I compliment the Senator. I hope he will stand his ground. I think the Senate should speak up as to whether it really is interested in providing jobs for the unemployed and, as the Senator from Wyoming proposes, jobs for students who need to work their way through college.

I would not be in the U.S. Senate today had it not been for that part-time employment long ago at Wake Forest College. I simply wish that young people today could have the same opportunity.

I thank the Senator.

Mr. DECONCINI. I thank the Senator from North Carolina.

I think this goes back to, really, a relatively simple issue of whether or not a program that does work, some 500,000 students now being employed under this program, but only 50 percent really use it as it could be, whether or not we want to allow this program to succeed to an even greater extent, and on the proviso that no full-time employment will be lost by doing it.

What I believe we have to look at, as the Senator from New Mexico argued before, is that here is a program that does work. Why not make it available and easy to be applied?

SEVERAL SENATORS. Vote!

Mr. JAVITS. Mr. President, I think the real problem here is the——

The PRESIDING OFFICER. The Senator yielded back his time earlier.

Mr. WILLIAMS. We have some time.

Mr. JAVITS. I yield myself 2 minutes on the bill.

Mr. President, the real problem here is a totally new proposal which, as Senator WILLIAMS properly explained and which I explained, is open ended and relates to an aspect of this matter which is sensitive to an open-ended commitment.

I am not asking my colleague to withdraw. I never did ask that. I just explained the reason why I took the position that I did. I never would ask a colleague to withdraw unless he wished to.

But the point is that when you deal with employment in the educational institution itself, there is no limitation. There is no four or six. It is an absolutely open-ended proposition.

But when we deal with employment by a private employer, a noninstitutional educational institution employer, there is a solicitude to protect the jobs of other individuals, especially in places where there are schools or colleges. Therefore, there was a limitation of four.

That limitation will, if this amendment is adopted, and it has been adopted, be raised to six under an extremely simplified procedure.

What concerns Senator WILLIAMS and myself is that we now have yet a third program which leaves it absolutely open-ended under an exemption procedure in which there are bound to be thousands of applications. But it relates to the private employer. Therefore, it has a grave problem, a grave problem for adults who are employed or have the possibility of getting these jobs.

The Senator will point out, quite properly, that the Secretary has to have a showing that such an exemption will not have an adverse effect upon full-time employment, and that is all I argued.

I argued that we are giving the Secretary an enormous task of a new type of exemption based upon new proof, case by case, and that we have put no limit on it, no ceiling. That seems highly improvident in view of the fact that we already are materially increasing the number of students who can be subject to this provision for private employers.

As to the educational institutions, it is open-ended today under the law as it stands.

For those reasons, Mr. President, I feel constrained to oppose the amendment.

SEVERAL SENATORS. Vote!

Mr. DECONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered previously.

Mr. DECONCINI. On division 2?

Mr. WILLAMS. A parliamentary inquiry.

Mr. DECONCINI. The first part was accepted, was it not?

The PRESIDING OFFICER. The first part has been accepted. The question now is on agreeing to division 2 of the amendment offered by the Senator from Arizona.

Mr. DECONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. They have already been ordered. The clerk will call the role.

Mr. WILLIAMS. Mr. President, I move to table division 2 of the amendment.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to the motion to table.

Mr. DOMENICI. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table division 2 of the amendment of the Senator from Arizona. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 43, nays 48, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—43

Abourezk	Glenn	Metcalf
Anderson	Gravel	Metzenbaum
Bayh	Haskell	Nelson
Bentsen	Hathaway	Packwood
Biden	Huddleston	Pell
Brooke	Jackson	Percy
Burdick	Javits	Proxmire
Byrd, Robert C.	Johnston	Randolph
Case	Kennedy	Riegle
Church	Long	Sarbanes
Clark	Magnuson	Stafford
Cranston	Mathias	Weicker
Culver	McGovern	Williams
Durkin	McIntyre	
Eagleton	Melcher	

NAYS—48

Allen	Curtis	Hansen
Baker	Danforth	Hart
Bartlett	DeConcini	Hatch
Bellmon	Dole	Hatfield
Bumpers	Domenici	Hayakawa
Byrd, Harry F., Jr.	Eastland	Heinz
	Ford	Helms
Cannon	Garn	Hollings
Chafee	Goldwater	Laxalt
Chiles	Griffin	Leahy
Lugar	Schweiker	Thurmond
Matsunaga	Scott	Tower
Morgan	Stennis	Wallop
Moynihan	Stevens	Young
Roth	Stevenson	Zorinsky
Sasser	Stone	
Schmitt	Talmadge	

NOT VOTING—9

Humphrey	McClure	Pearson
Inouye	Muskie	Ribicoff
McClellan	Nunn	Sparkman

So the motion to lay on the table division 2 of Mr. DECONCINI's amendment (No. 1038) was rejected.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to division 2 of amendment No. 1038. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. JAVITS. Mr. President, does the Senator want the yeas and nays?

Mr. DECONCINI. No.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the yeas and nays may be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to division 2. (Putting the question.)

Division 2 was agreed to.

Mr. BARTLETT. Mr. President, I move to reconsider the vote by which division 2 was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to division 3 of amendment No. 1038.

Mr. JAVITS. Mr. President, there is no problem about that. It is strictly mechanical, and I hope we will approve it by voice vote.

The PRESIDING OFFICER. The question is on agreeing to division 3 of the amendment. (Putting the question.)

Division 3 was agreed to.

AMENDMENT NO. 1019

(Purpose: To eliminate lower gross volume of sales with regard to coverage of enterprises.)

Mr. TOWER. Mr. President, I call up my amendment No. 1019 and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment numbered 1019.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, insert the following between lines 17 and 18:

"ENTERPRISE COVERAGE

"SEC. 5. Section 3(s)(1) is amended to read as follows:

"'(1) is an enterprise whose annual gross volume of sales made or business done is not less than $1,000,000 (exclusive of excise taxes at the retail level which are separately stated);'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

The PRESIDING OFFICER. The Senator will suspend. Will the Senators be in order? The Senator from Texas is entitled to our courtesy in hearing him.

Mr. TOWER. Mr. President, I yield 1 minute to the senior Senator from Maryland.

LABOR-HEW APPROPRIATIONS, 1978—H.R. 7555

Mr. MATHIAS. Mr. President, I thank the Senator for yielding, and I regret the necessity for interrupting his presentation of his amendment, but there is a matter of some urgency which I wanted to call to the attention of the Senate.

The differences that divide the conferees on the Labor-HEW appropriations bill are very deep, very serious, and very important. Neither side of this controversy can be accused of expressing anything other than the honest doubts that beset all of us on a difficult and delicate subject.

At the same time it seems particularly unfair that the rank and file employees of the Department of Health, Education, and Welfare and the Department of Labor should be penalized because of an issue over which none of them has any personal control. Their function is to execute the policy which the Congress establishes and the President administers.

It seems to me, therefore, that the conferees have an immediate personal responsibility to resolve this problem. There are several alternatives open to us. We could either adopt a continuing resolution for a limited period of time, or we could adopt language which permits the continuation of the payroll function of these Departments.

I suggest that we seek a conference tomorrow, Saturday, October 8, for the purpose of considering such action, and I would hold myself in readiness for this purpose.

Mr. President, I thank the Senator from Texas for his courtesy in yielding.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1871.

Mr. TOWER. Mr. President, I yield to the senior Senator from Nebraska 1 minute.

Mr. CURTIS. Mr. President, I thank my distinguished colleague.

I am for his amendment.

It may happen that the Senator from Nebraska now speaking cannot be present when the final vote is on the bill. I am opposed to the bill and if present will vote "nay" on final passage.

Mr. TOWER. Mr. President, this amendment would restore the present small business exemption sales test to its previous level of $1 million.

What we are talking about here are the "small, small businesses"—those retail and service establishments which range from the traditional "Mom and Pop" stores to those which may employ an average of 15 or 20 workers. Throughout my State, we have a good many of these small, independently owned businesses, and they provide a vital contribution to communities of all sizes. This

is particularly true in the smaller towns and rural areas, where several small businesses service the major portion of an entire community's commercial needs.

Under present law, those independently owned service and retail establishments with gross annual sales below $250,000 are exempt from provisions of the minimum wage law. Throughout the history of the minimum wage law, Congress has recognized the need to provide some sort of relief for these smaller businesses in regard to minimum wage coverage.

In 1938, Congress included in the original Fair Labor Standards Act a provision exempting those retail or service establishments "the greater part of whose selling or servicing is in intra-state commerce." At that time, there was no dollar test involved. Congress focused instead on the area of distribution.

This procedure was altered substantially in 1961, when Congress defined an enterprise as a retail or service establishment with annual gross sales of $1 million or more, of which $250,000 in sales moved across State lines. In addition to setting a small business exemption level of $1 million, the act was also amended to define coverage tests for trolley or motorbus carriers, construction businesses, and gasoline service stations.

The 1966 amendments reduced the $1 million figure to $250,000, and extended coverage to several industries without regard to any dollar volume. From what I have been able to determine, there was very little discussion of this action during floor debate.

Clearly then, Congress has recognized the unique nature of these small operations, which are traditionally labor-intensive and thus most sensitive to fluctuations in labor costs. Many of these firms rely on marginal profits to continue in existence, and nearly 15 percent of these small employers themselves are making under the $2.65 proposed minimum wage rate. As a matter of fact, one survey shows that nearly 40 percent of these employers earn less than the median family income.

It is time for Congress to recognize that a decade of inflation has rendered the present $250,000 exemption level virtually meaningless to those firms it was intended to protect. By 1980, if we assume continued inflation at 6 percent, the present exemption will be worth roughly $115,000 in 1967 dollars.

By restoring the $1 million exemption level, we can offer some assurance to these very small firms that they will be able to maintain a position of competition; that they will not be swallowed up by huge companies or forced out of business altogether.

The amendment I am offering today will simply update the current exemption level for small businesses. It does not expand the definition of exempted entities, nor does it seek to exempt the large chain operators, such as McDonald's and others. I believe we should seek to restore the impact of the law to the level of its intent, and I hope my colleagues will support this language.

Mr. President, according to the Labor Department my amendment would remove the coverage of the legislation from roughly 4.8 million employees of whom at the moment only 1 million are below the minimum wage. So roughly three-fourths of the employees affected by this amendment are already making the minimum wage.

Because this amendment is so reasonable on the face of it, because even businesses with $1 million gross are small businesses, and because even some of the employers themselves in these small businesses do not earn the minimum wage, I am sure that because of the impeccable rationale behind this amendment the managers of the bill will be prepared to accept it.

Mr. LEAHY. Mr. President, will the Senator yield for the purpose of me bringing up an amendment in the nature of a substitute?

Mr. TOWER. If the Senator will withhold that perhaps we can do that in a moment.

I simply wish to ask the managers of the bill if they will accept my amendment.

Mr. WILLIAMS. Mr. President, for many reasons I oppose the amendment, and I know that there are other variations on this subject of the enterprise test and the dollar amount.

Simply stated to the Senator from Texas, however, I oppose the amendment.

Mr. JAVITS. Mr. President, I will oppose it, also, and we will debate the issue.

Mr. LEAHY addressed the Chair.

Mr. TOWER. Mr. President, I ask unanimous consent that I might yield to the Senator from Vermont for the purpose of offering an amendment to my amendment.

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY addressed the Chair.

Mr. TOWER. There is an objection then, Mr. President, so I yield on my time to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I call up my amendment No. 1428.

Mr. BUMPERS. Mr. President, is this amendment in order before the time is yielded back?

The PRESIDING OFFICER. The Chair is advised that the amendment is not in order until the time on the pending amendment is used up or yielded back.

Mr. LEAHY. The Senator from Vermont apologizes. I seem to have a bit of a cold in my ear and I did not hear the prior objection.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. At what time and under what circumstances would it be possible for the Senator from Vermont to bring up his amendment No. 1428 which would be to the amendment by the Senator from Texas?

The PRESIDING OFFICER. Is this an amendment to the pending amendment?

Mr. LEAHY. It is an amendment to the pending amendment of the Senator from Texas.

The PRESIDING OFFICER. The Chair has stated that will not be in order.

Mr. LEAHY. It is in the nature of a substitute.

The PRESIDING OFFICER. It will not be in order until the time on the pending amendment has been used up or yielded back, except by unanimous consent.

Mr. LEAHY. I ask unanimous consent that it be in order for me to bring up amendment No. 1428 in the nature of a substitute to the amendment of the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. TOWER. Mr. President, no argument has been offered against this amendment. It appears that they are just going to let the steamroller go. I guess organized labor has dictated that there can be no exemption for any small businesses; no small business exemptions. It is going to apply equally to everyone regardless. I really do not have too much illusion about what the vote is going to be because we are seemingly insensitive to youth, small business, and minorities.

In the pursuit of all of that it is going to have an inflationary impact. It is going to put small business in a very sorry competitive position.

I pointed out that a lot of these employers themselves earn below the minimum wage. I do not see the rationale for turning the amendment down. I have not heard any. I do not know whether we are going to hear any today or not.

I reserve the remainder of my time.

Mr. GOLDWATER. Mr. President, will the Senator from Texas yield for a comment?

Mr. TOWER. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the amendment of the Senator from Texas is a very sensible amendment. A million dollars is not a big business today. Most family businesses will do more than a million dollars. We are looking at businesses with 2 or 3 employees, 6 or 12 employees at the most, that do a million dollars. In fact, if I had drafted this amendment, I would have made it $2 million.

There was a time when a million dollars was a lot of volume in this country. I can remember, when I first went to work in my own business, we did $300,000 and thought that was good. Today we do $31 million. So $1 million, in this day and age, is practically nothing.

I think this is a sensible amendment. It will affect the family business, the little corner family store, more than anything else, and I think they have a right, as a family group, to work for the wages that they want to. I hope the Senator's amendment will be successful.

Mr. GARN. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. GARN. I thank the Senator.

Mr. President, I think the Senators present should know what the parliamentary situation is. We seem to be back playing parliamentary games, and I am very disappointed that the Senator from Arkansas objected to the Senator from Vermont (Mr. LEAHY) bringing up his amendment. We are well aware that it is 5:20 on a Friday afternoon, and that Senators have airplanes to catch.

This is a very simple amendment. The Senator from Vermont and I had an amendment to raise the small business exemption to a half million dollars, which is not nearly enough, but something we thought the Senate might feel was reasonable. In the interests of time, Senator TOWER limited his remarks greatly. Senator LEAHY and I intended to talk about 1 minute each, and have a vote, so that the Senate could make a decision, we could get on with the bill, and the Senate could decide very simply, are we going to raise the limit to half a million dollars or are we not?

Now we find ourselves, this late in the afternoon, with an objection to proceeding with a vote in about 5 minutes.

So I think Senators should know that, this late in the afternoon, we are back to playing parliamentary games. I have the greatest regard for the Senator from Arkansas, but I appeal to him, let us talk about 5 minutes each and have a vote up or down, and I will be glad to give him the same courtesy on his amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, would the Senator from Texas be willing to modify his amendment to read the same as amendment No. 1428, which was intended to be offered by myself, Senator MCINTYRE, and Senator GARN?

Mr. TOWER. What does it do, other than change the total amount? Would the Senator explain the amendment?

Mr. LEAHY. My amendment is fairly simple. It would increase the small business exemption to half a million dollars effective January 1, 1979; and secondly, it would insure that small business people would not be behind the inflation 8-ball for another 10 years, by raising that exemption in an amount that bears the same ratio to $500,000 as the minimum wage under section 6(a)(1) in effect for each such year bears to $2.65, exclusive of excise taxes at the retail level which are separately stated.

In other words, if the minimum wage goes up, the $500,000 goes up in an equal ratio.

I will state that I have voted for the Javits-Williams minimum wage figures and the steps involved there, but I think it is also fair that these small business exemptions go up equally. So I would ask the Senator from Texas if he would be willing to accept the Leahy-McIntyre-Garn amendment, which is amendment No. 1428, as a modification of his amendment, which would place that amendment, as I understand it, before the Senate.

Mr. TOWER. Mr. President, in response to the inquiry of the Senator from Vermont, I would do so only with very great reluctance, because I think a million dollars is certainly a very small growth, and when you consider what the inflationary impact is going to be on that million dollars—an inflationary impact that is, in part, brought about by the increase in the minimum wage—then I think a million dollars really is as little as we should do, when the real value of the $250,000 exemption actually is roughly $115,000 in 1967 dollars. That is what the impact of inflation has been on that, and we can see what the inflationary impact is going to be on this.

How many of us can really stoutly maintain that a business that grosses a million dollars or less is not a small business? By today's standards it certainly is a small business, and we are making it more difficult for them to compete.

Let me give some consideration to the request of the Senator from Vermont. I wish that he would make the figure $750,000. I think that that really is as low as we should go.

But knowing that we are furnished with a stacked deck here, I think perhaps prudence would dictate that we accept the $500,000, and I will be glad to modify my amendment so that it reads as the Senator's amendment No.——

Mr. LEAHY. 1428.

Mr. TOWER. So that it reads as the Senator's amendment No. 1428 reads, and I will accept that as a modification of my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it will be so modified.

The amendment (No. 1019, as modified) is as follows:

On page 12, insert the following between lines 17 and 18:

"ENTERPRISE COVERAGE

"SEC. 5. Section 3(s)(1) is amended to read as follows:

"'(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning January 1, 1979, and each year thereafter is not less than $500,000 plus an amount equal to an amount that bears the same ratio to $500,000 as the minimum wage under section 6(a)(1) in effect for each such year bears to $2.65 (exclusive of excise taxes at the retail level which are separately stated);'".

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

Mr. LEAHY. Mr. President, I ask for the yeas and nays on that amendment.

Mr. TOWER. I ask for the yeas and nays on my amendment, as modified.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, is all remaining time yielded back?

Mr. TOWER. I have not yielded back my time yet. Would anyone else like to speak?

Mr. LEAHY. Mr. President, will the Senator from Texas yield me about 1 minute?

Mr. TOWER. Yes, I yield an additional minute to the Senator from Vermont, and then I will yield to the Senator from Rhode Island.

Mr. LEAHY. Mr. President, the amendment, as stated before, is frankly a very simple one, serving the goals of equity.

First it would increase the small business exemption to $500,000 effective January 1, 1978. Since the existing exemption level of $250,000 was set in 1969, inflation has clearly eroded the impact of the exemption. In fact, if the $250,000 level was set in today's dollars the new exemption would be $476,000. By the time my amendment would become effective, inflation will certainly drive that figure above $500,000.

Second, it would insure that small businesses would not be put behind the inflation 8-ball for another 10 years.

We have wisely, I think, provided for increases in the minimum wage over the next 4 years. Under the provisions of this amendment, the small business exemption will increase at exactly the same rate as the minimum wage.

As I stated at the outset, the question here is equity for the small business person. Too often we, in our society, let the scales tip too far in the direction of the rich and powerful. By increasing the minimum wage we have sought to recify this dilemma for the wage-earner. My amendment would rectify this same dilemma for the small business person.

It is argued that this amendment would have the effect of uncovering 3.8 million workers. Strictly speaking, that argument is probably correct. However, it is also misleading. In fact, over 75 percent of those workers are already receiving in excess of the minimum wage being proposed. Further, of the remaining workers who would be directly affected, the vast majority are part-time unskilled workers who are in marginal jobs. It would be tragic if their employment prospects would disappear because the small business employers could no longer afford to keep them hired.

Further, most of the workers that would be effected have only recently come under coverage simply because the employer has seen inflation increase his gross sales above the previous exemption level. This means that the small retail gasoline dealer who use to sell gas at 37 cents a gallon and is now selling it at 67 cents a gallon has seen his gross double, but his profit margin remain the same. Yet, his labor cost now also must spiral upward even though the productivity of the workers and his need for them remains the same.

It has been suggested that tying future increases into the ratio of increases in the minimum wage is a disguised indexing. It is not. Indexing suggests tying increases to some economic factor beyond the control of Congress. I am simply saying that Congress ought to maintain the relative position of the small business person in the future as it is today. We are deliberately increasing wage rates in the future. We ought to recognize that factor and keep small business exemptions in the ratio tomorrow that we set them today.

I yield back the remaining time to the Senator from Texas.

Mr. TOWER. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I would like to ask the Senator from Texas if his amendment includes a provision that nobody will be fired because he suddenly finds himself in a situation that is exempted. I put that question to any one of the sponsors of the modification.

Mr. TOWER. Would the Senator please address that inquiry to the Senator from Vermont? I believe he could better answer the question.

Mr. LEAHY. Mr. President, will the Senator repeat his question? I am afraid my attention was engaged elsewhere.

Mr. PELL. Does this amendment include the provision that no one could be fired or have his wages decreased because he suddenly found himself in an exempted establishment?

Mr. LEAHY. In other words, does it have a grandfather clause?

Mr. PELL. Exactly.

Mr. LEAHY. The substitute or the modification, as I and my cosponsors had drafted it, does not have a grandfather clause in it.

Certainly, as one of the cosponsors, I would not object to a grandfather clause, but that is not a matter within my control at this time, as I understand the parliamentary procedure. To answer the question of the Senator from Rhode Island, as drafted it does not have a grandfather clause. Certainly, I have no objection to such.

Mr. PELL. As the sponsor of the bill, would the Senator accept a further modification to include a grandfather clause, which is all nicely drafted right here?

Mr. President, this is a perfecting amendment to the amendment under consideration. I am in favor of a fair increase in the small business exemption to take inflation into account, but I want to be sure that we do not unintentionally hurt one small group of employees who stand a risk of actually suffering a wage loss under this proposal.

The amendment I am offering is designed to protect workers who earn the minimum in small companies which are not now covered by the small-business exemption, but which would come under the exemption if we raise the dollar definition of small business. My amendment simply protects these employees from taking a cut in pay when their employer is released from the minimum wage requirement. It provides that the employer ". . . may not decrease the wage of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage." I think that this amendment avoids the ironic possibility that some employees could suffer a reduction in wages as a consequence of this bill, and I urge its acceptance.

Mr. TOWER. I have not conferred with the distinguished Senator from Vermont. If he is agreeable, I am certainly agreeable to including a grandfather clause.

Mr. LEAHY. I have no objection to a grandfather clause, of the nature so drafted here. I would ask the prime sponsor of the amendment, if he finds that acceptable, that he allow his amendment to be further modified to include the grandfather clause proposed by the Senator from Rhode Island.

Mr. TOWER. Mr. President, I ask unanimous consent to modify my amendments to include the language suggested by the Senator from Rhode Island (Mr. PELL).

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, does it require unanimous consent?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. I shall not object.

Mr. WILLIAMS. My objection to the $500,000 test runs to the fact that approximately 3.8 million employees would lose the protection of the act if this test were to be adopted; 809,000 of those employees would be minimum-wage workers denied the increases mandated by the legislation. This is a giant step backward in terms of the whole scope of the Fair Labor Standards Act and the coverage under the minimum wage. I oppose it on that ground.

This amendment is no different in principle from the amendment sponsored by the Senator from Texas (Mr. TOWER). It is, like the proposal to increase the enterprise dollar test to $1,000,000, a frontal assault on the concept of the minimum wage coverage for America's working poor.

On its face, this amendment would appear to be a proposal to increase the enterprise dollar test by only one-third as much as Senator TOWER has proposed. In fact, the impact of this proposal would still be enormous. It would, as I have stated, deprive approximately 3.8 million employees of the protections of the act. Approximately 809,000 of those employees would be minimum wage workers.

This amendment, then, would be a gaint step backwards in the history of the fair Labor Standards Act. Its proponents argue that they want to increase the dollar volume test to reflect price changes over the years. This argument misconceives the history and purpose of the enterprise definition in the act. In 1961, Congress established a $1,000,000 enterprise test of coverage to assure that the act would reach all employees of firms engaged in interstate commerce. However, individual employers who were, themselves, engaged in interstate commerce were still entitled to the minimum wage, even if their employer did not meet the enterprise test.

At the same time, Congress adopted a separate dollar test for retail and service establishments. Retail and service establishments were given a complete exemption from minimum wage and overtime provisions, even with regard to their employees who were individually engaged in interstate commerce, if the establishment had a gross annual dollar volume of less than $250,000.

Five years later, in 1966, the Congress purposefully reduced the dollar volume test for coverage under the enterprise definition in the act, as a means of expanding the act's coverage. As this was done, it became unnecessary and redundant to maintain the lower dollar volume test of coverage in the retail and service establishment exemption in section 13 (a)(2) of the act. Accordingly, in conjunction with the reduction of the enterprise dollar test, the act was amended to delete the dollar test for the retail and service establishment exemption. That exemption, under present law, depends upon the dollar test under the enterprise provision of the act contained in section 3(s).

Thus, the proposed amendment would, in effect, not only create an exemption for 400,000 workers employed in enterprises, but it would also reduce coverage to an unprecedented degree, by removing from coverage 3.8 million employees of retail and service establishments.

There is no predicate for this drastic reduction in the coverage provided by the act. It is not needed as a means of providing protections for "mom and pop" stores. That is already done explicitly by the act.

It is also unnecessary to protect other relatively small retail establishments. Once again, the situation in the State of North Dakota is illustrative. In that State, there are approximately 10,688 retail establishments. Only 12.8 percent of those establishments had gross receipts of more than $500,000 per year.

Similarly, with regard to service establishments, only 4.4 percent had gross receipts of more than $250,000 per year.

Thus, the effect of this amendment, in communities like those in North Dakota, would be to exempt 87 percent of all retail establishments and nearly all service establishments.

I submit that the case for this amendment has simply not been made. As I have previously explained, the principal thrust and purpose of fair labor standards legislation has been to expand and improve the coverage and protection provided by the act. The limited exceptions which we have provided have always been based upon specific, perceived needs of particular industries. In this case, when we are faced by an existing minimum wage which provides an annual income very far short of the poverty level, the greatest need is to preserve minimum wage protection for the 800,000 workers who would be deprived of it by this amendment.

Mr. President, I ask unanimous consent that a table showing the gross receipts of retail and service establishments in North Dakota, October 1976–March 1977, be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Gross receipts of retail and service establishments in North Dakota

(October 1976–March 1977)

Retail establishment: Gross receipts:	No. of establishments
Less than $250,000	8,167
$250,000–$375,000	729
$375,000–$500,000	417
More than $500,000	1,375
Total	10,688
Service establishments:	
Less than $250,000	3,709
$250,000–$375,000	61
$375,000–$500,000	36
More than $500,000	72
Total	3,878

SOURCE.—North Dakota State Tax Commission.

Mr. WILLIAMS. Mr. President, I believe that I was the first Senator to speak out in favor of the concept of indexing for the Fair Labor Standards Act. I have been fairly confident that I would also be the last. Therefore, the proposal to provide indexing of the enterprise definition in this amendment comes as a surprise.

Unfortunately, now that a decision has been made to delete the concept of indexing for the minimum wage from the bill, I cannot see any merit in a proposal to index an exemption from the minimum wage. Particularly in light of the information which we have received concerning the extremely large number of workers who would be deprived of minimum wage protection as a result of increases in this dollar amount, I am firmly opposed to any attempt to leave that dollar amount open ended.

There is virtually no doubt that we will be revisiting the question of the minimum wage level within a few years; and, I am sure, we will also be revisiting the question of the proper dollar amount for inclusion in the definition of enterprise engaged in commerce. I see no merit to a proposal to relieve us of that obligation which corresponds very nicely to our obligation to reexamine the minimum wage.

Mr. President, I ask unanimous consent that a table showing the full scope of what minimum wage workers would lose under the amendment which has been offered be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE IMPACT OF S. 1871 AND COVERAGE VARIATIONS JAN. 1, 1978 TO JAN. 1, 1981

S. 1871, coverage variations, and effective date	Minimum wage	Employees affected by minimum wage: Number (thousands)	Employees affected by minimum wage: Percent	Employees removed from coverage (in thousands): Total	Employees removed from coverage (in thousands): Earning less than minimum wage	Wage bill increase required: Amount (millions)	Wage bill increase required: Percent
Jan. 1, 1978:							
S. 1871 with the Pickle and Bowen amendments	$2.65	3,652	7.6	3,951	949	$1,664	0.3
S. 1871 without the Pickle and Bowen amendments [1]	2.65	4,601	8.9	0	0	2,213	.4
S. 1871 with the Bowen amendment [1]	2.65	4,461	8.6	150	140	2,137	.4
S. 1871 with a modified Pickle amendment [2]	2.65	4,384	8.5	505	217	2,057	.4
S. 1871 with the Tower amendment [3]	2.65	3,540	7.5	4,786	1,061	1,599	.3
S. 1871 with the Tower and Bowen amendments	2.65	3,400	7.2	4,936	1,201	1,523	.3
Jan. 1, 1979:							
S. 1871 with the Pickle and Bowen amendments	2.90	4,176	8.7	3,951	1,067	1,701	.3
S. 1871 without the Pickle and Bowen amendments [1]	2.90	5,243	10.1	0	0	2,171	.4
S. 1871 with the Bowen amendment [1]	2.90	5,102	9.9	150	141	2,116	.4
S. 1871 with a modified Pickle amendment [2]	2.90	5,014	9.8	505	229	2,075	.4
S. 1871 with the Tower amendment [3]	2.90	4,033	8.6	4,786	1,210	1,628	.3
S. 1871 with the Tower and Bowen amendments	2.90	3,892	8.3	4,936	1,351	1,573	.3
Jan. 1, 1980:							
S. 1871 with the Pickle and Bowen amendments	3.15	4,592	9.6	3,951	1,181	1,946	.3
S. 1871 without the Pickle and Bowen amendments [1]	3.15	5,773	11.1	0	0	2,498	.4
S. 1871 with the Bowen amendment [1]	3.15	5,632	10.9	150	141	2,443	.4
S. 1871 with a modified Pickle amendment [2]	3.15	5,527	10.8	505	246	2,388	.4
S. 1871 with the Tower amendment [3]	3.15	4,426	9.4	4,786	1,347	1,856	.3
S. 1871 with the Tower and Bowen amendments	3.15	4,285	9.1	4,936	1,488	1,801	.3
Jan. 1, 1981:							
S. 1871 with the Pickle and Bowen amendments	3.40	4,851	10.1	3,951	1,229	2,150	.4
S. 1871 without the Pickle and Bowen amendments [1]	3.40	6,080	11.7	0	0	2,728	.4
S. 1871 with the Bowen amendment [1]	3.40	5,939	11.5	150	141	2,673	.4
S. 1871 with a modified Pickle amendment [2]	3.40	5,834	11.4	505	246	2,621	.4
S. 1871 with the Tower amendment [3]	3.40	4,668	9.9	4,786	1,412	2,046	.3
S. 1871 with the Tower and Bowen amendments	3.40	4,527	9.6	4,936	1,553	1,991	.3

[1] The Pickle amendment raises the enterprise sales volume test under sec. 3(s)(1) from $250,000 to $500,000; the Bowen amendment removes full-time babysitters from coverage.

[2] This variation raises the enterprise sales volume test under sec. 3(s)(1) to $275,000 in 1978 and $300,000 in 1980.

[3] The Tower amendment raises the enterprise sales volume test under sec. 3(s)(1) from $250,000 to $1,000,000.

Source: Employment Standards Administration, Division of Evaluation and Research, Sept. 30, 1977.

Mr. WILLIAMS. Mr. President, I am prepared to yield back my time.

Mr. TOWER. Of course, there is a grandfather clause here so anyone already covered will not lose protection. I do not know what kind of shadow that casts on the figures offered by my good friend from New Jersey. Of course, those figures assume that everybody is going to continue to be employed at this higher rate. Senators should disabuse their minds that everybody who will get the minimum wage will retain a job. It is not going to happen. We have seen it happen after every minimum wage bill adopted, that a lot of small employers have laid off workers. That is what has happened.

When people say we are denying them a raise, we are denying them a job if we do not exempt some businesses when we pass this. We are making it very difficult for the country store to compete with the big chains. It is driving small business out of business in this country, not just by this act alone, but there are so many other things. The small businessman is smarting now from the Occupational Safety and Health Act, the Environmental Protection Agency, the Internal Revenue Service. He has more regulations than he can carry now. Now some want to drive his costs up by arbitrarily increasing the wages he has to pay without any increase in productivity or any increase in business. What we are trying to do is to save the small businessman here. He is sorely put upon by the Federal Government. I can say this, along with the other things in the aggregate being done to him, it is driving him out of business in this country.

The PRESIDING OFFICER. The Chair will note that the unanimous-consent request is still pending. With respect to the further modification of the amendment, is there objection?

Without objection, it is so ordered.

The further modification of the amendment is as follows:

UP AMENDMENT NO. 902

(Purpose: To protect employees who are employed by employers who would not be required to pay the minimum wage as a result of the sales tax increase for enterprise coverage.)

At the end of the matter in quotation marks before the semicolon insert a comma and the following: "except that an employer who is required to pay the minimum wage on the day before the date of enactment of the Fair Labor Standards Amendments of 1977 and who would not be so required subsequent to enactment of the Fair Labor Standards Amendments of 1977 may not decrease the wage of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage."

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I believe it is apparent from the votes we have had

in the last couple of days that there are marked differences of philosophy and marked differences of feeling on the economic aspects of the minimum wage, on the number of jobs which will be created or not created, on the ripple effect up and down, on the effect it will have in different parts of the country. I think it is safe to say that with the various people who are sponsors of the amendment, as modified, there are some marked differences of philosophy which have been reflected not only in the last couple of days but certainly within the last couple of years, or longer, within the Senate.

I would suggest, Mr. President, as often happens in matters of this nature, that we have had a situation where each side has given fairly substantially with the hopes of coming out with something which is realistic for us, our country, and for our economy at this time. I think the last major objection that might be made to some who feel that this amendment might give substantial concern to business was taken care of by the amendment of the distinguished Senator from Rhode Island.

I think there are those who feel that this has been too probusiness.

Quite frankly, Mr. President, knowing it is 20 minutes to 6 on a Friday evening, knowing a number of my colleagues have to leave, I would hope that we might reach a vote soon on this matter.

Mr. TOWER. Mr. President, I yield 1 minute to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I will be brief because I want to vote on the bill. Clearly, this is an area of opportunity if, in fact, employment is to be improved in this country in the area of small business, and that is the area we are talking about in this amendment.

It seems perfectly clear to me that we are not discussing the problems of large business, in which people are already earning far more than the minimum wage. We are talking about marginal enterprises, venture enterprises. It seems to me clear that if we are to have an affirmative effect on the employment front, this amendment is imperative. I am hopeful that those who are still here will take this amendment seriously because it may be a major breakthrough that we can make this afternoon.

Mr. TOWER. Mr. President, I yield to the Senator from Utah.

Mr. GARN. Mr. President, I am offering an amendment today with Senator LEAHY in the nature of a substitute to the Tower amendment to S. 1871, the Fair Labor Standards Amendments of 1977. My amendment would increase the small business exemption from $250,000 to $500,000 and would also grandfather in any employee currently covered under the Minimum Wage Act who would not be if my amendment were adopted.

When the minimum wage law was enacted in 1938 most small retail and service establishments were not covered. However, in 1961 Public Law 87–30 brought under the minimum wage law any retail or service establishment with an annual gross volume of sales or business of $1 million, or more. At the same time the minimum wage increased from $1.00 to $1.15 effective September 1961; and to $1.25 in September of 1963.

In 1966, Public Law 89–601 reduced the $1 million sales test to $500,000 effective February 1, 1967 and to the present $250,000 small business exemption in 1969. Again with this decrease in the small business exemption came another increase in the minimum wage. This time it was increased from $1.25 to $1.60 over a 2-year period.

While the 1974 amendments (Public Law 93–259) at least did not decrease the small business exemption it did again increase the minimum wage over a period of 3 years from $1.60 to the current $2.30 an hour.

Mr. President, in percentage terms these figures I have just quoted represent a 130-percent increase in the minimum wage since 1961 while the small business exemption has been decreased by 75 percent.

In addition, the small business exemption has been further erroded by 625 percent in the last decade because of inflation. I am sure I do not have to go into great detail for my colleagues to realize what increases in fuel, food, insurance, et cetera have done to small business. If we are to continue to increase the minimum wage then we must correspondingly increase the small business exemption or we will continue to witness the decline of small business as we know it today. My amendment seeks to prevent this from happening.

It is also important to realize what groups will suffer if this exemption is not raised. In a recent survey of employment and wages in the small business community made by the National Federation of Independent Business it was revealed that small business employs substantial number of teenagers now working. Five percent of the full-time and 30 percent of the part-time people employed by small business are 19 years old or under. We have already passed legislation this year to reduce teenage unemployment and we now have the responsibility of making sure we do not increase that rate and this can be accomplished by exempting small businesses under $500,000.

The survey also revealed that almost 40 percent of the surveyed employers—corporate and noncorporate—earn less from their business than the median-family income and most of these people put in an average of 58 hours per week. It also showed that one of four small businesses received unpaid family labor, and that the owners were typically older than the work force. These small businesses are struggling for their survival and we must do what we can to encourage them to continue in operation.

My amendment also provides protection for those employees currently covered by the Minimum Wage Act. An employer previously covered under the act could not decrease the wage of any employee as the result of the amendment. This would eliminate the possibility of any wage slicing.

Mr. President, the survival of small business in this country is absolutely essential to the economic well-being of this Nation. My amendment will help to assure this.

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. Mr. President, the Senator wanted to hear opposition to his amendment, did he not? He invited it.

Mr. TOWER. I will be delighted to.

Mr. JAVITS. I thank the Senator.

Mr. TOWER. I was trying to expedite the matter. I assumed the argument had already been placed into the RECORD by the Senator from New Jersey.

Mr. JAVITS. I certainly thank the Senator very much. The Senator is going to hear a little bit about this amendment.

Mr. TOWER. I am delighted to. I do not yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself just 3 minutes because I do not want to delay the Senate either. But let us see what this is doing. First, it is removing almost 4 million people who are now protected from coverage under the FLSA. It is uncovering 4 million out of a total of 66 million. That does not sound like too much. When it is looked at from the perspective of workers at the minimum wage, 800,000 of the 4 million people working for these employers will not receive the increases we have agreed to in the minimum wage, because they are now earning less than $2.65 an hour. The amendment leaves these 800,000 workers at way below poverty income. That is what is being done by this amendment.

Second, and very interesting, this so-called grandfather clause just says that their wages are not to be reduced.

Finally, Mr. President, the figure today is $250,000. We have not had any prairie fire about the fact that that is much too low, until Senator TOWER sought to set the Chamber on fire. But other than that, we have no prairie fire about the fact that $250,000 is too low.

There are lots of other things bedeviling small business, including the antitrust laws, I say to the Senator from Texas, and the antitrust laws are the toughest on small business and the weakest on big business. The Senator and I could join an effort to reform that and that would be very helpful to small business.

But, Mr. President, there is no real problem with the existing definition at $250,000. Senator BUMPERS, it is my understanding, is going to propose an amendment which will up the figure, a modest amendment, a reasonable amendment. That is the way to go.

This drastic amendment, which will cause thousands to be fired and will take tens of thousands out from under the minimum wage, is definitely not the way to go. I hope the Senate rejects it.

Mr. WILLIAMS. Are we prepared to yield back the time?

Mr. TOWER. I am prepared to yield back my time.

The PRESIDING OFFICER. The Senator's time has expired.

UP AMENDMENT NO. 903

(Purpose: To increase the gross volume of sales tests for certain retail or service establishments under the Fair Labor Standards Act of 1938.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 903.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 3, strike all and substitute the following:

RETAIL AND SERVICE ESTABLISHMENT COVERAGE

SEC. 5. (a) Sections 3(s) (29 U.S.C. 203(s)) is amended by renumbering paragraphs (2), (3), (4) and (5) as (3), (4), (5) and (6) respectively and inserting after paragraph (1), as follows:

"(2) is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1980, whose annual gross volume of sales made or business is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated);

(b) Paragraph (1) of section 3(s) is amended by adding after the phrase "and beginning February 1, 1969, is an enterprise" the following: "other than a retail or service establishment described in paragraph (2)".

On page 12, line 19, strike out "Sec. 5." and insert in lieu thereof "Sec. 6.".

Mr. BUMPERS. Mr. President, I am one of those people who likes to catch a plane, but I shall take 3 minutes. I think most Senators know what my amendment does.

Mr. TOWER. Will the Senator yield for an inquiry?

Mr. BUMPERS. Yes.

Mr. TOWER. Mr. President, to what is the amendment addressed? Is it addressed to the bill or to my amendment?

Mr. BUMPERS. It is a perfecting amendment.

The PRESIDING OFFICER. It is a perfecting amendment to the pending amendment.

Mr. TOWER. Is the amendment properly drawn?

The PRESIDING OFFICER. The amendment is properly drawn.

Mr. TOWER. I thank the Chair.

Mr. BUMPERS. Mr. President, this amendment is, indeed, more modest than what my distinguished colleagues from New York and Vermont have proposed. I am not unalterably opposed to the approach taken by the Senators, but I think that mine is more appropriate, for this very simple reason: If, in 1966, when the present bill was passed, it had an indexing clause in it, the small business exemption would now be about $450,000. It did not. But now, to undo that damage would also do incalculable damage to millions of employees. So this, I think, is a way to redress the problem at a late date—not fully, but in a sensible and rational manner.

Everybody here knows that the House has already provided for the $500,000 exemption as proposed by the Senators and, presumably, when they get to conference, something between what I am offering and what they have already adopted will be agreed to.

Mr. President, my amendment does two things: On July 1, 1978, it sets the exemption for small business at $275,000. On July 1, 1980, it raises it to $325,000.

I have had all kinds of proposals here to change those figures, and I am sure they will be changed slightly in conference. I hope, frankly, that they will be changed slightly upward. But I think the $500,000 figure, which the Senator from New York has already given statistics on, is slightly high because it does, indeed, uncover too many employees. It exposes too many employees to a cut in wages or discharge. I think this is a proper, suitable, sensible response to what everybody in this body believes is a problem.

I am prepared to yield back the remainder of my time and vote up or down.

Mr. WILLIAMS. Mr. President, I support the compromise amendment. As I have pointed out, the larger increases which have been proposed by Senator TOWER and Senator GARN would result in a wholesale reduction in the number of persons who are protected by the Fair Labor Standards Act.

This proposal would increase the dollar volume test in the definition of enterprise engaged in commerce by $25,000 beginning in 1978, and by an additional $50,000 beginning in 1980. These changes would have a very substantial impact on the number of persons covered by the act.

It is my opinion that these increases are reasonable and adequately reflect changes in the growth in dollar volume of business done by small retail and service establishments. Using the example which I have given concerning retail and service establishments in North Dakota, it is clear that the additional cushion of $50,000 which will be provided by this proposal will insure that the bulk of small retail and service establishments will remain exempt from the provisions of the act.

I would like to remind the Senators that "mom and pop" stores are already expressly exempt. This additional exemption is, I am sure, completely adequate to deal with the needs of other small retailers who might require exemption.

To do more than is proposed by this compromise would be to reverse the progress which we have made in extending the protections of the act to additional employees. The committee has carefully considered the necessity for the retail and service establishment exemption; and the provisions of current law are based upon a careful determination that the establishments which are presently covered by the law can easily bear to pay minimum wages.

The 1974 committee report on minimum wage legislation (No. 93–690) stated that:

The committee looked to special reports of the Department of Labor which were designed to determine how employers adjusted to the extensions of coverage to retail and service activities in 1961 and 1966. Repeatedly these reports stated that employment increased in activities newly covered by the FLSA. For example, the Labor Department's nation-wide survey of restaurant employees shows that employment increased by 3,900 workers between October 1966 and April 1967, the period spanning the effective dates of the initial phase of the 1966 amendments to the minimum wage law. The Labor Department reported that the "largest employment increase occurred in the South where the wage impact was greatest." It is apparent from the various reports that the retail and service industry had adjusted to the FLSA coverage with relative ease.

For this reason, it is the committee's view that the provisions of current law are adequate to protect the interests of small retail service establishments while insuring that, to the greatest extent possible, adequate wages are provided to our low-wage workers.

Mr. President, I support the perfecting amendment offered by the Senator from Arkansas, and am prepared to yield back my time.

Mr. PELL. Mr. President, will the Senator from Arkansas yield?

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Is not the time in opposition under my control, since the amendment is addressed to my amendment?

The PRESIDING OFFICER. The time is under the control of the manager of the bill, unless he is in favor.

Mr. JAVITS. Mr. President, I am in favor of the amendment and Senator TOWER, of course, can claim the time in opposition.

The PRESIDING OFFICER. The Senator from New Jersey is the manager.

Mr. WILLIAMS. I am in favor of this amendment, and I am in the same position. We are jointly controlling the time here. I am willing to yield to the Senator from Texas.

The PRESIDING OFFICER. In that case, the time in opposition is given to the minority leader or his designee.

Mr. TOWER. I thank the Chair.

Mr. PELL. Mr. President, will the Senator yield?

Mr. BUMPERS. Mr. President, if the Senator from Texas will permit me, I shall yield to the Senator from Rhode Island for whatever purpose.

Mr. PELL. Mr. President, does the amendment of the Senator from Arkansas contain a provision that, when the figures are enlarged, there will be a prohibition on decreasing the wages of those workers? I would think that some sort of grandfather clause should be put in to that effect.

Mr. BUMPERS. The amendment I

have submitted does not contain a grandfather clause. I am perfectly agreeable to adding it if the floor managers have no objection to it.

Mr. PELL. I should hope that the floor managers would accept that modification, because there will be cases, when the Senator's bill takes effect—next year, in June or July of 1978—when it will be quite conceivable that somebody will be let go or, more to the point, his wages could be decreased.

Mr. BUMPERS. I do not think we could put a provision in there that would prohibit an employer from discharging an employee.

Mr. PELL. I agree and I have been corrected on that by the Senator from New York. But I think we need something.

Mr. BUMPERS. This covers employees uncovered as a result of this new exemption? Is that the sum of the change?

Mr. PELL. Exactly. That is all the little grandfather amendment does.

Mr. JAVITS. Would the Senator be willing to include also that the maximum hours should not be increased?

Mr. PELL. That is fine. I accept that.

Mr. JAVITS. Very well.

Mr. PELL. I thank the Senator.

Mr. WILLIAMS. Is that grandfather aspect acceptable to the Senator from Arkansas? Is that now part of his amendment?

Mr. BUMPERS. Yes.

Mr. WILLIAMS. The two parts of the grandfather clause are acceptable.

Mr. ALLEN. Will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. ALLEN. When the Senator speaks of a grandfather clause, does that mean that they would be protected for the present minimum wage? Would that also provide for these increases that are built into the bill?

Would it protect the present employees in the increases provided in the bill? He says it would not be reduced, but he would get the protection of the increases?

Mr. BUMPERS. No, he would not. It would simply provide that his wages would not be decreased.

Mr. ALLEN. But he would not get the benefit of the increases provided by the bill?

Mr. BUMPERS. That is correct.

Mr. ALLEN. That is hardly a full grandfather clause then.

Mr. BUMPERS. The Senator from Rhode Island points out that it is a step-grandfather clause.

Mr. President, I modify my amendment to include the clause referred to, and I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The modification is as follows:

At the end of the matter in quotation marks before the semicolon insert a comma and the following: "except that an employer who is required to pay the minimum wage on the day before the date of enactment of the Fair Labor Standards Amendments of 1977 and who would not be so required subsequent to enactment of the Fair Labor Standards Amendments of 1977 may not decrease the wages or increase the maximum hours required by this Act of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage".

The PRESIDING OFFICER. Is all time yielded back?

Mr. BUMPERS. I am prepared to yield back my time.

Mr. TOWER. The Senator from Arkansas is prepared to yield back his time. I shall yield back my time and move to lay the amendment on the table.

Mr. BUMPERS. Before we do that, I yield to the Senator from Iowa for a statement.

Mr. CLARK. Mr. President, under present law businesses with less than $250,000 in gross annual sales are not required to pay their employees the minimum wage. The pending amendment would increase the level of this exemption for retail and service enterprises in two stages: to $275,000 on July 1, 1978, and to $325,000 on July 1, 1980. It is true that this amendment runs counter to the trend over the past 10 years of periodic decreases in the exemption for small businesses. It is not a step to be taken lightly. Nevertheless, it is a step that we believe is justified by the intense pressures facing our Nation's smaller enterprises, pressures which cannot be ignored.

Mr. President, owners of many small businesses, particularly small family owned retail and service enterprises, are facing difficult times. Higher costs of doing business—higher prices for inventory, higher equipment costs, higher rents, higher costs of borrowing money, and soaring energy prices—make it difficult to compete in the marketplace with larger firms; indeed, difficult even to make ends meet. Many small businesses are unable to obtain insurance protection because of dramatic increases in premium rates. And all are plagued with unnecessary paperwork burdens generated by overly complicated Government regulation.

The pending amendment will not solve these problems, but it will relieve some of the pressure facing the smallest of these businesses by exempting them from the provisions of the minimum wage laws.

It is true that this amendment does not go as far as some would like in extending the small enterprise exemption. But we must strike a balance between the competing concerns of the owners of smaller businesses and the employees of those businesses who will also be affected by the proposed changes. I believe the pending amendment comes closer to striking that balance and I urge its adoption.

Mr. HATFIELD. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the Tower amendment of $500,000 exemption of small businesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield back my time and move that the amendment be laid on the table.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the perfecting amendment of the Senator from Arkansas. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 38, nays 51, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—38

Allen	Garn	Schmitt
Baker	Goldwater	Scott
Bartlett	Hansen	Sparkman
Bellmon	Hatch	Stafford
Biden	Hatfield	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stevenson
	Helms	Stone
Chiles	Laxalt	Talmadge
Church	Leahy	Thurmond
Danforth	Lugar	Tower
Dole	McIntyre	Wallop
Domenici	Percy	Young
Eastland	Roth	Zorinsky

NAYS—51

Abourezk	Ford	McGovern
Anderson	Glenn	Melcher
Bayh	Gravel	Metzenbaum
Bentsen	Hart	Morgan
Brooke	Haskell	Moynihan
Bumpers	Hathaway	Nelson
Burdick	Heinz	Packwood
Byrd, Robert C.	Hollings	Pell
Cannon	Huddleston	Proxmire
Case	Jackson	Randolph
Chafee	Javits	Riegle
Clark	Johnston	Sarbanes
Cranston	Kennedy	Sasser
Culver	Long	Schweiker
DeConcini	Magnuson	Stevens
Durkin	Mathias	Weicker
Eagleton	Matsunaga	Williams

NOT VOTING—11

Curtis	McClellan	Nunn
Griffin	McClure	Pearson
Humphrey	Metcalf	Ribicoff
Inouye	Muskie	

So the motion to lay on the table unprinted amendment No. 903 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. ZORINSKY). The question recurs on the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. There is no order for the yeas and nays. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CLARK. I move to lay that moton on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas, as amended. On this question the yeas and nays have been ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Texas, as amended.

The amendment (No. 1019) as amended, was agreed to.

UP AMENDMENT NO. 904

(Purpose: To require the Secretary of Labor to collect demographic data on minimum wage earners.)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 904.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following:

"DATA COLLECTION ON MINIMUM WAGE EARNERS"

SEC. 5 (a) Section 11(a) (29 U.S.C. 211 (a)) is amended by adding the following:

"The Secretary of Labor shall conduct, or make arrangements to conduct, a study to determine (i) the nature and extent of noncompliance with the provisions of this Act, and (ii) the social and economic characteristics of workers affected by the minimum wage and modifications thereto, to include, but not limited to, age, sex, race, family status, duration of employment with the same employer, and, to the extent practicable, information concerning the proportions of such workers who are heads of households, principal or secondary wage earners, and the family size and total family income of such workers.".

Mr. DOMENICI. Mr. President, last night, in the debate over the amount of increase in the minimum wage, it became clear that we have a significant lack of data concerning who earns the minimum wage. We do not know how many minimum wage earners are heads of households. We do not know how long minimum wage earners have been employed. We do not know who benefits from an increase in the minimum wage. I, therefore, offer this amendment, which requires that the Secretary of Labor shall conduct a study to determine the social and economic characteristics of workers affected by the minimum wage.

Mr. President, this is the study amendment that the managers of the bill are aware of, which will gather the facts that many of us do not think are now available with respect to the impact of minimum wage.

Mr. WILLIAMS. The amendment is acceptable to me.

Mr. JAVITS. It is acceptable to me.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. BUMPERS. Mr. President, I had a similar study, which my colleague in the House, Mr. TUCKER, offered—and it was adopted in the House—which I really liked better. But in deference to the floor managers, I have acceded to this one, and I hope that in conference they will be able to meld the two.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 905

Mr. CHILES. Mr. President, I send to the desk a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. NUNN, Mr. STONE, and Mr. ALLEN, proposes an unprinted amendment 905 in the nature of a substitute.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following in lieu thereof:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.85 an hour during the year beginning January 1, 1979, and not less than $3.05 an hour after December 31, 1979, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture—

"(A) not less than $2.20 an hour during the period ending December 31, 1977, and

"(B) after December 31, 1977, not less than the minimum wage rate in effect under paragraph (1)."

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages at the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at a rate not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended (i) by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)(1)", (ii) by inserting "(A)" before "heretofore", and (iii) by inserting before the period the following: ", and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended (i) by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a)(1), and (ii) by striking out "such subsection" and inserting in lieu thereof "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall, from time to time, convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(2) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

(e)(1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the "Commission") which shall conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage and overtime requirements of that Act. In conducting such study, the Commission shall analyze specifically—

(A) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

(B) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

(C) the economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in an index of the earnings of a category of employees;

(D) the employment and unemployment effects of (i) an increase in the rate prescribed by that Act, and (ii) providing a different minimum wage rate for youth and the employment and unemployment effects on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

(E) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees employed at such rates are also eligible to receive food stamps and other public assistance; and

(F) the exemptions from the minimum wage and overtime requirements of that Act.

(2) The Commission shall make two reports of the results of the study conducted pursuant to paragraph (1). The first report shall be submitted within eighteen months after the date of the appointment of the first five members of the Commission. The second report shall be submitted within thirty-six months after such date. The second report shall include such recommendations for legislation as the Commission determines are appropriate and shall include the analysis prescribed by subparagraph (C) of paragraph (1). The Commission may make additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of its second required report.

(3)(A) The Commision shall consist of nine members. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall serve as ex officio members and the President, by and with the advice and consent of the Senate, shall appoint seven members. The President shall make such appointments in a manner to assure that two persons appointed represent the interest of labor, one person represents the interests of agriculture, two persons represent the interests of business management, one person represents the interests of consumers, and one person represents the interests of the general public. The President shall make all his nominations for Commission membership within one hundred and eighty days after the effective date of this subsection.

(B) The President shall designate one member of the Commission as Chairman. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(4)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

(D) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

(E) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

(F) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(5)(A) The Chairman may appoint an executive director of the Commission who shall perform such duties as the Chairman may prescribe.

(B) With the approval of the Chairman, the executive director may appoint and fix the pay of such professional, technical, and clerical personnel as are necessary for the Commission to carry out its duties.

(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments to the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(D) The executive director, with the concurrence of the Chairman, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(6) This subsection shall take effect October 1, 1977.

TIP CREDIT

SEC. 3. Effective January 1, 1978, section 3(t) (29 U.S.C. 203(t)) is amended by striking out "$20" and inserting in lieu thereof "$30".

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS AND FORESTS AND IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 4. (a)(1) Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting before the semicolon the following: ", except that this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture".

(2) Section 13(b) (29 U.S.C. 213(b)) is amended (A) by striking out the period at the end of paragraph (28) and inserting in lieu thereof "; or", and (B) by adding after such paragraph the following new paragraph:

"(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity in providing services or facilities in a national park or national forest or on land under a contract with the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 5. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

SHADE-GROWN TOBACCO EMPLOYEES

SEC. 6. (a) Section 13(b)(22) (29 U.S.C. 213(b)(22)) is repealed.

(b) The amendment made by subsection (a) shall take effect on January 1, 1978.

EMPLOYEES OF CONGLOMERATES

SEC. 7. (a) Section 13 (29 U.S.C. 213) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Subsection (a) (other than paragraphs (1), (3), and (7) thereof) and subsection (b) (other than paragraphs (1), (2), and (3) thereof) shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated) except that the exemption from section 7 provided by paragraph (8) of subsection (b) of this section shall continue to apply until January 1, 1979, with respect to any employee of an establishment which is a restaurant.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

COTTON GINNING EMPLOYEES

SEC. 8. (a)(1) Section 13(b)(25) (29 U.S.C. 213(b)(25)) is repealed.

(2) Section 13 is amended by adding after subsection (i) (as so redesignated by section 7(a)) the following new subsection:

"(j) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

SUGAR EMPLOYEES

SEC. 9. (a)(1) Section 13(b)(26) (29 U.S.C 213(b)(26)) is repealed.

(2) Section 13 is amended by inserting after the subsection added by section 8 the following new subsection:

"(k) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

BABYSITTERS

SEC. 10. (a) Section 18(a)(15) (29 U.S.C. 213(a)(15)) is amended by striking out "on a casual basis".

(b) The amendment made by subsection (a) shall take effect January 1, 1978.

AGRICULTURAL HAND HARVEST LABORERS

SEC. 11. Section 13 (29 U.S.C. 213) is amended by adding after the subsection added by section 9 the following new subsection:

"(l)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

ENTERPRISE COVERAGE

SEC. 12. (a) Section 3(s)(1) (29 U.S.C. 203(s)(1)) is amended to read as follows:

"(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated);".

Mr. CHILES. Mr. President, I do not think this will take very long. It certainly will not from my standpoint.

This is to substitute the House bill. I think many of us feel the House bill makes a big change in the minimum wage, and it would have the 3-year provision rather than 4, which would go back to the Tower amendment.

There is nothing said in the House bill about the tip credit so that proposal would be left the way it is, and you would not have the 4-year escalation that you now have in this bill.

I think many of us have been trying to see if there would be some kind of amendment offered for a youth differential, for some of these other problems that we see coming up, and have been concerned about the inflationary impact of the Senate bill.

So I would propose that we substitute the House bill. We can save a lot of time because we will not have to have a conference between the House and the Senate if we adopt the House bill. We have made a major step forward for 3 years in raising the minimum wage and, at the same time, I do not think we will have the inflationary impact that we would have in the Senate bill.

So I would urge the adoption of the substitute amendment, and I think many of us would like to vote for an increase in the minimum wage and feel as if we could if we could adopt the proposals.

Mr. WILLIAMS. Mr. President, I yield myself a moment or two.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. The Senator mentioned one or two provisions of the House bill. There are, of course, an awful lot of other things in this bill. I do not know, it would seem to me that the Members of the Senate would, if they understood some of these provisions, take a rather dim view of the House bill where there have been special situations of exemptions in cottonginning, in sugar processing, and in sugar employment, and those are all swept away by the House bill, and I would think that the State of Florida in many of its operations where they are now not covered in employment would suddenly be covered.

This has an employees-of-conglomerates section in it, section 7, that was put into the bill on the motion of the Congressman from California, PHILLIP BURTON, and this says that conglomerates whose sales are in excess of $100 million lose just about all of their exemptions and all of their small entities wherever they are, a sweeping inclusion under the minimum wage of businesses that are now excluded.

I think these are the things that will have to be considered in conference and, perhaps, the Senator from Florida approves of all of these, and maybe others do, too. But I would think we ought to have a more orderly process of dealing with these House provisions than we have by suddenly having the House bill presented to us as the substitute.

Mr. JAVITS. Finally, if the Senator will yield, and I will not take but 30 seconds, we voted specifically on a number of these issues on which the House bill was offered, and the Senate version was accepted by a substantial majority. That would all be swept away, so all this time and effort would be in vain.

Mr. WILLIAMS. We did not have before us that sweeping conglomerate amendment. We never raised it.

Mr. JAVITS. Right.

Mr. WILLIAMS. And we have never had any vote. It is a sweeping inclusion under the minimum wage of many activities that are now excluded. The Senate does not have it; the House does.

Mr. JAVITS. I yield back our time.

Mr. CHILES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays have been ordered. The question is on agreeing to amendment No. 905. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senataor from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 29, nays 59, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—29

Allen	Griffin	Schmitt
Bartlett	Hansen	Scott
Byrd, Harry F., Jr.	Hatch	Sparkman
	Hayakawa	Stennis
Chiles	Helms	Stone
Danforth	Hollings	Talmadge
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
Eastland	Morgan	Wallop
Garn	Roth	Zorinsky

NAYS—59

Abourezk	Ford	McIntyre
Anderson	Glenn	Melcher
Baker	Goldwater	Metzenbaum
Bayh	Gravel	Moynihan
Bentsen	Hart	Nelson
Biden	Haskell	Packwood
Brooke	Hatfield	Pell
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Johnston	Schweiker
Church	Kennedy	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Weicker
DeConcini	Mathias	Williams
Durkin	Matsunaga	Young
Eagleton	McGovern	

NOT VOTING—12

Bellmon	McClellan	Nunn
Curtis	McClure	Pearson
Humphrey	Metcalf	Percy
Inouye	Muskie	Ribicoff

So Mr. CHILES' amendment (No. 905) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE and Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 906

Mr. MORGAN. Mr. President, I call up an unprinted amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 906.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between line 17 and 18, insert the following:

SEC. 5. Section 3(s)(1) is amended to read as follows:

"'(1) is an enterprise whose annual gross volume of sales made or business done is not less than $450,000 (exclusive of excise taxes at the retail level which are separately stated);'."

Mr. MORGAN. Mr. President, when this bill came up for consideration, I fully intended to cast my vote for the bill, with some modifications which I had hoped would be adopted. While the House bill that we just voted on did not suit me in all respects, I did think it was within the range of that with which I could live.

But after listening to the debate here on the floor of the Senate for the last 2 days, and listening to the discussion of the various amendments, I have decided that when we take the final vote on this bill in a few moments, I will cast my vote in opposition to this minimum wage bill. I want to take just a moment or two, for the record, to express a few of my reasons for voting as I shall.

First, I want to say that I have long supported minimum wage legislation. I was a member of the State Senate in North Carolina for 10 years, and consistently voted there, in the State government, where I think the basic responsibility is, for minimum wage legislation; and I feel that, overall, minimum wage legislation has been very beneficial. I have cast my vote, just moments ago, for Senator CHILES amendment to substitute the House bill for the Senate bill.

But, Mr. President, after consideration, I think that this bill simply does too much and goes too far.

Certainly there has been an increase in inflation, and the poverty level continues to rise, but I have yet to be convinced that raising the minimum wage from the present $2.30 per hour to $3.40 an hour, an increase of $1.10 per hour in just 3 years, regardless of what conditions might exist in January 1980—I have yet to be convinced that doing this will cure those ills. And although indexing has been removed from the bill, the bill contains wage rates higher than those projected under indexing. An objectionable provision has, in my opinion, been replaced by an unacceptable one.

I might digress to point out that by looking at a table on page 23 of the report of the committee showing minimum wages through the years, it is interesting to note that the highest previous increase at one time has been a 27-cent increase. At various times, the rate was increased from 25 cents to 26 cents, from 26 cents to 30 cents, from 30 cents to 35 cents, and so on. It has increased very gradually, never by such an abrupt jump as this.

Last night I voted for Senator TOWER's amendment, not because I feel $2.65 is the best figure, but rather because I feel that the responsibility of the Senate is to face each minimum wage bill, each time a proposal to raise the rates comes up. As the movement of this bill indicates, it is not such a time-consuming effort. We have been on it probably less than a day and a half.

We must consider increasing the minimum wage rate in the light of the present circumstances and events. That is a responsibility that I believe we were sent here to Washington to fulfill.

I might note also, Mr. President, that as I examine the record, even the Secretary of Labor, Mr. Marshall, has estimated that the enactment of a bill establishing a minimum wage of $2.65 would bring about the loss of 90,000 jobs. I also noted that the Brookings Institution estimates 200,000 jobs, and there are even higher figures than those. This seems to me to be a loss of jobs at a time when we can least afford it.

The youth differential is a good idea, at least I think so. I recognize that, as with other provisions of this bill, we would be dealing with a very complex issue. One of my constituents last night, of whom I am very fond, told me that although he opposed youth differentials, we needed to create some kind of public works jobs for the tens of thousands of youth now unemployed, and those who may become unemployed under the higher rate scale. And, of course, Secretary of Labor Marshall has proposed just such a measure.

To make sure I explained clearly what my friend was saying to me last night—this was an advocate of this minimum wage measure and an opponent of youth differentials, and upon my further inquiry, he said, yes, the highest rate of unemployment is among our young people; yes, the denial of our youth differential will prevent a lot of young people from getting jobs, but we can take care of that, he said, by creating more public jobs. And that, of course, is what Secretary Marshall indicated.

Mr. President, I cannot see creating Federal jobs or Federal job programs of such an extensive nature as would be involved in this case. The student differential of the existing minimum wage, we were told during the debate here on the floor today, created 500,000 jobs. Yet, under the recent jobs programs, we spent $1.3 billion to create only 350,000 jobs.

Mr. President, there is no work ethic in being on the public dole. And make no mistake, many people see these programs as another form of welfare. I hate to think that the only opportunity we will offer many of these people is to say, "Well, we priced you out of the job field, but we will put you on the public dole; we will give you a public-created job." We create one problem and attempt to solve it with another.

More than any one provision, Mr. President, I feel this minimum wage bill simply encompasses too much, and no one has come forward with a complete scenario of what the impact would really be. This morning Senators HATHAWAY and MUSKIE spoke of rural and local needs. In North Carolina, our minimum wage rate is going to $2.50 an hour, and this suits our needs in North Carolina. A minimum wage rate of $3.40 an hour, imposed by Washington for the entire Nation, is a serious matter, very serious. I do not think the case has been made that this is the best proposal, or even the best compromise. My vote must be cast, in the absence of stronger evidence, against this measure.

I reiterate again, Mr. President, I voted for the amendment of the distinguished Senator from Florida, which would have substituted the House bill for the Senate bill because I felt that that would be acceptable. The rates there are not as great as they are here. In that bill, the rate would have gone only to $3.05 an hour in January of 1980.

I am not opposed to a minimum wage, Mr. President, but I am opposed to this Senate, to this Congress, mandating an increase of $1.10 per hour minimum wage in the short span of 3 years. Therefore, I will cast my vote against this bill when the roll is called.

Mr. President, I must say in all candor—I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I commend the Senator from North Carolina for his statement to the Senate this evening. I believe it is an excellent statement, a well-reasoned one, and it puts this matter in perspective. I shall join the Senator from North Carolina in casting my vote against this bill when the roll is called.

Mr. MORGAN. I thank the distinguished Senator.

Mr. President, I also want to state at this time for the record a matter which concerns me for future consideration. I know my distinguished colleagues, the distinguished Senator from New Jersey and the distinguished Senator from New York, would have gladly yielded me time to make a statement in opposition to this bill had I requested them to.

I must say I have always been a little reluctant about requesting a Senator who is an opponent of a measure to yield me time to speak in opposition to his position. Someday I hope there may be considered a rule change in this body where we would decide that when and if we have a time agreement we will let the time be controlled by the floor manager of the bill who proposes a bill, and if the ranking minority member also proposes it, I would hope we would designate

somebody who would be in opposition so we would not be pushed into a position of having to plead or ask for time—I would not say "plead" because I know my colleagues would yield to me—to speak in opposition to their position.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Massachusetts.

UP AMENDMENT NO. 907

(Purpose: To provide for an improved overtime exemption for hotel, motel, or restaurant employees.)

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted amendment numbered 907.

Mr. BROOKE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 5. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

On page 12, line 19, strike out 'Sec. 5." and insert in lieu thereof "Sec. 6.".

Mr. BROOKE. Mr. President, this amendment provides for an improved overtime exemption for hotel, motel, and restaurant employees. Maids and such custodial workers as housemen, gardeners, and laundry workers are currently covered by the 40-hour standard. However, workers such as, cooks and dishwashers are covered by a 46-hour standard. In other words they have to work 46 hours before they can get any overtime.

What this amendment would do in 1978 is cut that down to 44 hours, and in 1979 it would provide a total exemption. Thus they would only be required to work 40 hours before receiving overtime compensation.

I have discussed this amendment with the distinguished floor manager of the bill and the distinguished ranking minority member. They have agreed to accept it and take it to conference.

Mr. WILLIAMS. That is correct. This did not come up at the time of our hearings. I support this amendment. It is just and equitable, in my judgment.

Mr. JAVITS. Mr. President, I, too, support the amendment. It is in the House bill.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. GLENN. Mr. President, after 2 long days, we are now voting final passage of S. 1871, the minimum wage legislation. This is a very critical piece of legislation and I would like to make several comments about key features of this bill.

I supported the Javits-Williams amendment that deleted the indexing provision from the bill while raising the minimum wage. The idea of abandoning periodic statutory review of minimum wage levels and establishing a perpetually fixed relationship between the minimum wage and the average hourly wages of production workers is one that could have had an extremely harmful impact on our economy. Our best economists are unable to give us more than tentative guesses as to where our economy is going, what productivity will be, whether or not rising unit labor costs will lead to rapid, double-digit inflation fueled further by low productivity, what the collective bargaining picture will be in the years ahead and so on. To rigidly interlock the minimum wage to such uncertainty is to ignore the relationship of the minimum wage to increases in cost of living and to the maintenance of purchasing power as well as to make the minimum wage level a potential contributor to inflation. Inflation hits the low-income individual hardest, as he or she has previous little financial latitude to "adjust" to it. To remove from Congress the ability to adjust the minimum wage to cost of living and purchasing power by adopting uncertain, automatic features is unwise. The specific year-by-year increases that we have voted are ample and can be adjusted further as economic conditions warrant. These levels do approach the anticipated family of four poverty levels in the years ahead. They are no windfall to say the least but they do begin to provide a work incentive and I hope they complement President Carters welfare reform plan which attempts to make work more profitable than public assistance.

THE TIP CREDIT PROVISION

I joined with President Carter and Labor Secretary Marshall in opposing the committee's proposal to reduce the 50 percent employer tip allowance to 20 percent by 1983. I spoke with many Ohioans on this issue, employers and employees. All sides agreed that this provision might result in very substantial layoffs and increased unemployment. I felt that this provision should be retained. After efforts to retain the tip credit as it now is were defeated, I joined Senator STAFFORD in modifying the committee proposal by providing for a reduction in the tip credit by 5 percent annually until it reaches 30 percent in 1981. This is a reasonable compromise after failure to retain the 50 percent level.

THE YOUTH DIFFERENTIAL ISSUE

Much time was spent on the highly controversial proposals to provide a differential youth minimum wage. The proposals varied greatly, including various percentage deductions, varying eligibility periods and so on. I respect the proponents of these measures and their motivation in seeking measures that would reduce the deplorably high rates of youth unemployment, which in the black inner cities, commonly reach rates of 40 percent, and sometimes exceed 75 percent.

I believe that these proposals are not entirely unsound. I would like, however, to see any differentials put specifically to use for training programs that promise substantive, viable skills. I would like to see specific targetting of large-scale anti-unemployment incentives and programs. I do not think that 6 month, small percentage differentials, as proposed, will make much of a dent in inner city and teenage unemployment. Additionally, I am concerned about unemployed adults, similarly unskilled, who, to compound their problem, would now be thrown into competition for these entry-level jobs.

And, realistically, Mr. President, we can expect no proliferation of business development in the inner city as a result of these types of proposals. Our seemingly intractable unemployment problems will only be solved by comprehensive national policy that involves location incentives, training incentives, some Government programs, such as the fledgling youth jobs program, and meaningful welfare reform, all in addition to the minimum wage. I hope that this administration will move quickly to develop and implement such a comprehensive policy. It would be a mistake to approach this problem in random, piecemeal fashion.

SMALL BUSINESS EXCLUSION

At present, businesses whose annual gross volume is not more than $250,000 are exempt from minimum wage requirements as a practical matter this is an extremely low figure given the nature of business operations in 1977. It does not take a very large business these days to gross $250,000. Circumstances have changed considerably since enactment of the $250,000 exemption and an increase in this exemption was fully warranted. I supported Senator BUMPERS efforts to increase this exemption, which carried and goes to $325,000 by 1980. I would hope that conference compromise with the House of Representatives figure of $500,000 would further increase the Senate passed $325,000 provision.

Mr. BAYH. Mr. President, I rise in support of the legislation before us today, S. 1871, a bill which will bring a long-overdue increase in the minimum wage for all workers covered by the Fair Labor Standards Act of 1938. The current minimum wage of $2.30 an hour for full-time, year-round workers was established by the Congress in 1974. At its current rate, an entire year's work at the minimum wage will produce only $4,784. This figure, $4,784, is $1,420 below the Federal Government's poverty line figure for a nonfarm family of four. When the minimum wage paid the workers of this Nation falls substantially below the poverty line, it is past time for those of us in the Congress to make the necessary adjustment.

The provisions of the legislation before us, as modified by the Williams-Javits amendment, would raise the minimum wage to $2.65 an hour in 1978, $2.90 in 1979, $3.15 in 1980 and $3.40 in 1981. To critics of an increase in the minimum wage, these figures may seem too high. But I say to these critics that these figures do no more than guarantee the majority of American workers the chance to maintain a decent standard of living. According to Federal Government statistics, a married worker with two children would need to be earning nearly $3 an hour today to break above the poverty line set at $5,850 a year. The legislation before us today will not come close to that $3 figure until 1979. When one takes into account inflation and the rising cost of living, the increases mandated by S. 1871 are more than justified.

Today, there are almost 52 million workers who fall under the coverage of the Fair Labor Standards Act. Approximately 3 million workers are currently paid $2.30 or less. Of those workers at the low end of the pay scale, two out of every three are women and a substantial number of these are the primary source of household income. Indeed, according to Brookings economist Edward Gramlich, "the evidence suggests that adult females are the main beneficiaries of increases in the minimum wage."

In addition to affecting women workers, increases in the minimum wage impact disproportionately on black workers. Today more than three out of every four black workers are subject to the requirements of minimum wage legislation. It has been estimated that 17 percent of all black workers are paid $2.65 an hour or less.

Despite traditional claims by opponents of a decent minimum wage that increases have been inflationary, and caused an increase in unemployment, the history of minimum wage legislation, as documented by the Department of Labor, does not support these charges. Both the Senate Human Resources Committee and the House Education and Labor Committee, after careful study, concluded that changes in the minimum wage have had no substantial impact on wage, price or employment trends.

All of us who are concerned with the plight of the unemployed are deeply disturbed by the soaring unemployment rate among our Nation's youth. We are all too sadly aware that the unemployment rate among black teenagers approaches 45 percent. There have been some Members of this body who have suggested that the solution to this problem is to create a special youth subminimum wage. Under the various proposals I have seen, this youth differential would allow employers to pay young people under the age of 19 or 20 from 50 to 85 percent of the minimum wage for full time adult workers.

Mr. President, this is not the answer to youth unemployment. The answer to the problem of youth unemployment is the creation of jobs. It is not to create a lower minimum wage for our younger workers with families to support.

What would the effect of a youth differential be? Would it be to open up more jobs for youths? I think not. Two Department of Labor studies have concluded that a differential for youth would have the main impact of displacing an adult worker. While I do not impugn the motives of many of our Nation's business owners, there is nothing in the youth differential proposals I have seen that would prevent an employer from firing long term employees and replacing them with youths.

Many businessmen from my own State have complained to me that the current exemption for youth employment, available upon application to the Department of Labor, involved too much red-tape to make it worthwhile. If this is true, then the answer is to eliminate the unnecessary paperwork. It is not to create a subminimum wage for youth. For that reason, I supported an amendment offered by my colleague from Wisconsin, Mr. NELSON, which would simplify the paperwork burden on those businessmen seeking the existing youth exemption from the minimum wage.

While I support the majority of the changes made in the Fair Labor Standards Act under the provisions of S. 1871, I found that I could not support the committee's position to reduce the existing tip credit which allows employers to credit the tips of a waiter or waitress actually received for up to 50 percent of the minimum wage. I support retention of the tip credit for the simple reason that I feel it is consistent with the basic purpose of the Fair Labor Standards Act itself. That purpose is to guarantee a minimum wage base for American workers. Tips, Mr. President, are wages. Employees are required to pay Federal income taxes and social security taxes on tips as wages earned. I, therefore, do not find it inconsistent with the Fair Labor Standard principles to count tips as part of the minimum wage. Because of my belief that tips are indeed wages, I supported the amendment by my colleague from Florida, Mr. STONE, to retain the present 50-percent credit.

Mr. President, the last minimum wage passed the Congress in 1971. This increase made headway in giving many low-wage earners the chance to rise above the poverty line. But each year we face gigantic hikes in the cost of living. Between May 1974 and July 1977, the Consumer Price Index has risen 25 percent. For many of our workers paid at or near the current minimum wage, these increases have been devastating. The legislation before us today will provide these workers with the chance to sustain a decent standard of living for themselves and their families. I urge my colleagues to enact this long-overdue legislation.

Mr. DOLE. Mr. President, I rise in support of the bill now before the Senate to amend the Fair Labor Standards Act. However, there are several proposed changes in the present law which concern the Senator from Kansas. Many of these new features will have disastrous effects on the very persons supposedly benefited should Congress make them the law of the land.

I do not oppose increasing the statutory minimum wage. Inflation has continued to increase the cost of living for each American. Next to our elderly, low-income workers are among the hardest hit by the ravages of inflation. Since the justification for the minimum wage is to insure every working person a livable wage, periodic adjustments may be necessary. This bill would increase the minimum wage from the present $2.30 an hour to $2.65 an hour. While this rate of increase seems somewhat excessive to the Senator from Kansas, I nevertheless will accept the judgment of the Human Resources Committee that $2.65 per hour should be the standard for the country.

YOUTH DIFFERENTIAL

I do not think it is any longer open to serious question that minimum wage increases operate to reduce job opportunities for teenagers. Teenagers have substantial disadvantages in competing with adults for jobs. They are unskilled and inexperienced; their job search is limited geographically—close to home or school—they need part-time or temporary work compatible with school schedules; they are eligile for the draft; and for a variety of reasons, they have a high turnover rate. Consequently, whenever changed economic conditions—an increase in the minimum wage, for example—exert pressure on employers to reduce labor costs, jobs held by teenagers are among the first to go.

Mr. President, recent figures on the level of unemployment among youths are startling. Estimates of unemployment of black teenagers range to about 40 percent.

These figures, and their social implications, are alarming. But they are in fact understated, because they are based only on youths who are not looking for employment, either because they have tried, and are discouraged, or because they see all their friends out of work and are convinced no jobs are available. Insufficient data exist regarding the number of youths in this nonparticipating category, but there are undoubtedly enough to affect true unemployment rates considerably—particularly in the inner city areas.

The bill would essentially do nothing to reduce the high youth unemployment rate, or to lessen the adverse impact of the bill's large increases and extensions of coverage on youth unemployment.

The effect of a youth differential provision would be to preserve job opportunities for students and teenagers which would otherwise be eliminated when existing minimum wage rates are increased. It is not a question of displacing adult workers. It is a question of whether marginal jobs are held by teenagers and students working part-time or whether such jobs are simply eliminated.

INDEXING

Probably the most revolutionary feature of S. 1871 is the built-in indexing of the minimum wage. This proposal has so many defects it is difficult to choose a place to begin.

Indexing of wages, minimum or otherwise, is indisputably inflationary. But a source of automatic wage increases into the economy has led to double- and triple-digit inflation in countries in South America. The Government in England has been attempting to have the massive labor unions in that country forego cost-of-living increases in an effort to control the inflation which has crippled the British economy. Congress has made extensive efforts to limit inflation and adoption of indexing provisions such as this are counter to the best interest of every American.

Automatic indexing would be another example of Congressional abdication of power to bureaucrats in the executive. If and when the minimum wage should be increased again. Congress should face its responsibility and enact the necessary legislation. Yearly increases without any congressional review ignores the traditional role of the Congress in the minimum wage. The minimum wage is a creature of congressional creation and should remain firmly under the supervision of elected officials. I am unable to be as certain as some of my colleagues that I can predict the economic future of America. I confess that I do not know how high or low a minimum wage will be consistent with the rest of our economic policy 5 or 10 years in the future.

The particular standard for indexing which the committee has chosen is also lacking. Future increases will be dependent on the average hourly earnings of nonsupervisory workers in manufacturing. Yet, manufacturing wages are at best only tenuously related to wages paid in other industries. The committee could have just as well chosen the average agricultural wage which would be just as invalid. Each industry has it own individual employment characteristics. During every economic cycle, some types of businesses are booming and others are experiencing declines. To contend that the manufacturing wage will be a relevant indicator of general wage trends for the indefinite future is patently ridiculous.

Another point must unfortunately be made in this context. The principal characteristic of manufacturing employees is their higher than average degree of unionization. Use of the manufacturing wage as the linchpin for indexing gives the wage settlements of big unions, no matter how inflationary, a multiplicative effect for all workers paid the minimum wage. Considerable concern has been expressed in Congress and throughout the country about the growing influence of organized labor. A substantial question remains unanswered as to whether the minimum wage level should be so directly dependent on actions of organized labor.

TIP CREDIT

In 1966, Congress amended the minimum wage law to insure that employees who receive tips on a regular basis are guaranteed the minimum wage. Employers may pay these employees at a rate of one-half the minimum wage only if the employee gets enough tips up to or beyond the minimum wage. If for any day the employee does not receive sufficient tips to equal the minimum wage, the employer is required by law to pay the employee the full minimum wage. This system has two primary advantages. First, employees such as waiters have an incentive to work hard and deliver good service. The amount of their take home pay above the minimum wage is determined by their own efforts. Second, the tip credit reduces the per employee expenses of employers and allows the hiring of more people.

The vast majority of waitresses, waiters, and other tipped employees are opposed to repeal of the tip credit. The law already insures that at worst they will receive the full minimum wage. These employees also know that the tips from an average restaurant will give him or her a wage significantly higher than the minimum wage. Elimination of the tip credit could force employers to forbid tipping and institute a standard service charge which the employer, not the employee, keeps.

Employers are also uniformly opposed to the repeal of the tip credit. The direct salary costs of the average employer will double automatically. Production will not increase and may even decrease if employees lose their incentive to give good services. In this case, speculation on possible effects is not necessary. California, which raised the minimum wage in the state to $2.50 and eliminated a tip credit, furnishes positive proof.

Since these changes have become law, thousands of tipped employees in the food service industry have lost their jobs or have had their work hours reduced. A typical food service chain in the State of California had to raise prices 50 percent more than in their resturants elsewhere in the United States. These price increases not only cut profits and forced payroll reductions but also drove customers away.

The third group which should oppose elimination of the tip credit is every consumer of restaurant services in the country. The inevitable result of forcing higher costs on the owner is either higher menu prices or closing down of these establishments. The consumer advocates should be raising a howl at this congressional attempt to hike prices in restaurants without any justification.

Employees, employers, and customers all oppose elimination of the tip credit. While the Senator from Kansas would have preferred to retain the present tip credit structure, I support the Stafford amendment which will reduce tip credit by 5 percent until it reaches 30 percent in 1981.

SMALL BUSINESS EXEMPTION

Presently, businesses with annual gross sales of $250,000 are exempted from the minimum wage law. For the most part, these are "Mom and Pop" type of operations.

There has always been a basic exemption for small business under the Minimum Wage Law. This is not anything new we are considering. At one time, it was a $1 million exemption but that figure was reduced to $250,000 in 1969. There seems to be little or no legislative history of why it was reduced. However, the clear intent was to give an exemption. In 1969, it was set at $250,000 however, the Senator from Kansas questions whether the $250,000 level represents the true amount intended for 1978.

The Senator from Kansas has no doubt that the present level must be raised. The raise is long overdue; $250,000 in 1967 dollars represents approximately $468,000 in 1977 dollars. Nearly everything has doubled: Wages, prices, cost. To keep the $250,000 level is grossly unfair to small businesses. It must be updated or else we will drive out of business thousands of small businesses, adding greatly to the unemployed. Although the Tower amendment, which would have set the small business exemption at $1,000,000, has been amended to a smaller increase of $275,000 in 1978 and $325,000 in 1980, I believe the Senate has taken a step in the right direction in addressing a serious problem experienced by the small businesses of our country.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

H.R. 3744

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 408, H.R. 3744.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move that all after the enacting clause be stricken and that the text of the Senate bill, S. 1871, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage of the House numbered bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. McCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that if present and voting: the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 63, nays 24, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—63

Anderson	Eastland	McIntyre
Baker	Ford	Melcher
Bayh	Glenn	Metzenbaum
Bentsen	Gravel	Moynihan
Biden	Hart	Nelson
Brooke	Haskell	Packwood
Bumpers	Hatfield	Pell
Burdick	Hathaway	Proxmire
Byrd, Robert C.	Heinz	Randolph
Cannon	Hollings	Riegle
Case	Huddleston	Sarbanes
Chafee	Jackson	Sasser
Church	Javits	Schweiker
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stevens
DeConcini	Long	Stevenson
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Weicker
Eagleton	McGovern	Williams

NAYS—24

Allen	Hansen	Scott
Bartlett	Hatch	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stone
Chiles	Helms	Tower
Danforth	Laxalt	Wallop
Garn	Lugar	Young
Goldwater	Morgan	Zorinsky
Griffin	Roth	
	Schmitt	

NOT VOTING—13

Abourezk	McClellan	Fearson
Bellmon	McClure	Percy
Curtis	Metcalf	Ribicoff
Humphrey	Muskie	
Inouye	Nunn	

So the bill (H.R. 3744), as amended, was passed, as follows:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.15 an hour during the year beginning January 1, 1980; and not less than $3.40 an hour after December 31, 1980, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture during the period beginning on the first day of January 1978, not less than the minimum wage rate in effect under paragraph (1).".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages of the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at the following rate: Effective on and after the first day of January 1978, not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and substituting the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8,

"(ii) effective January 1, 1979, by $0.25 an hour or by such greater amount as may be so recommended by such special industry committee, and

"(iii) effective January 1, 1980, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8,

"(ii) effective January 1, 1979, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(iii) effective January 1, 1980, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendation of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by section (a)(5) of this section would otherwise apply, and whose hourly wage increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended—

(i) by striking out "subsections (a) and (b)" and substituting "subsection (a)(1)",

(ii) by inserting "(A)" before "heretofore", and

(iii) by inserting before the period the following: ", and (B) which prescribes the wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended—

(i) by striking out "subsection (a) or (b)" and substituting "subsection (a)(1)", and

(ii) by striking out "such subsection" and substituting "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(A) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(B) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

TIP CREDIT

SEC. 3. (a) Effective January 1, 1978, section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50 per centum" and inserting in lieu thereof "45 per centum.".

(b) Effective January 1, 1979, such section is amended by striking out "45 per centum" and inserting in lieu thereof "40 per centum.".

(c) Effective January 1, 1980, such section is amended by striking out "40 per centum" and inserting in lieu thereof "35 per centum.".

(d) Effective January 1, 1981, such section is amended by striking out "35 per centum" and inserting in lieu thereof "30 per centum.".

PENALTIES

SEC. 4. (a) Section 16(b) (29 U.S.C. 216(b)) is amended by adding immediately after the first sentence the following new sentence: "Any employer who violates the provisions of section 15(a)(3) of this Act shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 15(a)(3), including without limitation, employment, reinstatement, or promotion or the payment of wages lost, and an additional equal amount as liquidated damages."

(b) Section 16(b) is further amended by—

(1) inserting "(1)" after "section 17 in which"; and

(2) striking the period at the end of the last sentence and substituting the following: "or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3).".

RELIGIOUS OR NONPROFIT EDUCATIONAL CONFERENCE CENTERS

"SEC. 5. Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting after "recreational establishment," the following: "organized camp, or religious or nonprofit educational conference center,".

SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

SEC. 6. Section 14 (29 U.S.C. 214) is amended by redesignating subparagraphs (B) and (C) of paragraph (4) of subsection (b) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) To minimize paperwork and encourage small business concerns to employ students under paragraphs (1) and (2), the Secretary by regulations or order shall use a simplified application form specified in this subparagraph for any employer to employ not more than four full-time students under paragraphs (1) and (2) when issuing special certificates under such paragraphs (1) and (2). Each simplified application shall only contain provisions—

"(i) listing the name(s), address(es), and business of the employer;

"(ii) providing the date the employer began operation; and

"(iii) certifying that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.".

AGRICULTURAL HAND HARVEST LABORERS

SEC. 7. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"(i)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may also apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, but not less than ten years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece basis in the region in which such individuals would be employed for a period not to exceed eight weeks in any one calendar year. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

"(A) the crop to be harvested is one with a particularly short harvesting season and the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

"(C) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

"(D) individuals age twelve and above are not available for such employment; and

"(E) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

STUDENTS

SEC. 8. (a) Section 14(b)(4)(B) (290 U.S.C. 214(b)(4)(B)) is amended by striking "four" each time it appears and substituting "six".

(b) Section 14(b) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 9. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

DATA COLLECTION ON MINIMUM WAGE EARNERS

SEC. 10. (a) Section 11(a) (29 U.S.C. 211(a)) is amended by adding the following: "The Secretary of Labor shall conduct, or make arrangements to conduct, a study to determine (i) the nature and extent of noncompliance with the provisions of this Act, and (ii) the social and economic characteristics of workers affected by the minimum wage and modifications thereto, to include, but not limited to, age, sex, race, family status, duration of employment with the same employer, and, to the extent practicable, information concerning the proportions of such workers who are heads of households, principal or secondary wage earners, and the family size and total family income of such workers.".

RETAIL AND SERVICE ESTABLISHMENT COVERAGE

SEC. 11. (a) Section 3(s) (29 U.S.C. 203(s)) is amended by renumbering paragraphs (2), (3), (4), and (5) as (3), (4), (5), and (6), respectively, and inserting after paragraph (1) the following:

"(2) is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1980, whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated), except that an employer who is required to pay the minimum wage on the day before the date of enactment of the Fair Labor Standards Amendments of 1977 and who would not be so required subsequent to enactment of the Fair Labor Standards Amendments of 1977 may not decrease the wages or increase the maximum hours required by this Act of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wages."

(b) Paragraph (1) of section 3(s) is amended by adding after the phrase "and beginning February 1, 1969, is an enterprise" the following: "other than a retail or service establishment described in paragraph (2)".

EFFECTIVE DATE

SEC. 12. (a) The amendment made by section 2 of this Act shall take effect on the first day of January 1978, except that on and after the date of enactment of this Act the Secretary of Labor shall take such administrative action as may be necessary.

(b) The amendments made by sections 4, 5, and 6 shall take effect on January 1, 1978.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 3744.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I move to indefinitely postpone consideration of S. 1871.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. JAVITS. Mr. President, I will just take 30 seconds to compliment Senator WILLIAMS and to express my appreciation of the fine work on this matter.

Mr. RANDOLPH. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order and the Senator will cease. The Senator will suspend for a moment. The Senate will be in order.

The Senator from New York.

Mr. JAVITS. To those on Senator WILLIAMS' staff and of my staff, John Rother and Don Zimmerman, the two top men on Labor.

I am grateful also for the patience of our colleagues who bore with us on some pretty hard things.

Mr. WILLIAMS. Mr. President, it is too late to fully express the feelings I have on this matter.

Certainly, the Senator from New York and I have had, again, a happy relationship. His staff has been helpful. My staff people, Steve Paradise and Darryl Anderson, have been invaluable.

The Senator from West Virginia (Mr. RANDOLPH) has been a trooper in all respects, in all regards, on this bill.

Finally, the majority leader is to be thanked by all of us.

Mr. JAVITS. May I say that for both the majority and minority leaders who held up their hands when we needed it most.

I thank the members of the minority.

Mr. BAKER. Mr. President, only 15 seconds to say that I wish to extend my congratulations and appreciation to both Senator JAVITS, the manager on this side, and Senator WILLIAMS, the manager on the majority side, for a job well done.

Mr. ROBERT C. BYRD. Mr. President, I believe the Senate—indeed, the working people of this country—owes a large measure of appreciation to the dedicated managers of S. 1871, the minimum wage legislation, Senator WILLIAMS for the majority, and Senator JAVITS, the minority manager. They have exhibited the depth of their commitment to the working people of the Nation through their knowledge of complex issues in guiding this measure to its passage. I must also take a moment in praising the outstanding work in this field of my distinguished senior colleague from West Virginia, Senator RANDOLPH, who greatly assisted the managers of this bill.

I wish to express my appreciation also to Steve Paradise, Darryl Anderson, John Rother, and Don Zimmerman of the professional staff of the Human Resources Committee for their distinguished work on the bill.

THE MARINE MAMMAL PROTECTION AUTHORIZATION ACT

Mr. PACKWOOD. For the record, I would like to discuss with my distinguished colleague from the State of Washington the amendment he offered to S. 1522, the Marine Mammal Protection Authorization Act, which concerns a limitation on the expansion of crude oil terminals in Puget Sound and northern Washington State waters. My understanding is that the amendment was not intended to reduce the ability of the State of Oregon to receive petroleum products from Washington State refineries, either now or in the future, as Oregon's petroleum demands increase.

Mr. MAGNUSON. Exactly, and let me clarify the intent of that amendment for the Senator from Oregon. As you know, the intent of the amendment is to restrict increased tanker traffic in the Puget Sound area. When the amendment was drafted, I took care to be sure that it did not unduly affect the State of Oregon. In fact, the amendment only applies to construction or alteration of dock facilities in the Puget Sound region, not to refineries as such. We both know that Oregon receives most of its supplies of refined petroleum from Washington refineries. This oil is transportation primarily via the Olympic pipeline through Portland. As Oregon's needs increase, there are several ways that Oregon would receive additional supplies from Washington, despite this amendment.

First, much of the oil refined in the State of Washington is shipped out of state for sale. In fact, none of the refineries are actually the top marketer in the State. Therefore, refined product, that is now exported from my State at the current level of crude oil imports at Washington refineries could be diverted to the Oregon market via the Olympic Pipeline, if necessary.

Second, a new oil port at Kitimat, British Columbia, could be connected into Washington State to handle expanded refinery capacity or expanded needs in Oregon.

And finally, if Oregon wanted to receive increased supplies, it could also be accomplished by increasing tanker shipments as long as no alteration of dock facilities in Puget Sound is involved.

Mr. PACKWOOD. Thank you for that explanation. I would hope that if necessary you would assist my State in every way should problems arise as a result of this amendment.

Mr. MAGNUSON. I do not foresee any serious problems arising but will do whatever I can to help my distinguished collegue from Oregon and his State.

Mr. PACKWOOD. I thank the Senator for his remarks and pledge of support.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1863, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with amendments as follows:

On page 1, beginning with line 3, insert the following:

That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

On page 2, at the beginning of line 15, insert "SEC. 201.";

On page 2, line 22, strike "$333,600,000" and insert "$253,470,000";

On page 2, line 23, strike "$15,000,000" and insert "$14,000,000";

On page 2, beginning with line 24, strike through and including line 25;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during fiscal year 1978, for the use of the Armed Forces of the United States for procurement of aircraft and missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For Aircraft: for the Air Force, $33,000,000.

Missiles

For Missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriations Authorization Act, 1978" there are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Air Force, $253,470,000.

For the Defense agencies, $14,000,000.

Mr. STENNIS. Mr. President, this bill will be presented primarily by the Senator from New Hampshire (Mr. McINTYRE) who has asked me to assist him in controlling the time.

Mr. President, I will yield briefly, but I would like to make a brief statement on the way the bill looks from here.

This is the followup authorization bill regarding prospective aircraft and missiles that come into the picture because of the B–1 matter and the action of President Carter in canceling it out. The B–1 itself is not in the bill. There is no direct vote on any money here concerning the B–1.

This has been very carefully gone over, worked over by the committee, and all the major wrinkles except one, I believe have been straightened out.

There could be a rollcall vote on that, but I still have hope we can straighten it out; and, of course, for final passage.

I will be very brief, just 2 or 3 minutes.

Mr. President, may we have quiet to my right front, please?

The PRESIDING OFFICER. The Senate will be in order.

Several Senators addressed the Chair.

Mr. STENNIS. The Senator from Iowa asked me to yield to him for a unanimous-consent request.

Mr. CULVER. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Mr. Stevenson and Mr. Asplund of my staff be granted privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask unanimous consent for Mr. Sullivan, Mr. Riedel, and Mr. Cohen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, I want to accommodate Senators. It will have to be brief, there are people waiting.

The PRESIDING OFFICER. May I inquire of the Senator from Mississippi to whom he is yielding now?

Mr. STENNIS. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that Robert Old, Rhett Dawson, and Will Ball, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ron Lehman of my staff be granted privilege of the floor during this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I will just take 2 or 3 minutes to refer to this bill. It is a highly important measure, Mr. President, because it relates directly to what we all know as the Triad, the third leg of our strategic forces. It has been affected, of course, by the decision of the President concerning the B-1. This additional authorization was submitted to us just before the August recess. Hearings were held partly during the recess by our subcommittee and have been completed since, of course.

We have very fine recommendations here that cover all the items. There is some disagreement about one item. There are some other colloquies here about some amendment.

But the Senator from New Hampshire, with his usual skill and completeness and very fine work, together with his fellow members of that subcommittee, have done their usual excellent job. I am going to ask him, for the committee, to make the opening presentation on this matter.

The prospect is that I think it will not be extended. We could finish this bill within an hour, but it might take more.

Mr. President, I yield to the Senator from New Hampshire.

Mr. McINTYRE. I thank the Senator.

Mr. President, what is the time limitation on this particular bill?

The PRESIDING OFFICER. Three hours, equally divided.

Mr. McINTYRE. And on the amendments?

The PRESIDING OFFICER. Thirty minutes on amendments.

Mr. STENNIS. I yield the Senator from New Hampshire 15 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 15 minutes.

Mr. McINTYRE. Mr. President, I certainly regret the lateness of the hour and the time of the week when we bring up this very important matter. I certainly will bear it in mind as we try to get through a brief explanation and try to deal with such amendments as may be offered or such colloquies as may be in order.

Mr. President, when the President decided to cancel the B–1, it had the following effects:

He asked Congress to delete $1.434 billion in fiscal year 1978 B–1 procurement from the fiscal year 1978 appropriations bill. The Senate agreed to this on July 18, and the House agreed on September 8 by a vote of 201–199.

He asked Congress on July 19 to rescind $462 million of the fiscal year 1977 B–1 procurement funds. This is under consideration by the Appropriations Committee—not an issue here.

He asked that the $442.5 million in fiscal year 1978 B-1 R.D.T. & E. to be continued to protect the production option for the B-1. This is under review by the Department of Defense.

The President's recommendations are embodied in S. 1863, supplemental defense authorization bill. Since the bill dealt primarily with R. & D. matters, the chairman of the Armed Services Committee referred the bill to the R. & D. Subcommittee, which I chair, for hearings and report to the full committee.

To those of us on the Armed Services Committee, the decision to, in effect, kill the B–1 bomber had important implications as to how we would maintain the viability of the triad concept of our defenses.

Just before the August recess we held two hearings. On July 27, Dr. Perry and General Slay outlined the Department's new conception of the future bomber force. To do this, they used the methodology we developed in our spring hearings. They first defined the military mission which the strategic bombers are to execute. They then detailed the intelligence community's estimate of the Soviet air defenses which might degrade our bombers' ability to perform their missions in the mid-1980's. Finally, they showed how the systems proposed in this bill could be used in a force to counter the Soviet defenses and assuredly perform their assigned tasks.

On July 29 they returned to discuss the details of the dozen or so individual programs in the bill. Although everyone was most cooperative, it became clear that there simply had not been enough time for a deliberate review of some of the important elements of the supplemental even by the Department, let alone by the subcommittee. We therefore decided that we would need to inquire further before we could make a recommendation to the full committee.

During the recess we developed the necessary record in a variety of ways.

The subcommittee submitted almost 300 written interrogatories to DOD for formal response. These covered as best we could the full breadth of issues raised by the bill—program costs and management, the future threat, the decisional process regarding the B–1, the practical operational aspects of the proposed new bomber force, SALT implications, and strategic targeting policy.

We successfully insisted that the administration comply with the law which requires an arms control impact statement on certain items in the bill. This statement is in the committee files.

Committee staff traveled to the four major contractors involved in bomber and cruise missile programs to examine their production facilities and review the details at their program management. They also visited the two prinicipal commands which would use systems requested in the bill—NORAD and SAC. For extensive briefings and discussions.

At Senator GOLDWATER's suggestion we invited the new Commander in Chief of SAC, Gen. James Ellis to testify, and on August 27 he and his team discussed in some detail the targeting and operational considerations of the proposed future bomber force.

General Bratton, the director of the ERDA weapons program, testified on the W–80 cruise missile warhead development.

On August 29 the subcommittee met with Dr. Perry and General Slay for a final summary review of this collective record.

In all, we held 15½ hours of hearings and received testimony from over 10 key witnesses. As we reported our findings to the full committee on September 9, I felt that we had a rich detailed and logical record on which we could make prudent legislative judgments.

Our inquiry substantiates several important conclusions about our future bomber force.

Most important, it became clear that there are substantial advantages to be gained if we build a mixed force of manned penetrating bombers and stand-off cruise missiles. A mixed force overwhelmingly multiplies the technical, financial, and military problems of the Soviet air defense.

This is true first in a broad sense. In general, a defense against the penetrating bomber must concentrate on terminal SAM air defenses and a highly expensive and sophisticated net of ground controls radars to direct interceptors. In general a defense against the standoff cruise missile must concentrate on the cruise missile carrier before it launches its cruise missiles. This requires an expensive and sophisticated fleet of AWACS aircraft and a force of long-range interceptors. Since a mixed force denies the Soviets the ability to concentrate on either the manned penetration or the cruise missile, they must either accept the massive costs of double air defense systems or accept substantially greater weaknesses in their defenses. In the one case they are forced to take resources currently devoted to offense to spend on a futile search for an effective air defense. In the other case, deterence is even more greatly enhanced. In both cases strategic stability increased.

A mixed force also challenges the Soviet's air defenses technically as well. A SAM system designed to beat a penetrating bomber depends on a man to adjust to American jammers. A SAM system designed to counter a cruise missile which has no jammers but which would have a very low radar cross section and which would, therefore, reduce reaction time greatly, would have to be automatically fired. A mixed force, therefore, poses a dilemma requiring the Soviets to optimize their SAM system against cruise missiles or bombers. Either choice leaves them more vulnerable to the other. So they are forced to the expense of building double systems or accepting substantial vulnerabilities.

These synergistic advantages of a mixed force makes both the manned penetrator and the cruise missile more effective. SAC testified to our subcommittee that their estimates of B–52 survivability 10 years from now increased significantly if the B–52 were mixed with long-range cruise missiles.

A mixed bomber force will give us major operational military advantages as well. A mixed force provides greater targeting flexibility and introduces major uncertainties for the defense about the number and kind of attacking weapons at any given point of attack. We do not give up the advantages of having some high yield gravity bombs to use on critical, difficult target. We also do not give up the flexibility of manned bombers for conventional applications.

There are also major SALT advantages from a mixed bomber force. If we would depend on an all or dominately stand-off cruise missile force as some have suggested, the President's negotiating flexibility at SALT would be severely restricted. Range limitations on cruise missiles, especially when adjusted for operational degradation and possible future Soviet defensive programs which could push the stand-off aircraft further and further back, could mean that we simply could not attack some part of the Soviet target base with our bomber leg of the Triad. We would find this militarily unacceptable.

However, a mixed force of manned penetrators and stand-off cruise missiles would enable the bomber forces to attack the entire Soviet target base in a variety of ways. The manned penetrators in the force will reach 100 percent of the target base. So will aircraft used in a dual role which would launch long-range cruise missiles while penetrating and which would then complete their mission as in the classic penetrating fashion. A large portion of the target base would also be covered by stand-off cruise missiles even if limited by reasonable range restrictions at SALT.

So the mixed force supports the President at SALT by providing him with sufficient flexibility to bargain for critical restrictions on Soviet ICMB's in return for reasonable limitations on our cruise missiles, with the full confidence that this would not mean any diminished military effectiveness in our bomber force.

In sum, the brief for a mixed bomber force is compelling. In fact, I am convinced that the most significant product of our labors since last July has been to clarify and detail this basic concept.

At first the DOD was vague and unclear about their conception of a future bomber force. Some of their public statements suggested a dominately stand-off cruise missile force. But our persistent inquiry formally produced a clear and unambiguous commitment by Dr. Perry, speaking for Secretary of Defense, that a mixed force was a central planning objective of the Department.

Mr. President, together with the senior Senator from the Commonwealth of Massachusetts and our staffs, we have discussed at great length some of the problems that face all of us when we

talk about the future of the cruise missiles, and I yield to the distinguished Senator from Massachusetts at this time.

Mr. KENNEDY. I thank the Senator very much.

Mr. President, I welcome the opportunity to comment on the arms control and military issues which the Armed Services Committee has put before us in the cruise missile and related areas.

At the outset, I express my very deep sense of appreciation to the Senator from New Hampshire, the chairman of the committee and others, as well as my colleague the distinguished Senator from Maryland (Mr. MATHIAS), who worked with us on a number of issues which are raised by this particular authorization.

Mr. President, I do not think we should let this opportunity go by in the Senate without considering the implications of cruise missile development—without establishing on the floor some of the very grave, important implications that the development of the cruise missile as well as the mobile MX missile will have for the United States.

I think it is appropriate for those of us who have followed with the Armed Services Committee the development of various weapons systems—and have seen those weapons systems become the subject of very considerable, hard, and difficult negotiations—to establish a very clear and precise record as to the intentions of the Department of Defense in the fashioning of these various weapons systems. This country, under a series of Presidents of both political parties, for a period of some 16 years, has tried to bring the escalation of the arms race into control. We must, therefore, carefully consider the relationship of these weapons systems to our national security, to our responsibilities to our friends and allies throughout the world, and to our interest in arms control and disarmment.

MILITARY AND ARMS CONTROL IMPLICATIONS OF CRUISE MISSILES

Mr. President, I congratulate Senator MCINTYRE and his colleagues on the Armed Services Committee for their careful examination of the cruise missile issue, and I am pleased that we have a chance today to discuss the military and arms control implications of this major weapons system. If nothing else, this is an opportunity for the Senate to educate itself and the public at large on the characteristics as well as the military and arms control implications of this new family of weapons.

My overriding concern is that what we do in this chamber today should not jeopardize prospects for achieving a meaningful and equitable arms control agreement with the Soviet Union. President Carter and Secretary Vance deserve our strong support at a time of promising progress toward a SALT II agreement. Indeed, the President just recently announced that "we and the Soviets are within sight of a significant agreement" on SALT. I welcome this. I believe it could be of major importance for controlling the nuclear arms race—as well as for our bilateral relationship with the Soviet Union.

It is no secret that the Soviets have been increasingly concerned about the impact of our cruise missiles on their security. We have long been concerned about the impact of their heavy missiles on our security. And there is growing appreciation, by both sides, of the serious adverse effects that mobile ICBM's can have on stability. Surely it is in our best mutual interest to effectively limit the systems which cause each side the greatest concern—rather than to permit deployments which can contribute to a new round of the nuclear arms race and set back prospects for nuclear arms reductions in SALT.

We have heard from the committee that the bill before us is limited to further development and evaluation of air-launched cruise missiles. It extends in no way to sea-launched and ground-launched cruise missiles. This authorization is intended only to enhance the effectiveness of the airborne deterrent, in the context of the administration's wise decision to cancel the B-1 bomber—a decision which should be confirmed once and for all by both Houses of Congress.

Despite serious misgivings on our part, this understanding has led me and my cosponsors to decide not to seek to reduce the funds authorized by this bill—but rather to propose an amendment which would clarify the limitations of this authorization and which would establish the intent of Congress as to the future shape of the United States cruise missile program.

Mr. President, I shall introduce the amendment at a later stage in the debate. For the present, I would like to address briefly what I consider to be the key issues: The present military requirements, the anticipated Soviet response to U.S. deployment, the problems of verification, and the risks of proliferation.

The first question any objective observer must ask is how well demonstrated is the need for this supplemental cruise missile appropriation.

We have already authorized $349 million for cruise missiles this fiscal year. By authorizing a supplemental $365 million now instead of next year, we accelerate cruise missile delivery time by roughly 9 months. How does the committee justify this expensive haste to the American people—when the Secretary of Defense tells us that we enjoy strategic equivalence, when we are finalizing the shape of strategic arms limitations to 1985, when brand-new Trident submarines will be joining our existing, invulnerable Polaris and Poseidon force?

Why not assess the initial cruise missile expenditures and the results of SALT II before spending additional hundreds of millions?

Second, there is the even more troublesome possibility that the Soviets will eventually match our cruise missile deployments with their own. According to the administration's arms control impact statement, "Soviet aircraft armed with long-ranged ALCM's could have significant capability against targets in the U.S."—targets which lack any meaningful air defense. I remember well how the Congress accepted MIRV deployment only to discover how rapidly the Soviets could follow suit—to our mutual disadvantage and the insecurity of this Earth.

Will both sides now initiate a new round of the arms race, spending billions not only on cruise missiles and their carriers, but on cruise missile defenses—which are not limited by the ABM treaty? One must marvel at our accelerating missiles against which defenses are not banned, rather than missiles for which there can be no defnses. If the judgment of the Senate is that the Soviets will not eventually deploy substantial numbers of cruise missiles, that is one matter. But should this judgment prove to be incorrect, the most serious consequences could result for our national security.

Third, I am deeply concerned about the potential cruise missile threat to strategic arms control. We have repeatedly stressed the importance of adequate verification in the SALT process. Yet cruise missile limitations will be extremely difficult to verify, in terms of numbers, range and warheads. These missiles are extraordinarily versatile—flexible in range, launchable from a variety of platforms. They can be easily concealed—as can the existence of a nuclear warhead in a cruise missile. In the absence of strict limitations, it will be very difficult to verify how many missiles are deployed, the nature of their warhead, and the extent of their range. Yet with carefully fashioned constraints a verifiable treaty can be achieved.

U.S. cruise missile development should be consistent with the achievement of verifiable limits. That is why it is important to limit the supplemental funds to air-launched cruise missiles. And it is in the spirit of limiting cruise missiles to verifiable roles that I will offer my amendment today.

Finally, we must take seriously the proliferation problem, particularly since cruise missiles have clearly become more attractive with our allies as this program has developed. We now run the risk of many more countries—not just our allies—pursuing this relatively cheap and versatile nuclear delivery system, with serious implications for SALT, MBFR, and nuclear proliferation. The spread of this technology could have a shattering effect on our ability to maintain international stability, let alone conclude meaningful arms control agreements in the future.

As seriously as I view the overall cruise missile problem, however, I recognize that air-launched cruise missiles could in the future make a contribution to the viability of our airborne deterrent. But I see no way in which theater or strategic sea-launched or ground-launched cruise missiles could enhance our national security—indeed, it would be diminished by displacing ballistic with cruise missiles and by opening the way to corresponding Soviet deployments. In my view, it is above all ground-launched cruise missiles which present the most serious political, verification, and proliferation problems. Can we deny them to our allies once we deploy GLCM's ourselves? Would the Soviets and in time the United States, be prepared to accept unilateral assurances that cruise missile warheads are not nuclear—or are restricted to shorter ranges?

Are not SALT and MBFR complicated enough without multiplying the kinds of weapons to be controlled and the countries which have them at their disposal? The administration has yet to issue an arms control impact statement on ground-launched and sea-launched cruise missiles. If and when it does, the Congress has a right to expect a full and candid discussion of these issues.

For these reasons, I welcome the fact that the bill before us does not commit this country today to any particular deployment of air-launched cruise missiles. Nor, even more importantly, does it contemplate further development of ground-launched and sea-launched cruise missiles.

On these crucial questions, I am convinced that the Congress and administration must exercise the greatest prudence—in future cruise missile funding decisions and in future arms limitation and reduction agreements.

Mr. President, I request unanimous consent that three very pertinent and persuasive articles be inserted into the RECORD at this point. They are a debate on U.S. cruise missile deployment in the Christian Science Monitor, between Robert Pfaltzgraff and Jacquelyn Davis—pro—and David Linebaugh—con; an editorial note by Richard Ullman in the New York Times; and an editorial by Bernard Feld in the Bulletin of the Atomic Scientists.

The weight of the arguments is clearly in the direction of the greatest possible restraint over cruise missiles of all types.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times]

THE CASE FOR THE CRUISE MISSILE

(By Richard H. Ullman)

When President Carter decided last month to cancel production of the B-1 bomber, he said the United States would rely instead upon air-launched cruise missiles to extend the life of the B-52 bomber into the 1990's. Cruise (as distinguished from ballistic) missiles are, in effect, miniature unmanned aircraft, with wings and airbreathing jet engines; through sophisticated electronic guidance they can fly at treetop heights to distant targets. Last week, Secretary of Defense Harold Brown explained the Administration's reasoning to the House Armed Services Committee in a statement notable both for what it said and for what it omitted.

His basic message was that by the mid-1980's, unless steps are taken, the nation's nuclear deterrent will depend too heavily upon ballistic-missile submarines. Land-based missiles will be vulnerable by then to a pre-emptive blow from a small number of heavy Soviet missiles with multiple warheads. Our heavy bombers—even the B-1, were it deployed—would be unlikely to penetrate improved Soviet air defenses. Although our submarines would probably still be invulnerable, possible Soviet breakthroughs in anti-submarine warfare or in missile defenses could negate their effectiveness.

One possible American response, the Secretary said, might be a new large land missile, movable in tunnels or on trucks or railway cars and therefore much less vulnerable to a Soviet first strike. But this so-called "MX" missile might still be defeated by a large-scale Soviet defense system. A more serious objection is that it would appear to Moscow as a first-strike weapon, so accurate and powerful that it would threaten the Soviet land-missile force and tempt Moscow to strike first in a moment of acute international crisis.

Improving our bomber force, Secretary Brown said, is the course least likely to threaten Moscow with a potential first strike. Mounting cruise missiles aboard B-52s (and some other craft, such as modified Boeing 747s) is the most efficient way to do so. The cruise missile's subsonic speed means that it could not be effective in a first strike. Yet its small size and low altitude make defense formidably difficult. To counter it, Moscow would have to divert resources from ballistic missile and submarine defenses; even then it would be much more likely than the B-1 to penetrate air defenses.

Mr. Brown referred only once to the arms-control problems raised by cruise missiles: we must make sure, he said, that our negotiating proposals do not prevent us from adding them to the bomber force. He made no mention of the sea- and ground-launched versions of the weapon, which create the greatest difficulties for arms control. Although it is possible, within acceptable ranges of error, to keep track of aircraft carrying cruise missiles, their presence on surface ships, in submarines or road vehicles would be nearly impossible to monitor.

The Soviet government reluctantly accepted the air-launched cruise missile as an accomplished fact last year and agreed that both sides might use them so long as their range was limited to 2,500 kilometers and provided each plane bearing them was counted as the equivalent of a missile bearing multiple warheads. Moscow views sea- or ground-launched cruise missiles as much more worrisome, it may accept them only if ranges are kept very short.

Short ranges, however, are anathema to the Navy, which wants a piece of the Air Force's intercontinental action. They are anathema also to some of our allies, particularly West Germany, which see long-range cruise missiles as a counter to Soviet missiles targeted on Europe. Still the case for sea-based or ground-launched cruise missiles is weak—the reason, no doubt, why Secretary Brown avoided the subject. The same naval dollars could be better spent improving ballistic-missile submarines. And in European defense, there is nothing cruise missiles can do that piloted fighter-bombers cannot. The Administration should strenuously resist pressures to deploy cruise missiles for any purpose beyond improvement of the bomber force. Arms control is in enough trouble already.

GOOD NEWS AND BAD

(By Bernard T. Feld)

President Carter's decision to cancel the B-1 bomber has been greeted with mixed reaction all across the political spectrum. Predictably, the paranoia of the iron-nosed in military-academic circles was reinforced: General George Keegan declared in the New York Times that the President, having previously conceded strategic superiority to the Soviets, had, with this decision, also yielded up any hope of challenging Soviet control over the air and sea lanes in even a "conventional" war. At the other extreme, including many for whom arms control is primarily a means of claiming for constructive uses resources that would otherwise disappear down the military drain, the decision represented the redemption of a pledge whose seriousness had previously been called into question.

For many of us, however, the controversy over the B-1 was more symbolic than substantive.

The last word in modern aircraft technology, the B-1 was designed to swoop into the Soviet Union underneath the radar defense screen to deliver a multi-megaton load of nuclear destruction on those targets that had not already been obliterated by the 8,000 or so land- and submarine-launched nuclear warheads. Since this superfluous, or at least redundant, mission could still be carried out for the next 20 years by the existing B-52 bomber fleet, the opposition to the extremely expensive B-1 ($100 million per plane) was based primarily on economic grounds. This argument usually does not deny the military-industrial-labor lobby its traditionally guaranteed access to the latest wonders of military technology.

However, because the strategic arguments for the B-1 were so weak, arms control proponents felt it was a good issue on which to advance the principle of restraint and to help forge an alliance with liberal political groups whose normal focus is on domestic-economic issues.

Well, the alliance has won. The B-1 has been rejected. The boondoggle has been defeated. Why, then, are the victory celebrations so muted? Why are the cries of anguish confined to a handful of far-out military nuts? It's like the currently popular series of jokes: good news brings with it bad news.

Unfortunately, in the case of the B-1 decision, the Administration has found a way to satisfy the hawks at the same time it handed a victory to the doves. Technology has provided a cheap means of accomplishing the special mission of the B-1 at bargain prices, via the cruise missile.

Cruise missiles are small, light-weight, subsonic, pilotless aircraft. They can penetrate radar-controlled anti-aircraft defenses by flying at treetop level from launching to target. They are dirt cheap, and can be turned out like sausages once their technology is mastered. They can be mounted by the dozens on huge, slow aircraft (as, for instance, the 747, suitably converted) for launching outside the territory of the USSR, or any other target nation. Or they can be launched from railway cars, lorries, submarines, surface craft, fighter-bombers, or from the ground.

The cruise missile is not at all a new idea. It was first used by the Germans toward the end of World War II. The first operational cruise missiles were the "buzz bombs" that had such a frightening and devastating effect on London, which was nullified only by the capture of their launching pads by the allied armies. Both we and the Russians have deployed much more sophisticated versions in the interim.

Their present attractiveness to our military derives from two technological advances:

First, a gradual improvement of the materials for construction and propulsion has decreased the weight of the aircraft and increased their range, so that it is now possible to carry nuclear payloads over intercontinental distances in quite modest-sized drones.

Second, and much more important, very recent developments in the miniaturization of computers, and the sophistication of various electromagnetic sensors (infrared detectors, small high-power radars and optical lasers) make it possible to provide each drone with its own cheap, light-weight terminal guidance system.

The trouble with this new item of "sweet" technology is that, once it has been developed and tested, the banning of its deployment would be almost impossible to verify by national means alone (short, of course, of espionage, which is not yet generally recognized as an acceptable national verification measure).

A certain case can be made for the possibility of verification, via satellite observa-

tion, of an agreement not to test cruise missiles exceeding some predetermined size and employing certain types of jet engines. Such a prohibition of testing might serve to limit the range of missiles capable of delivering a nuclear warhead. But the possibilities of concealment or camouflaging relevant tests have given rise to widespread scepticism concerning the verifiability of any partial-limitation of cruise missiles according to range or type.

On the other hand, neither we nor the Russians are willing to consider a total cruise missile ban, since such weapons are already close to being assimilated into the arsenals for delivery of conventional explosives.

Nevertheless, we are presumably still discussing with the Russians limitations on the range of deployable "strategic" cruise missiles in the context of Salt II. The outstanding argument is over the acceptable range limitation—our proposal of around 2,500 kilometers (1,500 miles) as against theirs of 480 kilometers (300 miles) for the maximum permissible range. (Another argument is whether or not a strategic bomber carrying cruise missiles should be counted in the MIRV limit.)

However, Carter's decision to exchange cruise missiles of 1,500-mile range for the B-1 (neither as yet deployed) could preclude the negotiability of this issue in Salt II, even as a bargaining chip.

This would indeed be bad news. Just as in the case of MIRV, we seem to be rushing into the deployment of a new, destabilizing nuclear delivery system for the illusory advantages of being there first.

Can we really believe that mini-computer and terminal guidance technologies are beyond the capability of Soviet military technology? Or are we so intent upon the truth of our assertion that the medium-range Soviet Backfire bomber is capable of being used as a strategic delivery vehicle, that we intend to force cruise missiles on them in order to fulfill the prophecy? Or is this yet another glaring example of the military death-wish?

Thus, in spite of manifest good intentions, and some laudable first steps, the Carter administration is in grave danger of falling into the old trap. Under the influence of Soviet intransigence and the combined pressures from military hard-liners, academic hard-nosers, industrial and labor doom-cryers and their Congressional tools, the future prospects for avoiding nuclear catastrophe may be mortgaged for easy, illusory and ill-considered compromises.

The President is far too intelligent not to realize the implications of his decision; we hope he is tough enough to reconsider before the die is irrevocably cast.

THE NEUTRON BOMB

The neutron bomb, a subject of much debate in the United States this summer, is more important symbolically than physically. As a weapon, the idea is an old one, falling into the category of "enhanced radiation weapons." The development and limited deployment of these weapons have been going on for some time, as described by J. K. Mietinen in this issue.

The neutron bomb is a relatively small thermonuclear weapon triggered by a minimum-yield fission explosion in a configuration designed to minimize the fraction of energy going into blast and heat. In principle, if it were possible to neglect the effects of the fission trigger, a pure thermonuclear bomb (say, based on the deuterium-tritium reaction) could release up to 80 percent of its energy in the form of fast neutrons. These neutrons can penetrate reasonable thickness of material—up to, say, a meter of concrete or a kilometer of air—and, if sufficiently intense, cause intense radiation damage, sickness and death in people.

Thus, a pure thermonuclear reaction with the same prompt neutron yield as the Hiroshima bomb would produce less than five percent the prompt blast and heat effects and negligible radioactive fallout.

However, one may ask: So what? Well, first of all,

There is still appreciable fallout from the fission trigger;

Blast and heat cannot be completely eliminated, since there must be sufficient fission energy released to raise the temperature of the thermonuclear materials to the level required to trigger the fusion reaction;

Furthermore, the neutrons will eventually be absorbed in the ground and other materials in the vicinity of their release, and in the air as well, and

Finally, it takes two to play at limited nuclear war.

If the Soviet military forces do not possess neutron bombs, and if they are either unwilling or unable to invest the technical and economic effort required for their development, it is not likely that they will permit themselves to be put at a military disadvantage because of scruples concerning the inviolability of property as compared to people.

Thus, the use of an enhanced radiation weapon is as likely to lead to a large-scale, "ordinary" nuclear exchange as would the use of any other so-called tactical nuclear weapon. If this danger is too great to face with ordinary tactical nukes, it is no less dangerous with neutron bombs.

Therein lies the real objection to the neutron bomb. By contributing to the illusion that nuclear weapons are usable; by eroding the barrier against any first-use of a nuclear weapon; by increasing reliance on them and lowering the threshold of their introduction into possible conflict, the deployment of neutron bombs could greatly increase the chances of the nuclear war whose avoidance must be the raison d'être of the most responsible diplomacy of the superpowers.

Mr. KENNEDY. Mr. President, the Senator from Maryland (Mr. MATHIAS) and I had intended to offer an amendment which would counsel restraint by the United States in cruise missile development and deployment. Along with the assurances that we expect to receive from the Senator from New Hampshire, I think our amendment would permit the Senate to conduct a healthy dialog and debate about the military and arms control implications of the cruise missile and related systems. It is this kind of debate which, I think, can be extremely valuable.

I ask unanimous consent that our original amendment and colloquy be printed as part of our presentation so that the Members have a clear indication of our intentions and views on these particular questions.

There being no objections, the amendment, questions, answers, and remarks constituting the colloquy on arms control and military implications of cruise missiles was ordered to be printed in the RECORD, as follows:

On page 2, line 24, insert the following:

In authorizing funds under title I and title II of the bill the Congress expresses its reservations about either the uncontrolled deployment of air-launched cruise missiles or the further development of sea-launched and ground-launched cruise missiles. Accordingly:

(1) The Administration is directed to take cognizance of these reservations in future submissions to the Congress and in negotiating arms limitation and reduction agreements with the Soviet Union.

(2) Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

[From the Christian Science Monitor, Aug. 1, 1977]

SHOULD U.S. GO FOR THE CRUISE MISSILE?

YES

(By Robert L. Pfaltzgraff Jr. and Jacqueline K. Davis)

With the decision of the Carter administration to forgo deployment of the B-1, the United States has become heavily dependent on the air-launched cruise missile to preserve the triad of forces (bombers, submarine-launched ballistic missiles, and the land-based Minuteman force), upon which U.S. strategic doctrine is based, and to stem the erosion of U.S. capabilities in the face of a relentless buildup in Soviet military power.

The emerging generation of U.S. cruise missiles has benefited from revolutionary advances in miniaturization, propulsion systems, airframe designs, guidance technologies and warhead configurations.

Because of their potentially high accuracy, and with their flexibility with regard to deployment modes, cruise missiles would provide the United States, in the early 1980s with a strategic retaliatory capability for use against Soviet targets that have been reinforced (hardened) in large-scale active and passive defense programs mounted by the Soviet Union in recent years.

Land-attack cruise missiles, deployed aboard ships assigned to NATO, allied aircraft, and tracked vehicle launchers could augment the defense/deterrence of Western Europe, contributing the single most important potential application of U.S. cruise missile technology. Deployed on land-based platforms, cruise missiles could attack fixed targets far behind enemy lines, such as supply depots, troop staging areas, and airfields—all of which would need to be destroyed at the outset of a Warsaw Pact attack against NATO. Deep interdiction missions for which manned aircraft are now used might be assumed by cruise missiles, thus freeing tactical air power for missions such as close air support of NATO forces and control of the air space over Western and Central Europe.

Thus the cruise missile has emerged as an important alliance concern which could become a deeply divisive issue within NATO if the United States were to barter away the cruise missile in a bilateral forum such as the SALT. This would be the case if, for example, range limitations were placed on cruise missiles which effectively barred their use for deep interdiction behind Warsaw Pact lines.

Notwithstanding the strategic/military potential of the cruise missile, and despite its announced support of the air-launched cruise missile, the Carter administration has apparently been prepared to consider, for the sake of détente, limitations on the cruise missile at the SALT.

Reportedly, the administration is close to an agreement embodying either a three-year moratorium on the testing and the deployment of the U.S. sea-launched cruise missile (SLCM) and ground-launched cruise missile (GLCM) variants, or a 600-kilometer range restriction on the testing of the GLCM and SLCM. The ALCM, restricted to a 1,500-mile range, could be deployed aboard strategic aircraft, if each such aircraft carrying cruise missiles were counted under an aggregate ceiling for multiple independently targeted re-entry vehicles (MIRVs).

By this formula, the United States essentially would have to rely on the ALCM to perform strategic missions against the Soviet Union. Without the benefit of a new generation aircraft like the B-1, ALCMs will be far more vulnerable to enemy interdiction. In the lethal electronic battlefield environment of the future, the B-52 launch platform, based on 30-year-old technologies, will be increasingly vulnerable to detection by Soviet radars. Thus, the air-launched cruise missile, deployed from a B-52, will need to have a range greater than would have been needed with the B-1, since its survivability against Soviet air defenses would be related to its ability to deliver longer range ALCMs from a stand-off position, if possible, outside Soviet and East European air space.

With either a moratorium on development, or a 600-kilometer range restriction on the SLCM and GLCM, the military value of the cruise missile for the United States would be greatly reduced inasmuch as it is these two cruise missile systems which can attain the ranges necessary for interdiction missions deep to the rear of Warsaw Pact territory, or against targets located in the interior regions of the Soviet Union. The ALCM in either of its versions (A or B) cannot obtain ranges anywhere near to the 1,500-mile limit mentioned in connection with SALT. Thus any SALT agreement whose effect would be to restrict the development and/or deployment options of the sea-launched and the land-launched cruise missiles while allowing for a long-range ALCM, could only be construed as serving the interests of the Soviet Union, but not those of the United States nor its allies.

(Dr. Pfaltzgraff is director and Miss Davis research associate of the Institute for Foreign Policy Analysis, an independent organization associated with the Fletcher School of Law and Diplomacy. They are the authors of "The Cruise Missile: Bargaining Chip or Defense Bargain?")

NO

(By David Linebaugh)

President Carter's decision to deploy the long-range air-launched cruise missile, announced at a press conference on June 30, may have a shattering effect on efforts to curb the nuclear arms race and to repair United States relations with the Soviet Union.

1. The nuclear arms race will acquire a fourth dimension. The U.S. strategic force will be expanded from a triad (land-based ballistic missiles, sea-based ballistic missiles, and bombers) to a tetrad (these three elements plus the cruise missile). The U.S. will have added an entirely new weapons system to its strategic force, not simply a replacement weapon. The President has repeatedly said that he wants to eliminate nuclear weapons from the earth. But this decision will take us in exactly the opposite direction.

2. Deployment of the cruise missile will result in a significant increase in the numbers of nuclear weapons. The day after the President announced the decision, Secretary of Defense Harold Brown said the new missile may be put on as many as 250 B-52 bombers. That could mean the deployment of 5,000 of these weapons—or more American nuclear weapons of this one type than the total number of nuclear weapons in Russia's entire strategic arsenal.

3. The shelving of the B-1 bomber will stimulate the deployment of another new weapon, the mobile land-based missile known as M-X. Just below the surface in Washington the momentum for M-X surges forward. The argument for M-X will seem compelling: the increasing vulnerability of U.S. land-based missiles and the possible demise of the U.S. bomber force make essential the deployment of a new invulnerable mobile missile. The development of the M-X missile will be the high cost of shelving the B-1 bomber.

4. The military "advantage" of the cruise missile will be fleeting. As with the MIRV, the Russians too will soon master the technology of this weapon. Both sides will then be less secure. Cruise missiles in, for example, the torpedo tubes of Soviet attack submarines will be a formidable threat to the multitude of urban and industrial targets near the coast of America.

5. The problem of verifying limitations on cruise missiles could mean the end of strategic arms limitation agreements. The United States is developing two types of cruise missiles. One is designed for air launch only (the ALCM) and one is designed for launch from the ground, sea, or air (the Tomahawk). Both weapons are small and easy to hide, and limitations on them, especially the Tomahawk, may present insuperable verification problems. Congress and the public need to know more from the administration on this issue. Will cruise-missile limitations be verifiable? If not, should the U.S. not seek Soviet agreement to ban this weapon altogether, for this reason alone?

President Carter has made a decision of great consequence: Stay ahead of the Russians—this time with the cruise missile—rather than attempt to limit the Russians at the cost of limiting the U.S.

In a speech on policy toward the Soviet Union on July 21, the President said the deployment of the cruise missile would counter the growing Soviet threat to the U.S. deterrent. As a result of U.S. deployment of the cruise missile, the Russians will need to counter the growing American threat. And then we will need to counter the Russian counter. And then. . . .

The President's negotiating tactics have been puzzling. In February he said his decision on the B-1 bomber would depend in part on whether the Russians exercise restraint in arms. But in June the President's decision to shelve the B-1 was made without reference to the question of Soviet arms restraint. Similarly, the President's decision to deploy the cruise missile was made solely in terms of cost effectiveness and military effectiveness. No attempt was made to use decisions on the B-1 bomber and the cruise missile to bargain with the Russians.

In a July 1 press conference, Secretary of Defense Brown said, "The constraints we accept [in a SALT agreement] must not harm our strategic capability. . . ." But if we concede the same inviolability to the Soviet strategic force as Mr. Brown demands for the American, is there any inducement, or point, to SALT?

The deployment of the cruise missile will broaden and intensify the nuclear arms race with the Soviet Union and, because of the problem of verifying limitations on the cruise missile, its deployment could even undermine the basis for strategic arms agreements.

More than a speech by the President, like the one he gave on July 21, is needed to avert these consequences. Mr. Carter needs to reexamine his decision. The effort to stop the nuclear arms race and to meliorate relations with Russia may depend on it.

(Mr. Linebaugh, currently a visiting scholar at the Brookings Institution, was a deputy assistant director of the U.S. Arms Control and Disarmament Agency.)

PREPARED COLLOQUY ON MILITARY AND ARMS CONTROL IMPLICATIONS OF CRUISE MISSILES

Mr. KENNEDY. I understand that we are developing a variety of cruise missiles for military applications. In your work on the Senate Armed Services Commitee, how have you come to grips with this maze of developments?

Mr. MCINTYRE. All too often the Department of Defense, as well as elements of the Arms Control Community, have conceived cruise missiles as a single family of weapons which should be discussed as a unit.

This misconception has moved the Pentagon to promote cruise missile technology indiscriminately. Cruise missile enthusiasts have pushed for developments which may have been feasible technologically but for which there is no military requirement.

Similarly, lumping all cruise missiles together blurs technical distinctions which should be drawn between some applications which are quite stable and militarily important, such as the strategic ALCM, and others which are simply not in our national interest such as the strategic SLCM which we killed last year.

So, in our investigations in the Armed Services Committee, we have found it much more valid to avoid considering cruise missiles in general and to focus instead on specific cruise missiles for specific military applications.

This reasoning led us to direct the Department of Defense to "ensure that specific military requirements and missions pace cruise missile developments."

Mr. KENNEDY. The Committee has made important distinctions on cruise missiles—I join in your insistence on forestalling those missiles which are not in our national interest.

For my part, I can recognize the contribution made by ALCMs to our airborne deterrent, and I hope that after further investigation, the Committee will come to share some of the reservations expressed here today on GLCMs and SLCMs.

Mr. KENNEDY. Would be interested in an inventory of the various cruise missile developments that are underway and how the Armed Services Committee has assessed the military utility of each?

Mr. MCINTYRE. Yes, I would be happy to comment on this. In general, we are developing cruise missiles for three military missions.

First, we have been developing two antiship cruise missiles. Both would use conventional warheads and homing guidance.

The Committee in general has supported these developments, sometimes against certain pressures within the Department of Defense. We feel that it would be a great advantage to our Navy to be able to attack enemy ships at some distance at sea without risking pilots or expensive manned aircraft. This is particularly important if we intend to have a future Navy which would depend less on very expensive aircraft carriers.

You might be interested to know our Committee has directed the Department to stop

development of nuclear warheads for these anti-ship missiles because we wish to keep the nuclear threshold as high as possible.

Second, we are developing two cruise missiles for the Theatre Land Attack mission. One version would be launched from mobile vehicles on land—the other from attack submarines at sea. They are virtually identical otherwise. Both are versions of the TOMAHAWK cruise missile and are designed to use nuclear warheads. Both have remarkable terrain following (TERCOM) guidance which gives them great accuracy against fixed point targets.

Both of these theatre applications are relatively new and were first requested as such in the regular FY 1978 budget. We held thorough hearings on them and will continue to assess them carefully. Their promise as an effective low cost weapon which could be militarily important in the NATO Theatre, justified their continued development. Actual deployment would be a few years away so the Administration and Congress will have time to assess the implications of deployment.

You will be interested to know that the Committee directed the Department to intensify its investigations of non-nuclear arming (conventional warheads) in order to keep the nuclear threshold as high as possible.

I should also note that there are no funds in this bill to support any of the anti-ship or theatre land attack cruise missile developments.

Third, this bill supports the development of air launched cruise missiles for our strategic force.

Historically, our Committee has strongly supported the development of strategic ALCMs, even against frequent Pentagon opposition. In 1973, I insisted that the ALCM be developed, because I believed that the B-1 deployment decision should be well hedged. Now it is clear that the strategic ALCM will play a critical role in our mixed bomber force.

Mr. MATHIAS. One problem that is often raised about cruise missile developments is the fear that their cheapness and relatively small size would permit them to be covertly deployed in very large numbers. How do you assess that danger?

Mr. MCINTYRE. In general, I think that is not a first order problem. It would be very difficult, if not impossible, for very large numbers of cruise missiles to be deployed covertly.

If they were deployed on either submarines or aircraft, both of these platforms must be tested as launchers and both classes of platforms can be confidently counted. Moreover, both submarines and aircraft have limited payloads—limited weapons loadings which we can confidently estimate.

The Soviets would have little motive to deploy large numbers of cruise missiles on their submarines or aircraft. In the case of planes, they do not face the same extraordinary air defenses that we do and, therefore, have little military motivation to deploy cruise missiles to saturate or penetrate such defenses as we do.

To deploy strategic cruise missiles on submarines would cost them substantial military penalties as it would the United States. The Soviets, like us, have invested enormous resources in developing long-range sea-launched ballistic missiles in order to make their strategic submarines more survivable against anti-submarine warfare. Even a very long-range cruise missile would be substantially shorter than the ranges they have been achieving with SLBMs and would thereby make their submarines less survivable. If they deployed strategic cruise missiles on attack submarines currently devoted to naval warfare, this would degrade their most formidable naval offense. The gain in actual weapons in their strategic arsenal would probably be measured in a few hundred at a time when they would have many thousands of warheads from ballistic missiles both at sea and on land, even if we were able to achieve substantial reductions in SLBMs and ICBMs at SALT.

It might be possible for a few cruise missiles to be deployed on surface ships or from ground based launchers, but it would be virtually impossible for either kind of deployment to go undetected if it were in large numbers.

In sum, it is possible to theorize in a paneled seminar room about great floods of cruise missiles being covertly deployed, but in practical military terms it seems very unlikely indeed.

Mr. MATHIAS. Of course, if the United States and the Soviet Union, for whatever reason, agreed to do away with restrictions on deployment of strategic sea launched and ground launched cruise missiles then the arms control problems could be serious. Theoretically any Soviet trawler in the Atlantic or Pacific could carry a couple of nuclear armed cruise missiles. The point that must be stressed is that where possible, cruise deployment must be restricted. Otherwise, it becomes a delivery system which, because of its attractive features, is widely and uncontrollably deployed. I think it is well to consider what the political reaction in this country would be if there were no limitations on the Soviet deployment of strategic cruise missiles. We are concerned today about several thousand Soviet nuclear warheads. I think that concern would be far worse if there were large numbers of Soviet strategic cruise missiles on a variety of launchers.

To move onto another question, what do you see then as the primary arms control problems about cruise missile developments?

Mr. MCINTYRE. The principal problem is that although you in general could tell that cruise missiles have been deployed, it is virtually impossible to tell what the critical military characteristics of a particular cruise missile might be and thereby to infer what military mission it is designed to accomplish.

For example, one can not tell by looking whether a cruise missile is armed with a nuclear or conventional warhead. Nor can you determine by looking at a cruise missile or even by observing its flight tests what its range is. If we observe a flight test of a ballistic missile, we have a relatively high confidence that we will know how far it can go. But a cruise missile is a bit like car mileage. It may vary from driver to driver. A cruise missile's range will greatly depend on the mix of altitudes at which it is flown, its speed, whether it has a heavy conventional warhead or a light nuclear one, and how heavy its other equipment might be, such as jammers or guidance. In fact, the problem of range is not just a question of verification, it is a problem of definition.

This challenges our ability to devise verifiable arms control indicators because it is virtually impossible to distinguish between a weapon which one side says is deployed for a limited purpose but which has inherent in it the capability of being covertly modified for a significantly different purpose. For example, the Soviets have a large family of large tactical anti-ship cruise missiles. Their history, the naval exercises, and operational doctrine all greatly suggest that these are designed for that mission. But if they wish to modify them covertly to attack cities in the NATO theatre, it would be difficult for us to distinguished that from their current force.

Similarly, the United States anti-ship Tomahawk is virtually indistinguishable from another variant designed for the theatre land attack mission.

The same problem exists with our theatre land attack GLCMs and SLCMs as well as any future Soviet land attack cruise missile developments. If we agreed to a range limitation on this class of weapons, it would be virtually impossible to certify it. Our allies in London and Brussels would be understandably anxious about any future Soviet cruise missile developments, just as the Soviets would find it impossible to distinguish by national technical means short-range theatre cruise missiles which might be permitted by an agreement from those which would be precluded and which could attack a section of their homeland.

The dilemma is further intensified because the Soviets are very unlikely to give up their anti-ship cruise missiles given their importance to their naval offense. Similarly, the Soviet buildup in Europe raises grave concerns in my mind about the stability and balance of forces there. Cruise missile technology offers one opportunity, among others, to begin to counter the Soviet buildup.

Mr. MATHIAS. What you are saying does not suggest a very hopeful future for arms control. You have gone through the very serious verification problems associated with the cruise missile. From what you have said, we could very well be on a road with no end. Year after year, we and the Soviets will add to the capabilities of our cruise missilies. In time, it could become accepted that range or launcher restrictions on cruise are meaningless.

One thing we must remember is that invariably cruise technology will be improved. The next generation will have the speed that this one does not. Now cruise is not a first strike weapon. I wish I could be assured that down the road it won't become one.

Mr. KENNEDY. These are precisely the kinds of problems which call for maximum restraint in moving beyond the strategic ALCM which will of course be limited by SALT II. The cautions expressed by Senators McIntyre and Mathias are appropriate. I hope that these and the others identified by us here today will be the basis for even more intensive review by the Committee and the Administration.

We stressed the danger of proliferation of cruise missiles in our opening statements. How does the Senator from New Hampshire assess this danger?

Mr. MCINTYRE. The Soviets have already provided some of their older antiship cruise missiles to Third World nations. In fact, they have been used in the Mideast. These version are relatively crude compared to U.S. cruise missile technologies.

It would not be hard for more advanced antiship cruise missiles, with the highly efficient lightweight engines and advanced homing guidance, similar to antiship cruise missiles to be obtained or duplicated by several nations.

However, the cruise missile which most people are interested in, the land attack version, uses a highly sophisticated and accurate terrain-following guidance and would be very difficult to duplicate, even by technically advanced nations, for some years. Therefore, the U.S. will be able for years to control the proliferation of these advanced land attack cruise missiles.

Moreover, even if other nations were able to obtain these land attack cruise missiles, with their sophisticated TERCOM guidance, their ability to use this weapon flexibly against a wide variety of fixed point targets would depend on an even more elusive technology, the satellite and mapping technology which is necessary to produce digitized maps which the cruise missile's computer follows.

Mr. KENNEDY. We have always thought that we could control technology over long periods of time. But the historical record suggests otherwise. Granting the current sophistication of TERCOM guidance and mapping technology, we must hedge against their getting into others' hands over time. And if we deploy cruise missiles in Europe, we can expect to be under especially great pressure from our allies to transfer the technology to them—with all the potential consequences for SALT and MBFR.

Mr. MATHIAS. I am also less hopeful about controlling proliferation. We have promoted cruise with our NATO allies. They like the idea of this relatively inexpensive weapon. The Soviets, of course, are upset at the possibility of certain NATO powers having access to this nuclear delivery system.

The real problem, of course, is that as the verification problems associated with cruise become clearer, the barriers to its deployment become less. The argument may well develop as follows: If we cannot verify cruise ranges warheads, or numbers why place restrictions on these? The pressures to install ground launched and sea launched cruise missiles with strategic ranges will grow and grow.

I understand the Committee obtained an Arms Control Impact Statement for programs in the bill under consideration.

Mr. MCINTYRE. Yes, indeed we did. In the aftermath of the B-1 decision, the Administration neglected to comply with the statute which requires Arms Control Impact Statements to be submitted with any request for nuclear weapons systems. In our hearings, we insisted that this law be complied with, and after some weeks, the Administration did produce one.

Mr. KENNEDY. How satisfactory did you find the Arms Control Impact Statement?

Mr. MCINTYRE. I felt that the Administration made an earnest, sincere effort to provide a substantial statement to the Congress in a timely way. The issues raised by this supplemental are among the most tangled and complex in arms control, and the Administration made a good try on a very difficult task.

However, in some important respects, I felt the Statement was quite weak. For example, its discussion of the cruise missile range issue was inadequate.

The Statement also failed to address the most important issue raised by the advanced Cruise Missile Carrier request. As you well know, one proposal much discussed at SALT would permit long-range ALCMs on "heavy bombers." But is an advanced Cruise Missile Carrier a "heavy bomber" under the SALT definition? If it is not a "heavy bomber" under that definition, then why should we be developing it? If it is a "heavy bomber" under that definition, then how does one distinguish a Cruise Missile Carrier from a Pan American 747 flight to Tokyo?

Mr. KENNEDY. Did the Arms Control Impact Statement speak to the FB-111H? If it did not, would it be appropriate to seek a statement on this program?

Mr. MCINTYRE. No, it did not. This program was introduced into the bill at the initiation of the Committee. Secretary Brown has indicated in a letter to the Committee that he would "agree to Congressional action to open a budget line," and that the $20 million figure is "an appropriate amount."

So, it was not necessary for the Administration to submit an Arms Control Impact Statement on this program since it had not requested it.

If the Administration asks for funds for FB-111H development in any future budget request, the law requires them to submit a formal arms control impact statement. I think it is quite important that such a statement be thoughtful and substantial.

Mr. KENNEDY. I believe an arms control impact statement on the FB-111H would be most helpful prior to any further decisions on this program. I have concerns about "stretching" the F-111 to permit it to penetrate and carry cruise missiles. This tends to muddy the waters of the President's correct and wise B-1 decision—we really can rely on B-52's equipped with strategic ALCM's. But more importantly, it presents the Soviets with yet another cruise missile carrier, one rather similar to the Backfire Bomber which we have long sought to control. So I believe the Committee and Administration should carefully reconsider the merits of the FB-111H before proceeding with this option.

Mr. MATHIAS. Do you agree that this bill is predicated on the termination of the B-1 procurement program?

Mr. MCINTYRE. Yes, that is entirely correct.

I might say that I have, in the past, fully supported the production of some B-1's and therefore opposed the President's request to reduce the FY 78 appropriations bill by $1.4 billion last July.

But I think that we must all recognize now that realistically our government has decided through its constitutional process that we are not going to buy this plane. Both the Senate and the House concurred with the President in taking the production moneys out of this year's appropriations. It is quite clear that the President does not intend to add any new moneys for B-1 procurement in future budgets. So the B-1 is dead and it is a fantasy to act otherwise.

It is time now for us to look forward and try to find common ground rather than to continue the rancorous division we have experienced on the B-1. I believe that this bill and the mixed force which it supports offers an opportunity for people who have differed in the past on the shape of our bomber force to agree.

Mr. KENNEDY. I agree that we should make clear to the Administration that we support its B-1 decision and we see viable and cheaper alternatives. I believe it would be highly appropriate for the President to request a quick termination of the B-1 program through recission of funds already appropriated.

An equally expensive but far more destablizing system is the "Mobile-Experimental" missile, or M-X. Am I right in thinking that the Committee has limited M-X funding pending clear demonstration of need by the Department of Defense and an expression of Presidential policy?

Mr. MCINTYRE. In FY 1977 the Senate Armed Services Committee unanimously reduced an $84 million request for M-X by $32 million because of major contradictions in the Department's testimony about future ICBM requirements and M-X basing. The Committee stated in its report that this reduction was designed "to insure that M-X does not go into full scale development before the Department has resolved the contradictions in its testimony about future ICBM capability and has demonstrated a clear need for a particular mobile basing alternative."

The Committee, therefore, requested that the Secretary of Defense conduct a "comprehensive study of the future of our ICBM force and its role in our national strategic posture." We ask that the study directly relate the M-X requirement to the "missions the President requires." We ask that this review be "performed by a panel of analysts drawn from each of the national security organizations which have major responsibility for the conception or execution of strategic policy."

The Conference Committee, last year, supported this request and asked that the President personally certify that the conclusions of the review represent national policy.

Mr. KENNEDY. I congratulate the Committee on the precautions it has taken regarding M-X funding. How responsive has the Administration been to Committee requirements?

Mr. MCINTYRE. I am very sad to report that the Administration has not been responsive at all. Secretary Brown did write the Committee last spring recognizing the Department's responsibility. He assured us that the review we requested would be forthcoming this year, certainly no later than the budget submissions next January. But what deeply angers this Senator is that Secretary Brown is recommending full scale development of the M-X before this review is complete. I believe the questions raised by the M-X are so grave that they require the President's and his cabinet's personal attention.

I should also note that I have reviewed the current Presidential and Secretarial guidance to the Department of Defense which defines our strategic targeting objectives. I am quite convinced that you cannot draw a logical line from the current guidance to an M-X requirement. Evidently, the Secretary intends to change our policy after he has made a full scale development decision to satisfy that decision. Or, he intends to fuzz the matter up as it has been for the last three or four years.

Mr. KENNEDY. Secretary Brown has apparently recommended that the President ask the Congress for $245 million in development funds for the mobile M-X ("Missile Experimental") missile in the next fiscal year.

I wish to register now strong objections to the M-X, with which I believe Senator McIntyre and my cosponsors will concur. This missile will be movable, larger, more accurate and can deliver more nuclear weapons than the Minuteman missile currently in our force.

There is no question in my mind that such missiles will seriously aggravate the arms control verification problem. They would be virtually impossible to count under a variety of scenarios, and confidence in the SALT process could plummet.

These missiles represent a formidable counter-force threat to the Soviets, roughly 75% of whose strategic force is land based. In contrast, only around 25% of our strategic force is land based. M-X missiles could take out a substantial part of land-based missile-forces, introducing new dimensions of instability in the arms race. To move ahead with M-X is to pressure the Soviets to rely on a launch on warning doctrine, so as to protect their vital land-based force from being destroyed.

Not only that, these missiles promise to be just as expensive as the B-1 bomber which the President wisely cancelled. And, according to the Center for Defense Information, a force of 250 M-X missiles could require up to 5,000 miles of underground trenches—a huge construction project and network of underground tunnels.

It seems to me that we have a fundamental choice between limiting, preferably banning, mobile missiles on both sides or entering a new ICBM arms race which will

seriously weaken the security of both the US and the USSR.

Given these concerns, I find it difficult to understand, and I think the American people will find it difficult to understand, how Secretary Brown should make even a preliminary judgment of this magnitude and with these implications, at the conclusion of the encouraging talks between Secretary Vance and Foreign Minister Gromyko. I hope that the President will overrule this judgment in making his final decisions on the budget submissions.

This is a strange way to salute progress in SALT. The Administration should understand that the Congress will exercise an independent and indeed skeptical judgment on any request to increase spending for mobile missiles to levels previously sought by the Ford Administration.

For me, this development reinforces the need for us to pause, carefully evaluate the military and arms control complications of each strategic weapons system, and play a balancing role with the Administration in the military decision-making process.

Mr. MATHIAS. On substantive grounds, I have grave reservations about proceeding down the road to M-X. It represents incredibly threatening technology. There have been heated discussions in this country in which it is suggested that we should look at Soviet capabilities not their intentions. We should apply this same logic to ourselves. M-X could well give us the ability through its accuracy and throw-weight to launch a crippling first strike against Soviet ICBM's. Mobiles would be extremely difficult to verify further adding to Soviet fears. But what of our fears one might reasonably respond? Clearly the Soviet mobile SS 16 is threatening to the United States. This is exactly the point. Both the Soviet Union and the United States are taking quantum technological jumps which effectively leave arms control far behind. If we cannot come to agreement with the USSR which restricts new technology such as mobile missiles, then I fear very much that arms control will be something we talked about seriously in the 1970's, but will not be considered relevant to the realities of the 1890's.

Mr. KENNEDY. Do I understand correctly that this bill, S. 1863, in no way speaks one way or the other other about theatre land attack GLCMs and SLCMs about which I personally have great reservations?

Mr. MCINTYRE. This bill in no way speaks to those issues. There is no money in this bill for GLCMs and SLCMs, and the Senator will have ample opportunity in subsequent budgets to express his strong convictions about this matter. Speaking for myself, I understand the Senator's concerns and believe that they should be reflected in Committee consideration of future funds for cruise missiles. We will vigorously review the military and arms control implications of cruise missiles highlighted here today.

Mr. KENNEDY. I am gratified that this discussion has brought out many of the military and arms control implications not only of cruise missiles, but of the M-X.

On the basis of this and the assurances of our colleague from New Hampshire, Senator Mathias and I are prepared not to press for a vote on our original cruise missile amendment at this time.

Mr. KENNEDY. On the basis of the prepared colloquy, I am prepared, Mr. President, to offer a substitute amendment in behalf of myself and Senator MATHIAS which, very briefly, would reiterate the action this body has taken in the past in the issue and which is similar to an amendment introduced in a different context by the distinguished Senator from Minnesota (Mr. HUMPHREY). I request unanimous consent that the text of this amendment be printed at this point in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

In authorizing funds under Title I and Title II of this bill, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

Mr. McINTYRE. Parliamentary inquiry, Mr. President. Is the amendment of the distinguished Senator from Massachusetts at the desk?

Mr. KENNEDY. I have not sent it to the desk, but I will be glad to send it.

The PRESIDING OFFICER. The amendment has not been sent up. Fifteen minutes have expired.

Mr. McINTYRE. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. MATHIAS. At some point I would like the Senator from New Hampshire to yield a few minutes to me.

Mr. McINTYRE. If the Senator from Maryland will be patient I will be happy to yield to you.

Mr. MATHIAS. The Senator from Maryland is extremely patient.

Mr. McINTYRE. I want the record to show the effect of this amendment at the desk I am about to accept.

Do I understand clearly that the amendment that you are now proposing is virtually identical to that which our distinguished colleague from Minnesota, Senator HUMPHREY, offered last spring and which was written into public law by the regular fiscal year 1978 Defense authorization bill?

Mr. KENNEDY. That is correct.

Mr. McINTYRE. Do I understand further that the only changes in the language already in public law is the substitution of the term "cruise missile" for the term "strategic arms" and the use of the term "arms limitation or reduction talks" for the term in the original Humphrey language, "strategic arms limitation talks?"

Mr. KENNEDY. The Senator is correct.

Mr. McINTYRE. So this amendment, like the language which is in public law, expresses Congress' readiness to consider Presidential initiatives in the interest of arms limitations to request additional moneys under procedures defined in the Budget and Accounting Act of 1921, as well as initiatives to rescind funds as outlined in the Congressional Budget Control and Impoundment Act of 1974?

Mr. KENNEDY. That is correct.

Mr. McINTYRE. Do I understand clearly, further, that this amendment that you are now proposing does not speak one way or another to any substantive issue about cruise missile limitations?

Mr. KENNEDY. Yes; the Senator is correct.

As the Senator points out, this does not speak substantively per se but, of course, I believe it reflects the points which we raised during the course of our comments here and, at least, this Senator's desire for the successful arms limitation talks.

Mr. McINTYRE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The amendment has not yet been offered. It is not in order for the amendment to be offered at this time. The committee amendments have not yet been disposed of.

Mr. TOWER. I would ask the Senate not to act until I have seen the amendment.

Mr. KENNEDY. I would ask, unless there is objection, Mr. President, that it would be in order to consider it at this time. There is still a great deal of time remaining on the bill. There will be plenty of time on this, and I do not believe there is any serious objection to it.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Reserving the right to object, I have just been handed a copy of the amendment, and I am trying to read it.

The PRESIDING OFFICER. The Senator from Massachusetts has asked unanimous consent.

Mr. KENNEDY. I withhold the request and leave the amendment at the desk and hope my colleagues can review the amendment, and if they have no objection then I will ask consent to have it in order at another time.

The PRESIDING OFFICER. The Senator from Massachusetts withdraws his request.

Mr. McINTYRE. Mr. President, I yield 3 minutes to the Senator from Maryland at this time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 minutes.

Mr. MATHIAS. I thank the distinguished Senator from New Hampshire.

Mr. President, I associate myself with the Senator from Massachusetts (Mr. KENNEDY) in his remarks that he made congratulating and thanking the Senator from New Hampshire and the distinguished Senator from Mississippi, the chairman of the committee, for the very careful and detailed work that they have done in connection with this bill. They have grappled with issues of tremendous importance to the national security and to the future of world peace. Their diligence deserves our admiration.

Now we have an opportunity to discuss in public forum questions raised in their committee deliberations. It is my hope that we will have a useful discussion here of the very important issues relating to the strategic arms race in which the Soviet Union and the United States are now engaged.

This is a critical time in the history of our Nation and of the world. Awesome power is held by both the Soviet Union and the United States. Each of us has the capacity to inflict unimaginable destruction on the other. We have made an attempt in the strategic arms limitation talks (SALT) to get control over our nuclear arsenals. But at times our

prospects of succeeding in this effort seem bleak.

The Soviet Union is expanding its heavy ICBM arsenal at a rapid rate. Meanwhile, the administration considers moving ahead with development of the MX mobile missile. Perhaps we may still manage to control the number of launchers and warheads, but the technological race seems to be escaping us. The cruise missile offers a graphic illustration of this problem.

When President Carter canceled funding for the B-1 bomber, he said that he planned to accelerate development of the cruise missile. Congress is in the process of examining the President's request for supplemental funding for this weapon system, while the administration is vigorously making its case for the cruise missile as a vital component of our strategic deterrent. Less is being said about the potentially adverse impact that deployment of the cruise missile may have on the arms race. Indeed, the American public is largely unaware of the critical choice the President has made on its behalf.

I appreciate the compelling strategic reasons for deploying cruise missiles, particularly in light of the President's decision to scrap the B-1. Our strategic triad of air, land, and sea delivery systems is now in jeopardy. Only aging B-52's comprise the air component. Our intercontinental ballistic missiles comprise the land component, but they are said to be increasingly vulnerable to a Soviet preemptive first strike. We are left with the sea component—our Polaris and Poseidon equipped nuclear submarine fleet. Even this now secure leg of the triad may become vulnerable to the antisubmarine warfare advances of our adverseries. The cruise missile is said to be one answer to our dilemma. This unmanned, air breathing drone can be launched from an air, sea, or land platform. It is exceedingly accurate yet small and capable of traveling close enough to the ground to escape detection by Soviet radar. Not a first strike weapon because of its subsonic speed, it nonetheless will offer a high measure of reliability. It augments the capabilities of the air component of the triad because it can be launched from a B-52 in a stand-off role. In this capacity, the B-52 or other airborne platform would stay clear of the enemy's air defenses and launch its cruise missiles from a safe distance away. To defend against the cruise missile, the Soviet Union would have to spend great sums on air defenses with no guarantee of success. These arguments in favor of the cruise missile cannot be dismissed lightly, especially given the continued expansion of Soviet nuclear arsenal.

In the SALT talks, however, the United States and the Soviet Union have attempted to impose rational limits on their growing arsenals. Specifically, we have sought verifiable limitations on strategic arms. The United States, in particular, has been stressing verification and properly stressing verification. The President has now proposed the development of a weapons system which we have to admit on its face is going to complicate the process of verification. It would do so in four principal ways.

First, we are discussing with the Soviets limiting the number of strategic range cruise missiles by limiting their launching platforms to a fixed number of heavy bombers. If this limitation is adhered to we can probably keep the numbers verification problem within acceptable limits. If, however, either side deploys ground launched or sea launched cruise missiles, verifying numbers may prove very difficult. The cruise missile is easily concealed, and indeed the administration's own arms control impact statement states that it "could make any submarine, aircraft, or mobile platform a potential strategic delivery vehicle."

Second, we are discussing range limitations on cruise missiles. In particular, we are considering restricting air launched cruise missiles (ALSM's) to a range of 2,500 kilometers. Range limitations are difficult to verify. Cruise missiles could be tested to the range of 2,500 kilometers but be capable of considerably greater range.

Third, we have discussed the possibility of allowing longer ranges for ALCM's than for ground launched or sea launched cruise missiles. However, some ALCM designs can be adapted for launching from a ground or sea platform. In other words, cruise missiles can be developed and tested for one platform and transferred to another.

Finally, there is the difficulty of determining whether a cruise missile carries a nuclear or conventional warhead. In short, according to the administration's arms control statement, "the problem of verifying compliance with cruise missile limits could have serious long-term implications for future arms control."

If this is one level of concern, certainly arms proliferation is another. We have been busy extolling the virtues of this relatively inexpensive delivery system to our allies, and France, Germany, and Britain have all expressed great interest. Other countries would certainly view the system with a similar interest. All things considered, we may find it impossible to restrict access to this technology.

There is another area of concern—the Soviet reaction to our deployment of strategic cruise missiles. They view with some foreboding the prospect of Germany acquiring ground launched cruise missiles. American proponents of the cruise missile contend that there would be no logical reason for the Soviets to acquire a similar system since they can rely on ICBM's alone. Such a contention fails to consider the matter of Soviet prestige. They may feel a political need to duplicate our achievement. Granted, the U.S.S.R.'s cruise missile technology is behind ours, but the Soviets would not need as sophisticated a system as ours because we have virtually no air defenses and many of our attractive targets are along the coast. In the coming years we may very likely face a Soviet Union armed with a sizeable arsenal of cruise missiles. If, for whatever reason, the Soviets deployed such a system, then we would face the dilemma of having to respond to this escalation in the Soviet capabilities.

The President has asked us to fund a system that raises serious arms control questions. The President has argued that ALCM's with strategic ranges are in the national interest. I do not argue with this assessment. What I do urge is that the administration not give in to those who insist that we must also deploy ground launched and sea launched cruise missiles with strategic ranges. To do so would invite the problems with the system I have outlined above. Verification of ground and sea launched cruise missiles limitations would be virtually impossible. Proliferation of these delivery systems would be likely. The Soviets would surely perfect strategic cruise missiles of their own. If we must have this system, let us deploy it wisely.

Mr. PELL, Mr. TOWER, and Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. McINTYRE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 60 minutes remaining.

Mr. STENNIS. Mr. President, I wish we could proceed here in the regular order more or less. The Senator from New Hampshire wants to finish his speech. The Senator from Texas, who is the ranking member of our committee, wants to present his presentation. We will consider other presentations when those two have had a chance to lay the bill out.

So I hope we could go back to that. I do not think his remarks are long now and the Senator from Texas certainly does not have long remarks.

If that will be all right, I yield 10 minutes.

Mr. McINTYRE. Mr. President, let me proceed to a brief explanation of the bill.

S. 1863, as orginally printed, would have authorized $445.6 million, $97 million for procurement and $348.6 million for R. & D.

On August 29, the Department reduced its requests to $404.97 million, $97 million for procurement and $307.97 for R. & D. This was primarily due to a $40 million reduction in the original $90 million cruise missile carrier request.

The committee's recommendations call for a total of $364.47 million, which is $81.3 million less than the original request, and are based on two premises:

First. Full support of a mixed bomber force composed of standoff cruise missiles, manned penetrating bombers and dual role aircraft which could both launch cruise missiles and penetrate;

Second. Limit the bill to programs which will directly relate to the bomber leg of the triad because the cancellation of the B-1 was the reason for requesting a supplemental appropriation off cycle.

The programs proposed in the bill can be considered in three groups. Let me speak to two of these that relates to B-52's and cruise missiles.

Group I contains four programs for the improvement of the B-52's, and two programs for the development of the long range air launched cruise missile (ALCM) systems which together will comprise the near term mixed bomber force.

The committee recommends full support of all six programs. A brief description of these line items is as follows:

B-52 AIRCRAFT IMPROVEMENTS AND MODIFICATIONS

The primary aircraft in the strategic force will continue, for several years, to be the B-52's. Some will continue to be used as manned penetrating bombers. Others will be used as standoff long range air launched cruise missiles as the bomber begins to penetrate the Soviet Union, and then operate as penetrating bombers for the remainder of the mission.

Four programs would improve the survivability of the B-52 as a penetrator, begin to modify some of them as cruise missile carriers, and improve navigation systems required for the standoff, penetrating and dual roles. ($80.7)

LONG RANGE AIR LAUNCHED CRUISE MISSILES (ALCMS)

The primary new weapon to be utilized in a future mixed bomber force is a long range air launched cruise missile. This bill will support the full scale development of two competitive versions. Both will use a common warhead and engine and will have substantial commonality in guidance hardware. Both will derive from previously developed cruise missile technologies. The competition between these two versions would culminate in a selection in October 1979. Whichever version is selected would produce some operational missiles in 1980. ($220.9)

The second group includes three programs requested by DOD and a fourth recommended by the committee and supported by Secretary Brown, which would provide systems for a second generation mixed bomber force. A brief description of these four programs is as follows:

CRUISE MISSILE CARRIER

The concept of an advanced, post-B-52 cruise missile carrier aircraft is a worthwhile R. & D. objective and is supported by the committee. The committee recommends support of the $5 million requested for phase I, systems definition. This is a new program element and the product of the systems definition work should be completed and reviewed fully by the Department of Defense and the Congress before going forward with costly aircraft demonstration. ($5)

FB-111H

Recommend $20 million to be authorized to create a line item and to initiate a prototype development program for the FB-111H. The use of B-1 engines would give the stretched version the range of the B-1 and the weapons' loadings of the converted B-52. It would likely be more survivable than the B-1.

This would support design definition of the aircraft and subsystems and the definition of source selection criteria for critical, long lead components.

Air Force has proposed to the Secretary of Defense that $90 million be allocated to such a program. Dr. Perry, in the hearings, encouraged the creation of the line item.

Secretary Brown supported $20 million in a letter to the committee chairman on September 19, 1977.

Mr. President, I ask unanimous consent that this letter from Secretary Brown to Chairman STENNIS be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., September 19, 1977.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to reply to your letter dated September 13 in which you request my recommendation on funding for aircraft that would be a manned bomber and missile carrier.

The Air Force has proposed cancelling some B-1 research and development and initiating a prototype development program for an FB-111H. The purpose of the prototype program would be to verify performance predictions; it would not represent a commitment to a production program. I believe this proposal deserves careful consideration as a way of keeping open an option for such a system as a penetrating bomber at some later time. Although I have not completed my review of this matter, I believe that allowing for preliminary development work in FY 78 would be a prudent step. Accordingly, I would agree to Congressional action to open a budget line. The $20 million figure that I understand is under consideration by your Committee seems an appropriate amount to begin such an effort.

I understand that consideration is being given to a substantial reduction in the funding proposed for the cruise missile carrier. In order to develop an option for initial deployment of a cruise missile carrier in FY 1981, we need to develop and test a prototype and demonstrate the launch of a cruise missile from such a carrier in FY 1978. I believe this option is extremely important, particularly because it would allow us to expand our strategic capability rapidly if the Soviets continue their build-up and we conclude that we must respond. With a relatively small investment in a cruise missile carrier, we could dramatically increase the number of warheads, megatonnage, and throw weight of our strategic forces. In light of the above, I urge your strong support for the full $50 million in our budget request.

Sincerely,

HAROLD BROWN.

Mr. McINTYRE. Mr. President, $20 million would give the Department the flexibility Dr. Perry said would be useful and would provide a production decision option beginning in late 1980.

Two programs, Strategic Bomber Enhancements and Defense Advanced Research Projects Agency. Reduction of $2.5 and $6 million, respectively, are recommended. Reductions are due to the nongermaneness of an element of the DARPA request, which related to theater cruise missiles, and to the consolidation of advanced studies for a third and fourth generation of cruise missile carriers into the cruise missile carrier line.

This, Mr. President, is an abbreviated report of a long, hard job of taking a hard look at this difficult problem.

I certainly hope that the Senate tonight will be adopting the recommendations of the full committee.

Mr. CRANSTON. Mr. President, will the Senator yield just very briefly?

Mr. McINTYRE. I yield 2 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, if the Senator will yield to me, let me put it this way: We have gotten off on the wrong foot here. We can give the ranking minority member of our committee, if he seeks the floor, a chance to get the floor, I thank the Senator from California.

The PRESIDING OFFICER. Who gives time?

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the chairman of the Committee on Armed Services and the chairman of its Research and Development Subcommittee, as well as the two highly esteemed members of the subcommittee, Senators BARTLETT and GOLDWATER, are to be commended for all the fine work that went into this bill.

The President sent to the Congress a request for a supplemental appropriation which was necessitated by his decision to terminate the B-1. The bill, in its original form as proposed by the Department prior to exhaustive subcommittee hearings, was not accompanied by a strong sense of purpose by Department witnesses. After some rethinking by the office of the Secretary of Defense, and close scrutiny by the R. & D. Subcommittee, the Senate can now feel somewhat assured that this bill will provide needed improvements to the bomber leg of the triad. These improvements will not give us the same force we would have if production of the B-1 were continued; however, absent the B-1 this bill provides urgently needed strategic systems.

The President's termination of the B-1 was still, in my mind, an unwise decision. There are many reasons why this is so.

The air-launched cruise missle will, from all accounts, be limited to a range at SALT no greater than 2,500 kilometers. Without a penetrating bomber that can with assurance do its job, reliance on the cruise missile alone has its risks.

Let me give my reasons for stating this.

While the U.S. strategic bomber force will, for the next several years, rely on the B-52 to penetrate, these aging bombers will find it increasingly more difficult, and eventually impossible, to penetrate Soviet air defenses in order to drop their nuclear weapons.

When that happens, if the range of the air-launched cruise missile is limited to no greater than 1,500 miles or 2,500 kilometers, and the Soviets build, as expected, air defenses capable of attacking aircraft before it can launch cruise missiles, then the bomber leg of the triad will not be as effective as it is today. Further, the Senate should understand that any limit on cruise missiles at SALT must take into account the degradation of the range for operational consideration.

A number of us supported and continue to support the B-1 in order to insure that the bomber leg of the triad remains intact and penetrating through the 1980's and well into the 1990's. President Carter unwisely terminated the B-1 and, in doing so, accelerated cruise missile development effort. However, there is nothing in the Armed Services Committee's files that would lead me to believe that in terminating the B-1, President Carter decided against a manned strategic penetrating bomber.

It is recommended that flexibility to keep all the options open as to the mix of forces for the forseeable future, is desirable. Therefore, not only should acceleration of the development of the cruise missile and modifications to the existing B-52 fleet be fully supported, but also funds for major modifications to our existing FB-111A force have been included. After modification, the FB-111A would become the FB-111H and have the capability to fly as far as the B-1 with the same number of weapons as the B-52.

A force consisting of air-launched cruise missiles and penetrating bombers, namely, B-52's and FB-111H's, would constitute a "mixed force" that would enormously complicate the Soviet air defense problem, hedge a possible SALT limit on cruise missiles, as well as guard against uncertainties in the development of the air-launched cruise missile itself.

So I urge the passage of this supplemental request with modification as discussed above, but with the caveat that the Department of Defense take a long look at the B-1 decision in the face of greater Soviet strategic capabilities. In addition, the flexibility in this bill is great enough so that ample opportunity exists for the administration to begin developing a coherent strategic policy. This supplemental bill would give them time to do so while not putting the security of this Nation at risk.

I yield the Senator from Arizona such time as he may require.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I will be as brief as I can.

I doubt that anyone in the U.S. Senate, or even the Congress, has been a stronger or more avid supporter of the B-1 than I over the past 7 years. My support for the B-1 comes from my strong conviction that we must in our future strategic force structure have a manned penetrating bomber. However, the President made the decision, and I think wrongly, not to produce the B-1 bomber. Over the past week or two in the House, there has been considerable activity on reviving the B-1 and attempting to reverse the President's decision.

I hope that the B-1 can be saved but, frankly, I am not optimistic about its chances. I am doubtful that there are the votes in the Senate to sustain such an action and, without the support of the administration to request funds to continue the B-1 in the out years, the entire effort would appear to be in doubt. However, if the rejection of the B-1 rescission notification is sustained, the administration would be required to build aircraft 5 and 6, and this would extend the production option into about 1980.

During our deliberations of this supplemental request, I did not try to add an amendment that would have in some way kept the B-1 program going because, as I said, the votes to sustain such an amendment are just not in the Senate. However, our testimony was very clear from Dr. Perry, Director of Defense Research and Engineering, General Slay, Air Force Deputy Chief of Staff for Research and Development, and General Ellis, Commander in Chief of Strategic Air Command, that the manned penetrator would continue for the foreseeable future to be a necessary part of our strategic force and of our strategic Triad. It was very significant to me that the number three man in the Department of Defense in an administration that recommended cancellation of the B-1 program spoke out strongly for the requirement to maintain a manned penetrating bomber for the foreseeable future.

Time and time again during the very dramatic presentations made by Dr. Perry, General Slay and General Ellis, it was overwhelmingly evident that in order to successfully carry out the charge of the SIOP, a manned system would be necessary. As the result of this rather dramatic testimony, which was very factually and unemotionally presented, the Research and Development Subcommittee and later the full committee unanimously accepted the concept of a mixed bomber force for our future strategic force structure. That means that the committee recognizes that the future strategic manned portion of the Triad will consist of penetrating bombers. Possibly other types of aircraft that will stand off and launch cruise missiles and bombers that have a dual capability both to penetrate and to launch cruise missiles. Recognizing this position, the committee with the full concurrence of the Department of Defense and the administration, added $20 million to begin a two-aircraft prototype program of the FB-111H. This would provide the Secretary of Defense at some future and appropriate time the option to select this aircraft as the follow-on and/or complementary manned penetrator to the B-52, the aging warhorse that some in this body seem to think will last forever.

Mr. President, my major concern at the moment is that we could end up without any program for a follow-on penetrator to the B-52. For example, the House could vote to sustain the B-1 program and reject the FB-111H program. Then, assuming the Senate supports the FB-111H program, we would have a very difficult time resolving these two positions in conference. The end result could be that we would get neither program.

Mr. President, I stress that this FB-111 program supports the administration's announced position when it canceled B-1 production in that it was not making a decision against penetrating bombers, but only against the B-1. Therefore, to deny the development of this particular option is to weaken the manned portion of our future strategic force structure.

I have said many times to my colleagues that we are still a long way from having a viable, fully proven, fully operational cruise missile weapons system. And yet, prior to reaching that goal, the President elected not to produce the B-1 and to depend instead on this untried and unproven system. I am sure there are many, possibly including the President, who are having second thoughts about this decision and the fact that we have placed an awful lot of eggs in one basket. Consequently, that is one reason I believe the administration is very supportive of the development of this FB-111H prototype demonstration program. It is not another B-1. It is not going to be as good as the B-1. It is, however, the only viable option we have at the moment and we should not pass up the opportunity.

Now, Mr. President, I am very proud to serve on the committee chaired by our friend from Vermont, and I think the hearings on this supplemental bill proved to be the most interesting and informative group of hearings that we ever held. I would suggest that every Member of Congress read them, because we have learned some things; and I only wish that the Air Force had been able to present the picture to the President in the way that they presented it there, and I do not think the President would have dropped the B-1.

Mr. President, if one thing came up more than anything else in these hearings, it was that we have to have a penetrating bomber; and if a second thing came up more clearly than anything else, it was that the B-52 is not a penetrating bomber in the sense of being the one that we need.

Incidentally, I apologize for referring to the Senator from New Hampshire as "our friend from Vermont." I also will apologize to New Hampshire.

Mr. President, another thing that was apparent to me in these hearings is that the Air Force has no concept of what they want in the way of a cruise missile carrier aircraft other than a bomber-type aircraft. They had no plans, and were in no position to discuss nor was the OSD witness, the conversion of the 747, the 1011, or the DC-10 wide-bodied aircraft into a weapons carrier. Consequently, we put $5 million in, because the House had nothing in, and we felt that we could start some study on this question. I know there is great interest in Congress in having this type of launcher.

But, Mr. President, the thing that disturbs me most out of these whole hearings, and I hope my colleagues will take note, is this: Because of the decision on the B-1, and because of the dependence on the B-52, which we can only modify at the rate of two a month under the present budget, or, by doubling that budget, at the rate of four a month, we will incur a strategic air nakedness in this country for from 4 to 8 years. To put it bluntly, we will have no way to exercise the total strategic manned bombers against the Soviet Union for some 4 to 8 years while this modification is underway. So I think the decision we will have to make between the two bodies will have to be to go ahead and get as far as we can with the modification of the FB-111.

That may sound strange coming from me, one who has probably been the biggest advocate of the B-1 ever since they laid it on the drawing board. But we called the White House after the House of Representatives had its vote the other day, and we were told there would be no money, not 1 cent, put in for the B-1 in the coming year's budget; so it does not make sense, to me, to spend the money in this year's budget to start another B-1

bomber that would not be completed. I regret to state that.

So I am going to take the position that the next best thing in line is the FB-111 modification. I think it is necessary if we are going to have continued manned strategic capability in this country, and the ability to retaliate.

I do not depend on missiles the way some people do. We have to have a manned bomber.

I thank the chairman and the floor leader on the Republican side for yielding to me for this purpose.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. CRANSTON. To save the Senate's time at this hour I will not take 3 minutes or hardly any time at all.

I first want to compliment the Senator from New Hampshire for assisting on the arms control impact statement as he did his work in the committee.

I share the concerns which have been expressed about the cruise missile in terms of the vertification problems that I think will be very serious to us in the course of time. I know the Senator from Washington is very concerned about verification. It may not be a problem for us now, but it may be later.

The decision to cancel the B-1, to go the cruise missile route, is one which I believe may turn out to be more costly than had been originally anticipated. Now that we are talking about a new penetrating bomber, the original concept was not to have one, now there is discussion in the FB-111. I hope there will be a very serious evaluation of the whole decision that was made which led to the cancellation of the B-1 and this new course of events.

Mr. President, I rise to express my continued reservations over the President's decision to cancel the B-1 program and to accelerate development of the air-launched cruise missile.

I believe the B-1 is the best way to modernize our strategic bomber force, without posing any new and destabilizing threat to the Soviet Union. Moreover, the B-1 represents no threat to arms control because numbers of bombers can be confidentially verified by both the United States and the Soviet Union. In contrast, the destabilizing verification problems posed by air-launched and other cruise missiles are well known. It is my deep hope that negotiated restrictions on cruise missiles will obviate the necessity to move from development of the cruise missile into production.

The R.D.T. & E. funds contained in this bill would fund development of two competitive versions of the air-launched cruise missile.

The administration intends to proceed rapidly into production in 1980 of whichever version of the air-launched cruise missile wins the competition.

The procurement funds in the bill would support preproduction activities to facilitate this rapid move from competitive development and testing into production. But let there be no mistake about the meaning of these funds. Congressional approval of these preproduction funds will not represent Congress endorsement of deployment of strategic air-launched cruise missiles. This early procurement funding merely provides the option of an early move into production, but not the capability to do so. Actual production of air-launched cruise missiles will require additional procurement funding over the next 2 fiscal years.

In addressing the arms control implications of this bill, I wish to compliment the floor manager, the distinguished chairman of the Armed Services Subcommittee on Research and Development, who insisted that an arms control impact statement on the fiscal year 1978 defense supplemental bill be provided his subcommittee. In requiring arms control impact statements, Congress intended that they would be considered in conjunction with legislative review of weapons funding requests to insure that the arms control implications of weapons developments are taken into consideration. However, this does not always occur.

The conclusions in the arms control impact statement differ from my own judgment that cruise missiles should not be deployed because of their potential negative impact on arms control. The qualified optimistic conclusion in that statement is:

> On balance, if the number of ALCM platforms is limited by a SALT agreement and the number of missiles is not so large as to affect the overall strategic balance, the deployment of this system should not adversely affect arms control.

My differing judgment rests, however, on some of the very points made in the arms control impact statement. For example, in discussing the possible impact of deployment of ALCM's on heavy bombers in the SALT negotiations, the statement notes:

> If ALCM-carrying heavy bombers were counted in the MIRV total, given the B-1 decision and our subsequent decision to rely more heavily on heavy bombers equipped with long-range ALCM's—the Trident SSBN program and MIRVed ICBM's would have to compete with the ALCM carriers for space in the MIRV aggregate. This could discourage the U.S. from seeking later reductions in the MIRV aggregate.

I have grave reservations about any weapon system which might serve to discourage reductions in the MIRV ceiling. I strongly believe our arms control goal should be to vastly reduce the world's arms arsenals—as the President stated before the U.N. this week. We must not be satisfied with just establishing high ceilings and building up to them.

A second point discussed in the arms control impact statement is that U.S. cruise missile developments might spur proliferation of a nuclear weapons delivery capability. The statement notes:

> If other countries could obtain the technology for long-range ALCMs, or could indigenously produce such systems, then the cruise missile might present the basis for their development of a nuclear delivery capability (providing they have the nuclear weapons capability to begin with). The perception of the cruise missile as a prestige weapon is intensified by the system's technical characteristics and its obvious versatility. The cruise missile could make any submarine, aircraft, or mobile platform a potential strategic delivery vehicle. Hence, there could exist sufficient motive for some countries to acquire or develop cruise missiles—unless, again, aircraft (which are reusable) for example provide a more attractive alternative, such proliferation of cruise missile technology could also weaken the prospects for multilateral arms control negotiations.

The statement also notes the expense and technological challenges present by cruise missiles stating that:

> Surmounting these and other technological barriers would be prohibitively expensive and difficult for most countries; some may elect to develop less-sophisticated long-range cruise missiles.

I do not find this encouraging. I would not want the United States to foster proliferation of even an unsophisticated but newer generation of nuclear-delivery-capable weapons.

Finally, the arms control impact statement does little to dispel my reservations about the verification problems posed by cruise missiles. The statement notes that:

> Potential difficulties of verifying compliance with any SALT limitations on cruise missiles should be viewed in the broad context of how cruise missiles affect the strategic balance.

But later concludes that:

> The problem of verifying compliance with cruise missile limits could have serious long-term implications for future arms controls.

Mr. President, I hope that the possible negative implications of cruise missile developments are given further serious consideration. In particular, I hope the decision to accelerate development of the strategic air-launched cruise missile and to cancel the B-1 program—particularly in the light of moves to resort to the FB-111 as an alternative penetrating bomber—will be reevaluated with great care.

Mr. BARTLETT. Mr. President, as the ranking minority members of the Research and Development Subcommittee of the Senate Armed Services Committee, I would like to speak on behalf of S. 1863, this supplemental Defense authorization bill, and urge its prompt passage without amendment.

The R. & D. Subcommittee was primarily responsible for the work done on this bill because the Carter administration's alternative to the deployment of a B-1 bomber force is a series of R. & D. initiatives which anticipate the addition of air-launched cruise missiles to our strategic forces in the future. The subcommittee has held intensive hearings on this bill. These very fine hearings helped the subcommittee polish and refine this legislation and also helped the administration in improving the formulation of its own proposals.

The bill before you was considered in the true spirit of a "supplemental" bill. It deals specifically with those steps which should be taken in fiscal year 1978 as a result of the B-1 decision. We have excluded those programs which can wait until next year's action on the fiscal year 1979 defense request. Those programs thus deferred were put off without prejudice and will be considered next year. There is no fat in this supplemental bill. On the contrary, the bill is a rather austere effort to help focus our strategic bomber programs for the near future in light of the President's decision to stop the ongoing production of the B-1 bomber. At the same time, however, an effort was made to insure that no important option would be precluded as a result of action taken by the committee.

Recent testimony before this committee supports the creation of a "mixed force" of cruise missiles and manned penetrating bombers, each causing different difficulties for enemy air defenses.

The manned penetrating bomber requires the Soviet Union to provide air defenses in depth and to make those air defenses sophisticated enough to deal with the electronic countermeasures (ECM) and evasive action of the bombers. The SRAM missiles carried by the manned bombers are almost impossible to intercept and are vital to attacking many heavily defended targets. The manned bomber can choose not to attack targets which have already been destroyed and can go on to attack alternative targets. It is both stabilizing and flexible.

The air-launched cruise missile launched in the stand-off mode forces the Soviet Union to develop long-range air defense systems and interceptors which will be capable of attacking stand-off cruise missile carriers flying several hundred miles outside present air defenses. It forces the Soviets to develop expensive and powerful radars which can detect objects with extremely small radar cross-sections flying very close to the ground. The cruise missile will probably be very capable against many types of targets.

Deploying both the penetrating bomber and the air-launched cruise missile permits the manned bomber and the cruise missile to help each other against enemy air defenses, each using its best features to help clear the way for the other.

In the past, I have supported development of air-launched cruise missiles just as I have supported the development of manned bombers. In each case, I have said that we should have the best system possible. It is still my opinion that we should have the best manned bomber and the best cruise missile possible.

I believe that the B-1 bomber is the best manned penetrating bomber available today, and I do not believe that we have heard any testimony so far that proves me wrong. In fact, the B-1 bomber is a superb weapons system both for penetration and for launching cruise missiles.

Nevertheless, this legislation will authorize funds which will permit the administration to begin a mixed force for the early to mid-1980's built around the old B-52 bomber. It will also permit funding for a follow-on cruise missile launcher employing a wide bodied cruise missile carrier and for the study of a possible follow-on penetrating bomber in a future mixed force.

Again, it should be noted that most of the funds requested and authorized are for research and development, not for procurement. The Carter administration's alternative to B-1 production is R. & D. on alternatives to the B-1. I would rather have had both. Recent reports on the Soivet strategic build-up are alarming, especially now that Secretary Brown has announced that the Soviet Union is developing another new generation of ICBM s even more modern than their SS-18's and SS-19's.

Although this supplemental Defense authorization bill does not authorize any major new steps in weapons development and procurement that were not already anticipated, it does accelerate our cruise missile development program, and it does fund necessary improvements for the B-52 bomber which will be required to act both as a cruise missile launcher and as a penetrating bomber in the 1980's. If, in fact, we should be deprived of the B-1 bomber force, then immediate acceleration of these programs is justified.

The committee has approved an authorization of $364 million, $40.5 million less than was requested by the President. The only large cut in the President's request dealt with the follow-on, wide body cruise missile carrier. The committee authorized $5 million for the important step of "system definition" in which the Defense Department determines what type of aircraft will be deployed, and in what manner. The committee deleted $45 million for an expensive demonstration of a cruise missile launch from an actual aircraft because the Defense Department could not use the funds until very late in the fiscal year and, in testimony, could not adequately justify the request. Deferral of this authorization until consideration of the fiscal year 1979 budget, without prejudice, will result in little or no delay in the program.

The committee believes that the $5 million authorized to study this follow-on cruise missile carrier concept and the $5 million added for the study of the role of a follow-on advanced manned penetrating bomber are both necessary to insure the option of maintaining a mixed bomber force after the mixed B-52 force is no longer able to overcome Soviet air defenses.

The committee also recommended authorization of $20 million for research on the possible development of a stretched FB-111, to be known as the FB-111H. This aircraft, if built, would involve incorporating the jet engines of the B-1 bomber, and modern avionics, on a modified, longer FB-111. This step was supported by the Secretary of Defense.

Mr. President, while there has been a great deal of controversy concerning President Carter's decision to terminate production of the B-1 bomber, I am aware of little controversy concerning this legislation. I think all the members of the committee can be proud of the fine work that was done on this bill. S. 1863 was reported out unanimously, 18-0.

I urge all my colleagues to vote in favor of this bill.

Mr. STENNIS. Mr. President, I have a procedural matter. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I overlooked in the beginning asking unanimous consent, and I do ask it now, that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. For the purpose of amendment.

Mr. STENNIS. Yes, for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. STENNIS. I thank the Chair.

Mr. President, this presents the matter, unless there are amendments from the floor. We do have this matter which has been referred to. The Senator from Arizona referred to it in his remarks a moment ago. The Senator from Arkansas (Mr. BUMPERS) is interested in it, I know, as is the Senator from Washington.

At the proper time, Mr. President, when the general debate has concluded, I want to suggest the absence of a quorum so that the membership of the committee can meet for a very brief discussion of the situation on this matter, which is not settled. It could be that we could agree on something to recommend to the Senate. Otherwise, as I understand, there will be an amendment offered on it and maybe debate.

I am ready to yield time now to anyone who might wish to speak.

Mr. MATHIAS. Mr. President, I have an amendment referred to earlier which was not timely until the committee amendment had been adopted. If the distinguished chairman is agreeable, I will offer it at this time.

Mr. STENNIS. That is agreeable to me.

UP AMENDMENT NO. 908

Mr. MATHIAS. Mr. President, I send to the desk an amendment on behalf of the Senator from Massachusetts (Mr. KENNEDY) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Maryland (Mr. MATHIAS), for himself and Mr. KENNEDY, proposes an unprinted amendment numbered 908.
>
> On page 2, line 24, insert the following:
>
> In authorizing funds under Title I and Title II of this bill, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

Mr. McINTYRE. Will the Senator yield?

Mr. MATHIAS. I yield.

Mr. McINTYRE. Do I understand clearly that the amendment that the Senator is now proposing is virtually identical to that which our distinguished colleague from Minnesota (Mr. HUMPHREY) offered last spring and which was

written into public law by the regular fiscal year 1978 Defense authorization bill?

Mr. KENNEDY. Yes, that is correct.

Mr. McINTYRE. Do I understand further that the only changes in the language already in public law is the substitution of the term "cruise missile" for the term "strategic arms" and the use of the term "arms limitation or reduction talks" for the term in the original Humphrey language, "strategic arms limitation talks"?

Mr. KENNEDY. Yes, that is correct.

Mr. McINTYRE. So this amendment, like the language which is in public law, expresses Congress's readiness to consider Presidential initiatives in the interest of arms limitations to request additional moneys under procedures defined in the Budget and Accounting Act of 1921, as well as initiatives to rescind funds as outlined in the Congressional Budget Control and Impoundment Act of 1974?

Mr. KENNEDY. Yes, that is correct.

Mr. McINTYRE. Do I understand clearly, further, that this amendment that the Senator is now proposing does not speak one way or another to any substantive issue about cruise missile limitations?

Mr. KENNEDY. Yes, that is so.

Mr. CLARK. Mr. President, I rise in support of the amendment to S. 1865 proposed by the Senators from Massachusetts and Maryland even though the amendment was not offered. I do so because I share their concerns over the effect widespread development of cruise missiles could have upon strategic arms limitation efforts.

I realize that there are no funds in this authorization bill for the proposed ground-launched cruise missile (GLCM) or sea-launched cruise missiles (SLCM), although it is worth noting that a total of $225 million has already been appropriated for these two programs in fiscal year 1978. The amendment, however, recognizes the very strong link between the action being considered today in accelerating the air-launched cruise missile (ALCM) program, and the progress in developing the other two cruise missile programs. Essentially, the amendment expresses reservations about the unrestrained development of ALCM's or the further development of SLCM's and GLCM's.

The intent of the administration's ALCM program is clear: To extend the effective life of the B-52 bomber force and its role in the U.S. Triad strategic weapons system. To that extent, the ALCM can be seen as a stabilizing weapon in its role of strengthening the United States second strike capability. While I will support air-launched missiles to the degree that they enhance our strategic capabilities, I draw the line at any step which would lessen the chance of achieving strategic arms limitations. This is why I consider the proposed amendment appropriate and necessary.

Congress should take care in the aftermath of the B-1 decision not to rush into unnecessary weapons purchases.

I think that we have not gone too far yet but we are on the verge of decisions which could disrupt the SALT negotiations and could destroy the prospects of such an agreement.

At a time when the President has told us that a SALT agreement is near, these decisions become particularly critical. We know that the Soviets have expressed particular concern with regard to the cruise missile programs. If we are judicious in the programs, we can meet all of our national security objectives, and still impose limitations on cruise missiles which will bring the Soviet Union to agree to control weapons which disturb us very much. My fellow Senators over the years have heard numerous concerns expressed regarding key Soviet strategic programs, in particular the heavy weapons. If we handle SALT correctly, we can control some of their programs which have received the greatest attention.

In March, this administration set forth a comprehensive SALT proposal which would have been very much to our national security advantage. It included a number of quantitative and qualitative controls, which, taken together, would constitute a major step toward controlling the strategic arms race. But we are not going to achieve final agreement unless we are willing to restrain ourselves, just as we ask the Soviets to show restraint.

In discussions with the Soviets thus far, it appears possible that we can reach agreement on the deployment of long-range ALCM's. However, any effort to deploy similar range cruise missiles on other platforms, that is on land or at sea, would be seen by the Soviets as highly destabilizing and would certainly be interpreted by them as an attempt to alter the strategic balance. It would likely provoke them into accelerating their own cruise missile program. These SALT provisions now under discussion would enable us to maintain the strategic balance without necessarily eliciting a Soviet response.

The step we will take in this bill could lead us into a commitment to cruise missiles which could be unstoppable. Our past experience with SALT has shown us that neither side is willing to negotiate away weapons programs which are well into the developmental stage. The MIRV program is a classical example. We must take care that we do not get into a situation in which the entire cruise missile arsenal is so far along the way that nobody dares to speak out against them, or to propose limitations on their deployment.

Because of the nature of the weapon, cruise missiles deserve very special consideration in terms of verification capability in any new agreement. There is no doubt that cruise missiles will pose a very special verification problem, but this problem can be eased by restricting cruise missile deployment to a certain number of aircraft. General deployment in other SLCM or GLCM modes would be virtually unverifiable and totally disruptive to our efforts to achieve meaningful arms agreements.

Mr. President, I must confess a great deal of uneasiness about the cruise missile issue in general. We should have no illusions about the problems of verifying such things as range and the nature of the warhead. However, to the extent that they enhance our penetration capability, they must probably be considered stabilizing. To the extent that they merely move both us and the Soviets to another level of sophisticated weaponry, they should be judged destabilizing and we should reject them.

Mr. TOWER. Mr. President, let me ask the Senator from Maryland a question. This amendment does not mandate anything, as I understand it, but simply endorses some flexibility in either increasing or diminishing the authorization for the cruise missile development. Is that correct?

Mr. MATHIAS. The Senator from Texas is exactly correct. The purpose of the amendment is to focus on the importance of the cruise missile development to our arsenal, and its implications to arms control and other areas of national interest. But it does not mandate action in any direction.

Mr. TOWER. I thank the Senator from Maryland. On behalf of the minority, we have no objection to the amendment.

Mr. SCOTT. Will the President yield?

Mr. MATHIAS. I yield to the Senator from Virginia.

Mr. SCOTT. I have read the text of the second page in the original amendment by the Senator from Massachusetts and the Senator from Maryland. As I see it, we are just saying we will consider something. It is really not any commitment by the Senate. Is that the understanding?

Mr. MATHIAS. The Senator from Virginia is exactly correct.

Mr. SCOTT. I have no objection.

Mr. GOLDWATER. Will the Senator yield me one moment for an observation?

Mr. MATHIAS. I am happy to yield.

Mr. GOLDWATER. I pointed out before most of this same language is already included in a public law passed earlier this year. That language uses the term strategic arms, whereas your language uses cruise missiles.

Mr. MATHIAS. As usual, the Senator is very accurate.

Mr. PELL. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, as chairman of the Foreign Relations Committee's Subcommittee on Arms Control, Oceans and International Environment, I wish to associate myself with the amendment offered by the Senator from Massachusetts.

I believe it is important to register the Senate's concerns about the implications of uncontrolled deployment of air launched cruise missiles and the further development of ground and sea launched cruise missiles. Particularly in the context of the ongoing SALT negotiations, I am concerned that the United States not go so far down the road toward acquiring these weapons that, as a practical matter, it will prove impossible to negotiate mutual restraints on them with the Soviet Union.

The experience in SALT today, I believe, clearly illustrates the difficulty that both sides encounter in negotiating

limitations on weapons systems once they have been proved out and funded. The ABM is the only exception that I know of. In the case of the cruise missile, we have seen how this system, originally developed as a bargaining chip for SALT, soon developed a life of its own and acquired a devoted following.

I am not opposing cruise missiles as such. In fact, the case for air launched cruise missiles as part of an alternative to acquiring the B-1 bomber is a good one, particularly if their development by both the United States and U.S.S.R. can be constrained under a SALT agreement. At some point, and under certain circumstances, ground and sea launched versions may also be justified, although I have deep reservations about both.

What I am concerned about, however, is that a momentum will develop for the acquisition of these systems that will be difficult to control. I would hate to see us arrive at a point in SALT where it becomes virtually impossible to negotiate mutual limitations on these weapons. In short, the arms control implications of cruise missiles must be carefully examined—and I am not talking about arms control for the sake of arms control. If mutual constraints, achieved through negotiation, are at least as effective in enhancing our security as the acquisition of more weapons—and I believe they are—then the concerns expressed in the amendment offered by the Senator from Massachusetts should be given the most careful consideration by the administration in its arms procurement decisions.

In addition to their implications for SALT, cruise missiles are also relevant to the military balance in Europe and to the objective of limiting the proliferation of nuclear weapons generally. In the case of Europe, where interest in cruise missiles, particularly in the ground launched version, is on the rise, it may be advisable to give higher priority to negotiating a reduction of the increasing Warsaw Pact threat than in taking measures to respond to it and thereby perpetuating a spiral of increasing confrontation in Europe.

Looking at the nonproliferation side of the equation, I believe it would be dangerous to become so involved in an arms competition with the Soviets involving cruise missiles that we neglect the impact of our decisions on third countries. We should be careful, for example, not to give the impression that cruise missiles are the way to develop a relatively cheap and reliable nuclear capability.

The amendment offered by Senator KENNEDY would not delete any funds or stop any programs, but it does sound a warning, a warning that both the Congress and the administration would do well to heed in my view. I urge the adoption of the amendment.

Mr. MATHIAS. We are grateful for the support.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. MATHIAS. I yield back the remainder of his time.

Mr. STENNIS. Mr. President, I believe we can save time if we could have a quorum call at this point. I invite members of the Armed Services Committee to meet with me for a brief discussion of this matter which is in issue.

The PRESIDING OFFICER. The amendment has not yet been agreed to. If the Senator will withhold his request, we will complete action on the amendment. Is all time yielded back?

Mr. STENNIS. I yield back the remainder of my time, Mr. President.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may have printed at this point in the RECORD the arms control impact statement that was requested and received by Senator McINTYRE.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ARMS CONTROL IMPACT STATEMENT

(ALCM Fiscal Year 1978 Supplemental)

I. PROGRAM DESCRIPTION

A. Introduction

The cruise missile is a small, continuously powered, pilotless vehicle which—unlike ballistic missiles and rockets—flies through the atmosphere using aerodynamic lift and an air breathing engine. The modern cruise missile results from the development of a number of new technologies including small, lightweight, highly efficient engines, miniaturization of computers, advanced guidance systems and modern nuclear warhead designs. The advance guidance systems of the proposed U.S. cruise missile should provide it with accuracy comparable to or better than inertially-guided ballistic missiles. It will be capable of being deployed in large numbers and have favorable penetration characteristics.

The amendment to the 1978 budget requests funds for 4 major programs related to cruise missiles: the AGM-86B Air-Launched Cruise Missile (ALCM) (commonly referred to as the ALCM-B), designed to be launched from manned bombers; the AGM 109 ALCM (or TALCM), a variant of the original land-attack TOMAHAWK sea-launched cruise missile (SLCM) design, competing with the AGM-86B for the ALCM role; the Advanced Strategic Air-Launched Missile (ASALM), under very early development as a candidate to replace the short-range attack missile (SRAM) and serve as a next generation cruise missile; and the Cruise Missile Carrier Aircraft (CMCA), a possible launch platform for any of the three candidate air-launched cruise missiles. To support certain of the cruise missile programs, ERDA has requested development funding for the W-80 nuclear warhead (see paragraph I.F., below).

The ALCM and SLCM programs are structured to have maximum commonalities in warhead, engine, and navigation/guidance components. The Air Force has the lead in warhead and engine development, and the Navy has the lead in navigation guidance development. Both systems are powered by a turbofan engine and guided by an inertial navigation system updated (during land attacks) by terrain contour matching (TERCOM). The AGM-109 (TALCM) is an adaptation of the cruise missile technology developed in these concurrent Air Force and Navy programs.

The amended budget also requests $33 million for B-52 modification to accommodate cruise missiles. The bulk of this amount ($28 million) is to improve the reliability and maintainability of the ECM and avionics systems of these aircraft, which are over 20 years old. The remaining $5 million is to be spent for basic, long-lead tooling for pylons for cruise missiles. (Decisions concerning the number or specific design of these pylons have not yet been made.)

Although the B-52 is a nuclear-capable delivery system, we believe that the amended budget submission in this instance does not require preparation of a full arms control impact statement (ACIS) for that aircraft. Submission of such an ACIS would establish a precedent for providing ACIS for the most sundry of defense budget requests, which, we believe, is within neither the spirit nor intent of the law.

B. AGM-86B ALCM

The AGM-86B is 19.5 feet in length, approximately 25 inches in width, and just under 4 feet in height with its tail surfaces deployed. It weighs approximately 2,900 pounds, can be carried internally and externally on the B-52 and has a wing span of slightly more than 12 feet when the wings are extended after launch. The B-52 will be be capable of carrying AGM-86Bs internally (in an extended SRAM rotary launcher) and externally (on new, large pylons).

C. AGM-109 ALCM

Again, AGM-109 is an air-launched cruise missile—in competition with and slightly larger than the AGM-86B—which is to be developed from the TOMAHAWK SLCM. The B-52 will be capable of carrying six or seven AGM-109s internally in an extended B-52 rotary launcher. The AGM-109 is also being proposed for carriage in a stack—vice rotary—arrangement, using gravity drop. The AGM-109 will also be compatible with the new launch system of the B-52 wing pylons, allowing them to be carried externally.

D. ASALM

The purpose of the ASALM program is to build a base for advanced-propulsion and integration technologies which could lead to a cruise missile replacement for SRAMs on penetrating bombers or to a second generation, long-range air-launched cruise missile.

The ASALM will be powered by a ramjet, drawing air through a chin inlet. An integral rocket booster will accelerate the ASALM to ramjet speeds. This will permit the ASALM to achieve high penetration speeds at both high and low altitudes. These projected speeds would be considerably greater than those of currently funded cruise missile systems, but as the expense of either altitude of penetration, size or range. Missile accuracy is not expected to be significantly degraded by the ASALM's high speeds.

ASALM is intended for use on penetrating and possibly standoff bombers. Its capability to attack at high speeds would reduce bomber vulnerability and, thereby, aid strategic bomber penetration. Even when flown at high altitude, however, its range would be less than the range of ALCM turbofan-powered cruise missiles. Data gathered from the technology demonstrations in this project will form the basis for decisions related to validation and full-scale development of a supersonic cruise missile to replace SRAM or first generation cruise missiles.

E. Cruise Missile Carrier Aircraft (CMCA)

The CMCA program involves the use of a prototype aircraft for the study and demonstration launches of the AGM-86B and/or AGM-109. No specific aircraft has yet been designated as the CMCA; possible choices include the Boeing 707, Boeing 747, McDonnell Douglas DC-10, Lockheed L-1011, or Lockhead C-5A.

F. W-80 Warhead

The development of the W-80 warhead was initiated to support the ALCM and SLCM. The W-80 may also be used on the TALCM and possibly even the ASALM; however, the routine studies which would lead to that determination are not yet complete. The W-80 warhead design emphasizes features which enhance safety, security and command/control. It has a permissive action link (PAL) which provides passive protection that precludes operation of the arming circuits until the appropriate, authorized code has been inserted. Insensitive High Explosive (IHE) is employed to reduce the probability of high explosive detonation in abnormal situations such as fires or aircraft crashes.

G. Missions

It can be argued that, in the *absence* of an air-launched cruise missile program, there is: (1) the possibility that in the future B-52s may not be able to function as penetrating bombers in the face of expected improvements in Soviet air defenses; (2) the possibility that the U.S. manned bomber force will not possess an adequate capability to attack its share of important Soviet targets; (3) the possibility that Soviet funds which might have been expended to counter an airborne threat will instead be directed into offensive programs—with adverse implications for the U.S. deterrent posture; and (4) the possibility that the U.S. would lose a relatively secure and cost-effective strategic "hedge" against possible future vulnerability of other components of its strategic forces.

The ALCM candidates and, in the longer term, ASALM, are designed to maintain the effectiveness and credibility of the U.S. Triad by ensuring the continued strength of the U.S. manned bomber force. ALCMs will give the B-52 greater targeting latitude, enabling bombers armed with them to stand off from Soviet territory or fly routes which avoid certain heavily defended areas. ALCMs with their small radar cross-sections and ability to fly at low altitudes will be very difficult targets for Soviet air defenses and would tend to dilute their low altitude air defenses to reduce the vulnerability of penetrating bombers. In the more distant future, ASALMs would also reduce the vulnerability of penetrating bombers by attacking enroute air defenses and heavily armed targets at high speed.

II. PROGRAM STATUS

A. AGM-86B

The AGM-86B ALCM is currently in full-scale development in competition with the AGM-109. The amendment to the President's FY 78 budget accelerates the development of the AGM-86B to permit an early limited Initial Operating Capability (IOC).

B. AGM-109

(U) Since the AGM-109 program is technologically a derivative of the TOMAHAWK SLCM program, much of the SLCM RDT&E can be extrapolated to apply to the ALCM derivative, although some modifications are necessary. The amendment to the President's FY 78 budget provides for the initiation of full-scale development of the AGM-109 ALCM.

C. ASALM

Initial flight testing is scheduled for FY 78 and full-scale development is scheduled to start a few years later. The IOC date (possibly in the 1980's), range requirements, and planned procurement levels are decisions which will be made later, based on the ASLAM's demonstrated technology and then-existent strategic requirements.

D. W-80

The W-80 program is proceeding normally. Several tests have already been completed. All testing since March 31, 1976 has been conducted in compliance with the provisions of the Threshold Test Ban Treaty.

funding are as follows:

President Carter has requested $449 million in additional funds for cruise missile and associated launch platform development. The current requests for amendments to FY 78 funding are as follows:

CRUISE MISSILES

Research and development

AGM-86B

$50 million increase in FY 78 RDT&E funds, for accelerated IOC and internal (rotary launcher) and external (pylons) B-52 carriage modifications.

AGM-109

$103 million in FY 78 RDT&E funds for initiation of development of a long-range AGM-109.

Procurement

$54 million for long-lead funding for procurement of either AGM-86B or AGM-109.

STRATEGIC BOMBER PENETRATION

$33.9 million for the accelerated development of an integral rocket ramjet Advanced Strategic Air-Launched missile (ASALM) and strategic bomber enhancement.

($14 million for prototype development)

($19.9 million for bomber enhancement)

CRUISE MISSILE CARRIER AIRCRAFT (CMCA)

$90 million for CMCA.

Includes system definition and AGM-86B/AGM-109 demonstration launches.

Provides basis for possible future carrier development.

IV. ANALYSIS

The arms control impact of cruise missiles lies primarily in their potential effect on strategic stability, on arms control negotiations (SALT in particular), and on verification. (The arms control analyses of SLCMs/GLCMs differ from the analysis of ALCMs; the former will be addressed in ACIS submitted with the FY 79 budget requests.)

A. Consistency with declared arms control policy

A primary US national security objective is the maintenance of a stable nuclear balance. That balance presently includes the Triad concept which centers on three general types of nuclear delivery systems: The intercontinental ballistic missile, the submarine-launched ballistic missile, and the manned bomber. The air-launched cruise missile is intended for use as part of the bomber element of the Triad.

For strategic purposes, the US would use nuclear-armed cruise missiles primarily to maintain the retaliatory capability of the existing US bomber force. A weapons mix including ALCMs on standoff bombers and SRAMs and bombs (and possibly ASALM in the longer term) on penetrating bombers, would allow the B-52 force flexibility against a broad array of potential targets and air defenses.

Presently, the US B-52 bomber force is judged to have good penetration capability against extensive Soviet SAM and combat air defenses. These air defenses, however, are not limited by SALT and can be expected to improve. The US expects to retain an adequate penetration capability for a number of B-52s and FB-111s as part of a mixed force of standoff and penetrating bombers, by improving ECM and taking other measures. However, maintaining the capability of the US bomber force over the longer term will require deployment of ALCMs capable of ranges sufficient to stand-off from extended Soviet air defenses. The ALCMs and later generations of cruise missiles are expected to be able to penetrate all of the currently envisaged Soviet air defenses, including those which would threaten the B-52 in a penetrating role. The combination of penetrating bombers and ALCMs (launched from standoff platforms) will provide an effective retaliatory force. Thus, the ALCM is expected to have a significant post-launch penetration capability. Pre-launch survivability of the B-52 platform will continue to depend on such factors as the amount of strategic warning received, the B-52's alert status, and its capability to take off rapidly.

ALCMs deployed by the US on its heavy bombers should not complicate efforts to discourage nuclear proliferation. As noted, ALCM deployments are not intended to expand the US strategic capability, let alone trigger a competition with the Soviet Union, but rather to sustain the considerable deterrent role of our bomber force in the face of unconstrained Soviet air defenses.

Although cruise missiles are not new weapons systems,* the introduction of *modern long-range* cruise missiles by the US and the Soviet Union or their allies, particularly in a full range of deployment modes, could be perceived by other countries to have shifted the competition in strategic weapons into a technologically new area. Countries aspiring to a nuclear-capable weapons option might be tempted to use this example to legitimize their own efforts to exploit cruise missile technology. However, the countries involved would have to weigh this alternative against less expensive ones (e.g., acquisition of new or use of existing aircraft, etc.).

B. Consistency with agreed arms control obligations

Because the SALT I Interim Agreement does not cover bombers or bomber weaponry like the ALCM, these systems have no relationship to that Agreement.

Although not a binding obligation, the Soviet Union and the US on November 24, 1974, concluded an "agreement in principle" at Vladivostok, USSR, to cover the period from October 1977 through 1985. That agreement and a subsequent aide-memoire provided, *inter alia*, that each country would be limited to 2400 "strategic delivery vehicles," within which limit no more than 1320 missiles could be "MIRVed," i.e., fitted with Multiple, Independently-targetable, Re-entry Vehicles. ALCMs *per se* are not limited by the "agreement in principle"; however, ALCM carriers would fall within the category of "strategic delivery vehicles." (Cruise missiles will not increase the US' total number of separate strategic delivery vehicles since they will be deployed on heavy bombers; but they could increase the number of total weapons penetrating the Soviet air deffense system.) It is expected that a SALT II Agreement will have been accomplished by the time decisions regarding the number of carriers are made, thus impacting the decisions.

C. Effects on current or prospective negotiations

1. *Salt*

In the March 1977 comprehensive proposal rejected by the Soviets, the US proposed range limits for ALCMs carried on heavy bombers and other aircraft. Subsequently, the sides have agreed to deal with outstanding SALT issues in a three-tiered approach: (a) a treaty lasting through 1985; (b) a three-year Protocol; and (c) an Agreed Statement of Principles to govern negotiation of a SALT III treaty. The Soviets appear willing to accept some aspects of US-proposed cruise missile range constraints. (At the present stage of their development, the AGM-86B and AGM-109 programs are flexible enough that their range capabilities can

be adjusted to comply with proposed ALCM range limitations.) If ALCM-carrying heavy bomoers were counted in the MIRV total—given the B-1 decision and our subsequent decision to rely more heavily on heavy bombers equipped with long-range ALCMs—the Trident SSBN program and MIRVed ICBMs would have to compete with the ALCM carriers for space in the MIRV aggregate. This could discourage the US from seeking later reductions in the MIRV aggregate.

2. *MBFR*

The MBFR negotiations have to date addressed only reductions of forces based in the NATO Guidelines Area in Europe. Since deployments of heavy bombers in that area are unlikely, long-range ALCMs would have no direct impact on MBFR.

3. CTB

Any testing of existing warheads, or of future, more advanced warheads would be foreclosed by a comprehensive test ban. Such a test ban would have some effect on weapons development, i.e., both the U.S. and the Soviet Union would be precluded from testing a new warhead designed specifically for smaller, longer-range cruise missiles.

D. Effects on global stability

In analyzing the effect of long-range air-launched cruise missiles on strategic stability, primary consideration should be given to the questions of (1) how their deployment affects the relative strategic capabilities of the U.S. *vis-a-vis* the USSR—whether they alter capabilities in the long term to the extent that they are militarily or politically destabilizing—and (2) whether such deployments represent a disarming first-strike threat to the other side. Important to the first consideration is the fact that, although deploying ALCMs may yield some immediate improvement in the B-52 force's strategic capability, the ALCM's major long-term purpose and probable effect will be to maintain the relative capability of the heavy bomber *vis-a-vis* the improving defenses we judge likely to be deployed against it.

Current U.S. plans are to deploy long-range cruise missiles only on the B-52 force. The feasibility of using other airborne platforms is being analyzed. The feasibility determination will include leasing or acquiring prototype aircraft and developing associated equipment. Whether future platforms equipped with ALCMs will dramatically alter the strategic balance will depend on future decisions regarding the type of aircraft and on the numbers deployed. For example, a wide-bodied jet would permit deployment of large numbers of cruise missiles per launch platform and, if deployed as a substitute for the B-52 on a one-for-one or greater basis, could possibly expand the U.S. strategic capability sufficiently that Soviet concerns about the program could affect their perceptions of the strategic balance and, thus, follow-on SALT negotiations. On the other hand, deployment of wide-bodied jets, if substituted for B-52s on less than a one-for-one basis, could have cost advantages over other aircraft. Since cruise missile carrier studies are just underway, this topic will be addressed in future ACIS as the carrier's potential is better understood.

Finally, with regard to first-strike, ALCMs and ASALMs, like other bomber-delivered weapons, would take a number of hours to reach their targets, including bomber flight time from bases in the U.S. Consequently, they should be perceived as first-strike weapons. To the extent that ALCMs preserve the effectiveness of the bomber leg of our Triad, they reduce our need to become more dependent on ballistic missile systems with their first-strike potential. Thus, the ALCM can help to preserve a higher degree of crisis stability in our strategic force posture, with important arms control benefits.

E. Technological impact

The ALCM and ASALM are intended for the modernization of the air component of US strategic forces. In thinking about these systems, we should keep in mind the fact that neither of them is a wholly new type of weapon; both represent the integration of a series of improvements in a number of technologies. Second, we should also keep in mind the fact that even if these specific systems were not themselves developed and deployed, much of their associated technology would be developed for and deployed on intelligence and reconnaissance RPVs (remotely piloted vehicles).

The manner in which the United States deploys air-launched cruise missiles could influence the reactions of the Soviet Union and of those other countries with the potential to deploy such systems. For example, US depolyments of air-launched cruise missiles, constrained to a specified range by a SALT agreement and carried by a limited number of heavy bombers, are less likely to elicit a parallel Soviet deployment than a larger, unconstrained deployment. Whether this occurs would depend in part on the Soviet perception of the US ALCM program as a contribution to the modernization of the B-52 bomber force to preserve the present strategic balance against future Soviet air defenses, rather than as the deployment of a new or enlarged strategic system.

In the absence of a SALT agreement, the Soviets could respond to unconstrained deployment of ALCMs by the US in one or more of the following ways: 1) the upgrading of their strategic forces, which could be seen as threatening to the US or its allies; 2) the accelerated development of a modern sophisticated cruise missile capability; and/or 3) increased attempts to develop their capability to defend against both cruise missiles and their associated launch platforms.

If other countries could obtain the technology for long-range ALCMs, or could indigenously produce such systems, then the cruise missile might present the basis for their development of a nuclear delivery capability (providing they have the nuclear weapon capability to begin with). The perception of the cruise missile as a prestige weapon is intensified by the system's technical characteristics and its obvious versatility. The cruise missile could make any submarine, aircraft or mobile platform a potential strategic delivery vehicle. Hence, there could exist sufficient motive for some countries to acquire or develop cruise missiles—unless, again, aircraft (which are reusable), for example, provide a more attractive alternative. Such proliferation of cruise missile technology could also weaken the prospects for multilateral arms control negotiations.

Some countries already possess or are developing short-range conventionally-armed cruise missiles. Development of cruise missiles by other nations may be decided more by internal considerations of strategy, politics, economics and technology than by weapon prestige, or US action/inaction.

Development of US-type, small, sophisticated, long-range cruise missiles, however, presents formidable technical obstacles. A country must possess the technology to develop light-weight and compact, yet highly efficient turbofan engines, which can exploit high density, high-energy fuels. The country must also be able to fabricate small nuclear warheads of relatively light weight. Minimization of detectability and vulnerability to air defenses further requires that the missile be able to fly a low altitude, terrain-following contour, at least in the terminal stages of flight, requiring considerable sophistication in aerodynamics as well as in microelectronic miniaturization required for guidance systems. If high accuracy is desired, and the country seeks to follow the US lead in utilizing a TERCOM-type terrain contour correlation system, a sophisticated reconnaissance and mapping capability would also be required. Surmounting these and other technological barriers could be prohibitively expensive and difficult for most countries; some may elect to develop less-sophisticated long-range cruise missiles.

F. Verification

The degree of difficulty in verifying cruise missile limitations depends, of course, on what restrictions are included in a SALT agreement. Such limitation could apply to cruise missile ranges, armaments, types of launch platforms, and numbers of missiles, launchers, or platforms. Moreover, as compared to ballistic missiles, cruise missiles are smaller, fly lower, have smaller radar and infrared signatures, and use simpler and less easily identifiable launchers and support facilities. And cruise missiles could be launched from a wide variety of air, sea, and land platforms. Another complicating feature is that cruise missiles of similar size and external configuration may have significantly different range capabilities.

The potential difficulties of verifying compliance with any SALT limitations on cruise missiles should be viewed in the broad context of how cruise missiles affect the strategic balance. In reaching decisions on cruise missile deployments, we should seek to discourage a Soviet reaction that could produce destabilizing consequences.

The US ALCM programs that we now envisage should not lead to such an extensive Soviet deployment of cruise missiles. The Soviets, while continuing to seek restrictive range limits on SLCMs and ground-launched cruise missiles (GLCMs), have demonstrated a willingness to consider US proposals for limited ALCM deployments. The Soviets have no need to procure such a weapon to penetrate our current, limited air defenses. Moreover, the Soviet heavy bomber force of roughly 150 aircraft is obsolete and could become a candidate for reduction if we succeed in reaching SALT agreement that limits the number of strategic weapon systems either side can deploy.

Nonetheless, we cannot exclude the possibility that the Soviet Union might respond to our ALCM program by designating a comparable weapon system and a suitable platform. Although the Soviets are estimated to be several years behind the US in small cruise missile technology, their incentive might develop from a failure to reach a SALT agreement which encompassed ALCM platforms within treaty limits. That kind of development could impact adversely on US interests. A medium-range Soviet aircraft armed with long-range ALCMs could have significant capability against targets in the US, and we might also have to reckon with the possibility of similar Soviet cruise missiles deployed in ground-launched or ship-launched modes.

The problem of verifying compliance with cruise missile limits could have serious long-term implications for future arms controls. These should not, however, be used as justification for excluding cruise missiles from a future SALT Agreement.

Finally, confidence in verification by both sides could be enhanced if ALCM launch platforms were observably different from other aircraft.

V. CONCLUSIONS

While development of cruise missile systems by the US is considered necessary to preserve the strength of the US Triad, such development could be viewed as a step to-

*E.g., the US has developed several such systems in the past (Regulus, Matador, etc.); the Soviets currently have a large number of unsophisticated and generally short-range cruise missiles. Some of these missiles could be upgraded to longer range.

wards potential proliferation of a class of weapons systems which could raise arms control problems. However, ALCMs deployed on platforms subject to our currently proposed SALT II restrictions should not, on balance, be prejudicial to arms control. To the degree that ALCMs help to maintain rather than dramatically enhance the retaliatory role of the US heavy bomber force, they at least provide a stable backdrop for arms control initiatives. The performance characteristics of ALCMs, notably their unsuitability for use against time-urgent hard targets, contribute to crisis stability. Also contributing is the fact that ALCM precludes the necessity to substitute ballistic missiles—with their first-strike capability—for the bomber leg of the Triad, with arms control benefits. However, ALCMs—like any other strategic weapon—could create difficulties for arms control if deployed on a scale that was perceived to have upset the strategic balance.

ALCMs should not adversely affect CTB negotiations or future SALT negotiations, provided they are subject to our currently proposed SALT II restrictions. ALCM warhead requirements should have no effect on the nuclear weapons testing restrictions of present treaties or of a future CTB.

Verifying limits on any new Soviet cruise missiles, in whatever launch mode, would be more difficult than verifying limits on ballistic missiles. The problem of verifying limits on new cruise missiles may require adapting and improving current means of verification.

In essence, then, determining the arms control impact of the ALCM requires weighing maintenance of the viability of the Triad—especially that leg without a first-strike capability—against potential problems in verification and weapons proliferation. On balance, if the number of ALCM platforms is limited by a SALT agreement and the number of missiles is not so large as to affect the overall strategic balance, the deployment of this system should not adversely affect arms control.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the bill that is before the body.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for 3 minutes in view of the fact that there is a hiatus, and I want to take advantage of it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. I want to call attention of the Senate to the serious problem we have in the military in excluding and discriminating against women in positions of influence and positions where they can look forward to promotion and the kind of compensation that men receive.

WOMEN IN THE MILITARY

Mr. President, in recent months the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee has held two in a series of hearings on women in the military. On July 22 we heard from the Assistant Secretary for Manpower and Reserve Affairs of the Army, the Army Assistant Deputy Chief of Staff for Personnel, the Assistant Secretary for Manpower and Reserve Affairs of the Navy, the Deputy Chief of Naval Operations (Manpower), the Assistant Secretary for Manpower and Reserve Affairs of the Air Force and the Air Force Deputy Chief of Staff for Personnel.

The Air Force representatives expressed reservations over whether women should be used on missile launch crews; that is, whether they should have the responsibility of turning the keys to launch nuclear missiles.

The Navy continues to have questions on the assignment of women to sea duty, where they would be working side by side with men in close quarters, although such an experimental cruise on the U.S.S. *Sanguine* proved to be a great success.

The Army stressed the need to move very cautiously on assigning women to their broadly defined "combat" specialties, even though some of these specialties are missile repairmen and communications officers rather than actual combatants.

All three services stressed their commitment to fair treatment of women and pointed to great increases in recruiting women in the past 5 years.

On September 1, we heard the women tell their side of the story. Retired Air Force Maj. Gen. Jeanne Holm—the only woman ever to reach this rank—pointed out that—

> American service women have been shot at, some have died from enemy action, some have been prisoners of war, and many have received combat decorations. . . . I applaud the Air Force's decision to train a few women as pilots and navigators, but I am mystified by what their test program is expected to prove; certainly not that women can fly airplanes. We already know that.

According to Dr. Carol Parr, who represented several women's groups:

> Average annual per capita costs associated with housing, medical care and transportation are roughly $982 less for military women than for men. Thus, based on differences in dependency status, the average military woman costs the Department of Defense about 8% less.

Jill Laurie Goodman, of the American Civil Liberties Union, addressed the moral difficulties of placing women in danger:

> I suggest that concern for exposing women to the dangers of war is misplaced. It is based on the untenable proposition that the lives of women are more valuable than the lives of men. But I find it doubtful that mothers or fathers weep more for their daughters than for their sons.

Col. Mary Hallaren, U.S. Army Ret., former director of the WACS, dismissed the notion that women could not serve under great stress by drawing upon her own experiences in London during World War II.

None of the women shrank from the possibility of sending women into combat.

We are making some progress in this area. The Navy—to its great credit—has asked Congress to change the law so that women can serve on transports and hospital ships permanently and can serve temporarily on other ships not expected to see combat.

The Air Force announced recently that women will be allowed to serve as ICBM launch crews.

The Army is using women in this year's NATO war games under combat conditions. It is also conducting a series of experiments to see how women could serve in combat duty.

We still have a long way to go, however.

The services must begin to base assignments on ability rather than gender. The first step here is to devise minimum physical and educational requirements for each job.

Women can do that job. They have proved that in previous wars, when they served under horrible conditions and gave their lives for this country.

Mr. President, I see that the members of the Armed Services Committee have returned, so I shall conclude by simply pointing out one final finding: Women in today's armed services are, on the average, smarter—I say that because they have completed a high school education; they are required to, and men are not—and better educated than the men. Women have a higher retention rate than males. They lose about 50 percent less time from the job than men—and this includes the pregnancy factor. And the services are learning that women are capable of meeting much greater physical demands than had been imagined.

The Secretary of Defense has been required to submit to Congress a report on current use of women in the military. Until he does so I think it would be inappropriate for me to introduce another amendment on women in the services. This is an issue that must be met soon, however, and I will pursue it with suitable legislation in the near future.

It is disgraceful that the largest employer in our society is unfairly shutting out one-half of our population. Unfortunately, old prejudices, like old soldiers, never seem to die—or even fade away.

Mr. President, I can think of no way that we can make the voluntary Army more surely work than to provide this kind of opportunity for women they have been denied, unfortunately, too long.

Mr. GOLDWATER. Will the Senator yield for just a moment?

Mr. PROXMIRE. Yes, I yield.

Mr. GOLDWATER. Mr. President, I am in complete agreement with what the Senator from Wisconsin is talking about. I remind him that last month, we graduated our first 10 women pilots from Williams Air Force Base in Arizona. I observed their training. They fly the T-38 aircraft, which is not the easiest airplane in the world to fly, but they fly it as well as our men. They do a fine job and they are already out working in the flying business in the Air Force.

I thank the Senator for his comments.

Mr. PROXMIRE. I thank the Senator from Arizona, because the Senator from Arizona has been somewhat skeptical of the possibility of having women have extended opportunities in the Armed Forces and his word is most impressive. Of course, we all know he is a distinguished flier himself, as well as a distinguished military officer.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Wisconsin has expired.

Mr. STENNIS. Mr. President, may we return to the DOD appropriations now?

I yield to the Senator from Washington such time as he may wish. Ten minutes?

Mr. JACKSON. Yes. I thank the Senator.

Mr. President, first, I commend the distinguished chairman of the subcommittee that handles the funds for research and development, the senior Senator from New Hampshire (Mr. McINTYRE). I must say that it is above and beyond the call of duty to hold the hearings during the recess. He used the month of August, while the rest of some of us were out West. I commend him for the thorough way in which he handled this matter and matters that relate to his particular responsibility as chairman of that committee over a number of years. I thank the chairman, likewise, and the ranking minority member for their strong support and participation, and the distinguished Senator from Arizona (Mr. GOLDWATER).

I regret that, being tied up since we have returned, it has not been possible to participate in the specific deliberations of the committee.

UP AMENDMENT 909

(Purpose: To add $20 million for the cruise missile)

Mr. JACKSON. Mr. President, in behalf of Mr. BUMPERS, Mr. NUNN, Mr. PROXMIRE, Mr. STONE, and myself, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On behalf of Senator BUMPERS, who is necessarily absent, the Senator from Arkansas (Mr. BUMPERS), for himself, Mr. JACKSON, Mr. NUNN, Mr. STENNIS, and Mr. PROXMIRE, proposes an unprinted amendment numbered 909:

In line 22, page 2, strike the figure "$253,470,000" and insert in lieu thereof the figure "$263,470,000."

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator BUMPERS. Senator BUMPERS was unavoidably called back to the State of Arkansas about an hour ago and it is not possible for him to be here to discuss his amendment.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

STATEMENT BY SENATOR BUMPERS

I introduce my amendment which would "Strike $253,470,000 from line 22, Title II, page 2 of S. 1863, and in lieu thereof insert the figure "$263,470,000."

This bill, S. 1863, authorizes only $5 million in research and development funds to study the role of the Cruise Missile Carrier, which would be any wide-bodied jet—such as a DC-10, a 747, an L-1011—capable of carrying and launching Air-Launched Cruise Missiles. The Department of Defense in its revised request to the R & D Subcommittee of the Senate Armed Services Committee asked for $50 million to develop and test a prototype. The purpose of my amendment is to add $10 million to the Committee bill in order to ensure vigorous pursuit of this important strategic line item. The total authorization for this item would thus be $15 million.

We need a prototype.

Secretary of Defense Brown makes a strong argument for the $50 million, but I'm sure we will be able to use well the $15 million my amendment seeks to authorize. He strongly repeated the arguments he made on the day before the full Armed Services Committee marked up the authorization bill before us. At that time, the Secretary of Defense, Harold Brown, made an urgent appeal for the full $50 million in a letter to Senator Stennis, the Chairman of the Committee on Armed Services. In this letter, dated September 19, 1977, Secretary Brown made the following emphatic points:

"I understand that consideration is being given to a substantial reduction in the funding proposed for the cruise missile carrier. In order to develop an option for initial deployment of a cruise missile carrier in FY 1981, we need to develop and test a prototype and demonstrate the launch of a cruise missile from such a carrier in FY 1978. I believe this option is extremely important, particularly because it would allow us to expand our strategic capability rapidly if the Soviets continue their build-up and we conclude that we must respond. With a relatively small investment in a cruise missile carrier, we could dramatically increase the number of warheads, megatonnage, and throw weight of our strategic forces. In light of the above, I urge your strong support for the full $50 million in our budget request."

Those are strong words from a thoughtful man. But they had no effect on the Committee bill, which recommends that only $5 million be authorized to support a Phase I systems definition—instead of an actual prototype. Further, the Committee bill requires that the results of this systems definition work be reviewed fully by the Department of Defense and the Congress before going forward with what the Armed Services Committee calls "costly aircraft flight demonstrations."

Why did the committee do this?

The DOD did not make its case for more than $5 million according to the view of some of my colleagues. In this connection, it must be emphasized that the Defense Department and the Armed Services Committee did not technically make their case for the $20 million for research and development to initiate a prototype for the stretch F-111, which is called the FB 111H. I am not opposed to the stretch F-111. It might prove a wise option to keep open for the penetrator in our mixed force in the 'eighties. But I believe we need an equally vigorous program to keep open an option for the stand-off bomber in our air force in the future, and the cruise missile carrier is as wise an option for this element of the mixed force as is the FB-111H as a follow-on penetrator. The Committee, nevertheless, authorized substantial funds for the penetrator, and confined the cruise missile carrier to the realm of a thesis to be defended:

Because DOD did not provide the estimated total cost of the cruise missile carrier program. DOD not only did not provide the estimated total cost of the FB-111H, but did not even request a dime for this program. The R. & D. Subcommittee, in fact, earnestly sought a DOD request for this item, and never really ever got a statement of strong, unqualified endorsement of the $20 million DOD never asked for. Take for example the circumspect language used by Secretary Brown in his September 19 letter to the Chairman of the Committee on Armed Services:

The Secretary writes that the purpose of initiating a prototype development program for an FB111H "would be to verify performance predictions; it would not represent a commitment to a production program."

The Secretary went on to add that "I believe this proposal deserves careful consideration as a way of keeping open an option for such a system as a penetrating bomber at some later time." This is in sharp contrast to his remarks in the same letter on the need for a cruise missile carrier prototype for a test and launch demonstration in, specifically, fiscal year 1978, and initial deployment of the cruise missile carrier in, specifically, fiscal year 1981.

The Secretary concluded, in regard to the stretch-111, that the "$20 million figure . . . seems an appropriate amount to begin" preliminary development work. In contrast, Secretary Brown urged "strong support for the full $50 million" for the cruise missile carrier.

Further, the Committee bill confines the cruise missile carrier to a study because DOD did not provide an estimate unit cost per aircraft (although we have no firm figure on how much a stretch F-111 will cost), because DOD did not provide the number of aircraft which might enter the force (ditto for the stretch F-111), because the DOD did not provide a list of specific R & D tasks to be accomplished with the requested $50 million (not only did the DOD not describe the R & D tasks for the stretch F-111, they did not even request the $20 million), and because the DOD did not provide even a short list of major technical issues to be investigated. This last "because" is so weak that any one of us could supply the key R & D tasks. We know wide-bodied jets can fly, while the stretch F-111 is currently an idea. The R & D issues for the cruise missile carrier will be to demonstrate its ability to fire missiles. That may not be simple, but it is far more simple than the obvious R & D problems that the stretch F-111 will doubtless have. For example the FB-111H will have to have a new landing gear, which raises the multi-faceted problem of system compatibility; it will have to have a new engine, which may be the B-1 engine which poses, for the stretch F-111 the problem of inlet compatibility; it will have greater weight, a problem most of us are constantly aware of; new avionics will be required, which increases cost; and, finally, loading problems. The greater weight of the stretch F111 with the same wing will doubtless require longer runways, longer takeoffs, more extensive dispersal of the individual aircraft and so forth.

Another reason the Committee bill cut to $5 million the Defense Department's revised request of $50 million for the cruise missile carrier was that the Descriptive Summary provided by the DOD at first included only one sentence in support of the original $90 million request for this item. The final request received by the Committee in Secretary Brown's letter to Chairman Stennis is, however, specific. It calls for a demonstration launch in fiscal 1978 and an initial deployment date of fiscal 1981. The reason for DOD's own decrease from their initial request of $90 million to the revised request of $50 million was DOD's consideration that the wide-bodied jets could be leased—not purchased—for the fiscal year 1978 demonstration. Nevertheless, some of my colleagues believe that DOD's reduction of their original request constitutes a recognition of the weakness of their own justification of the request. Accordingly, say some of my colleagues, this shows the lack of clear, solid and detailed planning.

Unless we want to engage in double-think, this same criticism applies to the FB-111H.

I might add that the feasibility of the bulk of the items authorized in this bill has not been demonstrated. We used to speak well of the "fly before you buy" principle. In the case of the cruise missile carrier, we at least know that it can fly, and we can lease it.

While several important questions have not been nailed down, I believe the DOD did make its case for the cruise missile carrier.

Whether or not one made his case is, however, an endless discussion in this chamber. Sometimes discussions in this body remind me of the medieval scholastics who would spend days arguing the question "where does a circle start?"

Another general category of reasons why the Armed Services Committee cut the cruise missile carrier request to $5 million was that the major first step in developing a cruise missile carrier is the definition of a military system and the resolution of major planning and policy issues, not expensive hardware demonstration.

If, indeed there are major military and policy issues that must be resolved before we ought to proceed with a cruise missile carrier, should there not also be these same military and policy issues to resolve before we proceed with a follow-on penetrator? The study commissioned by this very bill is to provide the context to examine this broader issue. Hopefully, it will proceed from the premise "will we need a penetrating force in the future?" not "what kind of penetrator should we buy?" We have been B-oned to death, and I do not want to be B-twoed. Whatever its recommendations this study will have to treat the unequivocal statement of Secretary Perry, the Director of Defense Research and Engineering, that the stand-off bomber in the late eighties will be the dominant partner in the mixed force of penetrating bombers and cruise missile carriers. In regard to this study, I include a thoughtful article by Mr. Joe Dealey, Jr., of the Dallas Morning News, as follows:

[From the Dallas Morning News, Sept. 14, 1977]

A CASE OF TERMINAL AMNESIA

(By Joe Dealey, Jr.)

The shock waves President Carter's surprise cancellation of the B-1 manned strategic bomber program sent reverberating through the Pentagon apparently left top Air Force brass with a terminal case of amnesia.

How else to explain the Air Force's recent actions in urging Defense Secretary Harold Brown to revive production of the FB-111 aircraft and convert it into a long-range strategic bomber?

Air Force officials cannot be blamed for wanting to salvage some of the high-priced B-1 weapons system technology and put it to good use. But to consider the FB-111 as heir apparent to the B-1 program's technological byproducts make little sense, especially to those who have followed the B-1 program.

After all, was it not the FB-111, along with a re-engined B-52 and a stand-off, cruise-missile-launching Boeing 747, that were passed over when critics of the $24-billion B-1 program sought out viable alternatives? So what makes the FB-111 so great now?

Clearly, the Air Force is going to have a hard time overcoming the bad press it gave the FB-111 during the B-1 program. And this doesn't even take into consideration the criticism the FB-111 will receive as a result of its less than distinguished service record with the Air Force.

The question is simply this: Is the FB-111 the aircraft capable of filling the void left by the B-1? According to the Air Force, the answer appears to be in the affirmative.

Certainly, the opportunity to get the job done with a third less money—$24 billion for the B-1 versus $17 billion for the FB-111—is a point in favor of going ahead. And there's the B-1 technology thing. Who can argue that making the best possible use of available technology is not economically the correct thing to do?

Still, the idea of plunging headlong into another manned strategic bomber program so soon after the most ambitious bomber program in history has been terminated seems penny-wise and pound-foolish, to say the least.

Carter's decision to cancel the B-1 program unquestionably caught the Air Force off guard. To SAC commanders in particular, it dealt an all but fatal blow to organizational pride. The B-1, in spite of the national furor it had caused, was a shoo-in. Or so SAC thought.

Now with the decision to return to an idea that the Air Force panned not too many months ago, comes the gut feeling that perhaps a less expensive aircraft production program can in fact, solve the problems resulting from the aging SAC fleet of B52s. Less than $24 billion? Certainly. Less than the $17 billion it will cost to transform the FB111 into a mini-B1? The prospects look brighter all the time.

The B1, one must recall, was considered to be the answer for delivering the potent cruise missile deep into Soviet territory. The modified FB111 would be called upon to do likewise. Could not another type aircraft do the job? And for less?

The Air Force will probably disagree, but the stand-off, cruise-launching Boeing 747 or similar type aircraft could be exactly what is needed to fill today's need for an aircraft to deliver the cruise missile.

The problem that will soon become apparent to those who choose to follow this latest sortie is that the Air Force is run by former bomber pilots who were brought up over World War Two Germany and who fought and saw many of their comrades die flying bomb runs over enemy targets. These men—may their heroism never be forgotten—are mighty reluctant to let go of the controls of an aircraft that would rocket them deep into enemy homeland and take over the controls of an aircraft that merely sits out over friendly territory and serves as an airborne launching platform for a guided missile.

That's not taking the fight to the enemy. And that is what bomber pilots are trained to do. And American bomber pilots have done it better than anyone else for a long time. It is, as one writer said, the one thing we know we can do better than anyone else.

But a day of reckoning is fast approaching. Of one thing we can all be certain: The B1 is dead. Killed, perhaps for the better, in favor of designing and putting into operation an airborne weapons system that takes the best of available technology and puts it into the hands of the men charged with the responsibility of defending our skies.

The modified FB111 does not represent the last chance SAC commanders have to get a new aircraft. Just as technology has enabled us to advance farther and faster than we ever thought possible, so has it changed the face of war forever.

Now, perhaps more than ever before, the Air Force needs to reassess its role and proceed to develop an aircraft to take the fight to the enemy in a modern air war.

As the cruise missile has already demonstrated, there is more than one way to skin a cat—or defeat an enemy with air power.

In addition to the broader military and policy questions, some of my colleagues highlight a few technical modifications to the wide-bodied jets that would have to be applied to the cruise missile carrier. It would need—and so would the FB-111H—a precise navigation system, nuclear hardening, electronic counter measures to jam air defenses, and a threat warning indicator.

Another systems definition point raised is that DOD has not yet thought systematically about how a cruise missile carrier would operate in the force.

How would it engage air defenses?

What altitude would it be expected to operate?

At what distance would it stand off and launch its cruise missiles?

Would the very large radar cross section make it vulnerable to a dedicated Soviet far forward air defense?

If its high altitude and large radar cross section would make it so vulnerable that it would have to stand off a considerable distance from the Soviet Union to avoid air defenses, how would this affect the target coverage of its cruise missiles, particularly if we have a SALT limitation on cruise missile range?

I agree that these are important questions, but they really have nothing to do with Secretary Brown's request for a demonstration prototype. Not so incidentally, these very same questions apply to the B-52 cruise missile carriers, for which this bill authorizes $76.7 million.

With regard to the uncertainties a cruise missile carrier might bring to our current SALT efforts, I have no ready response to the question that if long-range ALCMs (up to 2500 kilometers) are permitted only on "heavy bombers," is a wide-body cruise missile carrier a "heavy bomber" under this definition? I have, however, confidence that Paul Warnke can come up with a dazzling answer. I have an answer to the question, that if the cruise missile carrier is defined as a "heavy bomber," how does one distinguish these military aircraft from civilian aircraft of the same model? Such distinctions can be made by standard electronic intelligence means and common horse-sense. If the Soviets detected a 747 or a DC-10 circling the frosty Barents Sea, and concluded that it was a TWA tourist flight, their much vaunted air defense establishment would indeed be in deep borscht.

These, and other SALT-related questions, will have to be addressed in the Administration's upcoming Arms Control Impact Statement. The reason they have not been addressed in the past is because we are on the very threshold of a new weapon system.

A final general category of reasons why the Armed Services Committee cut everything but a whisper out of the revised request of the Department of Defense for the cruise missile carrier was that there is no urgency to move beyond a systems definition phase at this point.

I am no alarmist, but I do believe there is a sense of urgency for this system. Secretary Brown, in the letter I mentioned a moment ago, stated emphatically that the cruise missile carrier option "is extremely important, particularly because it would allow us to expand our strategic capability rapidly if the Soviets continue their build-up and we conclude that we must respond." That is the key point in his letter. The cruise missile carrier is a good option, and a quick-fix, highly demonstrable reaction to whatever the Soviets may decide to do with their fourth generation ICBMs, their bomber force, and or their submarine program.

While none of the DOD witnesses raised the point of urgency in regard to a cruise missile carrier, none of them emphasized the stretch F-111. The concentration of the witnesses before the R & D Subcommittee was almost entirely on B-52's for the cruise missile carrier portion of the so-called "mixed force." But to be fair, the Air Force was at that time just getting up from the mat in the wake of the B-1 blow. I'm sure that if we had those hearings today, DOD's postulated mixed force for the mid-1980's would include wide-body cruise missile carriers.

As for the argument that the projected production rates of ALCM's would not provide enough additional cruise missiles for wide-body cruise missile carriers until 1984 or 1985, I direct your attention back to Secretary Brown's letter. With the cruise missile carrier we can "expand our strategic capability rapidly." Since "capability"—like beauty—is in the eyes of the beholder, these wide-bodied carriers (whether or not they are loaded down with cruise missiles) would add to our overall deterrence image.

In conclusion, we have the proven wide-body jets in our civilian and military fleets, we have the vigorous commitment of the

Secretary of Defense to push this program rapidly if General Secretary Brezhnev and Defense Minister Ustinov deploy the new generation systems they are testing today, and my amendment to add $10 million is, in today's costly strategic business, a bargain.

Mr. JACKSON. Mr. President, this amendment would increase the line item by $10 million, making a total of $15 million available for the purpose of looking into a so-called cruise missile type carrier to act as a potential launching platform for ALCM, the so-called air-launch cruise missile.

Mr. President, the original amount we were considering was for $20 million additional. This amount is now only $10 million.

I think the key thing, briefly stated, is for the Department of Defense to have two alternatives: one, the possibility of a follow-on penetration bomber to the B-52; and two, a missile carrier that can act as a standoff missile system.

Mr. President, we do not know what is finally going to come out of SALT, the strategic arms limitation talks. Much depends on what the range will be for the so-called air-launched cruise missile. The range limitation matter will be a substantial determining factor. I assume, in connection with the kind of weapon systems that will be needed to launch the cruise missile as part of our most recent strategic deterrent programs.

Mr. President, I see no further need to discuss this. Senator BUMPERS' statement goes into the matter in great detail and I think we have covered the subject.

Mr. McINTYRE. Will the Senator yield briefly?

Mr. JACKSON. Yes.

Mr. McINTYRE. Mr. President, I ask unanimous consent that a statement in support of the recommended $45 million reduction in cruise missile carrier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IN SUPPORT OF RECOMMENDED $45 MILLION REDUCTION IN CRUISE MISSILE CARRIER REQUEST

I. We support the development of a new cruise missile carrier as a critical part of a future mixed bomber force.

The Committee fully supports the development of an aircraft which would be used in a mixed bomber force in the mid to late 80's as a second generation cruise missile carrier to replace the first generation B-52 cruise missile carrier.

The Committee recommends that $5 million be authorized to support a Phase I systems definition and that the results of this work be reviewed fully by the Department of Defense and the Congress before going forward with costly aircraft flight demonstrations.

II. DOD did not make its case for more than $5 million.

Despite every effort during the last two months by the Committee, DOD still hasn't provided the most basic programmatic information in support of this request.

DOD has not provided:

Estimated total cost of the program,

Estimated unit cost per aircraft,

The number of aircraft which might enter the force.

A list of specific R&D tasks to be accomplished with the requested money.

Even a short list of major technical issues to be investigated,

Nor how many aircraft would be leased and modified as cruise missile carriers in this development program.

The formal documentation in support of the budget is embarrassingly inadequate.

The Descriptive Summary provided at first only one sentence in support of the original $90 million request for the cruise missile carrier.

Several weeks later, one day before the Subcommittee markup, after persistent questioning, we finally received a revised Descriptive Summary with only a few more sentences and little additional specific information.

The Committee made repeated efforts to get this information in our hearings.

In late July, Dr. Perry said in answer to our questions:

"The program dates for the cruise missile carriers are not firm. We do not have a clear program plan on that (the IOC) and we cannot give you at this time confident dates on any of those landmarks."

He said further:

"I cannot defend an operational date or even a first launch date for cruise missile carriers at this time."

General Slay said he hoped that this information would be available in August when they would return.

However, on August 29, a month later, we asked many of the same basic questions and the Department still had no answers. When asked about the IOC that $50 million would protect, General Slay said: "We haven't gotten that far in our planning." When asked if he could estimate total program costs or unit costs, Dr. Perry said: "Only very approximately at this stage."

DOD's reduction of their original request from $90 million to $50 million was a recognition of the weakness of their own justification of the request. The program had been thrown together so hastily that they originally had intended to buy two aircraft for flight testing of the aircraft. The questioning by the Subcommittee helped them realize they could easily lease them instead. This shows the lack of clear, solid and detailed planning which we believe is the general case with the entire program.

III. The major first step in developing a cruise missile carrier is the definition of a military system and the resolution of major planning and policy issues, not expensive hardware demonstration.

There are major military and policy issues that must be resolved before we should proceed with a cruise missile carrier.

DOD has not defined what modifications to a civilian aircraft would be militarily necessary. For example, SAC testified that a cruise missile carrier would need a much more precise navigation system, nuclear hardening, electronic countermeasures to jam air defenses and a threat warning indicator.

DOD has not determined which of these are militarily required and yet the military effectiveness and the cost competitiveness of this system depends heavily on how it is defined.

DOD also has not yet thought systematically about how a cruise missile carrier would operate in the force.

How would it engage air defenses?

What altitude would it be expected to operate?

At what distance would it standoff and launch its cruise missiles?

Would the very large radar cross section make it vulnerable to a dedicated Soviet far forward air defense?

If its high altitude and large radar cross section would make it so vulnerable that it would have to standoff a considerable distance from the Soviet Union to avoid air defenses, how would this affect the target coverage of its cruise missiles, particularly if we have a SALT limitation on cruise missile range?

There are also major uncertainties about SALT.

If long range ALCMs (up to 2,500 kilometers) are permitted only on "heavy bombers," is a wide body cruise missile carrier a "heavy bomber" under this definition?

If it is, then how do we distinguish these military aircraft from civilian aircraft of the same model.

If it is not, then we will be designing a system that could be precluded at SALT.

The Administration's Arms Control Impact Statement did not address these questions and informal information suggests that there has been little thought given to the matter even at very senior levels of the Administration.

IV. There is no urgency to move beyond a systems definition phase at this point.

The B-52s will be our first generation cruise missile carriers.

None of the postulated mixed force for the mid-80's discussed by the DOD witnesses included wide body cruise missile carriers. They all depended entirely on B-52s for the cruise missile carrier portion of the mixed force.

Since long range ALCM's will be first put on B-52s, projected production rates of ALCMs would not provide enough additional cruise missiles for wide body cruise missile carriers until '84 or '85.

The technology is readily available once the system has been determined.

We have several proven wide-body jets in our civilian and military fleets and we have other component technologies for a cruise missile carrier available "off the shelf."

ALCM has been launched in an even more challenging technical way than is being proposed by this program. ALCMs have been lower level B-52s in a much greater turbulence than would be the case with a wide-body jet at a higher altitude.

Mr. STENNIS. I yield the Senator from Arizona such time as he wishes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I have agreed reluctantly with the full committee to go along with this amount. We discussed this in the hearings at quite some length. We found the Air Force had absolutely no recommendation to make or suggestions for a cruise missile launcher of the wide-body type, which is what we were thinking about in 747, DC-10, 11, type aircraft.

Now, I am not opposed to this concept, but I would rather have heard the Air Force express their feelings on it before we get into the authorization of any money for it.

So while we are not going to vote, obviously, I would vote against it if it came to a vote.

Mr. President, some questions have come to my mind on this matter.

First. Since the committee unanimously agreed to $5 million of a requested $50 million as all that was required to begin the critical step of systems definition, why are these additional funds required?

Second. Has the Department of Defense made a specific request for this particular amount and, if so, has the Department advised how these funds would be used?

Third. I thought it was clear that the Department had really not made a case for even $5 million, let alone $15 million. During the long series of hearings on this supplemental by the R. & D. Subcommittee, DOD was unable to provide even the most basic programmatic information in support of its request. They

were unable to provide: Estimated total cost of the program; estimated unit cost per aircraft; the number of aircraft which might enter the force; a list of specific R. & D. tasks to be accomplished with the requested money; even a short list of major technical issues to be investigated; nor how many aircraft would be leased and modified as cruise missile carriers in this development program.

It was for the above reasons that the subcommittee was even somewhat reluctant to recommend a $5 million authorization. How would this additional $10 million proposed in the amendment help resolve the question that I have just raised?

Fourth. Again, I suggest that all that is required at this particular point in time is a system definition of a cruise missile carrier and how that carrier would fit into the future strategic force structure. It seems to me that $5 million should be more than adequate to conduct rather extensive studies in fiscal year 1978 which would provide the basis of a more substantive request in fiscal year 1979.

There are a number of areas that DOD has not yet systematically thought through about how a cruise missile carrier would operate. For example:

How would it engage in air defense?

At what altitude would it be expected to operate?

At what distance would it stand off and lanuch cruise missiles?

Would its very large radar cross-section make it extra vulnerable to a dedicated Soviet forward air defense system?

What target degradation is incurred if the cruise missile carrier, due to its large radar cross-section and vulnerability to air defenses, had to launch its missiles from a lower altitude?

So, there are a number of issues that need to be explored and the Committee felt that $5 million should be adequate for this purpose. It would seem to me that if additional funds were felt to be necessary, the Department could consider a reprograming request at some later time.

I do have difficulty supporting this particular amendment because I sincerely believe the funds we have recommended are adequate for the tasks required.

Mr. STENNIS. Mr. President, I ask if there is anyone else that wishes to be recognized.

I yield the Senator from New Hampshire, Mr. President, such time as he may need.

Mr. McINTYRE. I thank the Senator.

Mr. President, I think one word before we close tonight is necessary from the chairman of the R. & D. Subcommittee. I think it is unfortunate that we continue to hear the bomber issue discussed as a choice between standoff cruise missiles or a penetrating bomber force.

I think that is a false choice. The hearings we held proved very compellingly that the best future bomber offense will be a mixed force of the standoff cruise missiles and penetrating bombers. This mixed force will overwhelmingly compound the problems of the air defense of our Soviet friends. When the cruise missles start to come in the inventory, in 1980 or 1981, the mix, the partnership, will begin to shift so that the standoff cruise missiles will probably be the senior partner in the late 1980's and 1990's.

So right now, what we need is both penetrators and cruise missiles.

I do not particularly care if the penetrator is a B-52, an FB-111A, or an FB-111H. But it is important to have a mix.

I hope some will take the time to read that part of the text I put in the RECORD which stated the case for a mixed force. It is a very compelling case.

If we can have a standoff cruise missile as good as those we think we have now in the R. & D. and can couple them with a penetrator, whatever it is, then we will have, like a football team, a good passing attack and a good running attack and that confounds the defense.

A mixed bomber offense of the standoff cruise missile and the penetrating bomber will put the Soviet Union in a real hole militarily, technically, and financially.

That is the whole point. We must get out of our minds that the choice is either a standoff cruise missile only or a penetrating force only. We can then work together in planning a future bomber force.

This is my opinion, of course, based on the hearings.

I thank the chairman.

Mr. STENNIS. Mr. President, I do not care to speak any more, in the ordinary sense, but I do think the record ought to reflect a little more here about this matter.

I am most grateful, indeed, for the membership of the committee that met back here in the room. We considered the matter and reached this agreement that we could bring out here. We are not in total absolute agreement, but it could be recommended by the great majority. That meets the situation.

I think anyone interested can find a great wealth of information in the hearings—if they have not been printed, and I assume they have been, but if not, we will print them—and in the speeches made here, and what has been said tonight and what will be said in the future.

This is no simple matter. We cannot go down to Pennsylvania Avenue and 12th Street and blow a whistle and get this kind of machinery to deliver cruise missiles.

It is a long, hard process.

There was an excellent showing there before the committee by the Air Force, as the Senator from Arizona pointed out. There will have to be further showings and further developments on that plan, as well as the plan that the administration pointed toward, and I really think that we are on our way.

But here is where we can find information, the record I referred to, and get leads on most any phase of it that we wish.

If this passes now in any way similar to its present form, it will really put it up to the military services and the administration to come forth with something that follows up effectively the order to cancel the B-1. I had supported the B-1, but as soon as the order came on it, I said there was no time to lose—I was certain of that—in getting ready for this new order of things. A real start has been made in this bill.

I believe that a great deal of legislative steps in the future will be taken from the McIntyre hearings—the record of it—as a good starting point, and we will do the best we can on this matter in conference.

Mr. President, I have nothing more to say on this amendment.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. STENNIS. I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. I will try not to use 2 minutes.

Mr. President, I commend the distinguished chairman of the R. & D. Subcommittee for holding the hearings he held. I was unable to attend them in their entirety, but I did read the record.

The record is very compelling in supporting the point that the distinguished chairman just made, that our force must be a mixture, a mixed force of penetrating bombers and cruise missiles. Certainly, the cruise missile is a wonderful asset to the bomber, but the bomber is a wonderful asset to the cruise missile. Perhaps as we go ahead, the cruise missile will become the primary weapons system, but at this time it is not, and it is not available as yet for use.

Also, I support the chairman and the distinguished Senator from Arizona as to the position taken by the subcommittee on the cruise missile carrier request. The Air Force originally asked for $90 million, I believe, and then they cut it to $50 million, and now they apparently are cutting it to $25 million. They have not substantiated that or said what the total program would cost or where the money goes.

So it has been a very confusing thing for the committee. I went along with the compromise, but I do support the position of the subcommittee chairman. I think the subcommittee did act very well.

I would like to share with my colleagues an illustration of the difficulties our subcommittee had in deciding what to do with President Carter's wide-bodied cruise missile carrier.

In my hand, I have a copy of one of the briefing charts used to explain the President's supplemental request. This one shows the cruise missile carrier aircraft (CMCA). On this chart are pictures of two aircraft which might be selected to be that cruise missile carrier, the McDonnell-Douglas DC-10 and the Boeing 747. But the Defense Department is not sure. It could also be a Lockheed L-1011 or a C-5A or some other airplane. The Defense Department could not tell us for sure what it was they wanted to buy with their original request for $90 million.

Now this chart also tells us that the Ford administration requested no money for this program and the Carter administration's first amendment earlier in the year requested no money for this program. And it tells us that no money has been spent on this program before—that is, no "systems definition" has taken place. But the Carter administration's

first supplement request was for a whopping $90 million. From zero to $90 million in one year. That is amazing. But what is more amazing is that the fiscal year 1979 funding is marked "To be Determined." The administration had no idea what they would do in the second year of the program, and, of course, the total cost was marked "To be determined."

The Defense Department's justification for a supplemental authorization for this cruise missile carrier was so inadequate that the Defense Department itself cut its own request from $90 million to $50 million after hearings raised the issue of whether a wide-bodied jet should be leased instead of bought for these tests. But even then they could not answer important questions about this program such as what specific tests would have to be conducted with the aircraft which would finally be selected.

The Carter administration could not explain what they wanted, why they wanted it, and why the request could not wait a few months until we consider the fiscal year 1979 Defense budget.

Mr. STENNIS. I have nothing further to say on this amendment, Mr. President.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Washington, No. 909.

The amendment was agreed to.

Mr. TOWER. Mr. President, the Senator from New Hampshire (Mr. McINTYRE) alluded to his conviction that we should have a triad of strategic weaponry that includes the advanced manned strategic aircraft. I associate myself with what he said in that connection and I should like to offer a few remarks of explanation and support for the FB-111H prototype program, for which the committee is recommending $20 million.

Despite what some may believe, the authorization contained in this particular bill does not in any way commit us to a full development and production program. To the contrary, as stated by the Secretary of Defense in his September 19 letter to the chairman of the committee, this prototype development program is a way of keeping open an option for such a system as a penetrating bomber at some later time. What the committee is recommending to the Senate then is an option for the administration to use at a later time if deemed necessary.

The Secretary of Defense went on to point out that he had not yet completed his review of whether such an option would be necessary but he did believe that it would be prudent to begin this low level of preliminary development in fiscal year 1978.

Mr. President, there are other reasons why the Senate should support the recommendation of the committee on this particular program. In my opinion, as I have stated on other occasions, it was a poor decision on the part of the President to rule against production of the B-1 bomber when the cruise missile systems he would depend upon were still an unproven quantity.

It would have been far wiser to have retained the B-1 production option for a longer period of time while the operational capabilities of the cruise missiles were better determined. However, that now appears to be water over the dam and it is time to hedge against the possibility that an all cruise missile force will not be adequate. The FB-111 aircraft would offer that possibility.

The exact performance capabilities of the proposed FB-111H in many respects are the equal of the B-1. In some cases the proposed performance of the FB-111H will be better than the B-1 and at a considerable reduction in anticipated cost. The $20 million recommended by the committee would support design definition of the aircraft and subsystems and the development of source selection criteria for critical long lead components. The modification program, if fully completed, would provide two prototypes and would provide the Department of Defense with the option to modify 65 existing FB-111A's, the production of additional FB-111H aircraft, or both.

Mr. President, in further support of this particular program, the Research and Development Subcommittee held what was probably the most extensive set of hearings on the strategic force issue that has ever been undertaken by our committee. A major concept that was unanimously adopted by the committee was that of a mixed bomber force. That is, the committee's recommendations in this bill are based on its full support of a future mixed bomber force composed of aircraft used as standoff cruise missile carriers, manned penetrating bombers, and bombers both launching cruise missiles and penetrating.

If this concept is to be sustained, we must begin now to develop a viable option and potential replacement for the B-52. The Department of Defense pointed out quite clearly in its testimony that the primary aircraft in the near term mixed force will continue to be the B-52.

In that regard, there are numerous programs in this bill that support the various modifications that the B-52 will have to undergo if it is to remain a viable penetrator and become a cruise missile carrier. However, beyond the life of the B-52, there is nothing to replace its role in the mixed force other than the proposed FB-111H unless one wants to start anew to develop an entirely new aircraft.

I say to my colleagues that the proposed FB-111H is a considerably different aircraft the than current FB-111A. In particular, the FB-111H would use the proposed engine for the B-1, the General Electric F-101 turbo-fan engine, which is a quantum improvement over the engine currently in the FB-111A. The aircraft is also stretched behind the wing section, which provides additional fuel capacity, thereby giving it the capability to penetrate to far deeper targets in the Soviet Union than the FB-111A can reach.

In closing, Mr. President, this development program we are recommending for authorization will, if completed, only provide an option, and the Congress would have an opportunity to vote on that option if it was selected. Additional monies to support the development program are expected to come from B-1 R. & D. moneys no longer required, and I might add the entire FB-111H prototype development program could be completed for less than the amount in the B-1 rescission notification.

Mr. THURMOND. Mr. President, I rise in support of S. 1863, the fiscal year 1978 defense supplemental bill, which authorizes Defense Department procurement and research in the amount of $364.4 million.

The main features of this bill include funding for cruise missiles, B-52 modifications and development of a stretch version of the FB-111 fighter bomber. Other funding embraces the cruise missile carrier, missile surveillance technology, missile warning systems, and strategic protective systems, to mention a few.

Mr. President, central to this bill is an acceleration of development of the cruise missile which President Carter plans to emphasize in view of his termination of the B-1 bomber program.

While my strong support for the B-1 is well known, I am pleased this bill recognizes the need for a manned penetrating bomber by providing funds for a stretched and improved version of the FB-111.

If our military strength is to be effective, we must confront the Soviets with a mixed force. Such an approach compounds Soviet defenses in that they must continue to deal with a bomber threat in addition to the new cruise missile threat.

The mixed force enhances U.S. deterrent capabilities, as it strengthens our ability to reply effectively to a first strike.

Mr. President, it is essential that we press forward in these areas highlighted by this legislation which has the full support of Secretary Harold Brown and the respective military services. I urge prompt consideration of this bill and favorable action.

RESERVATIONS ABOUT THE FISCAL YEAR 1978 DEFENSE SUPPLEMENTAL

Mr. PROXMIRE. Mr. President, although I intend to support this fiscal year 1978 supplemental authorization, I do so with certain reservations. The reasons go back to the B-1 bomber decision.

My objection to the B-1 bomber was based on several points: its great cost, its degraded effectiveness, and the conviction that the mission of the manned penetrating bomber was no longer viable. In a series of debates with the Senator from Arizona (Mr. GOLDWATER), I argued that the B-52 fleet, equipped with cruise missiles and new engines, would be a cost effective alternative to the B-1 in the short term while a new cruise missile carrier would be appropriate in the long run.

The President's decision to cancel the B-1 seemed to be based substantially on the same reasoning.

Now, however, there are disturbing signs that the President's decision is about to be overturned by a subtle turn of events.

This is the situation. The pro B-1 manned penetrating bomber advocates are attempting to gut funding for any al-

ternatives to manned bombers and therefore set the stage for resurrection of the B–1 or perhaps the FB–111H.

Consider the facts. The Armed Services Committee has reported out a bill which cuts requested funding for the cruise missile carrier from $50 million to $5 million while the House Armed Services Committee has recommended a complete reduction—zero dollars. The rationale is that the "critical step of system definition will take place before going forward with costly aircraft demonstration." The committee also deleted $2.5 million for an advanced study of a cruise missile carrier on the basis that this research could be supported by the $5 million already approved.

It is clear that the intent and the result of this action is to gut the cruise missile carrier option by starving it of funds. This means that down the road, there will not be enough meaningful research on the cruise missile carrier to support it as an alternative to the B–1 or the FB–111H.

I believe this to be a deliberate decision by the committee.

This combination of factors becomes even more clear when it is recognized that the committee has included $20 million in funds not requested for a start on two prototypes of a stretched FB–111 called the FB–111H. The funding would go for development of a prototype and design definition. Secretary Brown only gave the most lukewarm endorsement of this unrequested funding after the fact.

It is interesting to note that the committee recommended slowing down and almost stopping the cruise missile carrier program due to a concern over rapid system definition while at the same time forcing $20 million on the Pentagon for rapid system definition of the FB–111H.

Why did this happen? I can only surmise that the reason is that the committee desires to hamstring the cruise missile option while forcing the FB–111H to the forefront. If you fund one program and starve another, the end result will be an unequal development program and a future point when the only realistic choice of alternatives will be the funded program. In other words, this funding action will predetermine the success of the FB–111H over the cruise missile carrier if carried forward year after year.

A strategic philosophy has seemed to have been incorporated into these decisions. The committee is clearly signaling that we should return to the manned penetrating bomber concept and give up or reduce to the lowest possible level any work on the cruise missile carrier.

The FB–111, it should be remembered, was the least attractive alternative according to the joint strategic bomber study. Of all the force levels, studies, and combinations reviewed, the FB–111 came out on the bottom rung of cost effectiveness. And, yet today, its advocates are talking as if it were only a fraction below the capability of the B–1 all along. How strange it is that no one was making these claims when the B–1 program was going in full flight. And how strange it is that now the B–1 is canceled, the FB–111 alternative now is presented by the Air Force and its supporters as the marvel of aviation development.

Now let us look at the facts of the FB–111H program so enthusiastically backed by the Armed Services Committee.

The plan, devised by the Air Force in consultation with General Dynamics Corp., is to modify 65 existing FB–111's to the FB–111H configuration. This will entail lengthening the body and installing new B–1 engines. It is also planned to start up a FB–111H production line and produce 100 new aircraft.

Prototype development for two aircraft, including startup, engineering, tooling, tests, and airplane modification, will cost $331 million in fiscal year 1977 dollars or $380 million in "then year" tax dollars. Continued development after the two aircraft prototyping will add $159 million in fiscal year 1977 dollars or $195 million in real year tax dollars. The cost to modify 65 aircraft will be $1.75 billion in fiscal year 1977 dollars and $2.27 billion for real year dollars.

Construction of 100 additional new aircraft will be $3.05 billion in fiscal year 1977 dollars or $4.18 billion in real year dollars.

The grand total is $7.02 billion for the 165 aircraft fleet.

The Air Force wants the prototype decision to be made in this bill, the first aircraft to be available in late 1979, and continuing development to begin in fiscal year 1980. The 65 aircraft modification would be at a two per month level with a production go ahead in fiscal year 1980 and initial delivery in early 1982. The new aircraft program of 100 planes at five per month would have an initial delivery as of early 1983 with completion in early 1985.

These facts show that the funds for the FB–111H in this bill are not just for a study or vague decision to keep the alternatives open, but rather part of a well thought out plan to rapidly accelerate FB–111H production in a short period of time up to a fleet of 165 aircraft.

The strategy is obvious. Starve the cruise missile carrier long enough and the FB–111H will be a fait accompli. Just hold off the cruise missile carrier and the FB–111H will displace all other alternatives.

Mr. President, there is one other fact that should be strongly emphasized in this debate. If we approve the funding for the FB–111H, General Dynamics will receive a windfall.

Why? Because the Air Force has decided to award the FB–111H contract to General Dynamics without competition.

This will be a sole source procurement. No other contractors will be allowed to bid on this award. The Air Force has written me that certain subsystems would be subject to competitive evaluation but not the airframe. Only General Dynamics would be allowed to build the airframe.

Mr. President, this action, as proposed, would violate every standard and rule of defense procurement on the books. It is virtually a return to the 1950's and the worst aspects of noncompetitive procurement.

Why doesn't the Air Force want competition? Because it would take a little more time and permit other contractors to suggest alternatives while at the same time their real fear—the cruise missile carrier—would be coming into contention. They want a quick decision without the complicating factors of free competition, fly before you buy, and prototype competition. I might add that the same applies to the B–1 engines that would be used in the FB–111H. No competition is planned for these engines either.

Now what would be the advantage of producing 165 new and modified FB–111Hs compared to other aircraft? The $42 million each FB–111H would have about half the cruise missile and short range attack missile capability as the B–52H.

It has a shorter range than the B–52 no matter what the mission profile, be it a low level penetration or a high level penetration. It has about one-half the payload of the B–1 bomber. No wonder that in every major study of new and old bombers, the FB–111 came out on the short end of the evaluation.

The President's decision to cancel the B–1 bomber in lieu of the B–52 cruise missile program was expected to result in savings of $10 billion in fiscal year 1978 dollars over the first 6 years alone and at the same time dramatically upgrade and improve the deterrent value of our airborne and missile forces. Substitution of the FB–111H program for the B–1 will wipe out all of these savings—leaving the taxpayer with nothing to point to and even more important eroding the capability of our strategic forces.

CRUISE MISSILE CONFUSION

Mr. McGOVERN. Mr. President, I will support this authorization request, but I will do so with great reluctance. I have been expressing doubts about the cruise missile for some time, particularly in connection with the possible impact of this technology on our efforts to achieve limitations and reductions on strategic arms. I believe that at a minimum we must have absolute assurances that there is nothing in this proposed supplemental authorization or in our cruise missile development program that is in conflict either with our current negotiating posture in SALT or with the kind of follow-on agreements for arms reductions that might be possible in the future.

I have been seeking such assurances for some time, and I have to say that they have been only partially forthcoming. More than 2 months ago I wrote to Secretary of Defense Harold Brown to raise several specific questions about how the funds in this legislation were to be used, and how that use would be coordinated with the offers we had made in the arms talks. I thought I was acting in a timely fashion, and in fulfillment of my responsibility as a member of the Subcommittee on Arms Control, as a Senate advisor to our SALT delegation, and as a member of the Foreign Relations Committee which has, in the first instance, responsibility for considering whatever SALT agreement is ultimately reached. After a delay of about 1 month I received an interim response advising that a full answer was being prepared. I still have not received that response. When this legislation was put on the calendar I asked a member of the Foreign Relations Committee staff to call and find out what was holding things up. He was told by officials in the Department of Defense that I had raised very difficult questions, that the answers were being readied, and that I should have the information I requested sometime next week.

Presumably it is only coincidental that by the time next week rolls around this legislation will have already passed the Senate.

In fact the inquiry was not all that complicated. I would include the relevant portions of it in my remarks except that it contained some information classified as "secret" and, therefore, cannot be published. In essence, it simply asked what would happen to our program for testing cruise missiles in various modes if our most recent SALT proposal on cruise missiles were adopted. Will the design ranges of these systems pose a problem? Is the Department of Defense engaged in activities which violate what President Carter, Secretary Vance, Ambassador Warnke, and our arms control negotiators are pursuing as American policy in another realm? That is all I wanted to know.

The situation is further confused by the fact that I sent a similar inquiry some weeks ago to the Secretary of State, suggesting that the Arms Control and Disarmament Agency conduct a comprehensive study of the arms control verification problems that cruise missiles might pose. In that case I did receive an answer.

Earlier this week I had a briefing on cruise missile issues in my office by ACDA officials. In the course of the discussion I raised the same questions I had raised earlier in my letter to Secretary Brown. The response was both prompt and reassuring. There is, I was told, full coordination exists between our cruise missile development program and our SALT position.

I am left to wonder why, if ACDA can tell me so easily what the Pentagon is doing, the Secretary of Defense finds it so difficult to tell me what the Pentagon is doing. I suppose there are several possible answers. But among them is the unsettling possibility that perhaps ACDA's confidence is misplaced. And I hope the managers of this legislation have information which would permit them to clarify the situation.

My faith in good Pentagon intentions on arms control is further shaken by the announcement this week, right on the heels of reported progress in SALT during Foreign Minister Gromyko's meetings with President Carter and Secretary Vance, that the Secretary of Defense will request funds for another new system which poses serious SALT verification problems. Aside from its $35 to $40 billion price tag, the M–X mobile missile would undermine the national technical means of verification upon which both sides rely to assure themselves that numerical arms limits are not being broken. And it is even worse than that.

Our negotiators are grappling with the problem of limiting Soviet heavy missiles of the kind which—with accuracy improvements—might threaten our ICBM's. If they are successful, the concept of mobile missiles such as the M–X would be both superfluous and wasteful. However, the M–X, with a combination of much bigger payload and dramatic improvements in accuracy, would confront the Soviet Union with precisely the kind of counterforce, silo-busting arsenal that we are right now trying to get them to forgo.

If the Department of Defense is following the declared policy of the Carter administration on arms control, then I cannot think of a worse way to show it. Indeed, I cannot think of a better way to demonstrate that there is, in fact, very poor coordination, if any at all, between the Department that builds arms and the Department and the Agency that are charged with trying to bring these systems under effective control.

Mr. MORGAN. Mr. Chairman, I fully support the Armed Services Committee action on this supplemental authorization under S. 1863.

By upgrading and continuing the use of the B–52 force both as a penetrating and cruise missile carrier bomber, by initiating a prototype development program on the FB–111H as a new penetrator, and by investing in development of the air launched cruise missile we have taken the best practical decision.

This mixed force enormously complicates the Soviet defense problems in doctrine, investment and military capability.

The capabilities of the B–52 as a weapons carrier are well known and respected. By upgrading its protective and navigational systems and by fitting it to carry the cruise missile it becomes even more formidable.

To retain our long term options to enhance the penetrating component of our strategic bomber force, we will have the FB–111H program. This is a prototype development program to "stretch" the airframes of two existing FB–111A aircraft and integrate into them the General Electric F–101 engines developed for the B–1, which the President seems determined not to build.

The $20 million recommended by the committee will permit the Air Force to perform electronic countermeasures trade studies, subsystem and structural design definition, structural component and material tests, wind tunnel tests, develop computer simulations for the crew module, and develop source selection criteria and specifications.

With the improved capability and survivability of the B–52 as both a penetrator, stand-off platform and in the dual roles; with the numerical, cost, and operational advantages of the cruise missile, and with the potential of the FB–111H as a new penetrator, we commend to you the best possible cost-effective contribution to the strategic triad.

Mr. BENTSEN. Mr. President, the problem of the B–1 was essentially a problem of cost. There was a time when the United States, if it wanted a bomber, could opt for maximum technology and maximum numbers. But today, when you are talking about an aircraft that runs over $100 million per copy, and you need several hundred of them we have to think in terms of the most efficient utilization of available resources. Yes, money is an object, even when it comes to national defense.

There is a limit to the amount of taxes that can be squeezed out of the American public.

This does not mean that we have to settle for second best. Obviously, we can not and will not. But it does mean that if we are to remain the most powerful and the most advanced Nation in the world, we will have to take a hard look at how we spend our dollars.

That is the problem, now what is the answer? I believe the committee by providing $20 million for development of the FB–111H has found the answer.

Three years ago—even then it was apparent that the B–1 was in trouble—I went to the Air Force and talked about some alternatives to the B–1. I said why not take the F–111, stretch it out, give it legs with B–1 engines, and turn it into a first class manned bomber relatively inexpensively. This is the FB–111H alternative.

But the Air Force was not interested in alternatives. They were interested in the B–1 and only the B–1. So we had a great national debate about whether or not America needed the B–1 and President Carter finally decided we did not.

Well, I can tell you that there are a lot of people thinking about alternatives today, people concerned with the defense of this country. And many of them are thinking about the FB–111H. Three years later, after the production line has been shutdown, after we finally lost the long battle to maintain funding for this aircraft.

I think an FB–111H can provide an attractive alternative to the B–1. It could be designed to accomplish essentially the same task; it has a low and high level capability; it is a smaller target. It is potentially a weapons system that this Nation needs and can afford.

Mr. President, the FB–111H will carry 15 nuclear weapons and the long cruise missiles. With the FB–111 already in operation, support equipment and a support organization are in existence to provide spares, a manning base and training.

The committee has recognized these facts by proposing the development of two prototype FB–111H's. The testing of these prototypes will give us the options of modifying 65 existing FB–111A's, the production of additional FB–111H aircraft, or both.

This proposal makes eminent good sense and I urge the Senate to support it.

HOUSE BILL IS A BUDGET-BUSTER

Mr. HEINZ. Mr. President, I want to echo Senator MUSKIE's admonition to our conferees on this bill to stand fast against the House position. H.R. 8390, the counterpart to S. 1863 as reported by the House Armed Services Committee, adds in the very $152 million for F-14 procurement that the House lost in conference last July on the military procurement authorization. Restoring this money would amount to a circumvention of a previous House-Senate negotiation. It is somewhat irrelevant in any case to the supplemental at hand, one that deals primarily with Air Force weapons systems. Personally, I hope the Senate continues to resist this particular spending until we get more of an idea of the direction we want the Navy to go, in terms of the continuing debate on the virtue of heavy carriers, VSTOL aircraft, the proper mix of A-7's, F-18's, and the rest. Decisions today on such matters can lock us into mushrooming multiyear patterns of spending. At some point, they become irreversible.

A further difference between our bills is that the House version proposes a $50 million acceleration of the MX missile program. Here, too, is something to which the Senate should devote a lot more deep thought before sinking an investment. It cannot but have huge ramifications down the road for our strategic posture, for arms control negotiations with the Soviet Union, and not least for our Federal budget. It is noteworthy that not even the Defense Department has yet requested this money.

All told, the House bill could run something like $200 million more in fiscal year 1978 budget authority than assumed in our recent second concurrent resolution. The Senate version, on the other hand, actually comes in under the defense function targets. Our conferees should consider themselves solemnly charged to prevent the House's prospective budget-busting.

Mr. STENNIS. Mr. President, may we have a third reading?

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is all time yielded back on the bill?

Mr. TOWER. I yield back the remainder of my time.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the bill.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 66, nays 1, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—66

Allen	Glenn	Moynihan
Baker	Goldwater	Nelson
Bartlett	Hansen	Pell
Bayh	Hart	Proxmire
Brooke	Haskell	Randolph
Burdick	Hatch	Riegle
Byrd, Harry F., Jr.	Hathaway	Sarbanes
	Hayakawa	Sasser
Byrd, Robert C.	Heinz	Schmitt
Case	Helms	Schweiker
Chafee	Hollings	Scott
Church	Jackson	Sparkman
Clark	Johnston	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McIntyre	Williams
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Morgan	

NAYS—1

Hatfield

NOT VOTING—33

Abourezk	Griffin	Muskie
Anderson	Huddleston	Nunn
Bellmon	Humphrey	Packwood
Bentsen	Inouye	Pearson
Biden	Javits	Percy
Bumpers	Kennedy	Ribicoff
Cannon	Laxalt	Roth
Chiles	McClellan	Stevenson
Curtis	McClure	Wallop
Danforth	McGovern	Weicker
Gravel	Metcalf	Young

So the bill (S. 1863) was passed, as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during fiscal year 1978, for the use of the Armed Forces of the United States for procurement of aircraft and missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For Aircraft: for the Air Force, $33,000,000.

Missiles

For Missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Air Force, $265,470,000.

For the Defense agencies, $14,000,000.

In authorizing funds under title I and title II of this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1863.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to commend the distinguished chairman of the Armed Services Committee, Senator STENNIS, and the ranking minority member, Senator TOWER,

for their prompt and thorough efforts to bring S. 1863, the Supplemental DOD Authorization bill, to the Senate for its consideration and ultimate passage.

I especially want to thank Senator MCINTYRE for his role in so ably assisting in the managing of this bill. His knowledge of this field is impressive, and I regret that the restriction of time, caused by the lateness of the hour, precluded him from making as full a presentation as he normally would have been able to do. I have great respect for his knowledge in this field, as I do for that of the distinguished chairman, Senator STENNIS.

I also wish to thank Frank Sullivan and Larry Smith of the professional staff of the Armed Services Committee for their assistance to the distinguished managers of the bill.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees, and the withdrawal of the nomination of Douglas Coulter, of Virginia, to be a Commissioner of the Copyright Royalty Tribunal.

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL FISHERY AGREEMENT—PM 121

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and Mexico, signed at Washington on August 26, 1977.

This Agreement is significant because it is one of a series to be negotiated in accordance with that legislation. It is also significant in the context of the warm and close relationship which the United States has had with Mexico for many years. I, therefore, urge that the Congress give favorable consideration to this Agreement at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *October 7, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message received today from the President of the United States, relative to an international fishery agreement between the United States and Mexico, be jointly referred to the Committees on Commerce, Science, and Transportation and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

On October 6, 1977:

S. 1322. An Act to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

On October 7, 1977:

S. 126. An Act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An Act to extend and revise the Library Services and Construction Act, and for other purposes.

MESSAGE FROM THE HOUSE

At 12:27 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 8410. An act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act; and

H. Con. Res. 368. A concurrent resolution calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2133. A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of the approval of an REA insured loan in the amount of $7,097,000 and a commitment to guarantee a non-REA loan in the amount of $127,873,000 to Northern Michigan Electric Cooperative, Inc., of Boyne City, Michigan (with accompanying papers); to the Committee on Appropriations.

EC-2134. A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of the approval of an REA insured loan in the amount of $7,268,000 and a commitment to guarantee a non-REA loan in the amount of $98,842,000 to Wolverine Electric Cooperative, Inc., of Big Rapids, Michigan (with accompanying papers); to the Committee on Appropriations.

EC-2135. A letter from the Secretary of Transportation transmitting, pursuant to law, notice that there were not transactions negotiated under the authority of Section 303(c) of the Federal Aviation Act of 1958, during the transitional quarter or during fiscal year 1977; to the Committee on Commerce, Science, and Transportation.

EC-2136. A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report concerning NASA's plan to report to the General Services Administration, as excess real property, 2092 acres of land with several buildings at the Plum Brook Station, Sandusky, Ohio (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC-2137. A letter from the President of the Communications Satellite Corporation transmitting, pursuant to law, the fourteenth annual report on the operations, activities and accomplishments of COMSAT for calendar year 1976 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2138. A letter from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, a report entitled "Amtrak Through Route and Joint Fare Study" (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2139. A letter from the Under Secretary of the Interior transmitting a draft of proposed legislation to amend the National Trails System Act by designating the Oregon Trail, located in portions of Missouri, Kansas, Nebraska, Wyoming, Idaho, Oregon and Washington, as a component of the National Trails System (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-2140. A secret communication from the Staff Secretary of the National Security Council transmitting information concerning the FY 1978 Arms Control Impact Statement, Amended Budget Items (along with the unclassified version); to the Committee on Foreign Relations.

EC-2141. A letter from the Attorney General of the United States transmitting, pursuant to law, the report of the Attorney General on the administration of the Foreign Agents Registration Act covering the calendar year 1976 (with an accompanying report); to the Committee on Foreign Relations.

EC-2142. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report concerning three proposed new record systems reports submitted by the Department of the Air Force (with accompanying papers); to the Committee on Governmental Affairs.

EC-2143. A letter from the Deputy Secretary of the Treasury transmitting a draft of proposed legislation to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require (with accompanying papers); to the Committee on Governmental Affairs.

EC-2144. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2-83, an Act to enact Regulation 73-22, a Regulation governing human rights (with accompanying papers); to the Committee on Governmental Affairs.

EC-2145. A letter from the United States Postal Service Records Officer transmitting, pursuant to law, a report concerning four systems of record, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC-2146. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a report of a new system of personal records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC-2147. A letter from the Executive Secretary of the Federal Deposit Insurance Corporation transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC-2148. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC-2149. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The U.S. Great Lakes Commercial Fishing Industry—Past, Present, and Potential" (CED-77-96, September 30, 1977) (with an accompanying report); to the Committee on Govermental Affairs.

EC-2150. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Urgent Need for Continued Improvements in Enlisted Career Force Management" (FPCD-77-42, September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2151. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Ways the Department of Defense Can Improve Oil Recycling" (LCD-77-307, September 28, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2152. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Preventing Mental Retardation—More Can Be Done" (HRD-77-37, October 3, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2153. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Farmers Home Administration's Business and Industrial Loan Program Can Be Improved" (CED-77-126, September 30, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2154. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "An Evaluation of the Administration's Proposed Nuclear Non-Proliferation Strategy" (ID-77-53, October 4, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2155. A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the administration of the Federal Metal and Nonmetallic Mine Safety Act for the calendar year 1976 (with an accompanying report); to the Committee on Human Resources.

EC-2156. A letter from the United States Commissioner of Education transmitting, pursuant to law, the second annual report on the Women's Educational Equity Act (with an accompanying report); to the Committee on Human Resources.

EC-2157. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

EC-2158. A letter from the Corporation Agent of the Legion of Valor transmitting, pursuant to law, a copy of the financial statement of the Legion of Valor for the fiscal year ending April 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC-2159. A letter from the Chairman of the Federal Power Commission transmitting, pursuant to law, the Commission's report on the administration of the Freedom of Information Act for the period January 1 through September 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC-2160. A letter from the Chairman and Vice Chairman of the Office of Technology Assessment transmitting, pursuant to law, the annual report of the Office of Technology Assessment covering its activities during calendar year 1976 (with an accompanying report); to the Committee on Rules and Administration.

EC-2161. A letter from the Acting Assistant Secretary of Defense, Comptroller, transmitting, pursuant to law, notice of the intent to obligate $11.4 million of funds available in the Army Stock Fund for additional war reserve inventories; to the Committee on Appropriations.

EC-2162. A communication from the President of the United States transmitting, pursuant to law, an amendment to proposed supplemental appropriations for the fiscal year 1978 in the amount of $675,000,000 for the Small Business Administration (with accompanying papers); to the Committee on Appropriations.

PETITION

The PRESIDING OFFICER laid before the Senate the following resolution adopted by the Massachusetts State Senate:

RESOLUTION

Whereas the Congress of the United States enacted the Fisheries Conservation and Management Act of nineteen hundred and seventy-six to protect United States fishing rights within two hundred miles of the coastline of this nation; and

Whereas three instances of serious violations of this act since the law took effect have been reported off the Massachusetts coast in which foreign trawlers were searched and then released with warnings; and

Whereas in the most recent incident the federal enforcement agencies recommended seizure of a Polish trawler carrying seventeen tons of bottom fish in an area where bottom fishing is illegal; and

Whereas intervention by the United States Department of State prevented seizure of said trawler in spite of its obvious violation of the law; and

Whereas said intervention was the result of classified White House policy developed prior to the passage of the Fisheries Conservation and Management Act of nineteen hundred and seventy-six: Now, therefore, be it

Resolved, That President Carter hereby be memorialized to enforce the law of the land; and be it further

Resolved, That President Carter request the State Department to develop and publish a clearly defined procedure both for dealing with the routine enforcement of said law by the appropriate government agencies and also for dealing with exceptional situations that clearly jeopardize the national security; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Secretary of Transportation, the Commandant of the United States Coast Guard and the Senators and Congressmen from the commonwealth.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution adopted by the Massachusetts State Senate relative to enforcement of the Fisheries Conservation and Management Act of 1976 be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. 1590. A bill to incorporate the American Ex-Prisoners of War, Incorporated (Rept. No. 95-479).

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies (Rept. No. 95-480).

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Without amendment:

S. Con. Res. 31. A concurrent resolution to disapprove Federal Motor Vehicle Safety Standard 208 transmitted on June 30, 1977 (Rept. No. 95-481).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board.

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, United States Department of Labor.

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert D. Kingsland, of Missouri, to be U.S. attorney for the eastern district of Missouri.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California.

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Human Resources:

H.R. 8410. An act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATSUNAGA:

S. 2183. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the office of Poet Laureate of the United States; to the Committee on Human Resources.

By Mr. BAYH:

S. 2184. A bill for the relief of George Madathiparampil; to the Committee on the Judiciary.

By Mr. WEICKER (for himself and Mr. GRAVEL):

S. 2185. A bill to amend the Whale Conservation and Protection Study Act to increase appropriations authorization for fiscal years 1978 and 1979 and to authorize appropriations for fiscal year 1980 through 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHWEIKER (for himself and Mr. HEINZ):

S. J. Res. 87. A joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. HATCH, Mr. WILLIAMS, Mr. PELL, Mr. CRANSTON, Mr. SCHWEIKER, Mr. CHAFEE, Mr. RIBICOFF, Mr. RIEGLE, and Mr. MATSUNAGA):

S. J. Res. 88. A joint resolution providing for the designation of the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week"; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA:

S. 2183. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the Office of Poet Laureate of the United States; to the Committee on Human Resources.

Mr. MATSUNAGA. Mr. President, I am introducing today a bill which provides for the establishment of the Office of Poet Laureate of the United States.

One of the distinguishing characteristics of highly cultured societies, both in the East and the West, is the fact that they encourage and nurture the fine arts, including poetry. England, the nation from which we inherited our system of law and many of our most treasured democratic traditions, officially created the position of Poet Laureate in the 17th century. The origin of the honorary position, however, dates back to the reign of King Henry III in the 13th century. Such poets as Chaucer, Spenser, Ben Jonson, John Dryden, Wordsworth, and Tennyson all served in their time as Poet Laureate of England. Poet Laureates have occupied highly respected and coveted roles in Japan and in China, since time immemorial.

We have today in our own country some of the finest poets of the 20th century. Recognition of their contributions would be irrefutable evidence of our enlightened commitment to the promotion and preservation of the arts.

I would like for our country—the United States of America—to be known throughout the world not only for its great material wealth and military might, but also for its unique idealistic and spiritual heritage. Poets such as Robert Frost, Carl Sandburg, and Walt Whitman have captured the American spirit in a unique and timeless way. Who can ever forget Sandburg's immortal description of Chicago as the—

Player with railroads and the Nation's Freight Handler, Stormy, Husky, Brawling, City of Big Shoulders.

Or Walt Whitman's:

I hear America singing, the varied carols I hear
Those of mechanics, each one singing his as it should be blithe and strong,
The carpenter singing his as he measures plank or beam
The mason singing his as he makes ready for work or leaves of work.

I believe that such contributions to our heritage should be encouraged and stimulated in contemporary society. In addition to giants such as Archibald MacLeish (a former Librarian of Congress), Robert Penn Warren, Phyllis McGinley, and James Dickey, there are today many young and relatively unknown poets whose potential contribution to our American heritage has yet to be measured. By creating the position of Poet Laureate of the United States, we would give them something to aspire to—we would be telling them that we value the work of America's great poets as much as we value the other great builders of our country—the engineers, scientists, explorers, statesmen, tradesmen, and others who made our Nation great.

My proposal is a modest one. Under the provisions of my bill, the President would appoint the Poet Laureate after giving due consideration to the recommendations of the National Council on the Arts. A small annual stipend for the Poet Laureate would be set by the President to enable the Poet Laureate to pursue his creative pursuits and carry out related duties assigned by the President. During his or her 3-year term, the Poet Laureate would, hopefully, produce a major work—a work which captures in poetry for all time our unique American heritage.

Mr. President, I hope that my bill will be given early favorable consideration. I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section:

"POET LAUREATE OF THE UNITED STATES

"SEC. 15. (a) There is established the office of Poet Laureate of the United States. The Poet Laureate shall perform such duties as the President shall prescribe, but the duties so prescribed shall not impair the continuation of the creative work of the individual chosen to be Poet Laureate.

"(b) The Poet Laureate of the United States shall be appointed by the President after consideration of the recommendations of the National Council on the Arts from among poets whose works reflect the qualities and attributes associated with the historical heritage, present achievement, and future potential of the United States. The Poet Laureate shall be appointed for a term of five years, and shall receive compensation at a rate to be set by the President.".

By Mr. WEICKER (for himself and Mr. GRAVEL):

S. 2185. A bill to amend the Whale Conservation and Protection Study Act to increase appropriations authorization for fiscal years 1978 and 1979 and to authorize appropriations for fiscal year 1980 through 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WEICKER. Mr. President, we are pleased to introduce an amendment to the Whale Conservation and Protection Study Act (16 United States Code 917) which authorizes appropriations for whale studies within 200 miles of the United States.

This amendment would increase the original authorization for appropriations of the act from $1 million for 2 years to $5 million for 5 years with $2.5 million of that earmarked for the study of bowhead whales. It makes specific reference to the utilization and employment of native peoples who traditionally hunt whales for subsistence to assist in the study of bowhead whales.

Mr. President, the reason for advancing our knowledge of whales through scientific study is obvious. In order to manage these great beasts properly we must know all aspects of their life histories including migration, population dynamics, behavior, and habitat.

The bowhead whale, for instance, ranges across the Arctic; its Eastern stocks have been greatly depleted by overhunting and the Alaskan stocks are far below their original number. The Yankee whaling fleets caused the bowhead to become endangered early in this century and has been protected against commercial whaling since 1912. The only taking of the bowhead whale—since 1912 under international regulations—has been by the Eskimo who uses their catch for partial subsistence.

The present condition of the bowhead stocks is not well known. Lack of solid scientific data to make proper assessments of the stocks has hampered management programs of the bowhead.

At the recent June meeting of the International Whaling Commission (IWC) in Australia the member delegates voted to end all bowhead hunting including that of the Eskimo peoples. Their decision was based on available data presented by the scientific committee of the Commission.

The size of the bowhead population has not made any significant recovery since protection started in 1912. Estimates of their numbers range from 700 to

3,000. Scientists theorize that if the bowhead population is at the low end of these estimates that even pressures from Eskimo hunting might be depleting its numbers.

Mr. President, it is necessary that the National Oceanic and Atmospheric Administration accelerate its studies of the bowhead whale in order to obtain a reasonable approximation of the condition of its stocks in terms of survival of the species. We must determine what must be done to preserve this great animal and at the same time address the impact of any management programs on the Eskimos.

It is important to obtain as much knowledge as possible on the bowhead whale by the next IWC meeting so that its scientific committee can better recommend future management plans. This amendment will provide the necessary authorization to start the studies in earnest and employ some of the people that may be harmed by the recent IWC ruling.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Whale Conservation and Protection Study Act (16 U.S.C. 917) is amended by adding after subsection (7) the following:

(8) The International Whaling Commission has proposed a zero quota on the taking of the Bowhead Whale including subsistence harvesting of that species by native peoples in the Soviet Union and the United States;

(9) The zero quota is based on available data which should be supplemented so that sound, long-range management decisions can be made;

(10) Additional data is necessary in the near future in order to preserve the whales including the Bowhead and to lessen any impact on native cultures and populations that traditionally hunt whales for subsistence.

SEC. 2. Section 3 of the Whale Conservation and Protection Act (16 U.S.C. 917a) is amended as follows:

Immediately after "Sec. 3." add "(a)"

At the end of subsection (a) replace "1980" with "1982" and add "(b) To assist in studies of the Bowhead Whale, particular attention should be given to the utilization and employment of the affected native whaling communities and whaling crews who traditionally engage in whale hunting for subsistence."

SEC. 3. Section 6 of the Whale Conservation and Protection Study Act (16 U.S.C. 917d) is amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS"

"SEC. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated a sum not to exceed $5,000,000 for fiscal years 1978 through 1982 and that for fiscal years 1978, 1979, and 1980, $2,500,000 of this sum shall be directed toward study of Bowhead Whales."

By Mr. SCHWEIKER (for himself and Mr. HEINZ):

S.J. Res. 87. A joint resolution designating November 15, 1977, as a day of national observance of the 200th anniversary of the adoption of the Articles of Confederation; to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I am pleased to introduce today in the Senate a joint resolution which would designate November 15, 1977, as a day of national observance of the 200th anniversary of the adoption of the Articles of Confederation. An identical resolution has been introduced in the House of Representatives by Congressman BILL GOODLING.

The autumn of 1777 was not a promising one for the newly independent American States. The British Army had occupied our capital, Philadelphia, forcing the Continental Congress to pack up its papers and belongings—including the Liberty Bell—and move temporarily to York Town, Pa., now simply known as York.

In this small town, the leaders of the Congress recognized that more formal ties would be needed if we were to win our war of independence. They negotiated the Articles of Confederation as a result, setting up the first national government over the former colonies. Within a few years it had become apparent that the powers given to the central government were not sufficient, and the convention of 1787 produced the Constitution that still frames our Nation.

Yet the Articles of Confederation formally linked the States, insuring that a common foreign policy could be developed, and that the States would, in the words of Benjamin Franklin in a similar context:

Hang together or they would certainly hang separately.

In the past two decades, we have seen dozens of small and often fractious nations emerge around the world, and a number of other separation movements are agitating for "self-rule." This experience makes all the more surprising the fact that the new American States, whether big or small, whether agricultural or commercial, chose to join together in an enterprise that would partially submerge their individual identities in forming what has become the greatest nation in the history of the world.

The Articles of Confederation have sunk almost to a footnote in American history, an experiment that in hindsight seems not to have worked.

I think this characterization is inaccurate. We should instead commemorate the articles as the first written constitution by a major nation in the world, and a major step in formally binding 13 independent ex-colonies into the United States of America.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 87

Whereas the Continental Congress, composed of the representatives of the thirteen colonies which dissolved their respective ties with Great Britain, convened and deliberated in York (then known as York Town), Pennsylvania, from September 30, 1777, until June 27, 1778;

Whereas the consideration and adoption of the Articles of Confederation as the first constitution of the United States of America was one of the historic accomplishments of that body while so convened in York on November 15, 1777; and

Whereas said Articles of Confederation were designed to accomplish, and did in fact accomplish, the securing of the freedom, sovereignty, and independence of the United States, which blessings have enured to the benefit of all citizens of this country from that time until the present date: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 15, 1977, is proclaimed a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation by the Continental Congress convened in York, Pennsylvania; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 1116

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1116, a bill to amend the Social Security Act.

S. 1974

At the request of Mr. CULVER, the Senator from Alabama (Mr. SPARKMAN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors to S. 1974, the Regulatory Flexibility Act.

S. 2053

At the request of Mr. METCALF, the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. MOYNIHAN), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2053, the Deep Seabed Mineral Resources Act.

S. 2066

At the request of Mr. MATHIAS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wisconsin (Mr. NELSON), the Senator from Alaska (Mr. STEVENS), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Vermont (Mr. LEAHY), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2066, to complete and protect the Appalachian Trail.

S. 2169

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. BELLMON), the Senator from Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Iowa (Mr. CLARK), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from Tennessee (Mr. SASSER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Mississippi (Mr. STENNIS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from New Jersey (Mr. WILLIAMS), the Senator from South Carolina (Mr. THURMOND), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. FORD), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Colorado (Mr. HART), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maine (Mr. HATHAWAY), the Senator from North Carolina (Mr. HELMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), the Senator from Delaware (Mr. ROTH), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Maryland (Mr. MATHIAS), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Maryland (Mr. SARBANES), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SCOTT), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Connecticut (Mr. WEICKER), the Senator from Alaska (Mr. STEVENS), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 2169, a bill to name the South Portal Federal Office Building of the U.S. Department of Health, Education, and Welfare in Washington, D.C., the "Hubert H. Humphrey Building".

AMENDMENT NO. 849

At the request of Mr. CULVER, the Senator from Alabama (Mr. SPARKMAN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors to amendment No. 849, intended to be proposed to S. 1974, the Regulatory Flexibility Act.

SENATE CONCURRENT RESOLUTION 50—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PURCHASE OF COTTON BY THE BANK OF TOKYO

(Referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. HELMS submitted the following concurrent resolution:

S. CON. RES. 50

Resolved by the Senate (the House of Representatives concurring),

That it is the sense of the Congress that the Export-Import Bank of the United States should not provide financing to assist the Bank of Tokyo, Limited, in purchasing $75,000,000 worth of raw cotton, as proposed in the notification to the Congress dated September 7, 1977.

SENATE RESOLUTION 288—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Referred to the Committee on Rules and Administration, by unanimous consent.)

Mr. CHURCH (for himself and Mr. DOMENICI) submitted the following resolution:

S. RES. 288

Resolved, That section 2 of S. Res. 147, Ninety-fifth Congress, agreed to June 14, 1977, is amended by striking out "$407,000" and inserting in lieu thereof "$442,000".

Mr. CHURCH. Mr. President, I submit a resolution authorizing supplemental expenditures for the Committee on Aging, and I ask unanimous consent—and this request has been cleared with the leadership on both sides of the aisle—that the resolution be referred directly to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 289 AND SENATE RESOLUTION 290—SUBMISSION OF TWO RESOLUTIONS AUTHORIZING CERTAIN PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. ALLEN submitted the following resolutions:

S. RES. 289

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and sixty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1".

S. RES. 290

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and eighty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 2".

AMENDMENTS SUBMITTED FOR PRINTING

ADOPTION REFORM ACT OF 1977—S. 961

AMENDMENT NO. 1431

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. RIEGLE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. ANDERSON, Mr. BROOKE, Mr. DURKIN, Mr. INOUYE, Mr. HAYAKAWA, Mr. CLARK, and Mr. JAVITS) submitted an amendment intended to be proposed to the bill (S. 961) to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, and for other purposes.

SYNTHETIC RUTILE DUTY—H.R. 3387

AMENDMENT NO. 1432

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (H.R. 3387) to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

NOTICES OF HEARINGS

COMMITTEE ON FOREIGN RELATIONS

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations will proceed throughout the week of October 10 with its consideration of the proposed Panama Canal agreements.

As part of the committee's continuing effort to hear all points of view on these very important, but highly controversial agreements, we will hear from a number of experts and public witnesses during the coming week. At that time, the committee will receive testimony from retired military officers, residents of the Canal Zone, Latin America experts, labor officials, church groups, veterans' organizations and a variety of other groups and organizations.

In particular, I want to mention that we will be hearing from two former chairmen of the Joint Chiefs of Staff, Admiral Thomas Moorer and General Maxwell Taylor. We will also hear from former Chief of Naval Operations Admiral Elmo Zumwalt. Later in the week, the committee is pleased and honored that former Secretaries of State Dean Rusk and Henry Kissinger have agreed to express their views on this very important foreign policy issue.

Mr. President, these hearings will be held in the Caucus Room in order to accommodate the public and the TV networks. I ask unanimous consent that a list of all witnesses scheduled to appear before the Foreign Relations Committee next week be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Monday, October 10:

Admiral Thomas H. Moorer, USN-Ret., Admiral Elmo R. Zumwalt, Jr., USN-Ret., General Maxwell Taylor USA-Ret., followed by panel of Canal Zone residents: Mrs. Patricia Fulton, President, Pacific Civic Council, Mrs. Charlotte Kennedy, President, Cristobal-Margarita-Brazos Heights Civic Council, Mr. Harold Green, President, Gamboa Civic Council, Mr. Louis Sattorosi, Vice President, Canal Zone Federation of Teachers.

Tuesday, October 11:

Panel of Latin American experts: Professor Jorge Dominguez, Center for International Affairs, Harvard University; Dr. Abraham F. Lowenthal, The Woodrow Wilson Center; Professor Donald Dozer, University of California, Santa Brabara followed by Mr. Robert M. Bartell, Liberty Lobby; Franklin Delano Lopez, Chairman, Puerto Rico Democratic Party; Phillip Harman, Canal Zone Non-Profit Public Info. Corp.

Wednesday, October 12:

William P. Thompson, President, National Council of Churches; John Cardinal Krol, Archbishop of Philadelphia, on behalf of U.S. Catholic Conference; Morris Levinson, Vice President, Synagogue Council of America; Professor Donald E. Miller, Bethany Theological Seminary, Church of the Brethren; Mr. Kenneth Boehm, Young Americans for Freedom; Mrs. (Leopoldo) Rose Marie Aragon, Mr. Richard Eisenmann, Panamanian Committee for Human Rights, U.S. Labor Party.

Thursday, October 13:

Martin Gerber, Vice President, United Auto Workers (UAW); Andrew J. Biemiller, Director, Department of Legislation, AFL-CIO; Alfred J. Graham, President, Canal Zone Central Labor Union and Metal Trades Council, AFL-CIO; J. R. Williams, President, Panama Canal Pilots' Association; John Fred Schlafly, Chairman, Emergency Task Force on the Panama Canal, American Council for World Freedom; Mr. Gary L. Jarmin, Legislative Director, The American Conservative Union; Dr. Herminio Portell-Vila, Editor, Radio Free Americas, American Security Council; The Honorable Hamilton Fish, former Congressman from New York.

Friday, October 14:

The Honorable Henry A. Kissinger, The Honorable Dean Rusk, followed by panel of veterans' organizations: Robert Charles Smith, National Commander, The American Legion; Frank D. Ruggiero, National Commander, AMVETS; Maj. Gen. J. Milnor Roberts, USAR, Executive Director, Reserve Officers Association; Colonel Phelps Jones, USA-Ret., Director, National Security and Foreign Affairs, Veterans of Foreign Wars.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT—S. 1717

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Finance Committee will hold hearings on Friday, October 14, 1977, at 3 p.m., on S. 1717, in room 2221 Dirksen Senate Office Building.

Senators WALTER HUDDLESTON and WENDELL H. FORD of Kentucky are the chief sponsors of S. 1717.

The bill amends certain provisions of the Internal Revenue Code of 1954 which relate to distilled spirits.

The bill consists of a series of technical and administrative provisions. These provisions deal with the identification of the distiller upon gin and vodka bottles, the drawback of tax on exported spirits and wines previously imported, the return of tax-determined distilled spirits to bonded premises, the withdrawal of distilled spirits for transfer to customs bonded warehouses and for scientific purposes, the mingling and blending of distilled spirits, and the use of extracted oils in the making of gin.

The intended beneficiaries of this legislation are the distilled spirits industry. The revenue loss from the bill is estimated to be a one-time revenue loss of $3 million to $5 million.

During the 94th Congress, a similar bill, H.R. 3055, was passed by the House of Representatives by voice vote and was reported by the Senate Finance Committee, but was not acted upon by the Senate because of lack of time before adjournment.

Witnesses who desire to testify at this hearing should submit a written request to Michael Stern, staff director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on October 12, 1977.

Treasury Department comments on this legislation are requested.

The hearings on S. 1717 are in addition to hearings previously scheduled at 2 p.m. on October 14, 1977, on S. 690.

PRIVATE PENSION SUBCOMMITTEE

Mr. BENTSEN. Mr. President, the Private Pension Subcommittee of the Senate Finance Committee will hold hearings on two important issues relating to the Federal termination insurance program for private pension plans. I ask unanimous consent that the Senate Finance Committee hearing announcement be included in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

FINANCE SUBCOMMITTEE ON PRIVATE PENSION PLANS AND EMPLOYEE FRINGE BENEFITS SETS HEARINGS ON S. 2019, S. 2125, AND H. CON. RES. 369

The Honorable Lloyd Bentsen (D., Tex.), Chairman of the Subcommittee on Private Pension Plans and Employee Fringe Benefits, announced today that the Subcommittee will hold hearings on S. 2019, S. 2125, to delay the effective date for mandatory coverage of multiemployer plans under Title IV of the Employee Retirement Income Security Act of 1974, and H. Con. Res. 369, a proposed resolution to revise the coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for single employer plans. It is presently contemplated that these hearings will be held on October 14, 1977, in Room 1224 of the Dirksen Senate Office Building, at 9:00 A.M. Due to the limited time available for the conduct of such hearings, the Subcommittee is tentatively scheduling Mr. Matthew M. Lind, Acting Executive Director of the Pension Benefit Guaranty Corporation, as the sole witness to present oral testimony on these matters.

To insure that the Subcommittee can obtain maximum input from all interested parties, all persons interested in these issues are requested to submit written statements outlining their views. If time permits, those persons who wish to present oral testimony as well as submit written statements should so indicate and will be notified of the date of the hearing and invited to present such oral testimony.

Senator Bentsen, in calling these hearings, noted the September 29 report of the Pension Benefit Guaranty Corporation concerning potential multiemployer plan liabilities under ERISA. He pointed out that there is a great deal on uncertainty as to the potential cost of the termination insurance program and the impact that large terminations could have on the pension benefit guarantee program and the private pension system in general.

"That study shows that about 2% of all multiemployer plans, covering about 5% of all participants in such plans, are experiencing extreme financial hardship, indicating a high potential for plan termination within the next 5 years. The aggregate unfunded vested liabilities of these plans in 1977 exceed $350 million," Bentsen stated.

According to the PBGC, about 12% of all multiemployer plans covering 20% of the participants in such plans are in difficult financial straits and may need to terminate their plans. To safeguard the interests of all American workers covered under the Federal Pension Benefit Guaranty Program, legislative review of the problems faced by these plans and the danger they represent to the continued vitality of our insurance program must be thoroughly reviewed.

SUBMISSION OF STATEMENTS AND REQUESTS TO TESTIFY

Senator Bentsen advised that witnesses desiring to submit statements and requesting to testify at this hearing (if scheduling permits) must submit their requests and five copies of their statements to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, October 14, 1977. Witnesses will be notified as soon as possible after this cut-off date if it is possible to schedule them to appear.

SUBCOMMITTEE ON SEPARATION OF POWERS

Mr. ALLEN. Mr. President, on Thursday, October 13, 1977, the Subcommittee on Separation of Powers of the Committee on the Judiciary will hold hearings to receive testimony associated with executive branch negotiations for the disposition of the territory and property of the United States located in the Isthmus of Panama. The hearings will begin at 9 a.m., in room 1318, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

THE PANAMA CANAL TREATY SHOULD BE AMENDED OR WITHDRAWN

Mr. DOLE. Mr. President, the morning papers carry a report that the State Department is seeking clarification of Panama Canal Treaty provisions from Panamanian officials. They are looking for public reassurances that the United States will have recognized defense rights under the treaty on permanent neutrality, and that we will have the right to piority passage during periods of crisis. It seems they finally woke up to the fact that the Senate is not prepared to ratify this treaty so long as these rights are ambiguous.

ASSURANCES NOT ENOUGH

But the Senate will not settle for verbal assurance on our defense rights under the treaty. We do not want pacifiers, we want protection. The treaty is a contract. And the only way to clarify a contract is to make its language as clear and precise as possible.

I have followed the established procedure for doing this, in introducing amendments and reservations to an ambiguous treaty. However, if the State Department is unwilling to accept the idea of congressional modification, maybe they should withdraw the treaty now, renegotiate with the Panamanians, and then resubmit the document to Congress.

It is specially troubling to me to think that if the State Department cable revealing serious disagreements between the United States and Panama over the meaning of the treaties had not been revealed, the Senate might have proceeded to ratify an agreement seriously damaging to U.S. security and economic interests. We would have done so, ignorant of vital information hidden under a State Department security blanket.

The State Department says it is maintaining a continuing dialog with Panama to seek clarification of differing interpretations of treaty provisions. While the department is looking for reassurances on U.S. rights to defend the canal and to gain priority passage through the canal, Panamanian statements to this effect will probably not be forthcoming until after the October 23 plebiscite in Panama.

I have no doubt that words of reassurance will flow fast and free after the Panamanian vote is over. But that will not explain away the understandings that top Panamanian officials are attaching to the treaties today. If they say one thing now, and another next month, how can we place confidence in their verbal assurances?

The proper course now is congressional modification. If the administration cannot accept this, then they should take the initiative and go back to the negotiating table now.

WORLD ASSEMBLY ON AGING AND WORLD YEAR ON AGING

Mr. EAGLETON. Mr. President, I commend my colleagues for their action on Wednesday in passing Senate resolution 238, which calls for the President to instruct the U.S. delegation to the United Nations to work with other U.N. delegations toward a World Assembly on Aging and a World Year on Aging not later than 1982.

At the turn of the century there were 3 million older Americans—those aged 65 and older—comprising 4 percent of the total population. Now the proportion has more than doubled, and more than 10 of every hundred Americans are aged 65 and older. Although this percentage is not expected to rise significantly in the coming decades, the absolute numbers of the aged will continue to increase, and the projection is for about 30 million persons aged 65 or older by the beginning of the next century.

Not only will the United States have an older population, but so will most of the other nations of the world. Regardless of birth rates elsewhere, the expansion of medical knowledge and treatment and the systematic eradication of many infectious disease in parts of the world where they have flourished heretofore, point toward an extension of life around the globe.

All of us, whether we be elected officials, gerontologists, or members of the general public, must be concerned about such fundamental matters as the population structure of our society in future generations and the possible effects of demographic changes.

The current General Assembly session of the United Nations is already scheduled to consider expansion of the U.N. research and information programs on aging. The resolution adopted by the Senate could not be more timely, as all nations work together to resolve the very substantial questions raised by an emerging older population.

INTERNATIONAL WOMEN'S YEAR: UTAH REPORTS

Mr. HATCH. Mr. President, on September 14 and 15, ad hoc hearings were held to look into the activities of the National Commission on the Observance of International Women's Year and its State and regional IWY conferences. A bipartisan panel of 16 Senators and Congressmen received 12 hours of testimony from 70 witnesses who had traveled from 40 States at their own expense to relate their experiences with their State's IWY activities. All witnesses who presented testimony were participants at IWY meetings or had attempted to participate. At these conferences women have adopted resolutions for and elected delegates to the upcoming National Women's Conference to be held this November 18–21.

The activities of the National Commission, including these conferences, have been funded with $5 million of Federal taxpayer's money. Because the commission and the National Conference will submit recommendations regarding the status of women to Congress and the President, Federal law requires that membership of committees and meetings held under its provisions must "be fairly balanced in terms of the points of view represented" and that they "not be inappropriately influenced by the appointing authority or by any special interest."

Unfortunately, there are increasing complaints that IWY officials are not complying with the fairness requirement of Federal law. Recently, IWY officials described the national conference as a political convention which must be used to build momentum for certain partisan interests. The information brought out during the ad hoc hearings point to a substantial misuse of Federal funds in regard to the State IWY meetings.

I am pleased that Doris Wilson of Bountiful, Utah, was concerned enough with these activities which so deeply affect American women to travel to Washington, D.C., at her own expense to share her report on the Utah State conference with Congress. I commend to the attention of my colleagues her fine report.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Mr. Chairman, distinguished Senators, and Congressman:

I represent a State that held the largest IWY Conference. Thirteen thousand eight hundred and seventy women and men gathered to have their voices heard on a variety of subjects, for Utah has always encouraged its people to develop themselves to their highest potential. In Utah women received the right to vote in 1870, fifty years before the 19th Amendment. We have a long history of conviction that each individual is responsible for his or her actions as a citizen. For us to let decisions that so directly affect us as women be made without participation is unthinkable. So we participated. Utah women are dismayed at being encouraged to participate and then chastised for electing delegates and making decisions representative of our State.

There is an alarm among the people of Utah that no resolutions passed in State meetings will ever "see the light of day" at the National Conference. Why spend five million dollars to hold State meetings if those resolutions are ignored as we are told they will be? Why spend five million tax-payer dollars to promote ideologies in a book "To Form A More Perfect Union" that presupposes the thinking of American men and women based on a consensus taken at a worldwide meeting in Mexico City? Why spend five million tax-payer dollars when the National IWY Commission can counter balance the Utah delegation, rendering its State meeting and its pro-family votes of no avail whatever?

By an overwhelming vote in the Utah Conference resolutions were passed stating:

ERA

Problem: ERA

Recommendations

1. Because the women of Utah are opposed to ERA, we propose that all proponents or opponents of ERA from this time forth finance their causes with whatever privately sponsored funding they may obtain. We oppose the use of our public monies to promote or oppose the ERA.

2. We go on record as being opposed to the Equal Rights Amendment.

3. Resolved that we the participants of the largest IWY Meeting in our nation's history, direct the Congress of the United States to appropriate no new funds for International Women's Year.

Our tax dollars are being spent to promote a pro-ERA stand to which we are diametrically opposed. Our tax dollars are also being used to promote other issues pertinent to women to which we object. The promotion of these issues is found in the National IWY Publication, "To Form A More Perfect Union." We instruct the officials of the National IWY Commission to insert this resolution in the Federal Register through the proper procedure.

4. A recommendation be taken to the National Conference about the ERA which states that we the majority of the women of the State of Utah disassociate ourselves with and wish to be recognized as standing against the ERA to the Constitution. Although we agree with many of the concepts and ideals, we feel that rights for women can better be accomplished by more efficiently enforcing existing laws and applying pressures to society in other ways. We, the women of Utah, recognize that any government which is powerful enough to give its people everything they want is powerful enough to take away everything we have.

INTERNATIONAL INTERDEPENDENCE

Problem: Whereas this United States had its origin in a Declaration of Independence; many of those who signed it were willing to give their lives; Whereas: many of our Congressman have signed a Declaration of Interdependence.

RECOMMENDATIONS

Be it resolved by the International Women's Year of Utah that we repudiate any interdependence on any other country and that we declare our independence from all other countries of the world because interdependence means world government whereby the United States will lose its national sovereignty.

The women of Utah feel that voluntary cooperation between countries is important but we deplore any world governmental body that attempts to dilute our national laws and personal sovereignty.

The people of Utah tried to play by the IWY rules and thought they had won in a fair contest. Now we find the entire game was rigged. Our only alternative is to demand that there be a Congressional investigation; that the President and Congress cancel the IWY Conference in Houston, the lobbying agent of a tiny interest group whose ideals are an anathema to the majority.

Thank you for the opportunity to speak to you today to represent the women of the State of Utah.

WEST VIRGINIA EXPANDS ITS ECONOMIC STRENGTH—COAL RESOURCES AND HIGHWAY DEVELOPMENT ARE POSITIVE FACTORS

Mr. RANDOLPH. Mr. President, inflation and unemployment continue to trouble our economy. There are, however, indicators which point to a resurgence of building activity in America. The New York Times reports this morning that construction materials are in short supply because housing starts are at their highest level in 11 months. Through such legislation as the Public Works-Job Act of 1977, communities across this Nation are beginning to construct needed public facilities and reduce unemployment. Examples of this growing construction activity abound in both the public and private sector.

Recently, it was my privilage to participate in the dedication of the new Huntington Civic Center, in Cabell County, W. Va. The citizens of that progressive community have pledged future revenues to provide a magnificent community cultural complex costing $10.5 million.

I said, on that occasion:

The operations of this Center will make a significant contribution to the economic health of Huntington. It is a wise investment in the future of this growing region, and will serve as a productive partner to the business community. But, more than that, it will contribute greatly to the social and cultural atmosphere of the community.

Hours later and almost 300 miles across the State of West Virginia, I joined with General Motors executives and Government officials in event, marking for a major expansion of the GM Parts Division Plant at Martinsburg.

Lew G. Kalush, parts division general manager, said the 280,000-square-foot addition will create the largest building under roof in West Virginia, providing more than 2 million square feet of floor space. Joining in the ceremonies was my colleague, Representative HARLEY STAGGERS; Donald Moyer, director of the West Virginia Office of Economic and Community Development; Mayor Gene Diamond; Wayne Cagel, general director of GM parts operations; Marvin J. Shapiro, operations manager; and Richard Nicholas, manager of the Martinsburg plant.

The 1.7-million-square-foot facility currently employs 935 men and women, and serves General Motors operations throughout the East and Southeast.

Mr. Kalush stated:

The expansion of the Martinsburg plant is an example of our determination to have the best facilities possible in order to provide the best service possible to our customers.

More than 21,000 different automotive parts are stocked at the Martinsburg plant, and with the expansion, the inventory will be increased to about 26,000. There also will be some increase in employment with the expansion of this modern facility.

These are two of the dynamic developments that are occurring in our home State, which stands on the threshold of unparalleled prosperity with the energy potential of its coal resources and completion of a network of modern highways providing mobility for our rapidly growing tourism.

Within the past few days, Ashland Oil announced the planned relocation of its corporate headquarters for coal operations near Huntington, and a new Armco Steel mine was opened in Raleigh County, near Beckley.

These are among the heartening developments for a region that has in the past been hampered in its growth by rugged terrain and relative isolation. Today, however, major corporations are looking closely at transportation costs and regional decentralization. The economic future looks bright indeed for further industrial growth in West Virginia as they weigh the factors that assure them an opportunity to operate profitably in pleasant surroundings amid a friendly industrial climate.

HUBERT H. HUMPHREY BUILDING

Mr. DOLE. Mr. President, I am requesting that an additional 94 Senators be added to S. 2169, a bill to name the new south portal building of the Department of Health, Education, and Welfare in honor of our distinguished colleague from Minnesota, Senator HUBERT H. HUMPHREY. That brings the number of cosponsors on this bill to a total of 99 Senators, including myself.

It is my understanding that the Committee on environment and Public Works has acted promptly today to order this bill reported to the Senate for consideration. It appears the report will be filed Monday and hopefully the bill can be passed then or on the following day, Tuesday.

This prompt and overwhelming action could not have been accomplished without the full support of the distinguished Minnesota colleague of Senator HUMPHREY, Senator ANDERSON. Also, this bill would not be possible without the cosponsorship and the prompt action of Senator RANDOLPH and Senator STAFFORD, chairman and ranking Republican respectively of the Committee on Environment and Public Works.

In addition, Congressman QUIE and the Minnesota delegation have introduced a companion measure in the House of Representatives. It is my understanding that if the Senate passes S. 2169 on Monday or Tuesday, the bill will be held at the desk when it is received in the House of Representatives and passed on Tuesday after the House convenes.

The unanimous cosponsorship of this bill is a great tribute to the character and the achievements of HUBERT H. HUMPHREY. Much has been said about that already and will be said later.

But I would like to say that this is a bipartisan salute to a great man who has long believed and acted in a bipartisan spirit. It is a reminder that although we may disagree on specific issues, we can still work together in a bipartisan manner to hammer out solutions to the problems of our Nation—solutions that will hopefully be in the best interests of the American public as a whole. I have worked with Senator HUMPHREY on many

issues including food stamps, child nutrition, and farm legislation, and I know that he stands for bipartisan cooperation. I am pleased with the positive reaction of both parties to this salute and look forward to future efforts in that spirit in which Senator HUMPHREY is a part.

This is an overwhelming tribute to a great leader and individual. To quote from a recent Wichita Eagle editorial, "such admiration and affection cannot be restricted by party lines."

JAMES J. KILPATRICK: FARMING IS NOT ALL THAT GOOD

Mr. McGOVERN. Mr. President, Jack Kilpatrick's column in the October 6, 1977, edition of the Washington Star entitled "Corn at $1.23 a Bushel," demonstrates understanding of the everlasting optimism that characterizes the farm community even in the face of low farm prices, credit squeezes, and forced sales.

He captures the rhythm of those who feed us and others around the world. It would be helpful if more journalists would follow Mr. Kilpatrick's example in visiting with farmers before they write of farm issues.

I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 6, 1977]

CORN AT $1.23 A BUSHEL

(By James J. Kilpatrick)

HASTINGS, NEBR.—Here in the Midwest, corn and wheat farmers are suffering from an old agrarian ailment: The best of times and the worst of times turn out to be all the same thing. Nebraska growers have tremendous crops this year—and they're losing their shirts.

It is an immemorial custom, to be sure, for farmers to complain of hard times. But the grumbling this autumn is louder than usual. Inflationary forces have pushed up the price of everything the farmer has to buy; the inexorable laws of supply and demand have pushed down the price of what he sells. Scores of marginal farmers are giving up. On a recent Sunday, the Omaha World-Herald carried six columns of classified ads under the heading of "farms for sale."

Farming is just about everything out here. All day long and well into the twilight, farm machines, like dinosaurs, crawl clumsily across the chocolate fields. The beasts devour the dead corn, spitting silage from their long ungainly necks; their yellow headlight eyes search the dark land. For men and machines, farming is a task that knows no end.

In most years the task is financially rewarding. This year the figures tell a different story. It costs a Nebraska farmer from $1.50 to $3, depending upon various factors, to produce a bushel of corn. The University of Nebraska says $2.10 is a fair average. But the average price received by the farmer is headed toward $1.23. With every bushel he produces, he goes a little deeper in the hole.

There is talk of a general strike, but few persons take the talk seriously. A couple of thousand disgruntled growers went to Pueblo, Colo., a few weeks ago to give Agriculture Secretary Bob Bergland a hard time. Bergland had some warm sympathy for them, and some cool advice also: Forget the strike talk. He wants Midwestern growers to reduce their production in 1978, and to store the grain, they can't sell now. This too will pass.

The country radio stations crackle with gloomy predictions. A state senator says one of every ten Nebraska farms will be sold a year hence. The papers carry ads for farm auctions in Hastings, Norfolk, Atkinson, Wayne and Grand Island. When these topics get exhausted, a hailstorm or a few tornadoes come along. Country living ain't no sweet-smellin' bed of newmown hay.

Yet the wonderful thing about this region is that nothing really chills the Midwesterner's love of his land. This correspondent happened to wander through Nebraska just as the 50th annual Ak-Sar-Ben livestock exposition was under way. The papers were filled with photographs of the 4-H winners. A 15-year-old named Kevin Mobley had produced the grand champion market lamb. Fourteen-year-old Kathryn Wiese had the champion Hereford. A pleasant feature story dealt with 11-year-old Shelly Olson of Milford, the fifth of the Don Olson children to enter prize-winning Holstein cows.

You are never going to discourage these young people. Many of them will go off to college, and some of them will yield to the allures of urban life, but the pattern of family farming changes little year by year. In the worst of times the emigration rate is higher: More sons go off to the city to sell cars or real estate or insurance. Things improve and they tend to drift back. Farming demands immense capital these days, and not only capital: farming has become a highly skilled profession in which the inefficient producer gets plowed under.

An Eastern visitor listens to the grumblings, sympathizes with the low prices, and understands the economic woes. But a visitor is more deeply impressed by the rich land, and by the insatiable machines, and by the faces of the 4-H youngsters. The prairie people have survived worse hardships than corn at $1.23. They will make it through the next growing season, and through further autumns as far ahead as the eye can see.

SYMPOSIUM EXPLORES POSSIBLE SOLUTIONS TO OVERREGULATION

Mr. CURTIS. Mr. President, a very significant panel discussion took place recently at a symposium sponsored by the National Ingredients Association.

My administrative assistant, Mr. Don Shasteen, participated in the discussion and made a proposal which has my wholehearted support and which warrants serious consideration by the leadership of the Senate.

The proposal offers a practical approach for dealing with the problem of government regulatory extremism.

Three other persons with first-hand knowledge of regulatory problems gave their views of the need for proper action.

I ask unanimous consent to have printed in the RECORD a copy of an article which appeared in the October 3, 1977, issue of Feedstuffs newspaper summarizing the discussion.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SYMPOSIUM EXPLORES POSSIBLE SOLUTIONS TO OVER-REGULATION

(By Wayne Anderson)

LAKE OF THE OZARKS, MO.—A Regulatory Accountability Project (R.A.P.), designed to develop and apply procedures in government for making regulators accountable for their actions, was proposed here last week during the National Feed Ingredient Assn's annual convention.

Don Shasteen, legislative assistant to Sen. Carl Curtis (R., Neb.), announced the proposal in a presentation to NFIA's Scientific Advisory Council symposium. He was one of four panelists who addressed themselves to the problems of government over-regulation in a session entitled "Legislators and Scientists—The Dosage Makes the Difference."

Others appearing on the panel included: Dr. Robert Spitzer, president, Milwaukee School of Engineering and senior advisor, food and agriculture, Allis Chalmers Corp.; Dr. Robert H. White-Stevens, chairman, Bureau of Conservation & Environmental Science, Rutgers University, and Dr. Stephanie Crocco, food scientist, American Medical Assn. John Megown, vice president and director of marketing and public affairs, Vigortone Products Co., was chairman of the session. Wayne Anderson, managing editor Feedstuffs was panel moderator.

Shasteen, in making the R.A.P. proposal, said the basic problem in government today is that decisionmakers are not adequately informed on the issues, and are not trained in scientific inquiry. Compounding the problem, he said, scientific speculation too often becomes scientific fact, due to misinterpretations by both the mass media and their readers. He also said there are too many so-called "experts" influencing decision-makers, as well as too many overly-ambitious regulators.

Shasteen said the R.A.P. proposal would make regulators accountable to both "the American people, for whom they work, and Congress, from which they derive their authority."

He said Congress should first put a moratorium on the issuance of all new regulations and new legislation, with provisions for emergencies, to give Congress and the nation a "chance to catch its breath. We could bring in scientists representing all differing points of view to learn what they are thinking. And we could do something really meaningful—we could listen to the people to find out what they want and need," Shasteen said.

For new regulations, Shasteen said two concepts should be mandatory: A "sunset" provision causing them to expire at the end of a set period of time unless revised and reapproved, and a "sunshine" provision allowing the public to know what is being planned long before those plans take effect.

GOVERNMENT GROWTH

Spitzer, looking at government growth and world population growth, said government has grown too much because most in business and agriculture have largely ignored it. He pointed to preoccupation with our own problems, the demise of rural influence in Congress, and a lack of moral leadership as some of the more specific reasons for government bigness.

To change this trend, Spitzer said we must become better informed on the issues, work for change through our local and state groups, associations, civic contacts and the media and realize that business and agriculture must do a better job of presenting their cases to the public.

Turning to world food problems, Spitzer said the world population is on a geometric course, and hunger is a way of life in more than 80 lesser developed countries. The U.S. must realize it cannot feed the world, but it can help other nations feed themselves, he said. Noting that many countries suffer 10–30% post-harvest loss, Spitzer said the U.S. cannot afford a "pre-harvest loss" of 10% or more due to the outlawing of antibiotics and other additives in animal and plant agriculture.

ANTI-SCIENCE MENTALITY

Presenting the scientist's viewpoint, White-Stevens said there seems to be an anti-science mentality in society today, with the overriding issue pitting scientific technology against social humanitarian rights. This mentality particularly affects food, fiber, shelter and energy production, he said, and these four areas, paradoxically, are the main supports of the U.S. today.

In 25 years the world must treble food and fiber production, an increment greater than that of the past 25,000 years, White-Stevens said. If the U.S. fails to meet the food-fiber-energy challenges by 1985 or 1990, he warned, the country and the world face a "depression far greater than that of the 1930s."

Trends in government regulation of scientific technology in agriculture are becoming a serious problem for farmers, the nation and others who depend on the U.S. for food and fiber needs, White-Stevens said. The farmer, through his own proficiency, has become a political minority, yet his importance to the nation is more significant today than ever before, he said.

Turning specifically to regulatory attitudes regarding antibiotics, White-Stevens said recent legislative and regulatory developments are particularly disturbing to scientists because they "are not based upon scientific, objective experimental evidence, but rather upon unsupported suppositions, hypotheses and the fear of the unknown."

Ms. Crocco, former editor and now a contributing editor of Food Engineering magazine, said the well-informed consumer is the food industry's best friend—in effect, the "bottom line" for the food industry.

The problems facing food communicators, she said, include some consumer advocates who abuse the power of the media, and a lack of training in food chemistry on the part of some communicators. The result is bad information, she said.

Food communicators today are, in the final analysis, reporting more and more on politics, Ms. Crocco said, point to saccharin, nitrites and diethylstilbestrol as examples. They also face the problems of limited time or space in which to report on highly technical subjects.

The saccharin issue has helped greatly in educating the public about assessing risk versus benefits, she said, and hopefully it will help educate consumers about other food-related issues.

DELANEY CLAUSE

Anderson, in summarizing the discussion, centered his remarks on the Delaney Clause to the Food, Drug & Cosmetic Act. The anti-cancer clause has several flaws, he said, including:

It was a social decision, made with inadequate scientific input;

It's "zero tolerance" concept, seeking to guarantee absolute safety, is impossible to prove, scientifically or logically;

Increasingly sophisticated assay procedures have made the "zero tolerance" concept impossible to live with;

Its failure to recognize that almost all elements and compounds are carcinogenic at some level or under some condition.

TWO EFFORTS

Two lines of effort seem essential in solving the problem created by the Delaney Clause, Anderson said. The public, including legislators and the courts, must be educated, and the law must be modified to allow latitude for reasonable, scientific thinking while still preserving the basic intent of the law.

The need must be explained for a comprehensive benefit-risk assessment which allows scientific judgment of (1) the level at which a chemical is safe to use, and (2) acceptable trace residue tolerance levels in food products which are safe for human consumption, he said. "The benefit-risk debate must be expanded, with all segments of animal agriculture, as well as scientists, involved. Consumers and lawmakers are in most cases far removed from the use of chemicals in animal feeds and human foods. They need accurate, understandable information; they must see the benefits as well as the risks.

THE GSA ART-IN-ARCHITECTURE PROGRAM

Mr. PELL. Mr. President, as chairman of the Subcommittee on Education, Arts, and Humanities, I believe that the Federal Government should play a more substantial role in increasing the awareness of our society in the arts.

In this regard, I am greatly encouraged by the progress, attitudes, and actions of the Carter administration. Specifically, I greet with real enthusiasm the announcement made by the Administrator of the General Services Administration, Jay Solomon, that he is revitalizing the art-in-architecture program of GSA, Administrator Solomon in concert with the wife of the Vice President, Mrs. Mondale, announced that GSA has commissioned 55 works of art at a cost of $2.8 million for Federal buildings across the country since 1972. More importantly, Mr. Solomon stated that it is the new policy of the Carter administration to raise from three-eighths to one-half percent the amount of money that would be expended for decoration and new works of art that would include not only new construction of Federal buildings, but those existing Federal buildings that are undergoing repair and alteration, including historic landmarks. Also, GSA would add art works to existing Federal facilities.

Mrs. Mondale said:

Under Jay Solomon's guidance, GSA has taken up President Carter's challenge to bring the arts into all areas of government. A new phase of support for the arts is beginning: A time when an awareness and appreciation of America's cultural life will be seen not only at the two endowments but in every federal agency.

It is my understanding that the new GSA art-in-architecture program will expand the range of public art to include new forms of art such as photographs, ornamental grills, woodwork, brickwork, and stained glass. Also, a greater variety of craft work will be part of the program.

The GSA program will accelerate efforts to include art projects at an earlier point in building design, placing art and architecture at the very beginning of that process.

It is my opinion that Mr. Solomon's foresight in committing an allocation of Federal funds for establishing programs for public art will be supported by other agencies in the Federal Government and State and local governments. It is my hope that Mr. Solomon will continue to break new ground in the area of Federal support for the arts. I would hope that the major Federal buildings which are across the country could become minimuseums that would display a substantial body of public art. I applaud Mr. Solomon's statement:

I am convinced that the government has a responsibility—an obligation—to experiment, to innovate, to be a testing ground for new ideas.

On September 17 there appeared an editorial in the New York Times which I ask unanimous consent to have printed in the RECORD at this point with my remarks, an editorial entitled "Ups and Downs With the Arts." This editorial discusses the gyration of our past Federal arts program but points with pride to the policies of the Carter administration, but, most specifically, to those of GSA. I also ask unanimous consent to have printed in the RECORD at this time other articles that appeared in the press relating to the art and architecture program announcement by Mrs. Mondale and Mr. Solomon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 17, 1977]

UPS AND DOWNS WITH THE ARTS

There is a certain relaxed satisfaction in the public attitude toward the arts today: They're doing fine, thank you; creativity and attendance have never been greater; more people go to museums than to baseball games. The arts are indeed flourishing, regionally, nationally and internationally—but they still rest on a shaky economic base. The world-famous Edinburgh Festival, for example, had to cancel performances in a drastically underfunded program this year, while the Edinburgh City Council handed over land needed for an opera house to hotel developers. It was no contest between art and commercialism.

Sometimes cultural institutions resort to remedies that seem borrowed from a Woody Allen movie (no mean art form in itself). London's Tate Gallery will hold a lottery in order to buy two 18th-century paintings, offering a 51-piece Wedgwood dinner set and an Austin Mini automobile as prizes. The hope is that creativity and consumerism can make it together.

On this side of the ocean the news is a little better in at least one area of the arts. The General Services Administration, the agency in charge of all Federal buildings, has announced an increase from three-eighth to one half percent in the portion of the construction budget devoted to the commissioning or purchasing of works of art. Federal expenditures on art have fluctuated wildly, from a high of $2 million in 1974 to a low of $200,000 in 1976. And while one half percent is not exactly a princely sum (in West Europe the figure ranges from 1 to 2 percent), the important thing is that it has gone up, not down.

But Federal arts programs have always gyrated like a yo-yo—usually with a four-year spin up or down. And although the General Services Administration, with the help of the National Endowment for the Arts, has been picking outstanding examples of major American artists and installing innovative work, this does not improve the quality of some of the buildings it has commissioned. For too many, no esthetic salvation is possible. But there is an occasional

winning combination, such as the superb Mies van der Rohe Federal buildings and Alexander Calder sculpture in Chicago; and any government that has the wit and spirit to put up Claes Oldenburg's Batcolumn (baseball bat as classical column, also in Chicago) can't be all bad. Administrations and city councils come and go but the arts go on forever. Let's hope.

[From the Washington Star, Sept. 9, 1977]

THAT BUILDING ARTS PLAN OF GSA IS BACK

(By Benjamin Forgey)

In a bit of good, hard news for the arts community, the General Services Administration has announced the revitalization of its 15-year-old, up-again-down-again art-in-architecture program.

GSA administrator Jay Solomon with Joan Mondale nodding her approval at each word, enthusiastically embraced a program that fell upon bad days in the last months of the Ford administration, and stated a list of changes designed, he said, to expand and improve it.

Solomon said GSA has again raised the amount to be spent on art by 25 percent, from three-eighths to one-half of one percent of building costs. More significantly, since actual expenditures on the program generally did not achieve one-half of one percent of costs even when that was official policy, Solomon announced that from now on the art money cannot be reduced without written permission of the commissioner of the Public Buildings Service. "We're going to treat art just like bricks or glass or anything else," he said.

The scene for the remarks was carefully set in the art-filled hallway of the vice presidential residence, preceding a luncheon hosted by Mrs. Mondale.

The art-in-architecture program, begun under President Kennedy, has been like a "yo-yo" over the years, Solomon admitted. It was brought to a stop by controversy (over a Robert Motherwell mural in Boston) and the Vietnam war almost before it fairly got started. Then it was resurrected during the second term of the Nixon administration and went full steam for three or four years. Since 1972 the agency has spent roughly $2.8 million for 55 art works in all regions of the country.

But in 1976 the program experienced another of its periodic downs when controversy flared over a colorful sculpture commissioned from George Sugarman for the plaza in front of a new federal courthouse in Baltimore.

Solomon said yesterday that both GSA and the arts endowment were now looking for ways to commission things other than just large-scale murals and sculptures, such as crafts objects of all kinds, furniture, and decorative accessories, such as windows.

New construction by the federal government no longer is keeping pace with the boom of past decade, GSA, Solomon said, will be restoring and rehabilitating older structures not currently in use, and fixing up old government buildings once slated for demolition.

A Louise Nevelson sculpture, at $178,000, for the Byrne Federal Court House.

A David von Schlegell fountain, at $175,000, for the Byrne Federal Court House.

A Charles Searles mural, at $30,000, for the Green Federal building.

A pair of Al Held murals, at $126,000, for the U.S. Social Security Administration building.

The current head of the General Services Administration (GSA), Jay Solomon, announced plans last week at a press conference to expand this art-in-architecture program.

The first step, he said, is increased funding. We will now earmark a half of one percent of the construction cost of a new building for art, he said. (When the art-in-architecture program was instituted during the Kennedy years in 1962, a half of a percent was designated for art. However, the percentage was reduced by a subsequent GSA administrator.)

Solomon said he plans to broaden the program to include the neglected arts—crafts, ironwork, woodwork, environmental art and photography.

Also, the GSA will look to already existing structures, not just new buildings, he said.

That includes:

—Existing Federal buildings for which fine arts had been planned, but never implemented.

—Existing Federal buildings undergoing repair and alteration, as well as "special" cases of older federal buildings where fine arts were never considered an integral part of the architectural design.

One of the main criticisms of the GSA program is that artists were always called on *after* the building was well under way. Philadelphia's four projects all suffer from poor placement, making the works look as if they were stuck on as an afterthought.

According to Solomon, the new guide lines specify that art proposals be developed when the building is in its initial planning stages.

Whatever one has to say about the quality of works selected by past GSA panels, one cannot fault the present GSA administrator for wanting to beef up the program. However, one would hope that the artist selection process is more selective. It has not always been so.

Why is Solomon expanding the art-in-architecture program?

"I am convinced that the government has a responsibility—an obligation—to experiment, to innovate, to be a testing ground for new ideas," he said. "By making more funds available for commissions, we will insure that the American people will always have a substantial body of public art."

[From the Philadelphia Sunday Bulletin, Sept. 18, 1977]

UNCLE SAM, THE PATRON, REGROUPS HIS GUIDELINES

(By Nessa Forman)

WASHINGTON.—Uncle Sam has been called a modern-day Medici, commissioning 130 artworks for 4 million in the past 15 years. Philadelphia has seen $400,000 of that largesse when four artworks were dedicated here:

[From the Tennessean, Sept. 18, 1977]

CRITIC SHARES VIEWS WITH JOAN MONDALE

(By Clara Hieronymus)

In a news story from Washington last week I reported on a conference at the Vice President's home, at which the General Services Administration's expanded art-in-architecture program was announced.

What follows in this column today relates to the luncheon hosted by Joan Mondale, and to the Victorian mansion which is the official residence of the Vice President.

The 20 art journalists and ten GSA staff members and Mrs. Mondale were seated at three round tables, each set for ten, in the dining room. Like the other rooms on the ground floor this high-ceilinged, light-filled room had walls the color of fresh cream. The tables were covered with crisp white, to-the-floor cotton cloths imprinted with cornflower blue paisley motifs.

On each of the tables the centerpiece was a blue and white stoneware crock filled with garden flowers—one had white snap dragons and white roses, the others had pink or yellow, all fresh, informal and unpretentious. The luncheon menu included tomato bisque, crepes stuffed with crabmeat, green salad, apricot charlotte russe and an excellent Beaujolais.

In order to visit with her guests, Mrs. Mondale moved to each of the tables as the courses changed. The honor guests were Jay Solomon, GSA administrator, and his wife Rosalind (famed in her own right as photographer and arist) and daughter Linda.

Among distinguished art writers were Ada Louise Huxtable, architecture critic for the New York Times, Phoebe Stanton, art and architecture critic for the *Baltimore Sun*, and Henry Seldis, art critic for the *Los Angeles Times*.

Solomon, as we noted in the earlier story, was born and brought up in Chattanooga and is a Vanderbilt graduate. Another Tennessee "connection" at the luncheon was Carel Yasko, counselor to the Public Buildings Service for fine art and historic preservation. On being introduced to this Tennessean, Yasko said his first architecture commission was for a mausoleum. He had met Leslie Cheek in Virginia when he finished his architectural studies, and Cheek had commissioned him to design the Nashville tomb for his parents, the senior Leslie Cheeks.

Mrs. Mondale, in a grayed lilac linen jacket and gray linen skirt, was warm and friendly, an easy-mannered host with a genuine enthusiasm for art. This was not a new interest with her, nor one taken up with any view of impressing others.

Bess Abell, her executive assistant, said that during the campaign tour around the country, Mrs. Mondale always knew where there was a museum or gallery, or an exhibit of arts or crafts. "She was a marvelous docent, and I was a willing listener," Mrs. Abell said, conceding that her own background hadn't included that much exposure to art. "But this was a joy. All campaign headquarters look alike, and going to museums with a knowledgeable guide was certainly a pleasant change."

Mrs. Mondale worked at the Minneapolis Institute of Arts, cataloging prints and teaching children's art classes while she was a student at Macalester College. After graduation, she worked as an assistant slide librarian at the Boston Musem of Fine Arts, and later as an assistant in education at the Minneapolis Institute of Arts, giving guided tours and lectures.

She continued her interest in art when she moved to Washington by giving weekly tours at the National Gallery of Art and taking pottery lessons from a master potter. In 1972 she wrote *Politics in Art*, a non-fiction book on the close relationship between the concerns of the artist and those of the politician. "Both deal with human emotions and human conditions. Both seek to tell us about the good and the bad around us. The artist often dramatizes the same need for change and improvement for which the politician is seeking answers."

It is her conviction that art is no longer just looking at a painting in a museum. "It's for everyone, everywhere. It is the total range of creativity—the way of finding one's own private world."

On a console in the foyer of the Mondale house was a Cherokee basket filled with magnolia leaves and cornshuck magnolias. Along-

side it were a clay pitcher by Charles Counts of Rising Fawn, Ga., but claimed by his friend Jay Solomon as a Chattanoogan; an earthenware "bean jug" by Jugtown potter Vernon Ray Owens, Norman Smith's stoneware canister, and baskets by Lucy George and Lizzy Youngbird, both of North Carolina.

On the mantel were polished black pots by the legendary Maria Martinez and other pots by Toshiko Takaezu, whose works have been exhibited here at both Peabody and Vanderbilt and who served as judge for the Tennessee Artist-Craftsmen's Association crafts festival in Centennial park last year.

Actually all the main floor rooms of the house are a repository for contemporary American art which looks absolutely splendid in this exuberant, late 19th century residence.

The Vice President's house was constructed in the 1890s, exactly 100 years after the cornerstone of the White House and Capitol were laid. Designed by Washington architect Leon Dessez as a residence for the Naval Observatory Superintendent, it has been occupied by the Chiefs of Naval Operations in recent years. In 1974, Congress designated it the official residence for the Vice President.

Two of its most distinctive architectural features are the wide veranda that curves around the house and its Romanesque tower that rises on the southeast corner. The ground floor has a spacious entrance hall which opens to a living room, a sitting room, and the dining room. The kitchen, incidentally, is in the basement.

I did not learn who the decorator was when the house was readied for the Rockefellers in 1974–75, but it masterfully arranges traditional furniture in a contemporary way. Draperies are the same light, bright cream color as the walls, and floors are bare except for bordered but unpatterned area rugs in a slightly deeper shade of the wall color.

Marvelous works of art by contemporary American artists are on a year's loan from museums in Minnesota, Iowa, Michigan, Nebraska, Wisconsin, Kansas, New York and Washington. The individual selections represent an effort to reveal something of the breadth and diversity of recent American art.

In the dining room is a strikingly primitive-looking bronze sculpture by Isamu Noguchi; standing more than 6 feet in height, *Mortality* is on loan from the Walker Art Center in Minneapolis. Equally exciting is a black-painted wood sculpture by my own favorite, Louise Nevelson, from her *Rain Forest* group.

An exquisite painting by Adolph Gottlieb fills one of the angled walls in the living room; called *Trio*, its ground color is ochre gold, and one of the three discs that give it its title is richly red. On the day of the luncheon that part of the room glowed from the color in the painting, with its red disc echoed in a bowl of red roses from the garden and the red-painted maquette of Claes Oldenburg's *Batcolumn*.

Other major figures of modern American art included here are Josef Albers, Milton Avery, William Baziotes, Willem de Kooning, Charles Demuth, Edward Hopper, Jacob Lawrence, Robert Motherwell, Georgia O'Keefe, Charles Sheeler and Mark Tobey.

Hans Hofmann is represented, so are Jasper Johns, Roy Lichenstein, Andy Warhol, Mark di Suvero, Robert Rauschenberg and James Rosenquist, among the 52 Americans.

All are memorable, along with some other lingering and pleasant recollections. I enjoyed hearing Jay Solomon say there would be increased emphasis on crafts in the art-in-architecture program, and I will always enjoy recalling the huge, green-speckled pumpkin that stood on the porch at the top of the front steps.

It seemed so warmly appropriate to this rambling Victorian mansion and such a beautiful work of art in its own right that I commented on it to Mrs. Mondale who had walked out on the porch with me after the luncheon. "Yes, it is grand, isn't it?" she said, smiling. "We have ten tons of pumpkins in the garden." Here she waved an arm to indicate the garden which was just out of sight over a sloping terrain. "We'll have to find a cool place to store them in so they'll last until Hallowe'en. We'll have a lot of fun with them.

It all seemed neighborly, friends sharing a pleasant goodbye on a Victorian front porch in the green and gold afternoon of a September day.

[From the Washington Post, Sept. 8, 1977]

A BOOST FOR THE ARTS

(By Jo Ann Lewis)

Joan Mondale and the head of the General Services Administration are expected to announce jointly today the restoration of the "One-half of 1 Per Cent for Art Policy" of the GSA's wide-ranging Art-in-Architecture program.

The program, which allocates a portion of the budget of each new federal building for sculpture, murals and other art works, was cut to three-eighths of 1 per cent by the previous GSA head.

The reinstatement of the previous funding level is likely to be seen by the arts community as the first solid dollar commitment to the visual arts by the Carter administration.

The announcement, scheduled to be made at a press luncheon today called by Mrs. Mondale to introduce Jay Solomon, whom President Carter named to administer the GSA last spring, would mean hundreds of thousands of dollars in commissions for artists, craftsmen and arts-related workers such as fabricators and welders.

The Art-in-Architecture program has already financed the placement of major sculptures in many cities, including an Alexander Calder in Grand Rapids, Mich., a George Sugarman in Baltimore, the Claes Oldenburg "bat" in Chicago, a Louise Nevelson work in Philadelphia, and two pieces at the new Labor Department building here in Washington.

In fiscal 1975, the program spent a total of nearly $2 million, for 31 works connected with the construction of 20 buildings.

In fiscal 1977, $893,400 was available for commissions under Art-in-Architecture, although only about $200,000 had been spent as of last spring. Commissions came to a virtual standstill when the agency, under former administrator Jack K. Eckerd, asked that a study of the program be undertaken. That study led to the reduction of the program to three-eighths of 1 per cent.

The "One-half of 1 Per Cent for Art" policy will also be extended to buildings undergoing repair and alteration, such as Washington's Old Post Office on Pennsylvania Avenue, soon due to undergo an $18-million facelift.

That could mean as much as $90,000 in new art commissions for that building alone. During fiscal year 1976, GSA spent $75.5 million on alteration and repair, a potential $377,000 more for art.

Since Solomon's arrival at GSA, he has taken several steps to loosen the backlog of art projects in the agency. New art commissions are now underway in locations as disparate as Charlotte Amalie, the Virgin Islands and Anchorage, Alaska.

In Dayton, Ohio, the GSA has just commissioned light sculptor Stephen Antonakos to do a 60-foot-long wall sculpture in neon on the facade of a new federal building there. Antonakos is featured prominently at the current avant-garde "Documenta" exhibition in Kassel, Germany.

Solomon recently transferred title of all sketches for works commissioned by GSA since 1974 to the National Collection of Fine Arts here, thereby making them windfall owners of maquettes by Calder, Nevelson, Sugarman and Mark di Suvero, as well as collages, prints and drawings by other artists Frank Stella and Oldenburg.

With the encouragement of Mrs. Mondale, Solomon recently added handcrafted objects to the federal supply catalog, thereby making it possible for government offices to order handmade ceramic ashtrays instead of only those stamped from plastic.

Mrs. Mondale has been a supporter of GSA's "Art-in-Architecture" program since her husband took office as Vice President. She has spoken publicly on behalf of the program on at least two occasions, when she officially dedicated Oldenburg's "Bat Column" in Chicago, and a large mural by Al Held (among other works) in Philadelphia, all commissioned by GSA. Rosalynn Carter also spoke in behalf of the program when she dedicated a new federal building in Honolulu last June.

[From the Tennessean, Sept. 10, 1977]

INCREASED FUNDING: THINGS LOOKING UP FOR ART, ARTISTS

(By Clara Hieronymus)

WASHINGTON.—Things are looking up for American art and artists, judging from the attitude of the U.S. General Services Administration toward painting, sculpture, and other art forms including crafts.

In an announcement made at a luncheon for art journalists in Vice President Walter Mondale's home Thursday, Jay Solomon, Administrator of General Services, said a new federal art-in-architecture policy not only includes increased funding but specifies that such funding cannot be deleted as a cost saving measure in the construction of federal buildings.

He further stated that art projects would be incorporated into the initial design of new federal buildings.

Nor will the selection of artists and art be controlled by a disembodied office in Washington, remote from the community in which the building and its art will be located. Solomon said that when a construction contract had been awarded, his office would ask the National Endowment for the Arts to appoint a panel of art professionals to meet with the project architect to nominate three to five artists for each proposed work of art. This meeting will take place at the project site, with local representation.

At the luncheon hosted by Mrs. Mondale, Solomon said that the agency he heads has commissioned 55 works of art at a cost of approximately $2.8 million for federal buildings across the country. In the past the program has been limited to new construction, but now projects will be commissioned for existing buildings, making art possible for historic landmarks.

Of significance to artists is the fact that the expanded program requires dealing directly with the artist, and the funds for commissioned work include all costs for models, carvings, basic materials, crating, shipping, insurance, installation, and other costs as well as the artist's fee.

Also, once the work has been accepted and installed, GSA assumes permanent responsibility for its use and maintenance. This makes it, in essence, a permanent national treasure, which should be reassuring to the artists as well as to the communities in which their work is to remain.

It should be noted that the key word with respect to art in architecture, is "commissioned." Solomon stressed that the funds are not to be used to purchase existing works from the past, but to commission new works especially created for their settings.

As to the increased funding, the percentage of construction cost of federal buildings to be used for works of art has been raised from three-eighths of one percent to one-half of one percent. And such funding may not be deleted from cost figures without written permission of the Commissioner of the Public Buildings Service. From his comments at the press luncheon it may be inferred that such permission would be very unlikely to be granted.

"We're making it possible for artists to execute more commissions of a maor nature," Solomon said. He noted with some pride that GSA is presently the world's largest purchaser of new pieces of art today. "One of our purposes is to bring new people into the program and thereby to create important new art."

Solomon, who was born and brought up in Chattanooga and is a graduate of Vanderbilt University, said that one of "the charges I got from President Carter is to do what seems vital to our heritage."

It is very easy, he added, for the government to go into a community and put up a new federal building, "but it is of much more consequence to do something extra. With fine art, landscaping, and architecture we'll be doing something for the community and its future, adding something important to its heritage."

There is still another change in program with respect to art-in-architecture. Not only does the program pertain to new construction, but to existing federal buildings for which fine art had been planned but was not implemented, and to existing federal buildings undergoing repair and alteration, and to older federal buildings where art had never been taken into consideration as an integral part of the architectural design.

Solomon made other welcome observations about the programs interest in "humanizing public buildings." He said that it was essential to incorporate art and the kind of commercial amenities that make these buildings "live at night when their offices are closed. There will be good art to look at, shop windows to look into and many commercial adaptive uses on the ground floors in many of them. The old Post Office building in Washington, for example, will even have an ice-skating rink on the main floor, along with shops and other public areas."

Maquettes of recent sculptural commissions by the General Services Administration were on display in the public rooms of the big Victorian mansion in the grounds of the Naval Observatory, which serves as the home of the Vice President.

One of these was an exquisite scale model of a 3-part white-painted wood sculpture group by Louise Nevelson, Bicentennial Dawn, which was commissioned for the Courthouse and Federal Building in Chicago. Serving as a pedestal for the work was a polished mahogany dining table, moved into the foyer for the occasion. A permanent gift to the Vice President's residence, it came from Nelson Rockefeller's boyhood home. "He ate at this table when he was a child," a GSA aide explained. ("From a silver spoon, no doubt," was a reporter's irreverent rejoinder.)

Other maquettes represent sculpture by George Rickey, Claes Oldenburg, Tony Smith, Peter Voulkos, and Bruce Beasley. A list of artists whose commissioned works are already in place since the art-in-architecture program was initiated five years ago reads like a roster of top American artists.

Among them are Leonard Baskin (whose bronze reliefs of three Tennessee presidents are in the federal building here in Nashville), Lin Emery (who had a show of her kinetic fountains at Cheekwood several years ago), Mark di Suvero, Alexander Calder, George Segal, George Sugarman, Jack Youngerman, Al Held, Richard Hunt, Tony Smith and Frank Stella.

The 20 art writers who were Mrs. Mondale's guests at the luncheon meeting included Ada Louise Huxtable, architecture critic for the New York Times; Jo Ann Lewis, art critic for the Washington Post; David Cooper, art critic for the Detroit Free Press; and art critics from Los Angeles, Baltimore, Philadelphia, New York and * * *

"A new phase of suport for the arts is beginning," Joan Mondale said, "a time when an awareness and appreciation of America's cultural life will be seen not only at the two endowments but in every federal agency."

Mr. PELL. Mr. President, I welcome this new phase of support for the arts. It appears to me that at last we have an Administrator of GSA who is willing to do something which is vital to our heritage and in the process humanize our public buildings. Many of us in the Congress have been critical of the monument style of Federal construction that has prevailed in the past, and we are pleased that Administrator Solomon intends to break with the past and introduce environmental art and architecture in both the new building program of the GSA and also the repair and alteration of historic landmarks.

DR. GEORGE C. COTZIAS

Mr. JAVITS. Mr. President, on June 13 of this year, the medical community lost a valued and widely honored member. Dr. George C. Cotzias' outstanding research in the control of Parkinson's disease through the use of L-Dopa therapy has benefited thousands of victims of this neurologic disease.

A citation to Dr. Cotzias by the Harvey Society in 1972 disease:

One of the major therapeutic contributions of this generation is the discovery that dihydroxyphenylaline (Dopa) can reverse most or all of the major manifestations of Parkinson's disease. Dr. Cotzias' remarkable achievement came only after a long series of fundamental investigations into the metabolism of the brain. This specific and marked effect of Dopa has stimulated many other investigations to find potentially similar answers to other unsolved neurological diseases.

I ask unanimous consent to print in the RECORD an obituary which appeared in the New York Times about Dr. Cotzias.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 14, 1977]

DR. GEORGE C. COTZIAS, NEUROLOGIST WHO DEVELOPED L-DOPA THERAPY

(By Lawrence K. Altman)

Dr. George C. Cotzias, an internationally prominent neurologist who developed L-Dopa therapy for Parkinson's disease, died of lung cancer yesterday at Memorial Sloan-Kettering Cancer Center here, where he had taught, cared for patients and did research. He would have been 59 years old on Thursday.

Hospital officials said arrangements were being made to fly Dr. Cotzias's body to his native Greece, where a state funeral is planned because his scientific achievements added to the reputation of the Cotzias name there He fled Greece in 1941 with his father, Constantine, who was Mayor of Athens before and after World War II and whose statue stands in front of the Athens City Hall.

When L-Dopa was introduced into the practice of medicine in 1970, Dr. Cotzias was hailed by his colleagues for making the most important contribution to the medical therapy of neurological diseases in 50 years. And yesterday, Dr. Lewis Thomas, president of the Memorial Sloan-Kettering Cancer Center, said that the neurologist "was one of the great figures in American medical science."

Dr. Cotzias' research was considered revolutionary on two fronts. First, Parkinson's was changed from a disease that sometimes could be improved by brain surgery to one for which drug therapy benefited millions throughout the world. L-Dopa therapy, in effect, helped to overcome the deficiency of dopamine that occurs in the brains of Parkinson's patients.

INCENTIVE TO RESEARCHERS

Also, Dr. Cotzias' work opened up new ways of approaching potential cures for other chronic neurological diseases by giving researchers the incentive to first seek specific biochemical defects and then to find ways to overcome the imbalance.

Although Dr. Cotzias was in and out of the hospital several times for treatment of his cancer and heart ailments, he was a relentless worker who remained productive until his death. When his cancer was diagnosed in 1973, he expanded his research interests to that field. Some of this work was reflected by his team's most recent scientific publication this year—three papers in the Proceedings of the National Academy of Sciences and one in Science.

Dr. Cotzias was born on Crete in 1918 and grew to be a tall, heavyset, affectionate man whose mind could quickly recall facts and yet be imaginative, providing the insights that led to his scientific success. He was flamboyant, rushing to hug his friends, for whom he invariably had a flattering word. Last January when he returned to help his Greek medical colleagues, he was a popular figure in the Greek news media.

IN ARMY BEFORE FLEEING

He began his medical studies at the National University in Athens. They were interrupted by service in the Royal Greek Army before he fled with his father, who was a leader in the Greek resistance movement against the Nazis.

When he arrived here, Dr. Cotzias was fluent in several languages but spoke only a few words of English. Several leading medical schools rejected his application. Persuaded by his father to persevere, he petitioned Harvard, where he spoke in a language common in his interviewer and himself. Harvard ac-

cepted him as an advanced student and he graduated second in his class in 1943.

After training in Boston hospitals, he spent five years at Rockefeller Institute here investigating manganese and other heavy metals that exist in trace amounts in the body. In 1953 he moved to the Brookhaven National Laboratory at Upton, L.I., to use the radioisotope, neutron activation and other techniques that could detect minute amounts of such metals in animals. He remained there until 1975, when he joined the staffs at Cornell University Medical College and Memorial Sloan-Kettering Cancer Center.

Dr. Cotzias' path to developing L-Dopa, which stands for levo-dihydroxy-phenylalanine, was indirect.

When the World Health Organization asked him to join a group investigating chronic manganese poisoning among Chilean miners, he recognized a strong similarity between their neurological symptoms and the rigid facial expression, clenched hands, and speech and balance difficulties that characterize Parkinson's disease.

Returning to Brookhaven, Dr. Cotzias picked up on work done by other researchers in this country and Sweden. For several years, his research led to blind alleys. Then, like others before him, he tried L-Dopa. But he succeeded where others had failed by prescribing the drug in much larger doses for longer periods of time. His confidence in the treatment was based on basic research that led to an understanding of the biochemical abnormalities underlying Parkinson's disease. And his trip to Chile paid handsome dividends; L-Dopa was effective against brain damage from manganese poisoning.

NOT FOR EVERY CASE

Now, L-Dopa is considered the drug of choice in the treatment of Parkinson's disease. However, it is not effective in all patients and sometimes the drug must be stopped because, despite its effectiveness, nausea and other side effects prove too toxic.

In Dr. Cotzias' expanded research in recent months, he studied L-dopa's effects on aging. In a controversial paper in the April 29 issue of Science, he and his associates reported that mice that were fed high doses of L-dopa in their diets had life-spans that were prolonged by up to 50 percent.

However, scientists say that much more work must be done before it can be learned whether this effect has any validity in humans.

Dr. Cotzias was a member of the National Academy of Sciences and other professional organizations. He received the Albert Lasker award for clinical medical research in 1969 and was honored by the American College of Physicians in 1974.

He is survived by his wife, Betty, a son, Constantin, a sister, Mrs. G. N. Drakopoulos, and a brother, Peter.

U.S. POLICY TOWARD SOUTHERN AFRICA

Mr. HARRY F. BYRD, JR. Mr. President, the southern African region is undergoing a period of rapid change.

The pressures for change are likely to continue and the United States must formulate a policy to accommodate these pressures and hopefully to encourage peaceful rather than violent change.

George W. Ball, former Undersecretary of State under Presidents Kennedy and Johnson has written an excellent article on the subject of U.S. policy toward South Africa.

This thought-provoking piece appeared in the October issue of the Atlantic Monthly magazine and I commend it to my colleagues.

I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ASKING FOR TROUBLE IN SOUTH AFRICA

(By George W. Ball)

Johannesburg, South Africa, is not Birmingham, Alabama, and the practical lessons of the civil rights movement in the United States do not necessarily apply to a society of monolithic racism. So argues the author, who feels that current U.S. policy must take into account some intransigent aspects of South African society. Mr. Ball's essay is followed on page 51 by a firsthand description of the facts of life under apartheid, from a South African journalist.

So long as the white redoubt of southern Africa held firm, South Africa presented no pressing problems for American policy. But when Portugal abruptly liquidated its empire, and Africans took over in Angola and Mozambique, the frozen pattern of the past was clearly disintegrating. Now, once Rhodesia and Namibia pass under black control, pressures for change in South Africa will intensify far faster than most of us had ever thought possible.

Because majority rule seems inevitable for Rhodesia, the Carter Administration is apparently determined that it shall be achieved in South Africa as well. The objective consistently affirmed by our Vice President, our secretary of state, and our ambassador to the United Nations is "full political participation by all South Africans." That is an adequately ambiguous formulation—or was, until the Vice President provided a precise translation. The phrase "full political participation" is, he told the press, the same thing as "one man, one vote"; for South Africa, it means "every citizen shall have the right to vote and every vote should be equally weighed."

Whether this was a considered statement of policy, or merely the extemporizing of a politician engaged in on-the-job training in diplomacy, it created dismay in South Africa, confounding liberal opinion and strengthening the arguments of the obscurantists.

In an effort to mitigate the damage, Secretary of State Vance said in a speech to the NAACP that "the specific form of government through which that [full political] participation could be expressed is a matter for the whole people of South Africa to decide." Hodding Carter III, the State Department spokesman, added, in an admirable effort at obfuscation, that "to focus on 'one man, one vote' exclusively simply distorts the meaning of our policy and intentions." The United States, he said, has "neither a timetable nor set-in-concrete proposals for what South Africa should do today, tomorrow, a week from now, or ever." But, "We clearly do believe South Africa has got to move toward a fully democratic system."

By submerging the issue in bearnaise sauce, the professionals thus tried to obscure the Vice President's excessive language. The United States, they made clear, recognized the necessary role of gradualism in South Africa's progress toward a wider suffrage, and while we expected South Africa to move toward majority rule (which the whites regard as a dead-end policy), we would leave it to the South African people to decide how that could be managed. Though this may have helped to restore American influence, it left American policy still fixed on an objective that depended in realistic terms on the blacks' winning a civil war through the active intervention of a great power. To commit ourselves, explicitly or implicitly, to such a disruptive scenario could hardly serve our national interest.

Before any false inferences are drawn, let me state unequivocally that in questioning the tactical wisdom of America's advocacy of majority rule for South Africa, I am not defending the prevailing system. In my view, no one sensitive to the humane traditions of the West can possibly condone the obscene practices of South African whites in their treatment of nonwhites currently subsumed under the broad rubric of apartheid. Those practices have no place in the life of a civilized nation, and they should be radically altered.

Most of them are not of long standing: indeed, until shortly after World War II, South Africa seemed to be moving toward a workable multiracial state through peaceful means. During most of the period up to that time, English-speaking South Africans had largely controlled the government, just as they controlled a substantial part of the economy and dominated the nation's cultural and social life. On the whole, they appeared to view South Africa as a country big enough to accommodate the various groups within its territories, and also as one capabale of playing a role on a larger stage as a part of the British Commonwealth. Dutch-speaking South Africans (Afrikaners), on the other hand, conditioned by an isolated rural background, saw their country in the narrower and more inward-looking terms of Afrikaner nationalism.

Within the English-speaking element were many men and women whose liberal idealism happily coincided with their political interests in their continuing struggle for power with Afrikaners. Because English-speaking South Africans are outnumbered by the Afrikaners, they have long seen the political advantage of giving voting rights at least to the coloreds (mixed descent) and to a limited number of blacks (less than enough to create a nonwhite majority). By the same token, in order to make their numerical majority effective, the Afrikaners have sought to limit the franchise strictly to whites.

A case in point is the Cape Province, where, beginning as early as 1856, blacks, coloreds, and whites who could meet common economic and educational qualifications were maintained on common voting rolls and voted on an equal basis. But in 1936, the Afrikaners pushed through a constitutional amendment that took the Cape blacks off the common rolls; twenty years later they succeeded in disenfranchising the coloreds as well.

The critical shift in the South African power balance occurred in 1948, when the National party, representing the Afrikaners, unexpectedly defeated the United party, which largely reflected the English-speaking element; in almost every election since then the National party has increased its majority. Since the Afrikaners are growing faster demographically than English-speaking South Africans, they are thus assured control so long as the voting franchise is limited to whites.

No doubt that partially explains the Afrikaners' interest in apartheid. In pursuing a strategy of denying blacks any role in national life, they have canceled South African citizenship for both blacks and coloreds, assigning the blacks to native reserves where the different tribes can be kept segregated from one another so as to frustrate the development of a sense of black nationalism. Meanwhile, white moderates have succumbed to the classical weakness of liberals; though they all recognize their country's lamentable predicament, they cannot agree on a solution. But what all whites do agree on—English-speaking moderates and hard-nosed Afrikaners alike—is that they will not

accept the formula of "one man, one vote" which our own government now seems to be demanding.

The inability of our new political leaders to face the realities of the South African scene suggests an ethnocentricity derived more from inexperience than from presumption. Many Americans—preeminently UN Ambassador Andrew Young—appear to believe that South Africa can transform itself into a happy multiracial state by applying the lessons of our civil rights movement. But that movement sought only to make effective the voting franchise and other rights accorded to American blacks by our Constitution and laws; its success resulted not merely because the judiciary took a strong line but because large elements in the white population—particularly those who lived in areas of the country with few black inhabitants—were ready to redress an old injustice.

Unfortunately, South Africa is not the American South of the 1960s, or even of the 1860s; its problems are of a special kind. Even the most rabid northern abolitionists did not threaten white southerners with the total transfer of political control to the blacks—which is what "one man, one vote" would mean in South Africa, where the blacks (together with the coloreds and Asiatics) outnumber whites four to one. To be sure, in three states—South Carolina, Mississippi, and Louisiana—blacks were a majority in the early 1860s, but, even had they been given effective suffrage, the white-controlled federal government would still have made sure that white interests were protected and that a majority continued to order the country's destiny.

Yet, in spite of all this, a Civil War was required to achieve merely the principle—emphatically not the practice—of "one man, one vote," and except for the aberrations that characterized the "Reconstruction Era, blacks did not begin to share political power for another hundred years. By then, tidal waves of migration to the North had eliminated majorities in every state of the union, so that today no state has a black population that exceeds 37 percent. Thus, the civil rights movement of the 1960s encountered less resistance than would have been the case earlier, since the white-controlled statehouses could restrict the power of any local black officials who might be elected.

Just as we should not derive a false lesson from our own national experience, we should not think of South Africans as though they were white settlers in a colonial situation. Inasmuch as the Dutch landed in South Africa in 1652, thirty-two years after the Pilgrims landed at Plymouth Rock—and well before the black tribes now in the area came down from the north—the claim of the fourteenth generation of Afrikaners to the territory of South Africa is as legitimate as the claim of Americans to the soil of New England. The Afrikaners are not colons with the option of returning home to some European metropole. They have no metropole: South Africa is their fatherland. They fought for their independence in the Boer War and they will not give up self-rule without a last-ditch struggle—a position sanctified by the stern doctrines of the Dutch Reformed Church.

That sharply distinguishes South Africa from the rest of the continent. No black African country has achieved its independence solely—or even mostly—by its own efforts; it has been awarded independence by a colonial power's decision to write off a wasting asset that was becoming too expensive to retain. But the Afrikaners will never give away control of their country to the nonwhites out of weariness or the logic of cost-effectiveness; they will die first.

If South Africa is not a colony, neither is it comparable to Rhodesia; there the ratio of blacks to whites is 20 to 1 (against 4 to 1 in South Africa), and whites number only 250,000 (instead of 4.5 million). Since a considerable proportion of white Rhodesian families have come there since World War II, primarily from Great Britain, they have a homeland to which they can return. So, when majority rule transfers political power to the blacks, a large number of whites will no doubt leave, particularly if—as seems likely—a protracted stalemate stimulates a bloody power struggle among contending black factions in which white Rhodesians would be casualties.

Obviously, such a struggle should be avoided in South Africa, and Ambassador Young deserves credit for risking his popularity during his meeting with the blacks in South Africa by urging them to see their objective of majority rule through nonviolence,[1] recounting how effectively leaders of the civil rights movement used the engine of economic boycott in Birmingham, Alabama. But what will happen when nonviolence fails to yield results? Without active assistance from a major power, the blacks will have no weapons but riots, which harm blacks more than whites, boycotts, general strikes brutally enforced by terrorist threats from their own extremist leaders and just as brutally broken up by government reprisals—then, in desperation, sporadic guerrilla action in a land poorly suited for that type of warfare.

Guerrilla fighters cannot prevail against the government's monopoly of military power. Its rigorously trained forces, equipped with modern weapons, total 48,000, and, with its reserves constantly replenished through compulsory military training, it could, in an emergency, mobilize 200,000 men in a few hours.

Countries such as South Africa and Israel that grimly contemplate what they interpret as either an Armageddon or a Masada are fascinated by the absolute weapon. South Africa has apparently traded uranium with Israel for nuclear assistance, at least for peaceful uses. (The United States has also supplied enriched uranium to South Africa for experimental purposes, but, Soviet accusations to the contrary, has gotten back all of it.) Nonetheless, the South Africans have probably produced enough plutonium for at least one bomb. They emphatically deny that they intend to build or test a nuclear bomb "now or in the future." Still, the capability and temptation are there, so the possibility cannot be dismissed entirely.

While it would create a fierce uproar throughout the Third World, the development of a South African nuclear bomb would not hold the same terrors for Africans that Israel's purported nuclear weapon holds for the Arabs. Not only could an Israeli bomb play havoc with a conventional attack, but the great Arab cities are open and vulnerable targets. A South African bomb, on the other hand, would be of little use against guerrillas. Even the possibility of a South African nuclear capability adds one more imponderable to be factored into American diplomacy. To accept Pretoria's promise of atomic restraint in return for diminishing our pressure on its racial or political policies would be to yield to nuclear blackmail. Thus we are reduced to threats, expressed or implied, to halt the flow of enriched uranium for South Africa's experimental reactor and to support UN efforts to impose mandatory military and economic sanctions.

Such threats would have only limited persuasive value, and refusing to sell military equipment to South Africa can have little effect. It is, after all, self-sufficient in the production of small arms, and the French government, in spite of its antinuclear position, can probably be counted on not to halt its conventional arms shipments to that country. Nor will we, by economic or political excommunication, persuade white South Africans to accept majority rule. Nonwhites would suffer most from the unemployment caused by our sanctions, and recession would sour the climate for constructive action.

To throttle the effectiveness of our own companies by forbidding further American investment would merely nullify a helpful influence. That they have upgraded the pay and working conditions of their black employees is well understood by sophisticated black American leaders. For example, Vernon Jordan, executive director of the National Urban League, stated on returning from a recent trip to South Africa that he had visited extensively with black leaders there, and that "to a person they were firm in their conviction that American corporations should not withdraw."

Ambassador Young has also explicitly recognized that unfocused economic sanctions against South Africa would only intensify an already nascent siege psychology, while forcing even liberal South Africans to support their government against a common enemy. After all, South Africa has become an anachronistic practitioner of extreme racial bigotry, largely because of the Afrikaners' historic isolation. Pushed into the interior of the country by British pressure, marooned outside the mainstream of evolving Western thought, and with only meager communication with the rest of the world, the Afrikaners were little touched by the liberalizing currents of the eighteenth and nineteenth centuries. Our object, therefore, should be not to isolate them further but to bring them into harmony with the twentieth century and the prevailing social values and concepts that are espoused by other noncommunist democratic nations.

It seems curious that academics who customarily dissect all topically fashionable subjects have given so little serious attention to the ineffectiveness of economic denial in persuading governments to accept benign change. Nor has much note been taken of the puzzling paradox in the orthodox liberal view that America should expand trade with the Soviet Union so as to expose the Russian people to the sweet breath of liberalism, while hermetically sealing off South Africa to promote the same liberalism. Is it possible that some who advance those inconsistent positions are interested less in reforming Pretoria than in gaining approbation at home—or in experiencing the warm glow that comes from both righteousness and the *schadenfreude* derived from Afrikaner discomfiture?

No special prescience is required to foresee that our continued harping on the principle of "one man, one vote" is bound to encourage the hopes and ambitions of nonwhites and increase their discontent with their current state. Yet, if our economic, social, and political sanctions do not produce the majority rule we have promised, and South Africa is caught up in a desperately unequal guerrilla struggle, what help will we provide? Will we furnish the insurgents with weapons to use in killing the white population? Although some American blacks might urge this course, who can believe that Congress would support it? Will we permit volunteers to go to the aid of South African blacks or whites in the pattern of the Abraham Lincoln Brigade

[1] There was one well-noticed exception. At the offices of the United States Information Agency, in a meeting consisting mostly of blacks, Ambassador Young is reported to have responded to an emotional occasion by condoning, and even encouraging, the use of violence to establish black majority government as soon as possible. Even had that incident not occurred, how would we react if the South African ambassador were to harangue the Chincanos of California to use their boycott against our federal government?

in the Spanish Civil War? (Andrew Young predicts that the participation of American volunteers on the white side could result in white-black clashes in the United States.) Finally, will we intervene militarily to overthrow the current repressive South African government? Against the background of our Vietnam disillusionment, what could be more unlikely? Yet if, having encouraged insurrection by talk of "one man, one vote," we then refuse assistance, how will we justify that to American blacks? Will not the implication of hypocrisy make us an easy target for the demagogues of the Third World and the propagandists of the Kremlin? "America is a nation of racists," they will say, "Quod erat demonstrandum."

Not only would the communists jeer at us, but they would probably provide the aid we were withholding. The Soviet Union (directly or through surrogates such as the Cubans), or even China, could greatly enhance its standing throughout the Third World by helping the embattled blacks—which would enormously intensify the Cold War condiment in the already overspiced South African stew.

The prospect of Soviet involvement is, of course, a central propaganda theme of the Vorster government. At the same time, a loud chorus of naval hawks is proclaiming that, by controlling Africa's southern tip, the Soviets could acquire bases for missile-carrying submarines in the Indian Ocean and could menace the tanker lanes from the Arabian Gulf. Such forebodings seem overdrawn. Not only does open water extend southward from the Cape of Good Hope for 1000 miles, but warnings of damnation based on sea power and shipping lanes seem strangely out-of-date. The doctrines of Admiral Mahan were a casualty of the mushroom cloud over Hiroshima; they have little meaning in a world of nuclear superpowers. Any Soviet effort to block the flow of oil to Western Europe would inevitably precipitate an East-West collision to be resolved by either diplomacy or mutual destruction.

Yet, even though geopolitical alarmists have exaggerated the dangers, we could be seriously embarrassed by Soviet intervention in a South African civil war. With the Soviets supporting black liberation, our efforts to thwart their imperialistic ambitions would put us on the side of white supremacy—thus poisoning our relations with other African states and alienating our own black population.

The lesson from all this is simple enough. Our ability to influence the policies of the South African government will depend on the objectives we seek to achieve. Diplomacy, like politics, is the art of the possible; and if we use our leverage toward an unachievable end, we will create a mess. By stirring the blacks to insurrection, while driving the Afrikaners into fierce resistance to any change whatever, we will unleash a resistible force against an immovable body—and the breakage could be frightful.

Yet, if we should not waste our fire on an unattainable objective, what should we seek to achieve?

In terms of strategic priorities, our interests in South Africa—or even in the whole of Africa—must be ranked far down the scale. What may happen in Europe or the Middle East or Japan or even in nearby Latin America (which will contain 600 million people by the end of the century) could pose far more of a threat to far larger American interests than developments in the southern tip of the African continent. So we should not permit the pressures of our domestic politics to engage us too deeply in that area's agonies.

That does not mean, however, that we can, or should, turn our back on South Africa, or regard our potential to influence events as in any sense negligible. That South Africans are almost obsessively sensitive to America's power and opinion is apparent from the amount of space their press devotes to the banal utterances of the most obscure congressmen in Washington. Thus, we can, without doubt, exercise a benign influence, provided we use our leverage to promote an objective white South Africans do not equate with the destruction of their whole society.

Of course, we should continue to make clear that we regard the South African government's current racial policies as repugnant to the standards of civilized behavior. The Carter Administration has made a central issue of human rights, and South Africa wantonly violates the human rights of nonwhites.

Human rights, however, consist of a whole bundle of liberties and privileges, of which the right to vote is only one—nor in practical terms is it always the most important. To confer unqualified suffrage on the nonwhites would assure black domination, but it would—if experience in other parts of Africa is any guide—by no means assure democratic rule.

Democracy is the most intricate and cumbersome of political systems, and the minimal prerequisite for its effective operation is the existence of an adequate cadre of educated elite. One of the least forgivable sins of the South Africans is that the literacy rate among blacks is only 55 percent, and that no more than a handful of blacks have been allowed to advance educationally beyond the rudimentary level. Indeed, blacks seem to have been discouraged from attaining the advanced educations that might help play effective roles in government.

Here is where America's leverage could be most tellingly applied. While pushing the South African government to get rid of the noisome garbage of "petty apartheid" (that vast array of demeaning and often mindlessly vindictive restrictions imposed on nonwhites), we should put special stress on adequate education for the blacks, coloreds, and Asians—education to prepare the younger generation for an expanding political role. South African whites should not be allowed to justify their bloody-mindedness by contending that blacks are unequipped for political responsibilities when they have been systematically kept that way. So long as Afrikaners insist that development be really separate, we should insist that it be really equal.

Attacking "petty apartheid" means, for example, pressing for the elimination of the pass laws, which now prevent blacks from traveling without specific permission. It means seeking the abolition of those rules which prevent blacks from improving their economic lot—such as pay discrimination and the regulations that reserve skilled jobs to white workers and deny blacks the right to positions involving authority over whites. It means bringing an end to the harsh decree that denies South African citizenship to blacks who live in white urban communities and that insists that whether they like it or not, they are citizens of Bantustans (homelands) that they may never have seen. It means securing the repeal of the laws which restrict blacks from owning freehold property.

Today, partly in response to the pressure of opinion from the United States and other countries, members of the South African government are, for the first time, actively discussing the abrogation of some of the more repellent measures. The government apparently has approved a constitutional reorganization that would give Asians and so-called coloreds—but not the black majority—some degree of political participation. Both the minister of agriculture and the foreign minister have called for the repeal of the draconian miscegenation laws—the Mixed Marriages Act and the Immorality Act. Moreover, the agricultural minister, reflecting the moderate elements in the ruling National party, has urged not only the acceptance of mixed sports at the national level but also the consolidation of the nine Bantustans. In a hypercharged political environment two steps forward are likely to be offset by one step backward, and it is not surprising that on August 5 Prime Minister Vorster felt compelled by the exigencies of domestic politics to react to American pressure with a bleat of outrage and bristling resistance. But that should not be taken as more than fodder for the hometown newspapers.

As might be expected, the more conservative members of the National party (the so-called "*Verkrampte*," which can be freely translated as "hardcore") fear that eliminating some of the odious features of "petty apartheid" will lead to unpredictable pressures and counterpressures. Permitting blacks to move freely about the country or whites to marry or have sexual relations with nonwhites would, they are convinced, undermine the whole structure of apartheid as it is currently conceived—and they may well be right. The philosophy of apartheid has called for a rigid segregation of whites from nonwhites, with the separate communities preserving their strict identities and developing their own ethos. In a sense, the system is all one garment; take out one or two threads, and it may come apart at the seams.

In addition, South African leaders are fully aware that the country cannot undertake vast social changes without putting severe strains on the economy. Any significant improvement in the lot of blacks will require what are, by South African standards, huge public expenditures, yet South Africa's economic growth rate is already slowing down. Up to this time, South African prosperity has depended to a large extent on the availability of extremely low-cost, though largely unskilled, labor. Thus, any measures to raise nonwhite wages toward the white level will, by increasing production costs, reduce the competitiveness of South African goods in world markets.

Compounding all these problems is the projected increase in South Africa's black population—in the reserves it is now growing at an appallingly rapid rate, roughly twice that for blacks in the cities. Since the white birthrate has more or less stabilized at a much lower figure, the ratio of blacks to whites is destined to become progressively more awkward in the next two or three decades.

Whatever they do or decline to do, white South Africans face a dubious future. If the government stands flat-footed and immobile, the country will lose the respect of the civilized nations of the world, and its own more thoughtful citizens—particularly the young—will be driven into shame and despairing bitterness; on the other hand, a gradual improvement of the lot of the nonwhites is unlikely to bring increased tranquility. Under prodding from other nations, but more significantly from the moderate elements in its own society, South African leaders will undoubtedly move toward the progressive dismantling of "petty apartheid"; yet if they follow the pattern of other politicians in comparable situations, they will react too slowly and grudgingly, unwilling to recognize that whites must give up many of their accustomed amenities and advantages if they are to save their nation from chaos. "Après moi, déluge!" Let the next generation wrestle with the problem.

But if South African whites will probably concede too little too late, nonwhites will be likely to demand too much too soon. An axiom of history holds that revolutions rarely begin when people are suffering their maximum repression; greatest ferment occurs when repression is being relaxed, for then the aroused expectations of the oppressed invariably rise faster than the speed of relaxation. Thus, every liberalizing measure will likely inspire nonwhite leaders to increase their demands for more speedy progress toward the ultimate goal of black majority rule, which to the intellectuals of the black resistance means black political domination. At the same time, those pressures will receive powerful reinforcement as blacks take control in Rhodesia and Namibia.

If we do not wish to contribute to a disastrous denouement, we must avoid behaving with the excessive zeal of the late convert. After all, only in the past two decades has America made a serious national effort to bring its own black population into "full participation" in the political life of the country, and we are far from completing that process. We are both premature and presumptuous in proclaiming to the world all we have accomplished and demanding smugly that other governments do likewise, when the problems facing those other governments are a hundred times more difficult than those with which we have falteringly dealt.

The beginning of understanding of South Africa is the recognition that white South Africans are lost in a maze. Although many have pondered the puzzle for years, no one has evolved a formula adequate to enable the whites to meet the legitimate political aspirations of the nonwhites while retaining control of their own destiny and assuring the protection of their persons and property. The constants in the formula impose a constricting logic. With a population mix of 70 percent blacks, 9 percent coloreds, and 3 percent Asiatics (all collectively classed as nonwhites), as against only 17 percent whites, a solution that will reassure the whites is next to impossible to find, at least within the context of a multiracial state.

To be sure, a number of formulas have been suggested, ranging from some form of cantonal arrangement (in which each scattered racial community would have at least limited responsibility for its local affairs and some representation in the national parliament) to partition; from some form of federation or confederation to integration with a qualified franchise.

Although much can be said for our abstaining from involvement in the search for a solution, the passions stirred among American blacks by the current faddish emphasis on ethnicity may already be too strong to permit such a sensible position. Thus, even though we can only marginally influence the political structure of South Africa, we may feel compelled to indicate—at least quietly to the South African government—what, short of majority rule, we might be prepared to support.

We will only confuse the situation if we try mindlessly to transfer our own concepts, prejudices, and nomenclature to a situation that is anything but comparable, for nothing in Holy Writ says that South Africans must slavishly follow the pattern we have evolved in our own country. Thus, although the concept of "separate but equal" has acquired a bad name in the United States, we should not arbitrarily reject the possibility that South Africa might at least mitigate its problems through some variation on the theme of separate development. To the extent that apartheid originally meant nothing more than separate development, it offered promise; it was discredited only because of the parsimonious way it was carried out and because of the humiliations and indignities associated with it. For the black population living in tribal settlements to be given their own land which they might govern as they liked would, as an abstract proposition, seem consistent with libertarian principles in being roughly equivalent to decolonialization. But that would require that the lands allotted be fertile and accessible and of sufficient magnitude to amount to a parceling out of the wealth of the country on something approaching an equitable basis.

That concept was far too generous for the Afrikaners who turned a promising idea into a travesty with their derisory Bantustan program. How absurd to believe, on the face of it, that the interests of nonwhites, who constitute more than 80 percent of the population, could be satisfied by turning over to them only 13 percent (originally 6 percent) of the land, particularly when the land allotted was scattered over 110 enclaves (which will ultimately be consolidated into thirty-six).

Nevertheless, we should not—as Washington appears to be doing—dismiss out of hand a more generous and humane application of the principle of separate territories, even though it might—initially at least—meet with little enthusiasm among either blacks or whites. A possible solution might combine the elements of separate territories with the conferring of South African citizenship and a progressively expanding franchise on the black population in the areas where it must continue to coexist with the white.

For example, blacks might be given an equitable share of the land area of South Africa to rule as they chose, which would mean assigning them some lands now held by white farmers and even some towns and mineral areas. To achieve this, the present and projected Bantustans would have to be merged into a very much larger territory that would be all of a piece or consist of not more than two large pieces. If the citizens of the new territory opted for it, this could result in partition and creation of one more black African republic (which, in practice, would probably mean a strong-man government). Or they might, instead, choose some loose confederal arrangement with South Africa.

Admittedly, because of the dramatically rapid population growth among blacks now in the Bantustans, even a large volume of economic aid from outside would not assure the new entity a spacious future, but living standards should at least keep pace with most other black African countries. Nor would partition by itself meet the needs of blacks who today work in white industry in the cities or on the white farms retained in South Africa. Those blacks who elected to remain should be given the individual option of homeland citizenship or South African citizenship with no discrimination. To be sure, urban blacks, together with the coloreds and Asians, who chose South African citizenship would still outnumber the whites, but, since the ratio would be less overwhelming, the situation would be more easily manageable. Moreover, an abrupt and disruptive transfer of power could be avoided by limiting the franchise to those citizens—whether blacks, coloreds, Asians, or whites—who met standards based on educational achievement or wealth or some combination of the two.

A settlement along the lines of these general principles would be hard for either whites or blacks to accept. Neither group wants partition. White Afrikaners who control the present South African government wish to keep a tight hold on their country—except for the exiguous territories now assigned to the Bantustans—while the more militant blacks are ambitious to take over the state.

Yet even the most intransigent whites would, faced with the choice, almost certainly prefer partition and a qualified franchise for urban blacks to the outright transfer of power through unqualified black suffrage, while these suggested measures might go far to meet the blacks' legitimate demands.

All this, of course, is theory, not a prediction as to the probable course of events, and there is likely to be little resemblance between a drawing-board solution designed to meet the minimal requirements of both sides and what will actually evolve. Although we should concentrate our own efforts on encouraging peaceful change, we would be foolhardy to base American policy on the assumption that it will be achieved. Once Rhodesia and Namibia are under black control, demands for a similar transfer of power in South Africa will mount with speed and momentum beyond the current expectations of either side. Thus, both are caught up in a process that holds more promise for disaster than for peace.

What, then, should be United States policy? Showing sympathy for the blacks and sensitivity to the problems of the whites, we should quietly urge the prompt elimination of "petty apartheid" and the progressive correction of more fundamental abuses, with particular emphasis on the appalling inequality in education—without insisting on any precise political goals. That is the best way to retain the confidence of both sides, leaving us in position to play a mediating role, if that should appear useful as the situation grows increasingly tense and ugly.

Above all, we should avoid a display of moral superiority. No matter how much we abominate the excesses of apartheid, we are not—nor should we become—the ally of any particular South African race, group, or fraction. While trying to maintain sufficient sustained movement to contain the pressures for a violent solution, we should not commit ourselves so firmly to the extreme demands of the blacks that we lead them to expect, in any forthcoming armed struggle, assistance we are not likely to provide. Meanwhile, our best chance to discourage any adventures by the Soviets, the Chinese, or their surrogates is for us to hold firm to the thesis that this is a South African problem which the peoples of South Africa must settle in their own way.

We can maintain such a position only if we reject the temptation to put South African policy at the service of our domestic politics. This is no time for flamboyance or moral blustering, but for that quiet, carefully conceived, consistently articulated, arm's-length diplomacy which is the essence of statesmanship.

The Carter Administration is obviously well motivated and, with increasing moderation in its rhetoric, it is gaining a more sober view of the problem. Now, if it would only ground Air Force One and its other executive jets for an extended period, so that the authors of our foreign policy might have time to translate their enthusiasm into a well-formulated position consistent with our broader strategy, America might play a useful role in helping the diverse peoples of South Africa make the hazardous passage to a mutually respectful relationship.

Such self-discipline is, of course, hard to achieve during the shakedown cruise of a new Administration, when hitherto chair-borne mariners are just growing familiar with the controls of the ship of state and are still exhilarated by the dramatic results they can achieve by pushing the levers. But it is essential if we are to be helpful and not mischievous. No one this side of the Iron Curtain wants a military crisis in South Africa; that is the last thing we need.

DOMESTIC VIOLENCE PREVENTION AND TREATMENT ACT

Mr. ANDERSON. Mr. President, on June 21, Senator KENNEDY joined me in introducing S. 1728, the Domestic Violence Prevention and Treatment Act, which would establish demonstration programs within the National Institute of Mental Health aimed at preventing and treating the serious problem of wife

abuse. Recent studies have indicated that some 28 million wives—more than half of the Nation's married women—suffer abuse ranging from slaps to severe battering, and over 4 million women experience extreme violence.

Although programs for shelter and assistance do exist, they are few and are pitifully underfunded. Fortunately public and community awareness of this tragic problem is growing daily, and I have been very gratified by the enormous support S. 1728 has generated. I would like to share with my colleagues a letter I received from the archbishop of St. Paul and Minneapolis supporting the provisions of the bill. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SAINT PAUL, MINN.,
September 29, 1977.

Hon. WENDELL ANDERSON,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR ANDERSON: I would be grateful for any influence you might have on proposed legislation S-1728, a bill to authorize the Secretary of Health, Education and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence.

Recent studies reveal some alarming statistics:

"Nearly two million American couples have used a lethal weapon on one another during their marriage.

"Police records show that over a fourth of all murders occur between spouses.

"The F.B.I. estimates that the number of spouse beatings is one every minute."

Although some important efforts have been made to address this problem on a city and state level in Minnesota, it is clear that existing programs are inadequate when viewed in relationship to the problem. S-1728 would coordinate Federal, State and Local efforts to prevent, identify, and treat this problem.

This whole matter has been brought to my attention by the Housing Information Office of the City of Saint Paul. I am much impressed by their concern for this critical social problem and by the kind of documentation presented in Congressional Record, Volume 123, No. 107. Anything which can be done to eliminate this blight from our society would be great. It seems to me that Senate Bill S-1728 is a strong step in that direction.

Sincerely yours in Christ,
The Most Reverend
JOHN R. ROACH, D.D.,
Archbishop of Saint Paul and Minneapolis.

SWITCH IN PANAMA CANAL POSITION OF U.S. SHIPPING

Mr. THURMOND. Mr. President, almost unnoticed in the Panama Canal debate has been the switch from a position of "yes" to a position of "no" on the Panama Canal Treaty by the influential Liner Council of the American Institute of Merchant Shipping.

Mr. W. J. Amoss, Jr., a chairman of the council and president of Lykes Brothers Steamship Co., stated recently the proposed increased toll costs embodied by the treaty spell "sheer disaster for operators east of the canal." He is speaking of trade from Eastern seaboard States such as New England States, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North and South Carolina, Georgia, and Florida.

Mr. Amoss explained that the higher toll costs envisioned to support payments to Panama would result in diversion of some shipping with the ultimate costs being passed on to the American consumer.

He stated that shippers simply could not handle another 25 percent increase in canal tolls on top of the 45-percent increases added in the past 3 years.

Mr. President, this is an important statement and deserves attention by the Congress. I ask unanimous consent that an article entitled "Canal Toll Plan Sours Lykes Chief" which appeared in the September 20, 1977, issue of the Journal of Commerce be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CANAL TOLL PLAN SOURS LYKES CHIEF—SUPPORT FOR PACT DROPPED BECAUSE OF TOLL INCREASE

(By Anita Schrodt)

NEW ORLEANS.—A major U.S. steamship official has withdrawn his earlier endorsement of the new Panama Canal Treaty and is now opposing it after learning a 25 to 30 per cent toll increase is expected to be imposed immediately under the new treaty. W. J. Amoss, Jr., president of Lykes Bros. Steamship Co. here, expressed his opposition to the treaty at a meeting here recently with Deputy Undersecretary of Commerce Anne Wexler. "I told her she could expect massive commercial resistance to passing the cost of diplomacy to canal users," Mr. Amoss told The Journal of Commerce.

Mr. Amoss made it clear he spoke not only as Lykes president but also as chairman of the Liner Council of the American Institute of Merchant Shipping and as chairman of the new Council for American-Flag Shipping (CASO), which the AIMS Liner Council is forming independently.

Last Tuesday, based on an AIMS study which projected the treaty could be implemented without increasing canal tolls, Mr. Amoss publicly expressed his support of the treaty. However, upon receiving new communication from AIMS' Washington staff on Wednesday, Mr. Amoss reassessed his position.

COULD BE TOLERATED

"We have learned that negotiators, using as a basis a 1969 study by Stanford Research, informed the governor of the Panama Canal Co. that an immediate toll rate increase of 25 per cent could be tolerated and would be invoked as soon as the new Panama Canal Commission contemplated by the treaty was established, Mr. Amoss said. Further, the letter from AIMS President James Reynolds also informed Mr. Amoss of Sept. 8 testimony before the House International Relations Committee by Sol Linowitz, one of the treaty negotiators, that an increase of 25 to 30 per cent in tolls would probably be necessary to meet the costs of the new treaty.

"Commercial interests that use the canal, having already had a 45 percent increase in tolls in the last three years, topped off with rearrangements of methods of billing that resulted in further increases, simply cannot accept another increase in tolls," he said.

RECENT DEVELOPMENT

"The projection that another increase could be tolerated completely ignored recent developments brought by intermodalism and mini-landbridge," Mr. Amoss said, pointing out cargo now has an alternative route. "I told her it spelled sheer disaster for operators east of the canal and going westbound through the canal," he said, adding that "commercial interests would oppose adoption of the treaty if it would mean an increase in tolls to implement it."

The treaty requires 30 cents on the dollar per canal net ton (with the current rate at $1.29 per canal net ton) be paid to Panama; that $10 million annual for services go to Panama and another $10 million annually go to the Canal Commission. Further, once those payments and the operating costs of the canal company are deducted, any excess yields in tolls up to $10 million are to be paid to Panama annually.

TWO VITAL FACTORS

Mr. Amoss said the AIMS study upon which he based his original support of the treaty could only guess at two vital factors—the operating costs of the canal company and the impact of Alaskan oil ships transitting the canal. "Apparently, the negotiators were more informed on these issues," he said. Lykes has already found it cheaper to divert three ships this year on their outbound New Orleans-Singapore voyage from the traditional canal transit to the Suez Canal and around Cape Horn.

According to Mr. Amoss, the New Orleans-Singapore run via Panama totals 11,933 miles; via Suez, 11,517 miles; and via the Cape of Good Hope, 12,921 miles, or about 2 and one-quarter days longer than through Panama.

"The only drawback to the Suez is the war risk insurance feature, which is an additional expense. But it still turned out to cheaper," Mr. Amoss said. "Such a diversion away from the canal is not yet economically feasible on Far East runs which include northern ports such as Hong Kong or Tokyo," he said.

114 TRANSITS

Last year, Lykes made 114 transits through the Panama Canal. Currently, it is costing Lykes about $14,500 one-way through the canal with its Gulf Pacer class ships which serve the Far East trade. Mr. Amoss projected the cost for a one-way transit for a barge-carrying Seabee, comparable in size to a LASH barge ship or containership, would be about $30,000.

Panama Canal tolls went up 19.5 per cent in 1974 and another 19.7 per cent in 1976. In addition, in 1974, additional ship space was judged to be susceptible to per-ton revenues. According to Mr. Amoss, that increase represented about a 5 per cent increase in tolls. "If you put it all together, the increase really comes to a total 52 per cent right now, compared to 1973," he said.

"The Panama Canal net ton is a space measurement approximately equal to about 100 cubic feet of enclosed ship space," he added.

Also at the meeting with Ms. Wexler Friday were Capt. J. W. Clark, president of Delta Steamship Co.; Edward S. Reed, director of the Port of New Orleans; C. M. Keeney, president of Equitable Shipyards (which moves its products through the canal); Charles Richardson, vice president of the Marine Engineers Beneficial Association in the Gulf; and C. Buck Hammond, president of Unit Rig Inc. of Tulsa, manufacturer of mining machinery.

COMMERCIAL ASPECTS

"We all expressed our concern about the commercial aspects of increasing tolls and said we hoped some arrangement could be made whereby there would not be a toll increase," Capt. Clark told The Journal of Commerce.

Although Delta does not presently transit the canal, it has in the past and is presently negotiating to purchase Prudential Lines' U.S. West Coast-South American service which does use the canal. Mr. Reed, who said the board of commissioners of the port would formally consider the treaty at a meeting Thursday, said he was concerned that the treaty contained no indication of controls over rates and charges of the canal.

Noting that much of the U.S. grain is exported through the New Orleans area and much through the canal, with competitive pricing, he added: "Since grain exports are the U.S.'s best source of balance of payments loans, I think it is incumbent upon the Federal Government to closely scrutinize the possible effects of canal toll increases on the farm commodities exported from the U.S."

JAMES ABOUREZK—A PROFILE IN COURAGE

Mr. McGOVERN. Mr. President, my distinguished colleague and friend, JIM ABOUREZK, has in the last 2 weeks had his finest hour in this Chamber. Though his time of service in this body has been relatively short, the courage of his performance in making the American public aware of the possibly disastrous results of deregulation of natural gas prices will not be short-lived in the memories of present Members of the Senate or, for that matter, the memories of the constituents who sent him to the U.S. Senate or those millions of Americans outside of South Dakota for whom he carried a symbolic torch.

In the reception room of the Senate hang portraits of Senators who stood on their convictions regardless of the political consequences and oftentimes under the cold eye of their peers. In many instances the banners they carried were for losing causes. John Kennedy left for us their legacies in his brilliant book "Profiles in Courage." To JIM ABOUREZK, I say that as future generations assess your valiant efforts on one of the great issues of our times," You have offered us another "profile in courage."

I also want to remind Senators that JIM ABOUREZK's efforts have not gone unnoticed in the great organs of public communication throughout the land. Though much has been written of his heroics on the deregulation issue, his personality, his unique presence in a legislative Chamber not particularly tailored to his free style and free spirit, I ask unanimous consent that an article entitled "Abourezk: Redoubtable Rebel From Rapid City," by Finlay Lewis, appearing in the October 2, 1977, edition of the Minneapolis Tribune, and an article appearing in the October 6, 1977, Washington Star, "Man Behind the Filibuster: A Maverick With a Sense of Humor," by James Dickenson, be printed in the RECORD. Each author in his own way points out those remarkable traits—that robust, blunt honesty—that JIM ABOUREZK has brought to the Senate of the United States.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Oct. 2, 1977]

ABOUREZK: REDOUBTABLE REBEL FROM RAPID CITY

(By Finlay Lewis)

WASHINGTON, D.C.—"I suggest the absence of a quorum," shouted Sen. James Abourezk, D.-S.D.

"Objection," fumed Sen. Russell Long, D.-La. "That's dilatory."

"Point of order," roared back Abourezk.

For connoisseurs of the Senate, such exchanges—nearly hourly occurrences these days—are ripe with irony.

There's Abourezk, the short, stocky iconoclastic battler for liberal and minority-group causes, using every trick in the rule book to sustain a filibuster, just as that hoary parliamentary device has been used against him and his side countless times in the past.

And then there's Long and a flock of other Southerners—the very ones who perfected the filibuster as a valuable "dilatory" technique—angrily sputtering about how the majority will is being recklessly thwarted by a stubborn few.

But then no one's ever accused Abourezk, the 46-year-old son of a Lebanese peddler, of being your conventional go-along-to-get-along senator.

In Abourezk's view at least, that's no way to live after having grown up on an Indian reservation, worked as a bartender-bouncer in rough-tough cowboy saloons in Rapid City, dealt blackjack in legion halls, and spoken out for American Indian and Arab causes in the Congress.

As his friend and top Senate aide, Peter Stavrianos, sees it, Abourezk practices politics the way he's lived most of his life—"at a white-heat pace."

Confronted with questions of moral, social or economic justice, Abourezk's reaction is likely to be direct, immediate and from the gut—no niceties that preserve decorum and sacrifice principle, Stavrianos said.

And so, when a measure deregulating the price of natural gas appeared on the verge of passing the Senate, Abourezk moved quickly to checkmate his old enemy—the oil and natural gas industry.

Teaming up with Sen. Howard Metzenbaum, D-Ohio, they first tried a direct filibuster. When the Senate voted to invoke cloture—a motion limiting debate—the two senators proceeded to begin calling up over 500 amendments they had stacked at the clerk's desk.

Thus, the filibuster was able to continue. On Wednesday, the Senate was held in session through the night and until 7 a.m. the next day. One oil-state senator approached Abourezk at some point and muttered an obscenity in his ear. Others warned that the older members might not be able to stand the strain.

But Abourezk would not bend. Last year, he surprised everybody by falling only a few votes short of passing a bill that would have broken up the major oil companies, whose activities now range from exploration and drilling to refining, transportation and marketing.

Abourezk argued then that the across-the-board control by a few oil companies of the various facets of their industry was economically unsound and a consumer ripoff. He and Metzenbaum make the same argument about deregulation. In so doing, they point to Carter administration estimates of a $10-billion increase in consumer costs if price controls over the interstate sales of natural gas—now held at $1.46 per thousand cubic feet—are removed under deregulation.

As Abourzek notes with a fine sense of irony, his detractors used to charge that he tackled the oil companies in order to get reelected. Now he is being accused to taking them on because he has decided to quit the Senate at the end of his term in 1978 and is no longer politically accountable for his actions.

Abourezk's decision to end his Senate career after one term has been, like almost everything else about the man, somewhat controversial.

There are those, on the one hand, who say that his stance as the consistently lone pro-Arab voice in the Senate and, more importantly, as the defender of various Indian causes has damaged his political base in South Dakota and left him no choice but to withdraw from the field.

Others like his close friend, Homer Kandaras, former majority leader in the South Dakota State Senate, say that his base remains solid. Kandaras, a Rapid City lawyer, contended in an interview that Abourezk's direct and earthy campaign style would eventually have overwhelmed any Republican.

Abourezk himself said in an interview that his decision was based on a "multitude" of reasons, but most of them had to do with his family and personal life.

"After one year in the Senate, I decided it wasn't something I wanted to do for the rest of my life—living in motels, on airplanes, in airports, away from my family," Abourezk said. "It's as though I had been watching my family grow up from long distance and I suddenly realized that they were gone—grown up."

Certainly Washington's attractions have not proved compelling to his children. After an initial taste of life in the capital, when Abourezk was a House member from 1970 to 1972, all three of his children chose to go back to South Dakota for their schooling.

Abourezk feels strongly that one of them, his eldest, Charlie, has been victimized by being a senator's son.

First there was a story telling how he was living on food stamps. It later developed that he was caring for a 16-year-old orphaned Indian.

Another time he was linked in an unspecified way in an FBI report with a plot to hide guns and train Indian militants.

FBI Director Clarence Kelley later testified under oath that the reports were unfounded, but Abourezk remains convinced that he and his family had been made the object of an FBI vendetta. Over the years, he noted in the interview, he has been an outspoken critic of the FBI and has often attacked its methods as being illegal and unconstitutional.

Abourezk's own plans for the future remain uncertain, although he is talking about opening law offices in Washington and South Dakota.

The kind of law he would practice remains indefinite although he emphatically rules out the possibility of becoming a lobbyist.

"I won't lobby—absolutely not," Abourezk said. "I wouldn't come up here and impose myself on my former colleagues. Every time I see some ex-senator who was defeated or something up here looking for favors I wince. That's not for me."

One project has already fallen by the boards.

Some time ago, he undertook a novel about life in Washington with "a Senate theme." But he couldn't interest a publisher and he dropped it after finishing three chapters.

But the title—"Deep Jaws"—would have guaranteed it a spot on the best-seller list, Abourezk said jokingly.

Whatever he does, it is not clear that his law practice will be as colorful as it once was.

One piece of favorite Abourezk lore deals with a cattle rustler who put some cows in a mobile home and started down the highway. His getaway was inconveniently interrupted by a flat tire and, before long, a state trooper stopped to offer help.

Just as the rustler thought he had persuaded the trooper to keep on going, a suspicious mooing sound emanated from the trailer.

Abourezk, however, was able to get the charge dismissed on a technicality.

Afterward, the rustler told Abourezk's brother that he'd like to do something nice for his lawyer to show his gratitude.

"Like what?" the brother inquired.

"Why, I thought I might hang a jury for him."

Abourezk grew up on the Rosebud Sioux Indian Reservation, where his father, who started out peddling goods to Indians from the back of a wagon, had a couple of general stores.

His cousin, Charles Mikel, recalls that the Indians on the reservation always felt kindly toward Abourezk's father because he never tried to gouge them and was lenient in offering credit.

Abourezk himself went to mixed schools, and played sports with Indian and white classmates. While he had friends among both races, Abourezk now describes his attitude in those days as "racist."

"I would make references without really thinking about it to 'our Indians.' Terribly patronizing things to say," he recalled.

After trying his hand at civil engineering, Abourezk, at the age of 32 and without any money to speak of, went to law school. To make ends meet, he tended bar, meaning he also served as a bouncer.

"The bars where I worked, they were pretty rough places. It wasn't unusual to break up three or four fights a night," he said. "Those cowboys were just as likely to break a beer bottle and come after you."

As a lawyer, Mikel recalled, Abourezk volunteered to serve on the board of an Indian legal services programs at a time when it was unpopular among whites and within the bar association to support such ventures. But Abourezk insisted on contributing his time, even though it meant driving 175 miles to do so.

He also gave free lezal advice unstintingly to various Indian community action programs in Rapid City where he had his practice, Mikel said.

Impelled partly by his opposition to the Vietnam War, Abourezk decided to enter politics, losing his first race as the Democratic candidate in 1968 for attorney general. Two years later he won a seat in Congress. Then, in 1972, he was elected to the Senate.

Not that it bothered him, but he never did become an insider either in the House or Senate.

Maybe it was because his tastes ran more to beer and staff parties than to champagne and embassy receptions. He is also probably one of the Senate's more accomplished musicians, although it's not a skill that is likely to be in much demand at Georgetown cocktail parties. His instrument is the guitar and his style, country and western.

Or maybe it's because of his irreverent ideas.

The one reform he would champion, he said, would be a rule limiting committee chairmanships to one congressional term of two years. At the end of that time, the incumbent would automatically be relegated to the bottom of the seniority list.

Not only would such a move dilute the arbitrary power now exercised by a few men but it would also trigger a healthy turnover in the membership of the Senate, in Abourezk's view.

His eyes twinkling merrily, Abourezk said, "Once you've lost all those perks, you might find that some of these people have better things to do. I hate to say this but I think that'd be better for all of us."

[From the Washington Star, Oct. 6, 1977]

MAN BEHIND THE FILIBUSTER: A MAVERICK WITH SENSE OF HUMOR

(By James R. Dickenson)

The members of the Senate were still stunned and embarrassed Monday afternoon just minutes after the unprecedently bitter exchange that had exploded between Majority Leader Robert Byrd and a group of angry liberal Democrats opposed to the deregulation of natural gas.

Sen. James Allen, D-Ala., was defending Byrd's tactics in breaking the liberal's filibuster against deregulation by saying such means had been used against him in his filibusters in the past.

"This 'steamroller' you complain of is nothing like the steamrollers in the past," Allen said. "I can bear witness to this from my flattened-out body."

Allen then gestured toward Sen. James Abourezk, D-S.D., a leader of the filibuster. "I observe the distinguished senator and note that this body h d not yet been flattened by the steamroller."

A number of senators were shouting for recognition by the chair and the portly, round-faced Abourezk won. "Mr. President, I rise on a point of personal privilege," he said. "The shape of my body has been impugned. I cannot help it if I am fat. I wish the senator from Alabama would recognized that."

A ripple of laughter and relief cut through the tension on the Senate floor.

This is the quintessential Abourezk, a man of quick, indefatigable and self-deprecating wit. He will be one of few on earth who will greet Armageddon with one-liners. He is the maverick, the odd man out, the man who absolutely refuses to go along with the tight clubbiness of the Senate.

He rejects it to the point that he is not going to run for a second term next year. A lot of senators who take their institution and its clubbiness very seriously, Byrd first and foremost, will be happy to see him leave, but that's his style.

He once walked out of managing the Abourezk family general store on the Rosebud Sioux Indian Reservation at Mission, S.D., because he got in "a beef with one of my brothers."

A civil engineer before going to law school, he was fired as an area manager on an ICMB missile silo construction project because he got into a beef with the project manager despite the fact that he was so good at scheduling work that he had received a number of quick promotions.

Some will miss Abourezk, however, not only because they like him and his irreverent sense of humor, but because they think a full-fledged maverick is a good thing generally in Washington and particularly in the self-important Senate.

Abourezk admits that standing up to the pressure of his Senate peers, the Senate leadership and the White House is difficult. "I have shaped my own mind in preparation for the peer pressure that I knew would come of the filibuster," he said. "It's pure masochism. It's physically and emotionally exhausting. The people who say that I did it because I don't plan to run for re-election used to accuse me of being a maverick because it would help me with re-election."

He thinks the White House and Byrd were badly mistaken in their tactics that broke the filibuster. "It doesn't make the conservatives like them and they have damaged themselves with liberals in the Senate, the only supporters they have on Capitol Hill," he says. "We were within two votes of defeating Pearson-Bensten (the deregulation proposal's sponsors), but if the administration would have just told us they wanted us to end the filibuster we probably would have gone along with it. But even if we hadn't, and we all understood what the other had to do, that would have been okay.

"The last word I had from the administration last weekend was that (energy chief James) Schlesinger was impressed with our effort and that the administration wanted us to keep it going."

Abourezk believes the country is best served by people who come into government and politics for a short time and then get out.

"I'm tired of living in hotels and airplanes and I decided after my first year in the Senate that I wasn't going to do it again even though it means I have to worry about earning an honest living now," Abourezk said yesterday.

"I decided that after I saw my staff going home for the weekend with their families while they were sending me out to campaign someplace."

The father of two sons and a daughter, Abourezk, 46, will still travel because of his plans to practice law both here and in South Dakota. He figures that his quitting the Senate will give him more time with his family, however.

"It doesn't make any difference if I'm here or not," he said. "They make sure you never win any big victories. If you're worrying about running for re-election it takes the fine edge off what you're trying to do.

"When you're compromising all the time, you end up compromising your principles and you start catering to narrow parochial interests. The national interest requires that you make them mad once in awhile. And I got involved in the deregulation filibuster because I thought it was a chance to win a big victory over a parochial self interest, the oil industry."

Says his South Dakota colleague, Sen. George McGovern: "I was a little bit irritated with him because he wouldn't back down to my pleas that he not divide the amendment into 20 parts and force a roll-call vote on each one.

"But I came around to support him on the filibuster after opposing it at first because I saw it was dramatizing the issue that deregulations means higher consumer prices and that the public was being educated."

Abourezk's independence and flamboyance irritate a lot of people on Capitol Hill. "I wouldn't trust him with anything," says one Hill veteran. "He knifes anybody, including his colleagues, in the back by bad-mouthing them behind their backs."

Rep. Fortney Stark, D-Calif., disputes this. "All I can say is that he'll say anything to their faces as well," Stark says.

"He's a very human, concerned person. It's easy for us to get out of touch, but he hasn't. Unlike the rest of us, he accepts the fact that at least a half dozen others can do our jobs as well as we can. None of us is indispensable and a sense of humility is a rare product around here."

Abourezk's maverick tendencies and his role in the deregulation filibuster have been downgraded by some who pointed out it would mean more if, like Sen. Howard Metzenbaum, D-Ohio, the co-leader of the filibuster, he intended to run for reelection and face the consequences of his action. Others question his effectiveness because he's such a maverick.

"Because of the way the Senate operates one guy could really screw things up, and if you make him mad enough he could keep you from getting anything done," says one long-time observer. "It takes a thick leather hide and enormous intellectual stamina to stand up to the peer pressure, and it takes 5 or 10 years for a maverick to break through the sound barrier and finally be reckoned with as a serious constant factor."

The late Sen. Wayne Morse of Oregon became such a factor and Allen appears to have made the breakthrough. The result is that they generate less resentment and are taken seriously.

In his five years in the Senate, Abourezk has made a career of going against the grain. Along with McGovern, he acted as a negotiator and go-between during the siege at Wounded Knee on the Pine Ridge Sioux Reservation and in the recent attempt of the Rosebud Sioux to gain legal jurisdiction over whites as well as Indians owning land and living on their original reservation land. This earned him the enmity of white ranchers in the Rosebud area in the south-central part of the state.

The son of a Lebanese trader who established the largest general store on the Rosebud reservation, Abourezk is one of the few congressmen who is more sympathetic to the Arabs than to Israel. He has urged the creation of a Palestinian homeland, which is a major sticking point in Mideast peace negotiations, and has criticized what he calls the "Israel lobby" in American politics.

He counters this by pointing out that he became interested in politics through a Jewish doctor in Winner, S.D., where he was working as a bartender and bouncer, and raising his young family.

"I took the kids to this doctor who was kind of a prairie radical," he recalls. "He kept giving me I. F. Stone's Weekly and New Republic and Nation to read."

Abourezk had less cerebral matters to attend to working in the hard-drinking, hard-fighting, high-rolling bars in Winner that catered to cowboys and truck drivers, however.

He had been in the Navy from 1948 until 1952 and learned judo while stationed in Japan.

He worked in the Winner bars for four years after getting out of the Navy and before going to engineering school at the South Dakota School of Mines and Technology, and for the four years while he was in school.

"I was good at defense and keeping out of peoples' way and I never lost a fight," he says. "I was smart enough to spot the guys who were too big for me to possibly deal with, and I made friends with them.

"I can't count the fights I was in. You had to break them up before the whole bar went to hell, and while some of them were hoping you'd step in, a lot of the others wanted to fight someone and figured I'd do just as well as anybody. But you had to fight to keep your credibility. You didn't have to win, you just had to fight."

After graduating from engineering school, Abourezk worked in the San Francisco Bay area for the California highway department, helping to design freeways. The man who signed his paychecks is now Senate Majority Whip Alan Cranston, D-Calif., who was then the state comptroller.

During these two years he was active in Democratic politics in Marin County, and in the course of raising money for the late Rep. Clem Miller, who died in an airplane crash in the Sierra Nevada mountains, he solicited $100 from a man named S. I. Hayakawa, now Republican senator from California.

I reminded him of this and his answer was that, "I was a Democrat once and I was a good one."

In 1963, Abourezk enrolled in law school at the University of South Dakota after working on the missile projects, running the family store, dealing blackjack at American Legion clubs, teaching judo and selling judo outfits.

In 1970 Abourezk, by then a lawyer in Rapid City, was elected to the House of Representatives. "I wasn't given any chance, and late in the campaign I met with the editorial board of the Rapid City newspaper," he recalls.

"I got into town from campaigning about a half hour before and the only preparation I had time for was to read a really first-rate agriculture speech that McGovern had given, in which he outlined how to save the family farm. The editor's first question was if elected what would I do for South Dakota.

"I just regurgitated McGovern's speech and the editor's response was, 'Now, why can't that damned McGovern say things like that?' "

In both the House and Senate, Abourezk consistently has gone his own way. An opponent of the Vietnam war, he voted against confirmation of almost all former President Richard M. Nixon's second-term appointments, including that of Elliot Richardson as secretary of defense, until he would start acting within the framework of the Constitution.

"At one point I proposed to cut off everybody's salaries in the executive department and John Ehrlichman came up to me one time and seriously told me that they'd have to veto that. That shows how little they understood the whole system. There was no way I could manage that."

REPORT ON THE GOVERNMENT'S STATE OF PREPAREDNESS FOR ENERGY EMERGENCIES THIS WINTER

Mr. MUSKIE. Mr. President, I have asked for time to speak on an aspect of our energy policy which we have managed to overlook thus far in our debate.

The Congress is currently in the midst of a period of unparalleled attention to the development of a long-term energy policy. It is not clear to me yet exactly what the outcome of all this activity will be.

Hopefully, it will be more than a reaffirmation of the status quo. Hopefully, the end result of all this talk will be a coherent, meaningful, and effective energy policy capable of serving this Nation during the difficult years ahead.

As important as this long-range view is, however, there is something else we need to consider—a problem of immediate concern.

Another cold winter is on its way. And according to a report just issued by my Subcommittee on Intergovernmental Relations, we are not ready for what it may bring.

Last year, the country endured the coldest winter in 60 years. We muddled through—not because of any foresight or effective planning on our part, but largely through the good graces of Mother Nature, who gave us an early spring.

In the process, the economic dislocation in certain parts of the Nation was substantial. An estimated 1.2 million Americans were thrown temporarily out of work as factories shut down, because of insufficient fuel supplies. Schools were closed, and businesses operated on reduced hours. Home heating bills soared, and it was only thanks to emergency moratoria on utility cutoffs that millions of Americans were able to keep their homes warm.

Although the principal villain of this drama was the weather, it had an equally unfriendly sidekick in the form of a substantial shortfall in natural gas supplies—a shortfall that was only exacerbated by the unprecedented demand.

I raise this unpleasant memory, Mr. President, because there is a very real possibility that we are in for a replay of this story in the months immediately ahead.

And I am concerned that in focusing so much attention on long-range energy needs, we not overlook the immediate possibility of another energy emergency this winter.

Two weeks ago, my Subcommittee on Intergovernmental Relations held 3 days of hearings on the state of governmental preparedness for the upcoming winter.

What we learned at those hearings, and from a followup staff investigation, was discouraging indeed.

First, we are told by both Government forecasters and a well-known forecaster from the private sector that the Nation can expect a winter significantly colder than normal, although not as cold as last winter.

Second, we were told that we can expect substantial natural gas curtailments beginning as early as next month. In one State—Tennessee—where curtailments are expected to be most severe, we were told that factory closings are expected to begin as soon as November, with an estimated 300 closings anticipated over the course of the winter.

Finally, and most discouraging, testimony at the subcommittee hearings raised substantial questions about the state of governmental preparedness to deal with the kind of dislocation which we saw last winter and which may very well recur this year.

The Carter administration has given considerable time and attention to the development of contingency plans for the upcoming winter. A winter energy emergency plan (WEEP), prepared by FEA, contains numerous policy options for both increasing supplies and curtailing demand in the event of serious natural gas shortfalls.

The administration is to be credited for this effort. It far surpasses any previous effort to plan ahead for winter emergencies.

However, after careful study of these contingency plans, the subcommittee has concluded that the sum total of their impact is likely to be both too little and too late.

In short, the subcommittee believes that if the forecasters are right and we do face another hard winter, the Federal Government is simply not adequately prepared.

The WEEP plan, using Federal Power Commission data, projects natural gas curtailments this winter of about 340 billion cubic feet per month. This compares to estimated curtailments last winter of approximately 305 billion cubic feet.

The plan estimates that the various policy options which it outlines for increasing supplies and reducing demand could make up 60 percent of the projected curtailment, or about 200 billion cubic feet per month.

If these figures were correct, we could clearly go a long way toward easing the impact of any shortfalls this year. Unfortunately, however, the WEEP numbers do not stand up under careful scrutiny.

The subcommittee found that many of the assumptions on which the WEEP projections were made rest on very shaky foundations. In several instances, specific authorities cited in the WEEP plan for either increasing supply or reducing demand simply do not exist. In other instances, Federal regulations governing a specific authority have not yet been

promulgated and are not expected to be completed until well into the late fall or early winter.

The WEEP plan places considerable reliance upon the States as the frontline of defense against another winter energy emergency. And yet many States lack the specific authority necessary to take emergency action in an energy crisis.

I do not intend to list every single finding of the subcommittee study here this morning. They are all discussed in some detail in the final report which has just been released.

Several examples of the findings do bear repeating here, however, simply to underscore the severity of the predicament we are in.

The WEEP plan projects a savings of 20 billion cubic feet per month under the temporary sales authority of section 6 of the Emergency Natural Gas Act. Yet that authority expired on August 1 of this year. And neither the House- nor Senate-passed energy bill currently includes a renewal of that authority.

The WEEP plan projects additional curtailment reductions of 12 billion cubic feet per month through purchases of extra natural gas from Canada and Mexico. Yet negotiations with Canada have not even begun, while the Mexican Government has indicated a willingness to sell us only about 1.5 billion cubic feet per month, far less than the WEEP projection.

As a final example, the conclusion of the WEEP report states that we can expect to reduce demand by almost 170 billion cubic feet per month—or almost half of the total projected curtailment—by switching gas-fired boilers with alternate capability to other fuels. Yet the ability of the Government to implement this switch over in a timely fashion is so tenuous that the WEEP report itself calls this estimate into serious question. The body of that report suggests that a more realistic estimate of demand reduction through this policy option is 50 billion cubic feet per month.

These and other uncertainties in the WEEP estimates prompted the subcommittee to make its own estimate of the potential impact of the WEEP options in easing the jolt of natural gas shortfalls this winter. The subcommittee's conclusion:

> These options can be expected to reduce curtailments by 22 percent.

Mr. President, that is a far cry from the 60-percent reduction claimed by the WEEP report. If correct, its implications for the upcoming winter are grim indeed. As the subcommittee report concludes:

> The U.S. faces the prospect of another winter plagued with energy shortages and resulting large-scale unemployment, if temperatures fall significantly below normal in the months ahead. And the Federal government will not be in a position to help very much.

I find this an alarming prospect—one which we cannot afford to ignore.

It is late to be talking about planning for an energy emergency which—if it comes at all—will begin within the next couple of months. Plans should have been laid long ago.

Unfortunately, that does not seem to be the case.

And that means we have yet another issue to consider as part of the unfinished energy agenda ahead.

The subcommittee report includes a number of specific recommendations for congressional and executive branch action. Among them, that—

First. The State Department begin negotiations immediately with Canada for the purchase of additional natural gas this winter;

Second. That the Congress enact legislation granting the President authority—similar to that provided under section 6 of the Emergency Natural Gas Act of 1977—to allocate natural gas supplies;

Third. That Congress consider providing the President with authority—similar to that in the Petroleum Allocation Act—to reallocate small amounts of natural gas from pipelines not experiencing shortfalls to those which are experiencing shortfalls, for the purpose of protecting jobs which might otherwise be lost;

Fourth. That the special crisis intervention program (SCIP), under which more than 2 million low-income persons have been certified to receive assistance for payment of last winter's bills, be continued into this winter; and

Fifth. That the Department of Energy take immediate steps to ease the special problems adversely affecting the maintenance of an adequate fuel supply and distribution network in the New England States.

Within the very near future, I intend to introduce legislation to implement these recommendations where congressional action is necessary.

Mr. President, I recognize that Congress has a heavy legislative load in the weeks immediately ahead. On currently pending energy matters alone, we could probably debate until Christmas.

But by then it would be too late.

It is now the first week of October, and we are rapidly moving into the cold weather season. In my own State of Maine, we have already had the first frost of the year.

We in the Senate like to think that we have considerable influence over the course of national events. And in many ways we do.

But there is one thing we cannot do. We cannot ask winter to wait until spring.

SECRETARY OF STATE RESOLUTIONS ON ELECTION MATTERS

Mr. CANNON. Mr. President, as chairman of the Committee on Rules and Administration, I recently received copies of resolutions adopted by the National Association of Secretaries of State at its 60th anniversary meeting in San Juan, P.R., on September 22, 1977. These resolutions relate to election matters either pending before or of interest to the Congress, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, a vast majority of the members of the National Association of Secretaries of State are the chief election officials of their respective state, and

Whereas, many chief election officials are properly responsible either independently or as members of examining boards for certifying voting equipment before it can be marked and used within their states, and

Whereas, technical experience is not always readily available at the state level to properly evaluate new and sophisticated concepts of voting equipment in order to educate local election officials in purchasing products or services that have demonstrated the capability of providing dependable and accurate vote tabulating, and

Whereas, there are numerous uniform engineering and technical requirements specified for election systems within state laws, and since these common elements of machine performance can be evaluated and documented,

Therefore, be it resolved, that the National Association of Secretaries of State strongly recommends that the FEC, as a matter of highest priority, arrange tests of performance of all voting equipment, vote counting devices, and programs currently on the market and make recommendations for procedures and standards of performance for such equipment and programs.

RESOLUTION

Whereas, the enactment of S. 703 would greatly improve the administration and operation of the Overseas Citizen Voting Rights Act of 1975; and

Whereas, the National Association of Secretaries of State strongly supports S. 703; and

Whereas, the Federal Voting Assistance Division of the United States Department of Defense, the Secretaries of State and other election and administration officials need adequate time prior to the 1978 Congressional elections to implement the changes which will be made by S. 703; and

Whereas, S. 703 was passed unanimously by the United States Senate May 9, 1977;

Now, therefore, be it resolved that the National Association of Secretaries of State urges the United States House of Representatives to act favorably upon S. 703 before adjournment of the 1977 session.

Adopted by the National Association of Secretaries of State this twenty-second day of September, 1977.

RESOLUTION

Whereas, the United States currently has one of the lowest voting percentages of any democracy in the world; and

Whereas, in 1976, nearly 46% of our eligible citizens failed to vote; and

Whereas, virtually all members of the National Association of Secretaries of State are the chief election officers of their respective states; and

Whereas, as chief election officers, Secretaries of State are committed to ensuring full participation by all citizens in the electoral process; and

Whereas, full participation in the electoral process can be attained by educating our citizenry so that they will register and then vote.

Now, therefore, be it resolved that all State Secretaries join in a cooperative and coordinated effort among and between the fifty states to educate our citizens and encourage them to register and then to vote.

Be it further resolved that a voter education and Registration Steering Committee be established to develop and implement that drive.

Adopted by the National Association of Secretaries of State at its 60th Anniversary meeting in San Juan, Puerto Rico, this twenty-second day of September, 1977.

RESOLUTION

Whereas, virtually all members of the National Association of Secretaries of State are the chief electoral officers of their respective states; and

Whereas, as the chief electoral officers of their respective states, Secretaries of State are dedicated to upholding the laws of these United States as well as their individual state's laws; and

Whereas, as the chief electoral officers of their respective states, Secretaries of State are dedicated to providing all eligible citizens fair and equal opportunity under the law to exercise their franchise of registering to vote and voting; and

Whereas, in order to insure equal opportunity in the area of registering to vote, several states have implemented Voter Registration by Mail programs; and

Whereas, more than one-third of those states offering Voter Registration by Mail require the citizen to pay the cost of the postage to return the form by the Voter Registration Office and those other states and counties offering Voter Registration by Mail programs absorb the cost of this return postage; and

Whereas, the U.S. Congress and the Administration in Washington are considering financial assistance to those states using the mail for voter registration;

Now, therefore, be it resolved that the National Association of Secretaries of State create a Select Committee of their membership to study the feasibility of applying to the Congressonal Committee on Postal Regulations to obtain a special postal category for all election related material, and,

Be it further resolved that the Select Committee will convey to the entire membership of the National Association of Secretaries of State a report of their findings and recommendations.

Adopted by the National Association of Secretaries of State this twenty-second day of September, 1977.

ONLY ONCE? THINK AGAIN

Mr. PROXMIRE. Mr. President, when one thinks of historic examples of genocide, one immediately focuses on the holocaust—the attempted extermination of the Jewish people during World War II. This memory is appalling, shocking, and sickening when one considers the total lack of value that was placed on human life. We find solace in the thought that this was a one time, one place situation, involving only one group of people. This thought, however, is completely false.

At one time or another, ethnic groups of the "Soviet people" were the target of persecutions and of more or less extensive genocide, through incarceration in labor camps, "losses" in transport, shootings, and famine. These groups included Buyat (Mongols), Chechen, Chinese, Cossacks, Crimean Tatars, Czechs, Estonians, Finns, Germans, Greeks, Hungarians, Ingush, Yakuts, Japanese, Kalmyks, Kazahhs, Koreans, Kozaks, Latvians, Lithuanians, Moslems, Poles, Tatars, Ukranians, and Uzbeks. Some of those groups were virtually exterminated such as the Chinese and the Koreans who had settled in the Soviet Far East. In addition, Austrian militant socialists of the Schutzbund who after their revolution of 1934 had sought refuge in the U.S.S.R., Greek Communists who had fought an unsuccessful guerrilla war in the 1940's, the Latvian riflemen who saved Lenin's regime back in 1918, and Polish Communists who had fled the Pilsudski regime, were decimated. Communist and socialist veterans of the Spanish civil wars as well as Spanish pilots who had been trained in the U.S.S.R., Spanish seamen, and Spanish refugee children died in the camps; of 6,000 Spanish refugees who thought they had found a safe haven only 1,200 survived.

As this grim lists reveals, the crime of genocide did not occur at one time or one place involving only one group of people. The Genocide Convention, which outlaws this outrage against human life, must be ratified, for only through ratification can this treaty serve as a constant reminder of these past atrocities and help guard against similar occurrences in the future.

STATUTORY REFERENCES FOR REORGANIZATION PLAN NO. 1 OF 1977

Mr. RIBICOFF. Mr. President, on October 3, I presented the recommendations of the Governmental Affairs Committee regarding Reorganization Plan No. 1 of 1977, relating to the Executive Office of the President.

In Reorganization Plan No. 1, the administration adopted no consistent format regarding statutory references for the EOP units being abolished and the functions being transferred. In several places, there are specific citations made to sections of statutes containing the original grants of authority. In other instances, very general language is used for the transfers without reference to the specific sections of statutes or Executive orders being revised. This lack of consistent statutory references could cause administrative confusion and result in litigation.

In order to avoid either of these possibilities, the committee asked the American Law Division of the Congressional Reference Service to prepare backup footnotes laying out the exact statutory references for the transfers of functions proposed in the plan. The resulting document was submitted to the Office of Management and Budget and that office concurred that the references contained in the document accurately reflected the President's intent.

Mr. President, I ask unanimous consent that the statutory references be printed in the RECORD.

There being no objection, the statutory references were ordered to be printed in the RECORD, as follows:

STATUTORY REFERENCES

The following statutory references for Reorganization Plan No. 1 of 1977 were prepared for the Governmental Affairs Committee by the American Law Division of the Congressional Research Service. The document was submitted to the Office of Management and Budget and that office concurs that the references contained herein accurately reflect the intent of the Plan.

REORGANIZATION PLAN NO. 1 OF 1977

EXECUTIVE OFFICE OF THE PRESIDENT

Section 1. *Redesignation of Domestic Council Staff.*

The Domestic Council staff is hereby designated the Domestic Policy Staff and shall consist of such staff personnel as are determined by the President to be necessary to assure that the needs of the President for prompt and comprehensive advice are met with respect to matters of economic and domestic policy. The staff shall continue to be headed by an Executive Director (A) who shall be an Assistant to the President, designated by the President, as provided in Section 203 of Reorganization Plan No. 2 of 1970. The Executive Director shall perform such functions as the President may from time to time direct.

Section 2. *Establishment of an Office of Administration.*

There is hereby established in the Executive Office of the President the Office of Administration which shall be headed by the President. There shall be a Director of the Office of Administration. The Director shall be appointed by the President and shall serve as chief administrative officer of the Office of Administration. The President is authorized to fix the compensation and duties of the Director.

The Office of Administration shall provide components of the Executive Office of the President with such administrative services as the President shall from time to time direct.

Section 3. *Abolition of Components.*

The following components of the Executive Office of the President are hereby abolished:

A. The Domestic Council; (B)

B. The Office of Drug Abuse Policy; (C)

C. The Office of Telecommunications Policy; (D) and

D. The Economic Opportunity Council. (E)

Section 4. *Appointment of the Assistant Secretary of Commerce for Communications and Information.*

There shall be in the Department of Commerce an Assistant Secretary for Communications and Information who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule.

Section 5. *Transfer of functions.*

The following functions shall be transferred:

A. All functions vested in the Director of the Office of Science and Technology Policy (F) and in the Office of Science and Technology Policy pursuant to sections 205(a)(2), 206 and 209 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282; 90 Stat. 459), (G) are hereby transferred to the Director of the National Science Foundation, (H) The Intergovernmental Science, Engineering, and Technology Advisory Panel, (I) the President's Committee on Science and Technology, (J) and the Federal Coordinating Council for Science, Engineering and Technology, (K) established in accordance with the provisions of Titles II, III, IV of the National Science and Technology Policy, Organization, and Priorities Act of 1976, are hereby abolished, and their functions transferred to the President.

B. Those functions of the Office of Telecommunications Policy and of its Director relating to:

(1) the preparation of Presidential telecommunications policy options including,

but not limited to those related to the procurement and management of Federal telecommunications systems, national security, and emergency matters; (L) and

(2) disposition of appeals from assignments of radio frequencies to stations of the United States Government; (M) are hereby transferred to the President who may delegate such functions within the Executive Office of the President (N) as the President may from time to time deem desirable. All other functions (O) of the Office of Telecommunications Policy and of its Director are hereby transferred to the Secretary of Commerce who shall provide for the performance of such functions.

C. The functions of the Office of Drug Abuse Policy and its Director (P) are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

D. The functions of the Domestic Council (Q) are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

E. Those functions of the Council on Environmental Quality and the Office of Environmental Quality relating to the evaluation provided for by Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577, 88 Stat. 1878), (R) are hereby transferred to the Administrator of General Services.

F. Those functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat (Public Law 92-463, 86 Stat. 770, as amended by Public Law 94-409, 90 Stat. 1247 (S) are hereby transferred to the Administrator of General Services.

G. The functions of the Economic Opportunity Council (T) are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

Section 6. *Incidental Transfers.*

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 7. *Effective date.*

This Reorganization Plan shall become effective at such time or times on or before April 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

Note A

Reorganization Plan No. 2 of 1970, 35 F.R. 7959, 84 Stat. 2085 (1970), which is set out as a note to 31 U.S.C. § 16 and to 5 U.S.C. § 903, establishes the Domestic Council and provides for the creation of the office of Executive Director, who heads the Domestic Council staff. The Executive Director is designated by the President and is an assistant to the President. Reorganization Plan No. 2 also provides that the Executive Director shall perform such functions as the President may from time to time direct.

Note B

Pursuant to the provisions of Reorganization Plan No. 2 of 1970 the Domestic Council is composed of the following officials: The President; The Vice President; The Attorney General; and the Secretaries of Agriculture; Commerce; Health, Education, and Welfare; Housing and Urban Development; Interior; Labor; Transportation; and the Treasury. In addition, Pub. L. 94-282 § 207, 42 U.S.C. § 6615 designates the Director of the Office of Science and Technology as a member of the Council.

Note C

Pub. L. 92-255 (1972) as amended by Pub. L. 94-237 § 4(b) (1976), 21 U.S.C. §§ 1111 et. seq. established the Office of Drug Abuse Policy in the Executive Office of the President. The Office is headed by a Director who is appointed by the President with the advice and consent of the Senate. The Director is required to make recommendations to the President with respect to policies for Federal drug abuse functions and is in charge of coordinating the performance of such functions by Federal departments and agencies. The Director may also be asked to represent the Government of the United States in international negotiations relating to drug abuse.

Note D

The Office of Telecommunications Policy is established through Reorganization Plan No. 1 of 1970, 35 F.R. 6421 and is set out as a note to 47 U.S.C. § 305. See Note 6.

Note E

The Economic Opportunity Council is charged with the responsibility of assisting the President in the coordination of Federal anti-poverty programs. Its duties include developing overall program policies and priorities, resolving inter-agency differences with respect to the administration of anti-poverty programs, initiating specific projects designed to promote economic opportunity, and insuring maximum efficiency in the administration of economic opportunity programs.

Note F

The statutory authority establishing the Office of Science and Technology Policy may be found at 42 U.S.C. § 6611-6671. The functions of the Director of the Office of Science and Technology Policy are outlined at 42 U.S.C. § 6613 and are listed as follows:

§ 6613. Functions of the Director

(a) The primary function of the Director is to provide, within the Executive Office of the President, advice on the scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government.

(b) In addition to such other functions and activities as the President may assign, the Director shall—

(1) advise the President of scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, health, foreign relations, the environment, and the technological recovery and use of resources;

(2) evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions;

(3) advise the President on scientific and technological considerations with regard to Federal budgets, assist the Office of Management and Budget with an annual review and analysis of funding proposed for research and development in budgets of all Federal agencies, and aid the Office of Management and Budget and the agencies throughout the budget development process; and

(4) assist the President in providing general leadership and coordination of the research and development programs of the Federal Government.

Pub. L. 94-282, Title II, § 204, May 11, 1976, 90 Stat. 463.

Note G

The function of the Office of Science and Technology Policy issued pursuant to sections 205(a)(2), 206 and 209 of the National Science and Technology Policy Organization and Priorities Act of 1976 (Public Law 94-282; 90 Stat. 459) are outlined at 42 U.S.C. § 6614(a)(2), 6625 and 6618. They are listed as follows:

§ 6614. Policy planning; analysis; advice; establishment of Advisory Panel

(a) The Office shall serve as a source of scientific and technological analysis and judgment of the President with respect to major policies, plans, and programs of the Federal Government. In carrying out the provisions of this section, the Director shall—

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 6618 of this Title;

§ 6615. Five-year outlook; annual revision; consultation

(a) Within its first year of operation, the Office shall, to the extent practicable, within the limitations of available knowledge and resources, and with appropriate assistance from the departments and agencies and such consultants and contractors as the Director deems necessary, identify and describe situations and conditions which warrant special attention within the next five years, involving—

(1) current and emerging problems of national significance that are identified through scientific research, or in which scientific or technical considerations are of major significance; and

(2) opportunities for, and constraints on, the use of new and existing scientific and technological capabilities which can make a significant contribution to the resolution of problems identified under paragraph (1) of this subsection or to the achievement of Federal program objectives or national goals, including those set forth in section 6601(b) of this title.

(b) The Office shall annually revise the five-year outlook developed under subsection (a) of this section so that it takes account of new problems, constraints and opportunities and changing national goals and circumstances, and shall extend the outlook so that it always extends five years into the future.

(c) The Director of the Office shall consult as necessary with officials of the departments and agencies having programs and responsibilities relating to the problems, constraints, and opportunities identified under subsections (a) and (b) of this section, in order to—

(1) identify and evaluate alternative actions that might be taken by the Federal Government, State and local governments, or the private sector to deal with such problems, constraints, or opportunities; and

(2) ensure that alternative actions identified under paragraph (1) of this subsection are fully considered by departments and agencies in formulating their budget, program, and legislative proposals.

(d) The Director of the Office shall consult as necessary with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the problems, constraints, opportunities, and alternative actions identified under subsecions (a), (b), and (c) of this section are fully considered

in the development of the President's budgets and legislative programs.

Pub. L. 94-282, Title II, § 206, May 11, 1976; 90 Stat. 466.

§ 6618. Science and technology report; issues discussed; public document

(a) The President shall transmit annually to the Congress, beginning February 15, 1978, a Science and Technology Report (hereinafter referred to as the "Report") which shall be prepared by the Office, with appropriate assistance from Federal departments and agencies and such consultants and contractors as the Director deems necessary. The report shall draw upon the information prepared by the Director pursuant to section 6615 of this title, and to the extent practicable, within the limitations of available knowledge and resources, discuss such issues as—

(1) a review of developments of national significance in science and technology;

(2) the significant effects of current and projected trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science- and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and forecast of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems; and

(7) recommendations for legislation on science- and technology-related programs and policies that will contribute to the resolution of such problems.

(b) In preparing the Report under subsection (a) of this section, the Office shall make maximum use of relevant data available from the National Science Foundation and other Government departments and agencies.

(c) The Director shall insure that the Report, in the form approved by the President, is printed and made available as a public document. Pub. L. 94-282, Title II, § 209, May 11, 1976, 90 Stat. 468.

Note H

The Director of the National Science Foundation is appointed by the President, by and with the advice and consent of the Senate. The Director serves for a term of six years unless removed earlier by the President. Except as otherwise specifically provided, the Director shall exercise all of the authority granted to the National Science Foundation and all actions taken by the Director pursuant to the provisions of the National Science Foundation Act or pursuant to the terms of a delegation from the National Science Board, are final and binding upon the Foundation. The Director may authorize the performance by any other officer, agency, or employee of the Foundation of any of his functions under the National Science Foundation Act, including functions delegated to him by the National Science Board; except that the Director may not redelegate policymaking functions delegated to him by the Board. The formulation of programs in conformance with the policies of the National Science Foundation are carried out by the Director in consultation with the Board, and the Director has the qualified authority to enter into contracts, grant relationships and other arguments. The Director also is designated as a voting member of the Board and may be elected as Chairman or Vice President. The statutory authority for the powers and duties of the Director may be found at 42 U.S.C. § 1864 and notes set out thereto.

Note I

The Inter-governmental Science, Engineering and Technology Advisory Panel was established in accordance with the provision of Title II of the National Science and Technology Policy, Organization, and Priorities Act of 1976. This Panel is abolished by the Reorganization Plan and its functions as set forth in 42 U.S.C. § 6614(b)(1) and (b)(2) are transferred to the President:

§ 6014. Policy planning; analysis; advice; establishment of Advisory Panel

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

(2) The Panel shall be composed of (A) the Director of the Office, or his representatives; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; and (C) the Director of the National Science Foundation, or his representative.

Note J

The President's Committee on Science and Technology was established in accordance with the provisions of Title IV of the National Science and Technology Policy, Organization and Priorities Act of 1976. It is abolished by the Reorganization Plan and its functions, 42 U.S.C. § 6631-6635, transferred to the President:

SUBCHAPTER III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

§ 6631. Establishment of Committee

The President shall establish within the Executive Office of the President a President's Committee on Science and Technology (hereinafter referred to as the "Committee").

Pub. L. 94-282, Title, § 301, May 11, 1976, 90 Stat. 468.

§ 6632. Membership of Committee; qualifications; compensation

(a) The Committee shall consist of—

(1) the Director of the Office of Science and Technology Policy established under subchapter II of this chapter; and

(2) not less than eight nor more than fourteen other members appointed by the President not more than sixty days after the Director has assumed office (as provided in section 6612 of this title).

(b) Members of the Committee appointed by the President pursuant to subsection (a)(2) of this section shall—

(1) be qualified and distinguished in one or more of the following areas: science, engineering, technology, information dissemination, education, management, labor, or public affairs;

(2) be capable of critically assessing the policies, priorities, programs, and activities of the Nation, with respect to the findings, policies, and purposes set forth in subchapter I of this chapter; and

(3) shall collectively constitute a balanced composition with respect to (A) fields of science and engineering, (B) academic, industrial, and government experience, and (C) business, labor, consumer, and public interest points of view.

(c) The President shall appoint one member of the Committee to serve as Chairman and another member to serve as Vice Chairman for such periods as the President may determine.

(d) Each member of the Committe who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of Title 5, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of Title 5 for persons in Government service employed intermittently.

Pub.L. 94-282, Title III, § 302, May 11, 1976, 90 Stat. 468.

§ 6633. Federal science, engineering, and technology survey; reports

(a) The Committee shall survey, examine, and analyze the overall context of the Federal science, engineering, and technology effort including missions, goals, personnel, funding, organization, facilities, and activities in general, taking adequate account of the interests of individuals and groups that may be affected by Federal scientific, engineering, and technical programs, including, as appropriate, consultation with such individuals and groups. In carrying out its functions under this section, the Committee shall, among other things, consider needs for—

(1) organizational reform, including institutional realinement designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agenices primarily or solely concerned with fuels, energy, and materials, within a single cabinet-level department;

(2) improvements in existing systems for handling scientific and technical information of a Government-wide basis, including consideration of the appropriate role to be played by the private sector in the dissemination of such information;

(3) improved technology assessment in the executive branch of the Federal Government;

(4) improved methods for effecting technology innovation, transfer, and use;

(5) stimulating more effective Federal-State and Federal-industry liaison and cooperation in science and technology, including the formation of Federal-State mechanisms for the mutual pursuit of this goal;

(6) reduction and simplification of Federal regulations and administrative practices and procedures which may have the effect of retarding technological innovation or opportunities for its utilization;

(7) a broader base for support of basic reesarch;

(8) ways of strengthening the Nation's academic institutions' capabilities for research and education in science and technology;

(9) ways and means of effectively integrating scientific and technological factors into our national and international policies;

(10) technology designed to meet community and individual needs;

(11) maintenance of adequate scientific and technological manpower with regard to both quality and quantity;

(12) improved systems for planning and analysis of the Federal science and technology programs; and

(13) long-range study, analysis, and planning in regard to the application of science and technology to major national problems or concerns.

(b)(1) Within twelve months from the time the Committee is activated in accordance with section 6632(a) of this Title, the Committee shall issue an interim report of its activities and operations to date. Not more than twenty-four months from the time the Committee is activated, the Committee shall submit a final report of its activities, findings, conclusions, and recommendations, including such supporting data and material as may be necessary, to the President.

(2) The President, within sixty days of receipt thereof, shall transmit each such report to each House of Congress together with such comments, observations, and recommendations thereon as he deems appropriate.

Pub. L. 94-282, Title III, § 303, May 11, 1976, 90 Stat. 469.

§ 6634. Continuation of Committee.

(a) Ninety days after submission of the final report prepared under section 6633 of this Title, the Committee shall cease to exist, unless the President, before the expiration of the ninety-day period, makes a determination that it is advantageous for the Committee to continue in being.

(b) If the President determines that it is advantageous for the Committee to continue in being, (1) the Committee shall exercise such functions as are prescribed by the President; and (2) the members of the Committee shall serve at the pleasure of the President.

Pub. L. 94-282, Title III, § 304, May 11, 1976, 90 Stat. 470.

§ 6635. Staff and consultant support.

(a) In the performance of its functions under sections 6633 and 6634 of this title, the Committee is authorized—

(1) to select, appoint, employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its duties and functions, and to select, appoint, and employ, subject to the civil service laws, such other officers and employees as may be necessary for carrying out its duties and functions; and

(2) to provide for participation of such civilian and military personnel as may be detailed to the Committee pursuant to subsection (b) of this section for carrying out the functions of the Committee.

(b) Upon request of the Committee, the head of any Federal department, agency, or instrumentality is authorized (1) to furnish to the Committee such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or instrumentality, and (2) to detail to temporary duty with the Committee on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions. Each such detail shall be without loss of seniority, pay, or other employee status, to civilian employees so detailed, and without loss of status, rank, office, or grade, or of any emolument, perquisite, right, privilege, or benefit incident thereto to military personnel so detailed. Each such detail shall be made pursuant to an agreement between the Chairman and the head of the relevant department, agency, or instrumentality, and shall be in accordance with the provisions of subchapter III of chapter 33 of Title 5.

Pub. L. 94-282, Title III, § 305, May 11, 1976, 90 Stat. 470.

Note K

The Federal Coordinating Council for Science, Engineering and Technology was established in accordance with Title III of the National Science and Technology Policy, Organization and Priorities Act of 1976. It is abolished by the Reorganization Plan and its functions, 42 U.S.C. § 6651 transferred to the President:

SUBCHAPTER IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

§ 6651. Establishment and functions of Council.

(a) There is established the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the "Council").

(b) The Council shall be composed of the Director of the Office of Science and Technology Policy and one representative of each of the following Federal agencies: Department of Agriculture, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans' Administration, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Administration. Each such representative shall be an official of policy rank designated by the lead of the Federal agency concerned.

(c) The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Chairman may designate another member of the Council to act temporarily in the Chairman's absence as Chairman.

(d) The Chairman may (1) request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to such agency, and (2) invite other persons to attend meetings of the Council.

(e) The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs.

(2) identify research needs including areas requiring additional emphasis.

(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

(f) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman.

(g) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned.

(h) For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established.

Pub. L. 94-282, Title IV, § 401, May 11, 1976, 90 Stat. 471.

Note L

Authority for the establishment of the Office of Telecommunications Policy may be found primarily at 47 U.S.C. § 305, note Reorganization Plan No. 1 of 1970, 35 F.R. 6421, 84 Stat 2083, and Executive Order 11556, Sept. 4, 1970, 35 F.R. 14193. The functions of the Office and its director relating to the preparation of Presidential telecommunications policy options including those related to the procurement and management of Federal telecommunications systems, national security and emergency matters, which are set out in Section 2(b) of Executive Order No. 11556, are transferred to the President:

EXECUTIVE ORDER NO. 11556

Sept. 4, 1970, 35 F.R. 14193, as amended by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 2494

ASSIGNMENT OF TELECOMMUNICATION FUNCTIONS

By virtue of the authority vested in me by section 301 of title 3 of the United States Code [section 301 of Title 3, The President], and as President of the United States, and in consonance with the intention expressed in my message to the Congress transmitting Reorganization Plan No. 1 of 1970 [set out as a note under this section], is is hereby ordered as follows:

Section 1. Amended and superseded orders. Executive Orders Nos. 10705 of April 17, 1957, 11051 of September 27, 1962, 11191 of January 4, 1965, and 11490 of October 28, 1969, and the President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413) are amended as provided herein. Executive Orders Nos. 10695—A of January 16, 1957, 10995 of February 16, 1962, and 11084 of February 15, 1963, to the extent not heretofore made inapplicable, are hereby revoked.

Sec. 2. General functions. Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources, and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) Assure that the executive branch views are effectively presented to the Congress and the Federal Communications Commission on telecommunications policy matters.

(d) Coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conferences and negotiations, and provide to the Secretary of State advice and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(e) Coordinate the telecommunications activities of the executive branch and formulate polices and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

(f) Evaluate by appropriate means, including suitable tests, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

(g) Review telecommunications research and development, system improvement and expansion programs, and programs for the testing, operation, and use of telecommunications systems by Federal agencies. Identify competing, overlapping, duplicative or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of telecommunications programs.

(h) Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such resources in any emergency under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(i) Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

(j) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

(k) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommend needed actions to the President and to the departments and agencies.

(l) Coordinate Federal assistance to State and local governments in the telecommunications area.

(m) Contract for studies and reports related to any aspect of his responsibilities.

Sec. 3. Frequency assignments. The functions transferred to the Director by section 1 of Reorganization Plan No. 1 of 1970 include the functions of amending, modifying, and revoking frequency assignments for radio stations belonging to and operated by the United States, or to classes thereof, which have heretofore been made or which may be made hereafter.

Sec. 4. War powers. Executive Order No. 10705 of April 17, 1957 (set out as a note under section 606 of this title), headed "Delegating Certain Authority of the President Relating to Radio Stations and Communications", as amended, is further amended by:

(a) Substituting for subsection (a) of section 1 the following: "(a) Subject to the provisions of this order, the authority vested in the President by subsections 606(a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606(a), (c) and (d) (section 606(a), (c) and (d) of this title), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the Director of the Office of Emergency Preparedness".

(b) Substituting for the text "subsections 305(a) and 606(a)" in subsection (b) of section 1 the following: "subsection 606(a) [section 606(a) of this title]".

Sec. 5. Foreign government radio stations. The authority to authorize a foreign government to construct and operate a radio station at the seat of government vested in the President by subsection 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305(d)) [section 305(d) of this title], is hereby delegated to the Director. Authorization for the construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

Sec. 6. Office of Emergency Preparedness. (a) Executive Order No. 11051 of September 27, 1962 [set out as a note under section 2271 of Title 50, Appendix, War and National Defense], headed "Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President", as amended, is further amended by:

(1) Deleting subsection 301(4) and renumbering subsection 301(5) as subsection 301 (4).

(2) Substituting for section 306 the following:

"Sec. 306. Emergency telecommunication. The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy in planning for the mobilization of the Nation's telecommunications resources in time of national emergency."

(3) Deleting section 406.

Sec. 7. Emergency preparedness.

[Superseded by Ex.Ord.No.11921, June 11, 1976, 41 F.R. 2494.]

Sec. 8. National Communications System. The President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413), is amended by:

(a) Substituting the following for the first paragraph after the heading "Executive Office Responsibilities":

"The Director of the Office of Telecommunications Policy shall be responsible for policy direction of the development and operation of the National Communications System and shall:"

(b) Substituting the term "Director of the Office of Telecommunications Policy" for the term "Special Assistant to the President for Telecommunications" wherever it appears in said memorandum.

Sec. 9. Communications Satellite Act of 1962. Executive Order No. 11191 of January 4, 1965 [set out as a note under section 721 of this title], headed "Providing for the Carrying Out of Certain Provisions of the Communications Satellite Act of 1962", is amended by:

(a) Substituting the following for subsection (c) of section 1:

"(c) The term 'the Director' means the Director of the Office of Telecommunications Policy.", and

(b) Substituting the following for the catchline of section 2: "Director of the Office of Telecommunications Policy."

Sec. 10. Advisory committees. As may be permitted by law, the Director shall establish such interagency advisory committees and working groups composed of representatives of interested agencies and consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Director. As may be permitted by law, the Director also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

Sec. 11. Rules and regulations. The Director shall issue such rules and regulations as may be necessary to carry out the duties and responsibilities delegated to or vested in him by this order.

Sec. 12. Agency assistance. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Director and to furnish him such information, support and assistance, not inconsistent with law, as he may require in the performance of his duties.

RESPONSIBILITIES OF THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Sec. 7. (a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualification required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code; and

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

Sec. 13. Functions of the Secretary of Commerce. The Secretary of Commerce shall support the Director in the performance of his functions, shall be a primary source of technical research and analysis and, operating under the policy guidance and direction of the Director, shall:

(a) Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director in the performance of his responsibilities for the management of the radio spectrum.

(b) Conduct technical and economic research upon request to provide information and alternatives required by the Director.

(c) Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related, research and analysis performed by other Federal agencies in their areas of responsibility.

(d) Conduct research and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director.

(e) Conduct such other activities as may be required by the Director to support him in the performance of his functions.

Sec. 14. Retention of existing authority. (a) Nothing contained in this order shall be deemed to impair any existing authority or jurisdiction of the Federal Communications Commission. In carrying out his functions under this order, the Director shall coordinate his activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector.

(b) Except as specifically provided herein, nothing in this order shall be deemed to derogate from any existing assignment of functions to any other department or agency or officer thereof made by statute, Executive order, or other Presidential directives.

RICHARD NIXON.

Office of Emergency Preparedness. Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193 [set out as a note under this section], transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

Note M

The function of the Office of Telecommunications Policy relating to the disposition of appeals from assignments of radio frequencies to stations of the United States Government is a part of the functions outlined in Section 3 of Executive Order No. 11556. (See Note L)

Note N

The Executive Office of the President is established pursuant to 3 U.S.C. § 101, note, which states:

Executive office of the President.—The statement on organization and functions of the executive office of the President, 14 Fed. Reg. 7856, as amended 17 Fed. Reg. 6204; 18 Fed. Reg. 5668, provided:

Sec. I. Divisions of the Executive Office of the President.—The Executive Office of the President consists of the divisions listed below.

Sec. II. White House Office.—The White House Office comprises the officers and employees of the staff of the President required in the performance of the detailed activities incident to his immediate office.

Sec. III. Bureau of the Budget—(a) General.—The Bureau of the Budget serves the President in the preparation and administration of the budget, in the review of legislation and Executive orders, in the improvement of administrative management and organization, and in the coordination and improvement of Federal statistics.

(b) Approval of collection of information.—Under the Federal Reports Act of 1942, no Federal agency, with specified exemptions, may collect identical information from ten or more respondents without the Bureau's approval, which is indicated on the report form or questionnaire. This authority is exercised by the Assistant Director for Statistical Standards, with assistance from an Advisory Council on Federal Reports representing national business organizations.

Sec. IV. Council of Economic Advisors.—The Council of Economic Advisors assists the President in the preparation of his economic reports to Congress; studies developments and trends in income, production, and employment; appraises activities of the Federal Government bearing upon the growth and stability of the Nation's economy; and develops and recommends to the President national economic policies to foster a strong economy.

Sec. V. National Security Council.—The National Security Council advises the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The Central Intelligence Agency is under the Council's direction.

Sec. VI. Office of Defense Mobilization.—The Office of Defense Mobilization directs, controls, and coordinates on behalf of the President all defense mobilization activities of the executive branch of the Government.

Sec. VII. Office for Emergency Management.—The Office for Emergency Management, when activated, assists the President in dealing with public emergencies.

Note O

All of the remaining functions of the Office of Telecommunications Policy and of its Director are transferred to the Secretary of Commerce, who shall provide for the performance of such functions. Such functions are outlined in Sections 2 (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m), Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Executive Order No. 11556, along with those portions of Section 2(b) not transferred to the Executive Office of the President under Note. L. That portion of Section 2(b) of this Executive Order not transferred to the President in Note L is transferred to the Secretary of Commerce.

Note P

The functions of the Office of Drug Abuse Policy and its Director are transferred to the President who may then delegate such functions within the Executive Office of the President as the President may from time to time deem desirable. The functions of the office of Drug Abuse Policy and its Director are to:

(1) Make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions, and

(2) Coordination of the performance of such functions by Federal Departments and agencies; and

(3) Recommendations for changes in the organization, management and personnel of Federal Departments and agencies performing drug abuse functions.

In carrying out these functions the Director shall review the regulations, guidelines, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions, and conduct or provide for evaluations of the performance and results achieved by Federal departments and agencies in this area. In addition, the Director shall seek to assure that Federal departments and agencies consider drug abuse as a health problem. All Federal departments and agencies engaged in drug abuse functions must submit to the Director all information reasonably required to carry out these purposes.

The Director may also be asked by the President to represent the United States in international negotiations relating to drug abuse.

The Director shall submit to the President and to the Congress an annual report on the activities of the Office of Drug Abuse which must include the accomplishments of the Office and an accounting of funds.

21 U.S.C. §§ 1111–1133

The Director of the Office of Drug Abuse is also required to serve as a member of the National Drug Abuse Strategy Council, which is given the task of developing a comprehensive, coordinated, long-term Federal strategy for all drug abuse prevention functions.

21 U.S.C. §§ 1161–1163

Note Q

The functions of the Domestic Council are established by the following authorities: Reorganization Plan No. 2 of 1970 set out as a note to 31 U.S.C. § 16; Executive Order No. 11541, 35 F.R. 10737 (July 1, 1970); and Executive Order No. 11690, 37 F.R. 26815 (Dec. 14 1972).

Reorganization Plan No. 2 of 1970 provides that the Domestic Council shall perform such functions as the President may from time to time delegate or assign.

Executive Order No. 11541 provides that:

SEC. 2. (a) Under the direction of the President and subject to such further instructions as the President from time to time may issue, the Domestic Council in the Executive Office of the President shall (1) receive and develop information necessary for assessing national domestic needs and defining national domestic goals, and develop for the President alternative proposals for reaching those goals; (2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources; (3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with their use of available resources; and (4) provide policy advice to the President on domestic issues.

Executive Order No. 11690 provides:

SECTION 1. *Functions of the Executive Director of the Domestic Council.* In addition to the functions heretofore assigned, the Executive Director of the Domestic Council shall assist the President with respect to intergovernmental relations generally. In addition, he shall:

(1) serve as the coordinator for the prompt handling and solution of Federal-State-local problems brought to the attention of the President or Vice President by executive and legislative officers of State and local governments;

(2) identify and report to the President on recurring intergovernmental problems of a Federal interdepartmental and interprogram nature;

Note R

The Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. § 59 et seq., establishes a Federal Research and Development Program for the better utilization of nonnuclear sources of energy. Pursuant to section 11 of the Act (42 U.S.C. § 5910), the Council of Environmental Quality is charged with the responsibility of evaluating the environmental consequences of trends in the development and application of nonnuclear energy technologies. The Council also has the responsibility of holding annual public hearings on the environmental impact of energy research and development. Finally, the Council must take reports to the President to be used in the President's annual Environmental Policy Report.

The Office of Environmental Quality provides staff and support services for the Council on Environmental Quality so that the Council's duties under Section 11 of the Nonnuclear Research and Development Act are shared by the Office of Environmental Quality, 42 U.S.C. §§ 4372–4.

Note S

The functions of the Office of Management and Budget and of its Director relating to the Committee Management Secretariat are found in Pub. L. 92–463 as amended by Pub. L 94–409, Title 5 of the United States Code Appendix Section 7:

MEDICAID FUNDING FOR ABORTIONS

Mr. McGOVERN. Mr. President, in the deliberations now taking place concerning medicaid funding for abortions, one aspect is often overlooked. The termination of medicaid funding for abortions will surely result in a greater number of deaths of pregnant women.

A new study just published in the American Journal of Public Health estimates that the restriction of medicaid funds would result in the deaths of additional women with a mortality rate up to 16 times greater than the mortality rate expected if medicaid funds continue to be available for abortions. The authors, two doctors with the Center for Disease Control, point out that withdrawal of medicaid funding will cause additional maternal deaths because: One, more women will carry unwanted pregnancies to term and pregnancy carries a risk of death many times the risk of a safe legal abortion; two, more women will seek unsafe illegal abortions, and three, more women will delay in having legal abortions while seeking funds to pay for those abortions.

I ask unanimous consent that the study be printed in the RECORD, along with an editorial in the same issue of the American Journal of Public Health.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESTRICTING MEDICAID FUNDS FOR ABORTIONS: PROJECTIONS OF EXCESS MORTALITY FOR WOMEN OF CHILDBEARING AGE

(By Diana B. Petitti, M.D., and Willard Cates, Jr., M.D. MPH)

Over the past two years there have been several legislative and judicial challenges to public payment for legal abortion services.[1] If successful, the restriction of public funds for abortion could result in excess mortality for women of childbearing age in three ways. First, additional deaths from pregnancy and childbirth would occur if women who would have had an abortion carry the pregnancy to term. Second, excess deaths would result if these women seek an abortion from a less safe, nonlegal source, or if they attempt to induce an abortion in themselves. Third, additional deaths related to legal abortion would occur if women delay the procedure while seeking another source of funds. In this paper, we project the number of excess deaths of women of childbearing age which might result in each of these alternatives.

METHODS

We used four data sources to make our estimates: Medicaid data to estimate the number of women obtaining publicly funded abortions; [2] the 1970 U.S. census data to obtain the racial distribution by poverty status; [3] the Center for Disease Control (CDC) 1974 Abortion Surveillance Report to obtain the gestational distribution of abortions performed;[4] and 1974 national vital statistics regarding the risks of pregnancy and childbirth, legal abortion, and nonlegal abortion.[5] From these sources, we estimate that 64 per cent of Medicaid-funded abortions are among white women and 36 percent among women of black-and-other-races. Applying these percentages to the approximately 250,000 Medicaid funded abortions in 1974, we estimate that 160,000 were among white women and 90,000 among black and other women. These numbers form the basis for our subsequent projections. We assumed that women will continue to become pregnant at the current rate, and that the proportion of these pregnancies for which the women would seek abortion is constant.

PROJECTION OF EXCESS MORTALITY

If term births are substituted for legal abortions

If all pregnant women who would have sought Medicaid funds for abortion carried their pregnancy to term, there would be deaths in excess of the current number because of the relatively greater risks of pregnancy and childbirths. Because legal abortion is safer than childbearing,[4] and because those women whose abortions have been publicly funded have a racial distribution which puts them at a higher risk of maternal mortality than the general population, this seemingly innocuous alternative to abortion results in a sizable number of excess deaths to women of childbearing age.

In 1974, the risk of mortality from pregnancy and childbearing was 10.0 deaths per 100,000 live births in white women and 35.1 deaths per 100,000 live births from women of black-and-other-races.[5] The mortality ratio for abortion in 1974 with 0.5 deaths per 100,000 live births for white women and 2.4 deaths per 100,000 live births for black-and-other women. Thus, the risk of death from pegnancy and childbirth excluding abortion—the attributable mortality risk—is 9.5 per 100,000 live births for white women and 32.7 per 100,000 live births for women of black-and-other races. Applying the attributable mortality risk to the number of pregnancies for women who would have sought a Medicaid-funded abortion, we project 15 excess deaths among white women and 29 excess deaths among women of black-and-other races (Table 1). The total number of excess deaths is 44. The variables of age and parity also affect the mortality risks of both legal abortion and childbirth; however, national data were not available for 1974 to allow the necessary stratification and projections based on these variables.

If nonlegal abortions are substituted for legal abortions

We estimate that excess deaths for women of childbearing age will also occur if pregnant women obtain abortions induced by persons other than physicians. Tietze estimates that the mortality rate of nonlegal abortion in developed countries is 40 per 100,000 procedures.[7] The death-to-case rate for legal abortions is about 4 per 100,000 abortions [6] for an attributable mortality risk of 36 deaths from every 100,000 nonlegal abortions. If all 250,000 women who would have obtained a legal abortion terminated their pregnancies through nonlegal channels, then 90 excess deaths would result.

However, it is unlikely that every woman would choose a nonlegal abortion; some would carry the pregnancy to term. Tietze further estimated that 70 per cent of current legal abortions replaced nonlegal and self-induced abortions.[8] If 70 per cent of the 250,000 pregnant women who would have had a Medicaid-funded abortion have a nonlegal abortion, we estimate that 63 excess deaths would occur. The remaining 30 per cent who carry the pregnancy to term are subject to increased risk of childbearing. Applying the relevant mortality ratios by race to the remaining 30 per cent of women seeking Medicaid-funded abortions, 14 additional deaths are projected. Thus, we calculate a total of 77 excess deaths to women of reproductive age if previous proportions of nonlegal abortions were substituted for legal abortion.

DELAY IN OBTAINING LEGAL ABORTION

Because even legal abortion becomes more risky the later in pregnancy it is performed,[4] and delay in obtaining an abortion would result in excess mortality risks. Assuming Medicaid-funded abortions have the same distribution by gestational age as non-Medicaid-funded abortions, we can project the number of Medicaid-funded abortions by gestational age (Table 2). If difficulty in obtaining funds for abortion resulted in an average delay of only two weeks for each legal abortion among these women, five excess deaths would have occurred (Table 2). While five deaths does not seem like a large number, it would have increased the death-to-case rate for women eventually having abortions with public funds by nearly 60 per cent, and raised the overall national abortion death-to-case rate by 21 per cent. The impact of early decision-making and prompt financial accessibility to abortion services on minimizing abortion mortality should be stressed.

CONCLUSION

The most important principle of this analysis is that, once pregnant, a woman encounters an increased risk of death, no matter what her choice of outcomes. While the risks of pregnancy and childbirth are readily assumed in the case of wanted pregnancy, unfortunately not all pregnancies are wanted. For unwanted pregnancies, legal abortion in the first trimester is the safest option available to women.

On a national level, the increasing availability of legal abortion has been temporally associated with a decline in abortion deaths, which fell faster than deaths from other causes attributable to pregnancy and childbirth.[7,9] Our projections indicate that restriction of public funds for abortion might reverse this trend. Moreover, experience with Medicaid abortions in New York City implies that the limitation of public funding for abortion would lead to increased total health care costs because the alternatives of childbirth or complications from nonlegal abortion are more expensive.[10]

The actual impact of non-funding on the number of excess abortion deaths would depend on the number of women seeking Medicaid funds for abortion, on the proportion choosing to carry to term, on those choosing a nonlegal abortion, and on the delay encountered in obtaining other funding sources. If publicly funded abortions were restricted, we have calculated that from five to 90 excess deaths, would result for women of childbearing age in the United States depending on the distribution of the above options chosen by pregnant women whose public funding has been denied.

Footnotes at end of article.

TABLE 1.—EXCESS DEATHS IN MEDICAID RECIPIENTS OF REPRODUCTIVE AGE FROM SUBSTITUTING TERM BIRTH FOR LEGAL ABORTION, BY RACE, UNITED STATES, 1974

Race	Number of medicaid-funded abortions	Maternal mortality ratio [1, 2]	Abortion mortality ratio [2, 3]	Attributable mortality risk [4]	Excess deaths [5]
White	160,000	10.0	0.5	9.5	15
Black and other	90,000	35.1	2.4	32.7	29
Total	250,000			----	44

[1] Deaths from all causes of pregnancy and childbirth per 100,000 live births.
[2] National Center for Health Statistics: Final mortality statistics, 1974. Monthly vital statistics report 24 (suppl): 20, 1976
[3] Deaths from abortion per 100,000 live births.
[4] Maternal mortality ratio minus abortion mortality ratio.
[5] Number of abortions to medicaid recipient times attributable mortality risk.

TABLE 2.—EXCESS DEATHS IN MEDICAID RECIPIENTS OF REPRODUCTIVE AGE ATTRIBUTABLE TO DELAYING LEGAL ABORTION FOR 2 WEEKS, UNITED STATES, 1974

Gestational age	No delay			2-week delay				
	Number medicaid abortions	Death-to-case rate [1]	Projected deaths	Percent shifted to higher gestational interval [2]	Number medicaid abortions	Death-to-case rate [1]	Projected deaths	Excess deaths
Less than 8	106,379	0.4	0.4	50	53,190	0.4	0.2	−0.2
9 to 10	71,656	2.2	1.6	100	53,190	2.2	1.2	−.4
11 to 12	38,386	3.9	1.5	100	71,656	3.9	2.8	1.3
13 to 15	13,813	9.3	1.3	66	42,990	9.3	4.0	2.7
16 to 20	16,291	19.7	3.2	40	18,983	19.7	3.7	.5
Over 21	3,111	19.8	.6	(3)	6,516	19.8	1.3	.7
Term birth					3,111	[4] 13.5	.4	.4
Total								5.0

[1] Deaths per 100,000 abortions, United States, 1972–74.
[2] Percentage based on 2-week delay divided by gestational interval. Assumes all pregnancies over 21 weeks gestation which delayed 2 weeks were not aborted.
[3] Not aborted.
[4] Mortality ratio of 13.5/100,000 live births for delayed abortions eventually carried to term.

Thus, any permutation or combination of the various alternatives presented above would result in a predictable level of deaths in excess of the current level to pregnant women seeking abortion who must rely on public funding for medical care.

FOOTNOTES

[1] Alan Guttmacher Institute: Supreme Court to review restrictions on abortion by Medicaid. Family Planning/Population Reporter 5:58–62. 1976.

[2] Department of Health, Education, and Welfare: Issues Arising from Section 209. Labor-HEW Appropriation Bill, H.R. 14232 policy statement. June 26, 1976.

[3] Bureau of the Census: 1970 Census of the Population, detailed characteristics. Washington, D.C., U.S. Govt. Printing Office, 1973, Table 259.

[4] Center for Disease Control: Abortion Surveillance, 1974. Issued April 1976.

[5] National Center for Health Statistics: Final Mortality Statistics, 1974. Monthly Vital Statistics Report 24 (suppl): 20, 1976.

[6] Cates, W., Jr, Grimes, D. A., Smith, J. C., and Tyler, C. W., Jr. Legal abortion mortality in the United States, JAMA 237:452–455, 1977.

[7] Tietze, C. The effect of legalization of abortion on population growth and public health. Fam. Plann. Perspec. 7:123–128. 1975.

[8] Tietze, C. Two years' experience with a liberal abortion law: Its impact on fertility trends in New York City. Fam. Plann. Perspec. 5:36–42. 1973.

[9] Cates, W., Jr. Rochat, R. W., Smith, J. C., and Tyler, C. W., Jr. Trends in national abortion mortality. United States, 1940–1974: Implications for prevention of future abortion deaths. Adv. Planned Parenthood 11:106–113. 1976.

[10] Robinson, M., Pakter, J., Svigir, M. Medicaid coverage of abortions in New York City: Costs and benefits. Fam. Plann. Perspect. 6:202–208, 1974.

ABORTIONS AND PUBLIC POLICY, II

Page 860–862 of the current issue of the Journal contain an estimate of the number of deaths of women of childbearing age to be expected as the result of cutting off Medicaid funds for abortion.[1] We regret that this Public Health Brief could not have been published in July and covered by our editorial that month.[2] Unfortunately we cannot function as a newspaper does; we have a minimum 2½ months lag time between delivery to the printer and publication of a manuscript, as do most professional journals. It is only on rare and fortuitous occasions that our pages reflect what is "front page news" in the rapidly changing world of the mass media. In this case, all we can say is that the abortion issue was hot in the summer solstice when the U.S. House of Representatives appropriated Medicaid funds with the stipulation that they could not be used to pay for abortions, and the U.S. Supreme Court handed down its decision allowing states to decide whether or not to use public funds to pay for abortions.

The Congressional stipulation, in contrast to the Supreme Court's decision, forbids the use of federal funds to pay for abortions even if the mother's life is endangered. Petitti and Cates' estimates do not take into account the effect of canceling out abortions that are deemed medically necessary in order to protect a mother's life. Their calculations are based on the differentials in risk between abortions and term pregnancies, the substitution of illegal for legal abortions, and the added risk to the mother of delay in obtaining an abortion. As they point out, the exact combination of these effects that will ensue are impossible to predict but, regardless of the combination, the lives lost will be appreciable. Should abortions be denied even to protect a mother's life, the exact effect is also unpredictable, but surely additive.

There are, of course, many other costs associated with the withdrawal of Medicaid funds for abortion. Some of them are cited by Petitti and Cates in an older study based on New York City data.[3] Although not projected nationally, these social costs were of substantial magnitude. Still further costs could be projected by calculating the calamities avoided by abortions undertaken as a result of an amniocentesis diagnosis, or the predictable effects of a teratogenic agent.

These costs can be expressed in terms of women's lives lost and the misery of unwanted and unwelcome children or in the dollars and cents figures of medical and social care and loss of productivity. In any case, one can predict with confidence that confusion and distortion of the health care system will follow in the wake of the variations in state laws that the Court and House actions portend. These are additional though bitter, reasons for continuing to retain maternal mortality committees whose values are discussed in a neighboring editorial.[4]

It seems unfortunate that this side of the ledger has not been spelled out for the public to ponder. The formalization of social controls is a proper function of the laws of a society. However, laws should reflect an ample consensus derived through a rational process that has considered their effects in practical terms. Laws that do not reflect this process can lead only to inequity and abuse.

FOOTNOTES

[1] Petitti, D. B. and Cates, W. Jr. Restricting Medicaid funds for abortions; Projections of excess mortality for women of childbearing age. Am. J. Public Health: 67:860–862, 1977.

[2] Yankauer, A. Editorial: Abortions and Public policy. Am. J. Public Health 67:604–605, 1977.

[3] Robinson, M., Pakter, J. and Svigir, M. Medicaid Coverage of Abortions in New York City: Costs and Benefits. Fam. Plan. Perspect.: 6:202–208, 1974.

[4] Pearse, W. H. Editorial: Maternal Mortality Studies—Time to Stop? Am. J. Pub. Health: 67:815–816, 1977.

A BILL OF RIGHTS FOR THOSE WHO SERVE

Mr. GOLDWATER. Mr. President, the Association of the United States Army keeps working religiously and constantly on the problems that face the man in uniform. They have just published a special report entitled, "A Bill of Rights for Those Who Serve," and I think it comes at such a proper time because we are now beginning to consider these problems, that it should be made available to my colleagues. So I ask unanimous consent that it be printed in the RECORD with the understanding, of course, that the charts set forth therein cannot be reproduced in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SPECIAL REPORT: A BILL OF RIGHTS FOR THOSE WHO SERVE

(NOTE.—Some figures are not printed in the RECORD).

AUSA'S POSITION

"Removal of real or perceived benefits, regardless of the reason, can and frequently does produce Service reactions out of proportion to the savings involved. Such presumed savings then become illusory for two reasons: trained personnel who might have been motivated toward a career leave the Service at the first opportunity; and those who have chosen a military career feel that the Government has broken faith with them. The investment in recruiting, training, and experience of all those lost may well exceed any savings originally contemplated. The adverse impact on the morale of those remaining should be obvious and a cause for deep concern. . . .

"The Commission believes that a "Bill of Rights" should be enacted specifying the benefits that accrue from military service. This Bill of Rights would provide that such benefits would only be changed or eliminated prospectively and changes would not apply to those already in the Service. In other words, we feel that for whatever reason, the serviceman now feels that his benefits are in jeopardy. His trust and confidence in the system have been shaken to the point where legislation may be necessary to restore it.—Report of the Defense Manpower Commission, April 1976.

Many quotations from poets and scholars might be used to cement the idea that change is often accompanied by misunderstanding. The statement by the Defense Manpower Commission was chosen because it has

the virtue of both illustrating the philosophical idea and tying it directly to the military compensation system. It cites correctly the perception of changes to the compensation system by the people who have the greatest stake in that system, the men and women who serve in the Armed Forces of the United States.

The Association of the United States Army does not intend this Bill of Rights for Those Who Serve to be a brief against change. Rather, it is intended as a statement of principle concerning the military compensation system, its background, its strengths and weaknesses, and what must be done to emphasize the strengths while doing away with the weaknesses. It is intended as well to be a guide for the military people who must live with the system and for the legislators and civilian leaders who are charged by law to administer it.

In the view of the Association, the current misunderstanding of the military compensation system, while due partly to the system's complexity, has its roots in the number of recent changes to the system, in the multitude of directions from which the changes have come, from the obvious lack of coordination among the authors of changes and from ineffective—and even non-existent—efforts to explain adequately the changes to service personnel.

We concur wholeheartedly with the finding of the Defense Manpower Commission that, ". . . A Bill of Rights should be enacted." Only by arriving at a commonly agreed formula can all the parties involved in creating, administering and living with the military compensation system adequately cope with the realities involved. This Bill of Rights must include:

Acknowledgment of the Federal government's responsibility to adequately pay, house, feed and provide medical/dental care to active duty service personnel and their dependents.

A pay and allowance system which recognizes the special nature of military service.

Basic pay set at levels to compete with other employment systems and equitably rewarding progressive achievement in the military system with its concomitant increasing responsibility.

Housing or quarters allowance provided for all single service personnel at the option of the Service. Family housing or quarters allowance for all married personnel above pay grade E-4 at the option of the Service and a quarters allowance for all other grades. The basic allowance for quarters set on a country-wide standard of total housing costs, appropriate to each enlisted, warrant and officer grade, varied by locale in exceptionally low and high cost areas.

A ration allowance for all personnel authorized to mess separately. The basic allowance for both officers and enlisted personnel to be set on a single standard tied to the cost of raw food.

A full range of medical and dental care for active duty service personnel and dependents and, as available, to retirees/families by military health care facilities, with augmentation by CHAMPUS in its original form, i.e., 90th percentile payments, care of service-connected disabilities and long-term chronic problems.

Availability of complete commissary/PX systems with continued current level appropriated fund support.

Appropriated fund support of essential military recreation programs.

Equitable travel/transportation entitlements for all ranks.

An expense reimbursement system which compensates for the actual expenses of official duty and travel.

A retirement system modeled on the proposed Retirement Modernization Act which places a premium on longer service while retaining 20-year retirement at lower rates but would also provide equity in the form of separation pay for those involuntarily separated without prejudice prior to reaching retirement eligibility.

A Survivor Benefit Plan as currently structured but with the Social Security offset reduced to 50% of the benefit attributable to military service and eliminating the offset when the beneficiary is entitled to equal or greater benefits due to his/her own employment.

The foregoing describes, in general, the compensation system which the Association believes will meet the future needs of military force management in a volunteer environment. But no less important, and even more necessary after the hodge-podge of management actions of recent years, a new approach is required to restore the confidence of military people in their political leadership. The Association concludes that a clear statement must be made of the rights of military people of the active forces with respect to their compensation, expense reimbursements and especially the procedures used to change them. In concept, the statement should include:

A precise description of those elements of pay and benefits which are included in budgetary costs and the evaluation of each for the purpose of setting compensation levels.

A precise description of the basis for annual adjustments to pay components such as basic pay and the basic allowances.

A precise description of the basis for annual adjustments to the levels of retired pay and survivor benefits.

Precise ground rules for structural changes to the form and levels of pays and benefits. Where changes are necessary they should provide protection for those already serving, including a save-pay clause if appropriate, and permit the service people to shift to the new system rather than staying with the old if it is to their advantage.

As a final statement of principle, the Association of the United States Army holds that no single sub-element of the military compensation system should be studied, evaluated or modified without putting it in the context of the entire system. Too many of the shortcomings of the present system are due to the piecemeal, uncoordinated changes inflicted in the past in the interest of pure cost avoidance or in response to the whim of influential persons in Congress or the Executive Branch.

The keystone of military service is loyalty, reaching upward through the ranks to the Commander-in-Chief and to the Congress representing the people. To be deserved, this loyalty must also be reflected downward so that the newest recruit can be assured of constant attention to his or her welfare. When cracks begin to appear in this chain of loyalty, those held up by its links tend to look elsewhere for support.

The Association of the United States Army will support its members and their fellows in the other services to the maximum extent permitted by its constitution but no association can be a full substitute for the concern and support the Constitution of the United States demands of the President and the Congress. Once more we turn to the report of the Defense Manpower Commission:

"In view of the unique obligations of the members of the armed forces, their civilian leadership should not give them any reasonable grounds for believing that there should be divided authority over them, or that they perhaps need representation in order to be fairly and equitably treated, or that there has been any erosion of expressed and implied commitments previously made to them. The attitudes of the members of the armed forces in this regard are shaped primarily by their perceptions of the attitude toward them of the President, the Congress, and the Secretary of Defense."

If we are to have an effective national defense the people who make it work must know where they stand, why they are there and where they are going.

I. INTRODUCTION

In recent years the Administration and the Congress have made or proposed a continuing stream of changes to the military systems of pays and benefits. Various agencies and organizations, from some Congressional Committee Staffs to the General Accounting Office to the Brookings Institution, have attacked various elements of the military system, sometimes with implications that the service members themselves are somehow at fault for what is "wrong" with the system. The instability, both real and "threatened," in this most basic means by which Americans provide for food, clothing, shelter, and economic security for themselves and their families, has created and sustained turmoil, uncertainty, apprehension and mistrust in our military forces.

No large corporations, and not even the federal civil service, play so continuously with the basic structures of its pay and benefits systems. Yet much of the criticism of military compensation systems, and much of the reaction of military personnel to criticism and to changes, reflects a significant lack of understanding of these systems by all concerned.

It is fair to say that most civilian workers do not have a thorough knowledge of their pay and benefits. They know what they get in their pay envelopes each week and understand what can be done for their sick children through the company medical plan but the intricacies of how the total package was made up usually escapes them. Military personnel have a similar lack of knowledge about the fine points of their pay and benefits system but they, like their civilian counterparts, are sensitive to changes in the system that are inadequately explained or justified.

The Third Quadrennial Review of Military Compensation, established by law and staffed by civilian and military representatives of the military services and the Department of Defense, has recently completed a comprehensive study of the military compensation system and its recommendations are currently under review. The President has just formed another body, called the President's Commission on Military Compensation, to look at possible changes. In this atmosphere of impending change it behooves all military personnel to make themselves more knowledgeable about their pay and benefits systems.

For the same reasons it is equally essential that civilian decision-makers in the executive and legislative branches become much more knowledgeable about military service and about the role and the structure of the major pay and benefits systems that support it.

Compensation—wages, fringe benefits and perquisites—is what a company pays its work force to do the work required. The amount of this compensation is controlled by several factors: (1) how much is needed to compete successfully for available labor for the kind of work to be done (going wages), (2) how much the company is able to pay (profitability), (3) cost of living, and (4) productivity.

Companies with large work forces of a number of different skills tend to have relatively structured systems of wages, benefits and perquisites. The levels and mix are based on considerations of external equity (competitive scales), internal equity (equal pay for approximately equal work), the conditions of work (location, hours, temperature, noise, hazard, etc.), and manpower manage-

ment objectives and costs (youth and turnover, experience and maturity). Their pay and benefits systems are designed to be competitive in the labor market and tailored to the particular needs of their workers and of their particular management systems.

These factors also weigh in the design of our military compensation systems. But there are other considerations that influence the military system. They are the things which make military service different from civilian employment. The Department of Defense must compete in the labor market for available talent. But while most large employers offer jobs, the military requires service.

From the point of view of the potential recruit looking for a job—or the service member debating continued service—the differences in military service and other jobs consist of a prior commitment to relinquish to the organization (management, or the leadership) control over:

Whether, when and for how long he will be exposed to the risks of combat;

Whether, when and how often he will have to relocate himself and his family to a new "job site;"

When, how often and for how long he will have to work overtime, and on weekends and holidays;

When, how often and for how long he will have to work at a location separated from home and family;

When, how often and for how long he is exposed to the conditions and hazards of field duty for training.

Military service also requires prior forfeiture of the individual right to quit immediately when the job is not satisfactory. It likewise involves the risk of loss of job through failure to progress. The military careerist may not, as in most occupations, reach a level of achievement suitable to the individual and then level off there for the rest of his working life. Finally, military service is a truncated career, even for those who do succeed. Retirement is compulsory between twenty and thirty years of service. Because of age limitations on entry into service this means retirement between the ages of about 38 and 50 or so—far earlier than the 60 to 65-year age norm in American society today.

There are other working conditions peculiar to certain skills, such as in flight crews, that apply to some members. There are working conditions that apply to virtually all skills on a recurring basis, such as sea duty in the Navy and the Marine Corps. But these are the essential characteristics of military service, applicable to all. It does not mean they are "good" or "bad," only that they are different from civilian employment.

Americans have made the commitment to this kind of service in the past with the understanding—the assurance of longstanding practice—that they and their families would be adequately cared for both during active service and after being retired from active service.

From the point of view of the national leadership, military service is different from civilian employment in special ways. The national leadership must have military forces which:

It can legally require to fight anywhere in the world, and have authority to punish those who disobey orders to do so;

It can work when and as long as it sees fit without undue regard to the personal preference of the individuals, and at whatever tasks it requires without rigid conformance to the occupational specialties of the individual used;

It can individually "fire" despite fully satisfactory performance in mid-career for any momentary convenience to the government, while not allowing other individuals to leave, even though they desire to;

It can individually force to retire without regard to personal preferences or family circumstances or to outlook for alternative, necessary, employment; and

It can hold in a "no-work" status for indefinite and protracted periods and then cast into whatever operational role it desires

This relatively complete one-way control over a "workforce," without internal debate (except in a planning or scheduling sense) to use it in any way that is judged to serve the national interest, is what makes this "workforce" a military force.

The expectation—the requirement—of such a military force is the acceptance on the part of each individual member of the opportunities and limitations of such a system But more, the expectation—the requirement—is for the dedication on the part of each individual member to the organization and to the Nation it serves.

Civilian employment in our society has as its basic purpose individual economic achievement. The employee does what suits his individual survival and achievement goals best. When those goals are compatible with the goals of the employer, or the goals of the two can be mutually accommodated, the business can thrive, make a profit or achieve its nonprofit goals. Military service, to the contrary, has the continued welfare of the Nation as its purpose. While individual aspirations are often achieved through military service, the person who undertakes a military career must know that his personal preferences will sometimes have to be subordinated to the good of the organization, whether it be an infantry squad, the crew of a ship or aircraft or the whole nation. There is no way that service of this kind can be called a "job." It is, and must be, a way of life.

The compensation system of pay and benefits which supports the military personnel system, and its "way of life," must be structured to its differences from ordinary civilian life. It must have an unusual degree of stability in its form and structure because it would be one of the few truly stable things in a military career.

The current system is complex. Figure 1 lists the major components. It includes six separate elements which, in combination, are roughly the equivalent of civilian wages. There are some sixteen elements of fringe benefits. There are also over 25 items of bonuses and special pays, many of which serve the purposes of premium pay and wage differentials in civilian industry. Finally, the system includes a range of fringe benefits which are categorically similar to those used in private business, but some of which are uniquely structured to the operational and motivational requirements of military service. In addition, there is a system of reimbursements for imposed expenses composed of over a dozen separate allowances. This complexity contributes greatly to misunderstanding by service members, by would-be critics, and by proponents of reform.

The system of military pay and benefits must be assessed in terms of the personnel system it supports. The military services are a large standing force of over 2 million members. There are about 1500 separately identifiable occupational specialties. The people in the specialties are from time to time required to perform the same functions and to serve under identical circumstances. They sometimes work in the same places, doing almost the same things, as most other Americans. They are also sent to serve in places and under conditions that offer adventure and hardship most American workers will never experience.

FIGURE 1. CIVILIAN AND MILITARY COMPENSATION SYSTEM COMPONENTS

Civilian

Basic wage or salary.

Bonuses: Salary adjustments, performance bonuses.

Premium Pays: Overtime, shift, differentials, salary adjustments, hazard differentials, overseas incentive, compensation.

Fringe Benefits: Vacation, holidays, sick leave, savings and profit sharing plans, pension plan, disability benefits, survivor benefits, life insurance, social security, health care benefits, severance pays, unemployment compensation, subsidized cafeterias, discount purchases of company products, or company stores, recreation programs.

Nearest Military Equivalent

Basic pay, housing, or housing allowance, subsistence, or subsistence allowance, Federal tax advantage.

Bonuses: Enlistment and reenlistment bonuses, continuation pays, certain incentive pays.

Premium Pays: Hazardous duty pays, enlisted sea pay, enlisted certain places pay.

Fringe Benefits: Leave holidays, medical absences, retired pay, disability retired pay, death gratuity, veteran's dependency and indemnity compensation, survivor benefit plan, servicemen's group life insurance, social security, health care benefits, severance pay (officers only), unemployment compensation, commissaries, exchanges, morale, welfare and recreation program, burial benefit.

This description portrays in a qualitative way the difference between military service and civilian jobs. It makes comparisons. Comparability is a principle widely used in compensation setting. In the private sector companies set wages at levels comparable to wages of other companies to be sure they are competitive for required labor. To be competitive they must ensure comparable wage levels. The competitive wage level is commonly-called the "going rate." The measure of the "going rate" is selected with some care and is usually based on wages among companies of similar size, similar product lines, similar sales volume or revenues, geographic locations, or combination of these.

Federal Civil Service wages are set on the principle of comparability. The standard provided in law for those employees is exact parity of wages with average wages for similar jobs in a broad spectrum of companies in the private sector.

Many military personnel and some military leaders, mindful of the unique character of military service, oppose application of the principle of comparability to military pay setting. They argue that because the work, the conditions of work, and the commitment, are not comparable, the pay should not be made comparable. This view is confused by the practice of Congressional committees, their staffs, and their publicists, to criticize military pay or benefits which they judge now to be higher than some selected measure of civilian pay or benefits. This view is reinforced by one particular use of comparability—which is what we call the parity standard—in Civil Service wage setting. It is still further strengthened by the tendency of decision makers in the Department of Defense and the Office of Management and Budget to use parity as an underlying decision standard in judging the appropriateness of any proposal relating to military pay or benefit.

Yet, paradoxically, the parity standard of comparability is often argued strongly by military and some civilian defense leaders in the case of benefits like the Survivor Benefit Plan, and allowances for expenses such as *per diem* rates and mileage allowances.

Soldiers and sailors themselves make pay comparisons, perhaps most commonly in those cases where they happen to be working side by side at similar tasks with civil servants, or with contractor personnel. Their judgments of the adequacy of their pay are usually expressed in terms of relative levels of responsibility or accountability, and of the fixed length of civilian work days and work weeks.

Comparisons, with the tendency to use the parity standard, in judging military pay and benefits programs, arise from the nature of the American political process. Military compensation is paid out of public funds taxed from the people. The appropriateness of the form and rate of military compensation is debated publicly, in the press and in the Congress in the same way that public works projects, foreign aid and welfare programs are debated.

Out of that process comes the amounts the Congress and the taxpayers are willing to pay for manpower in military service. The success of the process in producing useful personnel management tools depends upon reasonable understanding of the nature of the service to be rendered, the pay and benefits systems used to compensate for that service, and the cost of paying for it.

Many factors work against achievement of this understanding:

The visible cost of direct military pays and allowances in the budget as compared to the diffused and less clearly displayed cost of civilian and contract manpower.

The way in which cost trends are displayed by the Administration.

Increasing pressures on the sheer size of the Defense budget.

The need of the political process to simplify issues, often even at the cost of losing their essential character.

The nature of the Planning, Programming and Budgeting system and the appropriations structure.

The approach to federal budgeting is to deal with individual programs to meet some overall budget goal. This may be adequate when the decision is how much to reduce one weapon system procurement or to stretch out the research and development on another, or even to limit the pay raise percentage of the entire executive branch. But the current approach to defense manpower cost reductions has been to change one or a few elements in the military compensation system, without assessing their function in or impact on the system as a whole.

This approach to military compensation systems management in recent years has given the appearance of random but across-the-board attacks on military pays and benefits, too often accompanied by critical language that sometimes is taken as impugning the value of integrity of military personnel themselves. Further, cost reduction actions are being taken in a period of steady and substantial growth in fringe benefits in the civilian sector. Compounding this has been a recent and growing trend for the military leadership to oppose any change at all to personnel and manpower related programs, even programs for ex-servicemen—veterans—almost regardless of their merit, on the grounds that they change the current or expected benefits of the active forces.

The effects of this on the military forces has been markedly increased dissatisfaction, growing uncertainty about the future desirability of a military career, a loss of confidence in the civilian leadership, the appearance of uncertainty or ineffectiveness of the military leadership in "taking care of its own," and a growing sense of the loss of the traditional and dependable court of last resort for the service member, in the Congress.

There have been, of course, improvements in military pays and benefits since 1964. These, too, have been individual, piecemeal actions to address identified problems. But because they cost money, they have tended to be more carefully considered in the context of the overall military compensation systems before being enacted. Despite this, these improvements in military pays and benefits have not had the strong impact as have the reductions and proposed reductions of recent years. These circumstances have led the Association of the U.S. Army to oppose the piecemeal approach to modifying the military pay and benefits system. We believe that there are several essential requirements for the restoration of trust and confidence among military personnel in their leadership.

Military personnel must be more knowledgeable and better informed about their pays and benefits and about the mechanisms for change.

The civilian leadership, both executive and legislative, must take the time and trouble to fully understand the military personnel systems and their peculiar requirements; the military compensation systems and the relationships of their components; and the role of the compensation systems in supporting the personnel systems.

The military compensation systems must be stabilized. There must be a predictable and equitable procedure for changing them, which will fully meet the expectations of military personnel for stability and equity while allowing change to meet the needs of national defense.

This paper is intended to help meet these goals and to persuade the civilian leaders in the executive and legislative branches of the necessity for the final goal.

II. MILITARY PERSONNEL MANAGEMENT SYSTEMS

Compensation systems have one basic purpose. That purpose is to support the personnel and manpower management systems of an organization to enable it to achieve its objectives—as economically as possible without destroying effectiveness.

There are two major personnel systems in regular military service. An enlisted personnel management system covers about 86 percent of the force, and an officer personnel system covers the remaining 13 percent of the force.

The enlisted personnel system recruits a large number of new, generally untrained, personnel into the lowest enlisted grade on fixed length contracts—enlistments—of three or four years, and trains them in required skills. It then reenlists from within this force for successive fixed term contracts. There is no significant "lateral hiring" into the upper skill levels, as is common in industry and the civil service. There are special performance standards for reenlistment eligibility. There are also minimum grade and length of service standards for otherwise satisfactory performers for reenlistment eligibility. These standards are varied as one means of controlling supply through the years of service. The individual enlisted member can leave military service at the end of any contract by merely not asking to reenlist. Virtually all are required to retire between twenty and thirty years of service. By requiring enlisted members to achieve specified ranks at certain check points throughout their careers, the flow of members from active duty into retirement is controlled.

The enlisted personnel system thus manages a pyramid of people on a grade and year-of-service basis with a fairly broad banded up-or-out system. As the system is currently operated *about one of every ten entering members reach initial retirement eligibility* with the majority not serving beyond the first enlistment.

Shortfalls in initial enlistments and in reenlistments are met by a variety of personnel management incentives and by compensation system incentives. The enlisted compensation system must support management of this pyramid by the size and "shape" of the wage scale; the form, scope and timing of special pays and bonuses; and the form, size and timing of benefits. The effectiveness of the enlisted compensation system is heavily influenced by the relationship of the system of expense remibursements to the expenses imposed on the members.

The officer personnel management system is similar to the enlisted system in that it takes nearly all of its personnel in the lowest officer grade with no significant use of lateral in-hiring. Commissioned officers, however, serve for an indefinite period at the pleasure of the President. There is an initial active duty obligation of three to about six years, depending on the source of commission and amount of education and initial technical training provided. Some officers are commissioned into active service as reservists, converting to regular status as part of a career decision.

The officer system controls the officer manpower pyramid by requiring promotion within about two years of specified year of service points. The probability of achieving each successive promotion declines with grade from over 95 percent to the grade of first lieutenant to less than 50 percent to colonel. Those who twice fail of selection for promotion are separated with a severance pay, or retired with specified maximum service if they have at least twenty years of service. Officers may request resignation—or retirement—after initial active duty obligations are met, but cannot leave regular service except when authorized.

All officers are required to retire within the period of twenty to thirty years of service, except general and flag officers. They are selectively allowed to serve beyond separately specified time-in-grade and time-in-service points.

The officer personnel management system thus also manages the pyramid of people on a grade and length of service basis but with much more narrowly defined up-or-out controls than the enlisted system, and with less control by the individual over his ability to leave the service. The up-or-out system is more elaborately and publicly defined than the up-or-out management of executives used in some corporations. The officer personnel management system is currently operated to permit a little over 20 percent of entering members to reach initial retirement eligibility.

As in the enlisted system, shortfalls in officer accessions and retention are met by the use of personnel management incentives and compensation system incentives. The officer compensation system supports management of the manpower pyramid by the size and "shape" of the wage scale and the form, scope, timing, and size of special pays and bonuses. The form, size and timing of fringe benefits similarly influence officer personnel management.

There is a tendency on the part of some legislative and executive branch decision-makers to think and make judgments in terms of one military manpower or personnel system. This brief, generalized description is intended to highlight that there are two very distinct systems, different in concept of service, different in the criteria applied to the management control mechanisms, and different in the eyes of the members serving in each system.

There are also separate and substantially different personnel management systems for the inactive forces—for the Reserve forces and for the National Guard. Requirements for the management of these forces involve separate considerations, such as

The part-time, secondary-job nature of the service.

The income supplement nature of the compensation.

Accession and retention manpower supplies for both Reserve units and National Guard units are highly localized geographically.

The fairly inflexible home-basing of Reserve units and even more fixed home-basing of Guard units.

Calling Reservists—or Guardsmen—to military duty disrupts their primary employment, rather than being a part of it. It involves a separate "employer" whose requirements and organizational objectives are not integrated in a corporate management sense with those of the multitude of individual principal employers.

The compensation of such disparate personnel management systems, themselves so different from the systems of the regular active forces, involve significantly different considerations. For these reasons, compensation systems for the Reserve forces and for the National Guard will not be discussed in this paper.

III. MILITARY COMPENSATION SYSTEMS

A simplified description of the elements of the active military officer and enlisted compensation system will aid in understanding their relationship to our society's norms in compensation, and to military service.

Basic pay

This is the principal element of military compensation. It is the pay for service, or—less accurately—time served. Basic pay is the only element of compensation paid every payday to *all* members on active duty. The amount paid is set on the basis of work level as measured by rank or grade and by time in service. There is one pay grade for each rank, with longevity steps in each pay grade for total years of service. The officer and enlisted pay scales are separately constructed with the pay lines shaped to the differences in the management of the two forces. Figure 2 shows illustrative pay lines. There is a separate pay line for warrant officers. It is constructed on the basis of the other two pay lines. For this reason, and for the sake of simplicity, the warrant officer system will not be discussed.

Quarters

Military personnel are provided housing in the form of bachelor housing sized on grade, or family housing sized on grade and to some extent on family size. Members who do not have dependents are not provided housing when they are assigned to sea duty or to extended duty in the field. These members are quartered at their "duty site." All members on active duty are provided housing, or paid a cash allowance in lieu of actual housing, or are quartered at their place of duty.

When military personnel are not provided government housing they are paid a cash "basic allowance for quarters" intended to enable them to obtain suitable housing in the civilian community. Bachelors on sea duty or extended field duty are not, however, entitled to this cash allowance. The cash quarters allowance increases by grade but not on the same scale as basic pay. The rates for married members are illustrated in Figure 3. Those without dependents receive even lower rates. Current quarters allowance scales do not meet the average cost of off-post housing. Depending on grade and location in the U.S., off-post housing costs military personnel an average of 110 percent to 217 percent of the housing allowance.

With the very large standing forces maintained since World War II and the greatly escalating costs of building, operating and maintaining government housing, DOD has grown to depend heavily on local civilian communities to house military personnel. Despite the inadequacy of the allowance a substantial proportion of the force is now given the cash allowance in lieu of government housing.

This heavy dependence on the cash allowance to obtain off-post housing, coupled with efforts by the services to advertise cash income for recruiting and retention purposes, has highlighted both the inadequacy of the allowances and the differences in cash income between bachelor and married members. This has added to the concerns of military personnel about the adequacy and equity of military compensation.

Figure 4.—PERCENTAGE DISTRIBUTION OF QUARTERS

	Enlisted	Officer	Total
Cash allowance	47%	33%	44%
Government housing	45	65	48
Bachelors on sea duty	8	2	8
Total	100%	100%	100%

Subsistence

All members on active duty are "paid" subsistence in kind or a cash allowance in lieu of subsistence. Enlisted personnel are provided subsistence in kind in the form of prepared meals in government dining facilities or in the form of pre-packaged rations—the famous "C" and "K" rations—while serving in the field. When government food it not available a cash basic allowance for subsistence, to obtain food on the local economy, is provided. Further, local commanders may grant requests for a cash allowance even when dining facilities are available, so long as this doesn't adversely affect economical operation of the facility. This basic subsistence allowance is a somewhat lower rate than the "mess not available" rate. Each of these two rates is the same for all enlisted grades. Neither rate bears any relationship to the cost of meals or of food off-post. Nor are they tied to the cost of meals or of food served in government messes. About 55% of the enlisted force is provided one of the two cash subsistence allowances.

Officers are required to subsist themselves, and are paid a monthly cash allowance for that purpose. The rate is the same for all grades. It is substantially lower than the enlisted cash allowances, and, like them, bears no relation to the cost of meals or food either off-post or in government messes.

Cash subsistence allowance rates are illustrated in Figure 3. A simple scale shows the relationship between the cash allowances and various food cost indexes:

The inadequacy of the cash subsistence allowance has contributed to the concerns of military personnel about the adequacy and equity of military compensation.

Regular military compensation

The concept of "Regular Military Compensation," (RMC) and its uses in law for military pay adjustment, introduced a major element of the often-criticized "complexity" of the military compensation system. It therefore requires careful discussion.

In civilian compensation systems, the wage or salary, plus premium pays, if any, is the current cash component of compensation which meets the current needs of the worker. It supplies food, clothing, and shelter for himself and his family. Any cash remaining after paying taxes and these necessities is discretionary income available for other obligations, for saving, entertainment, and whatever other expenditures are important to him for enhancement of his "quality of life."

In the military system, two elements of necessity expenditures are separately managed: food and shelter. Thus for various purposes—recruiting information, internal information, pay comparisons, pay setting—comparing military basic pay to civilian wages is inadequate.

Adding the three military pay elements together gives an equivalent to civilian wages that can be useful for making comparisons. But the quarters and subsistence elements are not taxable, while all of the civilian wage and military base pay are. To account for this difference a fourth element must be considered. It is called "federal tax advantage." It is the amount of extra pay that, if the allowances were also taxed, would have to be added to military pay so that after tax pay was unchanged. The tax advantage element of regular military compensation is not disposable cash: it can only be "spent" as an implied tax payment to the federal government. The concept of regular military compensation (RMC) is represented in Figure 6. Current rates are illustrated in Figure 2. The very small change in the slope of the RMC line (Figure 2) from the slope of the basic pay line should be noted. It results from the egalitarian approach to the housing and subsistence allowance—a consideration that does not weigh in civilian pay setting.

Thus RMC is a rough approximation of civilian basic wage or basic salary. But it is only a *rough* equivalent. In its use for military pay setting beginning in 1967, the "federal tax advantage" element has been calculated based only on basic pay and the basic allowances for quarters and subsistence, and using the standard deduction. Because people do have other income on which they must pay taxes, their tax rates are at different levels. Thus their *actual* "tax advantage" will differ from the calculated "tax advantage" used for pay setting purposes.

Further, "tax advantage" changes as tax rules change. When government enacts an income tax reduction to give taxpayers more disposable income, the "tax advantage" element of RMC goes down—there is less "tax advantage." Thus, if RMC is used as the measure of military wages, income tax reductions result in military pay cuts! This has been called "IRS roulette."

A second aspect is that it treats the housing allowance as a part of "salary"—that is, pay for work. It thus highlights the difference in RMC rates for married and bachelor members. This leads to the common conclusion that bachelors are underpaid, and to an equally reasonable, though less often voiced argument that married members are overpaid.

The Association of the U.S. Army believes that one of the major causes of complaints among military personnel is the inadequacy of the two basic allowances coupled with the differences in military "salary" highlighted by the RMC concept.

Vacations, holidays and sick leave

These common civilian fringe benefits have approximate equivalents in the enlisted and officer compensation systems.

Leave is the military equivalent of paid vacations. Basic pay and the in-kind or cash allowances continue during leave, as does the basic wage in civilian systems. Most civilian vacation benefits increase with length of employment. They typically scale from one or two weeks per year after a year of employment to four or more weeks after ten or fifteen years of employment. Many are more liberal than this. Military leave is thirty days per year regardless of grade or length of service. Civilian vacations are invariably charged, on a daily or hourly basis, against regular workdays. Military leave is charged on a daily basis against *all* days embraced by the absence including weekends and holidays.

Unused earned leave, up to a career aggregate of 60 days is reimbursed upon separation as, typically, is civilian vacation. Enlisted personnel can take reimbursement for unused leave at the end of each enlistment. But military leave is reimbursed only on basic pay, not on the full salary equivalent. Because of the demands of military service most military personnel lose some leave. Senior enlisted members and middle-grade officers lose significant amounts and senior officers lose one to three quarters of their entitlement.

Civilian holiday benefits range from seven to ten days annually, occasionally less and sometimes more. All military personnel are granted the eight national holidays if military operations permit.

There is an additional aspect of "absence benefits" associated with military service. In civilian employment, the employer exercises control over the employee during the period he or she is on the job at the work site. In military service the "employer" exercises control over the "employee" at *all* times. This leads to a status called "liberty" (or "pass"). "Liberty" is the period when the "employer" does not require the member's presence at the work site or his readiness to be there. In organizations that can practice "normal" work weeks "liberty" is frequently routinely granted outside of "normal" working hours. There is no equivalent to "liberty" in civilian employment.

Civilian employers provide varying amounts of paid sick leave. The rates are often scaled on the basis of years of employment. Sick leave is taken at the discretion of the employee for bonafide illness or injury. Military personnel do not have a defined sick leave benefit in the same sense. But all absence for medical reasons is paid absence. Medical absence is always controlled by the "employer." How much is actually used depends on when the military "employer" decides that the member is fit to return to duty. Because it is not a defined benefit military sick leave cannot be accumulated, or "cashed in" upon separation or credited to retirement as federal civil service and some industry benefits are.

Retirement and survivor benefits

Most civilian plans are based on the final salary or an average final salary of the last one to three years of employment. Military retired pay is based on final basic pay and years of service for both enlisted and officer personnel. It is calculated at 2½ percent of final basic pay, times years of service. It is limited to 75 percent of basic pay—the result of thirty years service. This 75 percent cap affects virtually all general and flag officers, and a very few others who may serve beyond thirty years but receive no additional retirement benefit. This is in marked contrast to civilian practice, where "top management"—the top 1 percent or so of a company's work force—tends to be provided with supplemental retirement benefits above the basic plan for all employees. Civilian pensions in larger corporations are typically adjusted from time to time to catch up to living costs. Military retired pay is automatically adjusted twice a year by the percentage increase in the Consumer Price Index.

As with a large and increasing proportion of civilian pension plans, the military benefit requires no contribution from the member. Unlike civilian pension plans, the military retirement benefit has no vesting provisions. The member must actually achieve retirement eligibility before being eligible for any benefit. This feature acts as a very strong career incentive to members who have passed the career mid-point of between 10 and 14 years.

Retirement earlier than statutory maximums can be denied. Retired pay can be denied for certain reasons, though this is only infrequently done.

Like much of the civilian work force, military personnel participate in the Social Security System. They pay social security taxes to fund current social security beneficiaries. Their military pay counts as wage credits toward eventual social security benefits for themselves. Only military basic pay is used for social security taxes and for wage credits. Thus for a given level of "regular military compensation" (RMC) they pay less social security taxes than civilians with an equivalent wage. But they also receive smaller wage credits for the same reason, reducing the level of future benefit compared to civilians with equivalent wages.

The Dependency and Indemnity Compensation (DIC) benefit is a survivor benefit for the families of veterans, including active duty personnel. It serves the same purpose as pre-retirement death protection in civilian practice. The benefit ranges from $250 per month for privates to $664 for the most senior officers

There is, in addition, a single lump sum death gratuity of six months' basic pay, but limited to at least $800 and not more than $3,000. Under current pay scales the $3,000 maximum limits most corporals and sergeants and all members in higher grades.

The Military Survivor Benefit Plan (SBP) also serves the same purpose as the survivor benefit portion of civilian retirement and survivor benefits. The SBP allows the retired member to provide 55 percent of his retired pay to designated survivors. A smaller portion of retired pay can be designated. There is a direct charge for this of 2½ percent of the first $300, and 10 percent of the remainder of the amount designated for survivor benefits. Participation at the maximum rate is automatic, and the retiring member must opt for lower participation or nonparticipation. This approach is intended to maximize participation. There is an additional indirect cost of participation in SBP. After the survivor becomes eligible for social security benefits, the SBP payment is reduced by an amount calculated as the social security old age benefit attributable to the members' military wages. The Department of Defense has made estimates of the cost to retired military personnel of SBP after taking account of this "social security offset." These estimates show that for members who retire in 1987, enlisted members will have paid more for SBP than their survivors will eventually draw from it. Officers will pay almost as much as their survivors will eventually draw. This is illustrated in Figure 7.

Figure 7.—SBP BENEFIT AND MEMBER COST[1] VALUE IN 1987 TO HYPOTHETICAL GROUP RETIRING IN 1987

(Aggregate dollars in millions)

	Enlisted	*Officer*
Total SBP payments to survivors	$174.1	$234.1
Total charge to members	$290.1	$228.1
Member cost	$116.0	$—6.0

[1] Assumes that military pay growth is 5% per year, retired pay growth and survivor benefit growth is 4% per year, and that the average interest rate is 6%.

This table highlights the fact that although the SBP benefit is valuable protection for survivors, retired officers will pay for nearly all of the benefit, and retired enlisted members will heavily overpay for it.

But it is essential to understand that while these results apply to the two groups they will not apply to each member. Older than average members with younger than average wives would expect SBP to be a better buy. The decision to participate in SBP is a very personal one which should not be based on overall average statistics.

Participation in SBP has been fairly low—less than 50 percent for enlisted members. It is understandable that with substantial direct charges, plus the social security offset, high rates of participation are unlikely.

The SBP benefit at the rate of 55 percent of constructive retired pay is applied to members who die while on active duty with over twenty years' service. However, the benefit is offset dollar for dollar by DIC benefits payable, and if the DIC benefit is larger, the survivor is not entitled to SBP.

Similarly, retired members who die of service-connected causes are, as veterans, entitled to DIC, and their survivors' SBP annuities, if any, are reduced by the DIC annuity.

Disability Benefits

Workmen's Compensation laws of the individual states provide benefits for temporary and permanent disability of civilian workers for on-the-job accidents and, usually, for a wide range of occupational diseases. A similar law, known as the Federal Employees Compensation Act, covers federal civil service employees.

Military personnel are not covered under any Workmen's Compensation laws. Because of the nature of military service, military personnel temporarily disabled and not fit for duty receive any treatment judged by the service to be required to restore them to duty, and receive full pay and allowances during treatment. Many disabilities fully acceptable in most civilian employment are disqualifying for military service and members so disabled are not allowed to remain on active duty. Members who cannot be made fit for military duty are given a disability rating and separated:

Those with "minor disability" (less than 30-percent disability) and less than eight years' service are given a disability separation with severance pay equal to two months' pay times years of service, up to two years' basic pay. Civilian severance is typically based on full salary.

Those with over eight years' service and all with "major disability" are given disability retirement. The eight-year limitation is waived in times of national emergency. The benefit is final basic pay multiplied by the per cent of disability. Members eligible for retirement for service may opt for that retirement benefit instead. Retired pay calculated on disability is tax exempt although recent changes to tax laws will restrict this exemption for those who entered service after September 1975 to disability related to "combat injuries."

When the permanency of disability is uncertain, disability retirement is temporary and the member will be returned to active duty if restored to fitness for it.

The Veterans Administration also provides tax exempt disability pensions to veterans disabled due to military service. Retired military personnel are, as veterans, also eligible for the benefit. The VA makes certain disability determinations, and both disability and non-disability retired members may qualify. However, to exercise the veterans benefit, retired members must forfeit military retired pay on a dollar-for-dollar basis.

The complex and inconsistent interaction of military retirement, survivor and disability benefits with veterans benefits and social security benefits, further complicates assessment of the net benefits of military service—not only by managers and legislators but by military personnel as well.

Life Insurance

Typical civilian practice is to provide a life insurance benefit. It is usually non-contributory for the basic coverage. Supplemental benefits are sometimes provided at some cost to the employee. All military personnel on active duty for more than thirty days are automatically insured for $20,000 through Serviceman's Group Life Insurance (SGLI) and are charged $3.40 per month for it. The member may opt for no SGLI or for lesser

amounts in $5,000 increments at reduced cost. This approach is designed to maximize member participation in the program. The member pays the full cost of the insurance. The Department of Defense will pay "extra hazard" premiums whenever they occur, as in wartime. SGLI is "pure risk" insurance with no cash, loan, paid up, or extended insurance values. It may, however, be converted to Veterans Group Life Insurance (VGLI) in the same or lesser amount upon separation or retirement. VGLI is a five-year non-renewable term insurance policy.

These insurance programs are currently administered in such a way that the premiums paid by active members not only cover the cost of their own insurance but significantly subsidize Reserve and Retired Reserve participants in SGLI and veterans and retired members participating in VGLI. Thus SGLI is a valuable protection for survivors but the member bears more than the full cost of the coverage.

The health care benefit

Typical civilian medical benefits consist of Workman's Compensation for on-the-job injury and disease, and employer-provided benefits designed to protect employees from unexpected medical costs for themselves and their families, other than those costs covered by Workman's Compensation. Depending on the nature of the work, some employers provide direct care on the job site. Typically, employer-provided plans involve deductible amounts the employee must pay, some copayment by the employee, and sometimes some cost sharing of plan premiums. Increasingly, central benefits, to include dental care, are being extended to employees and their families. Most civilian workers are covered in retirement after age 65 by Medicare, and many employers provide some Medicare supplement health coverage for their retirees.

The military health care benefit is an extensive program of medical and dental care provided to the member through a worldwide direct care system. It also provides medical care to dependents in the direct care system on a space-available basis, and through a supplemental program, CHAMPUS (Civilian Health and Medical Program for the Uniformed Services), which has most of the characteristics of civilian employer-provided health insurance benefits. CHAMPUS makes no provision for dental care.

Military personnel are not covered by Workmen's Compensation. The same purpose is met through the military direct-care system. However, the military "employer" exercises control over military personnel and their fitness for world-wide military service without regard to working hours or presence at the "work site." Thus health care for the member is complete; in fact, it is imposed whether or not it is desired. There are no premium charges, co-payments or deductibles for this care.

Medical care for dependents in the direct care system provided in military hospitals is roughly equivalent to the more extensive medical and surgical health insurance plans in civilian employment. There is no premium payment or deductible, and only modest co-payments covering non-medical services associated with hospital care. Limited by the location and capacity of military medical facilities, the dependents medical benefit is supplemented by CHAMPUS. This insurance-style program provides basic, major medical and surgical services with deductible and co-payment requirements. No dental care is provided routinely except when families are overseas with their sponsors.

A major difference in civilian and military health care benefits arises from the mobility of military service. Military personnel move so often that it is very much more difficult for them to gain access to local health services. The direct care system solves this problem The CHAMPUS approach does not.

Retired members and their dependents have essentially the same coverage as active duty dependents—medical care in military facilities on a space-aavilable basis but on a lower priority and the supplemental CHAMPUS coverage with deductible and significantly higher co-payment requirements, particularly for inpatient care. CHAMPUS benefits terminate at age 65 when Medicare becomes effective.

There is another unique characteristic of the direct care approach to the military health benefit as it relates to dependents and retired members. The direct care system has a large number of health professionals who must be trained, kept current, and allowed to exercise the full range of their skills. This is not achievable with the relatively young, predominantly male and very healthy military forces. Therefore, DOD uses dependents, and retired members and their dependents, as resources to train and motivate their health professionals. The availability of this broad range of patients meets what the services regard as an essential military requirement.

The particular characteristics of the military health care benefit, the very large direct care capacity with the mandatory nature of service to active members, and the use of retired members and dependents as resource persons in direct care facilities makes valuation of the benefit and meaningful quantitative comparisons with civilian health insurance type medical benefits extremely difficult.

Premium pays

In civilian employment overtime pay is required for work in excess of eight hours per day and in excess of forty hours per week by the Fair Labor Standards Act and the Walsh-Healy Act. Defined categories of employees, roughly equivalent to very senior enlisted personnel and to the officers corps, are exempt from these requirements. Overtime pay, or "penalty pay" as it is sometimes called, is 1½ or more times the basic wage.

Differentials are sometimes paid for unusual working environments or hazards, such as oil drilling platform work and overseas assignments. The federal civil service pays hazard premiums for work with hazardous materials such as mercury. Merchant mariners have been paid premium rates up to several times basic wages for exposure to the hazards of war. Overseas incentive differentials of 20 percent to 50 percent or more are paid. More general hazards and special skills are recognized through higher scales of basic wage or salary.

In the military compensation system all members of a given work level (grade) are paid on the same scale. Members are in a duty status—under control of the "employer"—24 hours a day, seven days a week, regardless of whether they are at the usual work site or not, and no "penalty pays" are provided for overtime weekend or holiday work or duty.

The military systems provide hazardous duty pays for specified assignments or skills of unusual hazard to secure volunteers for such assignments. These include bomb disposal duty, diving duty, parachute duty, flying duty, both for crew members and non-crew members, and submarine duty.

Other hazard pays include pay for duty such as experimental stress duty and leprosarium duty. These pays range from $55 to $110 per month.

There is also a Hostile Fire Pay for both officers and enlisted personnel. It is a token pay for service in designated hostile fire zones during periods of nominal peace. It is currently $65 per month. Vietnam and Cambodia retain hostile fire zone designation to preserve entitlement of personnel carried in a missing status. Hostile Fire Pay is stopped in time of declared war.

There is no incentive differential in the military system for overseas assignment, including sea duty. However, enlisted personnel are paid a "Certain Places Pay" for overseas assignments in tropical latitudes, very high latitudes and locations where dependents are not authorized and for sea duty. Both are token pays ranging from $8 to $22.50 per month depending on grade. There is no special pay in the officer compensation system for assignment overseas or at sea.

Wage differential type bonuses and special pays

The particular character of military service and the need for organizational identity and loyalty have resulted in a single enlisted pay scale and a single officer pay scale. But the military must compete for manpower trainable into skills with a wide range of "going rate" wages. And the military must similarly compete to retain trained manpower against a wide range of "going rate" wages. To do this while retaining a single wage scale the military has developed a system of bonuses and special pays for higher cost skills. These are in the form of:

Enlistment Bonuses for enlisting into military service. This is a fixed rate bonus of up to $3,000 for training and serving in specified skills. The bonus is paid in a lump sum near the beginning of the enlistment.

Selective Reenlistment Bonuses for reenlistment in specified enlisted skills. The size of the bonus is based on multiples of basic pay and the amount of additional service contracted for. It is managed in two separate zones—Zone A to obtain additional service from those with less than six years of service and Zone B to address those between six to ten years of service. The bonus is limited to $12,000 except for a $15,000 limit for Navy nuclear trained skills. The rate for new bonus participants increases automatically with basic pay increases, up to the maximum rate allowed. It is paid in annual increments in advance of the applicable service. An option for an advance lump sum payment has not been allowed in recent years.

Aviation Career Incentive Pay to attract and retain officers and warrant officers in an aviation career. It is paid as a regular monthly pay ranging from $100 to $245, depending on years of aviation service. For officers the maximum rate is paid during the 6th through 18th year, declining thereafter to zero after 25 years of officer service. For warrant officers the maximum rate, $200, is paid from the 7th year throughout remaining service. There is a "gate" system of eligibility requiring specified amounts of aviation duty by completion of certain years of officer service to receive the incentive pay continuously. Otherwise it is only paid during flying duty assignments.

Nuclear-qualified officers special pay. There is an integrated series of incentives for nuclear trained and qualified officers:

Nuclear accession bonus. A single payment of $3,000 to officers with less than five years of service volunteering for nuclear training and duty. It is paid upon successful completion of nuclear training.

Nuclear continuation pay. A continuation bonus for officers who have completed their initial active obligation but have less than ten years of service, of $20,000 for a commitment to four years of additional service. It is payable in $5,000 annual installments, in advance.

Nuclear career incentive bonus. An annual incentive bonus of $4,000 for each year of nuclear service completed may be paid without a multiyear commitment. Continuing eligibility requires service in nuclear billets. The bonus is not available after 26 years of service and is not paid to flag officers.

There are several special pays for the health professions. They are:

Variable incentive pay for medical officers. This is a bonus-type continuation pay for officers in grades of captain through colonel, ranging from $10,000 to $13,500 per year for additional years of active duty in critical medical skills. The rate of pay depends on the years of service and the length of the additional active duty agreement, from one to four years. Officers serving in their initial four years of active duty obligation in repayment for professional training are not eligible. But officers serving beyond this, or beyond duty obligations for other benefits such as medical training, are eligible for this bonus, though at a reduced rate of $9,000 per year. At the doctors' option the pay may be taken in a lump sum at the end of the contract or in annual, semi-annual or monthly amounts in advance. For purposes of this bonus all medical specialties are treated as critical and all specialties are paid at the same annual rates, reflecting the existing extreme difficulty in recruiting and retaining military physicians.

Special continuation pay for physicians and dentists. This bonus-type pay is for officers in critical specialties in the grade of major through major general. It is in multiples of basic pay, declining from four months basic pay for lower grade officers down to two for major and lieutenant generals for each agreed additional year of active service. The rate for each new agreement automatically increases with increases in basic pay. Officers who have not yet completed five years of service and officers who opted for the variable incentive pay are not eligible. Likewise officers who are drawing special continuation pay are not eligible for the variable incentive pay. The pay may be taken in annual or semi-annual installments in advance. For purposes of eligibility all specialties are once again considered critical.

Special pay for physicians, optometrists, dentists and veterinarians. This pay provides an additional monthly pay to help attract and retain officers in these health fields. It began in 1947 for physicians and dentists. It was extended to veterinarians in 1955 and to optometrists in 1973. It pays $100 a month to physicians and dentists with less than two years of service. For physicians in all specialties it increases to $350 after two years of active service. For dentists the rate increases to $150 after two years, $250 after six years and $350 after ten years of active service. A flat rate of $100 applies to veterinarians and optometrists. The law covering these latter two fields was allowed to expire in 1975, and those entering thereafter were not entitled to the special pay. Congress has just approved a one-year extension for physicians and dentists and has restored eligibility for veterinarians and optometrists.

These enlisted and officer bonuses and incentive pays are not optimally designed, lack consistency of form and payment, and in some cases are not soundly integrated. Nevertheless, they all serve the same basic purpose as does the use of wage scales in civilian manpower management. They allow the enlisted and officer compensation systems to be adjusted to competitive conditions and to correct manning imbalances. They do it in a way which is acceptable to military personnel by meeting cash pay needs while retaining at least the appearance of a single military wage scale for all.

Commissary and exchange benefits

Most large military bases, including those overseas where dependents are authorized, have commissaries providing grocery store items at prices generally lower than in commercial supermarkets. Large military bases have post exchanges providing retail store services, gas station, photo, optical, barber and hairdresser services and cafeteria or snack bar services at prices generally lower than full service retail outlets off post. Some of these services are not available at smaller posts. Because of obvious space limitations, fleet units have relatively limited retail store type services.

These discount purchase services can provide significant savings to the military personnel who can use them. Based on price comparison surveys commissary store savings are about 20–22 percent, and exchange savings are about 18–23 percent.

The annual gross savings that accrues to service members and their families through shopping in the facilities is next to impossible to define. Those who live on military installations are more likely to use the commissaries and exchanges than those who must travel across town to reach them. The junior enlisted person and the young officer with growing families and limited budgets tend to use them more out of simple expediency. As family size shrinks or disposable income increases, use of the commissaries and exchanges will tend to decrease. Whatever the gross savings to individual service members may be, the cost to the government of providing this benefit is small—about $90 per active duty member per year.

Civilian employment practice is similar but not generally so broad. Companies manufacturing consumer goods and retail stores frequently sell their products to employees at substantial discounts. Federal employees at or near overseas bases are granted military commissary and exchange privileges. Foreign service employees overseas have their own discount operations. A few companies in the United States operate exchange-type retail stores as an employee benefit. But civilian employers do not provide such an extensive range of discount purchase opportunity as the military services.

As we said, the Department of Defense spends relatively modest sums to operate commissaries and exchanges—about $269 million a year on commissaries and about $125 million a year on exchanges. The "consumption advantage" savings from using these stores comes not just from this appropriated dollar support, but also from quite independent sources: the "co-op" nature of the business, the limited hours and service, and the low markup policy.

But the issue of whether these stores are an "employer"-provided benefit is even more complex:

Exchange goods and services are marked up to create profit to provide operating funds to the Morale, Welfare and Recreation Program. That is, the possible "consumption advantage" is reduced to help pay for the recreation program, which is itself frequently criticized as an excessively generous benefit. This contribution has been about $90 million to $100 million annually. If this "subsidy" of the recreation program were eliminated, presumably Defense would have to either replace it with appropriated dollars, or else decide that those dollars were not necessary and reduce the recreation programs accordingly. They could, of course, increase user charges and markups in recreation activities to produce additional revenues for those that are unfunded. Defense will have to decide whether the recreation program meets a military need, which it is partly funding with a "subsidy" from the soldier, or whether it is merely diverting some of the soldiers' discretionary income, spent in the exchange, to programs that are not essential.

Exchange and Commissary markups are also set to fund capital investments in the facilities. However, the facilities then become government property. The QRMC found that this reverse subsidization to the government in recent years has averaged about $18 million annually in the commissary and $79 million annually in the exchange.

The availability of overseas exchanges and commissaries is used in calculating rates for the overseas Cost of Living Allowance (COLA). The Department of Defense recently completed a study which estimated that overseas commissaries and exchanges saved $556 million annually in COLA costs.

Thus for an investment of about $394 million a year in commissary and exchange operations, Defense is getting over $740 million a year in "subsidies" and cost avoidance in other programs. This makes the question of how to count commissaries, exchanges and recreation activities in compensation comparisons even more difficult.

Reimbursements for expenses

Compensation systems are supported by methods to reimburse employees for expenses imposed by the employer as a requirement of the job. The obvious examples are the expense accounts of traveling salesmen, and the uniforms provided to employees required to wear them. Most national and international companies, when they ask employees to relocate, provide moving allowances covering transportation, subsistence, household goods shipment, paid househunting trips, reimbursement for the expenses of selling the old home and buying the new one, or from breaking rental leases; and temporary lodging expenses at the new location.

These kinds of expenses are major components of the management of military services because of the size of the "work force," the requirement for uniforms and for temporary travel. These elements are orders of magnitude larger than in even the larger corporations.

While the Department of Defense has an elaborate structure of expense reimbursements, it does not, for reasons of cost and slowness to adjust to changing conditions, adequately meet the objective of ensuring against financial loss from imposed expenses.

Uniform Expenses. Uniforms are required in military service. In some circumstances civilian dress is prescribed, and in others is encouraged. Enlisted personnel are provided initial issues of uniforms and subsequent allowances based on wear-out rates. Allowances are provided when civilian dress is prescribed. Officers are provided neither uniforms nor maintenance allowances. However, Reserve officers, including ROTC graduates appointed in a Regular component, and temporary officers under initial appointment from enlisted ranks, are provided initial uniform reimbursements ranging from $75 to $250. Certain items of organizational clothing such as cold weather gear, pilots' helmets and the like, are supplied when needed.

Temporary Duty. Military personnel are frequently assigned temporary duty away from their duty stations for training and for operations. Travel and per diem allowances are paid as average reimbursements. Portions of this reimbursement are frequently in kind, at the temporary duty station, for subsistence and for shelter. Per diem allowances are adjusted periodically to reflect changing costs. Since maximums, rather than formulas, are specified in law, adjustments tend to significantly lag reality.

Permanent Changes of Station. A major expense imposed on military personnel is the permanent change of station (PCS). This occurs normally every two to three years, but there is substantial deviation in frequency in both directions. Enlisted personnel and officers are authorized reimbursement for the cost of their travel and the travel of their dependents. The allowances are calculated on commercial travel modes on rates per mile with maximums specified in law. Since the mileage rates used to reimburse service personnel for their travel always lag far behind the actual expenses accrued during travel by automobile (no per diem is payable) the service member must absorb part of the travel cost.

Both groups are also authorized shipment of households goods to specified weights, scaled by grade, without cost. These weight allowances are drastically reduced for many

overseas stations because of cost. Storage of the remaining household goods during the overseas assignment is provided. Because this expense "allowance" is based on weight, the member is protected from changes in costs.

Enlisted members and officers are entitled to a dislocation allowance to help defray the miscellaneous expenses in relocating a household. This type of expense allowance in the private sector is usually a flat rate equal to one month's salary, though it may vary with the number of dependents. In the military it is set at one month's basic quarters allowance—roughly 20 percent of the military equivalent of civilian salary. Further, the allowance is not paid to bachelors going to government housing or to bachelors going to sea duty.

Unlike civilian employees, military personnel are not authorized a paid house-hunting trip. The costs of home sale and purchase are not reimbursed. The costs of lease-breaking are not reimbursed; however, the relatively widespread acceptance of the "military clause" in leases relieves many of this cost when a move is due to military orders. DOD pays a temporary lodging allowance to personnel awaiting permanent lodging at their new duty station, but only for stations outside the continental U.S.

Thus the Department of Defense does not adequately reimburse the costs of permanent change of station moves. The effect is that military personnel "subsidize" the government from their pay and/or savings, reducing their living standards. It is difficult to estimate on a sound basis the cost of these inadequacies. Attitudinal surveys of military personnel indicate that members judge that on the average a PCS move costs them $1,000 in unreimbursed expenses and that it takes an average of six months to recover financially.

There is another aspect of PCS expense that is even more significant in terms of cost and in terms of the displayed attitude toward military personnel by Defense and Congressional leaders. The family-type PCS expense allowances authorized for enlisted personnel are not provided to members in grade of corporal (with less than two years' service) and below. They are treated "as though" they were without dependents.

This saves DOD substantial amounts. The Service Chiefs have sought for several years to extend PCS travel allowances to all members. This has been reversed in the budget process for reasons of "economy." The cost for fiscal year 1979 would be less than $200 million, and would provide relief to perhaps 70,000 junior enlisted personnel.

Since enlisted personnel cannot quit or refuse PCS orders except in violation of federal law, their options are to accept periods of family separation not required of others or to bear the associated expenses out of pockets. The impact of these expenses on their own pockets. The impact of these expenses on junior enlisted personnel is emotionally and financially severe. The Association of the U.S. Army believes that a second major cause of complaints of inadquate compensation among military personnel, and among service leaders especially on behalf of junior enlisted personnel, arises from the extra expenses borne in attempts to mantain a semblance of normal family life in the absence of adequate expense reimbursement for *all* grades.

Other Expenses. There are certain other expense reimbursements in the military of lesser budgetary impact that are still significant to the individual members.

There are two family separation allowances (FSA) intended to reimburse, on an average basis, expenses that arise when the military member is separated from his home.

FSA–I is intended to meet the shelter expense of a married member who is assigned to an unaccompanied tour overseas. His quarters allowance—either in kind or in cash—is expended to maintain his home for his family back in the U.S. out of his regular military compensation (RMC). He is usually quartered in government housing—a barracks, a B.O.Q. or on board a ship—but may be paid an additional housing allowance (at bachelor rates) if he must find quarters.

FSA–II is intended to reimburse on the average for the myriad of small expenses such as home, automobile, appliance and yard upkeep and repair that would be taken care of by the husband if he were home. It is paid to members on unaccompanied overseas tours, on ships out of homeport for more than thirty days, and so on. The allowance was set at $30 per month in 1963 and has not since been changed.

Overseas living costs

In civilian compensation systems overseas assignments generally involve substantial wage differentials as incentives, plus allowances to reflect living costs. The wage premiums are typically 25 percent (even for Federal civil servants), and several times higher in extreme environments. In the military service, assignment to any location is at the sole discretion of the "employer" and wage scales are not increased for overseas assignment except for the token "certain places pay" paid to enlisted members in many, but not all, locations.

Military manpower management takes an expense reimbursement rather than wage premium approach to overseas assignment. The added cost of maintaining U.S. living standards at the overseas location is reimbursed through two allowances.

The Cost of Living Allowance (COLA) reimburses for excess living costs, except housing costs. Daily allowance rates by grade and family size are set based on comparisons of living overseas with U.S. urban spending patterns measured by the Bureau of Labor Statistics and taking into account the relative availability of post exchange and commissary services. Members living on-post in bachelor housing are not authorized the COLA even though it is based on expense elements, some of which are independent of whether shelter is on-post or off-post.

The provision of exchange and commissary services at overseas posts thus produces lower COLA costs than would otherwise result. While they are often touted as overly generous—and expensive—benefits no longer appropriate in modern times, they save the government COLA costs.

The Station Housing Allowance (HA) reimburses military personnel not assigned to government housing, and bachelor members not on sea duty, for housing costs in excess of their basic housing allowance. The allowance is calculated on the basis of comparisons between average housing costs in an area with average basic housing allowance rates of those stationed in that area. For locations with unusual cost ranges, the HA is calculated separately for officers and enlisted.

Both of these expense allowances can be adjusted as frequently as necessary to reflect changing cost conditions, even those resulting from changing currency values. The COLA ranges from 0 to 198 percent of the U.S. standard. The HA ranges from 0 to over 200 percent of the average basic housing allowance. There are isolated instances of even higher rates.

Living Cost Differences in the U.S. It is significant to note that the deficiency in the rates for the basic allowance for quarters are met on a local basis overseas by the HA rate, and that the deficiency in basic allowance for subsistence is considered in the local COLA rate. In the United States living costs vary significantly around the country. A Civil Service survey of compensation practices shows that most employers with operations in more than one geographical location pay different wage rates at different locations. In the U.S. food costs vary somewhat among the locations where military personnel are stationed, and housing costs vary radically: from 110 percent to 217 percent of BAQ. Yet, though military personnel are assigned within the U.S. at the sole discretion of the services, there is neither a COLA nor an HA in the U.S.

An excellent study by the Center for Naval Analysis for the Third Quadrennial Review of Military Compensation analyzes the range of costs experienced by military personnel in the U.S. On the basis of its work the QRMC Staff developed several approaches to a Variable Housing Allowance (VHA) in the U.S., suitable for use in several possible military pay systems. The services have advocated a VHA from time to time over many years, but the apparent costs and the lack of integrated compensation system management have prevented development of such an allowance. Yet the substantial change in the standard of living members experience in being transferred from low cost areas such as Forts Polk, Sill or Knox, to a high cost area such as Forts Jackson, Meade, or Belvoir, produce great dissatisfaction and financial hardship.

The Association of the U.S. Army believes that the extreme range of living costs faced by military personnel in the U.S. is a third major cause of complaints of the inadequate military compensation among military personnel and service leaders.

A soundly based "Variable Housing Allowance" in the United States would go far toward correcting inadequacies in the military compensation systems. QRMC Staff Studies show that a VHA supporting an adequate pay system could be established for less than $100 million per year.

OTHER BENEFITS

There are a number of benefits that are seldom considered in calculating military compensation: Military personnel are, like civilian workers, eligible for unemployment compensation upon separation. The Department of Labor reimburses the states for payments made. They are, as veterans after two years of active duty, entitled to the Veterans' Administration Loan Guarantee Program. Military personnel are eligible, like civilians, for Federal Housing Administration Mortgage Insurance. However, DOD rather than FHA pays the insurance premiums for military personnel. There are extensive education and training programs in the military services. Most are directly related to skill development and job assignments and require prior commitment to additional active duty. However, tuition assistance for off duty programs for enlisted personnel does not require additional service obligation. There have been liberal education benefits under the "GI Bill," primarily intended as a readjustment program to help veterans adjust to civilian life. This has now been replaced with a limited contributory savings program for post-service education. These "other" benefits represent less than 2 percent of the total military pay and benefits program.

IV. SETTING MILITARY PAY

Military pay in the current system has been characterized by long periods of stagnation with intermittent temporizing increases to respond to specific problems: war (either cold or hot), retention in certain grades, or restructuring. Having been set in a military draft atmosphere, pay scales did not have to be competitive. So military pay levels have lagged civilian pay. There were four increases between 1922 and 1945 (offset by four cuts in the early thirties). There were four increases between 1945 and 1982. Since 1963 the increases have come annually.

In 1967, the First Quadrennial Review of Military Compensation recommended pay system reform which included a pay standard. The Congress awaited implementing legislation but, partly because of the increased cost of the system. Defense did not submit it. Thereupon Congressman Mendel Rivers introduced a successful amendment to the Military Pay Act which required that military personnel receive pay raises at the same time and in the same percentage as the general schedule of the Civil Service.

This link was important. In 1962 legislation, Civil Service pay scales were made competitive with private sector pay scales by imposition of the principal of comparability on the system. Actual pay parity was not achieved until 1970 because of the expense involved. But because of this pay parity principle, military pay increases were assured of keeping pace with pay increases in private sector pay. Military pay scales were still not competitive, but the effect of the 1967 Military Pay Act was to prevent them from falling further behind.

However, the annual adjustment of civil service salary had to be translated to the military pay and allowances system. The Rivers Amendment defined regular compensation (RMC) as described earlier, and required the average of the percentage increases in civil service pay to be calculated on RMC as the military equivalent to civilian salary. But it also required the resulting pay increase be applied to military basic pay alone.

This approach had several conflicting effects on the structure of military compensation. It:

Increased basic pay more rapidly than just "keeping pace";

Made no adjustments to the housing and officer subsistence allowances, making their rates fall further and further behind reality. However, it retained the requirement for periodic adjustments to enlist "commuted ration" rates to stay approximately equal to the government raw food cost of rations in kind;

Hid the nominal increases in the two allowances in basic pay where they were not visible;

Made these nominal allowance increases in the form of taxable cash pay, reducing the benefit to military personnel and increasing federal revenues;

Reduced the "tax advantage" element of RMC:

Increased the costs of training pay of reserve forces;

Increased the cost to both military personnel and to the Department of Defense of participation in the Social Security program; and

Increased the future costs of retired pay.

Clearly these outcomes were neither desirable nor intended in terms of sound compensation system management. Just as clearly, this initiative was another stop-gap measure which would act as a penalty on the Department of Defense by its short-term increase in the visible elements of military manpower costs, and thus force out a soundly conceived reform of the compensation system. Nevertheless, this system governed annual military pay adjustments for seven years until 1973. But by 1974 the increased direct costs, especially in the appropriation for military retired pay, forced a change.

Meanwhile, a national policy decision was made that the country should no longer depend on the draft for its supply of military manpower. To enable the services to compete unaided in the market for available manpower, military pay had to be increased to more competitive levels. To do this, in 1971, Defense sought and obtained very substantial pay increases—of up to 100 percent—for the lowest enlisted and officer grades with less than two years of service. Minor adjustments were made to pay in grades and longevity steps near these major changes to reduce the pay compression that would otherwise have resulted. No changes were made for the career force, except for a modest increase in the basic housing allowance.

This was a pay *setting* action, designed to raise entry level pay to competitive levels. It was independent of the annual pay *adjustment* actions intended to keep pace with wage movements in civilian employment. Although Defense-made no real market analysis of wages of the more skilled and experienced grades in the service, it was nevertheless then declared that military compensation had achieved generally competitive levels with the civilian sector. This laid the foundation for the expressed rationale for the changes in military pays and benefits which were to follow a few years later.

In 1974, the annual adjustment mechanism imposed on the military pay system was modified. The "keeping pace" linkage with the civil service was retained but instead of applying the civil service average increase percentage to RMC and then adding the resultant dollars to basic pay, the so-called "three-way pay split" was enacted. In this scheme, the average percentage increase in civil service pay was applied separately to the three cash elements of RMC—basic pay, the housing allowance and the subsistence allowance. This ended the disproportionate increases in basic pay, and gave a more balanced approach to the use of RMC as a pay adjustments device. The "tax advantage" element became, then, even more subject to the vagaries of "IRS roulett."

Another structural change to the annual pay adjustment system was introduced in 1976. In seeking to constrain the manpower costs in the budget, the Administration decided to seek authority to divert part of the increase in basic pay over to the housing allowance. This saves money because those in government housing would not receive the cash dollars of housing allowance increase. It would also, in the longer term, reduce the rate of increase in retired pay costs since basic pay growth would be depressed.

The rationale for this change was that members in government-owned family housing were receiving an inequitable subsidy over members living off-post because the average value of family housing was above the rates of the cash housing allowance. To recognize the lower value of bachelor housing, a "rebate" of the "reallocation" was to be given to bachelors in housing, and also to those on sea duty. The objective was to assure that all members except those in family housing would receive the same cash pay increase as they would have had without "reallocation." It was also argued that starting this pay raise "reallocation" would give Defense a head start in transitioning to a proposed "fair market" rental scheme for military housing.

Although it was acknowledged that the rental value of military housing was not yet known, it was argued that one or more successive "reallocations" could be safely undertaken before any real risk arose of overshooting that unknown target. The Service Chiefs vigorously opposed this sort of tinkering with the system. Indeed, an earlier draft report of an OMB/DOD Housing Study proposing a "fair market" rental system had been unanimously opposed by the Services and in DOD, for lack of sound implementation proposals, lack of sound housing value estimates, and doubts that on-post housing value was the right standard for an allowance intended to meet off-post costs.

Nevertheless, the pay raise "reallocation" scheme was approved as a "program budget decision" outside the normal staffing processes, enabling legislation was submitted to the Congress, and after some intense bargaining between committee staffs in the House and Senate, was enacted without any meaningful public hearings. The goal was reduced costs, not compensation system improvement.

If military compensation was at competitive levels in 1974 and 1975, the pay raise "reallocation" scheme has muddied the basis of that judgment in the same areas, though sometimes in the opposite direction, as described earlier for the old RMC adjustment device. Further, it introduces a new "Partial BAQ" into the compensation systems, presupposes a standard for BAQ, and by its operation implies that the standard for basic pay—the key element of reward and equity in a pay and allowance system—is merely a residual of the housing allowance. The AUSA agrees with the Service Chiefs that the pay raise "reallocation" device and its underlying assumptions are unsound, and that its use should be terminated until the Department of Defense decides how it wants to manage military housing as a component of the compensation system, and then decides whether "reallocation" is an acceptable way to make any required adjustments to pays and allowances.

From this abbreviated description of the process of setting and adjusting military pay and allowances it can be seen that four significant changes have been enacted in the ten-year period from 1966 to 1976—not pay raises but structural changes representing shifts in the concepts underpinning the system. They cannot, even in the most generous terms, be described as evolutionary. They reflect see-saw changes in direction, none based on serious consideration of overall system design.

Nearly 80 percent of the enlisted force and almost half of the officer corps have less than ten years of service. Their experience has been, thus far, service under compensation systems characterized by continuing instability. At the same time, senior supervisors and leaders with, say, 15 years of service and more, have witnessed ten years of growing destabilization of their compensation systems. This accounts in large measure for the uncertainty, confusion and loss of confidence among military personnel.

It is for these reasons that the AUSA believes that the executive and legislative branches should stop piecemeal attacks on military compensation systems in favor of an integrated approach—looking at total compensation. We would expect the President's Commission on Military Compensation to make its recommendations on that basis, and strongly urge the civilian leadership in the Administration and in the Congress to do so.

V. SETTING RETIRED PAY

Military officer retirement has been the subject of a series of laws designed to provide through regulated voluntary and involuntary retirement improved efficiency, a young and able force, and reasonable promotion opportunity. The system that requires promotion or separation ("up-or-out") integrated with a retirement system was enacted in 1916. The norm has been compulsory retirement between twenty and thirty years' service, with several periods of special and/or forced officer retirement to reduce "humps" of long-service members following major force buildups and suspensions of retirement for war. The shortest period of service for retirement eligibility was seven years, in 1934.

The objectives of involuntary retirement can be achieved in the enlisted force through administrative policies including judicious non-acceptance of reenlistments. Thus, statutory authority has never been needed or provided. Retired pay, both officer and enlisted, has generally been calculated at 2.5 percent of final pay times years of service, with variations down to 2 percent, and as high as 4 percent in the early 1920s for certain officers. But the multiplier of 2.5 percent times years of service was first used in 1916, and became the "standard" method of setting retired pay.

There have been a number of ways of adjusting military retired pay. The "standard-method familiar to most military retirees

is the method of "recomputation" which calculates the pay of a retired member on the current active duty pay of the grade and longevity step held by the member at the time he retired. The "recomputation" approach was first established in 1870, and lasted about five years. It was restored in the Navy in 1908.

"Recomputation" was allowed for each officer and enlisted pay raise between 1922 and 1949. "Recomputation" with an alternative choice was provided in the Career Compensation Act of 1949. It was allowed in the 1952 and 1955 pay raises except for those who had elected computation under the "old" method option in 1949.

In connection with the 1958 military pay raise, Defense proposed that retired pay not be increased. The Cordiner Study of military pay in 1957 had recommended "recomputation." The Congress enacted a law which did not permit recomputation, in part because of the cost, but instead provided a 6 percent cost-of-living increase in military retired pay. The shift to a cost-of-living basis for retired pay adjustment was made permanent in the 1963 Pay Act. The House Armed Services Committee noted this break with "tradition" and attributed it to the cost of continuing the "recomputation" method.

The 1963 Act established an elaborate formula of annual Consumer Price Index change measurement, providing a retired pay increase if a 3 percent "threshold" was crossed. Two groups were, however, given a one-time "recomputation" option. Those who had retired before June 1958 were allowed to recompute on 1958 pay rates. Those who retired between April and October 1963 were allowed to recompute on October 1963 pay rates. This was evidently an attempt to bring all retired members to adequate and equitable—but not identical—retired pay levels as a baseline for subsequent application of the new cost-of-living system of retired pay adjustment.

Because of the time lag in application of CPI increases to retired pay, the formula was changed in 1965. It provided an increase in the fourth month following any three months which the CPI was 3 percent above the rate of the previous adjustment. In 1969, a 1 percent "kicker" was added to the formula for each increase, to offset the time delay in that formula.

As inflation rates increased over succeeding years the 1 percent kicker formula proved ineffective in that it "over-adjusted" retired pay in terms of maintaining the purchasing power of that pay. This produced cost increases which Defense found unacceptable, and Defense therefore proposed elimination of the "kicker." After review of several analyses of CPI-based adjustment formulas under various assumptions about future inflation rates, the Congress in 1976 replaced the entire CPI increase formula.

The new approach simply adjusts retired pay every six months based on increases in the CPI in the six-month period ending two months earlier. While there is a lag between CPI increase calculation and retired pay increase, Defense has analyzed the formula under a wide range of inflation rates and found that over time adjusted retired pay will track more closely with the cost of living than under any of the previous adjustment methods.

After retired pay was decoupled from active duty pay in 1958, some of the subsequent active duty pay raises were applied to the more senior "career" grades and were substantial. This produced a wide disparity between retired pay rates of more recently retired members and those who retired prior to the 1958 "decoupling." This reinforced the feeling of many that the government had broken faith with those who had served under the earlier depressed pay scales but who had the traditional recomputation to keep them abreast of their younger peers.

Defense twice initiated legislative proposals for one-time recomputations to meet campaign commitments of President Nixon. However, the cost of such proposals would have been significant, and Defense no longer favors one-time recomputation.

This description of retired pay setting and adjustment illustrates another aspect of the complexity of military compensation systems. In the U.S., labor shares in the growth of the economy. Wages increase with productivity increases, and society's standards of living also increase. Inflation is present too, but in the long run it lags returns to both capital and labor. Typically in civilian employment workers retire at age 60 to 65, with a pension based on current wage scales. With normal life expectancy the pension will run 10 to 15 years. Corporations typically make adjustments to pensions from time to time to keep pace with the cost of living. And the social security old age benefit is automatically indexed up on the cost of living. Over the typical life of a pension it will not fall intolerably behind reasonable needs of the pensioner.

In the military, the typical retirement age is 40 to 50 with life expectancy of 25 years or more. The wage base for the retired pay formula can—as it has—change dramatically over such a protracted period. Thus the retired pay of a 65- or 70-year-old military retired member may be very inadequate, even if the cost-of-living is indexed forward for 25 years, simply because the wage base was so small.

The "recomputation" method of retired pay adjustment insured that retired military members shared in the gains reflected in military pay levels. The change created by the Congress in 1958 and 1963, was to base a member's retired pay on his own "working wages" scale, and then to protect it from inflation. This is a sound and logical concept. But the simple approach taken, certainly appropriate in normal civilian employment, does not fit the military "employment" system well in a growing economy.

A shorter range aspect of this bears on the complexity of sound military compensation system design. In recent years inflation rates have been quite high. This, coupled with the 1-percent "kicker" feature in military retired pay adjustment, has increased retired pay rates significantly. Wage growth on the other hand has been more modest. The rate of military pay growth has been depressed by caps on increases, deferral of increases and similar efforts to lessen the growth of civil service salary rates. As a result, military personnel could retire with retired pay rates lower than they would have been had they retired earlier.

Not wanting to reward shorter service and penalize longer service, the Defense Authorization Act of 1975 was amended to permit retiring members to have their retired pay calculated on the basic pay rates of their earlier grade and length of service, back to 1971, which would result in the highest retried pay rate.

This kind of problem can get even worse. In Great Brtiain military pay rates are linked to civil service pay rates. With protracted enormous inflation rates, and caps on civil service pay as one way to combat it, the British have had to consider capping retired pay so that it will not exceed active duty pay. The logic for this, certainly applicable in the U.S., is that no matter how valuable retired members are to the Nation, they would never be worth more than the current active force.

This description of changes in pay setting and pay adjustment policies illustrates the effects on personnel management and the military force of sequential, stopgap, unintegrated actions to change military compensation. It highlights the need for broader knowledge and understanding among the civilian leadership and its technical staffs in both branches of the government. It shows why the AUSA believes that piecemeal changes to military compensation systems are no longer a sound approach to managing the military force.

VI. COMPENSATION COMPARABILITY

These brief summaries of the recent history of setting active duty pay and retired pay lead into consideration of four issues:

(1) The form of military pay
(2) The present value of deferred benefits
(3) Total compensation setting
(4) Comparability standards for military pay

These issues must be briefly discussed here. Comprehensive treatment of these issues is in the Staff Studies of the Third Quadrennial Review of Military Compensation and the Defense Manpower Commission.

The form of military pay

The current pay-and-allowances form of military pay is a major element of complexity in military compensation systems. There is growing interest in a salary form of military pay. The First Quadrennial Review of Military Compensation, after considerable study, recommend a salary for careerists, as did the Defense Manpower Commission in 1976. On a more shallow basis recent General Accounting Office reports, a Brookings Institution study, and several Congressmen have advocated a military salary. Assertedly because it would make military pay more "visible" and "understandable," the underlying thrust of these advocacies have been cost avoidance through pay reductions.

The Staff Studies of the Third QRMC concluded that military pay should be shifted to a military salary. However, the Draft Report of the QRMC itself took the position advocated by the four services—that a pay-and-allowances system should be retained, in modernized form. AUSA supports this position.

A salary system could solve the problem of the misperception of military personnel, political leaders and civilians generally. It would probably eliminate pay variations due to family size and quantity of government housing, and also require a system of rents for housing and of charges for subsistence. Comparisons with civilian pay would be simplified, and more accurate displays of military personnel costs would be possible. The social security coverage of lower grade personnel would be increased.

A salary system would require an increase in the Defense budget to fund the "tax advantage." (However, QRMC Staff Studies estimate increased tax revenues would slightly more than offset this.) Some members would lose the "hidden tax advantage" that comes because they are in higher tax brackets due to taxable income other than military basic pay. Both Defense (the employer) and lower grade members would pay higher FICA (social security) taxes. However, a military salary would contribute to the growing concept that military service is just another job rather than supporting the sense of military community and of the uniqueness of military services—the basis for the morale and esprit so vital to the functioning of a military unit.

The pay and allowance system is one with which military personnel are familiar. They understand that it recognizes the essential differences between military service and civilian employment. It recognizes that, ideally, the members of a unit, both officer and enlisted, should be housed so as to be available for immediate calls to action. It recognizes that the government has contracted to provide their food, directly or indirectly, and that it will try to indemnify them from duty-incurred extraordinary costs. Notwithstanding all arguments that quarters and subsistence allowances may be anachronisms with roots in a frontier Army, they are symbols of that special sense of comradeship found in no other profession.

The pay and allowances system avoids the cost to Defense of the "tax advantage," and also avoids having to place a value, with pay-setting accuracy, on government housing, and having to choose the basis—bachelor or family rates—on which to convert to a military salary.

But there are disadvantages in a modernized pay and allowances system:

It continues the "tax advantage," a major source of confusion, both to members and the public.

The differences in RMC from the dependency-based housing allowance are widely viewed among military personnel as a major inequity, because most now tend to view cash pay received as pay for service rendered. This way of looking at military pay has been reinforced by use and publicity for the RMC concept.

It complicates reasonable comparisons of military pay and pay in civilian systems. Commercial credit institutions, for example, will continue to undervalue military pay.

The AUSA has long advocated retention of the pay and allowances form of military compensation, principally for its value in reinforcing the sense of community and of service among military personnel.

The present value of deferred benefits

This complex problem is one of the principal stumbling blocks to believable comparisons of military and civilian compensation levels. Many of the publicists, Congressmen and civilian managers in the Administration who criticize the "overly generous" pay and benefits of military service do so on vague perceptions of the value of benefits.

Some, for example, argue that compensation is too generous because retired pay is received, immediately upon retirement, at ages as low as 38 or 39, and that the member has not even made a contribution to the benefit. Similar views are held about the low cost health care benefit in retirement, and about the commissary and exchange benefit in retirement, and about the commissary and exchange benefits for retired members. This requires an understanding of the concept of present value, and of the limitations of that concept. The retirement benefit is most useful to illustrate, though the approach is applicable to most deferred benefits.

The prospect of a pension in the future has some current value to a worker today. It also has a present cost to the employer. A day of work by the worker today represents a liability for future payment which the company will have to meet. It is an accrued liability for future payment. In running a sound business, the company must decide whether a piece of work is most economically obtained by buying it from a supplier or having a company worker do it. Thus the quantification of that accrued liability—the present value of the future benefit—is extremely important.

If the company wants to pay today for that future benefit earned today, it can set money aside in an amount just sufficient to pay the pension when it falls due. How much to set aside will obviously depend on:

How many workers working how long.

What their pay scales are.

How much those pay scales will increase over the working life of the workers.

What proportion of the workers will actually reach retirement, and what proportion will die, quit or otherwise leave the company's work force

What rate of interest the set-aside money will earn.

What the mortality of the workers will be after they retire.

How much the pension rates will be in the future.

If the pension is protected against increases in the cost of living, then what inflation rate will occur over the lifetime of the pensioners.

Simply stated, for the military the present value of the future retirement benefit is a function of the stream of active duty pay over the active service of the force, the probability of the members reaching retirement, the stream of retired pay to retired members during their retired lifetime, and the assumed rate of interest earned by the cash set aside. Cash does not actually have to be set aside for this calculation, and in fact Defense does not now fund the future retired pay costs of the current force.

But the liability is accrued, and the retirement benefit does have a present value. Because the calculation of its value involves projections of future behavior of elements, such as mortality, reenlistments, voluntary and involuntary separations, interest rates, inflation rates and the like, the services of people skilled in the actuarial sciences are used to making these projections. A large number of actuarial methods are available, and most express the present value of the deferred benefit as a percentage of present wage. The effect of differing assumptions can be illustrated using the civil service retirement benefit, a civilian employment system with which many are familiar. It is a fairly typical civilian system except that, unlike most systems in the private sector, it requires a contribution on the part of the employee.

FIGURE 8

CIVIL SERVICE RETIREMENT BENEFIT VARIATION IN VALUE FROM VARIATIONS IN ASSUMPTIONS

[In percent]

Assumptions	Static economy	Dynamic economy A	Dynamic economy B
Interest rate	5.0	6.0	6.0
Annual salary increase including effect of inflation	2 2.5	4 4.5	5 5.5
Annual CPI adjustment to pensions	0	3.0	4.0
Accrued value as a percent of present basic salary	13.6	21.6	28.7
Net present value after allowing for employee 7 percent contribution	6.6	14.6	21.7

These examples all assume the same working force with no change in working years, mortality, probability of working to retirement and so on. Only assumptions about future economic conditions are changed. They illustrate the great significance to benefit valuation of those assumptions. On a $38 billion civil service payroll, the government would have to set aside each year as little as $2.5 billion and as much as $8.2 billion to eventually pay for the pensions of the same force. That $5.7 billion swing is as large as the range the Congressional conference committees typically debate on the whole defense budget.

Because actuarial valuations depend on how the work force is managed, the length of the working career and the probability of reaching retirement eligibility also substantially affect the present value of the retirement benefit. This is illustrated in Figure 9 by comparing enlisted, officer and civil service benefits under identical assumptions about the future economy.

FIGURE 9

ILLUSTRATIVE COMPARISON OF MILITARY AND CIVIL SERVICE RETIREMENT BENEFITS

[In percent]

	Enlisted	Officer	Civil service
Present value as a percent of basic salary or the military equivalent, RMC	27.5	26.8	31.7
Less employee contribution	0	0	7.0
Net present value	27.5	26.8	24.7

Note: This table is based on economic assumptions proposed in August 1976 for costing civil service manpower (OMB circular A-76): real interest rate 2 percent, real wage growth 1 percent; inflation 0 percent. The military benefit is actually earned on basic pay, which averages 72 percent of regular military compensation.

The closeness of these three percents surprise many who have not thought about the influences on present value of future benefits. But these three forces are each managed very differently from the others. For example, a larger proportion of civil servants than officers reach retirement, a larger proportion of officers than enlisted reach retirement; and military personnel are not permitted to work to as advanced ages as civil service employees.

This approach to present value is very similar to the valuation—the premium cost—of term insurance policies, in which an identified group of people share on an equal basis the cost risks of an eventual payoff. As with insurance, it is common practice in civilian retirement plans to assume that the costs of the plan are incident on all employees even though not all eventually achieve retirement. The probability of doing so has been included in the value calculation, thereby reducing the present value. The prospect to a new enlistee of being able to serve to retirement, even though he may later decide not to reenlist, has value to him. If neither IBM nor the U.S. Army offered their current non-contributory retirement benefits, it is highly unlikely in our society today that either would be able to get significant numbers of new "recruits."

The present value concept recognizes explicitly the time value of money. Other deferred benefits such as the Survivor Benefit Plan, the retired health care benefit and so on, have present values which can be estimated on a similar basis. The uncertainties in valuation highlighted in this discussion show the difficulty in attempting to trade off a present dollar of, say, basic pay with a dollar of a contingent future benefit.

Total compensation setting

With the burgeoning scope and cost of fringe benefits in industry there has been increasing interest in managing all pay and benefits in an integrated manner; on a total compensation. The President's Panel on Federal Compensation recommended that federal pays and benefits be managed on a total compensation basis. The Third QRMC was tasked to investigate the same question in relation to military compensation.

The concept advocated by many would be to tally up all of the basic wages, premiums pays and fringe benefits values to arrive at a total compensation value. This number could then be raised or lowered as needed to meet the competition. The selected value could then be redistributed among wages and benefits as appropriate to meet company needs.

Thus, if total compensation was too low, management could decide to put the extra dollars in wages or retirement or health benefits. Conversely, if total compensation was too high, it could be reduced by removing the dollars from the value of any selected component of the system.

The concept of total compensation management is significant in the comparison-based compensation setting used in industry and prescribed for federal civil service wage and salary setting. It is in this same context that the concept was investigated by the Third QRMC. The QRMC Staff Studies demonstrate the infeasibility of that particular approach to total compensation management in the military systems.

There is no common practice in valuing in-kind and deferred benefits such that comparisons of pay-setting accuracy could be made. Differences in force management from company to company and including the military, make the comparability of valuations, even using the same methods and

economic assumptions, of doubtful acceptability in pay setting. There would be great temptation in defense budget development to save the extra dollar in total military compensation resulting from the retirement valuation by reducing basic pay one dollar.

But it is wages that enable a worker to meet current living expenses and by which he measures his current living standard. The existence of a normal range of fringe benefits is extremely important in competing for skilled or trainable manpower in today's society. Nevertheless, it is the cash wage that is the basic measure of competitive level of compensation. It is for these reasons that the QRMC Staff Study "Total Compensation Setting" concluded that total compensation must be managed in two separate components—the wage component and the benefits package—so that wages remain at competitive levels. The AUSA finds these arguments persuasive.

Comparability standards for military pay

In theory the most economical way to hire and keep a work force is to negotiate with each individual that wage which would be just sufficient to persuade him to join the company and keep him with it. This would produce a series of wage rates set by pure competition in the labor market. In the early part of our industrial development and growth wages were determined much this way.

But the coercive power of corporations has been largely counterbalanced by the coercive power of labor, and the size and complexity of work forces now require more workable approaches to wage administration. An American Management Association 1971 Report on Salary Administration describes the process this way:

"This practice has widely been discarded and replaced with more sophisticated methods that strive to obtain the objective of being fair and equitable. It is generally considered that the best interests of the organization, employee and the public will be served by paying fair and equitable compensation"

Fair and equitable compensation for military service would in principle neither exploit the patriotism and dedication of military personnel nor cost American taxpayers more than is necessary. This principle was expressed in the draft report of the Third QRMC, and was even used in the Report of the Secretary of Defense for Fiscal Year 1977. But funding that level of compensation inevitably involves making compensation comparisons with other groups, as described earlier, to find the right yardstick or standard for military compensation.

The difficulty with a comparability-based compensation standard for military service is that military and civilian jobs are not really comparable. There is no civilian job that is really comparable to that of an infantry soldier. Using a comparability standard would tend to obscure this lack of comparability and add to the trend toward treating military service as if it were a "job." For these reasons AUSA has generally opposed the idea of comparability for military compensation.

Yet, as has been noted, people do make comparisons as a guide to judgment. Even military personnel make comparisons, not just internally but with other compensation systems, about the adequacy of their pay and benefits. And they act on the basis of these comparisons, whether they are "accurate" comparisons or not. The Senate Appropriations Committee has, for three years now, in its reports on the Defense Appropriations Bill published precise comparisons of military and civil service compensation. It has used these comparisons to argue in its report that military personnel are "not significantly worse off than others." The reports have not said why military personnel should be "worse off" at all.

The Committee compensation comparison tables use arbitrary military and civil service general schedule grade equivalencies which bear no relationship to job comparisons in use in compensation administration. They are not based on any sort of maturity curves, a method used for some jobs in which pay measurements are based on years since graduation, or years since first employed, or years of work in the particular field. They are not based on any of several commonly used measures of work level or job content, such as the one used to set general schedule pay levels.

The effect has been to transmit a regrettable sense of arbitrariness, even bias. The point is that in the absence of an agreed upon standard for measuring the adequacy of military compensation, there will continue to be unresolved arguments that the military is either overpaid or is underpaid. Military compensation will continue, as it has been, to be set on an *ad hoc* basis. And the debate over military compensation, rather than contributing to the development and improvement of a sound management system, will continue, unresolved, an unstable and demotivating system.

This has persuaded the AUSA that a standard for military compensation is required, and that it must be based on some measure of comparability with civilian compensation.

There is a range of possible military compensation standards. It will be useful to illustrate the range based on some measures of approximately equivalent jobs. Figure 10 exemplifies the range, but does not describe its limits. For the illustration, civil service wages are used, from work published in the QRMC Staff Studies.

FIGURE 10

EXAMPLE STANDARDS FOR ENLISTED PAY

	Equivalent work level standard				
	Military grade, years of service	General schedule	Wage grade	Weighted average [5]	Senate Appropriation Committee standard
Grade—step	E-3/1	GS-3/2	WG-6/3	GS+WG	GS-3/3
Average RMC or wage	$7,887	$7,655	$11,669	$9,862	$7,902
Grade—step	E-7/14	GS-7/4	WS-9/2	GS+WS	GS-6/5
Average RMC or wage	$14,190	$12,675	16,869	14,730	11,754

[5] The QRMC Staff Studies estimated the mix of "white collar" (GS) and "blue collar" (WG) jobs in the military service. That mix is, at E-3, 45 percent GS + 55 percent WG At E-7 it is 51 percent GS + 49 percent WG.

This figure uses grades near the bottom and top of the enlisted grade structure which might be suitable for drawing an enlisted pay scale. The civil service grades and steps are those grades identified as approximately equivalent in work level (job content) by a job evaluation system widely used in civilian industry. Added to the display are the general schedule grades the Senate Appropriations Committee chose to declare equivalent to the military grades in its report on the 1978 Defense budget.

Great Britain has established its military compensation system on the basis of comparability with its civil service. It recognized the lack of identity between military and civilian occupations, but described the relationship this way:

"All jobs whether service or civilian possess certain common demands for which any employer is willing to pay wages. These demands can be assessed and given values as proportions of the whole job. The important ones like knowledge, mental or physical skills, and demand or responsibility, are obvious, and there are others, some of which are of little consequence in differentiating between the sizes of jobs. What is intended is that Servicemen should be paid generally what they might fairly expect, were they to apply the knowledge, skill and responsibility of their service jobs, to jobs required to be done in civilian life."

In the British system that comparability standard chosen is not parity, but a rather large differential in the salary. But the significance is not the particular standard which the British chose, but rather that one can be chosen which is based on alternative job opportunities for military personnel while recognizing that military service and civilian employment are different.

The choice of an appropriate standard is a difficult decision in itself. The large number of occupations in the military represent a sigificant range of wage scales in civilian employment. The overriding military need for a single visible basic wage scale makes the judgment even more difficult. In theory a high-level standard will pay many skills more than is necessary to meet their needs and service needs. Also in theory, a lower standard will leave many skills undercompensated in these terms, requiring very heavy dependence on differential pay through bonuses and special pays. There is probably a practical limit to the proportion of the enlisted force, and of the officer force, which could be on bonuses and special pays without destroying the credibility of the single pay scale. It is also true that the standard chosen for the single pay scales must seem reasonable—credible—to most enlisted members and to most officers, particularly in the military specialties. These considerations, in AUSA's view, preclude mathematical determination of the correct standard, and will instead require management judgments by the Administration and the Congress.

The services during the Third QRMC advocated comparability-based compensation with a system of bonuses and special pays to achieve competitive pay levels in higher cost skills. The AUSA believes that this approach will enable the government to meet its defense manpower needs, achieve the dual objective of fairness to both service members and taxpayers, and provide acceptable answers to the conflicting arguments of inadequate and excessive military pay.

VII. DEFENSE MANPOWER COSTS

The sheer magnitude of the defense budget and the way it is managed have given impetus to changes to military compensation such as the examples described in earlier sections. This can be seen in the approach taken in recent years to manpower cost control in the defense budget. The manpower cost share of the defense dollar has been increasing. In terms of current dollars it has exceeded 50 percent, going as high as 57 percent in the FY 1977 budget. This percentage number has been attacked by many as simply "too high". The Administration has used the rate of *defense* manpower cost and its upward trend as justification for initiating a number of cost reduction actions, largely in the military pay and benefits areas. Figure 11 shows the very substantial increase in manpower costs since Fiscal Year 1964. That year is usually chosen by DOD manpower managers as a "normal" year.

But the country has experienced almost unprecedented rates of inflation since that time, increasing the numerical price of everything. Further, military pay rates had been held at extremely low levels for many years. A substantial increase in pay *rates* for junior enlisted members and junior officers was made in 1971, to shift to competitive recruiting without relying on the draft. A change to pay adjustment procedures in 1967 ensured that military pay *raises*, though not pay *rates*, would keep pace with civilian pay raises.

Because of these factors, changes in defense manpower costs must also be judged in terms of real buyer power—in constant

dollars. Figure 12 adds a constant dollar percentage line to Figure 11.

This shows a markedly smaller rate of manpower dollar growth than the one argued as the reason for military pay cost reductions. The Department of Defense argues rather strongly in terms of constant dollars in seeking funds for capital expenditures, but has not sought to protect military personnel cost levels with such arguments.

The use of percentages to assess the proper level of a piece of the Defense Budget has the obvious disadvantage of being influenced by changes in the funding levels of the other pieces. DOD made significant reductions in military material purchases after the Vietnam war. Obviously any non-manpower cost reduction will increase manpower as a percent of the budget.

Thus manpower expenditures must be assessed in real dollar terms as well as budget percentages. Figure 13 shows manpower expenditures in current dollars and in constant FY 1977 dollars.

This figure puts arguments about burgeoning manpower costs in quite a different light. But it does not tell the whole story.

Defense has tabulated manpower costs to consist of:

Military personnel cost.

Defense family housing costs.

Military retired pay for members already retired.

Reserve and National Guard personnel costs.

Civilian personnel costs, including partial costs of future pensions of these employees.

"Personnel supports costs," including

Medical support;

Individual training;

Recruiting and examining costs;

Overseas dependent education;

Half of "base operating support"; and

Certain miscellaneous costs.

Two of these manpower cost elements account for nearly all of the manpower cost increase between 1964 and 1977. One is the military retired pay cost, which grew from $2.8 billion to $8.2 billion during the period. But military retired pay costs are not related to current defense forces at all. They are today's costs of the increased number of retired members resulting from past national policy decisions to maintain very large forces from the beginning of World War II. They are costs of *past* defense. The executive branch does budget for current costs of future retired pay of the military. It budgets for only a portion of the current cost of future pensions for civilians.

The second is the "personnel support cost" category, which increased from $3.4 billion to $4.6 billion during the period.

When these two cost elements are left out, the remainder—defense "payroll costs"—are in fact declining more rapidly than manpower costs, as shown in Figure 14.

In *constant* dollar percentage terms, while manpower costs have increased from 54 percent to 57 percent of defense outlays since 1964, payroll costs have *declined* from 48 percent to 44 percent of the defense outlays for the current force.

This is not to argue for unchecked spending for personnel programs. And in fairness to the Department of Defense, it cannot easily control defense manpower costs through adjustments to civil service compensation systems, because they are under the sponsorship of the Civil Service Commission. DOD can only control the civilian payroll by adusting the size of its civilian work force. In a given budget cycle it is far easier to manipulate components of military systems. But it does mean that arguments using budget percentage and percentage trends are not sound—or credible—justification for many of the actions which have been taken in recent years.

VIII. COST REDUCTION ACTIONS

As unsettling to service men and women as have been the repetitive changes to military compensation described earlier, their effects have not been allowed to subside. There has been a continuing stream of changes to benefits, largely in the form of reductions in value and rationalized on cost, since 1972. Defense has argued recently that since the series of pay raises beginning in 1967, including the all-volunteer force increase in 1971, military pay is competitive with pay in private industry. Since the benefits and entitlements established in earlier years were in part justified to offset the disparity in military pay, and because of increases in the cost of military manpower and erosion of the purchasing power of the Defense dollar by inflation, DOD argued that military benefits and entitlements had to be revised, restructured, reduced or eliminated. These arguments have been widely disbelieved by military personnel of all grades since it is apparent to all that at the time of large pay increases between 1967 and 1972, concomitant reductions were not made in other benefits and entitlements.

In trying to assess the significance of the reaction of service personnel to these changes, Defense developed a catalog of changes to entitlements and benefits in the last five years. It included over thirty identifiable "adverse" actions, and twenty "adverse" proposals. A few examples in Figure 15 will give a sense of the significance of them from the point of view of the service person.

FIGURE 15.—*Sample reductions in military benefits and entitlements*

Year, element, and description:

1974, RMC—Pay raise percentage applied equally to three cash elements, instead of calculating on RMC and "packing" into basic pay, reducing the amount of pay increase.

1975, per diem rates—Increase authorized for civil servants but delayed for military for one year.

1975, PCS mileage rate—Increase to match cost increase delayed for over a year.

1976, RMC—"Reallocate" 25 percent of basic pay increase into the basic housing allowance, increasing the implied cost of on-post housing.

1976, unused leave—Eliminated the housing and subsistence allowances from reimbursement for unused leave, reducing the rate by about 30 percent to basic pay only and limiting total reimbursement for enlisted personnel to 60 days over a full career (as officers always have been).

1973–76, CHAMPUS—Eliminated certain types of care incorrectly authorized, reducing benefit level. Reduced calculation base for allowed fee rates, increasing net costs to member.

1975–77, commissary—Added 1-percent surcharge to fund construction, reducing "consumption advantage." Recurring proposals to reduce appropriated fund support, which would reduce "consumption advantage."

1975–77, retired pay—Proposed system modernization which would reduce rates for members retiring with less than 30 years service, further reduce rates by offsetting social security old age benefits. Proposals to reduce or eliminate earned retired pay upon accepting federal employment decried by the Commander-in-Chief as "double dipping by retired members."

Some changes have been well conceived and carefully designed. But their adverse impact has been accentuated by other unrelated changes. Two examples will serve:

Defense has twice proposed a Retirement Modernization Act which would retain the attractiveness of a retirement benefit, reduce the attractiveness of early retirement, and reward longer service after initial retirement eligibility. It would give partial vesting to members separated in mid-career. The proposal would also create a meaningful separation pay for both officer and enlisted members. It included some pay transition features to protect the "equity" of current members in the current system. AUSA has judged this proposal to be a cost effective and sound management approach to a military retirement benefit in terms of the then-existing military pay situation. Today, however, we recommend modification of the previous RMA proposals. Defense has deferred resubmission of the proposal in view of anticipated proposals from the Third QRMC, and now from the President's Committee on Military Compensation to modernize military pay. In the context of continuing instability of the pay system and the stream of reductions in other areas, the RMA proposal has not been well received among military personnel.

Defense initiated improvements in the military leave benefit to increase usage and reduce loss. It also intended to reduce the practice, contrary to the clear intent of the leave law, of accumulating large amounts of leave for conversion to cash at the end of each enlistment. This longstanding practice had by custom grown to be viewed as a near-entitlement. Part of the Defense plan required legislation to limit cumulative leave reimbursement of enlisted personnel to the same sixty days allowed officers. Congress, however, enacted an additional change—striking the basic allowances for housing and subsistence from the reimbursement calculation. This was ill-considered, inconsistent with the existing pay and allowances system, and expanded the anticipated minor adverse reaction to major proportions.

IX. EFFECTS ON MILITARY PERSONNEL

The introduction of change into an organization tends to produce resistance and adverse reaction even when the change is good for the organization and good for its people. People tend to want, and even expect, stability and continuity. Most management theory today advocates a formalized approach to the *management* of change in the same sense that other aspects of a business are formally *managed*. As has been described in earlier sections of this paper, change to the military systems of pays and benefits has been disorganized or more accurately, non-organized. It has been piecemeal, almost random, frequent. It has come from all quarters—the Services, Defense, the Office of Management and Budget, the IRS, the White House, and both houses of Congress—and has been aimed at reductions in the levels and costs of entitlements.

This tends to be viewed by service personnel as a continuing assault on their entitlements. Its impact on the member's view of his leadership, and of himself, has been influenced by two other occurrences.

The United States was unsuccessful in its objectives of preventing communist conquest of South Vietnam, Laos and Cambodia. For military personnel, who were used in pursuit of these objectives, the experience was painful. Public excoriation of our military forces by "anti-war" groups, pacifists, some academics, Congressmen, and media commentators, made it even more difficult to bear. Although the Services did their duty as directed by their political leadership, the eventual withdrawal coupled with the lack of public support has had an adverse effect on the morale of service personnel and on their attitudes toward political superiors and large segments of the public.

As the services drew down from a wartime peak of 3.5 million to the current 2 million man force, veterans returned to an economy with both recession and high inflation. Job

opportunities were limited by high unemployment. Their reception into this climate bore little resemblance to the preferential treatment of veterans entering the job market after World War II and the Korean War. This was a clear signal to those who remained in military service, and added to the bitterness and frustration. They also found that their real income was being whittled away by high inflation which annual pay increases did not match. And government policy in defense was retrenchment, particularly in the military manpower portion of the budget.

Thus military personnel found their pay worth less, their benefits under attack, promotions much slower, and "job" security threatened by reductions in force. And it was harder to decide to leave the service because unemployment in the economy made jobs scarce.

In these circumstances, soldiers should be able to look to their political leadership in both the Administration and the Congress for support, especially moral support. But from this quarter they were learning that they were probably overpaid, that their benefits were too generous and that they were costing the taxpayer more than their services were worth. Instead of a reassuring "pat on the back," needed after the loss of Vietnam, they seemed to be getting a "slap in the face."

The net effect of this is the "erosion of benefits" issue. It is more important as a leadership problem than as a financial problem because:

It caps a long period of national antagonism toward the military, in part voiced by their own political leaders.

It spans a period when military wages, like most civilian wages, fell behind unusually high rates of inflation.

Military personnel tend to feel they are underpaid in absolute terms judged by many components of their pay system, and in relative terms judged by comparison to the pay and working conditions of civilians.

Some civilian leaders in the Administration and the Congress tend to declare military personnel are overpaid, with these declarations based on different, and often inaccurate, comparisons.

X. WHAT NEEDS TO BE DONE

The defense of our country, by competent personnel, confident of the support and respect of their civilian leaders and their countrymen, requires soundly conceived, logically managed systems of military pay and benefits. Those systems must adequately meet the needs of the personnel who have committed themselves to serve under the conditions required in a military organization. Changes to those systems must be logically taken, in the context of all of the elements of the system, with full protection of the equity of those current members in the existing system.

The military compensation systems for the future should consist of:

Basic pay set at adequate levels to compete with other employment systems. The paylines must equitably reward progressive achievement in the military system, and the levels of responsibility and authority imposed. Pay levels should not attempt to solve all of the financial burdens, but should be based on equivalence with what members could reasonably expect pursuing a career in civilian employment.

Basic allowance for housing set on a standard of off-post housing costs appropriate to the pay level of each grade.

Basic allowances for subsistence set on a single off-post standard to all enlisted members. The Bureau of Labor Statistics Family Budgets and Consumer Expenditure Survey data is an appropriate standard. The officer subsistence allowance should be linked to the enlisted allowance to avoid having to recognize pay distinctions in this allowance.

An enlisted "commuted ration" rate for voluntary use of the cash allowance could be created, set on the standard of government raw food cost, provided the nominal cash saving is worth the cost and burdens of administering two subsistence rates and charging separate rates in enlisted messes for duty and non-duty personnel.

A retired pay system based on a modified DOD Retirement Modernization Act. A standard should be selected for 30-year retirement roughly equivalent to the current RMA proposal of 78 percent of basic pay. The social security "offset" should, however, be based on military service years actually used in calculating the individual member's social security old age benefit. AUSA considers this necessary because the basis for the military retired pay benefits and the basis for the social security benefit are so incompatible that this is the only equitable way to relate one to the other.

The vesting provisions in the RMA proposal seem to AUSA to weaken the drawing power of the military retirement benefit. However, members who have served some significant period of time have earned and should be vested with a benefit for reasons of simple equity. The immediate cash retired pay benefit for involuntary separation, however, is undesirable because this option will act as a draw to "qualify" for involuntary separation. Its objectives would be better served, at lower overall cost, with a severance pay.

The Survivor Benefit Plan as now structured. However, the current low levels of participation clearly demonstrate its failure to meet the objectives of this program. The social security "offset" should be reduced to 50 percent to make the plan financially advantageous to the member. For the same reasons as described for the retirement program, the offset should be calculated for the individual survivor on the basis of the member's military service actually counted in the social security survivor benefit. Likewise, to ensure the financial advantage of the Serviceman's Group Life Insurance, the rate structure should be modified to end the subsidy by the active force of Reserve and veteran groups.

The military health care benefit must be restored to adequate service by making the following changes:

Remove the Congressionally imposed "40-mile rule" which requires those within that radius to use military facilities for non-emergency inpatient care, at least until military facilities and personnel can provide adequate service for a reasonable share of dependent and retired family health care requirements.

Restore to retired members the CHAMPUS alternative to VA care of service-connected disabilities.

Initiate an aggressive program to increase the participation of private sector health services in the CHAMPUS program, with allowable charges calculated by the 90th percentile method.

Restore to the CHAMPUS program "chronic condition" coverage. AUSA recognizes that these recent reductions in medical benefit levels were motivated by cost considerations. We are convinced, however, that innovative program management can achieve the required economies without penalizing the service member. For example, the VA can reimburse Defense for disability services rendered in CHAMPUS. This is a common procedure in interagency service. Military medical managers and health professionals can be engaged in cost control using the management techniques of Health Maintenance Organizations (HMO). CHAMPUS could be managed the same way—the current law permits contracting for health services. This may well be more cost effective than allowing individual member's demand and judgment of services needed to control CHAMPUS costs. Essentially, to the extent health services are treated as a component of the compensation system, the benefit should not be reduced unless a downward adjustment in compensation is required, or unless an offsetting increase is made elsewhere in the compensation system.

The commissary and exchange benefit is a major institutional benefit and a major reenforcement of the military sense of community and organizational identity. Defense and the Congress should cease seeking minor savings by tinkering with this program. It produces capital assets and very large savings for the government. For these reasons the basic delivery structure including overseas and remotely located facilities should be provided through appropriated funds.

The Military Welfare and Recreation Program should, to the extent it meets military requirements for essential recreational services, be funded through appropriations. Non-essential programs considered desirable should be supported within the non-appropriated fund system. However, a standard for subsidizing non-essential services by the commissary and exchange benefit should be established at a minimum level with the express purpose of not "taxing" all members to support recreational programs of limited or local interest, but rather to maximize the advantage to using the commissary and exchange benefit.

The expense reimbursement system should be modified to fully meet expenses imposed on service members and their dependents by military requirements:

Junior enlisted personnel should be authorized all PCS travel and transportation expense reimbursements now authorized for other members.

PCS travel allowances should be restructured on the usual mode of travel—the private automobile—to fully reimburse, but not overreimburse, average expenses.

A Variable Housing Allowance, based on off-post housing costs to military personnel and average civilian housing costs, should be established within the U.S.

The special nature of military service must be retained by continuing the use of a compensation system involving both base pay and allowances. Conversion to a salary system would serve little purpose beyond further weakening of military traditions and irrevocably implanting the notion that military personnel are paid a day's pay for a day's work—like any other wage earner.

The foregoing describes the compensation systems which the AUSA believes will meet the future needs of military force management without dependence on the draft. But no less importantly, and even more necessary after the management actions of recent years, a new approach is required to restore confidence of military personnel in their political leadership. The AUSA has concluded that a clear statement must be made of the rights of military personnel of the active forces with respect to their compensation, expenses reimbursements, and especially the procedures to be used to change them. This statement should include in concept:

What components of military personnel costs are the pays and benefits included in the compensation system, and how each will be valued for compensation setting purposes.

The basis on which annual adjustments will be made to the pay components such as basic pay and basic allowances.

The basis on which annual adjustments will be made to the levels of deferred benefits such as retirement and survivor benefits.

The ground rules for structural changes to the form and benefit levels of pays and benefits. They should include prospective application of such changes, with transition provisions including saved pay features for careerists not yet eligible for retirement.

That is, changes should apply to those who enlist, reenlist, accept commissions, or warrants, enter regular service or become eligible for retirement after enactment of the change, with the option of shifting sooner if it is to the individual member's advantage.

Defense leadership found long ago that a declaration of Human Goals was necessary to give both credibility and impetus to theoretical principles of equality of opportunity in military service. A "Bill of Rights" not unlike the Human Goals declaration would go far toward restoring the trust and confidence of those in military service in their elected leaders. Such a statement of principles should be subscribed to by the Commander-in-Chief and the principal appointed civilian leaders in the Department of Defense. For the greatest credibility, it may well be necessary to enact such a statement of principles into law—at the very least it should become the substance of a joint resolution of Congress.

XI. CONCLUSIONS

Military pays and benefits have been subjected to almost continuous modification and proposals for reductions in recent years. Taken together these real and proposed changes have come from many quarters and in an uncoordinated way. They have occurred and are occurring in a period characterized by declining public respect for those in military service, rapid expansion of employee benefits in business and industry, and recent high rates of inflation which have outstripped wage growth. These actions, taken in this public climate, have created among military personnel a strong and continuing sense of uncertainty, frustration and loss of confidence in their political leaders, sensing that they no longer speak for their interest or are even sensitive to their problems. In analyzing the causes of and solutions for this problem the AUSA has concluded that:

Military personnel must be kept more effectively informed about their pay and benefits systems and the mechanisms for changing those systems.

Military personnel must recognize and accept that, as public servants, their pay and benefits will be debated in public forums and changed based on such debates. They must take the time and trouble to be much better informed about their pay and benefits than are typical civilian workers who are protected by the interests of management and labor in the profitability and continuity of the business, the productivity of labor and the competitiveness, equity, and stability of the pays and benefits systems.

Political leaders of the Nation's defense in the executive and legislative branches must take the time and trouble to understand military compensation systems and the personnel systems they support. Their public debate of these systems, and the statements and writing of their staffs should be done in a responsible manner that will not imply attack on the individual service member.

It is important that the civilian leadership and the public recognize the unique character of military service as more than just a "job," and that adequate pay and benefits considering the normal expectations of American society must be provided for that service.

Military pay and benefits cannot be immutable, but must change with changing times, circumstances and the norms of American society.

But military compensation systems must have a far greater stability than they have had under current practices. Ground rules for change which recognize the nature of military service and the purposes of the compensation systems must be established. They should include prospective application with saved pay transition provisions for careerists.

These principles should be developed into a succinct statement subscribed by the civilian leadership and endorsed by the Congress.

Achievement of these goals will go far toward restoring the respect and admiration of the American public in their military servicemen and women, and the confidence and respect of military personnel in their civilian leaders.

ANOTHER PANAMANIAN NEGOTIATOR DENIES U.S. INTERVENTION RIGHTS UNDER TREATY

Mr. DOLE. Mr. President, another Panamanian Treaty negotiator has spoken out to deny any U.S. rights of military intervention under the proposed Treaty on Permanent Neutrality for the Panama Canal.

According to the Foreign Broadcast Information Service, Panamanian negotiator Diogenes de la Rosa said in Venezuela on October 6 that the United States will not have the right to intervene militarily in Panama when control of the canal passes to the Panamanians after 1999. Whether or not his comments are directed at U.S. rights to intervene militarily on behalf of the canal's neutrality is unclear from this report. However, the negotiator's remarks would certainly raise a question on that point.

As such, it is still another in a series of public statements by Panamanian officials that focuses doubt on just what our rights under section IV of the Permanent Neutrality Treaty are supposed to be, and just how they are to be correctly interpreted. It is still another reason why language in this provision must be clarified, in order to assure our right to protect the canal.

Mr. President, I ask unanimous consent that the full text of the television report, monitored in Panama City, be printed in the RECORD.

There being no objection, the television report was ordered to be printed in the RECORD, as follows:

PANAMANIAN NEGOTIATOR DENIES U.S. RIGHT TO INTERVENTION

The United States will not have the right to intervene militarily in Panama when control of the canal passes to the Panamanians in the year 2000, negotiator Diogenes de la Rosa said in Caracas today. He recognized that there is always the possibility, with or without the treaty, of unilateral action.

De la Rosa said in a news conference that there is nothing in the treaties that gives the United States the right to intervene in Panama. De la Rosa also said that a broad debate has opened in Panama to publicize the treaty so that the Panamanian people can vote in the 23 October plebiscite. Although de la Rosa believes there will be a majority vote in favor of the treaty, he would predict the numerical results of the plebiscite. He indicated that the new treaty has provoked criticism and opposition among some Panamanian sectors. He described this as healthy and necessary.

De la Rosa accused conservative U.S. groups of exploiting the U.S. people's ignorance of the Panama Canal in order to create opposition to the new treaty.

De la Rosa said that if the treaty is not ratified by the United States, Panama will have to seek new diplomatic alternatives for the solution of the problem. He explained that those new alternatives could be the unilateral denunciation of the 1903 treaty or to take the issue to the United Nations because the current treaty violates norms of international law and the UN charter. De la Rosa said that the other alternatives that we could implement will be determined by circumstances.

De la Rosa ruled out that the United States in the future will neglect the proper maintenance of the canal and that the equipment might have deteriorated when Panama takes over control of the waterway in the year 2000. He said that this would go against the U.S. national interest because even then its ships would be the ones that would use the waterway the most.

De la Rosa praised Venezuelan President Carlos Andres Perez, describing him as the Latin American ruler who has given greatest and fullest support to Panama's efforts to reach an acceptable treaty.

ALTERNATIVES IN LONG-TERM CARE FOR THE ELDERLY

Mr. CHILES. Mr. President, at a recent Senate Committee on Aging hearing on long-term care for the elderly, I asked officials of the Health Care Financing Administration and the Public Health Service for evidence of a strong administration commitment to developing the alternatives in long-term care needed by growing numbers of older citizens.

I can only say, after raising this issue a second time with administration health officials, that we are still receiving mixed signals on this important issue.

At a hearing 3 months ago, Mr. Robert Derzon, Administrator of the Health Care Financing Administration, agreed with me that long-term care issues should receive top priority. He also agreed with me that a consolidation of responsibility for long-term care program development within the Department of Health, Education, and Welfare would be an important step.

As a followup to our first hearing, Mr. Derzon and Dr. Joyce Lashof, Deputy Assistant Secretary for Health Programs, told the committee on September 21 that responsibility for development of policy in home health care, day care, and nursing home improvement activities will remain split between the Health Care Financing Administration and the Public Health Service.

Program development responsibility lies with the Public Health Service; but Secretary Califano's announcement, on September 30, of the reorganization of the Public Health Service does not appear to place any emphasis on long-term care program development. Decisions on all financing, reimbursement mechanisms, and cost control will be the responsibility of the Health Care Financing Administration.

I recognize that many questions remain about controlling costs, and I do not want what we do in long-term care to benefit the provider at the expense of the consumer. I hope, however, that cost issues will not be the primary or sole consideration in development of alternative long-term care strategies.

Concern was expressed about this throughout all our hearings. Witnesses told us that a major effort must be put into strengthening and expanding com-

munity program alternatives. We must openly and firmly acknowledge that the needs are there, and that we must find a way of meeting them. We need to know more about costs, but we will not have a second enough base for finally answering cost questions until we have much more in place in the community.

Many States have acknowledged the need, and are doing the best they can without any evidence of a firm commitment from either Congress or the administration. We must give strong, clear signals to those States now grappling with the development of alternative health care for the elderly. Will we support the development of day care and day health facilities? Will we make a commitment to expansion of home health care?

Under our disjointed and inadequate funding structure for alternative program development, efforts by States and communities to meet the noninstitutional long-term care needs of our older and disabled population are severely hampered.

Section 18 of the Medicare-Medicaid Antifraud and Abuse Amendments of 1977, passed by the House on September 23 and by the Senate on September 30, would require the Secretary of the Department of Health, Education, and Welfare to report to Congress on all aspects of home health and other in-home services authorized under medicare, medicaid, and title XX of the Social Security Act.

I know that the administration will thoroughly address the need for more efficient administrative and reimbursement mechanisms for in-home services and will make recommendations for coordinating these funding sources. I hope the administration will also recognize the urgency of closing the serious gaps in our national long-term care needs and expanding the availability of these services.

UNIONIZATION OF THE MILITARY

Mr. GOLDWATER. Mr. President, this body has settled whether our military services should become unionized or not, but the threat of this has not disappeared by any means. A book has been underway for some time on this subject entitled, "Blue Collar Soldiers, the Question of American Military Unionization." I have been able to obtain a proof copy of one chapter of this book by Alan Sabrosky entitled, "Military Unionism in America: Retrospect and Prospect," and also included with this is a table of contents of the coming book. I ask unanimous consent that they both be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTENTS

Foreword. William R. Kintner.
1. Blue-Collar Soldiers? The Question of American Military Unionization, Alan Ned Sabrosky.
2. Issues in Military Unionization, William J. Taylor, Jr.
3. For a Brotherhood of Men-at-Arms: The Case for Military Unionization, Gene Phillips.
4. The Case against Military Unionization, David Y. Denholm and Theodore C. Humes.
5. Public Sector Unionization and the U.S. Military: A First Amendment Issue, Charles D. Phillips and Judith A. Crosby.
6. The Implications of European Military Unions for the United States Armed Forces, Ezra S. Krendel.
7. American Military Unions: A Sociological Analysis, Thomas C. Wyatt.
8. Military Unionism in America: Retrospect and Prospect, Alan Ned Sabrosky.
Appendix A: Agenda: Executive Conference on Unionization and the U.S. Military (Philadelphia, Pa., April 22, 1977).
Appendix B: S. 274 (January 18, 1977).
Index.

FOREWORD

Few would deny that the premises underlying American national security policy have been subjected to increasing pressure in recent years. Many questions have been raised, and too few answers provided, concerning the proper linkage of power and purpose in American foreign policy. Yet, unless our capabilities are brought into harmony with our commitments, unless we acquire a clear understanding of the relationship of those capabilities to the exercise of influence in world affairs, our long-term security will be problematical at best.

Recognizing the importance of this issue, the Foreign Policy Research Institute has initiated a two-year study on the subject of "Strategic Choices and Military Power." This book on military unionism is the first product of that research program. It provides a balanced and timely assessment of the constitutionality, feasibility and desirability of military unions in the United States. As such, it should go far toward improving our understanding of this complex and significant subject.

ACKNOWLEDGMENTS

Perhaps even more than the author of a book, an editor owes a considerable debt of gratitude to many people. The support and encouragement of my colleagues at the Foreign Policy Research Institute played an essential part in the planning and completion of this project. Mr. G. Dennis Bolton, Mrs. Judith Flanagan and Mr. William C. Ellenbogen assisted in the organization of an executive conference on "Unionization and the U.S. Military," sponsored by the Institute in April 1977. Professor Edward Bernard Glick of Temple University, Professor David R. Segal of the University of Maryland and Mr. Virgel E. Miller of the American Federation of Government Employees provided perceptive comments on many different aspects of military unionism. Mr. Charles B. Purrenhage supervised the transformation of an unedited manuscript into a finished work with extraordinary patience and skill. Mrs. Jean Barth Tobin copy-edited the manuscript; Mrs. Carmena Pyfrom and Ms. Valerie Garner diligently and bravely typed the many drafts of the edited papers; Mr. Alan H. Luxenberg and Mr. Joseph Woods assisted in more ways than can fully be appreciated; and a special note of appreciation must be given to Ms. Donna Reese, who set the copy into camera-ready pages for printing.

Finally, thanks are due the authors of the papers assembled in this volume. Each author, of course, is responsible for the factual accuracy of the evidence presented in his or her chapter. In addition, when editing these papers, I endeavored (not always, I fear, with complete success!) to resist the perennial temptation to make each one say something the way the editor himself would like it said. In many ways, the strength of these contributions reflects their resilience under the editorial pen. Taken together, I believe they provide many useful insights into an issue of continuing importance to students and practitioners of American national security affairs.

CHAPTER EIGHT: MILITARY UNIONISM IN AMERICA: RETROSPECT AND PROSPECT[1]

(By Alan Ned Sabrosky)

IN RETROSPECT: WHY INTEREST IN AMERICAN MILITARY UNIONS?

From the preceding chapters, we may appreciate more fully than before the complexity of the issue of American military unionism. What is both somewhat surprising and of considerable concern is that the views on military unions are not only diverse, but also markedly polarized. Those who emphasize the importance of individual socioeconomic welfare and civil rights argue that military unions are both constitutional and desirable. Those who give precedence to considerations of the political responsiveness and functional effectiveness of the armed forces take the opposite view. To be sure, academic analyses may find points of commonality on both sides of the issue. Yet little, if any, middle ground mutually acceptable to the contending parties appears in the cases for and against military unions. This absence of a consensus is, perhaps, not unanticipated, but it certainly does not augur well for the final resolution of the issue. In fact, the elements of apparent irreconcilability in the contending arguments for and against military unions may well be indicative of the problems that would affect labor-management relations in a unionized military establishment.

Perhaps the fundamental question to be addressed at this point is why interest in military unions seems to be increasing, and what we are to make of that development. Although a number of possible explanations have been suggested, three seem to command wide acceptance. These are based on: (1) general societal trends conducive to pro-union sentiment, (2) the advent of the all-volunteer force (AVF), and (3) concern about the continuation of military fringe benefits.

First of all, most agree that general societal trends are moving away from the more traditional concept of "duty, honor, country" in all of its variants, and toward a more self-directed and self-interested system of values. This reduces the willingness of service personnel to accept existing patterns of authority within the military institution, and increases their sense of the incompatibility of institutional restraints with personal freedom of action. Yet the argument that societal trends presage the unionization of the armed forces is far from compelling. "Societal trends" are not inherently positive entities whose maturation should be awaited with either anticipation or resignation. As Gibbon pointed out with depressing clarity in his classic *The Decline and Fall of the Roman Empire*, some aggregate societal trends can undermine an institution, rather than strengthen it. And in fact, many of the existing trends in American society do not seem particularly well suited to the requirements of disciplined cohesion essential to the armed forces of a nation with global responsibilities. Needless to say, such trends should be countered within the military institution, if they cannot be corrected outside of it.

Second, a clear linkage is made between the creation of the all-volunteer force and the rise of substantial interest in military unionism. The decision to require the armed forces to compete on the labor market for the necessary numbers of recruits produced a job-orientation within the military that is conducive to prounion sentiment, particularly among first-term personnel. Once military service was defined in occupational rather than professional terms, the presumption of institutional uniqueness was weakened, and with it many of the arguments against unionization.[2] Nevertheless, while the movement to an all-volunteer force certainly stimulated the development of the preconditions for unionization, all-volunteer forces are not inherently union-prone. In fact, all of the countries in which some form of military unions exists also have some form of conscription, while nations which rely entirely on volunteers to meet the manpower needs of their armed forces do not have military unions. Several European military unions do include professional military personnel, of course, and some are even restricted to career servicemen. Yet by and large, the most active and vocal unions have been seen as means by which conscripts could improve their position and welfare in ways that the military establishment would not otherwise allow.[3]

Finally, it is certainly true that the actual or perceived erosion of some collateral military benefits, and the threatened erosion of others, have raised concern among many military careerists about a wide range of individual, welfare-related issues. This, in turn has made them more willing to consider alternative ways of ensuring that existing benefits would be retained, if not expanded. But it also should be recognized that the erosion of benefits has not been so great as some have believed to be the case. This is particularly apparent when seen in light of the significantly better pay scales now enjoyed by military personnel relative to conditions of a decade ago.[4] Collateral benefits once were seen as a way of compensating service personnel for the significant disparity which existed between military and civilian wages. With comparability between those wages more nearly approached, the objective need for some of the collateral benefits ought to have decreased: This is not the case, at least in the eyes of many career military personnel. And the fact that they see this to be a major issue may say more about the changing values and sense of priorities of some career military personnel than it does about the alleged sense of deprivation they may feel.

Whatever their validity, the combined effect of these (and other) factors has been to increase the attractiveness of military unions to service personnel, regardless of how the general population might view such unions. Preliminary studies of military personnel have found that a majority of those surveyed either support or are uncertain about the desirability of military unionization. A plurality of all respondents and a majority of commissioned officers remain opposed to military unions. Yet a majority of both commissioned and enlisted respondents agreed that military unions would increase the economic well-being of those in the armed services.[5] Thus, a continuation of present societal trends in the context of an all-volunteer force in which collateral benefits were threatened or reduced could be expected to increase support for unions among military personnel. This does not mean that military unions are inevitable in America, despite claims to that effect in some circles. It does suggest, however, that the possibility that the U.S. armed forces might be unionized is all too likely to increase in coming years.

RELEVANT ANALOGIES: A CRITICAL APPRAISAL

Since American military unions do not now exist, we must look elsewhere for evidence that might apply to the performance of such unions in this country. At first glance, it would seem that such evidence would be readily obtainable from studies of both Western European military unions and the union movement in the United States, especially in the public sector. Yet many analysts entertain at least some reservations about their relevance as sources of insights into whatever American military unions might come to pass.

This is particularly apparent in the case of the Western European military unions.[6] In fact, one is struck by (1) the amount of effort that is given to deprecating the relevance of the Western European experience with military unions, and (2) the selectivity employed by those who *do* attempt to draw on that experience in their arguments for or against American military unions. It is generally argued, for example, that the differences between the European and the American union movements seriously weaken (if not invalidate) the values of Western European analogues to American military unionism. Such an approach, however, seems unwarranted. American military unions certainly would have at least some of the organizational objectives and interests of their European counterparts. Unions in any country exist in part for the purpose of improving the socioeconomic welfare of their members. They may do more than that, of course, and they may perform even their minimum functions more or less efficiently. The fact that our military unions would partake of the traditions of American rather than European unionism could not be discounted entirely. But one simply cannot say that an organization in this country will be fundamentally different from a comparable organization in another country.

It must be conceded, of course, that European unions have tended to be more politicized and ideologically motivated than their more pragmatic, "bread-and-butter" American counterparts. Yet the fact that they have been different in the past does not mean that they will remain so indefinitely. Unionization is an evolutionary process, not a static condition. Institutions and movements may start from different places, but it does not follow that they will pursue inexorably different paths thereafter. Convergence may occur, with one movement adopting the characteristics of the other, or some synthesis of the two may evolve.

In this context, it seems that American unionism in general, and public sector unions in particular, are becoming more like their European counterparts in practice than once was the case. Public sector unions *by definition* deal with issues that have broader social and political implications than do questions of working conditions and retirement benefits.[7] That they should act on issues not directly related to the more conventional "work place, wages, and grievances" concerns of private sector trade unions, therefore, ought not to be surprising. Thus, the European union movement in general, and European military unions in particular, may not reflect either the American union movement at the present time, or even the type of military union which might evolve from that movement. But it could well suggest what that movement and that military union might become at some point in the future.

It is certainly true that the national defense establishment of the United States has a very different set of missions than is the case with the defense establishments of the several Western European countries, whether or not they have military unions. Yet the missions of certain parts of those military establishments are not that different. At the strategic level, to be sure, the requirements levied on the American forces are more extensive and more demanding than those placed on the Western European armed forces. Questions of credibility of response, efficacy of command and control, and the reliability of the strategic deterrent force as they might be affected by unionization cannot be answered with any degree of certainty from the European experience.[8] Yet there exists much greater comparability with respect to the missions of Western European and American general purpose forces. Should a war occur in Central Europe, for example, the unionized Bundeswehr and the currently nonunionized U.S. Seventh Army would be confronted with quite similar tasks. Thus, whatever institutional strengths or weaknesses in a Bundeswehr formation might be attributable to unionization would likely appear in an equivalent American organization.

To assess those strengths and weaknesses requires a comprehensive assessment of the diverse types of Western European military unions. Yet it is here that the second difficulty—that of selectivity on the part of those who do choose to use Western European military unions as an analogy—becomes important. There exist a number of scholarly and professional studies of European military unions, of course. Yet in political circles, both civilian and military, a less demanding and less critical approach seems evident. That is, those who do see some relevance in the European experience with military unionism all too often focus on the Dutch and West German military associations. Supporters of American military unions look at both countries, emphasizing the "democratizing" influence of military unions in the Netherlands and the superior quality of the heavily unionized Bundeswehr.[9] Opponents of military unions in the U.S. also look at the Dutch armed forces, but as an example of what a military establishment ought not to become.

Although neither the Dutch nor the West German military associations are unions "[in] the strictest sense"[10], Bonn's large, efficient, and extensively unionized military establishment seems particularly atypical. The greatest problems with unions are presumed to come from those that are restricted to junior enlisted personnel, and particularly conscripts. Yet the West German unions include all ranks of enlisted and commissioned personnel within the same organization. At the very least, unions that include in their membership general staff colonels and regular army lieutenant generals might have a certain leavening that less all-inclusive unions would not. Perhaps the most important consideration, however, is that the labor-management relationship in West German society simply is not analogous to that which exists in the United States, or even in the rest of Western Europe. In the FRG, labor and management cooperate to a significant degree, and that cooperation facilitates the resolution of controversies that might cause a strike or job action in other countries. It would be surprising if a similar tradition had not extended into the military unions themselves. In fact, the principal West German military union (the DBwV) has been described accurately even by advocates of military unionization as a "company union."[11]

On balance, the West German military unions are sufficiently different from their European counterparts and what might be expected to arise in the United States that they are a dubious analogy at best. The Dutch military unions, however, appear much closer to the European norm. They also reflect concerns that would be likely to appear regarding the American military if this country's armed forces were to be unionized. To be sure, the real value of military forces such as those of the Netherlands is difficult to evaluate. The unkempt appearance of the Dutch soldiery certainly does not recommend military unionism to parade ground enthusiasts. Yet the Israeli Defense Force (perhaps an exception) also takes a somewhat cavalier approach to certain elements of standard military protocol without adversely affecting its combat ability.

The problem with the unionized Dutch armed forces, however, is one of credibility.

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Even if they are still competent, their appearance and behavior are such that neither their allies nor their adversaries truly seem to believe it. Habits acquired in peacetime are not easily discarded at will once a war begins, and the habits displayed by the Dutch forces simply are not indicative of the qualities needed to maintain a high level of disciplined competence in war. Such appearances may be deceiving, but when they occur in a military establishment they may contribute to miscalculations on *both* sides that lead to an undesired war.

If the case could be made that an American military union would be like a German military union, then ever present opponents of military union might be inclined to embrace the concept. Unfortunately for the proponents of military unionization, however, that is unlikely to be the case. It is all too likely that the West German military unions are the exception, rather than the rule. Further, the uncertainties raised by the Dutch military unions neither argue for the unionization of the U.S. armed forces, nor augur well for the consequences of their unionization if it should occur.

Whatever else they might be, of course, the American military unions would partake of the characteristics of the union movement in this country. There are clearly fewer reservations about the relevance of American unionism to a study of U.S. military unionization that there are with respect to the European military unions. As Professor Wyatt points out in Chapter Seven, for example, organizations share a number of characteristics that permit analogies to be drawn, at least if reasonable caution is exercised. When both military and nonmilitary institutions are industrialized and bureaucratic entities arising within the same political culture, the analogies may hold particularly well. Thus, the performance of unions in a corporate setting might not be all that different from their performance in a military setting.

In addition, it is likely that whatever union would actually organize the military would also include civilian members. This would certainly be the case with the American Federation of Government Employees, the National Association of Government Employees, the Association of Civilian Technicians, and most of the other groups that are, or have been, interested in setting up military unions. (In fact, only the more radical groups such as the Enlisted Peoples' Organizing Committee might enroll an almost exclusively military membership, although even that is not certain.) This amalgamation of military and civilian personnel would undermine the allegedly unique character of an American military union in the same way as the emphasis on the military as an occupation undermined the presumably unique character of the military institution.

Finally, armed public security forces at all levels of government share a number of functional similarities. Perhaps the most notable of these is the possession of a monopoly on the legitimate use of force within their respective jurisdictions. This suggests that unions of their personnel could also share a number of behavioral similarities. Thus, a study of police unions could provide insights into what we might expect from military unions, at least with respect to their willingness to adhere to contractual limitations on union behavior. Regrettably, the mixed record of police unions on this point is not reassuring. Some have acted with restraint and moderation. Others, however, have acted contrary to the public interest by engaging in "job actions" to gain additional bargaining power during contract negotiations. Even the slightest possibility that a military union would do likewise would be politically and militarily intolerable.

THE IMPACT OF UNIONIZATION ON THE U.S. MILITARY

Barring some unanticipated development, it is distinctly possible that the U.S. military will be unionized if current manpower levels are maintained in the present recruiting environment. The principal question to be answered, therefore, is: What would military unions mean for America? Further developments, of course, may produce a situation very different from that which we can anticipate at this time. What are seen to be relevant analogies at present may turn out to have been entirely mistaken, while others that were dismissed out of hand may be seen in retrospect to have been closer to the mark. Yet the evidence seems sufficiently clear in a sufficiently large number of cases to permit several preliminary conclusions to be drawn with a fairly high degree of confidence.

What must be recognized, first of all, is that when we speak of American military unions, we are talking about the unionization of all of the armed services. One union or many, organized by rank or open to all service personnel, restricted to military personnel or open to civilians as well, either the American military will be unionized *in toto* or not at all. The partial unionization of the armed forces is simply too unworkable, militarily and politically speaking, to be a viable course of action. Moreover, it does seem that the organization which took the lead in unionizing the military could make a difference, at least in the short term. Military personnel enrolled in the relatively moderate AFGE, for example, would be subject to a different set of union constraints and predispositions than if the Enlisted Peoples' Organizing Committee won out. In the long term, however, certain general consequences are likely to follow the unionization of the armed forces by *any* organization. These general consequences are obviously of the most immediate interest.

The first point that must be acknowledged is that a number of gains are registered for unionized workers in the case of both European military unions and American private and public sector unions. Unionization does improve the economic well-being of union members, relative to that of workers in comparable occupations who are not unionized. Pay increases more rapidly, and benefits are improved and guaranteed more securely, than is the case in nonunionized occupations. All of these gains probably would appear in a unionized American military establishment.

In addition, grievance procedures would be expanded and diversified. This would give unionized military personnel alternate and probably more effective means of rectifying intentional or unintentional institutional abuses than currently exists in the defense establishment. Unionized military personnel would achieve an added measure of job security. The "reduction in force" (R.I.F.) measures which are used to reduce the number of personnel in specific grades and occupational specialties would be moderated, and would become the subject of negotiation and arbitration. It would be more difficult to give less than honorable discharges. Unionization also would produce a more differentiated managerial structure. That structure probably would stop short of codetermination (shared direction of affairs by officials of both labor and management). It would, however, still involve union officials from shop stewards to the national union president(s) and governing council(s) in a wide range of decision areas now reserved solely to military management.

These certain effects of the unionization of the U.S. military services, as well as the society at large. The first direct effect of military unionization is that manpower costs would increase sharply over time, both in the absolute and in the proportion to what would exist in the defense budget of a nonunionized American defense establishment of the same size. If unions do nothing else well, they do raise wages and increase benefits, including retirement compensation, for their members. Achieving these essential union goals would confront any Administration with a particularly demanding decision. To maintain current manpower levels without cutting sharply into other appropriations categories (e.g., operations and maintenance), substantial increases in defense outlays would have to be accepted. If defense outlays were not to increase significantly, then extensive reductions would be required in manpower levels, major appropriations categories other than manpower-related expenditures, or both. It would be very difficult, however, to reduce manpower levels in a unionized military. Opposing reductions in the size of the workforce, after all, has a very high priority in most unions.[12] To hold down defense outlays in a unionized defense establishment, therefore, extensive cutbacks would have to be made in other appropriations categories—probably operations and maintenance or procurement, as they would be the largest remaining categories. Thus, the unionization of the U.S. armed forces would entail higher defense costs or a certain reduction in operational capabilities, if not both.

The second consequence of unionization is that the exercise of direct managerial authority would be inhibited at all levels. Unit leaders of any rank will be subject to greater constraints on their behavior than would otherwise exist in areas once considered the purview of the unit commander. Some interface of the "official" and "union" chains of command necessarily would occur as a consequence of union participation in any decision now made solely by the military hierarchy. To presume that a blurring of command responsibilities could be restricted to questions of individual welfare, pay and promotions, and peacetime grievance procedures seems unwarranted. On the contrary: many of the decisions that have the greatest effect on individual servicemen are operational decisions made in wartime. As we noted earlier, it is unwarranted to presume that habits acquired in peacetime service would be discarded without hesitation at the onset of war or national emergency, even if the union leadership directed that to happen. Human beings simply do not work that way, even in the most controlled societies.

Third, no matter how restricted the initial scope of a union's charter, its powers eventually would expand to include collective bargaining and, ultimately, either the right or the de factor power to conduct strikes or job actions to press home its demands.[13] During his confirmation hearings, Secretary of Labor Ray Marshall indicated that he favored "some form of union representation for the armed forces—but without the right to strike." [14] Such a position, however, is untenable. Without the fact or the threat of strike, a union has no way to obtain from management what management is unwilling to give of its own volition. In fact, the best time for a union to press home its demands is when management has the greatest need of union members' services—namely, during a crisis or national emergency, in the case of military unions.

It is all too obvious that the step from low-key unionism to a more aggressive variety is one that will be taken by any union leadership unwilling to stagnate.[15] Military unions, like their police union predecessors, might not initially have the power to strike or engage in "job actions." Yet unless one believes that a military union will somehow be

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unique, that power will come with time. In such circumstances, neither the government nor the nation will have any effective recourse to deal with a strike or job action by those on whom the authority of the government ultimately depends.[16] There is, I would argue, an "iron law" of public policy applicable here: No society can tolerate shared authority over armed personnel responsible for the maintenance of public safety without risking the very survival of the constitutional order. The unionization of the armed forces would create such an environment of shared authority.

Fourth, there is no clear indication that military unionization either enhances or undermines the functional effectiveness of the armed forces, at least during peacetime. Professors Krendel and Wyatt, for example, concluded in their chapters that official fears of an erosion in the combat effectiveness of a unionized military probably were overdrawn. And on reflection, this may be true with respect to the technical proficiency of individual service personnel. Yet armed forces are more than simple aggregations of technically competent individuals. Disciplined organization and unit proficiency also are essential, and it is these aspects of the military that unionization would be likely to affect adversely. At the very least, the adversary relationship inherent in most labor-management situations probably would be intensified by unionization, thereby undermining that espirit de corps essential to success in war. The fact that noncommissioned officers and enlisted personnel in general seem nearly twice as willing as officers to support military unions [17] suggests the evolution of an adversary relationship in a unionized U.S. military that could not be beneficial to the long-term institutional cohesion of the armed forces.

Fifth, and finally, unionization would prompt the eventual politicization of the armed forces. All except the strongest advocates of military unions appear to express some concern about the possible impact of unionization on the political responsiveness of the military. There is, of course, little doubt that a politicized defense establishment is undesirable. As one writer concluded, "A politicized, class-conscious military, taught to go out and wrest resources from the public, its employer, would be a danger to our democracy." [18] No one would argue that the present military establishment is divorced from the mainstream of practical politics in Washington, insofar as they bear on the institutional interests of the military itself. What would make a unionized military establishment politicized would be its linkage to a larger, more diversified public or private sector union. This would bring the added bargaining power of the union's military members into the balance on a wide range of issues that would not necessarily bear directly on the concerns of the military itself. Eventually, this would call into question the reliability of the military in any conflict situation, foreign or domestic, not favored by the union leadership. Such a development certainly is not in our national interest.

RESPONSE TO THE CHALLENGE OF MILITARY UNIONS

For those to whom the maintenance of an effective national defense is paramount, the immediate question is how the challenge of military unionism might best be met. One way of dealing with this problem is to try and remove the incentives for unionization. The occupational image associated with the all-volunteer force and the feared loss of collateral military benefits are perhaps the principal stimuli to pro-union sentiment in the services. The latter factor is theoretically the most manageable: an Administration could decide not to reduce benefits, and even increase them. Yet such an approach is both unwise and unlikely to be effective. It is unwise because it amounts to an attempt to bribe career military personnel not to unionize, thereby reducing them implicitly to the status of mercenaries. The precedent this would set is not pleasant to contemplate. It is unlikely to be effective because trying to beat a union on its own preferred ground—that is, the ability to get greater concessions from management than management is willing to give—is fruitless. At the very least, a union can always promise to make management give more than management can give without eroding institutional viability.

An attempt to move away from the occupational image now characterizing the military is also unlikely to be successful in the present recruiting environment. This is due to the difficulty of implementing any other model of service while still competing for sufficient recruits to meet existing manpower needs in a society whose values are not conducive to service in the armed forces. Nor would a return to conscription (or anything approximating it) necessarily reduce the primacy of the occupational model and the attendant prounion sentiment. In fact, either a return to conscription or an attempt to institute some form of compulsory national service (which is closer to outright conscription than some acknowledge) probably would hasten the unionization of the military, even if either course of action was politically feasible. Dissatisfied conscripts or "compulsory national servicepeople" could well be far more interested in unionization than those volunteers who, for whatever reason, chose to enter the service. If that were coupled with the continued dissatisfaction of long-term service personnel, a return to conscription or its equivalent could give union advocates the majority they would need.

If the incentives for unionization within the military cannot easily be removed, one possible recourse is to legislate against military unions. This approach, as we have seen, is being attempted.[19] A number of officials, however, including President Carter, Secretary of Defense Harold Brown, and Navy Secretary W. Graham Claytor, Jr., have expressed reservations about the constitutionality of legislation prohibiting the unionization of the U.S. military. And in fact, the constitutional question clearly is seen by many to be the crux of the matter. It is a foregone conclusion that the passage of any legislation either restricting or endorsing military unions in any shape or form, or even a vote by service personnel to unionize in the absence of such legislation, will be tested in the courts. In the past, the Supreme Court in particular has tended to grant military personnel civil rights separate from, but not quite equal to, those enjoyed by the civil society at large. It also seems that the present Court probably would continue that practice and deny the right of any organization to unionize military personnel, although this is certainly open to question.

In terms of abstract ethics, of course, this de facto segregation of the military from the civil society is unconscionable in a political democracy that, as the advocates of military unions put it, prides itself on its citizen soldiers. Yet this practice should not be surprising. Perhaps only garrison states whose militarized societies exist for the purpose of fighting, or peripheral states whose civilianized military establishments simply are not expected to have to fight, can afford to grant their soldiery the same civil rights and individual liberties accorded to the rest of their citizens. In all other states, the requirements levied on the armed forces differ so greatly from the obligations expected of the civil society that to grant military personnel the same latitude as civilians would likely result in a defense establishment that could not protect, and might well threaten, the society it was supposed to guard.

The key issue here, however, may not be the constitutionality of such legislation, but rather its enforceability. A recent report on the effectiveness of anti-union legislation at state and local levels, for example, concluded that "laws have slowed or hindered union organization (of public employees), but have not been able to prevent it." [20] In the case of legislation against military unions, these difficulties would be increased. For the military to be unionized, after all, would require the support of a majority of at least one service, and a plurality of the entire defense establishment. Precisely how one would enforce legislation prohibiting unionization against the wishes of a military whose personnel were determined to unionize is not clear. Appeals to supporters of police unions for restraint in the name of "public welfare" have not been well received by them. There is little reason to think that supporters of a military union would respond differently.

This suggests that attempting to enforce anti-union legislation in such a situation could prompt a constitutional confrontation that would not be in anyone's interest. The question, then, ought not to be whether legislation prohibiting the unionization of the U.S. military is constitutional. It is how quickly such legislation can be passed and brought before the Supreme Court for affirmation of its constitutionality. The sooner those steps are taken, the less widespread and less entrenched pro-union sentiment will be in the military, and the more likely it is that such legislation would be enforceable.

On the other hand, it must be recognized that it may be too late for such legislation to be implemented even if it were passed by Congress, signed into law by the President, and affirmed by the Supreme Court. If pro-union sentiment became sufficiently strong in the armed forces, neither the passage of legislation prohibiting military unions nor the affirmation of the constitutionality of such legislation would suffice to stave off the unionization of the U.S. military. At best, the challenge of military unionization might only be postponed.

If this should be the case, then there are only three remaining ways of dealing with the situation. The first is simply to accept the unionization of the military by whatever groups can gain the necessary support from within the services. This alternative, however, is unappealing. It is quite possible that unionization would enhance the welfare of individual service personnel, as well as democratizing the armed forces to a greater extent than would otherwise be possible. Yet it is certain that the political and military liabilities that would be incurred as a result of the unionization of the armed forces would be undesirable. To let the union movement take its course in the military risks conceding the numbers, dues, and bargaining power of a two million member defense establishment to an increasingly active, and potentially activist, labor organization. Such a development would, in my opinion, take unwarranted liberties with our national security and our constitutional process.

The second option, therefore, would attempt to reduce the risk that a unionized military would become a highly politicized adversary of its management, the Federal Government. It entails a decision to steal a march on the military union movement by creating a de facto "company union" based on an expansion and amalgamation of the existing professional service associations. Such a "general military association" would be all-inclusive in membership in order to reduce the sense of "we-they" all too characteristic of most labor-management relationships. Whenever possible, the same individuals should hold comparable positions

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in the union and the military hierarchies. At the very least, gross discrepancies between military rank and union office ought not to occur. Such an association certainly would be preferable to a more conventional union affiliate, however difficult it would be to put it together. Yet encouraging the creation of even an initially supportive "company union" in the military would be a high-risk venture. Such an association, too, could well evolve into a more activist organization, much as has occured with the AFGE and the various "policemen's benevolent associations." Thus, forming a company union could be only a way of delaying an eventual union-management confrontation in the military.

The third course of action rejects the desirability of any military union, whatever its initial relationship with the defense establishment. It reflects a judgment that the unionization of the armed forces can only be prevented by reducing military manpower requirements significantly below current levels. This would essentially entail major reductions in the existing general purpose ground forces, coupled with a lengthening of the initial term of service. The resulting decrease in the need for recruits would allow the services to access fewer numbers of higher-quality recruits for longer enlistments than is now possible. Properly managed, this approach could result in a smaller but more professional military that is adequately compensated *and* adequately motivated for military service, as well as adequate for the legitimate needs of national defense.[21] Such a military would hardly constitute a receptive audience for advocates of military unions.

CONCLUSION

In sum, what must be understood is that any case for military unionization rests on the contentions that military unions would be nonpartisan, apolitical, quiescent during periods of national emergency, and totally unwilling to employ their most effective instrument—the strike—in order to lend weight to their demands. Such contentions, it seems to me, are not justified. There is no sound reason to assume that military unions would exercise indefinitely a degree of politically neutral self-restraint and self-denial unparalleled in the history of the union movement. Certainly, little in the performance to date of American public sector unions substantiates such an assumption. To rely on a military union *not* to act like a union over the long term is, in my opinion, fundamentally unwise. Unions have a proper, well-earned place in American society, but that place should not encompass the armed forces.

FOOTNOTES

[1] Part of the discussion in this chapter appeared in the author's "Unionization and the U.S. Military: A Conference Report," *Orbis* 21, no. 2 (Summer 1977).

[2] For a thoughtful discussion of differing orientations toward military service, see Charles C. Moskos, Jr., "The All Volunteer Military: Calling, Profession, or Occupation?" *Parameters 7*, no. 1 (1977). It should be noted, however, that military service rarely was defined as a "calling" by enlisted personnel. Their choice usually was limited to viewing the military as either an "occupation" or a "profession." This distinction should be noted when considering measures to correct prounion sentiment among enlisted personnel.

[3] Professor Ezra S. Krendel emphasized this point in his presentation at the Foreign Policy Research Institute Executive Conference on Unionization and the U.S. Military, Philadelphia, Pa., April 22, 1977.

[4] See, for example, Paul N. Schratz, "The Military Union Card," *United States Naval Institute Proceedings* (June 1977), pp. 27–29.

[5] See T. Roger Manley, C. W. McNichols, and G. C. S. Young, "Attitudes of Active Duty Air Force Personnel Toward Military Unionization," *Armed Forces and Society* 3, no. 4 (Summer 1977), and a comparison of their findings with a survey of army personnel in James K. McCollum and Jerald F. Robinson, A Study of Active Army Attitudes toward Unionization" (paper presented at the 39th Military Operations Research Society Symposium, USNA, Annapolis, Md., June 28–30, 1977), esp. pp. 12–13. The evidence is limited, but the similarities in the findings of surveys of two different services are striking.

[6] In addition to the chapter on European military unions in this book, see also Gerald F. Perselay, "The Western European Military Model" (paper presented at the 39th Military Operations Research Society Symposium, USNA, Annapolis, Md., June 28–30, 1977), esp. pp. 5–8.

[7] The U.S. Supreme Court recently acknowledged this point. Writing for the majority of the Court, Mr. Justice Stewart concluded that "There can be no quarrel with the truism that because public employee unions attempt to influence governmental policy-making, their activities and the view of members who disagree with them may be properly termed political." *Abood* v. *Detroit Board of Education*, 97 S. Ct. 1782, 1782, 1797 (1977).

[8] Professor Edward Bernard Glick of Temple University has given particular emphasis to the importance of the "superpower factor" in assessing the implications of military unionism in the United States.

[9] See, for example, David E. Cortright, "Unions and Democracy," *AEI Defense Review*, no. 1 (1977), esp. pp. 7–8.

[10] See, for example, Perselay, "Western European Military Model," p. 8.

[11] Cortright, "Unions and Democracy," p. 8. The influence of cultural variations, of course, is imprecisely understood. Yet it might be noted that the Germans have shown themselves to be rather good at fielding efficient armies under a variety of different regimes and situations. That the unionized *Bundeswehr* was still highly proficient might therefore be due to the fact that it was German rather than that it was unionized.

[12] Needless to say, any attempt to reduce manpower levels in a unionized U.S. defense establishment would almost certainly lead to a major rift between military management and the union leadership.

[13] Even prounion spokesmen acknowledge trends toward more assertive public sector unionization in the United States, and expanding powers for European military unions. See, for example, Cortright, "Unions and Democracy," pp. 5–7.

[14] Quoted in *U.S. News and World Report*, 14 February 1977, p. 8.

[15] The American Federation of Government Employees, for example, initially included a no-strike provision in its charter. That self-imposed restraint was discarded at the AFGE's convention in 1976—the same convention at which the AFGE charter was amended to permit enrollment of military personnel—when the union's membership voted to authorize strikes or "job actions."

[16] Harry E. Eccles, "Military Unionization: The Central Issues," *Naval War College Review* 30, no. 1 (Summer 1977), p. 24. It should be noted that unionized police forces are tolerated in some sectors only because of the certainty that, if necessary, striking police could be replaced by either the National Guard or the regular armed forces. If the National Guard and the armed forces were themselves unionized, neither that certainty nor that option would exist.

[17] McCollum and Robinson, "Active Army Attitudes toward Unionization," p. 13.

[18] Charles L. Parnell, "Should Military Unionization Be Permitted?" *United States Naval Institute Proceedings*, (July 1977), p. 24.

[19] On August 18, 1977, for example, the Senate Armed Services Committee reported out legislation that would prohibit both military unions and the unionization of civilians employed by the armed forces. (*Washington Post*, August 28, 1977).

[20] Report by Kraemer Associates, Inc., cited in Vernon Guidrey, "Collective Bargaining Is Called 'Distinct Possibility' for Military," *Washington Star*, 15 February 1977.

[21] This proposal is developed at length in my *Defense Manpower Policy: A Critical Reappraisal* (Philadelphia, Pa.: Foreign Policy Research Institute, Monograph No. 22, 1977).

NORTH ATLANTIC ASSEMBLY ACTS ON MILITARY ISSUES

Mr. KENNEDY. Mr. President, the North Atlantic Treaty Organization is in a period of review and reexamination. Some outside observers have questioned NATO's viability as a fighting force, and many suggestions have been offered for strengthening the alliance, both politically and militarily.

Since fundamental policy decisions necessarily involve the legislatures of member nations, I believe it is important to pay careful attention to the views of members of parliament, who often display a forthrightness and candor about issues which may be lacking in normal diplomatic exchanges.

Accordingly, I was most interested to learn of actions taken by the North Atlantic Assembly, the parliamentary arm of NATO, in its most recent meetings in Paris during the week of September 19th.

Among the most significant actions were several resolutions developed and reported by the Assembly's Military Committee, many of which bear the imprint of my distinguished colleague from Iowa, JOHN CULVER, who was the Senate's delegate participating in the work of that committee.

A chief topic in that committee was cooperation in defense procurement in order to obtain standardization and interoperability of equipment for NATO forces. Over the past 3 years the U.S. Congress has led the way on this vital issue by enacting basic policy legislation, by prodding our own executive branch to move boldly, and by encouraging our European allies to respond positively to efforts to create a trans-Atlantic "two-way street" in defense production. The Ford administration took initial steps toward greater standardization and the Carter administration has vigorously pushed for cooperation on a wide range of issues.

The sentiment in the Military Committee and in the North Atlantic Assembly as a whole was strongly for standardization. The delegates approved an important resolution drafted by Mr. Klaas de Vries of the Netherlands and Congressman JACK BROOKS of Texas, one of the leading proponents of standardization in the House of Representatives. This resolution reiterates the need for greater cooperation and urges the establishment of a NATO procurement committee to determine equipment requirements for alliance forces.

Recognizing the special importance of advanced technology as a means of off-

setting numerical imbalances between NATO and Warsaw Pact forces, the Military Committee approved a resolution recommending close coordination and cooperation in the application of modern weapon technology. At Senator CULVER's suggestion, this was broadened to include a recommendation that NATO's defense planning committee seek "maximum commonality in doctrine, tactics and procurement of systems employing new technology." Perhaps the most important lesson from recent joint efforts is that success depends on early cooperation, in the research and development stages, and on general agreement on what kind of system is needed and how it is to be employed. Otherwise, nations will develop weapons based on their own peculiar threat assessments, tactics, doctrine, and procurement cycles.

Readiness and reenforcement issues are a major concern in Europe, as they are in the United States. The Military Committee discussed these matters at length and then approved a resolution incorporating several points which echo Senator CULVER's own previous investigations of U.S. combat readiness. This resolution urged special attention to measures to improve readiness; it recommended development of integrated and interoperable communications systems, which are currently inadequate because commanders and field units from different nations have incompatible systems; it also supported the short- and long-term initatives for NATO improvements recommended by the United States and currently under study within NATO.

In a resolution endorsing continued negotiations for mutual and balanced force reductions in Europe, the committee added a specific suggestion proposed by Senator CULVER recommending "alliance agreement on critical war-warning indicators and negotiations on measures to restrict activities which appear to be preparations for immient war." Since there is considerable concern about the extent of warning we might have in case of conflict, such discussions might identify actions which could reduce the dangers of short-warning and provide confidence-building measures in future negotiations.

All of these proposals from the Military Committee were subsequently approved by the full North Atlantic Assembly.

In one of the most surprising developments, the Assembly demonstrated widespread and strong support for mutual limitations on international arms sales. One might have expected substantial disagreement over any proposal to restrict sales because of national economic pressures to maintain high volumes of sales. But instead the Military Committee readily endorsed a resolution drafted by Senator CULVER, with constructive additions by the Political Committee. The final product, also approved by the full Assembly, is a strong endorsement of President Carter's policy of limiting U.S. arms sales and a call for similar restraints on European nations.

I would also note that the Assembly expressed concern "about the implications of recent trends in nuclear weaponry, particularly the enhanced radiation warhead (neutron bomb)."

Mr. President, it may be that on the question of international arms sales, as on standardization, the elected representatives of the people are bolder and more concerned about the dangerous consequences of unrestrained competition in such sales than are cautious civil servants or representatives of industry. They are leading the way toward solutions to this problem, despite the reluctance of bureaucratic and economic interests.

These various resolutions, while nonbinding on the member governments, constitute in my view useful and positive expressions of legislative concerns on critical alliance issues.

As one who has previously been involved in the work of the North Atlantic Assembly, I believe that continued active U.S. participation can help measurably to improve international understanding and to strengthen the alliance.

Mr. President, I ask unanimous consent that the texts of the resolutions I have mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DRAFT RESOLUTION ON ARMS CONTROL

The Assembly,

"Concerned by the substantial increase in arms sales over the last few years"

Welcoming the announced United States policy of restraining its own international arms sales, which amount to more than half the world's total arms trade;

"Concerned that Europeans may be tempted to fill the vacuum created by this U.S. policy of restraint and to expand their arms exports.

Noting that the United States and the Soviet Union have established a bilateral committee for discussions on mutual restraints on such transfers;

Stressing that achieving limitations on global arms transfers should be the concern of all Alliance members;

Believing that progress toward standardisation and a "two-way street" in trans-Atlantic military procurement can reduce national economic and political pressures for increasing arms sales;

Stressing that policies of restraint can succeed only if there is multilateral co-operation towards this common goal;

Convinced that unrestrained competition in international arms sales poses risks to international security which must be carefully weighed against possible national economic benefits;

"Concerned about the implications of recent trends in nuclear weaponry, particularly the enhanced radiation warhead (neutron bomb)."

Urges member governments of the North Atlantic Alliance:

1. to give their firm support to President Carter's arms exports policy;

2. to demonstrate this support by imposing similar restraints on their own arms exports;

3. to seek multilateral co-operation on restraints in the level of arms transfers, with special attention to the consequences for regional stability of the introduction of advanced technology and large volumes of weapons.

4. to consider carefully the implications of further decisions regarding the enhanced radiation warhead.

DRAFT RESOLUTION ON INCREASED CO-OPERATION IN ALLIANCE ARMS PROCUREMENT

The Assembly,

Recognizing that greater co-operation in the research, development and production of armaments would considerably enhance the collective security of the Alliance by ensuring a more efficient and cost effective use of the combined resources allocated to NATO's defence;

Recognising, however, that standardisation alone does not represent a complete panacea to NATO's problems, but certain that if co-operation is pursued on a selective and fully coordinated basis it will bring significant advantages in terms of military efficiency, shared economic benefits, and greater political cohesion;

Stressing the considerable economic and political benefits to be gained from greater standardisation through eliminating waste, realising economies of scale, spreading economic benefits, mitigating divisive competition for arms sales, and strengthening political and economic relations between North America and Europe;

Concerned, however, that as these benefits are long term they are normally obscured by more immediate requirements of a national, and frequently parochial nature, particularly the reluctance of member states to adopt weapon systems which they cannot themselves produce;

Convinced that these obstacles can only be overcome by giving cooperation in arms procurement political visibility and involvement at the highest levels;

Convinced that co-operation in arms procurement can only work successfully through the establishment of a coordinated programme within which offsets and compensation can be viewed across a broad spectrum;

Recognising the need to develop a more balanced relationship between the European and North American members of the Alliance in the procurement of defence equipment;

Recognising the need for a coordinated European approach to armaments planning and the necessity for the European allies to organise themselves into a cohesive unit in order to negotiate effectively with North America;

Welcoming the progress made so far by the European Programme Group (EPG) but hoping that the Group will now produce concrete results and particularly establish a transatlantic dialogue with North America;

Concerned that despite repeated Assembly exhortations there has been insufficient support for cooperative efforts in the respective national legislatures to mandate the requisite level of co-operation;

Welcoming the public commitments to increased co-operation made by both the United States Administration and Congress and hoping that the European allies will make similar supportive commitments;

Anticipating that those statements of intent will be followed by positive action;

Recognizing that in the short term many measures short of standardization can be implemented that would improve NATO's combat effectiveness, particularly measures to increase the interoperability of NATO's forces and weapons;

Urges:

(a) member countries of the Alliance:

1. to give armaments co-operation maximum political visibility and support by giving direct responsibility for procurement cooperation to officials of the highest rank and authority;

2. to take the necessary actions in their respective legislative bodies to increase awareness and concern for the goals of interoperability and standardization and to make their commitment to those goals publicly known;

3. to intensify their efforts to establish an overall mechanism within which to coordinate effectively armaments co-operation on a large scale;

4. to ensure maximum implementation of the recommendations of the NATO Ad Hoc Group on Interoperability;

5. to establish a NATO procurement committee with authority to investigate industrial capabilities and determine equipment requirements for the combined NATO Forces Europe.

(b) member countries of the European Programme Group:

1. to intensify their efforts to develop a coordinated European approach to armaments planning including the formation of a permanent secretariat;

2. to move as rapidly as possible to establishing a dialogue with North America.

DRAFT RESOLUTION ON READINESS AND REINFORCEMENT

The Assembly,

Welcoming successes of the policy of détente which have been made so far in securing peace, a policy which has been and will remain the declared policy of NATO countries towards the Eastern countries, as well as the efforts undertaken through SALT and MBFR in order to slow down the arms race;

Concerned at recent developments in the organization and doctrine of Warsaw Pact forces which have increased the potential for a surprise attack with a consequent reduction in warning time for the West.

Stressing the need for Western nations to take appropriate measures to correct this trend by improving the capability of their in-place forces, particularly regarding readiness, stocks and munitions, anti-armour and anti-air equipment;

Welcoming the short-term measures and long-term programmes initiated at the May summit with regard to these requirements but concerned that promises of intent might not be followed by action;

Noting the continuing dependence of the Alliance on reinforcements and the continuing inadequancy of preparatory measures by member governments in provision of adequate air and sea transport;

Noting the considerable potential that national reserve forces offer the mobilization capability of the Alliance;

Urges member governments of the North Atlantic Alliance:

1. to give special attention to measures and immediate assignment of forces to NATO commanders which will improve combat readiness of national forces;

2. to seek to develop integrated and interoperable communications systems for the alliance at command and field levels;

3. to implement without delay the measures deriving from the short-term initiatives and the long-term programmes now under development designed to strengthen the capabilities of their in-place forces;

4. to make the appropriate use of civilian resources including the financing of the modifications needed for the utilization of civilian aircraft and the provision of specialized merchant shipping;

5. to make maximum use of reserve forces in their mobilization plans;

6. to support proposed long-term initiatives for improvements in the alliance force structure.

DRAFT RECOMMENDATION ON THE APPLICATION OF NEW WEAPON TECHNOLOGY TO WESTERN DEFENCE CAPABILITIES

The Assembly,

Concerned that NATO's qualitative superiority in weaponry is steadily being eroded by the development and deployment of modern equipment by the Warsaw Pact;

Recognizing that current developments in weapon technology, particularly in the areas of miniaturization, computer processing and guidance systems, offer Western countries the potential to strengthen considerably NATO defence capabilities;

Stressing that this potential will only be recognized on an efficient and cost effective scale through a coordinated Alliance approach;

Noting the particular relevance of cruise missile technology to the European theatre;

Recommends that the Defense Planning Committee:

1. ensures the closest coordination and cooperation of member countries' activities in the application of modern weapon technology;

2. gives the most serious and immediate consideration to the potential application of cruise missile technology to the European theatre.

3. Seeks maximum commonality in doctrine, tactics, and procurement of systems employing new technology."

DRAFT RECOMMENDATION ON MUTUAL AND BALANCED FORCE REDUCTIONS

The Assembly,

Recognising that advances in weapon technology threaten to create a further spiral in the arms race leading to instability in Europe and that it is crucially important to eliminate the danger of this arms race by political means;

Regretting that continuing suspicion on either side has so far inhibited substantial progress in Vienna but believing, however, that sufficient material has been clarified to permit the Vienna talks to evolve into negotiations for an initial agreement in a foreseeable time;

Stressing that an initial agreement would provide a basis of confidence for further negotiations and more stabilising measures;

Concerned that modern weapon technology leads to the development of a series of weapons the so-called "grey area" weapons that are covered by neither SALT nor MBFR negotiations;

Recommends that the North Atlantic Council:

1. gives maximum consideration to the initiation of a first agreement on the basis of parity and collectivity;

2. makes efforts to the effect that the confidence building measures agreed to in the CSCE Final Act of Helsinki should—also in the interest of the European countries not involved in the Vienna talks—be extended at the CSCE Follow-Up Conference in Belgrade and compulsorily adopted as associated measures of the negotiations on mutual reductions of forces and armaments and associated measures in Central Europe;

3. "to seek alliance agreement on critical war-warning indicators and negotiations on measures to restrict activities which appear to be preparations for imminent war;"

4. actively consider the incorporation of "grey area" weapons into arms control negotiations.

LAY OFF ISRAEL, JIMMY

Mr. PACKWOOD. Mr. President, diplomatic events and nonevents concerning the Middle East have been occurring with increasing frequency over the last several weeks. A significant problem created by these rapid developments is that too often we rivet our attention on the present and disregard the costly lessons of the past.

As the administration continues its alarming campaign to pressure the Israel Government into accepting a settlement in the Middle East, I believe it is critical that we stop and examine the results of prior peace agreements between Israel and the Arab States. The historical message is clear. Arab signatories have consistently breached key provisions of these agreements. For keeping its commitments, Israel has suffered war rather than peace.

Mr. President, a recent article by Edward S. Boylan in the Bergen County/Passaic County Record provides a cogent reminder of the impact that the past history of the Middle East will and should have on future negotiations between the legitimate parties. Because of their importance, Mr. President, I ask unanimous consent that Mr. Boylan's comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

LAY OFF ISRAEL, JIMMY

(By Edward S. Boylan)

Judging from recent articles about the Middle East, peace would be at hand if only Israel were not so "inflexible." Especially since Menahem Begin's rise to power, it has been common to depict Israelis as hard-line extremists, while most, if not all, Arab leaders are characterized as moderates.

Israeli reluctance to accept Washington-based peace plans is quite understandable, however. Several times in the past they yielded to American pressure and/or entreaties, and the consequences were not peace, but further bloodshed.

In 1957, for example, Israel returned the Sinai to Egypt in response to American prodding and a promise by President Eisenhower that the United States would break, by force if necessary, any Egyptian blockade of the Straits of Tiran, the pathway to Israel's key port of Elat.

In 1967, when Egypt imposed precisely such a blockade, the United States suddenly could not find the diplomatic correspondence containing the American promises. Israel's return of land led not to peace, but to the Six-Day War of 1967.

That war was relatively brief and "inexpensive" (except for those killed or injured). The next time the United States attempted to calm the Middle East, the results were far more costly to Israel, and to the United States as well.

In 1969 Israel and Egypt waged a "war of attrition" in the air over the Suez Canal. Egypt attempted to deploy a network of defensive surface-to-air missiles (SAMs) on its territory, while Israel used its air force to destroy the SAMs as soon as they were emplaced.

Into the fray stepped then-Secretary of State Rogers with the "Rogers initiative": a cease-fire in place, with Israel halting its air attacks and Egypt agreeing not to deploy any new SAMs. Both parties agreed, but no sooner was the ink dry on the agreement than Egypt deployed an extensive network of SAMs.

Without those SAMs providing an effective shield against Israeli air attacks, it is doubtful that Egypt would have risked sending its forces across the Suez Canal in October 1973. Thus, the 1973 Yom Kippur War, and the resultant quadrupling of the price of oil, were the bitter fruit of an American peace initiative.

That incident points up another justification for Israeli hesitance: Past Arab actions do not inspire enormous confidence that they will honor their international commitments.

The 1949 armistice agreement, for example, provided for Israeli access to Jewish holy places under Arab control. Instead, Jordan barred all Jews from visiting any and made no attempt to properly maintain the sites.

The 1974 interim agreement between Egypt and Israel is similarly instrutive. One clause in the agreement provides that Egypt will

mute its anti-Israel propaganda. If anything, however, Egypt has increased the virulence of its attacks on "Zionism."

In and of itself, the violation is of little consequence. The clause was a relatively minor political concession made in the course of eliciting an Israeli territorial concession.

But that violation offers an ominous lesson for the current negotiations. Israel is now being urged to make far greater territorial concessions in return for far greater political concessions. What confidence can Israel have that the Arab nations will keep their promises to live in peace when they do not even honor a minor commitment to reduce hostile propaganda?

Nevertheless, many American Middle East "experts" are advocating that the United States pressure Israel into returning to the Arabs all land conquered in 1967. Their eagerness to rush in where angels are reputed to have trod may be explained by the fact that if their advice is heeded and the past is repeated, it will be Israel, not the United States, which will suffer the consequences.

Beyond the dubious morality of forcing Israel to jeopardize its national existence, there is another reason the United States should refrain from bringing undue pressure to bear. Israeli "intransigence" actually increases the prospects for eventual acceptance of President Carter's "peace plan," and for a true, lasting peace in the area.

The basic elements of the President's plan are well known: Israeli return of almost all land captured in 1967; establishment of a Palestinian "homeland" on the West Bank; a full and true state of peace between Israel and its Arab adversaries. Most media attention has focused on Prime Minister Begin's reluctance to return West Bank territory to Arab control.

Contrary to the image presented in the press, however, the Arab states have been as reluctant to accept the President's proposals as Israel. Egypt's President Sadat, perhaps the leading Arab "moderate," has been adamant in professing his refusal to agree to the type of true peace, trade, and travel between nations, establishment of diplomatic relations, etc., envisaged by President Carter. Even if Mohammend himself called for it, Sadat vowed, he would never agree.

Recently, however, when Sadat said true peace might follow only five years after Israel returned all Arab territories, American Arabists praised this as an enormous concession. One wonders if they would have been as enthralled if Begin had agreed to return Arab territories five years after true peace reigned.

With regard to a Palestinian homeland, Arab nations insist that such a state be governed by the PLO, whose avowed goal is the total destruction of Israel. It is ludicrous to believe that the path to true peace lies through creation of a state dedicated to the destruction of Israel.

There is, to be sure, recurrent talk of PLO "moderates," willing to settle for a half a loaf, a West Bank state, and who reluctantly accept Israel. But no prominent member of the PLO has publicly stated a willingness to live in peace with Israel.

If the definition of a diplomat is someone smoking under a "no smoking" sign because it doesn't say "positively," the definition of a PLO moderate is someone who says "no Israel" and not "positively no Israel."

With regard to the return of territories, the President's proposals allow for some border modifications, while the Arabs insist on the return of all land. The distinction is nontrivial because it encompasses Jerusalem, the holy city that is located on West Bank territory.

Until 1948, Jerusalem was always a unified city, a plurality of majority of whose residents were Jewish from before 1900. Under Jordanian rule, however, which began in 1948, Jews could not visit their holiest shrines, synagogues were destroyed, and Jewish cemeteries desecrated. (Headstones were used as paving blocks for roads, making it impossible for Jews to visit the graves of their relatives.)

The reunification of Jerusalem by Israel in 1967 was a cause of national rejoicing. It is inconceivable that any peace treaty calling for the return of Jerusalem would be approved by Israel's parliament. Consider the difficulty President Carter faces in getting Senate approval for eventually relinquishing control of the Panama Canal, territory of far less significance to the citizens of the United States.

President Carter's proposals may yet provide the framework for a viable peace in the Middle East. But both sides still have basic concessions to make.

Israel will probably have to return more of the West Bank than it would like. The Arabs will have to accept the fact that some land lost in 1967 is truly lost and that they will have to live in true peace with Israel. The PLO will have to resign itself to coexisting with Israel if it desires its own state.

For President Carter to visibly put pressure on Israel drastically reduces Arab motivation to make the basic concessions given above. Indeed, the Arab stance almost invariably hardens whenever the State Department becomes too overtly "evenhanded."

Israeli firmness, on the other hand, makes it clear to the Arab nations that the lands lost in 1967 can be regained only by compromising their positions, and not through American pressure on Israel. Indeed, the more pressure the United States publicly places on Israel, the more Israel is forced to adopt a seemingly intransigent pose, precisely to avoid raising Arab hopes that they can regain their lands without making any concessions.

To be sure, it is possible that Israel is truly inflexible, that even if the Arabs agree to bolder modifications and the PLO renounces its goals of the destruction of Israel, Israel will not relinquish any West Bank territory. Prime Minister Begin, however, has several times clearly indicated that "everything" is negotiable. (Indeed, Foreign Minister Moshe Dayan recently indicated that even the status of Jerusalem is negotable!) Only time, and the eventual meeting at Geneva, will reveal the truth.

In the interim, President Carter would do well to reject advice that the key to an Arab-Israeli settlement is direct, overt pressure on Israel. If history is any guide, that course of action is more a diagram for disaster than a prescription for peace.

ARMS SALES POLICY

Mr. CULVER. Mr. President, one benefit of the congressional debate over the proposal to sell AWACS aircraft to Iran has been to focus and hopefully solidify President Carter's policy for restraining conventional arms sales. Representative GERRY STUDDS recently wrote an article for the Boston Globe, entitled "Aircraft Deal With Iran Hurting Carter's Arms-Sale Policy," which discusses the effect of this contradiction on the President's policy. I would like to call the attention of my colleagues to Mr. STUDDS' views on this subject, and especially to his point that the new restraints should be strictly applied to Africa, which could well emerge as the most attractive new market for arms sales.

President Carter's policy is a well-designed way to make the difficult transition to more limited and more discriminate arms sales programs. Its effectiveness, however, depends entirely on how the President uses the exception clauses. If exceptions are invoked often for large or otherwise significant sales, the policy will quickly become meaningless. And we cannot continue to make major exceptions for Iran, by far our largest arms customer, and apply the new restraints to other nations.

Mr. President, I ask unanimous consent that Representative STUDDS' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIRCRAFT DEAL WITH IRAN HURTING CARTER'S ARMS-SALE POLICY

Late last year, in spite of a singularly uninspiring presidential campaign which left many Americans pondering the purpose of voting at all, I found myself becoming convinced it was critically important that Jimmy Carter be elected. One of the principal reasons was candidate Carter's pledge to restore sanity to our foreign military-sales program.

In his first eight months, the President has talked a great deal about fulfilling that pledge, but has not come close to meeting his commitment to do so. On May 18, he enunciated—with great fanfare—an arms-sales policy that was supposed to lead to the reduction of arms sales abroad, to the intelligent and limited use of such sales as a tool of foreign policy rather than primarily as a source of private profit and to the beginning of a leadership role for the United States in a new international effort to control the arms trade.

Less than one month later, the President proposed the sale of seven early warning aircraft (AWACs) to Iran, an action which directly contradicts the provision in his policy that the United States would never again "be the first supplier to introduce into a region newly developed, advanced weapons systems which would create a new or significantly higher, combat capability." Equally disturbing, the sale was presented to Congress in a hasty and slipshod manner, which indicated that political considerations were the only issues the Administration considered relevant.

The Administration testimony made it clear that the Defense Department and the CIA were not originally sure what equipment would be included in the Iranian AWACs, a fact which meant that no accurate judgment of the security risks had been made. Even more incredible, spokesmen indicated they had not even decided on what grounds they were seeking an exception to the President's arms-sales policy.

A storm of congressional pressure forced the Administration belatedly to invest some brainpower to explain adequately how, or whether, their arms-sales policy will be applied to Iran, and to deal with the long-range problems created by our sponsoring in Iran the single largest, fastest rise to military power under peacetime conditions of any country in the history of the world.

One is forced to suspect that the poorly prepared and sloppily defended AWACs proposal was rushed through Administration channels primarily in order to include it in arms-sales totals for Fiscal 1977, the last year for which Carter can share responsibility with a prior Administration. This seems particularly likely given the President's pledge to seek a lower sales total in Fiscal '78 than in Fiscal '77. The $1.2 billion AWACs sale will considerably restrict next year's options now that Congress has forced it into Fiscal 1978, but it would have given the President

a chance to score some easy public-relations points if it had been allowed to swell the 1977 totals.

An equally disturbing factor is the tremendous personal interest which the President has demonstrated this time around in winning support for the sale. Immediately prior to the resubmission of the proposal on Sept. 7, the President personally called members of both the House and Senate in a successful effort to guarantee its approval. His primary message was that the Shah had been led by the previous Administration to believe that the sale would occur, that the U.S. must demonstrate continually in its foreign policy and that denial of the sale might possibly lead to a serious deterioration in our relations with Iran.

It now appears impossible to prevent the AWACs sale. The Carter Administration will have lost, as a result, a unique opportunity to convince other nations that a real change in U.S. policy toward arms sales has occurred. I cannot help wondering how the President will be able to say no to Saudi Arabia, Egypt and Jordan when it appears so difficult to say no to the Shah.

The tragedy is that the Carter arms-sales policy of last May might well serve as an excellent basis for the kind of controls we so desperately need. It might serve particularly well as a guideline to future sales in Africa, perhaps the most attractive new market for those whose business it is to sell arms.

Unfortunately, President Carter will not be able to provide such leadership if he is unwilling to limit the flow of our own arms to unstable areas such as the Middle East. Although the arms-sales is proven a rather complex dilemma arising from our failure to exercise prudence in the past, it is also a challenge which candidate Carter seemed willing and strong enough to confront. While it is far too early to make a final judgment, President Carter has thus far failed to match his rhetoric with action, and new runs the risk of seriously alienating many of those in Congress and elsewhere who were eager to support him.

ANNOUNCEMENT OF POSITION ON VOTES—S. 1871

Mr. DOLE. Mr. President, I was necessarily absent yesterday and missed the votes on the amendments to the minimum wage bill.

Mr. President, I would like to indicate how I would have voted on these amendments.

1. Amendment No. 963 (Williams-Javits), yea.
2. Amendment No. 896 (Stafford), yea.
3. Amendment No. 893 (Bartlett), nay.
4. Amendment No. 894 (Tower), yea.
5. Amendment No. 895 (Domenici), yea.
6. Amendment No. 897 (Stone), yea.
7. Amendment No. 898 (Allen), yea.

TURMOIL IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF UTAH

Mr. GARN. Mr. President, the turmoil in the U.S. District Court for the District of Utah has been of great concern to me and many Utahans. Fortunately, this concern has been shared by some of our colleagues both in the Senate and the House and we have been able to bring some of the more serious problems of the Utah court to the attention of the appropriate committees. For example, last year the Subcommittee on Improvements in Judicial Machinery held hearings on S. 1130 (94th Cong.) dealing with a grandfather clause under which the chief judge of the Utah court continues to serve in his administrative capacity. This year, both Senate and House Judiciary Committees have looked at the evidence that has been presented to them concerning the Utah court, and have taken some helpful actions. The Senate Committee recommended that Utah receive a third district judge and that recommendation was incorporated in the Senate version of the judgeship bill, S. 11. The Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee unfortunately removed Utah's additional judge, but did include in its version of the bill (H.R. 7843) a repeal of the grandfather clause under which Utah's senior judge continues to serve. The House Subcommittee is to be commended for their realistic approach to the unique problems of the Utah court and, although I would have preferred that the committee authorize the third judge, I commend the committee for its courage in recommending an end to the outdated grandfather clause which is now applicable to only one judge, Willis W. Ritter of the U.S. District Court for the District of Utah.

The House bill is now ready for markup by the full committee and it is my hope that the third Utah judge will be reinstated. This will avoid any difficulties in conference over the Utah situation and as I argued February 25, 1977, when I introduced amendment No. 52 to S. 11, the case for a third Federal district judge for Utah can be made and has been made. I must say that if the House does not include the third Utah judge in its bill, I will be disappointed; but if the House passes a bill that has neither a third judge nor a repeal of the grandfather clause I will find the bill wholly unacceptable and will take every available step to see that the final version of the judgeship bill offers some relief for the Utah court.

Fortunately, Mr. President, all signs now point toward a House bill that will contain at least a grandfather repealer. I know that the House Committee is sensitive to many of the troubles of the Utah court and I trust the full committee will do no less than the subcommittee when it drafts its bill.

The full committee, however, is now confronted with a development that is unique in the history of our court system. On Wednesday, October 5, 1977, the U.S. Department of Justice filed with the Court of Appeals for the 10th Circuit a petition for writ of mandamus seeking to remove Judge Willis W. Ritter from all criminal cases and all civil cases—yet to be filed or instituted—in which the United States or any of its agencies or officers is a party. It is my understanding that this action has no precedent; it is clear that it is a matter of extreme seriousness.

The 160-page petition was accompanied by an 860-page appendix. Signing the writ on behalf of the U.S. Government were Wade H. McCree, Jr., solicitor general, and Ramon M. Child, U.S. attorney for Utah.

Mr. President, the U.S. Government is the most powerful and frequent litigator in the country. The Government is a party to all criminal actions and to thousands of civil matters and it has now become necessary for the United States to ask the circuit court to remove from Judge Ritter all actions in which it is a party. Let me quote from the petition:

> There is, of course, no direct precedent for the relief we seek; the United States has never before found it necessary to make such a request.

The situation in Utah has reached a point where the United States must ask that a particular judge be removed, not from a particular case or type of case, but from all cases in which the Government is a party.

I have been speaking about the Federal court in Utah for years, and the petition for writ of mandamus documents a history of abuses that extends back many years. These abuses are real and they are serious; perhaps now that the Justice Department has acted they will be seen in the objective way in which they deserve to be seen and judged. I must extend my gratitude to Mr. Child and his office and to Mr. McCree and others in the Justice Department for their earnest effort to bring change to the Utah court.

The court of appeals has the matter pending before it, and I trust it will do its duty. I am compelled to say, however, that Congress has a continuing responsibility for the administration of justice and that more needs to be done. The Judicial Tenure Act is again working its way through Congress and I support it as a wise and constitutional method of maintaining the integrity of the judicial branch. I also support other proposals which I believe will prevent the kind of abuses which we have seen from the Federal bench in Utah. Finally, I must remind the Congress of the United States that it has the solemn responsibility to impeach and remove Federal judges whose behavior falls below the constitutional standard of "good behavior." My public position has been that if I were a Member of the House of Representatives I would make every attempt to begin an inquiry into the behavior of Judge Ritter to see if he warranted impeachment. We now have a body of evidence that will make that question more answerable than it has ever been.

Mr. President, I ask unanimous consent that the statement of facts and the argument from the table of contents, the statements of relief sought and jurisdiction, and the introduction from the petition of mandamus or prohibition, United States versus Hon. Willis W. Ritter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. Court of Appeals, Tenth Circuit]

UNITED STATES OF AMERICA PETITIONER, VS. HONORABLE WILLIS W. RITTER, CHIEF JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH, RESPONDENT

In the Judicial Council of the Tenth Circuit of the United States: In the matter of the division of business and assignment of cases in the United States District Court for the District of Utah

Petition for Writ of Mandamus or Prohibition; Petition for Order Reassigning Criminal Proceedings and Civil Proceedings Involving the United States

STATEMENT OF FACTS

I—Respondent conducts his business in a way that exceeds his authority and brings the Federal courts into disrespect

A. Respondent mismanages the grand jury.

B. Respondent refuses to permit witnesses to testify at trial who did not tesify at the preliminary hearing.

C. Respondent refuses to permit indictment of a defendant who has previously been discharged by the magistrate.

D. Respondent does not follow the procedures prescribed in Fed. R. Crim. P. 11 (c) and (d) for accepting guilty pleas.

E. Respondent prohibits parties from negotiating plea agreements authorized by Fed. R. Crim. P. 11(e).

F. Respondent refuses to consider pretrial motions until after jeopardy has attached.

G. Respondent refuses to compel defendants to provide non-testimonial evidence upon proper motion by the government.

H. Respondent mismanages his criminal trial calendar.

I. Respondent forces the government to consent to nonjury trial.

J. Respondent is hostile toward the trial of misdemeanors and petty offenses in the district court, yet he refuses to permit magistrate trials and forfeiture of collateral in such cases.

K. Respondent ordinarily refuses to permit the government to make an opening statement in criminal cases.

L. Once the witness exclusion rule is invoked, respondent refuses to permit the agent of the United States designated by the government's attorney as its representative to remain in the courtroom during trial if that agent may be a witness.

M. At trial respondent excludes or admits evidence without regard to the Federal Rules of Evidence.

N. Respondent fails to inform counsel of his proposed action upon requests for jury instructions prior to instructing the jury.

O. Respondent often omits jury instructions on the elements of the offense, the language of the charge and the language of the pertinent statute, even after the government specifically requests that he give such instructions.

P. Respondent has denied the United States access to transcripts of public proceedings.

Q. Respondent's precipitous actions in the courtroom impede the administration of justice.

R. Respondent pressures defendants into accepting a jury of less than 12 persons.

S. Respondent pressures defendants to waive their right to grand jury indictment.

T. Respondent sentences defendants and sets bail in front of the jury.

II—Respondent neglects governing cases in the tenth circuit, has contempt for the judges of that court, and conducts his business in order to avoid appellate review of his decisions.

A. Respondent persists in erroneous conduct after reversal by the Court of Appeals.

B. Respondent shows contempt for the judicial process.

C. Respondent conducts his business in order to avoid appellate review of his decisions.

III—Respondent sits only infrequently in criminal cases, thus jeopardizing defendants' rights to a speedy trial

IV—Respondent is biased against the United States and its representatives

V—Respondent neglects and mishandles the government's civil cases

A. Respondent refuses to hear pending motions and trials in civil cases in which the United States, or an officer or agent thereof, is a party.

B. Respondent refuses to enforce civil summonses issued by the Internal Revenue Service.

VI—Respondent conducts the business of his court in a manner which has destroyed public confidence in his ability to administer justice

ARGUMENT

I—Respondent should be removed from federal criminal cases and no additional civil cases should be assigned to him

II—This court has authority to grant the relief we seek

A. Mandamus lies to supervise persistent misconduct by district judges.

B. The Judicial Council may make administrative orders to reallocate the business of district judges.

C. The exercise of appellate control over the assignment of cases to district judges is consistent with Article III of the Constitution.

RELIEF SOUGHT

The United States of America respectfully requests this Court to issue a writ of mandamus requiring respondent Honorable Willis W. Ritter to take no further action in any criminal proceeding pending in the District of Utah. The United States also requests the Judicial Council of the Tenth Circuit to issue an order directing the following:

(1) No criminal proceedings henceforth filed or instituted in the United States District Court for the District of Utah be assigned to the Honorable Willis W. Ritter for any action whatsoever;

(2) All criminal proceedings currently pending in the Central Division of the District of Utah be reassigned to another judge or judges designated by the Council;

(3) A judge or judges designated by the Council shall hereafter have full control over and responsibility for the call, service and discharge of grand juries, the assignment and duties of the magistrate, the return of indictments, arraignments, cases under the Federal Juvenile Delinquency Act, complaints for the apprehension of material witnesses, probation revocation proceedings, trials in criminal cases, sentencings and all other criminal proceedings in the Central Division;

(4) No civil proceedings henceforth filed or instituted in the United States District Court for the District of Utah in which the United States, or any agency or officer thereof, is a party be assigned to Honorable Willis W. Ritter.

JURISDICTION

I

The jurisdiction of this Court to grant the writ of mandamus or prohibition is invoked pursuant to the All Writs Act, 28 U.S.C. § 1651. The writ properly issues to correct persistent abuse of discretion. *Bankers Life & Casualty Co.* v. *Holland*, 346 U.S. 379, 383 (1953) and extends in such cases to "supervisory control of the District Courts by the Courts of Appeals . . . necessary to proper judicial administration in the federal system." *La Buy* v. *Howes Leather Co.*, 352 U.S. 249, 257 (1957). *See also United States Board of Parole* v. *Merhige*, 487 F. 2d 25, 30 (4th Cir. 1973), *cert. denied*, 417 U.S. 918 (1974); *United States* v. *Hughes*, 413 F. 2d 1244, 1248–49 (5th Cir. 1969), *vacated as moot sub nom. United States* v. *Gifford-Hill-American, Inc.*, 397 U.S. 93 (1970); *United States* v. *Dooling*, 406 F. 2d 192, 198 (2d Cir.), *cert. denied sub nom. Persico* v. *United States*, 395 U.S. 911 (1969); *Sanders* v. *Russell*, 401 F.2d 241 (5th Cir. 1968); *Rapp* v. *VanDusen*, 350 F.2d. 806, 810 (3d Cir. 1965); *United States* v. *Ritter*, 273 F.2d 30, 32 (10th Cir. 1959), *cert. denied*, 362 U.S. 950 (1960).

Extraordinary writs are "freely employed 'to prevent disorder from a failure of justice,'" *United States* v. *Malmin*, 272 F. 785, 789 (3d Cir. 1921) (quoting from *Rex* v. *Baker*, 3 Burr. 1265), and to prevent improper and undesirable behavior of a district judge "highly deleterious to the sound administration of criminal justice." *United States* v. *Dooling, supra*, 406 F.2d at 199.

II

The jurisdiction of the Judicial Council of the Tenth Circuit is invoked pursuant to 28 U.S.C. § 332(d). That section grants the Judicial Council "broad powers . . . in seeing that the District Court's business is conducted effectively, expeditiously and in a manner that inspires public confidence." *Utah-Idaho Sugar Co.* v. *Ritter*, 461 F.2d 1100, 1103 (10th Cir. 1972). *See also Chandler* v. *Judicial Council*, 398 U.S. 74 121–125 (1970) (Harlan, J., concurring).

INTRODUCTION

Chief Judge Ritter was appointed to the district court in 1949. At least in recent years he has conducted his judicial business in a manner that is inimical to the standards of judicial conduct that ought to be observed. As this Court is well aware, he has been unable to agree with his fellow judges about the allocation of judicial business, and the Judicial Council has been required to intervene.[1] The Supreme Court has criticized respondent for intemperate and obstreperous conduct,[2] and this Court on many occasions has found it necessary to rebuke the Judge for violations of the established norms of judicial conduct,[3] for improper behavior,[4] for deliberate misuse of his judicial powers to thwart justice,[5] for evident bias against the United States,[6] and for ignoring orders of the Tenth Circuit.[7]

Proper relations between the district judges and the attorneys for the United States are important if public justice is to be achieved, especially in criminal cases. Relations between respondent and the United States Attorney's office have deteriorated significantly during the last few years. For example, after this Court issued a writ of mandamus instructing respondent to discontinue using a "trailing calendar" system under which numerous cases were called for trial on short notice,[8] respondent harshly criticized the United States Attorney for obtaining the writ and indicated that if he could not try cases in his usual way, insofar as possible he would avoid trying them at all. Since then respondent has called very few cases for trial; many criminal cases have been pending beyond the time provided by the Speedy Trial Act, and many of those cases continue to be pending even after the completion of the trials respondent conducted in July and early August of this year. In the few cases Judge Ritter has set for trial, respondent has reverted to his "trailing calendar" system.

Respondent refuses to follow the clear commands of a multitude of federal rules, the specifics of which are set forth in the Statement of Facts. For example, in crimi-

Footnotes at end of article.

nal cases he refuses to allow witnesses who did not testify at the preliminary hearing to testify at trial; he refuses to conduct the proceedings required by Fed. R. Crim. P. 11 prior to accepting guilty pleas; he refuses to honor the prosecutor's request for a jury trial in felony cases, despite the clear language of Fed. R. Crim. P. 23(a); he refuses to issue compulsory process for obtaining non-testimonial evidence; he prohibits parties from negotiating plea agreements authorized by Fed. R. Crim. P. 11(e); he refuses to permit the magistrate to hold trials in petty offense cases, yet obstructs the prosecution of such cases in his court. In sum, he has exhibited great hostility toward the approved ways of dealing with and trying criminal cases.

It has become difficult, if not impossible, to vindicate in respondent's court "the public's interest in fair trials designed to end in just judgments."[9] When respondent holds criminal trials, he postpones decisions on suppression requests or motions to dismiss until jeopardy has attached, thus frustrating the United States' statutory right to appeal; he grants or denies such motions without hearing testimony, on occasion without hearing argument by the government, and usually without entering any factual findings; in most cases he refuses to permit opening statements; he refuses to follow the Federal Rules of Evidence; his demeanor in court destroys the solemnity of the proceedings and brings the administration of justice into disrepute; his abrupt and procedurally irregular decisions sometimes thwart the completion of ongoing trials, and, in many instances, the Double Jeopardy Clause bars reprosecutions.[10] His behavior in court harms criminal defendants no less than it harms the United States, because his conduct often makes it impossible for either party to obtain a fair trial.[11]

The United States has, over the past two years, vigorously resisted some of respondent's excesses. It has taken appeals in many cases and, when necessary, has sought writs of mandamus and orders of the Judicial Council. The United States has, for example, sought and obtained a writ of mandamus requiring respondent to hear and dispose of pretrial motions at least ten days prior to trial. It has sought and received an order removing respondent from an antitrust case for evident bias. It has sought a writ of mandamus requiring respondent to convene a regular grand jury and allow it to sit in accordance with the established rules of law. When respondent subsequently convened a grand jury, this Court nevertheless retained jurisdiction over the balance of the government's petition. After the grand jury had been convened, it was necessary to obtain a supplemental order directing respondent not to interfere with its conduct. The United States also sought and obtained a writ of mandamus to require respondent to give adequate notice of the dates on which criminal cases will be tried and to set such trials for dates certain.

Furthermore, there are now pending before the Judicial Council of this Circuit requests by the United States (1) for an order granting trial authority to the United States Magistrate in petty offense cases and establishing a system for the forfeiture of collateral in lieu of appearance for persons committing certain petty offenses in the District of Utah, and (2) for an order directing respondent to allow his court reporter to transcribe proceedings in open court after respondent has, apparently, confiscated the original records of remarks hostile to the United States and to the Court of Appeals.

These proceedings have been and will continue to be of some assistance. But they cannot be truly effective so long as respondent continues to exercise arbitrary and erratic authority in individual cases. The power of a trial judge is too great and the opportunities for abuse of that power too frequent to allow effective appellate supervision in the run of cases, when a judge is determined to act by his own lights. The effective administration of criminal justice in the Central Division of the District of Utah has been paralyzed by respondent's chronic disregard for accepted legal norms and his unwillingness or inability to meet the demands of his office. We have, therefore, reluctantly concluded that a piecemeal approach will not effectively cope with the problems that beset his court.

In light of these circumstances the United States files this petition, which asks this Court to remove Judge Ritter from further participation in federal criminal cases and to reallocate the business of the District of Utah so that no new federal civil cases are assigned to Judge Ritter. Because the propriety of this relief depends in substantial measure on an understanding of the way in which Judge Ritter carries out his judicial duties, we devote the bulk of this petition to a discussion of the various respects in which his conduct persistently fails to meet accepted legal norms.

FOOTNOTES

[1] *Utah-Idaho Sugar Co.* v. *Ritter*, 461 F. 2d 1100 (10th Cir. 1972 (*en banc*); Orders of the Judicial Council of the Tenth Circuit dated January 20, 1968; May 24, 1965; and December 20, 1971, *In the Matter of the Division of Business and Assignment of Cases in the United States District Court for the District of Utah*. See Appendix at pp. 1–17.

[2] *Cascade Natural Gas Corp.* v. *El Paso Natural Gas Co.*, 386 U.S. 129, 142–143 (1967) (respondent "did the opposite of what our pior opinion and mandate commanded"); *United States* v. *Jorn*, 400 U.S. 470 (1971).

[3] *United States* v. *Peterson*, 456 F. 2d 1135 (10th Cir. 1972) (characterizing respondent's conduct of a criminal trial as "a clear-cut example of judicial abuse of the most basic elements of procedural due process"); *see also United States* v. *Bray*, 456 F. 2d 851 (10th Cir. 1976); *United States* v. *Davis*, 442 F. 2d 72 (10th Cir. 1971).

[4] *United States* v. *Barney*, 550 F. 2d 1251, 1254–55 (10th Cir. 1977) (" . . . this is an instance where [respondent] ordered the government, on three working days notice to be ready to proceed to immediate trial on twenty-three cases under pain of dismissal if the government was not thus ready to proceed. Such was utterly unreasonable and constitutes a gross abuse of discretion on the part of the trial judge.") *United States* v. *Cardall*, 550 F. 2d 604 (10th Cir. 1977), *petition for cert. pending*, No. 76–6696.

[5] *United States* v. *Appawoo*, 553 F.2d 1242, 1244 (10th Cir. 1977) ("[T]he court had refused to hear the [pretrial] motions before trial, as required by Rule 12, Fed. R. Crim. P., in the absence of any showing or reference in any manner whatever to good cause for deferring a consideration and ruling. We must take notice of the practice of [respondent] to hear pretrial motions after the jury has been sworn. . . . [T]here are references in the records to show that this is done to prevent appeals by the government of rulings on such motions." The court went on to cite other cases in which it had directed respondent, without apparent effect, to discontinue this practice. It then held that the "trials" being conducted were shams, contrived by respondent for the purpose of avoiding appellate review of decisions that he knew to be contrary to established Tenth Circuit law. Notwithstanding this decision, respondent has continued the practice of deferring rulings on pretrial motions until after the empanelling of a jury. *United States* v. *Radmall*, indictment dismissed on August 25, 1977, *appeal pending*, No.

[6] *United States* v. *Ritter*, 540 F.2d 459 (10th Cir.) (*en banc*), *cert. denied sub nom. Olson Farms, Inc.* v. *United States*, 429 U.S. 951 (1976); *United States* v. *Ritter*, 273 F.2d 30 (10th Cir.), *cert. denied*, 362 U.S. 950 (1960); *United States* v. *Hatahley*, 257 F.2d 920 (10th Cir. 1958). *Cf. Webbe* v. *McGhie Land Title Co.*, 549 F.2d 1358, 1361 (10th Cir. 1977); *Eckles* v. *Sharman*, Nos. 75–1434 and 75–1435 (10th Cir., decided February 3, 1977) (removing respondent for improper conduct and bias in private cases).

[7] In addition to *Appawoo, supra, see United States* v. *Fay*, 553 F.2d 1247, 1248, 1250 (10th Cir. 1977) ("It is apparent that the failure of [respondent] to conform to the rules by refusing to hear the motions to suppress at the prescribed time frustrated the proper trial of these defendants. . . . The procedure here followed by [respondent] obviously aborted a proper consideration of the motions to suppress, [which respondent granted without hearing evidence.] . . . [Because the Double Jeopardy Clause bars a second trial,] we cannot evaluate the correctness or significance of the ruling on the motion to suppress by reason of the failure to follow the procedural rules.")

[8] *United States* v. *Ritter*, No. 76–1917 (10th Cir., mandamus issued November 6, 1976). *See also United States* v. *Barney, supra*.

[9] *Wade* v. *Hunter*, 336 U.S. 684, 689 (1949).

[10] *See, e.g., United States* v. *Jorn, supra; United States* v. *Fay, supra*.

[11] *See, e.g., United States* v. *Peterson, supra; United States* v. *Smith*, 495 F. 2d 668 (10th Cir. 1974).

INTERPRETATIVE RULINGS OF THE SELECT COMMITTEE ON ETHICS

Mr. STEVENSON. Mr. President, on behalf of the Select Committee on Ethics I submit for the information of the Senate a number of the committee's interpretative rulings on the Senate Code of Official Conduct pursuant to section 206 of Senate Resolution 110, 95th Congress.

These 26 rulings answer questions of general interest raised about the nine new rules agreed to in Senate Resolution 110 on April 1 of this year, old Rule 44 on financial disclosure, the franked mail statute and regulations, and related matters on which no rule exists. They are numbered chronologically but presented by major subject. Periodically we will publish all the rulings and opinions cumulatively with an index and cross-references.

The committee has given interpretations on these matters by letter directly to Senators and others who have requested assistance since April 1, but until now has refrained from publishing its rulings. Such restraint was made necessary in part, because the Senate referred several key ethics questions to other committees for recommendations, deferred the effective dates of some of the new rules, and did not resolve still other fundamental questions in debate on Senate Resolution 110. The committee also accumulated a number of rulings before publishing any in order to develop a satisfactory form for its published interpretations.

These rulings do not include all those issued by the committee. For reasons cited, the committee has issued some of its rulings as interim advice without

precedental value. Approximately 20 rulings issued prior to this month, most of them concerning what are "other than necessary expenses" under the rules on gifts and financial disclosure, will be published in the next few weeks as soon as the committee settles some collateral issues which it has had under study. Another 30 rulings were made in recent days and are being prepared for publication.

The committee will continue to respond to written requests for interpretations, treat such requests confidentially, and publish its rulings with appropriate deletions to protect the privacy of individuals.

Mr. President, I ask unanimous consent to have printed in the RECORD certain rulings of the Select Committee on Ethics.

There being no objection, the rulings were ordered to be printed in the RECORD, as follows:

INTERPRETATIVE RULINGS ON THE SENATE CODE OF OFFICIAL CONDUCT, FRANKED MAIL AND OTHER MATTERS

(In the order of the most applicable rule)

RULE 43—GIFTS

Interpretative ruling No. 4: Date issued: May 10, 1977

Question: May two Senate employees who plan to wed accept a gift of $125 worth (less than $100 each) of shrimp, for use at their wedding reception from a close personal friend of both who is employed by an instrumentality of a State which, from time to time, has an interest in legislation before the Congress, and has, on occasion, communicated its views to the Senator who employs the groom?

Ruling: This gift is not subject to the $100 limitation in paragraph 1(a) of Rule 43 because the donor is not within the defined class of persons and organizations deemed under subparagraph 1(b) to have a direct interest in legislation before the Congress.

RULE 42; OLD RULE 44: FINANCIAL DISCLOSURE

Interpretative ruling No. 6: Date issued: May 10, 1977

Question considered: Is a Senator appointed less than 90 days before the end of the year to fill the unexpired term of a Senator who resigned required under old Senate Rule 44 to file financial disclosure statements or statements of contributions and honoraria for the calendar year in which he was appointed?

Ruling: Under old Rule 44, an appointed Senator who did not declare or seek nomination or election, or file as a candidate under state law, there being no election contest, is not required to file disclosure statements for the year in which he was appointed.

Under Rule 42, effective October 1, 1977, an appointed Senator who serves in excess of 90 days in the year he is appointed will be required to file a report containing a full and complete financial statement for that calendar year.

RULE 44: OUTSIDE EARNED INCOME

Interpretative ruling No. 7: Date issued: June 7, 1977

Question considered: May a Senator accept honoraria in excess of $25,000 in a calendar year, so long as the excess is donated to charity?

Ruling: Acceptance of honoraria in excess of $25,000 in any calendar year is prohibited by Sec. 441(i) of the Federal Election Campaign Act. That section, entitled "Acceptance of Excessive Honorariums" provides that:

No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or (2) honoraria (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

Regulation 110.12(b)(5), issued pursuant to the Federal Election Campaign Act, provides:

(5) Accepted.—"Accepted" means that there has been actual or constructive receipt of the honorarium and the Federal officeholder or employee exercises dominion or control over it. A Federal officeholder or employee is considered to have accepted an honorarium (i) if he or she actually receives it and determines its subsequent use, or (ii) he or she directs that the organization offering the honorarium give the honorarium to a charity or other beneficiary which he or she names, but (iii) an honorarium is not accepted if he or she makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code.

With respect to (i) and (ii) above, these honoraria are includable in gross income for federal (and most state) income tax purposes if the taxable year payment is received, and are also deductible from gross income under section 170 of the Internal Revenue Code in the taxable year during which the charitable contribution is paid, provided the donee organization is one described in section 501(c)(3) of the Internal Revenue Code as being exempt under section 501(a). If the above procedure is followed there is no tax benefit; it is a wash transaction. If the receipt and the gift did not both fall within the same taxable year tax planning with respect to the timing of income and deductions could result in tax benefits, perfectly proper when so arranged by private citizens.

Interpretative ruling No. 25: Date issued: June 7, 1977

Question Considered: Under Senate rules and FECA provisions limiting the amount of honoraria a Senator may accept, if a Senator provides an organization sponsoring his appearance with a list of exempt organizations he particularly supports, allowing the organization to make a direct contribution to an exempt organization to have been selected by the contributing organization or the Senator?

Ruling: The Federal Election Campaign Act, prohibits acceptance of honoraria in excess of $25,000 in any calendar year. Regulations issued pursuant to that Act provide that an honorarium is not accepted if the Senator makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. The organization in lieu of paying the honoraria must make a direct contribution to an exempt organization selected by it. The Ethics Committee has been advised by the Federal Elections Commission that the selection of no fewer than five organizations of interest to a Member, from which the donor organization makes its own selection, would be a reasonable procedure in conformity with the intent and purpose of their regulation.

This question is not now within the jurisdiction of this Committee. It is advisable therefore, to seek guidance from the Federal Elections Commission.

RULE 45: CONFLICT OF INTEREST

Interpretative ruling No. 20: Date issued: May 26, 1977

Question Considered: May the staff director of a Senate Committee accept appointment to the advisory board of a college interested in establishing a center which may be eligible for partial federal funding, pursuant to legislation now under consideration by the Committee of which he is staff director?

Ruling: The appointment in question creates the appearance of conflict with the subject's responsibilities as staff director of the committee despite the fact that Rule 45 appears to permit Members, officers and employees to serve in such appointments if they do not receive compensation therefor.

The Committee therefore recommends that the appointment not be accepted.

Interpretative ruling No. 24: Date issued: June 7, 1977

Question Considered: Would a Senate employees' service in a U.S. Army Reserve Unit as a Chief Warrant Officer (CW2) be inconsistent with the Senate Code of Official Conduct?

Service normally entails one weekend each month and two weeks active duty each year, with compensation for each year being approximately $1,710. The employee is a Legislative Aide to a Senator and receives an annual salary of $17,869. His official duties do not involve him in the activities of the Armed Services Committee or in any aspect of military reserve affairs legislation or casework. The employee's supervising Senator is of the opinion there is no potential conflict.

Ruling: The outside employment, as described above, would not constitute a conflict of interest under Rule 45 or violate any other provision of the Code. Paragraph 3 of Rule 45 requires an employee to report in writing such outside employment to his supervisor when it commences and on May 15 of each year that it continues. The restrictions on outside earned income in Rule 44, which become effective January 1, 1979, do not apply to an employee whose Senate salary does not exceed $35,000.

Interpretative ruling No. 39. Date issued: June 27, 1977

Question Considered: What provisions of the Code of Official Conduct must a full-time S. Res. 60 aide to a Senator with a salary between $15,000 and $25,000 consider in determining whether or not outside employment is proper?

Ruling: An employee compensated at an annual rate of $25,000 or less is not subject to the financial disclosure requirements of new Rule 42. But an employee compensated at an annual rate of $15,000 or more must file on May 15, 1978 or upon leaving the Senate a sealed financial statement with the Comptroller General and a statement of contributions and honoraria with the Secretary of the Senate under old Rules 42 and 44.

The propriety of outside employment is governed by Rule 45. No employee, regardless of salary level, may receive compensation by virtue of influence improperly exerted. Nor may any employee engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties. Any outside employment for compensation must be reported in writing to the supervising Senator when the employment commences and thereafter on May 15 of each year. That report must describe the nature of the employment. The supervising Senator must then take whatever action is appropriate for the avoidance

of conflict of interest or interference with duties to the Senate. That action could, of course, be a denial of permission to undertake or continue the outside employment.

After April 1, 1978, employees compensated at more than $25,000 per year will also be subject to restrictions on providing professional services for compensation and on serving as officers or on boards of publicly held or regulated corporations, financial institutions or business entities.

Interpretative ruling No. 43: Date issued: August 5, 1977

Question Considered: Whether a subcommittee may employ as consultant to it, and later its chief counsel, an attorney who plans later in the year temporarily to leave the Senate payroll to return to association with his former law firm, and to argue a case pending before an appellate court on a subject which is a direct and principal concern of the subcommittee, and then severe his ties with the firm following the appeal proceedings.

Ruling: The employee's continuing association with the firm for purposes of preparing the appeal while also acting as consultant to the subcommittee (even though he would terminate that association when he becomes chief counsel), and his continuing obligations to the firm's client in connection with the appeal, create both the appearance of a conflict of interest and too great a potential for an actual conflict.

Accordingly, the subcommittee should not employ the person in question in either capacity until his association with the law firm is terminated and his obligations to the firm's client have been discharged.

RULE 46: PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

Interpretative ruling No. 11: Date issued: May 16, 1977

Question Considered: May a Member continue to use contributions from private sources to defray official expenses?

Ruling: Rule 46 prohibits the receipt of contributions to an unofficial office account for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. Expenditures from unofficial office accounts must terminate by the end of 1977.

Accounts may be maintained for personal funds and for funds received as reasonable reimbursements for expenses incurred by a Member in connection with personal services provided by a Member to the reimbursing organization, and those funds may be used to defray otherwise unreimbursed expenses of official duties. Funds derived from a political committee may also be used for those purposes. Those funds should not be commingled with other funds, and the political committee should pay directly those official expenses it chooses to defray.

The Committee expresses no opinion as to the tax consequences of using political committee funds to defray official expenses.

Interpretative ruling No. 39: Date issued: July 18, 1977

Question Considered: Whether a Senator may incorporate computerized address records of voters secured from county election boards in the Senate's computerized mailing system for use in producing franked mass mail, such records being acquired by one of three methods: (1) purchase using funds from the political party of the Senator's state contributed to an F.E.C. account; (2) acceptance as a contribution from a state political party which purchases or prepares them using funds in an F.E.C. account; or (3) purchase using personal funds of the Senator?

Ruling: Under regulations of the Committee on Rules and Administration and Rule 48, paragraph 5, effective January 1, 1978, the incorporation of computerized voter address records in the Senate's computer-maintained mailing lists is permissible, but only if such lists bear no identification of individuals as campaign workers, contributors, or as members of a political party, and the lists do not contain any other partisan political information.

The Select Committee on Ethics concludes such records may not be acquired selectively or sorted with the intent of targeting mailings to likely election supporters. The acquisition and incorporation only of lists selected on the basis of high incidence of partisan behaviour, for example, is not acceptable.

The use of a Senator's official consolidated allowance to purchase or prepare such records is a matter under the responsibility in the first instance of committees other than the Select Committee on Ethics. On July 13, 1977, the Committee on Appropriations reported H.R. 7932, the Legislative Branch Appropriations Act. Senate committee amendments thereto, if enacted, will answer this question.

The purchase and contribution of such records for incorporation in the Senate's computer-maintained system by a party organization would violate Rule 46 which prohibits in-kind contributions to defray office expenses. However, Rule 46 permits such records to be purchased for insertion in the Senate's computer-maintained system with funds from a Senator's unofficial office account prior to December 13, 1977, and from funds of a Senator's political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 USC 431).

Personal funds of a Senator may be used to purchase such lists as an official office expense insofar as the rules of the Senate are concerned. It is not within the jurisdiction of the Ethics Committee to determine whether such expenditures are deductible for tax purposes.

Interpretative ruling No. 42: Date issued: August 3, 1977

Question Considered: May a Senator's office use postage purchased and supplied by his campaign committee for its mailings to the campaign committee?

Ruling: The authorized use of political committee funds for this purpose, a campaign purpose rather than an official expense, is not within the jurisdiction of this Committee. However, no Senate rule prohibits a Senator or his office from accepting and using for correspondence with the Senator's campaign committee postage purchased with funds of the campaign committee. Rule 46 does not prohibit the use for this purpose of an existing unofficial office account (until December 31, 1977), political committee funds, or personal funds. It does prohibit the conversion of funds of a political committee to personal use of a Member.

RULE 49: POLITICAL FUND ACTIVITY

Interpretative ruling No. 3: Date issued: May 5, 1977

Question Considered: May Senate staff attend and participate as hostesses, while on leave, in a fundraising event to be held in behalf of a Senator in his state?

Ruling: No provision of the Code of Official Conduct prohibits staff from attending a campaign fundraising event outside office hours or while on recorded vacation leave. Under Rule 49, paragraph (1), however, a Senate staff member may not receive, solicit, be the custodian of or distribute campaign funds unless he or she is one of the two assistants specifically designated for those purposes. In order to stay well within the spirit and letter of the Rule, staff who are not so designated and who attend such an event should not collect funds or sell tickets or otherwise participate in the fundraising aspects of the event.

Since 18 USC 602 prohibits staff from making a monetary campaign contribution to a Member of Congress, the participating staff should not attend as paying guests.

The Committee on Rules and Administration and this Committee will provide guidelines in due course with respect to campaign participation by staff after hours or while on annual leave. The interim position of this Committee is that Senators should encourage staff to remove themselves from the payroll for periods during which they expect to be heavily involved in campaign activities. Routine participation after hours or on annual leave time is not now prohibited by the Code of Conduct.

Interpretative ruling No. 5: Date issued: May 11, 1977

Question Considered: To what extent may Senate employees volunteer time after office hours or while on annual leave to assist in political fund raising events for Members and candidates for election to the Senate?

Ruling: Sections 307 and 308 of S. Res. 110 direct the Committee on Rules and Administration to consider matters closely related to this question and report to the Senate by October, 1977. In the interim Members should remove staff from the Senate payroll to participate for any extended period in such activities. The Code of Official Conduct, however, was not intended to prohibit routine matters performed outside of working hours such as preparing for mailing (e.g. typing, addressing, and stuffing envelopes) invitations and letters signed by others; making follow-up telephone calls on behalf of the sponsoring organization to determine projected attendance at the event; helping the sponsoring organization make arrangements for flowers, food, and entertainment; and serving on a committee of hosts or hostesses at the time of the event, not as a sponsor, but simply to mingle with the guests on behalf of the sponsoring group.

Unless the employee is one of the two assistants specifically so designated, he or she may not receive, solicit, be the custodian of, or distribute any campaign funds. Accordingly, care must be taken to avoid involvement in those functions.

Interpretative ruling No. 8: Date issued: May 11, 1977

Question Considered: Under the Code of Official Conduct, to what extent may staff engage in campaign activities?

Ruling: Sections 307 and 309 of S. Res. 110 direct the Committee on Rules and Administration to consider and report back within 180 days on this question.

In the interim, Members must use their best judgment in taking staff off the Senate payroll to devote substantial portions of their time or to participate for any extended period in such activities. The Committee on Ethics recognizes staff frequently will be reinstated after campaign activities.

Interpretative ruling No. 19: Date issued: May 26, 1977

Question Considered: May Senate staff persons solicit, receive or distribute funds for a campaign organization, and during off hours, participate in party activities which may include fund-raising efforts.

Ruling: Rule 49 provides that two staff persons may be designated by a Senator to be the custodians of or to distribute funds in connection with a campaign, but no officer or employee of the Senate may solicit funds, (or solicit others to solicit funds in behalf of a Senator) while on the Senate payroll. Staff may be removed temporarily from the Senate payroll to engage in such campaign type activities.

It is not intended that Senate employees be barred completely from all participation in political activity. Outside of Senate office hours staff may assist in planning and making arrangements for fund raisers so long as they do not become involved with solicitation of funds.

The difficulties in drawing the line between these two types of activity led to the mandate in Title II section 206 of S. Res. 110 which directs the Committee on Rules and Administration to study and report within 180 days on the misuse of staff by incumbents in reelection campaigns.

Note: On June 13, 1977, the Senate agreed to S. Res. 188 which amended Rule 49 to remove the prohibition on solicitation applying to employees designated for political fund activity.

Interpretative ruling No. 22: Date issued: June 2, 1977

Question Considered: Under Rule 49 may an assistant designated by a Senator to be a custodian of campaign funds, but specifically prohibited from soliciting same, solicit others to solicit campaign funds in the Senator's behalf?

Ruling: Note: the Committee on Rules and Administration was introduced by S. Res. 110 (Title III, sec. 308) to study the misuse of Senate staff in campaigns and to report to the Senate thereon by September 1, 1977. In action the week of May 23, moreover, the Committee on Rules and Administration agreed to report a resolution to amend Rule 49 to authorize designated Senate staff assistants to solicit campaign funds. This, therefore, is an interim interpretation of the Code. (The Senate approved the resolution, S. Res. 188, on June 13.)

Solicitation of others to solicit funds would be inconsistent with the purpose of the rule which is to prohibit Senate employees from soliciting funds or otherwise becoming involved to any substantial degree in political fund activity. To permit solicitation indirectly would be tantamount to permitting that which cannot be done directly.

Interpretative ruling No. 28: Date issued: June 17, 1977, July 12, 1977

Question Considered: May an employee on the personal office staff of a Senator also serve as the chief administrative officer of an organization which is a political committee within the meaning of 2 USCA 431(d), the Federal Election Campaign Act, and which has as its principal purpose the raising of campaign funds for candidates other than the Senator?

Ruling: Rule 49 prohibits employees generally from soliciting funds for any candidate for any federal office, unless designated to do so by the Senator in his behalf. The language of the rule is broader than the legislative history indicates its purpose to be, but there is no ambiguity in the language of the Rule, and we believe that it is a violation of Rule 49 for a Senate employee to serve as the chief administrative officer of an organization whose primary purpose is to solicit campaign contributions.

Additional Ruling (July 12, 1977): The Senate's agreement to S. Res. 188 (on June 13, 1977) which removed from Rule 49 the prohibition against solicitation of campaign funds by two assistants designated for political fund activity does not change this ruling. A designated employee may engage in limited solicitation on behalf of the employing Senator, but not on behalf of others, and may serve as treasurer of a political committee which in part is used to pay a Senator's official expenses not otherwise reimbursed, but may not spend substantial time thereon. If such work engages a substantial portion of the individual's time, that person should go off the Senate payroll.

Interpretative ruling No. 29: Date issued: June 20, 1977

Question Considered: The Committee was asked to reconsider its letter ruling of June 17, 1977, as to whether Senate Rule 49 prohibits a part-time employee on a Senator's personal staff, compensated at an annual rate below $10,000, from serving as the principal administrative officer of a political campaign committee whose chief purpose is raising and distributing contributions for Senate candidates other than the sponsoring Senator.

Ruling: There is no provision for appeal as a matter of right from an interpretative ruling. However, the Committee has reviewed the merits of its ruling and, with five members present, has voted unanimously to reaffirm the original ruling.

The employee is prohibited from serving as the principal administrative officer of a political campaign committee because he is not eligible to be designated, and is not designated, by a Senator for limited political fund activity under Rule 49. Were he a designated employee, he still would be prohibited from so serving because the committee's fund raising activity is primarily for the campaigns of Senators other than his Senate supervisor.

The initial letter also requested a waiver for the employee in the event the Committee ruled he is prohibited from serving in the described capacity. Senate rules do not permit the granting of a waiver of the prohibition contained in Rule 49, paragraph 1.

Interpretative ruling No. 46: Date issued: August 5, 1977

Question Considered: In what fund raising activities may Senate employees who are not designated for political fund activity under Rule 49 participate?

Ruling: Interpretative Rulings No. 3, No. 5, No. 8, and No. 22 are relevant. Until the Committee on Rules and Administration makes its report, a Member must use his best judgment in taking staff off the payroll to perform prohibited tasks. An employee must exercise care to perform only routine political fund activities in which he does not directly "receive, solicit, be the custodian of, or distribute" campaign funds, and to perform these only in off duty hours.

The Rule 49 prohibition of political fund activity by other than designated staff applies to duty hours, off duty hours and vacation leave.

FRANKED MAIL REGULATIONS

Interpretative ruling No. 13: Date issued: May 23, 1977

Question Considered: May a new committee chairman's frank be pasted over that of the retired chairman upon a mailing list correction card used in the past to update and purge the committee's mailing list?

Ruling: Chapter one, paragraph 3, page one of Regulations Governing the Use of the Mailing Frank promulgated May 13, 1974 by the Select Committee on Standards and Conduct, the predecessor to this Committee, states that:

Mail matter of any committee of the Senate, or of any joint committee of the Congress whose chairman is a Senator, which is frankable under section 3210 of Title 39, U.S. Code, may be sent under the frank of the chairman.

Paragraph 4 of the same chapter of the regulations, page two, states that:

A Senate committee which maintains a mailing list for its official reports may use a franked return-address postal card for addressees to indicate their continued desire to receive reports.

Chapter two of the Regulations, paragraph 16, page eight, states with respect to "correction of mailing lists":

Postal Service Regulation 122.5 states that mailing lists submitted by Members of Congress will be corrected as frequently as requested and that payment for correction of lists submitted by Members of Congress is made under the official mail reimbursement program.

The frank shall not be used for any other means of correcting the mailing list of a Senator.

The chairman of a committee or subcommittee of the Senate may use his frank to bring up to date the mailing list of his committee or subcommittee, if the mailing list is compiled from specific requests and is used only to mail official publications, such as hearings, reports, news releases and announcements. The chairman may use his frank for this purpose by sending return-address cards to addressees on the list.

Accordingly, the return card may be sent to various persons to determine which publications they wish to receive and to bring up to date the mailing list of a committee. The current chairman's frank may be used for this purpose. It is irrelevant that the frank of the new chairman has been pasted over the frank of the retired chairman.

Interpretative ruling No. 16: Date issued: May 23, 1977

Question Considered: Do regulations permit mailing under the frank of a return mail, address correction, IBM punch card, in an envelope bearing instructions to the postmaster, in order to secure corrections of a Senator's official mailing list, if the return card is not franked and is mailed along with a newsletter or other material?

Ruling: The regulations published by the Select Committee on Standards and Conduct governing the use of the mailing frank state, on page 8, that mailing lists may be corrected under Postal Service Regulation 122.5 by postmasters on request from a Member of Congress, but that "the frank shall not be used for any other means of correcting the mailing list of a Senator."

The use of the frank on an envelope with instructions to the postmaster or the mailing of an address correction IBM card in a franked envelope are permissible uses only if incidental to the mailing of other frankable matter. The regulations prohibit mailing the IBM card alone under the frank, using the franked envelope with the postmaster instructions solely for the purpose of correcting the mailing list, or using the frank on the return IBM card.

Interpretative ruling No. 23: Date issued: June 3, 1977

Question considered: Do the regulations on the use of the mailing frank permit placing the words "address correction requested" on addressed envelopes containing a newsletter or a questionnaire mailed to constituents?

Ruling: The regulations of the Select Committee on Standards and Conduct governing the use of the mailing frank state on page eight that mailing lists may be corrected under Postal Service Regulation 122.5 by Postmasters on request from a Member of Congress, but that "the frank shall not be used for any other means of correcting the mailing list of a Senator."

The use of a frank on an envelope bearing the instructions regarding address corrections is a permissible use only if it is incidental to the mailing of other frankable matter.

Interpretative ruling No. 35: July 1, 1977

Question considered: Does the regulation prohibiting use of the mailing frank for the mass mailing of a newsletter in which personally phrased references to a Senator appear more than five times per page also apply to reprints of speeches and other materials from the CONGRESSIONAL RECORD?

Ruling: Title 39 USCA 3212 states that reprints from the CONGRESSIONAL RECORD may be mailed under the frank provided such material would otherwise be frankable under section 3210. Section 3210 prohibits use of the frank to mail "personal and political" matters. Paragraphs 13 and 14 of the regulations define the personal and political matters which are not frankable, but do not mention overuse of personal pronouns.

Paragraph 4 of the franked mail regulations refers to newsletter and news releases. The number of personal references which occur on a page has no bearing on the use of the frank for the mailing of frankable material reprinted from the CONGRESSIONAL RECORD.

Interpretative ruling No. 44; Date issued: August 5, 1977

Question Considered: Whether a Senator may enclose in his newsletter two cards to be given by the recipient of the newsletter to friends or relatives who also may be interested in being put on the Senator's mailing list for purposes of receiving the newsletter, when the return cards do not bear the frank and clearly indicate that the person who puts his or her name and address thereon (indicating a wish to be on the mailing list) must also affix thereto a stamp for purposes of mailing the card to the Senator's office?

Ruling: The Committee is unaware of any provision of the franking statute or regulations which prohibits this procedure.

Interpretative ruling No. 21: Date issued: May 26, 1977

Question Considered: May a Senator store political documents, such as records and financial statements of past campaigns, in his Washington office and in federal space provided in his state?

Ruling: The Committee is not aware of any Senate rule or law on these points. Counsel for GSA advises that he knows of no law or regulation with respect to what may be stored in space under its jurisdiction.

Storage of substantial quantities of such personal and political materials, i.e., bulk storage of materials unrelated to one's official duties, would be an improper use of public property. Members are, however, entitled to some latitude with respect to documents needed for reference purposes or public disclosure. Campaign materials used by Members for gifts and all such materials that are incidental to the normal business of a Senate office and require no substantial storage space may be maintained in a Senator's offices.

Interpretative ruling No. 30: Date issued: June 28, 1977

Question Considered: May a newspaper reporter have access to the files, records and opinions of the former Select Committee on Standards and Conduct now in the custody of the Select Committee on Ethics?

Ruling: This Committee will fully respect the public's right to know. It is required to, and will, make available to complainants, as well as to persons charged, its findings in investigations involving violations of the franking privilege and the Code of Official Conduct. If it decides not to investigate complaints, the complainant will be advised with an explanation. Furthermore, the Committee has kept nearly all its proceedings open to the public and will continue to do so to the extent individual rights and national security permit. It will make public all of its interpretations of the Code.

The files of this Committee and its predecessor, not unlike those of a grand jury, from time to time receive unsupported complaints, highly personal information and information affecting the national security which would harm individual rights or national interests if revealed. Disclosure of such information would contravene law and time-honored standards of Anglo-Saxon justice, as well as severely handicap the Committee in its educational, investigative and judgemental duties. The Committee cannot, therefore, open all its files in response to such requests. It will make its opinions and advisory rulings public in due course.

BRING ESCOBAR TO THE UNITED STATES; LET'S SEE WHO STANDS WHERE

Mr. HELMS. Mr. President, the Department of State has announced that Ambassadors Sol Linowitz and Ellsworth Bunker are reopening talks with Panamanian officials in an attempt to clarify the dangerously ambiguous sections of the Panama Canal treaties.

This procedure will be of little value. We will still end up with a document that will be open to different interpretations. The present interpretations are so diametrically opposed that one side or the other will have to make a compromise that would be fatal to its credibility, or they will have to agree upon another layer of ambiguity. As we have already seen in the past few days, such ambiguities lead to further misunderstandings, not to peace and comity.

Moreover, the procedure is of doubtful legality, because of the participation of Mr. Linowitz. On February 7, Mr. Linowitz took office as Special Representative of the President with the personal rank of Ambassador. He held this appointment on a 6-month basis under the provisions of 22 United States Code 901 (c), which does not require Senate confirmation. The treaties were initialed on the very last day of Mr. Linowitz' appointment. It is noteworthy that the treaty drafts had not yet even been completed in all detail. So rushed was the initialing that the drafts could not even be made available to the Senate until the day before the signing ceremony on September 7.

The haste and confusion was imposed by the deadline of Mr. Linowitz' appointment. We are now seeing the bitter fruit of this haste and confusion: Not sufficient time was taken to clarify some of the key passages of the treaties. The documents are flawed both conceptually and in execution. And now it is clear that even the very meaning of the texts is at stake.

The fundamental cause of this current problem has been the desire of the State Department to bypass Congress as much as possible. If Mr. Linowitz and been appointed under a normal appointment, with unlimited duration, he would have come under the constitutional provisions of advise and consent. He would have come up before the Foreign Relations Committee for hearings. He would have come up before the full Senate for debate and confirmation.

But the State Department did not want this. As a result there was no examination of Mr. Linowitz' suitability for the job, and no scrutiny of the problem of apparent conflicts of interest.

Now it is apparent that he has negotiated a flawed treaty. But only a few weeks after he had gone on the job, it soon became apparent that he had problems with conflict of interest. After he had actually gone to Panama and begun negotiations, it developed that he was at the same time on the executive committee and the board of directors of the Marine Midland Bank of New York, which had multimillion dollar business interests in Panama. Mr. Linowitz finally bowed to public demand and resigned from Marine Midland. But he did not resign from the board of directors of Pan American Airlines, which also has substantial interests in Panama.

These circumstances cast doubt not only over his capability as a negotiator, but also about his objectivity. If the treaties had been clearly beneficial to the United States, these doubts could not be raised. But now such doubts are inevitable.

Mr. President, I understand that Mr. Linowitz' present status is that of "treaty adviser." But is he not really functioning as a negotiator, as a continuation of his more recent job? Is this not a flagrant flouting of the law? 22 United States Code 901(c) reads as follows:

(c) On and after the date of enactment of the Foreign Relations Authorization Act of 1972, no person shall be designated as ambassador or minister, unless that person is appointed as an ambassador or minister in accordance with subsection (a) of this section or clause 3, section 2 of Article II of the Constitution, relating to recess appointments, except that the personal rank of ambassador or minister may be conferred by the President in connection with special missions for the President of an essentially limited and temporary nature of not exceeding six months.

Mr. President, it may be argued that a treaty negotiation could not even be considered an "essentially limited" task. But at least the law is clear that such an appointment—that is an appointment without Senate hearings and confirmation—is strictly limited. This is an abuse of power to bring back the man who botched the job. He should not even be brought back as an adviser, since it casts doubt upon the legality of his previous appointment.

In any case, Mr. President, any "interpretation" or "understanding" that Mr. Linowitz brings back from these prolonged negotiations cannot carry the confidence of the Senate. Instead, the only way in which the Senate can be satisfied is to bring the Panamanian chief negotiator, Romulo Escobar Bethancourt, to the United States and have him appear before the requisite committees of Congress. Let the Members of both Houses question him to their satisfaction. Let these varying interpretations and diplomatic ambiguities be laid to rest once and for all. Unless we have treaty texts that can be presented to the people of both countries and understood clearly and in the same fashion, we do not have true agreement, and we do not have a secure relationship for the future.

Yesterday, I hand delivered a letter to the President in which I suggested that he urge Mr. Escobar to come before the Congress and to explain his interpretation of the treaties. I have had a fruitful dialog with the President on the treaty problems over the past several months. I disagree with the President on the treaties, but I commend him for his candor and his personal efforts to provide reassurance for those who are opposed. I am confident that he will consider this suggestion very carefully as he has considered such suggestions in the past.

Mr. President, I ask unanimous consent that the letter I sent to President Carter yesterday be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 6, 1977.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I want to thank you, again, for what has been, for me, a meaningful dialogue on the subject of the Panama Canal treaties. I have appreciated your candor and your personal efforts to provide reassurance to those of us who are not persuaded that the proposed treaties are wise.

However, as a United States Senator, I feel obliged to convey to you my apprehension that a crisis of confidence has arisen in the Senate. This is the result of the widely divergent interpretations of ambiguous sections of the treaty documents by our negotiators and the negotiators of the Republic of Panama. Since these sections happen to be vital to our security and the security of the Canal, it is obvious that the Senate cannot even judge the value of the treaties until it knows the meaning of the treaties, as agreed to by both parties.

Our negotiators have testified at some length on the meaning of the treaties according to their understanding. But the much-publicized interpretations of the Panamanian Chief Negotiator, Romulo Escobar Bethancourt, appear to be at variance. The only way to resolve this vital matter is not through the U.S. State Department's interpretations of Mr. Escobar's interpretations, but through direct discourse with Mr. Escobar.

I, therefore, suggest that you invite and urge Mr. Escobar to appear before the appropriate committees of the U.S. Congress so that we will know firsthand and in an appropriate forum just exactly what the Republic of Panama understands to be the meaning of the treaties.

Again, I thank you for your personal courtesies in this and other matters.

Respectfully,

JESSE HELMS.

RURAL HOUSING

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him on S. 1150, the Rural Housing Act of 1977, including testimony that he offered on this subject, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The housing of rural America is a disgrace. As bad as the situation in urban America is, it is worse in the rural areas of this nation.

Earlier this year I introduced, with the co-sponsorship of 17 of my colleagues, S. 1150, the Rural Housing Act of 1977. This bill is designed to improve this intolerable situation.

This week the Senator from North Carolina (Mr. Morgan) held hearings on this important legislation. I commend Senator Morgan's leadership in this area. He has been an effective advocate of the needs of rural Americans throughout his public career.

I have been deeply involved in rural issues from the time I joined the Senate. When the Senate passed the Rural Development Act of 1972, I said that was only a small step down the road to the public policies we need for Rural America. It is a small, modest step in the right direction.

My statement explores my thoughts on this important legislation in considerable detail. Given the need to improve and enhance the opportunity for improved quality of life for rural Americans and the appropriateness of this legislation to achieve this objective, I include the text of my statement, as follows:

TEXT OF STATEMENT

I welcome this opportunity to state my views on S. 1150, the Rural Housing Act of 1977. I want to congratulate Senator Proxmire, Senator Sparkman and the rest of the Banking Committee for the initiative taken by establishing the Rural Housing Subcommittee. This is a tremendously important step forward in our nation's efforts to handle the complex problems which must be faced in order to eliminate bad housing conditions in rural America.

Certainly a special note of thanks is due to the able Chairman of the Subcommittee, Senator Morgan, for assuming this significant but difficult responsibility. You and Senator Garn have already held field hearings which I trust have assisted in documenting the variety of problems in small communities. Further, in 1976, even before the creation of a Rural Housing Subcommittee, Senator Morgan conducted extremely important hearings into rural housing problems which provided much of the impetus for S. 1150. Finally, Mr. Chairman, on behalf of many rural citizens whose appreciation has not been heard, I wish to pay tribute to a man who has done more to solve rural housing problems than any other single elected official. I speak, of course, of Senator John Sparkman, the driving force behind most housing legislation in our country over the past 25 years.

Mr. Chairman, together with 17 of my colleagues on March 17, 1977, I introduced S. 1150, the Rural Housing Act of 1977. This legislation was mandated by the special and critical housing and community development needs of rural America. Few will argue with the statistics and the outrage that we feel: despite having less than 30 percent of the nation's population, rural areas suffer almost 50 percent of the poverty and a staggering 60 percent of the substandard housing. More than 2.6 million households in rural America live in housing which is unhealthy, unsafe, or overcrowded. When rent overburdens (payment of more than 25 percent of adjusted income for housing) are added, the figures rise by 1.13 million. Meanwhile, III million rural citizens drink contaminated water. We cannot and should not accept these conditions as natural or normal. Just as with unemployment, we can no longer remain inured to this situation and callous to such fundamental needs.

Who are these rural housing people in bad housing? They are overwhelmingly poor; some 95 percent or so. They are elderly, some 29 percent. They are minorities, in numbers disproportionate to their population. We are talking about black families, Indian Americans and our nation's farmworkers, especially the migrants. All have continued to struggle for decency in silence because they are hidden from view. The smaller the community, the larger the problem of substandard housing. They are largely unorganized locally, certainly have no Washington lobbies, and the communities in which poor people live are often incapable of commanding resources even when concerned.

In recent years housing problems have multiplied for all Americans because of inflation, rising construction costs and zooming energy costs. However, none have suffered worse than the nation's rural poor, especially the elderly who often pay between 50 to 75 percent of their miniscule incomes for the chance of decent housing. Examples of utilities being cut off and people freezing were all too common last year. Clearly, Mr. Chairman, we have a critical and deep seated problem. Candidly there is little reason for us to be smug about housing in our country so long as these conditions persist.

To meet the special problems of rural areas, which include population dispersal, lack of credit opportunities, limited institutional development and extraordinarily high levels of poverty, Congress has developed a special kind of agency, the Farmers Home Administration. The FmHA is the closest thing to a one stop resource center for farmers and other rural people, small communities and small businesses, with over 30 separate programs involving farming, housing, community facilities and economic development.

The FmHA is ideally structured to provide direct service to rural areas from over 1762 county offices, and is, in addition, self financing to meet the rural credit vacuum. Despite yeoman's service, however, it has become clear that FmHA's present authority is not sufficient either to meet the housing needs of a significant group of rural people—the poor—or to provide adequate water and sewer facilities for small, lower income towns.

Mr. Chairman, it was to meet the challenge of old problems and new conditions that my colleagues and I introduced S. 1150.

Several provisions of S. 1150 as introduced in March 1977 have been incorporated into the Housing and Community Development Act of 1977 (H.R. 6655), either totally or in revised form. These include provision to extend FmHA programs to handicapped people (Section 2), permit congregate housing for handicapped and elderly (Section 9), adopt a revised compenation for defect program (Section 8), formalize the percentage of loans for low-income people (Section 11), establish guidelines for the guaranteed loan program (Section 13), initiate a rural housing research program (Section 4), and, finally, mandate the use of the Rural Rental Assistance program (Section 15).

We, of course, are pleased that both Houses have moved as expeditiously as they have on these issues. The FmHA programs will serve more rural people better as a result of their action. However, let me caution that the job is far from over.

S. 1150 not only provides new authority in several major areas of concern, but also proposes technical changes to correct shortcoming in the current law.

The deep subsidy homeownership provision is clearly the most significant and far reaching provision in the bill.

The changes proposed for the water and sewer program are essential if FmHA is to successfully continue its expansion.

The proposed appeals procedures would protect the rights of applicants and beneficiaries, as would the creation of an assistant secretary for equal opportunity.

Other major provisions in the bill would deal with FmHA's response to the energy crisis and to complex land title problems. What follows, then, is a description of each of these major provisions of S. 1150, which remain for your consideration.

HOMEOWNERSHIP FOR LOW AND MODERATE INCOME PEOPLE (SECTION 14)

Homeownership in rural areas is a tradition. Over 74 percent of rural people now own their own homes. For almost a genera-

tion now, the FmHA has been the major resource of financing for homeownership for rural low and moderate income people under its section 502 program. However, rising construction and energy costs—without the same inflation in incomes—have all but eliminated homeownership for most low-income people, and they are beginning to cut out a number of moderate income families. In fiscal year 1976, the average house financed by the FmHA cost $21,700, and few families under $7,000 annual adjusted income could even qualify.

The traditional FmHA response to the problem in the past has been to raise the dollar level of what was defined as low-income. This was a tragic evasion of responsibility. The problem is not solved by serving higher income people but by seeking mechanisms to serve those the legislation mandated. The homeownership concept for rural areas makes eminent sense—for all people, not just the wealthy.

S. 1150 would provide a homeownership option for those unable to use the regular FmHA programs, by making available the same type of subsidy mechanism currently being used under the HUD section 8 rental program. Certainly, if we can assist private owners to develop equity in rental properties, we can do the same for low-income borrowers. However, at the same time, to make clear that this is a housing program and no more, a recapture provision has been included to prevent windfall profits in the sale of any such assisted housing, while enabling the buyer to accumulate modest amounts of equity.

WATER AND SEWER PROGRAM (SECTION 20)

Decent water and sewer facilities remain an elusive goal for too many rural communities. However, without such basic facilities, it is impossible to provide adequate housing, let alone permit any economic development to occur. Today some 33,000 communities in our country are without adequate water facilities; over 44,000 communities lack adequate sewage facilities. Virtually all of the communities lacking adequate water and sewage facilities are in rural areas.

The FmHA administers a program of loans and grants to rural communities to install new or repair existing water and sewer systems. In view of the tremendous need and the critical nature of the facilities for health and safety, the present limitation of $300 million yearly in grant funds is unfortunate. S. 1150 raises the grant level to $1 billion yearly over the next 3 years. In addition, the current law limits the grant to 50 percent of development costs. This would change to a 75 percent grant which equals what EPA programs provide (primarily to urban communities). The FmHA water and sewer grant program is far superior to those conducted by other agencies because it is administered by local offices, covers many types of development costs needed by small towns, and concentrates its efforts in the smaller communities where the most serious problems exist. Unfortunately the present 50 percent limit for grants precludes the program from serving the poorest communities, without the risk of bankrupting the town.

APPEALS PROCEDURE (SEC. 7)

At the present time, the FmHA is the federal government's largest direct lender. In the 1976 fiscal year (plus the 3 month transition period), it made 245,436 loans and grants totaling over $7 billion. For every loan the FmHA makes, one is rejected. Clearly, much discretion is given to the agency's personnel on all levels. The possibility for abuses obviously exists and in fact, they have been well documented. The programs which Congress enacts are for the benefit of the public and not the agencies. Sometimes this distinction becomes blurred in the eyes of those who administer the program. At the present time, only the 502 homeownership program offers a series of paper appeals, but starting with the very official who rejected the application in the first place. Other serious shortcomings exist in this limited process.

It is interesting to note that builders and contractors who are threatened with disbarment from FmHA programs are provided with a significant procedure, to which they are rightfully entitled. Surely, the same rights should extend universally to all users of the FmHA programs. This is what we have proposed in S. 1150. As you will note, we have outlined a very detailed process for the protection of users of the FmHA programs. This is done purposely because it is too important to be left to the whims of changing Administrators. The FmHA is the lender of last resort for most applicants; since there is no other recourse, special consideration should be given to their rights. Equivalent appeals procedures are in effect elsewhere within USDA, for the food stamp program. HEW offers appeals to adverse decisions on welfare, and HUD also has developed a process to protect the right of appeal. Yet FmHA has nothing to protect its applicants.

ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY (SEC. 19)

As noted, FmHA is the lender of last resort for most of the users of its programs, and minorities make up a significant part of its service population. Yet minorities are receiving a disproportionate smaller share of the housing program resources than their proportion of the rural poverty population would demand. Attention to this problem by the USDA in the past has been minimal. This should not be surprising, considering that equal opportunity and civil rights are presently handled by an office hidden under the Assistant Secretary for Administration in USDA. Establishing an Assistant Secretary for Equal Opportunity may not guarantee the aggressive implementation of civil rights legislation that is needed, but it is a good place to start. At a minimum, an Assistant Secretary for Equal Opportunity within USDA would show the concern of Congress on this important matter.

ENERGY CONSERVATION (SECTION 21)

There are no easy answers to the energy crisis for low and moderate income people. This is just as true for rural as for urban areas. While no one is opposed to saving energy, the increased cost for accomplishing this should not be used to preclude another group of rural people from being beneficiaries of the FmHA programs.

At the same time, it is also clear that many alternate lower cost forms of providing heating and cooling for rural housing are excluded from use by the present minimum property standards. The energy conservation provisions in S. 1150 represent an attempt to offer some flexibility in the current rules for dealing with a most serious problem.

REMOTE TITLE CLAIMS (SECTION 18)

Finally, S. 1150 would allow FmHA to more effectively serve families in the many areas of the country where remote title claims presently prevent FmHA from lending. Under the current regulations, clear titles must be available before any loan may be made by the FmHA. In a number of cases, it is virtually impossible for clear titles to be produced without expenditure of extensive amounts of time and effort; however, even with enough time and money, many such claims often cannot be cleared. The families who own such land generally are those most in need of FmHA services and cannot afford to clear the title or pay private title insurance.

These situations include the Southwest where title clouds involve Spanish land grants; recent action by Indians in Maine to restore land to tribal ownership; the effects of the Alaska-Native Land Claims Settlement Act; and old mine leaseholds in heavy mining areas.

The effect of S. 1150 would be to permit the FmHA to make loans on land with remote title claims with the Federal government making good on any future claim only if a court rendered an adverse decision in this matter. Clearly, a careful judgement of the remoteness of the claim would have to be made. In most of the situations described, this should pose few problems. The alternative would be to deny to many people the benefits of the FmHA, people who are in acute need of FmHA services.

CONCLUSION

Mr. Chairman, I have attempted to describe in brief detail those provisions of S. 1150 which are of the most significance. At the same time, I urge that the remaining provisions also be considered for action when the bill receives further attention by the committee.

I would like to conclude this statement by emphasizing that S. 1150 is by no means the total answer to the housing and community development needs of rural areas. However, it is a serious attempt to recognize the new conditions which exist today and to provide the most effective agency available, the FmHA, with the authority needed to improve its capacity.

Mr. Chairman, this year the Congress passed a comprehensive Agriculture Bill which we expect will assist in the stabilization of rural America. Over the years, we have updated rural development legislation. It is time now to complete that cycle and pass S. 1150 so that the housing and community development needs of rural America may be dealt with properly.

I appreciate the opportunity to make this statement on behalf of S. 1150. I urge early action.

CONGRESSMAN JOHN BRADEMAS PAYS TRIBUTE TO THE REVEREND THEODORE M. HESBURGH

Mr. BAYH. Mr. President, on October 3, 1977, I had the privilege of attending a dinner in honor of the Reverend Theodore M. Hesburgh, CSC, president of the University of Notre Dame, marking his 25 years of service as president of Notre Dame and of public service to the people of our country.

Addressing the dinner were such distinguished leaders in our national life as Vice President WALTER A. MONDALE, Senator HUBERT H. HUMPHREY, Mr. Roy Wilkins, Senator ROBERT J. DOLE, His Eminence John Cardinal Sheehan, Secretary of Housing and Urban Development, Patricia A. Roberts Harris, and the president of the Rockefeller Foundation, Dr. John Knowles.

Also present at the dinner to pay tribute to Father Hesburgh were many other outstanding figures including the distinguished Chief Justice of the United States, the Honorable Warren Burger, and the Very Reverend Francis B. Sayre, dean, the National Cathedral, who offered the invocation, and Senator WENDELL ANDERSON, who served as master of ceremonies.

Father Hesburgh was introduced at the dinner by our friend and colleague from Indiana, the distinguished majority whip of the House of Representatives, the Honorable JOHN BRADEMAS, who represents the district in which the University of Notre Dame is located.

Mr. President, I ask unanimous consent that the text of Congressman

BRADEMAS' remarks on this occasion be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS

Senator Anderson; Mr. Chief Justice; Mr. Vice President; Your Eminence, Cardinal Sheehan; Dean Sayre; Secretary Harris; Senator Dole; Mr. Wilkins; Dr. Knowles; distinguished guests; ladies and gentlemen: Before I speak about our distinguished guest of honor, I should like to say just a word about our common friend in Minnesota.

The opportunity to serve as Majority Whip of the House of Representatives I have found, means not only much hard labor in the fruitful vineyard of Tip O'Neill but some fascinating perquisites as well, one of which is the opportunity every couple of weeks to join the other Democratic Congressional leaders for breakfast at the White House with President Carter and Vice President Mondale.

HUBERT H. HUMPHREY

And I assure you that one of the most joyous aspects of those family get-togethers, as I am confident the distinguished Vice President will agree, is the opportunity to see and hear his remarkable colleague from Minnesota speak with candor and compassion, with effervescence and wisdom, to the President of the United States and his counsellors about the problems facing the people of our country and the world.

We all miss Hubert Humphrey here tonight and we all wish him a speedy return to his work—and ours—in the Nation's Capital.

There are many reasons that I have been proud to represent in Congress these past nineteen years the nearly half million people of Indiana's Third District.

But one of them surely is that I can say what no other Member of the House of Representatives can, "One of my constituents is Father Hesburgh of Notre Dame!"

Each of us here will have his or her own special relationship to Father Hesburgh even as do men and women in nearly every part of our country and in nearly every country of the world.

FATHER HESBURGH'S DIVERSE SERVICE

Indeed, all of you are here tonight because you have worked with Father Hesburgh in one or another of the many areas in which he has willingly served our nation.

As a Member of Congress with particular responsibility for education legislation, I have known at first hand Father Hesburgh's work on the Carnegie Commission on Higher Education and in many other organizations devoted to strengthening our colleges and universities, particularly private ones, and I know, too, of his determined effort to open access to education to many more Americans.

It is not surprising that not long ago Father Hesburgh was chosen in a poll of outstanding educators across the country one of the four most influential leaders in the nation in higher education.

I know as well of Father Hesburgh's work as Chairman of the Overseas Development Council and of the Rockefeller Foundation and as a member of the Board of the Chase Manhattan Bank in all of which important organizations his has been a strong voice for economic and social development in the Third World, and I recall, too, his service as the Vatican's representative to the International Atomic Energy Agency, where he labored for effective measures to control the technology of war.

You and I know that as a member of the United States Commission on Civil Rights, appointed by four Presidents—and fired by one!—Father Hesburgh has been an outstanding champion of human rights and social justice both at home and abroad, admonishing us that "liberty is worth the effort, and the creation of justice and peace abroad will in large measure depend on the measure of justice and peace that we create here at home".

Not only has he been a counsellor to Presidents of both parties in the area of civil rights but also in fields ranging from foreign aid to amnesty to the armed forces and from the Peace Corps to the war on poverty.

He has served well on the National Science Board and the Policy Advisory Board of the Argonne National Laboratory.

And some day when he writes his memoirs—a day that I hope will not be soon, Father—we shall, I hope, learn more of the wide range of his personal diplomatic encounters with leaders from lands as disparate as Israel and Jordan, Chile and Panama, Kenya and the Soviet Union.

Indeed, what I find remarkable is that given the depth of his commitment to Notre Dame and the breadth of his public service elsewhere, Father Hesburgh has had time to write at all, much less think. But he is the author, at last count, of eight books with, I understand, still another in process.

It will surprise no one here to realize that Father Hesburgh has received honorary degrees from fifty-six universities and awards of so many and varied a kind that I have not the time tonight to recite the list.

PRESIDENTS FORD AND CARTER HONOR FATHER HESBURGH

That President Ford chose Notre Dame as the first university campus to visit after having become President and that President Carter should have chosen to make his only commencement address this year at Notre Dame indicates, I suggest, the immense regard in which Father Hesburgh is held by the highest leaders of our country.

I should interject that one of those who with President Carter received an honorary degree at Notre Dame last May stopped by earlier tonight to pay his respects to Father Hesburgh and has asked me to reinforce them to you—the fighting Irishman of Cambridge, Massachusetts—Speaker O'Neill.

In fact, I might simply here take a moment to confess to you that for some years now Father Hesburgh has been my candidate for President of the United States. You may know that he was born in Syracuse, New York, and the only problem, as I once told Father, is that I am not sure that the American people are ready yet for an upstate New York, German-American bachelor!

And yet with all the achievements that are his and all the honors he has received, there are two dimensions of the life of Father Hesburgh that, I believe, require particular attention.

FATHER HESBURGH AS EDUCATOR

Father Hesburgh is an educator and he is a priest.

1977 marks the 25th anniversary of Father Hesburgh's presidency of Notre Dame, the longest tenure of service as president of a major university in the United States.

These have been years in which Notre Dame has grown into an outstanding center of learning, known and respected throughout the world, a rise, that, we are all aware, the leadership of Father Hesburgh has made possible.

Yet as "The Campaign for Notre Dame" makes clear, Father Hesburgh is not satisfied. For those of you who may not be aware of it, "The Campaign for Notre Dame" is a five-year, $130 million capital fundraising campaign, which began in April, 1977.

It is the most ambitious fundraising program in the history of the University.

Most of the funds will be used to expand Notre Dame's endowment. Included in the plans are the creation of forty permanent faculty chairs, five visiting professorships, $12 million to endow the student financial aid and $10 million in endowment for the University's libraries.

The Campaign has already exceeded 50 percent of its goal.

Why has Father Hesburgh, with so many years of outstanding service to Notre Dame behind him, taken on this additional, extraordinary commitment?

It is, I know, because he wants Notre Dame to be a leader among the universities of the world in undertaking what he has called "the dual task of transmitting and expanding knowledge" and, "at the same time, the more difficult role of educating persons with that sense of moral responsibility and judgement required to manage change and to use knowledge for mankind's betterment and progress instead of for his destruction." It is, says Father Hesburgh, "this kind of institution that Notre Dame aspires to be in the years ahead . . ."

I suggest to you that in articulating these two objectives for Notre Dame—to education for what he has called "imaginative, creative intelligence and deep moral commitment"—Father Hesburgh has charted a course appropriate not only for Notre Dame but in the most profound sense, crucial to the future of all American higher education and, indeed, to the future of our entire society.

FATHER HESBURGH AS PRIEST

But beyond this role as educator, Father Hesburgh is a priest, a servant of the church of Christ and so of humankind everywhere.

In this connection, I am reminded of a visit to my office in Washington some months ago of a distinguished Turkish pediatrician and university president, a man much travelled in many lands, and how, in the course of our conversation, I asked him if he knew Father Hesburgh of Notre Dame.

"Do I know Father Hesburgh?", he replied rhetorically, his eyes sparkling.

"Do you know," he asked, "the answer to the question: 'What is the difference between God and Father Hesburgh?'

"God is everywhere while Father Hesburgh is everywhere but Notre Dame!"

So I realized that he knew Father Hesburgh!

And at times Father Hesburgh does seem to be everywhere but Notre Dame. Only a few weeks ago I read, as did many of you, an article about how Father recently said Mass, using what the writer described as a "do-it-yourself chalice" brought forth from "a famous black bag", in a Georgetown garden here in Washington.

The author explained how a group of casually dressed people gathered round a table covered by a colored cloth while Father Hesburgh explained 'the whys and wherefores of Pentecost Sunday", and described how "a group of twelve quite ordinary men, with little inspiration or insight, given the gift of the Holy Spirit, were able to turn billions of people to Christianity".

Did not, I ask you, Father Hesburgh bring Notre Dame with him to that small gathering in a garden six hundred miles from that prairie campus in northern Indiana?

Does not Father Hesburgh bring Notre Dame with him wherever he goes and wherever he is and with him the message of love which is the mission of his life as priest to carry?

I think so.

There is no man or woman who has known Father Hesburgh who has not been enriched or ennobled by the experience.

Even as in his home community in Indiana, so too, here in this capital city of our country, we are proud—all of us—to be his friends.

We rejoice that Father Hesburgh is part of us.

Ladies and gentlemen, I count it a great privilege to present to you the Reverend Theodore M. Hesburgh, C.S.C., President of the University of Notre Dame.

FOOD CO-OP HELPS ELDERLY

Mr. ROBERT C. BYRD, Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The strength of this nation lies in the creativity and dedication of its citizenry.

Recently, I came across an article that demonstrates just this point. This article depicted how two hard working and imaginative women formulated and developed a cooperative which now serves over 5,000 elderly Americans in the San Francisco Bay area.

This article, entitled "California Co-op Cuts Bills in Half," from the August issue of Aging magazine, is well worth reading by those of my colleagues who are concerned with new approaches for enhancing the quality of life for older Americans.

Pat Coates and Sandi Piccini, the two women that developed the food co-op, are to be congratulated for their efforts. In five years they have gone from feeding 300 people in their local neighborhood to feeding almost 20 times as many in a four-county area.

Unfortunately, their resources limit their capacity to serve a wider audience. However, their enthusiasm and management ability will surely lead to even more impressive gains in service to the elderly in Northern California.

The article ordered to be printed in the RECORD is as follows:

NUTRITION: CALIFORNIA CO-OP CUTS BILLS IN HALF

Two resourceful housewives are pooling their talents to operate an innovative food cooperative for the elderly in the San Francisco Bay Area.

Called the Food Advisory Service, the nonprofit program serves over 5,000 older persons with weekly deliveries of fresh meat and produce to 53 food clubs throughout a four-county area.

The half-million-dollar business is managed by Pat Coates and Sandi Piccini, two San Francisco women with no formal training in finance, marketing, or sales. Employees in their program include ex-convicts, rehabilitated drug users, reformed alcoholics, delinquent high school youths, and retired workers.

Commenting on their motivations for starting the project, the two women note, "We thought we could feed senior citizens much more reasonably than the agencies that were doing it. We're saving seniors 30 to 80 percent on their food bills."

Seniors who have taken advantage of the program enthusiastically agree. San Francisco retiree Harry Shuhart declares, "Those ladies are true good Samaritans. My wife and I are on a very tight budget, but thanks to the food program, we get so much more food for less money—and it's better and fresher, too."

HUMBLE BEGINNING

The idea for the project, also called the Mobile Mini Market, began with a successful 34-family neighborhood cooperative the women started in 1972 and ran from a garage.

"We fed 300 people in 45 minutes," Mrs. Coates recalls. "We'd go to other food co-ops and tell them we could show them how to do it cheaper."

About that time, newspaper accounts of spiraling food costs and difficulties older people have in getting to shopping areas inspired Mrs. Coates and Mrs. Piccini to launch the new service for the elderly.

"We'd read about the problems that many older people on fixed incomes were having," explains Mrs. Coates. "We wondered just who is helping the senior citizens in this youth-oriented society. We decided to investigate and found it was worse than we thought. But we knew if a food co-op worked for our families, it would work for seniors."

Continues Mrs. Piccini, "Because of our neighborhood co-op, our families were healthier and our children were thriving. We wanted to share it all with older people. The problem was that people didn't think we were for real—they were wary of two housewives who wanted to feed the world for nothing."

PROJECT EXPANDS

So the women dipped into their own savings and leased a warehouse in San Francisco's industrial district in 1974 to house the co-op. They persuaded local businesses to help with donations of time, money, or materials. They found a meat packer, produce growers, and supplies of canned and frozen goods.

Mrs. Piccini observes, "We knew seniors couldn't come to us, so we found a young man with a van who agreed to deliver the goods to senior centers in the southern part of town."

Word of the food service spread and it grew rapidly. Today, seniors line up outside their food centers to wait for the mobile markets which deliver such bargains as oranges for six cents each, chicken for 49¢ a pound, and a year-round selection of the best vegetables available at wholesale prices. The average older person spends $25 for a month's worth of produce, eggs, chicken, and meat.

BUSINESS BOOMS

Each week, a staff of 26 buys 400 crates of produce from wholesalers, as well as 1,000 pounds of chickens and 650 dozen eggs from local farmers. It also packs 300 pounds of fresh meat in its own licensed packaging room.

Throughout the counties of San Francisco, San Mateo, Santa Clara, and Sonoma, several vans make their weekly deliveries to local food club sites. Here the markets are set up and operated by senior members themselves, donating their own time. The mini markets operate in churches, recreation centers, apartment buildings, and even garages.

In the Bay Area, all club sites are easily accessible. Twenty-three are in residential areas, and 19 are at community centers where transportation is already available. The rest are on direct bus lines.

Mrs. Coates and Mrs. Piccini have acquired some sharper business skills along the way.

PURCHASING POWER

"We stress quality," Mrs. Coates remarks. "We buy now from one produce source in the city. This gives us some buying power. Before, we would go from stall to stall checking for bargains. But now because of our volume, if something isn't top quality, we just call them to come get it."

The food project has its social side, too. Seniors like to display their cooking skills through frequent pot-luck suppers, banquets, and dinner parties. The flourishing exchange of recipes among food clubs has prompted the women to compile a cookbook of favorite menus and recipes contributed by seniors who like to experiment with the foods.

The women believe a food purchasing program like theirs has advantages over existing hot meal programs, and they have initiated their own letterwriting campaign to Congressmen throughout the country.

"Unlike current federally supported nutrition programs, Mobile Mini Market does not provide prepared hot meals," they wrote. "Therefore it is less expensive, more flexible, requires fewer personnel, yet serves more people. It allows each participant to prepare his or her own foods seven days a week rather than a limited five days a week as in other nutrition programs. In addition, it is simple."

Mrs. Coates adds, "California is spending between $18 and $20 million in Title VII funds (for a hot lunch program), but it's serving only one percent of the State's elderly—about 21,000."

FOOD STAMPS OKAY

The Mobil Mini Market has received some government recognition and support. Recently, the Department of Agriculture approved the use of food stamps at all FAS congregate food sites for seniors eligible for them and ineligible for SSI.

And last summer, the Food Advisory Service acquired $204,000 in State and Federal model project funds. Despite the grants, the founders are very positive about wanting their project to be self-sufficient.

"We don't want to be another bureaucratic drain on the taxpayers," aserts Mrs. Coates. "We look at our one-year funding from the government as a loan which we want to pay back through private enterprise. We want to be self-supporting."

To this end, the founders of FAS have established a sister organization called Gallery Faire Enterprises. It includes a profit-making packaging/assembly plant that operates within their warehouse. Elderly workers box such merchandise as audio headsets for major airlines, paperback cookbooks, pharmaceutical and stationery supplies, and gift and commodity items.

FINANCIAL SECURITY

Profits from the assembly plant operation are expected to generate $80,000 this year—enough to cover rent, the cost of gas, employees' salaries, and the purchase of additional vans. The women also anticipate that funds produced by this project will enable financial independence for the Mobile Mini Market by 1980.

To cover those costs not supported by the packaging plant, FAS has developed a "site sponsorship plan." The basis of this plan is solicitation of financial support from such community organizations as local service agencies, businesses, and banks. According to the plan, a donation of $1,500 from a community group or business will guarantee the delivery of food to a sponsored site for a period of one year.

Mrs. Coates and Mrs. Piccini are also investigating alternate sources of funding, including benefit shows and community fund-raising activities.

Why has the program succeeded when so many others have failed?

Mrs. Coates insists there is no magic formula for its success.

"I think all its takes is somebody with determination. Sandi and I were going to do this, no matter what. We started the project first, then asked for money later. We were well into it with our own money before we asked for any State funds. I see no problem duplicating this anywhere."

PROGRAM A MODEL

In fact, the two have already helped establish similar programs in East Los Angeles, San Diego, and Hawaii.

They considered Hawaii a special challenge. Explains Mrs. Coates, "The cost of living there is second highest in the country. There are all kinds of costs involved in transporting food there. We thought we could show that if it can work in Hawaii, it can work anywhere. When we set up the program in Hawaii, our people here were paying 23 cents a head for lettuce. In Hawaii, in the stores, people were paying 59 cents a head."

Recognizing the tremendous unmet needs of the homebound elderly, the Food Advisory Service is also planning special home delivery units for operation in the cities of South San Francisco and Brisbane.

The women seem to thrive on their five day a week, ten hour a day schedule. Mrs. Piccini comments, "We haven't given up nearly as much as we've gotten in return. The seniors citizens have so much warmth to give."

They say they're especially anxious to meet with persons who participate in and run existing food programs such as Title VII, city-financed programs, and meals-on-wheels. They say their co-op aims to supplement, not compete, with these programs.

Observes Mrs. Piccini, "Hunger doesn't know any bureaucratic agency. There's just not enough we can do."

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Ronald L. Rencher of Utah, to be U.S. attorney for the district of Utah for the term of 4 years, vice Ramon M. Child.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, October 14, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NATIONAL GIFTED AND TALENTED CHILDREN WEEK

Mr. JAVITS. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 88) was read the first time by title, and the second time at length, as follows:

S.J. RES. 88

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States hereby is authorized and requested to issue a proclamation designating the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. JAVITS. Mr. President, this resolution is regularly in the jurisdiction of the Judiciary Committee. I understand that immediate floor consideration without referral to the Judiciary Committee has been approved by Chairman EASTLAND and ranking minority member THURMOND. I thank my colleagues for their consideration in this matter. I am joined in the resolution by 10 cosponsors: Senators KENNEDY, HATCH, WILLIAMS, PELL, CRANSTON, SCHWEIKER, CHAFEE, RIBICOFF, RIEGLE, and MATSUNAGA.

I am pleased to introduce today a joint resolution authorizing and requesting that President Carter issue a proclamation designating the week of November 13–19, 1977 as "National Gifted and Talented Children Week." In doing so, I join with Congressmen BRODHEAD and AKAKA, who have introduced similar versions in the House of Representatives, in recognizing the vast talents and potential of our gifted and talented children.

Until recently, America's gifted and talented children were an almost totally neglected minority. With the beginning of a cooperative effort on the Federal, State, and local levels, we have at last commenced the remediation of this tragedy. I have long had a particular interest in the education of our country's brightest youngsters, the gifted and talented, and to advance this effort, I initiated the Gifted and Talented Program in 1974.

The problem of the gifted and talented child has not been well understood. There exists a pervasive, almost pernicious opinion that these children constitute an elite which will automatically, by the very nature of their outstanding abilities, reach the top of their respective fields of expertise. Yet this assumption does not begin to account for the fact that the talents of the gifted are frequently potential talents, and may only be made actual through a major effort to identify these children and provide them with necessary special instructional needs. Only last year, less than 4 percent of the gifted and talented children in this country were receiving services commensurate with their needs. This means that over 1.9 million gifted children were caught in the maelstrom of being unable to achieve their virtually limitless potential. There is an implicit cost, a cost which must be borne by all of us, to leaving this precious resource untapped.

In recent years, there has been a widening demand for highly creative and talented people in all walks of life, especially to deal with our social and domestic ills. Now, more than ever before, systematic efforts must be made at all levels to identify, nurture, and cultivate the demonstrated and potential talent existing in every aspect of American life. In addition to society's obligation to provide every individual with access to self-fulfillment, a society has a very real obligation to itself to assure its own health and survival and the continuing development of its greatest resource—the capabilities of its people.

Issues affecting gifted and talented children have been recently raised by a number of our education leaders. On October 4, Mary Berry, HEW Assistant Secretary for Education, testified before the Subcommittee on Education, Arts and Humanities. At that time, Dr. Berry outlined the administration's views on upcoming elementary and secondary education legislation. The Assistant Secretary suggested special attention be given to the needs of low-income gifted and talented children. This was discussed in a context of two alternatives. One is a revision of Elementary and Secondary Education Act title I to include gifted and talented children. Another alternative is to amend the existing gifted and talented program authority in the Special Projects Act. Congressman ALBERT QUIE has also included gifted and talented children in his suggested revisions of ESEA. I am pleased that these leaders are joining in my interest in improving education for our most promising young people.

The current scope of America's effort in the field of gifted and talented children has been limited, given the ultimate potential benefits to our Nation of a massive effort to identify and develop the talents of every gifted American child. Surely the short-term "results" of the current national gifted and talented efforts are tempered by the fact that existing programs are largely comprised of demonstration or training-type projects, a function of long-standing neglect. The long-term benefits of our current policies will be fully evident when our gifted children reach positions of leadership in their respective fields, and perform in these positions to their maximum capacity, with wisdom and sensitivity.

Thus, our policies for the gifted and talented children of America must be formulated with the understanding that programs cannot be static, but must be dynamic and continuing. We must undertake expanded efforts in identifying our gifted children, in monitoring our existing programs, and in implementing successful demonstration projects. The quality of our future rests largely in the hands of our gifted and talented children, and their future rests largely with us. We have an implicit obligation, to them and to ourselves, which can neither be overestimated nor shunned. We have recently taken a first step, yet we need to do much more. In acknowledgement of this need, I introduce today this resolution, which will provide recognition of a group of children whose potential is limitless.

Mr. President, this resolution, as I understand it, has been cleared with Mr. EASTLAND and Mr. THURMOND and with the majority and minority leaders, and there is no objection to it.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 88) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

SUPPORT OF CITY OF LOS ANGELES' BID TO HOST 1984 SUMMER OLYMPIC GAMES

Mr. CRANSTON. Mr. President, I ask unanimous consent that we proceed to the consideration of House Concurrent Resolution 368.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 368) calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CRANSTON. I would like to say, in light of the fact that my colleague (Mr. HAYAKAWA) is on the floor, that this resolution expresses the hope that the International Olympic Committee will fol-

low the great advice and decision of the U.S. Olympic Committee and establish that the 1984 Olympic games will be held in Los Angeles. This will be a wonderful site for the Olympics. It will, I believe, result in a far less expensive Olympics than we have seen recently, because Los Angeles has many of the facilities and they have adopted an approach that will hold down expenses in a very remarkable way.

Mr. HAYAKAWA. Mr. President, my distinguished colleague, the senior Senator from California, knows Los Angeles better than I do and he knows very well how suitable a location it is for the Olympic games. I, therefore, am happy to associate myself with him in urging this resolution. I think it is a very, very important one for California and for the United States.

I thank the Senator.

Mr. CRANSTON. I thank my colleague very much.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The concurrent resolution (H. Con. Res. 368) was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider certain nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, there is a request for a rollcall vote on Calendar No. 505 and Calendar No. 527. Those rollcall votes, of course, will not be conducted this evening, but the other nominations, most of which are cleared, could be done tonight.

I ask unanimous consent that the Senate proceed with the following nominations at this time, nominations under Department of State, Arms Control and Disarmament Negotiations, International Atomic Energy Conference Representatives, Department of State again on page 2, ACTION Agency, omitting for the time being Calendar Order No. 503, and proceeding then with Calendar Order No. 504, omitting for the time being 505, proceeding with nominations under the Judiciary, Department of Justice, and new reports, Department of Justice, and omitting for the time being Calendar Order No. 527, proceeding at this time with the nominations placed on the Secretary's desk in the Coast Guard.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these nominations as solicited by the distinguished majority leader are cleared on our executive calendar, and we have not objection to their confirmation.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of John D. Negroponte, of New York, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

ARMS CONTROL AND DISARMAMENT NEGOTIATIONS

The legislative clerk read the nomination of Ralph Earl II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES.

The legislative clerk read the nominaions of Robert W. Fri, of Maryland, to be the Representative of the United States of America to the 21st session of the General Conference of the International Atomic Energy Agency.

Richard T. Kennedy, of the District of Columbia; Louis V. Nosenzo, of Virginia; Nelson F. Sievering, Jr., of Maryland; Gerard C. Smith, of the District of Columbia; Galen L. Stone, of the District of Columbia; Robert D. Thorne, of California; Robert S. Rochlin, of Maryland; to be Alternate Representatives of the United States of America to the 21st Session of the General Conference of the International Atomic Energy Agency.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF STATE

The legislative clerk read the nominations of Frank J. Devine, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador, and Esteban Edward Torres of Virginia, with the rank of Ambassador during the tenure of his assignment as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

ACTION AGENCY

The legislative clerk read the nomination of Carolyn R. Peyton, of the District of Columbia, to be an Associate Director of the ACTION Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of David T. Ready, of Indiana to be U.S. attorney for the northern district of Indiana.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The legislative clerk read the nominations of Thomas Tang, of Arizona to be U.S. circuit judge for the 9th circuit.

Hugh H. Bownes, of New Hampshire to be U.S. circuit judge for the 1st circuit.

A. Leon Higginbotham, Jr., of Pennsylvania to be U.S. circuit judge for the 3d circuit.

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois.

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern district of Illinois.

Edward H. Johnstone, of Kentucky to be U.S. district judge for the western district of Kentucky.

Louis F. Oberdorfer, of Virginia to be U.S. district judge for the District of Columbia.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The legislative clerk read the nominations of Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years.

Mr. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years.

Edward N. Keliikoa, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years.

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois for the term of 4 years.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years.

Roxanne Barton Conlin, of Iowa to be U.S. attorney for the southern district of Iowa for the term of 4 years.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years.

Roy A. Smith, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Coast Guard placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the various nominations are confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 51—CONCURRENT RESOLUTION SUBMITTED RELATING TO AMERICANS MISSING IN ACTION

(Referred to the Committee on Foreign Relations.)

Mr. ROBERT C. BYRD (for Mr. HUMPHREY) submitted the following concurrent resolution:

S. CON. RES. 51

Whereas approximately twenty-three hundred Americans remain unaccounted for in Southeast Asia since the cessation of the Vietnam conflict; and

Whereas learning the fate of those American servicemen and civilians listed as missing remains of utmost importance to the United States, and is considered as such during the negotiations between the United States and the Socialist Republic of Vietnam; and

Whereas the General Assembly of the United Nations adopted Resolution 3220 (XXIX) calling for assistance and cooperation in accounting for persons who are missing or dead in armed conflicts; and

Whereas such resolution recognized "that one of the tragic results of armed conflicts is the lack of information on persons—civilians as well as combatants—who are missing or dead in armed conflicts"; and

Whereas such resolution further states that "the desire to know the fate of loved ones lost in armed conflicts is a basic human need which should be satisfied to the greatest extent possible, and that provision of information on those who are missing or who have died in armed conflicts should not be delayed merely because other issues remain pending"; and

Whereas the Socialist Republic of Vietnam, despite assurances that it is conducting an extensive search for Americans listed as missing and for information that might indicate their fate, has provided but meager information concerning the fate of these missing Americans; and

Whereas present efforts to secure a full accounting of these Americans listed as missing are not productive and are ill-served by existing procedures and institutional frameworks: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should instruct the Secretary of State to request the Secretary General of the United Nations to work through existing United Nations agencies for the purpose of securing a full accounting of Americans listed as missing in Southeast Asia.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I introduce a concurrent resolution. I ask unanimous consent that Mr. HUMPHREY's statement on the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

It is estimated that more than 2,300 Americans still remain unaccounted for in Southeast Asia. The lack of progress on this issue has prolonged the agony of so many families, long after our tragic experience in Vietnam had ceased. Therefore, I believe that every avenue available to us should be explored in an effort to achieve as full an accounting as possible of those Americans listed as MIAs.

Now that the Socialist Republic of Vietnam has been admitted to the United Nations, I believe it is only appropriate that the good offices of the Secretary General be called upon to give assistance in resolving this matter. Hopefully, as a result of this resolution, it will be possible to achieve cooperation between existing United Nations agencies and the Vietnamese in a search for our MIAs within the Socialist Republic itself.

In this connection, I want to pay tribute to the distinguished Congressman from New York (Mr. Gilman), who has introduced a similar resolution in the House of Representatives. While Mr. Gilman's resolution actually calls upon the President, through the Secretary of State, to request of the Secretary General the establishment of a special investigatory commission, my resolution does not. Existing U.N. agencies, in my view, can accomplish the same purpose.

My concern is that the issue of MIAs in Southeast Asia should be placed above the political differences which presently exist between the United States and the Socialist Republic of Vietnam. These men, although serving in combat in Vietnam, did so as an obligation to our government. The issue, therefore, is not one of whether or not our policy in Southeast Asia was correct. The issue is one of healing the wounds of war as expeditiously as possible. And the agony experienced by those relatives and friends of our MIAs only prolongs into the indefinite future that healing process.

I have supported our policy of normalization of relations with the Socialist Republic of Vietnam. I believe it to be in our national interest to do so. I also believe that, in light of the severe food shortages reported in the Socialist republic, the United States should provide humanitarian assistance through our Public Law 480 program to alleviate the suffering in that country. Yet, I am saddened that the wounds from that war continue to fester. The quicker we achieve the fullest accounting as possible of our MIA's, the more complete that healing process will be. Therefore, I am deeply hopeful that the leaders of the Socialist Republic of Vietnam will cooperate to their fullest extent in accepting international assistance in the accounting process.

REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Reciprocal Fisheries Agreement with the United Kingdom of Great Britain and Northern Ireland, signed in Washington, D.C., on June 24, 1977 (Executive O, 95th Congress, first session), transmitted to the Senate today by the President, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

To the Senate of the United States:

I am pleased to transmit for the advice and consent of the Senate to ratification the Reciprocal Fisheries Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland. The Agreement was signed, and an accompanying Agreed Minute initialed, in Washington, D.C. on June 24, 1977.

The Agreement provides United States commercial fishermen access to the new 200 mile fishery zone of the British Virgin Islands and commercial fishermen of the British Virgin Islands access to the 200 mile United States fishery conservation zone. It secures the United States objective of providing for U.S. commercial fishermen the opportunity to continue fishing at traditional levels in areas which have recently become subject to the fishery jurisdiction of the British Virgin Islands. The Agreement reflects the close ties which exist in the Caribbean area between the United States and the British Virgin Islands.

I also transmit for the information of the Senate the report of the Department of State with respect to the Agreement.

I urge the Senate to consider the Agreement at an early date and to give its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *October 7, 1977.*

AUTHORITY TO FILE A CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Committee have authority to have until midnight tonight to file conference report on S. 1811, the ERDA authorization, and that the report be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., AND SENATOR ALLEN ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the two leaders or their designees have been recognized under the standing order, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes and that he be followed by Mr. ALLEN for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON WEDNESDAY AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday and Friday of next week after the two leaders have been recognized under the standing order, Mr. ALLEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

ORDERS FOR CONSIDERATION OF S. 1303 AND S. 1585 AND CERTAIN EXECUTIVE NOMINATIONS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the orders for the recognition of Senators are consummated, the Senate then proceed to the consideration of S. 1303, a bill to amend the Legal Services Corporation Act, and that at the hour of 3 o'clock p.m. on Monday the Senate temporarily lay that measure aside and proceed to the consideration of S. 1585, a bill to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, et cetera;

That upon the disposition of S. 1585, the Senate go into executive session and proceed to vote—and it will be a rollcall vote—on the nomination of Mr. Charles D. Ferris to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1977, without debate; that upon the disposition of that nomination, and without further intervening motion or debate, the Senate proceed to vote on the nomination of Mr. James B. King to be a member of the National Transportation Safety Board for the term expiring December 31, 1981, all without intervening motion or debate; and

That upon the disposition of the nomination of Mr. James B. King, the Senate immediately return to legislative session, at which time it resume the consideration of Calendar Order No. 145, S. 1303, the Legal Services Corporation Act amendments.

Mr. BAKER. Mr. President, reserving the right to object, I really sincerely regret to advise the majority leader that there is an objection on this side to the sequence of events on the commencement of the Senate session on Monday, at this point.

I have fully agreed with the majority leader in prior private conversation that this is a good arrangement and a good schedule of activities for the Senate on Monday, and it is my hope that this, with one modification, can be the business of the Senate on Monday.

But I must request that the record of my objection be made to the calling up of a matter on Monday, due to an objection raised by a Senator since I talked with the majority leader; and due to the fact that that Senator is not now present.

The matter I am referring to is the action of the Commerce Committee with relation to the proposed rule relating to the requirement of air bags on automobiles. It is my understanding that no agreement has been arrived at, and no attempt to nail down the time for consideration of that matter, but it is my obligation at this time to object to the consideration of that matter on Monday.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand now, from conversation informally with the majority leader, that his information may be more recent than mine, and that he has indeed had conversation with the distinguished senior Senator from Michigan (Mr. GRIFFIN), who has indicated that under the circumstances and in view of other negotiations that he has underway, he will not object to this sequence of events on Monday, reserving his rights in that respect beyond Monday.

Mr. ROBERT C. BYRD. The distinguished minority leader is precisely correct.

Mr. BAKER. I thank the majority leader for that information which I did not have at the time I reserved my right to object. I have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, OCTOBER 10, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 12 o'clock noon on Monday.

The motion was agreed to; and at 8:55 p.m. the Senate recessed until Monday, October 10, 1977, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 7, 1977:

DEPARTMENT OF STATE

Theodore M. Hesburgh, of Indiana, for the rank of Ambassador during the tenure of his service as Chairman of the United States Delegation to the United Nations Conference on Science and Technology for Development.

DEPARTMENT OF JUSTICE

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years, vice Frank S. Spies.

G. William Hunter, of California, to be U.S. attorney for the northern district of California for the term of 4 years, vice James L. Browning, Jr.

Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia for the term of 4 years (reappointment).

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years, vice James T. Lunsford.

Harry H. Marshall, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years, vice Carl H. Slayback, resigned.

DEPARTMENT OF TRANSPORTATION

Mortimer L. Downey III, of Virginia, to be an Assistant Secretary of Transportation, vice Hamilton Herman, resigned.

EXPORT-IMPORT BANK OF THE UNITED STATES

Donald Eugene Stingel, of Pennsylvania, to be a member of the Board of Directors of the Export-Import Bank of the United States, vice John Conrad Clark, resigned.

NATIONAL LABOR RELATIONS BOARD

John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1982 (reappointment).

COPYRIGHT ROYALTY TRIBUNAL

Douglas Coulter, of New Hampshire, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977 (new position).

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, section 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Schenck, Roger L., 036-22-1432.

MEDICAL CORPS

To be colonel

Allen, Alfred M., 013-30-9061.
Babaian, William L., 043-22-8759.
Barcia, Peter J., 263-64-5331.
Barreca, Nicholas E., 104-30-6670.
Blanck, Ronald R., 180-32-0666.
Blumer, Robert B., 413-56-2715.
Blumhardt, Ralph, 151-30-4307.
Bogart, John N., 449-56-2821.
Bowen, Thomas E., 119-26-6287.
Buck, Edward G., Jr., 536-36-9380.
Calkins, Richard A., 264-48-6679.
Camp, Thomas F., 460-48-6656.
Circeo, Richard B., 012-28-2726.
Clarke, John S., 278-32-1119.
Everett, Elwood D., 442-40-1584.
Eversmann, William, 182-28-1383.
Fackler, Martin L., 195-26-7890.
Fauver, Howard E., 223-50-3902.
Flannery, Eugene P., 060-30-5696.
Frederick, Fred D., 428-50-5178.
Gernon, William H., 356-30-8426.
Gibbons, Robert B., 529-44-0629.
Geiser, John L., 228-42-1715.
Gum, Ronald A., 457-56-4817.
Harris, Hugh G., 498-38-9607.
Humbert, Paul V., 357-30-3020.
Johnson, Lawrence F., 224-50-2829.
Kearney, John J., 112-28-0836.
Kent, James J., 463-60-3598.
Klemme, William M., 495-30-2646.
Lagoc, Andres D., 192-36-6496.
Lehman, Richard H., 533-38-8847.
Light, Jimmy A., 280-34-9553.
McAllister, Hugh A., 240-60-2046.
McConnell, Michael, 122-36-5623.
Nelson, James H., 521-44-6695.
Noguerasfuentes, Pablo J., 583-01-9842
Odom, Richard B., 244-48-8790.
Proctor, Richard O., 440-34-8863.
Rahm, Adolf E., 294-32-4550.
Reamy, Kenneth, 077-28-1740.
Ritcher, John P., 544-36-0790.
Rock, Nicholas L., 174-26-4266.
Rodman, Orlando G., 317-36-4475.
Saadah, David M., 009-26-2345.
Schuchmann, George, 484-42-9023.
Scully, Thomas J., 564-50-9289.
See, Donald H., 529-44-4879.
Shaw, Jon A., 542-42-9314.
Shetler, Paul L., 569-48-8729.
Shock, John P., Jr., 235-50-7095.

Sitter, Stephen C., 551-44-5956.
Slaughter, John C., 505-38-2520.
Spicer, Melvin J., 118-30-7577.
Stark, Fred R., 345-30-9877.
Stoller, Jerry J., 479-36-1459.
Thomas, Stephen R., 520-34-7938.
Walker, Olyn M., 247-68-5188.
Warren, George, III, 249-64-6659.
Zajtchuk, Russ, 325-32-3574.
Zimmerly, James G., 190-30-9540.
Zuck, Thomas F., 290-28-6739.

DENTAL CORPS

To be colonel

Appleton, Isaac E., 439-60-6020.
Bauman, Richard, 072-32-5819.
Brusch, Walter A., 295-30-8301.
Cavallaro, Carl J., 135-23-7932.
Chambless, Lewis A., 427-60-5494.
Christman, Peted D., 517-24-3030.
Conway, Michael H., 388-30-1872.
D'Amico, Roland, 188-26-8235.
Dayoub, Michael B., 281-32-3831.
Dupont, Albert A., 047-26-6614.
Eberhardt, John J., 188-28-5315.
Fay, Joseph T., 036-22-3467.
Foster, Richard A., 497-38-2315.
Hawley, Charles E., 300-28-5094.
Heid, Theodore H., 456-34-0820.
Hennig, Guenther H., 392-40-7208.
Hipp, Benny R., 431-60-4772.
Hirsch, Edward H., 144-26-5982.
Huget, Eugene F., 385-32-4510.
Lamers, Edward M., 388-34-7976.
Leslie, Donald B., 528-44-6230.
Luther, Wallace W., 235-56-5077.
Metzger, Floyd D., 510-28-8762.
Overton, Eugene E., 571-38-7948.
Pare, Henri A., 015-28-8252.
Parmer, Dennis E., 457-50-8426.
Perry, Joseph L., 147-24-2986.
Posey, William R., 284-54-9835.
Sheffield, Leon O., 409-56-7010.
Summit, William W., 431-58-8347.
Swintak, Edward F., 018-28-6735.
Todd, Robert A., 541-34-7243.
Trawick, Jacp S., 442-34-9253.
Tromly, Robert R., 517-30-6487.
Vandrak, Robert F., 160-20-8799.
Wells, John G., 484-28-7954.
Yearwood, Lionel L., 106-28-1683.

IN THE NAVY

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Wallace B. Williams, USN (Ret.).

The following-named (U.S. Navy officers) to be appointed permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Donald R. Tredway, MC, USN.
Comdr. Leonard L. Vertuno, MC, USN.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Charles E. Wingard, DC, USN.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Chaplain Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. James E. McMorrow, CHC, USN.

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Marvin A. Childers, III, MC, USN.
Comdr. Jimmy D. Frogge, MC, USN.
Comdr. Clarence M. Harris, III, MC, USN.
Comdr. James M. Jacquet, Jr., MC, USN.
Comdr. David A. John, MC, USN.
Comdr. George J. Miller, Jr., MC, USN.
Comdr. James M. Motes, Jr., MC, USN.
Comdr. Thomas C. Nicholson, MC, USN.
Comdr. David J. O'Patry, MC, USN.
Comdr. Thomas S. Parvin, MC, USN.
Comdr. Theodore O. Paul, MC, USN.
Comdr. Gary L. Pease, MC, USN.
Comdr. Paul E. Petit, MC, USN.
Comdr. George G. Telesh, MC, USN.
Comdr. Gilbert W. Templeton, MC, USN.
Comdr. Robert L. Vickerman, MC, USN.

The following-named (U.S. Navy officer) to be appointed a temporary captain in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Charles E. Wingard, DC, USN.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Gerald L. Hartman, DC, USN.

IN THE NAVY

The following named ensigns of the United States Navy for temporary and permanent promotions to the grade of lieutenant (junior grade) in the line and staff corps, pursuant to Title 10, United States Code, Sections 5784 and 5788a, subject to qualification therefor as provided by law:

LINE

Aaseng, Gordon B.
Abbott, Edwin D.
Abbott, Robert B.
Abernathy, John M. III
Abrams, William T.
Abriam, Ariel
Acree, Russell G. Jr.
Adamitis, Kenneth G.
Adamo, Joseph A.
Adams, Henry A. S.
Adams, Richard A.
Adams, Rickey T.
Adamson, Kenneth O.
Adamson, Lynn R.
Adkinson, Gregory H.
Adolphe, Charles C.
Agnew, James D.
Ainsworth, Thomas R.
Aishman, Jackie D.
Albrecht, Robert W.
Alden, Edward M.
Aldinger, William T. Jr.
Aldon, James A.
Alexander, Earl R.
Alexander, Stephen D.
Alford, David C.
Alleman, Lew E.
Allen, Daryl C.
Allen, Stephen R.
Alley, Thomas C. Jr.
Allison, John M.
Allison, Mark H. Jr.
Amann, Charles F.
Amdahl, Charles M.
Ames, Morgan P. Jr.
Andersen, Gary W.
Anderson, Charles M.
Anderson, Dale N.
Anderson, Glenn L.
Anderson, Lance O.
Anderson, Richard L.
Anderson, Ross E. III
Anderson, Stephen P.
Anderson, Terroll J.
Anderson, Thomas J.
Anderson, Torger J.
Andrew, Dale M.
Andrews, James N. Jr.
Angel, Eddie J.
Anieski, Paul G.
Antanitus, David J.
Antonelli, John Arnberg, Richard M., II
Arnold, Raquel M.
Arrowood, Roger A.
Ashcraft, Raymond J.
Ashton, Stuart A.
Asmussen, William C.
Assion, Eric.
Atkins, Tommy H.
Augustine, Marilyn J.
Austin, David P.
Avcalade, Maryann G.
Avery, Stephen S.
Avveduti, Joseph P., Jr.
Ayers, Ronnie L.
Azud, John R.
Babcock, Earle S.
Babin, Michael K., Jr.
Bachmann, Michael C.
Bafford, Barney R.
Bailey, Robert R., III
Bailey, Thomas W.
Bailey, Willcox K.
Bain, Maurice D.
Baird, Orlie G., Jr.
Baker, Daniel P.
Baker, Lynn D.
Baker, Robert B.
Balderrama, Thomas E.
Baldwin, Donald B.
Baldwin, James P.
Baltozer, David W.
Barbera, James H.
Barnett, William E.
Barnes, Clifford G., Jr.
Barnes, Stephen W.
Barr, Robert C.
Barrett, Frank S., Jr.
Barrett, James D.
Barron, William D.
Barry, Kevin M.
Bartek, Stephen A.
Barthold, David H.
Barthold, Stephen F.
Barton, Michael J.
Bartsch, Rodney O.
Basilone, Garry M.
Batchelder, Anne L.
Batten, Phillip G.
Baucom, Charles M.
Baumgardner, Howard J.
Bayly, David E.
Beaman, Gerald R.
Beardsley, Scott S.
Beaudoin, William G.
Beaulieu, Joey D.
Beavin, Robert A.
Beberdick, Larry E.
Beck, William T., Jr.
Becker, Robert M.
Bednar, George A.
Behney, Gary G.
Behr, Carl T.
Belanger, Ronald G.
Belet, Robert
Belinski, Joseph E.
Bell, Frederic L.
Bell, Martha L.
Bency, Michael J.
Benedict, Van L.
Bennett, John K.
Bensch, Peter A.
Benway, Charles J.
Benz, Charles O., II
Berosky, John M.
Berry, Clyde, Jr.
Besch, David L.
Bewley, Julie S.
Bielewicz, Paul A.
Bills, Martha R.
Blackburn, William R.
Blackwell, Thomas M.
Blair, Stanley K.
Blumberg, Mark S.
Boeckner, David E.
Boggs, Thaddeus E., Jr.
Bohner, Robert T.
Bolduc, Charles
Bolinger, William K.
Boller, Francis J.
Bollwerk, William V.
Bomberger, Charles R.
Bonser, Brian R.
Boogaerts, Phillip J., Jr.
Bookwalter, Mary T.
Borchardt, John A.
Borgueta, Procesco V.
Bosse, Michael J.
Bostich, Dennis N.
Boswell, Mark M.
Boswell, Mitchell C.
Boustead, Barry C.
Boulay, William J.
Bowell, John H., Jr.
Boyd, Gary A.
Boyd, James T.
Boyd, John B.
Boyer, James C.
Bowden, Ronald E.
Bowers, Michael J.
Bradley, David G.
Bradley, Richard J.
Bradley, Roger C.
Brado, Robert F.
Bradshaw, David A.
Braeckel, Joseph M.
Bramer, John R.
Branchflower, John L.
Brand, James J.
Brandon, Paul A.
Brannon, Charles T.
Braunbeck, Michael C.
Braezeale, James L.
Bregar, Thodore J.
Breiten, Lawrence D.
Brender, Gary L.
Brewer, James G.
Brewer, Stephen J.
Brice, James F.
Briggs, Alfred N. III
Briscoe, Philip, Jr.
Brookman, Steven P.
Brooks, Forrest H.
Brouse, John A., Jr.
Brower, David A.
Brown, Forrest B.
Brown, John E., Jr.
Brown, Kevin D.
Brown, Leslie J.
Brown, Mark T.
Brown, Martin S.
Brown, Michael G.
Brown, Nancy E.
Brown, Robert S.
Brown, Steven P.
Brown, Thomas J., Jr.
Browning, Eugene R.
Bruce, Robert C., Jr.
Brueckbauer, Roger I. II
Bruels, Glen R.
Bruen, William D., Jr.
Brunson, Bruce H.
Brunson, Fred W., Jr.
Buehrle, Jeffrey D.
Buess, William A.
Bullock, James L.
Bumgarner, Barry G.
Burich, Stephen J., III
Burns, Daniel A.
Burns, James J.
Burns, John R.
Burwell, Richard K.
Busch, Steven J.
Bush, Gary L.
Butler, Kevin F.
Butler, Willard C., Jr.
Butz, Mark A.
Buxton, Mark C.
Byers, Earl L. II
Byram, Michael M.
Byrne, James J.
Caddy, Diana R.
Cadwell, Bradley H.
Cagle, Benny C.
Cagle, Clifford M.
Calkins, David E.
Callahan, William J., Jr.
Calland, Albert M. III
Camealy, Craig E.
Camp, Herman H.
Camp, Neil W.
Campbell, James B.
Campbell, Michael P.
Cannon, Charles H., Jr.
Cannon, James R.
Caren, Mark S.
Carlile, Ronald C.
Carlson, John E. III
Carlson, Lawrence R.
Carmack, James K. III
Carman, James A., Jr.
Carnes, Michael A.
Carpenter, Jack R., Jr.
Carpenter, Robert D.
Carr, Larry D.
Carr, Peter F.
Carroll, James T., III.
Carroll, Kevin J.
Carroll, Matthew C.
Carter, Gary T.
Carty, John T.
Caspari, Wilson B., III.
Casper, Richard M.
Cassara, Richard J.
Castelli, Charles T.
Catlin, Jo Dee.
Caughey, Grant J.
Cavey, Bruce W.
Cayia, Alfred J., III.
Caylor, Edward N.
Centner, Donald J.
Centner, Ronald F.
Cereghino, Philip J.
Cerney, Gary M.
Cerny, Gerald J.
Chabza, Frank W.
Chambers, Craig A.
Chandler, Kim H.
Chandler, Richard C.
Chaplain, Michael J.
Chapman, Thomas E.
Checchio, Mark.
Chenette, Richard D.
Cheney, Sally S.
Chernitsky, Martin.
Cherry, Patrick G.
Chesman, Daniel C.
Chesnut, Stephen H.
Chesterman, Charles W. J.
Chew, Richard F., Jr.
Chmelir, Peter S.
Christal, Neil J., II.
Christensen, Frederik H.
Christensen, John D.
Christian, Anthony J.
Christian, John E.

Christiansen, Bill M.
Christie, Richard D., Jr.
Christman, William E.
Christoph, Charles L.
Churan, Gary G.
Cina, Frank S.
Cinney, George A.
Clark, John E.
Clark, Richard G.
Clark, William J., Jr.
Clarke, Charles J., III.
Clavelli, Fred A.
Clemens, Evan A.
Cliburn, Wayne E.
Clifford, James W.
Cilites, David P.
Clithero, John D., Jr
Coburn, Bruce N., Jr
Cochran, Robert H.
Coffman, Clarence W.
Coggins, Stacy N., II.
Cohee, Frank E., III.
Coldiron, Larry D.
Cole, Robert D.
Cole, Thomas K.
Coleman, David W.
Coligan, William E.
Colli, James E.
Collins, Charles M.
Collins, Marilyn N., Jr.
Como, Timothy W.
Connolly, Robert J.
Connors, James E., Jr.
Conover, Louis R.
Conover, Robert L.
Corad, George M.
Conran, Thomas C.
Conroy, Philip L.
Conway, Patrick W.
Cook, Douglas P.
Cook, Frank E., Jr.
Cooper, Brian D.
Cooper, James S.
Cooper, Kevin D.
Cooper, Terry R.
Cooper, William S.
Concoran, Michael J., Jr.
Corley, Farrell W.
Corpin, Owen D.
Corrigan, Dennis M.
Corrigan, George C.
Costello, Richard D.
Costigan, Richard M.
Cox, Edwin R.
Cox, James C., Jr.
Cox, Stephen A.
Crabbe, Clark W.
Craft, William P.
Craig, John H.
Craig, Raymond P., Jr.
Crane, Victor C.
Cranor, Bobby J.
Crawford, Johnny C.
Creamer, Paul J.
Creecy, Carson H., III.
Crenshaw, Lewis W., Jr.
Crews, Jeffrey J.
Crimm, Kenneth L.
Crocker, David M.
Cross, William A.
Crouter, Mark H., II.
Crowder, James M.
Crowder, William D.
Crowe, Dennis.
Crozier, Rodney B.
Crull, Henry, IV.
Crumley, Edward C., Jr.
Cuff, Ronald J.
Cull, Jeffrey F.
Culler, Robert D.
Cummings, Timothy K.,
Curran, John M., Jr.
Currer, Ellen H.
Curry, Timothy A.
Cvrk, Stuart J.
Curtiss, John P.
Daley, William B.
Dambrosio, Wayne B.
Danks, Paul D.
Darling, Scott S.
Dascenzo, Michael J.
Davis, Alan A.
Davis, Charles W.
Davis, David H.
Davis, John S.
Davis, Larry S.
Davis, Philip J.
Davis, Richard A.
Davis, Richard R., Jr.
Davison, Dwight O.
Dawson, Hugh C.
Dean, Christopher R.
Deasaro, Louis P.
Debien, Paul T.
Decker, Franklin E.
Deegan, Thierry
Degoey, James W.
Degreeff, Raymond L. J.
Demartini, James E.
Demetropolis, George J., Jr.
Denap, Frank A.
Deppe, James F.
Derrick, Emory J.
Derrick, Jerry F.
Desilets, Paul E.
Deucher, James F.
Deutermann, Stephen W.
Deveaux, Charles M., III
Dever, Kenny I, III
Dewberry, Lawrence G., III
Dexter, Stephen P.
Diamond, Albon C., III
Diamond, Steven J.
Diaz, Jose A.
Dickey, Gordon J.
Dietrich, John S.
Dietrich, Rolf A.
Dietz, Robert D.
Differding, Gregory A.
Digan, Thomas E.
Dilley, Kevin L.
Dion, Thomas C.
Dittemore, August S.
Dively, Rogest W., II
Dixon, William T., III
Dlinn, Andrew S.
Dombrowski, Paul R.
Donahue, Raymond P., Jr.
Donato, Gerald A., Jr.
Donlon, Michael P.
Donnelly, William J.
Donoghue, Daniel R.
Donovan, Colin B.
Donovan, Michael R.
Donovan, Robert J.
Donovan, Walter J., Jr.
Dotson, Leslie A.
Doty, Gary R.
Doubleday, Edward C.
Dove, Gordon B.
Dow, Michael J.
Drabier, John M.
Drake, Tracy V.
Drefahl, Steven P.
Dubois, Dennis N.
Duchein, Derek J.
Duffy, Stephen B.
Duhamel, David P.
Duke, Mark S.
Dunham, Wayne H.
Dunn, John F.
Dunn, Robert P.
Dupouy, Douglas K.
Duras, Gregory J.
Durfee, William M.
Dyson, James J.
Eads, John W.
Easley, Preston W., Jr.
Easton, Jeanne
Easton, Lila N.
Eckert, Christopher C.
Eckert, Thomas E.
Eddy, Ralph D.
Edkins, William D.
Edmunds, Stephen S.
Eikermann, Douglas R.
Einis, Ligita
Elcock, Charles G.
Eld, Dale W.
Elger, Wallace M.
Elliker, James M.
Elliott, Karen L. P.
Ellis, William R.
Elm, Benjamin R.
Elmer, Joseph S. R.
Else, Daniel H., III
Elson, Stephen J.
Embry, Kenneth L.
Endacott, Steven M.
England, Dennis J.
Epstein, Kennth B.
Erick, Steven G.
Erikson, Lawrence E.
Etherton, Bobby J.
Etter, John A.
Evanoff, John D., II
Evans, David L.
Evans, Timothy S.
Everett, Dwight H.
Ewin, Dabney M., Jr.
Ewing, David E.
Fadel, Kim A.
Failmezger, Victor, Jr.
Falkenstein, Marc A.
Farley, Michael F.
Farrens, James D.
Fatseas, Stefan J.
Faulders, John D.
Feaster, Thomas K.
Feiz, William R.
Fernandez, Raymond A.
Ferner, Larry A.
Fessler, Charles B., Jr.
Fessler, Joyce Z.
Fiebig, Victor R.
Fields, Rodger L.
Filz, David B.
Findley, Steven F.
Finn, Walter D.
Finnegan, Robert E.
Firks, Steven F.
Fischer, David C.
Fisher, Charles D., Jr.
Fisher, David D.
Fitzgerald, Douglas P.
Fitzpatrick, Brian D.
Fitzsimonds, James R.
Flannery, Kevin L.
Fleming, Donald G.
Fletcher, James H.
Flores, Errol J.
Flowers, Williams A.
Flynn, Patrick W.
Fogler, William E.
Ford, Leanna Y.
Forrester, Terrence A.
Fort, Jeffrey E.
Foster, Douglas K.
Foster, Richard P.
Fox, Roger D.
Fraile, Robert E.
Frank, Douglas N.
Franklin, John M.
Fraser, Donald L.
Frazier, Daniel L.
Frazier, Robert L.
Freeman, James W., Jr.
Freeman, James W.
Fretwell, Burlington A.
Freund, Bruce R.
Frey, Wayne K.
Frick, Stephen A.
Friedmann, William G.
Frisch, Donald H.
Fritsch, James L.
Frost, Mark D.
Fry, James T.
Fulmer, Scott
Gabriele, John
Gagalis, James G.
Gahan, John C.
Gallo, James J.
Gallup, Shelley Paul Jr.
Galyean, Christopher L.
Gambin, Wayne P.
Gamble, Davis R., Jr.
Gandenberger, Donald J.
Gannaway, Robert R., Jr.
Gardner, Gary C.
Gardner, Stephen G.
Garfield, Rodney A.
Garrett, Carl E., Jr.
Gary, Alan V.
Garza, Valdemar
Gatewood, John D.
Gazzolo, Victor J.
Geer, Jonathan P.
Geiger, James M.
Gemoets, Gary V.
Genovese, Dennis H.
George, Stephan P., II
Gerber, Mark A.
Gernes, Deborah S.
Gersuk, John J.
Getrum, Leonard L.
Ghio, Frederick W.
Gholz, Lee A.
Giancatarino, Anthony D.
Gibbs, James D.
Gibson, Dennis J.
Giffen, Robert T.
Gilbert, Timothy R.
Gilchriest, Timothy B.
Gillaspy, Deanna D.
Gilmore, Gregory C.
Gilmore, Stephen D.
Gilroy, Michael L.
Ginn, William S., Jr.
Ginovsky, John S.
Given, Warren D., Jr
Glenn, James G., Jr.
Glenny, Allen R.
Glesser, Thomas H.
Goddard, Claude P.
Glover, Thomas F.
Goeke, Kevin J.
Goetz, Gunter
Goff, Lawrence W.
Goins, Larry K.
Golaszewski, Kenneth M.
Goldstein, Kathleen M.
Goodman, Thomas C.
Goonen, David R.
Gorder, Timothy Y.
Gordon, Richard E.
Gott, David R.
Goulding, Bruce R.
Goulet, Richard B.
Goulette, David A.
Govett, Robert L.
Grabus, Earl C., Jr.
Grace, James A.
Graf, Gary L.
Graham, James F.
Graupmann, Gary J.
Greabell, Richard S.
Greene, David L.
Greene, John W., III
Greenlee, David R.
Greenlee, Jim M.
Greenway, Bradley K.
Greiner, Ronald W.
Gray, Richard J.
Griffin, Anthony D.
Griffin, Bruce W.
Griffin, Charles D.
Griffin, John J., Jr.
Griffin, Phillip B.
Griffith, John C.
Griffith, John D.
Grimes, Fred M., Jr.
Groh, Gary E.
Gross, Carl J.
Gross, James R.
Gross, Robert F.
Grote, Thomas A.
Grover, Gretchen G.
Guertin, Michel J.
Gugeler, Richard A.
Guido, Anthony S.
Gunderson, Kenneth J.
Gunkle, Florian J., Jr.
Habermeyer, Alan D.
Hac, Zenon
Haddow, Daniel P.
Hagen, Thomas L.
Hagerling, Donald W.
Hahndorf, Fred R.
Halbreiner, Carl M.
Hall, Gerald S.
Hall, William A.
Hallenbeck, Mark A.
Hallowell, Paul E., Jr.
Halsey, Stephen A.
Haltiwanger, Rufus D., III
Hamburger, John B.
Hamel, Steven R.
Hamilton, Charles S., II
Hamory, Quentin T., Jr.
Hampton, Leonard P.
Hampton, Roy D.
Hand, Eddiewilliam, Jr.
Handlan, Mark J.
Handwerk, Stephen P.
Haney, Patrick M.
Hanna, Lee A.
Hanna, Lynn K.
Hannah, Loring M.
Hansen, Timothy L.
Hanson, Eric T.
Hardeman, Edward L.
Hardesty, David L.
Harmon, Dennis E.
Harnden, William J., Jr.
Harness, Roy C.
Harrell, David T.
Harrell, James M.
Harriman, Jeffrey L.
Harris, John J.
Harris, Kurt J.
Harris, Ward L., Jr.
Harrison, John E.
Harrison, Robert F.
Harsha, William D.
Hart, Douglas R.
Hart, John B.
Hartley, Jonathan B.
Hartman, Robert L.
Hartmann, Michael J.
Harvey, Edward P., Jr.
Harvey, Lawrence M.
Harwood, Theodore L., II
Hartzell, Thomas E.
Harvard, William D.
Hassinger, Jack P., Jr.
Haumann, John S.
Hause Herbert R.
Hauser, Derrell B., Jr.
Hauser, Paul T.
Hayes, Edwin J.
Hays, Clarence D., Jr.
Hazlett, James A.
Hazzan, Michael J.
Hebert, Michael D.
Hein, Eugene V.
Helm, Jim E.
Helms, Chester E.
Hemmer, John P.
Hempen, Gregory S.
Hemphill, George L., Jr.
Hendricks, Stephen K.
Hendrickson, Charles R.
Hennings, Jeffrey S.
Hensley, Charles A.
Herkert, Mark K. H.
Herman, Scott E.
Herther, David R.
Hickcox, Richard C.
Higbee, John J.
High, Warren M.
Hikade, Christopher R.
Hill, Patricia A.
Hill, Roland S.
Hill, Stephen W.
Hilton, Charles R.
Himes, Stephen J.
Hines, Gary A.
Hipsher, Walter M.
Hoff, Robert A.
Hoffman, Donald F.
Hogan, Robert J., II
Holden, Cornelius F., Jr.
Hollyfield, Wallace G., Jr.
Holman, Roger M.
Holmes, Thomas B., Jr
Holt, Robert L.
Holton, Michael A.
Holzapfel, James E.
Holzmer, Mark M.
Honda, Stephen
Hood, John M.
Horrigan, Thomas R.
Horton, Thomas H.
Houkom, John A.
Houston, Paul K.
Hovatter, Patrick J.
Howard, Daniel P.
Howard, Dee H.
Howard, Stephan J.
Howe, Jennie C.
Howell, James R.
Howell, Terry A.
Huber, David B.
Hubitsky, John M.
Huch, Stephen D.
Hudgens, Elmore M.
Hughes, Gary A.
Hughey, William D.
Hulsey, Joseph F.
Humenansky, David F.
Humphreys, Charles E.
Hundley, Ronnie
Hunt, Richard M.
Hunter, Harlan G.
Hurley, Richard L.
Hurst, Gregory A.
Huston, Kenneth R., Jr.
Hutchison, Ernest L., III
Hutchison, Gregory B.
Hyett, Larry F.
Igyarto, David B.
Iiams, Gordon J.
Ingraham, Donald S.
Iovanna, Joseph J.
Iversen, Gary R.
Jackson, Paul J.
Jacobowitz, Jay A.
Jaeger, Gary M.
James, Brent S.
Jan, Kolin M.
Jarosz, Martin J.
Jasper, Stephen C.
Jaylock, Stephen C.
Jedlicka, Charles A.
Jenison, Kenneth M.
Jenkins, George D.
Jenkins, Michael E.
Jennings, Thomas M.
Jensen, Richard J.
Jepson, John R.
Jeter, John B., II
Johns, Ronald E.
Johnson, David A.
Johnson, Howard A., Jr.
Johnson, James L.
Johnson, Jeffrey B.
Johnson, John A., Jr.
Johnson, Michael W.

Johnson, Richard W.
Johnson, Steven K.
Johnson, Willard C.
Johnston, Randall L.
Johnston, Robert E.
Jolley, Fleming L., Jr.
Jolly Ernest L.
Jones, Allan R.
Jones, Bernniece K.
Jones, David H., Jr.
Jones, Gregory A.
Jones, Houston K.
Jones, James L., III
Jones, John E.
Jones, Robert B.
Jones, Theodore B.
Jones, Troy H., III
Jordan, William J., III
Joyner, Stephen E.
Junge, Gail E.
Juul, Kenneth H.
Kailey, Richard F.
Kalix, David A.
Kallman, Raymond G.
Kaminski, James F.
Kane, Stephan P.
Kapfhammer, David L.
Kaplan, Bradley J.
Karalis, Darius C.
Karr, Gary L.
Kaskie, David J.
Kasky, Philip C.
Katin, Robert A.
Kautz, Paul F.
Kay, Edward J.
Kearl, Gary W.
Keally, Patrick M.
Keith, Andrew M.
Keith, Patricia J.
Kelley, Clark T.
Kelley, Kevin J
Kelley, William H., Jr.
Kelly, Canice L.
Kelly, James M.
Kelly, Janet
Kelso, Christopher S.
Kendall, James H.
Kennedy, Reed B.
Kenyon, Kevin B.
Kernan, Robert F.
Keville, Michael T.
Kidder, Ronald D.
Kieckhafer, Roger M.
Kiefer, Richard L.
Kikta, Mark D.
Kikuta, Miles Y.
King, Charles R.
King, Michael R.
King, Richard C.
Kinsaul, Raymond L., Jr.
Kirby, David J.
Kirk, Forrest L.
Kissinger, Donald J., Jr.
Kite, Milton D.
Kittel, Edward C.
Klein, Christopher K.
Klein, John C., IV
Kleshefsky, Warren D.
Kloch, Stephen J.
Knapp, Marc K.
Knox, James A.
Knudsen, John C.
Koch, David L.
Koenig, Brian E.
Kohler, Gary A.
Kollmorgen, Leland S.
Komraus, David K.
Kooken, Daniel G.
Kophamer, Maurice S.
Korson, George W.
Kosiek, Martin S.
Koskie, Edward D.
Kovacs, Gary E.
Kozikowski, Raymand T. J.
Krafft, Betty L.
Kraft, Brady N.
Kranz, Jeffrey M.
Kranz, Richard J., III
Krenzel, Joseph
Krug, Andrew C.
Kuczler, Frank J., Jr.
Kulenkamp, Jerome D.
Kulman, Samuel J.
Kulp, George E.
Kunberger, George A.
Kupresin, Sam H.
Kushner, Peter M.
Kutzer, John P.
Kvamme, James C.
Laaksc, William L.
Labarre, Stephen G.
Labbe, Michael J.
Labuda, Joel L.
Lagasa, Bruce, J.
Lahneman, William J.
Lalonde, Tarry M.
Lambert, Christopher L.
Lamesa, Salvatore, F.
Landry, Stephen T.
Lane, Henry C., Jr.
Langer, John J.
Langerman, Mark M.
Langfitt, David V.
Laporte, Craig B.
Largess, Mark W.
Lathers, William F.
Laturno, Thomas W.
Lauderdale, Walter R.
Lauer, Jeffrey T.
Laur, Steven A.
Laurvick, Conrad A.
Laws, Richard D.
Lawton, Donald M.
Leader, William D., Jr.
Leahy, Kevin B.
Leary, James M.
Ledford, Kevin J.
Lee, William H.
Lefeaux, Charles W.
Legg, Max E.
Leinster, Richard W.
Lemen, Jon F.
Lenig, Edward A.
Leoffler, Walter F., Jr.
Leon, David G.
Leonard, David L.
Leonard, Ralph R., Jr.
Leperc, Victor J., Jr.
Lepkowski, Steven E.
Lerchbacker, Alan B.
Lersch, John H., Jr.
Leslie, Spencer K.
Lester, David L.
Levi, Jeffery W.
Lewis, Bruce L.
Libbey, James A.
Liggio, Jeffrey M.
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Linderman, Brian L.
Lindgren, Clifford W.
Linton, Gary B., III
Lipinski, David R.
Lisse, Stephen D.
Little, Michael E.
Little, Tommy D.
Littlefield, Robert D.
Littlepage, Thomas H.,
Livas, Mark B.
Livingstone, David D.
Llewellyn, Blaik W.
Lodge, William K.
Loerch, Harold J., Jr.
Lokkins, Craig J.
Londot, David L.
Louk, David J.
Lounsbery, Henry K.
Lowe, Louis D.
Lowe, Raymond
Lowe, Todd D.
Lucchesi, Marc A.
Luck, Charles W.
Luketich, Thomas M.
Lund, Jon D.
Lussier, James R.
Lynch, Raymond, Jr.
Lyon, Michael N.
Lyons, James E.
Lyons, James E.
Lytle, Thomas E., II
Macfarlane, Ivor S., III
MacGovern, Robert N., Jr.
Mack, James F.
Mackey, David B.
MacMurray, Christopher
MacSwain, John P.
Maddix, Chris L.
Madison, Roger J.
Madsen, Leroy E.
Maher, John B.
Mahon, John F.
Mahoney, James B., III
Majewski, Randy D.
Makoski, Joseph V.
Malec, Ronald S.
Mallory, James A.
Malone, Thomas H.
Mandell, Michael T.
Mangeno, Joseph T., Jr.
Manley, Clovis E.
Mann, Rick W.
Manshio, James R.
Marckesano, John E.
Marino, Anthony R.
Marlinski, Pauline A.
Maroney, Randall K.
Marques, John B., III
Marra, David L.
Marr, Kenneth W.
Marshburn, Robert W.
Martin, Charles D.
Martin, Christopher B
Martin, David K.
Martin, Kyle E.
Martin, Leonard W.
Martin, Wayne A.
Martinez, Nancy J.
Marusa, Daniel F.
Mashner, Melvin A.
Masker, Kathryn B.
Mason, Donald R.
Mason, Jon D.
Mason, William R.
Mastin, Joseph H.
Matheny, Allen L.
Matoushek, Ronald J.
Maurer, Richard H., II
Mawhinney, David A.
Mawson, John, III
May, Leonard J.
May, Rod I.
Mayo, William D.
Mays, Daniel P.
Mays, Steven E.
McAlliey, John R., III
McAnally, Nancy D.
McAndrew, William J., Jr.
McBride, Robert M.
McBride, William M.
McBrayer, Kenneth M.
McCabe, Robert E., III
McCaffrey, John J., Jr.
McCann, John F.
McCarley, Annette E.
McCarley, Dennis M.
McCaughin, Daniel C.
McCauley, Kim C.
McClellan, Stephan A.
McClellan, Thomas R.
McCloskey, Kevin V.
McCollum, William E., Jr.
McComb, John T.
McCray, Linell R.
McCurdy, Rodney E.
McDermott, Mark L.
McDonald James H.
McEvoy, Roger H.
McGhee, Ralph L., Jr.
McGrath, Michael P.
McGraw, John A., II
McHenry, John D.
McHenry, Paul T., III
McHugh, Chad P.
McHugh, John J., III
McHugh, Thomas J.
McIlrath, Patrick K.
McIntyre, Michael T.
McIntyre, Walter R.
McKeever, William J.
McKibben, Anthony R.
McKinley, Gary M.
McLin, David M.
McMahon, Kevin P.
McMillan, Harry B.
McMillin, Robert E.
McMonagle, Michael J.
McMullen, Thomas B., Jr.
McNair, Jeffry L.
McSorley, James F.
McQueen, Roderick M.
Meaney, Patrick J.
Mearsheimer, Thomas J. J.
Meck, Karl W.
Meekins, Charles D.
Mehrer, Malcolm M.
Meinhardt, John L.
Mendenhall, Richard R.
Mendlin, Jeffrey T.
Mendonsa, Arthur A., Jr.
Mercer, Keith A.
Merrill, Gary L.
Merrill, Jeffrey P.
Merrrill, John C.
Merten Richard G.
Meyer, John C.
Meyer, Thomas W.
Meyers, Benjamin C., Jr.
Meyers, Stanley H., Jr.
Meyers, Timothy A.
Middleton, Steven T.
Mikal, Randy A.
Miko, Ralph C.
Mildenstein, Boyd A.
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Miller, Daryl D.
Miller, Edward M.
Miller, John W.
Miller, Michael H.
Miller, Richard L.
Miller, Robert L., Jr.
Miller, Stanley V.
Milliken, Logan G.
Mills, Dennis A.
Minton, Michael O.
Mischke, Stephen L.
Miskell, Thomas B.
Mitchell, David A.
Mitchell, Gary C.
Mitsuoka, Tadashi M.
Mixon, Ted R.
Mlakar, Daniel J.
Moe, Christopher M.
Moeller, Robert T.
Moffit, Matthew G.
Mohr, James M.
Molloy, William D., Jr.
Molsberry, David D.
Monmaney, Scott R.
Montgomery, Curtis R.
Montgomery, Donald
Montgomery, Michael L.
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Moore, Bradford L.
Moore, William J.
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Moran James K.
Moran, Michael W.
Morgan, Edward B.
Morgan, Kevin P.
Morris, Louis F.
Morris, Paul F.
Morrise, Jacques P.
Morrison, Charles E.
Morrison, Richard G.
Morrissette, Charles G.
Morrow, Michael A.
Morse, Thomas R.
Marton, Barry B.
Moses, Warren P.
Mosser, Donald D.
Moulder, Gary W.
Moy, John W.
Moye, William C.
Mudge, Joseph K., Jr.
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Mukri, Kevin M.
Mulder, Terry A.
Mullins, Richard E.
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Murphy, Patrick W.
Murphy, William F., III
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Murray, Daniel L.
Murray, Jeffrey R.
Musil, Jeanne A.
Myers, Glen D.
Myers, Paul M.
Mynderse, Lance A.
Nadel, Marshall
Nadolski, Joseph A.
Naezer, Henri W., Jr.
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Nagelin, Thomas F., Jr
Navarro, Richard
Neal, Benjamin D.
Neal, Johnnie R.
Neal, Mary Jo C.
Neasham, Jon D.
Neel, Electra V.
Neiman, Carl R.
Nelson, Arne J.
Nelson, Arthur R.
Nelson, John L.
Nelson, Steven E.
Netzer, Henry J.
Neumann, John F.
Newman, Donald C.
Newton, James C.
Nichols, Joseph A.
Nichols, Scott G.
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Nigon, Christopher S.
Nilsen, Willy N., Jr.
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Odegaard, John E.
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Olson, Thomas F.
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Otwell, Harold V.
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Overhauser, Judy A.
Owen, Kim L.
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Parkington, Richard J.
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Patterson, George G.
Pattillo, David D.
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Paul, Raymond J.
Paull, Judith A.
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Phillips, Michael R.
Philpy, Gerald H.
Pic, John E., Jr.
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Pierzchalski, Lawrence J.
Pigg, William D.
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Pisel, Kenneth P., Jr.
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Platt, William A.
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Polkowsky, Ronald L.
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Poplar, James R., III
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Potocny, John P.
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Powell, Raymond H. J.
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Pranke, Dane M.
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Proal, William S.
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Publicover, James F.
Puleio, Daniel T.
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Purinton, Donald W.
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Quinn, Michael J.
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Reehm, Robert D.
Reese, David K.
Reese, Franklin T.
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Reid, Paul A.
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Reinhart, Richard L.
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Reynolds, Janice K. A.
Reynolds, Robert P.
Rhein, Peter V. R.
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Rhyne, John H.
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Richard, Victor H.
Richardson, Judith A.
Richer, Pierre J.
Richner, Charles H., Jr.
Rickenbach, Mark D.
Ricketts, Gary A.
Rien, Lawrence G
Rigazio, Richard C.
Riggins, Roderick M.
Riley, Gerianne S.
Ripley, James M., Jr.
Rizzo, Anthony J., Jr.
Robb, Joel A.
Robbins, Frederick R.
Roberts, Gary J.
Roberts, James G.
Roberts, Keith A.
Robinson, Mark P.
Robison, Chesley B.
Rocker, Fredrick
Rockwell, John A.
Rodriquez, David R.
Roe, David W.
Roesch, Thomas R.
Rogerson, William T. J.
Rogge, John F., Jr.
Rojeck, Richard P.
Roland, Richard R.
Rollings, George W.
Rollins, Bryan L.
Rollins, Paul A.
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Rondestvedt, Jesse A.
Rondorf, Neil E.
Rooney, John J., Jr.
Rosack, Edward P.
Rosenberg, Nathan O.
Rosmond, James R.
Ross, Norman E.
Ross, Scott A.
Rouen, Douglas M.
Rouzer, Michael S.
Rowland, Dana W
Rowland, George F., Jr.
Rowley, Francis E.
Rudd, Bruce A.
Rudd, Jerry A.
Rummel, John D.
Russell, Alvin M.
Russell, Robert S.
Ruth, Richard L.
Rutkowski, Edward J., Jr.
Ruzicka, Richard M.
Ryan, Charles T.
Ryder, Michael A.
Saba, David L.
Salerni, Paul L.
Sampson, Daniel L.
Sams, Rodney L.
Sanders, John F., Jr.
Sanders, Robert W.
Sanderson, Richard H.
Sanderson, Steven G.
Sandvig, Richard G.
Sanford, David A.
Santi, Gary S.
Santos, Robert M.
Sargent, Terry R.
Satterfield, Kenneth S.
Savage, Rodney W.
Sawyer, Lloyd M., Jr.
Sawyer, Mark A.
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Schaffner, Leslie J., Jr.
Schaller, Richard F.
Scheetz, Jeffrey C.
Scherrer, John C.
Schertler, Helen M.
Schilling, Byron P.
Schilling, Dean W.
Schindler, Ralph L.
Schirmer, Gary S.
Schlabaugh, Terry E.
Schleeter, Russell W.
Schlinkert, David H.
Schmitt, William A.
Schmitz, Francis J., Jr.
Schneider, John R.
Schneider, Margaret W.
Schneider, Virginia A.
Schofield, Larry W.
Scholten, David J.
Schonberger, James H.
Schonberger, Rose A.
Schorn, David M.
Schrader, Kerry D.
Schreiber, James E.
Schrock, Gerard P.
Schulhof, Edward W.
Schuller, Jeffrey G.
Schultz, Clarence W.
Schultz, Kelly F.
Schumacher, Stephen E.
Schnoor, Robert T.
Schuster, Carl O.
Scibona, Paul G.
Schofield, Dane T.
Scontras, Andrew P.
Scott, George J., III
Scott, John B., Jr.
Seeley, Jeffrey J.
Seftas, George R.
Seligman, Craig H.
Selman, James D., III
Semple, Frank M.
Serfass, Paul T., Jr.
Sestak, Joseph A., Jr.
Severs, Gary L.
Sevilla, Ernest
Sgro, David C.
Shafer, Thomas R.
Shaffer, Mary D.
Shamblin, Gordon J.
Sharp, James T.
Sharpe, David A.
Sharratt, Charles R.
Shaw, Claude B. R.
Shaw, James T., III
Shaw, Kevin M.
Sheehan, John J., III
Sheehan, Joseph A., II
Sheppard, Bruce A.
Sherland, Peter W.
Sherman, Douglas R. Jr.
Shinners, Thomas E.
Shirey, Gary C.
Shirley, Ronald K.
Shive, John C.
Showalter, Kenneth R.
Showers, Arthur V.
Shuford, Jacob L.
Shumway, Bruce H.
Siiakoski, Anthony F.
Simmons, Leodies U. A.
Simonds, Daniel G.
Sisc, Robert J., Jr.
Sionim, Richard G.
Small, David B., Jr.
Smith, Craig A.
Smith, David B.
Smith, Dale E.
Smith Gary P.
Smith, Herschel A., III
Smith, Howard G., Jr.
Smith, Jack W., Jr.
Smith, Jay G.
Smith, Jerry K.
Smith, Laurence K.
Smith, Luanne J.
Smith, Mark S.
Smith, Maurice E., Jr.
Smith, Michael G.
Smith, Nathan E.
Smith, Richard C.
Smith, Robert C. III
Smith, Roderick F.
Smith, Roger E.
Smith, Shawn M.
Smith, Steven W.
Smyrniotis, Christopher, R.
Smyth, William J.
Snook, William V.
Snyder, Duane L.
Snyder, James S.
Snyder, Willim G.
Sobeck, Gerald R.
Solger, Michael J.
Sophy, Paul R., Jr.
Sorek, Eddy L.
Soutullo, Marion P.
Spadaro, Angelo J.
Spisak, Andrew G.
Spickett, David L., Jr.
Spracklen, David B.
Stachelczyk, Gregory J
Staehling, Jonathan J
Stafford, Calvin T.
Stafford, Joe N.
Stambaugh, Charles I
Standridge, Elmer L. J
Stanhope, David M.
Stanley, Marc T.
Stanton, Keith N.
Stanwood Edward K.
Starling, Harold D., II
Starling, Stanley B.
Staroschak, Myron M.
Staska, Stephen C.
Staudt, Thomas P.
Stearns, Gregory A.
Steele, Daniel J.
Steffensen, James P., Jr.
Steinbaugh, Michael L
Steinberg, Robert L.
Steiner, Edward F.
Stejskal, Randall S.
Stell, Donald E.
Stengle, Robert G.
Stenovec Gerald M.
Stephens, Charles M.
Stephens, John R.
Stevens, James S.
Stevens, John W., Jr.
Steward, Daniel N.
Stewart, David W.
Stidom, William G.
Stine, Harold E. J.
Stinson, Charles E.
Stocknick, Walter A., Jr.
Stockton, John A.
Stone, Vincent C.
Storey, William A.
Story, Hugh G., Jr.
Stout, Phillip J.
Straight, George W., Jr.
Stricker, Robert P.
Strizich, Lawrence J.
Strohmeyer, Donald F.
Stone, David M.
Stuart, Bruce
Stumpf, Robert E.
Sturdy, John T.
Stuvek, Fred L., Jr.
Sudol, Eugene G., Jr.
Sullivan, Christopher Jr.
Sullivan, Mark D.
Sullivan, Patrick J.
Sullivan, Paul E.
Sumner, Dale L.
Supko, Timothy J.
Swailes, Don W.
Swaim, Claude D.
Swanger, Frank L.
Swanson, Thomas K.
Sweeney, Joseph E., Jr.
Sweeney, Mark J.
Sweeney, Robert B.
Sweet, William D.
Sweigard, Douglas L.
Sweigart, Frank
Swindell, Clay H.
Swisher, Gregory M.
Syer, Harry W., Jr.
Szwarc, Walter J.
Talbot, James R., III
Talbott, Joseph C.
Tally, Brent R.
Tangen, James A.
Tannehill, Robert C.
Tarantino, Deborah O.
Tasillo, Robert D.
Tate, John D.
Taylor, Lucius O., Jr.
Taylor, Mark J. R.
Taylor, Robert J.
Teixeira, John G.
Teply, David R.
Terpstra, Richard P.
Terry, Robert J.
Tesdall, Victor O.
Teske, Julian E.
Thackery, Donald N., Jr.
Thayer, Steven S.
Thogerson, John, II
Thomas, David E.
Thomas John P.
Thomas, Robert B., Jr.
Thome, Robert W.
Thompson, Chris A.
Thompson Fred W., Jr.
Thompson, Robert W.
Thorn, John T., Jr.
Thornton, Wayne A.
Thrasher, Robert G.
Tibbert, Eric P.
Tiernan, Thomas R.
Tiffany, Thomas A.
Tighe, Thomas E.
Tillison, Howard M.
Timmes, Christopher, J.
Timms, Donald R.
Toedt, Dell, C., III
Tolf, Michael S.
Tomlinson, Donald H.
Topolewski, David R.
Tourville, Maurice, A. I.
Travers, Geoffrey L.
Treichel, Thomas A.
Treppendahl, Marshall D.
Treude, Jeffrey W.
Trewhitt, William L.
Tromba, John M.
Trosclair, Cecil A., Jr.
Trotter, James S.
Troxell, William C.
Trupp, James C.
Tucker, Michael P.
Turner, Michael I.
Turner, Larry C.
Turner, Randy B.
Tyler, Bruce D.
Vaeth, James E., Jr.
Valdez, Arnulfo, III
Valdivia, James, Jr.
Vanvolkinburg, Mark W.
Vatikiotis, Costa S.
Vaughn, Phillip D.
Veccia, James V.
Veitch, Mark V.
Venuto, Peter J., Jr.
Verdolini, Vincent J., III
Vernier, William A.
Vernon, Gary W.
Verschure, Robert M.
Vickerskoch, David M.
Vidal, Dean A.
Viggiano, Glenn R.
Villnow, Donald D.
Vincent, Larry W.
Vinnola, Anthony J., Jr.
Vint, Robert D.
Virtue, Christopher F.
Viverito, Richard V.
Vogel, David J.
Voorhies, Wiley J.
Vrabel, George T.
Wachendorf, Miles B.
Wade, Robert L., III
Waggener, Christopher N.
Wagner, Charles E.
Wagner, Jay A.
Wagner, Ronald E.
Wagoner, Jay A.
Wagner, Ronald E.
Wagoner, Raymond E.
Wahl, Michael J.
Waickwicz, John J.
Walchli, Gary E.
Walker, Charles D.
Walker, James W.
Walker, William P., III
Wallace, George L., Jr.
Waller, Edward C.
Walsh, David I.
Walsh, William A.
Waltenbaugh, Robert E.
Walters, Douglas P.
Walters, John M.
Walters, William M.
Wand, Kevin T.
Ward, Dona M.
Ward, John L.
Ward, Leland H.
Ware, Reginald C.
Warren, James M.
Wasenius, George T.
Washington, Samuel C.
Wasson, Eugene F.
Waters, Jack A.
Waters, Michael J.
Watson, Charles S.
Wayne, Charles G.
Weathers, Dale A.
Weaver, Floyd R.
Weaver, Thomas, J. M.
Webb, David R.
Webb, Donald M.
Webb, Richard A.
Webster, John L.
Webster, Walter E., III
Wehle, John K.
Weinkam, Edward J., III
Weir, Steven T.
Weiss, John R.
Weitzel, Gregory S.
Welch, Bryan T.
Weldon, John W., Jr.
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Welker, Marc P.
Wells, John T., IV
Welsh, Philip C.
Welstead, William C.
Welty, Charles D., II

SUPPLY CORPS

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Barnes, James L., Jr.
Barnum, Bruce T.
Wepplo, John H.
Werner, Ernest H.
West, Jerry A.
West, Robert C.
Westerheld, John J.
Weston, Edward G.
Wettlaufer, Donald D.
Whitacre, William E.
White, Francis R.
White, Scott D.
White, William R.
Whitfield, Milton B.
Whitman, Barton W.
Whitmire, Robert D.
Whittaker, John C., Jr.
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Wieber, Theodore R., Jr.
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Wigfall, Agistine L.
Wiggins, James T.
Wilber, Edward E., Jr.
Wilbur, James D.
Wilde, William T.
Wilder, Charles D.
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Wiles, Gehrig M.
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Willard, Richard S.
Williams, Beth G.
Williams, David G.
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Williams, Jay D., Jr.
Williams, Kirk B.
Williams, Leroy G.
Williams, Vernon C.
Williamson, John R., III
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Wilson, Benny W.
Wilson, Cynthia B.
Wilson, David J.
Wilson, Fred W.
Wilson, James O.
Wilson, Richard A.
Windley, John S.
Wing, Vern F.
Winge, Douglas A.
Winkel, Peter G.
Winslow, Michael J.
Winston, John M., Jr.
Winter, James D.
Wise, Ryan S.
Witt, Charles R., Jr.
Witte, Michael J.
Wieklinski, Gary R.
Wohlers, Paul D.
Wolbrette, Bruce E.
Wolery, Thomas A.
Wong, Lin H.
Woods, Laurent B.
Woods, William W., III
Woolley, Kriston P.
Wooten, Ray L.
Wootton, Tom M.
Worley, Allen B.
Wozniak, Joseph
Wright, Ronnie G.
Wright, William E.
Yacus, George M.
Yaeger, John W.
Yakeley, Robert C.
Yamamoto, Gary
Yarosh, Mark B.
Yeiser, Harry E., III
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Zacharias, David A.
Zeiler, Terry J.
Zepp, Paul J.
Zink, Richard A.
Zolkoski, Kenneth
Zusi, David A.

Bean, Rockwell B.
Beetle, Thomas L.
Bennett, David W.
Berger, Douglas
Billouris, Joel L.
Bird, Linda J.
Blanchfield, Brian W.
Bohlen, Frederick L., III
Boren, Kenneth W.
Brenner, Paul H.
Bresee, William F.
Brozovich, Thomas K.
Chang, James C.
Chew, Devin E.
Chorebanian, Gregg M.
Christmann, Wayne A.
Cichanowic, Theodore P.
Compiano, Craig M.
Coons, William W., Jr.
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Coyle, Theodore A.
Creedon, William L.
Crowell, Gilbert E.
Cunio, Michael T.
Curley, Richard F.
Deedy, Kevin J.
Dietze, Daniel D.
Dubose Hugh, H. Jr.
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Fanning, Roberts S., III
Ferris, Jeffrey E.
Fishburne, Edward J.
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Fulmer, Quitman D., II
Gentry, Steven G.
Gorrie, Roland W.
Greene, Jeffrey D.
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Hall, William E.
Hammond, Bryce E.
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Hayes, Richard D.
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Hodnett, Elwood T., Jr.
Holden, Arthur D.
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Hudgens, Donnie L.
Hume, Randall J.
Johnson, Gerald D.
Johnson, Lynn C.
Jones, Donn W.
Jones, Kevin A.
Jurado, Pilar L., Jr.
Keener, Phillip D.
Keller, Louis D.
Kenyon, Timothy A.
Kesinger, James L.
Kishman, John B.
Kittrell, Eugene O., Jr.
Laclede, Robert P., Jr.
Lavie, Jacqueline E.
Lawler, John V.
Lea, Jonathan D.
Lievens, Michael J.
Lippert, Gregory R.
Lowman, Bruce D.
Madere, Antoine S., Jr.
Madrid, James C.
Mandell, Robert W.
McCarthy, Michael J.
McDonald, Thomas W.
McNallen, Patrick W.
Mettler, Michael J.
Meyerkorth, Ricky A.
Miles, William H.
Moore, Sumner K., Jr.
Myers, Russell J., Jr.
Nichols, Ronald G.
Odekerken, Joseph H.
Olson, Michael P.
Palm, Harry E., Jr.
Palm, John F.
Palmer, Brian D.
Perez, Ramon M.
Priest, Fenton F., III
Quinn, John P.
Rasmussen, Evan R.
Rubin, Mark I.
Ruppert, Joseph M., Jr.
Santen, Frank L.
Schoedler, Michael P.
Secrest, John M.
Sellner, Craig T.
Soles, Harry G., Jr.
Stewart, Enos R., Jr.
Sucheck, Richard L.
Szafran, Clifford E.
Threet, James M.
Tisdale, Alfred E., III
Vizzier, Richard M.
Wasilewski, Nicholas J., Jr.
Watts, Stephen C.
Webb, William V. B.
Wehmeyer, Steven E.
Welsch, Charles W.
Westmoreland, John R.
Zeni, Joseph F.

CIVIL ENGINEER CORPS

Anderson, Robert J.
Benere, Daniel E.
Bloomquist, Douglas L.
Brunhart, Andrew D.
Depreter, Peter M.
Eustace, George N.
Fowler, James N.
Gilbert, George F., Jr.
Heinrichs, Charles A.
Hood, Robert R.
Hribar, Herbert R.
Huebner, Richard S.
Jillson, Brian P.
Jones, Calvin P., Jr.
Masnyk, Walter J.
Moore, Michael D.
Nelson, William L.
Neudorff, Louis G., II
Perry, William T.
Reichert, Gregory A.
Stusnick, Joseph, III
Suptic, David M.
Walling, Reigh A.
Zimmerman, Tracy M.

MEDICAL SERVICE CORPS

Boehm, Russell K.
Clark, Bobby G.
Fleischman, Thomas E.
Kerr, James L., III
Lawson, Michael P.
Marthouse, Robert C., Jr.
McClure, Charles D.
McDougall, Gordon R.
Moynihan, Robert W.
Rupp, Gary L.
Shehane, Claude T.
Simmons, Donald L.
Taylor, John O.

NURSE CORPS

Falvo, Ralph J.
Flynn, Martha C.
Jefferds, Jerilyn A.
Lewis, Bonnie L.
Logeman, Gary L.
Long, Jeanette L.
Longenecker, Ruth A.
Peterson, Terry R.
Watkins, Joline I.

IN THE NAVY

The following-named commanders of the U.S. Navy and Naval Reserve for temporary promotion to the grade of captain in the staff corps as indicated, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law:

MEDICAL CORPS

Abbe, Robert R.
Blankenship, Billy J.
Cave, Robert H.
Day, Daniel H.
Galasyn, Valentine D.
Honigman, Joseph
Johnson, Raymond B.
Leeb, Burton O.
McKnight, Glen D., Jr.
Reid, James W., Jr.
Sandri, Sandro R.
Stetzer, Lloyd W.

SUPPLY CORPS

Allnutt, Alvin H.
Borchardt, Heinz R.
Brown, Lee
Carenza, John L.
Connolly, George S., Jr.
Cronin, George W., Jr.
Dewey, Edward P.
Eizenhoefer, David J.
Girman, Robert J.
Goslin, Thomas C., Jr.
Hinkle, Otis R.
Irons, John H.
Juncker, Carl F.
Linehan, Daniel J., Jr.
Loftus, Raymond P.
Malzahn, Walter G.
Miller, James E.
Olson, Gene P.
Plante, Rene E.
Rice, Henry L., Jr.
Rubenstein, Ralph S.
Sechler, John L.
Squibb, Rodney K.
Wallace, Edwin R.
Weinberg, Harry H.
Whittaker, James B.

CHAPLAIN CORPS

Barcus, Richard E.
Bedingfield, Robert W.
Elder, Robert M.
Evans, George W., Jr.
Glynn, John J.
Kaelberer, John H.
Keefe, Lawrence F.
MacCall, Harry F., III
Magor, Warren F.
Murphy, Milton G
Neiderhuth, Wayne L.
O'Brien, Eugene C.
Six, Jack E.
Whitaker, Frederick E.

CIVIL ENGINEER CORPS

Chin, William
Cope, Ronald P.
Crisp, Hugh A.
Endebrock, Frank L., III
Fraser, John C., Jr.
Godsey, Jack L.
McNeill, James E.
Shumate, James W.

JUDGE ADVOCATE GENERAL'S CORPS

Brown, Charles E., II
Christian, Alvern D.
Eoff, Albert W., II
Flynn, Thomas E.
Grunawalt, Richard J.
Howay, John W.
Laitsch, Lowell C.
Legg, Billy J.
Mario, David A.
Wade, Manley B.
Wille, Paul A.

DENTAL CORPS

Barron, Don M.
Benn, Barry
Ciardello, Carmen A.
Hodes, Leonard F.
Hurst, Thomas L.
Johnson, Charles M.
Lowman, Jack V.
Sabala, Clyde L.
Salmon, Thomas N.
Schonbrun, Robert G.

MEDICAL SERVICE CORPS

Hatten, Ann C.
Joseph, Sammy W.
Nelson, Paul D.
Palmer, Jack J.
Shuler, Donald E.

NURSE CORPS

Adams, Louise J.
Bynum, Joan C.
Carson, Eva F.
Chisholm, Marie A.
Damiani, Margaret C.
Emond, Lucille G.
Gomes, Alma M.
Hall, Mary F.
Jacobson, Dorothy M.
Kelly, Mary
Miller, Eleanor J.
Morton, Jo A.
Nickerson, Lois E.
Noble, Frances A.
Stuart, Irene M.
Yelle, Dorothy A.

Comdr. Janice R. McMorrow, U.S. Navy for permanent promotion to the grade of captain, in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law.

Lt. (junior grade) Catherine M. Gehri, U.S. Navy for permanent promotion to the grade of lieutenant, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law.

Capt. Leonard R. Young, U.S. Navy for permanent promotion to the grade of captain, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

Lt. Comdr. Paul K. Deehan, U.S. Navy for permanent promotion to the grade of lieutenant commander, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

Lt. Comdr. Allen R. Sherwood, in the U.S. Navy for permanent promotion to the grade of lieutenant commander, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

The following-named lieutenant commanders of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the Judge Advocate General's Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5782.

Erickson, John F.
Furdock, Ronald M.
Henderson, William C., III.

Lt. Comdr. William A. Ferris, U.S. Navy for permanent promotion to the grade of lieutenant commander, in the Medical Service Corps, pursuant to title 10, United States Code, section 5782.

Lt. Allen L. Hurley, U.S. Navy for permanent promotion to the grade of lieutenant in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

Lt. Katie I. Smith, U.S. Navy for permanent promotion to the grade of lieutenant in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5782.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 7, 1977:

DEPARTMENT OF STATE

John D. Negroponte, of New York, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

ARMS CONTROL AND DISARMAMENT NEGOTIATIONS REPRESENTATIVE

Ralph Earle II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations.

IAEA SESSION REPRESENTATIVES

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the Twenty-first Session of the General Conference of the International Atomic Energy Agency:

Representative: Robert W. Fri, of Maryland.

Alternate Representatives: Richard T. Kennedy, of the District of Columbia.

Louis V. Nosenzo, of Virginia.

Nelson F. Sievering, Jr., of Maryland.

Gerard C. Smith, of the District of Columbia.

Galen L. Stone, of the District of Columbia.

Robert D. Thorne, of California.

Robert S. Rochlin, of Maryland.

DEPARTMENT OF STATE

Frank J. Devine, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

Esteban Edward Torres, of Virginia, for the rank of Ambassador during the tenure of his assignment as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

ACTION AGENCY

Carolyn R. Payton, of the District of Columbia, to be an Associate Director of the ACTION Agency.

DEPARTMENT OF JUSTICE

David T. Ready, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years.

Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years.

M. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years.

Edward N. Keiilkoa, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years.

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois for the term of 4 years.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years.

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years.

Roy A. Smith, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years.

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa for the term of 4 years.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Thomas Tang, of Arizona, to be U.S. circuit judge for the Ninth Circuit.

Hugh H. Bownes, of New Hampshire, to be U.S. circuit judge for the First Circuit.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the Third Circuit.

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois.

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern district of Illinois.

Edward H. Johnstone, of Kentucky to be U.S. district judge for the western district of Kentucky.

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia.

IN THE COAST GUARD

Coast Guard nominations beginning John R. Ehrmann, to be captain, and ending Michael J. O'Brien, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1977.

WITHDRAWAL

Executive nomination withdrawn from the Senate October 7, 1977:

Douglas Coulter, of Virginia, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977 (new position), which was sent to the Senate on September 27, 1977.

EXTENSIONS OF REMARKS

HELPING ARIZONA'S COPPER INDUSTRY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. RUDD. Mr. Speaker, I and other members of the Arizona congressional delegation have been meeting this week with a bipartisan group of 25 Arizonans led by our Governor, who are here to work with us to find both short- and long-term solutions to the critical copper situation in Arizona.

As Members of the House are no doubt aware from the news, the domestic copper producing industry which is primarily located in Arizona is severely depressed. Upward of 8,000 mine and smelter workers have been laid off, some 3,600 additional jobs related to mining are in jeopardy, and Arizona stands to lose approximately $117 million in personal income from this depressed copper situation.

This situation is principally the result of overly restrictive environmental laws of the Federal Government, which have forced up the price of domestic copper production, and the substantial influx of cheaper foreign copper—made possible by foreign government subsidies and lower production costs—which has undercut our own copper industry.

About 21 percent of all copper sold in the United States is foreign copper that can be produced for about 50 cents a pound, compared to domestic production costs of between 60 to 85 cents a pound. It is estimated that 15 cents of the domestic copper production costs are directly attributable to Federal and State environmental and safety controls.

Foreign copper is being produced at a much lower cost, and can be shipped for sale in the United States for about 5 additional cents a pound, because production is being subsidized by foreign governments—many of whom are also receiving U.S. foreign assistance.

In many cases, the foreign copper mines were developed by U.S. companies and then nationalized without compensation. Foreign mine workers are paid much, much less than American workers, and these countries do not impose the stringent environmental controls that our Government has imposed. Production costs for foreign copper are therefore much less.

Mr. Speaker, Congress has obviously got to wake up to the fact that the Federal Government's unreasonable environmental restrictions are crippling our economy and throwing people out of work, so that this trend can be stopped.

We must act to revive the copper industry in more immediate ways as well. I believe this can be done through the time-honored method of Federal stockpiling of critical materials for national security purposes. Copper is certainly such a critical material, and the Federal Government should set prompt stockpiling goals to help revive the market for domestic copper.

In terms of long-range solutions to help our domestic copper market, we should be thinking of new tariff legislation to stop foreign countries from undercutting our domestic industry, or an import tax on foreign copper as an equalizer for costs imposed on domestic companies to meet air pollution standards.

A good analysis of the critical copper situation that we currently face, as well as of these proposed solutions, was recently given by Richard W. Pendleton, Jr., vice president of the Phelps Dodge Corp. I believe this analysis deserves serious study by Congress and other interested parties, and I include it in the RECORD at this point:

WORLD COPPER INVENTORIES AND REBUILDING THE STRATEGIC STOCKPILE

The domestic copper-producing industry is very depressed, despite the reasonably healthy state of the general economy. Copper prices are in most cases below costs, production has been severely curtailed and many copper workers—8,000 in Arizona alone—have been laid off.

The cause of this depression lies largely outside U.S. borders. Copper is an international commodity and our domestic plight has been caused by unusually large world inventories of metal overhanging the market. These inventories have accumulated primarily because LDC copper-producing countries, whose governments own or effectively control about 40 percent of world productive capacity, have been unable, because of foreign exchange needs, to curtail production to balance supply with the reduced needs of their traditional markets in Europe and Japan. Although domestic demand for copper is now good, and world production and demand have been roughly in balance for the last 18 months, no significant dent has been made in total copper inventories, which currently stand at around 2,200,000 tons, or roughly double normal levels.

This million-ton overhang has forced copper prices to retreat to the point where few mines can be operated profitably. The overhang must be worked down to restore the industry to health. One way to do this is by curtailing production, but the LDC producer countries, caught on a treadmill of their own creation, have been unwilling to do this, producing instead record amounts of copper at ever-lower prices, and leaving the burden of curtailment on privately-controlled mines, and their stockholders and employees, mostly in the United States. The other solution—increased copper usage—will occur slowly over time, possibly several years, but by then the damage to the domestic industry, its employees and the local economies, such as Arizona's, dependent on copper, may be very severe, and in some cases irreversible.

There does exist, however, one potential purchaser of copper whose need for the metal is well-established and great enough to substantially hasten the balancing of supply with demand. The U.S. Government's strategic materials stockpile has been wholly without copper since 1974, when the Nixon administration sold out the last of the stockpile's copper in what appears to have been an attempt to improve the federal budget posture without regard to security concerns. The Ford administration, after a major interdepartmental review, established in 1976 a copper stockpile objective of 1,299,000 tons. That target, and other stockpile objectives, are being studied by the Carter administration. However, whatever copper the Administration concludes should be in the nation's strategic stockpile, the tonnage required is likely to be great enough that prompt initiation of a purchasing program would have a dramatic and positive effect on the nation's copper situation. This memorandum will look briefly at the problem and this possible solution.

THE PROBLEM

The U.S. copper industry has long been the greatest in the world—its mine production capacity is 25 percent of free world capacity, and is adequate to make the nation substantially self-sufficient in this key metal. Arizona is first among the states in copper production, accounting last year for some 64 percent of total domestic production; the annual production from Arizona's mines ranks her with Chile as the free world's two top copper producers. In 1976, free world mined copper production totalled 6,792,000 short tons, of which 1,606,000 was produced domestically (1,024,000 tons in Arizona) and 5,186,000 was produced abroad.

Today, despite the general health of the U.S. economy, the domestic copper industry is in a depression unequalled since the 1930's. Although demand for copper is strong in this country, domestic producers, caught between costs which have sharply escalated during the 1970's, and prices which have sharply fallen, have been unable to benefit from it. The cost increases are the result of inflation, wage and energy increases, and mandated environmental control costs. Charles S. Barber, Chairman of ASARCO Incorporated, recently reported that independent experts have estimated the costs of environmental and safety controls alone have added about 15¢ per pound to the cost of producing domestic copper.[1] (Although foreign producers in LDC's have also been burdened by increased energy costs, they have, in general, escaped cost increases on account of environmental controls, which in most instances are nonexistent, or minimal, in those countries). Phelps Dodge Corporation's current average costs for producing copper, from mining through refining, are 232 percent of what they were in 1968.

As a result of these cost increases, the price currently charged by most domestic producers, 60¢ per pound, is below the costs of most domestic copper mining operations, and even the lowest-cost producers can do little more than break even.

The cause of these very depressed price levels in excessive world stocks of refined copper. These stocks stand at about 2,200,000 tons, about half of which is excess to normal requirements. In comparative terms, current world refined stocks represent about 3.6 months' consumption compared to a normal 1.8 to 2 months, and thus an excess of some one million tons overhangs the market. The great bulk of this excess was accumulated during the recession in the last half of 1974 and in 1975. During 1976 and the first half of 1977 the market has been in approximate balance, with total refined stocks up about 250,000 tons, equal to only 2.3 percent of consumption during this 18-month period. (See Exhibit I)

This million-ton overhang is mostly foreign-produced copper, but copper is an international commodity which can be readily shipped anywhere in the world for about 5¢ a pound. Accordingly, U.S. producers, despite strong domestic demand, have been unable to obtain satisfactory prices for their metal. LDC copper-producing countries continue to produce copper full-out, attempting, regardless of price levels, to earn enough foreign exchange both to purchase OPEC oil and to meet interest payments on their massive debts. Their traditional markets have been unable to absorb this production, much less to work off excess inventories; hence any sign of strengthening U.S. prices brings this foreign metal into the domestic market. This is illustrated by the following U.S. net refined copper import figures (in thousands of short tons):

	(7 mos.) 1977 [1]	1976	1975	1974 [1]	1973
Imports	204	381	146	304	195
Exports	30	113	172	127	189
Net imports	174	268	(26)	177	6

[1] A number of major U.S. producers were on strike for about 1 month of these periods.

Unable to earn a profit at current prices, and faced with the bleak prospect that no improvement can be forthcoming so long as world inventories do not begin to come down, domestic producers have been forced to curtail production, or in some instances close their mines completely. Arizona, as the largest copper-producing state, has been severely impacted, with some 8,000 employees on layoff during September.

In addition to the damage being inflicted on the domestic copper-producing industry and its employees, other U.S. interests are threatened by the present copper crisis. A number of the principal LDC copper producers, such as Zambia, Zaire and Peru, are among this country's best friends in the Third World. Many of these countries are encountering extreme economic and financial problems stemming from the exceedingly low prices of copper. Some of these countries are threatened with default on their international loan obligations, many of which are held by U.S. commercial banks and U.S.-supported international lending agencies. Some relief for these hard pressed developing nations would clearly be in the interest of U.S. foreign policy and the overall well-being of the international economic and financial system.

It should be kept in mind that the problem, although at present severe, ought not to be a permanent one. Production of newly-mined copper, even before the domestic industry's recent curtailments, and despite record production from LDC's, has recently been close to balance with world demand, the continued sluggish demand in much of Europe notwithstanding. World use of copper should continue to grow, perhaps at a rate of around 3 percent per year, and although a few more copper-producing projects started several years ago are still to come on stream, very few new projects have been started in the past 2 or 3 years (see Exhibit II).

Bringing new production on stream requires considerable lead-time—from perhaps 2 years for expanding capacity of an existing mine to 4 years or considerably more for a major new mine. We can therefore expect, over time, that the million tons of excess inventory will be worked down. Moreover, to provide a reasonable return on any investment in new capacity—domestic or foreign—will require much higher copper prices than today's—a fact which must be recognized not only by private companies but also by the governmental and private financing agencies which control the development of new capacity in the LDC's. If that fact is recognized, then the current difficult situation ought not to be repeated in the future.

However, permitting the situation to cure over time, by slow erosion of the excess inventories, can have permanent adverse consequences for at least some domestic producers and their employees, and on a number of LDC producers as well. This damage can be avoided if the U.S. government accelerates its plans to replenish its strategic stockpile by purchases of copper.

THE STRATEGIC STOCKPILE

The strategic stockpile, created by the Strategic and Critical Materials Stock Piling Act of 1946, is intended to ensure that our nation will have available the raw materials necessary to support military and basic civilian requirements during periods of war or other national emergency. It is administered by the Federal Preparedness Agency of the General Services Administration. The stockpile today consists of 93 minerals, metals and other industrial materials, mostly acquired before 1959, stored at 117 locations in the United States, having an aggregate value as of March 1977 of $8.6 billion.[2] The stockpile currently holds bauxite, tin, cadmium, lead, zinc and mica among its stores of metals and minerals. It holds feathers and opium, but it holds no copper.[3]

This was not always the case. In 1962, when the government first publicly disclosed its stockpile holdings, they included 1,420,000 tons of copper, of which 420,000 was in excess of its "objective" of one million tons. (Stockpile "objectives" are based on administration evaluation of the need for materials, assuming wartime conditions).

The copper objective was reduced in 1963 to 750,000 tons, and during the Viet Nam war the Johnson administration authorized substantial releases of copper (over 400,000 tons), in part for war needs but also in an unsuccessful attempt to restrain copper prices. In 1973, the Nixon administration, changing the assumptions on which stockpile objectives were predicated, reduced the copper objective to zero and disposed of all remaining stockpile copper, in what is generally believed to have been more an attempt to reduce the federal deficit than an objective evaluation of the nation's security requirements.

In 1975, the Ford administration undertook a major interagency study, chaired by the Federal Preparedness Agency, to review and update the entire stockpile policy. It required approximately 15,000 manhours and one year to complete. As a result of this study, President Ford issued new stockpile policy guidance in August 1976, calling for a materials stockpile capable of supporting U.S. defense and basic civilian requirements during a major war over a 3-year period and assuming prior large-scale industrial mobilization. This policy guidance is now being reviewed by the Carter administration. It calls for a copper stockpile goal of 1,299,000 tons.

Understandably, both industry and Congress have been concerned with the apparent use, over the years, of the stockpile for purposes other than that for which it is intended. This concern is reflected in S. 1810, introduced by Senator McClure, and H.R. 4895, introduced by Representative Bennett, which would, in different ways, attempt to circumscribe administrative discretion in stockpile administration. Both are supported by the mining industry and opposed by the Federal Preparedness Agency. But there is no dispute between industry, Congress and the Agency about the wisdom of maintaining a stockpile of critical materials adequate for the nation's security. Thus the issue of

[1] Remarks before the American Mining Congress, San Francisco, California, September 12, 1977.

[2] Testimony for Oversight Hearings, Subcommittee on Military Construction and Stockpiles, Senate Committee on Armed Services, by Mr. Ronald Royal, Assistant Director for Civil Preparedness, Federal Preparedness Agency, September 9, 1977.

[3] *Stockpile Report to the Congress, July–September 1976*, Federal Preparedness Agency, March 1977.

the extent to which administrative discretion in stockpile acquisitions and disposals should be controlled should not be germane to the matter of the purchase of copper for the stockpile, should the Carter administration review substantially agree with the Ford administration study.

If copper should be restored to the stockpile, as its importance as a metal argues it should, then this is a most appropriate time for government action. The entire excess world inventory is somewhat less than the Ford task force's recommended copper stockpile goal; the removal of a substantial amount of that inventory by stockpile purchases can be accomplished at this time without disruption of supply-demand relationships, and at prices which would represent a most favorable application of the government's funds.

The beginning of a stockpile purchase program that would make a significant dent in the copper inventory overhang would relieve downward pressure on the world markets and should permit copper prices to rise to reasonable levels. This, in turn, could permit most domestic mines to operate in the black, permit reemployment of most of the 8,000 Arizona miners currently laid off, and help the copper-producing LDC's off their desperate treadmill and aid in restoring them to economic health.

Any governmental action that can produce at once so many positive results is worthy of prompt implementation, and we urge the administration's immediate consideration of a program of copper purchases for the strategic stockpile and its action, as appropriate, to begin such a program at the earliest possible time.

EXHIBIT I

FREE WORLD—REPORTED STOCKS OF REFINED COPPER

[In thousands of short tons]

	1969	1970	1971	1972	1973	1974	1975	1976	March 1977	June 1977	July 19977	August 1977
Producer stocks:												
United States	42.0	142.6	82.7	99.5	43.2	151.6	260.7	272.8	259.1	224.0	203.5	169.7
Japan	19.7	24.8	54.9	29.9	58.5	117.6	207.0	172.1	174.9	196.4	197.5	
Rest	211.4	239.0	162.3	178.7	251.8	327.4	372.6	279.4	303.8	314.5	322.7	
Total	273.1	406.4	299.9	308.1	353.5	596.6	840.3	724.3	737.8	734.9	723.7	
Exchanges:												
Comex	4.0	18.0	20.3	57.8	5.9	43.3	100.0	201.0	213.2	211.0	205.4	200.9
LME	20.5	79.5	154.7	201.7	38.4	146.2	555.3	665.2	675.8	660.7	667.4	672.5
Total	24.5	97.5	175.0	259.5	44.3	189.5	655.3	866.2	889.0	871.7	872.8	873.4
Consumer stocks:												
France	58.2	69.1	51.3	53.6	57.3	70.9	63.2	58.4	56.2			
Germany	46.3	60.0	62.1	66.1	45.6	61.5	76.2	79.8	74.3			
Japan	26.0	17.5	27.8	42.8	54.3	71.8	121.7	111.3	140.1			
United Kingdom	17.4	27.1	26.5	32.7	17.0	28.9	22.5	25.1	26.2	30.5		
United States	76.9	147.2	135.0	114.0	108.0	179.0	177.0	177.0	194.0			
Total	224.8	320.9	302.7	309.2	282.2	412.1	460.6	451.6	490.8			
Government stocks:												
United States	253.4	253.4	253.4	258.6	251.5			42.1	42.1			
Japan								55.6	55.6	55.6		
Total	253.4	253.4	253.4	258.6	251.5			97.7	97.7			
Total reported stocks	775.8	1,078.2	1,031.0	1,135.4	931.5	1,198.2	1,956.2	2,139.8	2,215.3			
Change in stocks		+302.4	−47.2	+104.4	−203.9	+266.7	+758.0	+183.6	+75.5			
Refined consumption	6,326	6,415	6,314	6,911	7,659	7,175	6,020	7,100				
Ratio of stocks to consumption	12.3	16.8	16.3	16.4	12.2	16.7	32.5	30.1				
Number of months stock (based on annual consumption)	1.5	2.0	2.0	2.0	1.5	2.0	3.9	3.6				

Source: American Bureau of Metal Statistics, World Bureau of Metal Statistics, U.S. Department of Commerce. Phelps Dodge Corp., Controller's Department, Statistical Section, Sept. 26, 1977.

EXHIBIT II

NET INCREASE IN FREE WORLD COPPER MINE PRODUCTION CAPACITY, 1976–80

[In thousands of short tons]

Area/country	Mine production 1973	1974	1975	1976	Estimated capacity, Dec. 31, 1976	Additional capacity scheduled for completion during— 1977	1978	1979	1980	Total planned, 1977–80	Estimated capacity, Dec. 13, 1980
North America:											
United States	1,718	1,597	1,413	1,606	1,950	40	27	58	15	140	2,090
Canada	908	905	809	798	950	23	2	68	(3)	90	1,040
Mexico	89	91	86	98	110	25	150			175	285
Other	4	8	6	8	20						20
Total	2,719	2,601	2,314	2,510	3,030	88	179	126	12	405	3,435
South America:											
Chile	811	994	913	1,108	1,150				50	50	1,200
Peru	237	235	192	238	415	35			40	75	490
Other	14	13	8	5	15			50		50	65
Total	1,062	1,242	1,113	1,351	1,580	35		50	90	175	1,755
Africa:											
Zambia	779	769	746	781	850						850
Zaire	538	545	545	490	600	50	20	20		90	690
South Africa	194	197	197	217	220	35	5			40	260
South West Africa	32	31	32	43	60						60
Other	[illegible]	84	67	77	90						90
Total	1,627	1,626	1,587	1,608	1,820	85	25	20		130	1,950
Asia:											
Philippines	244	249	249	255	285	38	40	45	65	188	473
Japan	101	90	94	90	90						90
Indonesia	42	71	70	74	70						70
Iran	3	7	8	8	10		160			160	170
Other	90	99	[illegible]	115	135	30			20	50	185
Total	480	516	519	542	590	68	200	45	85	398	988

EXHIBIT 11

NET INCREASE IN FREE WORLD COPPER MINE PRODUCTION CAPACITY, 1976–80—Continued

[In thousands of short tons]

Area/country	Mine production 1973	1974	1975	1976	Estimated capacity, Dec. 31, 1976	Additional capacity scheduled for completion during— 1977	1978	1979	1980	Total planned, 1977–80	Estimated capacity, Dec. 31, 1980
Oceania:											
Australia	243	277	241	236	250		12			12	262
Papua New Guinea	202	203	190	195	200						200
Total	445	480	431	431	450		12			12	462
Europe	323	308	322	341	380		20			20	400
Other production	6,656	6,773	6,286	6,783		276	436	241	187	1,140	
Total free world capacity					7,850	8,126	8,562	8,803	8,990		8,990
Percent change	+7.0	+1.8	−7.2	+7.9		+3.5	+5.4	+2.8	+2.1		+3.5

Source: Phelps Dodge Corp., Controller's Department, Statistical Section, Aug. 25, 1977.

SENATE—*Monday, October 10, 1977*

(Legislative day of Thursday, October 6, 1977)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, offered the following prayer:

Almighty God, eternal and unchangeable, who rules over Thy creation from generation to generation, give us grateful hearts as we remember the intrepid pioneers who first discovered this new world. Remembering how they traversed the unfamiliar seas, wilt Thou make us explorers of the Spirit to bring to this new world a more perfect order according to Thy kingdom.

Abide in the hearts and minds of all who serve in this place to resolve all discord, banish all resentment, eliminate distrust, and so bind us together in singleness of purpose and completeness of dedication that we may concert our best efforts for the welfare of this Nation and the world.

In Thy name and for Thy sake we ask it. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 10, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, October 7, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ORDER FOR ADJOURNMENT TODAY UNTIL 10 A.M. TOMORROW, TUESDAY, OCTOBER 11, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THANKS TO THE PEOPLE WHO MAKE THE SENATE WORK

Mr. STEVENS. Mr. President, on reflection over the weekend concerning the time we spent in the so-called postfilibuster filibuster, I thought of the fact that we had not really thanked the people who make the Senate continue to work, despite our peregrinations. Those members are the official reporters, the people at the desk, the pages, the elevator operators, our own personal floor staff, and all of those who are employed to make the Senate work more efficiently and who are, by necessity, required to work long hours and, therefore, lose many of their own personal life opportunities because we get embroiled in delays and disputes such as we experienced on the natural gas deregulation bill. I, for one, would like to thank them.

I cannot remember, during that whole period, one cross word from anyone, whether it was from someone at the door or at the desk, or even from one of our good friends, the Parliamentarians, who faced tasks that were almost Herculean at times. I think that it is a credit to the Senate that we can emerge from such a prolonged, heated debate of that nature, with tempers as high as they were at times, including my own, and not find anyone from our professional staff who lost his or her sense of humor, or sense of purpose, as far as the tasks of the Senate were concerned.

Mr. ROBERT C. BYRD. Mr. President, I share the sentiments that have been expressed by the distinguished minority whip. I wish personally to add my thanks to those he has expressed to all concerned.

COMMITTEE MEETINGS DURING SENATE SESSIONS THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to sit during the sessions of the Senate on Tuesday, Wednesday, and Thursday, October 11, 12, and 13, to conduct confirmation hearings on the nomination of Judge Frank Johnson to be Director of the FBI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action be vitiated for the moment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ON THE RETIREMENT OF ROBERT S. ALLEN: A PIONEER STILL ON THE MOVE

Mr. ROBERT C. BYRD. Mr. President, there are few nations in the world in which the press plays the role that it does in the United States. In this country, newspaper reporters, syndicated columnists, and news broadcasters have become vital elements of the democratic processes by which our Government and society function effectively.

The tradition of a free and responsible press is one of the foundation stones of our Republic. The story of John Peter Zenger and his vindication against an oppressive colonial government is a tale familiar even to young schoolchildren in America. One of the basic rights guaranteed by the first amendment to the Constitution is the exercise of the principle of freedom of the press.

Throughout our history, journalists have contributed significantly to shaping the course of this Nation. One journalist,

Horace Greeley, was even a major contender for the Presidency in 1872. Thomas Nast the great journalistic artist, established the political cartoon as an influential genre of public communication, and, in so doing helped to decide the fate of men and issues in the later 19th century. Carl Schurz another famous newspaperman of the last century, alternated successfully his career in journalism with roles as an ambassador to Spain, a Senator from Missouri, and the Secretary of the Interior under President Hayes.

The complexity of 20th century society in America has demanded an increasingly sophisticated and alert response from journalists. One of the pioneers of modern American journalism has been Robert Sharon Allen, a man whose life has spanned some of the most dramatic events in this century, and whose career has helped forge journalistic frontiers. Colonel Allen, whose military career began in the 6th Cavalry along the Mexican border in 1916, and expanded to include service in World War I and World War II, was born in 1900. Now at an age when many men and women have been retired for at least a decade, Robert S. Allen is in the process of "changing gears in his profession," as he says. Instead of maintaining the same tight schedule that has produced a continuous flow of daily columns for so many years, Colonel Allen will limit his syndicated columns to those issues about which he feels most deeply. Nevertheless, this change is noteworthy, for Robert S. Allen is one of the men whose actions and opinions have ultimately made an impression on millions in this century.

Colonel Allen launched his career as a reporter in 1923 during the Coolidge administration, when he perceptively covered Aldolph Hitler's abortive putsch in Munich. Subsequently, at the age of 29, Allen became head of the Christian Science Monitor's Washington bureau—the youngest bureau chief in the city at that time.

Therefore, Robert Allen became a newspaperman's newspaperman, pursuing leads and stories to their limits, and establishing new standards for veracity and accuracy. In partnership with the late Drew Pearson, he achieved the pinnacle of recognition as a national columnist.

When the United States was drawn into World War II, Mr. Allen was called back to active duty in the Army, and served as Chief of Combat Intelligence in the 3d Army under Gen. George S. Patton. Severely wounded and captured by the enemy near Ohrdruf, Germany, 1 month before the end of the war, Colonel Allen received the Purple Heart, in addition to the Silver Star, the Legion of Merit, Special Commendation Ribbon with Cluster, French Legion of Honor, and the Croix de Guerre, which were awarded for valor and service.

Returning to civilian life, Robert Allen overcame the results of his wounds and resumed his pace-setting career as a columnist.

Mr. President, I congratuate Robert S. Allen for the creative role that he has played in American journalism during his lifetime, and I wish him renewed success and recognition in the years ahead. He can be assured that his energetic pursuit of fact and truth, and his patriotic commitments to the best standards of good and honest government have made this country a more secure, just, and decent Nation in which to live.

UNANIMOUS-CONSENT AGREEMENT—NOMINATIONS

Mr. STEVENS. Mr. President, still on the minority leader's time, may I ask the distinguished majority leader, a question has been raised about the unanimous-consent agreement that was entered into on Friday concerning the vote on Mr. Ferris and Mr. King. It is my understanding that that vote is to take place following the disposition of S. 1585, and that it would be without debate on both nominations. We now have a request for a short period of time and I wonder if the distinguished majority leader would be willing to set forth a short period of time, say 20 minutes, on each, equally divided, or something of that order.

Mr. ROBERT C. BYRD. It is certainly agreeable with me. Would the distinguished minority whip recommend that much time on each of the nominations of Mr. Ferris and Mr. King?

Mr. STEVENS. It is Mr. King's, but since we are taking both under the same procedure, if anyone wishes to express a comment about Mr. Ferris, it seems to be just a matter of fairness. We have no request at this time. The request at this time is for Mr. King. Could we just get an agreement that if someone seeks time, there will be 20 minutes, equally divided, on each of those nominations when they are called before the Senate?

Mr. ROBERT C. BYRD. I do not believe there has been any request on our side for time on Mr. Ferris. I would like to leave that as it is. If the distinguished Senator wishes 20 minutes, equally divided, on Mr. King, we can arrange that.

Mr. STEVENS. Very well. That is the request at this time, if the majority leader would request it.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that following the disposition of the nomination of Charles D. Ferris to be a member of the Federal Communications Commission, there be a time for debate on the nomination of Mr. James B. King, to be a member of the National Transportation Safety Board, of not to exceed 20 minutes, to be equally divided between the majority and minority leaders or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION TO ORDER YEAS AND NAYS ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I understand there will be a rollcall vote on both those nominations. So, I ask unanimous consent, as in executive session, that the yeas and nays on the two nominations may be ordered at any time and with one show of seconds.

Mr. MATHIAS. Reserving the right to object, when the majority leader says "any time" could he give us some indication of when that may be?

Mr. ROBERT C. BYRD. I am just talking about the order for the yeas and nays—at any time.

Mr. MATHIAS. I see.

Mr. STEVENS. It will follow the disposition of S. 1585, the bill pertaining to the use of minors.

Mr. ROBERT C. BYRD. The votes will occur then, but my thought was that at any time we have enough Senators on the floor we might proceed to order the yeas and nays.

Mr. MATHIAS. There is certainly no objection to that.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. I thank the distinguished majority leader.

There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I yield back the remainder of the minority leader's time.

The ACTING PRESIDENT pro tempore. Does the Senator from West Virginia have any further business?

Mr. ROBERT C. BYRD. No. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for a period not to exceed 15 minutes.

THE ENERGY DILEMMA

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has now passed its versions of President Carter's nontax energy proposals. While I do not agree with every provision of each of these bills, I think that on balance they move the country in the right direction so far as energy conservation is concerned.

I believe that the President was correct in laying stress upon conservation, and both the House and the Senate have supported him in this.

Indeed, it may be desirable for the Senate Finance Committee to reconsider its rejection of one of the President's tax proposals in the conservation field—I am referring to the proposed levy on the industrial and utility use of gas and oil. If limited to major installations, and with credits to avoid unreasonable burdens upon industry and consumers, this tax may prove a desirable addition to the nontax energy bills already cleared by the Senate.

In any event, I think a good beginning has been made in conservation.

The great defect of the President's program is that it provides no incentive to increase domestic production.

It is my conviction that the Nation needs both conservation and increased production to achieve more reliable energy supply.

It is the lack of incentive for production which has led to the rejection of the President's energy tax program in the Senate Finance Committee.

The Finance Committee, despite the diligent efforts of its chairman, Senator LONG, has reached an impasse on the President's energy tax program.

While a large majority of the committee finds the President's program unacceptable, there is no consensus within the committee as to what should be done.

The President's plan takes a Rube Goldberg approach, placing a heavy tax burden upon the people and then scattering the huge tax take to the four winds in the form of a per capita rebate.

The President's plan, which is embodied in the House-passed legislation, would place upon the American people the heaviest peacetime tax increase in the Nation's history. Yet it does not even purport to bring forth any significant additional energy to meet the country's needs.

The Finance Committee tomorrow will consider proposals providing for various tax credits and incentives. It is difficult for this Senator to foresee what will come of that approach.

As matters now stand, the only energy tax pending in the Congress is the House-passed bill, whose tax provisions have been rejected by the Finance Committee. Hence any credits which we now may consider must be either credits against existing taxes—such as the corporate income tax—or must be framed on the assumption that some modification of the House-passed taxes will be acceptable in the long run.

In short, the Finance Committee is to a large extent legislating in the dark.

From a fiscal standpoint, the net effect of the credits to be considered tomorrow would be to reduce revenues at a time when the Government already is heavily in the red. In light of the fact that the estimated Federal funds deficit for the current fiscal year will be the greatest in the Nation's history—$74 billion—I am most hesitant to vote for tax credit measures at this time, when the revenue source for such credits is so unclear.

Nevertheless, in an effort to work with the committee to develop production incentives, I am willing to examine with an open mind each of the credit proposals which members may put forward.

I do feel, though, that given the present situation, we should not give final approval to any single tax credit until some kind of package is developed, and until a decision is reached as to what revenue measures are necessary or desirable.

The present situation would seem to have serious implications with regard to the timing of action on the energy program.

It seems possible that the Finance Committee may report a more or less bland tax bill, planning to send it to a House-Senate conference at which the real, final energy tax program would be written.

Should that occur, the conference certainly will be lengthy. Moreover, Senate consideration of the conference report may be expected to take considerable time, as Senators surely will want to be fully informed about all the implications of the tax program.

I am coming around to the view that it may be desirable to put the whole matter over until January, unless the administration can sooner develop a new approach to the energy problem—one which will include provision for developing additional energy sources.

Some contend that if the Congress does not enact an energy tax program this year, the President will call the Congress back into session.

That would be satisfactory to the Senator from Virginia.

However, I believe that the administration would find it in its own interest to develop an acceptable alternative to its present plan.

It is my belief that the administration's energy tax plan, as it now stands, never will become acceptable either to the Finance Committee or to the Senate as a whole.

If the Congress should adjourn without final action on energy, then certainly a new plan would have to be prepared before the President called the Congress back. Otherwise the call would be an exercise in futility.

In fact, a new proposal from the administration would be helpful in any event—and the sooner the better.

I guess my message to the President and to Secretary Schlesinger, Secretary Blumenthal, and their associates could be summarized in the words of an old automobile advertisement:

Eventually—why not now?

Regardless of the administration's action or inaction, I shall cooperate with Chairman LONG as he and the Finance Committee endeavor to find a way out of a difficult dilemma.

IMPACT AID TO SCHOOLS

Mr. HARRY F. BYRD, JR. Mr. President, the Federal impact aid program is, I feel, a just and fair program and one which should be continued.

The purpose of the program is to compensate localities throughout the Nation for Federal property which is nontaxable by the localities and to aid also the impact which large concentration of Federal employees has on the cost of community services which must be provided.

This seems to me to be appropriate, fair, and reasonable.

Another reason I favor the impact aid program is that it is one of the few Federal programs where funds go back to the communities without strings attached. It enables our educators to make the best use of available dollars, benefiting both the community and the Government.

One of the many counties benefiting from the impact aid program is Arlington County, Va., situated just across the Potomac River. Federal land, buildings and improvements located in Arlington County have been assessed at $630 million. If such property were privately owned, the real property tax due Arlington County would exceed $9 million.

I ask unanimous consent that a resolution on impact aid to schools, adopted September 10, 1977, by the Arlington County Board, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ON IMPACT AID TO SCHOOLS

Whereas, Federal land, buildings and improvements located in Arlington County have been assessed at $630.4 million,

Whereas, Arlington County bears the financial burden of providing many community and educational services for these properties and their occupants and employees, and

Whereas, if such property were privately owned, the real property tax due to Arlington County would approximate $9.4 million,

Therefore be it resolved that the County Board of Arlington County, Virginia urges that

1. Congress recognize the burden on local taxpayers who provide a high level of community services for Federal property including education to children of Federal employees and adopt a source of funding for these services whereby a locality could tax Federal property or receive payments equivalent to that tax in lieu thereof, and

2. Congress continue its support of "Category B" impact aid as the viable source of funding for the public education of pupils whose parents work for the Federal government, if such in lieu of tax payments are not provided.

ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, I yield the remainder of my time to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes, plus the 6 minutes which the Senator from Virginia has yielded.

Mr. ALLEN. I thank the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) for yielding the remaining portion of his time to me. I doubt that I shall use all the time that has been allotted and that has been yielded to me.

UNIVERSITY OF ALABAMA VERSUS UNIVERSITY OF SOUTHERN CALIFORNIA

Mr. ALLEN. Mr. President, the distinguished minority whip, Mr. STEVENS, a few moments ago was talking about happenings and meditations over the weekend. I suppose the most important happening over the weekend—certainly one of the most important happenings—was the upset victory by the University of Alabama's great Crimson Tide football team over the No. 1 ranked USC football team, which was and is a great team and certainly a spectacular team.

I commend the University of Southern California for their great football team and their near comeback in the fourth quarter. At the same time, I must comment on the University of Alabama's great upset victory and commend the team and the coaching staff, headed by coach Paul Bryant. It was a most spectacular game, and I am sure that those

who attended it or saw it on television or heard it on the radio were thrilled throughout the game by this meeting of two great teams.

PANAMA CANAL TREATIES—NO. 14

Mr. ALLEN. Mr. President, over the past days and weeks, I have been discussing here on the floor of the Senate certain major defects in the proposed Panama Canal treaties which have been sent by the administration to the Senate for consent.

I say "consent," because there are many treaties by the administration without our having had an opportunity to advise with the administration or with the negotiators as to the content of the treaties.

In the course of these discussions, in the course of the studies we have each undertaken of these proposed new arrangements with Panama, and in the course of the various committee investigations, in my judgment the Senate has now reached a point at which the treaties are sufficiently well understood by us all to recommend to the President of the United States that the treaties be withdrawn.

Certainly, my own conclusion after careful deliberation is emphatically that the Senate should not give its consent to these treaties in their present form and, furthermore, that these treaties are so defective as to render inappropriate any attempt to correct them by amendment, reservation, or understanding or through any extrinsic exchange of notes or similar device.

Mr. President, it seems to me that if we do add many amendments to the treaties, if we add reservations to the treaties, if we add understandings to the treaties, we would end up with a patchwork document; and I do not believe we should have to go to other documents to determine what the treaty means. I think we should have a treaty that, within the four corners of the document itself, will consist of wording that explains exactly what the agreement is.

Law school freshmen learn in their early days, in their course on contracts, that a contract requires a meeting of the minds. There has been no meeting of the minds here, because the Panamanian negotiators say the treaties mean one thing and our negotiators say they mean something else.

I must say that the drafting of these treaties was done in a slipshod fashion, if we are not able to draft a document by which both sides understand exactly what the provisions of the treaty mean.

We should not have negotiators leaving the negotiating table and then, as soon as the treaties are signed by the heads of States of the two countries, have disagreements as to what the treaties mean.

Of course, I contend—and I feel that it is a correct assessment—that if we amend the treaties, the treaties are dead. They have to go back to be renegotiated. So if we do amend the treaties, as distinguished from adding reservations and understandings, a treaty as amended, whether it is voted by the Senate or voted down by the Senate, could serve as a guide for our negotiators, indicating how the people of the United States, acting through their duly elected Senators, feel about the treaty. They could use this treaty, as so amended, if it is allowed to stay before the Senate, as a guideline to redraft the treaty.

I believe we need to have the treaties withdrawn and renegotiated, because the points have been made to the Senate and to the administration that the provisions of the treaties have brought forth conflicting interpretations by the parties. I feel, therefore, that the best course would be to withdraw the treaties at this time, rather than to have the Senate working on trying to reshape the treaties, as it must do, as must be done.

If these treaties stay before the U.S. Senate, the only question will be whether these revisions will be made in the form of amendments, which would kill the treaties—require them to go back to the negotiating table—or whether the amendments will be by reservations, unilateral statements of our understanding, reservations which would be to the resolution of ratification.

If agreed to by the Panamanians, it would become effective, and then understandings, of course, do not have to be acquiesced in by the Panamanian Government.

But the only safe way to do it is, if the treaties are to remain before the Senate, to amend the treaties at the basic points that need revision, and not handle it by reservation or understanding. So that if we seek to correct these defects by amendment, reservation, or understanding or through any extrinsic exchange of notes or similar device, I believe we will have a document that does not tell the contract and will have to refer to other documents to find out what was meant by the wording of the treaties. As I say, we ought to have a treaty that in and of itself explains the understanding.

I believe my view of the matter is shared by a sufficient number of Senators to warrant an immediate and complete withdrawal of the treaties by the executive department and a reinitiation of negotiations with Panama by the Department of State along lines not inconsistent with opinion in the Senate and in the country. Accordingly I do strongly urge and advise the President of the United States forthwith to withdraw these unfortunate, ill-conceived, and poorly drafted documents.

We have reached this state of affairs, Mr. President, because of what I conceive to be a fundamental error in the manner in which the treaties were negotiated from the outset. I refer to the impenetrable veil of secrecy which surrounded the treaty negotiations right up to the moment of their signing 1 month ago on September 7, 1977. This veil of secrecy prevented Senators—and, indeed, the Congress—from having any role whatsoever in advising the President as to the best course of action to follow in striking a bargain with Panama. Perfunctory briefings containing little information and seeking no advice, to be sure, were conducted. But, indeed, how could sound advice be given the President in any circumstance so long as the real substance of the negotiations—the real substance of the treaties under negotiation—was wholly unknown to Senators and top secret even at the highest levels of the administration?

The authors of the Constitution wisely provided for a check on the unrestrained power of the executive department in foreign affairs by requiring the advice of the Senate and its consent by a two-thirds vote to any treaty arrangement with a foreign state. Certainly, at that early time in our history the authors of the Constitution sought and contemplated a system under which the Congress and the Senate took the lead in directing the foreign policy of the country and a system under which the Executive carried out the desires of the people in foreign policy as expressed by the people's representatives in Congress assembled.

While I can acknowledge that in practice the executive department has more and more taken the lead in foreign policy matters, I cannot concede—and it would be improper for the Senate to concede—that we have reached a stage in our history at which the Senate is prepared simply to rubberstamp any foreign policy proposal put on the table by the President. Our country will suffer immeasurably and irreparably if the Senate ever acquiesces to the desires of the executive department to the extent that treaties presented to the Senate are simply rubberstamped—I am confident the Senate is not going to rubberstamp these treaties. Approval should come, Mr. President, only after probing investigation, full discussion, and, above all, substantial prior advice.

So, Mr. President, these proposed Panama Canal treaties were negotiated in secret without the involvement of the Congress and hence without the involvement of the American people. The price of that secrecy must now be paid. These treaties are not acceptable to the American people, not acceptable to the Congress, nor in my judgment are they acceptable to two-thirds of the Senate.

Had the advice of the Senate been seriously sought, I am certain that these documents would not have been presented to us in their present form. Had the advice of the Senate been seriously sought, I am certain any proposed arrangement with Panama would have provided for an adequate defense of the canal to insure the national security interests of the United States. Had the advice of the Senate been seriously sought, these treaties would have established a treaty regime under which the United States was guaranteed the right to take appropriate action to preserve vital national interests at this key strategic location. Had the advice of the Senate been seriously sought, no treaty would have been negotiated which denied the United States its sovereign right to enter into

an agreement with a third state for the construction of a second canal—and we do not have that right for 23 years under the provisions of the treaty. We cannot even negotiate with any other nation in the Western Hemisphere about another canal for the entire life of the first treaty. Had the advice of the Senate been seriously sought, no agreement would have been negotiated which provided for the massive cash payments to Panama now contemplated. Finally, Mr. President, had the advice of the Senate been seriously sought, no treaty would have been concluded which violated basic American constitutional principles by denying to the House of Representatives a role in a proposed cession of U.S. territory. But, Mr. President, the advice of the Senate was not sought, and now that the lesson has been learned, I sincerely hope and trust that the President of the United States will recognize that an error has been made and will take the corrective action I suggest.

Few, if any of us, would assert that no new treaty with Panama should be concluded under any circumstances, but, Mr. President, not these treaties—not these treaties.

The mistakes made in this instance are not novel. As many Senators in this Chamber today undoubtedly recall, perhaps from their own experience, in the past the executive department made a practice of including Senators in negotiating delegations sent to foreign lands on missions undertaken for the purpose of discussing important treaty relations. Unhappily, that sound practice has fallen out of use. But never before in the history of our country has the Senate been so completely excluded from any participation in the negotiating process, nor has the Senate ever been so completely denied a role in giving its advice to the President on such an important and critical foreign policy matter of great national significance; never before has the Department of State so completely insulated the President from the Senate and from the people, as has been done in negotiating these proposed arrangements with Panama. The exclusion of the Senate and the Congress and the people has been total.

The only past situation which might be said to be even remotely comparable was President Woodrow Wilson's decision to ignore the advice of the Senate in negotiating and signing the Treaty of Versailles at the conclusion of World War I. The result of that mistake is well known. President Wilson, a leader whom I have always admired as a great statesman—I was born on his birthday, I will say—made the serious error of assuming he could present the Senate of the United States with the Treaty of Versailles to establish the League of Nations and, on the strength of his own popularity, insist upon its approval. Wilson is reported by some to have stated to Senators in a meeting at the White House during consideration of the Treaty of Versailles:

> I do not wish to see an "i" dotted or a "t" crossed.

The result, of course, was that he saw the complete defeat of what he considered to be his greatest potential contribution to the history of man and nations.

One of the 14 points which President Wilson set forth as a basis for the negotiation of the Treaty of Versailles was that he would support only "open covenants openly arrived at." In that respect, at least, President Wilson demonstrated his great statesmanship by recognizing the impropriety of secret negotiation of secret agreements touching the vital interests of a democratic state. A gangster dictatorship—and the Government of Panama is thought by many, including myself, to be a gangster dictatorship—is able to operate behind closed doors and, indeed, could not operate in the glaring light of public disclosure. But, Mr. President, our country is a free nation composed of free citizens, and negotiations by our Government, regardless of subject matter, must be open to debate and full discussion in all forums. In a free country open and frank discussion does not impede foreign policy negotiation; in a free state, open discussion guarantees honesty in relations with foreign states and insures that the executive department does not take a position in foreign policy inconsistent with the will of the people and, therefore, not supportable in action.

The President has belatedly taken a half-step in the right direction by seeking the consultation of certain Senators in devising so-called clarifying language to clear up only two of the many grave flaws in these treaties. But, Mr. President, let us not participate in the charade of pretending that clarifying language can resurrect these dead instruments. These documents are inherently flawed. No amount of understandings with the present dictator of Panama can correct the clear language of these treaties which deny to the United States basic rights vital to our security and commerce.

Even an understanding reached with a legitimate foreign government could not correct the clear unambiguous language of these treaties which denies to the United States the right to intervene to insure the neutrality of this strategic canal and which would put our warships in an emergency on the same footing with merchant vessels carrying bananas, because the Panamanians say our warships are just going to have to get in line with the other ships. We do not have any priority. So we cannot accept this, of course.

Even an understanding with a legitimate democratic government could not correct these flaws. How, then, can we expect a so-called understanding reached with a bankrupt government composed of political criminals and petty intriguers, of Communists and Communist dupes, of profiteers, racketeers, and smugglers—how can we expect an understanding reached with a government of that ilk to have any validity in the eyes of the people of a free republic governed by freely elected representatives? So, please, spare us the charade.

Let us have instead a frank decision that these documents must be withdrawn. Let us have instead an effort thereafter to negotiate openly with the advice of the Senate, with the participation of the Congress, and with the informed consent of the American people to the end that new proposals may be submitted to the Senate in a form to which the Senate can in good conscience give its consent. In that process let us reeducate our negotiators and let the people be.

If these treaties are not withdrawn, then certainly Senators would find it proper to continue a detailed analysis of each and every provision of the treaties, of the executive agreements, of the annexes to the executive agreements, of the notes, of the protocols, of the maps, of the appendices, and of all the other documents and evidence bearing on this subject. The major flaws have already surfaced; yet if need be, much work remains to be done; if need be, many questions must be answered; if need be, the full light of public knowledge must illuminate every nook and cranny of these complicated documents and of the complicated procedure by which they were negotiated. I hope that process will not be necessary. Certainly, we have learned enough already to warrant the step I recommend.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ALLEN. Mr. President, I thank the Chair.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1303, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Legal Services Corporation Act Amendments of 1977".

FINANCING

SEC. 2. (a) Section 1010(a) of the Legal Services Corporaton Act (42 U.S.C. 2996i(a)) is amended by striking out "and" in the first sentence thereof and inserting before the period at the end of such sentence a comma and "$225,000,000 for fiscal year 1978, and such sums as may be necessary for each of the four succeeding years.".

(b) Section 1010(c) of the Legal Services Corporation Act (42 U.S.C. 2996i(c)) is amended by striking out the semicolon and

all that follows and inserting in lieu thereof a period.

MEMBERSHIP OF GOVERNING BODIES

SEC. 3. (a) Section 1004(a) of the Legal Services Corporation Act (42 U.S.C. 2996c (a)) is amended by inserting at the end thereof the following new sentence: "At least three persons appointed to fill vacancies occurring after January 1, 1977, and before July 30, 1978, shall be, when selected for appointment, eligible clients who may be representatives of associations or organizations of eligible clients and at least one such person shall be appointed to fill a vacancy occurring prior to January 1, 1978. Following July 30, 1978, at least three members of the Board shall be eligible clients. The membership of the Board shall be appointed so as to be generally representative of the organized bar, significant segments of the client community, attorneys providing legal assistance to eligible clients, and the general public.".

(b) Section 1007(c) of the Legal Services Corporation Act (42 U.S.C. 2996f(c)) is amended by striking out "and which includes at least one individual eligible to receive legal assistance under this title." and inserting in lieu thereof "and at least one-third of which consists of persons who are, when selected, eligible clients who may be representatives of associations or organizations of eligible clients.".

SUNSHINE PROVISION

SEC. 4. Section 1004(g) of the Legal Services Corporation (42 U.S.C. 2996c(g)) is amended by striking out all that follows "open" and inserting in lieu thereof "and shall be subject to the requirements and provisions of section 552B of title 5, United States Code (relating to open meetings).".

SUPPORT ASSISTANCE

SEC. 5. Paragraph (3) of section 1006(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)) is amended by striking out "and not" and inserting in lieu thereof a comma and "or".

POWERS, DUTIES, AND LIMITATIONS OF THE CORPORATION AND RECIPIENTS

SEC. 6. (a) Section 1006(b)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(1)) is amended by inserting "(A)" after "SEC. 1006(b)(1)" and by adding at the end thereof the following new subparagraph:

"(B) No question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be considered in any proceeding in which a person is represented by a recipient or an employee of a recipient. Such questions may be referred to the Corporation for such disposition as the Corporation deems necessary.".

(b) Section 1006(d) of the Legal Services Corporation Act (42 U.S.C. 2996e(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.".

ACTIVITIES OF STAFF ATTORNEYS

SEC. 7. (a) Paragraph (2) of section 1006(e) of the Legal Services Corporation Act (42 U.S.C. 2996e(e)(2)) is amended by inserting "and staff attorneys" immediately after "Corporation".

(b) Section 1007(a)(6) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(6)) is amended by striking out the matter following clause (C).

ASSISTANCE CRITERIA

SEC. 8. (a) Paragraph (2)(B)(iv) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(B)(iv)) is amended to read as follows:

"(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an appropriate employment situation; and".

(b)(1) Paragraph (2)(C) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) is amended to read as follows:

"(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and supporting services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers, and persons with limited English-speaking abilities); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;".

(2) Section 1008(c) of the Legal Services Corporation Act (42 U.S.C. 2996g(c)) is amended by adding at the end thereof the following new sentence: "Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii).".

(c) Paragraph (5)(A) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(5)(A)) is amended to read as follows:

"(A) representation by an attorney (or a recipient employee supervised by such an attorney) for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or ".

(d) Paragraph (8) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(8) is amended by striking out all after "title" and inserting in lieu thereof a semicolon.

LIMITATION ON USE OF FUNDS

SEC. 9. (a) Section 1007(b)(1) of the Legal Services Corporation Act (42 U.S.C. 29966(b)(1)) is amended to read as follows:

"(1) to provide (A) legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available) or in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction, or (B) legal assistance in any criminal proceeding, except to provide assistance to a person charged with an offense involving hunting, fishing, trapping, or gathering fruits of the land, when the principal defense asserted involves rights arising from a treaty with native Americans, or from a statute or Executive order establishing such rights, or to a person charged with a misdemeanor (or its equivalent) or lesser offense in an Indian tribal court;".

(b) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 29966(b)) is amended by repealing paragraph (a) and paragraph (7).

(c) Section 1007(b)(6) of the Legal Services Corporation Act (42 U.S.C. 29966(b)(6)) is amended to read as follows:

"(6) to initiate the formation of any association, federation, or similar entity, except that the provision shall not be construed to prohibit the provision of legal assistance to eligible clients;".

(d) Section 1007(b)(9) of the Legal Services Corporation Act (42 U.S.C. 29966(b)(9)) is amended to read as follows:

"(9) to provide legal assistance with respect to any proceeding or litigation arising out of desertion from the Armed Forces of the United States where counsel is available from the Department of Defense.".

(e) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 29966(b)) is amended by redesignating paragraph (5) as paragraph (4), paragraph (6) (as amended by section (c) of this section) as paragraph (5), paragraph (8) as paragraph (6), and paragraph (9) (as amended by subsection (d) of this section) as paragraph (7).

MODEL PROJECTS

SEC. 10. The Legal Services Corporation Act (42 U.S.C. 2996(g)) is amended by adding after section 1007(g) the following subsection:

"(h) The Corporation may make grants or contracts for the purpose of paying all or part of the cost of developing or operating (or both) national, statewide, regional, county, city, or community model projects which will expand or improve the delivery of legal services to significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems, including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers, and persons with limited English-speaking abilities. Not more than 3 per centum of the sums appropriated under section 1010(a) for fiscal year shall be used for projects under this section.".

AUDITS AND RECORDKEEPING

SEC. 11. Paragraph (2) of section 1009(b) of the Legal Services Corporation Act (42 U.S.C. 2996h(b)(2)) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).".

DECLARATION OF PURPOSE

SEC. 12. Section 1001 of the Legal Services Corporation Act (42 U.S.C. 2996) is amended by inserting before the semicolon at the end of paragraph (3) "and assist in improving opportunities for low-income persons consistent with the purposes of this Act".

HEARING EXAMINERS

SEC. 13. Section 1011(2) of the Legal Services Corporation Act (42 U.S.C. 2996j(2)) is amended by inserting before the period at the end thereof a comma and "and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.".

EFFECTIVE DATES

SEC. 14. (a)(1) The amendment made by section 2(a) of this Act shall be effective with respect to fiscal years beginning after September 30, 1977.

(2) The amendment made by section 3(b) of this Act shall be effective six months after the first day of the first calendar month following the date of enactment of this Act.

(b) The amendments made by provisions of this Act other than sections 2(a) and 3(b) shall be effective on the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 437, 438, 439, 441, and 443.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, these have been cleared on both sides of the aisle.

Mr. SCHMITT. Mr. President, as the distinguished majority leader has said these are cleared on our side and we have no objection.

LUDWIK KIKLA

The bill (S. 280) for the relief of Ludwik Kikla, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Ludwik Kikla shall be held and considered to be the natural-born alien son of Cyril Kikla, a citizen of the United States. The natural parents, brothers, and sisters of the said Ludwik Kikla shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-472), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to qualify for first preference status as the unmarried son of a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 30-year-old native and citizen of Poland who entered the United States on May 22, 1971, as a visitor. He was adopted on October 31, 1973, by a relative who is a citizen of the United States and presently resides with him in Nanticoke, Pa. The beneficiary is employed as a nurse's aide.

A letter, with attached memorandum, dated April 26, 1973, to the chairman of the Senate Committee on the Judiciary from the then Acting Commissioner of Immigration and Naturalization with reference to S. 581, a similar bill for the relief of the same beneficiary which passed the Senate in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE, OFFICE OF THE COMMISSIONER,
Washington, D.C., April 26, 1973.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 581) for the relief of Ludwik Kikla, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the 26-year-old beneficiary may be classified as the unmarried son of the interested party, a U.S. citizen, and be granted first preference status. The bill does not contain the usual provision that the natural parents or step-parents of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Poland, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 581

The beneficiary, Ludwik Kikla, a native and citizen of Poland, was born on January 10, 1947. He completed 9 years of school in his native land and subsequently attended a technical school in Poland for 2 years, which he did not complete, studying to become an electrician. He served in the Polish army from 1967 until 1969 and was subsequently employed in Poland as a truck driver for approximately 8 months. The beneficiary is single and resides in Nanticoke, Pa., with the interested party, who provides his support. His assets consist of personal property of nominal value. The beneficiary's parents, four brothers, and two sisters reside in Poland.

The interested party, Cyril Peter Kikla, who is the beneficiary's cousin, has also used the name Cyril P. Kitler. He was born in Nanticoke on December 31, 1920. He completed 2 years of college. He is single and was never married. During World War II, the interested party served in the U.S. Army from October 8, 1942, until October 17, 1944, when he was honorably discharged, a board of medical officers having issued a certificate of disability because of a previously existing condition. The interested party was a civilian employee of the U.S. Army from 1954 until his retirement in 1971. He receives retirement benefits of $300 a month and receives another $1,000 annually as interest from his cash savings. He also does odd jobs, receiving approximately $1,000 annually from this source. This interested party's assets consist of cash savings of $24,000, a house valued at $9,000, and an automobile valued at $1,000.

The beneficiary was admitted to the United States as a visitor for pleasure on May 22, 1971. He was granted extensions of staying until February 28, 1973. Deportation proceedings were instituted against him on the ground that he has remained in the United States for a longer time than permitted. Following a hearing, he was found deportable as charged and was granted the privilege of voluntary departure with the alternative of deportation if he fails to depart when required.

The interested party has stated he desires to adopt the beneficiary for companionship as well as providing assistance to a member of the family.

BHARAT N. PAREKH

The Senate proceeded to consider the bill (S. 200) for the relief of Bharat N. Parekh, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "immigant" and insert "immigrant"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Bharat M. Parekh shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-473), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in

the United States to Bharat M. Parekh. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended to correct an error in spelling.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of the Philippines, born August 12, 1943. He last entered the United States on August 24, 1972, as a student. He has a bachelor of science degree, a master of science degree, and a Ph. D. degree in hydrodynamics. The beneficiary is employed by North Dakota State University where he is currently engaged in research into development of a Devils Lake Basin hydrologic model.

A letter, with attached memorandum, dated April 7, 1977, to the chairman of the Senate Judiciary Committee from the then Commissioner of Immigration and Naturalization reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., April 7, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 200) for the relief of Bharat M. Parekh, there is attached a memorandum of information concerning the beneficiary, who was also the beneficiary of S. 3863, 94th Congress.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It also directs that a visa number deduction be made.

Dr. Parekh is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 200

The beneficiary, Dr. Bharat M. Parekh, a native and citizen of the Philippines, was born August 12, 1943. He is unmarried and has no children. He resides in Fargo, N. Dak. He has been employed by North Dakota State University at Fargo since 1974 as a research coordinator and assistant professor of hydrologic physics. His current duties there involve full-time research into development of a Devils Lake Basin hydrologic model. His current salary is $24,000 per year. He received a bachelor of science degree in 1963 from the State University of New York at Buffalo; a master of science degree in 1966 and a Ph.D. degree in hydrodynamics in 1974, from the University of Rochester, Rochester, N.Y. He completed 1 year of postdoctoral research at the University of Rochester during 1974. The beneficiary's parents and one brother reside in India. A second brother was admitted for permanent residence on May 20, 1963, at New York City and resides with his wife and children in New York. The beneficiary's assets include savings of $7,000 and a 1971 compact car. He has $200 outstanding on a student loan.

Dr. Parekh has entered the United States numerous times as a student. He was last admitted to the United States, as a student, on August 24, 1972. He was subsequently authorized to remain here until December 22, 1975. Deportation proceedings will be instituted against the beneficiary.

Alien employment certification, requested by North Dakota State University on the beneficiary's behalf, was denied on January 30, 1976, on grounds that qualified workers are available in the United States to perform the duties of the position offered.

IN HEA KIM AND MYUNG SUNG KWON

The Senate proceeded to consider the bill (S. 1551) for the relief of In Hea Kim and Myung Sung Kwon, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 9, strike "beneficiary" and insert "beneficiaries"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, In Hea Kim and Myung Sung Kwon may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Konrad Marine, citizens of the United States, pursuant to section 204 of this Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–474), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as immediate relatives the alien children to be adopted by citizens of the United States, notwithstanding the fact that the prospective adoptive parents have previously had a maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiaries of the bill are babies under 1 year of age who are natives and citizens of Korea presently residing in Seoul in the custody of the Eastern Child Welfare Society. Both children were abandoned at birth. The prospective adoptive parents have adopted two other children who live with them in Decorah, Iowa. Information is to the effect that they are financially able to care for the beneficiaries.

A letter, with attached memorandum, dated July 14, 1977 to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., July 14, 1977.
A22294181.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill S. 1551 for the relief of In Hea Kim and Myung Sung Kwon, there is attached a memorandum of information concerning the beneficiaries and interested parties.

The bill provides that the beneficiaries who are to be adopted by U.S. citizens may be classified as children and be granted immediate relative status. The bill further provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable in this case.

Absent enactment of the bill, the beneficiaries, natives of Korea, would be chargeable to the nonpreference portion of the numerical limitations for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONEL J. CASTILLO,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1551

Information concerning this case was obtained from Mr. and Mrs. Konrad M. Marine, the prospective adoptive parents of the beneficiaries.

The beneficiaries are natives and citizens of Korea. Myung Sung Kwon is a male child born November 28, 1976. In Hea Kim is a female child born November 19, 1976. Both of the children were abandoned at birth and are presently in the custody of the Eastern Child Welfare Society, Seoul, Korea, and are sponsored by Mr. and Mrs. Marine through the Children's Home Society, St. Paul, Minn.

Konrad Merle and Kay Irene Marine are U.S. citizens who reside in Decorah, Iowa. Mr. Marine has a private orthodontic practice and has an annual income of $40,000 per year. He is a graduate of the University of Illinois, and Mrs. Marine is a graduate of Luther College at Decorah, Iowa, with a bachelor of arts degree.

Mr. and Mrs. Marine have adopted one child, a native and citizen of Panama, and one child who is a native and citizen of Costa Rica. The children are both 3 years old and were admitted to the United States upon approval of petitions filed by the Marines to classify them as eligible orphans.

Mr. and Mrs. Marine have purchased a home in Decorah, Iowa, with a value of $40,000 and own an automobile. They have household furnishings with a value of approximately $5,000.

The preadoption requirements for the State of Iowa have been met.

DR. LAWRENCE C. B. CHAN

The bill (H.R. 1934) for the relief of Dr. Lawrence C. B. Chan, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–476), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Lawrence C. B. Chan. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 35-year-old native of Hong Kong and subject of Great Britain who entered the U.S. June 15, 1968, as an exchange visitor, but is no longer subject to the two-year foreign residence requirement. He has an approved third preference with a priority date of November 14, 1972, as a physician but numbers are unavailable. He married a native of Hong Kong August 5, 1968, and they have two citizen children. They reside in Houston, Texas, where the beneficiary has been employed as assistant professor of cell biology at Baylor College of Medicine since March 1, 1973.

A bill for the relief of the same person passed the Senate during the 93d Congress and the following information is reprinted from Senate Report No. 93–1196:

A letter, with attached memorandum, dated July 6, 1973 to the chairman of the Senate Committee on the Judiciary from the then Acting Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
July 6, 1973.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 1534) for the relief of Doctor Lawrence Chin Bong Chan, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment, upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of Hong Kong, British Crown Colony, is chargeable to the third preference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere and their dependent areas.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM THE IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1534

The beneficiary, Doctor Lawrence Chin Bong Chan, a native of Hong Kong, British Crown Colony and subject of Great Britain, was born January 20, 1942. He resides at Houston, Texas, and has been employed as an assistant professor of cell biology at the Baylor College of Medicine, University of Texas, Houston, Texas, since March 1, 1973. His present salary is $11,000 per year. He received his medical degree in Hong Kong in June 1966.

Prior to his present employment, he was employed as an intern and resident-fellow in Missouri and Tennessee. His assets consist of a savings account of $2,000 and personal property valued at $4,000.

The beneficiary was married to Maria Yuen Yue Chan in Canada on August 5, 1967. She was admitted to the United States as the spouse of an exchange visitor. They have two children born to them in St. Louis, Missouri. He has no other close relatives in the United States. His widowed father resides in Hong Kong.

The beneficiary was admitted to the United States on June 15, 1968, as an exchange visitor. He is no longer subject to the two-year foreign resident requirement. Extensions of stay were authorized to June 30, 1973. He filed a petition for third preference as a physician on November 13, 1972, which was approved on November 14, 1972. The latest information indicates that a number under this preference is unavailable.

NATIONAL LAW STUDENT RECOGNITION DAY

The joint resolution (S.J. Res. 80) to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas we reaffirm the basic principles entering its third century of existence as one Nation, supporting world peace through law, and committed to equal justice under law; and

Whereas the United States of America is proclaimed in the Constitution of the United States, as amended, for the establishment of justice; for the protection of life, liberty, and property under due process of law; and for the continued maintenance of equal protection of the laws; and

Whereas the future leaders of America, as in its illustrious past, will include many members of the legal profession at international, Federal, State, and local levels; and

Whereas the training of these future leaders should not only be encouraged and enhanced in the law schools of the Nation, but should also be supported by the bench and bar so as to instill a strong sense of professional responsibility, high ethical standards, and a high level of qualification for private and public services; and

Whereas the law students of the Nation deserve recognition for their commitment to this honorable profession and its contributions toward a more perfect union and the pursuit of happiness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day" and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–478), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize the President to designate November 8, 1977, as "National Law School Recognition Day".

STATEMENT

Law as a field of human activity came into being because of the basic need for an orderly society and for a body of rules and procedures to govern man's relationship to his fellowmen.

Lawyers and those trained as lawyers are called upon by society to perform many varied functions. The lawyer serves as both a public servant and an officer of the court.

His primary function is to provide legal assistance in peaceably resolving conflicts.

In this role, he may serve as an objective counselor and advisor, or he may be called upon to serve as a strong partisan advocate for the cause of his client.

In addition to his basic function of serving the client, the lawyer is expected to devote some of his time to the improvement of his profession. Ethical standards are established, and disciplinary procedures are administered by participation in work of the organized bar. The bar is thus a key factor in differentiating a profession from other occupations, and its activities help protect the public from the harm that could result if unqualified persons were permitted to practice law.

Sometime during their careers most lawyers participate in public service on a part-time or full-time basis. The lawyer may be called upon to be a judge, serve in government, run for political office, or engage in community affairs.

The United States of America is now entering its third century as a nation ruled by law. The future leaders of America, if the past is any guide, will include many members of the legal profession. They are now being trained in law schools throughout the country. The Nation should take note of the dedication and the hard work required in the study of the law, and give moral support to the students' efforts. Such a showing of support will help instill in them a strong sense of professional responsibility and ethics, and encourage them to attain a high level of expertise and to put it to use in community service.

The committee believes that law students around the Nation deserve recognition for their commitment to this honorable profession.

In the last 20 years, there has been a threefold increase in total law school attendance. Law school enrollment passed the 100,000 mark in 1972. The following table illustrates this growth.

Statistical highlights of law school enrollment

[Fall 1976 enrollments]

1. Total number of schools and average enrollment:	
Number	164
Students	117,451
Students per school	717
Non-ABA-approved schools providing statistics:	
Number	15
Students	7,559
Students per school	504
Other non-ABA-approved schools (no statistics):	
Number	47
Students	-------
Students per school	-------
2. Law-school enrollment since 1956:	
ABA schools	37,949
Non-ABA schools	3,939
Total	41,888
1976:	
ABA schools	117,451
Non-ABA schools	7,559
Total	125,010

The committee has received much support for this resolution. The following letters from the Association of Americal Law Schools and the Phi Alpha Delta Legal Fraternity aptly sums up the prevailing sentiment.

ASSOCIATION OF AMERICAN LAW SCHOOLS,
Washington, D.C., September 21, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I write to express support for Senate Joint Resolution 80 by Senator Mathias, concerning the recognition of the law student through proclaiming National Law Student Recognition Day.

The continuation of that in our society which carries out the aspirations of our founding fathers is dependent on the knowl-

edge, commitment and skill of the coming generation. And the hope for the continuing improvement of the quality of life in our society is similarly dependent. I suppose most professionals see their profession as central in their society. Certainly we lawyers view our profession and its practitioners to be of central importance. How well we perform our professional and public responsibilities determines in substantial measure how well the processes of our society work. The hope that the best will continue and that improvements will be made depends not only upon how well we lawyers perform our present tasks but how well those who follow in our footsteps are prepared to accept the responsibilities of our profession. Today's law students will be tomorrow's leaders at the bar, bench and public life. As a legal educator devoted to the task of preparing young men and women to enter our profession, I am particularly sensitive to this.

It is most appropriate, therefore, that there be an occasion on which we pause to recognize the young women and men who are preparing to enter the profession. That can be an occasion on which we and they renew our commitment to the highest traditions of the legal profession.

It is for these reasons that I support Senate Joint Resolution 80.

Sincerely yours,

MILLARD H. RUUD.

PHI ALPHA DELTA
LAW FRATERNITY INTERNATIONAL,
September 30, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Phi Alpha Delta Law Fraternity, International, I write to indicate the Fraternity's support for adoption of Senate Joint Resolution 80, introduced in the Senate by Senator Mathias on September 8, 1977. This joint resolution would authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day."

Phi Alpha Delta is a nonprofit law fraternity now in its 75th anniversary year. The fraternity has living alumni of 70,000 members and approximately 5,000 law student members, residing throughout the United States and 53 foreign countries. The fraternity is chartered into more than 150 law schools in the United States, Canada, and Puerto Rico.

Phi Alpha Delta is nondiscriminatory in its membership, with no restrictions by reason of race, color, creed, sex, religion, ethnic origin, or age.

The fraternity has consistently maintained a comprehensive professional program to be of service to law students, the law schools, and the legal profession. Thus, it has become a substantial organization with strong interest in the improvement of legal education.

Senate Joint Resolution 80 offers the type of national recognition of and symbolic support for the role of lawyers in our society. More specifically, it provides encouragement to competent young people to enter the field of law, and for law students to take pride in entering a legal career. They also receive the basic training to become leaders in our society, readily confirmed by the history of this Nation.

Accordingly, the fraternity supports and respectfully urges the adoption of Senate Joint Resolution 80 by your committee and the U.S. Senate.

Sincerely yours,

DON HUTSON,
International Justice.

COST

The enactment of this legislation involves no direct additional expense to the Government.

CONCLUSIONS

For the foregoing reasons, the Committee on the Judiciary recommends approval of the subject joint resolution.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on page 2 of the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

RAILROAD RETIREMENT BOARD

The second assistant legislative clerk read the nomination of Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF LABOR

The second assistant legislative clerk read the nomination of Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations under Department of Justice be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move, en bloc, to reconsider the vote by which the nominations were considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I so move.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

PRIVILEGE OF THE FLOOR

The following Senators requested, and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. HARRY F. BYRD, JR.: Michael Hammond; Mr. SCHMITT (for Mr. DANFORTH): Chris Brewster; Mr. CHAFEE: Fran Parrish; Mr. HATCH: Bob Hunter, (for Mr. BARTLETT) Joe Heaten, and (for Mr. HAYAKAWA) John Backer; Mr. NELSON: Scott Ginsburg, Joan Hunzkiker, Janice Zarro, Lisa Walker, Gary Sellers, Susanne Martinez, Jim O'Connell (for the Veterans' Committee) John Steinberg, and (for Mr. KENNEDY) Jay Urwitz.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the committee amendment to S. 1303.

Mr. NELSON. Mr. President, I have a 29-page summary of the Legal Services Corporation amendments that were adopted by the Human Resources Committee and then reported to the floor. I will preface the statement by some brief comments.

I think that everyone is familiar with the Legal Services Corporation and with most of the amendments. There are, so

far as I know, 11 pending amendments to the legislation, and after those who desire to make some preliminary remarks have been heard, as manager of the bill, I would be prepared to start considering the amendments.

Mr. President, the Legal Services Corporation Act Amendments of 1977—S. 1303—was introduced on April 19, 1977, by myself and Senators KENNEDY, CRANSTON, WILLIAMS, JAVITS, HATHAWAY, RIEGLE, and STAFFORD. This legislation extends the authorization of appropriations for the Legal Services Corporation Act of 1977 for 5 years, and also amends various other provisions of the Legal Services Act.

The House of Representatives approved similar legislation—H.R. 6666—by a vote of 267 to 103 on June 27, 1977.

Hearings were held on S. 1303 on April 25 and 26, 1977, by the Subcommittee on Employment, Poverty, and Migratory Labor. At that time, the Legal Services Corporation, the American Bar Association and other witnesses representing public and private interest groups testified in support of this legislation.

The Committee on Human Resources reported S. 1303 to the Senate by a vote of 13 to 2.

BACKGROUND

The Legal Services Corporation Act of 1974 was signed into law on July 25, 1974. This act created the Legal Services Corporation as a private, nonprofit organization to assume responsibility for administering the legal services program. The purpose of the Legal Services Corporation is to furnish financial support for programs providing certain legal assistance to persons otherwise unable to afford legal help.

The Corporation is governed by an 11-member Board of Directors appointed by the President with the advice and consent of the Senate with the first chairman appointed by the President. Corporation activities are directed by a president appointed by the Board.

In 1975, President Ford, with the advice and consent of the Senate appointed the Corporation's first Board of Directors. The Board took office in July; federally funded legal aid was shifted from the Community Service Administration over a 90-day transition period, and by October 14, 1975, the Corporation was operating.

The Corporation does not directly represent clients. Rather, it provides funds to approximately 300 legal services programs serving clients in nearly 700 offices in all of the 50 States and Puerto Rico, the Virgin Islands, and Micronesia. Some of these programs operate on a statewide basis. Others provide services through city, county, or multicounty programs. Eight of the programs provide services on Indian reservations, 10 provide services exclusively to migrant farmworkers, 13 of the programs are support centers that provide specialized legal assistance to eligible clients and to other legal services programs in their representation of eligible clients. Some of these support centers concentrate on areas of the law that particularly affect the poor, such as welfare, health, and housing. Others specialize in law affecting certain groups of poor people, such as migrants, Indians, and the elderly.

The Corporation administers the legal services program through its headquarters in Washington and nine regional offices. Total staff of the Corporation, including its 9 regional offices, is presently 181 persons. Only 2.9 percent of the total funds appropriated to the Corporation are used for administration. More than 90 percent goes directly to field programs. The balance is for activities that support the field programs.

Local programs set their own client eligibility standards within guidelines established by the Corporation. Those guidelines set maximum eligibility at 125 percent of the poverty level established by the Office of Management and Budget. Eligibility is now set at a maximum of $3,713 for an individual and $7,313 for a family of four.

Programs provide legal representation and counseling in a large range of civil matters. They do not provide criminal representation. Most of the legal problems of eligible clients fall into four broad categories: family law (30 percent of all problems handled) administrative benefits including medicaid, AFDC, and SSI (20 percent of all problems handled) consumer law (14 percent of all problems handled) and housing law (17 percent of all problems handled). Because none of the programs has sufficient resources to meet all the needs of eligible clients, the Corporation requires that each program determine, in consultation with the client community, priorities for legal assistance in that community.

The programs are staffed by approximately 3,000 full-time attorneys and 1,200 paralegal assistants. Of the nearly 1.25 million problems they handle each year, about 85 percent are resolved through negotiation, consultation, and other out-of-court mechanisms. About 15 percent are actually litigated.

LEGAL SERVICES FOR THE POOR

When the Corporation came into existence, less than 10 million of the 29 million poor people in this country had even minimum access to legal services. The rest lived in areas where there were no legal services programs at all, or where programs were so seriously underfunded that most poor people had no effective access to them. The capabilities of existing programs had actually declined over the previous 5 years during which budgets were virtually frozen while costs rose more than 30 percent as a result of inflation.

In fiscal year 1977, Congress appropriated $125 million to the Corporation, a significant increase in funds that permitted, for the first time in this decade, expansion of services to provide minimum access to 3.8 million of these 18 million unserved or underserved persons. Even with this increase, though, there remain nearly 16 million poor people who have no access to legal assistance.

Questions have been raised however, as to whether these figures should be adjusted because of the Congressional Budget Office Background Paper—No. 17, issued last January, which suggested that the number of poor families in the United States might be reduced somewhat if in-kind transfer payments were counted as income. The Congressional Budget Office paper explains that under the Census Bureau concept of income, which includes all earned income and transfer payments except in-kind benefits such as food stamps, child nutrition programs, housing assistance, medicare and medicaid, there are approximately 9.1 million families with incomes below the poverty level. The Congressional Budget Office has estimated, however, that if in-kind transfer payments are counted as income, except for medicare and medicaid benefits, the number of families living in poverty is reduced to 7.4 million. Even if the Congressional Budget Office report and the figures presented therein are taken as true, there would still be over 20 million persons in the U.S. poverty population.

In light of the great controversy that characterizes the professional literature on the subject of imputing a cash value to in-kind benefits, and since the inclusion of in-kind payments does not appear to significantly reduce the incidence or burden of poverty in the United States, the committee does not believe this particular measurement of the poverty population should be used as the basis for estimating the need for the provision of legal services for the poor.

The Corporation uses the 1970 census figures for planning purposes because they are the only available data on the actual geographic distribution of low-income people and thus provide the only basis for allocating Corporation resources equitably among and within the 50 States.

In 1973, Congress mandated the Legal Services Corporation "to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." This mandate is emphasized by section 1002(3) of the act, which defines an "eligible client" as "any person unable to afford legal assistance." Neither the Legal Services Corporation Act nor the Corporation suggests that the poverty line is an adequate measure of an individual's ability to afford legal assistance. Indeed, under authority of 1007(a)(2), present regulations establish a maximum eligibility limit at 125 percent of the official poverty threshold as defined by the Office of Management and Budget, that is $3,713 for an individual or $7,313 for a family of four.

These maximums are substantially lower than the "austere" living standard of $10,041 for an urban family of four recently announced by the Department of Labor, or the median-income test used under title XX of the Social Security Act. Many would argue that those standards would be a better measure of ability to afford legal assistance. In the absence of adequate resources, however, the Corporation has selected a much more stringent measure that assures services are directed to those least able to afford legal assistance.

Legitimate criticisms are leveled at many alternative definitions of poverty and the methods by which they are derived. The CBO report focuses on only one problem, the question of whether in-kind benefits should be included in deter-

mining income, while ignoring a host of other problems that may well result in serious undercounting of the poor. Any serious effort to redefine poverty must take numerous factors into account, besides in-kind income, which could well result in increasing, rather than reducing, the number of poor in the Nation as a whole.

Other serious questions have been raised about the assumptions and methodology of the CBO report. Whatever the validity of those questions, it is clear that the report does not affect the standard Congress deemed relevant under Legal Services Corporation Act: whether an individual or group of individuals has the ability to afford legal assistance. In-kind benefits, the focus of the CBO report, simply cannot be used to pay a lawyer.

A substantial portion of the legal problems of the poor grow out of their dependence on public benefit programs. The private bar is generally unwilling and unable to undertake representation in these matters. That representation requires familiarity with a complex body of law and regulations with little chance of generating a fee for services rendered. Consideration of in-kind benefits as income would, under current Corporation regulations, render ineligible for legal services a significant portion of the population that is least able to afford those services, but most in need of such assistance for basic survival.

The Corporation's plans and its fiscal year 1978 budget requests are not designed to provide a lawyer for each of the 29 million poor people identified by the 1970 census. Only a portion of potentially eligible clients actually need a lawyer during a given year—23 percent of the total according to Corporation estimates—and Corporation planning takes that into account. At the level of two attorneys for 10,000 poor persons, the goal that forms the basis of the current budget request, the Corporation will be able to provide enough funds only to assure that those eligible persons with legal problems will have a reasonable chance of access to an attorney. Even assuming that legal services lawyers can handle as many as 350 to 400 matters a year the Corporation's minimum access goal will provide actual services to only a fraction of the eligible population.

The fact that the Corporation's current planning and budget requests are designed to achieve the equivalent of only two attorneys per 10,000 potential clients and are based on a projected total program cost of $35,000 per attorney guarantees that resources allocated to a community will not exceed, but indeed will only begin to meet, the actual need for legal services. The CBO report does nothing to call into question those minimum goals or to provide more useful information from which to evaluate the need for legal services.

EXPLANATION OF THE LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

SECTION 1

This section provides that S. 1303 may be cited as the "Legal Services Corporation Act Amendments of 1977."

SECTION 2

Section 2(a) of the amendments provides a $225 million authorization of appropriations for fiscal year 1978 and a "such sums as may be necessary" authorization of appropriations for each of the 4 succeeding fiscal years.

In fiscal year 1977, the Corporation received $125 million in appropriations from the Federal Government. To expand its services to eligible clients presently unserved or underserved, the Corporation requested an appropriation of $217.1 million for fiscal year 1978, and fiscal year 1979. The Human Resources Committee supported the Corporation's $217.1 million request for fiscal year 1978 in its recommendation to the Senate Budget Committee.

The previous administration submitted a budget request of $90 million for fiscal year 1978. President Carter's revisions raised that figure to $175 million—$50 million above the fiscal year 1977 appropriation—and indicated his support for expansion of the program.

The State, Justice, and Commerce Departments Appropriations Act—H.R. 7556—which was reported to the House and Senate on June 29, 1977, includes a $205 million level of appropriations for the Legal Services Corporation for fiscal year 1978. This legislation has now been signed by President Carter.

This $205 million level of appropriations will permit the Legal Services Corporation to continue implementing its plan to provide this Nation's poor with bare-minimum access to legal services. The Corporation's goal is to provide, on an average, 2 lawyers per 10,000 poor persons in every area of the country. This is a modest goal, especially considering the fact that generally there are 14 lawyers per 10,000 persons in the country.

A funding level in fiscal year 1978 of $205 million will provide an additional 1,400 attorneys, supporting staff, and facilities.

By the establishment of a "such sums as may be necessary" authorization of appropriations for fiscal years 1979, 1980, 1981, and 1982, the precise level of funding for the legal services program will be subject to review each year by the Senate Human Resources Committee, the House Judiciary Committee, the Budget Committees, and the Committees on Appropriations. Such an authorization will permit the Congress to review the amount of funds necessary to meet the needs of indigent clients, and it will also provide the flexibility to enable Congress to determine the funding level which the Corporation can use effectively and efficiently within the restrictive Federal budget.

At present, section 1010(c) of the act imposes the same prohibitions on funds received from private sources as those that are imposed on funds received from the Corporation.

Section 2(b) changes current law by permitting recipients to receive private funds and to use them for any purpose authorized by the donor, so long as all such funds are accounted for and reported as receipts and disbursements separate and distinct from funds received from the Corporation.

The Legal Services Corporation encourages the use of other public and private funds for legal assistance to the poor. It takes those funding sources into consideration in developing its own budget requests, in justifying those requests to the Congress, and in allocating funds to local legal services programs. The Human Resources Committee has examined these outside sources of funding in making its determination about the level of funding necessary for the Corporation.

Presently, there are about $30 million in funding for legal services programs apart from direct Federal appropriations to the Corporation from general revenues. Not all of that money is for the poor, and much of it is earmarked for special groups or for special purposes. The funding tends to be unstable in individual communities, available one year and disappearing the next.

The main sources of other funds in fiscal year 1977 were: $22 million from combined State-Federal funds (The major sources are title XX of the Social Security Act, revenue sharing, CETA and Older Americans Act funds. The decision to use these funds for legal services is made by State and local governments, not by the Federal Government); $4 million from State and local public funds: and $4 million from private funds, especially United Way but including contributions from individuals and the private bar.

Restrictions on the manner in which private funds are used to increase access to justice for the poor do not serve the interests of the poverty population, and indeed may well increase the need for public funding for the Corporation.

SECTION 3(a)

Section 3(a) of this legislation would require three client representatives on the Corporation's Board of Directors. Right now, section 1004(a) of the Legal Services Corporation Act requires only that a majority of the 11 Corporation Board members be attorneys. At present all 10 members of the Board are attorneys—there is one vacancy.

Under section 3(a), at least three of the vacancies occurring after January 1, 1977, and before July 30, 1978, would have to be filled by eligible clients, and at least one such person is to be appointed to fill a vacancy occurring prior to January 1, 1978. Following July 30, 1978, at least three members of the Board are to be eligible clients.

Many private and public interest groups and other interested individuals have maintained that the existing mechanism for appointment of the Board does not insure sufficient "client accountability" in its deliberations. This amendment is designed to provide accountability in the future. This amendment should not be at all burdensome to implement. During the 19-month period from January 1, 1977, to July 30, 1978, 3 vacancies must be filled with eligible clients; all 11 of the Board member slots are subject to appointment by the President during this period of time.

SECTION 3(b)

Section 3(b) of the legislation requires that at least one-third of those persons selected for the governing bodies of recipients, that is, the local legal services program boards, be eligible clients. This would bring local governing bodies under similar requirements as proposed in section 3(a) of the bill for the Corporation's Board with respect to client representation. The governing bodies of recipients are presently required by section 1007(c) of the Legal Services Corporation Act to have at least one eligible client on each local board, and Corporation Regulation 1607 requires that at least one-third of the local board members be either eligible clients, or representatives of associations, groups, or organizations of eligible clients. This provision will be effective 6 months after the first day of the first calendar month following the date of enactment of this legislation in order to afford local boards time, if needed, to comply with this provision.

SECTION 4

Under section 4, the Corporation and each State Advisory Council will be subject to the requirements and provisions of the Sunshine Act. Under current law, all meetings are required to be open to the public unless two-thirds of those present vote to close the meeting on the basis of personal privacy or compelling Corporation or public interests. There is not adequate justification for the Board to operate under one set of "sunshine" rules while every other agency receiving Federal funds operates under another. Section 4 of this legislation would subject the Legal Services Corporation and all related State advisory councils to the requirement and provisions of title 5 of the United States Code, section 552B, the Government in the Sunshine Act.

At the time of the passage of the Government in the Sunshine Act, it was generally thought that the Legal Services Corporation would be covered by it. The Senate Report on that legislation explicitly mentions the Corporation in that regard. However, after consideration of the definition of "agency" in the Sunshine Act, the Corporation took the position that it was not subject to the Sunshine Act.

Legal Services programs representing eligible clients have attempted to open up the deliberations of local entities whose decisions directly affect the lives of poor people. Poor people and their advocates should have similar access to the deliberations of the board that sets policy for the national legal services program.

The existing exemptions in the Sunshine Act would clearly permit the Legal Services Corporation Board to meet in executive session in every circumstance in which executive sessions would be appropriate, such as the discussion of personnel matters or pending litigation. Addition of a new section making clear the congressional intent to apply the Sunshine Act to the Legal Services Corporation would serve valuable public purposes, and no arguments have been raised to the contrary.

SECTION 5

Current law limits the Corporation's authority to make certain kinds of grants and contracts for research, training and technical assistance, and clearinghouse activities, unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or are for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

The amendment provided in section 5 gives the Corporation authority to fund such activities by grant or contract if it determines that such a course of action would be more economical or effective than adding staff to carry out the activities with the Corporation itself. It is especially critical that training be provided by persons experienced in providing legal assistance in a given legal area. Grants to local programs for statewide or regional training will also be permitted.

The House of Representatives passed legislation in March 1976, to accomplish the objectives of this amendment, and the Corporation's Board voted last January to support such an amendment. A similar amendment has been included in the bill approved by the House of Representatives, H.R. 6666.

The result of the current prohibition has not been the defunding of the backup centers providing specialized legal assistance. The Corporation determined that some of the activities carried on by the backup centers could be funded under section 1006(a)(1) of the act—the basic authority for the funding of all programs furnishing legal assistance to eligible clients. Rather, the consequences have included: First, the inefficient splitting off of the research, training, and technical assistance formerly provided to local programs by centers with special areas of expertise; second, the defunding of programs that had engaged solely in those support activities; and third, the uncertain status of the Corporation's ability to provide funding by grants or contract to local legal services programs in a given state for training in State law and procedure. Most critically, the Corporation has had no other option but to bring the research, training, technical assistance, and clearinghouse activities "in-house".

As the Corporation develops new local legal services programs, it increases the need for training and technical assistance. The flexibility to fund some of these support services by grant or contract where efficient and to prevent unnecessary growth of an in-house bureaucracy would be afforded by this amendment.

SECTION 6(a)

Since the inception of federally funded legal services, parties to lawsuits in which the opponent is represented by a legal services program have challenged, from time to time, the authority of the legal services program to provide representation in the particular case or to the particular client. Courts that have been asked to rule upon such questions have uniformly held that such issues are irrelevant to the resolution of the client's case, and should not be raised in that forum. The courts have said that such issues should be taken up with the agency providing funding.

Section 6(a) is thus declaratory of existing law as it has been enunciated by the courts. The committee believes that repetitive litigation of this issue is a needless drain of Federal funds provided for the representation of poor people, and wastes the time of already heavily burdened courts. This amendment has been included to discourage further frivolous litigation of this issue. This section provides that questions of whether representation is authorized may be referred to the Corporation for such disposition as it deems necessary.

Under this amendment, persons or entities feeling aggrieved by alleged noncompliance of legal service programs or their employees with act's rules, regulations, or guidelines, will be required first to complain directly to the Corporation. Following such complaint and exhaustion of administrative remedies, an aggrieved person or entity may seek judicial review of any provision of the act or regulations, or of a Corporation ruling.

The amendment does not change existing law with respect to judicial review of Corporation action; but it does help to insure that any legal challenge, to the maximum extent possible, is resolved on its merits rather than delaying the provision of legal assistance to eligible poor people under the act.

The Corporation requested the inclusion of this amendment.

SECTION 6(b)

The Legal Services Corporation requested the inclusion of an amendment to insure that a court could not discriminate against legal services attorneys in its appointment of attorneys to civil cases. At present, some State or local courts which have authority to appoint private attorneys in certain civil matters—often with compensation—have appointed legal services attorneys to serve without compensation in cases in which State law provides for the compensation of private lawyers. Such practice by State or local courts is inconsistent with the congressional purpose of expanding legal assistance to poor people, because it means that Federal funds are being used to supplant, rather than to supplement, local sources of legal assistance for poor people.

Even when State law does not provide for compensation of private counsel, a court should not rely on legal services lawyers to provide uncompensated representation. Such practice prevents programs from implementing the caseload priorities they are required to adopt pursuant to the Legal Services Corporation Act—as amended by section 8 of this legislation—and Corporation regulations.

Section 6(b) of this bill will insure that a court cannot appoint legal serv-

ices attorneys in a manner inconsistent with the appointment of other attorneys similarly situated. This does not exempt legal services attorneys from the general requirements of taking some cases on a pro bono basis or otherwise, as required by the local bar or court. This amendment will not, however, permit legal services attorneys to be treated differently than other attorneys practicing in the same area, and thus in a manner inconsistent with the act.

This amendment was requested by the Corporation.

SECTION 7

Section 7(a) subjects staff attorneys to the same provisions of chapter 15 of title 5, United States Code—the Hatch Act—that are applicable to Corporation, State and local employees.

Section 7(b) eliminates the provisions of current law that go beyond the restrictions of the Hatch Act in limiting the activities of staff attorneys on their own time.

Neither Federal, State, nor local employees now covered by the Hatch Act are prohibited by its provisions from being candidates for nonpartisan positions such as membership on school committees, library boards, and boards of education. The Civil Service Commission does not regard these activities as "political," but rather as "service in which all good citizens may be engaged without incompatibility and in many cases without necessary interference with any position that they may hold under the Federal Government."

At present, staff attorneys are the only group of citizens in the country prohibited from holding such positions. The Civil Service Commission believes that the heads of agencies should be entrusted with the responsibility for policing their employees' involvement in such activities. In a similar manner, that responsibility can properly be exercised by the boards of directors of local legal services programs, who can determine whether candidacy for a particular position may present a conflict of interest for the employee. It is important to insure that Corporation funds are not used to support any political activity, but restrictions on the personal activities of staff attorneys that go beyond the restrictions on Federal, State, and local employees serve no public purpose and unnecessarily restrict the rights of staff attorneys.

The current prohibitions against the use of Corporation funds for political purposes and against political activity by legal services program employees during their working hours are not at all modified by this amendment.

These amendments were requested by the Corporation.

SECTION 8(a)

Under current law, if a prior determination has been made that a potential client's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation, that evidence must be treated by the local legal services program as a disqualifying factor in determining that person's eligibility for legal services. This amendment removes the absolute character of that prohibition.

This amendment states that an individual's unwillingness, without good cause, to seek or accept an appropriate employment situation shall be taken into consideration by a legal services program in determining an individual's eligibility for services. Such prior determination, however, is not to be an automatic disqualification or, for that matter, dispositive as to whether an individual is eligible to receive legal services. Other later considerations may be more relevant to an applicant's current need for legal assistance.

A legal services program, in deciding what weight to give the prior determination, should consider other factors such as the validity of the procedures by which the prior determination was made, whether subsequent events have rendered it obsolete, or whether the employment that was refused was appropriate for the individual. For example, a particular prior determination may antedate a particular poor person's inability, for physical or other reasons, to secure employment, yet the current restriction does not permit consideration of this problem.

SECTION 8(b)(1)

Section 1007(a)(2)(C) of the Legal Services Act requires the Legal Services Corporation to "establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance." S. 1303 would repeal this requirement and substitute the following language with respect to funding of legal services programs in connection with the provision of legal assistance to eligible clients:

The Corporation shall * * * (C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal service or special legal problems (including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers and persons with limited English-speaking abilities); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

By deleting the "preference" language, this does not in any way suggest a shift in emphasis of the legal services program.

It should be recognized, however, that no legal services program has sufficient resources to meet all the legal needs of the financially eligible population in the area it serves. Thus far, every program has found it necessary to control its caseload, and the most appropriate way of doing this is by establishing priorities as to the categories or kinds of cases which the office will undertake. The subject matter priorities adopted by a program must be based on a consideration of the needs of the client community and the resources available to the program.

Under provisions of section 8(b)(1) of this legislation, the Corporation is authorized to establish national goals for all recipient programs. This provision is not intended to detract from the appropriate role of local programs, in consultation with local client communities, to set priorities concerning the substantive law matters to which scarce program resources are to be allocated, taking into account the relative needs of clients in the area for legal services. Nor does this provision require the Corporation to establish goals; rather, it authorizes the Corporation to do so if it finds such action appropriate.

Section 8(b)(1) also provides that, in setting its own priorities, a local legal services program should take a special look at the relative needs of those segments of the low-income community that have special problems—such as lack of mobility or language or cultural differences—that may limit their access to the program.

Finally, section 8(b)(1) adds new language to ensure that local legal services programs receive the support and training they need to implement priorities established after assessing the needs of the client community. While the committee expects the Corporation to use a portion of its funds for support and training activities, it does not intend that Corporation resources duplicate or supplant the resources of other public or private agencies serving identifiable segments of the low-income community. The committee encourages the cooperation and coordination of such entities—particularly those receiving other Federal funds—to maximize the resources available to assist the poor.

SECTION 8(b)(2)

Section 8(b)(2) of S. 1303 would require the Corporation, on an annual basis, to report on the services provided pursuant to the provisions established in section 8(b)(1) of this legislation. The purpose of the reporting requirement is to give Congress and the public an overview of the services being provided to significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems, and the training and support services provided pursuant thereto. Where available, estimates of the numbers of clients served in various categories should be included in the reports.

SECTION 8(c)

Section 8(c) of the legislation modifies current law regarding legislative and administrative advocacy. This provision clarifies current law as to what legislative and administrative advocacy can be carried on by employees of recipients in administrative and legislative proceedings. Specifically, the amendment clarifies the appropriateness of paralegals (who are supervised by staff attorneys) representing eligible clients in certain situations.

When it enacted the Legal Services Corporation Act, Congress recognized that circumstances might arise in which

legislative or administrative advocacy might sometimes be the most efficient method of resolving an issue affecting legal services clients, and it authorized legal services programs to engage in such activities on behalf of specific clients or organizations and in response to requests for information from legislators.

Section 8(c) of the bill clarifies a question that has arisen in the implementation of the act, by making explicit the legality of employing nonlawyers to assist in legislative or administrative advocacy, just as they may be employed in providing other forms of legal assistance subject to supervision by an attorney.

This amendment also modifies the language concerning solicitation of clients for the purposes of legislative or administrative advocacy to make clear that activity permitted by the American Bar Association Code of Professional Responsibility (to which all attorneys, including legal services attorneys are subject) is not prohibited. (The applicability of the code is recognized in section 1006(b)(3) of the act.)

The ABA Code of Professional Responsibility authorizes legal services lawyers to engage in educational and outreach activities, which shall not be construed as solicitation. Opinions issued by the ABA Committee on Ethics and Professional Responsibility, interpreting the code, have stated that because the poor tend to be ignorant of their legal rights, and suffer particular problems because of that ignorance, legal services programs have a responsibility to go out into the community to educate the poor concerning their legal rights.

SECTION 8(d)

Section 8(d) of this legislation repeals the requirement in section 1007(a)(8) that local legal services programs give preference to local residents in hiring staff attorneys.

The Committee felt that the provisions of current law requiring a legal services program to solicit the recommendation of the organized bar in the community served before filling staff attorney positions should be retained. However, the current requirement that preference be given to a local attorney may conflict with other legal requirements, such as those which prohibit discrimination in employment and those which require, pursuant to section 1006(b)(6) of the act, that legal assistance be provided in a foreign language in areas where a significant number of clients speak a language other than English as their principal language.

A legal services program may properly require expertise in a particular subject matter as a valid qualification for a staff opening. When hiring decisions are reached after consideration of these concerns, the local bar sometimes views these efforts as an attempt to circumvent current law which gives preference to local attorneys. The present provision thus has the unfortunate effect, contrary to what was intended, of causing dissension between the legal services program and the local bar. These conflicts can be avoided by modifying the existing provision, and thus affirming that legal services programs should seek the most highly qualified applicant in filling any staff position.

SECTION 9(a)(1)(A)

Current law prevents the use of Corporation funds to provide legal assistance with respect to any fee-generating case, except in accordance with guidelines promulgated by the Corporation. The Corporation has adopted a regulation defining what constitutes a fee-generating case. This part of the amendment clarifies the definition promulgated by the Corporation.

The language added by section 9(a) would require the Corporation to exclude from the definition of "fee-generating" social security and supplemental security incomes cases and such other cases as the Corporation deems appropriate because the only recovery sought by the eligible client is the amount of subsistence benefits to which he or she is statutorily entitled. In such instances legal services lawyers would not be required to attempt referral to a private lawyer before providing representation.

The Corporation has treated such cases as "fee-generating" because the Social Security Act can be interpreted to contemplate payment to an attorney of a fee to be deducted from the award to the client. When legal services lawyers provide representation in such cases, Corporation regulations prohibit the programs from accepting the statutory fee; they must nonetheless first attempt referral to a private lawyer, who would accept the fee. It should be understood, however, that this is a very narrow exception not intended to intrude upon the private bar's prerogative in fee-generating cases such as workmen's compensation, tort liability suits, and the like.

Generally, the current restriction on fee-generating cases has been helpful to legal services programs which are thereby able to assure the private bar in their communities that legal services programs will not be in unfair competition with private practitioners. However, without further guidance, the Corporation has felt compelled to include under the rubric of "fee-generating" cases several matters handled by legal services programs in the past.

Legal services lawyers have developed and demonstrated unique expertise in administrative law relating to statutory benefits. It is difficult for lawyers in private practice, who rarely provide representation in these low-paying cases, to develop familiarity with highly complex and ever-changing regulations required to provide adequate representation.

SECTION 9(a)(1)(B)

Section 9(a)(1)(B) clarifies current law by explicitly stating that a legal services program may provide representation in a very narrow category of technically criminal cases, which may be viewed as basically civil in nature, to a person charged with an offense involving hunting, fishing, trapping, or gathering fruits of the land when the principal defense asserted involves rights arising from a treaty with native Americans, or from a statute or executive order.

This provision deals with very narrow situations in which, for example, a native American is arrested for hunting or fishing out of season or without license, and his claim is that a treaty has established his rights to hunt or fish. Legal services attorneys who have the special expertise should have the authority to provide such representation because the defense involves a working knowledge of complex treaty laws with which most private attorneys are unfamiliar.

This amendment was requested by the Corporation.

SECTION 9(b)

Section 9(b) of S. 1303 repeals section 1007(b)(4) and 1007(b)(7) of the Legal Services Corporation Act, which state, respectively that no Corporation funds may be used to provide legal assistance to juveniles, except under specified conditions, and to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system.

The Supreme Court has recognized that children are entitled to the undiluted guarantees of due process of law in delinquency and other noncriminal proceedings. Requiring parental consent as is the case in the present statute, however, conditions the constitutional rights of a young, poor person on the consent of another. In recognition of this conflict, section 1007(b)(4) is repealed.

Section 1007(b)(4) now denies legal assistance to children in situations in which parental consent for the provision of legal assistance is unobtainable because the juvenile has been separated from the parents or because the parents refuse consent despite the wishes of the child. Testimony received by the Subcommittee on Employment, Poverty, and Migratory Labor indicates that all possible situations in which the interest of parent and child may diverge and legal assistance to the child is appropriate are not clearly covered under the exceptions in 1007(b)(4) of the act. For example, representation of a teen-aged mother involved in a dispute with her parents concerning the custody of her child or representation of a child whose parent has misappropriated funds belonging to the child (for example, social security benefits) are instances in which legal services attorneys are unsure of how the law is to be interpreted.

Current legal services programs and program attorneys, uncertain as to how to interpret the complex language of section 1007(b)(4), perceive a risk that they may be subject to disciplinary sanctions if they provide legal assistance in this area. Therefore, they have refrained from handling such cases. Repeal of section 1007(b)(4) will solve this dilemma.

Section 1007(b)(7) would also be repealed. This provision of the Legal Services Corporation Act prohibits Corporation funds to be used to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system.

In the 9-year period prior to 1975, the year in which the Legal Services Corporation Act of 1974 became effective, legal services programs participated in ap-

proximately 50 school desegregation cases nationwide. Because of the extended time and resource commitments required by such cases, programs generally refrained from taking them unless they had determined that no other form of legal assistance was available. In some cases they acted as local counsel assisting national civil rights organizations that assumed major responsibility for the work.

When the Corporation came into existence legal services programs were participating in approximately 17 school desegregation cases. The majority of those have now been closed or transferred to other lawyers. Representation has continued in a few cases whose lengthy history and extreme complexity made transfer impossible and thus withdrawal was prohibited by the Code of Professional Responsibility.

Information received by the Corporation from the NAACP legal defense fund and from the Mexican-American defense fund indicates that requests for representation in school desegregation cases far exceed the number of privately funded civil rights lawyers available to provide it. The national organizations have been handicapped in their attempts to provide representation by the shortage of minority lawyers generally, and by the lack of local attorneys willing to participate as cocounsel in geographic areas where the demand for such suits is most urgent.

The absence of local attorneys is particularly critical in the enforcement stage. Occasionally lawyers may be recruited from outside the local community to brief and litigate a case, but after an order is issued, a local lawyer is needed to monitor it and to bring problems to the attention of the court.

It should be noted that section 1007(b)(1) of the act and Corporation Regulation 1609 would continue to restrict representation in desegregation cases if such representation would be considered fee-generating by virtue of the Civil Rights Attorney's Fee Awards Act of 1976. Fee-generating cases may not be undertaken by legal services programs if other counsel is available.

SECTION 9(C)

The language in current law prohibiting the use of Corporation funds "to assist" or "to encourage" the organization of any group has caused legal services programs to refrain from providing advice and legal assistance to clients who are engaged in organizing activities.

While continuing to prohibit the use of Corporation funds to "initiate the formation of" an organization, section 9(c) of S. 1303 clarifies existing law by explicitly permitting advice and legal assistance to be provided to eligible clients who request such services.

Many recipients have found the current provisions concerning organizing activities vague and too restrictive, and thus detrimental to the attorney-client relationship. Under this amendment, no funds could be used to initiate the formation of any association, federation, or similar entity. However, legal assistance would be available to eligible clients by request and under constraints put on the staff of the local programs by their governing boards.

Under this amendment the following advisory activities would be appropriate: First, assisting groups of poor people to organize by providing advice on matters of incorporation, by-laws, tax problems, and other matters essential to the planning of an organization; second, providing counsel to poor people regarding appropriate behavior for group members; and third, advising poor people aggrieved by particular problems of the advantages and disadvantages of organizing to foster joint solutions to common problems. Activities deemed inappropriate are those in which legal services attorneys actually take the initiative and actively advocate the formation of an association, group, or organization.

SECTION 9(d)

Current law prohibits legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or proceedings or litigation involving desertion from the Armed Forces of the United States.

Section 9(d) revises section 1007(b)(9) of the Legal Services Corporation Act. This amendment would permit legal services programs to become involved in proceedings involving desertion from the Armed Forces where counsel is not available from the Department of Defense.

These changes in the current law take into account the reduction in Selective Service Act violations because of the inception of voluntary military service in this country. Some eligible clients, however, may seek to have their discharges upgraded in order to procure employment and clear their records in view of the President's program to review such cases. Legal Services programs, however, may render assistance only when counsel is not available from the Department of Defense.

SECTION 9(e)

This is a technical amendment renumbering the paragraph sequence in section 1007(b) of the Legal Services Corporation Act.

SECTION 10

The Legal Services Corporation now has the authority to make grants or contracts for "model" or "demonstration" projects; however, a model projects provision has been adopted to stress the Corporation's broad flexibility to test innovative methods of providing high quality legal assistance to particular segments of the poor with special problems of access to legal services and special legal problems. In some cases, particular efforts may be necessary to address some of the needs of identified groups whose problems of isolation make it particularly difficult for them to obtain access to legal services by the usual channels.

Such model projects may include, but are not limited to, activities such as the use of mobile units in providing legal services to homebound, isolated, and non-ambulatory persons with special difficulties in traveling to legal services project office; the use of attorneys, paralegals, and trained counselors to assist in advising or informing eligible clients in various residential, work, and community settings; and efforts to make recipient personnel more knowledgeable in such special areas as protective services, guardianships, income maintenance, energy conservation, alternatives to institutionalization, and consumer protection.

No more than 3 percent of funds appropriated to the Legal Services Corporation may be used for this purpose.

SECTION 11

The Board of the Corporation has requested an amendment to add new language to section 1009 of the Legal Services Corporation Act dealing with the length of time that reports and financial books and records must be kept on file. At present that act does not state how long records and reports must be maintained by the Corporation, but the General Accounting Office has informally advised the Corporation that 3 years would be sufficient. Section 11 of this legislation therefore requires that the Corporation shall maintain certain records and reports for 3 years, or longer if required by the General Accounting Office. However, annual audit reports shall be available continually, without regard to the 3-year limitation imposed by this amendment.

SECTION 12

Section 12 amends section 1001 of the Legal Services Corporation Act by adding to the Statement of Findings and Declaration of Purpose the statement that the provision of legal assistance to the poor will "assist in improving opportunities for low-income persons consistent with the purposes of this act." The inclusion of this amendment clarifies the congressional intent respecting the scope and purpose of the legal services program.

SECTION 13

Section 13 modifies section 1011(2) of the Legal Services Corporation Act by requiring that an independent hearing examiner be appointed, pursuant to Corporation regulations, if and when there is a proceeding relating to the denial of refunding of a legal services program. Under Corporation Regulations 1606, the Corporation has indicated that it will use Corporation employees as hearing officers during defunding procedures; however, the Corporation may use other, outside persons. In the five defunding procedures that have occurred thus far, Corporation employees have been used as the presiding officers at the hearings.

This amendment would give a recipient the right to request, at its discretion, an independent hearing examiner during a proceeding involving the denial of refunding. The committee believes that since independent hearings examiners must be persons knowledgeable about the delivery of legal assistance to the poor such persons shall be appointed pursuant to a procedure outlined by the Corporation in regulations promulgated after a public comment period.

SECTION 14

This section provides dates on which amendments made by the Legal Services Corporation Act Amendments of 1977 shall become effective.

Mr. President, I understood the Senator from Michigan (Mr. RIEGLE) was to present some remarks at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to present a few remarks in connection with the pending amendments.

As you know, Mr. President, what this act is designed to do is to give some legal services to the poor, to those who cannot afford it. By the estimates of the OMB there are some 29 million poor in the United States. Under this act there is sufficient funding provided for 3,000 lawyers under the Legal Services Corporation. That makes one lawyer for about every 10,000 poor. The bare minimum under the estimates which have been made is that there should be two lawyers for every 10,000 poor. So this act nowhere near provides the amount of legal services and consultation that the poor really should be entitled to, to receive the full benefits under the law.

As the Presiding Officer knows, equal justice under the law is what we believe in in this country.

I think it is important to point out, Mr. President, that not only is the Legal Services Corporation Act supported by the American Bar Association, but also these amendments are supported by the American Bar Association. I do not think anybody can claim that the American Bar Association is a wild-eyed liberal group, by a long shot, but they have supported not only these amendments but, frankly, Mr. President, in the testimony before the committee, the ABA would have gone further; they would have allowed legal services in connection with abortion, something which is not included in the amendments being presented to the Senate today.

Also, Mr. President, I would point out that many, many—I cannot say all because I do not know that it is true with all, but certainly the vast majority—local bar associations support the Legal Services Corporation. To the extent they know about these amendments they give them support also, to the best of my knowledge.

Mr. President, this act continues the steps forward which were made when the Legal Services Corporation was originally formed. It does not go as far as some wanted it to go. Amendments were knocked out in committee, or were not approved by the subcommittee. But, Mr. President, I believe it goes a long ways toward providing service for the poor in our country, and I vigorously support its passage.

Mr. STAFFORD. Mr. President, I am pleased to rise in support of S. 1303, which would extend the authorization of the Legal Services Corporation for an additional 5 years, and loosen some of the present restrictions on it.

The purpose of this program is to provide, in the words of the congressional mandate of 1973, "high quality legal assistance to those who would otherwise be unable to afford adequate legal counsel."

Our Committee on Human Resources was informed that of the 29 million citizens officially classified as poor, 16 million are presently beyond the limited reach of help from the Legal Services Corporation. This measure, according to the Corporation itself, would permit services to be extended to an additional 6 million persons. The remaining 7 million would remain unreached. The program, and this legislation, has the wholehearted support of the American Bar Association.

It represents another step forward toward the goal of a society in which justice will be equally available to the poor as well as the rich.

I believe the 5-year authorization provided in S. 1303 is important in order to give this program stability for orderly planning and expansion.

Of course, there are strong controls against misuse of the program for partisan political purposes or for private gain.

The Corporation would continue to be independent of the executive branch except for an annual budget review by the Office of Management and Budget.

This independence places a special responsibility upon the Committee on Human Resources. The committee, and its counterpart in the House of Representatives, are the only agencies of Government with the duty and powers of overseeing the Corporation's activities. I am confident, that the committee will carry out this oversight function scrupulously.

Just as we seek to provide good education, good housing and good medical care for all our citizens, so should we provide good legal assistance for all. I can think of nothing more subversive for our free society over the long run than a growing population nursing a mounting and justified grievance against a system which boasts in its documents the equality of all while manifestly denying it to them.

I hope my colleagues will vote in support of S. 1303.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, is it appropriate for me to seek time on my own or must I seek time from the Senator?

Mr. NELSON. There is no time limitation.

Mr. RIEGLE. Mr. President, I rise at this time to express my strong support for this legislation.

Mr. President, the legal services bill before us today is of major importance to thousands of poor people throughout the country. I have long been a supporter of legal services legislation and was an original cosponsor of this bill in the Employment, Poverty and Migratory Labor Subcommittee. The subcommittee and full Human Resources Committee, under the able leadership of Senators NELSON and WILLIAMS, have given long and serious consideration to this legislation. I urge my colleagues to support this bill without amendment.

As is known, legal services first started out as pilot project effort under the Office of Economic Opportunity in 1965. In 1967 a categorical program of legal services was established. Then in 1974, a separate, independent Legal Services Corporation was set up. At that time there was considerable controversy about the legal services and the vital role the Legal Services Corporation has played in our communities. The Corporation is now generally recognized for the excellent job it has done. It has proven to be a model of effectiveness and competence by which all domestic programs should be compared.

In my own State of Michigan, 13 programs receive financial assistance through the Legal Services Corporation. These programs have provided effective representation to the poor in Michigan in a wide variety of areas and issues. These vital programs have to continue. However, a number of poor people in Michigan and throughout the country are currently without access to a legal services lawyer. S. 1303 will assure the continuation and strengthening of the current programs and allow the Legal Services Corporation to continue its effective efforts of expanding programs to insure the availability of legal services to all of our country's poor.

S. 1303 would extend the Legal Services Corporation for 5 years. It authorizes sufficient sums to provide legal assistance to eligible clients during fiscal year 1978. It also provides necessary flexibility so that the Corporation's appropriations will meet the needs of the client community the program is designed to serve. It makes a number of positive changes in the current act which are necessary to insure that eligible clients receive the full range of professional legal assistance in civil matters. I would like to mention just a few of the critical provisions of this bill which deserves our support.

The hallmark of legal services has been the accountability of the program and its lawyers and paralegals to those it is established to serve—the poor. S. 1303 strengthens that accountability by requiring the President to appoint three clients to the Board of Directors of the Corporation and requiring that one-third of each local board consist of eligible clients. This will mean that the current Corporation regulation requiring client representation will become law.

The restrictions on research, training, technical assistance and clearinghouse activities, imposed upon this body in 1974 in exchange for Presidential support for the act, have been removed. This will provide much greater flexibility for the Corporation and assure that local legal services programs receive the research and training necessary to address problems peculiar to each area.

Section 7 of the bill removes the additional restrictions currently imposed on the personal political activities of staff attorneys and puts them on an equal footing with other attorneys in publically funded law practice. These staff attorneys will still, of course, be covered by the Hatch Act and its provisions.

The changes in eligibility in section 8(b) will insure that each local program set its priorities by taking into account the needs of all eligible clients within the service area including those identifiable segments of the poor who may have difficulties of access to legal services.

The clarifications on legislative and administrative advocacy will insure that paralegals can provide representation in

legislative advocacy and that community education and outreach are not inhibited. The clarifications will insure the continuation of the effective legislative and administrative advocacy which legal services programs have provided in the past.

A similar clarification is made in section 9(c) regarding the prohibition on organizing activities. Legal services should not directly organize groups. However, it should provide full representation, education and outreach to those organized groups who are made up of or which represent eligible clients. This section will remove any inhibition which may have been improperly used to prevent such full representation to groups of the poor.

Legal services programs in Michigan have led the way in seeking to assure protection to the rights of juveniles. Removal of the confusing restrictions in section 8(c) will assure the continuation of these innovative efforts.

Mr. President, a great deal of attention has been given to human rights in other countries around the world, and rightly so. However, it is important that we always fully recognize human rights in our own country. One of the most basic of human rights is the right to adequate legal representation for all of our citizens. I am hopeful that every Member of this body supports this legislation without any crippling amendments.

I would add one final thought: We talk about being a country of laws and justice, of people being equal under the law. If there is one thing that is clear to anybody who has studied it for more than 1 minute, it is that people are not equal under the law unless they have access to appropriate legal counsel. These issues are complex. The court system is a tough system for anybody to approach unless they have competent and qualified legal counsel available to them.

The people who do not have the means to pay for that counsel are effectively denied justice in this country. When Mr. Bert Lance was before a Senate committee not too long ago, he had at his elbow Mr. Clark Clifford. Clark Clifford costs $400 an hour. If you can afford that $400 an hour and you are Mr. Lance, Mr. Clifford is a very good attorney to have there with you. But to the average citizen, to the poor people of this country who have some pressing legal matter facing them, they not only are denied access to the Clark Cliffords, they are denied access in many cases to any legal counsel whatsoever in a practical sense.

Legal Services was designed to overcome that inequity and to see that, in fact, we have equal justice in the United States, or at least, a chance for equal justice. In that regard, I think this legislation is profoundly important. I hope that when we have an opportunity later today to vote on it, it will receive the kind of broad bipartisan backing that it deserves.

There is nothing at all partisan about the issue of seeing to it that people's legal rights and opportunities under our system of justice are fully protected and represented. That is exactly what this legislation is designed to do. On that basis, I recommend it to my colleagues.

I yield back the floor at this time, Mr. President.

Mr. KENNEDY. Mr. President, I am pleased to see that the Legal Services Corporation Act Amendments of 1977 have come to the floor. This bill, which I cosponsored with Senator NELSON, the distinguished chairman of the Senate Subcommittee on Employment, Poverty and Migratory Labor; and with Senators CRANSTON, WILLIAMS, JAVITS, HATHAWAY, RIEGLE, and STAFFORD, was reported out of committee on May 16. It contains some very necessary additions to the authority of the Legal Services Corporation and its recipients. We must take action on this bill.

In this measure, we have succeeded in removing restrictions on legal services lawyers which have constricted their ability to represent their clients. The changes help put legal services lawyers in the same position as other lawyers who have a client to represent. They cannot do anything that a private lawyer cannot do; but they now will be able to do most of the things that a private lawyer can do on behalf of a client. We have thus corrected the problems in the first authorization for the Corporation—where at once we acknowledged that poor people need representation but on the other hand we implicitly said—"but don't be too effective."

We do not have to search far and wide for the reasons that this trade was made—the Corporation was created amidst a barrage of opposition from the Nixon administration. Two bills to set up the Corporation had previously died; one from a veto, and another under threat of a veto.

Ultimately the question became whether undesirable restrictions were necessary in exchange for obtaining a Corporation with some independence, which could begin to expand legal services to the poor.

Today we do not suffer from the need to make this choice and can pass a bill which allows Legal Services attorneys to serve as full-fledged lawyers for their clients.

In conjunction with the increased appropriations for the Corporation—$205 million this year, an increase of $80 million over fiscal year 1977—the way is paved for a stronger representational effort.

I applaud this development. The Legal Services Corporation acts to insure that the poor have their day in court, that they get that to which they are legally entitled. Here in America, where the law has been made the turnkey for a better life, it is vitally important that the most vulnerable are adequately served.

Eliminating these restrictions has special meaning to me because, in section 8(b)(1), this act also provides for access to legal services for groups among the poor who have had the hardest time in obtaining such assistance despite their obvious needs.

In the reauthorization, Legal Service Corporation recipients were directed to adopt procedures to provide assistance to significant parts of the eligible client population which have special problems in getting served and special substantive legal problems.

In the past, many groups were not served in any relation to their number in the client population, and it is this problem which this bill attempts to alleviate. There were certainly no willful ice projects were new and had not had time to develop procedures.

Since they were inadequately funded, these centers were swamped by the people who came in on their own. And, legal service lawyers tended to serve those whose problems were more amenable to the legal background of the lawyers themselves. This skewed the delivery of services. With the careful procedure mandated in this act, the legal service projects will have the incentive to stand back and take a look at their delivery and make the proper adjustments.

So, with this reauthorization we are taking steps to see that these people are served. They include, but are not limited to, such groups as the elderly, handicapped, veterans, Native Americans, migrant or seasonal farmworkers and people whose English speaking is limited.

In order to supplement the efforts mandated in section 8(b)(1) we have written in section 10. This section allows up to 3 percent of the Corporation's appropriation to be used for model projects to reach groups which have difficulty of access or special legal problems. This is an attempt to allow Corporation recipients to find new ways to reachout to and serve these groups.

It must be stressed that these funds are meant to supplement the effort mandated in section 8(b)(1) and never to substitute for that effort.

We want to encourage innovative approaches to reaching underserved people and those who have special legal problems. To insure that these people who have had difficulties in the past are adequately served, we are providing some additional funds for the search.

There are many new ways which must be pursued to serve people who cannot come into a central office. The elderly may be homebound; as may some of the handicapped. Migrant workers are likely to be in rural areas with little transportation available to get to centers. Many Native Americans are on reservations. A different, but no less serious access problem occurs with those who are primarily Spanish speaking.

While many may be able to get to a legal services office, they will not be able to get the service they need if they cannot communicate with their lawyer.

These model projects might include experimenting with wats lines for people who live in isolated areas; placement of intake workers in community service centers; and use of mobile units. Bilingual attorneys and translators may be provided where those who have difficulty speaking English are among the client population. In addition, they may, of course, be used to develop linkages with community organizations which are already involved in serving groups such as the elderly and handicapped. These organizations provide a vehicle for reaching the client population for legal services and legal education.

So, too, the funds can be used to help meet the specialized needs of these people. Some areas of the law involving these people can get very specialized. It may be hard for the general legal services lawyer to practice in these areas without spending an extensive amount of time boning up—time which most hard pressed legal services lawyers simply do not have. So this money can be used to develop specialties among some lawyers in areas where special client groups constitute a large part of the client population.

For instance, the elderly have needs which involve Federal and State administrative procedures in areas such as supplemental security income and medicare; migrant workers are more likely to have OSHA problems; Native Americans may have special land use problems.

The 3-percent limitation on section 10 funding does not include any of the field programs or support centers funded under section 1006(A)(1), even though some of those programs are, or in the future may be targeted at some of the specific client populations to which we refer in section 10.

Mr. President, we are, in sum, doing two things in this reauthorization. We are allowing lawyers to act fully as lawyers and we are stressing the needs of all client groups.

I want to enumerate some of the highlights of the bill:

First, it reauthorizes the funding for the Corporation. The first year authorization is for $225 million and the years after that are for such sums as are necessary.

Second, the legislation requires client representation on the national board and on the local boards of Legal Service Corporation recipients. This should insure sensitivity to client needs in establishing priorities.

Third, it makes recipient staff attorneys subject to the mandates of the Hatch Act that are applicable to other Government employees. We eliminated the additional restrictions which are currently in the act.

These restrictions, for instance, kept staff attorneys from being candidates for nonpartisan position on school and library boards.

Fourth, it allows Legal Services lawyers to represent people who were denied representation in the past simply because the subject matter of the cases did not appeal to lawmakers, regardless of the merits of those cases under the Constitution and other statutes. I am referring to the newly granted authority to represent juveniles in a broad range of cases and to provide legal assistance to those involved in desegregation proceedings relating to schools.

Fifth, legal services lawyers will be able to give advice and legal assistance to groups of clients who have organized themselves and who request such services, though recipients of Corporation funds will still not be able to initiate the formation of such groups.

Sixth, the Corporation is explicitly made subject to the Government in the Sunshine Act so that those citizens who are interested in the deliberations of the Corporation and State advisory councils may be able to attend their meetings.

Seventh, the Corporation is allowed to make grants and contracts for research, training, technical assistance, and clearinghouse activities with those outside the Corporation if this is a more effective way of doing a job than hiring additional Corporation personnel.

Mr. President, I am very pleased with the bill that we are considering today. I think that the Legal Services Corporation comes into full bloom with this reauthorization. And this is important to a decent society which believes that the procedures upon which we base our system should be available to all.

Like the vote, the law is a foundation upon which we decide how to run our society. Its virtue should not be denied to those among us who are the most vulnerable.

AMENDMENT NO. 861

Mr. HAYAKAWA. Mr. President, I call up amendment No. 861.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes amendment numbered 861.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, between lines 13 and 14, insert the following:

"(b) Section 1006(c)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(1)) is amended by inserting after 'litigation' the following: 'or file amicus briefs'.".

On page 13, line 14, strike out "(b)" and insert in lieu thereof "(c)".

Mr. HAYAKAWA. Mr. President, I wish to speak on behalf of the amendment I have just introduced.

I believe that it was the intent of Congress, when it passed the Legal Services Corporation Act of 1974, that the Corporation was to serve as a funding conduit for, and provide administrative and technical support, to several hundred private, nonprofit legal aid projects around the country, and that only attorneys employed by these projects could represent clients directly or file amicus briefs on their behalf. The Corporation's role as a conduit of funds rather than as a provider of direct legal aid is spelled out in section 1006 of the act dealing with the powers, duties, and limitations of the Corporation. According to this section "the Corporation is authorized to provide financial assistance to qualified programs furnishing legal assistance to eligible clients" but "shall not itself participate in litigation on behalf of clients other than the Corporation." Let me emphasize that "not," which is in the original legislation.

In using the expression "participate in litigation" I believe Congress was referring not only to acting as counsel on behalf of a plaintiff or defendant in a lawsuit but also to filing amicus curiae briefs on behalf of one party or another in a lawsuit. My amendment, which would simply clarify the original intent of Congress, is prompted by the fact that the Corporation has evidently construed the prohibition against participation in litigation as nonapplicable to amicus briefs. On June 7, 1977, the Corporation filed an amicus curiae brief with the Supreme Court in the case of the Regents of the University of California against Alan Bakke.

Alan Bakke, a 36-year-old white student, applied for admission to the medical school of the University of California in 1973 and 1974. Both times, he was denied admission, although a number of blacks with scores considerably lower than his were admitted under a policy that preserved 16 out of 100 spaces for minorities. Bakke sued the university and was upheld by the California Supreme Court, which ruled, 6 to 1, that the university, in rejecting Bakke on racial grounds, had violated the equal protection clause of the Constitution. The university has appealed the ruling to the U.S. Supreme Court, which will hear the case sometime this fall.

The Legal Services Corporation's brief in the Bakke case, which was filed on behalf of the University of California by two members of the Corporation's staff, without the knowledge or approval of the Legal Services Board of Directors, contends that unless the quota system is preserved, the number of minority students admitted to all graduate schools, including law schools, will decline and that this decline will adversely affect the poor, since it will reduce the supply of minority lawyers available to provide legal aid for minorities among the poor.

Apart from the tortured logic which tries to convert what is essentially a civil rights issue into a poverty issue, I find the racism implicit in the Corporation's argument to be intolerable. The best answers to this kind of argument was made a few years ago by Supreme Court Justice William O. Douglas, who, in an opinion in a similar case—the De Funis case—wrote:

> The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory of how society ought to be organized. The purpose of the University of Washington cannot be to produce Black lawyers for Blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for the Irish. It should be to produce good lawyers for Americans and not place First Amendment barriers against anyone. . . . There is no constitutional right for any race to be preferred. A De Funis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter his race or color. Whatever his race, he had a constitutional right to have his application considered on its merits in a racially neutral manner.

In its ruling in the Bakke case, the California court noted:

> It has been more than three decades since any decision of the U.S. Supreme Court upheld a classification which resulted in detriment solely on the basis of race.

That decision, which upheld the wartime relocation of Japanese-Americans, was, as George Will reminds us in a recent column, "one of the darkest episodes in U.S. constitutional history."

As a member of a minority, myself, I hope, for the sake of all minorities and, indeed, for the sake of all Americans, that the Supreme Court will extinguish this latest attempt to resurrect the doctrine that the end justifies the means. I agree with President Jimmy Carter who, in a recent comment on the Bakke case, said:

> I hate to endorse the proposition of quotas for minority groups, for women or for anyone else that contravenes the concept of merit selection.

But my opposition to quotas in higher education is not the reason I am proposing this amendment today. I am proposing the amendment first because I believe the Corporation, in filing its brief in the Bakke case, has violated the clear intent, if not the letter, of the Legal Services Corporation Act. Second, the Corporation has strayed beyond its mandate, which is to serve the poor, by involving itself in a case where poverty is a peripheral issue if it is an issue at all. The brief was filed, incidentally, on behalf of the regents of the University of California who can scarcely be classified as paupers. Third, and most importantly, I find it offensive that tax funds should be used to promote the private views of special interest groups. I would be equally opposed to the Corporation's intervention on behalf of Bakke.

Finally, my amendment is needed to rein in a staff which is obviously out of control. Not only was the board of directors not consulted in advance of the standing that the board has taken no action since to withdraw the brief, reprimand the staff or issue guidelines prohibiting the filing of such briefs in the future.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. NELSON. Mr. President, let me say to the distinguished Senator from California, we shall, if he desires, be able to get the yeas and nays at the appropriate time. There may be some others who wish to comment on it, and perhaps we can seek the yeas and nays subsequently.

Mr. HAYAKAWA. Then let us have the other comments now.

Mr. CHAFEE. Mr. President, it seems to me there is no question that it was a mistake for the Corporation to get into the Bakke case. I think the points made by the distinguished Senator from California are very true. It just did not involve a poverty matter.

I have a question I would like to direct to the Senator from California.

If the amendment were narrowed so that the Corporation could submit amicus briefs in those matters which affected the Corporation, but in which they were not directly involved—in other words, what the Senator might consider to be a proper instance for the Corporation to involve itself with through an amicus brief—I was wondering if the Senator would agree to a modification of his amendment to that extent.

Mr. HAYAKAWA. Will the Senator please explain that again?

Mr. CHAFEE. The Corporation, it seems to me, should be permitted to participate in any case in which the validity or interpretation of the Legal Services Corporation Act or Corporation regulations is involved.

The most common situation in which such questions arise is, for instance, when a recipient is representing a client and is not itself a party.

In other words, an instance in which one of the local legal services is representing a client and is not itself a party, although it has a very real interest in the outcome, as does the Corporation.

Another example would be a case in which a recipient is seeking attorney's fees under a Federal statute that authorizes their award or, for example, when the recipient is resisting a discriminatory appointment without compensation.

Neither the Corporation nor the recipient is named a party, so the only way their views would get before the court would be through an amicus brief.

I was wondering if that would meet the Senator's objections. I think that would clearly prohibit appearance in a future instance similar to the Bakke case.

Mr. HAYAKAWA. Yes. It seems to me the amendment does take care of it. Section 1006(c), the Corporation is not to litigate or file an amicus brief on behalf of clients other than the Corporation.

Mr. CHAFEE. In that case if the Corporation is a party, obviously, it does not need an amicus brief.

Mr. HAYAKAWA. Litigate on behalf of the Corporation, and if the Corporation says, in effect, "go ahead," then, obviously, it is empowered to do so.

I hope that explains it for my colleague from Rhode Island.

Mr. CHAFEE. I will have to confess that I do not fully understand.

In other words, the amendment as presented, the Senator's amendment, forbids the filing of amicus briefs.

Mr. HAYAKAWA. Yes.

Mr. CHAFEE. My concern is that there are instances where the Corporation is not a party, but I think the Senator would agree it has a valid interest in having an amicus brief presented. These are matters that pertain directly to the Corporation or to its recipients.

As, for example, those that I gave, where a recipient is seeking attorney's fees under a Federal statute that authorizes their award.

In that instance, the recipient, that is the local Corporation, the local agency, would not be a party. The party would be the poor person. Say the poor person is suing, for example, some municipality: In that case, the fees would be coming to the recipient, that is, the local agency, but they would not have a chance to present their views in this dispute over fees unless they could file an amicus brief.

My question is. Would the Senator be willing to modify his amendment to take care of clear-cut situations like that, which would not involve Bakke, or similar cases?

Mr. HAYAKAWA. If they were clear cut, would not be the Corporation itself——

Mr. CHAFEE. Be a party?

The answer is, no, they would not be.

Mr. HATCH. Will the Senator yield for a question?

Mr. HAYAKAWA. Yes.

Mr. HATCH. Would it not be true in this case they would either be a party or represent a party ?

Mr. CHAFEE. That is right.

Mr. HATCH. So that in those cases they would be a participant in the particular matter of litigation.

Mr. CHAFEE. They would not be because they are not a party.

Mr. HATCH. A participant as attorneys for the party.

Mr. SCOTT. Will the Senator yield?

Mr. HAYAKAWA. I yield to the Senator from Virginia.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator from California yielding.

This whole Bakke case which is before the Supreme Court of the United States is something that is of considerable concern to me. I believe in equal rights of all of our people. I believe in the equal protection of the law. But I do not believe that some people should be more equal than other people. I do not believe in what the Attorney General refers to as affirmative action, affirmative action to be taken, because of past injustices so that some people will be given something more than the equal protection of the law.

It seems to me we have to start where we are today and say that in this country under our Constitution every citizen is entitled to equal protection under the law, because if we say that some people are entitled to be more equal than other people, that means that others are less equal than the people who are more equal.

I do not believe we can accept the concept that because of past injustices we are going to recompense and give something extra to some of the people of our country.

I serve on the Judiciary Committee and we just confirmed, within the past several months, a new head of the Civil Rights Division. This gentleman and I had lunch together and I posed the question to him as to whether, as a black man, he believed that in his administration of the Civil Rights Division of the Department of Justice he would give special privilege to people who happened to be black, because of past injustices, or whether he would try to keep people equal regardless of their race and color and creed, if he would try to follow the Constitution as the Constitution is written. He assured me that he would follow the Constitution as the Constitution is written.

I had the Solicitor General of the United States, who, also, is a black man, in the office, he and his wife were visiting briefly with me, and posed the same question to him.

The Solicitor General is the chief law officer of the United States. He is the one who makes the dicision, not the Attorney General, as to whether there shall be an appeal filed by the United States or whether the U.S. Government shall enter amicus curie brief.

He assured me, in the same way, that he had been a member of the circuit court of appeals and he believed in equality of all races, and because of past injustices he would not take the action that is being taken today by the Department of Justice in filing an amicus brief.

If this case, this case that is now before the Supreme Court and that our Government is filing an amicus brief in, is decided against the white man in this case, he is being denied the rights of citizenship merely because he happens to be white.

That is not what the Constitution says. It says that we are all entitled to equal protection of the law. I appreciate the distinguished Senator bringing this matter to the attention of this body.

I hope that the Supreme Court, in its wisdom, will stick to the Constitution and interpret the Constitution as the Constitution is written.

I am a minority; I am a Methodist. I am a minority; I am a Republican. I am a minority; I am a man. We are all minorities in one manner or another. None of us happens to be a member of the majority in everything we do, and we cannot have discrimination making up for past injustices.

We could give special rights to Indians. We could give special rights to Irish people because in the past they were discriminated against. We could say Puerto Ricans are discriminated against. We could say orientals are discriminated against. Yet I do not believe orientals are entitled to any special privilege, nor is any other citizen of the United States. If you give special rights to one, you are taking away from the other.

So I believe we should adhere strictly to the Constitution and strictly to what is written. It is engraved over the Supreme Court building: Equal justice under law. That is what our Constitution calls for, and I hope that is what the Supreme Court finally decides.

I am glad the Senator brought up this particular case, and I thank him for yielding.

Mr. HAYAKAWA. I thank the distinguished Senator from Virginia for his comments.

I should like to add, however, that I may have misled him and others a little in bringing up the matter of racial justice at all, because the amendment I am proposing is much more limited than that.

The original section 1006(c) says:

> The corporation shall not itself participate in litigation on behalf of clients of the corporation.

The amendment adds:

> The corporation shall not itself participate in litigation or file amicus briefs on behalf of clients other than the corporation.

So it is a very simple, tiny amendment, which I hope restores the original meaning, clarifies the original meaning, of the legislation. That is all I had in mind in proposing this amendment.

Mr. CHAFEE. Mr. President, I should like to ask a couple of questions, because I think there is some confusion as to what the amendment would do. Under one interpretation, it would be quite acceptable, and under another interpretation it might not be.

The question really is this, and I ask the Senator from California to give me a yes or no on this: In a situation where a recipient project—a recipient, as they say in the language—is involved in a case, could the Corporation file an amicus brief, under the Senator's amendment?

Mr. HAYAKAWA. No, it could not.

Mr. CHAFEE. I want to make sure everyone understands that. I will repeat it.

It is my understanding from the Senator from California that, under his amendment, when a recipient is involved in litigation—a recipient project or recipient is involved in litigation—the Corporation cannot submit an amicus brief.

Mr. HAYAKAWA. Nor could it participate in litigation. Is that not the original meaning of the legislation? The corporation shall not itself participate in litigation. I have added the words "or file amicus briefs."

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. HAYAKAWA. I yield.

Mr. HATCH. Is it not true that the Senator's amendment does not change the existing law with regard to the Legal Services Corporation?

Mr. HAYAKAWA. No, it does not.

Mr. HATCH. All it does is add that it may not file, except in those cases where it is presently capable of filing, and it will not file an amicus curiae brief. Is that not true?

Mr. HAYAKAWA. I thank the Senator from Utah.

I do not think that, under present law, it is really capable of filing amicus briefs, but they went ahead and did it, anyway.

Mr. HATCH. That is right. The point the Senator is making, as I understand it, is that his amendment does not change the present law at all. It just makes clear that under present law and under future law, it will not have the right to file amicus briefs.

Mr. HAYAKAWA. That is correct.

Mr. HATCH. And to inject itself into the litigation where it does not have a relationship, where it is not a litigant, which it cannot be, anyway, and where it is not an attorney.

Mr. HAYAKAWA. That is correct.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Is what I have said, true, I ask the Senator?

Mr. HAYAKAWA. Yes, it is. The Senator from Utah has interpreted it correctly.

Mr. HATCH. In other words, the Senator from California is not changing the law but is making it clearer, so that what formerly was the law remains the law; and that the Legal Services Corporation in the future makes no more mistakes, as has been admitted here, by filing briefs in cases in which it has no interest or standing.

Mr. HAYAKAWA. That is correct.

I thank the Senator for the clarification.

Mr. NELSON. Mr. President, will the Senator from California yield for a question?

Mr. HAYAKAWA. I yield.

Mr. NELSON. I wish to understand the objective of the Senator's amendment. Is it the Senator's objective to prohibit the Corporation from filing an amicus brief in behalf of one of its associated local legal services organizations? In other words, if a local legal services organization is under the direction of the Corporation and controlled by the rules and regulations of the Corporation, is the Senator saying that the Legal Services Corporation may not, if it so desires, file a brief in support of the position of the local legal services organization which is part of the Corporation?

Mr. HAYAKAWA. I will stick by what the law says: The Corporation shall not itself participate in litigation nor file amicus briefs. That is the job of the staff that has taken on the job. But the Corporation itself shall not be so involved, neither in litigation nor in amicus briefs.

As I stated earlier, the Corporation is a conduit for money to provide these legal services. It is not itself a litigant, not itself a party to litigation.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I yield.

Mr. HATCH. Perhaps I could have the attention of the Senator from Wisconsin, and I think I can clairfy this.

In a situation where the local Legal Services Corporation receives assistance through a brief or otherwise, in litigation in which it is already involved, this certainly is permissible—exactly the situation that the distinguished Senator from Wisconsin indicated—even under the amendment of the Senator from California, which would prohibit amicus briefs in matters in which the Legal Services Corporation does not participate as attorney.

Mr. HAYAKAWA. I think that is correct.

Mr. HATCH. I think that would solve the problem of our colleague from Wisconsin.

Mr. NELSON. I hope we have it clear that the local client legal services organization is part of the Corporation.

Mr. HATCH. Yes, if they are involved in litigation. What my friends from California just said is that the national Legal Services Corporation could, in fact, assist in a brief for that particular piece of litigation.

Mr. NELSON. So if the local legal services organization is involved in a lawsuit that goes on appeal the Corporation may, in behalf of the client represented by the local client organization, file an amicus brief with the Supreme Court, or with the

Federal court, or wherever the case may be.

Mr. HATCH. That is my present interpretation of the law and, I believe, that is correct. But it would not file an amicus brief; it would file a joint brief with the local legal services entity.

Mr. NELSON. I suppose it gets into a technical refinement as to whether or not it would be an amicus brief if the Corporation were filing something in addition to what the local legal services organization filed on behalf of its own——

Mr. HATCH. The Senator from California's amendment provides they may not file an amicus curiae brief, which means they have to file a joint brief. They would not be forbidden from filing a brief in litigation in which one of the legal services, local legal services, centers is on the brief.

Mr. NELSON. We may be caught up in some semantics, if I may say so.

Mr. HAYAKAWA. It is law.

Mr. KENNEDY. Mr. President, will the Senator from Wisconsin yield for a comment?

Mr. NELSON. I would like to insert, I think, the language adopted by the House which may very well achieve what it is the Senator seeks to achieve. The House provided after the word "Corporation" the following words be inserted, "or participate in any litigation unless the Corporation or a recipient of the Corporation is a party to such litigation."

I assume that is what the Senator from California is attempting to achieve; is that correct?

Mr. HAYAKAWA. It is correct.

Mr. NELSON. I yield to the Senator from Massachusetts.

Mr. KENNEDY. In listening to the exchange, I wanted to associate myself with the comments to which the Senator has just referred. There may be situations where the Legal Services Corporaton's interests are at stake, and yet they may be denied standing in various courts. Then, the Corporation would not be permitted to file a brief as a party. In those situations the opportunity to file the amicus brief would be absolutely essential.

So I think it is important when we are considering our intent that we understand there are circumstances, in which the integrity of the Legal Services Corporation or the act under which it operates or its interest in protecting the needy may be at stake. It seems clear to me that with the interpretation that the Senator from California has so far given this amendment, the Corporation would be denied an opportunity to make its voice heard unless it was filing a direct brief. This would put a very heavy burden on the Corporation.

We are talking about interests that relate to the integrity of the Legal Services Corporation which may be jeopardized if the Corporation must actually be a party before it can file a brief. So I just want to associate myself with the remarks of the Senator from Wisconsin and hope that before we agree with any language we have a full understanding about what the impact would be.

Mr. NELSON. I think it is perfectly clear, at least in the amendment of the Senator from California, that they would not be able to file an amicus brief in a case such as the Bakke case, in which they did not have a client involved nor did the local Legal Services organization have a client involved, and I think clearly the amendment of the Senator from California would prohibit the filing of that kind of a brief.

It would, if I understand it correctly, permit filing a brief of some kind or another, amicus or whatever it may be called, in any case in which the Corporation was involved.

If one of the Corporation's local legal services programs was involved, or an eligible client's case was before a judicial body, they could also file a brief, as I understand it, the Senator from Utah is saying a joint brief, with the local legal services organization, but not an amicus brief.

Mr. KENNEDY. I thought that the Senator from Utah, in his exchange with the Senator from Wisconsin, indicated that if a corporation had a direct interest it would not be necessary to file an amicus brief and, therefore, it would probably be wise to constrain the ability of the Legal Services Corporation to file an amicus brief under any circumstances. If that was the position then I think it is important for us to understand that there may be times when the Corporation may not have standing to intervene before the courts and the amendment as explained may very well preclude the protection of the interests of the Legal Services Corporation where an amicus brief would be the only remedy.

I would be interested in the clarification by the Senator from California as to exactly what situations he interprets his language to reach. Maybe it is just a question of semantics but, perhaps, it is something more, and I would welcome the chance for further clarification.

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

Mr. RIBICOFF. May I make a unanimous-consent request, if the Senator will yield? I ask unanimous consent that David Schaefer of my staff be allowed the privilege of the floor during the consideration of the Legal Services Corporation Act and the protection of children against sexual exploitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I make the same request for Jay Urwitz.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Is it my understanding that there is an amendment pending?

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 910

(Purpose: To retain in the Legal Services Corporation Act a preference for local persons in filling staff attorney positions, while amending current law to provide for certain necessary exceptions to this rule.)

Mr. DANFORTH. Mr. President, I ask for unanimous consent that an amendment which I now send to the desk be taken up immediately.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 910.

The amendment is as follows:

On page 16, strike lines 4 through 7 and substitute in lieu thereof the following:

(d) Paragraph (8) of Section 1007(a) of of the Legal Services Corporation Act of (42 U.S.C. 2996f(a)(8)) is amended by striking out all after "Subchapter" and inserting in lieu thereof the following:

and, to the extent such preference is consistent with the laws of the United States respecting discrimination in employment, give preference in filling such positions to qualified persons who reside in the community to be served, except such preference shall not be required if the recipient certifies to the corporation that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English, that the person proposed to fill the position meets such requirements, and that no qualified person can be found in the community who meets such requirements and will accept employment with the project.

Mr. DANFORTH. Mr. President, the Legal Services Corporation Act currently requires legal services programs to solicit the recommendation of the organized bar in the community served before filling attorney positions. The act also requires the corporations to give preference to qualified local residents in hiring staff attorneys.

The bill retains the provision requiring the legal services program to solicit recommendations from the local bar—but strikes the preference for local residents in filling staff attorney positions. The committee report states that this action was taken because the preference for local residents sometimes conflicted with other legal requirements—such as those prohibiting discrimination in employment, and those requiring projects to provide legal assistance in a foreign language in areas where a significant number of clients speak a language other than English as their principal language. The committee report explains further that the requirement for preferential treatment for local residents sometimes hampered projects in their attempts to hire persons with necessary expertise in specialized fields of law—and so the preference was stricken.

Mr. President, I think the committee's action amounts to throwing the baby out with the bath water. I believe Congress acted wisely in 1974 when it wrote into the law a preference for qualified local residents in filling staff attorney positions. It is extremely important—in my opinion—that the persons who staff

Legal Services offices be not only good attorneys—but also persons who understand the culture and the needs of the community they serve. For this reason, if qualified persons can be found in the community to staff Legal Services offices—there is good reason to give them preferential treatment in hiring decisions.

In addition, it may be the case—especially in some rural communities—that legal services can best be provided by attorneys who reside in the community and who are engaged in the private practice of law, but are ready and willing to provide their assistance, part-time to a legal services project.

I recognize the concerns which led the committee to strike this preference from the law, but I think their concerns can be met without going so far as to strike altogether the preference for hiring local persons.

My amendment would retain the preference for local persons in hiring decisions—but would provide that this preference shall only be exercised to the extent that it is consistent with the laws respecting discrimination in employment. The amendment would also provide that this preference shall not be required if the recipient certifies to the Corporation—

First, that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English;

Second, that the person proposed to fill the position meets such requirements, and

Third, that no qualified person can be found in the community who meets such requirements and will accept employment with the project.

I think my amendment speaks to the concerns of the committee, while recognizing the importance of insuring the active participation of local residents in legal services projects.

I do not believe anyone can look on this proposal as controversial. I hope that it will be acceptable to the floor managers of the bill.

Mr. President, this amendment is very simple. It simply restores, in slightly different form, what is now current law. It provides that preference be given in hiring of legal aid attorneys to persons from the local community. That is the provision as it stands in the existing law. It was stricken in committee. This amendment would reinstate it, with the proviso that the preference for hiring local persons could not be exercised in a manner inconsistent with the laws of the United States respecting discrimination in employment. The amendment provides further that in the event local attorneys do not have the particular kind of expertise which is determined desirable or do not have language skills which are deemed desirable, then, of course, attorneys from outside the community can be hired. I have checked with this with the floor managers of the bill and it is my understanding that it is satisfactory to them.

Mr. NELSON. Has the Senator finished his presentation?

Mr. DANFORTH. Yes.

Mr. NELSON. Mr. President, will the Senator yield for a couple of questions?

Mr. DANFORTH. I yield.

Mr. NELSON. I am assuming that the objective of this amendment is to make specifically certain that none of the laws respecting minorities, affirmative action, or any such thing of that nature, are overridden by the provision that "preference be given to local attorneys in hiring."

Mr. DANFORTH. That is correct. That is expressly set forth in the amendment.

Mr. NELSON. I am assuming also that we are talking about qualified local attorneys.

Mr. DANFORTH. That is also correct.

Mr. NELSON. Without regard to the question of minorities, affirmative action, there is sufficient flexibility here so that if the local legal services programs believe that the available attorney or attorneys were not qualified to handle satisfactorily, based on experience or competence, they are not compelled to hire a local attorney simply because the attorney is from that local community.

Mr. DANFORTH. That is right. There is no effort in this amendment to in any way reduce the quality of legal services offered. There would be no requirement that the Corporation would compel the hiring of an incompetent local attorney just because he is local. What this amendment says, in effect, is, that insofar as consistent with the need to comply with civil rights laws and insofar as consistent with the need to supply lawyers with specific expertise which may or may not be available in a given community and language skills that may or may not be available in a given community, then given those consistencies preference should be given to hiring lawyers within a community.

The reason for that can be plainly stated. First of all, I think that lawyers in a community, other things being equal, do have greater knowledge of the local court system. Further, I think that it is desirable to build within the community, in rural areas as well as in urban areas, a local bar which has some experience in dealing with the needs and problems of the poor.

Mr. NELSON. This is a modification which I interpret to broaden somewhat the provisions of the current statute. Would that be the Senator's interpretation?

Mr. DANFORTH. Well, I do not know if the word "broaden" or the word "narrow" is more accurate. I think what this amendment would do is specifically recognize the need to comply with Federal laws with respect to civil rights, and the need to sometimes bring in attorneys who have specific expertise that is not available in the local community.

Mr. NELSON. I have no objection to that proposed amendment.

The requirement that preference in staff attorney hiring be given to qualified applicants residing in the community to be served should not be interpreted to conflict with other legal requirements. One of those requirements is section 1006 (b)(6), which demands that legal assistance be provided in a language other than English in areas where a significant number of clients use such language as their principal one.

Nor is the attorney hiring provision intended to conflict in any way with laws prohibiting discrimination in employment. Programs must insure that equal employment opportunities are afforded by their hiring practices.

In order to insure that the most highly qualified attorneys are hired for its staff, each legal services program should establish qualifications for attorney positions. A program may find it appropriate to consider, among other relevant factors, academic background, knowledge of the legal problems of the poor, prior legal experience, and prior working experience in the client community, as components of the qualifications needed to provide high-quality legal assistance to the clients residing in the area served by the program.

When equally qualified applicants are under consideration for an attorney position, a program shall give preference to the applicant residing in the community to be served.

Programs shall continue the practice of notifying the local bar, including minority bar associations, of the existence of attorney vacancies, and seeking their recommendations for attorneys who meet the qualifications established for those positions.

All organizations which are considered by a legal services program to have knowledge of the legal needs of persons in the community unable to afford legal assistance should be similarly notified and solicited for recommendations.

This procedure will promote a mutually beneficial relationship between the program and the local bar and community.

I do not know whether anyone else wishes to comment on it or not.

Mr. President, I call attention to the absence of a quorum.

The PRESIDING OFFICER (Mr. CHILES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to ask the Senator from Missouri a question, if I might, in connection with his amendment.

As I understand it, the rationale for the amendment that the committee presented, to delete that part of the act which required that special preference be given to hiring local attorneys, was the concern that there may be a flock of local attorneys who are willing to take on a 6-month tour to get a little trial experience or experience in handling these kind of cases, but they are not expecting to stay for the length of time which the recipient, that is, the local corporation, might want; and the local corporation might well want someone who would make a commitment for 2 or 3 years to handle this rather specialized and, I might say, rather unglamorous type of law, which is rather tiring and requires a certain amount of dedication. Under

the suggestion of the Senator from Missouri, barring the Spanish-speaking situation or something like that, the recipient local corporation could not take this lawyer from some other place, even though he was really wanted for 2 or 3 years.

Mr. DANFORTH. First of all, there is nothing in the amendment which is intended to reduce in any way the quality of legal services. Therefore, under this amendment, if the people in the local bar were not qualified, there would be nothing that would compel them to be hired.

The amendment does give preference to the people in the local bar. But I think as a practical matter, the effect of this proposal would be to upgrade the quality of legal services, and I say that for the following reasons:

In smaller communities, and even in rural areas, you sometimes have a very competent local bar quite able to assume responsibilities under a legal services program. Chances are that legal services could be better performed by them than by people who might be just out of law school or working out of a legal services office in another community—attorneys shipped in for a period of about a year or so to work in a legal services program in a community they know nothing about.

With this preference for local attorneys you are more likely to get an experienced attorney familiar with the problems of the community—probably with more years under his belt than would be the case if you sent into a community people recently out of law school who knew nothing about the local court system.

Mr. CHAFEE. Mr. President, my problem is not so much someone who is not qualified, because I am sure you could find qualified people through the local bar associations. I am concerned about giving preference to someone who might not be willing to undertake this project for the required length of time. In other words, the recipient—the local organization—might say, "Look, we have had terrible turnover in this organization, and we really do not want to take on anyone who is not going to commit himself to 2 years of service. We cannot have this turnover."

I am concerned that the amendment of the Senator from Missouri, as I read it, deals solely with qualified persons. There may be plenty of qualified people who can do the job, but who would say, "Look, I am not going to commit myself for 2 years; I will stay for 6 months, but you will have to take your chances after that."

Is the length of time the person is planning to stay to be considered part of his qualifications?

Mr. DANFORTH. I would think that would be something that could be better determined by the local legal services organization, than by the Senate. I would simply state again that there is nothing in this amendment which is designed in any way to reduce or limit the quality of legal services. The intention is quite to the contrary.

Mr. NELSON. Mr. President, may I pursue that point just a little bit further for purposes of the record?

Whenever we use the word "preference" in any statute, ambiguities result, because certain subjective judgments come into play.

I am still assuming that, other things being equal, the local attorney is preferred only if one is available and qualified for the position. For example, if a local legal services program needs a staff attorney with trial practice for a particular position and the local lawyer who is available—no matter how fine or how bright—had no trial practice, because that was not the field in which the lawyer was experienced, then the legal services program would not be obligated to take on the local attorney for the purpose of filling that particular slot. Would that be correct?

Mr. DANFORTH. That is correct.

Mr. NELSON. Mr. President, unless there is objection, I am perfectly willing to accept the amendment offered by the Senator from Missouri.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. May I reserve my right for 1 minute, Mr. President?

Mr. DANFORTH. Mr. President, I have some very slight perfecting amendments to my amendment which I send to the desk.

The PRESIDING OFFICER. Does the Senator wish to modify his amendment?

Mr. DANFORTH. Yes, I do.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 16, strike lines 4 through 7 and substitute in lieu thereof the following:

(d) Paragraph (8) of Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(8)) is amended by striking out all after "title" and inserting in lieu thereof the following:

"and, to the extent such preference is consistent with the laws of the United States respecting discrimination in employment, give preference in filling such positions to qualified persons who reside in the community to be served, except such preference shall not be required if the recipient certifies to the corporation that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English, that the person proposed to fill the position meets such requirements, and that no qualified person can be found in the community who meets such requirements and will accept employment with the project;".

Mr. CHAFEE. I have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Missouri.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The question recurs on amendment 861 of the Senator from California. The yeas and nays have been ordered.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 911

(Purpose: To amend current law to provide for prior notification of principal local bar associations of any legal assistance grant, project, or contract, allowing opportunity for comments and recommendations.)

Mr. DANFORTH. Mr. President, I ask unanimous consent that proceedings on the amendment by the junior Senator from California be set aside so that an amendment which I now send to the desk may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 911.

The amendment is as follows:

On page 16, insert the following between lines 7 and 8:

e. Section 1007(f) of the Legal Services Corporation Act (424 U.S.C. 2996f(f)) is amended by striking all after "Governor" and inserting in lieu thereof:

, the State bar association of any State, and the principal local bar associtaions (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

Mr. DANFORTH. Mr. President, the purpose of this amendment may be simply stated. The Legal Services Corporation Act currently provides for notification of the Governor and the State bar association 30 days prior to the approval of any grant application—or prior to entering into a contract or prior to the initiation of any other project. The law further provides that notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

My amendment would simply provide that the same notification shall also be provided to the principal local bar associations in the community to be served. As I am sure my colleagues are well aware, the Economic Opportunity Act of 1964 provided for such notice in the funding of legal services projects under the old Office of Economic Opportunity. However, for what I understand to be considerations of convenience, this provision was omitted when the Legal Services Corporation was established in 1974.

Mr. President, if legal services programs are to be successful, it is important that they enjoy the support of the local bar. I am in no sense proposing that local bar associations have a power of veto over legal services programs, but I am saying that local bar associations

should be provided opportunity to make recommendations respecting the provision of legal services for the poor in their communities. I understand that—as a matter of course, the Legal Services Corporation has always advised project applicants to discuss their plans in detail with the local bar in affected communities. My amendment would simply make clear that it is the intent of the Congress that such notice always be provided before a project is funded or approved.

Mr. President, I do not see this as a controversial proposal, and I hope that it will be acceptable to the distinguished floor managers of the bill.

Mr. President, until 1974, the statutes provided for notice to be given to the principal local bar associations prior to the extension of legal services to a local community. In 1974 the requirement of notice to the local bar association was deleted. This amendment would simply restore the requirement that notice be given to the principal local bar association, if there be any, of any community where legal services will be initiated.

Notice shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations. No veto power would be given by this amendment to the local bar association, but it would serve as a matter of comity.

Mr. NELSON. Will the Senator yield for a question.

Mr. DANFORTH. I yield.

Mr. NELSON. The last sentence states that notification shall include reasonable description of the grant application or proposed contract or project and request comments and recommendations.

What is the time limitation on comments by the local bar?

Mr. DANFORTH. It would be 30 days.

Mr. NELSON. Does the statute with respect to the notification to the Governor and the State bar have a 30-day time limitation?

Mr. DANFORTH. That is correct. The same 30-day limitation would apply here.

Mr. NELSON. Mr. President, I have no objection to the amendment.

Mr. CHAFEE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from California (Mr. HAYAKAWA).

Mr. CHAFEE. Mr. President, I think that amendment is going to be slightly modified, as I understand it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 861

Mr. HAYAKAWA. Mr. President, let me suggest some new wording beginning on line 5 of this amendment which appears to be satisfactory to all of us. After the word "following:" insert:

Unless the Corporation or a recipient of The Corporation is a party, or a recipient is representing an eligible client in such litigation, and shall not participate on behalf of any client other than itself; or

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Mr. President, I have no objection to that amendment as so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 13, between lines 13 and 14, insert the following:

"(b) Section 1006(c)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(1)) is amended by inserting after 'litigation' the following: 'unless the Corporation or a recipient of The Corporation is a party, or a recipient is representing an eligible client in such litigation, and shall not participate on behalf of any client other than itself; or'

On page 13, line 14, strike out "(b)" and insert in lieu thereof "(c)".

Mr. NELSON. Mr. President, may I ask, did we vote on the amendment?

The PRESIDING OFFICER. The yeas and nays were ordered; then the Senator from Rhode Island asked for time. The Senate did not vote.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the request for the yeas and nays be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to.

Mr. HATCH. Mr. President, I yield myself such time as I may need.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HATCH. I am glad to yield to the distinguished Senator.

Mr. HELMS. Mr. President, I ask unanimous consent that no interruption be shown in the Senator's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask unanimous consent that Carl Anderson of my staff be accorded the privilege of the floor during discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier be accorded the privilege of the floor during consideration of S. 1303 and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, prior to the Senate's July 4 recess, I had occasion to meet with Thomas Ehrlich, President of the Legal Services Corporation. As most of my colleagues are aware, Senator HAYAKAWA and I have filed minority views to the report of the Human Resources Committee and we have serious reservations about this bill.

The purpose of my meeting with Mr. Ehrlich was to discuss the entire legislative picture and to attempt to gain assurances from him that the Corporation would be run in total compliance with the act. I expressed to him most of my concerns, which coincide with those of many of my colleagues, and I asked that he address these problem areas in a followup letter to me.

On July 11, 1977, Mr. Ehrlich complied with my request. I think it now important that I read into the RECORD his response.

DEAR SENATOR HATCH: When we talked last week, you asked me to outline for you the basic aims of the Legal Services Corporation and the methods by which we assure that recipients of Corporation funds comply with the Congressional mandates in the Act and in the regulations issued under the Act.

The fundamental purpose of the Corporation was defined by the Congress when it passed the Legal Services Corporation Act: To provide high quality legal assistance in non-criminal matters to persons who cannot afford that assistance. Because the Corporation does not have sufficient resources to serve all who meet that definition, we follow the requirement in the Act to give priority to serving those least able to afford legal assistance, and set maximum eligibility guidelines at 125 percent of the official poverty level set by the Office of Management and Budget (currently, $7313 for a family of four and $3713 for a single individual).

As the initial effort to meet the Corporation's mandate from the Congress, the Corporation has requested appropriations—in increments over a three-year period through fiscal year 1979—to provide legal assistance in all areas of the country at a level equivalent to two attorneys for 10,000 poor persons. That level will offer only minimum access to the legal system—some chance for a poor person with a crisis legal problem to find assistance. Studies indicate that in any year roughly 23 percent of the poor have a legal problem for which they need legal services. Obviously, at a level of two attorneys for 10,000, only a fraction of that 23 percent actually will receive assistance from a legal services program, even when attorneys handle caseloads of as much as 400 to 500 cases a year.

Our minimum access plan depends not only on Congressional appropriations sufficient to support two attorneys for 10,000 poor people, but also on the continued and expanded *pro bono* efforts of the private bar and the availability of other public and private sources of funding for legal services. The Corporation and local programs work hard to develop and maintain those resources.

As part of the effort to assure high quality legal assistance, the Corporation—through its Office of Program Support—provides training, technical and management assistance to legal services program staff. This includes systematic training of new attorneys, project directors, management and administrative staff, and paralegals, as well as specialized training in federal practice and specific areas of the law that impact particularly on the poor.

The Corporation is in the process of developing a Project Reporting System that will provide detailed information for every legal services program on the characteristics of the clients served, the nature of the cases handled and the time devoted to each, costs of delivery, and utilization of staff. This information never was available in the years that legal services were funded through the Office of Economic Opportunity and the Community Services Administration. The Project Reporting System is now being tested in a number of programs, to assure that the data collected will provide the Congress with

the information it needs for its oversight of the legal services program. It will also meet important management needs of the local programs and the Corporation.

In addition, as directed by the Congress, the Corporation has undertaken a comprehensive study of alternative and supplemental means of delivering legal services to the poor. Demonstration projects are now being funded to test the feasibility of judicare, vouchers, prepaid legal insurance, contracts with private attorneys and other delivery mechanisms. A report to the Congress on that study is now being printed and will be submitted this week. A copy of the text is enclosed. As you will see, it provides an analysis of the ways in which we are working to improve the delivery of legal services.

The Corporation is committed to continuing this effort and will not hesitate to make changes when information suggests means to provide more effective and efficient services to eligible clients.

With regard to compliance, the Corporation requires specific assurances from local legal services programs as a condition of receiving funds. Grants are for a period of one year and are renewed only on evidence of compliance with the Act and regulations. The Corporation has the authority to suspend or terminate funding at any time, and to deny refunding, if serious problems of compliance are identified. I am pleased to report that such drastic steps have not been necessary during the two years the Corporation has been in existence.

The Corporation's most effective mechanism for assuring compliance is quarterly monitoring visits by our regional offices. Four times a year, Corporation staff visit each legal services program, meet with the project director, staff, clients, and local board members. The monitors use the enclosed checklist to examine all policies and procedures of the local programs to assure compliance with the Act and the regulations and efficient management and administration. If any problems are identified, specific remedies are proposed and technical assistance is provided. That kind of regular supervision and support has never been available in the past.

In addition, of course, the Corporation fully investigates any complaint it receives about alleged violations of the Act or the regulations. If the complaint has merit, corrective action is taken. State Advisory Councils are appointed by the governor of each state for the specific purpose of receiving complaints about such violations. Remarkably few complaints have been received by the Corporation, directly or through the State Advisory Councils.

Finally, the Corporation requires that each legal services program establish its own client grievance procedure to assure accountability to its clients. Each local program must establish specific procedures whereby any person who is denied legal assistance or who is dissatisfied with the assistance rendered has the opportunity to file a grievance with the program and with a grievance committee of its governing body, if it is not resolved by the staff.

You also expressed concern about the extent to which legal services programs may be handling what you described as "exotic cases". In my own considered judgment, after a year and a half of working with legal services attorneys throughout the country, the work they are doing is in direct response to the most urgent problems that face low-income persons in the communities they serve. Legal services attorneys and paralegals handle more than 1,250,000 matters a year—a caseload that leaves no time for "exotic" activity. Few of those cases make headlines. They are the routine, day-to-day matters concentrated in four general categories: domestic relations (30 percent), administrative benefits (20 percent), housing (17 percent), and consumer law (14 percent). Most matters are handled out of court—only 15 percent are actually litigated.

I do not mean to suggest that all of the matters handled by legal services programs are without controversy. That is impossible under our adversary system of justice. Some of the litigation results in landmark decisions and on occasion reaches the Supreme Court of the United States. That work should not be the subject of criticism, but rather of commendation for the superior legal representation being provided to the poor.

The Legal Services Corporation Act itself prohibits legal services attorneys from engaging in a number of activities that many would consider inappropriate uses of public funds. These include prohibitions:

Against participating in or encouraging public demonstrations, picketing, boycotts or strikes;

Against persistent incitement of litigation or any other activity prohibited by the Canons of Ethics and the Code of Professional Responsibility;

Against training programs for the purpose of advocating particular public policies or encouraging political activities; and

Against the use of Corporation funds for political activities.

Further, the Act provides that a court may award costs and fees in any action commenced by a legal services program if the court finds that the action was brought for the purpose of harassment or in a malicious abuse of process.

The Act also sets conditions for class actions and appeals, to assure that local program resources are utilized efficiently and in accordance with the overall needs of the client community. Local program boards must set guidelines for review to avoid frivolous appeals. Class actions may be brought only with the specific approval of the program director, under policies established by the local board. Those actions are brought to avoid repetitive litigation that wastes the resources of the program and the time of the courts. They represent a very small though essential portion of the total representation provided by legal services programs. A recent case in the District of Columbia is illustrative. Eligible clients seeking public assistance were continually denied the right established by Congress for a timely consideration of their applications by the local welfare department. It was far more efficient for everyone concerned for the legal services program to bring one action on behalf of all such persons rather than to seek individual relief for each client who came to the program with the same problem.

In addition to all of the protections written into the Act and the regulations, and all of the steps the Corporation takes to assure compliance, one of the most effective guarantees of accountability exists in the local governing bodies. Each program is governed by its own board of directors, sixty percent of whom are practicing attorneys in the area served by the program and one third of whom are eligible clients or representative of clients. The governing bodies set the specific policies and procedures for the programs. In addition, each is required to develop, in consultation with the entire client community, overall program priorities to assure, on the one hand, that attorneys are not simply handling the cases that interest them and, on the other, that the program is addressing the most urgent needs of all eligible clients and not simply operating on a first-come first-served basis.

As I said in our conversation, I am personally disturbed by the continued allegations made by some that legal services attorneys are advocating their own interests rather than those of their clients. The reality is that legal services attorneys and staff are providing effective representation of poor people in the full range of civil legal issues that raise basic problems of survival for the individual and families involved. They work under adverse circumstances, and their salaries are far below those of their colleagues in other public as well as private practice. In my view, they are the pride of the legal profession and fully deserve the support they receive from the organized bar, their clients, and the Congress.

I hope that this is helpful to you in your own consideration of the program. Please let me know if I can provide any further information.

Cordially,

THOMAS EHRLICH.

Mr. President, I am pleased to report that Mr. Ehrlich indicated that the Corporation is developing a project reporting system that will provide detailed information for every legal services program, so that effective control of individual legal services programs can be maintained. Also the information, thus centrally compiled, will be valuable to the Congress in conducting oversight which this corporation so desperately needs, in my judgment.

While Mr. Ehrlich's letter was fairly complete, unfortunately most of my concerns about the Corporation's operations continue to exist. My office has been swamped with calls and letters asking why the Employment Subcommittee, on which I serve, has failed to conduct a review of the legal services program prior to reauthorizing the Corporation with the changes called for in this bill.

I must admit that I do not have a good answer. It seems to me that a program as controversial as this one is sought to be carefully scrutinized by the Congress before we make the kinds of sweeping and controversial changes called for in the bill. This is especially true because this Corporation is only accountable to Congress in the conduct of its affairs.

From what I can learn it is apparently true that the Legal Services Corporation has shown great ingenuity in using its legislative mandate as a base for aggressive social activism. The original justification for the legal services program was rather similar to that of a local legal aid society: to funnel assistance to impoverished persons who need legal counsel. Through imaginative interpretation of poverty standards, generous use of "class action" suits—in which only some of the members of the affected class may actually be poor—and end runs around restrictions on lobbying, the LSC has learned how to use tax dollars for basic institutional "reform." In the words of veteran LSC official E. Clinton Bamberger:

> There's going to be a change in this country. If the lawyers want to watch it and not participate in it, that is your decision.

Some examples of LSC activities—all of which have taken place under current law:

First. The LSC-funded Massachusetts Law Reform Institute openly lobbied in a referendum for a graduated State income tax. It also worked on a court case which forbade corporate financial contributions to the campaign against the graduated tax.

Second. The LSC-funded Legal Aid Bureau of Baltimore argued for restructuring of utility rates before the Commission of electric utility rate structures in Maryland.

We have to wonder, what is the interest of the Legal Services Corporation in doing that, even though there are many questions that may be raised about utility rate structure in every State.

Third. The LSC-funded Pine Tree Legal Assistance, Inc., and Native American Rights Fund have been involved in the effort to force the State of Maine to give two-thirds of its territory back to the Passamaquoddy and Penobscot Indians. The case has affected the ability of the State and of several municipalities to sell Government bonds, and could potentially affect the timber industry's access to the disputed lands.

Fourth. Then there is the questionable authority of the amicus curiae participation of the Corporation in the Bakke case.

To be brutally frank about that, everybody here has admitted today that the Corporation should not have participated in the Bakke case. This is just another extension of powers not given to it by Congress, and the lack of oversight by Congress and just doing whatever it wants to do with taxpayer dollars to effectuate social reform it likes.

I get a little tired of some of these people who are always arguing that we have to take care of the consumer in our society.

My question is, Which is the consumer group they are going to take care of—is it going to be the average citizen in Maine, or the Passamaquoddy Indians and the Penobscot Indians?

Which consumer groups should be proteced by American taxpayer dollars and should be given American taxpayer dollars which are effectuating these crises in America, when the dollars should be going to taking care of the poor?

When Mr. Erlich testified before the committee, he said the reason why he wanted to jump the $125 million which was appropriated for this agency in the last fiscal year to more than $200 million, in 1 year, was that there are 29 million poor in our society.

He was asked questions, and I think they are pretty important questions for people who are interested in trying to keep down taxes, who are interested in trying to keep down this approximately $800 billion national debt, for people who are trying to give tax relief through tax cuts and otherwise—and I am one of those—for every citizen in our society, including every business in our society. I think it is a pretty important question to ask why in the world they justify a jump in the appropriation for Legal Services of almost double in 1 year. Their response was that it is because of 29 million poor.

Then, the further question was asked: "Wait a minute. Have you included in that the transfer payments that the poor have, these 29 million?"

The answer was, "No." In other words, they do not include the food stamps, housing subsidies, welfare payments, and medicaid payments. They neglected those in order to jump up this figure of 29 million poor, in order to almost double the appropriations for this bill in 1 year.

In a test case on this particular bill and an amendment filed, we were beaten down by the Senate; and the Senate wants to jump those revenues, even though there appear to be all kinds of abuses in this Corporation and its funds throughout America, despite what Mr. Erlich says in his letter.

I will say that I believe many good things are done, also. So I am not totally against the Legal Services Corporation. But I am for oversight. I am for justifying these tremendous and incredible jumps we have in appropriations around here, especially in this particular case.

I am for having the Legal Services Corporation do that for which it was instituted and constituted, and that is to take care of the poor in our society, who amount to about 8 million or 9 million people, if you take away the transfer payments that every taxpayer in America is presently paying.

I asked, what about the great middle class that has to pay for this Legal Services Corporation?

The PRESIDING OFFICER. Will the Senator suspend? The Senate will come to order. The Senator is entitled to be heard.

Mr. HATCH. I thank the Chair.

I asked, on this particular subject, what about the millions of taxpaying middle class who pay these freights, who are paying this almost doubling of the Legal Services Corporation bill in this matter? Can they afford attorneys? If I recall correctly, the answer was, "Well, a lot of them can't." The reason they cannot pay is that they are too busy paying into these types of appropriations. That is one reason. They are too busy paying the taxes that are required in this society. They are too busy being burdened by an overregulatory society that regulates us in every aspect of our lives.

The very people who pay for it cannot afford attorneys, so that the appropriation, in essence, can be juggled, so that we can help those 29 million poor.

I do not mean to suggest—I want to be fair to the Legal Services Corporation—that they are going to serve every one of these 29 million poor. They cannot do so with only the $225 million which is provided in this upgraded bill. But that is the justification for jumping it from $125 million to well over $200 million. I do not think that is justification, when you fail to consider all the transfer payments that the great middle class of this society, which really pays the taxes of this society, has to make.

It is about time that we in Congress start thinking about some of these things, because it is time that we quit burdening the whole society with things that clearly are being abused.

I will give some other illustrations. In the current edition of Clearinghouse Review, which appears to be a review of cases in which the Legal Services Corporation participates, it makes clear that abuses in the legal services program continue.

On page 468 in the current edition—I am not sure of the date—is an article concerning medicaid abortion, which indicates that, despite intended prohibitions on legal services involvement in the abortion issue, legal services lawyers are still working for abortion on demand.

I do not care whether one is proabortion or antiabortion. Why in the world—when we have two different classes of thought in this matter, and perhaps many other different classes of thought—is a federally funded agency of the Government, which has asked for basically doubling of its appropriation, going out and representing only one side, especially when they do not have the authority and have been told not to do so?

These are the kinds of things that I believe deserve oversight, and we should do something about them.

On page 494 there is reference to the Utah legal services program—that directly affects my State, of course—which has been involved in a suit challenging HEW's policy of denying nontherapeutic sterilization to women under 21 years of age.

If that is not an abomination, I do not know what is. What right do they have to spend our taxpayer dollars to challenge the policy of their own agency—the Department of Health, Education, and Welfare—of denying nontherapeutic sterilizations to women under 21 years of age? Yet, that is what they are doing.

Other items in Clearinghouse Review relate to involvement in harassing farmers with additional OSHA regulations and promoting national health care insurance. We have to start asking ourselves these questions: Why are they doing that? Why do we have to harass farmers with OSHA regulations when they are so harassed as it is? Why in the world are they promoting national health care insurance? Everybody seems to admit that it is going to cost upwards of $100 billion extra each year, on top of the present national Federal debt of almost $500 billion.

Mr. MORGAN. Mr. President, will the Senator yield for a question relating to the bill before the Senate?

Mr. HATCH. I am delighted to yield.

Mr. MORGAN. I understand, of course, that the Senator is on the committee that considered this bill. There is a question that conerns me—one among many—having to do with the provisions of the Hatch Act.

As I understand the explanation of the bill, the staff attorneys, under this bill, would be subjected to the provisions of the Hatch Act.

Mr. HATCH. That is correct.

Mr. MORGAN. But in the explanation there is another provision which repeals another section, which I do not have before me, which would tend to repeal the prohibition against participating in partisan and nonpartisan activities on the part of staff attorneys.

Does this ease the requirements or prerequisites, or does it make them more stringent than the present law?

Mr. HATCH. It is an easing.

Mr. MORGAN. It is an easing of the present restriction.

Mr. HATCH. Of the current law.

Mr. MORGAN. In other words, at the present time these lawyers, who are around the country and are being paid under the Legal Services Corporation, are forbidden to engage in partisan and nonpartisan activities during their off-duty hours.

Mr. HATCH. That is correct.

Mr. MORGAN. But if the bill before us is passed, they will be permitted to engage in both partisan and nonpartisan activities, so long as they are on duty.

Mr. HATCH. I believe the Senator is correct.

Mr. MORGAN. Does it bother the Senator that this might involve a situation in which these attorneys establish a rapport with their clientele and they can later come around and work with and, not necessarily coerce but to persuade their clients to vote a given way or participate in a given hearing?

Mr. HATCH. It bothers me very significantly. I think it is one of the things that should not happen when taxpayers of all persuasions are paying the freight for these bills.

Mr. MORGAN. I did not propound my question to the distinguished Senator because he is an opponent of the bill. I waited around as long as I could and I could not get to the managers of the bill. But I would have to say it is an area that does disturb me and disturbs my constituents back home.

It has been thought by my people that many of your public service—well, not public service—lawyers, but I guess that would have a wrong connotation—that may of the lawyers who work under these programs engage more in political activites than render legal services. It sort of bothers me that we are letting down the bars, so to speak.

It does put them under the Hatch Act, but what can they do under the Hatch Act? I wonder if you or someone from the committee could inform me or enlighten me on this.

Mr. HATCH. I would be happy to refer that question to the distinguished manager of the bill.

Mr. NELSON. I will get—I think we go off this bill at 3 o'clock today—a copy of the Hatch Act.

It is correct that all of the provisions of the Hatch Act that affect all Federal employees, with all of the precedents in the Hatch Act, now apply precisely and exactly to legal service attorneys.

Three or 4 years ago—I have forgotten how many—an amendment was offered to restrict nonpartisan activities of staff attorneys. I opposed it. It was offered on the House side. It went to conference and I opposed it theer too. It was adopted by the conference committee.

That amendment went beyond the Hatch Act and said, for example, that a legal services attorney could not enter into an election to be a member of the school board or any other such nonpartisan activity.

We do not apply that kind of limitation to any American citizen.

We went beyond that in the 1974 Legal Services Act and said these employees cannot even participate in nonpartisan activities. We eliminate that aspect in this bill.

Mr. MORGAN. I would say to the Senator I can understand why we should not restrict them from running for city council if it is nonpartisan. But it has been a source of concern.

I am interested in the program. I think that every American is entitled to the benefit of legal counsel, but it has been abused, and I would say in connection with the Hatch Act—and we will be talking about this more later on in this session—I never have found that the Hatch Act put many restrictions on public employees who wanted to become involved. What I found the Hatch Act did was to offer a shield for those who did not want to get involved.

Under the Hatch Act you can contribute to political parties, you can wear bumper stickers, you can wear pins, you can go to political partisan meetings. The only thing you cannot do is you cannot run for a partisan office, and you cannot manage a campaign.

Mr. NELSON. You cannot, of course, electioneer on "company time."

Mr. MORGAN. Well, of course not, and you should not be allowed to, and they would not understand this. But these people do occupy a particularly close relationship with their clients, and I wonder about the advisability of it. I am going to give some thought to it and I might possibly come back with an amendment during a later discussion.

I thank the distinguished Senator.

Mr. HATCH. The Senator has pointed out some important aspects that will be pointed out during the course of these proceedings.

Mr. President, I will mention a few other points that are occurring. In addition to the few I have mentiond, which included involvement in abortion issues, in the challenge of HEW's policy of denying nontherapeutic sterilizations to women under 21 years of age, the harassing of farmers with additional OSHA requirements, and in promoting national health care insurance, one of the other favorite, another favorite item, that I found is where the Legal Services Corporation or those working with it have lobbied for the expunging of arrest records. Of course, this has happened.

There are many others we could cite, but let us just suggest that those are some of the more reprehensible ones. They are just a few examples of how the Corporation is using its present $125 million appropriation, most of which has come by way of news accounts because we have not had oversight and have not exercised it in our committee which, I think, certainly needs to be done.

I also think that since anybody would be hard pressed to find anything about the Legal Services Corporation that does not involve law, the practice of law, the ethics of law, the litigation of law, and all kinds of other aspects that involve pure law, I think we would find anybody would be hard pressed to understand why the oversight has to be in the Committee on Human Resources instead of the Committe on the Judiciary.

I have requested, and respectfully so, that this particular organization be under the oversight, that oversight be extended to the Committee on the Judiciary over the Legal Services Corporation.

With regard to these abuses we have mentioned, S. 1303 would give the Legal Services Corporation even more flexibility than it already has.

I think at this point I would like to continue my statement tomorrow. I notice 3 o'clock is here, and if I can have the floor at the beginning I would ask unanimous consent, and I ask unanimous consent, that I have the floor at the beginning of the consideration of this particular bill tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Mr. President——

Mr. HATCH. Or later today.

Mr. NELSON (continuing). Does not the Senate go back on to this legislation following the next 2-hour order?

The PRESIDING OFFICER. Following the executive session.

Mr. HATCH. Whatever time.

Mr. NELSON. That is for 2 hours, is it?

The PRESIDING OFFICER. It is not a determined time.

Mr. HATCH. I would ask unanimous consent whenever we resume consideration of this bill that I be given the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I would be delighted to yield at this time, for the specific purpose of putting in an amendment that is acceptable to the floor managers, to the distinguished Senator from Maine.

UP AMENDMENT NO. 912

(Purpose: To add rural persons living in harsh climates without adequate transportation as a target group for model legal services grants.)

Mr. HATHAWAY. I thank the Senator.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment numbered 912.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 18, strike out "and".

On page 18, line 19, strike out the period after "abilities" and there insert the following: ", and indigent persons in sparsely-populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services.".

Mr. HATHAWAY. I am a cosponsor of the bill and a long-time supporter of legal services programs.

Legal Services projects have given poor people the opportunity to enjoy the benefits of law and order which they were not always able to afford for themselves.

Enforcement of the civil laws is just as important as good criminal law enforcement.

A ruthless landlord or an unscrupulous salesman can sometimes make life as miserable for a poor person as a criminal does when he makes a victim out of someone else.

In rural areas of the country there are pockets of poverty containing people in need of legal assistance.

Section 10 of the bill allows the legal services corporation to make grants for model projects on behalf of certain identifiable groups.

I understand the list is not intended to be exhaustive, but I do feel quite strongly that people in rural areas need to be mentioned in order that they may be thought of in the grant-making process, and that is the only purpose of this amendment.

My amendment simply adds rural people to that list. We have come a long way in our concerns for rural areas. But there are places where life is very hard because of harsh climates and inadequate transportation.

I wish to be sure that the legal services corporation focuses on these people, for they are the ones who are the most invisible members of our society.

I have consulted with the floor manager of the bill as well as the minority manager on the bill, and I understand that neither of them has any objection to this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I have no objection to the amendment. If it were up to me to interpret the amendment that was adopted by the Human Resources Committee this year, I would expect the administrators of this law would have considered the people the Senator from Maine is concerned about as eligible clients with "special difficulties of access to legal services or special legal problems." Although the Senator's amendment is more specific, the committee's amendment does make it clear that it applies to the circumstances of an indigent person in a sparsely populated area.

I think Senator HATHAWAY's language is a good idea. It accomplishes clearly what I thogunt to be the intent of the committee's amendment, so I am perfectly willing to have it clarified and delineated more specifically by the amendment of the Senator from Maine.

I have no objection to it.

Mr. CHAFEE. There is no objection on this side, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

ORDER FOR YEAS AND NAYS ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask for the yeas and nays on the two nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will temporarily lay aside S. 1303 and proceed to the consideration of S. 1585 which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 5, strike through and including line 8, page 4, and insert in lieu thereof:

SEC. 2. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue and that the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws dealing with the interstate distribution of pornographic materials do not protect against the use of children in the production of such materials and that specific legislation in this area is both advisable and needed.

(b) The Congress determines that the provisions of chapter 110 of title 18, United States Code, are necessary and proper for the purpose of carrying out the powers of Congress to regulate commerce and to establish uniform and effective laws on the subject of sexual exploitation of children.

SEC. 3. (a) Title 18, United States Code, is amended by adding immediately after chapter 109 the following:

"Chapter 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2251. Sexual exploitation of children.

"§ 2251. Sexual exploitation of children

"(a) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in, or to have a minor assist any other person to engage in, any sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(b) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor to knowingly permit such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such parent, legal guardian, or person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(c) For the purposes of this section, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) 'promoting' means producing, directing, manufacturing, issuing, publishing, or advertising for pecuniary profit.

"(d) Any person who violates this section shall be fined not more than $10,000, or imprisoned not less than two years nor more than ten years, or both, for the first offense, or fined not more than $15,000, or imprisoned for not less than five years nor more than fifteen years, or both, for each such offense thereafter."

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children.. 2251".

SEC. 4. (a) Section 2423 of title 18, United States Code, is amended to read as follows:

"§ 2423. Coercion or enticement of minor

"(a) (1) It shall be unlawful for any person to transport, or to cause to be transported, in interstate or foreign commerce or within the District of Columbia or any territory or possession of the United States, any minor for the purpose of such minor engaging in prostitution or with intent to induce, entice, or compel such minor to engage in prostitution.

"(2) For purposes of this section, the term 'minor' means any person under the age of eighteen years.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(b) The table of sections of chapter 117 of title 18, United States Code, is amended by striking out in the item relating to section 2423 the word "Female".

SEC. 5. (a) Section 1461 of title 18, United States Code, is amended by inserting immediately before the period in the eighth paragraph a comma and "except that if such thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than ten years, or both for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(b) Section 1462 of title 18, United States Code, is amended by inserting immediately before the period a comma and "except that if any such matter or thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000 or imprisonment of not less than one year nor more than ten years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(c) Section 1465 of title 18, United States Code, is amended by inserting immediately before the period in the first paragraph a comma and "except that if any matter described in this section involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than 10 years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

SEC. 6. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to

other circumstances shall not be affected thereby.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Mississippi (Mr. EASTLAND) and the Senator from South Carolina (Mr. THURMOND), with 30 minutes on any amendment in the first degree, except an amendment by Mr. ROTH on which there shall be 1 hour, and with 20 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Who yields time?

Mr. CULVER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CULVER. Mr. President, I ask unanimous consent that the time for the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, the time will be equally divided between both sides.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCGOVERN). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that James McClellan, of the Judiciary Commerce staff, be accorded the privilege of the floor during pendency of this action and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. Stephen Rapp, Mr. Cliff Vaupel, and Mr. Michael Klipper of the staff of the Subcommittee to Investigate Juvenile Delinquency, and Mary Jolly of Senator BAYH's staff, be given the privilege of the floor during the debate and vote on S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hultman and Eva Clark, of the Judiciary Committee staff, be accorded the privilege of the floor during the consideration and vote on S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I also ask unanimous consent that Larry Dye and Ted Farfaglia, of Senator ROTH's staff, be accorded the privilege of the floor during consideration of S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make a similar request for Mark Steinberg, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, has there been a unanimous-consent request made to proceed to the consideration of S. 1585?

The PRESIDING OFFICER. Yes; the bill is now before the Senate.

Mr. CULVER. I yield myself such time as I may need.

Mr. President, I am pleased to have the opportunity to bring S. 1585 before the Senate, S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977, was reported unanimously by the Committee on the Judiciary and is sponsored by 57 Senators. It would make three related changes in title 18 of the United States Code to strengthen the ability of the Federal Government to combat two outrageous forms of child abuse: The use of children in the production of pornographic materials and the use of children as prostitutes.

Specifically, S. 1585 would add a new section 2251 to title 18, making it a Federal offense for anyone to use any child under the age of 16 to engage in sexually explicit conduct for the purpose of producing materials which are to be mailed or transported in interstate commerce. It would also amend section 2423 of title 18 to prohibit the interstate transportation of both males and females under 18 years of age for the purpose of engaging in prostitution. And finally it would amend the penalty provisions in sections 1461, 1462, and 1465 of title 18, dealing with the mailing, importation, and the transportation for sale or distribution of obscene materials by increasing the penalties where the materials involve the use of children under 16 years of age in sexually explicit conduct.

Mr. President, the presentation of S. 1585 today on the Senate floor is the result of intensive hearings and investigations conducted by the Judiciary Committee and its Juvenile Delinquency Subcommittee. Our subcommittee heard not only from the official sources and from the experts but also from those with firsthand experience with this sordid business of child pornography and prostitution. We heard from local officeholders and prosecutors, from undercover and newspaper investigators and from the police officers who had engineered one of the few successful busts of a child pornography production in the Nation. We also heard testimony from two convicted child pornographers, one a major national producer and distributor, the other an amateur, a man who had produced and mailed the materials from a middle-class home in a small city in the upper Midwest. Finally, we heard first hand the personal account of a victim of this business, a 17-year-old boy who has sold himself on the streets of Chicago for over 2 years as a prostitute and as an actor in pornographic movies.

We also considered at length the constitutional issue and received testimony from the Department of Justice and from leading constitutional scholars.

Through these hearings and staff investigations our subcommittee learned a great deal about the sexual abuse of children through pornography and prostitution. It is a big business, involving perhaps millions of dollars in profits. It takes many forms. One expert counted 260 magazines in circulation depicting children engaged in sexual conduct, magazines with titles like "Lolitots," "Torrid Tots," and "Young Flesh." Such magazines are sold over and under the counters of bookstores across the country, not just in large cities, but even, we discovered, in medium-sized communities in rural areas.

It also takes the form of short movies with titles like "Kinky Kids" and "Little Flower Girls" sold either in bookstores or through mail order operations.

It is a truly saddening experience to examine these materials, featuring obscene pictures of children, some as young as 5 or 6 years old.

Our witnesses told us that there has been at least some child pornography on sale for many years. Recently, however, there appears to have been an explosion of it. The producers of pornography began to realize that there was a substantial market for these materials across the country, that they could be marked up to prices far higher than adult publications, and that large profits could be made.

The subcommittee also discovered a related problem that has also been with us longer than we recognize, but that appears recently to have expanded in size and organization. For many years young girls have worked as prostitutes on the streets of major cities as have young boys. There now appears to be more juvenile prostitution than ever before with children participating at younger ages. We also discovered that some of this prostitution is highly organized and involves interstate transactions. In Chicago, one such prostitution ring known as the "Delta Project" was set up to deliver boys to as many as 5,000 potential customers around the country.

This is a business that preys on runaway and alienated youth, on children that are unloved and unwanted, on children that are struggling to survive on their own. They are often picked up at bus stations, hamburger stands, amusement parks, and other common hangouts for children on the run. For a little money or a gift or even for some attention they are persuaded to submit to a variety of sexual acts. Such encounters cannot help but have a deep psychological, humiliating impact on these youngsters, and jeopardize the possibility of any healthy affectionate relationships in the future.

Mr. President, it was the overwhelming judgment of the Committee on the Judiciary that S. 1585 would be the most effective Federal response to the problem of sexual exploitation of children.

The bill is tough: it provides minimum penalties of incarceration and maximum penalties of up to 10 years in prison and $10,000 in fines, and in some cases for

second offenses 15 years in prison and $15,000 in fines.

It is comprehensive; it deals with production, with sale and distribution, and with juvenile prostitution.

Finally, it was the strong consesus of the representatives of the Justice Department and other constitutional scholars who testified at the hearings that the bill as drafted is clearly constitutional. Since this legislation breaks new ground in highly sensitive legal areas, the greatest care was taken in the drafting to produce a statute that can be upheld in the courts and that will serve as the basis of successful prosecutions.

Mr. President, it is anticipated that two amendments will be offered on the floor of the Senate. The first by Senators BAYH, ROTH, and myself would add a provision banning live sex shows by children where the facilities of interstate commerce are used for their promotion. I believe this amendment is needed and I urge the Senate to support it.

The second amendment by Senators ROTH, HATCH, and several others would add a provision making it illegal to distribute or sell materials that are not obsecene if those materials depict children in certain activities. Whatever its merits, this amendment, according to a number of legal authorities, raises a critical constitutional question. A similar amendment was considered by the Judiciary Committee and was rejected by a vote of 9 to 4. When it is called up, I would urge the Senate to sustain the judgment of its Committee on the Judiciary and disapprove this amendment

At this time, Mr. President, I yield to the distinguished minority member of the full committee for any general statement he might wish to make.

Mr. THURMOND. Mr. President, are we under a time limitation?

The PRESIDING OFFICER. Yes, we are under controlled time.

Mr. THURMOND. Who is handling the opposition?

The PRESIDING OFFICER. The Senator from South Carolina has been designated to control the opposition time of 1 hour.

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, the legislation now before the Senate has my full support. The provisions of S. 1585 are directed at one of the most outrageous abuses of our Nation's most treasured resources—our young children. As a father of four young children I can easily sympathize with those who are shocked and dismayed by this unfortunate exploitation of many American children.

Hearings on this bill have revealed that child pornography and child prostitution have become a highly organized, multimillion dollar industry. It is a growing activity that undermines the moral fiber of our country and is one of the most menacing problems of our society. Such activity must be stopped. This bill will go a long way in helping to stamp out this kind of exploitation for profit.

Mr. President, during the consideration of this measure in the Senate Judiciary Committee, Senator HATCH offered a substitute bill on behalf of Senator ROTH that would attack the same problem. Senator ROTH is offering today an amendment to S. 1585. The amendment would prohibit the sale or distribution of materials depicting explicit sexual conduct, involving children, as well as the production of such material which is now covered by S. 1585. Objections have been raised, however, to this provision since in the opinion of the Department of Justice such a broad prohibition in a criminal statute may prove to be unconstitutional. The argument is that under existing case law any criminal statute which reaches protected expression as well as obscenity is void on its face for overbreadth.

There are laws on the books which provide criminal penalties for the mailing or "circulation or disposition" of obscene materials. S. 1585 would increase the penalties for such criminal conduct where it "involved the use of any person under the age of 16 years engaging in sexually explicit conduct." Although I am sympathetic with Senator ROTH's substitute and have supported it in the Judiciary Committee and will support it on the Senate floor, I also believe that the criminal provisions that are being added to existing law by S. 1585 can be effective in fighting this problem.

Mr. President, this bill is urgently needed to give prosecutors the tools to deal with child pornographers and those engaging in child prostitution. In addition, prompt approval of this bill will indicate to Federal prosecutors the importance and priority that the Congress attaches to this sordid activity. Organized crime is financing much of the production and distribution of these materials and a concerted effort will be needed to prosecute the individuals responsible. Legislation like S. 1585 can aid greatly in this effort.

Mr. President, I support this legislation and urge my colleagues to approve it.

Mr. President, I yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THURMOND. How much time does the Senator wish?

Mr. WALLOP. Two minutes.

Mr. THURMOND. Mr. President, I yield 2 minutes.

Mr. WALLOP. Mr. President, before I begin my remarks, I ask unanimous consent to have Pat Hoff of the Subcommittee on Judicial Improvements granted the privileges of the floor throughout the discussion of this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, those of us who went to Chicago for field hearings on the topic of child pornography and prostitution could not have come away from that hearing with anything, but the most urgent desires to take in hand the problem that faces this country today. It seems almost inconceivable that male children, particularly, were not subject to the provisions of the Mann Act.

The legislation now before us will go a tremendous way toward dealing with this most abusive and disgusting problem. Children who testified in front of us were testifying incognito, but I daresay that everybody who went there and heard those voices will have no trouble in hearing a need to enact this legislation quickly.

Swift passage of S. 1585 will reduce the flagrant and unconscionable sexual exploitation of children. There is an urgent need to protect our children from the most psychologically punishing and physically devastating activities that can be conceived by the mind of man.

The Protection of Children Against Sexual Exploitation Act of 1977 represents a giant step toward reaching the goal of the eradication of the production, sale and distribution of child pornography. S. 1585 will serve as a model for the States to follow in an effort to protect children from sexual exploitation for profit. And all-out campaign at both the Federal and State levels should reduce and ultimately eliminate the child pornography industry.

The type and nature of the adult human beings who prey upon these children is about as low a form of human life as the average human can conceive, and perhaps well beyond the average conception of any of the people who walk the streets of this country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THURMOND. I yield 1 additional minute to the Senator.

Mr. WALLOP. Those who prey on the young people of this country in the manner described to the committee must be punished, and we must have the strength and the ability to punish them. S. 1585 is the means for punishing offenders who so callously sexually abuse their child victims for their own gain. I am confident that the provisions of this bill are constitutional and would survive the strictest judicial scrutiny.

Finally, I would like to commend the excellent job done by Senators CULVER and MATHIAS on the Subcommittee on Juvenile Delinquency and for their leadership role in moving this important piece of legislation.

Mr. President, I yield back the remainder of my time.

Mr. THURMOND. I yield to the Senator from Maryland.

Mr. MATHIAS. Will the Senator yield 10 minutes?

Mr. THURMOND. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. MATHIAS. I thank the distinguished Senator from South Carolina for yielding me this time. I am vitally interested in this subject. It is a subject which is of great importance to everyone in this country. The significance of the issue impelled me to introduce S. 1585 in the first place. Now, after several transformations, S. 1585 has arrived on the floor in the form in which it is now before us.

I would first thank the distinguished chairman of the Senate Judiciary Subcommittee To Investigate Juvenile Delinquency for the kind of leadership he has shown in bringing this bill to the floor.

I would be very remiss if I failed to acknowledge his personal contribution, his resourcefulness, and the kind of personal investment he has made in shepherding S. 1585 to the Senate floor today.

The primary thrust of this bill is to provide Federal prosecutors with effective statutory tools to combat two insidious forms of child abuse which has only recently come to public attention: the widespread, growing use of children in the production of pornographic magazines and movies, and the escalating number of juveniles engaging in prostitution.

I believe that Congress response to the startling revelations of child abuse exemplifies the American system working in its most effective and expeditious manner. Only a few months ago, the closely related issues of child pornography and juvenile prostitution were unknown to the vast majority of Americans. In the intervening months, an outraged nation has reviewed the seriousness of these problems and has pushed relentlessly for corrective measures.

The American press first broke the stories of child pornography and prostitution, and it deserves the gratitude of the American people.

On May 15, 1977, a nationwide television audience was given its first in-depth view of the child pornography business in a segment on the CBS investigative news program "Sixty Minutes."

On that same day, the Chicago Tribune ran the first of a series of articles revealing the child pornography business to be a multimillion dollar racket which preys on impressionable youngsters. The Tribune also disclosed the scope and breadth of the juvenile prostitution business in America, including details of a nationwide boy prostitution ring headquartered in Chicago.

Other revelations followed and the American people, appalled by the disclosures, clamored for eradication of these activities. To their credit, officials at all levels of government—local, State, and Federal—responded. In Chicago, for example, the Tribune series was instrumental in prompting law enforcement officials to schedule a grand jury investigation into the allegations of child pornography and juvenile prostitution.

On the Federal level, the subcommittee has learned that both the Department of Justice and the Postal Service have stepped up their efforts in the child pornography area. Last month, the Subcommittee was informed by Assistant Postmaster General for Governmental Relations Jim Finch:

> In August 1977, as a result of increased emphasis placed on child pornography by Congress and others, and following a Department of Justice reevaluation of their prosecutive policy, Postal Inspectors were instructed to give priority to pornography cases involving children. All violations of the Postal Obscenity Statute are promptly brought to the attention of United States Attorneys for prosecutive consideration.

We were also informed that both the Federal Bureau of Investigation and the Customs Service are actively engaged in a number of child pornography investigations.

The subcommittee was encouraged by these intensified efforts at the Federal level. Yet, as we continued our investigation, we became convinced that new Federal laws were necessary to complement those already on the books. Our examination revealed gaps in our Federal laws which permitted persons using children in pornography and prostitution rings to go about their sordid business, often without fear that the Federal laws would intervene.

Our review of existing Federal obscenity laws showed that they focus exclusively on the sale, distribution, and importation of obscene materials and do not deal directly with the abuse of children inherent in their participation in the production of such materials. It became clear that new legislation was needed to address specifically the use of children in the production of pornography.

The very few States with statutes banning the production of child pornography underlines the need for Federal remedial legislation curbing such child abuse. A study conducted by the Congressional Research Service revealed that, as of March 1977, only six States had laws prohibiting the use of children in the production of pornography.

During its review, the subcommittee concluded that Federal obscenity laws were sufficient to deal with the problems of distribution and importation of child pornography on a substantive basis. At the same time, however, testimony received by the subcommittee indicated the need to bolster the deterrent effect of existing laws by increasing the penalties for the distribution of obscene materials depicting children engaged in sexually explicit conduct.

Finally, partly in response to testimony obtained by the subcommittee in the course of its field hearing in Chicago on May 27, it was determined that Federal legislation was necessary to cover the transportation of male juveniles across State lines for purposes of prostitution. Although present Federal law proscribes the transporting of young girls across State lines to engage in prostitution, there is no similar provision regarding young boys. The subcommittee gathered substantial evidence indicating that one of the major obstacles facing Federal efforts to combat juvenile prostitution is this gap in Federal law.

In response to its findings, the subcommittee moved quickly to report out S. 1585, which was introduced by Senator CULVER and myself on May 23. Subsequently, on June 28, the subcommittee reported the bill to the full Judiciary Committee, which, in turn, unanimously moved to send a virtually identical bill to the floor on September 14.

The bill now before the Senate for its consideration incorporates each of the major findings discussed above. Specifically, it would:

Add a new section 2251 to title 18, making it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials;

Amend 18 U.S.C. 2423 to proscribe the interstate transportation of all persons under 18 years of age for the purpose of engaging in prostitution; and

Amend the penalty provisions in those sections of title 18 dealing with the mailing (section 1461), importation or transportation (section 1642), and transportation for sale or distribution (section 1465) of obscene materials to increase the penalties where the materials adjudged obscene involved the use of children under 16 years of age engaging in sexually explicit conduct.

As the principal author of S. 1585, I am convinced that enactment of this bill would put us well on the road to stamping out child pornography and juvenile prostitution in America.

At the same time, however, we must not ignore the indisputable fact that these new forms of child abuse are symptomatic of deep-seated problems affecting our Nation's youth, including breakdown of the family structure, parental alienation, and drug abuse. We must continue to combat these social factors which lead adult and child alike to engage in these activities.

Foremost among our continued studies must be a detailed examination of the correlation between child pornography and juvenile prostitution on one hand, and runaway youths on the other. The committee has received considerable evidence that an overwhelming number of juvenile participants in child pornography and juvenile prostitution are runaway youths. I am particularly concerned about this aspect of the problem.

For several years, I sponsored legislation to deal directly with the problem of the runaway youth. As my colleagues are well aware, these efforts culminated in the enactment of the Runaway Youth Act as part of the Juvenile Justice and Delinquency Prevention Act of 1974. The runaway youth program provides much-needed funds for the development of shelter facilities for runaways, as well as money for research into the causes and scope of the runaway youth problem in America.

Earlier this month, President Carter signed into law the Juvenile Justice Amendments of 1977, which extend the runaway youth program for another 3 years. It is my hope that a reasonable portion of the funds allocated under this program for research purposes will be used to study the interrelationship between runaway youths and these new forms of child abuse. Given the mounting evidence indicating that such a correlation does, in fact, exist, we may properly view S. 1585 as a complement and, as a follow-up, to the Runaway Youth Act.

Mr. President, in conclusion, I am firmly convinced that S. 1585 will provide Federal authorities with both an effective and constitutional tool to combat the twin evils of child pornography and juvenile prostitution. It is a tough bill, one which will work effectively, unencumbered by the threat of protracted

and time-consuming challenges to its constitutionality. I urge my colleagues to support its passage.

Mr. CULVER. Mr. President, I yield myself 1 minute to express to the distinguished Senator from Maryland my appreciation for his leadership as the sponsor of this bill. As ranking minority member of the Juvenile Delinquency Subcommittee, he has devoted so much of his own time and efforts and his extremely valuable insights into the development and the perfection of S. 1585.

I wish to commend him for his statement and for the service he has provided in this regard to the committee and to the Senate.

UP AMENDMENT NO. 913

(Purpose: To make it unlawful for minors to participate in sexually explicit conduct in a live performance.)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will first state the committee amendment.

The assistant legislative clerk read as follows:

> On page 1, beginning with line 5, strike all down through line 8, page 4, and insert new language.

The PRESIDING OFFICER. On the assumption that the amendment just proposed is an amendment to the committee amendment, the clerk will now state the amendment offered by the Senator from Indiana.

The assistant legislative clerk read as follows:

> The Senator from Indiana (Mr. BAYH), for himself, Mr. ROTH, Mr. BYRD (W. Va.), Mr. HATCH, Mr. THURMOND, and Mr. CULVER, proposes an unprinted amendment numbered 913.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 4, line 11, immediately after "materials", insert "as subjects in live performances exhibiting sexually explicit conduct or for the purpose of prostitution".
>
> On page 4, strike lines 19 through 23 and insert in lieu thereof the following:
>
> "(3) existing Federal laws do not protect against the use of children in the production of pornographic materials, the use of children in live performances exhibiting sexually explicit conduct, or the interstate transportation of children for the purpose of engaging in prostitution or sexually explicit conduct and that specific legislation in this area is both advisable and needed."
>
> On page 5, between lines 19 and 20, insert the following:
>
> "'(b) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice or coerce any minor to engage in or to have a minor assist any other person to engage in, sexually explicit conduct, in a live performance, if such person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance."
>
> On page 5, line 20, strike out "(b)" and insert "(c)".
>
> On page 6, between lines 6 and 7, insert the following:
>
> "'(d) It shall be unlawful for any parent, legal guardian or person having custody or control of a minor knowingly to permit such minor to engage in, or to have a minor assist any other person to engage in sexually explicit conduct, in a live performance, if such parent, legal guardian, or person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance."
>
> On page 6, line 7, strike out "(c)" and insert "(e)".
>
> On page 7, line 1, strike out "(d)" and insert "(f)".
>
> On page 7, line 17, immediately after "prostitution", insert "or sexually explicit conduct (as defined in section 2251 of this title)".
>
> On page 7, line 18, immediately after "prostitution", insert "or sexually explicit conduct (as defined in section 2251 of this title)".

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. We are operating under controlled time, are we not?

The PRESIDING OFFICER. The Senator is correct. There is 30 minutes on this amendment, which gives the Senator 15 and 15 to the opposition.

Mr. BAYH. I thank the Chair, and the Chair's assumption was, as usual, correct that the amendment of the Senator from Indiana is to the Judiciary Committee amendment of S. 1585.

SEXUAL EXPLOITATION OF CHILDREN

Mr. President, today we are considering S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977. As a cosponsor of this legislation, I wish to urge my colleagues to vote in favor of its immediate passage. This legislation would be the most effective Federal response to the problem of sexual exploitation of our children. The bill is tough and effective. But most importantly, it is clearly constitutional. S. 1585 can be upheld by the courts and serve as the basis of successful prosecutions resulting in the reduction of sexual exploitation of children.

Pornography and obscenity statutes have been the subject of heated debates for many years. Recently, there has been an increased focus on the use of children in live performances and in the production of pornographic materials depicting sexual explicit conduct. This is an area of great personal concern to me.

Problems regarding the prohibition of the publication, sale or distribution of pornographic materials involve serious constitutional questions of our first amendment right of freedom of speech and the press. We must be ever watchful that in our efforts to control the most offensive pornography we do not infringe on these important constitutional rights. However, I condemn the sexual exploitation of children for any purpose, including commercial purposes and strongly urge that existing criminal laws prohibiting child abuse and contributing to the delinquency of minors be more vigorously enforced.

To the extent that additional legislation is required, however, S. 1585, which carefully distinguishes between production and distribution of pornographic materials, has my strong support. At the same time, I am concerned that the underlying needs of our children, including those who are victims of the child pornographers, are addressed.

My Juvenile Justice and Delinquency Prevention Act of 1974 and the 1977 amendments to this act enables the Federal Government to play a crucial role in this process by providing Federal funds for alternative settings for children who are runaways, dependent, neglected, or incorrigible in school or at home, the typical victims of child pornographers.

This Juvenile Justice Act attacks the criminal justice system as wholly inappropriate to deal with these young juveniles. It further attacks the position of the juvenile justice system that these young victims need secure detention to assist them in coping with their problems, by providing for the deinstitutionalization of status offenders and placement in nonsecure local community settings—if such placement is at all warranted. The act also requires that juveniles be segregated from adults in any such placement.

Mr. President, the Protection of Children Against Sexual Exploitation Act will help to protect our children from being ravaged and destroyed through prostitution and pornography. We must join together to speak out for justice for children and urge the enforcement of all existing laws against pornography. Such groups as Citizens for Decency Through Law, with chapters in my own State of Indiana, the National Committee for Prevention of Child Abuse and Odyssey Institute have all joined in their support for this type of legislation to assist us in doing everything that we can to stop this form of child abuse.

Mr. President, recently a most reprehensible and despicable activity has been initiated in my State of Indiana. I refer to the nationwide promotion of the "Mr. and Miss Nude Teeny Bopper Pageant" at the Naked City Nudist Camp in Roselawn, Ind This sordid "event" was scheduled for August 27, 1977. I was utterly repulsed at the idea of this contest which was to feature nude children between the ages of 8 to 16. Parents were to be paid $10 to enter their children, $170 was to be given out in prize money, $10 was to be given to each contestant and spectators—for an admission price of $15—were solicited to take pictures of the nude children. Thousands were expected to attend.

On first being notified of this sordid enterprise, I immediately contacted the offices of the State attorney general and the Newton County prosecutor to express my grave concerns about this particularly gross form of child abuse. I am pleased to relate that the attorney general asked the judge of the Newton Circuit Court to issue an injunction restraining this activity. A preliminary injunction order was issued restraining the owner of Naked City from displaying these nude children before an adult paying audience and specifically enjoined the party from holding this contest until a hearing was held. Presently, a hearing

is scheduled in Jasper County at which time an attempt will be made to amend the temporary restraining order to a permanent restraining order so that no further activities of this sort can be held. It was argued that the challenged activity constitutes a public nuisance and outrages the public decency at large. I cannot agree more with this argument. Thousands of Indiana residents have joined in signing petitions aimed at launching another legal challenge.

A contest of this sort panders to those interested in child pornography and sex and is exploitive of children and potentially damaging to their mental health—I can imagine the trauma a young girl or boy might experience while parading naked in front of a crowd of leering strangers. The nude contest would also seem to provide an excellent opportunity for child pornographers to meet potential stars. The question comes to mind—if a parent would make a child participate in a nude contest for a chance of winning $100 (or just for the $10 that any participant receives) what would they have the child do if the stakes were higher?

It is clear that freedom of expression and the right to privacy are among our citizen's distinctive attributes and nudists should be permitted to indulge in their pastime in privacy. Naked City is not, as ads I have seen, a traditional family nudist colony—run in the proper sexual atmosphere. Naked City events in the past have drawn criticism by publicizing their events nationwide and inviting outsiders—who are not nudists and who remain clothed while at Naked City—to pay their way into the camp to view and film the nudists. In the past years many of the participants in the Naked City contests have reportedly been models and strippers looking for publicity. The advertisements for Naked City are blatantly sexual and suggestive of orgies and, while adults have the right to sexual freedom, this is hardly the appropriate atmosphere for a young child.

I cannot help but feel that, if this event took place, many of the children would be unwittingly exploited to satisfy the appetities of spectators.

Mr. President, Federal, State, and local law enforcement efforts must maintain a delicate balance in order to curb child pornography. The legislation I cosponsored, and which we will vote on today, will fill a void in Federal law and will attack the production of materials depicting children in sexually explicit conduct and further, my amendment will curb the use of minors in live performances exhibiting sexually explicit conduct as a form of child abuse and exploitation. I believe this legislation will help to arouse our collective conscience, which will in turn lead to policies and behavior more sensitive to our child victims. We must have a regard for the general tone of our society and be especially watchful and discourage events that tend to lower that tone.

Mr. President, this amendment is designed to expand the Mann Act to include transporting of boys and girls in interstate or foreign commerce for purposes of not only prostitution, but also for purposes of sexually explicit conduct. It further adds a new section which makes it unlawful to use minors in live performances exhibiting sexually explicit conduct. These amendments will improve this bill in a way that I believe will be unquestionably constitutional. I am pleased to have the distinquished chairman (Mr. CULVER) of the Juvenile Delinquency Subcommittee join me in cosponsoring this amendment, in addition to Senator ROTH.

I say to my good friend and colleague, the Senator from Iowa, (Mr. CULVER) that I think he and our distinguished colleague from Maryland (Mr. MATHIAS) have done yeoman service to the country.

Mr. President, I ask unanimous consent that the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I want to salute him for that. I consider it a privilege to be a member of the Juvenile Delinquency Subcommittee—being its former chairman for 7 years—and to follow the leadership of the new chairman, the Senator from Iowa.

This particular problem, of using minors in live performances exhibiting sexually explicit conduct, is designed to be dealt with by my amendment. It further involves an ongoing situation in the State of Indiana which has relatively recently come to the attention of the Senator from Indiana. It took us some time to draft language which we believe would deal with the specific problem of use and abuse of children in sexually explicit conduct in live performances.

I have to admit to my colleagues in the Senate that I find it very difficult to understand how human minds get turned on by some of the activities that we are trying to prohibit.

I cannot, for the life of me, understand how adults can in any way get themselves in a position where they prey on youths and sexually exploit young boys and girls for commercial gain.

The Senator from Iowa dealt with it specifically in his statement, as did the Senator from Maryland, and I salute them for their efforts.

The Senator from Indiana's amendment would broaden the thrust of what would be prohibited in the Mann Act by including conduct that goes beyond prostitution in the Mann Act to include transporting young people across State lines for purposes of engaging them in sexually explicit conduct as defined in section 2251 of the bill. Those people who use minors in this fashion or for purposes of prostitution will be guilty of violating this new section of the Mann Act and subject to a fine of not more than $10,000, or imprisoned not more than 10 years, or both.

Mr. President, one particular concern that created my desire for these amendments involved a nudist colony in northwestern Indiana.

I, frankly, guess I am old-fashioned, but I cannot understand why adults wish to frolic around together in large numbers in their birthday suits. But, inasmuch as some of them do, and if they do that privately, the Constitution protects their right to do so.

But the promoter of this nudist colony, interestingly enough called Naked City, in northwestern Indiana, decided that he was going to conduct a nude beauty contest in which the participants would be boys and girls ages 6 to 16. Their parents would be paid for letting them parade in front of a paying audience of spectators with cameras. The winner would receive $100. The advertising went across State lines.

Now, this particular amendment is designed to get at that particular kind of conduct, where we are talking about the sexually exploitive conduct for commercial gain of boys and girls in the nude under the age of 16 in live sex shows.

I would certainly hope the Senate would accept this amendment.

I would like to ask my colleague from Iowa, the chairman and floor manager of this bill, a question or two.

Mr. HATCH. Will the Senator yield before that?

Mr. BAYH. Yes.

Mr. HATCH. I would like to be added as a cosponsor of the Senator's amendment. I think it is an excellent amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Utah be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I would like my colleague, the floor manager of this bill, to help me resolve a question or two I have about the proper language.

I do not want to get into an area that is unconstitutional. I do not want to reach protected expression, but I want to make certain that the Senator, as a principal floor manager of this bill, shares my belief that the wording that is used here of "sexually explicit conduct" would cover the type of situation that I am referring to that is occurring up in Naked City at that nudist colony.

Is it the Senator's understanding that according to the court's interpretation "sexually explicit conduct" includes, by definition, the lewd display of genitals or the pubic area of a person under the age of 16.

Mr. CULVER. That is correct.

Mr. BAYH. Is it the Senator's understanding that if a hawker or promoter attempts to promote a live performance in interstate commerce in which boys and girls under the age of 16 are paraded and displayed nude, where adults are asked to come and take pictures, that would be a lewd display of the genital and pubic areas, and that thus it comes within the sexually explicit conduct definition under section 2251 of this bill?

Mr. CULVER. That is correct.

Mr. BAYH. Am I correct in my understanding that in the definition section of the bill, commercial gain is tied into the definition of "promoting" to include "advertising for pecuniary profit"?

Mr. CULVER. That is correct.

Mr. BAYH. I appreciate the chairman's assistance with this amendment and these questions.

I strongly uphold our first amendment

rights, and I believe that individuals who are acting on their own in private have a right to sexual freedom. I believe those rights are protected under the first amendment to the Constitution. But when you have some adults who parade the naivety of young boys and girls—and we have seen that some of these hawkers do bring these boys and girls in and display them—the next thing you know, they may be unwittingly involved in some of these prostitution rings.

What is of most concern to one are the young people who would be viewed and photographed—whose minds and habits are still in the formative stages. Such encounters cannot help but have a psychological and possibly humiliating impact on these youngsters and jeopardize the possibility of healthy, affectionate relationships in the future.

I yield the floor.

Mr. CULVER. I yield myself 1 minute.

Mr. President, I urge the Senate to act favorably on this amendment. It is a constructive amendment. I agree with the interpretation of the Senator from Indiana as to its import and effect.

I do not believe there is any further debate on the amendment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator ask that the time be charged equally against both sides?

Mr. CULVER. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered?

Who yields time?

Mr. CULVER. Mr. President, I wonder if the Chair would put the question on the amendment of the Senator from Indiana.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have my name added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that Josephine Gittler, chief counsel for the subcommittee, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1398

(Purpose: To prohibit the transportation in interstate or foreign commerce of material depicting sexual exploitation of children.)

Mr. ROTH. Mr. President, I call up my amendment No. 1398.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself, Mr. HATCH, Mr. ALLEN, Mr. BARTLETT, Mr. BELLMON, Mr. DANFORTH, Mr. DOLE, Mr. FORD, Mr. GARN, Mr. GOLDWATER, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HELMS, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LAXALT, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MORGAN, Mr. NUNN, Mr. PERCY, Mr. SCHWEIKER, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, and Mr. YOUNG proposes an amendment numbered 1398.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the amendment on which there is an agreement or time limitation of 1 hour?

Mr. ROTH. That is correct.

The amendment is as follows:

On page 7, line 6, strike out the quotation marks.

On page 7, between lines 6 and 7, insert the following new section:

"§ 2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person.".

On page 5, between lines 8 and 9, insert at the end of the table of sections for chapter 110 the following new item:

"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.".

Mr. ROTH. Mr. President, I call up my amendment No. 1398. This amendment would add an important provision to S. 1585 by including within its coverage the distributors and sellers of child pornography.

First, I want to commend Senator CULVER, Senator MATHIAS, and the Subcommittee on Juvenile Delinquency as a whole and its staff for their diligent efforts toward the eradication of the malicious abuse of innocent children by pornographers. The Senate and the American people are indebted to them for the serious attention they have given this subject and the conscientious proposal they have made.

S. 1585 is a good bill and should provide a significant first step in a concerted attack against a particularly loathsome form of child abuse—the sexual exploitation of children by a multimillion-dollar pornography industry. However, the bill has one serious shortcoming in that it fails to include a strong provision against the distributors and sellers of child pornography.

The bill does contain increased penalties for the distribution of child pornography that is deemed obscene under present obscenity statutes. In other words, in this crucial area of distribution, the bill does not offer a new law, but rather merely increases the penalties under existing law. Unfortunately, though, existing statutes have proven remarkably ineffective in eliminating child pornography. When an author who has studied this form of abuse is able to purchase throughout the country 264 different kinds of pornographic magazines dealing with children, the inadequacy of existing statutes becomes apparent.

My amendment would add to the bill a provision that prohibits the distribution and sale of child pornography that meets the definition specified within the bill. Convicted violators would be fined not more than $10,000 or imprissoned not less than 2 years or more than 10 years, or both, for the first offense, or not less than 5 years or more than 15 years or fined more than $15,000, or both, for each such offense thereafter. These are the identical penalties that the bill itself provides for the production of child pornography.

Mr. President, this amendment would provide a vital new weapon in the fight against child abuse. This amendment in no way attempts to establish new obscenity standards. The quagmire of litigation that confronts any legislation seeking to specify new obscenity standards or revise old ones should and must be avoided. The stakes are too high—for what we are proposing today is, as indicated in the title of S. 1585, the protection of children against sexual exploitation.

It was for this purpose that I introduced S. 1011 last March. I was the first Senator to offer a child pornography bill and was joined by 20 of my colleagues who shared my concern over the flagrant abuse of children by sleazy sex merchants And, it was for this purpose that we continued our efforts in the Judiciary Committee to insure that a strong section against sellers was included in the bill. I believe it is appropriate to note here Senator HATCH's hard work within that committee. Senator HATCH has been a major source of support in this effort since the introduction of S. 1011 last March. I deeply appreciate the dedication he has given this proposal and applaud the significant contribution he has made.

I believe that a substantial portion of this abuse will continue if we fail to enact a strong provision against distribution. The worst forms of child abuse by

pornographers occur at the hands of the fly-by-night operators whose hit-and-run techniques may include a few quick hours of filming or photographing in a cheap hotel room, on a deserted beach, or in an isolated stand of woods. Within hours of filming, the principals are gone, leaving few, if any, tracks behind them. I fear that prosecution of producers such as these will be nearly impossible; allowing them to continue their operations unchecked.

To effectively eliminate this abuse, we must include in this bill's coverage those who distribute and sell the producer's work.

Opponents of a stronger provision against distributors and sellers of child pornography have maintained that my amendment's prohibition against the distributing and selling of child pornography would violate first amendment rights of guaranteed speech. I disagree.

While a challenge in the courts would appear certain, I believe that this amendment's constitutionality could and would be upheld.

The Supreme Court has never been asked to weigh the constitutional rights of innocent children against the rights of pornographic publishers.

Indeed, in other areas the Court has recognized the special protection that must be afforded to children.

For instance, the Fair Labor Standards Act, in part, provides that no goods shall be shipped or delivered in commerce where such goods were the result of oppressive child labor employment.

And in a 1968 decision, the Supreme Court identified an independent, "transcending" interest of the State in the welfare of its children when it upheld the State's power to adjust the definition of obscenity as applied to minors and noted that the State has an independent interest in protecting the welfare of children and safeguarding them from abuses.

Three years ago Congress again recognized this special responsibility when it enacted the Child Abuse Prevention and Treatment Act, providing Federal financial assistance for the identification, prevention, and treatment of child abuse and neglect.

Nor can the opponents of my amendment convincingly argue that the first amendment provides an absolute right that will tolerate no qualifications.

One of the most obvious and necessary restrictions we have upon free speech is the prohibition of speech that would defame or libel another. The Court has also excepted from first amendment protection certain speech advocating the overthrow of the Government. It has also ruled that symbolic speech involving the use of the flag in sexually bizarre ways to register certain social protests is not protected. The communication of ideas by picketing and marching on the streets is not afforded the same kind of protection under the 1st and 14th amendments, according to the Court. Speech likely to cause a breach of the peace is not absolute. And sound trucks which emit loud and raucous noises are not protected under the first amendment.

Mr. President the invasion of privacy and the momentary discomforts of a blaring sound truck are as nothing in my mind when compared to the abuse, degradation, and potential psychological damage inherent in the lurid practices of child pornography.

If the distribution of child pornography could truly be separated from the process of child abuse that occurs in the production of child pornography, then perhaps I could accept the arguments of those who oppose a stronger provision against distributors. But I must agree with the noted attorney, Mr. Charles Rembar, that:

> It is not arbitrary or unreasonable for the legislature to conclude that inducing children to engage in sexual activity can harm them. Nor is it arbitrary or unreasonable to prohibit the photographing of children who have been induced to do so, or to interdict the publication and sale of magazines in which the photographs appear. The publisher and the seller are principals in the abuse. Without them, it would not occur.

Mr. Rembar's comments take on added force when we recognize that he was the attorney who, in the 1960's, defended "Lady Chatterley's Lover" and "Fanny Hill" against attempt censorship.

Mr. President, I cannot agree with those who say, in effect, that the first amendment gives a license to the distributors and sellers of child pornography to continue their participation in this particular manifestation of child abuse.

I urge the adoption of this amendment as an effective method by which we may begin, at last, to eradicate what must surely be one of the greatest blights on a civilized society.

(Mr. MATSUNAGA assumed the chair.)

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROTH. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am very happy to support this amendment.

Mr. President, I would remind my colleagues that we went through all these arguments before. I can recall standing here in June of 1970, after offering an amendment to the Postal Reform Act which strengthened the right of parents to protect their children from smut mail.

We were told then that the courts would not uphold such a law because it might cover so-called works of art. But the amendment to the postal laws has been upheld time and again by the courts, and I am certain the Roth amendment will also be upheld as a proper exercise of Congress' power to protect child welfare, if we are wise enough to pass it.

Mr. President, it is my pleasure to join with the Senator from Delaware (Mr. ROTH) and many other Senators in proposing an amendment which will greatly strengthen our effort to control the sexual abuse and exploitation of children.

Now, I am also a cosponsor of the committee bill and I applaud members of the committee who were diligent in holding hearings on the subject and reporting the first national law aimed at prohibiting the production of materials that depict sexual conduct by children.

But, Mr. President, I believe we can and should go further. I believe we must go beyond the manufacture of these films or magazines and prohibit their distribution and sale, as well.

That is exactly what our amendment would do.

Other than the fact that our amendment would reach the actual distribution and newsstand or mail order sale of this material, the primary difference between our approach and that of the committee bill is that we do not restrict the prohibition to materials which may be obscene.

We are not relying solely on the power of Congress to control obscenity. We are acting under the congressional power to protect the welfare of children by regulating the transportation of materials moving in interstate commerce.

Mr. President, this is child abuse. It is not a first amendment problem.

The courts need not apply the same standards to our amendment that are used in obscenity cases. Even if they did, I am confident that a statute containing precise definitions and narrowly aimed at protecting minor children will be upheld.

The courts should be made to rule on the issue. We should not let it simply be assumed that they will decide negatively.

We are trying to protect children from being sexually abused and sexually exploited. To be effective in doing this, we must get at the sex merchants and dealers who are an important link in the multimillion dollar industry which is corrupting and brutally mistreating children for selfish commercial gain.

Only if we can stop the material from being sold and remove the potential for easy money, can we be effective in stopping its production.

Now, I know the Justice Department is opposed to our amendment. Their lawyers have become fascinated by theoretical law.

But I cannot for the life of me understand how President Carter, himself a religious man and a father, has failed to overrule the Department. I am still hopeful that if we pass the amendment and send it to the White House, he will repudiate the Department's position.

Mr. President, I would remind this administration that the Southern Baptist Convention has taken a very strong position in support of Antichild abuse legislation, such as the Roth amendment.

In August, Dr. Harry N. Hollis, Jr., director of Family and Special Moral Concerns of the Southern Baptist Convention, urged the passage of stronger laws to prevent this abuse of children.

Dr. Hollis said:

> We need to oppose those who exploit these children through the production, distribution and selling of this material.

Listen to that carefully, Mr. President. Not just the "production" of child pornography must be controlled. The "distribution" and "selling" of this material must be prohibited, as well.

The Southern Baptist Convention wants stronger laws against all three

forms of child pornography because, in Dr. Hollis' words, we are not talking about art, we are not talking about happy little children: "We are talking about children being physically coerced and psychologically manipulated into sex scenes."

Mr. President, I might comment at this point that the big argument covers the difficulty in defining pornography, and I would have to agree with the Supreme Court it is virtually impossible to describe the term "pornography" because what is pornographic to one might not be pornographic to another.

I can recite countless works of art around this world that some of us think are pornographic and others think are works of art. We got around that in my 1970 amendment, as we are trying to here, by calling it "sexually oriented" or "sexually explicit." I am thinking of an article I saw in the paper just last week of some people in New York who were protesting the sale of photographs by Edward Weston, whom I consider to be one of the two finest photographers we have ever developed in this country.

He did take pictures of his undressed children on the beach; I think his wife was a model for him. I consider them to be works of art.

If you consider a picture of a naked girl or a naked woman to be pornographic, that is your right to do so. That is where we ran into some argument, and we changed the term pornographic to "sexually oriented."

We are talking, Mr. President, about photographs. We are not talking about paintings. There is no way the courts could rule that one of the masters showing an unrobed woman would be considered pornographic. It is a work of art.

But a photograph is a different thing, and the type of photography we are talking about in this amendment is entirely different because I never in my life have seen such filthy, downright rotton, pictures as I have seen in the few magazines I have been shown as evidence of what is going on, depicting children in the acts that we should not talk about on this floor.

It has been my pleasure to join with the Senator from Delaware (Mr. ROTH) and many Senators in proposing an amendment which will greatly strengthen our efforts to control the sexual abuse and exploitation of children.

I just want to reiterate that the Mail Pornography Act that was passed at my suggestion in 1970, which is section 3010 of 39 United States Code, has been upheld by the Federal courts, and it has cut down, almost eliminated, what many people in this Chamber and many people in this gallery used to get unsolicited through the mails, filthy advertisements.

Now we have stopped it through the application of 10 years in jail and a $10,000 fine; and all an American citizen has to do is to tell his postmaster he does not want to receive any more of it and it stops.

What the Roth amendment will do will be merely saying, "You cannot abuse and cannot exploit children through the production. distribution and selling," of the type of rotten material that comes to my mind as I think of the need for this type of amendment.

I think it is a sad commentary on the state that the American mind has reached when they will allow such things to be printed, when they will allow themselves to buy this filth, and I am hopeful that today on the floor of the Senate we will forget about the arguments of those who say: "Oh, it might abuse the first amendment."

No, Mr. President, what Mr. Roth is trying to do, and I admire him for it, is to put a stop to the harmful abuse and exploitation of our children. When I say children, I am talking about children under 10 years of age or in their early teens, and if you do not believe me, go back in the back end of any dirty book store or some of our better book stores, and peek under the counter and see what I am talking about.

I urge my colleagues to support the Roth amendment. It is long overdue, and I am very happy and proud to be a cosponsor.

Mr. ROTH. I thank the Senator from Arizona.

Mr. President, one of the cosponsors of my amendment, the distinguished Senator from Kentucky (Mr. HUDDLESTON), could not be here today. I ask unanimous consent that his statement in support of this amendment be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HUDDLESTON

I strongly support legislation to prohibit the sexual abuse of children. As a cosponsor of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977, I am pleased that it is being considered by the Senate today. I feel it is vitally important that Congress address itself immediately to a problem about which many Americans are concerned.

The use of children in pornography has been a topic widely discussed by the media recently as a result of a concerted effort by concerned groups and individuals and it is clear that the American public is outraged by the widespread abuse of children in this manner.

At the present time there is no federal statute that prohibits the use of children in the production of materials that depict explicit sexual conduct. Only a few states have statutes on the books which specifically prohibit the use of children in an obscene performance which would be harmful to them. And there is no federal statute specifically regulating the distribution of obscene material involving children.

I support the amendment offered by Senator Roth which would prohibit the distribution of obscene materials depicting children in perverted or sexually offensive acts. In my judgment, this amendment would make the bill a much stronger vehicle for stamping out the repulsive sexual exploitation of children. While we can pass laws to prohibit the horrendous sexual acts which involve children and the abuse of children, it is extremely difficult to catch the producers in the act. Even when they are caught, it is difficult to prosecute these cases because the films and photos are made in secret. I believe this legislation will be much more effective if we apply strict penalties for distributing the materials as well.

Some of my colleagues feel there is a chance that the Supreme Court could rule this provision unconstitutional. I do not think so. However, that will be a matter for the courts to decide. At the present time, there are no Supreme Court decisions dealing with the unique situation we are confronting in this legislation.

I hope that through this bill those involved in pornography depicting children will be caught and prosecuted, and others involved in some area of the industry will be frightened enough to get out of the business. But, most importantly, I hope it will prevent the destruction of children's lives and I urge you to support this legislation.

Mr. ROTH. Mr. President, I am happy to yield to another cosponsor of this amendment, the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, first, I ask unanimous consent for Mr. Ken Alkerman of my staff to have the privilege of the floor during discussion of this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, once again I am delighted to join with my distinguished colleague from Arizona, Senator GOLDWATER, in supporting an effort that I think is extraordinarily important.

The city of Chicago, unhappily, has been a center of production and distribution of pornographic material involving children.

A subcommittee of the Judiciary Committee held some important hearings in Chicago, and I attended those hearings and was just as shocked as anyone else, particularly when we heard the voice—we did not see the person—but we heard the voice of a child who had engaged in the practice, who described the permanent injury, psychologically, done to children and the great difficulty of rehabilitating themselves once they had recognized the kind of a life that they had been led into.

I wish to pay great tribute to my distinguished colleague, Senator ROTH of Delaware, for his leadership in this area. He has sponsored an amendment aimed at curbing a nefarious form of child abuse, the use of children in pornographic materials.

The growing phenomenon of child sexual abuse carries a potential for leaving deep psychological scars on literally tens of thousands of our Nation's youth.

I wish to pose a brief series of questions to the senior Senator from Delaware regarding some specific questions raised about the amendment. These are not questions that I raise, because I am satisfied as a cosponsor of his amendment that he has adequate answers for them, but they are the kinds of questions that have been raised to me by others, and I hope the responses will answer some of the problems that have arisen in some minds about the amendment.

The proposed amendment extends criminal provisions already contained in S. 1585 against producers of child pornography to the distributors and sellers of child pornography as well. It is my understanding that the Senator's amendment does not attach criminal panalties to the handling of any materials which are not already subject to criminal sanctions under the main text of S. 1585. Will he explain this relationship?

Mr. ROTH. That is correct. The definition in the amendment, as to what would constitute "child pornography" is a word-for-word duplicate of that in the main body of S. 1585. This amendment would not prohibit the sale and distribution of any material whose production is not already prohibited by the main body of the legislation. All agree that prohibitions against the production of this material are proper and constitutional as a legitimate Government protection against child abuse. The amendment does not extend to any material not already prohibited from being produced by S. 1585.

Mr. PERCY. The amendment, in effect, renders the distributor or seller an accessory in the first degree, or an aider and abetter, to the act of child abuse committed by the producer. As we know, so long as the marketing end of the trade remains intact, there is little we can really acomplish in curbing the production end of the trade. Clearly, the sellers and distributors contribute just as much, if not more, to the continuation of this form of child abuse as the producers themselves.

Is it not a close parallel that if we only had a penalty for the producers of drugs we would not get any place? Really, what we have to do is penalize the pusher, the distributor, and get at the source. If we cut the source of demand down, then we have an automatic cut in production.

I wonder if this is not a comparable example?

Mr. ROTH. Yes, the two are inextricably related. It is the distributors and sellers who keep the producers in business. Any statutory scheme which ignores this is doomed to ineffectiveness. For this reason, however, we have not made it illegal for the distributor or seller to handle any material where production has not already been prohibited under the main text of S. 1585. That is why I have characterized my proposal as a strengthening amendment.

Mr. PERCY. It is absolutely essential to have this amendment enacted if we really believe in carrying out the full intent and purpose of S. 1585.

The distinguished Senator from Delaware has drafted this amendment such that a distributor or seller would be culpable only if he or she acts "knowingly." Would this not mean that the distributor or seller must have either, first, actual knowledge that the materials do contain child pornographic depictions or, second, circumstances must be such that he should have had such actual knowledge, and that mere inadvertance or negligence would not alone be enough to render his actions unlawful? Clearly, it is not the intention of this amendment as I read it, to create any kind of trap for the unwary.

Mr. ROTH. That is absolutely correct. This amendment, limited as it is by the phrase "knowingly," insures that only those sellers and distributors who are consciously and deliberately engaged in the marketing of child pornography and thereby are actively contributing to the maintenance of this form of child abuse are subject to prosecution under this amendment.

Mr. PERCY. Then, if we could take a specific example: A large volume book or magazine retail store, with perhaps hundreds of different title books and magazines offered to the public for sale, whose owner does not have the time to read every single book or magazine in his shop—it would be literally impossible—would not be subject to potential culpability if a book or magazine which happened to contain prohibited material is discovered in his shop, unless, as you have noted, he acted "knowingly." Is this a correct statement?

Mr. ROTH. Yes, that is correct. This legislation creates no affirmative duty to inspect on the part of the distributor or seller, though it would certainly apply to one who actively and affirmatively endeavors to conceal his knowledge.

Mr. PERCY. Mr. President, I thank Senator ROTH for his explanation.

I think it will be reassuring to those who have been concerned about the amendment through what I believe are misapprehensions about it, and I commend him once again for his leadership in this very vital field.

Mr. ROTH. I thank the distinguished Senator from Illinois and commend him for his concern.

Mr. CULVER. Mr. President, will the Senator yield on my time?

Mr. ROTH. I am happy to yield on the Senator's time.

Mr. CULVER. Mr. President, I shall take this opportunity to express my appreciation to the distinguished Senator from Delaware for the interest and the initial leadership in this extremely difficult and tragic area of our national life, for the leadership he has given to the country and given to Congress in introducing first legislation on this subject.

I address myself more to the merits of his amendment, as we did in the full Judiciary Committee after other Senators, proponents of the amendment, had an opportunity to present their views.

But the distinguished Senator from Illinois did make one observation that I did want to correct at this point because it is understandable to me that it is possible, given the complicated nature of this public policy area, not to be aware of the fact that with regard to sale and distribution it is not correct to say that S. 1585 does nothing about that aspect of this problem.

In fact, we severely strengthened the penalties for under sale and distribution. We doubled them. It provides $10,000 fine, 10 years in prison, and minimum penalties of 2 years incarceration, and then in the event of a second offense it is $15,000 and 15 years. So we really take a very hard, tough position there on sale and distribution.

To the Senator from Illinois, I say that what we do, though, is rely on our existing obscenity statutes and the court interpretation, essentially the so-called Miller case, as to what constitutes obscene in order to obtain prosecution and conviction for the sale and distribution of obscene materials.

We are very confident, as are the Justice Department and the U.S. Postal Service people, that under those existing court tests we will have no difficulty whatsoever finding almost every single thing, that the distinguished Senator from Illinois and the Senator from Iowa are concerned about, obscene by the community standards.

In fact, we believe that prima facie, most of these 260 magazines and publications will be found obscene. So what we are talking about, then, is a very strong treatment of sale and distribution offenders, but only upon conviction of distributing obscene materials in accordance with the constitutional interpretation of what constitutes obscenity.

The difficulties we will get into and the problems that we think are posed by this other approach in terms of not applying the present constitutional test—and we feel, based on the testimony of every constitutional expert who testified before us in our hearings, which I do not think can be cavalierly dismissed, as well as the U.S. Justice Department officials who are charged with prosecution and want to effectively attack this problem—they say, "Don't go that way," and it is for that reason that we have taken the approach we have.

I think we have a strong bill and a constitutional bill, and, by a vote of 9 to 4 in the Committee on the Judiciary, with the support of our distinguished chairman, the Senator from Mississippi (Mr. EASTLAND), we did defeat this other approach.

The problem we have, if we go ahead with it, as nice as it sounds and as attractive as it may be to suggest to our constituencies that "I have gotten tough with child porno," the sad thing of it is, in the judgment of those charged with the implementation of this new statutory authority, is that it could well be counterproductive, when we find it to be unconstitutional, when these indictments and prosecutions fall and these people walk away scot free.

That is the problem.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. CULVER. Certainly. On whose time?

Mr. ROTH. Hopefully on your time.

Mr. CULVER. Maybe just for a question.

Mr. ROTH. Just a brief question. First of all, I wish again to congratulate the chairman of the subcommittee, as I did in my opening remarks, for the role he is playing in this area. I know his concern is the same as mine, even though we differ as to the remedy or solution.

The thing that concerns me, as he points out, is increasing the penalty. We already have laws on the books so far as obscenity is concerned. If they are so effective, why have they not worked, and stopped the growth and expansion of child pornography? That is the question.

Mr. CULVER. First of all, may I say to the Senator that the problem we found in our hearings was really twofold: one, that there was currently a vacuum in terms of Federal authority to go at the problem of production—the production of these materials, films and magazines. We had no Federal authority based on child pornography to get at these problems. All we had was local jurisdictional authorities on child molestation and contributing to the delinquency of a minor.

So we had no way to trigger the involvement of the Federal Bureau of Investigation or the U.S. Postal Service——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. CULVER. Let me finish my response to the question, and I will be delighted to yield.

We had no way to get the Federal Bureau of Investigation into these things, and we had no authority to reach them.

So one of the things they told us was that we need that kind of authority to get in, to be more effective in local prosecutions, and the Federal prosecutors said that would help.

The second thing is that we have not had a lot of prosecutions, indictments, and convictions in this area, because historically we have seen a trend upward, as the Senator knows. He did not introduce his bill until this year.

We saw some television documentaries and we saw some very effective journalistic investigative reporting, all of which said, "Wake up, America, we have got a problem here."

When you go back to the authorities and look at the record, what you also find is that on the one hand we did not have the authority to reach this kind of child abuse conduct, and, on the obscenity side, the extent to which our resources were applied to this problem was historically only aimed at the big operators—the big, big operators—and the ones that had some tie to organized crime.

One of the things that this national attention, publicity, and congressional consideration has brought about, to a not insignificant degree through the efforts of the distinguished Senator from Delaware, is a renewed interest in determination of the nature of the problem, and the prosecuting authorities and investigative authorities are much more aggressive now. We have received reports that we will put in the RECORD here, that we have now received from the Postal Service, that they have officially changed their policy; they have begun to give highest priority to child pornography cases. We have seen acceleration in the number of prosecutions by the Department of Justice; we have seen more indictments, and we have seen recent convictions. I think it was not because they did not have strong statutory authority—though it really was not—that when they had a case, they found obscenity standards and statutes insurmountable in terms of achieving convictions. They have never said that the three-part test of Miller was a roadblock to effectively prosecuting the child pornography obscenity cases. So I think that probably is the most responsible explanation of the pace of prosecution to date in this area.

Mr. HATCH. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 7 minutes remaining.

Mr. HATCH. Will the Senator from South Carolina give me some time on the bill?

Mr. THURMOND. Does the Senator from Delaware have about 3 minutes to yield?

Mr. ROTH. May I yield to Senator HATCH first? Then I will yield to the Senator from South Carolina.

The PRESIDING OFFICER. How many minutes?

Mr. ROTH. I yield 3 minutes to the Senator from Utah.

Mr. HATCH. Will the distinguished Senator from South Carolina yield me some time against the bill as well?

Mr. THURMOND. How much time does the Senator want?

Mr. HATCH. Could the Senator yield me another 7 or 8 minutes, to add to his 3?

Mr. THURMOND. I yield the Senator 8 minutes, Mr. President, on the bill.

The PRESIDING OFFICER. The Senator from Utah is recognized for 11 minutes.

Mr. HATCH. Mr. President, I rise to support the amendment submitted by the distinguished Senator from Delaware (Mr. ROTH), and I compliment him for the leadership he has provided the Senate in dealing with the problem of child pornography.

I also compliment my colleagues from Iowa (Mr. CULVER) and Maryland (Mr. MATHIAS), who wrote the bill that we are now considering. I think that all of us are working together to solve this child abuse and child pornography problem.

But I especially want to compliment the senior Senator from Delaware (Mr. ROTH), for having submitted this amendment. It is necessary because S. 1585, in its present form, does not adequately deal with the problem of child pornography. Let me explain why.

The proponents of S. 1585 insist that the best way to put a prompt and effective end to the mischief is to make the production of child pornography a Federal crime. Accordingly, the bill provides, under section 2251, that it shall be unlawful for anyone knowingly to persuade or force any minor to engage in what is called "sexually explicit conduct" for the purpose of promoting any film, book or magazine, if this person knows or has reason to know that such material will be mailed or otherwise transported in interstate or foreign commerce.

Mr. President, the term "sexually explicit conduct" is the key to an understanding of this legislation, because it extends beyond mere obscenity, as the Supreme Court has defined obscenity, and includes every form of sexual behavior, whether actual or simulated. This bill, in other words, does not forbid simply the production of obscene materials, but all materials which portray the kinds of sexually explicit conduct that are proscribed under section 2251.

With regard to the sale and distribution of these materials, however, S. 1585 attacks the problem simply by increasing the penalties for the distribution of obscene materials where children are depicted. Thus the bill contains a double standard. It outlaws the production of materials which display sexually explicit conduct, but merely forbids the distribution of materials which are obscene.

This double standard is, in my judgment, a fatal weakness of the bill that will undermine our effort to eradicate child pornography. I agree with Senator ROTH that the scope of S. 1585 is too narrow and that its provision for an increase in penalties for the distribution of obscene materials, simply does not go far enough. It is my view that the problem of child pornography will not be effectively handled unless the same standard is applied to both the producers and the distributors of these materials.

It is also my view that the supporters of S. 1585 agree, in principle, that the standard should be the same for producers and distributors. They hesitate to apply the same standards, however, because they believe that this would create a constitutional problem. Relying on what is, in my view, an erroneous constitutional argument offered by Patricia Wald, Assistant Attorney General, they address themselves to the Roth-Hatch amendment in this manner—and I quote from the committee report:

> Attempts to prohibit the sale and distribution of such material necessarily involves an evaluation of the content of the materials in question. Consequently, the Supreme Court in Miller v. U.S. has held that in determining whether material is obscene and loses its first amendment protection, the material must be judged in its entirety. Therefore, the Committee is of the view that an attempt to make illegal the sale and distribution of material regardless of whether such material taken as a whole is obscene, would run counter to present Federal constitutional law as enunciated by the Supreme Court in Miller.

Mr. President, my study of the case law that has been developed by the Supreme Court in obscenity cases leads me to the very opposite conclusion.

In the first place, the opinion of Miss Wald on the constitutionality of the Roth-Hatch amendment is wholly speculative. There are no Supreme Court decisions dealing with the unique situation we are confronting in this legislation. The Supreme Court has never ruled on a case dealing with the production and distribution of child pornography.

Second, Miss Wald's reliance on the Miller case, which held that the material must be judged in its entirely, completely ignores the fact that the material in question involved adults and obscene materials. But we are not dealing with adults, and it is highly questionable, in my mind, that the Supreme Court is going to insist that we must apply the same standards to children that we apply to adults.

I say this on the basis of Ginsberg against New York, decided in 1968. In this case, and in other instances, the Supreme Court has maintained that the

standards for obscenity are not uniform in all respects, as applied to all individuals or places, especially where children are involved. As the Court declared in the Ginsberg case, narrowly drawn proscriptions of distribution or exhibition of materials to children which would not be obscene for adults are permissible under the first amendment.

I am aware, of course, that the Ginsberg case and others dealing with the sale of pornographic material to children are not directly applicable to the situation we confront here, any more than the Miller case is directly applicable, because the pornographic material we are trying to eliminate in this legislation is being sold to adults rather than children.

But I submit that children are involved at the distribution stage in this situation, even though the materials are being sold to adults. I would also point out to my colleagues that the Supreme Court has consistently and strenuously emphasized the point that cases involving children present special questions in that the governmental interest in protecting children overbalances the interest of the adult to receive and possess pornographic material and the interest of a distributor to satisfy the willing adult's inclination to receive it.

As the Court said in Ginsberg, the New York law prohibiting the sale of material to children which would be permissibly sold to adults but not children—and I quote from the decision—"simply adjusts to social realities." And that is all this amendment seeks to accomplish—to adjust this legislation to social realities. On this very point, the Court stated in the Ginsberg case—and I again read from the Court's opinion:

> That the state has power to make that adjustment seems clear, for we have recognized that even where there is an invasion of protected freedoms, the power of the state to control the conduct of children reaches beyond the scope of its authority over adults.

So I put this question to the proponents of S. 1585 who are opposed to this amendment: If the Supreme Court has already clearly and unequivocally stated that government has the authority to apply stricter obscenity standards regarding the sale of pornographic materials to children, why would you suppose that the Court would hesitate to apply stricter obscenity standards regarding the sale of pornographic materials which show children engaged in sexually explicit conduct?

When children are involved, whether it be children purchasing obscene material or children pictured in the material itself, the case law that has been developed supports the proposition that the adult standards for obscenity need not be followed. The Miller case, which deals with adults and states that the material must be judged in its entirety, did not overturn the Ginsberg case. And the Ginsberg case flatly holds that a different standard, a tougher standard, can be used where there is an overarching interest in the protection of our children.

In the third place, Mr. President, I would also like to point out that the opponents of this amendment, who cling tenaciously to the Miller case, erroneously assume that the Supreme Court's standards for obscenity are fixed in concrete, and therefore, cannot accommodate the modification we are attempting to make with regard to children. The truth of the matter is, and I quote from "The Constitution of the U.S. of America: Analysis and Interpretation," published by our own Library of Congress—

> The Court's approach has changed and it has formulated new standards, giving government, federal, state and local, greater power than it previously possessed to outlaw the sale and dissemination of materials found to be pornographic.

A good example of the Court's changing attitude is the very case which the opponents of the amendment rely on—the case of Miller against California. In the Miller case, the Court specifically rejected the old standard of obscenity that the material in question must be "utterly without redeeming social value" before it may be prohibited. In short, the Court's standards for obscenity have been and will continue to be in a state of flux. They should not and do not preclude Congress from giving assistance to the Judiciary in dealing with the problem of child pornography.

To be sure, the Court, in the Miller case, has assured us Government does not unnecessarily endanger first amendment freedoms when it attempts to redefine the standards for obscenity. Why? Because, said the Court in Miller, first amendment values "are adequately protected by the ultimate power of appellate courts to conduct an independent review of constitutional claims when necessary."

In the final analysis, Mr. President, the only question is whether the Senate might rationally conclude that only by proscribing the distribution of "sexually explicit materials" can the abuse of our children be effectively curbed—abuse and exploitation, I remind my colleagues, which occurs prior to distribution but which is nevertheless an incentive for, and an integral part of, the distribution process. In terms of practical, commonsense, in terms of the realities of the situation and the nature of the pornography business, we cannot reach any other conclusion. If we truly want to rid this country of child pornography, then we must go after the distributors of this filth with tough standards, not the watered-down obscenity standards that are applied to adults. We need only take a walk through the streets of Washington, or any city in this country, to see that adult obscenity standards are not going to rescue our children from the adults who are exploiting our children in ways that will affect their hearts and minds for the rest of their lives.

I think we would make a serious error, and one we do not have to make, as I read the constitutional law that has been developed by the Court, if we separated the production and the distribution process in this issue. To do so would take us back to the old law of the Court which once held that manufacturing is not part of interstate commerce, because it was an activity prior to the flow of commerce. That view has long been rejected by the Court because it is simply an unrealistic view of what actually takes place in the field of commerce. For the same reason, it is, in my judgment, wholly unrealistic to look at the commercial exploitation of children without realizing that the manufacture and production of these materials cannot be divorced from the sale thereof. In substance, the causal relationship is no different here than it is in child labor legislation.

Insofar as children are involved, there is, in reality, no meaningful distinction between production and distribution, because only at the distribution stage, where the material is finally brought out into the light of day, can the Government effectively protect this Nation's children.

For these reasons, Mr. President, I urge my colleagues to support this amendment, and to apply the sexually explicit conduct standards to both the producers and distributors of child pornography. If the Supreme Court rules it to be unconstitutional, as the amendment's opponents predict, S. 1585 will still remain on the books.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Who yields time?

Mr. THURMOND. Mr. President, will the Senator yield to me, or perhaps I should yield on the bill.

Mr. ROTH. Will the Senator yield it on the bill?

Mr. THURMOND. Mr. President, I yield myself such time as may be required on the bill.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from Delaware to strengthen the protection of children against sexual exploitation by the distributors and sellers of child pornography. The amendment would treat such distributors and sellers as principals in the child abuse that occurs when the material is produced, distributed, and sold.

The amendment adds a provision to S. 1585 that eliminates the bill's dual standard of prosecution of producers of child pornography and the distributors of child pornography. By making this change in S. 1585, the legislation would recognize the principal role that distributors and sellers have in the distribution of child pornography.

Mr. President, I believe this amendment is meritorious, since it will permit the prosecution of not only the makers of child pornography, but also the distributors and sellers of such material. Although existing law may reach this kind of conduct, Senator Roth's amendment would clarify the existing criminal statutes and give prosecutors an added tool in achieving the successful prosecution of this kind of activity.

The amendment is also subject to section 6 of S. 1585, which allows for the severance of any provision which may be later ruled invalid by the courts as unconstitutional or otherwise defective. Thus, the Roth amendment, if proved to be invalid, could be severed from S. 1585 and not jeopardize its other provisions.

Mr. President, there are good aspects to both the Roth amendment and S. 1585. Both are directed at stamping out the rapid growth of child pornography and child prostitution in this country. I support that objective and want to see the most effective bill possible approved by the Senate. If there are other improvements that can be made to the bill, I will support them. Legislation to stop child pornography and child prostitution is urgently needed.

I support the Roth amendment and feel that it will make S. 1585 a better bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CULVER. Mr. President, the Senator from Maryland wanted to make some comments.

Mr. MATHIAS. If the Senator from Iowa will yield me 5 minutes, at least to get started, I should like to comment briefly on the amendment.

Mr. CULVER. I am very happy to yield 5 minutes to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized for 5 minutes.

Mr. MATHIAS. Mr. President, first, I want to say that the Senator from Delaware and the Senator from Utah were among the first to raise their voices on this distasteful subject of child pornography. There is obviously no difference in goal or difference in purpose in our being here today. We are merely trying to find out the better way to approach this problem.

The subject of the Roth-Hatch amendment is only one corner of a larger bill. The larger bill goes toward the creation of a new crime on the Federal statute books, the crime of procuring children for the purpose of exploiting them in productions, whether it is in movies or magazines or individual exhibitions. It is an important new element of law.

Secondly, it would amend the Mann Act to proscribe the interstate transportation of persons under 18 years of age for the purpose of engaging in prostitution.

The question of sale and distribution which, in the original bill, S. 1585, we have dealt with by an increase in penalties, would be dealt with under the Roth-Hatch amendment by the introduction of some new language. It is only one phase of a comprehensive bill. So, if we look at it in context, I think we see that it is an important phase, but one which is covered by existing law.

The Justice Department could not be more clear in saying that, while the interest that has been shown in Congress has been constructive and positive, and while the pressure that this very debate is putting on this wretched industry has been constructive and positive, what it does not want is to have the settled law unsettled. With the two new tools we are providing—making a new crime out of procuring children for this purpose, increasing the penalties under the existing laws and broadening the Mann Act—they then feel that they can go forward and get the prosecutions which will stamp out this traffic.

But if we unsettle the settled law, as this amendment would do, what I am afraid of is that we are going to have a vacation. We are going to have a hiatus in which the traffickers will have a period of time, pending appeals all through the court system, in which they will not be hindered by the new law.

The Senator from Delaware said, in his remarks, that there is no doubt that court tests will follow. I think that is a fair statement. I think we all would agree with that. Even if we were to assume, for the sake of argument, that it will all come out right in the end, we are headed, if we adopt this amendment, for an unsettled period at a time when we ought to be operating on the settled law of the land and getting the convictions and discouraging people from conducting this outrageous kind of traffic.

Part of the reliance for this amendment is on a rather novel proposition of law. It is argued you can regulate activity of this kind under the child labor statutes. I think that is an interesting thought, but it is not one that I believe the courts are going to find very persuasive. There are specific cases which deal with this kind of theory, one of them being the Oklahoma Press Publishing Co. case.

In the Oklahoma case, it was held that newspapers, radio stations, television broadcasters, and book and magazine publishers are, of course, all business institutions. They are organized like any other business to make a profit. Therefore, they are subject to regulation which affects their normal profitmaking activities; and they can claim no special privilege from that kind of regulation. But the court has always been clear that such regulation of an economic nature cannot, in the long run, result in a restraint upon expression. So I think that the Oklahoma case pretty clearly puts to rest the concept that we can have any firm reliance on child labor laws as a source of strength for the proposition that we should unsettle the settled law of the land with respect to sale and distribution of the material in question here.

I believe, as the bill does, that we are better off to follow the advice of the prosecutors of this country. These people, who are going to bear the heat and battle of the day in the courtrooms, urge us to increase the penalty on the settled law of the land which prohibits sale and distribution, and we will get the convictions which will stamp out this traffic.

Some reference has been made to the Ginsberg case, I will quote very briefly, Mr. President, from a book called "The Law of Obscenity" which comments on the Ginsberg case where, on page 89, it says:

> It is important to understand that although *Ginsberg* allows the obscenity test to be so adjusted where the audience is not the general public, it still requires a finding of obscenity. The statute at issue in *Ginsberg* still required an appeal to prurient interest, still required patent offensiveness, and still required a lack of redeeming social importance. The *Ginsberg* test is still a test for obscenity, albeit modified, and if material does not meet each of the three tests, it may not be prohibited, even for minors.

This is serious business. I think this is what we are tampering with if we adopt this amendment.

We are taking chances that the action we take here will be struck down when the prosecutors have said, "Don't take those chances, we don't need it. Give us the tools and we'll do the job".

We have provided in 1585 the specific tools that the U.S. attorneys across the country want.

These sentiments were echoed again and again and again and again in witnesses before the committee. I believe we have got to listen to those voices, not out of any desire to frustrate the obviously good intentions of the authors of this amendment, but simply out of concern that what we do, we do well and we do effectively.

Paul Bender, who was the General Counsel of the President's Commission on Obscenity and Pornography, says that it is his considered opinion that the amendment, although he was speaking then of the bill which was the father of the amendment, was unconstitutional:

> Perhaps the definition of obscenity can be altered to some extent when a child is the actor. But the Supreme Court has never indicated that it would depart from the three-part approach it reaffirmed in 1973 in the Miller case.

So I would hope the Senate would not go off on a tangent by adopting this amendment which I do not think is necessary to do the job. Such an approach risks the great advances and great achievements that are possible with this bill. Moreover, even if the amendment were found 4 or 5 years from now to be constitutional, its adoption would certainly slow down and complicate a job that I think the American people want to have done now.

Mr. PRESIDENT, I am hopeful that the Senate will reject this amendment.

Mr. HATCH. Will the Senator yield for a question?

The PRESIDING OFFICER. The time of the Senator has once more expired.

Who yields time?

Mr. ROTH. One minute.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. HATCH. It would appear to me that what the Senator is saying is this: that because this amendment might be declared unconstitutional—which I would dispute—that we should apply the sexually explicit conduct test only with regard to production, but apply the obscenity test, which is more difficult to prosecute, with regard to distribution of these child materials.

I question the rationale for this fear of a constitutional confrontation because it seems to me a prosecutor could at any time add both the obscenity indictment and the sexually explicit conduct indictment; and if the sexually explicit indictment was faulty, he would still have the option of seeking a conviction based on obscenity.

Last, but not least, there is a severability clause in this bill which says that if this amendment is not proper or is unconstitutional it will not affect the rest of the bill.

So I really think that the legislative branch should apply the "sexually ex-

plicit conduct" standard to distributors, as well as producers.

I commend my two distinguished colleagues on the intent and significance of this bill in its present form, but this amendment will make it a truly great bill that will enable Federal prosecutors to put an end to child pornography.

Mr. MATHIAS. If someone will yield me the time, I will answer.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. I am glad to yield 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MATHIAS. I will try to answer in 1 minute. Of course, under S. 1585 it is perfectly possible to bring the three counts the Senator refers to: procuring a juvenile, violating the Mann Act, and for sale and distribution. Thus; all the things he wishes to be done can be done within the four corners of the existing bill.

But if a U.S. attorney were given the option of bringing a sale and distribution charge under section 1461 or 1462 or 1465, when he could proceed under a new section 2252, he would frequently opt for the new provision which would not require him to meet the three-part Miller test. Thus if section 2252 were later declared unconstitutional all the defendants convicted under this provision would be freed. That is the risk we run by adopting this amendment.

Mr. HATCH. I can only say that the test of obscenity is far more difficult to prove than the test of "sexually explicit conduct."

The PRESIDING OFFICER. The time has expired.

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CULVER. Mr. President, some of the constitutional problems that are posed by the Roth amendment, I think, are perhaps best illustrated in the current Washingtonian magazine, October 1977.

The distinguished Senator from Arizona made reference to photographs by the well-known photographer, Mr. Edward Weston, and on page 93 of the Washingtonian magazine are six photographs of nude boys in poses which raise problems if one applies the approach of the Roth amendment to this particular series of photographs.

Now, the Roth amendment would have the effect of making it a crime to distribute materials that, taken as a whole, are not obscene. But if those materials were to contain one isolated picture—one isolated picture, not the materials as a whole—that fell within a definition of sexually explicit conduct, then under the Roth amendment you could ban the publication and subject to criminal penalties those who sold and distributed that publication.

Mr. HATCH. Mr. President, will the Senator yield on that point?

Mr. CULVER. If I may finish this point, I will be delighted to yield.

This advertisement in this month's Washingtonian has a portfolio of photographs by Edward Weston, to whom the Senator from Arizona (Mr. GOLDWATER) referred earlier as a great American artist. I think he is so recognized. It could be found to depict a "lewd display" of the genitals or pubic area.

It is possible that, like beauty in the eyes of some beholders, these photographs, in and of themselves, independent of the whole of this particular publication or magazine, could be found to so qualify.

In that event, what we are concerned about is that it would make the seller of the Washingtonian, including any neighborhood drug store owner or news dealer, guilty of a crime for which he could get up to 10 years. This is because the Roth-Hatch amendment applies to any isolated picture in a larger work or publication, and S. 1585, as the Senator from Maryland has said, requires that we look to the material as a whole.

I yield to the Senator.

Mr. HATCH. I hope the Senator does not mean what he has just been saying, because the Roth-Hatch amendment uses the same standards as S. 1585. In other words, it uses the standard of the Senator's bill, and that standard is not obscenity but "sexually explicit conduct."

Mr. CULVER. It is important to clarify this. It is true that it uses the same standards, but the test to be applied is the Miller standard, as to whether or not it is obscene; and to make that determination, one has to consider the work as a whole. The Senator's proposal does not adhere to the Miller standard. Therefore, he would apply the same standards in our bill to an isolated incinent.

Mr. HATCH. The producer of that particular magazine, if the Senator's argument is extended, would be just as liable, under S. 1585 as it now stands, as the distributor would be under our amendment. S. 1585 does not use the obscenity test for the production of pornographic materials, so the Miller test for obscenity is inapplicable at the production stage. The Senator is arguing against the standards set forth in his own bill.

Mr. CULVER. I beg to point out to the Senator that the difference is that our bill provides, for the first time, for a new Federal offense under child abuse for using children to produce these photographs in ways that satisfy our standards of sexually explicit conduct.

Mr. HATCH. Our amendment establishes the same standard for distributors.

Mr. CULVER. I cannot hear the Senator. I will be glad to yield in regular order. I cannot answer and listen and respond in midstream.

There is a very important difference between trying to reach problems of conduct. The Senators asks why the double standard between conduct on the one hand and content on the other. We are talking about two different values, two different problem areas.

The Senator is talking, on the one hand, about the legal authority to reach and prohibit conduct which is felt to be, by way of a matter of public policy, harmful to children, in terms of their experience, in terms of what one person does to another. Once that act is done and it goes into the form of a publication or a film or a picture or a magazine, the courts have said that we are going to consider that work in its entirety in order to determine whether or not it is obscene, and therefore proscribe speech and an encroachment and a restriction on free speech.

The way they determine that is to apply the Miller standard. What is the Miller standard?

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. CULVER. I yield myself additional time on the bill.

The real question here—and where we really seem to get off the mark—is that the courts want to get away from the kind of situation where you can take a paragraph out of "Lady Chatterly's Lover" that you find to be obscene or offensive and ban the book. Or you can take "The Exorcist," because there is a situation involving one isolated incident of sexually explicit conduct, and ban the film. Or, because in "Romeo and Juliet" there is a nude child, you can ban the play.

The court has said that before you can do that, you have to apply the three-part test of Miller: One, take it as a whole; two, whether or not it appeals to the prurient interests and has no real social value; and, three, apply the community standards.

What everyone is saying is that when you talk about child pornography and what may or may not be sexually explicit conduct and child pornographic films, you apply the same three-part test to those materials. I do not think there is any doubt at all that when you talk about child pornography and child obscenity, the threshold is going to be lowered by a jury as to what they feel is obscene. There is going to be no reluctance on the part of those people to apply a very tough standard.

There has been no showing that the element of obscenity would be difficult to prove under the tests set down by the court in the Miller case, because, taken as a whole, all these publications clearly lack any serious literary or artistic value, and they clearly appeal predominantly to the prurient interests as judged by the standards of a community—any community in the country.

The fact that the materials depict juveniles, in my judgment, in practice, clearly will lower the jury threshold and make them more ready to find convictions, easier than in adult pornography cases.

The Senator from Delaware has said, "Why have we not seen more prosecutions?" I tried to speak to that earlier.

If prosecutors will prosecute, section 5 of our bill provides them with the tools I believe necessary to obtain convictions in these cases. This section of S. 1585 is a

clear signal to them to begin such prosecutions.

I mentioned that since the middle of this year, since all this publicity, we have had 38 child pornography investigations opened at the Federal level. We have seen a change in the policy of the postal authorities to put this as a priority, and so on; and I talked about what a change that represented from the previous administrative attitude on this question.

I think it is unwise, Mr. President, to go ahead with this Roth-Hatch amendment because I think the constitutional problems inherent here would endanger successful prosecutions. The best witnesses we have on that point are the prosecutors.

We were in Chicago. We talked to these people. We heard them before our committee. We said, "What tools do you need to do the job?" And they said, "We will tell you the tools we need. We have to make the Mann Act apply to boys as well as girls so we can get this interstate boy prostitution ring. We cannot get them, and we have got to get at the child-abuse problems because we are rinky-dinking around here with contributing to the delinquency of minors, and we want to uncork the FBI's and the postal authority's investigative resources to go into this problem of how they abuse the children."

They also said, "Slap those penalties on them, obscenity; make it tougher. And we want a signal from you in Congress and to the Justice Department, we want to have the word go out that we are serious about this so we have got the necessary support in the bureaucracy to do it." I think, Mr. President, this is what this does.

The Senator mentions that he does not see any problems, that it has got a separability clause. Well, frankly, as the Senator knows, on these constitutional issues whether you have a separability clause or not the court, as a matter of constitutional doctrine, applies a separability clause, and separates those things out.

But what we are worried about is we are going to be going after the Washingtonian magazine, we are going to have a lot of gumshoes running around closing down the local news counters; we are going to be hauling a lot of people in and subjecting them to a grand jury and indictments based on this law, and they are going to then be prosecuted and convicted under this law, and then it is going to go up, and you are going to have a whole wave of these cases, and we feel confident, not because we are so all-knowing about what the Supreme Court is going to do, but because we did what we thought we should conscientiously and responsibly do, and that is go to the experts, go to our own Department of Justice, and say, "You people studied this problem pretty well. Tell us what problems you see in that Roth-Hatch approach."

They said "It is fraught with danger." They said they do not need it. They said they do not want it. They said, "We can do the job with the tools you have given us. It is counterproductive; it is overkill; and as far as equipping us to do the job we do not need it.

"Moreover, if we move under that we are fearful—sure, they will separate it out, and this will fall as being unconstitutional, but also these convictions will fall, these indictments will fall, and you will see not progress with these prosecutions but they represent a retrogression."

The first amendment simply does not permit you, except in cases such as those involving a clear and present danger, a test which is not applicable here by any stretch of the imagination, to restrict speech that is not obscene. We cannot restrict speech that is not obscene. The Founding Fathers said there should be no abridgement of the first amendment. We have seen the courts tortuously try to carve out some exceptions to that.

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. CULVER. When I finish my statement.

I think the rule, according to the testimony we have received from Justice and from every other constitutional expert, without exception—we had the benefit of the legal scholars who were associated with the President's Commission on Obscenity, and who did nothing but live with this sick, sordid business for a long time, were the most sophisticated witnesses in terms of the constitutional area of obscenity—they did not feel this could pass constitutional muster. They just did not feel it. They thought this whole provision would be struck down by the court. It would because they said in a criminal statute that reaches protected speech and protected expression as well as that of obscenity is void on its face for overbreadth.

If this happens, based on this constitutional interpretation and precedent, then I think these convictions will be voided, and I think that defendants convicted will be freed.

So, finally, Mr. President, let me just say that contrary to the argument of Senator HATCH and Senator ROTH, for whom I have the greatest personal respect in terms of the sincere concern they have and the interest and leadership they have demonstrated in this area, there can be no separate standard for juvenile obscenity that ignores the Miller standard.

The Senator mentioned the Ginzberg case, and I think it is important to respond to the question the Senator posed with regard to Ginzberg. I think it is true, and it should be acknowledged, that the Ginzberg case clearly provided for a slight variation of the definition of obscenity when the material is to be sold to children.

But we are talking about a fact situation here where the material is to be sold to everyone, adults as well as children; and, secondly, we are talking about a situation where children are the participants in the production, and we are talking about the question of content as opposed to the sale to children in another context.

But even under the Ginzberg case, Mr. President, even under that important precedent with regard to the general area of constitutional law, it is still necessary to look at materials as a whole, I think that is the key thing here, and the key difference, a rule that the Roth-Hatch amendment would ignore, and so I would just submit that S. 1585 would prohibit the sale and distribution of almost all child pornography in a way that is clearly constitutional and enforceable.

I am happy to yield.

Mr. HATCH. If I might just add this thought before yielding to Senator ROTH: I have also talked to a number of prosecutors who would like to change in this way.

I have deep regard for my friend from Iowa, as he knows. But I think I may have a much higher opinion of the Supreme Court of the United States than the Senator does because I just do not believe the Court is going to declare that this bill, as amended by the Roth-Hatch amendment, violates the first amendment. If the Senator's bill passes without this amendment, some really horrendous pornography problems will not be solved.

Mr. CULVER. I have often found that a high opinion of the Court is usually found when they agree with your view, and a low opinion is usually found when they do not. I think if you look at the tortuous meandering of the Supreme Court's history, there is plenty for both of us to be both high and low on the Supreme Court.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I am about ready to yield back the remainder of my time.

I would just like to make one comment and point out to the Senate that similar legislation was adopted on the House side by a vote of 375 to 12.

In closing, I would point out there is a need, and we all agree to that. I would point out that in no way does our amendment jeopardize what the Senate Committee on the Judiciary is trying to do because the provisions are severable.

I think for the same reason it is important to protect our children from sweatshops, it is also important to protect them from smut shops.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I am pleased to cosponsor the amendment of the distinguished Senator from Delaware (Mr. ROTH) and to speak in support of it at this time. This amendment is essential to achieve the purpose of the proposed legislation, namely to protect children from sexual exploitation.

S. 1585 proposes to protect children from sexual abuse in pornographic material by making the production of child pornography a Federal crime. Therefore, the bill provides criminal liability for anyone who knowingly persuades, encourages, or forces any child to engage in "sexually explicit conduct" for the purpose of promoting any film, book, magazine, or other pornographic material.

The phrase "sexually explicit conduct"

includes every form of sexual behavior, whether actual or simulated, and whether it "appeals predominantly to the prurient interest of a sexually deviant class of persons." *Miller* v. *California*, 413 U.S. 15 (1973). Therefore this phrase includes activities not covered by the definition of obscenity applied by the Supreme Court.

Accordingly, some argue that although Federal law can constitutionally reach the horrendous conduct which is the subject matter of these materials, and therefore that Congress may attach criminal liability to its producers, the "sexually explicit conduct" standard may not be used to reach the distributors and sellers of such material. They insist that Federal criminal liability may extend to distributors and sellers only when their materials are obscene under present constitutional standards.

Therefore, under S. 1585, a double standard is created by which a producer may be criminally liable for inducing the "sexually explicit conduct" which is the subject matter of a film while the distributors and sellers of that film are not so liable.

Mr. President, the purpose of this bill is to protect children from sexual abuse and to punish those who seek to exploit children in this manner. It deals not only with the abuse of children in pornography, but also their abuse through prostitution, their interstate transportation for immoral purposes, and their induced sexual conduct.

Opponents of Mr. ROTH's amendment maintain that its standard of "sexually explicit conduct" must be judged by the more narrow "obscenity" standard of constitutional law regarding pornography. Thus, they argue that by its very definition, the Roth amendment must be rejected as needlessly overbroad and hence, as unconsitutional. In my judgment they are wrong. Their error, I believe, is to apply the Supreme Court's obscenity standard to this issue at all. This bill deals with obscenity only secondarily, its primary purpose is to protect children from exploitation.

By definition, the Roth amendment does not seek to prohibit pornographic material. Rather, its purpose is to protect these injured children's right of privacy. In the first instance, these children are abused by the makers of sexually explicit material when they are required to submit to such conduct. They are again exploited by those who broadcast that material. Is not that initial abuse, that initial injury, Mr. President, compounded by those who distribute and sell such material?

Just as it cannot be said that these children consented to engaging in the conduct prohibited by this legislation, it cannot be said that they consented to the distribution, sale and appropriation of their name, their picture, or their likeness. The distribution and sale of such material constitutes a new and independent invasion of privacy. It is an additional injury to these children equal to their abuse in the material's production. Certainly, the Constitution does not prohibit the protection of a child's right to privacy, nor does it mandate a license to broadcast this painful event in a child's life. Such publicity may haunt him for years and make recovery from the emotional damage of the conduct itself impossible.

Mr. President, I strongly support the amendment of the Senator from Delaware and urge my colleagues to act favorably upon it.

Mr. SCHWEIKER. Mr. President, I appreciate the opportunity to speak today in support of the amendment which my distinguished colleague from Delaware (Senator ROTH) has submitted to S. 1585, the protection of Children Against Sexual Exploitation Act of 1977. In May I cosponsored legislation introduced by Senator ROTH to eliminate child pornography. The Judiciary Committee acted quickly to hold hearings on the number of bills in this area, and members of this committee are to be commended for their action. However, I do feel adoption of the Roth amendment will improve the provisions of S. 1585 by increasing the likelihood of penalties for those who knowingly transport through interstate commerce or sell any photograph or film depicting a child engaging in a prohibited sex act.

The subject of child pornography is not pleasant or easy to discuss. Many would like to pretend that such abuse never takes place. Others think that legislative bodies like the Senate and local and State elected officials should not concern themselves with what they sarcastically refer to as "kiddie porn." However, I believe that this issue is critically important. and deserves the attention of this Congress. My constituents in Pennsylvania shared my sense of outrage and frustration upon reading and viewing the news media exposés on the use of children in pornographic films and pictures. These exposés have described the child pornography racket as a multimillion-dollar business.

S. 1585, introduced by Senators CULVER and MATHIAS, along with Senator ROTH's amendment, both of which I am cosponsoring, would go far in reducing the abuse of children in pornography. Child abuse, in whatever form it takes, is a horrible crime. The children who are abused today will years from now, still be reeling from the impact of the abuse they have suffered. Psychiatrists and psychologists have repeatedly told us that abused children will carry the scars of their abuse with them throughout their lives, and that many times it is the abused child who grows up to be the child abuser. Studies in this area have also shown that the abused child many times never recovers from his feeling of alienation from the rest of society, and this alienation can surface in the adult in his acting out violently against others, in drug or alcohol addiction, and in various criminal activities. As a Congress concerned, not only for the pain abused children feel today, but also for the repercussions of this abuse and the future cost to society, we must turn our attention to stopping, for once and for all, the sexual exploitation of children in pornography.

Some have argued that a crackdown on child pornographers would be a violation of their constitutional rights under the first amendment. I am tired of hearing such weak arguments which classify this filth as free speech. The American people are fed up with this type of reasoning. It is no wonder our citizens have lost respect for elected officials or members of the judiciary who would argue that the pornographer can trample the rights of any other individual, to the point of forcing children to commit sexual acts with each other or an adult, because to stop them would limit pornographers' freedom to express themselves. That is ridiculous. It is not enough to count on existing obscenity laws to stop the flow of child pornography. We must prevent its production and its availability. Senator ROTH's amendment would provide the last tool needed—prosecution for distributors of child pornography.

Mr. President, children, some only 3 years old, cannot be expected to protect themselves from adults who would use them in this manner to make some fast money. Although it is difficult to believe, many times the adults who exploit these children are friends or relatives, even parents. It is time for Congress to enact legislation which makes it clear to the American people and to the child pornographers, that we are serious about cleaning up this problem, and protecting the right of children not to be abused. This amendment calls for mandatory minimum prison sentences, and fines for convicted individuals. With no chance to somehow working their way out of punishment, perhaps those who use children in pornographic films will be forced to think twice before they inflict the psychological scars that will stay with sexually exploited children for life.

I want to thank Senator ROTH for giving me this chance to speak in favor of and cosponsor his amendment and commend him and Senators CULVER and MATHIAS and the other members of the Judiciary Committee for their leadership in this area.

Mr. KENNEDY. Mr. President, first, I wish to commend my distinguished colleagues, the Senator from Iowa (Mr. CULVER) and the Senator from Maryland (Mr. MATHIAS) for the excellent work they have done in providing what I believe to be a desperately needed solution to the growing problem of child pornography.

As cosponsor of this bill (S. 1585), I share their concern for the grave situation which presently exists in this country that encourages, either directly or indirectly, the sexual exploitation and abuse of some of our nation's children.

In order to meet this problem head on and in order to give the Department of Justice the adequate tools and support it needs, it is vitally important that the bill passed by the Senate be on solid constitutional footing. The Department of Justice has stated that they have serious reservations about the constitutional adequacy of the amendment proposed by the Senator from Delaware. Additionally there is a question as to whether the Roth amendment is even necessary since prosecutions are being brought under the existing obscenity laws.

For these reasons, I urge my fellow colleagues to pass the bill without an amendment which in the future may haunt prosecutions while the constitutionality of the amendment is being decided.

Mr. ROTH. Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. CULVER. Let me just say with reference to what the House of Representatives did. Under our Senate rules I never knew that was necessarily supposed to be relevant, but I see it referred to not infrequently. I point out that on September 29 the House Judiciary Committee unanimously reported out a bill, H.R. 8059, without a Roth-Hatch section attached to it, and the vote that the Senator from Delaware refers to with regard to the House action of 375 to 12 was a rider to the child abuse bill, H.R. 6693. I think we should note that the rider was never voted on in committee but was inserted by the manager of the bill in a motion to suspend the rules.

It was impossible for House Members to vote to delete it or to amend it, and their only choice was to vote against the motion to suspend the rules or a vote that would have been seen as opposition to doing anything about child pornography, as well as a vote in opposition to a much-needed child abuse authorization bill to which this was attached.

I think the considered judgment then of the House of Representatives could not be found in that vote but in the decision of the Judiciary Committee, that considered decision not to include a Roth-Hatch section, and I think that this was the view of the Senate Judiciary Committee when it voted 9 to 4 to oppose the Roth-Hatch amendment.

I urge my Senate colleagues to offer a similar expression with regard to the amendment at this time, and I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

Mr. CULVER. Mr. President, I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Delaware.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "nay".

The result was announced—yeas 21, nays 65, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—21

Abourezk	Cranston	McGovern
Bayh	Culver	Metzenbaum
Biden	DeConcini	Nelson
Brooke	Gravel	Packwood
Case	Hathaway	Pearson
Chafee	Kennedy	Stafford
Clark	Mathias	Wallop

NAYS—65

Allen	Griffin	Percy
Anderson	Hansen	Proxmire
Bartlett	Hart	Randolph
Bellmon	Hatch	Ribicoff
Bentsen	Hatfield	Riegle
Bumpers	Hayakawa	Roth
Burdick	Helms	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
Byrd, Robert C.	Jackson	Schmitt
Cannon	Johnston	Schweiker
Chiles	Laxalt	Scott
Church	Long	Sparkman
Curtis	Lugar	Stennis
Danforth	Magnuson	Stevens
Dole	Matsunaga	Stevenson
Domenici	McClure	Stone
Durkin	McIntyre	Talmadge
Eagleton	Melcher	Thurmond
Garn	Morgan	Tower
Glenn	Muskie	Weicker
Goldwater	Nunn	Young
	Pell	Zorinsky

NOT VOTING—14

Baker	Huddleston	McClellan
Eastland	Humphrey	Metcalf
Ford	Inouye	Moynihan
Haskell	Javits	Williams
Heinz	Leahy	

So the motion to lay on the table Mr. ROTH's amendment was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. BROOKE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Delaware. The yeas and nays have been previously ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennesseee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "yea."

The result was announced—yeas 73, nays 13, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—73

Allen	Gravel	Percy
Anderson	Griffin	Proxmire
Bartlett	Hansen	Randolph
Bellmon	Hart	Ribicoff
Bentsen	Hatch	Riegle
Biden	Hatfield	Roth
Bumpers	Hayakawa	Sarbanes
Burdick	Helms	Sasser
Byrd, Harry F., Jr.	Hollings	Schmitt
Byrd, Robert C.	Jackson	Schweiker
Cannon	Johnston	Scott
Chafee	Long	Sparkman
Chiles	Laxalt	Stafford
Church	Lugar	Stennis
Curtis	Magnuson	Stevens
Danforth	Matsunaga	Stevenson
DeConcini	McClure	Stone
Dole	McIntyre	Talmadge
Domenici	Morgan	Thurmond
Durkin	Muskie	Tower
Eagleton	Melcher	Wallop
Garn	Nunn	Weicker
Glenn	Packwood	Young
Goldwater	Pearson	Zorinsky
	Pell	

NAYS—13

Abourezk	Cranston	McGovern
Bayh	Culver	Metzenbaum
Brooke	Hathaway	Nelson
Case	Kennedy	
Clark	Mathias	

NOT VOTING—14

Baker	Huddleston	McClellan
Eastland	Humphrey	Metcalf
Ford	Inouye	Moynihan
Haskell	Javits	Williams
Heinz	Leahy	

So Mr. ROTH's amendment (No. 1398) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, child pornography is a vile and inhumane practice that has corrupted and traumatized children in both the physical and spiritual sense. It can be likened to an ulcer that has been allowed to grow to unknown bounds, and that needs to be eradicated now before another child falls prey to this insidious disease. I am hopeful that the legislation before us today, S. 1585, will halt this sordid, exploitive practice by fortifying our law enforcement officers with the needed tools to eliminate this atrocious moneymaking venture from our society.

In May of this year, the Senate Human Resources Committee, which I chair, passed a resolution denouncing child pornography and urging the Senate Judiciary Committee, which has jurisdiction over this matter to hold hearings into the problem. S. 1585 is the final product of extensive hearings that the Judiciary Committee held on the sexual abuse and exploitation of our children.

At the present time there is no Federal statute which prohibits the use of children in the production of materials that depict explicit sexual conduct. The bill which Senators MATHIAS and CULVER bring before us will assist us to grapple with this horrendous practice and redress the problem in a manner which will curb child pornography and yet avoid violation of the Constitution.

Hearings held by both the Senate and House Judiciary Committees demonstrated that child pornography is a highly organized, multimillion-dollar industry operating on a nationwide scale. Strong evidence collected in those hearings showed that the use of children as the subjects of pornographic materials is not only extremely harmful to the children but attacks the very fabric of our society. We cannot allow these peddlers to continue to exploit our children for their own personal gain.

Briefly, here are some of the important provisions of the bill. This bill will make it a Federal crime to use any child under the age of 16 in sexually explicit conduct for the purposes of pornography. It will also impose stiff penalties of 2 to 15 years in prison and accompanying fines of $10,000 to $15,000. Another key feature of S. 1585 will expand the protections instituted in the Mann Act to protect young males through the prohibition of interstate trafficking of boy prostitutes. The problem of young males, particularly runaways, being lured into male prostitution appears to be closely related to the problem of child pornography.

I am hopeful that the provisions incorporated in this legislation will significantly enhance the ability of the Federal Government to combat these despicable forms of child abuse: The use of children in pornographic materials and juvenile prostitution.

We must now mount an effective national campaign against this kind of sexual abuse and join in repudiating these practices. I believe this bill reported from the Senate Judiciary Committee both deals with these problems and avoids the critical constitutional problems which might arise under the first amendment. I urge my colleagues to support this bill.

Mr. MORGAN. Mr. President, during this past year or so Americans have become increasingly aware of a problem which is so shocking, I think, that a great many people find it difficult to comprehend. That is the problem of the abuse of children in the production of pornographic films, magazines, and other materials. Reliable evidence indicates that children as young as three and four or five are routinely involved in this sickening kind of enterprise. Many of these young children are involved in such activity by their parents, many of whom are prostitutes or drug addicts or both. Violent physical abuse often accompanies the emotional and sexual abuse which is intrinsic to this kind of pornography. Many slightly older children, age 12 or 13, or 14, who become involved in pornographic films, are runaways from broken homes or homes where physical abuse is a way of life.

So the problem of child pornography, therefore, is part of a greater problem—the breakdown of family, and the decline of societal mores. I think we have to give very serious attention to the overall problem of the quality of American life, and the ability of the American family to maintain high standards of decency in a society which increasingly tolerates an alarming amount of violence on our television programs and the blatant sale of pornographic materials and showing of films in our towns.

But we also have to target in on the specific components of this overall problem. In this case, I think the Congress has to go after those individuals who would profit from the sexual exploitation of young children. I commend the distinguished Senator from Delaware, Mr. ROTH, for his diligent efforts over the past year or so in bringing this shocking problem to the attention of the Senate and of the Nation. I also commend the distinguished sponsors of S. 1585, Senators CULVER and MATHIAS, in their capacities as chairman and ranking minority member of the Judiciary Subcommittee on Juvenile Delinquency. They have performed a very valuable service in bringing to the Senate very quickly a responsible bill which targets in on the producers of child pornography, and makes the production of such materials a crime.

But I agree with Senator ROTH that we need to take this process one step further. I think we also need to make illegal the knowing and willful distribution of the same kinds of films and materials which S. 1583 explicitly describes. I think we have to tackle this problem at each step of the process. I fail to see why those who would profit from the distribution and sale of pornography using children are any less a part of the problem than those who would profit from the production of these materials. I am not persuaded that our Federal Constitution, in all its majesty and wisdom, does now or was ever intended to protect under the freedom of speech provisions of that document, the distribution of obscene materials involving very young children in sexually explicit acts.

The amendment offered by the distinguished Senator from Delaware is carefully drafted. Its definitions and its penalties are the same as those of the bill. It contains, furthermore, a severability clause, which, should the Supreme Court agree with the opponents of this amendment and strike down its provisions, insures that the rest of the bill would not be jeopardized.

But I am not persuaded that is going to happen. I believe that in passing the bill before us today with the amendment offered by Senator ROTH, the Senate will have acted responsibly and constitutionally in dealing with a shameful and scandalous situation. The Senate of the United States will have put on notice the unprincipled and immoral entrepreneurs who would abuse young children to make a fast buck. The American people are simply not going to tolerate this kind of activity any longer.

I am honored to be a cosponsor both of the bill and of the Roth amendment, and I strongly urge support for both.

Mr. BROOKE. Mr. President, I fully support S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977, as reported from the Committee on the Judiciary.

This legislation addresses one of the most serious problems facing our Nation. Indeed, citizens from the Commonwealth of Massachusetts and citizens from all across the Nation, have flooded my office with letters and phone calls protesting this abhorrent practice.

The extensive hearings and staff investigations of the Senate Judiciary Committee have confirmed what I have heard and what I have read. The committee concluded that child pornography and child prostitution have become highly organized, multimillion dollar industries that operate on a nationwide scale. The committee found that the use of children as prostitutes or as the subjects of pornographic materials is most harmful to both the children and the society as a whole. And because the existing Federal laws dealing with prostitution and pornography do not protect against the use of children in these activities, the committee recommended the enactment of new legislation.

Senate bill 1585 is an excellent bill which reflects the findings of the Senate Judiciary Committee. It has three principal provisions. First, the bill would make it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials to be mailed or otherwise transported in interstate commerce. Second, it would proscribe the intrastate transportation of persons under 18 years of age for the purpose of engaging in prostitution. And third, it would strengthen present obscenity statutes to provide much more severe penalties for the distribution and sale of obscene materials that depict sexual conduct by children.

Mr. President, it is important to acknowledge that this legislation will not by itself solve the problem of child pornography. Indeed we must address the national problems which help create the environment in which child pornography and prostitution can thrive: broken homes, alienated and runaway children, emotionally disturbed juveniles, alcohol and drug abuse among the very young, and widespread child abuse.

But the enactment of this legislation would be an important first step. And one which must be taken immediately. For the State and local law enforcement officials cannot adequately control the use of children in the production of pornographic material. What is needed is a massive and coordinated effort by Federal, State, and local law enforcement officials aimed at eradicating this form of child abuse.

Mr. President, I therefore urge my colleagues to join me in voting overwhelmingly for this vitally needed legislation.

Mr. DOLE. Mr. President, the Senate has an opportunity today to help put an end to the practice of using children in pornography. Recent public awareness of this activity has brought universal shock and indignation from every decent

American. Pornography of this type cannot be allowed to continue and now is the time for the Senate to take a major step toward stopping this indefensible practice.

The Senator from Kansas is horrified that a law is needed to prohibit child pornography. Normal decency should be sufficient to outlaw the practice. Yet, no Federal law exists specifically forbidding the distribution of obscene material using children. These children, because of the very nature of this practice, deserve special treatment and special concern from Congress. Common decency demands that the congressional response to this problem be firm and unequivocal.

CHILD PORNOGRAPHY HAS NO CONSTITUTIONAL PROTECTION

One point must be made clear. The first amendment offers no shelter to those who produce, distribute or sell child pornography. There is no "redeeming social value" in destroying the lives of defenseless children for pecuniary gain. The "community standards" of every American city and neighborhood are violated by pictures and films of children as young as three or four being unwittingly used.

A special need exists to extend the sanctions of this bill to those who sell and distribute "kiddie porn." Tracking down those producing the books and films is extremely difficult and sometimes impossible. Pornographers, especially anyone demented enough to produce kidporn, make every effort to remain anonymous and transient.

Police raids on porn shops can only temporarily remove this smut from the shelves. It quickly reappears when the distributor makes his next visit to the store. Child pornography is a three-headed monster with producers, distributors, sellers, all part of the same animal. Cutting off one head without harming the others is useless. If a market exists, the distributors will always find someone to supply the garbage needed. Only if all three branches are pruned simultaneously will this noxious weed be destroyed.

WORST EFFECT IS ON THE CHILDREN

In this bill, Congress has an opportunity to protect our children from irreparable damage. These children cannot protect themselves without our help and this help is needed now. The congressional committees involved have received testimony that thousands of young girls and boys can be counted among the victims of this national scandal.

It does not require a vivid imagination to understand the severe psychological traumatization of these innocent children. Sexual abuse at an early age indisputably causes sexual dysfunctions when these children grow up. One study showed that three-quarters of the prostitutes interviewed were victims of sexual abuse when children.

The social costs are large when members of our society are deprived of any opportunity to be a normal, productive individual. Each child whose life is ruined by being forced into child pornography is a child lost to our country's future.

The number of children involved in child pornography is unknown. Estimates for the Los Angeles area alone range as high as 30,000. Nationwide figures may be more than ten times that number. I only know that to the Senator from Kansas, the exploitation of even one child for profit is more than I am willing to allow. I do not harbor the delusion that passage of this bill will wipe out the kiddie porn industry. Yet, if we can spare 1 or 100 or 1,000 of these youngsters, it will be well worth our efforts.

A FIRM STAND REQUIRED

Mr. President, I ask my colleagues to take the firmest possible stand on this issue. Our clear duty is to strike effectively at the heart of the child pornography problem. As a cosponsor of this bill, I want to urge the Judiciary Committee to quickly resolve the differences between the Senate and House bills in the conference committee. A child pornography bill was first introduced in March. This is a pressing problem and final legislation should be passed this session of Congress. Senate passage today is only one step on the long path toward protecting this country's children.

Mr. McINTYRE. Mr. President, in recent months we have been horrified by stories in the press and in congressional hearings of the brutal abuse of children by child pornographers. Dr. Judianne Denson-Gerber, who has led national efforts to prevent child abuse and neglect, has stated the nature of the evil very well: that the children involved are destroyed by their experiences, spiritually and emotionally.

In the course of public hearings on this subject, it became clear that not only is the problem much more widespread than previously believed, but that both Federal and State law are not adequate to combat it.

I am pleased that the State of New Hampshire is one of those States which has responded swiftly to this issue by passing a tough new law.

But it is vital that efforts against these vicious practices proceed on the Federal level as well, given the widespread use of the mail and other conduits of interstate commerce to distribute these pornographic materials. And as a cosponsor of S. 1585, I am pleased that the Judiciary Committee has acted quickly and responsibly to bring this bill before us today.

This bill attacks the problem in several ways: First, it makes it a Federal offense to use children under the age of 16 in the production of pornographic materials. To date, Federal law has concentrated on the sale and distribution of such materials through interstate and foreign commerce. This bill would close that gap.

Second, the bill attacks the problem of juvenile prostitution by prohibiting the transportation of children under the age of 18 for the purposes of engaging in prostitution. Existing Federal law prohibits transportation of females, but not males.

Finally, the bill greatly increases the penalties for existing laws prohibiting the mailing, importation, and transportation for sale or distribution of pornographic materials.

Mr. President, the issue is clear cut and the need is overwhelmingly documented. Immediate action to give Federal law enforcement officials more effective tools against this unspeakable trade is mandatory. I am proud to be a cosponsor of this measure, and urge its swift enactment.

Mr. DECONCINI. Mr. President, this legislation provides the needed tools to combat the spreading practice of sexual abuse of children in the pornography industry. As a member of the Senate Judiciary Committee, I have become sadly familiar with the evidence indicating that these practices are spreading. Child pornography is such an abhorrent practice that it is difficult to rationally and objectively formulate legislation that will meet constitutional standards and at the same time effectively combat the practice. I believe the legislation must emphasize society's opprobrium within constitutional bounds.

Therefore, I am pleased that the Judiciary. Committee has agreed to my amendment providing for mandatory minimum sentences of 2 years and 5 years for first and subsequent convictions for production of child pornography, and for mandatory minimum sentences of 1 year and 2 years for first and subsequent convictions for distribution of child pornography. Those mandatory sentences will strongly demonstrate to those involved in the child pornography industry the stern view society takes of their conduct, yet the sentences are not so disproportionate to the conduct as to be Draconian. Whatever view one takes of adult pornography, no one can disagree that the use of children in commercial sex strikes at two of the roots of society; we must be able to protect our children's physical well-being, and we must be able to protect our ability to foster in them healthy attitudes toward sexuality. Child pornography damages our children's bodies and minds. Therefore, I believe this mandatory imprisonment is justified and I urge swift passage of this legislation.

Mr. BENTSEN. Mr. President, I rise in support of a bill I cosponsor, S. 1585, which will combat several forms of child abuse that are taking an increasing toll on America's young people and our society as a whole.

Shocking cases have come to light recently that demonstrate widespread abuse of children in the making of pornographic material, and in child prostitution. Hearings by the Subcommittee to Investigate Juvenile Delinquency have demonstrated that this is a national problem that must command our immediate attention. Child pornography and child prostitution have become highly organized multimillion-dollar industries. The result is serious harm to thousands of young people, and the spread of a degrading activity that should not exist in a civilized society.

One researcher, Robin Lloyd, author of "For Money or Love: Boy Prostitutes in America," has documented over 260 different magazines that depict children engaging in explicit sexual conduct. They bear names such as "Torrid Tots," "Night Boys," and "Children Love." They depict children, some as young as 3 to 5 years of age, engaging in various forms of sexual conduct with young people their own age and with adults.

It is not necessary for me to detail the conduct depicted. Let it suffice to say that it is revolting and shocking, so utterly tasteless that words do not easily describe it. It is saddening to think that some human beings will abuse others in this way.

Mr. President, great profits have been made from this kind of activity. Magazines that can be produced for 50 cents may sell for over $12. One witness testified that undercover officers of the Chicago Police Department infiltrated a group that was using two 14-year-old boys to make a pornographic film for national distribution. The cost of producing this film was $21 per copy and the retail selling price was said to be $100. At the time of their arrest the producers of the film stated that they might be able to sell as many as 10,000 copies of this film over a 6-month period.

The true dimensions of this tragedy can only be understood when we look at the young people who are shamefully exploited. We are talking about thousands of runaways, troubled but rarely criminals, who come to the city with little money, few friendships and no direction. The Los Angeles Police Department recently conducted a study of boy victims which found that they are usually between the ages of 8 and 17 years old; with no record of previous delinquency; with no previous homosexual experience. These are vulnerable people, often with insufficient parental care, often homeless, frightened, and in their own way trying to make a stand. They are preyed upon at the very time that they need compassion, guidance, and love. Equally tragic is the fact that so many of these people, hardened and warped by the experience, become child molesters themselves when they are older.

Mr. President, the people who perpetrate this crime should be put on notice. This kind of activity must stop. Those who commit this form of child abuse must be severely punished. S. 1585 will assist in the successful prosecution of these cases. It will establish a Federal statute to prohibit the use of children in the production of materials that depict explicit sexual conduct. It will prohibit interstate trafficking in child prostitutes. It will provide tougher sentences for those found guilty. For those convicted of producing, mailing, or transporting obscene materials involving children there will be mandatory minimum sentences. For all of the related offenses there will be tough maximum sentences.

This bill will help combat child abuse and will see to it that the abusers are punished severely. It is supported by people representing the entire ideological spectrum. Mr. President, the fabric of our society is characterized by a common thread of decency and compassion. When conduct falls below this standard we will work together to end the abuse. This is the goal of S. 1585. I wish to commend the work of my colleagues Senators MATHIAS, CULVER, and ROTH for their interest in this important matter. The bill voted out of the Judiciary Committee meets the important tests of policy and constitutionality, and I urge the Senate to give it prompt and favorable consideration.

Mr. CULVER. Mr. President, at several points in the debate on the previous amendment, Senators expressed their disgust and abhorrence over child pornography and child prostition. I would like the RECORD to reflect that it is the intent of the Senate today, to pass the strongest possible bill to prohibit such abuse of children. I know that was the intent of Senator ROTH and his distinguished colleagues in voting for an amendment that they felt would strengthen the bill. Moreover, my sole reason for resisting that amendment was the sincere belief that the bill would be stronger without it.

I regret that the Senate saw fit to accept the amendment and only hope that if in the future the courts nullify the amendment on constitutional grounds, the remaining provisions of this bill will be left uneffected under the severability clause. In any event the Senate has spoken and I now urge my colleagues to proceed to the consideration of the entire bill. S. 1585 is a strong bill that makes it abundantly clear that the Congress demands that this outrageous perversion of our children come to an end. Under the bill, the use of any child under the age of 16 to produce child pornography that is intended to move in interstate commerce will be a Federal crime punishable by fines of up to $10,000 or imprisonment for up to 10 years or both, for the first offense, and fines of up to $15,000 and imprisonment of up to 15 years, or both, for any subsequent offense. It also provides equally stiff penalties for anyone who sells or distributes obscene materials that depict children engaged in sexually explicit conduct. Finally, it prohibits the use of children for the purposes of prostitution and live sex shows if such activities are conducted in some form of interstate commerce.

In short, Mr. President, S. 1585 gives Federal officials the weapons they need to stop child pornography and child prostitution and a clear signal that the people and the Congress of the United States want them to use these weapons. I am hopeful that the bill will be effective in helping to prevent this abuse of children and, therefore, I urge every Senator to support the bill.

Mr. President, I ask for the yeas and nays on passage.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment, the question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays having been previously ordered, the clerk will call the roll.

Mr. THURMOND. Mr. President, if there is no objection, someone wanted a 10-minute rollcall. Unless there is an objection, I ask unanimous consent that it be limited to 10 minutes.

Mr. SCHMITT. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

Mr. THURMOND. Mr. President, I yield back my time on the bill.

Mr. CULVER. I yield back my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from Pennsylvania (Mr. HEINZ) would each vote "yea."

The result was announced—yeas 85, nays 1, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—85

Allen	Danforth	Laxalt
Anderson	DeConcini	Long
Bartlett	Dole	Lugar
Bayh	Domenici	Magnuson
Bellmon	Durkin	Mathias
Bentsen	Eagleton	Matsunaga
Biden	Garn	McClure
Brooke	Glenn	McGovern
Bumpers	Goldwater	McIntyre
Burdick	Gravel	Meicher
Byrd, Harry F., Jr.	Griffin	Metzenbaum
Byrd, Robert C.	Hansen	Morgan
Cannon	Hart	Muskie
Case	Hatch	Nelson
Chafee	Hatfield	Nunn
Chiles	Hathaway	Packwood
Church	Hayakawa	Pearson
Clark	Helms	Pell
Cranston	Hollings	Percy
Culver	Jackson	Proxmire
Curtis	Johnston	Randolph
	Kennedy	Ribicoff
Riegle	Sparkman	Thurmond
Roth	Stafford	Tower
Sarbanes	Stennis	Wallop
Sasser	Stevens	Weicker
Schmitt	Stevenson	Young
Schweiker	Stone	Zorinsky
Scott	Talmadge	

NAYS—1

Abourezk

NOT VOTING—14

Baker	Huddleston	McClellan
Eastland	Humphrey	Metcalf
Ford	Inouye	Moynihan
Haskell	Javits	Williams
Heinz	Leahy	

So the bill (S. 1585), as amended, was passed, as follows:

S. 1585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of Children Against Sexual Exploitation Act of 1977".

SEC. 2. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials as subjects in live performances exhibiting sexually explicit conduct or for the purpose of prostitution is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue and that the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws do not protect against the use of children in the production of pornographic materials, the use of children in live performances exhibiting sexually explicit conduct, or the interstate transportation of children for the purpose of engaging in prostitution or sexually explicit conduct and that specific legislation in this area is both advisable and needed.

(b) The Congress determines that the provisions of chapter 110 of title 18, United States Code, are necessary and proper for the purpose of carrying out the powers of Congress to regulate commerce and to establish uniform and effective laws on the subject of sexual exploitation of children.

SEC. 3. (a) Title 18, United States Code, is amended by adding immediately after chapter 109 the following:

"CHAPTER 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.
"2251. Sexual exploitation of children.
"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.

"§ 2251. Sexual exploitation of children

"(a) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in, or to have a minor assist any other person to engage in, any sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(b) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice or coerce any minor to engage in or to have a minor assist any other person to engage in, sexually explicit conduct, in a live performance, if such person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(c) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor to knowingly permit such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such parent, legal guardian, or person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(d) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit such minor to engage in, or to have a minor assist any other person to engage in sexually explicit conduct, in a live performance, if such parent, legal guardian, or person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(e) For the purposes of this section, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation; and

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) 'promoting' means producing, directing, manufacturing, issuing, publishing, or advertising for pecuniary profit.

"(f) Any person who violates this section shall be fined not more than $10,000, or imprisoned not less than two years nor more than ten years, or both, for the first offense, or fined not more than $15,000, or imprisoned for not less than five years nor more than fifteen years, or both, for each such offense thereafter.

"§ 2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person.".

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children.. 2251".

SEC. 4. (a) Section 2423 of title 18, United States, is amended to read as follows:

"§ 2423. Coercion or enticement of minor

"(a) (1) It shall be unlawful for any person to transport, or to cause to be transported, in interstate or foreign commerce or within the District of Columbia or any territory or possession of the United States, any minor for the purpose of such minor engaging in prostitution or sexually explicit conduct (as defined in section 2251 of this title) or with intent to induce, entice, or compel such minor to engage in prostitution or sexually explicit conduct (as defined in section 2251 of this title).

"(2) For purposes of this section, the term 'minor' means any person under the age of eighteen years.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(b) The table of sections of chapter 117 of title 18, United States Code, is amended by striking out in the item relating to section 2423 the word "Female".

SEC. 5. (a) Section 1461 of title 18, United States Code, is amended by inserting immediately before the period in the eighth paragraph a comma and "except that if such thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(b) Section 1462 of title 18, United States Code, is amended by inserting immediately before the period a comma and "except that if any such matter or thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000 or imprisonment of not less than one year or more than ten years, or both, for the first offense, or a fine of not more than $15,000 or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(c) Section 1465 of title 18, United States Code, is amended by inserting immediately before the period in the first paragraph a comma and "except that if any matter described in this section involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than ten years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

SEC. 6. If any provision of this Act or the application thereof of any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated to other circumstances shall not be affected thereby.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 914

Mr. CULVER. Mr. President, I send to the desk an amendment to the title.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 914 to the title:

"Amend the title so as to read: 'A bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes.' ".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CULVER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I want to take this opportunity to commend the distinguished managers of this bill, the Senator from Iowa (Mr. CULVER) and the Senator from South Carolina (Mr. THURMOND) on the passage by the Senate of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977.

It is only recently that we—as a society—have become aware of the extent of the problem of sexual abuse of children and its terrible consequences upon a completely defenseless minority of our people. Yet, in spite of the fact that the legislation that the Senate has just passed was introduced only last May, Senator CULVER, as chairman of the Juvenile Delinquency Subcommittee, was able to conduct extensive hearings on this problem and, together with Senator THURMOND, bring before the Senate a measure designed to deal with it. I think it is clear that the bill that the Senate has passed will go a long way toward eliminating an abuse that no society—but least of all our society—should tolerate.

The children of this country owe both Senator CULVER and Senator THURMOND a debt of gratitude.

EXECUTIVE SESSION

FEDERAL COMMUNICATIONS COMMISSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and, without debate, proceed to vote on the nomination of Mr. Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission for a term of 7 years, beginning July 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on each of the two remaining rollcall votes today there be a 10-minute limitation, with the warning bells to be sounded at the first 2½ minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ADDITIONAL STATEMENT SUBMITTED

Mr. HATHAWAY. Mr. President, it is with a great deal of pleasure that I rise to endorse my good friend, Charlie Ferris, for the position of Chairman of the Federal Communications Commission. Charlie served for 13 years as the chief counsel for the Senate majority. He possesses in full measure the sound judgment that is such a rare but needed quality to fulfill positions of high responsibility.

During our years in the Senate most of us here have had personal contact with Charlie. We have found him to have, not only insight and integrity, but a remarkable combination of idealism and pragmatism that shall enable him to serve well in his chairmanship of the Federal Communications Commission.

Over the years that he worked in this body, Charlie Ferris demonstrated his dedication to the highest objectives of public service. He has been intimately involved in many of the most important issues and decisions in the recent history of our Nation.

I know I speak for my colleagues when I say that Charlie Ferris will bring to his leadership of the FCC the same friendly personality, good sense, and devotion to hard work that made him a trusted and valued friend in the Senate. I strongly endorse his nomination and wish Charlie the best of success in his new duties. I look forward to working with him in the years ahead.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Mr. Charles D. Ferris? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 554 Ex.]

YEAS—85

Abourezk	Garn	Nunn
Allen	Glenn	Packwood
Anderson	Gravel	Pearson
Bartlett	Griffin	Pell
Bayh	Hansen	Percy
Bellmon	Hart	Proxmire
Bentsen	Hatch	Randolph
Biden	Hatfield	Ribicoff
Brooke	Hathaway	Riegle
Bumpers	Hayakawa	Roth
Burdick	Helms	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
Byrd, Robert C.	Jackson	Schmitt
Cannon	Johnston	Schweiker
Case	Kennedy	Scott
Chafee	Laxalt	Sparkman
Chiles	Long	Stafford
Church	Lugar	Stennis
Clark	Magnuson	Stevens
Cranston	Mathias	Stevenson
Culver	Matsunaga	Stone
Curtis	McClure	Talmadge
Danforth	McGovern	Thurmond
DeConcini	McIntyre	Tower
Dole	Metzenbaum	Wallop
Domenici	Morgan	Weicker
Durkin	Muskie	Young
Eagleton	Nelson	Zorinsky

NAYS—0

NOT VOTING—15

Baker	Heinz	Leahy
Eastland	Huddleston	McClellan
Ford	Humphrey	Metcalf
Goldwater	Inouye	Moynihan
Haskell	Javits	Williams

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL TRANSPORTATION SAFETY BOARD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate, with 20 minutes equally divided allowed for debate, will proceed to vote on the nomination of Mr. James B. King to be a member of the National Transportation Safety Board for the term expiring December 31, 1981.

Who yields time?

Mr. SCHMITT. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized for 5 minutes.

Mr. SCHMITT. Mr. President, I will not keep my colleagues very long.

Mr. PERCY. Mr. President, may we have order, please.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will cease their conversations on the floor. The Senate will please come to order.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, it is my intention to vote against the confirmation of Mr. James B. King's nomination to be a member of the National Transportation Safety Board. I shall do so not out of the belief that Mr. King is unqualified to hold any Federal post but because he is unqualified to serve in this particularly position.

In the way of background, my colleagues might be interested to learn that

on May 18 of this year the chairman and ranking minority member of the Commerce Committee signed a joint letter to the President endorsing his campaign pledge to make appointments "on a strict basis of merit." That letter went on to state the six basic criteria by which the Commerce Committee judges individuals when its advice and comment is required. These are:

(1) By reason of background, training or experience, affirmatively qualify for the office to which he or she is nominated;

(2) Display a temperament and ability for impartial decision-making;

(3) Demonstrate a commitment to, and familiarity with the laws he or she will administer;

(4) Possess the character, reputation, and integrity vital in assuring public trust and confidence;

(5) Exhibit a talent for leadership and executive management required to make these agencies function effectively and in response to the public interest; and

(6) Meet the statutory qualifications to hold the office to which he or she is nominated.

Mr. President, I ask unanimous consent that a copy of that letter be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., May 18, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: During your recent campaign you pledged that your appointments would be made "on a strict basis of merit." You further indicated that stringent ethical standards would be applied to individuals asked to serve in your Administration.

This Committee fully endorses those concepts and applauds your commitment to nominate only those individuals who meet these laudable criteria.

With respect to Presidential nominations, this Committee has an established record of approving only those nominees who will meet and promote the public interest mandates of their designated agencies. Our Committee will continue to apply the following standards in exercising our advice and consent duties during review of nominees. Individuals appointed must:

(1) by reason of background, training or experience, affirmatively qualify for the office to which he or she is nominated;

(2) Display a temperament and ability for impartial decision-making;

(3) Demonstrate a commitment to, and familiarity with the laws he or she will administer;

(4) Possess the character, reputation, and integrity vital in assuring public trust and confidence;

(5) Exhibit a talent for leadership and executive management required to make these agencies function effectively and in response to the public interest; and

(6) Meet the statutory qualifications to hold the office to which he or she is nominated.

Further, in considering a regulatory appointment to a collegial body, this Committee shall consider the existing composition of that body and whether or not members of a single sector or group in society are too heavily represented.

In an effort to standardize the nomination process to any executive or regulatory office subject to our jurisdiction, this Committee has and will continue to request detailed information concerning financial interests and possible conflicts of interest.

Additionally, we would like to request of the Administration a copy of FBI summaries required by the White House on all Presidential appointments referred to this Committee. Dissemination of this information will be strictly limited with a view towards total confidentiality and preservation of the nominee's right to privacy.

In cooperating to assure the selection of distinguished and highly qualified persons to Federal agencies, the President and the Senate must fulfill their mutual responsibility to the American people to provide good and effective government. Excellence, not mediocrity, must be the standard in selecting men and women to fill these key posts. This Committee stands ready to assist in any way possible.

Sincerely,

WARREN G. MAGNUSON,
Chairman.

JAMES B. PEARSON,
Ranking Minority Member.

Mr. SCHMITT. Now I participated extensively in Mr. King's confirmation hearings. On the basis of my questions and his answers, I concluded that although Mr. King appears to be a fine, articulate, candid individual, he does not, by his own testimony, on balance, meet the basic criteria by which the Commerce Committee wishes to evaluate these nominations.

First, Mr. King has little in the way of background, training, or experience which would affirmatively qualify him for this office. He is not a pilot, and by his own admission his association with airplanes, trains, ships, and pipelines has been "very little." Furthermore, he has never been involved formally in an actual accident investigation or in monitoring such an investigation.

Second, Mr. King has not, as yet, demonstrated a commitment to, and familiarity with the laws he would administer. At the time of his hearings Mr. King stated that he had not been over to the Board nor had he taken steps to inform himself of some of the Board's programs. Also, he had not read some of the material available to him nor had he spoken to many of the technical people at the Board regarding their concerns.

Third, the committee requires that a nominee "Exhibit a talent for leadership and executive management required to make these agencies function effectively and in response to public interests." I explored this point with Mr. King rather extensively. While he has supervised some individuals in his capacity as a Senate staffer, and in the White House Personnel Office, he has never had a close working relationship, in a managerial role, with technically trained individuals or investigators.

In summary, Mr. President, Mr. King's appointment appears to be a political appointment rather than an appointment which has the best interests of transportation safety in mind.

For these reasons and for reasons of my own long association with aircraft and other hazardous elements of transportation and the knowledge that my colleagues in those fields would appreciate very much having a technically qualified and managerially qualified individul in the office for which Mr. King is nominated, I have decided to vote against this nomination.

If the Senate agrees with me and rejects Mr. King for this particular nomination, I would hope that the administration would seek to make use of his obvious talents for public relations in an area for which he more qualified.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized for 2 minutes.

Mr. CANNON. Mr. President, I am concerned about the fact that we should have qualified people on the National Transportation Safety Board. As a matter of fact, I led the fight to get the law in such condition that they would have to appoint people who had experience in that area. As a result, when we went to conference with the House of Representatives we were not able to get the Senate's position agreed to.

So the law does not now require that all members of the Board have expertise in the field of transportation safety.

We have seen in the past what type of a situation occurs. We had a chairman of the board who had absolutely no experience in that field who came as a political appointee from the other side of the aisle, I might add, and was a former Governor.

Mr. President, the Senator would impose on this nominee requirements over and above those that the law imposes on him.

I submit we have held the hearings on it. This man was not my choice. I have no concern one way or the other about him. I never met him until after he was nominated to this position. But he does come with some very good credentials. He has support of number of people who know him well. He has the support of Senator KENNEDY, for whom he worked for quite a period of time. I submit that we should not on the floor of the Senate here legislate requirements in a case like this over and above those that are presently written into the law.

I hope the nominee will be approved.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. I yield time to the Senator from Washington.

Mr. CANNON. I yield 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized for 1 minute.

Mr. MAGNUSON. Mr. President, I associate myself with the remarks of the Senator from Nevada.

Mr. SCHMITT. Could we have order, please?

Mr. MAGNUSON. We took a long look at this nominee.

The ACTING PRESIDENT pro tempore. The Senator will cease.

The Senate will be in order. Senators will cease conversation on the floor.

The Senator from Washington.

Mr. MAGNUSON. We took a long look at this nominee, and I appreciate, also,

the concern of the Senator from New Mexico that if it were possible to get people who were very expertise in all these things we might look askance and not find anyone. But Mr. King is a man of great intelligence and terrific integrity. We looked at all his reports, FBI and otherwise, and I associate myself with the remarks of the Senator from Nevada that I think he will end up being a good member of this board.

I hope the Senate will confirm him.

SEVERAL SENATORS. Vote!

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CANNON. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the Sentor seek time?

Mr. SCHMITT. Mr. President, 1 minute only.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I agree with the remarks of the distinguished chairman of the Commerce Committee about the character of Mr. King. I have not in any way meant to impugn that character. I think he is a fine young man.

I think there are many areas in which he could serve this country, and I am sure he will serve this country well.

My only objection is that, by the committee's own criteria and by the standard of excellence that this committee has set in the past for nominees, Mr. King is just not qualified for the particular job to which he has been nominated.

I yield back the remainder of my time.

SEVERAL SENATORS. Vote!

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. CANNON. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote today.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of James B. King, of Massachusetts, to be a member of the National Transportation Safety Board? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from Mississippi (Mr. STENNIS and Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 72, nays 12, as follows:

[Rollcall Vote No. 555 Ex.]

YEAS—72

Abourezk	Durkin	Nelson
Allen	Eagleton	Nunn
Anderson	Glenn	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Randolph
Biden	Hatfield	Ribicoff
Brooke	Hathaway	Riegle
Bumpers	Hayakawa	Roth
Burdick	Hollings	Sarbanes
Byrd, Harry F., Jr.	Jackson	Sasser
Byrd, Robert C.	Johnston	Schweiker
Cannon	Kennedy	Sparkman
Case	Laxalt	Stafford
Chiles	Long	Stevens
Church	Magnuson	Stevenson
Clark	Mathias	Stone
Cranston	Matsunaga	Talmadge
Culver	McGovern	Wallop
Danforth	McIntyre	Weicker
DeConcini	Melcher	Young
Dole	Metzenbaum	Zorinsky
Domenici	Morgan	
	Muskie	

NAYS—12

Chafee	Helms	Schmitt
Curtis	Lugar	Scott
Garn	McClure	Thurmond
Hatch	Proxmire	Tower

NOT VOTING—16

Baker	Huddleston	Metcalf
Eastland	Humphrey	Moynihan
Ford	Inouye	Stennis
Goldwater	Javits	Williams
Haskell	Leahy	
Heinz	McClellan	

So the nomination was confirmed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANTON. Mr. President, as in executive session, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION—THE LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session and resume the consideration of S. 1303. Who yields time?

BUDGET ACT WAIVER

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 283.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 283) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2108.

Mr. CRANSTON. Mr. President, on September 30, the authorization for appropriations for the Indochina refugee assistance program (Public Law 94–23, as amended by Public Law 94–141) expired. Under this program, HEW has been providing 100 percent Federal financial assistance to States and local governments for cash assistance programs for refugees, for health and educational services, and special training for employment.

Since the first of the month, HEW has been continuing the refugee assistance program on a limited basis. Only essential cash assistance to needy refugees is being continued. Other program efforts to assist refugees in assimilating are being suspended pending action by Congress to renew the authorization and to approve additional support.

The Human Resources Committee on September 30 ordered reported favorably, S. 2108, the Indochina Migration and Refugee Assistance Act of 1977, with an amendment in the nature of a substitute. The committee bill calls for a 4-year extension of the program with Federal participation being phased out in equal steps during the life of the program.

The Budget Committee has approved a waiver of section 402 of the Congressional Budget Act. Senate Resolution 283 approves consideration of additional budget authority of $125.1 million in fiscal year 1978. Total spending for 4 years will be about $300 million.

Mr. President, when the Senate approves this resolution I will ask that the Senate consider H.R. 7769. This is the Indochina Refugee Adjustment of Status Act of 1977. Thereupon, my distinguished colleague, the Senator from Massachusetts (Mr. KENNEDY), will call up our amendment No. 1419 to H.R. 7769 and ask for its immediate consideration. Title II of our amendment, as is identical with S. 2108 as reported from the Committee on Human Resources.

With that explanation, I ask that the Senate approve the resolution.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2108. Such waiver is necessary because, with the commencement of fiscal year 1978 on October 1, 1977, funds are not currently available to reimburse States for welfare assistance to nineteen thousand refugees from Vietnam totally dependent upon public assistance. Without the funds authorized by S. 2108, the refugees assisted by this program would become an unfair burden on local governments which have advanced the costs of their support. The legislation authorizes reimbursement of 100 per centum of such costs in fiscal year 1978, an estimated $118,000,000, partially offset by any Federal welfare and supplemental social security benefit assistance thereby saved. The legislation also authorizes special assistance funding, which in fiscal year 1977 totaled $7,000,000, and in fiscal year 1978 should be approximately the same. Provision is made for a phased reduction of general support

assistance to 60 per centum of such costs in fiscal year 1979, and 30 per centum of such costs in fiscal year 1980, before phasing out. Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1977, because the recommendations of the Administration with respect to this program were not made available until September 9, 1977.

INDOCHINA REFUGEE ADJUSTMENT STATUS ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7769.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA) laid before the Senate H.R. 7769, an act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered as having been read the second time, and the Senate will proceed to its immediate consideration.

Mr. CRANSTON. Mr. President, I yield to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

AMENDMENT NO. 1419

(Purpose: To adjust the status of Indochina refugees and to extend the Indochina Migration and Refugee Assistance Act of 1975.)

Mr. KENNEDY. Mr. President, I am delighted to join with my colleague from California in urging the Senate to expedite this legislation.

As the Senator from California quite clearly pointed out, this legislation will help assist local communities and States to meet their responsibilities to the Indochina refugees—those communities and States which have joined in our national effort to help resettle the refugees.

The subject of this legislation has had extensive consideration in the Human Resources Committee, and the Judiciary Committee has reviewed the adjustment of status of the refugees, which will open the opportunity for them to become full citizens in this country.

This procedure, which was followed during the Cuban refugee situation, as well as during the Hungarian refugee situation, is a procedure which this country has followed in a number of instances in the past.

Mr. President, I am delighted to call my amendment No. 1419 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1419.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

"SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

"(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

"(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraphs (14), (15), (20) (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

"(3) the alien has been physically present in the United States for at least two years.

"(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

"(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

"(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

"SEC. 102. Upon approval of an application for adjustment of status under section 1 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

"SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

"SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 1(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

"SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

"SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

"SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

"TITLE II—EXTENSION OF THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

"SEC. 201. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"'SEC. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"'(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"'(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"'(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos my not exceed—

"'(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"'(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"'(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

"'(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.'.

"SEC. 202. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"'(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.'.

"(b) Section 4(c) of such Act is repealed."

Amend the title so as to read: "An Act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.".

SUBSTITUTE AMENDMENT TO H.R. 7769

Mr. KENNEDY. Mr. President, my substitute amendment contains two titles.

Title I, with a minor modification, incorporates the provisions of the House

bill, which authorizes the Attorney General to adjust the immigration status of Indochina refugees from parolee to permanent resident alien. It also carries out the intent of S. 694, which I introduced earlier this year with 21 cosponsors—including Senators YOUNG, CLARK, INOUYE, GRIFFIN, HUMPHREY, MATSUNAGA, MCGOVERN, RIEGLE, GARN, ABOUREZK, BARTLETT, STEVENSON, JACKSON, ANDERSON, METZENBAUM, BURDICK, TOWER, MUSKIE, HATFIELD, MOYNIHAN, and MATHIAS.

Title II of the substitute amendment extends the Indochina refugee assistance program administered by the Department of Health, Education, and Welfare. It incorporates the provisions of a bill unanimously approved by the Human Resources Committee last week. The legislation was sponsored by myself and Senators CRANSTON, PELL, HAYAKAWA, HUMPHREY, ANDERSON, JOHNSTON, MOYNIHAN, INOUYE, MATSUNAGA, and BUMPERS.

Mr. President, the purpose of the urgent legislation before us is to recognize the Federal responsibility in helping the Indochina refugees to become productive and contributing members of their adopted communities in the United States.

As I indicated a moment ago, title I incorporates, with a minor modification, the provisions of H.R. 7769 as passed by the House. The House bill authorizes the Attorney General to adjust the status of the refugees who have been admitted into the United States since 1975. The modification would extend this authorization to the additional refugees who will be arriving over the coming months under President Carter's new parole program.

Specifically, title I provides that the status of refugees from Vietnam, Cambodia, and Laos may be adjusted by the Attorney General if, first the alien makes an application for such adjustment; second, the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States; and third, the alien has been physically present in the United States for at least 2 years.

Title I further provides that the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later; and that adjustments of status under this bill are exempt from the statutory numerical ceiling on the annual admission of aliens for permanent residency. The bill also exempts refugees who adjust their status from the payment of any fees.

Title I closely follows similar special legislation previously enacted in behalf of refugees from Hungary and Cuba, and it is also in accord with the treatment of the several thousand refugees who regularly enter the United States in conditional entry status under the annual immigration ceiling and refugee provisions of the Immigration and Nationality Act, as amended.

Given the severe limitations of present law in providing refugee parolees with opportunities for adjustment of status, there are some very practical legislative reasons for the special measure I propose today.

But the justification for the proposed legislation goes far beyond the mere constraints of present law. Enactment of this bill is a logical extension of the Indochinese refugee assistance program established by Congress in 1975, and it is also an important ingredient in accomplishing the full objective of this program, which is to help the refugees help themselves become productive members of their adopted communities across our land.

Providing the new arrivals from Vietnam, Cambodia, and Laos with the opportunity for regular immigrant status is simply another step to help them on their difficult road of adjusting their lives in a new land.

As we know from our experience with other groups, removing refugees from the limbo status of parolee helps to give them a greater sense of belonging in our society, and it also helps to encourage them in learning and assuming the responsibilities of eventual American citizenship.

And I would like to emphasize this point; because for many refugee families the sense of belonging, which is conferred by permanent resident status, helps to dispel some needless anxieties over the future and is an important psychological boost in coping with the many problems in building new lives.

For many of the refugees, adjustment of status will also facilitate durable employment. And it will help to open up new job opportunities for those who are unemployed or underemployed. In many skills and professions, for example, State licensing laws often require citizenship or permanent residency for job applicants, and most Indochinese refugees do not qualify.

The situation varies from State to State, but it generally is posing problems for many refugees. And the same is true for possible job and service opportunities in many Federal and local Government agencies and in most firms under Government contract.

Moreover, in some States adjustment of status will ease the burden of tuition fees among refugee students, who are now required to pay nonresident rates, because of their immigration status as parolees. Adjustment of status will also facilitate the membership of refugees in labor unions, professional groups, and other organizations.

In short, Mr. President, adjustment of status will help to bring the refugees into the mainstream of our society and speed the process of normalizing their lives in the communities in which they live.

One of the reports to Congress by the Health, Education and Welfare Refugee Task Force states:

> The refugee resettlement program continues to move forward. However, economic self-sufficiency, job training, English fluency and other acculturation needs to be supported by a change from the status of parolee. As parolees or persons in indefinite voluntary departure status, they cannot aspire to citizenship, are barred from employment opportunities, and perhaps most important of all, have a prevailing sense of rootlessness.

And the report goes on to say that adjustment of status "would do much to bolster (the refugees') morale," and it would "hasten the time when they will become full and productive members of American society."

As to title II of the substitute amendment, it incorporates the provisions of S. 2108, as unanimously reported from the Human Resources Committee. The purpose of this title is to extend the Indochina refugee assistance program, initially established by Congress in 1975.

Action on this legislation is urgent, Mr. President, since the current program expired on September 30. An arbitrary end to the refugee resettlement program would not only work undue hardship on the more than 30 States where some 150,000 refugees have been resettled—denying help to many refugees who still need it—but it would also deny assistance to the 15,000 additional refugees who will be arriving in the United States over the coming year to join close relatives and friends. Clearly, the Federal Government cannot deny Federal assistance to refugees which the Federal Government has brought, and is bringing now, for resettlement in the United States.

Mr. President, the substitute amendment satisfies the need for a continuing Federal program of refugee assistance, while at the same time avoids the danger that the program may become institutionalized.

The legislation provides for an orderly phase-down of the Federal program, integrating assistance to refugees into ongoing Federal or State programs over a 4-year period. It continues the Federal reimbursement to State and local governments at 100 percent for the first year, then scales the reimbursement down to 75 percent the second year, and 50 percent the third year, and 25 percent the fourth and final year. The program ends in fiscal year 1981.

The basis authority in the legislation for Federal reimbursement of State and local costs for medical and cash assistance, and for social services and administrative costs, remains the same as in the current law.

In addition, the amendment authorizes $25 million for special projects to assist refugees in normalizing their lives and gaining skills and education necessary to become self-reliant. These projects have proven effective in helping to take refugees off the welfare rolls, rather than simply subsidizing the States while keeping them on.

Funds for these special projects would be available to State or local public agencies, but especially the private voluntary agencies participating in the Indochina refugee assistance program.

Mr. President, as a member of the Judiciary Committee and as chairman of the former subcommittee on refugees, I have closely followed developments in the Indochina refugee program from the earliest days in 1975. Like countless other Americans across our land, I have watched the remarkable progress of the refugees in becoming contributing and productive members of their adopted communities. The statistics over the past 2 years tell of an industrious and hardworking people, achieving an impressive record of assimilation into our society.

Enactment of the pending legislation today would be appropriate recognition of their efforts. And it would also be a significant contribution toward helping the refugees help themselves and toward bettering the welfare of the refugee families and the communities in which they live.

Mr. President, the intent of this legislation is strongly supported by the administration. It also has the full support of the voluntary agencies and the local communities participating in the resettlement of the refugees. Of special importance in this regard, is the support of the ad hoc coalition of State governments and voluntary agencies for the effective resettlement of the Indochina refugees.

Mr. President, I urge Senators to support this bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I thank my good friend from Massachusetts for his fine work on this legislation, and for his deep concern and great followthrough on matters affecting refugees in our country and in the world.

Mr. President, as many of my colleagues are aware, the Indochina refugee assistance program expired at midnight on September 30. HEW is continuing the program on a limited basis during the first weeks of October, but Senate action is essential.

When the Indochina refugee assistance program expired, an estimated one-third of the 150,000 refugees paroled into the country by the Attorney General were receiving some form of cash assistance under the program. Without this continued Federal financial assistance, State and local taxpayers in many communities across the Nation are faced with increased local taxes to meet the costs of assisting Indochina refugees.

In California these extra costs will amount to $34 million. About $12 million of this amount will have to be raised by increasing local property taxes. In San Diego county this means a 3-cent increase in the property tax rate.

Similar costs can be expected in other parts of the Nation as well. Although California has received the largest share of refugees, there are 12,486 refugees in Texas, 7,043 in Pennsylvania, 6,241 in Virginia and 6,131 in Louisiana. In all, 34 States have more than 1,000 refugees.

The Indochina refugees are essentially a Federal responsibility. They are paroled into the country by the Attorney General and do not enter as resident aliens under the normal immigration law provisions for refugees. Until the impact of the arrival of the Indochina refugees has been absorbed, the costs of assisting them in entering productive lives should be borne largely by the Federal Government.

The Human Resources Committee on September 30 ordered reported favorably, S. 2108, the Indochina Migration and Refugee Assistance Act of 1977, with an amendment in the nature of a substitute. The committee bill calls for a 4-year extension of the program with Federal participation being phased out in equal steps during the life of the program.

I wish to bring to the attention of the Senate the reasonableness of the 4-year phased-down sunset of the Indochina refugee assistance program. The first year of the renewed program calls for 100-percent Federal participation. During this year we expect to see continued self-sufficiency grow within the refugee community. At the same time, we must recognize that the Attorney General on August 11 paroled into the country an additional 15,000 refugees. During hearings before the Human Resources Committee on September 22, the Under Secretary of State for Political Affairs, Philip Habib, testified that we should plan for about 15,000 refugees a year for the next 3 or 4 years.

Against this background, S. 2108 is a very modest proposal indeed.

Nevertheless, I think a 4-year step down—25 percent each year, which is the rate proposed by the administration—is prudent. It will provide States and local communities necessary assistance and at the same time assure the phasing out of the program.

I should like also to call attention of the Senate to the separate authority provided for special projects in the amount of $25 million. These special projects are the efforts of voluntary organizations as well as of public agencies in counseling, training, and assisting refugees to make the transition to our society. It is largely due to these voluntary efforts that the refugees as a group have an employment rate of almost 96 percent—although the majority are working at minimum wage or just above.

It is for these reasons, that I and Senators KENNEDY and HAYAKAWA ask that the Senate approve our substitute amendment No. 1419 to H.R. 7769, the Indochina Refugee Adjustment of Status Act.

Title II of our amendment is identical in every respect with S. 2108, the Indochina Migration and Refugee Assistance Act of 1977, reported unanimously from the Human Resources Committee on September 30. S. 2108, as reported, and report 95–471 were filed, October 5. A waiver of the budget resolution for S. 2108 has just been approved by the Senate.

The bill as reported and as carried forward in title II of amendment No. 1419 to H.R. 7769, provides for continuation of the Indochina migration and refugee assistance program at full funding for fiscal year 1978 and for a phase down of the program thereafter at 75 percent in fiscal year 1979, 50 percent in fiscal year 1980, and 25 percent in fiscal year 1981. In addition, the bill authorizes $25 million to be appropriated for special projects to assist in training and educating refugees, and providing other services through private voluntary organizations.

Our proposal has been cleared with the distinguished chairman and ranking minority member of the Judiciary Committee (Mr. EASTLAND and Mr. THURMOND) and with the distinguished chairman and ranking minority member of the Human Resources Committee (Mr. WILLIAMS and Mr. JAVITS). I wish to call to the attention of my colleagues that our good friend and counselor Senator HUMPHREY, who first took the lead in seeking renewal of the Indochina Migration and Refugee Assistance Act, fully supports our efforts. I know that if our distinguished friend from Minnesota were here today he would be standing in our places, most ably, asking the Senate, as we do, to quickly approve H.R. 7769 as amended.

Mr. Chairman so that the legislative record will be complete. I ask unanimous consent that excerpts from report 95–471 be printed in the RECORD. My purpose is to make clear that the report on S. 2108, as amended by the committee, stands for all practical purposes as the committee's views on title II of amendment No. 1419 to H.R. 7769.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY

The purpose of this bill is to extend the period of time during which there is a special program of Federal assistance on behalf of Indochinese refugees in the United States and to provide for an orderly phasedown of this program, integrating assistance to refugees into ongoing Federal, State, and local programs over a 4-year period.

The bill will avoid the substantial and undue impact on States, localities, and refugees which would otherwise result from the termination of the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94–23) on September 30, 1977.

The bill will place continued emphasis on activities to enable the refugees to become fully self-supporting and contributing members of our society.

The bill extends for 4 years the domestic assistance provisions of the Migration and Refugees Assistance Act of 1962 (Public Law 87–510) as incorporated by reference into the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94–23, as amended by Public Law 94–313) and made applicable to refugees from Cambodia, Vietnam, and Laos.

Under these provisions, Federal funds are authorized to be provided to the States for cash assistance, medical assistance, social services, and State-local administrative costs for assistance and services to needy refugees. Such funding would be provided on a 100 percent basis (as in the past) during fiscal year 1978. During fiscal years 1979–81, this funding would be limited to the following percentages of fiscal year 1978 funding: 1979, 75 percent; 1980, 50 percent; and 1981, 25 percent. These provisions provide for an orderly phasedown of the program.

The bill also authorizes to be appropriated $25 million, which would remain available until expended, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant. These funds would be used for special projects and programs administered by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program.

SPECIAL ADULT INDOCHINA REFUGEE EDUCATION PROGRAM

This committee has considered carefully the importance of the continuance of a special adult education program for Indochina refugees. In 1975, the provision was made for a specialized education program which aided in the acclimatization of adult

refugees enabling them to become working members of the society. This education program, specifically geared to the particular requirements of these displaced adults hastened and strengthened their ability to be self-sufficient and able to provide for their families. According to the Office of Education (the Division of Adult Education), these programs have been very successful in providing language training and educational guidance; however, authorities feel a minimum of three years is required to acculturate the adults. The committee therefore strongly believes that this program should not be curtailed over the next 3 years.

Presently, the Adult Education Act of 1975 has authorized $10.25 million for adult Indochina refugee education to be spent during fiscal year 1978. If sufficient funds are not available for fiscal year 1979, the committee suggests that a portion of the $25 million authorized for "special projects and programs * * * to assist refugees in resettling and in gaining skills and education necessary to become self-reliant" be utilized to sustain and continue the present special adult education program for Indochinese refugees.

COMMITTEE AMENDMENT

S. 2108, as proposed, would have provided for a 3-year extension and phasedown of the Indochina refugee assistance program; would have reduced the authorized funding to 75 percent in fiscal year 1978; would have excluded entirely funding for the non-Federal share of costs for those refugees eligible for the programs of aid to families with dependent children (AFDC), supplemental security income (SSI), and medicaid; and would have authorized no funding for social services or for projects or programs to enable refugees to become self-sufficient.

The committee found the bill, as proposed, to be deficient as to both its length and scope of coverage and as to its impact both upon States and localities and upon the refugees. The committee therefore adopted an amendment in the nature of a substitute to correct these deficiencies.

HEARINGS

The Committee on Human Resources held a public hearing on S. 2108 on September 22 of this year. The committee met on September 30 and ordered S. 2108 reported favorably with an amendment on that date.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 5, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2108, a bill to amend the Indochina Migration and Refugee Assistance Act of 1975.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

OCTOBER 5, 1977.

1. Bill No.: S. 2108.

2. Bill title: A bill to amend the Indochina Migration and Refugee Assistance Act of 1975.

3. Bill status: As ordered reported by the Senate Committee on Human Resources, September 30, 1977.

4. Bill purpose: To amend and extend the Indochina Migration and Refugee Assistance Act of 1975 through fiscal year 1981 for the purposes of providing cash and medical assistance, as well as social services to Indochinese refugees. In addition to the amounts otherwise available for the purposes of this act, there are also authorized $25 million, to remain available until expended for special projects and programs.

5. Cost estimate:

Projected total authorization levels:

Fiscal year:	*Millions*
1978	$143.1
1979	91.5
1980	45.2
1981	20.1
1982	0

Projected total outlays:

Fiscal year:	
1978	123.1
1979	96.5
1980	50.2
1981	25.1
1982	5.0

6. Basis for estimate: With regard to the extension of authorizations, the Congressional Budget Office has reviewed the methodology and data provided by the Department of Health, Education, and Welfare on S. 2108. Efforts to obtain additional data upon which to base an independent estimate have revealed no further information. It is assumed for the purposes of this estimate that the $25 million for special projects and programs will be expended at a rate of $5 million per year through fiscal year 1982, although the full authorization of $25 million appears in fiscal year 1978.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Lucia C. Becerra (225-7766).

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

The committee is responsible for making a determination of the regulatory impact of legislation, pursuant to section 602 of Senate Resolution 4.

Under existing legislation, the Indochina Migration and Refugee Assistance Act of 1975, States are required to maintain appropriate and necessary records in order to claim Federal reimbursement for assistance and services to Indochinese refugees. This requirement would be continued under the present bill.

In the committee's view, the legislation will have no impact on the personal privacy of the individuals affected, and no substantial additional paperwork will result from this legislation.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Short title, names the act (S. 2108) the "Indochina Migration and Refugee Assistance Act of 1977."

SEC. 2. Amends section 2 of the Indochina Migration and Refugee Assistance Act of 1975, as follows:

Section 2(a)(1) authorizes the appropriation of such sums as may be necessary for carrying out the domestic assistance provisions of the Migration and Refugee Assistance Act of 1962 with respect to refugees from Cambodia, Vietnam, or Laos.

Section 2(a)(2) provides authority for funds appropriated under the act to be used to reimburse State or local public agencies for the non-Federal share of costs for those needy refugees who qualify under the AFDC or medicaid program. This provision enables refugees who are eligible for AFDC and medicaid to be placed on those regular ongoing programs and at the same time enables funds to be provided under this act to be used to offset costs which would otherwise impact on State or local resources.

Section 2(b)(1) establishes September 30, 1981, as the termination date of the act.

Section 2(b)(2) provides for an orderly phasedown of assistance to States and localities under the act. During fiscal year 1978, reimbursement would be provided on a 100 percent basis for refugee cash assistance, medical assistance, social services, and State-local administrative costs. During the 3 subsequent fiscal years, such reimbursement would not exceed the following percentages of the fiscal year 1978 cost: 1979, 75 percent; 1980, 50 percent; and 1981, 25 percent. This section also makes clear that such reimbursement would apply to the non-Federal share of costs for refugees included under the AFDC and medicaid programs as well as to the costs for needy refugees who are not eligible under these programs.

Section 2(c) authorizes the appropriation of $25 million, to remain available until expended, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant. These funds would be used for special projects and programs to be administered by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program.

Section 3 amends section 4 of the act of 1975 to eliminate reporting requirements no longer applicable and to provide for annual reports to the Congress rather than the quarterly reports previously required.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Indochina Migration and Refugee Assistance Act of 1975".

[SEC. 2. (a) Subject to the provisions of subsection (b) there are hereby authorized to be appropriated, in addition to amounts otherwise available for such purposes, $155,000,000 for the performance of functions set forth in the Migration and Refugee Assistance Act of 1962 (76 Stat. 121), as amended, with respect to aliens who have fled from Cambodia or Vietnam, such sums to remain available in accordance with the provisions of subsection (b) of this section.

[(b) None of the funds authorized to be appropriated by this Act shall be available for the performance of functions after June 30, 1976, other than for carrying out the provisions of clauses (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962, as amended. None of such funds shall be available for obligation for any purpose after September 30, 1977.]

Sec. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

(A) for the fiscal year ending September 30, 1979, 75 per centum, and

(B) for the fiscal year ending September 30, 1980, 50 per centum, and

(C) for the fiscal year ending September 30, 1981, 25 per centum, of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.

SEC. 3. In carrying out functions utilizing the funds made available under this Act, the term "refugee" as defined in section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, as amended, shall be deemed to include aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion, fled from Cambodia, Vietnam,* or Laos; (B) cannot return there because of fear of persecution on account of race, religion, or political opinion; and (C) are in urgent need of assistance for the essentials of life.

SEC. 4. (a) The President shall consult with and keep the Committees on the Judiciary, Appropriations, and International Relations of the House of Representatives and the Committees on Foreign Relations, Appropriations and Judiciary of the Senate fully and currently informed of the use of funds and the exercise of functions authorized in this Act.

[(b) Not more than thirty days after the date of enactment of this Act, the President shall transmit to such Committees a report describing fully and completely the status of refugees from Cambodia and South Vietnam. Such report shall set forth, in addition—

[(1) a plan for the resettlement of those refugees remaining in receiving or staging centers;

[(2) the number of refugees who have indicated an interest in returning to their homeland or being resettled in a third country, together with (A) a description of the plan for their return or resettlement and the steps taken to carry out such return or resettlement, and (B) any initiatitves that have been made with respect to the Office of the High Commissioner for Refugees of the United Nations; and

[(3) a full and complete description of the steps the President has taken to retrieve and deposit in the Treasury as miscellaneous receipts all mounts previously authorized and appropriated for assistance to South Vietnam and Cambodia but not expended for such purpose, exclusive of the $98,000,000 of Indochina Postwar Reconstruction funds allocated to the Department of State for movement and maintenance of refugees prior to the date of enactment of this Act.]

(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such Committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.

[(c) Supplementary reports setting forth recent information with respect to each of the items referred to in this section shall be transmitted not more than ninety days after the date of transmittal of the report referred to in subsection (b) of this section and not later than the end of each ninety-day period thereafter. Such reports shall continue until September 30, 1977, and a final report shall be submitted no later than December 31, 1977.]

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*Public Law 94-313.

Mr. KENNEDY. Mr. President, the case for the extension of the Indochina refugee assistance program, and the considerable progress already achieved under the program, has been eloquently stated in a recent article by Mr. Vu Duc Vinh—a refugee himself—who is editor of Dat Moi, a bilingual newspaper published in Seattle. I ask unanimous consent that it be printed at this point in the record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Seattle Post-Intelligencer, Sept. 17, 1977]

REFUGEES NEED A HELPING HAND

(By Vu Duc Vinh)

September 30 marks the termination date of the Indochinese Resettlement Program. It is just a few weeks away.

Although Federal extension of the program has been discussed, the issue remains unsolved. The Indochinese refugees here cannot help but be disturbed.

Not all the Indochinese are still in need of public assistance. Many have become self-sufficient. They are the ones who brought with them some money from Vietnam or have started their own businesses.

These people were prepared and could adjust rather quickly in this society.

However, the majority of Indochinese refugees were totally unprepared: mentally, psychologically or physically. They came here to a strange language and a strange way of life. Some had never traveled beyond the limits of their province or district.

For these people, two years of resettlement is too short a time. They have tried their best to but many things are still beyond their ability to absorb or to learn.

Most in need are the large families with small children, where only one parent can work, yet one wage cannot meet the living expenses. Then there are the refugees between the ages of 60 and 65 who are too young for Supplemental Security Income and too old for employment.

What will happen to these people if the program terminates? One might say they can apply for such help as Aid to Families with Dependent Children. But how can they? To qualify they need six quarters of work and only a few of us started working 18 months ago.

We must meet the same conditions of eligibility as American citizens.

Another disadvantage for our people is that no Indochinese community existed in this country before our arrival. Our community was established too recently to be of any substantial help.

Obviously, termination of the resettlement program would place heavy burdens on states and local communities for the care of these people.

Looking at our efforts over the past two years, I would say that we have shown that we merit continued assistance. We are hard-working people, anxious to become self-sufficient. Many former high-ranking officials, writers, editors and journalists have entered the labor force and have taken such unrelated jobs as painters, carpenters, press operators and guards.

Not wishing to become a burden, we have gone to work as soon as we could. Some received training; but, either due to the language barrier or to the shortness of training, they remain unemployed. I know some janitors who have applied for jobs who have been waiting for months. Most cannot pass the interviews.

Reviewing the resettlement program, we see that its efforts were not as successful as hoped. The program succeeded in the emergency situation: evacuating and relocating. But, in the following phase, it could not equip us properly to become self-sufficient.

Last February, Sen. Edward Kennedy said before Congress: "The new arrivals from the Indochina Peninsula entered this country in very trying and difficult circumstances—more trying and difficult, perhaps, than those attending any other recent movement of people to our country."

More recently, Sen. Hubert H. Humphrey remarked: "The U.S. government after 16 years is still providing $90 million annually for the Cuban Refugee Program. What the Indochinese refugees want is a three-year extension of this program in order to complete the assimilation of the largest influx of refugees at any given time in this nation's history."

As a fellow refugee, I believe Indochinese here should not be jealous nor be compared to other refugee communities. We should ask for the understanding of the American people and the Congress.

What we ask for is an extension of the resettlement program which will provide public assistance, English courses and vocational training for those of us who are still in need. We need more time to become self-sufficient.

The expense of the program would be a worthwhile investment in the establishment of a community of new, productive members of this society. It would help us return the favor by being taxpayers and good citizens who can make contributions to the common causes of the nation.

We once stood side by side with our American friends in our fight for freedom and democracy. A war can be lost, but not its cause. It is still there to pursue.

Mr. KENNEDY. Finally, Mr. President, for the RECORD, and to state clearly our intent, the percentage phasedown of the Indochina refugee assistance program contained in my amendment—from 100 percent the first year, 75 percent the second, 50 percent the third, and 25 percent the final year—relates to all costs involved in the entire program, including administrative and operational costs. The percentage phasedown applies to all aspects and to all costs of the program, except the $25 million authorized for special projects.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read a third time, the question is, Shall it pass?

So the bill (H.R. 7769), as amended, was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I move to indefinitely postpone Senate bill S. 2108.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

A report concerning the allocation of budget totals (Rept. No. 95-483).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 283. A resolution waiving sections 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2108 (Rept. No. 95-484).

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Without amendment:

S. 2169. A bill to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building" (Rept. No. 95-485).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ABOUREZK:

S. 2186. A bill for the relief of Ana B. Pardo; to the Committee on the Judiciary.

By Mr. METCALF:

S. 2187. A bill to authorize the Secretary of the Interior to construct hydroelectric power plants at various existing water projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHILES:

S. 2188. A bill to provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 19, 1823, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MATHIAS:

S. 2189. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy; to the Committee on Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Energy and natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METCALF:

S. 2187. A bill to authorize the Secretary of the Interior to construct hydroelectric power plants at various existing water projects, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. METCALF. Mr. President, over the past 3 years the energy spotlight has often concentrated upon the more exotic suggestions for solutions to the fuels and energy supply problems facing our Nation. Headlines emphasize new developments in complicated technologies as answers to impending shortages. This is good as we need to develop new energy sources, but I would point out that we must not overlook the more traditional resources, one of which has served the energy needs of man for thousands of years.

I speak, of course, of water power. Transformed from the ancient water wheel to the efficient turbine and generator of today, water power will continue to play an important role in energy production. Recent studies by the Bureau of Reclamation, Corps of Engineers, and the Federal Power Commission indicate that there is yet a significant untapped potential for further hydropower development at both existing and proposed sites. The bill which I am introducing today would authorize the Secretary of the Interior to undertake the construction of a select few of the projects identified; specifically the installation of additional generating capacity at existing Bureau of Reclamation projects where new storage or regulating structures would not be required in order to produce electricity.

Briefly, the bill authorizes the construction of additional hydroelectric facilities at seven reclamation projects and the replacement of an existing turbine generator with a larger unit at a eighth site. Projects included are the Friant and Whiskeytown powerplant units in California; the Palisades powerplant enlargement in Idaho; the Canyon Ferry powerplant enlargement, and the Yellowtail Afterbay powerplant unit in Montana; the Colorado-Big Thompson powerplants unit in Colorado; the Hoover Dam outlet works powerplant in Arizona-Nevada and the Buffalo Bill Dam powerplant replacement in Wyoming. The eight projects would have a rated capacity of approximately 660 megawatts and would produce an estimated 540 million kilowatt hours of electricity per year. The measure authorizes $241,614,000 for construction costs or about $366 per kilowatt of installed capacity which is a bargain at today's construction prices.

The bill provides a departure point for consideration of these proposals by the Congress. It is my intent to fully examine each project during hearings before my Subcommittee on Public Lands and Resources and compile a complete record for review.

Mr. President, I ask unanimous consent that the bill, together with a brief description of each of the projects, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal Reclamation laws (Acts of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto) is authorized to construct, operate, and maintain hydroelectric powerplants and appurtenant switchyards on existing Reclamation project facilities at locations and in the approximate capacities set forth in section 3 of this Act. In carrying out the purposes of this Act, the Secretary of the Interior is authorized to modify the capacity of the powerplant as determined to be necessary and desirable during postauthorization study and design, and after consultation with and approval by the Secretary of Energy.

SEC. 2. The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnection as required physically to interconnect the hydroelectric powerplants authorized by section 3 of the Act to existing power systems as he determines necessary to accomplish distribution and marketing of power generated pursuant to this Act.

SEC. 3. (a) Friant Powerplant Unit, Central Valley Project, California consisting of:

(1) a turbine generator unit of 2,700 kilowatts on the river outlet from Friant Dam;

(2) a turbine generator unit of 5,000 kilowatts on the outlet to the Madera Canal at Friant Dam; and

(3) a turbine generator unit of 15,000 kilowatts on the outlet to the Friant-Kern Canal at Friant Dam.

(b) Whiskeytown Powerplant Unit, Central Valley Project, California, consisting of one 4,000 kilowatt turbine generator unit on the outlet works of Whiskeytown Dam.

(c) Palisades Powerplant Enlargement, Idaho, consisting of four 22,500 kilowatt turbine generator units on the outlet works of Palisades Dam.

(d) Canyon Ferry Powerplant Enlargement, Pick-Sloan Missouri Basin Program, Montana, consisting of two 45,000 kilowatt turbine generators on the outlet works of Canyon Ferry Dam.

(e) Yellowtail Afterbay Powerplant Unit, Pick-Sloan Missouri Basin Program, Montana, consisting of two 5,700 kilowatt turbine generator units on the outlet works of Yellowtail Afterbay Dam.

(f) Colorado-Big Thompson Powerplants Unit, Colorado, consisting of:

(1) a 4,000 kilowatt turbine generator unit on the outlet works from Carter Lake to the St. Vrain Supply Canal;

(2) a 5,000 kilowatt turbine generator unit on the outlet from Charles Hansen Canal to the Poudre River;

(3) a 10,000 kilowatt turbine generator unit on the outlet works from Horsetooth Reservior to the Charles Hansen Canal; and

(4) a 200,000 kilowatt reversible turbine generator and underground penstock between Pinewood Lake and Carter Lake.

(g) Hoover Dam Outlet Works Powerplant, Arizona, Nevada consisting of one 200,000 kilowatt turbine generator unit installed on the river outlet at Hoover Dam.

(h) Buffalo Bill Dam Powerplant Replacement, Wyoming, consisting of one 20,000 kilowatt turbine generator unit in replacement of existing 5,000 kilowatt unit at Buffalo Bill Dam.

SEC. 4. (a) Hydroelectric power generated by facilities constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing through existing Federal Hydroelectric power marketing systems in accordance with existing law and policy consistent with the provisions of this Act.

(b) The plants authorized by section 3 of this Act shall be financially integrated with and the power marketed under rate schedules in effect for the several systems as follows:

(1) Friant Powerplant Unit and Whiskeytown unit shall be marketed through the Central Valley Project power system;

(2) Palisades Powerplant Enlargement shall be marketed through the Federal Columbia River Power System;

(3) Canyon Ferry Powerplant Enlargement, Yellowtail Afterbay Powerplant Unit, Buffalo Bill Dam Powerplant replacement and Colorado-Big Thompson Powerplants Unit shall be marketed through the Western Division, Pick-Sloan Missouri Basin program power system; and

(4) Hoover Dam Outlet Works Powerplant shall be marketed through the Boulder Canyon Project power system.

SEC. 5. Powerplants authorized by this Act shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 6. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the facilities authorized by this Act shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the works authorized by each subsection of Section 3 is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 7. There is hereby authorized to be appropriated to the Secretary of the Interior for construction of the work authorized by this Act the amounts set forth below on the basis of January 1977 price levels plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction cost indexes applicable to the type of construction involved herein;

(1) Friant Powerplant Unit—$19,400,000.

(2) Whiskeytown Powerplant Unit—$2,700,000.

(3) Palisade Powerplant Enlargement—$42,000,000.

(4) Canyon Ferry Powerplant Enlargement—$60,140,000.

(5) Yellowtail Afterbay Powerplant—$12,500,000.

(6) Colorado-Big Thompson Powerplants Unit—$48,874,000.

(7) Buffalo Bill Dam Powerplant Replacement—$16,000,000.

(8) Hoover Dam Outlet Works Powerplant—$40,000,000.

There is also authorized to be appropriated such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplants authorized to be constructed by this Act; together with such sums as may be required for operation and maintenance of all works authorized herein.

PROJECT AUTHORIZATIONS

Friant Powerplant Unit, Central Valley Project, California. The project would involve the installation of three powerplants with a total installed capacity of 22.7 megawatts. Installations would include the construction of a 2.7 megawatt powerplant on the San Joaquin River at the outlet to the River from Friant Dam, a 5 megawatt powerplant on the outlet from Friant Dam to the Madera Canal, and a 15 megawatt powerplant on the outlet from Friant Dam to the Friant-Kern Canal. One switchyard and six miles of transmission lines would be required. Authorized cost: $19,400,000.

Whiskeytown Powerplant Unit, Central Valley Project, California. The project would involve the installation of a 4 megawatt powerplant located at the outlet works of the Whiskeytown Dam on Clear Creek and the construction of a switchyard and five miles of transmission lines. Authorized cost: $2,700,000.

Palisades Powerplant Enlargement, Palisades Project, Idaho. The project would involve the installation of four 22.5 megawatt turbine generator units at the outlet works of Palisades Dam. An enlarged switchyard and 60 miles of transmission lines would be required. Authorized cost: $42,000,000.

Canyon Ferry Powerplant Enlargement, Pick-Sloans Missouri Basin Program, Montana. The project would involve the installation of two 45 megawatt turbine generators at the outlet works of Canyon Ferry Dam. An enlarged switchyard and 85 miles of transmission lines would be required. Authorized cost: $60,140,000.

Yellowtail Afterbay Powerplant Unit, Pick-Sloane Missouri Basin Program, Montana. The project would involve the installation of an 11.4 megawatt bulb turbine and powerplant in the existing Yellowtail Afterbay Dam about 2¼ miles below Yellowtail Dam. One mile of transmission line would be required to tie into the existing switchyard. Authorized cost: $12,500,000.

Colorado-Big Thompson Powerplants Unit, Colorado-Big Thompson Project, Colorado. The project would involve the installation of four powerplants with an installed capacity of 219 megawatts. Installations would include a 4 megawatt bulb-turbine at the outlet works of Carter Lake Dam, a 5 megawatt bulb-turbine at the outlet of the Charles Hansen Canal to the Poudre River, a 10 megawatt bulb-turbine at the outlet works from Horsetooth Reservoir to the Charles Hansen Canal, and installation of a 200 megawatt pumped storage facility utilizing the existing Carter Lake and Pinewood Lake reclamation reservoirs. The pumped storage installation would require 18,000 feet of water supply facilities and 17 miles of transmission lines. The other projects would require installation of 10½ miles of transmission lines to tie in with the existing Colorado-Big Thompson power network. Authorized cost: $48,874,000.

Hoover Dam Outlet Works Powerplant, Boulder Canyon Project, Arizona-Nevada. The project would involve the installation of a 200 megawatt turbine generator at the outlet works of Hoover Dam on the Colorado River. Authorized cost: $40,000,000.

Buffalo Bill Dam Powerplant Replacement, Shoshone Project, Wyoming. The project would involve the replacement of an existing 5 megawatt turbine generator with a unit rated at 20 megawatts. Authorized cost: $16,000,000.

By Mr. CHILES:

S. 2188. A bill to provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 18, 1823, and for other purposes; to the Select Committee on Indian Affairs.

Mr. CHILES. Mr. President, I introduce on behalf of myself and Senator STONE a bill providing for the use and distribution of an award by the Indian Claims Commission to the Seminole Nation as it existed in Florida in 1823. The Commission has awarded $16 million for the value of Florida lands taken from the Seminoles and for other wrongs done to the Seminole Nation. This award has been on deposit in the Treasury since 1976.

Since many Seminoles were forcibly removed from Florida by the U.S. Government, there is no single Seminole Tribe today. Before the award can be distributed, it must be divided between the Seminole Indians of Florida and the Seminole Indians of Oklahoma.

While frequently such divisions are made on the basis of population, in the case of the Seminoles that would result in an injustice. A just and equiptable division must take into account the difference in treatment and benefits received from the United States by the Florida Seminoles as compared to the Oklahoma Seminoles. For over 100 years after the Seminole War in 1934–35 and the forced removal of the Oklahoma Seminoles from Florida, and continuing until relatively recent years, the Florida Seminoles were wholly neglected by the U.S. Government. While the Florida Seminoles were enduring considerable hardships, the Oklahoma Seminoles were the beneficiaries of treaty payments, lands held in trust and managed for them, valuable allotments and considerable public appropriations for health, education, and social services.

The Bureau of Indian Affairs did not begin to recognize the Florida Seminoles as a Tribe until the 1950's and has only relatively recently provided them the full complement of Federal services which is their just entitlement.

This difference in treatment and benefits embraces factors that must be weighed in any fair, just and equitable allocation of the award. To simply divide an award solely on the basis of population is arbitrary. Relative population may be one—but only one—factor that should be considered.

This award is of enormous importance to the Seminole Tribe of Florida, for it is the only land award in which the Tribe will share or has ever shared. Given the Government's long history of neglect toward the Florida Seminoles, a fair allocation of this award to both Seminole tribes by the United States represents a major opportunity to rectify and redress past wrongs. The bill we introduce today would accomplish this.

The basic thrust of this legislation is to refer the issue of a just and equitable division of the award to the Chief Commissioner of the Court of Claims. Under established procedures the Commissioner will hold hearings, take evidence, make findings taking into account all relevant factors, and arrive at a proposed distribution of the award that would then be reported to Congress.

We believe this approach offers the best opportunity for a reasonable and fair allocation of this award and I hope the committee will give this legislation prompt and serious consideration.

Mr. President, I ask unanimous consent that the text of the bill we are introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $16 million paid by the United States by funds appropriated by the Act of June 1, 1976 (90 Stat. 597), in satisfaction of the award to the Seminole Nation as it existed in Florida on September 18, 1823, entered by the Indian Claims Commission on April 27, 1976 (38 Ind. Cl. Comm. 91), plus accrued interest, less attorneys' fees and litigation expenses, shall be divided by the Secretary of the Interior between the Seminole Indians of Oklahoma and the Seminole Indians of Florida as provided in Section 4 hereof.

SEC. 2. (a) After the division of the funds provided in section 4, the share of the Seminole Nation of Oklahoma shall be used and distributed as follows:

(1) sixty-four per centum of the principal of the share shall be distributed in the form of per capita payments, in a sum as equal as possible, to all Seminole tribal members by blood born on or prior to and living on the date of the enactment of this Act. The per capita shares of living competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be paid pursuant to section 16 of title 25, Code of Federal Regulations, without regard to the dollar limitation contained in section 6.8 of title 25, Code of Federal Regulations. The per capita shares of legal incompetents shall be handled pursuant to section 104.5 of title 25, Code of Federal Regulations. The per capita shares of minors shall be handled pursuant to sections 60.10 (a), 60.10(b)(1), and 104.4 of title 25, Code of Federal Regulations, as amended November 5, 1976 (41 FR 48735, 48736).

(2) twenty per centum of the principal of the share shall be invested by the Secretary for the benefit of Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary, for the following social and economic programs:

(A) elementary, secondary, and higher education services;
(B) community development;
(C) health services;
(D) tribal executive operations;
(E) land acquisition and development;
(F) social services; and
(G) other tribal and community social and economic projects.

Such 20 per centum portion of the principal shall not be available for per capita or dividend payments.

(3) Sixteen per centum of the principal of the share, plus all interest and investment income accrued on the Oklahoma share of the judgment funds, and any amounts remaining after the per capita payment provided in section 2(a)(1), shall be invested by the Secretary for the benefit of Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body, subject to the approval of the Secretary, for periodic dividend payments to Seminole tribal members by blood.

(b) In administering all programing elements of this section, the tribal governing body shall continue to recognize a standing Judgment Fund Committee comprised of Seminole tribal members by blood and representative of the twelve Oklahoma Seminole by blood bands. Such committee shall consist of twelve members and shall be authorized on at least an annual budgetary basis to make recommendations regarding the implementation of any programing elements.

SEC. 3. The total share of the Seminole Indians of Florida as determined pursuant to section 4 of this Act, shall be allocated on the basis of the respective populations on the date of this Act of the Seminole Indian Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and those Indians in Florida who are not members or eligible for membership with either the Seminole Indian Tribe of Florida, or the Miccosukee Tribe of Florida, but who possess at least one-fourth degree Florida Seminole blood and have not shared in the claims award of any other tribe: *Provided,* That, on a per capita basis, the allocation to the unaffiliate capita basis, the allocation to the unaffiliated Seminoles may not exceed the average, on a per capita basis, of the combined allocations to the Seminole Indian Tribe of Florida and the Miccosukee Tribe of Florida. Any excess in the allocation to such unaffiliated Seminoles shall be divided between the Seminole Tribe of Florida and the Miccosukee Tribe in the same proportions as the initial division between those two tribes. The use and distribution of the respective shares shall be governed by the Act of October 19, 1973 (87 Stat. 466).

SEC. 4. The chief commissioner of the Court of Claims, pursuant to sections 1492 and 2509 of title 28 of the United States Code, is hereby directed to report to the Senate and the House of Representatives, at the earliest practicable date, findings of fact and a recommendation as to what constitutes a fair, just and equitable division as between the Seminole Indians of Florida and the Seminole Indians of Oklahoma, of the $16 million plus accrued interest, less attorneys' fees and litigation expenses, heretofore paid by the United States in satisfaction of the award to the Seminole Nation as it existed in Florida on September 18, 1823, entered by the Indian Claims Commission on April 27, 1976 in Docket Nos 73 and 151, consolidated (38 Ind. Cl. Comm. 91); *Provided,* That the findings of fact and recommendation shall be based on all relevant factors including those reflecting any difference in benefits received from the United States by the Oklahoma Seminoles and by the Florida Seminoles, respectively; *Provided further,* That the recommendation of the chief commissioner shall become effective and shall be binding on the Secretary of the Interior at the end of a 60-day period commencing on the date the recommendation is submitted to Congress, excluding days on which either the House or the Senate is not in session because of an adjournment of more than three calendar days to a day certain, unless during such 60-day period either the House or the Senate adopts a resolution disapproving the recommendation of the chief commissioner.

By Mr. MATHIAS:

S. 2189. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mail tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy to the Committee on Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. MATHIAS. Mr. President, I ask unanimous consent that my bill, the Nuclear Waste Management Act of 1977, be referred jointly without a time agreement to the Committee on Governmental Affairs, Environment and Public Works, and Energy and Natural Resources respectively. I have spoken with the chairmen and ranking minority members of those committees and there is no objection to such a referral at this time.

The people of America have learned that the benefits and promise of nuclear power—one of our brightest hopes for abundant energy—involve both expense and risk.

Faced with this realization, Congress now has the obligation to reduce the risk by addressing one of the most serious hazards of nuclear development—the containment and management of nuclear waste, both military and commercial.

The challenge is great, because this deadly radioactive residue must be totally isolated from the environment for hundreds of centuries.

If left unchecked, the menace of nuclear waste from weapons development and commercial power generation will grow and pose a dangerous threat to the very survival of mankind.

The magnitude of the problem is reflected by the volume of nuclear wastes now being held in "temporary" storage, pending permanent disposal. As a result of military activities from the middle 1940's to the present, the United States alone has generated an estimated 230 million gallons of liquid high-level nuclear waste.

The major long-lived isotopes found in high-level waste—strontium-90, cesium-137 and plutonium-239—continue to emit deadly radioactive particles for thousands of years. Clearly, this poses enormous problems.

The management of nuclear wastes has been a concern of Congress at least since 1959. We have appropriated hundreds of millions of dollars for research and development of waste management techniques, and Congress has been consistently informed that the problem of nuclear waste management is "technically soluble." But, the saddening—almost incredible—fact is that the technical solution for long-term disposal of nuclear wastes recently recommended to Congress—sealed storage in stable geologic formations such as salt-beds—is the same one made to the Atomic Energy Commission by the National Academy of Sciences 20 years ago.

People sometimes complain that Congress moves at a pretty slow pace, but we cannot hold a candle to the bureaucrats' 20-year record.

We were recently informed by the Energy Research and Development Administration that a pilot facility for nuclear waste disposal will not be ready until 1985. But even the achievement of this goal appears to be open to question. In its critical report of September 9, the General Accounting Office said, and I quote:

> Not only has progress been negligible to date, but . . . future program goals are overly optimistic . . .

GAO said this was so because ERDA—

> . . . faces many unsolved social, regulatory and geological obstacles.

Earlier this year, Mason Willrich, now international relations director of the Rockefeller Foundation, completed a study for ERDA under the auspices of the MIT Energy Laboratory. In it, he concluded that the existing organization for nuclear waste management thwarts the effective management of waste disposal. He called the existing structure for nuclear waste management, "unworkable if left unchanged," and said the existing framework for nuclear waste regulation was likely to be "ineffective if left unchanged."

To address the problems raised in Professor Willrich's report, I introduced S. 63 last February 25. The legislation was entitled "The Nuclear Waste Management Act of 1977." Its purpose was basically the same as the bill Congressman JEFFORDS and I introduce today.

On April 8, I chaired hearings of the Senate Committee on Governmental Affairs to analyze how the administration's energy reorganization legislation would affect programs dealing with nuclear waste management. Testimony at those hearings, including that of Mason Willrich, showed that nuclear waste management remains a major unsolved problem. The testimony also provided insight into changes that would further improve S. 63.

Those improvements have been incorporated into the bill we introduce today. Before discussing it, I think it is instructive to consider other disquieting findings contained in the recent GAO report. The report pointed to:

The gaps in Federal laws and regulations governing the storage and disposal of nuclear waste;

The geological uncertainties and natural resources tradeoffs that are encountered in the selection of "permanent" disposal locations;

The lack of regulatory criteria for orderly waste management operations;

And, not surprisingly, the considerable public and political opposition to nuclear waste disposal locations.

Finally, despite assurances that we have the requisite technology, we have not yet effectively demonstrated that technology in a working model for the safe disposal of waste.

Mr. President, I ask unanimous consent that the 17-page digest of the Comptroller General's report to the Congress titled, "Nuclear Energy's Dilemma: Disposing of Hazardous Radioactive Waste Safely," be printed in the RECORD.

For more than 30 years we have limped along without a rational radioactive waste policy or an institutionalized procedures for safe waste management and regulation. It is time to remedy this deficiency now. It is time to establish a single, centralized authority responsible for safe management and regulation of nuclear waste.

That is why I introduce his legislation today. I am convinced that only an independent executive agency will have the necessary expertise and power to impose a rational solution on the hydra-headed problem of nuclear waste disposal. For this problem represents a challenge that we dare not neglect.

There is a quote from Arnold Toynbee pertinent to our situation:

> It is self-evident that, during the growth process, the same challenge is never presented more than once. For, ex hypothesi, so long as growth is being maintained, each successive challenge is being successfully met, or, in other words disposed of as a living issue and relegated to the history books. By contrast we can see that, in a series in which the outcome of each successive challenge is not victory but defeat, the unanswered challenge can never be disposed of and is therefore bound to present itself again and again until it receives some overdue and imperfect answer, or else brings about the destruction of a society which has shown itself inveterately incapable of responding to it effectively.—Arnold Toynbee, "A Study of History."

I have refined this legislation in cooperation with Congressman JAMES M. JEFFORDS, who will introduce an identical companion bill in the House of Representatives.

Mr. President, I ask unanimous consent that the text of S. 2189, the Nuclear Waste Management Act of 1977, and an article by the same title, which John H. O'Neill, Jr., coauthored with me, and which will appear in an upcoming edition of the "Atomic Energy Law Review," be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Waste Management Act of 1977".

TITLE I—DEFINITIONS; DECLARATIONS OF FINDINGS AND PURPOSES

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "nuclear energy" shall designate the energy released by the nucleus of an atom whether through radioactive decay, elemental transmutation, fusion, or fission;

(2) the term "nuclear fuel" shall designate any substance from which nuclear energy may be derived without further processing or preparation;

(3) the term "nuclear wastes" shall designate surplus, irradiated, abandoned, or "spent" nuclear fuel and nuclear fuel assemblies, uranium, thorium, and radium mine and mill tailings as well as other used or unusable materials and supplies which are produced as a result of the production of nuclear energy and which are sufficiently radioactive or chemically toxic as to constitute a hazard to the health and safety of present or future generations of mankind and other living beings. As used in this Act, "irradiated", "abandoned", or "spent" nuclear fuel and fuel assemblies shall designate such fuel and fuel assemblies for which reprocessing to reclaim unfissioned uranium, thorium, or plutonium is not planned in the foreseeable future;

(4) the term "radioactive facility" shall designate any physical structure, or portions thereof, or earthwork, whether currently in use or whether surplus, obsolete, or abandoned, which is sufficiently radioactive as to constitute a hazard to the health and safety of present or future generations of mankind and other living things;

(5) the term "radioactive site" shall designate any parcel of land, any river, lake, bay, or ocean bed or body of water which is sufficiently radioactive as to constitute a hazard to the health and safety of present or future generations of mankind and other living beings; and

(6) the term "nuclear waste facility" shall designate any physical structure or earthwork employed to process, decontaminate or dispose of nuclear wastes or radioactive facilities.

FINDINGS

SEC. 102. The Congress finds that—

(1) there is great concern among the citizenry, among the scientific community, and among the international community of nations with regard to the present and future contamination of the natural and human environment by radioactive and toxic substances which are produced through the use of nuclear energy no matter what the purpose;

(2) insufficient technical, engineering, and financial resources have been devoted to the disposal of nuclear wastes and that in some instances there exists a hazard to the health and safety of present as well as future generations of mankind and other living beings;

(3) there is a danger to the peace of the Nation through the use of special nuclear fuels such as thorium, uranium, and plutonium which, when diverted from their intended uses, can be employed as weapons; and

(4) there exist unresolved and timely questions regarding the environmental and economic burdens placed upon future generations of mankind through the use of nuclear energy.

PURPOSES

SEC. 103. Therefore the Congress declares that it is the purpose of this Act:

(1) To establish an independent executive agency to be known as the Nuclear Waste Management Authority (hereinafter in this Act referred to as the "Authority"). The Authority shall have the sole responsibility for the temporary or permanent decontamination, storage, and disposal of all nuclear wastes, as well as all surplus, obsolete, or abandoned radioactive facilities existing now or in the future within these United States, its territories or possessions.

(2) That the Department of Energy (hereinafter in this Act referred to as the "Department") shall undertake such basic and applied research as it or the Authority shall deem necessary for the Authority to exercise its responsibilities.

(3) That the Environmental Protection Agency (hereinafter in this Act referred to as the "Agency") shall determine and promulgate such standards as are necessary to protect the health and safety of human and other living beings from the exposure to ionizing emissions from radioactive substances and that the Agency shall determine those conditions under which the migration of nuclear wastes and materials derived from radioactive facilities and sites shall constitute a hazard or danger to the health and safety of present or future generations.

(4) That the Nuclear Regulatory Commission (hereinafter in this Act referred to as the "Commission") shall license the siting, design, construction, and operation of nuclear waste facilities for the temporary or permanent disposal of nuclear wastes or surplus, obsolete or unused nuclear fuels or radioactive facilities and sites. Licenses shall be granted only when the design, siting, or construction of the aforesaid facilities are in conformance with the standards determined and promulgated by the Agency. The Commission shall have all necessary powers to enforce the conditions of any license it grants.

(5) To provide that an application under this Act or the Atomic Energy Act of 1954 for a construction license for a facility employed in the production or utilization of nuclear energy or the disposal of nuclear wastes shall not be acted upon by the Commission unless the application shall have

been approved by the State wherein such facility is to be located.

TITLE II—THE NUCLEAR WASTE MANAGEMENT AUTHORITY

ESTABLISHMENT OF THE AUTHORITY

SEC. 201. There is hereby created an independent executive agency to be known as the Nuclear Waste Management Authority.

OFFICERS

SEC. 202. (a) There shall be at the head of the Authority an Executive Director (hereafter in this Act referred to as the "Director") who shall be appointed by the President by and with the advice and consent of the Senate. The Authority shall be administered under the supervision and direction of the Director who shall be responsible for the efficient and coordinated management of the Authority.

(b) There shall be in the Authority a Deputy Executive Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Executive Director and the Deputy Executive Director shall serve in their office until June 30, 1980. After that date they shall, upon appointment by the President and by and with the advice and consent of the Senate, serve for a term of four years commencing July 1, 1980. In the absence or disability of the Director, the Deputy Director shall act for and exercise the functions of the Director. In the event the office of Director becomes vacant, the Deputy Executive Director shall serve as the Acting Executive Director.

(d) There shall be in the Authority a General Counsel who shall be appointed by the Director and who shall serve at the pleasure of and be removable by the Executive Director. The President, with the advice and consent of the Senate, shall appoint such additional officers as he shall deem necessary including but not limited to—

(1) an officer whose special responsibility shall be the international cooperation in all nuclear waste management programs;

(2) an officer whose special responsibility shall be cooperation with State and municipal governments;

(3) an officer whose special responsibility shall be planning and systems analysis of nuclear waste management programs;

(4) an officer whose special responsibility shall be for geology and seismology;

(5) an officer whose special responsibility shall be for nuclear engineering and design of nuclear facilities; and

(6) an officer whose special responsibility shall be for biological and environmental analysis.

Such officers shall be knowledgeable in the area respecting which they have supervisory responsibilities and shall be well-known to the scientific community and to the general public.

The aforesaid officers shall serve for a term of four years commencing with date of their appointment and may not be reappointed. The aforesaid officers together with the Director, the Deputy Director, and the General Counsel shall also serve as the Board of Directors of the Authority (hereinafter in this Act referred to as the "Board"). The Board shall be required to judge the design and siting of any nuclear waste facility prior to application for any license to be granted by the Commission under the provisions of this Act. The aforesaid judgment shall require the approval of two-thirds of the members of the Board. Minutes of all meetings of the Board shall be kept and shall be open to the public. Such meetings shall contain a record of all dissents from the Board's decision.

FUNCTION OF THE AUTHORITY

SEC. 203. (a) Subject to the provisions of this Act, the Director shall perform such functions as are necessary to carry out its provisions including but not limited to:

(1) The establishment of a plan together with the estimates of costs and an analysis of the social and environmental impacts for the temporary and permanent treatment and disposal of all nuclear wastes, as well as obsolete, surplus, or abandoned radioactive facilities and sites in existence now or in the future which have been produced by the use of nuclear energy on or after January 1, 1940, until this Act regardless of their origin. This plan is hereinafter called the existing waste plan.

(2) The establishment of a plan together with estimates of costs and an analysis of the social and environmental impacts for the temporary and permanent treatment and disposal of all nuclear wastes, as well as obsolete, surplus, or abandoned radioactive facilities and sites which are expected to be produced by the use of nuclear energy in new facilities from the date of this Act until the year 2020. This plan shall be reviewed and revised, if necessary, every two (2) years commencing with the year 1985. This plan is hereafter designated as the "future waste plan."

(3) The establishment and operation of facilities for the temporary and permanent disposal of nuclear wastes, as well as surplus, obsolete, and abandoned radioactive facilities.

(4) The establishment and operation of programs for the treatment and disposal of nuclear wastes as well as the dismantling or decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites. Facilities and nuclear waste covered under this provision include but are not limited to those produced or owned by any agency, department, or administration of the United States Government, any State or municipality therein, or any individual or corporation.

(5) The establishment and collection of fees or user charges for the use of the aforesaid facilities or the participation in the aforesaid programs.

(6) The promulgation of such rules and regulations as are necessary to implement the powers granted to the Authority by this Act.

(b) Nothing in this section shall be construed as granting to the Authority regulatory functions presently exercised by the Commission.

ADMINISTRATIVE PROVISIONS

SEC. 204. (a) The Director is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem necessary to perform functions now or hereafter vested in him.

(b) The Director shall engage in such policy planning and perform such program evaluations and other studies, as he may deem necessary to promote the efficient and coordinated administration of the Authority.

(c) The Director may contract with any agency of the United States Government, any private individual or corporation to perform such studies as well as to evaluate the proposed or actual design siting, construction, radiological security of any nuclear waste facility owned or operated by the Authority or its agents and contractors.

(d) Except as otherwise expressly provided by law, the Director may delegate any of his functions to such officers and employees of the Authority as he may designate, and may authorize successive redelegations of such functions as he may deem necessary or appropriate.

(e) The Director shall cause a seal of the office to be made for the Authority and it shall be of such device as he shall approve. Judicial notice shall be taken on such seal.

INTERAGENCY COOPERATION AND INVENTORY OF NUCLEAR MATERIALS

SEC. 205. (a) Each department, agency, and instrumentality of the Government of the United States is authorized to furnish and shall provide the Director, upon his request, with any information or other data which he deems necessary to carry out his duties under the Act.

(b) Specifically, and in addition to all other requests the Director may make, the Department of Energy, the Department of Defense, and the Nuclear Regulatory Commission shall furnish the Director with a complete inventory of all nuclear wastes, nuclear fuels, radioactive materials and facilities and sites in their possession or in private ownership under their control or license. This inventory shall be delivered to the Director on or before January 1, 1979.

(c) In addition, the aforesaid departments, agencies, and instrumentalities shall provide the Director with projected inventories of the above wastes, fuels, materials, and facilities for a ten-year period commencing with the year 1980. Thereafter, the aforementioned agencies, departments, and instrumentalities shall provide the Director with a complete record of any changes in their inventory. The records of the aforesaid inventories or any changes therein shall be provided annually and shall be open for inspection by the public excepting only such records as are classified for restricted access by the Secretary of the Department of Defense. Records so designated shall, however, be open to the Director or any officers of the Authority.

(d) The Director shall report to the President, the Congress, and to the International Atomic Energy Agency annually concerning any substantial loss of any nuclear fuel or waste from its place of treatment, storage, or disposal. Such reports shall include the last known place and time where such material was located. "Substantial" here shall mean any amount greater than the radiological or fissionable equivalent of 0.05kg pure (100 percent) Pu_{239}.

PLANS FOR THE MANAGEMENT OF EXISTING AND FUTURE NUCLEAR WASTES

SEC. 206. (a) The Board of the Authority with the assistance of the United States Geological Survey, the Department of Energy, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency shall undertake a nationwide study to determine an inventory of suitable sites for the disposal of nuclear wastes and contaminated radioactive materials produced by the decontamination and decommissioning of radioactive facilities and sites. Any recommended site must be capable of containing all material disposed therein without human intervention commencing one hundred and twenty-five years after the date of disposal and following that date for a period of one hundred thousand years.

(b) Further, the Board with the assistance of aforesaid departments and agencies, shall prepare a plan (the existing "waste plan") for the treatment, security, and disposal of all nuclear wastes produced by any nuclear energy or radioactive facility or site whether in operation, under construction, surplus, or abandoned on the date of this Act. The existing waste plan shall also specify a schedule and methods for decommissioning or decontaminating all nuclear energy facilities that are in operation, under construction, obsolete, or abandoned on the date of this Act.

(c) Further, the Board, with the assistance of the aforesaid departments and agencies shall prepare a plan (the "future waste plan") for the treatment, security, and disposal of all nuclear wastes produced by any nuclear energy or radioactive facility or site

on which construction is expected to begin commencing with this Act until the year 2020. The future waste plan shall also specify a schedule and methods for decommissioning or decontaminating all such facilities and their sites.

(d) Both plans, together with the radiological standards empowered by title V of this Act, shall be submitted to the President on or before January 1, 1979 and shall be subjected to his disapproval, or modification within one hundred and eighty days of submission. Thereafter, the plans, as modified by the President, shall be submitted to Congress for its approval or disapproval by joint resolution. Such approval shall occur within one hundred and eighty days of its submission by the President. Any plan approved by the Congress shall be considered an approved plan for the purposes of this Act. Any plan not approved shall be returned to the Director of the Auhority for modification and resubmission within one hundred and eighty days of its rejection. Commencing with the year 1981, and every two years thereafter, the Director shall report to the President and to the Congress concerning the degree to which the objectives and schedules for implementation of the plans are being met.

(e) Both plans as well as all sites designated by the study shall incorporate and be consistent with the radiological standards empowered by title V of this Act.

PERSONNEL AND SERVICES

SEC. 207. (a) The Director is authorized to select, appoint, employ, or fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) The Director is authorized to obtain services as provided by section 3109 of title V of the United States Code. The Director is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses in accordance with chapter 57 of title 5 of the United States Code for travel while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field services of the Authority.

(c) The Director is authorized to utilize on a reimbursable basis the services of any personnel made available by any department, agency, or instrumentality including any independent agency of Government.

(d) The Director is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise him and make recommendations to the Authority on legislation, policies, administration, research, and other matters.

(e) The Director is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

(f) Except for public buildings as defined in the Public Buildings Act of 1959, and with respect to the lease space subject to the provisions of the Reorganization Plan Numbered 18 of 1950, the Director is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as he deems to be necessary in and outside the District of Columbia. Such authority shall apply only to facilities, quarters, and related accommodations for employees and dependents of employees of the Authority and such other special purpose real property as the Director deems to be necessary in and outside the District of Columbia. Title to property or interest therein, real, personal, or mixed acquired pursuant to this section shall be in the United States.

(g) The Director is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stattioned at remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) messing facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school age dependents of employees to the nearest appropriate educational facilities.

The furnishing of medical treatment under paragraph (1) of this subsection and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable values as is determined by the Director.

(h) The Director is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to the performance of the functions vested in him:

(1) Copyrights, patents, and application for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases before suit is brought, for past infringement of patents or copyrights.

(i)(1) The Authority shall hold title to and the Director shall have access to at any time all nuclear wastes, nuclear waste facilities, and surplus, obsolete, or abandoned radioactive facilities including but not limited to surplus or abandoned research, national defense, and commercial nuclear reactors, particle accelerators, and test facilities, nuclear fission and fusion wastes, unreprocessed uranium, thorium, and plutonium fuel and fuel elements and operating and abandoned uranium, thorium, and radium mines and mills. The Authority shall not hold title to radioactive sites but shall have access thereto and may enter thereupon for the purpose of decontaminating said sites.

(2) Notwithstanding the provisions of paragraph (1) of this subsection the Department of Energy may, upon one year's notice to the Director, reclaim any irradiated, abandoned, or "spent" nuclear fuel or fuel assemblies from which it desires to reclaim unfissioned uranium, thorium, or plutonium: *Provided, however,* That such reclamation can be carried out in a manner which will not endanger the health and safety of present or future generations of men and other living beings.

(j) The Director shall have access at anytime, upon notice, to any facility for the production or distribution of nuclear energy including but not limited to operating research, national defense, and commercial nuclear fusion, nuclear fuel reprocessing facilities, nuclear fusion reactors, particle accelerators and nuclear testing facilities, nuclear fuel reprocessing facilities, uranium, thorium, and radium mines and mills.

(k) The powers granted under subsections (i) and (j) of this section shall be in force throughout all lands, territories, or possessions under the jurisdiction of the Government of the United States as well as throughout and over the Continental Shelf surrounding the aforesaid.

(l) Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161), and other applicable law, the Director shall disseminate scientific, technical, and practical information required pursuant to this Act through information programs and other appropriate means and shall encourage the dissemination of scientific, technical, and practical information relating to nuclear waste management so as to enlarge the fund of such information and to provide a free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(m) The Director is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Authority. Gifts and bequests of money and proceeds from sales or of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. For the purposes of Federal income, State, and gift taxes, property accepted under this section shall be considered as the gift or bequest of the United States.

TITLE III—NUCLEAR WASTE MANAGEMENT FUND

SEC. 301. (a) There is hereby established in the Treasury of the United States a Nuclear Waste Management Fund (hereinafter in this Act referred to as the "Fund"). Notwithstanding any provision of the Congressional Budget Act of 1974, the Fund shall be administered by the Director without the requirement of annual authorization by the Congress in order to secure payment, when due of the principal of any redemption premium on and any interest on all Fund bonds, by a first pledge of a lien on all revenues payable to and assets held in the Fund, and to carry out the purposes, functions, and powers authorized in this Act.

(b) The purpose of the Fund is—

(1) to provide for capital expenditures which are necessary for the research, demonstration, design, and construction of nuclear waste facilities; and

(2) to serve as a repository for operating, maintenance, and contingency expenses required for the temporary storage of nuclear wastes and to provide for operation, maintenance, and security during the first thirty years after the permanent disposal of any nuclear waste or the dismantling of any radioactive facility.

(c) Within the Fund there is created a Perpetual Waste Trust Fund for the perpetual management (including insurance against any foreseeable contingency and catastrophe), security, and maintenance of nuclear waste facilities commencing thirty years after the permanent disposal of any nuclear waste or after the permanent disposal of any radioactive facility.

(d) In order to achieve the objectives and to carry out the purposes of this Act the Director may—

(1) issue and sell securities and Fund bonds;

(2) make and enforce such rules and regulations and perform such contracts, agreements, and commitments as may be necessary to carry out the purposes of this Act;

(3) prescribe and impose fees and charges for services rendered by the Authority pursuant to this Act, which shall be sufficient to cover (A) the retirement of all capital funds provided under section 301(b)(3), (B) the payment of all operating, maintenance, and security expenses incurred for the temporary storage of nuclear wastes and for operating and security expenses incurred during the first thirty years after the permanent disposal of nuclear wastes as well as the dismantling of any radioactive facility, and (C) the principal contributions to the Perpetual Nuclear Waste Trust Fund) which Fund shall contain principal sufficient to provide for the perpetual management of a nuclear waste facility from interest alone, 25 per centum of which principal contributions shall be assessed on the date of disposal or dismantling and the remainder shall be assessed in equal fractions for thirty years thereafter);

(4) settle, adjust, and compromise, and with or without consideration or benefit to the Fund, release or waive, in whole or in

part, in advance or otherwise, any claim, demand, or right of, by or against the Director or the Fund;

(5) sue or be sued, complain, and defend in any State, Federal, or other court;

(6) acquire, take hold, own, deal with, and dispose of any property, including bonds issued under this section; and

(7) determine, in accordance with appropriations, the amount to be withdrawn from the Fund and the manner in which such withdrawal shall be effected.

(e) There shall be deposited in the Fund—

(1) funds received by the Director for deposit in the Fund representing the proceeds from the issuance and sale of securities and Fund bonds as provided;

(2) income and gains realized by the Fund from any investment of excess funds of the Fund; and

(3) income from fees and charges established pursuant to this Act.

(f) If the Director determines that the amount of money in the Fund exceeds the amount required for current needs, the Director may invest such amounts as he deems advisable and obligations of or guaranteed by the governmental agency obligations or other securities of the United States.

(g) The Director may deposit moneys of the Fund with any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

FUND BONDS

SEC. 302. (a) The Director may issue Fund bonds in denominations of $100,000 (or any integral multiple thereof), and such total amounts as may be authorized by Congress. No Fund bonds—

(1) shall be issued which mature in less than eight or more than thirty years from the date of original issuance thereof; or

(2) shall, except as otherwise provided pursuant to this Act, be subjected to redemption (at the option of the Director) at any time prior to the tenth anniversary date of the original issuance thereof, or at any time thereafter.

(b) The Director shall impose a first pledge of and first lien on, all revenues payable to the assets held in the Fund, and appropriated for the use of the Director pursuant to this Act. The Director may impose such a pledge of a lien on all other revenues or property of the Fund. The purpose of and such pledge and lien shall be to secure the payment when due, or the principal and any redemption premiums on, and any interest on all Fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Director deems necessary or desirable. Any pledge made by the Director shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund, shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise against the Director or the Fund, without regard to whether such parties have notice thereof, no instrument by which a pledge is created need to be recorded or filed to project such a pledge.

(c) The Director may enter into binding covenants with the holders of Fund bonds and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to—

(1) the establishment of reserves and other funds;

(2) stipulations concerning the subsequent issuance of obligations; and

(3) such other matters as the Director deems necessary or desirable to enhance the marketability of Fund bonds.

(d) Subject to the provisions of subsection (a) of this section, the Director may determine with respect to Fund bonds—

(1) the form and denominations in which they shall be issued;

(2) the time when they shall be sold, and in what amount;

(3) the time when they shall mature;

(4) the price thereof at sale;

(5) the rate of interest thereon;

(6) whether, and in what manner, they may be redeemed prior to the date when they mature; and

(7) whether they shall be negotiable or nonnegotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) Fund bonds issued by the Secretary under this section shall—

(1) contain a recital that they are issued under this section, which shall be conclusive evidence as to the validity and regularity of the issuance and sale of such Fund bonds;

(2) be subject to such other terms and conditions as the Director may, by resolution authorizing the issuance, determine;

(3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, investment or deposit of which shall be under the authority or control of any officer or agent of the United States;

(4) not be exempted from Federal, State, and local taxation; and

(5) not to be debts or enforceable general obligations of nor shall be payment of a principal thereof or interest thereon be guaranteed by the United States.

Neither the full faith or credit nor the general power of the Federal Government shall be pledged to the payment of the principal or of any premium on or interest on such Fund bonds.

(f) Neither the Director, nor any other individual, who executes any Fund bond shall be subject to any personal liability or accountability by reason of issuance of such bond.

TITLE IV—POWERS OF THE DEPARTMENT OF ENERGY UNDER THIS ACT

SEC. 401. The Department of Energy shall be responsible for all necessary research and development in the design of methods for the operation, construction, and decommissioning of nuclear waste facilities, as well as the transportation, processing, storage, and disposal of nuclear wastes and the decontamination or decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites. The Department shall undertake all necessary research to determine the integrity of any proposed disposal technique over a period of one hundred twenty-five years with minimal human supervision and periods greater than one hundred twenty-five years up to a maximum of one hundred thousand years with no assured human supervision.

SEC. 402. Should the Director of the Authority require the performance of research and development or testing pertaining to the performance of his duties, upon notice, the Department shall undertake to fulfill his request in a timely fashion. The Department shall assess from the Authority all costs it incurs in the performance of its obligations under this section.

SEC. 403. (a) Any development work, including but not limited to the construction and operation of prototype nuclear waste processing and disposal facilities, shall be subject to review by the Nuclear Regulatory Commission. If it be determined that the aforesaid development work may cause hazardous radioactive contamination of physical facilities, the natural environment, geological formations, and aquifers, the Commission shall require the Department to post bond for the decontamination of all sites and facilities after the completion of the aforesaid development work.

If it be determined that the potential accident is unreasonably high, the Commission may require that the aforesaid development work cease until such potential is no longer unreasonably high.

(b) The Assistant Secretary of Environment within the Department of Energy shall participate in the design of all development work subject to the provisions of this title. The Assistant Secretary shall consult with the United States Geological Survey an other appropriate departments and agencies for advice and assistance.

TITLE V—POWERS OF THE ENVIRONMENTAL PROTECTION AGENCY UNDER THIS ACT

SEC. 501. (a)(1) The Environmental Protection Agency shall determine and promulgate such standards as will be necessary to protect the health and safety of human and other living beings from hazardous exposure to ionizing emissions from radioactive substances and materials. Further, the Agency shall determine those conditions under which the migration of nuclear wastes and materials from radioactive facilities, radioactive sites, and nuclear waste facilities shall constitute a hazard or danger to the health and safety of present or future generations.

(2) The aforesaid standards shall consider such factors as the possible future biological, chemical, and meteorological concentration, genetic impairment, as well as individual health and safety under an average exposure in the local or regional environment.

(3) The aforesaid standards shall be submitted to the President, the Congress, and to the Nuclear Regulatory Agency on or before January 1, 1979. Thereafter the Agency shall report every five years to the President, the Congress, and to the Commission concerning the necessity for revising the aforesaid standards or for the necessity for further research.

(b) The Agency may undertake or contract to undertake such research as it deems necessary for the performance of its duties under this title.

TITLE VI—POWERS OF THE NUCLEAR REGULATORY AGENCY UNDER THIS ACT

SEC. 601. (a) Notwithstanding any other provision of law, the Nuclear Regulatory Commission shall have licensing and related regulatory authority with regard to the operation of existing or future nuclear waste facilities, the transportation, processing, storage, and disposal of nuclear wastes as well as the decontamination and decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites regardless of their past present, or future ownership or origin.

(b) Licensing authority under this section shall only be exercised in conformance with those standards determined and promulgated under the provisions of title V of this Act, as well as those plans empowered by section 206 of title II of this Act.

(c) Any decision or license issued by the Commission under the provisions of this Act may be appealed by all parties to the decision or to a licensing proceeding, to the district court of the United States.

SEC. 602. (a) The Commission shall periodically inspect and enforce the terms of any license granted under this title.

(b) The Commission shall have the power of subpena over all records, documents, and data which it deems necessary for the performance of its obligations under this section. The Commission is also empowered to enter upon the premises of any licensed site or facility. Such entrance shall be unrestricted and may be without notice.

SEC. 603. The Commission shall review every ten years all licenses granted under this title to determine whether the original conditions and provisos are sufficient to assure the health and safety of present and future generations in light of the advancement of knowledge since the date of issuance. Should such conditions and provisos be determined as insufficient, their terms may be altered at the discretion of the Commission. The costs of any material improvements as may be required shall constitute a liability against the Nuclear Waste Management Fund or against the Perpetual Nuclear Waste Trust Fund created by section 301 of title III of this Act.

TITLE VII—POWERS OF THE SEVERAL STATES UNDER THIS ACT

SEC. 701. (a) Notwithstanding the provisions of this Act and notwithstanding the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following), the Commission is hereby enjoined from acting upon the application for a construction license for any facility employed in the production or utilization of commercial nuclear power or for the processing, treatment, or disposal of nuclear wastes and radioactive materials produced by decontamination or decommissioning of radioactive facilities or sites unless such application is approved by the State wherein the facility is to be located.

(b) Approval by a State under this section shall be by any process, individual, or designated body which is duly authorized by the constitution of the State. Such approval must occur on or before the last legislative day of the next full session of the legislature following submission of an application to the Commission. Failure by a State to act within such time shall be considered the same as approval by the State unless a copy of such application is received by the State after the beginning of a legislative session.

(c) The Authority, the Department of Energy, and the Commission shall supply the aforesaid duly authorized individuals or bodies with all documents, data, and research reports as they may deem necessary for the exercise of their powers under this section.

(d) Nothing in this section shall be construed as to prevent the Commission from holding hearings, taking depositions, or gathering other material evidence as it may deem necessary for acting upon the application subsequent to State approval.

SEC. 702. (a) The Governor of a State may designate an individual to participate on his behalf in all deliberations and proceedings of the Commission regarding the licensing of nuclear energy and waste disposal facilities, of the licensing of nuclear waste disposal, and the licensing of the decontamination and decommissioning of radioactive facilities and sites within its borders.

(b) The aforesaid representative shall receive timely notice of all hearings, meetings, and proceedings of the Commission in which he shall be entitled to participate under the provisions of this title.

(c) The aforesaid representative shall have the right to enter assents, dissents, and protests in the record of any such hearings, meetings, or proceedings, but he shall not have the power to vote as a member of the Commission upon any application.

(d) The aforesaid representative shall have access to data, documents, and reports to which any other member of the Commission is entitled under this section or any other Act.

(e) Nothing in this section shall be construed as to prohibit or limit the rights of the Government and people of any State from acting as a party or petitioner before any hearing or licensing procedure within the purview of the Commission.

SEC. 703. (a) Notwithstanding the provisions of section 701 of this title, if the Authority has submitted an application for a construction license of a nuclear waste facility in ten or more States, and when all such applications meet all criteria, regulations, and standards determined as necessary by the Commission, then the Commission may act upon such application if all such applications have been rejected by the States wherein the proposed facility is to be located.

(b) Preemptory action by the Commission under this section is only empowered for facilities which shall exclusively process, handle, store, or dispose of nuclear wastes in existence on the date of this Act other than military wastes generated by any facility authorized under chapter 9 of the Atomic Energy Act of 1954 or which shall be created by nuclear energy facilities in existence or under construction on the date of this Act, other than facilities authorized under such chapter 9.

TITLE VIII—INTERNATIONAL PLANNING AND AGREEMENTS

SEC. 801. The Director of the Authority and the Director of the United States Arms Control and Disarmament Agency shall seek the cooperation of and shall assist, by all means at their disposal, other nations and appropriate international organizations in negotiating treaties and other instruments to promote international research and regulation regarding siting, design, construction, and operation of nuclear waste facilities, as well as the security, transportation, processing, storage, and disposal of nuclear fuels and wastes.

SEC. 802. The Director of the Authority and the Director of the United States Arms Control Disarmament Agency shall seek to prepare and undertake a worldwide inventory of recommended sites for the disposal of nuclear wastes. Any recommended site should meet those standards required by this Act for the disposal of nuclear wastes within these United States.

SEC. 803. The Director of the Authority and the Director of the United States Arms Control and Disarmament Agency shall report annually to the President and to the Congress regarding the status of international negotiations and nuclear waste management programs mandated by this tile. Such reports shall also contain recommendations for diplomatic and programmatic initiatives by the President and Congress pursuant to the management and security of nuclear fuels and wastes. The Director of the Authority and the Director of the United States Arms Control and Disarmament agency shall seek the assistance and cooperation of international organizations and of other nations in preparing and undertaking a worldwide program for the management and security of nuclear fuels and wastes.

TITLE IX—TRANSFERS OF AUTHORITY

SEC. 901. All functions, powers, authorizations of appropriations, appropriations, and duties of the Department of Energy with regard to the domestic and international operation of nuclear waste facilities, the transportation, processing, storage and disposal of nuclear wastes, as well as the decontaimination and decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites are hereby transferred to the Authority. Nothing in this section shall be construed as transferring any authority, authorization of appropriation, power or duty of the Department with regard to research and development related to nuclear waste management as well as the decontamination and decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites.

SEC. 902. All regulatory and licensing powers, functions, and duties of the Environmental Protection Agency with regard to the disposal of nuclear wastes or radioactive substances in or below any body of water, sea or ocean are hereby transferred to the Nuclear Regulatory Commission.

SEC. 903. Excepting as provided in title VII of this Act, all powers existing under the Code of the United States, of the several States or municipality therein with regard to the licensing or regulatory powers of the Nuclear Regulatory Commission enumerated in this Act are hereby transferred to the Commission. Nothing in this subsection shall be construed as to prohibit the Commission from granting to a State or municipality the power to regulate or license the construction of nuclear waste facilities provided such licenses and regulations do not in any way nullify any regulation or any condition of any license promulgated or issued by the Commission.

TITLE X—AUTHORIZATION OF APPROPRIATIONS AND REPORTS OF BUDGETS

SEC. 1001. There is hereby authorized to be appropriated the sum of $1,000,000 to provide for the establishment and operation of the Authority during the fiscal year of this Act. Thereafter, the Director may submit to the Congress requests for such appropriations as he deems necessary for the pursuit of his duties under this Act.

SEC. 1002. The Director of the Authority, the Secretary of the Department of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress concerning the activities of their agency, department, authority, or commission during the preceding year pursuant to the powers granted them by this Act. Such reports shall also include a detailed statement of goals, expenditures, plans and income projected for the ensuing two years.

TITLE XI—SEPARABILITY AND CONSISTENCY WITH EXISTING LAWS

SEC. 1101. Nothing contained in the Atomic Energy Act, as amended, (24 U.S.C. 2017) or contained in any other applicable chapter of the United States Code as of the date of this Act shall in any way supervene or take precedence over the provisions of this Act.

SEC. 1102. If any provision of this Act or the application thereof to any person, corporate body, or political jurisdiction be held invalid no other provision of this Act or the application of such provision to other persons and circumstances shall be affected thereby.

[Comptroller General's Report to the Congress]

NUCLEAR ENERGY'S DILEMMA: DISPOSING OF HAZARDOUS RADIOACTIVE WASTE SAFELY

Growth of nuclear power in the United States is threatened by the problem of how to safely dispose of radioactive waste potentially dangerous to human life. Nuclear power critics, the public, business leaders, and Government officials concur that a solution to the disposal problem is critical to the continued growth of nuclear energy.

Radioactive wastes being highly toxic can damage or destroy living cells, causing cancer and possibly death depending on the quantity and length of time individuals are exposed to them.

GAO found:

Public and political opposition to nuclear waste disposal locations.

Gaps in Federal laws and regulations governing the storage and disposal of nuclear waste.

Geological uncertainties and natural resources tradeoffs encountered when selecting "permanent" disposal locations.

Lack of the Nuclear Regulatory Commission regulatory criteria for orderly waste management operations, such as solidification of waste, designing proper waste containers, and transporting nuclear waste.

Overly optimistic schedules for demonstrating the safety of the Energy Research and Development Administration's proposed waste disposal locations and waste management practices.

Lack of demonstrated technologies for the safe disposal of existing commercial and defense high level waste.

Now that commercial reprocessing of spent fuel has been indefinitely deferred, finding solutions to problems in storing and/or disposing of nuclear spent fuel will become a top priority matter.

GAO's report discusses these findings and proposes recommendations to improve Federal nuclear waste management and provide additional assurance that the public health and safety is considered in all matters of nuclear waste disposal.

SOURCES OF RADIOACTIVE WASTE

Nearly all operations that produce or use nuclear materials generate radioactive waste. Most waste comes from the energy Research and Development Administration's military reactors, commercial nuclear powerplants (spent fuel elements)[1] and Federal and commercial fuel cycle activities—mainly fuel fabrication and reprocessing facilities.

This report discusses (1) high level waste, (2) transuranic contaminated waste, and (3) reactor spent fuel. All these materials contain transuranic[2] elements which determine to a large extent the degree of long term hazard associated with them because some of these isotopes remain hazardous for hundreds of thousands of years.

High level waste—has extremely high radioactivity—as much as 10,000 curies[3] per gallon. This waste is characterized by high levels of penetrating radiation, high heat generation rates, and a long toxic life. High level waste is created when reactor spent fuel elements are dissolved in acid to recover unused uranium and plutonium for reuse as nuclear fuel. It is the acid solution remaining that is referred to as high level waste. It contains virtually all the fission products[4] and small amounts of transuranics—such as plutonium—which are not recovered during the reprocessing operations. It is one of the most hazardous and complex of all radioactive wastes to manage.

Transuranic contaminated waste—contains much lower concentrations of radioactivity than high level waste. It is generated by plutonium fuel fabrication and fuel reprocessing facilities and laboratories using transuranic elements. This waste generally consists of absorbent tissues, clothing, gloves, plastic bags, equipment, filters from effluent treatment systems, and fuel hulls which remain after fuel reprocessing.

Spent fuel—contains all the fission and transuranic elements that are found in high level waste and all the uranium and plutonium not used during the nuclear reaction. Spent fuel is characterized by high levels of penetrating radiation, high heat generation rates, and a long toxic life.

Until the 1960s, little effort was made to develop technologies for the long term storage or "permanent" disposal of hazardous radioactive waste. The production of atomic weapons materials and development of commercial nuclear powerplants received the highest priority. Decisions as to the management of military waste were based on short term expediency rather than long term considerations.

Even if all activities which generate radioactive waste were stopped today, the United States still would be faced with a major radioactive waste disposal problem. Radioactive waste has been accumulating for decades from the Energy Research and Development Administration's military and research development efforts, fuel reprocessing activities, and commercial nuclear powerplant operations.

Today about 71 million gallons of high level waste produced by the Energy Research and Development Administration's plants, which reprocess spent fuel from production reactors used for the weapons program, is "temporarily" stored in steel tanks at the Hanford facility in Richland, Washington (50 million gallons) and at the Savannah River facility in Aiken, South Carolina (21 million gallons).

In addition, approximately 3 million gallons are stored in underground tanks and bins at the Idaho National Engineering Laboratory at Idaho Falls, Idaho.

About 13 million cubic feet of transuranic contaminated waste from military and research activities either has been buried or stored retrievably at five principal shallow-land burial sites of the Energy Research and Development Administration. This waste is contaminated with about 1,000 kilograms of plutonium. Some of the 1.3 million cubic feet of radioactive waste generated by the Energy Research and Development Administration each year is contaminated with transuranic elements. About 7 million cubic feet of commercial transuranic contaminated waste is expected to accumulate by the year 2000.

About 600,000 gallons of high level waste has been generated from commercial reprocessing activities and is currently stored at West Valley, New York. Should commercial reprocessing operations resume, estimates are that through the year 2000, an addefinitely deferred commercial reprocessing of spent fuel.

Commercial reactor spent fuel is accumulating at nuclear powerplants because there are no commercial reprocessors now operating in the United States. Resumption of reprocessing does not seem probable in the near future since President Carter has indefinitelydeferred commercial reprocessingof spent fuel.

If it is finally decided that there will be no further commercial reprocessing, spent fuel elements from existing and future civilian power reactors probably will have to be managed as high level radioactive waste. Meanwhile, nuclear powerplants have had to store their spent fuel in storage pools at the reactor sites. As a result, a backlog of spent fuel is accumulating at the powerplants.

The Energy Research and Development Administration estimates that 1985 is the earliest possible date a geological waste disposal facility or other storage facility to receive spent fuel could be ready. By this time the nuclear industry could be faced with a severe shortage of storage capacity.

Spent fuel and transuranic contaminated waste could be as hazardous to the public health and safety as high level waste. While the Federal Government requires extensive regulatory and public oversight over most nuclear plant operations because they use nuclear materials, the same degree of public protection and independent oversight is not currently required for the storage and/or disposal of these hazardous nuclear materials. This situation needs to be changed.

THE NUCLEAR REGULATORY COMMISSION LACKS AUTHORITY OVAR ALL WASTE STORAGE AND DISPOSAL ACTIVITIES

The Congress provides for an independent review of nuclear activities, including waste disposal by the Nuclear Regulatory Commission. Under the Energy Reorganization Act of 1974, the Commission has specific responsibility for licensing and regulating all Energy Research and Development Administration facilities used for storage of commercial high level waste. It has similar authority for retrievable surface storage facilities and other long term storage facilities for the Energy Research and Development Administration's high level waste. This does not include authority over the agency's facilities which are used for or are part of research and development activities.

The act does not specifically give the Commission licensing authority over the Energy Research and Development Administration's—

research and development facilities or full-scale facilities for the temporary storage and/or long term storage or disposal of commercial and its own transuranic contaminated waste,

facilities for the temporary storage of its own high level waste, or

research and development facilities or full-scale facilities for temporary storage and/or long term storage or disposal of commercial spent fuel.

The Congress either should give the Commission authority over those Energy Research and Development Administration facilities—including research and development facilities—intended for the storage and disposal of its own high level wasted, or provided for other independent oversight and assessment of these facilities. The Congress should also either give the Commission authority over the storage and disposal of transuranic contaminated waste and spent fuel, or provide for an alternate means of independent oversight and review.

DISPOSAL OF MILITARY- AND RESEARCH-RELATED WASTES

After several deades of work, the Atomic Energy Commission did not, and its successor—the Energy Research and Development Administration—has not yet: demonstrated acceptable solutions for long term storage and/or disposal of defense- and research-related high level waste, or satisfied the scientific community that present storage sites are suited geologically for long term storage or disposal.

The Energy Research and Development Administration is investigating several alternatives for managing its military and research wastes, including—

immobilizing in place,

solidifying and disposing at Hanford and Savannah River, and

solidifying and shipping to a Federal geological repository.

Before this high level waste can be moved to a repository, however, major questions involving retrievability from its temporary storage tanks at Hanford and Savannah River must be resolved.

The Energy Research and Development Administration does not now have the technological capability to extract all of this waste from the storage tanks. The waste stored at Hanford and Savannah River makes up 94 percent of the total volume of waste. This waste has been converted into a chemical form that may be unsuitable for long term storage.

The Energy Research and Development Administration is testing methods which may make possible the extraction of up to 99 percent of the high level waste from most storage tanks. However, these methods may not work with some older tanks because of their poor condition. The remaining 1 percent of the waste would contain long-lived toxic radionuclides such as plutonium and strontium-90. The costs of extracting and preparing all of the waste for geological disposal are uncertain. Estimates range from $2 billion to $20 billion.

The Energy Research and Development Administration is exploring alternatives for long term storage or disposal of the waste at Hanford and Savannah River. Alternatives include entombment in the existing tanks if the waste cannot be removed, and removal of the waste and burial at the site, either in near-surface facilities or in deep geological formations. These alternatives present still other questions such as the suitability of these sites for geological disposal. Any facility for long term storage or disposal of the waste at these sites will require licensing by the Nuclear Regulatory Commission.

MANAGEMENT OF COMMERCIAL SPENT FUEL

Since a tremendous backlog of spent fuel (potential high level waste) exists at nuclear powerplants because no commercial reprocessors are operating in the United States, utilities are adopting several options to increase their storage capacity. These capacities are being modified at existing reactors and larger storage facilities are being planned for new reactors. Spent fuel shipment to storage pools within a utility's nuclear powerplant syste mis another plan that utilities are considering.

As of January 1977, utilities operating 36 of the 63 present nuclear reactors haev notified the Commission of their interest to increase storage capacities at their reactor pools by reducing the amount of space between stored fuel elements (compaction).

The safety of such action has been questioned by the Natural Resources Defense Council. In response, the Commission has undertaken a generic environmental impact statement on the storage of fuel elements. While the statement has not been completed, the Commission has allowed compaction on a case-by-case basis. According to the Commission, before allowing compaction the safety concerns raised by the Natural Resources Defense Council are addressed in each request for increased storage capacity.

According to the Commission staff there are no significant environmental or safety impacts associated with these individual actions. As of January 1977, compaction has been approved for 14 of the 36 reactors.

The Commission has, in fact, justified allowing compaction for utilities which have shown an immediate need for additional storage capacity in order to maintain electrical generating capability. However, some utilities were allowed compaction without demonstrating such an immediate need.

GAO believes that until the Commission completes its generic environmental impact statement, it should limit through license restrictions, the amount of spent fuel that can be put in storage pools to no more than the amounts for which the storage pools were designed and authorized under the initial operating license. Compaction should only be allowed if the utility can prove to the Commission's satisfaction that (1) it would be forced to shut down operations if increased storage at that site was not allowed, and (2) such action would not increase the safety risk to the public or environment. It is of the utmost importance that the Commission complete and issue the generic environmental impact statement as soon as possible so that unanswered questions can be resolved concerning increased fuel storage at reactor pools.

OBSTACLES TO GEOLOGICAL WASTE DISPOSAL

The Energy Research and Development Administration has begun an ambitious program to demonstrate the safety of placing commercial and military wastes in deep geological formations. It is seeking seven sites for facilities in widely separated areas in the country.

The Energy Research and Development Administration has set 1985 as the year for completing two geological disposal facilities for commercial high level and transuranic contaminated wastes and spent fuel (if and when it is defined as a waste). It also plans to complete four more geological disposal facilities for commercial waste between 1987 and 1991.

Furthermore, the Energy Research and Development Administration plans to build a separate disposal facility by 1983 for its own transuranic contaminated waste, generated by military and research activities. At this facility, it intends to have the experimental capability to determine site suitability for high level waste disposal.

One of the potential geological disposal sites which may be used for the 1983 facility is being developed in New Mexico. This facility might eventually be used for routine high level waste storage; however, the Energy Research and Development Administration has no established date for storing such waste.

The Energy Research and Development Administration's position has been that the New Mexico location is for its transuranic contaminated waste and to provide experimental capability to determine whether or not the site is suitable for high level waste disposal.

Since public and official sentiment in New Mexico appears favorable to a waste disposal facility and the project is further advanced than the commercial waste repository program—which may not have a site ready by 1985—this site may also serve the needs of the commercial nuclear industry by becoming the first commercial waste repository.

Because the President has indefinitely deferred commercial reprocessing of nuclear spent fuel, the Energy Research and Development Administration has decided to initiate a project to store spent fuel in a proposed Surface Unreprocessed Fuel Facility. In the event the President and the Congress ultimately decide against commercial reprocessing, spent fuel—if defined as waste—might have to be disposed of in the geologic repositories. This will affect the six commercial waste repositories currently being planned by the Energy Research and Development Administration.

The six repositories were arrived at mainly to spead nuclear waste regionally throughout the Nation, and minimize any setback to the program should a potential site(s) prove unacceptable. Storage and/or disposal of spent fuel in geological formations requires more acreage than is needed for storage and/or disposal of high level waste.

While the precise number of repositories which will be needed is not known, officials of the Nuclear Regulatory Commission and the Energy Research and Development Administration indicate that three of the size currently being planned may be all that will be needed. In view of the $200 million cost per repository, plus question of excess capacity, public opposition to nuclear waste disposal locations, and security needs, the Energy Research and Development Administration should evaluate the number of repositories currently planned, and justify on a cost-benefit basis, the number they finally believe will be necessary.

The obstacles

The program for commercial radioactive waste repositories which was supported by the Federal Energy Resources Council[5] faces many obstacles. The most serious and critical is public and political opposition to waste disposal sites. The success of this program depends to a great extent on whether the Energy Research and Development Administration can demonstrate to the public and elected officials that it has a sound waste management program and that the disposal of radioactive waste in geological risks associated with the storage and/or formations are low.

The Energy Research and Development Administration twice has been unsuccessful in developing potential waste disposal sites because of insufficient attention to the factor of public acceptance—in Kansas and in Michigan.

Other obstacles in the Energy Research and Development Administration's geological waste disposal program include—

geological uncertainties and natural resource tradeoffs,

questionable demonstration time period estimates,

undemonstrated technology for preparing radioactive waste, and

lacking Nuclear Regulatory Commission criteria for orderly waste management operation.

The Energy Research and Development Administration is aware of these obstacles and is addressing them.

Another aspect of the waste repository program which is not, in our opinion, based on realistic appraisals is the goal of building six waste repositories in the stated time period. This goal appears overly optimistic in estimating the time required to identify, study, design, construct and confirm the feasibility of the repositories. Such an unrealistic schedule could further decrease the public's confidence in the Energy Research and Development Administration's waste management program.

RECOMMENDATIONS

To better insure public health and safety the Congress should amend the Energy Reorganization Act of 1974 to provide for independent assessments of the facilities of the Energy Research and Development Administration—including research and development facilities—intended for the temporary storage and/or long term storage or disposal of commercial and its own transuranic contaminated waste; the temporary storage of the Energy Research and Development Administration's high level waste; and the temporary storage and/or long term disposal of commercial spent fuel.

To provide such an independent assessment Congress should adopt one of three alternatives:

Give the Nuclear Regulatory Commission the authority and responsibility for establishing policies, standards, and requirements in

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[1] Spent fuel has not yet been defined by the Nuclear Regulatory Commission as high level waste and may not be, because of its potential value as a source of fuel if reprocessed. This report will consider spent fuel as a "potential" high level waste.

[2] Transuranic elements are man-made, long-lived, and extremely toxic. These elements—such as plutonium—are created during the normal nuclear reaction process. They are found in several nuclear fuel cycle operations and are contained in nuclear waste in varying concentrations.

[3] Curie—a measure of the quantity of radioactive material.

[4] Fission products—those isotopes formed during the nuclear reaction process that are not part of the transuranic elements. Some of these isotopes are hazardous for hundreds of years.

[5] The Federal Energy Resources Council had the responsibility for coordination of Administration policies and programs relating to energy. The Council participants included: Council on Environmental Quality, Department of Commerce, Department of Interior (U.S. Geological Survey), Environmental Protection Agency, Federal Energy Administration, and Energy Research and Development Administration. The Council's function's were recently transferred to the newly created Department of Energy under President Carter's reorganization plan for the Executive Office of the President.

cooperation with the Energy Research and Development Administration for carrying out these assessments.

Retain this responsibility and authority within the Energy Research and Development Administration, subject to certain statutory provisions, to insulate the oversight activities.

Authorize the Nuclear Regulatory Commission to assess periodically the Energy Research and Development Administration's facilities and annually report the results to the agency and the Congress.

In testimony before congressional committees, GAO has stated a preference for the first alternative.

GAO also recommends that the Congress closely scrutinize, through the annual authorization and appropriation process, the progress of the Energy Research and Development Administration's program for long term waste management.

The Administrator of the Energy Resarch and Development Administration should:

Proceed to reevaluate the impact that spent fuel storage and/or disposal will have on its commercial repository program.

Reconsider the need for six high level waste repositories in view of disposal requirements through the year 2000 and justify on a cost-benefit basis the number it finally believes will be necessary.

Reevaluate plans for completing the first two repositories by 1985, considering realistically all social, geological, and regulatory obstacles.

Consider the appropriateness of using the New Mexico location also as a commercial waste disposal site, since by 1985 no other facilities may be ready to receive these wastes and public utilities may no longer be able to store them at the reactor sites unless other facilities are constructed. This should be done without sacrificing or impairing the mission of the site to receive Energy Research and Development Administration transuranic contaminated waste.

The Chairman of the Nuclear Regulatory Commission should:

Proceed on a priority basis to complete its waste repository licensing procedures.

Proceed on a priority basis to include in its waste performance criteria, criteria for the storage or disposal of spent fuel.

Complete and issue the generic environmental impact statement on spent fuel as soon as possible, and in the interim, limit through license restrictions the amount of fuel which can be stored in reactor pools to no more than what was originally licensed for, unless the reactor would be forced to shut down operations.

AGENCY COMMENTS AND GAO'S EVALUATION

The Nuclear Regulatory Commission disagreed with GAO's recommendation that pending issuance of the generic environmental impact statement on spent fuel, the amount of spent fuel that can be stored in a reactor pool be restricted to the amount for which it was originally designed and licensed unless the reactor would be forced to shut down. The Nuclear Regulatory Commission cited several operational and procedural reasons for its position.

While GAO does not take exception to the Commission's reasons, it still believes the recommendation should be implemented. The Commission has not fully determined the overall environmental effects from these individual licensing actions nor has it compared these actions to other alternatives for spent fuel storage, such as storage at centralized storage facilities away from nuclear powerplants. Such an assessment is the objective of the generic statement now being prepared by the Nuclear Regulatory Commission. Until this assessment is completed, GAO believes the Commission should restrict the amount of spent fuel to be stored in a reactor pool. To do otherwise may raise public suspicion and concern that the Nuclear Regulatory Commission has made prejudgmental findings on the overall environmental effects of such individual licensing actions, and as such, could possibly cast doubt on the integrity of the generic statement when issued. Furthermore, these individual actions could potentially foreclose the adoption of other storage alternatives that may be as good or better than allowing each utility to increase their storage capacities at the reactor site.

The Nuclear Regulatory Commission did not disagree with the recommendation to the Congress which could broaden its authority over Energy Research and Development Administration waste storage facilities.

The Energy Research and Development Administration generally concurred with the recommendations concerning its activities and stated that work was already underway. Regarding the recommendation to the Congress, the Energy Research and Development Administration agrees that an independent assessment within its organization has merit from the standpoint of assuring the Administrator and the public as to the adequacy of its nuclear operations. However, it does not consider that the first and third alternatives which would place this responsibility within the Nuclear Regulatory Commission are viable since either would, in its view, impose extraordinary burdens on both organizations without commensurate benefit. It believes such a recommendation would be tantamount to requiring its facilities to be licensed by the Nuclear Regulatory Commission. Further, the Energy Research and Development Administration contends that added Nuclear Regulatory Commission activities at its facilities could result in the Commission having to acquire expertise they do not now have and which would, to a large extent, be duplicative of the Energy Research and Development Administration. It stated, however, that it has undertaken a comprehensive study to determine how its current assessment activity could be restructured within its organization to provide greater independent assurance to the general public.

GAO doubts that the Energy Research and Development Administration can in fact, structure an organization within itself to independently assess its waste operations without statutory provisions designed to insulate oversight activities from development functions.

THE NUCLEAR WASTE MANAGEMENT ACT OF 1977 BY CHARLES MCC. MATHIAS, JR. AND JOHN H. O'NEILL, JR.

Beginning with the period immediately following World War II, Congress participated in and authorized the development of a nuclear weapons arsenal to ensure the security of the United States and the free world. With the Atomic Energy Act of 1954, Congress encouraged and authorized the commercial, peaceful application of nuclear power. The deterrence of nuclear weapons and the strength and flexibility of our Navy's nuclear ships and submarines have contributed to over thirty years of relative world peace. The commercial utilization of nuclear energy for the generation of electricity has made a significant contribution in meeting our energy requirements and may provide one of the near-term energy solutions to a world which is rapidly depleting its reserves of fossil fuels.

The benefits and promises of the development of nuclear power are not, however, without societal costs. Congress must now squarely face up to a legacy of nuclear power development, military and commercial, in the form of accumulating nuclear wastes. The challenge of this legacy to social institutions, as we begin our third century as a nation, is unique, because high-level nuclear wastes must be safely isolated from the environment for hundreds of centuries in the future.

The magnitude of the problem can be indicated by the volume of nuclear wastes which now are held in "temporary" storage pending a permanent means of disposal. It is estimated that as a result of military activities from the middle 1940's to the present, the former U.S. Atomic Energy Commission ("AEC") and its successor, the Energy Research and Development Administration ("ERDA"), have generated about 215 million gallons of liquid high-level nuclear waste. In contract, the commercial nuclear power industry has until now produced less than 600,000 gallons of high-level nuclear waste. It is estimated, however, that the commercial nuclear power industry in the U.S. will generate about 60 million gallons of liquid high-level waste by the year 2000. The major long-lived isotopes which are found in high-level waste, strontium-90, cesium-137 and plutonium-239, continue to emit harmful radioactive particles for thousands of years.

The problem of managing nuclear wastes has been a concern of the Congress since at least 1959. Congress has appropriated hundreds of millions of dollars for research and development of waste management techniques. Since 1959, hearings before the Joint Committee on Atomic Energy, the House and Senate Appropriations Committees and the House Interior Committee have kept Congress informed on the state of research and development efforts in nuclear waste management. Congress has been consistently informed that the problem of management of nuclear wastes was "technically soluble."

The technical solution for long-term disposal of nuclear wastes that was recently recommended to the Congress, sealed storage in stable geologic formations such as saltbeds, is, depressing as it may be, the same recommendation made to the Atomic Energy Commission by the National Academy of Sciences twenty years ago. Congress was informed that ERDA will not complete a pilot facility for nuclear waste disposal until 1985. After over twenty years of studies, research and development, today there is no long-term management of nuclear waste and no comprehensive scheme for the regulation of such waste.

Nuclear waste management is a present problem. To date, inadequate effort has been devoted to the problem of long-term management of nuclear wastes. Congress has taken no action specifically relating to nuclear waste disposal other than to provide funding for waste operations and research and development. A more urgent approach is needed. The public now perceives nuclear waste as a problem that is not being properly handled. A recent Louis Harris poll found that 67 percent of the persons interviewed held the view that "the disposal of radioactive waste materials which remain radioactive for many centuries to come is a major problem." The California nuclear legislation enacted last year requires that there be approved and exists a demonstrated technology for disposal of high-level nuclear wastes before future nuclear plants may be licensed.

A study recently completed for ERDA by Mason Willrich under the auspices of the Energy Laboratory at the Massachusetts Institute of Technology concludes that the existing organization for nuclear waste management thwarts the effective management of waste disposal. The existing Federal-State-private industry structure for nuclear waste management was found to be "unworkable if left unchanged." Additionally, the study concluded that the existing framework for nuclear waste regulation is likely to be "ineffective if left unchanged."

The Nuclear Waste Management Act of 1977 ("S-63"), which I introduced in the Senate on January 10, 1977, is designed to resolve the inaction and stagnation which has plagued the nuclear waste management program. Based, in part, on the recommendations in the study performed by Professor Willrich, S-63 would provide a new and efficient means of managing and regulating nuclear wastes. S-63 would create a new, independent executive agency, the Nuclear Waste Authority ("Authority"), which would be tasked with the safe management and disposal of all military, government and commercial nuclear wastes. Because of the present diffuse pattern of responsibility in managing and regulating the management of nuclear waste, S-63 would establish the lines of authority among federal agencies and the States with respect to nuclear wastes. Because the problem of nuclear waste management is not solely a concern of the United States, but rather increasingly is one of international scope and ramifications, S-63 would require the establishment of a commission to study and recommend means of international cooperation in managing nuclear wastes.

THE NUCLEAR WASTE AUTHORITY

The existing organizational framework for management of nuclear wastes is fragmented. For the most part, ERDA manages all military nuclear wastes. The responsibility for the management of commercial nuclear wastes is divided between ERDA, licensees of the NRC (generally private companies), and in some cases the States. Commercial high-level waste is managed by licensees of the NRC until planned delivery to ERDA facilities for final disposition. Thus private industry is responsible for the short-term (temporary storage, treatment, packaging, transportation) while the federal government is responsible for the long-term (retrievable storage or permanent disposition). The present law and NRC regulations permit private industry to have both short- and long-term management responsibilities for commercial transuranic waste.

Nuclear waste management operations are characterized by a high degree of interdependence. Permanent disposition is affected by the waste treatment, which in turn is affected by waste composition. Thus the risks and costs of permanent disposition methods affect and are affected by particular waste solidification, packaging, and other treatment methods. The present bifurcated responsibility for the series of waste management operations which are technically and functionally integrated creates incentives for each sector to pass through to the other as many risks and costs as possible. This division of responsibility makes it difficult to make intelligent trade-offs between short- and long-term considerations.

From a technological standpoint, nuclear waste operations require a fully integrated management framework. The management framework should be vertically integrated so as to include all operations from temporary waste storage, through treatment and transportation, to permanent disposition. The framework should be horizontally integrated to include post-fission high level and transuranic wastes of both commercial and military origin.

The Authority which S-63 would create would provide a centralized and fully integrated waste management responsibility. The Authority would manage all military and commercial nuclear wastes. The authority would take over all ERDA waste management facilities except those facilities for research, development and demonstration of waste management techniques. ERDA would be required to contract the management of all demonstration facilities to the Authority. The Authority would be responsible for the implementation of all future waste management programs developed by ERDA and approved, at least indirectly by authorizing appropriations, by the Congress.

Rather than create a new federal agency, centralized, integrated waste management could be delegated to either a private organization or to an existing government entity, such as ERDA. Because of the long-term problem posed by nuclear waste, a government agency is the only appropriate caretaker. ERDA's primary responsibility and emphasis, and therefore incentive, is research and development. In contrast, the only responsibility of the authority and thus the only incentive for performance will be the effective and safe management of nuclear waste.

The Authority is designed to be a business enterprise. It will not be financed directly by annual congressional appropriations. Initial required capital will be obtained through debt financing in the form of bonds. The Authority's income will be realized by charging user fees to both government and commercial users. The user fees levied by the Authority will be designed to recover its costs. Thus, the costs of waste management to the nuclear industry will be internalized and reflected in the cost of electricity from nuclear generating stations.

The major advantages to the Authority over the present organizational framework is the centralization and integration of nuclear waste management and the establishment of sole responsibility for perpetual care of nuclear waste in a government institution. The organizational change is not, of course, an end in itself. The effectiveness of the Authority in managing nuclear wastes depends on coincident reform of the regulatory framework.

REGULATING NUCLEAR WASTES

Perhaps even more crucial to the effective implementation of a program for nuclear waste management under the new Authority is establishing a regulatory framework which will both ensure the health and safety of the public and promote timely, informed decisionmaking on the policy and technical questions. While the existing body of nuclear waste regulation is in the early stages of development, it already exhibits signs of paralysis. The Nuclear Regulatory Commission ("NRC") has the major statutory responsibility for regulation of nuclear power facilities, including nuclear waste.

However, ERDA develops criteria and standards for its own operations. ERDA contractors, who are responsible for day-to-day management of military nuclear waste, are supervised and regulated by ERDA through the terms of their contracts with ERDA. ERDA supervision of contractor operations is not as open to public scrutiny as is the NRC's regulation of private industry operations. While the Energy Reorganization Act of 1974 gives to the NRC licensing authority over ERDA facilities for long-term storage of high-level radioactive waste, ERDA has taken the position that facilities that are constructed for storage for less than twenty years are not included under "long-term storage", and thus are not subject to NRC regulation. The NRC has accepted this position. Additionally, under present law it is clear that military nuclear waste already in existence at the time the Energy Reorganization Act of 1974 was enacted is not subject to NRC licensing.

The Environmental Protection Agency ("EPA") also has asserted some authority in the regulation of nuclear wastes. The authority transferred to EPA by the Reorganization Plan of 1970 included the responsibility to "[provide] guidance for all Federal agencies in the formulation of radiation standards" and to "[establish] limits on radiation exposures or levels, or concentrations or quantities of radioactive materials in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material." Thus, EPA has the jurisdiction to set exposure standards for transport of wastes (outside the boundaries of NRC licensees' and ERDA's facilities). Under the authority of its "guidance" mandate, EPA is considering expanding its standard-setting authority to reach within the boundaries of NRC-licensed or ERDA facilities.

The Department of Transportation ("DOT") and the NRC have overlapping jurisdiction in regulating the transportation of radioactive materials including nuclear wastes. Recognizing their jointly held jurisdiction, DOT and the former AEC in 1973 entered into a Memorandum of Understanding which allocates regulatory duties in this area. ERDA and the NRC, as the AEC's successor agencies, require shippers to comply with the DOT regulations for the shipment of radioactive materials.

Individual states increasingly are challenging exclusive federal jurisdiction over nuclear waste. The numerous state nuclear power initiatives which have been proposed, all of which have been so far rejected by large majorities of the voters, have generally contained provisions expressly aimed at the nuclear waste problem. Under the "Agreement State" provisions of the Atomic Energy Act, states can regulate commercial low-level waste operations within their boundaries. Additionally, some states have asserted regulatory authority over transportation of nuclear wastes. States have some control over the siting of a nuclear waste management facility by virtue of land use laws. If nothing else, the states can exert political pressure to gain concessions from a federal agency in the siting of a nuclear waste management facility, even if actual state regulation were preempted by federal law.

The extent of overlapping jurisdictional problems and the resulting decisionmaking delays is most evident in the interpretation of each agency's responsibilities under the National Environmental Policy act ("NEPA"). NEPA requires every federal agency to prepare an Environmental Impact Statement ("EIS") in connection with "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." The NEPA review has become the focal point for agency decisionmaking.

In addition to disclosure of all environmental effects, NEPA either requires or has been interpreted by the courts to require planning, a consideration of alternatives (including doing nothing), a balancing of the anticipated benefits with the perceived risks and a justification of any irreversible commitment of resources. The EIS must be prepared in consultation with and must include the comments of "any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." NEPA does not require that the agency select an alternative action that has the least harmful impact on the environment. The EIS must be prepared, however, in accordance with strict procedural requirements or may be deemed inadequate by a court.

Rather than risk rejection by a court, agencies spend years producing thick, multivolume studies evaluating every conceivable impact of their proposals, the production of which has created a whole new "industry" of environmental analysts, environmental engineers and environmental lawyers to churn out the mountains of paperwork. While the EIS has forced private industry and federal agencies to incorporate environmental considerations in early planning for decisionmaking, the costly and time consuming procedures and practices in developing the EIS's have become a distortion to the original intent of Congress.

In hearings held last May before the Subcommittee on Environment and Safety of the Joint Committee on Atomic Energy, Congress was informed of ERDA's timetable for demonstrating waste management technology. The major actions that were listed for accomplishments by ERDA and the NRC through 1978 were the preparation of various EIS's on waste management. This follows over twenty years of research, development and studies in waste management technology and the publication last year by ERDA of a 1500 page Technical Alternatives Document for management of radioactive waste which involved the coordinated efforts of 200 experts. Without additional legislative guidance, it is safe to assume that ERDA would prepare a generic EIS on waste management programs and would prepare a separate EIS on each step in the implementation of its waste management program. The NRC would prepare a generic EIS on its regulatory program and a separate EIS on each facility that it licenses. The Authority would prepare an EIS on its waste management program and on each step in the implementation of its program. The considerable procedural requirements for preparing each of these statements would result in delay in implementing the Waste Management programs and substantial duplication of information and analysis.

The regulatory reform that I have proposed in S-63 is not so ambitious as to resolve the conflicting and overlapping jurisdictions among the various agencies and the states. With respect to nuclear waste management the jurisdictions and lines of authorities have been simplified. The NRC is given exclusive regulatory and licensing authority over nuclear wastes, both commercial and military. ERDA would no longer be a self-regulator with respect to research, development and demonstration facilities. The Authority would manage nuclear wastes within the framework of the NRC's criteria, standards and regulations. The EPA would not have any responsibility over nuclear wastes, including the transportation of nuclear wastes.

While EPA would still have the responsibility for establishing radiation exposure limits in the general environment outside the boundaries of licensed facilities, NRC would determine within those limits, what part of that exposure will be contributed by the various functions in the entire fuel cycle. The DOT would no longer have direct jurisdiction for the regulation of the transportation of nuclear waste. NRC could continue to require the Authority and licensees to comply with DOT regulations with respect to transportation of hazardous materials and could continue to coordinate with DOT under the terms of a memorandum of understanding. It would be clear that the actual regulatory authority is vested exclusively in the NRC.

Additionally, the states would be expressly preempted from the regulation of nuclear wastes. The states would continue to have a voice in siting of nuclear facilities. The effective centralization and integration of nuclear waste management require, nonetheless, that there not be a potential for 50 conflicting local regulatory schemes.

Section 14 in S-63 on Environmental Impact Statements is designed to clarify the NEPA responsibilities of ERDA, the NRC and the Authority. In doing so, it outlines the decisionmaking process. It is not intended to be a substantive change in the law, but rather to resolve varying interpretations of NEPA, at least with respect to nuclear waste management.

ERDA would be required to present to Congress, no later than July 1, 1978, a Final EIS on generic waste management issues with respect to its research, development and demonstration program, including its environmental assessment of planned demonstration facilities. As long as Congress continues to appropriate funds for research, development and demonstration of nuclear waste management technology, ERDA would each year thereafter submit an addendum to its program EIS. ERDA would not be required to prepare additional EIS's on nuclear waste management.

The NRC would be required to prepare an EIS on each individual facility to be licensed by ERDA (demonstration) or by the Authority. The NRC would not duplicate in its individual EIS's the generic considerations evaluated in the ERDA program EIS's. Such generic issues might include: (1) alternatives to the nuclear waste program, (2) the timing of the nuclear waste management program, (3) alternative energy options precluding the need for nuclear waste storage, and (4) the environmental and safety risks associated with the widespread use of nuclear waste storage facilities.

If the NRC found that ERDA did not consider a reasonable alternative, or that a significant error was made in the data base on which ERDA relied, then the NRC could in its discretion consider those issues which ERDA failed to evaluate. However, the NRC's function is to ensure that the health and safety of the public is protected from the operation of an individual facility; it is not the NRC's role to second-guess the policy decisions with respect to programs made by ERDA and the Congress.

Since the NRC must prepare an EIS on each individual facility of the Authority that is licensed for nuclear waste management, the Authority would not be required to prepare any EIS's. It would, of course, actively participate with the NRC in providing the data for the NRC's EIS. As required by NEPA, the Authority and ERDA would comment on any EIS prepared by the NRC; the Authority and the NRC would comment on any EIS prepared by ERDA. This would ensure that the environmental effects of decisions on nuclear waste management are carefully considered. However, it would avoid duplication of effort by the federal agencies and further foot-dragging in implementing a program for nuclear waste management.

INTERNATIONAL COOPERATION

International aspects of nuclear waste management will become increasingly important as the development of nuclear power technology continues to expand worldwide. Many nations without natural energy resources, and in particular, our allies in Europe and Japan, regard nuclear power as the only viable future energy option. We cannot develop our nuclear waste management capability without taking into consideration the international scope of the problem. S-63 would create a Commission, to be appointed by the President, to perform a study leading to recommendations of policies for international cooperation in nuclear waste management.

To the extent possible this Commission would coordinate its studies with the International Atomic Energy Agency. In the long term, solutions to nuclear waste management will be global. The programs developed and implemented by the Authority would set a standard for nuclear waste management for the rest of the world. It is foreseeable, that at some point in the near future, Congress would authorize the Authority to enter into joint ventures with international agencies and other countries for joint nuclear waste management programs.

CONCLUSION

Nuclear waste management is only one of a myriad of problems which must be resolved in the context of an over-all United States energy policy. If commercial nuclear power is to continue to be a viable option in meeting future energy requirements, an acceptable solution to the unavoidable consequence of nuclear energy, nuclear wastes, must be found. Existing nuclear wastes from the military weapons programs and from commercial power plants require safe and effective management independent of the future of commercial nuclear power. Thus, the decision on nuclear waste management need not, and must not, await a long overdue policy determination of this nation's energy future. The Nuclear Waste Authority which would be created by S-63 and the proposed reforms to the regulatory process with respect to nuclear waste management would provide for institutions and a regulatory structure which could reasonably assure safe management of nuclear wastes in the United States. This proposal could serve as a model for the international management of nuclear wastes. Additionally, streamlining the regulatory structure with respect to nuclear wastes could serve as a paradigm for creating a more efficient framework for regulating other aspects of the energy supply industries.

Nuclear waste is the responsibility of the Congress. Congress authorized and encouraged programs which produced nuclear waste. The Nuclear Waste Management Act of 1977 would provide the unified action, centralized responsibility and clearly defined policy essential to a resolution of the critical nuclear waste problem. Professor Willrich has warned us that there is an opportunity to accomplish a solution now, but it may well be the last clear chance. We must face the challenge of nuclear wastes today; it is not a challenge to future generations, nor one that we should leave to them.

ADDITIONAL COSPONSORS

S. 1107

At the request of Mr. HATHAWAY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor to S. 1107, a bill to provide Federal financial assistance to employers, labor organizations, or consortiums thereof, or other groups or individuals, to establish and operate occupational alcoholism programs for the diagnosis and treatment of alcohol abuse and alcoholism in employed persons, including managerial personnel, and their dependents, and for other purposes.

S. 1585

At the request of Mr. CULVER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1585, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting books and magazines.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. ROBERT C. BYRD, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Concurrent Resolution 51, relating to Americans missing in action.

NOTICE OF HEARING

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WITTEVEEN FACILITY

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold a hearing on Thursday, October 13, on S. 2152, a bill to authorize U.S. participation in a supplementary financing facility, commonly referred to as the Witteveen Facility, to be established in the International Monetary Fund. The proposed facility

would provide $10 billion in convertible currencies to the IMF for loans to members with unusually difficult adjustment problems. Loans under the new facility would carry the customary IMF conditions regarding the economic policies of the borrowing country, but could be larger than the usual drawings from the Fund and repayable over a longer period.

U.S. participation in the facility would be authorized to a maximum of 1,450 million SDR's, approximately $1,700 million. The largest single contributor will be Saudi Arabia, whose participation will equal approximately $2,500 million. Other countries expected to participate are: Belgium, Canada, Germany, Japan, Netherlands, Switzerland, Iran, Qatar, Venezuela, United Arab Emirates, and Kuwait. The United States and other participants would earn interest on their contributions at a rate slightly above that for U.S. Treasury securities of comparable maturity.

The administration strongly supports U.S. participation in the facility. I ask unanimous consent that the report of the National Advisory Council on International Monetary and Financial Policies be printed in the RECORD immediately following this announcement.

The purpose of the hearing is to receive testimony from economists and other private experts on the following questions:

1. Is the Facility needed or are there other sources of resources which could be tapped instead?
2. Is establishment of the Facility urgent, that is, is there an identifiable need for these resources within the next twelve months?
3. Will the IMF, based on past experience, apply appropriate conditions to the credits?

The hearing will begin at 10 a.m. in room 5302 of the Dirksen Senate Office Building. Persons wishing to testify or desiring additional information should contact Robert W. Russell, of the committee staff, at (202) 224-0891.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS HEARING ON IMF SUPPLEMENTARY FINANCING FACILITY (WITTEVEEN FACILITY)

WITNESS LIST

Thursday, October 13, 1977, 10 am, room 5302 DSOB.

Dr. Rudiger Dornbusch, Associate Professor of Economics, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Dr. Ronald E. Muller, Professor of Economics and International Finance, American University, Washington, D.C.

Dr. Robert Solomon, Senior Fellow, The Brookings Institution, Washington, D.C.

Professor Geoffrey Wood, City University of London, United Kingdom.

U.S. PARTICIPATION IN THE SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND

THE SECRETARY OF THE TREASURY,
Washington, September 16, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: As Chairman of the National Advisory Council on International Monetary and Financial Policies, I am pleased to transmit herewith the Council's special report on United States participation in the Supplementary Financing Facility of the International Monetary Fund.

This facility represents a major cooperative effort to strengthen the international monetary system at a time of critical need. The facility will provide the International Monetary Fund with resources that are required urgently to foster needed balance of payments adjustment by IMF member countries, to strengthen confidence in the international monetary system, and thus to assure that continued effective functioning of the open, cooperative system of world trade and payments that is vital to U.S. prosperity.

The Council strongly recommends that legislation be promptly enacted authorizing U.S. participation in the Supplementary Financing Facility. Accompanying this report is legislation authorizing such participation.

Copies of the report are also being submitted to the President and to the President of the Senate.

Sincerely,

W. MICHAEL BLUMENTHAL,
Chairman, National Advisory Council on International Monetary and Financial Policies.

SPECIAL REPORT TO THE PRESIDENT AND TO THE CONGRESS ON U.S. PARTICIPATION IN THE SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND, SEPTEMBER 1977

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

I. Summary

Since 1973, the pattern of world payments has undergone profound transformation as a result of massive increases in oil prices, unprecedented and persistent inflation, deep recession, and hesitant economic recovery and growth. Dramatic alterations in the pattern of payments have produced major strains on the international financial system.

The OPEC[1] group of countries, after years of approximate balance on current account, registered cumulative current account surpluses of about $150 billion during the three years 1974 through 1976. The industrial country group, which historically had run current account surpluses and exported capital to the rest of the world, has experienced cumulative current account deficits of unprecedented magnitude—about $66 billion during the three year period, or about forty percent of the deficits run by oil importers. The non-oil exporting developing countries and the non-market economies of Eastern Europe have sustained deficits and financing requirements much larger than they had previously experienced—about $106 billion for the three year period. Broadly similar patterns are likely in 1977 and beyond.

In the period immediately following the oil price increases of 1973-74, major emphasis was placed on financing the deficits, given their magnitude and the long-term structural nature of adjustment required to reduce oil imports. The only other course of action would have been for oil importing countries individually to attempt to reduce their own deficits quickly, by sharply reducing economic growth rates, applying trade and payments restrictions or manipulating exchange rates—policies that would have been disruptive of the world economy and harmful to our objectives of an open, liberal trading system. Thus initial concerns were directed to ensuring that financing was available to countries and to avoidance of uncooperative and ultimately self-defeating actions to improve their own positions at the expense of others. Even with the emphasis on financing, the world economy experienced a severe recession centered in the major industrial countries, while smaller nations borrowed heavily in an effort to avoid harsh curtailment of growth. The oil price increases aggravated the already serious problems of worldwide inflation, caused major changes in the relative costs of factor inputs in production processes, and led to a major shift in terms of trade against the oil importing nations.

The greatly increased global need for balance of payments financing has been matched, by and large, by a general expansion of financing available for that purpose. The OPEC surpluses, as a matter of necessity, have been invested predominantly in the oil importing countries. But the geographic placement of OPEC surplus funds has not corresponded to the pattern of current account deficits. Thus, financial intermediation on an unparalleled scale has been required to redistribute, or recycle, these huge surpluses. Private capital markets and the international banking system have been relied upon to meet the bulk of the financial intermediation requirements of the last few years, and have done so efficiently and successfully.

While private market financing expanded rapidly during the past three years, providing roughly three-quarters of total balance of payments financing during that period, official financing has also increased substantially. The International Monetary Fund (IMF), the primary source of official balance of payments financing, has channeled financing to its members at record levels since 1973, primarily through the temporary Oil Facility and the Compensatory Financing Facility. Nevertheless, IMF financing remained relatively small by comparison with private financing during this period, meeting approximately seven percent of total balance of payments financing needs.

The priority that was initially placed on ensuring that financing was available, generally on a relatively "unconditional" basis, provided a valuable breathing space. The oil importing countries were afforded an opportunity to reasses their domestic and external economic policies more careful in light of the profound changes that had taken place in the world energy balance and in world trade and payments. Subsequently many countries did act to alter their economic policies in order to stabilize their economies and to bring their external accounts into better balance—to bring their current account deficits to positions more compatible with their ability to attract foreign capital. But while such "adjustment" policies have been intiated in a number of countries, the process is far from complete. Structural changes must yet take place in many economies, often involving significant alteration of traditional attitudes and patterns of production and consumption. For many countries, such changes will not come easily and must take place over a number of years if satisfactory levels of growth and employment—and an open system of trade, and payments—are to be maintained.

Over the next several years it must be expected that large payments imbalances will continue as these adjustments take place in oil importing countries, and—equally importantly—as OPEC's capacity to absorb imports continues to increase. In order to help ensure that adjustment occurs at an appropriate pace—and with appropriate policies—substantial financing will continue to be needed by countries in deficit. Private markets can and should continue to provide the bulk of this financing. But they cannot be expected to handle all the situations which may arise.

The massive borrowing of the last few years has quite naturally led to the accumu-

[1] The Organization of Petroleum Exporting Countries. The following countries are members: Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela.

lation of large amount of external debt. For many countries, large external debt does not currently constitute a problem since these countries have maintained—in some cases restored—their credit-worthiness in the private market, generally through the implementation of sound economic policies and productive utilization of investment. In a relatively few cases, however, where the need for adjustment is evident but the willingness or ability to pursue the needed policies has been lacking, commercial bankers have become more cautious. Understandably, the banks have become less willing to continue to provide additional balance of payments financing in cases where debts are substantial but needed adjustment is not taking place.

In order to help ensure that needed adjustment is pursued—in a cooperative and internationally appropriate manner—by countries facing balance of payments difficulties, it is important that adequate official financing be available on the basis of appropriate terms and conditions. The IMF is the primary official source of "conditional" financing—that is, financing keyed to the adoption by the borrower of sound adjustment policies designed to eliminate the need for such financing and to provide a basis for repayment. The IMF's record is good and its reputation is strong, with both borrowers and creditors. But its current supply of usable currencies is extremely low, both by historical standards and in relation to potential needs for official financing during the next few years. In the circumstances, the Interim Committee of the IMF concluded in April 1977, that there was "an urgent need for a supplementary arrangement of a temporary nature that would enable the Fund to expand its financial assistance to those of its members that in the next several years will face payments imbalances that are large in relation to their economies."

After further consideration of this issue by the IMF's Executive Board, IMF Managing Director Johannes Witteveen approached a number of industrial and oil-exporting countries about the possibility of providing additional resources to the IMF on a temporary basis. After extensive negotiations, a meeting was held in Paris on August 6 of potential "participants"—that is, those nations that would participate in assuring the financing of the new facility—and agreement was reached on the basic terms and conditions of the financing to be provided, and on amounts of financing commitments to the Supplementary Financing Facility. Agreement was subsequently reached in the IMF Executive Board on the final operating details of the new facility. The two IMF decisions providing for the establishment of this facility, including the general terms of the agreement that each participant would sign with the IMF in committing financing to the facility, are presented as Annexes A and B to this report.

The Supplementary Financing Facility will be a temporary facility, enabling the IMF to draw upon the financing commitments of participants over the next several years in order to provide additional financing—on a strictly "conditional" basis—to members with especially large balance of payments financing needs and difficult adjustment problems. Borrowing members will have access to resources under the facility in amounts larger than would normally be available from the IMF, and will be able to draw under an arrangement with the IMF over a period longer than the one year normally applicable to IMF stand-by arrangements. The period of repayment will also be longer than the usual IMF standard of three to five years.

In exchange for the financing provided to the IMF, participants will receive a liquid financial claim on the Fund which will pay interest at market-related rates. Initial participants in the facility include industrial countries and oil-producing countries, with initial commitments equal to approximately SDR 8.6 billion, about $10 billion. The proposed U.S. share is SDR 1,450 million (about $1,700 million), or approximately 17 percent of the total.[2]

The facility will make a major contribution toward the strengthening of the international monetary system, and will help ensure that the IMF can cope with potential problems that might arise. By enabling the IMF to provide additional financing to members, it will encourage countries to initiate needed adjustment measures in a timely fashion through sound and internationally responsible policies. In doing so, it will improve the creditworthiness of members, thus helping ensure continued adequate flows of private market financing, which must continue to meet the bulk of the world's balance of payments financing needs. Moreover, the facility will strengthen confidence in the international monetary system as a whole, promoting adjustment of payments positions toward a more sustainable pattern, and demonstrating that the official community has the capacity to respond quickly when serious payments problems arise.

It is the unanimous judgment of the National Advisory Council that the Supplementary Financing Facility is essential to the continued effective functioning of the international financial system and the maintenance of an open, liberal world trade and payments system. The Council considers that it is in the vital interest of the United States to participate in the facility. By the terms of the decisions establishing the facility, it will not enter into force until the United States and other major participants have completed official agreements with the IMF to participate and to make financing available in the amounts proposed. Authorization by the Congress is required for the United States to participate in the facility. The Council believes that prompt enactment of authorizing legislation will both demonstrate the importance placed by the United States on a strong and cooperative international monetary system and serve as a major step to ensure the maintenance of such a system.

Accordingly, the Council recommends prompt and favorable action by the Congress on legislation to authorize U.S. participation in the facility.

II. The world balance of payments situation and financing patterns, 1973–76

Major economic disturbances in the years 1973 to 1976 brought about large and abrupt changes in the world economy. The oil price increases of 1973 and 1974 aggravated the inflation that already existed and were a contributing factor in the worst world recession since the 1930's. These developments combined to cause major changes in the pattern of world account surplus on the order of $6 billion in 1973, registered a surplus of $68 billion in 1974. Their cumulative surplus for the three years 1974 through 1976 totaled about $150 billion.

The industrial nations of the Organization for Economic Cooperation and Development (OECD) suddenly witnessed an aggregate current account shift from modern surplus to large deficit. Instead of being major suppliers of net capital to the rest of the world, the OECD group became net capital importers. The historic and widely accepted view that "mature" economies should be creditors was dramatically rendered obsolete, as the OPEC surplus countries moved to the position of generating large amounts of net savings which were used by the OECD countries and (often after intermediation through OECD capital markets) by the non-oil exporting developing countries. In the period 1974 through 1976, the combined OECD current account position showed a deficit of $22 billion per year, compared with an average current account surplus position in excess of $5 billion in 1971 through 1973. (See Table 1 below.) Within OECD, a few countries registered surpluses in the 1974–76 period, averaging $15 billion per year, while those OECD members in deficit saw their combined position deteriorate from a deficit of $7 billion per year in 1971–73 to a deficit of $37 billion per year in 1974–76.

The position of the non-oil exporting developing nations also changed sharply. During the 1960's and early 1970's these countries had generally maintained carefully controlled current account deficits. Between 1971 and 1973, the average annual aggregate deficit of the non-oil exporting LDC's was roughly $4 billion. In the immediate wake of the oil price increases, their aggregate annual deficits rose nearly six-fold, to an average of $23 billion per year during 1974–1976.

There has in addition been a dramatic change in the external balance of the "rest of the world," which includes Israel, South Africa and the non-market economies of Eastern Europe, the USSR, and the People's Republic of China. These countries ran near-balanced current account positions in 1971–73, carefully tailoring import purchases to export proceeds. The oil crisis and worldwide recession, coupled with increased demand for consumer goods at home, resulted in a sharp jump in the current account deficit of these countries to $12 billion a year in the 1974–1976 period.

The following table demonstrates the shifts in payments patterns for these groups of countries.

TABLE 1.—*World payments patterns—balances on goods, services, and private and governmental transfers*

[In billions of dollars]

	Average, 1971–73	Average, 1974–76
Surplus countries:		
OPEC	2.8	49.0
OECD	12.3	15.3
Total surpluses	+15.1	+64.3
Deficit countries:		
OPEC	−1.4	−2.0
OECD	−6.7	−37.3
LDC	−4.1	−23.0
Other [1]	−2.7	−12.3
Total deficits	−14.9	−74.6
Residual [2]	−.2	+10.3

[1] Israel, South Africa, and nonmarket economies of Eastern Europe, the U.S.S.R., and the People's Republic of China.

[2] Over the past several years the "residual" item has grown significantly. Recorded exports exceed imports by a sizable sum for any calendar year due to goods in transit and inflation. The OECD staff has estimated that $12–14,000,000,000 is involved in these factors. These factors would by themselves make the residual negative rather than positive. Both the IMF and OECD attribute the positive residual to asymmetries in the reporting of service transactions; that is, an overreporting of service imports, or underreporting of service exports.

Source: OECD and U.S. Treasury Department staff estimates.

[2] See table 2. As of September 9, 1977, discussions were underway that were expected to bring the initial total to at least SDR $8.6 billion.

In the circumstances, nations borrowed very heavily in the years 1974–76 to finance their large current account deficits. The borrowing took many forms. While official financing through the IMF during this period was far above historical levels, and official development lending increased, private markets provided the bulk of the financing—about three-quarters of total balance of payments financing during the three year period.

In addition to expanded demands for credit, conditions on the supply side of the market were also conducive to a rapid growth in private financing during the period. The huge OPEC surpluses, of course, brought large deposits and placements to recipient banks and other financial intermediaries, and greatly expanded the assets of those institutions. In addition, the period was one of rapid secular expansion of the international banking system. Particularly with domestic loan demand less buoyant than in immediately preceding years, many institutions were competing eagerly for new customers abroad, as banks sought to establish themselves in new activities and new geographic areas and endeavored to broaden their scope of operations so as to spread risks and diversify portfolios.

Using such data as are available—and acknowledging that the picture is incomplete—we can sketch out a pattern of the financing of world payments in the period 1974 through 1976 with roughly the following dimensions:

Cumulative current account deficits equaled about $225 billion (after the receipt of grant aid), representing the counterpart of the investable surpluses of OPEC countries plus those of certain industrial countries registering surpluses during the period.

About $15 billion of these deficits, or seven percent of the justify total, was financed by the IMF, the bulk of it through the temporary Oil Facility and the Compensatory Financing Facility, both of which provided financing largely on the basis of "need" with relatively little emphasis on "conditionality" or the adoption of corrective adjustment measures by the borrower.

About $40 billion of the deficits, or eighteen percent of the total, was financed by a variety of other official sources—development lending by other industrial and OPEC countries, and by the IBRD and regional development banks, and other official justify financing.

The remaining current account deficits, some $170 billion, plus about $40 billion of debt repayments, were financed largely through market-oriented borrowing. Most of these funds were obtained through banks and securities markets.

The financing pattern of the past few years reflects the initial emphasis placed by nations on *financing* the imbalances rather than *adjusting* their economies so as to reduce or eliminate the large imbalances resulting from the combined impact of oil price increases and worldwide recession and unprecedented inflation. At the time of the initial shifts in payments patterns resulting from the oil price increases, there were serious concerns that the oil importing nations, trying individually to protect their own payments positions, would harm each other by external restrictions and excessive domestic retrenchment, as they tried to eliminate deficits which—as the counterpart of the OPEC surplus—were collectively irreducible. Recognizing these dangers, the IMF membership agreed in January 1974 in the Rome Communique to forswear such self-defeating actions.

Accordingly, in the early aftermath of the oil price increases, emphasis was appropriately placed on assuring the adequacy of resources for financing the balance of payments costs of higher oil prices. Nations were encouraged, at least temporarily, to "accept" the oil deficit and finance it, rather than to try individually to eliminate their respective deficits at the expense of other oil importing countries. Much of the financing made available—both by private and official sources—was essentially without conditions or requirements that particular adjustment policies be implemented.

With the large amount of international financing that has occurred during the period, accumulations of debt, especially debt owed to private institutions, has been large, by historical standards very large. Complete and accurate records on the aggregate amount of debt outstanding do not exist, but the following statistics give some indication of the present situation;

The external public or publicly guaranteed indebtedness of 75 non-oil exporting developing countries has been estimated by the World Bank at about $171 billion as of the end of 1976.

The OECD estimates that the aggregate foreign borrowing undertaken by the OECD deficit countries in the years 1974–1976 amounted to roughly $98 billion.

The foreign claims of commercial banks on countries other than the G–10 major industrial countries, Switzerland and the offshore banking centers totaled $194 billion at the end of 1976, of which U.S. banks accounted for roughly $62 billion.[3]

The foreign claims of commercial banks on the G–10 major industrial countries, Switzerland and offshore centers (which includes inter-bank lending and thus involves a large amount of double-counting) were about $354 billion at the end of 1976, of which U.S. banks acounted for roughly $126 billion.[3]

These data are difficult to assess. It might be noted that, as a rough rule of thumb, the bank claims, both on G–10 countries and others, approximately doubled during the three years 1974–76. External public debts of the 75 non-oil developing nations more than doubled during the same three years. Of course, doubling the absolute size of debt does not mean doubling the "real burden," since price increases have reduced the burden in real terms of previously incurred debt, and since economic growth has strengthened the debtors' capacity to service debt.

III. The Need for the Supplementary Financing Facility

The availability of financing during the 1974–76 period provided countries with the time and opportunity to reassess and redirect their overall economic policies in light of fundamentally altered economic circumstances—without having to move hastily to reverse the weakening of their current account positions because of a lack of financing. There was growing recognition on the part of many countries that some very basic adjustments in their economies would ultimately be required—factors of production shifted, products mixes altered, alternative energy sources exploited, new energy-efficient capital equipment designed and installed, long-standing patterns of consumption modified, and resources transferred toward export sectors.

The process of international adjustment has been considerably facilitated by the more flexible exchange rate arrangements which most countries adopted in 1973, just prior to the sharp increases in oil prices. This increased flexibility has enabled the system to absorb shocks of unprecedented severity without the massive capital flight and traumatic exchange market crises of earlier periods. Flexible rates cannot, of course, eliminate the imbalances between OPEC and the oil importing world—no tolerable set of exchange rates could effect an adjustment of such magnitude. But flexible exchange rates—were, indeed, flexibility has been permitted by the authorities—have helped to distribute the imbalances toward a more sustainable geographic pattern, and have allowed the system to accommodate to the widely diverging inflation rates that different countries have experienced during this period.

The oil price increases created dual problems for oil importing countries: sharp shifts in historic patterns of trade and current account balances; and sudden alterations of relative factor input costs in production processes. While some progress has been made in re-establishing a generally sustainable pattern of current account balances, much domestic restructuring remains to be accomplished. The sharp shifts in relative prices, both internally and externally, and the terms of trade shifts against oil importers, have been difficult to adjust to, and resistance in many countries to the needed adjustment measures has exacerbated the problems of inflation and economic management.

The responses of individual countries to the change in circumstances since 1973 have been varied. In some countries, policies have been altered effectively to stabilize the economy and bring the current account balance into a position that is reasonable and sustainable in light of the country's ability to attract capital. In others, stabilization programs have only recently been put into place, or progress on programs implemented earlier has been slow and difficult to achieve. For these countries, perserverance—as well as time—will be needed to restore long-lasting stability and growth. And there are a significant though not large number of countries which are only now beginning to consider stabilization measures, having reached or approached the limits of their ability to borrow. These countries are still beset by economic distortions and still face large payments deficits—financing has been used largely to maintain consumption levels rather than support new investment needed to accomplish economic restructuring. The need for corrective measures and adjustment in these cases is compelling.

Large imbalances will continue in 1977, although the distribution of balances among oil importers will be somewhat altered in 1977. The OPEC surplus is expected to remain at about $40 billion. Non-oil exporting developing nations, benefiting from higher commodity prices and important adjustment efforts by a few major countries, will probably show some reduction in their current account deficit as a group, OECD countries will bear a larger share of the deficit, although in some of the larger countries adjustment policies now in place will produce impressive improvements in the external positions. The Eastern European countries may see some small reduction in their aggregate deficit.

We have no reason to expect substantial changes in the current payments pattern among the four major country groupings in the next few years. OPEC surpluses are likely to diminish, but the pace of decline is expected to be slow. The aggregate deficit of the non-oil exporting developing nations will probably remain roughly constant, or perhaps increase slightly as flows of official development lending increase and thus enable small reduction in their aggregate deficit.

The financing problems that may arise over the next few years are not expected to be of an aggregate nature, directly involving all members of the international monetary system. But there are individual countries which either already face financing problems or may be expected to face them in the next two to three years. Some countries need to undertake major efforts to reduce fundamental imbalances within their economies and restore their external accounts to sustainable positions. Their external financing needs in some cases will certainly exceed private market willingness to provide funds.

[3] Sources: ank for International Settlements and Federal Reserve Board of Governors.

A combination of appropriate adjustment measures and adequate financing is clearly required during the next several years, if the system is to operate effectively. Adjustment will become unavoidable for some countries because of their inability to obtain financing from the markets in needed amounts and on acceptable terms. If financing is not available, they may feel compelled to take recourse to unduly restrictive domestic economic measures, harsh trade and capital restrictions, or aggressive exchange rate practices in order to reduce their financing needs. Such measures could have serious worldwide repercussions as well as consequences for the economy of the country introducing them. In today's interdependent world, the economic actions and policies of any one country are closely related to those of other countries and directly affect their economic prosperity. Trade barriers imposed by one country, for instance, can abruptly and seriously impair other countries' trade and payments positions, and lead them to impose barriers in order to protect their own external position or in retaliation.

The potential for serious disruption of the world economy as a consequence of such moves is widely understood. The U.S. economy, for example, is heavily dependent on world trade and financial flows. Imported products, from raw materials to high technology products, are heavily integrated into all phases of U.S. economic activity—production, distribution and consumption. Export markets constitute a major part of the demand for U.S. goods and services. U.S. financial markets are a keystone of international financial transactions. It is of critical importance to the prosperity of the U.S. economy specifically and the world economy generally that the structure of the international financial system remain sound and that the liberal system of world trade and payments be maintained.

Sound adjustment can bring positive advantages to the world economy, as well as to the countries involved. By improving underlying stability, adjustment can lead to a stable economic environment which will encourage productive investment and foster real growth. While the imposition of adjustment measures can lead temporarily to a reduction of output in an overheated economy, it can provide the required longer-run foundation for sound and sustainable growth, and strengthen the world economy.

It is expected that private markets will continue to meet the bulk of balance of payments financing needs during the period ahead. But there are clear indications that some individual countries will lose their access to private financing unless they institute effective adjustment measures—steps which show promise of restoration of a sound and stable payments position. Over the past several months commercial banks have become more selective in the provision of capital to certain deficit countries, where the debts are already substantial and the absence or inadequacy of adjustment policies has raised questions about the borrowers' creditworthiness.

There is a critical need for the system to have available adequate official financing to support carefully-developed, orderly and internationally appropriate programs of adjustment—as an alternative to countries facing serious situations and as an incentive for them to act before their situations become critical. While our international monetary system is at present strong and functioning effectively, we do not have in place everything needed to insure against future risks. It is for this reason that it is proposed that the United States join with other strong industrial nations and major oil exporting nations to establish within the IMF a new facility—the Supplementary Financing Facility—to fill that need.

The rationale for the Supplementary Financing Facility rests on three main premises:

First, that large payments imbalances will continue for the next several years.

Second, that there is a need for emphasis on "adjustment" of imbalances, rather than simply "financing" imbalances, especially by those countries facing relatively large payments deficits and difficult financing needs.

Third, that the resources of the IMF must be adequate not only to enable it to foster responsible adjustment policies by individual members facing severe payments difficulties, but also to provide confidence more generally that it is in a position to deal with problems that may arise.

The IMF is the principal source of official balance of payments financing for its member countries. IMF financing has increased greatly during the last few years as a consequence of the balance of payments developments described above, and IMF holdings of usable resources are now extremely low, both by historical standards and in relation to potential balance of payments financing needs during the next few years. Current IMF holdings of "usable" currencies [4] amount to the equivalent of about SDR 4–5 billion (roughly $4½–5½ billion). It is expected that usable IMF resources will increase by about SDR 5–6 billion ($6–7 billion) when the quota increase agreed pursuant to the Sixth General Review of Quotas takes effect (expected to occur by early 1978), and there remains SDR 2.6 billion ($3 billion) in uncommitted resources under the General Arrangements to Borrow.[5] The IMF can also expect to receive modest amounts of additional usable resources through its program of monthly gold sales and through repayments of earlier drawings. Taking into account all of these sources of funds, IMF resources nonetheless are quite low in relation to potential demands over the next few years. A further (Seventh) review of IMF quotas is now in progress, but it is not anticipated that any increase in quotas that may be agreed in this review could take effect before late 1979. In the interim, there is clearly a need for additional IMF resources.

The Supplementary Financing Facility is designed to meet this need. It will be a temporary facility, open for application by members for two years, with a possibility of extension up to one additional year. Thus the facility would serve as a "bridge" to a permanent increase in IMF resources which is expected to be agreed under the Seventh quota review now in progress. All financing under this facility will be provided in support of economic and financial programs adopted by borrowing members to place their balance of payments positions on a more sustainable basis and reduce their needs for external financing. Such programs will take the form of normal IMF financing arrangements, with specific policy conditions tailored to the particular problems and circumstances of each borrowing member.

The payments difficulties faced by some countries are very large in relation to their economies and their regular access to IMF resources. In some cases, the relatively small amounts of financing available through the IMF's regular facilities have provided insufficient incentive for countries to borrow from the IMF and to adopt the adjustment programs required in conjunction with IMF financing. The Supplementary Financing Facility is thus designed to help correct this situation by making financing available to members in amounts larger than are currently available, with the total amount available to any one member determined by judgment based upon, among other factors, the size and nature of its payments problems.

Adjustment programs adopted by borrowers, and actual drawdowns of financing, will be phased over periods longer than the one year generally applied under IMF stand-by arrangements, and could in some instances extend up to three years. (In no case, however, could drawings be made after five years from the date of establishment of the facility). Repayment of borrowing from the facility would take place over three to seven years, somewhat longer than the three-to-five year period that applies to regular IMF resources. Together these provisions would afford members which use the facility somewhat longer periods of adjustment, consistent with the severity of their problems and the need for sustained and appropriately paced efforts to correct those problems.

The Supplementary Financing Facility represents a major cooperative effort on the part of oil exporting and industrial countries to address current world payments problems. Participation is shared equitably between the two groups on a near fifty-fifty basis (see Table 2), reflecting both groups' interest in and responsibility for a strong and smoothly operating international monetary system. The facility also represents a global cooperative approach in that all members of the IMF that meet the criteria for eligibility (i.e., severity of payments difficulties and willingness to implement corrective measures) would have access to the facility. This approach is consistent with and supportive of the principle of uniformity in the IMF's treatment of its members—a principle that is fundamental to the IMF's successful performance as the world's central monetary institution.

The Supplementary Financing Facility is not proposed or represented as a solution to all the world's international financial problems. Most importantly, it cannot eliminate the imbalance between the OPEC surplus countries and the oil importing world. The elimination of that imbalance can come about only through effective programs by the United States and others to conserve energy and develop alternative energy supplies, and through continued growth in the capacity of oil exporting nations to absorb goods and services produced in the oil importing world.

What the Supplementary Financing Facility is designed to do is to help redistribute, as well as reduce, the collective current account deficit so that the necessary borrowing is undertaken by those nations whose creditworthiness and economic strength are adequate to sustain the additional debt. This means encouraging adjustment in those countries experiencing domestic economic distortions, large payments deficits, and serious problems in financing those deficits. It means in addition encouraging a form of adjustment that is compatible with maintenance of a liberal system of international trade and payments.

With the establishment of the Supplementary Financing Facility, there will continue to be a large amount of international borrowing—private as well as public. In fact, an important feature of the facility is that it will facilitate continued large-scale borrowing from banks and other private market sources—by improving the creditworthiness of countries adopting adjustment measures, and by shifting a portion of the borrowing to nations more capable of servicing additional debt. Foreign debt is not necessarily

[4] That is, IMF holding of the currencies of countries that are considered to be in a strong enough external position for these countries to be used by the Fund in extension of credit to other members.

[5] This figure represents the remaining uncommitted resources of all GAB participants except the United Kingdom and Italy (also includes the Swiss association). Actual availability of GAB resources depends both on drawings by GAB participants and actual participation in loans by GAB members.

bad—it can be an important positive factor in an economy. As shown by the experience of the United States in the nineteenth century, and by Canada and others at present, borrowed money, if productively invested, can be a major source of economic growth. Thus the OPEC savings can be transferred to oil importing countries and used to finance productive investment in those countries.

The Supplementary Financing Facility is not designed—nor will it be used—to replace commercial bank lending, or to "bail out" commercial banks that may have lent excessively or unsoundly. The aim is to provide access to official balance of payments financing in support of sound and internationally responsible programs of adjustment by borrowers, and to encourage them to initiate needed corrective measures before their debts become too large for them to handle or credit is no longer available. Use of the facility will improve the general level of creditworthiness among countries and confidence in the international monetary system. It is designed to help countries that are in need, not financial institutions. Nor will it be used to take over the private banks' regular lending activities. The amounts involved are far below levels of private lending—although the IMF may in the period ahead account for a share of total balance of payments financing somewhat larger than the share it provided in 1974–76, the IMF's share will remain small in comparison with the share channeled through the private market. In addition, experience indicates that after the IMF enters into a stand-by agreement with a borrowing country, private lending tends to expand rather than contract, IMF lending is a complement to private lending, not a substitute for it. The banks will benefit from the facility, but only indirectly—through an improved international environment, stronger monetary system and an expanding world economy that will benefit all segments of the American economy—industry, workers, farmers, and consumers.

IV. Main Provisions of the Supplementary Financing Facility

A. PARTICIPATION AND ENTRY INTO FORCE

Initial participants in the facility and the amounts to be provided are listed in the table below, on the basis of information available in early September 1977. (Discussions are still underway with a few other countries, and it is anticipated that initial participation in the facility will total SDR 8.6 million ($10 billion) or more). Other countries would be eligible to participate at a later date, provided that they had sufficiently strong external positions, and initial participants would be able to increase the amount of resources they make available should they choose to do so. Shares in the facility have been determined largely on the basis of relative external economic positions, as indicated primarily by balance of payments and reserve positions and ability to provide financing. The U.S. share would be SDR 1,450 million (approximately $1.7 billion), about 17 percent of the overall initial total.

TABLE 2.—SUPPLEMENTARY FINANCING FACILITY PARTICIPANTS AND COMMITMENTS

	SDR (millions)	Amount [1] (millions)	As percent of total
Industrial countries:			
Belgium	150	$174	1.8
Canada	200	232	2.4
Germany	1,050	1,220	12.4
Japan	900	1,046	10.7
Netherlands	100	116	1.2
Switzerland	650	755	7.7
United States	1,450	1,685	17.2
Subtotal	4,500	5,228	53.4
Oil exporting countries:			
Iran	685	796	8.1
Qatar	100	116	1.2
Saudi Arabia	2,150	2,500	25.5
Venezuela	450	523	5.3
United Arab Emirates	150	174	1.8
Kuwait	400	465	4.7
Subtotal	3,935	4,574	46.6
Total	[2] 8,435	9,802	100.0

[1] Based on the SDR per dollar rate prevailing Sept. 1, 1977, 1 SDR=$1.16210.

[2] Based to increase to at least SDR 8,600,000,000 ($10,000,000,000). See footnote 2 in text above.

The facility will enter into force when a total of SDR 7.75 billion (approximately $9 billion) has been effectively made available to the IMF and at least six participants have each made available SDR 500 million (approximately $580 million) or more.

B. Terms relating to provision of resources to the IMF

Period of Financing.—Commitments by participants to provide financing to the IMF will remain effective for five years from the date of the facility's entry into force. Financing actually provided to the facility will be repaid in eight semi-annual installments beginning 3½ years and ending 7 years after the date the financing is provided, equivalent to an average maturity of 5¼ years. The IMF will have the right to make early repayment in certain circumstances.

Calls for Financing.—Calls will be made in broad proportion to the unutilized commitments of participants. Upon call, funds will be transferred to the IMF for immediate use in providing financing from the facility. A participant may represent that its balance of payments and reserve position does not justify a call or any further calls. If the IMF concurs with the participant's representation, the participant will not be expected to contribute to any further calls until its balance of payments and reserve position improves sufficiently.

Interest Rates.—Participants will receive interest equal to the yield on U.S. Treasury securities of comparable maturity, rounded up to the nearest one-eighth of one percent. The interest rate that will apply until June 30, 1978, is seven percent, based on the interest rates on U.S. Treasury securities prevailing at the time the facility was agreed. For each subsequent six month period, the interest rate that will apply will be the average of the daily yield during that period on actively traded U.S. Government securities of a constant maturity of five years, rounded up to the nearest one-eighth of one percent. Such yields are calculated daily by the U.S. Treasury Department and published weekly by the Federal Reserve Board.

Liquidity of Claims.—In exchange for financing provided the IMF, a participant will receive a liquid reserve claim on the IMF which can be encashed at any time upon a representation by the participant of balance of payments need. Claims may also be transferred (sold) to other participants, other IMF members or other transferees which may be approved by the IMF.

Denomination.—All commitments to provide financing, and all financing actually proved to the facility, will be denominated in Special Drawing Rights. In the event of a change in the method of valuation of the SDR,[6] a participant would have the right to immediate repayment of its claims on the IMF and to terminate any remaining commitments.

C. Terms and conditions of drawing by members

Eligibility.—An IMF member will be eligible to use the facility if the IMF is satisfied:

That the member's balance of payments financing need is greater than the amount remaining available to it under the credit tranches (i.e., under the regular IMF resources);

That the member's balance of payments problem requires a relatively long period of adjustment and a period of repayment longer than the period of three to five years that applies to the credit tranches; and

On the basis of a detailed statement of the economic and financial policies the member will follow and the measures it will apply under a stand-by or extended arrangement, that the member's program will be adequate for the solution of its balance of payments problem and is compatible with the IMF's policies on the use of its resources in the upper credit tranches or under the Extended Fund Facility [7] (i.e., the IMF's more conditional policies).

Access and Relation to Regular Credit Tranches.—Members will be able to apply for the use of the facility at any time within two years after the date the facility enters into force. This period will be reviewed in conjunction with an overall review of the facility,[8] and may be extended for up to one additional year. Actual drawings by a member will be phased over a period of two to three years from the date the member enters into agreement with the IMF, and will be dependent on satisfactory compliance by the member with the economic program agreed with the IMF.[9]

The amount of IMF financing available to a member under the facility would be based on a judgment by the IMF, taking into account the size and nature of the member's payments problem, its access to alternative sources of financing, and the availability of resources in the IMF. Supplementary financing will be made available in parallel with a member's purchases of regular IMF resources under the credit tranches or the Extended Fund Facility. Initially, supplementary financing roughly equivalent to a member's quota will be available in conjunction with credit tranche drawings, and up to 140 percent of quota will be available in conjunction with extended Fund Facility drawings. Drawings on the facility will be apportioned to parallel drawings on the regular credit tranches or the Extended Fund Facility as described in Annex C. The amounts available from the facility in conjunction with drawings on the upper credit tranches or the

[6] The SDR is valued on the basis of market exchange rates of a weighted "basket" of sixteen currencies. The dollar's weight is roughly one-third of the total.

[7] Under this facility, established in September 1974, the IMF makes longer-term balance of payments financing available to countries prepared to undertake and adhere to a comprehensive program of structural reform approved by the IMF and covering a period of several years.

[8] This review will take place not later than two years after the facility enters into force or when an increase in quotas pursuant to the Seventh General Review of Quotas becomes effective.

[9] Drawings will not be permitted beyond five years after the facility enters into force, consistent with the maximum period of commitment by participants in the financing arrangements with the IMF. The effect of this limitation is that if the period for applications is lengthened beyond two years, the maximum period of drawdown must be shortened from three years to fit with the five year maximum availability of financing.

Extended Fund Facility would be subject to review from time to time by the IMF, and could be modified in light of the availability of supplementary financing and regular resources. In special circumstances, the IMF could permit purchases of supplementary financing in amounts above that available in conjunction with parallel drawings on the regular resources.

Repayment.—Repayment of drawings ("repurchases") under the Supplementary Financing Facility will take place over a period somewhat longer than three to five years that applies to the regular resources. Repayment will be required in equal semi-annual installments beginning not later than three and one-half years and completed not later than seven years from the date of purchase. A member will be expected to make early repayment, however, as its balance of payments and reserve position improves, and a member can be required to make early repayment if the IMF determines that an improvement in the member's position so justifies. Early repayment of a drawing from the facility must be accompanied by early repayment of any parallel drawing from the IMF's regular resources.

Charges.—Charges to borrowers on drawings from the facility will be equal to the cost of financing provided to the facility, plus a small margin of slightly less than one-quarter of one percent per annum to cover IMF administrative costs.

V. Proposed legislation

Prior Congressional approval for United States participation in the Supplementary Financing Facility is required by Section 5 of the Bretton Woods Agreements Act, as amended. The Council believes that legislation should be promptly enacted to authorize the Secretary of the Treasury to take the steps necessary for U.S. participation in the facility.

The bill proposed for this purpose would authorize the Secretary of the Treasury to make resources available for U.S. participation in an amount not to exceed the dollar equivalent of 1,450 million Special Drawing Rights. The terms of United States participation in the facility will be governed by the decisions of the IMF Executive Directors establishing the facility and authorizing replenishment of IMF resources for the purposes of the facility (attached as Annexes A and B).

These resources would be made available by the United States entering into an agreement with the IMF for replenishment of the IMF's resources in accordance with Executive Board Decision numbered 5509–(77/127) (Annex B). In addition, the United States could transfer (sell) to others its reserve claims on the IMF arising from participation in the facility and could purchase such claims on the IMF held by others, under the IMF Executive Board Decision. In no event would the total amount of currency made available by the Secretary of the Treasury, net of any amounts received by the U.S. with respect to its participation in the facility, exceed the equivalent of 1,450 million Special Drawing Rights.

Transactions arising from U.S. participation in the facility, like other U.S. transactions with the IMF, are exchanges of monetary assets, akin to deposits in a bank. This accounting and budgetary treatment of U.S. transactions with the IMF was adopted as a result of the recommendations in 1967 of the President's Commission on Budget Concepts. The Congress has concurred since 1975 in the application in full of the exchange of asset concept to U.S. transactions with the IMF. The Congress has considered appropriations unnecessary both for increases in the United States quota in the IMF (Congress authorized consent to the last increase in the United States quota in P.L. 94–564, without an appropriation), and for payment by the U.S. of maintenance of value obligations to the IMF.

Similarly, no appropriation is necessary for U.S. participation in the IMF Supplementary Financing Facility and none is authorized by the proposed bill. When the United States provides dollars under the terms of the facility, the U.S. in exchange will receive a monetary asset in the form of a liquid reserve claim, of equivalent SDR value, on the IMF. These claims will increase the automatic drawing rights of the United States on the IMF and will be transferable. Consequently, these claims will form part of the U.S. "reserve position" in the IMF and so will constitute part of U.S. international reserves.

Since the assets and accounts of the Treasury are denominated in dollars, while those of the IMF (including U.S. claims on the IMF acquired through participation in the facility) are denominated in SDR's there may, as a consequence of exchange rate changes, be a net charge in the dollar value of U.S. monetary assets arising from our participation in the facility. The proposed bill therefore provides for the Exchange Stabilization Fund, established by Section 10 of the Gold Reserve Act of 1934, as amended, to account for any such adjustment in the dollar value of U.S. monetary assets.

VI. Recommendation

The National Advisory Council strongly recommends to the President and to the Congress that the United States participate in the Supplementary Financing Facility of the International Monetary Fund. The proposed terms and conditions of U.S. participation are set forth in the documents annexed to this Report. While the international monetary system has been functioning well, there is a real and present need for an increase in the resources of the IMF, as provided by the proposed Supplementary Financing Facility. The facility will provide a major strengthening to the international monetary system during this period of strain, greatly reducing any risk that the system may not be able to meet the demands placed upon it. The Council believes that establishment of this facility is of critical importance to the United States, and that participation by the United States is manifestly in our national interest. It is therefore strongly recommended that legislation be promptly enacted authorizing U.S. participation in the Supplementary Financing Facility Agreement.

ANNEX A

DOCUMENT OF THE INTERNATIONAL MONETARY FUND

AUGUST 30, 1977.

DECISION ESTABLISHING A SUPPLEMENTARY FINANCING FACILITY

1. (a) The Fund will be prepared to provide, in accordance with this Decision, supplementary financing in conjunction with use of the other resources of the Fund (hereinafter referred to as "ordinary resources") to members facing serious payments imbalances that are large in relation to their quotas. Supplementary financing for the purpose of this Decision means financing that the Fund will provide under a stand-by or extended arrangement with resources the Fund obtains by replenishment under Article VII, Section 2 and Decision No. 5509–(77/127), adopted August 29, 1977.

(b) Resources available to members under other policies of the Fund will remain available in accordance with the terms of those policies.

2. A member contemplating use of the Fund's resources in the three credit tranches beyond the first credit tranche (hereinafter referred to as the "upper credit tranches") that would include supplementary financing shall consult the Managing Director before making a request under this Decision. A request by a member will be met under this Decision only if the Fund is satisfied: (i) that the member needs financing from the Fund that exceeds the amount available to it in the four credit tranches and its problem requires a relatively long period of adjustment and a maximum period for repurchase longer than the three to five years under the credit tranche policies; and (ii), on the basis of a detailed statement of the economic and financial policies the member will follow and the measures it will apply during the period of the stand-by or extended arrangement, that the member's program will be adequate for the solution of its problem and is compatible with the Fund's policies on the use of its resources in the upper credit tranches or under the Extended Fund Facility.

3. The Fund may approve a stand-by or extended arrangement that provides for supplementary financing at any time within two years from the effective date of this Decision. The Fund will review this period when conducting a review under 12 below. Any extension of the period shall not exceed one year.

4. (a) Supplementary financing will be available only if the program referred to in 2(ii) above is one in support of which the Fund approves a stand-by arrangement in the upper credit tranches or beyond or an extended arrangement. The stand-by or extended arrangement will be in accordance with the Fund's policies, including inter alia its policies on conditionality, phasing, and performance criteria, provided however that any right of augmentation exercised by a member in connection with a repurchase in respect of a purchase made with supplementary financing shall be subject to the same period of repurchase that applied to the purchase in respect of which the repurchase was made.

(b) The period of a stand-by arrangement approved under this Decision will normally exceed one year, and may extend up to three years in appropriate cases. The period of an extended arrangement will be in accordance with Decision No. 4377–(74/114), adopted September 13, 1974.

(c) A request for a purchase in accordance with a stand-by or extended arrangement approved under this Decision will be met from ordinary resources and supplementary financing in the proportions determined under 5 and 6 below when the arrangement is approved.

5. The amounts available to a member under a stand-by arrangement approved under this Decision will be apportioned between ordinary resources and supplementary financing as follows:

(a) While each credit tranche is 36.25 per cent of quota under the Fund's policies, supplementary financing will be equivalent to 34 per cent of quota in respect of each of the upper credit tranches.

(b) After each credit tranche becomes 25 per cent of quota under the Fund's policies, supplementary financing will be equivalent to 12.5 per cent of quota in respect of the first credit tranche and 30 per cent of quota in respect of the upper credit tranches.

(c) If a member has used all or part of its credit tranches before a stand-by arrangement is approved under this Decision, the arrangement approved under this Decision will provide that the amount of supplementary financing that would have been used under (a) and (b) above if all earlier purchases in the credit tranches had been made in conjunction with supplementary financing will be used, subject to 4(a) above, before purchases are made under (a) or (b) above.

(d) If a purchase in a credit tranche is less than the amount of a full credit tranche, the supplementary financing to be used in conjunction with the purchase will be in the same proportion of the amount of supplementary financing referred to in (a) and (b) above as the purchase in the credit tranche bears to the amount available in that tranche when the arrangement was approved.

(e) From time to time, the Fund will review the proportions of supplementary financing to be used in conjunction with the upper credit tranches, and may substitute modified proportions for those in effect pursuant to this Decision. The modified proportions shall apply only to stand-by arrangements approved after the date of the decision to modify the proportions, provided that a member that has an existing stand-by arrangement may request that, subject to 4(a) and 5(c) above, any increased proportions be made available to it under a new or revised arrangement.

(f) In special circumstances, a stand-by arrangement may be approved under this Decision that provides for purchases beyond the credit tranches and supplementary financing available under (a), (b), and (c) above. The arrangement will provide that all purchases under it will be made with supplementary financing. The Fund, taking into account the criteria in 2 above, will prescribe in each arrangement the amount of supplementary financing that will be available.

6. (a) Supplementary financing will be available, in combination with ordinary resources, for purchases under an extended arrangement approved under this Decision in an amount not exceeding the equivalent of 140 per cent of quota. Purchases under an extended arrangement will be made with ordinary resources and with supplementary financing in the ratio of one to one.

(b) Supplementary financing available to a member in accordance with the ratio in (a) above will be increased by an amount determined by the ratio of one to one in respect of that part of the upper credit tranches that is no longer available to the member as the result of earlier uses of the Fund's resources. Purchases will be made with supplementary financing, subject to 4 (a) above, to the extent of the amount of this increase before purchases are made in accordance with (a) above.

(c) The principles of 5 (e) and (f) shall apply to extended arrangements approved under this Decision.

7. (a) Repurchases in respect of outstanding purchases under this Decision will be made in accordance with the terms of the stand-by or extended arrangement under which the purchases were made.

(b) The terms will include a provision that the member will be expected to repurchase in respect of purchases, whether made with ordinary resources or with supplementary financing, as its balance of payments and reserve position improves, and will make such repurchases if, after consultation with the member, the Fund represents that repurchase should be made because of an improvement.

(c) The terms will also provide that with respect to purchases financed with ordinary resources repurchase will be made in accordance with the Fund's policies on the credit tranches or under the Extended Fund Facility; and that with respect to purchases made with supplementary financing repurchase will be made in equal semi-annual installments that begin not later than three and one half years and are completed not later than seven years after the purchase.

(d) A repurchase attributed to a purchase made with supplementary financing in advance of this schedule of equal semi-annual installments must be accompanied by a repurchase in respect to the purchase financed with ordinary resources made at the same time if any part of the latter purchase is still outstanding. The amounts of the two repurchases will be in the same proportions in which ordinary resources and supplementary financing were used in the purchases, provided, however, that the repurchase in respect of the purchase financed with ordinary resources will not exceed the amount of the purchase still outstanding.

(e) Repurchases will be made in the media prescribed by the Articles of Agreement and specified by the Fund at the time of the repurchase after consultation with members. The Fund will be guided by a policy of specifying for repurchase the media in which it will make repayments as a result of the repurchases, and will take this policy into account in preparing its currency budgets.

8. In order to carry out the purposes of this Decision, the Fund will be prepared to grant a waiver of the conditions of Article V, Section 3(a)(iii) (or Article V, Section 3(b)(iii) after the second amendment of the Articles) that is necessary to permit purchases under this Decision or to permit purchases under other policies that would raise the Fund's holdings of a member's currency above the limits referred to in that provision because of purchases outstanding under this Decision.

9. The Fund will apply its credit tranche policies as if the Fund's holdings of a member's currency did not include holdings resulting from purchases outstanding under this Decision that have been made with supplementary financing. After the effective date of the second amendment of the Articles of Agreement purchases under this Decision and holdings resulting from purchases outstanding under this Decision will be excluded under Article XXX(c).

10. The Fund will state which purchases by a member are made under this Decision and the amounts of ordinary resources and supplementary financing used in each purchase.

11. The Fund will levy charges in accordance with the decision of the Executive Board on holdings of a member's currency resulting from purchases outstanding under this Decision to the extent that they are made with supplementary financing.

12. The Fund will review this Decision not later than two years after its effective date or when the Seventh General Review of Quotas becomes effective, if that occurs within the two years. One year after the effective date of this Decision the Fund will report on the use of the supplementary financing facility. The report will deal also with other important aspects of the facility.

13. The effective date of this Decision will be the date on which agreements are completed under Decision No. 5509–(77/127), adopted August 29, 1977, for a total amount not less than SDR 7.75 billion, including at least six agreements each of which provides for an amount not less than SDR 500 million.

Decision No. 5508–(77/127), adopted August 29, 1977.

ANNEX B

DOCUMENT OF THE INTERNATIONAL MONETARY FUND

AUGUST 30, 1977.

DECISION ON REPLENISHMENT IN CONNECTION WITH SUPPLEMENTARY FINANCING FACILITY

1. The International Monetary Fund deems it appropriate in accordance with Article VII of the Articles of Agreement to replenish its holdings of currencies to the extent that purchases are to be made with supplementary financing under Executive Board Decision No. 5508–(77/127), adopted August 29, 1977.

2. A number of members and institutions have expressed their intention to make resources available to the Fund for the purpose stated in paragraph 1 above. In order to enable the Fund to replenish its resources in accordance with these intentions, the draft letter set out in the Annex to this Decision is adopted as the basis for terms and conditions to be incorporated in the agreement with each contracting party under Article VII of the Articles of Agreement. The terms and conditions will be uniform to the maximum extent possible. Each letter setting forth the terms and conditions to be proposed will be submitted to the Executive Directors for their approval.

3. At any time within the period in which the Fund can replenish its resources in order to provide supplementary financing, it may enter into agreements for this purpose with the contracting parties referred to in paragraph 2 above and with any other member or with its national official financial institutions, provided that the member is in a sufficiently strong balance of payments and reserve position, or with any institution that performs functions of a central bank for more than one member. The Fund will consider a member to be in the position referred to above if it is in a net creditor position in the Fund and if its currency could be used in net sales in the Fund's currency budgets for the foreseeable future, but the Fund may take other circumstances into account in deciding whether to enter into an agreement with a member or with its national official financial institutions.

4. The amounts to be called by the Fund will be in broad proportion to the unutilized balance under each agreement to the total of unutilized balances under all agreements, subject to such operational flexibility as the Fund may find necessary.

5. The Fund will use its best efforts to ensure that the currencies it receives in accordance with this Decision will be transferred on the same day to purchasers under Executive Board Decision No. 5508–(77/127), adopted August 29, 1977, and that amounts corresponding to repurchases attributed in accordance with Paragraph 5(b)(i) of the draft letter set out in the Annex to this Decision will be repaid to contracting parties on the same day as the repurchase is completed, provided, however, that the Fund will not make such repayment, unless it decides otherwise, if the repurchase entitles the purchaser to augmented rights under its stand-by or extended arrangement. If such repayment has not been made, the Fund will repay promptly on the expiration of the arrangement an amount equivalent to the amount of the augmented rights that have not been exercised.

Decision No. 5509–(77/127), adopted August 29, 1977.

ANNEX TO ANNEX B

[YOUR EXCELLENCY] [DEAR SIR]: In accordance with Article VII of the Articles of Agreement of the International Monetary Fund, hereinafter referred to as "the Articles," and pursuant to Executive Board Decision No. 5509–(77/127), adopted August 29, 1977, and Executive Board Decision No. ——, [authorizing agreement with individual contracting party, X] adopted ———, I have been authorized to propose on behalf of the International Monetary Fund, hereinafter referred to as "the Fund," that [X] agree to make available to the Fund at call during the period of five years from the effective date of Executive Board Decision No. 5508–(77/127), adopted August 29, 1977, [currency of X] [specified currency or currencies deemed by the Fund to be freely usable] in amounts that in total do not exceed the equivalent of ——— million special drawing rights (SDR ———) in exchange for readily repayable claims on the following terms and conditions:

1. All amounts under this agreement shall be expressed in terms of the special drawing right. For all purposes of this agreement the value of a currency in terms of the special drawing right shall be calculated at the rate for the currency as determined by the Fund in accordance with the Fund's Rules and Regulations in effect when the calculation is made, subject to Paragraph 7(a).

2. (a) Calls under this agreement shall be made only (i) in respect of purchases to be made with supplementary financing under the facility established by Executive Board Decision No. 5508–(77/127), adopted Au-

gust 29, 1977, which is hereinafter referred to as "the facility," or (ii) by agreement with [X], in order to enable the Fund to repay a claim under another agreement connected with the facility when repayment is made under that agreement because of a balance of payments need.

(b) The Fund shall give [X] as much advance notice as possible of the Fund's intention to make calls.

(c) [X] may represent that its balance of payments and reserve position does not justify calls or further calls under this agreement. The Fund, in considering the representation, shall give [X] the overwhelming benefit of any doubt. After consultation with [X], in which the Fund shall give [X] the overwhelming benefit of any doubt, the Fund may make calls or further calls at a later date when in the opinion of the Fund the balance of payments and reserve position of [X] improves sufficiently to justify calls or further calls.

(d) when a call is made, [X] shall deposit to the Fund's account with [X] [the Fund's depository for the currency of [X]] [the Fund's depository for the currency of ———] within three business days after the call an amount of [its currency] [the currency or currencies specified in the preamble] equivalent to the amount of the call at the rate for the currency as determined by the Fund in accordance with the Fund's Rules and Regulations. On request, [X] shall exchange its currency [if not deemed by the Fund to be freely usable] when sold by the Fund for a freely usable currency at the rates for the two currencies as determined by the Fund in accordance with its Rules and Regulations.

3. The Fund shall issue to [X] on its request an instrument evidencing the amount, expressed in special drawing rights, that the Fund is committed to repay under this agreement. Upon repayment of the amount of any instrument and all accrued interest, the instrument shall be cancelled. If less than the amount of any such instrument is repaid, the instrument shall be cancelled and a new instrument for the remainder of the amount shall be substituted with the same maturity dates as in the old instrument. If all or part of the amount of a claim is transferred under 8 below, a new instrument or instruments shall be substituted on request for the old instrument with the same maturity dates as in that instrument.

4. (a) The Fund shall pay interest on the amount that the Fund is committed to repay under this agreement in accordance with the following provisions:

(i) The initial rate of interest on all outstanding claims shall be seven per cent per annum. This rate shall apply until June 30, 1978.

(ii) Six months after June 30, 1978, and at intervals of six months thereafter, the Fund shall calculate, in the manner set forth in (iii) below, the rate of interest to be paid on outstanding claims for the period of six months prior to the calculation.

(iii) The interest rate on outstanding claims for a period of six months shall be the average of the daily yields during that period on actively traded U.S. government securities, determined on the basis of a constant maturity of five years, as published each week by the Federal Reserve Board, Washington, D.C. in statistical release H-15 or any substitute publication, or if such publication shall cease as certified by the U.S. Treasury, provided that this average shall be rounded up to the nearest one-eighth of one per cent.

(iv) Interest shall be paid promptly after June 30 and December 31 of each year on the average daily balances outstanding during the preceding six months of the amounts the Fund is committed to repay under this agreement.

(b) No other fee, charge, or commission shall be imposed by [X] with respect to a deposit or an exchange pursuant to a call under Paragraph 2(d) or with respect to any other aspect of a call.

5. (a) Subject to the other provisions of this Paragraph 5, the Fund shall repay [X] an amount equivalent to any deposit pursuant to a call under Paragraph 2 in [eight] equal semi-annual installments to commence three and one half years, and to be completed not later than [seven] years, after the date of the deposit.

(b) The Fund may repay [X] in advance of the repayments required by Paragraph 5(a) to the extent that: (i) a repurchase is attributed, in accordance with the Fund's practice, to a purchase under the facility for which the Fund has received resources from [X] under this agreement, or (ii) [X] agrees to receive repayment.

(c) If at any time [X] represents that there is a balance of payments need for repayment of part or all of the amount the Fund in committed to repay under this agreement and requests such repayment, the Fund, in considering the representation and deciding whether to make repayment, shall give [X] the overwhelming benefit of any doubt.

(d) Repayments under Paragraph 5 (b) and (c) shall discharge the installments prescribed by Paragraph 5(a) in the order in which they become due.

6. The Fund shall consult [X] in order to agree with it on the means in which payments of interest and repayment shall be made, but, if agreement is not reached, the Fund shall [have the option to] make payment or repayment in [the currency of [X], or] the currency received by the Fund from [X], [or] [special drawing rights] [or any currency deemed by the Fund to be freely usable or any currency that can be exchanged at the time of the payment or repayment for a freely usable currency at a rate of exchange that would yield value equal in terms of the special drawing right to payment or repayment in a freely usable currency,] [or any combination of these means of payment or repayment].

7. (a) If the Fund decides to make a change in the method of valuation of the special drawing right, [X] shall have the option to require immediate repayment of all outstanding claims on the basis of the method of valuation in effect before the change.

(b) If [X] exercises its option under Paragraph 7(a), it shall have the further option to cancel this agreement.

8. (a) For value agreed between transferor and transferee, transfers may be made at any time of all or part of a claim to repayment under this agreement in accordance with the following provisions:

(i) Transfers may be made to any contracting party, any member, a member's national official financial institutions (hereinafter referred to as a member's "institution"), or any institution that performs functions of a central bank for more than one member

(ii) Transfers may be made to transferees other than those referred to in (i) above with the prior consent of the Fund and on such terms and conditions as it may prescribe.

(b) The transferor of a claim shall inform the Fund promptly of the claim that is being transferred, the transferee, the amount of the transfer, the agreed value for the transfer, and the value date. The transfer will be registered by the Fund if it is in accordance with this agreement. The transfer shall be effective for the purposes of this agreement as of the value date agreed between the transferor and transferee.

(c) If all or part of a claim is transferred during a period of six months as described in Paragraph 4, the Fund shall pay interest on the amount of the claim transferred for the whole of that period to the transferee.

(d) Subject to (c) and to any terms and conditions prescribed under (a)(ii), the claim of a transferee shall be the same in all respects as the claim of the transferor, except that Paragraph 5(c) shall apply only if, at the time of the transfer, the transferee is a member, or the institution of a member, that is in a net creditor position in the Fund and in the opinion of the Fund the member's currency could be used in net sales in the Fund's currency budgets for the foreseeable future.

(e) If requested, the Fund shall assist in arranging transfers.

9. [If [X] withdraws from the Fund, this agreement shall terminate and the amount that the Fund is committed to repay under this agreement shall be repaid in accordance with the terms of this agreement, provided that repayment shall be made, at the option of the Fund, in the currency of [X] or in a currency deemed by the Fund to be freely unable], or in such other currency as may be agreed with [X].] [If the member country of which [X] is an institution withdraws from the Fund, [X's] agreement shall terminate, and the amount that the Fund is committed to repay under this agreement shall be repaid in accordance with the terms of this agreement, provided that repayment shall be made at the option of the Fund, in the currency of that member [or in a currency deemed by the Fund to be freely usable], or in such other currency as may be agreed with [X].]

10. In the event of liquidation of the Fund the amounts the Fund is committed to repay to [X] shall be immediately due and payable as liabilities of the Fund under the provisions of the Articles on liquidation of the Fund. For the purposes of these provisions of the currency in which the liability is payable shall be, at the option of the Fund, [the currency received by the Fund under this agreement] [the currency of [X] if it differs from that currency], [a currency deemed by the Fund to be freely usable,] or any other currency agreed with [X].

11. Any question of interpretation that arises under this agreement that does not fall within the purview of the provisions of the Articles on interpretation shall be settled to the mutual satisfaction of [X] and the Fund.

If the foregoing proposal is acceptable to [X], this communication and your duly authenticated reply shall constitute an agreement between [X] and the Fund, which shall enter into force on the date on which the Fund receives your reply.

Very truly yours,

H. JOHANNES WITTEVEEN,
Managing Editor.

ANNEX C

RELATIONSHIP BETWEEN SUPPLEMENTARY FINANCING AND REGULAR IMF RESOURCES

Drawings on the Supplementary Financing Facility will be available in conjunction with drawings of regular IMF resources under the credit tranches and the Extended Fund Facility. Amounts initially available would be as described below.

Drawings Under the Credit Tranches.—As part of the Jamaica agreement on monetary reform in January 1976, countries potential access to the credit tranches was temporarily expanded by 45 percent, so that each credit tranche is temporarily equal to 36.25 percent of quota. This expansion will lapse when the amendments to the IMF Articles of Agreement now in process of ratification take effect, and each credit tranche will then revert to 25 percent of quota. As long as this temporary expansion is in effect, drawings of supplementary financing will be available only in connection with drawings on the upper

(i.e., more conditional) credit tranches, and in an amount equivalent to 34 percent of quota in conjunction with drawings on each of the second, third, and fourth credit tranches.

After the temporary expansion in credit tranches lapses, drawings of supplementary financing will be permitted in conjunction with drawings on the first credit tranche, in an amount not to exceed 12½ percent of quota, and drawings of the equivalent of 30 percent of quota will be permitted in conjunction with drawings of each of the three upper credit tranches. No drawings of supplementary financing will be permitted unless a country has agreed with the IMF on a program extending into the upper credit tranches. If a member has already used part or all of its credit tranches before a stand-by arrangement is approved under the Supplementary Financing Facility, in addition to the amount of supplementary financing made available in conjunction with drawings on the remaining credit tranches the member would be entitled to draw the amount of supplementary financing available in conjunction with the earlier credit tranche drawings.

These initial relationships between drawings of supplementary financing and credit tranche drawings are summarized in the table below. The amounts available in conjunction with drawings on the upper credit tranches will be subject to review by the Fund from time to time, and may be modified in light of the relative availability of supplementary financing and regular IMF resources. In special circumstances, the Fund may decide to permit drawings of supplementary financing in amounts beyond the limits implicit in the ratios mentioned above.

Parallel drawings available from supplementary financing facility

	Percent of quota	
	Before amendment of IMF articles	After amendment of IMF articles
Drawings on credit tranches:		
1st credit tranche	---	12.5
2d credit tranche	34	30.0
3d credit tranche	34	30.0
4th credit tranche	34	30.0
Total	102	102.5

Drawings Under the Extended Fund Facility.—Drawings under the Extended Fund Facility can total the equivalent of 140 percent of quota, subject to a limit of 176.25 percent of quota on combined drawings from the Extended Fund Facility and the credit tranches (this combined limit will be reduced to 165 percent of quota when the temporary expansion of credit tranches lapses). Drawings of supplementary financing will be permitted in conjunction with drawings on the Extended Fund Facility on a one-to-one basis. If a member has already used part of its access to resources under the Extended Fund Facility, in addition to the supplementary financing made available on a one-to-one basis the member will be entitled to draw the amount of supplementary financing available in conjunction with the earlier drawings under the Extended Fund Facility.

As with drawings under the credit tranches, the Fund may decide in special circumstances to permit drawings of supplementary financing in amounts beyond the limits implicit in the ratios mentioned above.

ADDITIONAL STATEMENTS

NATURAL GAS CONFEREES

Mr. BENTSEN. Mr. President, as we all well recognize, the natural gas bill that the Senate passed last week was only produced after an enormous effort. It represents years of legislative give and take; years of study and restudy; years of debate.

Now we face a conference with our House colleagues. Many people seem to forget that 47 percent of the House membership backed a more immediate version of natural gas deregulation than that approved by the Senate. But if the Senate position on natural gas is to be fairly represented in conference, and all possible compromises fully explored, a majority of the Senate conferees should be completely convinced of the wisdom of the Senate position and have so voted.

I recognize the continuing controversy over deregulation, and I ask for no unfair advantage in the debate to follow in conference. I am not seeking the appointment of any particular conferee or group of conferees. My goal is simply to insure that Senate procedures are followed. In fact, the rules and precedents established sometimes are overlooked points: Conferees from the prevailing side should be in the majority and conferees can be elected or rejected by the Senate as a whole.

As Senator HUMPHREY stated in the debate on the civil rights bill in 1964:

> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate.

The Senate Democratic Caucus adopted a similar rule, which instructed that "a majority of the proposed conferees shall have indicated their support for the bill in question as passed by the Senate, and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House."

To back up these rules, the Senate, as a whole, is given the power to elect its own conferees or amend any motion to elect conferees.

In selecting the advocates of the Senate position, the Senate is not limited to members of the jurisdictional committee. This is a well recognized principle going back at least to 1896. In that year Senator Lodge was chosen as a conferee on a bill which was reported out of the Judiciary Committee, although he was not a member of that committee.

Conference is the place for compromise, and I think one can be found on the issue of deregulation. It would be impossible for 535 Congressmen to sit down as a whole and work a solution. So representative conferees will be chosen. Accordingly, the composition of the majority of the Senate conferees must reflect the 52 Senators who voted for deregulation. I have and will continue to seek assurances that a majority of the Senate conferees on the natural gas bill will be chosen from supporters of the Pearson-Bentsen bill.

Frankly, having sat on numerous conferences, I recognize the inevitability of compromise. However, the selection of conferees should reflect what happened on the Senate floor, not what someone wishes had happened. In other words, the appointment of conferees is not another chance for the losers to win; it is the open selection by the Senate as a whole of the advocates of the Senate position.

INCREASING THE USE OF SEAT-BELTS

Mr. GRIFFIN. Mr. President, recently, in an appearance before the greater Detroit Safety Council, Mr. S. L. Terry of the Chrysler Corp. delivered an excellent address which puts the air bag issue in perspective. It is a speech that ought to be read by all Members of Congress, for they will decide this week—by action or inaction—whether air bags are to be forced on all new car consumers under an order issued by the Secretary of Transportation.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY S. L. TERRY, VICE PRESIDENT, CHRYSLER CORPORATION, TO THE GREATER DETROIT SAFETY COUNCIL, DEARBORN, MICHIGAN, SEPTEMBER 29, 1977

The facts show the decision to force the public to buy air bags is a tragic mistake. Air bag supporters have been selling the public and the lawmakers a bill of goods. They have been lulling the nation into a sense of false security about this system. Let me give you just a few of the misstatements, distortions, and downright untruths they have been peddling lately.

Fiction number one: Air bags are passive restraints.

The truth: You *must* wear a lap belt to get full protection in an accident. Air bag systems are *not* passive.

Fiction number two: Air bags give better protection than anything else available.

The truth: Air bags don't work in side impacts, rear accidents, or rollovers, where nearly half of all fatal accidents occur. They don't work at all in crashes at less than a 12 mile an hour barrier impact—the equivalent of slamming into a parked car at 24 miles an hour. A government study of 230 *tow-away* crashes of cars equipped with air bags showed the air bags did *not* work in 97 of those accidents. That means *no* protection in 42 percent of those accidents. You *must* wear a lap belt to get full protection.

Fiction number three: Air bags are the most tested safety device ever introduced.

The truth: Air bags have deployed in about 155 accidents—that's not enough real-world evidence to justify air bags. DOT researchers agree. The DOT executive responsible for analyzing accident statistics recently said, "Evaluation of air bag effectiveness is impossible at this point due to the small number of air bag-equipped cars on the road and the small number of accidents. We cannot quantitatively evaluate them based on field experience."

Fiction number four: The two companies don't have to use air bags—they could use passive belts.

The truth: Passive belts can only be adapted to cars with bucket seats. The air

bag is the only device that will meet the standard in cars which seat three people in the front. Studies show the passive belt gives less protection than today's 3-point belt system. You need to fasten a lap belt for full protection.

Fiction number five: Air bags will save 9,000 lives a year when they are in all cars.

The truth: This unsupported guess by DOT is off by a factor of three. General Motors, who has more actual experience with air bags than anyone else, told the Department of Transportation that we are saving as many if not more lives today, with current lap-shoulder belts, than we could save with air bags in all cars. And that's at today's usage rates.

DOT has rushed ahead with press releases on the virtues of "passive" systems based on very limited data. But they have delayed the release of other data showing the superiority of today's belt systems over air bags and passive belts. In fact, a Congressman had to threaten to subpoena one CALSPAN study that DOT didn't put in the public record.

CALSPAN conducted off-center head-on crash tests—duplicates of the kind of real world head-on accidents that typically occur when a car veers over the line and hits a car coming in the other direction. The study showed that three of the four occupants in the air bag cars would have been killed or very seriously injured. All the occupants in the lap and shoulder belt cars would have survived without serious injury.

The results of these crash tests by an independent and respected research organization contradict all the conventional wisdom about the effectiveness of air bags. The results should make even the most ardent air bag supporter sit up and take notice.

Even though the mounting body of real-world experience shows air bags have not been deployed or tested to the point that they should be mandated in all cars, the air bag lobby moves on. In the face of this mounting evidence, Ralph Nader's air bag lobby, and some insurance companies, are dealing with emotion, and ignoring the facts. They are putting on public display kids and grandmothers who have survived accidents in air bag equipped cars to prove that bags work.

Michigan AAA followed up on these stories and checked out what happened to the other people in the accidents—the people in the other cars with no air bags. Those people also escaped without serious injury, though most of them were not wearing belts.

The air bag lobby staged a phony demonstration for the benefit of the TV networks and wire services that completely misled the public. A bag popped out gently in the face of a little girl. There was no serious effort to convey an idea of the force and speed of a real deployment. No one explained that it would cost $600-$900 to replace the bags and sensors, and to repair the instrument panel and steering column that had been seriously damaged by the explosion of the bag. Is this our government's idea of truth in advertising? I wonder what the FTC would say.

All this hoopla and show biz is hiding one of the most important discoveries in automotive safety in the past few years.

Analysis of real-world accidents by several prominent independent research oragnizations, including the University of Michigan, CALSPAN, and the University of North Carolina, shows that present belt systems are even more effective in preventing injuries and saving lives than had previously been thought.

We have also learned a second very important fact—we can get more people to buckle up. Some of the actions to increase belt use are technical—improved reminder systems, better takeup reels, and modifications that let people move about more easily while wearing their belts. Other actions to increase belt use are motivational. We've learned from experience here in Michigan that we can change public attitudes towards lap and shoulder belts.

Past efforts to convince people to use their belts haven't always been as effective as we had hoped. Usually we tried to scare people into buckling up by showing gory accidents with a "this-could-happen-to-you" message. This approach turns people off because they don't believe it can happen to them. It does not work.

Motorists Information, Inc., decided to see if it could do something about belt usage. As you may know, MII is a non-profit corporation started by the four U.S. auto manufacturers to conduct education programs on public issues. We decided for our first project to try to educate people about the need to use belts, and then motivate them to buckle up. Any effort in this area would have a greater safety payoff than any other public safety program.

Our creative approach has combined emotion and fact. We knew from our research how hard it is to get people to fasten their lap and shoulder belts, because most people don't believe they're going to be in an accident. We found a new approach. Instead of an appeal to the driver to buckle-up for his own sake, we said do it for the sake of your loved ones. In other words: if you don't wear your belt for yourself, wear it for someone else—because somebody needs you.

Along with the emotion, we sprinkled enough facts to refute some of the common misconceptions and objections like, "I don't want to wear belts because I can't get out and I'll drown if my car runs off the Ambassador Bridge." The fact is that being inside the car, belted or not, is five times as safe as being thrown clear.

We first tried our program in the greater Grand Rapids area, which includes the cities of Kalamazoo, Battle Creek, and Muskegon. The program ran from April 4 to May 14. When it was over, we hired an independent research firm, Lincorp Research, Inc., to check the effectiveness of the campaign. Although practically every previous effort to get people to fasten their lap and shoulder belts produced only mediocre results, I'm pleased to report to you that the "Somebody Needs You" campaign was a definite success.

After the intensive six-week program using radio, television, billboards, and newspapers, Lincorp's research indicated that the reported use of lap and shoulder belts went up 12 percentage points—a 41 percent increase.

One of the most encouraging findings is that the program was so effective in communicating the need to wear belts that when it was over, 62 percent of the people said they would support or would not object to a mandatory belt use law. Before the campaign had started, over half were against such a law.

One media expert in the industry said this about the program:

"It is difficult, of course, to find an exactly comparable measure in our research of product advertising, but I cannot recall an attitude shift of this magnitude in my eight years of directing advertising research . . . There is simply no question that this campaign was effective and contrary to all other experiments to date, it is possible to change safety belt usage through the use of mass media."

He added that as a direct result of this program it has become socially unacceptable in the Grand Rapids area to admit you don't use your belt system.

Because of the success of the Grand Rapids test program, Motorists Information, Inc., recently expanded its program to the entire State of Michigan.

Now you would think that everyone would want to support a successful safety promotion of this type. That's not been the case. I think you'll be surprised to learn that our biggest critic has been the Insurance Institute for Highway Safety. For reasons I can't understand, they have publicly criticized our efforts and challenged our results.

Instead of seeking ways to cooperate with us to encourage people to wear their belts, the Institute has sent newspaper offices a pseudo-scientific analysis of our Grand Rapids program, titled "Auto Industry Belt Use Campaign Fails."

The Institute's study has been generally discredited by anyone who has taken the trouble to read it. They used a very small sample, which increases the chances of error, and questionable statistical techniques. They did not consider or even ask to see the reams of data collected by Motorists Information, Inc. Clearly, the Institute's researcher made up his mind about what he was going to find before he even started looking.

We have asked the Insurance Institute to join us in getting more people to buckle up. We hope they will. Belts are in 95 percent of all cars today, and regardless of what Congress does about air bags, lap and shoulder belts will be the primary restraint system well into the 1990s.

Even with air bags, people will need to buckle up to get full protection. Support of air bags should not prevent anyone from encouraging the public to use the proven safety device already in their cars today.

The payoff comes in the lives we will save. In the State of Michigan, for example, we will save one life and avoid 40 injuries each time we increase belt use only one-tenth of one percent.

Your organization knows the value of today's belt system. We appreciate the support you have given the "Somebody Cares Campaign" in our state. I hope that our success here will be a model for other states and other areas of the country.

We believe the controversy between lap and shoulder belts and air bags should be decided on the basis of facts—not politics or emotion. We believe the facts are clear. Lap and shoulder belts offer far greater protection than air bags—and it appears they will always offer greater protection. To Chrysler Corporation there doesn't seem to be any alternative. We are for the proven system that will save the most lives—the lap and shoulder belts already in most cars today.

ERNEST GRUENING

Mr. McGOVERN. Mr. President, last week I had the privilege of joining with the family, friends, and former colleagues of our dear friend, Ernest Gruening, to participate in the unveiling of a magnificent statue of this magnificent man.

Of all my colleagues in the U.S. Senate, there was no one I admired more than Ernest Gruening. He had the intellect, the courage, and the power of a truly great and historic figure.

The distinguished columnists, Jack W. Germond and Jules Witcover, captured the spirit of the dedication ceremony and of the life of Senator Gruening in their column in today's Washington Star, "Gruening, Doctor of Diversity, Earned the Praise."

I ask unanimous consent that this excellent column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

GRUENING, DOCTOR OF DIVERSITY, EARNED THE PRAISE

(By Jack W. Germond and Jules Witcover)

In political Washington, the word "great" is thrown around with abandon to describe some of the champion hacks of our time. But it was invoked with justification in the rotunda of the Capitol the other day at the unveiling of a statue of the late Sen. Ernest Gruening of Alaska.

Gruening began his Senate career at the age of 72, a time when most politicians are hanging up their spikes and retiring on a fat government pension. Before that, he had worked tirelessly for Alaskan statehood and was generally considered its father. And before that he was territorial governor, a newspaper reporter and editor, magazine editor, foreign correspondent, author, historian and diplomat—an incredible record for a man trained to be a doctor.

Hubert Humphrey once called him "the 20th century Benjamin Franklin," but "the 20th century Thomas Jefferson" would have been more like it, so versatile was Gruening.

But it is not his versatility that will win him a place in the history books. Along with the late Wayne Morse of Oregon, his voice was the first in the Senate raised against the Vietnam war. Later, he and Morse in August 1964 cast the only votes against Lyndon Johnson's Gulf of Tonkin resolution that was used to escalate the American involvement in that misadventure.

Defeated for re-election after two terms in 1968, Gruening kept up his fight against the war and, at the age of 85, stumped the country in support of George McGovern's anti-war candidacy in 1972. McGovern was in the audience at the unveiling. So was Sen. Gaylord Nelson of Wisconsin, who Gruening always said should have been president. Nelson said as he stood next to the statue that Gruening, a fighter of many battles, "did not always win, but he never lost by default."

Another speaker was Sen. Mike Gravel of Alaska, who defeated Gruening in the 1968 Democratic primary when the old man's age had made him politically vulnerable. Gravel, seeking to be gracious, said that only time had defeated Gruening. But Gravel was dead wrong: Time never laid a glove on Gruening until cancer finally struck him down.

Once in the last years of Gruening's life, a reporter writing about an anniversary of the Tonkin resolution called on him, expecting to find him infirm and senile. Instead, he found a man aroused to indignation in the mere discussion of Johnson and Vietnam. At one point, he raced upstairs and back down again with a letter Johnson had sent him trying to win him over. His mind was off and running, too, and the interview ended some three hours and a notebook of reminiscences later.

In his last months, Gruening found a cause that captured his passions almost as much as bringing the Vietnam war to an end—the impeachment of Richard Nixon. From his hospital bed in June 1974 he followed the House inquiry by watching two television channels simultaneously, reading the Washington and New York newspapers and the Congressional Record daily. Near the end, a visiting reporter was greeted with an arm-waving, fist-shaking denunciation of the then-beleaguered president. Nixon, he said, should not only be impeached, but convicted of high crimes, thrown out of office, then prosecuted as a citizen, convicted again and jailed as an example that American justice still worked.

Among those at the ceremony in the Capitol was a young man named Norman Jacques, a former member of the Rhode Island legisture who refused to be inducted into the armed forces as a protest against the Vietnam war. Gruening heard about him, went and spoke for him and then raised money for his defense. Others present the other day had similar stories to tell, going back to the days when Gruening quit medicine to be a reporter in Boston and eventually a diplomat under FDR.

Dylan Thomas could well have had Ernest Gruening in mind when he wrote pleadingly to the elderly not to submissively let their lives trickle to an end:

"Do not go gently into that good night;
"Old age should burn and rave at close of day;
"Rage, rage against the dying of the light."

Ernest Gruening was a man who raged in his youth, and in his middle age, and at the close of his days for causes that sometimes were unpopular, but always just. None of that spirit can be captured in a statue in the Capitol. But it will be a reminder for those who were privileged to know this "great" and generous man.

UNION SUPPORT OF RESOLUTION TO PREVENT TAXATION OF FRINGE BENEFITS

Mr. HATCH. Mr. President, widespread support is mounting for Senate Resolution 242 to head off a change in policy set in motion by the Internal Revenue Service to tax employee fringe benefits.

The American people, of all professions, locales, and political identification, are fed up with the heavy tax burden and they are especially angry with the proposed changes the IRS has worked out to increase their taxes by means of taxing their fringe benefits, including company insurance policies, discounts, lunches, airline and railroad pass privileges, and even parking spaces.

I urge my colleagues to join me and Senators CURTIS, DOMENICI, GARN, GOLDWATER, HAYAKAWA, HELMS, SCHMITT, THURMOND, TOWER, and YOUNG, in enacting Senate Resolution 242.

I would like to share with you a letter I have received from the general chairman of the International Brotherhood of Firemen and Oilers, System Council No. 14. Mr. Myron Jeppson, as spokesman for this organization, has very clearly expressed the sentiment of many hard-working American taxpayers. I ask unanimous consent that Mr. Jeppson's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 31, 1977.

DEAR SIR: It is my understanding that the Internal Revenue Service is currently revising its policy on taxation of fringe benefits. And that the Commissioner has indicated his desire to tax employe fringe benefits which would include railroad passes.

We are led to believe that the changes will become effective in January 1978 and that such changes would not require any discussion or Congressional approval.

This is a matter of great importance to the membership of Railroad Employes that I represent on the Union Pacific Railroad. As their representative, I strongly object to the above method of handling this matter and to the IRS's desire to tax these benefits.

It is of great importance because if this is allowed, that the IRS could conceivably tax all our fringe benefits creating a significant hardship on all railroad workers.

I strongly ask you to consider this issue and matter very carefully and invite any comments that you may make concerning your intentions and reasons regarding this matter. My membership will be kept informed of actions taken. I also invite you to give me your comments and reasons even if you should feel that this course suggested is the best way to go, so that I can better inform my people.

Respectfully submitted,

MYRON B. JEPPSON,
General Chairman, International Brotherhood of Firemen and Oilers.

PROPOSED INTERIOR DEPARTMENT REGULATIONS FOR THE SALE OF EXCESS LANDS IN RECLAMATION PROJECTS

Mr. ABOUREZK. Mr. President, in recent weeks there has been a great deal of controversy concerning proposed Interior Department regulations for the sale of excess lands in reclamation projects. This controversy reached a peak when it was reported that President Carter stated on Friday that he had reservations about the regulations and the law on which they were based. The story distorted the President's meaning entirely, but succeeded in adding to the confusion that has surrounded this matter.

Misunderstanding about this issue has been widespread since the issuance of the regulations, and understandably so. The issue is complicated, and has been the subject of both willing and naive distortion and inaccuracies.

Federal reclamation projects deliver water at highly subsidized rates to farmers who need to establish or supplement irrigation. In almost every case, including the Imperial and Westlands projects that have been the center of the controversy, project history shows local project promoters painting very bleak pictures of what would happen if Federal irrigation assistance were not provided.

In return for receiving the subsidized water—a taxpayer transfer amounting to hundreds of millions or billions of dollars per district—landowners owning more than 160 acres of land per individual agree to sell their "excess" lands in parcels of 160 acres or less to resident family farmers. By doing this, the taxpayer assures that Federal subsidies will only go to small family farmers. This has always been the goal of reclamation law. At no time in the law's 75-year history has any Congress or any administration formally repudiated this goal.

In most reclamation projects throughout the West, family farming was already established before the project was created, and the acreage limitation has caused problems only in that in some projects poor quality land made the acreage limitation unrealistic. The law can and should be changed to allow for realistic limits for poorer land. These limits, of course, should still not exceed that needed for a single family.

In a number of other districts, however, landholdings and farm operations were large, and landowners, although eager to receive federally subsidized water, were much less eager to accept the conditions for delivery of that water. In these districts the question has not

been whether the acreage limitation should be 160 or 320 acres, but whether there should be any attempt at all to have family farming in the project. Unfortunately, by one means or another, the large landowners have generally been succesful in escaping the clear intent of the law. In some cases, such as the Imperial Valley, the landowners have claimed, and the Interior Department agreed, they were exempt from the law. A Federal court has ruled that they were not. In other cases, such as the Westlands Water District, land has been sold in units in 160 acres or less, but the average resulting farm size is still over 2,000 acres. This sleight of hand is accomplished by having nonresident investors, friends, and family members buy the land and lease it to a single operator. The investors technically comply with the law, as interpreted by the Department, and reap an enormous Federal subsidy. They can do this because the Interior Department, until now, has ruled that residency is not required by the law. They argue that a 1926 revision of the 1902 reclamation law did not mention residency, as the original law did, and that therefore Congress repealed it by implication. Courts have ruled that this argument is invalid, and Congress itself repealed the residency requirement for a special situation in a later Act. Congress would hardly have thought it necessary to repeal a law twice.

We are left, then, with a situation in which a few wealthy people are reaping literally billions in Federal subsidies. They justify this by saying that they are producing needed food, but so are millions of other farmers without such enormous subsidies. The landowners claim that the regulations would devastate them, and that a law which has not been enforced for years should not be enforced now.

Frankly, this kind of argument should cause nothing less than fury among the small farmers and the taxpayers who are supposed to be benefiting from these projects. First, the landowners agreed from the outset to abide by reclamation law. The regulations governing those laws are and always have been subject to change. A Federal court, in fact, has decisively ruled on this issue. The law has always stated that the breakup of large landholdings and the settlement of family farmers was a major purpose of building reclamation projects. The history of the legislative efforts for the projects, in fact, often contains eloquent statements about the family farm economy that would rapidly follow project construction. Second, the landowners, in effect, are saying that they found ways to avoid the law successfully, and it is unfair to enact new regulations to make them follow the law now. It is not unlike a welfare cheater saying that he had found a way to collect extra welfare, had built a house with it, and thought that any efforts to cut off his welfare money now, which would cause him to lose his house, would be unfair.

The Interior Department's proposed regulations, in fact, are very lenient. To carry the welfare analogy further, they are like the Government telling the welfare cheater that they would agree to let him keep his house for 5 more years, and they would still allow him to get some, but not all, the extra welfare he had found a way to obtain.

Many people are saying, for instance, that the regulations will limit the landowner to 160 acres. That is a gross distortion. The regulations limit each individual landowner to 160 acres, but his family members can each buy 160 acres as well. Since this is nothing more than a legal nicety, in fact, a family of four can own 640 acres. In addition, each landowner can lease 160 acres. The same family of four, therefore, can control 1,280 acres.

There is also the argument that residency requirement—landowners must live within 50 miles—will deprive people of their income. The landowner who is not a resident, however, can either move, or he can sell his land. Since the project will have enhanced the value of his land enormously over what it would otherwise have been, he will be able to sell 160 acres of land at an enviable profit, and can invest that money in anything he likes, including land not in a reclamation project.

Then there is the argument that landowners will be bankrupted by being forced to sell their land at regulated prices, when market prices are much higher. Under both the current and proposed regulations, the Secretary of the Interior must regulate the sale price of excess land. Adding water to arid land—often about to become a desert (or as project proponents claim when they ask for the project)—enhances land values enormously. There is, of course, no reason why the landowner should be given this windfall at Federal expense. The price, therefore, is regulated so as not to reflect project enhancement. The GAO found that Interior procedures did not accurately assess the land, and were very likely to give the landowner substantially more than he deserved. The proposed regulations would not make this process any tighter. Nonetheless, landowners complain that they would lose money. In fact, of course, they are making money on the sale of their land, even though the regulated price at which they must sell is below market value.

Finally, it has frequently been argued that only large farms are efficient—that 320 acre farms would be impractical in California agriculture. This is nonsense. First, the regulations do not limit farms to 320 acres. Personally, I believe that they should limit all farm holdings to 320 acres of class 1 (the best) land or its equivalent in lands of lesser productivity. In Westlands, it has been estimated by an agricultural economist who studied the area, a 320-acre farm would produce an income of $8,000 to $32,000 per year. More impressively, there are literally hundreds of experienced farmers who want to farm holdings of that size. To them, and to me, the large landowners' statements about farm efficiency are self-serving inaccuracies.

Although I applaud the regulations, I think that the ultimate solution to this problem must be legislative. An acreage equivalency law is very much needed. The law should clearly limit the size of farms to the smallest fully efficient family sized unit. The Federal subsidy can be justified in no other way. Only actual farmers should be able to own land. In this way, the original goal of reclamation law can be accomplished—land will be settled by family farmers.

There is a great deal of hand-wringing about the disappearance of the family farm, and justifiably so. Unfortunately, the Federal Government is as much responsible for the loss of the family farm as any other force. Reclamation law provides a clear opportunity to rectify one long history of abuse in this area.

The new regulations would be a step in this direction. A bill (S. 1812) introduced by Senators NELSON, HASKELL, METCALF, and myself, and cosponsored by Senators BAYH, MCGOVERN, ANDERSON, and RIEGLE, would do even more. To backtrack now, however, would be a tragedy.

REVITALIZING OUR NATION'S CITIES

Mr. ANDERSON. Mr. President, the 38th Conference of the National Association of Housing and Redevelopment Officials was held recently in Minneapolis. The conference was privileged to be addressed on October 3, 1977, by Mr. Jay Janis—Under Secretary of Housing and Urban Development. Mr. Janis discussed the administration's role in promoting a commitment to revitalize our Nation's cities. In order that my colleagues may have the benefit of Mr. Janis' remarks, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY JAY JANIS

Good afternoon and thank you for giving me the opportunity to be the keynote speaker at your 38th national conference. I feel especially comfortable speaking before this group because your purpose, the NAHRO purpose, is "serving the Nation's housing and community development needs." That is also HUD's purpose and I know we will continue to work together closely to meet those needs.

I bring you special greetings from Secretary Patricia Harris who has asked me to convey her best wishes for a productive conference. Those of you—such as your outstanding Executive Vice President Bob Maffin—who has gotten to work with her over the past nine months share my enthusiasm for the splended leadership she has brought to the Department and to the formulation of urban policies within the Carter Administration. She has worked hard and effectively at shaping the new HUD and the future of urban America.

It is that subject that I wish to discuss with you today—urban policy and the future of our cities. Much has been written on this subject in the press lately, and I think that most of the discussion has been constructive. I am not one to pay much heed to those latter day Cassandras who predict that the cities are doomed to die anyway and who advocate that it would be sensible simply to unplug the respirators and let nature take its course.

We at HUD do not buy that diagnosis. We do not buy "triage" and we are not willing to give up on Americans who live in the inner cities. This is an Administration that cares very deeply about our urban places. And because we care, we are seeking a prescription—an urban policy, if you will—built around that commitment. That may sound like belaboring the obvious. But the *sine qua non* of an urban policy is a firm commitment to cities. And clearly that is a departure from previous Republican Administrations.

We have taken a different view. We believe this Nation must not walk away from its cities, leave their problems unsolved, cut their life lines and build new cities elsewhere. And public opinion has swung around to support this view.

A recent Harris survey suggests a growing nation-wide concern about the plight of our cities. Fully 70 percent of the public feels the financial crisis facing the cities is "very serious." According to the poll, a majority of 89 percent—five percent opposed—feels that cities "are the center of business, communications and the arts, and must be made better places to live in."

A majority of 77 percent—with 14 percent opposed—agrees that "America cannot survive unless the problems of the cities are worked out." These are important statistics because they suggest a new attitude toward this Nation's urban ills. Americans are simply not buying the concept of "natural selection" when it comes to our urban areas.

Aside from the supporting weight of public opinion, there are a host of other reasons why we should take an objective look at the present condition of our cities, with all of their warts and all of their social problems and decide what must be done to make them better places in which to live.

One reason is that so many Americans live in the cities, including the poor who need Federal, State and local assistance.

Another is that we have a tremendous investment in our cities both from an economic and physical point of view.

A third is the existence of an already defined infrastructure that has been in place over the years. With some repairs it can be made to work. And this is surely cheaper than creating new infrastructure.

In addition, with the energy crisis casting its shadow over our lives, we are in a position to reduce substantially the energy drain on our scarce resources by cutting down on the use of automobiles for transportation. Cities can be places where people not only work but enjoy their leisure hours, without wasting time and precious gasoline on travel.

Finally, the cities are often dynamic places, offering amenities and cultural activities that cannot be found in suburban areas. To that extent, the love affair that I and millions of other Americans have with the American city should be allowed to mature and ripen into a long-term relationship.

That is the way it has been through the ages. The cities have been the stepping stones of civilization throughout history, from ancient Athens and Rome to the Byzantine splendors of Constantinople, through the Holy Roman Empire, to the modern day giants of Paris and London and, yes, New York, New York. And, I might add, Minneapolis.

No nation has grown great on the basis of a totally pastoral economy. Cities are vital as places of commerce and industry, and I am convinced that the greatness of America will turn, in years to come, on the greatness of its cities. But the issue presently before us is to decide what forms and directions our urban policy should take to ensure the life and stability of the city for the future.

Thus far, the American experience has been that we have had many urban policies—separate policies each dealing with some aspect of urban life. We have had policies dealing with transportation, the location of sewer lines, the creation of jobs, the choice of housing, urban renewal, Model Cities and neighborhood approaches to community development. We've had policies dealing with poverty, citizen participation and a variety of other activities that have an impact not just on the city but on the surrounding metropolitan area.

These policies have been devised largely by separate Congressional committees and have been developed with little or no attempt to integrate them into a single coherent approach. And that perhaps is the heart of the problem. We have no lack of urban policies, but we do lack a unified, rational, coherent and comprehensive strategy.

It is not possible to lay a full-blown urban strategy before you today. That is the work of the Interagency Urban and Regional Policy Council that Secretary Harris leads, and that group will be completing their efforts in time for the President's State of the Union Message. However, over the past several months Secretary Harris and her new team at HUD have arrived at some fundamental conclusions about our cities that provide the basis for developing a national urban policy.

It would be useful, I think, to list the seven conclusions we have identified:

First, there must be a commitment to revitalize the cities. That is where most Americans live. This Nation cannot survive if its people do not survive, and there is no way for its people to survive in cities which are dying. Our overriding concern, then, must be to make cities livable.

Second, that commitment must be backed by concrete efforts to promote the economic development of the center city. No more important problem exists today than unemployment in the core areas, particularly among minority teenagers. The figures are frightening—over 40 percent in some areas. Much needs to be done. Our brand new Urban Development Action Grant program, which you will be discussing in detail at this Conference, is an example. Another example of what can be done about urban reinvestment is the concept that has come to be known as the Urban Development Bank, or "Urbank," which you have read about. While I cannot comment on the implementation of the concept in detail at this time because we are still considering several proposals, I can tell you that in general the program would be designed to encourage private economic growth and increase the growth of incomes and tax bases in economically distressed areas.

Urban development must be coordinated with economic development. The key here is the creation of jobs in the center city, both in manufacturing and service industries. If an "Urbank" approach is inadequate to get the job done, then we must consider other alternatives such as tax credits and other incentives to inner city investment.

Third, housing must be regarded as a key tool of urban revitalization. Housing must be linked to the city's plans for its urban revitalization activities, and this means our national policy must include large scale subsidies for new construction and substantial rehabilitation in urban areas.

That again sounds like belaboring the obvious. Yet it is also a major departure from past policy.

According to that policy, housing was built for the sake of housing, wherever it could be built. But if an urban policy has any meaning at all, housing must become part of an overall urban development strategy, targeted down to the neighborhood level.

Mayors, housing authorities and redevelopment agencies must use available housing programs creatively, such as Section 8 and public housing, and invent new ones where necessary. Housing must be regarded as a vital tool of revitalization, and shelter as a useful social benefit to city dwellers who are ill-housed.

The cities also must be served by a large variety of housing approaches. It is absolutely essential that they be offered a selection of housing programs, i.e., Section 8, Public Housing, Urban Homesteading, the 312 program. For no single family housing approach, or no single housing subsidy, will satisfy all of the needs of the entire population. To make use of these tools, the supply of new subsidized housing must be made available on a continuing basis, without stops or moratoria, until the needs for housing subsidies for new construction are met. Every time interest rates go up or down, or every time there is a need for fiscal stringency it cannot come at the expense of housing subsidies.

Since rehabilitation will be such a major part of a city's urban strategy it is going to be necessary to concentrate on the development of a dynamic and effective rehabilitation industry. Right now it is an industry made up of small producers—a cottage industry—without the skills and resources to carry out large scale projects.

We at HUD also have to use our inventory in a way that will contribute to urban revitalization. One of these ways is the Urban Homesteading program and we are going full steam ahead with the President's blessing. We are also working with local governments in an attempt to use our inventory in beneficial ways. But we must not restrict our efforts to these progams. We must look for new ways to use that inventory and I can assure you the search is on.

Fourth, middle income people must be encouraged to move back into the cities. The statistics on migration to the suburbs of the past 20 years are well known to all of us. In the last year alone some two million Americans left the city for the suburbs. But there is some evidence that the flow may be ready to abate.

The most recent figures on total U.S. migration revealed that 44 percent of the population moved from within the central city to another urban location, while 34 percent moved from one suburb to another. While 15 percent departed the central city for the suburbs, 7 percent moved to the central city from outlying areas. But that 7 percent is very important because it represents a break from the past and I believe it portends the pattern of the future. In fact, sizable numbers of middle income Americans have indicated a willingness to move to the inner city. They include professional people, both single and married couples, usually childless, and they also include some older people whose children have grown, the so-called "empty nesters."

There are what I like to call the new "urban pioneers," this 7 percent, and I personally believe they will be as essential to the revitalization of the cities in 20th century America as were the earlier pioneers to the development of the West in 19th century America. Preliminary studies indicate many are motivated by a desire to "rediscover" the city. With relatively high earning power, they can afford to invest in substantially sound housing, even in poorer neighborhoods. They are also looking for more opportunities for cultural enhancement and find it in the endless variety of the city.

While they cannot compete in actual "people" numbers with families that are still migrating to the suburbs simply because families with children are leaving while younger couples without children are returning, there is a large net gain to the city, other than in population. The newcomers generally pay higher taxes; they can help to broaden the city's tax base; and, they are less of a drain on the social services and resources of the city.

Our recruiting efforts should not be limited, however, to the childless working pro-

fessionals but should be extended to families with children as well. This will take some major reforms in our existing public educational systems. But to the extent that we can improve our inner city educational systems, the better chance we have of drawing these families back. And there are other attractions. Commuting time is shortened, saving time and precious energy. And, there is the possibility of finding a suitable house at considerably lower cost than current prices in the suburbs. On average, units do cost less in central city as opposed to the suburbs. Finally, there is always the attraction of city living itself.

So we need to offer every encouragement to these new urban pioneers, either in the form of shallow subsidies or other appropriate actions.

At the same time we must take into consideration a negative aspect of this movement back to the central city, and that is the danger of displacing families now living there.

This leads us to a fifth conclusion: The need to preserve existing neighborhoods. One way of not disrupting existing neighborhoods is to encourage the new urban pioneers to move into vacant areas where possible. That is a good strategy, but, let's face it, it won't always happen that way. When middle income families return to old neighborhoods, housing costs do rise. So do taxes. We must find some other ways to keep from uprooting these families. Emphasis must be on rehabilitation and renovation. Programs such as Urban Homesteading, targeted subsidies for existing units and support for selected neighborhood organizations will certainly help. So would tax abatement.

I was pleased to learn the results of a recent survey on the use of rehabilitation funds in the Community Development Block Grant program. The survey showed that the funds were being used not for expensive renovation projects to attract middle income people but for the benefit of lower income families seeking to rehabilitate their own single family homes.

In fact, 90 percent of the recipients are below the median income figure of $14,000. And 59 percent of those receiving the rehabilitation funds earned less than $7,000 annually. Only one percent had an income of more than $21,000.

Clearly, some new construction is also necessary in or near those neighborhoods, benefitting the lower income families if they choose to remain in the city. For those who wish to leave, housing opportunities must be made available outside of the inner city.

This leads to the sixth major conclusion we have reached, which is that freedom of opportunity for all Americans to choose where they will live and work—whether in the central city, the suburbs or the countryside—is essential to the HUD mission.

The Gautreaux decision is a landmark case in establishing the goal of freedom of housing opportunity. It requires positive action on the part of cities and the Federal Government to make available housing choices outside of areas of minority concentration.

We take that responsibility very seriously.

We've developed a plan in Chicago, pursuant to court mandate, to do just that. And to a large extent, our Section 8 existing program can be used for that purpose.

People of lower income must be able to find housing outside, as well as inside, the center city. The same is true of jobs and the social services they need. This means that we need a wide variety of housing choice, whether it be homeownership, rental housing, housing for the elderly, housing for families, housing for working Americans or housing for the handicapped. And along with the housing we're going to need a strong counseling program as well as the provision of technical services.

In the democratic society which we cherish, it goes without saying that these programs and these services must be provided without discrimination as to sex, color, religion or racial origin.

The seventh conclusion—the last that I will mention today—is the need to increase the capacity of communities and neighborhoods to achieve revitalization. This capacity-building involves a number of things:

The dissemination of experience and information; for instance, why homesteading has been so successful in a certain area. If the experience can be documented, it can be used by other areas.

Helping neighborhood groups to deal with the complexities of using available resources in their revitalization and stabilization efforts.

Keeping local government informed in carrying out its urban mission.

To sum up, we believe that cities are worth saving, that American cities are for the here and now and for the future, not just the past.

We also believe that there must be a commitment from Congress, the Executive Branch, and the American people, to revitalize our cities, to make them places to be proud of, places we can show off, places we can love. And we must make that commitment not for four years, not for eight years, but until the job is done. Part and parcel of this commitment is money, for as someone else has said, you cannot have an urban policy without urban dollars.

Also, we think that if resources are scarce, and tough choices have to be made, we are going to have to emphasize center cities over other areas. This is especially true of economic development activities. This does not mean suburban areas will be ignored. Balance is needed to stabilize metropolitan areas and rural areas. In both cases we must recognize the need for additional jobs and for housing at reasonable cost for the many new households to be formed in the next decade. But we do need to concentrate our efforts where the need is greatest.

We think that housing subsidies, especially for new construction, must be continued and increased so that shelter can serve as a key tool for revitalization.

We believe in the need to preserve existing neighborhoods. We do not need to tear everything down and start over again in the cities. We have already made the judgment that our cities have some very good housing stock and some good commercial and industrial facilities. We must preserve that housing and those facilities when it is economical to do so.

We believe it is essential to deal with the location of jobs and housing—to locate jobs within the city or as close as we possibly can, and to provide real housing options for the ill-housed throughout the metropolitan area.

Finally, we believe we must pay the price of providing the cities, the housing and redevelopment agencies and the neighborhood groups with the technical assistance to get the job done.

There are some hard choices that have to be made. But this Administration is not afraid to face up to that responsibility. We must make our cities into what they are destined to be—the center of our cultural lives, the source of intellectual ferment, the symbol of democratic strength, in truth the citadel of modern civilization.

With your help, we will make certain that all of us can point to our cities in the future with the same kind of pride we did in the past.

DO WE REALLY WANT "LIGHT DIVISIONS?"

Mr. HART. Mr. President, recent press reports have indicated that the executive branch may seek to place more emphasis on so-called light divisions within the Army and the Marine Corps. The supposed purpose of this new emphasis would be to improve our national capability to react to crises in those areas of the world where we have no ground forces prepositioned.

Clearly, it is desirable that we should have ground forces capable of quick reaction in a crisis. But it is not clear that these "light divisions" will give us any real capability. Light division forces are comprised of paratroopers, rangers, and other foot infantry. Unfortunately, such forces have questionable capability on the modern battlefield.

For a force to be effective in situations of crisis, it must have two capabilities: it must be able to move quickly over strategic distances, so as to be able to act within the short time frame of a modern crisis; and it must have the ability to defeat in battle any opponent it is likely to encounter. Both of these criteria must be met for the force to be an effective element of national crisis management; one capability without the other may create a force that is worse than useless.

While the "light divisions" currently in the U.S. force structure, such as the 82d Airborne and the three Marine Corps divisions, in some cases have adequate strategic mobility to respond to a crisis in a timely manner, the same "lightness" which gives them mobility makes it unlikely that they can defeat many potential opponents. If we look at an area such as the Middle East, we see that the local countries have powerful armies comprised of armored and mechanized divisions. Both historical experiences and military analysis suggests that the chances of foot infantry forces, such as the airborne or the Marines, against many of these local forces would be poor.

It would not serve U.S. interests well to have a major U.S. ground force inserted into a Third World area, only to be defeated by the forces of the local power. Yet in a world where some Third World nations have over 2,000 modern tanks in their armed forces, along with powerful artillery and tactical air forces, this is a real possibility.

It would not seem to be a wise policy for this Nation to invest more resources in forces with adequate strategic mobility, but with increasingly doubtful prospects on the modern battlefield. Rather, we should attempt to build "heavy divisions"—divisions with a good chance against potential opponents—which also have a rapid response capability in overseas theaters.

This can be done. Through the inherent capability of sealift to move heavy tonnage, we could create mechanized Marine Corps forces which would meet both of the criteria for an effective crisis management force. New approaches would be required to provide a rapid response capability with sealift. Currently, the Marine Corps cannot respond quickly with a large force. But techniques to reduce response time do exist, such as prepositioning the ground force's equipment on ships, either at ports of embarkment or at sea.

Mr. President, I ask unanimous consent that an article discussing possible new emphasis on the Light Divisions, from the August 26 New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER ORDERS STEPS TO INCREASE ABILITY TO MEET WAR THREATS

(By Charles Mohr)

WASHINGTON, Aug. 26.—After months of preparation and study, President Carter has issued a secret directive on national strategy that commits the United States to modest increases in defense spending, seeks to improve the combat ability of American forces in Europe to absorb an initial shock and calls for light, mobile and flexible forces to meet threats in such areas as the Middle East, the Persian Gulf and East Asia.

In the relatively brief and crisply worded directive, Mr. Carter also instructed Secretary of Defense Harold Brown and military planners to review the "targeting policy" that would direct nuclear warheads to locations in the Soviet Union in case of nuclear war.

One aim of the targeting review, according to Administration sources who discussed the new strategy directive, is to maintain the capability to inflict "unacceptable damage" to the Soviet Union even if that nation struck first with nuclear weapons. But another aim described by Mr. Carter was to develop options for limited nuclear responses by the United States to avoid escalation to unlimited conflict.

MORE SOPHISTICATION SOUGHT

The policy adopted by the President may calm the fears of both hawks and doves, without satisfying either entirely. It does not, an Administration source remarked, represent a radical departure from past strategic policy but it is intended to be a more sophisticated and flexible outline for managing relations with the Soviet Union.

The document does not, as some hawks had feared, "concede" the loss of a large part of West Germany in the case of a sudden, surprise attack by the Warsaw Pact forces, the Soviet bloc. Neither does it commit the United States to a policy aimed at being able to stop such an attack in its tracks, which probably would require massive increases in defense spending.

The President, therefore, reasserted American adherence to existing North Atlantic Treaty Organization strategy of a "forward defense." More significantly, the President ordered that United States policy should be to see that a surprise attack by Communist forces resulted in "minimum" loss of territory and that prewar boundaries be restored as rapidly as possible.

Although the document never mentions the word "detente," the President instructed that diplomatic instruments be used as an integral part of national strategy concerning the Soviet Union—which is apparently seen as the only plausible major enemy.

Arms limitation agreements, for instance, should be sought if they enhance United States national security, Mr. Carter said, and efforts should be made to draw the Soviet leadership into a widening pattern of "global cooperation" and increased United States-Russian trade.

The directive, or decision memorandum, is a strategic blueprint of how the President wishes policy to be made with regard to the Soviet Union. Its completion followed a prolonged review of "strategy and force posture" by lower level officials of the National Security Council and the Departments of Defense and State and extended debate in the so-called Special Coordination Committee dominated by Secretary of State Cyrus R. Vance, Secretary of Defense Brown and Zbigniew Brezezinski, the White House national security adviser.

This debate was closely followed from the sidelines by exponents of varying ideologies, who occasionally leaked their own apprehension to journalists.

The President reaffirmed that the United States should increase defense spending by about 3 percent each year in "real" terms, with inflation discounted, in conjunction with similar action by the other members of NATO.

"INITIAL" COMBAT ABILITY

The directive also calls for American forces in Western Europe to achieve enhanced "initial" combat ability, or the ability to respond rapidly to an attack.

Steps should also be taken, the directive said, to assure the safety of lines of communication and supply, presumably to keep NATO forces in effective combat after an invasion.

Some advocates of stronger defense have suggested that more American forces be shifted from southern Germany to the north German plain, where an attack seems more likely; that more supplies be stockpiled in Europe and that firepower available to United States forces be increased.

Administration sources said it was too early to say whether the broad directive by the President might result in such steps. Military and diplomatic planners must now attempt to give the directive more concrete form and the final result is not easy to predict.

Another instruction given by the President was that a force for so-called "light" divisions be readied for possible use in such areas as the Middle East, the Persian Gulf and Asia.

NAVAL AND AIR SUPPORT

These forces would be supported by selected naval and tactical air force units that could operate without the need of permanent, fixed foreign bases. Such capability now exists in other units that include the 18th Airborne Corps, but presumably the President's directive will lead to refinements in such forces.

The Second Army Division, which is now stationed in Korea but which will be withdrawn from that peninsula over a four-to-five-year period, will be given special responsibility as a rapid reaction force in Asia, including South Korea if that nation came under attack. Other forces in the Western Pacific would be maintained at least at present levels.

The Presidential directive expressed broad intellectual assumptions and specific measures that grow out of those assumptions.

Mr. Carter observed that in the next few years relations with the Soviet Union would probably be marked by continuing competition but also by increased opportunities for cooperation.

The President expressed an opinion that in such competition the United States enjoyed a number of important advantages, including a significantly stronger technology and economy. He also said that the United States enjoyed the support of genuine allies, committed to similar political and philosophical goals. The Soviet Union, he contended, faces severe internal political and economic problems and has largely unwilling allies.

On the other hand, the President acknowledged that the Soviet Union had made striking military progress and now had "essential equivalence" with the United States.

The directive did not demand that the United States once more achieve strategic superiority and thus, in effect, it conceded an era of equivalence. However, as Administration sources put it, the President directed that the United States will not accept a posture of strategic inferiority.

Planning should be aimed, the President ordered, at maintaining nuclear stability of power.

Mr. Carter said that the United States would not attempt to gain what is called a "disarming" first strike capability so powerful that it would render the Soviet Union incapable of effective counterattack—as long as Moscow also eschewed this knockout capability.

As had been past American strategy, Mr. Carter ordered that the United States retain the ability to inflict unacceptable damage on Russia even after a first strike by that nation. He also directed that a "reserve" of strategic forces be maintained, safe from attack, for use if nuclear war became relatively extended.

The first duty of the strategic forces should be to deter attack by the Soviet Union, the President said, but these forces should be strong enough that a possible nuclear war would end on the most favorable terms possible to the United States.

USE OF CONVENTIONAL FORCES

Significantly, Mr. Carter also asked that the Soviet Union be prevented from attaining enough strategic power to deter or coerce the United States from taking action with conventional forces in areas considered vital to United States interests.

The President's directive made clear that because an era of nuclear equivalence had dawned, increasing significance must be given to conventional military power.

In the defense of Europe, he reiterated that American strategy depended not merely on conventional force, but also on "theater" or tactical nuclear forces and on strategic nuclear forces.

ECONOMIC GROWTH, KEY TO ECONOMIC SALVATION

Mr. HATCH. Mr. President, strong economic growth is the key to the solution of most of our economic ills. By "economic growth" we mean increases in real gross national product, measured by the output of goods and services produced by the Nation in a single year. Economic growth is the only way to provide a growing labor force with jobs. It can help curb inflation. It is the only acceptable solution to our social security and pension financing problems. It is the source of rising standards of living and general economic contentment.

With economic growth playing such a vital role in our economic salvation, it is amazing to me to see my misguided liberal friends pursuing policies that actually retard or destroy economic growth. In fact, there are some on the far left who even advocate a "no growth" policy as a way of enhancing the "quality of life." But, with all due respects to the "zero economic growth" advocates, a rising GNP is crucial to economic advancement, including improvements in the quality of life. In fact, huge amounts of capital formation—the chief ingredient in economic growth—are essential to the development of new products, new processes of production, and essential to the creation of lifestyles that are more economical in their use of our natural and environmental resources.

The key to economic growth is productivity—output per unit of input, generally stated in terms of labor input. Land cannot be expanded and the size of the labor force grows slowly. Thus, our hope for vigorous economic growth lies in increased and improved tools and machinery per worker.

Growth in the amount of plant and equipment at a faster pace than the

growth of the labor supply is the crucial element in increasing productivity and thereby wages.

The most energetic and skillful shoemaker, working long hours under the able supervision of an effective manager, but using hand tools of a century ago, could not remotely approach the productivity of a less skilled operator working with the aid of modern computer driven machinery.

Various studies in recent years have pointed to the huge volume of capital investment needed over the next decade—trillions of dollars—to expand, replace, and modernize our production facilities to accommodate economic growth, to help us reach full employment, to implement Government mandated antipollution and Occupational Safety and Health Administration (OSHA) programs and to achieve greater energy independence.

Much of the needed investment will be in the form of catchup in our capital-to-labor ratios. There has been an alarming drop in the growth of capital—plant and equipment—relative to the growth of the labor force in the past decade. The stock of fixed capital per worker—in 1958 real dollars—averaged $55,000 in 1961–65. In 1971–74 the average was down to $41,000, and it has slid further since these studies were made. And yet this is the stuff growth is made of.

To accomplish the task ahead, we are going to need major changes in the tax structure and in our attitude regarding the relative importance of savings for growth versus consumption for immediate pleasure. Tied up in this is our attitude toward Government deficit spending and the inflationary results that flow therefrom.

Inflation and Federal spending push people into higher and higher marginal tax brackets. When this happens, my liberal friends only worry about the impact of these higher taxes on reduced aggregate demand. They are not concerned with the supply and production side of the equation. They believe that if tax dollars are returned to the public through tax rebates on Government spending, total demand in the economy is preserved, and all will be well.

Unfortunately, this approach fails to take account of the important impact of higher tax rates on output. President Coolidge illustrated this problem very well in a February 12, 1924 speech to the National Republican Club that is just as applicable today as it was in 1924:

> If we had a tax whereby on the first working day the Government took 5 percent of your wages, on the second day 10 percent, on the third day 30 percent, on the fifth day 50 percent, and on the sixth day 60 percent, how many of you would continue to work on the last two days of the week?

As taxes rise as inflation pushes people into higher marginal tax brackets, the rewards for production fall. The thought of giving Uncle Sam an increasing share of the fruits of our labor discourages additional effort and encourages cutbacks. Leisure becomes increasingly more attractive than work, and the resulting reduced effort bring diminished GNP.

Similarly, a tax on producers reduces the after-tax receipts of the producers and raises the after-tax price of their wages. Output fails; and employment and GNP fall.

The inability to take account of the supply of productive effort is the biggest failure of my demand-oriented liberal friends.

These people also look with glee at our recent low savings rates. They view them to mean that consumption will be high, and so aggregate demand will be high.

Let us carry this line of thinking to its logical conclusion. If less saving is better than more saving, why not get savings down to zero? Then we could consume 100 percent of all our income, demand would soar, and all is right with the world.

Well, not quite. Personal and corporate saving is the source of investment funds, replacement of worn out equipment, growth of the capital stock, and much of our job information, productivity growth, and wage increases. The attack on saving means stealing from the future. And for what? There would not even be any short-term gain. An end of investment would cost as many jobs in capital goods industries and in construction as would be gained elsewhere from inflated demand. And the capacity for future output would be destroyed.

The cleanest and easiest way to step up economic growth is to reduce taxes across the board. The increased after-tax returns to businesses will promote business saving and investment and will stimulate output. It will increase personal consumption demand, and also personal savings.

The extra saving this will produce will help provide funds for new jobs and homebuilding. To make this effect even stronger, and to avoid stepped up inflationary pressures, tax reduction should be accompanied by reduced growth in Federal spending. That way the added saving will go for loans to expanding businesses and for building homes, instead of into Federal bonds issued to cover Government deficits.

This simple program will encourage business investment and in turn generate economic growth. It will also generate added, future tax revenues. It will bring all the economic advantages cited in my first paragraph.

As an example, regarding our social security financing problems, stepped up economic growth is really the only answer.

Our social security problems are severe, not only for those whose retirement security is threatened but also for present and future taxpayers. Because in the future there will be relatively fewer workers to support more retirees—because of declining birth rates—we have a tremendous financial liability facing us—over $2 trillion in promised benefits which current taxes will not pay for.

To pay for this liability, we have basically only two choices. First we can increase the social security rates drastically, to levels half again as high as they are now. Or, second, we can stimulate economic growth to expand the number of workers and raise the incomes of those workers. It is better to increase real wages by 50 percent more than the Social Security Administration predicts, than to impose 50 percent more tax on lower real incomes.

What worries me about the social security problem is that if we do not work to expand economic growth and thereby the tax base, in the future the politicians will seek to raise the retirement age from 65 to 68, or cut the amounts of benefits. This represents nothing more than another broken promise made by the Federal Government to the workers of the country.

The only way to solve our economic problems is to embark on a sound course of economic growth. Essential to this growth is an adequate flow of private savings, accumulated under the twin incentives of ownership of property and the reaping of profits and wages from that property.

In this process, the private economy is where we should be putting our attention. Government cannot create wealth, it only redistributes it. Whenever Government intervenes in the economic process, it destroys the vigor of free markets, raises taxes, reduces saving and work effort, misdirects resources, and inhibits growth.

The seedbed of growth in our type of society is freedom and indivdual effort. Government can supply a healthy atmosphere for this, but Government has no substitute for it.

KILPATRICK ARTICLE ON FARM PRICES

Mr. ANDERSON. Mr. President, I do not often concur with the always provocative observations of the noted columnist James K. Kilpatrick. But a recent Kilpatrick column written from Hastings, Nebr., offers a most eloquent testament to the sad condition of our Nation's farm economy.

Several months ago, a bare majority of the U.S. Senate stood alone against the President, the House of Representatives, and the conventional wisdom of big city editorialists. We believed that family farmers would be faced with the worst farm prices since the Great Depression by harvest time, which is why we tried to enact a farm bill that could give thousands of farmers a fighting chance to survive these hard times. Today our worst fears have been confirmed as we find that farm prices have fallen to a 44-year low.

Mr. Kilpatrick apparently has been visiting in the Midwest and describes the situation. He saw farms for sale, farmers talking strike, farm prices below the cost of production, more young people forced off the farm and into the city. Mr. Kilpatrick is never an alarmist in these matters. An articulate and rock-hard conservative, he would be the first to tell us if the farmers were overstating the extent of their difficulty. Thus, when Kilpatrick writes about hard times in

the farm belt, it is time for other east coast commentators, opinion leaders, and policymakers to pay attention.

I do not know whether Mr. Kilpatrick would have voted for the price support portions of the 1977 farm bill, but he certainly makes a persuasive case for doing so.

Yes, he knows that our midwestern farmers will not give up. Most will survive. Mr. Kilpatrick has discovered why our farmers are so tenacious in the struggle to keep their farms out from under the auctioneer's gavel. He has seen the land, the fascinating and very expensive machinery, but most of all he was struck by the eagerness and determination of the farm kids who want to preserve the heritage of their parents for one more generation. All the more reason to make sure that this terrible farm price depression claims a minimum number of casualties.

Mr. Kilpatrick's column should be required reading for anyone asking the question "What are the farmers so upset about?"

Mr. President, I ask unanimous consent that Mr. Kilpatrick's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 6, 1977]

CORN AT $1.23 A BUSHEL

(By James J. Kilpatrick)

HASTINGS, NEBR.—Here in the Midwest, corn and wheat farmers are suffering from an old agrarian ailment: The best of times and the worst of times turn out to be all the same thing. Nebraska growers have tremendous crops this year—and they're losing their shirts.

It is an immemorial custom, to be sure, for farmers to complain of hard times. But the grumbling this autumn is louder than usual. Inflationary forces have pushed up the price of everything the farmer has to buy; the inexorable laws of supply and demand have pushed down the price of what he sells. Scores of marginal farmers are giving up. On a recent Sunday, the Omaha World-Herald carried six columns of classified ads under the heading of "farms for sale."

Farming is just about everything out here. All day long and well into the twilight, farm machines, like dinosaurs, crawl clumsily across the chocolate fields. The beasts devour the dead corn, spitting silage from their long ungainly necks; their yellow headlight eyes search the dark land. For men and machines, farming is a task that knows no end.

In most years the task is financially rewarding. This year the figures tell a different story. It costs a Nebraska farmer from $1.50 to $3, depending upon various factors, to produce a bushel of corn. The University of Nebraska says $2.10 is a fair average. But the average price received by the farmer is headed toward $1.23. With every bushel he produces, he goes a little deeper in the hole.

There is talk of a general strike, but few persons take the talk seriously. A couple of thousand disgruntled growers went to Pueblo, Colo., a few weeks ago to give Agriculture Secretary Bob Bergland a hard time. Bergland had some warm sympathy for them, and some cool advice also: Forget the strike talk. He wants Midwestern growers to reduce their production in 1978, and to store the grain they can't sell now. This too will pass.

The country radio stations crackle with gloomy predictions. A state senator says one of every ten Nebraska farms will be sold a year hence. The papers carry ads for farm auctions in Eastings, Norfolk, Atkinson, Wayne and Grand Island. When these topics get exhausted, a hailstorm or a few tornadoes come along. Country living ain't no sweet-smellin' bed of new-mown hay.

Yet the wonderful thing about this region is that nothing really chills the Midwesterner's love of his land. This correspondent happened to wander through Nebraska just as the 50th annual Ak-Sar-Ben livestock exposition was under way. The papers were filled with photographs of the 4–H winners. A 15-year-old named Kevin Mobley had produced the grand champion market lamb. Fourteen-year-old Kathryn Wiese had the champion Hereford. A pleasant feature story dealt with 11-year-old Shelly Olson of Milford, the fifth of the Don Olson children to enter prize-winning Holstein cows.

You are never going to discourage these people. Many of them will go off to college, and some of them will yield to the allures of urban life, but the pattern of family farming changes little year by year. In the worst of times, the emigration rate is higher: More sons go off to the city to sell cars or real estate or insurance. Things improve, and they tend to drift back. Farming demands immense capital these days, and not only capital; farming has become a highly skilled profession in which the inefficient producer gets plowed under.

An Eastern visitor listens to the grumblings, sympathizes with the low prices, and understands the economic woes. But a visitor is more deeply impressed by the rich land, and by the insatiable machines, and by the faces of the 4–H youngsters. The prairie people have survived worse hardships than corn at $1.23. They will make it through the next growing season, and through further autumns as far ahead as the eye can see.

AMENDMENT TO THE RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, in accordance with the requirements of section 133B of the Legislative Reorganization Act of 1946, as amended, I submit for inclusion in the RECORD an amendment to the Rules of the Committee on Energy and Natural Resources which was adopted by the committee on October 10:

Amend paragraph (a) of Rule 7 to read as follows:

"(a) A roll call of the Members shall be taken upon the request of any Member. *Any member who does not vote on any roll call at the time the roll is called, may vote (in person or by proxy) on that roll call at any later time during the same business meeting.*"

(Amendment of paragraph (a) is the italicized material above.)

JOBS AND ENERGY

Mr. ABOUREZK. Mr. President, one of the issues raised in the debate over natural gas pricing was the importance of new gas supplies to protect existing jobs and to create new ones. The oil industry tells us that higher prices are the trade-off for more jobs. Nothing could be farther from the truth. The oil industry currently controls the disposition of about $200 billion each year—and their investments produce no increase in our fuel reserves, nor any significant jobs. That money, extorted from a public which has access to no alternative fuels, would be far better spent elsewhere. We need to put money into the research and development of renewable energy resources that will substitute for fossil fuels, and into jobs that reflect more efficient ways of using the fossil fuels that remain in this country. The best explanation I have seen of this need has recently appeared as a reprint in the September issue of "Power Line," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOBS AND ENERGY

Citizen activists opposing utility rate increases, fighting new power plants and supporting rate structure reform are frequently faced with a common stumbling block—the job issue. Power companies and large industrial users have used the promise of new jobs and the threat of lost jobs as an effective tactic to win support for their policies.

In the spring of 1977, Environmentalists for Full Employment published a useful and well-documented 22-page booklet, Jobs and Energy. This excellent resource goes a long way to dispel the myth that "energy production is the key to national economic well-being and jobs." The following article is excerpted from Jobs and Energy:

Americans have long been told that ever-increasing energy production was the key to national economic well-being and jobs. It seemed enough to note that as energy production expanded over the years, so did economic growth and total employment.

Yet, current high unemployment, along with a succession of economic crises, have been taking place while national energy use has been at an all-time high and increasing.

Historically, industry has sought to substitute energy for human labor. What has kept the "more energy leads to more jobs" myth alive has been that accompanying a growing population has been a very large increase in the use of goods and services per person. There has also been a significant increase in energy use. It has thus appeared as if energy expansion had been causing economic expansion and increases in jobs.

From industry's point of view, energy and investment dollars have been preferred to human labor. Automated equipment does not complain about unsafe working conditions, seek wage hikes, question the nature of jobs or products, or strike. And energy has been cheap, subsidized by the government and by the American people.

Goods-producing industries have sought to use fewer workers (or at least make their employees work faster). Their goal has been to increase output per worker, or "productivity." The increase in productivity has resulted in the need for more and more energy and in a decrease in the total number of industrial jobs. Total employment in the manufacturing sector has declined over the last 40 years. In 1971, the five largest manufacturing industries (primary metals; stone, clay and glass; food; chemicals; and paper) provided only 7.3 percent of the nation's jobs. From 1950–1970, there had been no employment growth in these industries; yet their gross energy consumption during these years increased greatly.

In the steel industry from 1959–1969, employment declined from 450,000 to 100,000 as production increased 45 percent and energy use increased.

In 1970, agricultural employment was less than half of what it had been in 1920. That year, about 27 billion person-hours of labor were needed, compared with only about 2 billion person-hours 50 years later. Energy

input increased more than four times over that period.

From 1961–1973, electric utilities increased their kilowatt output about 13 percent, their revenues about 260 percent, their construction costs about 340 percent. But employment in electric utilities increased only 21 percent.

In all, the major energy-producing and energy-using industries consume one third of the nation's energy. Yet they directly provide only about 10 percent of the nation's jobs.

Since World War II, new jobs have been created overwhelmingly in the merchandising and service sectors of the economy. Between 1947 and 1970, employment in these areas increased 95 percent. These jobs have required relatively low amounts of energy, capital and resources. They also have caused less pollution and environmental disruption than industrial jobs.

However, "productivity" is becoming a factor in the service and merchandising sectors—the very areas which have provided new jobs in the past 30 years. Machinery is replacing supermarket clerks, bank tellers, teachers and telephone operators, in order to increase output per remaining employee and avoid dependence upon human labor.

Industry has been able to replace human labor economically with energy purchased at very low rates from an ever-expanding energy industry which has been accumulating ever increasing profits. The small consumer has been picking up the tab: industries traditionally have paid less than individual consumers for each unit of energy used. In addition, by bearing most of the environmental and disease costs associated with energy, and by permitting substantial government assistance to energy companies, the public has actually been subsidizing industrial use of cheap energy to replace human labor.

It is thus clearly in the interests of both energy producers and major energy users to continue keeping the public in the dark about energy supplies, production, expansion and use. From their standpoint, it makes sense to dig up the old scare tactic about job loss and economic depression—a line used with much success in the past: against the presidential bid of Populist William Jennings Bryan in 1896, against child labor laws, unemployment insurance, workman's compensation, labor union organizing and pollution control legislation, to cite but a few examples.

Americans use as much as two times the energy per person as do West Germans, Swedes and the Swiss. Yet the standards of living in West Germany, Sweden and Switzerland are comparable to or higher than this country. And unemployment in these European nations is much lower than in the United States. As a recent Federal Energy Administration reported noted:

"This large disparity in energy use between [West Germany and the United States] suggests that continued economic growth and improvement of the standard of living in the United States should be possible without a proportional increase in energy consumption."

The Ford Foundation's massive Energy Policy Project determined that a less than historical rate of increase in energy expansion, accompanied by more efficient of this energy, would expand the total number of jobs, and improve public health and environmental quality as well.

Large capital investments result in small numbers of very expensive jobs. A 1977 report by *The Conference Board* (a private communication from Edison Electric Institute, the trade organization of the electric utility industry) found that investment to create each job in energy-producing and major energy-using industries was much higher than investment to create a job in areas use smaller amounts of energy.

CAPITAL INVESTMENT PER JOB

Industry	*Capital Investment per Employee*
Petroleum	$108,000
Public utilities	105,500
Chemicals	41,000
Primary metals	31,000
Stone, clay, glass	24,000
All manufacturing (average)	19,500
Food and kindred products	18,000
Textile mill production	11,000
Wholesale and retail trade	11,000
Services	9,500
Apparel and other fabricated textiles	5,000

But despite the huge capital investments required, and the small numbers of jobs created; despite the inefficiencies and the waste of non-renewable fuels; and despite threats to human health and local autonomy, industry promotion of their large-scale, complex energy systems continues.

The best approach to energy sufficiency, economic prosperity and jobs is that which combines increasing energy efficiencies with a variety of diverse and safe energy-supplying technologies.

A Bonneville Power Administration Study has found that: "High impact conservation programs create more jobs than would be created by building new power plants to generate an equivalent amount of energy."

Amory Lovins has testified to the Senate Select Committee on Small Business that conservation programs which include shifts of investments from energy wasting to social programs create from tens of thousands to nearly a million net jobs per quadrillion BTUs of energy saved.

A preliminary analysis for the Federal Energy Administration provides specific breakdowns of some energy conservation techniques, costs and resulting employment. The report stressed that employment associated with energy conservation techniques is local, low- to moderately-skilled, and concentrated in or near urbanized areas which are experiencing the most acute unemployment problems. In contrast, centralized, expensive er ergy production complexes usually have to bring in highly-skilled labor from outside the construction area.

Fred Dubin, president of an engineering, planning and management firm which has conducted comprehensive energy analyses for many parts of the country, found that two billion dollars invested in energy conservation and solar power provides four times as many jobs as if it were invested in nuclear reactors (64,000 to 15,000). Skip Latiner, formerly of Critical Mass, has shown that about two and a half more jobs are required for solar-developed energy than for the same amount of energy produced by nuclear fission.

The job mix for the various technologies is different. Nuclear energy utilitizes fewer tradespeople per professional scientist or technician than does solar energy: for nuclear, the ratio is about two to one; for solar, it is nine to one. In addition, a broader array of skills are necessary for building and maintaining solar systems than for building and maintaining nuclear plants. And, as an ERDA report stated:

"Solar systems provide much more room for small business and geographically dispersed businesses and workers than do some of the more complex systems."

A report to the New York State Legislative Commission on Energy Systems calculated that the operation and maintenance of large wind systems require two to four times the labor force on a continuous basis than do nuclear fission or coalfired systems. The combined continuous labor requirements for construction and operation of wind systems without storage, according to the report, is 7,000 person-years more than for an equivalent nuclear plant. For wind systems with storage, 19,000 more person-years of work are created than are created by an equivalent nuclear plant.

The energy expansion scenario, which wastes both capital and resources, provides only limited jobs and unreliable energy sources, which causes disease and environmental destruction, is not in the interests of "workers, the poor and the disadvantaged," or in the interests of anyone else except the large energy corporations themselves. There are more jobs by far—and safer jobs, and there will be greater prosperity more evenly distributed if the nation cuts back significantly on energy waste and moves vigorously toward solar energy.

AWARD OF THE NOBEL PEACE PRIZE

Mr. KENNEDY. Mr. President, the awards of the 1976 and 1977 Nobel Peace Prizes today to the Northern Ireland Peace Women and to Amnesty International are eminently well deserved.

More than any other development in the 8 tragic years of the violence in Northern Ireland the peace movement launched by Mairead Corrigan and Betty Williams has demonstrated the tremendous desire for peace by the vast majority of ordinary citizens in Northern Ireland, Protestants and Catholics alike. The spontaneous cry for peace by these two Protestant and Catholic women struck a responsive chord in the hearts of tens of thousands of people in Northern Ireland, and won the support of millions in other lands. Their work has been a remarkable testament to the power of individual human beings, acting together, to make a difference in the world around them. I am hopeful that the honor they have received today will bring renewed efforts to end the violence in Northern Ireland and achieve the peace they have so eloquently tried to reach.

I also commend Amnesty International for its award. Over the years, its unceasing efforts on behalf of human rights have brought hope to the victims of oppression and injustice in many different nations. Its work will never end. But because of the efforts it has made and continues to make, the world is closer to the realization of genuine human freedom in every land.

PRESIDENT'S AND SECRETARY HARRIS' VISIT TO SOUTH BRONX ENCOURAGING SIGN OF HOPE

Mr. PERCY. Mr. President, during his visit to New York last Wednesday, President Carter surprised many local officials bv touring a devastated area of the South Bronx with Patricia Roberts Harris, the Secretary of Housing and Urban Development, and several city officials, including Mayor Beame.

On his walking and riding tour, the President spoke with many residents of the area, which is deteriorating rapidly. While he was shown two apartment house projects where the residents have rehabilitated the structures, most of what the President saw was another discouraging reminder of America's failure to assist the urban poor with jobs and better housing.

I am greatly encouraged by President Carter's dramatic demonstration of concern for the cities of this country, as evidenced by his tour of the South Bronx.

I hope that he will make it a practice to visit blighted areas of other cities, including my own hometown of Chicago, so that he may see firsthand the scope of this nationwide problem. When she first assumed office, I called on Secretary Patricia Harris to personally invite her to visit the west and south sides of Chicago with Senator STEVENSON and myself to evidence her concern and to personally meet with community leaders and hear their views.

I heartily commend President Carter for the obvious sincerity of his concern for the problems of the urban poor and I promise to work with him, as I have in the past, to alleviate their plight.

Mr. President, I ask unanimous consent that a news article appearing in the New York Times, an account of Mr. Carter's visit to the South Bronx, be printed in the RECORD.

There being no objection, the article was ordered to be printed n the RECORD, as follows:

CARTER, IN BRONX, FINDS HOPE AMID BLIGHT

(By Lee Dembart)

In an effort to demonstrate a commitment to cities, President Carter, in New York on United Nations affairs, made a sudden and dramatic trip yesterday morning to the South Bronx, where he viewed some of the country's worst urban blight.

The Presidential motorcade passed block after block of burned-out and abandoned buildings, rubble-strewn lots and open fire hydrants, and people shouting "Give us money!" and "We want jobs!"

Twice Mr. Carter got out of his limousine, walked around and talked to people. He said the Federal Government should do something to help, but he made no specific commitment.

After the tour, when Mr. Carter returned to the United Nations Plaza Hotel, he said:

"It was a very sobering trip for me to see the devastation that has taken place in the South Bronx in the last five years. But I'm encouraged in some ways by the strong effort of tenant groups to rebuild. I'm impressed by the spirit of hope and determination by the people to save what they have. I think they still have to know we care."

Accompanying Mr. Carter were Mayor Beame, who had been invited to the President's hotel suite yesterday morning but had not been told Mr. Carter was going to the Bronx, and the Secretary of Housing and Urban Development, Patricia Roberts Harris, whose office laid out the route.

Although the trip was kept a secret until the President was well on his way, it was no secret once he got to the Bronx, where the motorcade was led by six motorcycle escorts with sirens blaring, and several police cars. Three helicopters hovered overhead as the party crossed the Third Avenue Bridge and headed up the Grand Concourse—a decaying remnant of a fashionable boulevard.

The two stops that the President made along the route were designed to show him one of the few hopeful projects and the much more common hopeless area of the Bronx.

The first stop was at 1186 Washington Avenue, between 167th and 168th Streets, where Mr. Carter visited a housing renovation project. There 40 people have converted a six-story tenement into a building boasting freshly painted hallways, 28 oak-floored apartments and solar heat collectors on the roof.

Claude Briley greeted the President, saying: "Hi Jimmy, I'm glad to see you're in the Bronx checking out conditions."

"How do you think we're making out?" Mr. Carter asked.

"Fine," said Br. Briley. "We hope to make more progress."

Ramon Rueda, executive director of the People's Development Corporation, which undertook the renovation, appeared and said, "What a surprise!"

"We're proud of what you're doing," said Mr. Carter.

"We proud of you, too," Mr. Rueda said. "We have a low-interest mortgage, but we need more money, Carter. If you assist us in getting more CETA money, we could show a serious dent in the South Bronx."

Someone invited the President inside to look at the apartments, and Mr. Carter appeared about to go when an aide said there was not enough time.

"Gee whiz," said someone on the stoop, "this is really something, talking to the President of the United States on our own doorstep." The President and his party then shook hands again with the group, got back into their cars and went down the street.

"I feel ecstatic," Mr. Rueda said later. "He seemed completely sincere, and if he was putting on a show he was certainly making a good impression. I hope he will come back when we finish the next phase of our project."

THREE MILLION DOLLAR FEDERAL LOAN

The next phase includes a rehabilitation of five buildings in the area backed by a $3 million federally-financed loan and funds from the Comprehensive Employment and Training Act to train the workers.

The area was recently designated as a demonstration of multifamily urban homesteading.

If Washington Avenue was the hopeful stop, the hopeless one still awaited the President's party.

On Charlotte Street near Boston Road, not far from Crotona Park, the caravan stopped in the middle of a block on which all buildings on both sides had been bulldozed into heaps that in some places were eight feet high.

Mr. Carter, Mr. Beame and Mrs. Harris walked through two blocks of rubble that looked like the result of wartime bombing.

"Most of this occurred in the last five years after Nixon cut off the urban renewal funds?" Mr. Carter asked Mr. Harris.

"Yes," she said.

"See which areas can still be salvaged," the President said. "Maybe we can create a recreation area and turn it around. Get a Map of the whole area and show me what could be done."

Speaking to reporters, the President said: "There's been a rapid deterioration of this neighborhood, but high rises in the midst of devastation are holding their own."

One of the spectators, Marvin N. Mitchelll of 1555 Boston Road, stopped in front of the Santa Maria grocery store later and said: "It's nice the President has come here to see for himself, but someone has to tell him that the people here need help. We need jobs. Otherwise the Bronx is going to go down."

THE MX—A DESTABILIZING WEAPON

Mr. MCINTYRE. Mr. President, on Friday during consideration of S. 1863, the Department of Defense Supplemental Authorization Act, I joined with Senator KENNEDY and Senator MATHIAS in placing in the RECORD a colloquy on arms control and military implications of cruise missiles.

I bring this to the attention of the Senate at this time to point out a section in the colloquy dealing with the MX missile which today was the subject of an editorial in the New York Times.

In my remarks on the MX missile, I told the Senate of my disappointment that Defense Secretary Brown has given tentative approval to full-scale development of the MX before completion of a thorough review of the program as directed by the Congress. I noted that the questions raised by the MX are so grave they require the personal attention of the President and his Cabinet.

Furthermore, I followed up that statement with an analysis of my own which appeared in Sunday's edition of the Washington Post. For the benefit of the Senate, Mr. President, I ask unanimous consent that there be printed in the RECORD the New York Times editorial of October 10, followed by the Washington Post article of October 9 and the full text of my statement of Saturday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 10, 1977]

MXING UP SALT

While President Carter has been working toward a new agreement with Moscow to limit strategic missiles, the Air Force has been burrowing away in the Pentagon with plans for a new giant and mobile missile. If it should ever see daylight, it will profoundly change American strategic policy and increase the risk that a diplomatic crisis might escalate to nuclear war.

The subterranean image is appropriate. Each huge "MX" (meaning "missile, experimental") and its launching crew would travel through a concrete tunnel a dozen miles or so in length. It would, when launched, burst through the surface at some surprise spot along the tunnel.

MX is a response to two possible threats and an alleged need. One threat is to our present force of land-based missiles (ICBM's). In some rather implausible scenarios, which assume a perfectly executed massive Soviet attack, they might all be destroyed in their underground silos. The second threat is to Air Force's job—and jobs. One way to respond to the increasing vulnerability of our present ICBM force would be to place a larger proportion of missiles on virtually invulnerable Navy submarines. But given President Carter's decision not to build the B-1 bomber, de-emphasizing the land-based missile force would leave the Air Force with no new major strategic weapons system—a real threat to any military bureaucracy.

The alleged need as defined by the Air Force is for a very large missile capable of destroying Soviet land-based missiles in their fortified silos. Since the Russians rely more heavily on large land-based missiles—they

represent some 70 percent of Soviet strategic power compared with only 25 percent for the United States—MX would amount to a first-strike weapon: A force of 300 MX's could destroy the entire Soviet land-based force in half an hour.

Imagine a moment of escalating tension: Moscow would face the dilemma of either firing first or risking the destruction of its missiles in the ground. The Air Force contends it needs such threatening missiles to match those the Soviet Union is now deploying. But so long as the bulk of American weapons is invulnerable to a first-strike, no national Soviet leader would attempt it. So there is no reasonable case for a new family of heavy American missiles like the proposed MX. That leaves the question of whether to deploy smaller missiles in mobile form, at much less cost.

The political puzzle is how the hugely expensive MX, each costing about $100 million, has got so far. Last year the Senate Armed Services Committee—a body hardly unsympathetic to military requests—asked the Secretary of Defense for a full study of the future of the land-missile force and its role in American strategic policy. The committee stipulated that the conclusions "should represent Presidential policy". The study has not been made.

It is clear, however, that is is not President Carter's policy—as it was not his predecessors'—to pose a first-strike threat to Soviet nuclear forces. Moreover, the President hopes that arms control agreements will ban all mobile missiles, for once deployed they could not easily be counted and limited.

Last week it became known that Secretary of Defense Harold Brown had tentatively recommended "full-scale" development funds for MX. His spokesman denied that the recommendation was merely a "bargaining chip" to be traded away in the present SALT negotiations. Even if it is, the President should reject the idea. Today's bargaining chips have a disturbing tendency to become tomorrow's arms control problems. The last "chip" was the cruise missile, now causing serious difficulties for arms control. Once again, technology seems to be driving policy—and driving it in the wrong direction.

[From the Washington Post, Oct. 9, 1977]

McINTYRE WARNS MX MISSILE RAISES NUCLEAR WAR DANGER

(By George C. Wilson)

Committing the United States to building the MX intercontinental missile "commits us to the madness of limited nuclear war," Sen. Thomas J. McIntyre (D-N.H.) protested yesterday.

McIntyre, chairman of the Senate Armed Services Research Subcommittee, urged President Carter to steer the nation away from this "madness" by reversing Defense Secretary Harold Brown's recent tentative decision to push the missile another big step toward production.

Brown, in earmarking $245 million for the MX nuclear blockbuster in the fiscal year 1979 defense budget now in preparation, would advance the missile to the pre-production phase of development.

McIntyre said it "deeply angers this senator" that Brown moved to accelerate MX development without completing the study of the wepaon that Congress ordered last year.

McIntyre said Congress ordered the Pentagon to explain how the missile conformed to national strategy because his subcommittee concluded the MX "was a runaway program" which did not fit into the President's strategic objectives.

Those objectives, McIntyre said, were to "avoid an outbreak of nuclear war" by reducing the motive for striking first. "The MX will give the Soviets a motive for striking first and will make the outbreak of nuclear war more likely," McIntyre contended in a statement.

Under nuclear policy which has evolved under various labels since President Eisenhower's day, the United States deployed nuclear weapons in bombers, submarines and missile silos to persuade the Soviet Union that it could not score a knockout blow in a surprise attack. The United States would still have plenty of nuclear punch left over to devastate the Soviet Union in a retaliatory strike.

Besides trying to make a first strike look like a losing proposition for the Soviet Union, U.S. leaders in recent years have stressed that American strategic missiles are not designed to wipe out the Russian nuclear force by surprise attack.

But McIntyre, in his two-page statement for release today, argued that the MX would be so powerful and so accurate that Soviet planners would have to assume it was designed specifically to knock out Russian intercontinental ballistic missiles.

He said 300 MX missiles could "wipe out the entire Soviet ICBM force and their command and control centers in 30 minutes. In a period of crisis, the Soviets would be faced with the choice of either using their missiles or losing them. This would put a hair trigger on nuclear war. It would give the Soviets a military reason to strike first."

In the senator's view, the Air Force wants the MX to carry out what the Pentagon calls the "limited nuclear option," or LNO.

Here is a possible scenario under the LNO doctrine which McIntyre regards as "madness:" the Soviet Union fires a salvo of missiles at American missiles in sparsely populated areas of the Northwest, destroying 100. The American President responds by firing back only enough missiles to destroy 100 Soviet ones. Then the two superpowers pause and negotiate.

McIntyre long has argued that nuclear war could not be orchestrated and that to pretend it could be risks worldwide incineration.

The Soviet Union, by building big nuclear blockbusters like the American MX, is engaged "in the same damned foolishness" of going after land-based missiles, said McIntyre.

"So it is simply a matter of time," he continued, "until their large missiles become MIRVed and accurate enough to threaten our ICBMs. What we have in an ICBM arms race that threatens the future of mankind." (MIRV is the technique of putting a cluster of H-bombs in the nose of one missile.)

The silo-busters both sides are building must be limited to the point that MX missiles are not needed, the senator said, or else an arms control agreement "would not be worth a damn."

In the meantime, McIntyre said, Congress must insist that the President follow its 1976 mandate to relate the MX to national objectives.

McIntyre said his subcommittee concluded in 1976 that "Pentagon bureaucrats were moving the MX along and thereby committing this country to the idea of limited nuclear war outside the formal presidential guidance which is supposed to define America's strategic objectives."

Carter has said he hopes to avoid deploying the MX, which would be based in tunnels between 10 and 20 miles long. The MX would be hauled back and forth inside the tunnel on wheeled vehicles so Soviet rocket forces could not take dead aim on the missile. A giant launcher would punch a hole in the roof of the tunnel if the MX was to be fired.

Each MX missile would carry up to 12 H-bombs of about 200 kilotons each and land them on different targets with unprecedented accuracy, under Air Force plans. The MX could be deployed as early as 1984, with 300 of the missiles expected to cost what McIntyre termed a "hideously expensive" $40 billion.

Carter's first inclination was to slow down the MX, reducing President Ford's 1976 budget for the missile's development from $295 million to $135 million. Under the Ford timetable, the Air Force would have received $930 million for the MX in fiscal 1979 compared to the $245 million Brown approved during a preliminary review of the Pentagon's 1979 budget.

STATEMENT OF U.S. SENATOR THOMAS J. McINTYRE

The central issue is whether we should plan our strategic forces to *deter* nuclear war or whether we should plan them to fight a limited nuclear war. I believe that it is madness to plan to fight a limited nuclear war.

The MX is a weapon designed to fight limited nuclear war. Three hundred of them would wipe out the entire Soviet ICBM force and their command and control centers in 30 minutes. In a period of crisis, the Soviets would be faced with the choice of either using their missiles or losing them. This would put a hair trigger on nuclear war. It would give the Soviets a military reason to strike first.

For years it has been our basic strategic objective to avoid an outbreak of nuclear war. The MX will give the Soviets a motive for striking first and will make the outbreak of nuclear war more likely.

The Soviets have been involved in the same damned foolishness. For years, most of their strategic forces have been in ICBM's—over 70 percent. So it is simply a matter of time until their large missiles become MIRVed and accurate enough to threaten our ICBM's. What we have is an ICBM arms race that threatens the future of mankind.

President Carter's comprehensive arms limitations proposals earlier this year would have served the cause of peace and were in the national interest of the Soviets and the United States by placing a cap on the ICBM race and thus ensuring deterrence on both sides.

But, if all we get out of SALT II is a mere reduction in the numbers of missiles, I am afraid the agreement would not be worth a damn. We must achieve limitations on flight testing, limitations on MIRVed ICBM's and very heavy Soviet missiles so that the MX missile with its destabilizing effect and tremendous cost won't be needed.

For these and other reasons, I believe the decision of Secretary Brown for full-scale development of the MX is a disastrous mistake and would be hideously expensive at more than $40 billion. My subcommittee has been reviewing the MX for four years.

Last year, when Secretary Brown was not in the government, we became convinced the MX was a runaway program. The President had not directly related his strategic objectives to the development of the MX. In other words, Pentagon bureaucrats were moving the MX along and thereby committing this country to the idea of limited nuclear war outside the formal Presidential guidance which is supposed to define America's strategic objectives.

To make sure that the President and the government had consciously resolved these grave and dangerous questions, the Congress of the United States asked the Department of Defense last year to relate the MX directly to Presidential guidance and the threat of the 1980's. The Congress asked the President personally to certify that a move to go into full scale development of the MX reflected his judgment as Commander in Chief.

Secretary Brown and the Department of Defense have failed to comply with this Congressional request and the reports that Secretary Harold Brown is recommending full scale development of the MX, before this review is complete, deeply angers this Senator. The questions raised by the MX are so grave that they require the personal attention of the President and his Cabinet because this decision commits us to the madness of limited nuclear war. I urge the President to reverse this decision.

SCHWEIKER CRITICIZES CARTER MIDEAST PLAN

Mr. SCHWEIKER. Mr. President, the administration has taken a disturbing new tack in its Middle East diplomacy by including the Soviet Union in its peacemaking efforts.

This will not bring peace and might even jeopardize the chances of peace that still exist. It has infuriated the Israelis and rightly so. Already President Carter has had to backpedal somewhat on some of the details of the joint Soviet-United States statement of October 1. It has hardly been a contribution to peacemaking.

What it will do, however, is restore the Soviet Union to a major role in Middle East diplomacy. It is a wonderful gift we have dropped in Moscow's lap. One of the prior administration's chief diplomatic triumphs was to reduce the Soviet role in Middle East politics. The Soviets have been on the sidelines since the days of shuttle diplomacy, and it is precisely this fact that has helped the United States become the chief peacemaker in that region, without Moscow's help. With this climate, the nations of the Middle East seemed prepared to move closer to peace. When the Carter administration took office, it inherited this favorable diplomatic situation. Now, with this sudden turnabout of inviting the Soviets in, the Carter administration has thrown away years of groundwork laid by previous administrations. In columnist Joseph Kraft's words, "the Carter administration has muddled matters in the Middle East."

Let us not forget what sort of record the Soviet Union has had in Middle Eastern affairs. It was the Soviet Union that kicked off the great Middle East arms race by supplying large amounts of weaponry to Egypt in 1955. It was the Soviet Union that supplied arms for Egypt, Syria, and Iraq in the 1956, 1967, and 1973 wars. It was the Soviet Union that helped Egypt and Syria plan the surprise 1973 Yom Kippur attack on Israel, in direct violation of Soviet commitments to the United States in 1972. It was the Soviet Union that encouraged the OPEC cartel to quadruple world oil prices in the aftermath of the Yom Kippur war.

It is the Soviet Union that has given aid, comfort and diplomatic recognition to the terrorist Palestinian Liberation Organization. And it was the Soviet Union that supported in the United Nations the infamous "Zionism in racism" resolution.

This is in the record of our cosponsor of our most recent Middle East peace initiatives, Mr. President.

By making the Soviet Union a full partner, overnight, in our own peacemaking efforts in the Middle East, the administration has set our own peacemaking efforts back.

In the final analysis, all that seems to matter to this administration in its Middle East diplomacy is to stage a dramatic Geneva Peace Conference by the end of the year. And in the hope of gaining momentum for such a conference, the administration has even called in the Soviet Union.

To go to Geneva on these terms means the Carter administration must pressure Israel relentlessly. Does the administration not realize what some of these issues mean to the fate of Israel? The existence of a PLO State on the West bank, 10 miles from Tel Aviv? The requirement of Israel's having to negotiate in Geneva with a PLO delegation?

The administration chooses to forget commitments made to Israel. The United States is committed not to recognize the PLO as long as the PLO will not accept Israel's right to exist or UN resolutions 242 and 338. The United States is committed to consult with Israel on diplomatic moves involving the Middle East. These commitments have been or are being weakened by the Carter administration. Will other commitments also be weakened as we move closer to a Geneva Conference?

Finally, the administration chooses to forget about the prior record of the Soviet Union in the Middle East and what it means, therefore, to bring the Soviets back to center stage.

To repeat, all that seems to matter to the Carter administration is that there must be a Geneva Conference this year. For an administration that promised to conduct foreign affairs with high principles, with high levels, this is certainly a disturbing turn of events.

PROTECT THE BOWHEAD WHALE

Mr. CRANSTON. Mr. President, today's Los Angeles Times carries an editorial entitled "Keeping a Promise to the Bowhead." In it, the Times editorial staff presents one of the most cogent arguments I have seen as to why the United States must not file an objection to the zero kill quota on the bowhead whale as called for by the International Whaling Convention. At stake is not only the survival of the bowhead, but the credibility of the United States on the issue of whale protection that we have so heartily championed.

I wish to associate myself with the Times' editorial sentiments on the bowhead, and I commend this excellent commentary to my colleagues and ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

KEEPING A PROMISE TO THE BOWHEAD

This country has been the world leader in efforts to save the great whales from extinction.

Commercial whaling from American ports was made illegal by Congress in 1972. From that position of strength, the U.S. delegation to the International Whaling Commission has had great credibility—and success—in persuading Japan, the Soviet Union and other nations to reduce their slaughter of a number of species in danger of vanishing from the seas.

But that credibility could founder in the current controversy over the fate of the bowhead whale.

No other species is in greater danger of extinction than the bowhead, which migrates along the Arctic coast of Alaska in the spring and fall. A census by the International Whaling Commission estimates the present number at 1,000 to 1,500—a tiny fraction of the original population.

The bowhead, also known as the Greenland right whale, is one of the biggest cetaceans. Females, which are always larger than males, grow to a length of 60 feet.

Ironically, it is American citizens—Eskimos on the northwest coast of Alaska—who threaten the bowhead's survival. And it is the Carter Administration that must decide whether to practice a double standard—to demand that other nations reduce their kill of more abundant species while American citizens observe no restrictions at all in hunting down the rarest of the leviathans.

At issue is a decision by the International Whaling Commission three months ago to place a zero quota on the bowhead kill next year. The vote, except for an abstention by the U.S. delegation, was unanimous. Yet, at the same conference, American representatives were the most vigorous in urging a 10-year moratorium on all commercial whaling, except for the bowhead.

Why the exception? Because American law permits "native-subsistence" hunting of this one species, which is easily taken by the Eskimos because it swims close to shore. The question is whether the international agreement will take precedence over the U.S. Senate.

The Administration has until Oct. 24 to accept or reject the one-year prohibition against the killing of bowheads. Other nations are waiting. If the Administration rejects the prohibition, the Soviet Union and Japan would feel justified in ignoring prior restrictions on their whaling fleets, and this country would have no moral grounds on which to object.

The decision rests with President Carter, who is receiving diverse recommendations from the State, Interior and Commerce departments.

We urge him to accept the moratorium. It would be in the best interests of our own international credibility, and also in the best interests of the Eskimos.

Because of prosperity resulting from the North Slope oil boom, the native population of that section of Alaska can no longer claim that the bowhead is necessary to their subsistence. Substitutes are readily available for the meat and oil that the bowhead provides.

But the slaughter is increasing. Where once the Eskimos took only 10 a year, they are now harpooning 10 times that many. And they are hunting them as much for commercial purposes as for subsistence. Whalebone, which can be made into curios for sale to tourists, has become a more valuable commodity than blubber.

Most of the Eskimos no longer hunt the bowhead in the traditional—and most effective—way. Instead of pursuing the crea-

ture in boats and placing their harpoons accurately at close range, they shoot explosive charges at them from the ice floes with shoulder guns. In this year's spring hunt, the Eskimos struck and lost three whales for every one they were able to beach—and at least half of the lost whales had mortal wounds. Many observers believe that the hunts have become more of a blood sport than a legitimate quest for subsistence.

If the Eskimos—and their Washington advocates—actually think the bowhead is essential to native survival, they should be the first to agree that it must be given a chance to replenish its numbers. A one-year hunting cessation, with appropriate quotas thereafter, would preserve the fishery for future generations. But if the present wasteful killing goes on, the bowhead may not survive this generation.

The Administration decision also will involve Carter's credibility. When he was running for President, he said that his Republican predecessors had been "slow and timid" in implementing the American position against further decimation of the world's whale population. "Under the Carter Administration," he said, "that will not be the case."

Now is the time for him to keep that promise.

SENATE SHOULD VOTE ON AIRBAGS

Mr. HELMS. Mr. President, I do hope that the Senate will not default on its responsibility to act, one way or another, on the resolution of disapproval in connection with the so-called "airbag" issue.

As Senators know, the senseless requirement that new automobiles be equipped with the expensive airbags will go into effect unless we act by next Thursday, October 13.

If the Senate fails to face up to its duty, I suspect that this will be an issue that will blow up in the faces of all who permitted the issue to be settled by default—by the failure of the Senate to act.

I believe that if these devices are foisted on people by the Department of Transportation with Congress acquiescence, the outcry heard by politicians will be louder than the bang heard by occupants of a car in which the airbag explodes.

Mr. President, after a long delay, I have been able to obtain a copy of the 1974–75 service manual for the General Motors "Air Cushion Restraint System."

The warnings contained in that manual would lead one to believe it is for handling a missile launcher and not an automobile accessory.

In bold type it states:

Warning: To avoid inadvertent deployment when trouble-shooting air cushion restraint system, do not use electrical test equipment such as battery-powered or a.c.-powered volt meter, ohmmeter, etc., or any type of electrical equipment other than specified in this manual. Do not use a non-powered probe type tester. Instructions in this manual should be followed carefully, otherwise personal injury may result.

Other warnings are equally alarming:

Do not attempt any servicing or disconnecting of air cushion restraint system components until negative cable has been disconnected from the battery and terminal end of cable taped. This procedure must be followed to prevent accidental deployment of systems which could result in personal injury and/or damage to system components.

Another states:

Warning: Care must be exercised when handling a sensor-recorder to never strike or jar the sensing mechanism in a manner which could cause or result in personal injury or improper operation of the aircushion restraint system.

One says in part:

Warning: with aircushion restraint system do not attempt any adjustment, repair or removal of the front bumper or components until the disconnection procedure is completed. This procedure must be followed to prevent accidental deployment . . . which could result in personal injury . . .

To the auto mechanic that must install or remove an airbag, it tells how to carry the device:

Warning: Passenger air cushion assembly (Non-Deployed) should always be carried with the uncovered air cushion away from all parts of one's body to prevent injury and/or damage in case of accidental deployment.

Then it tells him how to carry it and then set it down:

Warning: The passenger(s) module should always be carried with the inflator and reaction plate between the person's body and the cushion. The assembly should be laid on a flat surface with the inflator and reaction plate between the flat surface and the cushion. This is necessary to allow free space for cushion expansion in case of accidental deployment. Otherwise, serious injury may result.

It is interesting, I think, to note the phrase "accidental deployment."

My dictionary defines "deploy" as: "mil. 1. To extend the front and decrease the depth of by tactical maneuvers; spread out in line of battle; as to deploy a battalion."

Although this is not a weapons manual, the methods used to dispose of the sodium azide canisters are what one would expect of ordnance disposal.

If, for example, an airbag must be changed in an automobile for whatever reason, a car owner cannot expect to take it down to the corner gas station and tell the attendant to put a new one in.

The service employee must read and follow the 112-page manual to remove this explosive device and if it does not go off in his face while he is trying to get it out, he must then follow instructions to see to it that it is "immediately disposed of in the manner outlined below."

First, a bench vice must be set up and the canister drilled out with a one-fourth-inch drill until the sound of gas escaping is heard. After 12–18 minutes, the gas is gone and, "the following steps should be taken to incinerate the module:

1. Place the module with the air cushion side up in an open-top 55-gallon drum.

That is not too bad, because most gas stations have 55-gallon drums around. Usually they have been filled with oil or kerosene. The complication comes in the next instruction:

2. Build a wood fire in the drum which will create enough heat to activate module.

Presumably, since the air bag device is at the bottom of the drum, the attendant is building a fire on top of the air bag device. Presumably, too, the gas station attendant has gone down to city hall to obtain a burning permit.

I do not know whether the Environmental Protection Agency is interested, but perhaps an environmental impact statement would have to be filed before this "immediate" action could take place.

Instruction No. 2 continues:

(Use of a wire mesh across top of drum is recommended.) Module activation can be seen but will not be violent. Fire will render the unit completely inactive.

The trick presumably is to get the fire going before the "module" is "activated" and then put the mesh across the top.

Whatever the scientific accuracy about the "nonviolent" reaction that would result, the manual has what is known as a credibility problem. All previous warnings about personal bodily injury would make Evel Knievel hesitate before starting a wood fire on top of an "undeployed" air bag.

If an automobile serviceman would go through these disposal operations in light of the previous warnings, he might hesitate after reading the one printed in boldface type just above instruction No. 2. It reads:

Warning: 55 gallon drum used for burning must be placed in an open area where burning is permissible. Drum should be located at least 15 to 20 yards from buildings or inflammable material because burning debris may be thrown from the drum.

No. 3, of the instructions is the good one, "after activation, module can be discarded in usual manner for any parts to be scrapped."

Now, of course, this device could not and would not be disposed of by a local gas station. It would need the resources and sophistication of the biggest auto dealerships. If a foreman assigned a man that task as outlined in the manual, I don't believe he'd do it. If he did it and OSHA found out about this disposal method, that agency would squelch it in a minute.

When my office brought the disposal method to the attention of the technical safety division in OSHA, one official said he "couldn't conceive" of that agency permitting such an operation.

In fact, of course, some method of disposal would have to be developed. Needless to say, it would be even more complicated than the one outlined in the GM manual. And, it should be noted, it will be more expensive.

If airbags are mandated, there will be 100 million cars with them on the road by 1990. At that time, 10 million or so cars will be junked. Most of them will still have live airbag devices in them.

Since that problem is years down the road, it is easy to ignore. However, it is a problem with which we should not burden our Nation without a real recognition of the cost and hardships we may be imposing in future years.

Ten million junked cars a year means twenty-million explosive canisters. Will these cars be set in junkyards with these

devices still ready to go off or will we go through the elaborate, expensive, and danagerous means of disarming and disposing airbag devices prescribed by the GM manual?

The best answer is to approve the resolution of disapproval presently pending in the Senate and take a long, sober look at the airbag as it might fit into a rational program of automobile safety promotion.

Mr. President, I ask unanimous consent that excerpts from the service manual be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM GM SERVICE MANUAL

INTRODUCTION

Warning: Air cushion restraint system modules (driver and front passenger(s)) must be deactivated prior to disposal. Both modules contain explosive materials. In addition, the passenger module contains high pressure gas. Failure to deactivate prior to disposal could result in personal injury.

Driver air cushion restraint module disposal

INTRODUCTION

Warning: Driver air cushion module should always be carried with vinyl cover away from all parts of one's body and should always be laid on a flat surface with vinyl side up. This is necessary so that a free space is provided to allow the air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

Disposal Procedure—Removed From Car

Deployed module

When a deployed driver air cushions module (Fig. 6-1) has been removed from vehicle, as outlined in Section 5-Driver Module and Steering Column, it can be disposed of in usual manner and discarded with any other scrap material.

Undeployed module

In the event it becomes necessary to replace a damaged or defective driver module (Fig. 6-2) that has not been deployed, the following procedure will apply:

Immediately notify the local dealer and/or zone office. They will arrange for a representative to dispose of the module. If it is necessary to remove the module from the car before that time, it should be stored in an Air Cushion Restraint System shipping carton. The carton in which the replacement module is shipped is suitable for storage. If additional driver module shipping (storage) cartons are required, they are available under part number 1154146.

No attempt should be made to deploy or otherwise dispose of an undeployed driver module by any person other than an authorized representative.

When placing module to be disposed of in storage, the carton should be taped closed and stored on the floor with proper side up (as indicated on shipping carton).

Warning: Do not stack cartons or place objects on top of carton. This will allow the air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

Front passenger(s) air cushion restraint module disposal

INTRODUCTION

Warning: Passenger(s) air cushion module should always be carried with air cushion away from all parts of one's body and should always be laid on a flat surface with air cushion facing upward. This is necessary so that a free space is provided to allow the air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

Disposal Procedure—Removed From Car

Both deployed and undeployed passenger(s) modules must be removed from the vehicle, as outlined in Section 4-Passenger(s) Module, and immediately disposed of in the manner outlined below.

Undeployed modules

In the event a passenger(s) module cannot be immediately disposed of, it must be stored in an Air Cushion Restraint System shipping carton in a secured area until the disposal procedure can be performed. The carton containing the replacement assembly is a suitable storage carton. If additional passenger(s) module shipping (storage) cartons are required, they are available under part number 1154147.

When placing module to be disposed of in storage, the carton should be taped closed and stored on the floor with the proper side up (as indicated on shipping carton).

Warning: Do not stack cartons or place objects on top of carton. This will allow air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

An undeployed module contains gas under pressure which must be released before disposal of the module is completed. In order to release this gas pressure the following steps should be taken:

1. Clamp inflator assembly in bench vise as shown in Figure 6–3.

2. Prepare wooden stop block to be used as spacer to limit depth of drill bit penetration into drill guide sleeve (Fig. 6–4).

3. Refer to Figure 6–4 and install stop block over a ¼" drill bit. Then adjust bit in drill chuck until bit extends beyond stop block as follows:

a. For Eaton or Allied Inflators 2-3/32".

b. For Aero-Jet Inflators 1-3/32".

Warning: Safety glasses or a face shield must be worn by any person in the area during the drilling operation and while the pressure is bleeding down after the drilling operation. Otherwise, metal chips from drilling may cause eye injury.

4. Insert drill bit into drill guide sleeve provided in end of inflator (Figs. 6–3 and 6–4). Drill until stop block contacts end surface of inflator, or until the sound of escaping gas is heard (gas will escape at about same rate as air from a tire after a valve core has been removed).

5. Remove drill and leave assembly clamped in vise until all of the gas has escaped (12–18 minutes).

6. After gas pressure has escaped, proceed with instructions applicable to deployed module.

Deployed modules

The passenger module contains two gas generators, each capable of inflating the air cushion. One or both may have been activated in an accident. To assure that both gas generators are deactivated it is necessary to incinerate the module after the air cushion has deployed or after the gas in an undeployed module has been released as described in the "Undeployed Module" procedure above.

Warning: Do not dispose of an undeployed module without first releasing gas pressure. Otherwise personal injury may result.

The following steps should be taken to incinerate the module:

1. Place the module with the air cushion side up in an open top 55 gallon drum.

Warning: 55 gallon drum used for burning must be placed in an open area where burning is permissible. Drum should be located at least 15 to 20 yards from buildings or inflammable material because burning debris may be thrown from the drum.

2. Build a wood fire in drum which will create enough heat to activate module (Use of a wire mesh across top of drum is recommended). Module activation can be seen, but will not be violent. Fire will render the unit completely inactive.

3. After activation, module can be discarded in usual manner for any parts to be scrapped.

Note: If deactivation and disposal procedure outlined above cannot be performed due to local ordinances, or are otherwise impractical, contact appropriate General Motors dealer or local Zone Office Service Department for assistance.

HEALTH CARE OR MEDICAL CARE IN THE UNITED STATES?

Mr. PELL. Mr. President, I would like to bring to my colleagues' attention today a very worthwhile and admirable effort in health care education, which I believe could serve as an exemplary model in its field.

A small booklet entitled "The Way We Live," written by a distinguished medical and health care journalist, Selig Greenberg of Rhode Island, was prepared for the Rhode Island State Department of Health, financed by the U.S. Department of Health, Education, and Welfare, and published in the Providence Sunday Journal. Mr. Greenberg was for many years the medical reporter for the Providence Journal Bulletin.

This booklet features a commonsense and straightforward approach to a fact we all ignore most of the time at our own risk. As Mr. Greenberg puts it:

To a large degree each one of us determines personally through the way he lives what will kill him and how soon.

Mr. Greenberg correctly identifies the medical system as one of "crisis medicine," which does little to improve the quality of health for most Americans but which is certainly sporadically effective in crisis care.

I believe that Mr. Greenberg is correct and that our emphasis on technology to the detriment of an emphasis on prevention has not served us or our children very well. We must all make hard personal decisions about personal fitness, and we must make even more difficult collective decisions about the quality of our environment if we are to do much to imorove the health of our Nation. One of the best indicators of the general health of a nation is longevity, and with a longevity rate that is only 13th among the nations in the world for women and only 17th for men, we have a long way to go.

I think that Mr. Greenberg's booklet is a fine idea in both principle and content, and I include at this point the text of an article entitled "The Nation's Major Killers: Ignorance, Self-Indulgence."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NATION'S MAJOR KILLERS: IGNORANCE, SELF-INDULGENCE

(By Bruce DeSilva)

PROVIDENCE.—The nation's major killers are not diseases but ignorance and self-indul-

gence, proclaims a new publication prepared for the state Department of Health.

About four-fifths of the 2 million annual deaths in America, and more than half of the disabilities, are caused not by "germs" but by the way we live, says the booklet entitled "The Way We Live."

"To a large degree," the booklet says, "each one of us determines personally, through the way he lives, what will kill him and how soon."

The booklet, written by Selig Greenberg, a former Journal-Bulletin medical writer, will be distributed to Rhode Islanders this week as a paid advertising supplement to the Providence Sunday Journal. The $25,000 cost of printing and distributing the publication is being paid for through a grant from a federal program aimed at promoting public health.

There is ample evidence, the booklet says, that the enormous increases in health care expenditures over the last 25 years have not significantly improved the health of most Americans.

"A medical care system which concentrates on crisis medicine and tends to regard the human body as a biological machine which can be kept in running order by removing or replacing defective parts or by clearing its plugged lines is not only ineffective but a bottomless financial pit," the booklet says.

"It is becoming increasingly evident that better health and longer life can be achieved only through intelligent effort on the part of each individual," the booklet says. "Individual decisions about diet, exercise, and smoking are of critical importance, and so are collective decisions about pollution and other environmental hazards.

"The devastating fact," the booklet continues, "is that people take better care of their cars than their own bodies. They see that the car gets proper fuel but expect their own body to remain healthy no matter what they feed it. They see that the car is driven regularly but expect to maintain muscle tone and health in a body that sits out its life behind a desk or in front of a television screen."

The booklet offers advice about nutrition, exercise, alcohol and smoking. It urges citizens to support stronger government regulations for improving nutritional value of food, for restricting advertising of alcohol and other harmful substances, for reducing consumption of dangerous substances through higher taxes, and by supporting efforts to control pollution.

In addition, the booklet asks citizen support for a broad health education program that would begin in the elementary schools.

Finally, the booklet notes that many of us complain about the spiraling costs of medical care, but don't take the easiest steps to stop it.

DR. GEORGE THOMAS CHERRY

Mr. THURMOND. Mr. President, one of the leading citizens of my hometown, Aiken, S.C., passed away on September 28, 1977. Dr. George Thomas Cherry made major contributions to the health and well-being of the community for more than 50 years. His is a record of unselfish service and rare achievement, and I wish to pay him a few words of respectful tribute.

Dr. Cherry received a bachelor of science degree from Benedict College and went on to earn a degree in dental surgery from Meharry Dental School. This was at approximately the same time that I was attending college. College degrees were not nearly so easy to come by in those days as they are now. Moreover, Dr. Cherry had significant obstacles to overcome. A black, he was seeking to enter a profession which few of his race then practiced. There were no Government programs, as there are today, to give him assistance or encouragement. He had to get by on dedication, determination, and hard work. Fortunately, these were qualities which he had in abundance.

Dr. Cherry's success as a dentist is demonstrated by the large number of professional organizations to which he belonged. These include the National Dental Association, the American Dental Association, the Georgia Dental Society, the Palmetto Medical, Dental, and Pharmaceutical Association of South Carolina, and the Congaree Medical and Dental Association. Indeed, he had served as president of both the latter groups. His practice was extensive, reaching many patients who, but for Dr. Cherry, would not have had adequate dental care. His labors in time produced a major improvement in the dental health of the area.

Although his professional burdens were heavy, Dr. Cherry also took an active role in community affairs. He was a member of the Advisory Committee of the Aiken City Council, the Royal Aikenites Club, the National Association for the Advancement of Colored Peoples, and Alpha Pi Alpha Fraternity. He was also a 33d degree mason, and participated in numerous masonic activities.

Dr. Cherry's career was characterized throughout by exemplary concern for his fellow man. He believed very strongly in human brotherhood, and acted upon that belief. His fellow citizens of both races held him in the highest regard. To his patients, he was more than just a dentist; he was also a friend and a counselor. He was a friend and a counselor to the whole community. His death leaves many heavy hearts in the Aiken area.

I take this opportunity to extend my sincere condolences to his widow, Mrs. Helen Kenny Cherry; his sister, Mrs. Emma Lee of New York, N.Y.; and his three brothers, Alonza L. Cherry and Council C. Cherry of Aiken, and Leon F. Cherry of Laurelton, N.Y. I know the grief they are feeling at this time. I can only hope that, as the months pass, the sorrow will be mitigated by their pride in the character and accomplishment of this fine man.

Mr. President, subsequent to the death of Dr. Cherry, three articles appeared in the newspapers about him. As they contain additional facts in which my colleagues may be interested, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Aiken (S.C.) Standard, Sept. 27, 1977]

AIKEN RESIDENT, DENTIST, DIES

Dr. George Thomas Cherry of 354 Williamsburg St., N.E., died today in Aiken Community Hospital. He was a native and life-long resident of Aiken and was a practicing dentist here for the past 54 years.

Surviving are: his widow, Mrs. George Thomas (Helen Kenny) Cherry; one sister, Mrs. Emma Lee, New York, N.Y.; three brothers, Alonza L. Cherry and Council C. Cherry, both of Aiken, and Leon F. Cherry, Laurelton, N.Y.

Funeral arrangements will be announced by Jackson-Brooks Funeral Home.

[From the Augusta (Ga.) Chronicle, Sept. 28, 1977]

DR. CHERRY, DENTIST, CIVIC LEADER, DIES

AIKEN.—Dr. George Thomas Cherry of 354 Williamsburg St., Aiken dentist and civic leader for more than 50 years, died Tuesday in an Aiken hospital.

Funeral arrangements will be announced by Jackson-Brooks Funeral Home, Aiken.

Dr. Cherry, a native of Old Ellenton, S.C., received a bachelor of science degree from Benedict College and a doctor of dental surgery degree from Meharry Dental School. He was a World War I veteran.

He was a member of the National Dental Association, American Dental Association, Georgia Dental Society, Palmetto Medical, Dental and Pharmaceutical Association of South Carolina, serving as president in 1965–66, and the Congaree Medical and Dental Association, serving as president in 1964–65.

Dr. Cherry was deacon and former treasurer of Friendship Baptist Church and a 33rd degree mason, serving as chairman of communications and foreign correspondence of the Most Worshipful Prince Hall Grand Lodge of Free and Accepted Masons. He was secretary of both Effingham Lodge, No. 98, Aiken, and Royal Arch Lodge, Aiken. He was a charter member of the Royal Aikenites Club, and member of the advisory committee of the Aiken City Council, the National Association for the Advancement of Colored Peoples (NAACP), and Alpha Phi Alpha Fraternity. He was a recipient of the Meharry College President's Award.

Survivors include his widow, Mrs. Helen Kenny Cherry; one sister, Mrs. Emma Lee, New York, N.Y.; and three brothers, Alonza L. Cherry and Council C. Cherry, Aiken, and Leon F. Cherry, Laurelton, N.Y.

[From the Aiken, (S.C.) Standard, Oct. 3, 1977]

DR. GEORGE T. CHERRY

In the death of Dr. George T. Cherry, Aiken has lost a valuable citizen and a prominent member of the dental profession.

He had practiced in Aiken for a half a century following his graduation from Meharry Dental School with a doctor of dental surgery degree. He was also a graduate of Benedict College.

He was born at Old Ellenton. He was a veteran of World War I.

He stood high in his profession, having served as president of the Dental and Pharmaceutical Association of South Carolina and as president of the Congaree Medical and Dental Association. He was a member of the board of directors of the Hitchcock Rehabilitation Center.

He was a deacon and former treasurer of Friendship Baptist Church and was a 33rd degree Mason, having held numerous Masonic offices. He was a charter member of the Royal Aikenites Club, a member of the advisory committee of the Aiken City Council and was a member of the National Association for the Advancement of Colored People and Alpha Phi Alpha fraternity. He was a recipient of Meharry College's President's Award.

Mayor H. Odell Weeks, who had known Dr. Cherry since boyhood, described him as a "fine Christian gentleman."

The description was fitting and, no doubt, was one which Dr. Cherry would have preferred over all attainments.

The Aiken Standard extends its sympathies to his widow and other members of his family.

HUMAN RIGHTS: AN UNFULFILLED PROMISE

Mr. PROXMIRE. Mr. President, for the last 10 years, I have stressed the importance of ratifying the Genocide Treaty. One of the main problems in our failing to ratify the Genocide Treaty has been the continual embarrassment we have suffered as a result of our hypocritical actions. As a nation we are a strong proponent of human rights. Yet, one of the main covenants of human rights, the Genocide Treaty, has been signed by almost every major country in the world except the United States. It is no surprise that other countries feel free to ignore our attempts to insure human rights when we are so negligent in ratifying the Genocide Treaty.

Thankfully though, President Carter has not been negligent in reaffirming our commitment to human rights. It was a happy moment for me when President Carter signed two 11-year-old covenants on human rights on October 6, 1977, before the United Nations Assembly. These two covenants deal with political, civil, economic, and social rights.

Kathleen Teltsch, of the New York Times, pointed out in her article about this event, that one of the benefits to the United States in signing the two covenants was to strengthen our position in opposing abuse of human rights and, to remove a source of embarrassment to our country. As many of her points apply equally well to the Genocide Treaty, I ask unanimous consent that the text of this New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES, FULFILLING PROMISE, SIGNS 11-YEAR-OLD RIGHTS PACTS AT U.N.

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., October 5—President Carter signed two 11-year-old covenants on human rights today, fulfilling a pledge and eliminating a source of embarrassment for advocates of a forceful campaign on rights matters.

The President, speaking here in March, had promised that the United States would endorse the agreements, one dealing with political and civil rights and the other with economic and social rights.

With the United States committed to a policy of openly criticizing rights violations by governments, it has been awkward for the Americans not to have accepted human-rights agreements already signed by the Soviet Union, Britain, France and scores of smaller countries.

Mr. Carter, neither in his five-minute speech at the signing ceremony nor in his foreign-policy address yesterday in the General Assembly, mentioned rights violations.

UNITED STATES REALIZES THERE ARE CONSTRAINTS

During the election campaign, he had promised to speak out candidly about injustices and he did so during his months in office, in particular angering Moscow for criticizing Soivet treatment of dissidents. The United States also reduced aid to some countries like Argentina, Uruguay and Ethiopia because of their human-rights records.

While the United States has continued to affirm its concern about conditions in countries with authoritarian governments, it has also realized that there are constraints and it cannot impose its standards.

Mr. Carter in a major address on Soviet American relations in June went out of his way to say that the United States was not singling out the Soivet Union for attack and that American expressions of concern should be seen rather as being part of a broader commitment.

Although the Soviet Union welcomed the assurances, the issue has remained a sensitive one and Foreign Minister Andrei A. Gromyko in the Assembly criticized the "sermonizing" of the United States Government. Other countries, Brazil among them, also have vented their displeasure about American criticism.

POSITIVE DEVELOPMENTS ARE LISTED

But the United States has been able to balance these reactions by pointing to developments that it says probably resulted from its rights concern. Among these are the freeing of political dissidents by a number of South American countries acceptance of investigation by outside rights groups, possibly even the increase in the number of persons permitted to emigrate from the Soviet Union.

Against this background of criticism, the President's statement today appeared deliberately low-key. There was no ringing declaration as there was when he was here in March that no country "can claim that mistreatment of its citizens is solely its own business."

Almost analytically, Mr. Carter described the two pacts he was signing. The one on civil and political rights provides what governments "must not do to their people," he said, noting its provisions against arbitrary arrest or resort to cruel and degrading treatment and its guarantees of freedom of thought, religion and the right to emigrate.

PACTS COMPARED TO BILL OF RIGHTS

Governments accepting the covenant on economic and social rights promise to promote better living conditions. Other provisions recognize the right to work, to fair wages, and to adequate health and education.

Mr. Carter said it was unrealistic to pretend that the covenants reflected conditions as they are. Rather, he suggested that they be viewed as offering goals to be achieved in the way that the Bill of Rights of the United States "set a lofty standard of liberty and equality."

Although Mr. Carter said he intended to seek approval by Congress, early action seemed unlikely. The Administration has been reluctant to present controversial measures until the Panama Canal treaties are ratified.

COLUMBUS DAY

Mr. DOLE. Mr. President, today, October 10, we again celebrate the discovery of America by the great seaman and navigator, Christopher Columbus, who began his voyage on September 9, 1492, and reached these shores on October 12, 1492.

COLUMBUS, A SELF-TAUGHT MAN

In his youth he had little formal schooling. However, his burning desire to go to sea, impelled him to leave Genoa and his family for a life at sea. To further his knowledge, he learned to speak, read, and write Spanish and taught himself Latin because geography books of the day were written in Latin. He had a dream yet he prepared himself for its realization as thoroughly as he could.

TEN YEARS OF WAITING

Columbus, like all the learned men of the time, already knew that the world was round and was not trying to prove it. His dream was to reach China and India, the Orient, by sailing West. But as all men with a dream, Columbus had to turn it into reality by persuading others of its worth. He first turned to King John II of Portugal to finance his expedition as early as 1482. He was turned down. He had to wait 10 long years until 1492 when Queen Isabella of Spain finally agreed to underwrite his expedition.

The New World could not have been discovered by a man whose qualities we could admire more. Columbus was a man not only of vision but of great perseverance and deep faith. He was a man who worked hard to prepare himself for his task ahead by learning what he could about his dangerous undertakings. He had a dream, yet he would not let it die.

CONTRIBUTIONS OF ITALIAN AMERICANS ARE MANY

In looking at our past, we see that many other Italian Americans have shown these same great qualities and it is because of such men that the frontiers of our knowledge have been expanded in all areas. In the footsteps of Columbus came other great Italian explorers such as Amerigo Vespucci, to whom we owe our America and was the first to discover the Hudson River.

In industry and politics the names of Amadeo Giannini and Fiorello LaGuardia are well-known. Giannini was the founder of the Bank of America while LaGuardia became the first Italian-American political figure of national prominence.

Nor does the contribution of Italian Americans stop there. Their musical talents and contributions have been immense from Arturo Toscanini, Gias Carlo Menotti to Enrico Caruso and Anna Moffo.

In the field of science, Enrico Fermi, the distinguished physicist and Nobel prize winner, was a refugee to America from Mussolini's regime. Similarly, Emilio Segre also received the Nobel prize in physics in 1959 for his research into the structure of matter.

Nor does the sports and entertainment world lack Italian-American talent. Guy Lombardo and Perry Como are known worldwide, and Rocky Marciano, Vince Lombardi, and Joe DiMaggio all have a special place in American hearts and history.

TODAY THE SAME QUALITIES ARE NEEDED

On this day, all of us, regardless of our ethnic backgrounds are proud of the accomplishments of Columbus and the Italian Americans that have followed him. Their qualities of determination and vision have helped to realize the potential of this great land. In pursuing our dreams today, we should likewise be true to our

aspirations and goals and undeterred by obstacles that cross our path.

MINIMUM WAGE LEVELS

Mr. CHILES. Mr. President, this past Friday the Senate completed action on legislation to increase minimum wage levels under the Fair Labor Standards Act. I could not support this bill and was among the minority who voted no. I have always advocated fair wage rates and fully intended to vote favorably on minimum wage legislation this year. However, in my view, the measure passed by the Senate is not a reasonable bill and can only serve to aggravate our economic and employment problems. The four step increase in wage levels will have a significant inflationary impact on the economy as a whole. It will increase unemployment levels among young people, women, and minorities. In light of the fragile state of the economy, with continuing high levels of inflation and unemployment, this legislation hardly seems a step in the right direction.

On Thursday and Friday I watched the Senate defeat amendment after amendment aimed at making the minimum wage legislation a more realistic and workable approach toward helping our low-income workers. The merits of some of these amendments are obvious to anyone concerned with the realities of our economic situation and yet the votes were not there. After watching these efforts fail, I was prompted to offer the House passed version of the minimum wage bill as a substitute amendment. The House bill provides for a minimum wage of $2.65 an hour by 1978; $2.85 by 1979; and $3.05 by 1980. It eliminates the inflationary indexing provision. It retains the tip credit provisions as currently allowed by law and exempts from coverage independently owned and operated retail and service establishments with gross annual sales under $500,000. The House measure offered an opportunity to make a major step forward in raising the minimum wage without the inflationary drawbacks of the Senate bill. The votes were not there for this amendment either.

I think it is important to note just what the Senate decided in voting on the minimum wage bill.

Under the Senate approach the minimum wage would be set at $2.65 in 1978; $2.90 in 1979; $3.15 in 1980; and $3.40 in 1981. What this represents is a backdoor means of implementing the indexing provision that everyone agreed must be discarded. It sets us on an irrevocable course for the next 4 years regardless of what is taking place with the inflation rate or unemployment levels. It is a step that may well be regretted.

The Senate acted to reduce the tip credit for tipped employees. This was done in the face of Labor Secretary Marshall's warning that such a reduction could have an adverse effect on employment. The tip credit provision has worked well for the past 10 years for both the employee and the employer. It is an important factor in the economics of the hotel and restaurant industry. The income of the tipped employee averages more than the statutory minimum and I have yet to hear a valid argument for making any revisions in the current law. Certainly those in my State who depend on tipping as part of their income are not advocating any changes.

Particularly difficult to understand is the failure of the Senate to adopt some form of a youth differential rate. With teenage unemployment running at 18 percent or more than 2 million youth, it is hard to fathom why there is no recognition of this emergency situation when increasing the minimum wage. Teenage unemployment increased significantly after previous minimum wage hikes and I hesitate to think what the impact of these new wage levels will be. The several amendments offered, providing for temporary youth rates, would have served as a strong incentive to create new jobs for youth, especially on the part of small business.

I do not believe that a lower wage rate for 18- and 19-year-old workers poses any threat to the older, experienced worker. They do not compete for the same jobs. Escalating the level of youth unemployment, as I fear may be the case, poses a much greater threat in terms of the future social problems we will have with this age group.

As I indicated, voting against a minimum wage bill was not an easy or pleasant step for me. I feel that steady increases in the minimum wage are a vital factor in helping the worker at the bottom end of the scale keep pace with the cost of living. In voting "no" this past Friday I was not voting against a minimum wage increase but against a bill that went beyond the bounds of sound economic or labor policy.

I still hope to vote "yes" on the minimum wage legislation that becomes law. I offered the House bill as a substitute to the Senate measure and I certainly hope that the basic components of this version will prevail when the House and Senate go to conference on this legislation.

PANAMA CANAL TREATY TESTIMONY

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses:

First. Adm. Thomas H. Moorer, retired.

Second. Adm. Elmo R. Zumwalt, Jr., retired.

Third. Gen. Maxwell Taylor, retired.

Fourth. Panelists (Canal Zone residents): Mrs. Patricia Fulton, president, Pacific Civil Council; Mrs. Charlotte Kennedy, president, Cristobal-Margarita-Brazos Heights Civic Council; Mr. Harold Green, president, Gamboa Civic Council; and Mr. Louis Sattorosi, vice president, Canal Zone Federation of Teachers.

I ask unanimous consent that the prepared texts of the statements of these witnesses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADM. ELMO R. ZUMWALT, JR., U.S. NAVY (RETIRED) ON THE PROPOSED PANAMA CANAL TREATIES BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, MONDAY, OCTOBER 10, 1977

Mr. Chairman and Members of the Committee: I am proud to be here to testify on the Panama Canal Treaties. As an American who is proud of what our Nation stands for, I am happy to give general support to two treaties which replace a colonialist relationship with a respectable long term partnership.

But I am also able to support these treaties from the national security perspective of one who had responsibility, for the four years ending July 1, 1974, as Chief of Naval Operations (CNO) and as a member of the Joint Chiefs of Staff (JCS).

My position on these treaties is a continuation of the views I held as CNO. These views were last officially expressed when I joined the other members of the JCS, in June 1974, in supporting renegotiation of the existing treaty with Panama. Admiral Moorer, then Chairman of the Joint Chiefs of Staff, was a very persuasive advocate of the need for a new treaty.

As a private citizen, on September 6, 1977, I stated my support of the two treaties you are now considering, in a letter to 96 Senators. The letter said:

"I think you will know that I am among those who have been concerned about the decline in our military capabilities, the impressive increase in Soviet strategic nuclear capability and conventional military power, and the way in which the Soviet Union is capitalizing on its burgeoning military superiority to the disadvantage of the U.S. and her allies.

"It may therefore be of interest to you to know that even in that light, in my judgment, the ratification of the Panama Canal Treaties by the Senate would enhance and non-ratification by the Senate would harm United States security interests."

Today, I will enlarge on that statement.

My support of the two treaties is based on the following national security rationale:

(1) The use by the U.S. of the Panama Canal is a vital requirement of national security:

(a) Based on calculations in which I have participated, both as a member of the JCS and subsequently as a private citizen, it is my judgment that the U.S. has surrendered strategic nuclear superiority to the U.S.S.R. in a process set in motion about 10 years ago and accelerated in the last five or six years. This strategic nuclear superiority makes it likelier that the Soviet Union would risk conventional war under the umbrella provided by her nuclear forces.

(b) Based on studies on which I was briefed as CNO and subsequently, it is my judgment that NATO has surrendered conventional military superiority in Europe to the Warsaw Pact. This means that the Soviet Union is likelier to risk conventional war in Europe or elsewhere.

(c) I testified as CNO that the odds of U.S. victory in a conventional global war at sea with the Soviet Union shifted from favorable to unfavorable in 1971 and became progressively worse. The present CNO testified last April that "in the event of conflict, U.S. forces could retain control of the North Atlantic sea lanes to Europe, but would suffer serious losses to both U.S. and allied shipping in the early stages. U.S. ability to operate in the Eastern Mediterranean would be uncertain *at best* (underlining added). U.S. fleets could hope open the sea lines to

Hawaii and Alaska, but by reason of the shortages of sea control and mobile logistic support forces, the *U.S. would have difficulty in protecting the sea lines of communication into the Western Pacific*" (underlining added).

I think it is clear that Japan, the Philippines, Taiwan, South Korea and our allies in the Middle East could not be supported by U.S. naval forces, today, in a global conflict with the Soviet Union. This makes it likelier that the Soviet Union would risk war at sea.

(d) The only chance to save Europe in a conventional war would be by the reinforcement that could only be done on the necessary scale with naval support. Such support could only be obtained by abandoning the Western Pacific and pouring ships from the Pacific into the Atlantic in the crisis buildup phase. There are plans to make such redeployments.

(e) Alternatively, if there developed a contingency in the Western Pacific requiring support of our allies there, as in the Korean War and as in several phases of the SEA War, the Canal would be needed to bring ships and logistics from the Atlantic into the Pacific.

(f) It is difficult to visualize any major contingency in either ocean that would not require support from the other ocean via the Canal.

(g) Admiral Moorer testified recently before the House International Relations Committee: "—we do not have a two-ocean Navy. In recent years, the Navy has been rapidly reduced from 900 ships to less than 500. All war plans and all contingency plans are infeasible unless one assumes that full use of the Canal will be available." I agree.

(h) In this era of U.S. military inferiority, the ability rapidly to redeploy from one ocean to another is the only feasible way quickly to bring the kind of naval power to bear which might be sufficient to deter Soviet actions. It is also the means by which the U.S. can select which part of the West's maritime alliance to try to save if conventional war comes. In a long war against lesser powers, such as occurred in the Korean and SEA Wars, the Canal is badly needed to permit on-scene forces to be sustained by deployments from the fleets of both oceans.

(2) The U.S. is the only nation in the Western Hemisphere with the capability to defend the Panama Canal from an external threat by the Soviet Union.

(3) But the cooperation of a favorably disposed government in Panama is needed to provide a reasonable prospect of defending the Canal from an internal threat.

(4) The U.S. is much likelier to have the Canal to use in a crisis if the U.S. and Panama have an arrangement which optimizes the ability to handle external and internal threats. These treaties are an important step in providing that optimization.

(5) The present arrangement is non-optimal. Our excessive zeal not to make treaty changes affecting our ability to deal with the external threat has increased the internal threat. The present relationship is a colonialist anachronism which is no longer feasible for a democratically constituted nation to maintain. Even if the U.S. has not surrendered its military primacy, it would not be feasible to defend the Canal if the Government of Panama did not cooperate.

(6) Soviet strategy obviously places high priority on decreasing the probability that the Canal would be available to the U.S. in crisis or in war. The Soviet strategy is likelier to succeed if the treaties are not ratified.

(7) The existence of a sea level canal, able to handle our aircraft carriers and supertankers, would enhance national security. The achievement of a sea level canal with a regime suitable to U.S. security interests is likelier if the treaties are ratified.

(8) The near term treaty would clearly retain U.S. control and defense rights through this century. The long term treaty is less clear that the U.S. rights—(1) to ensure availability and (2) to ensure priority transit for U.S. naval ships—continue in the next century. The Administration has assured me that they do. Their national security witnesses, in whom I have confidence, have assured you that they do. I am confident that the U.S. Senate's ratification process will make these clarifications part of the official constitutional process. Under this assumption, I recommend ratification of the treaties from a national security point of view.

STATEMENT BY ADM. THOMAS H. MOORER, USN (RET.), BEFORE THE U.S. SENATE FOREIGN AFFAIRS COMMITTEE, OCTOBER 10, 1977

Mr. Chairman and Distinguished Members of the Foreign Affairs Committee, I am honored to be here as a witness. I would like to emphasize at the outset that I am not here representing a particular group, an organization, or a political party. Rather, I am here as a concerned citizen who has had far more than average involvement in the Panama Canal as it relates to the vital security of the citizens of these United States. Accordingly, I will speak primarily in terms of global maritime strategy.

My military experience during the last twelve years of active duty, from 1962 to 1974, offered me some extraordinary and unique opportunities to assess the importance of the Panama Canal to the United States, as well as its value to our Allies and friends and, indeed, to all maritime nations.

My evaluation of this waterway as an invaluable possession of the United States was intensified in 1952. At that time I was Commander, Seventh Fleet, operating in the Western Pacific. Frequently my fleet's capabilities depended on the prompt arrival of supplies from the Atlantic seaboard, supplies loaded aboard ships which were utilizing the Panama Canal.

From the Seventh Fleet I went to Commander-in-Chief, Pacific; from there to Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, Atlantic; from there to Chief of Naval Operations and from there to Chairman of the Joint Chiefs of Staff. Each of these commands provided unique opportunities, and sometimes urgent reasons, to evaluate the Panama Canal. I saw this strategic waterway from many vantage points and under stressful circumstances.

As Commander-in-Chief, Pacific, I recall in some detail the Tonkin Gulf era of 1964. During that period I saw the Panama Canal as a conduit for rapid reinforcement from the Atlantic Fleet should the naval forces of the Soviet Union or mainland China become involved in the Vietnamese War. The U.S. high command was never sure during those early phases of the war of the intentions of either the Soviet Union or mainland China. We knew they had the naval and air capabilities to make trouble and therefore we had to draw up contingency plans for such eventualities. In order to equalize the wartime exposure and hardship throughout the entire Navy, large numbers of Atlantic Fleet units were continuously rotated through the Canal to the combat theater in the Pacific. In addition, as the Pacific Fleet Commander I looked to the Atlantic side for rapid logistics support. The U.S. Army, the U.S. Air Force, the U.S. Marine Corps and the U.S. Navy all required a continuous and heavy flow of logistic support; such necessities as fuel, ammunition, spare parts and food. Our allies fighting with us in Vietnam also required considerable support from the United States. If the Panama Canal had not been open and available, the war in Vietnam would have been much more difficult and costly to conduct. This conclusion is also true for the war in Korea. Going back a few years, there is no question but the availability of the Panama Canal shortened World War II by many months.

To give you some idea of the magnitude of Panama Canal usage and its relationship to military operations, in 1963 there was a total of 300 U.S. Government transits through the Panama Canal. As the Vietnam war escalated, the number of Government ships transiting by 1966 had almost doubled. The records show for that year—1966—a total of 591 Government ships transited the Canal. Most of these ships were carrying critically needed logistics support to the forces operating under my command.

As Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, I saw the situation at Panama in another perspective. That was for the period 1956 to 1967. The war in Vietnam was still expanding, but now I was looking at the Canal not only as a means of sending support to the Commander-in-Chief, Pacific, but also from the Atlantic perspective. I saw the possible need to reverse the flow of ships through the Canal, particularly if the situation deteriorated in the Middle East or in the Caribbean during those volatile months of tension and conflict in both these areas.

Both in our U.S. planning and in our NATO planning we envisioned contingencies calling for reinforcements from the Pacific area to the Atlantic. We clearly foresaw the need for transfer of combatant tonnage, Army and Marine divisions, and in particular we saw the need for transfer of amphibious lift.

As Chief of Naval Operations I had to look at the Panama Canal as an essential means of equalizing the strength and providing the balance between the Atlantic and Pacific fleets. The Canal made it possible to pre-position certain types and tonnages, but always with the knowledge that the balance could be shifted to meet unforeseen situations. The Panama Canal gives the naval planner much flexibility and versatility that he would be deprived of without it.

As Chairman of the Joint Chiefs of Staff I became even more sensitive to the strategic value of this U.S. Canal as a means of protecting the security of the United States. My job as Chairman involved all of the Armed Forces of the United States—their collective requirements—and I was primarily responsible to the President for their ability to carry out their roles and missions as assigned by the Congress. Any Naval Commander acting in that role in wartime will immediately perceive that it is vital to U.S. interests to retain complete ownership and control of the Panama Canal.

In view of the above I am very much concerned about the proposals to surrender the Panama Canal to a leftist oriented government allied with Cuba. There exists the potential danger for giving this U.S. advantage to a man who might allow or might be persuaded that it was in his best interest to permit Soviet power and influence to prevail by proxy over the Canal, in much the same manner as happened in Cuba. I was convinced as Chairman of the JCS—and I remain convinced today—that if the Soviet Union ever gained even proxy sovereignty and control over the U.S. Canal Zone and Canal through Cuba, U.S. security as well as U.S. prosperity would be placed in serious jeopardy.

The United States would be placed in jeopardy because interocean mobility would be threatened. The mobility of allied com-

mercial shipping and naval forces would face the same threat. The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized, and the point is: there is *no point* in surrendering this vital interest. Also, by relinquishing control of the Canal Zone and the Canal, we would force all those nations who depend on our power and leadership to accommodate to the adverse implications of such action on our part. Recent history clearly indicates that the Canal Zone could quickly become the satellite base of an adversary. The advocates of this proposed treaty do not appear to take this factor into account.

The Panama Canal is one of the four maritime gateways of the world, together with the Malacca Straits, the Suez Canal, and the Gibraltar Straits. Anyone who reads Soviet literature concerning maritime affairs soon learns that the Soviets fully understand the strategic importance of the Panama Canal, even if some here in Washington do not. In my view, the prime reason for the burdensome support of Cuba by the Soviet Union is related directly to the interest in the Canal as they greatly expanded their maritime capabilities, both warships and merchant ships. We have in fact a Torrijos-Castro-Moscow axis. Castro has sent thousands of troops to Africa aboard Soviet ships. He has been to Moscow where he was greeted with open arms. Torrijos has been to Havana where he has been decorated by Castro while both extolled the success of their respective revolutions. He has also been to Libya to visit Qaddafi who, next to Castro, is the most active international revolutionary. When Torrijos overflew Havana on his return from Washington to Panama after the ceremonies last month, he sent the following message to Castro: "On my return trip to my country and flying above the sky of Cuba, I salute you with friendship always. I wish that the Cuban people under your skillful leadership continue its ascendant march toward progress. In Latin America your name is associated with feelings about dignity that have been channeled toward the ending of a shameful period of colonialism."

In addition, a large Russian commission has recently visited Panama seeking concessions and offering economic assistance.

Mr. Chairman and Members of the Committee, do not be surprised, if this treaty is ratified in its present form, to see a Soviet and/or Cuban presence quickly established in the country of Panama. Such a presence will seriously complicate the exercise of the claimed "right" of the United States to intervene. (I can find no such specific right contained in the treaty.) In any event, any confrontation then becomes one with the Soviets rather than with the Panamanian guerrillas or terrorists. With the Soviets already on the scene fighting our way in will not be simple. A permanent U.S. presence on the other hand is the only feasible posture.

In view of the above, Mr. Chairman, I have yet to hear any convincing justification advanced as to why the United States should willingly sacrifice the strategic and economic advantages afforded the United States and, for that matter, all the nations in the Western Hemisphere by our exercise of full control of the Panama Canal as provided for in the current treaty. In fact, stripped to the essence I have heard only three reasons put forward in support of the proposed treaty: (1) by signing the new treaty we will divest ourselves of the stigma of colonialism harped on by Mr. Torrijos and thereafter everyone will love us; (2) if we do not surrender the Canal some unknown individuals in the Isthmus of Panama will blow it up; (3) the Canal is not of much use anyway. Traffic between oceans is a convenience but is not vital. Further, the big ships of the Navy cannot use the Canal and only about 10 percent of the merchant ships passing through the Canal are U.S. flagships—so why the concern?

Let me briefly discuss each of these reasons in turn.

(1) The United States does not have to apologize to anyone for its generous outpourings of blood and treasure in an effort to assist the underprivileged and make life more peaceful and more livable for everyone. This Committee has participated in and masterminded our aid program for years. However, from observing the attacks on the United States in the United Nations and other places, it is apparent that a great nation such as ours canot buy affection. One more move in this direction in my view will have little or no effect. What we should strive for is not affection but respect. I am seriously concerned about the trends in recent years wherein we have withdrawn from Vietnam, are planning to withdraw from South Korea, have lost considerable influence following the Angola affair, and overall are suffering a gradual change in the perception by the nations of the world of the will and determination of the most powerful democracy in the world.

(2) Even since the negotiations were initiated with Panama in 1964 the rationale has been advanced that if the United States did not divest itself of the Canal the Panamanians would sabotage it. To respond to this concept to me would be a retraction under threat. If this is to be our course of action in the future we might as well throw in the international towel. One should note from a practical point of view that the Panamanians enjoy the highest per capita income of any of the contemporary Latin American countries because of the presence of the Canal. The activities surrounding the presence of the Canal contribute about one third of the employment and one third of the gross national product to Panama. If they were to attempt to damage or sabotage the Canal they would be doing nothing more than cutting off their nose to spite their fiscal face. Furthermore, they would be the ones who would be committing violence, not the United States. To me a pulling back under threat will simply lay our country open to additional threats and we will lose the respect of which I spoke. Under such a condition one could expect many of the nations of the world to tilt toward those who they know are willing to take a firm stand in their national interest.

(3) So far as the question of a two-ocean navy and the passage of aircraft carriers through the Canal is concerned, let me say first that we do not have a two-ocean navy. In recent years the Navy has been rapidly reduced from over 900 ships to less than 500, while the Soviets are engaged in a rapid expansion of their fleets of warships as well as merchant ships. A large majority of our war plans and contingency plans are infeasible unless one assumes that full use of the Canal will be available. With respect to the large carriers, the Navy has only 13 of these ships. The vast majority—well in excess of 90 percent—of the ships of the Navy can transit the Canal and will be required to transit the Canal. I should note that the other alternative, namely going around Cape Horn, will add 8,000 miles, 25 to 30 days and a considerable increase in the cost of fuel to naval operations. In wartime the 30 days could well be vital.

As far as the big merchant ships are concerned, it is true that only about 10 percent of the ships flying the U.S. flag transit the Canal. But that is not the point. It is well known that the United States has a very small merchant marine and that the shipping interests in our country, for various legal and fiscal reasons, resort to what is known as a "flag of convenience." What really counts is the tonnage which transits the Canal enroute to and from ports in the United States. It so happens that out of about 14,000 ships that transit the Canal, 8,000 are either enroute from or bound for U.S. ports.

So much for these three reasons. Finally, Mr. Chairman, there are several questions somewhat outside my purview but troublesome nevertheless, and I will simply list them for you.

(1) Do the negotiators for Panama and the United States have the same perception as to the real meaning of the language in the treaty? Public statements by both sides subsequent to the negotiations seem to indicate otherwise. Certainly this matter should be cleared up without delay. Let me give you examples of conflicting statements which to me are matters of grave concern:

The proponents of the treaties state that Article 4 of the treaty concerning the permanent neutrality and operation of the Panama Canal guarantees our continuing freedom of action for unilateral action to maintain the Canal's neutrality. I can find nothing in Article 4 which guarantees to the United States the right to unilaterally intervene for any purpose.

Article 5 states that only Panamanian forces will be based in Panama. In a radio broadcast on 24 August Mr. Escobar Betancourt said and I quote: "The Pact does not establish that the United States has the right to intervene in Panama. The word was discussed and eliminated . . . the Neutrality Pact does not provide who will say when neutrality has been violated."

Again, on September 15, General Omar Torrijos at the opening of the 10th Congress of the Panamanian Students Federation at the Augusto Samuel Boyd National Agriculture Institute in Divisa, Herrera Province, said: "I am not afraid, nor am I denying, that we signed a clause which if misinterpreted by future U.S. generations could give rise to intervention. But I am not afraid, I know the youth that we are producing. And in order for there to be intervention there must be a people willing to accept intervention, and these people have no intention of accepting it." This statement was followed by rousing applause.

Again, on the subject of guaranteeing U.S. flagships priority passage, Article 6 only guarantees U.S. ships "expeditious" not priority passage. Mr. Escobar Betancourt also disagrees with this interpretation testified by our negotiators. Quoting him once more: "Expeditious passage does not mean privileged passage. As a matter of fact the concept of privileged passage was rejected . . . if after examining the provision the Gringos say 'I want to go through first,' then that is their problem with the other ships waiting there. We cannot go that far."

Mr. Chairman and Members of the Committee, in view of the above statements I do not think that anyone can contradict the fact that there is a wide divergence in the interpretation of the meaning of the treaty concerning neutrality between the two sides. This is cause for grave concern. If not cleared up in advance, this treaty does not eliminate problems—it makes them, and big ones at that.

I would note that representatives of the Defense Department who claim primary credit for the treaty concerning the permanent neutrality and operation of the Panama Canal, as well as members of this Committee frequently make the point that the important objective is passage and not ownership. Mr. Chairman, I submit that ownership and control on one hand and priority passage on the other are synonymous. In view

of the statements by senior Panamanian officials, it is clear to me at least, that the only way for the United States to guarantee priority passage is to maintain control and ownership. Mr. Torrijos and Mr. Betancourt have obviously taken a similar position.

() What will Panama do with a 2,000 percent increase over the 2.3 million dollars she received last year as income from the Canal? To me that appears to be a fantastic amount for a country with a population not much larger than Detroit. Where will the money really go?

(3) If the O.A.S. nations so strongly support the treaty, how do we account for the absence of the presidents of the two largest and most influential countries at the signing ceremonies in Washington a few weeks ago?

(4) In the event that the tolls are raised 30 percent resulting in serious impact on the economies of the other Latin American countries—particularly those on the west coast of South America—will those countries continue their strong support of the proposed treaty or will in the final analysis the U.S. taxpayer be asked to foot the bill in order to make certain that everyone loves us?

There are other questions which concern me, Mr. Chairman, but I think I will simply close by saying that regarding the question of control and ownership of the U.S. Canal Zone and the Canal I am satisfied with the Supreme Court's decision in the famous Wilson vs. Shaw case to the effect that the United States does in fact have legal control and ownership as if she has sovereignty for the purposes enumerated in the Treaty of 1903. This ruling was reaffirmed as recently as 1972. Also, our Constitution states in Article IV, Section 3, Clause 2, that only Congress has the authority to dispose of U.S. territory and other property of the United States. The language in the Supreme Court's decision of 1907 is quite precise. It is not ambiguous. So is the language in our Constitution. Since the Supreme Court's decision of 1907 still stands—it has never been overruled—and since the Constitution in my opinion is still the soundest governing document in existence, I can only conclude that we would be well advised to abide by such documents in our negotiations with other countries.

Thank you Mr. Chairman.

STATEMENT OF GEN. MAXWELL D. TAYLOR, USA (RET.) BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THE PANAMA CANAL TREATIES, MONDAY, OCTOBER 10, 1977

Mr. Chairman and members of the committee: I am very glad to appear before this committee to express my support for the Panama Canal Treaties as they bear upon issues of national security. The latter is deeply involved since these documents contain much which affects the armed forces, the national economy and our dealings not merely with Panama but with all Latin America and many countries of the third world. Relations with the latter are involved in the canal issue because of the growing dependence of our economy upon imports of oil and essential minerals from third world markets, the continuity of which depends upon friendly relations with producer countries. Viewed in this light, the Panama Canal issue is seen to be an important aspect of our global foreign policy which impinges on international relationships far removed from the locale of the canal itself.

It is my opinion that both from a national and hemispheric point of view, the treaties under consideration contain provisions of definite advantage. To begin with, they will provide improved protection against the threats most dangerous to the peaceful operation of the canal—those arising from sabotage, terrorism and popular disturbances occurring within Panama itself. We have had sufficient past experience with these forms of violence to recognize their potency and the probability of their increasing prevalence in the turbulent world ahead.

By its nature, the canal will always be highly vulnerable to acts of sabotage directed at its locks, operating machinery, power sources and the dams controlling the water level in the system. There are many forms of terrorism which may disrupt its operation—for example, the harassment, kidnaping or assassination of key personnel of the government or canal, explosives covertly placed aboard ships or attached externally by divers in port or in transit. Light commercial aircraft are capable of dropping mines into the channel where even an abortive attempt would frighten ships away and stalemate traffic. Intermittent sniper fire from the banks could produce similar effects.

Lesser dangers can also arise to interfere with canal operations—political demonstrations, labor strikes or slow-downs, mob violence against canal facilities and American or Government property. Finally there is always the possibility of an uprising against the regime in power and the installation of a new government, perhaps one under avowed communist or pro-Castro leadership.

Who might be the perpetrators of such actions? They might be local dissidents or revolutionaries, foreign agents, commando groups infiltrated from neighboring States or hired trouble makers controlled by Havana or Moscow.

Panama has often attracted such types in the past and will continue to do so because of the growing importance of the region to the U.S. The Soviet Union in intriguing for leadership in the have-not world has taken as a primary objective the undermining of our Latin American relations—particularly those with our trade partners. It will always assure to Panama a large allocation of troublemakers to complicate our problems. Turbulence there is always good news to Moscow—so also are American blunders. In this connection, let us hope that we do not give the Kremlin chiefs the occasion to rejoice which our rejection of these treaties would undoubtedly afford.

Why do I believe that the acceptance of these treaties will moderate these internal threats and forestall troublemaking in the Canal area? First, under the terms of these treaties, the U.S. and Panama would be bound in a partnership based on reciprocal self-interest, jointly committed to an efficient and unimpeded operation of the Canal. The local government would have an equal interest with us to restrain outbreaks of violence and lawlessness. A peaceful settlement of past differences should moderate the present anti-American bias which has often made the country a recruiting base for perpetrators of violence and a sympathetic environment in which they may find shelter. The economic gains which Panama derives from the treaties if properly used should tend to eliminate many of the causes of popular discontent and thereby contribute to greater political stability.

Also, the treaties facilitate the use of American military forces to reinforce the Panamanian constabulary in case the latter proves inadequate in a crisis involving the Canal. Whereas the operation of our forces are presently confined to the zone itself, after the effective date of the treaties and until the year 2000, we can move our forces anywhere in Panama as necessary to protect the Canal.

Even after 2000 and the departure of our forces from Panama, we shall have a parallel and independent responsibility with Panama to maintain a "regime of neutrality" which, to paraphrase the treaty, will assure a secure, peaceful and an expeditious transit for our vessels in peace and war, and an efficient operation of the canal under just, reasonable and equitable rules, regulations and tolls. As I understand these provisions, we shall have the right to make our own unilateral judgment on matters of compliance with these criteria of neutrality and may act independently if necessary to enforce them.

It is to be expected that members of the Organization of American States and other foreign nations will adhere to the objectives of the neutrality treaty and will agree to respect its provisions. Thereafter conflicts over the canal should cease to be a confrontation between an overbearing Uncle Sam, the Goliath of the affluent industrial world and tiny Panama, the David representing Latin America and the world have-not community. All of this is clearly in our national interest.

It may seem strange that in stressing the internal dangers to the canal, I have indicated no concern for a foreign attack as an overt act of war. Such an attack could hardly occur in isolation but rather as an episode in widespread hostilities. It would probably be made by bomber aircraft or by missiles launched from planes, ships or land bases. In such a case, the local defenses of the canal, whether as at present or as they might become under the treaties, would be of little value. Effective protection could be obtained only from offensive action by our Armed Forces against the sources of the attack far from Panama itself.

In supporting these treaties, I am aware of certain risks which their adoption may entail, some of which I have mentioned and others have been raised by opponents. After weighing the pros and cons I am convinced that the advantages of approval definitely outweigh the disadvantages. In taking this position, I am unmoved by the argument that we owe anything to Panama by way of reparations in compensation for past injustices. These treaties should be measured purely by their present and future impact on the interests of the United States and Panama as best we can evaluate that impact today. Fortunately, it appears to me that they are favorable to the interests of both countries—and of the western hemisphere as well.

TESTIMONY OF CANAL ZONE CITIZEN REPRESENTATIVES TO THE SENATE FOREIGN RELATIONS COMMITTEE, OCTOBER 10, 1977

We want to thank you for the opportunity to present testimony to your committee today in what we believe is a history-making process. Our panel consists of three people elected by the community to represent them on various townsite Civic Councils and of one officer of the Central Labor Union-Metal Trades Council of the Canal Zone. Mrs. Charlotte Kennedy is president of the Cristobal-Margarita-Brazos Heights Civic Council and Mrs. Patricia Fulton is president of the Pacific Civic Council. Mr. Harold Green is president of the Gamboa Civic Council, and Mr. Louis Fattorosi is vice president of the Canal Zone Federation of Teachers, American Federation of Teachers, Local 29, AFL–CIO, and is a delegate and trustee of the Central Labor Union-Metal Trades Council.

People in the Canal Zone and in the Republic of Panama have been listening to these hearings on Armed Forces Radio with a great deal of interest. Both groups of people have heard innumerable statements made about them by witnesses before this committee, some of whom have never been to the Canal Zone and some of whom have only spent one to three days in the Canal Zone. Ambassador Jorden made some assertions about how the people in the Canal Zone feel. We are convinced that the Hon-

orable Ambassador has no expertise in representing accurately what we feel as a people in the Canal Zone because his contacts are confined to the highest level of Canal Zone officialdom. Therefore, in our testimony today we would like to set the record straight on a number of issues. Our preparation for this presentation has been extensive, involving reading daily newspapers in Spanish and English, watching panel discussions of the treaty on Panamanian television, keeping in constant contact with Panamanian friends on the political climate in Panama, and in some cases supplying some Congressional committees with information which they did not receive through official channels. We have had formal and informal discussions with visiting Senators and Representatives. But we must make one observation: Presidents Carter and Ford, Henry Kissinger, and Sol Linowitz have never been to the Canal Zone, at least to our knowledge. Senator Hollings, who spoke very vehemently about what we are like in the Canal Zone, was only here for a very brief visit. He was entertained in Mrs. Fulton's home for approximately one hour where he spoke with a number of Canal Zone residents, before continuing on a very busy schedule of appointments. This, to our knowledge, was the extent of his contact with the average citizen in the Canal Zone. Ambassador Ellsworth Bunker met twice, once in 1973 and once in 1975, with Canal Zone civic and labor representatives. On both occasions he was equally close-mouthed and uninformative. He did promise to keep our best interests in mind and to keep us informed. We believe that he fulfilled neither promise.

We live with the Panama Canal 365 days a year. Our people know more about its operation and more about the characteristics of Panama and the Canal Zone than do President Carter, Cyrus Vance and the Joint Chiefs of Staff just by virture of our work and family residence. We welcome the suggestion made by the Honorable Senator Percy that your committee should visit the Canal Zone. But bear in mind that you will still not learn all you need to know in three days of frantic briefings, an airplane ride over the Canal, and a couple of official dinners. You will learn during your visit that the Canal Zone is not surrounded by a fence and that Panamanian citizens have free access into the Zone simply by crossing a street. You will also notice there are no checkpoints or customs guards to interfere with these crossings into the Canal Zone.

At this point we would like to respond to some statements made about the Panama Canal treaty issue in earlier testimony before this committee. It has been repeated many times that Panamanians as a people want this treaty, that they are unified behind General Torrijos, that they are exercising a desire for self-determination. That is a gross distortion of the actual situation in Panama. On October 4, 1977, at a public hearing which featured a debate between the Panamanian negotiators and a group of independent lawyers who oppose the treaty, the audience screamed down negotiator Carlos Lopez Guevara with cries of "The government has stolen our liberties," "We don't want this treaty," "The plebescite will be a fraud," and "You are a thief and a traitor."

On that same day the official car of Ambassador William Jorden was burned by a group of students when the car was parked on the university campus. One Panama City newspaper the next day published a photograph of the burning car with the caption "North American Provocation," saying in the cutline below that the students showed their rejection of the high official (Deputy Chief of Mission Raymond Gonzalez) present on the campus. Graffiti on walls all over the city of Panama City point to criticism of the present government's policies in phrases such as "Bases No," "Down With the Cost of Living," "Down with Law 95," (a law unfavorable to the laboring class); and "Bring Back the Exiles."

The opposition in Panama to the proposed treaty is also evidenced in numerous meetings being held by once-dormant political parties such as the Liberals, the Panameristas (the party of the ousted President Arnulfo Arias), and the Christian Democrats. We say clearly that the Communists in Panama are NOT the only ones opposing this treaty. In fact there are some Communist groups actually supporting the government's efforts to achieve this new treaty. The people in the political groups and other groups not readily labeled know that their liberty to express themselves now is short-lived, that Carter must have put pressure on Torrijos to relax the restrictions on political activity. They are calling this short period of freedom of expression, "The spring of liberty of Jimmy Carter" because they know that it will end on October 24, the day after the plebescite.

Now what about the multitudes of Panamanians who live in the rest of the Republic, outside of the port cities of Panama and Colon? Many of them do not understand what the treaty means fully, particularly the 200,000 illiterates. The teachers, who are supposed to explain the treaty in their school classes, are not all in favor of the treaty. Panamanians are listening to these very hearings because they don't trust the superficial generalities they are hearing from their own government representatives. And would you believe that at the plebescite, each Panamanian must sign a form indicating that he has read and that he agrees with the treaty, the neutrality pact, the supporting agreements, the exchange of notes, and the maps. University students are on local television almost nightly, telling the population that 42 days from September 7th in which to prepare for the plebescite is a criminal amount of time.

The Panamanian newspapers have printed a number of references to the questioned legality of Torrijos' signing of the treaty, because the Panamanian Constitution states that the President of the Republic, who is Demetrio Basilio Lakas, is the one authorized to do so. The political parties are unanimous in agreeing that whatever government succeeds the falling Torrijos regime will repudiate the 1977 treaty, if it is ratified and put into force. Torrijos will one day become the Buneau-Varilla of 1977 because he is already being accused of selling his country.

In the light of all this, it is quite clear to us if it is not clear to our U.S. negotiators and to Secretary of State Cyrus Vance and to President Carter, that this treaty does NOT eliminate the sources of conflict between the U.S. and Panama. This treaty only multiplies and prolongs the causes. Students who are supporting the government position on the treaty have still pledged to keep fighting after ratification for the complete elimination of military bases and of U.S. military personnel in Panama.

To the thousands of Panamanians who are out of jobs, who cannot feed their families, pay the rent, buy shoes and school textbooks for the children, this treaty will be little more than a piece of paper. Unemployment will be further increased because it is estimated that from 3,000 to 8,000 Panamanian employees will be displaced from jobs with the Panama Canal Company/Canal Zone Government. (We might insert here that the Treaty of 1955 had a devastating effect on the City of Colon, which lingers today. The Panama Canal Company gave up certain commercial functions, which caused the layoff of many Panamanian employees who were not hired by local merchants and business people because these merchants preferred to import products rather than to hire people to make them locally.) The proposed treaty does say that the Government of Panama will attempt to find jobs for Panamanian citizens no longer employed in the Canal operation, but reality says that there are no jobs available.

Some of these Panamanians tell us that they know what will happen: they will receive temporary employment in Panama, in order to comply with the treaty agreement, but they will be fired in three to six months. Many non-U.S. employees who live and work in the Canal Zone and who happen to have black skin know that they will be in a precarious position when the new treaty goes into force because discrimination against these people is widespread in Panamanian government and business jobs. These people, mostly of Antillean origin, whose grandparents came to help build the Canal, are a people without a country because the Panamanians have never really accepted them. They are sometimes referred to as "vendepatrias" or persons who sell their country. In short, they are regarded as traitors for allying themselves with the United States in their place of employment and place of residence.

Our friendships and daily conversations with Panamanians have also revealed some other surprising facts. The anti-American feeling in Panama is not always based on what you might think, on jealousy of our wealth, on resentment of our being present on the Isthmus. No, anti-American feeling is also based on the perception by many of the thinking people of Panama that the U.S. government is responsible for putting Omar Torrijos in power. They reason that the U.S. wanted an easy vehicle by which to finish negotiations for a treaty. It has been admitted by State Department officials that it is much easier and more efficient to deal with a dictator because our government only has to deal with one man, rather than with a body of elected representatives.

The Panamanian people know of the regular arms sales, of the supplies of guns and ammunitions which we provide to Panama both through gift and through military purchases, and they were outraged to learn about the armored personnel carriers and command cars that Torrijos bought from the U.S. earlier this year. Their only conclusion is that the U.S. helps Torrijos keep his people in line, and they wonder, they even ask us—why doesn't your government do something to get Torrijos out of power. If this treaty is ratified, they tell us, the U.S. will have conflict on two fronts: one, from the anti-U.S. students who will want the complete and immediate elimination of the military bases and the other from Panamanians who feel they were stabbed in the back by the U.S. Congress who confirmed Torrijos in power for who knows how many more years.

These same Panamanians also say that if some of their people die in reprisals by the government after the plebescite, as punishment for speaking out against the treaty and the Torrijos regime, then the United States will also be blamed for encouraging Torrijos. You may think all these perceptions are faulty, but they are very real, nevertheless, and we felt that we had to relay them to you because there was no one else to do it.

One of the frequent arguments put forth in favor of ratification is that Panama will react with extreme violence, perhaps guerrilla warfare, if this treaty is NOT ratified by the U.S. Congress. We KNOW what Panamanian violence is because we live in Panama. Let us explain what the typical pattern is: the participators are students because the working and professional classes have little interest in street violence or terrorism. The place is a broad, downtown street where newspaper photographers can make many pictures of banners, signs, and symbolic acts of protest. The time is a dry, sunny, weekday. The students do not riot on holidays or

weekends. The stereotypical notion of the guerrilla crawling through the jungle on his belly, ready to throw a grenade at the Canal locks, would not appeal to these students because it is no fun to work unseen, unnoticed by newspaper reporters. And besides, the three sets of Canal locks are NOT surrounded by jungle that would permit a terrorist to approach, do his work and leave undetected. The State Department has perpetrated a giant hoax on the American people, and unfortunately, some people, having little direct knowledge of the Canal's physical appearance or of its operation, bought the story.

The Carter Administration, through multiple newscasts, a brilliant extravaganza of a signing ceremony, and public relations efforts, including paying the expenses of visiting Panamanian journalists who have lectured in the U.S., has put forth the idea that the proposed treaty is one on which the U.S. and Panama both agree. This is all at the taxpayers expense in an effort to "re-educate" them to the new, modern version of Canal history. Members of this Foreign Relations Committee have asked a number of questions regarding the Neutrality Pact, particularly as to whether the Panamanians interpreted the Pact in the same manner as we interpret it. We have evidence that such is not the case. Because the speeches of negotiator Romulo Escobar Betancourt have been mentioned frequently, we will not quote them at this time. But on September 30, 23 days *after* the signing of the Torrijos-Carter Treaty as it is called in Panama, negotiator Carlos Louez Guevara made these statements about neutrality and about "expeditious transit."

"From the Second World War, 'intervention' has disappeared as a right, as a practice. Intervention sometimes happens but it is never authorized. It is a question of force, of deeds, but you will never find it anymore in this treaty, this matter of intervention. The charter of the United Nations obliges Panama and the United States and 152 nations of the world; it excludes and condemns intervention. Then how can a functionary of the United States or any other country invoke this intervention. We can't return to past time."

And at another point in his address to a group of Panamanian citizens, he said

" 'Expeditious' does not mean 'priority' or 'preferential treatment' . . . I don't know where they got this interpretation, when the history of the negotiations reveals the idea was rejected. And why did Panama reject this idea of preferential treatment? Because it is a contradiction in terms. Article 4 and all this treaty is devoted to neutrality. Neutrality in all the definitions that I was able to find means 'equality,' 'balanced,' 'with no discrimination.' We can't talk about a regime of neutrality devoted to neutrality and at the same time talk about preferential treatment or discrimination."

The matter of "expeditious transit" only one of the ambiguous items in this treaty, which promises to give innumerable headaches to both governments after ratification. It seems to us, as ordinary voting citizens, that a treaty ought to represent what is agreed upon and what is clearly understood by both parties, not a matter for crossing one's fingers for good luck, hoping that things will turn out all right if a problem does occur at a later date. If more time is needed for further re-negotiation, for further amendments or understanding, isn't the seriousness of this matter worth such an investment? We have only one Canal, and it is a very strategic Canal. A new Canal treaty should be the best that we can negotiate rather than just the only one our negotiators have been able to come up with. We do not buy the line that both the Panamanian and American people should accept this treaty because "it is the only one in town."

A repeated phrase in the testimony of the Joint Chiefs of Staff and in other statements before this Committee has been "Use, not ownership, is what is important." As people who know the Canal intimately, we are convinced that for the good of the Canal itself, it *is* important who owns the Canal. Any new owner should be competent to handle the heavy responsibility of servicing world shipping. As representatives of those who keep this Canal operating 365 days a year and whose fates are being decided in the Halls of Congress, we pose one key question to the Senate of the United States: Do you wish the Panama Canal to continue functioning as well in the future as it has in the past? If you buy the testimony that says the Canal is obsolete, unneeded, and not really essential to the American national interest, then it doesn't matter what you do about the Canal. But if you believe, as we do, that it is in the interest of the United States that the Canal continues to operate on an around-the-clock basis, then you need to take into account some other factors.

The Panama Canal as an international waterway does not function by means of warm, good feelings or a high sense of ethics. As admirable as the motives may be for the writing of this new treaty, in search of a new relationship with Panama, in an attempt to strengthen relations with Latin America, the question remains, how does the Canal mechanism work? It works because people who know how pull the levers, open the locks gates, carefully maneuver the ships through the Canal and the locks of the Canal, keep the equipment maintained with regular overhauls and preventive maintenance, in some cases manufacturing replacements parts at the jobsite, and keeping the Canal channel dredged to the proper depth. We have only touched on a few of the jobs needed to put ships through from ocean to ocean on a daily basis. But those people are not robots.

Here is how they regard the treaty matter: They believe that they are being served up, in an unconstitutional manner, to a dictator, an act that we can find justified nowhere in the lawbooks on the Constitution of the United States. If treaties cannot supercede the U.S. Constitution, can our Constitutionally-guaranteed civil rights be superceded by this new Canal treaty? No matter how glowing the terms in which the change of sovereignty is described as "an adjustment to modern realities," and "the elimination of the last vestige of colonialism in the Western Hemisphere," we still understand that we are losing protection we once had. Put very bluntly, people can talk freely in the Canal Zone, can criticize President Carter without fear of being arrested by Canal Zone Police.

Such is not the case in Panama. The 6,000 Americans who live in Panama so peacefully as Ambassador Jorden and others have told you, do so by keeping their mouths shut on Panamanian political matters. We are not talking about Americans running for office in Panama; we are talking about the simple right to criticize a government's actions if he believes the actions are worthy of criticism. The new treaty muzzles Canal Commission employees by forbidding them to do anything against "the spirit of the treaty." We don't know what the spirit of the treaty is, nor who will interpret it for us, nor who will determine that the treaty spirit has been violated. We will be prohibited from any sort of political activity, such as the March of Mourning we held on the Night of the Treaty Signing, and from committing crimes against the security of the Republic of Panama.

That last offense has a very broad interpretation in Panama. Merely associating with the wrong people can result in a person being snatched up and detained, incommunicado, and with possible subjection to mental and/or physical harassment. Given these conditions of the new treaty, an overwhelming majority of American employees will NOT stay to train Panamanian replacements; instead these U.S. employees will leave for the United States, most likely during the six months between the exchange of instruments of ratification and the entering into force of the new treaty.

Americans who were born in the Canal Zone, often called dual nationals, are considered to be Panamanians by the Government of Panama. The U.S. passports of these people state that when the bearer is in the country of his dual nationality, he is to follow the laws of that country. So these dual nationals fear greatly that they will be trapped in Panama and not be permitted to leave. We know the treaty says that this group of people will be regarded by the United States as U.S. citizens. But that means nothing to a Panamanian government or police official who might wish to block that person's exit from the country. These people need more positive protection because as the treaty is now written, they are still in a precarious position.

In summary, as to the problem of employee exodus, we can only state that if the Congress firmly believes that this treaty in its present form is desirable and worthy of ratification, then the Congress should consider recruiting a work force for the Canal until sufficient Panamanians can be trained to do all the highly skilled jobs in the Canal operation. Some Americans now employed in the Canal Zone may remain because they are so close to retirement, but the sentiment most often expressed to us by U.S. and non-U.S. residents in the Zone is a desire to leave the area as soon as possible after the treaty is ratified. You might ask Congressman Ralph Metcalfe of Illinois, chairman of the House Subcommittee on the Panama Canal, how many times that he has been asked by civic representatives of non-U.S. citizens in the Zone to help their people to obtain immigration rights to the United States.

The Senate may ratify this treaty and feel a warm, rosy glow of international good will, but the people who operate the Canal will find life intolerable under the new situation. Right now, even before ratification, the judicial process is suffering greatly in the Canal Zone. Until last spring, the Canal Zone always had a permanent judge to preside over our District Court. When Judge Guthrie Crowe retired, the Carter Administration blocked the search for a replacement because they anticipated the ratification of a treaty which would eliminate the Court. Therefore, our court system has gone for weeks at a time without a judge, and now we are making do with substitute judges for a week at a time. We believe that it is unfair to subject us to this before a new treaty goes into effect, because until the new treaty abrogates the old one, the Constitution still protects us. Perhaps you can help us in getting a judge appointed to take care of our civil and criminal court cases.

You may have noticed that the new proposed treaty refers to liberal retirement for employees. The phrase "priority transfer" has also been tossed about as a possible benefit for present Canal Company employees. But in actuality, the treaty indicates only that the Administration will seek implementing legislation to make these benefits possible. That legislation may never materialize or it may be far from helpful to our people. So in essence, our constituents feel that they will have human rights and civil rights taken away, with only a "maybe" promised to them for transfer to U.S. government service elsewhere. State Department officials giving testimony here have been proud of the treaty's provision for "procedural guarantees" for the U.S. citizen employees of the new Canal Commission.

If you are familiar with the whimsical, arbitrary manner of law enforcement in Panama, you know that an arresting Guardia is not at all worried about an agreement on

paper. The person he is arresting is completely at his mercy, with no guarantee of good or bad treatment. The Guardia patrolman on the scene may extort a "fine" from his detainee, he may beat him up, he may ignore the request to contact a lawyer. In the National Guard Police Headquarters, the phrase "procedural guarantees" will be nothing more than that for American citizens—a phrase in a treaty.

Ambassador Jorden has said that the Canal Zone people do not feel that they have been sold down the river. Let's examine that statement for a moment. When Americans were recruited by the Company/Government, there was a clear understanding that the employment was up to American standards just as in any of the 50 States. The employee would get rental housing which was adequate by U.S. standards. He was guaranteed levels of public services, health and hospital care, schools, fire protection, U.S. policemen who spoke his language, the right to trial before a judge appointed by his own government, and the benefits of the protections of the U.S. Constitution. The U.S. employee was guaranteed the right to peaceful protest, to free speech and press, to worship as he chose, to meet with his neighbors in free association for their mutual benefit and all of the other basic freedoms.

Even if it was never written down in those words, long usage and custom made these rights a Contract between Employer and Employee. Where are these rights guaranteed under this new treaty? In addition to violating the constitutional rights of both the U.S. and non-U.S. employees in the Canal Zone, this is a clear breach of contract and we believe the courts of the United States will see it in that way. Given this explanation, we find it difficult to understand the accuracy of Ambassador Jorden's statement.

Although we do not claim to be economic experts, we would like to make some simple observations on the financial aspects of the treaty. U.S. taxpayer money will be used, contrary to previous testimony, to finance the changeover of the Canal Zone schools personnel and the hospital personnel to the Department of Defense and for their salaries as well. The U.S. Government will also pay into the Panamanian Social Security System on behalf on non-U.S. employees of the Canal Commission. A $10 million down payment will be made on behalf of the military sales loan to Panama, a loan which will not have to be paid back for a number of years.

The treaty permits the cancellation of a number of sizable loans made to Panama in the past, an act which gets Torrijos off the financial hook and which cheats the U.S. Treasury of money owed to it. We can foresee the possibility that the loans made under the new treaty could also be cancelled at some point in the future when Panama gets into another financial bind. Please explain to us the economic wisdom of turning over U.S.-financed and constructed housing in the Canal Zone, free of charge to the Panamanian Government who will in turn sell or rent it to Panamanians.

In the housing area of New Cristobal, now part of Colon, homes were sold to Panama for $1 each and resold by the Panamanian Government at about $10,000 each. Panamanians now living in these Canal Zone homes, having paid rent for a number of years, have made the reasonable request to be able to buy the houses before the treaty goes into effect, believing that the U.S. Government would ask a much fairer, more reasonable price.

This Committee has heard testimony to the effect that the expenses of the Commission and the payments to the Government of Panama will be made out of Canal revenues. If this is true, a tolls increase of anywhere up to 40% will be needed at the outset, with subsequent increases in later years as the payments to Panama also increase. One experienced shipping agent in the Canal Zone, a man not employed by the Company/Government, has stated that when the tolls increase by 40%, some shippers will stop using the Panama Canal. His own personal advice was that if the U.S. wants to insure that the Canal will always be open to all shipping, it is in the best interests of the U.S. to continue controlling the Canal.

Perceptive Panamanian Government begins receiving additional revenue from the Canal Commission as well as benefits from U.S. loans. As these Panamanians see it, the U.S. banks to whom Torrijos is so deeply in debt will get their money back and the Torrijos family will be further enriched, along with other high-ranking officers in the Guardia Nacional. Why do Panamanians believe this? Because they notice that Torrijos, once a poor boy from the Province of Veraguas, is now a very rich man with two villas in Spain and the money to travel all over the world. Meanwhile, the poor people he came to save are still just that, with little hope of any future change.

The new roads, schools, and clinics that impress visiting A.I.D. officials and Congressmen do little to provide weekly paychecks to campesinos that will allow them to feed their families adequately, buy clothing and school supplies. Panamanians grown cynical over Torrijos' enrichment have rephrased two of his slogans. "Todo Por La Patria" or "Everything for the Country" has been changed to "Todo Por La Plata", or "Everything for Money." and Torrijos' benevolent statement of "What I want for my sons I want for all of Panama," has been changed to "What I want for my sons I take from my people."

In listening to past sessions of these hearings, we have observed some difficulty on the part of Senators in trying to define the nature of Communism in Panama and whether such a phenomenon exists. Our source of information is Panamanian, not North American. Panamanians know who the Communists in their midst are, and these Communists will not be identified by a membership card in the wallet or a hammer and sickle badge on the sleeve. Four members of the Panamanian negotiating team: Gerardo Gonzalez, the Panamanian Vice President; Romulo Escobar Betancourt, chief negotiator; Adolfo Ahumada, the minister of labor; and Aristides Royo, the minister of education, are all identified by Panamanians as having Communist affiliations, sympathies, or connections. Vice President Gonzalez has been a courier for the Communist Party and Chief Negotiator Escobar Betancourt controls the national communications media as head of the Information Commission. The other key Communists in the government include Marcelino Jaen, Torrijos' brother-in-law and head of the Legislative Commission which writes all the laws in Panama; and Colonel Roberto Diaz Herrera, cousin of Torrijos and Secretary of the Estado Mayor of the Guardia Nacional. Col. Diaz Herrera helped set up a Communist-controlled Guardia training school at the Rio Hato air base. The Panamanian Government has set up an agency known by the acronym DIGEDECOM, short for Direccion General de Desarollo Communidad. This agency holds indoctrination programs, with ample anti-American propaganda included, for teachers, government employees, students, labor groups, campesinos. The agency also aids in the celebration of Fidel Castro's July 26 anniversary, the May 1 Labor Day, and the October 11 Anniversary of the Revolution.

Some more obvious examples of ties and sympathies with Communist nowers such as Cuba and Russia, include the following:

1. Russian planes, seen by U.S. and Panamanian eyewitnesses alike, on the ground at the Rio Hato airstrip. These planes do more than bring Torrijos his custom-made cigars from Fidel Castro. These planes come in low over the coastal water, so as to avoid radar detection.

2. Every 6 months a fresh group of Panamanian students leave Panama to go to study in Cuba. These students are given top priority in the Panamanian visa office. The cumulative effect on the young people of Panama, who will someday be the national leaders, is not hard to imagine.

3. Panamanian students go to Russia for study in five-year tours. A young person who returns after five solid years of the Communist Party line at a Russian university is bound to be affected in his beliefs about capitalism vs. communism.

4. Panama has requested Cuban advisers to come to Panama to teach the Government how to set up neighborhood committees to facilitate the government's control of the people on a local level.

5. Russians are making plans now to build structures in the Colon Free Zone for the sale of Russian-made products. In the works also are plans for sale of sugar by Panama to Russia, construction by Russia of a hydroelectric plant, the opening of a Russian bank in Panama, and the establishment of official diplomatic relations.

To those who say that Panama has the right to have relations with any country that it pleases, we agree. But we are contemplating the turnover of a very valuable Canal in a very strategic geographical location to a country that does not have the military power or will to defeat the possible invasion of a third power. The Russians or the Cubans would not have to invade, however; they would simply enter as friends of Panama. And after having witnessed several incidents recently in which our American flag was burned or torn down and desecrated, to which our U.S. Embassy only responded with diplomatic protests on paper, and little else, we are cynical about the possibility of the U.S. coming back to Panama after the year 2000 to take the Canal away from Russia or Cuba. We noticed with some chagrin that Ambassador Jorden seemed more incensed over the loss of his official limousine that was burned by Panamanian students recently than he was when the American flag was torn down last June 11 at Shaler Plaza. At that time, the State Department sent a thank-you note to the Guardia Nacional for returning the flag to the Canal Zone Police.

As we conclude this presentation, we note that a number of witnesses and members of the Committee itself have seemed to express confidence in Panama's good faith in abiding the terms of the new treaty as they have abided by the terms of the 1903 treaty and other agreements with the United States. To set the record straight, let us point out that Guardia kidnappings of U.S. military personnel, of civilian employees and dependents from the Canal Zone, that Guardia harassment of Canal Zone residents passing through Tocumen Airport, and the Guardia-led student incursions into the Canal Zone all come under the classification of treaty violations.

All that the U.S. Government has done is to protest; our Canal Zone Police are given no firm authority to stop such incursions. Instead, they are sometimes even consulted by the Guardia ahead of time with the idea of cooperating in the control of the crowd. What we know by experience of living in the Panama area is that the Panamanian Government is not made up of good Boy Scouts who always keep their words.

Once the Torrijos regime has the treaty they want, a treaty that surrenders the sovereignty which gives us the legal right to be there, then the Revolutionary Government of Panama has a wide range of possible alternatives. These range from continued harassment for a larger and larger slice of the cake all the way up to complete nationalization of the Canal. If 100,000 troops are needed to defend the Canal, with the implication that the present military force in the Zone is not adequate, then why do we have bases there at all? And if we can't defend the Canal from within the Zone, then can we really defend the Canal more adequately when our military is totally removed from Panama?

Witnesses before this Committee have glibly stated that the United States is not now sovereign in the Canal Zone. For the record, we would like to point to some documents which do not support that statement. The State Department only quotes half the sentence from the treaty about "rights as if sovereign." We would like to finish the sentence: "To the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority." A legal brief prepared in 1959 by the Office of the Canal Zone Governor on the subject of sovereignty over the Canal Zone states that the U.S. has the exclusive exercise of sovereign rights, power and authority in the Canal Zone and that the Republic of Panama has no right to the exercise of sovereignty, rights, power or authority in the Canal Zone. We point also to the 1904 Provisional Boundary Agreement which refers in four places to "territory ceded to the United States" by the Republic of Panama.

A 1914 treaty between Colombia and the United States recognizes the title to the Canal Zone as being "vested entirely and absolutely in the United States of America, without any encumbrances or indemnities whatever." To clarify the statement that no Panamanian ever signed the 1903 treaty, we point out that each member of the Panama Provisional Government Cabinet signed the treaty and ratified it.

The 1903 treaty has been revised on a number of occasions—only 8 of the 25 original clauses remain—all others have been eliminated. After each revision, the U.S. was assured that the just aspirations of the Panamanians had been met.

As a note on more modern history, we would like to comment on the 1964 riots which have become a cliche in themselves in the discussion of need for a new treaty. The State Department Bulletin of February 24, 1964, carried this statement by a government official, referring to the 1964 riots:

"If an investigation is made, it will show that violent mobs, infiltrated and led by extremists, including persons trained in Communist countries for political action of the kind that took place, assaulted the zone on a wide perimeter, setting fire to buildings inside the Zone and attacking with incendiary bombs . . . it will show that the government of Panama, instead of attempting to restore order, was, through a controlled press, television and radio, inciting the people to attack and to violence."

The writer was the U.S. Representative to the Organization of American States, the Honorable Ellsworth Bunker. May we add that a sizable number of the Panamanian martyrs who perished so valiantly for their country were actually looters shot by night watchmen at stores being looted or who burned in the Pan American Building in a stalled elevator, holding the loot in their arms.

For the record, we must clarify a statement coming out of the AFL–CIO National Headquarters that Canal Zone labor groups support the treaty. The truth is that the Central Labor Union-Metal Trades Council, representing 11 unions, has been on record and is on record in opposition to any relinquishment of U.S. control of the Panama Canal. Labor and civic groups alike are deeply concerned about the content and the implications of this present treaty negotiated with Omar Torrijos. We are smelling the odors of Watergate when an investigation into possible electronic surveillance of Panamanian negotiators is politely hushed up at the request of Attorney General Grifin Bell, who felt the investigation was "too broad." We know where Mr. Brustmeyer is and we think that he should be heard.

In our testimony we have tried to be frank and open, giving facts and details that have been quietly hushed up or ignored by the State Department. We want you to be as well informed as possible when you decide to ratify or not to ratify the proposed treaty. But we are also conscious that we may pay a price for our bluntness. We are not allowed use of the military airport in the Canal Zone because we are not employed by the military, so we must return to the Canal Zone through Panama's Tocumen Airport. If Panamanian officials, having heard of our testimony, decide to detain us, as they have done to others, you will at least have been informed of the possibility. The reign of fear and terror in Panama has gone far enough. We had to speak out on behalf of the many silent Panamanians who will never have the opportunity to speak this openly.

We are submitting with our statement a collection of material documenting human rights violations in Panama and highlighting some other information on Panama that we believe might be helpful in your investigation into the treaty issue. At this time we will be glad to respond to any questions you might have.

Mrs. PATRICIA FULTON,
President, Pacific Civic Council.
Mrs. CHARLOTTE KENNEDY,
President, Cristobal, Margarita-Brazos Heights Civic Council.
Mr. HAROLD GREEN,
President, Gamboa Civic Council.
Mr. LOUIS FATTEROSI,
Vice President, Canal Zone Federation of Teachers.

S. 1871—THE MINIMUM WAGE BILL

Mr. PERCY. Mr. President, I would like to take this opportunity to comment on several aspects of the minimum wage legislation which has just passed the Senate.

The strong differences of opinion among my constituents on the controversial issues this bill addressed made my own consideration of this legislation a highly educational experience. Illinois business and labor leaders both contributed extensively to my thinking on indexing, the youth subminimum, the tip credit and other important elements of this measure, and I am grateful for the time that representatives of the Illinois business and labor communities have been willing to spend with me and my staff since January of this year to go over the more salient features of the bill. Both groups have demonstrated to me a willingness to discuss the substance of these issues and to avoid the emotionalism that so often accompanies consideration of this kind of legislation. This has been especially helpful to me. Bitterness and emotionalism have no place in the legislative process.

I have always supported reasonable increases in the minimum wage level and I intend to do so again whenever it is necessary. I was deeply disturbed, however, when I learned about some features of this legislation when it was originally proposed. Not only would it have provided for an increase in the minimum wage but it also called for a change in the method by which future increases would be determined, a proposal which I felt was damaging to both the average worker, particularly the skilled worker, and the economy as a whole.

As originally proposed and as reported by the Committee on Human Resources, S. 1871 stipulated that increases in the minimum wage be calculated as a percentage of the average hourly rate—(originally proposed at a 60 percent level, later reduced to 55 percent and then 52 percent—being paid to American manufacturing workers at any given time. It is understandable that some workers would initially find this attractive and it is understandable why such a method would be perceived to give some assurance that minimum-wage-level workers would receive increases at reasonable intervals without having to cope with the effects of conflicting political pressures on the Congress.

The first minimum wage was based on the need to establish a floor for wages for the undereducated and the unskilled and I believe this premise is still valid. My fear was that by indexing, we would frustrate this original purpose of establishing a floor by putting a ceiling on wages instead. Under an indexing system, I feel there would have been stronger resistance on the part of management to agree to wage increases for production workers at all levels simply because they would know it would precipitate a broad ranging series of increases throughout the economy.

I find it hard to believe that a person at the bottom of the employment ladder, unskilled and undereducated, is actually worth—in terms of productivity—60 percent, 55 percent, 53 percent, or even 52 percent, as has been suggested—of the average wage paid to all American factory workers, which includes in its scale such highly skilled workers as tool and die makers, automatic screw machine operators, punch press operators, quality control and inspection personnel, and skilled assemblers.

In our market-oriented economy, there has to be a logical relationship between pay received and value of output. Indexing one person's pay as a percentage of someone else's with entirely different, in fact with inferior skills and abilities, is arbitrary, even irrational. The one to be most hurt by such a system is the most highly skilled worker.

In addition, I felt that the inflationary effect of such indexing would impose a penalty on all of us—but especially the low-income worker and the elderly living on a fixed income—in the form of higher living costs. Recent Department of Labor statistics indicate that the level of increases in the hourly wages in the country have begun to outdistance the increases in productivity so much that the rate of increase in unit labor costs is beginning to be a cause for concern: If these fears are well founded—and I believe they are—then unit labor costs could once again accelerate to a rate that could lead to rapid inflation, reduced purchasing power and recession. Certainly, this situation is something all of us know we do not want to live through again.

Viewed from a broader perspective, I have reservations about writing an in-

dexing provision into law that is diametrically opposed to and inconsistent with the U.S. position in international negotiations against indexing. We have opposed the demands of developing countries to index the prices of the commodities and minerals they produce and export in relation to the prices of the goods they import from us. We particularly opposed—and I spoke on behalf of the United States as a delegate to the U.N. in 1974 against the proposal by the OPEC countries to index the price of their oil exports to the price of the industrial goods they import. We cannot in good faith tell the rest of the world that indexing commodity prices is no good, and then turn around and index wages for the American worker.

The Federal Government has adopted very few indexing proposals, and even then with great deliberation. Increases in the social security retirement benefits are indexed to the cost of living. This was done specifically for the elderly who frequently have nowhere else to turn and for whom it is often too late in life to be looking for new sources of income. Such increases have no effect on the salaries of the average worker. Federal employee salaries also are indexed, to a certain degree, but they are adjusted to be comparable to salaries in the private sector—again they react to private sector salaries but have no effect on them nationwide.

The type of indexing proposed in the minimum wage bill was entirely different. Rather than preserving purchasing power in "real" economic terms, such indexing were contributed to a continued inflationary spiral by practically guaranteeing wage and price increases. Experience in observing developing countries who have tried a variety of indexing proposals shows us that it is always difficult, if not impossible to discontinue these relationships when deflationary policy becomes necessary.

For all of these reasons, Mr. President, I was pleased to join with the managers of the bill in their successful effort to strike the indexing provisions of the bill and substitute a gradual increase in the minimum wage level, retaining for the Congress the responsibility of periodically reviewing the level within the context of prevailing economic conditions.

With regard to the "tip credit," I voted for an amendment to retain existing law, which provides that, when an employee works in an occupation where tips are regularly and customarily received, part of those tips may be counted toward payment of the minimum wage, but not more than 50 percent of the minimum wage. The question of changing the "tip credit" provision has been considered by Congress before and, in 1972, I sponsored an amendment to strike provisions of the pending bill which would have altered the 50 percent credit. Conditions in the restaurant industry at that time convinced me that the existing level was fair and reasonable given the unique nature of the industries affected by the credit provision, particularly the restaurant industry. Subsequently, safeguards were built in by Congress when it provided that tipped employees can never earn less than the minimum wage.

In the intervening years, circumstances have not warranted a change in existing law. In addition to the guarantee of at least the minimum wage, facts support the belief that the average tipped employee, in fact, earns well over the minimum. According to figures provided by the National Restaurant Association, the average wage as of January 1977 for nonsupervisory employees in eating and drinking establishments was $2.86 per hour, in excess of both the current minimum wage of $2.30 and the anticipated level of $2.65 for next year. For both of these reasons, I think Congress should have left well enough alone and retained current law. Unfortunately, this position did not prevail and an amendment was adopted to phase the tip credit down to 30 percent, instead of the 20 percent provided in the committee bill, by 1981.

It was difficult for many of us to arrive at a correct decision on the question of the subminimum wage for youth, the so-called "youth differential." Arguments presented by both sides were strong and compelling, and I had voted against such proposals in the past.

However, the youth unemployment problem in this country has reached crisis proportions. Latest figures just released, indicate that 18.5 percent of our young people seeking jobs are unable to find work—this is more than double the unemployment rate for adults. Unemployment among minority youth, particularly those in the central cities, is even worse, with rates consistently above 40 percent in my own Illinois cities of Chicago and East St. Louis. These astounding high rates of unemployment all over the country among our youth contribute to increased pressure on welfare rolls, crime, and loss of dignity and self-respect among those who are otherwise willing and strongly desire to hold jobs.

The time to begin a coordinated effort against youth unemployment is long gone. I was pleased, however, that we were finally able to enact a comprehensive youth employment and training program earlier this year to concentrate Federal efforts in this critical area. The measure was developed to implement a variety of approaches in combatting structural youth unemployment and will focus on low skills, school drop-out rates and lack of job information and support services. As a new part of the existing CETA program, youth employment and training pilot projects should serve as a vehicle of hope and opportunity for unemployed youth now, and as a catalyst for the development and implementation of other workable ideas in the future.

I feel that now is the perfect time for the Federal Government to join hands with private industry to fight youth unemployment. The alarming levels of youth unemployment show no signs of abatement. What is needed is a concerted effort by the public and private sectors to strike at the heart of this unemployment problem by providing greater employment opportunities.

I believe that a properly structured youth subminimum wage can be an important vehicle for bringing business into this battle and I voted for the amendment providing an 85 percent youth minimum wage for the first 6 months of employment with other protective features to avoid abuse. I regret very much that it was defeated. I felt that, by allowing a subminimum wage for a specified "training" period of 6 months, it could have made the difference between employment and unemployment for a very large number of young people who would otherwise have not been hired at the higher wage level. I was also satisfied that the genuine commitment I have discovered among employers to solving this unemployment problem as well as the penalties and safeguards built in to the amendment by its author would have served as adequate incentives for observing both the letter and the spirit of the law, in this regard, had it been adopted.

During Senate consideration of the youth differential proposals, I suggested to several of my colleagues the idea of a "sunset" provision, that is, providing a limit to the time during which congressional authorization for a youth subminimum wage would be in effect in order that it might run perhaps concurrently with the 3-year Federal youth unemployment program and be reviewed for its effectiveness along with that program at the end of 3 years. The general sentiment I perceive among those who, like myself, supported the Domenici amendment was that if this Federal program does not show signs of working after the first year, we would be back again with a youth differential proposal to supplement Federal efforts.

While efforts to adopt a youth subminimum were unsuccessful, we did succeed in expanding somewhat the exemption in existing law for the employment of full-time students at a subminimum wage. Proposals to ease the paperwork requirements for employers seeking to use the exemption were also successful.

According to the Department of Labor, for 1976–77 there were 850,000 business establishments qualified to take advantage of this student exemption, but only 19,000 businesses did so. The Department of Labor also informs me that the 400,000 retail establishments covered by the Fair Labor Standards Act could have employed a number of students at 85 percent of the minimum wage, yet only 12,200 retail establishments reported making use of this opportunity.

Quite frankly, I am surprised at the low rate at which businesses have been using the exemption and because I am convinced of their genuine concern for the problem of youth unemployment, I can only surmise that many businesses are unaware of this option or think that the paperwork requirement is too onerous.

At the moment, all an employer need

do to employ up to four full-time students at the subminimum wage is to provide five items of information on an application available from the Department of Labor and mail it. The ability to use the exemption becomes effective upon mailing the application to the Department of Labor.

Mr. President, I am asking the Department to use its good offices to inform businessmen of this option, and I certainly will do all I can to spread the word in Illinois. I believe that increased awareness of the student exemption, coupled with even simpler paperwork for business can open up more employment opportunities for low-income students—for whom it is so important to finish school—who will benefit from both learning skills on the job and perhaps being able to supplement the family income while staying in school.

Finally, I supported an increase in the present small business exemption from the minimum wage requirements of the Fair Labor Standards Act. The current $250,000 sale test level has been eroded by inflation and it makes sense to adjust this figure in order to avoid the loss of existing employment opportunities in small businesses. A compromise was reached and the sales level for the exemption will be increased to at least $325,000 as of 1980. It is possible that an even higher level will be agreed to in conference with the House of Representatives.

In conclusion, Mr. President, I would like to share with my colleagues an interesting article which I hope will serve to put some of the controversies surrounding this legislation into a reasonable perspective. It is entitled "Minimizing the Minimum Wage" and was published by the Business and Economic Research Division of the First National Bank of Chicago in its First Chicago World Report for October 1977. I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MINIMIZING THE MINIMUM WAGE

(NOTE.—Every few years, the U.S. goes through the ritual of adjusting minimum wage laws. And just as regularly, the business and labor communities engage in exaggerated discussions about either the dire consequences or marvelous benefits that can be expected as a result. In fact, increases in the minimum wage have typically been quite modest, compared with increases in other wages or prices, and the effects have been fairly innocuous.)

To judge by the hyperbole surrounding minimum wage legislation, one might suppose that the fate of the Republic would be decided by a change of a few cents in one direction or another. A prominent business economist claims that an increased minimum wage would add two million to the ranks of the unemployed and 3 percent to consumer prices. A labor leader suggests that failure to increase the minimum wage would swell the welfare rolls. Someone else tells us that a higher minimum wage would boost consumer purchasing power, and thus increase employment.

Consider the simple idea that higher minimum wage rates must mean higher wage rates in general, and therefore more inflation. Evidence does not support this contention that overall wage rates rise any faster than they otherwise would in years that the minimum wage is increased. Nor is there logic to show why employers would (or how they could) raise everyone's pay just because the minimum wage was increased. Moreover, the complaint that an increase in the minimum wage will increase total wages paid ("labor costs") is somewhat inconsistent with the simultaneous claim that many fewer workers will actually get those higher wage rates.

Finally, although prices might ultimately have to rise in a few industries in which low-wage workers are an important part of costs, such a relative price increase is not inflation. If people pay more for hamburgers, they will have a little less money left with which to buy other things—total demand and overall inflation remain unaffected.

Arguments about the employment effects of a minimum wage rate have likewise been exaggerated. The minimum wage could not cause much unemployment for the simple reason that very few workers are affected by the law and increases have been small and infrequent. On the other side, however, the argument that a higher minimum wage increases consumer purchasing power depends on the questionable assumptions that an increase in wages per hour is not offset by a reduction in hours of work offered, and that the income gain of those who receive the higher wages is not offset by the income loss of the consumers who ultimately pay the higher wage.

At the present time, a little over three million workers (out of more than 90 million) are directly affected by the minimum wage. Nearly half of all employees were not even covered by the federal minimum wage law before 1961—40% until 1966, and 20% since—so that the effect of the law on total employment was even smaller in the past than it is today.

The portion of the work force that might possibly experience adverse employment effects from a higher minimum wage is tiny in comparison with cyclical causes of variations in employment.

A legislated increase in the wage floor would ultimately have to be recovered in higher prices in the few affected low-wage industries. Hamburgers in fast food franchises, for example, would be a bit more costly. If that resulted in fewer hamburgers being sold, then job opportunities in that business would grow less rapidly.

The size of such employment effects, however, remains unclear. If minimum wages are little higher than what would naturally result from employers bidding for labor, then there would be little employment effect. If there was little effect in one year, then a subsequent increase in the minimum wage that just kept pace with the rise in the affected prices would still have no appreciable effects.

Estimated effects of the minimum wage on teenage unemployment have not adequately accounted for the enormous growth in the number of teenagers that the civilian job market has had to absorb. The population aged 16–19 soared from 9.2 million to 17 million in the past two decades, and the shrinkage of the armed forces since the Vietnam era has reduced a major source of teenage employment. Still, the leading studies only attribute 13% to 17% of teenage unemployment to the largest past increases in the minimum wage.

To keep things in perspective, it is important to recognize the high turnover of teenage employment. In June, for example, 69 percent of the teenage unemployed had been out of work less than five weeks.

There has nonetheless been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled. Bending the law to aid teenagers at the expense of adults might create more problems than it would solve.

On the other hand, the fact that the minimum wage mainly affects teenagers undercuts the argument that it is an effective tool against poverty, since teenage workers are rarely family heads and are not necessarily from poor families.

Many of the discussions of an increase in the minimum wage lost sight of a simple fact: those currently working at the minimum wage rate would get a raise in pay. Since such people far outnumber the most extreme estimates of the number who might find it harder to find work at the higher wage, they deserve some consideration in a balanced assessment of the net effect.

TRIBUTE TO ERNEST GRUENING

Mr. HATFIELD. Mr. President, earlier this month, I had the pleasure of attending the unveiling of Senator Ernest Gruening's statue in the rotunda. It was a moving ceremony for me, and I would like to join again with my colleagues in paying tribute to Senator Gruening. It was truly an honor to have been associated with him in the U.S. Senate. I feel, as do my colleagues, that the passing of this man of enormous integrity and ability is a great loss to all of us.

It is easy for eulogies to become overly sentimental and maudlin in describing such an outstanding man. During the presentation of the statue, however, Senator GAYLORD NELSON delivered some remarks which I felt were highly appropriate. His factual, warm, and personable comments represented an accurate reflection of the man being honored. I believe these remarks were a fitting tribute, much like the lifelike statue that serves as a living memorial to him.

Mr. President, I ask unanimous consent that the text of Senator NELSON'S remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR GAYLORD NELSON'S REMARKS AT THE UNVEILING AND PRESENTATION OF SENATOR ERNEST GRUENING'S STATUE

Fifty-three years ago, Bob LaFollette won more than 16 percent of the vote as a third-party presidential candidate. He relied heavily on the counsel of his brilliant 37-year-old director of national publicity, Ernest Gruening. I am sure Bob LaFollette would be pleased to see the statue of Ernest Gruening standing today in Statuary Hall where Wisconsin's statue of LaFollette also stands. Alaska loved Senator Gruening as Wisconsin loved Senator LaFollette. The courage, integrity and conviction of both men have been an inspiration for all who knew them and what they stood for.

On March 7, 1974, three and a half months before the death of Senator Ernest Gruening, I joined with four of my colleagues in a tribute to our friend. We wrote a letter placing his name in nomination for the Nobel Peace Prize. I would like to, if I may, read part of that letter to you today:

"Senator Gruening's leadership in the quest for peace spans many issues and several generations. It goes back as far as the magazine and newspaper editorials he wrote as a journalist against the 'gunboat diplo-

macy' of the 1920's, and against the interventions in Haiti, the Dominican Republic and Nicaragua. It is as current as the efforts he continues now, in his 87th year, against steps which would heighten the danger of more serious confrontation in Indochina. He is a man of energy, of integrity, and of absolute dedication to justice and to the cause of peace. He fights tirelessly for what he believes—and we have learned that what he believes is usually right."

Senator Gruening's death in 1974 caught us all off guard because, though he was 87, he was a young man—He was youthful in his thoughts and vigor and, though it seems hardly possible, his age seemed to enhance his enthusiasms rather than diminish them.

As a young man, Ernest Gruening enrolled in the Harvard medical school, planning to follow in his father's footsteps as a doctor. But his broad interests, and his realization that the afflictions of men and women were more than just physical, carried him beyond medicine. While still in medical school, he took a newspaper job for $15 a week. He would later serve as a newspaper and magazine editor, foreign correspondent, author, historian, diplomat, territorial governor and lobbyist for Alaskan statehood, and finally United States senator and statesman. Senator Humphrey once described him as the 20th century Ben Franklin.

In the Senate, Ernest Gruening was a man whose views commanded respect, even though he often espoused an unpopular sentiment. In March 1964—five months before the Gulf of Tonkin Resolution was brought before the Senate—he made the first major Senate speech calling for the United States to get out of Vietnam. In it, he decried the loss of American lives in seeking vainly, he said, "to shore up self-serving corrupt dynasts or their self-imposed successors". On that day, he spoke with passion, with outrage, with sadness, and with great foresight. "I consider," Senator Gruening said, "the life of one American boy worth more than this putrid mess. I consider every additional life that is sacrificed in this forlorn venture a tragedy. Some day—not distant—if this sacrificing continues, it will be denounced as a crime." Few listened or understood when Senator Gruening made that prophesy. But he never gave up. He pleaded the case against our Vietnam involvement on the Senate floor, in the cloakroom, in offices, and in the great public forum. After many years, far too many years, his views took hold. This country's attitude, and its policy, changed.

Those concerned with world over-population and all the problems that accompany it also owe a special debt to Senator Gruening. Early this century, young Ernest Gruening realized that population control was an essential step toward higher health standards and the elimination of poverty and, eventually, toward a more civilized and peaceful world. He was an advocate of birth control in the 1920's, when such a position was virtually unheard of. His warnings, as his warnings on the dangers of our involvement in Vietnam 40 years later, were greeted with indifference or hostility. After he was elected to the Senate, he continued his crusade, still virtually alone. It was primarily Senator Gruening's efforts that were responsible for the creation of the Office of Population Affairs within the Department of Health, Education and Welfare; and for the appropriation of $175 million in 1963 for a pioneer program to foster birth control efforts abroad.

But to the people of his beloved Alaska, Ernest Gruening will always be their "Father of Statehood". It was a cause he championed as territorial governor, and in the mid-1950's as the territory's elected but unofficial senator-lobbyist in Washington. In 1958, his efforts were rewarded when Congress voted to make Alaska the 49th state. Later that year, he went on to win election as one of Alaska's United States Senators. As the people of Alaska know, he carried on in the Senate the fight on their behalf against those who would exploit the state's abundant resources and destroy its magnificance.

In his book, "Many Battles", Ernest Gruening defined life as a series of battles. He did not always win, but he never lost by default.

AIR BAG DECISION SHOULD BE BASED ON FACTS, NOT EMOTION

Mr. GRIFFIN. Mr. President, the Senate should vote this week on a resolution to disapprove the Department of Transportation's ill-advised rule mandating air bags or so-called "passive" restraints in all new cars.

Unfortunately, too much of the debate about air bags has been based upon emotional appeals, rather than facts. How far the DOT hierarchy is willing to go to force air bags on all consumers was shockingly demonstrated in an article appearing in today's edition of the Detroit News. It reveals that crucial test data unfavorable to DOT's position was suppressed, and that an agency official who sought to make the information public has been harassed.

I ask unanimous consent that a UPI dispatch carried on the wire today, as well as the Detroit News article to which I referred, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DETROIT.—The National Highway Traffic Safety Administration suppressed test results highly unfavorable to air bags and threatened reprisals against one of its scientists who tried to make them public, the Detroit news reported today.

The News, in a dispatch from its Washington Bureau, quoted the scientist, Thomas H. Glenn, as saying he was "pressured by NHTSA to testify before Congress that the test results were inconclusive, but I resisted.

"If this goes any further," Glenn said, "The bastards are going to kill me."

The News said congressional investigators found that NHTSA officials withdrew the test results Aug. 26 shortly after Glenn, who suffers from a heart condition, had placed them on the public docket—a means of making them available to interested parties.

The test results were returned to the docket a week later, but only after Rep. John Dingell, D-Mich., and several other Congressmen demanded they be released to the public, the newspaper said. Dingell is a vigorous foe of mandatory air bags.

The investigators also told the news that an NHTSA staff analysis evaluating the test results was withheld from Congress until Sept. 26. By then, both the House and Senate had completed hearings on resolutions to overturn an order by Transportation Secretary Brock Adams requiring installation of air bags on some new cars in the 1982-model year.

The air bag rule will take effect Friday unless overturned by both the House and Senate.

The allegedly suppressed tests, conducted for NHTSA by Calspan, a private research firm in Buffalo, N.Y., compared the effectiveness of air bags versus safety belts in four offset collisions of cars traveling at 30 miles per hour.

None of the cadavers and dummies used as test subjects in the seat belt-equipped cars suffered crash impacts over the injury limit set by passive restraint standards. Two of the cadavers and one of the dummies in the air bag cars would have been killed had they been living humans, the tests showed.

The news quoted congressional investigators as saying that Glenn, the NHTSA scientist, was subjected to "a systematic pattern of harassment" after he placed the test results in the public docket.

[From the Detroit News, Oct. 10, 1977]

UNITED STATES HID REPORT ASSAILING AIR BAGS, INQUIRY FINDS

(By John E. Peterson)

WASHINGTON.—The National Highway Traffic Safety Administration (NHTSA) earlier this year suppressed test results highly unfavorable to air bags and threatened reprisals against one of its scientists who tried to make them public.

The scientist, Thomas H. Glenn, 54, who suffers from an acute heart condition, said he was "pressured by NHTSA to testify before Congress that the test results were inconclusive, but I resisted. If this goes any further, the bastards are going to kill me."

Congressional investigators found that officials of the highway traffic safety agency withdrew the test results Aug. 26, shortly after Glenn, who was in charge of the test project, had placed them on the public docket—a means of making them available to interested parties.

The test results were returned to the docket a week later, investigators said, but only after Rep. John D. Dingell, D-Trenton, a vigorous foe of mandatory air bags, and several other congressmen demanded they be released to the public.

In addition, investigators said, a staff analysis by the agency fully evaluating the test results was withheld from Congress until Sept. 26—after both the House and Senate had completed hearings on resolutions to overturn a federal order requiring air bags and other passive restraints on some new cars in 1982 and all new cars by 1984. Both houses must reject the order by Friday to prevent it from taking effect.

Two investigations—one by the House Commerce Committee and one by the General Accounting Office, Congress' watchdog agency, were begun at the request of Dingell and Reps. Bob Eckhardt, D-Tex., and E. G. "Bud" Shuster, R-Pa.

Dingell said he had wanted the air bag test results and the traffic safety agency's analysis of them released quickly.

He considered this quick release crucial to congressional deliberations on the resolutions, because the tests were the first to simulate "offset," head-on collisions, which account for about 90 percent of the frontal collisions on the nation's highways.

The term "offset" is important.

In the offset tests, the cars were lined up so the drivers were directly opposite each other, rather than lined up headlight to headlight.

This contrasts with past tests in which cars either were centered headlight to headlight and collided directly into each other, or we were crashed into a wall.

The suppressed tests, conducted for the highway traffic safety agency by Calspan, a private research firm in Buffalo, compared the effectiveness of air bags versus safety belts in four offset collisions of cars traveling at speeds of 30 m.p.h. Cadavers and dummies were placed in the front seats of the test vehicles and wired to record the force of the crash impacts.

None of the test subjects in the seatbelt-equipped cars suffered crash impacts over the injury limit set by the passive-restraint standard. Two of the cadavers and one of the dummies in the air bag cars received impacts far exceeding those levels and likely would have died had they been living humans, tests indicated.

In an analysis of the chest impacts on those three test subjects, a scientist with the traffic safety agency specializing in crash analysis said: "NHTSA judges these occupants 'killed.' "

"The Calspan tests clearly show that air bags are not as effective as safety belts. Without having that information readily available, Congress now may be tempted to approve mandatory air bags, which would amount to ripping off American consumers since they cost an estimated $200 to install and $600 to replace once they deploy."

The agency's Glenn was subjected to what one congressional investigator termed "a systematic pattern of harassment" after he placed the test results in the public docket.

The investigation determined that Glenn was:

Verbally threatened with disciplinary action by the traffic safety unit's chief legal counsel, Frank A. Berndt, who told investigators his agency still may take further action against Glenn.

Charged with violating the traffic safety agency's rules for entering data in the public docket and writing a draft report on the tests that was of "poor professional quality." Those charges were made by the agency's chief, Joan Claybrook, in letters to Dingell and Eckhardt, both of whom asked investigators to look into the matter.

Forced to withdraw a professional paper on the tests, co-authored with Calspan project Director Michael J. Walsh, that was to have been delivered to a Society of Automotive Engineers meeting last month.

Accused of evading his "professional responsibilities" in a formal letter of reprimand from his superior, Kennerly Digges, chief of the traffic safety agency's Structures Research Division.

Glenn, who has applied for early disability retirement because of his health, was reluctant, at first, to talk about the incident.

He said he was particularly disturbed by Claybrook's letters to Dingell and Eckhardt impugning his professionalism.

"I considered them to be libelous at the time, but I didn't say anything for fear of worsening my condition," Glenn said.

In the letters, Claybrook said Glenn violated the agency's Order 210-2, which requires that public docket submissions first be cleared through Chief Counsel Berndt's office.

The investigators, however, said Glenn acted correctly in submitting the data to the public docket, and charged the chief counsel's office with violating docket procedures.

"Time after time," the investigators said, "public docket clerks would call the chief counsel's office asking if they wanted to review docket submissions. And, time after time, the chief counsel's office waived the review, telling docket clerks to go ahead and enter the submissions.

"If anyone violated NHTSA Order 210-2, it was plainly the chief counsel's office, which made a wholesale practice of violating the docket procedures.

"The order obviously was designed by NHTSA to withhold from the Docket materials that the Chief counsel deemed unfavorable to the agency's public policies."

The investigators also disputed Claybrook's charge that the Glenn-Walsh paper that was to have been delivered to the Society of Automotive Engineers was "of such a poor professional quality that it was unsuitable for even internal agency review."

"This and other statements in the letter were of such a vicious nature that I directed my staff to track down and interview every person involved in this issue," said a key investigator.

"Three people who read this early draft in detail, including Glenn's immediate supervisor, disagree with Claybrook's characterization that it was an unprofessional job," he added.

Glenn said he thinks the paper was withdrawn from the Society of Automotive Engineers session because Digges, the head of his division, ordered him to rewrite the paper with major changes, including removal of the sensitive offset crash data which showed air bags were not as effective in preventing injuries as seat belts.

Glenn said he withdrew the paper after he determined the extensive changes and deletions were unacceptable.

Claybrook and Glenn's immediate supervisor at the traffic safety agency said there was not enough time to complete the paper before its Aug. 29 deadline for submission, if he included the offset data.

"We extensively interviewed all of the principals involved—the SAE session chairman, Calspan's Walsh and Glenn's associated—and concluded that with the cooperation of management the paper could have been completed and published within the time frame," the investigator said.

He said all of Glenn's professional associates at the agency regarded him highly for his work in crash test analysis.

"Claybrook's response to Dingell and Eckhardt was short on facts, but long on a shrill personal attack on Mr. Glenn," the investigator said.

"From what we know of the facts of this case, Claybrook's attack on this man is unwarranted and beyond the bounds of reason and professionalism," he said.

A spokesman for the traffic safety agency said that Claybrook, Berndt and other agency officials would not comment beyond their response to the congressional investigators.

Claybrook and other agency officials maintain that mandatory air bags are needed to save lives because only about 20 percent of the nation's 131 million motorists regularly buckle their seat belts.

But the investigation found that Claybrook, shortly after becoming the agency's administrator last spring, canceled a congressionally mandated $1 million program aimed at encouraging states to institute mandatory safety belt use laws.

AN URGENT ISSUE: WORLDWIDE YOUTH UNEMPLOYMENT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY) I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Though the U.S. is faced with a large youth unemployment problem—3.25 million under 25 and unemployed—it is essential to realize that similar conditions exist in other developed nations. A European study, reported in Business Week (August 1, 1977) disclosed that "nearly 20 percent of Germany's unemployed workers are under 25, in France 25 percent, in Britain 28 percent and in Italy almost 60 percent."

Recognizing the severity of the situation, the Organization for Economic Cooperation and Development (OECD) is planning to hold an international conference on the problems of youth employment. The conference should help to focus political energies on the youth employment problem as well as offering some perspective on how best to open up more jobs for young people.

At present, action on the youth employment front has been slowed by differences among academic economists. Some economists argue that high unemployment for young people largely reflects the weakness of the current economic recovery. Others point their finger at technology or foreign trade that has eliminated many low skilled, entry level jobs.

Education may be part of the problem in a number of countries. Many systems are not geared to providing students with usable skills. For example, in Italy nearly one-half the unemployed young people hold high school or university diplomas. The Ph.D. driving a taxi-cab has also become a familiar feature in American newspapers.

With need outrunning settled analysis, the United States and a number of Western European nations have taken some short term measures. In the United States we have had summer youth programs and have recently passed a $1.5 billion youth employment bill. Overseas, both Britain and Italy are giving subsidies for firms to train or hire young people.

But there remains a giant of a problem to dwarf these policies. Political unrest, economic loss and the waste of much of a generation can be the legacy of youth unemployment. We need intelligent action and we need it now.

The article ordered to be printed in the RECORD is as follows:

[From Business Week, Aug. 1, 1977]

UNEMPLOYED YOUTH: NOW A GLOBAL WORRY

Members of Congress have a total of 3.25 million constituents who are under 25 and unemployed, so it is no surprise that they voted this week to approve a $1.5 billion youth employment bill, and that the Labor Dept. is already creating a new Office of Youth Programs to administer the funds. But youth unemployment is a problem everywhere. A few months ago Italy adopted a youth employment program with Communist support.

Both moves are part of a growing worldwide effort to stanch the running economic and social sore of youth unemployment in the industrial West. Indeed, the seven heads of state attending the international economic summit meeting in London last May voiced "particular concern about the problem of unemployment among young people." They agreed to encourage an exchange of ideas on coping with it. "It has suddenly become a sexy issue everywhere," observes an American congressional staffer.

New York City's congressional delegation, for instance, cited the city's minority youth unemployment rate, which runs over 50 percent in some sections, as a factor in the blackout looting last week. Nationwide, June unemployment rates ran to 18.6 percent for those aged 16 to 19, and 10.5 percent for those 20 to 24, with minority teenage unemployment at 39.4 percent. "There is a very definite correlation between those rates and the fact that 51 percent of all crime is committed by those under 25 years old," says Stephen Juntila, an aide on the House employment subcommittee.

THE NUMBERS

There are no easy remedies at hand. A European report this week will show that nearly 20 percent of Germany's unemployed are workers under 25. In France the same group accounts for 35 percent; in Britain the figure is 28 percent, and in Italy, where unemployed young terrorists have been shooting corporate and government officials, it represents 60 percent of total unemployment. The hope in Italy is that the $1.8 billion worth of industry incentives, grants to local and regional governments, and agricultural cooperatives will create permanent jobs. About 22 cents an hour of wage subsidy for each youth-hour worked is enriched by other tax breaks and incentives to the big state corporations.

Until Washington begins putting money into the hands of U.S. employers—between October and December, depending on the specific program under the new youth employment bill—the summer youth programs of recent years are the momentary remedy. According to Labor Dept. officials, some 1.8 million young people are currently working

as a result of $815 million in federal funds, training grants. Added to this is the pledge—with no federal funds involved—of 200,000 jobs by the National Alliance of Businessmen, a government-encouraged group of large-employer companies.

PROFITEERING

The new bill will move beyond summer programs to year-round training employment for some 200,000 young people. The biggest single feature is still public service employment. Some $400 million of the initial $1 billion to be allocated by yearend is to go through state and local government hands. And the most popular program is a young adult conservation corps of 35,000, modeled on the old Civilian Conservation Corps of the 1930s. There are said to be some 10 applicants for each job in the modest summer version of the program.

The new American bill calls for only a small experimental pilot program that would permit wage subsidy programs completely at the discretion of the Labor Secretary. Much more private involvement would have been encouraged in a bill proposed by Representative Ronald A. Sarasin (R-Conn.), but the private role was scaled back in committee debate. "Every time you try to involve industry, they scream 'profiteering,'" complains a Sarasin aide.

Another complaint by Republicans is that the bill calls for "prevailing wages" to be paid to the young workers. They argue, as they do generally against the increased minimum wage, that higher wages for inexperienced youths discourage private employers' hiring of the largest group of unemployed. Indeed, a House committee vote this week signaled increased support for a "youth differential"—a youth rate of only 75% of the $2.65 minimum wage supported by President Carter—although organized labor bitterly opposes the idea. Labor spokesmen argue that employers would lay off older workers and hire youths at the lower wage.

At the Labor Dept., a new Office of Youth Programs will soon employ 120 people. Robert Taggart, a manpower expert from George Washington University, is expected to head the new programs and some old ones such as the Job Corps. A department planner says Taggart initially plans to spend a portion of the $1.5 billion on private-sector experiments with wage subsidies in a few scattered companies around the country.

U.S. MUST HELP SOLVE INTERNATIONAL ECONOMIC CRISIS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY) I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

One of the most pressing issues facing Western industrialized nations is the current condition of the international economic community. Political and economic instability can be found throughout much of Europe. Policymakers are confronted with the exceptionally difficult task of finding the proper mix of policies that will put the industrial economies back on the path of balanced, noninflationary growth.

The situation in Europe can only be alleviated through coordinated international action, led by the United States, Japan and Germany. It is our role to be the initiators of policies that will bring industrial, as well as developing nations, some relief from their current economic problems.

Writing in the August, 1977 issue of Dunn's Review, Gardiner Ackley, former chairman of the Council of Economic Advisors and currently a professor at the University of Michigan, suggests some policies that would avert a total economic collapse. Throughout Europe, excluding Germany, The Netherlands and Switzerland, there is high unemployment, large balance of payments deficits and high rates of inflation. After a prolonged stay in Europe, Ackley concluded that "growing foreign indebtedness imposes increasing interest burdens on future generations without providing new productive assets from which the interest can be paid." The current economic crisis reflects a hard to control inflation that resulted from the oil-price explosion.

Ackley proposes four basic steps that would lead the way towards economic improvement. First, the United States, Germany and Japan, must take the lead in establishing new mechanisms for financing balance of payments deficits, rather than relying on private international banking. Second, a successful conclusion to the multilateral trade negotiations could reduce growing protectionist attitudes in the United States as well as other countries. Third, Germany, Japan, Switzerland and The Netherlands should appreciate their currencies, decrease large export surpluses and stimulate domestic demand for output from weaker economies. And finally, the United States, Germany, Japan and other countries with relatively low inflation rates should stimulate their economies in order to expand imports from the weaker countries.

Currency realignment and economic stimulation will not bring immediate relief to weaker countries. Problem countries will still need to deal with problems that may be unique to their own nation. But, as Ackley emphasizes, "whether their progress can be maintained depends crucially upon the assurance of an expanding world economy. This is our responsibility." I can only say Amen to that.

The article ordered to be printed in the RECORD is as follows:

WESTERN EUROPE'S ECONOMIC CRISIS: THE UNITED STATES MUST LEAD THE WAY OUT

(By Gardner Ackley)

My last two columns for DUN'S have been written from Rome, and this one immediately upon my return. My renewed residence abroad has seriously shaken my confidence in the ability of Western European governments to manage their economic affairs—indeed, in the ability of some of them to survive as democracies. On tihs thirtieth anniversary of the Marshall Plan, Europe may be nearly as close to economic disaster as in 1947.

Almost everywhere there is heavy unemployment, in most countries the highest since the 1930s, and growing rather than shrinking. Except for Germany, Switzerland and The Netherlands, balance-of-payments deficits are large and most show little promise of improvement. As a result, growing foreign indebtedness imposes increasing interest burdens on future generations without providing new productive assets from which the interest can be paid. Depreciation of the weaker currencies sharply raises the domestic prices of these countries' imports, contributing to their inflation. Although inflation rates are generally well down from 1974 and 1975, in several countries they remain above 15%.

The widespread and growing political instability in many parts of Europe is probably cause as well as effect of the economic crisis. Still, the inability of most existing governments to ameliorate economic conditions surely has weakened traditional democratic forces and favors the far-left parties, whose democratic credentials are at best questionable and in some cases clearly lacking.

The problem began with the oil-price explosion. Since OPEC countries continue to spend on imports much less than the total revenues from their high-priced exports, their balance-of-payments surpluses require a mirror image in deficits in the rest of the world. Disappearance of the OPEC surpluses—once projected as only a few years away—no longer can be counted on. Moreover, the inflationary spiral that is so difficult to control acquired its major momentum from the 1973–74 oil price hikes.

Large balance-of-payments deficits mean that too much of the normal spending for goods and services is directed abroad rather than to producers at home. But to stimulate domestic demand by increased government spending or tax cuts widens existing budget deficits; this generates further lack of confidence and strengthens inflationary expectations.

FIGHTING STAGFLATION

However, blaming OPEC doesn't solve the problem. Stagflation in Western Europe can be combatted. But not by the individual efforts of the countries that are its most serious victims. Coordinated international action is required.

As in 1947, the United States has a key role to play; however, this time two strong partners are available—Germany and Japan, which through good luck and good management have so far largely escaped the general disaster. Here are some of the things the three countries can do to help both the other industrial countries and also the developing world:

(1) We can take leadership in setting up more reliable machinery for financing balance-of-payments deficits. If we cannot bring about the proposed massive new financing of the International Monetary Fund, we must revive the "Safety-Net" proposal already formally approved by most of the industrial countries other than the United States. Reliance mainly on private international banking to finance current oil deficits cannot provide the confidence that is needed to protect currencies from speculation; and it unnecessarily threatens the viability of some major banks.

(2) We can take stronger leadership in resisting the reviving pressures for protectionism, both in our own economies and others. One way is to push the current negotiators for an agreed *reduction* of trade barriers toward a constructive outcome.

(3) Germany and Japan, along with The Netherlands and Switzerland, must allow further appreciation of their currencies, to reduce their large export surpluses and to stimulate domestic and export demand for the output of the weaker economies.

(4) Most important, by far, the United States, Germany, Japan and the few smaller economies with relatively low domestic inflation rates and large balance-of-payments surpluses should take all prudent steps to stimulate their economies in order to reduce their exports to and expand their imports from the weaker Western countries. There can be argument whether prospective economic expansion in the United States is already strong enough to need no further stimulus (personally, I would prefer a bit more); but there can be no legitimate argument about Japan and Germany. With much unused labor and plant capacity in each of these economies, faster expansion should not appreciably affect domestic inflation.

But even if there were some net domestic cost to the "locomotive economies," providing a stronger pull on world demand would surely be to our net overall advantage, as compared to the real dangers of a further revival of protectionism, or of a renewal of currency instability, which could lead to a crisis of confidence to which even the strong countries might not be immune. And surely it is not in the interest of the leading Western democracies to contribute to a further

shift toward the left—or into political collapse—of countries as important to us as France, Italy and Greece.

The problem countries would still need to take difficult steps to deal with their affairs. Largely under international pressure, the United Kingdom, France and Italy have taken important corrective steps. But whether their progress can be maintained depends crucially upon the assurance of an expanding world economy. This is *our* responsibility.

ALCAN PIPELINE

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The President's decision in favor of a transCanadian route for Alaska natural gas is an excellent one. It will be widely accepted by the Congress because it brings Alaskan gas directly to Minnesota, the Midwest and Northeast where it is in short supply. The President and Prime Minister Trudeau have concluded a sound, reasonable and fair agreement. They and Dr. Schlesinger have reached an agreement which brings Alaskan gas to the lower 48 at the cheapest possible price—and without Government subsidy or financial support.

Because the route follows existing transportation corridors, Alcan will involve a minimum of environmental disruption. And, it offers Canada quick, convenient and inexpensive potential access to her own Arctic gas reserves. The pipeline agreement could well become the outstanding example of bilateral cooperation and resource management.

Each House of Congress has 60 days to accept or reject the agreement by majority vote following Committee hearings. And I am confident that approval of the Alcan route will occur expeditiously. The reason is straightforward. Rejection of the preferred Alcan route in favor of the competing El Paso route would actually reduce domestic gas supplies. Without the access to Canadian Arctic gas reserves provided by Alcan, Canada will be forced to rapidly terminate gas exports to the United States. These exports now total 2.7 billion cubic feet (bcf) daily. The competing El Paso route will only bring 2.4 bcf daily to the lower 48. So, if Congress rejects Alcan in favor of El Paso, the United States will actually lose more gas from Canada than it will receive from Alaska via El Paso.

As a consequence, Congressional rejection of the Alcan choice would mean a reduction in natural gas supplies, reduced economic growth, and higher unemployment. The United States cannot afford a rejection of Alcan and Congress knows it.

ANNOUNCEMENT OF POSITION ON VOTES—S. 1871, S. 1863

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by the Senator from Minnesota (Mr. HUMPHREY), regarding his position on certain rollcall votes on Friday, October 7, 1977, be printed in the RECORD.

STATEMENT BY SENATOR HUMPHREY

I am gratified that my position is recorded on several roll call votes relating to S. 1871, Fair Labor Standards Amendments of 1971, indicating my full support for this legislation. It is my understanding that a correction will be entered in the RECORD, to indicate that, had I been present and voting, I would have voted "nay" on Rollcall Vote No. 544 Leg., on Amendment 1405.

In addition, by inadvertence, my position was not announced on Rollcall Vote No. 550 Leg., on final passage of S. 1863, Department of Defense Supplemental Appropriation Authorization Act, 1978. Had I been present and voting, I would have voted "yea."

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama for the term of 4 years vice Johnny M. Towns.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, October 17, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER TO RESUME CONSIDERATION OF S. 1303 AND THE RECOGNITION OF SENATOR HELMS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees are recognized under the standing order on tomorrow, the Senate resume consideration of the then unfinished business, the legal services bill, S. 1303, and that Mr. HELMS be recognized at that point, when the Senate resumes consideration of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GRIFFIN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

THE AIR BAG DECISION

Mr. GRIFFIN. As the distinguished majority leader knows, because I have had consultation with him about this from time to time, I am concerned about the fact that time is marching on and there is a resolution now on the calendar to give the Senate an opportunity to vote up or down on whether or not air bags, or so-called passive restraints, are going to go into effect.

I say that resolution is now on the calendar of the Senate.

So far, I have not heard the majority leader indicate when the Senate will have an opportunity to vote on it. I cannot conceive the Senate putting its head in the sand and allowing, by default, an order as important as this, for all American consumers, to go into effect without voting up or down.

It may be that a majority of my colleagues want to have air bags put into all new cars, regardless of whether or not the consumer wants them. That would not be my position. I think there should be an option and each individual buyer should decide for himself whether or not he wants to put this potentially hazardous device into his car.

My question is: Is the Senate going to have an opportunity to vote on this resolution?

Mr. ROBERT C. BYRD. Mr. President, it would be my hope that upon the disposition of the legal services bill, which I believe will be completed tomorrow—or, I hope it will be completed tomorrow—it will be my intention at that time, upon the disposition of that bill, to attempt to call up the Senate Concurrent Resolution 31, to which the distinguished Senator from Michigan has alluded.

Mr. GRIFFIN. Well, of course, the majority leader is quite accustomed to getting unanimous consent when he wants matters to be the pending business. I note that, in this instance, he is not getting unanimous consent that Senate Concurrent Resolution 31 be made the pending business when the legal services bill is disposed of.

Mr. ROBERT C. BYRD. I should be very happy to ask for that at this point, if that would reassure the distinguished Senator from Michigan.

Mr. GRIFFIN. That, I think, would be an appropriate step and would be of some assurance to me that we will, in fact, proceed to the consideration of the resolution.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I ask unanimous consent that, upon the disposition of the legal services bill, S. 1303—and I assume that there is a companion House bill on the Calendar.

The ACTING PRESIDENT pro tempore. There is a companion House bill.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me to withhold that request until the morning, I assure the Senator that I shall try to get the resolution up at some point tomorrow or Wednesday. I shall do my best to do that.

Mr. GRIFFIN. I appreciate that assurance from the majority leader. I know that he realizes that I do not want to throw sand in the gears of the Senate, but if there is some Senator or group of Senators who want to remain nameless and do not want to let it be known that they do not want to vote on this, I am going to make every effort to see that

the Senate does vote. I think it is absolutely unconscionable for the Senate, by default, to allow such an important order to go into effect. Over and over again, we hear Senators decry here, on the floor of the Senate, and go back into their States and talk about the horrors of bureaucratic legislation and how, too often, the bureaucrats have taken over the policymaking decisions in this country. Well, here is a situation where the Senate can exercise its will and make its decision on whether or not this important order is going to take effect. I think it is absolutely inexcusable if there is any effort here to avoid a vote on this question.

I do not criticize the majority leader. I take him at his word. But I want him to know that I am going to press tomorrow morning and at every opportunity to make sure that the Senate does vote on this in a timely fashion.

Mr. ROBERT C. BYRD. I thank the distinguished Senator and I shall make every effort that I can possibly make to get the resolution up tomorrow or Wednesday. That will be my desire.

ADJOURNMENT TO TOMORROW AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until tomorrow morning at 10 o'clock.

The motion was agreed to; and, at 7:03 p.m., the Senate adjourned until tomorrow, Tuesday, October 11, 1977, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 10, 1977:

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1979.

DEPARTMENT OF LABOR

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, Department of Labor, for a term of 4 years.

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1980.

DEPARTMENT OF JUSTICE

Robert D. Kingsland, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California for the term of 4 years.

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York for the term of 4 years.

FEDERAL COMMUNICATIONS COMMISSION

Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1977.

NATIONAL TRANSPORTATION SAFETY BOARD

James B. King, of Massachusetts, to be a member of the National Transportation Safety Board for the term expiring December 31, 1981.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, October 10, 1977*

The House was not in session today. Its next meeting will be held on Tuesday, October 11, 1977, at 12 o'clock noon.

CONFERENCE REPORT AND STATEMENT

Mr. TEAGUE submitted the following conference report and statement on the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration, in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–671)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications". In accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 207), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration, for energy research, development, and demonstration, and related activities, the sum of $6,161,445,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) Coal:

(A) Coal liquefaction, $107,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,000,000.

(E) Direct combustion (coal), $65,200,000.

(F) Advanced research and supporting technology, $50,000,000:

Provided, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose: The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of fine grinding of coal and dry vegetable residues for the purpose of preparing these substances as clean burning fuels.

(G) Demonstration plants and major test facilities (coal), $60,900,000.

(H) Magnetohydrodynamics, $70,800,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Enhanced oil recovery, $46,100,000.

(B) Enhanced gas recovery, $30,000,000.

(C) Drilling, exploration and offshore technology, $7,600,000.

(D) Processing and utilization, $1,400,000.

(3) Oil shale and in situ technology:

(A) Oil shale, $28,000,000.

(B) In situ coal gasification, $19,000,000.

Solar Energy Development

(4) Thermal applications, $104,700,000, including $94,400,000 for heating and cooling of buildings.

(5) Fuels from biomass, $20,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(6) Other Solar Energy Programs, $219,700,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $203,700,000 for other solar electric applications: *Provided*, That $7,500,000 of such sum is hereby authorized for design work for small community applications.

Geothermal Energy Development

(7) Engineering research and development, $15,500,000.

(8) Resource exploration and assessment, $17,600,000.

(9) Hydrothermal technology applications, $28,000,000.

(10) Advanced technology applications, $24,300,000.

(11) Utilization experiments, $16,000,000.

(12) Environmental control and institutional studies, $8,100,000.

(13) Low head hydroelectric program, $15,000,000.

Conservation Research and Development

(14) Electric energy systems and energy storage:

(A) Electric energy systems, $36,800,000.

(B) Energy storage systems, $48,500,000.

(15) End use conservation and technologies to improve efficiency:

(A) Industrial energy conservation, $38,000,000.

(B) Buildings and community systems, $59,500,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas and oil furnaces.

(C) Transportation energy conservation, $87,000,000, of which $1,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized for the Alternative Fuels Utilization Program, funds as may be

necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol.

(D) Improved conversion efficiency, $69,700,000.

(16) Energy extension service, $8,000,000.

(17) Small grants for appropriate technology, $8,000,000.

Environmental and Safety Research and Development

(18) Environment and Safety Research and Development.

(A) Overview and Assessment, $50,010,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

Nuclear Research and Development

(19) Magnetic fusion, $201,900,000.

(20) Fuel cycle research and development $363,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 108 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(21) Liquid metal fast breeder reactor, $413,300,000: *Provided*, That $5,000,000 of such sums are hereby authorized for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted.

(22) Nuclear research and applications, $228,829,000.

(23) Light water reactor safety facilities, $24,000,000.

(24) High energy physics, nuclear physics, and basic energy sciences, $413,394,000.

(25) Nuclear materials security and safeguards, $40,106,000.

(26) Uranium enrichment, $989,185,000.

All Other Programs, $444,604,000, including—

(i) Not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iii) Program management and support:

(a) Program direction $222,900,000.

(b) Institutional relations, $34,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended, and including $1,800,000, is authorized to be appropriated pursuant to this paragraph (iii) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Acts of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $37,460,000.

(d) International cooperation, $5,000,000.

Prior Year Authorizations

(27) The sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76–1–a (clean boiler fuel demonstration plant (A–E and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition: and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites, undetermined (A–E and long-lead procurement only), $6,000,000.

(D) Project 78–2–d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78–3–a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78–5–a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A–E and long-lead procurement), $10,000,000.

(B) Project 78–5–b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A–E and long-lead procurement only), $3,000,000.

(C) Project 78–5–c, advanced isotope separation facility, site undetermined (A–E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78–6–a, modifications to reactors, $8,700,000.

(B) Project 78–6–b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78–6–d, experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only), $3,100,000.

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A–E only), $4,000,000.

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78–7–a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Project 78–7–b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, at $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78–8–a upgrade Test Area North hot shop facility, Idaho National Research facilities, various locations, $6,000,000.

(7) Environmental Research and Development:

(A) Projects 78–9–a, modifications and additions to biomedical and environmental research for facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78–10–a, accelerator improvements and modifications, various locations, $4,500,000.

(B) 78–10–b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78–11–a, master substation reliability and capacity improvement, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78–12–a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78–12–b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(10) Basic Energy Sciences:

(A) Project 78–13–a, national synchrotron light sources, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78–13–b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78–14–a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78–14–b, process control modifications, plants, various locations, $17,400,000.

(C) Project 78–15–a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

(C) Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and longlead procurement only), $5,000,000.

(13) Project 78–21, General Plant Projects, $44,265,000.

(14) Project 78–22, Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $8,670,000.

(B) Fossil energy development, $5,500,000.

(C) Solar-energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

(E) Magnetic fusion, $27,600,000.

(F) Fund cycle research and development, $25,300,000.

(G) Liquid metal fast breeder reactor, $35,650,000.

(H) Nuclear research and application, $18,595,000.

(I) Light water reactor safety facilities, $800,000.

(J) High energy physics, nuclear physics, and basic energy sciences, $61,300,000.

(K) Nuclear materials, security and safeguards, $2,794,000.

(L) Uranium enrichment, $19,000,000.

(M) Environmental research and development, $19,025,000.

(N) Program management changes to prior year authorizations and support, $4,955,000.

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71–1–f), authorized by section 101(b)(1) of Public Law 91–27 (for a total project authorization of $920,000,000).

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (projects 74–1–g), authorized by section 101(b)(1) of

Public Law 93–60 (for a total project authorization of $460,000,000).

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76–1–b) authorized by section 101(b)(1) of Public Law 94–187 (for a total project authorization of $55,000,000).

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 70–1–c) authorized by section 101(b)(1) of Public Law 94–187 (for a total project authorization of $150,000,000).

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76–2–b), authorized by section 101(b)(2) of Public Law 94–187 (for a total project authorization of $47,250,000): *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (projects 76–5–a), authorized by section 101(b)(5) of Public Law 94–187 (for a total project authorization of $238,600,000).

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76–8–e), authorized by section 101(b)(8) of Public Law 94–187 (for a total project authorization of $15,250,000).

(8) There is authorized an additional sum of $107,630,000 for the enriched uranium production facilities, gas centrifuge (project 76–8–g), authorized by section 101(b)(8) of Public Law 94–187 (for a total project authorization of $362,630,000).

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77–1–d) authorized by Public Law 94–313 (for a total project authorization of $13,200,000).

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A–E only) (project 77–4–c) (for a total project authorization of $6,500,000).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77–4–d) (for a total project authorization of $30,000,000).

(12) There is authorized an additional $3,200,000 for the 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico (project 76–5–b) authorized by Public Law 94–187 (for a total project authorization of $25,300,000).

SEC. 103. Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for project 75–5–g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 104. (a) Notwithstanding any other provision of law, jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

(b) Notwithstanding any other provision of law, the Secretary of Energy shall not be required to delegate to the Administrator of the Energy Information Administration any energy research, development, and demonstration function vested in the Secretary, pursuant to the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Heating and Cooling Demonstration Act, the Solar Energy Research, Development and Demonstration Act, the Energy Reorganization Act and any other law. Additionally, the Secretary may utilize the capabilities of the Energy Information Administration as he deems appropriate for the conduct of such programs.

(c) As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

(ii) by November 30, 1977, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 105. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the study to the Congress the Administrator shall release the proposed study or comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 106. Section 106 of Public Law 91–273, as amended by section 103(d) of Public Law 94–187, is amended—

(1) by striking out "and the interim period" in the second sentence of subsection (a);

(2) by inserting "the transition quarter ending September 30, 1976, the Fiscal Year ending September 30, 1977, and the Fiscal Year ending September 30, 1978," after "September 30, 1976," in the second sentence of subsection (a); and

(3) by adding at the end thereof the following new subsection:

"(d) The Congress declares that any funds appropriated pursuant to an authorization to design, construct, and operate a specified project or conduct a specified program are intended to be used only for the design, construction, and operation of that project or the conduct of that program, in accordance with such authorization. Accordingly—

"(1) nothing contained in this section shall be construed as authorizing the Administrator to use the procedures of this section to propose or proceed with a cancellation or termination of the Clinch River Breeder Reactor Project and the cooperative arrangements associated therewith;

"(2) no funds appropriated pursuant to the authorization contained in this section or authorized or appropriated pursuant to any other law, or made available in any other manner or from any other source, shall be used in any way (directly or indirectly) to cancel or terminate such Project or to plan its cancellation or termination;

"(3) such Project (notwithstanding any other provision of law or the structure, pace, and timing of the liquid metal fast breeder reactor program) shall be located at the existing Clinch River site, unless that site is determined to be unsuitable from the standpoint of radiological health and safety, and to the maximum extent possible shall be designed, constructed, and operated in accordance with the existing project arrangements, objectives, and schedules: *Provided*, That site preparation and also those construction activities for which a construction permit is required shall not commence during the fiscal year ending September 30, 1978, but the foregoing limitation on commencement of site preparation activities shall not be deemed to prohibit or in any way limit the grant of a limited work authorization for those activities during any fiscal year: *Provided further*, That the Secretary and all other appropriate Federal agencies are directed to undertake all such efforts as are necessary to assure that the earliest possible decisions on a limited work authorization and a construction permit are obtained: *And provided further*, That nothing in this Act shall be deemed to authorize, approve, or constitute a commitment to commercialization of LMFBR technology; and

"(4) funds appropriated for such Project shall be deemed to be deferred or rescinded (as appropriate) for purposes of the Impoundment Control Act of 1974 if such funds are withheld from use, or used to cancel or terminate such Project (or plan its cancellation or termination), rather than for the design, construction, and operation of such Project in accordance with the authorization which is consistent with the intent of Congress for the interpretation of that Act.

SEC. 107. (a) The Department of Energy shall conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the multinational and international management option available for utilizing the Barnwell facility;

(2) include an evaluation of how Barnwell facility might be used to contribute to the INFCE, including preliminary studies on siting and design for adjacent facilities to the Barnwell Separations Plant to solidify liquid waste and mixed oxide evolving from the chemical separations process (these preliminary efforts being consistent with similar efforts undertaken as part of the INFCE);

(3) include an evaluation of a possible role for the IAEA in utilization of Barnwell facility for international nonproliferation programs;

(4) include an evaluation of the means by which the Barnwell facility could be used in demonstration of improved safeguards equipment and proceedings;

(5) include an evaluation of how the Barnwell facility can be used to complement the U.S.-approved research and development program at the Japanese Tokai Mura Reprocessing Plant, and nonproliferation research activities to be undertaken at the British Windscale Reprocessing Plant; and

(6) include an evaluation of whether and how the Barnwell facility might be transferred to the Federal Government.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources and the independence of resource supply can have in assuring our national security objectives.

(d) The study shall be completed and a report submitted to the Congress not later than six months after the date that funds are appropriated for carrying out the purposes of this section. In addition, the report shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act an authorization of appropriations in the amount of $1,000,000.

SEC. 108. The Energy Research and Development Administration is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided*, notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds; *and provided further*, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, 30 days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407). Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings: *And provided further*, That nothing contained in this Section shall be construed in any Executive Branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977 for the issuance of License No XSNM–845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities. No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House

of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for 'plant and capital equipment' may be merged with amounts appropriated for 'operating expenses.'

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting cost incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 102(a)(1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 102(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. The Administrator, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertient documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

SEC. 204. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 205. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in it operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations,"; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however*, That the term of such contracts in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 206. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts.".

SEC. 207. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, biomass, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) and (y) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection and subsection (y) of this section the Administrator is authorized, in accordance with such rules and regulations as he shall precribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular site, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof after expenses of such disposal to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or (y) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued:

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: Provided, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achive the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribe by such facility, and cost of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such gaurantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver

was made by the Administrator under Section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payment and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (1) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of obligations for such financing issued by eligible States, political subdivisions, or Indian tribes.

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to the subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede loan guarantees under this Act, does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts or each such facility and the actions taken or planned to prevent or mitigate such imports, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuances of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(6) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity, and

"(4) 'biomass' shall include, but is not limited to, animal and timber waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination; *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantees, or make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small businesss concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States, or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y)(1) The Administrator is authorized in accordance with such rules and regulation as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewerage sludge, or other municipal organic wastes into synthetic fuels, and (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from municipal or industrial waste, sewerage sludge, or other municipal organic waste, the following subsections of this section shall not apply: (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k), and (q).

"(2) In the case where the Administrator seeks to guarantee or to make commitments to guarantee as provided by this subsection he is authorized to incur an outstanding indebtedness which at no time shall exceed $300 million.

"(3) The Administrator shall apply the following provisions thereto:

"(A) With respect to any demonstration facility for the conversion of solid waste (as the term is defined in the Resources Conservation and Recovery Act (42 U.S.C. 6903), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resources Conservation and Recovery Act; and any applicable State or regional solid waste management plan.

"(B) The amount guaranteed shall not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup.

"(C) The maximum maturity of the obligation shall not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(D) The Administrator shall charge and collect fees for guarantees of obligations in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(E) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Resources Conservation and Recovery Act) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and provided specifically that in accordance with this agreement (i) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (ii) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (iii) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended, and any applicable State or regional solid waste-management plan.

"(F) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.".

SEC. 208. (*a*) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following the enactment of this Act;

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act;

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

(3) initiate and conduct a study involving the prospects for applications of solar photo-

voltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be avaiable for use for power generation by Federal agencies, provided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

SEC. 209. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83–703 as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended).

SEC. 210. (a) In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damaged farm, and in order to restore the economic and agricultural base of the flood damage region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

(b) As used in this section, the term:

(1) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(2) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, or range thirty-three (3) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(3) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(4) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

(c) For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with subsection (f) of this section by the Secretary of the Interior.

(d) Energy Research and Development Administration land as described in subsection (b)(2) of this section shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

(e) Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

(f) Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this section.

(g) Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976. Public Law 94–400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94–438, 90 Stat. 1415.

(h) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this section.

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems, on the average, fail short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this title to—

(1)(A) direct the Energy Research and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such programs, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administration shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f)(1) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Administrator shall issue administrative regulations within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Administration project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Administrator or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications.

(4) The Administrator also shall include in the report required by section 310(a) of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Administrator in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environmental Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract there-

under) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant."

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15 (a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $12,500,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 210 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b) (1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $20,000,000 in the fiscal year ending September 30, 1978.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 percentum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c) (1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied in carrying out this section.

"(2) Any energy related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation Recovery Act of 1976 (Public Law 94-580), and any applicable State or regional waste management plan.

"(d) (1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under sections 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; (iii) any price established under this subsection shall be on such a basis as will recover not less than the Government's costs over a reasonable period of time; and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and normal and ordinary business expenses (such as taxes and return on equity which would otherwise by incurred by a private operator providing similar services): And provided further, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: Provided, That any change in criteria or enrichment services prices in the first proviso above shall not be implemented for a period of sixty days, during which the Congress is in continuous session, after the transmission of the proposed criteria or price to the President of the Senate, the Speaker of the House or Representatives, the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology. Such prices shall be considered authorized by the Congress unless either House of Congress approves a resolution of disapproval of such prices prior to the expiration of the aforementioned sixty-day period. The Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology shall have single jurisdiction over any such resolution of disapproval introduced pursuant to this section. If such a resolution of disapproval has been introduced, but has not been reported by the committee on or before the fortieth day after transmission of the message, a privileged motion shall be in order in the respective body to discharge the committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407).".

TITLE VI—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs;

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Section 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof "100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter I of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued and under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not

to exceed 1 per centum per annum in the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purposes of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes.

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project, occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall rest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstration specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of which operations, management, and control for maximum wide-spread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurement will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984.

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93–438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93–577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a–10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end of the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Develoement Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section."

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and in-

terest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

And the House agreed to the same.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.,
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JAMES ABOUREZK,
DALE BUMPERS,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811), Energy Research and Development Administration Authorization Act, 1978—Civilian Applications, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXPLANATION OF FUNDING PROVISIONS

The compromise funding provisions adopted by the conference committee regarding the civilian research and development programs is reflected in the language of the Conference report.

This statement includes the table which reflects the level of program activities contained in the bill with authorization amounts and budget outlays. The Conferees expect that the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology be kept fully and currently informed of any proposed increase in the level of funding above the amount which has been appropriated for the activities contained in the table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriation: Budget authority	Fiscal year 1978 appropriation: Budget outlay
FOSSIL ENERGY DEVELOPMENT							
Operating Expenses							
Coal:							
Liquefaction	$72,957	$109,000	$107,000	$107,000	$109,800	$107,000	$109,800
High-Btu classification	44,054	51,200	51,200	51,200	42,800	51,200	42,800
Low-Btu classification	33,052	73,900	73,900	73,900	47,200	73,900	47,200
Advanced power systems	22,500	25,500	25,500	25,500	23,800	25,500	23,800
Direct combustion (coal)	51,901	59,200	65,200	65,200	64,900	58,200	60,700
Advanced research and supporting technology	37,070	59,000	45,000	50,000	49,500	40,000	42,000
Demonstration plants	53,000	70,900	50,900	60,900	43,900	44,900	31,900
Magnetohydrodynamics	34,990	63,400	80,000	70,800	51,150	65,800	47,400
Total, coal	349,524	512,100	498,700	504,500	433,050	466,500	405,600
Petroleum and natural gas:							
Enhanced oil recovery	23,782	46,100	46,100	46,100	40,100	46,100	40,100
Enhanced gas recovery	14,874	30,000	30,000	30,000	25,500	26,900	23,400
Drilling, exploration, and offshore technology	2,400	10,600	1,600	7,600	6,500	1,600	2,000
Processing utilization	1,831	1,400	1,400	1,400	1,400	1,400	1,400
Total, petroleum and natural gas	42,887	88,100	79,100	85,100	73,500	76,000	66,900
In-situ technology:							
Oil shale	22,278	28,000	28,000	28,000	21,500	28,000	21,500
Coal gasification	8,236	27,600	11,000	19,000	18,000	11,000	12,000
Total, in-situ technology	30,514	55,600	39,000	47,000	39,500	39,000	33,500
General fossil energy reduction						−50,000	0
Energy Research Center, personnel and travel costs						−393	−393
Total, operating expenses	422,925	655,800	616,800	636,600	546,050	531,107	505,607
Total capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Total plant	59,200	242,350	350,350	[1] 212,350	37,400	83,800	34,300
Total, fossil energy development	483,145	903,650	972,650	854,450	586,950	620,407	543,407
Capital Equipment							
Coal:							
Liquefaction	0	400	400	400	200	400	200
High-Btu gasification	100	300	300	300	200	300	200
Low-Btu gasification	0	500	500	400	300	500	300
Advanced power systems	0	200	200	200	200	200	200
Direct combustion (coal)	0	200	200	200	100	200	100
Advanced research and supporting technology	0	300	300	300	200	300	200
Demonstration plants	0	0	0	0	0	0	0
Magnetohydrodynamics	0	500	500	500	300	500	300
Other capital equipment	150	0	0	0	0	0	0
Total, coal	250	2 400	2 400	2,400	1,500	2,400	1,500
Petroleum and natural gas:							
Enhanced oil recovery	100	300	300	300	200	300	200
Enhanced gas recovery	0	300	300	300	200	300	200
Drilling, exploration, and offshore technology	0	0	0	0	0	0	0

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
FOSSIL ENERGY DEVELOPMENT—Continued							
Capital Equipment—Continued							
Processing utilization	0	0	0	0	0	0	0
Other capital equipment	170	0	0	0	0	0	0
Total, petroleum and natural gas	270	600	600	600	400	600	400
n-situ technology:							
Oil shale	450	900	900	900	600	900	600
Coal gasification	0	1,600	1,600	1,600	1,000	1,600	1,000
Other capital equipment	50	0	0	0	0	0	0
Total, in-situ technology	500	2,500	2,500	3,500	1,600	2,500	1,600
Total, fossil energy development	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Coal:							
Demo plants:							
78-2-c—Low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only)	0	6,000	6,000	6,000	1,000	3,000	590
78-2-d—Solvent refined coal demonstration plant, site undetormined (A-E and long-lead procurement only)[2]	0	30,000	2,000	30,000	6,100	0	0
78-2-e—High Btu coal gasification test facility, site undetermined	0	30,000	0	0	0	0	0
76-1-b—High Btu synthetic pipeline gas demonstration plant	10,000	30,000	195,000	30,000	10,000	29,000	10,000
76-1-c—Low Btu fuel gas demonstration plant	7,300	131,250	131,250	131,250	14,000	36,000	14,000
76-1-d—Fluidized bed direct combustion demonstration plant						2,000	
Prior-year projects	30,000	0	0	0	0	0	0
Total, demo plants	47,300	227,250	334,250	197,250	31,100	70,000	25,000
Magnetohydrodynamics:							
77-1-d—MHD component development and integration facility, total	5,000	5,500	6,500	5,500	4,000	4,200	4,000
Other coal related plants:							
78-2-a—Analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pa	0	6,600	6,600	6,600	1,300	6,600	1,300
78-2-b—Modifications and additions to energy research centers, various locations	0	3,000	3,000	3,000	1,000	3,000	1,000
Prior-year projects	6,900	0	0	0	0	0	3,000
Total, other coal related plants	6,900	9,600	9,600	9,600	2,300	9,600	5,300
Total, coal	59,200	242,350	350,350	212,350	37,400	83,800	34,300
Total, fossil energy development	59,200	242,350	350,350	212,350	37,400	83,800	34,300
SOLAR ENERGY DEVELOPMENT							
Operating Expenses							
Direct thermal application:							
Heating and cooling of buildings	84,800	91,900	97,400	94,400	88,375	93,900	88,000
Agricultural and process heat	7,800	10,300	10,300	10,300	7,600	10,300	7,600
Total, direct thermal application	92,600	102,200	107,700	104,700	95,975	104,200	95,600
Technology support and utilization	11,500	9,000	9,000	9,000	6,000	9,000	6,000
Solar electric applications:							
Solar thermal	51,300	55,600	61,100	61,100	49,850	60,100	49,100
Photovoltaics	59,400	55,200	57,200	76,200	59,250	57,200	45,000
Wind	20,500	35,200	35,300	35,300	26,000	33,300	24,500
Ocean thermal	13,500	45,100	25,300	55,300	24,500	35,300	24,500
Satellite solar power systems	0	5,000	0	2,800	2,100	0	0
Total, solar electric applications	144,700	236,200	178,900	210,700	161,700	185,900	143,100
Fuels from Biomass	9,700	21,000	19,500	20,500	12,088	20,250	11,900
Total operating expenses	285,500	368,400	315,100	344,900	275,763	319,350	256,600
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Total plant	24,500	41,000	55,000	[4] 41,000	17,000	41,000	24,000
Total, solar energy development	290,400	417,300	378,000	393,800	297,963	368,250	285,800
Capital Equipment							
Direct thermal application:							
Heating and cooling of buildings	1,700	2,000	2,000	2,000	2,000	2,000	2,200
Agricultural and process heat	0	0	0	0	0	0	0
Total, direct thermal application	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Technology support and utilization	0	0	0	0	0	0	0
Solar electric applications:							
Solar thermal	0	3,000	3,000	3,000	1,500	3,000	1,500
Photovoltaics	4,600	300	300	300	150	300	150
Wind	1,100	1,400	1,400	1,400	700	1,400	700
Ocean thermal	0	700	700	700	350	700	350
Satellite solar power systems	0	0	0	0	0	0	0
Total, solar electric applications	5,700	5,400	5,400	5,400	2,700	5,400	2,700
Fuels from biomass	0	500	500	500	300	500	300
Total, solar energy development	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Plant							
Solar electric applications:							
Solar thermal:							
76-2-b—10-megawatt central receiver solar thermal powerplant, Barstow, Calif. (A-E and long-lead procurement)	2,500	41,000	55,000	41,000	17,000	41,000	17,000
Prior-year projects	22,000	0	0	0	0	0	7,000
Total, solar energy development	24,500	41,000	55,000	41,000	17,000	41,000	24,000

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
GEOTHERMAL ENERGY DEVELOPMENT							
Operating Expenses							
Engineering research and development	13,500	15,500	17,100	15,500	13,600	15,500	13,600
Resource exploration and assessment	9,000	17,600	17,600	17,600	15,800	17,600	15,800
Hydrothermal technology applications	14,000	24,900	32,000	28,000	22,025	28,000	22,025
Advanced technology applications	11,900	24,800	23,500	24,300	19,050	22,500	17,700
Utilization experiments	0	18,000	16,000	16,000	4,300	12,000	3,500
Environmental control and institutional studies	4,800	8,100	8,100	8,100	7,100	8,100	7,100
Low-head hydroelectric program	0	15,000	15,000	15,000	12,000	10,000	7,500
Total, operating expenses	53,200	123,900	129,300	124,500	93,875	113,700	87,225
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
Total, geothermal energy development	54,700	126,400	131,800	127,000	96,075	116,200	89,425
Capital Equipment							
Engineering research and development	400	700	700	700	700	700	700
Resource exploration and assessment	300	500	500	500	400	500	400
Hydrothermal technology application	400	700	700	700	600	700	600
Advanced technology applications	300	500	500	500	400	500	400
Utilization experiments	0	0	0	0	0	0	0
Environmental control and institutional studies	100	100	100	100	100	100	100
Low-head hydroelectric program	0	0	0	0	0	0	0
Total, geothermal energy development	1,500	2,500	2,500	2,500	2,200	2,500	2,200
CONSERVATION RESEARCH AND DEVELOPMENT							
Operating Expenses							
Electric energy systems and energy storage:							
Electric energy system	23,000	36,800	36,700	36,800	32,200	36,700	32,100
Energy storage	31,000	48,500	49,900	48,500	39,975	48,500	39,975
Total, electric energy systems and energy storage	54,000	85,300	86,600	85,300	72,175	85,200	7 ,075
End-use conservation and technologies to improve efficiency:							
Buildings	26,600	68,000	56,000	59,500	47,908	55,090	44,600
Industry	14,430	38,000	40,000	38,000	27,800	28,750	20,900
Transportation	27,170	111,000	88,000	99,500	77,225	64,400	50,900
Improved conversion efficiency	23,150	62,000	78,200	69,700	56,565	58,280	48,000
Total, end-use conservation and technologies to improve efficiency	91,350	279,000	262,200	266,700	209,498	206,250	164,400
Energy Extension Service	7,500	8,000	8,000	8,000	6,000	7,500	6,000
Small grants program	0	10,000	6,000	8,000	6,750	3,000	3,000
Municipal solid waste	0	200,000	0	20,000	15,000	0	0
Total, operating expenses	152,850	582,300	362,800	388,000	309,423	302,220	245,475
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Total, plant	0	800	800	[5] 800	200	800	200
Total, conservation research and development	160,850	592,270	369,770	397,470	314,841	309,190	249,645
Capital Equipment							
Electric energy systems and energy storage:							
Electric energy system	3,500	2,800	2,800	2,800	1,700	2,800	1,700
Energy storage	2,500	1,700	1,700	1,700	1,100	1,700	1,100
Total, electric energy systems and energy storage	6,000	4,500	4,500	4,500	2,800	4,500	2,800
End-use conservation and technologies to improve efficiency:							
Buildings	0	1,170	170	670	418	170	170
Industry	1,000	2,500	500	2,500	1,500	500	500
Transportation	500	500	500	500	100	500	100
Improved conversion efficiency	500	500	500	500	400	500	400
Total, end-use conservation and technologies to improve efficiency	2,000	4,670	1,670	4,170	2,418	1,670	1,170
Energy Extension Service	0	0	0	0	0	0	0
Small grants program	0	0	0	0	0	0	0
Municipal solid waste	0	0	0	0	0	0	0
Total, conservation R. & D	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Plant							
Electric systems and energy storage:							
Electric energy systems:							
78-1-a—High-bay addition, Los Alamos, N. Mex	0	800	800	800	200	800	200
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT							
Operating Expenses							
Overview and assessment	37,148	51,910	43,010	50,010	43,881	48,010	43,381
Environmental research	131,606	143,970	[6] 143,970	143,960	137,819	143,970	137,069
Life sciences research	43,484	38,113	38,113	38,113	36,854	38,113	36,854
Decontamination and decommissioning	9,516	19,000	17,000	19,000	17,000	18,000	16,000
Total, operating expenses	221,754	252,993	242,093	251,093	235,554	248,093	232,304
Total hospital equipment	13,753	19,025	19,025	19,015	15,870	19,025	15,870
Total plant	3,200	6,000	6,000	6,000	1,200	5,000	9,148
Total, environment and safety research and development	238,707	278,018	267,118	276,118	252,624	272,118	257,322
Capital Equipment							
Overview and assessment	1,782	3,400	3,400	3,400	2,445	3,400	2,445
Environmental research	10,931	14,425	14,425	14,425	12,341	14,425	12,341
Life sciences research	900	1,000	1,000	1,000	884	1,000	884
Decontamination and decommissioning	140	200	200	200	200	200	200
Total, environment and safety research and development	13,753	19,025	19,025	19,025	15,870	19,025	15,670

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT—Continued							
Plant							
Environmental research:							
78-9-a—Modifications and additions to biomedical and environmental research facilities, various locations	0	6,000	6,000	6,000	1,200	5,000	1,000
Prior-year projects	3,200	0	0	0	0	0	8,148
Total, environmental research	3,200	6,000	6,000	6,000	1,200	5,000	9,148
Total, environment and safety research and development	3,200	6,000	6,000	6,000	1,200	5,000	9,148
MAGNETIC FUSION							
Total operating expenses	195,000	207,900	199,900	207,900	196,200	203,900	193 200
Total capital equipment	23,000	27,600	27,600	27,600	17,165	27,600	17,165
Total plant	96,900	132,600	121,400	[8] 135,800	73,480	92,500	68,435
Total, magnetic fusion	314,900	368,100	348,900	371,300	286,845	324,000	27,800
Capital Equipment							
Magnetic fusion	23,200	27,600	27,600	27,600	17,165	27,600	17,165
Plant							
Magnetic fusion:							
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, Calif	0	94,200	94,200	94,200	3,000	14,000	3,000
78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Wash	0	14,000	0	14,400	2,880	7,500	1,500
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J	75,400	24,000	24,000	24,000	59,000	71,000	59,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex	14,000	0	3,200	3,200	8,600	0	0
Prior-Year Projects	7,500	0	0	0	0	0	4,935
Total, magnetic fusion	96,900	132,600	121,400	135,800	73,480	92,500	68,435
FUEL CYCLE RESEARCH AND DEVELOPMENT							
Operating Expenses							
Uranium resource assessment	31,335	59,485	67,485	67,485	57,300	59,495	51,300
Support of nuclear fuel cycle:							
LWR fuel reprocessing	33,900	35,100	34,000	24,000	18,000	0	0
HTGR fuel cycle R. & D	10,600	12,100	12,100	12,100	12,000	12,000	12,000
Breeder reactor fuel cycle R. & D	10,200	30,300	30,300	30,300	27,700	30,300	27,700
Alternate concepts	0	32,000	32,000	32,000	27,000	32,000	27,000
Thorium fuel recycle	0	18,000	8,000	18,000	13,500	18,000	13,500
Total, support of nuclear fuel cycle	54,700	127,500	116,400	116,400	98,200	92,400	80,200
Waste management (commercial)	82,500	165,000	154,000	160,000	118,300	158,500	117,175
Total, operating expenses	168,535	351,985	337,885	343,885	273,800	310,195	248,675
Total capital equipment	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Total plant	0	16,500	13,000	[9] 16,500	3,300	13,000	2,978
Total, fuel cycle research and development	182,535	391,785	376,185	385,685	292,750	348,685	267,303
Capital Equipment							
Uranium resource assessment	4,500	4,800	4,800	4,800	2,900	4,800	2,900
Support of nuclear fuel cycle:							
LWR fuel reprocessing	0	0	0	0	0	0	0
HTGR fuel cycle R. & D	1,450	990	1,000	1,000	995	1,000	995
Breeder reactor fuel cycle R. & D	900	3,000	3,000	3,000	1,900	3,000	1,900
Alternate concepts	1,950	3,000	3,000	3,000	2,000	3,000	2,000
Thorium fuel recycle	0	10	2,000	2,000	1,005	2,000	1,005
Total support of nuclear fuel cycle	4,300	7,000	9,000	9,000	5,900	9,000	5,900
Waste management (commercial)	5,200	11,500	11,500	11,500	6,850	11,500	6,850
Total, fuel cycle research and development	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Plant							
Fuel cycle R. & D.:							
Support of nculear fuel cycle (LMFBR fuel reprocessing R. & D.):							
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and longlead procurement only)	0	3,000	3,000	3,000	600	3,000	600
Prior-year projects							378
78-5-c—Laser isotope facility, site undesignated (A-E only)	0	6,500	3,000	6,500	1,300	3,000	978
Total, LMFBR fuel reprocessing R. & D	0	3,500	0	3,500	700	0	00
Total, support of nuclear fuel cycle	0	6,500	3,000	6,500	1,300	3,000	978
Waste Management (Commercial): 78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) total	0	10,000	10,000	10,000	2,000	10,000	2,000
Total, fuel cycle R. & D	0	16,500	13,000	16,500	3,300	13,000	2,978
LIQUID METAL FAST BREEDER REACTOR							
Operating Expenses							
Clinch River breeder reactor	237,600	150,000	75,000	80,000	205,000	0	145,000
LMFBR base program	304,283	333,300	333,300	333,300	304,400	304,200	300,100
Total, operating expenses	541,883	483,300	408,300	413,300	509,400	304,200	445,100
Total capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total plant	783,950	213,335	208,335	[10] 208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	670,771	732,285	652,285	657,285	578,310	439,535	568,700
Capital Equipment							
Clinch River breeder reactor	0	0	0	0	0	0	0
LMFBR base program	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total, liquid metal fast breeder reactor	44,938	35,650	35,650	35,650	48,460	29,950	43,160

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
LIQUID METAL FAST BREEDER REACTOR—Continued							
Plant							
Liquid metal fast breeder reactor:							
LMFBR base program:							
78-6-a—Modifications to reactors	0	8,700	8,700	8,700	1,700	8,700	1,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill	0	4,935	4,935	4,935	1,000	4,935	1,000
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E) only)	0	20,100	20,100	20,100	3,800	14,050	1,300
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	0	3,100	3,100	3,100	750	1,500	550
78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	0	9,000	4,000	4,000	1,000	1,600	500
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	0	134,800	134,800	134,800	3,500	5,200	1,000
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	0	3,600	3,600	3,600	500	2,700	500
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	0	1,100	1,100	1,100	100	500	100
77-4-c—High-performance fuel laboratory, Richland, Wash. (A-E only)	1,500	5,000	5,000	5,000	3,700	5,000	3,700
77-4-d—Fuel storage facility, Richland, Wash	1,500	23,000	23,000	23,000	4,400	16,200	4,400
67-3-a—Fast flux test facility						45,000	47,421
Prior-year projects	80,950	0	0	0	0	[illegible]	18,269
Total, breeder reactor base program	83,950	208,335	208,335	208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	83,950	208,335	208,335	208,335	20,450	105,385	80,440
NUCLEAR RESEARCH AND APPLICATIONS							
Operating Expenses							
Water cooled breeder reactor	37,000	38,500	38,500	38,500	37,600	38,500	37,600
Gas cooled thermal reactor	15,900	31,000	16,000	31,000	26,500	31,000	26,500
Gas cooled fast breeder reactor	12,800	14,670	14,670	14,670	12,800	14,670	12,800
Light water reactor technology	12,500	13,000	31,200	31,200	26,100	18,800	16,800
Technology development and special projects	11,322	14,842	14,842	14,452	13,478	14,842	13,478
Space applications	20,555	31,700	0	3,700	26,500	31,000	25,975
Advanced isotope separation technology	40,230	43,617	43,617	43,617	40,000	43,617	40,000
Nuclear energy assessments	7,687	23,300	23,100	23,300	18,705	23,100	18,600
Total, operating expenses	157,994	210,629	181,929	228,829	201,728	215,529	191,753
Total capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Total plant	9,500	0	0	0	0	[illegible]	3,400
Total, nuclear research and applications	181,758	229,224	197,124	247,424	218,908	234,124	212,333
Capital Equipment							
Water cooled breeder reactor	2,350	3,100	3,100	3,100	2,600	3,100	2,600
Gas cooled thermal reactor	549	1,000	1,000	1,000	800	1,000	800
Gas cooled fast breeder reactor	800	1,330	1,330	1,330	1,200	1,330	1,200
Light water reactor technology	0	0	0	0	0	0	0
Technology development and special projects	1,455	1,280	1,280	1,280	1,180	1,280	1,180
Space applications	2,020	3,400	0	3,400	2,400	3,400	2,400
Advanced isotope separation technology	7,000	8,485	8,485	8,485	9,000	8,485	9,000
Nuclear energy assessments	0	0	[illegible]	0	0	0	0
Total, nuclear research and application	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Plant							
Water cooled breeder reactor: Prior-year projects, total	9,500	0	0	0	0	0	3,400
Total, nuclear research and applications	9,500	0	0	0	0	0	3,400
LIGHT WATER REACTOR FACILITIES AND FUEL STORAGE							
Operating Expenses							
Light water reactor safety facilities	28,300	24,000	24,000	24,000	21,600	24,000	21,600
International spent fuel disposition	0	20,000	20,000	20,000	10,000	5,000	5,000
Total, operating expenses	28,300	44,000	44,000	44,000	31,600	99,000	6,600
Total, capital equipment	0	800	800	800	300	800	300
Total plant	0	3,000	3,000	[11] 3,000	700	3,000	700
Total, light water reactor facilities and fuel storage	28,300	47,800	47,800	47,800	32,600	32,800	27,600
Capital Equipment							
Light water reactor safety facilities	0	800	800	800	800	800	300
International spent fuel disposition	0	0	0	0	0	0	0
Total light water reactor facilities and fuel storage	0	800	800	800	300	800	300
Light water reactor safety facilities:							
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho	0	3,000	3,000	3,000	700	3,000	700
Total light water reactor safety facilities	0	3,000	3,000	3,000	700	3,000	700
Total, light water reactor facilities and fuel storage	0	3,000	3,000	3,000	700	3,000	700
HIGH ENERGY PHYSICS							
Total operating expenses	170,000	189,450	187,950	188,950	186,300	187,950	185,550
Total capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100
Total plant	28,600	16,700	6,200	[12] 16,700	3,400	40,600	26,987
Total, high energy physics	220,700	249,650	236,150	248,150	215,175	270,550	237,637
Capital Equipment							
High-energy physics	20,400	41,000	39,500	40,000	32,854	39,500	23,479
Other capital equipment	1,400	2,500	2,500	2,500	1,621	2,500	1,621
Total, high energy physics	21,800	43,500	42,000	42,500	25,475	42,000	25,100

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
HIGH ENERGY PHYSICS—Continued							
Plant							
78-10-a—Accelerator improvements and modifications, various locations	0	4,500	4,500	4,500	1,000	4,500	1,000
78-10-b—Intersecting storage accelerator, Brookhaven National Laboratory, New York	0	10,500	0	10,500	2,000	5,000	1,000
78-11-a—Master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California	0	1,700	1,700	1,700	400	1,700	400
Positron-electron: Joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center						29,400	20,000
Prior-year projects	28,600	0	0	0	0	0	4,587
Total, high-energy physics	28,600	16,700	6,200	16,700	3,400	40,600	26,987
Nuclear Physics							
Total operating expenses	64,918	68,444	74,444	74,444	70,340	68,444	65,840
Total operating equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Total plant	6,200	7,900	7,900	[13] 7,900	1,600	1,900	10,387
Total, nuclear physics	76,452	83,069	89,069	89,069	78,073	77,069	82,360
Capital Equipment							
Nuclear physics	4,834	5,525	5,525	5,525	5,100	5,525	5,100
Other capital equipment	500	1,200	1,200	1,200	1,033	1,200	1,033
Total, nuclear physics	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Plant							
78-12-a—Accelerator and reactor improvements and modifications, various locations	0	1,900	1,900	1,900	400	1,900	40
78-12-b—High-intensity uranium beams, Lawrence Berkeley Laboratory, California	0	6,000	6,000	6,000	1,200	0	0
Prior-year projects	6,200	0	0	0	0	0	9,987
Total, nuclear physics	6,200	7,900	7,900	7,900	1,600	1,900	10,387
BASIC ENERGY SCIENCES							
Operating Expenses							
Nuclear Sciences	25,022	26,467	25,667	25,787	24,753	26,063	24,960
Material Sciences	56,516	66,006	62,406	64,026	59,662	64,010	59,650
Molecular Mathematical and Geosciences	47,396	57,700	55,800	57,000	53,182	56,740	52,987
Advanced Energy Programs	0	3,187	3,187	3,187	3,000	3,187	3,000
Total operating expenses	128,934	153,360	147,050	150,000	140,597	150,000	140,597
Total capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Total plant	12,800	33,400	33,400	33,400	2,000	13,000	11,967
Total, basic energy sciences	152,800	198,835	192,535	195,475	153,764	175,075	163,731
Capital Equipment							
Nuclear science	866	1,075	1,075	1,075	1,150	1,075	1,150
Material sciences	5,100	5,400	5,400	5,400	5,050	5,400	5,050
Molecular mathematical and geosciences	3,300	3,600	3,600	3,600	2,800	3,600	2,800
Advanced energy programs	0	0	0	0	0	0	0
Other capital equipment	1,800	2,000	2,000	2,00	2,167	2,000	2,167
Total, basic energy sciences	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Plant							
Nuclear science:							
Prior-year projects	2,500	0	0	0	0	0	3,500
Total, nuclear science	2,500	0	0	0	0	0	3,500
Material science:							
78-13-a—National synchrotron light source, Brookhaven National Laboratory, New York	0	24,000	24,000	24,000	1,000	5,000	1,000
77-8-d Conventional steam plant facilities ORNL, Tennessee						2,000	4,300
Prior-yearjprojects	10,300	0	0	0	0	0	2,167
Total, materials sciences	10,300	24,000	24,000	24,000	1,000	7,000	7,467
Molecular mathematical and geosciences:							
78-13-b—Combustion research facility, Sandia Laboratories, Livermore, Calif	0	9,400	9,400	9,400	1,000	6,000	1,000
Total molecular mathematical and geosciences	0	9,400	9,400	9,400	1,000	6,000	1,000
Total, basic energy sciences	12,800	33,400	33,400	33,400	2,000	13,000	11,967
NUCLEAR MATERIALS SECURITY AND SAFEGUARDS							
Total operating expenses	27,420	37,906	40,106	40,106	35,150	37,906	33,500
Total capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Total plant	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	31,352	40,700	42,900	42,900	38,150	40,700	36,695
Capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Plant: Prior-year projects	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	0	0	0	0	0	0	195
Operating Expenses							
U^{235} production	799,566	899,145	895,445	895,445	888,050	859,245	860,900
Process development	68,150	85,650	77,400	77,400	68,300	77,400	68,300
All other U^{235}	20,629	14,840	17,740	16,340	17,300	23,940	23,000
Total operating expenses	888,345	999,635	990,585	989,185	973,650	960,585	952,200
Total capital equipment	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Total plant	664,475	376,350	303,980	[16] 303,980	361,750	443,050	401,052
Total, uranium enrichment activities	1,569,820	1,394,985	1,313,565	1,312,165	1,351,400	1,422,635	1,369,252

Footnotes at end of tables.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1976 appropriations: Budget authority	Fiscal year 1976 appropriations: Budget outlay
URANIUM ENRICHMENT ACTIVITIES							
Capital Equipment							
U^{235} production	13,778	15,000	15,000	15,000	13,000	15,000	13,000
Process development	3,222	4,000	4,000	4,000	3,000	4,000	3,000
All other U^{235}	0	0	0	0	0	0	0
Total, uranium enrichment activities	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Plant							
Uranium enrichment—U^{235} production:							
78-14-b—Process control modifications, gaseous diffusion plants, various locations	0	17,400	17,400	17,400	2,300	12,900	2,300
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky	0	4,500	4,500	4,500	650	2,500	650
76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio	5,300	1,750	1,750	1,750	6,000	2,950	6,000
76-8-g—Enriched uranium production facility, Portsmouth, Ohio	167,325	180,000	107,630	107,630	82,000	15,000	67,000
74-1-g—Cascade uprating program, gaseous diffusion plants	161,000	42,700	42,700	42,700	108,000	63,900	108,000
74-1-f—Process equipment modifications, gaseous, diffusion plants	267,800	100,000	100,000	100,000	160,000	143,800	16,000
77-9-a—Expansion of feed vaporizing sampling facility, gaseous diffusion plants, multiple sites						18,000	8,700
Prior-year projects	38,050	0	0	0	0	0	20,256
Total, U^{235} production	639,475	346,350	273,980	273,980	358,950	394,050	372,906
Uranium enrichment—Process development:							
78-14-a—Centrifuge facilities modifications, various locations	0	30,000	30,000	30,000	2,800	14,000	2,800
77-9-d—Centrifuge plant demo, facility Oak Ridge, Tenn						35,000	20,000
Prior-year projects	25,000	0	0	0	0	0	5,346
Total, process development	25,000	30,000	30,000	30,000	2,800	49,000	28,146
Total, uranium enrichment	664,475	376,350	308,980	303,980	361,750	443,050	401,052
PROGRAM MANAGEMENT AND SUPPORT							
Operating Expenses							
Program direction	218,760	220,535	263,700	282,900	222,900	254,100	254,100
Institutional relations	26,451	33,368	[17] 34,179	34,179	34,100	28,379	28,779
Supporting activities	35,469	37,460	37,460	37,460	36,494	33,360	33,044
International cooperation	0	0	5,000	5,000	4,000	3,500	2,600
Cost of work for others	20,100	18,265	18,265	18,265	18,255	18,265	18,255
Total, operating expenses	300,780	[16] 309,628	358,604	[16] 317,804	315,749	337,604	336,778
Total, capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total plant	0	11,530	11,530	[18] 11,530	1,780	6,730	6,936
Total, program management and support	306,220	326,113	375,089	334,289	322,484	348,439	347,819
Operating Expenses							
Changes in inventories, working capital and other adjustments	81,885	126,300	126,300	126,300	92,082	111,300	77,082
Transfer to Council on Environmental Quality	500	500	500	500	0	500	
General reduction in operating expenses	−89,578	0	0	0	0	0	0
Capital Equipment							
Program direction	4,325	4,000	4,000	4,000	4,000	3,150	3,150
Institutional relations	790	755	755	755	755	755	755
Supporting activities	325	200	200	200	200	200	200
International cooperation	0	0	0	0	0	0	0
Total, program management and support	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total, capital equipment	192,307	239,089	233,189	239,589	197,473	220,039	189,700
Plant							
Supporting activities:							
78-1-b—Chiller modifications for energy conservation, Bendix Plant, Kansas City, Mo	0	830	830	830	80	830	80
78-1-c—Process waste heat utilization, gaseous diffusion plant, Paducah, Ky	0	5,700	5,700	5,700	700	900	700
Prior-year projects	0	0	0	0	0	0	5,156
78-19-a—Program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only)	0	5,400	5,000	5,000	1,000	5,000	1,000
Total, supporting activities	0	11,530	11,530	11,530	1,780	6,730	6,936
Total, program management and support	0	11,530	11,530	11,530	1,780	6,730	6,936
PLANT—OTHER							
General plant projects	40,800	44,265	44,265	44,265	9,338	42,665	8,995
Construction planning and design	7,200	10,000	10,000	10,000	2,000	9,000	1,800
Total plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
SUMMARY TOTALS							
Operating expenses	3,764,629	5,166,430	4,759,656	4,870,296	4,528,841	4,431,773	4,224,086
Capital equipment	192,307	239,089	233,189	239,589	197,473	230,039	189,700
Plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
Working capital adjustment	0	−52,016					
Unobligated balance brought forward	−64,300	0					
Unobligated balance carried forward						−65,500	0
Total, ERDA authorization	4,994,261	6,556,249	6,168,005	6,161,445	5,261,912	5,433,442	5,053,690
Less:							
Enrichment revenues	−660,000	−845,820	−845,820	−845,820	−845,820	−965,820	−965,820
Miscellaneous revenues	−77,900	−100,720	−100,720	−100,720	−100,720	−100,720	−100,720
Total	4,256,361	5,609,709	5,221,465	5,214,905	4,315,372	4,366,902	3,987,150

[1] This authorization for plant represents $114,800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[2] In H.R. 6796 project title does not include "A-E and long-lead procurement only."

[3] S-1811 shows $12,000,000 for technology support and utilization. $3,000,000 of this has been incorporated in institutional relations—University programs.

[4] This authorization for plant represents $41,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[5] This authorization for plant represents $800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[6] Included in this amount is $1,000,000 for the Water Resources Council.

[7] This authorization for plant represents $6,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[8] This authorization for plant represents $110,300,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[9] This authorization for plant represents $16,500,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[10] This authorization for plant represents $75,535,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

Footnotes continued on following page.

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS		**NUCLEAR PROGRAMS**		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	$43,617	1. Advanced isotope separation technology	$43,617	$43,617
2. Light water reactor technology	13,000	2. Light water reactor technology	31,200	31,200
3. Technology development and special projects	14,842	3. Technology development and special projects	14,842	14,842
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	24,000	4. Light water reactor safety facilities	24,000	24,000
		Uranium enrichment activities:		
5. Process development (U^{235})	85,650	5. Process development	77,400	77,400
		Fuel cycle research and development:		
6. Uranium resource assessment	59,485	6. Uranium resource assessment	67,485	67,485
7. LWR fuel reprocessing	35,100	7. LWR fuel reprocessing	34,000	24,000
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	37,906	8. Nuclear materials security and safeguards	40,106	40,106
Total, light water reactors	313,600	Total	332,650	322,650
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	165,000	9. Waste, management (commercial)	154,000	160,000
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	20,000	10. International spent fuel disposition	20,000	20,000
Total, waste management	185,000	Total	174,000	180,000
Breeder reactor:		Liquid metal fast breeder reactor:		
11. Breeder reactor base program	333,300	11. LMFBR base program	333,300	333,300
12. Clinch River breeder reactor	150,000	12. Clinch River breeder reactor	75,000	80,000
Total, breeder reactor	483,300	Total	408,300	413,300
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	38,500	13. Water cooled breeder reactor	38,500	38,500
14. Gas cooled thermal reactor	31,000	14. Gas cooled thermal reactor	16,000	31,000
15. Gas cooled fast breeder reactor	14,670	15. Gas cooled fast breeder reactor	14,670	14,670
Total, other advanced reactor concepts	84,170	Total	69,170	84,170
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D.	12,100	16. HTGR fuel cycle R. & D.	12,100	12,100
17. Breeder reactor fuel reprocessing R. & D	30,300	17. Breeder reactor fuel reprocessing R. & D	30,300	30,300
18. Thorium fuel	18,000	18. Thorium fuel	8,000	18,000
19. Alternate fuel cycle	32,000	19. Alternate concepts	32,000	32,000
Total, advanced fuel cycle concepts	92,400	Total	82,400	92,400
		Nuclear research and applications:		
20. Nuclear energy assessments	23,300	20. Nuclear energy assessments	23,100	23,300
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	899,145	21. U^{235} production	895,455	895,445
22. All other U^{235}	14,840	22. All other U^{235}	17,740	16,340
Total, uranium enrichment	913,985	Total	913,185	911,785
		Magnetic fusion:		
23. Magnetic fusion	207,900	23. Magnetic fusion	199,900	207,900
Total, operating expenses	2,033,655	Total, operating expenses	2,202,705	2,235,505
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Total, plant	741,785	Total, plant	649,715	667,516
Total, nuclear programs	3,169,779	Total	2,978,759	3,029,459
Capital Equipment		**Capital Equipment**		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	8,485	1. Advanced isotope separation technology	8,485	8,485
2. Light water reactor technology	0	2. Light water reactor technology	0	0
3. Technology development and special projects	2,280	3. Technology development and special projects	1,280	1,280
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	800	4. Light water reactor safety facilities	800	800
		Uranium enrichment activities:		
5. Process development (U^{235})	4,000	5. Process development	4,000	4,000
		Fuel cycle research and development:		
6. Uranium resource assessment	4,800	6. Uranium resource assessment	4,800	4,800
7. LWR fuel reprocessing	0	7. LWR fuel reprocessing	0	0
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	2,794	8. Nuclear materials security and safeguards	2,794	2,794
Total, light water reactors	22,159	Total	22,159	22,159
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	11,590	9. Waste management (commercial)	11,500	11,500
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	0	10. International spent fuel disposition	0	0
Total, waste management	11,500	Total	11,500	11,500
Breeder reactor:		Breeder reactor:		
11. Breeder reactor base program	35,650	11. Breeder reactor base program	35,650	35,650
12. Clinch River breeder reactor	0	12. Clinch River breeder reactor	0	0
Total, breeder reactor	35,650	Total	35,650	35,650

Footnotes continued from preceding page.

[11] This authorization for plant represents $3,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[12] This authorization for plant represents $16,700,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[13] This authorization for plant represents $7,900,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[14] This authorization for plant represents $11,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[15] This authorization for plant represents $420,050,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority

[16] Included in this amount is $1,000,000 for the Water Resources Council.

[17] Includes $3,000,000 that is part of the S-1811 amount of $12,000,000 for technology support and utilization under solar energy development. It was agreed that this $3,000,000 should be incorporated in institutional relations—University programs.

[18] This authorization for plant represents $6,730,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represents related budget authority.

COMPARISON BETWEEN HOUSE AND SENATE AUTHORIZATION PROGRAM STRUCTURE FOR NUCLEAR PROGRAMS

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS—Continued		NUCLEAR PROGRAMS—Continued		
Capital Equipment—Continued		Capital Equipment—Continued		
Other advanced reactor concepts.		Nuclear research and applications:		
13. Water cooled breeder reactor	3,100	13. Water cooled breeder reactor	3,100	3,100
14. Gas cooled thermal reactor	1,000	14. Gas cooled thermal reactor	1,000	1,000
15. Gas cooled fast breeder reactor	1,330	15. Gas cooled fast breeder reactor	1,330	1,330
Total, other advanced reactor concepts	5,430	Total	5,430	5,430
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	990	16. HTGR fuel cycle R. & D	1,000	1,000
17. Breeder reactor fuel cycle R. & D	3,000	17. Breeder reactor fuel cycle R. & D	3,000	3,000
18. Thorium fuel	10	18. Thorium fuel	2,000	2,000
19. Alternate fuel cycle	3,000	19. Alternative concepts	3,000	3,000
Total, advanced fuel cycle concepts	7,000	Total	9,000	9,000
20. Nuclear energy assessments	0	Nuclear Research and Applications: 20. Nuclear energy assessments	0	0
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	15,000	21. U^{235} production	15,000	15,000
22. All other U^{235}	0	22. All other U^{235}	0	
Total, uranium enrichment	15,000	Total	15,000	15,000
23. Magnetic fusion	27,600	Magnetic fusion: 23. Magnetic fusion	27,600	27,600
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Plant		Plant		
Light water reactors:		Light water reactor facilities and fuel storage:		
1. Light water reactor safety facilities:		1. Light water reactor safety facilities:		
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	3,00
2. Process development:		Uranium enrichment:		
78-14-a—Centrifuge facilities modifications various locations (total)	30,000	2. Process development: 78-24-a—Centrifuge facilities modifications various locations	30,000	30,000
Total, light water reactors	33,000	Total, light water reactor facilities and fuel storage	33,000	3,000
Waste management:		Fuel cycle R. & D.:		
3. Waste management (commercial):		3. Waste management (commercial):		
78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	10,000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
4. LMFBR base program:		4. LMFBR base program:		
78-6-a—Modifications to reactors	8,700	78-6-a—Modifications to reactors	8,700	8,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	4,935	78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	4,935	4,935
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory Idaho (A-E only).	20,100	78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only).	20,100	20,100
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only).	3,100	78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only).	3,100	3,100
78-6-e—Modifications to facilities Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only).	9,000	78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only).	4,000	4,000
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington.	134,800	78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington.	134,800	13,4800
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington.	3,600	78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington.	3,600	3,600
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho.	1,100	78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho.	1,100	1,100
77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only).	5,000	77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only).	5,000	5,000
77-4-d—Fuel storage facility, Richland, Wash	23,000	77-4-d—Fuel storage facility, Richland, Wash	23,000	23,000
Total, LMFBR base program	213,335	Total, LMFBR base program	208,335	208,335
Total, liquid metal fast breeder reactor	213,335	Total, liquid metal fast breeder reactor	208,335	208,335
Advanced fuel cycle concepts:		Fuel cycle R. & D.—Support of nuclear fuel cycle:		
5. Breeder reactor fuel reprocessing R. & D.:		5. Breeder reactor fuel reprocessing R. & D.:		
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	3,000
78-5-c—Laser isotope facility, site undesignated (A-E only)	3,500	78-5-c—Laser isotope facility, site undesignated (A-E only)	0	3,500
Total, breeder reactor fuel reprocessing R. & D	6,500	Total, breeder reactor fuel reprocessing R. & D	3,000	6,500
Total, advanced fuel cycle concepts	6,500	Total, support of nuclear fuel cycle	3,000	6,500
Uranium enrichment:		Uranium enrichment:		
6. U^{235} production:		6. U^{235} production:		
78-14 b—Process control modifications, gaseous diffusion plants, various locations.	17,400	78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	17,400
78-15-a—Water system improvements, gaseous diffusion plants, Kentucky.	4,500	78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	4,500
78-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	1,750
76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	180,000	76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	107,630	107,630
74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	42,700
71-1-f—Process equipment modifications, gaseous diffusion plants.	100,000	71-1-f—Process equipment modifications, gaseous diffusion plants.	100,000	100,000
Total, U^{235} production	345,350	Total, U^{235} production	273,980	273,980
Total, uranium enrichment	346,350	Total, uranium enrichment	273,980	273,980
7. Magnetic fusion:		7. Magnetic fusion:		
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	94,200
78-3-b—Fusion materials irradiated test facility, Hanford Engineering Development Laboratory, Washington.	14,400	78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington.	0	14,400
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	24,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	0	76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	3,200	3,200
Total, magnetic fusion	132,600	Total, magnetic fusion	121,400	135,800
Total, nuclear programs	741,885	Total, nuclear programs	648,715	667,165

EXPLANATION OF SIGNIFICANT NUMBER CHANGES

Nonnuclear energy

High Btu Coal Gasification Test Facility

The conferees agreed to add $10 million in operating funds for a feasibility study for a high Btu coal gasification test facility. The House receded to the Senate and no construction funds are authorized for the facility in fiscal year 1978. The high Btu coal gasification test facility would demonstrate and evaluate several second and third generation gasification technologies in a single installation.

A GOCO (Government owned, contractor operated) arrangement is proposed as a financing mechanism that will avoid the complications and time delays of the present cost sharing arrangement in the demonstration program. The test facility program is not intended to replace the present demonstration program. It does provide an option that ERDA has agreed is attractive. Dr. White has sent a letter to the House committee which affirms the value of such a facility and supports beginning design work.

The conferees view the test facility as expanding the options for demonstrating new gasification technologies at commercial size. The inclusion of this facility into the current fossil demonstration program indicates a dissatisfaction with the Administrator's execution of Section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974. This section authorizes the Administrator to "identify opportunities to accelebrate the commercial applications of new energy technologies and provide assistance for participation in demonstration projects." Great latitude is allowed in this section as to the kind and degree of cooperative agreements with non-federal entities which may be entered into. The rigid fifty-fifty cost-sharing arrangement of the fossil energy demonstration program limits the flexibility granted under section 8. The introduction of the high Btu test facility and the feasibility study is intended to open up possibilities which are precluded by the present financial arrangements.

The conferees wish to emphasize, by this action, that this authorization is not intended, in any way, to stop, delay or inhibit the presently constituted demonstration program. The actual purpose of the demonstration program has always been clear and that is to insure that second generation technologies are demonstrated at selected sites to provide that information necessary to make decisions about the commercial viability of such technologies. Therefore, the feasibility study for the test facility should include a discussion about the relative merits of pursuing the construction of the test facility and its impact, if any, on the present demonstration program.

Gasifiers in Industry

Forty million dollars was reauthorized from the Clean Boiler Fuel from coal demonstration plant for the "gasifiers in industry" program. These funds were placed in operating expenses for the low Btu gasification program. This permits greater flexibility and quicker action in execution of this near-term program. The program objective is to get gasifiers operating and producing gas during the next 3 years. This will demonstrate the economic viability of low and medium Btu gas as a substitute for nautral gas and also prove its environmental acceptability. State of the art gasification technologies would be used. However, modern environmental control equipment must be added to the gasifiers and the use of caking coals needs to be demonstrated.

Direct Combustion

A total of $12 million was added to the direct combustion program to further emphasize the conferees strong commitment to this program which has potential near-term impact. Two million dollars will be used for the utilization of anthracite waste in fluidized bed combusters and $6 million will be used for the component testing and integration facility for atmospheric fluidized bed combustion at Morgantown, W. Va. Four million dollars was not in dispute among the conferees and will support coal-oil slurries which are critical for the conservation of oil, the usage of coal and reduction of the retrofit problems of current oil burners. The conferees felt that this program should be enhanced by allowing larger scale tests and the initiation of commercial application.

Oil Shale and In-Situ Coal Gasification Program

The in-situ coal gasification program has made significant progress within the last fiscal year. The conference addition of $8.0 million for this work is meant to advance the Linked Vertical Well method as well as the Packed Bed method.

The conferees also direct the ERDA to prepare a management plan for oil shale R&D to include possible or likely efforts for process development units and pilot plants utilizing above-ground and in-situ processes. The above-ground efforts have not been carefully devised and there does not appear to be logical steps of mining, retorting, hydrotreating and refining. The funds for this plan are included in the conference amount.

Advanced Research and Supporting Technology

The conferees agreed to add $10 million to the advanced research and supporting technology program. This increase is intended to augment the materials and exploratory research program carried out within this program.

The long term increase in coal and oil shale used to meet the energy needs of the country will require new and environmentally sound technologies be developed. This means that fundamental knowledge of coal, coal chemistry, geology, rock mechanics and materials must be increased. According to the scientific and engineering communities ERDA's fossil energy program has not stressed this work sufficiently in the past. The increase is intended to enable them to expand these efforts.

Flash Liquefaction

The House receded from its addition for the flash liquefaction process. The conferees wish to emphasize their interest in support for the flash liquefaction but understand that there are carryover funds in the liquefaction program that can be used in support of the construction of a process development unit.

DEPARTMENT OF ENERGY,
Washington, D.C., Oct. 3, 1977.

Hon. WALTER FLOWERS,
Chairman, Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration, Committee on Science and Technology, House of Representatives.

DEAR MR. CHAIRMAN: The following is provided for your information regarding the recommendation being made by Senator Ford to seek authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant dedicated to the HYGAS Process.

Fiscal Year 1977 ERDA authorization provided for a second High BTU Pipeline Gas Demonstration Plant (Project 77-1-b). The authorization did not specify the process and no funds were subsequently appropriated for this project. This authorization could eventually be utilized for the HYGAS Demonstration Plant if funds are to be appropriated.

On July 29, 1977, ERDA, using available funds from its operating budget awarded a twenty (20) month contract with PROCON, Inc. The objectives of the contract are to (1) prepare a conceptual design of a commercial size plant employing the Institute or Gas Technology HYGAS Process, and (2) select a demonstration plant size and prepare detailed process design and conceptual designs with economic evaluations. Funds in the amount of $3.6 million were obligated in Fiscal Year 1977. The balance of funds ($3.9 million) are programmed for Fiscal Year 1978 and 1979. Concurrent with this contract, the HYGAS Pilot is being operated to generate the firm data base required for optimization of a demonstration plant design for the production of pipeline gas from bituminous coal. Approximately 15 months of pilot plant R&D efforts will be required to obtain the information needed to complete the process design and economic evaluations. This step must be carried out to assure that the project can be carried forward with an acceptable technical and financial risk. The study contract will culminate in Fiscal Year 1979 with the delivery of documentation in sufficient detail to proceed directly with detailed design procurement and construction of the HYGAS Demonstration Plant, if warranted.

The rationale for the "if warranted" position is that a go-no-go detailed economic assessment will be made on the commercial plant design in mid-Fiscal Year 1978. If at that point a decision is made to proceed with the study, the earliest that this agency could use appropriated funds is Fiscal Year 1979. In anticipation of this decision, funds are being requested in the Fiscal Year 1979 budget for initiation of the HYGAS Demonstration Plant. A copy of the HYGAS Demonstration Plant Timetable is enclosed.

Based upon the above information, it has been concluded that authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant is not recommended at this time. Please also note that the overall agency High BTU Pipeline Gas Program consists of three (3) different processes competing for two plants to move forward to construction and operation.

Please advise if you need any additional information.

Sincerely,

PHILIP C. WHITE,
Acting Program Administrator for Fossil Energy.

Enclosure: HYGAS Demonstration Plant Timetable.

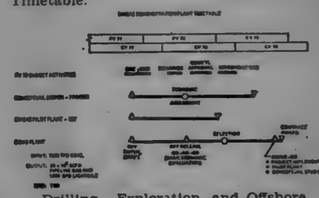

Drilling, Exploration, and Offshore Technology

With respect to increased funding for drilling technology development, the conference committee deleted $1.6 million under geothermal resource development added by the Senate, while selecting a compromise figure of $7.6 million in the fossil energy area. This latter figure is $6 million above the Senate authorization, and $3 million below the House.

The committee wishes to make clear that this action is in no way intended to indicate Congressional direction that fossil drilling technology be emphasized at the expense of its geothermal counterpart. The Committee recognizes that great similarities exist between the developmental needs in these two areas. Common problems such as coping with high temperature and corrosive environments, and common needs for improvements in directional drilling techniques, down-hole motor capability, and drill bit design and

fabrication, insure that progress in one area will be of substantial benefit to the other.

Five million dollars will be used for the development of down hole electronics, severe service elastomers and steels and improved bit designs. In addition, testing and evaluation instrumentation is to be supported by the development of telemetry systems and better down hole motors. This new technology will have near term application and is not presently under development, because the drilling industry is small and does not have the capital resources to support sophisticated R&D programs. It is clear that in the past ERDA has made a considerable effort to insure that work in these two drilling technologies has been well-coordinated in order to minimize needless duplication and overlap. The Committee directs that of the additional funds authorized in this legislation at least $1.6 million should be used to emphasize problem areas common to both fossil energy and geothermal resource development, including subterranean melting research.

The addition also includes $1 million for an evaluation of the possible applications of zirconium hydride reactors as self contained power systems for subsea oil recovery efforts.

SOLVENT REFINED COAL (SRC) DEMONSTRATION PLANT

The conferees action for this promising technology emphasizes both the SRC solids process, which has been the subject of extensive testing, and the SRC liquids process, which produces a desirable and versatile liquid product with some solids output, but is now in the early stages of large scale testing.

In May of 1977, the SRC pilot plant in Fort Lewis, Washington was adapted to operate in the SRC II mode. The conferees feel this test can provide the data needed for a realistic assessment and design of an SRC II plant. To take advantage of this information and to do the design work the conferees have provided $10 million in operating funds for fiscal year 1978.

In the case of the solid fuel SRC process, successful work has been concluded in several important areas including pilot scale process studies on seven different coals including high sulfur coals, a successful 3000 tons combustion test, and conceptual commercial designs sponsored both by EPRI and the Southern Company.

As a consequence, the conferees have agreed that $30 million be authorized for construction of an SRC solids demonstration plant to produce solid fuels. The conferees agree that this demonstration plant be constructed at the smallest commercial size module which can efficiently demonstrate the technology. Although commercialization is the ultimate goal, government involvement and expense are to be minimized. However, once the Secretary has selected a plant size, the conferees direct that the Department report to the appropriate committees in Congress on the cost considerations involved in the decision.

GEOTHERMAL ENERGY

The Conference Committee recommendation to the authorization for hydrothermal technology applications is $3.1 million above the House Bill. This increase is to be used to accelerate the pace of the Raft River Thermal Loop Experiment in Idaho. The Conferees feel that this experiment should be rapidly pursued because it utilizes moderate-temperature resources, which are more abundant than the high temperature hydrothermal resources.

The Conference recommends an increase of $11.9 million over the Administration request for Advanced Technology Applications. Of this figure, $2.1 million will go for hot dry rock resources, and $9.8 million for geopressured resources. The conferees encourage the ERDA to continue subterranean melting research. The House amendment to the Senate Bill includes an authorization of $6 million for Architect/Engineering design and long-lead procurement for construction of a second 50 MWe geothermal demonstration plant; the Senate bill includes $4 million. The Conferees understand that necessary project activities can be successfuly initiated within the $4 million level and they have agreed to accept this figure as provided in the Senate bill. ERDA is hereby authorized to enter into a cost-share arrangement for the design, construction and operation of the 50 MWe geothermal energy demonstration plant.

SOLAR ENERGY

The Conferees feel that the Federal Government should take a stronger role in reducing the cost of solar photovoltaic cells. To do this the authorization for the photovoltaic program is increased by $19 million above the level provided in the Senate Bill. Of this, $12.2 million will be used for the purchase of photovoltaic cells to be utilized on Federal sites where their applications are shown to be life cycle cost effective; $800,000 is earmarked for market studies; the remaining funds will be utilized for technology development, particularly related to cost reducing production technologies.

The Conference recommendation for Ocean Thermal Energy Conversion is to increase funding by $10 million over the Administration request. This is a $9.8 million reduction from the House amendment of $19.8 million to the Senate Bill. The Conferees feel that the potential of Ocean Thermal Energy Conversion is substantial for the production of energy intensive products and wish to insure that ERDA begins work on a 5 MW OTEC Tropic Ocean Grazing Pilot Plant. At the same time, the Conferees wish to emphasize the importance of the ongoing base-line program by providing additional funds for this as well.

The Conferes accepted the House amendment funding level of $41 million for the construction of a 10 MWe Central Receiver Solar Thermal Pilot Plant in Barstow, California, and recommend that ERDA put this project back on schedule with no restriction as to the procurement of heliostats.

The Conference recommendation for solar heating and cooling of buildings is $2.5 million above the House Amendment to the Senate Bill. Of this, $2 million will go for research in retrofitting existing structures to utilize solar heating and cooling systems, and the remaining $500,000 is for support of the Solar Data Centers.

NUCLEAR ENERGY

NUCLEAR RESEARCH AND APPLICATIONS

Light water reactor technology

The Conferees adopted the Senate authorization figure for the LWR technology program which included $12.4 million for standardization of designs for light water reactors which is part of the President's draft proposal to streamline the LWR licensing process, but was not included in the budget amendment.

It is the opinion of the Conferees that ERDA should seek as much private cost-sharing as possible for this program, hopefully over time as high as 40%.

Gas-cooled thermal reactors

The Conferees adopted the House figure of $31 million, which is $15 million above the Senate figure and the Administration request, for a program to develop a more proliferation-proof fuel for the gas-cooled reactor in both the High Temperature Gas Reactor (HTGR) Steam Cycle and the Advanced HTR direct cycle concepts. The HTGR can use either a low-enriched uranium (LEU) fuel cycle, or a LEU-thorium fuel cycle in which the bred U-233 is denatured with a U-238. Both of these cycles are attractive from the safeguards viewpoint because of the low enrichment of the Uranium at all points in the fuel cycle, and because the small amounts of plutonium produced (less than ½ as much as found in LWR spent fuel) can be discarded as waste. The Advanced HTR Program on directly gas-cooled reactors is a cooperative one with the West Germans.

Laser isotope facility

The Conferees adopted the House inclusion of $3.5 million in funding for A-E work only on a laser isotope pilot facility project 78-5-c with the site undetermined. This rapidly advancing technology promises great reduction in operating expenses and capital plant costs for uranium enrichment facilities.

SUPPORT OF NUCLEAR FUEL CYCLE

Light water reactor fuel reprocessing

The Conferees agreed on $10 million authorization to fund design work on a full-scale nuclear waste solidification facility, a waste storage facility and to conduct systems integration activity. The Senate had authorized $20 million for this work; the item did not appear in the House bill. The Conferees also adopted the Senate funding of $13 million and provisions pertaining to activities to be performed at the Barnwell Nuclear Fuels Plant and funding of $1 million and provisions with an amendment pertaining to a study on future utilization of the Barnwell Nuclear Fuels Plant. The amendment further refined the objectives of the study.

The House amendment to the Senate bill contained a proviso requiring submission to the Congress of a plan of the specific activities to be funded at the Barnwell Plant. The House receded to the Senate position. However, the Conferees indicated that they expected the Committee on Science and Technology and the Committee on Energy and Natural Resources to be informed of the nature of the activities to be undertaken at the Barnwell Nuclear Fuels Plant in conformity with the requirements of the Department of Energy Act that the Congress be kept "fully and currently informed." It was also the opinion of the Conferees that the Barnwell facility should be used in such a way so as not to limit the potential for eventual use as a reprocessing plant.

MAGNETIC FUSION

The Conferees adopted the House authorization level which was $8 million above the Senate Figure, to fund the following activities:

(1) Tokamak Confinement Systems work in neutral beam heating and impurity effects on the Oak Ridge ORMAK facility;

(2) Development and technology efforts on critical superconducting magnets and prototype development of neutral beam injectors to support the Tokamak Fusion Test Reactor (TFTR) at Princeton Plasma Physics Laboratory;

(3) Applied Plasma Physics theoretical support of Tokamak and Mirror Programs;

(4) Reactor Projects in diagnostics and test components for TFTR of at least $1 million.

The Conferees adopted the House position to include $14.4 million for project 78-3-b which is of highest priority in the Magnetic Fusion program and is a key support facility for fusion pilot plant materials selection.

The Conferees adopted the Senate position to increase the authorization for Project 46-5-b by $3.2 million for which would provide thorough materials understanding and provide tritium handling experience for scale-up to pilot-plant operation.

HIGH ENERGY PHYSICS

The House amendment includes an authorization of $10,500,000 in plant funds for the Proton-Proton Intersecting Storage accelerator facility (ISABELLE) to be located at the Brookhaven National Laboratory. This authorization provides for engineering design

and preliminary construction activities. The conferees feel that ISABELLE should proceed and have agreed to accept the House authorization in full.

NUCLEAR PHYSICS

The Conferees adopted the Senate increase of $6 million to generally enhance the effectiveness of major facilities which have been underutilized chiefly because of inflation, particularly in power costs.

CONSERVATION

The House and the Senate both increased the Administration budget request for the superconducting magnetic energy storage facility. The Conferees accepted $0.1 million addition to the budget request.

The Senate and House both increased the Administration budget request for Industrial Energy Conservation by $15.0 million to accelerate cogeneration in industry, but allocated this increase differently between operating expenses and capital equipment. The Conferees agreed to accept the Administration's division of operating and capital equipment expenses.

The Conferees resolved independent increases to the Administration budget request for Buildings and Community Conservation as follows: a $2.0 million increase for research and demonstration of improved gas and oil furnace efficiency; $2.0 million to develop a program plan covering financing, development and demonstration of urban area designs based upon integrated energy use; and $2.0 million for community energy management planning demonstration. The Conferees also agreed to emphasize the importance of finding uses for hot water effluents from power plants as an extension of cogeneration project planning.

The House bill contained authorizations for Transportation Conservation in both Title I and Title III. Under Title I, the Conferees agreed to $1.0 million for the Alternative Fuels Utilization Program and, under Title III, $12.5 million for Automotive Propulsion Research and Development.

The Conferees increased the authorization above the Administration's request for Improved Conversion Efficiency by $12.5 million as follows: Thermionics, $0.2 million; Fuel Cells, $10.3 million; Methane Recovery, $2.0 million.

ENVIRONMENT AND SAFETY

Members of the conference committee agreed to accept an increase in the authorization level for Environment and Safety research and development activities of $9 million over the President's request of $252,093,000. Of this increase, $7 million is provided for overview and assessment activities for the purposes of reviewing the current status of ERDA's Environment and Safety Review Program, refining and enlarging the environmental-energy data and information effort, expanding the liquefied natural gas program, and continuing with the regional environmental energy assessments. The remaining $2 million increase is for the decommissioning and decontamination activities of which $1 million is to be used in conjunction with the study of the West Valley Nuclear Fuel Services facility and $1 million is to be used for the general environmental study of decommissioning and decontamination activities.

Since a $1 million authorization was provided in both the Waste Management Program and in the Environment and Safety Program for purposes of carrying out the West Valley study, the conference committee directs the Administrator to undertake this study with the joint cooperation and assistance of both Assistant Administrators.

The general study should consider a series of alternative institutional approaches for Federal Government and private sector management of a national decommissioning strategy and program including but not limited to: 1) investigate the feasibility of having a lead federal agency approve and monitor an overall decommissioning strategy and whether ERDA should accelerate its decommissioning programs; 2) consider the needs of the nuclear industry, which will rely in large part on the research, demonstration and experience from ERDA decommissioning efforts; 3) examine the technical alternatives for decommissioning, decontamination and disposal as well as the costs for all recommended steps and alternatives for each type of facility and waste; 4) investigate alternative methods for financing the operation, including escrow and bonding procedures, and the cost estimates should be sufficiently detailed to assist in allocating the proper amounts to be set aside in such procedures; 5) investigate the possibility of an independent waste handling corporation, financed by current fees or preposted bonding; 6) examine and make recommendations for reasonable tax accounting methods for handling decommissioning costs, such as the possibility of including "negative salvage value" in the depreciation allowance; 7) review the extent to which ERDA is meeting State mandated requirements and recommend generic criteria for environmental impact statements; and 8) make recommendations for the coordination of ERDA, NRC, and EPA in the setting and implementation of decommissioning, disposal, and decontamination standards and criteria.

PROGRAM MANAGEMENT AND SUPPORT

The funding level of $317,804,000 for operating expenses for Program Management and Support agreed to by the conferees is $16.438 million above the Administration request. (This does not include any program management and support funding for military or joint civilian-military programs which are included in other legislation.) This additional funding is for staff support ($6.6 million), governmental relations ($4.038 million), university programs ($1.0 million for university reactor fuel, $1.65 million for occupational and vocational training and curriculum development, $1.35 million for traineeships), and small grants to inventors ($1.8 million).

Explanation of selected provisions

The Conference accepted an amendment to incorporate into the bill a program of loan guarantees for financing the construction and startup costs of demonstration facilities for the conversion of municipal and industrial wastes into synthetic fuels and other desirable forms of energy. Originally, the House bill contained a section 214 which authorized a $300 million loan guarantee program for the construction and start-up of demonstration facilities to convert various forms of biomass to desirable forms of energy (including synthetic fuels).

Section 214 contained provisions which were identical or similar to provisions contained in section 210 of H.R. 6796 and section 312 of S. 1811. Sections 210 and 312 of the respective bills, which authorized a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources, were identical for a provision relating to patent rights. Section 214 was deleted from the agreed upon bill and the amendment offered, and accepted, incorporated into the program authorized by section 210, the major provisions of the biomass loan guarantee bill. By this action, the Conference avoided enacting into law unnecessary and duplicative provisions which would have established two entirely separate and distinct loan guarantee programs. Also, however, those provisions of the biomass loan guarantee section which were different from section 210 and which were specifically designed to attract participation by municipalities and other public and private entities, were retained in the compromise amendment offered in Conference.

The major provisions of the amended section 214 as incorporated into section 210 are as follows:

(1) A new subsection (4) is added to section 19 of the Federal Nonnuclear Research and Development Act, as amended. The program authorized by this subsection is confined to loan guarantees for municipal and industrial waste, sewerage sludge and other municipal organic wastes.

(2) The Administrator is authorized to guarantee and to make commitments to guarantee loans, the outstanding indebtedness not to exceed $300 million at any one time.

(3) With regard to the program for municipal or industrial waste the following subsections of the loan guarantee program authorized in section 19 shall not apply (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k) and (q).

(4) Any demonstration facility for the conversion of solid waste shall, prior to issuance of such guarantee, receive a certification from the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that such guarantee agreement is consistent with applicable solid waste management plans and guidelines.

(5) In the case of such demonstration facilities the amount guaranteed shall not exceed 75 per centum of the total cost of the facility provided that 90 per centum of the total cost of the facility shall not be guaranteed during the period of construction and start-up.

(6) The maximum maturity on any obligation is not to exceed 30 years or 90 per centum of the projected useful life of the facilities physical assets.

(7) To cover administrative costs and probable losses or guaranteed obligations, the Secretary is to collect fees for guarantees of obligations not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

This Section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant, would vary with the technology and with the particular situation. For example, if the Administration was considering proposing a high Btu coal gasification plant demonstration, it might choose to guarantee construction of a commercial size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential projects that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound energy RD&D policy would be to build a plant which would permit sufficient participants to bid for the award. The language of Section 210 does not prohibit the Administrator of ERDA from making his choice. It gives him the flexibility he needs.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place, it is important now that the Agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

The Conference Committee agreed to delete Section 601(3)(d) in the Senate Bill which would have specifically called for the ERDA to spend, during fiscal year 1978, at

least $10 million of the solar program funding for the operation of the Solar Energy Research Institute (SERI). The deletion of this language in no way reflects any prejudice to the SERI. The conferees confirm their full support for the ERDA and urge the ERDA to move as rapidly as possible to develop the SERI consistent with a wise expenditure of the Institute's funding.

The Senate bill contained a section which required a study of the options for decommissioning or other disposition of the Western New York Nuclear Service Center, but contained a provision that the section was not to be construed to commit the Federal Government to any new assistance or practicipation in the Center and that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. The House amendment contained a similar section which required a plan rather than a study, and the provision stating that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. That Conferees adopted the Senate language. However, it is the view of the Conferees that the section does not preclude future Federal participation.

The Conferees accepted House language which requires that the revenues received by the Administration from the enrichment of uranium be used to offset the costs which are incurred in providing existing and future uranium enrichment service activities, both for operating and plant and capital expenditures.

The Senate agreed to recede to the House to delete language contained in the Senate bill to establish an employee grievance procedure for the Lawrence Livermore Laboratory. The Conferees note that recently, the University of California has agreed to a new set of guidelines for relations with employee organizations. This agreement is an important step in establishing an improved labor management policy. For this reason it was felt that the amendment was not required.

The House bill had a separate Title III relating to automotive propulsion research and development. Title III of the House bill was amended on the House floor on September 21. The amendment changed the title from the "Automotive Transport Research and Development Act" to the "Automotive Propulsion Research and Development Act", and deleted the concept of "integrated test vehicles" from the bill. The Senate bill had no comparable title.

The conferees agreed to accept Title III of the House bill with an amendment to Sec. 304(f) which requires special reports on grants and contracts entered into under the "Automotive Propulsion Research and Development Act of 1977".

The Conferees adopted the House provision which required a report focused on the impact of the President's non-proliferation policy on cooperative agreements in research and development with an amendment. The Conferees amended the provision so that the report is to be transmitted to the House International Relations and Science and Technology Committees and the Senate Foreign Relations and Energy and Natural Resources Committees.

The Conferees directed that the report should be made as consistent as possible with other required reports to the Congress or nonproliferation policy and initiatives.

The Conference passed Sec. 313 with the clear understanding that the action taken under this section is in response to emergency conditions resulting from the Teton Dam disaster and that it is not a major federal action. They further agreed that the effectiveness of the section depends on its prompt implementation and encourage the Secretary of Interior to request the Council on Environmental Quality to exempt this action from the environmental impact statement requirements of the National Environmental Policy Act of 1969.

In both the House and Senate-passed authorization bills, $15 million was provided to develop a program whereby the United States would embark upon the research, development and demonstration of low-head hydroelectric technology. A good deal of foreign technology utilizing turbines that can generate electricity under low-head, run-of-the-river conditions already exists, but further refinement of this technology is called for in order to reduce cost. Based upon these complementary rationales, the conferees have agreed to retain the $15 million authorization and to further characterize purposes for which this authorization is made.

The House, in its report on H.R. 6796, indicated that the authorization would be used to develop a research and development program. This entails research work, systems evaluation, site analysis and selection, and other economic, environmental and technical activities. The Senate bill and accompanying report contemplated a demonstration type program whereby a majority of funds would be utilized for demonstrating the feasibility of installing small scale hydroelectric generators in existing dams. It is the judgment of the conferees that the programs contemplated by both houses should be initiated in fiscal year 1978. Specifically, the conferees believe that ERDA should embark upon demonstration programs with full consideration to existing but unused facilities and to refine existing technology to help meet short-term goals for producing energy from low-head hydroelectric technology. At the same time, ERDA should initiate a research and development program and perform studies which will define the locations and resource potential of the sites where this technology might be used. It should be emphasized that there is no intention upon the part of the conferees to establish at this time a large research and development activity at the expense of an aggressive demonstration program. Instead, ERDA should establish an appropriately balanced program for accelerated introduction of low-head hydroelectric power generation.

The House bill included a proviso requiring that of the funds authorized for the Liquid Metal Fast Breeder Reactor (LMFBR) program, at least $10,400,000 shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development. The House bill also included an additional $5,000,000 in construction funds to build facilities for the testing of these steam generators.

These provisions were predicated on the availability of sufficient funds within the LMFBR program, as contained in the House bill, to assure that high priority component development and testing activities would be accomplished. Unfortunately, at the $80,000,000 level agreed upon for the CRBR by the conferees the impetus to component and advanced fuel development that would have been obtained by the provisions is no longer achievable, and the House proviso and capital funding addition are therefore withdrawn.

At the same time, the conferees believe that the LMFBR program should not lose sight of the need to maintain some focus on the development and testing of components of the type and size appropriate for an intermediate sized LMFBR plant, in the event that construction of such a plant may be warranted in the future.

The conferees recognize the possibility that the U.S. may need to rely on LMFBR technology at an earlier date than that currently projected, and that a strong technological base both in research areas, and in component development and testing is needed so that the U.S. will be in a position to utilize its LMFBR capabilities expeditiously should the need arise.

The Senate bill provided that all inventions made or conceived in the course of or under a guarantee authorized by this Act must be subject to the title and waiver requirements and conditions of section 9 of Public Law 93-577. The House amendment required the application of section 9 of Public Law 93-577 to a loan guarantee only in the case of default. The House receded to the Senate position.

The conferees reconfirm the fact that the Secretary has the full authority to grant apriori waivers of the United States' right to inventions made under a loan guarantee and to include provisions pertaining to terms and conditions under which the Federal government would recapture the rights to such inventions in case of default. The conferees expressed a strong consensus view that the Secretary should liberally use his authority to grant apriori waiver of Federal government rights to inventions made under a loan guarantee and in anticipation of a default the Secretary, in his discretion, has the authority to include provisions in the loan guarantee contract to insure that patents developed under the loan guarantee became part of the project assets and available to the United States.

HYGAS DEMONSTRATION PLANT

It is noted that conceptual design of a demonstration plant for the HYGAS process is already underway within the demonstration plant program at ERDA. Seven and one-half million dollars is to be spent on this 20 month project through fiscal year 1978.

Demonstration plants for high Btu coal gasification processes have already been authorized, one in 1976 (Project 76-1-b), one in 1977 (Project 77-1-b). Two processes were chosen to begin conceptual design under the authorization for the first pipeline demonstration project. At the time that the second demonstration plant was authorized in fiscal year 1977, the conferees noted in their report (S. 94-1327, H.R. 94-1718): "HYGAS technology, which has been developed in an ERDA pilot plant, offers the potential for economic success as revealed in a recent independent study made for ERDA. The conferees urge ERDA to consider the selection of a process for the demonstration plant, which has both economic promise and process reliability. The conferees recognize the importance of cost-sharing aspects in any joint program but are concerned if the best technology for demonstration is not developed properly." With these objectives in mind, the conferees wish to emphasize their concern that the best technology for demonstration be developed properly.

While the cost sharing arrangements are important aspects of the demonstration programs, any rigid application of financial formulas is unadvisable, since the purpose of the program is to demonstrate second generation technology and thereby increase its chances for success in the market place.

The current contract for conceptual design of a HYGAS demonstration plant will result in three conceptual designs in competition for two demonstration projects. The fiscal year 1977 Authorization bill provided $10 million for the second demonstration plant but no appropriations were made for that plant in fiscal year 1977. Further authorization of this plant depends upon a competition where technological criteria are given equal weight with economic criteria.

The conferees are also concerned that previous proposals which developed the HYGAS process for a demonstration plant not be dismissed as a result of the ERDA-sponsored conceptual design contract. Any such previous proposals for a HYGAS demonstration should also be eligible for the competition for the second High Btu Demonstration Plant.

The Department of Energy has assured the conferees that the HYGAS process will be a candidate for the second demonstration plant in a letter from Dr. Philip White, Acting Program Administrator for Fossil Energy.

RESERVATION ON SELECTED ITEMS IN REPORT

Senators Abourezk and Hatfield signed the Conference Report with reservations as to the decision of the Conferences to recede from the Senate provisions concerning the Clinch River Breeder Reactor.

Senator Dale Bumpers signed the conference report on the part of the Senate, but emphasized that he is strongly opposed to the conference recommendation for an authorization of $80 million for the Clinch River Breeder Reactor project. He supports the Administration's actions to halt work on the project.

Senator Bumpers also expressed opposition to the proviso adopted by the conference on the Clinch River Breeder Reactor because it may limit the obligations and authority of the Nuclear Regulatory Commission to protect the public health and safety and common defense and security as specified in the licensing process in the Atomic Energy Act and the National Environmental Policy Act.

Representative George E. Brown Jr., although he signed the Conference Report on the part of the House, emphasized that he is strongly opposed to two items of the Conference Report authorizing funds for the continuation of the Clinch River Breeder Reactor Project and language which he believes unreasonably restricts the use of those funds.

Representative Richard Ottinger, although he signed the Conference Report on the part of the House, did so with reservations to the funding for the Clinch River Breeder Reactor, the language concerning the Clinch River Breeder Reactor, the generic loan guarantee provisions, and the nuclear energy research funding provisions.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JAMES ABOUREZK,
DALE BUMPERS,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

EXTENSIONS OF REMARKS

THE PANAMA CANAL TREATIES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, October 10, 1977

Mr. HARRY F. BYRD, JR. Mr. President, the October 4 Daily News-Record of Harrisonburg, Va., carried an article which should be of interest to Members of the Senate.

This article describes the views of Mrs. Ruby V. Gustin toward the Panama Canal treaties which are now before the Senate.

Mrs. Gustin lived and worked in the Canal Zone for 33 years and recently received the Army's highest civilian award for her service in the Canal Zone.

Mrs. Gustin stated the view of many Virginians when she said that giving away the canal and paying Panama to take it "doesn't make sense."

I ask unanimous consent that the text of the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TREATY "MISTAKE," SAYS CITY WOMAN

"I think it is a mistake."

That is how a Harrisonburg woman who spent 33 years as a civilian intelligence worker in the Panama Canal Zone assesses the new canal treaty.

Ruby V. (Jackie) Gustin recently received the Army's meritorious civilian award, the highest honor the Army presents a civilian, for her service in the Canal Zone.

"It is our first line of defense in Latin America," Mrs. Gustin said of the canal. "The U.S. built the canal and should maintain it for security reasons."

Mrs. Gustin disagrees with treaty advocates who say it would be impossible to defend the canal without Panama's help.

"Absolutely . . . we could keep it open," she stated.

Of the treaty, she added, "It looks like we are giving them a canal and paying them $50 million to take it . . . That doesn't make sense to me."

Mrs. Gustin first went to the Canal Zone in 1940 when her husband, John, was assigned to the embassy there.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 11, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

8:00 a.m.

Energy and Natural Resources

To continue hearings on the proposed Alaska natural gas pipeline route.

3110 Dirksen Building

Finance

Health Subcommittee

To hold hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.

2221 Dirksen Building

9:00 a.m.

Governmental Affairs

Permanent Investigations Subcommittee

To continue hearings to receive testimony concerning labor union insurance programs.

1114 Dirksen Building

Judiciary

To continue consideration of S. 1437, to codify, revise, and reform the Federal criminal laws.

S-238, Capitol

9:30 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 2008, to provide a 3-year period for the United States to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.

5110 Dirksen Building

Environment and Public Works

Transportation Subcommittee

To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.

4200 Dirksen Building

Foreign Relations

To continue hearings on the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.).

318 Russell Building

Governmental Affairs

To hold hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.

3302 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To resume hearings on S. 2103, to require the additional labeling of explosive materials for the purpose of identification and detection.

1224 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Gillian M. Sorensen, of New York, and Sharon P. Rockefeller, of West Virginia, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

6202 Dirksen Building

Human Resources

Education, Arts, and the Humanities Subcommittee

To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.

4232 Dirksen Building

Rules and Administration

To hold hearings on and to consider S. Res. 268, providing for radio and television coverage of Senate proceedings during consideration of the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.), to hold hearings on S. Res. 166, to create a coordinated administrative

management system for the Senate, to be followed by a business meeting on pending committee business.
301 Russell Building

Conferees
On H.R. 9005, making appropriations for the District of Columbia for fiscal year 1978.
S-207, Capitol

OCTOBER 13

8:00 a.m.
Finance
Health Subcommittee
To continue hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.
2221 Dirksen Building

9:00 a.m.
Judiciary
Separation of Powers Subcommittee
To hold hearings to receive testimony associated with Executive branch negotiations for the disposition of the territory and property of the United States located in the Isthmus of Panama.
1318 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a 3-year period for the United States to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Foreign Relations
To continue hearings on the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2152, to authorize U.S. participation in the supplementary financing of the International Monetary Fund.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee.
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

Judiciary
To continue consideration of S. 1437, to codify, revise, and reform the Federal criminal laws.
S-238, Capitol

2:30 p.m.
Foreign Relations
Foreign Assistance Subcommittee
To hold hearings on the international narcotics control program and the status of U.S. prisoners in Bolivia.
4221 Dirksen Building

OCTOBER 14

9:00 a.m.
Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To hold hearings on S. 2019 and 2125, to delay the effective date for mandatory coverage of multiemployer pension plans; and H. Con. Res 369, to revise the coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for single employer plans.
1224 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Foreign Relations
To continue hearings on the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Governmental Affairs
To continue hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

2:00 p.m.
Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

2:30 p.m.
Foreign Relations
To meet in closed session with Secretary of State Vance to discuss the Middle East and strategic arms limitation matters.
S-116, Capitol

Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 1717, to amend the Internal Revenue Code with regard to taxation of distilled spirits.
2221 Dirksen Building

OCTOBER 17

9:00 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on S. 1265 and 1267, relating to the maintenance and orderly disposition of public records; and S. 1273, authorizing the GSA to renegotiate Federal property leases.
1318 Dirksen Building

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

Judiciary
Immigration Subcommittee
To hold hearings on the topic "Human Rights in Israeli Administered Territories."
6202 Dirksen Building

*Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Room to be announced

OCTOBER 18

9:00 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee on Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Special on Aging
To hold hearings on proposed extension of the Older Americans Act (P.L. 93-29).
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposting simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 20

8:00 a.m.
Finance
Health Subcommittee
To continue hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.
2221 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, propos-

ing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 11, 1977*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
October 11, 1977.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I will lift up mine eyes unto the hills, from whence cometh my help. My help cometh from the Lord, who made heaven and earth.—Psalms 121: 1, 2.

Almighty God, our Father, our Creator and the sustainer of our lives, in this quiet moment of prayer we look beyond ourselves to Thee from whom comes our help. Lead us not into temptation but deliver us from the evils of pettiness, prejudice, and pride and keep our minds open to goodness, truth, and beauty. Thus may we work with wisdom this day and labor with love in our hearts for the good of all Thy children. Grant unto us a deep sense of justice, a broad sense of good will, and a high sense of truth that we may see the right thing to do and have the courage to do it, whatever the cost.

Bless our Nation, we pray Thee, and make her a blessing to other nations that peace may prevail in our world, justice be done, and good will reign in the hearts of all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 6, 1977, the President approved and signed a bill of the House of the following title:

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 1934. An act for the relief of Doctor Lawrence C. B. Chan; and

H. Con. Res. 368. Concurrent resolution calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 717) entitled "An act to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1339) entitled "An act to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. NUNN, Mr. HART, Mr. TOWER, Mr. THURMOND, and Mr. BARTLETT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1863. An act to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes; and

S.J. Res. 68. Joint resolution providing for the designation of the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 7, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on October 6, 1977, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate agreed to the amendments of the House of Representatives to the bill (S. 1372) entitled "An Act to establish an Under Secretary of Defense for Policy, and for other purposes."

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 7, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:10 p.m. on Friday, October 7, 1977, and said to contain a message from the President wherein he transmits a governing international fishery agreement between the United States and Mexico.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND MEXICO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-240)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94-265; 16 U.S.C. 1801), I transmit herewith a governing international fishery agreement between the United States and Mexico, signed at Washington on August 26, 1977.

This Agreement is significant because it is one of a series to be negotiated in accordance with that legislation. It is also significant in the context of the warm and close relationship which the United States has had with Mexico for many years. I, therefore, urge that the Congress give favorable consideration to this Agreement at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *October 7, 1977.*

TENTH QUARTERLY REPORT OF COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the tenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the first quarter of 1977 in monitoring both prices and wages in the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses in some detail the Council's studies of the outlook for collective bargaining negotiations for 1977, health care costs, automobiles, cement and the trends in industrial plant construction, as well as its filings before various Federal regulatory agencies.

During the remainder of 1977, the Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

THE BRUTAL COMMUNIST REGIME IN VIETNAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I note that Mr. WEISS, of New York, is critical of views I recently expressed concerning a rally honoring and greeting representatives of the brutal Communist regime in Vietnam.

He says my remarks were "ill-timed." I say that any time you can tell the truth about dictators and their friends is the right time.

He says my remarks were "unfriendly." He is absolutely correct. I am unfriendly to Communist thugs.

Finally he says my remarks were "inflammatory." I sincerely hope so. I hope they serve to light the flame of commonsense and common decency and love of freedom among the Sam Browns and Ramsey Clarks who paid tribute to these totalitarians.

Mr. WEISS is entitled to his views. But when he says he and Brown and Clark and the rest of their friends were only "extending the American hand of friendship" to the Communist dictators, I must strongly disagree. The American people detest the moral idiocy of the Clarks and Browns of this Nation, and it is absurd for Mr. WEISS to say they were in any way expressing a sentiment of Americans in general.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET THURSDAY, OCTOBER 13, 1977, DURING 5-MINUTE RULE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may be permitted to meet on Thursday, October 13, 1977, during the 5-minute rule to have a hearing and to begin markup on the Federal Election Commission reforms as passed by the other body.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I wonder if the gentleman could tell me whether or not the minority members have been consulted with respect to this matter.

Mr. THOMPSON. If the gentleman will yield, Mr. Speaker, they have.

Mr. BAUMAN. And they have no objection to meeting on Thursday; is that correct?

Mr. THOMPSON. They have no objection.

Mr. BAUMAN. What is the legislation that is being considered?

Mr. THOMPSON. The Federal Election Commission law.

Mr. BAUMAN. Is this with respect to Federal financing of congressional election campaigns?

Mr. THOMPSON. It is not. Public financing is not in the Senate-passed bill, and I do not know at the moment whether or not it will be in the House bill.

Mr. BAUMAN. It either is or is not in the legislation.

Mr. THOMPSON. It is not in the legislation which we are going to consider.

Mr. BAUMAN. It is not the subject of the hearing which the gentleman has requested permission to sit for, is it?

Mr. THOMPSON. No. Hearings have been completed on that subject.

I will say to the gentleman that as we go forward, it is possible that the issue might be raised; but it is not the current plan of the gentleman from New Jersey to do more than have the Federal Election Commission representatives testify and then we will begin markup. If in the course of the hearings that issue is raised later, it will be addressed at that time.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection, and I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CALL OF THE HOUSE

Mr. FOLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 640]

Addabbo
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bowen
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burton, John
Butler
Byron
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conyers
Cornwell
Cotter
Crane
Cunningham
Dent
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Evans, Ind.
Fary
Fish
Fithian
Flippo
Flood
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frey
Gaydos
Gephardt
Gibbons
Glickman
Goldwater
Gonzalez
Gudger
Guyer
Hall
Hanley
Hannaford
Harrington
Harsha
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Hubbard
Huckaby
Hughes
Ireland
Jenrette
Johnson, Calif.
Jordan
Kasten
Kastenmeier
Kelly
Koch
Kostmayer
Krueger
Le Fante
Lederer
Lehman
Livingston
Lloyd, Tenn.
Long, La.
Lujan
Luken
McCormack
McDonald
McEwen
McKay
McKinney
Maguire
Markey
Mathis
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Michael
Nichols
Nix
Nolan
O'Brien
Oakar
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Pickle
Pike
Pressler
Preyer
Pritchard
Pursell
Rahall
Railsback
Regula
Richmond
Risenhoover
Robinson
Rodino
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Santini
Satterfield
Scheuer
Shuster
Sikes
Skubitz
Snyder
Solarz
Spellman
Steed
Symms
Taylor
Teague
Thone
Traxler
Trible
Tucker
Udall
Vento
Walker
Walsh
Wampler
Watkins
Waxman
Weiss
Whalen
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Young, Alaska
Young, Tex.
Zeferetti

The SPEAKER pro tempore. On this rollcall 229 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-673)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare-Medicaid Anti-Fraud and Abuse Amendments".

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES; CLAIMS PAYMENT PROCEDURES FOR MEDICAID PROGRAM

SEC. 2. (a)(1) Section 1842(b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual allocation of any such payment.".

(2) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(3) Section 1902(a)(32) of such Act is amended to read as follows:

"(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

"(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

"(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment;".

(4) The amendments made by this subsection shall apply with respect to care and services furnished on or after the date of the enactment of this Act.

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (35);

(B) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and";

(C) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment (for which no further written information or substantiation is required in order to make payment) made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program."; and

(D) by inserting at the end thereof the following paragraph:

"The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.".

(2) The amendments made by paragraph (1) shall apply to calendar quarters beginning on and after July 1, 1978, with respect to State plans approved under title XIX of the Social Security Act.

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 3. (a)(1) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1123 the following new section:

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

"SEC. 1124. (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

"(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, XIX, and XX, or

"(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII, XIX, and XX,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity or in any subcontractor (as defined by the Secretary in regulations) in which the entity directly or indirectly has a 5 per centum or more ownership interest.

"(2) As used in this section, the term 'disclosing entity' means an entity which is—

"(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, a renal disease facility, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act);

"(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX;

"(C) a carrier or other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX; or

"(D) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services with respect to which payment may be claimed by the entity under a State plan or program approved under title XX.

"(3) As used in this section, the term 'person with an ownership or control interest' means, with respect to an entity, a person who—

"(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

"(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

"(B) is an officer or director of the entity, if the entity is organized as a corporation; or

"(C) is a partner in the entity, if the entity is organized as a partnership.

"(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.".

(2) Section 1861(j)(11) of such Act is amended to read as follows:

"(11) complies with the requirements of section 1124;".

(b) Clause (C) of section 1866(b)(2) of such Act is amended by inserting "(i)" after "failed", and by adding after "to verify such information," the following: "or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such entity and any subcontractor,".

(c)(1) Section 1902(a) of such Act (as amended by section 2(b)(1) of this Act is amended—

(A) by amending paragraph (35) to read as follows:

"(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1124;";

(B) by striking out "and" at the end of paragraph (36);

(C) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (37) the following new paragraph:

"(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor,".

(2) Section 1903(i)(2) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38)".

(d)(1) Section 2003(d)(1) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (H);

(B) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ";and"; and

(C) by adding after subparagraph (I) the following new subparagraph:

"(J) provides that any entity (other than an individual practitioner or a group of practitioners) receiving payments for the provision of health related services complies with the requirements of section 1124, and supplies (within such period as may be specified in regulations by the Secretary or by the State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (i) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (ii) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) No payment may be made under this section with respect to any expenditure for the provision of any health related service if such service is provided by an entity which has failed to comply with a request made by the Secretary or State agency under section 2003(d)(1)(J), for so long as such entity remains in noncompliance with such request.".

(e) The amendment made by subsection (a)(1) shall apply with respect to certifications and recertifications made (and participation in the programs established by titles V, XVIII, XIX, and XX of the Social Security Act pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act. The remaining amendments made by this section shall take effect on the date of the enactment of this Act; except that the amendments made by subsections (c) and (d) shall become effective January 1, 1978.

PENALTIES FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 4. (a) Section 1877 of the Social Security Act is amended to read as follows:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b)(1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other equity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(d) Whoever accepts assignments described in section 1842(b)(3)(B)(ii) and knowingly, willfully, and repeatedly violates the term of such assignments specified in subclause (I) of such section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both.".

(b) Section 1909 of such Act is amended to read as follows:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this title is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this title or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

"(b)(1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(d) Whoever knowingly and willfully—

"(1) charges, for any service provided to a patient under a State plan approved under this title, money or other consideration at a rate in excess of the rates established by the State, or

"(2) charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under a State plan approved under this title, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)—

"(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

"(B) as a requirement for the patient's continued stay in such a facility, when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(c) Section 204(a) of Public Law 94-505 (42 U.S.C. 3524) (relating to annual reports of the Health, Education, and Welfare Inspector General) is amended by adding at the end thereof the following sentences: "Such report also shall include a detailed description of the case referred by the Department of Health, Education, and Welfare to the Department of Justice during the period covered by the report and, an evaluation of the performance of the Department of Justice in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII and XIX of the Social Security Act, and any recommendations with respect to improving the performance of such activities by the Department of Justice. Promptly, after the Inspector General submits such a report to Congress, the Attorney General shall report to Congress concerning the details of the disposition of the cases referred to the Department of Justice and described in the Inspector General's report.".

(d) The amendments made by subsection (a) and (b) shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act.

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to these providers, suppliers, and practitioners being reviewed by such Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied.".

(b)(1) Section 1154(b) of such Act is amended—

(A) by striking out "(which may not exceed 24 months)" in the first sentence and inserting in lieu thereof "(which may not exceed 48 months except as provided in subsection (c))";

(B) by inserting ", in addition to review of health care services provided by or in institutions," in the first sentence after perform"; and

(C) by striking out "or ordered by physicians" and all that follows through "and organizations" in the second sentence and inserting in lieu thereof "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require".

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.".

(c)(1) Section 1155 of such Act is amended—

(A) by striking out "directly or indirectly involved" in subsection (a)(6)(A) and inserting in lieu thereof "directly responsible for";

(B) by striking out "any financial" in subsection (a)(6)(B) and inserting in lieu thereof "a significant financial";

(C) by inserting after subsection (f)(2) the following new paragraph:

"(3) Any such agreement with an organization under this part may be in the form of a grant or an assistance agreement."; and

(D) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g)(1) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

"(2) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not earlier than the date the organization is designated as a Professional Standards Review Organization (other than under section 1154) and not later than two years after the date the organization has been so designated, but any such designated Professional Standards Review Organization may be approved to perform such review responsibility at any earlier time if such organization applies for, and is found capable of exercising, such responsibility.".

(2) Section 1101(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

"(9) The term 'shared health facility' means any arrangement whereby—

"(A) two or more health care practitioners practice their professions at a common physical location;

"(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

"(C) such practitioners have a person (who may himself be a practitioner)—

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners; and who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding $5,000 for any one month during the preceding 12 months or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.".

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX.".

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)".

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) During the development and preparation by an organization of its formal plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b)(2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings became effective.".

(C) Section 1154 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding after subsection (d) the following new subsection:

(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governor of the State in which the organization is located).".

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS GENERALLY

"SEC. 1171. (a)(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, and for administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum to the extent that the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

"(1) the State agency formally requests the performance of such additional responsibilities, and

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accord-

ance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the appropriateness of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, make a determination as to the reasonableness of the allegation by the State agency. If the Secretary determines that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the appropriateness of care received by individuals under the State's plan approved under such title, unless the Secretary determines that the organization has taken appropriate corrective action, he shall immediately suspend such organization's authority in whole or in part under section 1158(c) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) until he (i) reevaluates such organization's performance of the responsibilities involved and determines that such performance does not have such unreasonable and detrimental impact, or (ii) determines that the organization has taken appropriate corrective action. Any determination made by the Secretary under this subparagraph shall be final and shall not be subject to judicial review.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e)(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connection with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.".

(3)(A) Section 1155(e)(1) of such Act is amended by striking out "of a hospital or other operating health care facility or organization" and inserting in lieu thereof "of a hospital (including any skilled nursing facility, as defined in section 1861(j), or intermediate care facility, as defined in section 1905(c), which is also a part of such hospital) or other operating health care facility or organization (other than such a skilled nursing facility or intermediate care facility which is not a part of a hospital)".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), a Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1)) only if (i) the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, or (ii) the State requests such organization to assume such responsibility.

"(B) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities in the State that are also skilled nursing facilities (as defined in section 1861(i)), to the extent that the Secretary finds that the performance of such function by the single State agency (described in subparagraph (A)) for that State is inefficient.".

(e) Section 1160(b)(1) of such Act is amended by striking out "practitioner or provider" and inserting in lieu thereof "health care practitioner or hospital, or other health care facility, agency, or organization" each time it appears therein.

(f) Section 1163(a)(2) of such Act is amended to read as follows: "(2) Members of the Council shall be appointed for a term of three years, except that the Secretary may provide, in the case of any terms scheduled to expire after January 1, 1978, for such shorter terms as will ensure that (on a continuing basis) the terms of no more than four members expire in any year. Members of the Council shall be eligible for reappointment."

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

(1) by striking out "or (2)" in subsection (a) and inserting in lieu thereof ", (2)";

(2) by inserting the following immediately before the period at the end of subsection (a): ", or (3) in accordance with subsection (b)";

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a):

"(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such Organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse;

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization.

The penalty provided in subsection (e) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information."; and

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

"(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.".

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function of such organization, member, or employee (as described in section 1155).".

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.".

(k) Part B of title XI of such Act (as amended by subsection (d)(2)(D) of this section) is further amended by adding after section 1171 the following new section:

"ANNUAL REPORTS

"SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(4) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(5) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(6) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(7) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(8) recommendations for legislative changes.".

(l)(1) Title XI of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS AND THE TRUST TERRITORY OF THE PACIFIC ILLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS REVIEW PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101(a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(m) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(n) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsectin (b)(1) after "Review Organizations"; and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS".

(o)(1) Section 1152(b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

(p) Section 1155(a)(5) of such Act is amended by striking out all that follows "Professional Standards Review Organization" and inserting in lieu thereof a period.

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act is amended by inserting after section 1124 (added by section 3(a) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1125. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named thereon, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General shall be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(c) No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by sections 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of the State plan is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in the plan for not less than the period specified in such notice, and no payment may be made under the plan with respect to any item or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for any item or service furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of the plan submits a request to the Secretary for such waiver and if the Secretary approves such requests.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendment made by subsection (d) shall apply with respect to determinations and designations made on and after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on January 1, 1978.

DISCLOSURE BY PROVIDERS OF OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1126. (a) As a condition of participation in or certification or recertification under the programs established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1126(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person, who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such institution, organization, or agency, is a person described in section 1126(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (i) of this section); and, notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1126(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act (as amended by section 3(d) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(16) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a), and the State may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1126(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION ON FEDERAL MEDICAID PAYMENTS; ASSIGNMENT OF RIGHTS OF PAYMENT; INCENTIVE PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsections:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(p)(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1912, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of any amount collected which is attributable to such rights of support or payment.

"(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"ASSIGNMENT OF RIGHTS OF PAYMENT

"SEC. 1912. (a) For the purposes of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan approved under this title, a State plan for medical assistance may—

"(1) provide that, as a condition of eligibility for medical assistance under the State plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under this title and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party; and

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and

"(2) provide for entering into cooperative arrangements (including financial arrangements), with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the State plan with respect to (A) the enforcement and collection of rights to support or payment assigned under this section and (B) any other matters of common concern.

"(b) Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.".

(c) The amendment made by subsection (a) shall apply with respect to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

STUDY AND REVIEW OF MEDICARE CLAIMS PROCESSING

SEC. 12. The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act, for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

(1) by reducing the number of participating intermediaries and carriers;

(2) by making a single organization responsible for the processing of claims, under both part A and B of such title, in a particular geographic area;

(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

(4) by providing incentive payments for the most efficient organizations; or

(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto.

ABOLITION OF PROGRAM REVIEW TEAMS UNDER MEDICARE

SEC. 13. (a) Section 1862(d) of the Social Security Act is amended by striking out paragraph (4).

(b)(1) Section 1862(d)(1)(B) of such Act is amended by striking out ", with the concurrence of the appropriate program review team appointed pursuant to paragraph (4),".

(2) Section 1862(d)(1)(C) of such Act is amended to read as follows:

"(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(3) Clause (F) of section 1866(b)(2) of such Act is amended to read as follows: "(F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(4) Section 1157 of such Act is amended by striking out the last sentence.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

AMENDMENTS RELATING TO FISCAL INTERMEDIARIES

SEC. 14. (a) Section 1816 of the Social Security Act is amended—

(1) by inserting "(and to providers assigned to such agency or organization under subsection (e))" in the first sentence of subsection (a) after "to such providers" the second and third times it appears;

(2) by amending subsection (b) to read as follows:

"(b) The Secretary shall not enter into or renew an agreement with any agency or organization under this section unless—

"(1) he finds—

"(A) after applying the standards, criteria, and procedures developed under subsection (f), that to do so is consistent with the effective and efficient administration of this part, and

"(B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 226, and the agreement provides for such assistance; and "(2) such agency or organization agrees—

"(A) to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section, and

"(B) to provide the Secretary with access to all such data, information, and claims processing operations,

as the Secretary may find necessary in performing his functions under this part.";

(3) by inserting "after applying the standards, criteria, and procedures developed under subsection (f) and" in subsection (e)(2) before "after reasonable notice";

(4) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively; and

(5) by inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) and (d), the Secretary, after taking into consideration any preferences of providers of services, may assign or reassign any provider of services to any agency or organization which has entered into an agreement with him under this section, if he determines, after applying the standards, criteria, and procedures developed under subsection (f), that such assignment or reassignment would result in the more effective and efficient administration of this part.

"(2) Notwithstanding subsections (a) and (d), the Secretary may designate a national or regional agency or organization which has entered into an agreement with him under this section to perform functions under the agreement with respect to a class of providers of services in the Nation or region (as the case may be), if he determines, after applying the standards, criteria, and procedures, developed under subsection (f), that such designation would result in more effective and efficient administration of this part.

"(3)(A) Before the Secretary makes an assignment or reassignment under paragraph (1) of a provider of services to other than the agency or organization nominated by the provider, he shall furnish (i) the provider and such agency or organization with a full explanation of the reasons for his determination as to the efficiency and effectiveness of the agency or organization to perform the functions required under this part with respect to the provider, and (ii) such agency or organization with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(B) Before the Secretary makes a designation under paragraph (2) with respect to a class of providers of services, he shall furnish (i) such providers and the agencies and organizations adversely affected by such designation with a full explanation of the reasons for his determination as to the efficiency and effectiveness of such agencies and organizations to perform the functions required under this part with respect to such providers, and (ii) the agencies and organizations adversely affected by such designation with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(f) In order to determine whether the Secretary should enter into, renew, or terminate an agreement under this section with an agency or organization, whether the Secretary should assign or reassign a provider of services to an agency or organization, and whether the Secretary should designate an agency or organization to perform services with respect to a class of providers of services, the Secretary shall develop standards, criteria, and procedures to evaluate such agency's or organization's (1) overall performance of claims processing and other related functions required to be performed by such an agency or organization under an agreement entered into under this section, and (2) performance of such functions with respect to specific providers of services, and the Secretary shall establish, by regulation, standards and criteria with respect to the efficient and effective administration of this part. No agency or organization shall be found under such standards and criteria not to be efficient or effective or to be less efficient or effective solely on the ground that the agency or organization serves only providers located in a single State.".

(b) The Secretary of Health, Education, and Welfare shall develop the standards, criteria, and procedures described in subsection (f) of section 1816 of the Social Security Act (as added by subsection (a)(5)) not later than October 1, 1978.

(c) The amendment made by paragraphs (2) and (3) of subsection (a) to the extent that they require application of standards, criteria, and procedures developed under section 1816(f) of the Social Security Act shall apply to the entering into, renewal, or termination of agreements on and after October 1, 1978.

(d) Except as provided in subsection (c), the amendment made by subsection (a)(2) shall apply to agreements entered into or renewed on or after the date of enactment of this Act.

DISCLOSURE BY PROVIDERS OF THE HIRING OF CERTAIN FORMER EMPLOYEES OF FISCAL INTERMEDIARIES

SEC. 15. (a) Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title) with respect to the provider.".

(b) The amendments made by subsection (a) shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 16. (a) Section 1833(f) of the Social Security Act is amended to read as follows:

"(f)(1) In the case of durable medical equipment to be furnished an individual as described in section 1861(s)(6), the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need) whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this title or would create an

undue financial hardship on the individual who will use it.

"(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of the used equipment is at lease 25 percent less than the reasonable charge for comparable new equipment.

"(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

"(4) The Secretary shall encourage suppliers of durable medical equipment to make their equipment available to individuals entitled to benefits under this title on a lease-purchase basis whenever possible.".

(b) The amendment made by subsection (a) shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977.

FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 17. (a) Section 1903(a) of the Social Security Act is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) subject to subsection (b)(3), an amount equal to 90 per centum of the sums expended during each quarter beginning on or after October 1, 1977, and ending before October 1, 1980, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to the establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (q)); plus".

(b) Section 1903(b) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(7) may not exceed the higher of—

"(A) $125,000, or

"(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title.".

(c) Section 1903 of such Act is further amended by inserting after subsection (p) (added by section 11(a) of this Act) the following new subsection:

"(a) For the purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

"(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, that (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Secretary and which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

"(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

"(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the State plan to health care facilities and that are discovered by the entity in carrying out its activities.

"(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.".

(d) Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92-603), is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (I) the following new subparagraph:

"(J) to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act.".

(e)(1) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1977.

(2) The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act, as are necessary to carry out the amendments made by this section.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

SEC. 18. (a) Not later than one year after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act.

(b) Such report shall include an evaluation of the coordination of such services provided under the different titles, and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

(2) the requirements for an individual to be eligible to receive such services under such titles;

(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certificate of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by different providers of such services in order to determine the reasonableness of such costs and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act; and

(6) the preveniton of fraud and abuse in the delivery of such services under such titles,

the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services.

ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS FOR DIFFERENT TYPES OF HEALTH SERVICES FACILITIES AND ORGANIZATIONS; MAKING OF REPORTS UNDER MEDICARE AND MEDICAID PROGRAMS IN ACCORDANCE WITH SUCH SYSTEMS

SEC. 19. (a) Part A of title XI of this Social Security Act is amended by inserting after section 1120 the following new section:

"UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

"SEC. 1121. (a) For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this Act, the Secretary shall establish by regulation, for each such type of health services facility or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

"(1) The aggregate cost of operation and the aggregate volume of services.

"(2) The costs and volume of services for various functional accounts and subaccounts.

"(3) Rates, by category of patient and class of purchaser.

"(4) Capital assets, as defined by the Secretary, including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

"(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative system for producing comparable and uniform health information and statistics described in section 306(e)(1) of the Public Health Service Act. In reporting under such a system, hospitals shall employ such chart of accounts, definitions, principles, and statistics as the Secretary may prescribe in order to reach a uniform reconciliation of financial and statistical data for specified uniform reports to be provided to the Secretary.

"(b) The Secretary shall—

"(1) monitor the operation of the systems established under subsection (a);

"(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

"(3) periodically revise such systems to improve their effectiveness and diminish their cost.

"(c) The Secretary shall provide information obtained through use of the uniform reporting systems described in subsection (a) in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 1515 of the Public Health Service Act) and State health planning and development agencies (designated under section 1521 of such Act), as may be necessary to carry out such agencies' and organizations' functions.".

(b)(1) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.".

(2) Section 1902(a) of such Act (as amended by sections 2(b), 3(c), and 7(b) of this Act) is amended—

(A) by striking out "and" at the end of paragraph (38);

(B) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (39) the following new paragraph:

"(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.".

(c)(1) The Secretary of Health, Education, and Welfare shall establish the systems described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) only after consultation with interested parties and—

(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

(B) for other types of health services facilities and organizations, not later than the end of the two-year period,

beginning on the date of enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) for that type of health services facility.

(B) The amendments made by subsection (b) shall apply, with respect to the operation of a health services facility or organization which is neither a hospital, a skilled nursing facility, nor an intermediate care facility, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization.

(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) shall apply, with respect to State plans approved under title XIX of the Social Security Act, on and after October 1, 1977.

DELAY IN, AND WAIVER OF, IMPOSITION OF REDUCTION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE DUE TO A STATE'S FAILURE TO HAVE AN EFFECTIVE MEDICAID UTILIZATION CONTROL PROGRAM

SEC. 20. (a) Section 1903(g) of the Social Security Act is amended—

(1) by striking out "With respect to" in the first sentence of paragraph (1) and inserting in lieu thereof "Subject to paragraph (3), with respect to";

(2) by striking out "by 33⅓ per centum thereof" in paragraph (1) and inserting in lieu thereof "by a per centum thereof (determined under paragraph (5))";

(3) by inserting "timely" in paragraph (2) before "sample onsite surveys"; and

(4) by adding after paragraph (2) the following new paragraphs:

"(3)(A) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

"(i) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning before January 1, 1977;

"(ii) before January 1, 1978;

"(iii) unless a notice of such reduction has been provided to the State at least 30 days before the date such reduction takes effect; or

"(iv) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

"(B) The Secretary shall waive application of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending after January 1, 1977, and before October 1, 1977, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to the calendar quarter ending on December 31, 1977, is satisfactory under such paragraph and is valid under paragraph (2).

"(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

"(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraphs (26) and (31) of section 1902(a), if the showing demonstrates that the State has conducted such an onsite inspection during the 12-month period ending on the last date of the calendar quarter—

"(i) in each of not less than 96 per centum of the number of such hospitals and facilities requiring such inspection, and

"(ii) in every such hospital or facility which has 200 or more beds,

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due diligence in attempting to conduct such inspections, or if the State demonstrates to the satisfaction of the Secretary that it would have made such a showing but for failings of a technical nature only.

"(5) In the case of a State's unsatisfactory or invalid showing made with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1) is equal to 33⅓ per centum multiplied by a fraction, the denominator of which is equal to the total number of patients receiving that type of services in that quarter under the State plan in facilities or institutions for which a showing was required to be made under this subsection, and the numerator of which is equal to the number of such patients receiving such type of services in that quarter in those facilities or institutions for which a satisfactory and valid showing was not made for that calendar quarter.

"(6) The Secretary shall submit to Congress, not later than sixty days after the end of each calendar quarter, a report on—

"(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

"(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

"(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under paragraph (1) of an unsatisfactory or invalid showing.".

(b) Section 1902(a)(26) of the Social Security Act is amended by inserting after "social service personnel" the following: ", or, in the case of skilled nursing facilities, composed of physicians or registered nurses and other appropriate health and social service personnel".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Security Act to reflect the changes made by such amendments.

(2) The amount of any reduction in the Federal medical assistance percentage of a State, otherwise required to be imposed under section 1903(g)(1) of the Social Security Act because of an unsatisfactory or invalid showing made by the State with respect to a calendar quarter beginning on or after January 1, 1977, shall be determined under such section as amended by this section. Subparagraph (B) of paragraph (4) of section 1905 (g) of such Act, as added by this section, shall apply to any showing made by a State under such section with respect to a calendar quarter beginning on or after January 1, 1977.

PROTECTION OF PATIENT FUNDS

SEC. 21. (a) Section 1861(j) of the Social Security Act is amended by striking out "and" at the end of paragraph (13) and inserting immediately after such paragraph (13) the following new paragraph:

"(14) establishes and maintains a system that (A) assures a full and complete accounting of its patients' personal funds, and (B) includes the use of such separate account for such funds as will preclude any commingling of such funds with facility

funds or with the funds of any person other than another such patient; and".

(b) The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under the provisions of title XVIII, or under a State plan approved under the provisions of title XIX, of the Social Security Act, and those costs which are to be included in the reasonable cost or reasonable charge for extended care services as determined under the provisions of title XVIII, or for skilled nursing and intermediate care facility services as determined under the provisions of title XIX, of such Act.

(c)(1) The amendments made by subsection (a) shall be effective on the first day of the first calendar quarter which begins more than six months after the date of enactment of this Act.

(2) The Secretary of Health, Education, and Welfare shall issue the regulations required under subsection (b) within ninety days after the date of enactment of this Act.

PAYMENT FOR INSTITUTIONAL CARE BEYOND DATE DETERMINED MEDICALLY NECESSARY

SEC. 22. (a) Section 1158 of the Social Security Act is amended—

(1) by inserting "and subsection (d)" in subsection (a) after "section 1159"; and

(2) by adding after subsection (c) (as added by section 5(d)(1) of this Act) the following new subsection:

"(d) In any case in which a Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services or posthospital extended care services, payment may be made for such services furnished before the second day after the day on which the provider received notice of such disapproval, or, if such organization determines that more time is required in order to arrange postdischarge care, payment may be made for such services furnished before the fourth day after the day on which the provider received notice of such disapproval.".

(b) The amendments made by subsection (a) shall be effective on the date of enactment of this Act.

PAYMENT UNDER THE MEDICARE PROGRAM FOR CERTAIN HOSPITAL SERVICES PROVIDED IN VETERANS' ADMINISTRATION HOSPITALS

SEC. 23. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital, or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though the hospital is a Federal provider of services if (A) the individual was not entitled to have the services furnished to him free of charge by the hospital, (B) the individual was admitted to the hospital in the reasonable belief on the part of the admitting authorities that the individual was a person who was entitled to have the services furnished to him free of charge, (C) the authorities of the hospital, in admitting the individual, and the individual, acted in good faith, and (D) the services were furnished during a period ending with the close of the day on which the authorities operating the hospital first became aware of the fact that the individual was not entitled to have the services furnished to him by the hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove the individual from the hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf of such individual.".

(c) The amendments made by this section shall apply to inpatient hospital services furnished on and after July 1, 1974.

And the Senate agree to the same.

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
OTIS G. PIKE,
CHARLES A. VANIK,
HARLEY O. STAGGERS,
PAUL G. ROGERS,
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Managers on the Part of the House.

RUSSELL LONG,
H. E. TALMADGE,
ABE RIBICOFF,
CARL T. CURTIS,
BOB DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. REQUIREMENTS FOR TIMELY PAYMENT BY STATE MEDICAID AGENCIES SECTION 2

House bill.—The House bill requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 90 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 60 days. The State would not be cited for noncompliance if the Secretary found the State was acting in good faith to achieve this goal. The provision is effective for calendar quarters beginning on or after January 1, 1978.

Senate amendment.—The Senate amendment follows the House bill, except that it requires that 95 percent of claims be paid within 30 days, and 99 percent within 90 days. The provision is effective for calendar quarters beginning on or after July 1, 1978.

Conference agreement.—The conference agreement requires States to make provision in their State medicaid plan for claims payment procedures which assure that 90 percent of the bills submitted by eligible noninstitutionally based providers will be reimbursed within 30 days, and 99 percent within 90 days. This standard would be applied to clean claims, that is, those not requiring further substantiation.

The conference agreement accepts the Senate amendment regarding the effective date.

2. INCENTIVE PAYMENT FOR STATE PROGRAMS OF EDUCATIONAL AND TECHNICAL ASSISTANCE TO EXPEDITE FILING AND PAYMENT OF CLAIMS (SECTION 2)

House bill.—The House bill authorizes 90 percent Federal matching from January 1978 through September 1980 for the costs attributable to the conduct of educational and technical assistance programs for health care practitioners which the Secretary determines are likely to expedite the filing and payment of claims, with a maximum on total quarterly Federal payments under the provision of $1.25 million.

Senate amendment.—The Senate amendment contains no comparable provision.

Conference agreement.—The conference agreement accepts the Senate position.

3. PROGRAMS SUBJECT TO DISCLOSURE (SECTION 3)

House bill.—The House bill requires disclosure of ownership information for specified entities in medicare (title XVIII), medicaid (title XIX), and the maternal and child health (title V) programs.

Senate amendment.—The Senate amendment is the same as House bill, but adds the social service grant program (title XX) to the list of programs requiring disclosure.

Conference agreement.—The conference agreement accepts the Senate amendment.

4. ENTITIES SUBJECT TO DISCLOSURE (SECTION 3)

House bill.—The House bill contains no provision relating to health maintenance organizations.

Senate amendment.—The Senate amendment adds health maintenance organizations to the list of entities required to disclose ownership under the bill.

Conference agreement.—The conference agreement accepts the Senate amendment.

5. SUBCONTRACTOR OWNERSHIP DISCLOSURE (SECTION 3)

House bill.—The House bill requires a provider of services (hospital, skilled nursing facility, or home health agency) to disclose information relating to the identity of subcontractors that are 5 percent or more owned by the provider.

Senate amendment.—The Senate amendment extends the subcontractor ownership disclosure of the House bill to include all other disclosing entities under the bill (i.e., other medicaid providers, intermediaries, carriers, HMO's, and title XX (social services) providers).

Conference agreement.—The conference agreement accepts the Senate amendment.

6. MEDICAID DISCLOSURE EFFECTIVE DATE (SECTION 3)

House bill.—The House bill provides for an effective date of October 1, 1977, for medicaid disclosure provisions.

Senate amendment.—The Senate amendment changes the effective date to January 1, 1978.

Conference agreement.—The conference agreement accepts the Senate amendment.

7. FORCED CONTRIBUTIONS FOR ADMISSION TO FACILITY (SECTION 4)

House bill.—The House bill defines as a felony instances where contributions are required as a condition of entry or continued stay at a hospital, skilled nursing facility, or intermediate care facility for patients whose care is financed in whole or in part by medicaid.

Senate amendment.—The Senate amendment deletes the provision.

Conference agreement.—The conference agreement accepts the House position.

8. EMPLOYMENT PAYMENT EXCEPTION (SECTION 4)

House bill.—The House bill provides, in defining kickbacks in the penalty statutes, that remuneration that is an amount paid "by an employer to an employee for employment in the provision of covered items or services" is exempt.

Senate amendment.—The Senate amendment is the same as House bill, but adds clarifying language that the employee must have a "bona fide" employment relationship with the employer.

Conference agreement.—The conference agreement accepts the Senate amendment.

9. MEDICARE ASSIGNMENT MISDEMEANOR (SECTION 4)

House bill.—The House contains no provision.

Senate amendment.—The Senate amendment provides that it would be a misdemeanor for a physician to willfully and knowingly violate his agreement not to charge a medicare patient more than the coinsurance and any unmet deductible amount when he agrees to accept assignment of the patient's right to receive payment.

Conference agreement.—The conference agreement accepts the Senate amendment with a modification to make clear that this misdemeanor is to apply only to situations where an individual has knowingly, willfully and repeatedly violated medicare assignment agreements.

10. PRO REIMBURSEMENT ARRANGEMENT (SECTION 5(C))

House bill. The House bill provides that arrangements with PSRO's for reimbursement of the cost of review activities are to be made in a manner similar to that provided for medicare intermediaries.

Senate amendment.—The Senate amendment includes the provision of the House bill and further provides that arrangements with PSRO's for reimbursement of the cost of review activities may be in the form of an assistance agreement.

Conference agreement.—The conference agreement accepts the Senate amendment.

11. PSRO REVIEW METHODOLOGIES (SECTION 5(C))

House bill.—The House bill requires the development of ambulatory care review methodologies by the Secretary for use by PSRO's.

Senate amendment.—The Senate amendment deletes the requirement in the House bill.

Conference agreement.—The conference agreement accepts the Senate amendment.

12. PSRO AMBULATORY CARE REVIEW SECTION 5(C))

House bill.—The House bill requires each PSRO to undertake ambulatory care review not later than 2 years after it has achieved operational status.

Senate amendment.—The Senate amendment is the same as the House bill, but adds clarifying language to permit a qualified PSRO to undertake ambulatory care review at an earlier date where the PSRO requests authority to conduct such review and is found capable to do so by the Secretary, but in no case could the Secretary require a PSRO to conduct such reviews before it achieves operational status.

Conference agreement.—The conference agreement accepts the Senate amendment.

13. STANDARD STATE MUST MEET TO DEMONSTRATE UNSATISFACTORY PSRO PERFORMANCE, AND REQUIRED SECRETARIAL ACTION (SECTION 5(d))

House bill.—The House bill provides that when a State agency monitoring the performance of a PSRO submits reasonable documentation that the PSRO decisions have caused an unreasonable and detrimental impact on *either* total State medicaid expenditures *or* on the quality of care, the Secretary shall temporarily suspend the PSRO's binding review authority for medicaid within 30 days, pending Secretarial reevaluation of the PSRO performance.

Senate amendment.—The Senate amendment provides that when a State agency monitoring the performance of a PSRO submits reasonable documentation that the PSRO decisions have caused an unreasonable and detrimental impact on total State medicaid expenditures *and* on the quality of care, the Secretary shall make a determination of the reasonableness of the State allegation within 30 days; if he determines that the PSRO decisions have had an unreasonable and detrimental impact on expenditures and quality, he may suspend the PSRO's binding authority for medicaid. The Senate amendment further provides that such action by the Secretary is final and not subject to judicial review.

Conference agreement.—The conference agreement provides that when a State agency monitoring the performance of a PSRO submits reasonable documentation that the PSRO decisions have caused an unreasonable and detrimental impact on total State medicaid expenditures and on the appropriateness of care received, the Secretary shall make a determination of the reasonableness of the State allegation within 30 days. If he determines that the State allegation is correct, he must suspend the PSRO's binding authority under medicaid immediately, unless he determines corrective action has already been taken. The suspension is effective pending Secretarial reevaluation of the PSRO's performance and reinstatement of the PSRO's authority. The conferees would note that a demonstration that PSRO decisions have had a detrimental impact on medicaid program costs would not be grounds for removing the binding authority of a PSRO under title XIX unless it was also demonstrated that this occurred because the PSRO was approving inappropriate care or services with such regularity that program costs were significantly affected.

The conference agreement further provides that such action by the Secretary is final and not subject to judicial review.

14. PSRO DELEGATION REVIEW RESPONSIBILITY TO SKILLED NURSING FACILITY THAT IS PART OF A HOSPITAL (SECTION 5(d))

House bill.—The House bill provides that a PSRO may not delegate review responsibilities to the review committee of a skilled nursing facility.

Senate amendment.—The Senate amendment provides that a PSRO may not delegate review responsibilities to the review committee of a skilled nursing facility, unless that facility (or an intermediate care facility) is part of a hospital where the PSRO is utilizing the services of the hospital's review committee.

Conference agreement.—The conference agreement generally follows the Senate amendment with a modification clarifying that a PSRO may not delegate review responsibilities to a skilled nursing facility or an intermediate care facility unless that facility is part of a hospital to which the PSRO has delegated review.

15. PRIMACY FOR REVIEW OF SERVICES IN INTERMEDIATE CARE FACILITY (SECTION 5(d))

House bill.—The House bill provides that a PSRO has responsibility for review of services in intermediate care facilities and in public institutions for the mentally retarded only if the Secretary finds that the State is not performing effective review of the quality and necessity of services in these facilities.

Senate amendment.—The Senate amendment follows the House provision, except it provides that a PSRO will perform review in an intermediate care facility where that facility is also a skilled nursing facility.

Conference agreement.—The conference agreement provides that a PSRO has responsibility for review of services in intermediate care facilities and in public institutions for the mentally retarded only if (i) the Secretary finds that the State is not performing effective review of the quality and necessity of services in these facilities, or (ii) the State requests that the PSRO be responsible for the review and waives its right to be the primary reviewer of intermediate care facility services. Additionally, in the case of facilities which provide both skilled nursing facility services and intermediate care facility services, if the Secretary finds that review of the skilled nursing facility services by the PSRO, and of the intermediate care facility services by the State, would be inefficient, he may assign review responsibility for all patients in the facility to the PSRO. The conferees understand that the Secretary may determine that the arrangement is sufficiently inefficient to justify assignment of review rights to the PSRO in any single joint facility, or in classes of facilities, such as those facilities where the proportion of intermediate care facility patients is such that separate review would pose an unjustified administrative burden.

16. NATIONAL COUNCIL MEMBERSHIP (SECTION 5(f))

House bill.—The House bill provides for staggered terms for members of the National Professional Standards Review Council effective with appointments made in 1979.

Senate amendment.—The Senate amendment is the same as the House bill, except that the effective date is changed to 1977.

Conference agreement.—The conference agreement provides for staggered terms for members of the Council beginning with any terms which, under existing law, expire on or after January 1, 1978.

17. ANNUAL REPORT ON PSRO PROGRAM (SECTION 5(k))

House bill.—The House bill requires the Secretary to submit an annual report to the Congress on the administration and cost of the PSRO program.

Senate amendment.—The Senate amendment is the same as the House bill, except that it modifies the description of specific data required to be included in the report with respect to medically unnecessary services and ambulatory care review methodologies.

Conference agreement.—The conference agreement accepts the Senate amendment.

18. PHYSICIAN REVIEW (SECTION 5(p))

House bill.—There is no provision in the House bill.

Senate amendment.—The Senate amendment deletes the restriction in present law which prevents physicians with staff privileges in a hospital from being responsible for review of services in the facility if review responsibilities have not been delegated to the hospital by the PSRO.

Conference agreement.—The conference agreement accepts the Senate amendment.

19. SCOPE OF GAO SUBPENA POWER (SECTION 6)

House bill.—The House bill authorizes the Comptroller General (GAO) to issue subpenas in his work on Social Security Act health programs.

Senate amendment.—The Senate amendment authorizes the subpenas to be issued in connection with GAO work on any Social Security Act program.

Conference agreement.—The conference agreement accepts the Senate amendment.

20. GAO DISCLOSURE OF INFORMATION (SECTION 6)

House bill.—The House bill contains provisions relating to the disclosure by the GAO of medical records information in its possession.

Senate amendment.—The Senate amendment deletes this provision.

Conference amendment.—The conference agreement accepts the Senate amendment.

21. COURT ACCESS TO GAO INFORMATION (SECTION 6)

House bill.—The House bill contains a provision to exempt from subpena or discovery proceedings in a civil action personal medical records in the possession of the General Accounting Office.

Senate amendment.—The Senate amendment deletes this provision.

Conference agreement.—The conference agreement accepts the House provision.

22. EFFECTIVE DATE FOR SUSPENSION OF MEDICAID PROVIDERS (SECTION 7)

House bill.—In the House bill the effective date for the suspension provision under medicaid is October 1, 1977.

Senate amendment.—In the Senate amendment, the effective date is January 1, 1978.

Conference agreement.—The conference agreement accepts the Senate amendment.

23. ASSIGNMENT OF RIGHTS TO MEDICAL SUPPORT AS CONDITION OF MEDICAID ELIGIBILITY; ESTABLISHMENT OF STATE PROGRAM TO COLLECT SUPPORT (SECTION 11)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment adds a provision to establish a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State. An incentive in the form of a federal payment of 15 percent of amounts collected (in place of amounts which would otherwise be provided for medical assistance) would be provided for localities to make collections for States, and for States to secure collections in behalf of other States.

Conference agreement.—The conference agreement accepts the Senate provision with an amendment to clarify that the State agency designated to administer the State plan for child support and establishment of paternity under part D of title IV of the Social Security Act may be used for the enforcement of rights due from or through an absent parent to pay for medical care. The conferees intend that the title IV part D agency should be used to the maximum extent feasible. It is not intended that title XIX agencies establish new and separate systems for collection and enforcement of support from absent parents for payment for medical care apart from child support enforcement programs which are already established in States under the provisions of part D of title IV, since doing so would foster duplication of effort, unnecessary expense, and administrative complexity. It is expected that the program established under this section will establish adequate procedures to safeguard information and assure that a timely and simple mechanism exists to reassign rights to medical support to the individual entitled to that support if the individual's eligibility for medical assistance under title XIX is terminated.

24. NOMINATION OF INTERMEDIARIES (SECTION 14)

House bill.—The House bill authorizes the Secretary, after applying appropriate standards and criteria, to assign providers to available intermediaries and to designate a regional or national intermediary for a class of providers where he determines that such actions will result in more effective and efficient administration of the program. In such cases, the Secretary must provide the intermediary an explanation of the reasons for his determination and opportunity for a hearing. Such determinations would be subject to judicial review.

Senate amendment.—The Senate amendment deletes this provision of the House bill and substitutes a provision under which the Secretary would be prohibited from refusing to enter into or renew an agreement with a provider-nominated intermediary solely because of the fact that such intermediary serves providers located only in a single State or that the provider could be served by a different intermediary which serves providers in more than one State.

Conference agreement.—The conference agreement accepts the House language with modification to clarify those areas for which the Secretary will have to establish standards, criteria and procedures to determine whether the Secretary should enter into, renew, or terminate an agreement with an intermediary and to determine when to assign or reassign providers to intermediaries. This clarification also incorporates that part of the Senate amendment that provides that any standards and criteria established should not have the effect of excluding an agency or organization from being an intermediary solely because it operates in one State.

The clarification added by the conferees requires that the Secretary develop standards, criteria and procedures to serve as a basis for determining what constitutes effective and efficient administration. These standards and criteria would be applied in addition to those that he will also establish for the purpose of evaluating an intermediary's performance with respect to all providers or specific providers. Because of the random distribution of providers to intermediaries, both in numbers and by type of institution, there can be intermediaries with high administrative costs, lengthy processing times or other difficulties in handling claims and audit functions through no fault of their own. The intent is to make clear that the Secretary in such instances would have authority to assign or reassign providers to achieve a distribution of providers that would improve the efficiency and effectiveness of the medicare program as defined in criteria and standards.

25. AMOUNT OF INCENTIVES TO ESTABLISH STATE MEDICAID FRAUD UNITS (SECTION 17)

House bill.—The House bill provides incentives for the establishment and operation of State medicaid fraud units through the provision for 90 percent Federal funding for the period October 1, 1977, through September 30, 1980, subject to an annual maximum payment of 1 percent of medicaid expenditures in a State, or $500,000, whichever is greater.

Senate amendment.—The Senate amendment follows the House bill, except that it provides for 100 percent Federal funding during fiscal year 1978, 90 percent during fiscal year 1979, and 75 percent during fiscal year 1980, subject to the same maximum amounts in the House bill.

Conference agreement.—The conference agreement accepts the House provision with respect to the level of Federal funding. These Federal monies are to be paid directly to the qualifying State medicaid anti-fraud agency.

26. REQUIREMENT FOR LOCATION OF FRAUD UNIT (SECTION 17)

House bill.—The House bill provides that to be eligible for increased Federal matching payments, a fraud unit must be separate from the single State agency administering medicaid. In addition it must be (a) in an agency with statewide prosecuting authority, or (b) if the constitution prohibits statewide prosecuting authority, an agency with satisfactory procedures to assure prosecution by the appropriate authorities.

Senate amendment.—The Senate amendment provides that to be eligible for increased Federal matching, the unit must be separate from the medicaid operating agency, or (if different) the single State agency administering medicaid.

In addition, the unit must be: (a) in an agency with statewide prosecuting authority, or (b) if the constitution prohibits statewide prosecuting authority, an agency with satisfactory procedures to assure prosecution, or (c) an entity with formal procedures and a working relationship, satisfactory to the Secretary, for coordination with the State attorney general's office.

Conference agreement.—The conference agreement deletes the Senate amendment regarding the placement of the unit relative to the State medicaid agency. The conferees note that the intent of the Senate amendment was the same as the House provision, and the conference action represents only a technical change.

The conference agreement includes the Senate amendment permitting increased matching for an entity with formal procedures and a working relationship, satisfactory to the Secretary, for coordination with the State attorney general's office.

27. DEMONSTRATION AUTHORITY FOR IMPROVED METHODS TO INVESTIGATE AND PROSECUTE FRAUD IN MEDICARE AND MEDICAID (SECTION 17)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment authorizes experiments and demonstrations to develop or demonstrate improved methods for investigation and prosecution of fraud in medicare and medicaid.

Conference agreement.—The conference agreement accepts the Senate amendment.

28. UNIFORM REPORTING (SECTION 19)

House bill.—The House bill requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data. This reporting system would be mandated for use by medicare and medicaid providers and such use would be phased in by type of provider.

Senate amendment.—The Senate amendment is the same as the House bill, with the additional requirement that hospitals shall use the chart of accounts, definitions, principles and statistics prescribed by the Secretary to reach a uniform reconciliation of financial and statistical data for reports to the Secretary.

Conference agreement.—The conference agreement accepts the Senate amendment. It is the intent of the conferees in agreeing to the Senate amendment that the reconciliation of data not be required on a day-to-day basis but only at such times as the uniform reports are required, and only for purposes of such reports.

29. CONDITIONS FOR WAIVER OF PAST PENALTIES FOR FAILURE TO PERFORM REQUIRED REVIEW OF INSTITUTIONAL CARE (SECTION 20)

House bill.—The House bill allows States additional time to meet the requirements of the current law concerning review of care delivered in long-term care institutions, by providing that if a State is in compliance for the calendar quarter ending December 31, 1977, the Secretary shall waive all previously assessed reductions which would otherwise be imposed on those States that failed to fulfill the requirements of the law during previous periods.

Senate amendment.—The Senate amendment provides for unconditional waiver of all reductions in medicaid payments due to an unsatisfactory or invalid showing made with respect to a calendar quarter beginning prior to January 1, 1978.

Conference agreement.—The conference agreement provides that all penalties assessed against States for unsatisfactory or invalid showings made with respect to calendar quarters beginning prior to January 1, 1977, shall be waived unconditionally. It further provides that if a State is in compliance with the requirements of the law for the calendar quarter ending December 31, 1977, the Secretary shall waive all penalties for unsatisfactory or invalid showings for quarters occurring in 1977; if the State is not in compliance on December 31 and past penalties are imposed, the penalty will be determined by taking into account the proportion of medicaid patients in homes that were not reviewed to all medicaid patients in homes to be reviewed.

30. FORMULA FOR REDUCTION IN FEDERAL MATCHING FOR FAILURE TO CARRY OUT REVIEW (SECTION 20)

House bill.—The House bill contains no provision. Therefore, it retains the current law formula for a one-third reduction of Federal matching funds for days of care beyond 60 in a hospital, a skilled nursing facility, or an intermediate care facility, and beyond 90 in a mental hospital, if adequate review is not carried out in accordance with the requirements of the law.

Senate amendment.—The Senate amendment adjusts the reduction by the proportion of patients not reviewed to total patients in facilities to be reviewed.

Conference agreement.—The conference agreement accepts the Senate amendment, with clarification that (i) it is effective for quarters beginning after December 31, 1976, and (ii) that the reduction reflects the proportion of medicaid patients in facilities for which there is an unsatisfactory or invalid showing to total medicaid patients in facilities to be reviewed.

31. CONDITIONS FOR WAIVER OF REDUCTIONS FOR FAILURE TO PERFORM REVIEW (SECTION 20)

House bill.—The House bill specifies that if a State makes a good faith attempt to perform reviews of all institutions, and actually reviews all large institutions and 98 percent of all other institutions, it will be considered in full compliance with the requirements of the law.

Senate amendment.—The Senate amendment provides that the Secretary may waive any reduction in the Federal matching percentage if he determines that the State's noncompliance is technical or due to circumstances beyond control of the State.

Conference agreement.—The conference agreement provides that if a State makes a good faith attempt to perform reviews of all institutions, and actually reviews all large institutions and 98 percent of all other institutions (or fails to meet this standard only for technical reasons), it will be considered in full compliance with the requirements of the law. The conferees stress that the intent of the law that *all* facilities be reviewed is not changed by this provision. If a facility is not reviewed, there will be a reduction in matching unless the Secretary finds there was a good faith attempt to review the institution, and there is no evidence that any institution, or kind or type of institution, is deliberately not reviewed.

32. COMPOSITION OF MEDICAL REVIEW TEAMS (SECTION 20)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment provides that medical review teams reviewing care in skilled nursing facilities may be composed of physicians *or* registered nurses (current law requires that physicians be on the team).

Conference agreement.—The conference agreement accepts the Senate amendment.

33. PROTECTION OF PATIENT FUNDS (SECTION 21, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment requires that, as a condition for participation in the medicare and medicaid programs, a skilled nursing facility must establish and maintain a system to assure the proper accounting of personal funds. Such system must provide for separate and discreet accounting for each patient with a complete accounting of income and expenditures.

Conference agreement.—The conference agreement accepts the Senate amendment.

34. GRACE PERIOD FOR POST DISCHARGE CARE (SECTION 22, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment provides that when a PSRO determines that further institutional care is not medically necessary, payment may be made for only one additional day, except that a PSRO may authorize up to 3 additional days on a case-by-case basis where additional time is needed to arrange for necessary post-discharge care.

Conference agreement.—The conference agreement accepts the Senate amendment.

35. PROSECUTION OF CIVIL FRAUD BY INSPECTOR GENERAL (SECTION 23, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment authorizes prosecution of civil fraud cases under the Social Security Act health care programs by the Inspector General of HEW where U.S. attorneys have not initiated proceedings within 6 months of a formal referral of a case.

Conference agreement.—The conference agreement does not include the prosecution authority proposed by the Senate amendment but does provide that in addition to the requirements imposed on the Inspector General of the Department of Health, Education, and Welfare by section 4(c) of the bill, the Inspector General shall annually include in a report to the Congress information related to the Social Security Act cases referred by the Department of Health, Education, and Welfare to the Department of Justice for prosecution. This information shall include for each case a description of the number of cases referred (without individual identifiers) the types of illegal activity involved, and the amount in controversy. The Attorney General shall be required to respond to the annual report of the Inspector General by specifying the date of referral, district to which referred, and disposition of each case referred by the Department of Health, Education, and Welfare as specified in the report of the Inspector General to the Congress.

36. UTILIZATION REVIEW DEMONSTRATION PROJECTS (SECTION 24, AS ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment directs the Secretary to establish demonstration projects to evaluate the effectiveness of PSRO reviews compared to alternative State review methods. It authorizes establishment of such projects in States which had operating onsite State evaluation systems in place on August 5, 1977, and which make application to the Secretary prior to April 1, 1978. It specifies that demonstration projects be conducted in PSRO areas which are representative of a State's medicaid population and that they be conducted in areas which comprise a significant proportion of medicaid patient days.

Conference agreement.—The conference agreement accepts the House position.

37. PAYMENT FOR CERTAIN HOSPITAL SERVICES PROVIDED IN VETERANS' ADMINISTRATION HOSPITALS (SECTION 25, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment authorizes, under certain circumstances, medicare reimbursement for care provided to a nonveteran medicare beneficiary in a Veterans' Administration hospital where the care was provided on the mistaken (but good faith) assumption that the beneficiary was an eligible veteran. The provision would be applicable to care furnished on or after July 1, 1974.

Conference agreement.—The conference agreement accepts the Senate amendment.

38. HOSPITAL INSURANCE FOR CERTAIN INDIVIDUALS, AGE 60 THROUGH 64 (SECTION 26, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment would make medicare protection (parts A and B) available on an optional basis for spouses aged 60–64 of medicare beneficiaries, others aged 60–64 who are entitled to retirement or other dependents' benefits under social security, and disability beneficiaries aged 60–64 not otherwise eligible for medicare. Persons who elect to enroll under this provision would pay the cost of such protection.

Conference agreement.—The conference agreement accepts the House position.

39. TREATMENT OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS FOR PURPOSES OF THE INTERNAL REVENUE CODE (SECTION 27, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment deems PSRO's, for purposes of determining tax-exempt status under section 501 (c)(3) of the Internal Revenue Code, to be organizations organized and operated exclusively for charitable purposes.

Conference agreement.—The conference agreement accepts the House position.

40. POSTPONEMENT OF REQUIREMENT THAT STATE MEDICAID PROGRAMS PAY SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES ON A BASIS REASONABLY RELATED TO COST (SECTION 28, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment postpones the requirement for medicaid payments on a basis reasonably related to cost until January 1979, and provides protection against retroactive claims for failure to meet the current law requirements.

Conference agreement.—The conference agreement accepts the House position.

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Managers on the Part of the House.

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ABE RIBICOFF,
CARL T. CURTIS,
BOB DOLE,

Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT BY MIDNIGHT TOMORROW

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the report of the Committee on Ways and Means on the bill, H.R. 9346, the Social Security Financing Amendments of 1977, as amended, may be filed by midnight, Wednesday, October 12, 1977, along with any separate or minority views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

Mr. BREAUX. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4297, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Louisiana (Mr. BREAUX) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, the bill under consideration today will authorize the appropriation of funds to programs which address a problem of national importance.

According to the Environmental Protection Agency's annual report on ocean dumping, 2.7 million tons of industrial wastes and 5.3 million tons of sewage sludge were dumped into the waters off the coasts of the United States in 1976. Of the total amount of materials dumped into the oceans, over 90 percent or 94 million tons was dredge spoil.

Ocean dumping adversely effects the marine environment in and around areas where the dumping occurs. The site where the city of New York dumps its sewage sludge, which is located 12 miles out from the mouth of the Hudson River, has been characterized as a marine desert. This general region, known as the New York Bight, has been an area of intense study by the National Oceanic and Atmospheric Administration.

The combined effects of raw sewage, land runoff and industrial discharges flowing from the Hudson River, air pollution fallout, and ocean dumping have severely stressed the ecological systems of the New York Bight. I might add, Mr. Chairman, that ocean pollution and especially ocean dumping has prompted the Food and Drug Administration to close one-fifth of this Nation's shell fishing beds.

In 1972, the Congress passed the Marine Protection, Research, and Sanctuaries Act. It is the expressed intent of this Act, commonly known as the Ocean Dumping Act, to prohibit or strictly limit the dumping into ocean waters of any material which would adversely affect the marine environment.

H.R. 4297 would authorize 4.8 million dollars to EPA to carry out its responsibilities under title I of the act. This title requires EPA to establish an ocean dumping permit program, designed to bring under control and eliminate the large quantities of harmful industrial wastes, municipal sewage sludge, and dredge material being dumped into the waters off our coasts each year. In addition, title I gives the Army Corps of Engineers authority over dredged material dumping and authorizes the U.S. Coast Guard to provide surveillance over all ocean dumping activities.

The moneys authorized by H.R. 4297 will enable EPA to continue the work on gathering baseline data on existing ocean dumpsites. Such data provides the marine scientists with information as to the original conditions at the dumpsites so that they may measure and monitor the possible degradation of the marine environment in and around the dumpsite.

In addition, EPA requires funds to assess the environmental impact of materials before they are dumped into the ocean. These include tests to determine concentrations of toxic compounds, pathogens, and carcinogens. Such information is employed in the decision as to whether or not a dumping permit should be issued by EPA. Since the permit program has been in effect, EPA has phased out or denied permits to 248 former or potential ocean dumpers.

As a condition to receiving a permit, the EPA requires all sewage sludge dumpers and most industrial waste dumpers to adopt and implement land-based alternatives to ocean dumping. To insure that these phaseout schedules are met, EPA must closely monitor the progress of this group of approximately 70 interim permit holders.

On June 15, the Subcommittees on Oceanography and Fisheries and Wildlife Conservation and the Environment convened hearings to investigate the problems associated with phasing out, as soon as possible, those municipalities which are ocean dumping sewage sludge. We were pleased to learn that one sewage sludge dumper, Camden, N.J., is developing a composting alternative similar to the system currently employed by the Washington, D.C., area. According to the mayor of Camden, that city will completely phase out ocean dumping by the end of this year.

In additional oversight hearings held on September 20, the subcommittees learned that neither New York City nor Philadelphia have decided upon the alternative they will have to implement by December 31, 1981. This 1981 deadline was established by the EPA in rules and regulations published in January of this year.

Mr. Chairman, the bill under consideration includes an amendment which would prohibit the EPA from issuing any permit authorizing the ocean dumping of harmful sewage sludge after December 31, 1981. The intent of this amendment is to provide added assurance that the municipalities currently engaged in this activity will phase out their sewage sludge dumping by December 31, 1981. This amendment is consistent with EPA's regulations and it is supported by the administration.

Title II of the Ocean Dumping Act directs the Secretary of Commerce through the National Oceanic and Atmospheric Administration to monitor and research the effects of ocean dumping, to investigate the long-range effects of pollution, overfishing, and man-induced changes to ocean ecosystems, and to research alternatives to ocean dumping. H.R. 4297 would authorize $6 million to the Department of Commerce for title II.

There are currently 11 active nondredged material dumpsites and over 120 dredged material dumpsites located off the coasts of the United States. To date, monitoring surveys have been conducted on 5 of the 11 nondredged material dumpsites. The monitoring of dumpsites is an expensive operation. According to EPA, the cost of one monitoring cruise alone is on the order of $200,000 to $400,000. A complete baseline survey requires anywhere from two to four such cruises. The monitoring of one dumpsite alone requires at least two such cruises a year.

I feel the authorization levels included in H.R. 4297 provide the opportunity for NOAA to initiate a long overdue ocean pollution research program. In addition, H.R. 4297 will provide a funding level that will allow EPA and NOAA to more adequately monitor and study ocean dumping activities.

Finally, H.R. 4297 authorizes $500,000 for the Department of Commerce to designate and regulate areas of the oceans as marine sanctuaries. Recently this program has received special attention by President Carter. In his environmental message delivered on May 23, 1977, President Carter made specific reference to the marine sanctuaries program mandated under title III and its potential as a means to protect areas of the Continental Shelf against resource development.

The Marine Protection, Research, and Sanctuaries Act of 1972, is one of a myriad of laws passed over the last decade intended to protect our environment. I feel that during the next decade, the collective vigilance of those of us concerned with oceanic matters will be required to ensure the protection of the marine environment. As land, air, and fresh-water-based waste disposal and pollution activities become increasingly more restrictive, it is important that the oceans be afforded comparable protection.

H.R. 4297 will help to accomplish this important national goal and I urge my colleagues to support this bill.

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4297 would authorize appropriations for fiscal year 1978 to carry out programs under titles I, II, and III of the Marine Protection, Research, and Sanctuaries Act of 1972. This act, commonly referred to as the Ocean Dumping Act, establishes regulatory control over the dumping of certain types of material into U.S. waters, and specifically prohibits the dumping of materials into waters which are harmful to the marine environment.

Title I of the act gives EPA primary regulatory authority in conjunction with the Corps of Engineers and the Coast Guard, over title I activities including the establishment of permit categories, the designation of sites and times of dumping, and the assessment of alternative means of waste disposal other than ocean dumping. We feel that this ongoing assessment of alternatives is of critical importance in order to: First, continually evaluate the overall effectiveness of new waste disposal technologies; and second, to implement these technologies in an efficient and timely manner. For title I programs in fiscal year 1978, H.R. 4297 would authorize appropriations of $4.8 million.

Title II of the act directs the Secretary of Commerce in cooperation with EPA to develop a comprehensive program which would include research and monitoring of the effects of ocean dumping and other man-induced changes in the marine ecosystem. This research activity is essential if we are to begin to understand the long-term effects of man's activities on the entire ocean system. This research, including studies of biological, chemical, and physical effects of ocean dumping and marine pollution generally, will provide more understanding regarding the overall waste-assimilative capacity of the marine environment. This information can aid us in making more sound decisions regarding the effectiveness of one form of waste disposal as compared to another form in terms of both environmental protection and economic efficiency. For title II, H.R. 4297 would authorize appropriations of $6 million for fiscal year 1978.

Title III of the Ocean Dumping Act directs the Secretary of Commerce to designate certain areas of the marine environment as sanctuaries, and issue regulations in order to preserve certain features of a particular area. H.R. 4297 would authorize appropriations for this portion of the act at a level of $0.5 million.

Finally, the bill was amended in our committee to require that all ocean dumping of sewage sludge which may unreasonably degrade human health and the marine environment to cease by December 31, 1981. The reason why the committee agreed to this amendment was our loss of confidence in EPA's ability to compel certain municipalities to adopt environmentally safe land-based alternatives to ocean dumping in the absence of a statutorily mandated termination date.

Mr. Chairman, we feel that this is an important authorization bill and therefore I strongly urge my colleagues to act favorably on H.R. 4297.

Mr. WYDLER. Mr. Chairman, those of us who live in coastal areas which have already been heavily impacted by ocean dumping are constantly aware of the problems associated with this environmental outrage.

For years, tens of millions of tons of sewage sludge, contaminated fill material, and highly toxic industrial chemical wastes have been routinely dumped in the Bight of New York. The results have been catastrophic. A marine desert has formed in which virtually all valuable marine life has been destroyed.

Ocean dumping is the obvious source of marine biological disasters on an unprecedented scale. The adverse impacts of those who make their living on or near the water, as well as on those coastal communities which periodically suffer major disasters when wind and tide conditions bring pollutants ashore is almost beyond conception. Within the past 15 months, there have been several instances of such onshore conditions which have caused all of the beaches on Long Island to be closed due to the serious threat to the health and welfare of the general public. Each such incident represents an economic disaster to those who make their living from the water. It represents a societal disaster when an area as thickly populated as the Northeast loses a major portion of its recreational beaches for a period. And most importantly, it represents the very real danger of a major health disaster in which the lives of tens of thousands of people are at stake.

Mr. Chairman, when the Committee on Science and Technology considered this legislation, I offered an amendment to add $500,000 for the specific purpose of conducting studies in the New York Bight area. While the ocean dumping program is carried out in NOAA, I hope that most of these funds will be passed through to the Environmental Protection Agency Region II Office for both near- and long-term studies. I am also glad to report, Mr. Chairman, that my amendment received unanimous support from the members of the Committee on Science and Technology.

For those of us who must live with the problems of ocean pollution resulting from ocean dumping on a daily basis, the need for immediate action is of the highest priority. I fully support the legislation before the House and I urge my colleagues to vote for this bill. The work being done under this legislation is crucial to understanding the long-term fates and effects of pollutants dumped into the marine environment.

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 4297, and its December 31, 1981, ban on dumping of harmful ocean sludge. The provisions of the measure are both necessary and reasonable, and I urge my House colleagues to give the bill, as reported by the Merchant Marine and Fisheries Committee, their favorable consideration.

In 1972, the Congress, in the Marine Protection, Research, and Sanctuaries Act of that year, stated the policy that "unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems and economic potentialities." Title II of that act also specifies that the Secretary of Commerce conduct research and other studies "for the purpose of determining means of minimizing or ending all dumping of materials within 5 years of the effective date of this act."

These lofty goals were, and still are, highly commendable. But the simple truth of the matter is that Congress, and the Environmental Protection Agency, have somehow forgotten about that statement. In the period 1973–76, over 38 million tons of industrial waste, sewage sludge, and construction debris were dumped into the waters off the coast of the United States.

A few weeks ago, the city of Philadelphia received another interim permit which will allow them to dump 95 million pounds of sludge off the coast of my State. That works out to about 173 pounds of sludge per man, woman, and child in Delaware.

Even worse than the amount of the material dumped in the oceans is its toxic effect on the marine environment. For instance, toxic heavy metals—including mercury, cadmium, zinc, arsenic, copper, and lead—can kill marine life and can produce sublethal effects, including reduced species vitality or growth, reproductive failure, and interference with sensory functions. The toxic effect of such heavy metals in marine plants and animals may be persistant and cumulative over a long period. Shellfish are known to concentrate heavy metals in their tissues, which, if eaten, pose a health danger to man. Organisms feeding on marine plant life pass the pollutants on to higher organisms, and, as this process moves through the food chain, concentrations reach their highest levels in marine mammals, birds, and man.

In the 1972 Report on Marine Water Quality Criteria, the National Academy of Sciences suggested that there be no artificial additions of cadmium to the marine environment so that inputs of mercury, beyond those occurring naturally, should be eliminated. EPA itself has established regulations which set concentration levels of mercury and cadmium, which it believes if exceeded, would endanger the ocean environment. But, according to a GAO study released on January 21, 1977, all sewage sludge dumped into the ocean exceeded the EPA established levels for cadmium or mercury. The 26 municipal permit holders in the New York-northern New Jersey area were dumping sewage sludge containing either cadmium or mercury which exceeded by more than 100 times the established safety levels. Additionally, according to the permit issued to Philadelphia in 1975, that city's sludge also contained high concentrations of

these substances. The sludge from one or two Philadelphia treatment plants, whose sludge is dumped into the ocean, exceeded allowable cadmium and mercury safety levels by 175 and 5 times, respectively. At the other plant, the sludge was 54 times greater than safety levels for cadmium and 5 times more than for mercury.

Less than 1 year after the Philadelphia dump site was moved in 1973, clams and scallops taken from the areas surrounding the new site had accumulated high levels of cadmium. EPA has also reported that the sewage sludge dumped in 1974 in the Atlantic contained about 24 tons of cadmium and the sludge dumped in the New York Bight alone contained about 2 tons of mercury. As more and more of these materials are dumped, there is a greater and greater risk to marine life around dumping sites.

Mr. Chairman, the January GAO report goes on to list other adverse effects of ocean dumping of sewage sludge and industrial waste, including economic effects, oxygen depletion, and the biostimulation or accelerated fertilization of plant life such as algae. I ask unanimous consent that this portion be included at the conclusion of my remarks.

(See exhibit A.)

Mr. EVANS of Delaware. Mr. Chairman, the ocean is not a cesspool nor is it a garbage pit. The precious marine environment cannot tolerate, for an indefinite length of time, continued dumping of toxic sludge. Our ocean resources are a priceless source of esthetic, recreational, and economic benefits to millions of Americans on the east coast alone, yet the continuous dumping of sludge presents a clear and dangerous threat to that resource. The legislation before the House today seeks in a reasonable and responsible manner to deal with this environmental threat. The amendment offered by my good friend from New Jersey, Mr. HUGHES, requires that the Administrator of the Environmental Protection Agency suspend the dumping of sewage sludge into ocean waters as soon as possible and, in any event, by December 31, 1981. I must point out that this date—December 31, 1981—was taken directly from present EPA regulations, and in fact, legislation merely codifies the good intentions of the Environmental Protection Agency.

In fact, every permittee which now ocean dumps is under an implementation plan to phase out ocean dumping by not later than 1981. This includes the city of New York and the city of Philadelphia, which have indicated to our committee that they plan to be out of ocean dumping prior to the end of the December 31, 1981 deadline. I ask unanimous consent that a listing of the permittees on implementation plans phase out ocean dumping in EPA regions II and III which appear in the fifth annual report of the Environmental Protection Agency on Administration of Title I of the Marine Protection, Research and Sanctuaries Act of 1972 be included in the RECORD at the conclusion of my remarks.

(See exhibit B.)

Mr. EVANS of Delaware. In short, Mr. Chairman, the legislation before us today goes no further than existing EPA regulations. In fact, it goes no further than the stated objectives of the various cities and municipalities and other persons who are, in fact, dumping in the ocean right now. I simply cannot conceive of how the committee could be more reasonable on this matter.

H.R. 4297, gives municipalities over 4 years from today to finish phasing out their ocean dumping and find alternatives means of disposing of sewage sludge. This deadline would be implemented fully 9 years after the Congress stated the national policy required the ending of harmful ocean dumping, and almost 4 years after our stated goal in the 1972 act. For too long we have allowed municipalities and other persons to use the precious resources of the ocean as their own private garbage pit. The time has come for this Congress to end this wholesale abuse of our ocean resources. The bill before the House today offers a way to accomplish that goal without placing undue hardships on any municipality.

It is time to end ocean dumping once and for all. This legislation will do just that.

EXHIBIT A

APPENDIX II.—ADVERSE EFFECTS OF OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTES

We reviewed several studies concerning the ocean dumping of sewage sludge and industrial wastes. The studies were prepared by such organizations as the:

Council on Environmental Quality.

U.S. Army Corps of Engineers Coastal Engineering Research Center.

National Academy of Sciences.

National Oceanic and Atmopsheric Administration.

Most of the studies agreed that, although additional research was needed, ocean dumping does produce harmful effects to the marine environment. The following sections describe in more detail the adverse effects that may result from ocean dumping.

HEAVY METALS CONTAMINATION

Toxic heavy metals—including mercury, cadmium, zinc, arsenic, copper, and lead—can kill marine life and can produce sublethal effects, including reduced species vitality or growth, reproductive failure, and interference with sensory functions.

The toxic effects of heavy metals in marine plants and animals may be persistent and cumulative over a long period. Shellfish are known to concentrate heavy metals in their tissues which, if eaten, pose a health danger to man. Organisms feeding on marine plant life pass the pollutants on the higher organisms, and, as this process moves through the food chain, concentrations reach their highest levels in marine mammals, birds, and man.

In a 1972 report on marine water quality criteria, the National Academy of Sciences suggested that there should be no artificial additions of cadmium to the marine environment and that inputs of mercury, beyond those occurring naturally, should be eliminated. Other studies concerning heavy metals contamination have reported:

Concentrations of heavy metals in the New York Bight exceeded permissible limits. One study found concentrations of copper which indicated widespread copper contamination.

While 10 parts per million (ppm) of zinc in sea water is considered toxic to marine life, one analysis showed that an average of 2,459 ppm of zinc was contained in sewage sludge.

After less than 1 year of dumping at the present Philadelphia sewage sludge dump site, clams and scallops had accumulated high levels of four metals at one or more survey stations in the 1,000-square-mile area surrounding the dump site.

The abnormal concentrations of heavy metals, microorganisms, and organic materials were correlated with reduced species diversity and generally impoverished bottom-dwelling populations in the New York Bight dumping area. Very few juvenile rock crabs were present, and adult crabs found on the sludge beds were frequently diseased or moribund. Since the sewage sludge dump site in this area is in the path of crabs and lobsters which seasonally migrate from inshore to offshore waters, this study concluded that the wastes resulted in the mortality of migrating crustaceans.

Preliminary results of another study of the New York Bight dumping area showed that fish had higher than normal levels of heavy metals in their tissues. An analysis of fish for mercury showed that weakfish with fin-rot disease had the greatest amount of mercury in their tissues. Compared with weakfish collected off the Virginia coast, which had a average of 0.31 ppm in liver tissue, diseased fish from the New York Bight had an average of 0.54 ppm in the liver tissue.

HEALTH HAZARDS

Human health can be affected by direct contact with polluted water during recreational or other activities and also by consuming contaminated fish or shellfish.

Sewage sludge contains pathogens from human fecal matter. Pathogens are bacteria and viruses that cause diseases. Viruses are the smallest known pathogenic entities and are capable of causing a variety of severe, sometimes fatal, diseases. There is concern that, even in ocean waters, viruses may survive for a period of days to weeks following discharge.

The Council on Environmental Quality recommended in 1970 that the ocean dumping of sewage sludge with large quantities of pathogens be stopped as soon as possible. About 40 percent of all sludge dumped in the New York Bight is of this type.

Another health hazard involves the human ingestion of contaminated fish. One report indicated that many of the cases of infectious hepatitis in the United States in 1972 were traced to the eating of raw shellfish taken from sewage-polluted coastal regions.

ECONOMIC EFFECTS

The coastal areas are used for recreational purposes, including swimming, boating, and sport fishing, and for commercial fishing and shellfishing, each of which has economic value to the area served.

Ocean pollution has three broad effects detrimental to various segments of the fishing industry.

Closure of areas to fishing and shellfishing.

Prohibiting sale of products because of contamination.

Impact on mortality, growth, and reproduction rates of living marine resources.

A major loss to the economy is incurred when commercially valuable fish and other seafood species are killed directly or indirectly or rendered inedible by ocean pollution. The Council on Environmental Quality estimated that in 1969 the U.S. shellfish industry incurred losses of about $63 million, or about 20 percent of the value of the potential catch, due to pollution.

One difficulty in evaluating the economic impact of pollution is the attachment of dollar values to the social costs which are outside the usual market pricing system. Calculating the monetary value of ocean-related activities that may be affected by pollution in near-shore areas is difficult.

The New Jersey Department of Environmental Protection reported in 1974 that the pollution of the New York Bight poses a potential threat to the proposed Gateway National Recreation area. This area is expected to serve 15 million visitors each year.

OXYGEN DEPLETION

Oxygen is necessary for the support of marine and aquatic life and for the biological degradation of organic materials. The ocean dumping of heavy loads of organic wastes depletes the oxygen level of the water necessary to support life and alters the diversity of marine organisms. Oxygen deficiency in an area may be self-perpetuating. The accumulation of organic matter, sulfides, and some metals can act as a reservoir of future oxygen demand. Even after the disposal of the organic matter is stopped, it may be a long time before the area recovers.

Sewage sludge contains organic materials. In the New York Bight, where sewage sludge has been dumped for more than 50 years, the oxygen concentration as a percent of saturation declined from 61 percent in 1949 to 29 percent in 1969 and was as low as 10 percent in the center of the dump site. During late July through mid-October, the dissolved oxygen content of bottom waters over the sewage sludge dump site in the New York Bight is frequently less than two parts per million over several miles and is insufficient to support marine life. One study showed that sizable areas of the sea floor in the New York Bight, primarily near the sewage sludge dump site, were nearly devoid of marine life.

BIOSTIMULATION

Biostimulation is the accelerated fertilization of plant life, such as algae. This condition produces excessive quantities of plant life. When these plants die, oxygen necessary to support marine life is used in their decomposition. This process changes the nature of bottom sediments and, thus, whole communities of bottom-dwelling organisms.

Sewage sludge is rich in nutrients, such as phosphates and nitrates, that cause biostimulation. For example, areas which formerly supported surf clams in sand may become covered with algal mud, a situation to which the surf clams cannot adapt.

A report issued by the New Jersey Department of Environmental Protection in January 1974 indicated that biostimulation caused by the addition of too much of a necessary nutrient or of unnatural nutrients may have contributed to plankton blooms which have plagued some of our shore areas for several years. This has caused aesthetic and recreational problems as well as concern for the safety of marine life harvested for consumption.

TABLE 6.—*Permittees on implementation plans to phase out ocean dumping*

REGION II

Company, location, and phaseout date

American Cyanamid Co., Linden, NJ, 1980.

Middletown Sewer Authority, Belford, NJ, 1981.

Passaic Valley Sew. Comm., Newark, NJ, 1981.

Allied Chemical Corp., Morristown, NJ, 1981.

The Upjohn Manuf. Co., Barceloneta, PR, 1979.

E.I. duPont de Nemours, Linden, NJ, 1981.

City of Long Beach, Long Beach, NY, 1981.

Middlesex Co. Sew. Auth., Sayreville, NJ, 1981.

New York City, New York, NY, 1981.

Merck & Co., Inc., Rahway, NJ, 1981.

NL Industries, Inc., So. Amboy, NJ, 1981.

Modern Transportation Co., So. Kearney, NJ, 1978.

Bergen Co. Sew. Authority, Little Ferry, NJ, 1981.

Linden Roselle-Rahway Valley Sew. Auth., Linden, NJ, 1981.

Joint Meeting, Elizabeth, NJ, 1981.

Pfizer Pharmaceuticals, Inc., Barceloneta, PR, 1979.

Merck Sharp & Dohme, Barceloneta, PR, 1979.

County of Nassau, Mineola, NY, 1981.

County of Westchester, White Plains, NY, 1981.

West Long Beach Sew. Dist., Atlantic Beach, NY, 1981.

Oxochem Enterprises, Ponce, PR, 1977.

Puerto Rico Olefins Co, Ponce, PR, 1978.

Whippany Paper Board Co., Whippany, NJ, 1977.

IMC Chemicals Co., Newark, NJ, 1977.

City of Glen Cove, Glen Cove, NY, 1981.

Reheis Chemical Company, Berkeley Hts., NJ, 1978.

Briston Alpha Corporation, Barceloneta, PR, 1979.

S.B. Penick & Co., Montville, NJ, 1977.

Pfizer, Inc., Parsippany, NJ, 1977.

J.T. Baker Chemical Co., Phillipsburg, NJ, 1977.

Keuffel & Esser, Morristown, NJ, 1977.

Schering Corp., Manati, PR, 1979.

General Marine, Bayonne, NJ, 1978.

Crompton and Knowles, Reading, PA, 1979.

City of Camden, Camden, NJ, 1977.

E.I. duPont de Nemours, Edgemoore, DE, 1980.

Caldwell STP, Caldwell, NJ, 1978.

Kearny STP, Kearney, NJ, 1981.

Matawan Township MUA, Matawan Township, NJ, 1977.

Neptune Township STP, Neptune Township, NJ, 1978.

Ocean Grove STP, Ocean Grove, NJ, 1978.

West New York STP, West New York, NJ, 1981.

Wood-Ridge STP, Wood-Ridge, NJ, 1981.

Oakland STP, Oakland, NJ, 1978.

Pompton Lakes STP, Pompton Lakes, NJ, 1978.

Wanaque STP, Wanaque, NJ, 1980.

Wayne STP, Wayne, NJ, 1978.

Cedar Grove STP, Cedar Grove, NJ, 1981.

Chatham STP, Chatham, Township, NJ, 1981.

Fairfield STP, Fairfield, NJ, 1977.

Morris STP, Morris Township, NJ, 1981.

Pequannock, STP, Pequannock, NJ, 1980.

Roxbury STP, Roxbury Township, NJ, 1981.

Totowa STP, Totowa, NJ, 1981.

Lincoln Park STP, Lincoln Park, NJ, 1979.

Warren STP, Warren Township, NJ, 1977.

Washington MUA, Washington Township, NJ, 1981.

West Milford MUA, West Milford, NJ, 1977.

Spring Lake Heights STP, Spring Lake Heights, NJ, 1977.

Montville Township MUA, Montville, NJ, 1977.

Wynnewood S. U. Co., Freehold, NJ, 1977.

Asbury Park STP, Asbury Park, NJ, 1981.

Avon-by-the Sea STP, Avon-by-the-Sea, NJ, 1977.

Belmar STP, Belmar, NJ, 1977.

Atlantic Highlands STP, Atlantic Highlands, NJ, 1981.

West Paterson STP, West Paterson, NJ, 1980.

Passaic Township STP, Passaic Township, NJ, 1981.

Washington Township MUA, Washington Township, NJ, 1981.

Northeast Monmouth County Region Sewerage Auth., Monmouth Beach, NJ, 1981.

REGION III

City of Philadelphia, Philadelphia, PA, 1981.

Mr. BROWN of California. Mr. Chairman, the Committee on Science and Technology received a sequential referral of this bill because of our jurisdiction over environmental research and development. The Committee on Science and Technology has historically been deeply concerned with research and development generally; environmental research and development on ocean-related topics is of special concern, including research on both short-term and long-term effects of ocean dumping. Given the present strain on marine fisheries resources and the present load of contaminants flowing into the oceans of the world, the interest in deep seabed mining, and increasing exploitation of other ocean resources, it is imperative that we understand the long-term fates and effects of these uses of the oceans. At present, we do not have a sufficient data base to predict the impact of ocean dumping on the marine ecosystem.

Last March, the Subcommittee on the Environment and the Atmosphere held hearings on the National Oceanic and Atmospheric Administration budget proposal for fiscal year 1978. During the course of those hearings, we carefully examined their proposals pertaining to research on the effects of ocean dumping. As a result of those hearings and other information received from the ocean research community, our committee has made four relatively general recommendations dealing with ocean dumping research. The first is that research to improve the basic understanding of the dynamics of oceans, including biology, ocean chemistry, currents, seasonal changes, ocean-atmosphere interactions, benthic-water column interactions, should all be carried out. Ocean dumping should be viewed as a perturbation of a well-understood dynamic system. The committee's second recommendation is that research and development of indices of environmental quality to measure the effects of ocean dumping should be accomplished. Such new methods to measure and predict the impact of ocean dumping might include new bioassay tests. Our third recommendation is that a long-term program of baseline studies to establish points of reference against which to measure trends, changes and natural fluctuations should be developed. Our final recommendation is that information on basic processes of pollutants and their interactions with the environment should be collected so that pollution toxicity can be predicted.

The Committee on Science and Technology strongly supports the research and development work that is currently being undertaken by the federal government and would like to see an expanded program in the ocean dumping area. For this reason, our committee has agreed with the Merchant Marine and Fisheries Committee in the recommendations to increase funding rather than having the agencies internally reprogram funds for this research.

I should mention that our committee unanimously accepted an amendment to the bill which would provide an increase of $500,000 to assure that resources are available for the research, development and, ultimately, demonstration of advanced technology for comprehensive monitoring and modeling of ocean dumping effects in the New York Bight. Expanded water quality monitoring designed predict on a real-time basis the effect, fate, and distribution of pollutants which might adversely impact the use of ocean waters adjacent to and off-

shore of the Long Island and New Jersey coasts could be conducted in the New York Bight. The environmental episodes of 1976 which included fish kills, oil and toxic chemical spills, and the closure of public beaches has clearly demonstrated the need to identify the sources as well as the magnitude of these causative pollutants.

Mr. Chairman, I would like to make the point that the Committee on Science and Technology has found in the past that support for environmental research, particularly long-term research projects, has often been inadequate to support regulatory programs. We believe that ocean dumping is another case in point, and we strongly urge the agencies involved to take whatever steps that may prove necessary to make sure that the results of environmental research and development in the ocean dumping area be used to support a better regulatory program in the future.

Mr. Chairman, I fully support this bill and I urge my colleagues to join me in voting in favor of the legislation.

Mr. LEGGETT. Mr. Chairman, I rise in support of H.R. 4297. We have come a long way under the Ocean Dumping Act toward ending the use of the ocean as a garbage pit. Since the Act went into effect 4 years ago 248 former or potential ocean dumpers have been kept out of the ocean.

That is the good news. The bad news is that the total tonnage of waste dumped into the ocean annually has not diminished appreciably in the same period of time. Last year some 8.3 million tons of industrial and municipal waste and construction debris was dumped into ocean waters off of our shores. This compares with 10.9 million tons dumped in 1973. This high rate of ocean dumping continues despite an embarrassing lack of knowledge about the effect that this dumping has on the marine environment.

The total volume dumped has not declined because of an inability to solve the increasingly acute sewage sludge disposal problem. While all other categories of material has declined in volume, the amount of sewage sludge has increased, primarily as a result of increased sewage treatment.

Mr. Chairman, I believe that we are on the verge of solving the sewage sludge dilemma. Regulations promulgated by the Environmental Protection Agency—EPA—set 1981 as a deadline for the dumping of sludge by the last three urban areas using the ocean as a disposal site. The committee has received assurances from two of those communities that they will be out of the ocean before the termination date, and the EPA is hopeful that the New York-New Jersey area will implement alternatives to ocean dumping by 1981.

H.R. 4297 insures that the EPA's hopes will be realized. It makes it clear that no interim permits can be issued to sludge dumpers after 1981.

We cannot continue to regard the ocean as a food resource, recreation area, and cesspool. H.R. 4297 insures that the handful of communities still dumping sludge into the ocean will be orderly, but firmly shifted to land-based alternatives.

In addition to setting a deadline for the ocean dumping of sewage sludge, H.R. 4297 authorizes appropriations of $11.8 million to EPA and the National Oceanic and Atmospheric Administration to carry out the Ocean Dumping Act. These funds would go to administering the permit program, researching the effects of dumping and investigating environmentally acceptable alternatives to ocean dumping. The cost of this program is minimal when compared to the potential benefits associated with preserving our priceless coastal waters.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment only this morning conducted a briefing on the status of the shellfish industry and the effect of pollution on this industry. The Department of Commerce indicates that the shellfish industry has ceased harvesting in over 18.5 percent of the shellfish waters because of intolerable levels of pollution. The acreage closed to shellfish production is increasing every year.

Estimating the financial loss associated with ocean pollution is difficult at best, but one source has put the loss to the shellfish industry at $226 million between 1966 and 1975. And this is merely the loss to one industry. When we calculate the damage to other ocean resources we can see that the research funds in this bill would be well spent.

The damage associated with ocean pollution is not limited to the impact on ocean resources. Over the last year the New Jersey and Maryland shore communities have witnessed the impact that ocean pollution can have on an important recreational resource. Last year New York beaches were closed for weeks in mid-summer due to an accumulation of trash and other materials. During the same summer the water off of New Jersey dropped to a disturbingly low oxygen level resulting in a massive fish kill on the New Jersey beaches.

These episodes illustrate the poor condition of our coastal waters. They also illustrate how much work is left to be done on the long-term effects of ocean pollution.

Mr. MURPHY of New York. Mr. Chairman, H.R. 4297 is a bill to continue the authorization of fiscal year 1978 funds to implement the Marine Protection, Research, and Sanctuaries Act.

This legislation, commonly known as the "Ocean Dumping Act," was overwhelmingly passed by the Congress 5 years ago. It provides for the regulation of all material being dumped into the ocean and authorizes research on the effects of such dumping on the ocean environment.

This program has played an important role in protecting our Nation's vital ocean and coastal resources from further degradation. Since 1972, through its ocean dumping permit program, the Environmental Protection Agency—EPA—has phased out 248 former or potential industrial waste dumpers. EPA's final revision of regulations and criteria for ocean dumping, published in the Federal Register on January 11, 1977, represent a substantial improvement in the procedures by which permits are administered. These regulations also declare a deadline of 1981 for the termination of all sewage sludge dumping which cannot meet EPA established criteria.

Despite this progress, it must also be noted that the administration of this ocean dumping program has been uneven. The Merchant Marine and Fisheries Committee has expended much time and effort in overseeing the administration of the EPA and Army Corps of Engineers programs established under title I of the act.

Much of the progress which I have just delineated is a result of increased pressure on EPA—pressure brought to bear by our committee.

Nevertheless, severe problems remain in the fulfillment of our national policy to cease all harmful ocean dumping as soon as possible.

Although many former ocean dumpers have adopted environmentally acceptable land-based alternatives for disposal, the volume of sewage sludge dumped into the ocean has steadily increased. This apparent inconsistency is a result of higher levels of waste treatment being required at both municipal and industrial facilities. Clearly, there is little that can be done to reduce the volume of sludge being generated in ever increasing amounts as municipalities install more advanced forms of sewage treatment.

One can only speculate about the levels of pollution which would have occurred in the last 5 years had the ocean dumping program not been established. Although that information may be impossible to obtain, it is clear that the pressures for unreasonable degradation of the marine environment will continue. Consequently, our present regulatory program must be continued to minimize the harmful effects of ocean dumping.

This bill authorizes $4.8 million in fiscal year 1978 for title I. This title provides for mandatory regulation of the dumping of harmful wastes into the ocean.

Title II, which provides for research by the National Oceanic and Atmospheric Administration—NOAA—into the long-term effects of ocean pollution, is authorized at $6.5 million in fiscal year 1978.

Title III, the marine sanctuaries program administered by NOAA, is authorized in the next fiscal year at $500,000.

The fiscal year has already begun. We cannot afford to wait any longer for this authorization. Therefore, I urge prompt consideration and passage of H.R. 4297. This piece of legislation contains a statutory termination date for the dumping of municipal sewage sludge. Although sympathetic to the purposes for which the provision was added in subcommittee, I am concerned about the inflexibility which it creates. Therefore, I will be offering an amendment to that provision when we take up the bill for final consideration.

Mr. Chairman, I yield the rest of my time to the gentleman from Louisiana (Mr. BREAUX), the chairman of our Oceanography Subcommittee.

Mr. RUPPE. Mr. Chairman, I yield back the balance of my time.

Mr. WALKER. Mr. Chairman, the Marine Protection, Research and Sanctuaries Act of 1972 which is commonly known as the Ocean Dumping Act, established a policy to prohibit, or strictly limit, the dumping of materials harmful to the marine environment. The act is organized in three sections: Title I specifies how ocean dumping shall be regulated and directs the Environmental Protection Agency to establish a permit program. In addition, title I gives the Army Corps of Engineers authority over dredged material dumping and authorizes the Coast Guard to provide surveillance over all ocean dumping activities. While three agencies are mandated responsibilities under title I, only the Environmental Protection Agency is authorized to be appropriated funds. Title II of the act deals primarily with research needed to carry out the intent of the act, to limit the ocean dumping of harmful materials. Three separate responsibilities are delegated to the National Oceanic and Atmospheric Administration under title II. One, to monitor and research the effects of ocean dumping. Two, to investigate the long-range effects of pollution, over fishing and man-induced changes in ocean ecosystems. And, three, to research alternatives to ocean dumping.

This bill, which contains the authorization for fiscal year 1978 funding for the Marine Protection, Research and Sanctuaries Act of 1972, was sequentially referred to the Committee on Science and Technology based on the committee's jurisdiction over environmental research and development. The Subcommittee on the Environment and the Atmosphere held hearings on March 3, 1977, at which NOAA witnesses presented their proposed fiscal year 1978 budget for research on effects of ocean dumping under the act.

The report of the Committee on Science and Technology and Chairman BROWN's statement have clearly set out our concerns in this area and our support of this legislation. Our committee has historically been deeply concerned with research and development generally, and with environmental research and development on ocean-related topics in particular. Under the present serious strain on marine fisheries resources and the current load of contaminants entering the marine environment, we see an ever-increasing exploitation of ocean resources. It is imperative that we understand the effects of these uses and misuses of the oceans. At present, we do not even have a sufficient data base to predict the impact of ocean dumping on the marine ecosystem.

I would particularly like to point out that our colleague, Mr. WYDLER of New York, offered an amendment to add $500,000 for studies of ocean dumping in the New York Bight area of the coasts of Long Island and New Jersey which was adopted unanimously by the Committee on Science and Technology. This year alone nearly 10 million tons of sewage sludge filled with material and chemical wastes will be dumped, and there is no relief in sight. At the current time, numerous Federal agencies, including NOAA and EPA, are involved in bight-related research. The funds included in the Wydler amendment are expected to assure that additional resources required for a comprehensive monitoring program will be made available to these Federal agencies during fiscal year 1978.

In conclusion, Mr. Chairman, I join with my colleague from the Committee on Science and Technology, Mr. BROWN, and with the members of the Committee on Merchant Marine and Fisheries in supporting this legislation and I urge my colleagues to vote in favor of the bill.

Mr. BREAUX. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978, had come to no resolution thereon.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks, and to include extraneous matter, on H.R. 4297, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

NAVIGATION DEVELOPMENT ACT

Mr. YOUNG of Missouri. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. YOUNG).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from California (Mr. MCFALL) as Chairman of the Committee of the Whole and requests the gentleman from Indiana (Mr. SHARP) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8309, with Mr. SHARP (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Texas (Mr. ROBERTS) will be recognized for 30 minutes, the gentleman from Minnesota (Mr. HAGEDORN) will be recognized for 30 minutes, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I would like to express my full support for the Navigation Development Act as reported by the Public Works and Ways and Means Committees.

This legislation would authorize a project that is vital to the St. Louis area, the Midwest, the mid-South and—in the long run—the entire United States. That project is the long needed replacement of locks and dam 26 at Alton, Ill.

Since it was proposed several years ago, this project has become the center of a storm of controversy about Federal subsidies to transportation, the river and wetland environment and the question of whether or not to impose waterway user charges.

But at the heart of this matter is a clear problem, with a simple solution offered by H.R. 8309: a 40-year-old locks and dam is falling apart, and it needs to be replaced.

We are speaking of two locks that were designed in the 1930's for small packet boats—not the large barge tows that now use the Mississippi River. Because of the small size of the locks—one 600-foot and one 360-foot lock—more than 60 percent of the river tows are forced to break into sections when they go through the locks.

That has contributed to delays at lock and dam 26 that averaged 12 hours per tow in 1976, causing delay losses of more than $5 million.

Something needs to be done about this bottleneck. There have been many proposals for rehabilitating the old locks and dam, but the fact is that—in the long run—building a new lock and dam would be safer and less expensive than repairing and expanding the old one.

A study by the U.S. Corps of Engineers showed that a satisfactory rehabilitation and enlargement of the present locks and dam would in fact cost about $40 million more than the new facility—with many more risks involved.

I recently had a chance to visit lock and dam 26, and to see firsthand the problems that bargemen are encountering there. There are cracks in the walls of the dam, holes in the foundation, and leaks in the joints. Some of the lock walls have deflected as much as 10 inches, leaving no room for error when the locks are closed.

A 1976 Corps of Engineers report said there is a possibility that erosion of the foundation sands under the dam could cause a collapse of part of the dam, and that in turn would cause millions of dollars in damage to facilities downstream.

Let us look at another reason why a new lock and dam 26 is badly needed: the present lock and dam is a virtual bottleneck between an upriver cargo capacity of 105 million tons a year and a downstream lock with a capacity of 140 million tons a year. What can the pres-

ent lock and dam 26 handle? A capacity of only 69 million tons—which sets the limit on river traffic.

And we are talking about crucial river traffic—more than 30 million tons of grain, 12 million tons of oil, 5 million tons of coal and millions of tons of other important minerals and raw materials went through the locks in 1976. The tonnage on the river is increasing at such a pace that it will exceed the economic capacity of locks and dam 26 by the mid-1980's.

Even if Congress acts now, the replacement of the locks and dam will not be completed for at least 9 years, and by that time the new lock will be badly needed.

Commerce in the Midwest is steadily increasing, making the need for efficient transportation vital. To adequately handle these increasing demands, the American highways, railroads and rivers must function together, and correcting the inefficiencies caused by the outmoded locks and dam 26 would be a big step towards that goal.

My home district, the St. Louis area, is one of many areas of the Midwest that are economically dependent on transportation and industries sensitive to transportation. The St. Louis area ranks as the ninth largest exporting region in the United States, the value of St. Louis manufacturing shipments is more than $11 billion a year—and all of this is effected by the transportation system in which locks and dam 26 plays a crucial role.

More than 45,000 jobs are directly related to the river industry, and economic studies indicate that a continued increase in barge traffic on the river will create many more jobs.

In addition, the construction of a new locks and dam 26 would provide thousands of badly needed jobs in the building trades in the St. Louis area, and to help reduce the high unemployment rate in those trades.

Farmers and consumers will also benefit from a new locks and dam 26. About 56 percent of the grain moving from the Mississippi River Basin to New Orleans for export passes by barge through lock and dam 26. In Missouri alone, about 51 million bushels of grain per year move through the facility.

Despite all of these factors, several environmental groups have criticized this project. The gist of their statements is that this would be the first step in some scheme to deepen the Mississippi River channel and make it a bargeman's paradise.

This is simply not true. The Corps of Engineers report on which the construction will be based (H.D. 94–584) states flatly that the river channel will remain at its present depth upstream from lock and dam 26. It would take an act of Congress to change that channel depth.

The reason for the 18-foot sill depth of the new lock is that it will allow for faster locking, and save time and money. That 18-foot depth will permit barges with large ice accumulations to pass through the locks easily. In January and February of 1976, more than 60 barge tows were stuck in the present locks because of the ice problem.

In answer to the environmental questions, it should also be noted that the system of locks and dams on the Upper Mississippi River built 40 years ago have created many nesting and wildlife areas near the river. Rebuilding locks and dam 26 will affect the environment no more than the other 29 dams in the Upper Mississippi system. A new 2-mile lake will be created between the new facility and the old locks and dam. But loss of wildlife lands covered by water will be offset—acre by acre—by the Government's purchase of additional land for a fish and wildlife habitat.

Mr. Chairman, the construction of a new lock and dam 26 has already been delayed too long. That construction is critical to the economic health of the St. Louis area and the entire Midwest. I urge my colleagues to support this legislation.

Mr. CONABLE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the minority members of the Ways and Means Committee for the most part support title II of this bill. Through these provisions we would depart from traditional practice to impose a tax upon the use of the inland and intracoastal waterways for commercial barging.

Effective October 1, 1979, title II would levy an excise tax of 4 cents per gallon for the first 2 years, and 6 cents thereafter, upon liquid fuel used for commercial water transportation on major routes which are set forth in title I. Deep-draft vessels designed for use on the oceans, vessels used primarily for passenger transportation, and certain State and local government waterway uses would be exempt from this tax.

Under regulations which the Treasury Department is to develop within 9 months of enactment, waterway users will file returns and make payments of this tax on a quarterly basis. First-year receipts are forecast to total approximately $29 million.

The inland waterways, which have been available without charge to commercial users, have played a central role in the agricultural and commercial development of the Middle West and other areas. Barge traffic on the waterways in recent decades has grown considerably. According to industry sources, the waterways in 1974 bore 7.6 percent of the Nation's domestic freight.

The construction, operation, and maintenance costs of the inland navigation works, including locks, dams, and other facilities, have been met through general revenues. With the imposition of this tax, commercial waterway operators, in effect, will pay a portion of the costs of these rights-of-way.

Mr. Chairman, this is a significant policy initiative, one that the committee has developed cautiously so as to disrupt neither the industry upon which it will directly apply, nor the thousands of businesses that depend upon energy-efficient waterway transportation for the movement of raw materials and products.

The committee resisted appeals for the immediate levying of a tax schedule which would result in the recovery of all of the operation and maintenance costs and a substantial portion of the construction costs of this system. We believe that the imposition of a more modest tax is the responsible course to pursue at this time.

In order to have more complete information on the degree to which the various modes of freight transportation pay costs of this nature, on relative impacts of Government policies upon the modes, and on the effects of user charges upon the economy in general, the committee is directing the General Accounting Office to examine these subjects. Together with information derived from the waterways study authorized in title III of this act, these insights will be helpful to the committee in its future deliberations on user charges.

I urge the enactment of title II of this bill.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, as a member of the Committee on Ways and Means I, of course, was involved in the funding part of this bill. I have filed minority views, and the gentleman from Illinois (Mr. MIKVA), a member of the Committee on Ways and Means, and I will offer a motion to recommit with instructions to strike the funding portion of the bill at the conclusion of the debate.

Let me state at the outset that I am 100 percent in favor of constructing locks and dam 26. I am wholeheartedly, however, opposed to the very discriminatory method of funding locks and dam 26, and this is being used as a device simply to get the bill passed.

The gentleman from Illinois who joins me in this recommittal motion, interestingly enough, is opposed to locks and dam 26, but both of us are opposed to the method of funding. As the gentleman from New York (Mr. CONABLE), the ranking minority member of the Committee on Ways and Means, pointed out, deep-draft vessels will not be subject to the tax, nor will certain passenger-carrying vessels be subject to the tax, nor, in fact, will any other transportation be subject to the tax other than simply the barge industry. I feel that this is a very discriminatory way of attempting to fund locks and dam 26.

I am totally in favor of user fees, and I believe that there is a way that can be devised that would equitably apportion these costs to all the users of locks and dam 26. It can be done on a draft or a tonnage basis, however we wish to do it, but let us not pick one industry, and one industry alone, and decide to tax it as opposed to any vessels using locks and dam 26.

I bring this to the Members' attention only to point out that the gentleman from Illinois (Mr. MIKVA) and I will be offering a motion to recommit with instructions to strike the funding portion of the bill. I do believe that the Committee on Ways and Means can come up with a far better means of funding than that which is attached to this very discriminatory bill.

Mr. Chairman, I yield back the remainder of my time.

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am particularly pleased to bring to the floor today titles I and III of H.R. 8309, the Navigation Development Act.

A key factor in bringing this legislation to the floor has been the usual fine leadership of the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON). I wish also to extend my very warm thanks to the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN) and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA).

I wish also to express my deep appreciation to the Committee on Ways and Means and its chairman, the gentleman from Oregon (Mr. ULLMAN) for the development of title II of this bill, which establishes a waterway user tax.

H.R. 8309, as reported, contains three titles. Title I authorizes replacement of locks and dam 26 at Alton, Ill., with a new dam and a single 1,200-foot lock. It also designates the inland waterways of the United States to which the tax in title II will apply.

These represent those waterways having a draft of 14 feet or less, used for commercial shallow draft vessels, and involving substantial and recurring Federal expenditures for the improvement of navigation.

Title II, developed by the Committee on Ways and Means, imposes a tax on fuel used in commercial transportation on inland waterways.

Title III of the bill directs the Secretary of Commerce and the Secretary of Transportation to undertake a joint study of various types and levels of user charges, including the tax imposed by title II, with regard to the impact on carriers, shippers, consumers, and affected regions. The study would be transmitted to the Congress within 3 years, with recommendations as to whether alternative or supplemental charges should be imposed, what users should be covered, and what the level of waterway user charges should be.

Locks and dam 26 is located on the Mississippi River at Alton, Ill. Above it are the Upper Mississippi River navigation system and the Illinois Waterway. Below it are found the remainder of the Mississippi River, the Ohio River navigation system which feeds into the Mississippi River and the Gulf Intracoastal Waterway. It is one of the most vitally located of the inland waterway projects. All waterborne commerce shipped between the Upper Mississippi and Illinois Rivers and the Ohio River, the Lower Mississippi River and the Gulf Intracoastal Waterway must pass through this facility.

The present 9-foot channel on the Upper Mississippi River was authorized by the River and Harbor Act of 1930. Locks and dam 26 at Alton, Ill., one of the last in the system, was completed in 1938. It is now almost 40 years old. Its physical condition has deteriorated, and it cannot efficiently serve current traffic without delays.

Many studies and recommendations have been made of the possibility of rehabilitating the existing structure rather than replacing it with a new one. The Corps of Engineers in its study considered rehabilitation and concluded that at best it would only be marginally less expensive than a new project. Other proposals for rehabilitation at substantially lesser costs have been suggested.

The committee has examined the various proposals for rehabilitation with great care. The difficulty with rehabilitation is that so little is known about the extent of damage to and the condition of the existing structure. The foundation and piles are under the structure and under the bed of the river and direct examination is not possible.

The condition of the structure could be much worse than claimed by some or better than feared by others.

It is the conclusion of the committee that in such a situation the best course of action to take is the most prudent. Given the critical role which this very important project plays in the movement of waterborne commerce and the engineering and cost uncertainties involved in rehabilitation, the committee has determined that the most prudent course of action which can be taken is the replacement of the existing facility with a new structure as recommended by the Chief of Engineers.

Much concern has been expressed over the possibility of increased environmental damage which may result from additional barge traffic on the upper Mississippi River. The potential damage is associated with bottom silt materials which are stirred up as the barge tows move along the river. The concern is that as the materials resettle, damage may be caused to bottom organisms.

The possibility of environmental damage is due not so much to construction of a single 1,200 foot lock, but rather to the construction of a second lock thereafter if deemed desirable and if authorized by the Congress.

The study of the need for, feasibility of, and effects of a second lock, which study is included in the authorization of the replacement project, together with the GREAT study authorized in the Water Resources Development Act of 1976, will provide the answers to these very important question. Any decision made as to a second lock will have the benefit of the information developed in these studies including the environmental impact study which will accompany any recommendation for a second lock.

Mr. Chairman, the report and the recommendations of the Chief of Engineers, and the final environmental impact statement accompanying the report of the Chief of Engineers to the Congress have been reviewed very carefully by the committee in its consideration of the authorization of a replacement for locks and dam 26. This environmental impact statement is considered by the Committee to provide adequate information for Congress to make a decision with respect to the recommended project, and to be in full compliance with the requirements of the National Environmental Policy Act.

I urge passage of H.R. 8309.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I thank my distinguished chairman for yielding. I rise in support of H.R. 8309, the Navigation Development Act, as vital to advancing waterborne commerce in this country and the concerns of the producers, consumers and communities it serves.

This is really two major pieces of legislation, each deserving priority consideration by Congress in its own right. Adoption of the principle of a tax on users of domestic waterways for the first time in history is—by definition—a sharp break with the past, with repercussions which no one can predict with any real certainty.

Replacement of locks and dam 26 on the Mississippi River, though a single project out of a 15,000-mile system, is the key to the efficient and economic shipment of cargo on the backbone of our inland waterways and its ability to serve the heartland of this country.

Their combination in a single bill represents a confluent of competing private economic interests and equally conflicting public policy views with respect to future financing of transportation facilities.

Out of all the pulling and hauling, I believe we have managed to strike a reasonably balanced compromise. The fact that the administration now supports this bill, despite having advocated far heavier initial user levies and postponement of a locks and dam 26 decision, is evidence in support of that interpretation.

The Committee on Public Works and Transportation and the Committee on Ways and Means gave consideration to alternatives, as to both user charges and this particular project. Again, as to both project and the means of selecting and financing them in the future, the decisions embodied in H.R. 8309 preserve the ability of Congress to determine what happens next, in keeping with our congressional responsibility for tax, transportation and water resources development policy.

User charges are nothing new to me or my committee; we have them in the highway program and the airport and airways development program. You will recall that the concept of user fees in the highway program was phased in slowly, increasing trust fund eligibility and decreasing general revenues. But we took our time, we knew what we were doing, and we had some idea of the consequences.

On the waterways question, some witnesses wanted to go for 100-percent "recovery" for both operation and maintenance and capital construction costs. The administration was recommending 100-percent O. & M. and 50-percent capital. Other alternative suggestions were fuel taxes, segment tolls, lockage fees, congestion charges, tonnage taxes and so on.

The Committee on Ways and Means reported a fuel tax of 4 cents per gallon initially, going to 6 cents 2 years later. I support that, particularly in light of other alternatives and their unknown implications.

Those alternatives could be disruptive. All manner of development has taken place across the country reflecting the efficiencies and economies of water transportation. Business location and expansion decisions have been made, distribution systems established, communities developed, and private individuals and State and local governments have acted in the reasonable expectation that 200 years of precedent will not be reversed on short notice.

This is true not only of facilities in place, such as those fostering navigation; it is also true of a great variety of projects in the water resources and other fields where the very fact of a project's having been authorized triggers decisions, commitments, and actual physical development well in advance of its completion. Then too, there are many manufacturing, storage and terminal facilities on our inland waterways for which there is no economical transportation alternative.

Transportation-related development has assumed continued adequacy of facilities and some reasonable stability in the economics of the transportation service.

These are not abstract arguments. In the Ohio Valley alone, a recent survey showed that more than $54 billion has been invested between 1960 and 1976 in new and expanded plant facilities in counties bordering the Ohio River and its navigable tributaries. Much of this private investment is attributed to the availability of water transportation.

Besides steel, Ohio's chemical industry and power generating stations are largely dependent on barge transportation. Its benefits have prompted Governor Rhodes to initiate a program of river port development, and a study on the feasibility of Federal participation is in progress.

An ill-conceived user charge scheme could well curtail the effort, and at the same time work to increase costs on the main stem of the Ohio River during construction of lock expansion at Gallipolis, for which Congress has authorized preconstruction planning.

The point is that we need a much better grasp of the impact of these proposals, and therefore should not go beyond the full tax provisions contained in this bill until we do. The study authorized in title III is intended precisely to get at the kind of data we will need for sensible, responsible decisions in the future.

One final point: A lot of strong supporters of locks and dam 26 are prepared to go along with these initial user taxes, though without great enthusiasm. I thought it significant, though, that many locks and dam 26 supporters testified that they also use railroads, as much as if not more than water transportation, and thus have knowledge of the railroad industry and its problems and a stake in its survival.

That is the kind of balance that does credit to many of the interests appearing before our committee, and the kind of balance we tried to build into the bill. It is a beginning, an initial acceptance of the principle of user fees and also the best vehicle we could devise to produce the information we need before we consider further action. The studies that have been done do not adequately address what will be the regional and transportation economic impacts of the user fee. Some touch on it but none give a comprehensive statement—and none have had the experience of user fees being actually in effect. Now we will have this, and thus we can begin to actually access impacts and address all concerns, evaluating prior conclusions and developing the data needed in those areas which have not been previously covered. For this reason, and in the interest of providing a vitally needed replacement for locks and dam 26, I urge passage of H.R. 8309.

Mr. HAGEDORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 8309 to replace the badly deteriorated and inadequate locks and dam 26 at Alton, Ill., with a modern, reliable facility meeting fully the needs of the Upper Mississippi Basin.

Lock and dam 26 is one of only two lock and dam systems along the Mississippi River which must handle all traffic from both the Upper Mississippi and Illinois Rivers, yet with an operating capacity of 46 million tons of cargo has a capacity of less than half that of its equally busy counterpart downstream—lock and dam 27. This capacity was effectively reached nearly 7 years ago with annual traffic increases of 2 to 3 million tons annually since that time.

The increasingly lengthy delays resulting from these circumstances are costly in a number of ways, with the cumulative impact well in excess of the costs required to construct a new structure.

Most directly impacted, of course, are the barge operators themselves who must remain idle for extended periods while traffic slowly clears through the bottleneck at lock and dam 26. It is estimated that losses of $200 are incurred for each hour that the barges are inactive. As a result of serious structural failures in April of 1976, more than 1,000 barges were forced to remain idle for nearly a full week at an estimated cost of $10 million.

The delays, however, are at least as costly to the producers who must use the barges to transport their products to market, in particular the grain farmers of the Midwest who are heavily reliant upon waterway transportation. And what is costly for the producers is ultimately just as costly for the consumer.

In a sense, I approach this issue as a farmer, and specifically as a Minnesota farmer, with great appreciation for the farmer's dependency upon water transportation for the fertilizers, chemicals, and energy resources needed as production inputs, and for the shipment of the final product to market. At this point in the RECORD, I would like to submit several charts illustrating this point:

DOMESTIC INLAND MOVEMENTS OF GRAINS AND SOYBEANS, BY MAJOR SHIPPING AND RECEIVING AREAS, 1974

[In thousand tons]

Shipping/receiving areas	Corn	Soybeans	Wheat	Other [1]
Mississippi River:				
From Memphis area to Baton Rouge-New Orleans, La.	78	2,454	459	60
From St. Louis area to Baton Rouge-New Orleans, La.	472	626	313	
From Minnesota, Wisconsin, Iowa, Illinois area to—				
Baton Rouge-New Orleans, La.	6,164	2,291	591	10
Tennessee River, Tenn., Ala., and Ky.	165	52	128	5
Missouri River: From Nebraska, Iowa, Kansas City area to—				
Baton Rouge-New Orleans, La.	241	107	330	----------
Tennessee River, Tenn., and Ky.	60	1	249	----------
Illinois River: From northern Illinois and southern Wisconsin to—				
Baton Rouge-New Orleans, La.	8,417	2,157	973	26
Tennessee River, Tenn., Ala., and Ky.	432	159	102	58
Ohio River: From Louisville Engineer District to Baton Rouge-New Orleans, La.	444	543	272	----------
Columbia River: From Celilo Falls-Kennewick, Wash., to—				
Vancouver, Wash., and Portland, Astoria, Oreg.			638	14
Willamette and Yamhill Rivers, Oreg.			313	5
Snake River: From Oregon, Washington, and Idaho to—				
Vancouver, Wash., and Portland, Astoria, Oreg.			434	23
Willamette and Yamhill Rivers, Oreg.			1,128	37
Total	16,474	8,390	5,928	247
Percent of total U.S. shipping areas	0.93	0.83	0.87	0.43

[1] Other includes barley and rye, oats, rice, and sorghum grains.

Source: U.S. Army Corps of Engineers, Waterborne Commerce of the United States, calendar year 1974, pt. 5, National Summaries, sec. 2, table 1.

ANNUAL VOLUME OF AGRICULTURAL PRODUCTS AND 1975 EXPENDITURES, MAJOR RIVER SYSTEMS, 1975 TRAFFIC BASE

River system	Annual cost (thousands) [1]	Net tons (thousands) [1]	Cost/ton [2]	Grains and soybeans: Tons (thousands) [1]	Grains and soybeans: Cost (thousands) [3]	Fertilizer and materials: Tons (thousands) [1]	Fertilizer and materials: Cost (thousands) [3]	Total agricultural products: Tons (thousands) [4]	Total agricultural products: Cost (thousands) [4]
Upper Mississippi (Minneapolis, Minn., to mouth of Missouri River)	$17,341.0	27,140.8	$0.639	11,364.1	$7,260.8	109.4	$69.9	11,473.5	$7,330.7

ANNUAL VOLUME OF AGRICULTURAL PRODUCTS AND 1975 EXPENDITURES, MAJOR RIVER SYSTEMS, 1975 TRAFFIC BASE—Continued

River system	Annual cost (thousands) [1]	Net tons (thousands) [1]	Cost/ton [2]	Grains and soybeans: Tons (thousands) [1]	Grains and soybeans: Cost (thousands) [3]	Fertilizer and materials: Tons (thousands) [1]	Fertilizer and materials: Cost (thousands) [3]	Total agricultural products: Tons (thousands) [4]	Total agricultural products: Cost (thousands) [4]
Middle Mississippi (mouth of Missouri River to mouth of Ohio River)	12,422.9	6,176.1	2.011	686.7	1,381.3	80.6	162.0	767.3	1,543.3
Lower Mississippi (mouth of Ohio River to mouth of Posses)	12,138.5	47,305.2	.257	2,912.6	747.4	4,759.6	1,221.3	7,672.2	1,968.7
Arkansas [5]	11,703.2	591.5	19.786	348.2	6,889.5	6.8	134.5	355.0	7,024.0
Ohio	18,088.6	32,508.8	.556	2,562.7	1,426.0	154.7	88.1	2,717.4	1,514.1
Tennessee	2,907.0	5,591.5	.520	71.2	37.0	108.8	56.6	180.0	93.6
Illinois	9,246.5	19,671.6	.470	12,430.4	5,842.8	28.2	13.2	12,458.6	5,856.0
Missouri	12,881.5	894.8	14.396	827.7	11,915.9	63.5	914.7	891.2	12,830.6
Warrior-Tombigbee-Mobile [5]	14,079.2	10,555.7	1.334	330.7	441.2	3.1	4.1	333.8	445.3
Columbia-Snake	2,794.0	11,895.5	.235	2,746.3	879.9	48.9	11.5	2,795.2	891.4
All systems	113,602.4	162,331.5	.700	34,280.6	36,821.8	5,363.6	2,675.9	39,644.2	39,497.7

[1] U.S. Army Corps of Engineers, Waterborne Commerce of the United States. Calendar Year 1975, pt. 5, national summaries, Vicksburg, Miss.
[2] Computed by dividing col. 1 by col. 2.
[3] Computed by multiplying tons by col. 3.
[4] Computed by adding appropriate column data, cols. 4 to 7.
[5] Does not include new capital expenditures.

Mr. Chairman, at least 25 percent of the total grain produced in this region eventually passes through lock and dam 26, an amount that cannot conceivably be covered efficiently by alternative modes of transportation. More commodity traffic goes through these locks each year than goes through the Panama Canal. Grain accounted for 53 percent of the total tonnage moving through the facility, followed by 12 percent for petroleum, and 9 percent each for coal and chemicals. When it is considered that a large percentage of these chemicals are fertilizers, it must be recognized that at least 60 percent of the total tonnage handled by the locks is directly related to agriculture.

The economic position of the farmer is, of course, directly affected by changes in his storage and transportation costs. As barges are delayed at Alton—for a 9-hour period, on the average—the entire grain marketing network is upset, with grain elevators unable either to load their grain or to accept new shipments from farmers. Alternative methods of transporting the produce to market are invariably more costly. As a result, during the most congested periods, the price of grain has plummeted north of Alton, while skyrocketing south of Alton.

The uncertainties aroused by the frequently sporadic, and uneven flow of traffic through lock and dam 26 are equally unsettling to the farmer in the sense that the supplies required by him for production must be available at a precise time. Delays caused by traffic logjams can and have wreaked havoc upon the entire harvests of farmers.

The outmoded lock and dam 26 structure is also costly to the utility user, mostly rural, in the Midwest who is dependent upon barge-transported coal to fire the generating facilities in this part of the country.

And it is unquestionably extremely costly to the strength and vitality of our entire domestic economy, an economy dependent upon grain exports to almost singlehandedly contribute to a respectable balance-of-trade situation. More than $12 billion worth of farm products passed through Alton in 1976 in transit to foreign markets, helping substantially to offset our $20 billion deficit attributable to foreign oil imports.

The Corps of Engineers, recognizing the deterioration of the facility at Alton, has urged its replacement for at least 9 years. In 1968, they rejected rehabilitation as an alternative on the grounds that this:

> . . . would create major construction problems affecting the stability of the existing structure and would seriously interfere with barge traffic during the construction period, resulting in costly delays.

The project authorized in title I of this bill entails the construction of a new dam with a single 1,200-foot lock 2 miles downstream from the present site at an estimated cost of $421 million. Construction would be expected to begin 6 months after final approval, and take approximately 8 or 9 years to complete. Maximum capacity of the locks would be raised from 73 million to 86 million tons, an 18-percent increase. This would take into account a number of changes in nonstructural, or operating techniques designed to make the most of existing capacity. The benefit-cost ratio of the project is 2.4 to 1.

I recognize the controversial nature of title II of this bill and, as with most of my colleagues, am not entirely satisfied with its provisions. It, however, represents a fair compromise by the Ways and Means Committee which deserves great credit for drafting it under difficult circumstances.

I am not unalterably opposed to some form of waterway user tax, but the effects and implications of a substantial user tax upon shippers, consumers, and various regions and communities have not yet been explored, in my opinion. A vehicle for such an exploration has been provided in title III of this bill. In the meantime, H.R. 8309 accepts for the first time in our Nation's history the principle of an inland waterway user charge, and thus represents a substantial departure from long-settled policy. It is set at a level which will not cause unintended, or unanticipated disruption or chaos.

There are substantial differences between river segments as to their capital, and operating and maintenance costs, and there are also considerable disparities in use, the volume of traffic, and the number of barges and carriers that would split up the burden of tolls on any given segment. Until we have a much clearer understanding of the various revenue alternatives that Congress has, and the impact of these alternatives upon shippers, consumers, and communities, I believe that we would be wrong to invest the amount of discretion in the executive branch to come up with some tax or charge that the other body has.

I am unable to call to mind any other area in which members of this body have shown any inclination to delegate what is, in effect, the power to tax. When one considers the uncertainty, and recognizes the severe differential effects of the tax or charge on industries, communities, and regions, the dangers of this delegation to the bureaucracy become apparent.

I urge my colleagues to support H.R. 8309, as reported, and continue to support what I hope will be the House position in bringing out a final version for the President's signature which will reflect the economic realities of waterway transportation.

Mr. Chairman, during consideration of this legislation in subcommittee, I was asked to handle it for the minority by the gentleman from California (Mr. DON CLAUSEN) the ranking minority member, who was deeply involved at the time in another matter before the House Interior Committee. In this role, I greatly appreciate the bipartisan cooperation that has been extended by the chairman of the subcommittee, the gentleman from Texas (Mr. ROBERTS), now serving as acting chairman.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act. I believe the compromise worked out by the Committee on Public Works and Transportation and the Ways and Means Committee deserves the support of all Members of this body. It is responsible. It recognizes the truth—that in spite of all the studies done on the subject of user charges there are many uncertainties—serious deficiencies in my judgment. Therefore, H.R. 8309 imposes a modest user charge and causes a study to be made which will provide the answers for which we search on the short and long term impacts. With this in hand, we can proceed to raise the level of this charge to a fair, equitable, and appropriate amount and apply it to all who should bear the responsibility.

Mr. Chairman, I urge adoption of this very necessary legislative initiative. As a final note I would like to commend Mr. HAGEDORN, the manager on the part of the minority, who has acted in my stead because of my involvement with an is-

sue in my congressional district. Mr. HAGEDORN has done an excellent job in managing this very important bill and deserves recognition for his work.

In addition, the strong voice of our ranking Republican, BILL HARSHA of Ohio has, as always, provided the necessary leadership to work out a bill that addresses the problem and is equitable to all concerned.

And, finally, our distinguished and able chairman, RAY ROBERTS of Texas, has done an outstanding job and has once again, demonstrated insite, fairness, and objectivity in this very important navigation project.

Mr. ULLMAN. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, title II of H.R. 8309, added to the bill by the Ways and Means Committee, imposes an excise tax on diesel and other fuels used by commercial cargo vessels on those inland and intracoastal waterways of the United States which are specified by name and description in title I of the bill.

The tax will be 4 cents per gallon beginning October 1, 1979, and 6 cents per gallon beginning October 1, 1981. It is estimated that the tax will produce revenues of $29 million in fiscal 1980, rising to $71 million in fiscal 1984. These revenues will be deposited in the general fund of the Treasury.

In the case of a commercial cargo vessel, only fuel consumed on the specified inland waterways will be subject to tax. The 26 waterways listed in title I of the bill include the Mississippi River—upstream from Baton Rouge—the Mississippi's tributaries, and the gulf and Atlantic intracoastal waterways.

The new tax will not apply to deep-draft oceangoing vessels, which generally do not make substantial use of the inland waterways, nor to recreational vessles, most of which are already subject to fuel taxes. In addition, the new tax will not apply to noncargo vessels such as passenger vessels and fishing boats.

Mr. Chairman, the imposition of this fuel tax reflects the decision of the Ways and Means Committee that commercial freight carriers using certain federally supported waterborne transportation facilities should pay a portion of the costs of developing and maintaining the system in the future. Imposition of the fuel tax establishes the important principle of applying the user charge concept.

The establishment of an equitable system of financing the inland waterways is a difficult task. As a result the committee also has provided through the General Accounting Office for further study of fuel taxes or other charges of federally maintained waterways. This study is intended to supplement the study provided by title III of the bill and will take into account Government expenditures for, and any charges presently imposed on, other methods of commercial transportation.

Mr. Chairman, I urge that title II be adopted.

Mr. Chairman, I strongly urge the members of this committee and of the House to oppose a recommital motion that would delete this fuel tax which has been recommended by the Ways and Means Committee. I think we must bear in mind how we arrived at where we are today. The river basin bill, passed by this body earlier in the year, was amended in the other body with the imposition of a major user charge principle that would, in my judgment, do several very adverse things.

In the first place, it would be essentially a tax levied in another name. It would subvert the constitutional principles of revenues originating in this body but, more importantly, and I think something that we all ought to consider, it would impose such a heavy burden of charges on the inland waterway users of this country that it would virtually put them out of business. There is no way that those kinds of charges could be paid without almost totally destroying the inland navigation system in this country.

That bill has been laid on the Speaker's desk. It is still at the desk. We come back now with the lock and dam portion of the bill and with a reasonable and a responsible user charge system.

For many years we have been plagued with recommendations that we needed to impose some kind of user charge on the inland waterways. Many of us have opposed those charges, I think with some justification. There has been a long history of free use of our navigable waterways by commercial vessels. But I think at this point, with the burden of an overwhelming vote in the other body for a user charge system that would virtually destroy the inland navigation system in this country, the burden is on us to come back with something reasonable and something responsible. That is what the Committee on Ways and Means has brought to this House, and that is why we strongly urge that the Members stay with the Committee on Ways and Means recommendation, that the tax on the inland waterway system is one that they generally can support, in view of the alternatives, and one that I think we can justify as a responsible approach to the problem that can tide us over a number of years. In this bill we have asked the General Accounting Office to bring us a study as to further actions that might be taken. That is where we are.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Chairman, I would like to express my appreciation to the chairman of the Committee on Ways and Means, as well as the leadership of the Committee on Public Works, for cooperating so closely and working with such consideration and speed to bring this measure before this committee. In my view it is a remarkable achievement in legislative compromise and intercommittee cooperation. I want to express my appreciation to the chairman of the committee for his role in this.

Mr. ULLMAN. I thank my friend, the gentleman from Illinois, for his remarks.

Mr. Chairman, I want to commend the gentleman from Texas (Mr. ROBERTS), chairman of the Subcommittee on Water Resources, and the gentleman from California (Mr. JOHNSON), chairman of the Committee on Public Works and Transportation, for the cooperation that they have extended in coming back with a new approach to this problem and presenting a responsible alternative to the House.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, I certainly want to express my appreciation to the distinguished chairman of the Committee on Ways and Means. We have been working on this. Other members have been working on it for 40 or 50 years. It took the present chairman to come up with a workable solution, and I think we are all indebted to him. I think we can pass this bill.

Mr. ROBERTS. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I rise in opposition to H.R. 8309.

Both last year and this year, I introduced an amendment in the Public Works and Transportation Committee to impose a waterway user charge. In my view, continuing to subsidize the barge industry at the expense of taxpayers, and other modes of transportation such as rail and truck is an unjustifiable outrage. Establishing a system of waterway user charges is something which can be done on its own merits, not as a price to pay for the construction of a $432 million lock and dam at Alton.

Since July of this year, when it was clear that even those who opposed user charges would face continued delays in the construction or rehabilitation of essential parts of the inland waterway network without some user charge, I urged three committees of the House to approve a phased-in recovery program. I supported a 10-year phase-in to recover 100 percent of Federal operating costs and 50 percent of Federal capital costs. This program was approved by the full Senate, and received the support of the administration. The program recognizes the economic chaos to the industry which would result in imposing an immediate recovery. Yet it also is sensitive to the nearly a score of reports and studies which indicate that this massive subsidy to a single industry distorts our transportation policy and subverts the national interest.

Every administration since Franklin Roosevelt has endorsed recovery of what today amounts to $400 million annually to constructing, operating, maintaining, and rehabilitating our inland waterway system. No other form of transportation escapes paying a significant share of costs borne by the Federal Government for its rights-of-way. The approval of H.R. 8309, while perhaps a step in the right direction, will institutionalize present policy. The 4-cent tax imposed in 2 years will recover only $35 million, perhaps 8 percent of Federal costs. The additional 2-cent tax in 1981 will be only a drop in the bucket more.

I find it no surprise that the barge industry generally favors this legislation. It is my understanding that H.R. 8309 is the result of an agreement worked out among the leadership, the chairman of the Public Works and Transportation Committee, and the chairman of the Ways and Means Committee before hearings on the issue began in July. It has been clear to me from the start that it would take a miracle to modify the levels and timing of the tax authorized by title II of this bill.

Even if there were the votes to accomplish this miracle, the modified closed rule precludes the offering of amendments to title II to modify this tax. I would like to underscore the administration position that the tax is too low by reading at this point in my statement a letter I received from Secretary of Transportation Brock Adams relating the administrations position on H.R. 8309:

> DEAR BOB: I am writing to you to indicate that the Administration supports passage of H.R. 8309, which will come to the House floor shortly and will establish a 6¢ fuel tax on inland waterway commercial traffic after a two-year phase-in period. The bill would also authorize a new Lock and Dam 26 at Alton, Illinois. The Administration does feel that the recovery level set forth in H.R. 8309 is too low, but will work on the Senate side to increase the recovery level. I have enclosed a fact sheet providing you with background on this issue.
>
> Sincerely,
>
> BROCK ADAMS.

Mr. Chairman, I understand that there will be an attempt to recommit the bill with instructions to strike title II entirely. The arguments in favor of this recommital motion are the same ones used by the barge industry to justify the present free ride. I would like to take a moment to explode the myths about waterway user charges which have been perpetuated by those who benefit from this raid on our Treasury. These myths are as follows:

> (1) Transportation of goods by barge is more energy-efficent than by other transportation forms, and should be encouraged.
>
> (2) The goods carried by barges are basic commodities such as coal, grain, and gasoline. Raising their price would only contribute to inflation.
>
> (3) The subsidy stimulates economic development adjacent to the waterways.
>
> (4) Barge traffic would be diverted to other forms if a user charge were imposed.
>
> (5) The costs of the user charge would be passed on to consumers anyway, or reduce the profits of farmers.

Mr. Chairman, pipelines are more energy efficient than other modes, yet receive no Government subsidy. Energy studies historically fail to include the energy used in getting the commodity to the waterway, a process which often uses trucks and rail. The July 1977, CBO report is illuminating on this issue. It finds:

> Opponents of waterway user charges argue that barge transportation should be encouraged by a subsidy because it is more energy-efficient than competing methods of transportation. Relative energy use varies greatly in specific circumstances because of differences in size, speed, and type of shipments for barges, railroads, pipelines, and trucks. When reasonable estimates vary so widely one can only conclude that blanket statements on energy efficiency are unwarranted . . .(p. x, "Financing Waterway Development: The User Charge Debate", July, 1977)

If there is reason to subsidize basic commodities, the subsidy should be allowed for all transit modes. If economic development is desired, subsidies should be allowed for all modes in areas where economic development is needed. The barge traffic which would be diverted is that which cannot pay its own way without being subsidized. Of course, lifting this subsidy would require someone else to pick up the tab. This argument would be just as viable for subsidies of other modes. The fact is that it is the policy of the Federal Government to require any class of people who benefit from Federal expenditures to pay for that expenditure. This policy, underscored by the national transportation policy statement issued on September 17, 1975, also appears in a different form in existing law (65 Stat. 290).

Every other transit mode has user charges despite the fact that economic development is stimulated by these modes, and that the price of goods transported by these modes increases the price. When one mode does not pay its fair share, it distorts competition between modes. This is what has occurred, in my opinion.

Mr. Chairman, I also have a concern about the study which is authorized in title III. This study has been carefully drafted to almost assure the maximum delay in getting the study completed, since most of the data for the report has already been obtained. If any study is needed before a user tax is authorized, perhaps we should direct the Secretary of Transportation to study the scores of studies which have already been performed to look at the economic and social impacts of a tax. I have with me some of these studies. I see no reason why the title III study will be ignored any less than these. By the way I will be more than glad to share these studies with anyone here.

In conclusion, I urge my colleagues to vote down this legislation, and allow for a revision of the bill which will provide for a more meaningful waterway user charge proposal.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the chairman of the subcommittee.

Mr. ROBERTS. Mr. Chairman, the gentleman from Pennsylvania (Mr. EDGAR) made the statement that the chairman of the Committee on Public Works and Transportation and the chairman of the Committee on Ways and Means had made an agreement before the hearings ever started.

We had never so much as discussed it, and we would not do that in any case. I repeat that we had never so much as even discussed the matter, and I am sure the gentleman from Oregon (Mr. ULLMAN) will speak for himself.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Chairman, let me point out that there is no way, even if I wanted to, that I could make an agreement for the Committee on Ways and Means.

Mr. EDGAR. Mr. Chairman, I respect the chairman of the full Committee on Public Works and Transportation, the acting chairman of that committee, and the chairman of the Committee on Ways and Means, and I thank the gentlemen for their statements.

The information I received from some people within the administration and in press accounts was that such a discussion did take place, lubricating the legislative path for this legislation. As a member of the Committee on Public Works and Transportation, it was indicated to me on several occasions that the Committee on Ways and Means would have sole jurisdiction over the fees and taxes. We in the Public Works and Transportation Committee would be only responsible for title I and title III, and the 4 cent and the 2 cent additional taxes would be placed in the bill by the Ways and Means Committee.

Mr. Chairman, I appreciate the clarification made by the gentleman on that, and I stand corrected.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I thank the gentleman for yielding.

I would also like to correct the statement that the gentleman made.

As the author of title II, the author of the substitute which became title II, of this bill, I can assure the gentleman that the formula was worked out by myself and my staff with no conversations with either the chairman of the Committee on Public Works and Transportation, the chairman of the Committee on Ways and Means, or the leadership.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for his comment.

Mr. HAGEDORN. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 8309. I support the reconstruction of locks and dam 26 and feel that action is urgently needed. I am less than enthusiastic over the proposition which would impose waterway user charges. My concern centers around the effect such charge would have on the national economy. On the one hand Congress through the Economic Development Administration and the title X regional commissions is trying to stimulate the development of depressed areas. We are providing supplemental aid to schools, medical facilities, airports, highways, and waterways to stimulate the national economy. We do this because there is a justifiable need. However, if we now preclude the waterways from realizing their potential utilities because of overly burdensome user

charges, are we then cutting off our nose to spite our face? On the one hand, giving Federal grants to aid these depressed economies and on the other taking it away.

I am especially concerned over the impact a user charge may have on the McClellan-Kerr waterway. This $1¼-billion investment may never yield the benefits Congress contemplated unless we act responsibly when user charges are imposed. When we are discussing the possibility of destroying this waterway I hope my colleagues will err on the side of caution—in order to protect this investment. I use the word "err" because of my firm belief that it is an error to impose these charges on the most efficient mode of transportation this Nation possesses.

If we are to have user charges I support the House provision since it reasonably provides for an analysis of the impacts of this legislation as it imposes a modest level of fuel tax. I personally do not believe we should impose user charges until we have the results of the study. However, the administration has precluded this option by their threat of a veto of any bill that does not contain user charges. Recognizing this, I hope that my colleagues will overwhelmingly endorse H.R. 8309.

Mr. HAGEDORN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, I can understand the feelings of my friend and colleague, the gentleman from Pennsylvania (Mr. EDGAR), who would like to see a larger user fee become law or, at least, that there be a phasein leading to a larger user fee. There are many others who will have that same sentiment.

Yet, Mr. Chairman, I also have the feeling that if the gentleman had my experience, over the past few years, as a person representing the area in which locks and dam 26 is located, he would have really cause for rejoicing in the realization that the committee now has before it a major step forward in the establishment of a reasonable user fee.

Mr. Chairman, the gentleman said that this will yield perhaps 8 percent of the cost of operating the rivers for navigational purposes. Perhaps the estimate is about right. It will go somewhat higher when the larger level of user fee is established; but I am inclined to think myself, after the personal experience that I have had, that were it not for the compromise on the user fee level, the locks and dam project would not have moved forward.

Enormous forces have been arrayed on both sides of this issue. Railroads, of course, have had deep concern over the tax status of the barge lines, and other interests have a great stake in the efficient movement of commodities like grain through the rivers and have also had a great interest in the improvement of what is viewed as the principal bottleneck in the river transportation system.

Both of these interests have been able to rally such substantial force in behalf of their position that there had to be a compromise. Otherwise, deadlocks would have continued. I feel that this has been a remarkable achievement which should really cause those who believe in the user fee to count their blessings. A year ago the enactment of a user fee was regarded as unthinkable.

Perhaps it is only 10 percent of the loaf that some would really like to have, but it is a significant advance which should cause those persons great satisfaction.

The importance of lock and dam 26 to the Midwest, and to the entire Nation, cannot be overemphasized. Fifty-five million tons of commodities pass through this strategic link in our waterway system each year. It is as important to our Nation as the Panama Canal which has sparked so much controversy. In fact, nearly one-sixth of our Nation's annual exports are grains originating in the upper Midwest and passing through lock and dam 26. The oil, coal, agricultural products, and other commerce passing through these locks are vital to the Midwest and touch the lives in some way of nearly every resident of my central Illinois congressional district. Without this vital link the economic prosperity of the Midwest and our entire country is gravely threatened.

The problem is that the existing lock is too small for the traffic volume and the facility shows signs of serious weakening.

Moreover, this antiquated and deteriorating 600-foot long lock must handle twice as many barges as any other 600-foot lock in the Mississippi River system. The next lock south is already 1,000 feet in length, and so should be the Alton lock, since both must handle the same traffic. The Alton facility continually causes delays in moving vital heating fuel to the upper Midwest and grain to export markets. A new lock and dam would put an end to repeated interruptions of river commerce that have already cost consumers millions of dollars.

This bill is also important for another reason. For the first time it will require those who use the Nation's waterways to help pay for the operation, maintenance, and eventually construction of facilities like lock and dam 26. For years I have urged that such a user fee be instituted. It is not fair for taxpayers continually to bear the full expense of maintaining the Nation's rivers. This bill recognizes that fact and does something about it.

The Senate has already passed a similar bill authorizing a new facility, and it is vitally important for the House to act today.

Mr. HAGEDORN. Mr. Chairman, I have no further requests for time.

Mr. ROBERTS. Mr. Chairman, I have no further requests for time.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. I thank the Chairman for yielding, and I shall not use the full 5 minutes.

On this particular bill there are two issues that have to be resolved. One is whether or not locks and dam 26 should be built, and the other is what, if anything, is an appropriate formula for taxing the use of inland-developed waterway systems. These are related questions.

Frankly, on the first question of locks and dam 26, I have struggled very long and hard to come to a decision in favor of replacing locks and dam 26. I am now convinced that the situation in the Midwest in those areas that would use this particular facility is such that we need locks and dam 26 in order to get the wealth of agricultural and other products in that area to the market. The consumers need it to stabilize the cost of transportation for these various products.

Title II pertains to the appropriate fee for the use of inland waterway systems. As I mentioned in the colloquy with the gentleman from Pennsylvania, my substitute which was offered in the Committee on Ways and Means and accepted has now become title II. There are two parts to it. One is the tax itself of 4 cents per gallon in 1979, increasing to 6 cents per gallon in 1981. The second is a requirement that the General Accounting Office perform a study dealing specifically with the question of what is an appropriate level of taxation on commercial inland waterway use. My initial reason for offering this substitute and working out this formula was a parochial one. As many of you know, we have a developed waterway system in my State and the State of Arkansas in the form of the Arkansas River navigation system. A billion dollars of Federal funding has gone into this program. It has produced tremendous benefit for the States of Arkansas and Oklahoma in the form of new development and new jobs, and it has meant a great deal to the consumers of this country in the form of adequate, efficient, and economical transportation of products to market. So my particular interest was to make sure that whatever tax was charged would be such that it would not close down or jeopardize this navigation system we have funded.

In working out this formula I was guided by the principle that everyone should pay some share of the cost of Government, and that includes inland waterway commercial users. I was also guided by the principle that transportation policy inasmuch as possible should remain neutral, so I look upon title II as the first step in taxation toward a neutral transportation policy. I think it is fair. I think this, coupled with the GAO study to advise us of some solid facts as to what is an appropriate neutral transportation policy for this country, will give to this Congress the kind of information we need to adopt such a policy.

I think this is a good bill. It is one that ought to be passed. The motion to recommit ought to fail, and we ought to move ahead and be responsible and responsive to the taxpayers of this country.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from California.

Mr. KREBS. I thank the gentleman for yielding.

As somebody who can, I think, honestly state, No. 1, that he has not made up his mind, and No. 2, that he is far removed geographically and otherwise from this particular project, I am a little

bothered by the size of the tax that the gentleman just got through saying is going to be 4 cents, later to be raised to 6 cents, and as to how this tax was really arrived at.

It is my understanding, and the gentleman can correct me if I am wrong, that on a pay-as-you-go basis the tax really should be something like 42 or 43 cents. Am I correct on that?

Mr. JONES of Oklahoma. This is what the Department of Transportation study indicates. The Congressional Budget Office study, however, indicates that if such a tax were imposed, certain developed river systems such as the Kentucky, Missouri, Arkansas, and four other rivers would be completely closed down as far as commercial transportation is concerned. It would be penny wise and pound foolish in my judgment for us to spend $1 billion to develop a transportation system and then impose a tax that would make it unusable.

Mr. KREBS. Mr. Chairman, if the gentleman will yield further, would he for my benefit, if I may impose on him, explain why this necessarily would be the result?

Mr. JONES of Oklahoma. I cannot personally verify the Congressional Budget Office study that was given to us in committee, but this was the finding of the study. A basic premise of the report was that at some point there is a certain elasticity, and at some point the tax becomes so burdensome that the mode of transportation is no longer viable and competitive, and travel on that mode would be diverted elsewhere, either to railroads, trucking, or some other form of transportation.

Mr. KREBS. Is it the position of the gentleman, if I understand correctly, that the 6 cents tax would be the breaking point? This was not my understanding, but I may be in error.

Mr. JONES of Oklahoma. From what we know at this stage, the 6 cents tax appears to be the breaking point. This is why I have coupled with this tax a requirement for a study by the General Accounting Office which brings all studies together and focuses on the simple question of tax. They will report back to us and tell us what an appropriate tax is for waterways and other forms of transportation. I do not think we ought to be levying tax policy out of basic ignorance or without a complete grasp of what the consequences would be, so 6 cents, from what we know now, interim proposal.

Mr. KREBS. I thank the gentleman.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I have several questions I would like to ask the gentleman. First of all I think he is right by saying he was the author of the substitute.

Mr. JONES of Oklahoma. That is correct.

Mr. EDGAR. Is the gentleman not aware that in the Public Works Committee when we were discussing titles I and II of the bill the figure of 4 cents tax was in fact discussed?

Mr. Chairman, if the gentleman will yield further, the substitute amendment offered by the gentleman from Oklahoma was really the bringing together of some discussion that had already taken place prior to the time the Ways and Means Committee discussed the issue, and the addition offered by the gentleman and the compromise was to add the additional 2 cents. Is that not correct?

Mr. JONES of Oklahoma. No, as far as I know that is not correct. Whatever discussions were held in the Public Works Committee were not divulged to me and I do not know whether these discussions occurred before or after I offered my proposal. My original idea was to place a 4 cents fuel tax on all forms of transportation. In the course of discussion I felt this was going too far and that it needed further study. Since the main question before us was water transportation, I decided to concentrate on the waterways issue.

Mr. EDGAR. I appreciate that. We discussed it at some length and heard testimony, and the 4 cents got locked in. That tax will recover approximately 8 percent of Federal expenditures to construct, operate, and maintain the inland waterway system.

Mr. JONES of Oklahoma. Based on the discussions in the Public Works Committee, I would like to ask my distinguished colleague from Pennsylvania how that 8-percent figure is broken down in terms of transportation versus recreational or flood control, and what various benefits do we derive from what we spend on our investment.

Mr. EDGAR. Of course, it is 8 percent of what we spend on waterways, but I wonder why we did not suggest another alternative.

Mr. JONES of Oklahoma. For the past 4 or 5 years Congress has passed many resolutions out of ignorance of the facts and the consequences of the action.

I think it is time we started acting on factual information and not on ignorance of the facts.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Oklahoma.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman from California has asked at what point can the States not bear the additional tax on barge transportation—I would just like to point out that last year, in one bill alone, we subsidized railroads to the tune of $900 million annually. Barges are the most efficient form of transportation in the country, so, obviously, they would be in business longer than any other form of transportation if everyone paid their own way. How much they pay depends on how much we continue to subsidize other forms of transportation; is that not right?

Mr. JONES of Oklahoma. That is very true. It is a relative question. In determining these things, we may have to take into consideration the question as to what modes of transportation should be subsidization is required, barge transportation being the most energy efficient mode of transportation, certainly should fall into this category in light of the energy shortage we are experiencing.

Mr. Chairman, I would like to add that "Huckleberry Finn" might never have been written but for the inspiration Mark Twain received from his many voyages up and down the mighty Mississippi as a strapping young riverboat pilot.

Lewis and Clark's "Journal" speaks eloquently of the hardship of land portage of canoe and supplies between the surging white waters as they searched for a Northwest passage.

From the moment our forefathers slipped paddle into water to transport a trapper's furs to market, our economic destiny has been linked to the inland waters. Just as surely as the enormity of the seas has insulated us against the ravages of war, so have the watery fingers of our rivers and streams helped place us first among world markets.

I do not intend to clutter the debate with additional facts and figures. Enough has been said of these matters. I do, however, want to speak to my colleagues on both sides of this issue.

To those of us who oppose any charge for the use of our Nation's waterways, I must candidly say the time has come for the proposal at hand. We find ourselves in a political "Catch-22," and there is no way out of our dilemma short of choking off a great river's capacity to carry the cargo of mortal men.

To those of us who demand full payment from the purse of those who use our waters, I call to mind the words of Ben Franklin:

> When the well is dry, we know the worth of water.

In my own area of the country, "full recovery" would quickly translate into "no recovery," as waterborne traffic would be driven from the waters that nurtured such economies.

In our zeal to correct past errors in judgment, let us not create new wrongs. The proposal before us is just and honorable. It leads us down an unknown path not at a gallop but at a stroll. It gives us time to seek one another's counsel, and the option to turn back if the shadows grow long.

No man suffers from knowledge, and this proposal contains the seed of such a gift. We would do well to remember T. S. Eliot's admonishment:

> History has many cunning passages . . . contrived corridors, and issues . . . deceives with whispering ambitions . . . guides us by vanities.

Let us resist our temptations, my friends, and cast a moderate lot.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to make very clear to the Members here today that I support, and I support strongly, the imposition of fuel taxes in order to help recover some of the huge Federal expenditures currently being made on our Nation's inland waterways. While the fuel tax included in this leg-

islation is not as strong as I would like, I believe it is a step toward what eventually must be—full recovery of all costs by the Federal Government for maintenance and construction.

I am supporting the bill with the strong hope that the conference committee will be able to raise the fuel tax level.

Mr. Chairman, the issue before us is a fairly simple one. The Federal Government has spent literally billions of dollars over the last decades to construct and maintain an elaborate system of locks and dams and waterways in order to improve operating conditions for largely commercial waterway travel.

As an example, section I of this bill also contains authorization for close to a half of a billion dollars for a new dam facility at Alton, Ill. Current Federal expenditures for upkeep of all waterway facilities is now running close to a billion dollars each year.

The legislation before us today would simply require that the users of this extensive Federal construction and maintenance effort help pay for it. While the taxes in this bill do not provide for full recovery of Federal expenses, they are a start toward what we should require in most every Federal assistance category, whether we mean highways, railroads, or whatever.

There is much argument about who among the transportation industry is really subsidized, who has the best per mile or point-to-point ton/mile costs, and how much is being spent in alternative industries. I believe that it has been conclusively proven that each segment has its advantages, but that each segment must pay its own way.

Mr. Chairman, I urge that the House support the language before us that includes the fuel tax on waterway users. It is not fair to bill all the American taxpayers for improvements and maintenance that may only be used by some. While the tax level in this bill is not as much as either I or the administration would like, I hope that it can be raised in conference so that complete recovery of Federal expenditures can be accomplished.

Mr. JONES of Oklahoma. Mr. Chairman, I thank the gentleman.

Mr. HAGEDORN. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act. This is a very necessary bill and must be enacted. It represents a reasonable compromise and addresses the concerns that have been raised over the replacement of locks and dam 26.

I believe that the Committee on Public Works and Transportation and the Committee on Ways and Means should be complimented for their work on this bill. I am pleased to see two committees come together and develop a legislative initiative which all members can support.

Mr. Chairman, I represent a farming district that depends upon waterways, trucks, and railroads for the movement of our agricultural production. Three competing modes of efficient and dependable transportation allow the farmers to provide America and the world with adequate supplies of grain. To aid our farmers in their battle with the cost-price squeeze we also need to have our supplies of fertilizer and other farm chemicals shipped upstream as cheaply and dependably as our grains are shipped downstream. The waterways assure this.

Locks and dam 26 is a vital link in the waterway system. In 1938 only 1.3 million tons of goods went through the newly opened locks at Alton. By 1975 the volume had risen to 54,538,000 tons. The tonnage at locks and dam 26 continues to rise. In 1985 close to 38.2 million tons of grain will move through the locks, and grain comprises only half of the total volume at the locks.

Other segments of the economy are also served by the locks at Alton. Close to 5 million tons of coal and 7 million tons of petroleum is shipped through the locks each year. These fuels are shipped upstream for use in electrical plants to provide lighting and heating to millions of our upper Midwest consumers, rural and urban, and to provide residual fuel oil.

Some may say that there are alternatives to Alton and the Mississippi Waterway; but I disagree. Our nearest deep water port for northwestern Minnesota is Duluth, but the Duluth Harbor is bound by thick ice each winter. For the overseas shipment of grain and the acquisition of needed chemicals and fertilizers we have to depend on New Orleans. The most efficient method of linking the deep water port of New Orleans to the upper Midwest is the Mississippi. We use rail transport in the winter to move goods below the upper reaches of the river and we use rail and truck transport as linkages to the barges, but it is the waterway which remains the primary and best north-south mid-American roadway for commerce.

The locks at Alton are an important juncture of the Mississippi waterway. Forty years after construction, locks and dam 26 is able to accommodate the millions of tons of shipping, but with costly delays. Every year, as the barge tows increase in size and number the delays for going through the locks also increase proportionately. These delays are costly, not only in money but in time and fuel as well. I would like, at this time, to submit, for the RECORD two tables showing the costs of these delays.

You can see from these tables that the costs of delay are rising. In 1975 the total cost was $5.1 million, in 1976 it was $7.9 million. The increased cost of delays are born by the user—farmers, agri-business, small businessmen—and ultimately passed on to the consumer in the form of higher utility rates and food prices.

The need for a new and efficient lock at Alton to increase the effectiveness of the Mississippi waterway as a route of commerce and to keep down transportation costs, has brought together a wide range of groups representing business, labor, energy suppliers, and the farmer. All of these groups are united in their support for H.R. 8309. I would like, at this point, to salute the Minnesota Agri-Growth Council—an agribusiness-farmer organization—and Russ Schwandt—a founder—who have been strong proponents for the new locks and dam 26, as well as other matters affecting the agribusiness farm community. I am proud to add my voice to their ranks.

In closing, I would like to address the issue of the user charge. This bill imposes for the first time a modest waterway user charge. It would be inappropriate to do more without adequate information as to the real impact of user charges. The question of the historic free usage of our Nations waterways and the subject of user charges is an issue to be studied and debated at length before the appropriate committees of this Congress. Those who would advocate a higher user fee, without full consideration of its impact on food prices and on other consumer goods, as well as jobs, are not being responsible to the economic health of our Nation. The comprehensive study authorized in H.R. 8309 will tell us what is a fair share and who should pay. I would prefer to postpone the imposition of the user charges until the study is completed. However, I recognize the fact that the President has pledged to veto any authorization for the project unless user charges are imposed. The replacement of locks and dam 26 must proceed now—to wait only increases the total cost of the project as well as increasing the risk of collapse of the existing structure. Delay is unacceptable. Therefore, working with the realities let us act on H.R. 8309. I urge my colleagues to support this bill.

DELAY—LOCKS AND DAM NO. 26

	Average delay, both locks (hours)	Towboats both locks	Average delay, main lock (hours)	Towboats main lock	Total delay losses
1975					
January	2.96	723	4.53	415	$224,275
February	[1] 6.03	546	8.04	365	348,787
March	4.57	767	6.85	442	378,209
April	2.10	681	2.84	451	140,406
May	1.67	754	2.45	450	130,415
June	4.24	702	6.23	431	315,116
July	6.27	878	10.95	435	559,058
August	5.98	813	10.66	396	493,779
September	5.65	785	9.53	400	482,778
October	12.32	849	22.74	392	$1,041,920
November	11.04	756	17.58	381	833,177
December	3.38	703	4.78	383	242,498
Total	[2] 5.52	[3] 8,957	[2] 8.93	[4] 4,941	5,190,318
	[5] 5.65		[5] 8.73		
1976					
January	[1] 13.52	590	18.79	353	$837,299
February	[1] 13.16	649	19.32	363	845,666

	Average delay, both locks (hours)	Towboats both locks	Average delay, main lock (hours)	Towboats main lock	Total delay losses
March	6.70	772	11.16	408	$565,346
April	[2] 27.01	690	33.44	325	1,928,497
May	[7] 10.75	871	15.50	476	945,815
June	7.51	841	9.80	454	620,795
July	4.82	796	6.44	434	363,469
August	4.28	753	6.56	431	384,930
September	5.65	713	8.38	403	470,551
October	4.08	822	6.27	442	$377,777
November	3.53	714	4.94	413	290,000
December	3.98	694	5.87	407	310,773
Total	[2] 8.75	[8] 8,905	[2] 12.21	[9] 4,909	7,940,406
	[5] 8.50		[5] 11.59		

[1] Ice condition.
[2] Average.
[3] 6 percent of the 8,957 towboats using both locks experienced delays exceeding 20 hr and 1.30 percent experienced delays exceeding 40 hr.
[4] 10 percent of the 4,941 towboars using main lock experienced delays exceeding 20 hr and 2.40 percent experienced delays exceeding 40 hr.
[5] Weighted average.
[6] Main lock closed several days due to end cell failure.
[7] Backlog from April closure.
[8] 7.66 percent of the 8,905 towboats using both locks experienced delays exceeding 20 hr and 3.27 percent experienced delays exceeding 40 hr.
[9] 12.02 percent of the 4,909 towboats using main lock experienced delays exceeding 20 hr and 4.18 percent experienced delays exceeding 40 hr.

Mr. SLACK. Mr. Chairman, the State of West Virginia has a vital stake in water transportation. Much of our coal reaches consumers by river—the Ohio, the Kanawha, and the Monongahela. It is estimated that in the latest year reported some 30 million tons of West Virginia coal moved on these rivers, representing a value at the mine of about $883 million and the production of 14,900 coal miners. Most of the coal carried on the three rivers is consigned to electric generating stations on the river banks which transmit energy by long distance transmission lines to inland communities throughout the Upper Ohio Basin. With the State's three river systems, probably the larger portion serves electricity consumers in West Virginia. The fuel adjustment formula promptly reflects savings in transportation costs into lower rates for homes, farms, and business establishments.

The chemicals industry of the Kanawha Valley and the northern panhandle of West Virginia on the Ohio River is critically dependent on transits via the Gallipolis and Winfield locks. In 1975 about 2.4 million tons of bulk chemicals moved into the Kanawha River from the gulf coast and from the Mississippi and Ohio River Valleys. This traffic consists mainly of bulk feed stocks and intermediates which the West Virginia chemicals industry converts into finished products for distribution by rail and truck throughout the northeast quadrant of the United States. The Gallipolis and Winfield locks are thus critical gateways on which this industry depends for essential raw materials.

The gasoline received by river barge into the Kanawha and Little Kanawha Rivers in 1975 amounted to about 29 percent of the total gasoline consumption of the State of West Virginia. Large additional quantities, not separately recorded, were received on the Ohio River upstream from Gallipolis.

Practically all of this gasoline transits the Gallipolis locks and most of it the lockage at Winfield. Alternative modes of transportation are not economically available. A large portion of the gasoline received by barge is shipped by small distributors and marketers who lack the volume for pipeline participation.

Other petroleum products received via the affected navigation works include distillate fuel oil, kerosene, jet fuel, and lubricating oils, all in substantial quantities and of importance to West Virginia industry.

In addition, important steel production in my State depends upon low-cost water transportation to meet the competition of cheap foreign steel imports. The steel industry is already undergoing severe hardship.

The user charge formula of the Senate version of H.R. 5885 as applied to these movements would drastically increase transportation costs. On the Ohio—treated as a single segment—costs by river could rise as much as 20 percent. Imposition of lockage fees as authorized by the Senate version would result in still higher charges on the affected reaches. It appears that if the proposed improvements of the Gallipolis locks and dam on the Ohio and the Winfield locks on the Kanawha were to be under construction at the same time, the user charge on a movement between Huntington and Charleston could amount to $1.93 a ton.

The charge for ICC-regulated water carriage on the Mississippi River and tributaries in 1976 averaged 5.07 mills per ton mile of cargo. This is probably close to that on the Upper Ohio and Kanawha Rivers. The river distance between Huntington and Charleston is about 100 miles. Therefore, the above stated charges per ton would amount to 19.3 mills per ton mile. The 19.3 mills would thus multiply carrier charges nearly five-fold during the period of construction.

The user charges at these levels would exert a serious adverse effect on West Virginia industry. Delivered costs of coal would rise to the competitive disadvantage of West Virginia producers. These higher costs would be translated into higher costs of electric power, thus increasing the cost of living and the costs of all industry utilizing electric power. Increased delivered costs of chemical feed stocks would be pyramided into the costs of countless finished products. Higher gasoline and petroleum products prices would constitute a levy ultimately borne by motorists, truckers, farmers and industrial users throughout the State.

There is considerable probability that under either of these impositions, neither the projected Gallipolis nor Winfield improvements could be constructed. The present benefits-cost ratio at Gallipolis, at about 4-to-1, is very favorable. However, the proposed user charges would substantially reduce the prospective tonnage and would reduce also the benefits per ton on which the ratio is calculated. It is entirely possible that the new ratio would turn out to be less than 1.0.

But, under the Senate version, even if the new benefits-cost ratio were still favorable to the Gallipolis and Winfield improvements, it might be impossible to construct the projects anyways. The entire 50 percent of construction costs would have to be paid during the period of construction, and the traffic simply might not be able to provide this much revenue. Under a levy of $1.93 per ton, every shipper who could do so would divert to other routings and other modes during the period of construction; shippers contemplating new or expanded movement would defer action until completion; and many carrier movements would be financially untenable. On the reduced tonnage, the $1.93 levy would have to be raised to unpredictable levels. It is entirely conceivable that, at Gallipolis and Winfield, even if the benefits-cost ratio remained distinctively favorable, the residual movements simply would not have the money to finance 50 percent of the project costs during the years of construction. At Gallipolis and Winfield, combined, about $142.5 million would have to be squeezed out of the traffic in only 6 years—1976 construction cost levels).

The adverse impact on the Monongahela River would be even more certain. With four projects proposed for construction, carrier charges would have to be raised to untenable levels. From Morgantown, W. Va., to Clairton, Pa., it is estimated that, under the Senate version, the proposed charges would amount to 23.5 mills per ton-mile. Some of the present lock and dam structures on the Monongahela are over 70 years old and, with continued deterioration and no replacement, might well have to be closed permanently to traffic.

It cannot be too strongly emphasized that the percentage cost recovery and waterway segment charge features of the Senate version will inevitably lead to ever increasing charge levels. Costs of operation and maintenance do not decline with reduced volumes, nor do construction costs once a project is undertaken. As volume drops under the impact of the first round of charges, the rate of charge must therefore rise to attain the specified cost recovery objective, generating an irreversible trend of rising unit costs against reduced traffic. The gradual reduction of river traffic to levels insufficient to justify continued operation and maintenance is a grim and realistic prospect under such a formula. Any hope of constructing urgently needed replacement and expansion projects on the upper Ohio, the Kanawha,

and the Monongahela would be dim indeed.

If river facilities are not improved and river costs rise on diminished volume to prohibitive levels, West Virginia's basic industries will be damaged beyond repair. Alternative means of transportation alone simply cannot do the job at acceptable costs. Indeed, the rise in water transportation costs resulting from such user charges would undoubtedly result in higher rail rates affecting enormous tonnages of existing traffic whose rates are now anchored by water competition. The inflationary consequences are beyond calculation.

It is ironic that the constructive assistance provided to West Virginia by Congress under the Appalachian Regional Development Act and for development of its water resources, may be wasted if the ill-conceived user charge formula of the Senate bill and similar measures proposed by some Members of the House are enacted.

The economic welfare of my State and its hopes for the future require that Congress retain control of waterway tax and charge levels and methods of imposition, and that it reject formulas for differential segment charges and percentages cost recovery. H.R. 8309 recognizes those imperatives and represents a reasonable attempt to provide supplemental revenue sources for urgently needed improvements to the waterway system. I urge its passage.

Mr. FRENZEL. Mr. Chairman, H.R. 8309 has taken a long time and a circuitous route to get here. It may not be anybody's first choice, but in light of the necessity to pass a bill it is as good a legislative compromise as is possible.

In this body we must live with political realities. Those realities on this issue are easily explained. The other body has passed a user fee system for our waterway traffic. The administration, hungry for revenues of any kind to balance its budget by 1981, has decided to assist the Senate in holding this desperately needed Mississippi River lock and dam hostage to the passage of user fees for all our country's inland waterways. I believe fees or taxes ought to stand on their own feet, but the linkage in this situation that confronts us is political fact, and we must now try to salvage the optimum result.

This bill is the product of both the Public Works and Ways and Means Committees. It resulted from active cooperation between the two. Both committees support it strongly.

Title I authorizes the replacement of lock and dam 26 at Alton, Ill., with a new dam and a single 1,000-foot lock. It also designates 26 inland waterways on which commercial traffic will be subjected to a tax that is discussed in title II.

Lock and dam 26 was built, along with much of the Mississippi chain, in the late 1930's. It is, today, an old concrete structure supported largely on wooden pilings driven into sand. These pilings generally sink down about halfway to the bedrock located 70 feet deep. Its structure is in a now-outmoded vertical design which has contributed to some of the major physical problems which have developed over the last 40 years.

Among these problems are large sand cavities encroaching underneath the base, cracking walls, and deep scouring immediately downstream. But the one problem that anyone can compute is that passage of water has now worn holes 3 feet deep in the stilling basin which was built with 3½ feet of concrete. That leaves just 6 inches protecting parts of the foundation. The repairs necessary over just the next 2 years will run about $10 million.

In April of last year, cracking rock walls caused the emergency daylight closing of the facility for 5 days. This, as you can guess, backed up traffic considerably. But, unfortunately, snarls and backups at lock and dam 26 are the rule rather than the exception. Last May the St. Louis Post Dispatch noted that "delays of 40 hours or more have become common at Alton." The reason is simple. The 40-year-old facility is too small to service the need.

Lock and dam 26 is one of the two locks which are solely responsible for accommodating the flow of traffic from both the Mississippi and Illinois Rivers. The Illinois chain of locks and dams has a practical capacity exceeding 60 million tons. That of the Upper Mississippi is about 45 million. These two rivers funnel their traffic into lock and dam 27 with its capacity of 105 tons. Traffic then meanders down the 120-mile-long pool of No. 26 and encounters there a practical capacity of 46 million tons.

A little elementary arithmetic will demonstrate the problem here. The actual tonnage exceeded the "practical" capacity way back in 1970. Growing by 2 to 3 millions tons per year, actual tonnage is now over 57 million tons.

Without a new lock, there are only two ways to increase the capacity level. The first is the make-believe method of redefining "acceptable delays" to a level that you think that you can meet. But redefinition does not solve problems in the real world.

The second is to increase the traffic flow through a series of "band-aid" remedies. The band-aid methods suggested includes using what is called a "ready to serve" policy with switch boats, transshipment of cargo, helper vessels, and prescheduling of boat transit—the last being a most difficult item to implement in a very competitive free market located on a floating river.

Additional changes needed to increase capacity would include modernization of lockage equipment and substantial increases in staff. I think that some of these methods may work, but I share the fears of many rivermen that that use of untried and experimental ready to serve barge policy is very dangerous for both lives and cargo. And it is extremely expensive.

So, unless we pump lots of money and time into this old structure we are stuck with a major overutilization of the facility. We can rehabilitate it, but that will surely be dangerous, and it may cost almost as much as replacement. Worse, it would still leave the now standard, huge traffic backups.

This is a vital facility. It transits about 11 percent of all shallow draft tonnage nationally and, according to the Minnesota Department of Transportation, carries over 40 percent of all the grain exported from my home State. This is only slightly greater than the national average of over 30 percent of grain exports which also flow through lock and dam 26. In total, almost 60 percent of the material which flows through lock and dam 26 is agriculturally related.

All of this information does not really hit home until you have learned something about the waterway industry. Our inland waterways, as Public Works Committee Members who have discussed the matter overseas will tell you, are the envy of other nations. Our waterways, have about 25,000 barges and 4,100 towboats plying them. Over 1,800 companies operate these barges and they employ greater than 90,000 employees.

It is especially noted that over three-quarters of these companies operate less than 10 barges and do the lion's share of the towing business. Nobody knows what exactly the lion's share is, but it is estimated to be more than half the total billings.

In short, there are lots of relatively small, mom-and-pop type, operations on the rivers. The best estimates before the Ways and Means Committee indicated that water carriers in general earn about 3 percent on sales and 5 percent on investment capital.

It is important to realize that the waterways service much of the industrial heartland of this country. Since 1952, more than 10,000 new plants or major industrial facilities have been built on the rivers and capital investment has reached nearly $175 million. The growth pattern is continuing. In just the last quarter of 1976, 128 new facilities or major expansions occurred. These expansions created over 25,000 documentable new jobs in private industry.

Navigation is only one of the factors which necessitate the construction of locks and dams. They are a vital part of our overall water resources management effort. I do believe that our environmental management has not been exactly sterling and ecosystem considerations have all too often not been the highest priority of the Corps of Engineers. Water navigation should be our most environmentally sound transportation method.

It is the most energy efficient means of transport, consuming both less gallons per ton-mile and less Btu's than its competitors. The materials, mostly steel, required for construction generate almost 50 percent greater carrying capacity than any similar use. It produces less air pollution than competing modes and it utilizes nature's very own rights-of-way thus not creating urban sprawl, traffic congestion, or the other ills frequently associated with trucks, railroads, or airlines.

Additionally, the locks and dams on the upper Mississippi, which I am most familiar with, have created and maintained important wildlife and wetlands areas. In fact, prior to the construction of the locks and dams, the upper Mississippi was strictly an on-again-off-again river. Oldtimers in my district never tire of telling disaster stories about Mississippi floods, lost grain shipments, and the huge dead fish kills of a dried up riverbed. These same oldtimers can and do point out new recreational parks, wildlife returns, and increased fish catches as a result of the structures. I am not saying that the locks and dams are environmental "godsends." They clearly are not. But conversely, neither are they the devastators of our environment which is frequently alleged.

Part of the reason that we are discussing this here today is economics. The waterways are cheap to use. They are both cost competitive and cost effective. In an inflation-prone economy this is no minor point. In the 10 years from 1963 to 1973, the Wholesale Price Index rose 43 percent. In that period the cost of waterways traffic rose only 5 percent. This trend continues. In recent years shallow draft vessels have moved almost 8 percent of total freight carried in this Nation for less than 1 percent of the fare. All inland waterways totaled more—over 11 percent of intercity freight for less than 2 percent of the total tab.

Nothing is mentioned in title I about a 12-foot channel. This was, of course, a huge issue in earlier considerations. I would also oppose a 12-foot channel authorization but to suggest a prohibition in the bill seems legislatively redundant. Any new construction would require congressional passage anyway. But, prohibiting a study strikes me as unnecessary. Any such study would currently require the express approval of the Public Works Committee. This is their field of expertise. Adding general House approval would not produce any particular benefits of which I am aware.

The Rivers and Harbors Omnibus Act of 1930 set channel depth at 9 feet. Though the corps has internally indicated its desire to go to 12 feet, this has never been more than a case of an executive agency trying to broaden its turf. Deep dredging is sometimes destructive and unsightly. However, retaining the present language may better our position in the conference discussions.

Some concern has also been created by the 18-foot sill depth of the planned lock. This depth is required by the ice flow and frozen debris frequently carried by the barges in winter months. It is also a more efficient engineering technique for facilitating transit speed.

The designation of 26 inland and intracoastal waterways for taxing purposes was very carefully considered by the Public Works Committee on consultation with the corps and other outside organizations. I personally wish that some consideration of deep draft channels and harbor expenditures could have been fully discussed. However, without more information, the international political and economic considerations were mitigating. I believe that they should be more thoroughly reviewed at the first opportunity.

The environmental considerations raised deserve thorough study. In the past, our environmental record in the management of our waterway system has been less than glorious. However, there is nothing in this bill that is antienvironment. The original lawsuit brought on environmental grounds was by 21 railroads and 2 environmental groups.

Title II imposes an excise tax of 4 cents beginning on October 1, 1979, rising to 6 cents in 1981 on diesel fuel used in commercial traffic on the rivers and waterways specified in title I.

Tax revenue estimates, as computed by the committee and the Treasury Department, indicate a revenue gain of $29 million in 1980, $40 million in 1981, $58 million in 1982, $67 million in 1983, and $71 million in 1984. This would be followed by the discussion of further taxes once the study results are available.

An obvious question is raised as to why we should not have total cost recovery on the 100-percent operation and maintenance costs and 50 percent of construction costs as suggested by the administration. The answer is a little bit complicated. Despite the declared policy of the Office of Management and Budget, it is obvious that we do not have cost recovery as the prevailing policy of Government investment. Some of the examples which immediately come to mind are the billions expended in the commercial development of the jet engine, or millions for agricultural research not recovered from either agricultural business or the farmer, or the NIH chemical R. & D. later translated into valuable products for the pharmaceutical industry. The list is endless.

Cost recovery is also not the policy in other commercial transportation fields. In 1975 the total Federal highway tax collected amounted to about $5.6 billion. Of this only $2.35 billion or 42 percent was collected from trucks, trailers, or commercial vehicles. The nontax outlay was over $1 billion and the 58 percent of the tax paid by passenger vehicles was surely not specifically intended to promote "intermodal equality." The subsidies to our railroad system are in the range of double the $5 billion invested in the waterways since 1824. This amount only includes the $6.4 billion rescue of the railroad retirement program and the multimillion dollar delivery of the Railroad Revitalization and Regulatory Reform Act of 1976. This does not include either our generous actions to provide relief from passenger deficits or our decision to ignore the income generated from the massive land grants originally given railroads.

A policy of full Federal cost recovery from commercial waterway users does not make sense for a number of reasons: distribution of usage, existing collection of revenues, and unbalanced cost figures.

Recovering either the full cost of a fixed percentage of operation and maintenance and construction will place a disproportionately high penalty on commercial use. Noncommercial usage, meaning recreational boating, of our rivers and harbors is a big time item. I, for one, was surprised at the percentage of use in my area.

The upper Mississippi lockages within the St. Paul district are busy locks. In 1976 there were over 67,000 lockages on these 13 structures. The exact distribution figures were 33,777 pleasure and 33,780 commercial lockages.

Going down stream to the next engineering district, there were again about 67,000 lockages. Of these over 20,000 were by pleasure boaters. In total, over 40 percent were noncommercial boaters.

Are funds to be collected for these pleasure lockages? The answer is "No." Are any funds from these users of the waterways intended to contribute to the upkeep of our expensive waterways systems? Again, no.

The pleasure boaters do pay gasoline taxes which are collected and, on a percentage estimate basis, passed on to the land and water conservation fund. In 1976 the figure was $28 million, in 1977 $31 million, and next year, when the 2 cent rebate is phased out, the transfer will be around $60 million.

However, these Lawcon funds are, in general, not allocated to the rivers. Conversely many nonnavigation items are included in the $211 million O. & M. figure that we have frequently heard. In Secretary Adams reply to the Ways and Means Committee, he indicated that there was no way to effectively separate out recreational and other expenses from navigation under the corps' current accounting system. A partial list provided to the committee by the American Waterways Operators includes:

PARTIAL LIST

Water quality management—
Water Supply,
Low Flow Augmentation,
Public Use Plan Studies (Great),
Rainfall Gauging,
Water Quality Investigation,
Silt Reduction.
Recreation—
Small Boat Channel Dredging and Maintenance,
Dredging to Small Boat Ramps,
Visitor Facilities at Dams & Other Areas,
a. Toilet Facilities & Sewage Treatment
b. Paving Maintenance
c. Clean-up
Safety Shelters for Small Boats,
Use of Locks (Many Not Used by Commercial Craft),
Beach Erosion,
Aquatic Plant Control,
Fish & Wildlife Habitat Enhancement,
Dredging for Ecological Enhancement,
Stable Calm Water Pools,
Agriculture Production—
Silt Reduction,
Bank Protection,
Drainage & Run-off Control,
Fishing Enhancement,
a. Commercial
b. Game
Stream Flow Reduction Reducing Erosion.

Further, the figures for individual river systems vary incredibly from year to year. However, the political situation referred to earlier has determined that some form of compensation is necessary. I believe that we need to know a great deal more about any system's effects before permanent establishment of any use fees. For the present, a dread oil tax is the best idea.

Another reason arguing against full recovery is that you should not fully recover that which you have not fully spent. The Senate plan begins full recovery long before—perhaps 10 years—L. & D. 26 will be complete.

Additionally, many of the necessary expenditures on waterways are not federally related. The accepted cost estimate of non-Federal contributions is about 7 percent of total capital and 8 percent of O. & M. On top of that, local bond issues are often used to pay for docks, warehouse, wharves, and port facilities. This may add up to almost 30 percent of localized navigation costs and is often routinely included into our planning for authorizations.

To defray some of this cost, the local units—cities, counties, and parishes—frequently levy dockage and use fees on transitory and domiciled water carriers. This brings up the question of whether the commercial users get a "free ride." I cannot speak for the rest of the country but I have some knowledge of the 10 States along the Mississippi. With some limited exemptions for interstate commerce and related items, the list of taxes above and beyond Federal requirements include: All 10 impose corporate income taxes, all 10 have property taxes, 6 impose franchise taxes, all 10 have sales taxes, and 2 along with other States considering pending legislation, impose license fees.

If we are to impose a tax, it is most important that we studiously avoid a "user charge" tax. If a user charge is selectively allocated on a segment basis, the disparity between short and long hauls becomes overwhelming. Its diversionary effect on waterway usage will be phenomenal. My own idea would not be badly damaged with fees estimated to cause about 5-percent diversion of traffic to other modes, but the new or expanding waterways will be devastated. They may be expected to experience a 50- to 90-percent diversion of traffic. It is about 100 years too late to even consider a segment approach if the goal is equity rather than revenge.

If the fee is based on a simple lockage charge, the rate discrimination is also increased over distance. But a fee placed upon value of cargo transported is absolutely absurd. Yet this was the primary method designated by the Senate in the Domenici bill.

The Domenici proposal represents a huge disavowal of legislative responsibility to the executive branch by permitting it to select a method of fee collection. It also imposes charges on the rivers based upon the previous year's expenditures. This will, even with a new bookkeeping system, cause a highly variable rate structure with predictable effects upon those doing business. The expenditures on the upper Mississippi went down a million from 1973 to 1974 and up $4 million from 1974 to 1975. The lower Mississippi saw a 1½ million drop from 1973 to 1974 and 1¾ back from 1974 to 1975. This rollercoaster picture is continuing to bounce up and down. The tax's effect, even with the 1-percent cap, could be enormous.

It was helpful for me to look at several examples of the effect of a valuation tax or user fee based on standard barge sizes, carrying capacity, and average competitive rates. For a run of corn from St. Paul to New Orleans, the increase was 12.7 percent. For soybeans, more expensive but no more difficult to transport. The increase was a whopping 43.8 percent. To ship fuel oil from Baton Rouge to Chicago, the increase is 11.7 percent and steel from Pittsburgh to Cincinnati goes 76.5 percent. The difficulty in which the steel industry now finds itself is well known. It does not need any more price increases.

In short, I believe that other possible systems would be far less equitable than a fuel tax. Its other important advantages are administration, enforcement and coherence with national policies. Administrative costs would be minimal because the tax could be collected with a ship's normal fuel bills and accounted for in normal ship's pursers arrangements. The enforcement is simplified by the Coast Guard's existing authority to license and regulate all waterway fuel transfer facilities.

Because of these factors, no new costly monitoring or inspection facilities would be required. It is also consistent with the 4 cents motorboat and 4 cents commercial trucking fuel taxes and coincides with our energy package's philosophy which regards the most energy efficient of users among individual modes.

One of the most important provisions of title II is in its direction that a study of the tax policy be initiated with the passage of this bill. It will be jointly performed by the GAO and the Joint Committee on Internal Revenue. This study is to be completed by 1980 and will discuss the impact of taxes on all types of commercial transportation. It will compute the national effects of various collection systems on the economy, consumer prices and other measures.

In short, title II provides a good start at establishing a base for an equitable system.

Title III of the bill directs the Secretary of Commerce and Transportation to undertake a joint study of the various types and levels of user charges. It will focus on the various impacts of these systems upon carriers, shippers and consumers. This will be submitted to the Congress with 3 years and will be fully coordinated with the activities of the National Transportation Policy Study Commission. The Commission will be required to report its recommendations to the Congress based on the study within 6 months.

We definitely need an examination of these issues but I believe that this must be conducted in cooperation with other existing commissions and units already in the field. Particularly important is coordination with the Great River Resources Management Study funded under section 117 of the Water Resources Development Act.

"Great" has an authorization of over $9 million and its membership is composed of all the effected states and the five primarily involved Federal agencies. Its purpose is to examine and develop a master plan incorporating navigation, fish, wildlife, recreation, watershed management and water quality. I have observed their activities thus far and am hopeful that their plan will be useful.

We have heard many references to the massive volumes of studies which back up user charges and transporation fees. Of the 18 major studies often referred to, not one has examined the questions of impact on farm income, cost of living index, energy supply, energy security, regionally differential employment, regional income levels or export expansion.

Some of these studies had proposed including shallow draft vessels and others, only shallow draft channels. Some have included the Great Lakes and others, only seacoast harbors and channels. The method of recovery has also been varied. The collection proposals have included ton mill taxes, lockage fees, congestion tolls, license fees, vessel weight, and vessel size proposals.

In short, the contradictions far exceed the similarities in their conclusions. It is also interesting to note that almost one-third have specifically recommended conforming amendments to the railroad rate structure so as to prevent "predatory pricing and rate cutting." The definitive studies authorized in this bill are obviously badly needed.

Mr. Chairman, this bill was not my first choice. But, because of practical realities I am convinced that it is the best possible vehicle for rebuilding a vital link in our national transportation system, for establishing a reasonable user tax without major economic dislocations, and for assembling the information needed for future decisions. I hope it will pass today.

Mr. PRICE. Mr. Chairman, I would just like to add my thoughts to this discussion, even though my distinguished colleagues should have no doubts about where I stand on the issue of locks and dam No. 26. It is a well known fact that I have been concerned with the replacement of this facility since its need was recognized, and that I have been fighting particularly hard since the imposition of unreasonable delays in recent years.

I want to urge my colleagues to support the committee, chaired by our colleague, the Honorable RAY ROBERTS. Many areas of this country are indebted to the committee for its great work.

With our consideration of H.R. 8309, the Navigation Development Act, the time has come to eliminate once and for all the bottleneck on the Mississippi River that is slowly strangling a flow of commerce vital to our Nation's economy and balance of payments. The deteriorating condition and inadequate capacity of locks and dam No. 26 loom ever larger as an obstacle each year that Congress fails to act.

Located on the Mississippi River 20 miles north of St. Louis, locks and dam No. 26 serves as a funnel for all river traffic between the Illinois and upper Mississippi on the one hand and the Ohio, lower Mississippi, and the Gulf Intercoastal Waterway on the other. Through that funnel must pass millions of dollars worth of grain exports moving south, as well as vitally needed coal, oil, chemicals, and fertilzer on their way north.

Use of the waterway to transport these commodities conserves scarce energy resources and valuable consumer dollars. But the now inadequate size of the locks is causing longer and longer delays each year. These delays are compounded by the threat of mechanical breakdowns as the near 40-year-old facility creaks under its load and that threat of mechanical breakdown increases with each passing year of congressional inaction.

The operational and procedural improvements that have been suggested were instituted last fall, and very little in the way of added efficiencies can be expected from such measures. Unless locks and dam No. 26 is rebuilt and enlarged, the delays will lengthen until they drive traffic off the river altogether. Shippers will then have to use alternate modes of transport at higher cost to consumers, or, worse yet, the traffic will not move at all and economic activity in the region will stagnate.

Rebuilding locks and dam No. 26 would provide vitally useful work for significant numbers of people at a time when millions of our Nation's citizens are unemployed. And I stress that the work itself is vital—we must rebuild the locks in order to uncork the bottleneck on the river.

And when we do replace locks and dam 26 we will have a precious and essential investment in a capital facility that will serve the economy of the Nation for upward of 50 years.

I am greatly worried, Mr. Chairman, about our capability to balance our trade and prevent further erosion of the dollar's strength in world markets. We are importing more oil each year and we are planning to decrease arms sales abroad. The population of our planet is expected to double within the next 30 years, from 4 billion to 8 billion. Without doubt we be expected to provide increasing quantities of food—and principally grain—to the rest of the world. With these prospects before us we would be shortsighted indeed if we delayed action any longer.

Congress has been actively studying locks and dam 26 since 1969, and the need for a new facility has been recognized from the outset. Several years ago, work on the project was blocked as a result of judicial interpretations of statutory authority and environmental ramifications. Last year congressional action was stymied by the 11th hour linkage of the authorization with a highly controversial user charges issue. Though the user charges issue still remains, I urge my colleagues to vote for today's bill.

By now, all of the economic and environmental aspects of the project have been exhaustively studied and debated; logic shows that the arguments against the facility simply "do not hold water." The proposed new facility will itself take 8 to 10 years to construct. Meanwhile, the delays at the present facility are growing intolerably longer. This time Congress must act, quickly and decisively, to untie the knot by authorizing the Corps of Engineers to replace locks and dam 26 without further delay.

Mr. QUIE. Mr. Chairman, I rise in strong support of H.R. 8309 which authorizes construction of a replacement for locks and dam 26 at Alton, Ill., and also imposes for the first time a fuel tax of up to 6 cents a gallon by 1981 on commercial cargo vessels sailing on inland waterways.

Even though many Members' district may be thousands of miles away from the Alton facility, I hope that each of you recognize its importance to the Nation's economy, especially that of the Upper Midwest.

Locks and dam 26 is vital. Our ability to provide grain to customers and our need to "import" oil, coal, and other energy-related products are highly dependent upon it.

Agriculture is the economic cornerstone of the upper Midwest's economy. It also is an energy-importing region, since it has no coal, no natural gas, and no oil. Eighty percent of the goods shipped through Alton are either agriculture or energy-related. More tonnage passes through locks and dam 26 than through the Panama Canal.

The Alton facility has become a bottleneck because all river traffic from the Upper Mississippi and Illinois Rivers must merge into locks and dam 26. The two rivers, which have a combined capacity of 105 million tons of cargo annually, feed into a single river and into an outmoded locks and dam system having a practical capacity of 46 million tons annually. A practical capacity is defined as being able to "lock through" without unnecessary delay.

It is a little like the merging of a two-lane highway into one lane at rush hour. Traffic slows down and in some cases it stops. The practical capacity of 46 million tons was surpassed in 1971, against a growing tonnage of 2 to 3 million tons each year. Last year 59 million tons passed through the system, 10 percent more than in 1975. This resulted in extraordinary delays averaging 18 to 21 hours, although some tows waited as long as 3 days. Figuring tows at $150 an hour, it is easy to see how shipping costs are driven up.

Mr Chairman, a constituent of mine, George Daley of Lewiston, Minn., a dairy and pork producer, put it rather succinctly recently when he said:

> The outcome of this proposal to replace Locks and Dam 26 will affect . . . my ability as a farmer to continue to earn a livelihood producing food. But it will also affect me and many others in this part of the country who produce a good share of the nation's food; it will affect this country's balance of payments, it affects consumers . . . If the cost of transporting those supplies is forced up by allowing the river to become impassable and is limited to boxcar shortages and logistics, farmers will have to bear that increased cost in prices paid for supplies.

In April 1976 a partial collapse of a wall damaged the lock, forcing an 8-day shutdown of river traffic. The Army Corps of Engineers was able to do a quick patchup job, but the structural difficulties still remain. One hundred tows pushing about 1,000 barges loaded with grain, ammonia, gasoline, and other goods were stopped.

The collapse tied up 800,000 tons of commerce valued at $225 million. The effects of the shutdown were felt in several States:

The Grain Terminal Association in Minneapolis reported a loss of $3 million in shipping time.

Some cooperatives in Illinois ran out of dry nitrogen (urea) during the critical spring planting time.

In New Orleans, 14 oceangoing vessels were idled. At $20,000 a day each, that amounts to $2,240,000.

Some gasoline suppliers in Chicago area ran out.

Sixteen barges loaded with lime needed for steel manufacturing in the Chicago-Gary, Ind., area were tied up.

St. Louis shipyards began laying off workers.

Grain prices above Alton fell 4 cents, while downstream they rose.

The problem we face today is that of a crumbling, outmoded structure. Shifting sands beneath the facility have led to increasing cracks in the dam and wrenching of the locks. If damage in the future makes it impossible to ship goods, the effects could be paralyzing. Farmers will not get fertilizer. Markets will tumble. Little grain will be exported. Dairyland power in Wisconsin, which serves more than 300,000 individuals in four States, will be cut off from 66 percent of its coal supply.

This bill was jointly developed by the Public Works and Transportation Committee and the Ways and Means Committee, and I believe it is a good bill. For the first time it establishes a user fee of 4 cents a gallon by this time next year, and up to 6 cents a gallon by 1981.

Traditionally, we have recognized free use of "water highways" as a part of our heritage. But since locks and dams were built on the river to facilitate movement of river commerce—and now with the need to expand and replace locks and dam 26 just to keep pace with economic needs—it seems necessary to have barge operators share in some of the costs of expansion.

User fees should not be established to equalize immediately the costs between rail and barge transportation. That is not their purpose. However, farmers, barge operators and others who depend on the river should not object to a more fair and equitable way of paying for our transportation system.

I strongly urge approval of this legislation.

Mr. HAMILTON. Mr. Chairman, H.R. 8309 is a reasonable compromise of difficult issues. It is a bill to place a 4-cent fuel tax on shallow draft barging and clear the way for the reconstruction of lock and dam 26 at Alton, Ill. It is recommended to us by the Ways and Means and Public Works and Transportation Committees and the leadership. I would like to draw the attention of my colleagues to some underlying facts about the barging industry and its importance to the economy of Indiana and the midwest.

The Mississippi-Ohio system is of particular service to the steel industry and agriculture. Low-cost barge transportation both for steam coal and ores and for

finished products is of crucial importance. Thomas C. Graham, president of Jones & Laughlin Steel Co., said earlier in the year that—

Unless we can ship our steel down river by the bargeload, it will be difficult—maybe $20 a ton more difficult—to compete with foreign products.

I need not remind this body of the current state of farm prices and how reluctant we should be to add to the transportation costs of agricultural supplies and products. This additional charge comes right out of the farmers pocket.

I have in my district one of the country's larger inland shipyards that manufactures river barges and towboats. Employment at Jeffboat in Jeffersonville is over 1,500 persons. This operation has significant economic impact on this region. The uncertainty in the barge transportation industry generated by the controversy over user charges has been quite detrimental to construction in the shipyard now and in the immediate future. Not knowing what to expect and fearing that Congress and the Department of Transportation were out to strangle the barge transportation industry; barge operators have almost ceased ordering new equipment. The feeling among this group is that they would rather go broke with an old fleet than go broke with a new one. Hence, the continued full employment at this construction facility is very much in jeopardy.

These same consequences will occur in many other auxiliary related businesses that provide the livelihood for many of our citizens unless we take a reasonable approach to this very complex issue.

The legislation we have before us in H.R. 8309 I believe is a reasonable solution to this problem. It provides for construction of lock and dam 26 which is necessary to the continued viability of the barge industry.

Title II of this bill introduces the concept of waterway user charges. This in and of itself is a major policy change in our national policy. The level of tax in my option is significant and I think it imperative that moderation be exercised until this body is able to evaluate the economic impacts both by State and region and possible relocation of business.

This information will be provided to this body by the studies called for in title III of this legislation.

I believe this legislation H.R. 8309 as voted by the Ways and Means and the Public Works and Transportation Committees merits support and should not be amended.

Mr. ALEXANDER. Mr. Chairman, my views on the waterways industry are well known to many of my colleagues. My district and my State are particularly dependent upon the transportation provided by the Mississippi and Arkansas Rivers.

I have long been involved in addressing the needs of our inland waterways and in providing whatever assistance I can to support and promote the water resources of this country. I plan to continue to do this.

The taxing program that H.R. 8309 inaugurates could potentially put a stop to our inland waterway transportation system entirely. It has been hastily conceived, without analysis of the burdens and benefits that would result from a tax measure of this nature.

Not all parts of the waterways industry were heard from. No representatives of the thousands of small, independent barge operators who ply the inland waterways were given opportunity to testify.

And probably most disturbing to me is that the apparent consensus over the adoption of this charge has been produced in large part by fear. Some people in the waterways industry have been led to believe that if they do not accept this tax, they can expect to get something worse. I do not believe that veiled threats and fear produce sound public policy.

The issue has been further clouded by holding the replacement of lock and dam 26 hostage to the user charge principle.

I believe that a much wiser and more effective way to approach this issue would be to await the report of the National Transportation Policy Study Commission which is presently studying our national transportation needs and policy alternatives.

The 94th Congress created the National Transportation Policy Study Commission and gave it a mandate to evaluate all our transportation systems, including the inland waterways. I was on the Transportation Appropriations Subcommittee which originally approved funds for the study and gave it this important mandate.

The Commission's study is to be completed and a report is due to be presented to Congress by December 31, 1978. We should await that report.

It is my understanding that the Council's research should be completed this winter and that by next summer the report will be in the drafting stage.

Throughout the debate on the user charge issue, little mention has been made of the biggest loser—the consumer. It is the consumer who will have to pay for waterway user charges, and an increase in barge rates will result in an increase in water-competitive rail rates, which will also have to be borne by the consumer.

There are those of my colleagues who insist that a user charge is appropriate and equitable. If, then, it is the will of this body that barge operators will pay user charges on our inland waterways, then we must adopt a taxing program that will not totally break the back of the industry. The Senate's version of this legislation contains user charge provisions that will cripple beyond repair the most energy-efficient and cost-effective mode of transportation available today.

If we are to have a waterway user tax, then we must make good on the commitment in this bill to a study of the economic impacts of inland waterway user charges. If it is found that such taxes are counterproductive, then the tax contained in H.R. 8309 should be lifted.

It is with a great deal of reluctance that I shall vote for passage of this bill. However, in view of the critical need for replacement of lock and dam 26, and recognizing the division of sentiment within the inland waterways transportation industry and the unacceptability of the only other alternative before the Congress, I find myself compelled to support H.R. 8309.

Mr. GEPHARDT. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act, which authorizes replacement of locks and dam 26 and establishes a policy of waterway user fees.

I support this bill as a necessary measure to assure that the smooth and efficient passage of freight along the Mississippi River continues.

The present situation at locks and dam 26 is totally unacceptable. The facility is cracking and crumbling because of its sandy foundation which is constantly subject to shifting and settling. Emergency repairs have been authorized and are being carried out. But without work to extend the life of the facility for 50 years, the Mississippi River could well be lost as a mode of transporting freight at low cost.

A far more pressing concern is the inadequate size of locks and dam 26. It is altogether too small to accommodate the existing volume of traffic which converges at that point from the Upper Mississippi and Illinois Rivers. While the practical capacity of the locks and dam is 46 million tons a year, last year 59 million tons of freight passed through. The volume necessitates barge tows far larger than the locks and dam can efficiently handle, so most tows have to be broken up and lowered through the facility in several segments.

The situation results in terrific traffic jams on the river and long waits to gain access to the lock. Some tows are delayed as long as a week. The entire time barges are waiting, their motors are running, using up precious fuel we are all trying to conserve in this time of serious energy shortages.

I visited the Alton facility in April and took a trip through the lock. I was unprepared for the urgency of the situation and became convinced there was no alternative other than immediate action to authorize a replacement lock and dam 2 miles downriver from the existing facility.

Nevertheless, questions have been raised about whether locks and dam 26 should be replaced or just repaired to accomplish the same result for less cost. Several proposals for rehabilitation have been put forward, but in my view, they do not offer viable alternatives.

An independent engineering study of the repair plans, carried out by Sverdrup and Parcel Associates, found most of the proposed work inadequate to assure a 50-year life. To complete rehabilitation that would be sound for that length of time, if possible at all, was estimated to cost $440 million, almost as much as the price tag on a replacement.

In addition, there is considerable doubt that rehabilitation work can be done while locks and dam 26 remain in operation. If not, the Mississippi River would be virtually shut down for freight transport for 2 years.

The question that remains outstanding is the impact of the proposed project on the need for our country to develop a well-integrated, equitable, multimodal transportation network. In this connection, the suggestion of waterway user fees has become extricably intertwined with locks and dam 26 and thus H.R. 8309 appropriately raises and addresses the issue.

Title II of the bill authorizes a 4-cent (rising to 6 cents) per gallon tax on fuel used in water transportation and title III calls for a study of the economic impact of waterway user fees. The committee report, furthermore, orders a study of Federal support for all modes of commercial transportation, what effect additional charges on different modes will have on the national economy, consumer prices, energy, and so on, and make recommendations on the proper levels of taxation on all forms of transportation.

These provisions represent a good compromise on the many viewpoints expressed to the Ways and Means Committee in this regard. The administration proposed a fuel tax large enough to pay for 50 percent of the maintenance costs and 100 percent of the cost of construction projects on inland waterways. Others, however, maintained users should pay 100 percent of all costs while still others opposed any user fees at all.

Proposals on the type of fee to be imposed also varied widely. Should we tax fuel used in water transport—commercial and/or noncommercial—or should we charge for use of facilities like Locks and Dam 26?

During the committee hearings, many arguments were made on all sides raising many questions about these proposals. The one conclusion that emerged clearly from this debate is that too little is known about the impact of waterway user fees to determine the amount and type at this time.

Thus, I believe H.R. 8309, by authorizing a relatively small fuel tax, correctly establishes the principle that waterway users should pay some part of the cost of the waterway system but that a final decision on the type, kind, and amount of waterway user fees should await the outcome of two important and necessary studies.

I believe this bill offers the fairest and most reasonable approach to the difficult waterway user fee issue. In addition, it will permit the urgently needed work on a new Alton lock and dam to go forward without further delay. I urge my colleagues to join me in voting for H.R. 8309.

Mr. VENTO. Mr. Chairman, H.R. 8309, the Navigation Development Act, comes to the House with inadequate finance provisions. I favor the proposal to levy user fees which would not only provide for the construction of a new locks and dam 26 facility at Alton, Ill., but hereafter lift the burden of maintenance and construction of the inland waterway system from the taxpayer.

While the present bill sets a very significant precedent in imposing a 4-cent a gallon tax—later, 6 cents—on fuel used in barging operations, the revenues cannot amortize the $421 million cost of locks and dam 26, as well as to offset the expenses of maintaining and operating the inland waterway system. It is estimated that the tax will produce revenues of $29 million in fiscal 1980 and rise to $71 million by fiscal 1984.

Imposition of a fuel tax is a small step in the right direction. I had hoped that the House would face up to its responsibility and provide for user fees.

I fervently hope that when the bill goes to conference, the committee will raise the fuel tax rates to more realistic levels. Ultimately, perhaps, we can provide for the full recovery of the Government's expenses for all Federal transportation assistance and give the long-suffering taxpayer a break.

Mr. WALGREN. Mr. Chairman. I urge support for H.R. 8309 but I urge this support with serious reservations about waterway tolls, taxes, or user charges.

One of the most compelling arguments against waterway user taxes has always been the uncertainty of the impact which those taxes would have, particularly on regional industries and economies. Neither H.R. 8309 nor the bill that came from the other body proposes to answer this important question, except through after-the-fact analysis.

There is serious concern about the harm that imposition of a headstrong waterway use tax would cause in the Pittsburgh area. Our waterways are used more extensively than those in any other region. The rivers in the tristate area (Pennsylvania, West Virginia, and Ohio) serve one of the largest industrial complexes in the world. From Wheeling, W. Va., on the Ohio River upstream to Allenport, Pa., on the Monongahela River, a distance of about 140 miles, is located the greatest concentration of basic steel plants in this country—perhaps in the world.

Although navigable waterways around Pittsburgh account for only 1.3 percent of the Nation's navigable river miles, 12.3 percent of the total tonnage carried on the entire system is transported into and out of this area.

Recently, University of Pittsburgh economists, in cooperation with area governments and businesses, completed an analysis of the potential impact of a waterway user tax on the Pittsburgh economy. They determined that under the Senate-passed plan, the user taxes generated by the Pittsburgh district would be more than 50 percent greater than the amount spent to maintain and operate the area's inland navigation system.

University economists project that imposition of the 6-cents-per-gallon fuel tax provided for in title II of H.R. 8309 would deprive the area economy of more than $4 million annually.

If the tax burden were 10 cents per gallon, as some have proposed, then the revenue extracted from the Pittsburgh economy would be $7 million.

If the tax were 42 cents per gallon, the Federal tax would cost Pittsburgh industry and consumers $29 million per year. That would be disastrous. Yet 42 cents per gallon is the equivalent of the Senate-passed cost recovery level that has been endorsed by the U.S. Department of Transportation.

These figures refer only to direct revenue collections. By the time the consumer foots the bill for the tax, the total impact, because of "passthrough" or "ripple" effects, will be even greater. So it cannot be argued that the 6-cent fuel tax is a "minimal tax" or one that would have only a "token effect" on the Pittsburgh economy

No one knows at what point the tax will irreparably harm the Pittsburgh area (or any other region) in its ability to compete with other regional centers of commerce. Pittsburgh is especially dependent on river barging to reach steel markets in the Mississippi Valley and on the gulf coast. The steel capacity of this district exceeds the demand in that section of the country to which Pittsburgh has lowest cost access by rail and highway. River connections permit Pittsburgh mills to reach distant markets and utilize what would otherwise be excess capacity.

User charges would raise the cost of barging, and thus cause surrender of the gulf coast steel market to Japanese and European producers. Steel imports have already increased from 1.7 million tons in 1959 to a high 18.3 million tons in recent years. In fact, at their high, they rivaled in magnitude the output of the entire Pittsburgh district.

With this in mind, we must also consider the following: What tax rate will make new industrial development locate in Cincinnati or on the gulf coast rather than in Pittsburgh? At what point do the marginal industries close down, and even more unemployment result? And at what point do we simply and finally lose out to foreign producers?

There are no answers to these questions at this time, but you can see that the potential for harm is serious and widespread. It would be irresponsible to impose a new form of taxation without the greatest caution.

In summary, Mr. Speaker, the House appears ready to enact a tax with unknown impact. I vote for H.R. 8309 from a willingness to cooperate with those from other regions who rightfully want the waterway users to make a reasonable contribution to the costs of a strong waterway system.

However, a reasonable contribution must be carefully limited to prevent unknown and irreparable harm to our regional economy. The preservation of the inland waterways as a viable component of the national transportation system goes hand in hand with the preservation of Pittsburgh as a viable economy. The entire Nation has an interest in seeing that both are preserved.

Mr. MOORE. Mr. Chairman, on October 6, the House set in motion the means by which two distinct issues under separate committee jurisdictions would be considered together without full benefit of the amendment process on the House floor. The issue of construction of locks and dam 26 and the question of a tax on fuel used by commercial transportation on inland waterways found within H.R. 8309 as titles I and II re-

spectively merit separate and open consideration. The rule, House Resolution 776, denied the House that opportunity.

With this in mind, I voted to block the gag rule provisions of House Resolution 776 on October 6, so that the House could work its will upon the construction and tax features within H.R. 8309 with a free hand. My vote in this instance is consistent with past votes given in opposition to closed rules which deny equal access to the legislative process.

Even though I did not support the rule, I definitely want locks and dam 26 facilities built. However, the issue should not be held hostage to imposition of a fuel tax on commercial waterway users. Such action is poor legislative procedure and denies the opportunity for a vote to be cast on the issue of locks and dam 26 alone. If I had that opportunity, I would vote for construction of the locks and dam 26 facilities and against the tax.

As it is now impossible to strike the fuel tax from H.R. 8309 or amend it in any fashion, I am compelled to vote against the bill. Barge companies in Louisiana are already overtaxed and adequate consideration has not been given to the damage the fuel tax would impose upon barge companies caught in the vise of higher operating costs and competing modes of transportation. If ignored, employment in the barge industry will suffer and jobs will be lost. In turn, goods will be shifted to other means of transportation of a less energy-efficient nature and consumer costs will climb. Our people are already overtaxed and we should be reducing taxes to stimulate the economy instead of raising them. For these reasons, I am opposed to a tax on waterway use and am, therefore, forced to vote against H.R. 8309.

Mr. HAGEDORN. Mr. Chairman, I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. MCFALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 8309, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROTECTING THE AMERICAN TRANSIT SUPPLY INDUSTRY

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDGAR. Mr. Speaker, the transit supply industry in the United States is in a serious crisis. The chart printed below shows that, over the past 2 years, the Urban Mass Transportation Administration has approved grant requests for only seven rail car purchase orders: An inappropriately small number given the tremendous need for new transit cars in Boston, New York, Chicago, and Philadelphia.

Clearly, our transit systems have too many needs chasing too few Federal dollars. More money must be authorized for rail car replacement and other system modernization activities.

This problem—a market problem—is compounded by the relative uncompetitiveness of domestic suppliers in securing contracts for new rail cars. Of the seven orders placed during the last 2 years, only two have gone to American manufacturers. Part of the problem rests in the unfair "terms and conditions" that the Federal Government imposes on rail car procurements. These terms and conditions have given transit operators a virtual free hand in designing hybrid vehicles for each need that surfaces; within the framework of fixed-price contracts, manufacturers have been held accountable to the performance demands of these highly complicated hybrid specifications and in this environment it is almost impossible to turn a profit. Foreign manufacturers subsidized by their respective governments are better able to swallow these losses than are American companies working in our free market economy.

I have introduced legislation designed to counter these disturbing trends in the domestic transit industry. H.R. 9036, the Public Transportation Stimulus Act of 1977, puts more money behind rail car replacement, bus acquisition, and modernization of existing transit systems. The Urban Mass Transportation Administration would be required, over a 4-year period, to make available approximately $1.3 billion for rail car replacement grants. In accompanying report language, the agency will be instructed to develop a predictable rail car replacement schedule for each of the Nation's eight rail transit cities.

When the House Surface Transportation Subcommittee concludes its hearings into Federal surface transportation policy later this year, and gets down to the task of assembling a new bill and its accompanying report, I also intend to direct the subcommittee's attention to the "terms and conditions" problem. This is a problem the administration can solve alone, but without congressional prodding I believe it will continue to postpone the issuance of a new set of standard terms and conditions.

My new bill does not mandate that all Federal rail car orders be placed with American manufacturers. This kind of outright, unbending protectionism would close the potentially-lucrative foreign rail car market to our companies. Some sanctions must be imposed on products from nations that have sanctions against our products, and something must be done to disallow foreign government subsidy of the bids submitted by foreign manufacturers. I am not sure at this stage that new legislation is needed to impose these kinds of selective penalties; I intend to explore the matter with our trade negotiator, Bob Strauss, in the near future.

What I propose now is a limited but effective course of action. With more money behind the Federal transit program, and new Federal guidelines for rail car procurements, I believe that more contracts will go to American suppliers and more jobs would be created here at home.

UMTA-FUNDED, U.S. RAIL TRANSIT EQUIPMENT PURCHASES, 1976–77

Purchasing authority: manufacturer	Value (millions)	Number of cars
1976:		
PATCO Delaware Port Authority (DRPA): [1] Canadian Vickers (Canada)	30	46
Chicago/South Suburban (ICG RR): Bombardier/MLW (Canada)	27	36
Boston (MBTA): Hawker Siddley Canada, Ltd., (Canada)	90	190
Atlanta (MARTA): Franco-Belge (France)	56	100
Subtotal	203	372
New Jersey Department of Transportation (Erie Lackawana RR): General Electric (United States)	150	180
Total	353	552
1977:		
Chicago Regional Transportation Authority: Budd Co. (United States)	32	70
Cleveland Regional Transit Authority: Still under review, 9 bidders: 7 foreign, 2 United States	31–35	48–60

[1] Award made December 1976; final contract May 1977.

SOURCE: U.S. DOT Urban Mass Transportation Administration.

GENERAL PULASKI'S MEMORIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, 198 years ago on October 11, the great patriot and brilliant military leader Gen. Casimir Pulaski, who assisted the Americans in their fight for freedom during the Revolutionary War, sacrificed his life in the cause of liberty.

President Carter has issued a proclamation designating October 11 as General Pulaski's Memorial Day, and a copy of that proclamation follows:

GENERAL PULASKI'S MEMORIAL DAY, 1977

(By the President of the United States of America)

A PROCLAMATION

Exactly two centuries ago, in 1777, the Polish patriot Casimir Pulaski arrived on our shores to help secure the liberty of the American colonies.

In exile from his native land, he fought courageously at Brandywine and in other battles. He formed and commanded the Pulaski Legion, the famous cavalry unit which contributed valiantly to the achievement of our independence.

In October, 1779, General Pulaski died of wounds received in the siege of Savannah. In commemoration of his heroic sacrifice on behalf of American independence, our Nation has for generations paid grateful tribute to him and to the millions of Americans of Polish descent who have played a role of enduring significance in the life of our country.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Tuesday, October 11, 1977, as General Pulaski's Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of General Pulaski by holding appropriate exercises and ceremonies in suitable places throughout our land.

In witness whereof, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

Casimir Pulaski was born in the Province of Podolia in 1748, and from his earliest childhood demonstrated the qualities of organization and leadership which were manifested all his life. Before he reached the age of 20, he had organized a small group that fought valiantly to prevent the partition of Poland. However, his efforts were to no avail, and he barely managed to escape with his life.

In 1777, Pulaski met Benjamin Franklin in Paris, and Franklin was so favorably impressed, he gave him a letter of introduction to Gen. George Washington. It was Washington who suggested to the Continental Congress that young Pulaski be entrusted with the grave responsibility of reorganizing the American cavalry forces. This Pulaski accomplished with such skill that he was placed in command of all our cavalry forces, and proceeded to distinguished himself in every subsequent encounter with the enemy.

In the 11th Congressional District of Illinois, which I have the honor to represent in the Congress, there exists a large Polish population. I have lived among the Polish people, I have nieces and nephews who have Polish fathers, and I am proud of my close affiliation with the Polish people.

From this close association, I have come to know the Poles as a courageous people, as a dedicated people, a patriotic people, as a religious people, and as a warm and loving people. Their courage in the face of tyranny has been demonstrated time and again over a span of centuries, their dedication to their principles has not faltered in the face of overwhelming odds. Their patriotism has been manifested in their continuing struggle for a free Poland, and their devotion to their church and to their families is evident to us all.

All of these characteristics serve to make up an extraordinary people, and Gen. Casimir Pulaski, a Pole who fought heroically for freedom, is a man to be remembered with pride and gratitude. In 1779, at the age of 31, Pulaski gave up his life on the battlefield while leading his famous cavalry legion in driving the British out of Savannah, Ga.

Pulaski neither lived to see victory achieved on the battlefield, nor did he live to see America win her fight for independence, yet his valiant efforts were instrumental in establishing this wonderful country of ours which recognizes and upholds the inherent dignity of men and women and the fundamental rights of the individual.

I am proud to join Americans of Polish descent in the 11th District, in Chicago, and all over this Nation in commenorating the 198th anniversary of General Pulaski's supreme and inspiring sacrifice during our American War of Independence.

A RESURRECTED B–1, A WARMED-OVER FB–111, OR NOTHING?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 5 minutes.

Mr. SIKES. Mr. Speaker, the House is scheduled to vote again this week on the procurement program of five B–1 combat bombers. It is a question that many thought had been settled when the House voted 202 to 199 against procurement funding in the fiscal year 1978 military budget conference report. It was assumed the B–1 was dead and buried. However, the B–1 has obstinately refused to stay dead and it may be in process of resurrection.

New life was breathed into the B–1 when the Secretary of Defense wrote Senator STENNIS of the Senate Armed Services and Appropriations Committees that it would be "a prudent step" to appropriate $20 million for initial work on a stretch version of the FB–111 to be known as the FB–111H. It has been made clear that DOD feels there is a requirement for a penetrating bomber. It has to be assumed this disclosure did not come to Congress without the knowledge of the White House.

We now have only the aging B–52, a great airplane, but one which cannot penetrate the sophisticated, modern air defenses of Europe. The B–52 would use the new cruise missile and stand off the coast during an attack. There are weaknesses here. The cruise missile is several years from procurement. It is still being tested. More importantly, it reputedly has been offered as a bargaining chip in the coming SALT talks. This may result in serious impairment of its value. The Russians know how to drive hard bargains.

The new and unexpected emphasis on the FB–111H caused eyebrows on Capitol Hill to be raised. Why, it was asked, do we not have the best if a penetrating bomber is required? The B–1 is clearly superior to the FB–111H, even though the FB–111H will use engines and other parts from the B–1.

Since it has been reestablished that a penetrating bomber is necessary for the security of America and the Western World, a new effort is in progress to fund the B–1 procurement program as originally scheduled for fiscal year 1978. This naturally follows the action of the House Appropriations Committee in refusing decisively to approve the President's request for rescission of the fiscal year 1977 B–1 funds.

There are many supporters of a stronger defense program who feel that America has been practicing unilateral disarmament, both in conventional and strategic weapons. U.S. forces are at their lowest figure since the Korean war in manpower, in naval ships, in combat aircraft; this despite a very rapid increase in numbers in each category in the Russian forces.

The strategic force picture is only a little less gloomy. In the aftermath of SALT I the term "parity" was replaced by "essential equivalence" which symbolized acceptance by the United States of Soviet numerical superiority. Moreover, in the last 5 years, the Soviets have added to their numerical advantage, and have made important strides in overtaking our former qualitative advantage. At present, the term "essential equivalence" is at best a euphemism for marginal U.S. inferiority; at worst, it reflects U.S. acquiescence in Soviet strategic superiority.

The President has said time and again that he wants to strengthen the security of the Western World. Many military experts agree that failure to procure the B–1 combat aircraft scheduled for fiscal year 1978 can be exceedingly dangerous to our defense posture. Acquiring these aircraft will be a signal to Russia and our allies that we are not sleeping while Russia arms; that we will not be content to play out the second-best poker hand to its inevitable conclusion.

RESOLUTION OF DISAPPROVAL ON DEFERRING FUNDS FOR CONSTRUCTION OF PUGET SOUND VESSEL TRAFFIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 5 minutes.

Mr. DICKS. Mr. Speaker, today I am introducing a resolution of disapproval concerning the decision by the Coast Guard and the Department of Transportation to defer funds authorized and appropriated by the Congress for further construction of the Puget Sound Vessel Traffic Service (VTS).

In authorizing and appropriating these funds which were not requested by the administration, the Congress was sending the Coast Guard a message. That message was that the Coast Guard's "business as usual" approach with regard to the establishment of VTS systems was insufficient, and that more needed to be done to protect our ports and waterways from the threat of catastrophic accidents involving oil or other hazardous cargoes carried in bulk.

As my colleagues know, in 1972 the Coast Guard was entrusted with the responsibility—much like the FAA is responsible to safeguard our Nation's airports from catastrophic accidents—to devise procedures and utilize sophisti-

cated equipment to monitor and control waterborne traffic under the Ports and Waterways Safety Act. That traffic is increasing yearly. At last report, no less than 41 ports and waterways carried at least 100,000 barrels per day of hazardous cargoes—and $7\frac{1}{2}$ barrels is roughly equivalent to 1 ton. Since the passage of this enabling legislation, the Coast Guard has moved to establish sophisticated monitoring systems in exactly six locations. Clearly, the pace and scope of the Coast Guard's efforts are insufficient. And this is why the authorizing and appropriating committees in both bodies decided to take the initiative once more.

We who live in the Pacific Northwest face a unique problem, in that we can most likely expect to be the transshipment point for much of the Alaskan crude oil heading for the northern tier and Midwest States. The $8 million which the Coast Guard and Department of Transportation have decided to defer would have gone toward the completion of Puget Sound's VTS, which is now clearly deficient along the Strait of Juan de Fuca and the northern rim of Puget Sound—the exact entry point of this Alaskan crude.

In view of the longstanding mandate of the Coast Guard to protect our ports and waterways, and in view of the clear and increasing danger to our coastlines due to catastrophic oil spills, I am at a loss to understand why the Coast Guard is proceeding so slowly to establish VTS systems.

THE OBEY COMMISSION PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 30 minutes.

Mr. BAUMAN. Mr. Speaker, I take this time to discuss with the House some matters which I think we ought to have laid before us prior to our consideration of the latest round of Obey Commission proposals, which are scheduled for action in the House tomorrow.

On last Friday, through the courtesy of the Speaker and the intervention of the minority leader, it was my somewhat tedious duty for 4 or 5 hours to examine House Document 95–204, which is the report of the Clerk of the House covering the period from January 1, to June 30, 1977. It was submitted to the Speaker on August 30, and is being distributed, I understand, to Members today through the Clerk's document room.

The document itself is rather lengthy, perhaps an inch or two thick. I directed most of my attention to the so-called in-district accounts. It is not, of course, my province to set myself up as an individual Member to judge what is or is not to be spent by Members of the House, but I think the basic premise that should be kept in mind is that all of these expenditures are made from taxpayers' money, provided by taxpayers to the Congress to finance our operation. Examination at length of the in-district accounts of Members shows an amazing array of individual expenditures for what some Members appear to think are official activities. For instance, one Member spent $327.70 to pay for a charter bus for bringing his constituents to the swearing-in ceremonies in January. Another Member had the taxpayers pay a rather large amount of money—as a matter of fact, $1,291—to a catering service for food and service for a constituent reception. The same Member reimbursed a Washington liquor store in the amount of $106.14 for refreshments for the same constituent reception at the time of the swearing-in.

A number of Members feel, apparently, that official duties require the sending of flowers to constituents, and have done so when people are ill or, in one case, when a clergyman was ill; others just flowers without explanation. One Member spent $200.27 for a staff Christmas party. Another Member apparently repeatedly charges BankAmericard without any explanation in large amounts for each month, and others use American Express cards in a similar manner.

Records indicate that Members have spent money to pay for tickets to political dinners, political club dues, the Capitol Hill Club, the Democratic National Club; that they have used on a number of occasions money to buy program advertisements and tickets for numerous social, service, fraternal, civic, and veterans organizations in their districts that, quite frankly, leave this Member searching for a rational explanation.

Another Member has apparently charged lunch every day for 2 months in the House restaurant to the taxpayers. Still another Member charged the taxpayers $17.50 for a tuxedo for an official function in his district, the report says, when the St. Patrick's Day Parade was rained out. Far be it from me to have anyone rained out of a St. Patrick's Day Parade, but I am not exactly sure that it warrants charging the taxpayers for one's tuxedo for that particular occasion. Other Members have charged large amounts for things such as publicity photographs. And still another Member charged a Ford-Mercury bill for the installation of a water pump and lubrication of the Member's car used by the staff, which, to me, is somewhat of a mystery. And so on, as it goes throughout hundreds and hundreds of pages of this report.

As I say, it is not my place to judge whether these expenses are proper official expenses. It is my understanding that, under the last round of Obey Commission proposals and reforms, any Member who wishes to certify that these expenses are indeed for official use then has to go through at least two steps of House officialdom to have these vouchers okayed. Apparently there has been no judgment interposed after the Members have certified these expenditures, and they have been paid. That, to me, I think is a mistake, but I think it does call for a great deal of caution on the part of all Members before we grant what is essentially a closed rule on the latest round of Obey Commission proposals which will be acted upon in the House shortly. At the very least, we should know what the full implications of these new proposals are, which, apparently, in this case, we did not.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, in the gentleman's statement regarding all of these various payments to clubs, partisan political clubs, photographs, receptions, liquor funds, the gentleman did not mention parking tickets. Surely, no one used public funds to reimburse themselves to pay for a parking ticket, did they?

Mr. BAUMAN. It is not clear, but one of the entries does indicate a payment to the Municipal Court. It is not clear whether that is for a parking ticket.

Mr. HYDE. I see. Are these legal or illegal, these expenditures? We have a very great wave of reform sweeping over this House, following the problems with a certain committee chairman who is no longer with us. Out of that wave of reform, which was to improve things around here and to protect the taxpayers, is the gentleman saying that these expenditures that he has just listed are legal under the new reforms, the first wave of which we have already endured?

Mr. BAUMAN. It is apparently the policy of the officials of the House who pass upon these expenditures to trust the Member's individual judgment and certification. I assume, in each instance, the Member has had to sign a voucher seeking either direct payment or reimbursement and has had to certify that these were in his opinion official expenses of his office. Although I find it hard to understand, for instance, why $100 annual dues to the American Bar Association would fall in the category of official expenses.

Mr. HYDE. Would the gentleman agree that the word "reform" suffers from an almost fatal elasticity in this case?

Mr. BAUMAN. I think the gentleman has described it aptly.

Mr. HYDE. Are the same people leading the effort for more reforms that will be brought to us tomorrow?

Mr. BAUMAN. I think if the gentleman were in a court of law his question would have to be described as a leading question, but the answer is yes.

Mr. HYDE. I was going to refuse to withdraw the question, no matter what the ruling of the gentleman was.

I thank the gentleman.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, I think that the revelations the gentleman has made are interesting and should be public knowledge.

Just as a matter of information, each Member of the House is entitled to a copy of this Clerk's report upon request; is that correct?

Mr. BAUMAN. That is my understanding. I was told that the report normally would have been printed in roughly 30 days after its submission, which would have meant that it would have been available around the first of September. But last week I was given to understand that I would be allowed, as all Members have the right, to read at least a galley copy, and this was denied to me.

Finally, after a public appeal to the Speaker last Thursday, supported by the minority leader, the gentleman from Arizona (Mr. RHODES), a copy was made available to me on last Friday.

Mr. DEVINE. Mr. Speaker, I read the gentleman's remarks in the RECORD of last Thursday. That is what brought this matter to my attention.

It is my understanding this is a public document, but it is one that is little known to Members of the House and they do not get it unless they requested it. If they receive it, they find the document contains just a fountain of information.

It is my understanding they can receive it upon request; is that correct?

Mr. BAUMAN. Mr. Speaker, that is my understanding. I believe copies are available today in the Clerk's Document Room, if a staff member or the Member asks for it and signs for its acceptance.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

Mr. BAUMAN. Mr. Speaker, I can only say that I believe every Member should ponder this document carefully prior to tomorrow's action on the proposals of the Obey Commission, if for no other reason than to be extra careful about what we do in the future in the way of reforms.

Mr. HYDE. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, let me ask the gentleman, what is the official name of the document to which he refers?

Mr. BAUMAN. It is the Report of the Clerk of the House, and it is House Document No. 95–204.

Mr. HYDE. Mr. Speaker, may I share with the gentleman something from a late Senator from New York who quoted Dr. Samuel Johnson. Dr. Johnson said: "Patriotism is the last refuge of the scoundrel," and he never considered the possibilities of the word, "reform."

Mr. BAUMAN. Or expense accounts.

Mr. Speaker, I yield back the balance of my time.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, on October 6, 1977, the Committee on Ways and Means ordered favorably reported H.R. 9346, the "Social Security Financing Amendments of 1977," as amended. As you know, this legislation is urgently needed because it strengthens the financing of the entire social security system over both the short run and the long run.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule that will be requested from the Committee on Rules to provide for consideration of H.R. 9346 on the floor of the House. The Committee on Ways and Means has instructed me to request the Committee on Rules to grant a modified closed rule which would make in order amendments by the Committee on Ways and Means, which would not be subject to amendment and which would not be divisible, and which would make in order eight additional amendments, which would not be subject to amendment and which would not be divisible, as follows:

First. An amendment by Hon. JOSEPH FISHER which would strike the provisions for mandatory coverage of Federal, State, and local employees and of employees of nonprofit organizations, but which would contain a compensating increase to maintain the actuarial status of the trust funds at the same level as in the reported committee bill;

Second. An amendment by Hon. WILLIAM STEIGER which would adjust upward the earnings limitation, adjust downward the wage base, and adjust upward the tax rate, and which would maintain the actuarial status of the trust funds at the same level as in the reported committee bill;

Third. An amendment by the Honorable ED JENKINS to reduce the wage base and increase the tax rates and which would maintain the actuarial status of the trust funds the same as in the reported committee bill;

Fourth. An amendment by the Honorable J. J. PICKLE which would strike from the bill the authority to borrow from the general funds of the Treasury;

Fifth. An amendment by the Honorable WILLIAM KETCHUM which would phase out the earnings limitation for those 65 and over and which would adjust the wage base or the tax rates or both and which would maintain the actuarial status of the trust funds the same as in the reported committee bill;

Sixth. An amendment by the Honorable JAMES CORMAN to repeal the minimum benefit;

Seventh. An amendment by the Honorable ED JENKINS which would establish a commission to study the social security system and to report its findings back to the President and the Congress within 2 years; and

Eighth. An amendment by the Honorable BARBER CONABLE which would be in the nature of a substitute which would make numerous changes in the financing and in other provisions of the committee bill.

The above amendments are to be published in legislative language in the CONGRESSIONAL RECORD for the information of the Members of the House.

Further, the rule requested would provide for 3 hours of general debate on the bill, to be equally divided, and for not to exceed a total of 30 minutes' debate on each amendment, to be equally divided; would provide for waiving of all points of order; and finally, would provide for one motion to recommit with or without instructions.

We intend to file the committee report on H.R. 9346 by midnight, Wednesday, October 12, 1977. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. VENTO (at the request of Mr. WRIGHT), for October 11 and 12, on account of official business.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) and to revise and extend their remarks and include extraneous matter:)

Mr. FORSYTHE, for 10 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. VOLKMER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. SIKES, for 5 minutes, today.
Mr. DICKS, for 5 minutes, today.
Mr. FOWLER, for 5 minutes, October 12, 1977.
Mr. BAUMAN, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. RUPPE.
Mr. MARKS in two instances.
Mr. WYDLER.
Mr. MILLER of Ohio in four instances.
Mr. ABDNOR.
Mr. MICHEL.

(The following Members (at the request of Mr. VOLKMER) and to include extraneous matter:)

Mr. VANIK.
Mr. FARY.
Mr. MAZZOLI in three instances.
Mr. TEAGUE.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mrs. SCHROEDER.
Mr. RODINO.
Mr. AUCOIN in two instances.
Mr. SIKES.
Mr. FISHER.
Mr. STOKES.
Mr. RANGEL.
Mr. ERTEL.
Mr. KREBS.
Mr. GEPHARDT.
Mr. LONG of Louisiana.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S J. Res. 88. Joint resolution providing for the designation of the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week"; Committee on Post Office and Civil Service.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 6, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 5742. To amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act;

H.R. 6530. To amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 6655. To amend certain Federal laws pertaining to community development, housing, and related programs;

H.R. 6951. To amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes; and

H.R. 9354. To amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

ADJOURNMENT

Mr. VOLKMER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 1 minute p.m.), the House adjourned until tomorrow, Wednesday, October 12, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2527. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, a cumulative report on rescissions and deferrals of budget authority as of October 1, 1977, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 95-241); to the Committee on Appropriations and ordered to be printed.

2528. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report covering the second quarter of fiscal year 1977 on receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and the production of lumber and timber products, pursuant to section 712 of Public Law 94-419; to the Committee on Appropriations.

2529. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require; to the Committee on Banking, Finance and Urban Affairs.

2530. A letter from the Secretary of the Interior, transmitting the annual report covering calendar year 1976 on the administration of the Federal Metal and Nonmetallic Mine Safety Act, pursuant to section 20 of the act; to the Committee on Education and Labor.

2531. A letter from the Secretary of the Interior, transmitting a report on the addition of the Oregon Trail to the National Trails System, pursuant to section 5(b) of Public Law 90-543 (H. Doc. No. 95-242); to the Committee on Interior and Insular Affairs and ordered to be printed.

2532. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate David D. Newsom and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2533. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Inernational Relations.

2534. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the appointment by the President of the Commissioner of Food and Drugs by and with the advice and consent of the Senate and for compensation for the Commissioner at the rate prescribed for level IV of the Executive Schedule; to the Committee on Interstate and Foreign Commerce.

2535. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of May 1977, on the average number of passenger per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2536. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

2537. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting the annual report and audit of the American National Red Cross for the year ended June 30, 1976, pursuant to section 6 of the act of January 5, 1905, as amended; to the Committee on the Judiciary.

2538. A letter from the Acting Comptroller General of the United States, transmitting a report on controlling foreign investment in national interest sectors of the U.S. economy (ID-77-18, October 7, 1977); jointly to the Committees on Government Operations, Interstate and Foreign Commerce, and International Relations.

2539. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to implement the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Oct. 6, 1977, the following reports were filed on Oct 7, 1977*]

Mr. BINGHAM: Committee on International Relations. H.R. 9179. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; with amendment (Rept. No. 95-670). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of conference. Conference report on S. 1811 (Rept. No. 95-671). Ordered to be printed.

[*Submitted Oct. 11, 1977*]

Mr. BROOKS: Committee on Government Operations. Report on allocation of budget totals by program (Rept. No. 95-672). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 3 (Rept. No. 95-673). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAFALIS (for himself, Mr. ABDNOR, Mr. BURKE of Massachusetts, Mr. LAGOMARSINO, Mr. MARTIN, Mr. STEERS, Mr. SARASIN, Mr. THONE, Mr. LEDERER, Mr. WINN, Mr. ALLEN, Mr. MITCHELL of New York, Mr. HOLLAND, Mr. BEARD of Rhode Island, Mr. KETCHUM, Mr. HOLLENBECK, Mr. GOODLING, Mr. LEACH, Mr. GUYER, Mr. HARRIS, Mrs. BURKE of California, Mr. HILLIS, and Mr. RICHMOND):

H.R. 9490. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN (for himself, Mr. QUIE, Mr. VANDER JAGT, Mr. HAMMERSCHMIDT, Mr. ABDNOR, Mr. COCHRAN of Mississippi, Mr. HAGEDORN, and Mr. STANGELAND):

H.R. 9491. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. DELANEY (for himself, Mr. BEARD of Rhode Island, Mr. MOORHEAD of California, Mr. D'AMOURS, Mr. BURKE of Florida, Mr. ZEFERETTI, Mr. EDGAR, Mr. OBERSTAR, Mr. KEMP, Mr. MITCHELL of New York, Mr. MAZZOLI, Mr. YOUNG of Missouri, Mr. STEERS, Ms. MIKULSKI, Mr. FISH, Mr. LEDERER, Mr. YOUNG of Alaska, Mr. MOLLOHAN, Mr. DOWNEY, Mr. DAN DANIEL, Mr. TREEN, Mr. LAFALCE, Mr. HYDE, Mr. LONG of Maryland, and Mr. MOAKLEY):

H.R. 9492. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. DELANEY (for himself, Mr. ROONEY, Mr. MARKEY, Mr. RINALDO, Mr. EARLY, Mr. STRATTON, Mr. NOLAN, Mr. JEFFORDS, Mr. LEVITAS, Mr. NEDZI, Mr. FORSYTHE, Mr. BUCHANAN, Mr. BROWN of Ohio, Mr. MURPHY of Pennsylvania, Mr. ADDABBO, Mr. WALSH, Mr. ALLEN, Mr. VENTO, Mr. WATKINS, Mr. CAVANAUGH, Mr. MOTTL, Mr. SEIBERLING, Mr. LIVINGSTON, and Ms. OAKAR):

H.R. 9493. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. DELANEY (for himself, Mr. CORNELL, Mr. BIAGGI, Mr. FITHIAN, Mr. TRAXLER, Mr. OTTINGER, Mr. HANLEY, Mr. AKAKA, Mr. LAGOMARSINO, Mr. FARY, Mr. ROUSSELOT, Mr. BADHAM, Mr. CLEVELAND, Mr. DORNAN, Mr. EILBERG, Mr. MURPHY of New York, Mr. CAPUTO, Mr. GOLDWATER, Mr. RUDD, Mr. LENT, Mr. YATRON, Mr. KILDEE, Mr. MOFFETT, Mr. LUKEN, and Mr. WALGREN):

H.R. 9494. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. ERTEL (for himself, Mr. ROBERTS, Mr. FLOOD, Mr. BEILENSON, Mr. KEMP, Mr. EILBERG, Mr. LUNDINE, Mr. WALGREN, Mr. JENRETTE, Mr. MARKS, Mrs. SPELLMAN, Mr. MURTHA, Mr. GEPHARDT, Mr. EDGAR, Mr. BALDUS, Mr. CONTE, Mr. HUCKABY, Mr. EDWARDS of Oklahoma, Mr. ROE, Mr. HEFTEL, Mr. AKAKA, and Mr. FRENZEL):

H.R. 9495. A bill to amend the Flood Control Act of 1970 to provide that, in determining the need for a local flood protection project, the Secretary of the Army shall consider the impact on the economy and social well-being of the local area and certain surrounding areas if flood protection is not provided, to specify the factors to be evaluated in considering such impact, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. FENWICK (for herself, Mr. SKELTON, Mr. ROE, Mrs. SPELLMAN, Mr. DUNCAN of Oregon, and Mr. LEGGETT):

H.R. 9496. A bill to provide equitable comprehensive, and exclusive benefits to (a) persons who are disabled as a result of employment-related diseases caused by the inhalation or ingestion of asbestos, and/or the inhalation of asbestos coupled with the inhalation of cigarette tobacco smoke, (b) members of such person's household, and (c) the surviving dependents of such persons whose death was due to such disease; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 9497. A bill to amend the Internal Revenue Code to provide an exception to the recapture provisions under the investment tax credit; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 9498. A bill to amend the Internal Revenue Code of 1954 with respect to the time by which employers are required to pay social security taxes and withheld income taxes; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself and Mr. LUNDINE):

H.R. 9499. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy; jointly, to the Committees on Armed Services, Interior and Insular Affairs, International Relations, and Interstate and Foreign Commerce.

By Mr. KREBS (for himself, Mrs. LLOYD of Tennessee, Mr. WALKER, Mr. STEERS, Mr. DAN DANIEL, Mr. GILMAN, Mr. HANNAFORD, Mr. HUGHES, Mr. PRITCHARD, Mr. BEDELL, Mr. OTTINGER, Mr. BURGENER, Mr. GRASSLEY, Mr. MURPHY of Pennsylvania, Mr. MOTTL, Mr. CHARLES WILSON of Texas, Mrs. SPELLMAN, Mr. ENGLISH, and Mr. GEPHARDT):

H.R. 9500. A bill to amend the Immigration and Nationality Act to provide that before an alien who is likely to become a public charge may be admitted into the United States, such alien must have an immigration sponsor post a $5,000 bond on such immigrant's behalf, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS:

H.J. Res. 619. Joint resolution to express the sense of the Senate and House jointly with regard to establishment of a National Water Resources Management Policy; to the Committee on Interior and Insular Affairs.

By Mr. DICKS (for himself and Mr. BONKER):

H. Res. 823. Resolution disapproving the proposed deferral of budget authority for acquisition, construction and improvements by the U.S. Coast Guard, Department of Transportation; to the Committee on Appropriations.

By Mr. FINDLEY (for himself, Mr. McDONALD, and Mr. TREEN):

H. Res. 824. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON:

H. Res. 825. Resolution dismissing the election contest against W. Wyche Fowler, Jr.; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRODHEAD:

H.R. 9501. A bill for the relief of Bogdan Bereznicki; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 9502. A bill for the relief of Casimir Jan Kray; to the Committee on the Judiciary.

H.R. 9503. A bill for the relief of Erich Jakob, Berlin, West Germany; to the Committee on the Judiciary.

H.R. 9504. A bill for the relief of Edgar G. Anzueto, Roger M. Brooks, John M. Derrick, Louis J. Rose, Henry Hartwick, Richard T. Moore, Desmond D. Richelson, Gary H. Kirkpatrick, John H. Basemore, Dale E. Startzell, Joseph M. Wittig, and Francis D. Raley; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

277. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to enforcement of the 200-mile fishing limit; to the Committee on Merchant Marine and Fisheries.

SENATE—*Tuesday, October 11, 1977*

The Senate met at 10 a.m. and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Lord of all power and might, the Author and Giver of all good things, graft in our hearts the love of Thy name, increase in us true religion, nourish us with all goodness that we may fitly serve Thee in this place.

May Thy spirit equip and guide the President, the Vice President, the Members of Congress, and all others who are responsible for the welfare, health, and security of the Nation. Impart to all such a sense of duty and honor which no selfish motive or moral ambiguity can corrupt or destroy.

Show us clearly what our duty is. Help us to be faithful in doing it and in the end give us hearts at peace with Thee.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 11, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DALE BUMPERS, a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BUMPERS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Monday, October 10, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 31—AUTOMOBILE CRASH PROTECTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the legal services legislation, the Senate proceed to the consideration of Calendar Order 446, Senate Concurrent Resolution 31, automobile crash protection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Trans-

portation Subcommittee of the Environment and Public Works Committee be authorized to meet during the sessions of the Senate on October 11 and 12 to conduct oversight hearings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Nuclear Regulation Subcommittee of the Environment and Public Works Committee be authorized to meet during the session of the Senate on October 13 to conduct oversight hearings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I do not have any further need for my time.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and I yield it back.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1303, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a fundamental aspect of any free society is the ability of its citizens to defend or assert their rights before an independent and impartial judiciary.

The phrase "equal justice under the law" has a very hollow ring indeed if substantial numbers of our fellow citizens can for any reason be denied their day in court because of an inability to afford an attorney.

For some time Government and the legal profession have recognized an obligation to provide legal services to defendants in criminal proceedings who would otherwise not be able to afford a legal defense.

During the past few years many in Government have recognized a need to provide similar legal counsel in civil matters to those who otherwise would be denied many of the benefits and the protections of the American judicial process.

Since entering the Senate, I have supported, Mr. President, the principle that Government provide a means by which those who cannot afford legal counsel can indeed have their day in court.

One of the first legislative proposals I introduced, as a matter of fact, as a freshman Senator was a bill to provide legal services in civil matters for the poor. So the debate in this Chamber today and in the ensuing days, as far as the Senator from North Carolina is concerned, is not one between those who seek to assist the poor of this country in obtaining equal justice under the law and those who seek to deny them that right. I do not think, Mr. President, any Senator wants to deny that right.

The debate today is of a very different character. Mr. President, most of my career, such as it is, has been in the news business. I began as a cub reporter longer ago than I like to acknowledge. One of my first assignments was the routine one of covering city court in Raleigh, N.C. I remember the kindly old judge who presided over that court—at least I thought he was old at that time, and he was probably the ripe old age of 40—and I remember Alfonzo Lloyd, the prosecutor in that court, and I remember many conversations with the judge and with Mr. Lloyd about the whole host of defendants who would appear on Monday morning charged with various offenses growing out of celebrations over the weekend.

These defendants had no attorneys. But in the circumstances that existed in that little court, Mr. President, they really did not need an attorney because the judge and the prosecutor were not out for blood. Maybe they did not follow the judicial process all that closely, but they meted out justice. Many of the defendants went free because there was no point in convicting them and sentencing them to jail terms. Certainly there was no point in fining them because most of the defendants did not have the money to pay for the fines.

But I recall as a very young man, as a cub reporter, thinking that there ought to be a better system than this. I remember thinking what if we had a judge who was inclined to prosecute these defendants?

So this attitude, Mr. President, of wanting to see every citizen, no matter how humble, no matter how impoverished, have the assistance of legal counsel when in court has been with me for a long time.

I think most Senators feel precisely as I do—none more strongly, but perhaps equally.

In any event, the principles of equal justice under law and the right of any person to a fair and impartial determination of his claims in a court of law is strongly embraced by the vast majority of Americans.

I suspect there are very few Americans who so misunderstand the history and the purpose of this country that they would destroy these fundamentals of our heritage.

Yet, the history of the Federal Government's involvement with the delivery of legal services, first through the Office of Economic Opportunity and now through the so-called Legal Services Corporation, has been fraught with much bitterness and controversy. The reason for this controversy is very simple. Rather than limiting their activity to providing assistance with the personal and individual legal problems of the poor, the employees of the legal services program—and I would emphasize these are what we call Federal bureaucrats living at the Federal trough—these employees of the legal services program have assumed the role, and they have assumed it arrogantly, Mr. President, the role of conspicuous federally-financed advocates of political and social causes.

All across this country, under the guise of serving the poor, these taxpayer-funded social engineers have promoted militant extremism. They have promoted graduated State income tax. They have promoted student protests. They have promoted racial quotas in employment and education. They have promoted increased government welfare programs. They have promoted Indian land claims. They have promoted homosexual demands, rent strikes, and boycotts of private business.

In other words, Mr. President, these people whose salaries and expenses are paid by the American taxpayers are the intended, deliberate architects of chaos wherever they can promote it.

They have used taxpayers' money for lobbying efforts. They have used taxpayers' money for organizing special interest and pressure groups. And they have engaged, Mr. President, in class action suit after class action suit, not on behalf of the poor but to promote their own view of social "reform."

Mr. President, the demands of special interest groups regarding quotas in employment and education, abortion, the legalization of marihuana, homosexual demands, and unrestrained pornography may be protected under the first amendment, but they have no right being lobbied and promoted by taxpayer funded lawyers, who in doing so ignore the legal problems of the poor whom they are paid to represent.

There is the problem, Mr. President, another Federal program with a fancy label, but with a different potion in the bottle. Maybe some will want to challenge me on what I am saying and I will meet the challenge head on.

I have talked with members of the board of directors of the Legal Services Corporation. One of them is from my home State.

Mr. President, if Senators could hear what I have heard they would be aghast. Of course, Senators are not here and I suppose that it is assumed that this bill before us will be approved almost pro forma. But we are going to discuss it, Mr. President. We may discuss it for many days because this program with its fancy label and with all the good intentions spread out before us when it was brought into being, is a fraud. It is a fraud on the taxpayers and it is a fraud on the concept of equal justice under the law. Senators may not listen in the days to come, but it is going to be made a matter of record what this program really is and how the taxpayers' money is being wasted.

The American public resents this abuse of their hard-earned tax dollars and it is entirely proper that they do.

Mr. President, although much of the legal services activity has been concerned

with personal legal problems in such areas as housing, bankruptcy, debtor-creditor relations and family relations, a substantial amount of time and money has been spent in so-called legal activism promoting the social goals of special interest groups.

This activity under the guise of legal activism or law reform is simple, political advocacy in absolute unrestrained form. It may be carried on in the guise of litigation, but its purpose—and let us make no mistake about it—its purpose and its impact are to change and, in effect, to make law.

This activity of the legal services program amounts to nothing less than legislative activity. It is making law. It is politics in its fullest sense; and in a democracy, it is politics in its lowest sense. It is political activity even when disguised as litigation. The judicial system should be subject to the traditional checks and balances of the free political system.

It is undemocratic to give power to narrow political factions and at the same time insulate the use of this power from the restraints of free government. It is just as simple as that.

A central issue regarding this issue before us is whether the efforts for social action and social change by a narrow minority should be financed with Government money, that is to say the taxpayers' money?

There is no such thing as free money from Washington, Mr. President. It does not grow on trees here. So when we talk about Federal funds, we are not talking about any magic currency that grows on trees. We are talking about money extracted from the hard-working people of this country, who could make far better use of those funds than the Federal bureaucracy.

But that is what is happening. Using money from the taxpayers to advance the cause of one section of the population over another creates a system of new injustice. The proper forum for political questions is the political process—the constitutionally established system of checks and balances in our national and State legislatures. But the use of the judicial system and the administrative process to effect social reform makes a mockery of justice, because it makes an end run around the constitutional system of our country.

Ultimately, this practice destroys the popular consensus and support necessary for long-term reform, and indeed democratic government itself.

Mr. President, this is why, during 1973, my first year in the Senate, I strongly supported amendments to the original Legal Services Corporation bill. These amendments, which were finally adopted by Congress, sought to restrain legal services attorneys from pressuring courts to legislate rather than to adjudicate. But even if the present legal services program could be reformed to prevent these political abuses, the present approach to providing these services is deeply flawed. Essentially, the present legal services program, as is the case with so many Federal welfare programs, treats the poor clients with a patronizing approach which denies those clients the same position as the normal consumer of legal services. It thus instills an attitude of second-class citizenship.

First, the poor person seeking assistance from the legal services program does not have the freedom to choose his own attorney, as does his self-sufficient counterpart. Under the present approach, the poor client must accept whatever attorney is provided by the legal services program.

Second, the poor person seeking legal services assistance enters an attorney-client relationship which is very different from the normal relationship between attorney and client. Since the attorney and the poor client understand that the client does not control the attorney's fee, and has nowhere else to go for help, the legal services attorney tends to gain dominance in his relationship with the client. Because the attorney's fee is paid by someone other than the client, the attorney is continually faced with a potential conflict of interest situation.

Third, lawyers with a federally assured income are free to spend their time on appeals of test cases to promote issues in which they are interested. They are free to promote the national goals of special interest groups, rather than spend their time on effective representation for the poor client.

I know that we will hear pious denials of this. But any Senator who has studied this program, who has looked down beneath the veneer, is in a bad way to defend the program and these attorneys.

All right, Mr. President; some Senators may say, "What is the answer? What is the alternative?"

There is an alternative to the present system. There is an alternative which would be free of political abuses. There is an alternative which would place the poor client on the same level as any other client obtaining legal services from a private attorney. In a moment, I am going to submit a legislative proposal to create just such a new means of delivering legal services. This proposal will be in the form of an amendment. It will be, actually, a proposed substitute for the pending Legal Services Corporation bill.

This amendment would establish a small congressionally chartered corporation which would operate as both a funding and a compliance mechanism. The new corporation would transfer appropriated moneys to qualified State governments; and a State government would qualify by adopting one of three procedures which I shall discuss momentarily.

Mr. President, we talk about centralization of power in the Federal Government. I am sure there is not a Member of this body who does not go home and proclaim that he is opposed to all of the mushrooming bureaucracy. We talk about State's rights and how much better the folks back home can administer various programs if we would just take the Federal bureaucracy out of it.

That is what the people back home want to hear, and they are right. That is what they ought to have. We ought to decentralize this Federal Government. We ought to return this power now, before it completely throttles and stifles the Federal system. We have responsible State governments, and we have responsible local governments. They are more than capable of establishing and administering a responsive, efficient program for the delivery of legal services. It is time we return this ability to them.

Mr. President, under the proposal which I shall offer presently, a State government would participate in the legal services program by adopting one of the following three procedures:

First, a State could empower an existing or new State agency to disburse funds to individual attorneys representing eligible clients;

Second, it could transmit funds to the bar association with overall jurisdiction in the State, if the bar association has established a method to disburse funds to attorneys representing eligible clients, as for example, under the judicare approach; and

Third, a State could establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients retain the right to obtain the individual attorney of their choice. This legislation also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Further, this proposal includes an equitable geographic distribution of appropriated funds based upon the proportion of eligible clients in each State. The standard of eligibility set by this legislation is the same standard as that of the medicaid formula, a standard already endorsed by Congress, State legislatures, and welfare groups.

This proposal restores freedom of choice to poor people in retaining legal assistance.

Why should poor clients be denied the right to choose an attorney? Why should they be required to accept an attorney who may be more interested in a class action suit on behalf of homosexuals than he is in representing a poor client? This amendment in the nature of a substitute is client-oriented rather than attorney-oriented. And it is the poor client, the citizen without the money to hire an attorney, whose interest we presumably are trying to protect—not that of the lawyer on a Government payroll.

This amendment in the nature of a substitute provides for greater and more active participation by local bar associations. I do not know about the bar associations in the States of other Senators, but I am immensely proud of the North Carolina Bar Association. For years, the North Carolina Bar Association has taken the lead in trying to assure adequate legal representation for citizens unable to pay for it themselves. And I think that Congress will be unable to pay for it themselves. And I think that Congress will be missing a fine opportunity if we do not do everything possible to encourage even further participation by the bar association and by

the responsible attorneys in North Carolina and the other 49 States.

We should seek to involve local attorneys more intimately in the problems of the poor community, not relegate the poor to Government-paid attorneys. This amendment in the nature of a substitute will set up a sound basis for a stable, ethical attorney-client relationship.

Finally, and just as importantly, this proposal allows the peoples' representatives in the State legislatures to play a proper role in designing and implementing the program in each State.

Mr. President, the present legal services delivery system is grossly deficient and the widespread controversy surrounding it is a valid indication of that deficiency. I submit, Mr. President, that the present legal services delivery system has distorted the attorney-client relationship and has been subject to numerous political abuses in promoting the objectives of special interest groups with taxpayers' money.

The present legal services delivery system has sought, time and time again, to thrust the burden of politics upon our courts. The amendment that I shall submit momentarily will, Mr. President, go far in reforming these abuses while increasing the delivery of personal legal assistance to the poor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President.

Mr. HELMS. Mr. President, I think I have the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, without losing my right to the floor, I should like, before presenting my amendment, to yield to the distinguished Senator from California.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The Senator from California is recognized.

Mr. HAYAKAWA. I thank the distinguished Senator from North Carolina. I should like to make a statement on the legal services legislation before us.

Mr. President, this bill is supposed to secure rights of the poor to have legal counsel. But, actually, it threatens the right of the Congress to control the expenditure of Federal funds, the right of the taxpayers to keep public officials accountable to them, and the right of the poor to have decent, competent, responsive representation in legal matters.

When the Congress created the Legal Services Corporations in 1973, a bargain was struck, for better or worse. The Corporation came into existence but its activities were restricted in certain areas so that its grantees could not use public moneys to undermine public policy. But this bill as reported out of the Human Resources Committee of which I am a member, attempts to undo the compromises of 1973. It would lift virtually all the restrictions then imposed upon the Corporation.

The committee has knitted into this legislation more loopholes than there are in the Internal Revenue Code. And so, its handiwork will be a tissue of trouble.

Let us look at some specifics. Present law forbids the Legal Services Corporation to use Federal funds to assist clients who are poor only because they have refused to take a job. The committee has removed that stipulation altogether. This legislation would force the workers of America to pay for attorneys for persons who would rather not work. At a time when everyone is talking about welfare reform, work-fare, and job requirements for public assistance the Senate should not decide that laziness is sufficient requirement for legal aid.

Furthermore current law forbids the Legal Services Corporation and its grantees to use Federal funds in cases involving desegregation of elementary and secondary schools or to provide legal aid to dependent children under the age of 18 without parental consent or the request of a court, unless the case involves child abuse or custody proceedings, or does not involve the child's parent or guardian as a defendant. This provision was designed to keep legal services attorneys from becoming home-wreckers, turning children against their parents and overturning the authority of the family. The committee has quietly killed that provision of existing law. And, unless we reverse its decision here on the floor of the Senate, most Americans will find out about this radical threat to the integrity of the family only after it is too late to stop it.

Present law requires that a majority of the 11 Board members of the Legal Services Corporation be attorneys, and that 60 percent of the members of the boards of recipient organizations, which use Corporation funds, also be attorneys, with at least one member of each of those boards being a person eligible to receive free legal aid. The committee has changed all that too. It wants to require that the poor be represented by a poor person on the national Board of the Legal Services Corporation and that at least one-third of the local boards be composed of poor people.

I wonder how many Members of the Senate would entrust their own legal affairs to a corporation whose board was largely comprised of poor persons. No, we Senators would not want those inexperienced people running our own legal affairs. But we think they should manage the legal affairs of other poor people. Well, what is good enough for the Senate ought to be good enough for the poor: and vice versa.

If the poor had the administrative, judgmental, and professional skills necessary to administer a legal services organization, they would not be poor. It is as simple as that. They would have careers of their own in public affairs. So how can we explain the perverse insistence by the committee that at least one-third of the local legal services boards should be certifiably poor people? Does the committee not trust professional attorneys to run legal services corporations?

The answer to those questions Mr President, is not pretty. The ugly truth is that certain vested interests have a personal stake in manipulating the poor and in controlling legal services organizations. And the easiest way to exercise that control is to stack the local legal services board with poor people who lack the sophisticated training of complicated issues to understand the decisions foisted upon them by left-wing activist lawyers.

That brings us, Mr. President, to the deplorable heart of this matter: to what is the fundamental failing of this legislation.

It is not a poor people's bill. It is a lawyer's bill. It authorizes $225 million for fiscal 1978. Now, how much of that money is going to reach the poor? Why, not a cent of it! It is supposed to purchase for the poor $225 million worth of legal advice. And in the process, it will pay the salaries of thousands and thousands of lawyers and paralegal professional aides.

Nice work if you can get it, and you can get it—to paraphase the old song—if you lobby the Congress to double the Legal Services authorization. That is what this bill does. It increases the Corporation's funding from $125 million this year to $225 million next year.

At last we know what the law schools are going to do with all their surplus graduates. It is said around this town that young attorneys are a dime a dozen. But if the Senate accepts this bill, their price will rise considerably.

Of course, I have no objections to efforts by the Federal Government to stimulate the economy in order to create jobs, as long as that is done by an across-the-board tax cut for the overtaxed American worker. But if we are going to foster jobs, we should not be in the business of creating comfortably paid jobs for paper-pushing professionals. And we certainly should not attempt to camouflage the dreadful deed by pretending we are helping the poor.

Mr. NELSON. Will the Senator yield for a question?

Mr. HAYAKAWA. Certainly.

Mr. NELSON. I was listening to the Senator's language referring to comfortable paying jobs.

Mr. HAYAKAWA. Paper-pushing jobs.

Mr. NELSON. Paper-pushing jobs at comfortable salaries, was that it?

Mr. HAYAKAWA. Yes.

Mr. NELSON. Does the Senator know what the average salary is of the lawyer in the legal services program of the local staff attorney?

Mr. HAYAKAWA. I do not.

Mr. NELSON. There are clerical workers all over this building getting more money than these dedicated young men and women who went all the way through law school—clerical workers—and there are people on elevators getting almost as much.

The average salary, for the benefit of the Senator from California, of the local staff attorney is $13,248.

Mr. HAYAKAWA. That is their full salary?

Mr. NELSON. Yes. That is the average.

There is no profession in any State government, in any college, any high school, any institution in America, getting $13,248 that I have heard of.

So to suggest it is a pencil pushing, cushy job is sheer nonsense.

Mr. HAYAKAWA. I thank the Senator from Wisconsin for the correction.

Mr. HELMS. Will the Senator yield?

Mr. HAYAKAWA. Yes.

Mr. HELMS. I ask the Senator from Wisconsin, what is the salary of lawyers coming out of law school, what do they get on the average?

The Senator is talking about how low $13,000 is, what does the average lawyer upon graduating from law school receive?

Mr. NELSON. I do not know what the average is.

Mr. HELMS. I know. That figure of $13,000 is approximately the national average.

Mr. NELSON. But the lawyers checked in the city of Washington today are starting out at $24,000 and $25,000, the day they pick up their diploma.

In the Federal Government they are starting at $25,000, $26,000, $27,000, $28,000, the day they get out of law school.

Mr. HELMS. That shows how senseless the Federal Government is.

Mr. NELSON. I am talking about——

Mr. HELMS. The Senator said the Federal Government.

Mr. NELSON. How many people does the Senator have on his staff who are professionals getting $13,248?

I would like to see that.

Mr. HELMS. I do not have any just out of law school.

Mr. JAVITS. Will the Senator yield to me?

Mr. HELMS. Certainly.

Mr. JAVITS. We just took on a bright girl out of law school. She is not even admitted. We are paying her $19,000, and that is competitive with opening salaries.

Mr. HELMS. Senator is using an isolated instance, involving I am sure, a brilliant young lady.

Mr. JAVITS. Yes.

Mr. HELMS. The Senator says she is from North Carolina's law school?

Mr. JAVITS. No. She came from New York University.

Mr. HELMS. I thought the Senator said "your law school."

Mr. JAVITS. No.

Mr. HELMS. I must say that graduates from our law school are a cut above. [Laughter.]

Mr. JAVITS. I cannot accept that.

Mr. HELMS. I did not say above what. [Laughter.]

I am sure there are exceptions, but I say to the Senator that my information is that for the young people just emerging from law school, $13,000 is about it.

Mr. JAVITS. However the Senator from North Carolina feels about this, however I feel about it, I must respectfully disagree. The salary of someone emerging from law school, I would say, even in low-cost-of-living places, would be, rock bottom, a minimum of $13,000.

My impression was, without comparing it to New York or other big cities, that it would range between $15,000 and $18,000, where they are admitted to the bar.

Mr. HELMS. I admit that everything costs more in New York. That is what frightens me about going there. Garbage collectors are paid $19,000 a year.

Mr. BUMPERS. I have a son who is a third-year law student, and he costs me about $12,000 a year to keep in school. So I certainly hope he makes more than that when he gets out; otherwise, I will have to continue to subsidize him. [Laughter.]

Mr. JAVITS. I have the same situation.

Mr. HELMS. I thank the Senator from California for yielding.

Mr. HAYAKAWA. Congress is a house of law; but it is also, alas, an assembly of lawyers. Most of its Members are from the legal profession. Even so, there are a few of us who are not attorneys and who, despite that grievous handicap, have found our way here. And we therefore have a special responsibility to present a balanced view of the role of lawyers in our society. I respectfully ask my colleague to heed this assessment of the way most professionals advance their own interests through the legislative process:

> The same with lawyers. They really take care of their clients, but when those lawyers organize, get a lobbyist, those lobbyists don't care anything about clients.

Those are not my words. They were spoken by Jimmy Carter 1 year ago, at a party at Warren Beatty's house in California. Now, with the Legal Services Corporation in mind, in light of its determined efforts to expand its funding and create more jobs for more lawyers, let us carefully consider Mr. Carter's warning:

> The same with lawyers. They really take care of their clients, but when those lawyers organize, get a lobbyist, those lobbyists don't care anything about clients.

Some may contend that, without the Legal Services Corporation, the poor will have no access to our judicial system, except as helpless defendants. Nonsense! There are effective, efficient ways to provide legal aid to the poor without grossly overextending Federal agencies. But this bill does not even advert to possible alternatives. It instead would bind the hands of Congress for a full 5 years, making it almost impossible for us to improve our methods of insuring the legal rights of the needy.

At this time, above all, we should not be sinking into concrete any of the many governmental institutions designed to provide in-kind aid to the poor. Surely, every Member of the Senate is aware that the President has submitted a massive proposal to restructure welfare radically. Part of his proposal is to abolish the food stamp program, using its funding instead to provide larger cash grants to the needy. The idea behind that plan is to do away with expensive, overlapping, and duplicative programs of public assistance; to replace them with simple cash grants; and thereby to give the poor the wherewithal to attend to their own needs.

I support that general concept of replacing the maze of categorical programs with a single cash grant. I realize that my position is not the same as that of the distinguished Members of the Senate with whom I usually find myself in agreement. But I have found the welfare mess to be a hopeless tangle, providing fewer opportunities to the poor than to the well-paid professionals who live well by fighting over people's poverty with other people's money.

That includes the Legal Services Corporation. It was a disappointment to me—and I think it is a serious flaw in President Carter's welfare plan—that he has not included the Legal Services Corporation in his proposals. Let us lift the poor out of poverty—or, rather, let them lift themselves out of poverty—by giving them the cash they need to do it. And then let us get rid of all the do-gooder programs and projects that treat the poor like children.

While Congress is considering far-reaching changes in welfare, I find it incomprehensible that the Human Resources Committee would nonetheless insist upon extending the Legal Services Corporation for 5 more years. That conflicts with the administration's desire to streamline welfare. It conflicts with the public's desire to get government out of our lives. It conflicts with the desire of poor people to make their own decisions, rather than have government functionaries—yes, that means Members of Congress—running their lives for them.

This bill is designed not only to expand the legal services bureaucracy but also to entrench it so deeply that, welfare reform or no welfare reform, the administration and Congress will be unable to ever redirect that $225 million directly to the poor. Instead of guaranteeing an income for the poor, this bill guarantees the incomes of lawyers for the poor.

Perhaps Congress does not perceive a difference there, but I assure my colleagues that the poor and the taxpayers do understand it. It is the difference between a helping hand and a hustle.

Mr. President, not being a lawyer, I have to apologize for being so long-winded about this matter. But I feel very strongly that, if the Senate accepts a 5-year extension of the Legal Services Corporation, we will be like a man who has one foot in quicksand but who is too proud to admit his mistake. So he plants the other foot squarely beside his sinking limb. But in our case, it is the poor and the general public who will pay the price of our obduracy.

I therefore recommend to my colleagues that they reject the committee's bill. Let us, instead, give careful consideration to alternate means of providing legal advice to the poor; and in the process, let us remember that our solemn obligation is to help the needy, not to run their lives.

The PRESIDING OFFICER. Under the previous agreement, the Senator from North Carolina is again recognized.

Mr. HELMS. Mr. President, my remarks earlier were preliminary to the submission of an amendment in the nature of a substitute; and with the Chair's permission, I should like to defer calling up this amendment and yield to my able colleague from New York, after which I will call up my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Tim Smith, of Senator STAFFORD's staff, have the privilege of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, as the ranking minority member of the full Committee on Human Resources, and of the Subcommittee on Employment and Poverty—which has the authorizing responsibility for the Legal Services Corporation Act and which has reported S. 1303 on behalf of the full committee—I join the Senator from Wisconsin (Mr. NELSON), our subcommittee chairman, in urging our colleagues on both sides of the aisle to approve the Legal Services Corporation Act Amendments of 1977, without amendment.

Mr. President, I have long been a strong advocate of the legal services program for the poor. In 1966, I strongly supported the addition to the Economic Opportunity Act of 1964 of section 222 (a), which required the Director to provide the poor "legal advice and representation to further the cause of justice among persons living in poverty." On May 15, 1973, I was joined by Senators NELSON, TAFT, SCHWEIKER, and BEALL, in introducing the original Legal Services Corporation Act.

The reason for my long personal identification with and advocacy of this program is that I have always believed it will help us end, in many cases, the syndrome of the poor; the wrenching, demeaning, and delibilitating cycle of poverty amid affluence that has, as one of its fundamental causes, a failure of most of the 29 million poor themselves to understand and cope with the processes of our social and economic system. Without a program of free legal services for the poor, our system of law and justice for the resolution of public or private disputes would be denied those individuals who cannot afford the legal counsel necessary to determine their rights and responsibilities.

Since then. I have advocated our legal services program as it went through and survived the storms of sometimes acrimonious debate and political controversy, finally to arrive at the point today where the U.S. Senate can demonstrate broad bipartisan support for this bill. A prodigious amount of work on the part of many dedicated individuals in recent years has resulted in many salutary developments. We have made the necessary changes; we have put professionals in charge; so that now we have a legal services program which has the enthusiastic backing of the American Bar Association and of State bar associations throughout the country.

In 1970, the President's Advisory Commission on Executive Organization indicated that the program would continue to be a subject of partisan political controversy so long as it was in the executive branch and expressed its strong belief that its retention in the Executive Office of the President was inappropriate. It was in response to those recommendations that Congress passed the Legal Services Corporation Act of 1974.

That statute created an independent corporation, outside the executive branch of Government and directly accountable to the Congress. It is governed by an 11-person Board of Directors appointed by the President and confirmed by the Senate. The Chairman is Roger Cramton, distinguished dean of the Cornell University School of Law in New York. The President of the Corporation is Thomas Ehrlich, the former dean of the Stanford Law School. The Corporation has been in existence for 2 years, and has already demonstrated the wisdom of the legislative scheme creating it. In the past 2 years, the legal services program has been stabilized and significantly improved. The Corporation provides close and careful monitoring of local programs, effective enforcement of the act and the regulations, and essential support and assistance necessary to maintain the highest quality of legal services. It does so with impressive efficiency, operating with a Washington administrative budget of less than 3 percent of the total amount appropriated by the Congress.

And, in respect of the types of cases taken by legal services lawyers, it is important to emphasize that the vast majority of cases are the unsensational civil matters encountered every day by the poor: 30 percent are family relations, 14 percent are consumer problems, 17 percent are housing complaints, and 20 percent are concerned with administrative benefits, such as social security, AFDC, SSI, and veterans benefits. Furthermore, about 85 percent of the cases are handled outside of the courts.

Some felt that we had a problem in the past with class action suits initiated by legal services lawyers. But now there are constraints on the kinds of suits which were objected to, so that class actions can be undertaken only under procedures defined in the act and according to policies established by the Board of Directors of the local program. Today class actions will be initiated, but only to make more effective use of limited resources, such as when a program is faced with repetitive litigation on behalf of individual clients and it is more efficient to bring one action on behalf of those clients.

But, Mr. President, today is not a day for recrimination—for dredging up the controversies of the past; it is a day for looking forward sanguinely to what remains to be done in the way of providing legal services for the poor of our country. While it is true we have made much progress in making meaningful for the poor the words that are etched in stone beneath the pediment of the U.S. Supreme Court building—"Equal Justice Under the Law"—some 15 million poor persons still do not have access to legal assistance.

The Legal Services Corporation has set for itself a short-term goal of providing "minimum access" to legal services—defined as two lawyers for every 10,000 poor persons—for the 29 million poor people of our country. On this basis, less than half the poor now have "minimum access" to legal services.

Put another way, we might say that the present program provides legal services to the poor at the rate of one lawyer for every 10,000 persons, which is in stark contrast to the rate for the population as a whole, to wit: 11.2 lawyers per 10,000 persons.

The inadequacy of our present efforts in this regard is further demonstrated by the fact that reliable estimates are that 23 percent of each 10,000 poor, or 2,300 persons will have need of the services of a lawyer during a given year. Is it any wonder, then, that last year the 3,000 Legal Services Corporation lawyers handled 1,250,000 cases, for an incredible average of over 400 cases per lawyer?

The Legal Services Corporation Act Amendments of 1977—S. 1303—will help us to continue our progress toward the goal of providing "Equal Justice Under the Law" for all Americans by making several much-needed modifications in existing law.

Senator NELSON has already explained each of the provisions in the bill and I do not wish to be redundant, but I would like to underscore several points.

First, the bill before us provides a $225 million authorization of appropriations to the Legal Services Corporation for fiscal year 1978 and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate has already accepted the conference report on the State, Justice, Commerce, and Judiciary appropriations bill for fiscal year 1978, which provides an appropriation of $205 million for the Corporation. On June 24 of this year, two amendments to reduce appropriations for the Corporation were rejected by a wide margin.

The purpose of the $225 million authorization is to provide the funds necessary to permit the Corporation to continue its efforts to expand legal services to areas of the country where there are none now, and to give all existing programs the capacity to offer at least a minimal level of assistance—the equivalent of 2 attorneys for 10,000 clients—to the poor people who live in their service areas. In addition, the authorization would enable the Corporation to begin to address the problems of salary comparability and additional costs of service in rural areas—problems that go beyond the minimum access plan.

Beyond fiscal year 1978, the Human Resources Committee has opted for such sums as may be necessary for the succeeding years of the authorization. It seems reasonable to expect that for fiscal year 1979, to complete expansion of minimum access to all areas of the country and to comply with congressional instructions dealing with salary comparability and variable costs in rural areas, an appropriation in the neighborhood of $300 million may be necessary. But the Corporation is only now beginning to make the adjustments we have requested for fiscal year 1978, and it seems premature to settle on a precise figure for 1979 until we have had an opportunity to fully assess the impact of those adjustments. Beyond 1979, it becomes much more difficult to project what kinds of increases will be necessary. Use of a "such sums" figure is not an open-ended invitation to the Corporation to come in with any numbers they like. It is a prudent approach that says that rather than fix numbers now that may be too high or too low, we want to look at a full budget justification for the succeeding fiscal years. My colleagues in the Senate should know that the Human Resources Committee, as part of its oversight functions, will be looking closely at those plans and justifications, and I am certain that our counterparts on the Appropriations Committee will be giving them even more careful scrutiny.

A 5-year authorization of the Legal Services Corporation gives the program the stability necessary for planning purposes while at the same time assuring congressional review within a reasonable period of time. When we set up the Corporation in 1974, it was reasonable to limit the authorization to 3 years. We were not certain how the Corporation would work. Its Board of Directors had not been appointed. The Corporation has been in operation now for 2 years and we have had an opportunity to measure its effectiveness. They deserve the full confidence a 5-year authorization will provide.

The second provision of S. 1303 I would like to underscore is that which requires that three of the members of the Board of Directors be eligible clients. This is an important provision and will insure that the Board be accountable and sensitive to the eligible population of poor people. Many enlightened private corporations in the United States for some time have included on their boards representatives of consumers, the public at large and, in some instances, even workers. I think this is a healthy development for our country and one that should be followed by the Legal Services Corporation. Moreover, one of the best ways I can think of for preventing the legal services program from embroiling itself in what some call the "frivolous" or "exotic" cases, is to have poor people themselves participating in the decisionmaking concerning legal services' activities. They can make significant contributions in many areas of this program.

Second, the bill before us allows the Legal Services Corporation to undertake directly, or by grant or contract, various research, training, and technical assistance activities. These provisions would make it possible to reestablish the so-called backup or support centers which were prohibited under the 1974 act. Our colleagues will recall that the so-called "Green Amendment" was a provision added on the House floor in 1973. The House and Senate conferees agreed unanimously to drop the provision. It ended up in the bill only because the President intervened, after the conference report had been filed, and insisted it be included as a condition of his signature on the bill. A lot has changed since the summer of 1974, including the fact that the House has voted overwhelmingly on three separate occasions to eliminate the restrictions imposed by the Green Amendment. If that body, the original source of the provision, is ready to eliminate it, then certainly the Senate can agree. The majority of these centers would concentrate in just one area of substantive law, such as consumer law, landlord-tenant law, or social security law, and thus provide an important source of expertise on complex legal issues. The support centers will give the Corporation the flexibility it needs, indeed is entitled to—as is any other Federal agency—to make contracts with outside groups for independent study or technical assistance.

Third, and I believe this is of the most profound significance, S. 1303 repeals the unfortunate language of section 1007(b)(7) of the 1974 act, which states that no funds may be used "to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system." I realize that this is an emotional issue for many of my colleagues, and the Senate has taken what is, in my view, some unwise positions in recent weeks. Let us be clear here, however, about what we are discussing. The prohibition in the existing statute is not restricted to busing cases. It prevents any representation on issues related to school desegregation. Even if an outside organization brings a school desegregation suit in a local community and a group of parents comes to the legal services program to ask that their interests be protected, the program may not provide representation. If parents come to a legal services program to challenge a discriminatory school policy on discipline or on special education, and that issue is tied to a pending school desegregation case, the current law might be interpreted to prevent representation. If parents come to a legal services program seeking action to improve the quality of the education their children receive, and the best solution involves desegregation, the program may not provide representation even though the remedy sought may be no more than the closing of a single school or the relocation of a planned new school.

Mr. President, the full Human Resources Committee considered this action very carefully. During our markup, I moved the amendment to repeal this section, and my amendment was accepted on a vote of 10 to 3. The arguments in favor of my amendment are most compelling, and I urge the full Senate to uphold them today.

School segregation is, at one and the same time, a means of perpetuating existing class distinctions and preventing the poor from participating in the upward mobility that supposedly is the hallmark of our social system. If poor minorities are to be expected to upgrade themselves without undue governmental involvement, the route of high-quality equal education must be open to them. Indeed, the U.S. Supreme Court has so ruled. But in many places in our land, equal access to quality education remains but an empty promise. Clearly, the poor have a constitutional right peaceably and through our system of law to undertake to change these unfortunate circumstances. The provision of existing law denies parents access to the legal system to remedy that situation. It flies in the face of the stated intent of the law and should be removed. S. 1303 would remove the obstacle that now prevents this avenue of redress.

In testimony before our subcommittee, the American Bar Association expressed its unequivocal opposition to the existing prohibition on taking desegregation cases. Llewelyn Pritchard of the ABA testified on April 25 that the prohibition on taking desegregation cases, like other prohibitions, "are a clear example of the imposition of political considerations on the practice of law * * *" He emphasized that the real issue involved here is "whether citizens who are deeply affected will have the opportunity to seek resolution through our court system."

Mr. President, information that has been received from the NAACP legal defense fund and from the Mexican-American defense fund indicates that requests for representation in school desegregation cases far exceed the number of privately funded civil rights lawyers available to provide it. And prior to the enactment of the 1974 prohibition, legal services programs had been involved in approximately 50 school desegregation cases. So the need is manifest.

I hope my colleagues in the Senate will see the wisdom of repealing this egregious prohibition and, in so doing, give poor minorities the opportunity peacefully to resolve this profoundly important issue of equal access under the law.

The final point I would like to stress, Mr. President, concerns the provisions in section 9(c) respecting organizing activities of legal services lawyers. The purpose of legal services is not the direct organization of groups, important as that objective may be. When we added that restriction to the law in 1974, we specified that it should not be interpreted so as to prohibit advice and legal assistance to eligible clients. Unfortunately, however, the language of the existing law, which prohibits efforts "to encourage" or "to assist" the organization of any group, seems to contradict that exception. Thus, we have attempted to clarify the law by eliminating the language that is causing confusion and citing specific examples in the committee report of activities considered acceptable as well as those deemed inappropriate. In general, while S. 1303 would not permit lawyers "to initiate the formation of" organizations and associations, it would

permit advice and legal assistance to eligible clients who request assistance. This is, in my opinion, a perfectly permissible first amendment right.

Mr. President, Senator NELSON has already explained at some length the other provisions in the bill we have before us. So I will conclude at this point by urging my colleagues on both sides of the aisle to support the Legal Services Corporation Amendments Act of 1977. Let us go forward from today, fully confident that the heated controversies of a bygone day are safely behind us; yet fully cognizant that obstacles remain in the road before us which impede our ability to guarantee to the poor one of the principles of our American democracy: Equal justice under the law.

Mr. President, I ask unanimous consent to have printed in the RECORD, several recent newspaper editorials on the legal services bill.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 9, 1977]

LAW THAT WORKS FOR THE POOR

The Federal program of legal help for the poor has come of age. After a long and turbulent fight in Congress the program was removed from Executive control in 1974 and established as a sheltered, independent corporation. Now, three years later, there is general agreement that the experiment has worked.

The mission of the Legal Services Corporation is to provide at least minimal service to the nation's 29 million poor in their contacts with civil law. Most of the aid is undramatic and uncontroversial, affecting domestic relations, housing problems, bankruptcies and public benefit programs. When first proposed, the idea was resisted with vetoes and filibusters. Now, in tribute to the corporation's strong leadership and program, there has been no opposition to authorizing legislation in a House committee, and the American Bar Association is supporting revisions to make the program more flexible.

The bill now before the House would preserve the corporation's independence, extend its life for two more years and increase its funding from $125 million to $238 million. At present, only a small portion of the needs of the poor for legal services are thus met; most of the requested increase would go toward the goal of providing the equivalent to two full-time lawyers for every 10,000 poor people by fiscal 1979. It is a modest goal; now that we have discovered the means of achieving it, Congress should supply the authority and the funds to do so.

[From the Washington Post, July 7, 1977]

LEGAL AID FOR THE POOR

The Legal Services Corporation, created three years ago out of the remains of the "war on poverty," is turning out to be remarkably healthy. A congressional conference committee voted last week to increase its budget by more than 60 per cent next year—surely a sign that it is doing something right. And the House, after an extensive debate, agreed to remove some of the restrictions that have limited its work. But the corporation is still restrained by other troubling limitations and the Senate ought to delete them when it gets the opportunity later this month.

The corporation, you may recall, grew out of a series of compromises. Those who believed that the government ought to make it possible for poor people to get the kind of legal services that others can buy accepted a long series of limitations on what the free services would be in order to get the bill out of Congress and past a threatened presidential veto. Several of those limitations were dropped this year by the House Judiciary Committee, but two of them were restored on the House floor and a new one added. These three, which seem particularly obnoxious to us, bar the corporation's lawyers from providing legal aid to poor people in matters concerning school desegregation, Indian rights and homosexual rights.

Underlying these restrictions is an obvious distaste of members of Congress for the substance of the right that some candidates for the corporation's assistance might want to assert. But that, it seems to us, is a strange test for Congress to apply. It is a test that says to the poor that, although they have the same rights as everyone else, they can exercise only those that Congress happens to believe in. As a matter of principle, lawyers who handle problems of the poor ought to be able to give them the same kind of help that they would give to paying clients; they ought not to be forced to say that they cannot handle a particular matter because Congress won't let them. That was the principle—despite the compromises—that lay behind the creation of the corporation three years ago, and it is one that deserves to be given its full dimensions now.

[From the Philadelphia Inquirer, July 7, 1977]

AN IDEA THAT IS WORKING

When the House of Representatives voted recently to extend the life of the federally-funded Legal Services Corporation for another two years, the intensity of the debate was a far cry from four years ago when the quasi-public agency was approved.

Then conservative congressmen, fueled by the rhetoric of Vice President Spiro Agnew, tried to abort the independent poverty program and, failing that, attempted to cripple it with restrictive amendments.

This time around, however, the debate was bipartisan, almost serene. Restrictive amendments, for the most part, were beaten back before the bill was approved by a 2-1 margin. It now goes to the Senate, where the only controversy is whether to extend the program for two or five years.

The lowering of the decibels is a tribute to the success of the Legal Services Corporation. During the past three years, it has proven that it can provide essential legal services to the nation's poor without unduly intruding on political decisions or having political decisions unduly intrude upon it.

Nevertheless, the corporation still has far to go before it meets its mission of providing at least "minimal" legal services to the country's 29 million poor in areas such as housing, health, domestic relations and welfare.

At the present time, 16 million poor persons live in areas where no free legal services program exists. With the expected increase in funding from Congress, the corporation can expand to provide help for another six million, including 232,000 in Pennsylvania. Even this improvement must be viewed in the proper perspective. To the corporation "minimal" legal services means two lawyers for every 10,000 persons. The general population has 14 lawyers per 10,000.

In short, the corporation's goal is modest. It is, however, an important one that deserves continued support of the Congress.

[From the Washington Star, June 22, 1977]

NO LEGAL ASSISTANCE, NO JUSTICE FOR POOR

(By Carl T. Rowan)

Why in the name of heaven should the federal government spend $217 million a year to help poor people clutter up the courts?

That's the kind of question you'll hear these days from slum landlords who don't want any barriers to evicting tenants who don't speedily cough up rent money; or merchants who don't want complications when they try to repossess the car or TV set of someone who has lost his job; or social workers who don't want government-paid lawyers meddling in their decisions as to what medical, welfare or other benefits some poor family can get.

This issue of the government providing legal assistance for the poor in civil matters will become hotter, for the Congress is in the process of deciding whether to renew the mandate of the Legal Services Corp., which expires at September's end, and whether to give it the $217 million requested.

By all the normal measurements of clout in this society, the Legal Services Corp. is an underdog. Landlords and merchants pack a far bigger wallop among our lawmakers than do the poor. And, after all, the legal services program barely survived the Nixon administration days when partisan politicking virtually froze its funding and sharply curtailed its activities. The corporation also must contend with the current "balance the budget" cries.

But someone had better realize that the Legal Services Corp. is as much a "law and order" group as the Justice Department's Law Enforcement Assistance Administration or your local sheriff's office.

You can't ask poor people, who are so tragically a part of the crime scene, to live by the law if in their days of crisis they are denied the use of the law. And we must realize that it is a crisis to be evicted and left without shelter, to lose a job because the used car you bought last week won't run, to have no money for meals because the Social Security check or the welfare payment is delayed by bureaucratic blundering.

It was some 70 years ago that the famous legal scholar Roscoe Pound declared that "justice is to be done equally to rich and to poor." We never came close to that goal until 1974 when Congress created and funded the Legal Services Corp. as a private, nonprofit successor to the Office of Legal Services which began as part of the Office of Economic Opportunity.

If we are to maintain respect for the law, Congress must continue the Corporation and give it the piddling budget it requests. That will provide only two lawyers or para-professionals for every 10,000 poor persons in America (there are 14 attorneys per 10,000 persons in the general population).

A recent study by the Bureau of Social Science Research found that 23 per cent, or about 7 million of the nation's 29 million poor persons, face civil legal problems each year. Our government legal services programs can handle only about a million cases a year.

For the other 6 million, says Thomas Ehrlich, president of the Legal Services Corp., "justice is beyond reach."

This increasingly enlightened society long ago accepted the obligation to provide a decent education for all its citizens. The Congress has set a goal of decent housing for all Americans, and is sure to say that we are all entitled to reasonable medical care.

Ehrlich now asks you and me to agree that "decent legal care is an inherent right of every American." I do agree with Ehrlich that, unless the poorest Americans can use the law, then the rights we boast about become a sham.

And, as Ehrlich says, we cannot tolerate such a sham "without betraying our principles of government and threatening the order of our society."

[From the Los Angeles Times, June 8, 1977]

POVERTY LAW: UNSHACKLING AN AGENCY

Opportunities to improve and enlarge government-funded legal services for the poor will occur this week in Washington as well as in Sacramento.

The most crucial votes will come in the House of Representatives, where there will be decisions concerning legislation to extend the Legal Services Corp., for two more years, to increase the corporation's funding and to eliminate a number of the unwelcome restrictions placed on its work when it was established in 1974.

We have already expressed our support for legislation coming to a vote Thursday in the Senate Finance Committe of the California Legislature. SB 997 would provide for the first time sorely needed state money to add to the federal funds for poverty-law services in the state. The bill would authorize $6.5 million.

The Legal Services Corp. in Washington, established as an independent, federally funded agency in 1974, has proved its effectiveness in its first two years of operation. It has also proved that the need if far greater than anticipated, and that more money is required.

Legislation coming to the floor of the House would extend the corporation for an additional two years while increasing its appropriation from the present level of $125 million a year to $217.1 million for the fiscal year commencing in October.

The increased support is, we believe, justified. So are the reforms embodied in the new authorization bill.

Most of the reforms would, as a spokesman for the American Bar Assn. said, "unshackle" the corporation from unreasonable and unnecessary restrictions imposed by opponents of poverty law when the original law was adopted.

Among the significant changes would be the authorization for the first time for poverty-law agencies to accept desegregation cases, broadened authority to intervene in juvenile-law cases, the elimination of restrictions on how the law agencies may use private funds, and the authority to handle cases related to military service—a change made urgent by the problems created for many poor persons by their military discharges. The new law would also do away with restrictions on the use of existing back-up poverty-law centers for research, training and technical assistance.

But the new authorization bill respects the fundamentals of the original bill. It would prohibit the use of the funds for adult criminal cases. It would limit the role that poverty-law agencies can play in organizing communities or special-interest groups.

The new legislation is better than the 1974 legislation, the funding level more appropriate to the need. The bills deserve support.

[From the Miami News, June 23, 1977]

LEGAL AID FOR POOR

With the U.S. Supreme Court ripping at poor people through unwise abortion and welfare decisions, it can be hoped that lawmakers will not further add to their plight by sabotaging the independence and funding of the 3-year-old Legal Services Corp.

Equal justice under the law is more slogan than reality to too many Americans now. And lessening of the corporation's independent status, subjecting it to partisan political considerations, would mean even less effective legal attention for the poor who desperately need help with problems involving evictions, bankruptcies, job discrimination, housing and other civil matters. Even at the proposed funding level, $217 million, the corporation can meet only 15 per cent of the legal needs of the poor.

To Americans in middle and high income brackets, a legal problem is usually nothing more than an inconvenience. But to a poor person, any legal problem quickly can reach crisis proportions. Consider a government foul-up with administrative benefits—a poor family could be put at the instance mercy of a slum landlord. The poor are particularly vulnerable to consumer fraud. The repossession of an automobile can mean no transportation, and consequently no job or food for the table.

On any priority list in Washington, the Legal Services Corp. and the good work it is doing must rank high. To respect the law, Americans must have the opportunity to be served by it. Congress ought to be eager to extend the corporation's life, protect its structure and increase its budget.

Mr. JAVITS. Mr. President, it is my profound belief, based upon 11 years of experience, that of all the antipoverty programs we have developed, the one which helps most in respect of an effort to redeem the poor from that psychology which is called the poverty syndrome is the legal services effort, now incorporated in the highly professional Legal Services Corporation.

Mr. President, the amount of effort which has gone into the fashioning of this program is unusual for a program its size but well worthy of it, because of the effect which it has had in the field.

I am sure these figures have been given before, Mr. President, but I emphasize that 3,000 lawyers in the program are in 300 local programs which are essentially bar association programs, now strictly professional.

The lawyers have handled 1,250,000 cases, which are 400 cases per lawyer, with 81 percent routine civil matters; 33 percent family relations; 14 percent consumers; 17 percent housing; and 20 percent various types of governmental problems, the aged and the other, AFDC mothers, and so on; and 85 percent of the cases handled outside of court through negotiations and consultations.

Mr. President, as a practicing lawyer myself for many years, this is a most extraordinary program, and an unbelievable caseload of 400 ongoing cases per lawyer, with one lawyer for every 10,000 in the poverty classification.

I emphasize the poverty classification in this case is the true poor, that is, those who might be working and also might be working poor and, after all, that is what we want to encourage not disccurage. As a matter of fact, it is the working poor for whom this program is uniquely apportioned to help them move out of the poverty cycle—and I use that in a different sense and a different word than "syndrome."

One of the things which have now been found in respect to poverty is that people can move and do in very large numbers move into and out of poverty under economic conditions and different personal conditions, and the legal services program, therefore, maintains their relationship to the social order in which they best fit in a very unique way, notwithstanding that upon occasion they have to enter into welfare payments or other aspects of the poverty cycle. So, Mr. President, I deeply believe this is the way to proceed.

Only one other question I would like to deal with, and that is the length of time of the statute.

We felt by now enough experience had been gained in the operation of the Legal Services Corporation so that we could give it a life which would encourage young lawyers, who work for very little, as Senator NELSON has just pointed out, to embrace it as an early career with some assurance it will not be in jeopardy every short period of time, as it has been before.

So we believe this represents a recognition that the program has come of age and, of course, we control the appropriations every year so that it is by no means beyond the control of Congress.

In addition, this is a program which can engender controversy we all understand that—they are litigated cases involving the rights of people, and all the more reason for settling, at least, the proposition that people shall have a right to get into court, whatever the court may do with their cases once they are before the body which can do justice.

For all of these reasons, we, in the Committee on Human Resources, consider the 5-year extension now under the circumstances, and now having had very considerable experience both with the program and the method of its administration, to be the appropriate time and, hence, incorporated that in the bill.

I thank my colleague for yielding.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. Yes, happily. Does the Senator wish the floor? I am ready to yield.

The PRESIDING OFFICER. The Chair would have no objection except to remind the Senator that Senator HELMS still has the right to the floor.

Mr. JAVITS. I ask unanimous consent that I may yield the floor and other Senators may be recognized.

Mr. HATCH. I will yield to Senator HELMS if he wishes.

The PRESIDING OFFICER. The Senator from Utah.

UP AMENDMENT NO. 915

Mr. HATCH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 915.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 11, strike all through line 14 and insert in lieu thereof the following:

"(b) Whenever a member of Congress makes a written request for documents in the possession or subject to the control of the Corporation, the Corporation shall, within 10 days after the date of receipt of such request, submit such document (or copies thereof) to such member of Congress. If the Corporation does not have any such documents in its possession, or the Corporation (for good cause) cannot make the requested documents available within the 10 day period, it shall so notify such member of

Congress within such 10 day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such member of Congress, or a statement as to the reasons why such such documents are not in the possession of the Corporation, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term "document" means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing."

Mr. HATCH. Briefly, my amendment does two things: First, it would strike the language in S. 1303, the Legal Services Corporation Act amendments, which would allow Government-funded legal service centers to use private funds to engage in proscribed activities and second, it would provide for greater accountability by the Corporation to Members of Congress.

Currently, Government-funded centers may not spend money for union-oriented advocacy, elementary and secondary school desegregation litigation, or abortion cases. As it now stands, S. 1303 without my amendment would allow these centers to spend freely for these purposes, so long as their expenditures did not exceed the amount of private contributions.

The system would work like this: Assume that a hypothetical Government legal services center received $500,000 in Federal funds and $500,000 from private foundations. Assume, further, that it required its full $1 million funding for its existing level consumer-oriented activities. Under S. 1303, if the Federal Government contributed an extra $500,000 to that center, it would be free to take that money and use it for proabortion litigation, among other things, or, in other words, proscribed litigation.

When challenged that its activities were in violation of the intent of Congress as expressed in section 1007(b)(8) of the Legal Services Act, the center could simply reply that it was the private funds, rather than the Government appropriations, which were being used to fund the abortion litigation. In effect, the Government would have displaced private money for the very purposes which we have prohibited.

If we wish the Federal Government to spend enormous amounts of money in order to defeat the Hyde amendment abortion language—if we wish Federal funds to be used for training programs for the purpose of advocating or encouraging strikes, boycotts, and picketing—if we wish the use of large amounts of Federal funds for the purpose of school busing cases—then we should make our intention manifest to the American people through an up-or-down vote on those issues. I feel it is unfair to the American people to allow their funds to be used surreptitiously for the very purposes which we have assured them are not fundable under the provisions of the act.

Mr. President, this part of my amendment was accepted without objection by the House. I hope the Senate committee will be willing to accept this amendment also.

The second part of my amendment provides for greater accountability by the Corporation to legitimate requests of the Congress.

It has come to my attention that several Senators have had difficulty getting information from the Corporation which I must stress is only by law accountable to the Congress. If we are to keep adequate tabs on the "goings-on" of the Corporation—which is essential, because of the lack of Human Resources oversight—we must have a responsive Corporation willing and able to do what it can to answer the legitimate inquiries of the Congress. What I am suggesting here is not new or novel—in fact it tracts some of the concepts this body has previously agreed to in several reorganization bills.

This portion of my amendment will in large measure insure that the Corporation will be called to task to answer any congressional matter which will shed greater light on its activities in behalf of the public interest.

In other words, what I am asking here is that the Corporation be proscribed, even with the use of private funds, from doing that which it is proscribed from doing with the use of public funds, and that it be responsive to Members of Congress.

There have been indications by colleagues to me that they have made requests of the Corporation and these requests have not been fulfilled, requests for information, that is. I think that is abominable, because it is our responsibility as Members of the Senate and of the Congress to oversee and make sure that this particular organization, among others, is not acting outside the scope of its legislative priorities.

I think that these are very reasonable requests. I think the amendment is a reasonable amendment. If the minority and majority floor leaders are unwilling to take the amendment then I would ask for the yeas and nays.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. HATCH. I am delighted to yield.

Mr. NELSON. We had raised this question about requests for information by Members of Congress, and the Corporation says they respond any time there is a request.

Does the Senator have a specific example of a request that he has made to the Corporation for information that they declined to respond to?

Mr. HATCH. I have only examples of colleagues. Senator McCLURE indicated such.

Mr. NELSON. I did not hear that. What was his request that was not responded to?

Mr. HATCH. I am not sure what it was. But he claimed he was not responded to. And there may be others. I am not sure of them.

I want to make sure, regardless of whether that is so or not, that they are responsive and that we get reasonably immediate answers to any request that we make that has to do with the oversight privileges of Congress.

Mr. NELSON. But that part puzzles me about this. In our management of this legislation I do not recall any documentation of requests from Congress that the Corporation refused to respond to. That does not mean there were not some because there are 435 Members of the House of Representatives and we have not queried them, and there may be Members here who have made such requests. The Corporation's position is that they respond to the requests they get.

Mr. HATCH. I understand. What I want to do is make sure that they do. As the Senator knows, we have not exercised oversight over this Legal Services Corporation nor have we held committee hearings to hear of complaints and other problems, some of which are not raised by this amendment, of course. But I think it is just a reasonable request, especially since really they are only responsible to Congress under the terms of the act. So I would think that that is reasonable. I also think the first part of that amendment is reasonable, because why should we allow them to do with private funds that which they cannot do with public funds. I think we should, it seems to me, proscribe what this Congress has proscribed in the past even for private funds so that we do not have a manipulation with Federal funds or with public funds.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. JAVITS. I will certainly consider the Senator's effort to strike. Frankly, I do not know why the Senator complicated the effort to strike with this insertion. The striking has nothing to do with this insertion whatever. I would strongly suggest that the two matters be separated. I think they are separable anyhow.

But what I wish to ask the Senator is this about this particular amendment. This is generic. It could apply and should apply, if that is the way we are going to go, to every agency of Government. There is no reason why we have to pick the Legal Services Corporation, because we only do something like this in response to some kind of a complaint. Though we have not had, directly and currently with the consideration of this legislation, oversight hearings on the Legal Services Corporation, all of us are in the complaint receiving business. And I agree with Senator NELSON. I have heard absolutely nothing that makes it appropriate to pick out the Legal Services Corporation and impose this requirement respecting them as compared with every other agency of Government.

It seems to me to be completely discriminatory. Therefore, I oppose it because I see no reason for setting this agency up as an object of some kind of mandate which we impose on no other agency. This is very rarely a problem anyhow. I mean, Government agencies generally do not withhold from Members of Congress requests for information. I see no reason for picking out the Legal Services Corporation, especially in view of their assertion that they are very

responsive. If we incorporate this in the statute, there is no reason why we should not incorporate it for every agency of Government.

Mr. HATCH. To answer the comments of the distinguished Senator from New York, and they are appropriate and very good comments as usual, both of the floor leaders are men for whom I have inestimable respect.

I might mention that another complaint that was received was from Senator HARRY BYRD, the distinguished Senator from Virginia, who requested information from the Corporation and it was not provided.

It is not difficult for me to see why the distinguished members of the Human Resources Committee upon which I sit have not received or do not know about complaints about failure to receive information from the Legal Services Corporation, because we have not held any oversight hearings. We have not provided an opportunity for complaints to be heard by the Human Resources Committee or the Subcommittee on Employment.

Until we do I do not think we are going to find all of the complaints that people have concerning the Legal Services Corporation in this country. I might also add, although I personally feel there is much good that can be done by Legal Services Corporation and personally do not have any desire to see it destroyed or emasculated, on the other hand, I do think that it has been wrong that we have not held oversight hearings, that we have not listened to the complaints against the Corporation so that we can correct any inequities or any improprieties or any valid complaint that may be had.

I might mention, also, in that regard and with regard to the other point that the Senator raised, it is not unusual for the Senate and certainly Congress to require what we have requested here and that is responsibility to Congress.

Let me just give the Senator three perfect illustrations: The regulative reform bills for the Civil Aeronautics Board, the Federal Trade Commission, and the Federal Aviation Agency, all have similar provisions in them that require those agencies to be responsive to Members of Congress.

I think that it is the very least that we should require of the Legal Services Corporation, especially in the light of the notoriety and the controversy that has surrounded it, maybe unfortunately so, because as a result of a number of specific problems which probably make up very little in the overall scope and work of the Legal Services Corporation.

We have had a lot of fuss raised and probably had we held oversight hearings, had we had responsiveness to the Members of Congress, had we known what was going on, and had we been able to make suggestions and corrections to the legislation pertaining to the Legal Services Corporation we would not be in the position we are in today where in the Chamber I have to file an amendment that will give us those rights.

Mr. JAVITS. Mr. President, will the Senator yield again?

Mr. HATCH. I am delighted to yield.

Mr. JAVITS. I cannot agree with the Senator less when he says that oversight hearings are necessary to discover the complaint. We get legions of complaints every day which we run down and investigate, and I have not had a single one and I do not think any other Member has, as far as I know. I wonder whether the Senator himself has had any.

Mr. HATCH. Yes, I have.

Mr. JAVITS. The Senator speaks of Senator HARRY BYRD. We will ask Senator BYRD what is his complaint and whether or not information has been withheld. Remember one thing. These are lawyers and even though they are poor, they are dealing with clients and another thing that would concern me about this amendment is the client's privilege.

A Congressman in a local area might very well want to find out something very personal about an individual poor constituent. It is a very, very serious question to me as to whether the poor person thereby gives up the privilege between himself and any lawyer, because he is poor.

So this is by no means just to be swallowed whole, and I would want to examine these precedents that the Senator mentioned with respect to the CAB and this other agency compared to the legion of agencies which we have in the Federal Government.

As I say, I think this is a very separate question, especially involving the question of privilege.

Will the Senator tell me whether he intends this amendment to include privileged information between lawyer and client if it is requested by a Congressman?

(Mr. GLENN assumed the chair as Presiding Officer.)

Mr. HATCH. I will be happy to answer that question. I do not see anything in this amendment that would require a confidential communication between attorney and client to be divulged to any Member of Congress. I think that would be beyond the scope of the requirement. The Legal Services Corporation is bound by the same code of ethics as any member of the bar, any member of the American Bar Association. In fact, I would affirm very strongly that this amendment has no bearing upon confidential communications and privileged communications between the attorney and the client, albeit the attorney is sponsored and paid for by Legal Services Corporation, as well as in some cases private money.

The point I am making is, I can tell you exactly what Senator BYRD reported to me his complaint was. He asked for a copy of the clearinghouse review materials, and they were denied to him, as far as I know. It would have been very simple for them to have provided them. It did not have anything to do with privileged or confidential communications. But they were denied.

I do not know what the complaints of Senator McCLURE are, but I have heard that he has made similar requests and has not received the courtesy of answers.

Mr. JAVITS. Have you investigated those requests?

Mr. HATCH. No.

Mr. JAVITS. Well, I think that is certainly a very elementary thing to do.

Mr. HATCH. I would like to do so, as a member of the Employment Subcommittee. By having oversight hearings, and by having Senators come in and making those complaints known, I think we could improve the legislation. As the Senator knows, we are all very busy here in the Senate, and I do not have time to spend going around investigating complaints by individual Senators. These two I have only heard of this morning. I am sure there are probably others that can be brought forward.

I believe this measure would be vastly improved by providing that this corporation, which is funded as a result of legislation passed by this body, would have to be communicative with this body, and be required to respond to requests.

Mr. JAVITS. This is like any other legislation voted by this august body; there is no reason for picking them out of the hat and implying they are not responsive. The Senator did not even ask them about these particular matters that came to his attention. That seems to me to be pretty elementary.

Mr. HATCH. I heard about them this morning.

Mr. JAVITS. Well, then, let us ask and find out from the Legal Services Corporation.

Mr. HATCH. I will be very happy if the Senate will recommit this measure and go back and hold oversight hearings. I would be very happy; I would suggest we do that. In fact, I would also say that since this particular bill involves pure law, the practice of law, the ethics of law, legal cases, litigation, and in fact we would all be hard pressed to say that it does not involve just law across the board, I would suggest that we refer it to the Committee on the Judiciary for oversight, so that we can look at it from the auspices of that very special committee. I would like to see both committees look at it.

Mr. NELSON. Mr. President, may I comment at that point?

Mr. HATCH. I would be delighted.

Mr. JAVITS. I was just going to say in response, Mr. President, that this is the first time I have heard the Senator ask for oversight hearings. I am the ranking Republican member and did not hear about it before this program expired a week ago. This is a pretty late date to refer it back to the original committee which reported out the bill, to say nothing of the Judiciary Committee.

Mr. HATCH. Mr. President, I would just add that it is in my minority views, and I do not know of any way that I can better raise the objection than by taking the time to write minority views which are supposed be read by every member of the committee and every Senator on this floor. I have already requested it, and that request has not been complied with. Maybe we will find that this interests only 10 percent of the people. That may be so, but there is nothing wrong in us requiring oversight, and requiring the Legal Services Corporation to be responsive to Members of Congress. I think it is essential to do so, especially in an area where we have had serious criticisms,

such as the one I raised yesterday on the floor of the Senate.

I know that the Senator from New York is one of the busier Senators, and it is not difficult for me to understand why he might have missed that minority statement, because he is extremely busy and does a tremendous job in the Senate. But I am very upset about it; I think we ought to have the right for other Senators to come in, in oversight hearings, and make any comments along with anyone else in our society who is responsible; and I do not think we have had that here.

If we do it, I think we will come up with better legislation, stifle future controversy, and maybe allow the Legal Services Corporation to do that for which it was originally constituted, and for which the Senator from New York fought, and I respect him for it.

Mr. JAVITS. Mr. President, there are 3,000 lawyers handling this situation now. We cannot hang up this whole program simply on that account, in my judgment. I can understand the Senator wanting it, but he does not want action on the bill. I cannot understand our going that route when this bill is pending before us on the Senate floor.

Mr. HATCH. Mr. President, if I may say this, then I will be delighted to yield to the distinguished Senator from Wisconsin: I think that when you have 3,000 lawyers in a society that have come in and asked for an appropriations increase of almost double what it was last year, based upon an inflated number of poor people in our society—29 million poor—when you and I and everyone else knows when you take transfer payments into consideration the number is not nearly that large.

Mr. JAVITS. I thoroughly disagree with you. There are 29 million poor people in this country.

Mr. HATCH. Then you are disagreeing with the Congressional Budget Office.

Mr. JAVITS. That may well be, but nevertheless I disagree.

Mr. HATCH. Of course, we may have reasonable disagreements here on the floor of the Senate, for which we respect each other. I respect the Senator and I know he respects me. I appreciate the courtesies the Senator has extended to me, as ranking minority member of the Committee on Human Resources, and the great leadership he provides.

But that still does not say we could not have a couple weeks of hearings, so that those who have serious questions about the Legal Services Corporation could bring them forth, we could get them out of the way, and make this a better piece of legislation.

I am glad to yield now to the Senator from Wisconsin.

Mr. JAVITS. We had hearings on this bill. We put them in the RECORD. We had a couple of days of hearings.

Well, go ahead.

Mr. HATCH. You had people testify for the bill. I remember Mr. Erlichman.

Mr. JAVITS. And against it.

Mr. HATCH. They were already against the bill before they came in.

Mr. NELSON. May I respond to that?

Mr. HATCH. I am trying to yield to the Senator from Wisconsin.

Mr. NELSON. As to the Senator's criticisms concerning inadequate oversight, the responsibility falls mostly on my shoulders, in that I am chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, although some responsibility falls on the ranking minority member as well.

Just so the record will be clear, when the distinguished Senator from Utah refers to Members of Congress not having an opportunity to testify, I am sure the Senator knows that any Member of Congress is welcome to appear before a committee to testify on all subjects. I have never heard of any Member of Congress ever being denied the opportunity to testify before a committee on a pending issue in all my 14 years here in the Senate.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. NELSON. Yes.

Mr. HATCH. What about my request of the minority leader that we want oversight hearings? What about my request to the Committee on the Judiciary, and the request of the distinguished chairman of the Judiciary Committee, Mr. EASTLAND, that this matter be referred to the Judiciary Committee?

Mr. NELSON. Let us respond to those one at a time.

No. 1, the jurisdiction over the Legal Services Act has been in the Human Resources Committee from the day the act was created. Some Members challenged the committee's jurisdiction over the Legal Services Corporation.

Mr. HATCH. I challenged it.

Mr. NELSON. It was challenged, and the challenge was defeated.

Then furthermore, I would like to point out to the Senator that in the Reorganization Act approved by the Senate earlier this year—Senate Resolution 4—the jurisdiction over the Legal Services Corporation was placed in the Human Resources Committee.

That is where the jurisdiction is, so there is not much point in referring it to the Judiciary Committee, because it would not have jurisdiction. As to the third point——

Mr. HATCH. Will the Senator yield on that?

Mr. NELSON. Yes.

Mr. HATCH. In the House, as the Senator knows, the jurisdiction is in the Committee on the Judiciary, where it rightly belongs. I contend, since it has to do with the practice of law and all things that relate thereto, it should be referred to the Committee on the Judiciary. I understand that it is presently lodged in the Committee on Human Resources, and I think it is improper for it to be there.

Mr. NELSON. I understand the Senator's viewpoint. What I am saying is that in the Senate, when the Legal Services Act was created, jurisdiction was given to the Committee on Labor and Public Welfare, now the Committee on Human Resources. It has been there for 10 years.

This year, when the Senate acted again in the Reorganization Act, jurisdiction was maintained in the Committee on Human Resources. I understand that the Senator believes it ought to be elsewhere. But that is irrelevant in terms of what we are dealing with now. It is not there.

When it becomes, if it ever does, the jurisdiction of the Committee on the Judiciary, that is another matter.

Mr. HATCH. Will the Senator yield on that?

Mr. NELSON. Yes.

Mr. HATCH. As the Senator knows, this is my first year in the U.S. Senate and I just arrived here on January 4, so I have not been able to make the request before now, but this legislation involves an authorization for 5 years into the future, without oversight hearings, as I understand it.

Mr. NELSON. I missed that. I am sorry.

Mr. HATCH. This legislation—I am saying that I was not here until this year. This is the first opportunity I have had to raise the issue. It is my suggestion that the Judiciary Committee, at the very least, have joint responsibility for the Legal Services Corporation so we can have oversight hearings, not just from the legal standpoint, not just from the human resources standpoint, especially where we have legislation that will authorize the national Legal Services Corporation to act for an additional 5 years. Without oversight hearings, I think that is terrible.

Mr. NELSON. Let me say to the distinguished Senator from Utah that it may very well be that it could be suggested that there have been inadequate oversight hearings, even though such oversight is my responsibility as chairman of the Employment Subcommittee, and has been since 1969.

Mr. HATCH. If the Senator will yield on that, I do not want to have this appear as though I am speaking harshly toward the distinguished chairman of this subcommittee, the Senator from Wisconsin. All I am saying is that, until this year, maybe it has not been raised, but I have raised it. Perhaps it has not been brought to the Senator's attention.

I do realize that the Senator certainly tries to fulfill his responsibilities as the chairman of that subcommittee. But I am suggesting here that it would have been much better, and it would be much better right now, if we would have oversight hearing that will enable people to come in and voice their complaints to these responsible people, and fellow Senators, and go into the complaints that have been made about the Legal Services Corporation, not only by the Committee on the Judiciary—I would say primarily by Judiciary.

Mr. NELSON. Let me respond by saying that I do not quarrel with what I understand to be the suggestion, if not the flat assertion, of the Senator from Utah that the subcommittee's oversight hearings on legal services have not been adequate. I, in fact, do not think they have been. Let me tell the Senator what the problem is.

If the Senator from Utah would like to have a meeting of the Subcommittee on Employment, Poverty, and Migratory Labor and assure the presence of all the Republicans, and I assure the presence of all the Democrats, and further let us

divide up the United States, let us see how many are willing to commit themselves to 6 or 7 days of field hearings out in the countryside to get the kind of information the Senator would like to have. I think he will find that kind of thing is very difficult. I understand that.

Mr. HATCH. Will the Senator yield on that point?

Mr. NELSON. Yes.

Mr. HATCH. I should be more than happy, since I am making this suggestion, to be one of those who would put forth an extra effort to attend those hearings if the Senator will join with me in recommitting this to the committee and, in committing it, at the very least, give joint responsibility to the Judiciary Committee for hearings. The Senator has admitted that we have not had proper oversight hearings.

Mr. NELSON. I do not like the implication of the suggestion that they might have been improper. All I say is that I have never served on any committee in which I would be able to stand up and flatly assert that adequate or ideal, or what have you, oversight hearings have been conducted on any program. I have conducted them for years on the poverty program. I have gone out into the States: I have gone to Texas: I have gone to California; I have gone to my State; I have sent people around the country. I still feel that they are not adequate. We do not have the resources to do that.

Mr. HATCH. If the Senator will yield.

Mr. NELSON. Let me finish on this.

The Senator has suggested and stated that Members of Congress have not been heard from. Notice of the hearings—and there were 2 days of hearings—was in the CONGRESSIONAL RECORD. All 535 Members of Congress could have appeared and, in past years, in fact, we have had testimony from Members of the House and Members of the Senate. This year, so far as I know, not a single Member asked to appear, to make suggestions or complaints.

I suggest to the Senator that a likely reason for this is that, now that we have a Legal Services Corporation in place and operating, it is doing very well and the complaints that used to be made against the legal services operation are not occurring with either the intensity or the numbers they used to because the legal services program has been vastly improved.

But, as to the oversight, we scoured the countryside to find out who come in to complain about the program. We found one. We sought them out—the American Farm Bureau.

We asked them to appear, because they are critical of the program. So we invited them to appear to testify. But they refused to come and testify. Rather, they submitted a statement for the hearing record. The National Clients Council, the National Legal Aid and Defender Association, the Legal Services Corporation, and the American Bar Association all testified. In addition, testimony was received for the record from the California legal assistance program. No Members of Congress appeared.

After all, the program has been around for over 10 years. It has been criticized. Many of the criticisms are legitimate. It has been attacked. President Nixon wanted to destroy it. Amendments have been offered. It has been refined. It has been debated back and forth. The reason we did not hear many complaints this year, I suggest to the Senator, is that there were not very many complaints to be made.

Now, I have a whole series of hearings that I must try to get conducted after we get out of session, so I do not want to make a specific commitment unless I have an opening sometime about December 24. I shall be glad to have the Senator come as a witness that day.

Mr. HATCH. I should be happy to be there.

Mr. NELSON. I have some hearings on a whole series of questions in the Small Business Committee, the Finance Committee, and the Human Resources Committee that I am attempting to get done this year. One of them involves Human Resources Committee hearings on welfare reform. One of them involves Social Security Subcommittee hearings on bringing Federal, State, and local employees within the social security program, and another concerns the social security disability insurance program. I am also intending to hold Human Resources Committee hearings on the Community Services Administration.

I am perfectly willing to set up some further oversight hearings, because I think they are always valuable. I say to the Senator, we shall pick a date and if I cannot do it because of time constraints on the number of hearings I have in November and December, plus commitments in my own State, I think we ought to be able to do it in January or February. I should like to see the best critics of the program. That is important, because it is from the critics who have constructive suggestions and thoughtful criticisms that we are going to be able to make improvements in the programs.

Let me say to the Senator that I believe his suggestions are serious. I know he is serious about them. So am I. I think the legal services program is a very fine program—not perfect, but a very fine program—which is delivering some services to the poor which are very badly needed by the poor in this country, services which are not available to enough of the poor. But I want to make the program, as I know do the Senator from Utah and the Senator from New York, as a fine a program as it can be made, and improve it as much as we can improve it.

I say to the Senator that I am happy to tackle that exact question of oversight hearings on the complaints against this program and suggestions for improvement. I am certain that I can find a day or two to do it in January or February. I shall make that commitment to the Senator from Utah.

Mr. HATCH. I am very pleased with that commitment. I know what it means because I know the Senator is an extremely busy Senator, as is the distinguished minority leader, and to ask this of the Senator is not only important, but his graciousness in being willing to do this, I think, is a good indication of the great service he is willing to extend in the Senate.

May I ask, if we have not heard the criticisms against this particular bill, and it is my understanding that since this bill was formulated that the committee has received a number of criticisms of the bill and a number of requests to testify, how can we go ahead and pass a bill that has 5 years into the future before we can do much about it, what value would hearings have?

Would the Senator be willing to recommit this until those hearings? If so, after holding the hearings, assuming nothing serious would come out of them, I would be happy to help cosponsor this bill the next time around.

Mr. NELSON. The authorization for the legislation expires at the end of this month. We need to pass a new authorization for the Legal Services Corporation.

Mr. HATCH. Do we have to pass it for 5 years until we hold the hearings?

I certainly agree with some approaches to keep the Legal Services Corporation going, but which do not extend this authorization for 5 years.

As the Senator knows, in the future, it becomes even more in excess of $200 million provided for by this authorization, it becomes as may be necessary.

Mr. NELSON. That is correct.

Mr. HATCH. I think what we ought to do is limit this in time until we have these hearings and, if they do not come to anything, then let it again come up after the first of the year and decide how many years into the future we should go. I certainly do not think it should be 5 years.

Mr. NELSON. I do not see the necessity for any hearings to extend the legislation. I do not want to be misunderstood. I think it is a superb program. I think it is providing a fine service for poor people who need it.

I think the Legal Services Corporation can be improved and I am prepared to have oversight hearings to hear criticisms to further improve the program, but not legislative hearings on the question of extending the program or for the purpose of recommitting the bill to committee

Mr. HATCH. Could we fail to extend the program for 5 years? Could we reduce it down to, say, 2 years so we have a reasonable time in which to look into it and receive the criticisms, receive the testimony, assuming there will be testimony, and I assume that there will, and exercise congressional oversight?

Mr. JAVITS. Will the Senator yield on that?

Mr. HATCH. I am more than happy to.

Mr. JAVITS. What assurance can the Senator give us this bill will not be filibustered? Can we have a time agreement if we agree on a period of years?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. McNamara be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 12:10 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12:13 p.m., when called to order by the Presiding Officer (Mr. ZORINSKY).

UP AMENDMENT NO. 916

Mr. NELSON. Mr. President, I send to the desk a technical amendment on behalf of the Committee on Human Resources, and I ask for its immediate consideration. This amendment is strictly technical.

The PRESIDING OFFICER. An amendment is pending.

Mr. NELSON. I ask unanimous consent that it be temporarily laid aside, so that this technical amendment may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this amendment is strictly technical in nature. This amendment corrects a mistake in the printing of S. 1303. On page 17, line 9, the language of the bill would be corrected by striking the "(a)" and inserting in lieu thereof "(4)".

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 916:

On page 17, line 9, insert the following:

Strike the "(a)" and insert in lieu thereof "(4)".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 917

Mr. HELMS. Mr. President, earlier today, I made remarks preliminary to the submission of an amendment in the nature of a substitute. I have not yet called up that amendment. I ask unanimous consent—with the consent of the distinguished Senator from Utah—that his amendment be set aside for the time being, so that I may call up my amendment, and I ask that it be stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 917.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Federal Legal Aid Corporation Act of 1977".

(b) Where fundamental rights are to be protected and justice attained, it is essential that the institutions of government be accessible to all. In a nation where justice is dispensed by the courts it is inherent that they be available to all regardless of race, religion, sex, national origin, or personal wealth.

DEFINITIONS

SEC. 2. (a) The word "State" shall include each of the several States of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(b) An "eligible client" shall be an individual in need of professional legal services who meets certain criteria as established in section 4, subsection (k)(4) of this Act.

(c) A "State instrumentality" shall be an agency of a State government established solely to carry out the purposes of this Act, or an existing State agency which shall have assigned to it by the State the responsibility to carry out the purposes of this Act.

ESTABLISHMENT AND GOVERNANCE

SEC. 3. (a) There is authorized to be established in the Federal city a nonmembership nonprofit corporation chartered by the Congress of the United States of America which shall be known as the Federal Legal Aid Corporation (hereinafter referred to as the "Corporation").

(b) The Corporation shall be brought into being by a board of directors (hereinafter "Board") consisting of seven members who shall be appointed by the President of the United States of America, to take office upon confirmation by the United States Senate.

(c) Of the initial members of the Board, one each shall be chosen for fixed terms of seven, six, five, four, three, two, and one year(s), respectively. Succeeding appointments to fill terms which have expired, will be for seven years each. Each person duly appointed by the President and confirmed by the Senate, to fill a vacancy, shall serve for the balance of the term to which he was appointed. No member shall be appointed for more than seven years.

(d) No more than four members of the Board shall be members of the same political party. A majority of the members of the Board shall be members of the bar of the highest court of a State and none shall be full-time employees of the United States.

(e) No fewer than four members of the Board may be present to conduct the business of the Corporation. Should there, at any time after the Corporation has come into being, be fewer than four members, as a result of the failure of the Senate to confirm nominations submitted by the President of the United States, the President may designate one of the remaining directors or, if none remain, some other citizen of the United States, to supervise the affairs of the Corporation in a manner not inconsistent with policies already established.

(f) The terms of the original members of the Board shall be measured from the date on which this Act is enacted into law.

(g) The Board of Directors shall have a Chairman, to be appointed by the President of the United States from among the duly appointed members of the Board of Directors for a term of one year, with the term of the first Chairman to be measured from the date on which this Act is enacted into law. If the President shall fail to name a Chairman within thirty days of a vacancy in the chairmanship, the members of the Board shall choose a Chairman from their own membership. No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board.

(h) Meetings of the Board shall be held at the call of the Chairman, or by written request of a majority of its members, and shall be required to be held at least once in every four-month period. All meetings shall be held in the Federal city, except by unanimous agreement of the members of the Board.

(i) The purpose of the Corporation shall be—

(1) to render financial assistance to the States to enable the provision of legal assistance to qualified individual citizens who are indigent and in need of professional legal services (hereinafter "eligible clients");

(2) to assist in the provision of legal services to eligible clients by obtaining and making available information of a technical nature and making available information of a technical nature to those rendering legal services to eligible clients; and

(3) to, consistent with the provisions of this Act, set forth such procedures and regulations governing the use of Federal funds as may be authorized for expenditure by the Corporation.

(j) The Corporation shall maintain a principal office in the Federal city and shall therein designate an authorized agent for service of process.

(k) Subject to approval by a majority of the members of the Board, the Chairman shall select an Executive Director of the Corporation who shall serve at the pleasure of the Chairman, and be authorized to secure as many staff members as may be authorized pursuant to law, but in no event shall the Corporation have more than twenty-five employees. Employees of the Corporation shall serve at the pleasure of the Executive Director. No Executive Director may serve more than four years.

(l) Compensation of Board members shall be limited to cost of travel plus a per diem rate equal to one two-hundred-sixtieth the annual pay of the highest civil service grade schedule, on days actually employed on corporation affairs. The Executive Director shall be compensated at the rate of an employee in the highest civil service grade.

CORPORATION POWERS, REQUIREMENTS, AND PROHIBITIONS

SEC. 4. (a) The Corporation shall assign and disburse all funds appropriated to it to the governments of the several States, as qualify, in amounts proportionate to their respective shares of the total number of eligible clients in the United States (which shall be calculated so as to include eligible clients in the District of Columbia and the Commonwealth of Puerto Rico), as of June 30 of the fiscal year preceding the fiscal year for which an appropriation is made by Congress to further the provisions of this Act, only excepting:

(1) such funds as are necessary for administrative expenses including compensation of the Executive Director and his staff, payment of expenses and per diem of Board members, costs incurred in purchase and rental of space and equipment, and costs necessary to pay such audits, evaluations, and inspections as may be required to assure adherence to the provisions of this Act;

(2) such funds as may be made available by special grant to the various States as incentives to experiment with alternative delivery systems for legal services to eligible clients. Funds available to the Corporation for special grants shall be limited to maximum of 5 per centum of the Corporation's annual appropriation; and

(3) such funds as may be expended by the Corporation in entering into any contract as provided for in subsection (b) below. Funds available to the Corporation for such a contract shall be determined by Congress at the time of the Corporation's appropriation.

(b) The Corporation shall have the power to contract with a private or public group, association, or organization for the purpose of doing research into special legal problems encountered by those who qualify as eligible clients. Such research shall be made available by the Corporation to those rendering legal assistance to eligible clients and to all others interested in such research.

(c) Funds appropriated to the Corporation, or appropriated by the Corporation to the States, shall only be used to make legal assistance available to individual eligible clients, and to pay necessary expenses as authorized by subsection (a), above.

(d) No funds shall be disbursed by the Corporation to any State until said State has qualified as set forth in section 5.

(e) Personnel employed by the Corporation and funds appropriated to the Corporation or disbursed by it to a State shall not be used or commingled with other funds being used—

(1) to initiate, organize, support, represent, or assist any training program, workshop, seminar, school, publication, newsletter, club, association, group, organization, demonstration, boycott, meeting, rally, march, strike, or any other activity, group, or institution;

(2) to support or oppose, directly or indirectly, any candidate for public or party office, or any political party;

(3) to represent any person less than eighteen years of age without formal written consent of one of said person's parents or guardian; or

(4) in a manner which tends to discriminate in favor of or against individual attorneys, employees, or clients, on grounds of race, religion, sex, or national origin;

(f) The Corporation shall not—

(1) initiate or defend litigation on behalf of clients other than the corporate entity itself;

(2) seek to influence, nor shall any funds appropriated or disbused by it be used to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies or otherwise support any group or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations.

(g) The income or assets of the Corporation shall not inure to the benefit of any director, officer, or employee thereof, except as salary or reasonable compensation for services.

(h) Persons directly or indirectly receiving compensation under this Act, as attorneys, for the provision of legal assistance, shall only receive such compensation subsequent to admission to practice law in the jurisdiction where such assistance is rendered.

(i) Persons advocating disregard or violation of Federal or State law, during their service, may not receive compensation under this Act.

(j) Notwithstanding the provisions of title I of the United States Code, all persons salaried by the Corporation, or paid from funds disbursed by the Corporation through the States in an amount which is equal to 50 per centum or more of said person's income during any four-month period, shall be subject to the provisions of rule IV of the civil service rules prescribed by the President of the United States pursuant to section 3301 of title 5, United States Code, as amended as of the date of enactment of this Act, as if said employees were employees of the Federal Government. Said employees shall not be treated as employees of the Federal Government for any purpose not specifically authorized in this Act.

(k) Funds made available by the Corporation, pursuant to this Act, may not be used—

(1) to provide legal services with respect to any criminal proceeding or, in the case of juveniles, proceedings which would be criminal if involving adults (including any extraordinary writ, such as habeas corpus and coram nobis, designed to challenge a criminal proceeding); or,

(2) for any of the political activities described in this section, or to contribute to or in any way assist any group or association participating in such activities;

(3) to maintain any action at law until such time as any and all administrative remedies provided for in applicable contracts have been exhausted; or

(4) to represent any person who fails to meet eligibility standards established in accordance with this subsection.

An individual shall be eligible for legal assistance pursuant to this Act (an "eligible client") if his assets or income would entitle him to receive benefits, in the State in which he is seeking legal assistance, under the program of the State established pursuant to title XIX of the Social Security Act or, in the event a State has not established a program, an individual shall be eligible for legal assistance pursuant to this Act if his income and assets fall below the official poverty line, as defined by the Office of Management and Budget, except that (1) no person shall be eligible for the receipt of legal services provided through this program if his lack of assets or income results from his refusal or unwillingness to seek or accept employment but in no event shall physical or mental incapacity prohibit an individual from receiving benefits under this Act, and (2) the States may impose additional eligibility criteria for the purpose of this Act.

(l) The Corporation shall evaluate annually the program for provision of legal services to eligible clients being conducted in each State. Should any such evaluation disclose: discrimination on the basis of race, religion, sex, or national origin in the provision of legal services to eligible clients; or violation of the code of professional responsibility for attorneys, in any State's program, the Corporation may terminate disbursal of funds to that State until it is determined by the Corporation that such discrimination or violation of the code of professional responsibility will no longer occur.

(m) Upon request by any Governor, Member of Congress, or authorized officials of executive branch departments and agencies, reports of particular audits, evaluations, and inspections will be made available to the requesting official or to the public. Such inspections, audits, and evaluations shall be initiated in response to the written request of any Governor, Member of Congress, or official of the executive branch whose appointment has been confirmed by the United States Senate or the separate request of a member of the Board or Executive Director of the Corporation.

(n) Violation of any of the provisions of this section by an individual shall constitute a misdemeanor. The penalties for such shall not exceed six months imprisonment or a $500 fine or both.

QUALIFICATION BY STATES

SEC. 5. (a) To qualify for assignment of funds from the Corporation, States shall be required to enact enabling legislation setting forth the manner in which grant funds will be used to furnish eligible individuals with legal assistance. Such enabling legislation shall provide for at least one of (but none other than) the following procedures:

(1) Empower a State instrumentality to administer the funds received from the Corporation and disburse such funds to attorneys representing eligible clients as such attorneys provide proof to such State instrumentality of services actually rendered eligible clients; or,

(2) Transmit the funds received from the Corporation to the bar association with overall jurisdiction in the State, which bar association shall have established a method for disbursal of funds to attorneys representing eligible clients as such attorneys provide proof to the bar association of services actually rendered on behalf of eligible clients; or,

(3) Establishment of a method of direct payment of funds received from the Corporation to eligible clients or their attorneys based upon a voucher system or other method whereby proof of services actually rendered on behalf of eligible clients is provided to the State.

(b) In their enabling legislation, all States shall (1) permit eligible clients to retain the individual attorney of their choice; (2) insure that all attorneys, while engaged in activities funded by Corporation grants:

(A) Refrain (i) from political activity, (ii) from any voter registration activity, (iii) from any activity to provide voters with, or prospective voters with, transportation to or from the polls or provide similar assistance in connection with an election, and (iv) from any activity organizing individuals or groups or encouraging groups to organize in the community.

(B) Shall not at any time identify the Corporation or any program assisted by the Corporation with any partisan or nonpartisan political activity.

(C) Maintain the highest quality of service and professional standards in providing legal services to eligible clients.

(c) In the event a State does not enact the required enabling legislation within ninety days of the effective date of this Act or the legislature of a State is not sitting when this Act becomes effective and will not be able to enact the required enabling legislation within ninety days of the effective date of this Act, the bar association of the State may submit a plan in the form of a petition, embodying the provisions of subsections (a) and (b) above to the court of highest jurisdiction in the State. Said court may adopt such plans and upon such adoption, the State shall be qualified to receive funds pursuant to this Act. Where such a plan is adopted by the court of highest jurisdiction in the State, the plan shall be annually reviewed by said court: *Provided*, That nothing contained herein shall be construed to prevent the State legislature from reviewing, amending, or revoking such plan adopted by the court of highest jurisdiction in the State.

(d) In the event a State fails to adopt a plan as provided in subsections (a), (b), and (c), above, within one hundred and twenty days of the effective date of this Act, the Corporation may assign funds for expenditure within said State in a manner to be determined by the Corporation: *Provided, however*, That, shall a State determine not to participate in a program of legal assistance to eligible clients, pursuant to this Act, the authority of the Corporation to so assign funds in that State shall be terminated.

ATTORNEY-CLIENT RELATIONSHIP

SEC. 6. (a) As this program is one for the benefit of those individuals financially unable to afford counsel, the Corporation, officers, and employees thereof, may not interfere with any attorney in carrying out his professional responsibility to anyone who has become his client, or abrogate the authority of a jurisdiction to enforce adherence by any attorney to applicable standards of professional responsibility.

(b) Nothing contained herein shall be construed to limit an attorney, representing an eligible client, from taking any necessary legal action to protect the legal rights of his client.

REPORTS AND RECORDS

SEC. 7. (a) The Corporation shall have authority to require, from the States, such reports as it deems necessary.

(b) The Corporation shall have authority to prescribe the keeping of records with respect to funds provided and shall have access to such records at all reasonable times.

(c) The Corporation shall publish an annual report by April 15 of each year which shall be filed by the Corporation with the President and with Congress.

AUDITS

SEC. 8. (a) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally

accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of a State.

(b) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons. The report of the annual audit shall be available for public inspection during business hours at the principal office of the Corporation. The above shall not be construed to limit the authority of the General Accounting Office to conduct such audits of the Corporation as deemed necessary.

(c) The Corporation may require from every State, an annual report conducted in accordance with generally accepted accounting standards by independent certified public accountants, who are certified by a regulatory authority of the State, with respect to funds received from the Corporation. The Comptroller General of the United States shall have access to such reports and may, in addition, inspect the books, accounts, records, files, and all other papers or property belonging to or in use by the State which relate to the disposition or use of funds received from the Corporation.

RIGHT TO APPEAL, ALTER, OR AMEND

SEC. 9. The right to repeal, alter, or amend this Act at any time is expressly reserved.

APPLICABILITY OF OTHER PROVISIONS OF LAW

SEC. 10. (a) In the absence of specific reference to this Act, the provisions of the Economic Opportunity Act of 1964, as amended (and references to that Act in other statutes) shall not be construed to affect the powers and activities of the Corporation or to have an applicability with respect to programs and activities assisted by Corporation grants.

(b) Title X of the Economic Opportunity Act of 1964 is repealed.

EFFECTIVE DATE

SEC. 11. (a) Except as provided in subsection (b) this Act shall take effect on the date of its enactment.

(b) Section 10(b) of this Act shall take effect on (1) the date of incorporation of the Federal Legal Aid Corporation, or (2) the date on which the first appropriation after incorporation becomes available to the Corporation, whichever is later.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, as to the time of the rollcall vote, the Senator from North Carolina is entirely pliable—whatever is convenient for the Senate.

I say to the majority leader that if he wishes to recess now, that suits me just fine.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. I thank the distinguished Senator from North Carolina.

Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair.

There being no objection, at 12:15 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 1:40 p.m., when called to order by the Presiding Officer (Mr. MELCHER).

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of three measures that have been cleared for consideration by unanimous consent, and that the Senate proceed to the consideration of Calendar Order Nos. 431, 444, and 445.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, all three of these items have been cleared on our calendar, and we have no objection to proceeding with them.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL EMERGENCY ECONOMIC POWERS LEGISLATION

The Senate proceeded to consider the bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 2, beginning with line 17, insert the following:

(c) The termination and extension provisions of subsection (b) of this section supercede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

On page 2, line 22, strike "(c)" and insert "(d)";

On page 6, line 6, strike:

uncompensated transfers of anything of value except to the extent that the President determines that such transfers (A) would seriously impair his ability to deal with the unusual and extraordinary threat which is the basis for the exercise of authorities under this title, and insert in lieu thereof:

donations, by persons subject to the jurisdiction of the United States, of articles, including food, clothing, and medicine, intended to be used solely to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his authority to deal with any national emergency declared under section 202 of this title,

On page 8, beginning with line 20, strike through and including page 9, line 13;

On page 9, line 15, strike "207" and insert "206";

On page 10, line 2, strike "208" and insert "207";

On page 11, beginning with line 18, insert the following:

SEC. 208. If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–466), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to revise and delimit the President's authority to regulate international economic transactions during wars or national emergencies. The bill is a response to two developments: first, extensive use by Presidents of emergency authority under section 5(b) of the Trading With the Enemy Act of 1917 to regulate both domestic and international economic transactions unrelated to a declared state of emergency, and second, passage of the National Emergencies Act of 1977 which provides safeguards for the role of Congress in declaring and terminating national emergencies, but exempts section 5(b) of the Trading With the Enemy Act from its coverage.

Four national emergency declarations were in effect prior to passage of the National Emergencies Act of 1976: President Roosevelt's declaration in 1933 to cope with the banking crisis; President Truman's declaration in 1950 during the Korean War; President Nixon's declaration in 1970 to deal with the Post Office strike and his declaration of a balance of payments crisis in 1971. Any emergency declaration may be used by the President in conjunction with section 5(b) of the Trading With the Enemy Act to regulate domestic or international economic transactions or control property for an indefinite period. Such emergency authority was used by President Johnson to place controls on U.S. direct investment abroad in 1968 (controls which continued until 1974), by President Nixon to impose a 10-percent surcharge on U.S. imports from August to December 1971, and most recently by President Ford to extend controls and regulations issued under the Export Administration Act when that act lapsed temporarily between September 30, 1976 and June 22, 1977. President Johnson's action was based on the continuing emergency declared during the Korean War. Presidents Nixon and Ford based their actions on the Korean emergency and the 1971 balance of payments emergency.

The National Emergencies Act of 1976 terminated emergency authority existing under declarations of national emergency in effect on September 14, 1976, the date the act became law, and specified the manner in which future national emergencies are to be declared and terminated, and emergency authorities to be exercised. Section 5(b) of the Trading With the Enemy Act was excluded from coverage by the National Emergencies Act. The act instructed Congress to study section 5(b) and propose such revisions as might be found necessary.

Exclusion of section 5(b) reflected concern for preserving existing regulations imposed under emergency authority, including the following:

(1) the foreign assets control regulations, which block the assets of, and limit transactions with, the People's Republic of China, North Korea, Vietnam, and Cambodia;

(2) the Cuban assest control regulations, which block the assets of, and limit transactions with, Cuba:

(3) the transaction control regulations, which prohibit U.S. persons from participating in shipping strategic goods to any of the following countries: Albania, Bulgaria, People's Republic of China, Cambodia, Czechoslovakia, German Democratic Republic and East Berlin, Hungary, North Korea, Outer Mongolia, Poland and Danzig, Romania, the Soviet Union, North Vietnam and South Vietnam; and

(4) the foreign funds controls regulations, which continue World War II blockage of the assets of Czechoslovakia, Estonia, the German Democratic Republic, Latvia, Lithuania, and their nationals.

EX-PRISONERS OF WAR, INC.

The bill (S. 1590) to incorporate the American Ex-Prisoners of War, Incorporated, was announced as next in order.

Mr. DOMENICI. Mr. President, S. 1590 is more than tribute to this Nation's brave heroes who have endured the agony of internment by the enemies of this Nation; for the National Organization of American Ex-Prisoners of War, Inc. exists for the purpose of honoring their country and serving their comrades and their loved ones who are disabled or disadvantaged as a result of service to our country.

In order to be effective in this mission, the American ex-prisoners of war need accreditation by the Veterans' Administration—a status which requires a Federal charter. This bill will provide them with such a charter.

I wish to take a moment to express my gratitude to the distinguished chairman of the Judiciary Committee, Mr. EASTLAND, for his prompt and expeditious attention to this worthy cause. Also, my colleagues and cosponsors, Senators THURMOND, GOLDWATER, and CHILES, should be commended for their zeal in aiding the cause of these patriots and their unique problems.

To the 5,000 ex-prisoners of war, may this be a reaffirmation of this country's gratitude for the suffering and indignity you endured.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1590) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons: Mel Madero, Albuquerque, New Mexico; Henry Goodall, Houston, Texas; Memory Cain, Santa Barbara, California; Delmar Spivey, Largo, Florida; Robinson Risner, Oklahoma City, Oklahoma; George E. Day, Eglin Air Force Base, Florida; Charles Morgan, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Edgar Van Valkenburg, Saint Petersburg, Florida; Pauline Brown, Tampa, Florida; Joseph R. Perry, Anaheim, California; Thornton E. Hamby, Arlington, Texas; Harry E. Steen, El Paso, Texas; Carl Allen, Macon, Georgia; James Atwell, Winter Park, Florida; Jack Aldrich, Albuquerque, New Mexico; Ernest Armijo, Los Lunas, New Mexico; William Mattson, Cheshire, Oregon; Donald T. Morgan, Tacoma, Washington; Eugene J. Shannahan, Williamsburg, Iowa; Stanley G. Sommers, Marshfield, Wisconsin; Anna Bressi, Mechanicsburg, Pennsylvania; Felix Stankus, Ipswich, Massachusetts; Jack D. Warner, Hammon, Oklahoma; Harold L. Page, Buckley, Washington; John Romine, Muskogee, Oklahoma; Albert W. Braun, Phoenix, Arizona, and their successors, are created and declared to be a body corporate by the name of the "American Ex-Prisoners of War, Incorporated" (hereafter in this Act referred to as the "corporation"), and by such name shall be known and have perpetual succession, and the powers, limitations, and restrictions contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. The persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary to carry out the provisions of this Act.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(1) to encourage fraternity for the common good;

(2) to foster patriotism and loyalty;

(3) to assist the widows and orphans of deceased ex-prisoners of war;

(4) to assist ex-prisoners of war who have been injured or handicapped as a result of their service;

(5) to maintain allegiance to the United States of America;

(6) to preserve and defend the United States from all of her enemies; and

(7) to maintain historical records.

CORPORATE POWERS

SEC. 4. (a) The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers, directors, trustees, managers, agents, and employees as its business may require;

(4) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(5) to contract and be contracted with;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to take and hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real or personal, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject to applicable provisions of law in any State (A) governing the amount of real and personal property which may be held by, or (B) otherwise limiting or controlling the ownership of real or personal property by a corporation operating in such State;

(8) to transfer, encumber, and convey real or personal property;

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject to all applicable provisions of Federal or State law;

(10) to adopt, alter, use and display such emblems, seals, and badges as it may adopt; and

(11) to do any and all lawful acts and things necessary and proper to carry out its objects and purposes.

(b) For the purpose of this section, the term "State" includes the District of Columbia.

PRINCIPAL OFFICE: SCOPE OF ACTIVITIES DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Tampa, Florida, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various States, the Commonwealth of Puerto Rico, and the possessions of the United States, and in other areas throughout the world.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP: VOTING RIGHTS

SEC. 6. (a) Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided by this Act, be as set forth in the constitution and bylaws.

(b) Each member of the corporation, other than honorary and associate members, shall have the right to one vote on each matter submitted to a vote at all meetings of the members of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon the date of enactment of this Act, the membership of the initial board of directors of the corporation shall consist of the following named persons: Mel Madero, Albuquerque, New Mexico; Charles Morgan, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman E. Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Edgar Van Valkenburg, Saint Petersburg, Florida; Pauline Brown, Tampa, Florida; Joseph Perry, Anaheim, California; Thornton E. Hamby, Arlington, Texas; Charles Morgan, San Antonio, Texas; Harry E. Steen, El Paso, Texas; Carl Allen, Macon, Georgia; James Atwell, Winter Park, Florida; Jack Aldrich, Albuquerque, New Mexico; Ernest Armijo, Los Lunas, New Mexico; William Mattson, Cheshire, Oregon; Donald T. Morgan, Tacoma, Washington; Eugene Shannahan, Williamsburg, Iowa; Stanley G. Sommers, Marshfield, Wisconsin; Anna Bressi, Mechanicsburg, Pennsylvania; Felix Stankus, Ipswich, Massachusetts.

(b) Thereafter the board of directors of the corporation shall consist of such number as shall be selected in such manner, and shall serve for such terms as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and shall, during the intervals between corporation meetings, be responsible for the general policies and program of the corporation. The board of directors shall be responsible for all finances of the corporation.

OFFICERS; ELECTION OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be commander, senior vice commander, three junior vice commanders, adjutant, treasurer, and the national directors. The duties of the officers shall be as prescribed by the constitution and bylaws.

(b) Officers shall be elected annually at the annual meeting of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director, or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this subsection, however,

shall be construed to prevent the payment of reasonable compensation to officers of the corporation in amounts approved by the board of directors of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC 10. The corporation, and its officers, directors, and duly appointed agents as such, shall not contribute to or otherwise support or assist any political party or candidate for office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare nor pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. (a) The accounts of the corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositors, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be made by the corporation to the Congress not later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year including (1) the results of any trading, manufacturing, publishing, or other commercial-type endeavor carried on by the corporation, and (2) a schedule of all contracts requiring payments in excess of $10,000 and any payments of compensation, salaries, or fees at a rate in excess of $10,000 per annum. The report shall not be printed as a public document.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon final dissolution or liquidation of the corporation, and after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto. Such distribution shall be consistent with the purposes of the corporation.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use and to allow or refuse to others the use of the terms "American Ex-Prisoners of War", and the official American Ex-Prisoners of War emblem or any colorable simulation thereof. No powers or privileges hereby granted shall, however, interfere or conflict with established or vested rights.

TRANSFER OF ASSETS

SEC. 17. The corporation may acquire the assets of the American Ex-Prisoners of War, Incorporated, chartered in the State of Washington, upon discharging or satisfactorily providing for the payment and discharge of all the liability of such corporation and upon complying with all laws of the State of Washington applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is hereby expressly reserved to the Congress.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-479), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

This bill proposes to grant a Federal Charter to the American Ex-Prisoners of War, Inc. This organization was initially incorporated in New Mexico in 1943 as the Bataan Relief Organization. It was later renamed "The American Ex-Prisoners of War" and incorporated in the State of Washington. The group now has a nationwide membership of more than 5,000 people organized into 61 chapters. Among its members are former prisoners of war from the Spanish-American War, World Wars I and II, Korea and Vietnam.

The committee adopted strict standards for the granting of Federal charters in the 91st Congress. The importance the committee places upon these standards is not lessened by its action today. However, this organization has demonstrated that it is of a unique character: organized and operated for patriotic, nonpartisan, nonprofit purposes, and conducting activities which are of a national scope and responsive to a national need.

The American Ex-Prisoners of War, Inc., have shown the committee that the group must be federally chartered to be recognized by the Administrator of Veterans Affairs. The organization must be recognized to be allowed to represent its members in Veterans Administration proceedings.

RELIEF OF CERTAIN POSTMASTERS CHARGED WITH DEFICIENCIES

The bill (H.R. 1613) for the relief of certain postmasters charged with postal deficiencies, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-480), explaining the purposes of the measure.

There being no objection, the except was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just and expedient, to compromise, release, or discharge, in whole or in part, the individual liabilities of the following listed postmasters and retired postmasters to the United States for the amounts set opposite their names resulting from the mailing at an improper rate, prior to 1969, of newspapers published by Fountain-Warren Publishers of Attica, Ind.:

Postmaster and post office	Publisher	Amount
Vivian L. Smith, retired, Waynetown, Ind	Hub Press, Inc., Veedersburg, Ind	$272.18
Wayne Simms, retired, Waveland, Ind	Hub Press, Inc	412.62
Charles A. Boggs, retired, Veedersburg, Ind	do	1,687.50
Joe Silotto, Dana, Ind	Vermillion Newspapers, Inc., Dana, Ind	366.13
Wayne Hillyer, Williamsport, Ind	Fountain Warren Publications, Attica, Ind	124.17
Lawrence D. Wolf, retired, Attica, Ind	Fountain Warren Publications, Inc	511.67
Gordon Stockdale, retired, Wingate, Ind	Hub Press, Inc	177.22

STATEMENT

The facts of the case, as set out in House Report No. 95-201, are as follows:

"The Postal Service in its report to the committee stated that it favors enactment of the bill. As has been indicated, the bill would permit the Postal Service to compromise, release, or discharge, in whole or in part and on such terms as it deems just, the liabilities of seven postmasters, five of whom are now retired, to the United States for postage deficiencies charged to their accounts prior to 1969. The Secretary of the Treasury would be required to repay, out of money in the Treasury not otherwise appropriated, such sums as any individual relieved by the Postal Service has paid or had withheld in satisfaction of such postage deficiency. While the Postal Service generally has authority under 39 U.S.C. section 2601 to discharge claims against postmasters for postage deficiencies, the Comptroller General has ruled that this authority does not permit the reopening of cases in which he had denied such relief prior to the commencement of operations of the Postal Service on July 1, 1971. 50 Comp. Gen. 731 (1971).

"The postage deficiencies in question were disclosed as a result of an audit and investigation conducted in 1967 to determine whether proper postage was being paid on second-class mailings made by Hub Press, Inc., of Veedersburg, Ind. The following deficiencies were disclosed as a result of that inquiry:"

Postmaster and post office	Publisher	Amount
Vivian L. Smith, retired, Waynetown, Ind	Hub Press, Inc., Veedersburg, Ind	$272.18
Wayne Simms, retired, Waveland, Ind	Hub Press, Inc	412.62
Charles A. Boggs, retired, Veedersburg, Ind	do	1,687.50
Joe Silotto, Dana, Ind	Vermillion Newspapers, Inc., Dana, Ind	366.13
Wayne Hillyer, Williamsport, Ind	Fountain Warren Publications, Attica, Ind	124.17
Lawrence D. Wolf, retired, Attica, Ind	Fountain Warren Publications, Inc	511.67
Gordon Stockdale, retired, Wingate, Ind	Hub Press, Inc	177.22

"The publishers involved had furnished incorrect information to the post offices concerning the number of their paid subscribers, and the postmasters had failed to make the required annual verification of the publishers' mailing statements. Postal Manual section 126.66 (1966). The postmasters appeared to have misunderstood their responsibility in this regard. As a result, the second-class bulk rate of postage, rather than the required transient second-class rate, had been paid on copies of the newspapers mailed free of charge, in excess of the allowable 10 percent, to former subscribers whose subscriptions had expired for more than 6 months. In some cases, paid subscriptions had fallen below the minimum allowable level for the second-class mailing permit.

"Postal inspectors investigating this matter stated that there was an obvious need for a set of instructions or guidelines to inform postmasters of their exact duties and the procedures to be followed in accomplishing the annual verification of publishers' circulation and subscription records.

"All of the amounts have been collected from the postmasters whose accounts were charged with the deficiencies, with the exception of $124.17 which is still unpaid and charged to the account of Postmaster Hillyer.

"The Postal Service report indicates that ordinarily, a postage deficiency would be collected from the mailer, thus discharging the postmaster's account. However, most of the small Indiana newspapers involved in this case soon ceased publication; all were unable to pay the prior deficiencies. The Post Office Department and later the Postal Service were not able to develop a sufficient case for holding the parent corporation of the three publishing firms, International Industries, Inc., or the principal stockholder, Mr. Robert M. Hemphill, formerly of Wilmette, Ill., responsible for the debts of the subsidiary corporation.

"In indicating that it would favor enactment of relief as provided in the bill, after reviewing the circumstances, the Postal Service stated:

"Under these circumstances, we believe that it would be appropriate to relieve the affected postmasters of liability for the postage deficiencies. Accordingly, we favor the enactment of H.R. 6512."

The committee agrees that this is an appropriate matter for legislative relief and recommends that the amended bill be considered favorably.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 1:43 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:58 p.m., when called to order by the Presiding Officer (Mr. MELCHER).

TAX AND LOAN ACCOUNTS

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of Calendar Order No. 413, H.R. 5675, on the condition that there be a 20-minute time limit on the bill, to be equally divided between Mr. PROXMIRE and the minority leader or his designee; that there be a time limitation on any amendment, debatable motion, appeal, or point of order of 10 minutes, and the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 5675) to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

There being no objection, the Senate proceeded to consider the bill (H.R. 5675) which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That the Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods of up to ninety days in (1) obligations of depositaries maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided*, That the authority granted under this section not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further*, That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution. Investments in obligations of depositaries maintaining such accounts shall be made at rates of interest prescribed by the Secretary of the Treasury, after taking into consideration prevailing market rates of interest.

SEC. 2. (a) Section 5(k) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(k)) is amended by adding after "Bank" in the first sentence thereof the following: "shall be a depositary of public money and" and by striking the period at the end thereof and inserting the following: ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by adding the following at the end thereof: "Insured institutions shall be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in such insured institutions, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.".

(c) The Federal Credit Union Act (12 U.S.C. 1751-1790) is amended—

(1) by inserting after section 209 the following new section:

"SEC. 210. Any credit union the accounts of which are insured under this title shall be a depositary of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositaries of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositaries of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States."; and

(2) by redesignating section 210 of the Federal Credit Union Act (12 U.S.C. 1790) as section 211.

(d) Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

SEC. 3. (a) Subsection (c) of section 6302 of the Internal Revenue Code of 1954 (relating to use of Government depositaries) is amended—

(1) by striking out "or trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, or credit unions"; and

(2) by striking out "and trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, and credit unions".

(b) Subsection (e) of section 7502 of the Internal Revenue Code of 1954 (relating to mailing of deposits) is amended by striking out "or trust company" each time it appears and inserting in lieu thereof ", trust company, domestic building and loan association, or credit union".

(c) The amendments made by this section shall apply to amounts deposited after the date of the enactment of this Act.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from New Hampshire.

PRIVILEGE OF THE FLOOR—H.R. 5675, S. CON. RES. 31, AND S. 1303

Mr. DURKIN. Mr. President, I ask unanimous consent that Reed Ashinoff, of my staff, be granted the privileges of the floor during consideration of the pending bill, the air bag resolution, and the legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that during the debate on H.R. 5675 the following staff be granted the privileges of the floor: Kenneth McLean, Elinor Bachrach, Jeremiah Buckley, William Weber, Anthony Cluff, and Carolyn Jordan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Howard Segermark, of my staff, be granted the privileges of the floor during the consideration of H.R. 5675.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this bill is known as the tax and loan accounts bill. The bill was jointly referred to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance, after it passed the House by a vote of 384 to 0. Both committees reported the text of the House bill with identical amendments, by voice vote with no opposition. I understand there is no objection to the amendments made by the two committees.

Mr. President, the purpose of this legislation is to correct a longstanding problem which has led to the loss of hundreds of millions of dollars in revenues to the Federal Government over the years. I am referring to the Treasury Department's practice of holding its excess cash balances as non-interest-bearing demand deposits in its tax and loan accounts at commercial banks, until the funds are withdrawn to cover disbursements. The Treasury does not earn any interest on these balances, because Federal law presently prohibits payment of interest on demand deposits and because these moneys do not remain in the banks long enough to qualify as interest-bearing time deposits. The banks, however, do get interest on these public funds, because they are free to invest them in the overnight Federal funds market or in other short-term interest-bearing instruments.

For many years, the Treasury Department claimed that it did not lose any money on these tax and loan accounts and that the banks' earnings on those accounts were not significantly greater than the cost of maintaining the accounts. On the other hand, the General Accounting Office and certain Members of Congress, notably the late Congressman Wright Patman, had long contended that there was a substantial revenue loss involved and an excessive profit for the banks.

Finally, with the higher interest rates prevailing in recent years, the Treasury was pushed to take another look at this question. In its report on a study of tax and loan accounts, issued in July 1974, the Treasury Department found that banks were earning a net profit of $260 million a year on the cash balances held in tax and loan accounts, over and above the value of services provided to the Federal Government. Furthermore, these profits were not even spread evenly among the participating banks. Some banks earned large amounts of money on their tax and loan accounts; others barely broke even.

As a stopgap measure to stem the drain in revenues, the Treasury Department has, since 1974, been withdrawing the funds from the banks more quickly and keeping larger balances in its accounts at the Federal Reserve, where it can earn interest indirectly. However, this action has complicated the Federal Reserve's job of controlling the money supply and has required a larger volume of Federal Reserve open market operations to offset the impact on bank reserves. Moreover, for various reasons, the Treasury Department contends that under the current procedure it is not possible to realize the full amount of potential earnings on its excess cash balances.

Thus the Treasury has requested authority to invest those funds in interest-bearing obligations. This would give the Federal Government an option already generally available to State and local governments, to corporations, and to other institutions—the option to invest and receive earnings on temporarily excess operating cash.

The committees approved the language contained in the House-passed version of H.R. 5675 which would give the Treasury this investment authority. Specifically, section 1 of the bill would permit the Secretary of the Treasury to invest excess cash balances in either (*a*) interest-bearing obligations of financial institutions holding tax and loan accounts or (*b*) obligations of the United States and of agencies of the United States. Those investments are required to be made at market rates, to prevent any prospective drain of revenues similar to that which occurred in recent years.

In return, the committees understand that the depositary institutions will be compensated directly by the Treasury out of appropriations for services rendered in maintaining the tax and loan accounts and in selling and redeeming U.S. savings bonds. The Treasury estimates that there will be a net gain in revenues of $50–$100 million a year as a result of the enactment of this legislation. It is the intent of the committees that the Treasury take every step necessary to gain the maximum earnings on its tax and loan account balances, and that the rates of compensation reflect only the actual cost to the banks of the services rendered.

INCLUSION OF SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS

Mr. President, I should like to draw attention to the other feature of this bill, which is to expand participation by financial institutions in the tax and loan accounts system. That system is now effectively limited to commercial banks and mutual savings banks. The House acted to include savings and loan associations in the tax and loan accounts system, on the same basis as banks. The Senate committees further amended H.R. 5675 to expand on authority contained in present law and insure that credit unions are fully authorized to hold tax and loan accounts as well. I understand there is every reason to believe that this Senate amendment will be acceptable to the House.

Sections 2 and 3 of H.R. 5675, as amended, contain the statutory authority needed to permit savings and loan associations and credit unions to participate in the tax and loan accounts system. Section 2 amends the banking laws to authorize S. & L.'s and credit unions which are federally or State chartered and federally or State insured to act as depositaries of Federal money and fiscal agents of the United States. Section 3 would amend the Internal Revenue Code to provide that timely deposits of income tax withholding and tax payments in savings and loan associations and in credit unions shall be taken as fulfillment of the tax obligation.

Mr. President, I think it is in the public interest to permit the maximum possible participation by financial institutions in holding these deposits of public tax moneys. Therefore, I urge the passage of H.R. 5675, as reported by the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance.

Mr. President, I wish also to pay tribute to Representative RON MOTTL, of Ohio, who worked very hard in the House to bring this bill to passage, and who has pressed hard for Senate action and deserves a great deal of credit. He is saving the people of America between $50 and $100 million a year by his energy and force on this bill.

I understand the Senator from Arkansas has an amendment and I am happy to yield to him.

UP AMENDMENT NO. 918

(Purpose: Extend for 2 years authority of national financial institutions to make large loans at rates up to 5 percent over rediscount rate.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HATHAWAY). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 918.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new Section:

"SEC. . (a) Section 206 of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93–501), is amended by striking out "1977" and inserting in lieu thereof "1979".

(b) Section 304 of such Act is amended by striking out "1977" and inserting in lieu thereof "1979".

Mr. BUMPERS. Mr. President, 3 years ago, the Senate passed a bill, Public Law 93–501, to authorize interest rates that banks and savings and loans could charge on business and farm loans of

$25,000 or more. The maximum rate was set at the Federal Reserve discount rate, that is, the rate it costs banks to borrow money from the Federal Reserve, plus 5 percent. This bill had the practical effect of increasing usury limits for large farm and business loans in the States of Arkansas, Montana, and Tennessee. The bill was sponsored by Senators Mansfield, Fulbright, and Brock, and signed into law on October 19, 1974, with an expiration date of July 1, 1977. A provision was included to allow those States affected to opt out from under the bill's purview by act of the State legislature.

My amendment would extend this law for 2 more years, until July 1, 1979.

Mr. President, the year this act was first passed, the prime rate for banks ranged as high as 12 percent, and the Federal Reserve discount rate hovered at times at 13 percent and even higher. As we all remember, capital under those conditions was in short supply, and financial institutions were paying substantial interest rates on borrowed funds. Interest paid on certificates of deposit, for example, generally exceeded 10 percent. Arkansas banks, as a consequence, were caught in the perverse squeeze of borrowing money which cost in excess of 10 percent and then lending it out at a rate limited by Arkansas' 10 percent usury ceiling. If there ever was a formula for how to become a "problem bank" in short order, that was it. At that time, there was a need for the bill and, happily, it passed quickly.

Now, economic conditions have changed somewhat for the better. Some say these conditions will continue, but with inflationary pressures still continuing to plague our economy, we could well see a repeat of 1973 and 1974 economic conditions with interest rates soaring again to 10 percent or higher. If that happened without the relief of Public Law 93–501, investment capital would again flee my State as it did in 1973 and 1974 in search of higher interest rates in neighboring States and this would cause the capital available to Arkansas farmers for planting and harvesting and to Arkansas businesses for growth and expansion to be in short supply.

I am not talking here about home-mortgage loans or consumer loans. For these borrowers State usury laws would continue to control. But for loans of $25,000 or more to farm and business interests, the formula of the Federal Reserve discount rate plus 5 percent would apply. Thus only substantial borrowers who can take care of themselves and who do not need the protection of State usury laws would be affected. Moreover, these borrowers would be subject to one of the fairest economic indicators, the Federal Reserve discount rate, which the Federal Reserve Board adjusts according to the economic situation of the time.

The amendment is limited to a 2-year extension. Montana changed its law after the passage of Public Law 93–501. Similar activity might follow in Arkansas and Tennessee. In any case, we would be assured during the interim that the relief of Public Law 93–501 would be available, if necessary, to the people of Arkansas and Tennessee.

My distinguished senior colleague (Mr. MCCLELLAN) joins me as a cosponsor in this effort. I urge my colleagues to adopt what is essentially a bipartisan, noncontroversial measure.

Mr. President, as I say, this bill is drafted to amend title II of the present law, Public Law 93–501, which was passed in 1974. This amendment would extend that for 2 years. To give historical background to the purpose of the amendment, most of my colleagues will remember that in 1973 and 1974, interest rates in this country soared almost exponentially for about 18 months. It was not uncommon for some of the biggest corporations in the country to pay anywhere from 12- to 20-percent interest. In my State and the State of Tennessee, there is a constitutional limitation on interest rates of 10 percent. It was in 1974, because of the problems that that limitation created, that the present limit was adopted.

Mr. President, in the State of Arkansas in 1973, there was a massive outflow of money for the simple reason that banks which cannot charge more than 10-percent interest obviously cannot pay more interest on CD's and other time deposits than they take in. Yet, there were instances where banks in Arkansas actually were paying 10 percent interest on CD's, and that was also the maximum they could receive as interest income. So that was a losing proposition.

The amendment that was passed by this body in 1974 provided these things: That banks, in States where the law limited the interest rate, such as Tennessee and Arkansas, could make loans of $25,000 or more for farm and business purposes at a rate of 5 percent above the current Federal Reserve discount rate.

Mr. President, this law is really not critical at this point. I think the Federal Reserve discount rate, as of this moment, is about 5 to 5.5 percent. Under my amendment, which would continue the present law, anybody who is going to borrow $25,000 or more for business or agricultural purposes could be charged the maximum of 10 to 10.5 percent, which will be 5 percent above the present Federal Reserve discount rate. It does not bother consumers, because consumers are normally the small borrowers. They would not be adversely affected, and they would still get the benefit of the low 10 percent usurious rate set up in the constitutions of those two States.

I finally want to make this point, that the legislature of either State can opt out of this program any time they so desire. If this amendment is agreed to and the Legislature of Arkansas, when it convenes in January—I think they are going to convene in January in special session. If they do, they can vote to abrogate the action that we take here today and say, "We do not want the U.S. Congress superseding State law."

Mr. President, finally, this is a little troublesome for me. I do not like the idea of overriding State law, either. But the State of Tennessee is having a constitutional convention right now and, presumably, they are going to deal with this problem of the interest rate being inordinately low. Whether or not they will choose to raise the interest rates, I do not know; whether they will or not, I do not know. But the State of Arkansas is also in the process of setting up machinery for a new constitutional convention, which could be voted on as early as 1979. They obviously will address the issue. How they will address it, I do not know. In 1970, we had a constitution presented to the State of Arkansas and it was defeated. This is another effort that will take place, probably, 9 years after that, in 1979. What I am saying is that I do not have any intention—it is certainly not my present intention—to offer this kind of legislation again. But the present law has been in existence for 2 years. It was very helpful when it was first passed. It is not, as I say, critical now, because interest rates are fairly low.

In any event, if we have another crisis such as we had in 1973 and 1974, this could keep some banks in my State from going under.

Mr. PROXMIRE. Mr. President, in response to the distinguished Senator from Arkansas, he makes a very, very strong case. I can understand the plight of the borrowers in the State of Arkansas and the State of Tennessee. I can certainly understand the plight of the banks. It is very, very difficult for them. But, Mr. President, it is impossible for me to accept this amendment, and I shall tell the Senator from Arkansas why.

Both the State of Arkansas and the State of Tennessee, as I understand it, have written into their constitutions a usury limitation. I frankly think that kind of limitation is economically foolish, but that is a decision made by the State. The State of Tennessee, as the Senator knows, has a constitutional convention under way. They expect to be able to act within a matter of a very few months. The State of Arkansas, as the Senator from Arkansas has indicated, will begin to act in the beginning of this coming year, begin the process of changing the State constitution. It seems to me that for the Federal Government to act and overrule, in effect, either the constitutions or the people of the States of Tennessee and Arkansas is wrong. If they want to change their law, they are free to do so and can do so. They are engaged in the process of considering whether or not to make that change.

As the Senator from Arkansas has properly pointed out, the discount rate now is around 5 or 5½ percent. The amendment he proposes would simply permit loans at a little over 10 percent. Ten percent is the constitutional limitation now, as I understand it, on such loans, so the relief would not be significant now. It might be 2 or 3 years from now.

By that time, it would seem to me, there should be plenty of time for the States of Arkansas and Tennessee to act. If they do not want to act, that is their

business and they should be free to make their own decision.

Mr. BUMPERS. I thank the Senator. I have talked to the chairman of the Banking Committee about this several times and I know that, from time to time, he has felt that perhaps he could accept the amendment. I recognize the feeling of responsibility that he has to Congress in opposing the amendment.

I do say for the record, Mr. President, that Congress has, time and time again, overridden State law—for example PCA's, Federal credit unions, the Federal Land Bank—all those loans in the billions of dollars in my State are not limited by the State constitution. While I have never known any of those institutions to charge any more than the 10 percent usury rate in my State, they are eligible to and entitled to if they want to.

Mr. President, in light of the chairman's opposition to the amendment, of course I feel that I have no choice but to withdraw the amendment, because I know that the Senate will not override his feelings on this.

I did feel strongly inclined not to even offer the amendment with the knowledge he might oppose it.

But, by the same token, I feel so strongly, if many banks in our State get in the same kind of trouble again they got into in 1973 and 1974, I would have no choice, if it occurred between now and the time the Arkansas Constitutional Convention had a chance to meet, but to come back to the Senate and put this amendment on the first vehicle I could get it on because otherwise there could be a massive outflow of capital from my State. Banks lost money for about two or three quarters in that period of time, and we were put at a severe disadvantage. The constitutional convention is the first chance we have had.

But in light of the chairman's opposition, I know he labored over this, talked to bankers in my State and in the State of Tennessee, I know he has reached what he thinks is the right decision for himself, his committee, and the Senate, and in light of his opposition, Mr. President, I will withdraw the amendment.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BUMPERS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter to Senator PROXMIRE, it is from the Conference of State Bank Supervisors, dated October 5, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 5, 1977.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: The Conference of State Bank Supervisors has as its regular members those state officials who have primary responsibilities for chartering and supervising some 10,000 state chartered commercial and mutual savings banks in the 50 states plus Guam, Puerto Rico and the Virgin Islands. The Conference is the primary and most persistent organization defending the rights of states to determine respective banking and bank regulatory structures needed to serve best the citizens of respective states which have diverse sets of circumstances.

Notwithstanding this strong stance in defense of states rights, CSBS supports a four year extension of Title II of Public Law 93-501. This singular and most unique apparent exception to the concept of states rights is warranted based on the crucial public interest implications of the constitutional interest rate contraints existing in a few states; and the four year extension is warranted so as to give affected states time to work through lengthy processes of constitutional revisions, if respective citizens display an inclination to do so.

A brief background on CSBS positions relative to this Law may help explain why the Conference, a leading states rights organization, favors an extension of Title II for a reasonable period of time.

CSBS originally opposed the initial bill on the grounds that it represented federal government arrogation of statutes or constitutions of three states—Arkansas, Montana and Tennessee. Fortunately, however, through cooperative efforts of various groups including CSBS, it was possible to achieve an accommodation which would minimize the states rights question and at the same time prevent potentially extreme damage to banks and to bank services to citizens of respective states. PL 93-501 as enacted was the product of that cooperation.

In like manner, the proposed extension of Title II is an appropriate accommodation to the states rights question and to the crucial public interest question of the ability of banks to serve their trade areas without unrealistic interest rate constraints.

It is our understanding that you have supported PL 93-501 and an extension of Title II. CSBS wishes to encourage you to continue that support. Affected states need a reasonable period of time, free of the onerous cloud of unrealistic interest rate constraints, to pursue needed state constitutional changes.

Sincerely,

LAWRENCE E. KREIDER,
Executive Vice President-Economist.

UP AMENDMENT NO. 919

Mr. HELMS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 919.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a) The Bretton Woods Agreements Act (22 U.S.C. 286–286k-2) is amended—

(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

(2)(A) by inserting "(a)" immediately after "Sec. 14."; and

(B) by inserting at the end of section 14 the following new subsection:

"(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information.".

(b)(1) Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended—

(A) by striking out "to and" immediately following "necessary" and inserting in lieu thereof a comma; and

(B) by inserting immediately after "International Monetary Fund" the following: "regarding orderly exchange arrangements and a stable system of exchange rates: *Provided, however,* That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months".

(2) Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by striking out the phrase "stabilizing the exchange value of the dollar" in the fourth sentence thereof and inserting in lieu thereof the phrase "the purposes prescribed by this section".

(c) The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

Mr. HELMS. Mr. President, the text of this amendment is identical to a bill, S. 2003, which the Senator from North Carolina introduced on August 3 of this year for himself and for the distinguished Senator from Illinois (Mr. PERCY), the distinguished Senator from Illinois (Mr. STEVENSON), and the distinguished Senator from Texas (Mr. TOWER).

Mr. President, I have a letter from Henry C. Stockell, Jr., Deputy General Counsel of the Department of the Treasury. Mr. Stockell's statement makes reference to S. 2003, which as I indicated earlier is the text of the amendment now pending. Mr. Stockell states the Treasury Department's agreement with the bill and, therefore, with the amendment.

I ask unanimous consent, Mr. President, that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., September 30, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 2003, "A bill to amend the Bretton Woods Agreements Act and the Gold Reserve Act, and for other purposes."

The bill represents a compilation of amendments which had been proposed in the Senate last year to H.R. 13955, "A bill to amend the Bretton Woods Agreement Act, and for other purposes." H.R. 13955 authorized U.S. acceptance of the Proposed Second Amendment of the Articles of Agreement of the International Monetary Fund (IMF) and consent to an increase in the U.S. quota in the IMF. Due to the urgency of enactment of that legislation, and Congressional time constraints, it was agreed by the Senators sponsoring these amendments that they would drop their amendments to H.R. 13955, so that the House version of the bill could be passed by the Senate. Consequently, that bill was enacted into law on October 19, 1976 (P.L. 94-564).

The present sponsors of S. 2003—Senators who had introduced amendmentts to H.R. 13955—agreed that they would reintroduce their legislative proposals during the 95th Congress. Officials of the Treasury Department expressed appreciation for that decision, which had made enactment of P.L. 94-564 possible under the circumstances noted above, and indicated that the Department would support the Senators' legislative proposals during the 95th Congress. The Treasury Department, respecting the arrangements agreed to at that time, has no objection to enactment of the provisions of S. 2003.

Specifically, S. 2003 contains the following provisions:

1. Revision of the Amendment introduced by Congressman Rousselot.—

Section 5 of the Bretton Woods Agreements Act was amended by P.L. 94-564 as proposed by Congressman Rousselot. The amendment was intended to require prior Congressional approval of any new agreement to use the resources of the IMF through a trust fund for the special benefit of a single member or segment of the membership of the IMF. (Congressman Rousselot's amendment does not affect the decision of the IMF to sell 25 million ounces of gold for a trust fund to provide balance of payments financing to lesser-developed-countries.

However, due to an error in drafting, the Rousselot amendment as presently enacted could be interpreted more broadly than was intended. P.L. 94-564 presently can be construed to require prior Congressional approval for the U.S. to vote in favor of the establishment of any new trust fund in the IMF—including one funded entirely by contributions from individual countries, for which the IMF would have only management responsibilities and no financial participation. Section 2 of S. 2003 clarifies the Rousselot amendment to reflect the Congressional intent accurately. The Treasury Department fully supports that proposed statutory change.

2. Amendment by Senator Percy on access to IMF documents.—

Section 2(2)(B) of S. 2003 constitutes an amendment introduced by Senator Percy which would require the Executive Branch to provide to those congressional committees with oversight jurisdiction over monetary policy or the IMF, any appropriate information relevant to their jurisdiction that has been furnished to the United States Government by the IMF. The purpose of this amendment is to improve Congressional oversight of U.S. international monetary policy.

The legislative history of Senator Percy's proposed amendment to H.R. 13955 makes clear that the amendment is not intended to change the present constitutional balance between the Executive and Legislative Branches nor to compel the Executive Branch to take actions inconsistent with U.S. membership obligations in the International Monetary Fund. Any information of a confidential nature provided by the U.S. Government to a Congressional committee pursuant to this provision would be handled on the same basis as classified information obtained from the Executive branch which is not publicly disclosed until its release has been cleared by the Executive Branch. Because of these safeguards, incorporated in the language of the Percy Amendment, the Treasury Department has no objection to its enactment.

3. Amendments by Senator Stevenson to section 10 of the Gold Reserve Act of 1934, as amended.—

Section 3(a)(1) and 3(b) of S. 2003 contain desirable technical drafting changes in section 10 of the Gold Reserve Act of 1934, as amended. Paragraph (2) of section 3(a) requires that no loan or credit be extended to a foreign government or entity, for the account of the Exchange Stabilization Fund (ESF), for more than a six-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months. Because this provision would be consistent with overall Treasury policy in managing the ESF, the Treasury Department has no objection to it.

4. Amendment by Senator Helms to repeal the Joint Gold Clause Resolution.—

The Joint Gold Clause Resolution makes unenforceable, in United States courts, clauses in contracts requiring payment in gold or an amount of U.S. dollars measured by gold. Senator Helms' amendment, in section 4 of S. 2003, would repeal the Joint Resolution with respect to obligations entered into after the date of enactment of Section 4.

With agreement on the Proposed Second Amendment of the IMF Articles of Agreement now in the process of ratification and with agreement to dispose of a substantial portion of the IMF's holdings of monetary gold, substantial steps have been taken toward a further reduction of the international monetary role of gold, and there is increased acceptance both in the United States and internationally that gold should be treated like any other commodity. In these circumstances, and in light of the demonstrated volatility in the price of gold that makes widespread use of gold as a measure of value in private transactions unlikely, the Treasury Department is of the view that repeal of the Joint Resolution, as proposed by Senator Helms, would not have undesirable monetary effects. The Treasury Department, therefore, supports such repeal as an appropriate step in treating gold like other commodities.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

HENRY C. STOCKWELL, Jr.,
Deputy General Counsel.

Mr. HELMS. Mr. President, today I offer an amendment which will take care of some unfinished business.

Last year, when the Senate was trying to wrap up the 94th Congress, the Banking Committee, of which I was a member, sent to the full Senate, the Bretton Woods Agreement Amendments of 1976, H.R. 13955.

This bill was primarily a change in Federal law to ratify a change in the charter of the International Monetary Fund and to increase our subscription to the IMF.

The House passed the bill on July 27, and the Senate Foreign Relations and Banking Committees subsequently held hearings on it. During the course of our deliberations, it was agreed to adopt a number of amendments to the bill. In fact, all the amendments were agreed to by the leadership on both sides and by all Senators working on the bill.

Unfortunately, and at the last minute, it became clear that there was not enough time to send an amended bill back to the House and go through the unanimous-consent procedures needed for the House of Representatives to pass the Senate-amended bill and send it to the President for his signature.

There was only time enough to do one thing: to take up the bill as approved by the House of Representatives, and send an unamended bill to the President.

That is what finally happened, and it was agreed that the Senate amendments would be acted upon during the 95th Congress.

The amendment I offer today has all those amendments except an amendment offered by the junior Senator from Illinois (Mr. STEVENSON), dealing with the Exchange Stabilization Fund. I understand he is developing separate legislation concerning that agency which will be acted upon by the Senate Banking Committee.

The amendment I offer today contains four key provisions. The first is a technical improvement relating a requirement that congressional approval be granted before added IMF gold could be used for the IMF Trust Fund for less developed countries, and requiring congressional approval before any new trust fund be established that would specifically aid a single member or group of IMF members.

Primarily, this is a clarification of the Rousselot amendment adopted in the House Banking Committee and subsequently enacted. Congressman ROUSSELOT endorses this technical change in the language.

The second portion of the amendment would direct the President to provide appropriate information to the committees of Congress having oversight responsibilities in the area of monetary and international policy. This amendment was offered by the distinguished senior Senator from Ilinois (Mr. PERCY), who stated:

> The purpose of the amendment is to improve the potential of Congressional oversight of U.S. Governmental activities regarding U.S. participation in the international monetary system and U.S. foreign economic policy. The growth of economic interdependence and the increasing size of the international sector of the U.S. economy necessitate greater Congressional concern to these policy areas. For example, in this Congress we have dealt with Bretton Woods, commodity agreements, energy problems and the OECD financial safety net.

Senator PERCY has told me that there have been no problems in recent months with obtaining needed information, but such language might be important in any future investigation Congress may pursue concerning international monetary matters.

The third area of the amendment concerns the maturity of loans made by the Exchange Stabilization Fund. The language would require that the President provide Congress with a written determination any time money is used from

the ESF for loans in excess of 6-month terms.

An added provision in this portion of the amendment would amend the Gold Reserve Act to specify that the purpose of the exchange stabilization is not exclusively to "stabilize the exchange value of the dollar." That of course, is something that we automatically gave up when our Government adopted irresponsible fiscal and monetary policies in the late 1960's and into the 1970's that put the lie to the phrase, "sound as a dollar."

The final portion of the amendment would effectively repeal the "Joint resolution to assure uniform value to the coins and currencies of the United States," of June 5, 1933. This joint resolution was adopted when President Roosevelt devalued the dollar and it served to eliminate the private ownership of gold and the enforceability of gold clause contracts.

In 1973, Congress restored the right of American citizens to hold gold, but Congress did not move to allow a contract between two citizens specifying payment in gold or in dollars measured in gold to be enforceable in the courts. That oversight will now be rectified. Last year, I received letters indicating that the Federal Reserve Board Chairman and the Secretary of the Treasury had no objections to this provision. Gold clause contracts are technically nothing more than a type of commodity contract that is presently fully legal in every other commodity except gold. This reform simply makes the law consistent.

Mr. President, my staff has worked closely with officials of the Treasury Department and this language has been cleared by officials there.

I specifically wish to give credit to former Congressman Tom Rees, who capably served as chairman of the International Monetary Policy Subcommittee of the House Banking and Currency Committee. Mr. Rees is now in private law practice here in Washington, but devoted much of his valuable time in helping get these loose ends tied up.

Mr. President, the distinguished chairman and manager of the pending bill is aware of the four sections of this amendment. I feel certain that he is willing to accept it.

Mr. PROXMIRE. Mr. President, I discussed these amendments with the distinguished Senator from North Carolina. I congratulate him on offering these amendments.

I ask the Senator from North Carolina, and he can correct me if I am wrong, all four were considered noncontroversial when the committee considered them, and the Senator, I think, was a member?

Mr. HELMS. That is correct.

Mr. PROXMIRE. All were accepted by the Senate, all passed in the Senate, and they were only rejected in the House because it was necessary to get a bill identical with the House bill under the pressure of time to get it passed, so that now it is necessary and desirable we enact this legislation.

As far as I know, it is acceptable to the House. It certainly was acceptable without objection here in the Senate. So I am delighted to have a chance to accommodate the distinguished Senator from North Carolina.

Mr. HELMS. I thank the able Senator.

Mr. GRIFFIN. Will the Senator yield?

Mr. HELMS. Yes.

Mr. GRIFFIN. I understand that the legal services bill was set aside in order to take up this bill; is that correct?

Mr. HELMS. That is correct.

ORDER OF BUSINESS

Mr. GRIFFIN. I wonder, as long as the majority leader is on the floor, if I might direct a question to him.

Is it possible, after the disposition of this bill, that we, perhaps, could take up the resolution on air bags before we go back on the legal services legislation?

Mr. ROBERT C. BYRD. Under the order which I secured this morning and was about to get last night, the air bags measure will be the business of the Senate once we dispose of legal services, and I have good reason to hope and believe that we will dispose of the legal services sometime today.

Mr. GRIFFIN. I appreciate that, but I would like to say that it disturbs me no end that there are other matters of business being taken up and transacted which prolongs the time to be devoted to the Legal Services Act.

I would be reluctant, let me indicate, to agree to any unanimous-consent agreement that other business come in during this period.

Mr. ROBERT C. BYRD. Perhaps I could help the distinguished Senator by saying that I think that the time we are spending now is not taking anything away from legal services. There are various Senators who are consulting on that measure in an effort to work out their problems and we are actually not taking any time away from legal services by doing this. In the long run, those consultations are going to expedite the action on legal services.

Mr. GRIFFIN. I might say that so far as the resolution of disapproval of the air bag order by Secretary Adams, being the principal sponsor of that resolution, I would be willing to agree to a time limitation of an hour, or an hour-and-a-half, or 2 hours.

It would seem to me it would not be necessary to have any longer than that. And if these negotiations on the legal services are going to extend for any period of time, it might well serve the interests of the Senate to try to get some sort of a time agreement and go ahead and vote on the air bag——

Mr. DURKIN. Will the Senator yield at that point?

Mr. GRIFFIN. I am glad to yield.

Mr. DURKIN. I probably should state for the Senate——

Mr. ROBERT C. BYRD. Will the Senator yield to me first?

Mr. DURKIN. I am happy to.

Mr. ROBERT C. BYRD. If the Senator would allow me, I am working with my friends over here is an effort to try to bring all sides together, and I will be working with the Senator from New Hampshire in an effort to see if anything can be worked out.

Mr. GRIFFIN. I thank the majority leader.

Mr. ROBERT C. BYRD. If the Senator from Michigan will just allow us to proceed. I think legal services is going to work itself out and that the time we are spending now is really not impinging upon that item. As a matter of fact, I think we would be just in recess if we were not doing some business, in the meantime.

I assure the Senator, I think I know what I am talking about in this respect.

Mr. DURKIN. I might add, and not by way of threat, just by way of information, that if we do not table the resolution in disapproval of the air bag resolution, that the membership can have a long weekend because we will be discussing that until the time expires on Friday night.

Mr. GRIFFIN. The Senator from New Hampshire would be concerned that a majority of the Senate might be against the mandatory order?

Mr. DURKIN. I do not know if we need discussion of the resolution, we have had quite extensive discussion of the resolution.

Mr. GRIFFIN. If we have the votes on the Senator's side, he would not be concerned about voting up or down, would he?

Mr. DURKIN. I do not want to get in an argument with my good friend from Michigan, just to announce to those people who have engagements in their States that they can get an early start if we do not table that resolution. I do not want to get into an argument with the Senator. I am just trying to be nice. I am trying to let the word get out to the offices that if people have engagements they are thinking about going to on Thursday night or Friday night, in their home State, they should buy the tickets.

Mr. GRIFFIN. Is the Senator going to let the bureaucrats make the decision as to whether or not air bags go into the cars? Is that right?

Mr. DURKIN. I think we will have plenty of time to discuss the issue.

Mr. GRIFFIN. I am glad the Senator has clarified it, to know what is going on, at least.

TAX AND LOAN ACCOUNTS

The Senate continued with the consideration of H.R. 5675.

Mr. PROXMIRE. Mr. President, the Helms amendment is pending.

Mr. HELMS. May we have a vote?

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, now we have final passage of the measure.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, and the bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 5675) was passed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 373.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 695) to amend the Defense Production Act of 1950, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Defense Production Act Amendments of 1977".

SEC. 2. Insert immediately after title VII the following new title:

"TITLE VIII—CONDUCT OF GOVERNMENT PERSONNEL

"SEC. 801. (a) As used in this title, the term—

"(1) 'contracting officer' means any employee of the United States, the independent agencies thereof, or the government of the District of Columbia, or any commissioned Reserve or Regular officer of the Armed Forces of the United States, who by virtue of his position or appointment in accordance with applicable agency regulations is authorized to solicit or select sources of supply, define or describe requirements for, audit, award, modify, terminate, or make determinations or findings with respect to or to review, certify, or evaluate contractor performance under any contract, or to otherwise exercise any part of such authority;

"(2) 'compensation' includes any payment, gift, benefit, reward, favor, gratuity or employment valued in excess of $50 at prevailing market price;

"(3) 'contractor' is any person, partnership, corporation, or agency thereof other than the United States, the independent agencies thereof, or the District of Columbia, who offers, negotiates, agrees, or otherwise contracts to supply the United States, the independent agencies thereof, or the District of Columbia, with goods, services, or supplies, and any parent, subsidiary, or affiliate thereof; and

"(4) 'procurement contract' is any agreement by which the United States, the independent agencies thereof or the District of Columbia purchase, lease, or otherwise engage in the acquisition of supplies, services, or other materiel, to include such agreements as orders for the procurement of services or supplies; awards, notices of awards; contracts of fixed price, incentive contracts, and cost and cost-plus-a-fixed-fee contracts; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts and purchase orders; or any supplemental agreement with respect to any of the foregoing.

"(b) No contracting officer who at any time engaged, officially or unofficially, in duties of his office in regard to any procurement contract shall accept compensation from any contractor receiving funds under such contract for a period of two years following his employment with the United States, the independent agencies thereof, or the District of Columbia: Except that this paragraph shall not apply to any duties performed by such contracting officer more than three years before the termination of his employment with the United States, the independent agencies thereof, or the District of Columbia.

"(c) Whoever violates this section shall be guilty of a felony, and shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(d) Whoever knowingly and willfully offers, tenders, or grants any compensation to any contracting officer in violation of this section, shall be guilty of a felony and shall be fined not more than $25,000 and imprisoned for not more than one year, or both.

"(e) (1) This title shall take effect on January 1, 1978.

"(2) This title does not preclude the continuation of employment which commenced prior to the effective date of this Act, or the receipt of compensation for such employment.

"SEC. 802. (a) The Civil Service Commission shall have the authority to coordinate and review the administration and implementation of this title. In consultation with the Attorney General, and appropriate agency heads, the Chairman of the Civil Service Commission is authorized to issue regulations and to review agency regulations to implement this title.

"(b) All departments and agencies of the Government are authorized to cooperate with the Commission and to furnish information, appropriate personnel, with or without reimbursement, and such financial and other assistance as may be agreed to between the Commission and the department or agency concerned.

"(c)(1) Any person who is offered compensation that might place him in violation of subsection (b) of section 801 of this title, prior to the acceptance of such compensation, may apply to the Commission for advice on the applicability of this title to such compensation. Such application shall be made jointly by the contracting officer and the contractor who proposes to grant such compensation, and shall contain a full and complete description of the duties of such applicant during the last three years of his employment as a contracting officer; any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation; and a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such applicant will perform on behalf of the contractor. Promptly upon receipt of such application, the Commission shall publish notice thereof in the Federal Register.

"(2)(A) Not later than ten days after receipt of a completed application, the Commission shall issue an interim advisory opinion stating whether payment and receipt of such compensation would violate the intent of this title. Pending issuance of a final advisory opinion, payment and receipt of such compensation may be temporarily authorized if the interim advisory opinion finds, based on initial review, that such compensation would not result in a violation of the intent of this title.

"(B) Not later than thirty days after receipt of a completed application, the Commission shall issue a final advisory opinion stating whether payment and receipt of such compensation would result in a violation of the intent of this title.

"(3) Pursuant to regulations promulgated by the Chairman of the Civil Service Commission, interested parties are permitted to present information or comments relating to the issuance of any such advisory opinion.

"(4) The Chairman shall inform Congress, and publish a notice in the Federal Register, within thirty days after the issuance of any advisory opinion, describing—

"(A) the name of the applicant for such advisory opinion;

"(B) the contractor from which such applicant intends to accept compensation;

"(C) the duties of such applicant during the last three years of his employment as a contracting officer;

"(D) any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation;

"(E) a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such applicant will perform on behalf of the contractor; and

"(F) a statement of the findings of fact and opinion which led the Commission to conclude that such compensation would or would not offend the intent of this title.

"(5) The Commission is authorized to issue a statement of findings of fact and opinion along with an advisory opinion finding that the proposed compensation would not violate the intent of this title IF—

"(A) the involvement of the applicant in a procurement contract otherwise described in this title was so remote or inconsequential that it could have had no significant effect on the procurement contract in question;

"(B) the involvement of the contractor in such procurement contract was remote or inconsequential; or

"(C) the national interest requires that, the prohibitions of this title notwithstanding, such applicant should be allowed to accept such compensation.

"(d) There shall be available to any person as a defense in any criminal or civil case brought for violation of this title that—

"(1) the Commission issued an advisory opinion finding that such compensation would not violate the intent of this title; and

"(2) such person fully complied, without alteration, with the understanding of circumstances as expressed by the Commission in such statement of findings of fact and advisory opinion, and with any additional guidance or suggestions proposed by the Commission; or

"(3) the Civil Service Commission did not file a timely advisory opinion, in accordance with the provisions of subsection (c)(2)(A) or (c)(2)(B) of this section.

"(e)(1) In furtherance of the duties and responsibilities described in this title, the Commission is authorized to hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission may deem advisable.

"(2) In the case of contumacy or refusal to obey a subpena issued under subsection (e)(1) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

"(f) All such meetings to consider applications for an advisory opinion on the applicability of section 801 of this title shall be open to the public, and a verbatim transcription of all such meetings shall be available for public inspection during regular working hours at the offices of the Commission.

"(g) The Chairman of the Civil Service Commission is required to promptly report to the Attorney General, and to provide such assistance as may be required, whenever he shall learn of an action which appears to involve a violation of this title or any other Federal law. The Attorney General shall report to the Chairman and to the Congress on the disposition of any such case.

"(h) The Chairman shall review all agency programs to assure that all positions subject to the provisions of section 801 of this title are identified, and that all persons subject to these provisions are provided adequate notice of such prohibitions and restrictions.

"(i) The Commission is authorized to develop and promulgate appropriate regulations to implement this title.

"(j) The Chairman shall report to the Congress, on an annual basis, on all activities, deliberations, and investigations, and shall recommend such legislative or regulatory actions as he deems appropriate to promote high ethical standards for Government employees.

"(k) There are authorized to be appropriated such sums as may be necessary to carry out the additional functions imposed by this title.".

Mr. PROXMIRE. Mr. President, I urge the passage of S. 695, the Defense Production Act Amendments of 1977. This is a vital piece of legislation. It would go a long way toward assuring efficient and ethical conduct of Federal procurement.

The means by which the Government purchases supplies and services has long been of concern to me. The Government each year spends far in excess of $30 billion on contracts with outside firms. It is important that we in the Congress do everything we can to assure that every dollar of the taxpayers' money is spent wisely and effectively. One major problem with Federal procurement has been the fact that the decisions of Federal acquisitions officials can be influenced by the desire of those officials for a lucrative job with the companies over which they exercise authority. Impartial studies have shown the phenomenal levels of interchange between Government and private industry, and have shown that many Federal procurement officials go to work immediately after leaving the Federal Government for companies over which they had exercised responsibility. This situation cries out for reform. No man can serve two masters, but yet, that is what we have been asking of Federal procurement officials. We have asked them to ignore their private economic interests and rigorously pursue the taxpayers' interest.

S. 695 would correct this problem, in a very simple way. It provides that, for a 2-year period after leaving the Federal Government, Federal acquisitions executives cannot accept employment with any contractor over which they had exercised responsibility. This action would remove temptation to favor outside interests.

The bill also establishes review authority with the Civil Service Commission. Under the provisions of the bill, individuals could apply to the Commission for counseling as to the effect of the bill. If the Commission finds that the employment would not offend the intent of S. 695, the individual would be free to accept this position without fear of prosecution or unfavorable public comment. This is an important mechanism to assure equitable treatment for all parties.

The bill has been carefully written to assure that it will not have an unfair impact on individuals, and was the subject of extensive hearings before the Committee on Banking, Housing, and Urban Affairs and the Committee on Governmental Affairs. Testimony was solicited from executive branch representatives, Members of Congress, and interested outside parties. After these hearings, it was unanimously supported by the Banking Committee.

I believe that this bill is a step in the right direction, and I urge its immediate passage.

Mr. President, this bill comes from our committee without opposition. It is a bill for which I am sure the distinguished Senator from New Mexico has indicated his support. He offered several amendments, and we have worked them out—incorporated them—and I think we can proceed. Senator CHILES also has some amendments.

Mr. ROBERT C. BYRD. Could we have them offered and adopted en bloc?

Mr. PROXMIRE. Mr. President, I send amendments to the desk which are proposed by the Senator from New Mexico (Mr. SCHMITT) and the Senator from Florida (Mr. CHILES).

The PRESIDING OFFICER. The amendments will be stated.

UP AMENDMENT NO. 920

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), on behalf of Mr. CHILES, proposes an amendment numbered 920:

On page 21, line 4: add "Administrator, Office of Federal Procurement Policy," after "General."

On page 20, line 4: delete "officially or unofficially," and substitute "personally and substantially."

On page 18, strike lines 18–25 and page 19, lines 1–4; insert:

(1) The term "executive agency" means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code; and the U.S. Postal Service.

(2) "acquisitions officer" means any employee of an executive agency who by virtue of his position or appointment in accordance with applicable agency regulations is authorized to solicit or select sources of supply, define or describe requirements for, audit, award, modify, terminate, or make determinations or findings with respect to or to review, certify, or evaluate contractor performance under any contract, or to otherwise exercise any part of such authority, and who receives compensation at a level equivalent to GS–11 or greater.

and renumber subsequent sections sequentially.

On page 19, line 16: insert "greater than $25,000" after "agreement".

On page 20, lines 3, 10, and 18: delete "contracting officer" and substitute "acquisitions officer".

UP AMENDMENT NO. 921

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), on behalf of Mr. SCHMITT, offers an unprinted amendment numbered 921:

On page 20, line 25: add after "employment" "nor does it apply to any acquisitions officer whose employment with any executive agency terminated prior to the effective date of this Title.";

On page 20, line 25: add "(3) This Title shall not apply to any acquisitions officer who is involuntarily separated from the service, not by removal for cause or charges of misconduct, delinquency, or inefficiency, or failure at selection to a higher grade."

Mr. SCHMITT. Mr. President, my first amendment would exempt individuals who are involuntarily terminated through reductions in force or similar personnel cutbacks. This would insure equitable treatment for individuals who are suddenly terminated from Federal employment. It would not exempt individuals who are involuntarily terminated for cause, or military officers who are forced to retire by reason of being passed over for promotion.

The second amendment would provide that individuals who have left the employment of the Federal Government before the effective date of this act will be exempt from the bill's provisions. Again, this insures equitable treatment for individuals who may not be aware of the bill's provisions.

Mr. PROXMIRE. Mr. President. I have reviewed these amendments and they are acceptable to me.

Mr. President, I ask unanimous consent that these amendments, which have

been worked out carefully by the sponsors—they are amendments which I am convinced are not controversial; they have been cleared on both sides—be adopted en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

Mr. SCHMITT. I would like to ask a question of the distinguished Senator from Wisconsin. The prohibitions contained in section 801 are written very broadly such that they might be interpreted to mean that those individuals who participate in an advisory board assembled solely for the purpose of making a recommendation to a higher official would come under these provisions. These individuals are members of a board solely for the purpose of giving technical advice. Am I correct in assuming that the committee does not intend for these individuals to be covered by the prohibitions of section 801?

Mr. PROXMIRE. That is correct. As stated in the committee report, it is our intention that, in any case where an individual's involvement in a procurement decision was confined solely to rendering technical advice to a board, the Civil Service Commission should find that the proposed employment would not violate the intent of the act.

UP AMENDMENT NO. 922

Mr. PROXMIRE. I send to the desk an amendment, to change the effective date from January 1, 1978, to October 1, 1978. And move its adoption. This amendment is needed to avoid any conflict with the Budget Control Act.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 922:

On page 20, line 22: delete "January 1" and substitute "October 1".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 695) was passed, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Production Act Amendments of 1977".

SEC. 2. Insert immediately after title VII the following new title:

"TITLE VIII—CONDUCT OF GOVERNMENT PERSONNEL

"SEC. 801. (a) As used in this title, the term—

"(1) the term 'executive agency' means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code; and the United States Postal Service.

"(2) 'acquisitions officer' means any employee of an executive agency who by virtue of this position or appointment in accordance with applicable agency regulations is authorized to solicit or select sources of supply, define or describe requirements for, audit, award, modify, terminate, or make determinations or findings with respect to or to review, certify, or evaluate contractor performance under any contract, or to otherwise exercise any part of such authority, and who receives compensation at a level equivalent to GS–11 or greater.

"(3) 'compensation' includes any payment, gift, benefit, reward, favor, gratuity, or employment valued in excess of $50 at prevailing market price;

"(4) 'contractor' is any person, partnership, corporation, or agency thereof other than the United States, the independent agencies thereof, or the District of Columbia, who offers, negotiates, agrees, or otherwise contracts to supply the United States, the independent agencies thereof, or the District of Columbia, with goods, services, or supplies, and any parent, subsidiary, or affiliate thereof; and

"(5) 'procurement contract' is any agreement greater than $25,000 by which the United States, the independent agencies thereof or the District of Columbia purchase, lease, or otherwise engage in the acquisition of supplies, services, or other materiel, to include such agreements as orders for the procurement of services or supplies; awards, notices of awards; contracts of fixed price, incentive contracts, and cost and cost-plus-a-fixed-fee contracts; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts and purchase orders; or any supplemental agreement with respect to any of the foregoing.

"(b) No acquisitions officer who at any time engaged, personally and substantially, in duties of his office in regard to any procurement contract shall accept compensation from any contractor receiving funds under such contract for a period of two years following his employment with the United States, the independent agencies thereof, or the District of Columbia: Except that this paragraph shall not apply to any duties performed by such acquisitions officer more than three years before the termination of his employment with the United States, the independent agencies thereof, or the District of Columbia.

"(a) Whoever violates this section shall be guilty of a felony, and shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(d) Whoever knowingly and willfully offers, tenders, or grants any compensation to any acquisitions officer in violation of this section, shall be guilty of a felony and shall be fined not more than $25,000 and imprisoned for not more than one year, or both.

"(e)(1) This title shall take effect on October 1, 1978.

"(2) This title does not preclude the continuation of employment which commenced prior to the effective date of this Act, or the receipt of compensation of such employment nor does it apply to any acquisitions officer whose employment with any executive agency terminated prior to the effective date of this title.

"(3) This title shall not apply to any acquisitions officer who is involuntarily separated from the service, not by removal for cause or charges of misconduct, delinquency, of inefficiency, or failure at selection to a higher grade.

"SEC. 802. (a) The Civil Service Commission shall have the authority to coordinate and review the administration and implementation of this title. In consultation with the Attorney General, Administrator, Office of Federal Procurement Policy, and appropriate agency heads, the Chairman of the Civil Service Commission is authorized to issue regulations and to review agency regulations to implement this title.

"(b) All departments and agencies of the Government are authorized to cooperate with the Commission and to furnish information, appropriate personnel, with or without reimbursement, and such financial and other assistance as may be agreed to between the Commission and the department or agency concerned.

"(c)(1) Any person who is offered compensation that might place him in violation of subsection (b) of section 801 of this title, prior to the acceptance of such compensation, may apply to the Commission for advice on the applicability of this title to such compensation. Such application shall be made jointly by the contracting officer and the contractor who proposes to grant such compensation, and shall contain a full and complete description of the duties of such applicant during the last three years of his employment as a contracting officer; any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation; and a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such applicant will perform on behalf of the contractor. Promptly upon receipt of such application, the Commission shall publish notice thereof in the Federal Register.

"(2)(A) Not later than ten days after receipt of a completed application, the Commission shall issue an interim advisory opinion stating whether payment and receipt of such compensation would violate the intent of this title. Pending issuance of a final advisory opinion, payment and receipt of such compensation may be temporarily authorized if the interim advisory opinion finds, based on initial review, that such compensation would not result in a violation of the intent of this title.

"(B) Not later than thirty days after receipt of a completed application, the Commission shall issue a final advisory opinion stating whether payment and receipt of such compensation would result in a violation of the intent of this title.

"(3) Pursuant to regulations promulgated by the Chairman of the Civil Service Commission, interested parties are permitted to present information or comments relating to the issuance of any such advisory opinion.

"(4) The Chairman shall inform Congress, and publish a notice in the Federal Register within thirty days after the issuance of any advisory opinion, describing—

"(A) the name of the applicant for such advisory opinion;

"(B) the contractor from which such applicant intends to accept compensation;

"(C) the duties of such applicant during the last three years of his employment as a contracting officer;

"(D) any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation;

"(E) a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such

applicant will perform on behalf of the contractor; and

"(F) a statement of the findings of fact and opinion which led the Commission to conclude that such compensation would or would not offend the intent of this title.

"(5) The Commission is authorized to issue a statement of findings of fact and opinion along with an advisory opinion finding that the proposed compensation would not violate the intent of this title if—

"(A) the involvement of the applicant in a procurement contract otherwise described in this title was so remote or inconsequential that it could have had no significant effect on the procurement contract in question;

"(B) the involvement of the contractor in such procurement contract was remote or inconsequential; or

"(C) the national interest requires that, the prohibitions of this title notwithstanding, such applicant should be allowed to accept such compensation.

"(d) There shall be available to any person as a defense in any criminal or civil case brought for violation of this title that—

"(1) the Commission issued an advisory opinion finding that such compensation would not violate the intent of this title; and

"(2) such person fully complied, without alteration, with the understanding of circumstances as expressed by the Commission in such statement of findings of fact and advisory opinion, and with any additional guidance or suggestions proposed by the Commission; or

"(3) the Civil Service Commission did not file a timely advisory opinion, in accordance with the provisions of subsection (c)(2)(A) or (c)(2)(B) of this section.

"(e)(1) In furtherance of the duties and responsibilities described in this title, the Commission is authorized to hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission may deem advisable.

"(2) In the case of contumacy or refusal to obey a subpena issued under subsection (e)(1) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

"(f) All such meetings to consider applications for an advisory opinion on the applicability of section 801 of this title shall be open to the public, and a verbatim transcription of all such meetings shall be available for public inspection during regular working hours at the offices of the Commission.

"(g) The Chairman of the Civil Service Commission is required to promptly report to the Attorney General, and to provide such assistance as may be required, whenever he shall learn of an action which appears to involve a violation of this title or any other Federal law. The Attorney General shall report to the Chairman and to the Congress on the disposition of any such case.

"(h) The Chairman shall review all agency programs to assure that all positions subject to the provisions of section 801 of this title are identified, and that all persons subject to these provisions are provided adequate notice of such prohibitions and restrictions.

"(i) The Commission is authorized to develop and promulgate appropriate regulations to implement this title.

"(j) The Chairman shall report to the Congress, on an annual basis, on all activities, deliberations, and investigations, and shall recommend such legislative or regulatory actions as he deems appropriate to promote high ethical standards for Government employees.

"(k) There are authorized to be appropriated such sums as may be necessary to carry out the additional functions imposed by this title.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senate will resume consideration of S. 1303, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

Mr. SCOTT. Mr. President, I was not fully acquainted with this bill when it was first brought up. It came, as Senators know, from the Human Resources Committee. It is the Legal Services Corporation Act Amendments of 1977. I feel that it should have been considered by the Judiciary Committee, of which I am privileged to be a member. It was not even submitted to our committee.

Last night, after returning home, I read the mimeographed sheet that is put out by the Republican policy committee. I also read the committee report. When I came to the office today, I picked up the United States Code and I read the entire present law from the United States Code. I hold in my hand a pocket part, because this is a new law. It is a rehash, as Senators know, of the legal services that we had under the old poverty law that was subject to much abuse, a bill that was changed in large part, I think, through the efforts of the distinguished gentlewoman from Oregon (Mrs. GREEN).

Mr. President, I spoke with the distinguished ranking member of this committee, and he assured me that he would be here and listen to my remarks. I told him that I would talk for about 1 hour, and he said that if I put in a quorum call, he would know and he would come and listen to my remarks. I do not wish to speak in his absence, so I suggest the absence of a quorum.

Mr. NELSON. Mr. President, will the Senator withhold that for a moment?

The Senator from New York (Mr. JAVITS), as perhaps the Senator knows, is at a conference with the House on the black lung bill. He said that he would return, and I believe he has been sent for. I believe that if we have a quorum call, he will be here in 2 or 3 minutes.

Mr. SCOTT. All right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I appreciate the attendance of the distinguished floor manager of the bill and the attendance of the distinguished ranking minority member of the Committee on Human Resources.

This matter before us, I believe, is quite important, and I would like to just share my own personal thoughts with these distinguished Senators, as well as other Members of the Senate, with regard to the measure before us.

I have not studied this in great detail, although I am familiar with the fact that the bill that was adopted in 1974 was a substitute for earlier legislation we had administered by the Office of Economic Opportunity.

I know the distinguished gentlewoman from Oregon, Representative Edith Green, was in the forefront of pointing out the many abuses, pointing them out in the other body, while she was a Member of that body. She did it in a very effective way.

So we did agree on a bill in 1974 that eliminated some of the abuses that had been practiced.

But last night, in order to be familiar with the matter before us, I did spend some time at home looking at the mimeographed sheet that is furnished by the Republican policy committee, a summary of the bill, an explanation of it. Then I also read the committee report.

When I arrived at the office this morning I spent a couple of hours looking through the USCA, and I read in its entirety the legislation that was enacted in 1974.

I have since looked at the back of the report and have seen the changes that are being made.

Now, Mr. President, I know that reasonable people can have differences of opinion. I believe we have on what used to be called the Committee on Labor and Public Welfare, but is now the Committee on Human Resources, distinguished Senators and distinguished Members of the House of Representatives who have a philosophy that is somewhat different from my own.

In the process of reading last night I turned to the back page of the U.S. News & World Report, and I read an editorial there that I would like to at least share a portion of with my colleagues here. It is called "Think Positive."

This is something our more liberal friends often say the conservatives do not do. It reads like this—I will not read the entire thing, but I would like to share part of it with my colleagues. It says:

During the past few years it has become fashionable in the media generally to refer to any politician who votes against major spending programs as negative or lacking in compassion. Similarly, politicians who regularly vote for vast government social enterprises are regarded as positive or compassionate or liberal.

That is, they are for the people.

Then it goes on and speaks about the amount of our national debt, and it speaks about the amount of the deficit that we have. Then it raises the question:

What is positive about more than $4 billion in known welfare abuse, error and fraud? What is positive about a nation where there are nearly 85 full-time dependents or employees of government for every 100 productive private taxpayers? What is positive or compassionate about government housing and urban development programs which have only accelerated urban decay or isolated the poor in bleak warehouses? What is positive about a government which is printing money at a rate more than twice as fast as the Nation's economy is growing?

Then it goes on, and I will just quote the concluding paragraph, which says:

We think we know what Thomas Jefferson would have said about this rhetorical question. In 1801 he wrote: "Every man wishes to pursue his occupation and to enjoy the fruits of his labor and the product of his property in peace and safety and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

Now, Mr. President, turning to the legislation before us, I regard it as a measure that tends to stir up strife and litigation. I can understand why we need to have more judges, why we have an overcrowded court docket. I cannot help thinking about common law barratry, when we consider bills like this, and that is still a crime in many of our States. I think this bill should have been referred to the Committee on the Judiciary.

But I read about this Legal Services Corporation that is to assume responsibility "for administering the legal service program and furnish support for programs providing legal assistance to persons otherwise unable to afford such assistance."

Well, on the surface that appears to be a very commendable beginning. But let us look a little bit further. "The corporation provides funds for 300 legal services programs serving States, cities, counties, multicounty groups, Indian reservations and migrant farmers."

It has nine regional offices throughout the Nation, with a staff of 141 persons. That does not sound like very much. But it spends more than 90 percent of its funds to support the field programs. It sets guidelines within which local programs set their own client eligibility standards. Programs provide counseling in a large range of civil matters. They do not provide criminal representation. They are staffed by approximately—and I emphasize this—they are staffed by approximately 3,000 full-time attorneys, and this is a matter that concerns me.

How many departments within the executive branch of the Government have a legal staff of 3,000 full-time attorneys? How many have 1,200 paralegal assistants?

I know in reading the book that these paralegal assistants do actually go into court, and perhaps that is good training for the internship of embryo lawyers. But I wonder just how good that is for the people of the country, for the taxpayer, to be paying for the expense of 3,000 full-time attorneys and 1,200 paralegal assistants.

The purpose of this bill is to extend the Legal Services Corporation for 5 additional years. We speak of sunset laws and yet this would extend the bill. It would amend it in various respects to which I shall refer, but would extend it for 5 additional years.

Frankly, I have legislative counsel preparing amendments for me. One would change the 5 years to 1 year. One would change it to 2 years. One would change it to 3 years, and one would change it to 4 years. If we are unable to work some sort of a compromise I am going to offer these. First the 1 year, then the 2 years, then the 3 years, and then the 4 years.

It authorizes $225 million for the fiscal year of 1978, and such sums as necessary for each of the following years. It is an open-ended funding bill.

If we assume, and I do not believe it is a reasonable assumption, but if we assume that it would continue at this rate of $225 million per year, it would mean that we would have over $1 billion in 5 years' time.

The bill in the fiscal year 1975 was only $90 million. Now it is going up to $225 million. So if it is an open-ended bill, we can expect it to go beyond the $225 million and, Mr. President, I also have amendments prepared that would reduce that to $125 million—I believe that is the current amount—and would have it for each year that the measure is authorized by this bill.

The bill provides that the governing body is made up of at least three persons who are eligible to be clients of the private corporation. When we speak of a private nonprofit corporation, we are really talking about a Government corporation. Call it what you may want to, the employees of that corporation are subject to the Federal Retirement Act. They also receive the insurance the same as a Federal employee. They receive the hospitalization program that the Federal employee receives. Under this bill they would be exempted from the Hatch Act when they are not on Government time.

I would hope that Government employees are not practicing politics in our Government during public time. But I think that has happened in this predecessor organization that we did have where some of the people spent their time going through the record books and finding out who was registered to vote and even went out during Government hours and took people to the polls. This bill has a bad history and there has been an effort in 1974 to clean up some of the things.

Section 6 under power, duties, and limitations of the corporation, grants to the corporation exclusive jurisdiction as to whether a person is to be represented. I wonder if that should not be something that might be determined by a court of general jurisdiction, and I do have an amendment to provide for that.

It permits these paralegals, supervised by staff attorneys, to represent eligible clients. It repeals the requirement that only local legal service programs give preference to local residents in filling staff positions.

It clarifies circumstances under which fee-generating cases and cases involving civil action arising out of criminal convictions may be undertaken by legal service programs.

It clarifies the circumstances under which there is the prohibition against legal service programs from taking cases arising out of desertions from the armed services where counsel is available from the Department of Defense. It has model projects. It establishes legislative authority for corporations to make grants or contracts to develop national, State, regional, or local model projects to segments of the population with special difficulties of access to legal services or special legal programs with more than 3 percent of funds to be used for that purpose.

It provides for hearing examiners, requires that independent hearing examiners be appointed pursuant to corporate regulations if and when there is a hearing relating to the denial of funding.

But turning now, Mr. President, to the report that is put out by the committee, I see here my computation of $225 million for 5 years. If that should remain constant, it amounts to $1.125 billion that would be authorized out of taxpayers' money for free legal services, and I know there were 2 days of hearings—it says 2 days—I do not know how many hours were spent each day—but 2 days of hearings involving the authorization of $1.125 billion.

This corporation is not a department, an agency, nor instrumentality of the Federal Government. Its officers and employees are not officers or employees of the Federal Government. It is interesting to note, however, that the governing body of the corporation can pay without any restriction at all up to level 5 of the executive level of employment.

I know of no Government agency where the head of a department or agency can pay as many employees as he sees fit up to level 5. I asked my staff what the present pay of level 5 was, and I got two answers. One was $47,500; the other was $49,000.

They could pay any number of employees or officers of this corporation, under the bill, $47,500 or $49,000, whichever is the accurate amount.

I notice that they provide legal services in Micronesia. Micronesia: Well, now, of course we remember that being made a part of the territory of the United States just last year, but if we reflect upon it, that is an area that does not pay any Federal income taxes, so it is just a one-way street.

The agency has 300 legal service programs serving citizens in nearly 700 offices in all of the 50 States, Puerto Rico, the Virgin Islands, and Micronesia.

This idea of a total staff of persons, with only 2.9 percent of the total funds appropriated to the corporation used for

administration, sounds like a very good thing, but I wonder. These people who make this level 5, is that administration cost?

It is provided here that the programs provide legal representation and counseling in a large range of civil matters. It does not include criminal representation; but later we say that there are exceptions.

I am just looking through here, Mr. President. I know that my talk is not prepared remarks; it may be a little rambling, but it is some of the thinking that has occurred to me with regard to this bill, and it just solidifies some of the reasons why I hope we can work out some differences.

Most of the legal problems of the eligible clients fall into four broad categories. Family laws: I understand that a very large portion of the money is for divorce cases. I just wonder what effort is being made, in the area of family law, to reconcile families. One of the first questions the private lawyer in family practice asks, when a potential client comes in to talk with him, is whether there can be a reconciliation within the family, before he ever discusses what the grounds for divorce are.

It includes administrative benefits, medicare, consumer law, and housing law. Because none of the programs has sufficient resources—we are talking about $1.125 billion over 5 years, if we do not increase the amount, but because none of the programs has sufficient resources to meet all of the needs of the eligible clients, the agency now requires that each program determine, in consultation with the client community, priorities for legal assistance.

Then it speaks of the 3,000 full-time lawyers and the 1,200 paralegal assistants. Certain key provisions of the Legal Services Corporation Act are designed to protect the corporation from inappropriate control by the executive branch.

Mr. President, when we talk about the taxpayers' money, it seems to me that everyone, every official ought to, at one time or another, have to account for his stewardship. Whom does this organization account to?

I would submit that it supposedly accounts to Congress. It files a report with Congress. It is a somewhat lengthy report. I saw a copy of it today. But how many Senators read a report that comes in? For all practical effects, this group is not accountable to anyone.

Two days of hearings before the committee, for a 5-year authorization.

I am quite aware, Mr. President, that the distinguished floor leader and the distinguished ranking minority member can make some responses to some of the things I am saying. I am indebted to them. and I appreciate their indulgence in not interrupting to refute the things that I am saying. I am hopeful, if they will listen to me for an hour, that I will not have to speak to an empty Chamber for a number of days.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I am glad to yield to the Senator from New York.

Mr. JAVITS. I must leave the Chamber. I am due at a markup where I am presenting the bill, and I simply have to go.

I will be very pleased if the Senator will ask for a quorum call, and I will get back as soon as I can, but I must go.

Mr. SCOTT. Did I understand the Senator from New York to suggest that we have a quorum call, and in effect have a recess for a period of time?

Mr. JAVITS. I cannot run the recesses.

Mr. SCOTT. I certainly ask for a quorum call, but when would the distinguished Senator feel he would be able to come back?

Mr. JAVITS. I will call back after I am in the committee and find out where we are. But I am involved in a markup, and simply must leave.

Mr. NELSON. Mr. President, if the Senator will yield, I wonder if we can locate the Senator from Arkansas (Mr. BUMPERS). He has an amendment he would like to call up, and perhaps we could go on with that, with the debate and vote, and so on, on the pending matter following the amendment of the Senator from Arkansas.

Mr. SCOTT. I am agreeable to that procedure, but I would like to have the distinguished Senator from New York, the ranking Republican member of the committee, or another Senator in whom he has great confidence, that might be able to relay to him the things I would say. Frankly, I would like to be talking to his ears directly.

Mr. JAVITS. Senator, let me say I just tried to get every member of the minority. I believe one will be here before long. I have really taxed the indulgence of the Foreign Relations Committee; they are all waiting for me.

Mr. SCOTT. Before the distinguished Senator leaves, let me tell him, if he does not already know, and for the information of other Senators, that we have a group of opponents to the bill who are meeting outside the Chamber for the purpose of attempting to see if we can arrive at some agreeable compromise of this bill, so that we will not have extended debate lasting over a period of days. I hope that can be accomplished; and if the distinguished Senator from Wisconsin feels that we can expedite things by calling up another amendment, I am perfectly willing to do that, but I would want to reserve the right to reclaim the floor after that amendment is acted upon, and then hopefully by that time the Senator from New York can come back.

Mr. JAVITS. I thank the Senator.

Mr. SCOTT. Mr. President, I ask unanimous consent that after the next amendment is called up I again be recognized for the purpose of continuing my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NELSON. Mr. President, I am assuming that the Senator from Virginia would want his remarks and dialog to be consecutive, and not interrupted by any other business that is called up.

I ask unanimous consent that any business taken up between now and the time that the Senator from Virginia resumes discussion on the floor be printed in the RECORD subsequent to his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following remarks were made later in the day by Mr. SCOTT and printed at this point in the RECORD by unanimous consent.)

Mr. SCOTT. Mr. President, I had hoped that the distinguished senior Senator from New York would be present at this time. I had had indications that he would be here, but I realize the multiplicity of duties that the distinguished senior Senator has. In view of his inability to be here at the present time, I do not want to delay further the business of the Senate and inconvenience other Senators. So I shall go ahead with my statement.

Mr. President, there are a number of matters that I could share with the Senate that are objections to S. 1303, the measure before us. Perhaps they could best be illustrated not by direct reference to the text of the bill, or to the report or to our United States Code, but just by a reference to a short synopsis of proposed amendments that I intend to introduce, in the event a satisfactory compromise is not arrived at.

Mr. President, I intend to read the synopsis. I ask unanimous consent at this time that these proposed amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1434

On page 11, line 9, beginning with "1978" strike out through line 10 and insert in lieu thereof the following: "1978".

AMENDMENT No. 1435

On page 11, line 10, strike out "each of the four succeeding fiscal years" and insert in lieu thereof: "the succeeding fiscal year".

AMENDMENT No. 1436

On page 11, line 10, strike out "four" and insert in lieu thereof "two".

AMENDMENT No. 1437

On page 11, line 10, strike out "four" and insert in lieu thereof "three".

AMENDMENT No. 1438

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for fiscal year 1978".

AMENDMENT No. 1439

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for the succeeding fiscal year".

AMENDMENT No. 1440

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for each of the two succeeding fiscal years".

AMENDMENT No. 1441

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for each of the three succeeding fiscal years".

AMENDMENT No. 1442

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for each of the four succeeding fiscal years".

AMENDMENT No. 1443

On page 12, strike out line 14 and insert in lieu thereof the following:

SUNSHINE PROVISION AND PROHIBITION ON OUTSIDE COMPENSATION FOR OFFICERS

On page 12, line 15, insert "(a)" after "Sec. 4.".

On page 12, between lines 19 and 20, insert the following:

(b) Section 1005(a) of the Legal Services Corporation Act (42 U.S.C. 2996d(a)) is amended by striking out "except as authorized by the Board" in the second sentence thereof.

AMENDMENT No. 1444

On page 13, strike out lines 7 through 13 and insert in lieu thereof the following:

"(B) The question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be determined only by appropriate order by a court of general jurisdiction.".

AMENDMENT No. 1445

On page 12, strike out lines 20 through 24. Redesignate the succeeding sections accordingly.

AMENDMENT No. 1446

On page 11, line 18, beginning with the word "At" strike out through the period on line 2, page 12, and insert in lieu thereof the following: "Not more than one person appointed to fill a vacancy occurring after January 1, 1977 but before July 30, 1978, shall be, when selected for appointment, an eligible client. Following July 30, 1978, not more than one member of the Board shall be an eligible client".

AMENDMENT No. 1447

On page 19, strike out lines 15 through 25.

Renumber the succeeding section accordingly.

AMENDMENT No. 1448

On page 18, strike out lines 6 through 22. Renumber succeeding sections accordingly.

AMENDMENT No. 1449

On page 16, line 10, beginning with the word "to" strike out through the word "or" on line 23, and insert in lieu thereof the following: "by inserting "(A)" after 'provide', and by inserting a comma and the word 'or'".

AMENDMENT No. 1450

On page 11, line 16, strike out "(a)".

On page 12, strike out lines 7 through 13.

AMENDMENT No. 1451

On page 15, beginning with line 16, strike out through line 3 on page 16.

On page 16, line 4, strike out "(d)" and insert in lieu thereof "(c)".

AMENDMENT No. 1452

On page 19, line 4, strike out "three" and insert in lieu thereof "six".

AMENDMENT No. 1453

On page 17, strike out lines 17 through 23.

On page 17, line 24, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1454

On page 14, strike out lines 3 through 5.

AMENDMENT No. 1455

On page 14, strike out lines 7 through 15.

On page 14, line 16, strike out "(b)" and insert in lieu thereof "Sec. 8. (a)".

On page 15, line 16, strike out "(c)" and insert in lieu thereof "(b)".

On page 16, line 4, strike out "(d)" and insert in lieu thereof "(c)".

Mr. SCOTT. The first amendment would provide for authorization of appropriations for the Legal Services Corporation for 1 year, rather than the 5 years as is provided in the bill.

The second amendment would provide for authorization of appropriations for the Legal Services Corporation for 2 years, rather than for the 5 years as provided in the bill.

The third amendment would provide for authorization of appropriations for the Legal Services Corporation for 3 years, rather than the 5 years that is provided in the bill.

The fourth amendment would provide for authorization for the Legal Services Corporation for 4 years, rather than 5 years as provided in the bill.

The next amendment would authorize $125 million for the Legal Services Corporation Act for 1 year, rather than the $225 million as set forth in the bill to go for the next fiscal year and the open-end appropriation for the balance of the 5 years.

The next amendment would authorize $125 million for the Legal Services Corporation for each of 2 years.

The next amendment would authorize $125 million for the Legal Services Corporation for each year of 3 years.

The next amendment would authorize $125 million for the Legal Services Corporation for each year for 4 years.

The net amendment would authorize $125 million for the Legal Services Corporation per year for 5 years.

The next amendment would modify the prohibitions on outside compensation for officers of the Legal Services Corporation.

The next amendment would require representation questions to be decided by authorization of a court of general jurisdiction.

Mr. President, I wonder if I might have the attention of the distinguished chairman of the committee inasmuch as I do not have the attention of the distinguished ranking member of the committee. I would appreciate it. I will just take about 10 more minutes.

Mr. President, the next amendment is to retain the present provisions of existing law with regard to the Legal Services Corporation with respect to research, training, technical assistance, and information.

The next amendment would be to delete the provision with respect to hearing examiners.

The next amendment would be to delete the model projects for the Legal Services Corporation Act.

Mr. President, the next amendment would reinstate the provisions with respect to fee generating cases.

The next amendment would be to reinstate existing provisions of the Legal Services Corporation Act with respect to membership of eligible clients on governing bodies.

The next amendment would be to provide for membership on the governing body of the Legal Services Corporation of not more than one eligible client.

The next amendment would be to reinstate the provisions of the Legal Services Corporation Act with respect to representation by an attorney.

The next amendment would be to increase the period for the retention of records by recipients under the Legal Services Corporation Act.

The next amendment would be to reinstate the provisions of the Legal Services Corporation Act relating to representation in military matters.

The next amendment would be to reinstate the provisions with respect to political activity on off-duty hours by attorneys under the Legal Services Corporation Act.

The next amendment would be to reinstate the requirement relating to refusal or unwillingness without good cause to seek acceptable employment as a basis for eligibility under the Legal Services Corporation Act.

Mr. President, I also have two motions that I ask be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary.

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary, with instructions to report that bill back to the Senate within 30 legislative days.

Mr. SCOTT. The first motion would be to amend the act to provide authorization of appropriation for additional fiscal years, and for other purposes, that it be referred to the Committee on the Judiciary.

The second motion that I ask to have printed would be to refer the same measure to the Committee on the Judiciary with instructions to report it back to the Senate within 30 legislative days.

Mr. President, I appreciate the indulgence of the distinguished chairman of the committee. I hope that we can reach a satisfactory compromise of our differences and take action upon this bill.

Mr. President, I yield the floor.

(This concludes Mr. SCOTT's remarks that were made later in the day.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. (Mr. RIEGLE). The Chair must advise that it will take unanimous consent to lay aside the pending amendment in order to take up another. So I ask, is there objection to taking up the amendment of the Senator from Arkansas?

Mr. BAKER. Mr. President, reserving the right to object, will the Senator from Arkansas give me just a few moments before he presses his request for unanimous consent?

Mr. BUMPERS. Certainly.

Mr. BAKER. There is no one on this side who is actively involved in the management of the bill.

Mr. BUMPERS. If the Senator wants to put in a quorum call so he can get clearance on his side, we have no objection.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 923

Mr. NELSON. I understand that it is satisfactory for the Senator from Arkansas to call up his amendment.

The PRESIDING OFFICER. The Chair puts again the question, is there objection to laying aside the pending amendment to take up the amendment of the Senator from Arkansas?

The Chair hears no objection. The Senator from Arkansas is recognized for his amendment.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas proposes unprinted amendment numbered 923.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 11, insert the following:

"SEC. 15. Section 1007(g) of the Legal Services Corporation Act, 42 U.S.C. § 2996f(g), is amended to read as follows:

" 'The Corporation shall conduct a fair and impartial study of the relative advantages and disadvantages of the existing staff attorney method of delivering legal services as compared with other methods (or combinations of methods) including judicare, prepaid legal insurance, vouchers, and contracts with private law firms, in order to determine whether and to what degree the existing staff attorney method should be supplanted by alternative methods of delivery. A sufficient number of demonstration projects using alternative methods of delivery in both urban and rural settings shall be established nationwide to insure a valid comparison. Based on the results of such a study and on an evaluation of these results to be conducted by the National Science Foundation (which shall not subcontract for any part of the evaluation with any recipient of Corporation funds), the Corporation shall make recommendations to the President and the Congress not later than September 30, 1979, concerning improvements or changes in the methods of service delivery to render such delivery more economical, more effective and more satisfying to clients.' "

IMPARTIAL STUDY OF JUDICARE

Mr. BUMPERS. Mr. President, I am today introducing an amendment to S. 1303, a bill to amend the Legal Services Corporation Act. The purpose of the amendment is to insure that the Legal Services Corporation shall conduct a fair and impartial study of the relative advantages and disadvantages of the existing staff attorney method of delivering legal services to the poor as compared with other methods, including especially judicare. The essential difference between the two methods, of course, is that under a judicare program, each client has the right to pick his own counsel, just as patients choose their own physicians under the medicare program. Under the staff-attorney method, which is the method now being used predominantly by the Legal Services Corporation, legal services to the poor are rendered exclusively by paid Government employees who are not engaged in the general practice of law.

The present law on this subject is contained in section 1007(g) of the Legal Services Corporation Act of 1974, 42 U.S.C. § 2996f(g). This section provides as follows:

The Corporation shall provide for comprehensive, independent study of the existing staff attorney program under this Act and through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes or alternative methods for the economical and effective delivery of such services.

My proposed amendment would expand and clarify this section and, I believe, carry out the intent of the Congress in enacting it in the first place. The amendment would essentially do two things. It would make more clear the intent of Congress that judicare should be tested not merely as a possible supplement to the prevailing staff attorney method of delivery, but as a possible alternative as well. The amendment would also provide for an evaluation of the experiment by a third party, rather than by the Legal Services Corporation itself.

Mr. President, my amendment does not in the least assume that the experiment will show that one method of delivery is the best in all situations. Nor am I asking the Senate to endorse judicare, the staff attorney method, or any other particular method of delivering legal services to the poor. A fair and impartial test might show, however, that judicare, or a combination of judicare and prepaid legal insurance, ought to be the primary vehicle for delivering legal aid to the poor, instead of the staff attorney method now almost exclusively used by the LSC. My amendment would leave this possibility open. It does not seek to predetermine the results of the study, only that the study be fair and impartial.

Existing law requires the Corporation to submit a report to Congress on the results of its experiments and studies by July 1977, and such a report was actually submitted. It is obviously, however, an interim report, since the study is far from complete. The Corporation is not yet ready to make recommendations to Congress and, as a matter of fact, is now in the process of funding different studies in Round II of the experiment. My amendment would simply insure that the remaining portion of the experiment will be impartially designed, that its evaluation will be conducted by an impartial third party, the National Science Foundation, and that the deadline for report be extended until September 1979, in order that enough time will be given the National Science Foundation and the Legal Services Corporation to make a full and ample study and report.

Let me stress that there is no doubt in my mind that the LSC can be trusted to conduct a fair experiment. The important point is to avoid even the appearance of a conflict of interest. The LSC has traditionally used the staff attorney method almost exclusively, and members of the private bar who favor judicare may be pardoned for believing that the evaluation of any study should not be entrusted to the LSC itself. In other words, the judicare test must not only be fair, it must also be perceived to be fair by both the private bar and the general public.

The evaluation of the judicare test will not only be an evaluation of the relative advantages and disadvantages of judicare versus the staff attorney approach. It will also involve an assessment of the validity of the design and implementation of the study itself. It goes without saying, therefore, that if the evaluation is to be fair, it ought not to be conducted by anyone who participated in this design and implementation.

Mr. President, I know that all Members of the Senate share with me a determination to make the best possible legal services available to those who cannot afford them, and to accomplish this result by whatever method will be most effective, least costly, and result in the greatest client satisfaction. The purpose of my amendment is simply to insure that the inquiry now being made into these questions be completely impartial and insulated from any appearance of a conflict of interest. I am hopeful that the amendment will be acceptable to the committee and to the Senate.

Mr. President, my amendment, on the face of it, seems to be requesting something that the law already provides for. But my amendment is designed to clarify, at least, any misconceptions that anybody might have about the present requirement that the Legal Services Corporation conduct a fair and impartial study to consider the use of prepaid legal insurance, judicare, and vouchers—not just as a supplement to the present staff attorney method of providing legal services to the poor, but as an alternative.

The present law requires that the Legal Services Corporation make a study of all these different possible systems for providing the least costly and most effective legal services to the indigent and the poor who cannot afford attorneys.

I do not have any preset notions about which is the most effective way, but it has been brought to my attention that the present study, which I think was—I forget the time frame within which it was supposed to be completed. I know the first part of it has already been filed and some interim recommendations, perhaps, made to Congress and the President. This amendment is not, then, going to torpedo or disturb the study that is being made right now. But, Mr. President, the thing that I want to be sure of, and I think the thing that the Senate

wants to be sure of, is that this study is an impartial study based on legitimate demonstration projects and that it is fairly critiqued, not one of those things where the foxes watch the henhouse, or the dogs watch the meathouse, but something that has been critiqued separately by a totally disinterested group.

Now, in a nutshell, my amendment places the burden on the Legal Services Corporation to carry out demonstration projects, for example, of judicare, not in a vacuum, but in separate parts of the country, rural and urban, so that legitimate comparisons can be made as to the effectiveness of the judicare system. For the unenlightened in this body, that is simply a system for legal services almost identical to the medicare services for the delivery of health services to people who cannot afford health care.

The poor now have to go down and accept some staff attorney who may be fresh out of law school, or he may be a seasoned, brilliant attorney, but there is one sure thing, it is an a la carte situation with the people who need the legal service. He goes in and they assign him a staff attorney, assuming he meets all the criteria of determining whether or not he is entitled to the help, and he or she is at the mercy of the staff attorney until his case is resolved.

All I am saying is that we give people on medicare and medicaid in this country the right to pick their own doctor and we pick up the tab for it.

Mr. President, as I say, I have no present notions about it, no preconceptions about it, but it just might be that the people of this country would feel more secure if they could go to their own attorney or one of their choice and let him help them.

I think one of the most cogent arguments being made in this country against national health insurance is that people are afraid the next step will be that they will have to take whatever doctor they are assigned, and people in this country are not ready for that. I am not ready for it.

Maybe it is not practical, but all I am saying is that this study ought to include demonstration projects from all geographical sections of the country, populated and unpopulated areas, urban and rural areas, and that the study include the possibility of judicare, of prepaid legal services, as alternatives to the present staff attorney system.

Finally, the report ought to be critiqued by the National Science Foundation. That seems like a strange place, I know, and a strange organization to place this study with for independent critiquing.

But the present study, Mr. President, is going to be critiqued by people from the Legal Services Corporation and attorneys from the American Bar Association.

As far as I am concerned, there will still be that lingering doubt among many that the study has not been impartially evaluated.

I think in order to eliminate even a possibility of a conflict on the part of the Legal Services Corporation, that an independent judgment that could be rendered by the National Science Foundaiton should be made.

Why that foundation? Because they have got a whole division of social services and social scientists who have studied the delivery of social services in many other studies. I am not just hung up on them.

The floor manager says he might take my amendment if I would change that to GAO. I would probably go along with it, that is the normal procedure, but there are those who do not want GAO to do it.

As far as I know, there is no objection to the National Science Foundation evaluating the study.

Mr. President, I have tried to make it as short and clear as I can as to the reason for this. There are those who say that the Legal Services Corporation is already doing this, that the law already mandates they do it. But I want it clarified, I want it broadened, and I want an independent evaluation of the study when it is completed. There is still ample time.

Incidentally, there is a fourth thing the amendment does, Mr. President. As I remember, it gives them 2 years and 2 months more time than the deadline in 1977. The amendment sets the date down to September 1, 1979.

So they still, if this is adopted, have the 2-year period in which to make this study, and nobody is dislocated or discommoded as a result.

I sincerely hope that the committee will see fit to adopt the amendment.

I might say, if the Senator from Wisconsin will permit me, that the American Bar Association has endorsed the amendment.

Mr. NELSON. Mr. President, I say to the distinguished Senator from Arkansas, if the American Bar Association has endorsed the amendment, then they have also endorsed my opposition to the amendment, which is a position that the American Bar Association may very well have taken.

Mr. BUMPERS. If the Senator will yield, I slightly misspoke myself in my exhuberance and enthusiasm. I said they had endorsed it. Actually, it is the Chairman of the General Practice Section Committee on the National Legal Services Corporation of the American Bar Association that has endorsed it.

In other words, it is the sort of oversight committee of the American Bar Association that has endorsed it.

Mr. NELSON. So that the record will be balanced and clear, Mr. Robert Evans, legislative representative of the American Bar Association, states:

The American Bar Association supports S. 1303 without amendments which would restrict the Legal Services Corporation or its program attorneys to provide effective representation for all eligible clients. The ABA has testified in support of the Corporation carrying out a study of alternative and supplemental systems for providing legal services to the poor. The Corporation is moving forward with this study, and the ABA has been following the study with great interest. Four attorneys active in the Association, including former President Robert W. Meserve and J. Thomas Greene of Utah serve on the Advisory Panel which is monitoring the alternative delivery system study.

The Association has never recommended that a "study of the study" should be undertaken by a government agency such as the National Science Foundation. While we in the Association intend to review the study with care, we are not in a position to recommend to the federal government that it fund a study of another study, at least until the Corporation's study has been completed and its results made public.

That pretty well states, I say to the distinguished Senator from Arkansas, my position. It may very well be that some independent group ought to further study the results of the study that is made purusant to the directive of the statute which we adopted back in 1974.

As I am sure the Senator knows, an independent advisory panel was appointed by the Corporation. That advisory panel then selected the projects and the programs to be tested for purposes of determining how better to deliver legal services to the poor.

Those experimental programs, when they are completed, will then be in report form and available to the Congress. At that time, the American Bar Association will evaluate the studies, as will anyone else who has an interest in or out of the Congress.

Furthermore, it would be, in my judgment, the responsibility of the Subcommittee on Employment, Poverty, and Migratory Labor, of which I am chairman, to conduct comprehensive hearings on the study and take testimony, pro and con, on the studies and on the methods of delivering legal services to the poor.

I assure the Senator from Arkansas that when these studies are completed and we receive a report from the Legal Services Corporation based upon the studies that have been done, we will schedule hearings. We will ask the American Bar Association, local bar associations, representatives of various groups, and Members of Congress to come and give us their testimony, their advice, their suggestions, and their evaluation of the studies. If at that time it appears that there should be some further independent evaluation, I would be prepared to support the concept at that time.

However, I do not really see the value at this stage in writing into law a requirement that once the studies are all completed, they be referred to the National Science Foundation for the purpose of their making a reevaluation at that time. So I am reluctant to say that I oppose the amendment at this time on the ground of timeliness, but it may very well be a good idea once we have looked at it and once we have conducted hearings.

It never would have occurred to me to have referred this study to the National Science Foundation. I may be mistaken, but I do not know that it is their expertise to evaluate this kind of study. It may very well be. But I would be disinclined to write such a requirement into the statute at this time, making that requirement part of the law.

Mr. MATHIAS. Mr. President, on behalf of the managers on this side of the aisle, we associate ourselves with the comments of the distinguished Senator from Wisconsin and oppose the amendment.

Going a little beyond what I am authorized to say on behalf of the man-

agers, and getting into the area of personal comment, I might say that if the Senator from Wisconsin were present at this moment, he might be getting out a "fleece" to award.

As a member of the Appropriations Committee, I have had a rather tender interest in the National Science Foundation, and I have been very much interested in the work they have done in trying to create measurements for progress in social areas. I have been largely supportive of those efforts. But I have observed that Mr. PROXMIRE has awarded the "fleece" on a number of these projects; and I think that if we start making studies on studies, we are at least giving him a candidate for consideration.

I hope we will defer that until we get a little further along on this project and see where we are going.

Mr. BUMPERS. Mr. President, I do not know Thomas Greene of the American Bar Association Committee on the National Legal Services Corporation. Based on what the distinguished Senator from Wisconsin read into the RECORD earlier, he is at least a very peripatetic gentleman, because here is a telegram he sent me on September 15:

> Strongly urge passage of amendment to S. 1303 Legal Services Corporation Act to insure (1) fair test of all methods of delivering legal aid to poor including judicare; and (2) independent evaluation of tests of National Science Foundation or other appropriate persons or organizations.
>
> J. Thomas Greene, chairman, American Bar Assn., General Praction Section Committee on National Legal Svcs. Corp.

I understood the Senator from Wisconsin to say a moment ago that he has a telegram or some communique from this gentleman saying that he wants the Legal Services Corporation Act passed or extended without any amendments.

Mr. NELSON. No. The Senator from Wisconsin did not say that.

The only context in which Mr. Greene's name appeared is that Mr. Robert Evans, legislative representative of the American Bar Association, simply stated in his communication to me that four attorneys active in the association, including former president Robert Meserve, and J. Thomas Greene of Utah serve on the advisory panel which is monitoring the alternative delivery system study. Mr. Greene did not directly contact me in any respect concerning the Senator's amendment. He is on the panel.

Mr. BUMPERS. Mr. President, I recognize the difficulty of having an amendment adopted which the floor managers oppose. I am not sure right now whether I am going to pursue it to an up or down vote, but I say this:

I am not one who is prone toward having committees appointed to study the work of other committees or studies of studies. But I am prone to want individual analysis made of studies that are made by those people about whom the study is concerned.

When I was Governor of my State, I used to get those studies in my office, those in-house studies, and I would say, "That's just one of those dogs-watching-the-meat-house studies."

We had all kinds of regulatory bodies in my State which were supposed to regulate everything from the real estate practice—you name it. It did not make any difference whether it was massage parlors or real estate—we had a committee to oversee the operations of those particular professions in the studies. Almost without exception, the commission was made up exclusively of people engaged in that profession.

One of the reasons I offer this amendment is that I favor the Legal Services Corporation concept. I am going to vote for the bill. But I think there are some very serious concerns in this body and in Congress about where we are going with the concept. Unless we have a fair number of demonstration tests across the country, what is there going to be to evaluate?

If I were in the Legal Services Corporation and I did not want judicare or prepaid insurance or anything like that because somebody in the Legal Services Corporation might lose his job, I would be violently opposed to this amendment, as they are. They do not like it. I like the concept, and I like the Legal Services Corporation. But I also know how organizations that are set up by Congress have a system of self-perpetuation. I know how they perpetuate themselves, and I know this is not going to be any different.

I am not saying that judicare is a suitable alternative. Perhaps it should not even be a supplement. But I think it should be studied. All I am saying is that the study is being done by the Legal Services Corporation, which is opposed to prepaid services, which is opposed to judicare; and I am afraid that the study may not come out favorably inclined toward either of those concepts.

Mr. NELSON. The provision in the statute which was adopted in 1974 originated in Congress. We were the ones who decided that this study should be made. As chairman of the subcommittee, I favored it. We wrote the language, and the language says:

> The corporation shall provide for comprehensive, independent study of the existing staff attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress not later than two years, after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

The delay in meeting the completion deadline, which was July 1, 1977, was a consequence of the delay in the appointment of the members of the Board of Directors, so the Board cannot be blamed for that.

It may be that those of us who drafted the statute are subject to criticism for not providing the kind of independence that the Senator from Arkansas thinks ought to be there. That could be so. But I think it is designed pretty well.

They made an interim report in July 1977 showing the contracts they have let. It is a 172-page report.

I am not prepared to say to the Senator from Arkansas that I am qualified at this moment or satisfied at this moment that the study is being conducted in the best possible way—not because I know it is not, but because I do not know whether it is. I know not either way. But they are proceeding as the Congress directed them to proceed, and that proposal came through the subcommittee of which I am chairman.

They are directed to try these various methods of delivery, including judicare, which the Senator from Arkansas says they are opposed to, although I have never heard from them that they are so opposed; but, nevertheless, they are directed to study all these various proposals.

When they complete that study, and it goes to the American Bar Association for their evaluation, I am assuming they will make a good study of it. They have done lots of very good volunteer work respecting delivery of legal services to the poor, and the Legal Services concept has been of great interest to them.

I will conduct hearings, as I am sure the House of Representatives will, too, and if, in fact, valid complaints lie against the way the study is conducted because of a bias in the study or incompetence in the performance of these studies contracted for by independent contractors in various States, I assure the Senator from Arkansas I would be prepared to refer this to the appropriate place for a further independent study.

Let me say to the Senator from Arkansas I am not prepared to argue the merits of whether or not such a study at some time ought to be made. The Senator may be absolutely right, it may be perfectly clear from hearings and looking at the finished product that the study is inadequate. I do not know because they are not complete. But I have enough confidence in the Senator from Arkansas that after the American Bar Association has evaluated it, after Members of the Senate and the Senator from Arkansas have evaluated it, and after those who are interested and qualified have evaluated the study now being made, and after our hearings, it is in fact indicated at that time that there ought to be some further independent evaluation, and such is the judgment of the Senator from Arkansas, I have enough confidence in his judgment such that I will join him in supporting such an independent study.

Now, that may not assure that a further study would be done, but at least it would assure there would be 2 votes for it out of 100, and maybe we could persuade some others at that time.

Mr. BUMPERS. Mr. President, let me say I appreciate very much the sense of fairness just expressed by the Senator from Wisconsin. He has always been eminently fair and has been most highly concerned about the fate of the Legal Services Corporation and the services it renders. I will come back to that in just a moment.

But, Mr. President, there are two or three points I would like to make: No. 1, the amendment we offer will cost no more than is already going to be expended. I am not suggesting that the study be expanded, I am not suggesting that a lot more demonstration projects be taken on. But I do think this: If we wait

2 years until the final report is in, and the evaluation is made either by the Legal Services Corporation or somebody designated by them to give it some air of independence, I think the results of the study are virtually a foregone conclusion. I think the Legal Services Corporation report, and whatever so-called independent, evaluator evaluates it, are going to find the services being rendered under the present system as being excellent, of high quality, and that there should not be any disturbance of the present system.

I just almost would be willing to bet the family farm on that study and what it is going to show when it comes in here, in, we will say, July of 1979.

The interim report has already been filed. They missed the deadline on July 1, 1977. They did file a report, as the Senator from Wisconsin said, because the board was late in being selected, but it is an interim report only. The final report has not been made, and, I assume, will not be made until these demonstration projects have been completed.

Now, No. 2, if the Legal Services Corporation report comes out as I anticipate and predict it will come out, it will be subject to the very criticism that I am saying we can avoid now on the front end because everybody is going to say, "we told you 2 years ago what the study was going to show. It has shown exactly what we said it would. It is indeed a case of the dogs watching the meathouse. How can you expect them to come up with any different report?"

Now, this amendment gives us an opportunity to, No. 1, bring the National Science Foundation into it right now and let them make some suggestion to the Legal Services Corporation as to how many demonstration projects there should be and where they ought to take place, so they will be in a position to make an independent analysis. Obviously, it is just like a pollster. You have got to frame the question correctly or the results are flawed.

Mr. NELSON. Mr. President, will the Senator yield at that point?

Mr. BUMPERS. Yes.

Mr. NELSON. I interpret the Senator's amendment, as I read it, to say quite clearly that when the present study is completed, the National Science Foundation will evaluate the study. The Senator's amendment says, "Based on the results of such study and on the evaluation of these results to be conducted by the National Science Foundation, the corporation shall make recommendations."

As I read this amendment, I interpret it to mean that once the studies we are talking about are completed, the National Science Foundation will then make its evaluation of the results of the studies.

Therefore, there is nothing which can be referred to the National Science Foundation, as was suggested a moment or two ago by the Senator from Arkansas. In fact, there is not anything to refer to the National Science Foundation unless it is further proposed that they be consulted to determine what additional studies should be made. The 38 demonstration programs have been commissioned. So whatever role, under this amendment, the Senator from Arkansas has in mind would not fall upon the shoulders of the National Science Foundation until the studies were over in any event.

Mr. BUMPERS. Let me say to the Senator from Wisconsin, Mr. President, that, perhaps, I was being a little presumptuous that my amendment carry with it the implication that the Legal Services Corporation would consult with the National Science Foundation now to make certain that the studies being undertaken will be sufficient and broad enough and designed to give the National Science Foundation enough information on which they could base a decision, that they would do this now if the amendment is agreed to; and then, of course, the independent analysis would be made at the conclusion of the study.

If there is any question about that, either of two things could occur. We could correct that by colloquy or I could modify my amendment.

But I would like to read to the Senator from Wisconsin just a little quotation here that fortifies the position and the feeling and the apprehensions I have about the legitimacy of the study. Here is a letter dated April 4, 1977, from Tom Ehrlich, who is president of the Legal Services Corporation, to a fellow named Brakel, I guess it is, who is with the American Bar Foundation. Here is a quote, because the correspondence carried on between the two deals with Brakel's insistence that the study be conducted, and Mr. Ehrlich writes and says——

Mr. NELSON. What study is to be conducted?

Mr. BUMPERS. The one I am talking about—that some independent organization be brought into it. Ehrlich's response says:

> We have carefully evaluated the existing staff attorney programs and have found that they are providing high quality service. We will not precipitously force shifts in delivery methods without adequate evidence that service will be improved. I do not believe that one single approach is the best for all circumstances.

Mr. President, while I say I have no preconditions or prenotions about this, I believe that the Legal Services Corporation does, and I am reluctant to call for an up or down vote on this. I feel strongly about it. I feel so strongly that I will predict that I will be back in the Chamber 2 years from now, when that study is completed, making the same plea for the same thing and we will then spend money to do an additional study that we would not have to spend if we adopt this amendment now.

I am not saying that I think judicare is a suitable supplement or suitable alternative. I am not saying that I think prepaid legal insurance is suitable as a supplement or alternative.

All I am saying is that there should be sufficient information derived from this study that we can make a sensible evaluation which is the best. Perhaps some mix of all three or some mix of two would be suitable. But what we are getting ready to do is not to conduct a study to evaluate the study—a study of a study. What I am suggesting now is to avoid that by doing the study right in the first place because, if we do not, 2 years from now we are going to be back here sure enough authorizing a study of the study that no one likes.

Mr. NELSON. I guess we covered most of everything. This may be a bit repetitious. I feel the same way the Senator from Arkansas does respecting the question of objectivity in making studies, and if the studies disclose that there is somehow or another a bias that demonstrates in the studies that certain important areas of study or evaluations were not made, I will be as indignant as the Senator from Arkansas. A chairman of the authorizing subcommittee, I give him my word that I will do everything in my power to rectify it. I think it is important that all parties, whether in Congress or out of Congress, deal in good faith.

The Corporation in selecting the Advisory Panel has selected a distinguished list of conscientious, independent attorneys and representatives of the poor who are dedicated to the public welfare.

I only know one personally, and that is Ellen Jane Hollingsworth of Madison, Wis. She possesses a fine reputation, is able, with a great deal of integrity and dedication to the public welfare.

I have no reason to believe that all of the people on the Advisory Panel are not the same. However, the test will be what are the results of the studies, and I repeat what I said. If after evaluation by lawyers who are familiar in the field in the American Bar Association and after hearings by the subcommittee of which I am chairman, if the Senator from Arkansas is still convinced that there should be further independent evaluation, as I said, and I repeat, I have enough confidence in his good judgment to be perfectly comfortable in saying now that if he concludes that, then I will join him in an amendment or proposal for a further study.

Mr. BUMPERS. Mr. President, I am not going to belabor this. I shall take a couple minutes.

UP AMENDMENT NO. 924

Mr. President, I send to the desk a modified amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The modified amendment is as follows:

On page 20, line 11, insert the following:

"SEC. 15. Section 1007(g) of the Legal Services Corporation Act, 42 U.S.C. § 2996f (g), is amended to read as follows:

"The Corporation shall conduct a fair and impartial study of the relative advantages and disadvantages of the existing staff attorney method of delivering legal services as compared with other methods (or combinations of methods) including judicare, prepaid legal insurance, vouchers, and con-

tracts with private law firms, in order to determine whether and to what degree the existing staff attorney method should be supplanted by alternative methods of delivery. The Corporation shall consult with the National Science Foundation to insure that the study is impartial and that sufficient number of demonstration projects using alternative methods of delivery in both urban and rural settings shall be established nationwide to insure a valid comparison. Based on the results of such a study Corporation shall make recommendations to the President and the Congress not later than September 30, 1979, concerning improvements or changes in the methods of service delivery to render such delivery more economical, more effective, and more satisfying to clients.' "

Mr. BUMPERS. Mr. President, this modified amendment, which I hope the floor managers will see fit to accept, provides simply that the Legal Services Corporation will consult now with the National Science Foundation and solicit its suggestions and thoughts as to how to make sure that the study is an impartial study and not necessarily accept, but discuss with them, a suitable number of demonstration projects to be carried out to give the study at least some additional air of impartiality.

Mr. NELSON. I do not like, I must say, to appear to be uncooperative with the objective sought by the Senator from Arkansas. However, there are 38 projects authorized. That is the whole ball game. Now I do not know what they would consult about.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield.

Mr. BUMPERS. Are these projects authorized by Congress or are they authorized by the Legal Services Corporation?

Mr. NELSON. We authorized the projects in the legislation (sec. 1007(g)) and directed that such projects be conducted. Money was appropriated to implement this section of the Legal Services Corporation Act.

Mr. BUMPERS. Did the enabling authorization legislation provide for 38 projects?

Mr. NELSON. It did not name the numbers of projects. We did not name the number, but it is my understanding that the resources authorized in and appropriated are committed to these 38 projects, 19 of which were recently authorized. So, if there were 19 more to go that had not been authorized I would not have any objections at all. But I think we would be writing something into the statute that would not be helpful since there are no more projects to be authorized.

Mr. BUMPERS. That may be impossible, and if that were impossible, then I would not expect the Legal Service Corporation to authorize any more. But I think therein lies one of the problems, and that is the Legal Services Corporation is the one that designated the projects, the kind of projects they will be, geographical locations of the projects, and they may be suitable for an independent impartial determination of the kinds and quality of services and they may not.

But I tried to dilute the amendment as much as possible to make it acceptable in the hope that at least some outside independent party would be consulted because, under the present law and the way that the study is being conducted now, I personally, as an independent evaluator, could not possibly accept that as a fair test if it comes out the way it is, simply because it looks like it is just all fixed, as we say in Arkansas, "all saucered and blowed on the front end," to make sure the same kinds of service now being rendered will continue to be rendered for all time to come at least for the foreseeable future, and that may indeed be the best possible system of delivery of legal services to the poor. What I am saying is no one here will really trust the study and the way it is being conducted, and that is what I was trying to get at. But I am not going to force a vote on this issue because I have tried that before. I have debated issues before with two or three Senators in the chamber, and I know that the floor managers can beat just about any issue in that situation. But I honestly believe it is a good amendment. I think it is a good amendment, and I am sorry that the floor manager cannot accept it.

So I will withdraw the amendment.

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered. Under a previous order of the Senate, the Senator from Virginia is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request, so that a staff member may have floor privileges?

Mr. SCOTT. Mr. President, I ask unanimous consent that I may yield for that limited purpose, reserving the right to retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that George Ramonis of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request, under the same conditions?

Mr. SCOTT. I yield.

ORDER FOR RECOGNITION OF SENATOR EAGLETON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of Mr. ALLEN, the Senator from Missouri (Mr. EAGLETON) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

Mr. McCLURE. Mr. President, will the Senator yield to me for a unanimous-consent request, on condition that he not lose his right to the floor?

Mr. SCOTT. I yield under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Tom Hill, of my staff, may have floor privileges at all stages of the proceedings on this legislation.

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. McCLURE. I thank the Senator from Virginia for yielding. Mr. President, I suggest the absence of a quorum, with the understanding that the Senator from Virginia will have the floor upon the resumption of business.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Remarks made by Mr. SCOTT at this point are printed following his earlier remarks, pursuant to unanimous consent.)

Mr. NELSON. Mr. President, as I see no one prepared to call up any amendments at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. GRIFFIN. Mr. President, I see the distinguished assistant majority leader on the floor. This Senator is growing a little bit impatient wondering what the future holds. I wonder if there is any reason why, as long as we are not doing anything with respect to the legal services bill, we could not set it aside for an hour or so and take up the resolution of disapproval of the air bag rule?

Mr. CRANSTON. I believe that negotiations are under way seeking to work out a time agreement so we can deal with both air bags and legal services, with an understanding of when votes can be brought to a head on them, and that the effort is to get a time agreement on the air bag matter that would permit a vote tomorrow, if that can be done.

Mr. GRIFFIN. I know of no reason why we could not take it up now. We are not doing anything.

Mr. CRANSTON. We are doing something. We are negotiating. I am not negotiating but others are.

Mr. GRIFFIN. I take it if I propounded a unanimous-consent request there would be an objection.

Mr. CRANSTON. The Senator from New Hampshire would, I believe, object.

Mr. DURKIN. That is correct.

Mr. NELSON. The pending business, as the Senator knows, is legal services.

Mr. GRIFFIN. If the Senate were doing anything, I could understand this great desire to continue to deliberate and debate legal services. But I point out to the leadership and to the Senate that we are not doing anything on that legislation. We have been sitting here doing nothing for at least 45 minutes.

Mr. NELSON. We have been sitting here——

Mr. GRIFFIN. Longer than that.

Mr. NELSON. For 5 hours awaiting agreement.

Mr. GRIFFIN. The fact is, as everybody knows, we are under a statutory deadline with respect to the air bag matter. If the Senate and House do not act by Friday, then by default, inaction, the order of the Secretary of Transportation will go into effect. So, obviously, regardless of what happens with respect to legal services, if we are going to act on the air bag matter we need to act very soon.

The Senate, of course, can make its decision by inaction. I think the Senate will be just as responsible whether we vote or we do not vote. But I would think that all Senators, including the Senator from New Hampshire, would want to be on record on this. If he is for the air bag—and I can understand that he might be—I fail to understand why he would not want to vote on it.

Mr. DURKIN. Mr. President, if the Senator will yield, I call attention to my vote in the subcommittee, which was five to nothing in disapproval, and I call attention to my vote in the full committee against the air bag. So the Senator from New Hampshire is recorded twice, and if——

Mr. GRIFFIN. Why is he determined to prevent the Senate from voting on it then?

Mr. DURKIN. Well, the Senator from New Hampshire is not determined to prevent the Senate from voting on it.

Mr. GRIFFIN. I am glad to hear that. Why would he object then if we could have some agreement to take it up tonight and vote on it?

Mr. DURKIN. I am not opposed—as the distinguished majority whip indicated, the majority leader is now trying to work out a birdcage where both the legal services and the matter the Senator from Michigan is interested in can be the subject of time agreements.

And as I have said before, if that cannot be worked out, I can assure that there will be a long weekend because we will discuss passive restraints until the clock runs out, but that may well not be necessary. In fact, the Senate saw the majority leader walk off the floor. He is now trying to work out an arrangement, a unanimous-consent agreement, a "bird cage," whatever you want to call it.

Mr. GRIFFIN. I personally hope that the majority leader is successful and that he can get an agreement to vote at a time certain on the Legal Services Corporation.

This Senator is certainly anxious to have that legislation disposed of. But whether or not an agreement can be reached with respect to the legal services bill, I see no reason why it should have any effect upon the ability of the Senate to take action with respect to the air bag resolution.

Mr. CRANSTON. If I may comment on behalf of the leadership, I spent the last hour and a half working on efforts leading to a time agreement that would permit a vote on the air bag resolution tomorrow and on legal services with some kind of a time agreement. That is what the majority leader has been doing. We are doing this because we are aware that otherwise there will be an objection and we will not get to the matter. I wish to see us get to the matter and the Senate make a decision one way or the other. As the Senator well knows, much of the work of the Senate is done off the Senate floor, and as the Senator well knows often quorum calls are entered for that purpose and no business is conducted on the Senate floor while we are trying to work out things trying to expedite the Senate business.

I assure the Senator that is what I have been seeking to do and what Senator ROBERT C. BYRD has been seeking to do.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. STEVENS. Although I voted against the resolution disapproving the use of airbags and other passive restraints in the Commerce Committee, I was present in committee at the time it was determined that the procedure we would follow would be to insure a congressional review period on any decision concerning airbags. I think it is highly important that we get a decision in the Senate and that all Senators go on record with regard to this issue. It is related to the seatbelt interlock issue. It is something that I think cannot be allowed to sneak up on the American public. We must take a firm stand here and go on record as to what we desire to happen with regard to airbags and other passive restraints.

I would hope that this vote on the disapproval resolution that the Senator from Michigan seeks, the substance of which he knows I will oppose, will not be held hostage to the Legal Services Corporation maneuvering that is taking place now. There is a time frame involved, and I might say, as one of the committee at the time, we made a mistake in not assuring that this was a privileged matter. I do not think that will happen again in any of these oversight functions as far as actions such as regulations that the Secretary of Transportation has promulgated in this regard.

At least as far as I am concerned, I intend to keep my eyes open for this type of circumstance again.

Mr. GRIFFIN. I appreciate those remarks by the distinguished minority whip. Unfortunately despite his hope, I think it is obvious that this airbag resolution is being held hostage to the legal services bill, and to demonstrate that point, I ask unanimous consent, Mr. President, that we set aside the Legal Services Corporation Act and proceed to the consideration of Senate Concurrent Resolution 31 for 1 hour and then proceed to vote thereon.

The PRESIDING OFFICER. Is there objection?

Mr NELSON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, will the Senator yield?

Mr NELSON. I wish to explain my objection. I would guess that when the roll is called, we will have a minimum of 80 votes in favor of the legal services legislation, maybe 90. It is a program that has been in existence for many years. I am not sure, the way I see things developing, that if we do not stay on the bill we are going to get an extension of the authorization. I just want to point this out.

However, I think we should vote on the air bag question.

Mr. GRIFFIN. When does the Senator wish to vote on it?

Mr NELSON. As soon as we get a time agreement and finish the legal service legislation.

Mr. GRIFFIN. What if we cannot get an agreement?

Mr. NELSON. Legal services is in exactly the same position. The authorization expires at the end of this month. We can settle the issue with a time agreement very easily.

I might say the passive restraint question is probably a debate over nothing anyway because the House of Representatives has the resolution blocked in committee thus far, and it probably is not coming out of committee in the House. No matter what we do here it is likely to make no difference at all.

Mr. GRIFFIN. Of course, if this can be stalled along another day or so then the Senator will have a very much stronger argument in that respect, will he not?

Mr. NELSON. In what respect?

Mr. GRIFFIN. As far as the House being unable to act. But if the Senate would act tonight and send it over to the House, they would have more time to do something with it.

Mr. CRANSTON. If I could speak for one moment, I wish to say that it is by no means entirely—it may be in part—an effort related to legal services that causes objections. I believe the objections stem primarily from those interested on the pro side of air bags and not from their concerns about legal services which is quite secondary in their thinking. Nonetheless, I hope very much that we can work out an agreement and get an up and down vote on that.

Mr. GRIFFIN. When do those people who are for air bags want to vote?

Mr. NELSON. They will have to speak for themselves on that. They have been objecting up to now to our efforts to achieve a time agreement. I think we can accomplish one shortly.

Mr. GRIFFIN. If we are not going to adjourn, why can we not take up the air bag resolution now?

Mr. FORD. Let me make a point or two if I may. I am entirely in agreement with

the Senator from Alaska. We had a long discussion in regard to this procedure, and he gave me some insight from his past experience that was very valuable, and I appreciated that very much.

The Senator from Michigan is not fooling anyone here. The Senator from Michigan had been involved in trying to work out time agreements when he was a minority whip. He understands what the procedure is we are going through now, and I also remind the distinguished Senator from Michigan that we are not voting for or against air bags. We are voting on a passive restraint regulation as submitted to this Congress by the Secretary of Transportation. It has gotten into the position where everyone refers to it pro or con air bag, but actually it is a passive restraint regulation that has been presented by the Secretary of Transportation.

I assure both Senators who are on their feet that we are working and at least we have hopes of working things out, and I am not going to do anything to prohibit the distinguished Senator from Wisconsin from trying to do what he thinks is right also. I think we have an air of attempt at cooperation, and I hope, and I wish the Senator would quit pushing so much. I understand his position. But we are also pushing, and I have told him I was making an effort to work it out.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Michigan does.

Mr. ROBERT C. BYRD. Will the Senator yield to me briefly?

Mr. GRIFFIN. Yes, but first I want to make it clear that I understand and appreciate the difficulties of the majority leader. He has been trying to work out an agreement and I understand that. It is my background and experience, I guess, that also makes it clear to me what is going on here. Although the majority leader is trying to get an agreement there is a strong likelihood that he will not get an agreement with respect to the legal services legislation. If that is the case then it is quite obvious that this is being used by others as a convenient way of avoiding a meaningful vote altogether on the air bag issue.

They can do that if they want to. I just want to be sure that everyone knows that is what they are doing.

I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator very much.

Mr. President, the legal services bill is the unfinished business, and earlier today I secured an order providing for going to—I will refer to it as the air bag matter upon the disposition of the legal services legislation.

Throughout the afternoon I have been trying to work out an agreement. Various Members on my side of the aisle have been assisting in the matter, and I have just left the minority leader's office, where I stated to the minority leader that I could give an agreement on the air bag matter of 1 hour for debate for the tabling motion which would probably be made, but if the tabling motion failed, assuring that there would be an up-or-down vote on the air bag issue. Also, I expressed the hope that we could get an agreement on the legal services bill, because I think that is tied in with the air bag issue.

May I say to the Senator that as far as the air bag issue is concerned, we are ready to get an agreement on that for an up-or-down vote tomorrow, and hopefully we can also get an agreement on the legal services bill that would allow us to dispose of both issues tomorrow.

Mr. GRIFFIN. Is the majority leader, then, ready to propound the request that we vote on the air bag resolution tomorrow?

Mr. ROBERT C. BYRD. No, I am waiting for the minority leader. He had some other Senators he wished to consult.

Mr. GRIFFIN. If the majority leader wishes, he could go ahead and get an agreement that when the air bag issue is taken up, there will be a limitation of 1 hour on the motion to table.

Mr. ROBERT C. BYRD. If the distinguished Senator will permit me, I would rather await the minority leader having an opportunity to finish his consultations, so we can wrap up both matters in one package.

Mr. GRIFFIN. I would wish very much that could be done, but I have dropped in on some of the sessions, and my impression is that it could take weeks.

I think the question I am raising here is, what do we do about the air bag resolution if such an agreement is not reached?

Mr. ROBERT C. BYRD. I still hope we can reach an agreement on both.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes; I am happy to yield to the Senator from Wisconsin.

Mr. NELSON. I just want to say for clarification, for the record, that I am ready to vote on air bags at any time.

Mr. FORD. I thank the Senator very much.

Mr. NELSON. I do want the record to show, though, that the Legal Services Corporation Act amendments of 1977, which was finally brought up yesterday, was reported out of the Human Resources Committee some 5 months ago; so it was at that desk for some 5 months. We tried and tried to get this legislation considered by the Senate but we were always told, "Oh, no, we cannot get an agreement as to time, we cannot get it brought up."

Time went on, and all of a sudden it was the August recess, and we could not take it up then for fear it would interfere with that. We went on through the August recess, and finally we have it up before the Senate, after 5 months. It is not anything more than an authorization for the Legal Services Corporation. As a matter of fact, the money for the Corporation has already been appropriated for fiscal year 1978, the money that is to be authorized in this bill. Appropriated funds are already being spent for fiscal 1978 to support the Legal Services Corporation.

So I think it is necessary and important that we continue until we finish this bill, even if that busts up our intended time to adjourn. I do not like that, but it is a very important matter, and I think after 5 months of delay in getting it brought before the Senate, that it is not unreasonable for me, as the manager of the bill, to say, "Let us keep on it until we finish it."

Mr. GRIFFIN. Mr. President, if the distinguished Senator from Wisconsin will just stand by, because he may want to respond, it having been indicated that 1 hour would be an adequate time to debate this matter, I ask unanimous consent that at 1 o'clock tomorrow the Senate take up Senate Concurrent Resolution 31.

Several Senators addressed the Chair.

Mr. NELSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Mr. President, I will amend that unanimous-consent request to take care of all this. I ask unanimous consent that a time limitation of 5 hours on all amendments to the legal services bill be established, and that as soon as that expires, there be 1 hour on the passive restraints measure, and that we finish them both in 6 hours.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I am constrained to object in behalf of absent Senators.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, Senator STEVENS should not have to bear that burden. I am strongly for the bill, and I would object, because there are absent Senators who would object had they known this request would be made.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Does the Senator from Michigan yield the floor?

Mr. GRIFFIN. Let me yield to the majority leader.

Mr. ROBERT C. BYRD. I was going to suggest the absence of a quorum, so we could continue in our efforts to arrange an agreement on both bills.

Mr. STEVENS. Mr. President, if the Senator will allow me to make a statement? We have obtained a commitment from the insurance industry on the way air bag repacking will be handled by that industry. I think it is imperative that this be stated for the record so that the public understands it. I think it is also imperative for the public to realize that the 1979 and 1980 models of American-built motor vehicles will not have air bags or passive restraints. The requirement for this safety standard does not become effective until 1981.

I think every Senator ought to understand the possible ramifications of this issue. Even though I disagree with my friend from Michigan, I feel compelled to warn him that if we vote to disapprove the requirement for air bags, we are going to get a lot of mail from people who have been injured, asking, "Where were the air bags or passive restraints? I thought the Senate mandated them."

We are passing legislation mandating passive restraints in the future but the public is not going to understand why we are taking this action unless it is fully

explained here. I think our reasons should be made clear, and I think the commitment of the insurance industry to handle the repacking costs should be made known and put on the record for the information of everyone concerned. The availability of this information is necessary for the protection of the public.

So I think it is imperative that we get this matter before the full Senate and, therefore, have an opportunity to discuss the problems involved. Even though, as I say, I disagree with the Senator from Michigan, I think it is time we try this safety feature, and I think we ought to stress that that is just what we are doing, trying it, because no one has proved for certain that this feature will work.

Mr. GRIFFIN. Mr. President, at the suggestion of the majority leader, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOBEL PEACE PRIZES FOR 1976 AND 1977

Mr. KENNEDY. Mr. President, all of us who share the desire for world peace and human rights welcomed yesterday's news of the award of the Nobel Peace Prizes for 1976 and 1977 to Betty Williams and Mairead Corrigan of the Northern Ireland Peace People and to Amnesty International.

The rise of the Women's Peace Movement in Northern Ireland last year was one of the most significant developments in recent years in the search for peace in Northern Ireland. It began as a cry from the heart of two courageous Catholic women against the horror of the daily violence in their lives.

The rapid and spontaneous growth of the peace movement was a dramatic symbol of the enormous grassroots desire for peace among the ordinary citizens of Northern Ireland. The movement drew broad support from both parts of the community in Northern Ireland, Protestant and Catholic, and it demonstrated the vast reservoir of hope for peace that cuts across sectarian lines in that troubled province.

Because of the peace movement and the efforts of Betty Williams and Mairead Corrigan, political leaders on both sides in Northern Ireland, the governments in London and Dublin, and people throughout the world are now more aware of the basic desire of ordinary citizens for peace and an end to the violence that has gone on so long.

As we congratulate these two courageous women for the outstanding honor they have received, we also hope that their award will bring new encouragement to their own efforts and the efforts of many others in the ongoing search for peace.

Mr. President, we also commend Amnesty International for the Nobel Peace Prize it has received. Its tireless efforts around the globe have brought hope for many victims of political oppression and injustice in many different lands. Because of the work of this outstanding organization, the goal we share of bringing freedom and human rights to all peoples in all nations is closer to reality.

Mr. President, the two Nobel Peace Prizes awarded yesterday share a common theme, the power of individual human beings, acting together as private citizens, to make a difference in their own communities and in the world around them. As my brother Robert Kennedy told the students at the University of Capetown on his visit to South Africa in 1966:

> Each time a person stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.

The ripples of hope sent forth by the Peace Women of Northern Ireland and Amnesty International have helped to bring the world closer to peace and human rights. We honor them now for the prizes they have received and for the great recognition they have earned.

Mr. President, I ask unanimous consent that a collection of news articles and editorials on this year's Nobel Peace Prizes may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 11, 1977]

NOBELS GO TO TWO ULSTER WOMEN AND TO AMNESTY INTERNATIONAL

(By Robert D. Hershey, Jr.)

OSLO, October 10.—Two women who ignored danger in campaigning for peace in Northern Ireland were today belatedly named winners of the 1976 Nobel Peace Prize. At the same time, Amnesty International was named winner of the 1977 prize.

The two Northern Ireland women, Mairead Corrigan and Betty Williams, were awarded the 1976 prize jointly for their movement to end the violence between Roman Catholics and Protestants in the British province.

"Their initiative," the Nobel Peace Committee said, "paved the way for the strong resistance against violence and misuse of power which was present in broad circles of the people. Mairead Corrigan and Betty Williams acted from a deep conviction that the individual person can make a meaningful contribution for peace through constructive reconciliation."

Amnesty International, the London-based human-rights organization, was cited as a "bulwark" against increased brutality and the internationalization of violence and terrorism.

"Its efforts on behalf of defending human dignity against violence and subjugation have proved that the basis for peace in the world must be justice for all human beings," the committee said.

Mrs. Williams, 34 years old, and Miss Corrigan, 33, were understood to have been favored by the five-member selection committee last year but they could not be given the prize then because they had begun their peace-campaign several months after the Feb. 1 deadline for nominations.

Instead, 22 Norwegian newspapers raised $325,000 and awarded it to the women as a so-called "People's Peace Prize." They used the money to set up a trust fund to provide care for orphans, create jobs and begin other community projects to ease the effects of the Ulster fighting.

Mrs. Williams and Miss Corrigan, who will share a prize of $142,000, launched their peace movement after seeing three children killed by the getaway car of fleeing Irish Republican Army guerrillas in Belfast. Miss Corrigan was an aunt of the dead children.

The campaign met with widespread support in Northern Ireland, where sectarian strife has claimed more than 1,700 lives since 1969, and also attracted a tide of international sympathy.

Not since 1946, when Emily Balch, an American pacifist leader, shared it, has a woman won the Nobel Peace Prize. The prizes were established under the will of the Swedish chemist Alfred B. Nobel, the inventor of dynamite.

This is the first time since the early 1960's that two Peace Prizes have been announced at the same time. Dr. Linus C. Pauling was given the 1962 prize in 1963, when the International Red Cross was also named.

Today's announcement was made in the old Nobel Institute, near the heart of Oslo, by Aase Lionaes, chairman of the committee. She read the two brief citations in Norwegian, then a shortened English translation.

Mrs. Lionaes said the award to Amnesty International was intended to mark 1977 as prisoner of conscience year.

"In a world of increasing brutality, internationalization of violence, terrorism and torture, Amnesty International used its forces for the protection of human values," the citation said.

Amnesty International, which was founded 16 years ago in London as a voluntary group to assure human rights around the world, now has 100,000 members in 33 countries who seek to promote human rights through public reports citing violations of those rights.

A Nobel official, asked whether the committee had planned for over a year to give the 1976 award to Mrs. Williams and Miss Corrigan, said, "It's easy to assume so."

The Peace Prize and the Prize in Literature have been the most controversial of the five prizes awarded since 1901. The award of a sixth, for economics, was begun in 1969.

In 1973 two members of Norway's Parliament resigned in protest from the committee that selected Henry A. Kissinger and Le Duc Tho of North Vietnam. Parliament agreed then to study the possibility of reorganizing the peace prize committee, which until this year consisted mostly or entirely of members of Parliament.

Mrs. Lionaes said today, however, that the only change was to rename the committee last year the Norwegian Nobel Committee from the Nobel Committee of the Norwegian Parliament.

COMMITTEE "ABSOLUTELY INDEPENDENT"

"People have accepted the fact that the committee is absolutely independent of Parliament," Mrs. Lionaes declared. Since the last announcement of a peace prize, to Andrei S. Sakharov in 1975, two committee members have left Parliament, with the result that today's winners were the first picked by a committee with no parliamentary members. All but Mrs. Lionaes are men.

The presentation of the peace prices will be in Oslo. All the others are made in Stockholm on Dec. 10, the anniversary of Nobel's death in 1896.

[From the New York Times, Oct. 11, 1977]

TWO BATTLERS FOR PEACE: MAIREAD CORRIGAN AND BETTY WILLIAMS

(By Roy Reed)

LONDON, October 19.—Mairead Corrigan and Betty Williams now look like a match made in heaven, but they were a distinct long

shot for the Nobel Peace Prize when they met 14 months ago in Belfast.

Miss Corrigan, now 33 years old, was a quiet young woman working as a secretary. She was a deeply religious Roman Catholic and was known as a good family person, attentive to the people closest to her. Mrs. Williams, now 34, had two children and was married to a merchant seaman. She had no outside work and was also known as a family person. Neither had ever been involved in any public activity beyond church, school and home.

On Aug. 10, 1976, a British soldier shot the driver of an Irish Republican Army getaway car in the Andersonstown section of Belfast, not far from the Williams home. The car veered and struck three children, killing them. They were the children of Mairead Corrigan's sister.

Mrs. Williams made the first move that was to bring the two women together and ignite a movement. She went into Andersonstown, a stronghold of the I.R.A., and began asking strangers to sign a petition for peace and an end to the killing that had taken hundreds of lives on both sides since the late 1960's.

FIRST MARCH ATTRACTED 200

As part of the petition drive, she and some friends organized a small peace march. It attracted about 200 women.

Miss Corrigan saw it pass her house. She joined it, and she and Betty Williams that day became the joint leaders of a virtually spontaneous mass movement.

Ten thousand people marched with the two women the Saturday after the children were killed, and 20,000 a week after. Almost overnight, the "Peace Women" became a phenomenon. People all over the British Isles and in many other European countries sent money, letters and encouragement. Today, in Oslo, they received their greatest encouragement yet, the Nobel Peace Prize for 1976.

It was perhaps predictable that Mrs. Williams would have acted first. She is outgoing, emotional and aggressive. She is not ashamed to weep in public when her feelings overflow.

Mrs. Williams was also somewhat more conditioned to hatred than Miss Corrigan, who as a Catholic was a member of a religious and political minority in Northern Ireland. But Mrs. Williams was part of a smaller and even more despised minority. She was a Catholic married to a Protestant. Many on both sides consider mixed marriage almost treasonous.

FORMIDABLE PLATFORM PERFORMANCE

Miss Corrigan is as quiet as Mrs. Williams is talkative; she is spiritual and reserved. They make a formidable pair on the platform, the tall Mrs. Williams exhorting the crowd and the slight Miss Corrigan inspiring it.

How effective they have been in Northern Ireland is a matter of continuing debate. The Community of Peace People, as their organization is now known, is cautious about taking credit for the somewhat improved security situation in the province.

Mrs. Williams said at a meeting in London today, "During the 14 months since the movement started violent deaths in Northern Ireland have dropped by 54 percent. We hope this has something to do with our movement. We have not yet brought peace to Northern Ireland. We have created a climate for peace to become respectable."

The movement has seemed in recent months to be searching for direction. The two women have continued to travel widely, in and out of Northern Ireland, speaking to various groups and raising money. But at home the organization has shown signs of uncertainty.

PARTY INVOLVEMENT AVOIDED

The third major force in the movement is a former journalist named Ciaran McKeown, who is recognized as the ideological leader. With the backing of Miss Corrigan and Mrs. Williams, Mr. McKeown has tried to steer the peace organization into what they call "community politics." They avoid party involvement, which would immediately cost them support from one side or the other in the conflict, but the mere mention of "community politics" has made many people skittish.

Organizational policy was fiercely debated at a meeting last weekend in Belfast before the 200 delegates ended with what one newspaper called a "woolly compromise" that essentially left the matter open.

Among other things, the organization has to decide how to spend the $140,000 of Nobel Prize money and an other $340,000 from the Norwegian Peace Prize that it won earlier. It has bought a headquarters, started a few dozen local chapters around the province and invested in some small community-center buildings. It has tried to help former terrorists find new lives in other countries, but it won't say how many it has helped so far. It sponsors gatherings to let Catholics and Protestants get acquainted.

There was some surprise in Belfast that the two women had won the Nobel Prize. Their organization has not been nearly so active recently as it was last year. The leaders said last spring that the group still had some 7,000 to 8,000 active adherents; the figure probably has decreased since then.

NEW CAMPAIGN IS PLANNED

Mrs. Williams said last weekend that some feared the peace movement was dying. "Well, I won't let that happen," she said.

The delegates voted to start a new door-knocking campaign to win peace recruits.

Miss Corrigan said today in Belfast that she would like to see some of the prize money go to other troubled countries, especially in furthering nonviolence.

"Other places are far worse off than we are," she said. "We have our problems but there are peop'e starving elsewhere. The world has been generous to us and let us be generous to the world."

[From the New York Times, Oct. 11, 1977]

AMNESTY UNIT, 16 YEARS OLD, USES BOTH PRESSURE AND PUBLICITY

(By Tom Goldstein)

Amnesty International, the London-based group that won the 1977 Nobel Peace Prize, began with a newspaper article 16 years ago calling for formation of such an organization.

"Pressure of opinion a hundred years ago brought about the emancipation of the slaves," wrote Peter Benenson, a lawyer, in The Observer. "It is now for man to insist upon the same freedom for his mind as he won for his body."

In founding the organization, Mr. Benenson had powerful allies, including David Astor, publisher of The Observer, and Conservative, Liberal and Labor Members of Parliament.

Since its establishment, Amnesty, which presses for the release of individuals imprisoned for their political or religious beliefs, has grown into the world's large human rights organization, with more than 10,000 dues-paying volunteers in 78 countries.

But it has only a modest staff of researchers and investigators working on a yearly budget of $500,000, and so it has relied heavily on publicity in trying to shape opinion.

From headquarters that resemble an election campaign office in central London, the staff issues a continual stream of reports on human rights violations in individual countries and affecting groups of individuals, around the world. It has also issued reports alleging torture in Israel, Brazil and Chile and by the British in Northern Ireland.

It has "adopted" and worked for the release of thousands of prisoners in Communist countries, has intervened for dissenters in the Soviet Union, and has published an English translation of The Chronicle of Current Events, an underground publication written by Soviet dissidents.

A favorite technique of the group is a mass mailing campaign to a regime holding a prisoner the group "adopted."

"The avalanche of mail bags is still the biggest annoyance to most governments," said Sean MacBride, a founder of Amnesty and former Foreign Minister of Ireland, a few years ago.

"Mail piles up," said Mr. MacBride, who won a Nobel Peace Prize himself in 1974. "It's a nuisance. Sooner or later the matter is at Cabinet level and everyone is wondering whether the prisoner is worth all this trouble. The answer frequently is no."

According to the group, in the last seven years it has involved itself in cases of more than 15,000 political prisoners and helped gain the release of more than half of them.

DISAPPROVAL OF VIOLENT METHODS

From the start, the group has declined to adopt prisoners who use or advocate violence.

In its campaigns to help free political prisoners and to end torture, the group has not escaped criticism.

It has been called imperialistic by the Soviet Union, politically motivated by South Africa and meddlesome by Argentina.

Earlier this year, an animal-protection group accused Amnesty of conducting "horrendous and disgusting" experiments on hogs. Jon Evans, president of the Association Against Painful Experiments on Animals, said the tests, which involved electric shocks and red-hot metal rods, were "valueless, serving no practical purpose at all."

Martin Ennals, general secretary of Amnesty, said the experiments were carried out on anesthetized hogs to determine whether torture inflicted with cattle prods would leave any marks. He said the experiments, which were conducted in Denmark, were necessary as a test of human torture techniques.

But generally, the work of the group is well received. Its research staff, whose members can work in 21 languages, collect and analyze data culled from many sources, including visits to prisons and interviews with the families of victims.

"CLUSTERS" OF EVIDENCE ASSEMBLED

Amnesty considers that it has verified information only when it has used a "cluster of evidence," Anthony Blane, a professor at the City University of New York and the first American to serve on the group's nine-member executive committee, said recently.

Some of its findings, such as an estimate of 50,000 prisoners in Indonesia, have been criticized as exaggerated by the State Department, but its report that torture is practiced as government policy in more than 60 countries is generally believed.

In London yesterday, Mr. Ennals said: "What we would like to be is nonexistent—unemployed. But torture is now widely practiced and is becoming more systematic, although world opinion is now much more hostile to it."

In Stockholm, Thomas Hammarberg, a Swedish journalist and chairman of Amnesty, said the prize money of $145,000 would be used to expand its work in "countries where we are weak, including parts of Asia and Latin America where there is a great demand for our help."

The award coincided with the annual "Amnesty Week," when the organization presents a summary of its work on behalf of political prisoners in dozens of countries.

[From the New York Times, October 11, 1977]

AMNESTY CHIEF FOR U.S. SEES LONG STRUGGLE

(By Pranay Gupte)

He had fully intended to take Columbus Day off, David Hawk was saying yesterday, and then someone called with the news that Amnesty International had been awarded the 1977 Nobel Peace Prize.

"It was impossible to stay home after that, of course," said Mr. Hawk, Amnesty's executive director in the United States. "My staff of nine and I rushed to the office and it has been one telephone call after another."

"We're honored and very moved at the prize," he said. "But we're not celebrating. The time when we're going to celebrate is when there is no more torture and atrocities committed by governments around the world."

He and his London-based organization may have a long wait, considering the continuing allegations of mistreatment of political prisoners in such countries as Uganda and Chile, among others. But the intensity and passion with which Mr. Hawk delivered that remark have characterized his work, and that of his staff here, for several years.

MESSAGES ARE GRIM

Like Mr. Hawk, the staff members are young, mostly in their late 20's or early 30's. They work out of fourth-floor offices at 2112 Broadway, near West 74th Street. Colorful posters decorate the walls, but their messages are grim since they all illustrate the violation of human rights in many parts of the world.

"You know," Mr. Hawk said, "we really want to go out of business some day, when torture stops, but for now we are building up a grass-roots movement to marshal American public opinion."

The American Amnesty organization consists of 115 chapters in 32 states with an annual budget of $750,000, of which about $150,000 is channeled to Amnesty's headquarters in London, where most of the research on political prisoners is conducted.

Amnesty's tactics in this country largely involve getting sympathizers to send telegrams and letters to representatives of governments charged with violating human rights. These protests are directed to officials of the governments based in the United States and in foreign capitals.

UNFAVORABLE REACTION

The Chilean Government is a frequent target of Amnesty International, and yesterday Chile's representatives at the United Nations said they were not favorably impressed by the award of the Nobel Prize to the organization.

"Amnesty is always picking on us," a Chilean diplomat said sourly, adding that the organization did not focus "enough" on the Soviet Union and Eastern European countries.

The representative of one Eastern European country, Czechoslovakia, was not pleased with the award either. The prize, he said, was much too "Western-oriented."

But the reaction of Western diplomats at the United Nations yesterday reflected both surprise and delight.

"It's a clear signal that human rights is now a dominant issue in the global community," a Western European diplomat said.

[From the Washington Post, Oct. 11, 1977]

AMNESTY GROUP, ULSTER WOMEN WIN NOBEL PRIZES

(By Bernard D. Nossiter)

LONDON, October 10.—The human-rights lobby Amnesty International was awarded the 1977 Nobel Peace Prize today. The Nobel committee also awarded the 1976 prize retroactively to two Catholic women who led a peace movement in Northern Ireland.

Amnesty, a London-based volunteer group that turns a spotlight on political prisoners and torture in all corners of the world, was cited for its defense of human values against degradation.

The two women were honored for their attempt to waken the conscience of Northern Ireland against the campaign of bombings and shootings that has lasted there for more than eight years.

The prizes—700,000 Swedish Kroner or about $145,000 each—were announced by the Nobel committee of the Norwegian Parliament in Oslo. The committee made no award last year in order to keep the prize open for the pair, Mairead Corrigan and Betty Williams, whose nominations had arrived late.

The two women expressed surprise and joy. Corrigan, 33, said through her tears, "I am absolutely stunned and delighted. I feel very humble. I accept the prize on behalf of everyone throughout the world who works and longs for peace."

Williams, 34, was at a Savoy Hotel luncheon here to honor the peace movement when she heard the news.

"Words fail you," she said. "I felt deep down in my heart we don't deserve this. We've only been going 14 months and other people have been going for years. But I know how hard we worked and perhaps after all we have earned it."

Their movement, which they call the Peace People, was launched in August 1976 when Williams saw three children run over and killed by a runaway car. Its driver, described as an Irish Republican Army gunman, had been shot by British soldiers. Corrigan, who had once thought of joining the IRA herself, was the three children's aunt. She joined Williams' appeal to Catholics and Protestants alike to stop supporting the violence and work for peace.

For several months, the pair caught the imagination of Ulster and the world. They drew as many as 20,000 marchers, Catholic and Protestant, for one rally alone. Nearly $1 million poured in on them from West Germany, Norway and elsewhere.

The movement has never been clear about how peace should be achieved, however, and its stated aim—an end to violence—is shared even by gunmen in Ulster. Williams, Corrigan and their chief ally—a former journalist, Ciaran McKeown—have toyed with the idea of non-sectarian politics, of creating local community peace organizations to compete with existing politicians. But this proposal has divided the movement.

Sophisticated observers in Ulster agree that the movement is now irrelevant, taken seriously only in the outside world. The movement, they say, has become futile because it refuses to come to grips with the questions of politics and power that lie behind Ulster's violence—Protestant demands for preponderant influence, Catholic insistence on equal rights; the debate over whether Ulster shall stay in the United Kingdom, join the Irish Republic or go independent.

Since the peace movement began, there has been a murder almost every other day and more than one bombing each day, but the curve is declining. Comparing the first eight months this year with the same period last year, killings have gone down from 222 to 96, shootings from 1,327 to 892 and bombings from 464 to 225.

In private, British authorities give Corrigan and Williams some credit, saying that more citizens are now giving information to the police and army.

Their Nobel citation says they "acted out of a deep conviction that individual people can do meaningful efforts for peace through conciliatory work."

There is less question over the effectiveness of Amnesty, especially in a year when President Carter has insisted on human rights as a major foreign policy issue.

Amnesty, started in 1961, "adopts" the cause of political prisoners throughout the world. Last year, it was championed 3,650 prisoners in 107 different countries.

The organization campaigns strenuously for the prisoners' release and has not hesitated to publicize the torture to which many are subjected. Its files and contacts are so highly valued that several attempts have been made to break into Amnesty's offices, probably by intelligence agencies.

The organization's strength lies in its accuracy and its political impartiality. It fights abuses in Western and Eastern Europe, in the developed and the so-called developing world. It has attacked repression in Brazil and Bulgaria, Chile and the Soviet Union, South Korea and Guatemala. One report condemned British interrogation practices, since abandoned, in Ulster.

Human rights has enjoyed a great boom his year and Amnesty has benefitted. Its organization in the United States has expanded rapidly, and its London budget has almost doubled to $1,225,000.

A year ago, Amnesty's 66 full-time workers labored in a grimy loft. Now the staff has grown to more than 100 enjoying more spacious offices.

Amnesty can point to hundreds of its adopted prisoners who have been freed, although no one knows how much its pressure has counted. It is not thought likely that torture is on the wane, but Amnesty has at least embarrassed several governments.

In a sense, this is the second time that Amnesty has been honored by the Nobel committee. Sean MacBride, the organization's former director, won the Peace Prize in 1974.

Martin Ennals, Amnesty's secretary-general, called the prize "an award for human rights," adding: "People in political prisons and peace are similar and linked."

The prize committee noted that 1977 is "the year dedicated to prisoners of conscience" and said that Amnesty is trying "to protect this group of prisoners against treatment contrary to human rights.

"With its activities to defend human values against degradation, violence and torture. Amnesty International has contributed to safeguard the foundation for freedom and justice and thereby also our peace in the world."

Reuter reported from Oslo:

The two prizes, which include Nobel gold medals and diplomas as well as the money, will be presented at a ceremony in Oslo Dec. 10, the anniversary of the death in 1896 of Alfred Nobel, the Swedish inventor of dynamite who endowed the awards.

Following announcement of the award, Amnesty issued a call to governments to release all prisoners of conscience and to abolish torture and the death penalty.

The award to Amnesty was hailed by Soviet dissident Andrei Sakharov, who said the organization was a major international influence due to its "fearless defense of human rights." Sakharov won the Peace Prize in 1975.

The Swedish Royal Academy of Sciences will announce the winners of the 1977 Nobel prizes for physics and for chemistry in Stockholm on Tuesday.

[From the Washington Star, Oct. 11, 1977]

ULSTER WOMEN, AMNESTY GROUP AWARDED NOBEL PRIZES FOR PEACE

OSLO, NORWAY.—Nobel Peace prizes have been awarded to two "grassroots" peace movements—two Catholic women working to halt violence in Northern Ireland and an international group fighting human rights violations.

The Nobel committee awarded the 1977 Peace prize to Amnesty International yesterday because its work for political prisoners around the world helped "protect the value of human life."

Betty Williams and Mairead Corrigan won the 1976 prize for the Women's Peace Movement they formed in Northern Ireland. They Nobel committee had said last year that the 1976 Peace prize could be awarded this year.

Peace prizes in previous years have gone to controversial figures such as Henry Kis-

singer and North Vietnam's Le Duc Tho. But Nobel officials said the 1976 and 1977 winners "are grassroots movements which should be backed by most people."

Thomas Hammarberg, chairman of the International Executive Committee on Amnesty International, said the group would use the $145,000 prize money to build up its organization.

"Our work is important because there are political prisoners in 60–70 countries. In more than 40 countries people are tortured and in more than 120 countries there still is the death penalty, increasingly used for political crimes," he said.

Hammarberg said Amnesty International has 180,000 members in 107 countries. The group was formed 16 years ago by British lawyer Peter Berenson.

In Belfast, Corrigan wept when told she and Williams, both Catholics from Belfast, had won the 1976 prize worth about $142,000.

"There were so many people that deserved it that the prize came as a total surprise," she said. "It is a great honor and a tremendous responsibility for us to show the world that we can win the battle for peace in Northern Ireland."

The Nobel committee said the two women "acted from a deep conviction that the individual person can make a meaningful contribution for peace through constructive conciliation work."

The award to Williams and Corrigan has put their peace movement back in the headlines, but it could heighten jealousies and divisions within the 14-month-old crusade.

The delayed award to the two founders of Northern Ireland's Peace People underlined that the organization is more popular and respected abroad than it is at home.

Williams, 34, and Corrigan, 32, are considered heroines in the United States and in Western Europe. But in Northern Ireland their campaign to end eight years of warfare is beset by ideological squabbles, dwindling support and criticism of the women's leadership.

A hard-core membership of 8,000 doggedly press on, braving terrorist threats and abuse to try to bring the warring Roman Catholics and Protestants together. But much of the crusade's early support has fizzled out.

"We haven't really stopped the violence and we've hardly dented sectarianism at all," one peace worker commented bitterly. "But we stick to it because the only alternative is continuing violence and the rule of the gun."

The movement was launched Aug. 10, 1976, after a guerrilla's runaway automobile killed three small Catholic children in Belfast. Their deaths set off an emotional tidal wave that brought thousands of Protestants and Catholics together for the first time in years. Though the violence continues, the fervor has gradually diminished.

Foreign tours by Williams and Corrigan made them media superstars. But local critics said they should travel and work more on the grim realities at home. Leaders of less publicized peace groups were angered.

[From the Baltimore Sun, Oct. 11, 1977]

AMNESTY GROUP, TWO WOMEN IN ULSTER WIN NOBEL PRIZES

OSLO.—Amnesty International, the London-based organization that works for political prisoners, and two women anti-war activists in Northern Ireland won Nobel Peace Prizes yesterday.

The Nobel committee of the Norwegian parliament awarded the 1977 prize to Amnesty International for 16 years of effort on behalf of "prisoners of conscience" and against torture and the death penalty.

It gave the 1976 prize to Betty Williams, 33, and Mairead Corrigan 32, for organizing a broad-based "Peace People's' movement to end eight years of fighting in their homeland between Protestant and Catholic extremists.

The women launched the campaign more than six months after the February 1 deadline for peace prize nominations last year, when all 50 candidates were rejected and no award was given. A Soviet dissident, Andrei Sakharov, won it in 1975.

Mrs. Williams said in London: "We've only been going 14 months and other people have been going for years. But I know how hard we worked and perhaps after all we have earned it."

Miss Corrigan, moved to tears by the news, said in Belfast: "I accept the prize on behalf of everyone throughout the world who works and longs for peace [and] the many people who have suffered and have been jailed in the interests of promoting peace."

The prizes are worth $141,600 to Mrs. Williams and Miss Corrigan and $145,000 to Amnesty International.

Amnesty was the 10th organization to win the peace prize. In selecting it over 53 other candidates, the Nobel committee called 1977 "the year dedicated to prisoners of conscience."

The organization, it said, "has given practical, humanitarian and unpartial support to people imprisoned because of their racial, religious or political beliefs."

Amnesty was founded in 1961 by a British attorney, Peter Benenson. Sean MacBride, of Ireland, a former peace prize winner, once served as its chairman. It claims to be the largest human rights organization in the world, with about 50,000 members in more than 60 countries and a file of 15,000 cases.

The organization attempts to win freedom for political prisoners through publicity and lobbying, sends them comforts and letters, cares for their families, and hires lawyers and keeps watch on their court cases.

An Amnesty spokesman said: "We are delighted to win the Nobel Peace Prize. We knew our name had been put forward, but we had no inkling that we would win."

The Nobel committee cited the Ulster women's "initiative to end the violence which has marked the unfortunate disintegration in Northern Ireland, and which has cost so many lives."

"Mairead Corrigan and Betty Williams acted out of a deep conviction that individual people can do meaningful efforts for peace through conciliatory work," it said.

The two Catholic women launched their movement in August, 1976, after Mrs. Williams saw three children killed by a runaway car whose guerrilla driver had been shot by British soldiers in Belfast. Miss Corrigan was the aunt of the slain children.

Braving threats on their lives by extremists, they organized peaceful marches by thousands of Protestants and Catholics in Northern Ireland, the Irish Republic and England. Last year they traveled to the United States to urge Americans to stop sending money to the combatants.

So widespread was the sentiment in Norway for honoring them last year that Norwegian newspapers raised $325,000 and gave it to them as a "People's Peace Prize." They used the money for a trust fund to create jobs, care for orphans and repair the devastation in Ulster.

In a recent interview, Mrs. Williams said the peace campaign had passed "out of the limelight" and become a "grassroots" effort by more than 100 peace groups.

The women were the seventh and eighth Britons to win the peace prize and the first from Northern Ireland. Mr. MacBride shared the prize with Japan's Eisaku Sato in 1974.

Sixteen Americans have won the peace prize. The last was Henry A. Kissinger, who shared it in 1973 with his North Vietnamese negotiating partner, Le Duc Tho, for arranging a cease-fire in Vietnam. Le Duc Tho refused to accept the award.

[From the New York Times, Oct. 11, 1977]

TWO NOBEL AWARDS

The Nobel Peace Prize is, most often, given for battles not won, for controversies not resolved, for struggles not over. That is the case for the awards announced yesterday—the 1976 prize to Mairead Corrigan and Betty Williams, the leaders of Northern Ireland's largest peace movement, and the 1977 prize to Amnesty International, the London-based worldwide organization devoted to securing freedom for "prisoners of conscience" in all lands.

The awards committee did well to name winners for both years. It named no winner last year because it found no nominee of sufficient stature. The Peace People—the grass-roots movement of Protestants and Catholics to end the civil war in Northern Ireland had only just started last year and the two women were nominated after the committee's deadline. It is right that they receive recognition now. But it is right, also, that in a year in which the issue of human rights has received wider attention than ever before, the award to Amnesty International should not be delayed.

The example of Miss Corrigan and Mrs. Williams and their supporters has given thousands—Protestants and Catholics—the courage to stand up aaginst extremists. Likewise, Amnesty International has brought hope to thousands, imprisoned and tortured for their political beliefs. The list would be very much longer but for the work of this genuinely international movement.

The war in Northern Ireland is not ended. Unjust imprisonment and torture probably will never end. But what the Nobel awards celebrate is the equal possibility that courage and decency, also, will endure.

[From the Washington Post, Oct. 11, 1977]

NOBILITY AND THE NOBEL AWARDS

This year the committee that selects the winners of the Nobel Peace Prize did its work exceptionally well. It awarded the 1976 prize, which had not been awarded last year, to Betty Williams and Mairead Corrigan, the young Ulster women who inspired the formation of the Northern Ireland Peace Movement. It awarded this year's prize to Amnesty International, the 16-year-old organization that works for the release of "prisoners of conscience" all over the world. There is something very fitting about the conjunction of these two awards. The recipients have a great deal in common, and in important ways they also complement each other.

What Amnesty International and the Northern Ireland Peace Movement have in common is founders, leaders and members who have no use for the abstract and the grandiose in their work, but who are given instead to modest, practical and—yes—heroic here-and-now efforts. They are dedicated to relieving human anguish in the situations they have chosen to address. They are each, in slightly different senses, apolitical, insisting that neither armed violence in the one case, nor political repression in the other, is an acceptable instrument of policy—irrespective of whether you happen to share the goals of the policy or not.

The two newly honored groups also have this in common: What success they have achieved is a tribute to the capacity of ordinary individual citizens to make a difference. The Nobel committee underscored the point in giving the 1976 award to the two Irish women whose revulsion against violence in Ulster was brought into focus by the death of three Belfast children, hit by a careening IRA car whose driver had just been killed by British bullets. "Mairead Corrigan and Betty Williams," the committee said, "acted from a deep conviction that the individual person can make a meaningful contribution for peace. . . ."

Amnesty International likewise had its origin in the determination of a few hardy souls to do something about the plight of people who were suffering at the hands of various governments for their political or religious views or because of their rate or ethnic background. In 16 years it has acquired over 100,000 members, is represented in almost 80 countries and has managed, to its credit, to get on all the right enemies-lists—those of repressor governments of every political stripe in every part of the world. But in the course of this expansion, it has made a point of remaining faithful to its simple, direct techniques, a kind of human-rights "buddy system" whereby individual members accept responsibility for a few individual prisoners and organize the work in their behalf. .

So you could say that these two organizations share a special spirit and a special outlook. But there is a difference, too. The Irish group is above all else—as it must be—the sworn enemy of physical violence, Amnesty International the sworn enemy of political repression. Yes, the lines do cross, and neither group is indifferent to the principal concern of the other. We observe this distinction only by way of noting that the Nobel Committee, by this particular choice of recipients, has made an important statement of its own. It has said that peace is more than the absence of conventional war and that tranquillity achieved by locking up dissidents is no peace at all.

[From the Baltimore Sun, Oct. 11, 1977]

PEACE PRIZES

September was the first month in six years in which no violent civilian death occurred in Northern Ireland. The governments of Europe and North America are solemnly engaged at Belgrade in measuring human rights. Betty Williams and Mairead Corrigan contributed much to the first fact, and Amnesty International to the second.

The Nobel Peace Prize now awarded for 1976 honors ordinary persons struggling to bring peace to their own community. The 1977 prize, honoring those who toil for the rights of strangers, is not for peace at all but a human rights prize in this human rights year.

When the Norwegian Nobel Peace Prize committee awarded no prize last year, Norway's newspapers and people collected a "People's Peace Prize" for Mrs. Williams and Miss Corrigan. In fairness to the committee, the Northern Ireland Peace Movement was then barely two months old. Honoring the young who have decades left in which to disgrace the honor is always incautious. The delayed prize this year is a considered endorsement of a popular choice.

Amnesty International is not a mass movement but a lawyers' and researchers' pressure group, now 16 years old. Its concerns are to free those imprisoned for political religious views or ethnic origin, and to end torture of anyone imprisoned. Its weapons are fact and publicity. Sometimes its selections of cases have seemed to reflect political bias. Always it has the difficulty of establishing information that governments hide. With its steadily growing reach to all countries. Amnesty International's reputation as an authority has grown steadily and should continue to do so.

Mrs. Williams and Miss Corrigan braved death to bring women and men, Catholics and Protestants, into the streets together to repudiate the terrorists of Northern Ireland. Ciaran McKeown turned their emotional appeal into an organization. He deserves a share of their prize to the extent that personalities deserve it at all. The Peace People do not draw the crowds of last year, but their viewpoint is more widely expressed, and tolerance for terrorism is diminishing. The movement has wisely decided never to become a political party, but to stress the unity of its adherents and not their differences.

The Northern Ireland Peace Movement and Amnesty International are human institutions working to better the world, composed of imperfect people trying to do the jobs of saints when the saints cannot be found. They deserve all the help they can get, including help to maintain the purity of their objectives. The Nobel Prize is just what each needs.

PRIVILEGE OF THE FLOOR

Mr. DURKIN. Mr. President, I ask unanimous consent that during the debate and motions and votes on the legal services bill as well as Senate Concurrent Resolution 31, the following staff members may have the privilege of the floor: Ed Merlis, Tom Allison, Don Jaffe, Mike Brownlee, and Reid Ashinoff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 7:09 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 7:14 p.m., when called to order by the Presiding Officer (Mr. DURKIN).

TIME-LIMITATION AGREEMENT—S. 457

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 433, S. 457, is made the pending business before the Senate, there be a time agreement thereon as follows: Two hours for debate to be equally divided between Mr. CRANSTON and Mr. STAFFORD; that there be a time limitation on any amendment of 1 hour; a time limitation on any debatable motion, appeal or point of order of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, that request is fully cleared on this side, and we have no objection to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 457 (Order No. 433), a bill to amend sec. 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in he event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, that no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Chairman of the Veterans' Affairs Committee and the ranking minority member, or their designees: Provided, That the said Senators, or either of them, may, from the time under control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—H.R. 3387

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 421, H.R. 3387, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: Two hours for debate divided between Mr. LONG and Mr. CURTIS; provided, further, that there be a time limitation on any amendment of 1 hour; a time limitation on an amendment by Mr. JAVITS of 2 hours: Provided further, there be a time limitation on an amendment by Mr. DOMENICI of 1½ hours; and provided further, that there be a time limitation on any debatable motion, appeal or point of order of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is a follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 3387 (Order No. 421), an act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile debate on any amendment (except one to be offered by the Senator from New York (Mr. JAVITS), on which there shall be 2 hours, and one to be offered by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 1½ hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. LONG), and the Senator from Nebraska (Mr. CURTIS):

Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot

additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Budget Act waiver which is at the desk on S. 1582. It has reference to Calendar Order 425.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Senate Resolution 274, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1582.

The Senate proceeded to the consideration of the resolution, which was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1972, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1582. Such waiver is necessary because it would provide relief for the emergency water crisis facing the Ak-Chin Indian Community. The waiver would only be required for the sum of $500,000 for the engineering and hydrological studies. It is crucial that the studies start in fiscal year 1978 to begin the process in time to deliver water to the Ak-Chin Reservation before their aquifier is depleted.

The Ak-Chin rely on farming for their economic sustenance. The farming is dependent upon ground water from wells. Non-Indians surrounding the reservation are pumping from the same water basin. Because of the extensive pumping, the aquifer cannot sufficiently recharge itself, and the water level is declining at a rate which will prohibit farming on the reservation within the next few years. Starting now it will take at least two years to undertake the proper feasibility studies and construct the Federal well field and water delivery system needed by the Ak-Chin Indians.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SETTLEMENT OF AK-CHIN INDIAN CLAIMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration now of Calendar Order No. 325 on the Unanimous Consent Calendar.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1582) relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) the Congress hereby declares that it is the policy of Congress to resolve, without costly and lengthy litigation, the claims of the Ak-Chin Indian community for water based upon failure of the United States to meet its trust responsibility to the Indian people provided reasonable settlement can be reached.

(b) The Congress hereby finds and declares that—

(1) the Ak-Chin Indian community relies for its economic sustenance on farming, and that ground water, necessary thereto, is declining at a rate which will make it uneconomical to farm within the next few years;

(2) at the time of the settlement of the reservation, it was the obligation and intention of the United States to provide water to the Ak-Chin Indian Reservation, and such obligation remains unfulfilled;

(3) it is likely that the United States would be held liable for its failure to provide water and for allowing ground water beneath the reservation to be mined by nearby non-Indians;

(4) there exists a critical situation at Ak-Chin in that there is not sufficient economically recoverable ground water beneath the reservation to sustain a farming operation until a permanent source of surface water can be delivered;

(5) this Act is proposed to settle the Ak-Chin Indian community's claim for water by temporarily meeting the emergency needs of the Ak-Chin community through construction of a well-field and water delivery system from nearby Federal lands and obligating the United States to meet the Ak-Chin community's needs for permanent supply of water for a fixed amount to be available upon a date certain in exchange for a release of all claims such community has against the United States for failing to act consistently with its trust responsibility in the protection and delivery of the water resources of the community; and

(6) that it is the intention of this Act not to discriminate against any non-Indian landowners or other persons, but to fulfill the historic and legal obligation of the United States toward the Ak-Chin Indian community.

SEC. 2. (a) For the purposes of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall undertake engineering and hydrological studies as may be necessary to determine whether there exists, on Federal lands near the Ak-Chin Indian Reservation, a source of ground water which could be taken, on an annual basis, for use in connection with any contract entered into pursuant to subsection (b) of this section, subject to the provisions in (c)(2). Such studies shall be completed and a report with respect thereto submitted to the Congress within twelve months after the date of the enactment of this Act.

(b) Within one hundred and eighty days following the submission to the Congress of the report referred to in subsection (a), the Secretary, if he determines that there exists a source of ground water which can be so taken on an annual basis, shall agree to enter into a contract or other agreement with the Ak-Chin Indian community pursuant to which the Secretary shall agree, on behalf of the United States, to—

(1) furnish, subject to the provisions of clause (2) of subsection (c) of this section, to the Ak-Chin Indian community, commencing as soon as possible following the completion of the necessary facilities under clause (2) of this subsection but in no event later tha sixty days following such completion, the delivery to the southeast corner of the lands comprising the Ak-Chin Indian Reservation, on an annual basis, of eighty-five thousand acre-feet of ground water from nearby Federal lands covered by such studies;

(2) take such action as may be necessary, to begin within sixty days following the date of such contract, to drill, construct, equip, maintain, repair, reconstruct, and operate a well field on such Federal lands, and to construct and maintain a delivery system, including canals, pumping stations, and other appurtenant works, sufficient to provide for the delivery of such ground water from such Federal lands to the southeast corner of the lands comprising the Ak-Chin Indian Reservation.

(c)(1) The delivery of ground water under clause (1) of subsection (b) shall continue until such time as the permanent surface water required under section (3) is delivered to the Ak-Chin Reservation except that the obligation to deliver such ground water during any year shall be reduced for that year by an amount equal to the amount of surface water delivered to such community pursuant to such contract during such year.

(2) Notwithstanding the provisions of clause (1) of subsection (b) of this section, the Secretary, if he determines that pumping eighty-five thousand acre-feet of ground water annually from nearby Federal lands to the Ak-Chin community would (A) not be hydrologically feasible; (B) diminish the ground water basin thereby causing severe damage to other water users; may deliver a lesser amount.

(d) The Secretary is authorized to receive, consider, and pay any claims arising under this Act from water users other than the Ak-Chin Indian community for compensation for any losses or other expenses incurred by such users by reason of the enactment of this Act.

(e) Notwithstanding any other provision of this Act, if the Secretary determines, on the basis of studies conducted pursuant to subsection (a) of this section that the pumping on an annual basis of any such ground water pursuant to clause (1) of subsection (b) of this section in excess of sixty thousand acre-feet is not possible, and the Ak-Chin Indian community does not agree to contract for such lesser amount, the Secretary shall report to the Congress an alternative plan for meeting the emergency needs of the Ak-Chin Indian community. Such alternative plan shall be submitted to the Congress within one hundred and eighty days following the submission of the report referred to in subsection (a).

SEC. 3. In addition, within two years following enactment of this Act, the Secretary shall agree to enter into a contract or other agreement with the Ak-Chin Indian community, commencing as soon as possible, but in no event later than the expiration of the twenty-five year period following the date of the enactment of this Act, the permanent delivery, on an annual basis, to the land comprising the Ak-Chin Indian Reservation, of up to eighty-five thousand acre-feet of surface water, but in no event less than sixty thousand acre-feet.

SEC. 4. As consideration on the part of the Ak-Chin Indian community for entering into any contract or other agreement pursuant to section (3), the Ak-Chin Indian community shall agree to waive, in a manner satisfactory to the Secretary, any and all claims of the Ak-Chin Indian community which it might have against the United States, the State of Arizona or agency thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona, concerning water rights of the Ak-Chin Indian community, including both ground water and surface water from time immemorial to the present.

SEC. 5. There are authorized to be appropriated for the fiscal year ending September 30, 1978, the sum of $500,000, for the fiscal year ending September 30, 1979, the sum of $42,500,000, for carrying out the purposes of section 2 of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–460), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

S. 1582, as amended, would authorize a feasibility study and, based on its findings, construction of a Federal wellfield and pipeline to the Ak-Chin Reservation from nearby Federal land. The water delivery would provide emergency relief on a temporary basis to the Ak-Chin water crisis.

The water delivered under S. 1582 will be reduced annually by the amount Ak-Chin receives from its permanent supply. S. 1582 also reaffirms the obligation of the United States to meet the Ak-Chin Indian Community's needs for a permanent supply of water and establishes a fixed amount to be made available upon a date certain. By itself, S. 1582 does not mandate the sources for the permanent supply of water. No reallocation of the Central Arizona Project or other measure is required. Rather, S. 1582 is a statement of the Ak-Chin water entitlement and the government's obligation to fulfill that entitlement. It looks forward to the permanent delivery of water by future legislative and administrative actions. In exchange, the United States would receive a waiver of all claims against it for failing to act consistently with its trust responsibility in the protection and delivery of the water resources of the Ak-Chin Indian Community. The Ak-Chin would also waive their legal claims relating to water rights against the State of Arizona and other persons.

A central purpose of this legislation is to devise a settlement of the issues growing out of the water right claims advanced by the Ak-Chin Indian Community that is as equitable as possible to all parties concerned. The Committee understands that the Ak-Chin Community has expressed its willingness, not only to waive all claims for past damages in this connection, but to forgo any further claims of this nature so long as water is received under the terms and conditions of the contract authorized by this Act, and that such water shall be in lieu of any and all other water rights of the Ak-Chin Indian Community.

BACKGROUND

Prior to the last twenty (20) years, the Ak-Chin Tribe has had to contend with severe poverty. By 1961, the Ak-Chin Indian Community has discontinued the practice of leasing its farm lands to non-Indians and had decided to farm the land for itself. Careful planning and financing enabled the community to farm 4,900 acres in 1964. In the years since their profits have risen from a low of $21,353 in 1964 to over $1 million in 1976, while farming less than 5,000 acres. Because of this amazing story of growth from Federal dependency to self-sufficiency, the Ak-Chin Tribe has been able to build many modern homes for its members and improve their quality of life.

The reservation located entirely within Pinal County, Arizona, is approximately 30 miles south of Phoenix. It consists of 21,840 acres of land all of which is suitable for agriculture, with class A–1 or B–1 soil. Allowing for roads, homes, etc., the Interior Department in the past has estimated there are 19,656 arable, practically irrigable acres on the Ak-Chin Reservation, with *Winters* rights of about 90,000 acre-feet of water.

Despite an Executive action of June 8, 1912, ten (10) days after the creation of the reservation when the United States filed notice of appropriation of 70,000 acre-feet per year for the Ak-Chin Reservation, none was delivered. Today, because of dams and other construction, the reservation has no surface water supply from which to satisfy its *Winters* rights. To farm, the Tribe has had to pump groundwater from the aquifer beneath it.

Non-Indians surrounding the reservation also rely on the groundwater and mine it by intensive pumping. The aquifer has not been able to recharge at the rate of pumped water. The water table at Ak-Chin is dropping twenty feet each year. A secondary effect of the drop is that the land on the reservation has buckled.

NEED

S. 1582 is needed to fulfill the historic and legal obligation of the United States toward the Ak-Chin Indian Community. At the time of the establishment of the reservation, it was the obligation and intention of the United States to secure water for the Ak-Chin Indian Reservation. Despite the government action of filing notice of intent to appropriate water in 1912, no water was actually delivered and the obligation remains unfulfilled. It is likely that the United States would be held liable for its failure to provide water and for allowing ground water beneath the reservation to be mined by nearby non-Indian farmers to the extent that the supply has been severely adminished.

However, beyond the historical and legal problems, S. 1582 is an emergency measure. The Select Committee on Indian Affairs has legislation before it to resolve the long standing water resource problems for all five central Arizona Tribes. Further, there are both litigation and executive actions being contemplated. But the water supply at Ak-Chin is critical. There is not sufficient economically recoverable groundwater beneath the reservation to sustain a farming operation until a permanent source of surface water can be delivered.

The Ak-Chin Indian Community relies for its economic sustenance on farming for which the necessary groundwater is declining at a rate which will make it uneconomical to farm within the next few years. Because of success at farming, a traditional occupation of the Pima and Papago, they receive no appreciable welfare or social assistance benefits. Should the principal ecnomic base of the reservation collapse there would be a drastic increase in all the major forms of Federal social assistance and benefits normally provided where no economic base exists.

Estimates provided by the Bureau of Indian Affairs indicates that their annual costs for providing services, now provided by the Community, would be a minimum of $200,000 using low categorical assistance figures. An aditional one million two hundred thousand (1,200,000) would be needed for employment training and assistance to try to integrate tribal farm workers into the area labor force. These figures do not include other Federal and State aid which might be necessary. As to the costs of unemployment, increased crime rate or other secondary social failures, the information available is imprecise. But the estimated unemployment rate caused by the loss of the tribal farming enterprise would be 40 percent.

Finally, S. 1582 is needed as a legislative settlement to avoid the costly social and economic disruption of litigation. The Department of Interior has requested the Department of Justice to institute litigation by the United States on behalf of the Ak-Chin Indian Community. Approximately 200 defendants have been identified in that action. If the litigation were to proceed, potentially all non-Indian pumping would be enjoined without compensation. The catastrophic economic consequences on the non-Indian farmer with no water or compensation would reverberate throughout the area. Defaults on loans and other obligations would create economic instability. Even if the Tribe were not to prevail the litigation could take years. during which all land having water rights would have a clouded title. Banks might be reluctant to capitalize development proposals. In an area where racial tensions are already high, litigation might increase racial animosity. All of these adverse affects would be avoided by enacting S. 1582.

IMPROVEMENT OF ROBERTS FIELD, REDMOND, OREG.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 434.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 2100) for the improvement of Roberts Field, Redmond, Oreg., which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That, notwithstanding section 16 of the Federal Airport Act (as in effect on April 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in Patent Number 1,128,955, dated April 26, 1950, by which the United States gave and granted a patent in certain property to the city of Redmond, Oregon, for airport purposes.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Redmond, Oregon, shall agree that in conveying any interest in the property which the United States granted the city by Patent Number 1,128,955, dated April 26, 1950, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–470), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY AND PURPOSE

S. 2100 would remove the restrictive conditions imposed by section 16 of the Federal Airport Act (60 Stat. 179, repealed May 21,

1970, 84 Stat. 235), as they appear in the deed of conveyance dated April 26, 1950, under which the then Acting Secretary of Agriculture transferred to the city of Redmond, Oreg., approximately 1,820.55 acres to be used as a public airport. Such a release would and is intended to allow the airport property to be used for economic development.

BACKGROUND AND NEED

At the time of the above-mentioned conveyance, the U.S. Department of Agriculture was unable to convey nonairport surplus property for airport purposes without a reverter clause because of the conveyance authority contained in section 16 of the Federal Airport Act. Section 16 of the Federal Airport Act states in part:

"each such conveyance shall be on the condition that the property interest conveyed shall automatically be reverted to the United States in the event that the lands in question are not developed, or cease to be used, for airport purposes."

This inability of the Secretary to release certain of the lands conveyed pursuant to section 16 of the Federal Airport Act has in many instances been detrimental to the interests of civil aviation. In these instances more property was conveyed than was reasonably necessary for continued operation of the airport. The land not actually needed for airport purposes cannot be put to beneficial use due to existing restrictions. A release by the Secretary would allow the city of Redmond, Oreg., to use a portion of the acreage originally conveyed for purposes other than for which the land was originally conveyed.

Section 52(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) repealed the Federal Airport Act effective June 30, 1970. However, section 52(c) contained a saving provision concerning such conveyances under the Federal Airport Act, giving rise to the need for S. 2100.

The purpose of this bill is to authorize and encourage the Secretary of Transportation to grant a release from the reversionary clause contained in the deed of conveyance so that the city of Redmond may proceed with the development of portions of the property for nonairport purposes. The bill contains a safeguard against abuse in that the Secretary's authority is made subject to the provisions of section 4 of the act of October 1, 1949 (50 App. U.S.C. 1622c).

Section 4 of the act of October 1, 1949, requires that before property is released for nonairport purposes it must be determined that the property is no longer necessary to accomplish the purpose for which it was originally conveyed and is not necessary to protect or advance U.S. civil aviation. It further provides that the Secretary may impose such conditions on the conveyance as he deems necessary so as to insure that any proceeds arising from nonairport use of the property will be used for the development and maintenance of the airport.

Comparable legislation was approved in the 94th Congress in connection with airport property in Elkhart, Kans., in 1976 (Public Law 94-221), approved February 27, 1976; and in Clarinda, Iowa, in 1966 (Public Law 89-649), approved October 13, 1966.

The committee believes that enactment of S. 2100 will not result in any additional costs to the United States. The Congressional Budget Office concurs with this as stated in the letter which follows, dated September 21, 1977.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS—S. 695

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 695.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 7:19 p.m., took a recess subject to the call of the Chair.

The Senate reassembled at 8:14 p.m. when called to order by the Presiding Officer (Mr. DURKIN).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the nomination of Robert E. White, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay, which was referred to the Committee on Foreign Relations.

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the tenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the first quarter of 1977 in monitoring both prices and wages in the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses in some detail the Council's studies of the outlook for collective bargaining negotiations for 1977, health care costs, automobiles, cement and the trends in industrial plant construction, as well as its filings before various Federal regulatory agencies.

During the remainder of 1977, the Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

APPROVAL OF BILLS

A message from the President of the United States announced that he had approved and signed the following bills:

On October 7, 1977:

S. 213. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

On October 8, 1977:

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Report of the Committee on Energy and Natural Resources pursuant to section 302(b of the Congressional Budget Act of 1974 (Rept. No. 95-486).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 286. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 897 (Rept. No. 95-487).

S. Res. 274. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1582 (Rept. No. 95-488).

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Without amendment:

S. Res. 291. An original resolution authorizing supplemental expenditures by the Committee on Agriculture, Nutrition, and Forestry (Rept. No. 95-489). Referred to the Committee on Rules and Administration.

By Mr. CHURCH, from the Committee on Energy and Natural Resources:

With an amendment:

H.R. 3454. An act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes (title amendment) (Rept. No. 95-490).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.

Thomas A. Ballentine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 2190. A bill to amend title XVIII of the Social Security Act to give the Secretary of Health, Education, and Welfare authority to waive all or part of an automatic increase in the inpatient hospital deductible; to the Committee on Finance.

By Mr. DOMENICI:

S. 2191. A bill for the relief of Federica Zangrando; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for Mr. HUMPHREY):

S. 2192. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting surplus school facilities to efficient, alternate uses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 2190. A bill to amend title XVIII of the Social Security Act to give the Secretary of Health, Education, and Welfare authority to waive all or part of an automatic increase in the inpatient hospital deductible; to the Committee on Finance.

Mr. CHURCH. Mr. President, on behalf of myself and Senator WILLIAMS, I introduce for appropriate reference a bill to give the Secretary of Health, Education, and Welfare authority to disapprove all or a portion of a scheduled increase in the part A hospital insurance deductible charge for medicare beneficiaries.

This proposal is prompted by a recent Department of Health, Education, and Welfare announcement that a 16-percent hike in the part A deductible, from $124 to $144, would become effective in January 1978.

As things now stand, this increase is mandatory, because the law requires the deductible to be adjusted annually according to changes in average per diem hospital costs covered by medicare.

In addition, the coinsurance charges for long-term hospital and skilled nursing homes stays, which are linked to the deductible, would also increase by about 16 percent.

Next year, a medicare beneficiary hospitalized from 61 to 90 days would pay $36 per day, compared to $31 now. Medicare patients who must draw upon their 60-day lifetime reserve would have their daily coinsurance charge boosted from $62 to $72. And for a posthospital stay of 21 to 100 days in a skilled nursing facility, the daily coinsurance charge would rise next January from $15.50 to $18.

Our bill would help to ease this situation for medicare patients by permitting the Secretary of Health, Education, and Welfare to declare a 1-year moratorium on the ever-increasing hospital deductible and coinsurance charges, or at least to defray a portion of the scheduled increases.

I recognize that the Congress will probably not have sufficient time to act on this proposal before adjournment. However, I hope that the Senate Finance Committee and the House Ways and Means Committee can consider this legislation early in 1978.

If our proposal is enacted into law, it would be possible for the Secretary of Health, Education, and Welfare to disapprove all or a portion of the scheduled in-patient hospital deductible increase in 1978 retroactively.

I sincerely hope that a joint effort by the administration and Congress to reduce the rapid rise in hospital charges will soon be successful. But until that occurs, we cannot turn our backs on millions of aged and disabled persons who will be hard hit by the scheduled increase next January for hospital and skilled nursing facility charges.

Our bill would provide welcome relief to more than 6 million aged and disabled medicare beneficiaries expected to be hospitalized in 1978. These individuals deserve and need all the help that they can receive.

If the scheduled 16-percent increase is allowed to stand, a medicare patient's deductible charge will increase by 210 percent since the program became effective in 1966.

An outlay of $144 for a hospital stay represents a formidable obstacle for an elderly person living on a limited income. The average social security benefit for a retired worker amounts to about $234 per month. In the case of an aged couple, the average benefit is $400.

Social security is, of course, the economic mainstay for most older Americans. It represents more than half the income for 7 out of 10 individual beneficiaries and one out of two aged couples.

For these reasons, I urge prompt and favorable action on this proposal.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1813(b)(2) of the Social Security Act is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may reduce or waive any increase in the inpatient hospital deductible as determined under subparagraph (A) in any case in which he determines that such increase would have a serious adverse impact on the economic well-being of individuals receiving benefits under this title.".

(b) The amendments made by this Act shall be effective with respect to adjustments of the inpatient hospital deductible determined for calendar years after 1977.

By Mr. ROBERT C. BYRD (for Mr. HUMPHREY):

S. 2192. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting surplus school facilities to efficient, alternate uses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SURPLUS SCHOOL RECYCLING ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), introduce a bill cited as the Surplus School Recycling Act of 1977. I ask unanimous consent that a statement by Senator HUMPHREY, and the text of this bill, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

PUTTING EMPTY SCHOOLS TO GOOD USE

Today I am introducing the Surplus School Recycling Act of 1977.

The existence of vacant and partially unused schools is becoming a critical problem in many of our communities. Already elementary schools are suffering serious enrollment decreases, and population projections indicate this trend will continue, substantially affecting high schools in the early 1980s. The resulting unused school facilities represent valuable resources to our communities. But the burden of renovating and adapting this space is too great for many communities, which often are struggling to maintain just these school facilities that are presently required for educational purposes.

We have created for ourselves a throw away society. Our country bears the marks of wasteful disposal. It is time we shed that attitude that we can afford to throw away that which we deem no longer useful for its initial design. The Federal Government should take the lead in encouraging the use of existing resources to their full potential, for their full tenure. The bill I am introducing today is one opportunity for the Federal Government to assume such a role.

The Surplus School Recycling Act authorizes the Secretary of Housing and Urban Development to make grants to local agencies desiring to renovate and modify totally or partially empty school facilities for other uses. The Federal Government would make grants to qualifying local agencies in the amount of 80 percent of renovation costs, thus requiring some capital commitment from the agency to the actual facility in the amount of 20 percent. Qualifying local agencies would receive grants to convert school facilities to such uses as children's resource centers, senior citizen programs, and educational programs for adults or handicapped persons. Federal grants would cover renovation costs only, and not the purchase, maintenance or operation of a facility.

We need not be reminded of the potential hazard vacant buildings present—standing invitations to vandalism and rapid deterioration due to neglect. It is the shame of our communities not to make use of these valuable resources—resources that may later again be needed for the same educational purposes for which they initially were designed. It is far more difficult to revive a building that has gone unused for years, suffering extensive deterioration, than to reopen a school that has been minimally adapted, to function in some other capacity. Funding under this bill would facilitate the interim use of schools in communities that may later experience new surges in school enrollments, necessitating the reopening of former schools.

Besides addressing the problem of totally vacant schools, this bill provides alternate solutions to communities faced with imminent school consolidation as the answer to declining enrollments and rising operating costs. Throughout our history, the school has been a social center in every community. Mothers have found companionship, and a sense of involvement, through participating in the PTA, and acting as room mothers and teacher's aides. In many communities the local school has fulfilled a social purpose rivalled only perhaps by the local church. Efforts to consolidate schools are often met with great local bitterness and opposition. Parents, understandably, want their children to attend a school within walking distance. Communities do not want to give up the intimacy of their local schools. Consolidation brings a promise of broader-based control; a threat to a community's traditional range of local control. Under the Surplus School Recycling Act, the Federal Government will provide funds for renovation to local agencies desiring to occupy partially vacant schools, thus enabling local school districts to keep schools open through joint use and shared operating costs with other organizations.

This bill suggests, but does not limit, possible uses to which surplus school space could be adapted. I have a personal interest in seeing these schools used for senior citizen programs or as children's resource centers.

Too often our society has created its institutions to segregate the young from our senior citizens. Our young people are unnaturally shielded from healthy exposure to the process of aging. Senior citizens lack contact with our young people—a source of vitality throughout life regardless of one's age. Joint use of a school facility by senior citizens and students can be mutually rewarding to both groups. Large, bright classrooms are ideal for senior citizen social activities. And in schools where student lunch programs are in effect, minimal resources would be needed to expand these programs to provide lunches for senior citizens, thereby making full use of the facilities.

The existence of partially and fully vacant schools affords communities an opportunity to provide resources for children, that were excluded in past planning when demand for classroom space consumed most of a school building. During the first week of October, a children's museum—the Capital Children's Museum—formally opened very close to Capitol Hill itself. It is one of some six similar children's museums in our country. Activities at this museum re-enforce many basic concepts learned in the classroom. Children visit the museum with their class or youth group, and are able to experiment with, and experience many physical concepts that are impossible to fully illustrate within the limitations of a classroom. Public service institutions and business have contributed a fire alarm, clocks, and a small computer, which children cannot only observe, but operate or take apart as well. Children are able to experience various physical properties such as the effects of different lengthed levers on lifting a weight, and the action of a pulley.

The Capital Children's Museum occupies most of one floor in a school near the Capitol. Its location there has made it possible for the school, which is under-enrolled and was formerly under-utilized, to remain open. The school provides the museum with free space in the building, and covers the museum's utility and janitorial costs during school hours.

The Capital Children's Museum is testimony to what can be done, often with minimal funds, to revitalize vacant or partially vacant schools. It is a shameful waste to leave these school buildings unused when they could house potentially indispensable community programs. It is sad to see a community lose a cherished school because it has no affordable option to keep the school open and fully utilized by joint use with other organizations. It is up to the Federal Government to provide incentives, by funding renovation, to begin recycling these school buildings and extra space.

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

That this Act may be cited as the "Surplus School Recycling Act of 1977".

Findings

(a) The Congress finds that—

(1) declining school enrollments and population migration have caused the closure or underutilization of school facilities at all levels throughout the country;

(2) the school facilities that have been closed or that are underutilized represent valuable resources to communities and should be recycled for other productive uses;

(3) local communities lack the necessary funds to adequately recycle surplus school facilities on their own; and

(4) the Federal Government should assist communities in recycling surplus school facilities with Federal funds.

(b) It is the purpose of this Act to provide grants to communities to enable these communities to recycle and convert, in the most efficient, creative, and economical manner possible, surplus school facilities for other productive purposes determined by the respective communities. Such other productive purposes shall be in the fields of educational and social services and may include, but shall not be limited to, any purpose described in section 3 (a) of this Act.

SEC. 2. As used in this Act, the term—

(1) "surplus school facility" means any building or structure or part thereof which has been used during any period as a school or as a classroom or related facility for educational or training purposes including athletics but, as of the date of application for a grant to renovate such building or structure under this Act, is not so used;

(2) "renovating" means any remodeling, altering or improving of a school facility for educational or social services other than those for which it is designed at the time of the request for a grant.

(3) "costs for renovating" includes expenses for preparing drawings and specifications, for remodeling, altering, or improving a facility, for materials and labor, and for inspecting and supervising construction;

(4) "elementary or secondary school facility" means any public school facility which provides elementary or secondary education, as determined under State law, except that such term does not include any education provided beyond grade 12 or its equivalent;

(5) "local agency" means any agency or other instrumentality of a State, county, city, parish, township, or other political subdivision of a State and includes an agency or other instrumentality of one or more such political subdivisions;

(6) "school year" means an academic year or its equivalent as defined by State law;

(7) "Secretary" means the Secretary of Housing and Urban Development; and

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

SEC. 3. (a) The Secretary may make grants to local agencies, and such local agencies shall use the money received from such grants, to pay the costs of renovating surplus school facilities so that such facilities may be converted for use by such local agencies for productive educational and social service purposes including, but not limited to, any of the following such purposes—

(1) children's resource centers;
(2) senior citizen centers;
(3) community centers;
(4) recreational centers;
(5) vocational schools;
(6) community colleges;
(7) continuing education programs;
(8) schools for the handicapped;
(9) day care centers;
(10) preschools;
(11) walk-in centers for drug abuse or other counseling;
(12) medical facilities or centers;
(13) mental health clinics;
(14) dental facilities or centers; and
(15) recycling centers.

(b) A local agency desiring to receive a grant under this Act shall submit to the Secretary an application containing—

(1) a plan for renovating a surplus school facility and for using such facility after such renovation for educational and social service purposes;

(2) an estimate of the costs of such renovation;

(3) a statement evaluating the social and economic impact of the renovation and use of such facility for such purposes;

(4) a statement, if a program will occupy a school facility part of which is still being used as an elementary or secondary school, showing the compatibility of their joint use;

(5) such other information which demonstrates to the Secretary's satisfaction sufficient financial ability on the part of such local agency to carry out the provisions of such plan.

(c) The amount of a grant under this Act shall be 80 per centum of the estimated cost of renovation contained in the application submitted to the Secretary under subsection (b) of this section.

(d) If the amount of a grant under this Act is more than the actual cost of renovation under such grant, the local agency which received such grant shall return such surplus money to the Secretary, who shall use such surplus money to make other grants under this Act.

(e) Notwithstanding section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), the Secretary may advance public money to local agencies for grants under this Act.

SEC. 4. In approving applications for grants under this Act, the Secretary shall—

(1) give priority to an application for renovating a surplus school facility which is located in a school district whose current school enrollments have decreased by 10 per centum or more from the school enrollments of the previous school year as determined by the Secretary based on the most recent information available to the Commissioner of Education, except that an educational institution other than an elementary or secondary school facility shall not be given priority under this paragraph;

(2) give priority to an application for renovating a surplus school facility which is not on the date of such application being fully utilized for a productive educational and social service purpose (other than utilization as a storage facility);

(3) require assurances that the surplus school facility for which a grant is being applied for under this Act will not, after its renovation, be used primarily as a storage facility; and

(4) include in his consideration the following factors:

(A) the need of the local agency for a grant under this Act based upon the number of surplus school facilities located in the same school district as the surplus school facility for which the local agency is applying for a grant under this Act and upon the size of the population served by that school district;

(B) the suitability of such surplus school facility for renovation and conversion to its proposed use, including the value of such facility before renovation; and

(C) the value of such surplus school facility after renovation including the number of individuals who will use such facility, the number of different uses of such facility, and the length of time during which such facility will be so used.

SEC. 5. The Secretary shall prescribe reasonable regulations to carry out the provisions of this Act and to assure that a surplus school facility renovated under this Act shall be used by a local agency in accordance with the plan of that agency required under section 3(b)(1) of this Act.

SEC. 6. For any fiscal year, no more than 10 per centum of the funds appropriated by Congress for grants under this Act shall be granted to local agencies in any State.

SEC. 7. The Secretary shall serve as a national clearinghouse to local agencies by having available publications on alternative uses of surplus school facilities and by suggesting at the request of a local agency, how a surplus school facility can best be used for educational and social service purposes given such facility's unique location and design.

SEC. 8. For each fiscal year for which funds are appropriated under this Act, the Secretary shall prepare and submit, not later than ninety days after the end of such fiscal year, to the President and the Congress a report listing the local agencies that received grants under this Act during such fiscal year and the purposes for which such grants were made. The report for the third such fiscal year shall also include—

(1) a cost analysis of the effectiveness of grants made under this Act;

(2) the findings of a survey, which the Secretary shall conduct, on the extent of the problem of school closures and partial closures nationwide, including an analysis of where and why schools are closing;

(3) results of a study and cost analysis, which the Secretary shall conduct, on the impact declining school enrollments have on local communities; and

(4) an evaluation of whether grants under this Act are the most effective and economical way of recycling surplus school facilities.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. GOLDWATER, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 247, a bill to provide recognition of the Women's Air Forces Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the the United States for purposes of laws administered by the Veterans' Administration.

S. 2009

At the request of Mr. DOMENICI, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2009, the home care services bill.

S. 2135

At the request of Mr. MCINTYRE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2135, a bill to regulate commerce by providing franchisors and franchisees with certain remedies to assure fairness, and to protect against overreaching, unjust enrichment, and unjustifiable termination, and for other purposes.

SENATE RESOLUTION 268

At the request of Mr. ROBERT C. BYRD, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. Res. 268, to provide for radio and television coverage of proceedings of the Senate during consideration of the Panama Canal Treaties.

SENATE RESOLUTION 291—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution:

S. RES. 291

Resolved, That section 2 of Senate Resolution 144, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$300,300" and inserting in lieu thereof "$330,300".

SENATE RESOLUTION 292—SUBMISSION OF A RESOLUTION RELATING TO ORDERLY MARKETING AGREEMENTS WITH JAPAN

(Referred to the Committee on Finance.)

Mr. SCHWEIKER submitted the following resolution:

S. RES. 292

Whereas, conditions within the American steel industry are becoming increasingly grave, as evidenced by the lay-offs of thousands of steelworkers in the past months and weeks;

Whereas, many of the problems of the steel industry can be directly traced to the high level of foreign imports;

Whereas, a significant percentage of the foreign steel imported by the United States is priced below the cost of production in the exporting country, as recently affirmed by the Department of the Treasury in its finding that Japan is dumping steel in the American market; and

Whereas, the American steel industry cannot modernize and expand as long as this situation exists:

Be it resolved, that the President immediately instruct the Special Representative for Trade Negotiations to initiate negotiations with Japan and the European Community in order to achieve Orderly Marketing Agreements providing for a level of steel imports significantly below those currently in effect.

Mr. SCHWEIKER. Mr. President, today I am submitting a resolution urging the President to direct the Special Representative for Trade Negotiations to negotiate orderly marketing agreements with Japan and with the European Community limiting the amount of foreign steel flooding our country to significantly less than at present.

Our steel industry is in serious trouble. Severe losses are being suffered. Thousands of steelworkers have already been laid off; the jobs of thousands more are threatened. We must move quickly to protect the jobs of American steelworkers, and we must move quickly to insure the survival of a basic American industry.

While the problems of the domestic steel industry cannot be traced entirely to unfair foreign competition, the impact of imports is growing increasingly severe. Currently, steel imports make up approximately 18 percent of the U.S. market—a sharp increase over last year's 14 percent. In addition, the Treasury Department has recently found that Japan is "dumping carbon steel products in the American market at a price below a fair market price. It is quite evident that our steel industry has been the victim of unfair trade practices, and will continue to be unless remedial action is taken. We cannot allow the situation to deteriorate further.

For this reason, I am urging the President to take immediate steps to limit steel imports. The negotiation of orderly marketing agreements with Japan and with the European Community, calling for an import level significantly below current levels, would provide the industry with needed relief, as well as give us time to consider other long-range remedies.

The plight of the steel industry does not require that we abandon the principles of freed trade, Mr. President. What we must do, however, is insure that our competitors comply with the principles of fair trade. The orderly marketing approach will help us achieve this goal.

MOTIONS

Mr. SCOTT submitted the following motions, which were ordered to be printed and to lie on the table:

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary, with instructions to report that bill back to the Senate within 30 legislative days.

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary.

AMENDMENTS SUBMITTED FOR PRINTING

GI BILL IMPROVEMENT ACT—S. 457

AMENDMENT NO. 1432

(Ordered to be printed and to lie on the table.)

Mr. DURKIN. Mr. President, as we are all aware, the GI education bill has been, perhaps, the single most successful Federal program in the history of this Nation. However, the very aim of this program as a readjustment device was defeated for the estimated 483,000 veterans enrolled in educational programs who lost their entitlement to benefits in May 1976, as a result of the expiration of the 10-year "delimiting" period.

The amendment I am submitting with my colleagues, Senators CRANSTON, STONE, MATSUNAGA, EASTLAND, CANNON, WILLIAMS, MCINTYRE, ABOUREZK, ALLEN, CLARK, HATHAWAY, FORD, and RIEGLE, will extend the delimiting date for 2 years only for those veterans who were full-time students at the time their benefits expired, and who will continue in a full-time education program. Benefits will be provided at a rate of 50 percent in the first year of the extension and 33 percent in the second year. The only exception to the full-time requirement is where the

veteran is employed in a public safety occupation and is a part-time student in an LEAA education program.

This proposal is much more limited than my amendment which passed the Senate in the last session but died in the House. We stress that this is not a blanket 2-year extension of the delimiting date, but rather is designed to allow those who were full-time students to finish their education, those who would otherwise be unable to do so as a result of the expiration of their benefits.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1433

On page 14, insert "(a)" after "Sec. 203.", and between lines 16 and 17, insert the following new subsection:

(b) Section 1662 of title 38, United States Code, is amended by inserting "(1)" after "(a)" and inserting at the end of such section the following new paragraph:

"(2)(A) Notwithstanding the provisions of paragraph (1), any veteran shall be permitted to use any of such veteran's unused educational entitlement under this chapter after the delimiting date otherwise applicable to such veteran, as provided in paragraph (1), if such veteran was pursuing an approved program of education at the time of the expiration of such veteran's eligibility and such veteran was—

"(i) enrolled on a full-time basis, or

"(ii) on a part-time basis if such veteran was (aa) employed in a public safety occupation, (bb) receiving educational benefits, a loan, or compensation under any program provided for in the Omnibus Crime Control and Safe Streets Act of 1968, and (cc) enrolled under this chapter on not less than a half-time basis in a program of education appropriately related to such veteran's public safety occupation.

"(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under this paragraph—

"(i) may continue to use any unused entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis (or on a part-time basis, but in no event less than a half-time basis, if such veteran was a part-time student at the time of expiration of such veteran's eligibility and was permitted to continue using such veteran's unused entitlement under the provisions of clause (ii) of subparagraph (A) of this paragraph) in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility until such entitlement is exhausted, until the expiration of two years, or until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1), whichever occurs first;

"(ii) shall be entitled in the eleventh year of eligibility to an educational assistance allowance equal to one-half the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph; and

"(iii) shall be entitled in the twelfth year of eligibility to an educational assistance allowance equal to one-third the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph.".

(b) Section 1712 is amended by redesignating subsection (f) as (g) and inserting after subsection (e) the following new subsection:

"(f) Any eligible person shall be entitled to an additional period of eligibility beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2), except that the tenth year of eligibility for purposes of this subsection for such person shall be the last year of such person's period of eligibility and the eleventh and twelfth years shall be the first and second years, respectively, following such last year.".

LEGAL SERVICES CORPORATION—S. 1303

AMENDMENTS NOS. 1434 THROUGH 1455

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted 22 amendments intended to be proposed by him to the bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

ADDITIONAL STATEMENTS

LIBRARY OF CONGRESS REPORT ON EFFECTIVE TAX RATES PAID BY THE OIL AND GAS INDUSTRY

Mr. KENNEDY. Mr. President, on October 6, the Library of Congress completed a study I requested on the effective tax rates paid by the oil and gas industry.

The study employs a new method for assessing the generous Federal income tax subsidies available for oil and gas drilling. According to the study, the subsidies can result in a 3-percent "negative income tax" for some producers, and create extremely low effective tax rates for other producers—much lower than the effective tax rates paid by firms in other industries.

Mr. President, these figures dramatically demonstrate the enormous and unjustified Federal tax subsidies flowing to the oil and gas industry. Some of the wealthiest oil and gas producers in the country are actually receiving huge welfare payments from the Treasury every year. Instead of paying income tax to the Treasury, these millionaires are often paying no income tax at all on their operations, and may even be receiving extra income from the Treasury for their efforts.

It is the height of hypocrisy for these producers to be demanding even higher incentives for production, while reaping both the profit windfalls that high prices are already bringing and the tax windfalls that the Internal Revenue Code already bestows.

As part of the Energy Tax Act this year or the Tax Reform Act next year, Congress has the obligation to end these inequities. It is long past time the oil and gas industry paid its fair share of taxes.

Mr. President, the current study, prepared by the Congressional Research Service of the Library of Congress, indicates that, despite the partial repeal of the percentage depletion allowance for oil and gas by Congress in 1975, oil and gas production continues to benefit handsomely from large tax subsidies, at a time when high prices are already bringing high profits to the industry.

According to the calculations in the study, the effective tax rate on oil and gas drilling in the United States, even without the advantage of percentage depletion, is 17.2 percent, compared to the statutory Federal corporate tax rate of 48 percent and the estimated effective tax rates on corporations in other industries of about 30 to 35 percent.

In the case of oil and gas producers who also qualify for the percentage depletion allowance, the effective tax rate is actually below zero, resulting in a net Treasury payout to the producers, or a "negative income tax." The calculations in the study indicate that the net payout to such firms amounts to 3 percent of income.

The oil and gas industry has long received extremely favorable treatment under the income tax system. The best known tax advantage is percentage depletion, which allows a firm a deduction equal to 22 percent of the gross income from an oil or gas well.

In addition, producers are also allowed an immediate deduction for their "intangible" costs of drilling and development. Firms in other industries are required to "capitalize" such costs and deduct them gradually over the life of the investment. The immediate deduction for such drilling costs is available even for "development" wells, which involves drilling in proven reserves where little risk is present.

The rapid rise in oil prices and profits in 1974 automatically increased the value of the percentage depletion deduction, because the amount of the deduction was tied to the price of oil. In 1975, Congress repealed the percentage depletion deduction for the largest oil and gas producers. Under heavy lobbying pressure from independent producers, however, the deduction was retained for production not exceeding specified limits—currently 1,600 barrels a day, equivalent to over $6 million in oil revenues a year at current prices. The daily allowance will be reduced to 1,000 barrels by 1980, and the depletion percentage will be phased down to 15 percent by 1984. The 1975 legislation did not affect the deduction for intangible drilling costs.

According to estimates of the Congressional Budget Office, the cost to the Treasury of the tax subsidies for 1977 is $715 million for the intangible drilling deduction and $1.31 billion for percentage depletion. The total of the two tax subsidies is thus over $2 billion a year.

The Library of Congress study analyzes the tax breaks for oil and gas by converting the various tax provisions into effective tax rates. Basically, the study asks the following question: if each tax benefit were removed (for example, if intangible drilling costs were required to be capitalized, instead of being immediately deducted), how low a tax rate would have to be granted the firms in order to give them benefits equivalent to those available under the current tax provisions? Taking this approach, the following results were reached by the study:

Application of a 20.5-percent tax rate and capitalization of intangible costs would be equivalent to the current immediate deduction for intangible costs and the regular 48-percent corporate statutory tax rate. In other words, the immediate deduction, by itself, has the effect of reducing the 48-percent rate by more than half, to 20.5 percent.

When the 10-percent investment tax credit, available to firms in all industries for the purchase of equipment and machinery, is included in the calculation, the effective tax rate on oil and gas firms is reduced further, from 20.5 to 17.2 percent.

For producers also qualifying for the 22-percent depletion deduction an effective tax rate of minus 3 percent results from the cumulative effect of the depletion deduction and the deduction for intangible drilling costs. In other words, if these two tax benefits were eliminated, the Treasury would have to pay oil and gas producers 3 percent of their taxable income in order to maintain their equivalent tax position. The Treasury subsidy would be even greater if the investment credit were also taken into account.

Mr. President, the Library of Congress has performed a valuable service by undertaking this analysis, and I ask unanimous consent that the study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[The Library of Congress, Congressional Research Service].

TAX PROVISIONS AND EFFECTIVE TAX RATES IN THE OIL AND GAS INDUSTRY

(By Jane G. Gravelle, Analyst in Taxation and Fiscal Policy, Economics Division, October 6, 1977)

SUMMARY

Oil and gas production benefits from income tax treatment due to the expensing of dry hole costs and intangible drilling costs. In some cases, although not in the majority, benefits are also received in the form of percentage depletion and penalties are applied via the minimum tax.

This paper converts these tax provisions into an effective tax rate by use of a discounted cash flow model, allowing this effective rate to be compared with a standard tax rate of 48 percent and with effective rates which apply to other industries. The results indicate that oil and gas production is in a more favorable tax position (in an economic sense) than other industries on average, despite the repeal of percentage depletion in 1975. Further, those producers receiving percentage depletion benefits may actually be subject to what, in effect, amounts to a negative income tax. However, conclusions regarding provisions other than the expensing provisions are sensitive to the assumed rate of return, useful life and the decline rate of oil and gas wells.

The results of the calculations in this paper are summarized in the following tables. However, careful attention should be paid to the assumptions made in arriving at these effective tax rates, which are outlined in the paper.

TABLE 1.—*Summary of effective tax rates: total U.S. oil and gas drilling*[1] *under present law*

	Effective tax rate percent
A. Expensing dry holes and intangible drilling costs	20.5
Plus minimum tax at full rates (applicable to individuals only)	26.0
B. Expensing dry holes and intangible drilling costs plus percentage depletion:	
At a percentage depletion rate of 22 percent	[2] −3.0
At a percentage depletion rate of 15 percent	5.5
At a 22 percent depletion rate plus minimum tax on percentage depletion only	4.3
At a 15 percent depletion rate plus minimum tax on percentage depletion only	10.3
At a 22 percent depletion rate plus minimum tax on percentage depletion and intangibles (applicable to individuals only)	12.0
At a 15 percent depletion rate plus minimum tax on percentage depletion and intangibles (applicable to individuals only)	17.7

[1] Note that all rates except the first (20.5) are sensitive to the price-cost ratio which depends on rate of return, useful life and decline rate.

[2] A negative tax rate means that oil and gas production actually receives a subsidy rather than being subject to any tax. This subsidy can be received by offsetting deductions against other income of the taxpayer.

TABLE 2.—*Summary of effective tax rates: Development drilling*[1]

	Effective tax rate percent
With intangible drilling costs expensed	29.0
With intangible drilling costs expensed and a minimum tax on intangibles (applicable to individuals only)	40.0
With intangible drilling costs expensed and percentage depletion at 22 percent	5.0
With percentage depletion at 15 percent	12.6
With 22 percent depletion and minimum tax on depletion	12.5
With 15 percent depletion and minimum tax on depletion	17.6
With 22 percent depletion and minimum tax on both (applicable to individuals only)	32.6

[1] Assuming a virtually certain drilling of a producing well.

TABLE 3.—*Effective rate from expensing provisions plus investment credit*

(*Present law*)	*Percent*
All drilling	[1] 17.[illegible]
Development drilling	[2] 21.7

[1] The effect of including the investment credit is to reduce the effective tax rate from 20.5% in Table 1 to 17.2%.

[2] The effect of including the investment credit is to reduce the effective tax rate from 29.0% in Table 2 to 21.7%.

I. ISSUE AND APPROACH

Oil and gas production has received favorable tax treatment for many years, although one major special provision, percentage depletion, was repealed for most oil and gas producers in 1975. Even without percentage depletion, however, a substantial portion of capital investment can be deducted when incurred, resulting in a lower actual effective tax rate than would application of a standard tax system.

A lower tax rate leads to a greater allocation of capital to the production of oil and gas than would occur under a neutral tax system. Such misallocation, in terms of economic efficiency, is sub-optimal unless there is a social reason to reallocate such resources. In the past, prior to the substantial price rises of foreign oil, a major reason advanced for special treatment of the petroleum industry (in tax policy and in other areas as well, such as important quotas) was national security, because foreign oil prices were relatively low and posed a threat to the existence of a domestic industry (vital in time of national emergency). However, foreign oil prices have increased substantially and the price of new domestic oil has increased substantially as a result.

The rise in domestic oil prices to substantially higher levels led to a substantial rise in profits in the oil industry. Following this effect in 1975 the Congress repealed, for the most part, one of the major tax provisions favorable to the oil industry, percentage depletion. However, some oil and gas is still eligible for percentage depletion. Furthermore, oil and gas production continues to be allowed expensing provisions. These expensing provisions, which allow current deduction of dry hole costs and intangible drilling costs, provide substantial tax reductions for oil and gas producers.

The purpose of this paper is to determine how these provisions affect the effective tax rate on oil production. This effect is difficult to determine because there is no publicly available data on oil production alone which would provide appropriate information. Financial data for each firm, even though now reconciled with tax liability for major firms through Securities and Exchange Commission reports, is inappropriate because it aggregates foreign and domestic income, aggregates income from production, refining, transportation, maketing and any other associated businesses, and reflects specific accounting procedures of the firms involved.

Using another approach, some economic studies have compared the benefits provided to oil and to other industries to try to examine the magnitude of these economic effects. For example, Gerard Brannon estimated that the expensing provisions plus percentage depletion resulted in the equivalent of 46 percent investment tax credit as compared to a rate of about 8 to 10 percent for other industries.[1] While conversion of tax benefits into credits is useful as an input into estimates of supply and demand and other economic relationships, it is difficult to interpret.

In order to examine the effect of these provisions and interpret them into terms which have a familiar reference point—the tax rate—this paper will examine the effect of various provisions on the effective tax rate, under a number of circumstances. This can be compared with the standard 48 percent tax rate, with general observed effective tax rates in other industries and with other provisions affecting business in general. To make these estimates, some assumptions must be made about costs and on occasion useful lives and discount rates. Fortunately, however, some of the most important results are independent of discount rates and useful lives.

II. A DESCRIPTION OF TAX PROVISIONS BENEFITING OIL AND GAS PRODUCTION

There are several special tax provisions, as well as some generally available ones, which act to reduce the effective tax rate of oil and gas production. In outlining these provisions, it is useful to examine the various types of costs incurred in acquiring a producing oil or gas property and how these provisions are treated in the tax law. An explanation of why

Footnotes at end of article.

various provisions favor oil and gas production will follow.

A. Abandonment costs (dry hole costs)

Expenditures, regardless of their nature, which are associated with dry properties and wells are allowed to be deducted in computing taxable income when incurred.[2] Current deduction of investment outlays allows the deferral of taxes and provides a benefit because of the time value of money. These costs may include drilling costs for exploratory and development wells which prove dry, lease acquisition costs for properties which prove dry and various other associated costs.

B. Depletable costs

Expenditures for lease acquisition and geological and geophysical expenditures which relate to producing properties and wells are generally recovered through cost depletion over the life of the property. Depletable costs are recovered via a unit of production method where the portion of costs deducted each year is equal to the proportion of reserves recovered each year. If reserves are correctly measured, cost depletion appropriately matches the decline in value of the property with income produced from the property.[3]

Prior to 1975, an alternative method of recovering these costs was generally allowed, termed percentage depletion. Percentage depletion was allowed at a rate equal to 22 percent of gross income (minus royalty) from the well but could not exceed 50 percent of net income (after all deductions other than depletion). Royalty recipients took percentage depletion on their royalty income.

Because percentage depletion was a deduction of a specified percentage of gross income, and exceeded actual costs, it constituted a tax benefit. This tax benefit was quite substantial since various estimates indicated that it allowed a recovery of depletable costs from 4 to 16 times original costs.[4]

In 1975 (as mentioned) percentage depletion was disallowed. However, an exemption from repeal was retained for independent producers for a certain portion of oil production. Percentage depletion was to be allowed for the first 2,000 barrels of oil a day with a phase down over a five-year period to 1,000 barrels of oil a day. Beginning in 1981 the rate on the exempt portion will be phased down to 20 percent in 1981, 18 percent in 1982, 16 percent in 1983 and 15 percent in 1984, where it will remain. Alternatively a producer may elect a rate of 22 percent on secondary and tertiary production until 1984. The deduction for depletion may not exceed 65 percent of the taxpayer's net income from all sources.

At the time of enactment, the exclusion apparently would have retained about 30 percent of the dollar amount of existing percentage depletion. As the exemption and rate fall, this proportion would be expected to fall.

C. Intangible drilling costs

Expenditures for intangible costs of drilling producing wells (such as labor supplies and repairs) are allowed to be deducted when incurred.

D. Tangible drilling costs (depreciable costs)

Expenses of tangible well equipment related to producing wells are recovered as depreciation. The rate and useful life may be that generally allowed in the tax law (including double declining balance and other forms of accelerated depreciation and shorter lives under the asset depreciation range system) or may be recovered based on unit of production. Like other investment, tangible well equipment is generally eligible for the investment tax credit, and recovery of costs may potentially benefit from accelerated depreciation—two generally available tax benefits.

In addition to these tax benefits, there are some penalties imposed which offset to some extent the advantages. Both intangible drilling costs (roughly in excess of amounts if capitalized) and percentage depletion in excess of cost depletion are included in the base of the minimum tax for individuals, currently imposed at a 15 percent rate. Percentage depletion is also included in the minimum tax for corporations.[5]

A standard tax on income from a capital investment would impose a tax on revenues minus operating costs and minus a deduction for the using up of the asset (for a machine through depreciation deductions). Such a treatment allows income from the asset to be matched with costs of producing that income. Compared to this standard, expensing of investment costs through dry hole deductions and intangible drilling costs provides a tax incentive because costs are deducted prior to recognition of income, and taxes are deferred. Percentage depletion provides a tax benefit because deductions are in excess of original costs. The investment credit provides a benefit through a net reduction in original investment cost.

With the exception of expensing of dry hole costs, all of these provisions are recognized generally as tax subsidies by inclusion in the tax expenditure budget.[6] (Although the tax expenditure budget clearly does not include all items which result in favorable tax rates on certain types of investment.)

The case of dry hole costs is somewhat more complicated to deal with and substantial confusion on the issue exists because most (although not all) firms expense dry holes in their financial accounts and most of the accounting profession favors such expensing treatment. Nevertheless there is a current discussion involving the use of full cost accounting for the petroleum industry in the accounting profession which would require the capitalization of dry holes and tracts.[7]

Understanding of this issue is complicated by the fact that losses are generally allowed to be deducted in the tax law (although this deduction generally occurs in most businesses when assets are sold at a loss). Because the allocative effect of expensing of dry holes is so essential to the remainder of this paper, the following discussion is presented to show why in an economic sense expensing of dry holes provides for a relatively lower effective tax rate and concomitant encouragement of oil and gas production beyond that which would occur with a neutral tax system. (A neutral tax system would lead to the same allocation of capital which would have occurred if the tax did not exist.)

Difficulty in assessing the impact of dry hole expensing occurs because oil and gas production is unusual in that there are a large proportion of dry holes and tracts which prove to be entirely worthless as single properties but which are nevertheless a necessary acquisition cost of producing properties and wells since in an exploratory drilling operation a producer can never be sure of drilling a producing well. Because of the importance of these expenses, the failure to tax under an accretion concept or to capitalize dry holes becomes important in terms of resource allocation. Unlike other industries the costs of projects which are unsuccessful constitute a significant portion of investment outlay in oil and gas production.

To illustrate this allocative effect, consider the following example:

In a no tax world, a manufacturer might spend $100,000 on a plant which will produce over time a 15 percent rate of return (and therefore its present value at a 15 percent discount rate is $100,000). Were the current tax applied, the basis of the asset ($100,000) would be depreciated over the useful life of the plant.

An oil driller might also be willing to spend $100,000 to produce an investment yielding a 15 percent rate of return. However, in this case, assume that he expects to drill 9 dry holes for every one producing hole. If the present value of a producing well is $100,000 he would be willing to spend no more than $10,000 per well. If his expectations hold, he will now have a $90,000 expenditure on dry holes and a $10,000 expenditure on a successful well. Were the current tax applied and the dry holes expensed he would take a $90,000 deduction and, assuming sufficient other income to offset it against, he would realize an immediate tax savings of $43,200 (at a 48 percent tax rate). He would have a basis of $10,000 to depreciate over the life of the well, and would thus have smaller depreciation deductions. However, the value of deducting those items now is greater than in the future because of the time value of money.

An investor faced with these two options would clearly prefer to invest in oil production after the imposition of the tax although the two investments yield an equal before tax rate of return.[8] A neutral tax on income would leave investors indifferent between the two options.

Not only is this effect allocationally nonneutral, but it can even be shown to be inconsistent within the tax structure itself. Consider two investors spending $100,000 each to invest in oil extraction, and each finding one out of ten holes producing with a present value of $100,000. Investor A produces oil from his well, takes a $90,000 deduction for dry holes and deducts the remaining $10,000 over the life of the producing well. Investor B sells his producing well for $100,000 to C, deducts his $90,000 loss against his $90,000 gain,[9] for no income tax liability or net loss. C, now having an asset with a basis of $100,000, depreciates it over the life of the producing well. The latter case is equivalent to what would occur with capitalization of dry holes.

The two situations are equal in an economic sense but the tax law treats them differently. Clearly, the two different effects cannot be allocationally neutral.[10]

It is important to note that the fact a tax subsidy exists does not necessarily mean that it is socially undesirable. The legal complexities of capitalizing dry holes may be significant enough to justify the efficiency losses which occur. Furthermore, there is some argument that a tax subsidy should be provided for exploratory drilling because exploratory drilling yields benefits to society in general by providing information to other producers. This "social benefit" does not yield a rate of return to the exploratory driller, however, and in the absence of a subsidy the amount of exploratory drilling may be less than desirable, considered from the perspective of society as a whole. But the precise size of the optimal subsidy may or may not correspond with that implicit in expensing of dry holes.[11]

The economic effect of the various special tax provisions in the oil and gas industry has been widely analyzed,[12] although the economic analysis has primarily focused on percentage depletion and generally pre-dated both the repeal of percentage depletion in 1975 and the price increases which occurred in 1974.

The major points which have generally been made in this literature are:

(1) The special provisions may affect price, output, proved reserve levels, rate of return or suppliers of factors of production (the latter may be primarily increases in lease acquisition costs which increase income of landowners).

(2) Quantitative studies have raised questions about the efficiency of such provisions in increasing proved reserve levels or in achieving the goals of restricting dependence on foreign imports. Furthermore, the latter purpose has become less relevant given the incentive effects of substantial price rises which should have encouraged domestic production and to which adjustment may still be taking place.

(3) Certain of these provisions, such as dry hole costs, are a far greater incentive to exploratory drilling. Intangible drilling cost deductions are a greater incentive to drilling in proved reservoirs.

In addition to these general points, it might also be noted that the current form of the allowance for percentage depletion, because it is restricted to a given level of production, may provide no incentive to new drilling for those firms whose production is and will be above the exempt limits of the amount of oil eligible for percentage depletion.

III. EFFECT OF SPECIAL TAX PROVISIONS ON EFFECTIVE TAX RATE: ALL DRILLING

A. Methodology

In order to translate the value of the various tax benefits available to oil and gas production into equivalent effective tax rates, a discounted cash flow model will be used. This model is similar to the type used by the Federal Power Commission to set natural gas rates in the United States. The elements of this type of model are outlined in the Appendix (Section A). As shown in that derivation, a standard income tax rate of 48 percent can be converted into an effective tax rate by use of a standard formula which does not depend on useful life, decline rate (production rate) and rate of return, as long as the special tax provisions involve an expensing privilege. This is the case of the major provisions currently affecting oil and gas production.

The standard formula for an expensing provision (with a 48 percent tax rate) is:

$$\frac{.48(1-x)}{1-.48x}=\text{effective tax rate}$$

where x equals the percent of cost expensed.

In order to apply this formula, however, it is necessary to determine what portion of investments are expensed through dry hole costs and intangible drilling costs. Estimates of these amounts have been presented by the Treasury Department for oil and gas production and by the Federal Power Commission.

The Treasury estimates[13] indicated that approximately 42 percent of costs were recovered through dry hole expensing, 29 percent through intangible drilling cost deductions, 9 percent through depreciation and 20 percent through depletion. Since these estimates were provided in 1973, however, they may be substantially out of date and should accordingly be given less weight than more recent estimates.

The Federal Power Commission indicated the following rough proportions:

(1) Oil[14] (based on 1972 data):

45 percent dry hole costs, 22 percent intangible drilling costs, 7 percent depletion and 26 percent depreciation.

(2) Gas[15]

1973–1974 data:

51 percent dry hole costs, 24 percent intangible drilling costs, 6 percent depletion, 17 percent depreciation, 3 percent working capital.

1975–1976 data:

51.5 percent dry hole costs, 21.5 percent intangible drilling costs, 16 percent depreciation, 8 percent depletion, 3 percent working capital.

These ratios vary, although not substantially. There is a possibility that the Treasury data included some tangible equipment under depletion because such costs can be recovered via depletion. Further, discussions by the Federal Power Commission in both sources indicated a rising trend in the share that lease acquisition comprises of costs. Accordingly, the following ratios are assumed in analysis:[16] 50 percent, dry hole costs; 22 percent, intangible drilling costs; 18 percent, depreciation; 7 percent, depletion[17]; and 3 percent, working capital.

B. Findings

Using the formula developed in the Appendix, the effective tax rate which results from expensing dry hole and intangible drilling costs can be calculated as:

$$\frac{.48(1-.72)}{1-(.48)(.72)}=20.5 \text{ percent}$$

In other words, the same effect could be achieved by capitalizing dry holes and intangible drilling costs and then reducing the Federal corporate tax rate on oil and gas production from 48 percent to 20.5 percent (ignoring for the moment any other tax provisions).

If expensing of dry holes were allowed but capitalizing of intangible drilling costs were required, only 50 percent of the costs would be expensed, with the resulting effective tax rate:

$$\frac{.48(1-.5)}{1-(.48)(.5)}=31.6 \text{ percent}$$

In effect, capitalizing intangible drilling costs would increase effective tax rates on the production of oil and gas by about 10 percentage points; the remaining 16 + percentage points being attributable to dry hole expensing.

Conversely, if dry hole capitalization were required but intangible drilling costs deductions were still allowed (currently an unlikely prospect) the effective tax rate would be:

$$\frac{.48(.1-.22)}{1-(.48)(.22)}=41.9 \text{ percent}$$

Capitalizing dry holes would add about 20 percentage points to the effective tax rate, with the remaining 6 + percentage points reflecting intangible drilling cost deductions.

Measuring the relative effects of dry hole expensing versus intangible drilling cost expensing depends on which is removed first; however, both examples illustrate the greater relative importance of expensing dry holes as compared to intangible drilling costs in reducing the effective tax rate on total drilling.

Although the minimum tax is unlikely to apply to most drilling in the United States its effects can roughly be measured, using an expensing credit or tax payment as described in Section B of the Appendix. Under present law, the minimum tax is applied at a rate of 15 percent on certain excess intangible drilling cost deductions.

As shown in the Appendix, separate effective tax rates on revenues versus return of costs must be computed in this case and from these results a single total effective tax rate can be derived. The general form of the rate on revenues is:

$$\frac{z(1-x)+wy}{1-zx+wy}=\text{effective tax rate}$$

and on costs:

$$\frac{z(1-x)}{1-zx+wy}=\text{effective tax rate}$$

where x equals percent of costs expensed, z equals the regular tax rate, w equals the rate of the minimum tax and y the portion of cost to which the minimum tax applies.

Assuming, as a polar case, that full 15 percent rate applies to all intangible drilling costs, and that the 48 percent marginal corporate tax rate applies to affected individuals, the effective tax rate on revenues would be:

$$\frac{(.48)(1-.72)+(.15)(.22)}{1-(.48)(.72)+(.15)(.22)}=24.3 \text{ percent}$$

and the effective tax rate on return of costs=

$$\frac{(.48)(1-.72)}{1-(.48)(.72)+(.15)(.22)}=19.5 \text{ percent}$$

Because return costs are recovered at a lower effective tax rate than revenues are taxed at, the overall effective tax rate is higher than 24.3 percent. As explained in Section B of the Appendix, the common tax rate depends on the ratio of price to cost. Using the 3.5:1 ratio discussed in the Appendix, the overall effective tax rate would be approximately 26 percent. This rate is, however, sensitive to useful life, rate of return and decline rate because it depends on the ratio of price to cost which reflects these factors.

Assuming this 26 percent rate to be correct,[18] the result is that the minimum tax on intangible drilling cost deductions adds about 5 percentage points to the effective tax rate (increasing it from 20.5 percent to 26 percent). The result also indicates that repeal of the deductibility of intangibles, where the minimum tax was already fully applicable, would raise the effective tax rate by about 5 percentage points (from 26 percent to 31.5 percent). (See discussion of effects of capitalizing intangibles above.)

Percentage depletion is also available to some production. To incorporate percentage depletion into the model (and referring to the model in the Appendix, Section C), the effective tax rate on revenues would be:

(a) At 22 percent depletion rate:

$$.205-\frac{(.22)(.48)}{1-(.48)(.72)}=.205-.161$$
$$=4.4 \text{ percent effective tax rate on revenues}$$

$$.205-\frac{(.48)(.07)}{1-(.48)(.72)}=.205-.051$$
$$=15.5 \text{ percent effective tax rate on costs}$$

Using a 2.5:1 ratio of price to cost, as discussed in the Appendix, this would convert from a tax rate to a tax *subsidy* of 3 percent.[19]

(b) At a 15 percent rate:

$$.205-\frac{(.15)(.48)}{1-(.48)(.72)}=.205-.110$$
$$=9.5 \text{ percent rate on revenues}$$

Using a 2.5:1 ratio of price to cost, as discussed in the Appendix, this would convert into a tax rate of 5.5 percent.[20]

Although these results are much less certain than those relative to the expensing allowance, percentage depletion clearly has the potentiality to convert tax rates in the oil industry to virtually no tax or even to a subsidy (in effect a negative tax rate).

If the minimum tax applied to percentage depletion but not to intangible drilling costs, the effect would be:

(a) At a 22 percent depletion rate:

$$.205-\frac{(.48-.15)(.22)}{1-(.48)(.72)}=.205-.111$$
$$=.4 \text{ percent effective tax rate on revenues}$$

$$205-\frac{(.48-.15)(.07)}{1-(.48)(.72)}=.205-.035$$
$$=17.0 \text{ percent effective tax rate on costs}$$

which converts into a 4.3 percent tax rate at a 2.5:1 price-cost ratio.

(b) At a 15 percent depletion rate:

$$.205-\frac{(.48-.15)(.15)}{1-(.48)(.72)}=.205-.075$$
$$=13.0 \text{ percent effective tax rate on revenues}$$

which converts into an overall tax rate of 10.3 percent at a 2.5:1 price cost ratio.

Footnotes at end of article.

If the minimum tax were to apply to both intangible drilling costs and percentage depletion (again assuming a 48 percent marginal tax rate for individuals as well as corporations):

(a) At a 22 percent depletion rate:

$$.243-\frac{(.48-.15)(.22)}{1-(.48)(.72)+(.15)(.22)}=.243-.106$$
$$=13.7 \text{ percent effective tax rate on revenues}$$

$$.195-\frac{(.48-.15)(.07)}{1-(.48)(.72)+(.15)(.22)}=.195-.033$$
$$=16.2 \text{ percent effective tax rate on costs}$$

which converts into a 12.0 percent common effective tax rate at a 2.5:1 price-cost ratio.

(b) At a 15 percent depletion rate:

$$.243-\frac{(.48-.15)(.15)}{1-(.48)(.72)+(.15)(.22)}=.243-.072=17.1$$

which converts into a 17.7 percent overall effective tax rate at a 2.5:1 price cost ratio.

These effects with the minimum tax are, of course, also sensitive to the assumed price-cost ratio.[21]

These effects illustrate the greater importance of intangible drilling cost deductions to development drilling. Furthermore, if development drilling is less risky than total drilling (implying a lower price cost ratio) percentage depletion is more valuable to development drilling than to drilling as a whole.

IV. EFFECT OF TAX PROVISIONS ON EFFECTIVE TAX RATES: DEVELOPMENT DRILLING[22]

Once a producer has discovered an oil or gas reservoir, he may make decisions to drill additional wells. In this case we will assume that he incurs no dry hole costs to measure the effect of expensing of intangible drilling costs in the extreme case where he is virtually certain that oil will be produced.

FPC data suggest that if all depreciable costs are allocated to successful wells, 56 percent of his cost will be intangible drilling costs and 44 percent will be depreciable costs. Accordingly, using the standard formula

$$\frac{z(1-x)}{1-zx}$$

the effective tax rate will be:

$$\frac{.48\ (1-.56)}{1-(.48)(.56)}=29 \text{ percent}$$

Thus, if intangible drilling costs were required to be capitalized, the effective tax rate would increase by 19 percentage points (from 29 percent to 48 percent).[23] Hence, the greater effect of intangible drilling costs on development as opposed to total drilling is demonstrated.

The application of the minium tax on intangible drilling costs would yield:

$$\frac{.48\ (1-.56)+(.15)(.56)}{1-(.48)(.56)+(.15)(.56)}=36 \text{ perrent}$$
effective tax rate revenues

and

$$\frac{.48\ (1-.56)}{1-(.48)(.56)+(.15)(.56)}=25.9 \text{ percent}$$
effective tax rate on costs

At a 3.5:1 price ratio, the overall rate would be 40 percent.[24]

The incorporation of percentage depletion adds a 22 percent (or 15 percent) return of revenues and loses to cost depletion deduction. To calculate the effects of intangible drilling costs plus percentage depletion the formula is:

$$.29-\frac{(.22)(.48)}{1-(.48)(.56)}=.29-.144=14.6 \text{ percent effective tax rate on revenues}$$

The rate on costs (computed earlier at a 29 percent rate) would be unchanged (ignoring the loss of cost depletion) and the combined rate would be (at a 2.5:1 price ratio) 5 percent. (Note, however, that a slightly higher common rate would apply because of the loss of cost depletion.)[25]

At a 15 percent depletion rate:

$$.29-\frac{(.15)(.48)}{1-(.48)(.56)}=.29-.098=19.2 \text{ percent effective tax on revenues}$$

and the combined rate (ignoring the loss of cost depletion) would be 12.6 percent.[26]

Without displaying the calculation and assuming 2.5:1 ratio, a full minimum tax on percentage depletion at a 22 percent rate would be a 19.12 effective tax rate with a 12.5 overall tax rate; and at a 15 percent depletion rate would be a 22.2 percent effective tax rate on revenues with a 17.6 percent overall tax rate. A minimum tax on both intangible drilling costs and percentage depletion at a 22 percent depletion rate would indicate a 27.1 percent rate on revenues and a 27.9 percent overall rate; at a 15 percent depletion rate the effective tax rate on revenue would be 29.9 percent with an overall rate of 32.6 percent. These effects would also vary with price cost ratios.

V. COMPARISON WITH OTHER FORMS OF INVESTMENT

In order to compare the allocative effect of special tax provisions with tax rates in oil and gas drilling, a determination of the overall effective tax rate which applies to alternative investments is required. This comparison is quite difficult, although some approximations can be made.

Observed aggregate effective tax rates in the past few years have ranged from around 31 percent to 35 percent.[27] These rates present some difficulties, however, because they represent average tax rate on return to all existing capital and not the implied rate on investment made in one period. Furthermore, they reflect accounting practices of the firms and actually include investment along a broad continuum (from very favored industries to those which pay close to the full statutory rate). Nevertheless, these observed tax rates can serve as one benchmark.

An alternative method of developing a standard for comparison is to look at the effect of the major general provision available in manufacturing—the investment credit—which is currently allowed at a 10 percent rate. In the case of manufacturing, the Treasury department estimated[28] that 65 percent of the average investment in manufacturing reflected machinery and equipment. Assuming all such investment is eligible for the credit[29] the effective tax rate can be calculated in the same form as a minimum tax (but with opposite sign), where the rate on revenues equals:

$$\frac{(.48)-(.10)(.65)}{1-(.10)(.65)}=44.4 \text{ percent}$$

and the rate on costs equals:

$$\frac{.48}{1-(.10)(.65)}=51.3 \text{ percent}$$

The overall rate ranges from 30.6 percent at a 1.5:1 ratio and 42.7 percent with a 5:1 ratio. Given fairly long useful lives suggested by these investments a fairly high price to cost ratio would be expected and, therefore, an effective tax rate closer to 42.7 percent.

It would also be desirable to include accelerated depreciation in this effect; however, it does not seem possible to account for it.[30]

In order to compare the numbers derived for the oil and gas industry with either of these standards, a further adjustment should be made to the rates to account for the investment tax credit which is available for well equipment. Because application of the minimum tax and percentage depletion is not common, particularly for corporations, only the expensing provisions will be assumed.

For total drilling the rate on revenue flows would be:

$$\frac{1.48)(1-.72)-(.10)(.18)}{-(.48)(.72)-(.10)(.18)}=18.3 \text{ percent}$$
effective tax rate on revenues

and the rate on costs would be:

$$\frac{(.48)(1-.72)}{1-(.48)(.72)-(.10)(.18)}=21.1 \text{ percent}$$
effective tax rate on costs

At a 3.5 to 1 ratio the tax rate would be 17.2 percent.

For development drilling the rate on revenues:

$$\frac{(.48)(1-.56)-(.10)(.44)}{1-(.48)(.56)-(.10)(.44)}=24.3 \text{ percent}$$
effective tax rate on revenues

and the rate on costs would be:

$$\frac{(.48)(1-.56)}{1-(.48)(.56)-(.10)(.44)}=30.7 \text{ percent}$$
effective tax rate on costs

At a 3:5 to 1 ratio the tax rate would be 21.7 percent.

In this regard it is interesting to note that the inclusion on the investment credit results in tax rate, when all factors are considered, on development drilling which is almost as low as that of overall drilling, due to the greater value of the investment tax credit for this type of drilling. This effect would be increased to the extent that accelerated depreciation occurs as well, but reduced if development drilling is less risky than total drilling.

It would also be useful to calculate the effect of repealing intangible drilling costs given that the investment credit was retained. By substituting (for total drilling) .50 for .72 and recalculating the common rate, the effect is to increase the rate to 30 percent for an effect of about 13 percentage points. In the case of development drilling by substituting 0 for the .56 and recalculating the common rate, the rate would be 43.8 percent for a 22 percentage point difference.

These effects again confirm the greater importance of intangible drilling cost expensing for development rather than total drilling.

The general results indicate, however, that oil and gas production of either type, even without percentage depletion, enjoys a much lower tax rate than average corporate profits in the economy.

FOOTNOTES

[1] Gerard M. Brannon. Existing Tax Differentials and Subsidies Relating to the Energy Industries. Studies in Energy Tax Policy. Cambridge, Ballinger Publishing Company, 1975. Professor Brannon converted these provisions into present value terms, thereby allowing them to be compared with other industries. A 46 percent investment credit would reduce the cost of capital by 46 percent.

[2] Technically, a well may receive intangible drilling cost deductions initially, and then be abandoned, with much of the cost already deducted. Costs of acquiring a property are not deducted until the entire tract proves dry. Although technically dry holes may be deducted as intangibles, in this paper they are treated as abandonment losses since deduction of their costs would occur quickly even if intangible drilling costs were not allowed to be deducted.

[3] This recovery does not result in a true economic recovery if prices are rising because of the use of historical cost depletion. However, since other assets are also depreciated using historical cost basis, this effect only has an allocational impact if useful lives of oil and gas properties are significantly different from those of other assets. Such evidence as is available indicates a range of 6 to 25 years for oil and gas deposits; the Federal Power Commission uses a life of 15 years. Treasury data presented

in testimony before the Senate Interior Committee in 1973 (Financial Requirements of the Nation's Energy Industries) indicated that in manufacturing 65 percent is recovered over 10 years (machinery) and 35 percent over 45 years (structures) for a weighted average of around 20 years. Recovery of costs in the housing industry would take an even longer period. Thus, such evidence as is available does not suggest that oil and gas properties are disfavored by use of historical cost depreciation or depletion.

[4] See Treasury statement before the Senate Interior Committee (Financial Requirements of the Nation's Energy Industries, 1973) and testimony of J. Reid Hambrick before the Ways and Means Committee (Panel Discussions on Tax Reform, Pt. 9, Natural Resources, 1973).

[5] The individual minimum tax allows a deduction of the larger of $10,000 or ½ of regular taxes paid from preference income. The minimum tax on corporations allows a deduction of the greater of $10,000 or regular taxes paid. It is unlikely that major oil and gas firms pay any minimum tax.

[6] Estimates of Federal Tax Expenditures, Prepared for the House Ways and Means Committee and Senate Finance Committee by staff of the Joint Committee on Internal Revenue Taxation, March 15, 1977.

[7] For a discussion see Brannon, Ibid., and U.S. Congress, Committee on Government Operations, U.S. Senate, The Accounting Establishment, 95th Congress, 1st Session, March 31, 1977, p. 1629–1633.

[8] Of course, if the risk in oil production is perceived as greater than in building the plant then the investor may require a risk premium; but this adjustment can occur properly only in a neutral tax environment. Furthermore, for small producers securing debt capital may be more difficult or costly in the oil drilling case, also requiring a higher rate of return.

[9] Under present law, of course, a gain on an asset held for one year or more does not incur tax at full rates. This item is, however, recognized as a tax subsidy.

[10] It is important to view allocational effects from the standpoint of an investor making a choice without sure knowledge. For an investor drilling many wells, the ratio of dry to producing holes may not be precisely what he expects and his rate of return lower or higher as a consequence. If he perceives the return as highly variable he will demand a higher rate of expected return than in the case of a safe investment. However, not realizing his exact expectations does not imply that it is proper to expense any dry holes. A manufacturer may find his plant producing a lower or higher rate of return as well. If a true accretion income tax were applied, either type of investor would recognize gains and losses reflecting returns above or below market returns and they have the option of doing so if either sells an asset. The result of favoring investment in oil and gas production is to encourage a larger flow of capital into oil and gas production which may yield, at the margin, the same (or even a higher) rate of after tax return but a lower physical return. As a result capital does not flow to its best uses. Of course, a tax on the returns to capital may create its own non-neutralities in product mix but this effect should be evaluated in a more general context.

[11] For a discussion see Joseph E. Stiglitz, The Efficiency of Market Prices in Long Run Allocation in the Oil Industry, and Frederick M. Peterson, Two Externalities in Petroleum Exploration, in Studies in Energy Tax Policy. Cambridge, Ballinger Publishing Co., 1975. The externality argument applies in the opposite direction to drilling on an existing site if other drillers also are producing from the same reservoir since any one driller can gain at the expense of others by drilling more holes and thereby reducing the amount of oil pumped by his neighbors. An argument for a tax penalty can be made in this case.

[12] For a survey and extensive annotated bibliography, see U.S. Congress, Senate Interior Committee, An Analysis of the Federal Tax Treatment of Oil and Gas and Some Policy Alternatives. 93rd Congress, 2nd Session, 1974. See also Studies in Energy Tax Policy, op. cit., 1975.

[13] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Financial Requirements of the Nation's Energy Industries, March 6, 1973, p. 240–244.

[14] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Estimates of the Economic Costs of Producing Crude Oil, 1976.

[15] United States of America, Federal Power Commission, Opinion No. 770–A, National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on and after January 1, 1973, for the Period January 1, 1975 to December 31, 1976. Docket No. RM75–11, Opinion and Order on Rehearing Modifying in Part Opinion No. 770 and Granting Petitions for Intervention. Issued November 5, 1976. Hereafter referred to as Opinion 770–A.

[16] These cost ratios, of course, reflect ratios of the average cost investment rather than the marginal cost investment. This presents no problem if one is measuring the average effective tax rates of the industry for expensing provisions; however, the allocational effects are dependent on the marginal costs. Average cost data must be used because we have no observations on marginal investments. In any case, it is not clear which way these ratios might change from the average to the marginal. More marginal investments ments. In any cases it is not clear which way drilling costs, suggesting a smaller ratio of expensable to non-expensable items, but would also tend to have a higher expected ratio of dry to producing properties suggesting a higher ratio of costs which are expensable.

[17] Working capital is recovered at the end of the project. The amount is small enough that it can be ignored with no significant effect on the outcome.

[18] The rate does not vary substantially in reasonable ranges in any case. A 5:1 price ratio would yield a rate of 25.5 percent; a 2:1 ratio would yield 29.1 percent rate.

[19] In other words, an equivalent result could be reached by disallowing expensing and percentage depletion and paying the oil producer 3 percent of taxable income (although this comparison requires other income to deduct costs against). To illustrate the effect of the price to cost ratio assumption, at 5:1 ratio the tax rate would be a positive 1.6 percent rate while at a 1.5 to 1 ratio, the tax *subsidy* would be 17.8 percent.

[20] To illustrate as in the preceding footnote, at a 5:1 ratio the tax rate would be 8 percent; at a 1.5 to 1 ratio the tax *subsidy* would be 2.5 percent.

[21] To quickly summarize, for a minimum tax on percentage depletion only, the effective rate with a 22 percent depletion rate is a 7.5 percent tax with a 5:1 ratio and a 5.8 percent subsidy with a 1.5:1 ratio; the effective rate with a 15 percent depletion rate is a 12 percent rate with a 5:1 ratio and a 5 percent rate with a 1.5:1 ratio. For a minimum tax on both percentage depletion and intangible drilling costs, the effective rate with a 22 percent depletion rate is a 13 percent tax with a 5.1 ratio and an 8.7 percent tax rate with a 1.5 to 1 ratio. At a 15 percent rate the effective tax rate is 17.3 percent at a 5:1 ratio and 18.9 percent at a 1.5 to 1 ratio.

[22] This paper does not consider the case where exploratory drilling is treated as a separate investment. If the information yielded from exploratory drilling is saleable (such as a lease right) the tax rate would be very low since 95 percent of exploratory drilling is expensed. Furthermore, if the asset were held for one year, a lower capital gains rate would apply resulting in a net subsidy.

[23] Using the 56 percent tax rate on return costs, expensing would reduce it to 34 percent for approximately the same percentage point difference.

[24] On the average, one would expect a smaller price cost ratio for development drilling because of the smaller risk. At 2:1 ratio effective rate woud be 46.1 percent. At a 5:1 ratio the rate would be 38.5 percent.

[25] At a 1:5 to 1 price to cost ratio the rate would be a 14.2 percent subsidy rate, while at a 5:1 price ratio the effect would be an 11 percent tax. The value of return flows on cost depletion, after adjusting for the expensing effect would be very small.

[26] At a 1:5 to 1 price to cost ratio the rate would be a .1 percent subsidy rate while at a 5:1 price to cost ratio, the effect would be a 16.75 percent tax rate.

[27] See Emil Sunley, Toward a More Precise Effective Rate Measure. Tax Notes, March 1, 1976. Note that while the marginal tax rate on an additional dollar is either 0 or 48 percent, the tax rate on income from an additional investment (with incentives) would be less than 48 percent.

[28] See testimony presented before the Senate Interior Committee (Financial Requirements of the Nation's Energy Industries, 1973).

[29] Some equipment is too short lived to be eligible for the full credit.

[30] The asset depreciation range is much smaller in value than the investment credit, however.

APPENDIX

A. GENERAL MODEL

In order to convert the tax provisions allowed to oil and gas production to an effective tax rate, an income stream can be set up as follows (using discrete time intervals):

$$(1)\qquad C=\frac{PaQ}{(1+r)^0}+\frac{PaQ}{(1+r)}+\frac{PaQ}{(1+r)^2}+\ldots+\frac{PaQ}{(1+r)^N}$$

where:

P = Price per unit after operating costs (including royalties)

a = Percent of reserves recovered each period

Q = Total recoverable reserves

r = Discount rate

C = Present value of the income stream

By factoring out a PQ term, the expression can be reduced to:

$$(2)\qquad C=PQ\ (df)$$

where:

$$df=\frac{a_0}{(1+r)^0}+\frac{a_1}{(1+r)^1}+\ldots+\frac{a_N}{(1+r)^N}$$

The income stream can be modified to allow for a constant rate of inflation by viewing r as the real rate of return, i.e.:

$$(1+r)=(1-r^e)/(1+i)$$

where i = the rate of inflation and r^e equals the nominal rate of return. This model assumes output prices rise at the rate of inflation.

Addition of an income tax at rate z with no depreciation would be expressed as:

$$(3)\qquad C=(PQ-zPQ)\ (df)$$

In order to compare the embedded effective tax rate with a standard tax system, costs would be written off each period at a rate of a_1C. This expression could be written:[1]

$$(4)\qquad C=(PQ-zPQ)\ (df_1)+zC(df_2)$$

If inflation occurs, the discount factor associated with depreciation would differ to reflect the use of historical cost depreciation.

It can readily be shown that allowance of expensing of all costs when incurred would result in the equivalent of no income tax since:

[1] Such a system would imply unit of production depreciation; presently an option of depreciation as generally allowed in the tax code is available.

(5) $C(1-z)=(PQ-zPQ)(df_1)+z(C-C)(df_2)$

converts to

(6) $C=PQ(df_1)$

If a portion x of the cost is expensed, the resulting tax rate is:

(7) $C(1-zx)=(PQ-zPQ)(df_1)+z(1-x)C(df_2)$

which can be converted into the expression: [2]

(8) $C=\left(PQ-\frac{z(1-x)PQ}{1-zx}\right)(df_1)+\frac{z(1-x)}{1-zx}C(df_2)$

Noting the structural similarity between equations (8) and (3), a standard method for converting an expensing privilege into an effective tax rate can be derived by the following formula:

$$\frac{z(1-x)}{1-zx}=\text{effective tax rate}$$

If investment occurs in periods earlier than the first year of production the C on the left hand side of the equation is not equivalent to the C on the right hand side. When comparing to a standard tax rate, this effect does not create a problem because it occurs in other investments as well.

B. Calculating effective tax rates for tax provisions without a basis adjustment

Application of a tax in this model can be conceptually separates into two parts: a positive tax rate on revenues (or a negative cash flow) and a negative tax rate on the return of costs (or a positive cash flow). If a tax or credit is imposed without changing future deductions, a differential tax rate on revenues and return costs will occur. Such a situation will occur with items such as the minimum tax or the investment credit. The formula will be set up as follows:

(9) $C(1-zx)+wyC=(PQ-zPQ)(df_1)+z(1-x)C(df_2)$

where:

z=regular tax rate
x=portion expensed
w=tax or credit rate (negative of credit)
y=portion of C to which the credit or tax applies

Equation (9) can be transformed into: [3]

(10) $C=\left(PQ-\frac{z(1-x)+wy}{1-zx+wy}PQ\right)(df_1)+\frac{z(1-x)}{1-zx+wy}C(df_2)$

In this formulation, unfortunately, the same effective tax rate does not apply to the tax on revenues and the return of cost. There is no conceptual reason why the two cannot be separated; however, this does necessitate the additional step of deriving a single effective tax rate for the entire investment.

An overall tax rate could be constructed if the ratio of price to unit cost were known. By manipulation of equation (4) we can derive the following:

(11) $\frac{P}{C/Q}=\frac{(1-z)(df_2)}{(1-z)(df_1)}$

[2] This expression can be derived by converting:

$$PQ\left(\frac{1}{1-zx}-\frac{z}{1-zx}\right)$$

to:

$$PQ\left(1-\frac{z(1-z)}{1-zx}\right)$$

[3] Derived by converting the expression:

$$\left(\frac{1-z}{1-zx+wy}\right)$$

to

$$\left(1-\frac{z(1-z)+wy}{1-zx+wy}\right)$$

The ratio of price to cost depends on the discount factor (which in turn reflects rate of return), useful life and decline rate, and on the tax rate (which is affected by any special tax provisions).

To convert the differential tax rates on revenues and costs requires use of a price cost ratio. For purposes of this calculation we will use a constant price model. The Federal Power Commission model,[4] which used an approximate 15 percent rate of return, indicated a constant price (after royalties and operating costs) of around 3½ times cost (without percentage depletion).

To convert a differential rate on revenues and costs to an overall rate can be accomplished by substituting the differential tax rates, z_1 and z_2 into an equivalent equation with an overall tax rate z;

which yields the following result:

(12) $(PQ-zPQ)(df)+zC(df)=(PQ-\bar{z}PQ)(df)+\bar{z}C(df)$

which yields the following result:

(13) $\frac{z_2(C/Q-z_1P)}{(C/Q)-P}=\bar{z}$

By setting C arbitrarily equal to one we can set P equal to 3.5 and solve for the overall tax rate.

C. INCORPORATING PERCENTAGE DEPLETION

Percentage depletion is available at a 22 percent rate on gross income subject to a net income limitation of 50 percent of taxable income before allowances for depletion. It will eventually decline to a 15 percent rate. Because the price used in the model is net income, the effective tax rate of the depletion allowance (with reference to P) will be higher than the statutory rate, but only slightly so because operating costs are relatively minor in oil and gas production. Furthermore, under present conditions, it would be unlikely that the net income limitation would apply.[5]

The model would be specified as:

(14) $C(1-zx)=(PQ-zPQ)(df_1)+z(1-x)C(df_2)+vzPQ(df_1)-uzC(df_2)$

where:

v=percentage depletion rate
u=portion of C attributable to depletable costs.

This equation can be transformed into:

(15) $C=\left(PQ-\frac{z(1-x)}{1-zx}PQ\right)(df_1)+\frac{z(1-x)}{1-zx}C(df_2)+\frac{vz}{1-zx}PQ(df_1)-\frac{uz}{1-zx}C(df_2)\Big)$

By factoring the tax rate on revenues would be:

$$\frac{z(1-x)}{1-zx}-\frac{vz}{1-zx}$$

and the tax rate on costs would be:

$$\frac{z(1-x)}{1-zx}-\frac{uz}{1-zx}$$

Percentage depletion's effect on the tax rate is also dependent on the price to cost ratio. FPC calculations[6] using an approximate 15 percent rate of return and assuming the presence of percentage depletion resulted in a price equal to 2½ times cost (at constant prices).

To incorporate the minimum tax on percentage depletion[7] which is equal to 15 percent of the excess of depletion, an approximation would be to use a 33 percent rate (z−w), where w= the minimum tax rate, in both revenue and cost flows.

[4] FPC Opinion 770–A.

[5] The higher the effective rate of depletion, the lower the actual tax rate. Thus, use of the statutory rate reflects a conservative approach but is believed to be reasonably accurate.

The new equation will be:

(16) $C=\left(PQ-\frac{z(1-x)}{1-zx}PQ\right)(df_1)+\frac{z(1-x)}{1-zx}+\frac{v(z-w)}{1-zx}PQ(df_1)-\frac{u(z-w)}{1-zx}C(df_2)$

By factoring, the tax rate for revenues would be:

$$\frac{z(1-x)}{1-zx}-\frac{v(z-w)}{1-zw}$$

and the tax rate on costs would be:

$$\frac{z(l-x)}{l-zx}-\frac{u(z-w)}{1-zx}$$

To incorporate the minimum tax on both intangible drilling costs and percentage depletion, the following equation would be employed:

(17) $C(1-zx)+wyC=(PQ-zPQ)(df_1)+z(1-x)C(df_2)+v(z-w)PQ(df_1)-u(z-w)(df_2)$

This expression can be converted into:

(18) $C=\left(PQ-\frac{z(1-x)+wy}{1-zx+wy}PQ\right)(df_1)+\frac{z(1-x)}{1-zx+wy}C(df_2)+\frac{v(z-w)}{1-zx+wy}PQ(df_1)-\frac{u(z-w)}{1-zx+wy}C(df_2)$

Collecting terms, the tax rate on revenues would be:

$$\frac{z(1-x)}{1-zx+wy}-\frac{v(z-w)}{1-zx+wy}$$

and the tax rate on costs would be:

$$\frac{z(1-x)}{1-zx+wy}-\frac{u(z-w)}{1-zx+wy}$$

D. DEVELOPMENT WELLS: EFFECT OF EXPENSING AND PERCENTAGE DEPLETION

A development well also produces a stream of revenues. However, in this case depletion costs are already "sunk" in the sense that they do not affect investment decisions and the cost calculation of the producer is the return on his marginal well in terms of additional revenues and the flow of depletion deductions.

(19) $C=(PQ-zPQ)(df_1)+zC(df_2)+zA$

where A=the value of depletion deductions. This amount is difficult to determine in relation to cost since a marginal well may be a higher cost (certainly not a lower cost), lower producer than the average well. An extreme case would suggest the depletion is equal to 16 percent of cost implying a constant cost of drilling wells and constant well production. (This is derived by noting that total cost depletion is 7 percent of total costs, 50 percent of costs have been expensed and the remaining cost is 43 percent. Therefore, .07/.43 would represent a maximum ratio of depletion to cost of drilling an additional well.) [8]

Basically, the application of the model to a development well follows the same approach as for total drilling. Thus, the tax rate with expensing intangibles would be

$$\frac{z(1-x)}{1-zx}$$

Since a development well reflects only two costs: intangible drilling costs and depreciable costs, the minimum tax formula would be:

(20) $C(1-zx)+wxC=(PQ-zPQ)(df_1)+zC(df_2)-zA$

[6] FPC Opinion 770–A.

[7] The minimum tax actually applies only to total percentage depletion in excess of cost and would actually apply in full in later years, but not at all initially.

[8] The result at the maximum would be a "proper" tax rate on costs of 56 percent. This will be taken into account when feasible.

This can be converted into the standard form as in the case of total drilling (and ignoring depletion returns) by substituting x for y:

(21) $C=\left(PQ-\frac{z(1-x)+wx}{1-zx+wx}PQ\right)(df_1)+\frac{z(1-x)}{1-zx+wx}C(df_2)$

The application of percentage depletion would proceed in the same manner as for total drilling except there would be no reduction on the cost rate because the return of cost depletion drops out.

The equation for percentage depletion would be:

$$C=\left(PQ-\frac{z(1-x)}{1-zx}PQ\right)(df^1)+\frac{z(1-x)}{1-zx}C(df^2)+\frac{vz}{1-zx}PQ(df_1)$$

for a rate on revenues of:

$$\frac{z(1-x)}{1-zx}-\frac{vz}{1-zx}$$

and a rate on costs of:

$$\frac{z(1-x)}{1-zx}$$

Incorporating the minimum tax on percentage depletion:

$$C=\left(PQ-\frac{z(1-x)}{1-zx}\right)(df_1)+\frac{z(1-x)}{1-zx}C(df^2)+\frac{v(z-w)}{1-zx}PQ(df_1)$$

for a rate on revenues of:

$$\frac{z(1-x)}{1-zx}-\frac{v(z-w)}{1-zx}$$

and the same rate on costs.

Incorporating the minimum tax on both would result in:

$$C=\left(PQz-\frac{z(1-x)+wx}{1-zx+wx}PQ\right)(df_2)+\frac{z(1-x)}{1-zx+wx}C(df_2)+\frac{v(z-w)}{1-zx+wx}PQ(df_1)$$

For a rate on revenue of:

$$\frac{z(1-x)+wx}{1-zx+wx}-\frac{v(z-w)}{1-zx+wx}$$

and a rate on costs of:

$$\frac{z(1-x)}{1-zx+wx}$$

A MANIFESTO REGARDING THE TEXTBOOK SURVEY BY THE CIVIL RIGHTS COMMISSION

Mr. HAYAKAWA. Mr. President, I find myself in the peculiar position of having cosponsors without a bill, for today I am not proposing legislation. Instead, I am submitting, both to the attention of the Senate and for the consideration of the American people, a statement of conscience: A manifesto, if you will. Joining me in offering it are the distinguished Senators from North Carolina, Idaho, Utah, Nebraska, Delaware, and Wyoming: Senator HELMS, Senator MCCLURE, Senator HATCH, Senator CURTIS, Senator ROTH, and Senator HANSEN.

To every thing there is a season: A time to offer bills and a time to refrain from legislation.

We are refraining from offering legislation to correct a serious abuse of power by the Civil Rights Commission. Instead, we are appealing to the American people to make such legislation unnecessary.

There is nothing that can be so easily misunderstood as criticism of the Civil Rights Commission. It has become Washington's foremost sacred cow. And yet, just as one can criticize the Defense Department without being against defense, it should be possible to fault the Commission without opposing true civil rights. But bureaucracies have a way of identifying themselves with their jurisdictions, wrapping themselves in the flag, so to speak. That is why we want to emphasize that our challenge to the Commission does not involve any past defense of civil liberties but, rather, its present activities which imperil those freedoms.

The Commission has initiated a project which sets an ominous precedent and threatens the rights of all Americans. Several weeks ago, in a letter dated August 17 and headed, "Dear People," certain functionaries at the Commission informed a number of publishers throughout the country that "a small team of researchers" at the Commission "is investigating the nature, extent and impact of textbook biases." The ultimate result of their study will be a report, whose recommendations will be "aimed at ameliorating the problem of textbook biases as well as counteracting the negative impact of previous biases."

But in the meantime, inasmuch as the Commission's researchers "have already noted the pervasiveness of biases in textbooks presently in use," they "have decided to prepare an interim product to help people who are concerned with the problem and want to know how to counteract biases in textbooks now." This "interim product" is a "Resource List," which will be "widely disseminated throughout the country during the fall of 1977 and winter 1978 (sic)." Among the purposes of the list is "to raise the consciousness of students."

We submit to the candid consideration of the American people that, when the Commission was created by the Congress in 1957, its purpose was not "to raise the consciousness" of schoolchildren.

This consciousness-raising enterprise is presumably keeping busy seven Federal employees. But misuse of the public's taxes is not the worst part of their project.

It is disconcerting that any agency of the Federal Government should pry into the private business of book publishing. That is what the Civil Rights Commission is beginning to do, and its intrusion should be halted.

The Commission is asking textbook publishers for the "guidelines" they give authors to insure that their texts are not racist or "sexist." In other words, to insure that they portray women and racial minorities in a "positive" light. This may be an admirable goal, depending upon how one defines "positive"; but it has nothing to do with the business of Government.

The Commission's inquiry means that, if a publisher has not already forced his authors to bow to pressure group demands in their writing, he had better begin to do so. That threat is clearly conveyed by the Commission's inquisitors, who are asking publishers, "Will your textbook guidelines be available to interested persons subsequent to the lists publication this fall 1977—winter 1978? If not, please state why here."

We hope that the publishers of America will refuse to "state why here." We hope they will junk the Commission's questionnaire or send it back to those shortsighted bureaucrats who originated it. That would be a blow well struck for intellectual freedom.

But our hopes may be in vain. Where is the spirit of liberty in the academic community and the publishing industry? Why has not the Commission's attempt to play big brother to publishers and authors raised a furor among the intelligentsia? Why are not the writers of America demanding that the Commission withdraw its questionnaire and end this auto-da-fé?

Why, indeed? Because not many people want to criticize the Civil Rights Commission lest they appear to be against civil rights.

Poppycock. This is not the first time that an institution established to protect rights became an instrument for their erosion. And so, the publishers of America—most of them, anyway—are meekly submitting to the Commission their guidelines for producing officially approved books. It is no wonder that so many parents are teaching their children from reprinted "McGuffey's Readers."

So be it. If the authors and publishers of America will not defend their own civil rights against the interference of the Civil Rights Commission, no one else can really do it for them.

We, therefore, will not introduce legislation forbidding the Commission to imperil intellectual freedom by its textbook survey, even though the next step—mark well our words, for you can count on this—the next step will be for the HEW to pressure schools to use only federally sanctioned textbooks. Otherwise, school districts will lose Federal funds. It is only a matter of time.

If that happens, it will happen because publishers allowed it to happen, because they cooperated with the Federal bureaucracy in its initial intrusions into the writing and marketing of books.

All in the name of "civil rights."

REGULATION OF RECOMBINANT DNA ACTIVITIES

Mr. BUMPERS. Mr. President, it is now evident that in this session of Congress we will not pass any significant legislation to deal with research involving DNA recombinants. It is my understanding from statements by my distinguished colleagues, Senator KENNEDY and Senator STEVENSON, that there may be a move to broaden the application of existing NIH guidelines for 1 year and to study the remaining issues during that same period. If this is the judgment of my colleagues then I will accept their plan, for they have studied the issue with great care and bring special expertise to these issues.

As the Senators know, I have been deeply interested in the DNA recombination experiments despite the fact that I am not a member of the committees which might normally be involved with those issues. I introduced a bill, S. 621, back in February and then testified before the Health Subcommittee in April. Senator KENNEDY was most generous in keeping my staff and me informed about the development of his subcommittee bill, S. 1217.

It is my feeling that the relevant issues were well covered in the bill that was reported by the Human Resources Committee on July 22, 1977. Certainly the issues that I felt to be important were considered at length during the drafting and redrafting of that bill.

The three articles that follow provide information that might help us understand the implications of our actions or inactions in this area. The paper in the most recent issue of American Scientist by Dr. Bernard D. Davis of Harvard Medical School is a scholarly and interesting analysis of the risks of working with recombinant DNA. By applying his knowledge of epidemiology and evolution Dr. Davis concludes that the risks of dealing with novel recombinants may be less than those associated with known pathogens. I have always thought that to be true; it does not, of course, mean that there are no risks to be concerned about.

The articles by Nicholas Wade in Science and Judith Randal in Change magazine provide a glimpse into recent developments in the field, as well as the way the current NIH guidelines have been followed by researchers. Frankly, these reports of failures to follow the NIH regulations do not surprise me, for I have been concerned all along about the lack of real enforcement capability on the part of NIH. These problems of administration would clearly be compounded many times if we decide simply to extend the coverage of the NIH guidelines without providing further sanctions and authority to an appropriate administrator. It is troublesome also to recognize the ways in which interested scientists have abused scientific data and results in lobbying against S. 1217 these past few months. The overinflated claims about the results of the experiments related to microbial production of insulin illustrate the point perfectly.

I think these articles speak for themselves, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Science, Sept. 30, 1977]

RECOMBINANT DNA: NIH RULES BROKEN IN INSULIN GENE PROJECT

(By Nicholas Wade)

A breach of National Institutes of Health rules on gene splicing occurred earlier this year in the Department of Biochemistry and Biophysics at the University of California, San Francisco, one of the leading centers for practice of the new technique. No hazard resulted, but the episode underlines some of the difficulties experienced by research laboratories in adapting to the new rules.

The breach was the use of a biological component, or "vector," before it had been certified by the NIH director. The researchers, a team engaged in isolating the rat gene which codes for insulin, say they destroyed the experiment as soon as they realized their mistake.

The experiment was repeated in a certified vector and published in *Science* on 17 June. It received considerable attention because the researchers had achieved, much earlier than expected, the first step toward the goal of isolating the human insulin gene and using it for the manufacture of insulin protein. The UCSF team was in competition with a group at Harvard which was known to be working with a better source material.

UCSF's preeminence in the gene-splicer's art has brought it some mixed blessings. Because of the practical implications of what its researchers are doing, a company called Genentech has established a relationship with Herbert Boyer, one of the pioneers of the technique. Members of the insulin team have set up a nonprofit corporation, the California Institute for Genetic Research. These commercial developments are a tribute to the department's success, but have also created internal stresses. "Capitalism sticking its nose into the lab has tainted interpersonal relations—there are a number of people who feel rather strongly that there should be no commercialization of human insulin," says UCSF microbiologist David Martin.

Another mixed blessing is fame, which has attracted press attention not only to the department's achievements but also to certain internal tensions. A lengthy and circumstantial article in the June issue of the *Smithsonian* called into question the respect accorded to the NIH safety rules by UCSF researchers, and in particular by the younger, postdoctoral workers who perform most of the experiments. Written after a 3-month internship in Boyer's lab by Janet L. Hopson, formerly a reporter for *Science News*, the article observed that "half of the researchers here follow the guidelines fastidiously; the others seem to care little. . . . Among the young graduate students and postdoctorates it seemed almost chic not to know the NIH rules," Hopson noted. In a letter to the editor criticizing the article, Boyer stated that "In practice [the NIH rules] are followed seriously."

The stresses of both commercial successes and media attention came together this May when the insulin team announced their production of the rat gene. Other researchers resented not only the intrusive presence of the press but also the fact that they were hearing of their colleagues' success for the first time. The team had worked in unusual secrecy, which many regarded as inappropriate in an academic setting as well as disruptive. "People would stop talking when you came into the room, or change the subject if you tried to make conversation about how the insulin project was going," says the UCSF biochemist Brain McCarthy. The insulin team say that no secrecy was intended, and that it was the speed of obtaining results that occasioned surprise.

The secrecy and suspicion surrounding the insulin gene experiment, together with perhaps a touch of resentment, helped to fan rumors within the department alleging that the NIH rules had been broken and even that the experiment published in *Science* might not have been performed as described. The focus of the rumors was the obvious fact that the whole intricate experiment had been completed only 3 weeks after the NIH had certified the vector which the researchers used. Even experienced gene splicers were surprised by the rapidity of execution. "It is conceivably possible to do such an experiment in three weeks if everything works perfectly the first time, but you know as well as I do that science never works as well as you hope," a member of the department remarks.

"Well, what can I say? It did work well. We were all set to go," says a member of the insulin team queried on the speed of the experiment. Yet members of the team concede that an earlier experiment took place, but say it was aborted half way through and before any pertinent information had been gained.

The episode of the earlier experiment illustrates the problems experienced by research laboratories both in acclimatizing to the NIH's gene-splicing rules and in devising ways of enforcing them. "We can't run a policing service," says David Martin, until recently the chairman of the UCSF biosafety committee. "What we do is to try to raise the consciousness of the individuals involved to make them respect guidelines." Martin spent 2 days investigating the episode and concluded that a breakdown in communications was responsible. Precise details remain obscure because the minutes of the biosafety committee record only Martin's conclusion, and a lengthier account prepared for the minutes by the present chairman, James Cleaver, is far from complete.

The episode revolves about the use of the vectors—virus-like entities known as plasmids—which are used to carry genes of experimental interest into bacterial hosts. Two particularly useful plasmid vectors, known as pBR322 and pMB9, had been developed by Boyer and others. But before either could be used, it had to go through a two-stage administrative process, the first of being approved by the NIH recombinant DNA committee and the second of being certified by the NIH director. Vectors, in other words, are off limits to researchers until certified.

Plasmid pBR322 was tentatively approved by the NIH committee on 15 January, finally approved on 23 June, and certified for use on 7 July. Plasmid pMB9 was certified on 18 April.

According to both Martin and two members of the insulin team, the episode of the earlier experiment was as follows. Early this year, sometime in February, an attempt was made to produce copies of the rat insulin gene with pBR322 as the vector. The gene was linked to pBR322 and the plasmids inserted into NIH-certified bacteria designated EK2 hosts. Some of the bacteria were successfully colonized by the plasmids. To verify that the clones of colonized bacteria contained the rat insulin gene it would have been necessary to carry the experiment to completion by extracting and analyzing the DNA sequence of the genes. This step was not performed because at that moment, on or around 1 March, the team say they learned that the plasmid had not been certified for use. They decided to destroy all their clones. Further attempts were made to clone the gene with an already certified vector, known as pCR1, but without success. When pMB9 was certified, team members say, they had all their materials ready to go, and repeated the experiment from scratch in the new plasmid. Martin says that he inspected the team's records and has "complete confidence" in their statement that the entire experiment was done after the approval of pMB9. "When the manuscript appeared so soon people said 'How in hell can you do it?' But you can do it—the experiment was very straightforward," Martin said from Great Milton near Oxford, England, where he is at present on sabbatical. "I think they realized they would be questioned and that if there were any shenanigans they would be really jeopardizing a hell of a lot, not only their own careers but the whole advance of science through recombinant DNA technology."

In the categories of the NIH rules, the experiment with pBR32 was assigned to the highest available containment level short of going off campus to a specially secure laboratory. But it is clear that the experiment posed no issue of public health since it was performed in the required type of laboratory—

a "P3" facility—and with a vector which has now been certified as safe.

The experiment also took place at a time when the NIH rules were still new and local procedures for implementing them were still in a formative stage. "This was one of the inevitable things that happened as we tried to evolve a new system," comments biosafety committee chairman Cleaver.

Not wholly plain from the Martin-Cleaver accounts of the episode is how the insulin team came to believe it was all right to go ahead with pBR322 prior to certification. Howard Goodman, chief of the laboratory which did the cloning and sequencing part of the experiment, is out of the country, as he has been for most of the past year. One of his postdoctoral colleagues says there was great confusion at the time about the status of the plasmid but the reason for the confusion is "sort of cloudy now."

According to Martin, it was clear that everyone knew that pBR332 had been approved but not certified, but the NIH, Martin says, was advising researchers that certification was imminent and that they should go ahead. According to the minutes of the 20 May meeting the UCSF biosafety committee. Martin reported that the researchers "had been verbally informed that the certification of an approved EK2 vector was imminent and to proceed with its use."

This version is strenuously denied by William Gartland, director of the NIH Office of Recombinant DNA Activities, and by his only assistant, Daphne Kamely. Both say that they would never have advised use of any vector before certification. Gartland notes that the team "must have got the vectors from Boyer, who certainly knew they were not certified" because Boyer had complained repeatedly to the NIH of the delay in certification. According to Boyer, the insulin team "kept on asking" if the plasmid had been certified and he told them it had not. Boyer states that he never encouraged anyone to go ahead prior to certification. Thus the source of encouragement for the team to go ahead prior to certification remains obscure.

A different account from Martin's is given by William Rutter, a member of the insulin team and chairman of the UCSF Department of Biochemistry and Biophysics. In its memorandum filed with the UCSF biosafety committee, the insulin team had said it would use as vectors pCRI and any other vectors that might in future be approved by the NIH recombinant DNA committee. When the NIH committee approved pBR322 on 15 January, Rutter says—(the committee gave tentative approval on 15 January and full approval on 23 June)—he therefore assumed that pBR322 was sanctioned for use, since he was not then aware of the NIH distinction between approval and certification.

The UCSF biosafety committee did not learn until May that the pBR322 experiment had taken place. Researchers doing recombinant DNA experiments are required to file a description of the experiment for committee approval. But as Rutter has said, the memorandum filed by the insulin team did not mention pBR322 specifically. Researchers using the P3 laboratory at UCSF are also required to sign a logbook describing their experiment. Yet Martin says that when he inspected the logbook at the outset of his investigation, he found "nothing recorded." Those in charge of the facility "were not being compulsive enough in seeing that people were filling in the logbook"—a situation which has now been corrected, Martin adds.

Cleaver, Martin's successor as bio-safety committee chairman, told *Science* that two entries from the insulin team are recorded in the logbook between 1 February, when the logbook was instituted (the P3 lab officially opened on 9 November 1976), and the end of April. An entry on 1 February notes in the column headed "vector" that pCR1 will be used, and the second entry on 23 April gives pMB9 as the vector. The pBR322 experiment according to Rutter, took place after 1 February. The vector was not mentioned, he says, because the 1 February entry referred to the general experiment already described in the memorandum filed with the biosafety committee, in which the team had said it would use pCR1 and other approved vectors, and the logbook has to be signed only for each experiment, not for each use of the laboratory. "The signing in of the logbook meant for the insulin cloning experiments in general. The vectors were not designated specifically, and that was just human error," says Rutter. Rutter's laboratory provided the insulin gene for the experiment; it was members of Goodman's laboratory—Goodman was away until mid-April—who performed the cloning experiments.

How should a local biosafety committee respond to an incident of this sort? "I would have expected that the biohazards committee to have investigated the whole thing," says Gartland. Martin did conduct an investigation and he took action both with the NIH and the insulin team. "I felt comfortable we had resolved the question and eliminated the possibility of it happening again," he says. But in fact, written documents of the committee record criticism only of the NIH.

The pBR322 experiment raises no question of hazard but it does raise the possibility that the insulin team might have gained an unfair advantage over other researchers who had abided by the NIH rules. Another team at Harvard is also working on the same problem. Members of the USCF team say that they gained no information from the pBR322 experiment which was helpful to the later experiment with pMB9. As it happens, the Harvard team was not neck-and-neck with UCSF because it has not even now published any results.

As far as is known the pBR322 experiment is the only occasion on which the NIH rules governing recombinant DNA research have been broken. The researchers say that the breach was the result of innocent error, a statement not refuted by the available evidence. The experiment presented no hazard to public health nor, in the event, was any unfair advantage gained over competitors. As for the UCSF biosafety committee, its response included action to ensure against repetition of the incident, although not a full public account. The committee's discussion of the experiment, as reflected in the minutes of its 20 May meeting, is confined to an attempt—unsupported by available evidence—to ascribe the error to confusion generated by NIH. But both the experiment and the biosafety committee's response to it occurred in circumstances to which researchers were then still adapting, and for which there were few, if any, precedents.

[From Change magazine, Oct. 1971]

IF THE GENE SPLICERS WIN THEIR BATTLE, WILL THEY LOSE THE WAR?

(By Judith Randal)

As recently as last spring it seemed certain that Congress would enact regulatory legislation governing recombinant DNA technology—the fitting of bacteria with alien genes—before leaving Washington for its August recess. But that didn't happen; and it now appears that the legislation may be held in abeyance for months, perhaps even indefinitely. Major philosophical differences in the leading Senate and House proposals—authored respectively by Senator Edward M. Kennedy, chairman of the Senate Health Subcommittee and Congresman Paul Rogers, who holds the counterpart position in the House—are partially responsible for the slowed momentum. But nothing has so cooled Congress' efforts as the intensive lobbying of the scientific community.

Strong opposition to federal regulation surfaced in February when, at a meeting of the National Institutes of Health recombinant DNA advisory committee, NIH Director Donald S. Fredrickson read those present a bill, introduced by Senator Dale Bumpers, which would have imposed tough controls—including heavy penalties for violators—on laboratories and scientists engaged in gene transplant work. Although the Bumpers bill never got anywhere, it (and a companion measure in the House sponsored by Congressman Richard Ottinger, which was similarly ineffectual) struck a chill into molecular biologists, who until then had been pushing for congressional action as preferable to the hodgepodge of statutes that states and localities were threatening to enact.

Soon they began to recall the persecution of Galileo and to talk of Lysenkoism and threats to the freedom of scientific inquiry. When the Kennedy and Rogers bills materialized, molecular biologists criticized their provision for a "costly and unwarranted" bureaucracy. In particular, it disturbed the scientists that Congress might pass a law that would allow the states to set stricter safety requirements than those mandated in Washington. And the Kennedy measure troubled them deeply because it would create a regulatory commission six of whose eleven members would be people who had never been involved in biological research.

Consequently, the molecular researchers began consolidating their ranks in order to stifle possible dissent and gather support from other quarters of the scientific establishment, such as the American Society for Microbiology, the Federation of American Societies for Experimental Biology, the National Society for Medical Research, the Association of American Medical Colleges, and like-minded professional groups. A column in the *New York Times* by René Dubos, the distinguished Rockefeller University professor emeritus of microbiology, a resolution by the National Academy of Sciences, an editorial in *Science magazine*, and numerous letters and delegations to Capitol Hill were all devoted to the twin causes of convincing legislators that legal action, if necessary, should be light-handed and that recombinant technology is not after all as potentially dangerous as the scientists themselves had originally feared when they called for and obtained a two-year moratorium on gene-splicing experiments. (See the May 1976 Science Policy column.)

Two letters to NIH's Fredrickson that have been widely circulated have been particularly persuasive in the latter regard. One, written by Roy Curtiss III of the University of Alabama, has carried particular weight because Curtiss has from the outset been concerned about the risk problem and is, besides, a notably cautious and painstaking scientist. The other, signed by Sherwood L. Gorbach of Tufts University Medical School, purports to reflect the "unanimous agreement" (this has since been disputed) of some 50 researchers from a variety of biological disciplines who participated in an NIH-sponsored recombinant risk assessment conference held in June at Falmouth, Massachusetts.

Both letters cite evidence from "extensive studies" to conclude that the insertion of foreign genes into the enfeebled strains of E. coli bacteria (the recipients of most DNA transplants) is incapable of creating epidemics. (Both Curtiss and Gorbach, though, have urged further experimentation to clarify certain aspects of this point.)

But both letters also intimate, whether intentionally or not, that without being bluntly dishonest organized science can take advantage of public and congressional naiveté. Enthusiasts of gene technology have been reluctant to admit it, but the fact is that just as E. coli strains can be endowed with the hereditary material of whatever species a scientist chooses, so also can strains of other types of bacteria whose behavior and prop-

erties have been much less thoroughly explored.

To be sure, most recombinant work to date has been done with the familiar crippled E. coli strains, which would almost certainly fail to survive and reproduce were they to accidentally escape. But this secure situation is subject to change, the entire field being less than five years old. Still, the current lobbying effort seems orchestrated to convince people either that only E. coli will be used for this type of genetic engineering, or that if it is safe to juggle the hereditary material in one kind of microbe, it follows automatically that this is true of all microbes. Virtually ignored by the public's would-be persuaders is that the pursuit of scientific truth by academics, which entails the use of small quantities of recombinants, may pose a lesser degree of risk than the far larger batches industry can be expected to produce.

Nor is it only in downplaying the admittedly hypothetical perils of their work that gene splicers and their allies have become adept at fast talk. They have also been less than forthright in vaunting the potential practical applications of their work. A University of California, San Francisco, team's recent insertion into E. coli of the genes that program for rat insulin is illustrative. This achievement was announced in tones implying that similarly treated bacteria might soon be manufacturing human insulin for diabetics. The reality is that the UCSF experiments did not succeed in catalyzing hormone production and that, furthermore, no method is now known for pulling apart the genetic sequence that codes for human insulin from the entirety of the human DNA molecule. This means that, for the moment at least, gene jugglers are at a loss as to which genes to transplant.

Moreover, even if microbial synthesis of human insulin were just around the corner, it would not necessarily represent a major boon. The vast majority of the nation's estimated 9–10 million diabetics develop the disorder during middle or old age, when the disease is of a form usually better controlled by diet than by other means, the more so because many of these patients are insulin-resistant and derive no benefit from injections. And at any rate, there is no shortage of insulin from animal sources for younger diabetics, although the human insulin currently used by those few thousand who cannot tolerate animal insulin preparations is more costly than it might be if bacteria were to be put into service as the manufacturing vehicle.

None of this is to say that there will not be practical benefits from gene splicing, although it is difficult to predict with any precision what they will be. Nor is it to deny that the technology is an intellectually exciting tool. Rather, what is troubling is the dogmatic posture the special pleaders have adopted—all but promising maximum benefits and minimal risks from the practice of their art and arguing that they are capable of supervising themselves completely.

Their cry, to quote the Science magazine editorial alluded to earlier, is that "public fears may overcome scientific judgment." But one suspects that, at bottom, something more fundamental than the researchers' abhorrence of red tape is at stake—namely, that the legislative proposals, as presently drafted, will provide the nonscientist a role in scientific decision making.

If this is so, and if the current lobbying efforts succeed in deleting the provisions for public participation and produce token legislation or none at all, the scientific establishment will have won a battle. But in the long run, it could well discover that its policy of exclusivity has boomeranged. Mishaps occur in almost every technology, and recombinant DNA technology is unlikely to prove the exception. When the inevitable occurs, gene splicers could find they are unable to drum up the public support necessary to continue their largely tax-funded work.

[From the American Scientist, September–October 1977]

THE RECOMBINANT DNA SCENARIOS: ANDROMEDA STRAIN, CHIMERA, AND GOLEM

(By Bernard D. Davis)

Bacteria offer striking advantages in the study of the molecular basis of gene structure and function: they contain only 1/1,000 as much DNA as mammalian cells; they can be rapidly and cheaply grown in enormous numbers; and even very rare mutants or genetic recombinants can be readily selected from a huge population. These advantages became apparent soon after Avery and coworkers launched the field of molecular genetics, in 1944, by identifying the genetic material as DNA (dexoyribonucleic acid). This work also launched the field of bacterial genetics, since the transformation of pneumococci, by DNA released by one cell and taken up by another, revealed the existence of genetic recombination in bacteria. The subsequent spectacular success of molecular genetics has depended on continual interplay between chemical studies on DNA and genetic studies in bacteria.

One of the goals of this research, of course, is the understanding of mammalian gene regulation, and the importance of this knowledge cannot be overestimated. Normal regulation is the key to the mechanism of development of a fertilized egg into a differentiated organism, in which the various cells all contain the same full set of genes but differ in their pattern of gene activation and repression. Moreover, an aberration in this pattern is central to the cancer problem: for whether a particular cancer is due to viral infection, to mutation, or to an abnormality of differentiation, the loss of control of cell growth reflects a loss of normal gene regulation.

The study of such normal and abnormal regulation in the simplified background of a bacterial cell would offer great promise, since our present knowledge of regulation in mammalian cells is primitive, compared with that in bacteria. Four years ago this breakthrough was achieved, with the development of procedures for introducing DNA from any organism into bacteria. This technique of molecular recombination (gene-splicing) is obviously a highly versatile tool. Indeed, it may well turn out to be as valuable for biology and medicine as radioactive isotopes. It not only allows the regulation of mammalian genes to be studied in bacteria but it also promises to make possible the preparation of unlimited quantities, in easily purified form, of any genes and their products. Moreover, it is now easy to determine the complete DNA sequences of such a purified gene (and its adjacent regulatory region), since recently developed analytical techniques (1) have reduced the time for sequencing short DNA segments from two years to two days.

There are also prospects for many practical applications, which we can only begin to foresee. One of the more obvious uses is in the manufacture of medically valuable human proteins—for example, hormones, clotting factors, antibodies, and interferon. Antibodies may prove to be particularly valuable, since we now know that they are the products of thousands of specific genes, and immunogenetic studies are rapidly revealing a variety of specific individual deficiencies in these genes. Similarly, as the immunology of cancer advances we may expect to use antigens from individual cancers, and antibodies to those antigens, in prevention and treatment. In agriculture the incorporation of genes for nitrogen fixation in higher plants, to eliminate the need for nitrogen in fertilizer, has also been widely discussed, but this development seems more problematic since the bacterial genes would have to function within the more complex and possibly inhospitable environment of a plant cell.

THE TECHNIQUE OF MOLECULAR RECOMBINATION

Molecular recombination, like many major advances in biology, depended on unplanned interactions of several initially esoteric discoveries. The first of these was the finding that bacteria often contain one or more plasmids (small, autonomously replicating circles of DNA), in addition to their chromosome (a circle of DNA about 1,000 times the length of the cell).

While the chromosome ordinarily includes all the genes essential for growth and multiplication, plasmids, add optional genes, i.e. genes that broaden the organism's range of habitats by providing such traits as resistance to various inhibitors or the ability to use alternative food sources. Moreover, plasmids move about widely in the microbial world, occasionally picking up genes from one host cell and transferring them to another. They thus serve as a primitive precursor for sexual reproduction.

A second step toward the recombinant technique was the discovery of a peculiar method of cleaving DNA, by the use of "restriction" enzymes. Fifteen years ago these enzymes were discovered to be present in some bacteria, protecting them against infection by foreign DNA. When the sites that they attacked were finally identified, each enzyme was found to cleave DNA at a different specific short "restrictive" sequence, of 4 to 8 base pairs. The restriction sequences were further found to have palindromic symmetry: the sequence in one strand and its complement in the other (based on the constant pairing of A with T and G with C, and on reading the two strands in opposite directions) are identical. Moreover, most restriction enzymes cut these symmetrical sequences at their opposite ends, producing staggered "nicks" in the double-stranded DNA. Under ordinary conditions the DNA breaks apart at these cuts, and the short single-stranded extensions at the ends are all complementary to each other. Because DNA contains only four kinds of bases, chance will usually cause any short restriction sequence to be present in the total sequence of any large DNA, and at rather short intervals.

Under appropriate annealing conditions these complementary ("sticky") ends, on the same or on different molecules, will transiently hydrogen-bond to each other from time to time. Herbert Boyer and Stanley Cohen (2) showed that this stickiness could be used to splice foreign DNA into a plasmid. The plasmid has its circle opened—and the foreign DNA is cut into segments—by the same enzyme, and the products are then annealed together. Because all the ends are complementary, the opened plasmid occasionally links in tandem with one of the other segments before closing its circle. This unstable, reversibly closed circle, with several nicks in its DNA, is converted to a stable product by use of another enzyme, DNA ligase, which covalently seals such nicks. (This useful enzyme was discovered a dozen years ago in the course of research on genetic recombination and DNA repair in the cell.)

In order to multiply, the recombinant plasmid must now be incorporated into a bacterial host. Although the bacterium most useful for genetic studies, *Escherichia coli*, does not pick up plasmids from the medium at a detectable rate, it was discovered by Cohen in 1972 that these cells can take up free plasmid DNA from the medium at a detectable frequency if their surface is modified by heating the cells in the presence of calcium chloride. The plasmids then multiply with the cells, and after cell lysis the plasmid DNA can easily be purified.

The overall procedure is not efficient: less than one plasmid in a million will be incorporated into a cell, and only a few of these

plasmids will carry an inserted sequence. Ingenious techniques have therefore been developed for selecting those rare bacterial strains that have become hosts for a recombinant plasmid. For example, one may start with a plasmid that carries genes for two kinds of drug resistance—and that also carries a single retsriction site located in one of those genes. Since recombination will insert DNA in the restriction site, thus inactivating that gene and thereby eliminating one of the two drug resistances, it is easy to select the strains with a hybrid plasmid by plating on appropriate media: these strains will exhibit single resistance, while all others will have picked up either no plasmid (yielding no resistance) or an unrecombined plasmid (double resistance).

STORMY HISTORY

Although advances in some areas of genetics have aroused public apprehension (3), recombinant DNA seemed at first to be escaping this fate. At the very start, even though no harm from any recombinant had then (or has yet) been seen, workers in this field responded vigorously and openly to the demand that scientists take more responsibility for preventing harmful consequences of their work. Specifically, in 1975 a group of molecular biologists publicly called for a moratorium on certain experiments (4), arranged for a large international conference (at Asilomar), which was attended by the press, and urged government action to establish guidelines. The final result was an elaborate set of guidelines from the National Institutes of Health (5), which specify four levels of physical containment (P1 to P4, the strictest level) and three levels of biological containment (see below) for different kinds of experiments.

For the first two years these actions were received favorably in the press. Eventually, however, the atmosphere changed dramatically, to a large extent because of the widely publicized objections of a handful of scientists who demanded much more severe restrictions (or even a complete ban) on research in this field. Moreover, the critics not only expressed concern over the possible outbreak of an "Andromeda strain," but they also raised two further specters; that of creating dangerous chimeras by meddling with evolution, and that of creating a Golem, with a prefabricated personality, by genetic engineering in man. In the resulting highly charged atmosphere George Wald, after failing to convince a Harvard committee of the danger of building a P3 facility, sought political controls at the level of municipal government—despite the obvious inadequacies of this kind of organization for the task, and despite the long tradition of autonomy and responsible self-discipline in the academic community.

The media, of course, had a field day with such man-bites-dog stories. *Science*, the organ of an association dedicated to the advancement of science, ran almost weekly news articles that featured predictions of disaster. But although the Citizens' Experimental Review Board appointed by the Cambridge City Council started with suspension of self-regulation by scientists, they patiently listened to many dozens of hours of testimony, and the important point is that they ended up essentially endorsing the guidelines developed by scientists at the NIH. (They did recommend minor technical changes, quite inappropriate for a nontechnical committee; and they recommended local supervision, which was an appropriate area for them to judge.) But despite this encouraging outcome, the public has understandably become anxious, and federal legislation seems virtually inevitable. At the time of this writing a number of bills are under consideration, and it is not clear how restrictive the legislation will be.

NEGLECT OF RELEVANT DISCIPLINES

In the light of this history, the organizers of the temporary moratorium to make their concerns public at the start. Yet it did seem necessary to act rapidly to prevent the unrestricted incorporation of tumor viruses into bacteria, at least until after adequate exploration and reflection. Moreover, the public reaction today might well be even more negative if scientists could be accused of secrecy on a matter of such potential public interest. But though this question is moot, I believe there was one serious defect in the approach: in emphasizing their responsibility for not creating undue hazards, the molecular biologists failed to recognize how much the problem of estimating those hazards lay outside their field. In fact, the ability of an organism to give rise to an epidemic, and the mechanism of its spread, are problems in epidemiology.

Instead of recognizing that the familiar features of the organisms offered grounds for reliable, general epidemiological predictions (as we shall see below), even before laboratory studies on the new strains provided more precise information, the scientists involved proceeded as though nothing relevant was known and they were peering into a black box. The resulting preoccupation with unlimited scenarios contributed to the anxiety that they came to feel—and then transmitted to the public. To be sure, in order to establish the pathogenicity of any novel recombinants with precision, direct tests would be necessary. But a purely empirical approach could not be sufficient for the next experiment might still inadvertently unleash an Andromeda strain. Eventually, then, it would be necessary to take into account also what is known about epidemics—and this information could have been helpful from the start.

More broadly, the problem is also one in evolutionary biology, since it involves the survival and spread of novel organisms in nature. Indeed, epidemiology may be seen as an applied branch of evolution, concerned with the genetic and the ecological factors that influence the spread of agents of disease. But evolutionary considerations have also been neglected.

This neglect is hardly surprising. Biologists interested in physiological mechanisms and those interested in evolutionary origins have long lived in two rather separate cultures (6, 7). And though some of the barriers may have been broken down by the recent spectacular contributions of molecular genetics to two aspects of evolutionary biology—the mechanisms of genetic variation and the estimation of evolutionary distances—this success may also have reinforced disdain for nonmolecular approaches to evolutionary problems. But hereditary variation is only one of the two pillars of evolution. The other, natural selection, is based on population dynamics—and these events cannot be reduced to molecular terms. Hence reductionism, though a useful guide to methodology, is a poor philosophy for biologists.

Since discussions of the hazards of recombinant DNA research have continued to have little input from evolutionary biology and epidemiology, I shall approach the subject from the perspectives of these fields, first reviewing the underlying principles and then considering their application to the matter at hand.

EVOLUTION AND EPIDEMIOLOGY

Though the production of hereditary variation is the ultimate source of evolutionary change, natural selection is the main guiding force, determining which variants survive and spread. In a stable environment excessive deviations from the norm of a species ordinarily decrease an organism's ability to leave progeny and thus to succeed in the Darwinian competition. Under these circumstances the effect of natural selection is largely stabilizing. Changes in the environment are the main source of selection pressures that favor novel variants.

As evolution proceeded from prokaryotes (bacteria, with a single chromosome) to eukaryotes (higher organisms, with a more complex genetic apparatus) it also created the mechanism of genetic recombination by sexual reproduction, thereby providing vastly increased diversity for natural selection to act on. But unlimited recombination from the total pool of genetic material in the living world would be disadvantageous, because it would yield innumerable grossly unfit, nonviable progeny. Hence the evolution of sexual reproduction was accompanied by the evolution of species, separated by fertility barriers.

This restriction of interbreeding to groups of closely related organisms illustrates a more general principle: Darwinian fitness (i.e. reproductive success in the competition of natural selection) requires a balanced genome (total set of genes) (8). Natural selection judges a novel gene not in isolation but in terms of its coadaptation to the rest of the organism's genes—whether the organism is a mammal or a bacterium. This principle is crucial for assessing the possible impact of any novel organism on evolution.

Darwin had no interest in the invisible world of microbes, and Pasteur, concerned with disproving spontaneous generation and with establishing the stable differences between microbial species, resisted evolutionary ideas. Nevertheless, within less than a decade of the publication of *The Origin of Species* Pasteur unwittingly began the absorption of bacteria into the Darwinian framework. His classical studies of fermentation demonstrated that different media, such as milk or grape juice *select* for different kinds of organisms from the same mixture that can reach them from the air. However, this selection was for *classes* of microorganisms, and its extension to *variants* within a class was not recognized for many decades.

Meanwhile evolution became increasingly fused with enetics, but this fruitful synthesis could not be extended to bacteria until they were shown, in the 1940s, to possess genes—units of heredity that are linked in a chromosome and are capable of mutation and recombination. The delay was largely due to two difficulties: distinguishing stable hereditary changes from reversible physiological adaptations in bacteria and recognising the very low frequency gene transfers in bacteria—fewer than 1 per 10^8 cells even with a fertile strain under optimal conditions. These transfers are now known to occur via plasmids, or viruses, or free DNA.

Gene transfers in bacteria do not show a sharp population boundary but simply become less efficient with increasing evolutionary distance between the donor and the recipient; hence prokaryotes have no true species. Nevertheless, the requirement of a balanced genome results in stable clusters of organisms with similar sets of genes, and these can be conveniently regarded, for purposes of classification, as species. *E. coli*, for example, is the name given to a range of strains with certain common features but also with a variety of differences—in surface molecules, nutrition, growth rate, sensitivity to inhibitors, etc. These differences determine the relative Darwinian fitness of various strains for various environments, and the name *E. coli*, applied equally to an old laboratory strain and to a strain that has recently caused gastroenteritis in a patient, fails to convey the fact that these organisms have vastly different capacities for survival and spread in nature.

Every living species is adapted to a given range of habitats. The set of bacterial strains called *E. coli*, and closely related pathogens such as the typhoid and the dysentery bacillus, thrive only in the vertebrate intestine and hence are called enteric organisms. In water these organisms survive temporarily but quickly die out. (Indeed, for that reason the *E. coli* count of a pond is a reliable index of its continuing fecal con-

tamination.) In the gut there is intense Darwinian competition between strains, depending on such variables as growth rate, nutritional requirements, ability to scavenge limited food supplies, adherence to the gut wall, and resistance to antimicrobial factors in the host. Therefore most novel strains are quickly extinguished, in the kind of competition envisaged by Darwin for higher organisms. With bacteria the process is very rapid, for with three generations per hour, differences in reproductive rate are rapidly compounded.

It is easy to demonstrate that the environment in the gut (i.e. type of food and physiological state) plays a decisive role in determining which organisms persist there. For example, when a baby shifts from breast feeding to solid food, the flora in the gut shifts dramatically from lactic acid bacteria, which produce sweet-smelling products, to *E. coli* and other foul organisms. Conversely, efforts in an earlier era to reverse the process in adults, by administering large numbers of lactic acid bacteria in the form of yogurt, were not successful. The recent increase in the frequency of antibiotic-resistance plasmids among the bacteria recovered from patients illustrates even more sharply the dominating role of natural selection in the gut. The cause is not the increased cultivation of these plasmids in laboratories (though this has been going on): it is the selection pressures exerted by widespread use of antibiotics in patients (i.e. in the natural environment of the organisms).

Various kinds of infectious bacteria differ from each other in several distinct respects (9): infectivity (the infectious dose, ranging from a few cells of the tularemia bacillus to around 10^6 cells of the typhoid bacillus); invasiveness (specific distribution of the organisms in the body); virulence (the severity of the disease once the infection has overcome natural resistance); and communicability from one individual to another. Each of these attributes, like any complex property, depends on the coordinate, balanced activity of many genes capable of independent variation. Another epidemiological distinction is between infection (presence of a microbe in a host) and disease; tuberculin-positive individuals carry tubercle bacilli, but most keep the numbers in check and are free of illness—only a few have low enough resistance, or a massive enough infecting dose, to lead to disease. An even more striking example is provided by the tetanus bacillus. This organism produces a powerful toxin, but it is a normal, noninvasive inhabitant of the gut of man and some other mammals, and its toxin is not absorbed; to cause illness it must gain access (usually by trauma) to a susceptible tissue. A patient with tetanus is therefore not a menace to his contacts.

POTENTIAL RISKS

Let us now turn to the specific problem of recombinant DNA. It is obviously easy to draw up unlimited hypothetical scenarios, and it is easy to magnify the problem by demanding assurance of absolute freedom from risk. But any realistic discussion must proceed in terms of probabilities, and for the Andromeda strain scenario we must distinguish three kinds: that experiments with a particular kind of DNA will produce a dangerous organism, that it will infect a laboratory worker, and that it will spread outside the laboratory.

It is undoubtedly now possible to produce variants of *E. coli* that would make a toxin ordinarily found in some other organism. Whether such a strain would be pathogenic depends on whether it also has the properties of infectivity, invasiveness, and virulence. Such experiments are not of pressing scientific interest, and they are prohibited by the present guidelines.

A more important question is whether the various kinds of permissible experiments have a significant risk of producing dangerous strains. Of particular interest are the so-called "shotgun" experiments (the introduction of random small fragments of the DNA of a given species into *E. coli*), since this approach is especially promising for advancing our understanding of mammalian genes. The present guidelines regard these experiments as highly hazardous and restrict them to the quite expensive P3 facilities. Moreover, experiments with human DNA (which are of greatest medical interest) are restricted even more than those with the DNA of other mammals, on the grounds that tumor virus genes picked up from human tissues would be particularly dangerous to man.

I believe that the likelihood of spreading tumor viruses by shotgun experiments has been enormously exaggerated. A mammalian cell contains a million genes equivalents of DNA, of which only a few would be inserted into any bacterial recombinant. Hence even if the genes for a tumor virus were present in the donor cells, the probability of picking them up, without selecting for them, is very low. Moreover, the unknown frequency of tumor viruses in man creates a paradox. On the one hand, if these viruses are rare, they have little chance of being present in the donor tissue. On the other hand, if they are already widely distributed, their further spread by bacterial carriers—a very inefficient process—would have little effect. Moreover, it is becoming increasingly clear that the genes of tumor viruses shade into normal host genes, and the problem is not so much preventing the spread of those viruses as understanding the special circumstances that cause those genes to give rise to a tumor in some individuals.

An even deeper question is raised by the underlying assumption that the insertion of mammalian DNA into bacteria in the laboratory is a radical departure, creating an entirely novel class of organisms. This assumption is exceedingly doubtful. The argument is simple: Bacteria can recombine with free DNA not only in the test tube, as we have seen, but also in the animal body, where a mixture of two strains of pneumococcus has has given rise to a third, recombinant strain (10). Moreover, in the gut (or in carcasses) bacteria must be continually exposed to fragments of host DNA, released by the death of adjacent host cells. Since the mechanism of bacterial uptake of DNA would not exclude mammalian DNA, we must assume that this DNA does occasionally enter bacteria.

To be sure, free DNA survives only briefly in the gut, and even under more favorable conditions its uptake by bacteria (especially the kinds found in the gut) is very inefficient. On the other hand, the scale of the exposure in nature is extraordinarily large—the collective human species excretes around 10^{22} bacteria per day. Hence even if the rate of incorporation should be far too low (by as much as 10^{10}) to detect experimentally, it is almost certain that such recombinants have been formed in nature continually over millions of years and are being formed today (11).

This argument does not imply that every conceivable recombinant has already appeared in the past. On the contrary, any individual recombinant, whether formed in nature or in the laboratory, is likely to have a unique combination of genes, just as does every newborn human baby. The problem is not one of *individual* novelty: only if the entire *class* is novel is there likely to be a novel danger for which evolution has not prepared us.

Having recognized that the inadvertent production of a harmful recombinant has a low probability, we must now consider the probability that such an organism, if formed, might cause *illness in a laboratory worker*. Let us assume the worst case (which is prohibited at present)—an *E. coli* strain that produces a potent toxin (such as botulinus toxin) absorbable from the gut. Laboratory contact with such a strain would indeed present some degree of danger, for even if the cells could survive only briefly in the body, each one might release a small amount of toxin before disintegrating, which might add up to a large enough infection to cause illness. However, to estimate this danger we must take into account the following considerations.

1. In contrast to the agents of respiratory infection, which are spread by small inocula in droplets in the air, enteric organisms, such as *E. coli* and the closely related pathogens of typhoid and dysentery, are ordinarily spread by the swallowing of large inocula in contaminated food or water. Hence even the most virulent enteric pathogens, which may turn up at any time in the thousands of diagnostic laboratories throughout the world, are relatively safe to handle with simple precautions. Among the 6,000 instances of laboratory infection recorded in the history of microbiology, the majority were due to various agents of respiratory infection (12).

2. Strain K12 of *E. coli*, used in all current work with recombinant DNA, was isolated from a patient over fifty years ago and has since been transferred innumerable times on artificial media in the laboratory. During these years one rare mutation after another has been selected by the artificial media, because it improved the organisms adaptation to the new environment. Indeed, the present product has such radically altered surface properties that if it were isolated today it might well not be classified as *E. coli*. Moreover, this adaptation to laboratory media has occurred at the cost of deadaptation to the human gut: in recent tests with a large dose in man (much larger than could be expected from a laboratory accident cells of this strain ceased to appear in the stools after a few days (13). Thus *E. coli* K12, outside the laboratory, is like a hothouse plant thrown out to compete with weeds.

3. Since an organism's adaptation to survival in nature depends on an exquisite fit of the parts produced by all its genes, the addition of a block of foreign DNA will ordinarily decrease that adaptation. Moreover, the likelihood of poor coadaptation obviously becomes greater with increasing evolutionary distance between the donor and the recipient.

4. A very large further safety factor is added by the biological containment required in the present guidelines for the presumably more dangerous work (e.g. that with random mammalian DNA). Biological containment involves the use of host cells, called EK2 strains, that have been drastically impaired in their ability to multiply and even to survive, except under very special conditions provided in the laboratory. In other words, this material has been coded for self-destruction: a degree of protection unprecedented in man's exploration of potentially hazardous new materials.

The currently certified EK2 strain, derived from *E. coli* K12, owes its fragility to several stable mutational defects, which include loss of the ability to synthesize two metabolites—thymine (a constituent of DNA) and diaminopimelate (a constituent of the cell wall)—and ultra-sensitivity to lysis by bile salts. Without thymine the cell dies because of the distortion of its attempted DNA synthesis. Without diaminopimelate the cell cannot form more wall, but it can continue to expand and so it quickly bursts. Accordingly, under conditions similar to those in the gut (which is defective in these compounds and contains bile salts) an EK2 strain not only fails to multiply but fewer than 1 in 10^8 cells survive after 24 hours. An extraordinarily sloppy laboratory accident would be required for the ingestion of 10^8 cells.

The exceedingly restricted survival of EK2 hosts under natural conditions is reassuring. However, before the cells die they might conceivably transfer their recombinant plasmid to other, well-adapted cells, which could then spread the plasmid. But this problem is also taken care of by biological containment. First, the particular plasmids being used to carry recombinant genes are also defective: they have been selected for loss of genes that code for their own transmission from one cell to another (i.e. they are nonconjugative). Second, the most recently developed EK2 plasmids are nonmobilizable: unlike most normal plasmids, their transfer cannot be effected by the presence of a second, conjugative plasmid in the same cell. Although a normal conjugative plasmid could conceivably enter an EK2 cell from another cell, it has been reliably estimated that the probability of this happening and causing the transfer of the recombinant plasmid is far below 10^{-16} per recombinant per day (R. Curtiss III, pers. comm.). If it were as high as 10^{-10}, a hundred million people would each have to take up 10^8 bacteria containing a dangerous plasmid in order for the "escape" of that plasmid to become probable.

I conclude that the risk of laboratory infection by *E. coli* recombinants is much smaller than the risk encountered with known pathogens in medical laboratories.

We now come to a hazard that is much more important for the public than laboratory infection: *the initiation of an epidemic*. To place this problem in perspective we must first recognize that the words *hybrid* and *chimera*, applied to recombinants, do not imply an organism that is half *E. coli* and half something else. In fact, the recombinants made possible by the new technique are genetically 99.9 percent *E. coli*, with about 0.1 percent foreign DNA added. We can therefore make some firm predictions about their properties.

In particular, such a small addition could not conceivably endow the organism with a radically expanded habitat beyond the confines of the vertebrate gut. Hence even if the added DNA should include genes that made the organism toxic, the product would still be an enteric pathogen. It is difficult to see how such an organism could be more communicable, or more virulent, than the worst enteric pathogens produced by evolution (e.g. the organisms of typhoid or dysentery). Moreover, modern sanitation provides excellent control for this class of agents, unlike those of respiratory infection: in contrast to influenza, the appearance of a case of typhoid does not lead to an epidemic, unless sanitation is poor. Accordingly, if any toxic recombinant of *E. coli* escaped, its chain of transmission would quickly be interrupted.

Let us supplement these epidemiological principles with some facts about laboratory infections. In our government's biological warfare laboratories at Fort Detrick, where work was carried out for twenty-five years on the most communicable and virulent pathogens known, 423 laboratory infections were recorded (12). Most were due to respiratory agents, whose transmission in the laboratory via droplets was poorly controlled until closed safety cabinets were introduced in the later years. Nevertheless, only a single probable case of secondary spread to a person outside the laboratory was seen. Similarly, in the Center for Disease Control of the United States Public Health Service 150 laboratory infections were recorded, and again only one possible case of transmission to a family member was noted (12). Elsewhere in the world about two dozen laboratory-based microepidemics have been recorded, most involving no outsiders and the rest involving only a few. Of course the pathogens that produced all these infections gave an early warning—but this would also be true of any recombinant that caused disease by producing a toxin.

Tumor viruses present a special hypothetical problem, because any resulting illness would have a long latent period and thus would lack an early warning. However, this loss is balanced by the fact that viruses, by definition, have their own means of spreading. Indeed, in general the natural spread of viruses is even more effective than that of bacteria; each bacterium produces only two daughter cells, whereas each infected animal cell releases thousands of infectious virus particles. Moreover, these particles have a special coat that protects the DNA within and also facilities its entry into susceptible animal cells. Viral DNA in a bacterial plasmid, in contrast, would presumably have to become free before it would enter a human cell. In the test tube this is a very much less efficient process than viral infection of a suspectible cell, by many decimal orders of magnitude, and in the gut it would be rendered even less efficient by the rapid enzymatic digestion of free DNA. It is therefore hard to imagine that viral DNA in a bacterium would be nearly as hazardous as the same DNA in complete viral particles. Meanwhile we produce the latter material on a large scale in many laboratories—and we must do so if we are to learn to control viral infections.

I conclude that illness in a laboratory worker caused by a recombinant organism would require compounding of three probabilities, all low: that a dangerous gene will inadvertently be incorporated in the EK2 cells, that a large number of cells will be taken up, and that these cells will cause harm despite their short survival. Hence the danger appears to be vanishingly small, compared with the very real danger faced continually by medical microbiologists working with known virulent pathogens—organisms well adapted to survive and produce disease.

Because of the rapid self-destruction of the EK2 host cells, the severely impaired transmission of their plasmids, the effectiveness of sanitation in preventing the spread of enteric pathogens, and the excellent record of laboratories in avoiding the initiation of substantial epidemics, the risk of epidemic from a recombinant is clearly even smaller than the risk of laboratory infection, by a large margin—and also much less than the risk from cultivation of known pathogens in laboratories. I therefore see no realistic basis for public anxiety over possible infection by recombinants crawling out of the laboratory.

Though this assessment of a low risk is not conventional, it is also not idiosyncratic. For despite public impressions to the contrary, the experts are *not* in sharp disagreement over this issue—if we define the experts not as just any scientists, but as those familiar with epidemiology and infectious disease. In my own contacts with colleagues in this field I have encountered none who consider *E. coli* recombinants a serious hazard, compared with known pathogens; and the producers of a recent Nova program on Public Television, seeking all points of view, reported a similar experience. The Andromeda strain remains entertaining science fiction.

I would further suggest that as long as investigators are not creating undue risk for others they have the right to take risks for themselves—as they do whenever they work with pathogens (including such unknowns as the agent of "Legionnaires' Disease"). In the United States 2,348 cases of laboratory infections were recorded up to 1961, of which 107 were fatal—over half from diagnostic laboratories (13). More than balancing this cost, millions of lives have undoubtedly been saved by bacteriological research and diagnosis.

Viewed in the light of the technical considerations discussed above, the NIH guidelines seem excessively conservative—especially for the experiments with random human DNA. On the other hand, in the light of the attention that the alleged dangers have received and the resulting public anxiety, I would regard the present guidelines as a reasonable and practical response. They contain a provision for periodic revision, and the same will probably be true of any future legislation. Since the revisions will depend on public attitudes as well as on the results of actual experience with the organisms, a great deal of public education is needed.

INTERVENTION IN EVOLUTION?

The risk that we have been discussing—production of a recombinant that might cause an epidemic—is clearly a legitimate matter of public concern. Society obviously has the right to limit actions that may harm others, and the concept of freedom of inquiry has always tacitly recognized such boundaries. The matter at issue is simply the assessment of the potential harm.

Chargaff (15) and Sinsheimer (16–18), however, have asserted that the recombinant technology creates long-term evolutionary dangers and that these justify holding up the research. Their assertion introduces quite a different kind of question. Dangers from the possibility of interference in future evolution are so intangible and distant that the concern has shifted in effect from dangerous actions to dangerous knowledge. Hence the question of freedom of inquiry does arise. But before we consider a possible conflict between that right and other rights we must try to settle a simpler and more technical question: How much, in fact, is research with recombinant DNA likely to disturb evolution?

Specifically, Sinsheimer has said that we simply cannot foresee the consequences of breaching the barrier between prokaryotes and eukaryotes. But there is no evidence that there is such a barrier. On the contrary, there are many reasons to suppose that the two groups have always engaged in occasional fragmentary DNA exchange. Eukaryotes have evolved from prokaryotes and have maintained constant intimate contact with them; the mitochondria in eukaryotic cells may well be descendants of prokaryotes growing within them; and, as was noted above, prokaryotes can take up free DNA.

In addition, the allegation of danger in breaching any natural barrier to recombination turns evolutionary principles upside down. Evolution has indeed established fertility barriers between species. But these barriers do not function to prevent the formation of monsters that might take over in the Darwinian struggle: they prevent wasteful matings that would produce only unbalanced monstrosities, unable to survive. Moreover, the existence of these barriers, between even closely related organisms, clearly indicates that evolution proceeds in small steps, which will not excessively distort the genome in one respect while improving its adaptation in another. We can preserve under artificial conditions the large-step hybrids that can now be produced between distant organisms, but these products would be exceedingly unlikely to pass the test of Darwinian fitness in nature.

On a more general note, even if the recombinant technology should eventually have evolutionary consequences, it does not follow that such a development would be either unprecedented or dangerous. Man has meddled with evolution since Neolithic times—both deliberately by artificial selection and inadvertently by alterations of the environment. He has been cloning and grafting plants, domesticating animals and plants, and converting forests into fields. What has now been added is artificial recombination, as a potential source of added variation. But selection is the main directive force in evolution. Hence the supplementation of natural

with artificial recombination can hardly affect the biosphere as profoundly as the supplementation of natural with artificial selection. The chimeras of mythology are not about to descend from the realm of art into that of technology.

GENETIC ENGINEERING IN MAN?

Apprehension over undefined effects on evolution has inevitably led to concern over a specific kind of meddling—genetic engineering in man. Indeed, this concern, with all its emotional freight, may unconsciously underlie much of the alarm that has been expressed over other aspects of recombinant DNA research. But as with the other presumed hazards that we have already discussed, the moral issue is serious only if the technical prospects are realistic. Two questions stand out. How much does the development of recombinant DNA in bacteria advance us toward gene manipulation in man? And if such manipulation becomes possible, how likely is it to be used for harmful rather than for beneficial purposes?

As to the first question, the recombinant technique does not seem to be a particularly large step toward gene manipulation in man. A number of past developments are at least equally significant: the isolation and the chemical synthesis of a gene, the cultivation of human cells, the use of viruses to incorporate genes into those cells, and genetic recombination between cultural human and other animal cells. Nevertheless, it is understandable that to the public successful genetic engineering in bacterial cells would seem very close to the same achievement in human cells (19).

The second question—the dangers of misuse of genetic engineering in man—received extensive discussion in 1970. To review briefly my comments at that time (20): first, as far ahead as it is profitable to look, the medical aim of genetic engineering in man is simply *gene therapy*—the replacement of single, defective genes. For most hereditary diseases we would have to introduce the replacment DNA reliably, in the right cells, and subject to normal regulation. We still seem to be a long way from that goal.

But even if this prediction is wrong, and if we should succeed soon in genetically curing such diseases as sickle-cell anemia and the severe mental deficiency caused by phenylketonuria, we would yet be very far from manipulating the genes that generate most of the genetic diversity in behavioral traits—those that specifically direct the morphogenetic development of the brain. For this morphogenetic process must involve a very large number of genes, and so its significant manipulation would require transfer of many genes. Moreover, these genes are at present totally unknown, and they will be much harder to identify than the familiar, chemically defined genes that are responsible for various metabolic functions in the already developed organism. Finally, once these morphogenetic genes have directed the development of brain circuitry no conceivable later manipulation of the DNA could redirect those circuits (or the phenotypically acquired information stored in them). For these several reasons it is difficult to believe that a tyrant interested in altering the personalities of his subjects would find genetic engineering more useful, for the foreseeable future, than the simpler techniques that are already available: psychological, economic, pharmacological, and even surgical.

In addition, even if we could use genetic technology to mold personalities it is not clear that the technological imperative would lead us to do so, or that we would choose these techniques. Selective breeding and artificial insemination have long proved effective in animal husbandry, and they are equally applicable to man—but they have not led to a eugenic program designed to influence the human gene pool. If our society should some day decide to undertake such a program, the decision would not depend on the development of elaborate techniques for manipulating human genes in the laboratory: simple but effective techniques are already available.

The Golem, like the Andromeda strain and the chimera, remains a product of man's literary imagination and not his technology. As Philip Handler recently stated, "Those who have inflamed the public imagination [over recombinant DNA] have raised fears that rest on no factual basis but their own science fiction" (21).

LESSONS OF THE DEBATE

Some have suggested that the exhaustive debate over recombinant DNA will prove beneficial because it will lead to better mechanisms for resolving future issues of this kind. Perhaps so. But the purely conjectural risk in this case does not seem to offer a good model for the real problems of technological assessment, which involve real risks. Moreover, the issue has caused a decrease in public confidence in the sense of responsibility of scientists and an increase in pressure for detailed external control of their research, and the latter inevitably leads to emphasis on immediately visible benefits and on freedom from risk. This development threatens the intellectual freedom and the creative urge that have played so prominent a role in the spectacular success of science.

One lesson for the scientific community is the imperative need to develop more responsible and effective procedures for exploring possible dangers before communicating publicly. The question is not *whether* the public should participate in making value judgments on benefits and risks that may affect its interests: the question is *when* and *how*. Recent years have seen much praise for the virtues of maximal openness at all stages, but the history of the recent debate suggests that on issues with a large technical content, and with a large potential emotional charge, premature public involvement may be less than useful. Just as a responsible physician faced with a diagnostic problem would not immediately tell the patient that the possibilities ranged from neuritis to cancer, so the scientific community has a responsibility in transmitting conjectural information about frightening possibilities to an easily alarmed public.

A second challenge to the scientific community is that of responding more effectively when a scientific issue has generated public controversy. Debates and forums, with equal time for all points of view, are not enough. The scientific community has learned that in trying to judge questions of scientific fact in terms of evidence and logic, rather than of rhetorical skill or public stature, it must weigh the credentials of the witnesses carefully and it must rely heavily on those with authority derived from demonstrated expertise and judgment in the relevant area. But it is difficult for the public to make such distinctions without help from reliable sources; in addition, the media inevitably favor the more sensational pronouncements. Accordingly, on matters that involve a large technical content as well as value judgments, our scientific organizations would do well to develop better mechanisms for conveying to the public the collective judgment of qualified peers. To be sure, this judgment is not infallible: but it would be difficult to find a social institution with a better record of success in winnowing truth from falsehood.

Of late, perhaps because of guilt over the charge of elitism and the ills of technology, some scientists appear to be losing confidence in the objectivity of scientific knowledge and in the ability or the right of their community to speak with any authority. But while there is no room for absolute authority in science, there is also no room for extreme intellectual relativism. In the areas of its expertise the scientific community has the authority, and the obligation, to help the public to discriminate between rational and irrational views.

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THE ROLE OF CONGRESS IN THE ABROGATION OF TREATIES

Mr. GOLDWATER. Mr. President, one of the foremost issues facing this administration is how to pursue its China policy. Those persons who are apologists for or sympathetic to Communist China are clamoring for President Carter to give in to each and every demand of the mainland regime for what they call a normalization of relations. These requirements include abrogation of the mutual defense treaty between the United States and the Republic of China on Taiwan, a condition that was recently reiterated by Communist Chinese Vice Foreign Minister Yu Chan and Vice Premier Li Hsien-nien.

In implementation of this demand, the friends of Red China are seeking to persuade the administration to consider

the defense treaty as automatically having lapsed upon recognition of the Communist Government. Now, aside from the immorality of such a proposal and its guaranteed harmful effects upon our worldwide foreign policy, the fallacy in this suggestion is the fact that it is unconstitutional.

No President acting alone has authority to take action which has the effect of terminating a treaty unless he first obtains the consent of Congress. The Constitution demands a role for Congress in the abrogation of treaties, either in the form of joint action by the President and the other half of the treaty-making power, the Senate, or by action of the President together with both Houses of Congress.

Mr. President, I am surprised that this elementary constitutional fact has been ignored by the people who would have us yield to the terms of Red China. Congress role in the termination of treaties is quite firmly based upon the Constitution and historical practice, and it is most improper for the friends of Red China to ask President Carter to violate the Constitution.

In order that my colleagues may have a brief explanation of the subject, I ask unanimous consent that an article I wrote, which was printed in this morning's New York Times, entitled, "Abrogating Treaties," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ABROGATING TREATIES

(By BARRY M. GOLDWATER)

WASHINGTON.—In the debate over our China policy, almost no serious attention has been given to whether any of the conditions demanded by Communist China for normalized relations would require Congressional approval.

For example, on Aug. 15, Senator Edward M. Kennedy called on the Carter Administration to recognize Red China and consider our defense treaty with the Republic of China on Taiwan as having lapsed. That the President could so terminate the treaty was assumed.

The defense treaty involved provides for revocation upon one year's notice by one party to the other. It is my contention the President cannot give that notice, let alone abrogate the treaty without notice, before obtaining legislative approval.

If President Carter should seek Congressional approval, he will not get it. Public opinion against capitulating to Peking's terms is so strongly reflected in Congress that no President could obtain the necessary consent of two-thirds of the Senate or a majority of both Houses.

It is true the Constitution does not spell out how a treaty is to be terminated. But the clear intent of the Constitutional text, supported by the overwhelming weight of historical practice, proves a treaty cannot be revoked without some role for Congress.

Virtually nothing was said at the Constitutional Convention about the termination of treaties, but it is well known the Framers were concerned with restoring dependability to our treaties and were anxious to gain the respect and confidence of foreign nations. It would hardly instill confidence in other nations if a single officer could abrogate a treaty at will without any check from another department of Government.

And, it is difficult to believe that the Framers, who established the Presidency and Senate as checks upon each other in completing a treaty, did not intend a check in the converse situation, the revoking of a treaty.

The Framers may well have assumed the President would not attempt to annul a treaty independently since he is under a constitutional mandate to "take Care that the Laws be faithfully executed. . . ." As the Constitution specifies that a treaty is part of "the supreme Law of the Land" . . . the Framers undoubtedly expected Presidents to enforce and carry out treaties in good faith.

The general rule follows: As the President alone cannot repeal a statute, so he alone cannot repeal a treaty. This was the belief of James Madison who foresaw "the same authority, precisely, being exercised in annulling as in making a treaty."

It was also the belief of Thomas Jefferson, who in his manual of rules and practices of the Senate, wrote: "Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded."

Historical practice supports Madison and Jefferson. Far more often than not, the Senate, or the whole Congress, has exercised power to approve the termination of treaties, and Presidents have usually sought legislative approval before giving notice of withdrawing from any treaty.

There are exceptions, but none support an untrammeled power of the President to annul any treaty he wishes. In particular, the United States has never repudiated a defense treaty with a friendly nation. Nor has any President alone terminated a treaty that has not been breached by the other party, been placed in conflict with a subsequent law or treaty, or become impossible of performance due to circumstances not of his making.

None of these exceptions apply to our treaty relations with the Republic of China. Even if one or two examples to the contrary can be dredged up, they cannot make legal what the Constitution makes invalid.

Nor does it follow that, should the President take the improper step of de-recognizing the Republic of China, prior treaties would lapse. In a recent study, Stanford law Prof. Victor Li concluded: "International law does not require that treaties affecting only the territory controlled by the Taiwan authorities must lapse. On the contrary, there is strong support for protecting ongoing relations. . . ."

Since the President alone could not abrogate treaties with the government on Taiwan, he must consider them as still being in effect. Any President who would violate the Constitution on such a major matter as breaking faith with the nation's treaty obligations would run the risk of impeachment.

LET US NOW PRAISE CLEVELAND

Mr. METZENBAUM. Mr. President, for many years—too many, I might say—my hometown of Cleveland, Ohio, has been subjected to national ridicule for various reasons. In some circles, it has become fashionable to use the name of Cleveland as the "punch line" in jokes.

Finally, someone has stood up to be counted as one who is tired of hearing derogatory remarks about Cleveland. I refer to Mr. James Damico, the author of an article entitled "Let Us Now Praise Cleveland," in the October 17, 1977, issue of Newsweek magazine.

To borrow a phrase from Mr. Damico's article:

I've lived in Cleveland. I even had the temerity to be born and raised there.

In fact, it is still my home and I plan to make it my home for many, many more years.

Mr. President, even though Mr. Damico has now left the shores of Lake Erie for the towers of Manhattan, his thoughts on Cleveland reflect my own and those of many thousands who are proud to claim the city of Cleveland as their home.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET US NOW PRAISE CLEVELAND

(By James Damico)

"If you don't read us," goes the ad of an ultra-trendy magazine, "you might as well live in Cleveland." A prominent television moderator shudders and pronounces "Cleveland" with the disdain he usually reserves for women's libbers. Aspiring comedians on the "Tonight" show, facing death at 12:35 in the morning and desperate for the surest laugh they can dredge up, shout "Cleveland!" and are momentarily reprieved by the automatic bark of laughter that echoes back. A new, thoroughly rational friend says grimly, "I was in Cleveland *once*," as if it were a combination Devil's Island and Chateau d'If worth any sacrifice of health and wealth to escape.

Well, I've lived in Cleveland. I even had the temerity to be born and raised there. And though I never used to give these circumstances much thought, I must admit that since it's become the pet target of every unimaginative copy writer, comedian and neighborhood life-of-the-party, I've grown defensive, even chauvinistic, about what I've always regarded as a pretty fair city, one possessed of more than its share of amenities, charm and good, honest folk.

BALLYHOO

Culturally, for example, it has a quality and range that most glamour towns can't begin to match. Its beautiful and prestigious art museum is a richly endowed jewel, which, had it been erected on Wilshire Boulevard in Los Angeles, would have been as ballyhooed as Disneyland and long ago accepted by the general public as the Taj Mahal West. Neither is it hard to imagine Atlanta happily trading its Hyatt Regency, or Houston a couple of its oil conglomerates, for the Cleveland Orchestra, one of the world's outstanding musical organizations. As for theater, Clevelanders have enough of a choice to put a healthy strain on their time, funds and behinds.

To satisfy the sports nut, the city provides a full set of professional teams, including the latest rages, team tennis and soccer. The Browns haven't won a championship since Joe Namath was a bonus baby, it's true, but they have an untarnished pedigree as one of football's class aggregations; and, for their part, the Indians have operated continuously in the same city for 62 years, which is slightly more than can be said for the Padres, Dodgers, Mets and whatever other baseball teams are destined to be swallowed up in the ex-swamps of New Jersey.

Architecturally, to be sure, Cleveland is no Paris. But its gracefully proportioned and somewhat revitalized downtown is also without that devastated, ground-zero look of parts of central Detroit—about which, incidentally, I never hear anyone cracking wise—and many of its neighborhoods retain the

type of lively, individual character that was once an adornment of our cities.

But why is it that when I feel compelled to remind people of these and other positive features, their eyes glaze over and a patronizing smile of excruciating disbelief curls their lips? How has this insidious thing happened whereby my pleasant, inoffensive, totally congenial hometown has become the country's No. 1 joke city?

I'd always imagined that this kind of stigma was something a town was saddled with at birth. Like yearly flooding or rockslides from a nearby mountain, it was a congenital defect—obvious, irremediable and noncommunicable. And I'd thought that the list of those poor quaint burgs whose mere names would unfailingly provoke bemused scorn and easy laughter was fixed forever: Brooklyn (a natural), Philadelphia (a tip from traveling show people), Dubuque (the archetypal hick town), and Cincinnati (it sounded funny, especially through a vaudeville German accept). It never occurred to me that obloquy of this order was something that could be acquired by national consensus, or—God forbid—even *earned*.

I suppose the precise moment things started downhill for Cleveland was the day several years ago when its river, the Cuyahoga, caught fire. Sure, that's hysterical, but on reflection it's perfectly reasonable. After a hundred years of absorbing the most noxious and volatile chemicals from bordering plants, that tiny stream should have exploded, not merely burned. If it had happened in Pittsburgh, though, it would have been rightly cursed and deplored as an inevitable excess of industrialization, but I doubt that anybody would have started to crank out Pittsburgh jokes.

SHENANIGANS

Admittedly, the situation was compounded shortly afterward when the mayor of Cleveland, making a play for the blue-collar vote, set his own hair on fire demonstrating his skill with a welding torch. More fuel was added to all these flames by the mayor's confession that his wife skipped a White House dinner because it fell on her bowling night. (In the current election year, the same politician chose to have his sanitation men pass out questionnaires on pornography.) About such antics, there is little to be said. Yet, a city ought not to be permanently branded by the shenanigans of its elected officials. By that standard, New York might be the funniest two words in the English language.

Well, however it came about and however unfair it is, the deed is done and there surely seems to be no way, for one man at any rate, to rectify a social injustice done to an entire city. The only solace I have is the certain knowledge that someday this too shall pass. I've done a little research into the subject and I've discovered that other and far greater cities have been grossly maligned and have survived to take their proper places in the hearts and minds of their countrymen and posterity.

John's Gospel, for example, tells us that Nathanael, on hearing that the savior of mankind had arrived and that he hailed from Nazareth, exclaimed, "Nazareth! Can anything good come from Nazareth?" I can just see the glaze over his eyes and the excruciating disbelief in his smile.

COMPLAINTS AGAINST HEALTH CARE ORGANIZATIONS BY FTC

Mr. WALLOP. Mr. President, in 1975 the Federal Trade Commission filed a complaint against the American Medical Association, the Connecticut State Medical Society and the New Haven County Medical Association. In January of this year, a similar complaint was filed against the American Dental Association, the Indianapolis District Dental Society, the Indiana Dental Association, and the Virginia Dental Association and the Northern Virginia Dental Society. These health care professional organizations were charged with acts, practices, and unfair methods of competition in violation of the Federal Trade Commission Act. The trial in the American Medical Association case is underway, with the FTC nearing the end of its case-in-chief. Following a 1-month interval, the respondents will put on their rebuttal. The American Dental Association case is also moving full-speed ahead, with a pretrial conference set for later this month.

In many instances, I applaud the work that the Federal Trade Commission performs as a regulatory agency. However, in this situation, I am concerned that there has been a gross misallocation of that agency's time, resources, and energy. While the outcome of these trials will not be certain until some time in the future, what is certain at this time is that the FTC should not have instituted these suits in the first instance.

To generalize, nearly all associations of health professions personnel are nonprofit, by definition and in nature. As such, these organizational entities are not engaged in trade or commerce nor are they organized to carry on business for their own profit or that of their members. On the contrary, most of these associations were founded and continue to this day to encourage the improvement of the health of the public, to promote scientific research and development, and to represent their respective health professions.

I do not fault the objective of the FTC to protect consumers of medical and dental care, but the FTC intervention in this area is clearly a usurpation of the States' rights to regulate the practice of dentistry and medicine which directly touches the lives of their citizens.

There is no question in my mind that the health and welfare of the public is paramount in the minds of State legislatures and those bodies charged with the enforcement of State laws. My own State of Wyoming has been conscientious in this area. Our Dental Practices Act and the Medical Practices Act establish licensure and minimum education standards for medical and dental practitioners. These statutes provide for the revocation or suspension of licenses to practice dentistry and medicine under specified conditions. These laws are rigorously enforced to insure that health services of high caliber are delivered by qualified doctors and dentists.

Let us not overlook the ability of States to police any anticompetitive practices engaged in by health care associations under applicable State laws. This is a second mechanism for insuring that the public is protected from unfair practices. The Federal Trade Commission recently published a factsheet that indicated that 48 States and the District of Columbia have enacted laws which parallel the Federal Trade Commission Act. If 48 States and the District of Columbia all have laws designed to prevent deceptive and unfair trade practices, is not the FTC acting needlessly where the States have the necessary tools to proceed on their own?

In short, I agree in principle that the consuming public must not be subjected to unrestrained anticompetitive practices engaged in by any individual, be it health care associations or any other enterprises. However, in the area of dentistry and medicine, which affects each and every State resident, I must emphasize that each of the States is uniquely suited to police the professional organizations within its jurisdiction and thereby to protect its residents.

I have taken the opportunity to address the FTC litigation in order to serve notice on all arms of the Federal Government, and particularly on the Federal Trade Commission, that the 10th amendment still has vitality and must be respected. Our Founding Fathers quite wisely reserved to the States and to the people those powers not specifically delegated to the Federal Government by the Constitution. Nearly all of the States have exercised their legislative prerogatives in enacting professional practices acts and laws dealing with unfair trade practices. The States are well equipped to enforce their own laws without interference from the Federal level. The States have done a good job in this field and have satisfactorily prevented the abuse of the privileges that accompany professionalism. The Federal Government has a constitutional responsibility to defer to the States in matters so close to home.

To conclude, let me underscore the value of reasonable regulation of the health care professions to prevent deceptive and unfair trade practices. On this point, I am in accord with the Federal Trade Commission. The question boils down to which branch of government should be charged with this responsibility. State governments have been, and must remain the leaders in this area. The FTC investigations and trials are an unwarranted intrusion into the constitutional domain of the States.

NEW MEXICO STATE POLICE CRIME LABORATORY

Mr. DOMENICI. Mr. President, I would like to take this opportunity to recognize the valuable contributions the New Mexico State Police Crime Laboratory has made in the battle against crime in New Mexico.

I recently sought the views of New Mexicans on issues and concerns of interest to them, and it is not surprising that crime was listed as the No. 1 problem. Therefore I believe it is appropriate to note the services the New Mexico State Police Crime Laboratory has made to law enforcement agencies throughout the State.

Any person familiar with law enforcement, and the techniques employed to maintain law and order in this Nation, is aware that the collection and interpretation of physical evidence is a vital segment of the process. This facility has increased the use of physical evidence by

New Mexico's law enforcement agencies, which has resulted in an increase in convictions.

Americans have traditionally valued their freedom and prosperity above all other concerns since its founding following the Revolutionary War. However, an American is not truly free to enjoy his liberty or prosperity if crime exists to such an extent that citizens are fearful for their lives and property. Thus while Americans have freedom of speech, religion, and property, they do not have freedom from burglary, mugging, or murder.

Because of efforts such as the laboratory, I must be confident that Americans will someday be able to exercise their freedoms and liberties without fear of attacks on their persons or property.

I ask unanimous consent that the article appearing in the current issue of the FBI Law Enforcement Bulletin recognizing the New Mexico State Police Crime Laboratory's development and resulting effectiveness be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From FBI Law Enforcement Bulletin, October 1977]

THE NEW MEXICO STATE POLICE CRIME LABORATORY

(By Donald W. Hannah)

In 1960, it was decided that the New Mexico State Police should have a forensic crime laboratory to provide assistance for the various law enforcement agencies throughout the State. Administrative officers toured several established laboratories to observe operations and found that the most serious obstacle to implementing this decision would be the tremendous expense involved in equipping and staffing a laboratory. This funding problem was aggravated by the fact that adequate housing for the laboratory was not available. The State police headquarters building which might have provided room was already overcrowded; larger facilities were needed.

In response to these needs, a concerted fundraising effort was begun, and over the next few years, plans for a new State police headquarters complex large enough to accommodate the crime laboratory were drawn up and approved.

Construction got under way, and in January 1971, the agency moved into its newly completed facility. The top south wing of one of the buildings—approximately 10,000 square feet of space—was reserved for the crime laboratory. This area included a central hallway of approximately 1,300 square feet which would allow visitors to tour the laboratory and view the analysts through windows without disturbing their work.

INITIAL ORGANIZATION

A Law Enforcement Assistance Administration (LEAA) grant was obtained to begin buying equipment for the laboratary, and initial purchases were made for the chemistry section.

The laboratory was opened with a supervisor, a crime scene technician, and two inexperienced in-State chemists. It was planned that the chemists would receive their initial training within the laboratory itself, and receive additional training with an outside laboratory doing similar work.

It was felt that other sections of the laboratory required experienced or at least partially experienced personnel, and toward this end an experienced serologist and an experienced firearms examiner were hired from out of State.

Selecting this basic complement of personnel was difficult for several reasons. The budget was somewhat limited, yet it was felt that in order for the laboratory to be effective a high-quality staff was needed. By nature, crime laboratory work requires an array of abilities and competency in several varied fields. In addition to technical proficiency, the analyst must be able to function effectively in court as an expert witness. He must have a good basic scientific background and be capable of expressing himself in terms that lay jurors can understand. He must remain unemotional and objective while testifying, particularly if attacked by opposing counsel. The analyst should stay abreast of changes and advances in his field, and be prepared to attend various meetings of organizations involved in similar work.

In order to staff the laboratory with personnel of this caliber, it is necessary to compete on a nationwide basis. Salaries must be on a par with other laboratory systems, and State laboratory facilities must be attractive to talented out-of-State analysts. This is especially true now that Federal funds have become available to law enforcement. Forensic laboratories throughout the country are expanding and have a great deal to offer in terms of salary and working environment. For a newly operational facility, therefore, funding is the critical element in retraining well-trained analysts and attracting equally qualified personnel in the future.

Thus far, the New Mexico State Crime Laboratory has been fortunate in acquiring both Federal and State funding. Most of the laboratory's equipment has been purchased with LEAA funds; analysts and other personnel have been hired with State funds. At present, the laboratory is operating with an approximate annual budget of $235,000 and the following sections and staff: A director, three analysts in the Chemistry Section, one in the Latent Print-Photography Section, two in the Firearm-Toolmark Section, two in the Serology-Trace Evidence Section, and one in the Questioned Document Section.

In the latter part of 1971, the International Association of Chiefs of Police conducted a survey of the New Mexico State Police. A portion of that study resulted in certain recommendations concerning the laboratory. Several of these suggestions were implemented, including the establishment of the laboratory as a division of the State police.

PROBLEMS

Although the laboratory is now fully operational, a few problems remain. Even though the space is not presently needed, it is now felt that the visitor's hallway space is somewhat wasted and would have been better used to enlarge the laboratory. It has also become apparent that each section of the laboratory requires additional space for storage of supplies and evidence. Since the laboratory was not planned to serve as the central depository in the State for all physical evidence, a policy was instituted of returning all evidence to the contributing investigative agencies as soon as possible after examinations are completed. This arrangement has worked out rather well. It frees the laboratory staff from much recordkeeping and relieves the congestion in evidence storage areas. It also places the responsibility of keeping track of individual cases with the submitting agency rather than the laboratory itself. This is helpful because it is often impossible for laboratory personnel to tell when a case has been closed, and further, to obtain authority to destroy the evidence. As a general rule, the laboratory makes an effort to return evidence to the submitting agency within 30 days after examinations are completed.

Another problem encountered was a backlog in the Serology-Trace Evidence Section. Although the laboratory has the capability to do electrophoresis and other typing of physiological fluids, the rapid increase in the section's caseload has resulted in insufficient time to develop and refine necessary examination techniques. This is a genuine problem because, of late, defense attorneys are becoming more aware of laboratory capabilities and are asking, legitimately, why certain types of examinations are not being performed on the evidence. This is especially true of determining blood groupings, information which might be beneficial to the client. Prosecutors are also becoming more sophisticated in their requirements for physical evidence before they will allow a case to be taken to court. Unfortunately, we also have problems with a lack of understanding about the capabilities and limitations of a crime laboratory—a situation aggravated through the spread of misinformation by "experts" in the State.

TRAINING

Developing confidence in the laboratory's capabilities and knowledge of its limitations is, of course, the best remedy for this problem. As a result, training has become one of the laboratory's most important missions. When the laboratory first opened, a booklet with information culled from various physical evidence handbooks available at the time was printed and sent to all agencies throughout the State.

In addition, the laboratory staff conducts basic instruction at the New Mexico Law Enforcement Academy. This instruction for police officers has been combined with a tour of the laboratory, during which each student is introduced to the analysts and receives a short explanation of the process by which the laboratory handles evidence. Academy personnel, in return, have been very generous in emphasizing the value of the laboratory and the ways in which it can best help the investigator.

In mid-1975, a criminal investigator from one of the departments requested that he spend 2 weeks in the laboratory to increase his knowledge of physical evidence and his capacity to work crime scene searches. His department's chief made the request through proper channels, and the Law Enforcement Academy was asked if he could stay in one of its unoccupied rooms. Permission was granted, and the seed of a future program was planted. During the 2 weeks he spent in the laboratory, he divided his time between the sections, observing the evidence which the laboratory received and how it was handled and examined. He was also taken to crime scenes as an observer. It was found that having an observer presented no great problems, and it seemed that a greater appreciation of physical evidence and proper handling was gained. The laboratory personnel also developed greater respect for the field officers' problems.

As time went on, academy personnel expanded this idea. Funds were allocated to establish a program, which would include criminal investigators from the various departments throughout the State. It was decided that a period of 2 weeks was excessive, and the program was reduced to 4 days. It was also decided to schedule two officers at a time rather than only one. It would be required that the officers remain observers during their visit, and that they spend about 4 hours in each of the five sections. The 12 hours that are not assigned may be spent as the officers see fit—observing operations in the various sections or browsing through the literature available in the laboratory. Or if they wish, they may return to their respective departments. This aspect of the program has purposely been left unscheduled due to the varying interests and responsi-

bilities of the officers. Several have indicated that the time they spent in the different sections was sufficient. Others have expressed a desire to return to the laboratory for some additional study.

An announcment concerning the program was sent to the departments throughout the State, and the response has been very rewarding. Critiques written by those officers who have attended thus far indicate that the program is having a very positive impact.

CONCLUSION

What does the future hold? Response to our work has been complimentary and indicates that the New Mexico State criminal justice system has found a real need for the laboratory, which now services the entire State—an area of approximately 140,000 square miles. In 1976, laboratory personnel traveled about 54,000 man-miles attending court and about 19,000 miles aiding in 97 crime scene searches. The use of department planes greatly reduce traveltime, allowing analysts to accept court commitments in different parts of the State on consecutive days.

The laboratory caseload has grown from 1,052 cases submitted in 1973 to 2,368 cases in 1976. Indications are that the caseload will continue to increase as time goes on and the education and training of police officers throughout the State becomes more advanced.

In order to keep the backlog of cases to a minimum and the turnaround time on the cases realistic, additional personnel are needed and are, hopefully, forthcoming. It is also hoped that the laboratory will be expanded, and if need be, personnel placed in the field doing crime scene searches, latent prints, and photography in those areas where local departments need assistance. As more analysts are added to the staff, the scope of laboratory experience will increase, and it is felt that the extra personnel will help to provide greater continuity in the laboratory when analysts are in the field.

It may become advantageous, as the caseload increases, to establish small specialized satellite laboratories in the more populated areas of the State to cut down on traveltime to and from the main laboratory. In the meantime, the laboratory is providing a much needed service by increasing the utilization of physical evidence by New Mexico's law enforcement agencies.

ERA

Mr. BAYH. Mr. President, the October issue of Redbook magazine contains an article by Judy Carter, daughter-in-law of President Carter, entitled, "Why Nice Women Should Speak Out for ERA."

Mr. President, many reliable polls have shown that a majority of Americans endorse the principle of the Equal Rights Amendment. Thirty-five of the necessary 38 States have ratified the ERA; however, a vocal minority continues to inundate many of the remaining State legislatures with misinformation about the effects of this amendment. It is time, Mr. President, that these legislators hear from the majority, who believe in the principle of equality, as well as from the minority. It is time that the general populace makes itself heard.

Ms. Carter's article clears up many of the misunderstandings about the ERA, and makes it clear that the "nice" people of this country, who have heretofore stayed out of the battle, must make their views known if we are to pass this amendment which is so crucial to the basic equality of all of our citizens.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY NICE WOMEN SHOULD SPEAK OUT FOR ERA

(By Judy Carter)

American voters, your majority rights are in danger. Unless the Equal Rights Amendment is ratified by March 22, 1979, it will die. And that's not what the majority of American voters want.

But how can this be? If there were a national referendum on ERA, there is no doubt that it would pass. The maximum ever recorded against ERA in a national poll was 35 per cent. Both major political parties, over 200 national organizations, the last six Presidents and a clear majority of citizens have supported it. And doesn't the majority rule in this country?

Not always. In this case the minority may decide, because ERA must be passed by state legislatures instead of by direct vote. It has been passed by 35; it needs three more to become a part of the Constitution. The opposition doesn't have to deal with the general public; it has only to focus on a few legislators' votes. That makes lobbying the name of the game—and lobbying is a bad, bad word to most of us. "Nice" people do not become involved in that sort of thing. We forget that it can be used for a good cause as well as for a selfish one.

Lobbying may sound underhanded, but it works. The 1977 ERA vote in Florida is a classic case. A reliable poll, taken a few days before the vote, showed strong support: 62 per cent in favor; 16 per cent against. The majority held equally among men and women, through all areas of the state, age groups and political parties. But the Florida senate defeated the amendment by two votes. Because of effective lobbying by the minority, Florida remains one of the states that has not ratified ERA, despite the fact that a clear majority of its citizens are in favor of it.

Lobbying can work for the majority too, but it takes work to organize it. Indiana is a good example. In the November, 1976, election, four anti-ERA senators and three anti-ERA House members were defeated by pro-ERA voters. ERA was ratified in January, 1977, soon after the new legislature convened. Many women who helped make this possible were ordinary, nonpolitical citizens whose involvement at the right time made a significant difference.

That sort of involvement in Florida, North Carolina and Nevada could have got ERA ratified this year. If only 13 legislators—two in Florida, two in North Carolina and nine in Nevada—had been influenced to vote for instead of against the amendment, it would have passed in those three states, and that would have put ERA over the top.

The opposition group Stop ERA is determined to prevent another ratification. It is supported by groups of the kind that for years have opposed all progressive legislation. They have been against women's suffrage, the income tax, the United Nations, civil rights legislation, Social Security, détente, Medicare and laws to prevent child abuse. Like other such crusades, Stop ERA is well financed by unknown sources. Attempts to find out whom the money comes from are met with vague replies or absolute refusals to answer. The group's lobbyists use well-known tactics: planting fears ("We'll have unisex bathrooms!"), simply repeating the statement when asked for proof, blatantly distorting the facts and insisting they are doing it all to protect freedom.

The underlying argument for opposing ERA is that God made women to have children and men to be responsible for both of them. The laws passed years ago to "protect" women under this reasoning have been changed in recent years to recognize women's rights to equal credit, employment and other business opportunities. Few people object to such basic fairness. But then, it would seem that few people could object to this: Equality of rights under the law shall not be denied or abridged by the United States or by an State on account of sex." And that's the wording of the Equal Rights Amendment.

Why, then, is it so difficult to gain a Constitutional guarantee that the legal gains we've made will not be repealed and that they will be incorporated into our whole system of laws? Why would the vast majority who believe women should have equal rights sit back and let a few vocal extremists take them over?

To find out, I asked a number of "nice" women to talk about ERA. Their comments were surprisingly similar, whether they were in favor of ERA or not. "I'm happy with my situation the way it is," was one comment I heard over and over. Another was, "Those ERA campaigners really turn me off." Most women admitted that they really did not know very much about what ERA would do. Those who assumed that ERA would change things a great deal were against it. Those who agreed that women should have equal rights had little enough knowledge about what ERA could do for them and enough negative feelings about its image to be wary of working for its passage.

ERA would be extremely important to these women if they were in different circumstances. As wives and mothers, most of us enjoy feeling secure and protected by our husbands. ERA will not affect that at all. Like any other Constitutional right, ERA will be there only if we need its protection. We are not required to carry guns simply because we have the right to do so. ERA does not require that any personal habits be changed; it simply guarantees a woman the same legal rights as a man if she needs them.

If your husband dies or if you are divorced, you need to have full, legally protected opportunity to care for your family. If you work, you should be able to expect equal treatment. Our daughters, of course, should have every available opportunity. ERA, like an insurance policy, will guarantee us all those things if we need them.

Obviously, ERA's image is a serious problem. Most of the attention has been focused on a very small number of ERA's millions of supporters: those who have been demanding and strident in their support, the pro-ERA groups that also support some unrelated and far more controversial issues and professional issues and professional women who emphasize discrimination in the business world. The composite has emerged as a group of shouting, aggressive, bra-burning "women's libbers," and "nice" women have been reluctant to be identified with such a group though they support ERA itself.

ERA still has a chance—if we look at the facts in time. The image is changing and the average woman has more to identify with. No one could describe Lady Bird Johnson or Betty Talmadge (wife of the Senator from Georgia)—both of whom actively support ERA—as demanding or strident. Rosalynn Carter could certainly not be accused of trying to weaken the family, though she has been outspoken in advocating equal rights. Jean Stapleton's support has given Edith Bunker fans a push to be involved too. Ellie Smeal, the new president of NOW and a stanch ERA advocate, is a housewife and proud of it.

Even with this all-star support, how much chance ERA has depends on you. Because we are so close, every effort is important. And you don't have to be an expert or a loudmouth to help. The first item of business is

to be informed, considering well the source of any information. Rumor and distortion have taken a great toll in support. Read the facts with this article. Check them out. Write for more information if you want it. Get in touch with ERAmerica, the national coalition of ERA supporters (see box on page 215). Then start talking.

If you live in a state that has already ratified ERA, you still have several avenues for action. First, write a letter to your Congressional representatives and ask that they do what they can to assist passage of the amendment. They may have a direct link to representatives from states that have not yet ratified ERA and who could be of assistance in passing it through their state legislatures. Second, urge any organization of which you are a member to support the effort with money and publicity. Third, urge anyone you know in states that haven't ratified to learn about ERA and help get it passed. (You never know when a letter like that can find the right person!) Fourth, send money. It's needed for advertising in some states, campaign contributions for electing pro-ERA legislators in targeted districts, printing and mailing information and salaries for a few full-time people to coordinate teh effort. Your contribution is an investment in your future, so give as much as you can.

If you live in a state that hasn't ratified ERA yet (and that includes states that have rejected it in the past; they can vote on it again), you have even more to do. Get ready to be a lobbyist—a nice, calm, intelligent, feminine, determined lobbyist. Here's how.

First tell your own representatives how you feel about ERA. They need to know. It is difficult for legislators to get a realistic view of their constituents' opinions when they are being bombarded by a very vocal minority. A calm voice helps them remember that the vast majority of people they represent are reasonably sane and expect them to make decisions based on what the majority will accept. In the back of every politician's mind is the possibility of being removed from office when a more acceptable candidate comes along. Your legislator needs to treat you kindly even if you don't see eye to eye.

You've found important allies if your representatives are ERA supporters. Keep in touch with them. They will need you when they are being pressured by the other side. Remember that some close votes were lost by last-minute switches.

If your representatives are against ERA or are undecided, try to convince them. The most important thing to remember is: Keep cool. Very few people have ever been convinced of anything by threats or tantrums. You may fail and you may be very frustrated, but don't blow your relationship with your legislators. They could change their minds at the last minute, too!

Begin by working with them yourself. Get your information together and ask for an appointment. Ask what their objections are, discuss your position and be sure to point out who your sources are. Of course, even if you beat them on the facts, they still have an effective defense: "The voters in my district are not for it, and I cannot vote for it." At this point retreat and find some allies. A petition supporting ERA, phone calls and letters stating support and public endorsements by local groups can help. Remember that you are not threatening your representatives in any way; you are giving them information to help them make a decision.

When convincing doesn't work, you have one more option: Find a replacement. In most states there is an election before the ratification deadline. Check with your state ERA coalition first. They should have information about potential candidates in anti-ERA districts. Get behind the best pro-ERA candidate and go to work. Voter power is a potent force. A turnover of one or two key seats in most states would ensure ratification. Remember Indiana.

We are living in an era of great historical importance for women. The next few months will be crucial in the struggle for equal rights. It is up to the majority, silent until now, to make it a reality. Our daughters and granddaughters will thank us for it.

WHY ERA IS NEEDED

All laws and court decisions are based on the U.S. Constitution's definition of rights. There is no clause in the Constitution granting legal status as persons and equal protection under the law to women.

There is no consistent pattern in state laws with regard to women. A woman's legal status may differ greatly from state to state.

The Supreme Court must treat all sex-discrimination cases on a case-by-case basis, since there is no Constitutional guarantee of rights for women.

In the case-by-case procedure, women with the fewest resources suffer most. When a woman is solely responsible for her family, she should not be required to spend her time and money in costly legal battles to gain rights she should have in the first place.

The alternative to a Constitutional Amendment to ensure women's legal status is a myriad of Federal statutes and increased bureaucracy to enforce them.

Some people say that the TRA isn't needed, arguing that women's rights are guaranteed by the 14th Amendment. However, in case after case the Supreme Court hasn't interpreted it that way. Just as women needed a separate amendment for the right to vote, they now need ERA for full and equal citizenship.

WHO SUPPORTS ERA?

The last six Presidents of the United States.

Congress (ERA passed in the House 354 to 23; in the Senate, 84 to 8).

35 state legislatures.

Over 200 organizations, including: American Baptist Women; American Bar Association; AFL–CIO and 26 affiliated unions; American Home Economics Association; American Jewish Congress; American Veterans Committee; B'nai B'rith Women; Board of Church and Society, United Methodist Church; Catholic Women for the ERA; Child Welfare League of America; Christian Church (Disciples of Christ); Coalition of Labor Union Women; Common Cause; Democratic National Committee, Girl Scouts of the U.S.A.; League of Women Voters of the United States; Lutheran Church in America; NAACP; National Catholic Coalition for the ERA; National Coalition of American Nuns; National Council of Churches (of Christ); National Council of Jewish Women; National Council of Negro Women; National Education Association; National Federation of Business and Professional Women; National Secretaries Association; Planned Parenthood Federation of America; Republican National Committee; United Church of Christ; United Mine Workers of America; United Presbyterian Church, U.S.A.; Young Women's Christian Association.

WHAT EFFECT WILL ERA HAVE?

Rights to privacy. ERA will *not* affect the individual's right to privacy. No rest rooms will be sexually integrated. The states would also retain the right to regulate cohabitation, which would allow for separate sleeping facilities as well.

Criminals laws. ERA will require that men and women receive equal penalties for the same crimes. It will not invalidate any laws as long as they apply equally to men and women. That includes rape, which is an assault, a crime against the person.

Social Security. ERA will *not* jeopardize any benefits now available under Social Security. It will allow a workingwoman's husband to receive her benefits if she dies or retires just as a wife can now receive her husband's benefit if he dies or retires.

Protective labor laws. ERA will require that protections accorded one sex be extended to include the other.

Alimony and child support. ERA will *not* make alimony unconstitutional; it will extend its benefits to include men. Contributions of both partners, monetary and nonmonetary, will be considered in making a fair division of property. ERA will make both parents equally responsible for the support of their child, again considering financial as well as nonmonetary contributions to support. The welfare of the child will remain the major criterion in awarding custody.

Family relationships. ERA will *not* alter family relationships. It has nothing to do with the customs, agreements and practices that every family works out for itself. ERA will ensure that the wife has a legal right to support from her husband in compensation for her homemaking services. Currently a wife must file for separation or divorce to gain any legal right to be supported.

Military service. The Constitution gives Congress the power to raise armies and to regulate them as it sees fit. Women have always been eligible for the draft, although they have never been called. If there is another draft, exemptions must be based on reasons that apply equally to men and women, such as marital, parental, physical or religious status. If women wish to volunteer, ERA will require that men and women be admitted to service under equal conditions, receive equal benefits of service and equal consideration for rank and assignment. Women will not be required to serve in combat unless they meet appropriate physical standards.

WHERE TO START

ERAmerica is the national coalition of ERA supporters. It is a clearinghouse for information and it coordinates ratification efforts in each state, giving assistance to state coalitions from nationwide sources. It is the place for you to send money, to volunteer and to find out whom to call in your state. The address is: ERAmerica, 1525 M Street, N.W., Washington, D.C. 20005. The phone number is: (202) 833–4354.

The National Women's Conference in Houston, Texas, November 18–20, will be voting on an ERA plank. Let your state's delegates to the conference know that you support the amendment. You can find out how to get in touch with them by calling your local NOW chapter, the League of Women Voters or the YWCA, or by writing to the National Commission on the Observance of International Women's Year, D/IWY, U.S. Department of State, Washington, D.C. 20520.

SOURCES OF INFORMATION

"Answers to Questions About Equal Rights Amendment," National Women's Party, 144 Constitution Avenue, N.E., Washington, D.C. 20002.

"Catholics and the Equal Rights Amendment," Network 224 D Street, S.E., Washington, D.C. 20003.

"The Continuing Controversy Over the Women's Equal Rights Amendment—Pro and Con," *The Congressional Digest*, June–July 1977, Vol. 56, Nos. 6–7. Congressional Digest Corp., 3231 P Street, N.W., Washington, D.C. 20007 ($2 single copy).

"The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," by Barbara A. Brown, Thomas I. Emerson, Gail Falk and Ann E. Freedman. *The Yale Law Journal*, Vol. 80, No. 5, April, 1971.

"The Equal Rights Amendment—Senator Ervin's Minority Report and the Yale Law Journal," Citizens Advisory Council on the

Status of Women, Rm. 1336, Department of Labor, Washington, D.C. 20010.

"The Equal Rights Amendment: A report on the proposed 27th Amendment to the Constitution," Common Cause, 2030 M Street, N.W., Washington, D.C. 20036.

"Homemakers Need the Equal Rights Amendment," Housewives for ERA, Anne Follis, President, Route 3, Urbana, Illinois 61801.

"Let's Have ERA as a Signal," by Ruth Bader Ginsburg. *American Bar Association Journal*, January, 1977, Vol. 63.

"What the Equal Rights Amendment Means," National Association of Women Lawyers, American Bar Center, 1155 E. 60th Street, Chicago, Illinois 60637.

SENATOR ESTHER SORRELL

Mr. LEAHY. Mr. President, I would like to take but a brief moment to comment on an award presented to a longtime friend, Senator Esther Sorrell of Burlington, Vt.

Senator Sorrell has been chosen as one of the "Ten Outstanding State Legislators in the United States" by the Assembly of Government Employees during its 25th Annual General Assembly in Portland, Ore. The selection was made by delegates of the AGE, which is a federation of 46 independent State and local organizations representing more than 600,000 public employees from 34 States.

In noting Senator Sorrell's many achievements, the Assembly was quick to point out how often she had to fight in committee, on the floor and in conference committee to pave the way for legislation helping the State employees. According to the Vermont State Employees Association who nominated her for the award, she "consistently votes for and supports State employee benefits at the risk of alienating colleagues of both parties."

She has been a member of the Vermont Senate for 5 years and is serving her third term on the Government Operations Committee. Having been a member and active participant of various task forces ranging from employment of the handicapped to study election laws, she may indeed be quite proud of her life of public service. I consider it an honor and a privilege and ask unanimous consent to have these remarks printed in the RECORD on behalf of my friend, Senator Esther Sorrell.

There being no objection, the remarks were ordered printed in the RECORD, as follows:

TEN OUTSTANDING STATE LEGISLATORS IN THE UNITED STATES

(as selected by Assembly of Governmental Employees)

Alaska—Sen. Leland C. Croft of Anchorage authored the Public Employees Negotiation Act which gave Alaska state employees the right to bargain over working conditions and compensation. The recognized labor attorney was nominated for the outstanding state legislator award by Alaska PEA.

Arizona—Rep. Thomas N. Goodwin of Tucson was nominated for the award by Arizona PEA because of "his consistent concern and active support for state employee rights." Goodwin spearheaded legislation to improve their compensation and fringe benefits.

California—Assemblyman Wadie P. Deddeh of Chula Vista effectively chaired the Assembly Public Employees and Retirement Committee which supported successful collective bargaining and retirement bills. PEA of Riverside County says "Deddeh is one of those rare politicians who not only believes in the value of public employees and enunicates such unpopular beliefs publicly, but also acts accordingly by consistently supporting legislation in their behalf."

California—Sen. Albert S. Rodda of Sacramento is described by California State EA as "a gentleman and legislator of extreme integrity who has managed to walk the line between supporting public employee benefits and salaries while maintaining public respect and confidence." Rodda has successfully authored more than 375 bills on education, public employment, conservation, retirement, labor, election reform, taxation, consumer protection and civil rights.

Connecticut—Rep. Leo H. Flynn of Taftville has a 90% voting record for state employee legislation on both the Personnel and Appropriations Committees. An advocate of state employee and retirement legislation, Flynn is the leading spokesman for Connecticut SEA legislative programs and "is known as one of the state employees' best friends in the legislature."

Illinois—Rep. James VonBoeckman of Pekin has handled Illinois SEA's pay increase bills and other public employee legislation for four years in the face of warnings from major trade unions for his assistance to an independent labor organization. Von Boeckman's response: "No one is telling me who I can work with or what legislation I'll sponsor."

Maine—Sen. Philip L. Merrill of Portland, an aggressive advocate for the welfare of state employees, led the fight for improvements to the state collective bargaining law in the 108th Legislature on the basis that "public employees have the right to full participation in the political process and protection against legal action arising out of their employment." Maine SEA nominated Merrill for the AGE award.

Montana—Sen. Frank H. Dunkle of Helena in the 1977 session sponsored successful retirement legislation, salary and benefit increases and worked effectively to kill bills detrimental to public employees. Montana PEA nominated him because "he's dedicated to the establishment of a statewide merit system in the face of opposition from the state administration and organized labor."

North Dakota—Sen. Evan E. Lips of Bismarck was nominated by North Dakota SEA for his "concern over improving the quality of state government by making public service a viable career opportunity." In the past 16 years, Lips has been the prime sponsor or key element in the enactment of all employee-related legislation including retirement, health insurance and the Central Personnel System. In fact, "he's responsible for just about everything good that's ever happened to state employees."

Vermont—Sen. Esther Hartigan Sorrell of Burlington, reports Vermont SEA, "consistently votes for and supports state employee benefits at the risk of alienating colleagues of both parties." After failing on the Senate floor to get an amendment to a bill for binding arbitration in contract disputes, she took her fight to conference committee and, as the lone minority party member on the Senate side, after 12 hours of constant debate secured support necessary to pass the bill into law. During the same conference, she opposed both the governor and majority leadership to rally support for a 16% state employee pay hike.

TOP COP MAKES MONEY TALK

Mr. DOMENICI. Mr. President, New Mexico is very proud of Officer Greg MacAleese of Albuquerque, who has been designated recipient of the Police Service Award conferred by Parade magazine and the International Association of Chiefs of Police.

Attributed to the Crime Stoppers program initiated by Officer MacAleese is a 27.6 percent citywide crime reduction. Such a tremendous accomplishment in the fight against crime deserves national commendation and recognition.

I ask unanimous consent that the article commending Officer MacAleese be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR BEST POLICEMAN—TOP COP MAKES MONEY TALK

(By John G. Rogers)

ALBUQUERQUE, N. MEX.—Here in Albuquerque a 30-year-old cop named Greg MacAleese has conceived and is coordinator of a project that's achieving solid results. The Bible says money can be "the root of all evil," but in the MacAleese anti-crime program it's the root of much good. Through a fund raised by hundreds of residents, the city pays cash to informants for clues leading to arrests and indictments of malefactors. So far total payments are more than $11,000 in amounts ranging from $50 to $2000, and all informants are promised anonymity if they want it.

Some results: 261 cases including murder, rape, robbery and burglary solved in the first 11 months of operation. Recovery of $286,000 worth of stolen property. A citywide crime reduction of 27.6 percent.

And widespread praise. Albuquerque Police Chief Bob V. Stover pronounces the project—called Crime Stoppers—"an unbelievable success." Chief Deputy District Attorney Robert A. Martin said in a letter to City Hall: "Of all the devices and programs that have come along in the area of law enforcement in the past few years, this is one that appears to be a sure winner."

For his imaginative anti-crime project, which involves innovative TV programs and has solid media and community support, Greg MacAleese has been designated recipient of the 12th annual Police Service Award conferred by Parade and the International Association of Chiefs of Police. This honor, which names MacAleese a symbolic representative of all the nation's 440,000 law enforcers, is accompanied by a roster of 10 others cited for honorable mention for superior performance.

MANY CONTENDERS

The candidates for this year's awards were, as always, nominated by their commanders, usually a city's police chief. And, as always, the judges sifting the nominations had a difficult time narrowing them down to MacAleese and the 10 others. This was because there were so many outstanding candidates arising from the great variety of good works in law enforcement.

The designation of Greg MacAleese as the 1977 Policeman of the Year points up that more than ever police are groping harder for ways to reverse the trend of increasing crime.

Plaques for MacAleese and the 10 honorable mentions will be presented to them this week in Los Angeles at the annual convention of the International Association of Chiefs of Police.

MacAleese, a former college baseball pitcher who had offers from five major league teams, calls the Crime Stoppers program "simply an exchange of commodities. Out there in the community are people who have information about crimes. We want it. And in exchange we'll pay the money and guarantee anonymity. Sometimes we get the criticism that paying informers is a sort of smelly business. But

I don't see it that way. It's commonplace after some sensational or especially repulsive crime for a reward to be offered for information. We just have a permanent setup of reward. I think about 70 percent of our telephone informants are ordinary people who happen to hear or see something and the rest are in or of the underworld."

A keystone of Crime Stoppers is publicity to keep this community of 312,000 fully aware of how it can help the cops by telephoning a special number at police headquarters. MacAleese uses three TV stations, eight radio stations and two newspapers to spread his message and he'll speak to as many as five groups a week. Even car bumper stickers urge cooperation.

"CRIME OF THE WEEK"

Crime Stoppers' most novel gimmick is "The Crime of the Week"—a three-minute show written by MacAleese depicting an actual crime in Albuquerque. The young officer rounds up amateur actors, coaches them through his script, and they appear every Monday night on a TV news program.

Says he: "There's psychology behind these shows. People are more likely to react to visual treatment. It tends to jolt their memories, to sharpen a sense of awareness of something they know about somebody. One man said to me, 'You seem to be saying I should turn in my neighbor.' I told him, 'Well, if he's a crook, I hope you do.' But we do get calls from people who wouldn't call the police directly. We are set up as a civilian and community organization, and that gives us a special status.

"Of course, if a person agrees to testify, the anonymity can't be guaranteed. But in cases in which the anonymity holds, courts here have ruled against defense lawyers who demand to know the identity of accusers.

"In one particularly brutal murder, after the conviction a witness received so many threats against himself and his family that we sent all four of them hundreds of miles away, got him a job and gave the whole family new identities. It was not only a humane thing to do but showed the underworld Crime Stoppers stands by its informants."

Albuquerque Police Detective Joe Garcia says, "What we've done is to create worry and suspicion among part of our criminal element. If they had a code of honor about squealing on each other, we've cracked into it."

Another of Crime Stoppers' TV stunts is to display mug shots of suspects. Says MacAleese: "We put a mug shot on the screen on Monday night and almost invariably we've got the guy by Wednesday. Somebody out there knows where he's holed up, and in come those phone calls."

BUILDING THE FUND

Crime Stoppers' fund that pays informants now stands at more than $37,000. Back in the beginning an appeal was sent out along with the water bills, and that brought in about $10,000 in amounts from $1 to $10. But, as the program becomes better and better known, contributions arrive almost daily. The smallest was 36 cents from a fifth-grader who explained in a letter, "It's all I can afford."

MacAleese personally makes the payoffs to the informants and, because he has received telephoned threats to his own life, he dictates the site of the meeting for his own safety and makes sure that he's paying the right person.

The 1977 Policeman of the Year began his career as a street cop, and MacAleese believes he'll go back to that duty if his present usefulness diminishes as a result of his becoming too well known. He's experienced violence—one time a gun and another time a knife was pulled on him—but his only injuries resulted from a beating by eight kids in a parking lot. Later, during a year as collector of evidence for detectives, he found that many shady characters had impulses to divulge information if they could do so safely. That was one of the elements that led to Crime Stoppers.

IMPORTANCE OF ANONYMITY

Another was an experience of his attractive wife, Jo, a concerned citizen who's running for City Council. One time she felt she had some useful information in a narcotics case: "I phoned the police and they wouldn't even listen to me unless I gave my name, address and telephone number. Later on, when Greg was thinking of Crime Stoppers, I told him about that. We agreed there ought to be some way of encouraging people to talk on an anonymous basis. Also, in the underworld, money talks. If you can make more safely squealing on a crook than risking the killing of a gas station attention, why not do it?"

Albuquerque Police Chief Stover calls MacAleese "the sparkplug that makes Crime Stoppers work." The young officer enjoys his achievements but concedes that occasionally he wonders how he might have fared as a major league baseball pitcher. Still, he says, it's rewarding to be striking out criminals.

NATURAL GAS CONFEREES

Mr. BENTSEN. Mr. President, as we all well recognize, the natural gas bill that the Senate passed last week was only produced after an enormous effort. It represents years of legislative give and take; years of study and restudy; years of debate.

Now we face a conference with our House colleagues. Many people seem to forget that 47 percent of the House membership backed a more immediate version of natural gas deregulation than that approved by the Senate. But if the Senate position on natural gas is to be fairly represented in conference, and all possible compromises fully explored, a majority of the Senate conferees should be completely convinced of the wisdom of the Senate position and have so voted.

I recognize the continuing controversy over deregulation, and I ask for no unfair advantage in the debate to follow in conference. I am not seeking the appointment of any particular conferee or group of conferees. My goal is simply to insure that Senate procedures are followed. In fact, the rules and precedents established some times are overlooked points: Conferees from the prevailing side should be in the majority and conferees can be elected or rejected by the Senate as a whole.

As Senator HUMPHREY stated in the debate on the civil rights bill in 1964:

The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate.

The Senate Democratic Caucus adopted a similar rule, which instructed that "a majority of the proposed conferees shall have indicated their support for the bill in question as passed by the Senate, and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House."

To back up these rules, the Senate, as a whole, is given the power to elect its own conferees or amend any motion to elect conferees.

In selecting the advocates of the Senate position, the Senate is not limited to members of the jurisdictional committee. This is a well recognized principle going back at least to 1896. In that year Senator Lodge was chosen as a conferee on a bill which was reported out of the Judiciary Committee, although he was not a member of that committee.

Conference is the place for compromise, and I think one can be found on the issue of deregulation. It would be impossible for 535 Congressmen to sit down as a whole and work a solution. So representative conferees will be chosen. Accordingly, the composition of the majority of the Senate conferees must reflect the 52 Senators who voted for deregulation. I have and will continue to seek assurances that a majority of the Senate conferees on the natural gas bill will be chosen from supporters of the Pearson-Bentsen bill.

Frankly, having sat on conferences, I recognize the inevitability of compromise. However, the selection of conferees should reflect what happened on the Senate floor, not what someone wishes had happened. In other words, the appointment of conferees is not another chance for the losers to win; it is the open selection by the Senate as a whole of the advocates of the Senate position.

ANOTHER MISCONCEPTION ABOUT THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, ever since the Genocide Convention first came before the Senate for ratification in 1949, it has been subject to repeated attacks that it would become a farce through which demonstrators, convicted criminals, and publicity hounds could bring trumped-up charges against the United States. Dan Smoot, in an article for American Opinion magazine, charged that since every American citizen belongs to some national, ethnical, racial, or religious group, practically every criminal case in the country would automatically become both a crime under American statutes and an international crime of attempted genocide.

As examples, he cited the hypothetical death of a Black Panther in a gun battle with police and public criticism of Communists in the press as actions which could be interpreted as causing serious mental harm and thus become violations of the convention and international crimes. Mr. Smoot's article is simply one more example of the crude sensationalism and convenient disregard of facts that has become a trademark of many of the convention's opponents.

In the first place, the Foreign Relations Committee has always included with its recommendations to ratify the convention the understanding that mental harm means permanent impairment of mental faculties. As the State Department told the committee in a 1971 clarification:

This construction is in keeping with the generally understood meaning of the term

in the context of Article II. It would make clear that the term could not be construed as applying to various lesser forms of mental harassment toward minority groups. This construction is consistent with the negotiating history of the convention.

In addition, a second understanding states that the United States construes genocide as defined by the convention to include only those cases when the act was committed so as to affect a "substantial part" of the group involved—a group of such numerical significance that its loss would cause the destruction of the group as a viable entity. Clearly, Mr. Smoot's examples and all such isolated court cases would not be in violation of the Convention.

Finally, the proof is in the pudding, for in the quarter century this Convention has been in force throughout much of the world, it has not been treated lightly or invoked for publicity reasons, but has been accorded the same importance and respect as other important international conventions. Mr. President, the United States has ratified many of these other conventions, and we in the Senate know full well that they have not become playgrounds for absurd charges. Mr. Smoot and many others like him are simply using half-truths and sensationalism to delay the ratification of this important document. I urge my colleagues to look at the Genocide Convention for what it is—a crucial piece in the growing framework of international protections of human rights—and to ratify it immediately.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, I ask unanimous consent that a report from the Senate Committee on Rules and Administration pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act of 1974, distributing the committee's allocations under the second concurrent resolution of the fiscal year 1978 budget, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON RULES AND ADMINISTRATION

REPORT TO THE SENATE PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

ALLOCATIONS OF 2D CONCURRENT RESOLUTION AMOUNTS FOR FISCAL YEAR 1978

[In millions of dollars]

Programs	Direct spending		Entitlement programs that require appropriations action	
	Budget authority	Outlays	Budget authority	Outlays
Function 250	(1)	(1)		
Smithsonian Institution trust funds	0.055	0.058	0	0
Function 500	4.00	4.00	0	0
Oliver Wendell Holmes devise fund	.004	.020		
Gift and trust funds, nonrevolving (Library of Congress)	4.440	4.273		
Function 800	30.00	0	0	0
Presidential election campaign fund	30.00	0		
Total amount to be distributed	34.00	4.00	0	0
Controllable	0	0		
All other	34.00	4.00		

[1] Under $500,000.

PULASKI DAY

Mr. DOLE. Mr. President, on October 11, 1779, Casimir Pulaski, a Polish hero, lost his life fighting for the Colonies in the Revolutionary War. In recognition of his contributions, this day every year has been designated and celebrated as Pulaski Day.

PARTICIPATED AT THE BATTLE OF BRANDYWINE

Forced by Russian oppression to leave Poland, Pulaski became an exile and at first opportunity hurried to help the colonists at the outbreak of war. Benjamin Franklin engaged him for the American service and gave him an introductory letter to General Washington. At the Battle of Brandywine, September 11, 1777, while still a volunteer, he saved the retreating American Army from being cut off by the British by attacking them with just a handful of men.

"FATHER OF THE AMERICAN CAVALRY"

As a result, he was appointed brigadier general in charge of the cavalry. Using his great talents and zeal, he reorganized the existing regiments of dragoons with such skill that he justly earned the title of "Father of the American Cavalry." The following year he organized an independent corps of cavalry and light infantry which became known as Pulaski's Legion. It saved Charleston from British General Prevost and his troops on May 14, 1779.

"I CAME TO HAZARD ALL FOR THE FREEDOM OF AMERICA"

However, on October 9, 1777, Pulaski was wounded during the siege of Savannah and died from his wounds 2 days later at the age of 31. In fighting for the American cause, Pulaski was motivated by pure idealism when he crossed the seas. Two months before his death, he wrote in his last letter to Congress, "I came to hazard all for the freedom of America." We can ask no more of any man.

THADDEUS KOSCIUSZKO ALSO HELPED COLONISTS

Nor was Pulaski the only Polish soldier to help our fledgling Nation. Thaddeus Kosciuszko was sent to West Point for the purpose of strengthening the defenses of the Hudson, a job he did so well that the fortifications "frightened the very enemy from all temptation to even trying to take the highlands."

Many Polish Americans since that time have continued to serve this country with great distinction in all the great wars that we have been involved in up to the present century.

POLISH AMERICAN CONTRIBUTIONS IN OTHER AREAS

But we can be proud of the contributions Polish Americans have made in other areas to produce the rich mosaic of American life. American musical development has been greatly enhanced by the late maestro Leopold Stokowski and Arthur Rodzinski, the conductor of the American Symphony. The spiritual guidance for all Americans has been provided by the Archbishop of Philadelphia, John Cardinal Krol, and the sports enthusiasts can immediately identify with the great baseball player, Carl Yastrzemski.

America has been fortunate in her development to have been able to receive so many immigrants on her shores. The cultural and social diversity this has provided us gives us the strength we need as a nation. The sons of Polonia are a proud segment of our great land and we salute their contributions.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses: Prof. Jorge Domínguez, Center for International Affairs, Harvard University; Dr. Abraham F. Lowenthal, the Woodrow Wilson Center; Prof. Donald Dozer, University of California; Prof. Lewis Tambs, Arizona State University; Robert M. Bartell, Liberty Lobby; Franklin Delano Lopez, chairman, Puerto Rico Democratic Party; Phillip Harman, Canal Zone Non-Profit Public Information Corp.

I ask unanimous consent that the prepared texts of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

TESTIMONY BY JORGE I. DOMINGUEZ

I want to thank the Committee for inviting me to come to present this testimony. I appear before you as an individual citizen, and not as a representative of Harvard University or any other organization. I would like to address my remarks to the issue of the Panama Canal treaties in the context of relations between the United States and Latin America.

I urge you to support the Panama Canal treaties as they have been submitted to you, and to reject amendments which would in fact cripple the treaties and prevent their acceptance by Panama. There are many reasons to urge ratification of these treaties; I simply want to call some of them to your attention.

1. The treaties have become a test of the steadiness of U.S. foreign policy toward Latin America, and indeed toward other countries. The treaties are the culmination of work by four Presidents of the United States of both major political parties and their Secretaries of State, in consultation with members of Congress and other interested parties. One issue that has arisen is whether the U.S. government is reliable enough as a partner in international relations, so that a bipartisan agreement on a central question for U.S. foreign policy, can in fact be implemented with broad Congressional support. The defeat of the treaties, therefore, would represent not only a substantive setback for U.S. foreign policy, but it would also make it more difficult to conduct that foreign policy in the months ahead.

2. The treaties protect U.S. national security interests in the canal better than any other alternative. The treaties guarantee that the United States will retain control of both operation and defense of the canal for the remainder of this century. More importantly, the treaty provides for the long term security of the canal by engaging the government of Panama seriously in the canal's defense. What are the real threats to the continued operation of the canal? One kind of threat might be an attack by some other power on the canal; the United States has the capability to retaliate against any such attack. That defense of the canal, of course, does not depend on the presence of any U.S. forces in the area of the canal, but on the general defense capabilities of the United States. The right of the United States to defend the canal against those who might destroy it is guaranteed by Article IV of the Neutrality Treaty; this right and obligation will continue indefinitely.

Another kind of threat might be an attack that Panamanians in their frustration might have launched against the canal. By engaging Panamanians and the government of Panama gradually in the operation and defense of the canal, and by eventually turning over to them these responsibilities, the continued operation of the canal is more likely to be assured. As their own political and military responsibilities increase, and as their own economic benefits increase, Panamanians will find it ever more in their interest to defend the canal with U.S. support. Failure to ratify the treaties, failure to increase Panama's stake in the canal, would make the canal more vulnerable and its defense more difficult.

The continued operation of the Panama Canal is in the national interest of the United States. These treaties make it likely that Panama will increasingly see its national interest in keeping the canal open, too. Both countries, therefore, can gain from these treaties because their national securities will be enhanced; both countries will lose if the treaties are not ratified.

3. The treaties are necessary for the effective conduct of U.S. foreign policy toward Latin America. There is broad support in Latin America, and among Latin American governments, for these treaties. That support was symbolized recently when so many heads of state from the hemisphere came to Washington to express their support. The present relationship between the United States and Panama is often seen in Latin America as the residue of an era long past, when the United States might impose its will on weaker countries. The continuation of this situation, in the absence of a treaty, is a symbol that the United States does not yet take Latin America seriously enough in the conduct of its foreign policy. A protracted debate in the U.S. Congress over treaty ratification would also probably paralyze other initiatives in U.S. foreign policy toward Latin America. There are important issues of nuclear proliferation, human rights, private foreign investment, trade, and many others, which can only be negotiated successfully between the United States and Latin America, if Latin American governments have continuing assurances that they are treated seriously by the United States. There is no better assurance than to put an end to the present arrangement over the canal, and to ratify these treaties.

4. The treaties demonstrate the possibilities for creative United States initiatives in the hemisphere. The treaties show that the U.S. government can move forcefully on issues of common concern to countries in the Americas. The treaties show that the United States, Panama and other countries in Latin America, can identify common interests, and agree on ways to advance their common interests. The successful ratification of the Panama canal treaties may thus open the way for the negotiation of other issues of common concern to Latin America and the United States, such as I mentioned in the previous paragraph. The treaties also demonstrate that the United States can take the initiative and not merely react to real or alleged actions of other countries. The United States has demonstrated by this treaty its continued importance to Latin America. This is something the Soviet Union cannot do; this is something Cuba cannot do. And this is also something no other U.S. ally can do. The point may bear an example. I have done a fair amount of work on Cuban foreign policy. In its competition with the United States over influence in Latin America, the Cuban revolutionary government has often called attention to the U.S. failure to agree with Panama on a new canal treaty. These new treaties, therefore, have taken away this argument with one stroke, and have demonstrated to many Latin American governments—including the government of Panama—that it may be more useful for them to work closely with the United States than with any other country, including Cuba.

5. The treaties strike a subtle balance between the preservation of U.S. military rights and U.S. declared policies of non-intervention. The United States has two different political interests in these treaties, which are difficult to reconcile. One interest is to retain the right to be able to assist Panama in the future to guarantee the neutrality of the canal, using military force if necessary. Another interest is to persuade Latin American countries, and other less developed country governments in the so-called Third World, that the era of U.S. intervention in their internal affairs has passed, and that the United States is interested in responsible relations with them. This commitment to non-intervention is essential if credible relations are to be maintained with the majority of the countries of the world. To balance these two interests, delicate language is required. That delicate language appears in Article IV of the Neutrality Treaty, and I urge you to reject amendments which might modify that article. That article strikes this difficult balance of assuring that the United States and Panama will defend the canal, and at the same time indicating to the rest of the world, and to Panama, that the United States no longer contemplates intervention in the internal affairs of other countries as a matter of routine national policy.

These treaties, in conclusion, serve the national interest of the United States by identifying those elements where constructive cooperation with Panama is possible. In doing so, the treaties signal to other countries that the United States is willing and able to conduct a responsible foreign policy toward them—one that meets the essential test of being faithful to U.S. interests while being realistic and feasible in its implementation. The defeat of the treaties would signal, on the contrary, that the United States is unable to perceive its large stakes in a common security arrangement, that it is unable to treat the people of a small country with the respect due them, that it is unwilling to put aside practices and agreements of a bygone era, that it pays little attention to the coalesced voices of Latin American governments, and that it cannot conduct a foreign policy which would relate its national interests to their realistic implementation. In order to gain as much as we can, and to lose as little as possible, I urge the speedy ratification of the Panama canal treaties.

STATEMENT BY ABRAHAM F. LOWENTHAL

Mr. Chairman: It is an honor for me to be among those asked to testify on the question of the Panama Canal treaties now before your Committee. Surely the Senate's role in considering these proposed treaties makes these hearings among the most important the Committee has held in recent years, and all concerned will want to be as helpful as possible to you.

I speak, of course, not as a "representative" of the Wilson Center or as head of its new Latin American Program, but in my capacity as a professional student of Latin America and of United States-Latin American relations. For me, as I think for practically all concerned with inter-American relations, Panama is a key issue, a test of United States policy toward the nations of this hemisphere. Proponents and opponents of the new treaties, as well as those-including some of the distinguished members of this Committee—who have not yet made up their minds: all of us agree that the Panama issue is significant, and that its time has finally come. I believe we also agree that the issue is important beyond what is immediately at stake: how best to preserve secure access for the United States to a convenient waterway. It is important, as well, for its symbolic significance, both in the Western Hemisphere and beyond. How the United States deals with the question of Panama will tell us, and the world, whether the United States is outgrowing its "hegemonic presumption" (about which I wrote in Foreign Affairs a year ago) and whether it is ready to deal on the basis of mutual respect even with the small and weak countries of the world. The outcome of the Panama debate will also tell a good deal about the strength of our democratic institutions, and about the capacity of our constitutional system to deal wisely with complex issues on which passions sometimes outrun understanding.

I tried in a recent article (which I am told was put into the record during the first day of your hearings) to show why I think it is in the best interests of the United States to work together with Panama to replace the 1903 Treaty with one grounded in today's realities and built on the principle of mutual respect and on the pursuit of shared aims. Rather than repeat my whole argument here, let me just summarize briefly why I hope the Senate will help the United States and Panama to reach agreement, on a new treaty relationship. After doing so, I would like to take a few moments to emphasize one particular point: why the Panama issue is an essential part of improving United States relations with Latin America. Finally, I would like to make some brief comments on one of the issues which has come up already in this Committee's deliberations, the "right of intervention."

THE CENTRAL QUESTION

The central question posed in Panama is whether United States interests in the Canal require us to continue to treat Panama as less than a juridical equal, as we have done from the beginning.

Those who urge the United States to cling at all cost to the anachronistic terms of the 1903 Hay-Bunau Varilla Treaty in the face of rising opposition from Panama, on the international scene, and even from within the United States are not, for the most part, unreasonable people, although some of them do approach this issue with an emotional zeal which is hard to analyze or deal with. They take their stance basically because they see no better way to protect this country's interests, even though they know that continuing and deepening conflict over Panama will result.

Those of us who favor replacing the 1903 Treaty with a new set of agreements—negotiated carefully over many months and years—believe that the United States and Panama share the basic aims of keeping the Canal open, secure, efficient and neutral. We believe, therefore, that United States interests and Panama's dignity can be reconciled through an accord—like the one before your Committee—which recognizes Panama's sovereignty and builds on the basis of the interests the two countries share.

Sticking with the 1903 Treaty would assure an era of bitter and continuing confrontation between the United States and

Panama, magnified and deepened by the effects of this struggle on United States relations with other countries of Latin America and the Caribbean.

Adopting a new set of mutually agreeable obligations promises closer cooperation between Panama and the United States and offers the chance to turn the Panama issue from an example of American intransigence into a sign that this country knows how to protect its lasting interests in a rapidly changing world.

When all is said and done, the essential choice posed by the proposed new treaties is that simple. There is no real doubt, I think, that the United States has significant (if no longer critical) economic and military interests in Panama. Few would argue, I think, that the United States has a positive legal obligation to modify its treaty relationships with Panama in order to protect those interests. The real question is whether it is wise for the United States to base its continuing access to the Panama Canal on words alone, on the terms of a discredited treaty drafted under dubious circumstances in the bygone era of imperial expansion. It seems to me that previous testimony before your Committee has established well the case for constructing a new and more viable basis for protecting U.S. access to the Canal, a basis founded not on mere words, but on shared responsibilities and benefits. In brief, the proposed new treaties should engage Panama's energies more positively in maintaining and defending the Canal as that country's chief resource, it should decrease the threats to the Canal from Panamanian bitterness, it should diminish the prospect that the United States could eventually be drawn again into a bloody military confrontation with a nationalist movement on its own territory, and it would remove an irritant in U.S. relations with all the countries of the Hemisphere, an irritant which Senator Church of the Committee has aptly called a "bone in the throat" for Latin American nations.

PANAMA AND THE FUTURE OF INTER-AMERICAN RELATIONS

Because my own research and writing has not concentrated mainly on Panama, but rather on broader issues of United States relations with Latin America, let me emphasize this last point: the larger significance of the Panama issue in hemispheric relations.

As the United States enters its third century of independence, the nature of our relations with our neighbors in Latin America and the Caribbean is changing importantly. For many years, and especially in the immediate post-war period, the United States understandably treated Latin America and the Caribbean as its "sphere of influence": the United States wielded virtually unchallenged power, economic and military, and our political leadership was unquestioned. We came to feel we could take for granted the loyalty and cooperation of our neighbors to the South; they would support U.S. initiatives, import U.S. goods, utilize U.S. weapons, welcome U.S. investment, and so on and so forth, pretty much in the nature of things.

During the last ten years, however, the bases for this country's hegemonic presumption have eroded. No longer can the United States assume that the nations of Latin America and the Caribbean will share U.S. interests and perceptions.

Objective and subjective trends of several types coalesce to produce a fact, that the countries of Latin America and the Caribbean need to be taken seriously by the United States as independent countries, each able and eager to deal with the United States on a broad agenda of issues, regional and global. And as the issues are faced, each Latin American country begins with a special sensitivity about U.S. paternalism and interventionism, about the legacy of the past.

It is in this context that the Panama issue becomes so important in U.S.-Latin American relations. U.S. relations with Panama—and especially the status of the Canal Zone—have long symbolized for Latin America all that was regrettable about its "special relationship" with the United States. All our government's attempts to convince Latin Americans that we respect their rights and understand their interests would ring hollow if we could not bring ourselves to abandon the habits of thought and practice epitomized in the Panama Canal Zone.

Sensitivity and respect are the key points here, I think. And they are points which take on even more importance as the issues before this Committee become better defined.

I am no authority on artful terms like "expeditious passage" or on the likely course of world shipping patterns and how they will affect the economics of Canal use. But one thing I—or any student of U.S.-Latin American relations—can and should say is that the Senate should not consider asserting an explicit "right" of "intervention", in Panama, or anywhere else.

The "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal" establishes a joint commitment by Panama and the United States to maintain the Canal's permanent neutrality, notwithstanding the termination of the Panama Canal Treaty or of any other treaties entered into by Panama and the United States. No clear statements are made about how the United States may exercise its obligation to maintain the regime of neutrality, and it is understandable and proper that this Committee should want to make U.S. rights in the matter somewhat more explicit. But to be surprised or upset that Panama's government officials deny that the United States will have a right to "intervene" in Panama seems to me to illustrate the problem of Panama, not to contribute toward resolving it.

Thank you for inviting my testimony. I would be glad to try to answer any questions of course.

STATEMENT OF DONALD MARQUAND DOZER

My name is Donald Marquand Dozer, and I am Professor Emeritus of Latin American History and Inter-American Relations at the University of California, Santa Barbara. My professional career in brief outline includes a Ph.D. from Harvard University, intelligence work in the Office of Strategic Services in the Latin American area from 1941 to 1943, service in the Department of State in the fields of policy, intelligence, research, and history of Latin America from 1944 to 1956 including representation of the Department at Inter-American conferences and work on strategic surveys of Latin America for the Joint Chiefs of Staff. I have also been associated as consultant with the Brookings Institution and with the Center for Strategic Studies at Georgetown University, and I served in 1971 as Fulbright lecturer to Argentina. I am author of several books on Latin American history and inter-American relations, including Are We Good Neighbors? (University of Florida Press), The Monroe Doctrine: Its Modern Significance (Knopf), and Latin America: An Interpretive History (McGraw-Hill). I have visited all the Latin American countries, most of them many times, with the exception of two or three of the smallest and have friends and other excellent sources of information in all of them. In 1972 I was presented with the Alberdi-Sarmiento award by La Prensa of Buenos Aires for outstanding contributions to inter-American friendship. I was the second United States recipient of this award since it was established in 1954.

On my recent trip to Latin American countries earlier this year government executives, business leaders, journalists, and other leaders expressed their apprehension about the adverse effects on their national economies of the increased tolls authorized in this new canal treaty for the unjust enrichment of Panama. The Carter-Torrijos Canal Treaty will require a substantial increase in tolls to provide the Torrijos government with an average of $80 million per year to service Panama's debts to a consortium of foreign lending institutions. In the new Canal treaty Panama assumes no binding obligation, like that which rests upon the United States, to keep the Canal free and open at reasonable charges.

Latin American leaders also expressed indignation over the cavalier treatment of Colombia. The Thomson-Urrutia Treaty of 1914 granted Colombia free use of the Canal for certain products of its soil and agriculture and also free use of the Panama Railroad under certain conditions. There is no protection of Colombia's treaty rights in either the new Canal Treaty or the new Neutrality Treaty. When Colombia protested this violation of its treaty rights the State Department summarily dismissed the complaint with the statement that Colombia must negotiate with Panama.

The diplomatic ineptitude of the negotiators of the new draft treaties in agreeing to pay Panama $10 million annually for discharging police and sanitation responsibility in the Canal area ignores the sad experience of the United States abrogating its police power in the cities of Panama and Colon in accordance with terms of the 1936 treaty and abdicating its responsibility for sanitation in the same two cities in accordance with terms of the 1955 treaty. Recent rioting in both Panama and Colon underscore the folly of the former concessions and the failure of Panama to collect the garbage with the attendant problems of disease-bearing rats emphasizes the folly of the latter concession.

The Hay-Pauncefote Treaty of 1901 binds the United States to defend the freedom of transit of the Panama Canal and keep it open to the vessels of all nations at charges which are just and equitable. The United States has made an unblemished record at honoring this commitment ever since opening the Canal to world traffic in 1914. During the 63 years while the United States has operated the Canal as an international public utility the citizens of all nations who have used the Canal have acquired a vested right to free and uninterrupted transit under the flag and protection of the United States.

The Isthmian Canal Convention of 1903 is the only treaty which binds Panama to Articles III and IV of the Hay-Pauncefote Treaty which makes the isthmian canal an international waterway. There is no time limit on this commitment. The national honor and integrity of the U.S. demand that we retain all the sovereign rights, power, and authority granted by Panama in perpetuity in 1903.

Contrary to false statements made by the executive branch the neutrality treaty does not give the United States the right to intervene in Panama to honor our international commitments to keep the Canal free and open to user nations. In fact the word intervention appears nowhere in either treaty and was deleted in capitulation to Panama's demands. Chairman Romulo Escobar of the Panamanian People's Party and Panama's principal treaty negotiator, has made it clear to his Assembly of Community Representatives that the United States cannot intervene to defend the neutrality of the Canal without committing an act of aggression.

The publicly stated aims of the Marxist Torrijos dictatorship of Panama are: (1) to nationalize the Canal Zone, (2) to order the United States defense forces to leave the Isthmus, and (3) to confiscate the Canal. If the Senate consents to ratification of the Carter-Torrijos Canal Treaty the Canal Zone will cease to exist. Torrijos can then order United States troops off the Isthmus just as

General Charles DeGaulle ordered United States forces off our defense bases in France.

The Isthmian Canal Convention of 1903, specifically provides for the stationing of United States forces in the Canal Zone for the defense of freedom of the interoceanic canal. Under the new treaties and President Carter's contingency plan for keeping on the alert United States troops at Fort Bragg, a parachute drop on what will be again Panamanian soil will be be an act of aggression. As long as we retain our present treaty rights in the Canal Zone we can keep the peace and regain the respect of our Latin American neighbors by maintaining a strong defense in the Canal Zone. On the other hand if the Senate consents to the new Canal treaties it will be necessary for the United States to commit an act of aggression in order to maintain the neutrality of the Canal.

What is best for the nations of the free world is also best for Panama. The wisest advice was given by nine members of the Senate Committee on Armed Services in February 1973 as follows: "In a long range, we must work with Panama to help her understand that the best guaranty of her sovereignty, security, prosperity, and nationhood lies in maintaining the historic grant of sovereignty to the United States in the Canal Zone."

The United States did not transgress in any way against the Panamanian people by guaranteeing their independence in 1903. The President of the Provisional Government of Panama, José Agustín Arango, and his associates had worked for twenty years for freedom from the tyranny of the unitary government imposed upon them by Bogotá. Whenever they undertook to reassert their independence the United States had intervened to protect the freedom of transit across the Isthmus and had supported the sovereignty of Colombia. The impudent rejection of the Hay-Herrán Treaty by Colombia was for Panama a stroke of fortune. Unwilling to see the Nicaragua canal completed in accordance with the Spooner Compromise of 1902 the Panamanian patriots resumed their independence and offered the United States a canal treaty conforming in every respect to the requirements of the Hay-Pauncefote Treaty of 1901 and the Spooner Act of 1902.

When in 1911 Theodore Roosevelt boasted "I took the Isthmus" he should have added "because Panama offered herself." We have the word of Dr. Manuel Amador, "It was our own act." (Manuel Amador, "The New Republic of Panama," The Independent, November 26, 1903). President Roosevelt considered it "fitting that the United States should . . . be the first to stretch out the hand of fellowship . . . to the new-born state."

In response to Colombian protests against Roosevelt's braggadocio the United States paid Colombia the $25 million which their congress had demanded in 1903. Under terms of the Thomson-Urrutia Treaty of 1914 the United States purchased a quit claim by which Colombia recognized the independence of Panama and acknowledged that "title to the Panama Canal and the Panama Railroad now vests entirely and absolutely in the United States without any encumbrances or indemnity whatever."

Neither in the treaty of 1903 nor in any subsequent treaty concluded between the United States and Panama are the words rental or lease or any form of these words used to define the status of the United States in the Canal Zone. The continuing argument for a leasehold status of the Zone rests entirely upon the spurious interpretation of Article XIV in that treaty in which the United States agreed to pay Panama an annuity of $250,000 in gold coin starting nine years after the signing of the treaty. A study of the history of the negotiations of 1903 shows that Bunau Varilla, in an effort to resolve a deadlock, persuaded Secretary Hay to assume the annual franchise payment of $250,000 which the Panama Railroad formerly paid to Colombia. This annual payment to Panama did not impose any limitation upon the sovereign status of the United States in the Canal Zone nor upon the ownership by the United States of the land of the Canal Zone. The Canal Zone has never been leased to the United States. It was granted in perpetuity, and in this relationship no justification can be found for a partnership arrangement with Panama for the administration of the Canal.

Contrary to false statements by the executive branch Article III, paragraph 6, of the 1936 treaty revision does not say that the Canal Zone is "territory of the Republic of Panama under the jurisdiction of the United States of America." This refers to territory of Panama in the city of Colon formerly known as New Cristóbal. United States jurisdiction over this parcel of territory was later abrogated under the terms of the 1955 treaty revision.

The ruling by the United States Supreme Court in *Wilson* v. *Shaw* (204 U.S. 24, 1907) that Panama ceded the Canal Zone to the United States is not a unilateral interpretation of the 1903 treaty as falsely alleged by our State Department. It merely affirmed decisions made by all three branches of the government of Panama in 1904. In his well known letter of October 1904 to Panama's minister, Jose de Obaldia, Secretary of State John Hay cited the Davis-Arias boundary agreement of June 1904, by which the executive conceded that Panama ceded the Canal Zone to the United States by terms of the 1903 treaty. Hay cited Law No. 88 enacted by the Panamanian National Assembly in July 1904 which used the words "the Zone ceded to the United States." Hay also cited numerous court cases by which the judicial branch of Panama acknowledged the territorial cession of the Canal Zone to the United States.

The theory of titular sovereignty has no standing at law. Originally promulgated in connection with the Taft agreement of 1904 it was dismissed out of hand by Secretary of State Hay as a "barren scepter." Later while Taft was serving as Chief Justice of the United States in 1930 he had an opportunity in delivering the decision of the Supreme Court in *Luckenback Steamship Company* v. *United States* (280 U.S. 173), to give legal standing to his theory of titular sovereignty. He did not do so. Instead he sustained the ruling decision of *Wilson* v. *Shaw*, and this ruling was again sustained in 1972 when the Supreme Court denied certiorari in the case of *United States* v. *Husband* (R). (406 U.S. 935)

A pretext advanced by the State Department for renegotiating the treaties with Panama is the international law doctrine of *rebus sic stantibus* which permits the renegotiation of treaties when the conditions of the original negotiation have changed. Conditions in international relations are constantly changing, and to seek to renegotiate treaties of territorial cession on this pretext can lead only to international chaos. For example, during the early years of the Eisenhower Administration the Soviet government questioned the validity of our Alaska Purchase Treaty of 1867. This question was answered by admission of Alaska to the Union as a new state.

The Canal Zone purchase of 1903 accords with the historic foreign policy of the United States. This policy is so firmly established in international law and in the United States Code that there is now no alternative but to incorporate the Canal Zone in the Union as a new state by joint resolution of Congress. This will mandate the President to defend the territory of the new state against invasion and will fulfill the statesman-like vision of Secretary of State John Quincy Adams in the Monroe Doctrine, of Secretary of State Henry Clay, who established the principle that an interoceanic canal must be open and free to the vessels of all nations upon payment of reasonable tolls, and of President Rutherford B. Hays who stated to Congress: "The policy of this country is a canal under American control . . . . and virtually a part of the coastline of the United States."

Persistent efforts to renegotiate treaties to surrender control over national territory and to let it pass into the hands of foreign powers only promote international instability and serve the interests of these foreign powers. Claims of the State Department that a new treaty relationship with Panama will protect the vital interest of the United States are only a vain Utopian dream. To restore good relations with Panama and the other nations of Latin America the United States must return to a Good Neighbor Policy based upon self-respect. This demands that we retain all our treaty rights in the Canal Zone. We must defend them as indispensable economic, geopolitical, and military assets. Then Congress can appropriate public funds to complete the larger third locks, authorized by law in 1939 in accordance with the approved Terminal Lake Plan.

There is no substitute for an American canal, on American soil, under American control.

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"STRATEGY, SEA POWER AND SURVIVAL: THE CASE FOR RETAINING THE ISTHMIAN CANAL"

(By Lewi A. Tambs)

On Monday, June 6, 1977 a hand carried letter arrived at the White House. Addressed to President Jimmy Carter the message cautioned him against the new Panama Canal agreements and warned that loss of the Canal, which would be a serious setback in war, would contribute to encirclement of the United States by hostile naval forces and threaten our ability to survive. The communique closed with the signatures of four former Chiefs of Naval Operations—Admirals Thomas Moorer, Arleigh Burke, Robert Carney and George Anderson.

Presidents and admirals pass, but strategic imperatives and national interests remain. The bulk of the World's seabourne commerce flows through twelve major maritime choke points; four inland seas—South China Sea, Mediterranean, North Sea and Caribbean; two interoceanic canals—Suez and Panama; and six critical passage points—Singapore, Ceylon, Horn of Africa, Gibraltar, Cape of Good Hope and Straits of Magellan. These twelve choke points have been the scene of strife ever since the sixteenth century when Western Europe launched its maritime expansion. All the major sea powers—Spain, the Netherlands, France and Great Britain-struggled for domination of these passages. But by 1945 the older commercial empires were ebbing. A new biopolar world emerged. The United States stood triumphant. Control and responsibility for the global sea lanes rested with the Americans. But, the other super power, the Union of Soviet Socialist Republics, also had national and ideological aspirations.

The US sought to restrain Soviet ambitions with the Containment Doctrine of George Kennan. Containment was essentially an updating of Sir Halford Mackinder's Eurasian Heartland thesis which envisioned land power (Russia) and sea power (Anglo-Americans) juxtaposed. Secure in their air, atomic, economic and technological superiority the North Americans erected a series of defensive encircling alliances in the Rimland or Inner Crescent of the Eurasian World Island. Simultaneously behind the NATO, Northern Tier and SEATO shield they sought to promote political progress by encouraging decolonization and liberal democracy while generating economic stability by fostering free trade and private capitalism in the Outer or Insular Crescent. Containment was, however, basically defensive. The initiative passed to the Soviets. Seeping through the encircling alliance system the Russians began fueling wars of national liberation and sowing subversion. Meanwhile, ignoring the cries of their consumers, the Communists concentrated the vast resources of the Eurasian pivot area on the production of nuclear weapons, the development of heavy industry and the advancement of space technology. Within a decade and a half they had achieved near parity. Atomic warfare became almost unthinkable; nuclear devices and intercontinental ballistic missiles unoperational. The world returned, if only temporarily, to the classical concepts of strategy and political geography where space, place, population, endowment and development are paramount. The Russians, noteably Field Marshal V. P. Sokolovsky and Admiral Sergi G. Gorshkov, having studied and digested the geopolitical theories of Mackinder, Karl Haushofer and Thayer Mahan opted for imperial adventure.[1]

The holders of the Eurasian Heartland would challenge the Oceanic peoples of the Inner and Outer Crescents—the Americans and their allies. Construction of a high seas fleet and control of the world's sea lanes emerged as a prime objective of Soviet policy. By 1959 the Russians, having made the North Sea a virtual *mare nostrum*, accelerated their intrusion into the three other inland seas—South China Sea, (Viet Nam) mediterranean (United Arab Republic) and Caribbean (Cuba). Of the two isthmian canals, Suez—since it provided the USSR with shorter seaborne link between its Atlantic and Pacific coasts just as Panama served the United States—was targeted first. In true nineteenth century colonial fashion further efforts were directed at the six critical passage points—Singapore, Ceylon, Horn of Africa, Cape of Good Hope, Gibraltar and Straits of Magellan.

Between 1959 and 1975 the world was awash with diplomatic and military maneuvers. The People's Republic of China broke with the USSR. United States' efforts to salvage South Viet Nam and the South China Sea failed. Indonesia was, however, retrieved. The Soviet Fleet entered the Indian Ocean in force. Conflict wracked the Middle East. The Suez Canal was opened and closed. From Cuba Fidel Castro struck around the rim of the Caribbean, only to be frustrated by local nationalism and U.S. counter insurgency. Salvador Allende came and went in Chile and with him a potential threat to the Straits of Magellan.

Of greater import the bipolar world of the post World War II era faded and the day of the super tanker dawned. Four nations emerged as centers of economic and political stability in their respective regions; Japan in the Western Pacific, Iran in the Mid East, the Federal Republic of Germany in Western Europe and Brazil in South America. Recognizing the new reality the United States sought to shore up the shattered Mackinder-Kennan system along the Eurasian rimland while Brazil was given special recognition in South America. But the world had also altered in another way. The repeated closings of the Suez Canal, the economy of petroleum transport and the mounting dependency of the industrialized nations on imported oil heralded not only the advent of the super tanker, but also the evolution of a new strategic map. The oil sea lines of communication (SLOC) which had previously passed from the Middle East to Western Europe and the United States by way of the Mediterranean now ran southward through the Indian Ocean, around the Cape of Good Hope and up the South Atlantic. The world was turned upside down; the globe inverted. And the Soviets were astride the sea lanes on both coasts of Africa.[2]

In April 1974 the dominoes had begun to totter. Portugal, targeted along with Spain and Morocco by the Soviets in their Plan Oran, trembled. Mozambique and Angola swayed with Soviet-supported insurgency. Saigon fell in March 1975 and with South Viet Nam went Cambodia and Laos. Mozambique and Angola were pushed into the Socialist orbit by Russian trained and supplied Cuban regulars. The United States apparently paralyzed by its inability to implant Wilsonian democracy in Indo-China, stunned by the failure of its machines to impose its will on the minds of the North Vietnamese and torn internally by the defection of the intelligentsia, stood by helplessly. The United States which had stood triumphant in 1945 was within thirty years in retreat everywhere. America's major allies—Japan, Iran, West Germany and Brazil sensing the metaphysical crisis, scrambled to save themselves.

The proposed new agreements with Panama are but another example of the decay of America's instinct for survival, sense of strategy and commitment to freedom. Even John F. Kennedy's declaration that the mission of the United States was to make the world safe for diversity seems to be forgotten as totalitarian Marxist-Leninist regimes supported by Soviet subversion and sea power spread over the globe.

The cruise of the *USS Oregon* from the Pacific to the Atlantic during the Spanish-American War of 1898 dramatized the need for an American isthmian canal. The voyage around Cape Horn added 8,000 miles and almost two months travel time to the voyage. Assuming that Cape Horn and the Falkland Islands are in friendly hands, a modern war vessel steaming at 20 knots still needs an additional 17 days to complete the cruise around South America when compared with the 8 to 10 hours required for the Panama passage. Possession of the Panama canal, moreover, has allowed the United States the economic advantage of maintaining one fleet by shifting units back and forth rather than supporting the cost of a two ocean navy. The continuing value of this concept was proven during the Viet Nam War. In 1968 at the height of the conflict 1504 US Government vessels utilized the canal. Even in the relatively sombulent years of 1974 and 1975 the number totaled 248 and 170. Of the 176 combat surface ships and 75 attack submarines currently on active duty with the United States Navy, only 13 large aircraft carriers cannot transit the canal. However the vast majority of warships can. The need for the US Navy to retain the ability to shift units is further accentuated by the increasing presence of Soviet task forces in the Gulf of Mexcio and the Western Atlantic. This is especially critical given the numerical superiority of the Soviet Fleet which lists 214 major combat ships and 231 attack and cruise missile submarines. All of which, curiously enough, can pass through the Panama Canal.[3]

In modern naval warfare submersibles hunt submersibles. The USSR enjoys an advantage over the US attack submarines. They also have a geographical advantage. While the US is essentially a large land mass surrounded by water, the USSR is an even larger land mass essentially surrounded by land and frozen seas. Thus Soviet submarines carrying relatively short range missiles can stand off North American coasts and cover the continent, while US Polaris submersibles stationed in the North Atlantic, Indian Ocean and Western Pacific must be equipped with the expensive Trident missile system with a range of 4,000 miles. Detection, location and tracking of submarines depends on underwater sound and satellite systems; the kill by aircraft or attack submarines. Control of the Canal Zone adds to US aerial surveilance and permits the immediate transfer of attack submarines to regions frequented by Soviet submersibles, and thus aids the defense of the continental United States.[4]

US foreign and coastal commerce also depends on the Canal. In 1975 over 16 percent of all US seabourne trade used the waterway. Moreover, statistics reveal that down through the years a constant average of about 70 percent of all cargo through the Canal is bound either from or to a US port. The economics of water transport for bulk products such as grain or petroleum are well known. Midwestern grain growers who ship their cereals by way of the inland waterways and the Missouri and Mississippi on to US and foreign Pacific ports by way to the Canal depend on inexpensive tolls for their small margin of profit.

Footnotes at end of article.

If the Canal were closed many would be ruined for the Cape Horn route would result in an estimated 31 day increase in shipping time. Under US administration, rates remained relatively stable from the opening of the Canal to 1974. Current transit cost averages around 8,000 dollars per vessel.

Tolls set merely to cover operational expenses cannot be guaranteed under the new isthmian treaty. Brigadier Omar Torrijos, Panamanian Chief of State, has repeatedly stated that the Canal is a natural resource and will be exploited as such. Torrijos' need for funds is certainly understandable. Panama's external debt which amounted to 167 million dollars when the civilian government was ousted in 1968 now totals 1.5 billion. Most of these debts are owed to US banks. Torrijos and his creditors need money and the Canal is the milch cow. Even Sol Linowitz formerly of Marine-Midland Bank and currently the State Department's co-negotiator has admitted that tolls will increase immediately 25 to 30 percent upon ratification of the treaty.

This initial increase in rates will also include petroleum shipments. Oil from Alaska's North Slope has already passed through the Canal. A super tanker from Valdez transhipped its cargo at Balboa into three regular tankers which carried the oil to US ports. Since Gulf ports are unable to accommodate super tankers anyway, off-loading at Balboa is currently the most feasible. Nevertheless utilization of the four existing 10 and 20 inch diameter US Navy pipelines running through the Canal Zone might prove more economical in the long run for supplying the energy starved East Coast. Thus the argument of proponents of the new treaty that the Canal is obsolete because it cannot take super tankers is redundent. Particularly so since vessels such as the *San Juan Prospector*, at 108,770 DWT and with a length of 972' have already transited the isthmus. Erroneous also is the contention that the Canal has already reached its limit. The Canal presently handles 30 to 40 ships a day. Maximum capacity is estimated at 70 vessels per day: a figure projected for 1990. Moreover, the Terminal Lake—Third Lock Plan initiated by President Franklin D. Roosevelt but halted in 1942 would almost double the numbers of ships that could be handled if it were completed.

The charge that the Canal is vulnerable to atomic attack and sabotage is partially correct. Nothing is completely impervious to nuclear warheads. But given the prevailing balance of terror this possibility is more potential than immediate. Especially now, since the Soviets through the application of sea power and subversion are gaining their objectives anyway. Sabotage can be minimized by proper security measures. Moreover, if the existing US garrison of 9,000 cannot assure the internal security of the Zone, how can the Panamanian National Guard of 6,000, tied down as it is with running the republic protect the Canal? Especially when it must confront 1,700,000 citizens who have been deprived of their civil rights since the military coup of 1968. The question of building up the Panamanian Armed Forces has a direct relationship to human rights and military dictatorship. If the National Guard, supported by US subsidies and increased Canal tolls, is expanded to a level to provide even only adequate police protection, not military defense, will not the US be responsible for strengthening the hold upon the Panamanian people of an already repressive military regime that has banned all political parties but has permitted the Communist Party to operate openly and whose Chief Negotiator Romulo Escobar Bethancourt is "an extreme leftist and friend of "Che" Guevara."[5]

Given Soviet interest in Panama, the political coloration of Escobar, and Torrijos' open admiration for Fidel Castro, other Latin American nations are beginning to wonder about the wisdom of turning over the Canal to Panama. Brazil has a burgeoning trade with the Far East. Some 8 percent of Brazil's foreign commerce is with Japan and rising. If the Canal falls into hands hostile to Brazil there are only two other sea routes to the Pacific. One around the Cape of Good Hope is monitored by the Soviets. A second around Cape Horn is "precarious."[6] Given the hazards of the Cape of Good Hope and Cape Horn, Brazil will probably have to seek a peephole on the Pacific. The most feasible is a transcontinental route from Santos to Arica, passing by way of Bolivia and Chile or Peru. For the Brazilians like the Russians are avid students of geopolitics. They believe that since 70 percent of the world's population and 70 percent of the globe's unexploited natural resources lie along the rim in the Pacific basin which includes the Indian Ocean, that the Pacific is the ocean of the future. And Brazil is an emerging power—a land of the future.

The Pacific coast states of Latin America are also wary about the Canal, for they are even more dependent than Brazil. Thirty-four percent of Chile's maritime trade passes through Panama; 41 percent of Peru's; 51 percent of Ecuador's; 66 percent of El Salvador's; and 76 percent of Nicaragua'.[7] Higher tolls are going to hurt. Conversely, Mexican commerce will be the least effected. The Mexicans, however, should realize that as the Canal slips out of US hands Yankee interest is going to increase in the Gulf of California and the Isthmus of Tehuantepec. Argentina finds itself in a similar situation. Like many of the other Latin American nations they have vociferously supported a Panamanian take over. As the date draws near they are not so certain. For the Argentines want the British-held Kalkland Islands and fear that as US sovereignty over the Canal slips away an enlarged North American presence will be felt in the Falklands and Cape Horn as well. Neither of these prospects are welcome in Argentina. Victims of their own rhetoric, Latin American politicians are beginning to look to the US Senate to save them from Panamanian economical extortion and mounting American pressure. Many would prefer to leave the situation as is for they are aware of the similarity with Suez. They could then continue to berate the US and at the same time have their national interests preserved.[8]

But who speaks for America? In general the backers of the new treaty are the same ones who decried the reputed errors of Presidents Eisenhower, Kennedy, Johnson and Nixon for involving the US in Southeast Asia. Simultaneously these supporters salute these same chief executives for their statecraft in Panama. The concessions of 1959, 1963, 1964, 1967, 1970, 1973 and 1974 have, however, only provoked an escalation in Panamanian demands. Could it be that these presidents who supposedly followed a bankrupt policy in Viet Nam also erred in Panama? Our negotiators Ellsworth Bunker and Linowitz have assured us that the US retains the right to intervention and that US warships will receive immediate dispatch through the Canal. This appears to be a private revelation since both Torrijos and Escobar deny this interpretation. Moreover, our diplomats have protested that the only way to protect the Canal was to deed it to Panama. The Panamanians, the argument went, would never destroy their prime natural resource. Torrijos has a different view. On October 7, 1977 he proclaimed that "Senate rejection of the treaty could lead to the closing of the Canal."[9] Who are we to believe? Bunker and Linowitz or Torrijos and Escobar?

Who speaks for America? Once sovereignty is lost, the Panamanian Government will have every legal right under eminent domain to expropriate the Canal, treaty or no. Moreover, the U.S. has no assurance that Torrijos will not ally himself with his idol Fidel Castro. Nor do we have any guarantee that succeeding Panamanian governments will honor the agreement. This is a chancy business.

The Panama Canal is one of the world's major maritime choke points. Since 1959 the Soviet Union has emerged as a great maritime power. Challenging the United States and its allies—the Sea Peoples of the Mackinder thesis and the Kennan Containment Doctrine—on all the oceans of the world, the Russians have intruded into every inland sea, canal and passage point on the globe. Now as the United States withdraws into the shell of Fortress America even maritime communication between our own Atlantic and Pacific coasts is endangered. As the four former Chiefs of Naval Operations warned the President; "under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in overall United States defense."

Gentlemen, I urge you to reject the proposed Panama Canal Treaty.

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[5] Raymond Estep, *A Decade of Political Change in Latin America, 1963–1973* (Maxwell Air Force Base, Ala.: Air University, 1974), p. 237.

[6] Interview with high Brazilian General Staff Officer, August 1977.

[7] Interviews Brazil, Uruguay, Argentina, Paraguay and Bolivia, August–September 1977.

[8] Council of the Americas, *United States, Panama and the Panama Canal* (New York: 1977), pp. 15–16.

[9] A P. dispatch, Stockholm in *Phoenix Gazette* October 8, 1977, p. 1.

STATEMENT BY PHILLIP HARMAN

Mr. Chairman and distinguished members of the Senate Foreign Relations Committee:

I am honored to be here today. I have been waiting for nine years to be a witness ever since the Oct. 11, 1968, overthrow of Panama's constitutional and pro-U.S. government of President Arnulfo Arias, to give testimony as to how the current Panamanian government came to power and what their objectives are that are detrimental to the best interests of the United States and of the gagged people of Panama who have lived in a police state for the past nine repressive years.

As I have been involved directly and indirectly with Panama since 1941, many people believe that I am a Panamanian. I am not. I am an American. At one time I was appointed by President Roberto Chiari as an Honorary Consul General of Panama in California. Concerning Panama, a country that was founded by my grandfather-in-law, José Agustin Arango, and a country that I have lived in and know well, especially the judicial and political background, I would be derelict in my moral obligations to my country and to myself if I did not devote all of my time and efforts in exposing the illegal and pro-Cuban-Russian military dictator-

ship in Panama that is dedicated to bring Panama under Cuban-Soviet domination. When I started my campaign in November of 1968 to expose the military regime in Panama, I was the only one doing so. After the Kissinger-Tack agreement on Feb. 7, 1974, numerous organizations emerged to protest this agreement and today this issue has engulfed most of the United States.

Today, I would like to outline three factors that I believe are pertinent as to whether or not the U.S. should ratify a treaty with the current de facto Government of Panama.

My first factor concerns the illegality of Panama today to sign a treaty with the United States. On Oct. 18, 1968, the Executive Board of the Panamanian Bar Association in a declaration addressed to the people of Panama and all professional, labor and student organizations stated:

"These events (the seizure of the Government of President Arnulfo Arias on Oct. 11, just two days ago) must be evaluated in the light of Article 2 of the nation's Constitution which clearly provides that the public power emanates solely and exclusively from the people and that it is exercised through legislative, executive and judicial agencies. Consequently, any act by an organization, institution or group other than those authorized under the national Constitution to exercise the public power is illegal and a flagrant violation of the basic principles underlying the democratic system."

I am enclosing with my statement the complete report of the Panamanian Bar Association. It should be noted that on Oct. 11, 1968, the Government of Panama ceased to be a constitutional organ and therefore any amendments to the legal 1946 Constitution would be non-constitutional and invalid as stipulated by Article 252:

"This Constitution may be amended only by a legislative act enacted by the National Assembly in regular sessions, which must be published and transmitted by the Executive to the Assembly in the first regular sessions following new elections for Deputies, so that it may again be debated and approved by an absolute majority of its members."

According to the 1972 spurious amendments of the 1946 Constitution enacted by the current Panamanian government, any new treaty must be submitted to plebiscite. However, as the Panamanian government today is non-constitutional as outlined in Article 2 and with all political parties banned and their National Assembly dissolved in 1968, even a plebiscite would not have the force of law as outlined by Articles 2 and 252 of the 1946 legal Constitution of Panama. As the United States acknowledges legitimacy of the present Panamanian government based on de facto control, it should take into consideration the possibility that any treaty ratified with Panama could be disregarded by future generations and by the constitutional governments that no doubt will come in the future. We should be reminded as to how the 1903 treaty with Panama has been so severely criticized throughout the years.

My second factor concerns the violation of human rights in Panama and in particular to the murder of a Catholic priest, Father Héctor Gallego, on June 9, 1971. On August 21, 1972, the French Press Agency from Barranquilla, Colombia, reported the statement made by Father Pedro Hernández Rabadal. I will quote a part of his official statement and will include the total news release with my statement:

"Father Gallego perished. This was the information given to me by one of the guards who seized him by order of the government. He was captured at midnight. Father Gallego was reluctant to leave the house, but, since he was a guest in the home of friends whom he did not wish to compromise, he agreed to leave.

"The guards forced him into an official car. Father Gallego, thereupon, cried out for help. But the guards struck him with a revolver until he fainted. Since he did not recover from the beating, he was taken to a military hospital, where the doctor diagnosed the case as a skull fracture. While still under observation in the hospital and without recovering consciousness, Father Gallego suffered an embolism which paralyzed him."

Faced with this emergency, the authorities in Veraguas saw themselves obliged to consult the central government and the news reached General Torrijos.

"He lamented the situation and emphasized that it was not because of his orders that this had happened, but that 'now there was no remedy.' He added that it was better that the priest perish and not all those charged with government. He also expressed fears that, if the news became known, he and his associates 'would be ousted'. It was better, under the circumstances, for the invalid priest to disappear, to be 'taken up in a plane and to be tossed into the sea'."

Furthermore, the Government of Panama prevented the Catholic Church from hiring a special investigating team from Mexico to investigate the disappearance of the priest. On July 20, 1971, the government sent an official note to the Church stating:

"Your petition cannot be accepted, since this might be interpreted almost as an attempt to lessen the legal and moral value of our demands to the United States Government concerning our right to jurisdiction in the Canal Zone. It would appear as if one were doubting the capabilities of our authorities to investigate crimes and find the responsible ones at a time when we are demanding this right in the Canal Zone."

An essentially and profoundly Christian nation, the people of Panama can forgive but they will never forget the sadistic death of Father Gallego that was ordered by Omar Torrijos. Bishop Legarra of Panama has described the priest as "an authentic witness of the Gospel" and that Father Gallego had been persecuted for defending the cause of the poor, the peasants of Santa Fe."

I also would like to quote a statement made by Ruben D. Carles, Jr., a former cabinet member of a previous Panamanian administration. Mr. Carles, an officer of the Chase Manhattan Bank in Panama, was arrested by the Secret Police (G2) of the National Guard on January 20, 1976. He is now in exile in Honduras. In a report that he made last year about his arrest and deportation, he wrote:

"The case of the Panamanian exiles of January 20, 1976 testifies to the repressive and oppressive attitude of the military dictatorship. In contrast to the statements made by the military government there has never been a conspiracy or any kind of subversive action. In spite of the fact that people in Panama officially talk about ideological pluralism and the existence of freedom in the country, there is no freedom. In spite of the fact that the Constitution permits the existence of political parties, there are no parties except the Communist Party (Partido del Pueblo—The People's Party). While the government of Panama speaks for the freedom of the people at international meetings and organizations, it treads upon the freedom of the Panamanian citizens: Panama is a country occupied by the National Guard."

Mr. Carles further wrote about his arrest prior to his deportation:

"Our guards were more human and obliging than the officers who frequently visited us. Gradually the tension subsided and soon a sympathetic and cordial relationship was established between the guards and the prisoners that contrasted with the arrogance and rudeness displayed by the officers.

After we had spent some time in that room under the previously described conditions two officers told us that we had to file individually into the adjoining building. They did not say why. We complied. There they searched us and took away our personal documents and identification cards. When we went to the next room, they snapped pictures of each individual and subsequently ordered us to step inside a hall where we faced six guards commanded by two officers. We were told to remove our clothes and hand them over to them. When we asked whether we had to strip completely they used obscenities and ordered us to even remove our socks. They put our clothes to one side and while standing next to each other we watched the guards searching our billfolds and examining the papers they found. I did not understand why there was a need to search them.

Maybe this was some sort of a phychological scheme designed to offend and morally debase prisoners. They very rudely examined and registered the contents of my billfold and allowed me to keep only my identification card. The guards kept the credit cards and other documents. Finally they removed my wife's picture. The officer very rudely told me that I won't need it where I am going.

They also took away our belts and neckties. Luckily they gave me back my buckle and my cash. Although I told the officers that I could not stand naked in a drafty place they mockingly replied that nakedness meant just what it said. Still I did not know whether they were satisfied; they wanted to see us in the nude. I just cannot understand what the chiefs in the National Guard have been teaching their subordinates."

Although racial discrimination is a form of violating human rights, I would like to bring to the attention of this Committee, a list of ten races that the current Government of Panama bans from immigrating to their country. The ten races are:

"Restricted immigration. (a) The following listed categories of persons are considered to be persons of restricted immigration to the Republic of Panama:

(1) Arabs.
(2) Armenians.
(3) Gypsies.
(4) Hindostanians.
(5) Lebanese.
(6) Negroes (whose language is other than Spanish).
(7) North Africans (of Turkish race).
(8) Palestinians.
(9) Syrians.
(10) Turks.

(b) The prohibitions against the immigration of persons of the above-listed categories is directed at the race of such persons rather than their nationality at the time of arrival."

I will include a copy of this list with my statement.

The third and last factor that I want to elaborate on pertains to communism in Panama and it is a subject that I am closer to, I believe, more than any other American. Back in the fifties and sixties, I headed what was known as the "anti-Communist world" in the Republic of Panama. Let me explain this. Within the Secret police (comparable to the FBI in our country) of any Latin American country, there is a small group of men who do nothing but try to eliminate and counteract as well as exposing communism in their country. This is a very secretive type of operation because one is not only dealing with the Communists in their country but the power of the Soviet Union behind them who supports and advises the Communist parties in all of the Latin American countries. It is a never ending battle.

Regarding Panama, the Communist Party was organized in 1930 with two basic objectives.

a. To gain control over the Government of Panama from within. This would be accomplished by gaining control over the armed forces of the nation.

(b) After the first objective was finalized, they would then attempt to gain control over the sovereignty of the Canal Zone through a massive propaganda campaign. Once the sovereignty is surrendered through treaties, the Canal would then be nationalized.

In 1943, during the war years, a directive was sent from the Kremlin to the Party in Panama to change their name from the Communist Party of Panama to the Peoples' Party. In Spanish it is called "Partido del Pueblo." The psychology behind this was to give the impression to the Panamanian people that their Party was for the people. However, in referring to the Party, the Panamanian people still call it the Communist Party.

The basic policy of the Kremlin concerning the Communist parties in the countries throughout the world is for these parties to be self-sufficient. However, because of the Kremlin's maritime strategy to control all the main waterways of the world, and they have classified the Panama Canal as the most important, the Panamanian Communist Party was placed in a special category with top priority which allowed the Party to receive outside aid in the form of money, propaganda material and experts in subversive and propaganda fields. This outside assistance came primarily from the Russian embassies in Cuba, Colombia and Mexico.

The Communists in Panama first showed their strength in 1941 when hiding behind other people they maneuvered the first of three overthrows of President Arnulfo Arias' governments. There were three reasons why the Communists had to remove President Arias in 1941:

a. In 1939 during his campaign for the 1940 presidency, Mr. Arias publicly said "the Soviet Union wants my country as a stepping stone to gain control over the Panama Canal."

b. During his presidency in 1941, he enacted into law Panama's Social Security System.

c. He passed a law for the right for women to vote.

These three points were negative ones to the Communists. They finally decided that President Arias was the Panamanian that should be targeted in on and be kept out of office.

On November 24, 1949, Dr. Arias again became the President. On April 1 of 1951, sensing the Communist threat to the country, President Arias signed a bill banning all Communists from holding public office. His bill was rejected in the National Assembly on April 11. A few weeks later on May 10, the agents of the Kremlin who hide behind other people in Panama, were able to topple his government and influence the Assembly to take away his civil rights for 10 years.

On the afternoon of July 22, 1956, I met with Secretary of State John Foster Dulles, in Panama at the request of President Fulgencio Batista of Cuba. I explained to the Secretary the objectives of the Communist Party of Panama and the danger to the security of the Panama Canal if and when the Communist Party gained control over the Panamanian government. I told him that when the Communists felt they had control of the National Guard, they would then seize the nation.

I further explained to the Secretary what had to be done to counteract the initiatives of the Communists in their strategy of indoctrinating the officers of the National Guard. Mr. Dulles was very receptive to what I had to say but, unfortunately, for me and Panama, Nasser grabbed the Suez Canal four days after our meeting and the Communist problem in Panama was set aside for the time being.

During the years that I exposed communism in Panama, I had profiles on over 2800 Communists whom I had identified as being associated with 22 Communist fronts, outright members of the Communist Party or who were guilty by close association with well known Communists.

In November of 1956, I gave the CIA station chief in Panama the names of Captain Omar Torrijos and his brother, Moises, also known as "Monchi" as being identified with various Communist fronts. Moises Torrijos was a very well known columnist in Panama who always slanted his columns in favor of Russia. Concerning his younger brother, Omar, he was a member of a Marxist organization in Veraguas Province called "Young Veraguas." Drew Pearson later identified him in his column on Nov. 19, 1968, as a member of the Communist Party.

Also, I gave the CIA the names of two of Omar Torrijos' sisters, Toya and Berta. In October of 1966, Toya Torrijos de Jaén (married to Marcelino Jaén who signed the economic pact with Russia last July) was arrested at Tocumen Airport in Panama for attempting to bring in two suitcases of Marxist literature. Today, she controls all scholarships at the Institute for the Formation and Exploitation of Human Resources.

Berta Torrijos is now President of the Panamanian Institute of Special Education and is prominent in women's movements. Whenever Mrs. Hortensia Allende, the widow of Salvador Allende of Chile comes to Panama, Berta Torrijos is her host.

It should be brought out at this time that 39 relatives of Omar Torrijos hold key government positions. I am enclosing a list of the relatives with my statement.

Regarding the 1964 riots in Panama from January 9-11, we documented the names of the Panamanian Communists who played a major role that caused the lives of 21 Panamanians and 4 Americans. For example, Adolfo Ahumada, now one of the treaty negotiators and currently the Minister of Labor, was one of the engineers of the riots. Ellsworth Bunker, then the Ambassador to the OAS, stated that it was Communist inspired. With my statement today I would like to enclose an article from the Washington Daily News of Jan. 31, 1964, in which they list several names among the Communists who were responsible for the riots. Of the names listed are Eligio Salas, now the head of the University of Panama, Ruben Darío Souza, currently the Secretary General of the Communist Party of Panama and Carlos Nuñez, a well known Communist who is the editorial page columnist for the government controlled newspaper, "Critica." He is also a past President of CONADESOPAZ, a Communist front organization.

The riots had nothing to do with the Panamanian people protesting the presence of the United States in the Canal Zone although this is the propaganda that the Communists wanted the world to believe and, unfortunately for us, they were successful.

The real motive behind the riots concerned Fidel Castro. In October of 1963, the Kremlin told Castro that further aid would be contingent upon his ability to produce another victory in Latin America for the Soviet master plan. As Castro's plans for Venezuela that year had failed and President Betancourt had filed aggression charges against him with the OAS, Castro decided to foment an explosion in Panama that could serve to blacken the image of the U.S. and possibly compel the OAS to give priority to the newer case and defer action on the Venezuelan charges against himself.

All the elements for a successful diversionary operation were available in Panama. Waiting to fall on the prey was an efficient and well organized Communist Party, with allied "fellow-travelling" organizations, whose activists had been skillfully trained in Cuba, Prague, Moscow and Peking for that purpose. The explosion occurred on the night of January 9. The Venezuelan charges against Castro were given a lower priority for Panama filed accusations against the U.S. before the United Nations and the OAS. Within a few days Castro flew to Moscow and was warmly embraced by Khrushchev. On January 17, accompanied by Castro, Khrushchev in a public speech at Kalinin, Russia, referred to the Panama crisis "These events in Panama were not organized by Comrade Castro. These events are the result of the predatory policy of the U.S. imperialists. He further said "They want to free themselves from the oppression of the U.S. imperialists. This is a legitimate desire and we are on the side of the people of Panama." No one expected Khrushchev to confess publicly that Castro's red hand had dipped deeply into the banks of the Canal to produce a crisis.

The start of the power of the Communist control in the National Guard finally surfaced on March 24, 1968, when the National Assembly, the Congress of Panama, impeached President Marco Robles for using government funds, to back ex-Finance Minister David Samudio, his National Liberal's choice for president, in the scheduled May 12 election.

The Assembly voted 29–0 to oust Robles. It then installed First Vice President Max Delvalle as President. As the Deputies voted, the National Guard surrounded the Assembly building and issued a statement saying that the force "cannot support the decision of the National Assembly" and would wait for a verdict from the Panamanian Supreme Court. The nine member Supreme Court ruled on April 5 that Robles' impeachment and conviction had been unconstitutional. Actually, the ruling of the Supreme Court was not valid inasmuch as the Constitution of Panama clearly states that only the National Assembly can impeach the president of the country.

By the National Guard forcing the Supreme Court to make an illegal ruling showed the strength of the Communist indoctrinated officers led by Major Boris Martinez and Lt. Col. Omar Torrijos and it was a handwriting on the wall of things to come. Vice President Max Delvalle, who was in line to assume the presidency after the impeachment of President Robles, is a member of the Jewish faith and a very prominent businessman. For reasons only known to Martinez and Torrijos, they did not want a Jewish president in the Western hemisphere even though it was for only a period of six months.

Regarding the overthrow for the third time of President Arnulfo Arias' government on Oct 11, 1968, it would take too long in this statement to go into all of the mechanics as to how the coup was done and the names of the numerous Communists who were involved. What is not known is that there were two attempts to overthrow President Robles on September 26 and 29 of that year in order to prevent President Arias from taking office on October 1. Unfortunately for the Communists, President Arias was able to take office on October 1. Actually, he still is the constitutional president as by Panama's legal Constitution he has never served his term of office.

The people of Panama were very touched by President Arias' inaugural speech especially when he talked about the rural development of the country. He was aware that only 28 percent of the farmers in his country have legal title to the land they till and he had plans for them to obtain titles that would not be costly. He knew that the farmers would be more willing to better utilize and improve their land if they had the security of ownership. A World Bank report of April, 1976, still confirm that 28 percent of the Panamanian farmers do not have title to their land. I am enclosing a copy of President Arias' inaugural speech in which he refers to "Rural Development" as a part of my statement.

One of the many fallacies that the military regime in Panama have exploited is that Omar Torrijos was the one that did the revolution against President Arias. This is not so. The coup was led by Major Boris Martinez, a former Communist leader of students at the University of Panama. Torrijos was kept innocent of the coup because of his excessive drinking problem.

After the overthrow of President Arias' government, I called Drew Pearson in the latter part of October of 1968 and asked him to do a column on the situation in Panama. I gave him the names of Boris Martinez, Federico Boyd, Omar Torrijos and others and told him that the CIA had profiles on these people. On November 19, 1968, he devoted his whole column to the coup entitled "Paint Panama Junta Pink" and identified Omar Torrijos as being a member of the Communist Party. I am enclosing a copy of his column with my statement.

On October 27 of 1968, I notified the Department of State that President Johnson and Secretary of State Dean Rusk should take into consideration that a precedent had already been set in Latin America that would allow the President not to recognize the military coup in Panama. This precedent involved the 1933 illegal government of Dr. Ramón Grau San Martin of Cuba. The U.S. withheld recognition of Dr. Gran San Martin's government because it did not represent the Cuban people. His government quickly fell. For whatever reason, President Johnson decided not to abide by this precedent and recognized the Military Junta in Panama on Nov. 13, 1968.

One of the four requisites for reopening diplomatic relations with the Military Junta was their promise to hold free elections. Actually, Panama had free elections just six months before. However, the regime in Panama did hold elections on August 6, 1972, but they were not "free." These elections were to elect 505 Community Representatives who were already chosen by the Communist controlled military.

These 505 representatives then installed the already provisional president, Demetrio Lakas, as the president and Omar Torrijos as the Chief of Government.

I would like to explain how Omar Torrijos became the Chief of Government and what happened to Boris Martinez who actually did the coup. As I was cognizant of the Communists' post-seizure strategy in Panama which was not to alarm Congress, it had to be one of "low profile." Although Martinez brought in Torrijos immediately after the coup and allowed him to share power with him, Martinez wanted to move too fast and this frightened the top members of the Communist Party such as Rómulo Escobar Bethancourt, Marcelino Jaen and Juan Materno Vásquez. Incidentally, after the coup, Escobar Bethancourt made himself the head of the University of Panama, Jaén assumed the presidency of the National Legislative Commission that makes all the laws and Vásquez appointed himself as the president of Panama's Supreme Court. The country was their's.

Five months later on March 6, 1969, the Communists "purged" Martinez and brought in Omar Torrijos, who is a brother-in-law of Jaén, to be in complete control of the National Guard and the strongman of the country. On March 14, they made him a Brig. General.

Concerning the current president of Panama, Demetrio Lakas, I would like to explain how he assumed this high position. First of all, Mr. Lakas owns all of the houses of prostitution in Panama (I am enclosing the Congressional Record of July 22, 1971 regarding Mr. Lakas with my statement). As prostitution is illegal in Panama it meant that the officers of the National Guard had to be paid off in order to stay in business. Of the many officers that Mr. Lakas made friends of in the National Guard was Omar Torrijos. On Dec. 15, 1969 Torrijos and Lakas were in Mexico City supposedly attending a horse race when the Assistant National Guard Commander Ramiro Silvera and Chief of Staff Amado Sanjur issued a communique over the signatures of the two provisional junta members, Cols. Jose Maria Pinilla and Bolivar Urrutia, proclaiming the overthrow of Omar Torrijos.

Hearing of the attempted overthrow, Lakas and Torrijos flew by chartered plane to David, a western Panamanian city 210 miles from Panama City, where he was greeted by local National Guard officers. In the meantime, Silvera and Sanjur had failed to consult in advance with most of the staff officers and commanders of the 10 National Guard districts in the interior of the country. When word of Torrijos' planned return spread, these officers rose to support him. The National Guard then arrested Silvera and Sanjour and provisional President Pinilla and Vice President Urrutia were placed under house arrest in the Presidential Palace.

A two-man civilian junta was sworn into office on Dec. 19 to replace Pinilla and Urrutia. Lakas was appointed provisional president and has been there ever since. Albert Sucre, the National Lottery director, was named Lakas' deputy.

At this time I would like to mention a few facts about the intelligence gathering forces in Panama. Prior to the coup in 1968, Panama had two intelligence sources in their country; namely, the CIA and the DENI which is the intelligence branch of the Panamanian government. They both worked together closely and in harmony. Today, there are now four intelligence agencies working against the CIA and the suppressed people of Panama:

a. The DENI of the Panamanian government.

b. The G2 of the National Guard.

c. The DGI of Cuba that operates out of the Cuban Embassy.

d. The KGB who are in Panama with the Novosti Press Agency.

Prior to the coup, the CIA had several Panamanian informants working for them. Today, the story is different as these informants are reluctant to work for the CIA due to the close surveillance of the four anti-CIA agencies who are constantly trying to find out who are the Panamanians working for the CIA. Because of this lack of Panamanian informants, the intelligence gathering of the CIA in Panama has been diminished.

To sum up the Communist picture in Panama, several factors should be noted:

a. On April 8, 1974, Omar Torrijos brought a planeload of "Montoneros" from Argentina to Panama on a Panamanian plane. The "Montoneros", if you recall, is the Marxist group in Argentina that have been doing and still are, all of the kidnappings, assassinations and riots in Argentina. How many trips they have made to Panama, we do not know. They were brought specifically to Panama to train Panamanians in subversive activities. I am enclosing with my statement a picture and article concerning their trip to Panama.

b. In 1975, Escobar Bethancourt, the chief treaty negotiator, and Aristides Royo, the deputy negotiator and Minister of Education, formed an "Anti-Fascist" Committee which included 38 Communist organizations including the "Peoples' Youth Party" which is the youth organization of the Communist Party. On July 26 of that year, their Committee celebrated Castro's 22nd anniversary of his attack on the Moncada Barracks. I am enclosing with my statement an article about this Committee formed by Bethancourt and Royo.

c. From June 28 to July 5, a Russian mission of three visited Panama to discuss the possible opening of diplomatic relations. I am enclosing an article about their visit as a part of my statement.

d. On July 11–19, another Russian mission came to Panama where they signed an economic agreement with Marcelino Jaén, Torrijos' brother-in-law. After the signing, Jaén said "with the signing of this document that constitutes the final draft of an agreement in which the Governments of the USSR and Panama have participated, is an event of deep historic significance, not only for our country but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America." I am enclosing a copy of Mr. Jaén's remark with my statement and the agreement that was signed.

e. Also, during this visit, the Soviets visited the fishing port of Vacamonte on the Pacific side of Panama near the Howard Air Force Base concerning a possible Russian naval base for the future.

f. On August 6, 1977, at a farewell press conference in Bogotá, Colombia, a question was asked of Torrijos by Jaime Arango of Super Radio "General Torrijos, are you a Communist?" Torrijos refused to answer but Bethancourt did by saying "Each individual has the right to choose the political ideology he likes." I am enclosing Bethancourt's complete answer with my statement.

g. On Sept. 9, 1977, after signing the treaty with President Carter, Torrijos sent a telegram to Fidel Castro when he was flying over Cuba on his way home saying "I salute you with my everlasting friendship." I am enclosing a copy of his telegram with my statement.

In conclusion, I would like to show the Committee how the current government in Panama permits our American flag to be sold in the stores to be used as rags to clean your shoes or wash your car. I cannot think of any other country in the world today that desecrates our American flag.

Thank you Mr. Chairman.

TESTIMONY OF MR. FRANKLIN DELANO LOPEZ

Mr. Chairperson, Distinguished Senators: I appear before you on behalf of the New Democratic Party-Puerto Rico, an organization of thousands of Puerto Ricans and residents of the island. Mr. Juan M. Garcia Passalacqua our counsel is here with me today.

Early on January, 1976 we decided to endorse the candidacy of Jimmy Carter on the basis of a message sent to us through his then field operation director, Mr. Tim Kraft. That message included his vision for a new policy towards Latin America.

The President has kept his promise to us. This has been excellently stated by Graham Hovey in a recent issue of the New York Times, as follows:

"President Carter has launched a Latin American policy shorn of the traditional rhetoric and prodigal promises, with strong emphasis on human rights but enough flexibility to conclude new canal treaties with Panama and to reopen relations with Cuba.

"It is a policy that relies heavily on personal contact but shuns both the visions of lavish economic aid that ushered in the alliance for progress in 1961 and the oratory of Pan Americanism—Simon Bolivar's dream of a united continent—that clothed most earlier Washington approaches to the Western hemisphere."

In fact it is not a single policy, as Carter himself emphasized in a Pan American Day speech in April, but a series of approaches to individual problems, many of which cannot be solved in the hemispheric context or through the machinery of the Inter-American system.

The President contributed the most dramatic chapter, not only with the signing ceremony for the Panama treaties, attended by officials of 28 hemisphere governments on September 7, but with 16 individual meetings at that time with visiting heads of State. This demonstrates the interest of Latin America in the new Panama Canal treaties. Other contacts made by administration representatives over eight months include the following:

Rosalyn Carter's official visits to seven Latin American and Caribbean nations last spring.

Secretary of State Cyrus Vance's trip to Grenada in June to attend the General Assembly of the Organization of American States and to hold individual meetings with 18 foreign ministers.

Four trips by Terence A. Todman, Assistant Secretary of State for Inter-American Affairs, including the first visit by an American official to Havana since 1961.

The 10-nation Central American and Caribbean tour in August by Andrew Young, the Chief United States delegate to the United Nations.

Two trips, covering five countries, by Patricia M. Derian, the State Department, Human Rights Coordinator and one trip to five countries by another Human Rights Specialist, Allard K. Lowenstein, an alternate United Nations delegate.

President Carter will further the process by visiting Venezuela and attempting to repair relations with Brazil at the start of his eight trips to four continents later this year.

We agree that by communicating new policies and attitudes, and by listening to the problems and suggestions of Latin leaders, the United States has regained a position of trust, confidence and leadership in the hemisphere, that indeed had badly eroded during the Johnson, Nixon and Ford presidencies.

This erosion of trust, confidence and leadership is the result of the lack of interest of previous administrations in Latin America. Our past policies with our neighbors have been characterized by improvization. We only react to Latin America when there is a threat to our national security. Example of this are the cases of Cuba, the 1965 Dominican Republic revolution, and Chile.

For that reason, for the reason that President Jimmy Carter has kept his promise to us regarding a foremost place to Latin peoples in his foreign policy, we have come to endorse his action regarding a new Panama Canal treaty. The reasons for that endorsement have been well expounded by Ambassador Sol M. Linowitz, as follows:

First, the Panama Canal issue involves far more than the relationship between the United States and Panama. It is an issue which affects all U.S. Latin American relations, for all the countries of Latin America have joined with Panama in urging a new treaty with the United States. In their eyes, the canal runs not just through the center of Panama, but through the center of the Western Hemisphere. Indeed, the problem significantly affects the relationship between this country and the entire third world, since the nations of the third world have made common cause on this issue, looking upon our position in the canal as one last vestige of a colonial past which evokes bitter memories and deep animosities. So in going forward with a mutually satisfactory basis for a new treaty with Panama, the United States will find itself in a position to improve relations with virtually all the countries of this hemisphere and, indeed, the people of the entire developing world whose attitude toward us as a nation will be importantly influenced by how we conduct ourselves on this Panama Canal issue. Second, our primary interest in the canal is to assure its free, open and neutral operation on a nondiscriminatory basis. I am convinced that the greater threat to the operation of the canal would be to try to insist upon retention of the present outmoded treaty and its anachronistic provisions which have in the past and can so easily again trigger hostility and violence. If we do not approve a mutually agreeable basis for a new treaty, we may find ourselves in the position of having to defend the canal by force against a hostile population and in the face of widespread, if not universal, condemnation. Third, in the light of these facts, I believe that the best way to preserve the canal's operation and to maintain its permanent neutrality is to substitute for the 1903 Panama Canal Treaty a new arrangement which will be mutually fair, which will properly provide for Panama's just aspirations, and which will take into full account our own national needs. Putting it another way, a new treaty is the most practical means for protecting the interest we are trying to preserve in the canal.

We live in a country inhabited by 3 million American citizens. However, we live in an American colony, just like the Canal Zone. Puerto Rico is still a colony because we do not enjoy social, economic, and political equality with our fellow citizens living in the States, because we don't have voting representation in Congress, because we don't vote for President or Vice President; in summary, because we have been kept—even after a pro-statehood party won there in 1976—in a position of inferiority. Living in a colony, you can understand why we fully endorse the President's statement upon signing the treaty that "the time for colonialism is over." We hope it will be over for us too, very soon. It will be our task—the people of Puerto Rico—to solve in the very near future our political status on the basis of equality with mainland citizens.

It is difficult for us to understand the objections to the treaty, particularly in view of a basic fact:

The United States has never had sovereignty over the canal. The 1903 treaty specifically gave the United States certain rights and authority which it would have "if it were the sovereign." Obviously, these words would not have been necessary if the United States were in fact intended to be sovereign.

For the aforesaid reasons, we can also understand that pride and happiness of the Panamanian people upon signing of the treaty, as well as its endorsement by the leaders of our sisters republics. The end of colonialism is always a happy day for those that have suffered it.

As stated by Ambassador Ellsworth Bunker, we also favor the treaty because its terms:

Assure the efficient operation of the canal.

Enable the United States to protect the canal.

Guarantee the canal's neutrality indefinitely.

Provide an economic settlement that is fair and reasonable.

Let me elaborate briefly on that position taken by our negotiators:

The United States will retain control of both operation and defense of the canal for the remainder of this century—that is until December 31, 1999. During that period Panama will take part in both operational and defense activities. This arrangement will insure that the United States can guarantee the uninterrupted, efficient operation and security of the canal after the new treaty goes into effect. At the same time it will provide Panama both the time and the opportunity to develop the experience and capability needed to assume responsibility for canal operation and defense beginning in the year 2000.

The new canal agreement will provide the basis for assuring to the United States continued access to a canal which is open and secure. As Ambassador Bunker has stated, under the new treaty U.S. forces will have the primary responsibility for maintaining canal defense until year 2000. But the United States will have important rights extending beyond that date.

A separate neutrality treaty, which will take effect simultaneously with the new Panama Canal treaty, will commit the United States and Panama to maintain a regime of permanent neutrality of the canal. Under the rules of neutrality to be set forth in the treaty, the canal is to be open to merchant and naval vessels of all nations at all times without discrimination as to conditions or charges of transit. A special provision authorizes U.S. and Panamanian warships to transit the canal expeditiously in both peace and war without being subject to any restriction as regards means of propulsion, armament, or cargo.

The treaty gives the United States defined rights to assure that the canal's permanent neutrality is maintained and places no limitations on our ability to take such action as may be necessary in the event that the canal's neutrality is violated.

It is most important to point out and reemphasize that unlike the treaty governing canal operation, the neutrality is of indefinite duration. In short, the neutrality treaty will provide a firm foundation for assuring that our long term interest in the maintenance of an open, accessible, secure, efficient canal is preserved.

For the first time since the presidency of the late John F. Kennedy, there is a serious and sincere effort to establish a new relation with Latin America. President Carter as well as our Latin American neighbors are aware that the Panama Canal treaty symbolizes the aspirations and dreams for a new hemispheric relation.

Each one of you have a grave and serious responsibility with our Nation. We should not tolerate that the Panama Canal treaty becomes the prey of political cannibals, who are more interested in their political future that the future of our Nation.

The President is actively seeking new ways to establish a strong and sound relation with Latin America and Third World countries. If you don't ratify the Panama Canal Treaty you will be undermining his leadership and weakening the role of our nation in the hemisphere and in the world. You will be ratifying in 1977, the 1903 cowboy diplomacy of Theodore Roosevelt, which stirred up a vast amount of criticism in our Nation in 1903. The press then called the terms of the Hay-Bunau Varilla treaty "piracy," "scandal," "cooked up republic," "disgrace and dishonor."

You have before you not only the Panama Canal Treaty and the future relationship of the United States with the Republic of Panama, but a potential and dangerous situation that might be detrimental to the security of our Nation. We cannot afford another Vietnam, this time in Latin America. We learned the hard way that the arrogance of power did to our Nation in Southeast Asia.

The days of confrontation are over. Our Nation has to be conscious of those prophets of doomsday who use fear as a means of intimidating our people. Let's look back at our history. Let's rediscover those deeds that makes us proud of what we are. As President Franklin Roosevelt said in March, 1933, "This great nation will endure as it has endured, will revive and will prosper . . . the only thing we have to fear is fear itself."

We believe the treaty clauses we have summarized represent an equitable agreement to liquidate a colonial situation. We are proud and happy that our President has achieved this historic breakthrough together with the Panamanian people. We do hope that very soon, under Jimmy Carter's leadership in his effort to elimimnate all points of friction in the Americas, colonialism will also end in Puerto Rico.

Thank you.

POLITICAL FACTS ABOUT MR. FRANKLIN DELANO LOPEZ, CHAIRPERSON, NEW DEMOCRATIC PARTY OF PUERTO RICO

1966, Founder of the University of Puerto Rico Young Democratic Clubs.

1967, Founder and President of the University Youth for Statehood.

1967, Vice-president of the United Statehooders Youth.

1967, Founder of the New Progressive Party.

1968, Press Secretary to the Mayor of San Juan.

1975, Chairperson, Puerto Rico Charter Americans for Democratic Action.

1976, State Campaign Director for Jimmy Carter, February 22, 1976, Democratic Caucuses.

April, 1976, Hispanic Campaign Director for the Pennsylvania Primary for Jimmy Carter.

June, 1976, Hispanic Campaign Director for the Ohio Primary for Jimmy Carter.

July, 1976, Vice-chairperson, Puerto Rico Delegation to the National Democratic Convention.

August, 1976, National Hispanic Field Coordinator for the Jimmy Carter-Walter Mondale Campaign.

November, 1976–January, 1977, Member of the Transition and Planning Staff of the Carter-Mondale Administration.

January 1977, Elected Chairperson, the New Democratic Party of Puerto Rico.

May 1977, Appointed by President Carter as Members of the First Circuit Advisory Commission on Judgeships.

Mr. Lopez is 31 years old.

STATEMENT OF ROBERT M. BARTELL

Mr. Chairman and Members of the Committee:

I am Robert M. Bartell, public relations director of Liberty Lobby. I appreciate this opportunity to appear today and present the views of Liberty Lobby's 25,000-member Board of Policy, as well as the quarter of a million readers of our weekly newspaper, The Spotlight.

Mr. Chairman, Liberty Lobby opposes the ratification of new treaties with Panama, which will, in effect, pay Panama to take the Canal Zone and all the property in it, off our hands. I know this committee has had a considerable number of witnesses covering a wide range of subjects directly bearing on ratification. However, we would like to approach the subject from a slightly different point of view from those that may have been presented in the past: the importance of ratification of the treaties to the international banking community.

I should like then to avail myself of the kind indulgence of this committee to take a look at the proposed Panama affair as future observers—say historians of the year 2000 and beyond—might view it.

To such dispassionate analysts of the future, the Canal giveaway—to give this utterly one-sided transaction its proper name—will surely appear as the most baffling mystery of the decade, perhaps of our generation. Why deed over our sovereign waterway—and a good chunk of our public funds with it—to an alien regime with unsavory antecedents and an unstable political prognosis? The American people do not want to do it; there is growing evidence that the voters of this country are overwhelmingly against the planned giveaway, and I surmise no one knows this better than the distinguished legislators of this Congress. The American military do not want it. Except for the serving Chiefs, obligated not to dissent in public from the incumbent Administration, there has been near-unanimous testimony from some of our most distinguished generals and admirals expressing concern over the delivery of this vital strategic asset of ours into the hands of what Admiral Thomas H. Moorer, a brilliant former Chairman of the Joint Chiefs of Staff, aptly identified as the "Torrijos-Castro-Moscow Axis."

American diplomacy does not really want it. In private conversation many of our leading foreign policy experts give voice to deep reservations with regard to the regime of Gen. Omar Torrijos, which is, as you know, a usurper cabal without real constitutional legitimacy in its own country. The last legally elected and inaugurated chief executive of Panama is now an exile in this country, and were he to return to office in the near future—a turn of events many of his American supporters devoutly hope for—then any treaty signed by General Torrijos would be exposed and denounced for what it really is: a worthless piece of paper.

The American security and intelligence agencies, the so-called "intelligence community" does not want it. Their Latin American experts view General Torrijos as the most unsavory, unstable and unpredictable of all serving Latin chief executives. There are reports that our narcotic enforcement agents have acquired evidence linking General Torrijos and his brothers with the illicit drug trade aimed at the U.S. The CIA is reported to have accumulated a fat dossier on the contacts between Torrijos and Fidel Castro; another dossier containing reports of contacts between Torrijos, his brother-in-law and other Panamanian negotiators on the one hand and Soviet agents on the other is said to be growing rapidly at CIA headquarters in Langley.

When Torrijos came to Washington last month to sign the Panama treaty, his principal press aide—travelling on a Panamanian diplomatic passport—was the well-known Cuban propagandist and secret agent, the Colombian-born novelist, Gabriel Garcia Marquez. And on his return to Panama from the triumphant visit to our seat of government, the first person to receive greetings from Torrijos, via aircraft radio, was none other than Fidel Castro.

Thus the most baffling question confronting future historians trying to explain the Canal giveaway will be: Who did want it? We know the Torrojis clique will reap a windfall of benefits, but keeping our eye for the moment on our side, the real question is: Cui bono? Who shall profit?

That there is a real mystery here, a set of unanswered questions lurking beneath the surface, was already adumbrated by Admiral Thomas H. Moorer, who, in the course of his testimony, demanded to know what will happen to the "Two thousand per cent increase over the $2.3 million she (Panama) received last year as income from the Canal? To me that appears to be a fantastic amount for a country with a population not much larger than Detroit. Where will the money go?"

A substantial share of the money is earmarked, of course, to the U.S. and international banks who have loaned Panama disproportionately large sums in recent years and now, in order to recover their outlay and profits, cheer on the Canal giveaway. But beyond this adroit arrangement to lure U.S. taxpayers into indemnifying the mortgageholders of the profligate Panamanian regime, I expect that future observers desirous of solving the Panama puzzle will begin by looking deeply into the hidden connections between the world of international banking and certain small countries such as Panama.

They will find that in the mid-1970's multinational mega-banking went through some extraordinary changes which the American public barely noticed. International banking grew from a trickle into a great subterranean river. In 1960, only eight U.S. banks had overseas branches, with assets of $3.5 billion. By June 1976 more than 100 U.S. banks had offices abroad, with assets totaling an incredible $181 billion—over 26 per cent of total American bank assets! In fact, for the dozen or so largest American banks, overseas operations became more important and profitable than domestic activities. In 1975, foreign financial ventures accounted for 56 percent of the Chase Manhattan's total earnings. At Citicorp, the foreign share was even larger: a full 70 per cent of total earnings. (International Debt, the Banks, and U.S. Foreign Policy, a Staff Report prepared for the Senate Foreign Relations Subcommittee on Foreign Economic Policy, August, 1977.)

The boom in offshore banking has been little short of miraculous. From 1970 through 1975 the overseas earnings of the 13 largest U.S. multinational banks shot up precipitously, from $177 million to $836 million. To appreciate this spectacular growth figure, we need only recall that during the same period the domestic earnings of the same financial group rose by less than $50 million.

And how was this stupendous upsurge in volume and banking profits attained by the giant U.S. banks? By expanding operations in the traditional centers in world finance—Zurich, Paris or London? No, not at all; so-called "offshore money centers" account for most of the boom—remote, tropical enclaves such as the Cayman Island and the Bahamas . . . and Panama.

What are offshore money centers? They are tolerant, insouciant sovereignties which are nice to banks. They ignore such common corollaries to banking as audits, supervision, taxation or oversight. What is known among financiers as the "regulatory climate" is always sunny for big banks in these nations. There are no reserve requirements and no demand for banks to disclose anything about their daily activities; in fact, some such countries have inaugurated very strict secrecy laws making it a crime for anyone to disclose what goes on in the banking world. There is no obligatory record-keeping, no prying by central bankers; in fact, once a bank sets up shop in such a protected environment, it is pretty much free to do as it pleases.

The major U.S. banks have been quick to perceive the extraordinary advantages of this sort of setup. By January 1975 there were 124 U.S. branch banks in the Bahamas and on the Cayman Islands—a remarkable number, if we recall that there are only 112 such branches in all of Europe! More than 300 U.S. and European banks have been chartered in the Caymans alone since 1970. And Panama is a close third, moving up fast: more than 110 banks chartered since 1973, more than 90 U.S. branch banks of recent establishment.

Why do the giant banks of New York, London and Paris require such far-flung branches? Most of them are only brass-plate" operations, with a nameplate on the door and a single receptionist holding the fort behind it. But on paper—when it comes to bookkeeping—these one-room branch banks are mighty finance centers. For the intricacies of international mega-finance allow the giant multinational banks to make deals in the tens of millions of dollars—deals which take place between the head offices of banks in, say New York and Paris—and then to book off" these deals via their offshore branches, thereby effectively exempting them from regulation, audits and oversight.

It is said that General Torrijos, who is given to immoderate anti-American demagoguery in public, speaks the language of the new international banking system quite ingratiatingly in private. While out of favor with most segments of our government, Torrijos has contrived to establish close relations with a number of multinational finance conglomerates, from whom he has received loans out of all proportion to his regime's known assets. Moreover, Torrijos has converted Panama into a specially protected banking enclave, where dubious deals—especially dicey currency speculation—have found a haven from prying regulators and examiners.

Is General Torrijos about to become the beneficiary of the most senseless and ruinous giveaway in our modern history because certain high supporters in the multinational banking world have secretly promoted and advanced his cause? Unless we want to leave the solution of the Panama riddle to the historians of the 21st century, it might be well to take a close look at this question before the Carter Administration's canal transaction becomes the law of the land.

In the light of the many unanswered questions surrounding the Panama Canal question, it is evident that more information is needed. Gentlemen, the American taxpayers deserve and require answers to these questions even if the answers might step on the toes of the special interest groups which have so much at stake in the proposed giveaway, and you must supply these answers.

I therefore recommend and urge that this committee seek the answers to the following questions before any determination is made on the ratification:

1. Have the principal negotiators and official promoters of this deal—Sol Linowitz, Ellsworth Bunker, Cyrus Vance—embroiled themselves in felonious conflicts of interest? Particularly Mr. Linowitz, who is reported to have served as a paid agent for the Torrijos government in late 1973 and early 1974?

2. Who sponsored and paid for the original research and development that went into the draft canal treaty? Is it true that most of this preliminary work was done by a special adviser to Mr. Linowitz, Dr. Robert Pastor, on funds provided by the Rockefeller family holdings?

3. What was the role of the Council on Foreign Relations in drafting and developing the early position papers which led to the canal treaty draft?

4. What is the full truth about the debts owed by Panama to various U.S. and European multinational banks?

5. What is the truth of persistent reports that General Torrijos and his brothers have accumulated a large fortune in their private dealings with multinational banks and in the dope trade? How large is this fortune? Where is it banked?

6. Does the U.S. government possess true data on the volume of transactions by U.S. banks in Panama? If not, is it not true that the real purpose of Panama banking is to frustrate and in effect to nullify the entire U.S. bank regulatory process? In effect, does this not amount to a criminal conspiracy by U.S. banks against the U.S. government, the taxpayers and voters who must, in the final analysis, pay for it?

7. Is it not true that under cover of the concealment afforded by Panama, multinational banks venture into highly hazardous speculative deals, in the safe knowledge that if they incur serious losses, the U.S. taxpayer must foot the bills?

8. Why is the U.S. public not told of the highly incriminating data held in the files of U.S. intelligence and enforcement agencies, particularly the CIA and the DEA, describing the scandalous and criminal narcotics dealings of the Torrijos family? Who has sponsored the coverup of this explosive data, indicating General Torrijos and his brothers have made millions of dollars to corrupt our youth, provide safe haven and diplomatic transport for major international drug smugglers, among them the notorious Rene "Lips" Fluelen?

9. To what extent is the Soviet Bank Narodny involved in Panama, and with which American capitalists? Our newspaper, The Spotlight, has reported this involvement of the Kremlin with U.S. banks and bankers, including Robert Anderson, former Secretary of the Treasury. This matter needs a full airing and the American people should be told the truth about these questionable deals and what threat they may hold for our national security.

10. Obviously, Mr. Chairman, there is a great need for expanded supervision and oversight of the international banking community. We feel the impetus for such an expansion could well originate within this committee and so recommend.

In summary, Mr. Chairman, we applaud the intention of the committee to investigate fully all aspects of the proposed treaties, feeling that such an investigation will lead to an emphatic denial of demands America willingly sacrifice her national treasure on the altar of Third World opinion.

Mr. Chairman, we know what Panama will gain in profit from the canal. We urge you to ask yourselves what your constituents will profit from giving the canal to Panama . . . along with a sizable chunk of their tax dollars.

Thank you again for this opportunity to appear today and present our views.

BUFFALO BILL DAM POWERPLANT REPLACEMENT

Mr. HANSEN. Mr. President, I wish to join with my good friend, the distinguished Senator from Montana, in cosponsoring S. 2187, legislation authorizing the replacement of the power generating equipment at the Buffalo Bill Dam in northwestern Wyoming.

Today, while the Senate continues consideration of President Carter's national energy plan, it is important that we look to the development and utilization of alternative and, as yet, untapped sources of energy. One such source is that provided by hydroelectric powerplants. Such plants utilize a renewable resource, have long term dependability, are particularly adaptable to peaking power operations and are more environmentally acceptable. While there presently exist some 50 hydroelectric powerplants under the Bureau of Reclamation throughout the 17 Western States, many of these facilities are capable of expanded power and energy production through the upgrading of hydroelectric generator and turbine units. Thus, with minimal environmental impact, with relatively minor expenditures, the West and the Nation can make real progress in tapping new sources of energy. In the words of a recent Department of Interior report:

Uprating existing hydroelectric generator and turbine units at Reclamation powerplants may be one of the most immediate, cost effective, and acceptable means of developing additional electrical power in the West.

Such is particularly the case with regard to Wyoming's Buffalo Bill Dam. Constructed from 1905–10, power production was added to the Shoshone project in 1922. Now over 55 years old, the powerplant needs to be replaced simply due to its advanced age as well as a result of requirements of the Occupational Safety and Health Administration.

Replacement of the plant will permit an uprating to a larger power output given the as yet unused potential for developing power at the site. Presently, the powerplant yields 5.6 megawatts. Replacing this obsolete equipment will result in a capacity of 20 megawatts, a nearly fourfold increase, yielding an additional 63.7 megawatt hours of energy annually.

Mr. President, this is the type of energy legislation which this Nation and the West needs. I urge early adoption of this bill.

THE PANAMA CANAL AND THE SUEZ CANAL—SOME SIMILARITIES

Mr. HARRY F. BYRD, JR. Mr. President, an editorial in the October 9 Moline, Ill., Daily Dispatch drew an interesting parallel between the United States relinquishing control over the Panama Canal and the withdrawal of British military forces from the Suez Canal Zone in Egypt in 1956.

Clearly there are differences between the two cases, but there are enough similarities to give pause for thought.

I ask unanimous consent that the text of this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PANAMA CANAL TREATY

There has been expression by some politicians that the United States Senate would, and probably should, act forthwith and without delay in ratifying the Panama Canal treaty. There are some columnists and commentators who are overburdened with dire implications of what will happen if the treaty issue gets involved in the 1978 elections.

We do not share this view that there is need for quick action on the canal issue. Instead, it would be good to take the time to examine all the implications, possible alternatives and options and to review the recent history of another canal.

For some years prior to 1956 there had been agitation in Egypt (just as there has been in Panama) for the withdrawal of British military forces from the Suez Canal zone in Egypt. The Suez was owned by an international company, primarily owned by the British and French, with the British in actual charge of canal operation and security.

Convinced it was doing the "right thing" as it shed its colonial empire, the British evacuated its military forces from the Suez and Egyptian territory on June 18, 1956. But if there was a tear in the British eye there was also a secure feeling that the canal would continue to be operated as an international waterway and Britain's great contribution to international commerce would continue. Even though the Egyptian flag now flew on the staff where the Union Jack had been, the canal was secure, wasn't it?

It wasn't. On July 26, 1958 Egyptian President Gamal Abdel Nasser shocked the British and French, and most of the rest of the world, by nationalizing the Suez Canal.

No longer was it an international waterway, owned by an international company: It was Nasser's ditch and he would say which nation's ships could use the canal and what the terms would be. It was international blackmail under the guise of "national destiny." (Nasser was a dictator who led his country into close ties with the Soviet Union. Gen. Omar Torrijos, the Panamanian chief of state, has been described by William F. Buckley Jr., who supports treaty ratification, as a "left-leaning, demogogic tyrant.")

After several months of fruitless negotiations Britain and France determined to reoccupy the Suez, and on Oct. 31, 1956, they launched air attacks against the Egyptian forces opposing their return. (Sen. Dole has released a classified document which reveals there is no provision for U.S. reoccupation of a crisis situation.)

Under pressure from the United States, which supported a UN measure which condemned the British and French action, the invasion and attempt to reoccupy were aborted. But by that time the Suez Canal was blocked by sunken and scuttled ships. It remained that way for 19 years. Governments came and went in the nations involved, Nasser passed from the scene and Egypt eventually broke its ties with the Russians. Early in this decade negotiations for reopening the canal were resumed with the United States playing a helpful role and finally, on June 5, 1975, the Suez was reopened to the world's commerce. But for 19 years any arguments about who owned or controlled the Suez were academic, it was unusable anyway.

Is there a parallel between what happened in the Suez and what could happen with the Panama Canal? Is there a lesson to be learned? We think there is.

Let us not enter into this agreement with some vague faith that all will be well or with some conscious-salving feeling that we are righting a sin of our colonial past.

If the Senate ratifies the treaty let it do so with its eyes open to all the implications and possibilities and alert to the best interests of the United States.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years vice Frank S. Spies.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, October 18, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Thomas C. Brennan, of New Jersey, to be Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1977.

Mary Lou Burg, of Wisconsin, to be Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1977.

Frances Garcia, of Texas, to be Commissioner of the Copyright Royalty Tribunal for the term of 5 years from September 27, 1977.

Clarence J. James, Jr., of Ohio, to be Commissioner of the Copyright Royalty Tribunal for the term of 5 years from September 27, 1977.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, October 18, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time agreement as follows on S. 1303, the unfinished business:

For debate on the bill, 4 hours, to be equally divided between Mr. JAVITS and Mr. NELSON; that there is a time limitation on any amendment of 1 hour; that there be a time limitation on any debatable motion, appeal, amendments in the second degree, or a point of order, if such is submitted to the Senate, of 30 minutes; and that the agreement be in the usual form.

Mr. JAVITS. Mr. President, reserving the right to object, a number of points are to be made in this connection.

First, I will properly yield, out of time which I have as manager of the bill on the minority side, a reasonable and fair amount of time to the opponents of the bill and to the proponents of the various amendments which we contemplate, so that those Members may not feel that just because Senator NELSON and I are on the same side, time is not available to them.

The minority leader assures me that where we are on the same side in a given issue, the time goes to the minority leader, who then may yield it to those who need the time. Of course, they have their own time on amendments.

Mr. President, the Senate should know that we have discussed a number of matters which are susceptible of resolution if a time agreement is arrived at for voting on the bill. These issues are the following:

First, the duration of the bill.

Second, the authorization for appropriations.

Third, the provision in the bill which relates to how privately donated funds may be used.

Fourth, the assurances from my colleague the Senator from Wisconsin respecting oversight areas.

Fifth, the isue of what is to be the role of so-called backup centers—that is centers for research, technical assistance, and so forth—and the effort to limit those to that function, rather than having them as some seed bed for broad-scale public service litigation.

Sixth, the issue of initiation of organizations. There, the intention is, if this works out, to stay with the present law, rather then to undertake the new amendments we have.

Also, we have agreed that on a number of issues in which we could not come to agreement, we would have votes, and the Senator from Utah has named specifically the following in respect of votes——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HATCH. I think it would be better if we did not go through the specific votes tonight but go through the basic changes in the bill to which we are agreeing.

Mr. JAVITS. All right.

That is all. Those are the ones about which we have understandings. As to the others, there may be any number of votes on amendments, and the Senator from Utah is going to endeavor to hold down the number. We are going to endeavor to meet his views on as many as we can and also make a contribution toward holding down the number.

I ask my colleague whether this is generally in accord with his understanding.

Mr. NELSON. Yes. The Senator from New York states it the way I understand it.

I suppose it is clear that no final agreement has been reached here until the Senator from Utah has a chance to confer tomorrow with some of the other Members who may have amendments; that there is no final agreement until a specific time to vote is agreed upon.

I take it that it is the understanding that this will remain the pending business until it is finally disposed of.

Mr. JAVITS. We are going to agree on this unanimous-consent request.

Mr. ROBERT C. BYRD. This unanimous-consent agreement would be in place. It is just that, as I understand it, there is no agreement as to the time for final action on the measure.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HATCH. I ask this question of the distinguished majority leader: If this is in the regular form, would that preclude nongermane amendments?

Mr. ROBERT C. BYRD. Yes; it would.

Mr. HATCH. Then, I would have to ask unanimous consent that nongermane amendments be in order on this bill, because I know of at least one that may fit in that category. We will try to keep them down.

Mr. JAVITS. Could the Senator specify the area of the nongermane amendments that he has in mind?

Mr. HATCH. The only one I know of would be the one by Mr. DOMENICI, which would go toward attorneys' fees in unsuccessful situations.

Mr. JAVITS. In cases where the Federal Government was the defendant.

Mr. HATCH. Right. But there may be others, so I would like to amend the regular form, and to that extent I ask unanimous consent that it be so amended.

Mr. JAVITS. That amendment then, it is understood, will be qualified.

Mr. HATCH. Yes; but I am not sure there will not be others. I am not sure.

(Mr. CRANSTON assumed the chair.)

Mr. DURKIN. Mr. President, reserving the right to object, under no set of circumstances would the nongermane amendment in any way apply to passive restraint systems.

Mr. ROBERT C. BYRD. No; they do not have that.

Mr. HATCH. No.

Mr. JAVITS. I am still in a little bit of a quandary as to how we leave this.

Mr. HATCH. It is my understanding we are agreeing this evening to a 4-hour

limitation on the bill, a 1-hour limitation on amendments, and a 30-minute limitation on amendments in the second degree, as stated by the distinguished majority leader.

Mr. ROBERT C. BYRD. That is right.

Mr. HATCH. It is my understanding we are agreeing this evening to the following affected changes in the bill and to work out language on some of the changes:

No. 1, we will reduce the authorization time of the bill from 5 to 3 years; we will agree to the authorization at $205 million for 1978, and use the language of the bill for 1979 and 1980 of such sums as may be necessary.

No. 2, that we will make it clear in the bill that private funds will not be used for prohibited purposes.

No. 3, that we will be guaranteed oversight to the extent—and we will have oversight hearings in the last few months of this year or the first 3 months of next year in accordance with the scheduling problems of the distinguished ranking majority member of the subcommittee having oversight of this particular problem; and that these oversight hearings will go into matters that have been raised by various Senators on the floor of the Senate, and any other matters that may be raised by responsible persons.

Mr. NELSON. May I say, Mr. President, if the Senator will yield, we certainly will have oversight hearings. I do not wish to be bound by the commitment to have them this year since, as I mentioned this afternoon——

Mr. HATCH. No; I said either this year or the first 3 months of next year.

Mr. NELSON. I have a substantial number we are undertaking in November and December. But we will have oversight hearings certainly in the first 3 months of next year.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I would like to know what happens to the passive restraint item we discussed previously. Is it my understanding that we are willing to have a vote by 5 o'clock? Is it part of this agreement that we will put this matter aside for an hour between 4:30 and 5:30 and vote on passive restraint by 5:30?

Mr. JAVITS. I would feel compelled to object. I feel we should finish this and then we can go to the other. I was hoping we could have a finished unanimous consent tonight.

Mr. STEVENS. Then I am compelled to object to this agreement.

Mr. BAKER. I hope we would not do that quite yet. I would hope, if the distinguished minority whip would indulge me for just a moment, he would not object at this time. I think we made real progress here.

Mr. HATCH. I think we have.

Mr. BAKER. In trying to reach this point, and I think it is clear that under the existing unanimous-consent order, that we proceed after the completion of this measure to the passive-restraint matter, and I think we are a lot closer to getting to the passive restraint now than we were 30 minutes ago.

Mr. JAVITS. Mr. President, will the Senator yield to me? I am more than happy to agree to the passive restraint if we can get a time to vote. My problem is Senator Hatch is in no position to give us any agreement respecting the conclusion of this matter.

Mr. STEVENS. I want the Senator to know I am not acting in my capacity as minority whip. I was a member of the Commerce Committee that made the assurance that there would be a vote on passive-restraint matters. As I understand the situation, tomorrow is the last possible day we can act and still leave enough time for the House to do likewise. It is my understanding that the House will be in session on Thursday, but not on Friday. If that is, indeed, the case, then we must vote tomorrow to insure that the House has the opportunity to consider this matter.

I feel that this Legal Services Corporation is being used, in effect, to hold hostage the commitment we made as members of the Commerce Committee that there would be a vote on the Senate floor on passive restraint.

Let me make it clear that I am not going to agree to any time limitation on the legal services bill unless it includes an agreement for a vote on the Senator from Michigan's air bag resolution tomorrow. I have already told him that I am going to oppose his resolution, and that I plan to urge the Senate to oppose it as well. But he is entitled to a vote under the commitment made in the Commerce Committee when he first authorized this procedure.

I have been waiting around, and I would be happy to paritcipate in any conversation other Senators want to participate in. But as far as I am concerned there are only 2 days left for action on this issue: One for the Senate, and one for the House, and basic fairness dictates that the Senator from Michigan be entitled to a vote on his resolution tomorrow. If we do not guarantee that vote, then, as far as the Senator from Alaska is concerned, we do not have a unanimous-consent agreement.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. DURKIN. I was not a part, expressly or impliedly, of any agreement that the Senator from Michigan would definitely get a vote.

Mr. STEVENS. At the time we passed the bill that authorized this legislation we made a mistake in not putting into that bill the privileged resolution provision that we discussed, and I think the members of the committee who were there will admit that. Had we included it there would be no problem. It is not a commitment made this year, but a commitment made at the time we first authorized the making of these regulations dealing with passive restraint.

Mr. DURKIN. Reserving the right to object, if the Senator will yield, I would hope the Senator from New York would reconsider his inclination to object, because, if the legal services battle wears on into the night tomorrow night, and if it is on the eve of a long weekend, then, if our votes drift away, I think the burden falls upon us to talk this air bag thing into the dashboard. I do not want to do that, and the Senate does not vant to do that. So, if I could renew the request and ask my friend from New York if we could get a vote on the air bag, passive restraint, say, between 4:30 and 6 o'clock——

Mr. BAKER. Mr. President, reserving the right to object for just a second, I reiterate what I said earlier. I think we made good progress in getting this far in the agreement. I fully appreciate the statement made by the distinguished Senator from Alaska, and I am entirely in accord with it. We owe the obligation to the Senator from Michigan and, indeed, to ourselves to have a vote on this matter, in my view, tomorrow.

Let me ask this question. First, I would like to say I think tomorrow we can improve on this unanimous-consent agreement. I think in the morning we probably can get a time certain to vote, and that will liquidate this problem. What is in the morning is not now where we have problems with it now.

So I wonder if we can consider an hour, even a very late hour, that would guarantee a vote to the distinguished Senator from Michigan?

Mr. STEVENS. Mr. President, if the minority leader will yield, I rely very greatly on my good friend from West Virginia and trust him. If he will assure me that there will be a vote on the air bag or passive restraint problem tomorrow, then I will withdraw my objection.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, the question was addressed to me.

Mr. President, I think we owe the two Senators from Michigan a vote on the air bag resolution, and I am going to do everything I possibly can, and I believe all Senators will, in good faith to try to secure a vote on that matter tomorrow.

I believe, as the distinguished minority leader has said, if we can go forward with a time agreement we have proposed here, that we will have made great steps in that direction, and I have a feeling that the rest of it will be worked out in the morning.

I will do everything I possibly can within my power to see that a vote does occur on that resolution tomorrow at some point.

Mr. DURKIN. Mr. President, will the Senator yield for a suggestion?

Mr. ROBERT C. BYRD. Yes.

Mr. DURKIN. Could we maybe even draft an agreement that the vote on the passive restraints would come an hour after final passage of the legal service bill or 5 p.m., whichever comes sooner?

Mr. NELSON. Mr. President, I would object to that. We are unable to reach an agreement, because there are certain Members who are not here who still may have a different viewpoint. But if an agreement is reached tomorrow morning on a time limitation on the pending legislation, as far as speaking only for

myself, I would be happy to set it aside at any time on an agreed time to vote so, if tomorrow morning at 10 a.m. or 11 a.m. we reach an agreement after talking with our other colleagues and then if we want a time to set aside the bill and debate and vote on the passive restraints, it is perfectly satisfactory with me, but I would want to see the settlement of a final agreement on time to vote on the pending legislation.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would modify my proposal further in the following manner:

That at 1 p.m. the Senate temporarily set aside the unfinished business and proceed to the consideration of the resolution that deals with passive restraints, Senate Concurrent Resolution 31, that there be a 1-hour time limitation for debate thereon, to be equally divided between Mr. FORD and the minority leader or his designee, and that at the close of 1 hour, to wit, at 2 p.m. there be a vote, with a motion to table in order, that if the motion to table is made and fails the vote occur immediately without further intervening motion or debate or point of order on the resolution up or down, that upon the disposition of that resolution the Senate then resume consideration of the unfinished business and that a vote occur on final passage of the unfinished business, the legal services legislation, which would include the House bill, which would include substituting the Senate language, at no later than 5 p.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object.

Mr. JAVITS. Mr. President, I yield to the Senator from Utah.

Mr. HATCH. Mr. President, with regard to our agreement here this evening, in addition to the guaranteed oversight, we have agreed that staff counsel will get together and work out language which will suffice for both sides in this matter with regard to the backup centers provided for in the bill.

Mr. JAVITS. Mr. President, about the backup centers, as I understand the agreement, the staff is to work out language, so we might as well specify it, which will make it clear that backup centers are to be used solely for research, training, and technical assistance, and as a clearinghouse for information and will not engage in broadscale efforts to build up public service cases.

Mr. HATCH. Or social legislation type cases or class litigation.

Mr. NELSON. I am assuming the law remains the same as to its current authority of the backup center to assist any of the local legal services programs in the representation, in any way, of an eligible client of the local legal services program.

Mr. HATCH. Except one thing: it cannot contract out these services.

Mr. NELSON. Pardon?

Mr. HATCH. It cannot contract out these services. They would have to be done in house, according to our agreement.

Mr. NELSON. I hope we are not talking about two different things.

Mr. HATCH Under current law.

Mr. NELSON. Under the current law the backup center may assist the local legal services organizations in the representation of their clients. These services are contracted out under current law.

Mr. HATCH. That is right.

Mr. NELSON. That is what the law is now, and we are not proposing to change that. What the Senator is limiting is the research activities, is that right?

Mr. HATCH. That is right. The distinguished Senator from New York did want to have one exception to that and that is with the right of the backup center or the services corporation to employ university professors, if I recall correctly.

Mr. NELSON. That is a further question.

As I understood the unanimous consent order, I did not think the central issue concerning research activities had been resolved.

We would allow, however, contracts with a university for a 5-day training program of new legal services counsel in newly created organizations. That would be a permissible kind of contract for training purposes.

Mr. HATCH. That is right. All right, now, the next step is that with regard to eligibility determination. The bill will have a language change. We will have a right to bring up an amendment to provide for judicial determination, but the bill itself will have a language change which will be appropriate under the bill to be enacted here. As I understand it, the corporation shall give an automatic right of review to any litigant who desires to have the corporation look into the eligiblity requirements, and shall give the appropriate consideration to that appeal, or an automatic right of appeal. We want to have definite language with regard to that, and still have the right to file an amendment with regard to judicial review of eligiblity determinations.

Mr. JAVITS. As to the amendment, you can have that voted on if you desire to go to that extent.

Mr. HATCH. Right.

Mr. JAVITS. But as to the corporation itself, what I said and what I have in mind is that the corporation will say that it will consider—we will say the corporation will consider any appeal to it on the question of eligibility.

Mr. HATCH. Right; and we will work out the appropriate language to that extent.

Now, with regard to section 1007(b)(5), we will go back to the old language in the bill, and strike out all of the new language, which begins:

To initiate the formation of any association, federation, or similar entity, except that this provision shall not be construed to prohibit the provision of legal assistance to eligible clients;

Mr. JAVITS. Yes; we will go back to the law as it stands.

Mr. HATCH. Go back to the law as it stands.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, might I inquire of the Chair on one point in relation to the air bag matter? We made provision for a vote on a motion to table the air bag resolution, and if that fails, an immediate vote without intervening debate on the resolution itself.

Could I inquire of the Chair, is the resolution of disapproval amendable?

The PRESIDING OFFICER. The law is silent on that issue, but the specific language of the resolution would have to be construed, the Chair believes, to prohibit amendments.

Mr. BAKER. So the Chair would rule, then, that amendments were not in order; and, of course, this unanimous-consent request makes no provision for amendments, but I just wanted to make it clear that we are not providing amendments.

The PRESIDING OFFICER. The Chair has so ruled.

Mr. JAVITS. Reserving the right to object, Mr. President, I want to have two things clarified. One is that the unanimous-consent request provides for the substitution of the text of the Senate bill for the text of the House bill, and action on the House bill.

Mr. CRANSTON. It does.

Mr. JAVITS. And as to the germaneness of amendments, we are reserving an amendment respecting legal fees which relate to suits by the Federal Government as nongermane. Now, is there anything else?

The PRESIDING OFFICER. That one nongermane amendment would be in order.

Mr. HATCH. Could I ask one other thing? It is my understanding that all amendments can be filed so long as final passage is no later than 5 o'clock p.m. next Tuesday.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Well, now, is the Senator speaking of nongermane amendments?

Mr. HATCH. I am speaking of all amendments, including the Domenici amendment, which may be nongermane.

Mr. JAVITS. That is fine, but I would not want to agree to some nongermane amendment which might become a major issue of our time.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, so that the present occupant of the chair (Mr. CRANSTON) and I can send out appropriate notices, in any case there will be a vote on final passage of the legal services bill no later than 5 p.m. Tuesday?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And that the provisions of rule XII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1303 (Order No. 145), a bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received except for an amendment to be offered by the Senator from New Mexico (Mr. DOMENICI) dealing with legal fees.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Provided further, That a vote on final passage of either the House or Senate bill will occur no later than 5 p.m. on Tuesday, October 18, 1977.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their patience and cooperation.

VITIATION OF ORDER FOR THE RECOGNITION OF SENATOR EAGLETON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. EAGLETON tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the order for the recognition of Mr. ALLEN tomorrow, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 52—A CONCURRENT RESOLUTION AUTHORIZING PRINTING

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The second assistant legislative clerk read as follows:

S. CON. RES. 52

Authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859"

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Commission on Art and Antiquities of the United States Senate fifty thousand additional copies of the booklet entitled "The Senate Chamber, 1810–1859".

Mr. ROBERT C. BYRD. Mr. President, I am advised by the Commission on Art and Antiquities that the booklet, "The Senate Chamber, 1810–59" will be out of stock within a few weeks. This resolution is identical to the 1976 reprint resolution, except that it specifies 50,000 copies instead of 30,000.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:45 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senator from Alabama (Mr. ALLEN) will be recognized for not to exceed 15 minutes, after which the Senate will resume the consideration of the unfinished business, S. 1303, to amend the Legal Services Corporation Act, under a time agreement.

Rollcall votes will occur during the afternoon on that measure. At 1 o'clock p.m. tomorrow, the Senate will set aside temporarily the unfinished business and will proceed to the consideration of Calendar Order No. 446, Senate Concurrent Resolution 31, a concurrent resolution to disapprove Federal Motor Vehicle Safety Standard 208 transmitted on June 30, 1977.

After 1 hour of debate, to be equally divided and controlled, the Senate will proceed to vote. A motion to lay on the table will be in order, and if such motion to lay on the table is made and carries, the Senate will immediately resume the consideration of the unfinished business. If such motion to lay on the table fails, the Senate will proceed, without intervening debate, motion, amendment, point of order, or appeal to vote up or down on Senate Concurrent Resolution 31.

Upon the disposition of Senate Concurrent Resolution 31, the Senate will resume the consideration of the unfinished business, S. 1303.

I would expect tomorrow to be a fairly long day, with rollcall votes throughout. It is hoped that the Senate will complete action on the unfinished business, the Legal Services Corporation Act, tomorrow, but in the event that action is not completed thereon tomorrow, it is the intention of the leadership to go over until Monday, and at that time to continue the consideration of the unfinished business, if not completed prior thereto.

The leadership has decided on this course of action in order that the Finance Committee may meet without interruption on Thursday and Friday to further its consideration of the energy tax bill, and also to accommodate Senate conferees in the necessary meetings with House conferees on the various measures that are in conference between the two houses.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 8:51 p.m., the Senate recessed until tomorrow, Wednesday, October 12, 1977, at 9:45 a.m.

NOMINATION

Executive nomination received by the Senate October 11, 1977:

DEPARTMENT OF STATE

Robert E. White, of Massachusetts, a Foreign Service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

EXTENSIONS OF REMARKS

SENATOR PELL WRITES ON HIGHER EDUCATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. BRADEMAS. Mr. Speaker, Senator CLAIBORNE PELL, the distinguished chairman of the Subcommittee on Education of the Senate Human Resources Committee, is one of the most thoughtful and forceful leaders in American education. The September 1977 issue of Case Currents includes an article by Senator PELL entitled "A Time To Watch, a Time To Work," in which he discusses Federal policy for higher education.

I believe Senator PELL's article merits the attention of all who are interested in this subject, and I insert the article at this point in the RECORD:

A TIME TO WATCH, A TIME TO WORK

(By Senator CLAIBORNE PELL)

Now is a time of watching for higher education. We must wait to see how the work we have done will work out. Still, it is a time for strong leadership.

In our two-year debate on the provisions of the 1976 Higher Education Amendments, we reaffirmed a philosophy firmly expressed five years ago: that the federal role in higher education is to guarantee access. The goal was then, and still is, to help every student receive some higher education. That is what the federal role will be, until eventually we achieve our objective that every citizen with the desire and the ability shall be able to have 16 years of education. We are moving rapidly toward that goal; I believe we shall achieve it.

We need leadership to maintain the progress we have made. We have to make sure that the federal government plays its part in helping education solve some hard problems along the way. We must see that all regulations are written simply and favorably, and we must, as always, keep our eye on funding. This is not as glamorous as the work we do on legislation. It certainly is not half as interesting. But this is the work that is needed now if we are truly interested in making the law work. For that, we need people who are prepared for a long and sometimes dull job.

ENROLLMENT DECLINE

What, then, are the problems facing higher education?

There is a drop in enrollment which some educators see almost as a death blow to many institutions. I do not see it that way. There are still thousands and hundreds of thousands and millions of potential students in America to take up the slack left by the decline in the traditional school-age population.

What is needed to overcome the loss is for us to attract more workers, more professionals, more of the general population into our schools and universities.

I will mention a few of many examples.

Increasingly, workers and professionals are turning to colleges and universities for advanced training and recertification. This is a service educators can and should provide. It is a strongly developing trend, and we can count on it.

There is another group of people whom we do not consider often but who provide a magnificent opportunity for educators. This group is our nation's prison population. There are 200,000 Americans behind bars. They are there largely because of ignorance and illiteracy, because of poverty, and because of low self-images—all of which are problems that education can help solve. I do not want to say the education is a panacea, but this is a challenge I would like to see educators answer.

Finally, I want to see education become a major leisure activity. This is a direction in which community and junior colleges have led the way. We need to see more of that. We need to see more aggressive curriculum planning and an ever-increasing sensitivity to the needs and interests of special groups. That is how higher education enrollments will not only hold steady but may even grow.

STUDENT AID

The other major problems I see for higher education are economic, but in a way that is special to education. First, the student-aid programs we have are doing well, but for only a very limited part of the population. I receive letters every day from parents and students in middle-class families who cannot afford the cost of higher education. At the same time, their incomes are just high enough to exclude them from student aid. This is the cruelest bind for them, and we must act to relieve them from this pressure.

Five or six years ago, their income may have been enough, but it is not any more. The limits we set on the programs are obsolete. Each year we must examine them and adjust for inflation. The results, if we do not do that, will be severe. College will become the playground of the very rich, who can always pay; the very talented, who will always be paid; and the very poor, for whom there is aid. We cannot allow this to happen.

Finally, there is the burden of inflation. It cuts the students' and parents' ability to pay as it raises tuition and fees. In this recession, every sector of the economy has been hurt, but education has been especially vulnerable because it depends on the work of so many people. We cannot educate more students with fewer teachers. We cannot replace doctors and professors with television sets. We cannot package the process of education. Because of that, expenses rise automatically.

Again, it is up to us to see that we take in enough money to account for ever-greater costs. That requires, above all else, leadership and unity. Each year we must put more money into our work just to maintain the same effort. If we really want to advance our role, if we want to go out and attract nontraditional students, if we want to help the hard-pressed middle class, and if we want to increase the federal share in education, then we will have to work twice as hard.

THE CARTER ADMINISTRATION AND HIGHER EDUCATION

This year, along with all these other challenges and uncertainties, we have a new administration to contend with. We have an entirely new set of players in the top positions. I believe all these people are friendly to our interests. As of yet, though, we have not heard very much and what we have heard has not met our expectations.

There has not been too much good news for us in the Carter administration statements concerning education, particularly the budget request. What is most distressing of all is that I am not sure where the administration stands on many educational issues.

During the campaign we heard that the new administration would emphasize education. The Democratic platform supported increased aid to our nation's schools and universities, and that was what President Carter said he would do. The platform talked about raising the federal share of public education beyond the 10 percent level, which is a promise of aid that our educational system badly needs.

The federal contribution to public education has always been small. It was 4.3 percent of the total in 1965. Then President Lyndon Johnson stepped in with the war on poverty. In two years, the federal share rose to 8.8 percent. The increases continued until the 1971–72 school year when the government paid for 9.5 percent of the total. That was the highwater mark. In the following years, the contribution from Washington slipped to 7.8 percent and, based on the budget that the administration presented this year, it will slip again if we do not act.

What concerns me most, though, is that there is not much consultation on matters of policy. The problems are so large and the relationship between Washington and the states is so delicate that we must move in concert with the executive branch. We cannot afford eight more years of open warfare between the executive and legislative branches. We must move, and there must be consultation.

There has always been tension between the branches of government which is something to be expected. My point is that we now have the opportunity to enjoy a consensus in the government. We have a strongly Democratic Congress and a popular Democratic president in his first term in office. More than that, the country is still ready to take on new directions and new challenges.

All that is needed is a plan of action and, more than anyone else, the President can provide that. It would be a great loss, not only for education, but for all the country if we could not find it in ourselves to work together.

EDUCATIONAL EQUITY FOR VIETNAM VETERANS

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mrs. HECKLER. Mr. Speaker, the current flat payment schedule of educational assistance allowances for veterans utilizing the GI bill of education is inadequate. By paying a veteran according to the number of dependents rather than according to the cost of living and of obtaining an education, we shortchange the Vietnam veteran.

The World War II GI bill took into account such factors. It provided a subsistence allowance for the veteran and provided a separate tuition allowance which took into account the differences in tuition costs around the country. This is the basic approach we must apply today to the Vietnam-era GI bill.

In recent testimony before the Veterans' Subcommittee on Education and Training, of which I am ranking minority member, Dr. John R. Silber presented an excellent case for this approach. In addition to being president of Boston University, Dr. Silber is chairman of the legislation committee of the American

Association of Independent Colleges and Universities. Because Dr. Silber is an outstanding leader in his community and a distinguished national figure in higher education, I would like to call his remarks to the attention of my colleagues in the House.

I insert his remarks in two parts, the second of which shall appear tomorrow:

PART I—DAY I

The original G.I. Bill represented the most significant federal initiative in higher education since the Morrill Act, and also the most successful. Its more recent versions have continued a tradition of assisting veterans to ease their re-entry into civilian life through education and training.

Over the history of the veterans' educational benefit, higher education itself has undergone a series of very significant changes. The most important among these are a massive expansion of the state-operated sector, major increases in the tuition charged by all institutions and the development of a massive gap between the tuition charged by state institutions and that charged by independent institutions. These changes have inevitably affected the use that veterans make of their educational benefits. Many of these effects run counter both to simple justice and congressional intent.

There are striking differences in the use veterans make of G.I. bill in the various states. In California, for example, more than 50 percent of all eligible veterans use their educational benefits in two- and four-year colleges, while in Massachusetts, the figure is only 30 percent. In Vermont, the rate is still lower: 17 percent. Although it is possible that some of these disparities have sociological explanations, it is striking that in California, the state with the highest rate of veteran use, the state colleges and universities charge an average tuition of $225 a year, the lowest in the nation, and that in Vermont, the state with the lowest rate of veteran use, the state colleges and universities charge an average tuition of $953 a year, the highest in the nation. By whatever measure—average tuition prices, typical tuition prices, or tuition prices at institutions of comparable reputation and merit—the higher the tuition price in a state or region, the lower the use by eligible veterans.

There can, of course, be no justification for extending greater educational opportunity or freedom of choice to veterans living in one state or region. The Congress would, I believe, never have deliberately introduced such discrimination into the law. But the fact is that by giving all veterans the same educational benefit, the law creates a substantial inequity. The current mechanism is clearly faulty. It is like a system in which each returning veteran arriving in California from Vietnam would be given an identical allowance for travel back to his home, in an amount equal to the average of all airline fares in the country. Under such a scheme, some veterans would get home, and others would get only part way. Such a scheme, of course, is no more than an eccentric hypothesis, for in supplying veterans with transportation home, the law wisely makes allowances for differences in cost; but we now actually use a similar scheme in paying educational benefits.

The inequity in educational benefits is further compounded by the fact that many of the areas with high tuition have equally high living costs. A veteran attending school with high tuition in such an area not only must use a greater proportion of his benefit for educational expenses, but also must pay higher living expenses. The present law, by combining educational and living expenses into one invariable entitlement, only compounds the initial inequity.

Consider the cases of two single veterans. Both, under H.R. 8701, would receive $2,790 for a nine-month school year. One enrolls at San Francisco State University. After paying tuition and fees of $200, he has $2,590, or $288 a month, for living expenses. The other veteran enrolls at a comparable institution in Ohio, the University of Cincinnati. After paying tuition and fees of $980, he would have $1,810, or $201 a month, for living expenses. These are not minor inequities: simply by the fact of his residence, the Ohio veteran receives an effective living cost benefit 30% less than that paid his comrade in California. Both these veterans have enrolled in state-supported universities. They are dealt with lavishly compared to a veteran who wishes to enroll in an independent college or university. On the average, he will pay $2,000 of his benefit for tuition, leaving him $790, or $88 a month, for living expenses. And at a great many independent universities, the tuition charge will use up the entire benefit, leaving nothing for living expenses. At Boston University, where tuition and fees are typical but far from the highest, the benefit would cover only two-thirds of the tuition charge, forcing the veteran to find another $1,000 for tuition and leaving him with nothing for living expenses.

No veteran who is entirely dependent on his G.I. benefit can attend any independent college or university in this country. It has been argued that if the taxpayer is to subsidize the education of veterans, that education should be in "low-cost public institutions," so that the drain on the public treasury will be less. Aside from a mistaken assumption that only the institutions operated by the state are public—when the fact is that all colleges and universities are public because they educate the public and nothing else—this argument inaccurately assumes that state-supported higher education is low-cost. This belief confuses the *cost* of higher education with the *price* charged to the student. The state cannot buy goods and services any cheaper than anyone else, and therefore comparable education must cost comparable sums. Whatever education the state delivers in its institutions the taxpayer must pay for at market prices. There is in fact no such thing as a free or cheap college education, and what appears to be a free lunch is in fact paid for by the taxpayer. And the state taxpayer does not benefit when federal veterans policy encourages unneeded expansion in the state sector. The state taxpayer would in fact benefit from a veterans policy that encouraged the use of unneeded capacity in the independent sector.

Where federal policy limits veteran education to state institutions, it limits veteran choice. The most obvious limitation is that present policy discourages veterans from attending small colleges, even though for some veterans such colleges may be the most appropriate choice. This limitation is in fact a form of discrimination, and only one example of the inequities in our treatment of veterans. At one end of the scale, consider a veteran who wishes to study wool technology at the University of Wyoming. He is enabled to attend the school of his choice and to have a monthly living allowance of $261 in a fairly low-cost city. At the other end is a Boston veteran who wishes to study engineering. The average tuition at Boston area institutions offering such programs would consume his entire benefit, leaving him with nothing to pay the highest living costs in the nation. If he is totally dependent on his benefit, he cannot attend a college in his home town. If he can, it is only because he has very substantial resources beyond his G.I. entitlement.

If we are to treat veterans with greater even-handedness, we need to adopt the principle of tuition equalization and cost-of-living equalization. The statistics I have cited are ample evidence of the need for such equalization. If the Congress can develop a single plan to diminish these inequities, they will have achieved significant progress towards equity for all veterans.

THOMAS COOK: OUTSTANDING MINORITY BUSINESS ENTREPRENEUR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. STOKES. Mr. Speaker, it gives me great pleasure to rise on this occasion to bring to your attention and to the attention of my colleagues in the U.S. House of Representatives the outstanding record of achievement of Mr. Thomas Cook of Cleveland, Ohio. Mr. Cook is the president of the Cook Paving and Construction Co., which is one of the most prestigious and successful minority businesses in the city. So that my colleagues can familiarize themselves with this exemplary minority enterprise, I would like to take this opportunity to tell you something of the company's history.

Cook Paving and Construction Co. was incorporated in the State of Ohio in 1946. Young Thomas and his father Montry Cook had the foresight to sense that there would be a need for greater construction capability in post-war Cleveland. In the 30 years since its inception, the company has grown in service and in scope and currently provides jobs for a seasonal crew of 30 to 40 workers and full time employment for a full staff of engineers, estimators and clerical workers.

Thomas Cook has been the president of the company since 1963 upon the death of his father. Under his able guidance the company has continued to prosper. They are now certified by the State of Ohio to participate in heavy highway construction and are licensed to operate in all the municipalities of Cuyahoga County.

Mr. Speaker, in addition to his corporate functions, Mr. Cook is an active force in the civic and social organizations in our city. He is an active member of the Cleveland Engineering Society, and the Cleveland Growth Association. He is also on the board of trustees of the Quincy Savings and Loan Association, St. Lukes Hospital, Citizens League of Cleveland, and the Glenville YMCA. In addition, he is president of the North Eastern Ohio Camera Council, cofounder of the Double exposure Camera Club, and life member of Alpha Phi Alpha Fraternity and a member of the Inter-Church Council of Greater Cleveland.

In 1965, Cook Paving became the 300th member of the Ohio Contractors Association, the first black company to be accepted for membership. In 1966, they were accepted into the Associated General Contractors of America. Under the auspices of this group, Mr. Cook was selected to serve on the legislative committee which required considerable work here in Washington and numerous ap-

pearances before House and Senate committees.

Mr. Speaker, On Sunday October 16, friends and associates of Thomas Cook are sponsoring a dinner in his honor. Special tribute will also be paid to his wife, Mrs. Carribelle Cook who has been an integral force in the success of the company. At this time, Mr. Speaker, I would like to ask that my colleagues join me in congratulating the Cooks on this eventful occasion. It is a well deserved tribute to an outstanding company and an outstanding man. Let us hope that they continue to grow and prosper.

AMY'S ROLE IN THE WHITE HOUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. RANGEL. Mr. Speaker, today I would like to share with my colleagues an article which, I feel, captures the true spirit and sincerity of our President.

After examining the close relationship with his daughter, Amy, I think it is safe to say that his attitude in this relationship exemplifies his true genuine concern for the welfare of this country. Perhaps we should all be very thankful that for now, we have a President who does have high moral standards.

Mr. Carter originally came into office as a "non-Washington" politician. Maybe having a child in the White House tends to preserve an innocence and idealism which so many others lose later in life. Although I have not always agreed with the President's position, I believe firmly that his actions are governed by the most honorable and sincerest intentions to help his fellow man.

Al Duckett is a friend of mine and thus I would like to share some more thoughts on this matter in order that we might learn how this White House works. The article, which appeared in the spring issue of Collegiate Woman's Career magazine follows:

WELCOME LETTER TO AMY

A friend remarked, the other day, that it is good to have a child in the White House again. And I agree. I recall the last time there were children living in that imposing residence on Pennsylvania Avenue, one of the things I appreciated about John Kennedy was that he would interrupt a Cabinet meeting or an international conference when John John or Caroline required his attention. I think his devotion as a father was one of his most appealing qualities. Of course, Caroline was at the age and stage when any realistic daddy would surrender to the delight and despair of hopelessness, aware that his heart is completely captive and his defenses down. The fact that little Caroline could do no wrong was documented once when a very Republican newspaper, mournfully contemplating the prospect of an extended Kennedy stay in the Presidency, observed: "Of course, it would be unthinkable to turn little Caroline out of the White House."

When realism hammered us with the terrible blow of the assassination, for me, the saddest moment was when little John-John was quoted as saying: "Now I have no one to play with."

To think that, with all the demands of world problems, domestic affairs and political upheaval, here was a father with time for his children. It was not only we adults who sensed and appreciated it. It was also the children of America for whom JFK was a romantic, winning personality.

Lyndon Johnson and Richard Nixon came to power after their children—and perhaps their idealism—had grown up. So there was no child in the White House with whom the country could relate.

So, welcome Amy Carter.

Already, you have come to the focal center of a social philosophy. Mr. Eisenhower said he felt it was his duty to enforce the Supreme Court decision on busing; he didn't feel required to agree with it. The Nixon-Ford attitudes were weather-vaned toward whatever conservative currents might blow. But here we have little Amy, first Presidential child to go to public school. And she goes, one day, hand in hand with a black child her age. It has nothing to do with forced busing or, really, with school integration. It has everything to do with the brotherhood and sisterhood of humans, a quality often denied by people who consider themselves dedicated to the fatherhood of God. President Eisenhower made history when he sent troops into Little Rock to make it possible for nine black kids to go to high school between battle-lines of angry, belligerents. There were those wistful people who declared how marvelous it would have been had the President-General been willing to go to Little Rock and take the hand of a black child and brave those barricades. That would have been melodrama. You seem to make it so simple. There will be sneers that the walk into the school house was politically contrived as there are sneers that the President who alighted from his limousine to walk to the world's premier palace of power was hamming it up for the cameras. Well, I believe, because I choose to believe, that both those actions were sincere. Further, I submit that we need not begrudge their public relations value. I think that, after such an overdose of the Imperial Presidency, there is much to be said—even for public relations about values like simplicity and sincerity and humaneness. Those who clasp to their breasts the cold comfort of cynicism may do so. I prefer the capacity to believe; that it can be so potent that it can transmute symbolism into actuality.

So, Amy, I'm glad you're you and that you're where you are and I wish you lots of happiness like you've given to some of us. You loved the lady who was hired as your nurse and who became your friend. So, they tell me, you asked to have her back. And, since there's virtually nothing, at the moment, which can be refused your family, it became possible to reach back down into a prison cell in Georgia and bring about the release of this lady who, in society's eyes, was a murderess. In your eyes, she is a companion, protector and comforter. In days to come, analysts will compare how in a crime-ridden society, your daddy's predecessor saw as compassionate the pardon of a President who had become a potentate and whose corruption was so malignant that it licensed corruption in others charged to lead; to compare that pardon with a beginning toward reaching out to reclaim to America prisoners of conscience who lived in exile and disgrace; to compare that pardon with the rehabilitative, bold and courageous rescue from a narrow prison cell of a human being who had been found guilty of serious violation of the law. Today, that woman is a willing prisoner in the embrace of love and no person can truly find fault with the kind of faith you and your Daddy and the rest of your family have in your nurse.

It might seem, Amy, that being daughter of the White House is like having Christmas every day. Yet, the same splendor, the spotlight and the adulation which are given you daily can become a crushing burden to an adult—and certainly to a child. I welcome you as First Child—right up there with my own grandchildren. But I hope that the commonsense and caring of your family will leave room for you to still live some of that magic which is childhood's special heritage. I think you will have that quality given you by those who love you most. It is a quality that cannot be appropriated in the House or legislated in the Senate or set in motion by an Executive Order. It is the kind of quality I think I see in your grandmother, Miss Lillian. I feel as though I know this lady. Your mother comes across with an unassuming but reliant kind of spirit. I know little of her but I like her style, her speaking out and use of her personal influence in the fight for ERA, her willingness to be concerned with the problem of mental health, rather than cultivating the image of chief party giver to the world. One of these days, maybe I'll be fortunate enough to sit down in an informal interview with your mother so I can come back and write a story of my impressions.

But as for your grandmother, I feel almost as though I already know her. I like the way she speaks out—so naturally, with so little inhibition. When a reporter asked her if she thought your Daddy would make a great President, she said "Yes. If he does what he said he'd do." This could not have been merely a politician's mother speaking, but the concerned candor of a mother who finds that title superior to that of mother of the President.

For you, little Amy, your father, mother, and your grandmother, I have deep respect. I wish for your fulfillment because your family is the touchstone of that hope which only yesterday seemed sick and flickering into death.

For you especially, Amy, I wish the time and space and atmosphere to run, to play, to wonder, to be as private as you wish and only as public as you wish, to have those secret dreams which light the countenances of the sleeping young and bring smiles and love in a rush to the hearts of those who guide their world.

In short, Amy, for you and your family—I wish you love, the ultimate Roots of Life.

—ALFRED DUCKETT.

LUTHER KUDER IS AGENT OF THE YEAR

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MARKS. Mr. Speaker, just recently, the Travelers Insurance Cos. of Hartford, Conn., named Luther J. Kuder, the Travelers' 1977 Agent of the Year, Added to that distinction was the honor of being the subject of the cover story for the September 1977 issue of Protection, America's oldest company magazine.

I am as proud of Luther Kuder as he must be in receiving this singular honor, because he is a constituent of mine in the 24th District of Pennsylvania as well as a personal friend.

Luther Kuder is in his 78th year but shows no signs of ending his more than half century of service.

Because he is unique in this respect, I thought I might quote from the Protection story that provides the fitting tribute this man so richly deserves:

The Agent of the Year recognition is reserved for LHFS producers who excel in five categories: Production, Persistency, Service to Clients, Service to the Industry and Self-Development. There is no doubt of Luther Kuder's qualifications on any of these grounds.

A large part of the ease with which he practices his business stems from the fact that he truly likes and cares about people. On why he selected Life insurance as his profession, Luther says, "I was determined to make life better, not just for me, but for others. So many people in and around Greenville helped me when I was down and out. I had to repay them somehow. What better way than with Life insurance?"

No profile of Luther Kuder can rest solely on his business accomplishments. He is involved with numerous projects that make Greenville a better place to live and work. Recognition to his deep commitment to his hometown has been pointed out on many occasions. At the 1976 National Leadership Conference in San Francisco, Luther was honored by the Travelers for his contributions to Improving the Quality of Life.

Serve in your time and you'll be remembered for all times. Because, you see, no man can tell whether he's rich or poor by turning to his ledger. It is the heart that makes the man rich. He is richer for what he is, not according to what he has.

Mr. Speaker, I should like to personally congratulate Luther Kuder, his wife and his family. They are an asset and an honor to our district.

OUTSTANDING YOUNG WOMAN OF 1977

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. ERTEL. Mr. Speaker, on Saturday, October 15, 1977, the Pennsylvania Jaycettes will honor Mrs. Peggy Eckenroth Williams as their "Outstanding Young Woman of 1977." Mrs. Williams was chosen from a wide field of candidates for this honor because she best exemplifies the ideals and creed of the Jaycettes nationwide.

She has demonstrated outstanding leadership abilities in seeking to advance the quality of life for the handicapped in the community. She has given of herself unstintingly in the cause of helping others less fortunate than she. With incredible tenacity and considerable personal talent, she has vigorously sought out worthy community projects in which to enlist and offer support.

Her very genuine interest in her fellow human being is reflected in her many meaningful activities, all of which were served in the face of extreme adversity. She has indeed served the total community admirably. She has consistently displayed a remarkable lust for life and a cheerful, contagious optimism that has brought new dimensions of happiness to the lives of all who know and identify with her. She is a perfect example of the joy of living.

Mrs. Williams was recently named coordinator of the Lebanon County Multiple Sclerosis Society, in charge of fundraising and patient referrals. This would not be unusual or worthy of note, except that Mrs. Williams is herself a victim of MS and has lived with her handicap since the age of 16. To my knowledge, she is presently the only MS victim in the United States to serve in such a capacity.

I am certain that Mrs. Williams' accomplishments and personal courage are a source of inspiration to all who know and work with her. I join with the Pennsylvania Jaycettes in saluting this remarkable woman.

CONTROL OF HEALTH COSTS ON GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. WON PAT. Mr. Speaker, as the Congress moves closer toward consideration of major legislative proposals in the fields of health cost control and national health insurance, it is vital that we take into account all of the available evidence and studies which might indicate which methods do or do not work when they are put into actual practice.

Thus far, there have been very few such studies. However, one of the most significant may have been conducted during the past 3 years on the island of Guam, by the Family Health Program, Inc., a health maintenance organization based in Long Beach, Calif. Beginning in 1973, the FHP implemented a planned health care delivery system on the island of Guam which ultimately enrolled 50 percent of the total employed population. At the end of the 3-year period, hospital utilization had been reduced by 60 percent; yet, there had been no radical shift in the population mix, age, or other factor. During a period when health care costs went up at a rate of 15 to 18 percent a year throughout the United States, the rate for FHP's group practice prepayment organization rose an average of 0.6 percent a year for each of the 3 years.

Dr. Robert Gumbiner, the president of the Family Health Program, has written a brief paper on FHP's Guam experience, which gives the details of the study and describes the methods by which FHP was able to control costs so dramatically while still providing health care of the highest quality. I strongly recommend his paper, "An Analysis of the Cost Reducing Effect of Utilization Control by a Planned Health Care Delivery System on the Population of the Island of Guam," for your reading, and include it in the RECORD:

AN ANALYSIS OF THE COST REDUCING EFFECT OF UTILIZATION CONTROL BY A PLANNED HEALTH CARE DELIVERY SYSTEM ON THE POPULATION OF THE ISLAND OF GUAM

(By Robert Gumbiner, M.D., President, Family Health Program)

ABSTRACT

The purpose of this paper is to analyze the cost reducing effect of utilization control by a planned health care delivery system on the population of the Island of Guam over a three year period.

The study involves a comparison of hospital utilization, both before and after the emergence of Family Health Program, a Group Practice Prepayment Program and Health Maintenance Life Insurance Company, an Independent Practice Association.

The population on the Island of Guam represents an outstanding opportunity to test the validity of the use of a planned health care delivery system approach in the reduction of hospital utilization and the containment of costs to a confined population.

The Island of Guam, a U.S. Territory, contains a population of approximately 100,000 individuals. This civilian population is in addition to approximately 20,000 military personnel. Approximately one-third of the working population is employed by the Government of Guam, which incorporates the equivalent of the state, county, city and school district employee population for the Island. Another 20 percent of the working population are employed by the Federal Government as support personnel for the B-52 bomber base, the Polaris missile base and miscellaneous Federal installations. The balance of the population, approximately 45 percent, is represented by civilian employment, of which a certain percentage varies from time to time due to the migrant construction workers that flow between Guam, the Philippines and Korea.

For the purpose of this study, we will deal only with the total Government of Guam employee population, 40 percent of the Federal employees population and about ten percent of the remaining civilian population (which includes the teachers of the Catholic school system, the employees of the Diocese, the students of the University of Guam and about a dozen employer groups on the Island). This article thus deals with approximately 50 percent of the employed population of the Island, representing approximately 50 percent of the total population, employee and dependents.

In 1973 Family Health Program, Inc. (FHP) was operating a Group Practice Prepayment organization consisting of approximately ten physicians practicing in a medical group practice building, formerly the Catholic Medical Center. In addition, FHP sponsored through its subsidiary health and accident insurance company, Health Maintenance Life Insurance Company (HML), an individual practice association which involved approximately 30 of the fee-for-service practitioners on the Island. In fact, these doctors comprised all of the fee-for-service physicians on the Island aside from six to eight working on contract with the Guam Memorial Hospital, two or three in public health and one or two private fee-for-service physicians. Between the two organizations, the FHP Group Practice Prepayment organization and the HML Individual Practice Association program, approximately 50 percent of the total employed population were enrolled in this planned health care system. The enrollees in FHP increased during the 1973–76 period from 14,500 individuals to 30,700 individuals. The HML enrollees, during the same period of time, increased from 10,847 individuals to 12,402 individuals.

The significant factor in this controlled experiment was the hospital utilization. When FHP first introduced its program to Guam in 1972, the only acute hospital, Guam Memorial Hospital, consisted of approximately 250 beds, which was not sufficient to satisfy the existing in-patient needs. The Government of Guam had commissioned a number of studies by various architectural firms and consulting firms which finally culminated in a four-volume consulting manual from CRESAP & Company. Projections for needed hospital care at that time and extend-

ing into the near future varied from an architectural firm's projection of 500 beds to the CRESAP estimate of 350 beds, with a secondary opinion that a new health care delivery system was needed, rather than a new hospital. However, this report also indicated that it would be impossible to establish a new health care system based on the following reasons: (1) The doctors on the Island were against it; and (2) There was no management there capable of arranging for and controlling a prepaid health care system.

At the end of the three-year period, during which time FHP and HML had been in control of approximately 50 percent of the health care delivery on Guam (from 1973 to 1976), the hospital population was reduced in Guam Memorial Hospital from 250 to approximately 100 bed patients. Thus, there developed 100 to 150 empty beds which could have been eliminated since the hospital was operating at less than one-half occupancy The morbidity and mortality rates had improved greatly and the FHP physicians were seeing far less individuals with advanced disease. In short, the situation where the population had been using three beds per 1,000 individuals per day had changed radically to where they were now using one bed to 1.2 beds per 1,000 population per day There had been no radical shift in the population mix, age or other mediating factor. A significant fact was that the Individual Practice Association's level of bed utilization had also been reduced to almost that of the Group Practice Prepayment organization!

In the FHP Group Practice Prepayment organization, consisting of 15 doctors, there is no motivation for the physician to hospitalize the patient unnecessarily and all elective hospitalization has to be authorized by the chief of the department (i.e., surgery, ob-gyn, internal medicine) and the Medical Director. In addition, FHP physicians saw all emergency room patients prior to admission.

Through the Individual Practice Association, consisting of 30 doctors, HML provided a full-time Medical Director whose job was not only to set up the systems for prior authorization of elective hospitalization and retroactive emergency admissions, but to organize and monitor the organization's Utilization Committee, Pharmacy Committee and Executive Committee. The Medical Director was also responsible for continued "jaw boning" with doctors who appeared to have excessive utilization of an ambulatory basis.

Payment for services rendered by the Individual Practice Association physicians was drawn from a pool which consisted of approximately 40 percent of the total premium received each month. The doctors first billed the usual fee-for-service, then the total amount of all fee-for-service billed by all doctors in the Individual Practice Association was compared against the 40 percent of the total premium. If the total fee-for-service billing was in excess of the premium allocation, the relative value scale by which the doctors billed was reduced by that variable. If it was less, it was increased by that variable. HML Insurance Company assumed the financial risk for hospitalization. Here, again, the patients could not be hospitalized for elective procedures without prior authorization of the Medical Director. In case of a dispute between the attending physician and the Medical Director, the patient was referred to another specialist (in that same specialty) in the community for a consultation at no expense to the consumer. HML also paid for out-of-area emergency as well as in-area x-ray and lab. The doctors' pool stood the cost of in-area emergency (since this, in many cases, could have been taken care of by the doctor) and off-Island referral.

During this three-year period some of the doctors were "called on the carpet" by the Utilization Committee for excessive billings and billings for multiple procedures when, in fact, only one procedure had been done. Many of the doctors in the beginning attempted to play this kind of "numbers game" but eventually learned that it did not work. The most difficult area was that of ambulatory care where, in one or two cases, individuals appeared to be seeing patients much more frequently than necessary. In one instance, a solo practitioner was seeing patients at the pace of 100 patients per day and charging each a long office call. A considerable amount of time was spent attempting to correct this. Remedying this type of "gang billing" as well as "churning" was met with only moderate success. One physician was expelled from the group for poor quality of care and inappropriate treatment after repeatedly being warned by the Utilization and Executive Committees. Fact and objectivity in other cases had to be ameliorated by political expediency.

On the whole, the significance of this project is that it did work in controlling utilization and reducing cost. In the case of the Group Practice Prepayment organization—enthusiastically; in the case of the Individual Practice Association—reluctantly. During a period when health care costs went up at a rate of 15 to 18 percent a year through the United States, the rates for the Government of Guam's Health Maintenance Organization type of coverage went up 2.6 percent a year, each year of the three-year period in the Individual Practice Association section. For the Group Practice Prepayment organization the rate rose approximately 0.6 percent a year for each of the three years.

These statistics are reliable since, in both instances, all care was provided on the same benefit levels to similar population groups. All care (ambulatory, hospital, in and out-of-area, accident, preventive care and prescription drugs) was supplied to the population covered at approximately the same cost. Since the population covered was large enough (approximately 50 percent of the total population) and the reduction of utilization significant (over two-thirds) we can consider this to be a valid experiment. The fact that the majority of the physicians in the Group Practice Prepayment program were Mainland (United States) medical school graduates while the majority of the physicians in the Individual Practice Association were foreign graduates but U.S. trained (i.e., Filipino, Taiwanese and others) is not significant in the overall. More of the Mainland trained, oriented or immigrant population joined the Group Practice Prepayment program while a larger portion of the Guamanian families joined the Individual Practice Association program. Nevertheless, hospital utilization for both groups was reduced approximately the same; to one hospital bed day per 1,000 individuals in the FHP Group Practice Prepayment program and 1.2 hospital bed days per 1,000 individuals in the HML Independent Practice Association. Thus, the ethnic orientation of the providers and consumers in both prepayment groups is of little overall significance in comparing the change in costs effected by the organization's health care delivery systems.

The important variable considered was the hospital utilization factor before and after the emergence of FHP/HML as an alternate health care delivery system. The regression in the tourist industry in 1975 and a subsequent mild economic recession on the Island did not appear to have any major effect on the hospital utilization since about 50 percent of the people were covered in full by the FHP/HML-type planned health care system. No matter what the minor variables may be, the significance of a two-thirds reduction in hospital utilization plus the significant cost control is important in spite of an approximate 45 percent increase in medical care costs over the three-year period in the rest of the United States. During that same three-year period, the Guam-medical care costs rose only between 9 to 18 percent. While hospital costs remained the same during the entire period, the hospital costs were responsible for only 20 percent of the total premium. These lower hospital costs can be counter-balanced by increased costs in other areas:

1. Living costs are higher in Guam, affecting the demands of the IPA physicians;
2. All supplies, equipment and material must be transported from the Mainland;
3. The Group Practice Prepayment organization had to transport approximately 12 of their 18 physicians from Mainland U.S. and provide them with housing allowances and automobile transportation; and
4. The costs incurred in recruiting physicians for the Group Practice every two-years were high.

Thus, the total cost of health care delivery can be equated.

It can be acknowledged that the cost of providing care by an Individual Practice Association within the same format is higher than that of providing a Group Practice Prepayment organization even with the additional cost incurred by the Group Practice as mentioned above. This is because the Group Practice Prepayment organization is run on a cost basis; whereas, the Individual Practice Association payments to physicians are based on historical fees-for-service. The Individual Practice Association is under constant pressure by the individualistic physicians to increase fees to them. In addition, an Individual Practice Association, by its very nature, is more expensive since each individual physician is practicing in his own facility and duplicating many services; such as, nurses, receptionists, billing, management, facilities and equipment.

Various political forces in the community have made repeated attempts to take over or supplant the Independent Practice Association/Health Maintenance Organization for various self-interest reasons. All of this may eventually drive up the cost to the Independent Practice Association and force it into a self-destructive pattern.

Progress is coming to Guam in the form of over bedding in the acute hospital sector. Recently a new 145 bed acute hospital has opened in addition to the existing 250 bed installation. For a total system using only 100 acute beds, this represents almost a 300 percent over-bedding. Someone will have to pay for this. If it is the third party HMOs, rates will go up to the employer/employee, otherwise the general public will pay by public support of these hospitals through increased taxes.

Time and management skill will determine whether or not this unique and successful effort in cost and quality control will survive the current political environment.

A PERSONAL EXPLANATION

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. KREBS. Mr. Speaker, because I was attending a meeting with President Carter at the White House on October 6, 1977, I was not present for rollcall No. 635. Had I been present, I would have voted "yea."

RIGHTS OF PREGNANT WOMEN

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MARKS. Mr. Speaker, last December the Supreme Court, in the case of General Electric against Gilbert, ruled that it is not sex discrimination within the meaning of title VII of the Civil Rights Act of 1964 to exclude pregnancy and related disabilities from health or disability insurance or sick leave plans. The Supreme Court's decision overruled the unanimous opinion of six Federal appellate courts and runs counter to the guidelines promulgated by the Equal Employment Opportunity Commission on this subject.

Legislation in the House, such as H.R. 6075 and my own bill H.R. 5057, does not mandate compulsory disability coverage, but would require those employers who do provide disability coverage to treat pregnancy-related disability the same as any other nonwork-related disability with regard to benefits and leave policies.

Unless the effect of the Court's decision is reversed by legislative action, pregnant women will be forced in many situations to take leave without pay with a loss of income that could seriously affect the family unity, especially since more than 60 percent of working women need to work to support their families. Further, many of the 39 million women who are working shall be the victims of discrimination in situations where employers have established discriminatory health, disability, or sick leave plans, as in the Satty and Berg cases heard by the Supreme Court last week. These cases, pointing out the importance of passage of legislation, are described by Lyle Denniston in the Washington Star, October 6, 1977, in an article which I commend to my colleagues:

[From the Washington Star, Oct. 6, 1977]

RIGHTS OF PREGNANT WOMAN ARGUED BEFORE HIGH COURT

(By Lyle Denniston)

If Harry Blackmun and Potter Stewart were truly impressed, as they seemed to be, by the plight of Nora Satty, the nation's women workers may not have lost as many of their job rights as they feared.

Satty was a $140-a-week clerk with three and a half years of seniority at the Nashville Gas Co. in Tennessee. Then she became pregnant and had to take time off.

When she got back to work, she got a temporary job that did not last long and paid $10 less a week, and she had no seniority to use in bidding for a better, permanent job.

That story was laid out before the Supreme Court yesterday in a significant test case on how federal law protects—if it does—the rights of women workers who become pregnant.

The reactions of Justices Blackmun and Stewart could be decisive, because they provided two somewhat uncertain votes in the majority of six when the court last ruled on that question.

Nora Satty's case, and a companion case involving a Richmond, Calif., teacher, Sonja Lynn Berg, provide the court with a new chance to say how far it meant to go last December in a decision that has aroused the women's rights movement.

In that decision, involving the case of a General Electric Co. worker named Martha Gilbert, the court ruled it is not illegal sex discrimination under the 1964 Civil Rights Act to deny sick pay to workers who leave the job to have babies.

That made it appear that a company could take away a whole range of privileges and rights of workers who become pregnant, including seniority rights, sick leave and even the right to return to the job.

When the Supreme Court agreed to look at the Satty and Berg cases, that threat seemed even stronger.

Women's rights activists, stirred up by the ruling and its impact, have been joined by organized labor in pressing Congress to overturn the Gilbert decision, and the Senate has voted to do so.

That effort, however, apparently has been stalled temporarily in the House, and that makes the Supreme Court's continuing attitude crucial.

Yesterday, in the first hearing on the issue since the Gilbert decision, Justices Blackmun and Stewart seemed particularly troubled about what had happened to Nora Satty.

Repeatedly, they probed Nashville Gas' lawyer for justifications of the policy that took away her job and her seniority solely because she became pregnant and took time off.

The lawyer, Charles E. Wray of Nashville, ultimately relied upon a theory that pregnancy is largely a voluntary condition and that women workers choose to serve their own interests, not the company's, when they get pregnant.

Even after Wray went through his theory, Blackmun pressed on with another question: "If a worker is absent for appendicitis, would the company protect seniority?"

Wray answered that that was a "fair assumption," thus emphasizing that pregnancy was the primary basis for Nashville Gas' policy of taking away a female worker's job security.

Stewart wanted to know what "economic self-interest" of Nashville Gas would justify taking away the job status of an "experienced employee."

It was, Wray replied, to provide an incentive for employes to "stay on the job." In withdrawing seniority from a woman who takes maternity leave, he said, the company was treating her the same as it would a worker who took educational leave, putting "personal life above that of the employer."

When the turn came for Satty's lawyer, Robert W. Weismueller Jr. of Nashville, he dwelled on the facts of her case, saying that what the gas company had done in effect was to "terminate her," with results as final for her as if she had been fired just for getting pregnant.

"She had worked for the company for three and a half years, and that meant nothing," he said. "When she came back, she was at the bottom of the seniority scale and at the bottom of the pay scale."

That, he said, makes her case different from the one involving Martha Gilbert and other women workers for GE. There, it was a company policy to refuse sick pay to workers who became pregnant. But those workers suffered no other loss of job rights and did not have their basic job status changed, as Satty had, Weismueller noted.

When the court reached the teacher's case from California, the justices and the lawyers spent most of the hour discussing whether Sonja Berg had had any right to get her test case in federal court in the first place.

She went to court to challenge a school board policy of requiring teachers to take maternity leave when they might have been fit enough to keep working and denying them the right to use built-up sick leave when they did take time off to have babies.

Her case, like Satty's, involves a claim under the 1964 Civil Rights Act.

PORTLAND'S DOWNTOWN MALL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. AuCOIN. Mr. Speaker, Oregon prides itself on finding solutions to its own problems, even if those solutions by comparison with the rest of the Nation are revolutionary. It is a combination of old individualism and new activism.

To my way of thinking, the way things get accomplished in Oregon is more important and significant to the rest of the Nation than the accomplishments themselves.

Nevertheless, many of the accomplishments are meritorious and deserve recognition, so I rise today to include in the RECORD a recent story published in the New York Times describing the city of Portland's nearly completed downtown mall.

As the story indicates, enthusiasm is building for the 15-block area which has enhanced the appeal of Portland's inviting downtown.

I cannot help but think of this project as bringing full circle an earlier, controversial decision to scrap a major freeway that would have allowed motorists to speed back and forth from the city to nearby suburbs. The freeway was killed because it would have acted like a centrifuge, spinning people out of the city's center and making the city less vital. The Portland Mall, on the other hand, acts like a magnet, drawing people into the city, increasing its vitality and, perhaps most ironically, its worth to the surrounding communities.

Portland, through efforts such as the mall, is not being allowed to degenerate into a meaningless glob of concrete, or an annoyance to be overcome in scurrying from one suburb to the next. Rather, the city is being refit for our times.

Ours is an age in which people can be together, not apart; they conserve, not consume; they can have quality, rather than gross quantity. Our cities are forgotten resources hidden by the tarnish of years of neglect. But underneath, the value is there and city officials and civil leaders in places such as Portland are to be commended for discovering this wealth and polishing it off for all to see, and to use.

The Portland Mall, with its wide sidewalks, renovated stores and outdoor art, is a tribute to new vision and new commitment to restoring a place for people, an energy-efficient living environment, a place of texture, diversity, interest and personal satisfaction.

The article follows:

PORTLAND, OREG., ACCLAIMS DOWNTOWN MALL

(By Les Ledbetter)

PORTLAND, OREG., September 26.—The Portland Mall, a 15-block stretch of wide side-

walks, renovated stores and outdoor art, is nearly finished, and thousands of area residents are already enthusiastic.

Begun in 1975 and scheduled for completion late this year, the mall is essentially a $15 million designer's bus stop. Although Portland's downtown has not deteriorated as much as those of other cities, the civic planners here created the project to bring in shoppers by encouraging pedestrian and bus traffic, as well as to set the style for a developing building boom in the area.

An outdoor fair this weekend, dubbed "Artquake," attracted one of the largest crowds ever seen in Portland to the downtown blocks that were filled with tents and stages offering music, food, crafts, arts, excitement and a sense of community.

Those who wandered along the new streets and sidewalks of brick and granite also got a close look at the shelters, the art works, the big signs and the kiosks designed to promote center city activity and mass transportation.

"We've lived in St. Louis and San Diego, and both could use downtown malls like this to really help the cities survive," said Mirnie Stapleton as she watched the downtown festival the other night.

"We lived in Dallas before and downtown wasn't ever a place to shop," said her friend, Pam Offutt. Both women were at Artquake with their husbands and children.

HELP FROM FEDERAL FUNDING

The Mall is being built by the Tri-County Metropolitan Transportation District, or Tri-Met, with the Urban Mass Transportation Administration paying $12 million and the three-county agency the rest.

Ten blocks of Southwest Fifth and Sixth Avenues are being reconstructed with wider and more amenable sidewalks for pedestrians and special lanes exclusively for buses that radiate from here to suburbs and satellite cities.

Imaginative passenger shelters and information kioaks are being built. Large, easy-to-read signs are being placed on the 24-foot-wide, red brick sidewalks with granite curbs.

More than $250,000 has been spent to buy and install outdoor art, some of it controversial. Private businesses have spent several million for renovation and construction in the area and have announced plans to spend millions more as Portland's downtown boom accelerates.

"Presently 22 percent of those coming in to downtown use the buses, and that will have to double by 1980 if the projected growth of downtown is to be handled efficiently," said Roger Shiels, the mall project coordinator for Tri-Met. "To make riding buses respectable, enjoyable, we have to make access better and more desirable with the mall."

Richard E. Johnson, Portland's mall coordinator, said that the major role of the city had been to clear obstacles that could have delayed or stopped the project.

"We've provided two inspectors—one to coordinate utility work and one to work with construction units," Mr. Johnson said.

This effort prevented bureaucratic delays on permits and maps, kept utility work three weeks ahead of other construction and avoided clashes with civic and city groups.

The city will also build a terminal at the north end of the mall to serve long-distance buses, which are to be kept out of the mall.

"The mall is the spine for development," said David Kottkamp, an aide to Mayor Neil Goldschmidt who deals with development. "Zoning is such that new high-rise office buildings will be constructed along this spine; the outdoor arc is critical in establishing quality."

Mr. Kottkamp expressed relief that as the mall is being completed, complaints from downtown businesses, workers, shoppers and residents have decreased, adding: "Everything was at its worst last year, all torn up, when the Mayor ran for re-election against a guy who ran against Tri-Met and the mall."

Although no businesses in the mall area failed, decreased foot traffic during construction had many worried that the mall might kill the downtown it was designed to save.

Even as these worries fade, however, some residents of the area still find fault with the mall.

LIMITED CONVENIENCE

"It's really a convenience for those who work and shop downtown, but not those who live here," said Mary Burki, president of the Downtown Community Association, which represents students, the elderly and others in the neighborhood.

Miss Burki, an urban studies major at nearby Portland State University, said the mall caused more air pollution and bus congestion, especially during rush hours, when "its real dangerous if you're slow."

She praised the free bus rides downtown and the new benches and shelters, but she said the association would like low-cost housing and "cheap" places to shop.

Private construction in the area will focus on two major hotels costing more than $50 million and on high-rise office buildings and short-term parking garages that are to cost almost $100 million.

Local stores like Meier & Frank and national chains like J. C. Penney have spent millions renovating their stores on the mall. "We're committed," said Mark Zertanna, a Meier & Frank executive.

"Ground floor vacancy is below 1 percent and rents are going up—things that haven't happened since the shopping mall east of the [Willamette] River 17 years ago," said William Naito, a local developer who organized Artquake to promote the mall and downtown Portland.

"My idea was you had to have public acceptance and approval fast," said Mr. Naito, who got support from Tri-Met, the city, the Portland-Multnomah County Metropolitan Arts Commission, local businessmen and artists, the Oregon Art Commission and the National Endowment for the Arts.

"The mall's already a success with transit experts and city council members from San Diego and Denver here to see it," he said proudly. "I even showed Mrs. Mondale around last week," he added, referring to the wife of the Vice President.

COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. RODINO. Mr. Speaker, once again I come before my colleagues who represent every place in America to talk about the national holiday we all celebrated on October 10. Columbus Day, as most of you know, is a time very close to my heart. In the year I enter Congress, 1949, I introduced legislation to make the day that Christopher Columbus discovered the New World a national holiday. Nearly 20 years later, on June 28, 1968, President Lyndon Johnson signed the Monday Holiday Act into law with my bill included as 1 of the 2 days of the year honoring only one man.

Christopher Columbus was a complex man, courageous and eager for action and adventure, yet he was also a very sensitive man of deep faith. It was his faith and self-determination which enabled Columbus to obtain support for what so many considered an improbable or impossible venture. With his prayer upon departure, "Jesus and Mary be with us on the way," this undauntable man of faith began the voyage on September 9, 1492, that was to benefit future ages and to change the course of human civilization.

To celebrate Christopher Columbus the man is sufficient reason, in and of itself, to justify a national celebration. However, yesterday America celebrated much more than the discovery of our continent. It is the timeless spirit of Columbus that has meaning for us in 1977. Columbus was the prophecy of America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many people have since turned for refuge and hope.

We are truly a Nation of immigrants, and on Columbus Day we paid tribute to the virtue of perseverance against the paralysis of baseless fear. I reminded my American friends of Italian descent during the joyous celebration of Columbus Day, that were it not for the Spanish Queen who supported his venture, the Portuguese mapmakers who guided him, and the various Europeans who manned his ship, the great Italian explorer would never have made his famous discovery. And his lasting accomplishment was his inspiration to those who came after him—those people of every race, color, and creed who landed on our shores and became responsible for our country's growth and greatness.

Columbus Day should make us ever more proud of our roots and respect the ways of life of other peoples. The more we learn about each other's heritage, the more American we truly become. This past week, Mrs. Mondale and I had the great pleasure of opening the American Folklife Festival in Washington, which celebrates all the traditions of ethnic America. By honoring America's various cultures, we honor the spirit of discovery, invention and exploration exemplified by Columbus.

It is not difficult to update the story of Columbus to make it meaningful for our own lives. That explorer fought tenaciously to distill truth from myth and once he found truth, to make it triumph. At a time when we are faced with the fears of domestic crime and the possibility of international nuclear holocaust, of the deprivation of our urban poor, of the bitter hardships of the unemployed and the neglected elderly and disadvantaged, we must rededicate ourselves toward a voyage of progress, to improve our human condition, to eliminate the undenied inequities which exist in our country and to find means to eradicate the sources of poverty, unrest and divisiveness. These are goals not unlike those set by the immigrants who have made America great.

Like the Italian navigator who pressed onward in his quest for the New World, let us find a resurgence of the spirit of Columbus to meet the challenges of our times.

TAX TREATMENT OF EXCHANGES UNDER CONRAIL FINAL SYSTEM PLAN

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. FISHER. Mr. Speaker, this amendment relates to the need to deal with the problem created by the passage of Public Law 94–253 (effective March 31, 1976) amending section 374 of the Internal Revenue Code in connection with the tax treatment of exchanges under the final system plan for Conrail. This legislation provided for no gain or loss to be recognized on exchanges under the final system plan for reorganizing the Eastern railroads but did not deal with recapture of investment tax credit which might result from such exchanges. The following discusses a recommendation for a solution to the investment credit recapture problem.

Specifically, the difficulty relates to the transfer by Erie Lackawana (Erie) of certain of its assets to ConRail effective April 1, 1976 in pursuance of the final system plan. Erie is a wholly-owned subsidiary of Dereco, Inc., which in turn is a subsidiary of Norfolk and Western (NW). Thus, Erie is a member of the NW consolidated group and its tax results are reflected in the NW consolidated group and its tax results are reflected in the NW consolidated return. Erie became an affiliate of NW in 1968 pursuant to order of the Interstate Commerce Commission (ICC) following protracted litigation by NW opposing the inclusion of Erie in its system. Notwithstanding its objections, NW was compelled by the ICC to acquire the stock of Erie in 1968 at a cost of $55 million in NW common stock.

Erie entered bankruptcy reorganization proceedings in 1972. Subsequently, the reorganization court found that Erie could not be reorganized on its own and, pursuant to the ConRail legislation, Erie conveyed a large portion of its property, including virtually all of its railroad equipment, to ConRail under the final system plan.

In March 1976, ConRail proposed tax legislation relating to the exchanges under the final system plan. This legislation was passed and became Public Law 94–253. It amended section 374 of the Internal Revenue Code by adding a new subsection (c), which provides that no gain or loss shall be recognized where rail properties of a railroad corporation are transferred to ConRail in exchange for stock or securities of ConRail or certificates of value. It further provides that the basis of assets conveyed to ConRail will be the same as their basis in the hands of the transferor railroad and that the basis of securities received by the transferor railroad corporation will be the same as the basis of the assets transferred. The legislation was introduced and progressed to passage in a very short time in order to be effective by the April 1 date of the transfers.

As a result of the fact that the basis of assets of Erie which were transferred to ConRail was greatly in excess of the value of ConRail securities and certificates of value received by Erie on the exchange, the effect of this legislation was to prevent the recognition by Erie of a substantial loss on the exchange. Notwithstanding the adverse tax effect of nonrecognition of this loss to a member of the NW consolidated group, NW supported the general thrust of the legislation because of the possibility that allowing a higher asset basis to carry over to ConRail might ultimately help ConRail and assist the Eastern railroad situation to the betterment of the entire railroad industry.

In dealing with the transfer of assets to ConRail, the amendment to Section 374 did not cover the problem of investment credit recapture. Accordingly, under section 47, an early disposition occurred with respect to the assets of Erie transferred to ConRail. As the law now stands, investment tax credit recapture would still occur, notwithstanding the fact that the exchanges pursuant to the ConRail final system plan involve nonrecognition of gain or loss and basis carryover. The impact of recapture in this situation would cost NW approximately $3 million in investment credit. The other railroad corporation involved in ConRail transfers have been reviewed and to the best of our knowledge NW is the only company which would be adversely affected by the investment credit recapture on the ConRail transfers.

Investment credit recapture in this situation is an obvious inequity and to alleviate the hardship created it is proposed to amend the Internal Revenue Code to provide that no investment tax credit recapture should occur in such an exchange. The purpose of the amendment to section 374 was to provide for a higher carryover basis in ConRail for the assets which it received. The amendment was never intended to be a revenue-raising measure nor to reduce the cash flow of any element of the railroad industry. Accordingly, I believe an amendment to prevent recapture and to keep these amounts in the railroad industry where they can be used for needed transportation purposes is fully warranted:

PUBLIC LAW 94–253

An Act to provide tax treatment for exchanges under the final system plan for ConRail

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL

(a) IN GENERAL.—Section 374 of the Internal Revenue Code of 1954 (relating to gain or loss not recognized in certain railroad reorganizations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—

"(1) IN GENERAL.—No gain or loss shall be recognized if, in order to carry out the final system plan, rail properties of a transferor railroad corporation are transferred to the Consolidated Rail Corporation (or any subsidiary thereof) pursuant to an order of the special court under section 303 or 305(d) of the Regional Rail Reorganization Act of 1973 in exchange solely for stock of the Consolidated Rail Corporation, securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof, provided, however, that such a transfer shall not constitute a disposition within the meaning of Section 47.

"(2) EXCHANGES NOT SOLELY IN KIND.—If paragraph (1) would apply to an exchange if it were not for the fact that the property received in exchange consists not only of property permitted by paragraph (1) to be received without the recognition of gain or loss, but also of other property or money, then rules similar to the rules set forth in paragraph (2) or (3) of subsection (a) (whichever is appropriate) shall be applied.

"(3) BASIS.—The basis of the property transferred to the Consolidated Rail Corporation (or any subsidiary thereof) in an exchange to which paragraph (1) or (2) applies shall be determined under rules similar to the rules set forth in subsection (b).

"(4) DENIAL OF NET OPERATING LOSS CARRYOVERS TO CONRAIL.—Neither the Consolidated Rail Corporation nor any subsidiary thereof shall succeed to any net operating loss carryover of any transferor railroad corporation.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RAIL PROPERTIES.—The term 'rail properties' means rail properties within the meaning of paragraph (12) of section 102 of the Regional Rail Reorganization Act of 1973.

"(B) TRANSFEROR RAILROAD CORPORATION.—The term 'transferor railroad corporation' means a corporation which, on March 11, 1976, was—

"(i) a railroad in reorganization (within the meaning of paragraph (11) of section 102 of the Regional Rail Reorganization Act of 1973) in the region (within the meaning of paragraph (15) of such section 102), or

"(ii) a corporation leased, operated, or controlled by such a railroad in reorganization.

ALTERNATIVE:

SEC. 47(b) could be amended to add a new subparagraph: "(3) a transaction to which section 374(c) applies."

"(C) FINAL SYSTEM PLAN.—The term 'final system plan' means the final system plan (within the meaning of paragraph (6) of section 102 of such Act). Such term includes supplemental transactions under section 305 of such Act.

"(D) SUBSIDIARY.—The term 'subsidiary' means any corporation 100 percent of whose total combined voting shares are, directly or indirectly, owned or controlled by the Consolidated Rail Corporation."

(b) BASIS AMENDMENTS.—

(1) BASIS OF PROPERTY RECEIVED BY TRANSFEROR RAILROAD CORPORATIONS:—Section 358 (a) of such Code (relating to basis to distributees) is amended by striking out "or 371(b)" and inserting in lieu thereof "371(b), or 374".

(2) ALLOCATION OF BASIS.—Subsection (b) of section 358 of such Code (relating to allocation of basis) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN EXCHANGES INVOLVING CONRAIL.—To the extent provided in regulations prescribed by the Secretary or his delegate, in the case of an exchange to which section

354(d) (or so much of section 356 as relates to section 354(d)) or section 374(c) applies, for purposes of allocating basis under paragraph (1), stock of the Consolidated Rail Corporation and the certificate of value of the United States Railway Association which relates to such stock shall, so long as they are held by the same person, be treated as one property."

(c) EFFECTS ON SHAREHOLDERS AND SECURITY HOLDERS.—Section 354 of such Code (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end thereof the following new subsection:

"(d) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—No gain or loss shall be recognized if stock or securities in a corporation are, in pursuance of an exchange to which paragraph (1) or (2) of section 374(c) applies, exchanged solely for stock of the Consolidated Rail Corporation, securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof."

Clause (i) of section 356(d)(2)(B) of such Code (relating to receipt of additional consideration) is amended by striking out "subsection (c) thereof" and inserting in lieu thereof "subsection (c) or (d) thereof".

(d) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATON PROCEEDINGS.—Section 374 of such Code (relating to gain or loss not recognized in certain railroad reorganizations) is amended by adding at the end thereof the following new subsection:

"(e) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATION PROCEEDINGS.—

"(1) IN GENERAL.—If—

"(A) any corporation receives or accrues any amount pursuant to—

"(i) an award in (or settlement of) a proceeding under section 77 of the Bankruptcy Act,

"(ii) an award in (or settlement of) a proceeding before the special court to carry out section 303(c), 305, or 306 of the Regional Rail Reorganization Act of 1973,

"(iii) an award in (or settlement of) a proceeding in the Court of Claims under section 1491 of title 28 of the United States Code, to the extent such proceeding involves a claim arising under the Regional Rail Reorganization Act of 1973, or

"(iv) a redemption of a certificate of value of the United States Railway Association issued to such corporation under section 306 of such Act,

"(B) any portion of such amount is includible in the gross income of such corporation for the taxable year in which such portion is received or accrued, and such taxable year begins not more than 5 years after the date of such award, settlement, or redemption, and

"(C) the net operating loss of such corporation for any taxable year—

"(i) was a net operating loss carryover to, or arose in, the first taxable year of such corporation ending after March 31, 1976 (or, in the case of a proceeding referred to in subparagraph (A)(i) which began after March 31, 1976, ending after the beginning of such proceeding), but

"(ii) solely by reason of the lapse of time, is not a net operating loss carryover to the taxable year referred to in subparagraph (B),

then such net operating loss shall be a net operating loss carryover to the taxable year described in subparagraph (B) but only for use (to the extent not theretofore used under this subsection to offset other amounts) to offset the portion referred to in subparagraph (B).

"(2) SPECIAL RULE.—For purposes of paragraph (1)(C)(i), a corporation which was a regulated transportation corporation (within the meaning of section 172(j)) for its last taxable year ending on or before March 31, 1976, shall be treated as such a regulated transportation corporation for its first taxable year ending after such date.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to taxable years ending after March 31, 1976.

Approved March 31, 1976.

A TRIBUTE TO GENERAL PULASKI, AMERICAN REVOLUTIONARY WAR HERO

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. FARY. Mr. Speaker, October 11 will mark the 198th anniversary of the death of an outstanding Polish patriot who, during the Revolutionary War, sacrificed his life for our country. General Casimir Pulaski, a hero of two continents, will always be remembered as a proud and courageous soldier, the founder of the American cavalry, and a man who gave his life for the cause of American liberty.

Born in 1748 in Podolia, Poland, of an aristocratic and distinguished family, Count Pulaski turned his interest to military affairs. At the age of 20 he joined his father and brother in forming the Confederation of Bar and, by so doing, pledged his time, fortune, and life to the independence of his country. Pulaski led the Polish insurrection against the domination of Poland by Russia, Austria, and Prussia. His heroic feats against overwhelming odds, and his fame as a cavalry leader spread throughout Europe.

General Pulaski first heard of the American rebellion against the British in Paris, and in the summer of 1777 volunteered his services to Washington's army. Impressed with Pulaski's credentials, Washington recommended that Congress commission him as a brigadier general so that he could command the cavalry.

Rather than waiting for his commission to be approved by Congress, Pulaski enlisted in the American Army as a volunteer and was given the rank of captain.

Pulaski fought with Washington at Brandywine and was credited with saving Washington's army by means of a bold cavalry charge. He also fought in the battle at Germantown. His commission as a brigadier general finally came through and he took command of the cavalry at Trenton, N.J. During the winter of 1777–78, General Pulaski joined forces with Gen. Anthony Wayne and helped defeat a British division at Haddonfield, N.J. Generals Pulaski and Wayne again fought side by side in skirmishes at Cooper's Ferry.

During the winter of 1779, Pulaski was ordered south to join forces with Gen. Benjamin Lincoln. Pulaski's Legion arrived in Charleston, S.C., while the city was under heavy seige and on the verge of surrender. He was successful in lifting the morale and the resolve of the defenders until reinforcements under General Lincoln could lift the siege itself.

General Lincoln, General Pulaski, and French Admiral D'Estaing then combined forces against the British who were occupying Savannah. Pulaski was severely wounded in this charge and died aboard the brig *Wasp* on the way to Charleston. Although he was buried at sea, funeral services were held afterward in the city of Charleston and the citizens of Savannah, Ga., erected a monument to the memory of Gen. Casimir Pulaski.

Pulaski's untimely death at the head of this famous cavalry charge served his noble dedication to the ideals for which the colonists fought. His example of sacrifice and devotion to our Nation's cause is a model of patriotism for all times.

I am sincerely proud to join Americans of Polish descent in the Fifth District in Chicago, and all over this great Nation in commemorating the 198th anniversary of General Pulaski's supreme and inspiring sacrifice during our American War of Independence.

SOME GOOD WORDS ABOUT CONGRESS—FOR A CHANGE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MAZZOLI. Mr. Speaker, criticizing Congress is the "in" thing to do nowadays. It is easy sport.

I believe, however, that today's Congress is a good one. One which serves the taxpayers well despite all the negativism in the press and on television.

My feeling is confirmed in two recent news stories—one in U.S. News & World Report by Thomas Foley and the other in the Wall Street Journal by Ervin S. Duggan and Ben J. Wattenberg.

I commend these two articles to my colleagues:

[From U.S. News & World Report, Sept. 26, 1977]

WORST CONGRESS IN YEARS—OR IS IT?

Despite the peccadilloes you read about, lawmaking today is more than a cut above what it used to be in at least six key ways.

This Congress is proving as adept as any in memory at giving itself one black eye after another.

First came the pay raise. It was handled in a way that won lawmakers blame for both taking the raise and for initially refusing to vote on it.

Then came the disclosure that for years the House and Senate have been drastically understating the costs of overseas junkets, which have long been a sore point with taxpayers.

Next was the blowup over the South Korean bribery scandal, which has filled the air with charges of cover-up and foot dragging.

Eight months into the new legislative session, it is no wonder that opinion polls continue to show public confidence in Congress hovering near an all-time low. Many Americans clearly believe that their national legislature is worthy of ridicule and disdain.

Are they correct? Judging from the headlines alone, it would seem so. Yet when you stand back and look at Congress in broad perspective, you see a much more encouraging picture.

Taking 1967 as a point of comparison, you find sweeping changes over the last decade in the way the House and Senate operate. In at least six important ways, Congress today shapes up as a better institution.

1. Congress is more democratic.

Ten years ago, fewer than 50 of the 535 members of the House and Senate, the chairmen of the standing committees, held a near monopoly on legislative power.

Chosen by seniority and serving until retirement, the chairmen were largely a law unto themselves. They were elected to Congress by a tiny fraction of the national electorate, yet they could almost singlehandedly reshape bills to suit their fancy. Or they could kill a proposal altogether, thumbing their noses at junior legislators, party leaders and Presidents alike.

Today this has changed. The toppling of three veteran House chairmen in 1975 shattered the tradition of tolerance for dictatorial excesses. Chairmen remain important figures, but their powers now are constrained by the consensus on their committees, in Congress and in the country.

What does this mean for Americans generally? It means a Congress more responsive than ever before to the sweep of voter opinion and less prone to the throttling of popular legislation by parliamentary maneuvers.

2. Legislative leadership is more widely dispersed, with younger lawmakers now playing a bigger role.

A decade ago, committee chairmen usually held a hammer lock on chairmanships of key subcommittees, too.

One result: Younger members, no matter how talented, were generally excluded from even these secondary leadership positions until they had accumulated many years of seniority and often lost any desire to examine existing policies critically.

Another result: Aging chairmen often had their hands so full that they could not give their responsibilities the attention needed.

Today, the hoarding of subcommittee chairmanships by senior legislators is forbidden. In the Senate, 57 of the 61 members of the Democratic majority, including 7 freshmen, chair at least one subcommittee. In the House, 145 of the 289 Democrats are committee or subcommittee chairmen, including some in their second terms.

In short, Congress has "spread the action," as reformers term it. Voters who send a talented newcomer to Capitol Hill can expect to see their representative carve out a niche of some influence within a few years.

3. The secrecy surrounding lawmaking has been largely stripped away.

Ten years ago, when committees met to vote on legislation, they locked their doors to public and press. When legislation reached the House or Senate floor, important amendments often were decided in unrecorded votes.

This kind of secrecy worked against a basic democratic principle: keeping Congress responsive to the people. It was an open invitation to hypocrisy, deceit and special-interest lawmaking.

By contrast, the closed door now is the exception on Capitol Hill, the open door the rule. Committees mark up bills in open meetings, with the press and interested citizens looking on. What's more, it is rare for an important question to be decided in the House and Senate chambers nowadays without a roll-call vote.

There is no question that plenty of behind-the-scenes maneuvering by special interests still goes on. But it is harder than ever before for legislators to pull the wool over their constituents' eyes. With key decisions now spread on the public record, voters can better judge whether elected officials are properly using their powers.

4. Congress's ethical restrictions have been significantly beefed up.

In the late 1960s, both houses of Congress for the first time imposed codes of conduct on their members. The standards were weak, vague and ridden with loopholes.

The House had an anemic requirement for public disclosure of Representatives' outside income that often concealed more than it revealed. In the Senate, no public disclosure at all was required, except for speaking fees. In neither chamber were there any limits on the income legislators could earn outside of Congress.

In sum, Capitol Hill was an ethical wilderness. Whether the question involved a conflict of interest, an office slush fund rustled up by special interests or a mistress on the payroll, the rule for many seemed to be: If you can get away with it, it's ethical.

In today's situation, a tough new ethics code, approved last spring, is being phased in fast. It bars acceptance of private money for office expenditures and acceptance of anything from lobbyists beyond the most minor gifts. It requires almost total public disclosure each year of lawmakers' financial holdings, and it clamps sharp limits on all outside earned income.

How rigidly the standards will be enforced remains to be seen. But the new rules are likely to achieve two things:

Make it a lot tougher for legislators to sell out to special interests.

Give voters solid information for determining whether a Congressman is looking out for the public interest or some private interest of his own.

5. Congress is more responsible in fiscal matters.

Ten years ago, the House and Senate handled spending measures in a chaotic, head-in-the-sand fashion. Money bills were dealt with piecemeal as they came up, with scant regard for the effects of each on total Government spending, the deficit and the economy.

Congress no longer flies by the seat of its pants in its spending decisions. Under a new budget-control system set up in 1974, a binding ceiling is placed on federal spending each year. Every money measure must be tailored to insure that the ceiling is not breached.

Under these procedures, Congress agreed in mid-September on a 458.2-billion-dollar spending ceiling for the fiscal year beginning October 1.

The system is no cure-all for deficits; it was not meant to be. But it insures that Congressmen will have as clear a picture as possible of the impact of their spending moves, and enables voters to call lawmakers to account for that impact.

6. Congress works harder.

A decade ago, the House and Senate were both following work schedules that smacked of the horse-and-buggy era. Congress ordinarily worked only three full days a week. Behind this truncated workweek was the habitual truancy of the so-called Tuesday-through-Thursday Club—the many lawmakers addicted to skipping home for long weekends in their districts.

Even when the legislators were in Washington, their pace was far from impressive. Committee meetings seldom were scheduled to begin before 10 a.m., usually began late and ended before noon. As for meetings of the full House and Senate, floor sessions started at noon and normally petered out after three or four hours, except during the end-of-session rush.

Such sleepy habits are now only a dim memory on Capitol Hill. While long recesses still are taken frequently, Congress puts in a full five-day workweek most of the time it is in session. Committees sometimes are gaveled to order as early as 7 a.m. Floor sessions often begin at 10 a.m. and stretch through the afternoon and into early evening or later. Thus, while congressional salaries—$57,500 per year—are at a level that many Americans consider outrageous, most legislators are working harder than ever before to earn their pay.

Not all of these changes in Congress's way of doing business are unmixed blessings. The unhorsing of autocratic committee chairmen and general dispersion of power are changes, for example, that have come at a price. They have complicated the tasks of both Congress's leaders and the White House in hammering out broad national policies.

Instead of consulting a handful of senior legislators, the norm only a few years ago, leaders now must cope with an often mercurial throng of 535 lawmakers. The result sometimes is delay and deadlock. It makes Congress look to many Americans like a headless and erratic force thrashing about wildly while national problems fester.

House Speaker Thomas P. ("Tip") O'Neill solved the problem on President Carter's energy legislation by naming an ad hoc committee to oversee work on the package. However, problems remain in the Senate.

What's more, the sweeping changes of recent years have left some big institutional problems yet to be solved.

One is the Capitol Hill bureaucracy. It has been growing hand over fist, and now numbers almost 20,000. Accompanying the staff explosion has been greater delegation of power, leading to worry that crucial decisions are being made by unelected officials.

No one would argue that Congress is about to lose the knack of getting under people's skin. In any body of elected politicians as diverse as the House and Senate, that is inevitable. But voters might find solace in the thought that Congress, after all, could be worse than it is.

Not so long ago, it was.

[From the Wall Street Journal, Sept. 26, 1977]

JOHN EHRLICHMAN'S FINAL SAD REVENGE

(By Ervin S. Duggan and Ben J. Watenberg)

Consider one evening's television fare on a day in September.

On the news, there is still more about Bert Lance's financial habits, followed by another bulletin on the Korean bribe scandal.

Then, in prime time, 90 minutes of Richard Nixon, first dogged, then desperate as he tries to convince us—too late— that he is not a crook; that the 18-minute gap on Rose Wood's tape recorder was a mysterious, but minor, accident; that the real, if unwitting, villain of Watergate was—are you ready?—Martha Mitchell.

And finally, the piece de resistance: "Washington: Behind Closed Doors," the ABC–TV extravaganza based on John Ehrlichman's eerily conspiratorial novel, "The Company." The book offers a reptilian vision of political Washington, served up with relish by producers who were only too ready to remind us that it is all "based on fact."

What are Americans to make of all this? The hapless viewer, struggling to sort out this crazy juxtaposition of fact and "fiction," can hardly be blamed if he gets the idea that Washington is a living work of soft-core pornography, acted out by characters who, to a man, have no redeeming social value. Booze, sex, bribery and blind ambition; political moguls driven by greed and ego to burglarize, blackmail, and according to "Washington: Behind Closed Doors," to murder.

It's all there on television, isn't it? It is fact, or "based on" fact, isn't it, and therefore true?

Of course not.

Like John Ehrlichman, we worked in the White House in a time of great national turmoil. As speechwriters and aides to Lyndon Johnson in the 1960s, we, too, watched a President and his high officials react to war, domestic turbulence and rolling legislative battles. Like John Ehrlichman, we learned some striking lessons about what power (and proximity to power) can do to people. Like Ehrlichman, we have written a novel about the Washington we know; we, too, have spun a plot around a President, a war, a Secretary

of State, some heavy political hardball—and some sex.

But there the similarity ends. For Ehrlichman's Washington, the Washington he wrote about and sold to Hollywood, is a place of relentless cynicism. In his melodrama (embellished by ABC), the story line is not good guys versus bad guys but—bad guys versus bad guys.

The Washington we know is something more subtle, more complicated and more moral by far. As writers, we would also suggest that it is also more interesting than rampant venality. Washington drama is, for the most part, good guys versus good guys. Flawed good guys, to be sure; good guys who, too often, fail or fall from grace; good guys who aren't always smart guys; good guys who have to act on incomplete information under great pressure; good guys who are not privileged to know in advance or with certainty which way the great march of history is proceeding—but good guys.

In real-life Washington, for example, while "Behind Closed Doors" was playing to packed living rooms across America, a different kind of drama was being enacted, a drama that pitted the Secretary of Health, Education and Welfare, Joseph Califano, against the Attorney General of the United States, Griffin Bell. At issue was a deeply serious question: How shall the nation guarantee, to black and poor students, fair access to higher education in America? By quotas (or goals, as Califano calls them), or by some less stringent method? At stake was the mind of the man both Cabinet members were struggling to persuade: Jimmy Carter's. He had to decide over a quiet weekend how his administration would stand on the question in a landmark case before the U.S. Supreme Court.

For most of the week the two men and their staff lawyers argued, plotted, cajoled, quietly enlisted allies, whispered to reporters, worried, agonized, swore to battle to the end and never compromise. It was an authentic battle-royal fought, fascinatingly, behind closed doors.

But there was nothing sinister about it. For each of the embattled Cabinet members was, and is, a decent man; each a patriot, each committed in his own way to the American idea of equal opportunity. Good guys, in short, versus good guys.

It is such battles that create the real drama of Washington—and, we believe, the truth about the capital, a truth that endures despite the television fare of recent days.

In a (joint) quarter of a century of residence in this strange and steamy city, we have served, with varying degrees of intimacy, one President, a Vice President, four Senators and one Cabinet officer. We have known, and worked with, Congressmen, lobbyists, Washington lawyers and bureaucrats. We have yet to witness an act of bribery or blackmail, graft or cynical betrayal.

We've been lucky, of course. We never met Agnew or went to dinner with Tong Sun Park.

But the Washington we know is, we believe, the real one. It is a city whose crimes and scandals, like crimes and scandals in other cities, make the headlines—precisely because they are such interesting departures from the norm.

Behind the closed doors of this Washington, and more often, right out in the open, people struggle for what they see as decent, even noble, ends. This Washington is the Washington that has set into motion Medicare, federal scholarship money, a prudent and awesome national defense force, national parks, a world-wide campaign for human rights, and nothing less than the political and military organization of what is still "the free world."

The denizens of the real-life Washington do not drink, steal or commit adultery with notably greater frequency than their counterparts in other cities. They turn out, on the Fourth of July, to watch the fireworks at Mount Vernon College and the Washington Monument and to tap their feet to the marches of Sousa and the "Up With People" chorus. Some swingers!

They are, nonetheless, often characters in a high drama. Not a drama of conspiracy, blackmail, vendetta, extortion or skulduggery; but the drama of large stakes and real issues: issues like energy and the environment, war and peace. The people of this Washington are oil lobbyists and Sierra Club members, hawks and doves, good guys, most of them, in the sense that all of them are driven by what they believe, rightly or wrongly, to be best for their country.

It is John Ehrlichman's final sad revenge that he and Hollywood, in a lurid melodrama crazily "based on fact," have done so much to discredit this real Washington, whose decent public servants are already so handicapped by the destructive myth that "they all do it."

MISCONCEPTIONS OF PRESENT SEALED BIDDING REGULATIONS

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. KREBS. Mr. Speaker, H.R. 6362, the bill to create an Advisory Committee on Timber Sales Procedure will soon receive a rule and be considered by the full House.

The part of the bill that most concerns me is section 9, which contains a provision for repeal of the sealed bidding section of the National Forest Management Act of 1976. H.R. 6362 barely passed the House Agriculture Committee by a 22 to 20 vote and is opposed by the administration, so I do not stand alone in the belief that this legislation should not be enacted into law.

There are several misconceptions which proponents of oral bidding will be advancing in the debate to come on this legislation. Among these are the arguments that oral bidding of national forest timber does not promote collusive bidding practices, that there is no difference between oral and sealed bidding in the amount of revenue derived by the U.S. Treasury, that sealed bidding seriously hurts small dependent communities, and that the provisions of section 14(e) of the Forest Management Act do not accurately reflect congressional intent.

I would like to address these misconceptions, particularly since it seems premature to repeal regulations which have not been given an adequate period of time for fair evaluation. The fact of the matter is that sealed bidding has thus far proved to be not only quite workable, but also very profitable to the Federal Treasury and U.S. taxpayers.

COLLUSION

First, the proponents of establishing an advisory committee on timber sales argue that the oral bidding of timber sales in the West does not necessarily encourage collusive bidding practices. Several timber industry witnesses testified to that effect during the February hearings on this legislation before the Forest Subcommittee. It is possible, of course, to collude under both the sealed and the oral bidding systems, however, under sealed bidding, it is far more difficult because an unknown factor will always exist; that is, who will participate in the bidding and how high the bids will go.

Until the 1940's it had been the tradition of the Forest Service to deal exclusively with sealed bids. Since that time, however, most sales in the Pacific Northwest and California have been let by oral auction. In the East, the South, and the Lake States sealed bidding is still uniformly utilized, while in the Rocky Mountain States approximately one-half of the sales are by sealed bid and one-half by oral bids.

In those areas where sealed bidding has been used exclusively, there has been no evidence of antitrust violation. On the other hand, in the Pacific Northwest and California, where oral auctions are predominant, there have been strong indications of collusive practices involving rigging. The Justice Department has indicated there is good reason to believe that the practice of collusive bidding is not limited to a few isolated instances. Several major investigations into possible collusive bidding on Federal timber located in northern California, Arizona, New Mexico, Oregon, and Washington are currently underway.

In 1956, the House Committee on Government Operations and the Senate Committee on Interior issued a report on Federal timber sales policies which recommended that more sealed bidding be used in order to enhance competition and insure a fair return from timber for the Federal Government. In 1965, the problem in the Pacific Northwest became so severe that the General Accounting Office issued a report (No. B-125053) recommending more sealed bids be used in that region. In May of this year, the ninth circuit court upheld the Oregon conviction of the Champion International Corp. on bid rigging charges in the case of the United States against Champion International Corp. (Ore. 1974).

The intent of the sealed bidding provision of the National Forest Management Act of 1976 is to prevent such collusion from occurring. There have been laws on the books for many years against antitrust activities, but the close-knit nature of the timber industry has made it extremely difficult to establish hard evidence of collusion. The Justice Department in its April 26, 1977 letter to Secretary of Agriculture Bob Bergland has set forth the firm conviction of Department officials that sealed bidding could substantially cut down on collusive activities and promote healthier competition in bidding practices.

MORE PROFITS THROUGH SEALED BIDDING

Second, there has been disagreement concerning which method of bidding produces more revenue for the Federal Government. The latest Forest Service figures, however, from the six western

Forest Service regions for the first 6 months of the year indicate that sealed bidding consistently brought in more revenue than oral bids. Furthermore, in region 6, the most active timber producing region in the country, Forest Service data also indicate that in the same 6 months, sealed bidding produced greater revenue for the U.S. Treasury than oral bids.

Thus, in both Oregon and Washington, where a mix of oral and sealed bidding has been used since January of this year, sealed bidding produced an average of $13.39 more per thousand feet of timber sold in the western half of the region and an average of $11.45 more per thousand feet in the eastern half. Library of Congress calculations indicate that the U.S. Government would have lost between $20 and $35 million if oral bidding had been used exclusively during this 6-month period in region 6.

It has been suggested that the 6-month period is too short to be conclusive. This may well be so. It is for this very reason that a 1-year review of the present regulations should not be prevented by the premature and ill-conceived repeal of the sealed bidding requirement.

DEPENDENT COMMUNITIES

Third, another major misconception about the sealed bidding provisions of the National Forest Management Act is the assumption that sealed bidding represents a threat to the economic survival of so-called dependent communities. Those who seek repeal of the sealed bidding section would leave us to believe that present regulations provide for the exclusive use of sealed bidding. Nothing could be further from the truth. As a matter of fact, these regulations call for 75 percent oral bidding and only 25 percent sealed bidding in the case of dependent communities. This bidding formula represents a drastically watered down version of the initial regulations which called for the almost exclusive use of sealed bids. These regulations were changed in response to fears expressed by certain timber interests that sealed bidding would deprive dependent communities of an ample timber supply. However, the Justice Department conducted a survey which found that those fears were groundless. Then Assistant Attorney General Donald I. Baker, in the April 26, 1977 letter stated:

> The bid results of sealed bid sales in Region 5 and 6 under the interim regulations can best be described as normal in comparison to the observed results under oral bidding during the recent past. This fact underscores the need under permanent Section 14(e) regulations to require a showing of actual threat to the stability of the 'dependent communities' before the Forest Service should consider alternatives to the sealed bidding method.

Thus the survey clearly found that in nearly 5 months of exclusive sealed bidding in region 6, "virtually all sales were purchased by local firms."

In response to an inquiry, officials of the Forest Service have confirmed that since the beginning of the year, no closing of timber mills could be traced to the original sealed bidding regulations required by the National Forests Management Act of 1976.

Furthermore, in a September 26, 1977 letter from USDA Deputy Secretary John White to Chairman FOLEY of the House Agriculture Committee, the administration's policy on protecting dependent communities was clearly spelled out:

> With regard to the bidding question, revised regulations were issued on June 2, 1977. We believe these regulations provide adequate protection for dependent communities. After careful review of these regulations and questions raised on the effects of the regulations, we conclude it is not necessary or desirable to change the basic statute under which they were developed. We therefore oppose enactment of H.R. 6362 or Senate act, S. 1360, and we would oppose any other amendment to subsection 14(e) at this time. We need to gain experience in implementing the law and will review the regulations at the end of one year of usage. We are committed to a fair and workable implementation of the law.

The final regulations now in effect provide for an appeal to the Forest Service by an unsuccessful bidder or in the case of a community which feels that its economic survival is threatened by the award of a bid.

CONGRESSIONAL INTENT

Finally, the report on H.R. 6362 (No. 95-402) states that the legislative history of section 14(e) of the National Forest Management Act of 1976 is "meagre." Some timber interests, and certain members of the Forest Subcommittee, have stated that no discussions were held in connection with the adoption of the sealed bidding proposal and that the final interpretation of section 14(e) was not according to the congressional intent. This is simply not the case.

During the subcommittee hearings on the National Forest Management Act of 1976, I first suggested the possibility of addressing the collusive bidding situation with a punitive approach—by enforcing after-the-fact-penalties. Subcommittee members pointed out that the punitive approach would not be a desirable way to proceed. Therefore, after consultation with the Forest Service, an amendment was designed to make collusive bidding more difficult. It is true the amendment in the full committee dealt only with small timber companies and thus was more modest than the one which the conference approved. Therefore, in conference the amendment was enlarged to encompass all timber sales in the West. The conference reports were agreed to and after the President signed the legislation into law, interim regulations were implemented, followed by final regulations in June of this year.

While I have felt that the final regulations referred to above have been too liberal, I do agree with the judgment of Forest Service Chief McGuire that it is far too early to reevaluate these regulations.

BENEFITS FOR VIETNAM VETERANS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mrs. SCHROEDER. Mr. Speaker, I wish to share my letter to the President on the GI benefit bill along with a Washington Post editorial on the subject. I regret to say the President signed the bill rather than vetoed it so Vietnam veterans will still be second class.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 6, 1977.

JIMMY CARTER,
President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am in full accord with the Washington Post editorial this morning on benefits for Vietnam Veterans. I hope you can see your way clear to vetoing the bill.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

[From the Washington Post, Oct. 6, 1977]

BENEFITS FOR VIETNAM VETERANS

By coincidence, Congress has sent the President legislation restricting GI benefits for veterans whose "bad paper" discharges have been upgraded just at the moment when President Carter's six-month review program for upgrading those discharges is coming to an end. The President's program, it must be said, has been something less than a success. Out of the eligible 161,000 ex-servicemen with undesirable discharges, only about 25,000 applied, and only 16,000 of the applicants received the upgrading that would theoretically have entitled them to GI benefits. And while the program itself had flaws, it must also be said that it suffered in large part from the administration's failure to make a more serious effort to explain it—and to explain the problem, as well. This failure, in turn, had other consequences: In Congress—and especially in the House—it left the field open to those who find it convenient or even patriotic to write off as "troublemakers" and "incompetents" thousands of Vietnam veterans who in many cases served honorably in combat, were wounded and in some cases decorated for valor, and who subsequently deserted in opposition to the war or got themselves into other kinds of trouble.

It is this element in Congress that we have to thank for the bill now on the President's desk that would deny automatic GI benefits to veterans whose "bad paper" discharges have been reviewed and upgraded to honorable. The President has until Saturday night to decide whether this bill fits the spirit of "forgiveness" and "compassion" with which he proclaimed amnesty for draft evaders on the second day of his presidency. In the case of the draft evaders, violations of the law were pardoned and the full entitlements of a citizen were restored. But in the case of those who served and had second thoughts—who deserted or violated other military regulations—a clean slate would not be automatic. Congress would subject their entitlements to educational, health and other veterans benefits to a strict case-by-case review under standards that generally existed before the special Carter "upgrading" program and that were unrelated to the particular circumstances of Vietnam.

We believe that the bill should be vetoed on the ground that it puts too heavy a burden on a group of veterans who are already victimized by high rates of unemployment, serious readjustment problems and, in many cases, inadequate GI educational benefits. One compromise after another has been patched onto it. A few months ago, some observers (ourselves included) saw hope that legislation offered by Sens. Alan Cranston (D-Calif.) and Strom Thurmond (R-S.C.) provided a middle-way approach that was about as positive as could be expected, considering the congressional mood. But since then, the Cranston-Thurmond approach has been tightened in several ways, most notably including an overly severe and arbitrary definition of what constitutes being AWOL—absent without leave. As Rep. Thomas Downey (D-N.Y.) has noted, the bill does not take into account the reasons, circumstances and intent of an AWOL. In determining eligibility for benefits, Rep. Downey points out, "the fact that an unauthorized absence began after a successful period of service and with only weeks left in a soldier's tour of duty would be unimportant; more disturbing, any wounds, decorations or unfair treatment of a soldier would simply be ignored."

It ought to be noted that Sen. Cranston was as diligent as possible in the art of compromise. He understood, as many others in the Congress did not, that Vietnam veterans require a different approach because Vietnam was different from other American wars—different in the way it was launched, in the atmosphere that surrounded it and in its aftermath.

Although the bill sent to the President by Congress does have some useful provisions—such as giving entitlement to hospital care to individuals with bad discharges who suffered injuries in the line of duty—it falls short of what is needed. In suggesting a veto, we believe that the veterans whose benefits and livelihoods are at stake would be better served by the strict application of the President's oft-stated principles of forgiveness and compassion than by a Congress apparently unprepared to deal equitably with the necessary, unfinished business of Vietnam.

TOO MANY LAWS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. TEAGUE. Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to include an editorial which appeared in the Fort Worth Star Telegram for September 26, 1977, written by Mr. Walt Wriston and commend it as worthwhile reading to the Members of this body.

Mr. Wriston makes two excellent observations; ones which I have spoken of many times. First, this body has abdicated its lawmaking authority by giving administrators and directors of executive agencies too much leeway in their promulgation of rules and regulations; and second, that the country would probably be just as well off if we enacted fewer laws and were not in session so long.

DEMOCRACY ENDANGERED BY TOO MANY LAWS

(By Walter B. Wriston)

Our free society is gravely imperiled, and individual freedom itself is in danger of being smothered.

The rock on which we stand is voluntarism. Democracy can be based on no other presumption. The framework which supports our unique society is that until fairly recently, most of us voluntarily conformed to the law. Today, I believe that such voluntary conformity is becoming literally impossible for the majority of the American people.

Now, only the very rich or the very poor have any possibility whatsoever of learning what the law is, surely a precondition to voluntary conformity. It is becoming increasingly true that the great bulk of our population has to ignore the law completely in order to survive. There are so many laws and regulations with the force of law that it is a fair bet that everyone is at present in violation of some statute—we just do not know which one.

Not only do we not know what the law is, we cannot afford to find out. The rich may be able to hire enough lawyers to read at least some of the laws and regulations that pour out of government at all levels, but the poor can only find out by being rousted in the street.

The web of laws is now so pervasive that much of it is useless. Since that is true, it puts the power of selective enforcement in the hands of the executive or a politician running for office or an investigative reporter looking for a story. Billy Carter found out that not having his fire extinguisher charged was a violation of law!

A dim bulb in the taillight of your car perhaps fails to pass the legal screen—the list runs on forever. It is so long that no index can be made even listing the subjects covered, let alone what the law says.

It would be tragic if what began as the rule of a law was in the end brought down through the sheer confusion the mass of law now creates. As more and more laws are put on the books each day, more and more people have to ignore them. We are training up an entire generation, who, with some justification, can have little respect for the law. Our free society, which is rooted in voluntary compliance, stands in danger of strangulation.

Madison warned that the "facility and excess of lawmaking seem to be the diseases to which our governments are most liable."

For all their insight, the framers of our Constitution could not foresee a day when approximately 500 legislators would employ 10,000 people to assist them in their legislative tasks. What they could have told their modern successors was that such a horde would propose far too much legislation.

Last year, there were 20,000 bills introduced in Congress. In a single day, not less than 242 committees and subcommittees of the Congress were in session—all, under the rules "for a legislative purpose." No wonder they produce such an indigestible mass of legislation.

Almost without being aware of it, we have ignored the basic intention of the Founding Fathers that we achieve a fair and equitable government through the separation of powers among the executive, legislative and judicial branches. We have forgotten John Locke's dictum that "the legislative cannot transfer the power of making laws to any other hands."

The executive, in the form of regulatory agencies, now fills the Federal Register day after day with explicit evidence that the separation of powers has eroded to an extent that constitutes a clear and present danger. What to do?

It used to be that the Congress was in session about three months each year. The rest of the time, members were home listening to the people who elected them. Today, Congress meets almost 12 months of the year with a few recesses, leaving a staff of 10,000 to dream up new laws.

Let us have a constitutional amendment that would limit the Congressional session to six or seven months. A shorter session, more contact with the electorate, and less with the staff and the Washington press corps, might restore some sense of perspective to our legislative process.

If we continue to force an increasing majority of our population to ignore the law, we shall have neither law nor liberty, but we will run the risk that an authoritarian government will fill the void.

CONCLUDING COMMENTS OF ACADEMIC PANEL AT WAYS AND MEANS SUBCOMMITTEE ON TRADE HEARING ON STEEL

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. VANIK. Mr. Speaker, on September 20, the Subcommittee on Trade of the Committee on Ways and Means held an all-day hearing on "World Steel Trade: Current Trends, and Structural Problems." The hearing consisted of three panels: First, the administration; second, an academic panel; and third, a panel of labor, management, and steel importers.

Because of the timelessness of the subject, I would like to include at this point in the RECORD the summary comments of the academic panel—comments which I am sorry to say included many more ideas than were offered by the entire administration panel.

The academic panel consisted of—

Dr. Paul Marshall of the consulting firm of Putnam, Hayes & Bartlett, Inc., Newton, Mass.;

Dr. Bela Gold, Professor of Industrial Economics and Director of the Research Program in Industrial Economics, Case Western Reserve University, Cleveland, Ohio;

Dr. Hans Mueller, Professor of Economics, Middle Tennessee State University, Murfreesboro, Tenn.;

Dr. F. Michael Scherer, Professor of Economics, Northwestern University, Evanston, Ill.

Mr. VANIK. You were here, I presume, during the time when the administration witnesses were stating about what they would recommend.

Out of that collective group of statements, are there any real suggestions made by the administration that would be viable for us to follow?

I might ask that of each member of the panel. What is your comment on the Government witnesses' response to the discussion of today, the problems?

Dr. MARSHALL. My hope would be, and belief, is that the best chance for some short-run relief is going to be in agreements with the major exporting countries in Europe and Japan, whether it is bilateral or whether it is through OECD. I believe the administrative delay that it takes to get through the bureaucracy for antidumping, will not provide short-run relief. If there is hope in the short run, it is that Ambassador Strauss can persuade our trading partners that they are creating a vast disruption in our markets at this time and convince them to change their behavior.

I don't think that will come about unless antidumping and countervailing duty actions are taken. I think by the time those are in effect, 6 or 8 months from now, there will be other major closings, if the current conditions existed over that period of time.

Dr. GOLD. I am concerned over the threatening use made of the term "protectionism." I believe that protectionism over the long run carried to extremes will lead to grave difficulties. But when I am told that protectionism is always suicidal, I ask how suicidal has it been for the Japanese in the last 15 years? How suicidal has it been for every country in the world which has engaged in some degree of restriction of foreign trade?

The question seems to me to be: What kinds of compromises can we develop with other countries, including balancing the terms of their access to our markets according to the reasonableness of our access to their markets? But the notion that we mustn't resort to any protectionism at all regardless of what others do, because of the likelihood of immediately disastrous results strikes me as ridiculous.

It is not borne out by our experience nor by the experience of the people we are dealing with. It seems to me this is a perfectly good area for negotiation and tradeoffs to make sure we have adequate protection for ourselves.

Mr. VANIK. Dr. Scherer?

Dr. SCHERER. First of all, I think we should handle the question of dumping once and for all by having a clean case that sets the criteria and gets the data.

As far as the other areas of protectionism is concerned. I sympathize with Ambassador Strauss' position. International trade is like a complex organic molecule. It can be the glue that binds together prosperity and peace in the world, but it can also turn into an explosive, as it did during the 1930's. I think we have to be very wary of this. I think we also have to recognize that the United States is the biggest, most powerful industrial nation in the world, and that whereas other smaller nations may be able to play around with protectionism, when we as the leader go strongly protectionist, we are going to have some very severe repercussions on the structure of international trade.

Mr. VANIK. Dr. Mueller?

Dr. MUELLER. First of all, I think we should separate very precisely the short-run problem, what the Europeans call a manifest crisis.

If we identify the situation as such and we think we want to maintain a healthy steel industry, first of all, we should identify the efficient and inefficient segments of the industry, and any change in law, any application of the law, or reinterpretation of laws, should be gauged to separate the issues of whether we are trying to rescue or salvage the industry from a short-run crisis, or whether we are trying to enable them to make profits so they can expand?

I have heard these two arguments side by side. They need more money to build new capacity and more money to modernize. There is a distinction in the issues here.

Then antitrust. The foreign countries do have antitrust laws. The Common Market has a law, and the Japanese do, too. In all of these laws, the structure of the industry is gauged toward international competitiveness, and in almost every case this idea has been introduced into the interpretation of the law. I believe in our country antitrust policy is inward looking. The American market is the world, I believe, for most interpreters of the law.

What I was thinking of primarily was a way to enable companies which have several plants in the same area, Cleveland, Chicago, or Pittsburgh, where you have three or four plants all belonging to different companies, to set up joint ventures. To say that this would be in violation of antitrust laws may be an exaggeration, though, because I don't believe they have tested this.

Instead of merging directly, steel companies would swap plants, or continue the plants separately, but set up a joint venture for the blast furnace stage to increase economies of scale.

What we have now is too many small plants with too much big equipment in them, and it is being underutilized even at the top capacity they can run. They are still entirely unbalanced in the equipment between small-scale and large-scale equipment, and I think some kind of plan of joint venture or throwing together small plants located side by side might alleviate the problem.

As to taking action against Europe, I think the Europeans probably can be attacked much easier on cost and also on government involvement. But the United States right now has a positive balance of trade with Europe, and the Europeans threaten retaliation. We would have more to lose than they have. We sell them more than they sell to us, and unless our exports are less labor-intensive than our imports, I don't see how import restrictions would help our labor situation.

Finally, the point I mentioned before: government involvement. In the European case, I think this should be investigated a little further in the case of France, Britain, and Italy. At the same time these industries receive funds, or low interest loans, they have also been subjected to price controls. Now, the price control in the early 1970's inflicted enormous damage on the American steel industry. The British had to contend with this for a period of about seven years. This is one of their major complaints, namely that they lost more money through price controls by the government than they got from the government in allocations. The same is true for the French steel industry. The Japanese had just a little bit of that, that is, price controls.

We therefore should investigate the whole problem of government subsidies. What was their purpose? Do they give loans to rationalize, and help them to get over the crisis of rebuilding capacity that is entirely outdated?

Then there are the LDC's. I disagree at little bit with Mr. Marshall in this respect. The LDC's are expanding their steelmaking capacity. Their cost of expansion is higher than that in the United States and double the Japanese cost. The official reason for expansion is often regional development. But we should look into this. As long as they try to become to some extent self-sufficient, so that they would not be exposed to the fluctuations of the world market, and not have their fledgling manufacturing industry exposed to the wide fluctuations in prices, this seems unobjectionable. But if they build up very costly steel capacity for export purposes and run it at a loss, I don't see that this can be justified. Moreover, the picture of subsidies and artificial exchange rates is very complicated. If we can't keep up with the Japanese cost, we can't figure out what the cost of steelmaking is in LDC's; there are too many layers of government involved there.

Again, with respect to the Trade Act, the way I have read (the latest studies on Japanese versus American costs) conclusions are drawn on selling below costs. The impression is felt that the Japanese or everybody else should sell at the administered prices. If the cost concept of the Trade Act is very fuzzy at the present time, it would be impossible, I think, to substantiate charges of selling below home market prices. I just spent time in the Common Market, and I was told by officials that they have no idea what the prices are in the markets of member countries. Even the Japanese big buyer price is discounted to some extent, and the prices charged by steel companies in the United States are not the same as list prices during a recession. This will be brought out in the forthcoming FTC study.

Mr. VANIK. Thank you very much.

On behalf of the committee, I want to express my gratitude to the panel.

THE GOP ON THE MOVE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MICHEL. Mr. Speaker, predicting the death of the Republican Party has become a small industry in some parts of the country. Not a day passes without someone listing the alleged shortcomings of the party and predicting certain doom unless we become more and more like the Democrats.

Now I recognize as much as anyone that in terms of numbers, the Republicans are not doing as well as we would hope in the Congress and in State houses throughout the Nation. But to take that unpleasant fact as the basis for predicting inevitable disaster is, I believe, to miss a very important point: the Republican Party is even now on its way back and it looks as if it is going to continue.

Do I exaggerate? I think not. More to the point, the Wall Street Journal, in an editorial, "The GOP on the Move" reminds us of an important fact that these gloom and doom salesmen ignore. In the words of the Journal, "there has been a remarkable ascendency and cohesiveness of congressional Republicans." In the Senate and the House, Republicans are pulling together. We are presenting realistic and serious alternatives to the wasteful and unimaginative big-spending programs of the Democrats who have not had a new idea since the days of John Nance Garner. Allow me to quote from the Wall Street Journal concerning this point:

These alternatives have brought an enthusiasm to the GOP that is almost palpable, for Republicans sense they can win at the polls with them; in three special House elections this year, they acquired seats held by Democrats. One, in Louisiana, had been Democratic for 103 years.

If you stop and think about it, the Republican alternatives have a familiar ring. They propose price deregulation of energy, less government regulation of business and industry; and lower tax rates and simplified tax codes, instead of the present "disgrace to the human race". The program is that which Jimmy Carter embraced on his run to the presidency, the program he abandoned once he got there.

Two important truths are found in those words, Mr. Speaker: Jimmy Carter has abandoned the program and policies he promised the American people and the Republican Party is on the road to political success. I believe that these two truths will shape the political reality of this country in the next year or so and will definitely lead to Republican successes in 1978 and 1980. The GOP is on the move and the only way it can be stopped is if Republicans abandon the principles that are at the heart of their comeback.

At this time I insert into the RECORD "The GOP on the Move" from the Wall Street Journal, October 11, 1977:

THE GOP ON THE MOVE

Only a few in the Washington press corps seem to have noticed, but coincident with the decline of President Carter and his program has been a remarkable ascendency and cohesiveness of congressional Republicans. As

James P. Gannon of our Washington bureau observed on this page last Friday, "the Senate GOP minority is discovering muscles it didn't know it had."

It was the unity of the Republican minority that killed the $50 rebate the President proposed last spring. And it has been the unity of the GOP that has caused decimation of the President's energy plan. Once the Republicans plastered the energy package for what it was, an enormous tax increase, they had a tool to chip away at the Democratic majority.

In this sense the "Loyal Opposition" has negative strength. It can block programs if it sticks together, but cannot advance its own programs beyond the rhetorical stage. Since the $50 rebate would have been a total waste and the energy plan a disaster, the Republicans have been Mr. Carter's chief asset so far, whether he knows it or not.

The GOP could not possibly stick together if it did not have alternatives attractive enough to bind together the melange of ideologies that are contained in its ranks. The fact that they are finding them now, when they couldn't pre-Carter, reflects the freedom they now have from the dictates of a Republican White House.

On energy, the lines are clearly drawn. Mr. Carter sought to reduce demand through taxation, the Republicans seek to increase supply through price deregulation. Only a handful of Republicans defected from the position in the House, and only three GOP Senators—Javits of New York, Case of New Jersey and Brooke of Massachusetts—voted with the President.

On economic policy, the lines are drawn the same way. Mr. Carter has been trying the Keynesian method—trying to increase demand by increasing spending (which means an increase in future taxation). The $50 rebate is classic Keynes. The "Urban Development Bank" Mr. Carter will unveil in February will be more of the same. The "tax reform" plan Mr. Carter's people have been wrestling with behind the scenes also aims at demand by redistributing income.

For the first time in 25 years, the Republicans have coalesced around an economic program that aims at expanding supply, largely through lower tax rates on personal incomes. The plan is essentially that designed by Rep. Jack Kemp of Buffalo, N.Y., which he was unable to sell to the Ford administration when it insisted on making tax-rate cuts contingent on spending reductions.

Two weeks ago, Mr. Kemp keynoted the Republican National Committee's meeting in New Orleans and the RNC adopted his approach without dissent. Last week, the joint minority leadership—Sen. Howard Baker and Rep. John Rhodes—announced party endorsement of the 33 percent cut in personal tax rates over three years that is embodied in the Roth-Kemp bill, Sen. William Roth of Delaware being the Senate author.

At the same time, Senator Hatch of Utah and Sen. Hayakawa of California have become aggressive on these issues, Mr. Hatch battling Internal Revenue on taxation of fringe benefits. Mr. Hayakawa pushing tax-rate inflation adjustments. In the House, Rep. Barber Conable has Republicans unified against the dizzy increases in the Social Security wage base that will hit the middle-class with much higher payroll taxes.

These alternatives have brought an enthusiasm to the GOP that is almost palpable, for Republicans sense they can win at the polls with them; in three special House elections this year, they acquired seats held by Democrats. One, in Louisiana, had been Democratic for 103 years.

If you stop and think about it, the Republican alternatives have a familiar ring. They propose price deregulation of energy, less government regulation of business and industry, and lower tax rates and simplified tax codes, instead of the present "disgrace to the human race." The program is that which Jimmy Carter embraced on his run to the presidency, the program he abandoned once he got there.

TRIBUTE TO SARAH LANDAU

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MAZZOLI. Mr. Speaker, I am proud to have as my friend, counselor and constituent Miss Sarah Landau. Sarah, who is a young 85, has gone above and beyond the call in advancing the rights of working men and women, minorities, children, and the elderly in the Louisville area and also across the Nation.

Always with humor and modesty, Miss Landau has analyzed the most abstruse of issues and has thereby contributed greatly to worthwhile and necessary social changes.

In all of these worthy efforts, she has had the love and support of her sister, Mathilda.

I commend to the attention of my colleagues an excellent tribute to Miss Landau which appeared in the August 16 Louisville Courier-Journal. She is a rare and remarkable person whose saga deserves to receive wide notice:

SARAH LANDAU: A LIFETIME ON THE BIG ISSUES, TEACHING

(By Mike Winerip)

This is going to come as a surprise to a lot of people, but Sarah Landau is 85.

A surprise because she doesn't look 85 and doesn't act 85. If she looked you right in the eye and said, "I'm 70," there would be no doubting.

It gets more surprising when you start thinking about her past. It means that when Sarah Landau spent a year going around the world alone on freighters and steamers she was 68. It means that when she stopped teaching economics at Berea College she was 72. She was active in the Job Corps placement program for poor young women until it ended—when she was 83. At 85 she is president of the Women's Overseas Service League, a member of the University Women at the University of Louisville and several Jewish organizations, and a persistant world traveler. She cooks and keeps house for her sister and manages an apartment complex with 18 tenants.

These days she does volunteer work only when asked, she says, and then apologizes for not being able to list more activities. Oh yes, occasionally she'll do an economic study for a group or club. This is an afterthought. She makes an "occasional economic study" sound like "a little ironing."

Finally, she says, there is so much correspondence to keep up with after 85 busy years.

It is fair to say this at the outset, that her life was characterized by helping others, often on a one-to-one basis, sometimes on a grand scale, working for the big issues like labor or open immigration.

Yet at no time did her support for the issues become knee-jerk. In 1938, when Republic Steel was involved in a vicious strike, Sarah Landau swore never to cross a picket line again and began getting labor into her economics teaching. But when labor became conservative in the 1960s and 1970s, supporting Nixon, opposing school busing, Miss Landau took her politics elsewhere. Then she got involved with federal social legislation, helping to train and find jobs for the poor, mostly young, black women.

There has always been some cause. After returning from a job in France with the Red Cross during World War I, she joined the Society for The Cause and Cure of War, serving as a Louisville delegate to the national convention. "I remember that well," she says, "because that was the first time I met Eleanor Roosevelt. She was a delegate too.

"And, I should add, we didn't cure war. It's still there."

She returned home long enough to graduate from the U of L and then she was off again, to New York this time, working with an agency that met the European immigrants as they got off the boat.

"They were on quota by then. I saw families split right on the dock. Once we had a couple who just missed coming in and they put them back on the boat. But they never made it back to Constantinople. They jumped off the boat. What do you think happened? Suicide. But I guess they were interesting times."

She came back to the University of Louisville as an instructor, but left in the late 1920s, during George Colvin's controversial term as president. Colvin, a man with political connections, expected complete loyalty from his professors, says Dwayne Cox, the assistant university archivist. Some of the most distinguished faculty members left at that time, including Louis Gottschalk, a well known historian who went on to build a reputation as a professor at the University of Chicago and president of the American Historical Association, "Colvin believed that teaching history should inspire you to be a patriot," says Cox, "And wound up chasing away anybody who was a real academic."

He chased Sarah Landau to the University of Chicago, where she was a teaching fellow for two years until the Depression hit full force and brought her home to Louisville and into her longest down period.

The three Landau girls had grown up comfortably. Her father owned a successful boy's-knee-pants business and a fashionable Fourth Street apartment house. The apartments were known all over the city, Miss Landau says. At that time there were six apartments of eight rooms each, rented by former Mayor Leland Taylor, by diplomats, professors and doctors. They all stayed at the Fontaine Apartments.

She tried to help her father when things got bad, but there was nothing to be done. Customers didn't buy knee pants, the retailers couldn't pay their bills and the clothing company went under. They lost their home on Fourth Street and then they lost the apartment next door. The strain was tremendous. Her father died in 1933 and her mother in 1934.

At 42 years old, when most women are comfortable in their own homes, surrounded by a husband established in his job and teen-aged children, Sarah Landau was alone with no job and little money.

So she went out and tried to get started again. She began a legal fight to get her apartment house back. It would take 33 years before she would own it again.

College jobs were tight, but she was able to get on at McNeece College in Louisiana. From there she went to Alabama College for Women and to the North Carolina Women's College, the whole time hoping to get back to a senior college.

The job wasn't there, so she took government work in Washington.

Finally in 1945, at 53, she got the faculty position she wanted, at Roosevelt University in Chicago, a new school with none of the quotas for Jews and blacks that were the rule at many of the established colleges.

There she taught labor economics, meeting Eleanor Roosevelt again, when the two were honored by the college in 1951.

She retired in 1954 at 62 and returned to Louisville, but came out of retirement again to teach at Berea off and on until 1964.

During her free summers she would go to other universities to take courses, including the University of Virginia, Columbia, the University of Pennsylvania, UCLA (where she studied writing under Joan Didion) and the London School of Economics. It was in London that she became good friends with Frida Laski, wife of former British Labour Party chairman Harold Laski. Miss Landau still visits her. "She's nearly blind and she reads talking books and listens to the radio to keep up. When I go to London now I spend most of my days reading to her and go off on my own in the evening."

Through the years she often lectured to women's groups, at the YWCA, at civic clubs and Jewish groups. Not everyone liked what she said. "I remember one time the question was, 'Miss Landau, what would happen if we went off the gold standard?'

"I said, 'We did go off the gold standard.' I got a call from a husband that night. 'What are you doing telling my wife that we went off gold?' he says. 'What kind of person are you anyway?'

"I said we did go off gold. He said prove it.

"So I called my friends in the Treasury and got them to send me the report about the time we went off the gold standard.

"And my friend in Washington, said, 'Dr. Sarah, don't you know better than teaching the truth to women?' "

If she did, she didn't pay any attention, because she went right on teaching her truth, to women and men, getting the point across in quiet ways.

James Wolfe, the former education and research director with the Kentucky Federation of Labor recalled: "For years I had tried to teach a labor course at Berea's summer school. Old man (Francis) Hutchins was president then, and he was never liberal, no matter what people think about Berea. He'd say, 'Just wait a minute young man. You're with the unions? And you want to hold a summer school in Berea—question mark. No way.'

"Next summer Sarah sent me a note asking me to come speak at the college. I asked if she had checked with Hutchins. She said not to worry, just come down. Well, I went down and we had a wonderful day and I said to her, 'How did you pull this off?'

"And she said, 'Oh I just charmed the President.' That's all. That's how she'd help—quietly behind the scenes."

None of the Landau sisters ever married. One was a retail merchandiser in New York. Mathilda, who lives with Sarah, was a schoolteacher in Louisville. "We had good times, we had dates and we had proposals," says Sarah Landau. But the Landau girls had careers.

There is no easy figuring why Sarah Landau turned out to be so outward and worldly, friends say. Her sister is just the opposite. Mathilda rarely goes out of Louisville and Sarah has been all over the world. They even look different. Sarah is stocky, solid-looking; Mathilda looks as if you could knock her over with yesterday's newspaper.

Lois Gartz, 73, a social worker for the Job Corps program Miss Landau worked with, says you cannot do a story on the woman without saying this:

"She has a good sense of humor. When something is funny we all had a good laugh, a good clean laugh; there was nothing bitter about it. She would have gorgeous laughs, see the irony in something. She didn't laugh when people slipped on a banana peels, she laughed at the irony and subtleties and genuinely funny things."

"And if something was sad, she was sad."

One of Sarah Landau's good friends is Susan Fowler, whose husband was a professor at the U of L with Miss Landau many years ago.

These days Mrs. Fowler can't get out often, and during the last couple of years some friends have put her off their list, she says, but one who always comes is Sarah Landau. "She comes here, yes indeed. She's a regular visitor, she's a regular . . . I really don't know what we talk about; we don't philosophize . . .

"She helps friends; she does that. She has tenants in her building who can't go out and she takes them to the dentist or doctor or goes shopping for them. And she can't even drive a car. She had a man who could drive for her and he died and now she's lost without him. Sometimes she'll get a young man to drive them. Usually now, she has to go by bus.

When Sarah Landau was asked what made her so different from most of her generation, she didn't know what to say. Finally she said:

"There must have been a lot of women from my era who did the same thing I did. I'm sure I'm not alone. Do I seem different?"

DR. VINCENT McKELVEY: WAS HE REPLACED FOR BEING TOO OPTIMISTIC ABOUT OUR DOMESTIC SOURCES OF ENERGY?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. KEMP. Mr. Speaker, I was recently disappointed to learn that Dr. Vincent McKelvey, Director of the U.S. Geological Survey, has been forced to resign his post because of his optimistic view of our energy situation—a view that runs counter to the "Malthusian" pessimism of President Carter, Secretaries Andrus and Schlesinger, and others.

I do not believe it is a coincidence that McKelvey's forced removal from his post as Director of the U.S. Geological Survey, which is unprecedented in its history, followed closely on the heels of an important speech given by McKelvey to the TSAI forum in Boston on June 13. In that speech McKelvey refused the notion that the United States is rapidly running out of energy. There are vast amounts of hydrocarbons sealed away in forms not presently recoverable economically, such as gas in tight formations in the Rocky Mountains, gas in black shales in the Eastern United States, and gas occluded in coal beds throughout the country.

In addition McKelvey noted that there are vast reserves of natural gas in the region, both on- and off-shore. He said that investigations in the area have led to estimates of as much as 60,000 to 80,000 trillion cubic feet of natural gas available. As McKelvey said:

This is an almost incomprehensively large number. Even at the bottom of the range represents about ten times the energy value of all oil, gas and coal reserves of the United States combined.

I am especially concerned that the administration's treatment of McKelvey is part of a larger pattern of suppressing dissent on the energy issue. Earlier there was the ill-fated MOPPS study which concluded that at a price of $2.25 per Mcf the Nation would be awash with natural gas. At a price of between $2.50 and $3 we would be engulfed in it. But because this conclusion ran counter to the official line, as laid down by James Schlesinger and his mentor S. David Freeman, ERDA quickly rushed out to do another MOPPS study to contradict the first. The director of the first MOPPS study, Dr. Christian Knudsen, was fired.

I believe that this treatment of any Government official who deviates from the official administration line that the United States is on the very brink of running out of energy is an absolute scandal. Insofar as there is any shortage of energy at all it is simply due to Government price controls. Yet rather than allow a free market to operate the Carter administration insists on imposing huge taxes on the already overtaxed American people to conserve energy and promoting new sources of energy which are vastly more expensive and environmentally harmful than the conventional oil and natural gas which is presently available at a decontrolled price. By way of illustration, the proposed trans-Canada gas pipeline endorsed by President Carter will not possibly be able to deliver natural gas to the United States for less than $3 per Mcf. Yet President Carter refuses to support natural gas decontrol on the grounds that it is too expensive, despite that fact that the unregulated intrastate price is only about $2.10 per Mcf—compared to the present controlled price of $1.45.

The Wall Street Journal has consistently tried to make these facts known to the American people. Most recently it revealed that the Russians estimate the existence of as much as 350 billion trillion cubic feet of natural gas on Earth. This compares to total U.S. consumption of only 20 trillion cubic feet per year at present.

I hope that my colleagues will read this important article and join me in denouncing the administration's absurd energy policies and its attempt to stifle dissent from men like Dr. McKelvey and Dr. Knudsen.

At this point I would like to insert into the RECORD the Wall Street Journal article I referred to from September 14, and an article about Dr. McKelvey's speech from the Oil Daily, July 14, 1977:

[From the Oil Daily, July 14, 1977]

GAS TRAPPED IN "GEOPRESSURIZED" ZONES

BOSTON, MASS.—As much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the "geopressured" zones underlying the gulf coast region, an Interior Department official said.

"This is an almost incomprehensibly large number," said U.S. Geological Survey Director Dr. V. E. McKelvey, noting that "even the bottom the range represents about 10 times the energy value of all oil, gas and coal reserves of the United States combined."

The estimate is based on limited investigation of the gas dissolved in water and free above the water zone.

Additionally, McKelvey said, "the water itself represents a potential source available at pressures up to 10,000 pounds per square inch and at temperatures exceeding 300 degrees F., provided ways can be found to produce, use and dispose of it."

He said vast amounts of hydrocarbons also are sealed in forms not presently recoverable economically, such as gas in tight sandstone formations in the Rocky Mountains, gas in black shales in the eastern United States and gas occluded in coal beds throughout the country.

McKelvey said oil appeared to be the least abundant of the fossil fuels, although estimates of undiscovered oil resources were high enough to justify further exploration and development.

He said the amount of coal and oil shale is both large and relatively well known. Large amounts of gas are also believed to exist, although less is known about their extent or the technology needed to produce them.

McKelvey's remarks were delivered before a group of institutional investors attending the Tsai Forum in Boston, sponsored by G. Tsai and Co.

[From the Wall Street Journal, Sept. 14, 1977]

20 MILLION YEARS OF ENERGY

Back in April the Carter White House argued that the "energy crisis" meant that the world was going to run out of petroleum and natural gas on a certain Tuesday near the turn of the century. Because the earth would refuse to give up any more bounty, the law of supply and demand was repealed, and instead you needed a new Department of Energy and a lot of new taxes to promote conservation.

The administration no longer talks that way about natural gas, and we modestly claim some of the credit for our April 27 editorial, "1,001 Years of Natural Gas." Energy Czar James Schlesinger now concedes that just here in the U.S. we have some 30 years worth of ordinary gas, plus some 100 years of geopressured methane. The Carter folks no longer talk about the constraints of the gas resource base before any serious audience. To contend that supply and demand don't work they fall back on junk arguments, e.g. that the shortage is not of gas but of drilling rigs. When that is laughed off they argue that if supply and demand works for gas it doesn't work for oil. Some Wednesday near the turn of the century the world will run out of crude oil and even if there isn't an "energy crises" there will be a horrendous "liquid hydrocarbons crisis."

The world's real energy experts in and out of the Carter administration know that this too is nonsense. A year ago, the experts seminared in Laxenburg, Austria, under United Nations auspices. Their report, "The Future Supply of Nature-Made Petroleum and Gas" (New York: Pergamon Press), concludes that there is petroleum galore out there. President Carter ought to send Andrew Young around to pick up a copy.

In the UN report, the President will find Dr. Joseph Barnea, an Israeli citizen who was the UN's director of natural resources from 1961-65, suggesting why it is Mr. Carter is being told there is so little petroleum. The shortage is one of definition. The U.S. Geological Survey, he says, defines crude oil as ". . . a natural mixture of hydrocarbons occurring underground in a liquid state in porous-rock reservoirs and remaining in a liquid state as it flows from a well at atmospheric pressure." This definition excludes the perhaps 85% of primary crude that can be brought up under pressure, plus all the non-liquid petroleum—tar sands, oil shales, etc.

"The result is that the estimates of recoverable oil which are published cover perhaps 1% of nature-made oil in place," says Dr. Barnea. The other 99% can be recovered via the law of supply and demand. In fact, he says, the resource base itself is a function of price minus taxes." As prices expand, the natural resource base expands. As taxes and costs rise, the resouce base declines."

This is even more true for the rest of the world. Bernardo Grossling of the U.S. Geological Survey, who was also at the Austria seminar, says the reason there's been so little oil discovered in, say, Africa and Latin America, is that the surface has barely been scratched there relative to exploration in the United States.

By the end of 1975, there had been 2,425,095 wells drilled in the United States. According to Mr. Grossling, the numbers drilled in the rest of the world are as follows: U.S.S.R.—530,000; Canada—100,000; Australia and New Zealand—2,500; Western Europe—25,000; Japan—5,500; Africa and Madagascar—15,000; Latin America—100,000; South and South East Asia—11,000; China, P.R.—9,000. The United States has 75% of the world total. There are only 10,000 wells in the Middle East.

President Carter will also learn that in 1942 the best estimate of ultimate reserves of crude oil was 600 billion barrels. In 1970, Mobil's geologists were estimating two trillion. In 1973, Peter Odell, writing in the Geographical Journal, saw the resource base reaching four trillion barrels by the year 2000. This "gives very little cause for concern, not only for the remainder of this century, but also thereafter well into the 21st Century at rates of consumption which will then be five or more times their present level."

What does the Moscow Academy of Sciences think? At the Austria session, Russian scientists Nesterov and Salmanov reckoned the crude oil resource base at a bit over 12 trillion barrels, or several centuries worth of the stuff. The Russians, by the way, make our 1,001 Years of Natural Gas editorial look puny. By counting hydrosphere gases—natural gas dissolved in oceans, underground water, ice, rivers, lakes and swamps—they figure the planet contains something like 350 billion trillion cubic feet of natural gas. Thats 20 million years worth, conservatively, give or take a year.

The Club of Rome and the rest to the contrary, we aren't going to drain the last drop of oil from the earth some Wednesday. There are plenty of hydrocarbons to last until solar power comes in, so long as we will pay the cost of retrieving them. The law of supply and demand still works if allowed to. We don't need a new Department of Energy and a lot of energy-busting taxes. We only need to deregulate the price and get the politicians out of the way.

THINK "POSITIVE"?

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, October 11, 1977

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD the editorial page from this week's U.S. News & World Report. The commentary speaks for itself.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THINK "POSITIVE"?

(The following is an eloquent commentary on big government written recently by Warren T. Brookes in the Boston Herald American. With their permission, excerpts are reprinted here.—Marvin Stone, Editor)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 50 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

SENATE—*Wednesday, October 12, 1977*

(Legislative day of Tuesday, October 11, 1977)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

The Chaplain, the Reverend Edward L. R. Elson, offered the following prayer:

PRAYER

Let us pray:

We thank Thee, O God, for keeping us through the night and for the promise of this new day. We open our hearts to Thee and pray that this may be a day of growth in the spirit and of service for Thee, for this Nation, and for Thy kingdom in the world. Help us to meet it with quiet confidence and wisdom, whatever the day may bring. Strengthen us against temptation. Keep us loyal to truth and justice.

We pray in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 12, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, October 11, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are some nominations on the Executive Calendar, beginning with the Environmental Protection Agency and going on through the Peace Corps. I ask unanimous consent to call them up at this time. First, I ask unanimous consent to go into executive session to consider such nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Mr. President, I only say to my friend, the majority leader, that the names on the Executive Calendar for today under Environmental Protection Agency, the Judiciary, and the Peace Corps, are cleared for consideration and we have no objection to their confirmation.

The ACTING PRESIDENT pro tempore. The clerk will state the nominations.

ENVIRONMENTAL PROTECTION AGENCY

The assistant legislative clerk read the nomination of Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE JUDICIARY

The assistant legislative clerk read the nomination of Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PEACE CORPS

The assistant legislative clerk read the nomination of Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE SENATE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, on last evening, a unanimous-consent agreement was entered into with respect to the legal services legislation. That agreement provides for a final vote on the legislation at no later than 5 p.m. on next Tuesday.

The amendments that are going to be called up for the most part—at least the more important ones—have been, I believe, fully discussed among the principals—meaning the authors of the amendments, and the managers on both sides of the aisle—and I would hope that the Senate could complete action on the legal services bill today.

There is a pretty good understanding among the principals as to what is involved in the amendments. I think that there have been, at least, tentative decisions arrived at already with respect to some of those amendments. I hope the Senate will complete action on the bill today—even if it means staying in late today.

I hope the distinguished minority leader will join with me in the expression of this hope because there is plenty of other work to be done on Monday of next week.

It is the decision of the leadership to go out of session at the close of business today—not for the purpose of taking a rest, but so as to allow the Finance Committee to meet with respect to the energy tax bill, so as to allow the Finance Committee to finalize its action on the social security financing measure, and possibly other measures, and so as to allow the conferees of the Senate to meet with House conferees on various measures that are now tied up in conference.

It is hoped that the conference area can be cleaned up to the extent possible so that, once we get into the conferences on the energy bills, action can be expedited as rapidly as possible on those bills.

So these are 2 working days, Thursday and Friday—2 working days—and I hope that Senators will take advantage of the

fact that there will be no floor action with rollcalls and quorum calls to interrupt them in their committee work and in their conference committee work.

So again I would say that I hope our cloakrooms will get out the word that today may be a long day in an effort to complete action on the legal services legislation.

Mr. President, I yield.

Mr. BAKER. Mr. President, I, too, hope we can finish the legal services bill today. We negotiated at length and with some difficulty last evening trying to get an agreement at all, and finally did get one providing for time constraints that are listed on the cover of the calendar of business for today. Later we were able, as the majority leader points out, to obtain a time for final passage, that is to say, not later than next Tuesday.

I also watched with interest as the distinguished Senator from Utah (Mr. HATCH) outlined the areas in which, apparently, the adversaries have agreed. It seems to me that there is a fair possibility we can conclude this bill earlier than we had dared hope for originally. I think there is a good chance that if the parties will continue to negotiate as they were doing last night until about 9 o'clock, we can finish this bill easily and, as I say, fairly early in the day, meaning late afternoon.

Of course, if we do not do that, then I will certainly join the majority leader in trying to finish that measure today, if that is possible, and I will assure him that we will put our Members on notice through our cloakroom that there is a strong possibility of a late session today.

But I will also take the liberty of telling Members on this side that I hope they will continue their good negotiations and conclude this bill earlier than might be expected otherwise.

Could I ask the majority leader, if we do finish legal services, say late afternoon today, and, of course, finish the air bag matter which is provided for at 1 o'clock, would it then be his intention to go out and not call up some other matter on the calendar?

Mr. ROBERT C. BYRD. Yes. That would be my intention, unless there is something that can be dealt with by unanimous consent.

May I first thank the distinguished minority leader for his very strong supporting statement of the necessity for pressing ahead, working with our Members on both sides of the aisle, keeping the amendments flowing, and getting action completed on this bill today.

Upon disposition of the legal services bill, I would be ready to go out.

That would mean then on Monday we could turn to some of the items on which we have time agreements, clean them up, and be ready for the social security financing bill, conference reports, or other matters which are pressing.

Mr. BAKER. Yes. There are a number of matters, I might say to my friend the majority leader, that now have been the subject of unanimous-consent agreements that we can turn to at the beginning of next week. I think we have got a good chance of clearing the calendar and handling other matters that may be reported from committee with expedition.

I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader.

Perhaps we can also, in the meantime, try to arrive at some additional unanimous-consent agreements, on some of the measures that are still on the calendar.

Mr. BAKER. I would hope to do that.

I would not prolong this unduly, but I am reminded that he and I both aspired to an October 7 sine die adjournment. We are now 5 days past that. We have identified October 29 as a possible sine die adjournment. But I frankly do not know if we can make October 29 or not.

Looking at the calendar, I would hope that it is possible to handle the matters that must be handled on the calendar, plus those matters that will come from committee, such as social security financing, and still salvage part of the month of October in 1- or 2-day recesses as they are available while the conference committees operate, say, on energy, and while the other body tends to their business.

But I think the Senate has come very close to dispatching the essential legislation that we had in mind when we first thought of an October 7 deadline.

I congratulate the majority leader for scheduling the activities of this body so that we are this close to that legislative fulfillment.

Mr. ROBERT C. BYRD. Mr. President, it is my plan to proceed in that fashion if circumstances will permit such intermittent recesses.

I have to say also, for the RECORD, that the October 8 adjournment date was not a date that was simply settled on between the distinguished minority leader and me. That was a date that was agreed upon also between the leadership of the two Houses. But it was never to have been understood that that date was of primary importance.

It was always secondary to the completion of our work as to the energy legislation and, of course, other matters. As we have found it impossible to complete that work, of course, any tentative adjournment date has slipped and will continue to slip. That is entirely secondary to the importance of getting the work of the Senate done.

I also want to thank the distinguished Senator from Tennessee for the cooperation that I have received consistently from him in keeping legislation before the Senate, and in keeping it moving. This has enabled the Senate to complete most of its work now for this session. If the energy legislation were now on its way to the President's desk, and the supplemental appropriation completed, and were the Alaska pipeline legislation completed—on which there is a boilerplate time agreement under law—and were social security financing, and conference reports all adopted, we would be going out this Saturday sine die.

But there still remains some work to be done and until that is done, of course, we will not adjourn.

But it is my plan to have intermittent recesses to allow committees and conferences to work when such recesses can be justified and circumstances will permit.

We will have a pro forma session on tomorrow—just coming in, going out—because otherwise we could not recess for 3 days without the approval of the other body, although by precedent the Senate has done it. The Senate has, in the past, gone out from Wednesday until Monday without the approval of the other body. But I think a pro forma session tomorrow is the right procedure.

I thank the distinguished minority leader.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I had a request for part of my time under the standing order, but I am now advised that the Senator I had in mind is not going to be here, so I yield back the remainder of my time, if any, under the standing order.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair.

PANAMA CANAL TREATIES—NO. 15

Mr. ALLEN. Mr. President, this is the 15th speech I have made on the Senate floor in opposition to the Panama Canal Treaties. I do not believe that in the course of my remarks I have been redundant, because there are so many defects in the treaties that I have been able to point out something new in each of the speeches I have made.

Mr. President, during my testimony in opposition to the Panama Canal Treaties before the Senate Committee on Foreign Relations, one of the distinguished members of the committee, Senator SARBANES, raised an issue to which I have since given considerable study. The distinguished Senator inquired whether Panama could now grant to a third country the right to construct a canal between the Caribbean and the Pacific through the territory of Panama, excluding obviously the United States territory comprising the Canal Zone. I did not then know the answer to the distinguished Senator's inquiry, although I did indicate that to the best of my knowledge, the treaty of 1903 did contain some provision affecting the ability of Panama to grant a canal concession to a government other than the United States. Having since looked into the matter, I can now report that under article V of the treaty of 1903, the United States has already in perpetuity a monopoly on any interoceanic canal construction across Panama, either inside or outside the Canal Zone.

Mr. President, the Department of State has repeatedly touted the brilliance of our negotiators in securing from the Panamanians an alleged agreement not to construct any new canal in the territory of Panama without the consent of the United States, at least not until after the year 1999. This so-called major diplomatic coup is embodied in article

XII, paragraph 2 of the canal treaty wherein appears the following:

> The United States of America and the Republic of Panama agree on the following:
>
> (a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree;

That is in the proposed new treaty.

I find this provision ambiguous, but the Department of State asserts that our negotiators obtained this so-called concession from the Panamanians in return for our incredible agreement not even to negotiate with a third state for the construction of a new interoceanic canal anywhere in the Western Hemisphere without express Panamanian consent. In other words, Mr. President, the Department of State asserts that the quid pro quo for our agreement not to construct any new canal expect in Panama without the consent of the Panamanian dictator—the quid pro quo for that incredible concession is, or purports to be, this clause I have just quoted, which allegedly would prevent the Panamanians from constructing a canal with Soviet assistance or the assistance of some other unfriendly government.

But, Mr. President, the United States already, in perpetuity, can prevent any third nation from constructing a new canal in the territory of Panama. So we have gained absolutely nothing from this supposed Panamanian concession. They are not conceding anything. It is already provided in the 1903 treaty.

Mr. President, the plain fact is that the Department of State has set up a sham argument to justify its folly in allowing the Panamanians to tie our hands throughout the term of this proposed canal treaty and to excuse the—and I am going to be blunt about this, Mr. President—to excuse the stupidity of requiring the consent of a petty dictator before the United States of America can even negotiate with another nation for an interoceanic canal in the Western Hemisphere. This purported justification, this quid pro quo, is a sham because it is not a concession made to the United States by Panama, simply because the United States already has full authority to insist that no other nation construct in Panamanian territory a canal between the oceans.

Article V of the Isthmian Canal Convention of 1903, the Hay/Bunau-Varilla Treaty, reads as follows:

> The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

Mr. President, there is no ambiguity there. When treaties were drafted in this days, the documents spoke for themselves. The executive department in those days apparently did not have much tolerance for sloppy draftsmanship, but we here in the Senate today feel somewhat like Wendy and John wandering around in never-never land, trying to figure out just what these proposed new treaties actually do mean.

Mr. President, the Senate did not have that problem in 1903, and there is no doubt that under the treaty of 1903, the United States can already insist that no third nation construct a new canal in Panama. In addition, Mr. President, there can be no doubt that the right given to the United States, the monopoly given to the United States, is in perpetuity.

I might add parenthetically, Mr. President, that although the treaty of 1955 did in some respects modify article V of the treaty of 1903, the modifications in the treaty of 1955 only affect the monopoly given to the United States over railroads constructed between the two seas and do not in any way affect our existing monopoly with respect to any new strategic interoceanic canal which might be contemplated. Incidentally, too, Mr. President the treaty of 1955 itself, in extinguishing the provisions of article V with respect to railroads, still provides as follows:

> In view of the vital interest of both countries in the effective protection of the Canal, the High Contracting Parties further agree that such abrogation is subject to the understanding that no system of interoceanic communication within the territory under the jurisdiction of the Republic of Panama by means of railroad or highway may be financed, constructed, maintained, or operated directly or indirectly by a third country or nationals thereof, unless in the opinion of both High Contracting Parties such financing, construction, maintenance, or operation would not affect the security of the Canal.

Therefore, even after allowing the abrogation of article V of the treaty of 1903 insofar as it affected railroads, our negotiators in 1955 nevertheless insisted that the United States be given a veto over any proposed construction of any railroads or, for that matter, highways, which connected the two oceans and which might in the judgment of the United States adversely affect the security of the canal.

Mr. President, Senators ought to review these past treaties—and I am sure many, if not all, have already done so—because a review of these past treaties shows the great care that negotiators for the United States have taken—at least up until now—in protecting the security of this vital international waterway. Our negotiators in the past have not taken lightly their responsibility to secure to the United States the control and defense of the Panama Canal, because our past negotiators have fully recognized the dire adverse strategic impact of permitting the effective control of the Panama Canal to fall into the hands of another nation or for that matter even permitting the effective control of any means of transit through the Isthmus of Panama to fall under the control of any power unfriendly to the United States.

But we have a new breed of negotiators working for us now, Mr. President, and they have seen fit to negotiate away our right to construct a sea level canal or a second canal in Nicaragua or in any other country, for example, in Mexico, at the Isthmus of Tehuantepec, all in return—and I use that term advisedly—all in return for the sham concession of the Panamanians in agreeing not to permit another country to build a canal in Panama for the 23-year term of the proposed Canal Treaty. Quite a concession, Mr. President. We extinguish a monopoly in perpetuity and they agree, in a rather loosely drafted provision, that no new canal will be constructed in Panama except in accordance with the terms of the proposed Canal Treaty—terms which do not in themselves forbid Panama to grant to the Soviet Union or some other country a right to construct a canal in Panama even within what is now the Canal Zone.

Then, too, Mr. President, Senators should note that the proposed Canal Treaty would abrogate entirely the treaty of 1955 which grants to the United States de facto control over the construction in Panama of interoceanic strategic highways or railroads which might in some way tend to damage the security of the canal or harm the security interests of the United States. Should this proposed Canal Treaty receive Senate consent, nothing whatsoever, even during the 23-year term of the treaty, would prohibit the Marxist dictatorship in Panama from entering into an agreement with Cuba, or with the Soviet Union, or with Red China, or with East Germany, or with North Korea, or with any other regime now opposed to the interests of our country—nothing—nothing would prevent Panama from agreeing to the construction of a major strategic highway or rail system with corresponding port facilities at either terminus for the purpose of threatening whatever defense forces of the United States might remain in Panama during this proposed 23-year term of surrender.

The good work of the conscientious negotiators for the United States who have represented us in the past in dealings with Panama would pretty much go down the drain if these treaties are implemented. The careful drafting of so many past treaties, protocols, and conventions designed to protect our strategic position in Panama would be, with the stroke of a pen and a two-thirds vote in the Senate, destroyed for all time.

The provisions of these proposed treaties which would destroy this past good work have not received to date sufficient attention. In our rush to examine the provisions of the treaty purporting to give us rights to defend the canal and rights to maintain the neutrality of the canal, many of us have overlooked the grave damage done to the existing fabric of our relations with Panama by the wholesale abrogation of virtually all important agreements reached with Panama over the past 74 years. Using more or less a meat-ax technique, our negotiators have wiped the slate clean, eliminating presumably both the good and the bad by specifically abrogating the treaty of 1903, the treaty of 1936, the treaty of 1955 and:

> All other treaties, conventions, agreements, and exchanges of notes between the United States of America and the Republic of Panama, concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and . . .

In other words, anything good in the past treaties will be wiped away, any concessions made are going to be wiped out, and we are going to start anew.

Listen to this, Mr. President, just to make sure there are no scraps or pieces around that might protect the interests of the United States:

Provisions concerning the Panama Canal which appear in other treaties—

not just these particular treaties with direct reference to Panama but in other treaties, conventions, agreements, and exchanges.

conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

So that ought to pretty much do the job, Mr. President. Whatever has been done on behalf of the United States during this 74-year period is going down the tubes. Part of the package is the provision giving to the United States a monopoly over canal construction in Panama. Also slated for elimination are the provisions allowing us a right of refusal over any strategic interoceanic communications system which might damage the national security interests of our country or pose a threat to the canal.

Finally, Mr. President, Senators might rightly insist that we must have gained something in return for abrogating or nullifying three-quarters of a century of diplomacy. In my judgment, we have gained only ambiguous provisions which can be interpreted as either party chooses—either to commit the Panamanians not to construct a new canal with Soviet aid only during the 23-year term of the proposed canal treaty or to permit construction of a new interoceanic canal in Panama not inconsistent with the terms of the new proposed treaty, which terms do not in and of themselves prohibit such construction and which terms, with complete clarity, only commit the United States and Panama to study jointly the feasibility of a new sea level canal project.

Thus, Mr. President, we receive again only ambiguities to replace ironclad protections. Perhaps this proposed provision is interpreted by the present Panamanian Government in the same manner it is interpreted by our own Department of State. But what of it? The Panamanians have thus far shown little inclination to accept the interpretations given to these documents by the Department of State, and even assuming there has been a meeting of minds on this particular provision, its lack of clarity would no doubt be a seed of dispute planted in fertile soil.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDERSON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR EAGLETON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. EAGLETON, which was vitiated last evening, be restored.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri is recognized for not to exceed 15 minutes.

THE ADMINISTRATION AND ARMS SALES

Mr. EAGLETON. Mr. President, in recent days the administration's new policy on conventional arms sales again has been in the news. In remarks on the Senate floor last Friday, the majority leader characterized as "somewhat disappointing" the administration's efforts thus far to curtail arms sales. Just yesterday, the Subcommittee on Foreign Assistance released a report by the Congressional Research Service, which also criticizes the administration's record on curbing arms sales. Both the majority leader's statement and the CRS report echo concerns I have felt as the Foreign Relations Committee held its hearing on the sale of AWACS aircraft to Iran, and I would like to share some of those concerns with my colleagues today.

Last May 19, President Carter announced his new policy on the sale of arms to other countries. The President pledged to reduce such sales, and further indicated that in the future, this country would not "be the first supplier to introduce into a region newly developed, advanced weapon systems which would create a new or significantly higher combat capability."

I applauded that policy then, and I applaud it today, as an enlightened stand necessary to the maintenance of world peace. However, while I am quick to praise the President's words, I must confess to a great deal of disappointment over the administration's actions thus far in implementing this new policy.

The President has promised that in the coming fiscal year there will be a substantial reduction of arms sales, below the $9.9 billion level of fiscal year 1977. It is my hope that the President will be able to fulfill this pledge; however, I cannot honestly say that this hope has been buoyed by the administration's actions in the months since the President's May 19 statement. During this period the administration has approved at least 45 foreign arms and services transactions totalling more than $4.1 billion. Nor have my hopes been buoyed by recent news articles, which quote administration sources as saying it will be 6 months before any progress on reducing arms sales can be seen, and 18 months or more before we see any "dramatic change" in foreign military sales. The President's new policy statement notwithstanding, arms sales to overseas customers continue at an undiminished rate.

I must confess that this is not what I expected to see after the President's statement last May. It was my understanding then that things would start changing immediately. It was my understanding that beginning right away—not in 6 or 18 months—it would be the policy of the U.S. Government to discourage foreign arms sales. It was my understanding that from May 19 on, the policy question to be answered in connection with each foreign arms sale would be "Why should we do this?" rather than "Is there any reason not to do this?"

I have no doubt that the President is totally sincere in his desire to reduce the flow of American arms to other nations. However, I now see that if this reduction of arms sales is to be accomplished as quickly as I and many of my colleagues would like, we will not be able to rely on the good intentions of the administration alone. We will have to become more deeply involved in the process ourselves, maintaining an even more vigilant watch on all arms transactions and utilizing the power of Congress to disapprove unwise sales.

We made a good start in this direction with our handling of the sale of seven E-3 AWACS airborne radar systems to the Government of Iran. Although we did not succeed in blocking this sale, we did succeed in further limiting such sales next year. As I already have mentioned, President Carter has specifically pledged that arms sales in fiscal 1978 will be less than in fiscal 1977. Had we allowed the AWACS sale to go forward when first proposed, the sale would have counted in the 1977 sales total, and would have raised that total—as well as the "ceiling" for 1978 sales—from $9.9 billion to $11.1 billion. Furthermore, the total fiscal year 1978 sales to date would be zero. Because we were able to delay the sale, however, the fiscal 1978 "ceiling" is only $9.9 billion, and $1.2 billion of that amount already has been "used up" by AWACS.

Therefore, if the administration is to meet its reduced arms sale goals, it can sell only another $7.7 billion worth of arms in fiscal 1978, some $3.4 billion less than if the AWACS sale to Iran had not been delayed.

Of course, this does not mean that I now am happy with the sale of the AWACS to Iran. Quite to the contrary, I still believe this transaction is most ill-advised. Despite Presidential "assurances" which accompanied the resubmission of the sale, and despite a "new" study done by the Defense Department which supposedly examined "alternatives" to selling AWACS, a number of problems remain. These include:

The possible use of the Iranian AWACS for offensive military operations and the heightening of the intensity of any potential conflict in the Middle East.

The continued need for U.S. citizens, including military personnel and technicians, to support AWACS.

The risk of loss of an AWACS to the Soviets.

The question of where this country will draw the line on selling military equipment in the future.

Furthermore, approval of the AWACS sale does nothing to alleviate, and in fact quite a bit to aggrevate, the problem of Iranian inability to operate and maintain our sophisticated defense hardware. During the past 6 years, we have made foreign military sales to Iran totaling nearly $17 billion. These involve the purchase of new hardware, and the necessary support, spares, and maintenance-type contracts. When is our country going to slow down these sales, and how much more of this equipment can semideveloped Iran possibly absorb? President Carter provided an assurance to the Congress in connection with the AWACS sale that the future ability of Iran to absorb sophisticated weaponry would be carefully studied. Such a study is long overdue, given the magnitude of past U.S. sales. Certainly, before this country goes ahead and decides to sell some 140 F-16 fighters to Iran, we had better have that study. My particular regret was that it has taken so long to even start such a major study, which obviously has important implications for the need for U.S. personnel to provide support to the Iranian military.

I would simply summarize by saying that hopefully, the administration will begin to exercise more restraint in our arms sales abroad, not only in terms of overall volume, but type of equipment to be sold. In addition, I would hope that much more careful consideration will be given to the ramifications of selling to potential customers, and to the requirements for U.S. follow-on contracts and personnel. The policy declaration of the President, made last May 19, is a good place to start. But what we need now is a reiteration of the commitments made then, and a firm implementation of the policy in the actual foreign military sales activities of the Government. AWACS was a sad case of policybreaking, but I am hopeful that there will be some very significant policymaking in the future.

Mr. President, I ask unanimous consent that the executive summary section of the CRS report on arms sales be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

Supplying military equipment and services to friends and allies of the United States through sales or grants has been an important and flexible instrument of American foreign policy over a long period of time. In recent years, however, the change in emphasis from grant military aid to cash sales, as well as the opening of large new markets in the Middle East, caused dramatic increases in the volume of arms sales and, in the eyes of many, deflected the program from its overall national security purposes toward less justifiable political and economic objectives.

As a presidential candidate, Jimmy Carter repeatedly criticized what he deemed to be lack of control over arms sales under the administrations of Presidents Nixon and Ford. Contending that the United States could not simultaneously be the world's leading champion of peace and the world's largest arms seller, Mr. Carter pledged to reduce the level of U.S. foreign military sales. In large measure, the principal themes of candidate Carter's critique found expression in President Carter's arms transfer policy.

On May 19, 1977, President Carter announced a new U.S. policy governing the transfer of conventional armaments to foreign states. "Henceforth," said the President, the United States would regard arms transfers as "an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests." Contending that the "spiralling arms traffic" threatens world peace, the statement committed the United States to take the "first step" toward actual reductions in the global arms trade.

To implement a policy of arms restraint, President Carter established a number of controls and prohibitions, including a dollar volume ceiling on new commitments for weapons and weapons-related equipment during Fiscal Year 1978. In addition, the President declared that he had changed the "climate" under which decision-making would proceed: ". . . in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it."

While he conceded that actual reductions in the worldwide traffic in arms would require a multilateral approach, President Carter stated that a U.S. policy of restraint was appropriate—not only because of America's "special responsibilities" as the world's largest arms seller, but also because the administration had concluded that it would have little credibility in calling for an international approach unless the United States itself followed a policy of restraint. State Department officials have since expressed cautious optimism that the U.S. initiative will prompt reciprocal actions on the part of recipient states and other major suppliers. They have at the same time indicated that continued U.S. unilateral restraint in the transfer of arms will depend in large measure on the degree to which such a multilateral response is forthcoming.

The May 19th policy statement does not in itself provide any clues as to how the administration defines the "restraint" hoped for from other major arms suppliers. The statement notes that the United States will initiate "discussions of possible measures for multilateral action" with suppliers and encourage import limitations among purchasers. Explicit in the statement, however, is the goal of actual reductions in the worldwide traffic in arms. Reductions could be attained either by parallel cut-backs by all suppliers or reductions by the United States that were not cancelled out by increases on the part of others. Statements by State Department officials since the policy was announced indicate that it is this latter approach, and not the former, that is endorsed in the President's new policy.

Essentially, the United States appears prepared to measure reciprocal restraint according to the following criteria:

a. That other suppliers do not fill the voids created by U.S. restraint. Thus they are free to continue, or even accelerate, sales to their traditional clients and to states not in the U.S. arms sale "domain."

b. That other suppliers demonstrate some sensitivity to qualitative concerns; i.e., if they must sell, at least they should try to restrict the sophistication of the technology transfer.

c In all cases, the other suppliers should consult with the United States before they initiate arms transfers or sign new arms transfer agreements.

In the four months since the policy was announced, the administration has transmitted 45 arms sale notifications to Congress, involving 18 separate countries and goods and services worth over $4.1 billion. The most controversial of these actions has been the proposal to sell Iran seven E-3A Airborne Warning and Control Systems (AWACS) aircraft and supporting parts and services at a total cost of over $1.2 billion. During this period, it has been announced or reported that the United States is prepared to negotiate the transfer of substantial amounts of military hardware to Saudi Arabia, Somalia, Egypt, Chad, and the Sudan.

Lastly, the administration recently forecast a $1.8 billion arms transfer program intended to strengthen South Korea's defenses over the next five years while the United States withdraws its ground forces. On the other side of the ledger, in June 1977, the administration denied Pakistan's request to purchase 110 A-7 aircraft and Iran's bid to buy 250 F-18Ls.

Where earlier assessments of the President's new policy would necessarily have been speculative, a pattern of arms transfer transactions has developed since May 19th which can provide initial perspectives on how the stated policy is being applied in practice. This study analyzes five distinct aspects of the new arms transfer policy. First, to provide a context, it identifies major premises of the May 19th statement and explores the degree to which these premises are supported by the information and analysis contained in the National Security Council study prepared prior to the President's policy decision. Second, the paper details arms transfer transactions approved or denied since May 19th and examines their consistency with the key premises of the announced policy. A third section assesses the implications of the trends since May 19th, especially what they presage in the context of U.S. foreign policy/national security policy. Next, the paper examines the prospects for a multilateral approach. Finally, the paper measures the probable costs and benefits for the United States if these trends hold true.

The principal conclusion of this study is that despite the stated and implied intentions of the new policy, arms sales continue to play a very substantial role in support of U.S. foreign policy and national security objectives. Rather than being used as an "exceptional foreign policy implement," U.S. arms transfers continue to occur on a rather routine basis. Although unilateral restraint in the sale of arms, as embodied in the President's policy statement, envisages actual reductions in the total volume of U.S. arms sales, this study details many regions where the administration has determined that continued sales or even new sales are necessary to American purposes. In these cases, significant reductions in the level of U.S. arms sales would entail considerable cost to American diplomatic or security interests, and—the May 19th declaration notwithstanding—would appear to impose a price that the administration is not willing to pay.

To be sure, there is a heightened sensitivity to arms control concerns, a more positive and centralized control of the executive branch's management of arms transfer requests, and new regulations governing the manner in which requests are induced or initiated. Despite these changes, however, the assessments being made on a case-by-case basis remain fairly much the same as before. A mainstream of arms sale approvals continues to flow from the review process, with restraint applied mostly at the margins.

In this respect, President Carter's arms transfer policy could be said to be a victim of its own rhetoric. By emphasizing that henceforth arms transfers would be an exceptional implement of U.S. foreign policy, subject to rigorous control and justified only by national security imperatives, the May 19th policy statement created an expectation that actual sales would become much less frequent. In brief, the language of the statement established the preconditions for a public perception that the policy as applied in practice violates the policy in principle. Furthermore, by defining the success or failure of the policy in relation to reciprocal restraint on the part of allies and adversaries, but then setting such minimal standards for their "restraint," the administration has made itself vulnerable to criticism as other suppliers continue to promote sales aggressively; e.g., the recent French F-1 Mirage sales to Iraq and Ecuador and Soviet arms transfers to Syria and Ethiopia.

It is possible, of course, that current trends will change. It could be argued that the spate of arms sales proposed by the President since May 19th represents transactions

that were well along before this administration and therefore could not be "turned off" without significant diplomatic costs. Conversely, it could be argued that any President who can cancel the B-1 bomber program after ten years of development could stop any particular arms sale. It is also possible that with the dollar volume ceiling in effect next fiscal year, the decision-making process will be more tempered, and requests which otherwise might have been approved on a case-by-case basis may be disapproved. Nevertheless, while one can always speculate that "it is too early to tell," this study concludes that the President's new policy, as applied in practice since May 19th, has yet to demonstrate a significantly reduced role for arms transfers as an instrument of U.S. foreign policy.

COMMITTEE MEETING

Mr. NELSON. Mr. President, I have been requested by the leadership to ask unanimous consent that the Rules Committee be permitted to meet until 1 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 1303, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The PRESIDING OFFICER. Time on the bill is limited to 4 hours, to be equally divided and controlled by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS), with 1 hour on any amendment in the first degree and 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order; with the final vote on either the House bill or the Senate bill to occur not later than 5 p.m. on Tuesday, October 18, 1977.

Mr. JAVITS. Mr. President, I yield myself 30 seconds just to advise my colleagues that the 2 hours I have are at the disposal of the opponents of the bill, or those who have special amendments, et cetera. If there is any time left, I will try to use it. With Senator NELSON and I being on the same side, I assure the opponents of the measure that time is available to them.

Mr. HELMS. The Senator is always very generous. The Senator from North Carolina appreciates his courtesy.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. On yesterday the Senator from North Carolina called up an amendment and obtained the yeas and nays on that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I ask that that amendment be made the pending business.

The PRESIDING OFFICER. It is the pending business.

Mr. NELSON. Does the Senator from North Carolina intend to address himself to the pending amendment at this time?

Mr. HELMS. Not at this time. I may have a few remarks, but my comments on yesterday, I believe, will suffice.

Mr. NELSON. The Senator from Wisconsin would like about 3 minutes at the beginning of the hour simply to summarize the agreement from my understanding of last night's dialogue.

Mr. HELMS. Mr. President, I will yield for that purpose.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I send an amendment to the desk on behalf of the Human Resources Committee. I am not asking for its consideration.

This amendment is offered on behalf of the Human Resources Committee, myself, and Senator JAVITS. This amendment modifies S. 1303, the Legal Services Corporation Act Amendments of 1977, in several respects.

First, the committee amendment provides for a 3-year reauthorization of appropriations for the Legal Services Corporation. S. 1303, reported to the floor by the Human Resources Committee, reauthorized the Legal Services Corporation for 5 years.

Second, the committee amendment provides an authorization of appropriations of $205 million for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. The bill reported to the floor by the Human Resources Committee provides an authorization of appropriations in fiscal year 1978 of $225 million, and such sums as may be necessary for each of the four succeeding years.

Third, the committee amendment strikes section 2(b) of S. 1303. This section of the bill would have changed current law by permitting private funds to be used for any purpose authorized by the donor, so long as those private funds were accounted for and reported as receipts and disbursements separate and distinct from funds received from the corporation itself.

Fourth, the committee amendment strikes section 9(c) of S. 1303. This section of the bill would have clarified existing law as to the kinds of activities Corporation funds could be used for in the organization of any group and in the provision of advice and legal assistance to clients who are engaged in organizing activities. The current law will remain unchanged in this particular area if the Senate bill becomes law.

Mr. President, it is only because of a very difficult parliamentary situation that the committee yields on these four points. The Legal Services Corporation Act Amendments of 1977 was reported to the floor of the Senate on May 16, 1977. For about 5 months this legislation has been on the Senate Calendar awaiting consideration by the full Senate.

Every time the managers of the legislation have sought to have the bill considered by the Senate, we have been told that a time limitation agreement on this legislation was not possible. That was achieved last night. Yesterday, Senator HATCH and others agreed to a time limitation on S. 1303, the Legal Services Corporation Act Amendments of 1977.

The time limitation agreement is as follows: 4 hours on the bill, the time to be equally divided between Senators NELSON and JAVITS; 1 hour on each amendment, the time to be equally divided in the regular order; ½ hour on each amendment in the second degree, the time to be equally divided in the regular order. The vote on final passage is to occur no later than 5 p.m. on Tuesday, October 18, 1977.

Mr. President, there are two further stipulations in the unanimous-consent agreement on the time limitation. First, the Senator from Wisconsin has agreed to hold oversight hearings on the Legal Services Corporation between now and March 31, 1978. Second, there has been a tentative agreement between the managers of the bill and Senator Hatch to limit the authority of the Legal Services Corporation to undertake, by grant or contract, specified research activities. As in the current law, the Corporation may not undertake by grant or contract research, training and technical assistance, and clearing house activities unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or are for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

The tentative agreement would stipulate, either by clear legislative history or by specific language, that the Corporation could not contract for generalized research activities for the purposes of exploring areas of law which are controversial and unrelated to a specific problem of the particular client.

In short, Mr. President, what we have agreed to is to allow the Corporation to contract out, by grant or contract, for appropriate kinds of research, training and technical assistance, and clearing house activities. What would not be appropriate are the kinds of generalized research activities that concern extremely sensitive political and social issues, such as abortion and desegregation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. JAVITS. Mr. President, I have heard with interest the summary of the situation, which is quite correct, but I do think in all fairness to Senator HATCH, who is a member of our committee, and who led the fight in respect of reform of the bill, who has associated with him Senator MCCLURE, Senator HELMS, Senator DOMENICI, and Senator SCOTT, it must be made clear that he has won something, to wit, he has won the concessions which we were not prepared to make, notwithstanding that we had a very substantial majority in this Chamber, I think well over two-thirds.

It is unfortunate, from our point of view, that we have had to make these concessions, but I think in fairness to Senator HATCH, who fought for them very strongly, it should be noted that these amendments on the part of the managers of the bill are in response to an agreement made with Senator HATCH speaking

for the group, which had great elements of dissatisfaction with this bill.

I thank my colleague for yielding.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum and suggest that the time be equally charged.

Mr. NELSON. May I ask through the Parliamentarian, are quorum calls charged against the time on the bill?

Mr. HELMS. Mr. President, I suggest that it be equally divided.

Mr. NELSON. I agree with the Senator from North Carolina. I ask unanimous consent that the time be equally divided from the bill.

Mr. JAVITS. Mr. President, should we not charge it to the amendment? There is an amendment pending.

The PRESIDING OFFICER. There is an amendment pending.

Is that the motion?

Mr. NELSON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier of my staff be accorded the privilege of the floor during debate and vote on S. 1303.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1456

FORMERLY UP AMENDMENT NO. 917

Mr. HELMS. Mr. President, the pending amendment in the nature of a substitute was called up yesterday by the Senator from North Carolina. At that time, I made fairly extensive remarks on behalf of the amendment. Then the amendment was laid aside in the hope that, if discussions later in the day proved fruitful, some compromise agreement would be reached in terms of getting to a vote on this issue. That being the case, a bit of awkward situation prevails.

My discussion of my amendment in the nature of a substitute having occurred yesterday and the vote occurring today, nevertheless, I think most Senators will understand the proposal of the Senator from North Carolina. As I said yesterday on the floor, Mr. President, all Senators go home and talk about divesting the Federal bureaucracy of the inordinate amount of control and centralization that now exists. But, so often, when we are called upon to vote on a specific proposition in the Chamber, we see efforts to achieve precisely that decentralization defeated and defeated overwhelmingly.

This amendment would take out of the Federal bureaucracy the responsibility for providing legal aid to the poor. It would return it to the States under careful and strict guidelines. I, for one, believe that the poor would be far better served as a result of such a judgment by Congress if, indeed, Congress were willing to do it. The poor would have the opportunity to select their own attorney instead of taking whatever is assigned to them under the present system, which is controlled by the Federal Government and operated by the Federal Government.

As I said yesterday, Mr. President, under the proposal which is now the pending business of the Senate, a State government would participate in the legal services program by adopting one of the following three procedures:

First, a State could empower an existing or new State agency to disburse funds to individual attorneys representing eligible clients;

Second, it could transmit funds to the bar association with overall jurisdiction in the State if the bar association has established a method to disburse funds to attorneys representing eligible clients, as, for example, under the judicare approach; and

Third, a State could establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients retain the right to obtain the individual attorney of their choice. This legislation also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Further, this proposal includes an equitable geographic distribution of appropriated funds based upon the proportion of eligible clients in each States. The standard of eligibility set by this legislation is the same standard as that of the medicaid formula, a standard already endorsed by Congress, State legislatures, and welfare groups.

This proposal restores freedom of choice to poor people in retaining legal assistance.

I raised the question yesterday, Mr. President, and I raise it again today: Why should poor clients be denied the right to choose an attorney?

Why should they be required to accept an attorney who may be more interested in a class action suit on behalf of homosexuals than he is in representing a poor client? This amendment in the nature of a substitute is client-oriented rather than attorney-oriented. And it is the poor client, the citizen without the money to hire an attorney, whose interest we presumably are trying to protect—not the interests of the lawyer on a Government payroll.

This amendment in the nature of a substitute provides for greater and more active participation by local bar associations. I do not know about the bar associations in the States of other Senators, but I am immensely proud of the North Carolina Bar Association. For years, the North Carolina Bar Association has taken the lead in trying to assure adequate legal representation for citizens unable to pay for it themselves. And I think that Congress will be missing a fine opportunity if we do not do everything possible to encourage even further participation by the bar association and by the responsible attorneys in North Carolina and the other 49 States.

We should seek to involve local attorneys more intimately in the problems of the poor community, not relegate the poor to Government-paid attorneys. This amendment in the nature of a substitute will set up a sound basis for a stable, ethical attorney-client relationship.

Finally, and just as importantly, this proposal allows the people's representatives in the State legislatures to play a proper role in designing and implementing the program in each State.

Mr. President, the present legal services delivery system is grossly deficient and the widespread controversy surrounding it is a valid indication of that deficiency. I submit, Mr. President, that the present legal services delivery system has distorted the attorney-client relationship and has been subject to numerous political abuses in promoting the objectives of special interest groups with taxpayers' money.

The present legal services delivery system has sought, time and time again, to thrust the burden of politics upon our courts. The amendment that I shall submit momentarily will, Mr. President, go far in reforming these abuses while increasing the delivery of personal legal assistance to the poor.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-one minutes and 4 seconds.

Mr. NELSON. Was the time agreement 30 minutes to this amendment?

The PRESIDING OFFICER. One hour.

Mr. NELSON. And there are 21 minutes left?

The PRESIDING OFFICER. Twenty-one minutes and 4 seconds.

Mr. NELSON. How much time do I have left on this amendment?

The PRESIDING OFFICER. A little less than 21 minutes and 4 seconds.

Mr. HELMS. How much time does the Senator from North Carolina have?

The PRESIDING OFFICER. Twenty-one minutes.

Mr. NELSON. So there are 42 minutes left.

The PRESIDING OFFICER. Total.

Mr. NELSON. I thank the Chair.

Mr. President, I suggest the absence of a quorum, with the time to be charged equally.

Is that all right, on the amendment?

Mr. HELMS. I am prepared to yield back the remainder of my time. If the Senator wishes, he can charge it to me.

Mr. NELSON. Mr. President, I ask unanimous consent that the time be equally charged to each side on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this rather comprehensive proposal by the Senator from North Carolina, who, quite obviously, has given the matter considerable thought, was not referred to the Senate Committee on Human Resources which has had jurisdiction over legal services programs. As it was drafted, it became the jurisdiction of the Judiciary Committee. Therefore, our committee, which has had jurisdiction over legal services legislation from its inception in 1965, did not have an opportunity to either conduct hearings or act on Senator HELMS' legislation in any way.

The legislation was introduced on August 5 and the Senate was in recess during the month of August. The Judiciary Committee did not conduct hearings on the bill.

Therefore, it would not be possible to act favorably, even if one should agree with it, on a piece of legislation on which we have not had hearings.

The bill would transfer the responsibility for the legal services programs to the States. There may be very useful ideas in the Senator's legislation which ought to be considered in hearings. We will, in fact, have oversight hearings on the Legal Services Corporation legislation between January and March of next year.

I say to the distinguished Senator from North Carolina that we would welcome his ideas at that time. Of course, at the time we consider the Legal Services Corporation authorization again, the committee would welcome consideration of the proposal that the Senator from North Carolina makes.

However, as manager of the bill and as a member of the Human Resources Committee, I think I can speak for myself as well as the committee. Given all of the circumstances, we would have to oppose the Senator's legislation as now drafted and as now brought to our attention as a substitute amendment.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 3 minutes out of the time in opposition to the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JAVITS. Mr. President, the difficulty with this substitute, and it is a complete substitute, is that it goes off on a totally different premise than the legal services program which has now been in effect for 2 years. On the whole, even considering the claims of its opponents, it has done very well when we look through the list of complaints which have been made. The program stands up extraordinarily well.

What, after all, have we done?

One, we have cut the number of years. All right, the opponents want to have a quicker look, from 5 to 3 years.

Two, we have frozen the appropriation authorization at this year's figure, which has already been appropriated, $205 million, for the next 2 years it is left to the Appropriations Committee.

Three, we have stricken any effort to change the way in which private funds are handled, or to use privately contributed funds for anything other than provided by the bill.

That is a perfectly legitimate effort of the opponents.

And last, we have dealt with the question that they want to be sure these lawyers do not initiate any new organizations, so we left the law as it is.

Mr. President, that is not dismantling the program. They are serious and important amendments.

So even the opposition realizes this is an ongoing program, that it has worked well, that we have a highly professional board running it, and the only real distinction that I see between the substitute and the legal services program is the proposal that this become a State aid program, and that is contained at page 4, lines 20 to 24 of the substitute.

That I strongly oppose, and for this reason. The reason we had legal services is to try to cut the Federal load in poverty because the Federal load is very heavy with AFDC families, and many other elements of poverty, and our concern about the working poor, and our desire to keep them working, and to adjust the Federal welfare program accordingly.

In view of the fact that this is an effort to reduce throughout the country on a national scale, we should treat the poor wherever they may be on an equal basis, and we know now that if we have a State program it is going to be very different in States A, B, and C, than in States E, F, G, and H.

We know that. That is our experience. And that is exactly what we do not want in this particular program. That is the essence of it.

Therefore, Mr. President, it seems to me that the purpose of the legal services program is not a State aid program. It is an effort of the Federal Government to deal with poverty. It is an element of Lyndon Johnson's war on poverty and it turns out to be a successful and useful element.

This substitute would change it completely to a State aid program to give legal services to the poor, which in my judgment was not intended and not designed, which this is not designed for, and it was not the congressional purpose.

Therefore, I agree with Senator NELSON that we should consider such an approach. Senator HELMS undoubtedly will wish to testify about it when we have the oversight hearings, and we will welcome him. But, right in midstream, when this whole enterprise is established, when it has been reformed in terms of a professional board of directors, when it has essentially the backing, support, and implementation of the bar associations of the country—from the American Bar Association down—it would be a great mistake, in my judgment, to insert now—which is what this substitute would do—a straight State aid program. I hope the Senate rejects the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield myself such time as I may require.

Mr. President, the distinguished Senator from Wisconsin put his finger on the anomaly of the situation concerning this legislation.

Here is a problem involving justice, the legal system, the law. To which committee was it referred? Not the Judiciary Committee, which, at a very minimum, should have had joint jurisdiction. Not once during the entire consideration of this program has the Judiciary Committee ever considered it. I wish they had. But that is past history.

The able Senator from New York, my friend, Senator JAVITS, in his customarily eloquent fashion, has drawn a line of demarcation between his philosophy and mine, in general. I believe that as much responsibility as possible should be returned to the States, and the local communities and it should not continue to be centralized in Washington, D.C.

This program, in my judgment, is fairly typical of the way the Federal Government operates. If you like the way the post office operates, then you will love this program. It is just about as simple as that.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

I take this time not to prolong the debate but simply to compliment the Senator for having offered the comprehensive substitute he has offered.

The Senator from Idaho does not believe there is a lack of need for assistance to poor people who cannot afford legal guidance and counsel. I think that throughout the debate on this subject we need to keep focused on the fact that it is not whether or not there are going to be legal services for the poor but how that shall be done.

The Senator from North Carolina has suggested, and the Senator from Idaho agrees with the suggestion, that it is better to be done at the State level, subject to State program, rather than federalized, whenever possible. I know that the difficulty of getting that point of view across in the Senate is very great, but I compliment the Senator from North Carolina for the effort. He has my support. I shall vote with him and urge others of my colleagues to vote with him on this amendment.

Mr. HELMS. I thank the able Senator.

Mr. President, I am perfectly willing to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 2 or 3 additional minutes.

Inasmuch as this question will recur again and again, this matter of the Judiciary Committee, I should like to set the record clear on that.

We had a study by a special committee headed by the Senator from Illinois (Mr. STEVENSON) on this question of committee jurisdiction, and we voted a committee reorganization based upon that study. I should now like to quote from the report of that study. We will give the exact date and the exact number later, but it is January of 1977. When the committee analyzed the situation carefully and the Senate voted to give jurisdiction to various committees, under the heading "Committee on Human Resources," page 11, this is the statement:

> In the category of the public welfare generally, the committee will continue its authority over Federal poverty programs, child and youth development, legal services, and domestic voluntary programs.

It could not be clearer than that. Therefore, that question has been decided.

All we are doing is carrying out the jurisdiction which the Senate has conferred upon us. In this case, we do not even have to imply it. It says "legal services."

Mr. President, what is the rationale? The rationale, I think, is demonstrated by this debate. I say to my colleagues that this is not just a State program. This is a local program. There are 300 of these corporations throughout the country, and each is local. It is not a State. It could be a city, it could be a county, where the bar association takes the initiative to set up the legal services program; and the primary impetus and the management and the professional responsibility is bar association responsibility.

That was the great change in legal services and why we enacted the Legal Services Corporation law, because Members were satisfied that that was the way to go, rather than to make it a Washington-oriented program.

So, Mr. President, it seems to me that it is more than a State program. It is a local program, and that is the way we want to keep it. The reason is very obvious: If you interpose the layer of the State, you will have a different program in every State or most States, and perhaps in many no program at all because they do not agree with the policy, just as many of my colleagues who are opposed to this bill do not agree with the policy. But that defeats our purpose, which is to try to reduce the syndrome of poverty, and we find this a very effective way to do it.

So, Mr. President, on all those grounds, I hope the Senate will sustain the committee's position and Senator NELSON's position and mine, and reject the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I join in the statement made by Senator JAVITS.

The issue is frequently raised by some Members about joint jurisdiction with the Judiciary Committee or referring legal services legislation for consideration to the Judiciary Committee. The Human Resources Committee has handled the legal services legislation for about 12 years. Under the Reorganization Act approved by the Senate this year, with the overwhelming endorsement of the Members of the Senate, the legal services legislation was specifically placed within the jurisdiction of the Human Resources Committee.

Mr. McCLURE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield to the Senator from Idaho.

Mr. JAVITS. Mr. President, will the Senator yield, to allow me to make a correction for the record?

Mr. McCLURE. I yield.

Mr. JAVITS. To identify the report from which I read. It is Report No. 95–2 of this session of Congress, the Rules and Administration Committee, January 25, 1977, on Senate Resolution 4.

Mr. McCLURE. Mr. President, I ask unanimous consent that immediately following the disposition of the Hatch amendment, it be in order for the Senator from Oklahoma (Mr. BARTLETT) to offer an amendment; that immediately following the disposition of the Bartlett amendment, it be in order for the Senator from Idaho (Mr. McCLURE) and the Senator from Utah (Mr. HATCH) to be recognized to present their amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. I have no objection, if it is understood that this unanimous-consent agreement is subject to the overall unanimous-consent agreement on the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, if the Senator from Wisconsin has no further use for the time, I do not, and I will be glad to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield back his time?

Mr. NELSON. Mr. President, I yield back the remainder of my time. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) and the Senator from North Carolina (Mr. MORGAN) are absent because of illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Minnesota would vote "nay" and the Senator from North Carolina would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

The result was announced—yeas 23, nays 67, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—23

Allen	Hansen	Sparkman
Bartlett	Hatch	Stennis
Byrd, Harry F., Jr.	Helms	Stevens
Curtis	Laxalt	Stone
Eastland	McClure	Thurmond
Garn	Roth	Tower
Goldwater	Schmitt	Wallop
	Scott	Young

NAYS—67

Abourezk	Ford	Metzenbaum
Anderson	Glenn	Muskie
Baker	Gravel	Nelson
Bayh	Hart	Nunn
Bellmon	Hatfield	Packwood
Bentsen	Hathaway	Pearson
Biden	Heinz	Pell
Bumpers	Hollings	Percy
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Riegle
Chafee	Johnston	Sarbanes
Chiles	Kennedy	Sasser
Church	Leahy	Schweiker
Clark	Lugar	Stafford
Cranston	Magnuson	Stevenson
Culver	Mathias	Talmadge
Danforth	Matsunaga	Weicker
DeConcini	McGovern	Williams
Dole	McIntyre	Zorinsky
Domenici	Melcher	
Durkin	Metcalf	

NOT VOTING—10

Brooke	Hayakawa	Morgan
Eagleton	Humphrey	Moynihan
Griffin	Long	
Haskell	McClellan	

So Mr. HELMS's amendment No. 1456 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I ask unanimous consent that Perry Pendley of my staff may have access to the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, under a unanimous-consent agreement, the amendment involving desegregation will be called up shortly. What is the time limitation on that amendment?

The PRESIDING OFFICER. To which amendment is the Senator from Wisconsin referring?

Mr. NELSON. The one that was the subject of a unanimous-consent agreement, on Senator McCLURE's request, an hour ago.

Mr. HEINZ. Mr. President, will the Senator from Wisconsin yield to me?

The PRESIDING OFFICER. We were supposed to return to the amendment of the Senator from Utah, amendment No. 1457.

Mr. NELSON. Which one is that?

The PRESIDING OFFICER. This is the one temporarily set aside yesterday. And the order to recognize the Senator from Oklahoma (Mr. BARTLETT) to call up an amendment was to follow after that amendment.

Mr. JAVITS. Mr. President, I believe that the first part of the statement made by the Chair relates to events of yesterday. Is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And I believe it was the intention of the parties to give the floor to Senator BARTLETT for his amendment notwithstanding that arrangement of yesterday, immediately after the consideration of the pending amendment. I am sure that was it.

The PRESIDING OFFICER. The agreement as recorded, of this morning, shows that the amendment of the Senator from Oklahoma was to follow the dis-

position of the amendment to be offered by the Senator from Utah. If there is a unanimous-consent request to the contrary——

Mr. JAVITS. Mr. President, in the absence of Senator HATCH, who is obviously not ready to bring up his amendment, I ask unanimous consent that the Senator from Oklahoma may be recognized to call up his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, my good friend from Oklahoma had previously asked the Senator from Wisconsin to make a unanimous-consent request requesting recognition of the Senator from Pennsylvania for 3 or 4 minutes to offer a resolution, to be called up by unanimous consent, that has been cleared with the leadership on both sides. It would not take more than, at most, 4 or 5 minutes, if the Senator from Oklahoma would yield.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the distinguished Senator from Pennsylvania has stated the agreement correctly, but I believe if the Senator from Pennsylvania would yield for the Chair to respond to the request by Mr. JAVITS, Senators would know whose amendments are called up next. Once that is done, I would hope agreement could be reached to proceed with the resolution.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I have no objection to yielding to the Senator from Pennsylvania to call up his amendment at this time.

Mr. NELSON. Mr. President, how much time does the Senator from Pennsylvania request, and how much time does the Senator from Georgia request? The total request is for 5 minutes, is that correct?

Mr. HEINZ. The Senator is correct.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Pennsylvania for a unanimous-consent request?

Mr. BARTLETT. Yes, I yield for that purpose.

Mr. HEINZ. I thank the Senator from Oklahoma for his willingness to lay aside his amendment temporarily.

The PRESIDING OFFICER. Is the Senator's request for 5 minutes?

Mr. HEINZ. Not to exceed 5 minutes for all discussion. I ask unanimous consent to yield to other Senators for 2 of the 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTION OF AMERICAN INDUSTRIES FROM UNFAIR FOREIGN COMPETITION—SENATE RESOLUTION 279

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of Senate Resolution 279, and that the Senate proceed to its immediate consideration.

Mr. TALMADGE. Mr. President, if the Senator from Pennsylvania will yield at that point, this request has been cleared by the chairman of the Finance Committee (Mr. LONG) and the ranking Republican member (Mr. CURTIS). I speak in behalf of both of them.

As I understand, the Senator from Pennsylvania is going to modify the resolution in accordance with language that has been drafted by the committee staff.

Mr. HEINZ. The Senator is correct. What I intend to do is call up the resolution by unanimous consent. Then I will ask for its immediate consideration, make a brief statement, and then, upon the adoption of the resolution, it would be my intention to ask unanimous consent—and I know of no objection to this—that the preamble be amended by the changes that have been agreed to by the Senator from Georgia, the Senator from Louisiana, and myself.

Mr. JAVITS. Mr. President, reserving the right to object, what is this resolution all about?

Mr. HEINZ. The resolution reaffirms support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries.

The PRESIDING OFFICER. Will the Senator from Pennsylvania send a copy of his resolution to the desk, so it can be reported?

Mr. HEINZ. Yes.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 279) reaffirming support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ. Mr. President, what did we just get unanimous consent on? That further reading of the resolution be suspended?

Mr. JAVITS. I request that, yes.

The PRESIDING OFFICER. Is there objection to dispensing with the reading and proceeding with the consideration of the resolution?

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I have read it hastily, and I should like to ask the Senator from Pennsylvania a question.

Mr. HEINZ. Yes.

Mr. JAVITS. The resolution deals, quite properly, with the enforcement of U.S. laws, and the operative clause asks for action—

to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

The "other forms of unfair competition" referred to in this resolution refer to violations of U.S. law; is that correct?

Mr. HEINZ. The Senator is entirely correct.

Mr. JAVITS. That is fine. I thank the Senator very much. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, the Senate will proceed to its consideration.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. ANDERSON), and the Senator from South Carolina (Mr. HOLLINGS) be added as cosponsors of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I offer this resolution today in an effort to put the Senate on record in support of an industry facing serious problems, and to suggest a minimal step which must be taken immediately.

Senate Resolution 279 was first presented at an initial steel caucus meeting on September 28 and was ultimately cosponsored by Senators RANDOLPH, GLENN, METZENBAUM, BAKER, SCHWEIKER, STEVENSON, ALLEN, BAYH, MATHIAS, LUGAR, PERCY, SARBANES, ANDERSON, and HOLLINGS.

The resolution is very simple in its intent. It merely states that our trade laws ought to be more vigorously enforced. Since all our laws should be aggressively enforced, on the surface this is a small request. In fact, much remains to be done with respect to our trade laws.

The steel industry has consistently cited unfair trade competition from Japan and the European Economic Community as one of its major problems, and there appears to be substantial evidence that this is the case. Only last week Treasury tentatively announced a finding of dumping in the Gilmore case involving carbon steel plate from Japan. Other major cases are still pending.

The study released last week by the Council on Wage Price Stability indicates clearly that European production costs are roughly equivalent to ours and, adding on transportation costs, should produce a U.S. advantage. Yet EEC steel undersells American steel here and even posts list prices that are $50 per ton below the cost of our most efficient steel mills, as documented by this same report. The COWPS study delicately refers to this as "aggressive competition" from Europe, when in fact it is in my judgment, a clear and prima facie case of dumping, and I hope for just such a finding from the Treasury Department.

Even after such a finding, however, the problem is not resolved, though it may have receded from public attention. A finding of injury must be made by the ITC, and duties must be assessed. In numerous cases Treasury is lagging years behind in the assessment of duties, and the bond that is required of importers during this lag has not been a significant deterrent to continued dumping, even after a finding has been made. The law exists; the will to enforce it apparently does not.

Likewise, more than a year ago, the steel industry brought a complaint under section 301 of the Trade Act alleging that Japan and the EEC had made an agreement which discriminated against the United States and resulted in increased quantities of steel being dumped in this country. This complaint has been pending for over a year with no decision.

In conversations with administration officials, they repeat the same refrain: existing law is sufficient to solve the steel problem. Personally, I do not believe that, but I think we should nevertheless do what we can to find out if it is not true. We will never find out, however, if we do not enforce the laws we have got.

That is precisely what this resolution is all about—to encourage enforcement of existing law—because it has not been enforced adequately thus far. Some people in the administration have gotten the hint, and the Gilmore case is a hopeful sign in that regard. Others, I fear, have not, and I think it is appropriate for the Senate to send a signal to the administration to this point that we are determined the law be enforced.

Mr. President, also relevant to the steel issue is the Organization for Economic Cooperation and Development's second meeting of its member delegation on the subject of steel held 2 weeks ago. The first such meeting was held early this summer, and regrettably, there appears to have been only marginal progress made since them. In fact, it can be said with some accuracy that the most significant agreement at the September meeting was on the date for the next one at the end of November.

The failure of our delegation to obtain more significant agreement on its objectives, including creation of a consultative/monitoring mechanism on world steel trade and insertion of a paragraph in the final communique on dumping, is a disturbing problem. Another equally disturbing matter, however, is the modesty of our objectives at the OECD. In the past weeks we have witnessed a growing public awareness of the serious problems facing the American steel industry and of the need to act aggressively to combat them. Our limited goals at the meeting and our failure to achieve even them do little to ease this growing concern among Members of Congress and the public at large.

This is not to say, of course, that nothing is happening. As I just mentioned, only last week, the Treasury Department issued a tentative finding of dumping in the Gilmore case involving carbon steel plate from Japan. Two other major cases are pending against Japan and the EEC, our negotiating partners at the OECD talks. There seems little doubt in Government circles that these are not frivolous cases and that dumping is taking place with the resulting adverse effect on domestic production and employment. Clearly the Treasury Department should be pressed to conclude its pending case as Senate Resolution 279 makes clear, and our trading partners should be pressed to cooperate with our Government in supplying cost of producton data so a judgment on dumping can be made. Efforts along this line met with little success in Paris due to the recalcitrance of the Japanese and EEC delegations.

At the same time, however, the restrained natures of this objective should be noted, and I hope our delegation will not stop at articulating this minimal point of enforcement of existing law. It is clear that the international steel market is in disarray—that dumping is continuing, that the Japan-EEC agreement on steel marketing discriminates against our producers, and that every nation's economic well-being is threatened by these two factors plus the worldwide surplus of steel that can be expected to last for the next several years. Dealing with these problems will necessitate very difficult negotiations with the EEC and Japan, both of whom have thus far shown little inclination to deal seriously with these problems.

Beyond that, however, is the question we are discussing today: our willingness to reach toward these goals. I fear that our delegation has not been sufficiently aggressive and tenacious in pursuing our proper objectives at the OECD talks. I sense a feeling in some parts of the delegation, similar to what I have seen elsewhere in the administration, that tenacity is unnecessary because no new agreements are necessary; that existing law—however inadequately it may be enforced—is sufficient to deal with our problems; and that there is no need to move in the direction of orderly marketing arrangements on steel.

Notice should be served now, however, that this attitude will not wash in the Congress, and that if strong action is not taken, Congress will take the initiative from the administration and pursue the matter itself. With over 13,000 steelworkers recently laid off and many of them certified for trade adjustment assistance—itself an admission by the Government of the trade impact of the actions of our trading partners—it is clear that firm action is in order and if the administration will not take it, the Congress will. Senate Resolution 279 will serve as a symbol of our determination in that regard.

Mr. President, to illustrate the modest nature of the OECD talks. I ask unanimous consent that the text of the OECD communique concluding the meeting be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE CONCLUSIONS REACHED AT THE SECOND MEETING OF THE AD HOC WORKING GROUP ON THE STEEL INDUSTRY

1. At its second meeting on 29th and 30th September, 1977, the ad hoc Working Group on the Steel Industry, after taking note of documents prepared by the Secretariat on supply and demand forecasts and on trends in international trade in steel, heard statements from participating countries and from the European Community on the situation in their industry and the main issues of urgent concern to them.

2. The Group noted that, since its meeting in July, the serious depression in the industry had deepened even further in OECD producing countries; in consequence, the widespread and very serious difficulties with regard to employment levels and the financial results being achieved by the Industry had grown more intense. The situation in some Member countries had deteriorated to the point where even more urgent attention to the problem was required. It was, further, the view of the Group that the problem of large world excess capacity would persist for some years and that, due to the cyclical nature of steel demand, difficulties caused by recession might well recur in the future.

3. In the examination of the current situation on the steel market a number of countries indicated that particular difficulties were being experienced for the steel products especially dependent on the demand from investment goods industries. The Group recognized that actions taken at national and international level to stimulate world economic activity would have a significant effect on the steel market.

4. The Group also recognized that governments were increasingly examining the need for structural adaptation in the steel industry and considering the domestic measures available to effect necessary adaptation in ways that would avoid adverse international impacts. The importance of the role played by a number of the developing countries in world steel production was noted and it was recognized that consideration of longer term structural adaptation would have to take such developments into account.

5. With regard to prices, concern was expressed by a number of governments at the determination in the level of steel prices. The statements made to the Group indicated that a number of different responses to this trend were appearing in several countries.

6. Having reached the common perception of the problems facing the steel industry indicated in the above paragraphs, the Group further agreed on the problem areas to which it would give priority attention at its next meeting: international trade developments, the pricing of steel products and longer-term structural changes in the world steel industry.

7. It was agreed that more information should be made available on these areas as a basis for considering the advisability of cooperative action. The data collected should permit the Group and Member governments to follow closely and on a continuing basis current and longer term trends and promote the greater common understanding of these urgent problems that is necessary for appropriate responses to be found.

8. The Group instructed the Secretariat to prepare, in consultation with Governments and for examination at the next meeting, a report on the data that would be needed, the feasibility of collecting them, and the ways in which the Group might most usefully consider the information thus provided with a view to advancing the examination of means available to alleviate the difficulties faced by the steel industry.

9. The Group decided to hold its next meeting on 30th November and 1st December, 1977.

Mr. HEINZ. Mr. President, before I send forward an amendment to the preamble, I want to indicate that the resolution really speaks for itself. It is particularly timely, because tomorrow the President will be meeting with steel industry leaders, consumers, and a variety of people from around the United States concerned with the problems of the steel industry, including unfair competition. It is a particularly appropriate meeting because only last week, on October 6, the Council on Wage and Price Stability made a report indicating clearly that European production costs are roughly equivalent to ours, and that, adding the transportation costs, there should be a uniform price disadvantage. At the same time they also found that EEC steel undersells American steel, and even posts list prices that are some $50 a ton below the cost of our most efficient steel mills. As I say, this is documented in the same report.

In conversations with some administration officials, I have been told that the existing law on antidumping, and other related laws, is sufficient to solve the steel problem. Personally, while I have some individual doubts about that, I think we should find out whether or not

that is the case. If we do not find out through the most aggressive prosecution of these laws, we will never know how good the laws we have are. Enforcement is what this resolution is all about, to encourage the enforcement of an existing law, because in my judgment—and I do not limit this by any means to the present administration, but I include the precious Ford and Nixon administrations in this—the law has not been enforced adequately thus far.

Mr. GOLDWATER. Mr. President, several of my colleagues have emphasized the importance of the American specialty steel industry to our national security. I would like to zero in on a particular aspect of this that has not yet been mentioned, and that is the importance of the research and development activities of this industry.

During the hearings held by a subcommittee of the Senate Armed Services Committee in 1972, the representative of the Department of Defense, Vice Adm. Eli T. Reich, testified in his capacity as Assistant Secretary of Defense for Installations and Logistics. This is what Admiral Reich told the subcommittee about the specialty steel industry's R. & D. effort:

> During this past 100 years of their existence, specialty steel companies have conducted extensive research and development to enhance the physical properties of their products and advance their manufacturing technology in this area. Some of this research has been accomplished in cooperation with and under the sponsorship of the Department of Defense; however, much of this work has been accomplished with industry funds and with their own in-house R&D facilities. There are numerous examples where the results of this effort have had direct application and use in defense systems. . . .

The Assistant Secretary of Defense then went on to cite the new generation of jet engines and other systems which have stemmed from the specialty steel industry's R. & D. programs. He said:

> The Department of Defense is vitally concerned with what happens to the specialty steel industry in this country.

Moreover, the Defense Department representative noted that—

> To be available for defense needs, the specialty steel industry in the United States requires a healthy U.S. commercial market.

He went on to say that—

> This is especially true if their R&D capability, which has been so valuable to defense in the past, is to be kept from eroding.

Unfortunately, many specialty steel companies have been forced to cut back on their research and development because imports have grabbed off more and more of the domestic market for this industry's bread-and-butter product lines. The quotas that the last administration imposed upon imports have just begun to change this situation and as the industry grows more viable financially it will again increase its R. & D. budget.

Testimony before the U.S. International Trade Commission has conclusively shown that the American specialty steel industry is the world's leader in technological improvement and development. In spite of the heavy subsidies foreign steel companies receive from their governments, they have not been able to match the American industry's R. & D. accomplishments.

Mr. President, if we wish to assure America's technological leadership in this vital industry, I urge the President to let the import quotas on specialty steels run their course. The quotas are just beginning to work and to restore the economic health of an industry that was afflicted by 40 percent unemployment and severely curtailed production. Surely, less than 2 more years of limitations is little enough for an industry that has suffered such serious injury from imports for nearly a decade before the quotas went into effect.

THE AMERICAN STEEL INDUSTRY'S CONTINUING CRISIS

Mr. BAYH. Mr. President, I want to take this opportunity today to reaffirm my support of Senate Resolution 279, a measure I have cosponsored which expresses the sense of the Senate that the administration should vigorously enforce the laws designed to protect American industries from unfair competition by foreign industries. Just recently, the Department of Treasury found for the first time that five Japanese steel companies were engaged in "dumping" carbon steel plates on the U.S. market. What is even more alarming is that these products have been sold, according to the preliminary determination of the Treasury Department, at as much as 32 percent below the full cost of production. Clearly, the strong concern about such practices voiced by the steelmaking community have proven to be well founded. We cannot allow this situation to continue and must impress upon our trading partners our commitment to make sure that the open trading system which we all seek is also a fair one.

The resolution approved by the Senate today puts us on record as attaching great importance to this fact. It serves notice that we intend to act with all deliberate speed. As the senior Senator from the Nation's second largest steel producing State, I intend to work vigorously to address directly and remedy effectively the very serious and complex economic problems which are now threatening the lifeblood of this most basic industry. Senate Resolution 279 marks the beginning of this important effort.

I understand that the administration is undertaking an interdepartmental review of the wide range of problems which must be solved if we are to achieve truly effective and comprehensive management of the steel industry's problems. I hope this is the last interagency review, because, as many of my colleagues know the steel industry has been almost "studied to death." At the same time, it is important that we work with the President and his key trade and economic advisers to assure prompt consideration of legislation aimed at, first, making sure that unfair and predatory pricing practices of foreign importers of steel are terminated as soon as possible to limit the damage caused to domestic industry; second, stimulating the demand for steel through changes in the Buy American Act and other programs; and third, coming to grips with the structural problems of the steel industry in a way which will bring economic and employment stability to established steel producing communities. This would entail devising a plan for capital formation necessary for industry modernization.

These are the three basic categories of the problems with which we must contend. It is our duty to explore them promptly and fully. The urgency of the steel crisis requires us to make our own specific recommendations known to the President and his advisors who are preparing recommendations in this area.

Quite obviously, any recommendations for changes in the Trade Reform Act of 1974 and other laws will have to be considered by the appropriate committees of the Congress. Shaping an effective industrial policy will not be easy but with the passage of this resolution today, I think we are well on our way. My colleague from Pennsylvania, Senator HEINZ is to be commended for his hard work on this resolution. I look forward to cooperating with him and the other concerned Senators representing the steel producing States in the days ahead.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

UP AMENDMENT NO. 925

Mr. HEINZ. Mr. President, I send to the desk amendments to the preamble and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 925.

In the second whereas clause, strike "major";

In the third whereas clause, strike "contributed substantially to" and insert in lieu thereof "been a factor in" and

In the fifth whereas clause strike "failed to resolve" and insert in lieu thereof, "not resolved".

Mr. TALMADGE. This has been cleared with the Finance Committee.

Mr. HEINZ. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution, with its preamble as amended, reads as follows:

> Whereas the American steel industry is facing an unprecedented crisis, in the last several weeks having suffered layoffs of more than twelve thousand workers;
>
> Whereas a contributing factor to the problems facing the American steel industry is the dumping of imports subsidized by foreign governments into this country;
>
> Whereas such imports have adversely affected the United States balance of payments and have been a factor in reduced employment opportunities in the American steel industry;
>
> Whereas the Department of the Treasury has failed to be sufficiently aggressive in pursuing dumping complaints filed by American industry to their conclusion, thus permitting the continued sale of imported products below cost; and
>
> Whereas the Office of the Special Trade Representative has not resolved a complaint alleging a violation of section 301 of the Trade Act of 1974 by the European Coal and Steel Community and the Japanese Ministry of International Trade and Industry filed on October 6, 1976, by the American Iron and Steel Institute:
>
> *Resolved*, That the Senate reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Is the resolution now adopted, as amended?

The PRESIDING OFFICER. The preamble, as amended, was agreed to, and the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I want to thank the distinguished Senator from Oklahoma for yielding and making this time available.

Mr. BARTLETT. The Senator from Pennsylvania is most welcome.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

UP AMENDMENT NO. 926

Mr. BARTLETT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment proposed by the Senator from Oklahoma.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 926.
>
> On page 17, line 9, strike the words: "and paragraph 7" and insert in lieu thereof a period.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, the bill we are considering would delete section 7 in the present law. My proposal merely deletes that language of the bill which would delete section 7. It reads:

> To provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school system;

Mr. President, that section contains a specific restriction on the types of cases in which Legal Services attorneys may be involved. They may not become involved in lawsuits relating to the desegregation of school systems. Unfortunately, Senate bill S. 1303, as reported by the Human Resources Committee, drops this restriction. I believe that such a change would be most unfortunate.

Mr. President, I am particularly disturbed that we would open the doors once again to involvement in desegregation lawsuits by Legal Services attorneys. We all support the objective of desegregation. But we all know that many desegregation lawsuits result in the imposition of plans requiring massive busing of public school children—a policy that has been and continues to be opposed by a majority of the American people, both black and white.

Massive court ordered busing has always been a highly suspect means of achieving desegregation. The Congress has indicated in various ways that we do not like busing, although our statutory attempt to restrict it have met with little success.

Because the busing that results from many desegregation lawsuits is opposed by most of the people, and because it is such a poor way of achieving the goals of equal educational opportunity, I think it is unwise that we, in effect, force the taxpayers at large to subsidize this kind of lawsuit.

In many respects, desegregation lawsuits are excellent examples of lawsuits that do not involve "basic legal services." These lawsuits are many times used as ways to implement the social engineering goals of activists in the particular field. The rights and needs of individual clients tend to fall by the wayside.

There are other reasons why it is appropriate to retain the restrictions on corporation involvement in desegregation and busing lawsuits. As the committee report itself notes, desegregation cases can tie up substantial amounts of attorney time and resources. The more time and money that are poured into desegregation lawsuits, the less time and money there is that will be available to provide the basic legal services that indigent persons need in conducting their day-to-day activities. By retaining the restriction in the present law, we can at least in part force the corporation to direct its resources where the need for legal services is the greatest.

There is one additional factor which makes me disinclined to lift the restrictions on involvement in desegregation lawsuits. Since passage of the Legal Services Corporation Act, the Congress has acted in a fashion that will reduce even further any need that may have existed for Legal Services involvement in cases of this type. Last year, we passed the civil rights attorney's fee bill. That legislation provides significant additional incentives for private attorneys to get involved in desegregation lawuits. As a result, there seems even less need to divert Legal Services Corporation resources to these sorts of lawsuits. Adequate means of redress are available to those who wish to pursue a desegregation or busing lawsuit. You cannot say that about suits like divorces, landlord-tenant disputes, and the like. Therefore, let us put our money where the need is.

My amendment would amend the bill so as to retain the existing restrictions on Legal Services involvement—in desegregation lawsuits.

I do want to add one last note regarding the desegregation suit portion of this amendment. The House-passed version of the Legal Services authorization extension retains the restriction on involvment in desegregation suits. So, if we keep the restriction in our bill, that is just one less thing to hassle over in the conference on this legislation.

Mr. President, I strongly urge that my colleagues support this amendment, which would assure that Corporation resources are allocated to those projects more apt to be in real need of assistance.

Mr. President, I recall very well the time when various provisions, including this provision, were considered very important in order to continue having a legal services bill, and in order to remove it from the area of controversy which resulted from the abuse of the system, as many people saw it.

One of the restrictions which was placed in the bill was the restriction to prevent the attorneys from representing clients in desegregation cases. I am very concerned, in the interest of furthering the Legal Services Act, to open up the Corporation to the possibility of abuse and criticism resulting from the activities that I would expect would happen once again if this amendment fails or if the bill continues as it is regarding desegregation suits.

I think the need for a good legal services program is great. We should not jeopardize it by opening up the program to permit these kinds of activities by lawyers, which undoubtedly will lead to real difficulties throughout the country, or which I would expect would lead to such difficulties based upon the facts.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, will the Senator from Wisconsin yield me 4 minutes?

Mr. NELSON. I yield 4 minutes to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I rise in opposition to the amendment offered by the Senator from Oklahoma (Mr. BARTLETT), which would reinstate the prohibition against the Legal Services Corporation, any of its grantees, recipients, or staff attorneys participating in any proceeding or litigation relating to the desegregation of public schools, or the transportation of schoolchildren to achieve desegregation.

My colleagues will recall that, 4 months ago, I rose on this floor to defend a provision of the fiscal year 1978 HEW appropriations bill which prohibited HEW from requiring busing to achieve racial balance. The amendment before us today is totally different.

Four months ago, I attempted to delineate the two basic mechanisms by which busing for the purpose of integra-

tion can be brought about. First, there is busing that a Federal court can order to remedy proven violations of the equal protection clause of the Constitution. Second, there has been busing mandated by the Department of HEW, using a statistical formula, to achieve racial balance in each school that reflects approximately the same racial makeup as the school population in the district as a whole.

I see a vast constitutional difference between enforcing valid equal protection rights to eradicate de jure segregated education systems and creating a mechanistic right of statistical racial balance in each classroom. I vigorously support the former and, as vigorously, oppose the latter.

The bill before us today relates only to integration plans which may be enforced by a court and, as reported by the Human Resources Committee, would allow legal services attorneys to represent parents of schoolchildren who believe their constitutional rights have been violated. Perhaps more importantly, local legal services attorneys could be retained subsequent to a court order to assure that the provisions of the order are enforced.

In my view, the need to expand legal services to the poor in desegregation suits is of increasing importance. At the time of the historic Brown against Board of Education decision in 1954, the Southern States and some border States were operating dual school systems. In those districts which had maintained a dual system by law, it often can be shown that remaining patterns of segregation in the schools were caused by the former dual system. The courts have been exceedingly firm in such cases in requiring that all vestiges of the former dual system be eliminated.

It is only within the last few years that courts have been faced with suits in districts which were never segregated by law. In the 1973 Denver case, the court held that in a school district without a history of statutorily enforced segregation, the purpose or intent behind allegedly discriminatory school board actions was controlling. Within just the last month, the Supreme Court has further defined what it views as the constitutional requirements of equal protection vis-a-vis school desegregation suits.

The 1974 Detroit case prohibited busing between the city and the suburbs because the lower court record showed no evidence that the State or the suburban districts contributed substantially to segregated conditions in the city schools. This Detroit decision has subsequently been applied in Indianapolis, Dayton, Omaha, and Milwaukee to clearly state the Court's position that a remedy for any constitutional violation must be tailored to specific violation.

The purpose of this brief recital of the development of school desegregation cases is to point out that circumstances of the districts now being involved in desegregation suits in many instances, are substantially more complicated in determining violations of the Constitution and devising appropriate remedies. It has become increasingly important that adequate legal aid be made available to parents of minority schoolchildren.

Congress enacted the Legal Services Corporation Act of 1974 to assure equal treatment for all who seek redress through our civil laws. Certainly, the rights to legal services attorneys in desegregation suits is an important part of equal treatment. In fact, if Congress fails to provide access to attorneys for those who could not afford them otherwise, it has, in some respects, restricted the equal protection clause.

I urge my colleagues to defeat the amendment before us. It seems clear that a law will be enacted shortly to prohibit HEW from administratively ordering busing. I support that. But, as I have said on this floor before, I have voted for and will continue to vote for those measures which assure judicial remedies for children who are denied the full opportunity to achieve a quality education by reason of their attendance at segregated public schools.

Mr. KENNEDY. Mr. President, will the Senator yield 5 minutes to me?

(Mr. ZORINSKY assumed the chair.)

Mr. NELSON. I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose the amendment of the Senator from Oklahoma. I do so because it is my strong feeling that we should not limit Legal Services Corporation recipients from being able to represent interests of a constitutional nature as they would be limited under the amendment of the Senator from Oklahoma.

I also remind my colleagues that the amendment of the Senator from Oklahoma is wide sweeping. It would virtually preclude the opportunity for Legal Services lawyers to participate in cases involving desegregation even if the parties that they would represent are interested in a variety of other aspects of the remedy—for example, the interests of the handicapped in a particular school district, or the interests of Spanish speaking people in programs like bilingual education, which may very well be affected by a court order. Its scope is broad and all-inclusive. It excludes the opportunity for local representation on a variety of school related issues which happen to arise in a school desegregation context.

As to the bar on desegregation representation itself, Mr. President, we are not talking about the bureaucracy or agencies of government making the determination of whether there has been segregation. The courts are going to make the determination. I think that is important. This amendment would preclude the opportunity to appear and have a judicial resolution on whether a constitutional mandate has been violated.

Mr. President, if we look back over the experience of the predecessor to the Legal Services Corporation in the period from 1970 to 1975, we find, that in the 50-odd school desegregation cases that were actually tried the great majority of plaintiffs were upheld before the courts. This indicates that the record of Legal Services centers in the past has been one of selectivity. I think the record in this area indicates quite clearly that we are not talking about frivolous cases. We are not talking about overburdening the courts. What we are talking about is cases which have been carefully selected. The track record of the Legal Services offices, I think, has been a strong one.

Mr. President, we cannot let the Civil Rights Division carry sole responsibility to fulfill this mandate. In a number of areas of governmental policy more than one agency functions. I can think of areas where I had some interest, as the chairman of the Antitrust Subcommittee. We have the Department of Justice Antitrust Division, and the Federal Trade Commission, which is an independent agency, both with broad jurisdiction in the areas of antitrust policy.

Here, local legal services groups may frequently have the best perception of what is needed by local communities and have a much keener awareness, perhaps, of what may be happening at the local level than does the Civil Rights Division.

Moreover, we have seen the flow of different administrations and Assistant Attorneys General of the Civil Rights Division; they put different emphasis and different stress at different times on various civil rights policies.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Will the Senator yield 2 more minutes to me?

Mr. NELSON. I yield 3 more minutes to the Senator from Massachusetts.

Mr. KENNEDY. The independent Legal Services Corporation and its recipients, I believe, have a keener awareness of what is happening in local communities and are sensitive to that felt need rather than reflecting centralized policy. In this too, they are making an extremely important contribution.

So, Mr. President, I hope that this amendment will be defeated. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time does the Senator from New York and the Senator from Wisconsin have?

The PRESIDING OFFICER. Seventeen minutes on this amendment.

Mr. NELSON. And how much time does the Senator from Oklahoma (Mr. BARTLETT) have?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. NELSON. Mr. President, the authority to participate in desegregation cases was eliminated from the statute in 1974; the Human Resources Committee this year restored the authority to permit legal services funds to be used in desegregation cases. That was done in committee by a vote of 10 to 3. I voted to restore that authority to the Legal Services Corporation and its affiliates.

At the time we adopted that provision restoring that authority, a similar provision was in the House bill. When the House bill came to the floor, the House struck that provision on a rollcall vote by a vote of 208 to 174.

Therefore, in my judgment, there is almost no chance that this provision would remain in conference, particularly on the deadlines with which we are dealing.

It is my personal judgment, at least, the elimination of the desegregation provision will not stay in the final bill even if it stays in the Senate bill.

I happen to agree with what the distinguished Senator from Missouri and the distinguished Senator from Massachusetts said on the merits of the issue. I agree philosophically with them. However, it is worthwhile to point out that this authority to undertake desegregation cases does not really involve the main thrust of what legal services is all about.

In the 12-year period—or, more fairly, I suppose, the 11-year period—since legal services started, the legal services organizations participated in 50 desegregation cases. To the best of my recollection, every single one of those cases would have been tried without the participation of the Legal Services Corporation.

In the course of that period, while legal services participated in 50 cases, they handled about 7 million other cases representing the problems of clients. That is where their most important responsibility lies.

So that one would not get a distorted view, we are talking about 7 million cases against 50.

I repeat, I voted with the 10 to eliminate the restriction in the committee bill. But I told those Senators who we were attempting to settle this issue with yesterday, to whom this is a very important question, that in my judgment no matter what happens on this floor the elimination of the restriction will not remain in at the conference anyway. Having looked at the House vote and considering the time constraints we are up against, I told the proponents of this amendment that I was prepared to get a vote and settle this legislation this year.

The authorization for the Legal Services Corporation expires at the end of this month. So far as I am concerned, desegregation is not a major issue, and I will vote to strike that authority out.

Because the majority leader, as a consequence of the legislative flow here on the floor, did not have other legislation that was urgent, legal services legislation was called up. It had been everybody's belief that it was not going to be handled this year because the appropriations had already been made for fiscal 1978. Therefore it was not a piece of legislation that had to be handled this year, whereas the energy legislation did have to be handled, as well as several other pieces of legislation.

So it was fortuitious that we were able to deal with the question at all.

However, it being near the end of the session, it was necessary to have an agreement to vote or there would be no authorization, and I think, whereas the authorization is not essential because we have the appropriation, it indeed is important.

So I agreed, out of all the negotiations we went through, and in resolving the question and getting the vote, that I would support the amendment of the Senator from Oklahoma.

For the reasons stated, I shall vote for it.

Mr. JAVITS. Mr. President, how much time is there in opposition to the amendment?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. JAVITS. In opposition? I do not think so.

The PRESIDING OFFICER. Eleven minutes in opposition.

Mr. JAVITS. Would the Senator yield me 10?

Mr. NELSON. I yield the Senator from New York all the time he desires.

Mr. JAVITS. Mr. President, I will take 7 minutes, and I would like to be notified when that time has expired.

Mr. President, one thing needs to be put into focus.

I would like to first set in focus Senator NELSON's own position. He said he agreed. I wish to make it clear that there is no agreement by Senator NELSON that I know of in respect of the package agreement we have entered into with Senator HATCH and the people for whom Senator HATCH spoke as to this particular amendment.

I notified him personally that I would oppose it very strongly. I am not aware of any agreement that has been made in the context of the agreement which got us the time agreement respecting this particular amendment.

Mr. NELSON. I did not wish to leave that impression. My position on this particular amendment was not involved in the unanimous-consent agreement we made. I simply said to Members on the other side that as to this very controversial issue, that given the circumstances and the vote in the House, I would vote on their side.

Mr. JAVITS. All right. I thank the Senator very much.

There are three points to be made in this connection that are the basis for my opposition. By the way, the amendment, which was adopted by a vote of 10 to 3 in the committee, was my amendment.

First, the legal services, in terms of redeeming people from the syndrome of poverty through the dignity of having a lawyer, is also symbolic, and that desegregation issue, which bears heavily upon minorities and the poor because they live in that kind of area, therefore is a very important aspect, in my judgment and that of many others—Senators EAGLETON and KENNEDY already have spoken—respecting the fact that they really do have a lawyer, just as everyone else, for the concerns which are properly theirs. Desegregation of the public schools is, of course, a public concern of theirs. So whether there were 50 cases or more, I think that begs the issue. As a matter of fact, I am glad there are not a great many cases, because the primary business of the legal services lawyers takes up much of their time and aggregates many cases.

The second point which needs to be made in that connection and which, in my judgment, is very important, is that lawyers are not available for these suits. We have the finding on that, even in the committee report itself, at page 18, where the committee says:

> Information received by the corporation from the NAACP Legal Defense Fund and from the Mexican-American Defense Fund indicates that requests for representation in school desegregation cases far exceed the number of privately funded civil rights lawyers available to provide it, and this notwithstanding the Civil Rights Attorneys' Fees Awards Act of 1976.

Senator KENNEDY was the author of that act.

So the point is that lawyers are not available and that, therefore, the poor man should have an equal right with the one who can afford it or is in some organization that can afford it and should be able to get a lawyer, if he feels deeply aggrieved in this connection.

Last, this section was recommended by the American Bar Association. To me, that is a decisive point. Lewellyn Pritchard, who is the chairman of the pertinent committee of the American Bar Association, testified that the prohibitions on taking desegregation and other cases are "a clear example of the imposition of political considerations on the practice of law."

Mr. Pritchard went on to say:

> Whether the citizens who are deeply affected will have the opportunity to seek resolution through our court system and whether the Legal Services attorneys will be permitted to meet their ethical obligations to represent their clients fully and sealously . . .

Mr. President, it seems to me that this sums up the whole matter. If we really are going to give the poor the feeling—and we want to give them that feeling—that they, just as anyone else, can have a lawyer as a way in which to orient them away from the poverty syndrome, they cannot be denied a lawyer in respect of what is considered a violation of basic constitutional rights, if proven in court and the courts act.

By now, Mr. President, we all agree—North, South, East and West—that there is school segregation and that it needs to be corrected; that, indeed, the South has been a leader; that this particular type of provision will be far more directed against my part of the country rather than against parts of the country which traditionally we have considered subject to such desegregation suits.

So, Mr. President, for all those reasons, I believe that the hands of the Legal Services Corporations should be freed, and that is all we are doing. It is not as to any specific kind of redress, and nobody guarantees that any such suit will be won, but simply that the poor man should have the same right as the one better able to take the case into court. That, essentially, was the argument of my colleagues; that, essentially, is my argument; and I believe that is why the committee acted by such a decisive majority.

Finally, Senator NELSON says, "I do not think it is going to be in the bill." With all respect, we do not know whether it will or will not. The other body chose to lift the prohibition. If this body chooses to lift the prohibition, I shall fight for it in conference. I am not in any way committed to do anything but that. Perhaps we will have to rewrite it, or some such thing; one often does. I think the chances are excellent that the Bar Association prestige and that of the organizations which have come to us—I have described them—which have made clear the situation respecting the availability of law-

yers, and our own consciences, respecting the fact that we should not discriminate against the poor man in one branch of the law when we give him legal representation, will stand up very well, indeed, in conference.

I do not intend to be discouraged by any such prospect as Senator NELSON paints, and I shall decisively vote against this amendment for the reasons I have stated.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, if I may have the attention of the distinguished Senator from New York, I will be happy to yield to him some additional time; because I am not planning to use all the time, and apparently there are not others on this side who desire to talk.

Mr. President, I feel that section 7 in the present law was placed there 2 years ago, along with other restrictions on legal services, because the whole question of legal services was in jeopardy due to what were considered to be abuses of the original mandate to provide legal services for the indigent.

There is no question that we all agree that the poor, in not having legal services available to them, do not always have the opportunity of achieving justice in their private lives, in the various involvements in which they find themselves, or in just normal living.

So I think there is a unanimous feeling of strong support for a good, workable legal services bill. But there is a recognition, too, that the majority of the people of this country are not interested in providing legal services in connection with class action suits or in connection with desegregation matters which are very controversial and to which the majority are opposed.

So I think it is in the interest of perpetuating a strong, effective, well-financed legal services program to approve my amendment—to continue the practice we have had in the last 2 years of not permitting desegregation cases to be dealt with by the legal services lawyers.

I am not aware of any grassroots desire from the indigent or the poor to have this change made.

I suppose that those involved with legal services may be the ones who want to make the change. However, I do not think it is in the interest of the poor themselves; because, in the final result, their personal needs which require attention in the legal area may suffer because of a disenchantment by the people of this country with the manner in which the legal services are administered and the manner in which the Corporation conducts its activities.

Mr. President, I am prepared to either yield time or yield it back.

Mr. JAVITS. Do we have the yeas and nays?

Mr. NELSON. We have the yeas and nays.

Mr. JAVITS. All right.

Mr. RIEGLE addressed the Chair.

Mr. JAVITS. Wait one minute.

The PRESIDING OFFICER. The Senator from Michigan is seeking recognition.

Mr. NELSON addressed the Chair.

Mr. BARTLETT. Mr. President, I am glad to yield to the Senator from Michigan if he wishes the time.

Mr. RIEGLE. Mr. President, what I wish to do, if the Senator has concluded, is to secure time on my own perhaps from the Senator from Wisconsin.

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 3 minutes remaining.

Mr. NELSON. Mr. President, I yield 3 minutes to the Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Senator from Wisconsin.

I rise to oppose the amendment and wish to associate myself with the remarks of Senator EAGLETON, Senator KENNEDY, and others, who also have risen to oppose the amendment.

I might note at the outset, I was one of the Senators who voted for the Eagleton-Biden amendment to the Labor-HEW appropriations bill because I felt there was an excessive use of bureaucratic power, in terms of ordering busing, coming from HEW.

The Senator and I felt that there was some need to find an appropriate way to redress that. I think what we have here, however, is an entirely different matter because, if the poor are unable to secure legal representation regarding school desegregation matters from legal services programs, their legal rights in this area will continue to remain unvindicated.

The NAACP Legal Defense and Education Fund has indicated that in many States, where indigent minority citizens have expressed a need for school litigation to be brought, there are simply no privately funded civil rights lawyers available. It would be wrong for Congress to presume that the minority poor have alternative sources of legal assistance in this important area, if access to legal services programs in school desegregation cases continues to be denied.

While it is only fair and just to remove the current restriction, there is no evidence to suggest, however, that suddenly legal services attorneys will extensively participate in this area. Local programs set caseload limits for their attorneys, and local program boards establish priorities for the allocation of scarce resources within those limits based upon the needs of the local client community. In many communities, school desegregation would not be a high priority; in others, where poor people come to the programs and express a need to have school desegregation problems addressed, the program may, nevertheless decide to limit its representation to advice and consultation, or to litigate at the trial level without going to appeal.

Even before the restrictions were imposed in 1975, legal services attorneys participated in a limited number of desegregation cases. In fact, in the 9-year period prior to 1975 legal services attorneys were involved in approximately 50 desegregation cases nationwide. Because of the extended time and resource commitment required by such cases, programs generally refrained from taking them unless they had determined that no other form of legal assistance was available. In addition, in many of these 50 cases, legal services attorneys acted merely as local counsel assisting national civil rights organizations which had assumed major responsibility for the work.

Another reason why the removal of the restriction will not be taken as an open invitation for legal services participation in desegregation cases is that to the extent that particular desegregation cases are fee-generating by virtue of the Civil Rights Attorneys Fees Act, programs would have to attempt to refer such cases to private counsel. It is only where private counsel is not available that legal services programs could provide the legal assistance sought by poor people.

With the removal of the restriction, legal services attorneys will be able, depending on priorities and resources, to participate in but a limited number of proceedings regarding school desegregation. What is often needed as expressed by poor people seeking legal assistance is not that a legal services program undertake a school desegregation case from scratch, but rather that the program provide representation to particular groups of poor people seeking to intervene in an ongoing lawsuit. In other instances, representation may be sought in order to negotiate the resolution of an existing desegregation case to the benefit of all segments of the community. Or perhaps more likely, local legal services attorneys may be asked to monitor the enforcement of a court order relating to the desegregation of a school.

Again, let me emphasize that the removal of the restriction on legal services representation in desegregation cases will not result in any sudden surge of activity by legal services attorneys. What it will mean, rather, is that the poor will have access to legal advice, consultation, or perhaps even representation concerning their legal problems.

I ask that Senators reject the amendment.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. BARTLETT. Mr. President, I yield to the Senator from Michigan such time as he may need.

The PRESIDING OFFICER. The Senator from Oklahoma has yielded whatever time the Senator from Michigan desires.

Mr. RIEGLE. I thank the Senator from Oklahoma.

The long and short of it is that these are crucial issues that should not be denied process.

I shall take a minute to say that I think in this area, as others, where sound and basic legal issues are at stake, the issues that only can be settled in courts and through the judicial system, it is essential that people have access to representation. There is nothing more fundamental in this country than access to education and if those issues are unclear and have to be settled as a matter of law in courts, then it seems to me appropriate that legal services, within the confines of the law as put forth here, be made available in this crucial area.

I think to write a prohibition in this area would be a grave error, and I hope that we can defeat the amendment.

I again thank the Senator from Oklahoma for his kindness in yielding time, and I yield back the floor.

Mr. BARTLETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BARTLETT. On my time, all of the time that remains.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I fully support S. 1303 as reported from the Committee on Human Resources.

When Congress created the Legal Services Corporation in 1974, we recognized the vital need of the poor for legal counsel and assistance. Yet, the Corporation was created amid the unfortunate confusion and turmoil of the spring and summer of 1974, and the diversion of our time and of our attention allowed us. I regret, to pass a less than satisfactory piece of legislation, S. 1303 significantly improves upon our earlier efforts, and should be passed without amendment.

Once the President had nominated and the Senate had confirmed its Board of Directors, the Legal Services Corporation set out quickly and efficiently to fulfill its responsibility to provide equal access to our system of justice for those unable to afford legal counsel. Since 1974 alone, more than 10 million poor persons, who were previously denied the opportunity to even discuss a legal matter with an attorney, have been provided with bare minimum access to our judicial system through an expanded program of community-based legal services offices. The Corporation, together with the dedicated staff attorneys in local programs—who, incidentally, handle in the vicinity of 350 to 400 cases a year at pay considerably lower than that offered in the private sector—have, however, only begun to meet the tremendous need for legal assistance. There are still many, many poor persons in some areas of the country in which the Corporation has yet to establish Legal Services programs. The Human Resources Committee recognized the necessity to reach these areas as quickly as possible, in conformance with the plans of the Legal Services Corporation. By authorizing such sums as may be necessary for future years, this legislation has provided those of us on the Appropriations Committee the authority to carefully scrutinize the timing and rate of future expansion, so that we can indeed guarantee equal access to our system of justice to all Americans.

But access can hardly be equally guaranteed if we in Congress carve out exceptions, restrictions and prohibitions which apply not to the wealthy or those of moderate means, but only to the poor. And these restrictions are often based not upon the particular needs of the poor, but rather upon the vagaries of public opinion. Unfortunately, this was our course in 1974. However, after extensive oversight hearings in which the views of the organized bar, poverty groups, labor and many others were expressed, the Employment, Poverty, and Migratory Labor Subcommittee decided to eliminate many of these ill-conceived restrictions on legal representation which the original act imposed upon the poor. I wholeheartedly support the committee's efforts and hope that my colleagues will join me in endorsing S. 1303.

I particularly commend the committee for repealing the prohibition against Legal Services representation of eligible clients in any school desegregation matter. This prohibition in effect closes off the most legitimate means for the redress of grievances by poor parents desperately concerned about the education of their children. For in some communities, particularly the small and isolated ones, Legal Services attorneys may be the only counsel available to provide poor parents the opportunity to express their views in ongoing desegregation cases. They may be the only local counsel available to monitor and to enforce the plan of the courts for the desegregation of the local public schools. And in some instances, they may be the only counsel to initiate litigation for the desegregation of our public schools.

We all know that the most successful and acceptable desegregation efforts have been those in which the local community works together to develop a plan which will peacefully integrate, rather than disrupt the public schools. Such plans take into account the unique needs of the whole community and its various component groups, and fashion remedies which are specifically designed to meet those needs. Legal Services attorneys, based in the community, knowledgeable about its problems and its potential, are probably more able than most to responsibly represent the educational needs of the poverty community in the many actions, compromises and negotiations necessary for the attainment of desegregated schools of proven educational quality.

Certainly, Legal Services attorneys have many, many other demands on their time. But they are the ones closest to the poverty community. And it is this community through their representatives on the board of directors of the Legal Services program which must decide whether a school desegregation matter requires attorney time and resources, or whether clients are able to secure other legal representation. This is certainly not a decision to be made in Washington, and applied to every community in the country.

I have disagreed with many of my colleagues in the Senate who have sought to limit the authority of the Federal Government to seek desegregation. But we are talking about something entirely different here. The issue is simply whether parents, seeking legal help in a local community to improve the education for their children, will be able to find a lawyer.

I urge you to follow the lead and wisdom of the Human Resources Committee in eliminating the total prohibition on legal services representation of poor parents in any school desegregation matter.

Mr. BARTLETT. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 557 Leg.]

YEAS—38

Allen	Goldwater	Roth
Bartlett	Griffin	Schmitt
Bentsen	Hansen	Schweiker
Biden	Hatch	Scott
Byrd, Harry F., Jr.	Helms	Sparkman
Cannon	Huddleston	Stennis
Chiles	Johnston	Stone
Curtis	Laxalt	Talmadge
Domenici	Long	Thurmond
Eastland	Lugar	Tower
Ford	McClure	Wallop
Garn	Nelson	Young
	Nunn	Zorinsky

NAYS—55

Anderson	Glenn	Metzenbaum
Baker	Gravel	Morgan
Bayh	Hart	Muskie
Bellmon	Haskell	Packwood
Brooke	Hatfield	Pearson
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Inouye	Randolph
Chafee	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sasser
Cranston	Leahy	Stafford
Culver	Magnuson	Stevens
Danforth	Matsunaga	Stevenson
DeConcini	McGovern	Weicker
Dole	McIntyre	Williams
Durkin	Melcher	
Eagleton	Metcalf	

NOT VOTING—7

Abourezk	Mathias	Sarbanes
Hayakawa	McClellan	
Humphrey	Moynihan	

So Mr. BARTLETT's UP amendment No. 926 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, my amendment is the pending business on S. 1303. I ask unanimous consent at this time that my amendment numbered 1457 to S. 1303 be withdrawn from further consideration. We have resolved the problem. They have accepted, in essence, what I asked for. I want to withdraw it so it will no longer be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment numbered 1457 was withdrawn.

SENATE CONCURRENT RESOLUTION 31—AUTOMOBILE CRASH PROTECTION

The PRESIDING OFFICER (Mr. MELCHER). Under the previous order, the hour of 1 p.m. having arrived, the Senate will now temporarily lay aside S. 1303 and will proceed to the consideration of Senate Concurrent Resolution 31, which the clerk will state.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 31) to disapprove Federal Motor Vehicle Safety Standard 208 transmitted on June 30, 1977.

The PRESIDING OFFICER. Time for debate on the concurrent resolution is limited to 1 hour, to be equally divided and controlled by the Senator from Kentucky (Mr. FORD) and the minority leader or his designee, with a vote thereon to follow at 2:10 p.m. and with a tabling motion to be in order at that time.

The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, before we consider the passive restraint rule in detail, I should like to say a few words to place in context the situation in which we find ourselves. The subcommittees and full committees with jurisdiction in regard to this matter of both Houses of Congress have carefully considered the resolution now on the floor and, after such consideration, have voted with bipartisan support to uphold Secretary Brock Adams' decision to require automatic crash protection devices in new cars on a phased-in schedule beginning in model year 1982.

These subcommittees and committees on both the House and the Senate sides did not take this action lightly. This decision was the culmination of extensive hearings on both the House and the Senate sides and the careful sifting of the massive amount of documentation that has been presented to us. On the Senate side, I chaired 4 days of hearings at which 27 witnesses testified. In my view, the hearing record contains overwhelming support for the Department of Transportation's rule. The Department of Transportation has carried out the most extensive analysis of this safety rule that has ever been undertaken in the automotive area.

DOT estimates that more than $150 million has been expended on analyzing air bag systems alone. Furthermore, we have more than 1.7 billion miles of real-world experience with cars containing passive restraints which have been driven in all sorts of conditions. This field experience, coupled with the massive testing carried out by DOT, strongly suggests that we can save thousands of lives and tens of thousands of injuries every year once these systems are fully deployed.

I think it is crucial that we understand exactly the nature of the issue with which we are dealing. Every 11 minutes, another American dies in a fatal traffic accident. Serious injuries are inflicted at a rate of one every 18 seconds. Automobile accidents are the major killer of our young people between the ages of 15 and 24. Also, automobile accidents are a significant cause of epilepsy and cerebral palsy. As the subcommittee has noted, automobile accidents are the fourth major killer of people in the United States, trailing only cancer, heart disease, and stroke.

However, unlike these other killers, we do know how to save many lives that are now needlessly lost in auto accidents. If the Department of Transportation's rule becomes effective, we can take a major step to end the carnage on our highways.

It is important to realize that the Department of Transportation's rule does not mandate any particular type of technology; rather, it is a performance standard. Thus, any technology which meets the standard can be utilized. The standard does not mandate that the air cushion restraint systems be used; passive belts may be used, or any other technology which meets the safety requirements.

While many issues have been raised, it seems to me that the crucial question boils down to whether or not passive restraints work. An ever-mounting number of witnesses have come forward to tell us that their lives and the lives of their loved ones have been saved either by passive belts or air bag systems. We are warned by the opponents of this rule that air bags may impact so hard on occupants of cars that they will cause severe injury. But in our hearings, Mrs. Jimmie Daniel testified that she did not even realize she had gone into an air bag, that it was like going into a soft pillow after she crashed headlong at more than 45 miles per hour into a van. In that car were her two little grandchildren. The 4-year-old was standing up, unrestrained, near the dashboard. The 6-year-old was sitting unrestrained on an armrest in the front seat. Normally, in such a crash at speeds exceeding 45 miles per hour, it is reasonable to hypothesize that they would be thrown violently into the dashboard or even through the windshield. But, in fact, these children survived with only minor injuries.

Dr. Arnold Arms testified in our hearings. He told us that he fell asleep at the wheel and crashed into a bus, causing $15,000 worth of damage to the bus alone. Dr. Arms testified that when he realized what had happened he saw that he had hardly even a scratch on him. He was in such good shape that he got out of his car and went into the bus to examine a woman who had been seriously shaken up by the crash.

We also received a letter from "Red" Beck, a State Senator from Washington State. He, too, was in a violent crash at speeds exceeding 39 miles per hour. The occupant of the car that he hit was tragically killed. Yet, Mr. Beck was not injured. Mr. Beck's car was traveling so forcefully that after it hit the other car it veered off and sheared a light pole in two at its base. Yet even in this double collision, the air bags provided the needed protection. These people very likely are alive today because of air bags. Many thousands more like them will be alive, or not have to spend their lives in wheelchairs or be permanently disabled, if we allow this rule to become effective.

Air bag cars are not the only ones showing promising results on the road. Passive-belt cars have been driven more than 1.2 billion miles. Based on careful examination of the experience of these vehicles, it has been found that passive-belt equipped cars are about three times as effective in preventing death as identical cars which require that the passengers actively buckle up.

The analysis used most frequently by those opposed to the DOT rule was conducted by General Motors. General Motors, as it did in the past in regard to seat belts and collapsible steering wheels, along with the other automobile companies, is now calling for more testing. Even GM's analysis, which in my view is extremely pessimistic, finds that air bags are more effective than no belts for occupants.

DOT has found, after a survey of over 50,000 vehicles, that less than 20 percent of the public uses seat belts, more than 80 percent do not. We must no longer depend on the wishful thinking that people will significantly increase their seat belt use. We can put systems in cars that will automatically provide drastically increased protection. Whether we save 3,000 lives or 15,000 lives, our conclusion, I think, must remain the same.

Passive restraints are not now required, and we must wait for additional in-use data, thousands of deaths and injuries will result from such delay.

I think it is important to note that DOT's analysis has also been examined by many other groups and been strongly endorsed. The American Automobile Association has endorsed the passive restraints standard. In fact, it has suggested that the standard should even be accelerated to go into effect more quickly. The Highway Safety Committee of the International Association of Chiefs of Police, also, is all too aware of the grim statistics of automobile safety, and stated in a letter to Secretary Adams:

> Thousands of United States citizens will owe their lives and continued good health to you because of your stand to require passive restraints.

The United Auto Workers have stated:

> The automobile companies should be given realistic deadlines for providing passive restraints to assure adequate lead time for design production. Those deadlines must be firm and not subject to postponement. Time after time the auto industry has dragged its feet on safety issues until forced to take action by the government and the American people. Passive restraints provide the most acceptable method for reducing highway fatalities and injuries.

The National Transportation Safety Board also supports this decision, as does a vast predominance of the insurance industry. The two quotes which are particularly significant in this regard are from experts in the auto industry itself. Edward Cole, past president of General Motors Corp., stated:

> Technology is available and the need is there. I think the only way passive restraints are going to get to first base is making them mandatory. Another test will prove nothing.

John DeLorean, the ex-vice president of the General Motors Corp., also has stated that air bags are ready for "widespread production," and that no other safety system has been so "intently studied, tested, and evaluated."

Not only will passive restraints save numerous lives, but the insurance industry and the Department of Transportation estimate that they will also save multibillions of dollars a year in insurance, hospital, and other societal costs.

Mr. President, I call on my colleagues to join me in support of this crucially important rule.

Mr. President, we are now taking up Senate Concurrent Resolution 31, introduced by the distinguished senior Senator from Michigan. This resolution has the effect of disapproving a rule that was presented to Congress by the Secretary of Transportation, Mr. Adams. This rule would require that passive restraints would be incorporated in larger automobiles in model year 1982 in medium sized autos in model year 1983 and in all automobiles by model year 1984.

Mr. President, the House, as I understand it, just a few moments ago, tabled the so-called Shuster resolution in committee. Therefore, whatever the Senate is required to do today is just pro forma and means that, regardless of what we do in the Senate Chamber, this regulation will go into effect.

Mr. RIBICOFF. Will the Senator yield to me?

Mr. FORD. I yield to the distinguished Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the Senate has before it Senate Concurrent Resolution 31, which seeks to have the Senate disapprove the air bags standards promulgated by Secretary of Transportation Adams.

As Governor of the State of Connecticut, Secretary of Health, Education, and Welfare, and Senator, I have had a long-standing interest in auto safety issues. I believe that these air bags standards are one of the most important automobile safety advances which the Government has ever undertaken. The potential saving in lives and dollars is great. The efficiency and economy of air bags has been well proven. The insurance industry is almost unanimous in its strong support for air bags standards. Safety experts strongly support this landmark auto safety measure.

Mr. President, I urge my colleagues to oppose Senate Concurrent Resolution 31 or any other efforts to defeat the air bags standards promulgated by the Department of Transportation.

Mr. President, I commend the Senator from Kentucky, and also the chairman of the committee, the Senator from Washington, on his "Dear Colleague" letter. I have read this very carefully and I do believe that Chairman MAGNUSON has the answers to many of the queries that have been raised. As I said, I think the air bags are one of the most important safety features ever devised and, to my knowledge, practically every safety expert supports this auto safety feature. I know, coming from an insurance State, that practically all insurance companies feel that this will be a substantial piece of equipment to save lives.

Mr. FORD. The Senator is correct.

Mr. RIBICOFF. If we save lives and save injuries, insurance premiums are going to go down.

Mr. FORD. The Senator is correct.

Mr. RIBICOFF. One of the problems facing America today is the continuing rising cost of insurance. Those of us who have, in the past, worked in the auto safety field realize the problem of what we call the second collision. The first collision is when one automobile hits another automobile, but the second collision is when part of your body hits something in your own car. I think the air bag is one of the greatest deterrents to injury to body and limb and, also, an important factor in the saving of lives.

I do commend the distinguished Senator from Kentucky for his position. It has my support. I hope his position has the support of the majority of my colleagues.

Mr. FORD. I thank the Senator from Connecticut for his remarks.

Mr. President, I listened to almost all of the testimony as it related to the passive restraint rule. Those who are opposed presented all their evidence to support their position. Those who are for it presented their substantial evidence to support their position in favor of passive restraints. We had testimony, Mr. President, even from those organizations and individuals who have made a valiant effort to improve the use of the seatbelts through publicity, civic clubs, and advertisement in order to encourage the public to use seatbelts. We found that the average use of seatbelts was approximately 20 percent. So that means that 80 percent of those who are driving cars are not using the seatbelt. Even the low estimates in regard to the life saving capacity of passive restraints find that they save at least 3,000 lives and tens of thousands of injuries per year. The Secretary of Transportation estimates that it would save 9,000 lives a year and tens of thousands of injuries. The previous Secretary of Transportation, Mr. Coleman, estimated that it would save 12,000 lives.

Mr. President, when we take all these facts into consideration, are we going to vote to save lives and particularly the lives of our young people? The passive restraint rule will serve to save thousands of lives. Mr. President, we see the need, I think, when a doctor comes before the committee and testifies that he did not know that he had the so-called air bag or passive restraint in his car. He had a collision with a city bus and totaled his automobile, and I believe the figure was $15,000 worth of damage to the city bus. He was able to walk away from that car and to treat an injured passenger in the bus.

I mentioned that a grandmother came before the committee to talk about how she went through a malfunctioning stoplight with her two grandchildren in the passenger side and had a severe collision with another car. They walked away from that accident, because they had an air bag system in their car. I think if everyone of my colleagues had an opportunity to see that car and how severely it was damaged, and to hear how grateful she was that this passive restraint was in that car to save not only her life but that of her grandchildren, we in the Senate Chamber would certainly make a decision that we are going to save lives through upholding the DOT rule.

Mr. President, there are others who will want to speak. I understand that the Senator from New Hampshire would like to make a few remarks. I am delighted to yield to him.

How much time would the Senator like?

Mr. DURKIN. If the Senator will yield, 5 minutes at most.

Mr. FORD. I yield 5 minutes to the Senator. We have some others who want to speak and if we have additional time, I shall yield to him.

Mr. President, I yield 5 minutes of my time to the distinguished Senator from New Hampshire.

Mr. DURKIN. Mr. President, I thank the Senator from Kentucky, and I think the whole country should thank him for his leadership on this issue.

I rise not just as junior Senator from New Hampshire, but I rise also as the former State insurance commissioner who, for 5 years, has been intimately involved with automobile insurance and the problems resulting from unsafe automobiles. My battle with the auto industry goes back to 1970, when we proposed, in the State of New Hampshire, a bumper standard for automobiles to cut down the property damage losses, which are two-thirds of the premium.

There is no doubt, and it will be cleared up and clarified today, that the insurance industry is supporting the DOT rule. The agents are supporting it. Why? Not because it means higher insurance rates. Usually, when the insurance industry supports something, it is for higher rates. I commend the insurance industry and the agents for the fact that this is one time that they are in battling for something that is going to lower or stabilize rates while keeping an awful lot of people out of the hospital and out of the morgue.

The Adams decision sets a performance standard which can be met either by air bags or passive seat belts or passive restraints, such as in the VW Rabbit. There is no issue about the safety or efficiency of seatbelts when worn.

The cost of such a passive seat belt system is $25.

There is no reason a passive belt system cannot be installed by Detroit if they choose to do so.

So this is not just an air bag issue, for air bags or passive seatbelts or other types of passive restraints can be utilized.

Detroit opposed the 1966 seatbelt installation requirement law with the same worn, unproved, and unsubstantiated arguments they are using now.

I do not mean the dealer, the small businessman in New Hampshire or all across the country. But I mean the executives, the automobile executives in Detroit.

If it was up to them, we would not have energy-absorbing steering wheels. One-quarter of a million people were impaled on steering wheels in collisions because the Detroit auto executives refused to accept the technology and refused to install energy absorbing steering wheels in the automobiles long after the evidence was clear.

Instead, what did they do? They made the headlights square instead of round.

The auto industry systematically underestimated the effectiveness of seatbelts. If it were up to Detroit, we would not have seatbelts in every car today. Why are we giving this same type of analysis credence with respect to passive restraints? I think we should not.

If we wait for Detroit we will be tired and old before Detroit moves to resolve what is a very serious problem.

Arguments against the safety effectiveness of air bags are undercut by top industry officials themselves, as well as by DOT.

Ed Cole, ex-president of General Motors, has stated in a letter regarding airbags:

> . . . The technology is available and the need is there. I think the only way passive restraints are going to get to first base is making them mandatory. Another test will prove nothing.

John DeLorean, an ex-vice president of General Motors and now a budding manufacturer of automobiles himself, has stated that air bags are ready for "full production," and that no other safety system has been so "fully tested."

General Motors, in August 1970, in a submission to the Department of Transportation said that they could put air bags in all 1974 vehicles. All the passenger cars, pickup trucks, and even some of the vans. That is a formal submission of General Motors which is in the records of the Department of Transportation.

There is virtually no chance at all that an air bag will fail to deploy in an accident situation. The same cannot be said for seatbelts which are not being worn when accidents occur.

In fact, of the 12,000 cars now on the road which were built in mass production, there have been no failures to deploy when they were supposed to. (Two early cases where the bags failed to deploy were in preproduction cars.) Moreover, major modifications have been built in to guard against these kinds of problems. For example, all systems have a red warning light which warns the driver if the air bag is not functioning properly. With this fail-safe system, deployment failures should be practically nonexistent.

The auto industry is vehemently opposed to making passive restraints a voluntary or mandatory option in cars. GM says this is the least attractive of all options. In addition, insurance companies, consumer groups, organized labor and others find this alternative unacceptable, because if we follow this voluntary approach we have the cost of equipping all the cars, to install the airbag, if the buyer so chooses.

It is not like adding an air-conditioner. The engineering has to be done whether the ultimate consumer elects an airbag or not. So the cost is there without the benefit.

I find the minority view proposing this possibility somewhat misleading and disingenuous—certainly inaccurate and unrealistic.

The only way to have our citizens protected by passive restraints is to mandate them.

DOT has estimated the cost of an air bag at $112 per new car. Should Detroit decide to install air bags and not less costly passive seatbelts in model year 1982 autos and after, I have great faith in the American auto industry's ingenuity in finding a better, less expensive way to do the job.

However, lest we wonder whether the extra $112 expense is worth the lives which will be saved, consider these important extra options which Detroit has willingly and profitably provided our constituents:

Vinyl roof	$150
Tinted glass sunroof	250
AM/FM radio	150
Power seats (for comfort)	143
Decorative wire wheel covers	112

The insurance savings that will accrue through use of air-bag-equipped automobiles will repay the cost of air bags over the life of the car, no matter whose estimate of air bag cost is used.

This is based on estimates by the Nationwide Insurance Co. that savings of $32.50 per year on personal injury insurance premiums will result when all of the automobiles on the road have passive restraints. The net savings per year counting collision and comprehensive premiums is thus in excess of $30.

If the air bag costs $112, as DOT estimates, then the cost will be repaid in less than 4 years. Even in Chrysler's worst case example, the cost would be repaid in less than 9 years. The average life of an automobile is 10 years.

All of these statistical analyses and technological arguments obviously are relevant, but they have diverted our attention from the real issue here—the sheer horror and agony caused by automobile accidents.

I think many people have completely lost sight of what an automobile accident can do to people.

Incredibly, in terms of death and injury to Americans, we have the equivalent of a Vietnam war every year right here at home. In 1975, 47,000 people died on our Nation's highways. A million more were seriously injured.

Opponents of the Adams mandatory decision say Americans should have a choice.

As Pulitzer Prize winning conservative columnist George Will wrote in April 14, 1977 column:

> There is a pitiless abstractness and disrespect for life in such dogmatic respect for the right of consenting adults to behave in ways disastrous to themselves. Besides, too many children passengers are sacrificed on that altar. And a large part of the bill for the irrationality of individual drivers is paid by society.
>
> Most important, society desensitizes itself by passively accepting so much carnage.

It is young people that will probably be the biggest beneficiary of passive restraints in automobiles. The highest death rate among all Americans now occurs in the age bracket of 5 to 19 years. Any parent with children of these ages knows very well how difficult it is to get them to buckle up their seatbelts. With young children it is nearly impossible.

Unfortunately, the child victims of accidents, to themselves or to their parents, do not get a choice.

A case in point happened in Florida early this summer. Mrs. Billie Daniels, who testified at hearings of the committee, struck a van at 40 miles per hour. None of the occupants were wearing seatbelts. Not only did Mrs. Daniels and her two grandchildren walk away from the accident, but their injuries were minor. Mrs. Daniels testified that all three of them surely would have died had there been no air cushion restraints in their car.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FORD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I yield myself 10 minutes.

Mr. President, several lines in a column in this morning's Washington Post put this issue in perspective. After carrying on at great length about how terrible Senator GRIFFIN and Representative SHUSTER are, the columnist—Colman McCarthy— says:

> What is the rational objection against at least experimenting with a solution to reducing the carnage? If the government announced it had a possible cure for cancer, that it was well tested, low cost, reliable and passively protective, would the National Cancer Institute be denounced for wanting to try it?

Mr. President, no one is arguing—at least this Senator is not arguing—that we should not at least try air bags or that we should not try any possible cure for cancer.

This Senator is not arguing against experimentation with air bags. The fact is that we do need more experimentation with air bags.

However, the question before the Senate is whether we should proceed—without additional experimentation—to mandate that air bags be installed in all new cars, whether the individual car buyer wants it or not.

There are more rational and reasonable ways to continue testing the air bag. First of all, I would suggest—and I do not understand why this has not already been ordered by the Department of Transportation—that all Government-purchased cars be equipped with air bags.

That would get a lot of air-bag-equipped cars out on the road.

Mr. HANSEN. If the Senator will yield on that very point, Mr. President, let me observe that I offered an amendment that was adopted and I think has been passed by the Senate which would do precisely that.

Mr. GRIFFIN. I am very much in favor of that. I believe we should experiment with, and try air bags. It is important to find out about the effectiveness of air bags. Perhaps, in time, the American people may be willing to require that the air bag be put in every car that comes down the production line.

But at the present time, there has just not been enough experimentation with them.

Mr. HANSEN. The point was that my amendment, which was adopted by the Senate, would require the installation of air bags in all Government-owned vehicles. It would require the Secretary of Transportation to report back to the Congress and to the public as to the efficacy of this system, and I think does precisely what some of us would agree should be done.

I thank my friend from Michigan for granting me the time to make the observation.

Mr. GRIFFIN. Mr. President, it is true that there has been a good deal of testing of the air bags. No one denies that. In fact, DOT spokesmen have said there has been more testing of this safety device than any other safety feature that has been required in an automobile.

My response is, so what?

It does not take very much testing for an engineer to conclude that a padded dashboard is safer than a steel dashboard, or that shatterproof glass is safer than glass that shatters. But when we come to the air bag and all its intricacies and complexity, a great deal more testing should be required.

So far, with the number of cars that are on the road, there have been more than 230 tow-away accidents involving cars that were equipped with air bags.

I think it is very interesting that in 42 percent of those accidents the air bag did not inflate—even though the accidents were severe enough to require a tow truck.

Many Senators will recall a picture in the Washington Post the other day of a Congressman from Arizona, Representative UDALL. He had been asked to get in a car equipped with an air bag for a demonstration. In the picture he had a big grin but I do not know why because the air bag in the car did not go off when it was supposed to.

Perhaps Senators also read about a lawsuit in Virginia recently concluded. A woman sued General Motors after she was seriously injured in a car equipped with an air bag. The air bag did not go off. Furthermore, she was not wearing her seatbelt because she had been led to believe if she bought a car with an air bag she did not have to wear a seatbelt. Of course, that is what a lot of people think.

This may be a good time to correct a myth about the air bag order handed down by the Secretary. Over and over again, we hear the air bag referred to as a "passive restraint."

A passive restraint is something that does not require any activity on the part of the occupant of the car. But if you pin them down, you will learn that DOT contemplates and recognizes that the occupant of an air bag equipped car will also have to buckle his lap belt.

Obviously, the seat belt is not a passive restraint. It is an active restraint. So, in the final analysis, whether or not cars are equipped with air bags, it will still be necessary to buckle up to be protected.

What if you have an air bag but you do not buckle up?

First of all, if you are involved in a crash of your automobile at a speed equivalent to running into a parked car at the rate of 24 miles an hour, your air bag will not go off, and if you do not have your seatbelt on, you could be very seriously injured.

If you do not have your seatbelt on and your car rolls over, the air bag will not do you any good.

Needless to say—perhaps it should be said—if you are involved in an accident in which you are hit from the rear or from either side, the air bag is not going to do you any good. About 50 percent of all accidents are side and rear collisions—accidents in which the air bag will not help you.

Despite these considerations, I believe we should go ahead and develop the air bag. It has a lot of potential. But at present it is also a potential hazard. There are many questions about the air bag to which we do not have adequate answers.

We do not know enough about what happens to the occupant of a car when he is out on the highway and an air bag inadvertently inflates. The Department of Transportation, itself, projects that there will be in the neighborhood of 7,000 inadvertent inflations of air bags a year.

We do not know enough about what will happen to children in a car when an air bag goes off. There is much about the air bag that we do not know.

To be sure, there has been some laboratory testing, most of it sanctioned and paid for by the Department of Transportation, in addition to the road testing to which I have referred. One of the laboratory tests, paid for by DOD, conducted by an independent research firm called Calspan, used cars containing dummies or cadavers, in head-on offset collisions. In some of the cars the dummy or a cadaver was protected by a seat belt and a shoulder harness and in other cars by an air bag. In three of the four instances involving the air bag cars the experiment indicated that the DOT standard was not met. However the occupants in the other cars, with seat belts and shoulder harnesses, were adequately protected.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRIFFIN. I yield myself 5 additional minutes.

Mr. President, the DOT tried their darndest to downplay and perhaps even to suppress that information developed by Calspan. In fact, one of their employees may be in danger of losing his job because he dared to make that information available. The response of DOT, the response which is included in the letter of the chairman of the Commerce Committee, when they were confronted with this Calspan test, was: "Well, yes, but that is not a very extensive test, and that is not enough to go on in order to reach such a conclusion."

They are absolutely right. But we also do not have enough testing to reach a decision to put air bags in every car.

Let us keep a couple of important facts in mind. Even the Department of Transportation concedes that seatbelts, if they are used, are very effective.

In fact, if 70 percent of the people on the highway would buckle up, if somehow we could get them to buckle up, it would save more lives immediately—11,000—than the 9,000 lives that DOT is saying we are going to save when all the cars on the road have air bags.

Just stop and think for a moment. At the present time, practically all cars on the highway have seatbelts. The seatbelts are there. The people have paid for them. If they would only use them, they would have more protection than will be the case with an air bag and unbuckled seatbelt.

How long is it going to take to get air bags in all cars? If they start in 1982, it is going to take at least 15 years before the whole fleet of cars on the highway will be equipped with air bags.

If we are going to force something upon the American people, cram it down their throats—it would be a lot cheaper for them and more effective for them if we were to pass a law requiring the wearing of seatbelts, and make it a misdemeanor not to do so.

In fact, Congress made a million dollars available for a program to do exactly that—to try and promote mandatory seatbelt laws. What happened? The DOT has cancelled the program.

For the life of me, I cannot understand why DOT is not interested in getting people to buckle up. They seem only to be interested in forcing air bags in every car.

We can argue about how much the air bag will cost. The Department of Transportation says it will cost $112 additional. The auto companies estimate up to $250. General Motors has asked to have the GAO come in and audit its books, to see which estimate is right, and that was refused.

Both sides, DOT and the automobile companies, agree that once the air bag inflates or goes off, it will cost 2½ to 3 times as much as the original cost to replace it. In other words, it will cost $350 to $700 to replace every activated air bag.

So the cost here is of some interest, I believe, to purchasers of automobiles,

especially in light of the fact that there is a very, very sparse record to go on in order to justify this regulation.

Mr. President, several of my colleagues wish to speak, so I shall be glad to yield some of the available time to them.

I yield at this time to the distinguished Senator from Arizona (Mr. GOLDWATER).

Mr. GOLDWATER. I thank my friend from Michigan. I think I will need 3 or 4 minutes.

Mr. President, arguing or trying to argue against the idea of saving lives is a lot like arguing against free beer and mother love. It is a difficult thing to do.

What I am concerned with here—and I think I speak for many American people—is that the American people, once again, are being told by the Federal Government that they have to do something.

If the figures are correct that I have heard mentioned on the floor this morning, that only 20 percent of the people in this country are using seatbelts, then 80 percent of the American people do not like seatbelts. I suggest that 80 percent of the American people will not like air bags, and they do not want to buy cars with air bags in them.

I am not arguing against the scientific idea of air bags. I think it is a pretty good idea. I do not want to buy a car with air bags in it; and if I have to do so, it is going to take me a long time to figure out how to take them out. Detroit is pretty good when it comes to putting things in that the Federal Government wants.

I call attention to the action we took here a couple of years ago, in trying to clean up the air, when we ordered Detroit and other car manufacturers to change their system of carburetion. We did, and they started getting 7 to 8 miles to the gallon. So that did not work.

Mr. President, the Senator from Michigan has brought out some very good things. For example, we do not know what the effect of a side collision will be. We do not know what the effect of a rear collision will be. Far more deaths are caused by high speed, head-on collisions, when the engine comes back into the driver's compartment, than are caused by head injuries. Because of the type of windshield we have, you are badly cut up. But the danger from an engine winding up in your lap is far more serious than your head going through a windshield.

The Senator from Michigan mentioned another factor we have not been told. We are told by DOT that, yes, some of these bags will go off unexplainedly. Whether you are doing 60 miles on a crowded highway or not when that happens is beside the point. If that happens at that particular point you are going to have an accident.

But if it goes off, say, sitting in your garage, it is going to cost from $400 to $600, I am told, to reinflate the bags. On top of that it is a toxic substance they put into these bags. It is not pure air, and it may be that you are not going to find mechanics and workers willing to work on these bags once they are installed.

So, Mr. President, my argument is one I have been making for years against the Federal Government trying to run our lives and if they can force the American car buyer to buy a car with air bags in it, they can do pretty much what they want to. I am opposed to it basically because of that. I think we can continue experimenting with air bags, and I think subjecting our Federal drivers to the possible dangers of air bags is a pretty good place to start, not that I have anything against Federal drivers, but if we are going to experiment, let us experiment with someone who probably knows more about what he is doing than many of us.

Mr. President, I hope that this vote is favorable toward the motion. I think DOT made a big mistake in sending it down. There are areas where DOT and where the FAA can make rulings on safety devices such as those used in aircraft. But that might be the next place they are going to have air bags, in an airplane. I do not think that would make much sense but neither does this. So, Mr. President, to boil it down, we elected a President who said he was going to get the Federal Government out of our hair, and, by golly, now the Federal Government is in our driver's seats.

I rest my case on that.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. FORD. I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Kentucky.

Mr. President, I am going to be brief. Let us talk about costs. Let us talk about the cost to society. Let us talk about the cost of welfare and the cost of health insurance. It will cost $112 for an air bag, and that is what it cost for wire wheel covers. So if you can replace the wire wheel covers you can replace an air bag. On insurance there is going to be a saving. It will easily pay for itself over the life of the car. The insurance industry is going to include the cost in the policy to replace the bag to make it operable once again.

As to choice, what choice do young kids have, young schoolkids? They do not have any choice. There is no freedom of choice there. They are the ones whose faces, teeth, mouths, jowls, what have you, are bashed up for life. How about our youth? How about the teenagers? How about our young adults? They are being decimated in automobiles.

DOT's estimates of effectiveness of passive restraints is based not only on the 12,000 cars currently on the road with passive restraints and the 500 million miles that have been driven by these cars, but by the 1,100 proving ground tests that have been conducted as well. Every argument that has been raised by the auto industry has been answered and answered fully in the record of the subcommittee hearings.

If we are going to err, let us for once err on the side of the consumer; let us for once err on the side of the people who have no lobby. The people who have no lobby are the accident victims. If we could bring the accident victim in here today, this resolution would whistle through here on a voice vote, and I doubt in that circumstance the Senator from Michigan would be bringing his resolution upon the floor. Let us not kid ourselves. We are talking about real live humans who are being decimated by the automobile, mostly our youth. I think it is time to end that carnage. I think the standards should be applied now, not the leisurely pace of the 1982 cars.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. FORD. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am pleased that this matter is being considered by the full Senate and is now ready for a vote. I congratulate the able chairman of the Commerce Committee the Senator from Washington (Mr. MAGNUSON) for keeping the commitment that was made at the time the promulgation of this regulation was authorized, and that was that the full Senate would decide this issue here on the floor. This is not the kind of issue that should be decided in committee, where the opportunity for participation in the decision-making process is obviously limited to committee members only.

I have two points to make: I am worried about some of the matters raised by the Senator from Arizona. We have already taken action that requires substantial changes in passenger cars, all in the interest of consumer protection. Specifically, we have legislated the safety bumper requirements. We have legislated with regard to safety glass. We have initiated so many successful precautionary measures here in the Senate that I think the old argument as to whether or not the Federal Government should be involved in making decisions for purchasers of American and foreign built automobiles is passe.

I want to point out that Secretary Adams' decision requires that on September 1, 1981, cars with wheel bases greater than 114 inches, and this includes all 1982 model standard and luxury sized cars, with an annual production of about 2.5 million, will have to have passive restraints. On September 1, 1982, cars with wheel bases greater than 100 inches, and this includes all 1983 model intermediate and compact cars, will be included, adding to the production up to about 5 million. On September 1, 1983, all passenger, subcompact and mini-sized cars will be included in the 1984 model which will be an addition of about 2.5 million cars.

What I am pointing out is that our constituents are not going to have passive restraints in the 1978 model, the 1979 model, or the 1980 model unless they ask for them and purchase them on a special request.

The Secretary's new regulation starts the process of putting passive restraints in the 1982 model commencing September 1981.

I think it is important for us to realize that this is a decision similar to the

interlock decision. It is a decision we are making for the purchasers of these vehicles, and I, for one, think it is the right decision.

Second, when this matter was before the committee, I raised the question of the insurance coverage for the repacking of air bags once they had been deployed by virtue of an accident. I raised it particularly because those of us from the West and Northwest know what it means to have a one-car accident where a vehicle slides off the road because of ice, hits a rock or a tree, and is not involved in what would be known as a total accident on a freeway, but still enough of a collision to deploy these air bags.

The cost of repacking would be substantial in a one-car accident, particularly for someone who was not carrying collision coverage. I worried that we might have the situation that this repacking cost, which could be up to $600 on some models, would have to be borne by the owner and would not be covered by insurance because it would be part of the collision coverage which might not be applicable to a one-car accident.

I ask unanimous consent to place in the RECORD a letter that was given to me by the American Insurance Association on the day we adversely reported the resolution that is currently before us. It is a letter which commits the insurance industry to make air bag repacking coverage available to the owners of air-bag-equipped vehicles whose age makes the carrying of collision insurance uneconomical. I take it that that includes, as the prior discussion did, a separate coverage similar to the coverage that has been made available for CB radios.

For those who want air bag repacking coverage but do not want to carry collision coverage, the insurance industry must accept the responsibility for coverage of the repacking of these passive restraint items, and in particular, air bags.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN INSURANCE ASSOCIATION,
Washington, D.C., October 6, 1977.

Re S. Con. Res. 31, Automobile Passive Restraints

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR TED: First, let me express, on behalf of our membership, my appreciation for your obviously difficult and well-thought out decision this morning to vote to give the Committee's negative recommendation to the captioned resolution disapproving the passive restraint standard. If the resolution is ever considered by the Senate as a whole, the Committee's nine to seven vote recommending against passage of the resolution will be of incalculable value to the proponents of passive restraint protection in automobiles. Your vote was plainly critical to this morning's result, and our members and their insureds are indebted to you.

Second, let me confirm for you the verbal commitment I gave you this morning on behalf of our Automobile Insurance Committee that the 13 company groups represented on that Committee will in fact develop and market a separate coverage for air bag repacking as described in my letter to you of October 3.

The commitment of our Automobile Insurance Committee to make air bag repacking coverage available to the owners of air bag-equipped vehicles whose age makes the carrying of collision insurance (which would include coverage for air bag repacking) uneconomical, is offered on behalf of the following insurance companies, each of which is a major writer of automobile insurance:

Aetna Life and Casualty.
The HOME Insurance Companies.
Aetna Insurance Company.
Royal-Globe Insurance Companies.
Fireman's Fund Insurance Companies.
United States Fidelity and Guaranty Company.
Selected Risks Insurance Company.
The Travelers Insurance Companies.
Reliance Insurance Companies.
Insurance Company of North America.
Commercial Union Assurance Companies.
St. Paul Fire and Marine Insurance Company.
Colonial Penn Group.

These companies have asked me to convey to you their appreciation for your careful consideration of the insurance aspects of the passive restraint standard, and for giving them a head start in the development of a new automobile insurance product!

Best wishes,

Sincerely yours,

LESLIE CHEEK, III,
Vice-President—Federal Affairs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. May I have 30 seconds more, Mr. President?

Mr. FORD. I yield the Senator 30 seconds.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I believe that if the insurance industry carries through with this commitment and does, in fact, initiate new automobile insurance coverage for owners of cars that have air bags, then this new type of insurance will prove mutually beneficial to the industry and to the owners of those vehicles.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that a telegram from the Nationwide Insurance companies be placed in the RECORD following the Senator from Alaska's remarks. Nationwide says they will give a credit under their insurance promising now for any car equipped with air bags. They also have compiled estimates of credits that will be given when air bags or other passive restraints are in the entire automobile fleet. For instance, if you live in New York City you will get $57.56 credit; in Philadelphia, $75.70; in Miami Beach, Fla., $53.54; in Broward County, Fla., $34.30; and in Baltimore, Md., $47.59.

This telegram does indicate, Mr. President, that the insurance companies will now give you a credit for using passive restraints.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NATIONWIDE INSURANCE CO.,
Washington, D.C., October 7, 1977.

Hon. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

I am sure you are well aware almost 60 legislative days have passed since Secretary Brock Adams' decision to mandate air bags or other passive restraint devices on all American motor vehicles. Since the Secretary's decision was announced it has come under awesome attack by representatives of the automobile manufacturing industry and most vocally by Congressman Bud Shuster of Pennsylvania. In this relatively short period of time you and your colleagues I am sure have been deluged by confusing, misleading and, at times, erroneous information.

One of the areas on which the Secretary's decision has been attacked is that of cost.

Cost for the installation of air bags range from $90.00 at the low end to $235.00 at the high end. The Department of Transportation estimates that the average cost of air bags installed to protect all front seat occupants would run about $112.00. Passive seat belts, currently available in the Volkswagen Rabbit and meeting Secretary Adams' standards, are now sold installed for only $30.00 per vehicle. At Nationwide, the fourth largest auto insurer in the nation, we believe so strongly in the lifesaving potential of the air bag and passive restraint system that we have joined with a number of other insurers in offering a 30 percent discount on the personal injury protection portion of the policies of any insured who purchased an air bag or passive restraint equipped vehicle. Additionally, we have stated that once air bags or other acceptable passive systems are installed in all motor vehicles we would offer an additional discount of 23.7 percent of the premium on the bodily injury or liability portion of our insured's policies.

Just this week our actuarial department in Columbus, Ohio has completed a study of seven jurisdictions around the country in which Nationwide writes a large and broad based book of auto business. In arriving at the figures appearing below, these actuaries took the 1976 average annual premiums and adjusted them to reflect state approved premium increases which occurred in 1977. In looking at these figures please keep in mind that the personal injury protection saving (PIP) is available now to any insured purchasing an air bag or passive restraint equipped car. Bodily injury (BI) saving would not be available until virtually all American vehicles are so equipped.

City	PIP saving	BI saving	Total saving
New York City	$29.29	$28.27	$57.56
Nassau County, N.Y	26.36	26.59	52.95
Philadelphia, Pa.	51.14	24.56	75.70
Chicago, Ill	11.02	41.99	53.01
Miami Beach, Fla	16.98	36.56	53.54
Broward County, Fla	10.00	24.30	34.30
Baltimore, Md	15.00	32.50	47.59

As you can see from the above table the insurance premium savings available now on the personal injury protection portions of the coverage would more than offset the cost of air bags in a time frame which is less than half the average life of the American family car. It is also obvious that once all cars are equipped with air bags or other passive systems, insurance premiums savings will offset the cost of these systems in approximately the same time frame it takes the average American to pay for his car and, of course, these savings are ongoing.

With regard to replacement of air bags once deployed, the Department of Transportation estimates the cost of reinstallation at approximately double the initial cost or $224.00. In surveying America's six largest auto insurers we have found they are unanimous in their feelings that any policyholder with collision insurance would be covered for reinstallation of a deployed air bag. Most of these companies feel this coverage would be available at no additional premium, while

two companies feel that a premium increase of one to two dollars per year might be the case.

We believe Secretary Adams' decision is a sound one. We believe our studies show the decision to be economically feasible and, in considering the stakes, a bargain.

In the next few days you and your colleagues may well be faced with voting for the status quo or casting a vote which would contribute to saving more than 9,000 American lives each year and saving literally hundreds of thousands of American motorists from serious crippling injuries.

We certainly hope, if and when the time comes, you will cast your vote against any concurrent resolution to overturn the economically sound and lifesaving decision made by Secretary Adams and the Department of Transportation.

Sincerely,

TED V. RODGERS,
Director, Federal Affairs.

Mr. FORD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have listened with interest to the debate. I commend the committee for at least reporting the resolution. The primary thing that is lacking, as I have listened to those making statements on the floor today, is that there has never been an independent study. We have had limited studies by the Department of Transportation, but there is always the feeling they might have just a little bit of bias in reference to the results.

I will offer at the end of my statement a simple amendment which, I think, might help resolve many of the concerns expressed about Senate Concurrent Resolution 31. This amendment would require the General Accounting Office to conduct an independent investigation of the costs, benefits, and drawbacks of alternative passenger restraints systems. This study will evaluate lap belts, shoulder harnesses, air bags, and Volkswagen-type passive style seatbelts.

EVIDENCE SUPPORTING AIR BAGS IS INCONCLUSIVE

The minority views filed on Senate Concurrent Resolution 31 points up the serious issue under debate. This primary issue is simply whether enough information is currently available to justify the mandatory installation of air bags. The Senator from Kansas feels that there is not.

The major evidence relied on by the Commerce Committee has been furnished by the Department of Transportation. While I do not question the sincerity of the DOT officials involved, they have undeniably taken an advocate position in favor of air bags. A tendency to arrange the information in the best light can easily be discerned from the testimony of Secretary Adams and others in DOT.

I just question whether or not a bias may exist, and, therefore, we may have had a study based on some preconceived notion or signal from the Department of Transportation.

ALL STUDIES HAVE BEEN LIMITED

While DOT has looked into different parts of the passenger safety problem, they have not attempted a comprehensive study. Looking at the evidence DOT submitted, questions as to their conclusions can certainly be raised. Other experts have evaluated the same data and have taken much different positions.

Studies by the automobile industry have come up with findings diametrically opposite to DOT's conclusion on the issue of safety. However, the committee report is skeptical of these studies saying there "was a large degree of judgmental decisions built into their comparisons which may have affected the outcome of the study." I not only share this healthy cynicism but would in fairness extend it to the DOT conclusions also.

INDEPENDENT ANALYSIS IS NEEDED

The only way to resolve this difference of opinion is to have a thorough, independent study made by a disinterested source. The General Accounting Office has no stake in whether air bags are placed in cars and could offer an unbiased, expert opinion.

The General Accounting Office has a very limited ongoing study. The only question GAO is looking into is the adequacy of the evidence DOT used in projecting the benefits of mandatory passive restraints. GAO should have a clear congressional mandate to extend this study and make a comprehensive report on all passenger restraint systems.

This amendment would be a clear and concise direction to GAO to study all types of restraints and evaluate all possible efforts to protect the passengers, which we all want to do.

Mr. President, until such a comprehensive report has been made, I cannot support the DOT rule. If my amendment is attached to this resolution, Congress will be acting constructively. Not only will the highly questionable air bag standard be held in abeyance, but we will also have taken the necessary action to gather the information we need. When the GAO report is received not later than December 31, 1978, Congress can make a much more informed decision on the air bag issue. So, Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration on behalf of the Senator from Kansas and the Senator from Arizona (Mr. GOLDWATER).

Mr. FORD. Mr. President, I want to raise a point of order as it relates to the amendment.

The PRESIDING OFFICER. The Chair will state——

Mr. GRIFFIN. Will the Chair withhold its ruling until the point of order is made?

The PRESIDING OFFICER. The Chair will state that the unanimous consent agreement is that amendments are not in order. It makes no provision for any amendment.

Mr. FORD. Mr. President, I might also refer the Chair to a question by the able minority leader last night asking about amendments to the resolution, and the Chair made the statement that the language of the resolution would have to be construed so as to prohibit any amendments.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, I point out to the distinguished Senator from Kansas that the House has already defeated the resolution and what we are doing here is pro forma. Therefore, I will object to any amendments.

Mr. DOLE. Would the Senator from Kentucky object if we offered a separate resolution, notwithstanding what happens with the one on the floor, with reference to a comprehensive independent study by GAO, as outlined in the amendment of the Senator from Kansas? Is there any objection to that?

Mr. FORD. After we make a decision up or down on this resolution, any resolution introduced would be referred to the Committee on Commerce, Science, and Transportation, and I would be glad to consider the resolution at that time. I would object to a motion or an amendment to the resolution now. I think we should make a decision.

Mr. DOLE. I appreciate the comments of the Senator from Kentucky and thank him for his assistance.

Mr. FORD. I would point out to the Senator from Kansas and the Senator from Arizona, that the DOT rule does not require air bags to be installed in new automobiles. Any passive restraint that complies is acceptable. The requirement is no different than safety glass, the padded dash, and the energy absorbing steering column. This is just an additional requirement which builds on these previous requirements.

Mr. GRIFFIN. Mr. President, I hope the Senator from Kentucky is speaking on his time.

Mr. FORD. I thought I was speaking on yours. That is why I spoke so long. [Laughter.]

Mr. DOLE. I only ask for 30 seconds to say I appreciate the comment. Because of the agreement entered into, and because the objection has been made, I will offer this amendment as a separate resolution, and I trust the Committee on Commerce will act expeditiously in reporting the resolution.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. GRIFFIN. How much on the other side?

The PRESIDING OFFICER. The Senator from Kentucky has 8 minutes remaining.

Mr. GRIFFIN. Maybe the Senator from Kentucky will yield some time.

Mr. FORD. Mr. President, I yield 2 minutes to the distinguished Senator from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. President, as chairman of the Transportation Subcommittee of the Committee on Environment and Public Works, I have been directly involved in numerous legislative efforts to reduce the terrible toll of highway accidents. For this reason, I rise today to take a stand in opposition to the resolution offered by my good friend from Michigan. I have followed with interest the debate over Secretary Adams' decision to require mandatory passive restraints in new automobiles. I have carefully examined the ample evidence on the performance and reliability of passive restraint systems, and have concluded that Secretary Adams' decision is, indeed, in the best interest of the public. So compelling is the need for these protective devices, I have decided to take an active role in opposing this attempt to overturn or delay the implementation of the Secretary's ruling.

Certainly, there is no disagreement with the premise that something must be done to improve the safety of automobile travel. Every 11 minutes another American dies in a fatal traffic accident. Serious injuries are inflicted at a rate of one every 18 seconds. Since we entered the automobile era, more than 2 million citizens have died on the Nation's roadways. Each year, I watch with sadness as that figure grows at an alarming rate.

Over the recent Labor Day weekend, 469 Americans lost their lives in automobile accidents. Many of you, I am sure, are familiar with that statistic. Running accounts of holiday traffic fatalities are reported by radio stations along with baseball scores and weather forecast. Somehow, we as a nation have become calloused to the tragedy of highway death. We are populated with generations of Americans who have lived their entire lives in the automobile era. We have become so accustomed to the specter of traffic death, we are insensitive to its devastating toll on our numbers. We look upon automobile fatalities as something over which we have no control.

But something can be done. Legislation originating from the Transportation Subcommittee which I chair has resulted in significant reductions in accident rates on Federal aid highways. Our experience with the Interstate System has shown that the frequency of automobile crashes is markedly lower on roadways designed according to strict safety standards. By law, interstate highways are required to use lifesaving design features such as break-away poles, anchored guard rails, clear markings, and improved highway lighting in residential areas. We have also witnessed impressive results from Federal programs to eliminate dangerous railroad grade crossings and hazardous roadside obstacles.

Our goal is to guarantee that Federal highway dollars will be invested in roads that not only are the most cost effective, but also are the safest for passenger and commercial traffic. Looking back, the record is nothing short of astonishing. Forty years ago, in 1936, there were 15.11 fatalities per 100 million vehicle miles of traffic. In 1946, the rate was 9.80. In 1956, 6.31. In 1966, 5.70 and last year, in 1976, 3.32.

However, no matter how safe we build our highways, fatal crashes will still occur. For as long as automobiles are operated at high speeds and are controlled by human beings, the traffic accident will remain a fact of life. I am convinced that future efforts to reduce automobile deaths will find the greatest payoff through improvements in the safety features of the vehicles themselves. Based on the substantial evidence that is presently available, I have concluded that passive restraint systems are the most effective way to improve vehicle safety.

In the past 5 years, 12,000 air bag-equipped cars have been produced and operated on the Nation's roadways. In the 300 documented crashes involving these vehicles, the air bag repeatedly demonstrated that it is an effective deterrent to bodily harm in frontal collisions. Other tests, simulating crashes under various driving circumstances, substantiate these conclusions. This is why virtually very major automotible insurer supports mandatory passive restraints. These companies are in business to make a profit, and realize that it is good business to reduce the number and size of medical claims filed for automobile accidents.

Passive restraints are also supported by a variety of consumer and health-related groups. I personally have received numerous letters from physicians and health professionals, all thanking me for my support on this issue.

The Epilepsy Foundation of America, which strongly supports passive restraints, estimates that 540,000 Americans annually receive serious head injuries in auto accidents. A significant proportion of those injured will eventually develop epilepsy. The Department of Transportation estimates that passive restraints can save as many as 9,000 lives each year and can prevent as many as 65,000 serious injuries. I find these figures extraordinarily persuasive.

When I first examined this issue, I was concerned about the costs that passive restraints would involuntarily impose on the consumer. The Department of Transportation projects an incremental cost of $112 for the installation of air bags in new cars, and from $25 to $50 for the passive belt. Although these figures are significant for some consumers, they are less than most of us pay for such optional items as FM radios, vinyl roofs or special wheel covers.

Furthermore, the added cost will be recovered in the first 4 years of operation through reduced insurance premiums. The Department of Transportation estimates that automobile insurance premiums will be reduced by approximately $30 for air-bag-equipped cars.

Additional consumer savings will result as the rates of traffic fatalities and injuries decrease. According to the Federal Highway Traffic Safety Administration, auto accidents cost society an average of $38 billion each year. Passive restraints can be expected to significantly reduce the amounts that private citizens and the government spend to care for and rehabilitate those who are severely injured and disabled.

I am not persuaded by the argument that this is an improper area for governmental involvement. In fact, we decided many years ago that it is appropriate to require automobile manufacturers to adhere to certain minimum safety features for the protection of drivers and passengers. Existing Federal passenger protection standards include: Shatter-proof windshields, padded dashboard, head restraints, safety bumpers, door lock standards, impact protection for steering wheels, fuel system integrity standards, and roof and side door strength standards.

The requirement for passive restraints does not constitute unorthodox governmental interference into private sector activities. I agree with Secretary Adams that there is a legitimate and justifiable reason to require manufacturers to produce safer cars that provide passive protection for their occupants.

Furthermore, I believe that a majority of my constituents will concur with this decision. A June Gallup poll showed that 46 percent of the national population would support a law requiring manufacturers to equip cars with air bags, compared to 37 percent who would oppose such a law. In the Southern States, public opinion was observed to be even more strongly in favor of mandatory passive restraints.

These statistics confirm what I have believed all along. Americans are willing to pay a little extra for an automobile that provides improved crash protection for themselves and their families. I commend Secretary Adams for his decision, and strongly oppose this effort to further delay the use of these life-saving devices.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. GRIFFIN. Mr. President, I yield 2 minutes to the Senator from Nevada.

Mr. CANNON. Mr. President, should the Senator's resolution to disapprove the Secretary's recommendation be agreed upon today, I plan to offer a resolution calling upon the President to direct the DOT Secretary to go forward with a demonstration project on air bags similar to the one former Secretary Coleman worked out with two of the auto manufacturers. Hopefully, the scope of the project might be enlarged upon to make more air bags available than called for in the original demonstration project.

Additionally, I think we can make that million dollars available again to the administrator for seat belt education. If the air bag vote is negative today, perhaps the administrator will rethink her position on the necessity for seatbelt use and education.

Mr. GRIFFIN. Mr. President, I might say that if the Senator from Nevada offers that resolution, I will offer an amendment to provide that all Government purchased vehicles be equipped with air bags.

I yield 1 minute to the Senator from New Mexico.

Mr. SCHMITT. I shall be very brief.

Mr. President, it is my intention to support the passage of Senate Concur-

rent Resolution 31 which would disapprove Federal motor vehicle safety standard 208 transmitted on June 30, 1977. There are two very basic reasons why I shall take this action.

First, air bags ought not be made a mandatory system. By now I had hoped that the feelings of our citizens regarding the constantly increasing Federal presence in their daily lives would have impressed more of the Members of the House and Senate and the executive branch. Apparently this has not yet happened, however, the actions of a Big Brother government such as that taken by Secretary Adams will hasten the day when the American people elect a Congress and a President who will stop this ever-increasing intrusion into their rights as free people with a freedom of choice.

Personally, I would favor making air bags an optional system. Let those who want them, and can afford to pay the hundreds of dollars which they cost, do so. Ours is still a free market economy. The consumer makes the decisions. If the air bag is an idea whose time has come, the marketplace will reflect it. If, however, the American people decide that either air bags are useful but too expensive or that their worthiness has not yet been proven, that is their decision. It ought not be one made for them by the Federal Government.

This brings me to my second point, whether air bags, based upon presently available data, will actually do what the American people are being told they will do. The simple fact is that we do not know how good, how safe, the air bag system really is.

As Senator GRIFFIN and others have so ably pointed out, the data is either incomplete, confusing or subject to different interpretations. In this regard I would commend to my fellow Senators, the minority report of the Commerce Committee which accompanied Senate Concurrent Resolution 31 and ask unanimous consent that the report be included in the RECORD at this point. The plain fact is that by making this system mandatory, we might achieve the direct opposite of the desired goal of increased safety.

There being on objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATORS CANNON, GRIFFIN, GOLDWATER, AND SCHMITT

(To accompany S. Con. Res. 31)

Air bags should be available to those who want them. And, if necessary, we would support government action to make sure that such an option is available to future new car buyers.

However, we strongly oppose a government mandate which, on the basis of insufficient information, would force air bags or other "passive" restraints on all car buyers.

It is important at the outset to focus on the precise issue presented by D.O.T.'s mandate. It is not whether or not the development and use of air bags should be encouraged. (They should, and they would have been—much sooner, in fact—under former Secretary Coleman's voluntary program.)

The issue is whether we know enough about air bags and other passive restraints to require their installation in all cars. We don't.

Even D.O.T. Secretary Adams admitted this in a statement released at the time he issued the rule. He candidly stated that there is ". . . substantial room for uncertainty and argument as to the true observed effectiveness of the restraint systems."

D.O.T. witnesses testified that no other automobile safety feature has ever been as thoroughly tested as the air bag. We should hope so. We can think of no other safety feature which is as costly to install and replace, and no other safety feature with the perverse potential to turn into a hazard.

What happens when an air bag inadvertently inflates on the highway? What happens to occupants, particularly children, who are "out of position," i.e., not wearing seatbelts, when an air bag inflates? What happens to the person whose air bag fails to inflate in an accident—particularly if that person, lulled by a false sense of security, is not wearing a seatbelt?

The answer of Dr. Robert L. Hess, Director, Highway Safety Research Institute at the University of Michigan:

"The bottom line is that the present data are not sufficient to determine the value of passive restraints. Such data are in sharp contrast with the data that establish the value of the lap-torso belt system."

Dr. Hess continued:

"Any attempt to compare this information [on accidents involving air bags] with an unrestrained control group (or with active belt use groups) is sheer statistical folly. Some advocates have maintained that the 'data is going in the right direction,' but the fact is that the tail and head of any possible arrow would be the same point—no direction can be perceived from present data."

Secretary Adams and others testified, in effect that 500 million miles driven by the air bag equipped cars ought to be enough. That may sound impressive. However, 500 million miles, driven over a period of several years, represent only .0005 of the one trillion miles driven annually by American motorists.

Furthermore, it is the number of accidents involving air bags—not the number of miles driven—that is important. So far, D.O.T. has records concerning about 165 accidents involving air bags, 50 of which, according to Dr. Hess, were accidents posing a threat of serious injury or death.

Fifty accidents aren't very many. And, in those fifty accidents which involved air bags—four people died.

D.O.T. spokesmen repeatedly assert that air bags have been tested more than any other government-required auto safety feature. So what? It is an "apples and oranges" comparison to relate air bags to padded dashboards. It doesn't take much engineering genius to conclude that padded dashboards are safer than steel dashboards.

To be sure, shatterproof glass is safer than glass that shatters; and not much testing is required to learn that steering columns that collapse are preferable to steering columns that impale.

But it is not clear—not at all clear—that air bags are more effective at saving lives or preventing serious injury than the system already installed in 100 million cars, the seatbelt.

The Department of Transportation concedes that, "when they are worn, seatbelt assemblies are highly effective in preventing occupant impact with the vehicle interior or ejection from the vehicle". (Statement supporting the rule.)

Another witness, Dr. Lawrence Goldmuntz, President of Economics and Science Planning, Inc., testified that his analysis of D.O.T. field data revealed that air bags are about ½ as effective as seatbelts in preventing fatalities and serious injuries.

Not surprisingly, D.O.T. has criticized Dr. Goldmuntz' analysis, just as it has criticized General Motors' computer analysis which concluded that air bags were 10% effective in reducing injuries compared with a 50% effectiveness rate for seatbelts when used.

Four facts about air bag effectiveness are undisputed:

The air bag offers no protection to the occupant of a car which crashes into an immovable object at a speed of 12 m.p.h. or less (because the air bag is designed not to deploy in such crashes). Such an impact is the equivalent of a 24 m.p.h. crash into a parked car.

Air bags offer very little or no protection, in side or rear-end crashes (about 50% of all accidents).

Based on currently available data, D.O.T. estimates that there will be 7,000 on-the-road inadvertent air bag deployments per year once all automobiles are equipped with passive restraints. (Interestingly enough, at the hearings, Secretary Adams dismissed the 7,000 projection as being based on a "very small" sample. That "very small" sample is, of course, the very same sample which inspired D.O.T. to declare that, "The air bag will be the most thoroughly developed and tested automotive safety system ever introduced into large scale production.")

(Letter of Howard Dugoff, Deputy Administrator, NHTSA, 9–22–77.)

No one really knows how often air bags will *fail* to deploy when they are supposed to deploy. Although D.O.T. maintains that, "In no instance are air bags known to have failed to deploy properly under [designed] conditions in a regular production air bag car," (ibid.) that is of little comfort to people like Mrs. Magdalena Ross of Staunton, Virginia, whose air bag failed to deploy when her car crashed into a parked truck at a speed estimated by her to be at least 20 m.p.h. Mrs. Ross, who suffered substantial injuries, was not wearing her seatbelt. Why? She thought her air bag system rendered seatbelts unnecessary.

In spite of such problems, air bags and other passive restraints are worth developing and improving. We submit, however, that the record so far falls far short of the kind of record necessary to support the sweeping requirements D.O.T. seeks to impose.

In addition, the hearings failed to resolve the following questions:

How much will air bags cost? An independent research firm, Economics & Science Planning, Inc., estimated that, including installation, replacement, insurance and fuel costs due to excess weight, air bags will cost consumers a net $25 billion over the next 20 years. At the very least, air bags will cost $112 per new car (D.O.T. estimate). Chrysler estimates $250 per car. D.O.T. and the auto manufacturers all agree that replacement of a deployed air bag will be 2 to 3 times the initial installation cost.

Can laboratory testing duplicate actual driving conditions? Because it concedes that actual field studies have been inconclusive in demonstrating the effectiveness of air bags, D.O.T. has tried to rest its case on laboratory tests. Yet in attempting to explain results of the Calspan tests, only recently made public, which revealed substantial injuries to air bag protected "occupants" (dummies and cadavers), D.O.T. argues that "additional testing" is needed. D.O.T. is saying what I have said all along: Dummies don't drive cars; people do.

How serious is the hazard posed by the presence of the air bag propellant sodium azide, a mutagenic and toxic chemical, in air bag equipped cars, particularly in junked or abandoned cars?

Will air bags perform satisfactorily in extreme cold? The D.O.T. response to this question seems to be that air bags do not inflate as fast in cold weather, but performance can be improved "if you warm up your car." That's not very reassuring.

What can be done to increase seatbelt use (which almost certainly will go down once air bags are installed in all cars)? D.O.T.'s defeatist answer is, nothing. That's too bad. Although D.O.T. has spent a total of $9 million to date on passive restraint development, it has spent only $1 million on seatbelt promotion over the past 5 years.

What is the actual seatbelt usage rate? D.O.T. says 20% but its own data reveal rates as high as 44% for vehicles involved in tow-away accidents.

How much more will mechanics charge to perform routine under-the-hood and under-the-dashboard maintenance and repair work because of their concern over actuating or damaging the air bag system?

Finally, is it fair to millions of motorists, who already use their lap and shoulder belts to require them to spend $200 for a system that offers less protection than the system they already use?

CONCLUSION

Unfortunately, debate over passive restraints seems to have polarized the various factions into pro- and anti-air bag camps. In the furor, many have forgotten the very responsible decision made by former Secretary William Coleman—based on the same record that Secretary Adams has had before him.

Secretary Coleman came forward with a plan which would have increased the present fleet of 11,000 air bag equipped cars to 450,000 by 1980.

Such a course of action would have provided air bags for those who want them—without forcing them on those who don't. Such a course of action would have provided D.O.T. and the Congress with needed additional information on passive restraint performance. Such a course of action would have encouraged the development of alternative occupant restraint systems.

That or a similarly responsible course of action is still available if S. Con. Res. 31 is adopted.

Mr. SCHMITT. Mr. President, I commend the Senator from Michigan for his efforts on this measure. I am disappointed that opponents of this resolution of disapproval are trying to imply that those of us who have attempted to have the Senate vote on this measure are somehow or other against human life. That certainly is not true.

Senator GRIFFIN's resolution does not involve a question of who is for or against air bags, or passive restraints. To my mind, it is a question of who is for or against another intrusion into the private individual can make a decision on adequate information by which the private individual can make a decision on whether this is the appropriate technology to have in an automobile that he may buy.

I hope that Senator CANNON will follow through on his proposals as he has just enumerated them. I will certainly support those proposals.

Mr. President, as I grew up to some degree technologically in the space program, I can tell my colleagues that there were many good ideas about how to make the missions to the moon and other space missions safer, but in many cases we had to reject some of those, because they were too expensive; the country could not afford them, in our judgment.

I think the same thing applies, on a smaller scale but equally importantly, to the average American in the case of the air bag. The decision is premature. We should not try to make that decision on behalf of the American people until we can present to them the costs and benefits of such an action.

Mr. GRIFFIN. Mr. President, I reserve the remainder of my time.

Mr. FORD. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 6 minutes remaining. The Senator from Michigan has 1 minute.

Mr. FORD. I yield myself 3 minutes.

The distinguished Senator from Michigan read from an article published in this morning's Washington Post; and, as some of us do on occasion, he read only those portions of the article favorable to his side of the argument.

The final paragraph of the article reads:

For those who never enter a car without nervously thinking that this ride may be the last mile, the question is less whether Congress should give its approval this week to air bags than why it must still be nine or ten years before all cars have the devices. Without doubt, many of those who must wait for safer cars will be killed in crashes before these vehicles are marketed. The freedom to do foolish things has been exercised long enough—by the auto industry and the easygoing federal government that has taken its slow time in demanding safety. The time has come for free people to have a right to make a wise purchase: a safer car.

Mr. President, arguments have been made that there has not been enough testing of passive restraints. But more testing has been conducted on passive restraints than any other safety device. No one questions the safety of shatterproof glass, no one questions the padded dash, no one questions the energy-absorbing steering column; and far less testing took place on those safety features. Opponents of the secretary's rule are using the same arguments that were heard in this Chamber against seatbelts, and now seatbelts are considered by the opponents of the rule to be the greatest things that ever happened.

But 80 percent of vehicle occupants will not wear them. It is very important to point out that we can save lives with passive restraints such as the air bag even without seatbelts. The statistics show that we can save 8,000 lives a year if not a single person uses seatbelts. That means something to me.

We could have had the air bag in the 1973 model cars. General Motors, for instance, had films showing how great air bags were. Somehow, they changed their mind about it, and 90,000 air bags are now in storage that were never used. We are going into the second generation air bags, the improved air bags.

Fifty-five percent of highway deaths occur in head-on crashes, and those are the people we are trying to save. Of course, we cannot do it all; there is no way to save all of them. I think the 55-mile-an-hour speed limit has helped some, but it has also created the CB radio industry, which seeks to avoid it.

The PRESIDING OFFICER (Mr. METZENBAUM). The time the Senator from Kentucky yielded himself has expired.

Mr. FORD. I reserve the remainder of my time. I want to give the chairman of the committee 1 minute to conclude.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes. The Senator from Michigan has 1 minute.

Mr. HEINZ. Mr. President, I have a unanimous-consent request. I ask unanimous consent that Mr. Geoff Garin of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I close my part of the debate by pointing again to the question asked by Colman McCarthy in his Washington Post column:

What is the rational objection against at least experimenting with a solution to reducing the carnage?

There is no objection to experimenting with the air bag. We can, and we should, finance more Government experimentation or private experimentation concerning the air bag—or we could return to Secretary Coleman's plan to make the air bag available on an optional basis. Incidentally, if his plan had gone into effect, there could be 450,000 air-bag-equipped cars on the highways by 1980—instead of beginning with the 1982 cars as the DOT order provides.

In addition, as I have said, another way to experiment would be to require air bags in all Government-purchased cars.

The question is not whether there should be air bag experimentation. Experimentation is needed and is desirable.

The question before the Senate is whether we want to force air bags on all new-car buyers without further testing and experimentation. I submit that the answer was provided by Dr. Robert Hess of the University of Michigan, who testified:

The bottom line is that the present data are not sufficient to determine the value of passive restraints (the air bag). Such data are in sharp contrast with the data that establish the value of the lap-torso-belt system.

Mr. President, I ask that minority views in which I concurred with Senators CANNON, GOLDWATER, and SCHMITT, be printed in the RECORD.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATORS CANNON, GRIFFIN, GOLDWATER AND SCHMITT

(To accompany S. Con. Res. 31)

Air bags should be available to those who want them. And, if necessary, we would support government action to make sure that such an option is available to future new car buyers.

However, we strongly oppose a government mandate which, on the basis of insufficient information, would force air bags or other "passive" restraints on all car buyers.

It is important at the outset to focus on the precise issue presented by D.O.T.'s mandate. It is not whether or not the development and use of air bags should be encouraged. (They should, and they would have been—much sooner, in fact—under former Secretary Coleman's voluntary program.)

The issue is whether we know enough about air bags and other passive restraints to require their installation in all cars. We don't.

Even D.O.T. Secretary Adams admitted this in a statement released at the time he issued the rule. He candidly stated that there is ". . . substantial room for uncertainty and argument as to the true observed effectiveness of the restraint systems."

D.O.T. witnesses testified that no other automobile safety feature has ever been as thoroughly tested as the air bag. We should hope so. We can think of no other safety feature which is as costly to install and replace, and no other safety feature with the perverse potential to turn into a hazard.

What happens when an air bag inadvertently inflates on the highway? What happens to occupants, particularly children, who are "out of position," i.e., not wearing seatbelts, when an air bag inflates? What happens to the person whose air bag fails to inflate in an accident—particularly if that person, lulled by a false sense of security, is not wearing a seatbelt?

The answer of Dr. Robert L. Hess, Director, Highway Safety Research Institute at the University of Michigan:

"The bottom line is that the present data are not sufficient to determine the value of passive restraints. Such data are in sharp contrast with the data that establish the value of the lap-torso belt system."

Dr. Hess continued:

"Any attempt to compare this information [on accidents involving air bags] with an unrestrained control group (or with active belt use groups) is sheer statistical folly. Some advocates have maintained that the 'data is going in the right direction,' but the fact is that the tail and head of any possibly arrow would be the same point—no direction can be perceived from present data."

Secretary Adams and others testified, in effect that 500 million miles driven by the air bag equipped cars ought to be enough. That may sound impressive. However, 500 million miles, driven over a period of several years, represent only .0005 of the one trillion miles driven annually by American motorists.

Furthermore, it is the number of accidents involving air bags—not the number of miles driven—that is important. So far, D.O.T. has records concerning about 165 accidents involving air bags, 50 of which, according to Dr. Hess, were accidents posing a threat of serious injury or death.

Fifty accidents aren't very many. And, in those fifty accidents which involved air bags—four people died.

D.O.T. spokesmen repeatedly assert that air bags have been tested more than any other government-required auto safety feature. So what? It is an "apples and oranges" comparison to relate air bags to padded dashboards. It doesn't take much engineering genius to conclude that padded dashboards are safer than steel dashboards.

To be sure, shatterproof glass is safer than glass that shatters; and not much testing is required to learn that steering columns that collapse are preferable to steering columns that impale.

But it is not clear—not at all clear—that air bags are more effective at saving lives or preventing serious injury than the system already installed in 100 million cars, the seatbelt.

The Department of Transportation concedes that, "when they are worn, seatbelt assemblies are highly effective in preventing occupant impact with the vehicle interior or ejection from the vehicle." (Statement supporting the rule.)

Another witness, Dr. Lawrence Goldmuntz, President of Economics and Science Planning, Inc., testified that his analysis of D.O.T. field data revealed that air bags are about one-half as effective as seatbelts in preventing fatalities and serious injuries.

Not surprisingly, D.O.T. has criticized Dr. Goldmuntz' analysis, just as it has criticized General Motors' computer analysis which concluded that air bags were 10% effective in reducing injuries compared with a 50% effectiveness rate for seatbelts when used.

Four facts about air bag effectiveness are undisputed:

The air bag offers no protection to the occupant of a car which crashes into an immovable object at a speed of 12 m.p.h. or less (because the air bag is designed not to deploy in such crashes). Such an impact is the equivalent of a 24 m.p.h. crash into a parked car.

Air bags offer very little or no protection, in side or rear-end crashes (about 50% of all accidents).

Based on currently available data, D.O.T. estimates that there will be 7,000 on-the-road inadvertent air bag deployments per year once all automobiles are equipped with passive restraints. (Interestingly enough, at the hearings, Secretary Adams dismissed the 7,000 projection as being based on a "very small" sample. That "very small" sample is, of course, the very same sample which inspired D.O.T. to declare that, "The air bag will be the most thoroughly developed and tested automotive safety system ever introduced into large scale production.")

(Letter of Howard Dugoff, Deputy Administrator, NHTSA, 9–22–77.)

No one really knows how often air bags will *fail* to deploy when they are supposed to deploy. Although D.O.T. maintains that, "In no instance are air bags known to have failed to deploy properly under [designed] conditions in a regular production air bag car," (*ibid.*) that is of little comfort to people like Mrs. Magdalena Ross of Staunton, Virginia, whose air bag failed to deploy when her car crashed into a parked truck at a speed estimated by her to be at least 20 m.p.h. Mrs. Ross, who suffered substantial injuries, was not wearing her seatbelt. Why? She thought her air bag system rendered seatbelts unnecessary.

In spite of such problems, air bags and other passive restraints are worth developing and improving. We submit, however, that the record so far falls far short of the kind of record necessary to support the sweeping requirements D.O.T. seeks to impose.

In addition, the hearings failed to resolve the following questions:

How much will air bags cost? An independent research firm, Economic & Science Planning, Inc., estimated that, including installation, replacement, insurance and fuel costs due to excess weight, air bags will cost consumers a net $25 billion over the next 20 years. At the very least, air bags will cost $112 per new car (D.O.T. estimate). Chrysler estimates $250 per year. D.O.T. and the auto manufacturers all agree that replacement of a deployed air bag will be 2 to 3 times the initial installation cost.

Can laboratory testing duplicate actual driving conditions? Because it concedes that actual field studies have been inconclusive in demonstrating the effectiveness of air bags, D.O.T. has tried to rest its case on laboratory tests. Yet in attempting to explain results of the Calspan tests, only recently made public, which revealed substantial injuries to air bag protected "occupants" (dummies and cadavers), D.O.T. argues that "additional testing" is needed. D.O.T. is saying what I have said all along: Dummies don't drive cars; people do.

How serious is the hazard posed by the presence of the air bag propellant sodium azide, a mutagenic and toxic chemical, in air bag equipped cars, particularly in junked or abandoned cars?

Will air bags perform satisfactorily in extreme cold? The D.O.T. response to this question seems to be that air bags do not inflate as fast in cold weather, but performance can be improved "if you warm up your car." That's not very reassuring.

What can be done to increase seatbelt use (which almost certainly will go down once air bags are installed in all cars)? D.O.T.'s defeatist answer is, nothing. That's too bad. Although D.O.T. has spent a total of $9 million to date on passive restraint development, it has spent only $1 million on seatbelt promotion over the past 5 years.

What is the actual seatbelt usage rate? D.O.T. says 20% but its own data reveal rates as high as 44% for vehicles involved in tow-away accidents.

How much more will mechanics charge to perform routine under-the-hood and under-the-dashboard maintenance and repair work because of their concern over actuating or damaging the air bag system?

Finally, is it fair to millions of motorists, who already use their lap and shoulder belts to require them to spend $200 for a system that offers less protection that the system they already use?

CONCLUSION

Unfortunately, debate over passive restraints seems to have polarized the various factions into pro- and anti-air bag camps. In the furor, many have forgotten the very responsible decision made by former Secretary William Coleman—based on the same record that Secretary Adams has had before him.

Secretary Coleman came forward with a plan which would have increased the present fleet of 11,000 air bag equipped cars to 450,000 by 1980.

Such a course of action would have provided air bags for those who want them—without forcing them on those who don't. Such a course of action would have provided D.O.T. and the Congress with needed additional information on passive restraint performance. Such a course of action would have encouraged the development of alternative occupant restraint systems.

That or a similarly responsible course of action is still available if S. Con. Res. 31 is adopted.

Mr. FORD. Mr. President, I yield the remainder of my time to the distinguished chairman of the Commerce Committee, the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, first of all, the Commerce Committee has been looking into passive restraint systems for many years. As a matter of fact, in June 1970, after the committee held some hearings on this matter, 21 Members of the Senate joined me in a letter to then Secretary of Transportation Volpe asking that the standard be promulgated so that it would be in effect in model year 1973 automobiles.

I ask unanimous consent that the letter of June 22, 1970, be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 22, 1970.

Hon. JOHN A. VOLPE,
Secretary, Department of Transportation,
Washington, D.C.

MY DEAR MR. SECRETARY: Congress has been gravely concerned with the intolerable toll of deaths and injuries on our nation's highways. There is strong support in the Congress for your proposal, announced in the Federal Register May 7, 1970, to require the automobile industry to equip all cars sold after January 1, 1973 with the inflatable occupant restraint system, popularly known as the air bag.

We are informed that your office has studied both the prospects and possible problems associated with the use of the air bag system, and that you have arrived at the following conclusions:

That the air bag system, in its present state of development, has high reliability and will be effective in protecting occupants in most crash situations.

That at least 20,000 lives will be saved annually, when the system is installed in all vehicles in use.

That while the proposed installation timetable places members of the auto industry under considerable pressure to design, produce, and test the system in a short period of time, the projected benefits of the system far outweigh these short-term costs to the industry.

In view of these conclusions, any further delay in the effective date of the air bag requirement is without justification. You should stand firmly by your current timetable.

Moreover, we hope that your investigation into the possibilities of retrofitting the system into vehicles sold before January 1, 1973, will point to the feasibility of a requirement that all cars on the road be equipped with the air bag system by 1975 or before.

We appreciate the new vigor you have brought to the task of reducing the senseless loss of life and property on our nation's streets, roads, and highways.

Sincerely,

Birch Bayh, Alan Bible, Edward W. Brooke, Howard W. Cannon, Alan Cranston, Frank E. Moss, Thomas J. McIntyre, Walter F. Mondale, Edmund S. Muskie, Gaylord Nelson, and John O. Pastore.

Thomas F. Eagleton, Charles E. Goodell, Vance Hartke, Warren G. Magnuson, Jennings Randolph, James B. Pearson, Joseph D. Tydings, Abraham Ribicoff, Harrison A. Williams, Jr., and Stephen M. Young.

Mr. MAGNUSON. In any case, we have followed this matter closely for many years. This year we held 4 days of hearings at which testimony was received from 27 witnesses concerning the Secretary's safety standard. Subsequently, the Consumer Subcommittee voted 5 to 0 to disapprove of Senate Concurrent Resolution 31. The full committee voted the resolution out with an adverse recommendation. This morning, the House Committee on Interstate and Foreign Commerce tabled a similar resolution.

We think, after all this has gone on, it is time to put this matter to rest. That is why the Senator from Kentucky and I agreed with the Senator from Michigan to let this resolution come to a vote. That is why we are here today. I am pleased to note a time limitation on the debate on the resolution. I believe everybody knows pretty nearly everything about it one way or another after all these years.

Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HANSEN. Mr. President, I will vote in favor of Senate Concurrent Resolution 31 in order to disapprove of the Department of Transportation's order mandating the installation of passive restraint devices as standard equipment on automobiles beginning with the 1982 model year.

It is my firm belief that these devices are not desired by the American people, are not sufficient to meet the safety needs of those who would rely upon them and are not the safe, easy to operate, easy to install devices they are claimed to be.

Mr. President, in the final analysis, it is the American people who will be forced to bear the expense, the inconvenience, and the burden which these devices will place upon them. It is the American people in whose behalf the Secretary of the Department of Transportation has supposedly taken this action. Yet what is the attitude of the American people toward these devices? If the mail which I have received is any indication they are opposed to air bags being forced upon them. I have received hundreds of letters in opposition to the order of the Department of Transportation and I believe that these letters are indicative of a national mood. To my way of thinking we must respect and act in accordance with that mood.

Yet perhaps we could, in the light of overwhelming evidence as to the need for such devices, set aside the views of the American people and permit the Secretary of Department of Transportation to require these devices in order to save thousands of lives and millions of dollars each year. However, such evidence does not exist with regard to air bags.

The undisputed facts are that air bags do not work in side impacts, rear accidents, rollovers, or in secondary collisions. Air bags do not inflate in accidents in which the closure rate is less than 24 miles an hour.

The fact of the matter is that in all of these cases, to be fully protected, the driver and his passengers would have to wear a lap belt and a shoulder harness, equipment which is already provided on all new cars. The fact of the matter is that the thousands of lives to be saved could be saved simply by buckling up.

Mr. President, yesterday, the Senator from North Carolina, delivered an excellent statement with regard to the nature of these devices. I would heartily recommend his statement to all of my colleagues. Setting aside the $600 to $900 cost of replacing air bags and sensors, of repairing the instrument panel and steering column, Senator HELMS quoted from General Motors service manual in detailing the hazards involved in the installation, removal, and disposal of "passenger air cushions."

Mr. President, it seems to me that there are too many questions to be resolved with regard to these devices, too many doubts remaining as to their viability and utility to allow the Senate to permit the Secretary's order to stand. There is already, in legislation passed by this body, the means of resolving these questions.

The National Energy Conservation Policy Act, adopted by the Senate on September 13, contained a provision I offered in committee which establishes as congressional policy that all passenger vans and automobiles purchased by the Federal Government after fiscal year 1978 shall be equipped, to the maximum extent technically feasible, with air bag collision protection devices or other passive restraint systems. As well, the administration would be directed to maintain records of the effectiveness of the passive restraint device and to include such information in the President's annual report to Congress.

This provision would permit the Department of Transportation and the Congress to be aware of the nature and capabilities of these devices prior to embarking upon the policy proposed by the Department of Transportation in the promulgation of the order now under consideration. I would hope that the Senate will disapprove of the Secretary's action in order that we may all act, at some later date, in full awareness of the facts concerning passive restraints.

Mr. CASE. Mr. President, I intend to support the requirement for passive restraints in cars sold in the United States. I would like to take a moment to discuss some of the key factors which contributed to my decision.

First, I am convinced that air bags or some other form of passive restaints are the most important means currently available for reducing traffic fatalities. The current seatbelt system could, I believe, provide the same level of protection if it were used by a majority of the people traveling by cars. However, it appears unlikely that either educational campaigns or legal requirements will be effective in obtaining and maintaining a high level of seatbelt usage.

Second, I believe that highway safety is a problem that requires national leadership and Federal regulations. While an individual may have the right to maim himself, he does not have the right to maim others and to burden society with the costs of highway accidents.

On the whole, I believe that passive restraints will make a significant positive impact on highway safety. I do feel that some additional testing is necessary and I urge the Secretary and my colleagues to consider additional testing of these devices before the mandatory installation dates.

Dr. Seymour Charles of New Jersey, president of the organization, Physicians for Automotive Safety, testified before the Consumer Subcommittee of the Senate Commerce Committee, in support for air bags and passive restraints. He said:

In 1975, for all ages there were 1,800,000 disabling injuries of which 150,000 were permanent crippling impairments with a total cost of 38 billion dollars. Fifty per cent of spinal cord injuries are caused by traffic accidents, which adds up to 5,300 spinal cords severed, crushed or otherwise seriously injured in such crashes . . . Let there be no mistake in your cost benefit analysis that the high cost of these irreversible disabilities is shared by all Americans.

I support the introduction of passive restraints at this time in order to reduce this terrible toll of injuries, and to avoid the loss of an estimated 9,000 lives yearly.

Mr. BAKER. Mr. President, Senate Concurrent Resolution 31, to disapprove the decision of the Secretary of Transportation to require automatic occupant crash protection devices in all new automobiles, concerns an issue which will directly affect every American. It is an issue which deserves to be decided by the Senate on its merits, and, over the last few days, I have sought to insure that such a vote will be taken prior to the October 14 deadline for congressional action. Because of my strong feeling that the Senate should have an opportunity to vote on the resolution, I intend to oppose a motion to table Senate Concurrent Resolution 31.

Should a tabling motion fail, however, I will vote against the resolution. After reviewing all of the data which has been made available to me in connection with the passive restraint issue, I have concluded that there is ample evidence indicating that air bags are effective in preventing injuries, that they would save thousands of lives and prevent many more serious injuries annually if installed on all cars, and that they are not hazardous.

Ideally, I would prefer that air bags be offered as optional equipment so that automobile buyers would be able to choose whether or not they wanted to obtain added protection. Unfortunately, however, limited production would result in greater cost, so that those who might want to purchase them would be required to pay considerably more than the $112 they would spend if air bags were standard equipment. I do not believe that we should decree that air bags should be available only to those who can afford them as an expensive option.

For these reasons, Mr. President, I support Secretary Adams' decision. I hope, however, that this body will not duck what I feel to be its responsibility to the public to vote on Senate Concurrent Resolution 31 by tabling it.

Mr. EAGLETON. Mr. President, I will vote to sustain Secretary Adams' decision, but not without reservations.

Frankly, I am concerned about the increasing burden of Federal regulation on our auto industry. In the last few years, we have mandated a dozen or more requirements on the industry, everything from dent-proof bumpers to AM–FM radios.

All of this we have done in the supposed interest of the consuming public. But what about the consumer's most basic interest—the price tag? Since 1970, average auto prices have risen 28 percent and by as much as $300 this year. Some of this increase owes to general inflation but a major share can be attributed to legislated requirements. I was very reluctant to see yet another device mandated by law and it was only after long study of the facts that I came to be persuaded that the passive restraints ordered by Secretary Adams might be worth the cost.

My decision is premised on the Department's assurance that the initial cost of an air bag system will not exceed $125 and, further, that replacement costs will not be a major problem because in an estimated two-thirds of the cases where an air bag deploys the car will be totaled anyway.

Finally, the Department has assured me that in no circumstance would it require a passive seatbelt system be equipped with an interlock or continuous buzzer. On those assurances, I will support Secretary Adams' decision.

Mr. President, I ask unanimous consent that two letters to me from Joan Claybrook, Administrator of the National Highway Traffic Safety Administration, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: I am writing in response to the request from Jack Lewis of your staff for information about the initial cost of passive restraint systems and the likelihood and cost of replacement.

Passive restraints should impose no net cost on consumers. The Department of Transportation has estimated air cushion restraints would increase the price of a car by $112 (in 1977 dollars) more than the price of a car today. Mr. John DeLorean, former Vice President of General Motors, estimated the cost at about $100 in a study commissioned last year by Allstate Insurance Company. The Department estimates the price of passive belts such as are installed in the Volkswagen Rabbit at $25.

Nationwide Insurance Company as well as others have publicly stated that their insurance rates would be reduced by approximately $30 per year when most cars have passive restraints. These savings should more than pay for the initial purchase price of the air bag system in 4 to 7 years.

The Department has also estimated that less than one half of the vehicles in which the air bags deploys would have the system replaced after the crash because many of these vehicles will be totaled. While the replacement price is estimated at two and one-half times the cost of the original purchase price, this expense would be covered by collision insurance which would increase by approximately 50 cents (and no more than $1) per year for this additional coverage. A number of insurance companies have pledged to make air bag replacement coverage available for individuals who do not have collision insurance and who are at fault in the crash.

You should also be aware that the fuel economy standards and the need to conserve energy are causing a reduction in the size of automobiles and an estimated concomitant saving in operating costs of approximately $1,000 for the vehicle of 1985 over 1977 (in 1977 dollars). One of the factors which heavily influenced Secretary Adams' decision to have greater safety built into automobiles was concern over possible reductions in safety with smaller, more fuel efficient cars.

I hope that this information is what you need. If we can be of further assistance, do not hesitate to call.

Sincerely,

JOAN CLAYBROOK.

DOT incremental cost estimate for full front air cushion

[As of June 1977]

Intitial cost:	
Equipment:	
Sensor (1)	$4
Warning/diagnostics	1
Driver module	29
Passenger module	48
Equipment tools	.3
Total equipment	82.3
Vehicle changes:	
Covers	4
Wiring	3
Steering Column	1
Instrument panel	4
Padding	4
Vehicle change tools [a]	4.7
Engineering	1
Installation	5
Warranty	4
Facilities & launching	4
Total vehicle changes	34.7
Markups:	
Manufacturer profit	3
Dealer profit	10
Removed belts	−18
Total initial costs	112

[a] Padding $1.0, cover $ negligible, steering column $1, and instrument panel $2.5.

WASHINGTON, D.C.,
October 11, 1977.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR MR. EAGLETON: At the request of Mr. Jack Lewis of your staff, I would like to clarify the Department of Transportation's position regarding the use of safety belt interlock systems on passive belts. The Department is well aware of the prohibition in Section 125(b)(1) of the National Traffic and Motor Vehicle Safety Act that:

No Federal motor vehicle safety standard may—

(A) have the effect of requiring, or

(b) provide that a manufacturer is permitted to comply with such standard by means of,

any continuous buzzer designed to indicate that the safety belts are not in use, or any safety belt interlock system.

We take this language to be definitive in that no amendments to the requirements of the passive occupant crash protection standard, MVSS 208, can have the effect of requiring or allowing the use of either a continuous buzzer or an interlock to comply with the standard.

We can make no prediction at the present time as to whether other manufacturers will voluntarily install either a continuous buzzer or an interlock on passive belt systems designed to meet the requirements of MVSS 208. We believe, however, that because of the comfort and convenience of the passive belt, that most owners of cars with passive belts will use them, regardless of whether they have interlocks or buzzers. In our observations of Volkswagen Rabbits on the road, we have seen that about 80 percent of the passive belt systems in these cars are connected and in use. Nonetheless, our prediction of the life saving and injury mitigating effects of the passive restraint standard are based on a conservative 60 percent use rate for them. We have seen encouraging results of the life-saving potential of passive seat belts in the latest survey of the Department's Fatal Accident Reporting System (FARS). This survey shows the death rate for Deluxe Model Volkswagen Rabbits equipped with the automatic shoulder belt is about one-third the rate for other VW Rabbits equipped with ordinary seat belts.

We hope that this information is responsive to your inquiry and that you are satisfied that the Department will be in full compliance with the 1974 amendments to the Act. If you would like further information on this subject, please let me know.

Sincerely,

JOAN CLAYBROOK.

Mr. BAYH. Mr. President, after an exhaustive examination of the reports and studies on both sides of the air bag question, I have decided to support the Secretary of Transportation's new phased-in safety standards for passenger model cars. On June 30, 1977, Secretary of Transportation Adams issued new standards which would require that all new domestic and imported cars be equipped with automatic or passive crash protection devices capable of preventing front seat passengers from serious injury in crashes at speeds up to 30 miles per hour. Full-sized cars would be equipped with such restaints in model year 1983, medium sized and compact cars by 1983, and subcompact cars by 1984. Passive restraints are defined as any front seat occupant restraint which protects the occupant without the occupant having to activate it. The restraint must meet a performance standard set by the Department of Transportation.

This performance standard does not require any specific technology to be utilized by automobile manufacturers. Currently, passive seatbelt systems available in this country in the Volkswagen Rabbit and air bag systems have been demonstrated to comply with the new safety standard.

I feel that it is very important to look at these new standards in light of this Nation's overall record in automobile safety. In 1975, there were 46,000 fatalities from motor vehicles and 600,000 moderate to severe injuries. The number of people killed each day in this country is the equivalent of a major airline crash. Automobile accidents are the major killer of children and young people between the ages of 1 and 24. Automobile accidents are said to be one of the major causes of paraplegia, epilepsy, and cerebral palsy and are the fourth major killer of people in the United States trailing only cancer, heart disease, and stroke.

No one contends that this abysmal record of auto safety could not be vastly improved if our Nation's drivers made full use of the seat and shoulder belts now available in the standard model cars. But the simple truth is that they do not. A recent survey of 53,000 vehicles by the Department of Transportation found that less than 20 percent of the 1977 vehicle occupants actually use seatbelts.

The Department of Transportation feels that the requirement of passive restraints is a viable alternative. The Department estimates that once the passive restraint system is fully utilized it will save approximately 9,000 lives annually and prevent more than 100,000 serious injuries. This would mean that within 10 years of full utilization, more Americans would be saved than were killed in battle in the Korean and Vietnam wars combined.

There have been a number of criticisms of the air bag and passive restraint systems that I would like to address. One of the criticisms of the air bag system is that it only provides protection in frontal crashes and does not provide adequate protection for rollover, side, and rear end crashes. This criticism reflects a misunderstanding of what airbags are designed to do. The air bag system is designed to prevent injury and death in frontal crashes. These frontal and frontal-angle crashes represent 60 percent of all crashes occurring, and produce about 80 percent of occupant deaths and serious injuries. There has never been a contention on the part of the Department of Transportation that lap belts would not be required in addition to the airbag to provide maximum safety for rollover, side, and rearend crashes.

Another criticism of the air bag system is that there has not as yet been adequate testing done on air bags. Some critics have contended, for instance, that the available test data has shown no more protection for victims in cars without passive restraint systems than those with such protection. In light of my concern over this issue, I asked the National Highway Safety Traffic Safety Administration to address this issue. I ask unanimous consent to have the response I received from Joan Claybrook, Administrator of NHTSA, inserted in the RECORD at this point.

There being no objection, the response was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C., October 11, 1977.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: This responds to your request for information on the relative safety of crash victims who are, or are not, protected by occupant restraint systems and on the engineering or field test results from which the information is drawn.

The Department of Transportation has sponsored the conduct of many hundreds of thoroughly engineered proving ground and sled tests which demonstrate beyond a shadow of a doubt that the likelihood of death or serious injury in auto crashes is dramatically reduced through use of either active (safety belts) or passive (air bag or passive belt) restraint systems. The results of these tests, augmented and reinforced by data from real world accidents, provided the basis for the Department's estimate that 9,000 more lives would be saved each year if all cars were equipped with passive restraints (either air bags or passive belts), instead of today's active safety belt systems. The reason for the huge projected increase is not that passive restraints are more effective than active belts, when used—it is that four out of five American motorists today do not take advantage of the protection afforded by active belt systems.

The Department's projections of the benefits of passive restraints are supported by a substantial body of field data on the performance of 10,000 air bag equipped cars sold by General Motors between 1974 and 1976 which have now traveled over 500 million miles and 80,000 passive belt equipped cars produced by Volkswagen since 1975 which have traveled one billion miles.

You should also know that well over $100 million has been spent on research, development, and testing of air bag systems over the past decade by industry and government; there have been more than 1,000 crash and sled tests with air bag systems in a variety of crash modes.

The observed fatality rate in the air bag fleet is approximately 0.8 deaths per 100 million miles of vehicle travel compared to more than 2.0 for current passenger automobiles. Although these figures are not directly comparable, the air bag fleet result so dramatically contrasts with the experience of the overall vehicle population as to constitute a quite convincing validation of Departmental estimates.

A more direct (and certainly no less impressive) comparison can be made for the case of passive belts. Recently acquired field data on the effectiveness of restraint systems in VW Rabbits shows that the rate of fatal injuries in Rabbits equipped with passive belts is less than one-third of the rate experienced in identical Rabbits of the same years of manufacture which are equipped with conventional (active) lap/shoulder belt systems.

I am enclosing several letter and other supporting material relating to the questions of restraint system effectiveness and testing. I trust you will find that the Department's decision to mandate passive restraints was entirely consistent both with the mandate of the National Motor Vehicle Safety Act and with the overwhelming weight of empirical data.

Sincerely yours,

JOAN CLAYBROOK.

Mr. BAYH. Last, I would like to address the issue of cost. It has been contended by some of the major automobile manufacturers that the initial installation of air bags will cost up to $250 and replacement will cost consumers around $600. These figures are disputed by the Department of Transportation which estimates installation at $112 and replacement at half the automobile manufacturers estimate. In addition, DOT data from insurance firms indicates savings in insurance premiums should average $32.50 a year from air-bag cars. Increased insurance premiums to cover replacement of air bags, according to insurance companies will only cost consumers $1 a year.

Much of the controversy around airbags seemes to center on the issue of freedom of choice. Should consumers have the option of "buying" safety if they so choose. Mr. President, I think this Nation has reached a sad point if we must force our people to have to "choose" safety, whether it be in our automobiles, in our homes, or in our workplaces. This has clearly not been the position of the Federal Government in the past. The logic of those opposed to mandatory air bags would have prevented such mandatory safety devices as shatterproof windshields, padded dash-

boards, collapsible steering wheels, and properly located fuel tanks.

As Coleman McCarthy has written in today's Washington Post, "The time has come for free people to have a right to make a wise purchase, a safer car."

Mr. BARTLETT. Mr. President, I am pleased that the Senate will finally have the opportunity to address the questions raised by the Department of Transportation mandate regarding passive restraints. I strongly believe that action by the Congress to disapprove the mandate is necessary if we are to avoid yet another example of the Federal Government involving itself in decisions where it does not belong at this time.

Mr. President, before I make a few additional, brief comments on this matter, I do wish to commend the senior Senator from Michigan, Mr. GRIFFIN, for his leadership on the issue of air bags and passive restraints. Without Senator GRIFFIN's leadership and persistence, both in the Commerce Committee and on the floor, I seriously doubt whether the full Senate would ever have had the opportunity to address this issue.

Mr. President, I was immediately concerned with the Department of Transportation's air bag mandate as soon as it was issued. For that reason, I introduced Senate Concurrent Resolution 37 which would have disapproved the DOT mandate. Senate Concurrent Resolution 37 was identical to Senator GRIFFIN's resolution, Senate Concurrent Resolution 31, which we now have before us.

I am concerned with the DOT mandate because it endorsed air bags, whose cost and performance are questionable.

In many ways, Mr. President, I like the idea of having air bags in vehicles that I might ride in. Although the evidence is certainly not conclusive, I think there is substantial evidence that air bags can reduce the risk of injury in headon crashes. As a result, when it comes time for me to purchase a replacement for my trusty Pinto I expect to try to purchase a car that contains an efficient air bag or other passive restraint device.

But, Mr. President, we should recognize that there are still plenty of bugs in the air bag. And we ought to be sure this is a proven system before we force it on everyone through a Federal mandate.

I think we all saw the picture in the Washington Post recently which showed Congressman UDALL testing an air bag—and it did not open. That demonstrates pretty graphically that these things are not foolproof.

I noted also that there have been some recent test results that have come to light casting doubts on the effectiveness of the air bag.

For all these reasons, I do not believe the Federal Government should, at this time, force air bags to be installed in new cars. I urge that the Senate support Senate Concurrent Resolution 31.

Mr. MAGNUSON. Mr. President, I move to table Senate Concurrent Resolution 31, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Washington to lay on the table Senate Concurrent Resolution 31.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. METCALF (when his name was called). Mr. President, on this vote, I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "aye." I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) would vote "nay."

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 558 Leg.]

YEAS—65

Abourezk	Gravel	Moynihan
Anderson	Hart	Muskie
Bayh	Haskell	Nelson
Bentsen	Hatch	Packwood
Brooke	Hathaway	Pearson
Bumpers	Heinz	Pell
Burdick	Huddleston	Percy
Byrd, Robert C.	Inouye	Proxmire
Case	Jackson	Randolph
Chafee	Javits	Ribicoff
Church	Johnston	Roth
Clark	Kennedy	Sarbanes
Cranston	Laxalt	Sasser
Culver	Leahy	Schweiker
Danforth	Magnuson	Sparkman
DeConcini	Mathias	Stafford
Durkin	Matsunaga	Stennis
Eagleton	McGovern	Stevens
Eastland	McIntyre	Stevenson
Ford	Melcher	Stone
Garn	Metzenbaum	Williams
Glenn	Morgan	

NAYS—31

Allen	Domenici	Riegle
Baker	Goldwater	Schmitt
Bartlett	Griffin	Scott
Bellmon	Hansen	Talmadge
Biden	Hatfield	Thurmond
Byrd, Harry F., Jr.	Helms	Tower
Cannon	Hollings	Wallop
Chiles	Long	Weicker
Curtis	Lugar	Young
Dole	McClure	Zorinsky
	Nunn	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against.

NOT VOTING—3

Hayakawa	Humphrey	McClellan

So the motion to lay on the table S. Con. Res. 31 was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TERRITORIES OF THE UNITED STATES

Mr. JOHNSTON. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 89) to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. JOHNSTON. Mr. President, in reviewing the enrolled bill, H.R. 6550, entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes," a serious ambiguity has been noted in connection with section 403.

Section 403, as enrolled, could be interpreted as limiting the statutes which already apply to Guam and the Virgin Islands. This could happen in two ways.

First, the enrolled version of section 403 refers to those statutes listed in section 502a (1) and (2) of the covenant. Yet, I understand that section 502 of the covenant will not be effective until at least January.

Second, several important statutes which are now applicable to Guam and the Virgin Islands will not apply to the Northern Mariana Islands, unless specifically extended to them by Congress. Statutes such as the Immigration and Naturalization Act, the Jones Coastwise Shipping Act, and the Fair Labor Standards Act may be rendered inapplicable to the Virgin Islands and Guam under a restrictive interpretation of the enrolled version of section 403.

The joint resolution language would take care of this possible ambiguity by removing the reference to section 502(a)(2) of the covenant.

Mr. President, this is a purely technical joint resolution in nature. It has been cleared with my ranking minority member on the subcommittee and also with the House chairman, and I ask for its consideration.

Mr. McCLURE. Mr. President, before submitting the resolution let me just confirm what the Senator from Louisiana has said. It has been cleared on this side of the aisle.

I add only one comment to continue what the Senator has said. He referred to a serious ambiguity. I think it would be more appropriate to say a possibly serious ambiguity.

Mr. JOHNSTON. That is correct.

Mr. McCLURE. Because it is not certain that it is and this simply is to remove that possibility that the original language was ambiguous.

I support the adoption of the resolution.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask for consideration of the resolution at this time.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 89) was considered, ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S.J. RES. 89

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled That section 403 of an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Cong., 1st Sess.), be amended to read:

"Section 403. Effective on the date when Section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263), goes into force those laws which are referred to in section 502(a)(1) of said Covenant, except for any laws administered by the Social Security Administration, except for medicaid which is now administered by the Health Care Financing Administration, and except the Micronesian Claims Act of 1971 (85 Stat. 96) shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands."

Sec. 2. This amendatory joint resolution shall be effective as of the approval of said Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Cong., 1st Sess.).

Mr. JOHNSTON. Mr. President, I thank my colleague for his indulgence at this time.

Mr. McCLURE. Mr. President, would it be helpful for the Senator from Louisiana if that action were reconsidered so that it could be immediately transmitted to the House?

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The PRESIDING OFFICER. The clerk will state the unfinished business.

The second assistant legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

Mr. McCLURE. Mr. President.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

UP AMENDMENT NO. 927

Mr. McCLURE. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 927.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 11, strike the period and all thereafter through line 13 and insert the following: ", such questions shall be referred to the corporation for review and disposition. This subparagraph shall not preclude judicial review of a decision of the corporation under this subparagraph."

Mr. McCLURE. Mr. President, this amendment seeks to clarify what I believe the committee intended to do in its language relating to the question of representation.

I will read very briefly from the——

Mr. NELSON. Mr. President, may I ask the Senator which amendment he is talking about?

Mr. McCLURE. This is the question of judicial review, which has been cleared on both sides of the aisle, I say to the Senator.

The bill on its face on page 13, in subsection (B) of section 6, beginning on line 7, is as follows:

"(B) No question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be considered in any proceeding in which a person is represented by a recipient or an employee of a recipient. Such questions may be referred to the Corporation for such disposition as the Corporation deems necessary.".

That is the language of the bill, and there are those who believe that language would provide that no judicial review of representation matters is possible.

However, on page 10 of the committee report, there is this explanatory language.

Mr. NELSON. Mr. President, may we have order so that we can hear the Senator from Idaho?

The PRESIDING OFFICER. The Senator from Wisconsin is correct. There will be order in the Senate. Will Members of the Senate retire to their seats? Will the Senator from Idaho be good enough to use his microphone?

Mr. McCLURE. I thank the Chair.

Mr. President, on page 10 of the report, this explanation of that language is contained:

Section 6(a) is thus declaratory of existing law as it has been enunciated by the courts. The Committee believes that repetitive litigation of this issue is a needless drain of federal funds provided for the representation of poor people, and wastes the time of already heavily burdened courts. This amendment has been included to discourage further frivolous litigation of the issue. This section provides that questions of whether representation is authorized may be referred to the Corporation for such disposition as it deems necessary.

And there follows a further explanation of the fact that it is not the intention of the committee to cut off the right of appeal following the administrative process within there, and the processes under the Administrative Procedures Act as it has gone through the local board to the corporation, and then it could be appealed to the court.

My amendment which I have offered simply seeks to make plain on the face of the statute what is very plain in the intention of the committee in the report.

I discussed this with both the Senator from Wisconsin and the Senator from New York (Mr. JAVITS). Both have agreed, and I think this will take care of that problem.

Mr. NELSON. Mr. President, the Senator from Idaho is correct in that the amendment he offers, in fact, codifies what is the practice, but which is not entirely clear in the language of the committee bill.

I am referring to the language of the Senator's amendment which reads:

Such questions shall be referred to the corporation for review and disposition. The provisions of this subparagraph shall not preclude judicial review of a decision of the Corporation under this subparagraph.

Mr. McCLURE. I say to the Senator from Wisconsin that, to further clarify the amendment, it does strike the last sentence in subparagraph (B) that appears on page 13 of the bill, lines 11, 12, and 13.

Mr. NELSON. That is correct. The amendment proposed by the Senator from Idaho has been reviewed by the ranking minority member of the committee (Mr. JAVITS) and by myself. We agree that it is an amendment that makes clear what has been the previous practice, but was not necessarily clear in the statute.

Mr. STAFFORD. Mr. President, if the Senator will yield, I will add for the record that our understanding is that which has been stated by the manager of the bill (Mr. NELSON).

Mr. NELSON. I am prepared to yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to unprinted amendment No. 927 of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. NELSON. To be equally divided on both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

UP AMENDMENT 928

(Purpose: Entitles a small business or individual who prevails in a civil action having assets or income below specified amounts to costs and award for attorneys fee with respect to Federal Agencies and litigation to which the United States is a party.)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 928.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 1, insert the following new Section and renumber all subsequent sections accordingly:

SECTION 14

That to provide for equal access to courts in civil actions involving the Federal Government, and for other purposes,

This Section may be cited as the "Equal Access to Courts Act of 1977".

Section 14(a)(1) The Congress finds that serious inequities and inequalities exist between the Federal Government and certain individuals, partnerships, corporations, and labor and other organizations in terms of the relative ease with which each is able, without suffering extreme economic hardship, to prevail or to secure the vindication of its rights in civil actions and in administrative proceedings.

(2) It is the purpose of this Act to diminish such inequities and inequalities by providing for the payment by the United States of attorney fees, expert witness fees, and other costs in specified situations.

(B)(1) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Attorney and witness fees and costs

"(a) Except as otherwise provided in subsections (b) and (c) of this section and in section 2678 of this title, a judgment for costs, as provided in section 1920 of this title (but not including the fees and expenses of attorneys), may be awarded to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action.

"(b)(1) A judgment for costs, as provided in section 1920 of this title, for the reasonable expenses of any witness or expert witness, for the reasonable cost of any study, analysis, engineering report, test or project which the court finds necessary to the litigation of the action, and for reasonable attorney fees, based upon the actual time expended by any attorney of a party and his staff in advising and representing such party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour, shall be awarded to any party, other than the United States or any agency or official thereof, who prevails in any civil action, including an action for judicial review of agency action brought by or against the United States, or any agency or official thereof, in any court having jurisdiction of such action.

"(2) For purposes of this subsection, the term 'party' means (1) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (2) an individual, partnership, corporation, or labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question.

"(c) In any civil action, including an action for judicial review of agency action, instituted by or against the United States, or any agency or official thereof, in which a party other than the United States or any agency or official thereof—

"(1) prevails partially, such party shall be awarded a judgment for costs and fees, as provided in subsections (a) and (b), to the extent to which he prevails; or

"(2) does not prevail, such party may be awarded a judgment for costs and fees, as provided in subsections (a) and (b), in any case in which the court finds that such an award would be in the interests of justice.

"(d) Any amount awarded for costs or fees shall be in addition to the compensation, if any, awarded in any judgment.

"(e) Any judgment against the United States for costs or fees shall be paid as provided in sections 2414 and 2517 of this title.".

(B)(2) The table of sections of chapter 161 of title 28, United States Code, is amended by striking out the item relating to section 2412 and inserting in lieu thereof the following:

"2412. Attorney and witness fees and costs.".

(C) Subsection (a) of section 2517 of title 28, United States Code, is amended to read as follows:

"(a) Any final judgment, including any final judgment for costs and fees, which is rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of such judgment, by the clerk and the chief judge of such court.".

(D) Section 2678 of title 28, United States Code, is amended to read as follows:

"(a) If any judgment is rendered, or if any settlement, award, compromise, or recommendation is made in favor of award, compromise, or recommendation is made in favor of any party other than the United States, after the United States or a Federal agency has received notice that such party has retained an attorney, including the name of such attorney, such party shall be awarded reasonable attorney fees, based upon the actual time expended by such attorney and his staff in advising and representing such party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour, and all costs (including witness fees, studies, analyses, engineering reports, tests, and projects) necessary to the litigation. In any case in which such party does not prevail or only prevails partially, the court may award such costs and fees as it finds, in its discretion, would be in the interests of justice.

"(b) Any amount awarded under this section for costs and fees shall be in addition to the compensation awarded in any judgment, settlement, award, compromise, or recommendation.

"(c) For purposes of this section, the term 'party' means (1) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (2) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and having annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question.".

(E)(1)(a) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) A party (other than the United States or any agency or official thereof) shall be paid by any agency conducting an agency proceeding an award for costs and fees incurred by such party in order to participate in such proceeding, if such party—

"(1) is successful in defending against the imposition by such agency of any sanction; or

"(2) is successful, in any agency proceeding in which such agency is the moving party, in opposing the issuance of, or in proposing an amendment to, any agency order which would—

"(A) affect the freedom of such party;

"(B) withhold relief from such party;

"(C) impose a penalty or fine on such party;

"(D) require the destruction, taking, seizure, or withholding of property of such party;

"(E) assess damages, reimbursement, restitution, compensation, costs, charges, or fees against such party;

"(F) require, revoke, or suspend a license of such party; or

"(G) otherwise compel or restrict such party; or

"(3) appeals or seeks judicial review of any agency action and substantially prevails, or is subject to the agency action appealed or reviewed.

"(b) For the purpose of this section—

"(1) the definitions in section 551 of the title shall apply except as otherwise provided in paragraph (3);

"(2) 'award for costs and fees' shall include the reasonable expenses of any witness or expert witness, the reasonable cost of any study, analysis, engineering report, test, or project which the agency conducting any agency proceeding finds necessary to the resolution of such proceeding, and reasonable attorney or agent fees based upon the actual time expended by such attorney or agent and his staff in advising or representing any party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour; and

"(3) 'party' means a party as defined in section 551 of this title who is also (A) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (B) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the initiation of the agency proceeding in question.".

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"504. Costs and fees of parties.".

(F) The amendments made by this Act shall have no effect on or after the day which is three years after the date of enactment of this Act.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, this is an amendment which we provided an hour and a half for in the unanimous-consent order. I do not think I shall use over 10 or 15 minutes.

In addition, for the floor manager and the ranking Republican, this is the amendment that I have circulated. It is a rather lengthy amendment. Indeed, I acknowledge that it looks more like a bill than an amendment. But I want to say, in all honesty, that I do believe if there is any bill or any proceeding on the floor of the Senate that this bill is relevant to, it is the legal services bill. I shall say why.

We are, indeed, properly preoccupied, in the main bill on the floor, with providing some reasonable attorneys' services and fees to the very poor in our society, who cannot afford to and who are entitled to the notion that we hold so dear of equal justice under the law. They do not seem to be able to get that without some assistance.

My amendment recognizes that two things have happened in our country in the last 10 or 15 years that have provided another group of Americans with what I perceive to be basically an administrative and bureaucratic denial of equal justice. The reason that I say that is that, with the growth of agencies and regulations and agencies that can impose fines—and I do not want to use OSHA as the whipping boy all the time, but I would be less than candid if I did not say that the activities of OSHA versus small businessmen and individual sole proprietorships that are not rich, brought this bill, in terms of its concept, into focus for this Senator.

What I find in our country is that we have administrators who set up rules and regulations almost in a vacuum. Then we have field people who go out and enforce them and they act almost like dictators. They walk into a small business and say, "Here is a rulebook; you have violated this section, albeit technically, because you really do what it says, but technically have not filled out the right papers."

And they lay a little fine in front of that man, "$100, pay it."

The businessman or citizen says, "I thought this was America; I want to fight you. I think you are wrong."

He will find, if he calls up his lawyer, that his lawyer will tell him, "Well you had better pay the $100 because to hire me will cost you $500 to go to court."

Right at the beginning, let me say unequivocally that this bill will pay that small businessman that has to do that reasonable attorneys' fees when he fights his Federal Government and its agencies and wins in civil and quasi-civil actions. It will also pay the average citizen who is confronted with a regulation or who has set regulations that end up affecting something they are entitled to and they have to go to court to win it. Or they get sued and they end up beating the Government. This will provide them reasonable attorneys' fees and compensation for witnesses, court costs, and the like.

My second reason for this is kind of founded on and comes into focus out of frustration. First of all, it appears to me that we are not going to change, in this country, the imbalance of overregulation and arbitrary regulatory processes. They are moving full speed ahead, whether it is IRS, OSHA, or EPA. That process of agencies of the Federal Government setting their sights on regulating and administering is going full steam ahead. I consider that concept in this bill to say that, since we really cannot seem to put any stop to that, and since it is running so fast, I want to put something in its way. What I want to put in its way is a more ready average American to stand in its way and fight. The way to fight is to hire professionals to represent you to fight that arbitrary regulatory steamroller.

So I am quick to admit that, while it is a bill intended to recompense the average American and the small businessman for legal fees, it is also a bill which will begin to put some skids under arbitrary regulation and rulemaking, because, if they get confronted enough, if they get in litigation enough with the average citizen—not the big corporations; they are already fighting them, but the average citizen—fight them enough, win a few lawsuits, get a few administrative decisions rendered on their side, and find that they have to be concerned about the impact on the average American, maybe it will slow the process.

I am not terribly concerned if it ends up costing a few million dollars. In fact, in circulating this amendment, there was a great deal of enthusiasm and some said I should put another clause in it to say that any agency that is the loser to this citizen will take these attorneys' fees out of their budget. I almost put that in there, but I want the Senate to know that it is not. It will have to be paid for out of general appropriations.

But the Senators who suggested the latter said that would be even more of a deterrent, because if OSHA found themselves paying $2 million in attorneys' fees because they got beaten for some of their fines that are unreasonable, or their rules that are out of line, or if EPA got the same, or any of the other myriad Federal agencies, maybe they would begin to look at their fieldmen and say, "Hey, you are costing us money by doing things that the courts end up saying you are wrong on." I admit that might be more of a deterrent, but in this case, I shall settle for the general kind of funding such as that provided for our poor in this legal services bill. But in this case, I say, provide it to the taxpayer, the average American that is burdened, so he will really be made whole when he has to fight with his Government and wins. Then, admittedly, I want to build a little enthusiasm in the average American to fight some bureaucracy without figuring that, if they win, they lose. Because, at least, in this instance, if they win, they will get their attorney's fees and costs and professional witnesses and witness' fees paid for by that very Government that they thought started out benevolent in these laws, with high-sounding goals that end up, rather frequently, on the opposite side of that, harassing and bothering the average American for no good.

Mr. President, the bill is rather detailed. When I talked to Senators about it in its present form there was a genuine concern that we certainly do not need to assist major corporations with attorney's fees. They have them on their staff. They fight now for their causes. So I wanted Senators to know that this amendment is identical with my bill, S. 1001.

Any American is entitled to it, but in the field of business they would have to be a small business as defined by the small business laws of this country in order to be entitled to the reimbursement provided herein.

I want to make it clear that that kind of American, or American small business, first must win in court, or win before an administrative tribunal, and must have incurred outside expenses. Then we would insist that the judge not give the attorneys what they want, but, rather, what is reasonable in that particular area of the country for the services rendered.

So the theory of this is that the justice which is implicit in our judicial system is that litigation is an adversary process and that is the way we resolve disputes, as an adversary, one available to all.

I am firmly convinced that it is not available to all because they cannot afford to fight, so they give in. When they give in, the vigor and strength of arbitrariness grows larger and stronger. This bill would begin to stop that.

Mr. President, when I introduced this bill, Senator THURMOND, Senator MCCLURE, Senator LUGAR, Senator DOLE, Senator GOLDWATER, Senator STEVENS, Senator YOUNG, Senator GARN, and Senator BELLMON were on it. I have not had a chance to contact them with reference to the amendment, but I would say, so they will know, it is the identical bill drawn in amendment form to that Senate bill 1001.

Mr. President, I reserve the remainder of my time.

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Arizona (Mr. DECONCINI).

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent, first of all, that Romano Romani and Robert Feidler of my staff be granted privilege of the floor during debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I would like to address a question to the distinguished Senator from New Mexico.

Is this amendment the same bill that is now S. 1001?

Mr. DOMENICI. Yes, it is.

Mr. DECONCINI. I would like to state for the record that this bill is presently assigned to the Judiciary Committee, and assigned to the subcommittee of which I am chairman, and due to the bank-

ruptcy and omnibus judge bill, the magistrates bill, and several others, we have not had an opportunity to hold hearings on this bill.

I am very interested in the subject matter, and I believe that there is merit here, but I have some reservations as to the Senator's amendment.

It is a bill of vast importance and would cause a decisive change.

I am not sure that we should tack this on to the legal services bill at this time. I would hope the Senator from New Mexico might be inclined to put together his case and arguments and I would guarantee substantial hearings on this bill the first of next year.

I really believe there may be merit for this sort of thing for small business and, certainly, where there is harassment. We have all seen that, particularly in the area of the Internal Revenue, not only as to small business, but sometimes as to big business and, certainly, as to individuals.

My reluctance today is to tack this on and have it made part of the law without proper hearings and going as far as it should go.

I understand that S. 1001 does not take in the fact of harassment on individuals and I believe that may be a proper allocation of this particular idea.

My question then to the distinguished Senator from New Mexico is, Is it absolutely necessary that he proceed today with this amendment on this particular bill?

As I said, I would give assurance of holding hearings, and I would welcome working on a bill because I believe that this is the right direction to go. I hate to see it done in this manner, however.

Mr. DOMENICI. Let me say first to my good friend from Arizona, incidentally, that I do not know what we are going to do. I hope I conduct myself well for the Senator's constituents because about every other day I am accused of being the Senator, or he is accused of being me.

Mr. DECONCINI. It is a compliment on this side, I can assure the Senator.

We Italians all look alike, they say.

Mr. DOMENICI. I am not complaining. It is just that sometimes they ask me why I have supported something and I did not support it. I find out they are talking about the other similar Senator with the similar name.

I say, first of all, to the Senator from Arizona, this may be a radical change in the adversary system in our court of citizens versus Government in terms of court costs and attorney fees.

I said before the Senator arrived that actually this bill is born out of frustration; to some extent, from my standpoint.

I am heartened to hear the Senator say he will have hearings. I do honestly hope, even if we vote here today, and even if I was to win that vote, I think the bill has a long way to go from becoming law.

I think the Senator and I both know that. But I hope the Senator is serious about hearings.

I would say that my research indicates that there are about 50 Federal statutes on the books now of various types, which were adopted kind of piecemeal and willy-nilly, that provide for attorney's fees for citizens of the United States when they are involved in litigation with the United States.

I am sure the Senator is aware of those. But the problem is that every time we run into the worst kind of cases, they are not covered.

I also say to the good Senator, since he is genuinely interested in this field, if we do not do something, start looking at the decisions of Federal judges where they are making the decisions for us. They are getting fed up to about here. They are finding implied in the statutes that some citizens have had to go through court, 6 or 8 months, and that judge finds that a Federal agent really should not have been in the court at all.

They are bending the law, and finding harassment, or something else, and allowing attorney's fees.

Mr. DECONCINI. Will the Senator yield?

Mr. DOMENICI. Indeed.

Mr. DECONCINI. It seems to me what the Senator says is correct. I am aware of the practice of law, of representing some people——

The PRESIDING OFFICER. The 5 minutes yielded to the Senator from Arizona have expired.

Mr. NELSON. I yield the Senator 2 more minutes.

Mr. DECONCINI. It seems to me that the best way to approach this legislatively is to hold hearings. I intend to hold hearings, regardless of the vote today, but I would welcome not having to decide that on the floor this afternoon.

I think it necessitates indepth hearings, and I will do that regardless of what happens today. I can assure the Senator of that, and he will be invited to testify.

It does not seem to me to be the best way to approach the problem today by trying to get a vote on whether or not to enact S. 1001, which is the legislative act which has been assigned properly, through the proper processes.

Mr. DOMENICI. I ask this question of the Senator from Arizona, and I also address this to Senator NELSON: I have been caught in this before, where it is said that we will have hearings, and I do not doubt the intentions of the Senator from Arizona. But, specifically, what if we got before the Senator's committee and—let us pick out an agency, the Occupational Safety and Health Act—said that at least attorneys' fees should be provided for people who have to fight that agency and end up winners.

Will the Senator's committee have jurisdiction over that? Or will we come to the floor and hear that it belongs to another committee, the one that has jurisdiction over OSHA? That is the traditional way to get caught in the middle.

Mr. DECONCINI. All I know is this: S. 1001 has been assigned to the Judiciary Committee. So far as the jurisdiction that the Senator is talking about is concerned with respect to this amendment, yes, my subcommittee will have jurisdiction.

As to the other areas that the Senator has made reference to and that I have made reference to, it may be assigned to another place if another bill has been introduced—and it may have been.

This just talks about small businesses with a certain dollar amount and the court being able to award attorneys' fees, which is acceptable to me, except that I would like to hold hearings and know more about it.

The PRESIDING OFFICER. The additional 2 minutes of the Senator have expired.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. NELSON. I yield the Senator 3 minutes.

Mr. KENNEDY. Mr. President, I welcome the statement of my colleague and friend from Arizona about the importance of giving this careful consideration in his Judiciary Subcommittee.

Of course, the interest in awarding attorneys' fees is a welcome development to me, when we have seen this body demonstrate considerable reluctance with respect to permitting discretionary attorneys' fees in regulatory proceedings in order to protect citizens' interests therein. We have also faced considerable difficulty over a long period of time in authorizing attorneys' fees in certain cases involving civil rights.

I think it is very important to understand the potential consequences of this particular amendment. I am very concerned about the chilling effect such legislation could have on all suits brought by the Government.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. KENNEDY. I should like to finish the thought.

This amendment has very broad implications.

It could discourage, for example, the Food and Drug Administration from trying to protect the health of the American people in the areas of the safety and efficacy of drugs, in medical devices, and a wide variety of issues. I am also concerned about whether this could hamper the efforts of the Justice Department to prosecute antitrust suits against major conglomerates. If we are to say that each time they fail there is automatically going to be compensation, then I think we are moving one of the basic standards of our judicial process in a direction which could have some extremely serious ramifications.

I strongly support awards of attorneys' fees in a wide variety of circumstances. I, too, question the wisdom of the traditional "American rule" against such awards, and—like the Senator from New Mexico—I am concerned about the special problems small business people face in defending themselves against what they feel is harassment by the Government.

Nonetheless, I do not believe we either can or should lightly adopt so broad a legislative proposal on the floor of the Senate this afternoon. Not only are the potential problems which could be

created—not to mention the overall costs to the Government—only dimly understood, but the amendment is not even germane to the legislation now under consideration.

To conclude, Mr. President, I think the offer of the Senator from Arizona to consider this amendment is the approach we should take. I believe the proposal deserves the kind of thoughtful consideration that I know he will give it, and that the other members of his committee will give it. I believe it will be unwise and perhaps dangerous for us to accept this amendment at this time.

Mr. DOMENICI. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. KENNEDY. I yield.

Mr. DOMENICI. I understand why the Senator from Massachusetts raises the question of monopoly and antitrust, because I did not present this amendment to him, and he probably is referring to S. 2718—about 18 months ago or 2 years ago. I say to the Senator from Massachusetts that this is completely different.

The section as to who is entitled to recompense is defined by the small business definition, and I think, almost presumptively, it would not apply to any of the big companies in this country to which the Senator refers. I am sure it does not apply to any of the monster companies, because it is $100,000 a year maximum profit for any company.

However, I agree with the Senator that perhaps before the Federal Food and Drug Administration, there may be some small companies this might benefit. I did not want the Senator to think it was the same bill that was introduced a long time ago, because we fixed that up after we discussed it with a number of Senators.

Mr. KENNEDY. I am familiar with what the Senator is proposing. He introduced it last March as S. 1001. I still believe, however, that this whole issue requires a great deal more study. As of now, it has received none.

There are some very basic and fundamental concepts of jurisprudence involved in enforcing the statutes of this country by private right of action. We are all looking for ways and means by which we can relieve the pressures on smaller industries and businesses in this country so that they can compete more effectively, but that is not the whole issue. The amendment makes no distinction, for example, between whether a small business is the plaintiff or defendant in a particular action. Yet this is a very critical distinction, as the standards by which fee awards are to be judged are considerably different in each situation, and for sound policy reasons.

I appreciate the comments of the Senator from New Mexico, but I continue to believe his amendment is inappropriate at this time.

Mr. STAFFORD. Mr. President, will the manager of the bill yield to me?

Mr. NELSON. I yield the Senator 3 minutes.

Mr. STAFFORD. Mr. President, I hope the distinguished Senator from New Mexico will accept the offer in good faith of the distinguished Senator from Arizona to move the proposed amendment to that committee for hearings.

In the Committee on Human Resources, as the Senator from New Mexico knows, we do not have jurisdiction over this amendment and what it proposes to do. In consequence, in our committee there have been no hearings on the matter. So I think it would be appropriate and in the properly processes of the Senate for the matter to go to the Committee on the Judiciary for appropriate hearings and not for us to take this hasty action here.

I say that to my good friend while I assure him that, personally, I am in sympathy with what he proposes to do. I believe that providing small business with attorneys' fees where a small businessman prevails against the bureaucracy of our Government is appropriate. I simply urge him, in the interest of the orderly process of legislating in the Senate, to take this offer, withdraw the amendment and the vote, and let it go to hearings this winter.

Mr. McCLURE. Mr. President, I take this time just very briefly to associate myself with the remarks of the Senator from New Mexico and to thank him for introducing this amendment at this time on this bill. I agree with him that there is reason to consider this approach to the problems of the average citizen of this country as we also consider the problem of adequate legal representation for those people who cannot afford to pay for it at all.

This is legislation which I have sponsored. I cosponsored this original bill with the Senator from New Mexico. I have sponsored similar legislation in years past. We are going to pass this kind of legislation sooner or later. It has been suggested it be withdrawn and it will be subjected to hearings. We have had hearings in the past. There is no question about the need for it. There is no question about the justice of it. There is absolutely no question of the growing problem that confronts the average taxpayer, the average citizen, and the average small businessman in this country.

Years ago we took a look at the terrific economic imbalance between an individual citizen and an insurance company, and most States have enacted statutes that say in the event the insurance company is found wrong the insurance claimant will have his attorney fees paid because it was felt by most legislatures that the economic disparity between the insurance company and the claimant was so great that substantial justice was denied the claimant unless the insurance company had to bear the risk of paying the attorney fees in the event the claimant prevailed.

Mr. President, if we can make that finding that the economic disparity between an insurance company and claimant is great enough to justify this kind of a provision, how can we possibly argue that there is not an economic disparity between the Federal Government and an individual citizen that justifies the same kind of action?

So I commend my colleague from New Mexico for the leadership that he has shown in this action. I associate myself with the need for the legislation and I will say again whether it is passed today, withdrawn for hearings, subjected to hearings in the future, whatever may happen negatively about it today, or in the course of this legislation, this kind of legislation will be passed. I think it should be passed.

For me, I am ready to see that it is passed today.

I thank the Senator from New Mexico for yielding.

Mr. DOMENICI. Does the Senator from Wyoming desire to comment at this point?

Mr. WALLOP. I do.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. DOMENICI. I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. I thank my friend from New Mexico.

I want to associate myself with not only his remarks but those of the Senator from Idaho.

One of the things, having been in small business myself, that I find most critical about the idea expressed in this amendment is that so very often the agencies of the U.S. Government take on a small businessman for a couple of reasons. One reason is that it is more likely to result in a case that is acceded to simply because the small businessman cannot afford, as Bristol-Myers can, a bank of 50 lawyers to take on the Federal Government. First, the Federal Government is more likely to take a small businessman on in the first place. Second, the small businessman faced with a moderate fine of, say, $500 or $1,000 or $1,500 is more likely to say that he does not have the money to defend himself in court against the power of the U.S. Government that can take him on ad infinitum to the Supreme Court while he sits and tries to find some kind of reasonable financial basis to justify taking on this claim.

In most instances he cannot. So he loses in both directions. He loses because he has acceded to it, and he loses because he did not challenge it. And having failed to challenge it, it becomes standard practice of the administrative agencies to use this as a theory on which to base other attacks on the small business community of the country.

It is absolutely no small wonder in my mind why the major corporations of this country are the heaviest contributors to the Democratic Party because specifically they are relying on this liberal Congress to destroy their competition by simply making it impossible for small business to exist. The regulatory agencies attack, attack, and attack the small and rarely do we ever see them attack the big, and the big can resist, the big can absorb, and the big can find itself elbow room to finagle around and

keep the Government in contest up through and including the Supreme Court, while the small businessmen either capitulate halfway through because they no longer have the resources to go or capitulate, in the first place, simply because they know they are fighting the entire U.S. Government and there is no darn point in taking another step forward. They have lost before they start. I have seen it with OSHA. I have seen small businessmen, faced with $100 fines that they know certainly to be outside the concept of Congress, to be outside the whole justification of the Occupational Safety and Health Act, capitulate because it is not worth taking them on for $100 fines.

So, gradually the cost, the ability to be a small businessman in this country, and the risk to do battle with your Government increases daily, and gradually one by one the small businesses of this country are going under and the business climate revolves around those who are big. When we lose a small drugstore in our part of the world we find that we have a K-Mart or a Gibson store come in with a pharmacy in the store. Every time we have a small businessman pushed to the wall by the Government and the regulatory agencies of the country the next thing we find is the big corporation sliding in that absorbs not only his business but brings with it competitive actions to other existing small businesses in the small towns.

Now, there is statutory case law that supports this. I would just like to quote some of it. In the Alyeska Pipeline Service Co. against the Wilderness Society, decided by the Supreme Court in 1975, the Court held:

> In the United States the prevailing litigant is ordinarily not entitled to collect reasonable attorney's fees from the loser. In the case of civil actions brought by or against the United States or any agency or official of the United States, acting in his official capacity, this rule is statutory and is subject to statutory exceptions only.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WALLOP. Mr. President, may I have 1 more minute?

Mr. DOMENICI. I yield 1 more minute.

Mr. WALLOP. Mr. President, I think this amendment is a needed addition to the bill.

I think if we are, in fact, true to our desire to look to the middle class and the small businesses of this country as the great taxpayers, then they are entitled to some of the same privileges we give to the poor and provide to the rich.

I commend my friend from New Mexico. I hope very sincerely his amendment passes, and I am proud to be associated with it.

Mr. DOMENICI. I thank the Senator from Wyoming.

I will be brief. I first want to say to my good friend from Arizona that I appreciate his assurances. I am going to insist on a vote today, and probably there will be a motion to table it, so that will be the issue instead of the vote.

However, I want you to know that your assurance is very much appreciated, and I do believe from what you have heard today, and knowing of your general feelings, and when the whole record is read, that your interest in holding some genuine hearings to find out whether or not my position that there presently is an imbalance on the side of the Federal Government and its agents and regulators versus the average American and small business, I think when you begin to look into that, you will find there is, and you will find it exists most predominantly and most vividly in the area of arbitrary rules, regulations, fines, and actions, and that one way to redress it is to encourage the average citizen to fight, and one way to do that is to assure that he will get reasonable attorney's fees and costs if he does it.

Having said that, I want to say I think Senator KENNEDY makes a point—I do not think the point is well taken with reference to big business because they are not covered here—he makes the point that maybe we are taking a bit of a chance in this bill in not knowing quite to what extent we will be reimbursing and causing people to litigate Federal agencies.

When I introduced it, I knew we were. I take the chance on the side of trying to balance the imbalance that I see growing by leaps and bounds in favor of arbitrary bureaucracy against a citizenry that has to give in not only as to the fines but also as to the attitude of more and more "We got by it last time, why shouldn't we again?" That has to be in some way moved back to some more moderate position.

I really believe litigation by a citizen and by a small businessman who says, "I do not have to risk all my money to do it," is apt to balance that if they have to go fight for it a little more.

Mr. President, today I am proposing an amendment which will grant to successful litigants in civil cases and certain agency proceedings against the Federal Government the right to an award of legal fees and other related expenses.

With several important changes, the bill is similar in concept to S. 2871 which was introduced in the last session. Subsequent to the introduction of S. 2871 last year, I solicited the views of the attorneys and others in New Mexico as to the need for this type of legislation. The response to my survey far exceeded my expectations in both the quality and quantity of the replies. Greater than 90 percent of those responding supported the concept of providing attorney's fees and related costs to private parties prevailing against the Federal Government.

Many of the reasons given for supporting this concept were based on the personal experience of attorneys whose clients have endured the unfortunate experience of having been "worn out" by inexhaustible Government resources in both administrative and judicial proceedings. Other responses reflected concern that the judicial system is losing its capacity to act as a balancing factor against arbitrary or capricious Government action because many private parties view litigation and other proceedings against the Government as being prohibitively expensive even though these proceedings have a direct and substantial impact on the economic interest of the parties.

A small percentage of those responding expressed opposition to several of the provisions of S. 2871. One major criticism was the inclusion in the bill of criminal proceedings. A number of those responding expressed the view that existing procedures more than adequately safeguard the rights of a criminal defendant unable to provide for his own defense. Irrespective of whether the facts completely support this view, it is my view that the civil and criminal provisions represent a logical distinction and can be separated. Accordingly, I have not included coverage of criminal cases in the amendment I introduce today.

Another criticism was that S. 2781 did not distinguish between private parties who are put at a clear financial or resource disadvantage in a judicial or administrative dispute with the Federal Government and those private parties who are not. Clearly some parties such as giant corporations and the very wealthy are capable of adequately protecting their interests and are not, therefore, put in a position of "caving in" when faced with litigating against the Government.

For this reason I have added a limitation on those parties who would be permitted to recover under this proposed legislation. No party other than a party qualifying as a small business or with assets valued at less than $1 million and annual receipts or income of less than $100,000 in each of the 5 years preceding the initiation of the litigation or proceeding would be permitted to recover. I would ask that the hearings on this amendment particularly focus on these specific provisions.

Further, I have added specific limitations on the rates of the attorneys' fees that would be recoverable under the bill.

Lastly, I propose to initiate this compensation program for a 3-year trial period.

Mr. President, I am convinced that this legislation is necessary in order to combat the growing tendency of escalating legal and related costs deterrring Americans from enforcing and defending their legal rights against the Federal Government. The basic problem this amendment seeks to overcome is the inability of many Americans to combat the vast resources of the Government. The Government employs thousands of lawyers assigned to enforce and defend the often lengthy and sometimes arbitrary regulations and rulings of the hundreds of Federal departments and agencies. The volumes of the annotated laws of the United States take up dozens of shelves and the rules and regulations promulgated pursuant thereto number in the hundreds of thousands. Unfortunately, these vast numbers of rules and regulations are too often subject to arbitrary interpretation and application by the Federal functionaries who are now

vested with very broad discretionary powers.

As a result, there are a few elements of life, commercial or otherwise, where the Federal Government does not—at least potentially—have some role to play, a role which often leads the regulator to take the regulated to the court on issues whose merits are highly questionable.

Concurrent with the growth of Government, there has grown up a feeling of helplessness among a large portion of the population. Many people, particularly those small businesses and organizations and individuals who are not particularly wealthy, do not know how to cope with an institution such as the U.S. Government, the size and complexity of which is so great that, literally, no one can come to terms with it.

The consequences of such a dilemma are that in the usual case, an aggrieved party has to weigh the high cost of litigation or agency proceeding against the value of the rights to be protected. In far too many cases, a party will knuckle under to a Federal order he knows to be wrong because he cannot afford the cost of taking the matter to court, or challenging an administrative action. In the case of these private parties, it is often only the most wealthy who can afford to challenge the Government.

This problem is exacerbated by the fact that the income and assets of the private litigant or defendant are generally extremely limited and, therefore, can be subject to a war of attrition on the part of a determined Federal bureaucracy. Justice for the citizen requires that the cost of securing justice not outweigh the value of the right asserted by the citizen against the Government. It is important, also, that the expense of correcting error on the part of the Government—a task which could have wide-ranging beneficial implications for other Americans—not rest wholly on the party whose willingness to go to court has helped define the limits of Federal authority.

Because of the cost of court litigation and agency proceedings, many issues of great importance—of importance in defining the relative rights of government and governed in a free society—are never tested. Surely, if society has a sufficient interest in an issue to channel thousands of dollars into the Government's case, it has an equal interest in insuring that the case is decided pursuant to a fair presentation of the issues to the court or to the administrative agency responsible for the interpretation of the regulation.

Subject to the restrictions mentioned earlier, my proposal for awarding legal fees and costs in civil actions applies to all actions in which the United States or an agency or official is a party, including tort claims and judicial reviews of agency actions. Awards of fees and costs are required to be made by courts in favor of parties prevailing over the Government in actions instituted or defended by the Government. If the private party prevails partially, he must be awarded an amount for fees and costs incurred by him in the action commensurate with his success. In cases in which the private party fails, he may be awarded fees and costs when it is in the interest of justice.

What I propose is hardly a radical concept. Today we find over 50 Federal statutes which provide for the awards of attorney's fees and related costs in specific situations. As recently as in the closing days of the last session, the Congress passed and the President subequently signed into law the Civil Rights Attorney's Fees Award Act, which permits compensation in civil actions against the United States in certain civil rights and internal revenue cases. What I propose is to eliminate the distinction between those cases which now have the benefit of specific legislation and those which do not by providing general legislative coverage for all civil cases against the Government.

The awarding of legal fees to successful private litigants should not in any way deter Government attorneys from pursuing meritorious claims. Similarly, it can hardly be regarded as an incentive to spurious litigation, as the nonprevailing party will be awarded legal fees only when the interests of justice manifestly dictate.

What it will do is to deter the governmental tendency to dispute meritorious claims in the expectation of outlasting an adversary. This is a practice which must be discouraged.

Hearings on this bill may show that improvements may be made in the details and limitations of my bill; however, I am without a doubt that they will find that this amendment represents badly needed legislation and deserves prompt attention of the new Congress. I believe it is bipartisan in nature and I find that it should receive enthusiastic support of those of widely varying political philosophies.

Mr. NELSON. Mr. President, how much time remains on the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin has 17 minutes; the Senator from New Mexico has 5.

Mr. NELSON. Mr. President, I am reluctant to be placed in the position of having to oppose the amendment of the distinguished Senator from New Mexico while, at the same time, I agree with almost everything that was said by the Senator from New Mexico, the Senator from Wyoming, and the Senator from Idaho.

As chairman of the Small Business Committee, I am well aware of the compelling points made by the Senator from New Mexico and the Senator from Wyoming, and I am in agreement with them.

However, this is a major piece of legislation which is not within the jurisdiction of the Committee on Human Resources, and I think everybody is aware that even if the amendment were adopted, the House would refuse to accept it as nongermane; and, if it were not on that particular ground, they would refuse to accept it in any event in conference on this bill.

I realize the Senator from New Mexico is well aware of that, and that he desires, at least as one aspect of having introduced it, to give some visibility to an issue that is very important.

I have not seen the amendment until today, and I have not been able to read it all the way through. I happen to agree with the objectives sought. It is an incredibly complicated business, however, to design a piece of legislation in which you would treat a small businessman or even a big businessman, equitably.

Although, as was pointed out by the Senator from Wyoming and the Senator from New Mexico, at least corporate giants are financially in a situation to be able to match the legal abilities of the Justice Department or the regulatory conduct of any of the Federal agencies, and do very well on their own.

I am aware, too, that there are all kinds of harassment of individuals and of businesses. Sometimes the harassment is because of the ignorance of an individual within an agency or because of the person running the agency; sometimes it is capricious conduct by the Federal employee or agency; sometimes it is arbitrary conduct; and sometimes it is based on misguided good intent. Nonetheless, the result is all the same to the individual who is harassed by the Federal Government.

I was pleased to hear that the Senator from Arizona (Mr. DECONCINI) would, in fact, be conducting hearings on this legislation. I would hope he has the wisdom to do something in marking up the bill that none of the rest of us has been able in the past successfully to do.

I must say, however, to the distinguished Senator from Wyoming (Mr. WALLOP) that I was astonished to hear that the big corporate giants of America contribute to the Democratic Party for the devious purpose of keeping the Democrats in office so that they can establish all kinds of Federal regulations to destroy small business, who are their competitors.

I was astonished to discover that our corporate giants are capable of such a labyrinthian exercise in, as Adlai Stevenson once said, disingenuous dissembling. But if that is what they are doing, I commend them for being more clever than I thought they were. I was not aware that they contributed—at least in my State—to the Democrats, or at least to this one. But I am going to call to the attention of the corporate leaders of Wisconsin to what the Senator said, and tell them that if they are going to be honest with what the rest of the corporations of this country are doing in accomplishing their devious purpose, they ought to look more carefully at my next campaign. [Laughter.]

Machiavelli himself would be proud of these corporations, if what the Senator from Wyoming says is true.

Mr. President, the Human Resources Committee does not have jurisdiction over the amendment pending before the Senate. It is nongermane, and it will not be accepted by the House of Representatives. Though I agree with the concept,

I will be compelled to move to table the pending amendment once all time is yielded back.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. NELSON. Well, knowing how verbose the Senator from Wyoming is, would he mind sending it over in writing and allowing me to see it first?

What is the Senator's question?

Mr. WALLOP. I assure the Senator from Wisconsin he does not have to answer, but can he tell me for what other reason about 65 percent of the corporate donations went to the majority party, rather than for reasons of policy?

Mr. NELSON. Well, I did not know the percentage, but I assume the reason why they do so is that they have finally recognized, all these years after Roosevelt saved the free enterprise system, that the most intelligent defender of American business is the Democratic Party.

Mr. WALLOP. I am not able to agree with the Senator's conclusions as to the reason, but the figures speak for themselves.

Mr. DOMENICI. Mr. President, will the Senator from Wyoming yield?

Mr. NELSON. I yield.

Mr. DOMENICI. How did this argument get involved with my amendment? I mean, could we not put it in the RECORD after we vote on this amendment, so that we would not be confused in terms of what we are doing here?

Mr. NELSON. I think it is appropriately placed in the RECORD, based upon the dialog that has occurred.

Mr. President, I am prepared to yield back the remainder of our time.

Mr. DOMENICI. Mr. President, I want to use 1 minute to say once again to the Senator from Arizona that I appreciate his comments today, and to my good friend the Senator from Wisconsin (Mr. NELSON), the floor manager, that I understand his position, and he does not know how much I appreciate his kind remarks about the concept of the proposal, and the encouragement that his remarks will lend as this kind of concept finds its way through Congress, as of course it will, and assuredly we will redress some of these matters; if not by a generic-type reimbursement bill, we will find the pressure so severe we will do it piecemeal among the large agencies that are causing so much concern among so many of our citizens.

Having said that, I yield back the remainder of my time.

Mr. NELSON. Mr. President, let me say that I certainly do endorse the concept, and I hope we can develop some legislation that will help so many individuals and small businesses in a confrontation with their Government, and when in fact on so many occasions the Government is wrong and the individual or the small businessman is correct.

Mr. President, I move that the amendment be laid on the table.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, as I understand it, there has been a motion to table and the yeas and nays have been ordered on the pending amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. And the pending amendment is the amendment by the Senator from New Mexico (Mr. DOMENICI)?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 36, nays 55, as follows:

[Rollcall Vote No. 559 Leg.]

YEAS—36

Bayh	Inouye	Percy
Brooke	Jackson	Proxmire
Cannon	Javits	Ribicoff
Clark	Kennedy	Riegle
Cranston	Long	Sarbanes
Culver	Magnuson	Scott
Eastland	Mathias	Sparkman
Glenn	McGovern	Stafford
Hart	McIntyre	Stevenson
Haskell	Metzenbaum	Stone
Hathaway	Nelson	Weicker
Hollings	Pell	Williams

NAYS—55

Allen	Byrd, Harry F., Jr.	Danforth
Baker	Byrd, Robert C.	DeConcini
Bartlett	Case	Dole
Bellmon	Chafee	Domenici
Bentsen	Chiles	Durkin
Biden	Church	Eagleton
Bumpers	Curtis	Ford
Burdick	Garn	Gravel
Griffin	Lugar	Roth
Hansen	Matsunaga	Sasser
Hatch	McClure	Schmitt
Hatfield	Metcalf	Schweiker
Heinz	Morgan	Stennis
Helms	Muskie	Stevens
Huddleston	Nunn	Talmadge
Johnston	Packwood	Tower
Laxalt	Pearson	Wallop
Leahy	Randolph	Zorinsky

NOT VOTING—9

Abourezk	Hayakawa	Moynihan
Anderson	Humphrey	Thurmond
Goldwater	McClellan	Young

So the motion to lay on the table unprinted amendment numbered 928 was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask the floor managers if they would be willing to accept the amendment, now that the vote clearly indicates that I probably would win. In that case, I would ask unanimous consent that the order for the yeas and nays be rescinded.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. JAVITS. I hope the Senate will understand that it is not that Senator NELSON and I were against the amendment of the Senator from New Mexico that this whole discussion and result took place. Our situation is that this is not in the House bill, that under their unique rules of germaneness, we do not have a prayer with it. But we will take it and we will try with it. I am only giving the Senator the factual situation.

What this vote does demonstrate, which is what I gather the Senator from New Mexico desired to demonstrate, is that he has a very viable proposition which deeply interests the Senate, which can be fashioned and now put into a bill where it can actually follow through with the other body and become law.

In that sense, I am more than happy to take it. I thoroughly sympathize with it and will help to fashion it into what we can actually accomplish as a statutory proposition.

So I am entirely agreeable to a motion to vacate the order for the yeas and nays and to take the amendment. But I did not want to do that blind, without explaining the situation to the Senate.

Mr. DOMENICI. Mr. President, I wonder whether the Senator from New York will yield me 2 minutes on the bill.

Mr. JAVITS. I yield.

Mr. DOMENICI. I say this in all sincerity to the Senator from New York and the Senator from Wisconsin. I appreciate the sympathy both have expressed—and that expressed by Senator JAVITS in his last statement. However, would an up-and-down vote, in the event we were to prevail, turn the sympathy into something the Senators might use more forcibly in the conference?

Mr. JAVITS. I will use all the force and all the brains I have to get this accepted in conference. Perhaps I have been guilty of understatement. It is not that I have any reservations about the policy the Senator desires. It is just that, having been through so many conferences with the House, I know that we face a difficult situation. I would never say anything is impossible.

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order.

Mr. JAVITS. I would never say anything is impossible. For that purpose, actually going at it as strongly as I know how, I do not require a record vote. This is the record vote. It makes it very clear that the Senate wants the proposition which the Senator has proposed.

Mr. DOMENICI. Mr. President, I thank the Senators for supporting this concept. I think its time has come. I do believe the strong vote against tabling clearly indicates that the Senate is ready to consider reasonable reimbursement to individuals and small business people in this country who have to spend their resources to fight their own Government in the event they succeed in court.

Having made that statement, I ask unanimous consent that the order for the yeas and nays on the amendment be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NELSON. Mr. President, for the benefit of those who were not here during the course of the discussion of the amendment, let me repeat very briefly, because I spoke at some length in the RECORD, that I endorse the concept, the objective, sought by the Senator from New Mexico.

I think there is no question that the Senate should address itself to this question of attempting to restore some kind of balance and equity in those confrontations that are increasingly occurring between the Federal Government and its agencies and individuals and small businesses.

I think everyone in the Senate agrees with that. I have stated this earlier on the floor of the Senate. However, this is a nongermane amendment which we agreed last night by unanimous consent to be permitted to be considered on this bill. I think I should point out that whereas I endorse the concept, Senator DECONCINI did make it clear that this bill is pending in the Judiciary Committee. He stated that he is interested in the legislation, favors the concept himself and, in fact, will conduct hearings on the bill.

I think that the amendment is nongermane under the rules of the House of Representatives and will not be accepted by them.

I wish to make one further reservation as to my own position. I could not say here now that, whereas I support the concept of the Senator's bill, I would support this specific bill because I have never read it. When you have a piece of legislation that addresses itself to every single order, regulation, and legal action by the Federal Government, numbering tens of thousands, I want to be very sure that we are not creating a cure that is worse than the disease.

So I would not want to say that I will go to conference and fight for an amendment that I have never read. Even after I have read it, if I am not satisfied with it, I want the Senate to know I will not argue for it in conference no matter what the vote on this bill is because no one in this Chamber has read it so far as I know, except the Senator from New Mexico. I saw it for the first time an hour ago, and it is a very substantial amendment. So I would not want to mislead the Senate by saying I am going to go to conference and make a heroic fight. I agree we should tackle the question. I think the Judiciary Committee will do so. I am happy to accept this amendment on a voice vote.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. If I have the floor.

UP AMENDMENT NO. 929

(Purpose: To provide a modification in the prohibition regarding representation in civil matters arising under the Military Selective Service Act.)

Mr. MCCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE), for the Senator from South Carolina (Mr. THURMOND), proposes an unprinted amendment numbered 929.

Mr. MCCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 18, beginning with the word "to" strike out all through line 23 and insert in lieu thereof a comma and the following: by adding at the end thereof a comma and "except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that status as a conscientious objector was wrongfully denied prior to July 1, 1973, under the Military Selective Service Act of prior corresponding law".

Mr. MCCLURE. This is with respect to the continuation of the prohibition against representation in certain actions or classes. The amendment as agreed upon will permit the Legal Services to represent a client in a civil action in which the client's status as a conscientious objector is the issue. The amendment on its face states exactly that.

I would ask the managers of the bill if it is not our understanding that it is confined to the resolution of that issue and they could not use this language to open up a whole range of other issues and thus represent them on other issues that otherwise would be prohibited.

Mr. NELSON. That is a correct statement of my understanding of the amendment. In reading the amendment, it quite clearly confines the additional authority given here to the Legal Services Corporation to that situation involving the status of the conscientious objector under the previous Selective Service Act.

Mr. STAFFORD. If the manager will yield, Mr. President, I will say for the minority that we concur with the statement of the distinguished Senator from Wisconsin.

Mr. MCCLURE. Mr. President, I ask unanimous consent that at this point in the RECORD letters addressed to the Senator from South Carolina from the Veterans of Foreign Wars, the American Legion and the AmVets be printed in the RECORD with this explanation: These letters were addressed to him with respect to the bill as pending, and the amendment which has been offered is a compromise which attempts to meet, and does meet, the matter and resolves it as a compromise. It does not necessarily address itself completely to the statements which are in these letters from these veterans organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS,
Washington, D.C., October 12, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The Veterans of Foreign Wars of the United States opposes in the strongest possible terms the provision of S. 1303, an authorization bill to amend the Legal Services Corporation Act, which would expand the authority of the Legal Services Corporation to represent persons and proceedings involving desertion from the Armed Forces, where counsel is not available within the Department of Defense. Furthermore, we oppose any representation before the various discharge review boards and boards for correction of military records within the Department of Defense by any organization which is publicly funded. High quality representation before these boards is provided gratuitously by the Veterans of Foreign Wars and other organizations and, also, by private attorneys paid by their clients.

The President of the United States recently signed S. 1307, which became Public Law 95-126, in which the Congress of the United States expressed a strong public policy against the provision of veterans entitlement to persons who do not meet standards generally applicable to all persons. Providing legal services by the Corporation in procedure involving desertion has never been done in the past and attempting to change the law to oblige those persons who abandoned their responsibilities to our great nation is inconceivable.

To reiterate—the V.F.W. most strongly op-

poses expanding the authority of the Legal Services Corporation, a federally funded entity.

With best wishes and kindest personal regards, I am

Sincerely,

DONALD H. SCHWAB,
Director, National Legislative Service.

THE AMERICAN LEGION,
Washington, D.C., October 12, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The Senate is presently considering S. 1303, that authorizes funds for the Legal Services Corporation through fiscal year 1982.

The American Legion is opposed to a provision contained in the bill that would expand the authority of this corporation to enter into proceedings or litigation involving violations of the military selective service or desertion from the Armed Forces.

It is my understanding that you plan to offer an amendment to this measure that would preclude such expansion of authority and The American Legion supports this action. I am sure you are aware that federally chartered organizations like the Legion already provide counsel and assistance free of charge to those individuals who desire redress before the Board of Military Corrections or the Military Discharge Review Boards. Enactment of S. 1303 with the "expansion provision" will not only duplicate the services we provide free of charge but require Congressional funding to accomplish this proviso.

The Legion supports your amendment and urges its adoption by your colleagues in the United States Senate.

Sincerely,

MYLIO S. KRAJA,
Director,
National Legislative Commission.

AMVETS,
Washington, D.C., October 12, 1977.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: AMVETS National Commander, Frank D. Ruggiero, has directed this office to express his strong opposition and the opposition of the entire AMVETS organization to that language contained in S–1303 which would expand the authorization of the Legal Services Corporation to permit legal representation in proceedings involving military desertion.

We do not believe it appropriate or equitable that the American taxpayer should be required to subsidize the cost of these services to deserters where legal representation is not provided by the military services.

Sincerely,

C. DENNIS MCCLURE,
National Service and Legislative Director.

Mr. NELSON. I agree with the amendment, Mr. President. I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 minutes.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator yielding time to me. I rise merely for the purpose of saying that while I have a little more than 20 amendments to this bill that have been printed I do not intend to offer any of those amendments. I appreciate the courtesies that have been shown by the floor manager of the bill and the ranking Republican. I believe some adjustments have been made in the bill because of our colloquy yesterday on the floor of the Senate and I have talked with some of my friends on this side of the aisle who feel that both Senators have been somewhat reasonable in the approach that they have taken and for that reason none of these amendments will be offered.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. JAVITS. Will the Senator let me thank Senator Smith for what is an act so favorable.

Mr. SCOTT. If the distinguished Senator will yield briefly, we have been here together for 5 years and the name is SCOTT, S-C-O-T-T.

Mr. JAVITS. That shows how you can mess up a very good flattering statement even by an old veteran. [Laughter.]

I just want to say, Senator SCOTT, that I know you felt deeply about many of these. You have been very fair. We heard you. We took some action which we found hard to take especially cutting the term of this bill. We did some very substantive things and you have helped us because of it. We are very grateful to you.

Mr. SCOTT. I appreciate the Senator's comments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 2 minutes without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUBERT H. HUMPHREY BUILDING

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH and Mr. DOLE, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 447, S. 2169.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

There being no objection, the Senate proceeded to consider the bill.

U.S. SENATORS, 99 OF THEM, JOIN IN SPONSORSHIP AND PASSAGE OF THE HUBERT H. HUMPHREY BUILDING BILL

Mr. RANDOLPH. Mr. President, all the Members of this body, without exception, have joined in the passage and sponsorship of legislation to name an important Federal facility in the District of Columbia the "Hubert H. Humphrey Building."

This action is an affirmative expression of love and admiration for one of the truly gallant, good, and great men, of not only the Senate but of the United States of America.

I ask unanimous consent to print the bill, S. 2169, introduced by the Senator from Kansas (Mr. DOLE) for himself, Mr. ANDERSON, Mr. RANDOLPH, Mr. STAFFORD, Mr. YOUNG, Mr. ABOUREZK, Mr. ALLEN, Mr. BAKER, Mr. BARTLETT, Mr. BAYH, Mr. BELLMON, Mr. BENTSEN, Mr. BIDEN, Mr. BROOKE, Mr. BUMPERS, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. CASE, Mr. CHAFEE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. CURTIS, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. DURKIN, Mr. EAGLETON, Mr. EASTLAND, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HART, Mr. HASKELL, Mr. HATCH, Mr. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. LONG, Mr. LUGAR, Mr. MAGNUSON, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCCLELLAN, Mr. MCCLURE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MELCHER, Mr. METCALF, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. NELSON, Mr. NUNN, Mr. PACKWOOD, Mr. PEARSON, Mr. PELL, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPARKMAN, Mr. STENNIS, Mr. STEVENS, Mr. STEVENSON, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. ZORINSKY in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the South Portal Federal Office Building of the United States Department of Health, Education, and Welfare, located at 200 Independence Avenue Southwest, in Washington, District of Columbia, is hereby designated as the "Hubert H. Humphrey Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Hubert H. Humphrey Building.

Mr. RANDOLPH. Mr. President, this measure was reported on October 10, 1977, from the Environment and Public Works Committee with unanimous approval of its 15 members.

Mr. President, in recent days, much has been said and written about our colleague, HUBERT HUMPHREY. Words cannot fully express the love and esteem each of us in the Senate holds for our former Vice President. We are again fortunate to have this opportunity to set forth our appreciation for his productive career.

HUBERT, the professor, teaches from lessons he learned in South Dakota during the Depression. The young HUMPHREY saw his parents sell their home and struggle for economic survival. This perception is a key to his social policies. Issues of jobs, the economy, and agriculture, dramatized by the Depression, are his kind of politics. These issues are yet with us. He sees people needing help—the jobless, the farmer, the sick, the black, the children, the elderly. He has long fought for social and economic justice.

Mr. President, the current Senator and former Vice President has often been to our State of West Virginia. He has always been welcome there with genuine friendship by those men and women who live in our cities, towns, and rural areas.

Even when citizens disagree with Senator HUMPHREY, they admire this man. They have honored him and now we honor him further by our resolution, as a champion of the people who is abroad in the land.

Many vital programs administered by the Department of Health, Education, and Welfare are in being because of HUBERT HUMPHREY—medicare, the Elementary and Secondary Education Act, the Community Mental Health Act, Head Start, the Job Corps, and the health professions scholarships. Beyond the programs, is his undiminished faith in the capacity of people for rational, "comprehensive" action.

HUBERT HUMPHREY has often been battered and buffeted. But over long years his work has inspired colleagues. He has risen above political and personal misfortunes. Resilience continues as the force for him in support of programs to help the American people.

Again and again he pleads that we fulfill what he calls "America's unfinished business."

HUBERT HUMPHREY is a man with vision and compassion, a man whose personal philosophy permeates the performance of his public duties. To name the South Portal Building located at 200 Independence Avenue SW is a small but merited recognition for the vital contributions he has made to this Nation.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–485), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2169, as reported, is to authorize the naming of the South Portal Building in Washington, D.C. as the "Hubert H. Humphrey Building."

GENERAL STATEMENT

It is infrequent that the Committee on Environment and Public Works has the opportunity to recognize an individual for his unique contributions to our American way of life, Senator Hubert Horatio Humphrey is an individual deserving of such recognition.

Through over three decades of public service—as mayor of Minneapolis, a U.S. Senator, a Vice President of the United States, and as the nominee of his party for President, Hubert H. Humphrey has been in the forefront of the struggle for social and economic justice.

His strong feelings, sympathy, patience and understanding have enriched the legislation he has supported. The lives of millions of Americans—the old, the young, the disadvantaged—are better today because he has not hesitated to champion unpopular causes, taking a leadership position on key issues before they were national issues.

His fight for civil rights began while mayor of Minneapolis in 1945 when he set up the mayor's council on human relations. Senator Humphrey made his debut on the national political scene with a passionate speech in support of a civil rights plank during the 1948 Democratic convention. This event brought the Nation a man with a sense of the future, a man with vision and compassion, a man whose personal philosophy permeates the performance of his public duties. He vigorously and indefatigably works to improve the quality of life.

Born in Wallace, S. Dak., on May 27, 1911 he was graduated from the Denver College of Pharmacy and received additional education at the University of Minnesota, where he earned his Phi Beta Kappa key. He continued his education at Louisiana State University, where he earned an M.A. in political science.

After serving as a professor of political science at Macalester College, he was elected mayor of Minneapolis in 1945 and again in 1947. In 1948 Hubert Humphrey was elected to the United States Senate and reelected in 1954 and 1960. In 1964, he was elected Vice President with President Lyndon Johnson. He continued to contribute to the health of American political life by returning to the United States Senate in 1970.

Many vital programs administered by the Department of Health, Education and Welfare are here because of Hubert Humphrey's commitment to them. Medicare, the Elementary and Secondary Education Act, the Community Mental Health Act, Head Start, the Health Professions Scholarships Act—the list goes on.

It is a pleasure to be able to offer this tribute to such a man. The nation owes much to the "Happy Warrior."

The committee believes that it is appropriate to name a Federal building for a great American and recommends the new South Portal Federal Office Building at 200 Independence Avenue, S.W., Washington, D.C., which houses offices of the Department of Health, Education and Welfare, be known as the "Hubert H. Humphrey Building".

Mr. DOLE. Mr. President, we are considering a bill, with the unanimous cosponsorship of 99 Senators, to name the new south portal building of the Department of Health, Education, and Welfare for our distinguished colleague from Minnesota, Senator HUBERT H. HUMPHREY. This special action is appropriate because Senator HUMPHREY is a very special individual.

It is uncommon in life to find a man of such courage and compassion, fortitude and decency—a man whose fighting spirit is surpassed only by his spirit of charity and justice. It is heartening to know such a man, who has selflessly dedicated himself to public life in the service of the poor and underprivileged.

UNCOMMON INDIVIDUAL

Mr. President, since his first days as mayor of Minneapolis, over 30 years ago, HUBERT HUMPHREY has been a man with a mission. He has spread his message of social and economic justice vigorously and unrelentingly, often championing causes still unpopular, ideas still untried. He has blazed the trail on many key national issues.

The testament to HUBERT HUMPHREY's success lies in the way the lives of millions of Americans have been improved. Old Americans are healthier, young Americans are better fed and educated, the lives of poor Americans have been made more bearable.

Throughout his legislative career, HUBERT HUMPHREY has touched the lives of almost all of us. He once remarked that his father's drugstore was his life, and seemed it might always be. Fortunately though, HUBERT left the drugstore to become first a mayor, then a U.S. Senator, the Vice President, and the nominee of his party for President.

PROGRESSIVE ACHIEVEMENTS

These years of public life have been most productive. The Civil Rights Act of 1964 was nursed from infancy to its passage by HUBERT. The establishment of the Peace Corps and the Arms Control and Disarmament Agency are his achievements. Scores of vital Federal programs administered by the Department of Health, Education, and Welfare are operating today because HUBERT HUMPHREY fought for them: Medicare, Head Start, the Elementary and Secondary Education Act, the Community Mental Health Act, the Health Professional Scholarship Act. The list—HUBERT HUMPHREY's record of commitment—goes on and on.

It is all these achievements that make the new Health, Education, and Welfare building so appropriate to name for HUBERT H. HUMPHREY. They reflect something about his very noble character.

Like any great leader, HUBERT HUMPHREY has his critics. I suspect that few have always agreed with him on every issue, but few also doubt his sincerity, compassion, or courage. His concern for improving the condition of our people, however he conceives it, is real.

Our colleague is both a great political leader and a man who transcends party politics. He is a patriot, in the truest sense of the word. In his autobiography HUBERT writes,

I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, without apology, about this country.

The Congress of the United States can only honor itself by honoring HUBERT HUMPHREY.

STANDING TRIBUTE

The naming of this building is but a small token of our esteem for HUBERT HUMPHREY, but let the unanimous support for this action be symbolic of the appreciation of the country as a whole—the country which means so much to him.

For generations to come, this building shall serve as a salute to a man we all know so well. It will serve as a reminder of the causes he stands for.

The contemporary architecture of the New HEW Building, regardless of our individual views on its aesthetics, seems characteristic of the man we are honor-

ing. For HUBERT HUMPHREY has always been a very contemporary man.

He has been a leader always ready to champion new causes and new ideas. He has always been on the frontier of improved Government and social changes.

In addition, the building was designed with people in mind. That too is appropriate, for HUBERT HUMPHREY always has been, and is, "people-oriented." His political career has been dedicated to the betterment of people.

The building we are seeking to name for him is intended to serve the same purpose. It contains a stone courtyard with a platform area to be used as a stage for lunchtime concerts. The courtyard was built in the fashion of an Italian plaza where people can gather.

The design of the building is the work of architect Marcel Breuer, who is considered one of the giants of 20th century architecture, of the caliber of Frank Lloyd Wright. The design is unusual. Unusual is how we would describe another giant, HUBERT HUMPHREY.

OVERWHELMING SUPPORT

The prompt and total support for this legislation has been overwhelming. Credit should go to the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Vermont (Mr. STAFFORD), the chairman and ranking Republican respectively of the Committee on Environment and Public Works. Due to their efforts the bill was reported expeditiously to the Senate.

I also appreciate the support and assistance of the distinguished Minnesota colleague of Senator HUMPHREY, Senator ANDERSON.

In addition, Congressman QUIE and the Minnesota delegation have introduced a companion measure in the House of Representatives.

The unanimous cosponsorship of this bill by 99 Senators is a great tribute to the character and the achievements of HUBERT H. HUMPHREY.

BIPARTISAN SPIRIT

This is a bipartisan salute to a great man who has long believed and acted in a bipartisan spirit. It is a reminder that although we may disagree on specific issues, we can still work together in a bipartisan manner to hammer out solutions to the problems of our Nation—solutions that will hopefully be in the best interest of the American public as a whole.

I have worked with Senator HUMPHREY on many issues including food stamps, child nutrition, food for peace, and farm legislation, and know that he stands for bipartisan cooperation.

CONTINUING SERVICE

HUBERT HORATIO HUMPHREY will continue to serve his country and contribute to its betterment. We might expect that a man of his spirit would cope with adversity in the supreme manner he has. I know he is continuing to have an impact on legislation and developments even in his absence.

The people of the United States are fortunate to have HUBERT HUMPHREY in their service. Few have done more to improve the health, education, and welfare of their fellow Americans, and of a great many people throughout the world as well. I would just say, HUBERT, we salute you, we admire you, and we thank you.

Mr. ANDERSON. Mr. President, I rise to support S. 2169, which names the new Health, Education, and Welfare building after Senator HUBERT HUMPHREY. On behalf of the people of Minnesota I thank Senator DOLE and S. 2169's other sponsors for initiating this most gracious and appropriate tribute to Minnesota's beloved Senior Senator.

HUBERT HUMPHREY is the premier legislator of this century. Naming the new HEW building in his honor is a fitting gesture reflecting the esteem and affection that this great and good man has commanded throughout his public life. I am sure that every Member of the Senate would agree that we could initiate many resolutions similar to S. 2169 and still not do complete justice to the three decades worth of legislative achievements that constitute the Humphrey record.

As Senator DOLE points out, an HEW building named after Senator HUMPHREY makes eminent sense. Many of the programs which are the responsibility of the Department of Health, Education, and Welfare are products of the Humphrey genius. As we all know HUBERT HUMPHREY's role as a champion of the elderly, the poor, and those seeking an education, is but one chapter in a lengthy and distinguished book of accomplishments.

What is so astonishing about the Humphrey record is its tremendous breadth of concern. Each and every American has been touched in one way or another by the good work of HUBERT HUMPHREY, as have many millions of people throughout the world. Whether one speaks of medicare, the Peace Corps, food for peace, civil rights, full employment, rural development, solar energy, nuclear disarmament, or school lunch programs it is always HUBERT HUMPHREY's name which dominates the discussion. Since 1949 each new session of Congress has meant the introduction of an administration legislative program, a Democratic program, and a Republican program. But there was always one more force to consider—the Humphrey legislative agenda. Because of it, life is better for millions and millions of people everywhere. This, more than anything else, is the measure of HUBERT HUMPHREY's monumental talent, energy, compassion, and commitment.

HUBERT HUMPHREY's stature ranks with the greatest of our 20th century statesmen; he has been an inspiration for thousands of young people wishing to enter public service to do the people's work; he is the greatest Minnesotan ever, and I am proud to say he is my teacher, my colleague, and my friend.

S. 2169 is a small but touching way of thanking HUBERT HUMPHREY for what he is and what he had done for all of us. I urge the Senate to approve this resolution.

Mr. YOUNG. Mr. President, the naming of the new Health, Education, and Welfare building in Washington in honor of our distinguished colleague from Minnesota, Senator HUBERT HUMPHREY, is richly deserved.

No one has more enthusiastically and effectively labored in the cause of all the programs which this department of Government encompasses.

HUBERT has always had a great interest and concern for people and especially the disadvantaged. He has a heart as big as a washtub when it comes to all their problems.

I cannot help but think that HUBERT HUMPHREY's entire life, his ambitions and objectives were influenced in a large measure by the poverty he both experienced and witnessed during the depression and drought years of the 1930's. The area in which he grew up in South Dakota was as hard hit as any place in the United States. This has much to do with his outlook on life and its problems both as a mayor and especially as a legislator.

I know of no one in politics who has more friends or is more highly respected than HUBERT HUMPHREY. To know him is to like him and to have a vast respect for him.

In the session of Congress which is now coming to a close, even with his severe illness HUBERT HUMPHREY has been effective, and probably even more so than at any time during his long and illustrious career.

Few people have maintained as happy and friendly an attitude toward life and his fellow man as HUBERT HUMPHREY. I have known him ever since he was mayor of Minneapolis. I served with him all the years during his long and illustrious career as a U.S. Senator and also while he was its presiding officer as Vice President. Even though we are of opposite political philosophy, we have always had a most friendly personal relationship. His friendship is something I have always cherished and always will.

The "Happy Warrior" appellation accorded to him is most appropriate. It would be a much happier and better world if everyone shared his enthusiasm for life and its challenges.

I am very happy that I am privileged to join as a cosponsor of the resolution naming the new Health, Education, and Welfare building in his honor.

Mr. BAYH. Mr. President, it is an honor for me to rise in support of S. 2169, a bill to name the south portal Federal building of the Department of Health, Education, and Welfare for my distinguished and beloved colleague from Minnesota, HUBERT H. HUMPHREY.

For as long as I can remember, HUBERT HUMPHREY has been at the forefront of the fight to achieve social and economic justice for all our citizens. And HUBERT HUMPHREY did not wait for issues such as civil rights to become popular before becoming involved. He has always looked for what is right and devoted his extensive energy to winning people over to his positions.

HUBERT HUMPHREY understands the problems that face the average citzen, particularly the never-ending search for affordable health care and a decent education for our young people. As a result

of his understanding, compassion, and commitment, he has been instrumental in the creation of such programs as Head Start, medicare, community mental health centers and aid to elementary and secondary schools. Today, these programs enrich and enhance the lives of millions of Americans.

However HUBERT HUMPHREY does not look at these considerable achievements and sit back satisfied at having done his bit to give our citizens a better life, he is still fighting for better social and economic conditions. Current legislation on welfare reform and jobs for our unemployed youth will reap the benefit of his contributions.

In light of his past and continuing achievements, it is most just and appropriate to name the new Department of Health, Education, and Welfare building in Washington for this champion of all Americans. The Hubert H. Humphrey Federal Building will serve as a constant reminder of what is best in this Nation and HUBERT H. HUMPHREY himself, will continue to work to bring out the best this country's Government can offer its citizens.

NO MORE APPROPRIATE HONOR FOR A GREAT HUMANITARIAN

Mr. McINTYRE. Mr. President, I rise to voice my enthusiastic support of the proposal to name the new south portal building of the Department of Health, Education, and Welfare after our beloved and distinguished colleague, the senior Senator from Minnesota.

We who have known him and worked with him over as many years as I have, respect and admire his countless contributions to the broadest range of governmental efforts.

We have witnessed first hand his truly remarkable ability to absorb details, assess arguments, come to judgment, express his views and exert his profound influence on issues spanning the spectrum from agriculture to arms control, from energy to economics, and his name is imprinted forever on some of the most significant legislation ever enacted in all these areas.

First and foremost, Mr. President, we who know him, we who work with him, think of him as a humanitarian, perhaps one of the greatest humanitarians who ever served in this Chamber.

We know his energy to be prodigious. We know his dedication to be unswerving. We know his abilities to be awesome. But most of all, we know the dimensions of his heart—his deep compassion for those in need, his boundless concern for the aged, the infirm, the handicapped, the poor, the unschooled, the untrained, and the victims of bigotry and discrimination.

For this reason, Mr. President, I cannot think of a more appropriate way to honor this most caring of men than to place his name on an edifice in a department that is charged with answering society's collective conscience and meeting those most basic of human needs.

HUBERT H. HUMPHREY

Mr. NELSON. Mr. President, there is no Member of the U.S. Senate who is held in higher esteem by his colleagues than HUBERT HUMPHREY. There is no Senator more beloved by his State and his country than HUBERT HUMPHREY. And no Senator has made a more positive, more lasting impression on the course of history than HUBERT HUMPHREY.

He championed the cause of justice wherever he found injustice, and he did it with his always-unquenchable exuberance. He has been, and continues to be, an eloquent spokesman for the poor and the weak; his lonely battles of yesterday have become today's national goals. He is the Senate's senior statesman and the country's conscience.

The dedication of a new Federal office building in his honor is a small tribute, but an honest display of affection and respect for this giant of a man.

Mr. ZORINSKY. Mr. President, I am pleased to join with my colleagues in cosponsoring S. 2169 a bill to name the new south portal Federal building of the Department of Health, Education, and Welfare in honor of our distinguished colleague, Senator HUBERT HUMPHREY of Minnesota.

Since he began his political life as mayor of Minneapolis, HUBERT HUMPHREY has been a leader in the fight for economic and social justice in this country. His leadership in the fields of civil rights, health legislation and education should be valued by all Americans. HUBERT is a man of great compassion, integrity, and spirit. He has served his country and his party well on all levels from Minneapolis, to the U.S. Senate, to the Vice-Presidency and his party's nominee for President. It is fitting that we are honoring our colleague in this manner and I am privileged to join in offering this tribute to a great American and a wonderful human being—our friend, HUBERT HUMPHREY.

Mr. HART. Mr. President, I would like to express my strong support for S. 2169, introduced by Senator DOLE, dedicating the new Department of Health, Education, and Welfare building to my distinguished colleague from Minnesota, Mr. HUMPHREY.

It is only fitting that this building bear the name of a man who has fought tirelessly for the rights of the poor and oppressed. Senator HUMPHREY is a living legend, who has championed the cause of the farmer and the factory worker; a leader in civil rights, urban renewal, medicare and youth employment.

Mr. President, I have long admired the special qualities of my distinguished colleague, but above all, I have been intrigued by his limitless energy. While many people with that kind of energy and exuberance might be self indulgent, and lacking in self discipline and self control, Senator HUMPHREY has accomplished quite the opposite. As the Washington Post recently editorialized,

> . . . the key to Senator Humphrey's achievement and grace is and always has been an extraordinary ability to control—in fact—transcend those elements of self that distract and even destroy so many others: vindictivenes, pettiness, self pity, spite. It has been this special capacity that gives him size as a human being—and the energy to keep at it.

Clearly, few men have alined their ambition so closely with compassion and a desire to serve—and through serving have managed to improve the life and lot of everyone.

Mr. KENNEDY. Mr. President, I am proud to join today with so many colleagues on both sides of the aisle in supporting this legislation to honor one of our best loved and most outstanding colleagues. By naming the new HEW building after Senator HUBERT H. HUMPHREY, we pay an especially appropriate tribute to this giant of the Senate and to the great social issues he has served so well throughout his life and throughout his brilliant career in public service.

His record in the Senate is so full of landmarks and achievements that it would take a Humphrey speech to do them justice. Wherever you look, he is leaving his mark as an outstanding and progressive leader.

If you called the roll of leading issues in the Senate in recent years, you would find HUBERT HUMPHREY at the helm. To all of us, he is Mr. Economy, a past chairman of the Joint Economic Committee, the father of the Humphrey-Hawkins bill. He is one of the most effective spokesmen Congress has on economic issues, doing his best to bring unemployment down, to hold the line against inflation, and to bring the economy back to health.

And that is only the beginning of his talent and great ability. His reputation as Mr. Civil Rights goes back for a generation. On foreign policy, he is Mr. Arms Control, because of his leadership in seeking nuclear arms agreements and halting the flow of U.S. arms to unstable areas of the world.

He is also Mr. Agriculture for his leadership on issues vital to the farms of Minnesota and so many other States. He is Mr. Senior Citizen for his efforts to help the handicapped. On everything he touches, he leaves it better than he found it.

He also knows how to represent the constituents of his State. I doubt that the people of Minnesota ever had a better champion of their interests. He loves his State, and he serves its people well.

Mr. President, for these and many other reasons, I believe that HUBERT HUMPHREY will go down in history as one of the finest Senators America ever had, and I wish we had more like him. It is a privilege and honor for me to join in this fitting tribute to his remarkable achievements.

Mr. WILLIAMS. Mr. President, I commend my colleague from West Virginia (Mr. RANDOLPH) for bringing this resolution to the floor of the Senate to honor one of the Senate's greatest Members, the Senator from Minnesota, HUBERT H. HUMPHREY. Surely, this is a most fitting and appropriate tribute for a man who has been an endless fighter for the people that the Department of Health, Education, and Welfare serves.

As a mayor, a U.S. Senator, as Vice President of the United States and as a nominee of the Democratic Party for President, HUBERT H. HUMPHREY stands as no man's equal in his advocacy for the

poor and disadvantaged and in his compassion and decency for programs to serve all Americans. As chairman of the Committee on Human Resources which authorizes many of HEW's programs, I know that the "people's programs" of HEW have become what they are today because of his tireless support and his unstinting labor to assure all Americans equal opportunity and a decent life.

From his very early advocacy in the ranks of our party for civil rights and legislation to end invidious discrimination in our land, his call to equal treatment for all brought this Nation to a point where we could and did enact law to protect minorities. And his very early and continuing concern for adequate medical and health programs for the elderly brought about many of the programs, including medicare which today protect the elderly from the ravages of age and poverty. In the area of education, his mark is upon every law which measured our battle for Federal aid to education, leading to his involvement in the fashioning of the landmark Elementary and Secondary Education Act of 1965. Indeed, his advocacy for Federal support and Federal protection of handicapped persons throughout our Nation began long before the Congress took its recent steps to outlaw discrimination and assure equal educational opportunity for handicapped children.

Anyone who has fought for these programs over the last 20 years knows that they have always had the support and the unbreakable fighting spirit of HUBERT HUMPHREY with them. It has been one of my great pleasures to have fought by his side in these battles and thus I am very pleased to join in wholehearted support of this resolution.

A recent article and interview with the Senator from Minnesota perhaps expresses best his concern and his goals for the people of our land. When asked what he was most proud of in his life, he is quoted as saying:

> I'm proud of our family first of all. I think I've got a good family, and much of that is due to my wife. What I'm most proud of in my government career is the battle I waged for civil and human rights when it wasn't very popular but I somehow had the fortitude to stick with it.
>
> And it was a very difficult time for me. I really had some pain in the Senate for several years. I was not popular. And I was not liked, and that's hard for me to take because I'm a gregarious sort of character. But in the long run I think that what we did with civil rights is the most important thing in my public life because it opened up opportunities for millions of people.

There can be no finer tribute to this man than for the Nation to recognize what an unyielding fighter he has been at the times it has counted most—when it was not popular and when he was not liked. That is a test of a man and it is the test of the character of my good friend, HUBERT HUMPHREY.

Mr. SCHWEIKER. Mr. President, I am pleased to join in cosponsoring and supporting the legislation naming the new HEW building for our esteemed colleague from Minnesota, HUBERT HUMPHREY.

My Senate career began when Vice President HUMPHREY swore me in as a Senator in January 1969. Since that time I have seen this Senate, on many occasions, follow his good leadership in passing laws to benefit the American people.

Senator HUMPHREY is truly a giant in this body. He speaks with the passion of a man who knows the problems of Americans, not by reading about them somewhere, but by experiencing poverty himself and by his empathy with those who still seek to be a part of the American dream. His wise guidance is based on this sympathy with people from all walks of life.

By naming this building for Senator HUMPHREY, we are dedicating in his name the place where many of the programs he has fought for will be administered. I can think of no more appropriate monument for this man.

But physical monuments are not the essence of our honoring HUBERT HUMPHREY. The truest honor is the affection that is felt for him by everyone who has been touched by his life. I am not just speaking of those of us who have worked with him here in the Senate. No, I include all the little people and leaders across the country who have put their faith in this man and have never been let down. Wherever people serve people in America, you are likely to find love for the man from Minnesota.

In closing, let me simply say that I have enjoyed greatly the opportunity to grow through the friendship of HUBERT HUMPHREY, and I look forward to his early return to the Senate.

AN APPROPRIATE STEP TOWARD RECOGNIZING A GREAT MAN

Mr. ROBERT C. BYRD. Mr. President, I am pleased to note that 99 Senators have joined in cosponsoring S. 2169, a bill that would designate HEW's South Portal Building as the Hubert H. Humphrey Building. In view of Senator HUMPHREY's continuing concerns throughout his public career, such action is indeed appropriate. Moreover, I think this is a fitting tribute to Senator HUMPHREY from all his colleagues in the Senate.

Senator HUMPHREY's life spans the occurrence of most of the dramatic events in this century. Most men must be content merely to react and adapt to the circumstances of history. But HUBERT HUMPHREY can take pride in the fact that he is among that small group of persons in this generation whose dedication, intelligence, personality, and talents have allowed them to shape the circumstances of history itself for the betterment of mankind.

The chronicles of the U.S. Senate include the actions of innumerable great men. Even among this body of historic giants, however, certain individuals have shone with a special brilliance. The names of Daniel Webster, John C. Calhoun, Henry Clay, and Robert M. LaFollette have been singled out through several generations as being among some of the especially noteworthy.

It is my belief that HUBERT HUMPHREY will be numbered among these Senate luminaries in the years ahead. Throughout his career in the Senate and the Vice-Presidency, Senator HUMPHREY has left indelible marks on much legislation and many aspects of American life. His efforts and spirit have brought honor to every office and position in which he has ever served.

Senator HUMPHREY is the product of a strong Midwestern background. Though now identified with the State of Minnesota, he grew up in the farming country of South Dakota; his roots in the Midwest are thus deep and broad. With millions of other Americans, he endured many of the hardships of the Great Depression. Whereas, some men are irreparably bent and broken by adversity, HUBERT HUMPHREY was made stronger by the challenge of struggle and perseverance. His family and religious background have bred into his character an admirable mixture of compassion, courage, and optimism that are hallmarks of his political career. Indeed, he converted the old American idea of helping one's neighbor into a cardinal principle for his own political actions.

Senator HUMPHREY has played a significant role in most of the social legislation that has been enacted in the past generation. His concern and efforts have been extended to the elderly, minority groups, farmers, the poor, labor, children, the hungry, and the medically needy. He has sought domestic justice and world peace. This country and our world are better places in which to live because HUBERT HUMPHREY has been among us.

In recent months, his health has been a constant concern among his colleagues, his constituents, and his countrymen. But even in his fight against cancer, HUBERT HUMPHREY has continued to demonstrate that same indefatigable strength and courage that have inspired us so often in the past. HUBERT HUMPHREY is not only extraordinary; he is peerless.

Throughout his career, Senator HUMPHREY has possessed the ability to fulfill the expectations of his allies and supporters, while simultaneously earning the esteem and respect of his opponents. As a result, he has won the love and admiration of vast segments of the American people in a fashion not often equalled in this Nation.

Mr. President, there is a theory that history is the fruit of the confrontation of personality and opportunity. I believe that HUBERT HUMPHREY's relationship to 20th century America is evidence in support of that thesis, and I think that our action to name the South Portal Building in honor of Senator HUMPHREY would be an appropriate step toward recognizing the enormous contributions that this beloved colleague and friend has made to all of us and to America.

Mr. President, I ask unanimous consent that a statement by the Senator from Minnesota (Mr. HUMPHREY) on S. 2169, a bill to name the new south portal building of the Department of Health, Education, and Welfare as the "Hubert H. Humphrey Building," be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Frankly, I am overwhelmed that 99 Senate colleagues have banded together in my absence to sponsor and pass legislation to which I probably would have demurred, but by which I am deeply honored. I should admonish my esteemed colleague and very good friend, Senator Robert Dole, the chief sponsor of the Senate bill, that despite this action I will resist being elevated to the role of elder statesman above the political fray. And I hope that HEW Secretary Joseph Califano, a truly dedicated public servant, will not assume that by concurring in this tribute, he will not continue to feel my finger tapping his shoulder on matters that I believe could be handled better or more quickly by his Department.

Incredible as it may seem, I am at a loss for words. And so I will only say a profoundly felt "thank you" to Senators Dole, Anderson, Randolph, and Stafford, whom I understand were the agents chiefly responsible for bringing this bill before the Senate before I could raise any objection, and to each and every Senator—for all of whom I have the warmest regard. I also deeply appreciate the initiative of the Minnesota delegation in the House of Representatives, under the leadership of Congressman Albert Quie, in introducing a companion measure.

It must, of course, be left to the judgment of history whether the rapid action by both Houses in passing this legislation will have been precipitous. But I am grateful for the bipartisan spirit in which this action is being taken. It reflects the mutual respect that binds together the elected representatives of our people as perhaps the finest legislative body in political history. It is in the chambers of the Senate and the House where government of, by, and for the people receives its most direct and meaningful expression. So, as you do me great honor, I pay my deepest respect and extend heartfelt good wishes for the future to all of you.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2169) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the South Portal Federal Office Building of the United States Department of Health, Education, and Welfare, located at 200 Independence Avenue, Southwest, in Washington, District of Columbia, is hereby designated as the "Hubert H. Humphrey Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Hubert H. Humphrey Building.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

Mr. NELSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 930

(Purpose: To authorize $205,000,000 for 3 fiscal years for the Legal Services Corporation and for other purposes.)

Mr. NELSON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 930.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike out "(a)".

On page 11, line 9, beginning with $225,000,000" strike out through line 10 and insert in lieu thereof the following: "$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years".

On page 11, strike out lines 11 through 14.

On page 17, strike out lines 10 through 16.

On page 17, line 17, strike out "(d)" and insert in lieu thereof "(c)".

On page 17, line 24, strike out "(e)" and insert in lieu thereof "(d)".

On page 18, lines 1 and 2, strike out "(as amended by subsection (c) of this section)".

On page 18, line 4, strike out "(d)" and insert "(c)".

On page 12, line 21, insert "(a)" after "Sec. 5.".

On page 12, after line 24, add the following:

(b) Section 1006(a)(3)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)(A)) is amended by inserting at the end thereof the following: "except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,".

Mr. NELSON. Mr. President, this is a group of five amendments which were part of the unanimous-consent agreement last night. They are amendments which have been agreed to by both sides of the aisle; is that not correct?

Mr. JAVITS. That is correct.

Mr. NELSON. I read into the RECORD earlier in the day a statement on four of them. The fifth one we have just reached agreement on.

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho?

Mr. NELSON. Yes.

Mr. McCLURE. I thank the Senator for yielding. This has been an amendment under consideration and consultation all day. It conforms with the agreement reached yesterday and the further agreement today on the five items, and it has the support of myself and all those with whom I have been in contact.

Mr. NELSON. Let me say the fifth item also was involved with backup centers and was agreed to in the general dialog last night and is in today's RECORD; is that not correct?

Mr. McCLURE. That is correct.

Mr. NELSON. This committee amendment modifies S. 1303, the Legal Services Corporation Act in several respects:

First, the committee amendment provides for a 3-year reauthorization of appropriations for the Legal Services Corporation. The bill that was reported to the floor by the Human Resources Committee reauthorized the Legal Services Corporation for 5 years.

Second, the committee amendment provides an authorization of appropriations of $205 million for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. The bill reported to the floor by the Human Resources Committee provided that there be an authorization of appropriations in fiscal year 1978 of $225 million and such sums as may be necessary for each of the 4 succeeding fiscal years.

Third, the committee amendment strikes section 2(b) of S. 1303. This section of the bill would have changed current law by permitting private funds to be used for any purposes authorized by the donor so long as those private funds were accounted for and reported as receipts and disbursements separate and distinct from funds received from the Corporation.

Fourth, the committee amendment strikes section 9(c) of S. 1303. This section of the bill would have clarified existing law as to the kinds of activities Corporation funds could be used for in the organization of any group and in the provision of advice and legal assistance to clients who are engaged in organizing activities. The current law will remain unchanged in this particular area if the Senate bill becomes law.

Finally, under the committee amendment, the Corporation would be authorized to undertake, by grant or contract, training and technical assistance, and clearinghouse activities. Research activities could also be undertaken, by grant or contract; however, broad general legal or policy questions unrelated to representation of eligible clients would not be authorized by grant or contract.

Under current law, the Corporation may not undertake, by grant or contract, research, training and technical assistance, and clearinghouse activities, unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. The ques-

tion is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HELMS. Yes.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I think this request has been agreed to on all sides. I ask unanimous consent that upon the disposition of the amendment by Mr. HELMS, the Senate proceed without any further intervening motion, debate or amendment to third reading of the Senate bill, S. 1303; and then without any further intervening motion, debate, appeal or point of order, the Senate proceed to the consideration of the House bill, H.R. 6666, and that all after the enacting clause of that bill be stricken and the text of the Senate bill as amended be inserted in lieu thereof; and that the vote on the final disposition of H.R. 6666 then occur.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this point to order the yeas and nays on H.R. 6666, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 931

(Purpose: To prohibit representation in quota cases under the Legal Services Corporation Act.)

Mr. JAVITS. Mr. President, I understand the Senator from North Carolina will ask for the yeas and nays on his amendment and if Members would give us a minute and not leave the Chamber, that would be appreciated.

Mr. HELMS. Mr. President, I ask that it be in order that I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 931.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, between lines 5 and 6, insert the following:

(f) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) (as redesignated by subsection (c) of this section) is amended by striking out "or" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following:

"(8) to provide legal assistance with respect to any proceeding or litigation involving ratios, goals, quotas or other numerically based remedies on account of race, creed, color, national origin, sex or age regarding admission or assignment of students or the hiring or assignment of personnel of any educational agency or institution.".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Recently the Legal Services Corporation entered an amicus curiae brief in the Univerity of California against Bakke case presently before the U.S. Supreme Court. This case, of course, deals with whether a school may impose admission quotas on the basis of race and may institute a practice of discrimination against certain applicants because of their race.

The Legal Services Corporation brief supported racial quotas and the practice of certain universities of discriminating against certain students on the basis of their race. The brief maintained that "race-conscious procedures are necessary to achieve the ultimate goal of a racially integrated society." Additionally, the brief asserted that "minority lawyers do have a greater commitment to serving poor members of their race."

Mr. President, the Corporation brief submitted in the Bakke case was written and submitted without the knowledge or approval of the board of directors of the Corporation.

Mr. President, it is interesting to note the latest Gallup poll taken on the issue of reverse discrimination and the use of quotas in hiring and admissions policies of universities, showed that 83 percent of the American public opposes such reverse discrimination and only 10 percent of those polled expressed support for the concept of preferential treatment for certain groups.

It is equally important to realize, Mr. President, that 64 percent of the nonwhite participants in the poll, those who would be the natural recipients of such preferential treatment, opposed the use of quotas and other means of preferential treatment. Indeed, that 64 percent maintained that ability alone, as determined by objective tests, be the basis for hiring and college entrance.

The effect of the amendment I will submit is a simple one: it prohibits the use of taxpayers' money from being used to finance law cases involving quotas, whether referred to as goals or ratios or other so-called numerically based remedies, relating to race, creed, color, national origin, sex or age. It simply prohibits the use of taxpayers' money to achieve a result which evidence suggests is opposed to 83 percent of those taxpayers.

Now, Mr. President, I ask unanimous consent that certain portions of various columns and editorials to which I will refer be printed in the RECORD. The first is a column by Albert Shanker, president of the United Federation of Teachers, which appeared in the New York Times on September 25, 1977; the second is by Michael Novak, writing in the Washington Star on May 17, 1977; the third is by William Raspberry, in the Washington Post on September 30, 1977; the fourth is by George F. Will in the Washington Post of September 25, 1977; the fifth is from the Wall Street Journal of October 3, 1977, by John W. Bunzel, president of San Jose State University in California; and finally, Mr. President, an article from the New York Times edition of May 1, 1977, which reported on the poll to which I alluded earlier, the story headed "83 Percent in Poll Oppose Reverse Bias Plans."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 25, 1977]

HIGH COURT SHOULD BAR RACIAL PREFERENCE

(By Albert Shanker)

There is no issue in American society today that is as divisive as preferential treatment along racial and ethnic lines—no issue more guaranteed to keep race relations in this country in a state of conflict. Unless the Supreme Court declares once and for all that the Constitution demands equal treatment for all Americans and bars race as a consideration, we are in for endless lawsuits, mistrust and resentment.

Most Americans believe in equal treatment. Most even feel that people who have been victims of discrimination should be given special help to "catch up" and be able to compete on an equal footing for college openings and jobs. Ben Wattenberg, co-chairman of the Coalition for a Democratic Majority, put it well in a letter he wrote to President Carter urging the President to come out against racial quotas. Wattenberg wrote:

"Educational institutions must be encouraged to recognize that there are better indices of potential academic success than mere grades and test scores. Students with deficiencies in their educational background should have ample access to remedial programs designed to bring their academic skills up to prevailing standards. Outreach programs should encourage and assist students in taking advantage of every opportunity to realize the full potential of their abilities. This is what is properly meant by the term 'affirmative action.'"

Wattenberg took issue with those who claim that it is the word "quota" which is objectionable—and if the practice of racial preference were called something else, opposition would vanish. He wrote: "What opponents of 'quotas' oppose is the idea that individuals should be treated on the basis of their race rather than on the basis of their individual abilities. That is what is offensive, no matter what you call it."

Allowing race or ethnic origin to be a criterion for college admission or jobs raises a host of questions and a generation of probable lawsuits. What groups constitute "minorities?" Thus far, blacks, Hispanic Americans, American Indians and Asian Americans have been targeted in special admissions programs. How about Ukrainians? Indian Indians? Polish Americans? Italian Americans? Many groups can claim some discrimination, some disadvantage, some unfair treatment. How do we choose? How much weight should be given to such factors? How far should standards be lowered to admit applicants from groups so favored? And when do we stop lowering them? At college entrance? In admission to law and medical schools? In bar or medical examinations? How do those admitted, perhaps even graduated, under lesser standards avoid being stigmatized by that fact? What about the many black students who make it on their own merit? In the suspicious world we are creating, are they going to have to prove that they did so?

[From the Washington Star, May 17, 1977]

AFFIRMING THE QUALITY QUOTA

(By Michael Novak)

A recent study of the affirmative action programs in New York City's medical schools has revealed an effective way to sabotage such programs—and also a way to make them succeed.

Dr. James Curtis is in charge of the most successful of New York City's programs, at Cornell University College of Medicine. He is black. Dr. Curtis told the New York Times that many medical schools admitted blacks almost indiscriminately in the late 60's and early 70's. He said that many of those students were not able to keep up and many, embittered, did not make it.

"This failure has led to a demoralization among both students and faculty and a declining commitment on the part of the schools," Dr. Curtis said.

A policy that admits unqualified persons just because of their race is a certain way to sabotage affirmative action programs. It brings such programs into disrepute. It injures the reputation of other minority graduates. And it breeds among the public a deep sense of unfairness. It is a liberal version of racism, effected not by resistance but by the cowardly use of a double standard. It is also unnecessary. Many blacks are middle class, and some of the poor in every ethnic group have been brilliant.

Note, by contrast, how Dr. Curtis made the Cornell program succeed. He had a nonracist secret.

Dr. Curtis and his colleagues admitted minority students in larger proportion than some other New York schools, but only if they were properly qualified. "We've only lost one academically," he pointed out. His program admits students not on the basis of race, but on the basis of qualifications. To make up for past neglect, Cornell takes affirmative steps to find qualified minority students.

Most of the conflict over affirmative action programs could be laid to rest if Dr. Curtis's secret were to become part of the public patrimony. No one objects to affirmative action programs in which quality is decisive. But dishonest programs breed outrage.

Professions of medicine and law should include members of all of America's minority communities. That is good for the entire nation. It is also good for the nation if the professional schools are aggressive in recruiting those who are underrepresented in their professions.

What is wrong with affirmative action programs in some cases is their dishonesty and their racism.

[From the Washington Post, Sept. 30, 1977]

A BASIS FOR SPECIAL TREATMENT

(By William Raspberry)

The question is not merely what should be the extent and nature of special treatment for disadvantaged minorities, but what should be the basis for such special treatment.

Should it be compensation for historical disadvantage—a modern-day "40 acres and a mule"—or the means for negating the effects of present-day discrimination? Either answer contains problems of its own.

The problem here is that even if racism is general, blacks are not uniformly affected by it and, therefore, across-the-board preferences don't make sense.

Programs based on present-day discrimination would seem to demand two things: (1) a specific finding of discrimination against a particular victim and (2) the identification of the particular culprit or culprits. It's easy enough to assume that the white-controlled society at large is the culprit, except that remedies tend to involve people who, like Bakke, see themselves as innocent scapegoats.

What we may eventually have to come to, no matter how the Supreme Court rules in *Bakke*, is the necessity of dealing with discrimination against individuals (or at least discrimination in individual circumstances).

The group solutions are turning out to create about as many problems as they cure.

[From the Washington Post, Sept. 25, 1977]

THE BAKKE CASE; CULTIVATING "RACE-CONSCIOUSNESS"

(By George F. Will)

The administration's Bakke brief is the most ominous document concerning race to issue from the federal government in this century. It says race is "ordinarily" irrelevant to an individual's rights and "generally" an illegitimate basis for allocating opportunity, but . . . But for the foreseeable future America must cultivate "race-consciousness."

Professing to explain the brief, Attorney General Griffin Bell said he opposes "exclusionary" quotas. Evidently he understands neither quotas nor the brief. All quotas are "exclusionary". They exclude persons who are not members of approved groups. An early version of the brief, written before Bell's Justice Department buckled beneath pressure, made the obvious point that quotas involve "using race as a toool of exclusion"—as the medical school used them against Bakke.

In order that "the effects of past discrimination" will not "mask an individual's merit," the brief says certain government-approved racial and ethnic groups, and not just individuals, should have rights. If this doctrine saturates policy, American politics will be permanently poisoned. Politics will be an endless struggle for preference, a scramble to determine which minorities will receive what slice of educational and employment opportunities.

If you doubt that this will be permanent, consider that the brief says society must "restore victims of discrimination to the position they would have occupied but for the discrimination" against them or their "forebears." Who will decide, and by what criteria, when "restoration"—a strange word to choose—has been completed.

"As long as prior discrimination has present effects," says the brief, "mere neutrality to race is insufficient. As long as the effects . . . persist the employment of race consciousness in rectifying that discrimination should not be abandoned." Obviously "mere neutrality" on race will be impermissible, and "race consciousness" will be obligatory, for generations.

[From the Wall Street Journal, Oct. 3, 1977]

AFFIRMATIVE ACTION WITHOUT QUOTAS: THE TEMPLE PLAN

(By John H. Bunzel)

The University of California at Davis maintains that only a racially preferential admissions policy can bring about the integration of the medical school and, ultimately, the medical profession.

But whether a racially preferential admissions policy is the only way to enable more minority group members to practice medicine (or law) is open to debate.

Consider the law school admissions policy at Temple University in Philadelphia. Temple's special admissions program seeks out and "carefully, individually and affirmatively selects those applicants—*minority and majority group members*—who have an outstanding performance record and an exceptional aptitude for the study and practice of law, not necessarily reflected by their LSAT scores."

The law school's Special Admissions and Curriculum Experiments Program (Sp. A.C.E.) is open to "working men and women, and their children, irrespective of ethnic or racial or social or religious heritage, or favoritism."

In the fall semester of 1976, Temple Law School could admit only one in 10 of its applicants. Its entering class of 375 constituted, in traditional terms, "the highest quality" group in the school's history. Admissions were through two routes—"non-discretionary" and "discretionary."

The median grade point average of the "non-discretionary" admissions was well above 3.50, and the median LSAT was well up in the 600s, which was in the top 10% of those who took the examination. Roughly 75% of the entering class was admitted "through the numbers," and almost everyone admitted through the "non-discretionary" formula was a white man or woman.

"Discretionary" admissions fall within the Sp. A.C.E., which considers six categories of applicants: black, Hispanic, American Indian, Asian or any other minority group grossly underrepresented in the legal profession, non-minority groups, college grade point averages of 3.80 or above, those who overcame exceptional economic deprivation, those who display exceptional leadership ability in college or community, and those whose exceptional physical disability (including blindness) precludes their taking the regular LSAT.

High academic achievement is a requirement for consideration in the Sp. A.C.E. Further, admission is competitive within and among the six Sp. A.C.E. categories, so that being in one of the categories does not necessarily ensure admission.

The non-discretionary special admissions program differs sharply from the one which rejected Allan Bakke. At the UC-Davis medical school, a clear preference on the basis of race is granted to persons who, by the university's own standards, are not as qualified to study medicine as are non-minority students denied admission. In addition, the special admissions program at Davis reserves a fixed number of places for racial minorities only.

By contrast, Temple's program is open to all applicants. No racial or ethnic group is considered deserving of exclusive preferential treatment. The proof is that approximately twice as many whites as minorities have been admitted in the last four years through the Sp. A.C.E. In a student body of 1,115, women now constitute 36%, not the 2% of 12 years ago. Minority students still comprise less than 10%, with blacks making up less than 8% of the total enrollment. But 10 years ago they comprised only 1%.

Perhaps the single most important feature of the Temple program is a student body that includes men and women from virtually every racial, ethnic and economic class, almost every religion, age group and walk of life. Among those in this rich melting pot:

A Hungarian refugee whose family was in a Nazi concentration camp; a young man of Italian ancestry who worked in a gas station 40 hours a week from age 12 through college; an American Indian raised on a reservation; children of working-class ethnic backgrounds; policemen; black women; black veterans wounded in Vietnam; a white woman who, as a teacher, helped establish an alternative school; Poles, Lithuanians and Lebanese from the multi-group state of Pennsylvania, and a Japanese-American whose first memories are of a World War II detention camp.

This is affirmative action at its democratic best—a program that pursues integration and other desired social goals without granting special privileges in some groups at the expense of others.

[From the New York Times, May 1, 1977]

EIGHTY-THREE PERCENT IN POLL OPPOSE REVERSE BIAS PLANS: ABILITY RATHER THAN PREFERENTIAL TREATMENT FAVORED ON HIRING AND ADMISSION TO COLLEGE

An overwhelming majority of Americans believe that reverse discrimination should not be used in hiring people or determining admission to college, according to the latest Gallup Poll.

Eighty-three percent of the 1,550 adults interviewed in the survey said that preferential treatment should not be given to women or minority groups; 10 percent said it should.

However, 64 percent of the nonwhite participants in the poll said they backed the idea of making ability alone as determined by tests, the basis for hiring and college entrance.

Mr. HELMS. I thank the Chair and I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 5 minutes in opposition.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JAVITS. Mr. President, the Senate has already decided in an amendment which was decided by a vote of 55 to 38 that it would allow legal services attorneys to represent individual eligible clients in respect to school desegregation. This amendment is exactly of the same type.

The question is whether a poor individual who seeks admission to a school or university may contest the fact that he is barred. We do not know what side of the Bakke case he will be on, and we do not know how the Bakke case will be decided. It has just been submitted to the Supreme Court on arguments this very day.

In addition, this amendment has another fatal defect. Suppose that individual is defending; in other words, he is being sued, and he is poor, and the only way of getting him out of the poverty syndrome is through education, or education for his children; are we going to deny him representation for that reason?

I am deeply troubled about voting up or down on an issue which does not involve directly the issues which are involved in the so-called Bakke case. The text of the amendment says:

To provide legal assistance with respect to any proceeding or litigation involving ratios, goals, quotas or other numerically based remedies on account of race, creed, color, national origin, sex or age regarding admission or assignment of students or the hiring or assignment of personnel of any educational agency or institution.

It seems to me that it is almost granting the question if we are going to define a proceeding or litigation as involving ratios, goals, quotas, or other numerically based remedies. That itself is going to be a controversial issue in the very litigation in which the poor person may either be a plaintiff or a defendant.

For all those reasons, Mr. President, I feel that the amendment needs to be rejected. Indeed, Mr. President, I have been rather concerned and also rather surprised to get amendments which have been offered by my colleagues on this side, who have some deep reservations about the bill, many of which we have met by tabling amendments, because I have felt they have certainly shown good faith with us, and we wanted to vote yea or nay on the merits of every amendment.

I must say this one deeply concerns me as to whether or not it is desirable or advisable, whether Senator HELMS wins or loses, to have an expression of the Senate upon the issue of litigation on a proceeding "involving ratios, goals, quotas, or other numerically-based remedies." That definition is either invidious or too narrow, and I shall be thinking it over and consulting with Senator NELSON as to whether, just in the interest of not committing the Senate on that kind of a proposition in this particular case, in the interest of all of us, it would not be well to have the Senate test on tabling rather than having the Senate test on voting this amendment up or down.

In any event, Mr. President, for the reasons I have stated, I hope the amendment is not favorably acted upon.

Mr. NELSON. Mr. President, I might say——

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield myself 3 minutes.

I think the Senator from North Carolina ought to be tickled pink—that might be the wrong color for him—tickled to have this Senator move to table, because that is the only motion we have lost on so far. So I will move to table in a moment.

The legal services programs are now prohibited from undertaking school desegregation cases. They engage in very few employment discrimination cases, because attorneys' fees are available to private lawyers in such cases, pursuant to the explicit provisions of the Civil Rights Attorneys Fees Act of 1976, or title VII of the Civil Rights Act.

Since the cases are thus fee generating, legal services lawyers are prohibited by the act from engaging in them unless private counsel is, in fact, unavailable.

Mr. President, I am prepared to yield back the remainder of my time if the Senator from North Carolina and the Senator from Kentucky are.

Mr. HELMS. I am sorry; I did not hear the Senator.

Mr. NELSON. I was just saying to the Chair that I was prepared to yield back the remainder of my time if the Senator from North Carolina is so prepared.

Mr. HELMS. Mr. President, I am not certain at this point whether the distinguished Senator is going to move to table.

Mr. NELSON. Yes, I am delighted to help the Senator as best I can. As I said, that is the only motion I have lost.

Mr. HELMS. Well, Mr. President, I really have no objection to a motion to lay on the table, because anyone who knows anything about the legislative process knows that in this case a vote to table the amendment of the Senator from North Carolina is a vote to condone what the members of the Legal Services Corporation did in the Bakke case. We will be voting on the Bakke case one way or another.

I would prefer to have an up or down vote, but if the Senator feels that some Senators may be able to hide behind a procedural tabling motion, that is fine. I think it will only confirm the issue. The question is, Do we want this thing or not? I think it will be instructive to the American people, 83 percent of whom have rejected this kind of conduct.

I would hope the Senator would restrain his desire to table the amendment and let the Senate speak. We have had a lot of procedural votes that have caused me grief back home, and I would hope we would not engage in procedural obfuscation of what went on here. So I would hope the Senator will not move to table, but if he and Senator JAVITS wish to do so, that is fine. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, before the Senator does that, would the Senator from Wisconsin outline what we did to Senator HAYAKAWA, which relates to this very proposition, so that the Senate will know that the amicus curiae question is settled, that, is the friend of the court brief?

Mr. NELSON. Yes. I do not view this amendment as on all four, or even one of the four, with the Hayakawa amendment. That amendment simply provided that in cases such as the Bakke case, amicus curiae briefs in which neither the Legal Services Corporation nor the local Legal Services organization had a client or a direct interest, that under those circumstances we shall forbid an amicus brief to be filed.

This is a case in which the Legal Services Corporation or its local affiliate in fact does have an actual client, who believes that in an employment situation he or she is being discriminated against and is unable to get other counsel to represent him or her. In such a case, we simply allow them to go to Legal Services attorneys and seek representation in this particular kind of case.

But I also agree with the Senator from North Carolina that there is no one here who does not know what tabling or voting straight up or down means.

Mr. HELMS. Then let us have an up or down vote.

Mr. NELSON. No, the problem with that is that there was a time, a few years ago, when there were about a dozen or 18 or so Senators who, as a matter of

philosophy and for various other reasons, would not vote to table. But as the years went by, they have all left, or the two or three or so who remain, on some occasions in the past, have decided to vote to table.

I know, and the Senator from North Carolina knows, that this is a vote on the merits. It saves a lot of time, because if we have an up or down vote, everybody is rushing by to find out more about the amendment. I am agreeing with the Senator from North Carolina, and in self defense we would both have to deny that.

I think it is a much better situation just to have the motion to table, recognizing that nobody here is so innocent that they are being fooled that they are voting on the merits.

Mr. HELMS. Just so we have an understanding that a vote in favor of tabling the amendment of the Senator from North Carolina is flying in the face of the beliefs of 83 percent of the people of America, just so the record is clear.

Mr. NELSON. Let us stipulate that the Senator from Wisconsin agrees that the Senator from North Carolina believes that tabling this amendment flies in the face of the beliefs of 83 percent of the people of the United States, and then let us have it understood that I do not believe that.

Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I yield 2 minutes to the Senator from New Jersey on an extraneous matter.

MINIMUM WAGE INCREASE

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3744.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WILLIAMS. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. HATCH, conferees on the part of the Senate.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 69, nays 22, as follows:

[Rollcall Vote No. 560 Leg.]

YEAS—69

Baker	Glenn	Metzenbaum
Bayh	Gravel	Muskie
Bellmon	Griffin	Nelson
Bentsen	Hart	Nunn
Biden	Haskell	Packwood
Brooke	Hatfield	Pearson
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Huddleston	Randolph
Chafee	Inouye	Ribicoff
Chiles	Jackson	Riegle
Church	Javits	Sarbanes
Clark	Johnston	Sasser
Cranston	Kennedy	Sparkman
Culver	Leahy	Stafford
Danforth	Long	Stevens
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Zorinsky

NAYS—22

Allen	Hansen	Roth
Bartlett	Hatch	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
Cannon	Laxalt	Scott
Curtis	Lugar	Stennis
Eastland	McClure	Tower
Garn	Metcalf	Wallop
	Morgan	

NOT VOTING—9

Abourezk	Hayakawa	Moynihan
Anderson	Humphrey	Thurmond
Goldwater	McClellan	Young

So the motion to lay on the table UP amendment No. 931 was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I rise in support of S. 1303, the Legal Services Corporation Act Amendments of 1977. The purpose of this legislation is to strengthen the Legal Services Corporation to enable it to more effectively and efficiently deliver legal assistance to poor people.

Our system of jurisprudence functions at its best when opposing parties in a dispute are ably represented by vigorous advocates. It is only when this occurs that our law can be impartially interpreted and fairly enforced. The services and programs funded by the Legal Services Corporation provide opportunities whereby the poor are adequately represented and given equal access in civil justice to their legal institutions.

The legal services program had its origins in the Office of Economic Opportunity. Even though controversy surrounded the creation of that program, the concept of delivering legal assistance to the poor was recognized by Congress as critically important. Consequently, in 1974 Congress established the Legal Services Corporation Act of 1974, a private, nonprofit organization, independent of the executive branch with the responsibility for providing legal assistance to the poor in civil matters. The work of the dedicated and competent Legal Services board members, their attorneys, and paralegals has enabled the Corporation and its program to achieve bipartisan support from Congress, State and local bar associations, the American Bar Association, and many private citizens.

The majority of legal matters handled by legal services attorneys involve daily survival issues for poor people, such as shelter, employment, and consumer protection. On a daily basis the cases are not creating new precedents in constitutional or antitrust law but instead are dealing with simple issues that are critically important to human beings whose lives exist in the cycle of poverty. The financial resources available to the Corporation do not enable it to provide representation to all poor people but more clients have been reached, because of the training and utilization of paralegals as well as the development of delivery techniques for handling routine aspects of legal services' cases.

The amendments in this bill improve, strengthen, and enable the Corporation to rely on its decade of experience so that it may continue delivering quality legal assistance and also expand its services to include a larger number of poor people. Even if the Corporation reaches its short-term goal of two attorneys per 10,000 poor with a 350- to 400-case load per lawyer, every poor person will not have a lawyer. Reasonable access to legal representation for a poor person to resolve a civil dispute, is a fitting example of commitment by our Government to attempt to alleviate the effects of poverty.

Critics of this program must surely recognize that in order to make access

and opportunity to our legal system meaningful for poor people it naturally implies that the means and ability to use that system must also be made available. If the poor are required to use the law to seek a redress of their grievances but are not provided the tools to effectively utilize that system, their ability to exercise an inherent right is frustrated. Continued support for a strong, healthy, viable independent Legal Services Corporation and the programs it funds can truly help the disenfranchised persons of this society to once again believe in our system of jurisprudence and the laws they are expected to obey.

THE LEGAL SERVICES CORPORATION

Mr. CHURCH. Mr. President, the Legal Services Corporation Act amendments are a responsible piece of legislation and deserve the Senate's support. These amendments will help take the Legal Services Corporation one further step toward providing adequate legal aid for the poor in this country.

As Vice President MONDALE said in a recent speech:

> For all too many impoverished Americans, the promise of justice remains just that . . . a promise. For the 16 million poor citizens who have no access to federal legal services, it is a promise waiting to be fulfilled.
>
> The justice these Americans are seeking is rarely the stuff of which headlines are made; it will not often be carved in stone on our courtroom walls.
>
> But for thousands of clients of the Legal Services Corporation, access to counsel has meant more than a vindication of their legal rights. It has meant a vindication of their humanity . . . a vindication of their dignity . . . a vindication of their right to be something more than a victim, the fate too often reserved for the poor.

I agree with these sentiments which are echoed by the American Bar Association. In a recent letter of support for these amendments, the president of the ABA stated:

> The Legal Services Corporation has performed extremely well in fulfilling its congressional mandate and is an excellent model of a well-functioning federal program for the public good.

This support has also been voiced in Idaho as indicated in a letter from Stephen B. McCrea, president of the Board of Directors of the Idaho Legal Aid Services, Inc. I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 13, 1977.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: As President of the Board of Directors of Idaho Legal Aid Services Inc., I urge you vote for the adoption of S 1303 without amendment.

At the present time Idaho Legal Aid Services, Inc., is serving six judicial districts in the State of Idaho on a subsistence level. In addition an office was opened in Idaho Falls to assist victims of the Teton Dam disaster. This office is in danger of being closed down because of the lack of funds. Furthermore the largest minority groups in Idaho, the migrants, and the Native Americans, continue to be without access to the legal system because of the inability of Idaho Legal Aid Services, Inc. to provide for attorneys with expertise in those fields of law.

As you know, Congress found a need and declared that equal access to the system of justice was necessary for individuals who would be otherwise unable to afford adequate legal counsel. S. 1303 would help Idaho Legal Aid Services, Inc. to implement this finding.

Thank you for your consideration.

Sincerely yours,

STEPHEN B. MCCREA,
President, Board of Directors, Idaho Legal Aid Services, Inc.

Mr. CRANSTON. Mr. President, I have been deeply involved in both the development of the Legal Services Corporation Act Amendments of 1977 and the congressional efforts to create the Corporation during the 93d Congress. I am especially proud to be an original sponsor of S. 1303, the Legal Services Corporation Act Amendments of 1977, which was ordered favorably reported by the Human Resources Committee after having been introduced by the distinguished chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, Mr. NELSON.

We appear now to be approaching the end of a long road in the Senate's consideration of S. 1303.

The bill as reported contained many provisions which I collaborated on with the Senator from Massachusetts (Mr. KENNEDY), another original sponsor of S. 1303. The bill was also originally sponsored by those most steadfast friends of legal services, the chairman of the Human Resources Committee, the Senator from New Jersey (Mr. WILLIAMS), and the ranking minority member of the committee, the Senator from New York (Mr. JAVITS). We are also joined by the Human Resources Committee's newest majority member, the Senator from Michigan (Mr. RIEGLE) and the distinguished Senator from Maine (Mr. HATHAWAY), as well as the distinguished Senator from Vermont (Mr. STAFFORD).

BACKGROUND

This truly bipartisan support for the legal services program demonstrates the tremendous success of our effort a few years ago to free this program from the constraints of the political arena. Indeed, our national commitment to the concept of providing citizens, regardless of economic circumstances, with full access to our judicial system and competent legal assistance, is a truly nonpartisan one. There should be no division among us on the principle that equal access to justice and equal justice under the law are essential in our society.

Yet, a few years ago, it was clear that partisan political pressures were threatening the effectiveness of our implementation of these principles. It was clear that these pressures necessitated the removal of the legal services program from the executive branch. It was clear that establishment of a new, independent public corporation—not an agency of the Federal Government—to fund and administer the legal services program was necessary to preserve the program. Passage of the Legal Services Corporation Act of 1974 was the result of those concerns.

The Legal Services Corporation created by the 1974 act has now been operating for over 2 years. Although no program of this magnitude can operate without some difficulties, I can say without exaggeration that the Corporation has been a resounding success. The legal services program is no longer emersed in controversy. The energies of legal services attorneys and supporters are now directed full-time to the important goal of providing legal services to low-income Americans.

Mr. President, I am delighted to say that the basic congressional goal in creating the Corporation—to insure that the legal services program remains free of partisan politics—has been largely realized. The Corporation is accountable directly to Congress. Policy is set by the Board of Directors, who have proven themselves to be responsible, moderate citizens, committed to the legal services program. The Corporation has brought stability and continued success to the legal services program.

As a result, the legal services program is now sound and healthy. Of course, I do not mean to imply that the goal of equal access to our system of justice is now a reality for America's poor. There are still many, many Americans, who, because of their poverty, do not have access to legal representation. But, we have made a substantial beginning on our long journey to accomplish that goal. The substantial commitment of additional resources for the legal services program provided in the Departments of State, Justice, Commerce, and the Judiciary appropriations bill, H.R. 7556—increasing the appropriation for the Legal Services Corporation from the $125 million for fiscal year 1977 to $205 for fiscal year 1978—signed into law on August 2 as Public Law 95-86, will greatly facilitate movement toward our goal.

Mr. President, enactment of the Legal Services Corporation Act Amendments of 1977 is another important step down the long road we must travel toward obtaining equal access for low-income citizens to our judicial system. The amendments proposed in S. 1303 as reported will both enhance the delivery of legal services and insure continuation of the high quality programs now operating under the existing law. I would like briefly to describe some of the important aspects of these amendments.

DURATION OF THE LEGAL SERVICES PROGRAM AND AUTHORIZATION LEVELS

Mr. President, S. 1303 as reported proposed authorization levels of $225 million for fiscal year 1978 and such sums as may be necessary for 1979, 1980, 1981, and 1982. As I mentioned earlier, the 1978 appropriation, signed into law on August 2, provides for an appropriation of $205 million. This increase, generally consistent with the recommendations of the Corporation and administration, will permit the Corporation to continue implementing its plan to provide this Nation's poor with minimum access to legal services. This increase will be utilized by the Corporation not only to expand access to legal representation in areas not now being served, but also to avoid cutbacks in services in existing programs.

By the establishment of a "such sums as may be necessary" authorization of appropriation for the fiscal years after 1978, the exact level of funding for the legal services program will be subject to review by Congress each year. Such review will permit determination of funding levels which the Corporation can use effectively and efficiently within a restrictive Federal budget.

Mr. President, the extension of the Corporation's authorization for a period of years is important to insure the Corporation, the projects it supports, and the clients it serves of a stable, on-going program. I believe, as does the Corporation, that sound planning can take place only in such a context. We have thus moved to remove the program from the continuing uncertainty in which it previously has operated. The Corporation and its Board of Directors—as well as the Congress—recognize the need for continuing accountability to the Congress and regular review by the Congress. This need, however, can be met without the burden and uncertainty of frequent authorization proceedings.

MEMBERSHIP OF GOVERNING BODIES

Mr. President, the Corporation is governed under current law by an 11-member Board of Directors, appointed by the President with the advise and consent of the Senate. The act, section 1004(a) provides that a majority of the Board members be attorneys. At present all 10 members of the Board—there is one vacancy—are attorneys.

There are presently no members of the client community served by the Legal Services Corporation on the Board of Directors. I believe that it is imperative that this situation be rectified, and I wrote the President a letter last week to that effect. S. 1303 provides for the appointment of members of the client community to the Board of Directors, with at least three persons appointed during the 19-month period from January 1, 1977, to July 30, 1978, and one additional person to fill a vacancy occurring prior to January 1, 1979. Following July 30, 1978, at least three members of the Board are required to be eligible clients of the program.

Since all 11 positions on the Board will be subject to appointment by the President over this period of time, this provision will permit a gradual and nonburdensome addition of client representatives to the governing Board. S. 1303 also provides that the overall Board membership shall be generally representative of interested persons and groups to insure that future Boards will be fully representative of women, minorities, and persons with significant experience in providing legal services to eligible clients.

The bill will also extend to local boards this desire to see eligible clients participating in the development of policy and program initiatives. The bill will require that at least one-third of the persons selected for governing bodies of local legal services programs be eligible clients. This requirement would complement the representation of eligible clients on the national Board.

OPEN MEETINGS

S. 1303 would also provide that the Corporation and each State advisory council be subject to the requirements and provisions of the Sunshine Act, requiring public meetings. Under current law, all meetings are required to be open unless two-thirds of those present vote to close the meeting. The bill proposes to bring the Legal Services Corporation in line with other agencies operating with Federal funds which are also subject to Sunshine Act requirements.

GRANTS AND CONTRACTS FOR RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE

Mr. President, current law limits the Corporation's authority to make certain kinds of grants and contracts for research, training, and technical assistance and clearinghouse activities, unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or are for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

S. 1303 will give the Corporation authority to fund all such activities, by grant or contract, if it is determined that such a course of action would be more economical or effective than adding staff to carry out the activities within the Corporation itself.

The provision in the bill as reported was requested by the Corporation and is also contained in the House-passed bill. The Corporation does not anticipate that this amendment will alter the basic structure of its Office of Program Support or the Research Institute on Legal Assistance, the Corporation's offices that now perform most of these functions. The amendment would, however, provide greater flexibility and would allow the Corporation to insure that every activity it performs is carried out in the most economical and efficient way possible.

CLARIFICATION OF QUESTIONS INVOLVING ELIGIBILITY

Mr. President, since the inception of the federally funded legal services program, parties to lawsuits in which opponents are represented by legal services attorneys have challenged, from time to time, the authority of the legal services program to provide representation to a particular client or in a particular case. Courts have uniformly held that such issues are irrelevant to the resolution of the client's case and should not be raised in this context.

S. 1303 would simply codify existing law as it has been enunciated by the courts and clarify that these questions should be raised with the Corporation, rather than in the court hearing the particular case under litigation. Under this amendment, persons, or entities feeling aggrieved by alleged noncompliance of a legal services program or its employees will be required to complain directly to the Corporation which will then review the procedures and guidelines of the local grantee. This provision thus does not change existing law, but does help to insure that any legal challenge, to the maximum extent possible, will not be utilized to delay the provision of legal assistance to eligible clients under the Act.

COURT-APPOINTMENT OF LEGAL SERVICES ATTORNEYS

S. 1303 also amends the act to insure that a court could not discriminate against legal services attorneys in its appointments of attorneys to civil cases. At present, some State or local courts which have the authority to appoint private attorneys in certain civil matters—often with compensation—have appointed legal services attorneys to serve without compensation in cases in which State law provides for the compensation of attorneys. This practice is inconsistent with the congressional purpose of expanding legal assistance to poor people, because it means that Federal funds are being used to supplant, rather than to supplement, local sources of legal assistance.

Even when State law does not provide for compensation of private counsel, a court should not rely upon legal services lawyers to provide uncompensated representation. Such practices prevent programs from implementing the caseload priorities they are required to adopt under this act.

This amendment thus provides that a court cannot discriminate against legal services in the appointment of cases.

APPLICATION OF HATCH ACT REQUIREMENTS

S. 1303 will apply the provisions of the Hatch Act to legal services attorneys and eliminate the provisions of current law which go beyond the restrictions of the Hatch Act. This amendment would not disturb the present restrictions against using Corporation funds for political purposes and against political activity by legal services program employees during their working hours. It would simply enable legal services attorneys to be involved in the same types of activities on their own time which other Federal employees are permitted to engage in, such as being candidates for nonpartisan positions; that is, school committees, library boards, and boards of education.

Mr. President, it is important to point out that this amendment does not interfere with the appropriate restrictions which insure that Corporation funds are not used to support any political activity. Restrictions, however, on the personal activities of staff attorneys that go beyond the restrictions imposed upon other governmental employees serve no public purpose and unnecessarily restrict the rights of legal services staff attorneys.

DISQUALIFICATION OF CLIENTS

Existing law provides for an absolute prohibition against representing a potential client if a prior determination has been made that the potential client's lack of income results from a refusal or unwillingness, without good cause, to seek or accept employment. This bill would amend that provision to require that such a fact be taken into consideration by a legal services program in determining an individual's eligibility for services but would not make such a prior determination an automatic disqualification. A legal services program would thus be able to consider such other factors as the validity of the procedures by which the prior determination was made, whether subsequent events have rendered the prior determination obsolete, or whether the employment that was re-

fused was appropriate for the individual. This provision would thus make more flexible a rule which has precipitated undue hardship in some case under the existing law.

ESTABLISHMENT OF PRIORITIES

S. 1303 also provides for local legal services programs to establish priorities, taking into consideration the special needs of those segments of the legal services community that have special problems which may limit their access to present legal services projects. The amendment further provides that local legal services programs receive the support and training they need to implement the priorities established after asserting the needs of the client community. This provision would not require that the needs of any special group be given priority, but would require that the local program consider their special problems when establishing program priorities.

LEGISLATIVE AND ADMINISTRATIVE ADVOCACY

Mr. President, this legislation modifies current law regarding legislative and administrative advocacy in a relatively minor, but economically important fashion. It will clarify the appropriateness of paralegal employees—who are supervised by staff attorneys—representing eligible clients in certain situations. The amendment will not change the basic rules governing administrative or legislative representation but will simply clarify that, where appropriate, paralegals employed by a project may carry out these functions under the supervision of staff attorneys. This section also clarifies that legal services attorneys are subject to the some restrictions on solicitation of clients as are private attorneys.

PREFERENCE IN HIRING

The current law provides for a preference to be given to local residents in hiring staff attorneys. This preference may conflict with other legal requirements, such as those which prohibit discrimination in employment. The bill before us will retain existing requirements that a legal services program shall solicit the recommendations of the organized bar in the community served before filling a staff attorney position but will clarify that the preference for local attorneys shall not conflict with laws of the United States respecting discrimination in employment nor will such a preference be required where the position requires proficiency in a language other than English and no qualified person resides in the community.

FEE-GENERATING CASES

Current law prevents the use of Corporation funds to provide legal assistance in fee-generating cases except in accordance with guidelines promulgated by the Corporation. This amendment clarifies the definition of fee-generating cases in the guidelines promulgated by the Corporation by excluding from the definition of fee-generating cases, social security and SSI cases—cases in which the only recovery sought by the eligible client is the amount of subsistence benefits to which he or she is statutorily entitled.

REPRESENTATION IN CERTAIN CASES

Mr. President, the bill will clarify that legal services programs may provide representation in a very narrow category of technically criminal cases which may be viewed basically as civil in nature, for example, where a Native American is arrested for hunting or fishing out of season or without a license and his claim is that a treaty has established his right to hunt or fish. The bill will also repeal certain restrictions on representation of juveniles. The present restrictions have been demonstrated to be inappropriate and because of their complexity have discouraged legal services attorneys from representing juveniles in certain cases.

SCHOOL DESEGREGATION LITIGATION

The proposed amendments will repeal the existing restrictions upon legal services programs providing legal assistance in cases relating to the desegregation of any elementary and secondary school or school system. The Senate's decisive vote today in support of the committee's repealer is a singular testament to the persistence of the Senator from New York (Mr. JAVITS) and Senator from Massachusetts (Mr. KENNEDY).

REPRESENTATION IN MILITARY CASES

Existing law prohibits legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or proceedings involving desertion from the Armed Forces of the United States. The Thurmond amendment adopted on the floor today will revise this restriction to permit representation of otherwise eligible clients in civil cases under the now expired selective service laws where the client alleges that a conscientious objector classification was wrongfully denied.

MODEL OF DEMONSTRATION PROJECTS

Mr. President, this provision is designed to encourage the development of high quality legal assistance systems for particular segments of the poor who have special problems of access to legal services and special legal problems. For example, such groups include elderly persons, handicapped individuals, veterans, native Americans, migrants, or seasonal farm workers or other rural persons and persons with limited English-speaking abilities. The bill provides that not more than 3 percent of the sums appropriated under the act shall be used for these programs.

Mr. President, I believe that this is an important provision to insure that these groups—for whom access to the legal system is particularly difficult—are reached by our legal services system.

CONCLUSION

Mr. President, I believe that the Legal Services Corporation Act Amendments of 1977 make moderate and necessary improvements in the present act and move us closer to equal access to our judicial system for all Americans. I urge my colleagues to approve this legislation by a resounding vote.

Mr. NELSON. Mr. President, in the debate yesterday on S. 1303, the question arose about what the Legal Services Corporation policy was in regard to responding to requests from Members of Congress. Mr. Thomas Ehrlich, president of the Legal Services Corporation, has written a letter to me which I ask be included in the RECORD at this point, which states the Corporation's policy on responding to requests from Members of Congress.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 11, 1977.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor, Human Resources Committee U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You asked how the Legal Services Corporation responds to Congressional inquiries.

It is the policy of the Legal Services Corporation to make every attempt to respond to all Congressional inquiries within 48 hours. When the Corporation is unable to be fully responsive within that time period because of the nature of the request, an interim response is made.

I hope this is of assistance to you.

Cordially,

THOMAS EHRLICH.

Mr. NELSON. Mr. President, is there any other pending amendment?

The PRESIDING OFFICER. No.

Mr. NELSON. I am prepared to yield back the remainder of my time on the bill.

Mr. JAVITS. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question now recurs on the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider H.R. 6666, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

Under the previous order, all after the enacting clause of H.R. 6666 is stricken and the text of S. 1303, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would urge Members not to leave after this rollcall vote because there is another very serious matter that may require some discussion and action and it deals with the Labor-HEW conference report.

So I would urge Members not to leave the floor after this vote.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 77, nays 15, as follows:

[Rollcall Vote No. 561 Leg.]

YEAS—77

Abourezk	Glenn	Metcalf
Baker	Gravel	Metzenbaum
Bartlett	Griffin	Muskie
Bayh	Hart	Nelson
Bellmon	Haskell	Nunn
Bentsen	Hatch	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Burdick	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Riegle
Chafee	Javits	Sarbanes
Chiles	Johnston	Sasser
Church	Kennedy	Schweiker
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Lugar	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Stone
Dole	Matsunaga	Talmadge
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky
Ford	Melcher	

NAYS—15

Allen	Hansen	Scott
Byrd, Harry F., Jr.	Helms	Stennis
Curtis	Laxalt	Tower
Eastland	Morgan	Wallop
Garn	Roth	
	Schmitt	

NOT VOTING—8

Anderson	Humphrey	Thurmond
Goldwater	McClellan	Young
Hayakawa	Moynihan	

So the bill, H.R. 6666, as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 6666.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that S. 1303 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I move that the Senate insist upon its amendments to H.R. 6666 and request a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. NELSON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JAVITS, Mr. HATCH, Mr. CHAFEE, and Mr. STAFFORD conferees on the part of the Senate.

Mr. NELSON. Mr. President, I wish to make some remarks for about 60 seconds.

Mr. President, I thank the distinguished Senator from New York for his great cooperation and effectiveness in the work he has done on the passing of the authorization extending the authorization for the Legal Services Corporation. I also wish to thank those Members on the minority side who had differences of opinion with the Human Resources Committee on the language that came out of the committee for their agreeableness to work for a good compromise in order to get this bill authorized by this time this evening.

Also, I thank Mr. Scott K. Ginsburg, staff director of the Subcommittee on Employment, Poverty, and Migratory Labor, who has put in long hours in arranging for the witnesses and the hearings in the subcommittee on the legislation and has worked here on the floor. I thank Joan Hunziker of the Subcommittee on Employment, Poverty, and Migratory Labor for her assistance here on the floor on this legislation, as well as Mr. Jim O'Connell, of Senator JAVITS' staff, and Jon Steinberg of the staff of the Veterans' Affairs Committee.

Mr. EAGLETON. Mr. President, can we have order in the Chamber? This is one of the Senator's finest speeches and we would like him to be heard.

The PRESIDING OFFICER. The point of the Senator from Missouri is well taken, and the Senate will be in order.

The Senator from Wisconsin.

Mr. NELSON. I thank the Senator from Missouri for his compliment and I wish to add that given his own brevity that was the finest speech ever given by the Senator from Missouri. [Laughter.]

Mr. President, other staff members who worked on this legislation were Susanne Martinez, of Senator CRANSTON'S staff; Jay Urwitz, of Senator KENNEDY'S staff; Lisa Walker, of Senator WILLIAMS' staff; Jan Zarro, of Senator WILLIAMS' staff; Stephanie Smith, of Senator RIEGLE'S staff; Bob Hunter, of Senator HATCH'S staff, and Blair Crownouer, of the Senate legislative counsel.

Mr. JAVITS. Mr. President, I wish to join my colleague in expressing, first, my pleasure at working with he who worked so well and effectively and also to express my thanks to Scott Ginsburg and Joan Hunziker of the majority committee staff and the others mentioned by Senator NELSON, of the staffs of various other Senators and on our side. It really was an extraordinary display of both friendship and personal cooperation by Senators who had deep feelings and deep opposition to this bill. It was extraordinary, and I am very grateful to them and they helped us to show the Senate in its best light as a reasonable body that tries to do a job.

Bob Hunter of Senator HATCH'S staff is especially entitled to notice as far as we are concerned, as are Senators CHAFEE and STAFFORD who helped me with the managerial chores.

I also enjoyed working with Senator NELSON, and this was a fine example of how things get done. I thank him very much.

Finally, I thank my own assistant Jim O'Connell, who was of tremendous help to me in this debate and in handling the bill.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I would like to take this opportunity to commend the distinguished managers of the Legal Services Corporation bill (S. 1303), the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS) on an outstanding accomplishment in shepherding this legislation to final passage today. As we are all well-aware, this particular bill was not an easy one. It was steeped in controversy, with deeply held feelings on the part of many Members involved in several issues. Despite this fact, however, due to the willingness of the managers, Mr. NELSON and Mr. JAVITS, to work with and reason with the proponents of amendments and to seek compromises where possible, this very complex matter was able to be resolved.

In commending Senators NELSON and JAVITS on their efforts, however, I must also point out another factor that enabled the Senate to work its will in this matter. Clearly this goal could not have been achieved without the cooperation of the many Senators who participated in working out the time agreement that made a vote on final passage possible and who were willing to seek agreements, where they felt they could, on issues in which they were interested. Without this willingness and readiness to compromise—so often essential to the legislative process—the bill would certainly not have been passed today. I thank these many Members for their help.

ERDA AUTHORIZATION ACT OF 1978—CIVILIAN APPLICATIONS—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of con-

ference on S. 1811 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 10, 1977.)

Mr. CHURCH. Mr. President, I ask unanimous consent that during the consideration of the conference report on S. 1811 the following staff members may be given the privilege of the floor: Ben Yamagata, Willis Smith, Granville Smith, and Charles Trabandt.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the conferees for the House and Senate worked hard to resolve a large number of differences between S. 1811 and the House amendment to that bill. The conference report represents a good compromise in regard to both the authorization levels for the programs and the statutory provisions controlling the conduct and implementation of the programs.

There are a number of important provisions in the conference report which I want to call to the attention of my colleagues. The House conferees agreed to accept the funding level and provisions pertaining to utilization of the Barnwell nuclear fuel plant in fiscal year 1978 for activities relating to nonproliferation objectives. With a modification, the House conferees also agreed to a study in regard to future utilization of the Barnwell facility.

The Senate conferees accepted a title in the House amendment which more clearly states the ERDA authority in the area of automotive propulsion research and development, but with a reduced authorization level of $12.5 million instead of $25 million. This title was more limited in scope than a bill with similar objectives which passed the House and Senate in the last Congress and was vetoed by President Ford.

The conferees worked to resolve a substantial difference between the two houses with regard to the Clinch River breeder reactor project. The House conferees accepted an $80 million authorization level with clarifying language with respect to the activities to be conducted with the money in the coming year. The Senate conferees accepted the House-proposed language in exchange for the lower authorization figure of $80 million, which is consistent with the Senate position of holding the project to a level of activity sufficient to maintain the contractual teams of technical expertise without initiating site preparation or construction.

The House authorized two loan guarantee programs. One provided loan guarantees for commercial biomass demonstration facilities and a second provided loan guarantees for synthetic fuel demonstration facilities. The Senate loan guarantee program was nearly identical to the latter House program. Because many of the provisions of the biomass loan guarantee program were identical to provisions in the synthetic fuels program, the conference agreed to a single loan guarantee program which incorporates, in a nonrepetitive way, the provisions of the two House programs and the Senate program.

The Senate bill contained a restriction on expenditure of authorized funds for activities relating to foreign spent fuel. The House conferees agreed to accept the Senate provisos with additional language in the bill to clarify Presidential authority and procedures.

The House amendment contained a title establishing a municipal waste grants program for demonstrating waste processing facilities. The Senate conferees agreed to accept the title with the understanding that this program would be complementary to the Resource Conservation and Recovery Act.

At this point in the RECORD, Mr. President, I ask unanimous consent to print a table which provides the totals by program area for operating expenses, capital equipment, and plant expenditures in fiscal year 1978.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ERDA authorization totals

Fossil:	
Operating expenses	$636,600
Capital equipment	5,500
Plant	212,350
Total	854,450
Geothermal:	
Operating expenses	124,500
Capital equipment	2,500
Total	127,000
Conservation:	
Operating expenses	388,000
Capital equipment	8,670
Plant	800
Total	397,470
Solar:	
Operating expenses	344,900
Capital equipment	7,900
Plant	41,000
Total	393,800
Fusion:	
Operating expenses	207,900
Capital equipment	27,600
Plant	135,800
Total	371,300
Fuel cycle R&D:	
Operating expenses	343,885
Capital equipment	25,300
Plant	16,500
Total	385,685
LMFBR:	
Capital Equipment	35,650
Plant	208,335
Total	657,285
Nuclear R. and Applications:	
Operating Expenses	228,892
Capital Equipment	18,595
Total	247,424
LWR & Fuel Storage:	
Operating Expenses	44,000
Capital Equipment	800
Plant	3,000
Total	47,800
Nuclear Materials Security and Safeguards:	
Operating Expenses	40,106
Capital Equipment	2,794
Total	42,900
Uranium Enrichment:	
Operating Expenses	989,185
Capital Equipment	19,000
Plant	303,980
Total	1,312,165
High Energy Physics:	
Operating Expenses	188,950
Capital Equipment	42,500
Plant	16,700
Total	248,150
Nuclear Physics:	
Operating Expenses	74,444
Capital Equipment	6,725
Plant	7,900
Total	89,069
Basic Energy Sciences:	
Operating Expenses	150,000
Capital Equipment	12,075
Plant	33,400
Total	195,475
Environment & Safety:	
Operating Expenses	251,093
Capital Equipment	19,025
Plant	6,000
Total	276,118
Program Management & Support:	
Operating Expenses	317,804
Capital Equipment	4,955
Plant	11,530
Total	334,289
Changes in Inventory:	
Operating Expenses	126,300
C.E.O.:	
Operating Expenses	500
Total Operating Expenses	4,870,296
Total Capital Equipment	239,589
Total Plant	1,051,560
	6,161,445
Enrichment Revenues	−845,820
Miscellaneous Revenues	−100,720
	−946,540
Total Authorization	5,213,905,000

Mr. CHURCH. Mr. President, I believe this conference report was arrived at in the true spirit of compromise between widely differing points of view between the House and the Senate on a number of controversial and complex issues. I move the adoption of the conference report.

Mr. JACKSON. Mr. President, as chairman of the Committee on Energy

and Natural Resources, I want to express my strong support for the conference report on S. 1811 which we have before us for adoption. The conferees worked extremely hard to resolve the differences between the Senate bill and the House amendment.

The conference committee was chaired by Chairman OLIN E. "TIGER" TEAGUE, the chairman of the House Committee on Science and Technology. Congressman TEAGUE has had a long and distinguished career in the House, and it was a tribute to his leadership that the conference was completed quickly and with good will among Members of disparate views on a number of controversial issues.

I want to also commend Senator FRANK CHURCH for his able direction of the Senate conferees in defending the Senate position on numerous matters.

I want to make special mention of the fact that the Senate conferees agreed to adopt a project included in the House amendment, project 78-3-b, which is a fusion materials irradiation test facility. I believe that this project will make an important contribution to providing answers to questions relating to the most suitable materials for fusion energy reactors. The future of fusion energy can only be assured if we attack some of the underlying problems at an early enough stage to have technological solutions in hand.

Mr. President, I strongly support the adoption of the conference report on S. 1811.

Mr. HART. Mr. President, with the permission of the floor manager, the distinguished Senator from Idaho, I wish only a minute or two to clarify some specific and I think very important language in the conference report and in the legislation itself. I have had a chance to discuss this informally with the Senator, and I think we can conclude our discussion and understanding fairly quickly.

I am concerned with one provision of the conference report which deals with the Clinch River breeder reactor project, and that language is contained in section 106(d)(3), and as the chairman of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee I want to make sure that the record is absolutely clear that this section does not modify in any way the licensing and regulatory authority of the discretion of the Nuclear Regulatory Commission under the Atomic Energy Act, the Energy Reorganization Act, the National Environmental Policy Act, or any other provision of law. I would greatly appreciate it if the Senator from Idaho would give me his assurances to that effect.

Mr. CHURCH. Mr. President, I am happy to give the distinguished Senator those assurances.

The provision in the report to which he refers in no way limits the authority of the Nuclear Regulatory Commission to protect public health and safety or the common defense and security.

The Nuclear Regulatory Commission's authority to protect the environment of the Clinch River site is not limited. However, the provision does foreclose the Nuclear Regulatory Commission from interpreting the National Environmental Policy Act in conflict with the fiscal year 1978 and all prior fiscal year acts authorizing the CRBR project so as to require relocation of the site. In other words, the language conforms to the previous actions of Congress in connection with this project.

The licensing application is now pending before the NRC. The environmental impact statement has been completed on the Clinch River site, and it is my understanding that the proceedings are at that stage where the NRC may determine whether or not in the exercise of its discretionary authority a license should be issued.

There are no alternative sites before the Commission. The language of the report in no way interferes with the discretionary authority or the power of the Commission to proceed as it normally would to a conclusion of this proceeding.

Mr. HART. So that it is the Senator's understanding that regardless of the language in the section about the siting of the facility at Clinch River, if the Nuclear Regulatory Commission, in the full exercise of its statutory authority and responsibility under any of its legislative base, were to determine that the facility should not be built at all or should not go forward, that there is nothing in this legislation which requires the NRC to go ahead and license the facility.

Mr. CHURCH. The Senator is correct. There is no effort on the part of the conferees to change the basic law or to interfere with the authority of the NRC in this proceeding or any other. It just happens that the question now before the NRC is whether or not a license should issue for the project which Congress has said is to be located at Clinch River.

Mr. HART. The language which directs the Secretary of the Department of Energy and all other appropriate agencies to undertake their efforts, such efforts as are necessary, to assure the earliest possible decision is reached does not in any way preclude the NRC from a complete exercise of all its statutory authority and responsibility. It is not the intent of the conferees to push the case unduly or to pressure the NRC into a preliminary or precipitate decision which is unwise or in any way prejudicial to the public health or safety?

Mr. CHURCH. The Senator is correct.

Mr. HART. So that language should not be construed as a mandate to the Commission to act hastily or in any way cut any corners in reaching its conclusion.

Mr. CHURCH. I concur in the Senator's interpretation. The conferees expect the NRC to do its duty under the law.

Mr. BAKER. Mr. President, will the distinguished manager of the measure yield to me for a minute?

Mr. CHURCH. I yield.

Mr. BAKER. Mr. President, I have listened as carefully as I could to the colloquy between the distinguished Senator from Idaho and the distinguished Senator from Colorado, and I am not sure I got the entire drift of all of those questions and the remarks of the manager of this measure. But I think I did, and just to clarify the situation let me put two or three more questions.

The first is this: It is my understanding from the colloquy that has just occurred that while the language of section 106(d)(3) does not abridge the Nuclear Regulatory Commission's authorities with regard to protection of public health and safety or consideration of national defense and security, NRC would not be required to conduct an alternative selection analysis. Their licensing and review responsibilities on the breeder reactor project would be limited to the Clinch River site; is that correct?

Mr. CHURCH. The Senator is correct.

Mr. BAKER. I thank the distinguished Senator.

I think the fair intendment of this language is to provide that nothing in this language abridges the authority of NRC in any respect, but also nothing in this language abridges previous law with respect to location of the project.

Mr. CHURCH. I think the Senator has expressed it accurately and well.

Mr. BAKER. I thank the Senator.

Mr. HANSEN. Mr. President, I rise in strong support of the conference report on S. 1811, the authorization Act for fiscal year 1978 for energy research and development in the Department of Energy. This authorization contains a total of $6.2 billion for the conduct of our Nation's energy research and development programs. These authorized funds will be the primary source of funding for the line programs in the new Department of Energy in the coming fiscal year. The conference report represents a meaningful and reasonable compromise between the House and Senate on the funding and the activities for those energy research and development programs.

These programs include increased emphasis on our nations' renewable resource technologies, such as solar heating and cooling, ocean thermal gradient, geothermal energy, fusion and fission nuclear power. The conferees are convinced that this balance will provide a necessary mix of energy technologies for the future with which we can proceed to ultimately make the transition from a fossil-based energy economy to a renewable resource-based economy in the next century. In fact, Mr. President, it is remarkable in the 3 years of these annual energy R. & D. authorizations how far we have come with many of these advanced technology programs. For instance, funding for our Nation's solar energy research and development efforts was less than $40 million only 4 years ago. Today, it is more than 10 times that level for this coming fiscal year. Similar dramatic increases of funding mark the other renewable energy areas, such as the geothermal program. These markedly accelerated research and development programs will be coming to initial hardware fruition during the coming fiscal year and we will be entering an exciting period of demonstration with many of these new technologies during that year.

This authorization bill also includes a more than doubled funding level for

conservation research and development in the next year. Ambitious new programs will be started in the areas of biomass energy recovery, urban waste resource and energy recovery, and a whole spectrum of increased efficiency technologies for industrial, agricultural and consumer use in the future decade. These increases in our energy conservation research and development program are representative of the increased emphasis which the new administration, in concert with the Congress, is now placing on achieving increased energy efficiency and increased conservation in the period through 1985. The conferees believe that the compromise decisions made on these programs in the conference have appropriately balanced the various competing interests for the funding available in this vital area of our Nation's energy future.

This conference report also contains a meaningful and highly controversial compromise between the House and the Senate on the Clinch River breeder reactor project activity in this fiscal year. As we all remember, the Senate decided to maintain the programs' structure, but to provide for a pause for 1 year's review before continuing with the construction of the reactor project. Conversely, the House in a dramatically powerful endorsement of the breeder concept, voted overwhelmingly to continue the project with full speed ahead in the coming year and provided funds accordingly. The conference compromise provided for $80 million worth of activity, with a continued commitment to the licensing and related supporting efforts during the year. While the $30 million is very close to the Senate passed $75 million figure, carryover funds from the deferrals in fiscal year 1977 provide sufficient additional funding to allow the project to maintain a momentum level, albeit less than full speed ahead, which will continue the project meaningfully with its related licensing.

The conference report also contains a series of statutory provisions dealing with various of the energy research and development programs. The report included a new statutory scheme for the conduct of automotive research and development by the Department of Energy, amendments to the Electric Vehicle Research, Development and Demonstration Act passed in the last Congress, amendments to the Geothermal Energy Research, Development and Demonstration Act passed in the 93d Congress and a series of individual provisions dealing with a variety of current Energy Research and Development issues, such as the U.S. support for international disposition of spent nuclear fuels. All of these provisions will provide an increased direction and control over our Energy Research and Development programs and will insure that the programmatic direction is consistent with the policies that we have set in our various statutes.

Mr. President, I would urge the President to sign this bill. It represents a combination of nearly a year's worth of work by the administration, my own Energy and Natural Resources Committee and our Companion Science and Technology Committee in the other body. Its consideration has involved a series of highly controversial and well fought issues dealing with the breeder reactor, spent fuel disposition, loan guarantee incentives, and other items. It would be a great shame if the President chose to veto this first authorization bill for the programs of the new Department of Energy. We all have worked long and hard to bring that new department to fruition and it is most important that the programs within the department and energy research, development, and demonstration should proceed under the statutory provisions of this authorization act. I urge the Senate to support this bill and I urge the President to sign it into law at the very first opportunity. Thank you Mr. President.

Mr. McCLURE. Mr. President, I rise in strong support of the conference report on S. 1811, the fiscal year 1978 authorization of energy research, development and demonstration programs in the new Department of Energy and I urge its adoption and the President's early signing of it. My colleagues are discussing in detail the many programs authorized by the conference report. I want to take a few minutes to discuss several of the key provisions in this conference report which I originally authored.

Section 104. Section 104 deals with several unresolved issues remaining from our earlier consideration of legislation establishing a new Department of Energy (DOE). Each subsection deals with a specific issue raised by the transfer of our energy research, development and demonstration programs from the Energy Research and Development Administration (ERDA) into the DOE.

Subsection (a) deals with nonregulatory, R. & D. program-related hearings on the record.

Section 402(d) of the DOE Organization Act places jurisdiction in the Federal Energy Regulatory Commission for all agency determinations required by law to be made on the record after an opportunity for an agency hearing, whether regulatory or nonregulatory in nature. The section further requires that any other determinations, which the secretary determines shall be made on the record after an opportunity for an agency hearing—that is, in his discretion by regulation or practice—shall be in the Commission. An April 28, 1977, letter from ERDA to Senator ROTH lists all of the ERDA-related determinations which fall into either category. Significantly, the list includes all patent determinations under the Atomic Energy Act and the Federal Nonnuclear R. & D. Act, contract disputes and appeals, security clearances, policy and practices, and NEPA environmental statements. All of these essentially programmatic determinations under the DOE Organization Act apparently will be in the Federal Energy Regulatory Commission, subject to the delays and problems of the FPC-type procedure, and review by a non-R. & D. program staff. It is our intention that all of these determinations, and any other of a similar nature, which are required to be, or the Secretary in his discretion may determine shall be, made on the record, should be in the sole authority and jurisdiction of the Secretary, and not the Federal Energy Regulatory Commission.

The ERDA letter to Senator ROTH, which includes the nonexclusive listing of the types of determinations covered by this subsection, states as follows. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter is ordered to be printed in the RECORD, as follows:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., April 28, 1977.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate.

DEAR SENATOR ROTH: Your letter to Mr. Fri dated April 21, 1977, raised several questions concerning the decisions of this agency which are made on the record after an opportunity for a hearing. For convenience, your questions are repeated below, followed by our response. (Note that the attached documentation may in some cases refer to the Atomic Energy Commission (AEC). All such references in the Code of Federal Regulations, Title 10, were changed to the Energy Research and Development Administration and Part numbers were redesignated by a document published at 40 Fed. Reg. 8795, March 3, 1975.)

1. Please identify all of those proceedings which are required by statute to be made on the record after an opportunity for an agency hearing.

a. Nondiscrimination in federally assisted agency programs, effectuating Title VI of the Civil Rights Act of 1964. 42 U.S.C. 2000d-1, implemented by agency in 10 CFR Part 4, redesignated Part 704, at sec. [70]4.48, [70] 4.51 (Tab A).

b. Mandatory licensing of certain patents. Sections 153 and 189 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2183 and 2239, implemented by agency at 10 CFR Part 81, redesignated Part 781. See 10 CFR [7] 81.51–.53 (Tab B).

c. Determination of reasonable royalty fee under certain mandatory licenses; payment of just compensation for certain inventions or discoveries; payment of award for certain inventions or discoveries. Secs. 157 and 189 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2187 and 2239, implemented by agency at 10 CFR Part 80, redesignated Part 780. See 10 CFR [7]80.40 through [7]80.60 (Tab C).

d. Grant of exclusive or partially exclusive license in an invention, title to which is vested in the United States. The Federal Nonnuclear Energy Research and Development Act of 1974, P.L. 93–577, secs. 9(g)(1) and 9(g)(2), 42 U.S.C. 5908(g)(1) and (g)(2) (Tab D). (For these purposes, ERDA regulations in 10 CFR Part [7]81 are followed.) (See Tab B above.)

e. Revocation of the grant of a license or of the waiver of rights to an invention. P.L. 93–577, sec. 9(h)(7), 42 U.S.C. 5908(h)(7) (Tab E).

2. Please identify all of those proceedings which are required by rule or regulation to be made on the record after an opportunity for agency hearing.

a. Appeals involving Government contract disputes. 10 CFR 703.11; 703.108; 703.111; 703.113; 703.128 (Tab F).

b. Contract adjustment proceedings on applications for extraordinary relief under the Act of August 28, 1958, P.L. 85–804. (Act does not require opportunity for hearing). 10 CFR 703.200–703.203 (Tab G).

c. Assessment of liquidated damages pursuant to section 104(c) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 330(c)). (Act does not require opportunity for hearing.) 10 CFR Part 703, Appendix A, section 0114–026b (Tab H).

d. Hearings for the debarment of contractors. 10 CFR Part 703, Appendix A, section 0114–026c. (See Tab H above.)

e. Appeals involving disputes arising under ERDA's geothermal loan guaranty program, established pursuant to Title II of the Geothermal Energy Research, Development, and Demostration Act of 1974, P.L. 93–410 (Act does not require opportunity for hearing). 10 CFR 790.47 (Tab 1).

f. Hearings for sanction proceedings under Executive Order 11246 (Nondiscrimination in employment by Government contractors). 10 CFR 705.10; 705.11; 705.12; 705.35 (Tab J).

g. Security policies and practices relating to labor-management relations. Proceedings are conducted by National Labor Relations Board, but pertain to contractors at ERDA installations. 10 CFR 706.10 (Tab K).

h. Equal opportunity in Government employment, implementing Civil Service Commission regulations at 5 CFR Part 713. ERDA Manual Appendix 4158, Part VI, B; Part VII, A, 1 through 9; B, 1 and 2 (Tab L). (Hearing is conducted by an examiner from outside the agency.)

i. Employee appeals from adverse actions. ERDA Manual 4156–053e through i (Tab M).

j. Criteria and procedures for determining eligibility for access to Restricted Data or National Security Information (Personnel Security Clearance). 10 CFR 710.20; 710.22; 710.24; 710.27; 710.28; 710.30 through 710.33 (Tab N).

3. Please identify all of those proceedings which are, as a matter of practice made on the record after an opportunity for agency hearing.

Preparation of environmental statements pursuant to the National Environmental Policy Act of 1969, P.L. 91–190, January 1, 1970. While not required by the Act, a public hearing is held on a proposed action covered by a draft environmental statement when ERDA determines that such a hearing would be appropriate and in the public interest, based on such factors as magnitude of the action, complexity of the issues, and requests from outside the agency that a hearing be held. 10 CFR [7]11.33, so redesignated as discussed above (Tab O).

4. Please identify all of those proceedings which are not as a matter of usual practice made on the record after an opportunity for agency hearings, but have been so made at some time in the past.

We are not aware of any such proceedings.

Please let me know if further information is desired.

Sincerely,

HUDSON B. RAGAN,
Acting General Counsel.

Mr. McCLURE. Subsection 104(b) deals with another problem raised by the DOE legislation. Section 205 of the DOE Organization Act can reasonably read as placing all energy information collection, dissemination, and analysis under the Energy Information Administration in the department. All of the acts cited in subsection 104(b) mandate information programs in support of the basic technical programs, and these could be severed by section 205 from the technical programs. The subsection will ensure that these technical information programs are maintained organizationally as an integral part of the basic technical programs. The subsection does give the secretary latitude to use the Energy Information Administration to support these technical information programs.

Subsection (c) provides for affirmative congressional notification for any significant change in the ERDA field structure transferred into the new department. The term "major changes" is intended to encompass any change in the fundamental assignment of a field unit or facility, such as redesignation of a multi-program lab to be a "weapons lab," as well as other major changes, such as reduction or abolishment of a facility or reorganization of a unit.

SECTION 108

Let me turn now to a discussion of section 108, the international spent fuel disposition section. I should note at this time that it is my intention to offer this same amendment to S. 897, the Nuclear Nonproliferation bill, when it comes to the floor. I invite the attention of my colleagues to its discussion.

Section 108 was requested by the administration in the Carter May 16 Budget amendment for nonproliferation. The requested provision would give authority for U.S. participation in multinational/international studies of international spent fuel storage and transportation and for U.S. entry into agreements for "appropriate support" to increase international spent fuel storage. Twenty million dollars was included for fiscal year 1978 efforts in these areas.

In hearings on the ERDA nuclear authorization, the Committee on Energy and Natural Resources questioned administration witnesses on the administration's current plan for international spent fuel disposition, and details on how the authority contained in section 108 would be used. The committee noted that the budget justification documents accompanying the draft bill did not with specificity define the anticipated actions for increasing spent fuel storage capacity. Administration witnesses indicated that the President had not yet made a final decision on the specific options to be pursued in international discussions and negotiations. The witnesses did, in fact, indicate that one of the several options under consideration was repurchase of the foreign spent fuel and storage of it in the United States. Committee members expressed serious reservations about the wisdom of this course of action. Administration witnesses concurred that such an action would involve a host of environmental, institutional and legal complications, as well as the probability of significant costs to increase our domestic spent fuel storage capacity. The committee asked to be notified of the final decisions by the President, but still has not yet received any additional information from the administration.

COMMITTEE AMENDMENT

The Energy Committee, because of the potential problems with the agreement, in markup added the phrase, "subject to the consent of the Congress," and thereby required that any agreement providing for "appropriate support" by the United States to increase foreign spent fuel storage be approved by Congress. I suggested that there be such a requirement and Senator CHURCH suggested the specific "consent of the Congress" phrase. The administration objects to the requirement generally, since they want to have authority to proceed directly without any further congressional action. Secretary Vance, in a letter to Chairman JACKSON on September 12 discussed in detail below, stated as follows:

> The activities contemplated under this section do not involve the return of foreign spent fuel to the U.S.; rather, they involve U.S. financial support to foreign spent fuel storage facilities. Pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect many foreign reactor operators will need to expand their spent fuel storage facilities. U.S. support for this activity should be permitted without the need for additional Congressional consent.

A consent requirement has been retained.

First, it is clear that there should be a requirement for Congressional notification and approval. The Carter policy of no reprocessing will create a major spent fuel problem internationally, since the United States has approval rights over much of the free world fuel (U.S. enriched most of it), and since many of the foreign nuclear power programs included reprocessing in planning for facilities and fuel requirements. Also, failure to reprocess denies countries of the value, in both resource and cost terms, of the unburned fuel—a value for which many may request reimbursement for replacement cost. Consequently, agreements for appropriate support probably could lead to large costs over time and undoubtedly will be closely coupled to the nonproliferation policy's continued restriction on reprocessing. Congress therefore should play a positive role.

Second, the type of consent is consistent with the House conferees' feeling on the need for full congressional, as opposed to Senate only, consideration of these agreements.

M'CLURE AMENDMENT BACKGROUND

As a result of the section 108 discussion in markup and because of ongoing policy analysis on international spent fuel disposition in the administration, we have followed the issue closely. The following events relate to the amendment.

First. On June 8 and 10, during hearings on the nonproliferation bills, the committee again asked ERDA Acting Administrator Fri to advise us of the administration policy on domestic and international spent fuel disposition. We were told only that the policy was awaiting then-pending Presidential decision.

Second. The June 30 Washington Post included an Associated Press report that the Nuclear Regulatory Commission yesterday approved the export of 27,000 pounds of uranium to fuel India's Tarapur atomic power station. The articles concluded with the following statement:

> Discussing points raised by the citizen groups, the NRC noted that the Indian government has agreed to have the U.S. repurchase spent nuclear fuel from Tarapur, as a safeguard against the conversion of that spent fuel into weapons materials.

Because of the committee's interest in the international spent fuel disposi-

tion issue and its actions in the fiscal year 1978 ERDA authorization, we were immediately concerned by this report and initiated an effort to determine the validity of the report. A copy of the Nuclear Regulatory Commission's memorandum and order on the Tarapur export application, dated June 28, 1977, was reviewed. The Commission's memo, in fact, supports the Associated Press report in this morning's paper. The Commission, based on reports of the Department of State, indicated that the United States does have an agreement with the Government of India giving the United States the option to repurchase the Indian spent fuel from Tarapur. The Commission states that "Indian Government authorities have agreed in principle to such an arrangement."

Senior administration sources confirmed at the time that the United States not only has the option to repurchase the spent fuel from Tarapur, but that exercising the repurchase option is the basis for an understanding which has been reached with the new Government of India. This would be the first such repurchase understanding by the United States. It is particularly significant that the Commission's memo also states that the apparent intention for repurchase of the Tarapur spent fuel will be followed by similar understandings with other nations. The sources further indicated that there had not yet been any decision within the administration on the ultimate disposition of repurchased spent fuel from Tarapur. In fact, however, it appears from a close reading of the Commission's memorandum that this probable repurchase and removal of the spent fuel was a significant factor in the Commission's approval of the export application, particularly in light of the nonproliferation significance attached to the detonation of a nuclear explosive device by the Government of India in 1974.

It therefore was possible that the administration was proceeding directly to a repurchase policy, even as the Congress had under consideration the exceedingly nonspecific authorization language for "international spent fuel disposition" in the ERDA authorization. In fact, one senior official indicated that the statutory language reported by the Committee on Energy and Natural Resources requiring congressional consent for any "agreement" would not be applicable to the Tarapur repurchase situation, because there is no "formal agreement," but rather an "understanding."

This series of events made clear the fact that the administration had every intention of proceeding to embark the United States on a potentially highly controversial and extremely costly program for repurchase and disposition of foreign spent fuel. And, further, the administration fully intended to do this without the agreement of the Congress and the full authorization for the required activities and funding which should be included in the ERDA authorization and appropriation. The administration thereby could repurchase the spent fuel, and without any limitation, commit the United States to its transport from India for storage in the United States.

The Tarapur events led to my amendment to S. 1811 on the Senate floor on July 12, adding the provisos to the section.

Third. On August 3, Secretary of Energy designate Dr. Schlesinger in his confirmation hearing before the Energy Committee stated that the administration shortly would announce a new policy for U.S. Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. The committee again criticized this apparent decision, with Senators ABOUREZK and DURKIN expressing serious concern about it. Senators HANSEN and DOMENICI and I wrote to President Carter on August 5, expressing strong reservations about the policy and urging the President to obtain congressional comment in the decisionmaking process. We also requested a meeting and briefing on the policy. To date, the only response has been two perfunctory acknowledgments of receipt from a White House aide and an aide to Secretary Schlesinger.

Fourth. In further hearings on the nonproliferation bills on September 12, ERDA Acting Administrator Fri, Dr. Nye of the State Department, and Dr. Keeny of the Arms Control and Disarmament Agency were asked about the administration's policy on international spent fuel disposition. Again, they only deferred to a reportedly pending spent-fuel policy decision by the President.

Fifth. Concurrent with that hearing, Secretary Vance wrote to Chairman JACKSON on September 12 to advise him of the administration's opposition to my amendment. In the letter, the Secretary acknowledged that the activities contemplated under this section . . . involve U.S. financial support to foreign spent fuel storage facilities because pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect that many foreign reactor operators will need to expand their spent fuel storage. The Secretary commented that, "U.S. support for this activity should be permitted without the need for additional congressional consent." He did state that the contemplated activities do not involve the return of foreign spent fuel to the United States, significantly, he also stated:

> At the current time the United States is actively engaged in discussions with the Indian government which may lead to an agreement under which spent Tarapur fuel will be removed from India.

Sixth. During informal meetings on the nonproliferation bill with the administration during the week of September 26, we were informed that a General Electric team, apparently under contract with ERDA, was in India to begin review of the Tarapur spent fuel disposition problem. In fact, then, fiscal year 1978 will begin with the United States already actively involved, and perhaps implicitly, if not expressly, committed to direct U.S. support for the disposition of foreign spent fuel. The Congress, however, despite the repeated requests has never been advised of U.S. policy decision in this area.

CONFERENCE ACTION ON THE M'CLURE AMENDMENT

The conference adopted the following revised concept as a compromise proposal:

First. No commitment of authorized funds for the repurchase, transportation or storage of foreign spent nuclear fuel from power reactors (exempting fuel from research reactors and emergency situations) for storage or other disposition interim or permanent, of the foreign spent nuclear fuel in the United States:

Unless:

First. Previously authorized by Congress in legislation hereafter enacted;

Second. Previously agreed to by a concurrent resolution at the request of the administration;

Third. The President submits a plan or report to Congress with a 30-day layover—one House veto procedure.

Any presidential plan or report must include a series of specified subjects, discussing costs, sites, policy implications, international agreements, legal requirements, environmental impacts, and so forth.

Second. No commitment of authorized funds for the repurchase, transportation, or storage of foreign spent nuclear fuel from power reactors—exempting fuel from research reactors and emergency situations—unless prior notification by report with the information in first above, and layover for 30 days.

This concept reflects the following elements:

The September 12 Vance letter identified a major concern in the area of spent fuel from foreign research reactors. Current policy is to require the return of such spent fuel to the United States. The Vance letter cites the importance of that arrangement with South Africa and attached a long listing of other current contracts. These arrangements are also of particular importance because of the use of highly enriched fuels in these reactors, and the precedent that the 1974 Indian nuclear device reportedly used such fuel. It is clear that any prohibition should be on spent fuel from foreign power reactors and should expressly exempt research reactor spent fuel.

It also is clear that there should be an exemption for emergency situations, albeit with at least notification as soon as possible to the Congress.

Since the Vance letter states that it is not contemplated that section 108 authority would be used to bring spent fuel from foreign power reactors to the United States, it should not be unacceptable to apply any prohibition to such activity unless subsequently authorized by Congress. Further, the notion of at least notification and layover, if not affirmative congressional approval or opportunity for disapproval, should apply to U.S. commitments of support for overseas disposition of spent fuel from foreign power reactors.

It is noteworthy that Dr. Nye, Deputy Under Secretary of State who has led the administration nonproliferation policy effort, informed me on September 29 that Dr. Nye did not believe the State Department would object to a notification and layover for any contractual commitment for the shipment to or storage in the United States of foreign power reactor spent fuel.

The "provided further" on the Tarapur export was included at the request of Chairman Jackson as a disclaimer of any congressional intent to directly or indirectly criticize or reverse the President's decision and the NRC's concurrence to export the fuel for Tarapur. The chairman was concerned that, in the absence of such a statutory disclaimer, the new Desai government in India or any reviewing court in the event of a challenge to the NRC decision might get the wrong signal.

It is noteworthy that the only serious input we have received from the administration on this whole subject of foreign spent fuel disposition, which is a major problem directly resulting from the President's non proliferation policy, is in the form of bits of information in communications opposing the committee (McCLURE suggested) and McClure amendments to section 105. All direct requests for information on the policy remain unanswered. Perhaps, that's the best argument.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the President dated August 5, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., August 5, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Dr. James Schlesinger, in testimony during his confirmation hearing before the Committee on Energy and Natural Resources on August 3rd, stated that the Administration shortly would-announce a new policy for United States Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. We are concerned greatly about the many budget, diplomatic, environmental, legal, political and technical ramifications of such a policy by the United States. We also are greatly troubled by the significant potential for further negative impact on our domestic nuclear power option resulting from this policy. We already have a national undercurrent of opposition to nuclear waste disposal and storage today at the local, state and Federal levels. This new policy could seriously exacerbate that problem and further erode the public support for the nuclear power option.

The Senate already has considered some of these nuclear waste issues in the actions on the McGovern amendment (defeating a state veto on waste disposal sites), the McClure-Church amendment (passing a requirement for Congressional approval of any U.S. bilateral or multilateral assistance agreement for spent fuel disposition), and the McClure amendment (passing a prohibition on any United States repurchase, transportation, or storage of foreign spent nuclear fuel) to S. 1811, the Fiscal Year 1978 authorization bill for the Energy Research and Development Administration (ERDA). The House of Representatives has not considered yet the companion bill, H.R. 6796. The Senate's actions, however, does make it clear that these are potentially issues of major controversy.

We sincerely believe that the forthcoming policy statement, as briefly outlined by Dr. Schlesinger, should be closely coordinated with the Congress. We would note that we asked Mr. Fri, Acting Administrator of ERDA, on June 8th and June 10th in hearings before the Energy Committee, to advise us of the Administration policy on domestic and international spent fuel disposition. We only were told that the policy was awaiting then-pending Presidential decisions. In fact, our apprehensions about the eventual new policy motivated the McClure-Church and McClure amendments to S. 1811. Dr. Schlesinger's confirmation testimony, under oath, was the first formal-word we have received since June 10th.

Mr. President, we urge you to make the Congress a full partner in your deliberations on the new policy before a final decision is made. Without prematurely passing judgment on any policy alternative for the disposition of domestic or foreign spent fuel, a full partnership is necessary to avoid any further embarrassment for the United States in nuclear power policy, resulting from a major Congressional-Executive disagreement. In any event, S. 1811, and the companion H.R. 6796, should be the proper legislative vehicle for any Fiscal Year 1978 action under a new spent fuel disposition policy.

We, therefore, request a full and candid exchange between you and your advisors and this Committee before the final decision is made. Such a meeting should occur soon after the August Congressional recess to support further action on S. 1811 and H.R. 6796. Our staffs could initiate preliminary discussions during the recess. We would appreciate very much such an exchange, Mr. President, to ensure ultimately that Congress is a full partner in the spent fuel disposition decision.

We are anxious to work with you on this policy, Mr. President, and we look forward to your response.

Sincerely,

JAMES A. MCCLURE,
PETE V. DOMENICI,
CLIFFORD P. HANSEN.

Mr. McCLURE. The potential magnitude and cost of the international spent fuel disposition problem are detailed in the following excerpt.

I ask unanimous consent that the excerpt be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

U.S. AND FREE-WORLD DISCHARGED NUCLEAR FUEL STORAGE AND TRANSPORTATION ANALYSIS

EXECUTIVE SUMMARY

Using the 1977 revision of ERDA-25, the report "Non-US Light Water Reactor Spent Fuel Disposition," the report "US Light Water Reactor Spent Fuel Cask Transportation, Status of Current Capabilities and Limitation," and input from U.S. ERDA as bases, the requirements for storage and transport of discharged nuclear fuel were analyzed through the year 2000.

Use of the three reports permitted identification of specific U.S. and free world reactor discharges, storage basin expansion plans and capacities, shipping capabilities, and location of all reactors currently operating, under construction, or firmly planned. The reports also permitted specific identification of capacity and current inventory of existing and planned Away-from-Reactor (AFR)* storage facilities. The U.S. ERDA inputs permitted rational extension of the analysis through the year 2000.

The U.S. Pacific Basin Region, European Region and all other countries situations were analyzed. For each non-U.S. region, three individual cases were considered; all reactors shipped from storage basins just sufficient to maintain Full-Core-Discharge (FCR) capability, reactors with U.S.-Controlled fuel shipped 180 days after fuel discharge, and reactors with U.S.-controlled fuel shipped sufficient to maintain FCR capability. These cases clearly bound the probable outcome.

Considering the All Reactors—FCR Discharge Capability as the primary case:

United States

U.S. utilities are now moving aggressively to expand existing and planned reactor basin capacities. However, the only currently existing and available U.S. AFR storage capability is the GE Morris facility. As such, five U.S. reactors will lose FCR discharge capability in 1977 and one U.S. reactor could lose the ability to make its scheduled discharge in 1978.

There are four identified possible other sources of U.S. AFR capability: NFS at West Valley, AGNS at Barnwell, a GE expansion at Morris, and Exxon at Oak Ridge. If all of these facilities could be made available as planned, the U.S. would have sufficient AFR storage capacity to maintain FCR discharge capability for U.S. reactors through 1989. It must be noted that none of these possible facilities now has firm corporate commitment and two, NFS and AGNS, have indicated that they may not accept fuel for storage.

Thereafter, even with the advent in 1985 of a Long-Term-Storage-Facility (LTSF) accepting fuel 10 years after discharge, an additional 3500 MTU capacity AFR is required almost every two years. For the high-growth (510 GWe by 2000) case, six additional AFRs are required between 1990–2000. For the mid-growth and low-growth (380 GWe or 330 GWe by 2000) cases, four additional AFRs are required 1990–2000. For any case, most of the AFR requirements stem from reactors already operating, under construction, or firmly ordered.

Over 100 rail and truck casks, making over 4000 shipments, will be required by the year 2000. Through the year 2000, these casks will represent more than $0.2 billion invested capital, and $1.3 billion in operating costs. The AFR facilities will represent $0.6 billion in capital invested and over $2.5 billion in costs to the utilities over the same time period. With proper encouragement (Primarily understanding of the need and the required regulations) industry can be expected to bear all these costs.

Non-United States

In the Non-U.S., the European Region for AFR capability is very similar to the U.S., but since Europe has a much smaller currently identified AFR capability, many more new AFRs are required. For all European reactors to maintain FCR discharge capability, the first new AFR would be required in 1981 (as compared to 1989 for the U.S.) and a total of eight new 3500 MTU AFRs will be required through the year 2000.

The Pacific Basin and All Other Countries require much less AFR storage capability than either the U.S. or Europe. The total Non-U.S. requires 12 new 3500 MTU AFRs through the year 2000. However, one country—Japan—does have severe continuing storage needs.

Mr. CHURCH. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

* 1 3500 MTU AFR capital cost estimate = $75 million.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 1811

Mr. CHURCH. Mr. President, I send a concurrent resolution to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, does it have to do with a conference report?

Mr. CHURCH. Yes, it does, and I believe it has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

Mr. CHURCH. Mr. President, I ask unanimous consent that the reading be dispensed with, and I will explain the purpose of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution is as follows:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 1811), "ERDA Authorization Act of 1978—Civilian Applications", shall make the following corrections:

1. In the beginning of the bill, in the first sentence, strike the word "ERDA", and insert in lieu thereof the words "Department of Energy";

2. In the beginning of the bill, in the second sentence, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy";

3. In section 101, amend the bill as follows:

(a) in subsection 101(1)(F) in the proviso, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

(b) in subsection 101(5), strike the word "Administrator", and insert in lieu thereof the words "Department of Energy";

(c) in subsection 101(15)(C) in the proviso, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy"; and,

(d) in subsection 101, under the title "All Other Programs" subsection (iii)(b), strike the word "ERDA", and insert in lieu thereof the words "Department of Energy";

4. In section 105, amend the bill as follows:

(a) in subsection 105(a) in the first sentence, strike the words "Administrator of the Energy Research and Development Administration", and insert in lieu thereof the words "Secretary of Energy"; and,

(b) in subsection 105(c), strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

5. In section 106, amend the bill as follows:

(a) in subsection 106(3), which amends Public Law 94–187, section 103(d), strike the work "Administrator" in section 103(d)(1) of P.L. 94–187, and insert in lieu thereof the words "Secretary of Energy"; and, between the words "Secretary" and "and" in the second proviso in section 103(d)(3) of P.L. 94–187, insert the words "of Energy";

6. In section 108 of the bill in the first sentence, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy";

7. In section 202, amend the bill as follows:

(a) in subsection 202(a), strike the word "Administration", and insert in lieu thereof the words "Secretary of Energy"; and

(b) in subsection 202(b), strike the word "Administration", and insert in lieu thereof the words "Secretary of Energy";

8. In section 203 of the bill, in the first sentence, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy", and in the third sentence, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

9. In section 204, amend the bill as follows:

(a) in subsection 204(a), strike the word "Administrator" and insert in lieu thereof the words "Secretary of Energy"; and,

(b) in subsection 204(b), strike the word "Administrator" and insert in lieu thereof the words "Secretary of Energy";

10. In section 207, which amends the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, *et seq.*) by adding a new section 19, amend that section 19 as follows:

(a) in subsection 19(b)(1) in the first sentence, between the words "oil shale," and "and other domestic resources" insert the word "biomass,",

(b) in subsection 19(e)(1) in the second sentence between the words "subsection (b)" and "of this section" insert the words "or subsection (y)";

(c) in subsection 19(m) in the first sentence between the words "subsection (b)" and "of this section", insert the words "or subsection (y)"; and, in the second sentence in the proviso between the words "subsection (b)" and "of this section", insert the words "or subsection (y)";

(d) in subsection 19(n)(1) between the words "(k)" and "of this section", insert the words "and (y)";

(e) in subsection 19(n)(4) in the first sentence between the words "(h)" and "of this section", insert the words "and (y)", and in the second sentence between the words "(k)" and "of this section", insert the words "and (y)";

(f) in subsection 19(p)(1) between the words "subsection (b)" and "of this section", insert the words "or subsection (y)";

(g) in subsection 19(u) between the words "subsection (b)(1)," and "to make guarantees", insert the words "or subsection (y)", and between the words "and (j)" and "of this section", insert "(y)"; and,

(h) in subsection 19(y)(1), amend as follows:

(1) by striking out the comma after the words "municipal organic waste", and inserting a period; and,

(2) by inserting before the words "the following subsection" the words "With respect to a guarantee or a commitment to guarantee authorized by this subsection";

11. In Title III of the bill strike the word "Administrator" or "Administration" whenever that word appears, except in section 303 (5), 306(d) where the word "Administrator" refers to the Administrator of the Environmental Protection Agency, and section 307 (b) where the word "Administrator" refers to the Administrator of the Environmental Protection Agency, and insert in lieu thereof the words "Secretary of Energy" and in the same title strike the words "Energy Research and Development Administration" whenever those words appear and insert in lieu thereof the words "Department of Energy";

12. In section 401 of the bill strike the numbers "210" which appear in the first sentence and insert in lieu thereof the numbers "207"; and

13. In Title V of the bill, section 501 of the third proviso at the second sentence between the words "Such" and "prices" insert the words "criteria or".

Mr. CHURCH. Mr. President, in reporting the conference report to the bill, S. 1811, which will provide authorization of appropriations for fiscal year 1978 to the research and development programs formerly administered by the Energy Research and Development Administration, certain corrections of a technical nature are necessary prior to the Secretary of the Senate sending the enrolled bill to the President.

This concurrent resolution will make these technical corrections which would include designating the Department of Energy and the Secretary of Energy in those places in the bill which are presently identified as ERDA and its Administrator. As the Senate knows the Energy Research and Development Administration ceased to exist on October 1, but authorization for certain programs administered by that agency is still required. The management of the programs is now under the Secretary of Energy and these corrections would recognize that fact.

These technical corrections also include a reference in certain subsections to subsection (y) in that section of the bill dealing with loan guarantees. These corrections will make all subsections conform to the amendments made to the loan guarantee provisions in the bill.

Finally, with respect to the provisions dealing with the basis for the Government's charge for uranium enrichment services, a phrase, "criteria for," is added to bring that portion of the bill into conformance with the other relevant sections.

I move the adoption of the concurrent resolution.

Mr. McCLURE. Mr. President, I wish to concur with the comments made by my colleague with respect to the resolution. This is a matter which has been discussed by myself and others on this side of the aisle, and we fully concur in the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The concurrent resolution (S. Con. Res. 55) was agreed to.

Mr. CHURCH. I thank the Chair. I move to reconsider the vote by which the resolution was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS FOR THE DISTRICT OF COLUMBIA FOR FISCAL YEAR 1978

Mr. LEAHY. Mr. President, as chairman of the Appropriations Subcommittee on the District of Columbia, and acting for the Committee on Appropriations, I report an original joint resolution which is at the desk and I request its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 90) continuing appropriations for the District of Columbia for fiscal year 1978.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered to have been read the first time by title and the second time at length.

The joint resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporation, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. Such amounts as may be necessary for continuing projects or activities, not otherwise provided for, which were conducted in the fiscal year 1977 and for which appropriations, funds, or other authority would be available in the District of Columbia Appropriation Act for the fiscal year 1978, but at a rate for operations not in excess of the current rate in effect on September 30, 1977.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the continuing resolution? The Chair hears none, and it is so ordered.

The Senate proceeded to the consideration of the joint resolution.

Mr. LEAHY. Mr. President, the Senate has passed an appropriation for the District of Columbia. The House passed it also. We are in disagreement on certain points. The conferees met earlier today, but because of the schedules in the House, the House conferees were not able to meet longer.

The Senate has expressed willingness to meet tomorrow, Friday, Saturday, Sunday, any time between the hours of 6 a.m. and midnight. But I understand this is not possible because the press of House business makes it impossible for the House Members to meet. Because of that and because of the fact that the District of Columbia's budget has run out as of September 30, I move the passage of this continuing resolution, and I yield back my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and to be read the third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass? (Putting the question.)

So the joint resolution (S.J. Res. 90) was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[Later the following occurred:]

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Vermont (Mr. LEAHY), the chairman of the Appropriations Subcommittee on the District of Columbia, took action a moment ago to have the Senate adopt a continuing resolution on D.C. appropriations. I did not know at that time that the matter had not been cleared with the leadership on the other side. I am sure that Mr. LEAHY had no intention of rushing the matter through without clearance. I am confident that he took the matter up feeling that it was all right to proceed, and I felt that the matter had been cleared on the other side of the aisle.

I usually ask a Senator on my side, if he is going to proceed with a matter, if it has been cleared on the other side of the aisle. In this instance I did not ask, but I thought that the full Appropriations Committee had probably directed the action.

However, I now find, as I say, that the action had not been cleared on the other side of the aisle. Therefore, I feel honorbound to ask that the action taken by the Senate with respect to the continuing resolution on the District of Columbia be vitiated, and it is my intention to ask unanimous consent to do that. I understand that Mr. LEAHY is now on his way back to the floor, and I would like to withhold until he is here, so that we will know what we are doing.

[Later the following occurred:]

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken previously this afternoon on the continuing resolution on the District of Columbia appropriations be vitiated—all action thereon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to bring up the continuing resolution which was just vitiated by the unanimous-consent action.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A Senate joint resolution (S.J. Res. 90) continuing appropriations for the District of Columbia for fiscal year 1978.

The PRESIDING OFFICER. Is there objection to proceeding to consideration of the resolution?

The Chair hears none.

The Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, I should explain for my colleagues the routine that we just went through.

Earlier this afternoon, the Committee on Appropriations, with most members present, including Senator MATHIAS, passed unanimously the continuing resolution before the body. It was the understanding at that time that we would bring it up sometime this afternoon and seek to have it passed and sent over to the House because of the fiscal situation facing the District of Columbia—that is, that their authority to spend ran out on September 30. By my error and inadvertence, while I had mentioned this on this side of the aisle, I had not cleared it with the other side of the aisle. I realize completely the error in that and regret it. Thus I concur and join in the action of the majority leader in calling the matter back, vitiating our earlier action.

Now that it has been cleared with the ranking minority member of our committee, and he is here, I repeat, I apologize for any slight to him. It was totally inadvertent.

Mr. ROBERT C. BYRD. Mr. President, it was not inadvertence on the part of the Senator from Vermont. That is a very charitable attempt to take the blame on himself. He cleared it with me. Normally, I ask if it has been cleared on the other side. In many instances, I proceed to do that myself. But in this instance, I did not. I had my mind almost totally absorbed with respect to the Labor-HEW matter. So it is not the fault of the Senator from Vermont. If there is any fault to be placed anywhere, it is mine. It was certainly not intentional.

Mr. LEAHY. I thank the majority leader for his gracious words, but knowing that he has far more matters on his mind than I do, I can assure him that, in the future, I shall make sure these matters are taken up with the ranking minority member and all around, be-

cause I put the majority leader in a situation he should not have been put into.

Mr. MATHIAS. Mr. President, the distinguished chairman of the subcommittee makes more of this matter than is involved here. He is certainly very generous and very gracious in explaining, as he has done, what occurred. It really makes no substantive difference.

I might say to the majority leader that I think we on the minority side have great confidence in the fact that he looks after the interests of the minority. He feels that that is part of the responsibility that he assumed in the leadership of the Senate, and he discharges that responsibility toward the minority. I, as one member of the minority, appreciate it very much.

I salute the chairman of the committee for having initiated the concept of this continuing resolution, because it is an enormously important step for us to take. It in no way resolves or disposes of or prejudices the issues which divide a conference, but what it will do is provide technical legality for the operations of the municipal government in the District of Columbia. That is of substantial importance, because I do not think we want to condone, let alone encourage or be responsible for, an illegal operation.

On a personal basis, it means a lot to the employees of the District government, who have to go out and buy groceries and pay rent and, maybe, even buy some fuel to keep their houses warm on some of these frosty nights.

Mr. ROBERT C. BYRD. Some West Virginia apples.

Mr. LEAHY. Some Vermont maple syrup.

Mr. MATHIAS. Lee me say they can get Maryland apples closer.

Mr. President, I am happy to support the resolution and I thank the majority leader and the chairman for their consideration.

Mr. LEAHY. I thank the Senator. I yield back my time.

The joint resolution (S.J. Res. 90) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. LEAHY. I move to reconsider the vote by which the resolution was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. I ask unanimous consent that the Secretary of the Senate be authorized to make any technical corrections to the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Washington (Mr. MAGNUSON) is on his way to the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I suggest that both cloakrooms alert Senators' offices that there is a possibility of further rollcall votes yet today.

Mr. BAKER. Mr. President, if the Senator will yield to me, I think that is a good idea. I would judge, then, by the majority leader's remarks, that he is thinking of a way to dispose of the HEW matter?

Mr. ROBERT C. BYRD. Hopefully, yes. I am awaiting Senator MAGNUSON's arrival; he is chairman of the committee with jurisdiction over HEW. I would like to have the Senator take a look at the matter and see if it can be disposed of tonight. Therefore, I think Senators should be alerted to the possibility of rollcall votes yet tonight.

Mr. BAKER. I thank the majority leader, and I agree with him.

Mr. BAYH. Mr. President, I ask unanimous consent that Barbara Dixon and Abby Reed may be granted the privilege of the floor during debate and vote on the Labor-HEW measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on Senate amendment No. 82 to the bill (H.R. 7555) and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1978, and for other purposes, having met, after full and free conference, have been unable to agree.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 7555.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its amendment to the amendment of the Senate numbered 82 to the bill (H.R. 7555) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes", and concur to the aforesaid amendment of the Senate with the following amendment:

In lieu of the matter proposed by the aforesaid amendment, insert:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

UP AMENDMENT NO. 932

Purpose: To prohibit the funding of abortions except where the life or the health of the women or the fetus would suffer serious health damage.

Mr. MAGNUSON. Mr. President, I now move that the Senate concur in the House amendment to Senate amendment No. 82 with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The House concurs in the Senate amendment numbered 82 with an amendment.

The PRESIDING OFFICER. The clerk will now state the amendment offered by the Senator from Washington.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 932:

To strike the language and insert in lieu the following:

SEC. 209. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the women or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UNPRINTED AMENDMENT NO. 933

Mr. HELMS. Mr. President, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 933 in the nature of a substitute:

SEC. 209. None of the funds contained in this Act shall be used to pay for abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. BROOKE addressed the Chair.

The PRESIDING OFFICER. May the Chair ask the Senator from North Carolina if this is the House language?

Mr. HELMS. Not entirely.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I hope that the Senator from North Carolina will not insist on this amendment. What we are trying to do here is to go back to the House and have some more time to, perhaps, work out something—I do not know, some compromise.

We are running late on time because of the fact that the people, millions of people, are not getting paid, on the HEW appropriation and Labor bill.

We are dealing with an amendment that does not belong on the bill, to begin with. That has been my position, as the Senator well knows. And there are so many other very important things. We are hoping that we can get the House to act on our particular language the Senate acted on and then we will have to come back and see what we can work out.

In the meantime, we have a continuing resolution which will pay people this weekend. The Labor Department will be able to do so.

I know this is a highly emotional matter to a lot of people on both sides. But it seems to me that there are many overall things more important to do tonight, right now.

I say to the Senator from Tennessee that the House may not necessarily take the continuing resolution, but in lieu they will send back a continuing resolution, just to say that they have originated it, and we will accept it.

The Senate committee was unanimous in trying to proceed this way, to take care of a unique situation.

I do not know how long this will go on. I have been involved in HEW appropriations of this matter for years. I hope someday the Senator from North Carolina and I and the Senator from Massachusetts can introduce bills. I would be glad to join the Senator in introducing a bill with his viewpoint and join anybody else in introducing a bill with my viewpoint or the viewpoint of the Senator from Massachusetts, and get it to a committee where it belongs. It becomes frustrating to have us operate this way.

I know the dedication of the Senator from North Carolina. We have so many amendments now on the HEW appropriation bill, legislative amendments, that some people have facetiously said to me, "Magnuson, when are you going to bring back the HEW bill for reconsideration? We have a few amendments—gun control, recognition of Cuba." I suppose the Panama Canal Treaty will get on now. [Laughter.]

Mr. HELMS. Let us abort the treaties.

Mr. MAGNUSON. We will have gay rights and everything else on this bill.

There should be a national policy on this matter. I hope we will not get tied up tonight. I think we are doing it right, with due consideration to the viewpoint of the Senator from North Carolina, the viewpoint of the Senator from Massachusetts, and my viewpoint. We will try to do the best we can in the meantime.

It is not our fault that this is brought up at this late date. We sent our version over there 10 days ago, I believe, and they were going to vote last Friday. They postponed it and postponed it and just voted this afternoon and left us in this position.

There are headlines in every paper in Washington tonight about the thousands of people who are going to go without pay. All these things are involved. Every American is involved in this bill. I hope we can go ahead with this procedure and get the continuing resolution going, and we will go back to the House. I suppose they will turn it down. I imagine they will. That is the way it appears. Then we will go to conference and see what we can work out on this one issue—only this one.

I wonder sometimes what people think we are doing here, when we cannot route things where they belong. Here we are, the Appropriations Committee, passing on a serious matter. We never had a bit of testimony. Nobody knows all the facts, because it did not belong on the bill. I believe there should be a full-fledged legislative review in depth of this matter and we should come out with a national policy.

I hope that tonight we can go ahead with this procedure.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield. The Senator from Massachusetts yielded to me.

Mr. HELMS. I yield to the Senator.

Mr. SCOTT. Mr. President, the distinguished Senator from North Carolina is one of the best friends I have in the Senate, and we do not have identical views on this matter.

I share the concern of the distinguished Senator from Washington as to a national policy. It appears to me that the proper national policy would be to have the policy we had before the Supreme Court ruling, to say that the question of abortion is a question to be decided by the States, under the police power. There is no reason to have uniformity on matters protecting the health and the morals of the people of this country. Anyone who has studied our system of government knows that we are a nation of dual sovereignty, and rights that affect people as closely as this are decided at the State level.

I share the distinguished Senator's view that we have to get this out of the hair of the Senate so that we can put it back where it belongs. We can have one policy in the State of Washington, another in the State of Virginia, another in Massachusetts, another in North Carolina. We are a large and diverse country, with varying opinions, and it is difficult to have us all agree.

I have a proposed constitutional amendment pending before the Judiciary Committee, and we considered it in a subcommittee. It failed, by a tie vote, an equal vote, to be reported. It requires a majority.

I see the distinguished chairman of the subcommittee on the floor at this time, and I am the ranking minority member of that subcommittee.

I hope the Senate will look sympathetically on that solution or a similar solution, in order to get the abortion question out of consideration as frequently as we have it, because we waste a lot of valuable time in attempting to make decisions at the Federal level that should be made at the State level.

I am going to support a continuing resolution, contrary to the position that my friend may take with regard to this; but I think he and I might agree that the proper place to decide is in the States and not in Congress.

Mr. MAGNUSON. I do not want to get into that.

My own State, I believe 5 years ago, had an initiative on the ballot on general election day with regard to this matter, so I have no problem with knowing how the people of my State feel about it.

However, I still get back to this fact: It should be the way the Senator suggests or it should be a national policy, but it does not belong on an appropriation bill. That is only for a few months.

Every year we get tied up with this thing on appropriation bills. We might as well abolish the legislative committees on some of these tough items. The Senator stated that on his matter there was a tie vote and he could not get it out of the Judiciary Committee.

Mr. SCOTT. The Senator is correct.

Mr. MAGNUSON. That is all I have to say. I hope we do not have to spend time on this, because there are millions of people this weekend who will not have a paycheck unless we do something about a continuing resolution.

Mr. BROOKE. Mr. President, I regret that the distinguished Senator from North Carolina has called up this amendment. I had thought that we at least had a gentleman's agreement. I had discussed this matter with the distinguished Senator from Pennsylvania, the Senator from North Carolina, the Senator from Idaho, and the Senator from Oklahoma, who have been very active and strong supporters of antiabortion language in legislation before this body.

When this matter came up from the full Appropriations Committee, that we would tonight call up a continuing resolution for the sole purpose of assuring the thousands of employees of HEW and the Labor Department that they would be able to get their pay, I proposed to call up an amendment which would have provided that this continuing resolution be subjected to deletion of the so-called Hyde language which was contained in the 1977 bill.

And it was my intention until we came to this sort of gentleman's agreement, as I said, to call that amendment up and to have another vote on it because I felt that if we did not it would put the Senate at a disadvantage. The Senate has on several occasions attempted to compromise its position with the House of Representatives. The House has not attempted at any time to compromise its position in any substantive way with the Senate, nor recognized that the House had a joint responsibility with the Senate for the payment of these salaries through HEW and Labor Departments. It put the onus on the Senate

without sharing any of that responsibility itself.

Accordingly, we had worked out a plan whereby we would concur with the House and submit an amendment and then move on to the continuing resolution which we would send back to the House tonight with the hope that the House would accept it.

We did run into a problem because the House, feeling that continuing resolutions should originate in the House of Representatives, said that they would not accept it, but possibly they would send us back a continuing resolution of their own which we could adopt, all of which would continue the 1977 language of the so-called Hyde amendment, at least for the next 2 weeks, so that the employees would be paid.

All of us are concerned about these employees and their pay, and that was the reason why we entered into this agreement, or at least agreement that I thought we had entered into. So I was shocked, Mr. President, when the Senator from North Carolina for whom I have the greatest respect, called up this amendment. He and I debated this issue on this floor hour after hour, day after day. Never at any time have either of us ever taken advantage of one another, and I hope the day will never come when we do. I was really shocked when I heard the Senator from North Carolina call up this amendment. Apparently the Senator from North Carolina did not understand the agreement as I understood it and misrepresented it to the distinguished chairman of the subcommittee, Senator MAGNUSON.

I would hope that the Senator from North Carolina would not press his amendment. I would hope that we would be able to act on this. Many Senators who relied on this have already left the Senate Chamber, if they have not left the city. I do not know who they are or how many they are. But it would be a sort of breach to them if this matter were not disposed of in the manner in which we had agreed that it would be disposed of. I do not think that the position of the Senator from North Carolina would be in any way impaired by this.

Let me just repeat what I said to him earlier.

The continuing resolution, which we are suggesting, would carry with it the Hyde language in the 1977 Appropriations Act and it would be for 30 days, which means that it would expire on October 31 because it would be retroactive to October 1.

In addition thereto, the concurrence of the House with an amendment would, in effect, just say to the House that we reject your language but we submit additional language which had been drafted by the distinguished chairman of the subcommittee, Senator MAGNUSON, for the House conferees to consider. Then presumably next week we could go back to the conference, with the House of Representatives, still able to reject that language and submit additional language to us, so nothing would be gained at all by the language of the Senator from North Carolina other than possibly to embarrass the Senate in its position.

So I would hope that the Senator would withdraw this amendment and let us go forward with a continuing resolution, let the employees of HEW and Labor be paid, with this assurance—and I offer him this assurance—that the position that he espoused will not be in any way injured when we go to conference. The House of Representatives will be able to vote up or down on any language that we would propose to them, and if they are consistent with what they have done in the past, they most certainly will reject that language and send additional language back to us. Hopefully, we can compromise this matter and get it over with.

This is a major piece of legislation, a major appropriations bill. I need not tell the Senator it is the largest appropriations bill that we have to deal with. There are many people, not just the employees, but recipients as well, with whom we are concerned. All of the health money, all of the education money, all the welfare money, and all the labor money is tied up in this bill for fiscal 1978. So we really do have a serious matter before us. And in good conscience I ask the distinguished Senator, my colleague from North Carolina, if he would seriously consider withdrawing his amendment and allow us to go forward with the continuing resolution which does no harm at all, as I say again, to his position.

Mr. HELMS. Mr. President, let me say to my friend from Massachusetts that this matter could have been disposed of a long time ago. It has not been the Senator from North Carolina who held it up 1 minute. The House of Representatives has made itself perfectly clear. If we really want to resolve this issue all we have to do is approve the amendment of the Senator from North Carolina and send it back over to the House of Representatives and the whole conference report will be approved immediately.

As far as compromising on this issue, my conscience will not let me do it because we are talking about the deliberate termination of innocent human life, period. And do not ask the Senator from North Carolina to compromise on that because I cannot. I wish I could find some middle ground, but either you kill them or you do not. I am talking about the babies involved.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. BROOKE. I respect the Senator on that. We discussed that, and I will not ask the Senator to compromise on that issue at all, and that is not what I am suggesting to him. I would be the last to ask him to compromise on that issue because I know he feels as strongly about his position as I feel about mine, and many other Senators feel about theirs, so I am not asking him to compromise on the issue, not the substantive issue. I am asking him merely to compromise on letting us get a continuing resolution for 2 weeks which in no way impairs the Senator's position.

This matter has still to go before the conference, it has to be voted on by the House of Representatives, and it then comes back to the Senate. At some time the Senator will have an opportunity to introduce any amendment. He does not have to accept the conference report. He can make an amendment to the conference report. He has all sorts of rights and remedies as he sees fit to use. And I am not asking him to compromise any of those rights or any of those remedies. I am merely saying to him why hold up the Senate, why hold up all of these payless people when all we are trying to do is resolve a procedural matter at this time that does not in any way affect the substantive issue. If it did, then we would be asking the Senator to compromise his conscience which I know he cannot do as a man, and I respect him for that position.

Mr. HELMS. I ask the Senator this: How would voting on my amendment delay the process? If I win, fine; if I lose, then we are back to the Magnuson amendment.

Mr. BROOKE. The answer to that is that the Senator is trying to resolve the differences between the House and the Senate on the issue at this time when we are merely trying to get back to conference and work with them. The Senate has not changed its position on this at all any more than the House has changed its position. We have not had a vote on that at all.

Mr. HELMS. The House has moved toward the Senator's position.

Mr. BROOKE. No, no. I beg to differ with the Senator on that.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, and maybe we can work out something on that.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from North Carolina, and I now understand better his concerns and fears than I did when we were previously discussing it.

As I said, I have great respect for him. I know he is a man of great conscience, and I understand what he was saying when he said he did not want to go on record as supporting the substitute language, the so-called Magnuson language, which the Senator from Washington was sending back to the House for their consideration. I want to assure the Senator from North Carolina that this in no way locks us into any language at all.

All we are doing here is submitting language to the House to consider which, in effect, is even weaker than the language which was passed by the Senate and which was sent to the House originally.

The second thing we are trying to accomplish here is merely to have a continuing resolution which includes in it the Hyde language, which is basically the position of the Senator from North Carolina, and I give the Senator that assurance.

Mr. HELMS. With that assurance, Mr. President, I ask unanimous consent that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I withdraw my amendment.

Mr. BROOKE. I thank the distinguished Senator from North Carolina.

Mr. MAGNUSON. I just want to correct the record. My friend from Massachusetts said the Magnuson language was weaker. May I suggest that is not quite the term. It is just more humane. [Laughter.]

Mr. BROOKE. I stand corrected.

Mr. ROBERT C. BYRD. Mr. President, I want to thank both the Senator from Massachusetts (Mr. BROOKE) and the Senator from North Carolina (Mr. HELMS) for their having arrived at what I hope is a resolution of the problem that faces us at the present moment.

Mr. BROOKE. Mr. President, the latest House proposal would prohibit Federal funding for abortion except where the life of the woman would be endangered if the fetus were carried to term. It also would permit undefined "medical procedures," if done before the fact of pregnancy is established, in cases of "forced" rape or incest.

The Senate should overwhelmingly reject this House language for the following reasons:

First. The House language makes no provision for abortions in cases where there would be serious health damage to the pregnant woman or the fetus she is carrying. We all know the dangers that can be involved in pregnancy. For the woman with heart disease, cancer or other serious ailments, the dangers are infinitely greater. Also, there literally are thousands of genetic diseases and conditions that could deform or handicap both the woman and the fetus and need to be taken into account in any legislation.

The Senate has been most sensitive to this issue. On at least four occasions it has voted to provide language to insure that the health of the woman and the fetus are protected. At present the Senate language would permit abortions in such cases if "medically necessary." In the interest of compromise, however, the Senate conferees have been willing to modify their language to permit such abortions only if the woman or the fetus would suffer "serious health damage." The House at no stage of our lengthy and inconclusive negotiations has shown any willingness at all to compromise on this essential issue.

Second. The House language on rape and incest is harsh on its face and we feel is unworkable. For example, it would permit payment only for "medical procedures performed before the fact of pregnancy is established." This probably means condemning innocent rape or incest victims to the use of the "morning after pill," which has been shown to be ineffective in many instances and also is a known carcinogen. Another possible "medical procedure" would involve an operation (D. & C.) to scrape the insides of the uterus. Under the House language, however, this could mean forcing a woman who sought treatment for rape to undergo a surgical procedure which may not even be necessary.

The House language on rape and incest also would require the victim to report to a law enforcement agency before payment for assistance could be authorized. This overlooks the fact that almost half of all rape or rape attempts are never reported to authorities out of fear or ignorance. When a victim does discover she is pregnant, she will seek assistance at clinics or other health facilities rather than going to police. In addition, by using the formulation "forced rape," the House prohibits assistance to victims of statutory rape which is recognized by virtually every State in the Union.

In all likelihood the House language on rape and incest would do little to prevent the pregnancies which do result from such tragedies. Thus, this House language, which is even more prohibitive than the report language in the 1977 bill, can and should be modified.

The Senate has stood fast on the fundamental issues involved in the abortion funding issue. Our conferees have been faithful to the wishes of the Senate in this matter. We have upheld the Senate position, and we will continue to do so.

Thus, we have no alternative but to recommend that the Senate reject the House language. This will make it possible for the Senate to go back to conference and seek a compromise in the spirit if not the actual language of the present Senate bill.

As Chairman MAGNUSON and I pointed out in an October 7 letter to all Members of the Senate, the Senate conferees have been striving for a fair compromise. We recognize the serious implications for programs and personnel resulting from the present situation. It has never been our wish that such hardships occur and that is why we recommended compromise language to the House. We can only hope the other body will try to meet us at least halfway.

ADDITIONAL STATEMENT SUBMITTED

Mr. HART. Mr. President, during the August 2 debate on the Flood anti-abortion amendment to H.R. 7555, many Congressmen and Congresswomen spoke out against the injustices that would result from such restrictive language. One of the more poignant statements was made by Congresswoman SCHROEDER and, insofar as we are confronted with much the same type of language again, I ask unanimous consent that her statement be printed in the RECORD.

There being no objection, the statement was printed.

Mrs. SCHROEDER. Mr. Speaker, this is a very difficult subject for me to talk about because it is a very emotional issue.

The only thing I can say in responding to some of the statements that have been made is to get very personal and talk as a woman.

I am the mother of two children, and I have lost two children, so I have had four children all told. I do not have children very well. Perhaps that is one of the reasons I ran for office.

After the birth of my last child I spent 10 days in intensive care. I am not sure whether any doctor would say to me, if I were pregnant again, that I would die; but I am also not sure that I want to put my family through trying to decide whether or not I live. I resent very much my Government's saying to me, if I am poor, that my family would have absolutely no alternative but to either attempt to find the money during a period of time that realistically is less than 5 weeks or that I should gamble and hope that I live through it.

I do not know if any Members have been in intensive care. It is not fun, and it is not a pleasant thing; but that is what we are sentencing women like me to do, unless some doctor wants to go out on a limb and say that it is absolutely certain a matter of life or death, period.

Furthermore, Mr. Speaker, I resent the fact that this government would say that to poor women and I feel very, very strongly about that. I think that when we look at the issue, we will find that we really ought to allow language including something about "medically necessary" in the amendment. If something such as a "medically necessary" provision were in there, it would cover someone like myself if I were unfortunate enough to have to be relying on medicare or medicaid.

With respect to rape or incest, if I had to ask for help because of alleged rape or incest, admittedly I would be sentenced to a form of family violence. Who could go home and say that she had been the victim of alleged incest or rape?

I urge Members to vote down the Flood language so we can consider a much more reasonable and sensible Government policy.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur. (Putting the question.)

The motion was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES FOR THE FISCAL YEAR 1978

Mr. MAGNUSON. Mr. President, from the Committee on Appropriations I report an original joint resolution which I send to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 91), making continuing appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies for fiscal year 1978.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and we will proceed with its immediate consideration.

The Senate proceeded to the consideration of the joint resolution.

Mr. MAGNUSON. I will say to the Senate this is similar to all continuing resolutions that we passed here many numbers of time when we were faced with some problems in conference and with difficulties.

I hope this will be passed, and the House will either come back with the same resolution or a similar one, and we can get these people who are so worried,

rightly so, taken care of over the weekend, and there are millions of them, with respect to all of the HEW and Labor Department appropriations.

I want to thank the Senator from North Carolina, my colleague from Massachusetts, and, particularly, the Senator from Pennsylvania, and all of us who have very deep feelings about this matter. I think we have done the right and wise thing tonight, and I appreciate it very much.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be read a third time and was read the third time.

The PRESIDING OFFICER. The question is, Shall Senate Joint Resolution 91 pass? (Putting the question.)

So the joint resolution (S.J. Res. 91) was passed as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. Such amounts as may be necessary for continuing projects or activities, not otherwise provided for, which were conducted in the fiscal year 1977 and for which appropriations, funds, or other authority would be available in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act for the fiscal year 1978, but at a rate for operations not in excess of the current rate in effect on September 30, 1977.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the Senate will be in session tomorrow and there could be rollcall votes, so I would hope that both cloakrooms will put the notices out. I have not yet decided on the meeting time, but it will not be at 9 a.m. There may very well be votes because this matter may not yet be resolved.

Mr. FORD. Does the Senator have any idea of the lateness of the hour?

Mr. ROBERT C. BYRD. I am sorry, I do not, because I do not know what the House will do and when the House will act.

Mr. MAGNUSON. When did the leader say we will meet in the morning?

Mr. ROBERT C. BYRD. I did not say. I just wanted to alert the Members that there might be rollcall votes tomorrow.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REORGANIZATION PLAN NO. 2—PM 123

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105), which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be know as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the Government for the conduct of such activities. The Director, the Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative, or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semiannual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Educational Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this Plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's Reorganization Plan No. 2 of 1977, to consolidate certain international communications, educational and cultural, and broadcasting activities, which was received today, be jointly referred to the Committees on Governmental Affairs and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:27 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 1372. An act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and to establish the position of Under Secretary of

Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

H.R. 1934. An act for the relief of Doctor Lawrence C. B. Chan.

The enrolled bills were subsequently signed by the President pro tempore.

At 3:08 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. DENT, Mr. PHILLIP BURTON, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. ZEFERETTI, Mr. QUIE, Mr. ERLENBORN, Mr. ASHBROOK, and Mr. PICKLE (solely for the consideration of section 12 of the House bill and modifications thereof committed to conference) were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. CHARLES H. WILSON of California, Mr. BRINKLEY, Mr. DAN DANIEL, Mr. MONTGOMERY, Mr. BOB WILSON, and Mr. DICKINSON were appointed managers of the conference on the part of the House.

At 5:19 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House recedes from its amendment to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, and concurs to the aforesaid amendment of the Senate with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

At 7:25 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bill:

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2163. A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC-2164. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to provide for the appointment by the President of the Commissioner of Food and Drugs by and with the advice and consent of the Senate and for compensation for the Commissioner at the rate prescribed for Level IV of the Executive Schedule (with accompanying papers); to the Committee on Governmental Affairs.

EC-2165. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Controlling Foreign Investment in National Interest Sectors of the U.S. Economy" (ID-77-18—October 7, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2166. A letter from the Attorney General of the United States transmitting a draft of proposed legislation to amend the Immigration and Nationality Act and for other purposes (with accompanying papers); to the Committee on the Judiciary.

EC-2167. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to implement the International Convention for the Prevention of Pollution from Ships, 1973 and for other purposes (with accompanying papers).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Transportation relative to implementing the International Convention for the Prevention of Pollution from Ships be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. Con. Res. 53. An original concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties"; referred to the Committee on Rules and Administration.

H.J. Res. 573. A joint resolution commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people (Rept. No. 95-491).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Report of the Committee on Veterans' Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-492).

By Mr. LEAHY, from the Committee on Appropriations:

S.J. Res. 90. An original joint resolution continuing appropriations for the District of Columbia for the fiscal year 1978.

By Mr. MAGNUSON, from the Committee on Appropriations:

S.J. Res. 91. An original joint resolution making continuing appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year 1978.

By Mr. WILLIAMS, from the Committee on Human Resources:

With an amendment:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes (Rept. 95-493) (together with additional views).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 289. A resolution authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of United States Territory), Part 2" (Rept. No. 95-494).

S. Res. 290. A resolution authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of United States Territory), Part I" (Rept. No. 95-495).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 12, 1977, he presented to the President of the United States the following enrolled bill:

S. 1372. An act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and to establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON (for himself, Mr. HUMPHREY, and Mr. MCINTYRE):

S. 2193. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Commerce, Science, and Transportation.

By Mr. CURTIS:

S. 2194. A bill for the relief of Milton G. and Evelyn Hedstrom; to the Committee on Finance.

By Mr. BUMPERS:

S. 2195. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BIDEN:

S. 2196. A bill to repeal the changes in the exclusion for sick pay made by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

By Mr. STONE:

S. 2197. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Finance.

By Mr. HASKELL:

S. 2198. A bill to amend the Internal Revenue Code of 1954 to provide a credit against taxes for certain amounts paid for the care of individuals over 65 years of age and disabled individuals; to the Committee on Finance.

By Mr. MATHIAS:

S. 2199. A bill for the relief of Dr. Medhi Fakhrai; and

S. 2200. A bill for the relief of Graciela Mestroni; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. DOLE, Mr. CURTIS, Mr. ABOUREZK, and Mr. ZORINSKY):

S. 2201. A bill entitled "The Alcohol Fuel Incentive Act of 1978"; to the Committee on Agriculure, Nutrition, and Forestry.

By Mr. WILLIAMS:

S. 2202. A bill for the relief of Olga Szamek; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S.J. Res. 89. A joint resolution to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Cong., 1st Sess.); considered and passed.

By Mr. LEAHY, from the Committee on Appropriations:

S.J. Res. 90. An original joint resolution continuing appropriations for the District of Columbia for the fiscal year 1978; considered and passed.

By Mr. MAGNUSON, from the Committee on Appropriations:

S.J. Res. 91. An original joint resolution making continuing appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year 1978; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ANDERSON (for himself, Mr. HUMPHREY, and Mr. MCINTYRE):

S. 2193. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Commerce, Science, and Transportation.

TELEPHONE PRIVACY ACT

Mr. ANDERSON. Mr. President, 7 million Americans will answer their phones today and listen to a voice on the other end offer to sell them a good or a service. It has been estimated that an astounding 460,000 of these phone calls daily will result in sales averaging $60 each or $28 million. Clearly, the telephone marketing industry is "big business" in the United States. In fact, at least $4 billion of the $17.5 billion that business spends annually for telephone service involves calls to sell or buy.

I am disturbed by the degree to which telephone solicitation is replacing direct mail advertising as a means of making initial contact with unwary consumers. Recently, a new automated device became available on the market which can dial 1,000 calls a day, deliver a taped sales pitch, and then record an order. Unlike direct mail advertising, unsolicited commercial telephone calls are not detectable and subject to "disregard" prior to the point at which the consumer is interrupted. I believe the right of a person not to be telephoned for the purpose of commercial solicitation in the privacy of his or her home is a legitimate interest worthy of protection.

Therefore, I am pleased to introduce, as a companion to legislation introduced today in the House by Representative LES ASPIN, S. 2193, which will protect consumers from the increasingly serious invasion of the privacy of their homes by so-called junk phone calls.

The Telephone Privacy Act amends title II of the Communications Act of 1934 and allows citizens to have their names taken off telephone marketing firms' calling lists if they wish not to receive unsolicited commercial telephone calls. The act directs the Federal Communications Commission to promulgate regulations detailing the exact procedures to be used to notify telephone marketers that a particular telephone subscriber does not wish to be called.

Basically, the bill has four main parts:

First. The bill requires that the telephone companies give each subscriber the opportunity, at least once a year, to indicate that the subscriber does not wish to receive unsolicited commercial telephone calls;

Second. Firms making such calls would, at their expense, have to obtain these numbers from the telephone company and purge their own calling lists before beginning solicitations;

Three. Firms using automated calling machines would have to limit the messages to one minute to assure consumers emergency access to their phones in areas where the caller controls the line;

Fourth. Any calls made in violation of the act would subject the violator to a fine of up to $1,000 or imprisonment of not more than 30 days per call in violation. Because any firm trying to comply with the law can be expected to make an occasional honest error, the bill provides that no prosecution can begin until the tenth complaint has been received.

The legislation, which already has more than 40 cosponsors in the House, applies to all commercial solicitations whether made by live operators, by a tape that is activated after a live operator places the call, or by the new, totally automated equipment which can make 1,000 calls a day without any attendant.

Mr. President, it is of course, not necessary to completely stop the operations of the telephone marketing industry while protecting the privacy of our citizens. The bill I am introducing today contains several important, legitimate exemptions.

Calls made in response to the express request of the person called and calls made in connection with an unpaid debt or an incomplete contract performance are exempted because they are not, by definition, "unsolicited." This provision will allow magazines to notify their subscribers to renew and department stores to notify their credit card holders of a sale once these customers agree to receive calls for such purposes.

The Telephone Privacy Act also exempts telephone calls made by and on behalf of a variety of charitable organizations: labor, agricultural, or horticultural organizations; political organizations; radio or television audience rating organizations; and public opinion polling organizations.

Mr. President, I am confident that even with these limitations the bill will protect persons who feel their lives adversely affected by unsolicited commercial telephone calls. The needs of these people is evidenced by the amount of mail which Representative ASPIN and I have received in response to press reports that this legislation would be introduced.

Mr. President, since the necessity for this legislation is best documented by those who would have us respond to their needs, I ask unanimous consent that excerpts from typical letters from my constituents be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

"I have called the offending company to protest the outrage to our privacy but, being after the fact, I'm certain there is little impact felt.

"My husband is seriously ill and I am handicapped so answering the phone (which could be the doctor, hospital, or worried friends) is a real problem."—E. F., New Hope, Minn.

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"I have asthma, so bad I had to start on cortisone treatment yesterday. I also take a heart pill.

"Yesterday I had gotten into a tub of warm water to relax me after an especially bad coughing spell. The phone rang and, of course, I tried to hurry out and grab a robe. When I got to the phone some automatic voice kept 'blabbering' on. . . . I hung up, thoroughly agitated and upset, which made me have another coughing spell!

"This is absolutely intolerable! Are we going to have to refuse to go to the phone at inconvenient times knowing not if it's a really personal call or (just) a 'blabbering' recording?

"This may not seem momentous, but it is vital to some of us."—E. P. L., Minneapolis, Minn.

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"I have, this past week, been subjected to a junk phone call from an insurance company.

"I favor your efforts in preventing the growth of this cancer."—D. M. C., Golden Valley, Minn.

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"It is gratifying to hear that some responsible elected official is attempting to limit or, preferably, stop the wanton infringement of my home privacy by regulating junk telephone calls. It is already intolerable; with automated equipment I may just as well do without a private phone."—J. E. F., Minneapolis, Minn.

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"I surely hope you will introduce and actively pursue a bill that would prohibit junk phone calls.

"I live in a neighborhood where between seven and nine o'clock in the evening I receive an average of five solicitation telephone calls each night. I was really shocked to find that I had to pay for an unpublished number."—B. L. B., Minneapolis, Minn.

Mr. ANDERSON. Mr. President, the right to privacy of these and similarly inclined Americans must be protected; the Telephone Privacy Act offers this protection. I am pleased to announce that Senators HUMPHREY and MCINTYRE have already joined me as cosponsors of this bill. I invite the rest of my colleagues to join me and voice their support of the right to privacy from unsolicited commercial telephone calls.

Mr. President, I ask unanimous consent that the text of the Telephone Privacy Act, S. 2193, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telephone Privacy Act".

SEC. 2. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"PROHIBITION OF CERTAIN UNSOLICITED TELEPHONE CALLS

"SEC. 224. (a)(1)(A) No person may make or cause to be made any unsolicited com-

mercial telephone call to any telephone if the person who is the subscriber for such telephone has given notice, in accordance with subsection (b), that he does not wish to receive unsolicited commercial telephone calls.

"(B) No person shall cause to be made any unsolicited commercial telephone call to any telephone if such call is made entirely by automatic equipment and has or may have a duration of more than one minute.

"(2) No person may employ, or contract for, any other person to make any telephone call in violation of paragraph (1).

"(b)(1) Any person who is a telephone subscriber and who wishes not to receive unsolicited commercial telephone calls may notify the telephone company which provides telephone exchange service for such telephone that he does not wish to receive such calls. The Commission shall prescribe regulations—

"(A) specifying the manner in which such notification shall be given,

"(B) specifying the manner in which telephone companies shall make available to persons making unsolicited commercial telephone calls the names and telephone numbers of persons who do not wish to receive such calls, and

"(C) specifying the times at which and manner in which a subscriber may give or revoke such notification.

Regulations under subparagraph (C) shall require that a subscriber be given the opportunity to give such notification whenever a telephone is installed, and not less frequently than annually thereafter.

"(2) No telephone company may make any charge to a subscriber for the service of listing him as not wishing to receive unsolicited commercial telephone calls and the costs incurred by any telephone company to administer the provisions of this section shall be borne by those persons or institutions obtaining the names and telephone numbers of those subscribers who do not wish to receive unsolicited commercial calls under a fee structure to be prescribed by regulation of the Commission.

"(c)(1) Any person who violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than thirty days, or both. For purposes of this paragraph, each telephone call in violation of subsection (a) shall constitute a separate offense, but no person may be imprisoned for more than 6 months for any related series of violations.

"(2) No person may be prosecuted under paragraph (1) for a violation of subsection (a), unless (A) during the calendar year during which such violation occurred, the United States attorney for the judicial district in which such prosecution is brought has received at least ten written complaints of violations of such subsection by such person and (B) each of such ten complaints is made within fourteen days after the violation complained of.

"(d) For purposes of this section:

"(1) The term 'unsolicited commercial telephone call' means a commercial telephone call other than a call made—

"(A) in response to an express request of the person called, or

"(B) primarily in connection with a debt payment of which, or a contract performance of which, has not been completed at the time of such call.

"(2) The term 'commercial telephone call' means (under regulations of the Commission) any call made for business purposes by or on behalf of any business enterprise, other than a call made by an organization described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue code of 1954 on its own behalf, by a political organization, or by a public opinion polling, or radio or television audience rating, organization.

"(3) The term 'telephone company' means any carrier (whether or not engaged in interstate or foreign communication) which provides telephone exchange service."

SEC. 3. (a) Section 2(a) of such Act is amended by striking out "The provisions" and inserting in lieu thereof "Subject to section 224, the provisions".

(b) Section 2(b) of such Act is amended by striking out "section 301" and inserting in lieu thereof "sections 224 and 301".

SEC. 4. The amendments made by this Act shall take effect on such date or dates (not later than eighteen months after the date of enactment of this Act) as the Federal Communications Commission shall prescribe by regulation.

Mr. McINTYRE. Mr. President, I am pleased today to join my colleagues Mr. ANDERSON and Mr. HUMPHREY in introducing this legislation, the Telephone Privacy Act of 1977, to provide consumers with a fair recourse against telephone "junk calls."

As my colleagues may be aware from recent reports in the news media, automated devices have recently been developed which can call entire telephone exchanges in a single day, monotonously rattling off its recorded message before turning to the next number. I am not opposed to innovative business techniques and obviously these new methods have had some success or there would not be such a surge of interest in them. However, I do think that telephone customers should be given an opportunity to protect themselves from this kind of commercial solicitation if they so wish—in the same way that they can now choose not to receive obscene or objectionable materials through the mails.

These new automated telephone devices have given commercial firms the ability to reach from anywhere in the country into the privacy of your home to sell their product. Few things are more basic in our society than the privacy of one's own home and few things can be more disruptive of that privacy than unwanted telephone calls that disturb your sleep or pull you out of the shower. The Telephone Privacy Act will screen out these calls from people who do not want them by allowing these individuals to order the phone company not to let any of these unsolicited commercial messages through.

This is a simple and sensible solution to a problem that really does not need to be a problem. I would urge my colleagues to give this fine legislation their support to speed its passage through this body.

By Mr. BUMPERS:

S. 2195. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BUMPERS. Mr. President, today I am introducing a bill designed to clarify and more accurately define the rate making authority of the Secretary of Agriculture insofar as such authority may pertain to the daily operations of the Nation's various small, independently owned livestock auction sales barns.

In my own State of Arkansas, and I am sure the same can be said of every State in the Union, we have numerous small businessmen who operate livestock sales barns. They hold livestock auctions weekly or semiweekly and are paid a commission for their services. Since 1958 the rate schedules upon which their commissions were based have been filed with the Packers and Stockyards Division of USDA. The most common rate schedule used by the small barn operators called for a fixed percentage commission on each animal sold at auction, that is 2 percent, 3 percent, 4 percent of the sales price of each animal.

Until recently the Packers and Stockyards Division of USDA, while noting the filing of such schedules, made no specific findings as to the reasonableness or justness of such schedules, their silence on the point carrying the implication that the schedules were in compliance with the Packers and Stockyards Act and the intent of Congress embodied therein. In other words, while other forms of commission rates may have been agreed to by the Packers and Stockyards Division and certain barn owners, the fixed percentage commission was an acceptable approach followed by a majority of the small barn operators throughout the country.

In an administrative proceeding in the State of Texas in 1976, and more recently in a similar proceeding in Arkansas in 1977, the hearing officers of the USDA have issued decisions wherein it is stated that small auction barns are to be treated as public utilities, that a rate base should be established and a so-called "cost of serice" or "per head" rate should be applied to every auction barn in the country, apparently regardless of the size of the barn operation.

Mr. President, I have no quarrel with applying the public utility concept to the large, high volume, terminal stockyards located in Kansas City, Omaha, and other railhead cities. The large terminal yards possess all the characteristics of, and are, natural monopolies. Indeed, it was the wholesale abuses uncovered in the operations of some 71 large terminal yards which led to the passage of the Packers and Stockyards Act of 1921. By 1958, marketing patterns had changed to the point that the Congress felt the need to extend the Secretary's regulatory authority to the approximately 1,600 auction barns in operation at that time. Today the number of auction barns in the United States stands at 1980 plus.

Mr. President, I also have no quarrel with the 1958 amendment extending the Secretary's jurisdiction to the operations of the many auction barns now in existence because the meat-consuming public has a direct interest in being assured that discriminatory practices at all stockyards are prohibited. However, in passing the 1958 amendment, Congress left unreviewed the manner in which the Secretary's expanded jurisdiction would be exercised and left in effect the rigid public utility rate standards which, in my opinion, are standards wholly inappropriate to the competitive marketing circumstances that exist at the present time in the livestock industry.

So, while we can question the wisdom of the USDA applying a public utility concept to every small auction barn in the country, it is obvious on the face of the statute that the department is presently within its powers to do so. My bill would remedy this situation by limiting the Secretary's authority on rates and charges to stockyards which either have annual sales volumes in excess of 100,000 animal marketing units or have annual sales volumes in excess of 20,000 animal marketing units and are located more than 75 miles from the nearest independently owned and operated stockyard. It is important to note that the thrust of my bill is aimed at the burdensome and costly public utility ratemaking standards being imposed upon small auction barns. It fosters the fierce competition that exists between the numerous small barns we now have and it in no way disturbs the Secretary's present authority to prohibit discriminatory practices at all stockyards.

We daily extoll the virtue of free enterprise and competition. I believe that we presently have healthy competition in the livestock auction business and I want to keep it that way. If certain small barns go out of business, it should be because they failed to remain competitive and not because they were strangled by a burdensome Federal regulatory process that sought to make them public utilities when they were not, and never have been.

By Mr. BIDEN:

S. 2196. A bill to repeal the changes in the exclusion for sick pay made by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, I am today introducing legislation to restore a sick pay exclusion provision to our tax laws.

The sick pay exclusion was repealed by the Tax Reform Act of 1976. I believe that this action on the part of the Congress was both unwise and unfair. It will work a severe hardship on many families, at a time when they can least afford it—when illness strikes.

The action was taken in the name of tax simplification, but I believe that the unfortunate individuals who may need the benefit of the sick pay exclusion would be more than willing to put up with the added complexity—a complexity which has helped so many deserving people over the years.

For one, I am not prepared to support cutting off a tax benefit to the average taxpayer while all kinds of totally unjustified tax breaks for large corporations and wealthy individuals remain apparently unassailable in our tax laws. I am not prepared to support tax simplification that is really just a tax increase for many individual taxpayers.

When Congress repealed the sick pay exclusion, it made two mistakes. In addition to repealing it, it repealed it retroactively. We have already corrected one mistake, by eliminating the retroactive repeal, so that the repeal now is effective for tax years beginning in 1977. We should now correct the other mistake by enacting a new sick pay exclusion that is effective January 1, 1977.

The Senate, during consideration of the Tax Reform Act of 1977, actually voted to retain a modified version of the sick pay exclusion. It is this same version that my bill would enact into law. The chief modification from the previous law is that the exclusion is phased out between $15,000 and $20,200 of taxable income. I believe an upper limit is needed to make the proposal more acceptable, reduce its cost, and eliminate any possible charge that it unduly benefits those who can better afford the financial burdens of illness than others.

The sick pay exclusion was first enacted in 1954, and some further limitations on it were adopted in 1964. It was repealed in 1976. As it existed prior to repeal the sick pay exclusion provided, to a limited extent, that benefits received by employees under accident and health plans financed wholly or partially by employers could be excluded from gross income for tax purposes. It applied only to amounts paid as wages or as a wage substitute during an employee's absence from work due to injury or sickness. There were certain time and benefit limits and the maximum excludable was $100 per week. The sick pay exclusion was intended to reduce the tax burden of individuals during an extended illness. It also allowed some taxpayers to exclude from taxation a portion of their disability pension until they reached normal retirement age.

The Ways and Means Committee, in reporting out what later became the Tax Reform Act of 1976, recommended the repeal of the sick pay exclusion. Under the committee's recommendation, the only remaining vestige of it is a very limited exclusion of disability pensions for persons under 65 who have retired on disability and are permanently and totally disabled. This eliminated the sick pay exclusion for the vast majority of individuals who might have benefited from it in the past. This specific provision was not the subject of consideration or action on the floor of the House of Representatives and was adopted as one "small" part of the huge and complex Tax Reform Act of 1976.

In the Senate, the bill was reported by the Finance Committee with a provision like that adopted by the House of Representatives. However, during consideration of the Tax Reform Act an amendment was offered by Senator BAYH and adopted, by 43 yeas to 34 nays. This amendment restored the sick pay exclusion, but with a dollar-for-dollar phase-out beginning at $15,000 income. Despite the fact that the Senate, which was the only body to act directly on the sick pay exclusion issue, had voted to keep it in modified form, the conference committee chose to drop the Senate amendment and the sick pay exclusion was repealed.

Why was the sick pay exclusion repealed? An examination of the Ways and Means and Finance Committee reports, as well as the Senate debate, reveals few if any valid considerations for repeal.

The language of the House and Senate reports on this issue is virtually identical. One reason given for repeal is that the sick pay exclusion is "extremely complex." The reports say further that many taxpayers must avail themselves of professional assistance to complete the necessary forms to qualify for the sick pay exclusion. The reports go on to say: "Your committee believes that elimination of the complexity in this area is imperative." But the action recommended did not simplify the complexity, it abolished the benefit. The sick pay provision added complexity only for those who benefited from it. I am certain that those beneficiaries would have been perfectly willing to accept the added complexity to retain the much needed benefit. My concept of simplification, particularly with regard to low-and middle-income taxpayers, is that any simplification must be accomplished without a significant increase in tax liability for any major group of taxpayers. This change just does not meet that test. Higher taxes are an expensive route to tax simplification.

The reports of the two committees also noted that the provision discriminated against working taxpayers in favor of sick ones. This is certainly true, although I doubt that this worried the healthy taxpayer very much, who was probably glad to have good health. In any event, this same argument could be—but never has been—used to eliminate almost every special provision of the tax code. Our tax laws discriminate in favor of individuals who have child care expenses, who make charitable contributions, have medical expenses, pay interest, and have casualty losses. Use of the tax code is a common, if not always efficient or equitable way to achieve economic or social objectives. I wish we used it less in these ways, and I would have no objection to a total look at all tax provisions that benefit limited groups of taxpayers to determine their equity and effectiveness. However, I see no reason to pluck this one benefit out of the air and label it alone discriminatory.

The committee's reports also allege that the sick pay exclusion contains a bias in favor of wealthy taxpayers. I think this charge is questionable since apparently more than half of the benefits go to individuals with incomes of less than $15,000. However, the committee report then goes on to recommend that the exclusion "should not have a regressive effect and that the provision should be amended to direct a fairer share of its tax benefits to low- and middle-income taxpayers." And with that they recommended repeal. In my proposal, I have accepted their suggestion to direct the benefits to low- and middle-income taxpayers by retaining the sick pay exclusion, but limiting its effect to such taxpayers.

It has been argued that we do not need to provide tax-free sick pay because assistance in meeting medical expenses is available through the provisions allowing their deduction from taxable income. This seems to be completely erroneous reasoning to me. First of all, the deductability of medical expenses for tax purposes only helps to compensate for the extraordinary expenses of an illness—and then only partially. It does nothing to help meet

reductions in income which often accompany illness.

Furthermore, the taxpayer who uses the standard deduction receives no medical expense benefit. However, he or she did benefit from the sick pay exclusion which could be claimed without itemizing deductions. So the law as it is now written provides health benefits only to those individuals who itemize, leaving other people with nothing.

The final allegation has been that this was a "loophole" and that we should do away with "loopholes." I doubt that this was a loophole in the commonly accepted sense of that term, which is an unintended tax advantage. This was an intentional tax benefit offered for a worthy purpose—to help people who are ill.

Equity argues that we should put the sick pay exclusion back into the law. The cost of about $230 million is modest when compared to the total cost of tax expenditures of over $100 billion. Its benefits will be targeted to low- and middle-income taxpayers at a time when they need it most—when they are ill. What is more it will help many low-income taxpayers who, because they do not itemize deductions, will receive no benefits at all.

I believe that I have a good record in supporting the reform of our tax code to provide equity and simplification. However, I do not want to start tax reform by increasing the taxes of the wage earners and the breadwinners of our country. After we have eliminated all of the tax shelters whose sole purpose is tax avoidance, then we may want to consider other changes in the tax laws. But not until then. Certainly, the Tax Reform Act of 1976 did not achieve enough in real tax reform or tax reduction for low and middle income taxpayers to warrant even considering repeal of the sick pay exclusion.

I hope that there can be prompt action on and adoption of this piece of legislation. It would certainly be desirable for it to be passed before tax returns must be filed for the 1977 calendar year. However, if action is not taken sooner, I hope that my proposal will be considered in the context of general tax reform which I expect the Congress will undertake in 1978. By introducing it now, Members of the Senate will have the proposal before them for consideration at the time of action on tax reform legislation, if not earlier.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (d) of section 105 of the Internal Revenue Code of 1954 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

"(d) Wage Continuation Plans.—

"(1) In general.—

"(A) Gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of personal injuries or sickness.

"(B) Subparagraph (A) does not apply to amounts attributable to the first 30 calendar days in such period if such amounts are at a rate which exceeds 75 percent of the regular weekly rate of wages of the employee (as determined under regulations prescribed by the Secretary).

"(C) If amounts attributable to the first 30 calendar days in such period are at a rate which does not exceed 75 percent of the regular weekly rate of wages of the employee, subparagraph (A) shall not apply—

"(i) to the extent that such amounts exceed a weekly rate of $75, and

"(ii) to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of personal injuries or sickness for at least 1 day during such period.

"(D) If such amounts are not paid on the basis of a weekly pay period, the Secretary shall by regulation prescribe the method of determining the weekly rate at which such amounts are paid.

"(2) Limitation.—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of $100 ($200 in the case of a married couple filing a joint return if both the husband and wife are individuals described in paragraph (1)).

"(3) Phaseout over $15,000.—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds $15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over $15,000.".

(b) Subsections (c) and (d) of section 505 of the Tax Reform Act of 1976 (relating to changes and exclusions for sick pay and certain military, etc., disability pensions; certain disability income) are hereby repealed.

Sec. 2. (a) Any election made under section 105(d)(7) of the Internal Revenue Code of 1954 or under section 505(d) of the Tax Reform Act of 1976 (as such sections were in effect before the enactment of this Act) for a taxable year beginning in 1977 may be revoked (in such manner as may be prescribed by regulations) at any time before the expiration of the period for assessing a deficiency with respect to such taxable year.

(b) In the case of any revocation made under subsection (a), the period for assessing a deficiency with respect to any taxable year affected by the revocation shall not expire before the date which is 1 year after the date of the making of the revocation, and, notwithstanding any law or rule of law, such deficiency, to the extent attributable to such revocation, may be assessed at any time during such 1-year period.

(c) the amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1976, but such amendments shall not apply—

(1) with respect to any taxpayer who makes or has made an election under section 105(d)(7) of the Internal Revenue Code of 1954 or under section 505(d) of the Tax Reform Act of 1976 (as such sections were in effect before the date of the enactment of this Act) for a taxable year beginning in 1977, if such election is not revoked under subsection (a) of this section, and

(2) with respect to any taxpayer (other than a taxpayer described in paragraph (1)) who has an annuity starting date at the beginning of a taxable year beginning in 1977 by reason of the amendments made by section 505 of the Tax Reform Act of 1976 (as in effect before the date of the enactment of this Act), unless such person elects (in such manner as the Secretary of the Treasury may by regulations prescribe) to have such amendments apply.

By Mr. STONE:

S. 2197. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Finance.

Mr. STONE. Mr. President, I am today introducing a bill to provide a program of mortgage life insurance for severely disabled veterans who are otherwise unable to obtain commercial life insurance.

Under chapter 11 of title 38, United States Code, veterans who qualify for the Veterans Administration's specially adapted housing program can acquire mortgage life insurance on a group basis from the Federal Government. However, only a small class of veterans qualify for the specially adapted housing grants: those with the loss, or loss of the use of, upper and lower extremities preventing locomotion without special assistance. Many equally disabled veterans are left without insurance because they are considered uninsurable risks by commercial life insurance companies, and the Government provides no assistance to them.

Mr. President, certainly these veterans who have sacrificed so greatly for our country have an equal right and desire to protect their survivors' financial welfare when they die.

While the measure of the disability between veterans who qualify for specially adapted housing grants and the group addressed by this bill is sometimes very small, the inability to acquire mortgage life insurance protection is significant indeed. Few, if any, of the veterans we are dealing with can obtain mortgage life insurance at any price from commercial insurance companies because of their total service-connected disabilities. This bill would authorize the Administrator of Veterans' Affairs to purchase group mortgage life insurance and to provide such insurance to these worthy veterans.

This legislation is supported by the American Legion which recently adopted a resolution on the subject at its National Convention. I ask unanimous consent that this resolution be printed following my statement.

Mr. President, the severely disabled service-connected veterans has suffered greatly and deserves the understanding and consideration of Congress and the Nation. I hope that my colleagues will join me in support of this important measure to establish a mortgage life insurance program for these individuals and provide security for their families. I ask unanimous consent that a section-by-section analysis of this bill also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 7

Whereas, under present law, veterans who are eligible for Veterans Administration assistance in acquiring specially adapted housing are also eligible for mortgage life insurance on a group basis; and

Whereas, many war veterans are totally and permanently disabled from service-connected disabilities, yet are not entitled to specially adapted housing, nor are they eligible for Veterans administration mortgage protection life insurance; and

Whereas, such veterans are unable to obtain commercial life insurance at a substandard rate because of these service-connected disabilities; and

Whereas, in most jurisdictions, title to the property securing a guaranteed loan is held by the veteran and spouse, either as tenants by the entirety or joint tenants; therefore, the widow obtains title by operation of law upon the death of the veteran, and is liable for the unpaid balance on the loan; and

Whereas, the economic hardship of maintaining a home because of limited income due to total and permanent disability precludes many such veterans from securing mortgage life insurance protection; and

Whereas, The American Legion feels that Veterans Administration mortgage protection life insurance would avert these hardships by assuring funds for the payment of the outstanding balance on loans held by a veteran; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, May 4–5, 1977, that The American Legion shall support legislation to amend title 38, United States Code, to provide mortgage life insurance for those veterans unable to acquire commercial life insurance because of service-connected disabilities.

SECTION-BY-SECTION ANALYSIS

Subsection (a) of section 1 would amend chapter of title 38, United States Code, by adding a new subchapter entitled Mortgage Protection Life Insurance. This new subchapter would add sections 791 through 795 to title 38 of the United States Code.

Subsection 791(a) as added would authorize the Administrator of Veterans' Affairs to purchase a group policy or policies of mortgage protection life insurance to provide such insurance to certain designated veterans.

Subsection 791(b) as added would grant eligibility for insurance coverage to veterans who are entitled to compensation under chapter 11, of title 38, United States Code, for:

(1) permanent and total service-connected disability, or

(2) the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.

This subsection would also provide that any veteran shall be granted insurance upon application, if such veteran can establish to the satisfaction of the Administrator, an inability to obtain commercial life insurance at a standard rate because of service-connected disability.

Section 792 as added would limit the amount of insurance provided by this proposed legislation to the lesser of the following amounts:

(1) $40,000.00;

(2) the amount of the loan outstanding on an eligible veteran's home on the effective date of this law; or,

(3) the amount of the original loan on a home an eligible veteran constructs or purchases on or after the effective date of this proposal.

This section would also provide that the amount of the insurance would be reduced in accordance with the amortization schedule of the loan, and at no time, would such amount exceed the amount of the outstanding loan, with interest. Finally, section 792 provides that any veteran electing not to be insured could thereafter be insured only upon application, payment of required premiums, and compliance with such health requirements and other conditions as the Administrator might prescribe.

Subsection 793(a) as added would authorize the Administrator to determine premium rates for the insurance based on the mortality cost of insuring standard lives. It would also authorize the Administrator to deduct the premiums from any compensation payments received by the veteran. If compensation was not being paid, the subsection would permit payment of premiums directly to the insurer. The United States would bear all costs of the insurance in excess of the premiums collected from the veterans, including the cost of administration and the excess mortality cost attributable to the veterans' disabilities. These costs would be paid from the Veterans Administration Compensation and Pension Appropriation.

Section 794 as added would provide that at the veteran's death, the insurance proceeds would be payable only to the holder of the mortgage loan, to be credited on the loan indebtedness. In this regard, when the Administrator is the holder of the mortgage loan, the proceeds would be deposited in either the direct loan or loan guaranty revolving fund.

Subsection 795(a) as added would require each policy purchased by the Administrator pursuant to this subchapter to provide for the following:

(1) reinsurance with other insurers qualified under standards established by the Administrator when the Administrator determines such action to be in the best interest of the veterans or the Government;

(2) discontinuance of the policy, either in its entirety or as to the exclusion of future loans from coverage under the policy, when determined by the Administrator to be in the best interest of the veterans or the Government. An insurer would be prohibited from cancelling any insurance previously issued to a veteran because of discontinuance of the policy with respect to future loans. If the entire policy was discontinued, the Administrator could require the transfer of the amount of any contingency reserve to a new insurer;

(3) issuance of a uniform type of certificate to veterans setting forth the benefits under the coverage;

(4) any other provisions reasonably necessary and appropriate to carry out the provisions of the proposed legislation;

(5) an accounting to the Administrator within 90 days after the end of each policy year to determine the status of all premiums and contributions that have accrued under the policy in relation to the total of the insurers expenses and all claim and risk charges. Any amount of premiums and contributions in excess of those expenses and charges is to be held by the insurer as a contingency reserve to be used only for charges arising out of the policy. This reserve is to bear interest at a rate to be set by the insurer and approved by the Administrator. When the contingency reserve reaches an amount estimated by the Administrator to adequately provide for the future adverse fluctuations in charges under the policy, the Administrator shall require the insurer to adjust the premium rates and contributions to prevent further increases in the amount of the contingency reserves. Any balance remaining in the contingency reserve when the policy is discontinued, shall be paid to the Compensation and Pensions Appropriation.

Subsection 695(b) as added would authorize the Administrator to adopt regulations with respect to this insurance which in his judgment would be in the best interest of the veterans or the Government. The Administrator would also be authorized to determine the date on which any veteran's insurance issued under this subchapter would take effect.

Subsection 795(c) as added would provide that insurance issued to a veteran under this subchapter would terminate upon the occurrence of any of the following events:

(1) satisfaction of the veteran's indebtedness under the loan upon which the insurance is based;

(2) the veteran's seventieth birthday;

(3) termination of the veteran's ownership of the property securing the loan;

(4) discontinuance of premium payments;

(5) discontinuance of the entire policy.

Subsection 795(d) as added provides that termination of the mortgage protection life insurance will in no way affect guaranty or insurance of the loan by the Administrator.

Subsection (b) of section 1 would repeal section 806 of title 38, United States Code. (Section 806 presently provides mortgage protection life insurance for veterans who are eligible for specially adapted housing assistance under chapter 21 of title 38, United States Code.)

Subsection (c) and (d) of section 1 would amend the analyses of chapter 19 and 21 of title 38 to reflect the changes in those chapters resulting from the proposed legislation.

Subsection (a) of section 2 would provide that the proposed legislation shall take effect on October 1, 1977.

Subsection (b) of section 2 would provide that any policy of insurance issued under section 806 of title 38, United States Code, shall continue in effect according to its terms until terminated, and that such a policy cannot be terminated or modified except pursuant to the provisions of section 806 (as in effect before October 1, 1977).

By Mr. HASKELL:

S. 2198. A bill to amend the Internal Revenue Code of 1954 to provide a credit against taxes for certain amounts paid for the care of individuals over 65 years of age and disabled individuals; to the Committee on Finance.

Mr. HASKELL. Mr. President, I send to the desk a bill which will provide a helpful tax credit for taxpayers who assist an elderly, or disabled relative with medical or custodial care expenses.

Many Americans contribute to the support of an elderly or disabled relative who is ill or in a nursing home and unable to pay all their own expenses. Such help is viewed as a moral and social obligation. Yet of all the provisions in the tax code designed to ease the financial plight of the elderly and disabled, nothing recognizes that profound obligation. In order to qualify for any tax relief, the elderly person or disabled adult must become a dependent, either by living with the taxpayer or by receiving at least half their support from them.

But there are many elderly and disabled people who are proud and independent people, who support themselves with part-time work and pension and social security income. Yet when an illness hits, even a minor one, their fixed income budgets cannot cope with the expense and relatives must help. And, to their credit, many families do help out willingly, even if it imposes a strain on their finances. I think we ought to recognize that selfless assistance and make the sharing of hardships within a family less of a financial burden.

Statistics show that 30 to 40 percent of all Americans live precariously close to the poverty level, and I am sure that a great many of those people are elderly and disabled. The devastatingly high

costs of medicines and hospital bills can routinely take a third or half of an elderly or disabled person's social security or retirement income. Frequently, medicare simply does not cover all those bills and the families must contribute, often putting severe financial strain on their own budgets.

This bill would allow taxpayers to receive a 30-percent credit, up to $400, for money spent to care for a nondependent elderly or disabled relative who cannot meet all their own medical and custodial care expenses. As you know, if the family has an elderly or disabled relative living in their home and receiving support, the medical expenses can be deducted as part of the family's total medical expenses. Furthermore, that family is entitled to an extra dependency exemption. If the dependent is disabled and requires special care during the working day, the family might well be eligible for the $400 dependent care credit we have recently expanded in the 1976 Tax Act.

Similarly, elderly persons who live on their own qualify for a number of helpful provisions in the Tax Code. They are entitled to an extra personal exemption; they receive special tax treatment when they sell their homes; and they qualify for the retirement income credit which has just been revised and expanded.

But our Tax Code ignores those elderly and disabled who are self-supporting independent citizens who must occasionally rely on their families during an illness.

This credit which I am proposing is not one of the special tax preferences which I so often oppose, Mr. President. It is not a loophole or an incentive that will change people's lives. Rather, I would like to think that it allows people to chose for themselves how they will live. I think that this credit will neutralize the tax provisions which now encourage elderly and disabled people to be dependents for tax purposes, or force them into nursing homes to avoid burdening their families. This will simply make that economic burden lighter for their families.

I have designed this credit so that it is administerable from IRS's point of view. My credit covers only payments made to third parties on behalf of the elderly or disabled relative for medical or custodial care. These categories of payments are defined to include hospital, doctor, and medicine expenses as well as nursing and custodial care homes, and home nursing care, by far the greatest expenses of the elderly and disabled.

Statistics for the fiscal year 1975 show that the average health care bill for those over 65 was $1,360 per year, almost three times the average health care bill for those under 65. While many of these expenses are covered by medicare, in fact only 72 percent of the total hospital expenses were covered. That leaves a significant gap. Since social security payments are less that $4,000 per year and public retirement funds frequently pay retirees less than $6,000, these medical expenses are a considerable financial burden. This tax credit is designed to help lessen that burden.

By Mr. BAYH (for himself, Mr. DOLE, Mr. CURTIS, Mr. ABOUREZK, and Mr. ZORINSKY):

S. 2201. A bill entitled "The Alcohol Fuel Incentive Act of 1978"; to the Committee on Agriculture, Nutrition, and Forestry.

FUEL FROM FARMLAND

Mr. BAYH. Mr. President, today I am introducing legislation to tap the energy potential of our Nation's farmland and open a new market for grain and other farm and forest products. I am pleased that my very distinguished colleagues, Senators DOLE, CURTIS, ABOUREZK, and ZORINSKY are cosponsors of this bill, the Alcohol Fuel Incentive Act of 1978.

Our greatest natural resource throughout our history and in the foreseeable future is the productive capacity of our rich farmland and forestland and our favorable climate. The energy that can be generated and captured each year in our growing crops is renewable. That energy must be utilized both now and in the long run as a substantial part of our overall energy program. We dare not continue our heavy reliance on foreign fuels and exhaustible domestic fossil fuels. Alcohol fuels derived from the products of our Nation's farms and forests and by reclamation of wastes are the most apparent and exploitable renewable energy source available today. Whether alcohol fuel will become commercially competitive as well as environmentally superior can only be learned by the application of our best technology to this effort. This legislation will provide an incentive for the development of that technology.

The bill I am introducing will encourage farmers to devote part of their land to fuel crops for alcohol production. If fully implemented by the Secretary of Agriculture, it will create an incentive for developing alcohol fuels from agricultural products and will allow farmers once again to plant all of their land in crops. Unlike most incentives, this one will not cost the Government a penny. Specifically, the bill would authorize the Secretary of Agriculture to allow farmers to use the set-aside acreage on their farms for the production of any agricultural or forestry product which is to be used or sold for use in the manufacture of alcohol fuel.

It is important to emphasize that this bill does not compel any change in administration of the farm program adopted in the Food and Agriculture Act of 1977. However, the bill will authorize the Secretary of Agriculture to permit farmers to use set-aside acreage to grow fuel crops, just as the Secretary now has authority to permit farmers to use set-aside acreage under certain conditions to grow sweet sorghum, hay, sunflower, castor beans and several other crops. The amendment would not impair the supply-limiting and price-supporting purposes of the set-aside programs, because it would not add to the wheat and feed grain supplies in traditional markets.

This bill is a step in removing that part of our farm program which is the most frequent irritant of farmers and consumers alike: the compelled idling of farmland from production of crops. At the same time it encourages development of a domestic and environmentally sound energy source.

Hard work and reasonably good weather in many parts of the country have produced near record crops this year. But farmers have only low prices and rising expenses as reward for their long hours and costly investments. For the last 5 years world grain supplies have stayed around 125 million tons. In 1977 the supply is expected to rise to 183 million tons and to 200 million tons in 1978. The United States now has 28 percent of the world feed grain stocks, and it will have around 52 percent in 1978 because domestic and world demand cannot absorb these record harvests. This surplus has taken its toll on the farm economy. On October 7, 1977, the wheat price was $2.31 a bushel and corn sold for $1.87 a bushel in Chicago. Prices on the farms, of course, are even lower. Corn prices are now as low as the 1973 levels, although production costs have increased 80 percent in the last 4 years. The entire rural community, which depends on farm business, feels the effect of these poor conditions.

On August 29, 1977, the U.S. Department of Agriculture, in an attempt to improve the dismal grain market next year, announced the wheat set-aside program which will take an estimated 11 million acres out of production. It is very likely that the Department will also announce a set-aside of feed grain acreage in the very near future. Clearly removing productive farmland from production earns few friends from farmers or consumers even in years of oversupply, when it may be necessary as the only way to avoid disastrous commodity prices. We should seek every possible way to make productive use of that farmland through new markets from farm crops. Alcohol fuels may have the potential to become a substantial new market.

Mr. President, alcohol fuels have recently received increased attention at the national and grassroots levels. This source of energy, of course, is not new. Blends of 90 percent gasoline and 10 percent alcohol have been used successfully in automobiles for decades. As far back as 1938, the USDA reported that ethyl alcohol "can be used with comparative success as fuel in the modern type of internal combustion engine." Alcohol-gasoline blend fuel was sold in this country during the 1930's and 1940's, and is being sold today in some countries which have limited petroleum resources.

Ethanol and methanol alcohol can be produced in every State of the Nation. Ethanol can be produced from such diverse sources as corn, wheat, milo, sugar beets, sugar cane, and other crops, including distressed grain; methanol can be produced from wood and municipal wastes. One ton of waste paper for example, can produce 68 gallons of methanol, and it has been estimated that the distressed grain from 1 year's crop in Nebraska alone could produce 20 million gallons of ethanol. A 10-percent alcohol,

90 percent gasoline blend can be used in conventional internal combustion engines without adjustment. It requires no lead additives, has a higher octane rating than gasoline and produces lesser amounts of effluents.

Mr. President, as many of the distinguished Members of this body and the other body are well aware, the Congress in recent months has considered several measures to encourage the development and use of energy from renewable resources, including alcohol fuel from agricultural and forestry products. There is great support for even greater efforts to tap the energy potential of our Nation's renewable resources.

Today, 28 distinguished Senators are joining me in sending a letter to Secretary of Agriculture Bob Bergland and Secretary of Energy James Schlesinger urging them to undertake an immediate and comprehensive effort to tap the energy potential of our Nation's renewable resources. I ask unanimous consent to insert a copy of that letter at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 12, 1977.

Hon. BOB S. BERGLAND,
Secretary of Agriculture,
Washington, D.C.
Hon. JAMES R. SCHLESINGER,
Secretary of Energy,
Washington, D.C.

GENTLEMEN: We write to urge the Department of Energy and the Department of Agriculture to undertake an immediate and comprehensive effort to tap the energy potential of our nation's renewable resources. Our greatest natural resource throughout our history and in the foreseeable future is the productive capacity of our rich farmland and forestland and our favorable climate. The energy that can be generated and captured each year in growing crops and converted into fuels is renewable. So is the energy that may be reclaimed as fuel from urban, industrial and agricultural wastes.

Renewable domestic resources cannot provide sufficient energy to satisfy all of our nation's needs in the immediate future, but even now energy from these resources can supplement our diminishing supply of fossil fuels. In the long run renewable resources must be fully utilized and must become a substantial part of our overall energy program. We must begin now to work toward that objective. We dare not continue our heavy reliance on foreign fuels and exhaustible domestic fossil fuels.

In recent weeks we have witnessed a burst of interest in a very old energy source—alcohol fuels. As you know ethanol can be produced from grain, molasses and other agricultural products, and methanol can be produced from forestry products or by-products and from many urban, industrial and agricultural wastes. Alcohol fuels derived from the produce of our nation's farms and forests and by reclamation of wastes are the most apparent and exploitable renewable energy source available today. Ethanol and methanol fuels have been used successfully in internal combustion engines for decades. Indeed, a 129-page United States Department of Agriculture publication in 1938 reported that ethyl alcohol "can be used with comparative success as fuel in the modern type of internal-combustion engine." During the 1930's and 1940's ten percent alcohol and ninety percent gasoline blends were marketed domestically for motor fuels in standard automobiles. Some other countries whose petroleum resources are limited continue to utilize alcohol or alcohol blend fuels today. Studies have indicated that alcohol blend fuels are higher in octane rating and produce lesser amounts of effluents than gasoline alone.

Recent initiatives by Congress to increase the amount of biomass research, including research by the Department of Energy through ERDA and by the Department of Agriculture through the land grant universities, are important steps, but small ones. The newly authorized federal government loan guarantees for construction of four alcohol fuel production facilities, as provided by the Food and Agriculture Act of 1977, also are small but positive steps. We also commend the recent decision by the Senate Finance Committee in its markup of the energy tax bill to recommend removal of the four cents per gallon federal excise tax from gasoline-alcohol blends containing at least ten percent alcohol derived from agricultural or forestry products.

These recent efforts to stimulate research and utilization of alcohol fuels have made obvious to us the need for a comprehensive national effort to seek and exploit the most efficient fuels which can be produced from domestic renewable resources. Whether alcohol fuel will become commercially competitive as well as environmentally superior can only be learned by the application of our best technology to this effort. Similarly, our best technology should be applied to learn whether corn, wheat, sugar cane, sugar beets, timber, or other growing crops which may not yet be identified may be the most efficient producers of fuel from renewable resources.

Whatever may be the results, we can not afford to give less than a major national commitment to develop fuels from the productive capacity of our farmland and forestland. This is especially true at a time when our government is asking farmers to leave part of their farmland idle due to excess supplies of some farm products.

We urge your prompt response to this request for a comprehensive new effort by the Departments of Agriculture and Energy which you head.

Sincerely,

Birch Bayh, Russell B. Long, James O. Eastland, Floyd K. Haskell, James Abourezk, Alan Cranston, Spark M. Matsunaga, George McGovern, Edward Zorinsky, Frank Church, Howard M. Metzenbaum, Thomas F. Eagleton, Jess Helms, John Melcher.

Herman E. Talmadge, Robert Dole, Jacob Javits, S. I. Hayakawa, Donald W. Riegle, Charles H. Percy, Hubert H. Humphrey, John L. McClellan, Carl T. Curtis, Wendell H. Ford, Lee Metcalf, Patrick J. Leahy, Walter D. Huddleston.

Mr. BAYH. Mr. President, the bill that I am introducing today is not offered as a solution to our Nation's farm problems or our Nation's energy problems. But it can be a part of solutions to both problems. I hope my colleagues who share my concern for our Nation's farmers and energy needs will join me in passing this legislation.

I ask unanimous consent that the Alcohol Fuel Incentive Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol Fuel Incentive Act."

SEC. 2. Under such regulations as the Secretary of Agriculture shall prescribe, any person participating in any year in any program administered by the Department of Agriculture under which there is an acreage set-aside program in effect for such year may be permitted, notwithstanding any other provision of law, to use the set-aside acreage of the farm for the production of any agricultural or forestry product which is to be used or sold by such person for primary use in the manufacture of a gasoline blend exempted from taxation under section 4081(c) of the Internal Revenue Code of 1954.

ADDITIONAL COSPONSORS

S. 1838

At the request of Mr. NELSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1838, to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees.

S. 1860

At the request of Mr. ROTH, the Senator from California (Mr. HAYAKAWA), the Senator from Utah (Mr. HATCH), the Senator from Indiana (Mr. LUGAR), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 1860, the Tax Relief Act of 1977.

S. 1882

At the request of Mr. GLENN, the Senator from Indiana (Mr. LUGAR) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1882, the Arson Control Assistance Act of 1977.

S. 1940

At the request of Mr. BENTSEN, the Senators from Wyoming (Mr. HANSEN and Mr. WALLOP) were added as cosponsors of S. 1940, to amend the Federal Meat Inspection Act.

S. 1996

At the request of Mr. STAFFORD, the Senator from Indiana (Mr. BAYH) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1996, relating to survivor benefit for retirees of the reserve forces.

S. 2156

At the request of Mr. NELSON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2156, the Minority Enterprise Venture Capital Act of 1977.

S. 2159

At the request of Mr. KENNEDY, the Senator from North Dakota (Mr. BURDICK) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2159, to amend the Public Health Service Act.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. WEICKER) should be added as a cosponsor of Senate Joint Resolution 65, relating to provide full representation of the District of Columbia in the Congress.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 69, requiring each executive department and agency to designate a small business advocate.

SENATE RESOLUTION 279

At the request of Mr. HEINZ, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Carolina (Mr.

HOLLINGS) were added as cosponsors of Senate Resolution 279, relating to unfair competition on the steel industry by foreign producers.

SENATE CONCURRENT RESOLUTION 54—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO HUMAN RIGHTS OF THE HELSINKI ACCORDS

(Referred to the Committee on Foreign Relations.)

Mr. WILLIAMS (for himself, Mr. HUMPHREY, Mr. BROOKE, and Mr. HEINZ) submitted the following concurrent resolution:

S. CON. RES. 54

Whereas the signatory states to the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Accords, have assumed responsibility in their respective territories for the respect of human rights and fundamental freedoms and for the promotion and encouragement of the effective exercise of civil, political, social, cultural, and other rights and freedoms which are derived from the inherent dignity of the individual;

Whereas there have been numerous instances of abuse of human rights in several signatory countries, which abuse indicates a systematic denial of the fundamental rights of the citizens of such countries; and

Whereas many such individual human rights violations have come to the attention of the world community and are of deep and most sympathetic concern to the American people and the Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President should instruct the United States delegation to the Follow-Up Meeting to the Conference on Security and Cooperation in Europe in Belgrade—

(1) to bring to the attention of the countries attending such meeting specific instances of harassment of individuals and of abrogation of human rights by certain countries, particularly of the rights of individuals attempting to monitor the compliance with the Final Act signed at Helsinki by such countries; and

(2) to urge that countries responsible for such harassment or such abrogation comply with their obligations under the Final Act signed at Helsinki to observe fundamental human rights and to redress the injuries suffered by the victims of past human rights violations.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

Mr. WILLIAMS. It has been 2 years since the United States, along with 34 other nations, became a signatory party to the Final Act of the Conference on Security and Cooperation in Europe. In this agreement the participating States pledged to respect the human rights and fundamental freedoms of the individual, including the freedom of thought, conscience, religion, and belief. I am speaking today to voice my concern that several of the signatory nations to the Final Act are not fulfilling their acknowledged obligations to protect and promote the basic rights of their citizens; indeed, they are continuing deplorable practices which are in direct violation of the aims and principles of the accord.

One of the principal objectives of the Final Act was to facilitate freer movement and contacts of individuals and groups among the participating States. Numerically, however, there have been no overall increases in the movement of people between East and West since the Helsinki accord took effect. My initial involvement in this area, as with many of my colleagues in the Senate, began with a number of individual cases where assistance was needed in obtaining the clearance necessary for immigration. We have seen firsthand evidence of the tragedy and anxiety created by the complexity and rigidity of governments unsympathetic to the plight of those wishing to emigrate.

One such individual is Yaakov Gordin, who has been trying to leave the Soviet Union since 1963. His applications were turned down at that time on the grounds of "inexpediency." In 1966 he was drafted for a 2-year tour of duty in the Soviet Army; since that time his applications for an exit visa have been refused due to his having served in the military. In 1971 his parents and brother were allowed to leave the country. His mother has since died, yet Yaakov was denied permission to attend her funeral in Israel. He has been waiting 14 years for clearance to emigrate. Mr. President, I suggest that if the Soviet Government is sincere in its intent to facilitate the freer movement of people, it show that sincerity by allowing Yaakov Gordin to join his father in Israel.

A further aim of the Final Act was to improve the access to and exchange of information among the participating States. The effectiveness of several of the signatory nations in meeting this objective has been negligible. For example, Vladimir Bukovsky, in a televised interview several years ago described the horrors of Soviet prisons and concentration camps and the inhumane treatment of political prisoners in psychiatric institutions. Because of this interview Bukovsky was sentenced to 2 years in prison, 5 years in a concentration camp, and 5 years of exile. He is in very poor health, suffering from heart, liver, and kidney diseases. Without proper medical treatment, Bukovsky has little chance of survival.

It is a bitter irony to note that in several of the nations professing adherence to the provisions of the Final Act, the only monitoring of the implementation of those provisions has been by individuals outside of the government, and that those persons are themselves suffering harassment and imprisonment for their attempts to do so. Mykola Rudenko and Alexy Tykhy, founding members of the Ukrainian Public Group To Promote the Implementation of the Helsinki Accords, have been convicted of "anti-Soviet agitation and propaganda" and have received the maximum sentences given for this charge, including imprisonment and internal exile.

Two Lithuanians, Victoras Petkus and Antanas Terleckas, have been arrested for their efforts to monitor compliance of their nation's moral and legal obligations to protect human rights. Valentyn Moroz has been imprisoned for his defense of human rights, which was referred to by Soviet government officials as "propaganda." Yuri Orlov, a physicist and dissident seeking to monitor Soviet compliance with the Helsinki Accords, was arrested and charged with "anti-Soviet activity."

Vladimir Osipov, Vladimir Bukovsky, Andrei Tuerdokhlebov, and Sergei Kovalev are more than mere names; they are individual human beings who have been punished with harsh sentences in prisons and labor camps for their devotion to the cause of human rights in the Soviet Union. In Czechoslovakia, two signers of the "Charter 77" manifesto, Valdimir Lastuvka and Alex Machacek, have recently received 3½ years sentences for drawing public attention to "Charter 77" and individual cases where human rights were being violated.

Another individual who has been harassed and persecuted in the Soviet Union is Anatoly Sharansky, arrested on numerous occasions since applying for permission to emigrate in 1973. In February 1977, he filed suit for defamation based on the airing of the anti-Semitic television documentary entitled "Buyers of Souls." In March he was arrested. It should be noted that Mr. Sharansky is a member of the same group to which Alexander Ginzburg and Yuri Orlov belong, monitoring implementation of the Hensinki Agreement.

In March 1975, he was informed by the KGB that—

> Your destiny is in our hands. You saw what happened to your friends. You have to know that no one in the West is interested in you and all that you are doing here, and nobody will say a word in the entire world if there is one more Prisoner of Conscience in the Soviet Union.

Mr. President, I find it deplorable that those individuals who voice their concern for the plight of their fellow countrymen would find their own lives and rights endangered. Their pleas for justice are heard by millions throughout the world, yet the hearts and ears of their own governments are closed to them. I believe President Carter echoed the sentiments of all Americans when he declared in his inaugural address, "Because we are free, we can never be indifferent to the fate of freedom elsewhere." We who are free to raise our voices must speak out for those who cannot be heard.

The follow-up meeting to the Helsinki Conference in Belgrade is reviewing the steps taken by the various states to implement the final act. I believe this gathering offers a unique opportunity to present specific instances of known violations of the human rights of individuals in nations proclaiming belief in the fundamental rights and freedoms of man. Among the cases which should be included in the Belgrade meetings are those being persecuted for monitoring the implementation of the Helsinki Accords. Their freedom from persecution is essential to the success of the human rights provisions contained in the agreement. If they can be silenced, the agreement will cease to have meaning for everyone threatened with violations of basic human rights.

Therefore, I am submitting a resolution which expresses the sense of Congress that specific instances of human rights violations be brought before the Belgrade meeting, particularly the cases

of harassment of individuals attempting to monitor the compliance with the Final Act signed at Helsinki.

SENATE CONCURRENT RESOLUTION 53—ORIGINAL CONCURRENT RESOLUTION REPORTED AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original concurrent resolution:

S. CON. RES. 53

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations two thousand five hundred additional copies of each part of its hearings entitled "Panama Canal Treaties."

NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. MUSKIE. Mr. President, on Saturday, October 15, the Subcommittee on Intergovernmental Relations will continue its investigation of the status of Federal and State preparedness for the winter of 1977–78 with a hearing in Nashville, Tenn.

This hearing is a followup to the subcommittee's 3 days of hearings in Washington and the report analyzing the government's preparedness effort which the subcommittee issued earlier this week. Testimony at our earlier hearings indicated that natural gas shortages in Tennessee this winter could be the most severe in the Nation.

During the energy emergency last winter, Tennessee suffered more than most States. For example, during one of the worst weeks of the winter—January 16–22—almost 61,000 persons were temporarily out of work due to natural gas curtailments. As of mid-February, after the worst of the cold spell was over, an estimated 20,000–30,000 workers were still unemployed.

As grim as this scenario is, Mr. President, there is a very real possibility that the upcoming winter in Tennessee may be even worse.

In testimony before the subcommittee last month, Mr. Charles Curtis, Chairman of the Federal Power Commission, cited a preliminary FPC report indicating that natural gas curtailments could be expected in Tennessee beginning next month. That same report projected as many as 300 plant closings in the State over the course of the entire winter.

That is a frightening prospect—so much so that we scheduled this hearing to find out more about it.

At my request, Senator SASSER has agreed to chair the hearing. Among the witnesses we expect to hear from are Mayor Fulton of Nashville, Congressman CLIFFORD ALLEN, also of Nashville, Chairman Robert Clement of the State Public Service Commission, and a representative of the State Energy Authority. We will also hear from the Federal Energy Regulatory Commission, regarding that agency's updated projections on the supply situation for Tennessee this winter. Finally, we have asked for testimony from representatives of consumers, various public utilities and gas pipelines serving the State.

Mr. President, the Subcommittee has recently released a report on the overall state of national preparedness for another hard winter. The principal conclusion of that report is that we simply are not ready for a cold winter. In the weeks ahead, I intend to offer emergency legislation to implement the recommendations contained in that report for Federal action.

The Tennessee experience of last winter was a microcosm of the national emergency as a whole. Testimony about that experience can offer us useful guidance as to the kind of preventive actions we need to take today.

Moreover, when we focus on the national policy implications of another winter energy emergency, we must not overlook the need for preparedness at the State and local level as well. I am hopeful that the Nashville hearing will stimulate movement in that direction.

Judging from all the information I have seen thus far, the State of Tennessee is going to need all the readiness it can muster for the difficult months ahead.

The hearing on the 15th will begin at 9 a.m., in room 14 of the Legislative Plaza Building.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the Committee on Rules and Administration will conduct a public hearing on the nomination of John J. Boyle, of Maryland, to be the Public Printer, beginning at 10 o'clock on the morning of Wednesday, October 19, 1977. Any persons desiring to submit statements for or against this nomination should file 50 copies thereof in the office of the committee—305 Russell Building—by noon on Monday, October 17. Any persons having questions about this hearing should telephone Miss Peggy L. Parrish, assistant chief clerk of the committee, at 202–224–0281.

ADDITIONAL STATEMENT

A SALUTE TO NATIONAL SCHOOL LUNCH WEEK

Mr. DOLE. Mr. President, this week marks a significant event in the lives of many of our constituents. October 9 through 15 is National School Lunch Week. This annual 7-day period, beginning the second Sunday of October of each year was established by Congress in October 1972 through a joint resolution. The theme adopted for this special week for the next 5 years is "Eat to learn and learn to eat."

Today, Wednesday, October 12, like every Wednesday of National School Lunch Week is universal menu day, and students across the country are enjoying the same luncheon menu. Major objectives directing the week-long activities will be to make students, teachers, administrators, parents, and communities more aware of good nutrition, and to highlight the benefits of eating a well-balanced meal at school.

30 YEARS PLUS ONE (1946–77)

On June 4, 1946 the President signed Public Law 396, the National School Lunch Act, designed ". . . to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other foods * * *."

School meals actually had their beginning in this country early in the 1850's at a time when certain philanthropic organizations recognized the need for solving the problem of poor nutrition among children in their districts. As early as 1932 some schools received Federal loans to pay labor costs and also agricultural surpluses for their meal programs.

1966—A NEW DIMENSION

A new dimension was added to school food service with the enactment of the Child Nutrition Act of 1966. School breakfast, special milk, nonfood (equipment) assistance, and other programs enacted under this legislation demonstrated the relationship between food, good nutrition, and a child's capacity to develop and learn.

In the last decade Federal expenditures for the school lunch program have increased from less than $75 million, to over $2.4 billion for cash and commodities in fiscal year 1977. Today the lunch program serves an average of 26 million students. Fiscal year 1977 obligations for all the child nutrition programs were close to $2.8 billion.

1977—A NEW DIMENSION

A new dimension has been added to child nutrition programs in 1977: A move in the direction of preventative health care. Senate and House conferees have agreed upon a provision in the current legislation to provide for instruction about food and its relationship to good health for students and teachers, and to assist school cafeteria personnel in improving their skills in food preparation and service.

I am sure my colleagues in the Senate will join me in saluting the many persons responsible for carrying out the child nutrition programs, and their successful fulfilment of the National School Lunch Week theme, "Eat to learn and learn to eat."

A COLUMBUS DAY TRIBUTE TO JOHN SIRICA

Mr. MATHIAS. Mr. President, Judge John J. Sirica has decided to give up full-time active duty on the Federal court at the end of this month. To say that he will be missed is an understatement, but I respect his decision and wish him a rich and rewarding tenure as a "senior" judge.

No price can be put upon John Sirica's service to this Nation. At the time of Watergate, when our faith in the executive branch of our Government was shaken to its foundations, John Sirica's dedication to the judicial process insured the proper functioning of that remarkable system of checks and balances devised by the Founding Fathers to protect our liberties.

Today, a proper balance has been restored to the relationship between the judicial, legislative and executive branches of our Government. Much of the credit for that belongs to John Sirica. No one, who lived through the shattering days of Watergate, will ever forget the staunch determination of John Sirica as he sought the truth. No one, who witnessed his performance, will ever forget his insistence on due process. And nothing can ever cancel the debt we owe Judge Sirica for his devotion to the truth.

Throughout the criminal prosecutions of Watergate, John Sirica was navigating in uncharted waters, guided only by his respect for the law and his own sense of justice. I especially chose today to salute John Sirica, the son of Italian immigrants, because he embodies the very qualities of spirit that so enobled that other son of Italy to whom Americans owe so much—Christopher Columbus. In honor of Judge Sirica and in recognition of Columbus Day, I would like to quote this passage by poet-philosopher George Santayana:

Columbus found a world and had no chart,
Save one that faith deciphered in the skies;
To trust the soul's invincible surmise
Was all his science and his only art.

THE NOBEL PEACE PRIZE

Mr. EAGLETON. Mr. President, it is a measure of the growing worldwide concern for human rights that the Nobel peace prizes for 1976 and 1977 were awarded yesterday to two individuals and an international organization whose goals are the promotion of civil, political, and religious freedom for all individuals.

Mairead Corrigan and Betty Williams are two young Irish women whose abhorrence for the bloodshed and strife in Northern Ireland brought them together in 1976 in a movement to unite Catholics and Protestants against this violence. After witnessing the brutal deaths of her sister's three children, Mrs. Williams initiated a peace march that drew 200 people. Miss Corrigan witnessed this march from her home and joined in. The protest marches grew in numbers dramatically and from there the organization known as the "Peace Women" developed. Today this organization, known as the "Community of Peace People," has a membership of about 7,000.

These two women are to be commended for their selflessness and determination. Mairead Corrigan and Betty Williams remind us all that individual effort is the critical foundation for resolution of problems that plague our larger society.

Amnesty International opened its first office in London in 1961 with a small group of volunteers. Its goal was to call world attention to those governments which deny its citizens their legitimate human rights and, by doing so, to bring some measure of justice to those situations.

This organization is still staffed largely by dues-paying volunteers and now has branches in nearly 80 countries. Since its inception, Amnesty International has issued a number of invaluable reports on human rights violations in various countries and has worked on behalf of individual political prisoners in a unique system whereby Amnesty volunteers "adopt" individual prisoners and work for their relief.

As with Mrs. Williams and Miss Corrigan, Amnesty International demonstrates what a grassroots organization, made up of dedicated individuals and committed to fundamental values, can accomplish.

Mr. President, I ask unanimous consent that the following editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 11, 1977]

TWO NOBEL AWARDS

The Nobel Peace Prize is, most often, given for battles not won, for controversies not resolved, for struggles not over. That is the case for the awards announced yesterday—the 1976 prize to Mairead Corrigan and Betty Williams, the leaders of Northern Ireland's largest peace movement, and the 1977 prize to Amnesty International, the London-based worldwide organization devoted to securing freedom for "prisoners of conscience" in all lands.

The awards committee did well to name winners for both years. It named no winner last year because it found no nominee of sufficient stature. The Peace People—the grass-roots movement of Protestants and Catholics to end the civil war in Northern Ireland had only just started last year and the two women were nominated after the committee's deadline. It is right that they receive recognition now. But it is right, also, that in a year in which the issue of human rights has received wider attention than ever before, the award to Amnesty International should not be delayed.

The example of Miss Corrigan and Mrs. Williams and their supporters has given thousands—Protestants and Catholics—the courage to stand up against extremists. Likewise, Amnesty International has brought hope to thousands, imprisoned and tortured for their political beliefs. The list would be very much longer but for the work of this genuinely international movement.

The war in Northern Ireland is not ended. Unjust imprisonment and torture probably will never end. But what the Nobel awards celebrate is the equal possibility that courage and decency, also, will endure.

[From the Washington Post, Oct. 11, 1977]

NOBILITY AND THE NOBEL AWARDS

This year the committee that selects the winners of the Nobel Peace Prize did its work exceptionally well. It awarded the 1976 prize, which had not been awarded last year, to Betty Williams and Mairead Corrigan, the young Ulster women who inspired the formation of the Northern Ireland Peace Movement. It awarded this year's prize to Amnesty International, the 16-year-old organization that works for the release of "prisoners of conscience" all over the world. There is something very fitting about the conjunction of these two awards. The recipients have a great deal in common, and in important ways they also complement each other.

What Amnesty International and the Northern Ireland Peace Movement have in common is founders, leaders and members who have no use for the abstract and the grandiose in their work, but who are given instead to modest, practical and—yes—heroic here-and-now efforts. They are dedicated to relieving human anguish in the situations they have chosen to address. They are each, in slightly different senses, apolitical, insisting that neither armed violence in the one case, nor political repression in the other, is an acceptable instrument of policy—irrespective of whether you happen to share the goals of the policy or not.

The two newly honored groups also have this in common: What success they have achieved is a tribute to the capacity of ordinary individual citizens to make a difference. The Nobel committee underscored the point in giving the 1976 award to the two Irish women whose revulsion against violence in Ulster was brought into focus by the death of three Belfast children, hit by a careening IRA car whose driver had just been killed by British bullets. "Mairead Corrigan and Betty Williams," the committee said, "acted from a deep conviction that the individual person can make a meaningful contribution for peace. . . ."

Amnesty International likewise had its origin in the determination of a few hardy souls to do something about the plight of people who were suffering at the hands of various governments for their political or religious views or because of their race or ethnic background. In 16 years it had acquired over 100,000 members, is represented in almost 80 countries and has managed, to its credit, to get on all the right enemies-lists—those of repressor governments of every political stripe in every part of the world. But in the course of this expansion, it has made a point of remaining faithful to its simple, direct techniques, a kind of human-rights "buddy system" whereby individual members accept responsibility for a few individual prisoners and organize the work in their behalf.

So you could say that these two organizations share a special spirit and a special outlook. But there is a difference, too. The Irish group is above all else—as it must be—the sworn enemy of physical violence, Amnesty International the sworn enemy of political repression. Yes, the lines do cross, and neither group is indifferent to the principal concern of the other. We observe this distinction only by way of noting that the Nobel Committee, by this particular choice of recipients, has made an important statement of its own. It has said that peace is more than the absence of conventional war and that tranquillity achieved by locking up dissidents is no peace at all.

DEEPENING STEEL CRISIS

Mr. HEINZ. Mr. President, the entire Nation should by this time be well aware of the serious economic problems facing our domestic steel industry and the need for fast, effective action by our Government. Last week a number of Senators joined in a steel caucus to formulate proposals that will help restore the industry to economic health. Similar efforts are underway in the administration under the direction of Tony Solomon, Under Secretary of the Treasury, and hopefully a number of proposals will shortly be made public.

In case there still are those who are unconvinced about the serious nature of the steel industry's problems, I want to bring to my colleagues' attention two resolutions on this subject recently adopted by the city councils of Pittsburgh and Bethlehem, Pa., and a recent editorial in the Globe Times by Pulitzer prize winning writer John Strohmeyer. I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the resolutions and editorial were ordered to be printed in the RECORD, as follows:

RESOLUTION No. 894

Whereas, Pittsburgh has been and City Council wishes the City to remain the "Steel Capital of the World"; and

Whereas, unemployment in Pittsburgh and in the United States is at an economically devastating and unacceptably high level; and

Whereas, we support fair trade but believe that the present practices of foreign governments are unfair competition in that these governments deliberately cause steel to be dumped in the American market at unrealistic prices to the detriment of the domestic industry and American workers; and

Whereas, some present and proposed Governmental policies, particularly in the area of environmental control, have and are placing domestic steel industry at a further competitive disadvantage which are likely to result in the closing of steel plants and the severe unemployment of steel workers; Therefore, be it

Resolved, That the City Council of the City of Pittsburgh, Pennsylvania, memorialize the President and the Congress to immediately review the entire foreign import question, to promptly enforce the anti-dumping acts, and to revise the severely restrictive and costly environmental requirements so as to ensure a continuing domestic steel supply and an employed American workforce.

Be it further resolved, that copies of this resolution be transmitted to the President of the United States, the presiding officer of each House of Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States.

RESOLUTION No. 8691

Whereas the steel industry has recently been beset by a number of crippling developments, which, in the aggregate, constitute a major threat to the survival of what has often been called the bellwether of American industry; and

Whereas the full impact of steel's misfortunes was dramatically brought to Bethlehem four days ago when Bethlehem Steel Corporation announced the dismissal of 500 white-collar employees and the elimination of 300 additional salaried jobs, all part of an overall reduction of 2,500 salaried positions throughout the corporation; and

Whereas Bethlehem Steel, the nation's second largest producer, earlier announced the phasing out of 4,000 jobs in flood-ravaged Johnstown, Pa., and 3,500 jobs at the Lackawanna (Buffalo, N.Y.) plant; and

Whereas the U.S. Treasury Department yesterday confirmed what American steel spokesmen have long been stating, namely that five Japanese steel firms were guilty of "dumping" steel on the American market, a technique of selling steel for less than the cost of producing it—made possible through the subsidization of Japanese steel by its government; and

Whereas unduly restrictive anti-pollution legislation and policy, as administered by the Environmental Protection Agency, has added hundreds of millions of dollars to the cost of producing American steel, notwithstanding the undisputed fact that domestic steel companies have made dramatic improvements in the quality of both air and water discharged from their plants; and

Whereas the short-term prospects of the industry may very well have been reflected by the shutting down of fabricating shops at steel companies and, more unfortunately, by drastic cutbacks at Youngstown Sheet and Tube Corporation and the closing of the Allan Wood plant, the latter after well over a century of contributions to the economy of eastern Pennsylvania;

Now, therefore, be it resolved by the Council of the City of Bethlehem that President Carter and the Congress seriously consider the long-term implications of these appalling developments, particularly as they relate to employment opportunities and the economy of the entire Northeast; and

Be it further resolved that copies of this resolution be mailed promptly to President Carter and to Senators Schweiker and Heinz and Congressman Rooney.

STEEL'S "BLACK FRIDAY"

This steel area has long ago learned to live with production lull layoffs by its largest industry, but nothing in recent times can match the shock waves felt over the "Black Friday" cutbacks of salaried employes.

The dismissal of 500 workers and the elimination of 300 additional salaried jobs through early retirement may not be momentous in terms of numbers. The Lehigh Valley's economy is sufficiently diversified and otherwise healthy. But the cutbacks are chilling because we can sense that severence of salaried people is a last resort and symptomatic of unprecedented problems for the steel industry.

Bethlehem Steel's troubles are nationwide even worldwide. In view of what is happening, reductions here could have been worse. Eight hundred jobs cut at the same office and plant are reasonable in the context of the 2,500 total jobs eliminated in the corporatewide retrenchment. We escaped the anguish of the Lackawanna plant which lost 3,500 jobs in Bethlehem's production curtailment there last month. And, of course, we do not begin to feel the misery of Johnstown, which had to cope with 4,000 jobs phased out at the aging, flood-crippled plant.

Yet, that is small comfort. Steel clearly is in trouble. It needs help to compete on equal terms with foreign producers which, because of help from their governments, manage to sell steel here at below production costs. It needs help to maximize its profits for investments to upgrade technology and productivity.

President Carter has the power to help steel in its battle with cheap imports. Under the trade act of 1974, he has the authority to apply this country's diplomatic clout by entering into trade agreements to curb dumping by European and Japanese steelmakers. He has the option to negotiate temporary import quotas similar to the relief already granted to the color television and shoe industries.

It is compelling that the message get to the White House and Congress in full force. This is a summons for all concerned to unite—management and labor, politicians and civic leaders, and plain citizens. Organizations have the means of carrying the message directly to the policymakers in Washington. Local governments and civic clubs can forward resolutions. Citizens can sign petitions.

Our concern goes to the individuals and families who have felt the direct impact of "Black Friday." But their distress will be only the start unless there is a national effort to stem the steel industry's steady decline. And that will happen only if steel communities take the lead in convincing those in seats of national power that there is cause for genuine alarm.

FOREIGN RELATIONS COMMITTEE HOSTS LIEUTENANT GENERAL OBASANJO AND OTHER MEMBERS OF NIGERIAN DELEGATION

Mr. PERCY. Mr. President, today the chairman of the Foreign Relations Committee, Senator JOHN SPARKMAN, hosted a luncheon for the Government of Nigeria and a distinguished delegation that included:

His Excellency Lt. Gen. Olusegun Obasanjo, Head of the Federal Military Government, Commander in Chief of the Armed Forces.

Maj. Gen. Martin Adamu, member, Supreme Military Council, GOC, 2d Infantry Division.

Brig. Joseph Nanven Garba, member, Supreme Military Council, Commissioner for External Affairs.

Group Capt. Daneil Suleiman, member, Council of State, Governor of Plateau State.

Lt. Col. Saidu Ayodele Balogun, member, Council of State, Governor of Ogun State.

Bernard O. W. Mafeni, Federal Commissioner for Agriculture & Rural Development.

His Excellency George Ayodele Ogunlade, member, Federal Executive Council, Federal Commissioner for Information.

His Excellency Olujimi Jolaoso, Ambassador of Nigeria to the United States.

His Excellency B.A.T. Balewa, Chief of Protocol, Ministry of External Affairs.

Accompanied by the Honorable Donald B. Easum, American Ambassador to Nigeria.

Prior to answering questions from Senators who attended the luncheon, His Excellency Lieutenant General Obasanjo made some penetrating and thought-provoking remarks about Nigeria, Nigerian-United States relations and relationships between the United States and Africa with particular reference to the approaches being taken by the Carter administration policies as related to Africa. I ask unanimous consent that these remarks be printed in the RECORD. I commit them to my colleagues for study, and applaud the efforts made by the Government of Nigeria and by President Carter, Secretary of State Cy Vance, and by U.N. Ambassador Andrew Young and Members of the Senate and House, particularly Senator DICK CLARK, chairman of the African Subcommittee, for their accomplishments this year is bringing about a dramatic improvement in United States-Nigerian relations.

There being no objection, the remarks were ordered to be printed in the RECORD. as follows:

REMARKS BY HIS EXCELLENCY LT.-GEN. OLUSEGUN OBASANJO

Mr. Chairman, Honourable Senators, Ladies and Gentlemen, I wish to express my profound gratitude for the honour you have done me this afternoon by offering such a sumptuous luncheon. This is yet another expression of the warm hospitality which we have enjoyed since our arrival in the United States. Since my delegation and I arrived here we have been overwhelmed by the kindness and generosity of the American people.

I am fully aware of the importance of the role and responsibilities of the Senate Foreign Relations Committee in the formulation and development of the foreign policy of the United States of America. It is in full cognisance of this importance that I crave your indulgence to express concern over the most fundamental aspect of the relations between our Continent, Africa, and the United States of America.

My concern is that in spite of all the apparatus of information gathering and analysis that is available to this great Republic, there is insufficient appreciation of Africa—its past, its present status and its

future aspirations. There is no doubt in my mind that the United States is the most advanced industrial society today. If any society could be said to be moving in the direction of post-industrialisation, then yours is certainly the farthest ahead in the field. The main characteristic of this imminent post-industrial society is that it will be based on what the futurologists term "knowledge".

It is a pity that although we both wish to establish a relationship of constant consultation and co-operation in finding solutions to the problems of nations and peoples of the world, this aspiration has not been based on a sound knowledge of each other and thorough understanding of each other's situation. I sincerely believe that unless we make a more conscious effort to know and understand each other, our relationship will remain superficial, and exploitative because it will be based on stereotypes constructed from borrowed ideas and unverified information.

In the light of what I have just said I will appeal to this distinguished gathering that a conscious effort be made from now to improve our stock of knowledge of each other. For my part, I believe that America needs to know more about Africa. Our knowledge of each other must go beyond the trauma of discovering one's roots and must transcend Victorian paternalism passed on from our colonial relationship with Western Europe. For the Government and people of the United States of America, the time has come for a re-orientation which will put an end to the conception of the Continent of Africa solely as an economic market, Western Europe's political sphere of influence, a fertile ground for anthropological inquiry and the collection of curios and artifacts or the locus of the charitable instinct and urge in every affluent people.

The history of the contact and relationship between colonial Africa and Western Europe is reasonably well documented. While a small circle of professional Africanists have moved away from the Eurocentric bias of earlier studies of this period, this new light does not appear to have filtered through sufficiently to the decision makers. Even among the academicians here, little account if any, is taken of what existed in pre-contact Africa in their appreciation of our Continent today. That period in the history of our Continent should not be treated as irrelevant because it is the totality of a people's experience including its oral tradition which can properly advise an understanding of the problems and aspirations of such people.

In the case of the peoples of the Continent of Africa south of the Sahara, there is evidence of political and economic development comparable to the situation in Western Europe prior to and up to the fifteenth century. The negative effect of contact with Western Europe was that initially a process of destruction of existing social, political and economic structures was set in motion. The values which had sustained the peoples of Africa for centuries before the arrival of the Europeans were denigrated and destroyed. The citystates, kingdoms and empires which they evolved succumbed before the superior firepower and violence of the West Europeans. The lost control of their destinies and their right to self determination. In their place emerged hybrid geo-political entities. It was out of such conglomerates that the nation states which emerged on the African Continent beginning with Ghana in 1957, were fashioned.

While I do not ignore the mutual positive effects of contact between Africa and Europe the fact remains that the oldest experiment in building a modern nation state in black Africa is barely twenty years old. In my country, Nigeria for example, it can be said that our efforts in this respect did not begin until 1960. Thus we have had only seventeen years of determining the course and direction of our development and the management of our resources without the dictation of some superior external authority. We are now attempting to telescope into twenty years what you achieved in over two centuries. Therefore it is hardly surprising that there are gaps in achievement and performance between our countries in Africa and your great Republic. Yet it does not appear that the assessment and critique of our performance in the spheres of social, political and economic development take enough account of this newness of the experiment. It is in the light of this that we ask for greater understanding from you.

This understanding must include a willingness on your part to accept that our values, cultures, and lifestyles are necessarily different from yours and may not change as our societies, in their quest for self-reliance, achieve levels of industrialisation similiar to yours. Modern communications can play an important role in fostering this understanding. Unfortunately, the fact is that your powerful media organizations do not take advantage of their unique opportunities. While I would not say that they have completely neglected Africa, it seems to us that for the most part, they succeed in only encouraging mistrust between us through misinformation, distorted facts, and a lack of sensitivity and finesse in presenting African issues and problems.

In the sphere of international relations the two broad areas of operation which are capable of shaping intercourse between two nations are economic and political. In the field of economic activity we are concerned that the nature and character of the international economic system hamper both our productive capacity and the pattern of the allocation of our resources. I believe that as long as our inputs into the international trade remain subject to violent fluctuations and so long as the bulk of our share of that trade is in primary products so long will our chances of breaking through the development barrier remain limited. Yet it is in the best interest of all mankind that the gap between the standard of living in the northern hemispheric countries and their southern counterparts be drastically reduced. The equitable distribution of the wealth of the world is now of primary importance not only because we all belong to the same global economy but also because it will ensure world peace and stability.

On the Continent of Africa today we still have virtual slave-labour in South African mines and excessive dependence on the human brawn and the concentration of economic activity in the extractive industries and agriculture. The not-so-favourable activities of multinational companies however tend to limit the chances of fulfilling economic programmes designed by our countries to lift our peoples above the poverty lines. It is my sincere hope that the Government of the United States of America will use its powerful international economic and financial position to reduce the adverse impact of multinationals and redress the injustices in the sharing of world resources.

In addition, this great Republic is a world leader in the development of technology. We believe that the mechanisation of production is a proven key to the increase in the level of economic activity and the resultant improvement of the standard of living of peoples. In this regard the United States Government and people ought to make a special effort to facilitate the acquisition and transfer of technology to our countries. I seize this opportunity to thank your Government for its immediate and favourable response to our request for places in your institutions for training technical manpower. We welcome this gesture and can only hope that this is the beginning of a new era of co-operation between our two countries. We aspire to self-reliance so that we can better contribute to a more efficient use of the world's resources. You will recall that the initial resistance to mechanisation and automation in today's industrialised nations was because of the fear of the replacement of men by machines which would lead to massive unemployment and suffering. Instead, mechanisation led to increased wealth of nations and increased welfare of citizens. We are sure that the acquisition of technology by the countries of the Third World can only lead to an overall improvement in the wealth of the world. There is no cause to think that industrialisation in the countries of Africa will necessarily entail a diminution of returns to the industrialised nations or their citizens.

There are also many countries in Africa whose resource bases are so narrow as to make planning difficult. Such countries provide a splendid opportunity for regional programmes which will enable them to take advantage of economies of scale. This is yet another area where your foreign policy can make positive contribution to the Continent of Africa.

The overall import of my comments in the economic field is that the United States of America can lead action through both bilateral and multilateral arrangements to cause a review and reorientation of the position of all industrialised nations to remove slave labour, economic discrimination, corporate selfishness and other obstacles to our aspiration for economic self-reliance. On this note, I appeal to the Senate Committee here gathered that the old battle cries of capitalism, the arguments for isolationism, and the erroneous belief that economic development in Africa is about aid agencies are all obstacles in the way of the aspirations of over 200 million Africans for economic self-reliance and of increases in the volume of world trade and the consequential improvement to world welfare.

In the political sphere, Honourable Members, the last two centuries have been a period during which Africa lost its right to self determination and was the victim of political subjugation. Halfway through this century we fought and recovered our political independence and the right to manage our affairs. In the following twenty years or so, the Continent of Africa has waged a war on two fronts. First, our countries have had to ensure that national boundaries are held intact, national cohesion nurtured and the apparatus for achieving the rising expectation of our peoples established. In this regard I wish to recall the tragedy of my country's civil war. We are thankful to God that our efforts to wipe away memories of that harrowing and traumatic experience have been successful. It has been for us an exercise in human courage and magnanimity. These two principles among others continue to guide and advise the cause of our domestic policy. The most positive indication of the fact that we have put that unhappy episode behind us and which also underscores the lesson in human tragedy of our civil war is that the principal architect of this national calamity has gone on record as being ready "to contribute to Nigeria's development and to serve her best interest".

Second, we have had to combat colonialism and racism in many parts of Africa especially in Southern Africa. In both cases we have insisted that the right of African people to self-determination is not negotiable and expressed deep abhorrence against any philosophy which preaches the inequality of men and dedicate ourselves to the elimination of any political systems based on racial discrimination. All who value the right of all men and women to political and self determination and all who accept the equality of

men have been and remain our friends. I am happy to note that in this regard the present United States administration has moved the Government and people of your great Republic closer to us. I must nonetheless make some additional comments on the role and impact of the foreign policy of the United States of America on the two areas of our efforts mentioned above.

African countries are confronted by two major obstacles. One of these is the question of choosing between the two dominant ideologies for ordering their societies. Secondly, they must cope with the effect of the achievements and values of the industrialised states on their efforts. As I have earlier described, the impact of modern communications is that they introduce to our societies disruptive foreign life-styles and values. Exposure to the values of industrialised societies make it more difficult to restore and retain those values which we hold dear and which I believe could improve the quality of life of even the industrialised states.

As I said earlier on, colonial authorities put together within the same boundaries diverse ethnic groups and such boundaries sometime cut through ethnic groups, leaving the same people in two different countries. These create centrifugal forces in domestic political activities in most African countries. Added to this is the subjection of the political elite to the pressure of competition between the two dominant political ideologies. This pressure is sometime self-induced as the acquisition of formal Western education informs most politically conscious Africans of the pros and cons of the two major approaches to social and political development. Often, of course, this pressure is also induced by the flag bearers of the two ideologies who compete for power and influence in our territories, often, without any regard to the methods used to achieve their ends. We are of the opinion that our problem is not that of chcosing between capitalism or socialism. To us these are two sides of a coin, the contribution of the European mind to man's political development. To the extent that no man or woman prefers bondage to freedom, dictation to self-determination, the whole question of a choice between the one ideological position or the other ceases to be relevant.

We hold the view that a political system need not be identified with either of the two major systems to guarantee freedom or participation in the political process to its citizens, assure them of their individual freedom or improve their quality of life. In this regard the basic African concern for humaneness, justice and fairness should constitute the pillars of our, and for that matter, any political system. It is the duty of all our friends to leave us in peace to order our societies according to these cardinal principles. The forms and practices familiar to you as typifying good Government may not necessarily be suited to our ways. We, however, share in common with you the love of freedom and justice to all men. This is why we believe that the spirit of your new Administration in regard to ideological struggles is ethically superior to the interventionism of the past, and should continue to advise the policy and posture of the United States of America in dealing with other Governments.

In the area of our struggle to free our Continent from the clutches of colonialism and racism we have stepped on a few toes here and there. We are however convinced of the inalienable right of all peoples whatever their colour or creed to political self determination. This is the principle which provides the drive for our commitment to the course of justice in Southern Africa.

Our African policy is the result of a thorough analysis of the issues at stake and a realisation of the fact that our own independence is meaningless so long as any part of Africa is not free. We cannot shirk our responsibilities no matter what sacrifices we may be called upon to make to achieve majority rule in Southern Africa. We have accepted the challenge foisted on us by the intransigent minority regimes in Southern Africa and have co-ordinated our action and support for the Liberation Movements with other African countries, particularly the Frontline countries. Here again we welcome and appreciate the many gestures of President Carter's administration with the full support of the United States Congress. This adjustment of direction has gone a long way in rectifying the widely held view that the United States is more concerned with what is imagined to be its permanent policy. In this regard I wish to publicly acknowledge how much we believe in the good intentions and sincerity of the present United States administration and their current efforts aimed at averting racial war on our Continent and the consequential disturbance of world peace. The United States of America has a responsibility to the world through its political leadership. This responsibility must not be dodged because of moral blindness, political ignorance, or sentimental attachment. We hope that we can expect the understanding and support of the United States Congress as our Governments and the Government of the United States of America co-operate in this human endeavour.

Finally, there are a number of issues in our relations with you which, while being peculiar to either side, are nevertheless interconnected. These are our pre-occupation with economic development and your pre-occupation with spheres of influence and strategic interests. These preoccupations are understandable but I would like to suggest to you that your pursuit of strategic interests appear to us as a combination of the insecurity of being affluent in the midst of want and a carry over of the ideological confrontation of the post-Second World War era. You have, we recognise, your legitimate interests to pursue, but when these pursuits directly and adversely impinge on our own interests, frictions emerge and threats to world peace arise. I wish to appeal to you strongly that the less resources that are allocated to armaments and the defence of strategic interests against more imagined than real dangers, the more will be available to further improve the quality of life for your own people. It may even be that you will thus positively contribute towards narrowing the gap between the world of affluence which is yours, and the world of scarcity and insecurity which is currently ours.

Honourable Senators, Congressmen, Distinguished Ladies and Gentlemen, may I invite you to rise and drink with me the hearty toast to the good health of President Carter, the well-being of the American people and the friendship and prosperity of our two peoples.

OMB RESPONDS TO COMMITTEE INQUIRY INTO COMPUTER SECURITY

Mr. RIBICOFF. Mr. President, on May 10, 1976, the Senate Government Operations Committee began a preliminary staff investigation into computer security in Federal programs and private industry.

As chairman of the committee—now known as the Governmental Affairs Committee—I directed that this preliminary staff inquiry be initiated. The decision was concurred in by Senator CHARLES H. PERCY, the ranking minority member of the committee.

On June 18, 1976, the committee issued a 448-page committee print entitled "Problems Associated With Computer Technology in Federal Programs and Private Industry." This report contained three reports by the General Accounting Office and a number of articles on computer security by experts in the automatic data processing field.

Meanwhile, the committee's preliminary staff inquiry went forward and on February 2, 1977, a 298-page staff study entitled "Computer Security in Federal Programs" was issued.

The staff study contained the results of independent investigation by the committee staff. The study reported on information developed independently by the staff indicating that computer security in civilian agencies was inadequate, that felons incarcerated in Federal prison were writing computer programs involved in the disbursement of millions of dollars in public funds and that Internal Revenue Service computers were vulnerable to a tax fraud scheme that had resulted in refund checks being made to persons who had filed fictitious returns.

Highlights of the staff study included information indicating that:

The U.S. Civil Service Commission believed that computer programers in Federal programs involving privacy data, the disbursement of public funds and economically valuable information should be subjected to full field background investigations as a condition of employment. But no such background checks were being made, except in agencies such as the Department of Defense and the Central Intelligence Agency where programers must have security clearance.

Virtually no personnel integrity standards existed in civilian Federal programs for computer programers, both in direct Federal employment and Federal contractor hire.

IRS computers were at this time vulnerable to persons who filed bogus tax returns aimed at receiving tax refunds based on the phony returns. The staff study cited three instances in which large amounts of money were received in the form of tax refunds based on fake returns. Also explained was how IRS was trying to deal with this problem.

Federal authorities throughout the civilian government had paid insufficient attention to security procedures involving computers which are used in the disbursement of large amounts of public funds. As an extreme example, the staff study detailed a situation at the U.S. Penitentiary, Leavenworth, in which felons, some with white collar crime backgrounds, some with relatively high rates of recidivism and some with convictions for murder and kidnap, were writing programs for the Agriculture Department's Commodity Credit Corporation and the Agricultural Stabilization and Conservation Service. Together these programs disbursed hundreds of millions of dollars in public funds through loans and farm emergency assistance and other forms of payments.

A senior IRS investigator, studying the possible link between the Leavenworth computer rehabilitation program and bogus tax returns allegedly emanating

from Leavenworth, found evidence to lead him to assert that the convicts at the prison might have figured out IRS computer tolerance levels or "discriminate function" tables. Knowing when the IRS computer will flag a tax return which ordinarily would not be reviewed by humans was an invaluable aid to persons wishing to receive tax refunds from bogus returns, the staff study indicated.

The same senior IRS investigator developed information indicating that tax frauds emanating from the Leavenworth penitentiary may have risen from an average refund of $600 to an average refund of $10,000. In addition, the IRS investigator developed information indicating that the "inmates, who have been exposed to the fraudulent income tax scheme, have taken their knowledge to the outside of the prison when they have been paroled or otherwise released."

The Leavenworth computer was tied directly to the Computer Science Corp.'s Infonet System based in El Segundo, Calif. Infonet was then the Federal Government's largest computer time-sharing bureau, doing at least $25 million a year in services for Federal agencies that include IRS and the Treasury Department. The staff study indicated that assertions were made by several Federal bureaus to the effect that an attempt was made to "crack" the Infonet security system and that the attempt failed. Information developed by the committee staff indicated, however, that no such attempt was made to "crack" Infonet. The computer scientist who headed up the security evaluation of Infonet, Donn B. Parker of the Stanford Research Institute, told committee staff that he was given insufficient information by Infonet to justify saying the Infonet system was secure. It was Parker's view, in fact, owing to carelessness by Federal agency users of Infonet, the system did have security shortcomings.

Owing to their national security mission, the Department of Defense and the CIA and other similar organizations had a keen awareness of securing their computer systems against compromise. DOD and CIA and other agencies concerned with national security not only continuously monitored their own computer security procedures, they frequently initiated exercises to deliberately penetrate their own systems. They also operated on the assumption that efforts were being made by adversaries to compromise their systems. It was the committee staff's view that this awareness of the vulnerabilities of computer systems—particularly those involved in highly private personal data, valuable economic data and the disbursement of public funds—should be examined for possible application in civilian agencies.

The Department of Health, Education, and Welfare, which has computers transacting a minimum of $84 billion in public fund payments, had an inordinately insufficient capability to investigate criminal abuse and detect irregularities which could lead to waste and misallocation. For example, it was not until late 1976 that HEW, under prodding from the Senate Government Operations Committee, began to train its own criminal investigators in how to investigate computer crime. Prior to this committee inquiry, HEW did not have a single criminal investigator knowledgeable in computer-related crime.

Executive branch procedures for security computer installations in the civilian sector were outlined in a National Bureau of Standards set of standards. Information developed by the committee staff indicated that the standards were vague and there was no requirement that Federal agencies use them.

Concluding the staff study were a series of findings and conclusions and recommendations for corrective action. Mr. President, I ask unanimous consent that the findings and conclusions and recommendations for corrective action be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINDINGS AND CONCLUSIONS

This staff study on computer security in Federal programs supports and endorses the conclusion of the General Accounting Office that the executive branch needs to improve its safeguards against criminal exploitation of and damage to automated data processing (ADP) systems.

In addition to those problem areas which were documented in the three GAO studies issued last spring, the committee staff found two areas of computer operations which are in immediate need of improved security policies and procedures.

These problem areas are, first, those concerned with the distribution of public funds, and, second, those which offer the opportunity to divert highly private or economically valuable data.

The staff finds that these two categories of computer-based operations need improvement in terms of physical security, as demonstrated in the GAO reports. But reform is also called for in terms of personnel security, an area where there have been inconsistent and inadequate policies and safeguards to insure that qualified and trustworthy individuals are selected to work on sensitive computer operations.

The staff finds that these physical security and personnel security improvements are needed in computer systems which are owned and operated by the Federal Government. In addition, computer systems and services which the Federal Government contracts to privately owned companies should be improved as well.

The staff finds that there are three categories of Federal computer operations that should be designated as critical sensitive because of the harm or loss that could result from criminal abuse, unauthorized access or manipulation of data.

These categories of computer operations are, first, those involving access to classified and national security information; second, those concerned with the distribution of public funds; and, third, those offering the opportunity to divert or otherwise abuse highly private or economically valuable data.

The staff finds that the Federal Government has taken appropriate steps to insure the integrity of those computer systems which process national security data. The staff finds that there is a keen awareness in top management of Federal agencies processing classified defense and intelligence data. But there are no corresponding safeguards, standards or adequate security procedures in many Federal programs unrelated to national defense.

As indicated in the body of this staff study, numerous experts in computer technology and systems security asserted that no computer system is absolutely secure from concerted penetration attacks. Computer experts also said that computer crimes, especially those which divert funds or convert economically valuable data, are likely to become prevalent white collar crimes in the future.

The committee staff finds that the judgments of computer experts in these matters apply to computer operations which support Federal Government projects. The committee staff wishes to alert the Congress and the executive branch that Federal Government computer systems which disburse billions of dollars in assorted benefits, tax refunds and payrolls and hold economically valuable and personal data of untold value can become targets of white collar computer criminals. That is to say, Government computer-supported projects can be victimized by white collar criminals.

Until the issuance of the GAO reports and the commencement of the committee's preliminary staff inquiry, most Federal agencies have been unprepared to cope with computer crime and the threat of physical damage. For example, at the Department of Health, Education and Welfare where computer systems distribute approximately $85 billion a year under a variety of programs—programs such as medicare, medicaid, social security and student loans—there was no capability to prevent, detect or investigate computer abuse.

It was not until June of 1976 that HEW officials made an effort to pinpoint vulnerabilities in their computer systems. The results of these efforts by HEW, as reported to the committee and detailed in this staff study, show in most instances a long-term lack of basic kinds of security and audit precautions. However, because of the establishment of more effective investigative and audit capabilities, HEW is taking action to correct deficiencies.

Under the guidance and leadership of the Office of Management and Budget (OMB), each executive agency whose computer systems are involved in the distribution of funds or the processing of valuable economic and personal data should evaluate its particular vulnerabilities and invest its resources to correct any deficiencies in ADP security. At this writing, OMB has advised the committee that such an effort has been initiated.

In the personnel area and in dealing with private contractors, the executive branch should reevaluate, clarify and strengthen security procedures. Regarding personnel practices, the committee staff found that there was agreement among Government officials and private computer experts that no matter how secure a computer is in a physical sense, physical security is of diminishing value if personnel procedures and controls are lax.

Robert E. Hampton, Chairman of the U.S. Civil Service Commission, informed the committee that Federal personnel involved in ADP work which is designated critical sensitive should be subjected to full field background investigations as a condition of employment.

Hampton's response to the committee made clear that the kinds of ADP operations which should carry the designation critical sensitive for employment purposes are those which have to do with national security data, with personal privacy information and economically valuable data, and with ADP systems that involve transactions that result in or affect the disbursement of public funds.

Hampton was careful to distinguish between those computer operations which can carry the designation critical sensitive and those which are "casual or routine" in nature and, therefore, should not require, the strict security standards associated with

critical sensitive computer-related employment.

The committee staff agrees with Chairman Hampton's position in this regard and finds that in applying both physical and personnel security improvements to Federal computer systems a distinction should be made between those duties which carry the designation critical sensitive and those whose purpose and functions do not require such designation.

Chairman Hampton said that the Civil Service Commission, at the committee's request, had contacted several agencies which have major computer facilities and found "that these agencies have not designated computer-related positions as critical sensitive for the most part; this means that a preappointment full field investigation is not a requisite for employment. The notable exception is DOD where multiple entry computers containing national security information necessitates critical sensitive classification for users.

The committee staff was assured by Defense Department and Central Intelligence Agency officials that data having to do with national security is processed in computers by persons who have been subjected to appropriate security clearances. This clearance requirement is applied to government employees as well as to employees of contractors who have access to national security data.

The committee staff found that outside the defense and intelligence realms, however, there are no personnel or physical security controls to insure that private contractors maintain standards consistent with critical sensitive computer work.

As ADP systems are used more and more by government and as more and more of these systems and related services are provided by commercial companies under contract, an increased amount of attention should be given to physical and personnel security policies in Federal programs.

The staff does not question the wisdom of the Office of Management and Budget for issuing circular A-76 directing that services, including ADP services, for Federal programs should be contracted out to private industry whenever appropriate. However, OMB circular A-76 should be revised or amended so that it gives fair and reasonable attention to the the issue of computer security. Controls should exist to provide Federal agencies with reasonable assurances that the personnel working for private firms on Federal ADP projects are trustworthy and that commercial computer facilities maintain physical security standards consistent with the sensitivity of the ADP work to be performed.

The government already insists on that assurance in the awarding of sensitive national security contracts. Defense contractors and defense contractor employees must agree to submit to background checks and other personnel security controls and maintain other security standards.

But no such requirement exists in contracts issued by Federal agencies for services unrelated to national defense but which, nonetheless, are of considerable consequence and sensitivity. Contracts to commercial firms for computer services related to the disbursement of public funds, for the housing of privacy information and or the assessment of economically valuable data should contain language attesting that personnel of the contractor firms, as well as the contractor firms themselves, are suitable for government employment. The level of suitability should be commensurate with the degree of sensitivity inherent in the Federal contracts the firms are carrying out.

In his statement given the Senate Government Operations Committee, Clarence M. Kelley, Director of the Federal Bureau of Investigation, expressed apprehension about the personnel security implications of OMB circular A-76. "Those concerned with computer security in government systems," Kelley said, "should be aware that OMB A-76 which requires government agencies to obtain all services, including computer services, from the private sector whenever possible, does not permit agencies to exempt security requirements. In the computer area, just as in any other area, the level of security can only be as high as the trustworthiness of the personnel who design and operate the system. Given the transitory nature of personnel in the private sector, it is difficult to insure the reliability of all vendor personnel." The staff finds Director Kelley's concerns about the personnel security implications of OMB circular A-76 to be valid.

OMB should make it an early priority in 1977 to strengthen circular A-76 in an appropriate manner so as to allow for consistent personnel security and suitability standards whenever the nature of the computer contract is such that it can be reasonably characterized as critical sensitive.

Owing to their national security mission and the fact that this mission leads them to think in terms of securing an installation as well as attesting to the suitability of those who work there, the defense and intelligence communities have more experience in safeguarding their own ADP systems. CIA spokesmen, for example, told the committee staff that they operate on the assumption that, first, a computer system can be penetrated, and, second, that an attempt will be made to penetrate it. Therefore, the CIA spokesmen said, they try to design and manage their computer systems in a way that makes a single compromise of less impact. Defense Department spokesmen gave the committee staff similar information.

CIA Director George Bush, in the statement he gave to the committee, said he did not think his organization should serve as a model for other Federal agencies in the computer security field. The committee staff agrees. But it is the staff's view that, in light of the potential for criminal compromise in the computer field, the fundamental principal defense and intelligence gathering agencies adhere to—that every system is able to be compromised; and that, therefore, an attempt will be made to achieve that compromise—has value throughout the executive branch. It is a principal all Government ADP officials should keep in mind when they set out to design, purchase, operate and manage their own non-defense computer programs.

All too often Government agencies outside the defense realm are not security conscious. As a graphic example of inconsistencies in the area of personnel security, felons incarcerated in the Federal prison at Leavenworth, Kansas were found to be engaged in computer programing functions for the U.S. Department of Agriculture. These programing functions had to do with ADP systems which are involved in the distribution of many millions of dollars in public funds. Some of the prisoner programers had relatively high rates of recidivism. Others had past connections with organized crime or had committed white collar crimes such as bank embezzlement, counterfeiting and interstate transportation of stolen or bogus securities. Several of the prisoner programers were in prison for having killed or kidnapped people or for armed bank robbery.

Based in part on the report of computer scientist and ADP security expert Robert P. Abbott of Berkeley, Calif., who served as a consultant in this preliminary inquiry, the committee staff's view is that it is an unwise policy for Federal Prison Industries, Inc., and the Department of Agriculture to have entered into an agreement whereby felons incarcerated at Leavenworth Federal Penitentiary are programing ADP systems that are involved in financial transactions.

There is no intention in this finding to in any way seek to discredit the principal of the rehabilitation of prisoners. Prisoners in Federal penitentiaries should have an opportunity to learn skills which will enable them upon release to find meaningful and productive work on the outside.

However, that being said, the committee staff finds that the Bureau of Prisons and the Agriculture Department are taking an unwarranted risk by having felons with backgrounds in bank embezzlement, counterfeiting, interstate traffic in stolen and bogus securities, murder, armed bank robbery and kidnapping, entrusted with programing comptuer systems that are used in financial disbursements and lending programs such as the Agriculture Department's Commodity Credit Corp. and several of the Department's farm disaster and emergency aid services.

Millions and millions of dollars are disbursed annually through these programs and the persons programing the systems that disburse these funds should be of a reasonable level of integrity. Having felons program these ADP systems is an unsatisfactory policy. It makes far more sense to have the prisoner programmers do work for Federal agencies that offers them no opportunity to compromise Government ADP systems or gain knowledge about critically sensitive processes. It is the committee staff's view, in fact, that having imprisoned felons do government financial computer programing may in the long run cause the very concept of rehabilitation to lose credibility with the government and the public.

As computer scientist Robert Abbott observed in his report to the committee, the prisoners could do equally productive ADP work by writing programs involving data which is not related to individual privacy or the disbursement of large amounts of Federal dollars.

The irony of the peculiar Leavenworth situation is that the felons are able to write ADP progams on systems which support financial transactions while incarcerated but, owing to their felonious backgrounds, it is doubtful that they could qualify for such sensitive Federal employment once they are released.

As a result of its inquiries into the criminal cases of Leavenworth inmate Frank E. Ready, former IRS revenue official David Robinson and the Betty Marie Gholston prosecution in Detroit, as well as other information provided by the Internal Revenue Service, the committee staff finds that the IRS computerized process of auditing tax returns is vulnerable to multiple filing schemes and other tax frauds.

These schemes are initiated by criminals to "beat" the tolerance levels of IRS computers in order to obtain tax refunds. The essence of such tax frauds is the creation of false tax returns, fraudulently using W-2 forms, employer identification numbers, social security numbers and bogus items of income, deductions, depreciations and other expenses.

During the course of this preliminary staff inquiry, IRS officials worked closely with the committee staff, demonstrated their concern and took remedial actions to eliminate this vulnerability. Unfortunately, the massive volume of papers and records, plus time, cost and geographic constraints, make the total elimination of this vulnerability very difficult.

The IRS has incorporated various recommendations of an internal committee composed of representatives of each IRS component concerned with the tax fraud problem. The IRS internal group members are seeking to improve their computer systems, audit procedures and investigative techniques. These steps should increase the ability

of the IRS to detect and prosecute these frauds more effectively.

At the request of IRS the steps taken by the IRS in this regard will not be detailed in this staff study.

IRS also responded to a committee inquiry regarding the feasibility of matching all W-2 forms attached to an individual return against all W-2 forms that IRS receives from employers to detect fraudulent refunds. On this subject, a report dated December 23, 1976 was written by James Owens, Assistant IRS Commissioner for Accounts, Collection and Taxpayers Services. Thomas V. Glynn, Assistant to IRS Commissioner Donald C. Alexander, forwarded Owens' report to the committee. Owens said, "We do not now check individual W-2 forms attached to tax returns against that total universe of withhholding records filed with IRS by employers to assure that withholding tax credits match. Our information returns programs (IRP) currently compares both income reported and withholding tax credit claimed by taxpayers with amounts reported by employers, but only a portion of the approximately 450 million information documents filed by payers of wages, dividends, interest, etc. Notices are sent to taxpayers whose income reported on the return is equal to the income reported by employers but whose withholding tax claimed does not agree with that reported by employers. Criteria indicative of refund fraud have been developed and are being incorporated in the IRP computer programs. These criteria will be applied against the tax year 1974 IRP file on a test basis and in subsequent tax year IRP matches if the criteria prove effective."

James Owens also said:

Notwithstanding the fact the IRP does not appear to be the complete answer to stopping fraudulent refunds before they are made, this procedure may be useful in bringing to justice those who have already perpetrated such schemes. Once a complete IRP file is available for matching, we pursue leads developed by the program and our success in prosecution will hopefully be a deterrent to those who might attempt such schemes in the future.

We should also mention that the Service (IRS) is now conducting a test on what is sometimes called the "reverse IRP concept." Basically, we are testing the theory that returns claiming refunds of withholdings where the Service has no record of W-2A from employers and no record of FICA wages from the Social Security Administration constitutes valid leads to fraudulent refund schemes. At this point in time, a sampling of such returns has been taken. Processing instructions are in draft status and will be issued to our field offices shortly.

The committee has been informed that the Intelligence Division of IRS is continuing its investigation of tax fraud matters that surfaced in both the Frank Ready case at Leavenworth and the Gholston case in Detroit.

However, the staff finds that management of security procedures and overall security awareness must be improved in the Federal Government.

Government users of the executive branch's largest commercial time-sharing bureau, Infonet, have been found to be careless.

The basic document on security in Federal programs, the Federal Information Processing Standard Publication 31 (FIPS-31), promulgated by the National Bureau of Standards, is vague and inadequate. Moreover, there is still no requirement that Federal agencies use FIPS-31 as even a "guideline."

Since FIPS-31 has no compliance mechanism to enforce its use, the document is not being tested and refined sufficiently to insure that one day a set of security standards for ADP programs will be adequate for governmentwide application.

In turn, the National Bureau of Standards is not the appropriate agency which should be responsible for enforcing security in Federal computer programs. NBS cannot bring to this pursuit the necessary persuasiveness to see to it that its guidelines, standards or requirements will be used, evaluated and ultimately enforced with some measure of effectiveness.

Given the present structure of the executive branch, only OMB, in coordination with the General Services Administration (GSA), can be the Federal office capable of effective leadership in this field. OMB, working with GSA, should take it upon itself to be the "lead" agency in this field, using the management authority and persuasive powers only it enjoys in the executive branch.

There is nothing new in this finding. As the staff interprets the Brooks Act and the Privacy Act of 1974 and the legislative intent of both these measures, it is the mission of OMB to be the "lead" agency in insuring that ADP systems in Federal programs be reasonably secure. It is now up to OMB to exercise that leadership. Once OMB's leadership is demonstrated, government agencies will begin the testing and refinement needed to make the FIPS-31 document workable and, to the degree possible, enforceable.

In addition, OMB can bring to this pursuit more of the resources available in the Federal Government. For example, the problem of computer security is directly related to the problem of computer crime and crimes made easier by computer technology. It is regrettable, that Federal authorities are not doing more to study, understand and control computer-related crime.

Government should be more assertive in mobilizing the Nation in controlling computer cirme. The Law Enforcement Assistance Administration (LEAA), which has spent billions of dollars in crime control projects including funding for the use of computers in law enforcement, has spent nothing to research the area of computer abuse to strength the ability of local, State and Federal criminal justice systems to cope with computer crime.

Law schools should be encouraged to train young attorneys in the computer field. Law enforcement officers should be trained in computer abuse. As many experts have informed the committee staff, all too often prosecutors do not know enough about computers to effectively prosecute crimes. By the same token, police frequently do not know enough to investigate computer-related crime. In the computer crime abuse continuum, all too often, the only persons who know what they are about are the violators.

The FBI and the armed services are improving their computer abuse training programs for law enforcement officers. The Justice Department has begun to make U.S. attorneys more knowledgeable in this field.

A recent case in Baltimore involving an unauthorized penetration of Federal Energy Administration files resulted in a criminal conviction in Federal court. This conviction, although it is being appealed, has given the Justice Department increased hope that U.S. prosecutors will be able to respond effectively to computer crime cases.

However, as Richard L. Thornburgh, the Assistant Attorney General for the Criminal Division, said in his statement for this committee, the Baltimore case, encouraging as it may be, still reflects weaknesses in the government's ability to prosecute computer crime. Thornburgh pointed out, for instance, that had the defendant not used a telephone in the transmission of ADP data across State lines—from Maryland to Virginia—and had he limited his transmission of the classified data to an intrastate transaction there might not have been Federal jurisdiction, even though Federal energy records were involved. Thornburgh asserts, and the committee staff agrees, that new laws such as an expansion of the mail fraud and wire fraud statutes to include intrastate as well as interstate violations may be required.

Similarly, in response to the committee's inquiry regarding problems associated with the prosecution of computer crimes, Jervis S. Finney, U.S. Attorney for the District of Maryland, described difficulties his office faced in the prosecution of the FEA case. Finney included specific recommendations for corrective action regarding the prosecution of computer cases. The committee staff finds Finney's recommendations to be worthwhile and has incorporated them into the recommendations for corrective actions which appear in the next section of this staff study.

The committee staff also finds that Federal authorities, working in coordination with law schools and other institutions capable of conducting studies, should begin now to evaluate the criminal justice system in light of computer crime. For example, the staff finds it unfortunate that LEAA, which funds all manner of law enforcement activities—from "buy-bust" pursuits of local drug agents to the purchase of armored personnel carriers for local police departments—has not sponsored research and other efforts to enable government to cope with computer crime. It is hoped that LEAA will take an active role in this area in 1977.

In addition, the American Bar Association and other private organizations concerned with the law should initiate study programs to determine what steps can be taken in curriculum development so that more courses are taught in computer abuse cases.

No computer abuse case can ever get to trial unless it is, first of all, properly investigated. In Federal programs, criminal investigators should, at the minimum, be required to enroll in the FBI's computer abuse investigations course at the Bureau's Academy in Quantico, Virginia.

The new Inspector General at the Department of Health, Education and Welfare should see that HEW's criminal investigators continue to take this course. Investigative personnel in other agencies whose computers distribute taxpayers' money should also be required to enroll in this FBI course.

RECOMMENDATIONS FOR CORRECTIVE ACTION

The staff of the Senate Government Operations Committee, in putting forward a series of recommendations for corrective action in computer programs in the executive branch, has divided its proposals into two categories—administrative and legislative.

Administrative corrective actions are those which would not require an act of Congress. In that regard, it is the staff's view that certain computer operations within the Federal Government are in immediate need of improved security procedures and policies. This is especially true relative to those computer systems which (1) control the distribution of public funds; and (2) contain and process information which offers the opportunity to divert highly private or economically valuable data.

These two types of computer systems should be designated critical sensitive so that personnel security procedures associated with these systems can be upgraded in a consistent manner and physical security can be improved.

The Office of Management and Budget (OMB) should exercise its management responsibility with respect to improved security in Federal computer programs by taking six fundamental actions.

First, OMB should direct that executive branch departments and agencies implement the recommendations of the General Accounting Office in GAO's three reports on Federal computer operations issued in April Accounting Office in GAO's three reports on and May of 1976.

Second, OMB should give priority to coordination of the activities of certain Federal agencies which have important functions in the improvement of computer security. In this recommendation, the committee staff has specific reference to the National Bureau of Standards, General Services Administration, the U.S. Civil Service Commission and others.

Third, under the management of OMB, the National Bureau of Standards should prepare a definitive schedule for workable physical and personnel standards to be applied by Federal agencies and private contractors consistent with the sensitivity of their particular systems.

Fourth, under the management authority of OMB, a compliance mechanism should be created to assure that these security standards are maintained by individual agencies.

Fifth, under the management authority of OMB, the General Services Administration should insure that computer-related contracts under its jurisdictions contain security requirements consistent with the sensitivity of the work to be performed by the contractor.

Sixth, under the management authority of OMB, the U.S. Civil Service Commission should be made responsible for appropriate personnel security policies consistent with computer programs that are designated critical sensitive.

In addition, those officials with security and investigative authority in Federal agencies whose computer systems either distribute public funds or contain highly private or economically valuable data should take appropriate steps to insure that their personnel are trained in the prevention, detection and prosecution of computer abuse.

Along with the above recommendations for corrective action which can be implemented by administrative direction, the committee staff wishes for Senators to also consider the feasibility of adopting three separate legislative measures. The committee staff developed these recommendations in the legislative area in consultation with representatives of the Department of Justice and other persons knowledgeable about the problems associated with the prosecution of computer crime.

There is ample evidence to suggest that much of the computer-related criminal activity has involved, or will involve in the future, government computer systems. Accordingly, consideration should be given to the feasibility of these legislative remedies:

First, legislation should be considered which would prohibit unauthorized use of computers owned by, operated for, under contract with, on behalf of or in conjunction with the U.S. Government.

Second, legislation should be considered to expand the wire fraud jurisdiction to reach any use of the facilities of wire communications, regardless of whether the actual signal travels interstate.

Third, legislation should be considered to clarify definitional guidelines as to whether checks, securities, and other negotiable instruments issued by computers in both the public and private sectors are forgeries if issued on the basis of improper or fraudulent data.

Mr. RIBICOFF. Mr. President, as a result of the preliminary staff investigation by the committee, legislation was drafted. I introduced the measure on June 27, 1977. It is entitled the "Federal Computer Systems Protection Act of 1977, S. 1766." It is cosponsored by Senators PERCY, MCCLELLAN, JACKSON, METCALF, KENNEDY, MATSUNAGA, JAVITS, THURMOND, GRIFFIN, DOMENICI, and HEINZ. The measure was referred to the Criminal Laws and Procedures Subcommittee of the Senate Judiciary Committee. In the House of Representatives, a similar bill was introduced by Representatives CHARLES ROSE of North Carolina and ROBERT F. DRINAN of Massachusetts and referred to the House Judiciary Committee.

The Federal Computer Systems Protection Act of 1977, S. 1766, would impose heavy prison terms and stiff fines for electronic burglars who use computers technology to steal or manipulate information, financial instruments and other property.

The bill would make it a crime to misuse the computer systems of the Federal Government, certain financial institutions and other entities involved in interstate commerce.

Punishment would be 15 years in prison or $50,000 fine, or both.

If adopted, this bill would be the first law enacted by the Congress aimed directly at controlling crime by computer or computer-related crime.

Present law, as reflected in title 18 of the United States Code, contains some 40 statutes which the Government can use to combat computer-related crime.

But all 40 of the statutes were written to combat abuses other than computer crimes and, as such, Federal prosecutors have been handicapped because they have had to construct their cases on laws that did not envision the technical aspects of computer crime.

The sponsors of S. 1766 felt this legislation was needed because of three key findings of the committee staff study of February 2, 1977, "Computer Security in Federal Programs."

The key findings were that, first, the Government was unable to adequately secure its more than 10,000 computers against fraud, compromise, and physical assault; second, that there were serious weaknesses in Government procedures for predicting the integrity of its computer personnel; and, three, that there was a serious concern on the part of Federal law enforcement and prosecutorial officials that the United States Code, title 18, should be amended to strengthen the Government's ability to prosecute computer crime.

Regarding this third finding—that title 18 of the United States Code should be amended to more specifically cover computer crime—it was noted in the committee staff study, for example, that a major computer crime conviction had been won in one case only because the perpetrator had used a telephone line to penetrate the computer system of a Federal contractor across State lines. Had the telephone been used intrastate rather than interstate, Federal prosecutors said, the wire fraud statute (18 U.S.C. 1343) may have been inadequate.

In the same case, a part of the indictment was dismissed because electromagnetic impulses which transmitted valuable data were determined not to be "property" as defined in the Interstate Transportation of stolen property statute (18 U.S.C. 2314).

In another attempted prosecution, the Government lost the case because of definitional difficulties in establishing whether checks issued by a computer on the basis of fraudulent or manipulated data were forgeries.

S. 1766 would amend title 18 in such a way as to make virtually all unauthorized use of Federal computers and computers used in interstate commerce a Federal offense.

There would be no requirement that telephones or other forms of illicit computer penetration across State lines be used in order to qualify the act as a crime. The bill is further intended to ease the jurisdictional and evidentiary burdens imposed by computer technology.

Mr. President, in introducing S. 1766 on June 27, 1977, I made introductory remarks. I ask unanimous consent that excerpts from those Senate remarks be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS

This bill represents an important step forward in combating crime by computers.

The computer has meant progress in our society almost everywhere—from our ability to predict weather to our ability to detect potential health problems.

But the computer, because it has become such an essential aspect of our financial world—both in the private sector and in government—has also become vulnerable to criminal penetration. Another serious threat is the potential compromise and misuse of vast quantities of data on the private lives of individuals currently stored in the computer systems of the Federal Government and private industry.

Crime by computer is relatively new. But when it strikes it is not shy. Violators, with even a limited amount of technical knowledge, can literally steal hundreds of thousands of dollars, either from computer check-writing systems or by directing the computer to divert valuable data or costly equipment.

Our committee investigation revealed that the government has been hampered in its ability to prosecute computer crime. The reason is that our laws, primarily as embodied in Title 18, have not kept current with the rapidly growing and changing computer technology.

Consequently, while prosecutors could, and often did, win convictions in crime by computer cases, they were forced to base their charges on laws that were written for purposes other than computer crime.

Prosecutors are forced to "shoe horn" their cases into already existing laws—when it is more appropriate for them to have a statute relating directly to computer abuses.

This bill will provide the needed corrective action. My committee staff, consulting with Justice Department officials, computer security scientists, and persons expert and actively involved in the criminal justice system, concluded that this measure, if adopted by the Congress will have applicability in virtually every computer crime case not already adequately covered by an existing law.

This bill is specifically designed to give federal prosecutors a weapon against the four main categories of computer crime. They are:

(1) the introduction of fraudulent records or data into the computer system;

(2) the unauthorized use of computer related facilities;

(3) the alteration or destruction of information or files, and

(4) the stealing, whether by electronic means or otherwise, of money, financial instruments, property, services, or valuable data.

Computer technology, which has produced enormous benefits for mankind, has also produced great potential for the sophisticated white collar criminal. The simple fact as demonstrated in the staff report is that computer technology has created vulnerability to white collar crime. This bill is designed to provide criminal sanctions at all points where computer operations are targets for criminals.

There are five key stages in a sophisticated computer system, and each stage of operation is vulnerable to a particular method of criminal attack. The first and most important stage is translation of data into computer language or input, where the data is placed on card readers or magnetic tapes. At this stage criminals can introduce false data into the computer so that key documents could be removed and fraudulent records inserted. A criminal or a criminal group with access to this stage of operation could manipulate the computer with introduction of false data, and it might be years before anyone discovers the fraud.

Computer programming is the second stage of operation and occurs when the computer is supplied with a legical sequence of instructions for the solution of problems. The computer then responds in a manner dictated by the program. Programs are easily modified, destroyed, or stolen and sold to a competitor.

The third stage involves the computer's brain, known as the central processing unit (CPU). The CPU, which contains the operating system software, guides the computer and directs it to perform the necessary functions following the instructions in the program and is susceptible to various forms of electronic penetration and manipulation. Destruction of the CPU could stop computer operation and be disastrous to a government agency, industry, or company with most of its records computerized.

Once data is received from the CPU, it is translated into an intelligible form called output—the fourth stage of the operation. Output is vulnerable to theft. Criminals at this stage could steal confidential data, such as privacy information or trade secrets. The computer systems of government agencies, financial institutions, and others contain voluminous confidential data on firms and individuals; theft of such data could easily lead to blackmail or even be sold on a black market.

The final stage of the operation, communication, involves the transmission of output to other computers and/or users. The computer is vulnerable at this stage to electronic penetration. Initially, the information will be transmitted by telephone circuits, which can be tapped.

The main section of this bill makes it a federal crime to "access" a computer for the purpose of perpetrating fraud or obtaining money, property or service under false or fraudulent pretenses. It should be made clear that the term "access" specifically includes within its meaning as defined in the bill all forms of unauthorized or clandestine penetration of a computer, computer system or computer networks. These penetrations include but are not necessarily limited to:

(a) Wiretapping which is gaining access to a system via direct connection to a communication line or part of the central system.

(b) Radiation which is passive eavesdropping without direct connection. It siphons data from a system by detecting acoustic or electromagnetic signals emanating from a computer or component.

(c) Artifice or "trapdoor entry" which is the intentional introduction of a clandestine code into a system to be used later for subversion from within. It is created by unscrupulous programmers and designers. An artifice can be implanted at the time the system is implemented or during subsequent modification; it can also be implanted by a successful penetration.

(d) Impersonation which is unauthorized activity carried out by performing as a legitimate user or device such as using someone else's user identification, code and/or password to gain access to the system.

All phases of computer operations need to be made more secure from criminal penetration but all the physical security precautions in the world will be of little use if they are not accompanied by adequate personnel procedures to reduce the possibility of employment of dishonest persons. Dishonest employees who themselves engage in computer crime or engage in collusion with criminals on the outside pose the biggest threat to government and business. Computer criminals are the most sophisticated of all white collar criminals. They currently operate in an environment and under conditions in which the successful detection and prosecution of their crimes is very difficult. When they are apprehended and convicted, all too often the sentences they receive are extraordinarily light. It is for this reason that I attach great importance to the penalty provisions of this bill.

Under terms of this bill, a federal judge may, in his discretion, depending on the severity of the crime, impose jail terms of 15 years and fines up to $50,000 on computer thieves.

It is my hope that these increased penalties, unprecedented in federal criminal law for white collar crime, will deter the potential computer thief and at the same time pose a warning to all white collar criminals that the Congress of the United States sees white collar crime as a treat to our society which should be dealt with in a manner befitting the crime.

It is time to tell criminals who use computer terminals, fountain pens and phony stock certificates to rob millions of dollars, that their corrosive activities will not be tolerated.

This bill also places particular emphasis on the prosecution of crimes against the computer systems of banks and other financial institutions which are insured or regulated by the federal government. Today, financial institutions are heavily dependent on computers which process and record billions of dollars in financial transactions daily. If present trends continue, however, banks and other financial institutions will become more dependent on computers in the future. As Electronic Funds Transfer Systems are perfected and implemented, more computers, terminals, wires, data banks, and operators will be employed to operate these intricate and complex systems of recordkeeping. Electronic Fund Transfer Systems involve the use of communication and computer networks to relay, process, and store fund transfer information. They may involve transferring funds from a buyer's account to the account of a seller or from an employer to an employee.

A national Electronic Fund Transfer System could supplant the present paper exchange system so that paper currency or stock certificates as we now know them would play an insignificant role in transactions or even become obsolete.

The beginnings of a national EFTS can be witnessed today. Computers with multiprocessing capability and high speed mass memory are in operation, providing a basis for at least a regional EFTS. Taking advantage of this technology, several automated clearinghouses appeared in the early 1970's. Under the present system, banks maintain clearing balances on one another or on a common bank such as the Federal Reserve Bank. Because transactions are processed electronically, the cumbersome process of hand-sorting and paper and pen work has been eliminated; in addition, the Automated Clearinghouse rapidly adjusts balances. Automated Clearinghouses are a logical starting point for the development of a national EFTS.

The "point-of-sale" system represents a more sophisticated step in the development of an EFTS. Under a point of sale the buyer can pay for his purchase without the intervention of currency. As in an EFTS the buyer gives the store clerk an identification card to insert in a terminal linked to a bank's computer; the purchase price is then transferred from the buyer's account to the store account. If the store does not maintain an acount at the bank, the transfer process takes place as it presently does through some form of clearinghouse.

The automated clearinghouse and the point of sale systems are rudimentary compared to the sophisticated and elaborate technology required to link up a national EFTS. A national system will rely on thousands of computers, millions of terminals and millions of miles of wire with thousands of technicians and computer operators needed to man it. It can totally displace ink. The workhorse of EFTS is the computer, and the technology which makes the system possible also makes it vulnerable to criminal attack.

There are at least four areas where the protective criminal law sanctions of the bill I am introducing today will apply to EFTS.

They are:

(1) unauthorized access to a customer's account by means of the theft or reproduction of an access "key", such as the plastic card, given the customer;

(2) unauthorized access to accounts by personnel manning access terminals, such as the store employees operating the supermarket remote deposit-withdrawal system;

(3) unauthorized access to communication lines between remote terminals and information storage areas, such as a financial institution's central processing unit, in short, wiretapping; and

(4) unauthorized access at the central processing unit site by employees or outsiders.

In addition, I wish to make it clear that nothing in this legislation is intended to reduce, restrict or supersede existing statutes and nothing in this legislation reduces existing investigative authority of any law enforcement or national security agency under existing law or duly authorized practices.

The Senate Governmental Affairs Committee investigation, which led to the staff report, "Computer Security in Federal Programs," and this bill have been studied by the Office of Management and Budget (OMB). Issues raised in the staff report have been examined by OMB, which has overall fiscal and policy control of all automatic data processing (ADP) operations in the executive branch.

As a result of the attention focused on computer security by the committee inquiry, OMB is in the process of revising its government-wide regulations affecting computer security. These regulations, which are contained in OMB Circular A-71, are being strengthened and upon completion of their revision, will be made available to the public.

Not affected by the revised OMB A-71 Circular, or by this bill, is another problem raised by the Senate committee's investigation—that problem being the growing and widespread multiple-filer schemes in which violators create bogus tax forms, file them with the Internal Revenue Service and are then sent by computers sizeable refunds, ranging in amounts from $500 to $500,000.

Such schemes are already clearly against the law and neither IRS nor the Justice Department needs a new statute to control them. What is required, IRS officials have

indicated to the Committee, is an improved system for detection and such a system is being implemented, IRS officials say.

Finally, I wish to note that Senator Percy, as Ranking Minority Member of the Senate Governmental Affairs Committee, has worked closely with me and the staff for the past year as this examination of computer security and computer crime progressed. Owing to his personal knowledge of how computers fill a great need in financial transactions, Senator Percy has offered encouragement and advice and the benefit of his long and timeterested expertise in this complicated area.

The Committee investigation was conducted at the staff level by Philip R. Manuel and Fred Asselin.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that S. 1766, the Federal Computer Systems Protection Act of 1977, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1766

A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Computer Systems Protection Act of 1977".

SEC. 2. The Congress finds that—

(1) computer related crime is a growing problem in the Government and in the private sector;

(2) such crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime;

(3) the opportunities for computer related crimes in Federal programs, in financial institutions, and in other entities which operate in interstate commerce through the introduction of fraudulent records into a computer system, unauthorized use of computer facilities, alteration or destruction of computerized information files, and stealing of financial instruments, data, or other assets, are great;

(4) computer related crime directed at institutions operating in interstate commerce has a direct effect on interstate commerce; and

(5) the prosecution of persons engaged in computer related crime is difficult under current Federal criminal statutes.

SEC. 3. (a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1028. Computer fraud

"(a) Whoever directly or indirectly accesses or causes to be accessed any computer, computer system, computer network, or any part thereof which, in whole or in part, operates in interstate commerce or is owned by, under contract to, or operated for, on behalf of, or in conjunction with, any financial institution, the United States Government, or any branch, department, or agency thereof, or any entity operating in or affecting interstate commerce, for the purpose of (1) devising or executing any scheme or artifice to defraud, or (2) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(b) Whoever, intentionally and without authorization, directly or indirectly accesses, alters, damages, or destroys any computer, computer system, or computer network described in subsection (a), or any computer software, program, or data contained in such computer, computer system, or computer network, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(c) For purposes of this section, the term—

"(1) 'access' means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of, a computer, computer system, or computer network;

"(2) 'computer' means an electronic device which performs logical, arithmetic, and memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network;

"(3) 'computer system' means a set of related, connected or unconnected, computer equipment, devices, and software;

"(4) 'computer network' means the interconnection of communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers;

"(5) 'property' includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value;

"(6) 'services' includes, but is not limited to computer time, data processing, and storage functions;

"(7) 'financial instrument' means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, or marketable security;

"(8) 'computer program' means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system;

"(9) 'computer software' means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system;

"(10) 'financial institution' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal Home Loan Bank Systems and any Home Loan Bank;

"(F) a member or business insured by the Securities Investor Protection Corporation; and

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities and Exchange Act of 1934.".

(c) The table of sections of chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following:

"1028.....Computer fraud.".

SECURITY OF FEDERAL AUTOMATED INFORMATION SYSTEMS

Mr. RIBICOFF. Mr. President, improvement in the ability of the Federal Government to secure its own computers and to prosecute computer crime can be achieved in part by legislation such as S. 1766.

However, the executive branch itself can initiate its own corrective actions. The lead agency in this regard is the Office of Management and Budget.

Responding to the recommendations of the Senate Governmental Affairs Committee in its staff study of February 2, 1977, the Office of Management and Budget set in motion a review of computer security in Federal programs.

Accordingly, on October 3, 1977, a draft computer security policy was published by OMB in the Federal Register.

The OMB draft computer policy addresses personnel security, physical security, and other aspects of computer security which have been under examination during the Senate Governmental Affairs Committee's preliminary staff inquiry.

Mr. President, I ask unanimous consent that the memorandum of October 7, 1977 transmitting the OMB draft computer security policy to the Senate Governmental Affairs Committee; the draft policy itself; and related documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET

The attached draft computer security policy was published in the October 3, 1977 Federal Register for public comment. I would welcome any comments or suggestions.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

On September 23, 1977, the Office of Management and Budget sent a Memorandum to the Heads of Executive Departments and Establishments concerning proposed policy for the security of Federal automated information systems (Circular No. A-71).

The purpose of this notice is to solicit comments from the public on this proposed policy. Comments should be forwarded to the Information Systems Policy Division, Office of Management and Budget, Washington, D.C. 20503, within 30 days of this notice.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 23, 1977.

To the heads of executive departments and establishments.

Subject: Proposed policy for the security of Federal automated information systems.

The attached draft memorandum supplements OMB Circular No. A-71 and provides policy guidance for developing and implementing a computer security program. Comments on the proposed policy should be forwarded to this office within 30 days. It is also requested that you provide estimates of both one-time and annually recurring resources required to implement the policy. Questions should be addressed to the Information Systems Policy Division (202) 395-4814.

WAYNE G. GRANQUIST,
Associate Director for Management and Regulatory Policy.

Attachment.

DRAFT

To the heads of executive departments and establishments.

Subject: Security of Federal automated information systems.

1. Purpose. This Transmittal Memorandum promulgates policy and responsibilities for the development and implementation of

computer security programs by executive branch departments and agencies.

2. Background. Increasing use of computer and communications technology to improve the effectiveness of governmental programs has introduced a variety of new management problems. Many public concerns have been raised in regard to the risks associated with automated processing of personal, proprietary or other sensitive data. Problems have been encountered in the misuse of computer and communications technology to perpetrate crime. In other cases, inadequate administrative practices along with poorly designed computer systems have resulted in improper payments, unnecessary purchases or other improper actions. The policies and responsibilities for computer security established by this Transmittal Memorandum supplement those currently contained in OMB Circular No. A-71.

3. Responsibility of the heads of executive agencies. The head of each executive branch department and agency is responsible for assuring an adequate level of security for all agency data whether processed in-house or commercially. This includes responsibility for the establishment of physical, administrative and technical safeguards required to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as national security data. It also includes responsibility for assuring that automated processes operate effectively and accurately. In fulfilling this responsibility each agency head shall establish policies and procedures and assign responsibility for the development, implementation, and operation of an agency computer security program. The agency's computer security program shall be consistent with all Federal policies, procedures, standards and guidelines issued by the Office of Management and Budget, the General Services Administration, the Department of Commerce, and the Civil Service Commission. In consideration of problems which have been identified in relation to existing practices, each agency's computer security program shall at a minimum:

a. Assign responsibility for the security of each computer installation operated by the agency, including installations operated directly by or on behalf of the agency (e.g. government-owned contractor operated facilities), to a management official knowledgeable in data processing and security matters.

b. Establish personnel security policies for screening all individuals participating in the design, operation or maintenance of Federal computer systems or having access to data in Federal computer systems. These policies should include, as appropriate, requirements for background investigations of both government and contractor personnel. Personnel security policies for Federal employees shall be consistent with policies issued by the Civil Service Commission.

c. Establish a management control process to assure that appropriate administrative, physical and technical safeguards are established for all new computer applications. While this control process should apply to all new computer applications, particular emphasis should be placed on computer applications intended to be used to issue checks, requisition supplies or perform similar functions based on programed criteria with little or no human intervention (so-called automated decisionmaking systems). The management control process shall, at a minimum, include policies and responsibilities for:

(1) Defining and approving security specifications for all new computer applications and modifications to existing applications prior to programming such applications or changes. The views and recommendations of the computer user organization, the computer installation and the individual responsible for the security of the computer installation shall be sought and considered prior to the approval of the security specifications for the application.

(2) Conducting and approving design reviews and systems tests of new or changed computer applications prior to using them operationally. The objective of the design reviews should be to ascertain that the proposed design meets the approved security specifications. The objective of the system tests should be to verify that the planned administrative, physical and technical security requirements are operationally adequate prior to the use of the system. The results of the design review and system test shall be fully documented and maintained as a part of the official records of the agency. Upon completion of the system test, an official of the agency shall certify that the system meets the documented and approved system security specifications, meets all applicable Federal policies, regulations and standards, and that the results of the test demonstrate that the security provisions are adequate for the application.

d. Establish an agency program for conducting periodic audits and recertifying the adequacy of the security of each operational computer application which processes personal, proprietary or other sensitive data, or which issues checks, requisitions supplies or performs similar functions with little or no human intervention (automated decisionmaking applications). This audit and recertification process is to be conducted by technically qualified professionals in an organization independent of the user organization and computer facility manager. Periodic audits and recertification shall be performed at time intervals determined by the agency, commensurate with the sensitivity of information processed and the risk and magnitude of loss or harm that could result from the application operating improperly, but shall be conducted at least every three years.

e. Establish policies and responsibilities to assure that appropriate security requirements are included in specifications for the acquisition or operation of computer facilities, equipment, software, or related services, whether procured by the agency or by the General Services Administration. These requirements shall be reviewed and approved by the management official assigned responsibility for security of the computer installation to be used. This individual must certify that the security requirements specified are adequate for the intended application and that they comply with current Federal computer security policies, procedures, standards and guidelines.

f. Assign responsibility for the conduct of periodic risk analyses for each computer installation operated by the agency, including installations operated directly by or on behalf of the agency. A risk analysis shall be performed:

(1) Prior to the approval of design specifications for new computer installations.

(2) Whenever there is a significant change to the physical facility, hardware or software at a computer installation. Agency criteria for defining significant changes shall be commensurate with the sensitivity of the information processed by the installation.

(3) At periodic intervals of time established by the agency, commensurate with the sensitivity of the information processed by the installation, but not to exceed three years, if no risk analysis has been performed during that time.

4. Responsibility of the Department of Commerce. The Secretary of Commerce shall develop and issue standards and guidelines for assuring security of automated information. Each standard shall, at a minimum, identify:

a. Whether the standard is mandatory or voluntary.

b. Specific implementation actions which agencies are required to take.

c. The time at which implementation is required.

d. A process for monitoring implementation of each standard and evaluating whether the standard is meeting its intended objectives.

e. Requirements for use of the standard in specifications for computer hardware, software or related services issued by the agency and the General Services Administration.

f. Requirements for use of the standard in specifications for the acquisition or construction of computer facilities.

g. The conditions or criteria under which waivers to the standards may be granted.

h. The procedures for granting waivers.

5. Responsibility of the General Services Administration. The Administrator of General Services shall:

a. Issue policies and regulations for the physical security of computer rooms in Federal buildings consistent with standards and guidelines issued by the Department of Commerce.

b. Assure that agency procurement requests for computers, software, and related services include security requirements which have been certified by a responsible agency official. Delegations of procurement authority to agencies by the General Services Administration under madatory programs, dollar threshold delegations certification programs or other so-called blanket delegations shall include requirements for agency specifications and certification of security requirements. Other delegations of procurement authority shall require specific agency certification of security requirements as a part of the agency request for delegation of procurement authority.

c. Assure that computer equipment, software, computer room construction, guard or custodial services, telecommunications services, and any other related services procured by the General Services Administration meet the security requirements established by the user agency and are consistent with other applicable policies and standards issued by OMB, the Civil Service Commission and the Department of Commerce. Computer equipment, software, or related ADP services acquired by the General Services Administration in anticipation of future agency requirements shall include security safeguards which are consistent with mandatory standards established by the Secretary of Commerce.

6. Responsibility of the Civil Service Commission. The Chairman of the Civil Service Commission. The Chairman of the Civil Service Commission shall establish personnel security policies for Federal personnel associated with the design, operation or maintenance of Federal computer systems, or having access to data in Federal computer systems. These policies should emphasize personnel requirements to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as applications which issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention. Background investigations of Federal personnel should be required, as appropriate, commensurate with the sensitivity of the data to be handled and the risk and magnitude of loss or harm that could be caused by the individual.

THE GENOCIDE CONVENTION IS A VITAL PART OF A HUMAN RIGHTS POLICY

Mr. PROXMIRE. Mr. President, on October 4 the New York Times printed an article by perhaps the foremost remaining Soviet dissident, Andrei D. Sakharov, which focused upon the upcoming Helsinki Conference concerning human rights. He concluded the article by writing:

I particularly appeal to the United States Congress, and President Carter, supported by the enormous power and influence of his country, drawing on the clearly expressed will and tradition of a free people, to declare the defense of human rights in the whole world to be a fundamental moral policy of the United States.

We are going through a period of history in which decisive support of the principles of freedom of conscience, an open society, and the rights of man has become an absolute necessity. The alternative is surrender to totalitarianism, the loss of all precious freedom, and political, economic, and moral degradation.

The West, its political and moral leaders, its free and decent peoples, must not allow this.

Mr. President, President Carter has frequently expressed his strong commitment to upholding human rights, but that is not enough. In the case of the Genocide Convention, which seeks to protect only the most basic of human rights—the right to live—it is the Senate which needs to act. I suggest that, until we ratify this convention and take action to otherwise support the President's stand, we in the Senate have no right to feel any of the pride or accept any of the well deserved praise which it has brought to him and to the United States. Until the Genocide Convention is ratified, we have not taken one of the crucial steps necessary to implement a serious human rights priority in this country; we have left our task unfinished.

Mr. President, I urge my colleagues to support the President and uphold our Nation's leadership in human rights by ratifying the Genocide Convention immediately.

TRIBUTE TO ERLE COCKE, SR.

Mr. TALMADGE. Mr. President, I have learned with regret and profound sorrow of the death in Atlanta on October 7 of a noted Georgian and a great American, Erle Cocke, Sr. He served his State and the Nation with rare distinction, towering integrity, and remarkable executive skills.

Presidents Roosevelt, Eisenhower, and Kennedy drafted him into public service, as did numerous Governors of the State of Georgia. His outstanding contributions to the banking industry were recognized by his election in 1956 to national president of the American Bankers Association.

I mourn the passing of Erle Cocke, Sr., and extend my deepest sympathy to his family. I ask unanimous consent that his obituary, which appeared in the Atlanta Journal-Constitution of October 9, and a brief biographical sketch be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ERLE COCKE, SR., 82, DIES; ONCE CHAIRMAN OF FDIC

Erle Cocke Sr., 82, an Atlantan who rose to the presidency of the American Bankers Association and the chairmanship of the Federal Deposit Insurance Corp., died Friday of cancer.

He was a financial observer at the 1944 Bretton Woods Conference which inaugurated the World Bank and the International Monetary Fund. In 1958 and 1961 he was a delegate to annual meetings of the World Bank, and in 1962, represented the United States at the 15th annual session of the International Banking School in Moscow.

Cocke was named by President Franklin D. Roosevelt to head the Atlanta area Reconstruction Finance Corp. and also served as state director of the National Emergency Council during Roosevelt's first term. He was general chairman of the 1935 Roosevelt Homecoming Celebration in Atlanta.

Through a long career in politics and public service, Cocke had been a state senator and a Georgia delegate to the Democratic National Convention in 1932, 1936 and 1952. He was appointed by then Gov. Richard B. Russell as the secretary-treasurer and executive officer of the Board of Regents of the University System of Georgia.

A native of Lee County, Cocke was named vice president of Atlanta's Fulton National Bank in 1938 and served successively as executive vice president, president and vice chairman of the board and chairman of the executive committee.

President Eisenhower appointed him director of the Federal Deposit Insurance Corp. in 1957, and Cocke was later elected chairman of the organization during the Kennedy administration.

Through the 1920's, Cocke was a banker, farmer and manufacturer in Dawson and Macon and participated in a campaign to balance agriculture with industry in Georgia and other Southern states. He served on the first Georgia Agriculture and Industrial Development Board.

Cocke was former vice president of the Central of Georgia Railroad and former consultant of the Southern Railway System.

During World War I, Cocke served as a first lieutenant in the U.S. 6th Infantry Division. In 1922, he was elected national vice commander of The American Legion.

He was a member of the National Planning Association, a member of the board of trustees of the U.S. International Chamber of Commerce and the National Press Club in Washington, D.C.

Cocke was past president of the Atlanta Clearing House from 1947 to 1951. He was a member of the Capital City Club, the Piedmont Driving Club and the Second-Ponce de Leon Baptist Church.

A cryptside service will be held at 2 p.m. Sunday at the family mausoleum in Cedar Hill Cemetery in Dawson. The Rev. James Mallary and Dr. Monroe F. Swilley Jr. will officiate.

Surviving are the widow, the former Elise Meadows; a daughter, Mrs. Eugene P. Cofield Jr. of Atlanta; a son Erle Cocke Jr. of Washington, D.C. and Dawson; five grandchildren; and two great-grandchildren.

ERLE COCKE, SR.

Erle Cocke, Sr. was an influential figure in financial and political affairs in Georgia and the nation for half a century.

A past president of the American Bankers Associaiton and a former chairman of the Federal Deposit Insurance Corporation, the Atlanta banker had served as a United States delegate to numerous international conferences.

He was a financial observer at the 1944 Bretton Woods Conference which inaugurated the World Bank and International Monetary Fund. In 1958 and 1961 he was a delegate to annual meetings of the World Bank, and in 1962 represented the U.S. at the 15th annual session of the International Banking School held in Moscow at the State University.

Mr. Cocke was an early supporter of President Franklin D. Roosevelt, who named him head of the Atlanta area Reconstruction Finance Corporation. He also served as state director of the National Emergency Council during Roosevelt's first term. He was general chairman of the 1935 Roosevelt Homecoming Celebration in Atlanta, Ga.

In 1927–28 Mr. Cocke served as a state senator from the 11th Georgia District. While in the legislature, he formed a close friendship with the late Richard B. Russell, then speaker of the house but destined later to be governor and United States Senator. While governor, Mr. Russell appointed Mr. Cocke Secretary-Treasurer and Executive Officer of the Board of Regents of the University System of Georgia.

Mr. Cocke was a Georgia delegate to the Democratic National Convention in 1932, 1936 and 1952. He served in a fund-raising role in campaigns of both Senator Russell and Senator Walter F. George.

Named a vice president of Atlanta's Fulton National Bank in 1938, Mr. Cocke during the next two decades served successively as executive vice president, president, and vice chairman of the board and chairman of the executive committee. He was president of the Atlanta Clearing House from 1947–51, and in 1956 was elected national president of the American Bankers Association.

President Eisenhower appointed him a director of the Federal Deposit Insurance Corporation in 1957. Three years later during the Kennedy administration he was elected chairman.

Born on a farm in Lee County, Georgia, Mr. Cocke moved at an early age to Dawson, in adjoining Terrell County, where his father was a planter-banker. After attending high school in Dawson, he was graduated from the University of Georgia with a bachelor of science degree in 1915.

During World War I, he fought in France as a 1st Lieutenant in the 16th Machine Gun Battalion of the U.S. Sixth Infantry Division. In 1922 he was elected national vice commander of The American Legion, which his son, Erle, Jr.; was to head 30 years later following World War II.

From 1920–31, Mr. Cocke engaged in banking, manufacturing and farming in Dawson and Macon.

Mr. Cocke played a leading role in the campaign to balance agriculture with industry in Georgia and neighboring states. He served on the first Georgia Agricultural and Industrial Development Board, which was successful in attracting many new manufacturing plants to the state following World War II.

He also served as a trustee of the Committee for Economic Development, a member of the National Planning Association, and a member of the board of trustees of the U.S. International Chamber of Commerce.

In comparatively vigorous health until the onset of his final illness in mid-summer of 1975, he continued active business pursuits as a financial consultant and a member of corporate boards. He had been a director of the Central of Georgia Railway Company, the First Georgia Bank in Atlanta, Citizens Bank of Maryland and General Acceptance Corporation. He was a consultant to the Southern Railway System and to numerous banks.

Mr. Cocke was a member of the National Press Club (Washington), Capital City and Piedmont Driving clubs (Atlanta), and the Newcomen Society, Alpha Tau Omega fraternity, and the Second-Ponce de Leon Baptist Church of Atlanta.

He is survived by his wife, the former Elise Meadows of Lowndesboro, Ala., to whom he was married on December 9, 1917; a daughter, Mrs. Eugene P. Cofield, Jr. of Atlanta; a son, Erle, Jr. of Dawson and Washington, D.C.; five grandchildren and two great grandchildren.

JUVENILE DELINQUENCY IN THE SCHOOL ACT

Mr. ANDERSON. Mr. President, S. 794, the Juvenile Delinquency in the Schools Act, is a bill of significance which should be given prompt, favorable attention.

Since becoming a cosponsor of this measure, I have received considerable response from teachers, principals, and administrators urging its passage.

I must say, however, that some principals and school administrators have taken exception to a newspaper article on school violence which I submitted to the RECORD in August.

The article describes the problem of teachers being harassed and assaulted by juvenile delinquents in the classroom. The newspaper piece indicates that in some instances teachers have had less than enthusiastic support from principals in handling these matters.

I have been assured by many of our Minnesota school principals that they are very committed to protecting teachers in the classroom and that they are most willing to back up their teachers when it comes to administering appropriate discipline.

Given the support which many of our Minnesota school principals have shown for S. 794, I believe them. I look forward to their help when the bill becomes law.

This measure envisions a cooperative effort among teachers, principals, and administrators. It in no way is intended as a rebuke to either principals or administrators without whose active assistance the program established by S. 794 cannot work.

S. 695—DEFENSE PRODUCTION ACT AMENDMENTS

Mr. BAYH. Mr. President, the Senate's action yesterday on S. 695, the Defense Production Act amendments, was an important step toward ending the abuses of public trust which have been found as a result of the so-called revolving door syndrome. This term, as my colleagues know, refers to a situation where Government contracting officials leave public service to take jobs with a private firm with whom they have had official dealings in the past, often involving the award of lucrative Government contracts. As a cosponsor of this legislation just approved, I think we have also made an important effort to enhance public confidence in the public officials who buy the billions of dollars in goods and services required by the Federal budget.

Specifically, S. 695 prohibits any Federal contracting officer from being employed for a 2-year period after leaving the Federal Government by any Government contractor over which that person had substantial official authority. In order to assure that this legislation will be interpreted fairly and consistently throughout the Federal Government, the Civil Service Commission is granted the authority to review the adequacy of conflict of interest laws and to counsel individuals on the applicability of S. 695 to them. Advisory opinions may be granted under this provision and may be used in any criminal or civil case arising from violations of the act. Such violations are considered a felony and carry a $5,000 fine and up to 1 year in prison for individuals accepting employment in violations of the terms of S. 695. A $25,000 fine and 1-year prison sentence could occur in cases of individuals offering employment proscribed under the act.

When we pause to consider that the Department of Defense alone purchases over $40 billion of goods and services per year from the private sector, it should be clear how great an opportunity exists for abuse in the Government acquisition process. The purpose of S. 695 is to remove the temptation which might prove too great for some acquisition officers and result in the American people getting an inferior product or lesser quality service in order to enhance an acquisition officer's job prospects in the private sector. But S. 695 is more than a punitive measure directed at a very, very few Federal officials who may have been guilty of the poor judgment described above. More importantly, it will provide protection for the conscientious and competent Federal acquisition officers against the influence which could be exerted by contractors by holding out the promise of post-Government employment. This should enhance the ability of the official to pass sound judgment on procurement actions.

As far back as 1960, the New York City Bar Association concluded that—

> Interviews revealed a substantial body of opinion that Government employees who anticipate leaving their agency some day are put under an inevitable pressure to impress favorably private concerns with which they officially deal.

Ten years later, the blue ribbon defense panel reached a similar conclusion. The "Fitzhugh Commission" found that "the temptation to curry favor with the contractor in the expectation of hopefully lucrative employment is present." An official Air Force memorandum expressed concern about the "mass migration of Air Force officers into the management ranks of the contractors with whom they dealt." I must note that the Department of Defense should not be singled out since Federal contracting out occurs in all Government agencies, and the remedy under S. 695 is applicable to acquisition officers of all agencies.

By effectively delaying employment with the private sector for 2 years in those cases where a procurement official has dealt in a substantial and personal way with a firm or person, we are removing temptation. In so doing we have strengthened the position of the public official and more firmly guaranteed good products and sound services for the American taxpayer from the private sector.

THE NOMINATION OF MRS. SHARON PERCY ROCKEFELLER TO THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING

Mr. ROBERT C. BYRD. Mr. President, the 20th century could well be called, among other designations, the "electronic age." Human science and ingenuity have invented and developed a number of electronic devices that have drastically changed the nature and scope of possible human relationships and experiences in our lifetime.

In the field of electronic communications, television and radio have exercised an immeasurable influence on recent generations. The Federal Government has ventured prudently into these media through its public broadcasting efforts, and President Carter has recently called for certain definite measures that are calculated to enhance the value of public broadcasting projects for the citizens of this country.

As a result of the growth of public broadcasting, the responsibility for the oversight of this dimension of broadcasting has become increasingly significant. It was my pleasure to join with my colleague Senator RANDOLPH and Representative STAGGERS in testifying today in support of the nomination of Mrs. Sharon Percy Rockefeller of West Virginia to the board of directors of the Corporation for Public Broadcasting, before the Committee on Commerce, Science, and Transportation. In view of her qualifications, experience, and background, I think this is an excellent nomination. Mrs. Rockefeller would be an important addition to those responsible for shaping the policies of public broadcasting in the future.

Mr. President, I ask unanimous consent to have the statement I made before the committee printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ROBERT C. BYRD BEFORE THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. Chairman, I want to thank you and the members of the Committee on Commerce, Science, and Transportation for the opportunity of appearing before you today in behalf of Sharon Percy Rockefeller. Mrs. Rockefeller's nomination to the Board of Directors of the Corporation for Public Broadcasting is one of which I heartily approve, and it is with pleasure and confidence that I join Senator Randolph in urging a favorable report of her nomination.

The twentieth century is replete with scientific discoveries and devices that have profoundly affected mankind. But two of the modern instruments that have most significantly altered man's perceptions of his world and extended his opportunities for personal and communal growth in this age are television and radio. Through the medium of television, literally millions of men and women witnessed man's first landing on the Moon. Radio enables us to send communications almost instantly around the Earth to listeners thousands of miles away, thus effectively turning the world into an electronic neighborhood.

The potential of television and radio as media of cultural expression, communication, and the massive dissemination of ideas is almost unlimited. Unfortunately, as with most human inventions and discoveries, these media can be used to serve the best or worst of human purposes. The quality and nature of their use depend largely on the character of their stewards in each case.

The Corporation for Public Broadcasting is charged with a unique and special responsibility. It has a pioneering function in this society. Not only must it encourage the development of a program of public broadcasting that will provide quality entertainment and intellectual challenge to a wide variety of groups and individuals in this country; the corporation must also establish a setting for the development of technical expertise and engineering advances in broadcasting. Public broadcasting is not a competitor for commercial broadcast outlets; rather, it is a complement. Public broadcasting can undertake programs and make available opportunities that would not be practical for commercial enterprises.

For these reasons, service on the Board of Directors of the Corporation for Public Broadcasting requires an enviable combination of pragmatic vision, aesthetic and intellectual sensitivity and breadth, and plain common sense.

Sharon Percy Rockefeller is especially qualified to meet the requirements of this prescription. Mrs. Rockefeller graduated cum laude from Stanford University after majoring in French literature. She now serves on the board of trustees of her alma mater, as well as on the International Council of the Museum of Modern Art in New York City, and the board of directors of W.E.T.A. here in the Washington area. In addition, she has been chairman of the board of Mountain Artisans in West Virginia since 1968, has worked as a tutor in a Headstart program in Charleston, West Virginia, and has actively aided the development of public broadcasting throughout her adopted State.

Her personal interests and experiences are wide and varied, and she would bring to her position on the Board of Directors of the Corporation for Public Broadcasting the quality of stewardship that such service and potential require. She is equipped to make the kind of judgments and offer the calibre of guidance that the public broadcast venture demands at this stage of its development.

The Corporation for Public Broadcasting in many respects functions in the role that was played by formal patrons in an earlier age. Artists, writers, and culture in general depended on the patron as a source of providence and even survival. Patrons fostered the career of a Michelangelo or a Mozart through their own abilities to give support to the gifted and talented. By making possible the development and expression of creative ability and genius, the patron nurtured cultural resources that altered the course of Western civilization, and which continue to influence and touch our lives even today.

To a large degree, determination of the quality, direction, and nature of public broadcasting are the province of the Corporation for Public Broadcasting. I hope that Public Broadcasting will realize even more fully the enormous possibilities that television and radio offer, and, in so doing, will allow increasing numbers of Americans to share and enjoy the best and most extensive cultural experiences of our own generation. I am sure that the presence of Sharon Percy Rockefeller on the board would be a positive contribution toward helping public broadcasting to fulfill its responsibilities in our society even more effectively in the years ahead.

It is with a great deal of pride and pleasure that I recommend to the committee this distinguished West Virginian, and I respectfully urge prompt and favorable confirmation of her nomination.

SHARON PERCY ROCKEFELLER PROVES HERSELF AN ARTICULATE AND ABLE WITNESS IN SENATE HEARING

Mr. RANDOLPH. Mr. President, this morning Sharon Percy Rockefeller and Gillian Martin Sorenson testified before members of the Committee on Commerce, Science, and Transportation, presided over by Senator HOLLINGS. Both of these young women have been nominated by President Carter to be Directors of the Corporation for Public Broadcasting. I have participated in many, many confirmation hearings and seldom have I heard two more sincere, articulate, and well-prepared nominees. I am confident they have the qualities needed to discharge the vital responsibilities that accompany these positions on the CPB Board.

It was my privilege to join with our able majority leader, Senator BYRD, and Representative HARLEY STAGGERS in introducing Sharon Rockefeller. As Senators know, this attractive and capable young woman is the daughter of our colleague, Senator PERCY. Senator and Mrs. Percy and Sharon's husband, West Virginia's youthful Governor, Jay Rockefeller, attended this confirmation hearing.

Mrs. Rockefeller is an effective advocate of public affairs TV and, as a mother of three small children, has a particularly keen interest in children's programing. Her involvement in public and civic affairs is a matter of record and this experience will be invaluable in her work with the CPB. As I stated at the hearing, it is my belief that she will make a meaningful contribution toward the advancement of public broadcasting in America. Mr. President, I ask unanimous consent to print in the RECORD my introductory remarks and Mrs. Rockefeller's opening statement.

REMARKS BY SENATOR JENNINGS RANDOLPH

One of the more pleasant responsibilities of a Senator is to introduce to Committee members the people of his state who have been chosen to occupy important Federal government positions. It is always a pleasure to share with my colleagues the gratification I feel when a West Virginia citizen comes for a nomination hearing.

It is a particular joy to join with our able Majority Leader, Senator Byrd, in introducing the young woman who is here today.

Sharon Rockefeller is a West Virginian, even though by adoption. And she is one of those special West Virginians who are residents of our state by choice, not chance. In the years she has lived in our hills of home, she has come to know our state and its people well.

Her interests are many, and she has pursued them in every area of the 55 counties of West Virginia.

Sharon is the wife of our youthful Governor and as such is active in the official and public life of the Mountain State. In the nine months Jay has been in office, she has proven herself to be an active and involved First Lady. She is a gracious hostess in the Governors Mansion, but she is not content to devote her time to social duties. Her presence here today is evidence of her determination to utilize her energies where the results can be widespread. Sharon's involvement in public and civic projects that benefit people is a matter of record.

In some respects, Sharon Rockefeller could also be called a child of the Senate. Her father is a respected member of this body, and through him many members have had the privilege of knowing her as she has grown to lovely womanhood.

The Corporation for Public Broadcasting, in its few years of existence, has demonstrated its potential for greatly influencing life in America. Through it is channeled millions of dollars in public funds. This money is the commitment we have made to support independent broadcasting free of commercial connections. Public broadcasting is the alternative that is essential in a free society and one that must be aided by public funds.

The fact that these funds are used requires particular caution that public broadcasting is not restricted by government directives that will limit its effectiveness. Membership on the Board of Directors of the Corporation for Public Broadcasting demands an appreciation of artistic and educational values and an ability to discern the gaps in programming that need to be filled. It also demands a sensitivity to the unique status of public broadcasting. Mr. Chairman, I firmly believe that Sharon Rockefeller possesses the qualities needed to make constructive and meaningful contributions toward the advancement of public broadcasting in America. If confirmed as a director, I know she will serve with enthusiasm, with dedication and with distinction.

OPENING STATEMENT BY SHARON PERCY ROCKEFELLER

I am pleased and honored to have been nominated by President Carter to be a Director of the Corporation for Public Broadcasting. In my opinion, public television and public radio are the most exciting areas of communication in America today.

To provide complete and detailed answers today assumes intimate knowledge of the many complex issues in public broadcasting. I wish to be as responsive to the Committee as possible, with the understanding that any answers be considered preliminary, rather than definitive. Fuller knowledge will come with exposure to additional facts and discussion of the important issues involved. To best operate in the public interest, I prefer keeping an open mind, with the option to reserve and refine my judgments based on all relevant facts.

I shall look forward to visiting further with the members of this committee after today's hearing, if your time so permits.

I hope very much to help foster the growth and development of public television and public radio by my possible service on the CPB Board. The promise and potential of public broadcasting for the good of the nation is immeasurable.

In 1961, Newton Minow described television as a vast wasteland. Ten years later, John Macy, the President of the Corporation for Public Broadcasting, said that the duty of public television (and radio) is to "irrigate" that wasteland. I fully concur. I am totally committed to E. B. White's wise words:

"Noncommercial television should address itself to the idea of excellence, not the idea of acceptability. . . ."

My particular areas of interest lie in public affairs programming and children's programming. I doubt that you would find it surprising that I am intensely interested in government and public policy issues. Given my life, it would be indeed unusual if I were not. To me, it is essential that public affairs be given a top priority in public broadcasting. The programs must be fair, objective and balanced: They should also be daring, tough, and thought-provoking. Although they may delve into sensitive areas, they should provide in-depth examinations of controversial topics. If it is to fulfill its mandate as an alternative medium, public broadcasting must offer strong public affairs programming.

In this regard, the "heat shield" function of the Corporation should not be overlooked. The CPB must insulate the public broadcasting system from any and all external "interference" or "control".

I am also interested in superior children's programming. On a personal level, I care about public broadcasting as a concerned mother. My children are as mesmerized by commercial television as most American children. "Unplugging this drug" is not a realistic option in my home.

Columnist, George Will, once observed that: "Disparagement of television is second only to watching television as an American pastime."

But it is not particularly constructive to bemoan the current status of commercial television. I prefer, instead, to exert what I call "mother power" or "parent power". After all, parents still have the ultimate power to turn the television "on" and "off". We even have the power to turn to the public television channel. After having watched Sesame Street for 8 consecutive years, I assure you that my children and I are grateful for public television.

I am deeply committed to the principles and purposes of public television and radio. I share the goals that lead to:

(1) Excellent, alternative programming services from diverse sources (including sufficient promotion),

(2) Adequate, long range, insulated funding,

(3) Public participation, involvement and access in the decision-making process at all levels,

(4) Local station autonomy and sovereignty to guard against centralized domination in programming, financing and scheduling,

(5) Programs which respond to local problems, needs and interests,

(6) Equal opportunity for women and minorities in the programming, training and employment practices of the CPB and the public broadcasting system,

(7) Services for target audiences, (i.e. children, the elderly, women, racial and ethnic minorities, the disabled),

(8) Upgrading of the UHF technical system,

(9) Expanded instructional services,

(10) More and better facilities,

(11) Development of new technologies.

I believe strongly in the mission of public broadcasting as the source of creative, excellent and diverse alternative television and radio programming for the American people. The needs and interests of many different audiences, instead of one mass audiefice, must be served. Clearly, the greatest need for the future is top-quality programming. We must have generous quantities of programs to serve many needs, including those of the new satellite system.

Since 1974, I have served as a trustee of WETA, UHF Channel 26, in Washington, D.C. I also attend and participate in meetings of the West Virginia Educational Broadcasting Authority.

In the field of education, I am a graduate and trustee of Stanford University. At the same time, as the mother of three young children, I am active in the PTA of Holz Elementary School in Charleston, West Virginia.

I have served on the boards of 20 separate bodies, with civic, cultural and philanthropic purposes. These boards include the Day Care and Child Development Council of America; Operation Crossroads Africa; the National Women's Political Caucus; the West Virginia Committee for the Humanities and Public Policy; and Mountain Artisans of West Virginia. These experiences have taught me the value of independent and objective judgment necessary to any person who might serve on the Board of the Corporation for Public Broadcasting.

I also believe that the knowledge of finances is critical to the prudent, equitable distribution of scarce Federal funds in public broadcasting. I believe my diverse experiences have given me that knowledge.

I also understand that service on a board such as that of the CPB requires concentration on long-term planning and development of policy, as well as dealing with short-range problems or current issues.

I would give the highest consideration to the fulfillment of the goals and objectives stated in the Public Broadcasting Act of 1967. This is the legislative mandate under which the Corporation for Public Broadcasting and its directors operate. In my judgment, it is both binding and controlling.

Directors of the CPB should expect to be held accountable to the public and to Congress for the way in which they spend public funds. In determining priorities, the directors and administrative officers of the Corporation should evaluate certain expenditures against others to ensure maximum return on investment to the public.

Along with everyone who is concerned with the current status of public broadcasting, I am anxious to assist in the resolution of the internal organizational conflicts within the system.

I am willing and eager to spend the time and effort necessary to be an effective and responsible member of the CPB Board. I trust that my record of public activities demonstrates my dedication to any assignment I accept.

I have been an active participant in the public lives of both my father U.S. Senator Charles Percy, and my husband, Governor John D. Rockefeller IV, and have had a variety of experiences with local, state and federal government. I stand, however, on my own identity and accomplishments. I feel I am qualified by my own activities to respond to the educational and cultural needs of a broad spectrum of the American public.

If confirmed, I look forward to working with the members of this subcommittee, who themselves have demonstrated through the years their dedication to furthering the goals and objectives of public broadcasting.

Thank you very much.

RICHARD E. WILEY

Mr. BAKER. Mr. President, this week Richard E. Wiley leaves office as Chairman of the Federal Communications Commission.

Dick Wiley joined the Commission as General Counsel in September 1970 and was nominated and confirmed as Commissioner in January 1972. In March 1974 he assumed the chairmanship and has served with distinction.

As the ranking minority member of the Communications Subcommittee during most of Chairman Wiley's service at the Commission, I can attest to his dedication to the public interest and his effectiveness in resolving many of the difficult issues that have been before the Commission during his tenure.

As he leaves public service for private law practice, I wish him well and expect that Dick Wiley will be a hard act to follow, even for Charlie Ferris.

I ask unanimous consent that an account of Chairman Wiley's services at the Federal Communications Commission contained in Broadcasting magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNANIMOUS VERDICT ON DICK WILEY: HIS WAS VIRTUOSO PERFORMANCE AT FCC

For several months, Richard E. Wiley—who leaves office as FCC chairman this week—has been something of an anachronism in Washington. A Nixon-era holdover in a Carter administration that includes such self-confessed consumerists as the Federal Trade Commission's Mike Pertschuk, Mr. Wiley, when asked to state his greatest accomplishment as FCC chairman, replies: "Efficiency in government."

This, obviously, was not the kind of regulator whose taste ran to change. Not only is "efficiency in government" a rare claim among public officials, neither is deregulation, or reregulation, the kind of thing most government officials would adopt as a major policy initiative. Dick Wiley did, years before it became a popular theme of the Ford administration. His was the classic conservatism: Where government is concerned, less is better.

Then, too, there were those other characteristics that set him apart: the enormous energy with which he conducted the commission's affairs, the deliberate effort to make the FCC less forbidding to those it regulates, and what spokesmen for such disparate interests as broadcasters, cable operators and citizen groups speak of as his fairness and willingness to listen.

And there seems little doubt that he leaves the FCC—to take up private practice as managing partner of the Washington office of Kirkland & Ellis ("Closed Circuit," Oct. 3)—with an enormous fund of goodwill, at least among broadcasters. The Oregon Association of Broadcasters a few months ago adopted a resolution expressing its "admiration, respect and heartfelt thanks." The National Radio Broadcasters Association presented him with a plaque describing him as a "beloved regulator . . . admired, loved and respected." And when Broadcasting several months ago ran a story dealing with a rash of commission reversals in court (and headlined "Wiley's FCC: in danger of disappearing") a communications lawyer wrote a letter expressing outrage at what he felt was criticism of the chairman and suggesting that a "tribute" would be more appropriate. The lion, it seemed, had indeed lain down with the lambs.

When Mr. Wiley—who joined the commission as general counsel in September 1970 and was named a commissioner in January 1972—assumed the chairmanship in March 1974, he had no ambitions for reshaping the industries regulated by the commission. A Broadcasting article reviewing his first year as chairman said he had been attempting to "institutionalize rhetoric as part of an activist campaign to dampen fires, not start them" (Broadcasting, March 17, 1975). He did not disagree.

But if visions of policy breakthroughs did not dance in his head, a view of an orderly, well-run FCC did. And that might have seemed the wildest dream of all. Never known for the efficiency of its operations, the commission, four years ago, was in a state of disrepair. It was three members short. A number of tough policy issues were left to be resolved. Key staff positions were vacant. And the agency seemed to be slowly sinking under the weight of backlogs.

Nevertheless, Chairman Wiley promised a vigorous, efficiently run FCC. And, as President Nixon brought the commission up to full strength (with the appointments of James Quello, Glen O. Robinson and Abbott Washburn), Mr. Wiley began delivering.

He filled the staff vacancies and began setting deadlines (announcing them in 90-day calendars). He met weekly with bureau chiefs, and he held the commission to a strenuous schedule of three or four meetings

a week. Most important, perhaps, he demonstrated a readiness to grapple with issues, no matter how thorny: He was an activist.

In time, the balky commission began to respond. Controversial, long-pending issues were disposed of. Renewal and transfer applications began moving through at a reasonably fast pace. Even backlogs began melting; incredibly, a list of several hundred petitions to deny license renewal that had been filed by citizen groups was reduced practically to zero.

In the process, Mr. Wiley made a mark on the commission as had few of his predecessors. Most of those with whom he filled staff vacancies were what some called "Wiley look-alikes"—a reference to the preference they shared with him not only for three-button suits and rep ties but also for a conservative approach to government. His mastery of a whole range of issues enabled him to dominate commission meetings. What's more, he involved himself deeply in the work of the staff in drafting major items for commission consideration, with the result that the "staff" items that emerged were often more accurately "Wiley" items—a circumstance that sometimes nettled colleagues who would have preferred presentations by an uninhibited staff.

To a large extent, some observers noted last week, Mr. Wiley was aided in making the mark he did by serving with colleagues who generally were congenial. Fortunately for Mr. Wiley, one communications lawyer observed, he did not have to deal with a Nicholas Johnson or a Kenneth Cox, both strong-minded commissioners who, when they served together with Chairman Rosel H. Hyde, threatened at times to take over the commission. (In the past year, Commissioner Joseph Fogarty is said to have given Mr. Wiley a slight taste of the trouble Mr. Hyde had known.)

If there is one criticism made of Chairman Wiley's conduct it is the eagerness to please, the willingness to compromise, the desire to adopt actions on 7-to-0 votes, if possible. One result was an unusually high percentage of unanimous votes. But there are some who say that the desire to please all contending parties can be self-defeating. Implicit in the criticism is the suggestion that, in his absorption with the trees of the opposing forces at hand, he lost sight of the forest of the public's interest.

They cite, for example the fashioning of the decisions in the media cross-ownership and pay-cable cases that were reversed by the U.S. Court of Appeals in Washington. Sources who were close to the decision-making say that the crossownership case was the product of Mr. Wiley's determination to take some action, even if not dramatic—for fear for reversal in court if nothing was done—in the face of reluctance on the part of several commissioners to do anything. The pay-cable rules, which were designed to guard against the siphoning by pay-cable operations of the sports and movie programing now seen on conventional television, were drafted under what the appeals court said was intense ex parte pressure from all contending parties. And, again, sources who were on the scene say that efforts were made to satisfy both cable and broadcaster interests. Neither side was satisfied, as events proved; both took the FCC's ruling to court, where it was overturned in a decision favorable to cable. In so doing, the court echoed the "compromise" criticism: "We are particularly concerned," it said, "that the final shaping of the rules we are reviewing here may have been by compromise among the contending industry forces, rather than by exercise of the independent discretion in the public interest the Communications Act vests in individual commissioners."

For some close observers of the FCC, one puzzling aspect of Mr. Wiley's stewardship was the dichotomy in the commission's approach to AT&T, on the one hand, and broadcasting, on the other. If the commission on occasion seemed protective of broadcasting, as some of Mr. Wiley's critics say, it pursued with vigor a policy aimed at promoting competition in the telephone field; indeed, so effective has the policy been that AT&T has secured the introduction in Congress of legislation (the "Bell Bill") aimed at affording a measure of protection against competition. ("Wiley's common carrier policy was superb," said one who believes the commission's broadcast policy had a pro-industry bias.)

As the pay cable and crossownership cases indicate, it was the courts that caused Mr. Wiley the most trouble during his chairmanship. And none caused him more anguish than the district court in Los Angeles, in the family viewing case.

Throughout his years on the commission, Mr. Wiley made such of his concern for broadcasters' First Amendment rights. That concern, shared by the commission, was reflected in the FCC's assertion—in a policy statement that seemed to fly in the face of court decisions—that broadcasters must be free to make their own decisions regarding entertainment formats, that they should not be influenced by the commission in response to complaints from the public about abandoned programing. On the other hand, the commission ruled that a George Carlin comedy record broadcast over WBAI (FM) New York was "indecent" and therefore barred from the airwaves—a ruling overturned by the appeals court as "censorship." (The commission is seeking Supreme Court review of that decision.)

And in the family viewing case, Chairman Wiley and the commission were found by Judge Warren J. Ferguson to have violated the First Amendment rights of broadcasters by pressuring them into adopting the plan under which the first two hours of prime time were to be reserved for programing suitable for the entire family. The government and the broadcasters deny there was intimidation, and the decision is being appealed, but Mr. Wiley describes the case as his "biggest disappointment."

Family viewing was not the only example of Mr. Wiley's approach to self-regulation. So also was the children's television case. The chairman persuaded television to reduce the amount of commercial time in children's programing—to a level the commission would, if necessary, impose by rule. Then the commission referred to those commitments in a policy statement that also was designed to "clarify" broadcasters' responsibilities in programing. That successful effort at nudging the industry toward a particular end—which was approved by the appeals court in an opinion upholding the commission action in the case—is believed to have given Mr. Wiley the confidence to enter talks with industry officials in what became the family viewing case.

In large part, Mr. Wiley initiated those talks in response to pressure from Congress and the public to "do something" about sex and violence on television. He was, one former commission staffer said, anxious to please the committees in Congress concerned about the problem. But Mr. Wiley does not put all responsibility on those outside forces. He describes himself as a "moralist," and says he believes television violence represents a serious problem. He would, he says, "do the same thing again."

Indeed, a streak of "moralism"—which manifests itself in the sermons he delivers on occasional Sundays at the Cherrydale Methodist church in the Washington suburb of Arlington, Va., and in the speeches he gave to the National Religious Broadcasters annual conventions in Washington—was evident in the Wiley chairmanship from the start. In his first speech as chairman to the National Association of Broadcasters, in Houston in March 1974, he called for "a new ethic in broadcasting." Station operators were urged to resist the temptation of fraudulent practices and to rededicate themselves to excellence, decency and public service (Broadcasting, March 25, 1974). Those who spurned his advice, he said, would feel the commission's wrath. And there has been a hardening of the commission's attitude toward broadcasters involved in fraudulent billing and misrepresentations to the public (although some officials note that more final orders conclude with fines and fewer with denials of renewals than they might have expected).

But if jawboning and moralism both had places in his repertoire, there is no doubt that Mr. Wiley saw one of his missions as making life a little more comfortable for broadcasters and, in more recent years, for cable operators as well. Five years ago, in a speech to the Mutual Affiliates Advisory Council, in Washington, he committed himself to what at the time seemed the rather extraordinary notion that he, as a member of the commission, should work to remove the feeling of "suspicion and distrust" he said existed between broadcasters and the FCC. His time at the commission would be well spent, he said, if he could contribute to creating a new mood of regulation—"one in which the spirit of partnership and cooperation in serving the public can flourish and prosper (Broadcasting, July 31, 1972).

And he has made a major effort to keep that commitment. "Under Wiley, broadcasters were told they could approach the FCC without fear of retribution," the National Association of Broadcasters' general counsel, Kerwin Krasnow, said the other day. "He made it a more human FCC."

Reregulation, a program he headed when a commissioner and pushed hard as chairman, is also seen as part of the humanizing process. It is designed to root out or adapt to current conditions regulations that have become obsolete over the years and have served only to burden broadcasters. Thus far, the program has produced some 600 changes in the rules—all, presumably, for the better. "From the broadcasters viewpoint," Mr. Krasnow said, "that's a plus."

That assessment, by a broadcasting industry representative, may not be surprising. But Stuart Feldstein, vice president and general counsel of the National Cable Television Association, holds a similar view. "We've had our disagreements with him, over the commission's refusal to take jurisdiction over pole attachment agreements and over the pay-cable rules, but, over-all, he's been very fair," Mr. Feldstein said. "We're quite pleased with Dick Wiley."

And well they might be. The commission in recent years has moved towards a significant deregulation of the cable television industry. Mr. Feldstein noted that the commission has repealed the leapfrogging rule, has exempted systems with up to 500 subscribers from the application of most cable rules, relaxed technical standards, suspended for 10 years the 1977 deadline for rebuilding old systems in accordance with the 1972 rules, and made compliance with the rules easier. "We don't get our way on everything," Mr. Feldstein said, "but over the years, the trend [of commission regulation] has been more favorable to us." It was not very long ago that the cable industry regarded Mr. Wiley with hostility and distrust.

Citizen groups are not generally thought of as among the most favored of the commission's constituents. Mr. Wiley was adamant in refusing to consider proposals for providing reimbursement of expenses for citizen groups that participate in commission proceedings; he insisted the lead in that matter should come from Congress, although

some other agencies have adopted reimbursement programs of their own. Some groups felt the equal employment opportunity rules the commission adopted for broadcasters last year were in some respects too lax. (So did the U.S. Court of Appeals in New York in holding that the commission decision to exempt stations with 10 or fewer employes from the requirement to file an affirmative action program was "arbitrary and capricious." The exemption now extends only to stations with five or fewer employes, the standard that had been in effect before the new rules were adopted.) And some citizen group members complain of what they say is a weak EEO enforcement program at the commission.

Yet, Pluria Marshall, of the National Black Media Coalition, who shares some of those concerns, nevertheless says Mr. Wiley has been "a good chairman." Again, it seems that Mr. Wiley's effort to make the commission, and himself, accessible, stood him in good stead. Mr. Marshall spoke with favor of the regional meetings the commission held in cities around the country to hear the complaints and views of the public (and, in separate sessons, of broadcasters), and of the monthly meetings with individuals and members of groups in Washington.

And the door to the chairman's office, he found, was open to him. "We had some cursing matches," Mr. Marshall said, "but we went back to work together. We could disagree. But he wouldn't stay mad three or four months. That was a positive sign. The dude had a lot of decency about him."

It wasn't only the opportunity to discuss matters with the commission and the chairman that impressed Mr. Marshall. The FCC-sponored conference on minority ownership of broadcast properties, held in April, "was a step in the right direction," Mr. Marshall said. So was the "politicking" of Mr. Wiley and former Commissioner Benjamin L. Hooks with the Small Business Administration in an effort to persuade it to drop its ban on loans for broadcast properties.

"His tenure as chairman didn't give us everything we wanted," he said, echoing Mr. Feldstein. "But we got something."

Maintaining contact with broadcasters, cable operators and others the commission regulates and with citizen groups was in itself a heavy burden. Mr. Wiley turned down few invitations. On more than one occasion, he delivered a speech in a city in the U.S. after landing a few hours earlier in a plane that brought him from an international meeting in Europe. And the travels never interfered with his ability to stay on top of commission business.

He thrived on the schedule and the work; he and his commission were a neat fit. He whipped it into shape and dominated it as have few chairmen, and although his activism led him, almost inevitably, into some defeats—crushing, in the case of the family viewing decision—he would have grabbed at the chance to serve at least part of another term, under President Carter.

He loved every minute, and let the world know it. When asked how he would feel on leaving the commission, Dick Wiley had a favorite response: "I'm going to leave willingly and with great grace—much as Sewell Avery was carried out of Montgomery Ward."

S. 2190, TO WAIVE ALL OR PART OF AN AUTOMATIC INCREASE IN THE MEDICARE HOSPITAL INSURANCE DEDUCTIBLE

Mr. WILLIAMS. Mr. President, I am pleased to join my colleague from Idaho (Mr. CHURCH) in sponsoring S. 2190. This bill authorizes the Secretary of Health, Education, and Welfare to rescind or reduce a scheduled increase in the medicare hospital insurance deductible.

The Secretary recently announced that the part A hospital insurance deductible would increase by 16 percent—from $124 to $144—in January 1978. In addition to the rise in the part A deductible, medicare beneficiaries will also be hit with similar increases in the coinsurance charges for extended hospital stays and skilled nursing home care. Although the deductible increase is mandatory under existing law, I feel that a further rise in health care costs would place an intolerable strain on many of our elderly citizens who are already overburdened with increasing food, shelter, and energy expenses.

It is a tragic fact that as many as 25 percent of our aged citizens are living in poverty. For a substantial number of elderly people, social security benefits represent the only income source. Despite its valuable protection, medicare still covers only 40 percent of the elderly's total medical costs. Even this protection is fast shrinking, since, ironically, medicare beneficiaries now pay over twice as much for health care as they paid a decade ago. Until we can can enact legislation to contain rising hospital costs, we must not allow additional deductible increases to further erode fixed, often inadequate incomes. To fail to alleviate this situation would be to force many aged persons to deny themselves proper medical care in order to cut expenses.

Mr. President, for those senior citizens already overwhelmed by the struggle to provide for their basic needs, an increase in medicare charges could have a devastating impact. I therefore urge passage of this measure at the earliest possible opportunity.

BOWHEAD WHALE HUNTING IN ALASKA

Mr. STEVENS. Mr. President, in August of this year, 72 Alaska Eskimo whaling captains met in Point Barrow and formed an organization entitled, "The Alaska Eskimo Whaling Commission." The commission was established to create a self-regulatory management system for the subsistence harvest of bowhead whales.

The International Whaling Commission recently voted to end the subsistence hunting of Alaska Natives for bowhead whales. This decision is an unfortunate intrusion upon the human rights of my Alaska Native Eskimo constituents. The IWC's action was taken without the participation of a single Alaska Native.

Alaska Natives have hunted bowhead whales for thousands of years. The whale is an integral part of their culture and an irreplaceable food source in the Arctic. No consideration was given by the IWC to the destruction of the Eskimo culture. A short 8-minute film, made for the Eskimos at Barrow, Alaska, on the importance of bowhead whales to the Alaskan Eskimo culture can be made available to Senators or their staff upon request.

It is imperative that the United States seek to remove subsistence hunting from IWC debate. The Alaska Native subsistence hunting of whales is the only means by which commercial whaling nations can use diplomacy to frustrate the efforts of the United States to eliminate commercial whaling activities. If the United States is to effectively curtail the world's commercial whaling activities while preserving traditional subsistence hunting of Alaska Natives, the problem of subsistence hunting must be removed from International Whaling Commission debate.

The records of the negotiations for the 1946 Whaling Convention show that the convention was intended to apply only to commercial whaling. Aboriginal whaling is not commercial whaling. I have suggested to the Departments of State and Commerce that an effort be made to establish a separate subsistence whaling commission or council, the majority of which would be subsistence whalers.

Representatives of my Alaska Native constituents are presently in Washington, D.C., describing the new regulatory system to members of the executive department and some of my colleagues here in the Senate. The whaling captains have asked me to enter into the RECORD the following statement regarding the IWC action. I ask unanimous consent that it be printed in the RECORD immediately following my remarks, along with two letters to the editor printed in today's New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE COMMISSIONERS OF THE ALASKAN ESKIMO WHALING COMMISSION

YOU WILL NOT BURY OUR HEARTS—AT WOUNDED KNEE OR ANYWHERE ELSE

The whites told only one side.
Told it to please themselves.
Told much that is not true.
Only his own best deeds, only the worst deeds of the Indians has the white man told.—Yellow Fork of the Nez Perces.[1]

In June 1977 without prior notice to the Eskimo community (or allegedly to U.S. delegates) the International Whaling Commission imposed a moratorium on Eskimo hunting of the Bowhead Whale—hunting that has taken place for more than 7,000 years. By October 24 the United States must decide whether to preserve the Eskimo's historic right to hunt the bowhead whale or whether to abide by the abrupt and culturally genocidal actions of the IWC.

The battle lines are drawn. On one side stand a few thousand Eskimos prepared to fight for their cultural existence. Pitted against us are those white men who call themselves "conservationists" but who only have concern for preserving whales, not people.

The whites told only one side . . .

Our adversaries the conservationists have learned well the lessons of their forefathers. They express remorse for the possible danger to the bowhead by subsistence hunting of the bowhead whale. But they fail to mention that the far more serious threat to the bowhead's existence comes from oil and gas development on the outer continental shelf in the northern arctic—a development which

[1] As quoted in Brown, "Bury Our Hearts at Wounded Knee" (1970).

permits them to continue to operate their automobiles in wasteful, non-conserving fashion. And while they are forgetting about their wasteful ways, they have the audacity to call our culture "bastardized" because we have adopted the snowmobile as a device for traveling in the difficult and treacherous North. If such action is bastardly, what label should one place on those who use 4,000 pounds of steel to transport themselves two blocks to the store on a sunny afternoon?

The conservationists also object to Eskimo use of "modern" weapons to hunt the bowhead but fail to point out that these "modern" weapons are replicas of the weapons introduced to the Eskimo in the days of Yankee whaling by the white men responsible for the depletion of the bowhead whale stock. These "modern" weapons have been in use by us since the 1880's and we have not been allowed to improve these weapons even though they are responsible for some losses of struck whales.

Told it to please themselves . . .

We understand why the conservationists are behaving the way they are. To understand is not to accept or condone, however. In this situation it is to pity them for their shortsightedness and stupidity.

As we see it the conservationists have been engaged in a noble effort to reduce the slaughter of whales for commercial purposes. Through the leadership of the United States—a nation without a commercial whaling industry—these conservationists have been successful in reducing the commercial whaling of other nations. But U.S. efforts, reasoned the conservationists, could be even more effective if the U.S. offered on the altar of commercial whaling the subsistence whaling of the Eskimo. And such an offering would commit the United States to zero harvesting of whales for commercial or subsistence purposes—a goal of many conservation groups.

Thus, the conservationists have told half-truths to please themselves—to convince themselves that the sacrifice of the Eskimo culture is justified because the culture is not static and stagnant, but rather dynamic and adaptable. They told these things to please themselves—to justify the actions they took to promote commercial whale conservation and to eliminate ultimately any hunting of the bowhead. But they have told only one side.

They told much that is not true . . .

In order to sacrifice bowhead subsistence hunting, the conservationists created a body of "scientific" evidence that tried to document the proposition that continued hunting of the bowhead at any level would lead to extinction of the species. There is no scientific information to support that proposition. In fact, when asked for further information about their findings, the Scientific Committee of the IWC supported their ban on the basis that the threat from OCS development in the Beaufort Sea justified the total ban. What is it you say? Something about the "tail wagging the dog". We believe that is an apt metaphor for the convoluted findings of the Scientific Committee.

Only his own best deeds, only the worst deeds of the Indians has the white man told.

Our adversaries spend a great deal of time slapping themselves on the back about the great conservation job they have done in the commercial whaling arena, but they ignore their own failures with respect to even communicating to us the IWC concerns about the bowhead whale. It is well documented that the IWC first raised concerns about the bowhead whale in 1972. It is also well-documented that the government first gave us notice of this concern in 1977 and that the quality of such notice was so poor that we did not realize the gravity of the situation, nor could we have been expected to, until the IWC took the precipitous action that it did in June of this year.

Instead, the conservationists talk about the great increase in the number of whales harvested in the last several years producing a six year average in excess of the average over several previous decades. The conservationists have been surprised to learn that we know that averages over six years can produce skewered and "unaverage" results when compared to averages over periods of six or seven times as large. They have also been surprised to learn that there have been harvests in previous years as large as those in the past several years—e.g. 1885—40 whales; 1896—39 whales; 1908–09—60 whales. They also talk about "struck but lost" whales but fail to point out the unreliability of to what impact those unreliable figures have on the bowhead whale population. When we polled our whaling captains to find out how many had been interviewed by government personnel who were compiling data on struck and lost whales, only one or two whaling captains had been approached. A young white guest at our whaling meeting who works at the Naval Research lab at Barrow said that his friend had conducted the survey by interviewing women and children who were coming off the ice to compile his "struck and lost" figures.

We were once friends with whites, but you nudged us out of the way by your intrigues, and now when we are in council you keep nudging each other. Why don't you talk, and go straight, and let all be well?—Motavato (Black Kettle) to the Indians at Medicine Creek Lodge.[2]

But you nudged us out of the way by your intrigues . . .

You invited us to sit down with you on June 8th of this year to discuss Eskimo whaling. We accepted your invitation and attended a meeting that reminded us more of an inquisition than a discussion. You began the meeting by informing us that at your urging the National Marine Fisheries Service was publishing a notice of "depletion" with respect to the bowhead, the first step toward Federal regulation of our bowhead hunt—and you had not yet even asked us any questions! Some conservationists referred to our society as "bastardized" and then went off to "represent" our interests in Canberra, Australia as U.S. delegates to the IWC.

Now we understand that in reaction to Secretary Andrus' recommendation in favor of an objection to the IWC bowhead ban you will attempt to villify not only the Eskimo but also those who have not marched lock-step with you. We await with interest your next barrage of advertising and news accounts which are certain to appear.

Why don't you talk, and go straight, and let all be well?

There is a way for you and for us. We respectfully request that the following action be taken:

1. The U.S. should object to the ban on subsistence bowhead hunting imposed by the IWC. That is the most prudent course and the one which meets the U.S. trust responsibilities to us and insures your cooperation at the IWC meeting in December.

2. The U.S. should explain that the objection is being made to forestall litigation with regard to whether or not the IWC has jurisdiction with regard to the subsistence hunting of the bowhead and to insure that an exemplary research and regulatory program which has our backing can be presented and approved at the December meeting of the IWC.

An objection preserves the tenuous peace and permits constructive efforts to be made between now and December. In this way, the bowhead will be preserved along with our own culture, commercial whaling conservation efforts will not be jeopardized, and no one's heart will be "buried at Wounded Knee"—or anywhere else.

[2] As quoted in Brown, "Bury Our Hearts at Wounded Knee" (1970).

SURVEY OF SOVIET ANTI-JEWISH BEHAVIOR

Mr. PELL. Mr. President, on October 3 the National Conference on Soviet Jewry announced that the State Department's Assistant Secretary for Public Affairs was presented with a survey conducted by Jewish organizations throughout the world regarding Soviet anti-Jewish behavior. The national conference is the American coordinator for the exhaustive 64 page survey.

In releasing the document, Mr. Stanley H. Lowell, chairman of the National Conference's Helsinki Monitoring Committee, said in New York that the report is a major review of the Soviet Union's implementation of the so-called basket 3 provisions in the Helsinki Final Act with regard to the Soviet Jewish community. Mr. Lowell pointed out that—

While the record is disappointing, the balance sheet of the performance is submitted in a constructive spirit and in the hope that it may facilitate the exchange of views on the implementation sought in the followup arrangements of the Helsinki Final Act.

As Cochairman of the Commission on Security and Cooperation in Europe, I wish to associate myself with Mr. Lowell's remarks and to pay tribute to the many individuals who contributed to the really excellent survey prepared under the coordination of the National Conference on Soviet Jewry. The survey will be of great value to the Commission in its work, and I have assured the national conference that copies would be made available to the U.S. delegation to the conference now being held in Belgrade, Yugoslavia, to review implementation of the Helsinki Final Act.

Mr. President, in order that my colleagues may be aware of the scope and content of the survey released last week, I ask unanimous consent that the press release issued by the National Conference on Soviet Jewry, which includes a fine summary of the full report, be printed in full in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

VIOLATIONS OF HELSINKI ACT DOCUMENTED—MAJOR SURVEY OF SOVIET ANTI-JEWISH BEHAVIOR GIVEN TO U.S. GOVERNMENT

WASHINGTON, D.C. October 3, 1977.—A survey conducted by Jewish organizations throughout the world was submitted today, to Assistant Secretary for Public Affairs and Department of State Spokesman Hodding Carter III, by Marina Wallach and Aaron Goldman, representatives of the National Conference on Soviet Jewry (NCSJ). The NCSJ is the American project coordinator for for the exhaustive 64 page survey.

In releasing the document, Stanley H. Lowell, Chairman of the NCSJ Helsinki Monitoring Committee, said in New York, that the report is devoted to a major review of the USSR's implementation of Basket Three pro-

visions in the Helsinki Final Act in regard to the Soviet Jewish community.

"While the record is disappointing," Mr. Lowell pointed out, "the balance sheet of the performance is submitted in a constructive spirit and in the hope that it may facilitate the exchange of views on the implementation sought in the followup arrangements of the Helsinki Final Act."

The NCSJ has been assured by Representative Dante Facsell and Senator Claiborne Pell, Co-chairman of the Commission on Security and Co-operation in Europe (CSCE) that copies of the report, "Soviet Jewry and the Implementation of the Helsinki Final Act," will have been made available to United States delegates at the upcoming Belgrade meeting.

In presenting the report, which brings together for the first time information gathered from around the world on the reunification of families, human contacts, the free expression of religious and cultural traditions, Lowell noted that, "It is our conviction that further building of the structure of security, co-operation and detente in the world community, can effectively be accomplished only if the foundations are solid; and that the most important task of those attending tomorrow's follow-up conference in Belgrade is to seek a remedy where the USSR's record is found wanting."

In fact, the report points out that in regard to individual rights as provided in Basket Three of the Helsinki Final Act, the USSR has failed to adhere to numerous provisions. "Though it is not international law," Mr. Lowell commented, "the Helsinki Final Act is a means test, a norm against which nations may judge other nations."

REUNIFICATION OF FAMILIES

He went on to recall that, "most pressing for the world-wide Jewish community is the issue of reunification of families." According to the report, since the signing of the Helsinki Final Act, emigration visas for Soviet Jews, despite a rise in late 1976 fell at the beginning of 1977 and has in fact been lower than the number of visas granted to the signing of the Act.

Lowell pointed out that a "welcome increase" in the last three months of 1977 may be due to the "general session opening in Belgrade this week."

The report points out that, "Soviet authorities like to argue that the reduction in the number of visas granted, is merely a reflection of the corresponding reduction in the applications for emigration, due to the disappointment of Soviet Jews in Israel and their 'difficulties in absorption and adaptation'."

Lowell noted that, "there are no means to measure the number of actual applications, but the number of certified invitations for family reunification by relatives are known."

Figures compiled for the survey demonstrate that at the end of 1976, the number of Jews who had requested invitations but had not yet succeeded in leaving the country was about 186,000. Last year alone the excess of invitations over exit permits was about 22,000.

According to the report, Soviet officials have also refused exit visas to Soviet Jews because, they claim, granting such visas would "separate families." However there are provisions in the Final Act which are designed to "contribute to the solution of humanitarian problems." That is, to enable family members to live with the relatives they choose. (See page 8 of enclosed report). The report concludes that the Soviet Union is deliberately distorting the meaning of the Helsinki Final Act and dividing Jewish families.

It was also highlighted that Soviet visa officials arbitrarily forbid emigration to individuals on grounds of secrecy, and security in the most "arbitrary fashion." Often individuals applying to leave the U.S.S.R. are subject to job dismissal, demotion in military ranks, refusal of new employment, expulsion from universities, military conscription, arrest or threats of arrest and deprivation of apartments. "The most serious cases of harassment are the Prisoners of Conscience," who have been "arrested, tried and convicted of various charges because of their desire to emigrate to Israel and their activities demanding these rights for themselves and Soviet Jews in general," the report states. These Jewish POC's are detained in the most lamentable conditions and the health of several of them has deteriorated drastically."

FREEDOM OF RELIGION

One of the other major areas of concern, detailed in the survey, is the matter of freedom of religion and culture. The Helsinki Final Act states that participating States will "recognize and respect the freedom of the individual to profess and practice, alone or in the community of others, religion or beliefs in accordance with the dictates of one's own conscience."

According to the report, the U.S.S.R. has subjected the freedom of Soviet Jews to religious expression to "numerous and fundamental abridgements creating a gap between the legal norm and the reality." As examples of these abridgements the Soviet Jewish community has no all-Soviet or regional organizations, they are unable to maintain contact with Jews abroad, no religions periodicals, bulletins or literature are published, Judaic ritual objects are not manufactured and there is de facto suppression of rabbinical training within the U.S.S.R.

Fifty years ago there were more than 1,100 synagogues in the U.S.S.R. Though Soviet figures today claim that there are 92 synagogues remaining, Jewish organizations initiating this report could establish the addresses of only 57.

The position of Soviet Jews since the signing of the Helsinki Final Act has "in no way improved," the report states.

In fact, possibly the worst feature of the treatment of the Jewish religion in the USSR, according to the report, is the introduction of anti-Judaic propaganda into all forms of the Soviet media. In 1974 the Jewish Bible and lore was described in the Soviet book "The Creeping Counter Revolution" as "an unsurpassed text of bloodthirstiness, hypocrisy, betrayal, perfidy, moral dissoluteness—all base human qualities." Since the signing of the Final Act another Soviet publication has asserted that Jewish laws can be compared with the "fundamentals of jungle law, such as the best of the goyim deserved to be killed, non-Jewish property is free for all, and he who first appropriates non-Jewish property is the legitimate owner."

The report concludes that Soviet Jews are the most disadvantaged national minority in the USSR. Jews seeking to leave who voice their wishes via legal means (foreign press, appeals etc.), have been subjected to the "greatest difficulties, repression and criminal prosecution."

"The signing of the Helsinki Final Act," Mr. Lowell concluded, "was greeted by the world-wide Jewish community as a significant step towards ensuring greater security and co-operation in Europe. Now, with the meetings opening in Belgrade we would hope the United States delegation will hold the Soviet government responsible to those accords which are especially important and dear to us."

Prepared by a committee chaired by Dr. Stephen Roth, Institute of Jewish Affairs (London), with representatives from several countries. U.S. members included Stanley H. Lowell, Chairman NSCJ Helsinki Monitoring Committee, Dr. William Korey, B'Nai B'Rith International Council, Sidney Liskofsky, and Abraham S. Karilikow, American Jewish Committee, and Jerry Goodman, NCSJ. The survey was originally prepared in June of this year with the data through May 1977.

The NCSJ is the major co-ordinating agency for activities on behalf of Soviet Jews in the United States.

PACESETTER PAVES THE WAY

Mr. HEINZ. Mr. President, I have recently received press clippings and summaries of task force reports on "Energy Day" from Project Pacesetter, a program sponsored by Americans for Energy Independence (AEI). I feel this worthwhile project merits the attention of my colleagues.

AEI was founded by a concerned group of scientific, academic, professional, conservation, labor and business leaders to work with the public in order to create public support for policies and actions which will move the United States down the road toward energy self-sufficiency by the early 1980's. AEI is a private, nonprofit foundation, which is nonpartisan and nonpolitical. Their programs are designed to have an impact on a national and local level through a broad-based grassroots constituency and to create a strong public awareness of our energy situation, which will result not just in investigation of the problems, but in action, and thus in increased energy independence for the United States.

Under AEI's sponsorship, Project Pacesetter is now the Nation's first communitywide energy conservation drive. It recently had its kickoff in Allegheny County, Pa., which was the area chosen to launch the year-long energy and development program that will serve as a model for the entire nation. According to the AEI executive committee chairman, Allegheny County was picked as the prototype because this part of the country is sensitive to economic growth and is a historic center of the American energy industry. He also emphasized that southwestern Pennsylvania had learned the high price we pay for energy shortages during the harsh winter last year.

Project Pacesetter is proceeding on two fronts: Phase 1 represents organizational matters, while phase 2 will seek to encourage Allegheny County residents to make the country more self-sufficient in energy.

AEI is determined to have Allegheny County serve as the model for other communities, thereby making a pioneer energy effort which can be emulated elsewhere. I ask unanimous consent that certain relevent material on Project Pacesetter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECT PACESETTER

PITTSBURGH, PA., September 19.—"All that someone on the other side of the world has to do to create a catastrophe here in the United States—and in Allegheny County—is to shut off our energy supplies."

So Richard P. Simmons, president of Allegheny Ludlum Steel Corporation and co-chairman of Project Pacesetter, the energy conservation and development program, told

an audience gathered here today for Project Pacesetter Task Force reports to the people.

Pointing out that the United States now buys more energy each year from foreign sources than the nation produces, Simmons said that whatever the controversy surrounding the energy shortage question, our growing dependence on sources we can't control poses a double-barreled threat to the country.

"Regardless of the hot-and-heavy debate (about the reality of our energy shortfall)," Simmons said, "there are a couple of facts that neither side can deny."

After citing our present need for foreign supplies, he said: "That means trouble in our balance of payments and in our soaring energy costs."

Project Pacesetter is the name given to the county-wide program of energy conservation and development sponsored as a pilot project here in Allegheny County by the national organization, Americans for Energy Independence.

Kicked off in May, the program is organized around six basic Task Force groups: Lloyd McBride, president of the United Steelworkers of America who also serves with Simmons as co-chairman of the project, heads the Labor Task Force; County Commissioner Chairman Jim Flaherty chairs the Government Task Force; Education is headed by Wesley Posvar, chancellor of the University of Pittsburgh; Edgar B. Speer, United States Steel chairman, has the Business and Industry Task Force; Susan Brandt, president of the League of Women Voters, Allegheny County Council, has charge of the Voluntary and Professional Task Force; and Ronald Ross Davenport, dean of Duquesne University's Law School chairs the Public Interest Task Force.

Shirley Sutton, who preceded Susan Brandt in her position with the League of Women Voters and the Task Force, is the program's executive director.

When it was announced in the early spring that Allegheny County had been chosen as a test ground for this prototype program, some skepticism was uncovered.

In the first place, nearly half the population of the nation—and, it seems safe to assume, half of Allegheny County—had serious doubts about the reality of the "Energy Crisis." And a large segment of the other half had misgivings as to the possible effectiveness of what seemed to some to be a "propaganda project."

But with the comprehensive reports made here today, participants in the program demonstrated genuine commitments to energy conservation and the implementation of energy-saving programs in all of the Task Force areas.

Task Force chairpersons reported on the major proposals of their respective groups, while noting that there were far more recommendations in each Task Force than time allowed for reporting.

Throughout the summer months, these task forces composed of approximately 300 citizens met regularly to air and discuss their programs, developing their ideas and suggestions to produce workable plans for conservation.

Joseph Odorcich, a USWA vice president speaking for McBride and the Labor Task Force, announced that organized labor would pursue a plan that called for the establishment of local energy labor-management committees to study and recommend ideas to be used in management's energy decision making process.

Labor made particular note of the relationship between energy and jobs. "Conservation and the saving of energy which is now wasted," the report reads, "should either provide more jobs, extend jobs in existence, or reduce losses to both management and labor by reducing layoffs due to cutback of fuel supplies."

The Government Task Force's major proposal calls for an energy alert system which would analyze and plot the supply and demand for energy relative to weather conditions and economic and social activity. The analysis, then, would produce a reliable indication of the probable demand and the available supply of energy at any given or projected moment.

From information gathered, an "energy index" would be derived. Assuming that the area is using 75 percent of the available energy at a specific time, an energy index of .75 would be charted. The index, updated regularly, would be widely publicized so that all segments of the community could take the measures necessary to prevent a fuel crisis. The system would work in much the same manner as the currently successful air pollution index.

Development of energy curriculum materials for elementary and secondary schools was cited as the number one priority of Wesley Posvar's Education Task Force.

Posvar emphasized that the Task Force's recommendations "represent but a beginning." He said:

"Because these first steps may be the most significant of all, it is crucial that our message to the people be convincing in the presentation of facts, but even more important than that, we must awaken in the greater community a commitment to a long-range program that will assure our energy resource survival in the decades ahead."

An energy-for-business information program, incorporating a series of workshops for local business and industries, is the major thrust of the Business and Industry Task Force according to Edgar B. Speer, chairman of the group.

Speer's group worked with 39 trade associations and chambers of commerce to create a program whose objectives, Speer said, are to encourage Allegheny County business firms—some 5,000 plus—to make basic minimum commitments to install energy conservation programs; to help these firms find and exchange relevant conservation information, and to demonstrate to the public that business is making serious conservation efforts.

The recommendation of Brandt's Voluntary and Professional Task Force was built around a program of energy conservation information. A major feature, worked out with the National Home Improvement Council, the National Home Builders' Association, and the Greater Pittsburgh Board of Realtors will be the development of a "Home Retrofit Display," a cross-section of a model which shows energy-saving building procedures and materials. The model will be exhibited in area shopping centers, then kept as a long-term exhibit. It's to include instructive material so that "retrofit" classes can be conducted by utility company representatives.

Task Force sub groups from service, women's and veterans' organizations directed particular emphasis to home insulation, specifically focusing on materials for home insulation and criteria for selecting an insulation contractor.

The Public Interest Task Force, chaired by Ronald R. Davenport, proposed contests designed to "create great energy savings in the home consumption of both gas and electricity . . . and a great deal of education about the energy shortage itself."

Dean Davenport suggested monthly contests with yet-to-be-determined prizes for those householders whose utility bills reflect the greatest percentage savings over the same months of 1976–77. The contests would be called "The Great Allegheny County, Lower Your Thermostat, Wear a Sweater, And Win a Prize in the Bargain, Set the Pace for Energy Contest."

While the contest idea is the major proposal offered by the Public Interest Task Force, the various groups making up the committee spawned a wide variety of energy conservation suggestions.

Dr. Sam Doctors of the University of Pittsburgh and Carnegie-Mellon Institute of Research told how CMIR's study, "Regional Energy Policy Alternatives: A Pilot Study of the Allegheny County Region," could be used by Project Pacesetter.

With all this work behind them, Project Pacesetter's Task Forces are taking their cues from Pitt's Posvar who has said the summer's labors are a prologue to the work that lies ahead.

The question now to be addressed, of course, is "Where does Pacesetter go from here?"

Joseph Odorcich of the Steelworkers answered.

"We swing into action," Odorcich said to the Energy Day audience. "The recommendations that can be put to work right away will be put to work right away. All recommendations will be evaluated by our Executive Committee (comprised of the co-chairmen and all Task Force heads) in the next few weeks before they get the go-ahead, especially since some of them will require the coordination of two or more of the Task Forces. At that time, we will issue a report on the recommendations Pacesetter will be endorsing."

[From the Pittsburgh Press, Sept. 19, 1977]

COUNTY KICKS OFF ENERGY PROGRAM

(By Wyndle Watson)

Project Pacesetter was officially kicked off today at an "energy day" program in the U.S. Steel Building here.

Those participating in today's program made it clear that some 300 volunteers on task forces which have set up the program have every intention of seeing.

Alegheny County become the nation's pacesetter in energy conservation.

The program is sponsored by the Americans For Energy Independence, headquartered in Washington, D.C.

Co-chairmen of the local effort are Richard P. Simmons, president of Allegheny Ludlum Steel Corp., and Lloyd McBride, president of United Steel Workers of America (USW).

The task force reports today were presented to Hazel R. Rollins, assistant administrator for conservation of the Federal Energy Administration.

Dr. Wesley Posvar, chancellor of the University of Pittsburgh, chairman of the education operations task force, said education facilities in the county will concentrate on students educating their families to the energy crisis.

Edgar B. Speer, U.S. Steel Corp. board chairman, chairman of the labor and industry task force, said that what business does will set the pace and provide the incentive for home energy conservation patterns.

Speer said his task force has contacted business organizations which represent some 5,000 businesses and is making an energy management information kit available to those firms.

"Energy conservation is quite foreign to the American people," Speer said, adding that education on the situation will be a major effort.

Ronald Davenport, dean of Duquesne University's School of Law said his public interest task force is suggesting a contest whereby consumers will submit utility bills monthly and those showing the greatest conservation over last year's usage would be eligible for prizes and public recognition.

"To the homeowner, the energy crisis is his utility bills," said Susan Brandt, president of the Allegheny County League of Women Voters and chairwoman of the voluntary and professional task force.

Her task force will present to the public a scale model home equipped with the latest home energy saving techniques, she said.

This scale model home, which will be developed with volunteer materials and labor, will be displayed in major area shopping malls and will be coordinated with classes for homeowners on decreasing home energy usage, she said.

"We expect an immediate impact on the energy consumption in Allegheny County," she predicted.

[From the Post-Gazette, Sept. 21, 1977]

COUNTY KICKS OFF "PACESETTER" ENERGY-SAVING PROGRAM

(By Paul Ayars)

Project Pacesetter, a year-long effort to enlist Allegheny County citizens in a model energy conservation program, was launched yesterday with an Energy Day presentation in the U.S. Steel Building.

Leaders of the project's six energy study task forces unveiled conservation ideas ranging from such modest proposals as turning down thermostats to an ambitious call to install a $50 million waste recycling plant.

A central theme of the hour-long presentation was the need to educate county residents to the reality of the energy crisis. County Commissioner Jim Flaherty, head of the government task force for Pacesetter said last winter's energy crisis cost the county $42 million in lost jobs.

Pitt Chancellor Wesley Posvar, head of the education task force, proposed implementing an energy curriculum in city schools to reach parents through their children.

Other means of reaching the public were outlined by industry task force head Edgar Speer, chairman of U.S. Steel Corp., and volunteer organization task force chairman Susan Brandt, president of Allegheny County League of Women Voters.

Speer said business and industry will rally its workforce to energy conservation with information flyers in pay envelopes. And on Oct. 8, Mrs. Brandt said, Boy Scouts will blanket the county with home energy audits to point out areas of waste.

These and other approaches will be coupled with an ongoing publicity campaign by Project Pacesetter in the form of billboards and newspaper, radio and television advertisements.

The program is sponsored by Americans for Energy Independence, a nonprofit, Washington, D.C.-based organization. AEI has hired a Pittsburgh public relations firm, Lando Associates, to handle the publicity campaign.

Other energy conservation proposals made at the Energy Day program include:

A scale-model display to be exhibited throughout the county of how homes can be fitted for energy conservation—installation of storm windows, attic insulation and the like, with information on available contractors and suppliers.

Establishment of countywide recycling centers for paper, glass, aluminum and other metals.

Staggered work hours to reduce rush-hour congestion.

Computer-timed traffic lights to cut gasoline waste by cars idling at intersections.

A monthly contest for residents who show the greatest reduction of energy use on utility bills, with prizes to be determined later.

Although most of the recommendations made were for voluntary participation, the public-interest groups task force chairman, Ronald Davenport, Duquesne University law school dean, suggested mandatory installation of water-saving devices in homes and rewriting existing building codes to force conservation steps.

All of the proposals are to be reviewed by project leaders, who will issue a list of endorsed Pacesetter recommendations in about three weeks.

The proposals were received yesterday by Hazel Rollins, assistant administrator for conservation of the Federal Energy Administration.

Project Pacesetter will be monitored for performance under two programs conducted by the University of Pittsburgh and Carnegie-Mellon University.

The CMU study, headed by Prof. Samuel Doctors, is aimed at analyzing the effect of last winter's energy crisis and how the county responded to it.

The Pitt study, headed by Doctors and Prof. Paul Hammond, will make four surveys during the year-long Pacesetter program to compare energy use this winter with last winter's record. The Pitt study is being financed by a $150,000 grant from the FEA, with the possibility of another $150,000 next year to finish the study, Doctors said.

HARD-NOSED REALISM IN SALT

Mr. GARN. Mr. President, Fred Iklé, former Director of the Arms Control and Disarmament Agency (ACDA) displayed for 5 years a hard-nosed realism in SALT that consistently warned our policymakers against the dangers of deluding ourselves into insupportable or cosmetic SALT agreements with the Soviet Union. He questioned the primacy of deterrence policy as a posture suitable for the United States in an increasingly dangerous international environment and has represented the voice of conscience in a strategic debate whose numbers generally make short shrift of moral consideration. He represents, in short, a powerful and persuasive dissent from official orthodoxy, a voice which will be sorely missed at a time when we need it more than ever.

Now we have for public consideration an article which Mr. Iklé has written, "What To Hope for and Worry About in SALT," which appeared in Fortune magazine's October issue. The article is unique in one respect: at a time when the administration appears to be pursuing a SALT agreement impelled more by quiet desperation than by a considered, precise calculaton of American long-term interests, Fred Iklé dares to "think the unthinkable": What happens if the United States does not get a good SALT agreement and what happens if, in defiance of all the assumptions that went into U.S. thinking at the beginning of SALT in 1969, SALT does nothing to restrain the Soviet Union? He is, indeed, in rare company; besides him, only Paul Nitz, a former distinguished SALT team member, has dared to address those extremely unfashionable questions.

Nevertheless, at a time when the American public is being lulled with soothing sounds about alleged "shared concerns" by the Soviets and the United States for a solid SALT agreement, we are now recently informed by our Secretary of Defense that the Soviets have four new strategic missile systems. We have also confirmed a follow-on to the giant Delta 3 submarine—the "Typhon," equal in size to our partially completed Trident submarine, and a possible follow-on to the Backfire-B bomber.

Mr. President, at this critical time in our arms negotiations with the Soviets, Fred Iklé's perceptive analysis of "What To Hope for and Worry About in SALT" is worthy of each Senator's consideration. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT TO HOPE FOR, AND WORRY ABOUT, IN SALT

(By Fred Charles Iklé)

For better or worse, the strategic arms limitation talks between the United States and the Soviet Union have become the focal point of a historic struggle. SALT involves more than the safer management of mankind's most destructive weapons; it is also central to the contest between the world's two superpowers. Although the talks may only marginally determine the Soviet-American relationship, SALT is like the quivering pointer on the dial of a heavily loaded scale—it shows the weight and tilt of titanic forces.

Among all international agreements, meaningful arms limitations are the most difficult to implement. Their purpose is to limit or reduce the means to wage war between potential belligerents whose fundamental antagonisms still persist. The tension between attempted cooperation and continuing conflict, between reliance on a treaty and suspicion of double-crossing, strains every strand in the tender fabric of arms accords.

It stands to reason that this stress will be felt in Washington and in the country at large, leading to intense disputes about our policy on nuclear-arms control. And because these are issues of life and death for the nation, it is imperative that Congress and the public assess the thrust as well as specific results of our policies.

But how are they to judge? How can Americans tell the difference between good and bad SALT agreements?

Nuclear-arms agreements are difficult to judge because they are designed to achieve several objectives that are to some extent conflicting. The results of negotiation must be measured in at least four different currencies. First, given our strategic philosophy, SALT ought to help "stabilize" nuclear deterrence; that is, it ought to strengthen the disincentives to nuclear attack on the U.S. Second, the agreements should secure a more or less even balance between Soviet and American nuclear strength—a relationship of "parity" or "equivalence" as we have come to call it. Third, SALT ought to lead to a reduction in nuclear arsenals and their role in international affairs. Fourth, the agreement must be ultimately enforceable.

Let us gauge recent SALT developments by these four criteria.

America's nuclear strategy revolves around deterrence, a concept that has been carefully analyzed and developed over the last thirty years (always, of course, in terms of untested theory). Broadly, deterrence means that the Soviet Union's capability to devastate this country is held at bay by our threat of retaliatory devastation. To this end, our nuclear forces must be able to survive a Soviet first strike in sufficient numbers and must be able to reach their targets. Beginning about twenty years ago, American policymakers became increasingly taken by the idea that Soviet leaders would see the role of their nuclear weapons much as we see ours, and that a deal could be worked out to render this supposedly mutual deterrence more secure and less costly for both sides. Thus, the beginning of SALT.

A LACK OF CONSENSUS

It was not until 1972 that we got the first SALT treaty, limiting the defenses that may be set up against ballistic missiles. So long as it is being observed, this treaty will facilitate one requirement for nuclear-deterrent forces—the ability of missiles to reach their targets. But SALT has done little so far to satisfy the other requirement—that missile forces be able to survive a first strike.

It has not been for lack of our trying. The most recent effort was President Carter's initial SALT proposal last March, which would have slowed down the menacing programs in the Soviet Union for the construction of larger and more accurate missiles (imposing, of course, the same restraints on us). Had the Russians accepted this proposal, the land-based missile forces of both sides would have remained relatively invulnerable for many years.

But the Russians have often turned a cold shoulder to our notions of strategic "stability." Their violent public rebuff of Carter's proposal is consistent with their earlier rejections of similar ideas put forward more privately during the Nixon and Ford administrations. Indeed, many American experts on strategic affairs now see a deeply troubling lack of consensus between us and the Russians on the strategy of mutual deterrence and how SALT might strengthen it. Those experts worry that the Russians may not, in fact, see the role of nuclear weapons as we do.

If we are not careful, a SALT agreement might even increase the vulnerability of our deterrent. Because of the way we started the negotiations—trying to freeze the number of missiles and bombers—we have become locked into counting the number of missiles while imposing only loose constraints on their destructive power. In addition, the ceiling on the number of missiles with multiple warheads is far too high for strategic stability. If we were starting today to design a system for achieving stability, we would want just the opposite of what we have: we would want restrictions that kept all missile launchers small and with single warheads only, but that permitted each side to have a rather large (and equal) number of individual launchers. Such a force could never be eliminated by an adversary's first strike.

The basic approach in SALT today could have a further adverse impact on strategic stability. The requirement that we count missiles argues against permitting mobile missiles, which are hard to count. Yet, for stability, concealed mobile missile launchers are better than the easier-to-count fixed ones.

The extent to which SALT agreements can be made to help or hurt the survivability of our deterrent forces is a highly technical question. Yet it is clear that our ambitions have become quite modest, compared with the high hopes held for the stabilizing effect of SALT a few years ago. Perhaps the best we can anticipate—given our differences with the Russians on strategic philosophy—is that future agreements will at least not increase the vulnerability of our forces. We must see to it that SALT does not preclude unilateral measures we could otherwise take to fix emerging weaknesses.

This is not to say that the Russians may not join us someday to work out agreed measures to reduce the vulnerability of both our deterrent forces. Their cooperation with us on efforts to curb the worldwide spread of nuclear weapons suggests that in some circumstances, at least, Soviet and U.S. arms-control policies can be harmonized.

The ability to deter a deliberate, massive attack on our worldwide nuclear forces lies at the core of our entire military strategy. If this deterrent ever failed, all would be lost. Yet the possibility of massive attack on the U.S. is not the only threat we face from the Soviet nuclear forces. There are many other kinds of threats, more diffuse and political than the seemingly calculable violence of missile salvos.

If we let the Soviet Union build up an unarguable preponderance in nuclear arms, its influence in many parts of the world could grow, our alliances would be weakened, and in a crisis the U.S. and its friends could be forced to retreat. The political impact would be even more damaging if, through a SALT agreement, the U.S. formally and explicitly assigned itself an inferior position. While no one would insist on exact symmetry in American and Soviet forces, there is widespread agreement that any future SALT agreements must preserve a measure of equivalence. Parity has become the accepted benchmark.

THE RATIOS HAVE CHANGED

Many people live with the comfortable impression that such parity has existed for some time and that SALT merely needs to codify this most natural relationship. This is far from the truth. In the early 1950's, our deliverable nuclear weapons outnumbered Soviet weapons at least ten to one. In the early 1960's, the ratio was still easily two to one in our favor. By about 1970, however, the Russians had reached approximate equality overall; in addition, they had pressed ahead to surpass us on several counts. Today, they have more missiles and larger ones, and a far more vigorous program for replacing and upgrading their land- and sea-based missile forces. Thus they are also catching up—and may perhaps surpass us—in the kinds of strategic weaponry where we are still ahead: in numbers of missile warheads, the survivability of forces, and missile accuracy.

It also needs to be recalled that for twenty years after the Second World War, we relied on our nuclear superiority to offset our inferiority in conventional forces. Our conventional inferiority persists today—in fact, in terms of tanks, artillery, and aircraft, our side is now more heavily outnumbered than before. Yet we no longer have strategic superiority to offset this weakness.

Strategic parity has become a particularly elusive goal because of disagreement about what is "strategic." The Russians are deploying a new bomber (the "Backfire") that they do not want to have counted in the SALT limitations, even though it can reach the U.S. At the same time, the Russians want to limit medium-range cruise missiles that the U.S. could produce and deploy in the future—and that could play an important role in maintaining a regional military balance. Meanwhile, the Russians are beginning to deploy a medium-range *ballistic* missile that is totally unconstrained by SALT.

Should medium-range missiles be covered in an agreement designed to achieve strategic parity? Historically, of course, the medium-range nuclear weapons preceded the intercontinental ones. In the late 1950's, the Soviet Union deployed some 600 medium-range ballistic missiles, and as a counterweight we based up to 150 comparable missile overseas. However, we later dismantled every one of our medium-range missiles—an unreciprocated act of restraint, since the Russians kept nearly all of theirs. We informed our allies that part of our intercontinental strategic forces could serve as the new counterweight to the 600 Soviet medium-range missiles.

HOW THE RUSSIANS LIKE TO COUNT

The Russian negotiating tactics in SALT nearly succeeded in turning the facts of this history upside down. On the one hand, the Russians have argued tenaciously that the U.S. owes them compensation in the SALT equation for the nuclear-armed American aircraft overseas that can reach the Soviet Union, and they have wanted British and French nuclear forces to be considered as well. On the other hand, the Russians have insisted that all their own medium-range systems, which can reach our principal allies (as well a their new bomber, which could reach the U.S.), must not be counted. In short, this seems to be the Russian principle: nuclear arms are to be counted in the strategic balance if they can travel from France, Britain, Germany, or other countries into the Soviet Union, but not if they travel in the opposite direction.

We need not hold it against the Russians that they should try for a while to sell this line; after all, it's the job of their negotiators to get the best possible deal. But it does seem troublesome that so many Americans—in and out of government—have also accepted this line. And many Europeans also choose to be blind to the facts. Thus French President Valéry Giscard d'Estaing said. It was his impression that the Russians "are still going for parity, not for superiority." His impression does not square with the imbalance in regional nuclear forces in Europe, where the Russians long ago moved beyond parity and are still heavily investing in new systems.

This growing imbalance poses a tough test of what the next SALT agreement can do in maintaining parity. It is here, in the agreements about regional parity—and not in the intercontinental balance—that the controversial cruise missile becomes critical. The cruise missile is the likeliest potential counterweight to the Soviet Union's new bomber and medium-range missile, neither of which Moscow is willing to limit. If we purchase a SALT agreement by giving up this counterweight, we would throw away our leverage for achieving limitations on regional nuclear weapons—a volatile front badly in need of stability and arms reductions. In the process, we would scuttle the possibility of meaningful nuclear parity.

A MORAL OBLIGATION

The third objective is to reduce nuclear arms. The goal is perhaps more philosophical than technical, more significant for its sweep than its specifics.

This objective stems from the conviction that the horrendous threat inherent in nuclear arsenals ought not to be tolerated in perpetuity. It reflects the idea that the U.S. and other nuclear powers have a moral obligation—supported, to be sure, by self-interest—to lessen this threat eventually. The objective recognizes the savagery and inhumanity of military forces ready to be launched day and night, decade after decade, to slaughter, burn, and maim hundreds of millions of innocent people.

President Carter gave fresh emphasis to this objective. His preferred SALT proposal pressed the Russians to agree to substantial reductions; but this initiative ran into heavy opposition in Moscow. The present Soviet leadership, having presided over a massive twelve-year buildup in military forces, has resisted significant arms reductions. President Ford encountered the same attitude when, at Vladivostok, he sought to negotiate lower ceilings on strategic weapons.

The objective of such reductions is rendered more elusive by the unsettled situation in regional nuclear arms and the contested boundary line between what counts in SALT and what does not. Suppose, for example, that we could negotiate an agreement to reduce from 2,400 to 2,000 those missiles and bombers that the Soviets are willing to classify as "intercontinental." If the Russians could then freely add hundreds of new bombers and medium-range missiles, claiming that these were not "strategic" weapons, wouldn't we merely be pushing down the pillow in one place while creating a bulge elsewhere?

To make our commitment to genuine nuclear reductions effective, it will not be enough to send a quick proposal off to Moscow and then at the first "*nyet*" dissolve into self-criticism and scramble for a succession of fallback proposals. Despite the formidable difficulties that stand in the

way of reductions, it is important that the U.S. persevere and give effect to the universal aspirations toward this goal. A cutback in nuclear arsenals points toward eventual escape from the overarching fear of nuclear death. Quietly but deeply felt by all informed men and women, more desolate than the fear of personal death, is the fear that their generation or their children's might meet a dreadful end in a nuclear war.

HOW TO RELY ON RUSSIAN SELF-INTEREST

The final test of a good SALT agreement is that it be enforceable. We have to succeed in keeping agreements effective so long as we rely on them, and in making them "fail-safe" in the last resort, so that our security would not be decisively damaged in the event of violation. We do not expect the Russians to keep their promises because of unshakable devotion to the belief that all treaties are sacred. We expect them to keep the agreements only if, and so long as, it suits their perceived self-interest.

It is up to us, however, to anchor the Russians' self-interest broadly so that they cannot pick and choose, violating this or that arms-control provision as it suits them while retaining the advantage of other agreed provisions that restrain us. The Russians must be made to expect that, if they fail to comply with the articles important to us, we will cease to comply with those that are important to them. More than that, the Russians would lose the "credit rating" needed to negotiate new agreements with us that may offer benefits to them.

Several rather exacting requirements must be met to anchor Soviet self-interest in upholding the agreements we negotiate. The first requirement is a treaty text that spells out all the limitations and prohibitions with great specificity. We have learned from bitter experience that the Russians exploit ambiguous language to stretch what they are permitted to do way beyond our understanding of the agreement. This results in a one-sided advantage for the Soviet Union. Washington would always find it difficult to exploit ambiguities in arms-control treaties, given the constitutional separation of powers and the intense public scrutiny of government decisions.

The Russian obsession with secrecy adds to the difficulty of nailing down what is, in fact, agreed to. Almost all the numbers that give arms-control agreements some precision and concreteness are furnished by the American negotiators. Indeed, the Americans even have to furnish the quantities of Soviet weapons. Worse yet, after we tell the Russians the number or characteristics of weapons of theirs that would be limited, they refuse to confirm or deny these data—even though the data form a critical part of the agreement that is being negotiated.

Our negotiators expend a great deal of time and patience in prolonged haggling over the treaty text, while the Russians stubbornly oppose confirming their commitments in specific language. These debates would be comic if the issues were not so serious. For example, the American negotiators might argue that if a treaty limits "heavy" missiles to a fixed number, it should spell out this number and also be clear about the difference between a "heavy" and "light" missile. The Russian negotiators would counter that both sides are agreed on the number and both sides know what a "heavy" missile is; ergo, writing this down is totally unnecessary. So the Americans would ask: If we are agreed, why don't we record our agreement to avoid future misunderstanding?"

The Russians would simply repeat their argument. Then the Americans might try another tack, by asking directly: Do you agree that your side can have no more than X missiles and that any missile wider than Y meters will count as a heavy missile?" At this point, the Russians would not answer yes or no, but instead shift to the familiar tactic of impugning the other side's motives. They would accuse the Americans of casting doubt on the preliminary agreements already reached and of undermining the negotiations by raising diversionary questions.

Furthermore, this kind of dialogue—if we can call it that—would not cease after one or two meetings, but might go on for months. For the SALT agreement in 1972, the American negotiators tried in vain, through meeting after meeting, to get an agreed definition of the important distinction between light" and heavy" missiles. As we found out later, the Russians were getting ready to deploy a much heavier new missile that they wanted to have classified as "light."

We have learned that, despite the obstinate Soviet resistance to such specificity, we must try to secure it.

THE CAPABILITY TO RESPOND

An unambiguous and detailed treaty text is only the first link in a chain we must forge to make it safe for us to rely on arms-control agreements with Russians. The second link is a capability to monitor compliance with the agreement. This is the task of verification, for which our intelligence agencies are so important. Violations have to be detectable even if camouflage and deception are used. Particularly if an important advantage is sought by calculated violation of an agreement, elaborate schemes of deception are likely.

Future progress in arms control will depend heavily on the Russians' allowing broader scope for inspection and monitoring. The first SALT agreements took a step forward by protecting certain forms of verification from interference, e.g., from attacks on reconnaissance satellites. But now these talks must cope with formidable new problems. Distinguishing weapons by range is a troublesome assignment; indeed, it is impossible in the case of the cruise missile, short of a far more generous Soviet attitude toward verification. Significant differences in the range of these pilotless aircraft will be revealed neither by their exterior nor (when some easy deceptive measures are taken) by their test flights.

There are other important requirements, further links in the chain that must be forged to make arms-control agreements safe. To the first two—a treaty text specific enough and the capability to observe indications of noncompliance—must be added a third link. This is the ability of the United States government to interpret what has been observed. And a fourth link is needed as well: the will to respond if the fact of violation is established.

All four links have their analogy in our criminal justice system. First, we need a specific law without loopholes. Second, we need the investigative tools to detect violations of the law—to perform the quiet detective work, much of it in secrecy in order not to tip off the offenders. Third, we need a trial that reaches a clear verdict, interpreting the evidence in light of the law. Fourth, we need the sentencing, a judge who is willing to spell out the consequences of a "guilty" verdict.

WHEN A "GUILTY" VERDICT IS REACHED

Neither the third nor fourth step can be taken for granted. A classic illustration of failure to reach a verdict was provided in the 1930's. As Great Britain's Prime Minister Stanley Baldwin admitted, he and his colleagues had known full well of Hitler's illegal rearmament, but he could not bring himself to present the facts to the British people. The strong pacifist feeling in the country, he admitted, made him fear that his party would lose the next election if he went to the country and said that Germany was rearming and that Britain must also do so. Baldwin was an honest man; many another politician would never have made such an appalling confession. As Winston Churchill later observed, Baldwin "carried naked truth about his motives into indecency."

Even though the third step has been taken, and a verdict of "guilty" has been reached, there may be unwillingness to take the fourth step: the decision to respond. In the spring of 1975, the Ford Administration, Congress, and the American public would all have been able to agree that Hanoi had massively violated the Paris peace accords for Indochina (whose key provisions were, in a sense, arms limitations). But the American Congress, reflecting the mood of the public, decided against any response. This reluctance is understandable, in the aftermath of the divisive and debilitating American struggle to end the agonizing involvement in Indochina. Nevertheless, this unhappy episode is an uncomfortable reminder of the fact that agreements restraining the military activities of adversaries may have to be fought over twice—first to negotiate the terms and second to rectify violations. A divided country will make it hard to accomplish the first and impossible to accomplish the second.

The last link in our chain brings us to the question of national strengths. Assume that arms agreements are specific enough and verifiable, that sufficient evidence of violation has been collected, that the verdict has been reached interpreting this evidence as a serious violation, and that the political will to respond exists. Now, what can the United States do, confronted by the formidable power of the Soviet Union?

THE IMPORTANCE OF SPENDING POWER

The ultimate enforcer of all our arms-control agreements is the superior strength and resourcefulness of the American economy. It is the capability to outspend and outperform the Russians in an arms race, should one be forced upon us. The American response to the attack at Pearl Harbor and, eight and a half years later, the attack on South Korea, provide examples.

Once we understand the role of the ultimate enforcer, many essentials of arms control and of the military balance stand out clearly. First, the American response to a breakdown of arms-control agreements requires a period of mobilization. Hence the United States cannot risk entering into agreements whose violation could immediately confer a decisive advantage. This concern made us negotiate detailed prohibitions in the ABM treaty—the 1972 treaty limiting antiballistic missile systems. The point of those prohibitions was to prevent the Russians from laying the groundwork for a major new ABM system, deployable so rapidly that it would nullify our strategic deterrent before we could respond.

Second, the terms of an arms-control agreement (plus possible undetected violations) must not give the Russians so much of an advantage that we could not catch up with them in the event of a mobilization race. So long as SALT agreements are being adhered to, our ability to deter nuclear attack does not rest critically on the numbers of missiles and aircraft; a Russian advantage in some of these numbers need not nullify our deterrent. But we have to look at these inequalities as the potential starting base for a competition in which all restraints are off.

In the last analysis, arms agreements with the Russians, to be successful, must be based on a commitment that the American people make to themselves. Most Americans would clearly prefer to curb military competition and to enjoy the full benefits of a peacetime economy—but not at the price of jeopardizing the nation's independence and future. Therefore, they support arms agreements that make the deterrent strategy safer, preserve parity and may lead to arms reductions. The American people also demand of their government that it carefully monitor whether the Russians abide by the agreements. But they must be firmly committed should the Russians break the bargain to accept the necessary sacrifices. This commitment which can best induce the Soviet leaders to keep their promises is the source of both hope and safety.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses: Dr. William P. Thompson, National Council of Churches; John Cardinal Krol, archbishop of Philadelphia; Morris Levinson, Synagogue Council of America; Prof. Donald E. Miller, Church of the Brethren; Kenneth Boehm, Young Americans for Freedom; Mrs. Rose Marie Aragon, Richard Eisenmann, Panamanian Committee for Human Rights; and Dennis Small, U.S. Labor Party.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. WILLIAM P. THOMPSON

Mr. Chairman and members of the Senate Foreign Relations Committee, I am William P. Thompson, President of the National Council of the Churches of Christ in the U.S.A., with headquarters at 475 Riverside Drive, New York City.

The National Council of Churches brings together in cooperative relationships 30 constituent Protestant and Orthodox denominations that are extensively involved in our nation and throughout the world in a variety of ecumenical ministries of mission and service. This Council, through its Governing Board, does not claim to speak for all its member churches, but it does express the considered judgment of the representatives of those churches officially delegated to sit on the Council's Governing Board.

I testify today in hearty support of early ratification of the Panama Canal Treaties signed on September 7, 1977 by President Jimmy Carter on behalf of the government of the United States and by General Omar Torrijos on behalf of the government of the Republic of Panama.

The National Council of Churches has had a longstanding interest in improved relationships between the United States and Panama. Several of the member churches of the Council have supported Christian missionary work in Panama for decades and continue today to enjoy cordial relationships and frequent communication with the autonomous Panamian churches that have emerged from such missionary activity.

On October 11, 1975, just two years ago, the Governing Board of the Council adopted a resolution stating that "It is in the interests of peace and justice that both nations (the U.S. and Panama) agree to a new relationship which truly reflects the sovereignty of Panama over its own territory." The resolution further urged "the U.S. government immediately to recognize the sovereign rights of the Republic of Panama over all Panamanian territory including the present Canal Zone, and accordingly calls on the U.S. administration and Congress to support a serious negotiation of new relationships between our two countries based on this principle." The resolution also instructed the General Secretary of the Council to constitute a delegation to go to Panama on behalf of the Council to discuss the issues involved with appropriate groups in Panama.

Such a delegation did go to Panama in early April, 1976, and met with a wide variety of groups in the Republic of Panama and in the Canal Zone, church leaders and secular groups, all from a broad spectrum of political and ideological positions. On April 7, 1976, the delegation issued a declaration which, in essence, called for a new treaty to replace the 1903 Treaty because:

A. The 1903 Treaty "represents a serious injustice to the Republic of Panama and its people."

B. The 1903 Treaty "is a hindrance to the improvement of United States relations with Latin America and other nations of the world."

C. A new treaty "will clearly affirm the effective sovereignty of the Republic of Panama over its entire territory and its right to derive greatly increased benefits from the operation of the Canal."

Two days after President Carter and General Torrijos signed the new Treaties, on September 9, 1977, the Executive Committee of the National Council of Churches approved another resolution which "commends the governments of the United States and the Republic of Panama for negotiating and signing the new Panama Canal Treaties, urges the United States Senate to ratify them at an early date."

Thus the National Council of Churches is clearly on record in support of ratification of the Panama Canal Treaties now before the Senate. In the remainder of my testimony I wish to focus on a few key reasons why the Council comes to this position. We recognize that there are many issues at stake in these new Treaties of which you have already received substantial testimony and on which the National Council of Churches has no special expertise, e.g., questions of political sovereignty, the defensibility of the Canal, toll charges and compensation, etc. I shall focus rather on a few broad, and I believe important, matters that entail fundamental moral and ethical considerations.

1. First, it is our view that the Treaties under consideration are the result of good faith negotiations by representatives of both countries in which a large nation has dealt openly and fairly with a small nation. The September 9, 1977 resolution of the National Council of Churches Executive Committee, referred to above, contained this paragraph:

"The Panama Canal Treaties are important in and of themselves, but they assume a particular significance because they represent an important direction in U.S. foreign policy which deserves the support of U.S. churches. The framework and spirit of the negotiation of the Treaties makes clear that our nation recognizes that all nations, however small or new, are to be treated with respect as they assume an important role in world affairs. The Treaties symbolize the understanding that true security for our nation rests on the power of respect for justice rather than on the power of armed might."

2. Second, we believe the new Treaties introduce into U.S.-Panama relationships a measure of justice that was not present in our relationships under the 1903 Treaty. As is well known, the 1903 Treaty was signed by a French citizen with an unseemly haste just hours before the official Panama negotiating team arrived in Washington from Panama. The circumstances surrounding the drafting and signing of the 1903 Treaty were such that, as Secretary of State John Hay recognized, citizens of Panama would understandably feel them to be unfair and unjust. For seventy-four years that sense of injustice has continued and grown, poisoning our relationships. The head of the Catholic Archdiocese of Panama, Archbishop Marcos McGrath, has said, "This (1903) treaty is, in itself, of dubious moral validity, since it was drafted without the participation of a single Panamanian, and was accepted in Panama under duress. . ." The leader of the Methodist Church of Panama, Bishop Carlos Smith, states: ". . . for the sake of justice, Panama has the inalienable right to fully develop itself, for which it is necessary that it exercise sovereignty over the greatest natural resource of its people, that is, the so-called Canal Zone, which is an inseparable part of our national patrimony." Though undoubtedly there can be many conflicting views regarding the early history of the 1903 Treaty, it is indisputable that the Panamian people have long felt that that Treaty obligated their nation to accept an unjust situation and a loss of control over a key strip of Panama's geography, a loss no financial compensation could ever adequately repay. The new Treaties now before the Senate offer both nations an opportunity to establish a new standard of justice in their relationships, achieved as the result of prolonged but fair negotiations.

3. Third, we believe that ratification of the new Treaties will significantly reduce the threat of violence in the area of the Canal. Apart from the rights retained by the United States to defend the Canal, which in themselves are significant, it would appear that the greatest threat of sabotage or violence in the Canal area could originate with Panamanians who are so dissatisfied with current arrangements that they will almost certainly resort to violence. It has often been remarked that in a very real sense the Canal is "indefensible" in the sense that unimpeded use can easily be obstructed. It is remarkable that since its construction the Canal has not been sabotaged or obstructed by Panamanian citizens, in spite of rising frustration occasioned by the unjust relationship that resulted from the 1903 Treaty. Can one suppose that such restraint will long continue if the present opportunity for a new relationship is thwarted? One cannot predict the future, but it is reasonable to suppose that there will be far less temptation to violence in the future if the present unjust relationships are changed for the better, as provided for in the new Treaties, than if this new opportunity is rejected with the resultant anger and frustration which undoubtedly would follow such rejection. Our interest as a nation in the maintenance of peaceful and just relations between nations and in the lowering of tensions that lead to violence, argue for a prompt ratification of the new Treaties.

4. Fourth, we believe that the new Treaties are conducive not only to improved intergovernmental relationships, but will help the peoples of our two nations. There has been considerable debate as to the importance of the Canal to the United States, but there can be no debate that the Canal is of enormous importance to the people of Panama and to their development. We believe that the commitment of the United States government, often expressed, to assist developing nations of the world towards full and responsible development can be forwarded greatly, as to Panama, by the ratification of the Treaties currently before the Senate. It will be for the Panamanian people themselves, and their government, to determine just how this development should take place, but the new arrangements that the new Treaties would set in motion would offer the peoples of Panama a new hope for the control and orderly exploitation of the resources of all their territory in a way which is not possible under current circumstances.

5. Fifth, we believe that ratification of the

new Treaties will indicate to the world and to our own people in the United States that we are growing toward a new and more appropriate understanding of our role as a powerful nation in the world. From a moral viewpoint, this is of high importance. Other powerful nations of the world have, in recent decades, come to terms with new concepts of world order in which colonialism was no longer acceptable, imperialism was curbed, and in which new and small nations achieved a new role of dignity and respect in the world community. It seems to us that one issue at stake in the new Treaties is an affirmation of a new national self-concept on the part of the United States. If the Treaties are ratified it will be clear to the world community of nations that the United States is willing to seek out new relationships that are in keeping with the nature of the modern world where power does not guarantee right, and where a powerful nation such as the United States can achieve the respect of the world community by the exercise of restraint and the reordering of relationships which, however appropriate to another day, are no longer so. As the meaning of the new Panama Canal Treaties is thus understood by our people we can hope that our self-understanding as a nation will develop in keeping with the highest ideals of our national heritage.

6. Finally, we believe that if the new Treaties are approved, without reservations of proposed amendments that would imply rejection, our nation would be taking a forward step in its international relations. The world community of nations, especially the Latin American nations, would welcome such a step warmly. Rejection of the Treaties would be a severe blow to our relations with Latin American countries that overwhelmingly desire the Treaties to be ratified. The image of the U.S. would be strengthened throughout the world if ratification takes place; rejection would almost unavoidably encourage strong anti-U.S. sentiment worldwide. Ratification will nurture friendly attitudes on the part of Panamanian citizens; rejection can be expected to tempt many Panamanians to hostility. Ratification will strengthen the moral stance of our nation as we try to uphold in world affairs a standard of fairness and international understanding. Rejection will raise serious questions about our willingness to live by the moral standards we say are ours.

Mr. Chairman, I thank you for the opportunity to present this testimony and in conclusion I repeat my hope, speaking for the National Council of the Churches of Christ in the U.S.A., that the Panama Canal Treaties now before the Senate will be ratified at an early date.

TESTIMONY OF JOHN CARDINAL KROL

Mr. Chairman and Members of the Committee: I am John Cardinal Krol, Archbishop of Philadelphia. My testimony before this distinguished Committee is given in the name of the United States Catholic Conference, the civil action agency of the more than 330 Catholic Bishops of our country. At the outset, Mr. Chairman, I wish to express my personal appreciation and that of the U.S. Catholic Conference for the opportunity to present testimony in support of the proposed Panama Canal Treaties. The Catholic Bishops took an early interest in the need for a new treaty; in February 1975 the Administrative Board of the U.S. Catholic Conference adopted a policy position supporting the Kissinger-Tack agreements of 1974 and calling for a new treaty to govern relationships between the U.S. and Panama. In November 1976 the General Meeting of the Bishops adopted a second statement endorsing the need for a new treaty.

We regard this question as one of great symbolic and substantive significance for the peoples and nations of the Western Hemisphere. We also recognize that the treaties are a subject on which American citizens hold strong and differing views. In 1976 the debate in the Bishops Conference on our second policy statement illustrated that there were some differences of views among the bishops on specific aspects of our position, even though the position was adopted by a vote of 170–61.

My testimony today is based on the major themes of the two policy positions taken by the Catholic Bishops in support of a new treaty with Panama. In presenting this testimony the bishops wish to fulfill a role of responsible citizenship as well as religious leadership. We come here not to express a doctrine of faith, but to draw upon Catholic social teaching to highlight the moral dimensions of this very significant public debate taking place in our nation.

In our 1976 Statement the Bishops asserted that a moral imperative existed "to fashion a new treaty which respects the territorial integrity and sovereignty of Panama, and dissolves the vestiges of a relationship which more closely resembles the colonial politics of the nineteenth century, than the realities of an interdependent world of sovereign and equal states." (Statement on U.S.-Panama Relations, 1976)

I came here today, Mr. Chairman, to express our conviction that the treaties now before this Committee achieve the objectives called for in our 1976 Statement. It was our view in 1975 and 1976, and it is our view today, that a new treaty which acknowledges in principle and in fact Panamanian sovereignty over its own territory is a requirement of justice and peace between our two nations. A requirement of justice because the 1903 Treaty no longer can be reconciled with the concept of social justice which governs relations between sovereign nations in our interdependent world. A requirement of peace because we believe failure to reach a reasonable and just accommodation of interests between our nations needlessly threatens the peace in this hemisphere. In support of these propositions, I respectfully submit a series of considerations which specify the issues of justice and peace at stake in this case of the Panama Canal. We hope these will be of assistance to this Committee, to the Senate in its deliberations, and to American citizens as they consider this question.

Our perspective on the treaty negotiations and now on the treaties themselves has been set by a text from Pope John XXIII's encyclical on international relations, *Peace on Earth* (163). In his discussion of relations between states, Pope John said:

"Each of them accordingly, is vested with the right to existence, to self-development and the means fitting to its attainment, and to be the one primarily responsible for this self-development." (para. 86)

The terms of the 1903 Treaty acknowledge the principle of Panamanian sovereignty, but prevent its exercise in any form in the Canal Zone. Such a restriction on sovereignty, imposed from outside, makes it impossible for Panama either to realize its rights to self-development or to be the principal agent of its destiny in the world community. This is the key moral issue at stake in these treaties.

It is important to note, at this point, Mr. Chairman, that Catholic teaching on international relations does not give political sovereignty an absolute moral value. At a deeper level than political or legal sovereignty is the reality of human community, which happens to be shaped at this stage of history by a world of states. There are basic human responsibilities among people and nations which we think take precedence over the legal claims of states. At the same time, it is in our view necessary to acknowledge a real, if relative, value to the concept of sovereignty in a world of * * *.

The legitimate claims of sovereignty make it possible for a state in a still disorganized world to protect the fundamental rights of its people against outside interference and to marshall the resources and energies of its national heritage for the good of its people. These are objectives which touch the very identity and dignity as well as the socio-economic welfare of a country. They are objectives which we take for granted as the right of our own nation in the world. Yet, under the provisions of the 1903 Treaty, these minimal objectives of a state are severely restricted by us in the case of Panama.

It is this prevailing situation which cries out for redress. The great opportunity of the moment, Mr. Chairman, an opportunity of both justice and peace, is that we can redress the situation by the democratic procedure of a vote in this legislative body of the United States. It is our hope and prayer, Mr. Chairman, that the significance of this moment will not be lost in the intensity of debate presently surrounding this issue.

The substantive significance is the issue of political and legal justice I have just specified. But the symbolic significance of the moment is no less important: one of the largest and one of the smallest nations in the world have been dangerously close to conflict for over a decade; it is now possible to lay this conflict to rest and in doing so to provide an example in world affairs of how states of very different political, economic and military power can deal with each other in terms of equality, dignity, and mutual respect. There are too few examples of this kind in the world today. It would be a political and moral tragedy of the first order if we were to squander this opportunity.

Complementing this dimension of political-legal justice there is a second moral question at stake in a new treaty. Sovereignty is a political concept, but in world politics today the implications of sovereignty have significant socio-economic consequences. In both our 1975 and 1976 Statements on U.S.-Panama relations, we stressed how present restrictions on Panamanian sovereignty substantially retard the possibilities for economic development in that nation. We say this even while we readily acknowledge that the existence of the Canal, built and operated under U.S. auspices, has brought substantial economic benefit to Panama in this century. The acknowledgement of this fact should not, however, overshadow the equally relevant truth that the existing inability of Panama to integrate the Canal and territory comprising the Canal Zone into its national planning has serious long-term economic consequences ranging from urban congestion in Panama City to the level of revenue which Panama can gain from operating the Canal.

The political issue of restrictions on Panamanian sovereignty strikes at national pride and dignity; the economic issue resulting from restrictions on Panamanian sovereignty strikes at the human dignity and economic welfare of the people of Panama. It is a stated policy goal of our nation to foster the political and economic development of the nations of the Third World; in the treaties now before this Committee the potential exists to make a significant contribution to one of those nations by opening the possibility for more rational and comprehensive economic planning through restoring to Panamanian control the precious 500 square miles of territory which now bisects that country.

These remarks, Mr. Chairman, bring me to two concluding considerations: one bears upon our relations with others, a second upon our perception of ourselves as a nation. I have already commented upon the symbolic

significance of these treaties, but the idea is worthy of a final reflection. In the increasingly interdependent world of which we are a part, our relations with the nations of the developing world will be both complex and of considerable importance. The way those relations are shaped will have a decisive impact on what Pope John called the international common good. The Panama Canal Treaties constitute a prismatic case of how decisions among individual nations can contribute to the international common good. All the political and ecnomic dynamics involved between the industrialized and developing nations are reflected in this issue. We are being watched closely for signs of how we respond to these dynamics in a concrete case. There is a significant opportunity here for the U.S. and Panama to signal a new kind of relationship more vividly than the resolution of this emotionally laden problem by the stroke of the pen rather than strife between our nations.

The opportunity, however, is not confined to contributing to the international common good. It is our considered judgement, Mr. Chairman, that these treaties also achieve for the United States the basic national interest we have in a canal which is open and efficiently operated. Other witnesses will testify in detail about the political, strategic and economic dimensions of the treaties. As Bishops we bring no special technical competence to these discussions, and therefore have not stressed technical issues in this testimony. In preparing this statement, however, we have considered these elements, including the specific point we made in our 1976 Statement, that the welfare of the people living and working in the Canal Zone be given just consideration. We are of the opinion that this question and other legitimate national interests the United States has in a new treaty have been provided for in the texts now before this Committee.

We are aware that some who oppose the ratification of the treaties use an argument that in accepting a new treaty relationship the U.S. will appear weak or in retreat in the eyes of others. This assertion deserves comment, because it touches directly on how we think of ourselves as a nation, on how we conceive the values which structure our identity, and on how we wish to project ourselves in the world community. It is our view, Mr. Chairman, that the treaties provide us with an opportunity to project an image of strength which derives from the strongest dimension of our national heritage, not our military might, but the values and principles which are the foundation of our identity as a people. We are a nation born of the desire to be free from foreign domination; the concepts of liberty and self-determination are woven through the fabric of our history. It is these values which are synonymous with our political philosophy. When we affirm the values of liberty and self-determination for ourselves and for others we speak from the most significant strain of our heritage.

Our commitment to those values is perceived by others not only in terms of whether we are determined to preserve them for ourselves but also whether we are willing to affirm them in our relations with other states, especially those smaller and less powerful than we are. In the past we have been willing to take up arms in defense of liberty and self-determination; today, in this case of the Panama Canal Treaties, we can affirm the values by a peaceful act of national will in ratifying what our President has signed. In the past we have stood for the principle of nonintervention by others in the Western Hemisphere; today we are asked to manifest our commitment to the principle of nonintervention by an act of self-restraint and forbearance included in these treaties.

It is of the essence of national strength to be confident about the values which are at the heart of a nation's life and to be guided by those values in moments of great importance. We have such a moment before us and we can prove our strength by affirming for others what we most prize in our own national life.

STATEMENT BY MORRIS LEVINSON

Mr. Chairman: I am Morris Levinson, Vice President of the Synagogue Council of America and Chairman of its Committee on International Affairs. With me is Rabbi Daniel Polish, Associate Director of the Synagogue Council. The Synagogue Council is the national representative body of the three branches of American Judaism—Conservative, Orthodox and Reform. Its constituent organizations, both rabbinical and congregational are: Central Conference of American Rabbis, Rabbinical Assembly, Rabbinical Council of America, Union of American Hebrew Congregations, Union of Orthodox-Jewish Congregations of America, and United Synagogue of America. These organizations represent more than 4 million American Jews.

I would like to begin my testimony by presenting the official policy statement of the Synagogue Council about the proposed treaty:

The Panama Canal Treaty, which President Carter just signed, is in the best interest of the United States and far-sighted in terms of our relations with other nations.

The treaty assures the continued safety of the canal itself. As hostility to the arrangements provided by the 1903 treaty grows, the canal becomes increasingly vulnerable to terrorist attack and sabotage. The Joint Chiefs of Staff agree that the canal is impossible to defend. The new treaty diffuses this problem, thus assuring its continued operation. This is in the best strategic and economic interests of the United States.

Equally important, the treaty demonstrates our understanding of the political aspirations and economic objectives of smaller nations. The importance placed on this treaty by so many of the nations of Latin America is signified by the participation of over 20 heads of state in the recent signing ceremonies. The new treaty is conducive to more productive and cooperative relations with the nations of Latin America.

The treaty also signifies the commitment of the United States to end forever the vestiges of colonialism. At a time when colonial empires have been dismantled, in no small measure in response to pressure from the United States, this country is called on to examine its continued possessions of what some have regarded as a flagrant example of 19th century colonialism. Treaty negotiator Sol Linowitz has stated:

"To a large part of humanity, whether we like it or not, the Panama Canal is a colonial enclave carried over from the early part of the century . . . [that] has caused bitter resentment . . . [ratification of the treaty will] assure that we're going to set an example for the way a large nation deals with a small nation."

When the canal was opened 63 years ago it was the source of great pride for the United States. It demonstrated to the world the technical and managerial genius which this country possessed. Today this country's response to the new treaty can also be a source of pride. It can demonstrate the United States' generosity and self-confidence, and its flexibility in facing new realities. Ratification of this treaty offers the United States a chance to demonstrate its vision of a cooperative world, and a chance, once again, to be of benefit to our neighbors.

As I elaborate upon this statement, let me first acknowledge at the outset that we cannot talk with authority about the economic or security aspects of the treaty. We will have to leave that to the military and business spokesmen who will be appearing before this committee. We can speak about the moral issues which we feel the treaty addresses.

The first question which this treaty calls to mind is that of parity—of equality between nations. The Jewish tradition has always valued the ideals of equality and fairness. At the heart of its teaching is the "golden rule" of Rabbi Hillel: "What is hateful to you, do not do to your neighbor." In our own land, in the midst of great passion, these same values were at the heart of Lincoln's axiom, "Even as I would not be a slave, so I would not be a master." Equity between nations demands that what one country would not wish for itself, it ought not inflict upon another country. Our nation, which so cherishes its territorial integrity and its political independence, has for all these years found itself in the anomalous position of perpetuating a physical incursion into the sovereign soil of another nation, and thereby diminishing its political autonomy.

The ideal of fairness would require that as we would not want another nation to control a strip of land down the center of our land, so we cannot preserve our hold on such a strip of land through the territory of another.

The second question which calls itself to our attention is that of the ideal of cooperation and interdependence. The world in which the canal was built was one of autonomous nations. each asserting its influence and exercising its power to whatever extent it was able, constrained only by the limits of its own resources. The world of our day is a far different one. The truest picture of the world in which we live was the one transmitted back from the spaceship Apollo 14: a tiny lifeboat afloat in the vast sea of creation. We are truly, in the words of Archibald MacLeish, "riders on the earth, together."

The lives and resources of all human beings now are bound up in a common thread of mutual needs and common interests. What Benjamin Franklin once said of the American colonies now holds true for all the nations of the world: "We must all hang together, or we will hang separately." Whatever the lot of earlier ages may have been, the time we live in is one in which our various countries have need of one another's goodwill and friendship. We have, all of us pray, moved out of the age of aggression and confrontation and into an age of mutuality. The model of colonialism and paternalism has been replaced by one of collegiality and fraternal cooperation.

The Jewish tradition has always valued the ideal of cooperation among individuals and nations. It has fostered the teachings by which people may live together in contentment and concord. So does it look to the time when the people of the earth can find their way to sharing their resources and being attentive to one anothers needs. By our actions we can bring that time closer.

This treaty allows the United States the opportunity to demonstrate that it is endowed with breadth of vision and reservoirs of goodwill. Ours is a land blessed with resources of material and of skill. Yet it is not a selfish land. We can reach out our hand to our neighbors and share with them. We can give them of what is ours so that we may better their lot and add to their happiness. Our ethical teachings do call on us to share.

Some may deride this value as "soft-heartedness" or denounce it as perpetrating "handouts." We have been taught to view it as a virtue, making the world more habitable by benefitting one another. Even as we would practice this ideal within our own land, so do we believe it can be practiced among nations. Because the welfare of each nation now rests on the happiness and contentment of

its neighbors, we ensure our own welfare by contributing to the welfare of the people of Panama.

Finally, Mr. Chairman, I believe that this treaty addresses a practical question: the ability of the United States to respond to the new realities of this age. We do not have the luxury of responding to today's questions with yesterday's answers. Many are still mesmerized by the vision of the world in which the canal was built. They would apply the rough and ready values of that time to this decision. But those answers will not work. The people of Panama will not be docile and submissive. With or without our cooperation, it has been reported, they will come into possession of the canal. How much better it would it be, for them, for us, and for the peace and stability of our part of the world, if the transition of ownership could be done amicably and in the best interests of both peoples.

The reality of this moment is one that will acknowledge that all power does not inhere in our nation, nor all right.

The reality of this moment is one that recognizes that we cannot go it alone, that we have real need of the assistance and goodwill of our neighbor states.

And so we may respond to the realities of this moment or seek to flee from them. The counsel that we "tough it out" and hold to the understandings of an earlier time is beguiling but false. Such devotion to outworn visions is not the mark of a creative and powerful people but of an enfeebled and declining one. The ability to adapt to new demands and respond creatively to new realities is not the mark of a diminished nation, but of a vital and energetic one.

Our neighbors and the circle of nations beyond them may well regard our decision on this question as a test for the United States. To hold to old ways here might be seen less as an indication of strength than of decline. The ability to acknowledge our new world and respond to it in its own terms will be seen as a sign of our readiness to be a part of that new world. It will be token of our commitment to the ideals of the equality and cooperation among nations. It will be token of our readiness to live with them in fraternity and interdependence. It will be token of a magnanimity of spirit which we hope will mark all the dealings between the nations of the earth.

Mr. Chairman, I thank you for hearing my testimony and inviting us to present it today.

TESTIMONY OF DONALD E. MILLER

Distinguished Members of Committee on Foreign Relations: My name is Donald E. Miller, and I reside at 18 W 659 2nd St., Lombard, Illinois. I am Professor of Christian Education and Ethics at Bethany Theological Seminary in Oak Brook, Illinois, the only seminary of the Church of the Brethren. My testimony has been approved by the officers of the General Board of the Church of the Brethren and it is in behalf of the General Board that I testify. The Church of the Brethren is a Protestant denomination of over 1,000 congregations across the United States.

My special qualifications to appear before you regarding the pending Panama Canal Treaties are perhaps two-fold. I have been a member of the special committee appointed by the General Board of the Church of the Brethren to draft a statement on Biblical justice for use in the church. I have also been a part of an educational program, "In support of a New Relationship with Panama", requested by the 1976 Annual Conference of the Church of the Brethren. My specific assignment during August of this year was to lead a study tour on the topic of "Biblical Justice" to the Panama Canal Zone and to Ecuador. During our stay in Panama we spoke to the Senior Political Advisor in Panama for the United States Department of State, engineers and other employees of the Panama Canal Company, the Public Information Officer of the company, American church members inside and outside the Zone, students at the University of Panama, and Panamanian citizens on the street. An engineer employed by the Canal Zone Company served as our host during the two days of our visit.

The Church of the Brethren from early colonial days has been concerned about international peace and justice. At times criticisms of its peace stance have quieted its voice before the Government. However, more recently Brethren concerned about conscientious objection to military service, criminal justice, aid and service programs to foreign countries and other concerns, have frequently brought testimony before Congressional Committees.

While not all members of the Church of the Brethren agree about United States policy regarding Panama, and while various views were stated at the July 1976 Brethren Annual Conference discussion of the issue, that Conference did adopt an official statement about the Panama question, prefacing its recommendations with these words:

"Out of our interest in just international relationships, our concern for social/economic justice for the people of Panama and our desire to reduce international irritants that threaten peace, Brethren should encourage the negotiation of the new treaty, the eventual turnover of the Canal and return of the Canal Zone to Panama, the ratification of the treaty by the United States Senate, and the authorization and appropriation of financial resources of its implementation by the United States Congress."

The Church of the Brethren, speaking through the 1976 Annual Conference statement just quoted, is clear in its support of a newly negotiated treaty that follows the principles laid down by the Kissinger-Tack Agreement of 1974. To quote again from the Conference report, Brethren agreed to:

"1. Urge the U.S. Government to recognize the sovereign rights of the Republic of Panama over all Panamanian territory including the present Canal Zone, and accordingly call on the U.S. Administration and Congress to support a serious negotiation of new relationships between the two countries based on this principle;

"2. Support the efforts of the U.S. and Panamian Governments to proceed toward the negotiation of a new Isthmian Canal Treaty based on the Kissinger-Tack 'Agreement on Principles,' plus the principles of neutrality and arbitration, ensuring that the Canal be open, efficient, secure, and serving without discrimination."

The Church of the Brethren takes its stance regarding the proposed treaties with Panama from an understanding of the Biblical teaching about justice. Such a stance is at times at variance with the common point of view. However, the United States was founded and is nourished by a profound vision of justice that is not always commonly understood. We believe that the strength of this nation, or for that matter of any nation, rests in its commitment to a wider vision of human justice. When the vision of justice is diminished then the strength of the nation itself is jeopardized. We therefore, challenge a commonly held view that "might makes right."

Biblical justice is concerned about the well-being of the whole community of nations. Long range self-interest includes concern about the benefits to the other nations. It goes beyond the common view that immediate self-interest is decisive.

Biblical justice is willing to be fair to the weak and the poor. King David had a right to take to himself Bathsheba, his subject's wife, simply because he possessed that right. However, the prophet Nathan rebuked him for using his power to take unfair advantage of the weak. Genuine justice goes beyond the common view that the powerful may take what they can get.

Biblical justice is concerned for the new order that is come into being. When the old covenant becomes too narrowly understood and inadequate to the time, the Prophets begin to speak of a new covenant. The common mind is often more concerned about the personal advantages of the old agreement rather than the reality of the new order that has come into being.

Biblical justice discerns rightly what will strengthen relationships between persons and community. Justice originally referred to the decision made by the elders at the town gate wherein relationships within the community were strengthened. The common mind is frequently more concerned about the balancing of competing claims than of the wider well-being.

Biblical justice demonstrates a fundamental good will toward other groups. Such justice is concerned about the freedom, respect, and self-determination of other groups. The common mind is frequently more concerned about using other groups for one's own advantage.

We do not pretend to believe that any one treaty will fully embody justice in a Bibical sense. Yet we do believe that the proposed treaties are much closer to such a view of justice than is the treaty currently in effect.

Consider the well-being of the whole community of nations. It is to the well-being of both Panama and the United States for the two nations to have a greater degree of mutual respect. When Secretary of State George Marshall initiated the Marshall Plan after World War II, he declared, "Our policy is not directed against any country or doctrine but against hunger, poverty, deprivation and chaos."

That policy was in my judgment one of the most effective that the United States has ever taken. A similar policy today means acting so as to heighten respect between nations. Simple justice requires repecting the sovereignty of Panama.

The very weakness of Panama and its people calls for a policy that enables the country to gain greater strength. The Panamanians we spoke to pointed to the right of Panama to their own natural resource. The narrowness of the Isthmus is such a resource. This is not a time to reassert a colonialism that aims to keep a dependent nation weak.

A concern for the new order that is coming to be will consider that Panama has the support of the majority of American States as well as a majority of the members of the United Nations. An act that signals the economic and political strengthening of nations of the "Third World" cannot be well received among those nations. Clearly the coming new order must include a strengthening of Third World nations. "The challenge now is to determine whether the (Panama issue) becomes a monument to US shortsightedness and insensitivity to global community—or a monument to the larger human spirit that seeks the common good." (Quoted from a Brethren General Board staff member.)

A discernment about genuine relationships will see the inequity of the Treaty of 1903. Its conditions would have been considerably different had it been negotiated with Colombia, as was originally attempted. The real issue is not the matter of who controls the Canal, but of acting so as to assure widest international use of it. The present situation is an increasing irritant to the Panamanians, as my experience in Panama fully persuaded me.

A fundamental good will toward Panama will be concerned about the economy of that country as well as the economy of the United States. The Canal is important for the United States, but it is vital to Panama. Panama has been meagerly paid for use of the Canal, and its economy sagged badly. That is obvious to anyone who steps across the Zonal boundary line.

A concern about the well-being of the whole of the United States means that judgements about these isues will not be over shadowed by military considerations. For years Panamanian soil has been used to train military personnel from other Latin America countries, a use that goes considerably beyond the Treaty of 1903. It is important that the Congress act from a sense of justice that is appropriate to the vision upon which the United States is based, for a lesser vision weakens not only this country, but its relationship to all other countries.

In summary, a concern about peace with justice leads the General Board of the Church of the Brethren to advocate ratifying the proposed Treaties with Panama. Consideration of Panama's sovereignty, economic well-being, and the relationship of the United States to the emerging world order all point to the ratification of the proposed treaties.

STATEMENT BY KENNETH F. BOEHM

Mr. Chairman, Members of the Committee on Foreign Relations:

It is a distinct pleasure for me to appear before you today representing Young Americans for Freedom, the nation's largest conservative youth group.

For two months now our group has been actively involved in the public debate over the Panama Canal issue. It was at the National Convention of Young Americans for Freedom that Ronald Reagan formally announced his opposition to the two treaties. Since then, many of our 55,000 members joined the effort by circulating petitions, distributing literature, and sponsoring debates.

My reason for appearing before you today is two-fold: first, to represent the concerns of young people who may have to live with the results of the proposed treaties. Secondly, I'd like to give you the reasons why young people, liberal and conservative alike, are alienated by the Carter Administration's campaign to give away the Canal.

Young Americans have a lot to lose if the proposed treaties are ratified. Many of the worst features of the treaties will not become true problems until the turn of the century or until a war or national emergency.

Each generation has a duty to future generations. The generation of Americans who built the canal fulfilled their duty. They made Panama independent, built the world's greatest canal, and conquered yellow fever, malaria, and other tropical diseases. A disease-ridden, swampy jungle was made into a liveable place. Succeeding generations of Americans ran the Canal fairly and efficiently. In peace, it was open to ships of all nations. In war, it was closed to, and adequately defended from, enemy forces. Today that legacy continues. Panama has the highest per capita income in Central America, yellow fever is eradicated, and the canal remains vital to the economy and security of the U.S.

What type of legacy will the two proposed treaties be? What do future generations of Americans have to lose or gain from them?

The position of Young Americans for Freedom is shared by most Americans: we lose a lot and gain nothing.

We lose a 7 billion dollar investment, the canal zone with its military bases, railroads, highway system, dry docks, and the canal itself.

We lose approximately $350 million in economic and miltary aid.

We lose at least $50 million a year in payments to Panama which is a 2000% increase over the current payments.

We lose the right to build another canal without Panama's approval.

We lose the right to bar Soviet naval vessels from the canal in time of war or national emergency.

We, as consumers, lose untold millions through higher canal tolls.

What do we get in return? Proponents of the treaty have tried to sell the treaties to the American public by assurances that the treaties guaranteed U.S. intervention rights, preferential passage rights in time of war, exclusive U.S. rights to build any new canal and guarantees that the canal would remain open.

The problem is that all four of these assurances have been contradicted by Panamanian chief negotiator Romulo Escobar Bethancourt.

Even assuming that the obvious problems with the treaties language are resolved, what are we really getting from the other side for our billion dollar giveaway? We are getting nothing but promises. And the history of treaties which trade real estate for promises speaks for itself.

The assumption that General Torrijos will keep the few promises he does make is dubious at best. He's broken the current treaties 11 times in the last 2 years. Dictators who overthrow democratically elected governments and who sign joint communiques with terrorists such as Libya's Colonel Qaddifi are not known for their integrity in keeping treaties.

Even if the Torrijos government were trustworthy, there's no assurance that the next government of Panama would live up to the commitments made by the current ruler. Because of Panama's history of political turmoil, the average President's tenure being just two years and four months, this is a very real risk. One of the best reasons of the U.S. owning the canal is to keep it safe from the snakepits of Central American politics.

Now I'd like to give you the reasons why I feel that the average American young person, regardless of political philosophy, has been alienated by the campaign to ratify the treaties.

The first reason is the lack of credibility in the President's words and actions in regard to this issue. Candidate Carter assured the American public "I would never give up complete or practical control of the Panama Canal Zone." President Carter, in office less than a month, appoints a new ambassador to the treaty talks. His assignment: to negotiate a treaty giving Panama complete and practical control over the Panama Canal Zone.

The second reason for the disenchantment is the "politics as usual" style of the effort to promote the treaties. This, too, became apparent from the very beginning when President Carter gave Ambassador Linowitz a special six month appointment as negotiator. He, thus, circumvented the normal Senate confirmation proceedings. If these proceedings had been held they could have probed such possible conflicts of interest as the fact that Mr. Linowitz sat on the board of directors of a major bank which had made large loans to the Panamanian government.

The wiretapping incident and related allegations that the U.S. was blackmailed into treaty concessions only served to further discredit the resulting treaties.

A third reason why American young people, regardless of political philosophy, are turned off by the campaign to promote the treaties is the obvious hypocrisy over the issue of human rights.

President Carter, in theory, has made human rights the theme of his foreign policy. He has threatened to withhold aid from countries which violate human rights. His address to the U.N. last March left no doubt as to his opposition, in theory, to those nations suppressing human rights.

In practice, President Carter has rewarded the two worst violators of human rights in the western hemisphere, Cuba and Panama, with a bonanza of proposed concessions.

Freedom House, a national organization which conducts country-by-country comparative surveys of the status of freedom, places Panama on the same level as Cuba and the Soviet Union. No country in Latin American scored lower.

Since coming to power 9 years ago by ousting the duly-elected President of Panama, Torrijos has run a Marxist police state. There's no free press, no freedom of speech, no elections, and no right to habeas corpus. There are numerous documented cases of torture. The victims included Americans as well as Panamanians.

Finally, the Panama Canal talks offered a perfect opportunity for President Carter to turn his human rights rhetoric into positive action. Instead, he went out of his way to praise General Torrijos, calling him an "enlightened dictator" who had "concern" for his people. Such blatant hypocrisy is yet another reason why you'll find few young people in favor of the treaties.

TESTIMONY OF ROSE MARIE ARAGON

Mr. Chairman: I deeply appreciate the opportunity of appearing before this Committee. I am Rose Marie Aragon, born in Argentina, a naturalized U.S. citizen and the widow of Leopoldo Aragon who immolated himself last month before the American Embassy in Stockholm protesting the violations of human rights in Panama and the signing of a treaty with the Torrijos dictatorship.

Gentlemen, I sometimes think that the blessings of freedom and democracy are more appreciated and more precious to a naturalized citizen. Some of you in this prestigious chamber may well remember those feelings expressed by your own parents.

With deep personal pain, I will describe the jailing without trial, the torture and imprisonment of my late husband, Leopoldo Aragon, in the infamous penal colony of Coiba, the Devils Island of Panama.

I will tell of, and offer documentation of the systematic and continuing pattern of gross violations of internationally recognized human rights by Panama's dictator, Omar Torrijos.

Until now, Panama's flagrant violations of human rights has been one of Washington's best kept secrets. This September 9, the Washington Post editorial page article raised questions: first, the reasons for State Department's cover-up of the true nature of the Torrijos regime; second, the reasons the State Department devised elaborate falsehoods to deny my husband a visitor's visa to accompany his American wife and American daughters to the U.S. this past August. I look to the Members of Congress to explore these implications.

THE WASHINGTON YEARS

I met and married Leopoldo Aragon, a Panamanian international journalist when he was assigned to Washington. He had received his law degree in the United States and completed graduate studies in International Law and Journalism in Spain and France. Our twin daughters, now attending college in the United States, were also born here. Leopoldo covered the White House, State Department and the Organization of American States for several Latin American and European newspapers. His first book, in Spanish, "The Kennedy Era—Inside Washington" was published then. At that time I worked for State Department with a top secret clearance. Later I worked with the Organization of American States. I have long been deeply involved with civil liberties and civil rights as my husband was devoted to the cause of human rights.

In 1967 my husband was assigned to

Czechoslovakia by Interpress Service. We went with him. After nine months he was summarily given 48 hours to leave the country. He had written too many truths about communism.

THE PANAMA EXPERIENCE

In 1971 Leopoldo was assigned to Panama. For the first time since our marriage we went to make our home in his native land.

He was to set up Interpress Service. He also wrote articles for the local press and later developed a daily news analysis program on Radio Impacto. At first he viewed the political scene with a hopeful and open mind. As his views developed he began to express them privately and then publicly.

As a working journalist, he was shown a Corps of Engineers Draft Position Paper dated February 16, 1968. That paper, according to notes my husband gave me to carry to the United States, noted that popular opposition had rejected the 1967 proposed canal treaties that the Panamanian democratic government had negotiated with the United States. The paper concluded that a new treaty could not be passed in Panama except under a strong military dictatorship. This U.S. paper recommended Torrijos as the likliest man to do the job. At that time, my husband told me about this in Panama, but suggested it was better that I not know further details.

At the end of July 1972 Leopoldo, on his return trip from a short assignment in Mexico, stopped in Costa Rica at the invitation of Gonzalo Fazzio, Minister of Foreign Affairs. At the dinner that evening there was also President Figueres. They held a frank conversation about the situation in Panama. These were the subjects on which Leopoldo was later interrogated.

The next day, on his arrival at the Panama International airport, Leopoldo was arrested by the G–2, the Security Arm of the National Guard.

His arrest was witnessed by a friend who informed the family. But the Guard Headquarters told me they knew nothing about my husband. After 4 days G–2 admitted to a lawyer friend that they were holding Leopoldo, but warned him not to take the case. That lawyer suggested another who had worked for other political prisoners. This Mr. Faundes agreed to present a Writ of Habeas Corpus though he accurately predicted no result. Through his contacts he learned that my husband was charged with possession of marijuana.

He advised me to see the Attorney General. After many long days of waiting, I was told they were questioning my husband on drug charges.

I protested it was absurd and that no civilized country held a person on vague charges, denied counsel and ignored a Writ of Habeas Corpus. He replied, "In other countries, not in Panama."

I began to contact journalists throughout the world and Amnesty International, the International Committee on Human Rights and International Organizations.

My lawyer advised me to see the Minister of Justice, Materno Vasquez. For 10 days, day after day, from morning till night, I sat and I waited. When finally the Minister admitted me, it was only to say that Leopoldo was held for Subversion of Public Order.

Repeatedly I begged to see my husband. The Minister relented. I went to the jail only to be told they had received no orders. This continued for days. At last the doors of the prison opened for me and I talked with my husband after more than four weeks. He had been kept incommunicado for four weeks while tortures were inflicted on him, which as he later told us were: Blows with a rubber hose; first blows to stomach and chest; long questioning under strong lights without sleep; electric shocks to the vital parts of the body, the ears, genital organs and the anus that made him feel his insides were bursting; and hanging by the wrists and acted out executions with blank cartridges so that each time he did not know whether he was alive or dead.

My daughters and I, having had the mental torture of not knowing whether he was dead or alive and imagining what they might be doing to him, were to start on a new stage in our anguish. I extract from the journal of my daughter, Yarmila; which she writes now for one of her classes:

"Reading other people's journals of high school romances, marijuana smoking, spaced out, partying . . . I feel rather young and inexperienced. Though other experiences, I suppose will make up for the lack of those. Like waiting in line in the torrential tropical rains or scorching sun for an hour or more outside the "Model Prison" . . . most infamous place . . . where men whose ideas are too liberal and criticism too outspoken are thrown in among common criminals and tortured, most often to death . . . onil waiting to catch a fleeting glimpse of a father's ravaged but beloved face."

My lawyer and I kept demanding that my husband be brought to trial. Instead, in December 1972 he was condemned, by simple writ, to five years in prison, and one day while standing in line to bring food and bedding to him we were told he was no longer there.

He had been sent to the Penal Colony on the Island of Coiba.

The following are excerpts of Leopoldo's document:

"The prisoners are driven to Pier 18 in the Canal Zone port of Balboa under American jurisdiction, because Panama has no deep water port, and are loaded into the boat. If the trip to Coiba is hellish, it is worse if one tries to escape as I did at Pier 18 by jumping into water. It had been my hope that by doing so, I would be taken by American police who might be persuaded to take me to the hospital for injuries resulting from my torture. The shooting at me by the guards attracted a large number of American police. The shooting stopped and I shouted of my condition. The Americans agreed to take me to the hospital and so I surrendered. Then there, in front of the passive Americans I was given a severe beating with clubs, fists, rifle butts and kicks by the Panamanian guards. They handcuffed my hands behind my back. They heaved me toward the boat, but they missed. I fell into the water. I dove under the ship and made it to the underside of another pier. But I was turned over to the Panamanian guards who again beat me.

"Half drowned, I was hanged from the handcuffs to a mast for several hours. When darkness came I was chained to a ring on the deck . . . Luckily the crammed conditions prevented the guards from kicking me as hard as they might have wished.

"It was dusk of the next afternoon when the boat tied up to the jetty at the southern tip of Coiba. There were some 20 guards waiting with clubs and whips . . . someone gave me a kick that sent me reeling over the jetty into the water . . . my delay in reaching the beach saved me from one of the most bestial practices on Coiba: the running of the gauntlet of the prisoners from the jetty to the central yard. The other prisoners were running like cattle under the whips and savage cries of the guards. These were swinging their clubs, rushing the prisoners to gallop, prodding them to run faster. The guards would run ahead of them, among them, and from behind, hitting and whipping in a happy demoniacal frenzy. If someone fell, several guards would converge on him, kick him, whip him, beat him and screaming louder, drag him to his feet, forcing him to sprint like crazy, the remainder of the 300 yard distance. . . .

"Slumped on the ground, I watched from a distance. At first, the whole spectacle was incomprehensible because I did not grasp what was going on. It was a strange state of mind. . . . The black night in the background and the lights illuminating the goings on, sort of transported me to the environment of a theater. The play would soon be over and one would walk out with friends, have dinner or a drink and discuss the play. I felt no part of it. . . .

"Then suddenly I realized with terror that the thing was real. I was in it, at the receiving end like the others. The Captain's welcoming speech was short and to the point, "You just got the Coiba shock treatment. You'll get it any time you're lazy or don't figure out what we want. In Coiba there's no God, no law, no nothing, only what is for our pleasure."

The horrors continue. At Coiba Leopoldo was told how Floyd Britton another of the political prisoners had died there. The government had announced he suffered a heart attack. The truth as Leopoldo recounted it was: "With his hands handcuffed behind his back, he was placed on a stool. Guards surrounded him and clubbed him until his brains flew out."

My husband stayed in Coiba for six months. Our appeals to the international human rights organizations and to important friends of Leopoldo in other countries bore fruit. Leopoldo was brought back to the city prison hospitals. Although there are about 1,500 prisoners in Coiba, there is no medical facility. He was urinating blood and had Meniere's disease from beatings. His physical condition was terrible. Though I was told Leopoldo would be exiled, he was sent back to Coiba. Again we almost went mad. Finally in December 1973 I was ordered to buy him a one way ticket to Sweden and he was placed on a plane to Stockholm . . . where he spent two months in Karolinska hospital, recuperating from the physical and psychological tortures.

He gave several press interviews until G–2 gave me a message: "Tell Leopoldo to keep quiet. While you are still in Panama there are ways of making him come back." I had to stay to complete the teaching jobs I had taken to support us. I, too, had a severe weight loss and was emotionally drained. When we finally left Panama they made trouble at the airport, even delaying the plane, but we had many witnesses with us.

While my husband was in prison he asked me to notify the American consul of at least two Americans detained for no apparent reason. One was a graduate student, writing his thesis on Panama, who had come to watch the so-called election of "Corregidores" (Justices of the Peace). He was picked up and denied access to the Consul. Another American almost died of a beating in the cellars of the jail. U.S. Consul, Dodson's letter of resignation substantiates the U.S. passivity and the 1977 case of American citizen David Mendelson (with no political involvement) beaten and exiled, brings these cases into the present (State Department and Senator Sparkman have documentation.)

LEOPOLDO ARAGON

"Let my people decide freely" was Leopoldo Aragon's dying plea. His act of sacrifice, he said, was to "call attention to the enormity of the deprivation of human rights and political freedoms under the Torrijos dictatorship."

The exile or release of those who have been cruelly imprisoned and tortured is not the end of the story. The person changes. Psychological changes have now been recognized and a commission has been formed in Norway to study the effects of imprisonment and torture. I saw change take place in my husband. He immersed himself completely in the movement to restore human rights and

democracy in Panama. Despite his dedication he did not isolate himself and had a multitude of friends. He corresponded with his colleagues who speak and write of his warm human qualities. One, at the N.Y. Times in a personal note to me, spoke of him as "a man of great character passionately devoted to a cause of extreme importance". He was a loving husband and a devoted companion to his daughters. Others remark that he was a consistent and rational man. This consistency and rationality was demonstrated in his methodical planning for his final sacrifice for his high ideals.

Twelve years ago he wrote of another "To immolate oneself is to sacrifice oneself for others—for an ideal—for a conviction. It is an individual decision which doesn't involve nor harm another." In a letter I received on September 2nd he had sent from Stockholm. "I know what I have to do to be faithful to my destiny. I feel it with all the depth of conviction that a man can have . . . And I am going to do something that can be instinctively understood and appreciated." On September 1st, in front of the American Embassy in Stockholm he immolated himself. In his last personal message he asked me to continue the struggle, "your battle post is there."

I am here to carry on. I am here as one who has also suffered the tortures of Torrijos, tortures that continue. But mine is only one story, the only one you will hear in detail today. It started in 1972. . . . The many cases of others each year since then are documented in the volumes of The Panamanian Committee for Human Rights.

Yet Ambassador Bunker has repeated in the Congress and elsewhere what I quote from his national interview on "Meet the Press" of August 14th. The transcript reads: "What is your impression of the record of the Torrijos Government in the area of human rights?" Ambassador Bunker answered, "Well, there have been some violations of human rights by the Torrijos Government. Most of those occurred prior to 1970 when he was consolidating his position.

"Amnesty International in 1973, I think, did report that most of those violations had occurred in the early years of the regime. A year ago, they did exile some thirteen people of the right and the left who had been accused of subversion. Those, I think, have all since returned to Panama. Recently has received back nearly 100 exiles. In our report which the Administration made this Spring to the Congress, as required by law, the report stated that there was no evidence of any systematic abuse of human rights. Whenever there have been, we have called it to the attention of the Panamanian Government and have expressed our views about it."

The President of the International League for Human Rights, Attorney Jerome J. Shestack gave the Panama Human Rights Report as an example of State Department's inaccuracies and lack of candor.

What actually happened in 1976 or that which is known. . . .

January 20: Thirteen professionals, businessmen and farmers, at least in the United States does not place them either on the right or the left. In addition an Argentinian born British subject, who had served the U.S. as a parachutist medic in Vietnam, was arrested, held incommunicado, tortured and then deported.

February: A Panamanian professor, a self-described Trotskyite was picked up at the airport on his return to Panama and planed to Ecuador to join the 13 exiles.

May: Marlene Mendizabal, a high school student of humble country family, and her fiance, Jorge E. Falconet, an engineering student disappeared. Her body was found and autopsy prevented by the National Guard. Falconet was never found.

September: Attorney Eusebio Marchosky was arrested, tortured and exiled to Miami. Blanca de Marchosky, Alma Robles de Samos, Fulvia Morales are imprisoned and maltreated, but later released. Querube de Carles was exiled. Three men, one an American, employed in the Canal Zone were arbitrarily arrested on trumped up charges of fomenting riots for the C.I.A. A formal protest was lodged with the U.S. Embassy, but later withdrawn. . . . Carlos Gonzales de la Lastra, an executive, and Humberto Lopez, a student, escape arrest and are exiled to Venezuela. . . . More than 150 students are arrested and tortured, according to a letter written by Reverend Fernando Guardia Jaen, S. J. in the Panama Archdiocese monthly publication.

BOMBINGS AND TERRORISM

Following the January exiles there were a series of five mysterious bombings at the places of business or homes of the exiles or their associates. The bombs were all of the same type. At the end of October and on November 1st a series of similar bombs exploded in the Canal Zone, damaging government property and automobiles owned by American critics of the dictatorship and treaty negotiations. On November 29th a similar bomb was exploded in the Volkswagen of Jorge Rodriquez, seriously wounding his wife, Gilma, but leaving untouched in the rear seat Dolores Montoto. On December 23rd, 1976, an official press release of the Panama Embassy in Washington makes public a letter from Torrijos protesting that the U.S. Ambassador in Panama had told Torrijos that "Certain members of the National Guard are involved in terrorist activities which have taken place in the Panama Canal Zone in connection with explosions which last October destroyed six automobiles and damaged certain buildings . . . that the United States authorities had proof of their assertions.

Let us sum up the 1976 human rights violations listed here, which are only a small part of the known violations by Torrijos in 1976:

Exiled, 18; Arbitrarily arrested, 3; Arbitrarily arrested and maltreated, 3; Arrested and tortured, 151; Bombings, 12 (1 person seriously injured); Imprisoned without trial, 3; Murdered, 1; and Disappeared, 2.

Returning to Mr. Bunker's assertions. Of the 13 January exiles 4 only have returned. Ambassador Bunker says also that Torrijos has recently received back nearly 100 exiles. This is simply untrue..

Let us look at the numbers. In 1 year 181 persons are known to have had their human rights violated in Panama's tiny population of 1.7 million (as opposed to heavily populated Chile, Brazil, or Argentina). Translating that number of the U.S. population is the equivalent of human rights violations of more than 21,000 citizens.

Gentlemen: I think it is abundantly clear that Panama shows a consistent pattern of gross violations of internationally recognized human rights.

TESTIMONY OF RICHARD EISENMANN

Today, my testimony is confined to two points: There is, for the first time, in the Republic of Panama an absolute dictatorship. Second, I raise the question whether the plebiscite in Panama required by their Constitution, will reflect anything other than the will of the dictator.

THE MILITARY RULE

In 1968, through a military coup, for the first time in their history, Panamanians found themselves under the brutal rule of one of the most corrupt and arbitrary dictatorships of Latin America.

Since then, prison, torture, expatriation and murder have become the common procedure used by the government to deal with dissident opinion.

Following the coup, the University of Panama was closed for a year. All political parties were banned. Newspapers and radio stations were seized and all the independent media controlled. Many Panamanians were tortured, incarcerated, murdered or simply disappeared, many were forcibly expatriated.

Today Panamanians live in constant fear. Telephones are tapped, mail intercepted, houses searched in the dark of night, people arbitrarily arrested, and the population intimidated by an organization of paid informers.

Arrests are made on the grounds of "insults to the General" or "disrespect of the authorities" because of private conversations in which there was criticism of the government or its officers.

From time to time the government-controlled press publishes special government telephone numbers to which "citizens should call to denounce counter-revolutionary practices."

The government, using every imaginable resource—intimidation, blackmail, bribery (to name a few)—maintains strict control over labor unions, professional associations, farmers organizations, and other organized groups.

The very few organizations that at one time or another have expressed criticism of government policies or practices have been subjected to harassment, threats and reprisals. The instinct for self preservation forces conformity.

The government, its officers and its friends are involved in all kinds of legal and illegal businesses. The involvement of high ranking officers in drug traffic is well known.

Before the coup, Panama maintained for many years the highest sustained rate of economic growth in Latin America and one of the highest in the world. Today, the military are the social, political and economic aristocracy of a country in bankruptcy. There was a negative, —1%, growth in 1976, and unemployment was the highest in the history of the country.

THE CONSTITUTION

All governments that come to power by force try to give legitimacy to their origins and legality to their malpractices. In 1972 Torrijos dictatorship called elections for a "Constitutional Assembly". With all political parties and activities proscribed, except the government party "Movimiento Neuvo Panama" and the "Partido Del Pueblo" (Moscow oriented communist party), and absolute control of newspapers, television and radio stations, it was not surprising that the government won 504 of the 505 carefully screened "representatives".

This selected, rather than elected, assembly held its first meeting October 1, 1972. A week later the "new constitution" was approved without discussion and the "constitutional assembly," even to the surprise of its members, found itself transformed into a "Legislative Assembly"—but one without power to legislate.

The new constitution subordinates the legislative, executive and judicial power to the National Guard. It eliminates the separation of powers and places the legislative power in a "Legislative Council" composed of the Cabinet Ministers and *any* number of members appointed by Torrijos. It also states that Torrijos is the "Maximum Leader". His constitutional powers are illustrated by a literal translation of Article 277:

Article 277: "General Omar Torrijos Herrera, Commander-in-Chief of the National Guard is hereby recognized as the Maximum Leader of the Panamanian Revolution. As a consequence and to guarantee the fulfillment of the objectives of the revolutionary process, General Torrijos is hereby granted, for a term of 6 years, the following powers: To coordinate all the work of the Public Administration; appoint and remove freely all Cabinet Ministers, member of the Legislative Com-

mission, the Comptroller General, and the Sub-Comptroller General of the Republic, the general Directors of all Autonomous and Semi-Autonomous Institutions and the Magistrates of the Electoral Court to be named by the Executive Branch according to this Constitution and the law; to appoint the Commanders and officers of the Armed Forces, according to this Constitution, the law, and the military hierarchy; to appoint, with the approval of the Cabinet, all the Justices of Supreme Court, the Attorney General, Attorney of the Administration and their respective alternates; to approve government contracts, negotiation of government loans and conduct the foreign relations.

"General Omar Torrijos will have, in addition, power to participate with the right to be heard and to vote in all the meetings of the Cabinet, the Legislative Commission, the National Assembly of Representatives, the Provincial Councils of Coordination, and the Communal Committees."

The new constitution subordinates everything to Torrijos as the "Maximum Leader", and subjecting all powers to him except for those exercised by people he may, at will, appoint and remove.

Despite the dictatorial nature of the constitution, it grants the individual greater human and civil rights than even the United Nations Human Rights Declaration and The American Convention on Human Rights. However the unlimited powers of the dictator effectively denies these rights in practice.

This concentration of dictatorial powers, without parallel in the constitutions of any other Latin American country, do not give, however, a complete idea of the real power that the dictator and the National Guard exercise.

Despite the dictatorial nature of the 1972 Constitution, the individual and civil rights are broader than even the United Nations Human Rights Declaration and the "American Convention on Human Rights." However, the Constitution does not limit the powers of the dictatorship and the freedoms and rights recognized in theory, are constantly denied in daily practices.

Thus the Constitution exists only for "cosmetic" reasons and does not impose in practice any limits to the use and abuse of the governmental powers. For example, the Article 29 of the Constitution prohibits expatriation, but several hundred Panamanians live in exile and are not allowed to return to their country.

THE DECREES ABOVE THE CONSTITUTION

In 1969 the government promulgated the Cabinet Decrees 341, 342, and 343. Under these decrees, the exercise of the right of peaceful assembly is a crime against the state, dissident opinions are subversive, and all political activities are counterrevolutionary.

Decree 341, "guarantees the right of peaceful assembly, but prohibits public meetings in the cities of Panama and Colon, where more than half of the Panamanians live.

Decree 342 authorizes administrative authorities to impose up to 15 years of prison terms without the right to a hearing, without due process of law, without defense, without appeal, and without intervention of the courts. The decree is so vaguely written that it could be and has been applied to punish all kinds of activities "against the security of the state", including such "criminal" acts as written or verbal criticism against the government.

A recent case illustrates the procedures under Decree 342: On November 1976 a bomb exploded in a car driven by Judge Rodrigues, a well known opponent of the government. Rodrigues was slightly injured and his wife was badly hurt. The third passenger, Dolores Montoto, was unharmed. The G-2 men arrested the three persons, but due to the delicate condition of Glima Rodrigues, she was hospitalized. Four weeks later the controlled press published an administrative Resolution condemning to prison Rodriguez, his wife (at that time still in critical condition in the hospital), and Dolores Montoto to 15, 7, and 5 years respectively. None of them had legal counsel and they never had an opportunity to answer the charges against them. Since then, nobody knows where Mr. Rodriguez is imprisoned. On January 1977, the Panamanian Committee for Human Rights sent a letter to Amnesty International requesting their intervention in this case.

Decree 343 is used to control newspapers, radio, and television, by imposing a rigid self-censorship seldom violated.

On January 1974 the government prohibited the publication of the newspaper "Quibo" (What's Happening) even before the first edition came out, confiscating the equipment and arresting the editors. The same thing happened in March 1975 when the government prohibited the publication of "La Opinion Publica" (The Public Opinion).

The decree was used in 1976 to close "Radio Impacto", a radio station that expressed independent opinions. The equipment of the station was confiscated and its owner, forcibly expatriated.

According to the decree, all radio and television stations are forced to tape their programs and deliver them to the Ministry of Government and Justice.

Obviously the decrees contradict the Constitution and violate the United Nations Declaration on Human Rights but, nevertheless, they are systematically enforced by the dictatorship.

As far as we know, no other Latin American dictatorships have a legislation more repressive and which violates all internationally recognized standards on human rights. Human rights violations are documented in Volume I and II published by the Panamanian Committee for Human Rights, and in the testimony presented March 30 this year before the Foreign Operations and Related Agencies Sub-Committee of the Committee on Appropriations of the House of Representatives.

Since 1968 Panama is listed by the Interamerican Press Association as a country in which "freedom of the press does not exist." Amnesty International has made reports on human right violations during the early years of the regime. Freedom House lists Panama in 1976 as a "not free country". By contrast, Brazil is listed as a "partially free" country.

Yet, the U.S. State Department, with an unbelievable lack of information or selective standards of ethics that give little honor to the moral commitments of President Carter's Administration, has denied that human rights in Panama are an area of concern, and the International League for Human Rights has criticized the State Department Reports.

THE MILITARY ABOVE THE RULE OF LAW

In Panama the rule of law does not exist. Since the inception of the dictatorship, judiciary members can be removed freely and no Justice or Judge has dared to resolve a case against the military wishes. The dictatorship often violates its own laws. On several occasions the then Minister of Government and Justice, Materno Vasquez, declared to the Press that "the interest of the state is above the law". This man is now Chief Justice of Panama's Supreme Court and recently signed on behalf of Panama "The American Convention of Human Rights."

Frequently the courts' decisions as well as the orders of civil authorities are ignored by the military.

The writ of "habeas corpus" is useless in political cases and severely limited in cases of common arbitrary detentions, because the courts do not have the authority to enforce their decisions. In all cases, a National Guard officer exercises an overriding decision on the decisions of the courts.

On the other hand, the members of the National Guard are personally above the rule of law and the citizens do not dare to initiate criminal or civil procedures against them.

Since 1968 hundreds of Panamanians have been murdered and not even one single case of political assassination has been successfully solved. In many cases the National Guard refuses to deliver the body to the family or to allow the identification of the victims.

National Guard members have earned the reputation of "shoot first and ask questions later".

The security of the person does not exist. People are arrested without formalities of any kind. Often people are detained and the National Guard refuses to acknowledge their detention.

Under these conditions the courts cannot offer effective remedy against the frequent abuses of the authorities.

THE POLITICAL FREEDOM

Political freedom can be defined as the right to participate in, modify, or change a government.

None of those possibilities are within the reach of the Panamanian people. The only elected representatives are the members of the Assembly of District Representatives, a powerless body without any significant role in the government.

Although the right to organize political parties is recognized in the Constitution, the political parties were extinguished by decree in 1968 and, since then, the dictatorship systematically has denied the right to carry on political activities of any kind.

The only exception to this rule is the "Partido del Pueblo" (People's Party), a communist Moscow oriented party, which has complete freedom since 1969, when the party decided to support the dictatorship.

In 1970 the government tried to organize a one party political system the "Movimiento Neuvo Panama". After two years of great effort and propaganda, using all the resources of the government, public opinion would not accept it. The whole idea was abandoned after one use. Thus, today the only officially allowed party is that of the Moscow/Castro Communists.

The most prominent Panamanian politician, Dr. Arnulfo Arias, who was overthrown 11 (eleven) days after his inauguration as President, elected by the overwhelming majority of votes, lives in exile and is not allowed to return to Panama. Hundreds of other Panamanians also live in exile because of their political beliefs.

THE PLEBISCITE

Your committee has called these hearings to study the Panama Canal treaties—it is appropriate to explore the parallel process of the other signatory.

The Panama Constitution provides that any Canal Treaty must be "submitted" to a national plebiscite.

However there is a confusion. The plebiscite does not have any binding effect because the power to approve a treaty belongs to the Assembly of District Representatives—(Article 141 of the Constitution).

The plebiscite is an expedient to give the treaty the appearance of a popular approval. However what kind of a plebiscite can be held without a free press, without freedom of assembly, and without freedom of thought and expression? What is the value of a plebiscite under the constant manipulation of information by the government-controlled press, radio, and television?

In 1975, one hundred Panamanians signed a document stating that without freedom of speech and assembly to discuss the Canal Treaty, a plebiscite on the pact "will be neither legitimate nor authentic". Since then, 15 of the persons who signed the statement have been expatriated, others incarcerated, and all of them slandered by the press and harrassed by the government.

The lack of freedom has been so criticized that, after the signing of the treaty, the dictatorship has deemed it necessary to allow a carefully controlled degree of freedom to discuss the new treaty. However, the government is rushing the plebiscite in order to limit discussion. The plebiscite will be held on October 23, despite the protest of many groups that demand more time to study and discuss the Canal pacts.

The farce of the plebiscite is so evident, that today, less than 2 weeks from the plebiscite, the government has still not approved the law that is supposed to establish the voting procedures. The negotiators of both countries have contradictory views of major points of the treaties.

With some precedent, many Panamanians define the plebiscite as a procedure that gives the people the freedom to choose between voting "yes" or being expatriated.

Even under the assumption that a plebiscite would be held with all the necessary rights and freedoms guaranteed, it is impossible to think seriously that a dictator who obtained and maintained his power by sheer force, against the will of the people, is going to respect their vote in an essential matter for the survival of the dictatorship. The plebiscite is a simple problem for the Panamanian government. It does not matter how many vote aye or nay. What matters is who is going to count the votes.

The State Department knows very well that the plebiscite is a farce.

Mr. John L. Jackley prepared "A Study of the Impact of a New Canal Treaty" for the United States Embassy in Panama and, among other things he wrote "A lot of good press would be essential for success: in this situation we could make good use of the controlled press situation of the isthmus. If it doesn't work, no propaganda would sell it. But it can be given at least an initial breath of promise through skillful manipulation of the available media."

UNITED STATES RESPONSIBILITIES:

Many Americans express concern about a military dictatorship in Panama that consistently violates the most elemental human and political rights of its citizens, but—they argue—that is a fact and the United States must deal with reality.

The argument neglects the most important side of the problem: the dictatorship remains in power because it is continually armed, generously financed, politically supported, and morally approved by the United States.

The officers of the National Guard (including Torrijos) were trained by the United States under the Military Assistance Program.

Since the inception of the dictatorship, Panama "has been no. 1 in terms per capita aid" and has received more economical aid than all previous governments of Panama together. In fact this very month A.I.D. transmitted a notice to the Congress of an increase in the funding level of the proposed FY 77 program in Panama.

Recently Ambassador Bunker told a congressional committee that Panama does not have a dictatorship, but an "authoritarian regime". However, the negotiators of the Canal Treaty do not seem to be so sure of the Panamanian government's respect for human rights, because the treaty contains elaborate provisions to protect American citizens rights when those citizens are arrested by Panamanian authorities. Ironically, the Panamanians in their own land are going to have less rights than Americans.

A few days ago President Carter acknowledged that Torrijos is a dictator, but praises him as an "enlightened" man who works for the good of his people.

Constantly the State Department denies that human rights are violated in Panama despite the fact that the Department's intervention is often requested by American citizens that have been beatened, tortured, and arbitrarily jailed by Panamanian authorities

The United States is alienating Panamanians who cannot understand why the champions of democracy in their own land advocate, defend, and justify a dictatorship in Panama.

To the Panamanian it is clear that the dictatorship, without United States support, would have fallen many years ago by the weight of its errors and the democratic efforts of the people.

Thus, the argument that the United States has to deal with reality is not a valid one, when that reality is a direct consequence of a foreign policy oriented to support a dictatorship under the short-sighted premise that a strong military rule is easier to deal with, and, for that reason, more convenient for United States interests.

Latin American intellectuals observe that United States support of dictatorships strengthen anti-American sentiment in the area. History shows the result of that support. For example, Dominican Republic, the United States found it necessary to intervene militarily. In Cuba the opening was made for Fidel Castro's revolution.

Panamanians are not radical. But the United States policy of unconditional support to the dictatorship is pushing them in that direction.

Panamanians do not want United States intervention in their country. Panamanians want their freedom first then to choose fulfillment of their national aspirations, without any foreign power—not the United States, nor Cuba, nor Russia imposing a corrupt, dishonest, and brutal dictatorship, which is a tragedy for their country and shames any civilized political standard.

Since 1903 all Panamanians have wanted a new treaty to replace the one that was signed by a foreigner on behalf of Panama and imposed under the threat of losing the independence of the new born republic.

But Panamanians do not want to replace a bad treaty with one that is going to be imposed with Torrijos playing the same role that Buneau-Varilla played in 1903.

The new treaty, does not solve "the causes of conflict" between the two countries. On the contrary, it adds a few new ones, as, I am sure, many members of Congress are aware. Among other things, it is going to condemn future generations of Panamanians to live under a dictatorship as permanent as the interventionist role that the U.S. negotiators state the new treaties give the U.S.

However in this ever changing world, permanent does not mean eternal. Sooner or later the dictator will fail. Then the treaty is going to be rejected by Panamanians and their governments and all the resentment against the dictatorship will be reflected in the future relations between Panama and the United States.

U.S. LABOR PARTY TESTIMONY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THE NEW PANAMA CANAL TREATIES

In the name of the U.S. Labor Party, I would like to present as our party's testimony on the issue of the new Panama Canal treaties a statement issued on September 22 by Lyndon H. LaRouche, Jr., National Chairman of the U.S. Labor Party.

In that statement, Mr. LaRouche returns to the "American system" tradition of foreign policy established by John Quincy Adams, of fostering the conditions necessary for the emergence and growth of sovereign, industrially-developing republics. From that standpoint, LaRouche takes note of two significant shortcomings in the existing treaties that must be addressed and resolved by the U.S. government.

First, as the Mexican and other governments have correctly protested, the existing treaties might be interpreted to establish a dangerous precedent of "limited sovereignty" for Latin American nations. Secondly, Ronald Reagan and other national political leaders have justifiably charged that the treaties do not adequately consider Panama's need for a climate of technological progress and industrial development, in which stability and political security for the Canal and surrounding region can be guaranteed.

To correct these defects, Mr. LaRouche has proposed two addenda to the existing treaties. First, it is in the national interest that the United States issue a new policy doctrine statement which elaborates on the positive kernel contained in the later-distorted Monroe Doctrine of 1823, and which proclaims categorical American rejection of the monetarist doctrine of "limited sovereignty." We must avow that the practical features of the current draft treaties with Panama are in no sense a precedent for a doctrine of limited sovereignty.

Secondly, legitimate U.S. interests in maintaining the security and neutrality of the Panama Canal are best served by fostering the kind of climate for intensive capital formation in Panama to which Mr. Reagan has referred. It is under these circumstances that monetarist-controlled terrorist and ultra-leftist provocateurs, who might otherwise destabilize the region, can best be isolated and contained.

It is the U.S. Labor Party's hope that these proposed addenda will cut through much of the confusion and disorientation now surrounding the national debate on the Canal issue—a debate which thus far has shed far more heat than light on the matter—and permit the national political debate to focus on the more pressing and productive issues of nuclear energy development, the export of high technology to the developing sector, and the reform of the international monetary system necessary to accomplish these national goals.

LAROUCHE'S PROPOSED AMENDMENTS TO PANAMA TREATY

Sept. 22.—In anticipation of the forthcoming testimony of Governor Ronald Reagan to the U.S. Senate on the subject of the Panama Canal treaty, I propose that the principal substantial and otherwise apparent defects in the signed draft of the treaty be remedied by means of issuance of a new policy doctrine statement, updating the Monroe Doctrine.

The following draft includes, it should be noted, a policy element recently publicly voiced by Governor Reagan, a point on which I and many other leading U.S. citizens are in essential agreement.

U.S.A. Panama doctrine

In 1823, at a time of grave peril to our nation, President James Monroe promulgated what has been known as the "Monroe Doctrine." This was done in the context of consultation with two former U.S. Presidents, Jefferson and Madison, and with key participation by then-Secretary of State John Quincy Adams. If the circumstances and intent of that doctrine are properly understood, it has an appropriate continuation in the United States Western Hemisphere policy at the present time, a continuation which ought to be clearly identified in connection with discussions of the signed draft treaty between the governments of the United States and Panama.

The circumstances were principally these:

Through various agents affiliated with the banking interests of London, Amsterdam and

Geneva, banking interests allied with the British monarchy and with circles around Lord Shelburne and William Pitt the Younger, the United States' friends in France had been variously guillotined, otherwise dead, exiled or otherwise reduced from former positions of influence. Those British agents included Danton, Marat, Mirabeau, Necker, Tallyrand and others. With the defeat of France, the imposition of the British agent Duke of Orleans on the restored French throne, and the British establishment of its Holy Alliance order upon continental Europe, the elements of the "League of Armed Neutrality" so essential to U.S. victory in the American Revolution had been eliminated. The British had thus dared to launch war against us, provoking the War of 1812, and after the Treaty of Vienna used their global hegemony in efforts to provoke us and to subvert and crush us.

It is notable, in this connection, that London-based financial interests and their allies in the British government were responsible for development of the plantation slave system in the United States during the 1815–1860 period, and were directly responsible for promoting and indeed almost creating the U.S. Civil War. Although Great Britain formally acknowledged U.S. independence at the Treaty of Paris in 1783, the United Kingdom did not in fact recognize U.S. sovereignty in practice until negotiations between Her Majesty's government and the administration of Abraham Lincoln in 1863.

It was under the dangerous circumstances of the 1815–1863 period, the period in which British power was predominantly committed to subverting and crushing our nation, that the administration of President Monroe steered through perilous political and military waters to the adoption of the so-called Monroe Doctrine.

Although the popular account of the Monroe Doctrine is that it was a de facto compact with Great Britain's naval power against Latin American intrusions by the Holy Alliance powers, those responsible for the Doctrine understood that the Holy Alliance powers were principally subjects of a British-controlled "concert of powers" on the European continent.

British Foreign Minister Canning had proposed to make de facto U.S.-British hegemony over the Western Hemisphere a treaty-agreement between His Majesty's government and the government of the United States. This would have been, in effect, U.S. granting to Great Britain official looting rights throughout Latin America. Thus, on the advice of Secretary of State John Quincy Adams, the United States declined the treaty offered by Canning.

However, the United States was in no position to make a direct confrontation with Great Britain. Hence, the Monroe Administration adopted the Monroe Doctrine, which had the double purpose of placating London while maintaining the principles of United States foreign policy doctrine for the time that the United States grew strong enough to enforce such a doctrine.

The principal distinction between the proposed treaty with Great Britain and the Monroe Doctrine was identified at that time by John Quincy Adams. The United States maintained the principle of unconditional sovereignty of new republics in the Western Hemisphere, whereas the British had a doctrine of "limited sovereignty," meaning British creation and destabilization of Latin American governments at its pleasure through British influence over such clients as Simon Bolivar.

This principal difference between Britain and the United States was most clearly expressed in the Maximilian affair, in which the combined naval forces of Great Britain, France, and Spain overthrew the legitimate Benito Juarez republican government of Mexico as part of a looting effort of debt collection against the subjugated people of Mexico.

There were two elements in the influential thinking of John Quincy Adams behind the Monroe Doctrine. First, there were extensive precedents in United States foreign policy, as notably expressed in preceding treaties for the policy of absolute sovereignty of new American republics. More fundamentally, from the political movement associated with Benjamin Franklin and his collaborators leading into the American Revolution and in the establishment of the United States as a federal republic, the principal issue between the United States and His Majesty's government was American commitment to the realization of technological progress in industrial and agricultural development, in opposition to the British policy, as set forth in Adam Smith's colonialist policy in the Wealth of Nations, of keeping England's colonies and competitors in a condition of ruralized labor-intensive relative technological backwardness.

The foreign and domestic policy of the founders of the United States, from the roots of the American Revolution through the election of 1828, was the constitutional principle that the proper basis for government and law of a republic was the development of the wealth and culture of the people through promoting an environment of technological progress in discovery, in the expansion of industry and agriculture, and in the educational and free-press policies of the nation. The establishment of sovereign republics committed to those principles and enjoying the benefits of such principles is the purpose and essence of the establishment of the United States and its order of constitutional law.

Over the intervening decades, and most notably during the present century, a growing bulk of fraudulent reinterpretation of United States history has been popularized both inside the United States and abroad. The false report has been circulated that the English Plantations and republic of eighteenth century North Americans was principally an aggregation of rough, semi-literate frontiersmen. In fact, despite the efforts the efforts of the British government and allied financial interests to prevent the people of this nation from acquiring the capital needed for industrial development, our people were the most literate in the world, with a much higher level of popular culture than existed either in England or in France. It was that literacy and other factors of the superior popular culture of the English-speaking people of North America which made the American Revolution and establishment of the constitutional Federal republic possible, where efforts to the same effect failed in both England and France. Although the early United States lacked the capital resources of Great Britain, wherever our people's passion for science and technological progress were given outlets, our technical accomplishments, such as those of Robert Fulton, were conspiculously in advance of what was generally possible in the poorer level of popular culture then available in England.

Although our forefathers were largely of British origins, they represented in kernel the most advanced impulses from among the British people, who had founded societies on these shores to the purpose of establishing political and cultural forms not generally possible in the oppressive and politically backward England. This nation drew skilled persons from England, from France and other European nations, seeking here the possibility for the freer and more fruitful expression of their productive powers

It was on the basis of those impulses and principles that the United States was founded and the foundations established for this nation's growth to great economic power.

In the early successes of the American republic and in the comparable failures of the French Revolution, a fundamental principle was demonstrated.

In the struggle between Federalist Thomas Paine and other friends of Benjamin Franklin, on the one side of the French Revolution, and in the associates of Robespierre on the other side, the allies of Paine sought to establish France as a republic committed to scientific and technological progress under constitutional principles modeled on the lessons of the United States experience. The followers of Robespierre's faction, including British agents Danton and Marat, offered an opposite conception, mob democracy. It was the success of the latter faction which produced the hideous Red Terror in France, and led to the Napoleonic period through which British hegemony over Europe was established for most of the 19th century.

This demonstrated that the "American System" works, while the British system, and political forms derived from Rousseau and Bentham's "philosophical radicalism," led to chaos and dictatorship.

The principle underlying the success of the American System is that in a climate of freedom and cultural development of the individual focused upon objectives of technological progress, the individual member of society is encouraged to value himself or herself for his or her creative mental powers, his or her ability to discover, transmit, enrich, and practice new scientific and related conceptions through which man's dominion over nature is advanced. By so placing the valuation of the individual upon that creative mental power which fundamentally distinguishes man from such lower beasts to baboons, the individual member of a republic committed to technological progress develops respect for his or her own mind, and for the mental potentials of his fellow citizens.

This policy and cultural circumstance has two consequences essential for a republic. First, a climate of technologically progressive popular culture and education is the indispensable means for raising the productive powers of labor, which is in turn the fundamental human basis for enhancing the prosperity of the nation and its individual members. Second, the practical emphasis such a republic places on the individual human mind's creative potentials provides the basis for the prevalence of moral values consistent with the needs of humanity, and consistent with the quality of general electorate a republic requires.

The antitechnological progress prejudices associated with both the doctrines of Rousseau and those of Jeremy Bentham are intrinsically what we call today Malthusian or neomalthusian. In these latter anti-American conceptions the human individual is degraded politically and morally to likeness with a lower beast. He is degraded to the status of a mere biological individual, with more or less fixed potentialities and impulses attributed to him, just as the needs and behavior or lower beasts is apparently determined from generation to generation by a fixed generic heritage. Just as the judge who sent the great Lavoisier to the Red Terror's guillotine said. "The revolution has no need of men of science," so the Malthusians and their cothinkers degrade man generally to a lower beast-likeness fit only to find his miserable peace with existing natural conditions, and to propose political utopias in which man returns to baboon-likeness in harmony with some more primitive condition of the ecology.

It was America as the symbol and reality of the principle of technological progress which made America the cynosure of oppressed Europeans fleeing from relative zero growth to the land of opportunity here. Although we have often deviated from that principle in our foreign and domestic policies, it is the perpetuation of the American System despite those deviations which has given our nation its greatness and power, a power which depends for its perpetuation upon a repudiation of both what our forefathers regarded as the British system and of the antitechnological doctrines of philosophical radicalism traced in part to Rousseau and Jeremy Bentham.

It is therefore the historical and still imperative fundamental policy of the United States to base its domestic and foreign policy upon the principles of the American System. That is the viable continuing principle embedded in the Monroe Doctrine, and the proper basis for our policy toward Panama and other Latin American nations today.

The guiding principle at the basis of United States foreign policy is to foster sovereign republics committed to the fulfillment of the humanist principles of technological progress and the cultural development of their populations. We do not arrogate to ourselves as a nation the right to determine the internal political processes of those nations, but we do assume responsibility for the effects of our foreign policy in determining the climate in which nations pursue their internal development.

Thus, in the United States' treaty relations with Panama, it would be an abomination if such treaties promoted the circumstances under which the internal life of Panama favored atrocities of the sort symbolized by the Red Terror of Danton and Marat in 1792–1794 France. It is the vital self interest of the United States that its neighboring countries be viable republics, which those nations cannot accomplish without the circumstances favorable to technological progress in the expansion of their industry and agriculture. It is our vital interest, insofar as our means and other relevant circumstances allow, to afford to the struggling weaker republics of this hemisphere the kinds of friend in ourselves our own new republic desired during the late 18th and early 19th century.

In this connection, some critics of the treaty signed between the governments of the United States and Panama have raised the most relevant criticism that this treaty does not adequately consider Panama's need for a climate of technological progress, of fruitful capital formation in the progress of its industry and agriculture and in the corresponding advancement of the employment and cultural opportunities of its people. This criticism is a valuable one.

If we do indeed condone in Panama and other Latin American nations the conditions of raging sansculottism and the political philosophy of the culturally backward, desperate sansculottist mob, we are thus permitting the kinds of internal developments out of which the ongoing succession of social-political chaos and dictatorship must tend to prevail. In the course of later events, we might lament and denounce such political transformations of these nations, although our errors in foreign policy might have been a major contributing cause behind such unfortunate developments.

A proper United States foreign policy does not mean an unending flow of charitable donations. The entirety of modern history, in particular, demonstrates that the proper combinations of productive capital and increasing of the productive powers of labor generally means a growth in both gross and net produced wealth in industry and agriculture in excess of the growth of debt service incurred by capital formation. We can not arrogate to ourselves the prerogative of imposing such technological development policies upon sovereign nations, but we can shape our foreign policies toward nations to the effect of fostering the choice of a humanist, technological progress policy by those nations. In point of fact, most of the nations of the world would readily cooperate with such a United States policy.

We cannot, of course, take total responsibility for affording nations the external capital they require, but we are a powerful force in world affairs to the purpose of creating a general climate favorable to a humanist policy.

Other critics of the signed draft treaty between the governments of Panama and the United States, including governments friendly to the United States in this hemisphere, have expressed emphatic concern respecting elements of the treaty which appear, in their estimation, to undermine the principle of sovereignty.

There are two things to be done in response to that criticism.

We must, firstly, emphasize the included principle of the Monroe Doctrine, that the sovereignty of the republics of this hemisphere may be breached only by act of war. We must especially emphasize that point because the British Empire and its political cothinkers down to the present day have never accepted the principle of sovereignty for nations, especially not toward the nations of the southern portion of the globe. We must also emphasize that principle of the Monroe Doctrine because some influential voices within the United States itself have lately proposed that the United States participate in adoption of a doctrine of limited sovereignty.

We must, secondly, emphasize the nature of the problem giving rise to those features of the draft treaty which are the focal point of the complaints made.

The Panama Canal Zone was established as an integral part of the procedures by which the nation of Panama was established, through United States' interests directly responsible for encouraging and generally making possible the separation of Panama from the nation of Colombia. At the outset, the nation of Panama was essentially a client state of the United States, and the Panama Canal Zone an integral arrangement for the very existence of that nation. To quote one influential United States figure, "We stole the Panama Canal fair and square."

However, history moves on. The nation of Panama, originally virtually a mere puppet state of the United States, has evolved into a nation, and with the special circumstance that the ostensible prosperity of the Canal Zone abuts directly the Central American poverty of the majority of Panamanians. With the aid of certain busy bodies from outside Panama, that contrast between the modern standards of the Canal Zone and the poverty of most Panamanians has been for over a decade the specific obsession of a political ferment centered around "New Left"-type university and other students of Panama.

In this circumstance, two interests collide.

The Panama Canal remains a vital strategic economic and military interest of the United tSates. It is an important element of United States internal commerce, and without it the United States would be obliged to augment its naval and related forces most considerably.

At the same time, despite the efforts of the Panamanian government of Gen. Torrijos to maintain rational and friendly relations with the United States, he came into power in the sequel to student riots which destabilized and ended the lawful former government of that nation, and presides over a much enlarged student-led ferment of the same impulses. This unstable feature of the present internal situation in Panama, combined with a general destabilization among the countries of Central America, prompts the United States government and leading forces of the United States population to be concerned with the possibility and consequences of an overthrow of Gen. Torrijos's government by forces associated with the student "New Left."

Although we do not propose to intervene in the internal affairs of Panama, we have the right and obligation to take into account what effect internal forces such as those of the student-led ferment might have on the policies and practices of a future Panamanian government. It is our right and indeed our obligation to speak plainly on the subject of that student-centered ferment. It is essentially a sansculottist demagogues' movement in the tradition of the movements of Danton and Marat, a violent "New Left" formation of the philosophical-radical variety, of that variety which at one moment represents itself as "ultraleft" and at another proves to be a new variety of the fascist movements associated formerly with Adolf Hitler and Benito Mussolini, a movement essentially characterized by irrationalism.

If those forces were to succeed in coming into power, the identified vital strategic interests of the United States would be indeed threatened. Moreover, whereas with the case of governments with whom we have differences, but which are committed to a rational perception of vital national interests, satisfactory negotiations will usually solve problems, with a government of forces which are essentially irrational, no such avenues of negotiations exist as efficient remedies.

Consequently, the majority of United States citizens, to the extent their spokesmen inform them of such facts, will not accept a simple relinquishment of the United States' rights in the Panama Canal Zone.

As long as that problem persists, the United States has no practical alternative but to establish treaty rights which establish protection of vital United States' interests in the operation of the Canal.

For related reasons, some political currents in the United States may miss the valid kernel in the objections put forth by the government of Mexico.

It could rightly be observed that the proposed treaty increases the effective sovereignity of the government of Panama in respect to the Canal Zone, as against no treaty at all. The point is nonetheless made that the treaty implicitly sets forth a doctrine of limited sovereignity, reaffirms that as an acceptable principle at this present time. Worse, that feature of the treaty is asserted at the same time that a significant number of influential voices are proposing the promulgation of a doctrine of limited sovereignty, and that the International Monetary Fund and World Bank, among others, have gone to new extremes in arrogating a principle of external limitations on the sovereignty of debtor nations. It is not that the draft treaty lessens the sovereignty of Panama; it accomplishes the exact opposite. It is that the inclusion of specifications with the effect of limited sovereignty in a current treaty is deemed an offensive act of policy at this present time.

This is also an important point among Latin Americans because of current efforts in some influential quarters to foment what is sometimes termed a "Second War of the Pacific" among Chile, Peru, Bolivia, Ecuador and other nations, and related matters in Central America, including the threatened outbreak of a Guatemalean-based adventure against Belize. The proposal of a Bolivian outlet to the Pacific and Ecuadorian access to the headwaters of the Amazon River are connected to the cited features of the Panama treaty in not only the minds of some leading Latin Americans.

How do we, then, resolve this matter?

First, at the moment, relinquishing the vital interests of the United States in the Canal is, at best, a difficult proposition. Furthermore, as long as the threat of student-led overturns of the present government of Panama persist, going further in concessions

than the treaty proposes is probably unacceptable to the relevant institutions of the United States.

However, we can significantly mitigate the difficulties involved in two ways. First, we can avow, as a ruling doctrine of United States policy, that the practical features of the current draft treaty with Panama are in no sense a precedent for a doctrine of limited sovereignty, and specifically disavow any United States support for forcible adjustment of the borders of Ecuador and Bolivia.

Second, we can respond to the viable criticisms of the treaty concerning the internal economic development of Panama. Those critics rightly point toward the fact that the present draft treaty will not work. U.S. Senate ratification of the treaty will not avoid a threatened destabilization of the present government of Panama; a general destabilization of Panama and adjoining nations of Central America is already underfoot and will continue whether or not the treaty is ratified. We must therefore supplement the treaty with measures within our proper means to aid the government of Panama in isolating and otherwise neutralizing the anti-humanist, student-led irrationalist forces in Panama. We must aid Panama in neutralizing and isolating the irrationalist forces of destabilization by arranging economic development programs of the sort which inspire and sustain that quality of humanist outlook for which the American Revolution was fought and the establishment of federal republic and constitution was effected.

The approach to the reassertion of the essential content of the Monroe Doctrine identified here is the appropriate road toward proper relations within the Americas, including further steps toward full solution of the problems interlinked with the Panama Canal.

NEUTRON BOMB DECISION

Mr. HEINZ. Mr. President, the President is to be commended for soliciting the views of our NATO allies before he comes to a final decision on whether to deploy the celebrated neutron bomb. Designed as it is to arrest a sweep of Soviet tanks across Western Europe, it would see action, after all, on their home ground. It is, therefore, only an obvious courtesy to examine their attitudes. Moreover, as a practical matter, the purpose of having a more usable nuclear weapon in our inventory would be defeated if, because of adverse attitudes, the President felt inhibited in the end to use it.

Although the neutron bomb may inflict less damage than traditional weapons, it may, on the other hand, be more likely to be used. On balance, it is not self-evident what is to be preferred, and it is not surprising that the NATO planning group presently meeting in Italy is not of one mind on the subject. What is surprising is that during Senate debate on the bomb earlier this summer, the administration did nothing to dispel the impression—created by highly publicized comments of certain Army officials—that there was something approaching unanimity of opinion within NATO.

Mr. President, I urge the attention of my colleagues to a dispatch from this evening's Washington Star which I think characterizes NATO attitudes much more realistically. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATO TALKS END WITHOUT OK FOR NEUTRON BOMB

BARI, ITALY.—NATO's seven-nation nuclear planning group ended a two-day meeting today without any decision on deployment of the controversial neutron bomb.

Despite urging from U.S. Defense Secretary Harold Brown, alliance defense ministers considered political objections far too important for any quick decision on the weapon. It is designed for use against troops but spares buildings except in the impact area.

The warheads would be used in ground-to-ground Lance missiles or firing from 155-millimeter howitzers. Some 7,000 nuclear warheads are already deployed in Europe but equipped with different and what NATO officials call "dirtier" warheads.

It is unclear when President Carter will make his decision on whether to produce and deploy the weapon. U.S. sources indicated that the President's decision is largely dependent on whether the Europeans want the weapon and publicly agree to it.

The closed meeting of NATO nation officials here raised no objection to the "military utility" of the neutron warhead for tactical use, particularly against any Soviet tank thrust in Europe.

But "emotional and political" opposition was reported in most NATO countries, including the United States. Objections have been raised, particularly by Western Europe's growing and outspoken left, that the nuclear warhead is immoral.

Another point of the weapon's opponents is that because it is compact and designed for battlefield use in Europe, temptation may be greater for its fast use, thus increasing the likelihood of a larger nuclear confrontation.

The NATO group did not need unanimity to decide for or against the weapon. The United States has said it would consider "substantial consensus" as being sufficient to begin production.

But key nations where the warhead would be deployed—West Germany, Britain and Italy—seemed far away from any yes-or-no decision on the matter.

The United States told the allies that the neutron warhead is only for European use and it won't be produced until there is a decision on its deployment by European allies.

"It's not our purpose to jam anything down anyone's throat," said a U.S. source, after a meeting yesterday between Defense Secretary Harold Brown and members of the North Atlantic Treaty Organization's Nuclear Planning Group. "If it's not desired, it won't be produced. Outside the alliance, it has no utility."

In effect Brown placed the onus of responsibility for the so-called "enhanced radiation weapon," on European nations, whose military generally favor development and deployment of the weapon, but whose political leaders are reluctant to publicly support it because of uncertain reaction.

Brown told allied defense ministers that the small neutron warhead would "kill fewer people to accomplish the same military effect." Within its impact area, it would kill humans while doing only limited damage to objects, but civilian population in adjacent areas would be spared along with objects.

The nuclear planning group includes the United States, West Germany, Britain and Canada as permanent members. There also are three rotating memberships, presently held by Belgium, Denmark and Greece.

After another delay no decision seemed likely for some months, but it may figure during Carter's Brussels stopover on his four-continent swing next month.

WASHINGTON WORKSHOPS FOUNDATION

Mr. WEICKER. Mr. President, I would like my colleagues to join me in recognizing the 10th anniversary of the Washington Workshops Foundation. As many of you are aware, hundreds of high school student leaders from across the United States participate annually in this 1-week seminar, studying the human and practical elements of our National Government. The purpose of the Washington Workshops is twofold: To offer in-depth study and on-the-scene involvement in the American legislative and political process and, at the same time, to communicate this voice of American youth to our governmental leaders.

On numerous occasions I have had the opportunity to address these student groups and I am always impressed with the incisive questions asked by these concerned young leaders.

A nonpartisan foundation, the Washington Workshops annually offers a 3-week, high school, academic internship program as a followup seminar to the 1-week dialog experience. Several of these young Americans have worked on my staff over the past 9 years. Their dedication and willingness to do whatever is required has been most gratifying. They are concerned and involved individuals, determined to find solutions to the problems which frustrate all of us today.

May I offer my support and continued best wishes for the success of the Washington Workshops Foundation in the decades ahead as they now celebrate their 10th anniversary.

HOBOKEN—AMERICA'S COMEBACK CITY

Mr. WILLIAMS. Mr. President, the October 1977 issue of New Jersey Municipalities carries an excellent article by Mayor Steve Capiello of Hoboken, describing the tremendous strides that his city has made in its drive to rehabilitate and rejuvenate its blighted areas. A city of about 45,000 people occupying only about 1 square mile across the Hudson River from New York City, Hoboken in recent years has undertaken a massive, and truly effective, community development effort that has resulted in the rehabilitation of more than 20 percent of its housing stock. Mayor Capiello calls Hoboken "America's Comeback Town," and he points to a private-public partnership as the significant force behind the city's progress. Characteristically, Mayor Capiello has neglected to mention that the kind of innovative, people-oriented leadership which he has brought to the mayor's office has played an equally important role in Hoboken's successes.

Mayor Capiello's story of Hoboken's revival is particularly timely in light of the new Housing and Community Development Act of 1977, which is designed to focus new attention on our older communities, both large and small. Hoboken has demonstrated a fine ability to combine Federal resources, such as the kind provided under the community development block grant program, with local initiative and commitment to become a better place to live and work. Hoboken is an example of some of the good things that are going on in a number of our older cities, and I believe that my colleagues will find Mayor Capiello's article especially enlightening.

Mr. President, I ask unanimous consent that the article, "Public-Private Partnership—the Key to Inner-City Revival," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUBLIC-PRIVATE PARTNERSHIP—THE KEY TO INNER-CITY REVIVAL

(By Mayor Steve Capiello)

We Hobokenites are people who are proud of our rich history and past glories. But we are even more proud of what we have accomplished in the last five years.

We have been called the city of the "Urban Turnaround," "The City That Came Back," "The Vanguard of Neighborhood Preservation." Or as somebody put it: "Nobody Laughs at Hoboken Any More."

We are America's comeback town.

Our recent accomplishments have brought us national recognition that we, of course, think has been long overdue and well-deserved. Like so many cities we were down for the count.

But, we have come off the canvas, punching—and punching hard.

I am proud to announce today that our housing programs in Hoboken have resulted in more than 20 per cent of our total housing stock being rehabilitated.

To our knowledge, it is the best record of its kind in the nation

It is a record which has made Hoboken and its people proud.

We have visibly demonstrated the productive results of a public-private partnership—working for, and at the service of the people—in helping revive an urban area.

The Hoboken experience is a model of urban rehabilitation which should be packaged by the Federal government—and exported to other American cities.

If it can work in Hoboken, it can work elsewhere. Our pride is not the false pride of empty rhetoric and wishful dreams. It is the pride that comes only of hard work and solid accomplishments.

Let us look at the facts. Since 1972:

1,200 apartment units have been completely rehabilitated and thoroughly modernized. Five story tenement walk-ups now have modern kitchens, spacious rooms, elevators, garbage compactors and in many cases open space for the surrounding community.

754 new housing units have been constructed.

An old factory—a symbol of our city's decay—is now a modern 173-unit apartment complex for low and middle income families. This miracle of planning, engineering, and architectural ingenuity is today the symbol of a vital Hoboken, rebuilding and returning itself to its former position among the champions of cities.

More than 500 homeowners—the backbone of our city—have taken out special home improvement loans for improvements of up to $20,000 per building.

And this means that because almost every homeowner rents at least one apartment in his home a total of 1,600 additional units of housing have been improved.

Our $1.5 million Multi-Service Center provides centralized social services to everyone in the community who needs them.

$10 million is being spent to give us a modern water system to replace the system that was put in more than 70 years ago. These are some of the changes which have helped to turn Hoboken around.

HOUSING PROGRAM IS CENTRAL

Central to these changes is our housing program. Two elements characterize our housing work: a public-private partnership and neighborhood preservation.

Public participation in partnership with private capital begins in my office and the office of the City Council.

From the beginning, we have been involved in every stage of housing development. But that, of course, is not enough.

A public partnership with the private sector requires constant attention, especially to technical detail.

Therefore, we created our own local expertise: Men and women who know the housing development business almost as well as the developers and who know the banking business almost as well as the bankers.

Beginning with the Model Cities Agency and, continuing with its successor, the Community Development Agency, we have invested in experienced consultants whose duties have included the training of our local staff in the complex "ins" and "outs" of the housing business.

We have required our housing staff to facilitate the developer's work by processing forms, securing the necessary approvals and winning community support.

We have created programs to provide the banking community with the security they need to make the dollar commitments which no city can do without.

We have consciously adopted a policy of leveraging our public dollars to bring the maximum of private investment.

We have regularly brought together our housing people with the City Council and the heads of departments to explain and coordinate approaches to the distinct tasks of this complex process.

We have aggressively sought out people in the private sector who shared our vision of what Hoboken might be.

And little by little we have learned to talk the often arcane language of housing: "Limited Dividends," "Tax Shelters," and "Ginny Mae Take-Outs."

Our results have been a mutual respect between the public and private sector of the unique skills and contributions of each.

From that mutual respect flows the partnership—a partnership that is a negotiated relationship based upon mutual benefit and honest dealing.

Public-private partnership is one of the oldest ideas this country has ever had.

Two things distinguish the public-private cooperation of the 1970's from past examples of this partnership which have failed.

The first is a different kind of public servant. We see today on the public side a person committed to his or her city and its future, technically knowledgeable and yet responsive to community needs and desires.

And secondly, we have a goal—a goal whose pursuit prevents the perversion of this partnership.

It is our goal. It is our mission. It is our duty to bring the energy of this partnership and private capital to the great task of revitalizing and preserving the basis of strength and the source of vitality of the American City—its neighborhoods.

By neighborhoods, I mean the people in place—not uprooted, not dispersed—in their houses, with their clubs on the corner, their butcher shops down the block, the belfry of the neighborhood church against the sky, the strength that comes from honest labor in their bodies—and a feeling a community of mutual support and mutual love in their heart.

For, too often in the name of a public private partnership, neighborhoods have been destroyed to build a civic center or a 58-story hotel.

Too often in the name of public-private partnership neighborhoods have been blown away like the dust after the wrecking ball.

Too often in the name of public-private partnership family roots have been torn up—losing forever the precious sense of heritage and tradition.

What makes Hoboken different is that we have effected a public-private partnership committed to the preservation of our neighborhoods and the way of life of the people who live there.

This is not a program which has cleared out the working people to bring in high-rise buildings and parking lots.

It is a program that serves the people who already live here. For what is Hoboken or any city but its people and its neighborhoods.

Hoboken's experience means this:

That a public-private partnership can work on behalf of the people to sustain the vitality of a community's life and overcome ethnic and racial differences.

You will walk the streets of Hoboken, but you will not see the renaissance centers of other cities. You will see, however, people from all over the world, of all colors working and living together—not without differences—but in harmony and with mutual respect, committed to a vital, safe and healthy community.

We look about our city today and see all that must still be done. But we look at what has been done and remember not long ago our dismay. Well, we're back! We are America's urban contender. We are America's comeback town.

We did it through a public-private partnership deriving its strength from—and at the service of the neighborhoods.

It's a new approach, and yet it's as old as the republic itself—government and business working together at the service of the people.

LABOR DEPARTMENT INVESTIGATION OF TEAMSTERS' CENTRAL STATES PENSION FUND

Mr. WILLIAMS. Mr. President, the Central States, Southeast and Southwest Areas Pension fund has for many years been the subject of allegations of financial abuse, suspicious associations, and demonstrable wrongdoing. As one of the largest pension funds in the country, the Central States pension plan covers more than 450,000 teamster members working for more than 16,000 employers in 23 States, and the continual publicity surrounding it has been a source of embarrassment to all private sector pension funds, and especially to collectively bargained multi-employer funds, the vast majority of which are well managed and sound.

For many years, despite the presence on the books of numerous Federal criminal laws and despite several criminal investigations, little progress was made in "cleaning up" the Central States fund. In part, it was due to the difficulties encountered by criminal investigators, public interest groups, Central States fund participants, and others who were

attempting to learn about the dealings of the fund and bring about internal reform that the civil investigative and enforcement provisions of the Employee Retirement Income Security Act of 1974 (ERISA) were enacted.

We were convinced that it was time to try a new approach—to give to the Labor Department broad and powerful investigative authority, and to provide strong, yet flexible, civil equitable remedies in the Federal courts so that the Labor Department and plan participants would have the tools to enforce the fiduciary responsibility and other provisions of ERISA.

We are now beginning to see the results. I have recently received a letter from Secretary of Labor Ray Marshall, detailing the steps taken by the Department of Labor in its investigation and remedial activity concerning the Central States pension fund. The letter speaks for itself, but I want to add a few observations to highlight the significance of what ERISA has enabled the Department to accomplish:

First, there is no question whatsoever that it was ERISA's substantive standards of fiduciary conduct and ERISA's powerful civil remedy provisions that gave the Labor Department the ability to completely restructure the asset management practices of the Central States fund in a way that gives great assurances that we have seen an end to a long era of demonstrable abuse and debilitating suspicion regarding the integrity of the fund's assets.

ERISA's reforms also enabled the Department to work closely with the Justice Department and the Internal Revenue Service, so that a governmentwide approach could be used.

Second, I believe the Labor Department was entirely correct in its decision to focus first on preservation of the fund's $1.4 billion asset portfolio. In the choice between insuring the integrity of the fund's assets and proceeding against individuals for breaches of fiduciary obligations, the former was clearly the more important. As Secretary Marshall points out, the Department's investigation of the Central States Pension Fund is continuing, with the objective of determining whether fiduciary breaches have occurred that warrant proceeding against particular individuals.

My Human Resources Committee will continue to closely monitor this second phase of the pension fund investigation, as well as the Department's recently launched investigation of the Central States health and welfare fund.

Third, it is to Secretary Marshall's credit that he chose not to bring the asset management lawsuit he could have brought and instead used the threat of the lawsuit to force the resignation of the old trustees and to convince fund officials to accept independent, professional asset managers. Filing of a lawsuit would have resulted in enormously expensive, protracted litigation with possibly serious adverse consequences for the fund's participants and beneficiaries. While the Labor Department has elsewhere demonstrated its willingness and ability to litigate under ERISA in appropriate cases. I am convinced that reform of the fund's asset management practices has been accomplished more quickly and at less expense than would have been likely in litigation. And, because the Department secured all the relief regarding asset management that it could have obtained through a lawsuit, I think the secretary's choice was a good example of discretion soundly exercised.

Finally, Secretary Marshall personally deserves high commendation for recognizing the significance of the Central States investigation, both on its intrinsic merit and for its symbolic importance, and for carrying through so effectively on the pledge he made to the Human Resources Committee during his confirmation hearing. It has been one of his most impressive achievements to date. But I hope that the Department will give due credit to its other officials and staff who participated in the asset management phase of the investigation, the remedial efforts, and the very important follow-up work in actually getting the investment managers into place.

Mr. President, I ask unanimous consent that Secretary Marshall's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., September 28, 1977.

Hon. HARRISON WILLIAMS,
Chairman, Human Resources Committee, Washington, D.C.

DEAR SENATOR WILLIAMS: This is in response to your request of July 12, 1977 that I furnish to the Human Resources Committee an updated report on our investigation of the Central States, Southeast and Southwest Areas Pension Fund.

During my confirmation hearing, I pledged to personally oversee the Department's investigation. Because of your personal interest in this matter and that of the Human Resources Committee, and because a phase of our investigatory and remedial activity has now been completed, this is an appropriate time for an update.

Although Department officials have regularly reported to Committee Staff throughout the investigation, the last formal presentation took place during the open hearing and Executive Session held by the Committee early in July 1976. During these discussions Committee members were appraised of the structure and status of the investigation. At the same time, the Committee expressed some concern over the investigation's progress and the degree of coordination among the Labor Department, the Justice Department, and the Internal Revenue Service.

When I assumed office in January 1977, these concerns were uppermost in my mind. First, I would like to report that any previous problems of coordination have been overcome. Secondly, very substantial progress has been made, especially during the last six months.

Also, as you read this report, I am sure that you will find that ERISA has given us an essential tool to accomplish what was simply not possible before its enactment. It is the fiduciary responsibility provisions of ERISA and ERISA's powerful yet flexible civil enforcement mechanisms that gave the Labor Department the authority to bring about a significant change in the asset management practices of the Central States Pension Fund.

As you will recall, your hearings in July 1976 were held just after the Internal Revenue Service had revoked the Fund's tax qualification. Accordingly, this report begins with the events that took place immediately after the revocation.

During July and August of 1976, Department investigators subpoenaed certain Fund trustees and professional staff and took their depositions. Two trustees refused to answer any questions, asserting their rights under the Fifth Amendment. The Department then notified the Board of Trustees that an assertion of the Fifth Amendment right in the context of questioning about a person's fiduciary conduct constituted a per se violation of the fiduciary's duties under ERISA. This was cause for removal from the fiduciary position. One of the two trustees then resigned. The other trustee informed our investigators that he was prepared to answer our inquiries. However, before he was deposed again, at the end of October, eleven more trustees resigned, including the trustee who had asserted his Fifth Amendment right. At the same time, the Fund's trust agreement was amended to reduce the number of trustees from 16 to 10, and six new trustees were appointed to bring the Board up to full strength. Investigatory activity continued during these months, and a substantial body of evidence was available at the time of my confirmation in January 1977.

Late in January I advised the President of the special importance I placed on the investigation and have continued to keep the President informed of important developments.

With the assistance of Eamon Kelly, whom I brought in as an advisor on leave from the Ford Foundation, I undertook a review of the investigation's status. I wanted to know what evidence we had and what kind of relief we could seek. Working with the Special Investigations Staff, the Office of the Solicitor of Labor, and officials of the Department's Pension and Welfare Benefit Programs, we assessed the evidence we had, especially its probative value. We reached agreement during the last week of January that our primary goal had to be preservation of the Fund's assets. We then decided that we had a strong case to bring to court, if necessary. But we also decided that the chance of protracted litigation was significant, and that we should explore with representatives of the Fund the possibility of achieving the relief we believed necessary without resort to litigation.

During the second week of February, I met with Secretary of the Treasury Blumenthal, Attorney General Bell, and then Commissioner of Internal Revenue-designate Kurtz. After a presentation of the status of the investigation, we had a complete discussion of the alternatives. We agreed to present a series of demands to the Fund representatives. From that point forward, we have proceeded in a fully coordinated manner. The demands made to the Fund representatives were "Government" demands.

On February 16, following a series of meetings with Chicago IRS officials, we presented our position to the Fund representatives. We informed them that we were prepared for litigation to accomplish our objectives, which consisted of three components. First, we sought the resignations of the four "holdover" trustees. As I noted above, in October 1976, after 12 of the 16 trustees had resigned, the collective bargaining parties had appointed 6 new trustees, and since that time, the Board has consisted of a total of 10, 5 appointed by labor and 5 from management. We believed that only with an entirely

new board of trustees, free of the allegations and suspicious associations of the past, could the Fund stand a good chance of proceeding with integrity. Second, we sought agreement from the trustees that they would take one of two steps to remove day to day asset control from the hands of the management and union trustees. The choices available were 1) to restructure the board of trustees so that it consisted of a majority of neutral, independent professionals, competent in the various fields of asset management, or 2) to retain the present structure of the board, but turn over complete asset investment control to one or more professional, independent investment managers. Third, we sought a series of changes in the terms of the Central States plan and in its procedures outside the asset management area, to bring the plan into compliance with ERISA's minimum standards, and to meet certain other qualification requirements of the IRS.

On February 23, at another meeting in Chicago, Fund representatives gave us the trustees' initial reply. We were told that the trustees refused to secure the resignations of the four holdover Board members, but that they were willing to discuss several alternative methods of professionalizing the Fund's asset management. These included a beefing-up of the Fund's professional staff, the hiring of an investment advisor who would direct the trustees in their decision-making, and a true independent investment manager arrangement. They also stated that the trustees would comply with our third demand, regarding plan amendments and changes in plan procedures to comply with ERISA and Internal Revenue Code rules outside the asset management area. The IRS letter granting relief from the consequences of disqualification was due to expire on February 28. From the standpoint of the IRS, the February 23 trustees' response was encouraging enough to justify an extension of relief. From the standpoint of the Department, the reply was somewhat encouraging, but it was unacceptable since it did not include resignation of holdover trustees. Accordingly, the Fund representatives were told that the response was unacceptable and our representatives returned to Washington.

On February 26, with Labor Department authorization and approval, a news release was issued by the IRS in which the Service announced an extension of relief from the disqualification, through the end of April 1977. We also announced that because insufficient progress was being made from our standpoint, we had determined to take "appropriate remedial action." On that day, we held a meeting of lawyers from the several agencies whose assistance and expertise we might draw on if we began litigation.

Within a few hours after issuance of the news release, Fund representatives informed us the trustees would meet again within a few days to reconsider their decision. We continued ahead with preparation for litigation. During the first week in March, in anticipation that the trustees might vote to change their decision, Fund representatives began serious discussions with Department officials regarding the timing of the resignation of the holdover trustees and the criteria and structuring of an independent asset management arrangement.

At a meeting on March 11, the trustees decided to comply with the Government's demands, and authorized their representatives to meet with us to discuss implementation. That meeting was held on March 12, and on March 14 the Labor Department and IRS issued identical news releases announcing the terms of the agreement. The critical terms were that the trustees would reach agreement in principle as soon as possible with one or more independent investment managers of nationally recognized stature, would make the required changes in the terms of the plan, would cause an independent legal audit to be undertaken of all Fund investment transactions, beginning with 1965, would begin making certain annual disclosures, and would secure the resignations of the four holdover trustees. When these steps were completed or underway, the Service would requalify the plan and the Department would terminate that portion of its investigation which related to Fund asset management practices.

On April 14, the trustees entered into an agreement in principle with the Crocker Bank of San Francisco, under which Crocker would become the fund fiduciary, with authority to hire other investment managers to assist in asset management. On the same day, the Department announced that the choice of Crocker was fully satisfactory from our standpoint. On April 26, the Internal Revenue Service requalified the Fund, with certain caveats. On April 29, the four holdover trustees resigned. Four replacement trustees were then chosen, in accordance with the terms of the documents governing the operations of the Fund. The Department was not involved in any manner in the selection of the new trustees.

During the latter part of April and the month of May, Fund representatives and Crocker worked diligently to put together an asset management group and a contractual structure that would be satisfactory from several standpoints. This proved to be very difficult. From the standpoint of the Government, for example, the arrangement had to satisfy several criteria. It had to provide for complete divestiture of trustee control, subject only to the obligations imposed by ERISA—that the trustees be prudent in their choice of managers and that the trustees not be relieved of their duty to monitor. It had to involve managers who were competent and who could withstand the public scrutiny that would inevitably begin when the choices were made public. The contractual structure had to be one which was workable and which met ERISA's requirements. Most important, the arrangement had to be put in place as rapidly as possible, consistent with the dictates of prudence.

When the end of May approached and the parties did not seem to be close enough to agreement, we informed the Fund representatives that time was running out, and that the Department would have to consider alternatives if progress were not made more quickly. During the week of June 6, Fund representatives informed us that they were considering a different arrangement, under which the Equitable Life Assurance Society of the United States, a large insurer headquartered in New York City, would become the Fund fiduciary, real estate related assets would be managed by Equitable and the Victor Palmieri Company, and the securities assets would be managed by Equitable, Lazard Freres, the Crocker Investment Management Company and the Mercantile National Bank of Dallas. These institutions and their management assignments were fully satisfactory to the Department.

A number of questions have been raised about the selection of the investment managers and the role of the Department in the selection process. Consequently, I would like to address this issue. Early on, we gave considerable thought to the appropriate role for the Department in the fiduciary selection process. We determined that we would not choose investment managers for the Fund. We believed that it would not be sound public policy for the Labor Department to impose its judgment on initial choices of investment managers in a contractual arrangement to which we were not a party and under a statute which placed the responsibility for prudent choosing of investment managers squarely on the trustees. However, we did believe that we could not fulfill our statutory responsibility to enforce the law if we played no role. Accordingly, we decided to exercise a veto power, if necessary. The trustees' representatives were informed that the trustees had to decide on managers, and that they would have to live with their choices unless the choices did not meet the general criteria we had announced in our March 14 news release: independence, professionalism and national stature.

We never exercised the veto because all of the choices actually made by the trustees have been fully satisfactory. However, during the course of negotiations between the trustees and various manager candidates we did express reservations on two occasions. While at no time did we have reason to question the competence of a potential manager candidate, we did express a concern, at one point, because a manager candidate had been involved, although indirectly, in a financial transaction involving Fund assets. On the other occasion, a different candidate was not sufficiently well known and was a subsidiary of a company which had another subsidiary which was a service provider to the Fund. Although we had no reason to question the competence, skill or any other merit-related aspect of either of these candidates, we believed that, given the history of this particular Fund, any manager chosen, particularly the real estate managers, would have to be unassailable in terms of public acceptance.

On June 16, the trustees resolved to instruct their representatives to proceed rapidly to prepare contracts to be entered into between the trustees and the Equitable group. That was done, and the contracts were executed during the week of July 5. Copies of the various contracts were furnished to the staff of your committee pursuant to their request on July 18.

The salient features of the contractual arrangement are as follows:

Equitable is fiduciary of the Fund. Its role can best be understood if it is described as "managing" fiduciary.

Equitable and Palmieri are the managers for real estate related assets. Equitable will manage those assets located east of the Mississippi River and Palmieri those assets to the west.

Equitable, Lazard Freres, Crocker Investment Management Company and Mercantile National Bank will each have responsibility for approximately one-fourth of the Fund's securities portfolio.

The trustees will monitor Equitable's performance as fiduciary and real estate manager, and, with Equitable, will monitor Palmieri's performance. Equitable will monitor the performance of the other managers.

The length of the contracts for Equitable as managing fiduciary, and Equitable and Palmieri as investment managers, is five years in the sense that Equitable and Palmieri may not be removed nor may their status be changed without their consent, or except for cause and upon 60 days advance notice to the Secretary of Labor and the Commissioner of Internal Revenue and with the consent of the Secretary. After the expiration of five years, only 60 days notice is required. Equitable, Palmieri, and other investment managers may resign after having given 60 days notice to the trustees, the Secretary and the Commissioner.

As managing fiduciary, Equitable has the exclusive power to appoint and remove investment managers and custodians, subject in the case of Palmieri to the 5 year termination and change of status provisions previously described; to allocate available investment funds among types of investments and among the various managers; and to develop and implement long- and short-term investment objectives. To assist the trustees in their monitoring, Equitable must report regularly and maintain complete and accurate records.

The parties presently contemplate a closing date under the contracts of October 3,

1977. That is, it is expected that management control of all or most of the assets will be transferred to the respective investment managers by that date. Under the contracts, the responsibilities and attendant potential liabilities of each of the managers commence when the asset is accepted for management by the investment manager. The period between execution of the contracts and the closing date is being used by the real estate managers to inspect and document their respective future assets. During this period, the securities assets will remain under the control of the independent banks now managing those assets. The real estate assets will continue to be managed by the trustees through the Fund's professional staff.

One critical concern for all the parties is the value of the assets. The contract provides that each manager shall evaluate each asset promptly after acceptance. If the value varies from the asset's book value and if the trustees do not agree to the new value, value will be fixed as of the date of acceptance by a "valuation committee." The committee shall consist of three persons chosen by the Department from a list of nominees selected by Equitable and Palmieri. There will be two valuation committees—one for real estate assets and one for securities.

Under the contracts, the trustees—the persons chosen by the collective bargaining parties—retain power over those aspects of Fund administration that are closely related to labor relations and collective bargaining, such as the establishment of benefit levels, enforcement of collective bargaining agreement rules, eligibility and benefit payment rules, and the actuarial soundness of the Fund.

Each contract contains a fee schedule. The fee components are:

A percentage of assets fee for Equitable for its fiduciary services, to be paid on a quarterly basis.

Flat annual fees for Equitable and Palmieri, including separate start-up fees, for management of the real estate assets.

Percentage of assets fees to Equitable, Lazard Freres, Crocker and Mercantile for management of the securities assets.

Reimbursement to Equitable or Palmieri for "supplemental services." These are services performed by subcontractors with Equitable or Palmieri. An example would be an appraisal or a legal opinion deemed necessary by one of the real estate managers.

The Equitable fiduciary contract contemplates the establishment of a special task force by the Department of Labor to assist the trustees, the fiduciary and the investment managers in obtaining technical advice and assistance, as authorized by law, from the Department and other federal agencies.

We believe that the contractual structure provides a sound basis for proper future management of the Central States Fund's giant portfolio. It entirely removes asset management control from the trustees, yet retains in them the authority and power to monitor performance. It provides sufficient security for the independent professional fiduciary and the investment managers to insure that they cannot be dismissed at the whim and caprice of the trustees, yet permits the trustees to dismiss for cause. It leaves the affairs of a private sector fund in private sector hands, yet provides for lawfully authorized government assistance and contains a triggering device to insure government oversight in the event the trustees, Equitable or the investment managers need to seek governmental advice or help on matters relating to Fund management. And it contains great promise of ending the years of suspicion, allegations and demonstrable wrongdoing that have surrounded asset management of the Fund and the persons associated with it.

With the execution of these contracts, the portion of our investigation that focused on investment management practices of the Fund has concluded. When the transfer of the assets of the Fund to independent, qualified investment managers is completed, the Department expects that it will not have to monitor future transactions in detail, although the Department has created a special task force to render technical advice to the Fund managers and to assist them in dealings with other branches of the government.

While the part of our investigation which focused on investment management practices has concluded, another part of the investigation continues. This part is designed to establish whether evidence of fiduciary breaches, during the period since January 1, 1975, warrants proceeding against persons who have served the Fund in a fiduciary capacity. Our investigative activity is shifting from what has been primarily a review of Fund records and documents to a search for evidence in the possession of others—individuals associated with the Fund, persons and entities who have done business with or borrowed from the Fund, and others whose knowledge or records may cast light on the transactions under scrutiny. Much of what we discovered in the asset management phase of our investigation will be pertinent to this second phase. In addition, we have turned over to the Justice Department evidence on twelve transactions that may warrant consideration for criminal prosecution under federal criminal statutes. We will continue to do so as we proceed with the second phase of our investigation.

In addition to our activities respecting the Pension Fund, we have begun an investigation into the Health and Welfare Fund, a plan which is also covered under ERISA. As in the past, Department officials will continue to keep you fully apprised of developments.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

A VOTE FOR PUBLIC UTILITIES REGULATORY REFORM ACT—NOT AN ENDORSEMENT

Mr. ANDERSON. Mr. President, last week the Senate passed the "so-called" Public Utilities Regulatory Policy Act of 1977. In fact, this bill includes very little policy and almost no regulatory guidance. This Public Utilities Act does not resemble the President's proposal and is so markedly different from the House-passed version that it may be impossible to reconcile the differences between the versions passed by the two Houses.

I voted for final passage of this measure but my vote only represents an affirmation of my support for Senator HART's senior citizen's lifeline amendment and not for the shell of the President's proposal passed by the Senate. Many States could have benefited from the work Senator BROOKE was asking the Department of Energy to undertake in setting up examples of innovative rate schedules. The kind of rate reform envisioned by the President's proposal could be difficult for States with small regulatory staffs. Many States have failed to adopt conservation oriented rate designs since to do so would have placed bulk purchasers in their States at an economic disadvantage to neighboring States where bulk users benefit from lower rates for increased use.

As a strong supporter of Senator HART's efforts to provide interim relief from escalating utility costs for senior citizens living on fixed incomes and for Senator BROOKE's work in trying to reinstate some voluntary guidelines for conservation oriented rate designs, I want my vote for final passage of the Public Utilities Regulatory Policy Act of 1977 not to be misconstrued as endorsement of the Senate-passed version of part E of the President's energy plan.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 12, 1977.

In reply refer to: I-8548/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-7, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $29.2 million and support costs of $22.4 million for a total estimated cost of $51.6 million.

Sincerely,

H. M. FISH,
Lieutenant General USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL No. 78-1

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value:

	Million
Major defense equipment*	$29.2
Other	22.4
Total	51.6

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered:

[Deleted] AH-1S Cobra/TOW helicopters, support equipment, spare parts and armament.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 12, 1977.

GENEVA CONFERENCE

Mr. WALLOP. Mr. President, in the rush to Geneva we seem to have lost our direction. The focus seems to be more on "getting to Geneva by Christmas" than on achieving the "lasting peace" which Geneva was designed to accomplish. "Getting there and achieving peace" are not synonymous. A great danger lies in defining success in terms of "getting there." Once there, we cannot forget that the problems are multitudinous. But the Carter administration wants to give the public its circus, to push the reluctant parties into a public forum for a flamboyant display before the mass media with little forethought of the result. That attitude of "getting there" is nowhere clearer than in the joint statement on the Middle East issued by the United States and the U.S.S.R. on October 1. In my view, this was an act of insanity, ill-conceived, counterproductive, and destabilizing.

No single act is more likely to damage the chances for a lasting settlement than the sudden inclusion of the U.S.S.R. in the peace process. It is not in America's interest to invite the Soviets back into a region in which their physical presence and political influence has shrunk to its lowest level in years. Soviet influence had been purposefully eclipsed by American diplomatic initiatives. We can ill-afford increasing Soviet credibility through mismanagement at this stage.

Both Arabs and Israelis have little confidence in dealing with the Soviet Union. The national interest of the Soviets is not the establishment of a lasting Arab-Israel peace. It is naive to assume a sudden benign interest in mankind on the part of the Soviets. Every time any stability has existed in the Middle East Russian influence has declined as most Arabs looked westward as a natural inclination. No, Mr. President, the Russians have no benign intentions. They at least perceive recent history with more clarity than do we. For whatever reasons we are disposed to ignore the reality of experience. A quick look at the record makes this clear.

The U.S.S.R. is sustaining the Middle East arms race and remains the largest arms supplier in the region. Continued tensions allow the Soviets to sell more arms and generate badly needed currency.

The U.S.S.R. exploited the economic and political chaos following the oil boycott and quadrupling of oil prices by OPEC.

The U.S.S.R. actively conspired with Egypt and Syria in the planning of the 1973 October war in direct violation of Soviet commitments to the United States.

The U.S.S.R. continues to be the major supporter of the PLO, arming and training its constituent groups and providing diplomatic shelter for its terrorist acts.

Though a cochairman of the Geneva Conference, the U.S.S.R. has no relations with Israel. The United States has relations with all the major participants. They have evidenced no hint of impartiality, and their past actions in the region breed mischief.

Soviet involvement creates complications which will hinder the already delicate progress made toward establishing a propitious negotiating environment. Geneva has become a center stage. In the spotlight of the great international media event, extremism can only supplant moderation. First of all, expectations will be high, and with them the potential for disappointment, which the Soviets will be only too eager to exploit. Second, American credibility is at stake. It will be the U.S. proposal which will be the basic starting ground for compromise. Any failures and disillusionments will be blamed on the United States. Any successes will be shared with the Soviets. The U.S.S.R. wins either way. Third, because the time frame is arbitrary and rushed, adequate time has not been granted for preparation. Therefore, proposals must rest on the table, and foreign ministers will commute to consult with their heads of state for decisions. At this point, moderation will be interpreted as weakness by domestic populations. Intransigence and polarization will be the order of the day. The potential for mischief in this public forum will be great.

This combination of circumstances is a blueprint for disaster. In order to build a solid peace, we must proceed with caution. Arbitrary time frames and media events only exacerbate the situation. With the joint statement, we have legitimized a radical element, wasted our capital of good will which had been built up in the region, and virtually eliminated any maneuvering room for the United States or for the negotiating parties. Perhaps the most tragic result is losing the opportunity to obtain a tacit understanding between the parties, a tacit understanding which would have led to prolonged stability and better negotiating climates for permanent settlement.

The Geneva Conference has a tremendous task to accomplish. Let us not complicate this task and lose what progress we have made by "getting to Geneva" at any cost.

THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977 BECOMES LAW

Mr. HEINZ. Mr. President, having a few moments ago been present at the signing ceremony at the White House. I wish to make some brief remarks on the Housing and Community Development Act of 1977 which was signed into law by President Carter today.

I am a cosponsor of the Senate version of this far-reaching legislation. And as a member of the Banking, Housing, and Urban Affairs Committee and as a conferee on the bill, I am basically pleased with how the various differences between the House and Senate versions of the bill were resolved. In particular, I believe that the new language added to the community reinvestment section of the bill will strengthen the ability of the regulatory agencies to monitor the lending practice of financial institutions. No longer will the Congress allow the wholesale withdrawal of mortgage credit and home improvement loans from our older urban neighborhoods.

With adoption of the community reinvestment provision, it is now clear that the Congress is asking lending institutions to review their present credit practices and insure that the credit needs of all communities, particularly low and moderate income neighborhoods, be met.

I am not entirely pleased with how the issue of the urban development action grant program and the "impaction" formula was resolved. However, I believe it was a substantial improvement over the initial UDAG program proposed by the administration. As a cosponsor with Senators WILLIAMS and BROOKE of impaction, I would have preferred that it be included in the final bill. Adoption of impaction would have insured that a substantial portion of the discretionary grant program funds under the UDAG program be targeted to communities with the greatest needs as measured by the ratio of older housing in their jurisdiction.

Impaction was not adopted but the program has been substantially redirected to focus on the Nation's most troubled cities and urban counties. Under the compromise, the primary criterion for the selection of UDAG recipients would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction formula—the extent of growth lag, the extent of poverty, and the adjusted age of housing. The conferees have essentially given their approval to the concept of impaction as an important means of measuring the relative economic and physical distress among the Nation's cities and urban counties.

Notwithstanding any regrets that the impaction issue was not settled to my satisfaction, I am pleased that the CD bloc grants will now be awarded on the dual formula approach first proposed by President Ford and supported by President Carter. Taking into account, as it does the age of housing stock as a principal factor for allocating the money, this bill is good news for Pennsylvania and other northern and older States. Many Pennsylvania communities will benefit substantially. And while the bill is no cure-all and certainly no substitute for an urban development strategy, it is a step in the right direction.

The Housing and Community Development Act of 1977 is one of the most significant bills for communities of all sizes throughout the country which has passed the Congress this year. The needs of our cities, counties, and small towns—particularly our older ones—are immense. I am hopeful that the many promises contained the this act—the improvement of housing conditions, the revitalization of our neighborhoods, and the health of our cities—will become realities in future years.

AIRLINE REGULATORY REFORM

Mr. CANNON. Mr. President, in the past several months we have witnessed a great deal of debate over the issue of airline regulatory reform. The debate has taken place in congressional hearings, panel discussions involving industry representatives and administration spokespersons, and in the public forum.

The Aviation Subcommittee held weeks of hearings in March and April of this year and the full Commerce Committee has met in executive session throughout June and July to work out the details of a comprehensive reform package.

During those months, some of my distinguished colleagues have inserted newspaper editorials into the RECORD describing the pernicious and detrimental effects this legislation will wreck upon the industry, the labor force, and the public.

From these articles, it would appear that the legislation enjoys little support and the backing it does have is from those who believe they can capitalize in the wake of havoc that reform will bring about. In truth, support for this legislation is both widespread and divergent; here are just a few of those who endorse reform: President Carter, former President Ford, Secretary of Transportation Adams, and former Secretary Coleman, CAB Chairman Kahn, and former Chairman Robson, the American Conservative Union, the American Association of Retired Persons, the Aviation Consumer Action Project, Common Cause, the Food Marketing Institute, the Libertarian Advocate, the National Association of Counties, the National Association of State Aviation Officials, the National Retail Merchants Association, the National Taxpayers Union, Sears, Roebuck & Co., as well as United Airlines, Pan American Airlines, Frontier Airlines, Flying Tiger, and Federal Express and the list goes on and on.

As the Senate will soon take up the issue for debate, I would like to ask unanimous consent to have the following editorials, which appeared in newspapers around the country, printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, June 29, 1977]

AIR TRAVELERS NEED A BREAK, AND ONLY CONGRESS CAN GIVE IT

The downpour of warnings and wailing by the airline industry about proposed deregulation of domestic air travel is having an effect. Compromises are springing up like dandelions. It appears that airline deregulation and price competition—if they come at all this year—will be relatively mild and will take effect gradually.

The aviation subcommittee of the Senate Commerce Committee is putting the finishing touches on a bill designed to reform, but not eliminate, regulation of the airlines by the Civil Aeronautics Board. The bill seems sure to be far less ambitious than earlier proposals by subcommittee chairman Howard Cannon of Nevada and Senator Edward Kennedy, a subcommittee member.

TOUGHER JOB FOR EXECUTIVES

But all is not lost. The bill still would give the airlines considerably more freedom than they now have—or want—to raise and lower fares and to enter new markets. The CAB would continue to play a regulatory role, but it no longer would be a nursemaid to the industry.

Most airline executives are afraid of deregulation or even regulatory reform because it would make their jobs a lot tougher. Flexibility in setting fares and entering markets would lead to genuine competition, which in turn would lead to the unwanted discipline of the marketplace. Efficient airlines would be able to slash fares and attract more passengers. Inefficient ones would have to shape up or get out of the business.

Industry spokesmen, of course, aren't going to admit that they oppose deregulation because they fear they can't meet competitive challenges. Instead, they fill the air with pious bleatings about the public interest. Deregulation, they claim, will lead either to ruinous price wars and the collapse of the entire air transportation system, or to predatory pricing on selected routes and the emergence of an airline monopoly that can dictate to the poor consumer. Either way, the traveling public would lose.

This load of nonsense apparently is saleable in some congressional quarters. Hence the aviation subcommittee's compromises, which are designed to allay the fears roused by these phony arguments.

And the arguments most certainly are phony. Studies by Congress and by a number of economists suggest that the airline industry would be stronger, not weaker, in a less regulated, more competitive environment. The least efficient airlines doubtless would suffer—as they should. But well-run firms would prosper and new airlines would spring up to challenge the handful of big carriers that now dominate air travel. The recent spate of requests to the CAB by smaller airlines and charter carriers for the right to challenge the big airlines in a number of markets suggests that there are profits to be made by enterprising firms.

Heavy CAB regulation and lack of competition haven't helped the industry. Instead, they have made it sluggish and have led to the excess capacity that afflicts most of the biggest carriers. In a competitive environment, financial rewards would go to airlines that made maximum use of the equipment they have. Passenger load factors would be higher, and the nation would benefit from more efficient use of both fuel and capital.

But what of the other airline industry argument—that deregulation would lead to predatory pricing and monopoly? The answer is that no single airline not even a small group of airlines can gain monopoly control by undercutting its competitors so long as price flexibility is accompanied by easier access to new markets.

Predatory pricing, after all, can only be used as a weapon for a brief time and on selected routes. No airline can afford to under sell all its competitors on all its routes indefinitely. That would be suicide, not predation (besides running the risk of anti-trust indictments for restraint of trade). But, assuming an airline were able to drive out the competition on a few routes, what would it have gained?

The moment it raised its fares in order to profit from its newly won monopoly, other airlines would invade these markets, and consumers again would have the benefit of choosing among competing carriers.

Predatory pricing could be successful only if Congress granted the airlines more latitude in setting prices but failed to liberalize the rules under which airlines enter and leave the market. The aviation subcommittee bill avoids this danger.

When all else fails, the airlines muster still another argument against deregulation, one with special appeal to lawmakers from mostly rural states and districts. It goes like this: Under the present, regulated system, airlines are willing to offer unprofitable service to small communities only because the CAB, in exchange, allows them to fly high-profit routes between big cities. Without CAB regulation, service to many small communities would disappear.

In response to this argument, the aviation subcommittee proposes direct federal subsidies to maintain service on such routes. If this provision is necessary to sell the bill, the subsidy offer is worth making.

Fortunately, it's unlikely that the handouts would ever be needed. In recent years, dozens of small, unsubsidized commuter airlines have sprung up to offer service on low-density, mostly intrastate routes that the big airlines won't touch. According to economist John W. Snow, fares on these routes are comparable to those charged on the big, interstate airlines on routes of similar length, and commuter traffic has become the fastest growing segment of the airline industry.

In fact, the experience of small, intrastate airlines, which aren't subject to CAB regulation, provides an encouraging indication that deregulation nationally would be a boon for consumers. On high-density routes within such states as Texas and California, small airlines have been flying customers for as little as half the fare charged by major, instate carriers for trips of comparable length. Yet service to smaller communities hasn't suffered.

Consumers across the land deserve the same sort of break. This year, Congress at last should give it to them.

DEREGULATED AIR TRAVEL

(By M. Stanton Evans)

WASHINGTON.—Nothing is more powerful these days than an idea whose time has passed—if the idea is that of federal regulation.

The evidence of regulatory failure looms up before us like the wreck of Ozymandias, colossal in its bulk and luxurious in its desolation. Yet the urge to regulate indomitably persists, as Congress and the bureaucrats attempt to cure the failings of their previous interventions by proposing new ones. The protected interests and the ideological commitment are just too great, it seems, to allow for change.

Do not despair, however, for a bit of good news is at hand. In a single area—that of airline travel—the proof of regulatory foul-up has become so massive that former friends of regulation have begun to reconsider. By slow degrees, a consensus has emerged in favor of deregulation, and there is reason to believe that it may eventually achieve success.

Participants in this consensus are an amazingly varied lot. They range from people such as former Sen. James L. Buckley and Rep. Philip Crane of the American Conservative Union on the right, to Sen. Edward Kennedy on the left. Along the way the alliance has picked up support from President Carter, former President Ford, the Department of Transportation, and even the departing chairman of the Civil Aeronautics Board, which regulates the airlines.

What all these people are looking at is a pile of data showing that regulation of the airlines has blocked competitive entry, roughly doubled prices to consumers, discouraged air travel, and therefore damaged the very airlines it is supposed to be protecting. The facts establishing all of this were originally generated by conservative economists, but have recently popped up in Senate hearings, and in studies by the DOT.

Departing CAB Chairman John Robson notes, for instance, that since the agency was created in 1938, the number of "trunk lines" (major carriers) has shrunk from 21 to 10. No new trunk line has been certificated by the CAB although it received 79 applications between 1950 and 1974. Correlative to blocking entry, the agency has discouraged pricing competition among existing carriers, so that competitive behavior is limited to "frills" and other service features which jack up costs.

That it doesn't have to be this way is shown by the performance of non-CAB-regulated carriers in California and Texas—airlines which offer safe, convenient service at rates substantially lower than those promoted by the CAB. A DOT study published last year shows that Pacific Southwest Airlines, Air California and Southwest Airlines offer service roughly half as expensive as the interstate carriers ($15 coach fares from Dallas to Houston, compared to $32 for CAB-regulated carriers; five cents a mile for longer hops in California, compared to almost 10 cents a mile under the auspices of the CAB).

As a result, these intra-state airlines have substantially increased their travel volumes, maintained high load factors, and turned in high levels of worker productivity. By 1971, PSA and Air California were carrying 75 per cent of all intra-California passenger traffic, up from 29 per cent in 1961. In 1974, Southwest was hauling 60 per cent of local traffic between Dallas-Houston and Dallas-San Antonio.

The deregulatory coalition is trying to apply these lessons at the national level, and to this effect is backing a bill promoted by Sen. Kennedy and Sen. Howard Cannon, D-Nev.

Millions of American air travelers hope the effort is successful.

[From the St. Louis Post Dispatch]

CHASING AIRLINES FROM CAB NEST BECOMES A FARE GAME

(By James Deakin)

WASHINGTON.—How would you like to fly from New York to London and back for $236? Or from New York to California for $95?

With glittering inducements like this, a debate has begun over reducing government regulation of the nation's airlines. The time has come, it is being argued, for the airlines to leave Big Brother's protective shelter and venture into the competitive world of free enterprise.

There is no way to be certain that deregulation would bring lower air fares and better service. The airlines say it would be more likely to bring competitive chaos and less service, not more. But the move to reduce the regulatory authority of the Civil Aeronautics Board is serious and apparently is gaining momentum.

Last week, President Jimmy Carter threw his weight behind a Senate bill that would set up an automatic procedure for airlines to initiate new service, in competition with other airlines already flying the same routes, without first obtaining CAB approval.

"There is a tremendous potential market among Americans for airline service . . . that hasn't yet been tapped," Carter said. "I believe that more competition, lower rates, higher use of airplanes, more entry into new markets (and) better protection for small communities all tie together into a very worthwhile pursuit."

Senator Edward M. Kennedy (Dem.), Massachusetts, one of the sponsors of the deregulation bill, has quoted an estimate by the General Accounting Office that the measure would save airline passengers 1.5 billion dollars a year in reduced fares.

But Albert V. Casey, board chairman of American Airlines, told Congress recently that because airline costs are "90 per cent fixed," the deregulation bill could not bring about any widespread or significant reductions in fares.

Instead, he said, "it would cause grave and irreparable damage to the integrated air transportation network."

"There would be chaos," said Harding L. Lawerance, chairman of Braniff International. "We would have to chase the (passengers) loads. We would be here today and there tomorrow . . ."

"I should like to be able to say that TWA is not afraid of deregulation of market entry (but) I cannot," Charles C. Tillinghast Jr., chairman of Trans World Airlines, told a Senate subcommittee.

The nation's commercial airlines—except for those that operate entirely within one state—have been a regulated industry since 1938. Kennedy and other advocates of deregulation argue that this is a big part of the problem.

The Civil Aeronautics Board was set up to encourage and protect a fledging industry that needed lots of help in the Depression era. The CAB was given authority to set fares and to grant or deny routes. Billions of dollars in federal subsidies were handed out to the airlines—at first to help them survive and later to offset losses from unprofitable service, mostly to smaller communities.

But times have changed. Advocates of deregulation argue that nowadays the CAB mainly functions to protect the big trunk airlines from competition. In 1938, there were 16 trunk airlines. Today there are 10—United, TWA, American, Eastern, Continental, Braniff, Delta, National, Western and Northwest.

These 10 carriers provide more than 90 per cent of all scheduled airline service in the United States. About 8 per cent is provided by so-called local service carriers—Allegheny, Frontier, North Central, Ozark, Piedmont, Air West and others. Among big U.S. airline, Pan American, provides international service almost exclusively.

Despite the phenomenal growth of air travel, not one new domestic trunk airline has even been authorized by the CAB, although it received 79 applications to set up new trunk carriers between 1950 and 1974. Only one new local service airline has been authorized since 1950.

For five years beginning in 1969 or 1970, the CAB imposed a virtual moratorium on awarding new routes to existing airlines. It granted only two of 72 applications to provide new service. A study by the CAB's own staff said that "since approximately 1970, cases involving new domestic route authority have generally not been set for hearing."

In recent years, there has been growing criticism that the CAB's protective policies have produced airline fares that are artificially and unnecessarily high. The complaints—from the Department of Justice, the President's Council of Economic Advisers and others—have been prompted by some dramatic developments in air travel.

The lesson of these developments, the critics say, is that air travel could be much less expensive than it is. One development has been the surging growth of charter flights of fares much lower than comparable commercial flights. Another has been the lower fares offered by airlines that operate in only one state—notably California and Texas.

When the CAB approved a one-year trial period for the "skytrain" service offered by Laker Airways of Britain, it focused new attention on the disparity between charter fares and commercial fares. Laker Airways will offer roundtrip New York-London flights for $236, compared with commercial rates that range from $309 to $774.

You can fly from Los Angeles to San Francisco, a distance of 338 miles, for $18.75 on an airline that operates entirely within the state of California. But if you fly from Chicago to Minneapolis, a distance of 339 miles, it will cost you $38.89 on a CAB-regulated airline.

If you fly from Dallas to Fort Worth-San Antonio on an intrastate airline, it will cost you $23.15. But if you fly from St. Louis to Chicago on a regulated airline, it will cost you $29.63. The respective distances are 248 and 258 miles.

Why is it that intrastate airlines can offer lower fares for the same mileage? The trunk airlines say it is because weather conditions are better in California and the Southwest than they are in the East and Middle West and because it costs less to operate high-density routes.

That Los Angeles-San Francisco fare is lower because 7,500,000 persons travel between the two California cities each year, while only 1,400,000 travel between Chicago and Minneapolis, the big airlines say.

They argue also that congestion, both in the air and on the ground, is greater on many of their routes than it is in California and Texas. Moreover, they say, the intrastate airlines would have higher costs if they had to maintain connecting service. The intrastates can fly turnaround service instead of going on to other cities to make connecting flights.

The Kennedy subcommittee disputed all of these arguments. It said its studies showed that the factors cited by the trunk airlines accounted for less than half of the fare differential. The density factor had a different meaning for the subcommittee, which said the lower fares offered by intrastate airlines had attracted larger numbers of passengers.

Cost data submitted by the Boeing Co. have shown that it would be economically feasible to provide transcontinental coach service on Boeing 747 jet airliners for a one-way fare of $75 to $95, the subcommittee said. The CAB-regulated one-way fare as of Feb. 1, 1976 was $175.

Protected by CAB-imposed standard fares, the big airlines have gone in for service competition instead of fare competition, the subcommittee said. Kennedy paints a graphic word picture of two $35,000,000 jet airliners "speeding across the country side-by-side" while passengers drink champagne, eat lobster and prime beef and watch first-run movies—but each plane is only half full.

An irony of the debate is that deregulation is being pushed by liberal Democrats, the traditional friends of government regulation, and is being resisted by the big businessmen of the airline industry. The liberals argue that more competition would mean more service and lower fares.

The Senate bill as now written would establish an automatic procedure under which scheduled interstate and intrastate airlines could offer service on routes served by other airlines at fares of up to 35 per cent less than the CAB-approved fare, without CAB approval. The transition to unrestrained entry into markets would be accomplished in stages over a five-year period.

Small airlines would be given more leeway to offer new service and would be protected in various ways against raids by larger carriers, but all carriers would have some opportunity to step into markets served by other carriers. Depending on the point of view, the result would be chaos or capitalism.

LOBBYING EFFORT IS INTENSE AIRLINES FIGHTING DEREGULATION AND TRAVELERS ARE PAYING COST

(By Jack Cloherty and Bob Owens)

WASHINGTON.—Air travelers are unwittingly paying for one of the most intensive lobbying campaigns seen on Capitol Hill in recent years.

"Let's put it this way," one weary Senate aide told this column last week. "If the major airlines devoted as much effort to handling baggage as they did to lobbying Congress, no one would ever lose a suitcase."

The airline shock troops have hit Congress in the past few months to fight legislation that would lift government controls on the industry.

While most businessmen complain about the undue interference of "big government," the airline chiefs want to stay under Uncle Sam's protective wing.

The Civil Aeronautics Board, by assigning routes and setting fares, insures the airlines of limited competition and fares that will bring a 12 percent rate of return.

In fighting air fares, the Board allows the air carriers to include lobbying and advertising as legitimate operating expenses. So no matter how much lobbying they do against the consumer interest, the airlines can ultimately pass the cost on to those consumers.

And the airlines have been doing plenty of lobbying. They have hired a former Senate Commerce Committee staffer and a former Civil Aeronautics Board official to bend ears.

Individual senators on the Commerce subcommittee handing the legislation have been targeted by the airlines that operate in their states.

For example, Northwest and Frontier Airlines have been making their case with Sen. John Melcher, D.-Mont. Montana is highly dependent on Northwest and Frontier and the airlines are claiming that they will have to shutdown some operations there if deregulation goes through.

Trans World Airlines, meanwhile, is focusing on Sen. John Danforth, R.-Mo. TWA is the second largest employer in Missouri, and they are making Danforth aware that jobs may be lost if the legislation passes.

Sen. Robert Griffin, R.-Mich., is hearing a lot from North Central Airlines, which serves a number of medium-sized towns in his home state. They are claiming that the deregulation would make it impossible for them to continue serving all of these locations.

"The truth is that the bill actually guarantees continued air service to all communities that now enjoy it," a Senate Commerce staffer said. "The bill is geared to community service," he said, "and not to airline profit margins."

"The airlines are using scare tactics," says John Nammack of the National Association of State and Aviation Officials. 'They are telling all sorts of phony horror stories."

Many of the large airlines have even appealed to their passengers for lobbying help. American, Eastern and Western Airlines have stuffed the seat-back pockets of their planes with antiderегulation material.

National Airlines even went so far as to appeal to its suppliers for help, saying that its "need for services could be eliminated by drastic legislative reform."

The Aviation Consumer Action Project has appealed to the C.A.B., asking that these lobbying costs be excluded from the rate base. Although the petition was filed last December, the traditionally pro-industry Board has not yet ruled on it.

"It's a very sensitive issue," a Board spokesman said. "We want to be very sure about all the facts before we rule on it."

Meanwhile, air travelers will continue to underwrite the airline lobbying effort as the deregulation bill winds its way through Congress.

[From the Atlanta Constitution, Aug. 17, 1977]

AIRLINE REGULATION

The airlines are "dogfighting" among themselves about President Carter's intentions to reduce regulation of the American airline industry. Some airlines, such as Delta, are opposed to the pending legislation, while others, such as United, support it.

It is a complicated question to be sure. But, in the long run, it's hard to argue against the deregulation moves.

Delta, however, tries very hard. The Atlanta-based airline raises a number of questions about the legislation, sponsored by Sens. Kennedy and Cannon and strongly supported by the Carter administration, which is aimed at making the airline industry more competitive and "free" from overly severe government regulation.

Delta, for example, contends the legislation would not really bring about deregulation at all, but "would create new tiers of even more government regulation in a number of areas" and "threatens ultimate nationalization."

Delta argues that deregulation would bring "chaos" to the current order of the world's best national airline system. It argues that increased airline competition is inconsistent with the government's energy conservation efforts; that it would increase government employment and expenditures to oversee the new airlines and to administer "guaranteed" airline service to smaller cities; and that it would endanger enforcement of airline safety standards.

On the other hand, Richard Ferris, president of United Airlines, sees it this way:

The bill "will gradually change the present system of government regulation to allow more of the decisions affecting air transportation to be made in the marketplace, by the people who buy the tickets.

"United strongly supports the legislation because it will make airlines more competitive, enable new carriers to enter the system and permit existing carriers to serve new routes. We believe the result will be better service to the public and new opportunities for airlines to grow. . . ."

Delta, for certain, should be listened to very carefully and its objections considered thoroughly—because it is one of the two or three best managed and most successful airlines in the world. And it is joined in its objections by a number of other airlines. But a close observation of the proposed bill shows that it does not "tear down" the airline industry; rather, it allows only modest changes to allow consumers, the marketplace, and competition (and isn't that old-fashioned American?) to play more important and positive roles in the airline industry.

And why should the airlines be afraid of modest changes, consumers, the marketplace, and competition?

CALLS FOR DECREASED REGULATION: CONTROLS HURTING AIRLINES: PERCY

The airline industry may be the next victim of government over-regulation, Sen. Charles H. Percy, R-Ill., Friday told more than 500 United Airlines employes.

"We did it to the Post Office and look at what we got," Percy said. "We did it to the railroads and look at what we got."

Percy, co-sponsor of a U.S. Senate bill on regulatory reform, said unless the trend toward increasing government control is reversed, the airlines will be unable to operate without government subsidies.

Estimating that it costs the airlines $50 to $100 billion a year to meet regulatory requirements, Percy said he does not understand industry opposition to regulatory reform.

The senator said only three passenger airlines—United, Pan American World Airways and Western Airlines—support a reduction in regulation.

"All the rest are opposed," he said, noting that he gets a lot of lobbying every time he flies on a commercial airline.

Percy said he believes the reform bill has about a 50–50 chance of passage, and expects the matter to be voted on by early next year.

If successful, Percy said airline deregulation could lead to similar reforms in other areas like the trucking industry. "We're taking the airline industry as the test one," he said, noting other industries also could benefit from the competition of the free market.

The regulatory reform bill now before a Senate committee would eliminate the need for airlines to wade through government red tape before starting a new fare program or a new air route.

Speaking at United's headquarters in Elk Grove Township, Percy said this will allow the airlines to make their own decisions more quickly and give them greater flexibility in the services they provide.

"If you trim the bureaucracy, cut back on all the red tape and add a little competition, you're going to see the airline industry grow and prosper," Percy said. "It will mean lower fares for passengers, which means more people will be flying."

Noting that the 1974 Gallup Poll showed that 45 per cent of the population had never flown, Percy said the government subsidy of the automobile has hindered development of more efficient kinds of transportation.

"It is no small wonder that 85 per cent of all intercity travel is by private auto," he said. "You don't see many people lined up at the ticket counters on the weekend to fly out of town. You see them in their cars on the highways lined up at the toll booths."

Percy said there is a tremendous growth potential in the airlines industry if prices can be kept low enough to compete with the automobile. He said this can only be done if the government red tape is reduced.

"We think you can really grow if you can get out from under government regulation," Percy said.

[From the Bellvue (Wash.) Journal American, July 21, 1977]

FLYING THE COMPETITIVE SKIES: SOME WILL CRASH, SOME WILL SOAR

(By Bruce Ramsey)

Opening up the airline business to free competition was long a dream of economists rich in theory and poor in political acumen. Now that President Carter has endorsed the idea and Congress has taken it seriously, the airlines are worried. They have fired off a barrage of press releases claiming that relaxing government regulations will ruin the industry.

They seem to have convinced Robert Twiss, aerospace editor of the Seattle Times, who writes that the Cannon-Kennedy deregulation bill "could destroy the national air-transport system in two or three years . . ." and lead to higher air fares.

Meanwhile, British entrepreneur Freddie Laker is making arrangements for his Laker Airways Skytrain Service between London and New York, scheduled to begin Sept. 26. By eliminating ticket reservations, travel agent commissions and those mouth-watering airline meals, he plans to shave the round-trip fare to $236, compared to a regular $626 economy fare and $1,312 first-class.

Earlier this year, American Airlines lowered the fare from New York to San Francisco to $228 for a simple round trip (mid-week only) compared to United's $331 off-season "Freedom Fare." United met the new low prices.

These competitive moves probably would not have been possible a few years back, before the push to deregulate the transportation industry. They are still tentative and experimental. But they can be taken as important signals of what's to come if the deregulation bill passes.

Advocates of competition argue that airline regulation has actually been airline price-fixing, resulting in the average aircraft flying one-third empty, making up the loss in higher fares. Freed from meaningful rate competition, the airlines have limited their rivalry to offering movies, "free" meals, and pamper-the-customer service.

Regulation, critics say, has worked to protect the established carriers at the expense of newcomers. When he endorsed regulatory reform in March, President Carter said that since 1950, the Civilian Aeronautics Board has received 80 applications for new trunk service—and granted none of them.

Applications for existing airlines to offer new routes get snarled for years in paperwork.

The bill sponsored by Sens. Howard Cannon (D-Nevada) and Edward Kennedy (D-Massachusetts) would allow the five largest airlines to add one new route a year, and the others to add four new routes a year. Airlines could raise fares 10 per cent a year for the first two years, 20 per cent thereafter they could reduce fares to equal their direct costs.

You'd think that the airlines would fly loops at the chance of raising prices without asking the CAB first. But with one exception—United Airlines—they oppose the bill.

That, and not their public statements, gives the clearest idea of what *they* think would happen to air fares if competition were re-introduced into their industry.

Price-cutting would hit the industry, especially on the high-density routes like London-New York. The industry estimates that 37 per cent of the routes are run at a loss, subsidized by the others; fares in these routes would rise, and some would be abandoned by the large carriers. (These would likely be picked up by the "commuter" runs like the Seattle-Victoria service that recently caused a stink by landing on Lake Union.)

The airline business is highly leveraged with debt, and follows the economic cycle of boom and bust. When the next recession hit, airlines would invade each other's markets, in an attempt to keep their planes filled. Some airlines would likely go bankrupt.

The survivors, the pro-regulation forces say, would be the big carriers, which would then dominate the industry and jack up prices. They point to the fact that United Airlines, the industry's only defector, is the largest domestic airline.

United Airlines argues that the present regulatory setup, while designed to protect the carriers, hasn't done so.

Bernie Siebos, United's vice-president for regulatory affairs, told the Seattle Chamber of Commerce last month that the airlines' average return on investment in the last five years has been a piddling 3.6 per cent. That's barely above the record of the railroads—another transportation industry with a supposedly friendly regulator, the ICC.

"Most of the carriers in this industry feel comfortable with what they've had," he said. But after a two-year study of regulation, United "could see no hope for this industry as a privately-owned and supplied industry with a continuation of this kind of regulation. . . . Unless there is reform, you're looking at an industry that's going the way of the railroads."

With gradual deregulation, Siebos argued, "eventually this industry would better serve the public if it were more able to react to the market directly, not filtered through a government agency." That's in distinct contrast to the railroads, which ICC regulation helped change from a vibrant, dynamic industry to a regulated, unionized and sluggish "public utility." The result is Amtrak and Conrail—not exactly inspiring models for the future of the aviation industry.

The security blanket of regulation may be deadening in the long run, but it has a comfortable certainty to it. The problem with a competitive shakeout is that some airlines might indeed get "shook out," which is the real meaning of predictions of "destruction of the industry." Competitive freedom never destroyed an industry as long as there was strong demand for its services.

And it has made possible some nice bargains for consumers, like those $236 Laker Airways round-trip fares.

[From the Burlington (Iowa) Hawk-Eye, Aug. 3, 1977]

AIRLINE REGULATION

A major reason government regulates so many businesses is that so many businesses want to be regulated.

Consider the airlines.

President Carter put a top priority on deregulating the airlines. He said regulation had protected the industry from competition to the detriment of consumers. Legislation was drafted.

Then the Civil Aeronautics Board received a petition from four large, successful commuter airlines. It pleaded with the government to regualte them, and everyone else.

Why? These commuters, generally serving a single state and providing air taxi facilities, have grown faster than any segment of the industry—without regulation. They could pick their markets not served by regular carriers, and set their prices. If a route was not profitable, they could scrub it without hassle. They moved into areas never adequately served with air transport, and made money.

That's the key. They apparently are making so much money that they want to keep it all. They don't want any brash upstart pushing into their territories.

But they don't want regulation all the way. They want to continue to set their own fares, without CAB interference.

So we prattle on about free enterprise, and try to make it free only for ourselves. We want the best of both worlds—protection from competitors and freedom to figure how much profit we can make.

[From the Miami Herald, Aug. 29, 1977]

GIVE AIRLINE DEREGULATION A TRY

Favorite theme of speakers at Rotary and Kiwanis club luncheons is government bureaucracy and the paperwork involved with rules and regulations forced on businessmen.

"Let's get the government off our backs," always brings thundering applause.

But that has not been the general reaction to the effort to get the federal government off the backs of the airlines. President Ford proposed in 1975 to reform economic regulation of the industry, primarily by giving the airlines greater freedom to set fares and greater freedom to start new routes and get out of old ones. The Aviation Act of 1975 would also eliminate the authority of the Civil Aeronautics Board to approve agreements among airlines to kill off competition.

President Carter has adopted the idea and the legislation has such varied support as Common Cause, the National Association of Manufacturers and the American Conservative Union.

But it is clear that most airline executives prefer the burdensome federal regulations of fares and routes to the challenge of free enterprise and competition. Delta Chairman W. T. Beebe says it would be potentially ruinous and lead to possible nationalization. Eastern's Frank Borman thinks it could lead to monopoly by the most powerful of the airlines. Chairman Arthur F. Kelly of Western told a congressional committee that any promise of lower fares in a time of continuing inflation is a cruel hoax and a delusion.

Support from within the industry has come mainly from Pan American, Air West, Frontier and United. Pan Am would love to offer domestic service to the millions of passengers it carries on a worldwide network of routes. United has a large fleet and would love to tap some of the better markets.

Nobody expects a quick and easy decision in Congress on this one, but the legislation has been given a big boost by the American Enterprise Institute for Public Policy Research. Behind that imposing name is a nonpartisan, non-profit, publicly supported education and research organization. And in its new 210-page report on airline fares and regulations, it finds that the present system "has become a major obstacle to the provision of air service at the lowest cost consistent with the furnishing of such service."

That is a serious accusation because it runs opposite to the intent of existing legislation. The study does not promise lower fares in all markets under deregulation, but makes the point that present rules seldom require airlines to operate routes that are not profitable; that present rules have not prevented airlines from abandoning service to small cities; that unregulated airlines have been stepping in to service cities when the scheduled airlines pull out.

Those three points are significant because just the opposite is argued by the industry executives who fear deregulation.

Making an airline service an unprofitable route could be just as deadly as the regulations that ruined the railroads. Preventing competition on air routes runs counter to everything the free enterprise system stands for.

A challenge never hurt a good businessman. Why not lift the government off the backs of the airlines and see what happens?

[From the Atlanta Journal, Sept. 2, 1977]

REGULATORY REFORM

The process through which federal regulatory agencies reach their decisions is coming under closer scrutiny.

It is overdue and most welcome.

What is intended by many pushing for change is not sweeping deregulation but, rather, regulatory reform that will make the process more efficient and responsive to both public and private interests.

Common Cause, a citizen lobby, recently released a study revealing what it called "a gross imbalance" of contacts by federal regulatory commissioners meeting with industry and consumer representatives.

The study, based on a review of the 1976 appointment calendars of 39 commissioners in 11 independent regulatory commissions, disclosed that contacts with industry officials were 10 times more frequent than with consumer groups.

The lack of contact with consumers is partly the result of a lack of organized consumer efforts.

Also, although commissioners may not have been inhospitable to consumer voices, they have not pressed hard to seek out consumer views.

Some changes are obviously in order.

Steps must be taken to provide public representation in commission proceedings. Improved use of public hearings—such as the kind scheduled by the Interstate Commerce Commission in Atlanta to hear comments on improved motor-carrier entry regulation—is one move in the right direction.

Proposals for establishing a consumer advocacy agency and providing for funding of public representation in agency proceedings also deserve close study.

[From the Atlanta Constitution, Sept. 1, 1977]

DELTA, EASTERN AND PAN AM MAKE LONDON PITCHES TO CAB

(By Jeff Nesmith)

WASHINGTON.—Three major airlines—Eastern, Delta and Pan American—again appealed to the Civil Aeronautics Board (CAB) during a hearing here Wednesday for certification to begin new nonstop flights between Atlanta and London.

A Pan Am official argued that provisions of a recently negotiated air transport bilateral agreement between the United States and the United Kingdom make it best suited for the flights.

Eastern said that only a low-fare excursion service it proposes to initiate between Atlanta and London will make the new flights financially viable.

And Delta, recommended for the new route in a CAB report rejected last year by President Gerald Ford, said it was still "ready when you are."

The new agreement was signed July 23, and President Carter has urged the CAB

to submit new recommendations to him by early October so that he may make a decision on the transatlantic flights by Nov. 1.

At Tuesday's proceeding, Pan American attorney James Bell noted that under the U.S.-U.K. agreement, the airline selected for the Atlanta-London flights must use Gatwick Airport in London, which has fewer connections to the European continent than Heathrow Airport.

Pan American, he said, is the only airline with flights extending from Gatwick to continental cities.

Bell said 73 per cent of the passengers now travelling from the Southwest to London are actually destined beyond the United Kingdom and said Pan American planned to provide daily flights between Atlanta and Gatwick and on to Amsterdam.

On the other hand, Delta Vice President James W. Callison said that two-thirds of the 135 passengers-a-day in its forecasts intend to stop over in London, regardless of ultimate travel plans in Europe. Therefore, he said, the requirement that planes from Atlanta use Gatwick Airport does not significantly decrease the viability of Delta's planned schedule.

In fact, Callison told the five-member board, nothing in the new transatlantic treaty requires any fundamental change in the CAB's 1976 recommendation that Delta be awarded the route. He urged the board to reaffirm the 1976 recommendation "Delta," Callison said, reciting the airline's advertising slogan, "is ready when you are."

Eastern Airlines spokesman Allison Wade said Eastern would initiate low-fare excursion prices between Atlanta and London and extend the flights to New Orleans, so that during off-peak periods New Orleans travellers could fly through Atlanta to London for $371 roundtrip.

"With our low fares, Eastern would carry more than 200,000 passengers on this route in the first year of service," Wade said.

[From the Canadian Travel News, Aug. 18, 1977]

TOURISM IS BIG BUSINESS FOR CANADA

Tourism is big business in Canada. In Ontario, for instance, it generates $2.8 billion in revenue and sustains 200,000 jobs. In 1976, according to an Ontario Government estimate, 20,755,000 tourists from the U.S. spent about $750 million in the province; another $85,000 tourists spent about $290 million. The stuff that makes retailers, restaurateurs, hoteliers, village councils, city governments, tax collectors and balance-of-payments experts in Ottawa very happy. In 1976 and for much of this year. Canada lost much of its tourist appeal, and the domestic industry and all its peripheral agencies—and Ottawa—had reason to be alarmed.

One month's figures may be just that, but in May 2.8 million U.S. residents entered Canada, up 1.3% from May 1976. Still, for Ottawa, the other travel news for May was depressing: Canadian residents returning from the U.S. numbered 3.4 million, a 7.6% jump over the previous May. And more Canadians travelled to countires other than the U.S. in May compared with the previous year, and fewer from those countires came here.

Construction volume is expected to increase in 1977 to $34,349.3 million, according to Statistics Canada. That's an 8.1% hike on the 1976 volume, which was 12% up on 1975. Alberta is expected to post the biggest increase.

The value of engineering construction, at 43.3% of the total expected volume of 1977, is up 16.9%; building activity, at 56.7%, is up only 2.3% over the year before. The strength in the engineering group of structures is primarily because of projects classified under electric power construction, and gas and oil facilities. Building construction will probably rise 2.3% with the largest dollar volume increases in residential buildings and institutional-type buildings such as schools, churches, hospitals. Expenditures on commercial buildings will decrease by 2.1% ($70.8 million).

Is Big Labor all that big? Well, yes and no. According to Labor Canada, union membership in Canada at the beginning of this year stood at 3,149,213, 3.5% above the 1976 figure. Assuredly a lot of people, but the unionists represent just 31% of the total labor force and 38.2% of non-agricultural paid workers.

Better than 68% of the total are members in unions affiliated with or directly chartered by the Canadian Labor Congress. Unions with headquarters in the U.S. accounted for 49% of the total membership, down fractionally from previous years.

What is big—in numbers and clout—is the largest union of all: the Canadian Union of Public Employees. It has 228,687 members, far ahead of the United Steelworkers of America (193,340) and the Public Alliance of Canada (159,499).

Profits. After-tax profits of industrial corporations, not seasonally adjusted, were $2,157 million for 1977's first quarter, an increase of 6.9% on the previous year. Total sales of $59 billion increased $6 billion (11.3%).

Retail sales. Department store clerks tell customers that business—especially in big-ticket items—is grim. The official figures confirm their glumness: Seasonally-adjusted retail sales in May were $5,008.7 million, a shade below the April figures.

Auto. Canadian auto makers are having a banner year. In May they turned out 171,081 vehicles, up a stunning 14.7% on a year earlier. For the first five months Canadian production reached 820,539 units, up 10.6%. Sales are another matter; in the first five months sales reached 586,898 units vs. 540,595 one year ago. Imports are making marked inroads. In May 22,071 overseas-manufactured passenger cars were sold in Canada, 47.3% more than one year earlier. Sales of Canada and U.S. made cars totalled 82,669 units, 5.8% fewer than in May 1976.

[From the New York Times, Sept. 22, 1977]

THE FEARS OF FLYING FREE

AIRLINES BEGGING TO BE FETTERED

Nobody wins when the Federal Government regulates domestic airlines. Passengers pay more—as much as $2 billion more each year, according to the General Accounting Office—than they would if airlines set their own fares and routes. Most airlines barely turn a profit: High fares are offset by millions of unsold seats because travelers are priced out of the market. And the economy suffers: Fewer travelers means fewer jobs for airline employees to serve them.

That is why a coalition of Congressional liberals and conservatives, with the support of the President, has introduced legislation to reduce domestic airline regulation. The Cannon-Kennedy bill, now before the Senate Commerce Committee, would allow an airline to lower its fares and fly a few new routes each year without obtaining the prior agreement of the Government. In addition, the bill would require the Civil Aeronautics Board to approve any application for new air service that it found to be consistent with the public interest.

Since the bill is intended to loosen Federal fetters on the industry, those unfamiliar with regulatory politics may be surprised by the opposition of many airlines and their employees' unions. Small carriers fear that the big carriers would invade their territories. The big carriers worry that small regional airlines might expand into lucrative national markets. Most airlines, it seems, have grown so accustomed to regulation that they would rather limp along as Government wards than risk open competition. Only three airlines—the giant United and two regional carriers, Hughes and Frontier—are supporting the measure and are willing to fight for business by appealing to passengers, rather than to regulators. The regulation of airlines for the sole purpose of preserving certain private interests is bad regulation. The Senate would do well to act quickly and affirmatively on the Cannon-Kennedy bill.

AND REGULATORS TRAPPED IN PARADOX

If you doubt the pernicious effect of airline regulation, consider this paradox: The six major airlines that fly between the United States and Britain traditionally oppose bargain fares, but now wish to lower them substantially on advance-purchase excursions. The Civil Aeronautics Board, whose members are dedicated to reducing the cost of international air travel, won't let them.

The key to the riddle lies in the regulatory process. In recent years, scheduled airlines have been steadily losing vacation travelers to low-cost charters. Now the airlines face an additional challenge—Britain's Laker Airways will soon start daily, no-frill, no-reservation service to London at super-cheap fares. With charters and Laker nipping at their heels, the airlines decided to fight back. They announced a new no-frill service, comparable to Lake's, plus seducive new excursion fares designed to recapture passengers from the charters.

If international air travel were sold in a truly competitive market this price war would follow a predictable pattern. The carriers would reduce fares until it ceased to be profitable to attract more riders. Poorly managed lines might go out of business, but the survivors would hold down the rates to avoid being undercut by new competitors, like Laker. Travelers would enjoy cheap, basic transportation—or champagne, caviar and first-run movies only if they were willing to pay more for such luxuries.

But international air travel is not truly competitive. The rates are set and the routes are parceled out by governments. And the Civil Aeronautics Board refuses to approve the major carriers' bargain fares without first weighing the effect on the rest of its flock—notably, the charters. Last week the Board gave the big airlines the right to compete with Laker on equal terms, but threw out the new excursion rate because it might threaten the financial stability of charter airlines. Unless the President overturns the decision, travelers will be denied inexpensive reserved seats to London.

The Board's decision is logical inside the world of regulation, but its consequences are dismaying. To preserve a delicate market, created by regulation, the C.A.B. will not permit the big airlines to try to fill thousands of empty seats on scheduled flights. Pan Am, T.W.A. and the rest are condemned to fly half empty most of the year, and their passengers are condemned to foot the bill. It would be far better, in our view, for the Board to grant every request for fare reduction and to relax all restrictions on the charter lines. There is risk in such a strategy: The charter carriers could be driven out of business. But the greater danger lies in reinforcing the regulatory syndrome of high fares and empty seats, penalizing both airlines and their passengers.

[From the Ft. Wayne (Ind.) Journal-Gazette, Aug. 9, 1977]

RELAX AIRLINE REGULATION

Gradually relaxing airline regulation to foster some healthy competition in the skies is the thrust of pioneering legislation introduced and carefully perfected by Sens. Howard Cannon and Edward Kennedy. The national interest, the air transportation industry and the consumer all stand to benefit from the Cannon-Kennedy deregulation program to decrease government influence and to increase market influence on airline operations.

That's why President Carter and the most unlikely liberal-conservative-industrial coalition ever assembled vigorously support the airline bill. Called the Ad Hoc Committee for Airlines Regulatory Reform, the coalition includes Ralph Nader's Consumer Action Project, the American Conservative Union, Americans for Democratic Action, Common Cause, the National Taxpayers Union, the National Association of Manufacturers and the National Association of State Aviation Officials.

The deregulation bill primarily focuses on reducing federal control of fares, and to balance pricing freedom, it creates more competition by permitting new carriers to enter interstate service and by allowing existing airlines to expand and contract their routes. All these attractive changes—and this is important—would be phased in slowly to avoid industry disruption in emerging from the protective mantle of regulation.

Fares, for example, at an airline's option could be annually increased by 5 per cent until 1980 without interference by the Civil Aeronautics Board (CAB). After that, fares could be raised 10 per cent a year. Fare cuts of up to 35 per cent could also be made for various reasons, to stimulate traffic, to compete or simply to reflect lower costs that might result from relaxing regulation. A Government Accounting Omce study found that CAB controls cost air travelers an extra $1.4 billion to $1.8 billion in the period from 1969 to 1974.

Turning to routes, small carriers could add two new routes totaling 3,000 miles a year beginning in 1979, and large airlines could annually expand with one new route of up to 2,000 miles. Airlines could also drop unprofitable routes, but small-city service would be ensured by federal subsidies as a last resort.

Another good feature in the bill maintains the inter-carrier agreements that are vital to an efficient air transportation system. The single-ticket trip, baggage forwarding and cargo arrangements among the nation's airlines would all be continued.

Although the Cannon-Kennedy legislation draws widespread approval outside the air transportation industry, the bill is generally opposed by organized labor and airline management, with the notable exception of United Airlines, the nation's largest domestic carrier. The real problem is fear—the industry is more frightened of change than it is of the much more threatening ailments that change is designed to cure.

But change is vital if the airlines are to survive.

Increasingly poor regulation is in large measure responsible for an impoverished industry. Lulled by the lack of competition during the past 20 years of CAB rules, lethargic management and labor must also share part of the blame for weak economic performance.

In the last five years, the airlines together recorded the lowest return on total capital of the nation's 30 major industries—a pathetic 3.6 per cent return that offers lenders little incentive to provide the $65 billion the scheduled carriers will need to buy new equipment and modernize their fleets in the next dozen years. Other economic statistics on airline performance are equally discouraging. The grim numbers only portend eventual nationalization.

In short, privately owned airlines must compete in the marketplace if they are to remain in the private sector. And relaxing the regulatory hold on that marketplace is the best way to fly.

[From the Omaha World-Herald, Aug. 3, 1977]

AIR BILL OKAY WITH SENATOR

WASHINGTON.—Sen. Edward Zorinsky said Tuesday he no longer fears that smaller towns and cities would suffer under legislation to reduce federal regulation of airlines.

He said his chief concern had been that it would result in a "big rush" by airlines to serve the larger markets, "abrogating their responsibility to smaller communities."

"It (the bill) has been amended, modified and improved to the point where, in my estimation, it's better than what we're living under today," he said.

Zorinsky is a member of the Senate Commerce Committee, which began considering airline deregulation legislation earlier this year.

The committee adopted language he proposed, which stated that the maintenance of "continuous, scheduled airline service for small communities and for isolated areas" was national policy.

It also approved an amendment he offered to require the Civil Aeronautics Board to consult with state aeronautical departments on service changes.

The pending legislation contains protection for smaller communities that does not exist under present law, Zorinsky said.

The Senate committee will not complete action on its bill until after the August congressional recess.

A PATTERN OF FOREIGN POLICY RETREATS

Mr. DOLE. Mr. President, I suspect many Americans today are concerned, as I am, about the emerging pattern in this administration's long string of foreign policy concessions. I detect, for example, disturbing parallels between President Carter's misguided Middle East declaration and his defective Panama Canal Treaty proposal. Are these isolated foreign policy blunders, or is there some common denominator that underlies them, and others as well?

Vietnam—Cuba—South Korea—South Africa: The list reads like a roadmap of retreats by this administration in its policies towards the rest of the world. Now, Panama and Israel can be added to the list of areas where we may have chosen to compromise our national interests for the sake of an elusive goal which seems more and more to preoccupy the efforts of the President: A recycled version of "détente" with the Soviet Union and smaller leftist-oriented governments.

I was particularly impressed with the comments in last Friday's Washington Star by syndicated columnist John P. Roche—"Sacrificing Israel To U.S.-Soviet Relations," October 7—who suggested that Israel may become "our next sacrificial offering to 'improved Soviet-American relations.'" Mr. Roche points out that we apparently learned little from our past experience with the Republic of South Vietnam which, ushered to the negotiating table by the United States in 1973, died a violent death when the "peace treaty" was scrapped 2 years later.

With this tragic experience still fresh in our minds, why are we today so willing to jeopardize national interest and security on feeble accords with the Soviet Union and other nations of a similar persuasion?

RUSH TO RECONCILIATION

I think the answer must lie in part with President Carter's desperate attempt to patch up the appearance of East-West détente, and thereby demonstrate some significant foreign policy accomplishment during his first year in office. But in his rush to reconciliation, he has created an atmosphere of "détente" at any price."

Let us look at the administration's recent agreements with the Soviet Union concerning a new Geneva Conference for the Middle East, and Extension of the SALT Accord. In both instances, there was an obvious strategic retreat by the United States on critical points of difference, in order to create a momentary mood of harmony between our governments. In neither case were the administration's major policy decisions arrived at through consultation with Congress. In both cases, the administration achieved a defective form of consensus that Moscow was only too happy to accept.

With Panama, too, we have witnessed the signature of treaties containing incredibly ambiguous language bearing directly on our vital defense interests—again, to achieve momentary "progress" with a leftist government, and again without any meaningful deliberations beforehand with Congress. It is a pattern we have seen repeated over and over again in "normalizing" relations with Cuba, admitting Vietnam to the United Nations, withdrawing troops from South Korea, and intimidating the government of South Africa.

WHAT THE SOVIETS SEE

It used to be commonly recognized that the Soviet Union would carefully monitor the actions of a new and unknown U.S. President to determine his mettle. It used to be an accepted concept that the Soviet Union better understood strength than weakness. I believe both of these concepts still hold true.

I have no doubt that Soviet leaders have closely followed the policies of our new President in the international arena. I also believe that the erratic nature of U.S.-Soviet relations since last January has been, at least in part, an intentional ploy by the Soviet Government to test the will of this new leader.

In general, what the Soviets have observed is a steady series of U.S. withdrawals and submissions on nearly every foreign policy front. In matters directly affecting our two governments, they have found this administration only too willing to make concession after concession in its awkward efforts to recapture a spirit of U.S.-Soviet détente.

I submit that a minimum amount of "backbone" might have done far more to gain and retain Soviet respect, as well as to protect American interests. It would be a serious mistake to sell ourselves short, and to sell our friends down the river in a clumsy effort to shore up this administration's sagging profile on the international scene.

Mr. President, I ask unanimous consent that the text of the John P. Roche column, which appeared in the Washington Star on October 7, 1977, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SACRIFICING ISRAEL TO U.S.-SOVIET RELATIONS

(By John P. Roche)

(The admission of the Palestine People's Republic to the United Nations was a moving event. Ambassador Andrew Young warmly lauded its "independence struggle," and Prime Minister Yasir Arafat told an enthusiastic New York audience that, while the Palestinians had nothing against the American people, they were outraged by American refusal—"on orders from the defeated Zionist imperialists"—to provide $3 billion in compensation to the fledgling state.)

A fantasy? I hope so. Not because I am a charter member of some "international Zionist conspiracy," but because my support for Israel is founded on the same social democratic, anti-totalitarian premise that led me to support our one-time allies in the Republic of Vietnam, who are now at the mercy of Hanoi's butchers.

A smug, grinning lot these, as they recently were feted at the United Nations, lauded by Ambassador Young and greeted by a crew of American "Hanoi-hawks" as the redeemers of Vietnam from "world imperialism and American colonialism."

Hanoi's charmers left the celebration for Turtle Bay to join the U.N. chorus calling for the destruction of Israel. This is hardly coincidental: Israel is currently getting the same treatment formerly utilized to undermine the legitimacy of the Saigon government.

It is history, not sentiment, that has triggered my vigorous support for the Israeli refusal to be good chaps, recognize the Palestine Liberation Organization and accept the Carter-Brezhnev invitation to Munich—sorry, Geneva.

Six or eight hundred columns ago I explained I would support Israel if its population were Vietnamese. Without for a moment deprecating the Holocaust or the existential torment of both European survivors and oppressed Jews in Arab lands, my commitment to the Jewish state was founded on a conception of American international ideals.

In the Vietnamese instance, in 1964 I somberly became convinced American success was essential to maintain the credibility of our dedication to containing totalitarian aggression by conventional warfare.

It was not a cheerful decision, buoyed by Green Beret macho. I knew it would be a long, twilight struggle, but unfortunately history is not playdough. The other side can and did choose the battlefield. Hanoi covered our bet, put in its stack and launched a brilliant strategy to win the war in the United States. Their agit-prop campaign, designed to undermine American support for the war, was superbly mounted.

The Saigon government—which Moscow had twice in the 1950s nominated for membership in the United Nations!—was "illegitimate." We were intervening in a "civil war," supporting a "corrupt dictatorship." "End the bombing!" "Recognize the National Liberation Front!" "Negotiate!" The din was almost unnerving. And among the intellectuals there was notable impact: Many denied any relationship between events in Asia and the Middle East.

The Israelis knew better. In 1966 I spent a long evening with Moshe Dayan in Vietnam. We agreed that any U.S. retreat from Saigon would lead through Tel Aviv. The totalitarian game plan was in both cases identical: a phony "liberation front" sponsored by a Soviet client or clients and, in the crunch, backed by conventional invasion and massive Soviet military equipment.

Indeed, a year earlier I observed in the *New York Times* that the assault on South Vietnam was part "of a worldwide pattern of aggression employing 'national liberation movements' and guerrilla warfare. Like the Vietcong, a 'Palestine Liberation Front' (the PLO was then still in embryo) could largely be composed of authentic local types (but) the 'civil war' they might initiate would be fundamentally at the service of a foreign coalition dedicated to the destruction of freedom . . .

"I hope," my commentary concluded, "our response to such a threat to Israel would echo our commitment to defend the integrity of South Vietnam."

In 1977, with Saigon renamed "Ho Chi Minh City," this has a macabre ring, but I stand pat on the basic proposition. Thus I consider the Carter-Brezhnev agreement to ignore all existing U.N. resolutions calling for direct Israel-Arab negotiations a shameful violation of our 1975 promise to clear any modifications of Resolution 242 with Jerusalem. I react with volcanic fury at the Carter effort to force the Israelis to legitimate the PLO, or evacuate any territory before a peace settlement.

I have literally been here before—in Paris, January 1973—and learned the early symptoms of a sellout: The Israeli government must reject its death warrant.

Our government seemingly learned nothing from the 1973 "peace accord" with Hanoi but it is in the American interest that Israel not become our next sacrificial offering to "improved Soviet-American relations." Maybe the Israelis will save us from ourselves.

STATES AS CITY SAVERS

Mr. KENNEDY. Mr. President, as we continue the debate here in Washington over Federal policy designed to aid America's cities, we might also take a close look at urban strategies now being implemented by State governments. In Massachusetts, these State programs are beginning to pay off.

Aside from the wise use of massive Federal assistance, State planners in Massachusetts have realized that the State can be one of the city's most valuable allies. The State's role in coordinating Federal funding programs—as well as their taxing and land use powers—is a vital part of the effort to improve the quality of urban life.

The Governor of Massachusetts, Michael Dukakis, has been a leader in prompting the creative use of State powers and resources to aid urban areas. A column in this morning's Washington Post entitled "States as City Savers," by Neal R. Peirce outlines many of the Governor's successful efforts, and similar programs in Michigan and California. These States are effectively using existing State regulatory authority to aid urban redevelopment.

Their efforts deserve our strong support, and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATES AS CITY SAVERS

(By Neal R. Peirce)

BOSTON.—While the Carter administration gropes for an urban policy to channel jobs and new life into the nation's cities, Massachusetts has one in place—and it's working.

Michigan, looking for ways to reinvigorate Detroit and its other imperiled industrial cities, has begun to implement an urban strategy almost as effective as the Bay State's.

And California, now a global symbol of sprawl development that robs center cities and older town centers of their lifeblood, may have a sweeping urban strategy in place by the start of 1978—if Gov. Edmund G. Brown Jr. has the political courage to implement the blueprint for city and town survival developed by his own Department of Planning and Research.

Mindful of the gross negligence with which state governments have traditionally treated cities, many mayors and minority spokesmen assume the only hope for urban America lies with huge infusions of federal aid. But wise heads have long said the states could become the cities' most valuable allies if they could only shift their immense powers—over taxes, roads, land use, government job location and federal aid programs they administer—from the detriment to the help of urban areas.

In Massachusetts and Michigan, that's precisely what's happening—thanks to two strong governors, Michael S. Dukakis and William G. Milliken.

Long before he became governor, Dukakis says, he decided there was something "'radically wrong" with policies in Massachusetts—repeated nationwide—that fostered "scatterization" of development and jobs: "We were being engulfed by city spread while the people who needed jobs the most were left in declining urban neighborhoods."

His solution didn't lie in huge appropriations for cities or vast land-use planning efforts, but rather in turning all the state's existing regulatory powers and public investment programs, in a single-minded fashion, to one goal: reinforcement of existing city and town centers.

Frank Keefe, a 28-year-old "action-oriented" planner who'd already done much to revive the old mill city of Lowell, became Dukakis' state planning director and chairman of a seven-member economic cabinet charged with making the urban-reinvestment strategy a reality.

The development cabinet hunkered down with leaders in each of the state's old urban centers. Each city was urged to identify what made it distinctive: interesting old buildings or squares, ethnic enclaves, special natural settings. Even such supposed liabilities as deserted mills or decaying waterfronts, it was suggested, could be recycled for housing, industry, shops, restaurants and recreation as part of an overall strategy for downtown and neighborhood revitalization.

Cities were offered "one-stop shopping" for needed state assistance, from clearing state building-code obstacles to commitment of funds—virtually unprecedented in the nation—for state parks in downtown areas.

The word went out to industries and developers, says Keefe: "We'll bust our backsides to help you develop in a city industrial park, to rehabilitate an old mill building, to engage in a downtown recycling project. But it's counterproductive for us to spend money extending a sewer line or highway to your development out in the middle of nowhere."

It's just as important, Dukakis says, to reinforce town centers as those in larger cities. The state fought successfully to keep post offices in the centers of Amherst and Andover "instead of putting them out in the boondocks."

Massachusetts now boasts a moderate flow of industries selecting in-city locations over the suburban sites so favored in recent years. The prospects for industries in cities are the brightest since World War II, Dukakis claims.

Shopping-center and suburban-subdivision builders oppose the Dukakis policy, but he believes most suburbanites want a respite from intense development pressure. He says that growth policy statements drawn up by 330 Bay State communities show that "villages don't want to be suburbs, suburbs don't want to be cities, and cities don't want to be wastelands."

When the nation's governors met in sweaty, striving Detroit last month, Milliken was able to show them both the splashy new Renaissance Center and several encouraging new inner-city housing and factory projects made possible by special state assistance. State governments, Milliken told his colleagues, "have a vital, necessary role to play in the saving of our cities."

Under Milliken, Michigan has sharply increased state revenue-sharing for cities; made a state "equity" payment—almost $30 million this year—for services Detroit provides its suburbs and the state; enacted a 12-year tax benefit for factory improvement or new construction; and approved a job-development authority.

Though state police are traditionally out-country, nonurban law enforcers, Milliken threw them into Detroit to help an undermanned city police force stop a wave of felonies on city expressways. Now, despite legislative opposition, he wants to expand the program to other large cities, including Grand Rapids and Flint.

Milliken acknowledges his pro-city policy is less than popular with some fellow Republicans from suburbs and rural areas. But unattended, he told me, city problems will inevitably infect suburbs; abandoned cities would not only mean forsaking the billions already invested there, "but would mean we're abandoning the whole country."

California's proposed plan borrows heavily from the Massachusetts model, decrying spread development. The 4 to 8 million additional population California expects by 2000, the plan says, can easily be accommodated in undeveloped land in existing cities and suburbs (54,000 acres in Los Angeles County alone), or on the immediate edge of built-up urban areas.

California is currently gobbling up open spaces and farm lands at an alarming rate, notes chief state planner Bill Press. The process, he says, is incredibly wasteful of land, energy, tax dollars and underutilized buildings, streets and schools in already settled areas and the human energy of Californians obligated to commute to work over long distances.

If Brown adopts the plan, all state agencies would be obliged to tailor their policies toward urban conservation—a radical break with past practice. Brown would encounter opposition from localities forced to yield land-use decisions to regional authorities, from affluent communities obliged to share taxes with poorer communities on a regional basis, and real estate and construction interests whose exploitative development tactics would be curbed.

Yet if the most populous state does opt for urban conservation, the idea of states as city savers could gain such momentum that it would become the rule, rather than the rare exception, in years to come.

PBB MEASURES DESERVE PROMPT ACTION

Mr. GRIFFIN. Mr. President, while I realize that all Senators have been working long and arduous hours during the past few weeks, I must confess, as one Senator, that I was surprised by the indication that tomorrow the Senate will recess for a long weekend.

If the reason for such a recess at this juncture is that there is no pressing or urgent business on the calendar, let me suggest at least one item which should have the Senate's prompt consideration.

Last week, the Public Broadcasting Service aired a program produced in London called "The Poisoning of Michigan." Some may quarrel with the point of view of the program, but it did vividly portray a very real and poignant tragedy that developed in Michigan after large amounts of a fire retardant chemical, polybrominated biphenyl (PBB) were accidentally mixed in 1973 with cattle feed.

The resulting contamination of food and livestock in Michigan is the most pervasive chemical accident ever to affect the food chain in our State. Not only has the accident had a devastating economic and health impact on many of Michigan's farmers—many of whom have lost entire herds—but scientific studies indicate that most of Michigan's 9 million citizens now have traces of PBB in their systems.

Sadly, the PBB problem is not Michigan's alone. Traces of the chemical have been found recently in eight other States as well—Ohio, New Jersey, New York, Illinois, Pennsylvania, Tennessee, California, and Mississipppi.

Surely Senators from those States—and others from regions that have suffered similar chemical contamination accidents in recent years—have cause for concern. As experience has already demonstrated, chemical disasters can strike anywhere at any time.

In many such cases, as in Michigan's struggle with PBB, livestock is the first to be affected. But as chemical contaminants move through the food chain, there too often are tragic health consequences for people.

Last March, I joined with Senator RIEGLE to hold 4 days of hearings in Michigan under the auspices of the Commerce Committee's Science, Technology, and Space Subcommittee. We heard story after story of physical suffering and economic loss.

Following those hearings—and 2 additional days of testimony here in Washington—the Commerce Committee on May 16 reported S. 1531, a bill designed to enable Federal and State governments to more adequately respond to chemical disaster situations.

This bill—which has been on the calendar now for nearly 5 months—would do three things:

First, it would provide interim relief to victims through Federal grants covering up to 75 percent of the amount the State provides as compensation, pending litigation of claims against those responsible for chemical contamination.

Second, it would establish a system of Federal chemical emergency-response teams to coordinate initial testing efforts when a chemical disaster occurs or may occur.

Finally, it would substantially increase authorized expenditures for administration of the Toxic Substances Control Act—from $12.6 million to $50 million in fiscal 1978 and from $16.2 million to $100 million for fiscal 1979.

All three approaches are needed to deal effectively with chemical disasters. However, title I of the reported bill—which I sponsored initially as S. 899—is critically needed now by countless citizens in my State. It is designed to help States which help themselves by establishing State indemnity programs to assist victims of chemical disasters.

Michigan has already taken such a step through legislation that recently became effective. It provides for reimbursement to farmers whose livestock are destroyed after having been tested and found to contain PBB levels above a newly set danger line.

But this State action, helpful as it is, will not be enough to compensate many others who have suffered in this tragedy. It is not enough because the State does not have sufficient resources. Without interim Federal aid as proposed in S. 1531, many farmers and consumers will remain uncompensated for the agricultural and medical expenses suffered due to PBB poisoning.

Enactment of S. 1531, which is resting on the calendar, would help these people now, and it would also help to prevent similar occurrences in the future.

I am sorry it is necessary to call attention to the fact that, although this measure has been on the calendar since May 16, no further action has been taken by the Senate.

It seems to me that if our calendar of business is such that a recess for 4 days can be taken, surely there ought to be time in the near future to take up this legislation, which would mean so much to those in Michigan who are suffering from the PBB disaster.

Accordingly, I strongly hope that floor action on S. 1531 will soon be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Archie P. Sherar, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years vice George A. Locke.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, October 19, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

SENATOR ZORINSKY RECEIVES THE GOLDEN GAVEL AWARD

Mr. ROBERT C. BYRD. Mr. President, precisely at this moment, I call to the attention of my colleagues, a very important event has occurred.

At exactly 7:50 p.m. this evening, the Senator from Nebraska—the very distinguished Senator from Nebraska (Mr. ZORINSKY)—has completed presiding

over the Senate for 100 hours. (Applause.)

This action makes him eligible to receive the Senate's golden gavel award, an award which is presented to Senators completing 100 or more hours in the Presiding Officer's chair during a session of the Congress.

I believe that on behalf of the Senate, we all owe the Senator from Nebraska (Mr. ZORINSKY) a debt of gratitude, and we should extend to him our deepest appreciation for the service that he has rendered to the Senate.

The PRESIDING OFFICER (Mr. ZORINSKY). Thank you, Mr. Majority Leader and the Senate, for the opportunity to have this experience. Hopefully I can continue to serve.

Mr. ROBERT C. BYRD. The Senator, in his very modest way, has responded appropriately.

ORDER FOR RECOGNITION OF SENATOR THURMOND TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, the Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of Mr. THURMOND, there be a period for the transaction of routine morning business; that there be no call of the calendar or resolutions coming over under the rule, but that Senators may be permitted to speak during that period for the transaction of routine morning business; and that there be a limitation on such speeches of not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I further ask unanimous consent that there be a 1-hour limitation on such period for the transaction of routine morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT ON H.R. 3387 (ORDER NO. 421)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unanimous-consent agreement on H.R. 3387 be modified to provide for 1½ hours on an amendment to be offered by the Senator from Oklahoma (Mr. BELLMON), that there be a one-half hour limitation on an amendment to be offered by the Senator from Idaho (Mr. CHURCH), and that the agreement with respect to the division and control of time thereon be in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report on H.R. 3744, the minimum wage bill, may be filed at any time before the hour of midnight on Friday, October 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on October 17, to mark up pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONSIDERATION OF S. 1582

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the tabling of the motion to reconsider the vote by which S. 1582, a bill relating to the Akchin Indian Community, was adopted on yesterday be vitiated; that the third reading of the bill be rescinded, and that the Senate be considered to have adopted the following amendments en bloc:

On page 10, line 21, strike "1978" and insert "1979"; on page 10, line 22, strike "1979" and insert "1980"; and that the bill be considered to have been read the third time, passed, and a motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 8:01 p.m. the Senate recessed until tomorrow, Thursday, October 13, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1977:

MINISTER

John E. Downs, of Missouri, for the rank of Minister during the tenure of his service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

DEPARTMENT OF DEFENSE

George A. Peapples, of Michigan, to be an Assistant Secretary of the Navy, vice Gary Dean Penisten.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Gerald L. Klerman, of Massachusetts, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, vice James D. Isbister, resigning.

NATIONAL MUSEUM SERVICES BOARD

The following-named persons to be members of the National Museum Services Board for the terms indicated:

For a term of 1 year:

Douglas Dillon, of New York.
Neil Harris, of Illinois.
Joan Mondale, of Minnesota.

For a term of 2 years:

Mamie P. Clark, of New York.
Benjamin W. Hazard, of California.
Nancy Negley, of Texas.

For a term of 3 years:

Gary K. Clarke, of Kansas.
George Horse Capture, of Montana.
Charlotte Ferst, of Georgia.

For a term of 4 years:

Lewis Davis, of New York.
Raul A. Lopez, of California.
E. Leland Webber, of Illinois.

For a term of 5 years:

Lloyd Hezekiah, of New York.
Peter H. Raven, of Missouri.
George C. Seybolt, of Massachusetts.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 12, 1977:

ENVIRONMENTAL PROTECTION AGENCY

Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

PEACE CORPS

Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.

Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky.

HOUSE OF REPRESENTATIVES—*Wednesday, October 12, 1977*

The House met at 12 o'clock noon.

The Reverend Walter R. Coats, First Presbyterian Church, Pennington, N.J., offered the following prayer:

Lord God of all the nations: Remind us of the words of the prophet Micah:

"What does the Lord ask of you?
Only to act justly,
To love mercy,
To walk humbly before your God."

May we act justly.

Not only for the 300 million in our land, but for those 3 billion of the world—our sisters and brothers,

May we love mercy.

For many live in misery, fear, and oppression, needing the legislation of tender compassion,

And, may we walk humbly before You.

Is this not the hardest walk there is?

So, may these Representatives of the people and of you, Lord, not rush to judgment, nor flee to indifference, but patiently perform the duties of this day, justly, mercifully, and humbly.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. WALTER R. COATS

(Mrs. MEYNER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYNER. Mr. Speaker, today's invocation was given by a man who is an outstanding example of one who knows how to combine his mission to the church, with a mission to society as well.

The Reverend Walter R. Coats, minister of the United Presbyterian Church in Pennington, N.J., has fulfilled this mission wherever he has served.

A man of profound intellect, he serves the ministry well, but not only that; in New Jersey, he has been very active in organizing school community groups, in coordinating the discussion of important public issues, and in pursuing a commitment to equal opportunities for all Americans.

So often, we see in the ministry people, who distinguish themselves, in service of God and the church. We in this Chamber take special pride in our commitment to public service and the public good.

Reverend Coats is that special kind of human being—he sees in his commitment to humanity, a service that dignifies both the House of God and the chambers of Government. His example serves us well.

He is the type of man spoken of in the Psalms:

Mark the perfect man, and behold the upright: For the end of that man is peace.

As we pursue peace among the peoples of the world, men like Reverend Coats serve us well as examples.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4018. An act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics;

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes;

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency; and

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The message also announced that the Senate had passed bills and joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 200. An act for the relief of Bharat M. Parekh;

S. 280. An act for the relief of Ludwik Kikla;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon;

S. 1585. An act to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes;

S. 1590. An act to incorporate the American Ex-Prisoners of War, Incorporated;

S. 2100. An act for the improvement of Roberts Field, Redmond, Oreg.;

S.J. Res. 80. Joint resolution to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day"; and

S. Con. Res. 52. Concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859."

AMENDING OF THE RULES OF PROCEDURE FOR THE COMMITTEE ON RULES

(Mr. DELANEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DELANEY. Mr. Speaker, I submit for the RECORD the rules of procedure for the Committee on Rules which were amended by voice vote on Thursday, September 15, 1977, to include a new committee rule providing for a Subcommittee on Rules and Organization of the House within the Committee on Rules. The committee voted to formalize and enlarge the Ad Hoc Subcommittee on Select Committees which was created May 18, 1977. The new rule would provide for all original jurisdiction measures to be referred to the subcommittee. Any matters that the subcommittee considers will be referred back to the full committee for final action. The full committee, however, has reserved to itself the right to consider original jurisdiction measures if it prefers to handle any specific measures in the full committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON RULES

RULE 1—MEETINGS

(a) The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week when the House is in session. Meetings and hearings shall be called to order and presided over by the Chairman or, in the absence of the Chairman, by the Ranking Majority Member of the Committee present as Acting Chairman.

(b) A minimum 48-hour notice of regular meetings and hearings of the Committee shall be given to all members except that the Chairman, acting on behalf of the Committee, may schedule a meeting or hearing for the consideration of emergency and/or procedural measures or matters at any time. As much notice as possible will be given to all members when emergency meetings or hearings are called; provided, however, that an effort has been made to consult the member next in rank, and so on down the line until an effort has been made with respect to all members of the minority. Copies of bills and reports to be considered for a rule by the Committee are to be sent to members of the Committee at least one day in advance of consideration by the Committee, except in cases of emergencies.

(c) Meetings, hearings, and executive sessions of the Committee shall be open to the public in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(d) For the purpose of hearing testimony on requests for rules, seven members of the Committee shall constitute a quorum.

(e) For the purpose of hearing and taking testimony on matters or measures of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(f) For the purpose of executive meetings, a majority of the Committee shall constitute a quorum.

(g) The following Committee meeting and hearings procedures shall be determined by the Chairman, acting on behalf of the Committee, in cooperation with the Ranking Minority Member.

(1) Measures or matters before the Committee which are deemed non-controversial as to both type of rule and substantive content may be scheduled for consideration by the Committee without hearings.

(2) Measures or matters before the Committee which are deemed non-controversial as to substantive content but controversial as to tyne of rule may be the subject of Committee hearings at which time the principal proponents and opponents will be provided an opportunity to testify only as to the type of rule to be granted.

(3) Measures or matters before the Committee which are deemed controversial as to substantive content by a minimum of six committee members will be the subject of Committee hearings at which time all interested Members of Congress, who are proponents or opponents, will be provided a reasonable opportunity to testify.

(h) There shall be a transcript of regularly scheduled hearings and meetings of the Committee which may be printed if the Chairman decides it is appropriate, or if a majority of the members request it.

(i) A Tuesday meeting of the Committee may be dispensed with where, in the judgment of the Chairman, there is no need therefor, and additional meetings may be called by the Chairman, or by written request of a majority of the Committee duly filed with the Counsel of the Committee.

(j) The Committee may permit, by a majority vote on each separate occasion, the coverage of any open meeting or hearing, in whole or in part, by television broadcast, radio broadcast, and still photography under

such requirements and limitations as set forth in the Rules of the House of Representatives.

(k) The five-minute rule in the interrogation of witnesses, until such time as each member of the Committee who so desires has had an opportunity to question the witness, shall be followed.

(1) When a recommendation is made as to the kind of rule which should be granted, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the meeting where such language is to be considered or as soon thereafter as such recommendation becomes available.

RULE 2—VOTING

(a) No measure or recommendation shall be reported, deferred, or tabled by the Committee unless a majority of the Committee is actually present.

(b) A rollcall vote of the members of the Committee may be had upon the request of any member.

(c) The result of each rollcall vote, including the names of Committee members and how they voted on specific issues, shall be available for public inspection at the office of the Committee.

RULE 3—REPORTING

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee, the Chairman or Acting Chairman shall report the same or designate some member of the Committee to report the same to the House, such report to include the totals of any record vote thereon.

RULE 4—COMMITTEE STAFFING

(a) The professional and clerical staffs of the Committee shall serve under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of the members of the staffs and delegate such authority as the Chairman deems appropriate, with the exception of the minority staff, who shall serve under the general supervision and direction of the Ranking Minority Member of the Committee.

(b) The appointment of staff members of the Committee shall be made as follows:

(1) Each member of the Committee shall be authorized to appoint one (1) staff member;

(2) The Chairman of the Committee, with concurrence of the majority party members, shall be authorized to appoint the remaining staff members authorized clause 6 of rule XI of the Rules of the House of Representatives;

(3) The Ranking Minority Member of the Committee, with concurrence of the minority party members, shall be authorized to appoint the remaining minority staff members authorized under clause 6 of Rule XI of the Rules of the House of Representatives.

(c) Each staff member appointed under subsection (b)(1) shall be paid at a rate of pay of not more than $27,600 per annum.

RULE 5—SUBCOMMITTEE

(a) There shall be one Subcommittee on the Rules and Organization of the House to be composed of seven Members appointed by the Chairman.

(b) All bills and resolutions referred to the Committee, except resolutions providing for the consideration of legislation, shall be considered as referred to the Subcommittee: *Provided, however,* That nothing contained herein shall prevent the full Committee from scheduling for consideration any matter referred to the Subcommittee pursuant to this rule.

(c) The Subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on all matters referred to it. The Chairman of the Subcommittee shall set hearing and meeting dates only after consultation with the Chairman of the full Committee.

RULE 6—MISCELLANEOUS

(a) The Committee shall have prepared, maintained, printed and published a calendar listing all matters formally before it. Information on this calendar shall include the number of the bill or resolution, a brief description of the measure's contents, including the legislative committee reporting it, and the name of the principal sponsoring Member.

(b) The staff shall prepare, maintain, and furnish to the members of the Committee a list of all pending bills or resolutions from other committees concerning which a hearing request has been properly filed with the Committee. This list shall be distributed to the members of the Committee on a regular weekly basis when the House is in session and shall include the number of the bill or resolution, the name of the legislative committee reporting it, the principal sponsoring Member, and the date upon which the request for a rule was filed, along with a brief analysis of the contents of the scheduled measures and a description of the rule requested by the reporting legislative committee, if so requested.

(c) For purpose of this rule, matters formally before the Committee include: bills or resolutions over which the Committee has original jurisdiction, and bills or resolutions from other committees concerning which the chairman or designated member of such committee has requested a hearing in writing and forwarded to the Committee on Rules a copy of such bill or resolution as reported, together with the final printed committee report.

(d) Executive meeting minutes shall be available to Members of Congress in compliance with clause 2(e) of rule XI of the Rules of the House of Representatives.

(e) Upon adoption of the rules and procedures of the Committee at the opening of each Congress, the Chairman may have these rules and procedures printed in an early issue of the Congressional Record.

CONGRESS SHOULD VOTE ON ALL PAY AND BENEFIT INCREASES

(Mr. PRESSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRESSLER. Mr. Speaker and Members of the House, I have been concerned that last week the House passed, on a voice vote, a change in the pension plan for Members of Congress. As I understand it, this would allow Members of Congress to use their highest single year rather than the 3-year average that has been used up until now.

I believe we should have a vote on this matter. It seems to me that the hearings and the procedures used on this particular measure were unusual. In the House of Representatives, whether be it a pay raise or be it other increases in our benefits, I would like to go on record strongly that a rollcall vote would be very appropriate.

Mr. Speaker, many citizens do not object to our being compensated properly. But the manner in which we do our work is of great concern. I am for congressional reform. We should vote on increases in our pay or privileges.

APPOINTMENT OF CONFEREES ON S. 1339 AUTHORIZING APPROPRIATIONS TO ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FOR NATIONAL DEFENSE PROGRAMS, FISCAL YEAR 1978

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal year 1978, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. PRICE, CHARLES H. WILSON of California, BRINKLEY, DAN DANIEL, MONTGOMERY, BOB WILSON, and DICKINSON.

CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I call up the conference report on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1977.)

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER. The gentleman from Maryland (Mr. LONG) and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the appropriate time the gentleman from Michigan (Mr. CEDERBERG) will offer a motion to recommit.

Since the conference report has been filed, there have been various meetings with the administration on the issues originally in disagreement and the Senate indicates that grounds for compromise now exist on these issues. It is hoped we can send the bill back to conference and bring back a bill that will save us a lot of time and be acceptable to both

Houses. I believe we can bring back a better bill which both Houses can accept.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I am glad to yield to the distinguished chairman, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I want to join the chairman of the Subcommittee on Foreign Aid of the Committee on Appropriations, the gentleman from Maryland (Mr. LONG), in the suggestion that we support a motion to recommit the conference report on the foreign aid appropriation bill.

It was not possible to come to an agreement on many items in the original conference and much of what is brought back is in disagreement. But now, as a result of discussions with the White House, and with the Members of both the House and Senate, we believe that a better job can be done, one which will save us a lot of time and effort. I heartily support the motion to recommit that is to be offered by the gentleman from Michigan (Mr. CEDERBERG), the ranking minority member of the Committee on Appropriations and thus give us an opportunity to move more rapidly thereafter, so that the employees of the foreign aid agencies may receive their pay and in order that the work of the House and the Senate may be facilitated.

Mr. LONG of Maryland. I thank the distinguished chairman of the Committee on Appropriations.

Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I find myself in somewhat of a quandary this morning. Normally I would be very strongly in support of a motion to recommit the foreign aid bill in order to get it anyplace but on the floor so we could avoid passing it into law, but there are reasons that we would be better off to vote no on this motion today. Frankly, we have some controversial matters that are a part of this conference report, and I personally would prefer to have a straight up-and-down vote on those issues. This motion prevents that.

Mr. Speaker, of course the will of the House, as it should, is going to prevail and I yield back the remainder of my time.

Mr. LONG of Maryland. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. CEDERBERG

Mr. CEDERBERG. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. CEDERBERG. I am at the present time.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CEDERBERG moves to recommit the conference report on H.R. 7797 to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. YOUNG of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 126, not voting 35, as follows:

[Roll No. 641]

YEAS—273

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Baldus
Barnard
Baucus
Beard, R.I.
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Cederberg
Chappell
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Dickinson
Dicks
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fowler
Fraser
Frey
Fuqua
Gaydos
Gephardt
Giaimo
Ginn
Gore
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Hightower
Hollenbeck
Holtzman
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Keys
Kildee
Koch
Kostmayer
Krebs
LaFalce
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quie
Rahall
Railsback
Rangel
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steers
Steiger
Stokes
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitten
Wiggins
Wilson, Bob
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Tex.
Zablocki

NAYS—126

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Breaux
Brinkley
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Butler
Byron
Caputo
Carter
Clausen, Don H.
Clawson, Del
Cochran
Coleman
Collins, Tex.
Corcoran
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dornan
English
Evans, Del.
Fish
Fountain
Gammage
Gibbons
Gilman
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gudger
Guyer
Hall
Hammer-schmidt
Harsha
Hefner
Hillis
Holt
Horton
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jones, Okla.
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Livingston
Lloyd, Tenn.
Lott
McDonald
McEwen
Marlenee
Marriott
Martin
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Moss
Myers, Gary
Myers, John
Pressler
Quayle
Quillen
Regula
Robinson
Rousselot
Rudd
Runnels
Ruppe
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stockman
Stratton
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
Whitehurst
Whitley
Wilson, C. H.
Winn
Wydler
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NOT VOTING—35

Badillo
Bedell
Blanchard
Brown, Mich.
Buchanan
Dent
Diggs
Dingell
Duncan, Oreg.
Edwards, Okla.
Evans, Ind.
Ford, Mich.
Frenzel
Hagedorn
Hansen
Holland
Howard
Johnson, Calif.
Jordan
Krueger
Lujan
McCormack
Milford
Miller, Calif.
Mitchell, Md.
Panetta
Pepper
Richmond
Roe
Roybal
Skubitz
Teague
Vento
Whalen
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Teague against.

Mr. Dent for, with Mr. Hagedorn against.

Mr. Buchanan for, with Mr. Hansen against.

Mr. Whalen for, with Mr. Lujan against.

Mr. Mitchell of Maryland for, with Mr. Skubitz against.

Until further notice:

Mr. Howard with Mr. Brown of Michigan.

Mr. Badillo with Mr. Frenzel.

Mr. Dingell with Mr. Charles Wilson of Texas.

Mr. Evans of Indiana with Mr. Edwards of Oklahoma.

Mr. Ford of Michigan with Mr. Duncan of Oregon.
Mr. Panetta with Mr. Holland.
Mr. Pepper with Mr. Johnson of California.
Mr. Diggs with Mr. Krueger.
Mr. Vento with Mr. Roe.
Mr. Roybal with Mr. Milford.
Mr. McCormack with Mr. Miller of California.
Ms. Jordan with Mr. Blanchard.

Ms. OAKAR, Messrs. MOORHEAD of Pennsylvania, NEDZI, and PREYER changed their vote from "nay" to "yea."

Messrs. STRATTON, WALSH, FOUNTAIN, GOLDWATER, STUMP, BROYHILL, BREAUX, RUDD, SCHULZE, SNYDER, YOUNG of Alaska, HORTON, HEFNER, RUPPE, STOCKMAN, GLICKMAN, and GAMMAGE changed their vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, let me say under my reservation that it was only through word of mouth and the grapevine that I was advised that the gentleman from Kentucky (Mr. PERKINS) was going to make this request and a subsequent motion to send the bill to conference.

As a manager of the legislation when it was debated on the floor, I thought that I probably should be entitled to notice when the gentleman from Kentucky (Mr. PERKINS) intended to come to the floor to move to send this bill to conference. I was not so notified. Fortunately, the ranking member of our committee was notified, and he did inform me.

Mr. Speaker, I have been informed that the conferees have been recommended, and that the Speaker is ready, if we agree to send this bill to conference, to name those conferees. However, I believe the conferees as so named will not comply with section 701 of the House Rules.

Mr. PERKINS. Mr. Speaker, will the gentleman yield to me at this time?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I would be happy to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, let me say to the distinguished gentleman from Illinois (Mr. ERLENBORN) that perhaps I was derelict, inasmuch as he did manage the bill on the floor, in not informing him of this action.

As has been customary all along in these matters, I discussed with the ranking minority member, the gentleman from Minnesota (Mr. QUIE), the naming of the conferees. That has been the pattern that I have followed in the past.

I regret very much that I have not discussed the naming of the conferees prior to this time with the gentleman from Illinois (Mr. ERLENBORN), and I will not let that occur in the future.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I have been advised—and again this is through the grapevine, but usually that source is fairly accurate—that the gentleman from Kentucky (Mr. PERKINS) will recommend as conferees on the majority side himself, the gentleman from Pennsylvania (Mr. DENT), the gentleman from California (Mr. PHILLIP BURTON), the gentleman from Pennsylvania (Mr. JOSEPH GAYDOS), the gentleman from Missouri (Mr. WILLIAM CLAY), the gentleman from New York (Mr. MARIO BIAGGI), and the gentleman from New York (Mr. LEO ZEFERETTI). Those members of our Committee on Education and Labor are to be named as conferees on the minimum wage bill.

Mr. Speaker, with the exception of the gentleman from Pennsylvania (Mr. GAYDOS), none of those members named voted on the majority side in fashioning the bill in those two major provisions that will be the subject matter of the conference, namely, the tip credit issue and the small business amendment. None of these members voted for the rate structure that was adopted in the House under the amendment that I offered, the amendment that was adopted on the floor.

Mr. Speaker, I would refer to rule 101 (e) which reads:

> The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

Mr. Speaker, I do not believe that the requirement that a majority of the members of the conference be those who supported the position of the House will be complied with through the naming of the conferees as suggested by the gentleman from Kentucky (Mr. PERKINS).

Therefore, Mr. Speaker, I would hope that we would not agree to send the bill to conference until the conferees who are among the majority of those who supported the House position are recommended by the gentleman.

Mr. PERKINS. Mr. Speaker, will the gentleman yield further?

Mr. ERLENBORN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I would say to the gentleman from Illinois (Mr. ERLENBORN) that all the conferees whom I suggested to the Speaker voted for this bill. Further, the objections which the gentleman from Illinois has raised, when we take into consideration the full minimum wage legislation, to my way of thinking, are very minor.

I do want to state, Mr. Speaker, that I discussed the naming of the conferees with the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), by telephone yesterday. We decided on the first seven senior members on the subcommittee down through the gentleman from New York (Mr. ZEFERETTI), all of whom supported the legislation as a whole and supported the main thrust of the legislation.

Therefore, Mr. Speaker, we have complied with the rule in every respect. It may be that some Member has voted against an amendment which the gentleman from Illinois (Mr. ERLENBORN) voted for; but if we followed that criterion, we would never be able to name a conferee, simply because someone objected. However, we have selected Members who have been on the committee for a long period of time and who have made a study of the minimum wage legislation and are amply qualified in every respect to serve the best interests of this House. It would be the purpose of these conferees to try as best we possibly can to carry out the intention of the House.

Mr. ERLENBORN. Further reserving the right to object, Mr. Speaker, this is a novel question. The rule that I refer to was adopted as a result of a similar dispute the gentleman from Kentucky (Mr. PERKINS) and I had on a minimum wage bill in 1973. As far as I know, the rule has not been tested with respect to how the Speaker may make such a determination.

In view of the novelty of the issue and the lack of prior notice, Mr. Speaker, I do object.

The SPEAKER. Objection is heard.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer a motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Upon direction of the Committee on Education and Labor and pursuant to clause 1 of rule XX, Mr. PERKINS moves that the House take from the Speaker's table the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Speaker, a parliamentary inquiry

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ERLENBORN. Mr. Speaker, is there time under the rules to debate this motion?

The SPEAKER. The Chair will state that it is a debatable motion.

Mr. ERLENBORN. How much time will be allowed and the time will be controlled by whom?

The SPEAKER. The Chair will state that the gentleman from Kentucky (Mr. PERKINS) has 1 hour and the gentleman has the right to yield.

The gentleman from Kentucky, Mr. PERKINS, is recognized for 1 hour.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. ERLENBORN) for the purpose of debate only.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is unfortunate that this matter comes before us, especially without due notice, without the Members having an opportunity to know that it is coming up and to inform themselves as to the issues. I am very sorry that we are facing those circumstances.

Mr. Speaker, as I mentioned a moment ago, the proposed conferees that I have been advised have been submitted by the gentleman from Kentucky (Mr. PERKINS) to the Speaker for appointment, if this motion is successful, consist of first the gentleman from Kentucky (Mr. PERKINS) himself. The two issues that will be the principal differences between the House and the Senate in the conference on the minimum wage bill are the tip credit and the small business amendment. In addition there will be the rate structure itself, and that amendment I offered during the consideration of the bill and it was adopted. The gentleman from Kentucky (Mr. PERKINS) did not vote with the majority of the House on any one of thcse three issues that are the principal issues in the conference.

The gentleman from Pennsylvania (Mr. DENT) who is another of the proposed conferees, because of his health, I am sorry to say, cannot possibly physically be present and could vote by proxy. He could not be here during the consideration of the legislation so that there is no record available as to his support or lack of support on these issues.

The gentleman from California (Mr. PHILLIP BURTON) is another one of the proposed conferees, and he also did not support the position of the House on any of these three issues.

The gentleman from New York (Mr. MARIO BIAGGI) did not support any one of the three amendments that constituted the position of the House.

The gentleman from New York (Mr. ZEFERETTI) did not support any one of the three.

The gentleman from Pennsylvania (Mr. GAYDOS) supported only one of the three amendments that constitute the prinicipal differences between the House and the other body.

Mr. Speaker, the three Members on the Republican side who will be appointed as conferees are the gentleman from Minnesota (Mr. QUIE), the gentleman from Ohio (Mr. ASHBROOK), and myself. The gentleman from Minnesota (Mr. QUIE) supported two of the three principal provisions. The gentleman from Ohio (Mr. ASHBROOK) and I supported all three. But I think it is quite obvious from a reading of the names of the Members and how they voted that a majority of the conferees will be those who voted in opposition to the position of the House.

It is well known, Mr. Speaker, of what has happened with legislation from the Committee on Education and Labor any number of times. The committee will report a bill that will be rewritten on the floor, or a substitute bill will be adopted. The other body will fashion a bill very much as the Committee on Education and Labor fashioned it. Then the House conferees from the Committee on Education and Labor will go to the conference, not to try to uphold the position of the House, but principally to accept as many of the Senate provisions as possible so that they can bring a bill back in a shape similar to or identical with the shape it was in before the House revised it during consideration on the floor. I fear, Mr. Speaker, the same thing, the same scenario in this case

Mr. Speaker, I made a similar objection a couple of years ago to the minimum wage bill, and the bill never did go to conference. The House refused to send it to conference when it was obvious that the conferees were not going to uphold the position of the House.

In the interim, Mr. Speaker, the rules of the House have been rewritten, specifically along the lines of what were the precedents prior to that, and that is that a majority of the conferees shall be those who supported the position of the House. We have had no test of that rule, as far as I know, since it was written, but that is the rule. It has been adopted by the Members of the House as a rule. It is a rule that should be complied with, and I fear, as a matter of fact I can state, it is not being complied with in this case. Under those circumstances, Mr. Speaker, I would hope that the House would agree not to send the bill to conference and that more consideration would be given to the naming of conferees who would support the House position.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Will the gentleman tell me what happens if there is a conference and the House conferees agree to a Senate position. Does that come back to the House as an amendment?

Mr. ERLENBORN. No. No, it does not. If the House agrees to a germane Senate amendment, it comes back as just part of the conference report and we will vote it up or down.

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may take.

Mr. Speaker, the House Rules and Manual, 95th Congress, at page 418, has the relevant subsection of rule X, subsection (e) of section (6), states:

> The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

Mr. Speaker, the Members that we have suggested in every respect comply with that rule. Since I have been chairman of the committee I have followed the pattern of either taking the entire subcommittee or taking the senior members of the subcommittee responsible for the legislation.

I discussed the situation with the gentleman from Pennsylvania (Mr. DENT) yesterday. It is my hope and I expect that he will be here next week to participate in this conference.

He has given more time than any other Member perhaps in this Chamber in developing minimum wage legislation over the years. The House conferees suggested by me as chairman, after consulting and conferring with the gentleman from Pennsylvania (Mr. DENT), the chairman of the subcommittee, can be expected to support the House position as much as we possibly can. I think the Members will realize that a conference is a give-and-take affair, and none of us want to bury ourselves in concrete or make statements to that effect before the House of Representatives. But I do want to state that perhaps the principle amendment that was adopted in this Chamber was the amendment offered by the gentleman from Texas (Mr. PICKLE). That amendment was adopted—and the gentleman from Texas (Mr. PICKLE) will participate in this conference on that amendment, selected by the Speaker.

Mr. Speaker, if we deviate from the procedure that we have followed in the past and not appoint a majority of the Members who generally supported the House position, which is the case before us, we would be setting a bad precedent.

I now move the previous question on the motion, Mr. Speaker.

The SPEAKER. The question is on ordering the previous question.

PREFERENTIAL MOTION OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. ERLENBORN moves to lay the motion offered by the gentleman from Kentucky (Mr. PERKINS) on the table.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Illinois (Mr. ERLENBORN) to table the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 138, nays 266, not voting 30, as follows:

[Roll No. 642]

YEAS—138

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Caputo
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Crane
Daniel, R. W.
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Flynt
Forsythe
Frey
Glickman
Goldwater
Goodling
Gradison
Grassley
Guyer
Hall
Hammer-schmidt
Harsha
Hollenbeck
Holt
Huckaby
Hyde
Johnson, Colo.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lundine
McClory
McDonald
McEwen
Mann
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Gary
Myers, John
O'Brien
Pettis
Poage
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Robinson
Rousselot
Rudd
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Walker
Walsh
Watkins
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NAYS—266

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Fary
Fascell
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holtzman
Horton
Hubbard
Hughes
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Koch
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Mineta
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Rahall
Rangel
Reuss
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Runnels
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Waggonner
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitley
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—30

Applegate
Blanchard
Bonker
Brodhead
Brown, Mich.
Buchanan
Dent
Evans, Ind.
Frenzel
Hagedorn
Hansen
Holland
Howard
Jacobs
Johnson, Calif.
Krueger
Leggett
Lujan
McCormack
Miller, Calif.
Mitchell, Md.
Panetta
Pepper
Richmond
Roybal
Skubitz
Teague
Vento
Whalen
Wright

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Richmond against.

Until further notice:

Mr. Dent with Mr. Applegate.
Mr. Howard with Mr. Brown of Michigan.
Mr. Pepper with Mr. Frenzel.
Mr. Panetta wtih Mr. Hansen.
Mr. Mitchell of Maryland with Mr. Hagedorn.
Mr. Leggett with Mr. Buchanan.
Mr. Evans of Indiana with Mr. Skubitz.
Mr. Vento with Mr. Whalen.
Mr. Roybal with Mr. Johnson of California.
Mr. Miller of California with Mr. Krueger.
Mr. McCormack with Mr. Lujan.
Mr. Brodhead with Mr. Jacobs.
Mr. Blanchard with Mr. Holland.
Mr. Wright with Mr. Bonker.

Mr. DUNCAN of Oregon changed his vote from "yea" to "nay."

Mr. ABDNOR changed his vote from "nay" to "yea."

So the preferential motion to table was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DINGELL). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The question was taken; and the Speaker pro tempore being in doubt, the House divided, and there were—ayes 91; noes 41.

So the motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. PERKINS, DENT, PHILLIP BURTON, GAYDOS, CLAY, BIAGGI, ZEFERETTI, QUIE, ERLENBORN, and ASHBROOK; and an additional Member, Mr. PICKLE, solely for the consideration of section 12 of the House bill and modifications thereof committed to conference.

POINT OF ORDER

Mr. ERLENBORN. Mr. Speaker, I make a point of order against the naming of the conferees as not being in compliance with the provisions of section 701 (e), rule X of the Rules of the House.

The SPEAKER. Does the gentleman from Illinois (Mr. ERLENBORN) wish to be heard on his point of order?

Mr. ERLENBORN. Yes, Mr. Speaker.

Mr. Speaker, rule X, section 701(e) provides in part:

In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker.

Mr. Speaker, as I pointed out in debate earlier today, the three items in contention between this body and the other body are the rate structure, the tip credit, and the small business amendment. Every one of the majority Members, with the exception of the gentleman from Pennsylvania (Mr. GAYDOS), did not support the House position during the consideration of the bill on the floor.

I will admit, Mr. Speaker, that all of the Members who were present did vote for the passage of the bill. The passage of the bill is not in contention. Those items that are in contention between this body and the other body are the three items that I have mentioned, and the majority of the conferees named by the Speaker are not among those Members who supported the majority position in the House.

The SPEAKER. Does the gentleman from Kentucky (Mr. PERKINS) wish to be heard on the point of order?

Mr. PERKINS. I do, Mr. Speaker.

Mr. Speaker, there were numerous amendments offered to the minimum wage bill. Perhaps the major amendment that was adopted was the one increasing the exceptions from $250,000 to $500,000 for small businesses. The Speaker has taken care of that situation by appointing the gentleman from Texas (Mr. PICKLE).

If we were to follow the argument of the gentleman from Illinois (Mr. ERLENBORN), as it might apply to a situation in which some 30 or 40 Members outside the committee had offered amendments, I would think that it would set a precedent that this House could not live with.

But notwithstanding that, the Members who have been suggested to the Speaker by myself as chairman of the Committee on Education and Labor, the seven ranking members of the Subcommittee on Labor Standards, headed by the gentleman from Pennsylvania (Mr. DENT), voted for the majority of the amendments that were offered to the bill on the floor of the House. By and large, all the conferees suggested to the Speaker generally supported the legislation, and that is the rule.

We must look at this picture as a whole and not pick out one or two select amendments that the gentleman from Illinois (Mr. ERLENBORN) is primarily interested in and overlook all the other amendments that the other members supported and that the suggested conferees supported.

Therefore, Mr. Speaker, it is my contention that the point of order raised by the gentleman from Illinois (Mr. ERLENBORN) is without merit and should be overruled.

The SPEAKER. The Chair is ready to rule.

This is the judgment of the Chair concerning the following language: "The Speaker shall appoint no less than a majority of Members who generally supported the House position as determined by the Speaker, and the Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House."

That language is found in clause 6(e) of rule X of the Rules of the House.

In the opinion of the Chair, after looking over the list of conferees, and in view of the fact that the Chair has only had one additional request to name a conferee—and that is the gentleman from Texas (Mr. PICKLE), whom the Chair has named as a limited conferee—the Members that the Chair has named as conferees meet the qualification of being "primarily responsible for the legislation."

The Chair's appointment under the remaining provisions of the rule is ultimately a matter within his discretion, which the Chair feels he has properly exercised, and there is nothing in the rule requiring the Chair to consider the conferees' positions solely on the matter in dispute.

The Chair overrules the point of order.

MAKING IN ORDER ON TOMORROW CONSIDERATION OF CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it may be in order tomorrow to consider a conference report on the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 766, REFORM OF THE ADMINISTRATIVE ORGANIZATION AND LEGISLATIVE MANAGEMENT SERVICES OF THE HOUSE OF REPRESENTATIVES

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 819 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 819

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 766 providing for the reform of the administrative organization and legislative management services of the House of Representatives and for other purposes, and the first reading of the resolution shall be dispensed with. After general debate, which shall be confined to the resolution and shall continue not to exceed two hours, one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be considered for amendment under the five-minute rule by titles instead of by sections, except that titles I, II, and III shall be considered for the purposes of this resolution as one title, and each title shall be considered as having been read for amendment. No amendments to the resolution in the House or in the Committee of the Whole shall be in order except pro forma amendments for the purpose of debate and except the following amendments, which shall not be subject to amendment except as specified in this resolution but which may be debated by the offering of pro forma amendments:

(1) amendments recommended by the Committee on Rules consistent with the terms of reference of the resolution, and said amendments recommended to any one title of the resolution shall be considered en bloc and shall not be subject to a demand for a division of the question;

(2) an amendment printed in the Congressional Record of October 4, 1977, by Representative Frenzel of Minnesota to title II of the resolution;

(3) one amendment to strike out titles I, II, and III of the resolution, and said amendment shall not be subject to a demand for a division of the question;

(4) an amendment to strike out title IV of the resolution;

(5) amendments to strike out single sections of title V of the resolution;

(6) an amendment printed in the Congressional Record of October 4, 1977, by Representative Chisholm of New York to title V of the resolution;

(7) the amendment recommended by the Committee on House Administration to title VI now printed in the resolution, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived; and said amendment shall be subject to the following amendments: an amendment to strike out, in section 611 of the amendment, the words "and this resolution"; one amendment to strike out sections 601 and 602 of the said amendment, and such amendment shall not be subject to a demand for a division of the question; amendments to strike out other single sections of the amendment; an amendment printed in the Congressional Record of October 4, 1977, by Representative Meeds of Washington; an amendment printed in the Congressional Record of October 4, 1977, by Representative Frenzel of Minnesota; and an amendment printed in the Congressional Record of October 4, 1977, by Representative Obey of Wisconsin;

(8) amendments to strike out single sections of title VI of the resolution, which amendments shall be in order only if the amendment recommended to title VI of the resolution by the Committee on House Administration has been rejected; and

(9) an amendment to strike out title VII of the resolution, which amendment shall be in order only if the amendment recommended to title VII by the Committee on Rules has been rejected.

At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of House Resolution 766, the resolution which embodies many of the recommendations made by the Commission on Administrative Review with respect to administrative organization and legislative management services. The rule is admittedly somewhat complicated, but I believe it is a fair and just rule. I hope that the Members will bear with me as I outline its provisions so that everyone will know exactly what it does provide.

First, the rule calls for a total of 2 hours of general debate—1½ hours to the Committee on Rules which reported on titles I through V and title VII; and one-half hour to the Committee on House Administration which reported on title VI.

Next, the rule provides that the resolution shall be read for amendment by titles, instead of by sections. Additionally, provision is made that titles I, II, and III shall be considered as one title for purposes of amendment. This was felt to be necessary because of the interdependence of those titles—title I deals with the House Administrator, Auditor, and Comptroller; title II with the jurisdiction of the House Administration Committee which will set policy and guidelines for the House Administrator; and title III with the transfer of duties from the Clerk of the House. Should any of these titles be stricken, the other two would not make sense and therefore they

should be considered as one title for purposes of amendment.

Pro forma amendments shall be in order for the purpose of debate so that Members will be assured of an adequate opportunity to debate the various amendments made in order under the rule.

In discussing the various amendments that will be in order under the rule, I would like to go through the resolution title-by-title. Under titles I, II, and III, which I have just explained will be considered as one title for purposes of amendment, the following amendments will be in order:

First. Amendments recommended by the Committee on Rules which shall be considered en bloc (and shall not be subject to a demand for a division of the question).

Second. An amendment to title II which may be offered by Representative FRENZEL. This amendment appears in the CONGRESSIONAL RECORD of October 4, 1977, and would provide for a Subcommittee on Audits which would be composed of an equal number of majority and minority members.

Third. An amendment to strike all of titles I, II, and III. For the reasons I explained earlier, this amendment would not be subject to a demand for a division of the question.

Under title IV, which sets out the annual reporting requirements of the Administrator, Clerk, Sergeant at Arms, and Doorkeeper, amendments in order would be:

First. Amendments recommended by the Committee on Rules which, in this case, is a single technical amendment to clarify how these reports are to be made available to the public.

Second. An amendment to strike the title.

Under title V, which embodies several miscellaneous amendments to the rules of the House, the following amendments would be in order:

First. Amendments recommended by the Committee on Rules which shall be considered en bloc.

Second. Amendments to strike out any section of title V.

Third. An amendment to the section on the Fair Employment Practices Panel which may be offered by Representative CHISHOLM. This amendment also appears in the CONGRESSIONAL RECORD of October 4, 1977.

Under title VI, which contains the provisions relating to House operations and employees, and was reported by the Committee on House Administration, the following amendments would be in order:

First. An amendment in the nature of a substitute recommended by the Committee on House Administration. All points of order are waived against this amendment for failure to comply with the germaneness rule. The germaneness problem arises because of the words "and this resolution" which appear in section 611 of the amendment. An amendment to this amendment to delete these words is made in order under the rule.

Second. Amendments to strike any section of the substitute, except that both sections 601 and 602 would be stricken under a single motion because they both deal with the same subject areas (congressional member and legislative service organizations), and it would not make sense to strike one of these sections without striking the other.

Third. An amendment to the substitute which may be offered by Representative MEEDS which would restore the committee staff growth cap section that appeared in the original resolution.

Fourth. An amendment to the substitute which may be offered by Representative FRENZEL which would restore the allowances for Members-elect which were provided in the original resolution.

Fifth. An amendment to the substitute which may be offered by Representative OBEY which would strike the provision in section 608 of the substitute that allows the transfer of funds to the House information systems for reimbursement for computer services.

Sixth. After all amendments to the substitute have been considered and the substitute as amended is voted on—if the substitute as amended should fail—then the House would have before it the original text of title VI of the resolution for its consideration. In that event, amendments to strike any section of the original text of title VI would be in order. (Explanation: When amending the substitute, the House may vote to delete a section of the substitute that is virtually the same as its counterpart in the original text of title VI. If the House then defeated the entire substitute, it should still have the opportunity to delete those same sections in the original text as well.)

Under title VII, which creates a Select Committee on the Committee System, the following amendments will be in order:

First. An amendment in the nature of a substitute recommended by the Committee on Rules;

Second. An amendment to strike the entire title. (The entire title deals with the jurisdiction, authority, and procedures of the select committee, and it would not make sense to strike out any one section and leave others, so a single motion to strike the entire title is in order should the House fail to adopt the substitute.)

In summary, the rule, while not a completely open one, does provide the House with a wide range of opportunities to work its will. In each case, the House will have a choice between the original provisions of the resolution, the provisions as amended by either the House Administration Committee or the Rules Committee, or to strike the relevant provisions altogether. In addition, in areas where those of us who have been working with the subject saw that substantial differences of opinion existed, the rule has made various amendments in order that will allow the House to work its will in those areas.

As I stated at the beginning, the rule is somewhat complicated, but I believe that you can see from this explanation that it is a carefully thought-out and equitable rule that will provide us with a framework in which we can debate and reach a resolution on this important matter. Therefore, Mr. Speaker, I urge the adoption of House Resolution 819 so that we may debate and vote on House Resolution 766.

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. SPEAKER, the gentlemen and ladies who were here when the rule was read I think pretty well have a clear picture of what we are talking about. It was a very lengthy rule. It took about 5 minutes just to read the rule, and that sums up the problem I think we have with this particular rule. The gentleman from Louisiana (Mr. LONG) has done a very good job in going through this rule and explaining accurately the provisions.

It is not my intention to duplicate his efforts and I do not want to waste the time of my colleagues, but I do think there are some points that need to be made about this rule.

The Rules Committee has submitted for the approval of the Members what has been termed by many to be a "modified open rule" and by others—me included—a "modified closed rule," depending on their perspective. Regardless of the terminology to which one subscribes, this rule is unnecessarily restrictive. This is why. It directs, basically, only five things. I would like to read them:

(1) It directs that the 28 technical and 11 substantive Rules Committee amendments applicable to each title of H. Res. 766 be lumped together as they are reached and considered en bloc without being subject to a division.

(2) The first 3 titles of the resolution, which deal with the House Administrator, the Comptroller, the Auditor, the House Administration Committee, and the Clerk must all be considered as one title with only a motion to strike all 3 at once made in order. There is no division of this question permitted either.

(3) Motions to strike all of title IV and all of title VII by title and motions to strike titles V and VI by section (except section 601 and 602, which are to be considered as one section) are made in order.

(4) The House Administration substitute to title VI and the Rules Committee substitute to title VII are made in order.

(5) Only 5 additional amendments by individual Members will be permitted. These amendments deal with a Subcommittee on Audits, the computer allowance, a committee staff ceiling, the Fair Employment Practices Panel, and the Members-elect allowance proposal.

None of the above amendments may be amended in any way under this rule, and no additional amendments are made in order.

These are points I want to ask all of the Members to listen to and think about for a minute.

If a Member wants to designate the Administrator as an officer of the House instead of a mere employee—not even

subject to the oath of office that the Doorkeeper is subject to—or alter the method by which he is nominated, elected, or removed, the Member cannot.

If a Member believes that Member and committee expense vouchers and financial records should be made available for public inspection, he cannot amend the resolution to require it.

If he wants to authorize the Administrator to promulgate guidelines to eliminate unnecessary and duplicative employment functions, he cannot.

If he has in mind an amendment to improve the scheduling of legislation for floor action, he may not offer it.

If he would like to have the Committee on House Administration supervise and oversee the Administrator's hiring practices, he cannot.

If he would prefer that the Office of Personnel and Work Management—the Brooks committee—carry out its functions in cooperation with studies authorized and conducted by the Select Committee on Congressional Operations, the Member will have no chance to offer that amendment.

If he feels the House auditing system itself, as the gentleman from Colorado (Mr. ARMSTRONG) feels, should be a CPA firm, the Member will have to settle for less.

If he wants guidelines promulgated with respect to the best use of House parking facilities—something that Members of Congress would certainly all understand—he cannot authorize the Administrator to do so.

If he approves of the indexing of committee hearings but not of mandating that they be abstracted, or vice versa, the Member will not be able to eliminate the one without eliminating the other at the same time.

If he wants to consolidate or eliminate certain parts of the duties or responsibilities of any of the proposed new House employees, the opportunity will not be available to the Member.

The list could go on and on. I just list a few where I know some members of the Obey Commission and the House Administration are concerned and interested. In the Rules Committee we had probably 20 amendments offered and only half a dozen were accepted; except for the technical amendments.

The die supposedly has been cast. Once again, with few exceptions, we are expected to endorse a closed rule or a modified closed rule exactly as the Obey Commission and the Committees on Rules and House Administration have presented to us. It is assumed that the general membership of the House has no expertise in administrative matters that affect us, and not only us but certainly the whole country and this body for years to come, and we should not have an opportunity to work our free will.

To me this is absolute nonsense.

Make no mistake, the Commission on Administrative Review recommendations which are embodied in House Resolution 766 will affect each of us. They have done a pretty good job and there are some good points in this bill that I think we should pass if we have the opportunity to amend and make some changes.

Mr. Speaker, it is not the merits or demerits of the bill we are debating right now. It is how we are going to take it up. Our hands are going to be tied. Once again we are talking about reforming the House, changing the rules. We do not allow ourselves a free rule or an open rule so that we can offer amendments.

What kind of hypocrisy are we dealing with? This is not a bankruptcy bill. This is not an IRS bill where we do not want to open up the tax code. This is rules changes of our own body.

What happened to the caucus mandate or the conference mandate for open rules? Certainly we should have an open rule on our own administrative methods and procedures.

I want to emphasize this point, if I can. I think it is important that we have a key vote on the rule itself and not on the previous question. Members get too confused and upset when we try to have a key vote on procedural questions, like voting on the previous question; so I hope we will not get into that. Let us vote against this modified closed rule and defeat it and go back to the Rules Committee and get a rule that will allow all Members to offer amendments as they see fit so we can make the necessary changes.

We need to have this opportunity to put in protections for the Speaker, for all the Members of the House and for the citizens of this great country.

Mr. Speaker, I strongly urge that we vote against this rule and require the Committee on Rules to come back with a rule which will open the resolution to constructive amendments.

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, our distinguished minority leader has written a book entitled, "The Futile System: How to Unchain the Congress and Make the System Work Again." I am reminded of that title whenever we lead the charge against one of these closed rules. So often it seems like an exercise in futility to try to unchain this House from the bondage of closed rules and give it an opporuntiy to make things work again. It gets a little tiresome to hear certain self-professed "liberals" on the other side of the aisle boast about how much they have reformed things and opened things up around here over the past few years, and then to watch them turn around and vote for closed rules.

Today we have before us perhaps the most blatant example of hypocrisy, wrapped in irony, inside a paradox—we have a modified closed rule providing for the consideration of a so-called House reform. We are being asked to reform the House under an antireform procedure. This rule should receive the George Orwell "Newspeak" award for 1977—ranking alongside the statement of a general who said we had to destroy a village in order to save it. Instead of unchaining the House in order to make this futile system work, we are being asked today to accept the proposition that the only way we can reform the administrative and legislative management services of this House, and make them work, is to keep the House in chains while acting on those reforms. I say all this not in disparagement of the work done on this resolution by the Obey commission or the Rules Committee or the House Administration Committee: I think all have done a commendable job to date in fashioning and improving upon these recommendations. But all wisdom does not reside in any of these entities individually, or all three collectively, nor in the few individuals who will be privileged under this rule to offer amendments. This House—all 435 Members—should have a full, free, and final say on something as important as how this institution is to be managed in the future.

I totally reject any characterization of this rule as somehow being "fair" to the major parties concerned or as offering an opportunity to vote on the major issues and alternatives presented in the commission or in the committees which marked up this resolution. Other than giving the House a chance to strike certain titles and sections, this rule only makes in order five substantive amendments: a Frenzel amendment to establish a bipartisan audit subcommittee in the House Administration Committee; a Chisholm substitute Fair Employment Practices Panel section; an Obey amendment on computers; a Meeds amendment placing a cap on committee staff; and a Frenzel amendment providing staff for new Members elect.

To give my colleagues an example of just how "fair" this rule is, let me cite what happened in our Rules Subcommittee markup of this resolution. The minority offered some 17 substantive amendments, of which four minor ones were adopted, another two are made in order by this rule, leaving some 11 substantive amendments which we will be prevented from offering if this rule is adopted. While I cannot speak for the other committee which dealt with title VI of this resolution, I daresay there were probably several important amendments offered there which we will not be able to vote on under this rule. Moreover, many other fine suggestions for change were made in testimony before our subcommittee. And while those amendments were not all offered during our markup, I think they should have a chance to be heard, considered, and voted on in this House. And finally, I am sure that other Members, who only recently have had a chance to review this resolution, have further ideas for amendments which are deserving of our serious consideration in this House.

Mr. Speaker, in the brief time remaining, I would like to address myself to just one major amendment offered in the Rules Committee which will not be in order under this rule, and that is to make the proposed House Administrator an officer of the House, subject to approval by the House Administration Committee, elected by the House, and subject to removal only by the House. If the proposed

Administrator is the major reform of this resolution, and I think most will agree that is the case, then I certainly think we should have more debate and flexibility on this proposal than the up or down vote on titles I, II, and III which this rule will permit us. There can be no question that the Administrator will have more powers, responsibilities, staff and financial resources than all other officers combined. There can be no question that this position is more important than such officers as the chaplain and postmaster. Why, then, we must ask, is the Administrator not made an elected officer of the House under House Resolution 766? And furthermore, why should not the House have a chance by amendment to give the Administrator that status and responsibility? The only answer I get from reading the Obey Commission report is that the Administrator should be more accountable to the Speaker and the House Administration Committee than to the House—even though his proposed duties obviously affect all of us and the House as an institution.

I would caution my colleagues against simply making the Administrator nothing more than a super-employee of any one person or committee—and the resolution is sufficiently ambivalent as to just who the Administrator would be accountable to. Never before has this House concentrated more powers in any one person and made that person accountable to so few. I would have thought that the scandal which gave rise to this Commission in the first place would have taught us the dangers implicit in concentrating the powers for administering this body in a single individual, but apparently that lesson has been lost somewhere along the way.

In conclusion, Mr. Speaker, I strongly urge defeat of this rule. Only an open rule will unchain this House and permit it to work its will in making this system work. Let us demonstrate on this previous question vote that this is neither a futile or a feudal system and that we can deal with a reform issue under a truly open, reform procedure.

Mr. LONG of Louisiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all the discussion that has been going on with respect to the unfairness of this rule is really very surprising to me for two reasons: One, the various amendments that have been discussed here were offered in the markup session of the Rules Committee on the proposed resolution, but only one of them, proposing a completely open rule, was offered by any minority member with respect to the rule itself.

No. 2, the chairman of the Rules Committee was delivered a letter dated October 4, 1977, which was placed in the folder of each of the members of the Rules Committee, signed by DAVID R. OBEY, the chairman of the Commission on Administrative Review, and also signed by Representative BILL FRENZEL, the ranking minority member of the Commission on Administrative Review. That letter requested in essence, practically without exception, the rule that was granted by the Rules Committee.

I read to the Members not all six points that were requested to be made in order in this letter, because they are the points that are covered in the rule that is here. But I read the Members only the conclusion. It says:

> Mr. Chairman, we believe that such a rule will allow the major points of controversy to be decided upon the House floor. We also want to indicate our support for the committee amendments adopted by the subcommittee. We certainly hope that the Rules Committee will grant this rule.

It seems to me that we in the Committee on Rules have structured a rule that is basically fair, that is entirely equitable. Even though it is not a completely open rule, it is a rule that will allow all issues to be fully debated on the floor. I think any reasonable person will admit that under the circumstances of the particular piece of legislation being considered, it is a very fair and just rule.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Speaker, if the gentleman will permit me, I would like to point out something else. If there is any departure from the norm being engaged in in this case, it is the fact that there is any amendment at all in order, because under the usual procedure we could have brought this resolution to the House under "privilege" which would have provided no amendments whatsoever.

What we did was to merge all of the items into one bill so that amendments could be offered and we specifically made in order the amendments which were most earnestly sought by the minority and by others. In fact we made in order every amendment the minority asked to have made in order.

In addition, let me point out that several of the amendments adopted by the Committee on Rules were certainly not minor in nature. One amendment which was sought by the minority more than any other was the right to include the minority leader in the hiring process and in the firing process for the Auditor, and the other was the elimination of the associate staffer.

I would also point out that, while the gentleman from Minnesota (Mr. FRENZEL) would have preferred an open rule, and said so, and while I would have preferred a totally closed rule, because under the normal process we would have been here under a totally closed rule, this was a reasonable compromise which was in fact accepted by both the gentleman from Minnesota (Mr. FRENZEL) and myself, by virtue of that letter.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Illinois.

Mr. MICHEL. I appreciate the gentleman's yielding.

Mr. Speaker, I am glad to hear the gentleman from Wisconsin (Mr. OBEY) acknowledge the fact that the gentleman from Minnesota (Mr. FRENZEL), who does not happen to be here on the floor now, did prefer and asked for an open rule. I know that was really a dominant feeling that he had. But you know we in the minority have to face reality around here. When are outnumbered 2 to 1 here in the House and on the Committee on Rules we have no alternative but to accept a quarter loaf or a half loaf. In this case we are offered only the crumbs and I for one am not willing to settle for that and I sense that is the way most all on the minority side feel today.

I did want the record to be clear that the gentleman from Minnesota (Mr. FRENZEL) much preferred an open rule.

Mr. LONG of Louisiana. I thank the gentleman for his remarks.

Mr. Speaker, I did not mean to indicate in any way that Mr. FRENZEL had not requested an open rule. What I did indicate, and what I reiterate at this time, is that the matter should be compromised somewhere between an absolutely closed rule and an absolutely open rule, and a compromise rule to which the gentleman from Minnesota agreed and in turn requested of the Committee on Rules.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I rise in support of this rule.

I recognize that there are times when many of us feel frustrated because we believe we are denied an opportunity to speak out, but I do believe it necessary, especially when we are considering such a complicated issue and a matter that is of such urgency, that we proceed in a rational way.

I believe the rule is just and fair. It presents a rational approach for the consideration of what I consider to be a very, very urgent proposal, one which cries out for attention by this House.

All of us recognize that this House, so long considered as the people's house and so long revered because it stood as an institution that maintained its integrity, has lost the confidence of the people. Very frankly, a lot of this loss of confidence is due to the fact that we have created not order but disorder by the way we proceed.

This rule provides for the consideration of matters that urgently need attention. These matters that must be addressed include the manageability of the issues that come before this House.

I do not believe that any of us who are here would question whether the Speaker is going to have the power to dictate to the Administrator as to where we go. I do not believe we would question whether that direction would be in the interest of this House.

I believe there are enough safeguards and provisions in the recommendations—and, of course, they may be refined even under the rules—so that we will be able to do what is necessary, and that is to put this House in order by

assuring that we can manage our own affairs in a manner that is credible and in a manner that will reflect credit upon all of us.

I have served in this House for 29 years, and I feel a sense of pride in this institution and in the integrity of this institution. But let me tell the Members that during this period of time, having seen the rules change and the procedures change and having seen the Members going every which way on their own, I find myself wondering whether or not we can maintain the integrity of this institution.

There is one particular provision which I feel is most necessary to be debated before this House and to which I will address myself if the rule is adopted.

I wish to speak to that portion of the amendments to the administrative reorganization and legislative management resolution which directs itself to the creation of a Select Committee on the Committee System.

More than any other factor we consider today this will ultimately affect the ability of this House to function and discharge its role properly.

As one who has served as a Member of this House for 29 years, as a subcommittee chairman and as a committee chairman, I have experienced many rules changes and changes of procedures, but I know that the basic underlying strength of our House must be in our committee structure.

It is essential that we devise a committee structure that is proper to the tasks before us.

That enables us to devote particularized attention to issues, that develops expertise among Members.

There are presently undeniable problems in our committee structure, a structure which bursts with overlapping jurisdiction, a structure which makes it difficult for Members to attend all of the subcommittee and committee meetings for which they are assigned and responsible.

The examples of jurisdictional confusion are too numerous to outline, but we are all aware of them. The demands on the time and energy of a conscientious Member to attend all of the meetings he or she is required to attend are impossible to meet.

I believe strongly that only through extensive committee specialization can the House of Representatives best perform as a persistent accountant for the activities of Government agencies and deal with the complex policy matters to be studied and legislated each year.

I also frankly believe that of late we have been "tinkering" with our committee system and our operations, but it is now necessary for us to address the real issues and the hard questions directly.

These questions are the number of standing committees and subcommittees; their jurisdiction, and while we are at it, the membership of those committees. It is time we addressed the hard question of the balance in committee membership. This balance should reflect and accommodate the needs and interests of this institution and not only those of its individual Members.

I have stood before this body before and talked of these needs, of the astonishing total of hours we have waited to establish quorums to conduct our business, of the overlapping of committee schedules, which will not be cured by computer programing, but will only be cured by fewer subcommittees, and membership on fewer committees and subcommittees.

Each of us bears responsibility for fashioning a better institution. We have the obligation to join in making our committee structure—the base of the congressional system—vital and meaningful.

I wholeheartedly support a close hard look at our committee system. We must do what we can to contribute to better committee operation, the sharing of significant work, and we must generate a heightened interest and concern by committee members thereby inevitably producing a better work product.

I suggest that committees should be more rationally structured, with overlapping jurisdiction resolved where possible and as soon as possible. This will contribute to a more responsive Congress to better perceive what in fact is being done with regard to a given issue.

Even now I am in the process of appointing an ad hoc committee to study the jurisdiction of the subcommittees of the Committee on the Judiciary for the very purpose I suggest the Select Committee on Committees should be created. I support this creation. I urge it.

For that reason, Mr. Speaker, I support this rule, and I urge the House to adopt it so that we may get on to the business of correcting the deficiencies that now exist.

Mr. LONG of Louisiana. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, if a confidential survey were taken of our colleagues, I suspect that those who genuinely support House Resolution 766 would be found to number no more than the fingers of one hand. And even that may be open to question.

Yet there is a feeling among some of the Members of this body that the skids are greased, so to speak, on this resolution, and that the easy way out is to vote for it.

This view, I believe, does a disservice to the Members, to the House as an institution, and to our leadership. On a measure so fraught with controversy as this one, so unsettling in its implications for the future of this body and its Members, I am reluctant to believe that Members would cast their votes on any basis other than the merits of this resolution.

Nor do I believe the leadership would want it any other way.

Mr. Speaker, House Resolution 766 would make fundamental changes in the way we govern ourselves, in the way we structure our support, in the way we use the money and the staff, and the space provided by the very generous American taxpayers. Each one of us is going to be held personally accountable for what we do in this institution and for how we spend the taxpayer's money. There is no avoiding that responsibility, and we cannot wash it away.

In deciding how to vote on this resolution and on the rule now before us, I suggest that we ask ourselves just how understanding our constituents will be if we vote for a resolution and a rule that provide for and that include the following:

First, abdicating the responsibilities we were elected to accept and turning them over to non-elected super-administrators.

Second, adding upwards of $15 million a year to costs of operating a Congress already on the edge of a billion-dollar precipice.

Third, granting ourselves and our staffs what amounts to unlimited foreign travel.

Fourth, authorizing more than 1,000 new employees at a time when the House is already overstaffed and overcrowded, thereby creating new pressures for additional House office buildings, cafeterias, parking space, and so forth.

Fifth, tripling our funds for computers and computer services and equipping ourselves very neatly, in the name of reform, with the capacity to run computerized political campaigns at taxpayer expense.

Sixth, deceiving ourselves, our employees, and the public by establishing a fair employment practices procedure which will penalize, rather than protect, the very people we should be helping.

This is not reform, Mr. Speaker. It is not good politics, and it is not good sense.

We all can understand why we do not need to do any more of this sort of thing. Mr. Speaker, this is an example of what can be done with unlimited funds by Members of Congress. We have them enumerated in the paper here and in this little book that is going to be available for all of our opponents, pointing out how somebody spent $1,300 to entertain his constituents; how one of our brothers joined the Admirals Club so he could drink whisky while waiting for an airplane. He is a good man.

Mr. Speaker, I do not object to our entertaining our constituents in any way we can, but I do not believe we should provide entertainment and say we had the U.S. Government and the taxpayers paying for it. We can do better than that.

Mr. Speaker, there are some good provisions in House Resolution 766, although I had to look for them, and by amending the resolution we can improve other provisions. We need administrative reform. We need better planning and coordination of support services. We ought to provide staff support for our very able and distinguished Speaker. A person cannot abdicate his responsibilities if he is the leader of this House. If he is the Speaker, he needs an adequate staff around him. We should assure a better balance of functions for House officials; we need and can have better policymaking and better oversight. We need improved financial management and better access to House financial reports.

We can achieve those objectives if we want to, but the price is too high if it means approval of this entire package.

Mr. Speaker, if we are serious about reforms, the changes we make should

eliminate potential abuses, rather than create new ones. It should simplify administrative procedures rather than complicating them, but it is the Members of Congress who must do these things. We must not run away from that responsibility.

Mr. Speaker, the most constructive course open to us is to defeat both the previous question and this rule. We ought not to have it. It would limit the ability of Members to provide a substitute for this legislation and to amend it fairly.

Mr. Speaker, a substitute amendment, which I would be prepared to offer if this legislation were brought back under another rule, would preserve the sound features of House Resolution 766 and amend others. It would reduce the costs, eliminate potential abuses and improve the employee grievance procedures.

I believe it would satisfy the legitimate needs which most of our colleagues perceive. This is a proper way to proceed in an institution that we cherish and are sworn to uphold.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BROOKS. Mr. Speaker, I would ask the gentleman from Louisiana, Mr. LONG, if I may have an additional half minute?

Mr. LONG of Louisiana. I yield 30 additional seconds to the gentleman from Texas.

Mr. LOTT. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I thank the gentlemen, I now have 1½ minutes and I yield to the gentleman from Ohio, Mr. LATTA.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman from Texas (Mr. BROOKS) for yielding to me. I want to compliment the gentleman on his statement. There is not very much in his statement that I disagree with. I certainly hope the gentleman will join with us in voting down this rule. I think this is an important matter. It ought to have an open rule so that the Members of this House can work their will on amending the rules of the House. I certainly did not support this rule in the Committee on Rules when it was reported. I agree with what the gentleman has said that this is going to cost the taxpayers millions of dollars.

Mr. BROOKS. This is going to cost about $16 million.

Mr. LATTA. I thank the gentleman for yielding.

Mr. BROOKS. I now yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, would the gentleman from Texas (Mr. BROOKS) not agree that it is indeed a strange perversion of logic that says the Members of the House can have complete discretion to charge just about anything that they say is official business to the taxpayers of the United States, as the gentleman referred to in the Clerk's report, but we are not trustworthy enough to consider reform and amendments to our rules under an open rule that allows us to exercise our best judgment? Is that not indeed a strange perversion of logic?

Mr. BROOKS. I quite agree with the gentleman from Maryland.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, it is difficult to imagine a committee report which is less responsive to the need for reform than this measure which is brought before us this afternoon. This is not reform. It does little to prevent the abuse of the taxpayers' funds, the misappropriation of public moneys, and the employment of personnel on the public payroll for improper purposes, the very scandals which prompted the Commission on Administrative Review.

Instead of reform, the Commission resolution merely allows large increases in number of personnel, increases in the dollar amount of clerk hire, and increases for travel by Members and staff.

After more than a year of study this so-called reform turns out to be little more than more perquisites, higher allowances, and more spending.

Under the rule we have before us I will be precluded from offering amendments to bring true reform to this resolution. I wish to offer the following amendments.

First, to have an independent audit of the books of the committees of this House and the Members.

Second, an amendment to require advance notice of scheduling of legislation brought to the floor of this House, the need for which has been so dramatically evident within the last two weeks.

Third, an amendment to require the Members of this body to abide by the same kind of fair employment practices which every other agency of the government and every private employer in this country are required by law to abide by.

Finally, an amendment to require a limitation on further perquisites, such as on the pensions, the abuse of which has become notorious in recent years.

Mr. Speaker, in order to permit Members such amendments, we must first defeat this proposal to clear the way for an open rule, a reform rule under which to consider reform legislation.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker and Members of the House, I would like to join with the gentleman from Texas (Mr. BROOKS) in the statement he has made. I agree with the gentleman in what he has said.

I would like to point out, without getting into the merits or the inner workings of the bill, that what we should be concerned with here, is the perception on the part of the public, regardless of what in fact we intend to do.

In today's paper, and this was mentioned before, there is an article entitled:

> Taxpayers Foot Hill Bills for Tickets, Dues, Liquor.

And, among the things that were purchased as result of our reform of last year, it says there is one Member who pays his country club dues and his bar association dues, plus another $200 for a Christmas party for his staff.

Another for a liquor dealer, another for flowers for his constituents.

Another $10 for a Harry James concert.

Even going into the renting of a tuxedo.

In a letter I got recently referring to another goody that the House just gave itself when we increased our rental in our districts, it mentioned favorably my opposition to it, but it really did not make much difference to one of my constituents, because while the article said: "Congressman Dickinson, Republican of Alabama, spoke in opposition to it," one fellow writes on the article and sent to me the following:

> You just got through giving yourself a pay raise. Is there no end to the lengths all you hogs will go to, to gouge the taxpayers? Every one of you now costs more than a million dollars. You need to be all thrown out on your—expletive deleted. You are all thieves.

Mr. Speaker, the point is that there is a perception on the part of the public, and all we are doing is ripping off the taxpayers. I say to the Members that under this proposal if it goes through, there is going to be another rip off of the taxpayers.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, it has become apparent that every time reform legislation is brought to the House floor we can be assured of two things: first, that it will increase our allowances and second, that it will be considered under a closed rule. Once again, we must contend with a gag rule preventing comprehensive reform of the House. This time the resolution number is 766, but the increased congressional benefits and parliamentary rule are essentially identical to the last "reform" resolution proposed by the Commission on Administrative Review in March.

Another unfortunate similarity is in the cost to the taxpayer. The Republican Task Force on Congressional Reform has been calling attention to these costly emoluments, such as the three new administrative positions which do not eliminate any present offices, a $12,000 computer allowance, an increase in the number of part-time employees, and the change in allocating clerk hire funds which will allow Members to increase staff at election time.

I think it is important to note that this bonanza comes on the heels of the ethics resolution passed in March which cost taxpayers more than $2 million by increasing office allowances. The recent District office hike will cost another $3.5 million. As best as can be estimated, this proposal will add over $6 million making the total cost of "reform" to the American people at least $12 million each year.

The time constraints imposed on the consideration of this resolution has resulted in a hasty and somewhat superficial review of its impact. House Resolution 766 will deeply effect every Member and it is essential that, in light of the rapid-paced deliberation, Members be allowed the chance to debate fully the

merits of this measure and to amend its defects.

Yet, amendments from both sides of the political aisle will not be permitted. If an open rule had been adopted, I would have been prepared to offer key amendments to help dispel my concerns regarding this resolution including:

First. An amendment to ensure the Minority Leader a veto over the appointment of the Administrator.

Second. An amendment to require the Comptroller to make the expense vouchers of the House available for public inspection.

Third. An amendment to require an independent audit of House accounts under the supervision of a bipartisan audit subcommittee.

Fourth. An amendment to establish a division of seven Democrats and six Republicans on the proposed Select Committee on the Committee System.

These recommendations would have further served to protect the House and the people we represent from any potential abuse of power. By promoting these safeguards, we would have helped to restore the public's faith in our institution. These checks would have prevented the administrative and support operations of the House from becoming so intensely partisan as to discriminate against the Minority. In addition, my amendments would have ensured public accountability in the financial dealings of the House, which is essential if we are truly committed to instituting real reform.

As I am sure all Members would agree, certain changes must be made in the legislative branch of Government if we are to continue to adequately serve contemporary society. The Commission on Administrative Review has accomplished a great deal in starting us on the right path to enacting necessary reform measures.

However, the resolution before us does not properly ensure against the misuse of the new powerful office of Administrator. It does not require the public disclosure of the expenditure of the taxpayer's money. It does not advocate an independent outside audit, imperative to restoring the public's trust. It does not promote a truly successful reform effort in reorganizing our committee system by establishing a bipartisan select committee.

Frankly, I am tired of the proliferation of closed rules and of being shut out of the legislative process. All Members deserve the right to actively serve their constituents and this House by fully participating in the formation of reform measures. Legislating a sweeping change in the activities of the U.S. House of Representatives, such as House Resolution 766, under restricted procedures would be a sad departure from the democratic ideal. I share the desire of my colleagues to institute comprehensive and meaningful reform. I am only cheating myself and this body if I prevent the free presentation of suggestions from all Members. It is for this reason, that I join in opposition to the rule and advocate its defeat.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, a "modified closed rule," or whatever euphemism you want to call this restrictive procedure, is simply a device fashioned by the majority leadership to obstruct this House from having an effective voice in the important task of legislating reform.

It has been said that Dr. Samuel Johnson, when he said, "Patriotism is the last refuge of a scoundrel" never considered the possibilities of the word "reform."

To support this rule is to demonstrate a taste for masochism that deserves an in-depth study, with pictures, in Playboy magazine, which, as we know, is the official policy journal of this administration.

This legislation pretends to do so many things it just does not do. For example, on page 11 of part 2 of the report, it says:

> The Commission identified numerous shortcomings in the management of House financial affairs. Management responsibility is split between the Clerk and the Committee on House Administration, rather than in the hands of a single administrator.

But really, all we do with this legislation, is substitute the new Administrator for the Clerk, the split in management responsibility with the Committee on House Administration will persist. For example, on page 23 of this report it says:

> The Committee on House Administration, however, will retain the authority to approve contracts.

One of the most intriguing stories about this Capitol building is the mystery of the missing cornerstone. We know that George Washington laid that cornerstone 184 years ago last month, and we know that someone has since mislaid it—we know not where.

And one of the most intriguing aspects about this proposed reform legislation is the mystery of the missing word—the curious disappearance of the semantic cornerstone.

We know, as is pointed out in the additional views on page 41, part 2 of the report, that it was in the Task Force Report of August 9, which all Members received. And we know that someone has since mislaid it, we know not where.

And what is the word? It is the word that would give rank and status to the proposed Administrator. The word is "officer," as distinguished from mere employee. And there is quite a difference.

As these views state:

> There can be no question that the proposed House Administrator will have more power, responsibility, staff, and financial resources than all other House officers combined. And yet, the final report avoids any reference to the Administrator as an officer.

Why?

Do you suppose some resourceful staff person thought to check the Constitution of the United States? The Constitution that each of us has taken a solemn oath to "support and defend," and which, in article 1, section 2, declares:

> "The House of Representatives shall chuse their Speaker and other Officers;"

They did not spell choose the same way then, but it meant precisely the same as it means today: "to select from a number of possible alternatives . . ."

The Constitution does not say "the Speaker shall choose the officers of the House" and the Members may only assent to his choice.

No. It says the coequal Members of the House of Representatives shall choose their officers.

And so today we are asked to create a czar, with all the powers befitting this high station, and yet he is not an officer of the House. We are asked to abdicate our responsibility, here in a Chamber dedicated to the democratic process. The irony of this ought not to be lost on any of us.

A little FEPC here, a little clerk-hire tradeoff there, easy access to faraway places with strange sounding names—all meant to make palatable this power grab disguised as sweet reform.

Read over the arrangements while you can still do something about it.

Read the long list of activities to be turned over to some "Administrator" yet to be identified.

Is there anything on that list that could not be administered by a competent Clerk of the House, given the authority, the support, the responsibility and the opportunity to do the job?

The Clerk of the House has been the chief administrative officer since the beginning of the Congress. Is this order really obsolescent, or are we merely using the system badly?

It has been alleged that in recent years the majority has used these high offices as dumping grounds for has-been politicians and political hacks. I do not subscribe to such allegations, but if it has been true in any regard—who is to blame?

And pray tell, why should we expect any different—any more discriminating choice—in the selection of our new czar?

It has been alleged that the officers of the House have garnered unto themselves "little fiefdoms," and they need to be put down. Again, I do not subscribe to such allegations, because I just have not seen it.

But if it is possible to build a fiefdom in, say, the Office of Postmaster of the House, just imagine what an empire this almighty "Administrator" will be able to carve out for himself.

We do not fault the order of administration given to us by our predecessors, but, it seems to me, any shortcomings are simply our failures in using that system.

So why create a whole new costly superstructure to cover up past mistakes? Let us put our House in order.

Why should I be championing the officers of the House—the Clerk of the House? Because, even as a member of the barely tolerated minority, I have a

vote, and the Clerk who is elected has to stand up there and take an oath to serve the House and each of us coequally. And that means something to me. And to you, if you think about it.

The cause of all this flurry of reform arose when this House endorsed its conscience over to a former chairman of the House Administration Committee, in exchange for a steady flow of emoluments and immunity to criticism. The names are different, the players are different, but are we not still playing the same old game?

Isn't the trade-off for computer funds, FEPC, et cetera, a surrender of our voice as co-equal members in how the House shall be run? The minor satisfaction of saying "I told you so" will be small consolation for what the majority will do to us today.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, there is no question that the now fragmented administrative and support activities of the House need to be coordinated and systematized if the House is to become a more effective and efficient legislative body.

We support the concept of a House administrator who is qualified by experience and education to assume the responsibilities of streamlining, improving and managing these activities, and so free the Members to devote their time and attention to legislative matters. The aim should not be to add just another very expensive layer of bureaucracy on top of the many we already have. Unfortunately, the recommendations of the House Commission on Administrative Review appear to do largely that, applying only a political patchwork to a disjointed system that needs a thorough overhaul.

The Commission proposes establishing a super-administrator who would assume many of the responsibilities now carried by the Clerk and the House Committee on Administration, including such areas as accounts, salaries, financial records, supplies and equipment, furnishings, telephones, office space, and the House Information Service.

In addition to the administrator, there also would be a comptroller, to oversee financial matters and policies, an officer of personnel and work management, and an auditor. We fully agree that improvements in the administration of these areas is called for.

However, it would seem that establishment of these new positions also would call for a concommitant reduction, if not elimination, of the bureaucracies elsewhere in the House whose duties are being reduced or eliminated. We see no such action proposed in the Commission's recommendations. If approved as they now stand, these recommendations will add considerably to the cost of House operations, which now will exceed $280 million in fiscal 1978.

Before adopting the Commission proposal, the House must be afforded the opportunity for a thorough and concentrated examination of it. On such an important matter, the Members should be able to offer appropriate amendments to insure that the revised procedures result in a system of efficient and cost-effective administrative and support activities.

That is why I urge my colleagues to join me in voting to reject the rule on House Resolution 766, the Obey Commission resolution. The resolution will not be considered under an open rule and Members are precluded from offering amendments to many important sections.

In addition, a review of the recently released Clerk's report on the first 6 months under the new Obey "reform" raises some serious questions which require careful consideration. The House has not had adequate time to understand fully the effects of the reform measures we already have adopted, nor to determine what additional changes are needed.

It would be a disservice to the House as an institution, and to the people we represent, to act hastily under the guise of reform when we need thoughtful and complete deliberation of this very important issue.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I rise in opposition to the rule. However, it should be pointed out, as my distinguished colleague, the gentleman from Arizona (Mr. RHODES), has just stated, that H.R. 766 which we are about to consider, if the rule is adopted, is not all bad. There are some things in it that are positive and constructive.

My opposition to the rule is chiefly due to the fact not only it is in effect a closed rule and many amendments will not be permitted, I also would like to point out that the Committee on House Administration when it considered title VI of H.R. 766 scheduled no public hearings. If this measure is as important as the proponents think it is, at least we should have had some public hearings on the legislation.

It is my understanding that the Committee on Rules when it considered the other sections of the bill also did not have public hearings. In the House Administration Committee we went right into markup, with no opportunity to ask the type of questions we wanted to ask the members of the Obey Commission, although we had one member of that Commission serving on the Committee on House Administration.

I would like to be particularly associated with the remarks of the gentleman from Mississippi (Mr. LOTT) and the gentleman from Illinois (Mr. ANDERSON), the gentleman from Pennsylvania (Mr. COUGHLIN), the gentleman from Colorado (Mr. ARMSTRONG), and my colleague, the gentleman from Texas (Mr. BROOKS).

Mr. Speaker, time does not permit me to elaborate on the excellent points they have already so eloquently made. I did, however, write a letter to all of my colleagues and I ask unanimous consent that this be included at this point in the RECORD. It sets forth some of my objections to House Resolution 766—and because they cannot be properly addressed under this rule I urge a no vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

The letter is as follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 11, 1977.

Dear Colleague: The more carefully I study H. Res. 766, the Obey Commission recommendations, the more concerned I become at what we are asked to do. Beneath the banner of reform, we are being asked to—

Add substantially to the costs of operating the House and thus march bravely across the frontier into the billion-dollar Congress;

Equip ourselves with the added staff, funds, and computers which will enable us to seek reelection at public expense;

Deceive the public into believing we are establishing an effective equal employment opportunity program when, in fact, we are forcing employees to choose between keeping quiet or getting fired;

Hand each Member an all-purpose, good-for-all-seasons, take-along-your-secretary credit card for unlimited foreign travel; and

Confess to our constituents that we—their elected representatives—are incapable of running the House and must turn the job over to non-elected experts.

In brief, we are being asked to weaken the constitutional foundations of the House and, at the same time, commit political suicide.

If this is what reform means, then I don't want any part of it.

Within the past month alone, we have acted to increase our district office allowances by up to $14,000 a year, to increase annual pensions for retiring Members by up to $4,000 a year, and to provide unlimited free long-distance telephone calls for ourselves and our families.

Just how long do we think it will take our constituents to catch on to how generously we are treating ourselves—at their expense?

Whether or not H. Res. 766 can be cleaned up on the floor remains to be seen. But I'm willing to try. I propose to (a) vote against the previous question on the rule, (b) get a substitute rule allowing germane amendments to H. Res. 766, and (c) support amendments to correct the grave defects to which I have alluded. If this fails, I shall vote against the resolution. I hope you will join me.

Sincerely,

JAMES C. CLEVELAND.

Mrs. HECKLER. Mr. Speaker, I rise today to protest the headlong rush to pass this so-called reform. Unfortunately, I fear it is not really a reform, but instead is merely a sham.

This proposal will increase supervision of Members' accounts and expenditures, but it will also increase the bureaucracy which already is attached to the House. It would not remove any current officers, but would superimpose an administrator over them.

In addition, this "reform" still does not provide an independent review of Members' accounts and expenditures. Although it creates a position for an auditor and provides for audits, the

auditor is internal, a creature of the House, and the audits are also internal, subject to the control of the House, its officer and its Members.

I would much prefer that we subject ourselves to an independent review, an audit by the General Accounting Office or by an independent auditing company. How can we insist, time after time and year and year, that other agencies of Government be audited, if we are unwilling to provide that independent audit of our own accounts?

It is obvious to me that an independent audit, performed by the General Accounting Office or an outside firm, would be no more expensive than that provided in this resolution, and might, indeed, be less expensive.

This point leads me to speak on another problem I have with this resolution and that is its cost. Of course, we have no real estimate of those costs. The figures provided by the Congressional Budget Office apply only to the Commission's report, and that report has been amended to include a massive section that would greatly increase the expense of this so-called reform.

Staff members of the Rules Committee are estimating that these reforms could cost as much as $10 million per year. Other estimates go as high as $16 million a year. This estimate includes such provisions as the new computer allowance and the item that provides for committee transcripts. The latter will increase each committee staff by one or two members.

I urge my distinguished colleagues to consider this "reform" in the light of other recent developments in Congress. The very fact that we are unable to consider this resolution and amend it freely is an affront to the American people.

I am very disappointed in the Rules Committee for not allowing consideration of an alternative, or a number of amendments. I had an amendment which I offered earlier on the legislative appropriation bill and hoped to offer to this bill today. This is a bill with which every Member is familiar. Every Member knows the problems of running the House and should be allowed free and unfettered debate on them. If we could not run the House, we cannot run the country.

This imposition of a modified closed rule that inhibits debate is occurring on more and more bills and it amounts to a gag rule. This is unworthy of the Congress and I must protest it.

I must also protest the excessive costs this resolution will bring because I believe we are working against the will of the American people. They do not want more bureaucracy, more regulation, more spending. If we pass this resolution, without adequate debate and consideration and without improvement through the amending process, we risk losing the confidence of the public in Congress. And I fear that confidence is already deeply shaken by recent events.

I would urge my colleagues to vote against this rule, and thereby allow amendments and discussion on this very important piece of legislation.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in opposition to this rule. Contrary to most of the other rules we have considered, this is not one to be considered from a partisan point of view or a division of political philosophy.

Having said that, there is no question but that on our side there will be a dominant vote against this rule, if it is not unanimous. I know from talking to Members on the majority side there is also considerable disenchantment with what we have had to go through with this whole so called "reform" procedure in the past several months. There is indeed a reservoir of resentment against this procedure on your side. I ask you therefore to join with us in defeating this rule and send it back to the Rules Committee so that some of us may have an opportunity to speak more forcefully on how we as Members can better control this House and not leave that up to some staff person, who frankly ought not to have that kind of responsibility. When I read about some of the things Members were getting reimbursed for in the Clerk's most recent report it can surely be laid to a lack of proper guidelines. I say we ought to call a halt to it. Let us go back and draw those guidelines tightly so that we don't bring any more of the wrath of the public down on this institution.

Mr. Speaker, I love this House. I would hope all our Members would have the same reverence for it. We ought to protect its integrity by voting down this rule and dealing with the subject matter in a much more precise way than permitted under this rule.

Mr. LONG of Louisiana. Mr. Speaker, I yield the remaining time to the distinguished Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I truly appreciate the fact that there seems to be a wave of opposition in this House to further ethical reforms for improved House, accounting and auditing procedures and expenditures.

I also appreciate the fact that apparently we are on the verge of defeating a rule on which we have spent much time. The committee has been working on these issues for a year with private citizens, consultants, management executives, people from the academic community and businessmen.

Now, in my opinion, the Obey commission has put together a tremendous package. We need a system which insures accountability. I admit the timing is unfortunate, because of a newspaper story today which pointed out that we used to get $500 a quarter for expenses and from that amount, we could take business deductions on our income tax returns for many personal payments. That is no longer permissible.

The truth of the matter is we have a House budget of about $250 million that we spend annually. There is no head, there is no tail to the whole situation.

I have stood up on this issue before. I can recall that I have probably received 20 letters saying that the Cannon Building was a firetrap, and I talked to everybody from the Architect of the Capitol to the building superintendent; yet we could not even clear up the corridors because no single person had the authority to give that order.

You know, if a Member wants to get a picture hung on the wall, he cannot find the proper person to do it. We need some management around here, and make no mistake about it, we need somebody that has business, accounting, and management training. Oh, it is nice to laugh and to chuckle, those of you who get on the floor every day and talk about the mismanagement of government. If there is anything that is mismanaged, it is the internal operations of this Congress. We ought to do something about it—yes, we can do something about that through this legislation, because we are spending 244 millions of dollars, and nobody has any control over it.

Now, I think the committee's action is correct when it recommends an overall House manager; we ought to have a comptroller; we ought to have an auditor.

I realize that, earlier in the year, we passed the toughest ethics bill that any legislative body has ever adopted; this is another stage of it. There has been strong opposition because this legislation would make the Members of the House publicly accountable for their office expenditures. The men are upset, the women are upset about it, and I understand their concern thoroughly. This is a golden opportunity to get together with a group over here, and all of you who are funning away from this issue, to claim that you have as a substitute. We all know that is the easy way to kill this legislation.

Well, if you want to kill it, then the onus is on you, because if this rule goes down the drain, if this rule goes down the drain, I see no future for any future ethics in this Congress.

This Commission, the Obey commission, has done a beautiful job, a responsible job. How about these businessmen I mentioned, who came and gave their efforts and their time, men who are heads of large corporations, in order to put this piece of legislation together?

You are making a mistake. If you want to be political, it is all right with me. If you want to be political, it is all right with me. This is the golden opportunity. There are some dissenters on our side who do not like the fact that we passed an earlier bill that was tough, and I understand that people have been hurt by it. I have had them coming to me and telling me, "I hate to disclose. You know, there is the possibility that my children may be kidnaped if I were to disclose the wealth that I have."

I have listened to the argument. Maybe there is something to it, I do not know.

We can refuse it, and next year we can

come back again, but I say this to you right now: Do not kill this piece of legislation. If this rule is defeated, it will be pulled off the floor. You are going to answer to the public, because the public, believe me, the public wants this place cleaned up. The public wants some accountability in the internal management of this House. Two hundred fifty million dollars is spent with no management whatsoever. Who is in charge of the restaurant? Who is in charge of the garages? Who reports for work? Who does not report for work? You know, we passed a law last year in the ethics bill saying that you had to sign for your employee, as to whether he did a full week's work or a full month's work.

There are 11,000 employees on this Hill—11,000. There are reporters of the House, reporters of committees. I do not know for how many I, as Speaker have to sign. I do not know whether they are around here or not. You know, we have clerks on the third reading; we have lawyers on the third reading. I do not even know where their office is, and as Speaker of the House, I am required to sign for them. What kind of operation is that? It goes all the way down the line like that. People have to sign certificates that people are receiving a monthly wage, and nobody knows for whom they actually work. The senior man is in charge, they tell me, but the senior man does not have the right to sign the voucher.

The time has come for us to do something; and the time has come to get a manager, to get a comptroller, to get an auditor, and to make mandatory a strict accounting of that $250 million.

I want to congratulate the Members from my side of the aisle who served on the Obey commission. I think they did a brilliant job, and I certainly hope the rule is adopted.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the Chair was in doubt.

Mr. RHODES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 160, nays 252, not voting 22, as follows:

[Roll No. 643]

YEAS—160

Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bellenson
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Conyers
Corman
Cornell
D'Amours
Danielson
Delaney
Dellums
Dicks
Diggs
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Evans, Ga.
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fowler
Fraser
Gephardt
Giaimo
Gibbons
Gore
Hamilton
Hannaford
Harkin
Harrington
Harris
Heftel
Holtzman
Howard
Hubbard
Jenkins
Kastenmeier
Koch
Kostmayer
Krebs
Le Fante
Lederer
Lehman
Lloyd, Calif.
Long, La.
Lundine
McFall
McKay
Maguire
Mann
Markey
Mattox
Mazzoli
Meeds
Meyner
Mikulski
Mikva
Mineta
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Pa.
Myers, Michael
Natcher
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patterson
Pattison
Pease
Preyer
Price
Rahall
Rangel
Reuss
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Santini
Scheuer
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Studds
Thompson
Thornton
Tsongas
Tucker
Udall
Van Deerlin
Vanik
Waxman
Weaver
Weiss
Whitten
Wilson, Tex.
Wolff
Wright
Yates
Yatron
Young, Tex.

NAYS—252

Abdnor
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bowen
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Caputo
Carney
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornwell
Cotter
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Fary
Fenwick
Findley
Fish
Flippo
Flowers
Flynt
Ford, Tenn.
Forsythe
Fountain
Frey
Fuqua
Gammage
Gaydos
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gudger
Guyer
Hall
Hammer-schmidt
Hanley
Hansen
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Leach
Leggett
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, Md.
Lott
Luken
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Mahon
Marks
Marlenee
Marriott
Martin
Mathis
Metcalfe
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, John
Neal
Nedzi
Nichols
O'Brien
Oakar
Patten
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Sarasin
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Shuster
Sikes
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Stump
Symms
Taylor
Teague
Thone
Traxler
Treen
Trible
Ullman
Vander Jagt
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Brown, Mich.
Buchanan
Collins, Ill.
Dent
Evans, Ind.
Frenzel
Hagedorn
Hughes
Johnson, Calif.
Krueger
Lujan
McCormack
Miller, Calif.
Mitchell, Md.
Moss
Panetta
Pepper
Richmond
Roybal
Skubitz
Vento
Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Pepper for, with Mr. Panetta against.

Mr. Miller of California for, with Mr. Hughes against.

Mr. Mitchell of Maryland for, with Mr. Frenzel against.

Mr. Richmond for, with Mr. Hagedorn against.

Until further notice:

Mr. Dent with Mr. Brown of Michigan.

Mrs. Collins of Illinois with Mr. Lujan.

Mr. Johnson of California with Mr. Whalen.

Mr. McCormack with Mr. Skubitz.

Mr. Evans of Indiana with Mr. Buchanan.

Mr. Moss with Mr. Roybal.

Mr. Vento with Mr. Krueger.

Mr. VANDER JAGT and Mr. WALGREN changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 7797, making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. RHODES. Mr. Speaker, reserving the right to object, and I do so in order to ask if the Speaker can inform the House as to the program for the balance of today?

The SPEAKER. The Chair will state that immediately following the resolution of the unanimous-consent request of the gentleman from Maryland (Mr. LONG) the House will go to the conference report on Labor-HEW appropriations handled by the gentleman from Pennsylvania (Mr. FLOOD).

Following that the House will take up the rule on H.R. 8390, supplemental appropriation authorization, Defense Department, and the bill.

We will complete that and hopefully, that will be it.

Mr. RHODES. Would it be the intention of the Speaker to keep the House in session until the bill is completed?

The SPEAKER. Yes, until the business of the House is completed.

Mr. RHODES. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Reserving the right to object, Mr. Speaker, I was attempting to reserve the right to object for the purpose of inquiring what the unanimous-consent request was. It was difficult to hear.

The SPEAKER. Will the gentleman repeat his unanimous-consent request?

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes. As the House knows, we passed a motion to recommit to go back to conference. We are hoping to have a conference at 4:30 this afternoon, and following that we hope very much that we can come back here and that we can file our report tonight.

Mr. YOUNG of Florida. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON SENATE AMENDMENT NO. 82 TO H.R. 7555, LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

Mr. FLOOD. Mr. Speaker, I call up the conference report on Senate amendment No. 82 to H.R. 7555 making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of August 2, 1977.)

The SPEAKER. The Clerk will report the House amendment to the Senate amendment.

The Clerk read as follows:

House amendment to Senate amendment No. 82: Insert the following:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. FLOOD: Mr. FLOOD moves that the House recede from its amendment to the amendment of the Senate numbered 82.

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I deeply regret that we must come to the House today for another one of these votes on the issue of Federal payments for abortions. No one knows better than I how tired everybody is about this question, having voted upon it again and again and again. Unfortunately it seems we have no alternative if we are ever to resolve the dispute which is preventing the enactment of the $60 billion Labor-HEW appropriation bill.

The House has expressed its will on the issue of payments for abortions 3 times during this session of the Congress. On June 17 the House adopted the Hyde amendment by a vote of 201 to 155, and the Hyde amendment excluded payment for abortions with no exceptions.

On August 2 by a vote of 238 to 182 the House endorsed the continuation of the present law which permits payment for abortions only where the life of the mother would be endangered.

Then on September 27, by a vote of 252 to 164, the House voted to reject the Senate language which would permit payments for abortions in cases of rape or incest or "medical necessity."

Mr. Speaker, the last vote was taken only because the Senate conferees insisted that the full House vote on the Senate language. It was possible only because the gentleman from Ohio (Mr. STOKES) reluctantly agreed to introduce a resolution to instruct the House conferees. It was possible only because the House leadership was willing to schedule the resolution for consideration under suspension of the rules. All of these things were done because we were under the impression that the vote on the Senate language would expedite the resolution of the issue and would lead to enactment of the appropriation bill.

Unfortunately that impression was erroneous. When we returned to conference, we found the Senate conferees just as adamant and intransigent as they ever were. We found no disposition to compromise whatsoever on the part of the Senate conferees. They offered us some language which differed only in form but not in substance from the language which the House had just rejected by a vote of 252 to 164.

The House conferees suggested new language to accommodate the view of the Senate, especially the many Senators who were concerned over rape and incest, but again this proposal was rejected.

At this point it became very apparent that nothing could be accomplished by further conference and the conferees decided to report that they could not agree.

Mr. Speaker, if the motion I just offered is agreed to, I shall then offer the following language:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

We hope the Senate will accept this language today and clear this bill for the President. I would urge the Members to vote for the pending motion and to vote for the motion which I shall offer if the pending motion is agreed to.

Beyond that the only hope is that the majority of the Members of the other body will see the light, as the House has, and help us bring this controversy to an end.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the chairman, the gentleman from Texas.

Mr. MAHON. Mr. Speaker, we are into the new fiscal year and too many days have slipped by. Employees of the Department of Labor, the Department of Health, Education, and Welfare, and other agencies are faced with the very real possibility they will not be paid. This matter just must be settled.

We believe that this is a move toward the settlement of the matter. The proposal that will be made by the gentleman from Pennsylvania is not unacceptable to the rank and file Members of the House and I hope that the gentleman's appeal will be heard by the House and we may send the compromise language to the Senate and come to an agreement. This bill must be sent to the President so that the employees of the Government may be paid and so that the programs of the agencies involved can proceed in an orderly manner.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, what I would like to know, though, is there any inclination on the part of the Senator, the gentleman from Washington, and the gentleman from Massachusetts, that this language would in any way be acceptable to them.

Mr. FLOOD. I do not know about the conference, because this is the Senate. This goes to the conferees. That was a vote of 14 to 6 by the conference.

What I want to do is have this language to the full Senate right away.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I want to express my support for the gentleman's motion.

Mr. Speaker, I rise in support of the Flood compromise language to the Labor/HEW appropriations bill, which would prohibit the use of Federal funds for abortions—with exceptions made where the life of the mother was in danger, in cases of ectopic pregnancies,

and for medical treatment in cases of rape and incest before the fact of pregnancy has been established and only when the incident has been reported to the proper authorities within a limited time period. Birth control devices, of course, would also not be prohibited under the provisions of the Flood language.

Mr. Speaker, I have been a strong supporter of the Hyde amendment in the past and still maintain the firm belief that Federal funding should not be used for abortions—especially when such procedures are repulsive to a large majority of the taxpayers who are supporting them.

Mr. Speaker, I believe the Flood language to be a suitable compromise to the much broader Senate language and feel that any additional exceptions would constitute Government funding of abortion as an acceptable form of birth control—to which I am opposed.

It is my hope that both the House and Senate will accept this language and release the funding necessary to many other worthwhile programs which are now without funds because of the current impasse on the abortion language of the Labor/HEW appropriations bills. In addition, Mr. Speaker, many Government employees in my congressional district and throughout the Nation will undergo an unnecessary hardship if they do not receive their full paychecks because of congressional inaction.

Mr. Speaker, I urge adoption of the Flood compromise language.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Speaker, I rise fundamentally to speak against the Flood motion. Since I am not sure that I will have the opportunity, unless I rise also in opposition to the pending motion, I am opposing the pending motion; but I would point out to this body that we already have a letter from Senator MAGNUSON and Senator BROOKE in which they say that the language which is about to be proposed by the gentleman from Pennsylvania (Mr. FLOOD) is clearly no compromise. They say:

> The latest version, proposed by the House conferees, differs only in that it allows abortions when the life of the woman is endangered and "medical procedures" for some victims of "forced" rape or incest under strictly limited conditions. The Senate conferees have already rejected that House proposal.

So I think that the chances of the motion of the gentleman from Pennsylvania (Mr. FLOOD) getting passed by the Senate are minimal at best. If we defeat the Flood motion, I shall offer the Brooke-Magnuson wording, which reads as follows:

> None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or for victims of rape and incest or if the mother or fetus would suffer serious health damage.

Now, one reason, and only one reason that I am emphasizing this is that I represent one of the areas in the United States where a large number of my constituents are about to go without pay because of the deadlock between the Senate and the House. I have been authorized by the gentleman from Virginia (Mr. FISHER) and the gentlewoman from Maryland (Mrs. SPELLMAN) to say they, too, will support the wording of the amendment I just read.

Mr. Speaker, I point out that this language is truly a compromise. It is certainly less broad than some of us would want it to be, but it is certainly broader than the Flood amendment, let alone the Hyde amendment. It is not as broad as the Senate would like, but we do know the Senate would support it, at least more than the Flood motion.

Mr. Speaker, I would point out that serious physical damage is considerably narrower than "medically necessary." Among the things you could get an abortion paid for would be if you had cardiovascular disease. This would be regardless whether it occurred before or after the pregnancy. Other things are neurological disease, carcinoma, severe psychiatric disease, schizophrenia, or for example, suicidal paranoia.

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. MICHEL. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I simply want to set the record straight. The gentleman from Maryland said he opposed the Flood motion. The Flood motion is for the House to recede.

Mr. STEERS. The gentleman is right.

Mr. CONTE. The gentleman from Maryland is just the opposite.

Mr. STEERS. I really misspoke. I think we should recede and then defeat the Flood motion.

Mr. CONTE. Mr. Speaker, if the gentleman will yield further, the other point is that I hope the gentleman does not think for 1 minute that any of us would stand by and see the day when Federal employees would not be paid their salaries or programs would go down the drain because of this. We certainly could pass a short continuing resolution at any time in this House, 30 days or 15 days, until this matter could be worked out. I certainly would be for that position.

Mr. STEERS. Mr. Speaker, I am glad to hear the gentleman state that, but I point out the day has arrived when we have to do something, because these checks should have been prepared today for issuance tomorrow.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume only to make the observation that if we adopt the motion offered by the gentleman from Pennsylvania to recede and concur with his amendment, this will be a good vote for us here in the House to take back to the other body. In the context of the time frame, it is my considered judgment that the other body will buy that without our ever having to deal with this subject again.

On the other hand, if we should turn down the language of the gentleman from Pennsylvania at the suggestion, for example, of the gentleman from Maryland, and adopt that wishy-washy language of the other body, we have gone exactly 180 degrees away from what the House voted for in supporting the Hyde amendment, because that language of the Senate is just as wide open as can be. It is unacceptable language, if I judge the temper of this House.

Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Illinois (Mr HYDE).

Mr. HYDE. Mr. Speaker, I first of all want to pay tribute to every member of the conference committee from the House under Chairman FLOOD, and the other members, even those who have not supported my position. I think they have done heroic work. They have addressed their task seriously, conscientiously, and under the greatest and most difficult of circumstances. They have gone to the meetings, which is more than can be said for some Members of the other body, and made a very serious effort to resolve this problem. So, it is in the light of those remarks that I regretfully state that I will not vote to support the motion to recede.

My reason, of course, is that this House has six times previously voted for the position that we now have, and that is in the law today. The Senate has not shown the slightest disposition to discuss, to negotiate, to move from their position. It just seems to me that this House ought to stand by the position it has adopted, which is that Federal money shall not go to pay for the taking of innocently inconvenient life.

The Senate position is abortion on demand, no matter how one colors it; no matter how one changes the words around. It still is abortion on demand, and it is a position that this Member cannot, nor never will, support.

I know how awkward, I know how difficult, I know how troublesome it is to have this pressure. I wish it were otherwise, and believe me, no one is getting any more pressure than I am, but we have taken a position. I think the position is morally sound; I think it is the right one for America.

The position is that no Federal funds go to pay for abortion. And so, with reluctance and mingled surely with admiration for the chairman of this conference committee and every member on it, I would urge the membership to vote no on the motion to recede.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

Mr. MICHEL. Mr. Speaker, I have several other requests for time. I yield 3 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding to me.

Mr. Speaker, I do not know how we can address the House convincingly on this subject that we have discussed often, but somewhere, sometime, somebody

must say a few things. We all heard our colleague from Tennessee describing what the teachers in the schools were finding—children in the seventh and eighth grades who were expecting babies, not knowing even where they came from. This is what we are talking about. A third of all the abortions are being done for teenagers, and the doctors tell us quite clearly why. It is because, for the first time in the history of women, we are able to bear children at the ages of 11, 12, 13, and 14. That is one of the most pitiful and tragic problems.

It has never been true before. It has something to do with nutrition. It is changing. And one-third of all our abortions are in this field. In my own State of New Jersey, we had a 14-year-old child who had her third baby.

What are we saying when we continue to deny abortions like this? We do not know what people are up against. It is not a laughing matter. It is a tragedy for too many people. We cannot laugh at things like this. We must consider this seriously. We know there are clergymen on both sides of the question. There are honorable clergymen devoted to the salvation of souls, and the service of God on both sides of this question. It is not an open and shut single-sided issue of morality. It is a question that devout and earnest theologians are divided upon.

What should the State do under those conditions? Surely, it would be wrong to mandate abortions. But is it not equally wrong to forbid them, especially to the poor, when the clergy are trying to tell us that there are two sides, can we be sure when we take one side that we know God's will?

There are many Members in this House who understand, both men and women. We have listened to them. We respect them and we honor them. I only beg that some of those who have an opposite view would open their hearts a little bit to what is going on in our society and to try to think a little more tenderly of these small girls. Try to think a little more understandingly of the mothers trying to cope with problems they do not know how to handle when their children come to them with these problems.

This is what we are trying to say. Just do not be so sure you are right. And if the clergymen are on both sides, cannot the State stand in the middle?

Mr. FLOOD. Mr. Speaker, I yield 3 minutes for debate only to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I rise to make the parliamentary point of order that there are those of us who are opposed to the Hyde amendment who do support the motion to recede. We do want to recede and support the Hyde motion in that respect. However, if we do recede, I personally will oppose the language because I think it is harsh and restrictive when it comes to the point of protecting minors.

No. 1, the Flood language only allows prompt medical treatment before the fact of pregnancy. A little kid who has been raped or who is the victim of incest will not in many instances tell her mother until the pregnancy is established.

Second, the procedure that would be allowed for an individual would either be a D. & C. or the administration of the so-called morning-after pill. We do not even allow the morning-after pill or the DES stuff to be given to cows, let alone to 12- or 13-year-old little girls.

So I would hope that, No. 1, we would recede, and, No. 2, when the Flood language is moved, that it would be defeated.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I strongly urge a vote against the motion to recede. I fully appreciate the desire of the conferees, after months of fighting this battle, to make some gesture to settle with the other body a conflict which has been going on now since the Supreme Court decision was handed down several years ago. But we are not going to solve one thing by voting to recede on the Hyde amendment. It will not promote a solution. The other body will remain just as intransigent as ever. In fact, as has been correctly referred to by my colleague, the gentleman from Maryland (Mr. STEERS), two of the Members of the other body who serve on the conference and who have been most obstinate in their opposition to the Hyde amendment, have indicated that the language the gentleman from Pennsylvania has suggested is totally unacceptable to them.

So the only thing that we can accomplish by receding is a weakening of the House position.

Six times we have voted on this matter. The last time the House position was sustained by the widest margin—88 votes, I believe it was.

I have talked with the leaders of the Right to Life Movement—Protestant, Catholic, and Jewish—and all of them feel that the best possible thing we can do to save human life and to prevent the funding of abortions with taxpayers' funds is to stand by the House language.

I am sure that position will not offend our conferees. I know they are trying to do their job. I know they want to try to seek a solution to this problem. But the issue is more than all these paychecks to Government workers; it is the issue of life itself.

After having fought out this issue so many times and gone on record so many times for the right to life, how can any of us explain backing down and voting against this important principle of life?

Mr. Speaker, I urge the Members, I plead with the Members, please reject this motion to recede. Then the conferees of the House can go back in good faith and say to the Members of the other body—those who will not listen, those who are obstinate, those who do not even attend the meetings and vote by proxy—that if the Federal Government is to function and HEW is to function, the other body must come around for a change.

Mr. Speaker, the honor of this House is at stake, and, more importantly, the right to life of hundreds of thousands of people is at stake. With all due respect, I urge a "no" vote on the motion to recede.

Mr. FLOOD. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I wish to state very briefly that I extend my thanks to the House conferees for all the work they have done on this issue. I would like also to point out to the Members of the House that if we recede and vote for other language, we will not have language that has alreday been interpreted by the Supreme Court.

If we vote to recede, we will have new language that will be subject to interpretation and subject to new court battles. Therefore, I urge the Members not to recede from the Hyde language, because with the Hyde language in the bill, we will have language that has already been interpreted. We know it is constitutional, and we know what it means.

Mr. Speaker, we know that the Senate will not accept the new language of the gentleman from Pennsylvania (Mr. FLOOD), and, therefore, we should not back down from our position.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

I have no further requests for time from Members on the pending motion to recede, although there are several Members who obviously would want to be heard on the amendment that is intended to be offered by the chairman of the subcommittee.

It is my own personal feeling that we ought to recede at this juncture, because it is the only mechanism we have for ending this deadlock. Otherwise we are locked in concrete. Otherwise we will not get this legislation enacted, and we will not get the paychecks that are being held up sent to the persons who should receive them. I think the only practical thing for us to do under the parliamentary procedure here is to vote to recede. I would hope that we can do that simply by voice vote, and then we can get to the meaty debate on the amendment that will subsequently be offered by the gentleman from Pennsylvania (Mr. FLOOD).

With that, Mr. Speaker, we will rest our case.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 80, nays 62.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 206, not voting 19, as follows:

[Roll No. 644]

YEAS—209

Addabbo	Flowers	Milford
Akaka	Foley	Mineta
Alexander	Ford, Mich.	Mitchell, Md.
Allen	Ford, Tenn.	Moffett
Anderson, Calif.	Forsythe	Mollohan
	Fountain	Moorhead, Pa.
Anderson, Ill.	Fowler	Neal
Andrews, N.C.	Fraser	Nix
Ashley	Frenzel	O'Brien
AuCoin	Fuqua	Obey
Badillo	Giaimo	Ottinger
Baucus	Gibbons	Patten
Bedell	Gilman	Patterson
Bellenson	Ginn	Pattison
Benjamin	Glickman	Pease
Bingham	Gonzalez	Pettis
Blanchard	Gore	Pickle
Blouin	Gudger	Pike
Bolling	Hamilton	Preyer
Bonker	Hannaford	Pritchard
Bowen	Harkin	Pursell
Brademas	Harrington	Railsback
Breckinridge	Harris	Rangel
Brinkley	Hawkins	Reuss
Brodhead	Hefner	Risenhoover
Brooks	Heftel	Rogers
Brown, Calif.	Holland	Roncalio
Broyhill	Hollenbeck	Rose
Burke, Calif.	Holtzman	Rosenthal
Burlison, Mo.	Horton	Ryan
Burton, John	Howard	Sarasin
Burton, Phillip	Hughes	Scheuer
Butler	Jacobs	Schroeder
Carr	Jeffords	Seiberling
Chisholm	Jenkins	Sharp
Clay	Jenrette	Sisk
Cleveland	Johnson, Colo.	Slack
Cohen	Jones, N.C.	Smith, Iowa
Collins, Ill.	Jones, Tenn.	Solarz
Conable	Jordan	Spellman
Conte	Kastenmeier	Staggers
Conyers	Ketchum	Stark
Corman	Keys	Steed
Cornwell	Koch	Steers
Coughlin	Kostmayer	Stockman
Daniel, R. W.	Krebs	Stokes
Danielson	Leach	Stratton
Davis	Leggett	Studds
Dellums	Lehman	Teague
Derrick	Levitas	Thompson
Dicks	Lloyd, Calif.	Thornton
Diggs	Long, Md.	Trible
Dingell	Lundine	Tsongas
Dodd	McClory	Tucker
Downey	McCloskey	Udall
Drinan	McFall	Ullman
Duncan, Oreg.	McHugh	Van Deerlin
Eckhardt	McKinney	Walgren
Edgar	Maguire	Waxman
Edwards, Ala.	Mahon	Weaver
Edwards, Calif.	Mann	Weiss
Evans, Colo.	Martin	Whitehurst
Evans, Del.	Mathis	Whitley
Fascell	Mattox	Wiggins
Fenwick	Meeds	Wilson, C. H.
Findley	Metcalfe	Wilson, Tex.
Fisher	Meyner	Wirth
Fithan	Michel	Wolff
Flippo	Mikulski	Wright
Flood	Mikva	Yates

NAYS—206

Abdnor	Burke, Mass.	Duncan, Tenn.
Ambro	Burleson, Tex.	Early
Ammerman	Byron	Edwards, Okla.
Andrews, N. Dak.	Caputo	Eilberg
	Carney	Emery
Annunzio	Carter	English
Applegate	Cavanaugh	Erlenborn
Archer	Cederberg	Ertel
Armstrong	Chappell	Evans, Ga.
Ashbrook	Clausen, Don H.	Fary
Aspin		Fish
Badham	Clawson, Del	Florio
Bafalis	Cochran	Flynt
Baldus	Coleman	Frey
Barnard	Collins, Tex.	Gammage
Bauman	Corcoran	Gaydos
Beard, R.I.	Cornell	Gephardt
Beard, Tenn.	Cotter	Goldwater
Bennett	Crane	Goodling
Bevill	Cunningham	Gradison
Biaggi	D'Amours	Grassley
Boggs	Daniel, Dan	Guyer
Boland	de la Garza	Hall
Bonior	Delaney	Hammer-schmidt
Breaux	Derwinski	
Broomfield	Devine	Hanley
Burgener	Dickinson	Hansen
Burke, Fla.	Dornan	Harsha
Heckler	Moore	Sawyer
Hightower	Moorhead, Calif.	Schulze
Hillis		Sebelius
Holt	Mottl	Shipley
Hubbard	Murphy, Ill.	Shuster
Huckaby	Murphy, N.Y.	Sikes
Hyde	Murphy, Pa.	Simon
Ichord	Murtha	Skelton
Ireland	Myers, Gary	Smith, Nebr.
Jones, Okla.	Myers, John	Snyder
Kasten	Myers, Michael	Spence
Kazen	Natcher	St Germain
Kelly	Nedzi	Stangeland
Kemp	Nichols	Stanton
Kildee	Nolan	Steiger
Kindness	Nowak	Stump
LaFalce	Oakar	Symms
Lagomarsino	Oberstar	Taylor
Latta	Perkins	Thone
Le Fante	Poage	Traxler
Lederer	Pressler	Treen
Lent	Price	Vander Jagt
Livingston	Quayle	Vanik
Lloyd, Tenn.	Quie	Volkmer
Long, La.	Quillen	Waggonner
Lott	Rahall	Walker
Luken	Regula	Walsh
McDade	Rhodes	Wampler
McDonald	Rinaldo	Watkins
McEwen	Roberts	White
McKay	Robinson	Whitten
Madigan	Rodino	Wilson, Bob
Markey	Roe	Winn
Marks	Rooney	Wydler
Marlenee	Rostenkowski	Wylie
Marriott	Rousselot	Yatron
Mazzoli	Rudd	Young, Alaska
Miller, Ohio	Runnels	Young, Fla.
Minish	Ruppe	Young, Mo.
Mitchell, N.Y.	Russo	Young, Tex.
Moakley	Santini	Zablocki
Montgomery	Satterfield	Zeferetti

NOT VOTING—19

Brown, Mich.	Krueger	Richmond
Brown, Ohio	Lujan	Roybal
Buchanan	McCormack	Skubitz
Dent	Miller, Calif.	Vento
Evans, Ind.	Moss	Whalen
Hagedorn	Panetta	
Johnson, Calif.	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Brown of Ohio against.

Mr. Panetta for, with Mr. Hagedorn against.

Mr. Buchanan for, with Mr. Skubitz against.

Mr. Miller of California for, with Mr. Whalen against.

Until further notice:

Mr. Dent with Mr. Pepper.

Mr. Evans of Indiana with Mr. Johnson of California.

Mr. Moss with Mr. Krueger.

Mr. McCormack with Mr. Lujan.

Mr. Vento with Mr. Roybal.

Messrs. BURKE of Massachusetts, DUNCAN of Tennessee, and LONG of Louisiana changed their vote from "yea" to "nay".

Mr. ULLMAN and Mr. BLOUIN changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House concur in the amendment of the Senate numbered 82 with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, the House conferees on the Labor-HEW appropriation bill reluctantly agreed to the compromise language just offered because we believe something must be done to break this impasse which is currently preventing enactment of this $60 billion bill.

Fiscal year 1978 began on October 1. I have often said the Labor-HEW appropriation bill affects every man, woman, and child, in this Nation. You have heard me say that for years. As each day passes, it becomes increasingly difficult for the programs which are funded under this appropriation bill to continue to operate.

Now, our compromise language represents an attempt to accommodate those who have argued that the language of last year's conference report should be incorporated in the bill. For that reason we have added this language which makes it clear that we are not seeking to inhibit the use of morning-after pills or IUD's as methods of birth control. Similarly, we make it clear that medicaid can continue to pay for medical procedures necessary for the termination of an ectopic pregnancy.

Finally, we spell out the terms and conditions under which medicaid payments for treatment of rape and incest victims may continue.

Mr. Speaker, this language will not satisfy those who believe that the Federal Government should pay for any and all kinds of abortions. It will not fully satisfy those who believe that the Government should not pay for any abortions, regardless of the circumstances. It is going to be attacked by both sides, we know that. In short, this is entirely a compromise. I cannot guarantee that the other body will accept it, but if they do not, then they must take the responsibility for further delays in the enactment of this appropriation bill.

Now, Mr. Speaker, the House here has voted time and again on this. It is clear that a majority, a big majority of the Members here, reflect the views of their constituents, which is to prohibit the funding for abortions except under certain exceptional circumstances.

Mr. Speaker, I simply hope that this is the last time we will have to consider this matter in the first session of this 95th Congress. I urge adoption of the motion.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. STEERS), for debate only.

Mr. STEERS. Mr. Speaker, I rise once again to speak against the amendment of the gentleman from Pennsylvania (Mr. FLOOD) and for the same reasons that I uttered a few moments ago.

First of all, wording on this matter of forced rape does not seem to me very fair. For example, to say to a 15-year-old girl who may not be perfect in her morality, but who was prevailed upon to succumb to a man and does allow herself to become pregnant, suppose it is a case of statutory rape, would a Member of this House care to have his or her daughter, if she were unable to find any financial backing any other way, denied the opportunity of having an abortion? That is the first thing I would mention that is wrong with the Flood amendment.

The other aspect of it is a lot broader. I do not want to be repetitive, but I do think it is worth mentioning some of the things that would be prohibited under the Flood amendment, but which would be permitted by the amendment I will offer if the Flood amendment is defeated, as I hope it will be. I point out that the language that I am supporting here is by no means as broad as the Supreme Court's interpretation of the previous language. The Supreme Court has taken the position until recently that even the economic situation of the pregnant woman is a factor to be considered in determining whether or not to grant Federal funding, but that is no longer the case.

Under my amendment, it is if there is "serious health damage." and that is a lot narrower, but it would permit Federal funding in the following cases:

Neurological disease, such as multiple sclerosis and muscular dystrophy, are very serious diseases which, if allowed to go on to term with a woman who is pregnant, would be very, very deleterious to the mother and/or to the fetus; cancer—carcinoma—cancer of the breast, cancer of the cervix, cancer of the bone or cancer of the blood, all these are examples of things where I believe that the woman should be permitted to get funding for an abortion; a severe psychiatric disease such as schizophrenia, suicidal tendencies or diagnosed paranoia are others; metabolic disorders—for example, disease of the liver, the kidney, the pancreas, or the thyroid, are others; finally, gastro-intestinal disorders such as ulcers and colitis are others. In all of these cases, it seems to me clear that the Government should not allow a woman who has no financial resources to go without the necessary abortion.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEERS. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. I would like to compliment the gentleman on his statement. I think we ought also to understand that, not only are there serious problems with respect to the health of some women if they are required to go to term and give birth, but there can be serious problems with the health of the subsequent offspring. For example, it is now possible for doctors to determine by examination of the amniotic fluid whether the child will be a mongoloid. Do we want to say that if a woman cannot afford to have an abortion, we are going to force her to bring a mongoloid child into the world? The same is true of sickle cell anemia, Tay Sachs disease, severe mental retardation, and would include severe deformities caused by drugs such as thalidomide or caused by diseases such as rubella.

It does seem to me ironic that we would force poor women to give birth to deformed or hopelessly diseased children when someone who can afford an abortion does not have to bring that child into the world.

Mr. STEERS. I thank the gentleman. That is why my amendment says "mother or fetus would suffer serious health damage."

Mr. FLOOD. Mr. Speaker, I yield 2 minutes for debate only to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to the language offered by the gentleman from Pennsylvania. I certainly think he has made an attempt, but I think there are some things we have to think about that have been discussed before. Let us dwell on them for just a moment more.

First of all, it is not clear what we mean by, "will endanger the health of the mother"? What does that mean? Does that mean 10 percent endangerment; 90 percent; 51 percent? How does the doctor measure that? Are we not practicing medicine? I have great qualms about the Congress getting into the medical profession by such vague language.

Second, if a young woman is subjected to rape or incest, either one, she must go down and file with the law enforcement authorities. Especially in the case of incest, how could she go home at night once she has filed with the law enforcement authorities, alleging incest? We really should provide a safe shelter for a person if we insist on this prerequisite in order to get an abortion. We are insisting she subject herself to all sorts of potential abuse at home by the incest filing with law enforcement authorities.

By allowing "forced" rape and not "statutory" rape as a reason for abortion, we are not dealing with the age issue. About 3 weeks ago I checked, and there were three young women in Denver, Colo., 10 years of age, who gave birth to babies that week.

Their bodies were obviously adult, but I cannot help but think in many other ways they were just mere children themselves. I have real questions as to whether we want 10-year-olds to be the mothers of the next generation and whether we really want to say to them that the rest of their lives are going to be impacted by one act they have taken that probably was wrong and none of us would agree with but, nevertheless, the Federal Government's policy is going to be that they are going to be held accountable for it the rest of their lives.

So I hope that we will look at this amendment, I hope we will vote it down, and I hope we will move to something that I still do not like, but which I think will be a little bit more reasonable in its presentation. I hope women will not have to file with law enforcement authorities in order to qualify for an abortion. I hope we have clear standards in determining what we mean by "endangering lives of mothers." Classism is still alive if this language passes.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes for the purpose of debate only to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I would like to say to my colleagues in the House that this amendment is not really any compromise. It does not accept the principle that women, young girls, and children who have been victimized by rape or incest can get medically safe abortions which will be financed by the Government.

This amendment does not allow abortions in the case of incest. This amendment does not allow abortions in the case of rape. Therefore, if there is an 11-year-old child who has been the victim of incest, she cannot get an abortion under this bill. Similarly, if there is a 13-year-old girl who has been the victim of rape, she cannot get an abortion under this bill.

This amendment is no compromise, and I hope it is rejected.

Mr. MICHEL. Mr. Speaker, I yield 1 minute for the purpose of debate only to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I rise in support of the Flood amendment. We have been over this area many times before. Every vote has favored the House position. I suggest we allow the conferees to hang together on the Flood language and perhaps we can carry the day the next time.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I think it should be pointed out that this amendment permits, I would suggest, thousands of abortions. At the same time, having said that, I am going to support it. But I do not think it should be viewed as anything other than a serious compromise. And it is a compromise. It has been painted as no compromise whatsoever. But if we read the language, we understand that this does not say "no abortion except to save the life of the mother." There is a judgment call in here: except where the life of the mother would be endangered.

Doctors are subjective people, and they make subject judgments. So this is not as rigid as those who oppose it would say.

Second, this section does not prohibit a payment for medical procedures performed before the act of pregnancy is established. Well, it can take over a month to establish whether or not a woman is pregnant. If we do not have some restriction on payments for abortions where rape is charged, we are offering a financial inducement to simply report a rape and we are putting a burden on the police department to investigate every one of these fraudulently reported rapes. We are inducing fraud; we will not stop abortions, because every woman who wants one will doubtless say that she was raped by an unknown assailant.

So in an effort to stop the fraud that would be inherent in any other language

than this, the language that is used is this: "before the fact of pregnancy is established."

As a matter of scientific fact, the horror stories we have been hearing are all out of proportion with reality. Very, very few pregnancies result from rape. There are many reasons why that is so, and it is a fact.

To consign to the abortion chamber hundreds of thousands of normal children because of a gigantic loophole and to permit no guidelines on the question of rape would be, I think, to abdicate the position of responsibility and morality that this House has established.

So this permits medical treatment, and such treatment is never an abortion. You do not know if you are pregnant, and you do not abort something that you do not know is there. So this is a liberalization of the position that the House has taken.

There will be abortions permitted under this language. The language is carefully drawn to prevent fraud, so in my judgment it is acceptable.

This is a far cry from what I want, and it is a far cry from what the law has been during this past fiscal year. But under the circumstances, I do believe this will prevent wholesale fraud and wholesale abortions. Therefore, with some reluctance, I will accept it.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

Would the gentleman agree with me that the term, "forced rape," should be reconsidered perhaps in conference so as to delete the word, "forced"?

The gentleman from Illinois (Mr. HYDE) in his remarks has referred to rape, and I think very appropriately. If we just use the term, "rape," we deal with the 11-, 12-, 13-, 14-, 15-, and 16-year-old girls, and they should certainly be entitled to the protections provided with that language.

Mr. HYDE. Mr. Speaker, if I may suggest this to the gentleman, what is essential in situations of rape is prompt reporting of the rape to the hospital, to the doctor, to the police, or to somebody so that medical treatment can be received. But if we do not leave the word, "forced," in the language, then every woman under 18 will be entitled to an abortion simply by claiming she was raped.

So that is a situation I cannot support. I grant the gentleman that when we have very young women getting pregnant, that is a very tragic situation.

I would point out to the gentleman that Ethel Waters, who recently died, wrote her autobiography entitled, "His Eye Is on the Sparrow," and in reading that book we learn that her mother was 13 when Ethel Waters was born. Ethel Waters lived into her 80's and was a great lady of the theater.

What we are suggesting is this: To take a human life for any lesser consideration is something we should not sanction and something I cannot support. It is wrong to take an innocent human life, no matter how unfortunate, no matter how tragic the circumstances in the creation of that life is.

The U.S. Supreme Court has said that capital punishment is too severe for the rapist, so why should it not be too severe for the product of that rape? At least that is the position I take.

This is reasonable compromise language. It will permit thousands of abortions. That saddens me, that troubles me, but under the circumstances, I think it is a compromise that the Senate ought to accept.

Mrs. BURKE of California. Mr. Speaker, will the gentleman yield?

Mr. HYDE. Of course, I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Speaker, I thank you for yielding.

Is the gentleman saying that abortion is a state of mind and it does not exist if you do not know that you have an actual abortion?

Mr. HYDE. Mr. Speaker, I am saying that every hospital in the land that performs medical procedures following rape does not term that as an abortion, because there is absolutely no data that a pregnancy has occurred and you cannot abort something that is not there.

The medical procedures are performed to prevent venereal disease and to prevent implantation of the fertilized egg. All those things are done before the fact of pregnancy is known, and that is never called an abortion.

Mrs. BURKE of California. Mr. Speaker, if the gentleman will yield further, under this provision, if a woman is 2 months pregnant and does not know that she is pregnant and she goes in and asks for an abortion but says that she does not know whether or not she is pregnant, within the provisions of this language, would she be entitled to that procedure to which the gentleman has referred?

Mr. HYDE. If I can understand the gentlewoman's question, does she mean that the woman has been raped?

Mrs. BURKE of California. Yes; she has been raped.

Mr. HYDE. She has been raped and she is pregnant for 2 months and she does not know it; is that correct?

Mrs. BURKE of California. That is right. Perhaps there is no indication whatsoever in her mind that she is pregnant, but after she has the procedure, it is determined that she has a fetus.

Mr. HYDE. Were there symptoms that she was, in fact, pregnant?

Mrs. BURKE of California. She had none of the symptoms that are readily identified with pregnancy. She goes in and she has the procedure under this bill, and the doctor finds a fetus; is that correct?

Mr. HYDE. As the gentlewoman hypothecates the question, I imagine that is correct, yes.

Mrs. BURKE of California. Is the gentleman from Illinois a physician?

Mr. HYDE. To continue my answer, I would not say that that would be a violation of the provisions of this amendment before the fact of pregnancy has been established; that is right.

I am not a physician, but I know this much: There are all kinds of tests to determine whether or not a woman is pregnant.

Mrs. BURKE of California. But she does not know it.

Mr. HYDE. I think the doctor would be dutybound to administer those tests under those circumstances which the gentlewoman described earlier.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, as I understand it, the conferees of the other body have already rejected the language of the Flood amendment; is that correct?

Mr. HYDE. I do not know about that. I do not wish to mention names, but I know of two Senators who are unhappy with this amendment. However, they are unhappy with anything except their own way.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Before yielding to the gentleman from Illinois (Mr. HYDE), to respond to that question, may I simply make it clear that the Members of the House who serve on that conference committee are there 100 percent, Republicans and Democrats alike.

When we go over there with the other body, in conference, there is one Member representing each party, two persons representing, supposedly 100 Members over there. It bothers us no end that we do not get any really good feedback from the individual Members except through some conduit which we cannot altogether rely upon.

In my judgment, if we are going to have language developed here in the House, I would like to see a good, fair shake given to us with the full Senate voting on our language, just as they asked us to do in bringing their's back here, and you do remember we gave them a vote on their language.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

I just want to make the point that while this language is objectionable to those of us who protest the Federal funding of abortions, an alternative might be offered to this language which might be even worse. Therefore, the House is really in a dilemma.

I find this language objectionable. I am opposed to it. I think it is very regrettable that the House did not vote "no" on the previous question, the motion to recede; and I find myself in concert with my colleague, the gentleman from Illinois (Mr. HYDE), in trying to resolve the dilemma here, in that if we do not accept this compromise language, which I hope would be done without a recorded vote, that there are some alternatives which will be offered that are even more objectionable than this language, amendments

that would open wide the doors to funding abortion virtually on demand.

Mr. HYDE. I thank the gentleman for his comments.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, is it the gentleman's position that even if the language of the other body is strictly construed, so that it would only apply where, for example, the woman had rheumatic heart disease or some similar ailment, nevertheless, she could not get Federal assistance to have an abortion, even if it might threaten her life if she were to have a baby?

Mr. HYDE. The Senate language does not say that. The language of the other body, as I understand it, says that a serious health problem has been found. That could mean mental distress, anguish, et cetera. That is abortion on demand.

Mr. SEIBERLING. Suppose the specific kind of diseases that would be covered were spelled out and that were taken into account. Would the gentleman in that event still stand by his position?

Mr. HYDE. If the woman's life is in danger, then she is permitted to have an abortion under existing law. Under existing law we do not need to have anything to accomplish that.

Mr. SEIBERLING. Suppose the fetus were to be born a Mongoloid. How would the gentleman feel about that?

Mr. HYDE. I would think the child should be born. Even a Mongoloid is a human being, and I should think that society would find a way to take care of the people who live on the edge of humanity rather than to be willing to exterminate them.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for clarifying his position.

Mr. HYDE. Mr. Speaker, I thank the gentleman for giving me the opportunity.

Mr. FLOOD. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. EARLY).

Mr. EARLY. Mr. Speaker, I would like to take just a brief time in order to mention a couple of points to echo the sentiment expressed by the gentleman from Illinois (Mr. MICHEL). I have only been in this body for 3 years. This is one of a very few conference committees I have sat on. Our first meeting was held on July 19 and we have had many meetings since then. At each meeting the chairman, the gentleman from Pennsylvania (Mr. FLOOD), insisted on having 100 percent House attendance. At each meeting, at no time did the other branch have 40 percent of their conferees present.

When we tried to compromise it was the House in a battle with each other, compromising on a point and then offering it to three Senators. Those three Senators immediately took it, with little discussion, and rejected it. When the chairman asked for a roll call vote, it was done by proxy, with usually a 8 to 6 result. We lost every time whether we had a new proposal or not.

I would also like to make this point that as we hold up this $61 billion bill for Labor-HEW, most of which is for programs for the poor, I repeat, for the poor, we are talking about abortion on demand for poor people.

Mr. Speaker, I am personally opposed to abortion on demand. I believe that this Congress should deal with that issue and I do not believe we can effectively deal with it in an appropriation bill.

However, what we must decide today is not whether or not we oppose abortion on demand, but how abortion should be paid for in this country. I believe that it is not the Federal Government's place to provide funds for abortions. Should the majority of the residents of individual States choose to spend their State tax dollars to fund abortions, that is their right. Clearly, on a Federal level, no such mandate has ever been received. Further, if the votes in this body are any indication, the majority opposes Federal support for abortion on demand.

In a recent survey that I received over the weekend, prepared by the Alan Guttmacher Institute, titles 19 and 20, the figures show that 260,000 federally funded abortions were performed in the United States in 1976. Almost half of those abortions were performed in two States; 70,000 were performed in California and 50,000 in New York State. There is nothing in the bill or what we do today that prevents those two States from paying for the abortions. California has a billion dollar surplus. Why should California not pay for those abortions?

Governors from seven other States have suggested that if the Federal Government does not insist on paying for abortions, they will absorb the cost.

My State Governor has said no matter what the Federal Government does, the State will continue to fund abortions.

I think that is very important. We are talking about a $61 billion bill.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Speaker, would the gentleman care to state the position of our state legislature?

Mr. EARLY. Certainly. Recently they tacked on to a supplemental bill an amendment similar to the Hyde amendment.

Mr. TSONGAS. Has the Government and has the Secretary of Humane Services suggested that they will pay for abortions no matter what we do with medicaid?

Mr. EARLY. Both the Governor and the Secretary of Human Resources, Mr. Stevens, have said so.

Mr. TSONGAS. The opinion of the Massachusetts legislature is not vested in the governor's office.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I take it then that the position of the gentleman from Massachusetts, Mr. EARLY, is that it is not really a matter of principle, but a matter of who pays for it?

Mr. EARLY. I do not take it that way at all.

Mr. SEIBERLING. That is the way it sounds to me.

Mr. EARLY. I am opposed to abortion on demand and I tried to make my position clear on that. I am saying that should the people in any given State choose to support abortions on demand through their State taxes, the Flood amendment will not prevent them from doing so.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. EARLY. May I have 1 additional minute?

Mr. FLOOD. I yield 1 additional minute to the gentleman from Massachusetts.

Mr. EARLY. In this final minute, Mr. Speaker, I just suggest this, I suggest that it is very important on both sides of the aisle that we compromise, that we compromise by sending this over to the Senate by a substantial vote because this was a compromise. The original Hyde amendment that went out of this House said "No abortions." We have now compromised more than 50 percent. In fact, any State that wants to provide abortions on demand can do so—they merely have to pay for them. This is particularly applicable to States like California and New York where almost 50 percent—120,000—of the medicaid abortions in the United States last year were performed.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, the gentleman from Minnesota, I believe, made the statement that he hoped there would not be a rollcall on this amendment. I beg to differ with him. The last vote to recede which he and others forced onto the House floor put a lot of us who have been stalwarts on this issue in conference in a very compromising position, so to say, because the House conferees had reached an agreement last Thursday, after long debate, that we would go along with this new language submitted by the chairman of the committee, the gentleman from Pennsylvania (Mr. FLOOD). It was our understanding that the amendment came from the gentleman from Illinois (Mr. HYDE) and we went along with it. Thus we were put in the position of taking a rollcall vote receding to the Senate, which in essence we are not. We are receding, but only with the language offered by the gentleman from Pennsylvania (Mr. FLOOD).

There is one other reason why a rollcall vote is necessary. On the vote to recede the count was 209 to 206. Can you imagine if that vote went over to the Senate what their interpretation would be? They would think that the House is ready to recede on this particular issue. So it is very important—very important—regardless of how uncomfortable it is for some, to have a rollcall vote on this amendment and give a good sound endorsement of the motion offered by the gentleman from Pennsylvania, to let the Senate know where we stand on this particular issue.

Mr. Speaker, I rise in support of this new House language. All of you know of my strong stand against using medicaid funds for abortions except when the life

of the mother is endangered. But upon examining this new language, I feel justified in supporting these provisions as a legitimate compromise. But I must emphasize that in good conscience I cannot go much further. This new amendment provides for making available medicaid funds for the prompt treatment of forced rape and incest victims before the fact of pregnancy is established when reported to a law enforcement agency. What this does, is, in effect, incorporate some of last year's report language into the actual bill. This is what the Senate wanted although it would have also desired expanding the number of abortions which could be performed under medicaid. As you know, I cannot support that sort of expansionist provision.

Mr. Speaker, as I have said on a number of occasions, I realize that there are problems with physical and psychological treatment of rape and incest victims, but that does not justify abortions as the alternative.

I became frustrated in trying to find out the standard procedures for the treatment of rape victims. To my dismay there were not any. I have been told of DES and other estrogen treatments, the use of D. & C. and I have been informed of experiments combining estrogen with other substances. On the other hand, I have also received letters and telegrams from rape victims venting their disgust with present treatments. I think, this Congress has to commit itself, here and now to tell these women that we will do whatever we can by our funding of programs and research to improve the treatment of rape and incest victims. We should also get a commitment from the Department of Health, Education, and Welfare to do the same. This is the kind of positive approach we should take, not the negative one of abortion.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to commend the gentleman for his heroic efforts in this very controversial issue, but I would like to correct the gentleman in regard to the fact that this language did not initiate with me. I was aware of it. I had studied it. It was not my language. My language is in the bill, as amended by the gentleman from Massachusetts, and I would not want that thought to be left with this Houses or with the other body.

I thank the gentleman for yielding.

Mr. CONTE. All I can say is that when we met and the chairman brought forth his language, I asked everyone where the language came from, and I was told by the other side that it came from the gentleman from Illinois.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, what I really want to do is give the speech I had intended to give on the last bill, which was so rudely interrupted.

I just want to make one point. I hope that no one really believes that what we are doing by our actions the last few months is cutting off all Federal support for abortions, because we have not done it. No one has tried to attach an amendment to the Defense bill, for instance, to prevent abortions from being financed under the CHAMPUS program. No one has tried to attach an amendment to our own Federal employees legislation which would prohibit the insurance programs of Federal employees from providing for abortion services. So employees of HEW can get abortions under the present law now.

All we are saying under the House action is that poor women cannot. The only people we are shutting off Federal support for as far as abortions are concerned is for the poor women—no one else. Everyone else can still get them with Government-supported money and programs.

Let me also make one other point. This language does not represent any attempt at compromise, the language being proposed by the gentleman from Pennsylvania. It is merely a restatement of the present law. It merely reflects what the Attorney General said is the present law now. It does not make any exceptions for rape or incest. Do not let anyone kid you on that. It does not. So it does not represent any degree of compromise at all.

I agree the Senate has been totally uncompromising on this legislation, but I would submit to the Members that all but five Members of the House conferees—and I am one of the conferees—and all but five Members of the House conferees have also been totally unbending. There has been no willingness on either side to compromise on his question.

I would urge the Members to vote "no" on this language because it does not represent a compromise.

Mr. MICHEL. Mr. Speaker, we have no more requests for time on this side of the aisle, but summing up frankly on this side I obviously intend to support the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

If perchance that amendment is defeated, then we are really in a nightmarish kind of situation, because the kind of language that has been talked about here as an alternative is much more broad than we ever gave any kind of consideration to in this body, and it would be just a total disaster for us at this late juncture with the Senate leaving tomorrow on recess, to defeat the pending motion and not give the gentleman from Pennsylvania (Mr. FLOOD) an affirmative vote on his amendment.

I urge Members, particularly in view of the support of the gentleman from Illinois (Mr. HYDE) and the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Illinois (Mr. O'BRIEN) and others who spoke on behalf of this amendment, to adopt this language.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I urge the House to vote "no" on this language.

We have been debating abortion here. We have been debating what abortion is legal, what abortion is not legal and under what circumstances. That is not the subject before us. Abortion is legal in the United States under conditions defined by the Supreme Court. Abortion before 3 months certainly is legal whether there is rape or incest or whether there is no instance of that type crime. Any abortion within the first 3 months is legal, as I understand it.

Be that as it may, the fact is that most women are able to have abortions and to pay for them. What we are debating here is whether or not poor women—and more specifically women on medicaid—are going to be entitled to the same type of medical treatment as those women who can afford to pay for the medical treatment.

Mr. Speaker, that is what is at stake here today. I think this is a serious principle. I know there are great pressures for compromise, great pressures to try to get this Labor-HEW bill agreed to by both parties because of the fact that there are billions of dollars in appropriated funds which cannot be used at present. I recognize that fact, but we cannot compromise a fundamental principle because of that. The fundamental principle is that we are not treating people alike in this country. We are saying to all who can afford to pay, "You can have an abortion," and we are saying to that segment of women who are medicaid-type recipients that they cannot have the same kind of medical treatments that other people have. I think that is shameful.

I think that the other body is correct in its insistence on its position. I think we are wrong, and I think we should not abide by this type of language.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN), for debate only.

Mrs. SPELLMAN. Mr. Speaker, let me just compliment the House conferees. I know that they have attempted in good faith to reach a compromise. And, certainly, at this point I want to congratulate the chairman as well, on his sincere efforts.

All too often we hear from extremes in debate like this. I stand here today as someone who is torn in two on this question of abortion. I have very strong feelings against abortion and yet I recognize there are times when there are compelling needs for abortion. I regret that I must oppose the language that is before us, because I feel it is so important that victims of rape and incest be given proper treatment.

I was a local government official for 12 years before coming here. I can tell you that young women do not report rape and do not report incest to law enforcement agencies. We are trying to change that. We are trying to change that by getting more sensitive treatment for victims from law enforcement agencies, but we have a long way to go before women will feel comfortable about going in, to report rape—especially very, very young women.

And surely we know that victims of incest most decidedly would be afraid to go to law enforcement officials to report their problems. So it is not until they learn they are pregnant that we hear from these young women. (I say young women, although I could really say "children" because many of them are mere children.)

With the language before us now this

whole class of victims would be denied help. Only by adopting a compromise will we be able to free the hostage HEW employees from payless days. Surely those employees are blameless in this whole matter.

There are programs in health and education also being held hostage. It is time for us to act to let children, senior citizens and others in need of those programs have the benefit of our labors.

So I would be most anxious to have the opportunity to vote in favor of the amendment that will be proposed by the gentleman from Maryland (Mr. STEERS). Frankly, I think that is, indeed, a compromise. Without it we still do not have compromise language.

I heard the gentlewoman from Colorado say that the Steers proposal does not go far enough. I heard my colleague, the gentleman from Minnesota (Mr. OBERSTAR) say it goes too far. One says it does not go far enough and the other one says it goes too far, so we really must have found a good compromise.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, there was earlier today a disappointment for many of us, I am sure, when the House voted to recede from the Hyde amendment.

We now face a vote on the Flood amendment. There is no question I must agree with those that have some reservation about the Flood amendment and about the language contained therein, especially before the fact of pregnancy is established, whatever that means, as to establishing the fact of pregnancy, when many times, as has been stated before, that fact is not established until several months after the event has actually occurred. This could lead, I am sure, to a great number of abortions that many of us feel are not warranted.

I would also like to point out that there has been some talk here about the birth of retarded and Mongoloid children. For those of you who propose that where a doctor certifies or tells a mother that that child would be born retarded or Mongoloid, I say to you that today in this country, there are children alive today whose mothers were told that if the children were born they would be retarded or Mongoloid, and that those children are now clearly normal.

This can be verified, and this is true. It is something very serious to think about, that except for the perseverance of those parents to go ahead, even though they were told the child might be born that way, they went ahead and that child is today a normal child. So, with great hesitation I support the Flood amendment. It is a lot better than what we will have facing us as an alternative, the Senate language, which is really abortion on demand.

Mr. GLICKMAN. Mr. Speaker, earlier today I joined the overwhelming majority of my House colleagues in support of the compromise language offered by Representative FLOOD to resolve the disagreement between the House and Senate on Federal funding for abortions.

My record clearly shows that I do not agree with proposals to restrict funding for abortions for the poor. I see it as a question of equity and my opinions in that regard have not changed. But the circumstances which have now developed make it necessary that we act pragmatically. By continuing to quibble over financing of abortions for the poor, we are in effect holding back funding for health care, education, job programs and so forth designed in large part to benefit that same segment of our population: the poor. Time has come for those other needs to take precedence.

Individual Members may not like the Flood language, but it is no longer a question of this one provision. We were voting on a bill which keeps two of the largest Federal departments and a sizable number of State and local agencies running. That is what counted when I voted earlier today and I am sure this same issue weighed heavily on the decisions of my colleagues.

Mr. STOKES. Mr. Speaker, I rise to speak as a member of this conference committee, vitally concerned that this $60.1 billion bill be passed by the Congress without further delay. This mammoth bill which embodies all those programs most needed by all our constituencies is being held hostage because of the House's unwillingness to make any meaningful compromise on the question of abortion services for poor women.

Mr. Speaker, the "new" language we have before us today is no compromise and the Senate knows that and the Senate will reject it for that reason. Indeed, this language is even more regressive than the language passed last year—when it was still thought by many of us that what was passed by the Congress would not be all that important because we were sure the courts would mandate provision of abortion services for the indigent as a matter of equal protection. There can be no passing of the buck this time around, and certainly not if we are ever planning on passing this bill. As you all know, 4,000 VISTA volunteers did not receive their last pay check. Travel, strike negotiatings, and hearings have been curtailed by the Department of Labor. And we are now at the point of payless paydays for 300,000 Federal employees—all because the conferees of this body have been unwilling to yield at all to the Senate despite several offers of substantial compromise being submitted by that body which have been rejected without serious consideration by the chairman and the majority of the House conferees.

Mr. Speaker, let us talk about this new language being submitted as a compromise by the House conferees. This language would allow medical procedures for the prompt treatment of victims of forced rape or incest reported to a law enforcement agency before the fact of pregnancy is established. Let us look at what this language actually means.

The only treatments allowed here are emergency medical treatments before the fact of pregnancy is established. This means that the victim must, first of all, be aware of the need for immediate treatment. Fear and ignorance often prevent the reporting of the crime and the obtaining of treatment both to prevent pregnancy and venereal disease. Often, although a victim reports the rape to police authorities, she is not referred for rape treatment and then goes untreated. The treatment when obtained can be the administration of DES, estrogen drugs to delay ovulation, or a D. & C.

A primary rape treatment has been the administration of DES—diethylstilbestrol—which must be given within 48 hours of the attack. However, many medical facilities are now unwilling to use DES because it is a known carcinogen to women taking it as well as to any daughters subsequently born to them; it cannot be taken by many women, particularly any women who have been taking any estrogen drugs; it has serious side effects, causing illness of several days duration; and, moreover, according to a study very recently completed by the Center for Disease Control, it is not effective. The drug has been taken off the market in many other countries, has never undergone extensive testing by FDA, hearings have been held by both House and Senate committees regarding the harmfulness of the drug—and yet as part of our so-called compromise we would say this is the kind of treatment you can have if you happen to be poor because no treatment will be allowed if pregnancy has been established. We are also saying to the victim who takes DES, do not expect any help if the DES does not work and you still become pregnant. What kind of decency are we even talking about that we would even consider allowing such a case to occur when any rape victim is facing a time of tremendous trauma and crisis anyway, without having to worry about a possible resultant pregnancy?

What other kind of treatment is available? A woman can be given drugs to delay ovulation but these are not highly effective. The only other alternative is to undergo a D. & C.—dilation and curettage—or menstrual extraction, both of which are procedures which remove the contents of the uterus, thereby terminating a pregnancy—whether diagnosed as such or not. This is a surgical procedure. The consequence of this language unfortunately is that all women who are victims of rape or incest would have to submit to one of the mentioned treatments to obtain any assistance at all, regardless of whether or not a pregnancy had actually resulted. A D. & C. is certainly not a standard rape treatment procedure for any health facility. Such a requirement would result in the performance of many unnecessary surgical procedures—which we would actually be encouraging by adoption of this language—since the procedure would be allowed only before the fact of pregnancy is established and since rape victims become pregnant at the same rate as women having unprotected intercourse—approximately 4 percent. This procedure would be the only way to insure a pregnancy did not occur—yet because it is a surgical procedure it imposes a physical hardship upon women and would also tremendously increase the cost factor to the women and to the reimbursing agency.

Mr. Speaker, as if this were not problem enough, the Flood language covers only forced rape and incest. The phrase

to me appears redundant, but was done to draw a legal distinction between "forced" and "statutory" rape, thereby prohibiting treatment for teenagers—as well as older women—who have been raped but who have not incurred other bodily harm as covered in certain State statutes defining "forced" rape.

In addition, the Flood language allows treatment only for those victims of rape or incest that have been reported to law enforcement agencies. This blithely ignores even the FBI statistics—regarded as being very conservative—which estimate that at least 43.7 percent of all rapes that occur go unreported out of fear or ignorance. Clearly, incest cases will not be reported because of the nature of the act itself. Incest is generally unreported unless accompanied by violence, severe emotional disorder, or when there is a resulting pregnancy. The preventive treatment as provided in the Flood language would therefore not even be applicable for most incest victims. Abortion is the only means of terminating such a pregnancy.

Mr. Speaker, I cannot believe that any of you who have sponsored any legislation dealing with rape could possibly support this kind of language which simply makes a mockery of the intent and purposes of such legislation. Even last year's conference report allowed for the prompt treatment of rape and incest victims and did not set up the impossible, unreasonable, and insensitive restrictions found in this supposed compromise language.

Mr. Speaker, we should not kid ourselves—the Senate knows exactly what this language does and will not accept language more regressive and repressive than last year's. Therefore, if we are all concerned about passage of this huge, vitally important bill, we have an obligation to submit a reasonable compromise. Certainly the Senate conferees have submitted such to the House conferees only to see each proposal dismissed without serious consideration in a cavalier fashion without any interest in working out a reasonable alternative. In addition, what kind of justification can the House give for having held up this bill an entire extra week, when nothing was being done on the bill and when we are 2 weeks into the new fiscal year and when we know people and programs are already beginning to hurt? There is no justification for such action.

Mr. Speaker and my distinguished colleagues, I urge you to vote against the Flood-proposed language. We already know that language is unacceptable to the Senate—it is no compromise and we should be embarrassed that it is even being put forth as such. The Flood language will not get us any closer to resolving this issue or the bill—it will make this vote a false vote because we will have to vote again. What is the point of it? We should show some good faith and adopt the more meaningful compromise proposed by Senator MAGNUSON which allows abortions when the life of the woman is endangered, for victims of rape or incest, and where the mother or fetus would suffer serious health damage. Surely, we cannot object to this language if we have any concern or compassion for humanity at all. How can we expect to keep any faith with the people if we are unwilling to be concerned about their lives or their health at such a crucial time? I urge the defeat of the Flood motion.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HOLTZMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 142, answered "present" 1, not voting 28, as follows:

[Roll No. 645]

YEAS—263

Abdnor	Derwinski	Kazen
Alexander	Devine	Kemp
Allen	Dickinson	Ketchum
Ambro	Dingell	Kildee
Ammerman	Dornan	Kindness
Andrews, N.C.	Drinan	LaFalce
Andrews, N. Dak.	Duncan, Tenn.	Lagomarsino
	Early	Le Fante
Annunzio	Edwards, Ala.	Leach
Archer	Edwards, Okla.	Lederer
Armstrong	Eilberg	Lent
Aspin	Emery	Levitas
Badham	English	Livingston
Bafalis	Erlenborn	Lloyd, Tenn.
Baldus	Ertel	Long, La.
Barnard	Evans, Ga.	Lott
Beard, R.I.	Fary	Luken
Beard, Tenn.	Fish	McClory
Bedell	Fithian	McDonald
Benjamin	Flood	McEwen
Bennett	Florio	McHugh
Bevill	Flynt	McKay
Biaggi	Fountain	Madigan
Blanchard	Frey	Mahon
Blouin	Fuqua	Mann
Boggs	Gammage	Markey
Boland	Gaydos	Marks
Bonior	Gephardt	Marlenee
Bonker	Gibbons	Marriott
Bowen	Ginn	Martin
Breaux	Glickman	Mathis
Brinkley	Goldwater	Mazzoli
Brooks	Gore	Michel
Broomfield	Gradison	Miller, Ohio
Broyhill	Grassley	Minish
Burgener	Gudger	Mitchell, N.Y.
Burke, Fla.	Hall	Moakley
Burke, Mass.	Hamilton	Montgomery
Burleson, Tex.	Hammer-schmidt	Moore
Burlison, Mo.	Hanley	Moorhead, Calif.
Byron	Hansen	Mottl
Caputo	Harkin	Murphy, Ill.
Carney	Harsha	Murphy, N.Y.
Carter	Heckler	Murphy, Pa.
Cederberg	Hefner	Murtha
Chappell	Heftel	Myers, Gary
Clausen, Don H.	Hightower	Myers, John
Clawson, Del	Hillis	Myers, Michael
Cochran	Holland	Neal
Coleman	Hollenbeck	Nedzi
Collins, Tex.	Holt	Nichols
Conte	Hubbard	Nix
Corcoran	Huckaby	Nolan
Cornell	Hughes	Nowak
Cotter	Hyde	O'Brien
Coughlin	Ichord	Oakar
Crane	Ireland	Oberstar
Cunningham	Jenkins	Patten
D'Amours	Jones, N.C.	Perkins
Daniel, Dan	Jones, Okla.	Pettis
de la Garza	Jones, Tenn.	Pike
Delaney	Kasten	Poage
Dellums	Kastenmeier	Quie
Derrick	Kelly	Quillen
Dicks	Keys	Rahall
Diggs	Kostmayer	Railsback
Dodd	Krebs	Regula
Downey	Latta	Rhodes
Duncan, Oreg.	Leggett	Rinaldo
Eckhardt	Lehman	Risenhoover
Edgar	Lloyd, Calif.	Roberts
Edwards, Calif.	Long, Md.	Rodino
Evans, Colo.	Lundine	Roe
Evans, Del.	McCloskey	Rogers
Fascell	McDade	Roncalio
Fenwick	McFall	Rooney
Findley	Mattox	Rostenkowski
Fisher	Meeds	Rousselot
Flippo	Metcalfe	Rudd
Foley	Meyner	Runnels
Ford, Mich.	Mikulski	Ruppe
Ford, Tenn.	Mikva	Russo
Forsythe	Milford	Ryan
Fowler	Mineta	Santini
Fraser	Mitchell, Md.	Satterfield
Frenzel	Moffett	Sawyer
Giaimo	Moorhead, Pa.	Schulze
Gilman	Moss	Sebelius
Gonzalez	Natcher	Sharp
Guyer	Obey	Shipley
Hannaford	Ottinger	Shuster
Harrington	Patterson	Sikes
Harris	Pattison	Simon
Hawkins	Pease	Sisk
Holtzman	Pickle	Skelton
Horton	Preyer	Smith, Iowa
Howard	Pritchard	Smith, Nebr.
Jacobs	Rangel	Snyder
Jenrette	Reuss	Spence
Johnson, Colo.	Rose	St Germain
Jordan	Rosenthal	Stangeland
Kastenmeier	Sarasin	Stanton
Kelly	Scheuer	Steed
Keys	Schroeder	Steiger
Kostmayer	Seiberling	Stratton
Krebs	Siack	Stump
Latta	Solarz	Symms
Leggett	Spellman	Taylor
Lehman	Staggers	Thone
Lloyd, Calif.	Stark	Thornton
Long, Md.	Steers	Traxler
Lundine	Stockman	Treen
McCloskey	Stokes	Tribie
McDade	Studds	Vander Jagt
McFall	Thompson	Vanik
Mattox	Tsongas	Volkmer
Meeds	Tucker	Waggonner
Metcalfe	Udall	Walker
Meyner	Ullman	Walsh
Mikulski	Van Deerlin	Wampler
Mikva	Walgren	Watkins
Milford	Waxman	White
Mineta	Weaver	Whitehurst
Moakley	Weiss	Whitley
Moorhead, Pa.	Wiggins	Whitten
Moss	Wilson, C. H.	Wilson, Bob
Natcher	Wilson, Tex.	Winn
Obey	Wirth	Wright
Ottinger	Wolff	Wylie
Patterson	Wydler	Yatron
Pattison	Yates	Young, Alaska
Pease		Young, Fla.
Pickle		Young, Mo.
Preyer		Young, Tex.
Pritchard		Zablocki
Rangel		Zeferetti
Reuss		
Rose		
Rosenthal		
Sarasin		
Scheuer		
Schroeder		
Seiberling		
Siack		
Solarz		
Spellman		
Staggers		
Stark		
Steers		
Stockman		
Stokes		
Studds		
Thompson		
Tsongas		
Tucker		
Udall		
Ullman		
Van Deerlin		
Walgren		
Waxman		
Weaver		
Weiss		
Wiggins		
Wilson, C. H.		
Wilson, Tex.		
Wirth		
Wolff		
Wydler		
Yates		

NAYS—142

Addabbo	Fenwick	Mitchell, Md.
Akaka	Findley	Moffett
Anderson, Calif.	Fisher	Moorhead, Pa.
Anderson, Ill.	Flippo	Moss
Applegate	Foley	Natcher
Ashley	Ford, Mich.	Obey
AuCoin	Ford, Tenn.	Ottinger
Badillo	Forsythe	Patterson
Baucus	Fowler	Pattison
Bauman	Fraser	Pease
Beilenson	Frenzel	Pickle
Bingham	Giaimo	Preyer
Bolling	Gilman	Pritchard
Brademas	Gonzalez	Rangel
Brodhead	Guyer	Reuss
Brown, Calif.	Hannaford	Rose
Burke, Calif.	Harrington	Rosenthal
Burton, John	Harris	Sarasin
Burton, Phillip	Hawkins	Scheuer
Butler	Holtzman	Schroeder
Carr	Horton	Seiberling
Cavanaugh	Howard	Siack
Chisholm	Jacobs	Solarz
Clay	Jenrette	Spellman
Cleveland	Johnson, Colo.	Staggers
Cohen	Jordan	Stark
Collins, Ill.	Kastenmeier	Steers
Conable	Kelly	Stockman
Conyers	Keys	Stokes
Corman	Kostmayer	Studds
Cornwell	Krebs	Thompson
Daniel, R. W.	Latta	Tsongas
Danielson	Leggett	Tucker
Davis	Lehman	Udall
Dellums	Lloyd, Calif.	Ullman
Derrick	Long, Md.	Van Deerlin
Dicks	Lundine	Walgren
Diggs	McCloskey	Waxman
Dodd	McDade	Weaver
Downey	McFall	Weiss
Duncan, Oreg.	Mattox	Wiggins
Eckhardt	Meeds	Wilson, C. H.
Edgar	Metcalfe	Wilson, Tex.
Edwards, Calif.	Meyner	Wirth
Evans, Colo.	Mikulski	Wolff
Evans, Del.	Mikva	Wydler
Fascell	Milford	Yates
	Mineta	

ANSWERED "PRESENT"—1

Breckinridge

NOT VOTING—28

Ashbrook	Johnson, Calif.	Pepper
Brown, Mich.	Koch	Richmond
Brown, Ohio	Krueger	Robinson
Buchanan	Lujan	Roybal
Dent	McCormack	Skubitz
Evans, Ind.	McKinney	Teague
Flowers	Maguire	Vento
Goodling	Miller, Calif.	Whalen
Hagedorn	Mollohan	
Jeffords	Panetta	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Richmond against.

Mr. Pepper for, with Mr. Panetta against.

Until further notice:

Mr. Dent with Mr. Brown of Michigan

Mr. Evans of Indiana with Mr. Ashbrook.

Mr. Flowers with Mr. Goodling.

Mr. McCormack with Mr. Whalen.

Mr. Vento with Mr. Brown of Ohio.

Mr. Roybal with Mr. Skubitz.

Mr. Koch with Mr. Lujan.

Mr. Johnson of California with Mr. Buchanan.

Mr. Krueger with Mr. McKinney.

Mr. Maguire with Mr. Hagedorn.

Mr. Miller of California with Mr. Jeffords.

Mr. Mollohan with Mr. Robinson.

Messrs. DERRICK, McDADE, and CLEVELAND changed their vote from "yea" to "nay."

Mr. HANSEN changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SBA AND SBIC AUTHORITY AND GENERAL SMALL BUSINESS PROBLEMS OF COMMITTEE ON SMALL BUSINESS TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Subcommittee on SBA and SBIC Authority and General Small Business Problems of the Committee on Small Business may be permitted to sit during any proceedings under the 5-minute rule tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow, Thursday, October 13, 1977, during the 5-minute rule.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8200 TO ESTABLISH A UNIFORM LAW ON THE SUBJECT OF BANKRUPTCY PROCEEDINGS

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95–695), on the resolution (H. Res. 826) providing for consideration of H.R. 8200 to establish a uniform law on the subject of bankruptcies, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 8390, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 815 and ask for its immediate consideration.

The Clerk read the resolution, as follows.

H. RES. 815

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8390) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MURPHY) for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 815 provides for the consideration of H.R. 8390, the Department of Defense supplemental appropriation authorization of 1978. This is an open rule providing for 2 hours of general debate to be divided and controlled in the customary manner by the Committee on Armed Services. It is in order to consider the committee amendment in the nature of a substitute as an original bill for the purpose of amendment, and it shall be read by titles instead of by sections under the 5-minute rule. All points of order are waived against the substitute for failure to comply with section 402(a) of the Congressional Budget Act, and with the provisions of clause 7, rule XVI—the germaneness clause. At the conclusion of consideration of the bill for amendment, the previous question shall be considered as ordered on the bill and amendments thereto without intervening motion except one motion to recommit with or without instructions.

The waivers are necessary to permit consideration of those sections of the bill which contain authorizations for fiscal year 1978 in violation of the Budget Act. Section 402(a) of the Budget Act requires a May 15 reporting deadline for fiscal year 1978 authorizations. This reallocation of funds is necessary, as you know, because of the President's decision to cancel development of the B–1 bomber. Without a realinement of R. & D. and procurement funds we would be left with a deficient defense budget. The germaneness waiver is necessary to allow consideration of the committee substitute which might technically be subject to a point of order under the germaneness clause.

Mr. Speaker, H.R. 8390 is designed to provide additional authorization for strategic weapons as alternatives to the B–1. Accordingly, there is emphasis on the cruise missile, an increased range for the FB–111, intercontinental ballistic missile initiatives, and research and development to improve the penetration capabilities of the B–52. The total authorization for H.R. 8390 is $575,986,000.

These are the major components of this measure, and they represent a necessary reordering of the Defense Department's budget. Mr. Speaker, I respectfully request that we adopt House Resolution 815 so that we may proceed to the consideration of this bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of the defense supplemental authorization for fiscal year 1978.

A waiver of section 402(a) of the Budget Act is necessary because the bill contains fiscal year 1978 authorizations, but was not reported prior to the May 15, 1977, deadline for authorization bills. In this case the bill could not have been reported before May 15 since President Carter did not announce his recommendations against production of the B–1 bomber until June 30, 1977. The principal purpose of this bill is to provide additional authorizations for the cruise missile and related items requested by the President in connection with his recommended cancellation of the B–1 bomber production.

Mr. Speaker, in addition to providing a Budget Act waiver, this rule states that the committee substitute will be read for amendment by titles instead of by sections. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment.

Finally this rule waives points of order against the committee substitute for failure to comply with the germaneness rule, clause 7, rule XVI: This germaneness waiver is necessary because

the committee substitute changes a reporting date, which is not covered in the introduced bill.

Mr. Speaker, the bill authorizes a total of $575,986,000. This is $130,386,000 above the amount requested by the President in his budget amendment request submitted in July 1977.

This increase is accounted for because the committee put in an extra $151 million for F-14 aircraft. These funds were in the House-passed version of the 1978 defense authorization bill, but the amount was reduced in conference. Now the Committee on Armed Services is recommending a return to the original House position.

(By unanimous consent, Mr. LATTA was allowed to speak out of order.)

"THE BACKFIRE 'CONCESSION'"

Mr. LATTA. Mr. Speaker, I agree with the statements just made by the gentleman from Illinois about this rule. I will not take the time of the House to go into the rule. I agree with the rule and intend to support it.

On a related matter, I was most disturbed, as I am sure many Members of this House were today, to read a column by Evans and Novak on "The Backfire Concession." If the Members have not read it, I would like to have the attention of the Members of the House because I am going to read it now. That is the reason I asked to speak out of order. I think it is high time that we pay attention to what is going on, and if this article is absolutely true—and I hope it is not—I think the authorization committee that has this bill under consideration today ought to look into this matter. The article is as follows:

THE BACKFIRE "CONCESSION"

(By Rowland Evans and Robert Novak)

The tentative arms-control agreement virtually pinned down when Soviet Foreign Minister Andrei Gromyko visited the White House does not classify the Russian Backfire bomber as a strategic weapon despite a new U.S. intelligence report showing it able to reach North America with ease.

A top-secret study puts the Backfire's range at over 10,000 kilometers (about 6,200 miles), nearly double some previous estimates. Yet, the strategic arms limitation agreement relies on a Kremlin pledge—clearly unverifiable—not to use its impressive new bomber as a strategic weapon.

That alone would guarantee significant opposition to Senate approval of the SALT II treaty. But briefings within the national-security bureaucracy on the tentative agreement point to the all-too-familiar pattern of U.S.-Soviet negotiations: steady U.S. retreats with no significant Russian concessions.

Senior U.S. officials claim a major "concession" by the Soviets in agreeing to lower the overall limit of 2,400 strategic launchers (including long-range bombers) fixed at Vladivostok in 1975. But since the limit applies to each side, calling it a concession can be challenged.

More significant, the new agreement abandons President Carter's demand of last spring that Moscow effectively limit the number of its fearsome heavy missiles. Without that limitation and in the absence of U.S. heavy missiles, the Russians gave up nothing by reducing the overall limit on strategic launchers.

Similarly, there is a familiar taste to the way the tentative SALT II agreement handles two weapons systems left in limbo at Vladivostok: the U.S. cruise missile and the Soviet TU-26 bomber—the Backfire. The United States will severely limit cruise-missile ranges for three years. But, according to secret briefings, the Backfire will be limited only by "unilateral" Soviet declarations promising not to use it strategically and promising not to increase production.

Reliance on the Kremlin's word collides with highly classified Air Force briefings, featuring a chart showing the Backfire with longer range than the other bombers listed. That chart in turn reflects a recent study sponsored by the Defense Intelligence Agency and carried out by the Air Force's foreign-technology division at Wright-Patterson Air Base.

It reveals that, thanks to important aerodynamic modifications, the Backfire's "B" model—now in serial production—has substantially increased its range. If refueled once, in midair, the Backfire range is 8 per cent greater than the most advanced B-52s and 17 per cent greater than the shelved B-1. The DIA study's conclusion is unmistakable: The Backfire is an intercontinental weapon.

As part of the SALT II agreement, the Russians agree not to refuel the Backfire. But that assurance crumbles on two points: First, the Backfire can hit the continental U.S. without refueling on a one-way mission; second, the Kremlin's promises are simply not verifiable. The "B" model is fitted for midair refueling, and advanced Soviet "civilian" aircraft such as the wide-bodied IL-86 can be easily modified to become a tanker.

Nor does the Soviet "unilateral" promise not to increase production really insure against the threat to the United States of a greatly expanded Backfire fleet. Thanks to meager U.S. air defenses, the bomber is believed by the Pentagon to be a much bigger threat than is envisioned by the Arms Control and Disarmament Agency.

Thus, as informally agreed upon, SALT II describes an uneven poker game between the Russian and the American. Each is limited in his betting by table stakes. But when needed, the Russian can reach into his pocket and up the ante—by calling on the long-range Backfire bomber, not included in the overall limit on strategic launchers.

How can the U.S. negotiators countenance this? Senior officials say various U.S. intelligence agencies disagree on the Backfire's range. Yet, a 1976 study performed for the Central Intelligence Agency, which put the Backfire range at 6,000 kilometers (about 3,700 miles), has been discredited as based on faulty premises. In secret congressional testimony July 28, CIA Director Stansfield Turner himself conceded his agency's study was out of date.

U.S. negotiators are putting aside their own intelligence study and accepting Russian promises because they believe that the nation's need for an overall arms-limitation treaty outweighs inequitable provisions it may contain. That was the philosophy espoused by chief SALT negotiator Paul Warnke and his lieutenants in private life, though certainly not by candidate Jimmy Carter or a good many U.S. senators. This contrast promises a historic Senate debate with profound consequences.

Mr. Speaker, America had better take heed if this article is correct.

Mr. Speaker, I have no requests for time. I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is my understanding that the bill as it came out of the Committee on Armed Services is in violation of the Budget Act, but that a waiver has been given to cover this matter; is that correct?

Mr. MURPHY of Illinois. That is correct.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman.

My question, in essence, has just been answered. I wanted to find out about the violation, that a waiver has been given, that it cannot be taken to court.

Mr. MURPHY of Illinois. That is correct, along with the germaneness rule, rule XVI.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REORGANIZATION PLAN NO. 2 OF 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-243)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105), which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be known as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the Government for the conduct of such activities. The Director, the Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

—To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

—To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative, or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456 (c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semi-annual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Education Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8390) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles,

and research, development, test, and evaluation for the Armed Forces, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8390, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 1 hour, and the gentleman from California (Mr. BOB WILSON) will be recognized for 1 hour.

The Chair now recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, on behalf of the Committee on Armed Services, I bring to the floor today H.R. 8390, the Defense Department Supplemental Appropriation Authorizing Act for fiscal year 1978.

The purpose of this supplemental is clear to all of you who have in recent weeks agonized over your vote on the B–1 bomber.

In announcing his recommendation to cancel production of the B–1 bomber, the President stated that additional work for deployment of the cruise missile and improvement of the B–52 would be required immediately and he submitted a supplemental authorization and appropriation request.

The legislation which I present to you today is that request of the President, as modified by the Committee on Armed Services after thoughtful and extensive hearings beginning July 21.

In that connection, let me say that the Committee on Armed Services has not only considered the request for the specific weapons systems, it determined at the outset that a review of the viability of our strategic deterrence was necessary. That review has begun and is continuing. Because of the time constraints on the House in this session, we have brought this bill forward but the committee intends to continue its review of long-range strategic requirements and to make a determination as to whether the strategic triad of bombers, land-based missiles and submarine-based missiles need changes to assure deterrence.

I hope that the Congress will join in the tough decisions to assure the future strategic defense of this Nation and not simply leaving those decisions to the executive branch.

Mr. Chairman, the committee report has been available to all Members. It explains the bill in detail and I am not going to take extensive time today because I know the pressure under which the House is working.

Let me briefly stress some major points:

The bill contains all of the funds requested for development of the air-launched cruise missile total of $64 million, and all of the funds requested for modifications to extend the effectiveness of the B–52 aircraft, $33 million.

The committee has made some modest changes in some of the related R. & D. requests based on an extensive study by our Research and Development Subcommittee, under the able leadership of the gentleman from Missouri (Mr. ICHORD).

The only major request of the President denied by the committee was $50 million to adopt an existing wide-bodied commercial aircraft to carry and launch cruise missiles. The committee believed that it was premature to purchase or lease commercial aircraft for such purposes in fiscal year 1978. Sufficient funds are available to the Defense Department to study the concept.

The committee made three major additions:

The committee added $60 million for a new budget line item termed "ICBM Initiatives." It happens that I sponsored this amendment myself. This money would be used for research and development on the M–X missile program, the Advanced Ballistic Reentry System (ABRES) program, or such related development as determined to be necessary to assure the survivability of our land-based strategic missile forces. We found that the land-based forces were the most vulnerable of the three legs of the strategic Triad and we found insufficient attention to developing long-range improvements for this force. This initiative will provide the needed authorization for the administration to do the work necessary so that we can go into full-scale development on the M–X in fiscal year 1979. Such is necessary if replacement for our threatened land-based forces is to be available in the 1980's.

The recent statements of the Secretary of Defense quoted extensively in the committee report verifies that the threat is very real.

The committee added $20 million to investigate the desirability of developing a stretched version of the FB–111 aircraft, the FB–111H, for use as a strategic bomber. This is not an ultimate commitment to build this aircraft but in view of the demise of the B–1, the majority of the members of the committee thought investigating this alternative was a prudent course.

The committee added $151.6 million for procurement of the F–14 aircraft for the Navy. This will return the fiscal year 1978 buy to 44 aircraft plus long-lead funding for aircraft in fiscal year 1979. This is the buy originally approved by the committee in the House in the regular authorization bill for Defense but the figure was reduced in conference. The committee believed the Navy's requirement for this singularly effective aircraft is such that reconsideration was justified in the supplemental.

Mr. Chairman, this is emergency legislation to provide some strategic improvements to take the place of an unmatched aircraft which the President has chosen not to build. As I stated in my letter to the President, I think it was the wrong decision but the House has supported that decision and I think we have to be prepared to make what other improvements we can to assure our No. 1 national priority, the deterrence of global war.

This legislation is needed to provide a message to the Soviets and the rest of the world that we do not intend to allow our strategic posture to deteriorate further.

I urge support of the legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. BOB WILSON. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, the genesis of this legislation, H.R. 8390, was President Carter's recommendation on June 30 not to produce the B–1 bomber. This was in effect a redirection of our strategic force modernization plans. The B–1 recommendation which I opposed and still oppose but which the Congress accepted, has significant impact on both procurement, and research and development programs. There is a need for congressional action in order to proceed with both reemphasized and new programs.

The administration submitted proposed legislation to Congress in late July and it is that legislation, amended after detailed hearings, which is being considered today.

The Armed Services Committee has carefully considered this legislation but has not acted as a rubber stamp. We recommended deletions and additions to the President's request.

But the central fact to remember is that the B–1 was designed to provide overdue modernization of one leg of our strategic Triad and in the absence of the B–1 we must proceed now to provide greater assurance that the systems to be used in lieu of the B–1 will be effective. The principal alternative, as you know, is greater reliance on the air launched Cruise missile.

I personally opposed the cancellation of the B–1. But, as I stated, the House has accepted the President's decision and in the absence of the B–1, the additional work on the cruise missile and related items provided for in H.R. 8390 is quite simply the least we can do to provide some modernization of our strategic forces. The committee recommendations on H.R. 8390 are only the beginning of the committee work on strategic force modernization. As our chairman has stated, the committee intends to continue to review the long range viability of all of the elements of our strategic Triad.

The committee findings to date reveal a vacuum as regards cohesive and well-structured planning for the future of U.S. strategic forces.

The sudden change of direction represented by the B–1 cancellation is evidence of the uncertainty of our planning—and is to me evidence of the fact that Congress has to take an active role in assuring the future of our strategic deterrence.

One need only reflect that in excess of $7 billion has been spent since the mid-1960's to developing a follow-on bomber to the B–52. Yet, we are now told that that aircraft must continue to be the backbone of our manned strategic forces well into the next decade.

The new emphasis on the cruise missile is of such a critical nature that

authority to begin increased work on the system must not be delayed.

The Cruise missile, without the B–1 bomber, is the only near-term system available to supplement the aging B–52's. Remember, this aircraft today provides over 50 percent of the Nation's carriage of megatonnage. This is, I believe, an effort to help maintain our strategic deterrent capability. Note that I use the word "maintain" not "increase." We are not beginning new strategic initiatives that would be destabilizing.

Quite the contrary, if we did not make some effort to improve our forces we might send a destabilizing message to the Soviets—a message that we were ready to accept a degradation in the strategic balance.

This we must not do.

The most significant deletion on the President's proposal was the committee's refusing to authorize approximately $50 million to begin work on the wide bodied Cruise missile carrier. This would involve converting a commercial aircraft. The committee did not believe that such a large investment is justified at this time. Specifically, the committee concerns include the projected costs to militarize a commercial aircraft and the fact that the aircraft could not be reasonably hardened sufficiently to survive the defenses that a determined adversary would project from his borders.

Authorization for studies was provided in other programs to investigate if these and other problems associated with a wide body Cruise missile carrier could be resolved.

Two significant additions recommended by the committee are the FB–111H and "ICBM Initiatives."

Both are intended to provide for programs which I believe are needed.

The FB–111H deserves to be studied as an alternative to provide some modernization of our bomber fleet in case the projected goals of the Cruise missile are not achieved. At this point, the committee has merely provided enough money to begin a study of the conversion of existing F–111's to the strategic penetration role.

The authorization for "ICBM Initiatives," which was specifically proposed by the chairman of our committee, Mr. PRICE, is to provide for increased efforts in our plans for modernizing land based ICBM forces. We found in our studies that the administration earlier this year had slowed down the development of the MX, the follow-on to the Minuteman, even though all evidence indicates that our Minuteman forces will be vulnerable to the Soviet strike by the mid-1980's. Our efforts here merely will provide that the IOC and the MX does not slip any further. In addition, the committee planned that some of this ICBM Initiative money would be used to increase the efforts of the ABRES (advance ballistic reentry system) program. This is the program which has the experts in reentry technology and the committee believing that greater use of this talent should be made in examining the effect of proposals considered in the SALT negotiations.

I am personally very concerned that Defense experts do not have sufficient input on the arms control negotiations decisions.

In conclusion, the recommendations made by the Armed Services Committee on H.R. 8390 are intended to preserve our Nation's military capability. This legislation, I believe, is responsive to the present needs. It cannot be delayed if critical problems are to be addressed. I therefore urge the adoption of this bill as reported.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Chairman, will the gentleman state how much moneys are in here for the B–52 conversion, modification?

Mr. BOB WILSON. There is $33 million for the B–52 modification in this bill.

Mr. CHAPPELL. Is it the intent and purpose of this bill to authorize the use of any of these moneys for the purpose of attempting to make the B–52 low level a manned penetrating bomber?

Mr. BOB WILSON. During the testimony in our committee by the Air Force generals who were proposing this it was declared to be considered as a penetrating bomber, the B–52, at least in the few years ahead.

Mr. CHAPPELL. The intent is to authorize the Defense Department to make studies with reference to the B–52 for the role of a penetrating bomber?

Mr. BOB WILSON. For using it as a carrier for the cruise missile and as a penetrating bomber in that regard, yes, it was intended for this.

Mr. CHAPPELL. Will the gentleman state how much money is in here for the study of the FB–111 for the same purpose?

Mr. BOB WILSON. The same purpose is for $20 million for the study alone. The money for the B–52 is actually to go into conversion, that is, planning the initial conversion of the B–52. The money on the FB–111 is solely for the study of the practicality of converting of the FB–111 into a cruise missile-carrying bomber.

Mr. CHAPPELL. Let me see if I understand accurately with reference to the B–52. The $33 million which is in there is for the purpose of conversion, not research and development?

Mr. BOB WILSON. It is actually shown in the procurement portion of our bill under modifications, $33 million.

Mr. CHAPPELL. So really there is no intent to put moneys in here to attempt to make this bomber a low level penetrating one, is there?

Mr. BOB WILSON. To make the B–52 a penetrating bomber?

Mr. CHAPPELL. Yes, sir.

Mr. BOB WILSON. That is part of the conversion. That is the reason for the conversion. It penetrates today, and it will penetrate, according to the Air Force, for many years ahead, into the next decade.

Mr. CHAPPELL. Am I correct in this, that the prime purpose is to initially make the B–52 a cruise missile carrier; is that correct?

Mr. BOB WILSON. The prime purpose of the modifications we are talking about is, yes, to make it a cruise missile carrier.

Mr. CHAPPELL. I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. DOWNEY. The B–52 right now is a penetrating bomber.

Mr. BOB WILSON. Right.

The additional money requested is for possible conversion of some of the classes of B–52's for Cruise missile penetration and also to be used in a standoff capacity.

Mr. Chairman, the difficulty with the B–52 as a penetrating bomber carrying Cruise missiles, as I see it, is that it has to fly at a very low altitude and it is not built as a low-altitude airplane. It is a very rough low-flying airplane, according to pilots who have tried to fly it down to altitudes of 500 feet or so.

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, there is present in the B–52 modification program provisions for some of them to be used in standoff and some of them to effect penetration with a SRAM, is that true?

Mr. BOB WILSON. That is true.

Mr. DOWNEY. With respect to the additional money—and perhaps we are getting in a classified area here—I am not sure, but I believe there is a proposal for the Defense Department to provide some mix-up standoffs and penetrators with respect to the use of the B–52. So I am not sure that the B–52 would have to be used at such low altitudes to deliver Cruise missiles. I think they could be used more in a standoff mode.

Mr. BOB WILSON. The Air Force tells us that the B–52G will be the Cruise missile carrier and the B–52H will be the penetrating bomber. That will be the differentiation between the two.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I notice that there is some $32.5 million provided for B–52 squadrons, in addition to the $33 million to which the gentleman just alluded.

Is it true that those moneys are in the bill for R. & D. purposes?

Mr. BOB WILSON. This is money that is provided for the new improvements to the old B–52's, and it is to be spent to try to bring them up to speed.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

Since we had such a discussion here in the House a few weeks ago about how the upgrading of the B–52 would be a partial substitution for the B–1 bomber, can the gentleman explain to us what this $33 million is going to do in the way of making the B–52's somewhat comparable to the B–1 bomber?

Mr. BOB WILSON. Mr. Chairman, the only way that it would be comparable to

the B–1 bomber, in return for the expenditure of $33 million, is this: This is merely the start of a modernization program or modification of the B–52, as they call it, and this would modify the B–52 to carry the Cruise missile just as the B–1 is intended to do.

Mr. ROUSSELOT. So the B–52 will just carry the Cruise missile; it will not have the other capabilities that the B–1 bomber possesses?

Mr. BOB WILSON. I imagine it will probably serve other purposes. As I say, there is money provided for a penetrating bomber to carry the SRAM and to carry other missiles and bombs in addition to the Cruise missile. The total cost, I am told, is $2.8 billion for modification of the B–52's over the next 10 years.

Mr. ROUSSELOT. Over the next 10 years. So after all the arguments we heard here a few weeks ago in which it was stated one of the alternatives was to somehow modify the B–52, that is accomplished over a 10-year period; is that what the gentleman is saying?

Mr. BOB WILSON. That is correct, over a 10-year period.

Mr. ROUSSELOT. I am wondering what we will do in the meantime.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, perhaps I can help to respond to the question asked by the other gentleman from California (Mr. ROUSSELOT).

On page 9 of the report that came with this bill, we have 20.5 millions of dollars that will be used to accelerate by 1 year the completion of an aircraft.

This is under the section entitled "B–52 Squadrons." So presumably that is a B–52 aircraft containing upgraded offensive avionics.

For the enlightenment of the gentleman, updated offensive avionics is that means which takes a high-level bomber and makes it able to penetrate at whatever mode necessary, not stand-off as the gentleman from New York (Mr. DOWNEY) would say, and not to do all these other things, but to try to make a low-level penetrator by adding avionics to it. That results in a penetrator at low level.

If I were the President of the United States, the last thing I would ever do to any citizen of this country is to ask him to fly a B–52 over the Soviet Union at an altitude under 500 feet.

Mr. Chairman, I hope that answers the question of the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I think that partially answers the question. But I think then we were misled a few weeks ago when we were told the B–52 could somehow be upgraded and substituted or partially substituted for the B–1 bomber.

Mr. BOB WILSON. Mr. Chairman, this is what the money in the R. & D. program is supposed to do. It is supposed to help the avionics which will make the B–52 more secure in its penetrating mode. They tell us that over the next few years new electronics and electronic countermeasures can be added to the B–52 to give more security to these penetrating programs.

Mr. ROUSSELOT. Mr. Chairman, I am sorry we were so badly misled by some of the spokesmen who said we did not need the B–1 bomber because we would have an upgraded B–52 to take its place.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding. Mr. Chairman, the problem is that the B–52 becomes an entirely new issue now that the B–1 has been nearly destroyed. The commanders of our Air Force SAC wings cannot say publicly, because of their position of trust, as those entrusted with the strategic defense of this country, what their younger pilots can say who fly the equipment or what we in Congress are morally obligated to say.

Last week I flew on a 6–hour B–52 mission, and the young men who are flying these aged, subsonic, 8-engine aircraft they will tell you off the record that this Congress has given them a kamikaze suicide mission if they are ordered to respond to a Soviet first strike. This B–52, once an aircraft without peer, is not fit in the near future to penetrate the Soviet Union and bring the aircrews home.

The morale of our only two FB–111 wings is high. Why? The answer is tragic. I flew the FB–111 2 weeks ago. I asked the crews why they have high morale. Their answer, "Because our wives have some hope of our coming home in this FB–111. All of us flew the B–52 before we came here. That is a suicide mission, but we were willing to fly because that is our job. But we would not have survived and our families knew that."

Mr. Chairman, I think the rest of the time I am in Congress I will carefully monitor what happens to the B–52's aging and keep reminding this House that we denied the SAC crews an aircraft that would have given them a fighting chance.

If the President wants to do away with a manned penetrator, let him say so, but to continue to force this aging airplane, which is beginning its third decade is flat out wrong. To keep putting money into B–52 defensive avionics trying to stretch its survivability beyond reason means that what we are doing is giving American fighting men a mission which I do not think this country has ever given soldiers, sailors, or airmen in 201 years, that is a mission with no hope of survival. The B–52 should be retired soon. Its replacement should be decided by the Congress not the President.

Mr. BOB WILSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Chairman, as the House considers this supplemental Defense Authorization bill, I would briefly like to comment on areas of concern.

This bill includes $151.6 million for the additional procurement in fiscal year 1978 of four F–14 aircraft. This increase in unwarranted for a number of reasons.

During the House/Senate conference on the fiscal year 1978 Defense authorization bill, considerable time was devoted to reviewing naval aviation needs, and the different aircraft combination levels necessary for fleet defense and fighter attack roles. At that time, the conferees decided that a production rate of 40 F–14 aircraft in fiscal year 1978 was a rational and sound policy. This decision was based on fleet needs, and also fiscal limitations within the Navy's budget. To quote the House Conference Report, "the Senate conferees pointed out that this year's F–14 procurement plan proposed to accelerate F–14 annual production from the current rate of 36 a year to 60 a year in fiscal years 1979 and 1980, with a buyout of the program in 1981. The accelerated annual procurement of 60 F–14's could create a financial problem in the naval aviation budget which would impact on the Navy's ability to fund the F–18 program as planned. The conferees agreed that the F–18 program is essential to naval aviation and should not be lowered or stretched out. The conferees authorized $755.7 million for procurement of 40 F–14's in fiscal year 1978 with advance procurement funds for 36 F–14's in fiscal year 1979."

That decision of the conferees was based on careful deliberation and should not be revised without additional hearings.

Further, I do not believe that this F–14 increase is germane to the supplemental bill. Aside from the consideration as to what the proper naval aviation mix should be, this supplemental authorization bill is an alleged emergency measure necessitated by the Carter administration's decision to cancel the B–1.

The Secretary of Defense, following the B–1 decision, submitted to the House Armed Services Committee, proposals for accelerating the cruise missile program. These requests were limited to strategic weapons only—weapons, or weapon systems which substitute for the B–1 mission. By definition, the F–14 is not a strategic weapon.

In addition no request for any increase in the F–14 program was requested by the administration when it submitted its request for supplemental funding.

To include $151 million for unrequested procurement violates the spirit, if not the letter, of the Budget Act. Section 402 of the Congressional Budget Act restricts the reporting of any authorizing legislation after May 15, unless emergency conditions exist demanding a waiver of this section. Such emergency conditions are not present at this time to warrant increased funding for the F–14.

The insertion of these additional F–14 aircraft is a mistake, and I oppose it. This increase compromises the congressional budget process, and provides a vivid example of alleged congressional budget reform which is contradicted not by necessity, but by convenience.

Another area of concern involves the administration's apparent commitment to the FB–111H manned penetrating

bomber. The gentleman from Michigan, (Mr. CARR) has circulated a "Dear Colleague" in which he discusses a recent exchange of letters with the President on this subject. If there is a need for a manned penetrator, other than the B–1, the administration should come forward and advocate its development. The President certainly does not advocate such development at this time, or does he?

For well over a decade, we have directed millions of dollars into the development of a supersonic, manned penetrating bomber. The administration maintains that this bomber, the B–1, is not necessary and that its mission can be performed by cruise missiles. Now, they claim that $20 million for research and development of an FB–111H option is desirable.

The administration should make up its mind. If cruise missiles can perform the mission of a manned penetrating bomber, why then does the administration want the FB–111H option? And, if the administration is of the view that an advanced manned bomber is essential to maintaining a healthy defense posture, why not proceed with the most advanced system available, the B–1?

The Congress needs answers on both the FB–111H, and the F–14. While I deeply respect my colleagues on the Armed Services Committee, I find I have no alternative but to oppose these proposals.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I wonder whether the gentleman can tell us without getting into restricted material what the status of the development of the cruise missile presently is.

Mr. CHARLES H. WILSON of California. I am not able to. Perhaps other members of the committee can give us more information about that.

There is, of course, a lot of doubt as to what type of carrier will be satisfactory to carry the cruise missile.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. Certainly I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, my understanding is that it has been flown about 22 hours, and the other flight tests that have been taken or planned so far show that the program has been moving along in a very satisfactory way.

Mr. CHAPPELL. Do we have some figure as to their range, made within the capabilities of our technology?

Mr. PRICE. The information we have the range is around 1,800 nautical miles.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I will be happy to yield to the gentleman.

Mr. BOB WILSON. Mr. Chairman, may I say that the cruise missile has been flown a total of 22 times, and it has been tested, and the tests show that it has a great range and great accuracy, and that it is not as vulnerable as other aircraft flying because it comes in very close to the deck, about 2 or 3 hundred feet above the land or the sea, and follows an erratic pattern that makes it pretty hard to shoot down. It is a real success.

I would hope that the gentleman in his desire to push the B–1, which I endorse, as a matter of fact, I think the B–1 cancellation decision was a mistake, I would hope that he should not try to shoot down the cruise missile because it is the most important new weapons system development which we have come up with in the past 10 years or so. It has a great future. The NATO countries are interested in the cruise missile. It has a real possibility if we will allow it to be developed further.

Mr. CHARLES H. WILSON of California. The problem I have with the legislation, as I stated, is that I do not feel there is an emergency, and I do not think it has to be taken up in this manner.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding me this time.

The problem with the supplemental authorization is that it is not exactly what the President had in mind with respect to the strategic bombers.

One of the things that the Department of Defense had requested was a $50 million authorization for the study of what my friend the gentleman from California (Mr. WILSON) affectionately calls the "Fat Albert," which is the wide-body Cruise missile carrier. It is conceivable, and my friend the gentleman from California has been right before, that the wide-body Cruise missile carrier is not an effective way for our manned bomber force to proceed in the future.

It would seem to me that we would at least want to provide the Department of Defense the option of looking at this as an alternative to yet the FB–111 or the B–1.

If I am not mistaken, in the first few weeks that I was in Congress and on the Committee on Armed Services, we were privy to a study called the joint strategic bomber study that went into some detail and made some very disparaging comments with respect to the FB–111. And it did not, in that joint strategic bomber study take a look at the wide-body cruise missile carrier.

It is clear that the Department of Defense would like $50 million to lease a DC–10 or a 747 to take a look at the wide-body option. The Committee on Appropriations, as I understand it, has provided $5 million for a study. Later on I will offer an amendment to match that $5 million for fiscal 1978, in the authorization bill, just for a paper study of the wide-body cruise missile carrier. That study ought to take a look at some of the options we have been talking about here, and the ECM requirements and what other requirements there might be, and will look at some of these other issues. But I would ask the Members who are here to give it some consideration so that the Department of Defense would have an option because they had not looked at it before. As a matter of fact, they have taken a very, very hard look at the FB–111 and I for one would have a very hard time understanding restudying that option.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, the most immediately appealing argument put forward to support continuing the B–1 is that $3.2 billion has already been spent on the B–1. This is, of course, a correct statement of fact. Some would contend, however, that this is not a truly valid argument for the continuance of the B–1.

I bring this up because if we are going to talk about costs already sunk in an aircraft, we have to compare the $3.2 billion spent on the B–1 to the $8.7 billion spent on the F–111 program.

Of course the response can be made to this argument that we got over 500 aircraft for the F–111 expenditure and we have gotten only four aircraft for the money spent on the B–1. But is this any answer? In both cases the money has been spent and in addition to getting the F–111's we also gained a great deal of technical knowledge. As a matter of fact more technical knowledge has been gained in the case of the F–111 than is usually the case in an aircraft program because there were several different models of the F–111 manufactured and with each one furthering our technical knowledge.

So should not we view this matter in its simplest terms: almost three times as much money has been spent on the various F–111 aircraft, including the FB–111's, than has been spent on the B–1. The fact that we have gotten four aircraft for the $3.2 billion spent on the B–1 has only an apparent persuasiveness rather than a real one.

F–111 aircraft have now flown almost 700,000 hours. The B–1 will still have to spend $1½ billion plus before its development is complete as against the $380 million for the two prototypes of the FB–111H.

But here today we are not talking about even that $380 million, we are deliberating only about $20 million which will permit the Department of the Air Force to make a study of the FB–111 to insure that we not find ourselves in a position a few years from now where no penetrating strategic bomber option is available to us.

Also, since no one can now believe that it is remotely possible that all 244 B–1's could ever be built it should be borne in mind that if only 86 were built, a number that has been talked about by its proponents, each B–1 would cost in the order of $172 million. This would be clearly unacceptable.

It has always been a fundamental principle in the development of weapon systems that modifications and improvements of existing systems be continued until obsolescence begins to set in requiring the start of a new system.

The F-111 has very great growth potential, the first major exploitation of which would be the FB-111H. This is a tried and true method and certainly in this case very much less expensive than proceeding with the B-1.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I rise to support the committee's action on the President's supplemental request and to express a concern about the apparent lack of thought that went into the President's B-1 decision.

As a representative of the Research and Development Subcommittee of the House Armed Services Committee, I traveled to the west coast in August to review this country's cruise missile programs. I visited the Boeing Co., the General Dynamics Corp., and Pacific Missile Test Center. As you probably know by now, Boeing and General Dynamics are the companies that will engage in the cruise missile competition mandated by this supplemental request.

Based on the information I received on this trip, I am convinced the long-range air-launched cruise missile will be successfully developed. The technical risks associated with its development appear to be low. There may be risks associated with the schedule and cost. However, if this country is dedicated to developing these unmanned aircraft that can fly hundreds of miles with pin-point accuracy, I have every confidence we can do so.

My major concern with the cruise missile program is not based on technical matters but rather with diplomatic concerns. I believe our SALT negotiators are about to strike a bargain with the Soviets wherein severe range restrictions are imposed on the missile. This, in my view, will severely limit the missile's utility and will make it easier for the Soviet's to defend against. To me restricting the range on the cruise missile makes about as much sense as building a submarine and then not allowing it to submerge. I must admit the logic in this fails me.

Mr. Chairman, if I might, I would like to change subjects and talk briefly about the direction, or should I say, lack of direction in our strategic programs. I am perplexed, as I know many of my colleagues are, by the President's B-1 decision and the subsequent attempt by the Air Force to resurrect the F/B-111 program.

At the time the President made his decision it was my understanding the role of the manned penetrating bomber would eventually be phased out in favor of these tiny pilotless cruise missiles we have all heard so much about lately. However, the Air Force continues to tell us that the role of the manned bomber is essential in their strategic planning. So much so that they have concocted a plan which, if approved, would add 165 stretched F/B-111's, the so-called F/B-111H, to the Strategic Air Command inventory.

According to Gen. Alton Slay, Director of Air Force Research and Development, the F/B-111 H will fly as far as the B-1, as fast as the B-1, as low or as high as the B-1, and will penetrate as effectively as the B-1. General Slay indicated that the primary advantage the B-1 has over the F/B-111 H is that it will carry twice as many weapons. Put another way, it only takes 82 B-1's to do the job of 165 F/B-111 H's. On a cost basis, however, the B-1 force would cost an estimated $10.4 million whereas the F/B-111 H force would only cost about $7 billion. This is where I get very confused, Mr. Chairman. For all these years the Air Force has been telling us there is no alternative to the B-1 based on cost or effectiveness. Now that the B-1 is apparently dead, at least in the Air Force's view, they tell us the F/B-111 H is not only as effective as the B-1, but costs less.

Mr. Chairman, I think we are getting the bum's rush on this one. The Air Force is grasping at straws. Their B-1 rug has been pulled out from under them and they are now desperately trying to save the manned bomber with, as my good friend Bob Badham calls it, the "Son of TFX."

I think the administration and this Congress needs to get its act together, Mr. Chairman. We should certainly expedite the development of the long-range air-launched cruise missile, but I think we also need a manned penetrating bomber. There is absolutely no question that a mixed force of manned penetrating bombers and stand-off cruise missile carriers gives the Soviets a much greater problem to cope with. This cannot help but lead to greater deterrence.

To date, Mr. Chairman, we have spent over $3.9 billion on the B-1 program. I repeat, over $3.9 billion. If we need a new manned bomber, and I believe we do, the B-1 is the only way to go. It is ready for production. It is not a paper airplane. We know how much it will cost and what its capabilities are. I am sympathetic with the Air Force's plight. They need a new system, but not the F/B-111 H. When all the costs are wrung out on the F/B-111 H—the research and development, the additional tankers that will be needed, the additional crews, the operations and maintenance and so forth, this option will surely be more costly than the B-1.

In summary, Mr. Chairman, while I firmly support the development of long-range Cruise missiles, I believe that this country needs a follow-on manned penetrating bomber. It is clear to me that the B-1 is our only reasonable choice.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the amendment. I rarely appear before this House advocating the addition of money to defense bills, but in this particular case the investment of $5 million could yield significant dollar savings in the long run if the concept of the wide-bodied Cruise missile carrier bears the fruit I believe it will in terms of cost effectiveness.

It is important to place what this money will be used for into some sort of perspective. Simply put, the funding is being sought to study the concept of a wide-bodied aircraft such as the Boeing 747 or the DC-10 as a cruise missile carrier. I reemphasize the fact that this money is for the study of a concept. It in no way commits us to production.

There are many questions that such a study needs to address including: How many missiles of what range can be carried on the wide-body? To what extent and at what cost can the carrier be protected by ECM? What problems are associated with monitoring and controlling a large number of nuclear weapons? What would the tanker requirements be? What are the strategic and diplomatic benefits of the wide-body's longer airborne endurance? Only if we authorize and appropriate this money will we be able to address these questions satisfactorily and reach any conclusion as to the relative merits of the wide-bodied launcher.

The Armed Services Committee would, however, have us kill the opportunity to even study this option. It is no secret that many members of this committee are numbered among the B-1's biggest backers. They have placed $20 million in this bill to initiate studies related to the development of the FB-111H. The FB-111H is a penetrating bomber different only in its clothing from the B-1. The concept of the penetrating bomber has already been judged to be defective, yet the committee is unwilling to spend one-quarter as much to study an entirely new concept.

The committee has feigned some interest in the wide-bodied concept noting in the committee's report that funding in line items for the Air Force bomber penetration program and the Defense Advanced Research Projects Agency contains money for studying wide-bodied cruise missile carrier concepts. In truth this money is pointed toward the potential development of an entirely new generation of dedicated aircraft for the 1990's and beyond rather than the utilization of existing, off-the-shelf wide-bodied aircraft in the 1980's. The DARPA money is oriented toward even more futuristic basing modes.

This is not the first time the Armed Services Committee has tried to force alternatives upon the House through the early elimination of options. The committee had to be dragged kicking and screaming into allowing the Navy even to study the concept of the CVV, or midi-sized carrier. Twice the committee refused to allow the Navy to reprogram $6 million to study that concept. As in the situation we face today that money represented no commitment to the production of the CVV.

The money was to go to the study of the concept, to an assessment of the cost-effectiveness of various alternatives to putting air power to sea. Behind that behavior lay an attempt to preserve the *Nimitz*-type carrier as the only viable option. Now we are facing an attempt by the committee to kill alternatives to the B-1. During our hearings on this bill the prospect was even raised of a future proposal to reincarnate the B-1 in the role of a standoff cruise missile carrier.

There is no question but that the Armed Services Committee should be involved in the choice of options. As the authorizing committee its job is to evaluate concepts and competing weapons systems alternatives necessary to perform required military missions. I have yet to figure out, however, how the committee has been able to divine the most cost-effective options in the near total absence of relevant information. The committee report on this bill has nearly declared the wide-bodied aircraft to be neither cost or performance effective before the concept has even been thoroughly examined.

The administration originally had requested $90 million to purchase, modify, and test a wide-bodied aircraft as a Cruise missile carrier. That request was later revised to $50 million when a decision was made to lease an aircraft rather than purchase one. I have been briefed by the Air Force on their proposal and there may be some reasonable disagreement on their ability to wisely utilize the $50 million in the suggested time frame. One of the unfortunate effects of the Air Force's single-minded advocacy of the B-1 over the years has been the tendency to suppress competing alternatives. The Cruise missile carrier aircraft (CMCA) alternative has only recently seen the light of day. There is no question that the proposal put foreward by DOD was whipped together on short notice.

With a cut to $5 million planned program objectives would be delayed approximately 6-8 months. The $5 million would allow the Air Force to procede with its planned concept study but postpone the actual aircraft development, modification, and testing. I believe this delay is tolerable. What is at stake on this amendment, however, is the potential killing of the examination of the wide-bodied concept, and I find that intolerable.

I feel very strongly that it is a serious mistake not to examine all serious alternatives. I do not intend to oppose the money proposed for the FB-111H for that reason, although I feel sure it will fall for the same reasons as the B-1.

I ask the House to authorize the $5 million to study the CMCA concept, an amount equal to that proposed by the Appropriations Committee. Sound decisions follow only from a competitive examination of all alternatives. I am willing to let the FB-111H advocates have their day in court. I regret that those who oppose the CMCA do not have a similar confidence in their beliefs.

Mr. BEARD of Tennessee. Mr. Chairman, I rise in support of H.R. 8390, the Department of Defense Supplemental Appropriation Authorization Act. In particular, I want to take this opportunity to commend the distinguished Chairman of our Committee on his excellent leadership. He has succinctly put in perspective the national security problems we, as a nation, face today. His recent letter to the President, in which he expressed his concern over the state of our national security and the adverse military trends we face vis-a-vis the Soviet Union, reveal why our Committee is currently undertaking a comprehensive review of the present and future state of U.S. strategic forces. These hearings are scheduled to be concluded prior to the submission of the fiscal year 1979 defense budget, and they will define the major issues which will require the attention of our Committee and the Congress in fiscal year 1979.

It is the majority of the Armed Services Committee viewpoint that the President's B-1 recommendation cannot be considered in isolation—that is the proposed cancellation of this program will dramatically degrade our strategic capabilities from projected levels in the next decade. Visits by members of the Armed Services Committee to SAC revealed that it would take many thousands of cruise missiles to compensate for the loss of this system—many more than we could ever hope to deploy. Thus, the President's B-1 decision raises fundamental questions about U.S. strategic requirements and capabilities, and if we are to take our constitutional responsibility to provide for the national security and common defense seriously, we must thoroughly review the impact of the President's recommendation. This is particularly true because of the ongoing SALT negotiations. A major U.S. proposal at SALT would, in fact, impose significant restraints on the capabilities of the cruise missile, the President's alternative to the B-1 bomber program.

Indeed, I think our hearings raised reason for serious concern about the apparent lack of coordination between U.S. strategic weapons' decisions and our SALT proposals.

In my opinion, one of the most critical U.S. SALT efforts relates to the United States maintaining a highly capable and credible retaliatory U.S. force structure. In particular, there is a need for the United States to maintain an adequate time urgent hard target capability which would deny the Soviets any illusion that they could "fight and win" a nuclear war. The committee's visit to SAC confirmed that the Soviet is posturing his forces for a "war-fighting, war-winning" capability.

Through a diverse offensive strategic force capability he is seeking the ability to neutralize a major portion of U.S. strategic forces. In particular, he seeks to destroy the U.S. silo-based ICBM, and a significant portion of U.S. submarines and bombers. Thus, as Secretary Brown has pointed out, the United States would be left with five out of six U.S. retaliatory warheads being carried by U.S. submarines in the next decade. These weapons are ineffective against Soviet ICBM silos, and other hardened targets. Indeed recent non-Government and Government analyses have concluded that the Soviet civil defense plan could reduce Soviet casualties from a U.S. retaliatory attack to levels less than they suffered in World War II. Thus, if we are to deny the Soviets any illusion that they could ever hope to gain advantage from a nuclear attack, we must maintain a diverse strategic force structure. In particular, we must retain an ICBM in a rataliatory role because it is the only U.S. weapon that can be used against the total spectrum of Soviet targets. For this reason, also, it is my belief that we needed the B-1. With its superior prelaunch survivability and penetration capability the B-1—with its weapons mix of SRAM and ALCM—would have provided a potent weapon against an elaborate Soviet air defense system and a hardening, expanding, and dispersing Soviet target base.

The Committee's concern over the state of our national security was expressed in the acceptance of an amendment to the bill which was offered by the Chairman of the Committee. This amendment was for "ICBM Initiatives," and it authorizes $60 million under the category of Air Force research, development, test, and evaluation.

The authorization had a twofold, although interrelated purpose.

A primary U.S. effort at SALT has been to deny the Soviets the capability to destroy a large portion of the U.S. silo-based ICBM force in the next decade. Yet no matter how laudatory this objective is, I have found no responsible person of technical background who believes our SALT proposals would accomplish this objective. For this reason, a part of the $60 million authorization was proposed for ABRES, a triservice R. & D. program. It is the majority of the Committee's feelings that ABRES, which represents a significant portion of U.S. investment and expertise on advanced ICBM's, could meaningfully contribute to the U.S. SALT negotiating position. Additionally, the Committee felt that increased funding in advanced ICBM technology would reduce the risk associated with the proposed fiscal year 1979 full grade development of the MX missile. The mobile MX ICBM, or more accurately, the multiple aim point system, offers the United States the present most realistic way to assure a survivable land-based ICBM system.

Only last month I received a letter from Dr. William Perry, Director, Defense Research and Engineering, in response to a letter I had written to the President which stated that:

> Based on our intelligence estimation for the mid-1980's, the Minuteman force in silos that would survive a Soviet first strike could be unacceptably low.

During our committee's hearings on the B-1 supplemental, Dr. Perry also testified that we should be prepared to accelerate the MX program in either fiscal year 1979 or fiscal year 1980 should the Soviet threat to U.S. ICBM's not diminish. In fact, since the submission of the fiscal year 1978 budget, a revision in U.S. intelligence estimates has revealed that present Soviet ICBM systems pose a more significant threat than previously realized. The improvements necessary to give these systems a credible first strike against the U.S. silo-based ICBM force are such that they probably could not be verifiably restricted by a SALT agreement. The additional money provided by the committee for MX, therefore, merely provides a beneficial hedge and strengthens the U.S. options in defining the future of the MX system.

Mr. Chairman, again I commend the chairman for his foresight and I urge acceptance of this bill and the retention of the funding for "ICBM initiatives."

Mr. PRICE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by title the

amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy and the Air Force for procurement of aircraft and missiles, as authorized by law, in amounts as follows:

(1) For aircraft: for the Navy, $151,600,000; for the Air Force; $33,000,000.

(2) For missiles: for the Air Force, $64,000,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy, the Air Force, and the Defense agencies for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Navy, $5,886,000.

(2) For the Air Force, $306,500,000.

(3) For the Defense agencies, $15,000,000.

SEC. 202. (a) Section 202(a)(2) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79), is amended by striking out "before January 1, 1980" and inserting in lieu thereof "not later than July 1, 1981".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. LLOYD OF CALIFORNIA

Mr. LLOYD of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LLOYD of California: Page 3, line 17, is amended by striking "$306,500,000" and inserting "$286,500,000".

Mr. LLOYD of California. Exactly what would my amendment do? In essence, what it does is it strikes those funds for work on a rebuilt F–111 fighter, rebuilding it into a penetration bomber which is called the FB–111H.

This spring we were told that we did not need a B–1 bomber, and we were told that the option was simple and the option was clear: What we needed was a cruise missile. After that we were asked a little later on to consider the potential of a penetration bomber. So what really has occurred in all of this is that we were asked to give up the penetration bomber because it was a B–1, and now we are being asked to consider a new penetration bomber which is built on the basic airframe of the F–111 and has perhaps less than half the capability of the B–1. That is what the whole thing is about.

But I think that we have to recognize that this is in reality a backdoor approach. By striking the funds for the FB–111 we are sending a message that is clear and consistent, and it will be to those across the Potomac over there that what we want them to do is to be honest and fair with this legislative body and ask for what they really want.

I can give the Members the options in all of this. What really has gone on is that if we do not want the B–1, then we ought to have the B–52. That discussion has occurred earlier in discussion on the rule. The B–52's are, indeed, old, and they are tired, and the crews who fly them know clearly that if they are to take those airframes into combat, they have a very good chance that they will fail. In this option of a B–1 or cruise missile, something that seems to be missing is that we have had cruise missiles not only in our inventory but also in the historical armaments of the world.

The V–1 in World War II was essentially a cruise missile. Granted that it was very basic and perhaps a little crude, but so also were the defense systems that were deployed against it, and very frankly the defense systems were brought quickly into line so whereas the V–1 capability was almost 100 percent at its inception, by the end or almost at the end of the war we had reduced the strike capability to less than 10 percent. So that is an historical record which is before us.

Let us talk about some of the other options. Let us talk about hanging the cruise missiles on fighter aircraft. That is not all bad. It can be done. As a matter of fact, we can launch cruise missiles from anything. We can launch them under the water; we can launch them in the air; and we can launch them off the back of a truck. There is no problem in doing that.

The key factor in the whole thing is: Are we close enough to address the targets that we wish to address from wherever we happen to launch the missiles?

All of us have heard how we can reach out over the many miles, and if indeed that will work, let us say we are going to be able to launch 3,000 nautical miles, we really do not need an F–111H, and probably not even a B–1, and not anything else. We have solved our problem.

But it turns out we are already talking about limiting this weapons system, and therein lies the problem. If we limit the weapons system, then we have to have some way to deliver it. And in delivering it the factors come down to the basics of: Is the FB–111H the best possible penetration cruise missile carrier that we can have? And the answer is clearly "No." Clearly the B–1 is the best.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. LLOYD of California. Mr. Chairman, in the options that have been presented to us, clearly the best option is the B–1, if indeed we need a penetration bomber. Now what we decided a few months back was that we did not want a penetration bomber. Well, if we do not want it, let us stick to it.

But if we are going to have a penetration bomber, then for goodness sake, let us pick the very best air frame that we have. The most modern aircraft weapons system that we have for the penetration bomber is the B–1. And then if we are going to carry the cruise missiles in a penetration air frame, let us go back to the B–1. For that reason I am asking the Members to delete what I consider to be a second-level penetration bomber. If the other fails, let me say clearly that I will come back and support the FB–111H, but not until we have at least looked at the very best.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. MILFORD, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. MILFORD. Mr. Chairman, I would like to say to my friend, the gentleman from California, that I agree with him part of the way. The very best weapons system would be the B–1, the type we are looking for if we want a penetration bomber. The B–1 is the best, and if the gentleman will introduce an amendment to bring back the B–1 I will vote for it and I will stand up with him to ask support for it.

But we have learned here sometimes that we cannot get everything we want. Will the gentleman agree that somehow if we do not get the B–1 back, the next best thing we can do is to take the stretch FB–111?

Mr. LLOYD of California. I have to answer "yes." The gentleman is correct. But I think we have got to try to go back and get the B–1 before we commit ourselves to something of less capability.

Mr. MILFORD. I will join the gentleman from California in trying to bring back the B–1, but we have to face the issues we have on the floor, and it seems to me the FB–111 is a good insurance policy at this time.

Mr. LLOYD of California. The thing is, I do not have the option to bring back the B–1. I only have an option to take

money out, not because I do not want the FB–111.

But because I think we are out of order in the thing right now, we ought to consider first things first. Because of that, I am trying to clear the board so that clearly we can make it. Let us go up or down on that as we feel, but let us consider the FB–111H.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, let me say that for several years I have been one on the committee that has resisted the effort on behalf of the Air Force, or whatever the agency is, to take the money out of the F–111 and keep the line open so that we have an alternative, the same thing the gentleman from Texas is talking about; but we have got to the point now where we have approximately $4 billion in sunk costs. We are not talking about taking an existing line or an existing plane. We are talking about starting with entirely new planes built on old concepts. For that reason I have had to abandon the idea of keeping the option open and saying we do not have the same viable option we had in the past, because when we consider the additional costs, the on-target costs across the board, it is another thing.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. MILFORD, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, will the gentleman yield further so that I can just finish the sentence.

Mr. LLOYD of California. I yield to the gentleman from Alabama.

Mr. DICKINSON. It is for that reason I feel constrained at this point to support an amendment that will take out the money at this point, at least for the stretch version of the F–111, because we are not talking about the same situation that we were in 3 years ago when I voted against the wishes of the Air Force trying to keep the line open for the same reasons the gentleman mentions.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, again I have to sharply disagree with the gentleman from Altbama. The stretch–111 is a second choice; but what I fear is if we vote for the gentleman's amendment and get it kicked out, then we lose both the B–1 and the stretch–111 bomber. Then we have no penetrating weapon of any kind.

Let us defeat the amendment and bring the B–1 in head-on.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I would like to say that the testimony of the Secretary of Defense and the testimony of Dr. Perry, the R. & D. man at the Department of Defense, is that we will retain the B–1 option for 2 or 3 years, so it is at least that period of time before we are without the option of the B–1.

Mr. CHARLES H. WILSON of California. Mr. Chairman, can the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, can the gentleman from Missouri tell me how we retain the option, if the company closes down? Unless planes are built, five or six are built, the company cannot stay open. In order to keep them open for 2 or 3 years we have to continue with the additional planes for the test program.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield further?

Mr. LLOYD of California. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Of course, it would be more expensive to start in with the program again. As I say, Secretary Brown and Dr. Perry testified to the facts just related. I do not recall the testimony as to the additional costs provided the option is exercised at a later date.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield further?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I do not understand how it can remain viable, because there is no other aircraft Rockwell has. That is the only thing they have been building and unless they can continue with the other two planes, they are out of business.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, if you go back and decide to build the B–1 in 2 years or 3 years, does the gentleman feel that the Rockwell Co. would refuse to build the B–1?

Mr. LLOYD of California. No, but the fact remains it is much more expensive to do it in 2 or 3 years.

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, the gentleman from Missouri conceded there is an option; it would be more expensive, but no one is discussing that.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. You may think it natural that I would oppose this amendment. I would be expected to for parochial reasons alone. The FB–111 was developed in my area and if it were to be built again, probably the major part of it would be rebuilt there. But if that were the only reason, it would not be worth even $20, let alone $20 million.

This $20 million was recommended by the Air Force as a bit of necessary and relatively cheap insurance against what might happen in the future.

I do not know what is going to happen to the B–1; none of us knows what is going to happen to the B–1. I doubt very much if the Congress, in the ultimate analysis, will be able to force the President to continue production of the B–1. What is at stake is whether or not this Nation will have any hope of a penetrating bomber capability if the B–1 goes down.

For 25 years, our deterrent has rested upon the triad of bombers, land-based missiles, and submarines. It has been effective. Now, we are told that we can do without the bombers; that penetrating bombers can be replaced by an entirely new concept of aerial launching pads lobbing in cruise missiles from outside enemy territory.

That is an entirely untried concept. There has never been a test of a cruise missile of the range that would be required. And nobody has ever explained what would keep enemy aircraft from intercepting these aerial launch pads, the B–52's or the 747's, and shooting them down even before they could launch their missiles. I would hate to be a pilot testing that idea in actual combat.

There is serious room for doubt that this concept will work. So it seems to me incumbent upon us to keep alive any option that we can to maintain the kind of deterrent that the penetrating bomber has given us all these years, and can give us in the future. Obviously, it is not the B–52. Most of the B–52's are older than the pilots who are flying them. The plane is subsonic, it is a big target. So I think these are valid reasons why, if we are not to have the B–1, this $20 million is good and necessary insurance, as the Air Force believes.

Let us look at the capability of the FB–111. It will not be able to do everything the B–1 is designed to do, but it can do most of the things, and for about one-third the unit cost.

The FB–111 can carry 15 weapons, including cruise missiles, farther than the B–1 can carry its 24, with one aerial refueling in each case.

Without any aerial refueling, it can carry a conventional bomb load 5,700 nautical miles, or about 6,600 ground miles. From bases in England, it could provide substantial target coverage without a tanker.

It is more fuel efficient than either the B–1 or the B–52.

And finally, it is a proven weapons system. It has penetrated heavily defended enemy air space over Vietnam with satisfactory survival statistics, five times better than those of the B–52. For the last 2 years it has absolutely runaway with all the honors in the SAC-wide bombing competition. The FB–111 is far from an untried concept.

I am not trying to suggest that the FB–111 is the only answer. I do not think it is. I do believe that it is a viable option to keep alive. It may be the best and cheapest of all the available options. Certainly we ought not to destroy this option just so the House would be forced to buy the B–1 on the grounds that then there would not be any other option for a penetrating bomber. That is a dog-in-the-manger attitude. It does make sense to keep alive the $20 million, the possibility of a less expensive alternative in

case the B–1 goes down, so that we do not face the absolute certainty of going into the 1980's without any penetrating bomber capability.

It seems, for those reasons, that we would be wise to reject this amendment, to follow the advice of the Air Force, the forceful suggestion of its Chief of Staff, and allow this $20 million to be invested in testing to see if indeed, in the future, it would be practical to build the stretched version.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

Mr. WRIGHT. My time has expired. If I could ask for 2 additional minutes, I would be glad to yield to the gentleman.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. I yield to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. WRIGHT).

Mr. Chairman, I believe we are asked to guess a little bit on what the President's motivation was in cancelling the B–1, and I strongly support that, as I think the majority of the Members do. But my guess is that it was because of the cost. That is my guess. Not because it is not a good weapon and not because it is not needed.

So I would hope that this option could be kept open in the interest of the defense of this country.

Mr. Chairman, an important aspect of the overall issue of manned bombers has been obscured or misunderstood throughout recent discussions. Many perceive the question to be a decision now on either the B–1 or the FB–111H. That is not the issue.

The issue is how best to preserve a manned penetrating bomber option for the mid-1980's. B–52's will perform that mission over the near term. The unknown is whether or not they will continue to be effective in the threat environment beyond that point, and whether a more capable—more survivable—bomber will be needed.

From all the testimony received by the Congress in recent weeks, it is clear that the advent of the cruise missile has placed a new complexion on our strategic force structure. Many of the targets once planned for the B–1 will now be covered by the cruise missile. Another important effect of the inclusion of the cruise missile in the force structure is that the load requirement of the penetrating bomber is lessened, thereby making the FB–111 more attractive for this mission. Also the fact that the United States has already invested some $8 to 9 billion in the F–111 program seems to be a practical reason for pursuing as much growth potential as possible out of this modern, high performance operational system.

The essence of good planning, particularly concerning the vital strategic capability of the United States, is to hedge against any contingency. It is for that reason that so many feel so strongly that a manned penetrator is not something they are willing to concede as unnecessary, until that question is much clearer than it is at this time.

Therefore, keeping the most viable option open at the lowest cost, for an existing aircraft which, when modified, will meet the requirements of the mission is the only judgment to be made and that is the FB–111H.

No one denies that the FB–111H will meet the requirements of the bomber mission. It is undeniably less expensive to develop, to procure, and to operate. Viability—the assurance that an affordable option, one that can be defended in Congress and with the public, will in fact be available if needed, must be judged in favor of the FB–111H. The cost of maintaining the option is crucial to the question of its viability. The $20 millon requested by the USAF in the 1978 supplemental budget is only for protecting the option to look further into the feasibility and advisability of modifying the FB–111 for the future.

Mr. WRIGHT. I thank the gentleman for his remarks.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentlemen from California.

Mr. LLOYD of California. I thank the gentleman for yielding.

Mr. Chairman, I would point out to the gentleman from California, however, that, in the cost, one of the things we have to accept is that we have already spent $4.2 billion, and that is down the drain, on the B–1. So if we start out with the B–1 at this point, in cost, we will find it is a very economical investment, compared to any other option, including the FB–111H which carries really only about one-third of the total payload. In fact, I think it is less than that. And it does not have the same performance figure.

Mr. WRIGHT. Mr. Chairman, if the gentleman would permit a response at this point, I think the gentleman is relying upon invalid statistics. Air Force authorities have told me that it will carry more than one-half the payload at about one-third the unit cost. I am not arguing about the B–1. That is not the issue here. If the gentleman wants to argue about that, we will argue about that on another day. I am saying that is an option capable of keeping alive the possibility of a penetrating bomber capability if we lose the B–1.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from South Carolina.

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California brings up the safety record. Maybe we should keep this clear. I have some statistics here.

THE CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. DAVIS, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

The F–111, in its various versions, has now flown almost 700,000 hours and still has, by a large measure, the best safety record of any modern high-performance combat aircraft.

I have been sure that someone would bring up on the floor today the fact that there have been three recent F–111 accidents, one in Germany, one in Australia, and one here in our own country. These accidents are indeed most unfortunate and no one regrets them more than I. They do not, however, change the fact that the safest combat aircraft in our inventory is still the F–111 and the FB–111.

With no intention whatsoever of criticizing any other of the aircraft in our inventory, I would like to give a few examples comparing the accident numbers for F–111 as against some of our other combat aircraft.

Type aircraft	Number of accidents
F–100	446
F–105	159
F–106	94
F–104	196
F–101	152
A–7	95
F–102	174
F–4	119
F–111	66

I want to repeat that in citing the number of accidents of aircraft other than the F–111, I do not intend any criticism, I merely want to state the facts. I think everyone will agree that it is only by comparison, fair comparison, that we can arrive at a conclusion as to how "safe" one aircraft is as compared to other aircraft in our inventory.

The F–111, I repeat, is the safest combat aircraft in the inventory of the United States today.

Mr. WRIGHT. I thank the gentleman for making that point. Measured by the thousands of miles flown, the F–111 has established the best safety record of any aircraft since the F–100. That means any in the last 20 years.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, the B–1 has become an issue in the debates here on this amendment. Would the gentleman please explain the parliamentary situation with reference to money for the B–1? Will this House have another vote on that issue?

Mr. WRIGHT. It is my understanding that the House will indeed have a vote on that issue at the time the Appropriations Committee brings the supplemental appropriations to the floor, probably next week.

Mr. WYLIE. It is my understanding that the money has been authorized for the B–1. The question is now whether that money will be appropriated. Is that correct or not?

Mr. WRIGHT. I think that is essentially correct, with respect to the remainder of the existing fiscal year.

Mr. WYLIE. This is an authorization bill.

Mr. WRIGHT. This is an authorization bill and what is involved in this amendment is a $20-million feature of the authorization bill to keep alive one other possible option, an FB–111H, in the event that the B–1 is canceled, so that there would be some modern penetrating bomber capability.

Mr. WYLIE. I thank the gentleman for his explanation.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to rise but decided to do so when the letter which had been addressed to me by President Carter last Friday was introduced into the debate.

I rise in support of the amendment and in general agreement with the previous speaker, the gentleman from California (Mr. BADHAM). However, I do think that he gave the harshest interpretation to the President's letter. I think that there is a yet more gentle interpretation to the President's message to us in the October 7 letter.

Mr. Chairman, that message basically is that the President reaffirms his decision that the Cruise missile is the strategic offensive deterrent weapon of the future. It says, in effect, that until that weapon is in place, we will continue to rely on our manned penetrating-bomber capability such as is left in the B–52.

Further, Mr. Chairman, in the third paragraph of his letter, I think the President is saying that should unforeseen circumstances prevent the implementation of our cruise missile standoff bomber carrying capability, the President wants to do what any prudent Commander in Chief would want to do, and that is to continue research and development not only with respect to the B–1 bomber, but also with respect to the FB–111H.

I would note for the record that neither President Carter nor Secretary of Defense Harold Brown asked for the $20 million that is in this bill. Rather, I think the record should show that the hearings before our committee revealed that there were three Generals in the Pentagon whose idea it was to include $20 million for the FB–111H. The first general is Gen. Alton Slay, Air Force Director of Research and Development. The second general is Gen. Davy Jones, Chief of Staff of the Air Force; and the third general is General Dynamics, which has been thumping around the Pentagon for years trying to sell the FB–111 as an alternative to the B–1 bomber. That is not news.

With, I think, the help and assistance of Secretary of the Air Force John C. Stetson, the proposal was made—and it was made to the Congress not through OSD's office, but made directly to the House and to the Senate committees and the chairmen—that $20 million be included for the FB–111H. At that point a letter was sent by the chairman of the Committee on Armed Services of the other body to our Secretary of Defense asking whether such an addition to the supplemental would be "appropriate." A response was received from the Secretary of Defense that R. & D. money to continue the study of manned penetration was indeed "appropriate" and within the guidelines of the statement of President Carter on June 30 canceling the B–1 bomber.

It is from that point that the Congress launched into this initiative, and I just want the record very clear that it is the Congress and not the administration that is pushing this $20 million.

Mr. Chairman, I hope and urge that we pass the amendment offered by the gentleman from California.

Mr. Chairman, I include at this point the letter from President Carter, as follows:

THE WHITE HOUSE,
Washington, October 7, 1977.

The Honorable ROBERT CARR,
U.S. House of Representatives,
Washington, D.C.

To Congressman Bob Carr:

I welcome the opportunity to respond to you and the other Members of Congress who wrote to me on October 5. First, I would like to emphasize that I did not make the politically difficult decision to cancel the B–1 bomber so that I could build another less capable manned bomber. I am convinced that the decision was the correct one and that the cruise missile, carried by B–52s or specialized aircraft, is the best choice for the foreseeable future.

The penetrating bomber continues to be part of our strategic triad. While I hope that it will not be necessary to produce a new aircraft, it is conceivable, though not likely, that future developments would necessitate such an action. We cannot predict accurately what future Soviet strategic systems, air defenses, and SALT ramifications might be. Because of the stakes involved, I believe we must insure against the possibility, however remote, that we might have to produce a new penetrating bomber. That is why I decided to finish the B–1's development, including the 4th aircraft, which is the last one needed in the flight test program.

We are, of course, engaged in a careful and continuing examination of the issue but I would emphasize that we have made no decision other than to study the possibility of the FB–111H being a viable option. We have not decided to develop nor to produce this or any other new manned bomber. If we do later decide to initiate such a development, then Congressional consultations would precede such a request, knowing that this would only give us the *option* to produce it in the unlikely and unforeseen event that this should become necessary.

I trust and hope that this may resolve any misunderstandings.

Sincerely,

JIMMY CARTER.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in support of the Armed Services Committee recommendation to add $20 million to the supplemental budget request to initiate studies for the development of the FB–111H manner strategic penetrating bomber.

Many other Members of this House, including this one, lament the President's recommendation and action of the Congress to terminate production of the B–1 bomber. I believe that the true worth of the B–1 will be realized by future generations at a time when it may be too late. But I believe we must face reality—at this point in time the B–1 is gone and we, here, today must take every conceivable action to minimize the damage in years to come. I have not heard a single defense expert acknowledge the fact that the manned penetrating bomber has been made obsolete by the cruise missile. If the true facts were known about the need for a manned strategic bomber when this Congress voted on the B–1, I am sure the outcome would have been quite different. The bottom line, however, is that this country needs now, and will need in the future, a strategic penetrating aircraft.

The B–52 has served us in a outstanding way, but, again, we must face reality. The technology of the B–52 dates back to the 1950's, and in spite of numerous improvements, it will not be a match for Soviet defenses that are in the current and projected Soviet inventory. The FB–111H is a system that I admit is not as good as the B–1, but very much better than the B–52. For example, at various aspect the FB–111H has a radar cross section that is over 15 times less than that of the B–52. As I am sure many of you here realize, the smaller the radar cross section, the more difficult it is for the enemy radar to find the aircraft.

I think it behooves all of us to keep in mind the fact that cruise missiles complement, but do not replace, manned penetrating bombers. I think that the administration has truly bungled the rationale accompanying the B–1 cruise missile decision. Their arguments in favor of cruise missiles have been contradictory and in my judgment have weakened the credibility of the entire supplemental budget request, when, in fact, there is a real need for both cruise missiles and strategic aircraft.

Since over 50 percent of this Nation's megatonnage is carried by the strategic bomber leg of the Triad, an option must be maintained for a strategic penetrating bomber. That option must be a viable one until the cruise missile concept is validated. I, therefore, urge your support for the FB–111H, which can provide that option.

The FB–111H only costs about one-third of what a B–1 costs and only carries about half as many bombs. but you can buy twice as many FB–111H's as you can the B–1's and get twice as many bombs for the same money.

What I am saying is to turn down this amendment and stick with the committee, the committee that decided in its wisdom that a $20 million expenditure for a study is not a bad expenditure at all and it is worth doing.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I was wondering where my friend got the figure of one-third the cost of a B–1. I think we should relate to the fact that this is a brand new plane that we

are talking about because there is very little of the old FB–111H that would be used in the new function. It will involve a new R. & D. program. So I think the gentleman's figures may be incorrect.

Mr. BOB WILSON. No, I am using the figures that General Slay submitted to us.

Mr. CHARLES H. WILSON of California. The gentleman is willing to trust those figures?

Mr. BOB WILSON. I have no reason not to trust them. He said that the B–1 will cost, for 82, $10.4 billion, and the FB–111H, for 165 aircraft, which are enough aircraft to carry the same load as the B–1, would cost 87 billion, compared to the $10.4 billion. So the actual cost per airplane is about one-third the cost of a B–1.

Mr. CHARLES H. WILSON of California. Both the gentleman from California (Mr. BADHAM), and I questioned General Slay on his figures and he acknowledged that he could not predict any figure with any accuracy at all.

Mr. BOB WILSON. I think this points up the reason for the need of a study, I must say to my friend. And in our case I believe we are only asking for $20 million.

I believe that we do not presently know what the ramifications are going to turn out to be, and it may well be that the $20 million study will be the best argument for the B–1 that you can think of. Perhaps we will turn up a study where actually the B–1 is the answer.

But, whatever it is, whether we have the B–1, or the FB–111H we have got to have one or the other to carry the cruise missiles because both are designed to carry the cruise missiles.

So I would hope that the House in its wisdom would turn down the amendment offered by the gentleman from California (Mr. LLOYD).

Mr. Chairman, I yield back the balance of my time.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is appropriate to look back and see just what the president said on July 30 and what the Secretary of Defense followed with in backup information on July 1. The President said, and I quote:

> During the last few months I have done my best to assess all factors involving production of the B–1 bomber.
>
> My decision is that we should not continue with deployment of the B–1, and I am directing that we discontinue plans for production of this weapon system. The Secretary of Defense agrees that this is the preferable decision.
>
> The existing testing and development program now underway on the B–1 should continue, to provide us with the needed technical base in the unlikely event that more cost-effective alternative systems run into difficulty. Continued efforts at the research and development stage will give us better answers about the cost and effectiveness of the bomber and support systems, including electronic countermeasures techniques.

Let me back up, Mr. Chairman. Let me refer to one question the President was asked at his news conference on the same date, and I quote:

> Mr. President, what were the major factors that led to your decision against the B–1 bomber?

The President's answer:

> There are a number of factors. One is obviously the recent evolution of the cruise missile as an effective weapon itself. The tests of this system have been very successful so far.
>
> Another one, of course, is the continued ability to use the B–52 bombers, particularly the G's and H's up well into the 1980s, and the belief on my part that our defense capability using the submarine-launched missiles and intercontinental ballistic missiles combined with the B–52 cruise missile combination is adequate.
>
> We will also explore the possibility of cruise missile carriers, perhaps using existing airplanes or others as a stand-off launching base.
>
> But I think in toto the B–1, a very expensive weapons system, basically conceived in the absence of the cruise missile factor, is not necessary.

Then, Mr. Chairman, the following day when the Secretary of Defense gave his backup news conference, he said essentially the same thing. I am not going to take the time of the committee now to quote the Secretary's testimony, but there was no important divergence from what I have just read to the Members.

The point of all of this is that on June 30 of this year when the President made his decision, it was made totally on the basis that the cruise missile supplanted the need for a penetration bomber. There was no reference whatsoever to the FB–111. The first reference we had to the FB–111 came 10 weeks later, to my knowledge, when the Secretary of Defense, Mr. Brown, came before the Subcommittee on Defense Appropriations and for the first time mentioned the FB–111 and said that the administration was prepared to accept the $20 million that had been forced on them, more or less, by the authorizing committee over on the Senate side. Five days later Dr. Perry, the R. & D. man at the Department of Defense, came down to our subcommittee and said the same thing. It took them 10 weeks to come up with the thought or the idea of an FB–111.

I do not get any reassurance at all from the letter of the President to Mr. CARR dated about October 7 because there again we see the President echoing precisely what his Secretary of Defense and R. & D. man, Dr. Perry, had told us by saying that he wants this additional option that is going to cost us $20 million this year.

Let me say, Mr. Chairman, I am among that handful of Members who have supported the B–1 over the years, and on the basis of the statement and decision of the President and his Secretary of Defense of June 30, switched our vote. The evidence seemed to be, the best information seemed to be, that we had the advanced technology in the Cruise missile that supplanted a necessity for a penerating bomber.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 3 additional minutes.)

Mr. BURLISON of Missouri. Mr. Chairman, on the basis of what has happened since June 30, I at this point am reserving judgment on what I am going to do if we have another vote on the B–1 bomber. I may be switching back unless I can have some assurance that we do not need a penetrating bomber.

It seems clear to me that if we are able to have a penetrating bomber, the B–1 ought to be the only option. There is no argument but what it is the far superior weapons system. There is no argument to the fact that we have already spent well over $3 billion in research and development and advanced engineering, and that we are now ready to go into production of this weapons system.

It is ludicrous to look at a weapons system that is going to require the engines from the new B–1 be put into this old air frame that has been around for years.

I commend the gentleman from California for offering this amendment. I think he is right. I certainly intend to vote for the amendment. I hope that the Committee will do likewise.

I say that if we cannot wipe out this FB–111, if we cannot pass the amendment of the gentleman from California, I am hopeful that two or three other Members of the Chamber will switch back and we will go ahead and build the B–1 bomber. That is, if it is determined that our national security requires a penetrating bomber.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think listening to the debate is proof positive of the need to vote for this amendment.

See where we find ourselves: A Congress floundering around trying to decide in which direction we should go because the Pentagon and the administration are floundering around trying to decide in which direction they should go. And so the B–1 is not in issue today. Frankly it happens to be the catalyst which brought all this confusion upon us because when the President terminated the B–1 he did talk in terms of cruise missiles and he did talk in terms of the B–52, and waiting in the wings was the FB–111H. And I can only say if there had not been that one, there would have been another one in the wings waiting to move onto the scene.

We talk in terms of $20 million for an option, but $20 million is not going to buy anything. It is going to buy a few plans.

But if we really take the FB–111H to the point where we can make a decision of what we will do with it we are talking in terms of at least $380 million.

We have been hearing quotes from President Carter. We have been hearing quotes from Secretary Brown. We have been hearing quotes from General Clay, and others. And the truth is we do not know where we are going from what they say and from what we know.

Well, my position is very simple. I do not want to put any more money into a system such as the FB–111H until somebody comes over from the Pentagon or the White House and sits down in the appropriate committee and says: "This is where we think we want to go."

To open the door with $20 million today is simply to keep that door open for $380 million down the road, when we have no earthly idea that it is the direction in which we are going. We are talking about the wide-body jets for the Cruise missiles, and there will be an amendment offered later to put $5 million into this bill to do a little study and open a budget line for that, and I will support that amendment. But until we know where we are going, until we know clearly what the administration in fact is willing to give away at the SALT agreements, where we have heard that they are laying on the table the proposition that the Cruise missile will be kept to a distance of about 1,400 nautical miles and will be flown only from manned bombers, where we have the FB–111H dropped into the picture almost the minute the B–1 is terminated, there are I think a lot of questions to be answered.

Mr. Chairman, I think it would be unwise to embark upon another venture at this time until we know where we are going.

Let me put this in perspective. We went through about 10 or 15 years of developing the B–70 and we spent about $1.3 billion, and in those days that was a heck of a lot of money. Now we have gone through 6 or 7 years or so of developing the B–1 at a cost approaching $4 billion, and that for all intents and purposes at this time is out the window.

Now, is this Congress, is this House going to roll over and play dead because the next idea of the penetrating bomber is before us?

I think it is time to say to the Defense Department, "Let's just wait a cotton-picking minute. Come over and tell us more about where you are going and then we will talk in terms of some new system."

Mr. Chairman, I leave us again with this one point. $20 million for the FB–111H is not going to buy anything. As a matter of fact, we have been told in committee that General Dynamics already has over 800 hours in the wind tunnel with an FB–111H model. This is not something somebody all of a sudden wants to start doing something on. Work has been going on, because it has been waiting in the wings. As somebody said awhile ago, they have been running around the Pentagon for years trying to sell this thing.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I think the gentleman makes an excellent statement. The gentleman is privy to the planned strategy that when the B–1 was in controversy, and still is, and particularly the controversy at the time when the Air Force made an attempt to try to mute the controversy by a JCS study.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(At the request of Mr. DOWNEY, and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, they did that study, so the gentleman is telling us that General Dynamics has done a study, and they have. The Air Force has done a study on where the targets are that the FB–111 has, how many tankers it would need, what its payload would be. This is not something that needs to be studied again.

Mr. EDWARDS of Alabama. Certainly not at this time. I thank the gentleman.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak for the amendment. Several Members have described the fact that the picture has changed markedly since our last vote on the B–1, the fact that we did not need a penetrating bomber then and no one was even talking about one. Suddenly we have the FB–111H proposed.

I sat through the hearings where we find that the cost of the FB–111 and the B–1 depends on how many you buy. If you were going to replace the B–1 with the FB–111 to deliver the equal weight, one B–1 would cost about twice what one FB–111 would cost.

The FB–111 was estimated by General Slay at about $50 million. Then we asked General Slay what the capacity was of the FB–111H and he said about half the B–1.

We asked about survivability and range and he said they are about the same.

We said then that it is about the same. It is a wash. It costs about the same if you replace it weight of weight.

He said that is not true, either, because you have to have twice the number of tankers for the FB–111H, a lot more people to service them, a lot more bases to carry them, because their takeoff time is a lot slower, so it would actually cost considerably more to buy this "pig in the poke," as the Air Force pilots have referred to it, this Air Force Edsel or paper substitute, for what is a proven excellent operational bomber.

Mr. Chairman, it is ironic, indeed, that a year or two ago we were asking the Air Force about the possibility of substituting the FB–111H for the B–1. That idea was rejected out of hand as being pretty near ridiculous at the time. Certainly it was by the same people that are telling us now that the FB–111H is a viable alternative.

Mr. Chairman, I would like to talk just a minute about the fact that the Cruise missile, an excellent weapon, but we do have severe problems with it; one of the problems is that it can be bargained away. We can bargain away the range. We can bargain away the number.

Another problem that no one has addressed today is the fact it can only carry 200 pounds internally and with the proposed fleet of 3,000 airplanes that means they can carry about 300 tons. One B–1 can carry 2,400 tons internally.

So, 13 B–1's can carry as much as the entire fleet of 3,000 Cruise missiles that have been proposed—13 B–1's for 3,000 Cruise missiles.

The reason why it is important to have a heavy penetrating bomber capability, a gravity bomb capability, is because it is the only way to deny the Soviet Union the in-place shelter capability. It is the only way to limit their civil defense program to evacuation, which is all we are ever going to have if we ever get around to any civil defense program. Right now, we do not have the throw-weight to destroy their shelters, so this would help restore the strategic balance if we had the B–1 capability. Right now, it is not in balance and it cannot be restored with the Cruise missile. There just is not enough throw-weight and not enough fallout. In addition to this, the heavy throw-weight gravity bomb also has greater flexibility than the Cruise missile, the SRAM. The heavy throw-weight is the only way we are going to get to their shelters.

So, Mr. Chairman, I urge my colleagues to vote against the FB–111H, to send the message to the administration and to the other body that this is not the way to go. All we are going to lose is a very few number of months in time, and what we are going to gain, I hope, is the B–1.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, what we are discussing here is the B–2 and not the FB–111H. Some of my younger staff members call what we are engaged in here as "numbers talk," because it is very difficult to track our discourse for people who are not on the Armed Services Committee or who do not have a background with military experience to keep track of all the numbers and letters that are being thrown around.

I would like briefly to remind some of the senior Members here about another "H model" some years back, the mid-fifties, and another game Congress played to fool the taxpayers or to fool those who did not want a future extension of the F–86, or both, by creating an entirely new airplane, the F–93, and then calling it an "H model" of the F–86. This was the plane that in testing at Edwards AFB killed Capt. Joe McConnell, our leading ace from the Korean war.

The F–86H models that I flew for the California Air National Guard were larger than the F–86F's that I flew on active duty. They weighed more, looked different to a pilot's trained eye, had a clamshell canopy, J–93 engines with much higher thrust, four 20-millimeter cannons instead of six .50-caliber machineguns, and was in fact a different airplane. It was designed by North American Aviation, now Rockwell, at first as the F–93, but I was told that to get it through the Congress the Air Force could

not call it the F-93. It had to be called the F-86H, when in fact it was not a new model at all but a new aircraft, period.

That is exactly what we are doing today, playing games with numbers and designations. What we are talking about here folks is the B-2. That is correct—the B-2. There is no such creature as a stretched F-111H. First of all, let me remind the Members that on one summer day in 1962, the man with the computer brain, Robert Strange McNamara, took the Naval and Air Force systems of designations for aircraft and mixed them all together, because he personally could not keep straight in his head the Navy F-4H Phantom from the Air Force F-110 Phantom, different service versions of the same plane. Then we had McNamara inserting a "B" into the middle of a fighter designated F-111 and coming up with a one-of-a-kind misused aircraft—the FB-111. There are only 66 of them, 36 at Plattsburg AFB and 30 at Pease AFB, N.H.

As I said earlier, I flew one of them a few days ago left seat with an IP flying as my copilot. I was not surprised to learn that, in spite of its SAC mission, the F-111 is still what it was designed to be—a light tactical fighter-bomber. In that role, it is an excellent aircraft.

I was particularly impressed with the smoothness of the swingwing operation given all its birth pangs.

The majority leader is correct when he says that after the Air Force ironed out the wrinkles, the F-111 did have a good record in Vietnam. One of the other gentlemen on the majority side pointed out that overall it has a good safety record compared to other fighters. That is true but not compared to most other bombers. Remember it is not a bomber. By taking the 66 SAC aircraft off the line for stretching and complete rebuilding we are denying our forces combat ready aircraft. If not classified, it should be, how many of them are standing alert. It is our only SAC supersonic aircraft. Short legged—yes. But nevertheless covering many important targets. Now we are supposed to cut them up, create a new fuselage and bomb bay, limit the max wing sweep from 70° to 60°, new B-1 engines, new landing gear, B-1 avionics, new nose, et cetera. There will hardly be anything recognizable. In other words not an "H" model of anything but a new bird—a B-2.

Then they talk about making 100 new aircraft, totally new. Instead they should be talking about going up to Mr. SYMMS' State, Idaho, and taking the F-111A's away from Mountain Home AFB our oldest 111's and fool the taxpayers by turning them into new aircraft called "H" models. A pilot at Plattsburg Air Force Base told me—admitted to me, rather, that this General Dynamics plan is at least 4 years old. General Dynamics has always wanted to improve the F-111 fleet. It is a darned good idea for European-based medium-ranged bombers to strike Soviet backfire bases if we are attacked. We already have F-111 wings in Great Britain—"E" and "F" models.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. ADDABBO. I am a little confused. Is the gentleman for the amendment or against the amendment?

Mr. DORNAN. I do not fault your confusion. You helped to kill the B-1 and here we are discussing a B-2. I am for the amendment.

Mr. ADDABBO. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, the reason I am for the amendment to block $20 million for another bomber is that at this point I am not prepared to consider a B-2. I believe we must produce a superior aircraft the B-1. As Mr. BADHAM challenged us with the President's own words. "Why not the best?"

The CHAIRMAN. The time of the gentleman from California, (Mr. DORNAN) has expired.

(By unanimous consent, Mr. DORNAN was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Mr. Chairman, I am not prepared to bury yet the Rockwell B-1.

This winner of the Collier Trophy, the finest aircraft to ever fly is the way to keep the peace—through strength. It has gone through all of the computer analysis you could want from the initial days of AMSA down to its winning of the Collier Trophy this year. Billions of dollars in R. & D. An astounding safety record. Superb engines. If we want to go back to discussing whether to foolishly dump a manned penetrating system, fine, those of you who made a losing case in this House last June, should go back and talk to the President who ignored the will of this body, and to the Defense Department which caved in to him without one "Billy Mitchell" standing up for his beliefs. I believe the generals sarcastically call it falling on your sword; or hanging up your spurs. Whatever, no one apparently felt strongly enough about the crippling of our TRIAD. But right now it is this Congress that has to stand tall. Tell the Nation, the Pentagon, and our President that we want the best—the B-1 and we will resurrect it next week. No B-2 disguised as an "H" model of anything.

I urge my colleagues to support the amendment of the gentleman from California (Mr. LLOYD) and I include my B-1 colleague letter dated today for the RECORD. Thank you, Mr. Chairman.

DEFENSE VOTE THIS WEEK

DEAR COLLEAGUE: Later this week, probably Thursday, the 1978 Supplemental Appropriations will come before the House. Of critical importance to our national security will be the decision we make in response to the Administration's funding request for work on an advanced cruise missile carrier aircraft and a penetrating manned bomber.

In his recommendation against the production of the B-1 on June 30, the President also stated that the B-1 testing and development program should center on, and provide for, the needed technical base in the event that alternative systems run into difficulty. He also spoke of his intention to continue the TRIAD including "a bomber fleet (using the cruise missile as one of its armament)." The House Committee on Armed Services after subsequent hearings concluded that a modified commercial cruise missile carrier is not cost or performance effective; that the unit cost per such aircraft would be as high as the current until flyaway cost of the B-1; and that possible SALT constraints on cruise missile range would further limit performance of cruise missile aircraft.

We urge you to consider the following when you vote on these fateful issues:

SUBSTANCE OF PRESIDENT'S AIRCRAFT DEVELOPMENT IS CORRECT

United States aircraft functioning as either cruise missile carriers or penetrating bombers are not destabilizing surprise attack weapons. They are stabilizing forces of deterrent, designed solely to dissuade our enemies from launching a surprise nuclear attack against the United States. They are "guardians of peace." Therefore, we strongly support the substance of the President's stated program for advanced strategic aircraft development.

CIVILIAN PLANES ARE NOT THE ANSWER

We agree with the decision to develop an advanced cruise missile carrier aircraft capable of dealing with Soviet threats in the early 1980s and beyond. However, we strongly disagree with the Administration's apparent choice of civilian widebodied transport for this mission. While excellent for commercial purposes, the aircraft have four fatal flaws which preclude their efficient use as cruise missile carriers and penetrating bombers:

1. They concentrate United States' strategic weapons in a few large carriers making them jackpot targets for Soviet attack.

2. Their few number, low takeoff acceleration and slow climb out from base make them vulnerable to attack from Soviet sub-launched nuclear missiles while they are trying to escape from the vicinity of their bases. Only the B-1 aircraft, specifically engineered as both a cruise missile carrier and a penetrating bomber, is sized for wide dispersal around our country and designed to escape its base before sub-launched missiles can arrive.

3. Nuclear weapons exploded above the atmosphere produce intense radio wave-like electro-magnetic pulsing radiation throughout the atmosphere which extends from horizon to horizon—easily a 1,000 mile radius. This radiation can damage and destroy vital electronic guidance and communication systems in unhardened aircraft. The only aircraft that has had nuclear electric magnetic pulse hardening incorporated as an integral part of its design is the B-1.

4. With SALT II restrictions on cruise missile range looming large, cruise missile carriers will have to fly close to the Soviet Union and penetrate standoff air and sea based defenses. Wide-bodied aircraft are TOO SOFT, TOO SLOW AND HAVE TOO BIG A RADAR SIGNATURE to penetrate even thin defenses, much less projected Soviet defense capabilities. The B-1 cruise missile carrier is the only modern aircraft with penetrating capabilities that the U.S. could deploy within the next decade.

B-1 MEETS ADMINISTRATION'S REQUIREMENTS

Designating the B-1 as the U.S. advanced cruise missile carrier and proceeding with its production would fulfill the administration's requirements to maintain a penetrating bomber option. The alternate proposal, development of the FB 111H would provide the U.S. with less capability than the B-1 and

it would not be available until well into the 1980s at the earliest.

CRUISE MISSILE NOT YET PROVEN

If the development of the cruise missile continues to go badly (the Air Force version of the long range cruise missile, ALCM-B, has not even been flight tested), the B-1 cruise missile carrier would provide an alternate capability as a penetrating bomber until the cruise missile has proven itself. If and when the cruise missiles prove their capabilities, the U.S. could then use the interchangability of the B-1 as a cruise missile carrier or a penetrating bomber by varying their missions to keep maximum stress on the Soviet defense.

IMPACT ON SALT II

Unilateral termination of the B-1 option will reduce not promote the possibility for equitable and strategically significant SALT agreement including reduction in strategic arms. So long as the U.S. unilaterally and asymmetrically limits itself by cancelling such major programs, the Soviets will have little incentive to negotiate agreements requiring both sides to make reciprocal arms trade-off and continued Soviet intransigence will be encouraged.

Preserving the B-1 option is a minimum necessary step toward demontrating U.S. resolve to maintain a safe strategic balance in the 1980s. Unilateral termination of the B-1 option would contribute to Soviet confidence that the strategic balance will continue to shift in favor of the USSR and that the U.S. will accept this shift.

UNCERTAINTIES DEMAND THAT THE B-1 OPTION BE KEPT

Before you vote on Thursday, you should be fully aware that the Administration's projections of "Essential Equivalance" in the mid-to-late 1980s have in the past presumed full production of the B-1 . . . not just aircraft 5 and 6 but full production.

We do not know with any confidence the limitations that will be imposed on the cruise missiles by technology, operation or SALT. Nor do we know with confidence future Soviet air defense capabilities. Therefore, the capacity of the cruise missile to assume the vital retaliatory role of the strategic bomber cannot be demonstrated, nor can we know what cruise missile carrier—or mix of carriers—will be cost effective, useful, or practicable.

Consequently the B-1 option must be kept open both as a strategic penetrating bomber and as a cruise missile carrier at least during this present period of uncertainty.

Sincerely,

ROBERT K. DORNAN,
STEVEN D. SYMMS,
ROBERT L. F. SIKES.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. MILFORD. Mr. Chairman, would the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I rise in opposition to the amendment offered by my friend from California, Mr. LLOYD.

Those who complain about the cancellation of the B-1 and the substitution of the FB-111H are blaming the President. They say the President is canceling one bomber program only to come up with another one. I suggest that we have been tricked in this whole process.

The first fact we should understand is that the President has not recommended or even suggested that the FB-111H be substituted for the B-1. All the President did is cancel the B-1, talk about B-52's with Cruise missiles and state that we may still have a need for a penetrating bomber in the future. I am going to guess that the President did not even know about the FB-111H, that he never had it in mind at all and talked about a penetrating bomber only because he is well aware that sometime in the future—probably in the mid-1980's—we may require a high-performance, high-speed penetrating bomber. There is suspicion in some quarters that certain B-1 proponents, both in and out of the Government, have embraced the FB-111H as one way of getting the B-1 program back into production.

Only recently on October 2, 1977, on Sunday evening, ABC News correspondent Jules Bergman said flatly that "Some suspect that the Air Force has brought the whole (FB-111) plan up, hoping to revive the B-1." Mr. Bergman, in his news report, said:

They feel that Defense Secretary Brown is sufficiently disturbed by the new generation of Soviet strategic missiles that he will attempt to change the mind of President Carter on the B-1, and bring it back to life.

Secretary Brown, in contrast, made it plain when he held a press conference on the 4th of October, that he stands firmly behind the President's decision to cancel the B-1 and is hopeful that the rescission of funding for B-1's number 5 and 6 will stand. Furthermore, he made it clear that while he was "willing to accept" the House and Senate Armed Services Committees' authorization of $20 million for an initial FB-111H study, he had not even considered full scale development or production of such an alternative aircraft.

This is what Secretary of Defense Brown said in his press conference on October 4, 1977:

When the President announced that we would carry on with the B-1 research, development and testing so that in the event that it turned out that we ran into technical difficulties or we misestimated the capabilities of the cruise missile, or of course if the Soviet air defense developed in a different way, we would have some sort of option. I also noted at that time we were continuing to program a fraction of the B-52 force as a penetrating bomber capability so long as it could penetrate Soviet air defenses.

Secretary Brown went on to say—and I continue quoting:

Subsequently, the Air Force came up with an alternative way of looking at this. Given that it is desirable to maintain an option, at what point does the B-1 option disperse? And it is pretty clear that after a couple of years the B-1 is not going to be—the option to produce the B-1 is going to get more difficult to exercise. Under those circumstances, the Air Force has proposed that we might want to develop and test the FB-111H—not because it is more cost effective than the B-1, but because it may be a better way to preserve an option over an extended period, should we later decide that we want a new penetrating bomber.

Secretary Brown ended by saying:

To that end the House Armed Services Committee and the Senate Armed Services Committee put into their markups of their bill of the budget amendment $20 million for FB-111H development. That would be enough, I think, to examine the design of such an aircraft. I indicated to Senator Stennis in a letter to him—I sent a letter to Chairman Stennis and also to Chairman Mahon—that I would be willing to accept such a Congressional action.

Note that part of what I have just quoted from Secretary Brown's press conference makes specific reference to the House Armed Services Committee and the Senate Armed Services Committee as having put $20 million in their authorization bills for the FB-111H.

Now it is well known that all through the years the two Armed Services Committees showed a foresight and an understanding that was not matched, at least in the early days, by some others in the Congress. The two Appropriations Committees joined the Armed Services Committees because they saw the advantages to continuing the production line of the F-111. So, it was not the President, not the Secretary of Defense, it was not the administration who started the FB-111H idea at all. It was the two Armed Services Committees who have been the long time supporters of the F-111. It would have been inconsistent for the Armed Services Committees to have done anything but what they have done. It was they who kept the F-111 line open over the years when this kind of action did not find favor with many people. In those days there was little support for the F-111 and, for the simple reason that the F-111, as long as the production line was going, posed a serious threat to the B-1. There was a strong effort to close down the F-111 line to remove the threat to the B-1.

I am convinced that in the new force structure which has been so changed by the coming into being of the Cruise missile, the B-52 and the F-111 modifications will do everything that is needed to give us the best strategic air capability that we could possibly have, shy of full B-1 production.

But let us not let the FB-111H be used as a ploy in a futile attempt to revive the B-1. If the B-1 is the issue at hand, let us face it head-on with an amendment.

Gentlemen, take a look behind the curtain and see what is really going on. Let us keep our opinions open and keep the $20 million study money in the authorization bill for the FB-111H modification until we see what our manned bomber requirements really are.

Finally, Mr. Chairman, there has been recent reference in the media to the effect that the FB-111H would be a "Texas airplane." Now, this may not be a matter of greatest moment but it is so grossly incorrect, so totally wrong, that it deserves some comment and correction.

The "H" model of the FB-111 would have approximately the same distribution of employment and expenditure throughout the United States as was true with the previous F-111 program; and that distribution was about 10 percent in Texas and about 90 percent in other States. The "H" model would involve

something in the order of 5,000 subcontractors and suppliers, widely distributed throughout the whole country. Some States would have a relatively small amount of the employment and expenditure and others would have a great deal of the work and economic benefit.

In actual fact the somewhat less than 10 percent that relates to Texas is dwarfed by the almost 43 percent that is allocated to California and the over 26 percent that is allocated to the State of New York.

In the briefest summary, then—

There would be some 5,000 subcontractors and suppliers engaged in "H" model work.

Approximately 10 percent of the work will be in Texas, 90 percent elsewhere, with almost 43 percent of the work in California and almost 27 percent of the work in New York.

The States involved extend from Arizona to Virginia.

It is perfectly obvious from the foregoing that the FB-111H is not a "Texas airplane" in any sense of that phrase.

Mr. Chairman, I hope this clears up that misunderstanding once and for all.

Mr. CHAPPELL. Mr. Chairman, I rise in support of the amendment. I do so rather reluctantly because I know one of our great friends, the gentleman from Texas (Mr. WRIGHT) is tremendously concerned about this matter, and I think most of us regret we find ourselves in this posture. I find it likewise discomforting to take a position adverse to the position of our outstanding Committee on Armed Services. Yet I feel compelled to clarify the facts and statistics I think material. Most of us recognize if we are going to build a new manned penetrating bomber we ought to build the B-1. That is where we spent the money for research and development.

In the House and the Senate we have authorized the research and development through airplanes Nos. 5 and 6 in the B-1 program, and unless the Congress takes some reverse steps those planes will be built and used to complete the R. & D. program.

In reviewing the statistics, we should talk about equal effective forces. In other words, how many FB-111's does it take to do the same job as so many B-1's?

In a conversation with General Jones just the other day, he agreed that it would take roughly 165 FB-111's to do what 61 B-1's would do. When we extend those respective forces over their 20-year life cycle that means the FB-111H program would cost over 17 billions of dollars and, it would cost some 13 billions of dollars for the B-1 program.

Why is that so? Because with the 165 FB-111 bombers, it would take 165 tankers, and with 61 B-1 bombers it would take 61 tankers. In addition to that, there are other cost considerations. Therefore the FB-111 life cycle costs exceed those of the B-1 by some $4 billion. It seems foolhardy to me for us to embark on a new program, on the eve of the conclusion of our research and development on our new generation bomber, that would give us a last generation, warmed-over bomber.

The testimony before our committee the other day was that if we take the FB-111 and upgrade it, we first would have to have a new engine, and that is the B-1 engine. Second, we would have to have a new wing, and then we would have to have a new fuselage to accommodate the avionics. When we get through with that, we would have to have a modification of the new tail section. If that is not a new airplane, I do not know what it is. It is no wonder that some people are calling this "the son of the B-1."

With this approach, we are falling back on the upgrading of an old airplane to do a new job.

There are those who talk about the unit cost of this airplane and the flyaway costs. Again, if we are interested in saving money for the taxpayers of this country, let us talk about unit costs.

Just 2 years ago the Air Force, in testimony before one of the committees, made it clear that the respective costs of the FB-111, as compared with the B-1, would be 45 millions of dollars per copy for the B-1, as against 35 millions of dollars per copy for the FB-111. Again, if we multiply the unit cost by the 165 FB-111's required, we find that involves considerably more money than the 61 B-1's it would take to do the same job.

Even if we accept the fact that it might cost up to 100 millions of dollars per copy for the B-1, as against a cost of $45 million per copy for the FB-111 in then year dollars, we would still save money on the total cost of the B-1 program. Taking these numbers into consideration, we would save over half a billion dollars.

Mr. Chairman, I think the real issue can be summed up here by pointing out that we are going to spend more money trying to discover some type of new penetrating bomber when we obviously have the best penetrator the world has ever known ready to go. It does not make sense to me to fall back on a last-generation, warmed-over bomber when we can have the next generation bomber designed to carry us on beyond the year 2000 at a considerable saving to the taxpayer. I urge the adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. CHAPPELL) has expired.

(On request of Mr. MILFORD and by unanimous consent, Mr. CHAPPELL was allowed to proceed for 1 additional minute.)

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I join with the gentleman in his position. I am for the B-1, but what we are talking about here is not the B-1; we are discussing an option. What we are confronted with here is an option, because I do not think we are going to get the B-1.

As has been stated here, we will have an opportunity to vote on the B-1, and I will join with the gentleman from Florida (Mr. CHAPPELL) and the gentleman from California (Mr. DORNAN). I will fight with them, because they are right. The best airplane is the B-1. But if we cannot get that, rather than have nothing, let us at least study this option. All we are doing here is studying the option.

Mr. CHAPPELL. Mr. Chairman, let me answer the gentleman in this way:

I am not willing to say that we cannot have the B-1 bomber. I think we can. Therefore, I am saying that if at some time in the future we decide we cannot have the best, then perhaps I would fall back and join with other Members in getting the second best. But I do not think now that this is the time to take a second-best view.

We ought to take the strongest position first, and then if we fail, we will have the opportunity to fall back and accept the second best. We can always fall back, but I am afraid that right now the tendency is to fall out. Our national security dictates we stand strong.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I rise today in support of the $20 million for the Air Force FB-111H strategic manned bomber program, as included in H.R. 8390, the Department of Defense Supplemental Appropriation Authorization Act.

The FB-111H is an excellent strategic manned penetrator. It has the ability to travel 5,700 nautical miles without refueling. It can carry Cruise missiles, as well as conventional bombs. It is an improved version of an airplane currently in Air Force inventory, the FB-111A.

The FB-111H provides a needed dimension to maintain our national defense triad. The $20 million which would be used to begin research and development of this weapon system will be money very well spent.

I urge you to support this new program for which the Armed Services Committee has voted $20 million.

Mr. KETCHUM. Mr. Chairman, I will not use the 5 minutes. I think there has been a great deal said here in support of this amendment; and certainly every possible argument that has been made in favor of the B-1 bomber has been made here today, with all the facts and figures being provided.

However, I think the really tragic thing we are facing here today is the conflict in what the President says on one day and what he says on the next day. Even more tragic, Mr. Chairman, is the Air Force and their strong support of the B-1.

The day after the B-1 had been cancelled by the President, a few of us took a trip out to SAC Headquarters, and we saw an awful lot of long faces, but there was not much comment. The Air Force has been so thoroughly "Singlaubed" that they do not dare mention a thing.

This is the real tragedy because this is where the real expertise is. These are the people to whom we pay hundreds of thousands of dollars to bring to us what they, in their expertise, consider to be the wisest course. This is how the Triad was formed.

Mr. Chairman, the President told us that the cruise missile was going to be the be-all-and-end-all, and yet we have not seen any fantastic results from the cruise missile. As a matter of fact, I understand that the last three tests have been complete fizzles, and that is a little less than 100 percent.

Therefore, Mr. Chairman, I do not think that we ought to be putting all our eggs in that basket. Certainly I do not think we ought to be putting our eggs into the basket of the 747, which anyone familiar with the radar screen would know looks not just like the barn coming at a person, but like the whole farm coming at him.

A B-1 will carry the Cruise missile. I suppose that the only legitimate thing to do to resolve all of the arguments heard on this floor today is to change the name of the B-1 bomber to the FB-111H, and let us go ahead and build it.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would like to ask the gentleman a couple of questions.

Is the gentleman aware that this morning's paper reported our chief SALT negotiator, Mr. Warnke, as saying that they have pretty much arrived at an agreement that only we will be able to build and deploy in the neighborhood of 120 Cruise-missile platforms?

Mr. KETCHUM. That is what I understand if one believes anything he reads in the local newspaper.

Mr. BADHAM. Is the gentleman further aware that in the same SALT negotiation talks that are nearing agreement, we agreed that the backfire bomber is really not a strategic bomber and therefore does not even count in the numbers of strategic bombers?

Mr. KETCHUM. That is my understanding.

Mr. BADHAM. Does the gentleman know whether or not our so-called Cruise missile has ever flown overland, testing its radar terrain-following navigation system?

Mr. KETCHUM. I am aware of a flight in which it was attached to a bomber and that the radar following was fine up to a point. The change was that it had snowed the night before, and it could not exactly pick up where the target was supposed to be. I do understand that.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for his answers.

Mr. KETCHUM. I thank the gentleman, Mr. Chairman.

I would just recall to the Members that apparently this is the same Defense Department which wants to give away the Panama Canal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LLOYD).

The question was taken; and on a division (demanded by Mr. LLOYD of California) there were—ayes 60, noes 23.

Mr. MILFORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DOWNEY

Mr. DOWNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWNEY: Page 3: Strike line 17, and insert in its place the following:

"(2) For the Air Force, $311,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers."

Mr. DOWNEY. Mr. Chairman, this is a relatively simple amendment and I hope I will not need the full 5 minutes in order to explain it.

Mr. Chairman, the President, in his request to the Congress in the supplemental authorization, asked for $50 million for the purpose of studying an option of the wide-bodied Cruise missile carrier. In the Committee on Appropriations, they determined that $5 million was all that they needed, and that is how much is in the appropriation bill. The authorizing committee on which I serve decided that no money was necessary and took it all out. All I am doing here is restoring the $5 million for the purpose of conducting a paper study to take a look at the wide-bodied Cruise missile carrier option, $5 million. What that will do, it will provide money for obtaining a concept study to analyze the operational employment concept of the wide-bodied Cruise missile carrier. It does not in any way commit us to the wide-bodied Cruise missile carrier. All that it does do is provide the Pentagon an option to take a look at the weapons system.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from South Carolina.

Mr. DAVIS. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New York (Mr. DOWNEY) and commend him for offering his amendment. If we just renew the option on the FB-111H, which it appears for the moment that we have got, then we have to present some kind of option in case the FB-111H is eliminated.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I was wondering if the gentleman from New York (Mr. DOWNEY) could expand his amendment so as to include the B-1 as a Cruise missile carrier?

Mr. DOWNEY. I will let the gentleman from Idaho do that.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I was wondering if the gentleman would be inclined to include in his amendment the suggestion of the gentleman from Idaho (Mr. SYMMS) so as to include in the $5 million some analysis of the B-1 as an advanced Cruise missile carrier?

Mr. DOWNEY. This is a $5 million amendment. If the gentleman would like to offer an amendment to my amendment, then that is his option. All this is for is for the purpose of studying the wide-bodied 747 or the DC-10 for the purpose of carrying Cruise missiles.

Mr. DORNAN. This is limited to just those two aircraft?

Mr. DOWNEY. That is what the Department of Defense wanted to lease. They wanted $50 million as leasing money for wide-bodied aircraft.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I support the gentleman's amendment, the purpose of which is to restore the $5 million.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from New York (Mr. DOWNEY) and I support the gentleman's amendment.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I support the amendment offered by the gentleman from New York (Mr. DOWNEY).

I can tell my friend with regard to the B-1 that we do have many million dollars still for research on the B-1.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman is not, as I understood, restoring the $50 million as requested by the Air Force, but only the $5 million?

Mr. DOWNEY. That is correct.

Mr. ICHORD. And this will not cover the cost of any leasing of any wide-bodied aircraft as originally contemplated by the Air Force?

Mr. DOWNEY. That is correct. The $5 million is purely for a paper study.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. CARR AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DOWNEY.

Mr. CARR. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CARR as a substitute for the amendment offered by Mr. DOWNEY: Page 3: Strike line 17, and insert in its place the following:

"(2) For the Air Force, $291,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers."

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CARR) for 5 minutes.

Mr. CARR. Mr. Chairman, I will not take the 5 minutes. This is a perfecting

amendment to change the number "$311,500,000" to "$291,500,000" to conform to the action that the House has just taken. It is a technical amendment, and I hope the House will accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CARR) as a substitute for the amendment offered by the gentleman from New York (Mr. DOWNEY).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. DOWNEY), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8390) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, pursuant to House Resolution 815, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 347, nays 37, not voting 50, as follows:

[Roll No. 646]

YEAS—347

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
AuCoin
Badham
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Guyer
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Ketchum
Keys
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Patten
Patterson
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stump
Symms
Taylor
Teague
Thone
Thornton
Treen
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—37

Baldus
Bingham
Bonior
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Dellums
Diggs
Dodd
Drinan
Edwards, Calif.
Fenwick
Forsythe
Harrington
Holtzman
Kastenmeier
Kildee
Kostmayer
Luken
Mitchell, Md.
Nix
Nolan
Ottinger
Pattison
Rangel
Schroeder
Seiberling
Stark
Stokes
Studds
Thompson
Volkmer
Weaver
Weiss
Wilson, C. H.

NOT VOTING—50

Ashbrook
Badillo
Bafalis
Beard, Tenn.
Bolling
Brown, Mich.
Brown, Ohio
Conable
Crane
Delaney
Dent
Evans, Ind.
Flowers
Goodling
Gudger
Hagedorn
Huckaby
Jeffords
Johnson, Calif.
Kemp
Kindness
Koch
Krueger
Lujan
McCormack
McKinney
Maguire
Mikva
Miller, Calif.
Moffett
Mollohan
Moss
Neal
Obey
Panetta
Pease
Pepper
Pursell
Quie
Richmond
Robinson
Roe
Rooney
Roybal
Skubitz
Stratton
Traxler
Trible
Vento
Whalen

The Clerk announced the following pairs:

Mr. Richmond with Mr. Brown of Michigan.
Mr. Panetta with Mr. Goodling.
Mr. Rooney with Mr. Whalen.
Mr. Pepper with Mr. Skubitz.
Mr. Dent with Mr. Lujan.
Mr. Evans of Indiana with Mr. Ashbrook.
Mr. Vento with Mr. Hagedorn.
Mr. McCormack with Mr. Krueger.
Mr. Roybal with Mr. Johnson of California.
Mr. Koch with Mr. Bafalis.
Mr. Miller of California with Mr. Brown of Ohio.
Mr. Delaney with Mr. Gudger.
Mr. Badillo with Mr. McKinney.
Mr. Flowers with Mr. Beard of Tennessee.
Mr. Maguire with Mr. Huckaby.
Mr. Mikva with Mr. Kindness.
Mr. Moffett with Mr. Conable.
Mr. Roe with Mr. Crane.
Mr. Neal with Mr. Kemp.
Mr. Mollohan with Mr. Pease.
Mr. Obey with Mr. Quie.
Mr. Pursell with Mr. Robinson.
Mr. Stratton with Mr. Trible.
Mr. Traxler with Mr. Moss.

Mr. PHILLIP BURTON and Mr. STOKES changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and research, development, test, and evaluation for the Navy, the Air Force, and the Defense agencies, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during fiscal year 1978, for the use of the Armed Forces of the United States for procurement of aircraft and missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For Aircraft: for the Air Force, $33,000,000.

Missiles

For Missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriations Authorization Act, 1978" there are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Air Force, $263,470,000.

For the Defense agencies, $14,000,000.

In authorizing funds under title I and title II of this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

The SPEAKER pro tempore (Mr. SIMON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. PRICE

Mr. PRICE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PRICE moves to strike out all after the enacting clause of S. 1863 and to insert in lieu thereof the text of H.R. 8390, as passed by the House, as follows:

That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy and the Air Force for procurement of aircraft and missiles, as authorized by law, in amounts as follows:

(1) For aircraft: for the Navy, $151,600,000; for the Air Force, $33,000,000.

(2) For missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy, the Air Force, and the Defense agencies for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Navy, $5,886,000.

(2) For the Air Force, $291,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers.

(3) For the Defense agencies, $15,000,000.

SEC. 202. (a) Section 202(a)(2) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79), is amended by striking out "before January 1, 1980" and inserting in lieu thereof "not later than July 1, 1981".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Navy, the Air Force, and the Defense agencies, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8390) was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EVANS of Georgia. Mr. Speaker, I ask unanimous consent that the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce may be permitted to sit on tomorrow, Thursday, October 13, 1977, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

STATEMENT OF THE HONORABLE ROBERT N. GIAIMO ON THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1978

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, as called for in the Congressional Budget Act, the House Budget Committee has notified the Speaker of the House on the status of the fiscal year 1978 Congressional Budget. A copy of my letter to the Speaker and the committee's report are attached at the end of these remarks. I would like to inform my colleagues in the House how the Congress stands with regard to the budget resolution it adopted on September 15.

The adoption of House Concurrent Resolution 341 represents another step taken by Congress in compliance with the Budget Act which requires that the second budget resolution contain a binding floor on revenues and a ceiling on spending for the remainder of the fiscal year. The importance of these reports to my colleagues is this: Under section 311 of the Congressional Budget Act a point of order may be raised by any Member against any bill, resolution or amendment—including conference reports—which would cause the spending ceiling or revenue floor to be breached. As you know, this section of the act pertains only to aggregate figures, not to the individual functional categories.

I would like to remind my colleagues that the guidelines adopted by the House and Senate Budget Committees in determining the current level of spending and revenues were inserted in the CONGRESSIONAL RECORD on February 4, 1976, by the chairman of the Budget Committee.

The attached report from the Congressional Budget Office shows that for fiscal year 1978, the current level for budget authority is about $48 billion below the ceiling adopted in the second resolution and there is a margin of about $19 billion in outlays. In addition, the current level for revenues is above the second resolution floor by $1.1 billion. These figures reflect the enactment of ten of the regular appropriation bills. Three other appropriations bills (Labor-HEW, Foreign Assistance and District of Columbia) which have not reached this stage are, therefore, not counted as part of the current level although their adoption was assumed by the Budget Committee in establishing the ceilings for the second resolution. These bills will become part of the current level when they reach the completed conference stage.

For entitlement programs particularly in the Labor-HEW area for which payment is required by law, an estimate is included in the current level consistent with our scorekeeping guidelines. Also included in the current level for spending are mandatory amounts for which there is an anticipated supplemental, for instance the military and civilian pay raise and veterans' readjustment benefits.

In addition, to the ten appropriations bills, three other pieces of spending legislation are included in the tabulation of the current level. Those are: Emergency Unemployment Benefits Extension (Public Law 95–19), Food and Agriculture Act of 1977 (Public Law 95–

113) and Veterans' Disability and Survivor Benefits Act (H.R. 1862).

As has been done in previous fiscal years, I shall continue to provide these reports to the House in order to facilitate the consideration of any new spending and revenue measures. I would also like to take this opportunity to express my thanks to my colleagues for their continued support of the budget process. My last report to the House before the close of fiscal year 1977 demonstrated that Congress has lived well within its self-imposed spending and revenue restrictions. My hope is that the same sense of fiscal responsibility will prevail throughout fiscal year 1978.

Thank you Mr. Speaker.

HOUSE OF REPRESENTATIVES,
Washington, D.C. October 5, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedures which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 341, the Second Budget Resolution for FY 1978. This report reflects the resolution of September 15, 1977, and estimates of budget authority, outlays, and revenues based on all completed action on spending and revenue measures as of close of legislative business, Monday, October 3, 1977.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1978 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 341

REFLECTING COMPLETED ACTION AS OF OCT. 3, 1977

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	500,100	458,250	397,000
Current level	452,202	439,126	398,100
Amount remaining	47,898	19,124	1,100

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $47,898 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 341 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $19,124 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 341 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $1,100 million for fiscal year 1978, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 341.

CONGRESSIONAL BUDGET OFFICE
Washington, D.C., October 4, 1977.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution on the 1978 budget. This is the first Parliamentarian Report for Fiscal Year 1978, and it is tabulated as of close of business October 3, 1977.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	357,243	390,196	398,100
2. Entitlement authority and other mandatory items requiring further appropriation action	32,444	26,196	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	62,516	22,733	
Current level	452,202	439,126	398,100
Second Concurrent Resolution	500,100	458,250	397,000
Amount remaining:			
Under ceiling	47,898	19,124	
Over floor			1,100

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1978 AS OF CLOSE OF BUSINESS OCT. 3, 1977

[In millions of Dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	234,738	218,144
Outlays from balances of prior-year authority associated with appropriation bills not yet included in Parliamentarian report:		
Foreign assistance		2,732
District of Columbia		51
HUD-Independent agencies		15,692
Labor-HEW		26,279
Offsetting receipts (included amounts generated by current appropriation action)	−45,670	−45,670
Enacted this session:		
Agriculture (Public Law 95-97)	12,749	13,520
Interior (Public Law 95-74)	10,026	8,888
Legislative (Public Law 95-94)	990	1,053
Military construction (Public Law 95-101)	2,978	3,613
Public works (Public Law 95-96)	10,294	9,436
State-Justice (Public Law 95-86)	7,709	10,942
Treasury (Public Law 95-81)	7,478	7,600
Transportation (Public Law 95-85)	6,197	14,940
Defense (Public Law 95-111)	109,753	101,910
Other spending legislation:		
Emergency unemployment benefits extension (Public Law 95-19)		215
Food and Agriculture Act of 1977 (Public Law 95-113)		850
Total, enacted	357,243	390,196
II. Entitlement authority and other mandatory items requiring further appropriation action:[1]		
Function 050:		
Retired pay (anticipated supplemental)	93	93
Department of Defense, civilian and military pay (anticipated supplemental)	2,673	2,593
Function 500:		
Public assistance (H.R. 7555)	2,550	1,609
Human development (H.R. 7555)	760	760
Function 550:		
Retired pay, PHS (H.R. 7555)	57	45
Public assistance (H.R. 7555)	10,750	7,703
Payments to social security trust funds (H.R. 7555)	7,214	7,214
Offsetting receipts	−7,214	−7,214
Function 600:		
Public assistance (H.R. 7555)	6,300	4,335
Payments to social security trust funds (H.R. 7555)	741	741
Offsetting receipts	−741	−741
Supplemental security income (H.R. 7555)	5,250	5,180
Special benefits, disabled coal miners (H.R. 7555)	968	892
Federal unemployment benefits and allowances (H.R. 7555)	1,200	1,062
Special benefits, DOL (H.R. 7555)	319	316
Railroad Retirement, payment (H.R. 7555)	250	250
Offsetting receipts	−250	−250
Regional rail transportation protective account (H.R. 7555)	50	50
Function 700:		
Readjustment benefits (anticipated supplemental)	113	
Veterans Disability and Survivor Benefits Act (H.R. 1862) (anticipated supplemental)	229	335
Function 800:		
Payment to civil service retirement and disability trust fund (anticipated supplemental)	319	319
Offsetting receipts	−319	−319
Function 920:		
Civilian agency pay raise (anticipated supplemental)	1,131	1,224
Total, entitlement authority	32,444	26,196
III. Continuing resolution authority		
IV. Conference agreements ratified by both Houses:		
HUD-independent agencies appropriation bill (H.R. 7554)	69,371	29,619
Offsetting receipts	−6,855	−6,855
Deny veterans benefits to certain individuals with upgraded discharge (H.R. 8698 and S. 1307)		−31
Total, conference agreements	62,516	22,733
Total current level, as of Oct. 3, 1977	452,202	439,126
Concurrent resolution of Sept. 15, 1977	500,100	458,250
Amount remaining:		
Over ceiling		
Under ceiling	47,898	19,124

[1] Includes anticipated supplementals and appropriations for entitlements pending in the regular Labor-HEW appropriation bill (H.R. 7555) at the amounts agreed to in conference.

Note.—Detail may not add due to rounding.

THE LABOR-HEW APPROPRIATIONS BILL: THE NEED FOR A SPEEDY RESOLUTION

The SPEAKER pro tempore (Mr. SIMON). Under a previous order of the House, the gentleman from Georgia (Mr. FOWLER) is recognized for 5 minutes.

Mr. FOWLER. Mr. Speaker, the question of Federal funding of abortions deserves the careful deliberation of the Congress. However, despite the significance of this issue, we are not justified in causing the substantial inconvenience and even suffering of hundreds of thousands of innocent people by delaying the Labor-HEW appropriations bill, H.R. 7555.

As you know, this bill is being held up in conference committee because the House and the Senate cannot agree on language concerning the use of Federal funds to finance abortions. Disagreements between the House and Senate are not unusual. In this case, however, the disagreement has extended into the new fiscal year which began October 1. The indecision on this one provision prevents action on the whole purpose of the bill—the funding of Labor and HEW programs. Some the consequences of allowing this single provision to delay passage of the bill include:

Employees of the Department of Labor and Health, Education, and Welfare will not be paid for their work after October 1. Over 12,000 workers in the Southeast region alone are being unjustly affected by our inaction.

Across the country 650,000 State and local employees whose salaries are dependent on matching funds from HEW are not being paid.

No new Comprehensive Employment and Training Act (CETA) programs can be implemented. As a consequence, efforts to reduce teenage unemployment are at a standstill.

One hundred percent of the funding for State unemployment offices has been tied up since October 1.

All funding for 1978 for Gallaudet College for the Deaf is included in this bill. The delay in enactment has caused considerable inconvenience to the college. Also, all cost-sharing programs which Gallaudet has with groups across the country which provide services for the deaf are affected. For example, the October Forum to teach the deaf in the Atlanta Metropolitan area had to be cancelled because funds will not be forthcoming from Gallaudet as promised.

HEW's field operations which monitor social service programs, medicare, and medicaid have been halted.

Most public health services such as the Public Health Service, maternal and child care services, have all been affected by the delay.

Six million dollars for Head Start have not been sent to the States in the Southeast region because the Congress has not acted on H.R. 7555.

Vista volunteers are not being paid their monthly subsistence allowance of $200.

Each day we wait to pass H.R. 7555 increases the confusion, the inconvenience and the hardship which people who have no control over the abortion issue must bear. To insist on a position which will not lead to a resolution with the Senate is irresponsible. If this issue were not linked to the appropriations bill, those unwilling to compromise on abortion would hold a more defensible position. As it is, government is being ground to a halt in the name of pressing a point.

This method of operating is neither wise nor fair. Moreover, it breeds cynicism toward government among those who have been unjustly affected by the tactic of attaching the abortion provision to H.R. 7555.

The general technique of using an appropriations bill for this sort of provision is inappropriate. This approach has resulted in our violating the timetable of the Budget Act of 1974, an act which has rationalized our taxing and spending decisions. If the tactics adopted in this case were to become our normal way of doing business, Congress would go out of business. We must not allow any single interest to sabotage this House.

Not passing the Labor-HEW appropriations bill has created difficulties for Government agencies, employees, and the people being served by Labor-HEW programs. The confusion and distress which grows each day that we do not pass this bill must be stopped. I urge my colleagues on the conference committee and in the House to agree to language which would constitute a true compromise with the Senate or else to sever the abortion issue from the Labor-HEW bill and consider abortion separately. The Labor-HEW appropriations bill can no longer be held hostage by an issue extraneous to it.

LABOR REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, the House last Thursday passed H.R. 8410, the so-called labor reform bill, by a vote of 257 to 163. I voted in favor of final passage of the bill, although not until amendments were adopted to relax some of the more restrictive sections, and even then I was not entirely satisfied. On balance, though, I felt that the bill contains many long-needed procedural changes to enforce the rights guaranteed by the National Labor Relations Act of 1935. Because I have received a large quantity of mail about this bill, both pro and con, I want to elaborate on my reasons for voting as I did.

The Wagner Act, the popular name for the NLRA, guarantees to workers the rights to organize themselves into unions and to bargain collectively with their employers. In the vast majority of cases these rights have been recognized in good faith by employers, and representation elections and bargaining sessions have been held with no problems. In other cases, however, the law has been flagrantly violated by employers opposed to union representation at their plants; employees engaging in union organizing drives have been fired, union elections have been stalled by dilatory tactics, and even after workers have voted to unionize themselves some employers have refused to enter into bargaining sessions.

INADEQUATE INFORCEMENT

Although the Wagner Act provides workers the "rights" to organize themselves, it contains few effective provisions to enforce those rights. Employers bent on keeping unions out have therefore been able to evade, prolong, and in some cases deliberately violate, the law, because the penalties amount to little more than a slap on the wrist. In many instances employers have actually found it profitable to violate the law, because any penalties imposed by court decisions were less than the employer would have had to pay in increased wages and improved working conditions had it gone along with unionization.

A companion problem that has contributed to frustrations with the Wagner Act has been in the operations of the National Labor Relations Board, established to carry out the law and determine any unfair labor practices. Because of the backlog of cases piling up in recent years the NLRB has been increasingly slow in making determinations, with the result that some union representation cases have dragged on for years. This backup, compounded by loopholes in the law that permit stubborn employers to wear down union drives, is a principal target of H.R. 8410.

The objectives of H.R. 8410 are procedural in nature, and are designed simply to insure that the rights guaranteed by the Wagner Act are exercised with as little hindrance or delay as possible. It speeds up the NLRB's schedules for conducting union representation elections, and streamlines its procedures for handling complaints of unfair labor practices. Moreover, it provides penalties for employers who resort to illegal means to prevent union organization.

While these are certainly worthy goals, Mr. Speaker, I had serious reservations about H.R. 8410 as it was reported from the Committee on Education and Labor, because I felt that some of its provisions were unduly favorable to labor interests and harsh to employers honestly attempting to promote their own interests.

ELECTION TIME LIMITS

One such provision dealt with the time limits for holding union representation elections. I fully concur with the need to impose some limit within which such elections have to take place, but the deadlines established in the committee bill seemed inordinately strict. Those provisions would have mandated an election within 15 days in normal cases, and established an upper limit of 75 days in complicated cases. I agreed with those who argued that a 15-day limit may hamper the ability of employers, particularly small businesses, to present their own cases, and I therefore voted in favor of two amendments to extend the time limits. I am pleased that the House adopted an extension to 25 days, which will allow the employer sufficient time to counter union arguments, while still preserving the principle of expeditious

elections to determine whether workers want to be represented.

PENALTIES

The exacting of stiff penalties in cases of unfair labor practices is an effective deterrent to violation of the Wagner Act, but the penalties proposed in the committee bill seemed excessively harsh on employers, while they scarcely mentioned unions that might engage in such practices.

I was disappointed that the House failed to adopt an amendment to strike the section calling for a calculated "make whole" remedy in cases where an employer refuses to recognize the results of an election and fails to enter into bargaining talks. The bill's penalty calls for a reimbursement to employees based on figures derived from wages at the Nation's largest plants. I realize this penalty is intended to compel employers to negotiate, and that no such prod is in the present law, but it still represents an unnecessarily severe punishment.

However, in cases of double back pay for employees illegally fired for union organizing activities, I was pleased that an amendment was adopted by voice vote that lessened the pay penalty by the amount of wages earned by that worker in the interim period. That same amendment provided a double back pay penalty for unions that prevent members from working, thereby making the penalty equally applicable.

I was also pleased that the section providing for "debarment," denying Federal contracts to firms found repeatedly in violation of the labor laws, was softened somewhat to allow the Secretary of Labor discretion in applying the penalty, and to insure that an entire firm would not necessarily lose Government contracts because of violations occurring at a single plant.

EQUAL ACCESS

Another section of the bill that aroused considerable controversy would provide a labor union an equivalent opportunity to present its own case—on company time and property—if the company management had made antiunion arguments to workers during an organization period. I opposed an amendment to strike this section, on the ground that since management can compel a captive audience to hear its side, labor ought to have the same opportunity. In the same vein, I supported an amendment, which passed overwhelmingly, to allow employers the opportunity to enter union organization meetings to rebut arguments.

SUMMARY

Mr. Speaker, I am convinced that employers who have been obeying the present provisions of the National Labor Relations Act will hardly notice the change if this bill is enacted into law. It is aimed, as stated previously, at those who are intent on preventing union organization of their employees, and thereby denying those employees rights legally granted them 42 years ago. On the other side of the coin, this bill in no way encourages "compulsory unionism," as some of my correspondents have alleged. It expedites the process of holding elections, but the final choice still is up to the workers themselves. They are the ones who, by democratic ballot, will choose whether to have a union represent them or not.

PRESIDENT SIGNS H.R. 5294—FAIR DEBT COLLECTION PRACTICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on September 20, 1977, President Carter took the historic step of signing into law the Fair Debt Collection Practices Act. This is the first Federal legislation to comprehensibly regulate debt collection practices. The President indicated his strong interest in this legislation by holding a signing ceremony in the Rose Garden at the White House. The law is a result of 3 years of hard work by both the House and Senate to produce legislation that will protect consumers and yet is fair to reputable debt collectors. After introducing this legislation, I held hearings which documented that consumers desperately need protection from all too frequent unscrupulous debt collection tactics such as harassing or threatening phone calls, employer contact, false threats of arrest or suit, impersonation of attorneys, policemen, and public officials or threats of bodily harm or death. President Carter in his remarks noted that passage of this legislation:

> . . . is a great step forward in indicating to the American people that the Congress believes that consumers need to be treated fairly.

I applaud the President's dedication to consumer protection. Following is the text of the President's remarks at the bill signing ceremony for H.R. 5294, the Fair Debt Collection Practices Act:

REMARKS OF THE PRESIDENT AT THE BILL SIGNING CEREMONY FOR H.R. 5294, FAIR DEBT COLLECTION BILL

THE ROSE GARDEN, 10 A.M., EDT

I am glad to see there is a lot of interest in this legislation. It is a great pleasure for me to meet with all of you this morning to sign H.R. 5294, which is a Fair Debt Collection bill.

Before I sign this legislation, I would particularly like to thank Senator Proxmire and Senator Riegle, who did so much hard work on this, and Congressmen Reuss, Annunzio and Wiley behind me, who fought a very difficult fight—very close in the House, very overwhelming in the Senate—to get this legislation into law.

This is the first consumer bill that I have had the opportunity to sign, and it is one of the first times, I think, in the history of our country when a consumer bill has been signed here at the White House. (Laughter) But I believe it is important for me as President to indicate my strong interest in this legislation.

It is not a minor matter to treat consumers fairly in this country. And if there is one major gap in what has been accomplished by my predecessors in the White House and by previous Congresses, it is in the protection of consumers. I hope this is the first of a series of bills I will be able to sign here on the White House lawn.

I believe that we need to pursue the opportunity for consumers to be represented before the agencies of the Federal Government which determine their right to a fair opportunity in our economic structure.

I hope that we will have a chance to enhance the use of responsible class action suits. And above all, I hope I will have a chance to sign into law an act creating the Consumer Protection Agency, which I believe is of very great importance to our country. (Applause)

The deliberate misinformation that has been promulgated about this legislation is disheartening to me, and I hope that the Members of Congress who have already shown their courage in protecting consumers against what is so often very strong pressure will again renew their effort to pass this law which will create the agency that I have described.

We now have consumer protection scattered so diversely throughout the Federal Government that it is impossible to make it effective. It would be a great saving in taxpayers money, it would be a great savings in the wasted efforts of public employees, and it would also be a great step forward in letting American people know that our free enterprise system can be fair to implement this agency in the future.

This bill assures that collection procedures are fair. Testimony that was given during the hearings on this bill showed that quite often innocent consumers, some of whom had even been misidentified as debtors, were harassed by profane language, by false statements made to them directly or by telephone, by calls after midnight to disturb a family, by threats which were contrary to the law, by alleging that consumers were violating the law when in fact they weren't. And these practices will now be made illegal among about 500 collection agencies, most of which are honest and law-abiding and do a proper job; some of which, though, need to be corrected.

About $5 billion a year are collected by these agencies, and this is a great step forward in indicating to the American people "that the Congress believes that consumers need to be treated fairly.

So because of these reasons and many others, I congratulate the Members of the House and Senate behind me, who represent many others, and express my congratulations to the consumers of America and my own pride in being able to sign this legislation, which is a great step forward. (Applause)

AMENDING THE ARMS EXPORT CONTROL ACT TO IMPROVE CONGRESSIONAL OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I am today reintroducing, with 24 cosponsors, H.R. 9223, a bill to amend the Arms Export Control Act to provide for improved congressional review of major foreign weapons sales.

This bill, identical to legislation filed in the Senate by GAYLORD NELSON, would simply amend section 36(b) of the Arms Export Control Act to give the Congress 45 days during which it is in continuous session, rather than the present 30 calendar days, within which to consider and, if warranted, take action to disapprove by joint resolution all weapons sales in excess of $25 million. The only change is in the time period. "Forty-five days in which Congress is in continuous session" means that no days

during a recess of either House of Congress could count against the review period, in effect extending it for a corresponding amount of time.

This change would prevent an administration from reducing significantly or even precluding entirely congressional review of a weapons sale by proposing it during a legislative recess. The bill also extends the review period to a minimum of 45 days. The complexity and foreign policy significance of major arms transfers clearly mandate such a change. If Congress is to act responsibly, hearings must be held and adequate time allotted for debate. It is unrealistic to expect that a resolution of disapproval of a proposed arms sale could be passed in such a short period of time.

The need for enactment of this measure was underscored this week with the publication of a study of U.S. arms export policy conducted by the Library of Congress for the Senate Foreign Relations Committee. This 99-page analysis, entitled "Implications of President Carter's Arms Transfer Policy," concluded:

> That despite the stated and implied intentions of the new policy, arms sales continue to play a very substantial role in support of U.S. foreign policy and national security objectives. Rather than being used as an "exceptional foreign policy implement," U.S. arms transfers continue to occur on a rather routine basis. . . . This study concludes that the President's new policy, as applied in practice since May 19th, has yet to demonstrate a significantly reduced role for arms transfers as an instrument of U.S. foreign policy.

I drew the same conclusion this week, as a result of my receipt today of a response by President Carter to a letter which Representative BENJAMIN S. ROSENTHAL and I addressed to him more than 2 months ago. In our letter of August 10, Representative ROSENTHAL and I urged the President not to propose the sale of 60 F-15 fighter aircraft to Saudi Arabia. We raised several substantive arguments against the wisdom of this transaction, which, according to recent press reports, is receiving favorable consideration by the State Department and the White House. President Carter's response failed to address most of the issues raised by Representative ROSENTHAL and myself. The President promised only to "insist as always on explicit assurances against third country transfers." It was precisely the problems associated with the enforcement of such assurances during a crisis, along with other objections, which prompted Representative ROSENTHAL and I to express our concern to the President.

If Congress is to exercise its statutory responsibility to review major weapons sales, such as the sale of large numbers of extremely sophisticated F-15 Eagles to Saudi Arabia, we must take action to extend the period of time within which we can study and act on proposed arms transfers. We must also take action to remove the possibility that a weapons sale could escape review entirely, due to a prolonged congressional recess. I hope that the Senate and the House will act favorably on this legislation to amend the Arms Export Control Act. The Library of Congress study and the President's position regarding the sale of F-15's to Saudi Arabia demonstrate that major weapons sales to very volatile parts of the world will continue, regrettably, to be a cornerstone of our foreign policy.

The exchange of letters between the President and Representative ROSENTHAL and myself follows:

WASHINGTON, D.C., *August 10, 1977.*

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We write to express our deep concern over reports that the Administration is seriously considering the sale of approximately 60 F-15 fighter aircraft to Saudi Arabia.

We recognize the important role being played by Saudi Arabia in the search for peace in the Middle East, and we share your commitment to continuing the friendly relations between our two nations. But we also are worried about what the introduction of this advanced weapon system will do to the fragile balance of power in that part of the world.

It is our belief that such a sale can only serve to destabilize the military balance in the Middle East. Saudi Arabia will not have the technological capability to utilize this highly sophisticated aircraft for many years. Neither does Saudi Arabia confront any military threat which would require the acquisition of the F-15 Eagle, one of the most advanced fighter planes in the world.

Egypt and Syria, however, possess both the trained pilots and technicians and the military incentive to use the F-15. We fear that should another round of fighting occur in the Middle East, Saudi Arabia might not be able to resist the pressure to become involved. We are aware that Saudi Arabia has not violated transfer agreements on United States purchased arms during previous Arab-Israeli wars, but it is important to point out that it did not have such a formidable arsenal in the past. There exists today as never before the distinct possibility that Saudi Arabia could use its sophisticated weapons directly against Israel or "loan" them to another Arab power.

The introduction of such an advanced technology fighter into the Arab arsenal would result in an escalation of the arms race in the Middle East and a serious increase in the threat to the security of Israel. This is particularly disturbing in light of Saudi expansion of its air base facilities near Israeli borders, its purchase of United States-made "smart bombs," and its continued acquisition of aerial tankers.

The sale of F-15's to Saudi Arabia would also violate the spirit of your own commitment to limit the sale of advanced weapons to developing nations. In May, you stated that the United States would adhere to treaty obligations to West European nations and other traditional allies, but would sell sophisticated arms to other nations only "under extraordinary circumstances." Such circumstances do not exist in Saudi Arabia, which faces no credible external threat and already possesses a formidable arsenal of United States-provided arms, including F-5 fighter aircraft.

In the interest of preserving the military balance in the Middle East and in keeping with your commendable policy to limit arms sales, we respectfully urge you to refrain from the sale of F-15 aircraft to the Saudi Arabian Government.

With best wishes.

Sincerely yours,

ROBERT F. DRINAN,
BENJAMIN S. ROSENTHAL,
Members of Congress.

THE WHITE HOUSE,
Washington, D.C., October 11, 1977.

Hon. ROBERT F. DRINAN,
House of Representatives,
Washington, D.C.

TO CONGRESSMAN ROBERT DRINAN: I am responding to your letter in which you expressed your deep concern over reports that the Administration is seriously considering the sale of F-15 aircraft to Saudi Arabia.

As you are certainly aware, the Administration has not notified the Congress of an intent to conclude such a sale. The reason is that no decision has been made on this sale.

As you mention in your letter, Saudi Arabia has played an important moderating role in the search for peace in the Middle East. We consider the Saudis a constructive partner in our efforts in the region.

The Government of Saudi Arabia entered into discussions with the United States several years ago about replacing older obsolescent aircraft. The British-manufactured Lightning air defense interceptors are rapidly aging, and the Government of Saudi Arabia has felt for some time that they no longer provide a reliable air defense. The U.S. is sympathetic to these concerns and believes that Saudi Arabia does indeed need a replacement aircraft. I do want to assure you that, if the U.S. does sell any aircraft to Saudi Arabia, we would insist as always on explicit assurances against third country transfers.

I understand the sincerity of your concern and appreciate your interest. I can assure you that I will give the most serious consideration to the issues you have raised.

Sincerely,

JIMMY CARTER.

PANAMA CANAL: THE PROBLEM AND THE REASONED SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, as is well known, committees of the Congress in both the Senate and House of Representatives during recent weeks have been conducting hearings concerning the future status of the Panama Canal. Many of the statements before these committees have been published in the CONGRESSIONAL RECORD.

My statement presented on October 4, 1977, to the Senate Committee on Foreign Relations summarizes crucial points in the canal problem and offers a reasoned and historically based solution.

The indicated statement follows as part my remarks:

PANAMA CANAL: THE PROBLEM AND THE REASONED SOLUTION

Mr. Chairman, as a student of Panama Canal history and problems, I long ago recognized them as inexhaustible subjects. My interest was first aroused in early youth when former President Theodore Roosevelt used to be an occasional guest at my grandfather's home in Hazleton, Pennsylvania. During those years, I listened many hours to that great American leader while he discussed the difficulties he had to face in launching what was then, and still is, one of the most stupendous industrial enterprises in history. He naturally became my youthful ideal and inspired an interest on my part in the Canal question that has increased over the years. It has been a privilege, indeed, since being a member of the Congress, to have been an instrument in the protection of the most strategic waterway of the Americas as a vital asset of the United States for interoceanic commerce and national defense.

Instead of making a long and detailed statement, I ask that the following documents be appended to my testimony:

Hay-Pauncefote Treaty of 1901 with Great Britain and the April 22, 1977 letter of the Raja of Patiala to the Prime Minister of India.

My statement before the House of Representatives Subcommittee on Inter-American Affairs, September 22, 1971.

My address on "New Panama Canal Treaty Report: Fallacies Clarified and Constructive Program Proposed." Congressional Record, September 9, 1976, pp. H9657–60.

H. Res. 92, 95th Congress.

H.R. 1587, 95th Congress.

Dr. Karl Brandt et al "Panama Canal Sovereignty and Modernization: Memorial to the Congress," 1975.

Press release of environmental organizations of September 6, 1977 and their telegram to the President of September 6, 1977.

Panama Canal Pilot Association urges Major Modernization as Solution of Panama Canal Problems. Congressional Record, November 15, 1973, p. H. 10091.

Mario Lazo. "Panama Canal Giveaway: A Latin American's View." Washington, D.C.: Council for Inter-American Security, 1977.

Letter to the President by four former Chiefs of Naval Operations of June 8, 1977, and its forwarding endorsement by four Senators of June 15, 1977.

In my studies of Isthmian canal policy questions, I have had the benefit of extensive consultations with the best informed authorities that I could find. They included experienced engineers and geologists, Panama Canal pilots and other navigators, marine biologists, lawyers, historians, and distinguished officers of the Armed Forces with high command experience.

Though canal problems are immensely complicated, when reduced to their essentials they are relatively brief and simple. The two central ones are: (1) the question of U.S. sovereignty over the Canal Zone; and (2) the increase of transit capacity coupled with operational improvements.

From a study of extensive evidence, it is clear that one of the prime reasons for the tremendous success of the United States in the construction of the Panama Canal and its subsequent efficient maintenance, operation, sanitation, protection and defense, with tolls that are "just and equitable," during two World Wars, the Korean and Viet Nam Wars, and the Cuban missile crisis, was the exclusive sovereign control of the Canal Zone by the United States.

When the present Panama Canal questions are evaluated from their most significant angles—engineering, marine operational economic, legal, environmental, defense and diplomatic—the only commonsense solutions are: (1) retention by the United States of its undiluted sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under the well known, extensively documented and strongly supported Terminal Lake-Third Locks solution. This proposal, which was developed in the Panama Canal organization as a result of World War II experience, was submitted to higher authority through official channels and won the approval of President Franklin D. Roosevelt as a post war project.

Such major modernization, on which more than $171,000,000 have already been expended, would improve the maintenance and operation of the Canal enormously, bring huge benefits to Panama, serve interoceanic commerce by increasing canal capacity and its operational efficiency for larger vessels, including larger tankers with Alaskan oil, and serve to increase employment in the United States as well as in Panama. Moreover, it is covered by existing treaty provisions, which authorize "expansion and new construction," and thus does not require the negotiation of a new canal treaty. (Congressional Record, July 24, 1939, p. 9834.) In addition, the Terminal Lake-Third Locks solution is recognized by experienced navigators, including Panama Canal pilots, as providing the best operational canal practicable of achievement and, I may add, at least cost.

In connection with costs, one of the main reasons for the insistence by the United States upon exclusive sovereign control over the Canal Zone was to protect the huge investment involved in the construction and fortification of the canal as well as the costs of its later improvements.

As a member of the Subcommittee on Defense, House Committee on Appropriations, I believe that I reflect the view of a majority of the House of Representatives as well as the people of the United States when saying that both will demand adherence to that historic U.S. canal policy.

In contrast to the modernization of the existing Canal, the much publicized proposal for a so-called "sea-level" canal, which is actually one of tidal lock design, would be operationally inferior to the existing canal as well as economically extravagant. Nevertheless, it makes a strong appeal to the inexperienced and others who think they may benefit from such a vast project. It periodically reappears as a "hardy perennial" no matter how often the impossibility of realizing any such scheme within realistic limits of cost and time may be demonstrated.

Historically, the advocacy of a "sea-level" design has been based on the alleged vulnerability of the lake and lock type.

In 1905–06, during the "battle of the levels," its supporters used the danger of "naval gunfire" as their major justification.

In 1938–39, prior to World War II, they stressed the hazards of "enemy bombing."

In 1945–48, its proponents held that "vulnerability to the atomic bomb" and other new weapon dangers "dictated" the construction of a "sea level" canal for reasons of "security and national defense."

In 1964, its advocates argued that "two sticks of dynamite" could destroy the present canal.

In 1970, they contended that the alleged "vulnerability" of the existing canal to "many forms of attack" required a tidal lock design.

In 1974–75, its supporters stressed that the dangers of "guerrilla warfare" and even "earthquakes" required construction of the "sea level" type.

The only new points in support of the "sea-level" proposal have been the use of different hobgoblins. Such advocacy is primarily based on the fallacious assumption that it is possible to construct a canal of "indestructible proportions."

The advent of nuclear weapons has negated all such assumptions, for any navigation project, regardless of type, is vulnerable to destruction by such weapons and no amount of sophistry can alter this fact. The true criteria for decision as to type are not passive defense measures embodied in canal design but "ease and safety of navigation" and this test leaves no doubt as to what type is required at Panama.

The 1947 Report under Public Law 280, 79th Congress, recommended only a "sea-level" project in the Canal Zone near the existing canal. It failed to receive Executive approval and was transmitted by President Truman to the Congress without comment or recommendation, and the Congress took no action thereon.

When the 1960 report of an independent inquiry under the House Committee on Merchant Marine and Fisheries was submitted, it opposed the construction of a "sea-level" project in the Canal Zone, as previously recommended in 1947, because of the possibility of massive slides involving a "long interruption to traffic" (H. Rept. No. 1960, 86th Congress, p. 5.)

In 1970, the report under Public Law 88-609, 88th Congress, as amended, recommended only a "sea-level" project in the Republic of Panama about 10 miles west of the existing canal.

The 1947 and 1970 "sea level" canal reports, costing about $6,000,000 and $23,000,000, respectively, were not the products of independent broadly based commissions subject to Senate confirmation, but of Executive appointed consultants to justify the predetermined decisions of a small professional and industrial group.

The maintenance, operation, sanitation and protection of the Panama Canal and its indispensable protective frame of the Canal Zone are technical problems of great complexity, requiring not only a depth of expert knowledge and experience but also the strong logistical support of a great and powerful nation.

The solution of these problems, including that of major modernization, does not consist of surrendering U.S. sovereignty over the Canal Zone and, ultimately, the Canal itself to a small, weak, technologically primitive, and unstable country but the assumption by the United States of its responsibilities as the great power leader of the Free World.

As was previously indicated, the reasoned solution is two fold: (1) re-affirmation by the Congress of full U.S. sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under existing treaty provisions. Measures to implement these objectives are now before the Congress and should be promptly approved.

As to the much propagandized assertion that all of the Latin American countries desire the United States to surrender its sovereign control over the Panama Canal and Canal Zone to Panama, this is plain poppycock. I know of no better summary of Latin American feeling than that by the late Dr. Mario Lazo, a distinguished Cuban lawyer and author. In his 1977 posthumously published article, when commenting on the proposed surrender, he stated: "The almost universal reaction among the educated people of Latin America who are not politicians to a promulgated Kissinger-Bunker giveaway treaty would be, at first, incredulity, then sadness and eventually ridicule and even contempt for the once greatly respected nation that had shown itself no longer to have the will to maintain its responsibilities." (Mario Lazo, Op.Cit, p.10.)

The situation on the Isthmus is not a mere local conflict between Panama and the United States but a focal issue in the U.S.S.R. campaign for world domination by gaining control of strategic waterways. The strength of the U.S. Navy has been reduced from some 1000 vessels a decade ago to about 460 ships today. Thus, the Canal is a more vital element now for U.S. seapower than for many years. We can surrender its sovereign control only at our peril for with the loss of sovereignty all other aspects would become irrelevant. Such giveaway would quickly transform the Caribbean Sea and the Gulf of Mexico into Red lakes.

As to current efforts to polarize proponents of surrender of the Canal Zone and their opponents as liberals and conservatives, respectively, this is a monumental deception. The Canal question transcends all partisan considerations and must be resolved on the highest plane of national interest for it is a crucial issue in the current global situation, involving the security not only of the United States but also that of the entire Free World.

In these connections, I would stress the following:

The proposed new canal treaties ignore the obligations of the United States under the Hay-Pauncefote Treaty.

They disregard the rights under that treaty of the successor states of the former British Empire and other important canal users that provide a substantial portion of Panama Canal traffic.

They represent an abject surrender to threats of violence if the treaties are not ratified.

Their ratification will extend U.S.S.R. power in the strategic Caribbean-Gulf of Mexico areas and impair the influence of the United States not only in this area but also throughout the world, especially among canal user nations.

There is ample authority to deal with local problems within the framework of existing treaties without any new ones.

The present treaties are workable. The proposed treaties would saddle the United States with grave responsibility without adequate authority, which would be an entirely impossible situation and would not work.

Finally, Mr. Chairman, the program that I recommend, which is derived from experience and is historically based, is simple:

1. Rejection of the pending treaties in their entirety;

2. Re-affirmation by the Congress of the historic U.S. policy for perpetual undiluted U.S. sovereign control over the Canal Zone;

3. Enactment of measures for the major modernization of the existing canal under existing treaty provisions.

4. Authorization for a Delegate in the Congress from the Canal Zone.

5. Reactivation of the pre-World War II U.S. Navy's Special Service Squadron with home base in the Canal Zone.

As recognized by many informed Latin Americans, this program will be best for the United States, best for world commerce, best for Panama and best for other nations of Latin America that use the Canal.

ADMINISTRATION'S ALIEN BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I am introducing legislation today proposed by the administration to deal with what is characterized as the critical aspects of the undocumented alien problem. For purposes of clarification, the term "undocumented alien" has been adopted by the administration to replace the term "illegal alien" previously used by the Congress in its legislative considerations.

An undocumented alien is a person of foreign nationality who has entered the United States unlawfully, or who, after legal entry has violated the terms of his admission, generally by overstaying or accepting unauthorized employment.

There are no reliable estimates as to the total undocumented alien population of the United States, but it is thought to number in the millions.

The problem is by all means not new. It has constantly aggravated each year to the point where some observers believe that it may even now be out of control.

The Committee on the Judiciary, beginning in 1971, has held extensive hearings on the subject of "illegal aliens." The testimony of these hearings make up seven printed volumes. Three times, legislation relating to the problem has been reported by the committee, twice, during the 92d and 93d Congresses, the House acted favorably on the measure.

Although I have reservations on certain aspects of the bill I am introducing today, I am gratified to see that the President's commitment to take some action on this problem is fulfilled. It now behooves us to proceed diligently toward prompt consideration of the undocumented alien problem which becomes more serious day by day.

The President's message on undocumented aliens of August 4, 1977 covered the following areas: Employer sanctions, border enforcement, adjustment of status, foreign policy, temporary workers, and immigration policy.

The bill I am introducing does not deal with the problem in its entirety as exposed in the President's message. Instead, it addresses itself to three aspects of the issue: Adjustment of status, the creation of a new temporary alien status, and restriction of employment opportunities.

A brief section-by-section analysis of the bill is as follows:

BRIEF SECTION-BY-SECTION ANALYSIS OF ADMINISTRATION'S ALIEN BILL

Section 1. Popular title—Alien adjustment and employment Act of 1977.

Section 2. Adjustment of Status (Amnesty)—Authorizes permanent residence for those undocumented aliens who have been "continuously resident" in the United States since January 1, 1970, and who are otherwise admissible to the United States. (The Immigration and Naturalization Service estimates that some 765,000 illegal aliens may benefit from this provision.)

Section 3. Provides that any adjustments of status under Section 2 shall not be charged to any numerical ceiling on immigration.

Section 4. Creates a new temporary resident alien status for those illegal aliens who entered the United States on or before January 1, 1977 and who have been "continuously resident" since that date and are otherwise admissible to the United States.

Applications for such status must be filed within one year of the effective date of the bill. Excludes from eligibility for such status: (1) nonimmigrants who were in a valid status on January 1, 1977; (2) out of status students; (3) exchange visitors subject to the two-year foreign residence requirement; and (4) aliens who have engaged in persecution.

Provides for the issuance of appropriate documentation to aliens granted such status and authorizes their employment.

Establishes procedures for allowing aliens with this status to return to the United States after a temporary visit abroad.

Excludes such aliens from public assistance and prohibits them from bringing in relatives from abroad.

Section 5. Employer sanctions—Declares it unlawful for employers to hire aliens not authorized to work in the United States and prescribes a civil penalty of $1,000 for each alien illegally employed.

Requires the Attorney General upon belief that an employer has engaged in a pattern or practice of hiring illegal aliens to bring an action for civil penalties and injunctive relief in the appropriate United States District Court.

Creates an affirmative defense for employers who request and receive appropriate documentation (designated by the Attorney General) prior to actual employment. An employer would be given ninety days to screen existing employees. Designates the Social Security card as one of the authorized documents.

Makes it a felony to assist undocumented aliens in obtaining employment, punishable by a fine not to exceed $2,000 and/or five years imprisonment.

Section 6. Postpone effective date—sixty days after enactment.

The reservations I have on the administration's proposal are directed at the method of applying sanctions on employers of illegal aliens.

Hopefully, suitable and acceptable reasons or alternatives will emerge to these reservations from our processing of this proposal.

I commend the administration for taking the first step toward the solution of this serious problem. I shall look forward to further proposals from the administration on those areas mentioned in the President's message which were not covered by the legislation.

PULASKI DAY OBSERVED IN CONNECTICUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, Pulaski Day is an occasion for Polish Americans to recognize the significant contribution Gen. Casimir Pulaski made to the American fight for independence.

I am proud to share with my colleagues a proclamation issued by the Polish American Congress, District of Connecticut, to commemorate Pulaski Day, 1977.

RESOLUTION

Adopted by the Polish American Congress, District of Connecticut, on Pulaski Day Ceremonies Held in Hartford, on October 9, 1977

Honoring today the memory of General Pulaski, the great Polish patriot and the hero of the American War of Independence, we also pay tribute to General Kosciuszko an extraordinarily talented soldier and enlightened patriot.

The new ideas or ways of securing world peace pursued in forthcoming negotiations by the U.S. have to be accomplished without appeasement, without weakening America's moral, economic and military strength at the same time not deserting her allies.

We pledge our support to programs that will strengthen the viability of the U.S. in terms of social stability and civic wisdom in all sectors of American life, which we pray will result in law, order and justice to all.

A strong America, committed to the basic principles, so nobly and eloquently expressed in the Declaration of Independence and the fundamental human rights of free men, united and determined to uphold the banner of liberty, is the only hope for freedom for Poland and all captive nations.

We pay tribute to all those brave men who fought on numerous battlefields and gave their lives in defense of freedom and liberty under the noble motto of our forefathers: "For Your Freedom and Ours."

POLISH AMERICAN CONGRESS,
DISTRICT OF CONNECTICUT.

REPORT ON INSPECTION TRIP TO ENGLAND, SCOTLAND, AND IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. CARNEY) is recognized for 5 minutes.

Mr. CARNEY. Mr. Speaker, during the August recess, I went to Ireland, Scotland, and England on official business of the Committee on Interstate and Foreign Commerce.

Mr. Speaker, I insert the official report concerning my inspection trip in the RECORD at this point. The report follows:

REPORT ON INSPECTION TRIP TO ENGLAND, SCOTLAND, AND IRELAND

(Submitted by Congressman CHARLES J. CARNEY, October 12, 1977)

Mr. Chairman, this is a report on my inspection trip to Ireland, Scotland and England from August 18 through September 2, 1977, in conjunction with my official duties as a member of the Committee on Interstate and Foreign Commerce.

I departed from Pittsburgh, Pennsylvania on Thursday afternoon, August 18th, and I arrived in Dublin, Ireland on Friday morning, August 19th. I was met at the airport by my Control Officer, Mr. Kevin J. McGuire, who is the Economic/Commercial Officer at the American Embassy in Dublin.

On Saturday, August 20th, I inspected public housing facilities around Dublin. Later that day, I traveled to Galway and conversed with local people about economic conditions; I also took a brief tour of the waterfront.

Since most business and government offices were closed on Sunday, August 21st, I inspected Glencree Cemetery in conjunction with my duties as Chairman of the Subcommittee on Cemeteries and Burial Benefits of the Committee on Veterans' Affairs. It is a beautiful German cemetery located on land set aside by the Republic of Ireland in County Wicklow.

During World War II, a number of German airmen, between the ages of 19 and 27, were shot down over the Irish Sea and over Ireland itself. The German Government established the cemetery at Glencree primarily for the burial of these young officers, who were the flower of German manhood. Their graves are a lasting reminder of the tragedy of war.

The German Soldiers' Cemetery at Glencree was established by the National Association for the Care of German War Graves during the years, 1959–61.

The war dead of World War I and World War II that were buried in various sites of the Republic of Ireland—including islands not easily accessible—were given a permanent and dignified place of rest at Glencree.

In the 133 graves, members of the Air Force who perished in crashes, and sailors who washed ashore, were laid to rest here. Also, civilian internees aboard the British ship, "Arandora Star" who lost their lives when the ship wrecked north of the Island of Tory, are buried at Glencree.

On the Day of National Mourning, German tourists will travel from 200 to 300 kilometers to remember their war dead buried at Glencree. On that day, approximately 400 German citizens visit this cemetery.

The National Association for the Care of German War Graves is a private entity that relies on membership fees and donations from citizens of the Federal Republic of Germany. The German people have responded by contributing more than 20 million Deutsch Marks (approximately $8,600,000) to the Association. Between these private contributions and subsidies from the Federal Government, the National Association cares for more than 300 soldiers' cemeteries containing approximately 1,500,000 graves.

The National Association maintains Glencree and the other war graves outside Germany, decorates the graves on special commemoration days, guides visiting family members to the graves of their dead relatives, and takes care of these visiting family members during their stay in Ireland or wherever the cemetery is located.

When a friend or relative of a German soldier buried outside Germany is unable to take the long trip required to visit the gravesite, the National Association for the Care of German War Graves will send flowers to the soldier's grave. Once in a while, the Association will send a picture of the grave to the relative or friend. The Association has helped thousands of German citizens identify and locate their war dead. The Association attempts to ascertain the fate of each war dead, and to transfer the remains of soldiers from temporary graves to permanent, dignified resting places. The Association welcomes volunteers and voluntary contributions. During vacations, almost 100,000 German students help to tend the war graves. Last but not least, the Association works for world peace.

I was greatly impressed by the way the German people care for the graves of their war dead buried in Ireland.

On Monday morning, August 22nd, I met with the American Ambassador to Ireland, the Honorable William V. Shannon, and his wife, at the Ambassador's Residence, Phoenix Park, Dublin. Ambassador Shannon and his wife had arrived in Dublin only two weeks earlier, so they were just getting settled at the Embassy.

Phoenix Park comprises 1,760 acres and is the largest municipal park in the world within a city limits. In 1927, one of the original houses at Phoenix Park, built in 1776, became the residence of the first envoy from the United States. In 1952, the American Embassy was renovated and now consists of the Ambassador's residence, three cottages, two gatehouses, and 70 acres of lawns, gardens and orchards. The Embassy Chancery, located about 5 miles away in downtown Dublin, is a modern round building consisting of glass modular units. A rotunda in the center of the building is used for concerts, receptions, movies, lectures, plays and exhibitions. In my opinion, the American Embassy in Phoenix Park and the Chancery in Dublin, are two of the most beautiful embassy complexes in the world.

After a brief tour of the Embassy, Ambassador Shannon, Economic Commercial Officer McGuire and I had a discussion about the Irish economy. The Irish economy is slowly recovering from its recession: GNP increased 3.5% in 1976, and it is expected to increase by as much as 4% this year; industrial production and personal consumption also increased. Although the rate of inflation (18% in 1976) and the rate of unemployment (11% in 1976) continue to be serious problems, the outlook for 1977 is good.

The Government's 1977 budget was not expansionary, but it provided relief for industry through reductions in corporate tax rates. Personal income taxes and property taxes also were reduced, and subsidies for butter, milk and cheese were increased.

Recently, a new national wage agreement was reached. This agreement will govern pay raises for about half the Irish labor force for a period of 14 months. The Irish Government views the agreement as a very positive development for the economy because it will keep wage increases at modest levels in 1977.

Due to economic recovery and continued growth, Ireland's imports have increased substantially. In 1976, the United States increased its exports to Ireland by 8.5%. The Irish Government is stressing the need for investment. Ireland not only welcomes foreign investment, it also has a positive program to attract investment through grants, tax exemptions on export profits, and assistance in training workers. These policies should provide a market for a wide range of American capital goods and services. In sum, American firms will find Ireland an attractive opportunity for investment in the coming years.

Until very recently, tourism was the number one source of income for the Irish economy. However, because of the unrest in Northern Ireland, tourism in the Republic of Ireland has dropped off considerably. Cattle raising has grown rapidly and has taken the place of tourism as the country's main source of revenue. Cattle ranchers are very prosperous, largely due to Ireland's entry into the Common Market. Nevertheless, there are still a great many poor people living in the cities, particularly Dublin and Cork. The Irish Government has provided a great deal of good public housing for the urban poor, and there are more public housing units per capita in Ireland than there are in the United States.

At 10:30 a.m. on Tuesday, I had the pleasure and the privilege of unveiling the plaque commemorating the donation of the statue of Robert Emmet to the Government and people of Ireland. Ambassador Shannon made his first public address in Ireland at this ceremony. The Irish Government was represented by the Minister for Foreign Affairs, Mr. Michael O'Kennedy. Visitors from the United States at the ceremony included: Mr. and Mrs. M. Devlin, Mr. D. W. Dorman, and Mr. and Mrs. J. Cerni.

Robert Emmet (1778–1803) was a great Irish patriot who led the Irish Uprising against the oppression of the English Crown in 1803. He was arrested and hanged by the British. In 1916, Irish-born sculptor Jerome Connor created three statues of Robert Emmet. The original statue of Emmet was presented to the National Gallery of Art in Washington, D.C., on June 28, 1917, in the presence of Woodrow Wilson. The second statue was discovered in Golden Gate Park in San Francisco. The third statue, lost for many years, was found in an eastern Pennsylvania antique shop. Subsequently, it was returned to Ireland on April 13, 1966—during the 50th Anniversary of the Easter Uprising.

The statue of Robert Emmet is now located on St. Stephn's Green, and the brass plaque attached to the statue, which I unveiled, reads: "Presented to the People of Ireland by the Robert Emmet Statue Committee of the United States, April 13, 1966. Francis J. Kane, Chairman, Ambassador Scott McLeod, Devlin W. Dormer, Esquire, Hon. Michael J. Kirwan, M.C., Hon. Thomas P. O'Neill, M.C., Hon. Daniel J. Flood, M.C., Hon. John E. Fogarty, M.C., H. Mike Devlin, Esquire".

This statue of Robert Emmet not only symbolizes the Irish struggle for independence, but it also symbolizes the close friendship between the United States and Ireland.

Immediately after the dedication ceremony, I attended a luncheon meeting with Minister of Foreign Affairs, Michael O'Kennedy, and other officials of the Irish Government, at the Hibernian Hotel.

On Wednesday, August 24th, I met with American Embassy officials; we discussed U.S.-Irish trade relations and other matters of interest to our two countries.

On Thursday, August 25th, I left Dublin and travelled to Edinburgh, Scotland. My Control Officer was Vice Consul Sheldon J. Rapoport. The next morning, I attended a meeting at the American Consulate General with Miss Carol Ferguson of Wood, Mackenzie & Company. Miss Ferguson is a leading

authority on North Sea Oil. Major American oil companies, such as Exxon, Texaco and Mobil, as well as Phillips, Conoco and Hamilton Brothers, several "independents", along with BP (British Petroleum) and Shell, are heavily involved in North Sea Oil operations under contracts with the British National Oil Corporation (BNOC). The British National Oil Corporation is a means whereby the energy policies of the British Government are brought to bear on North Sea Oil activities. Further, BNOC has the option to buy more than 51% of the oil obtained from the North Sea—at market prices. The British Government also requires that two-thirds of North Sea oil be refined in Britain.

No one knows exactly how much oil there is in the North Sea, but we do know that there is more oil in the North Sea than there is in the North Slope of Alaska. Proven oil reserves are estimated at from 9 to 15 billion barrels; probable reserves are estimated at about 28 billion barrels, and possible reserves may run as high as 50 to 100 billion barrels.

According to provision of the "Oil Taxation Act of 1975", the British Government taxes commercial oil field profits basically as follows: 1) a 12½% Royalty on the wellhead value of the oil (which may be taken in kind); 2) a Petroleum Revenue Tax (PRT) of 45% of the gross revenue from the sale of oil, after deduction of royalty, current and capital expenditures, the latter raised by 75% (there are provisions for reducing the impact of the PRT so as not to reduce profitability below certain minimum levels); 3) a Corporation tax on net revenue after deduction of royalty, PRT and allowable costs.

Wood, Mackenzie & Company predicts that the net impact of North Sea oil on the British balance of payments will be an estimated 1,200 million British pounds ($2.1 billion) in 1976, increasing to about 4,900 million British pounds ($8.5 billion) in 1980. By 1985, North Sea oil could contribute more than 6,000 million British pounds (roughly $10.5 billion) to the British balance of payments. Consequently, the English believe that North Sea oil will revive their sagging economy and make them self-sufficient in oil for the next 15 to 20 years, and perhaps even longer.

However, the North Sea oil is not an unmixed blessing for the British. Scotland is using the North Sea oil as an argument for greater independence from Great Britain. In order to derive greater benefit from North Sea oil, some Scots are advocating Commonwealth status for Scotland (e.g. Canada), while others are advocating that Scotland be given the power to tax. Although there appears to be little chance of Scotland breaking away from Great Britain, there is a chance that those who want Scotland to have taxing power may achieve some measure of success.

It is interesting to note that the Irish are also exploring for oil and gas southeast of the Irish Sea off Cork. The Irish have discovered natural gas around Cork, and natural gas supplies are already being transported by pipeline to other parts of Ireland. Like the English, the Irish also hope to become self-sufficient in oil and gas within the next few years.

On Saturday, August 27th, I inspected some of the North Sea oil installations, including pipelines and storage tanks along the Firth of Forth, north of Edinburgh. I found these North Sea oil depots to be very clean. Clearly, the British are maintaining high ecological standards at their North Sea oil facilities. To date, they have been very successful at preventing oil spillage. I commend them for these efforts, and I believe that we, Americans, can learn something from the British in this regard.

On Sunday, August 28th, I had the opportunity to tour the Scottish highlands and castles around Edinburgh, and to observe the lifestyle and standard-of-living of the Scottish people. In Edinburgh, as in Dublin, there was an abundance of good public housing.

Monday, August 29th, was a bank holiday in England and Scotland. Due to an air traffic controllers' strike at London's Heathrow Airport, I exchanged my airplane ticket for a train ticket and travelled on the "Flying Scot" from Edinburgh, Scotland to King's Cross Station in England. The "Flying Scot" was a fast (average 55 m.p.h.), clean and comfortable train. The road bed was in very good condition, and the food served on the train was also very good.

On Tuesday, August 30th, I met with Charge d'Affaires Edward J. Streator, the Energy Attache, and other officials at the American Embassy in London, to discuss the current economic situation in Britain, as well as other Anglo-American policy issues.

The British economy is recovering very slowly from its recession. Gross National Product (GNP) will increase by only 1 to 2 percent this year. The unemployment rate in Great Britain currently is 6 percent, and may go even higher before the end of the year More alarmingly, prices have risen 17 to 18 percent during the past twelve months. While the present looks gloomy, prospects for the future seem brighter. Economists predict that economic growth will accelerate to 2.5 percent, and possibly higher; inflation is expected to slow down. How much the rate of inflation is reduced depends largely on the wage negotiations which are currently in progress. However, a higher growth rate would be necessary for a significant reduction in the unemployment rate.

Statistics our Embassy recently obtained from the British Government confirm that Great Britain is not in such dire straits as we have been led to believe. There are several areas where the United Kingdom's economic statistics are better than those of our own country. For example, using 1967 as the base year, and using each country's own price weights, the British had a higher real gross domestic product (GDP is the British term for Gross National Product GNP) per capita than the United States (117.4 compared to 116.0) and a higher real gross domestic product per employed civilian than the United States (121.1 compared to 106.8) in 1976.

Using 1970 as the base year (1970=100), total industrial production in Great Britain has increased to 107.9 in March of 1977. For all industries other than construction, British industrial production increased even more—to 111.7 as of February, 1977. Similarly, output per head (or output per person employed) for all goods and services in Great Britain has increased about 9 percent from 1970 to 1976; average weekly hours worked in manufacturing and certain other industries decreased from 46.4 hours in 1968 to 44.0 hours in 1976; average weekly earnings of all employees increased 178 percent during the six-year period, 1970-January, 1977.

In the long run, North Sea oil should be of substantial benefits to the British economy, primarily by relieving the balance of payments deficit which has forced the British Government to restrict economic growth. British national income will be about 4 percent higher per year during the 1980's on account of the oil from the North Sea.

As a Member of Congress from a steel-producing district, I inquired about the British steel industry. The British steel industry produces about one-fifth of the American steel industry (24 million metric tons per year compared to 121 million metric tons); whereas American steel production has been increasing, British steel production has remained roughly unchanged. During the past 50 years, the fourteen largest British steel companies have been nationalized, denationalized, and then nationalized again. After showing modest profits in the early 1970's, the nationalized British Steel Corporation may lose as much as 500 to 600 million British pounds (about $1 billion) during the three-year period ending in March, 1978. The nationalized British Steel Corporation's share of its own domestic market has slipped to 56.5 percent, so that more than 40 percent of the British market is controlled by foreign imports.

Since national health insurance will be a major issue in the 95th Congress, I also inquired about the quality and cost of health care in Great Britain. Total public expenditures on health care in Great Britain amounted to slightly over 4½ percent of GNP in 1975, and total expenditures, public and private, on health care amounted to about 5¼ percent of its Gross National Product that year. In 1975, total public expenditures on health care in the United States amounted to $50.9 billion, or 3.5 percent of GNP, and total expenditures, public and private, on health care in the United States amounted to $122.2 billion, or 8.4 percent of GNP.

The National Health Service was started in Britain on July 5, 1948; it was reorganized and begun anew on April 1, 1974. Under the 1974 reorganization plan, the Secretary of State continues to be responsible to Parliament for the National Health Service as a whole, and he determines national health policy. The Department of Health and Social Security has the central planning role and responsibility for monitoring the system. Regional Health Authorities are responsible for regional planning, the allocation of resources to Area Health Authorities, and monitoring the activities of AHA's. Area Health Authorities are responsible for the operational management of health services and for planning within their areas.

There are 14 Regional Health Authorities, each with one or more University medical schools within its boundaries. There are 90 Area Health Authorities with boundaries that match the non-metropolitan counties and metropolitan districts of local government. However, certain special arrangements are made for the London area with respect to the RHA's and AHA's. These AHA and RHA boundaries are not barriers to the movement of patients within the system.

The day to day running of the services for which the AHA is responsible is based on health districts which have a population of between 150,000 and 300,000. There is from one to six districts in each area, or a total of 205 for the entire country. Under the 1974 reorganization of NHS, the health professionals retained their status as independent contractors.

Since 1974, there are 207 Community Health Councils which represent the views of consumers of health services. There are approximately 700,000 health professionals in the British National Health Service. All are employees of the Regional and Area Health Authorities. About 70 percent of the operating costs of the NHS are for wages and salaries. Wages and salaries are determined through national machinery.

The cost of the reorganized National Health Service is still financed primarily from taxation and funds appropriated by Parliament. The Department of Health and Social Security allocates funds to the RHA's; the RHA's meet their own costs from these funds and then allocate funds to the AHA's for the cost of area services, including the cost of the Community Health Councils.

The NHS has an elaborate system for complaints. A Health Services Commissioner acts

as an ombudsman to investigate complaints which do not relate solely to the exercise of clinical judgments, or for which statutory procedures already exist.

Voluntary bodies and voluntary help in the NHS is encouraged, and some AHA and RHA grants are made to voluntary bodies which promote local health services.

A central Medical Practices Committee exists to ensure an even distribution of doctors throughout the country, and 90 Family Practices Committees—one in each Area Health Authority—are responsible for the administration of the services provided by family doctors. A single doctor may have as many as 3,500 patients on his rolls, or, if he is in a partnership, he and his partner may have up to 4,500 patients. In 1975, a typical family doctor in England had an average of 2,365 patients on his rolls.

Everyone 16 years of age and over may choose his own doctor (parents choose for children under 16), and a person may change his doctor (although the transfer takes at least 2 weeks).

All doctors are paid a basic allowance plus special allowances for: seniority, practice in groups, practice in designated areas, vocational training, number of patients, vacations, employment of staff help, rent, and so forth. Doctors who earn less than 8,500 British pounds (roughly $14,850) per year receive a supplemental payment of 312 British pounds (about $546) as of May, 1976. Hospital medical and dental staff receive 10,689 British pounds (about $18,705) per year.

Persons visiting Great Britain are treated in the National Health Service, and British citizens receive the same care in other European countries that citizens of those countries receive in Great Britain.

Under the National Health Service there is comprehensive coverage of services dealing with eye and dental problems, and everyone is entitled to the medicines and appliances prescribed by his NHS doctor (the patient pays a nominal fee to the pharmacist—children and the elderly excepted). The NHS also provides a variety of services for the mentally handicapped, including: early detection or prevention, counselling, education, training, day care, nursing and hospital services, residential accommodations, and so forth.

The people I spoke with in England think that they are receiving good day-to-day health care. The family practice of medicine is very good. I found that British citizens in all walks of life are generally satisfied with the quality of medical care; they generally favor the continuation of the existing National Health Service organizational structure. I did hear one complaint: people who need major surgery often have a fairly lengthy waiting period. On the other hand, the British system offers better preventive medicine than the American system. Overall, England's National Health Service appears to be an excellent and humane national medical insurance program.

On Wednesday, August 31, 1977, I inspected the Ford truck factory at Langley, Slough, England. My host and guide was Mr. Paul Sissons, Plant Manager. This commercial vehicle plant at Langley is the manufacturing center for all of Ford's medium and light trucks; it produces 40,000–45,000 vehicles each year, slightly more than half of which are exported. The D- and A-Series trucks are built at this 2.25 million square foot production facility. Ford's R-Series bus and coach chassis are also built at Langley. The main plant employs approximately 2,000 people.

About 40 percent of the Langley plant's employees are immigrants from the West Indies, the Indian sub-continent and Anglophone Africa. Although the situation has caused some difficulties through unorthodox religious requirements and the rekindling of regional conflicts, Ford has reduced friction to a minimum by remaining sensitive to cultural differences but firm in dealing with disruptive practices. The fact that the Langley plant's industrial relations manager was for 10 years a Colonial Office magistrate in East Africa might have had some favorable impact on the situation.

The high proportion of immigrant labor was one of the factors cited as causes of the Langley plant's excellent record of labor peace. Only 25 percent of total 1976 manhours were lost to industrial disputes, less than any other Ford plant in Britain. According to Mr. Grace, perhaps the most important reason for the good labor record was the work pace common to truck assembly facilities. Working at a slower pace and using more craftsmanship than utilized in automobile assembly operations, the workers felt a closer identification with the finished product and were relieved from the boredom which can lead to dissatisfaction.

In contrast to the stringent OSHA regulations currently in effect in the U.S., the Langley plant had very few obvious safety measures. Safety glasses and helmets were not issued during the plant tour, and the party repeatedly walked across the moving assembly line and under vehicle bodies suspended by a single chain. Despite this, Mr. Sissons stated the plant has a very low (but unspecified) rate of industrial accidents.

In 1966, Ford invested 61 million British pounds (roughly $106.7 million) in a nearby 20-acre factory complex for the production of A-Series medium trucks. An additional 500 people are employed at this facility, which is known as Langley B. Ford's Langley truck plant utilizes the most modern production techniques, and ships slightly more than half of its trucks throughout the world each year. The Langley plant is particularly noted for the high standards of its pre-delivery inspection system. The Ford Motor Company is the most profitable, and probably the most efficient, motor vehicle manufacturing company in England.

Regarding the general socio-economic climate of Britain, Mr. Sissons offered his opinion that the U.K. was undergoing a bloodless but dramatic revolution. The attitudes of workers and subordinates towards their "betters" had altered greatly during his 30 years with Ford, and Mr. Sissons stated that, unlike many of his peers, he thought these changes an improvement. He felt that once the effects of this revolution, North Sea Oil development and the shock of the entry into the EEC are brought into equilibrium, Britain could return to its role of European leadership. Interestingly, Mr. Sissons stated that the economic recovery would be possible only under a Labour Party Government.

On Thursday, September 1, 1977, I travelled to Brighton and visited the former palace and summer home of the English kings, as well as the new $30 million Convention Center and the new Sailing Marina. The Brighton Marina is reputed to be the largest, most expensive, and best sailing marina in the world.

On Friday, September 2nd, I returned to the United States. The flight home took approximately 23 hours on account of the continuing air traffic controllers' strike at London's Heathrow Airport.

AMENDMENTS TO SECTION 7 OF H.R. 3816

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes.

Mr. ECKHARDT. Mr. Speaker, tomorrow when the House takes up section 7 of H.R. 3816, the Honorable FRANK EVANS of Colorado will offer an amendment sponsored also by Chairman PETER RODINO, SAM GIBBONS, NEAL SMITH, and myself. The purpose of the amendment is to weed out frivolous class action lawsuits. We will also sponsor an amendment providing guidelines for attorneys' fees. The text of both amendments follows:

Page 37, line 1, insert after "action" the following: ", other than a class action,".

Page 37, after line 3, insert the following:

"(4)(A) The defendant in any civil action commenced under paragraph (1) may petition the court, before the court certifies such action is a class action, to conduct a preliminary hearing under this paragraph in connection with such action.

"(B) The plaintiff shall be required, in any preliminary hearing conducted by the court under this paragraph, to present such evidence as may be necessary to make a prima facie showing that the defendant has committed the alleged rule violation or cease and desist order violation and that injury or damage has resulted therefrom. If the court determines that the plaintiff has failed to make such a showing, then the plaintiff may not proceed with such action as a class action under paragraph (1)."

Page 43, line 1, insert "(1)" after "(h)".

Page 43, after line 6, insert the following:

"(2) The court, in awarding reasonable attorney fees under paragraph (1), shall take into account—

"(A) the total amount of time during which the attorney for the plaintiff was directly engaged in preparing the action and in otherwise representing the plaintiff in connection with the action, and the amount of reasonable costs incurred by the attorney in connection with the action;

"(B) the prevailing rate in the community for attorney fees in similar actions;

"(C) an estimate of the likelihood that the plaintiff would prevail in the action;

"(D) the complexity and novelty of the factual and legal issues presented in the action; and

"(E) the expertise and experience of the attorney.

So that all the Members of the House will be familiar with the amendments, I would like to insert in the RECORD a copy of our "Dear Colleague" letter explaining the amendments. The "Dear Colleague" letter follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 12, 1977.

DEAR COLLEAGUE: On Thursday when the House resumes consideration of the consumer action section of H.R. 3816, the Federal Trade Commission Amendments, we plan to offer a series of amendments which we believe will protect against frivolous suits and excessive attorney's fees. We are writing to urge your support of these amendments and of section 7 as revised by our amendments.

A number of our colleagues have expressed the concern that enactment of the consumer action section in its present form could encourage lawyers to bring frivolous suits and blackmail innocent businesses into high settlements. Our amendment meets these concerns by providing a means of weeding out frivolous suits which do not have merit.

As you know, under present law, a suit cannot be brought as a class action unless the judge "certifies" it as a class suit. Under our amendment, the defendant could request a preliminary hearing at any time before the court makes the decision to "certify" the suit as a class action. At this preliminary hearing, the plaintiff would have to make a prima facie showing that the defendant had violated the FTC rule or order which provides the basis for the suit. This means that the plaintiff would have to produce evidence which, if not rebutted, shows that the defendant violated the rule or order. The plaintiff would also be required to show that damages resulted from the violation. If the plaintiff fails to do this, then the class suit would be dismissed.

Adoption of this amendment will insure that frivolous class action law suits will not clog the courts, and it will protect innocent businesses from being coerced into settlements. At the same time, the amendment will not prevent the meritorious class suits from being pursued. Thus, section 7 will still provide an extremely important remedy for consumers who have been illegally ripped-off by real violations of FTC rules and orders.

We have also heard our colleagues express the fear that section 7 will result in exorbitant fees to class action lawyers. To protect against this possibility, we plan to offer an amendment which would set strict guidelines for the court in determining the fee which a class lawyer can be paid. Under present law, the court must approve the class lawyer's fee. Under our amendment the court would be required to consider the time spent by the attorney, the prevailing rate in the community for similar work, the expertise and experience of the attorney, the complexity of the case, and the risk involved. These are criteria which have been used by a number of courts already in protecting against excessive fees. By incorporating them in the language of the bill, we think they will effectively assure that class action attorneys are not awarded unfair and excessive fees.

We think these amendments meet the major objections to section 7. These amendments will protect both the innocent businesses from abuse and also assure that consumers have meaningful protection against unfair market practices. We hope you will vote for these amendments and support section 7.

Sincerely,

FRANK E. EVANS.
PETER RODINO.
BOB ECKHARDT.
SAM GIBBONS.
NEAL SMITH.

ESTABLISHMENT OF PINELANDS NATIONAL WILDLIFE REFUGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, although it has been more than a year since America celebrated its Bicentennial, much of the spirit which was kindled on that occasion remains with us today. It was with tremendous pride that we were able to look back on our past and rechart the many events which led to America's emergence as the greatest Nation in the world.

One of the most important lessons we learned from our Bicentennial celebration was the need to preserve wherever possible those elements which still exist from bygone days. A country which turns its back on its past, which no longer cherishes its national heritage, is in my opinion a nation without a future.

Mr. Speaker, we have in New Jersey a unique natural resource which I believe fits that description in many ways. It is a vast wilderness area generally known as the Pinelands, or the Pine Barrens. To anyone familiar with them, the Pinelands stand as a living monument not only to colonial America, but to the times long before America ever existed. It is a region aptly described by the U.S. Interior Department as "the land that time forgot." This massive range of forests and bogs—nearly a million acres in total—is a spectacular reminder of what America looked like long before the Industrial Revolution gripped our Nation.

Unfortunately, this unique wilderness area is under siege by developers. As you know, New Jersey is the most densely populated State in the Nation. Because of their strategic location in the heart of the highly urbanized Northeast, the Pine Barrens represent one of the last remaining frontiers to be conquered by our ever growing population. Developmental pressures are so intense in this area that it is a wonder the Pinelands have survived even this long.

Mr. Speaker, it would be a travesty if we were to permit the Pinelands to succumb to these developmental pressures. It is for that reason that my distinguished colleague, EDWIN B. FORSYTHE, Republican of New Jersey, and I have drafted legislation which lays the groundwork for preserving this valuable natural resource. With a great deal of optimism, we are introducing our bill in the House of Representatives today.

First, let me tell you a little more about the Pinelands, so you can fully appreciate the enormous value of this wonderful reserve. This unbroken forest, located in southern New Jersey, constitutes the largest undeveloped stretch of land along the eastern seaboard, and covers nearly one quarter of our entire State. Within this world of pine and oak trees, cedars and shrubs, live a rare collection of plants and animals.

It is a unique combination of flora and fauna which scientists tell us exists nowhere else in the world today. In the center of the Barrens is a dwarf forest of pines and oaks which have adapted to being burned about once every 8 years—a natural phenomenon which enables new seedlings to burst forth from the parent trees. In the surrounding lowland bogs and marshes, blueberries, and cranberries are cultivated in such quantities that New Jersey now leads the Nation in blueberry production, and ranks third with respect to cranberries.

Of equal importance is the least apparent resource of the Pine Barrens—a huge underground reservoir equivalent to a lake 2,000 square miles in area and 37 feet in depth. The Interior Department estimates that the amount of water stored in this enormous aquifer is equal to the total precipitation in the region over a 10-year period. Unfortunately, the water table in most parts of the reservoir is little more than a few feet below the ground. As it is covered with just loose, sandy soil, this vital aquifer is dangerously susceptible to contamination if the wrong type of development is permitted to take place in the Pinelands.

The State of New Jersey has already taken some steps aimed at preserving the Pinelands. Responding to the threat of overdevelopment, the State legislature voted in 1972 to create the Pinelands Environmental Council, an advisory board concerned with land uses in the region. The PEC carries no legal authority, but it makes recommendations to prevent pollution, encourage land uses compatible with the scientific, educational, scenic and recreational values of the land, and to preserve and promote the agricultural qualities of the Pinelands.

Reaction to the PEC and the comprehensive development plan which it issued in 1975 have been mixed. Some people have challenged the very integrity of the PEC, charging that its membership is composed of persons with vested interests. Others have called over the years for a stronger council which would have the power to develop and actually enforce land use controls in the region. These calls have, in turn, been met with outrage by local officials, who adamantly oppose the imposition of land use controls by higher governmental bodies.

As you can see, Mr. Speaker, there is no easy solution for preserving and protecting the Pine Barrens. But even as the debate wears on over the appropriate plan for controlling development in the region, population growth and regional economic pressures continue to mount. We are fast running out of time to act.

It is against this background that Congressman FORSYTHE and I have constructed our legislation. We recognize that no level of government, on its own, is capable of providing the type of management which is desperately needed in the Pinelands. The need for cooperation is evident. However, we firmly believe that local governments are both willing and able ot play a significant and substantial role in the management of the Pinelands. That is why our bill is structured to make Pinelands management essentially a State and local initiative, with Federal involvement being held to a minimum.

Our bill provides the authority for the Secretary of Interior to establish a Pinelands National Wildlife Refuge in New Jersey. It will consist of not more than 50,000 acres, to be acquired by the Secretary following the completion of a study of the Pinelands.

This study is a crucial part of our legislation, as it will bring together the views of local, State, and Federal officials on which areas should be included in the Refuge. The study will identify the wildlife and other ecological, scenic, historical, and recreational values of the Pinelands which must be protected. It will take into consideration both existing and potential land use patterns. In addition, there are specific provisions in the legislation for public hearings which will allow local citizens to express their views.

Our bill does not stop with the creation of a central refuge, however. As part of this study, the Secretary is also au-

thorized to identify those areas outside the refuge which must be protected in order to enhance the values of the refuge. Public hearings will also accompany the identification of these areas, which we designate as "ecological management units."

In keeping with our basic commitment, the legislation provides that the local governments within each ecological management unit will have the first crack at managing these lands. They need only submit a joint management plan to the Secretary of Interior in order to qualify for Federal funding equal to 75 percent of the cost of managing the lands. In instances where the localities are unable to agree on a cooperative management plan, or simply choose not to undertake such an effort, they may defer to a State-appointed Pinelands Commission. Hopefully, though, our bill provides enough incentive for the local governments to take the lead in managing these important areas of the Pinelands.

Creation of the State Pinelands Commission is optional. If it is set up, this Commission will play a very meaningful role in the development and implementation of a proper management plan in the Pinelands. For that reason, our bill provides that membership of the Commission will be drawn largely from counties and localities within the Pine Barrens. There are also seats on the Commission for individuals who are not associated with government, but who possesses special knowledge and familiarity with the resources of the Pinelands.

The Commission will be responsible for those ecological management units which the local government choose not to manage by themselves. Once again, the Federal Government would assume 75 percent of the cost of managing the lands. As a precautionary step, our bill provides for an annual review of the various management plans, to make sure they are really serving the purposes of protecting the Pinelands, and to guarantee that the Federal funds are not being wasted.

Mr. Speaker, what we have outlined is a rather simple approach to a complex problem. We do not consider our bill the total answer to preserving and protecting the Pinelands. It is merely an effort to inject some needed Federal input into a matter which is largely the responsibility of the State and local governments. Hopefully, our bill will serve as the catalyst for a major cooperative effort in this regard, so that the "land that time forgot" will not become known as the land that we neglected.

CONFERENCE REPORT ON H.R. 7797

Mr. LONG of Maryland submitted the following conference report and statement on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-701)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797), making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 28, 37, 48, and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 9, 10, 18, 23, 25, 30, 32, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 52, 55, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70, 71, 75, 76, 77, 78, and 79, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$76,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$231,250,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$115,000,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,750,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$213,000,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,900,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$217,500,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change section number as follows: "503A"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change section number as follows: "503B"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 11, 13, 15, 20, 21, 22, 24, 26, 27, 29, 31, 33, 36, 47, 49, 54, 57, 59, 61, 64, 66, 74, 80, 81, 82, 83, and 84.

CLARENCE D. LONG,
DAVID R. OBEY,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
YVONNE BRATHWAITE BURKE,
EDWARD R. ROYBAL,
LOUIS STOKES,
SILVIO O. CONTE,
Managers on the Part of the House.

DANIEL K. INOUYE,
WILLIAM PROXMIRE,
J. BENNETT JOHNSTON, JR.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797), making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

Economic assistance

Amendment No. 1: Food and nutrition, Development Assistance: Appropriates $515,000,000 as proposed by the Senate instead of $535,000,000 as proposed by the House.

Amendment No. 2: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 3: Population planning, Development Assistance: Appropriates $155,000,000 as proposed by the Senate instead of $160,600,000 as proposed by the House.

Amendment No. 4: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 5: Health, Development Assistance: Appropriates $95,000,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Education and human resources development, Development Assistance: Appropriates $76,000,000 instead of $80,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 8: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 9: Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: Appropriates $90,000,000 as proposed by the Senate instead of $95,000,000 as proposed by the House.

Amendment No. 10: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 11: Loan allocation, Development Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount made available for loans, $75,000,000 shall be available for loans repayable within 40 years, $87,000,000 shall be available for loans repayable within 30 years and $148,500,000 shall be available for loans repayable within 20 years.

Amendment No. 12: International organizations and programs: Appropriates $231,250,000 instead of $257,000,000 as proposed by the House and $224,750,000 as proposed by the Senate.

The amount provided for International Organizations and Programs includes $115,000,000 for the United Nations Development Program. The managers agree, however, that future appropriations for this activity will depend on whether or not the specialized agencies of the United Nations continue to finance technical assistance programs for developing countries through their assessed budgets.

The conferees concur with and support the position adopted by the conferees on the State, Justice, and Commerce, the Judiciary and related agencies Appropriation Bill for fiscal year 1978 on this subject. In addition, the conferees intend by this language to instruct the Administration that as long as this dual method of financing technical assistance programs of the United Nations development system continues, we will find it difficult to fully support future U.N.D.P. budget estimates. In fact, it may be expected that in considering future appropriations for United States contributions to U.N.D.P., assessed contributions for technical assistance will be balanced against request for U.N.D.P.

The Appropriations Committees are not alone in their criticism of the way U.N. development programs are financed. Five different GAO reports and a report by the Senate Committee on Government Operations also criticize this practice. Ironically, official U.S. policy itself is in agreement with the Committees' position. We intend to put an end to the current practice.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks international organizations and program funds for several Organization of American States' programs ($500,000 for the Special Cultural Account, $500,000 for the Special Development Assistance Fund, and $1,500,000 for the Special Multilateral Fund).

The managers have considered the President's request (transmitted in Senate Document 95-60) for an additional U.S. contribution to the voluntary funds of the Organization of American States for cultural and educational activities. In response to the Administration's concern that the United States contribute to the cultural and educational activities of the Organization of American States, the managers have agreed to an earmarking of a total of $2,500,000 specifically for this purpose. The managers have not, however, increased the amount to be provided to the OAS from the appropriations account "International Organizations and Programs".

Amendment No. 14: Places a limitation of $115,000,000 on funds to be available for the United Nations Development Program instead of $120,000,000 as proposed by the House and $110,000,000 as proposed by the Senate.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the United States from making a contribution to the United Nations University.

Amendment No. 16: Places a limitation of $3,000,000 on funds to be available for the United Nations Decade for Women as proposed by the House instead of $1,500,000 as proposed by the Senate.

Amendment No. 17: American schools and hospitals abroad: Appropriates $23,750,000 instead of $25,000,000 as proposed by the House and $19,800,000 as proposed by the Senate.

The managers are concerned that funds appropriated in this account continue to be expended for institutions such as the American Hospital of Paris, the American Library in Paris, the American Hospital in Rome and the American University of Beirut. It is apparent that in many cases the host country or other interested countries are now financially capable of providing the total support for such institutions. While the managers fully understand that the purpose of these expenditures is to demonstrate United States interest in the countries where the institutions are located, it would seem that in many cases the United States interest has more than adequately been demonstrated and, therefore, additional allocations of funds are not required to accomplish that purpose.

The managers instruct the Director of the Office of American Schools and Hospitals Abroad of the Agency for International Development to provide a full report to the Appropriations Committees of both Houses justifying the expenditure of funds for the above named institutions and indicating if continued expenditures to these institutions are presently contemplated.

Amendment No. 18: American schools and hospitals abroad (foreign currency program): Deletes language proposed by the House which would have provided for the appropriation of $7,000,000 in excess foreign currencies.

Amendment No. 19: Italy relief and rehabilitation assistance: Appropriates $25,000,000 instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 20: Sahel development program: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 21: International narcotics control: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: "$37,100,000"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $37,100,000 instead of $39,000,000 as proposed by the House and $38,000,000 as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control and that $12,475,000 shall be available only for programs in Mexico from the funds appropriated for international narcotics control.

Amendment No. 23: Deletes language proposed by the House which dealt with the availability of unobligated balances.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of unobligated balances to the same appropriation account as originally provided for in the appropriation Acts and under the same terms, conditions and limitations as originally prevailed.

Amendment No. 25: Retains language proposed by the Senate which deals with the deobligation of funds.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of deobligated funds to the same appropriation account as originally provided for in appropriation Acts and under the same terms, conditions and limitations as originally prevailed. The Senate language also provides that the Appropriations Committees of both Houses shall be notified 15 days in advance before these funds may be obligated for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: "The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 28: Restores language proposed by the House which requires that the various agencies and departments funded in this bill notify the Appropriations Committees of both Houses 15 days prior to the obligation of reprogramed funds.

The managers on the part of the Senate and the managers on the part of the House have agreed to this action with the firm expectation that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the specific headings mentioned in this section.

The managers agree that any activity, program, project, type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country

and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to not have been justified and the Committees not informed.

MIDDLE EAST SPECIAL REQUIREMENTS FUND

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the funding of the Sinai support mission from this account. Funding for the mission is provided under the security supporting assistance account.

SECURITY SUPPORTING ASSISTANCE

Amendment No. 30: Changes the reference section numbers to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the funding of the Sinai support mission under this account.

Amendment No. 32: Appropriates $2,202,200,000 as proposed by the Senate instead of $2,214,700,000 as proposed by the House.

Amendment No. 33: Loan Allocation, Security Supporting Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount appropriated for security supporting assistance, not to exceed $856,800,000 shall be available for grants and of the amounts available for loans, not to exceed $865,400,000 shall be available for loans with maturities in excess of 30 years but not to exceed 40 years.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 34: Appropriates $213,000,000 instead of $215,200,000 as proposed by the House and $210,200,000 as proposed by the Senate.

Amendment No. 35: Deletes the word "appropriated" as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 37: Restores language proposed by the House which prohibits the use of funds appropriated under this paragraph to provide international military education and training for Argentina.

GENERAL PROVISIONS

Amendment No. 38: Section 101: Deletes language proposed by the House and retains language proposed by the Senate which updates the reference used to establish the standards and criteria for water or related land resource projects financed from funds in this Act.

Amendment No. 39: Section 102: Deletes language proposed by the House and retains language proposed by the Senate which exempts the United States Emergency Refugee and Migration Assistance Fund from the restriction that not more than 20 percent of the funds made available can be obligated during the last month of availability and excludes appropriations used for loans from this exemption.

Amendment No. 40: Changes the word "title" to "Act".

Amendment No. 41: Strikes out "and/".

Amendment No. 42: Section 107: Deletes language proposed by the House which would have prohibited any indirect assistance to Uganda, Cambodia, Laos or Vietnam.

The managers on the part of the House agree that extensions of assistance to any country by multilateral institutions during fiscal year 1978, contrary to the opposition of the United States representatives as directed by the President, will be the subject of intensive Committee oversight.

Amendment No. 43: Section 109: Places a limitation on the entertainment expenses of the Agency for International Development of $15,000 as proposed by the Senate instead of $20,000 as proposed by the House.

Amendment No. 44: Section 113: Deletes the language "or likely to have the effect of aiding" and the word "indirectly" which was proposed by the House. This provision deals with the prohibition on providing security assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of its population.

Amendment No. 45: Section 114: Deletes language proposed by the House which would have prohibited any indirect assistance to Mozambique or Angola.

Amendment No. 46: Changes the word "and" to "or".

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the President may waive the prohibition on direct assistance to Mozambique or Angola if he determines that such assistance would further the foreign policy interests of the United States and both Houses of Congress concur.

Amendment No. 48: Deletes language proposed by the Senate which would have provided that all the salaries and related benefits of full-time Agency for International Development employees in permanent positions be funded out of operating expenses. The managers on the part of the Senate and the managers on the part of the House are in agreement that the salaries and related benefits of all full-time AID employees should be financed only by funds made available under the appropriation account entitled Operating Expenses of the Agency for International Development. While this requirement has not been incorporated into the language of the bill this year, the conferees direct that the Agency for International Development include in the budget estimate for Operating Expenses of the Agency for International Development for fiscal year 1979 all salaries and related benefits for all AID full-time employees.

Amendment No. 49: Section 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: "SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

Amendment No. 50: Appropriates $675,850,000 as proposed by the House instead of $677,000,000 as proposed by the Senate.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

Peace Corps

Amendment No. 51: Appropriates $82,900,000 instead of $81,000,000 as proposed by the House, and $84,800,000 as proposed by the Senate.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

Amendment No. 52: Changes the appropriation title as proposed by the Senate.

Amendment No. 53: Appropriates $217,500,000 instead of $200,000,000 as proposed by the House and $235,000,000 as proposed by the Senate.

The managers agree that these funds shound be allocated as follows: Paid-in capital—$16,799,000, callable capital—$151,189,000, and the Asian Development Fund—$49,512,000.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

It is not the purpose of this provision to include within the $50,000 compensation limitation of the Executive Director of the Asian Development Bank, allowances and benefits ordinarily paid to U.S. Government officials posted overseas. The excluded allowances are as follows: housing allowance, travel allowance, education allowance, representation allowance, official residence expense allowance, transfer allowance, temporary lodging allowance, shipment of automobile and limited household effects allowance, cost of living allowance and post differential allowance.

It is also not the intent of this provision to include within the $47,500 compensation limitation such allowances paid to the Alternate Director.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 55: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $523,000,000 appears in the Inter-American Development Bank paragraph, the actual budget authority level provided in this Act for the Bank is $480,000,000. The provision providing this level of funding appears in the Title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall five percent reduction in total budget authority.

The managers agree that the $480,000,000 budget authority level appropriated to the Inter-American Development Bank in this Act should be allocated as follows: Interregional paid-in capital—$36,711,000, callable capital—$182,639,000, interregional callable capital—$145,927,000, and the Fund for Special Operations—$114,723,000.

Amendment No. 56: Deletes language dealing with the authorization reference title as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive toward the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 58: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $400,000,000 appears in the International Bank for Reconstruction and Development paragraph, the actual budget authority level provided in this act for the Bank is $380,000,000. The provision providing this level of funding appears in title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall 5 percent reduction in total budget authority.

The managers agree that the $380,000,000 budget authority level appropriated to the International Bank for Reconstruction and Development in this act should be allocated as follows: Paid-in capital—$38,000,000 and callable capital—$342,000,000.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the U.S. Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

Amendment No. 60: Changes the appropriation title as proposed by the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: "$38,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $38,000,000 instead of $40,000,000 as proposed by the House and $42,000,000 as proposed by the Senate.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Amendment No. 62: Changes the appropriation title as proposed by the Senate.

Amendment No. 63: Appropriates $800,000,000 as proposed by the Senate instead of $950,000,000 as proposed by the House.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the U.S. Executive and alternate Executive Directors of the World Bank to not to exceed the rate of compensation paid to U.S. executive levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

Amendment No. 65: Changes the appropriation title as proposed by the Senate.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Senate provision stating that the U.S. share of contributions to future replenishments of the international financial institutions should not exceed certain specific percentages.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

Amendments Nos. 67 and 68: Retain language proposed by the Senate and delete language proposed by the House which denies financing for the export of nuclear equipment, fuel, or technology to any nonnuclear weapons state eligible to receive economic or military assistance under this act which detonates a nuclear explosive after the date of enactment of this act.

TITLE V—GENERAL PROVISIONS

Amendment No. 69: Deletes language proposed by the House which would have prohibited funding for the Inspector General, Foreign Assistance, unless the Office of the Inspector General responded to requests for information submitted by Congress or the General Accounting Office within a 35 day period or the President certified that he had forbidden the release of such information.

Amendments Nos. 70 and 71: Change section numbers.

Amendment No. 72: Section 503A: Changes section number and restores language proposed by the House which prohibits the funding of military assistance, international military education and training and foreign military credit sales to Ethiopia and Uruguay.

Amendment No. 73: Section 503B: Changes section number and restores language proposed by the House which prohibits the funding of foreign military credit sales to Argentina, Brazil, El Salvador, and Guatemala.

Amendment No. 74: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 75: Section 504: Retrains language proposed by the Senate which prohibits funds appropriated by this Act from being available for the Office of the Inspector General of Foreign Assistance.

Amendment No. 76: Changes section number.

Amendment No. 77: Deletes language proposed by the House which would have prohibited funds appropriated or made available to the International Financial Institutions from being used by those institutions for the purpose of establishing or expanding production of palm oil, sugar, or citrus crops if the United States is a producer of the same, similar, or competing agricultural commodity.

Amendment No. 78: Changes section number.

Amendment No. 79: Deletes language proposed by the House which would have prohibited the use of any funds for indirect aid or trade to Cuba.

Amendment No. 80: Section 507: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Congress provision stating that the U.S. representatives to the international financial institutions should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental human rights, where other means have proven ineffective and except when the President determines that the cause of human rights would be better served by not voting against such assistance or the assistance is directed at the impoverished majority in such country.

Amendment No. 81: Section 508: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of this provision is only to reduce the budget authority level from $523,000,000 reflected in the Inter-American Development Bank paragraph to $480,000,000 and reduce the budget authority level from $400,000,000 reflected in the International Bank for Reconstruction and Development paragraph to $380,000,000, and nothing more. This procedure is made possible by the general effect of the House provision requiring an overall 5 percent reduction in budget authority for payments not required by law.

While the managers have agreed to delete the general 5-percent reduction provision, it should be pointed out that, in fact, the House managers considered the effect of this provision in dealing with each of the specific appropriation accounts. This is reflected by the fact that the final conference amount totals $6,772,654,000 which is a level lying between $6,851,854,000 as recommended by the Senate and $6,694,130,300 as recommended by the House including the provision requiring a general 5-percent reduction.

Amendment No. 82: Section 509: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"SEC. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 83: Section 510: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"SEC. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

Amendment No. 84: Section 601: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $13,000,000 for fiscal year 1977 for Romanian relief and rehabilitation assistance.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the fiscal year 1978 budget estimates, and the House and Senate bills for fiscal year 1978 follow:

New budget (obligational) authority, fiscal year 1977	$5,596,497,000
Budget estimates of new (obligational) authority, fiscal year 1978	[1] 7,601,461,136
House bill, fiscal year 1978	6,694,131,300
Senate bill, fiscal year 1978	6,851,854,000
Conference agreement	[2] 6,772,654,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+1,176,157,000
Budget estimates of new (obligational) authority, fiscal year 1978	−828,807,136
House bill, fiscal year 1978	+78,522,700
Senate bill, fiscal year 1978	−79,200,000

[1] Includes $2,500,000 of budget estimates not considered by the House.

[2] Estimated conference total.

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 budget estimates, and the House and Senate bills for fiscal year 1977 follow:

Budget estimates of new (obligational) authority, fiscal year 1977	[3] $13,000,000
House bill, fiscal year 1977	----------
Senate bill, fiscal year 1977	13,000,000
Conference agreement	13,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	----------
House bill, fiscal year 1977	+13,000,000
Senate bill, fiscal year 1977	----------

[3] Not considered by the House.

CLARENCE D. LONG,
DAVID R. OBEY,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
YVONNE BRATHWAITE BURKE,
EDWARD R. ROYBAL,
LOUIS STOKES,
SILVIO O. CONTE,
Managers on the Part of the House.

DANIEL K. INOUYE,
WILLIAM PROXMIRE,
J. BENNETT JOHNSTON, JR.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, JR.,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARLENEE) to revise and extend their remarks and include extraneous material:)

Mr. FORSYTHE, for 10 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. JEFFORDS, for 15 minutes, today.
Mr. CLEVELAND, for 5 minutes, today.

(To the following Members (at the request of Mr. EVANS of Georgia) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. LEGGETT, for 30 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. COTTER, for 5 minutes, today.
Mr. CARNEY, for 5 minutes, today.
Mr. ECKHARDT, for 5 minutes, today.
Mr. HUGHES, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. HECKLER, prior to the vote on House Resolution 819 today.

(The following Members (at the request of Mr. MARLENEE) and to include extraneous matter:)

Mr. CARTER in three instances.
Mr. CAPUTO.
Mr. RHODES.
Mr. RUDD in two instances.
Mr. DERWINSKI in three instances.
Mr. HYDE in two instances.
Mr. MICHEL.
Mr. STEIGER.
Mr. COLLINS of Texas in two instances.
Mr. FORSYTHE.
Mrs. HOLT.
Mr. MCCLOSKEY.
Mr. MARTIN.
Mr. DORNAN.
Mr. STEERS in two instances.
Mr. ABDNOR in two instances.
Mr. SHUSTER.
Mr. BEARD of Tennessee.
Mr. LAGOMARSINO in two instances.
Mr. KASTEN.

The following Members (at the request of Mr. EVANS of Georgia), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MURTHA.
Mr. HEFNER.
Mr. RISENHOOVER.
Mr. VENTO in two instances.
Mr. ASPIN in 10 instances.
Mr. WALGREN.
Ms. OAKAR in two instances.
Mr. BIAGGI in 10 instances.
Mr. ALEXANDER.
Mr. MAZZOLI.
Mr. LUNDINE.
Mr. MCDONALD.
Mr. LAFALCE in two instances.
Mr. ASHLEY.
Mr. STARK in five instances.
Mr. YATRON.
Mr. BARNARD.
Mr. HAMILTON.
Mr. UDALL.
Mr. RANGEL.
Mr. MURPHY of New York.
Mr. HAWKINS in two instances.
Mr. MOORHEAD of Pennsylvania.
Mr. MICHAEL O. MYERS.
Mr. ROGERS in five instances.
Mr. AMBRO.
Mr. POAGE.
Mr. LEHMAN.
Mr. GLICKMAN.
Mr. EDGAR.
Mr. HANNAFORD.
Mrs. MEYNER.
Mr. CONYERS.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 200. An act for the relief of Bharat M. Parekh; to the Committee on the Judiciary;

S. 280. An act for the relief of Ludwik Kikla; to the Committee on the Judiciary;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon; to the Committee on the Judiciary;

S. 1590. An act to incorporate the American Ex-Prisoners of War, Incorporated; to the Committee on the Judiciary; and

S. 2100. An act for the improvement of Roberts Field, Redmond, Oreg.; to the Committee on Public Works and Transportation.

S.J. Res. 80. Joint resolution to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 52. Concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859"; to the Committee on House Administration.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1372. An act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and to establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies; and

H.R. 1934. An act for the relief of Dr. Lawrence C. B. Chan.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a bill of the House of the following title:

H.R. 1934. For the relief of Dr. Lawrence C. B. Chan.

ADJOURNMENT

Mr. EVANS of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Thursday, October 13, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2540. A letter from the Deputy Secretary of Defense, transmitting a report on the initial allocation of the fiscal year 1978 civilian strength authorization among the military departments and defense agencies, pursuant to section 501(b) of Public Law 95–79; to the Committee on Armed Services.

2541. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Israel (transmittal No. 78–1), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2542. A letter from the Attorney General, transmitting notice of a change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2543. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–1), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2544. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification for the period September 16–30, 1977, pursuant to section 204(d) of the Immigration and Nationality Act, as amended, [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2545. A letter from the Secretary of Commerce, transmitting the annual report of the Economic Development Administration for fiscal year 1976 and the transition quarter, pursuant to section 707 of the Public Works and Economic Development Act of 1965, as amended; to the Committee on Public Works and Transportation.

2546. A letter from the Chairman, Council on Environmental Quality, transmitting a prepublication copy of an interagency task force report on the Nation's wetlands; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 8159. A bill to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably

by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes; with amendment (Rept. No. 95-963, Pt. I). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. Report on allocation of budget totals for fiscal year 1978. (Rept. No. 95-694). Referred to the Committee of the Whole House on the State of the Union.

Mr. DODD: Committee on Rules. House Resolution 826. Resolution providing for the consideration of H.R. 8200. A bill to establish a uniform law on the subject of bankruptcies (Rept. No. 95-695). Referred to the House Calendar.

Mr. CONYERS: Committee on the Judiciary. H.R. 8059. A bill to amend chapter 117 (commonly called the Mann Act) of title 18, United States Code, to prohibit the transportation of minors in interstate or foreign commerce for sexual purposes; with amendment (Rept. No. 95-696). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9251. A bill providing that until July 1, 1978, the tax treatment of certain transportation expenses between a taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76-453 or any similar ruling; with amendment (Rept. No. 95-697). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6715. A bill to correct technical and clerical mistakes in the tax laws; with amendment (Rept. No. 95-700). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 6966. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button (Rept. No. 95-699). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISH: Committee on the Judiciary. House Resolution 795. Resolution opposing the granting of permanent residence in the United States to certain aliens (Rept. No. 95-691). Referred to the Committee of the Whole House.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS: Committee on the Judiciary. H.R. 1775. A bill for the relief of Karin, Michael, and Andreas Ehard; with amendment (Rept. No. 95-674). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 3835. A bill for the relief of Pece D. Van Arsdol; with amendment (Rept. No. 95-675). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 4404. A bill for the relief of Susan Spurrier; with amendment (Rept. No. 95-676). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 4875. A bill for the relief of Elizabeth Dumaboc Yee; with amendment (Rept. No. 95-677). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 7653. A bill for the relief of Jackson Ormiston Edwards Cuffy and Merle Adrianne Cleopatra Edwards Cuffy; with amendment (Rept. No. 95-678). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 7794. A bill for the relief of Piphat Phuntamala (Rept. No. 95-679). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 1422. A bill for the relief of Julio Ortiz-Medina (Rept. No. 95-680). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 1450. A bill for the relief of Hildegard G. Blakely; with amendment (Rept. No. 95-681). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 2256. A bill for the relief of Edmundo Alfredo Oreiro Espinueva; with amendment (Rept. No. 95-682). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 2761. A bill for the relief of Su-Hwan Choe (Rept. No. 95-683). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1005. An act for the relief of Young Shin Joo (Rept. No. 95-684). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1142. An act for the relief of Kam Lin Cheung (Rept. No. 95-685). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 7324. A bill for the relief of In Hea Kim and Myung Sung Kwon (Rept. No. 95-686). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 455. An act for the relief of Ermelinda Rossi (Rept. No. 95-687). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 556. A bill for the relief of Lee Young Soo (Rept. No. 95-688). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 948. An act for the relief of Chin Ah Park and Chin Suk Park (Rept. No. 95-689). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1003. An act for the relief of Me Young Lee (Rept. No. 95-690). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. House Resolution 796. Resolution opposing the granting of permanent residence in the United States to Arif Raza Zaidi Syed (Rept. No. 95-692). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 4535. A bill for the relief of Kazuko Nishioka Dowd; with amendment (Rept. No. 95-698). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. BEDELL, Mr. CARR, Mr. EDGAR, Mr. EILBERG, Mr. ERTEL, Mr. FISHER, Mr. GORE, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HUGHES, Mr. JENRETTE, Mr. JONES of North Carolina, Mr. KREBS, Mr. MCCORMACK, Mr. MCHUGH, Mr. MAGUIRE, Mr. MIKVA, Mr. MILLER of California, Mr. MOAKLEY, and Mr. MOLLOHAN):

H.R. 9505. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN (for himself, Mr. MOSS, Mr. NEAL, Mr. NEDZI, Mr. OTTINGER, Mr. PEASE, Mr. SIMON, Ms. SCHROEDER, Mrs. SPELLMAN, Mr. STARK, Mr. VENTO, Mr. WAXMAN, Mr. WHITLEY, Mr. BURKE of Florida, Mr. CEDERBERG, Mr. CORCORAN of Illinois, Mr. DUNCAN of Tennessee, Mr. GUYER, Mr. HORTON, Mr. MILLER of Ohio, Mr. STEERS, Mr. WALKER, and Mr. GEPHARDT):

H.R. 9506. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BAFALIS:

H.R. 9507. A bill to amend title 23 of the United States Code to authorize the Secretary of Transportation to obligate the United States to pay from future year apportionments the Federal share of any highway on the Interstate System through the retirement of certain State bonds or other evidences of indebtedness used for construction of such highway; to the Committee on Public Works and Transportation.

By Mr. BRODHEAD:

H.R. 9508. A bill to amend title 28 of the United States Code to provide that the courts of the United States shall have jurisdiction to review decisions of the Administrator of Veterans' Affairs; to the Committee on the Judiciary.

By Mr. DAN DANIEL:

H.R. 9509. A bill to prohibit the Secretary of the Interior from acquiring by condemnation and land for the Appomattox Court House National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. FASCELL:

H.R. 9510. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to require the Nuclear Regulatory Commission to establish and enforce standards for the safe, long-term storage of high-level radioactive wastes, spent fuel rods, and any other radioactive wastes containing transuranic elements; to require the Energy Research and Development Administration to restore the background radiation levels at abandoned uranium mine and mill sites to levels which existed before operations commenced at the sites; to permit the States to establish and enforce nuclear waste storage standards which are more stringent than Federal standards; and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. FOUNTAIN:

H.R. 9511. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes; jointly, to the Committees on Armed Services, and Post Office and Civil Service.

By Mr. FORD of Michigan (for himself, and Mr. PHILLIP BURTON):

H.R. 9512. A bill to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that Act; to the Committee on Education and Labor.

By Ms. KEYS:

H.R. 9513. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. LAFALCE:

H.R. 9514. A bill to provide for the recycling of used oil, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Government Operations, and Science and Technology.

By Mr. MARKS:

H.R. 9515. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. MINISH:

H.R. 9516. A bill to amend the Federal Home Loan Mortgage Corporation Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURTHA:

H.R. 9517. A bill to amend the Disaster Relief Act of 1974 to provide for contributions to remedy damage done to railroads by disasters to the same extent contributions are presently available for damage to publicly owned airport facilities and streets and highways; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. BREAUX, Mr. ZEFERETTI, Mr. OBERSTAR, and Mr. AKAKA):

H.R. 9518. A bill to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the U.S. foreign trade; to the Committee on Merchant Marine and Fisheries.

By Mr. NEAL (for himself, Mr. HEFNER, Mr. WHALEN, and Mr. ZEFERETTI):

H.R. 9519. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

By Ms. OAKAR (for herself, Mr. MURPHY of New York, Mr. LAFALCE, Mr. BONIOR, and Mr. KINDNESS):

H.R. 9520. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of tax obligations owed by a railroad in reorganization; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN (for himself, Mr. GUYER, Mr. JOHN L. BURTON, Mr. WINN, Mr. MCHUGH, Mr. SANTINI, Mr. DUNCAN of Tennessee, Mr. MITCHELL of Maryland, Mr. WOLFF, Mr. LAFALCE, Mr. TRAXLER, Mr. MAZZOLI, Mr. ICHORD, Mr. PURSELL, Mr. EDGAR, and Mr. ROSENTHAL):

H.R. 9521. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

By Mr. PEASE (for himself, Mr. ROSENTHAL, Mr. BUCHANAN, Mr. DERWINSKI, Mr. BEDELL, Mr. NOLAN, Mr. MAGUIRE, Mr. CARR, Mr. UDALL, Mr. LAGOMARSINO, Mr. KREBS, Mr. BONIOR, Mr. CORRADA, Mr. WHITEHURST, Mr. BAFALIS, Mr. PATTISON of New York, Mr. DORNAN, Mr. EILBERG, Mr. GLICKMAN, Mr. WAXMAN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. HYDE, Mr. WOLFF, and Mr. LEACH):

H.R. 9522. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

By Mr. PEASE (for himself, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. COHEN, and Mr. HARRINGTON):

H.R. 9523. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

By Mr. PEASE (for himself, Mr. BUCHANAN, Mr. DERWINSKI, Mr. BEDELL, Mr. NOLAN, Mr. MAGUIRE, Mr. CARR, Mr. UDALL, Mr. LAGOMARSINO, Mr. KREBS, Mr. BONIOR, Mr. VENTO, Mr. CORRADA, Mr. WHITEHURST, Mr. BAFALIS, Mr. PATTISON of New York, Mr. DORNAN, Mr. EILBERG, Mr. GLICKMAN, Mr. WAXMAN, Mr. EDWARDS of Oklahoma, Mr. BALDUS, Mr. ERTEL, and Mr. HYDE):

H.R. 9524. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. WOLFF, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. COHEN, and Mr. HARRINGTON):

H.R. 9525. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. ROSENTHAL, Mr. BUCHANAN, Mr. DERWINSKI, Mr. BEDELL, Mr. NOLAN, Mr. MAGUIRE, Mr. CARR, Mr. UDALL, Mr. LAGOMARSINO, Mr. KREBS, Mr. VENTO, Mr. CORRADO, Mr. WHITEHURST, Mr. BAFALIS, Mr. PATTISON of New York, Mr. DORNAN, Mr. EILBERG, Mr. GLICKMAN, Mr. WAXMAN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. HYDE, Mr. WOLFF, and Mr. LEACH):

H.R. 9526. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. COHEN, and Mr. HARRINGTON):

H.R. 9527. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 9528. A bill to amend chapter 3 of title 37, United States Code, to provide a subsistence allowance for members of the Armed Forces enrolled in certain officer candidate programs, and for other purposes; to the Committee on Armed Services.

By Mr. RISENHOOVER:

H.R. 9529. A bill to amend the Internal Revenue Code of 1954 to restore the tax treatment of sick pay which existed before the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. RISENHOOVER (for himself, Mr. EDWARDS of Oklahoma, Mr. MONTGOMERY, and Mr. WATKINS):

H.R. 9530. A bill to amend title 10 of the United States Code to increase the minimum grade held by the Chief of the National Guard Bureau from major general to lieutenant general; to the Committee on Armed Services.

By Mr. RODINO:

H.R. 9531. A bill to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 9532. A bill to provide that no Member of the Congress shall be paid salary for so long as any employee of the Federal Government is not paid because of the failure of the Congress to enact legislation appropriating funds for such purposes, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BLANCHARD (for himself and Mr. MINETA):

H.R. 9533. A bill to require authorizations of new budget authority for Government programs at least every 6 years, to provide for review of Government programs every 6 years, and for other purposes; to the Committee on Rules.

By Mr. DRINAN (for himself, Mr. AKAKA, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. CORNELL, Mr. DOWNEY, Mr. EDGAR, Mr. EILBERG, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. KILDEE, Mr. MAGUIRE, Mr. MAZZOLI, Mrs. MEYNER, Mr. MIKVA, Ms. MIKULSKI, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. ROSENTHAL, Mr. SEBELIUS, Mr. SIMON, Mr. STARK, Mr. STEERS, Mr. WALGREN, and Mr. WAXMAN):

H.R. 9534. A bill to amend the Arms Export Control Act to change the method of determining the period of time for adopting a concurrent resolution of Congress objecting to a proposed sale under such act; to the Committee on International Relations.

By Mr. FORSYTHE (for himself and Mr. HUGHES):

H.R. 9535. A bill to establish the Pinelands National Wildlife Refuge, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HANNAFORD (for himself, Mr. REUSS, Mr. ANNUNZIO, and Mr. NEAL):

H.R. 9536. A bill to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings be released to the general public 3 years after the date of the meeting to which they relate; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUGHES:

H.R. 9537. A bill to direct the Attorney General to establish special drug forces for the purpose of providing temporary emergency law enforcement assistance to States and local governments; to the Committee on the Judiciary.

H.R. 9538. A bill to amend the Disaster Relief Act of 1974 relating to assistance to be provided to States and local governments during any emergency, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HUGHES (for himself and Mr. FORSYTHE):

H.R. 9539. A bill to establish the Pinelands National Wildlife Refuge, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MICHAEL O. MYERS:

H.R. 9540. A bill to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROGERS (for himself, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, and Mr. WALGREN):

H.R. 9541. A bill to amend the Federal Food, Drug, and Cosmetic Act and related provisions of law to improve the protection of the public health and safety with respect to drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. DORNAN:

H.J. Res. 620. Joint resolution requesting the President to designate November 19, 1977, as National Family Day; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself, Mr. UDALL, Mr. DINGELL, and Mr. RONCALIO):

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. STEERS:

H.J. Res. 622. Joint resolution making continuing appropriations for fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. TUCKER:

H.J. Res. 623. Joint resolution proposing an amendment to the Constitution of the

United States to provide that aggregate expenditures of the Government of the United States may not exceed its net revenues during any fiscal year except in time of war or economic emergency declared by the Congress; to the Committee on the Judiciary.

By Mr. VANDER JAGT (for himself, Mr. LAGOMARSINO, Mr. ABDNOR, and Mr. HUGHES):

H.J. Res. 624. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. WOLFF (for himself, Mr. AKAKA, Mrs. BURKE of California, Mr. PHILLIP BURTON, Mr. CONTE, Mr. HARRIS, Mr. KOCH, Mr. ROE, and Mrs. SPELLMAN):

H.J. Res. 625. Joint resolution to authorize the President to call a White House Conference on Families in 1979, and for other purposes; to the Committee on Education and Labor.

By Mr. DORNAN (for himself and Mr. GOLDWATER):

H. Con. Res. 376. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. BROOKS (by request):

H. Res. 827. Resolution to disapprove Reorganization Plan No. 2 of 1977; to the Committee on Government Operations.

By Mr. QUIE:

H. Res. 828. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

278. By the SPEAKER: Memorial of the Legislature of the State of Michigan, relative to eliminating the inequities in freight charges between virgin and recycled materials; to the Committee on Interstate and Foreign Commerce.

279. Also, memorial of the Legislature of the State of Wisconsin, relative to postponing the decision to abandon the rail line between Gillett, Wis., and Scott Lake, Mich., to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS:

H.R. 9542. A bill for the relief of Joe Cortina of Tampa, Fla.; to the Committee on Ways and Means.

By Mr. RONCALIO:

H.R. 9543. A bill for the relief of Willard H. Allen, Jr., and Nicole J. Allen; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

286. By Mr. QUILLEN: Petition of Howard C. Brown, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

287. Also, petition of Theda Snyder, Erwin Tenn., relative to withholding income tax; to the Committee on Ways and Means.

288. By the SPEAKER. Petition of the National Association of Secretaries of State, Boston, Mass., relative to improving the administration of the Overseas Citizens Voting Rights Act of 1975; to the Committee on House Administration.

289. Also, petition of the White Oak Borough Council, White Oak, Pa., relative to curtailing steel imports; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8309

By Mr. BLOUIN:

Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) The Congress hereby authorizes and directs the preparation of a comprehensive master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission (hereinafter referred to as the "Commission"), acting through the Great River Environmental Action Team, and in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings and submitted in writing to the Commission and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Commission. The Commission shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Commission shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(b) The master plan authorized under subsection (a) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommended guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) For the purposes of developing the comprehensive master plan, the Commission is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Commission shall request appropriate, Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

1. (a) The carrying capacity of the Upper Mississippi River System, and (b) the long- and short-term systemic ecological impacts of (i) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (ii) present operation and maintenance programs, (iii) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (iv) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources. For the purposes of this paragraph, the Department of Interior shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

2. (a) The relationship of any expansion of navigational capacity of the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity of the Nation's railroads and on shippers dependent upon rail service, (c) the transportation costs and benefits to the Nation to de derived from any expansion of navigational capacity on said River System, and (d) a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois. For the purposes of this paragraph, the Department of Transportation shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

3. Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the flood plain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

4. Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(d) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(e) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(f) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; and Saint Croix River, Minnesota and Wisconsin.

(g) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(h) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississipppi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the State of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System, (b) the long- and short-term systemic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage of fish and wildlife, and (4) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Page 8, line 19, insert "(a)" after "section 102."

Page 8, insert after line 25 the following:

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

Offered by Mr. DUNCAN of Oregon:

On page 12, line 21, strike out "RM 14" and insert in lieu thereof "RM 21".

EXTENSIONS OF REMARKS

DECLINING CRIME RATE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent newspaper article from the October 4, 1977, edition of the Wall Street Journal.

Much has been written in the past months concerning statistics which show a decrease in the national crime rate.

This decline is undoubtedly attributable to many factors such as an improving economy, better crime prevention programs, and the imposition of tougher sentences on repeat offenders.

The Law Enforcement Assistance Administration has also been instrumental by providing financial and technical assistance to State and local criminal justice programs.

However, this article also indicates that the maturing of the American population is important as an influence in the recent downward trend in the crime rate.

The article reads as follows:

MATURING POPULATION WILL BRING A DECLINE IN CRIME, EXPERTS SAY—THEY BASE THEIR PREDICTION ON SHRINKING NUMBERS OF LAWBREAKING YOUTHS

(By Timothy D. Schellhardt)

WASHINGTON.—Crime, it seems, is a young person's vocation. That is one reason the nation's crime rate, after spiraling upward almost without interruption since 1960, will be heading down in coming years.

That's right, down. Criminologists and police officials are optimistic that the soaring crime rise of the 1960s and most of the 1970s is over. Indeed, some types of crime already have started dropping—last year the reported number of murders and other violent acts declined for the first time in 16 years. And crime analysts also are encouraged by the improved economy (crime tends to rise during recessions) and growing public interest in crime prevention programs.

But the major reason for the lower crime expectations is the maturing of the U.S. population. A disproportionate number of serious crimes are committed by young people, especially teen-aged males. In coming years, there will be fewer of these people around.

"The babies born in the baby boom of the early '50s are starting to age," says James Q. Wilson, a widely known criminal-justice scholar at Harvard University. "Some of the young men who helped produce the crime wave of the '60s are getting too old for that nonsense," he says. And with the baby "bust" of recent years, there should continue to be fewer young adults to get into trouble for some time to come.

PASSING THE PEAK

As a result, crime researchers expect the crime rate to continue to drop, perhaps through the 1980s. "We're definitely past the peak," says James A. Fox, assistant professor of criminal justice at Boston's Northeastern University. Adds Harvard's Mr. Wilson, "I'm getting that feeling, too, although I'm resisting it hard since we've been misled in the past."

After being inundated with news about New York's "son of Sam" murders and daily reports of local crimes, most people are sure to be skeptical about forecasts of crime declines. Indeed, the crimes that attract the most attention, murders committed by persons who don't know their victims, still are on the rise, according to police officials.

And crime undoubtedly will remain an immense problem for years because it has such a long way to drop. From 1960 to 1976, the number of serious crimes soared 232% to 11.3 million offenses from 3.4 million. According to Federal Bureau of Investigation statistics, your chances of showing up as a crime victim in 1975 were better than one in 20, compared with one in 50 in 1960.

Yet the downturn has begun. The number of violent crimes—homicide, rape, robbery and aggravated assault—reported to police fell 4% last year. The total number of serious crimes reported to the police last year—including the four violent crime categories and the property-related offenses of burglary, larcency-theft and auto-theft—remained about even with the 1975 total. That was the first time serious offenses hadn't risen substantially since 1972.

A TWO-QUARTER DROP

Overall, serious crime declined in the last part of 1976 and early this year, according to the latest available federal crime figures. The FBI's crime index, which comprises the seven serious offenses, has dropped for two straight quarters—in the 1976 fourth period and in the first three months of this year. The 9% slide in the first quarter of 1977 was the steepest drop since the agency began issuing quarterly reports in 1958.

Last winter's abnormally cold weather no doubt discouraged lawbreaking in many U.S. cities early this year. But a Wall Street Journal survey of 20 major U.S. cities shows that serious crimes continued to decline in the second three months of this year, when the weather was warmer. Crime declined in the second quarter from the same period last year in 17 of the 20 cities surveyed, and the average drop was 8%. Initial figures for July from a number of the cities suggest that the crime slide is continuing.

In many cities, the declines have been dramatic. In Boston, the crime index fell 26% in the first quarter and 14% in the second period. Indianapolis had a 25% first quarter drop, a 13% decrease in the following three months and another 13.3% decline in July. Oklahoma City's crime rate fell 16.6% in the first three months of 1977 and 25.6% the next three months.

SURVEYING VICTIMS

Other evidence of crime decline comes from U.S. Census Bureau surveys that seek to locate, and question crime victims. Such surveys, which were begun in the early 1970s, include crimes that aren't reported to police as well as those that are. The bureau's most recent "victimization" surveys, for 1974 and 1975, suggest there hasn't been any significant increases in the crime rate since 1973.

But crime analysts say that it is demography, the study of populations, that provides the key to understanding the improving crime scene. They note that the unparalleled crime surge of the past 16 years occurred when persons born during the post World War II baby boom were reaching adolesence and young adulthood. Those are crime-prone years. Of every 100 persons arrested for burglary or auto theft, 85 are under 25 years old. So are 77 of every 100 persons arrested for robbery, and 58 of every 100 persons arrested for rape, according to FBI figures. The statistics show that involvement in crime peaks during the teen-age years.

The country's teen-age population is starting to shrink this year, however. Already there are hundreds or thousands fewer young children than a decade ago. Thus, the crime experts say, there will be fewer criminals. "The baby bust is very much upon us and certainly in the 1980s that will help bring down the crime rate," Harvard's Mr. Wilson says. For the same reason, Marvin Wolfgang, director of the University of Pennsylvania's Center for Studies in Criminology and Criminal Law, sees a "significant" decreased in crime in the early 1980s.

Demographers project that by 1990, the group of Americans aged 14 to 25 will decline by 7.2 million, to 37.9 million, or 16% less than in 1975.

Mr. Fox of Boston's Northeastern University has projected the U.S. crime rate to the year 2000. His projections, to be published early next year in a book he has written, portend a continued drop in violent crimes through the 1980s and a small increase in the 1990s as offspring of "baby-boom" parents reach adolescence.

Property crimes, he says, will level off by 1980 but will begin to rise somewhat after that. His property-crime projections, he says, depend largely on how inflation fares. "Property crime is much more a product of the Consumer Price Index than is violent crime. As the CPI increases, the value of the goals in committing property crimes increases," he said. Mr. Fox adds that recent declines in property crimes reflect the nation's improved economy over the past two years.

HARD TO STEAL?

The declines also reflect increased citizen interest in crime prevention. "People are making things harder to steal," asserts Harvard's Mr. Wilson. "Cab drivers aren't carrying much change, stores have hired armed guards, and people are installing better locks and other security measures in their homes."

Many cities have cut law violations with formal crime-prevention programs. In Seattle, police have installed 75 hidden, electronic cameras in selected businesses to photograph robberies in progress. In the past 11 months, 33 robberies were photographed, leading to 26 arrests and 23 convictions. As a result of the publicity, commercial robberies in the city have plunged 50% since the program began in June, 1976.

More than 1,600 communities across the country also have begun so-called "neighborhood watch programs," with families living on a block banding together to help safeguard each other's homes. After a year's operation in two test communities, burglary fell 18% in Henrietta, N.Y., and 36% in neighboring Pittsford.

Some cities go to extremes to publicize their crime-resistance programs. On the outskirts of Naples, Fla., a giant billboard greets visitors with the message: "Warning—Criminals & Vandals! 100,000 Eyes Are Watching You!"

TOUGHER SENTENCES

Crime analysts say another factor in the recent drop-off in crime may be the stiffer sentences being imposed by many judges against repeat offenders, the so-called "career" criminals. Putting such habitual lawbreakers in prison for longer periods of time may be reducing the crime substantially, they say. The federal Law Enforcement Assistance Administration also has helped, funding projects in 23 cities that are aimed at identifying habitual offenders, prosecuting them speedily and pressing for long prison terms.

Recent public opinion polls suggest that Americans already are worrying less about crime these days. A Harris Survey released in May showed the percentage of persons who think the crime rate in their own area is increasing dropped to 58% this year from 70% in 1975. Perhaps even more significant, the survey revealed that for the first time in a decade, the percentage of adults who say they felt "more uneasy on the streets" than they did the year before fell below 50%, to 49%.

Some police officials worry that if the crime rate continues to fall, city officials will slash their budgets and pare their police forces. This, they contend, would only trigger another crime wave. But criminologist Terence Thornberry of the University of Pennsylvania says the "police are too smart to let their budgets get cut."

"When crime goes down, they attribute it to their crime-control programs and insist these must be maintained to keep crime from rising again," Mr. Thornberry says. "When the crime rate goes up, they say they're overwhelmed and need more money to hire more police."

PRICING OF OIL IN WORLD MARKETS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I would like to call to the attention of the House a brief, succinct, and important report prepared for the Subcommittee on Economic Stabilization of the Banking Committee by the Congressional Research Service. The subject is pricing of oil in world markets and whether the present practice of pricing oil in dollars will be continued, or whether the OPEC countries might shift to pricing oil in special drawing rights, the new unit of value established by the International Monetary Fund. The report does not answer this question—no one can make such a prediction with confidence—but it contains an important, though implicit, message.

The message is this: A future decline in the international exchange rate of the dollar raises a serious risk that hardly anyone has mentioned or even thought about. The dollar exchange rate matters more than we had thought, and a decline in the rate is potentially more harmful than we had thought.

In brief, the conclusion of the CRS report is as follows:

The OPEC countries will be tempted to shift oil pricing to SDR's—a "basket" of leading currencies—only if the dollar declines in the foreign exchange markets against this group of currencies in a substantial and sustained way. But if such a shift in oil pricing occurred, and the dollar went on declining, the result would be an increase in the dollar price of imported oil in the United States, a worsening trade deficit, more inflation, and somewhat more unemployment. In short, we would be in a vicious cycle. The decline of the dollar's exchange rate would set in motion a shift in oil pricing and then a series of events that would make our present problems worse and could further accelerate the exchange rate decline.

As long as we are dependent on imported oil for nearly half of our total consumption, the price of imported oil is a major factor in our economy, as we all know. With oil priced in dollars, the only thing we have to fear is a decision by OPEC to raise their prices, and price increase lately have been moderate. But if oil were priced in SDR's, we would have an oil price increase in the United States simply because of a decline in the exchange rate of the dollar against the other leading currencies.

The CRS report concludes, quite reasonably, that oil will probably not be priced in SDR's if the dollar continues the relative stability it has maintained against other currencies, taken as a group, since about mid-1975. But if the dollar starts a significant decline, watch out.

Mr. Speaker, it is important that we be aware of this danger. It was overlooked, for example, in the excellent midyear report of the Joint Economic Committee, which implied that a decline in the dollar exchange rate would be a good thing for output and employment in the United States. A stable, not a declining, dollar is in our interest. And as long as we continue to run a huge deficit in our foreign trade, the danger of a decline in the dollar exchange rate will be a real one.

The report follows:

LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC STABILIZATION OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C., September 12, 1977.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed for your consideration is a report prepared by the Congressional Research Service of The Library of Congress for the Subcommittee on Economic Stabilization entitled "OPEC's Proposal To Peg the Price of Oil Exports to Special Drawing Rights," August 22, 1977.

This study was done at the request of the Subcommittee in connection with its continuing investigation of activities and decisions that might affect the problem of inflation within the United States. It is suggested that this study be made available for reading for Congress and the public.

The views and conclusions stated in the report do not necessarily represent those of the Subcommittee on Economic Stabilization or of any individual members.

Sincerely,

WILLIAM S. MOORHEAD,
Chairman.

OPEC'S PROPOSAL TO PEG THE PRICE OF OIL EXPORTS TO SPECIAL DRAWING RIGHTS

(By George D. Holliday, Economic Analyst, Economics Division, Congressional Research Service, the Library of Congress)

BACKGROUND

In the post-World War II period, the U.S. dollar has been the most widely accepted currency for international transactions. It has fulfilled all the basic functions of money—a unit of account, an asset of stable value and a medium of exchange—in the international economy. The dollar has been the preferred currency for these functions because of the important role of the United States in international trade and payments and because of the dollar's strength and stability. The strength of the dollar, in turn, has been a function of the strong external economic position of the United States and the underlying health of the domestic economy.

It is only natural that, in periods when the U.S. economy is perceived to be weaker and the stability of the dollar is questioned, foreign business and financial officials begin to consider alternative, more stable forms of international money. Since the allocation of Special Drawing Rights (SDR's) by the International Monetary Fund in 1969, attention has been focused on the SDR as a possible alternative to the dollar. The SDR has already received acceptance in official financial circles as a unit for defining currency values. Consideration by the Organization of Petroleum Exporting Countries (OPEC) of a proposal to peg the price of oil to SDR's represents another possible application—a unit of value in private international transactions. The recent discussion of such a move by OPEC is not new; it was considered by OPEC oil ministers in 1975 after a substantial depreciation of the dollar against other major currencies. The use of SDR's as a unit of value has also been considered in other international transactions. The International Air Transport Association has considered pegging international fares and cargo rates to the SDR, and Suez Canal tolls are being tied to SDR's. Chase Manhattan Bank has offered deposits and loans tied to SDR's.

Special Drawing Rights were formally adopted by the IMF in 1968 as a means of increasing world liquidity. Until that time, most observers believed that there were inadequate provisions for a growing supply of international currency to keep pace with the rapid growth of international commercial transactions. Under the 1968 agreement, SDR's were allocated to participating governments as credits on the books of the IMF. They are transferable among central banks in exchange for convertible currencies needed to settle payment imbalances. SDR's cannot be owned by private individuals or firms and thus cannot be transferred in private commercial transactions. However, since the IMF sets the value of the SDR in terms of the major convertible currencies on a daily basis, it can be referenced as a unit of value.

The SDR was originally defined in terms of a fixed amount of gold. After a reform in 1974, valuation in terms of gold was dropped and the SDR was defined as a basket of 16 major currencies. The basket includes every currency that accounted for at least 1 percent of world trade during 1968–72. The currencies were weighted according to their importance in world merchandise trade, with additional weight given to the dollar because of its unique role as an international currency. Table 1 shows the weights of each of the currencies included in the SDR basket.

	Percent
United States	33.0
Germany	12.5
United Kingdom	9.0
France	7.5
Japan	7.5
Canada	6.0

Italy	6.0
Netherlands	4.5
Belgium	3.5
Sweden	2.5
Australia	1.5
Spain	1.5
Norway	1.5
Denmark	1.5
Austria	1.0
South Africa	1.0

The method of valuation of the SDR was reviewed in 1976 and left unchanged.

Since the SDR is a composite of major currencies, it tends to be relatively stable, in the sense that it generally does not fluctuate as much as any single currency in the basket. Its value reflects the movement of both the stronger and weaker currencies. Because the dollar is heavily weighted in the SDR basket, the fluctuation of the SDR is strongly influenced by the movement of the dollar.

THE COMMERCIAL USE OF SDR'S

It is the relative stability of the SDR which makes it attractive as a unit of value in private international commercial transactions. For the OPEC countries, which fix the price of oil exports in terms of U.S. dollars, the fluctuation of the dollar can have a considerable effect on the purchasing power of their revenues. If, for example, during a given period, the dollar depreciates against other major currencies, the OPEC countries would lose some of their purchasing power: they could buy fewer goods and services from the countries with stronger, appreciating currencies. Moreover, the countries with appreciating currencies could buy more oil from OPEC with given amounts of their currencies, the buying power of OPEC in those countries would be enhanced.

The following hypothetical example illustrates the possible effects of exchange rate movements on the OPEC countries' buying power. OPEC country X sells 100 barrels of oil to the United States at the price of $10 per barrel, thus receiving $1,000. It uses all of its revenues to import from Germany and exchanges its dollar earnings for German marks at the going rate of 2.5 DM=$1. Thus, it can buy 2500 DM of German goods and services. If the dollar depreciates 10 percent against the German mark, country X can exchange its $1,000 revenues for only 10 percent less, or 2250 DM. At the same time, if Germany wants to buy 100 barrels of oil from OPEC, it pays only 2250 DM, whereas it previously paid 2500 DM. If the dollar appreciated 10 percent against the German mark, country X's buying power in Germany would be enhanced. Its $1,000 in revenues could then buy 10 percent more, or 2750 DM of German goods and services. (The hypothetical example assumes that the inflation rates in the United States and Germany do not vary.) Finally, if the OPEC country uses its revenues to import only U.S. goods and services, its purchasing power would be unaffected by fluctuations of the dollar. Country X's $1,000 would buy the same amount in the United States as before.

The risks and uncertainties that are inherent in foreign exchange transactions may be, to some extent, obviated by using the SDR as a unit of value. Thus, if OPEC pegs the price of oil to SDR's rather than dollars, its earnings may be better protected. For example, if the dollar depreciates, the stronger currencies in the SDR basket usually act as a counterweight and prevent the SDR from depreciating as rapidly. Likewise, if the dollar appreciates, the weaker currencies in the basket tend to moderate the fluctuation of the SDR. Thus, whatever happens to the dollar, SDR pricing may enable an OPEC country to depend on relatively stable purchasing power in third countries for the earnings.

However, the hypothetical example illustrates a situation in which an OPEC country might obtain less stability by changing from the dollar to the SDR as a unit of value. If the country has particularly close commercial ties to the United States, valuation in terms of the dollar (rather than the SDR) is likely to provide more stability. For example, the United States is the dominant supplier (among the major industrial countries) of imports to Venezuela and Ecuador. Whether the dollar appreciates or depreciates, their dollar revenues maintain their purchasing power in the United States. Consequently, SDR pricing of oil exports is unlikely to protect their buying power as well as dollar pricing. Likewise, other OPEC countries have strong commercial ties to single industrial powers (Indonesia-Japan, Algeria-France, Libya-Italy). For those oil producers, the major consideration is protection of their purchasing power in the countries which supply most of their imports. The overall comparative stability of the SDR and the dollar is less important to them than the fluctuation of the SDR and the dollar against the currency of their major trading partners. Thus, depending on the import distribution of an OPEC country, SDR pricing may or may not offer more stability than the present system.[1]

The possibility that the weights of the component currencies of the SDR could be changed at some time in the future adds another element of uncertainty to the commercial use of SDR's. The IMF agreement which created the SDR basket provides that the composition is to be "periodically reviewed." Since trade patterns change, the participants may decide to weight some currencies more heavily or lightly, thus changing the value and generating a significant fluctuation of the SDR against other currencies. The prospect of changes in the SDR basket may make it appear less stable as a unit of value.

In assessing the likelihood of the OPEC countries pegging the price of oil to the SDR, the question of the relative strengths of the dollar and the SDR is probably more important than the question of stability. The OPEC discussions of SDR pricing have surfaced at times when the dollar was depreciating against the SDR. When the dollar has strengthen, the discussions have dissipated. The history of exchange rate movements since the creation of the SDR highlights a major barrier to shifting from dollar to SDR pricing—the difficulty of predicting future trends in dollars/SDR rates. From the initial allocation of SDR's in 1970 to the creation of the SDR currency basket in mid-1974, the dollar dropped more than 20 percent against the SDR, reflecting two devaluations of the dollar under the old fixed exchange rate regime. However, since the 1974 reform, the dollar has performed well against the SDR. After depreciating against the SDR in late 1974 and early 1975, the dollar began to appreciate rapidly. In 1975, the U.S. dollar value of the SDR moved from $1.25 at the end of the first quarter to $1.16 at the end of the third quarter. With minor fluctuations, the dollar/SDR rate has remained at the latter level. The 1975 movement represented a 6.7 percent improvement of the dollar against the SDR.

If OPEC had implemented its proposal in mid-1975 to peg the price of its oil exports to SDR's, its members would have experienced a considerable drop in the purchasing power of their revenues. The United States on the other hand, would have benefited: its oil purchases from OPEC would have been less expensive. For OPEC oil ministers, the overall strength of the dollar vis-a-vis the SDR in the last two years is probably the most compelling reason not to proceed with the SDR pricing proposal.

[1] See Morgan Guaranty Trust Company, World financial markets, August 1975, pp. 4–11.

IMPLICATIONS FOR THE U.S. ECONOMY

The consequences for the U.S. economy of pegging the price of OPEC oil to the SDR are uncertain: they would depend, first of all, on the future course of the dollar against the SDR. The decision to adopt SDR pricing would not, by itself, generate any change. The effects on the U.S. balance of trade and domestic economic activities would depend on the subsequent fluctuation of the dollar against the SDR. Depreciation of the dollar against the SDR would have the same effects as an increase in the price of imported oil. Appreciation of the dollar would have the same effects as a decrease in the price of imported oil. The effects of increased or decreased expenditures on oil imports, in turn, cannot be predicted precisely. They would be dependent on many variables, including price elasticities (i.e., the amount of oil demanded at lower or higher prices), the fiscal and monetary reactions of the U.S. Government, and, in the case of increased U.S. expenditures, the disposition of increased oil revenues by the OPEC countries.[2]

With these reservations in mind, one can suggest some of the possible consequences which might be associated with various trends in the U.S. dollar/SDR exchange rate. One possible outcome is that the dollar/SDR exchange rate could remain stable, with only very small fluctuations. (This has, in fact, occurred since late 1975). Under this situation, SDR pricing would not affect the level of U.S. expenditures on oil imports and would have no tangible effect on the economy.

A second possible outcome would be depreciation of the dollar against the SDR. Depreciation of the dollar would result in higher prices for oil imports and, assuming low elasticity, an increased oil import bill, creating a deficit in the balance of trade (or under today's circumstances, exacerbating an already large deficit). To the extent that the flexible exchange rate adjustment mechanism works, depreciation of the dollar would mean lower foreign prices and increased foreign demand for U.S. exports and, over a period of time, a new balance of trade. The United States would, in effect, begin to export more in order to pay for higher-priced oil. The new equilibrium position would be one which provided a larger transfer of real income to OPEC.

In the domestic economy, an effective increase in the price of oil would almost certainly stimulate inflationary pressures. The prices of petroleum products and their substitutes and energy-intensive goods and services would be most affected. In addition, an increase in exports resulting from the depreciation of the dollar would probably lead to price increases in the export sector. Large increases in expenditures for imported oil may also lead to increased unemployment. Some structural unemployment would be likely as a result of reduced demand for labor employed in oil-intensive activities. At the same time, there could be reduced demand for other goods and services because of a reduction in the real income of consumers.

Another possible outcome of an OPEC decision to peg the price of oil to SDR's could be appreciation of the dollar against the SDR. The effects of dollar appreciation would probably be approximately the opposite of the second outcome. Smaller expenditures on oil imports would probably improve the U.S. trade position. The United States would need to export less to pay for the same amount of oil, and there would be a smaller transfer of real income to OPEC. Lower energy prices would help to dampen domestic inflationary pressures, and increased real

[2] *See* W. M. Corden, Implications of the oil price rise, Journal of world trade law, v. 8, March-April 1974, pp. 133–143.

income and consumer demand would help to reduce unemployment.

It should be emphasized that there is no easy way to predict which of these outcomes is most likely in the long run. The course of the dollar and the SDR are ultimately related to the health of the U.S. economy relative to the economies of U.S. trade partners. Therefore, any decision to peg the price of oil to SDR's will have uncertain consequences for the U.S. economy, and may or may not serve the interests of OPEC.

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MEMBERS' PAY SHOULD BE HELD WHEN CONGRESS FAILS TO ACT ON APPROPRIATION MEASURES BY THE END OF THE FISCAL YEAR

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STEERS. Mr. Speaker, today I am introducing legislation to stop the issuance of paychecks to Members of Congress while the pay checks of civil servants are held up due to the failure of Congress to act on an appropriations bill.

Four months ago, the House and Senate passed separate versions of the 1978 Labor-HEW appropriations bill which differed substantially on the issue of medicaid funding for abortion. Since that time, House-Senate conferees have failed to come up with compromise language which is acceptable to both the House and Senate.

Today, 12 days after the end of fiscal year 1977, this appropriations bill still languishes in conference.

Due to this delay, the paychecks of civil servants in the Department of Labor and HEW will be delayed. For the past week, understandably worried Labor and HEW employees have flooded my office with calls about Congress failure to pass this appropriations bill on time.

One doctor at the National Cancer Institute told my legislative assistant that he cannot purchase the material necessary to continue his cancer cell research due to an HEW order which bans purchase of new material until Congress passes the 1978 Labor-HEW appropriations bill.

Another constituent, also an HEW employee, who lives from paycheck to paycheck as many Americans do in these times of high living costs suggested that Congress pay the interest which would be charged on bills which are paid late by Labor-HEW employees due to the late receipt of paychecks.

I can only answer these civil servants by explaining the reasons for Congress failure to enact this measure. I cannot offer an excuse for it.

It seems to me that, if civil servants' paychecks are held up, because Congress does not do its job Members of Congress should not receive their paychecks either.

I am inclined to strongly believe that this appropriations bill would have been enacted before the 1977 fiscal year ran out on September 30 if the salaries of Members of Congress had been held up pending its passage.

Introduction of this bill should certainly "light a fire" under Congresspersons and help insure speedy enactment of appropriations measures.

IN SUPPORT OF H.R. 4297

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. FORSYTHE. Mr. Speaker, although I was unable to attend the general debate on this bill yesterday because of an unavoidable delay in my flight from New Jersey to Washington, I would like to express my support for H.R. 4297, a bill to be voted on in the very near future by the House of Representatives authorizing funds for fiscal year 1978 activities conducted by the Environmental Protection Agency and the Department of Commerce pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972. This 1972 act, commonly known as the Ocean Dumping Act, has as its primary goal the strict regulation and elimination of the ocean dumping of harmful materials into our Nation's marine waters. The massive expanses of ocean area which have been destroyed by the ocean dumping of sewage sludge, dredge spoil, and industrial wastes and acids make it clear that the funds authorized by H.R. 4297 are urgently needed.

In 1976, approximately 6 million tons of sewage sludge were dumped into our Nation's ocean waters. Ten times as much dredge spoil was discharged into our oceans. The adverse effects of these wastes are grave. Shellfish have been found to contain hepatitis virus, polio virus, and other pathogens. Pollution has closed at least one-fifth of our Nation's commercial shellfish beds. Critical portions of our marine ecosystem have been profoundly changed, in some cases permanently.

H.R. 4297 will authorize $4.6 million for title I of the Marine Protection, Research, and Sanctuaries Act. These funds will be used to support the ocean dumping program of the Environmental Protection Agency. EPA will regulate all dumping, designate recommended dumpsites, and enforce the phaseout of dumping activities of municipalities and industries.

Title II of the act will receive $6.5 million under H.R. 4297. These funds will assist the National Oceanic and Atmospheric Administration of the Department of Commerce in their efforts to conduct comprehensive research on the effects of ocean dumping. Included in NOAA's program is an analysis of the long-term effects of pollution, overfishing, and man-induced changes of ocean ecosystems. Without this basic research, EPA's regulatory policies for ocean dumping will lack a sense of direction and priority.

Title III of the act will be authorized one-half million dollars for the National Oceanic and Atmospheric Administration's marine sanctuaries program. Under this program, key marine areas are preserved or restored for their conservation, recreational, ecological, or esthetic values.

Also, H.R. 4297 contains an amendment banning the ocean dumping of sewage sludge after 1981, an amendment which has my wholehearted support. Ocean dumping must be brought to an early conclusion. The cities now dumping sludge have the technology available to end ocean dumping by 1981, but, without a clear directive from Congress, these cities will continue their ocean dumping as long as possible in order to save themselves money while continuing to destroy valuable marine resources.

I would also like to stress the need for legislation which goes beyond H.R. 4297. While I certainly endorse the 1981 deadline on the ocean dumping of sewage sludge, additional steps must be taken to give dumpers the means to meet this deadline. H.R. 5851, the Ocean Dumping Amendments Act of 1977, is a bill I introduced which 17 other members of the Merchant Marine and Fisheries Committee have cosponsored. This bill contains provisions which insure that the 1981 deadline can be met by phasing out ocean dumping and implementing waste disposal methods which are environmentally constructive.

H.R. 5851 would impose a penalty fee on ocean dumpers to remove the economic advantages of ocean dumping. Moreover, the penalty fee will be channeled back to the dumpers to fund constructive alternatives to ocean disposal of harmful wastes. With these provisions, dumpers will be induced to properly treat their wastes, and harmful pollutants can be converted into useful byproducts such as soil conditioner, compost, and energy.

Mr. Speaker, while I firmly believe Congress must enact additional legislation in the near future, there is no doubt in my mind that the bill we have before us today—with all of its provisions—is urgently needed. I ask my colleagues to support this important legislation.

ON THE POSTAL SERVICE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ALEXANDER. Mr. Speaker, Debbie Siler, daughter of Postmaster Wendell Kimbrough of Alicia, Ark., and a student

of the University of Central Arkansas, made a study recently of all classes of business mail service originating in the city of Little Rock, Ark. Debbie's immediate purpose was to find out how thoroughly the business firms understand the dilemma faced by the U.S. Postal Service and what alternatives to higher rates, reduction in services, and/or alternative methods of communication the business community might prefer.

In the course of her data analysis, Debbie made some findings which bring into focus the preferences of Little Rock businessmen. Listed below are some of her findings which I would like to share with my colleagues:

1. Local delivery was carried on by high standards.

2. Most firms preferred an increase in rates if necessary to continue high level service standards.

3. Most firms preferred curtailment of Saturday service as a first option.

4. Most firms felt that better management was necessary to control costs.

5. A substantial number of mailers wanted to eliminate delivery of mail entirely and resort to an "across the counter" contact with personnel in neighborhood post offices.

6. A substantial number of mailers felt that the volume of mail would diminish as rates increased and alternative methods would be used.

7. The business firms were divided on just what alternative methods would be used if forced by higher rates to go elsewhere. Private carriers and the telephone were prominently mentioned.

8. Few businesses looked with favor on electronic communications.

9. Third Classes mailers were far more concerned with the level of services than with the costs since these increased costs could and would be passed on to the consumer.

10. Closing of post offices did not seem to be cost effective and was generally unacceptable to business firms.

11. A glaring finding was the lack of knowledge which business firms have of the problems facing the USPS, also a lack of knowledge of those things available through the Postal Service, and the options available for the retention of a reliable communication system through the United States Postal Service.

PAPERWORK AND BUREAUCRACY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. DERWINSKI. Mr. Speaker, the Congress is as much to blame as the other branches of the Government when it comes to accepting the responsibility for excessive paperwork.

Therefore, I commend the following editorial, broadcast by Chicago Radio-TV Station WGN on October 2, to the attention of the Members:

PAPERWORK AND BUREAUCRACY

The Federal Commission on Paperwork has just reported. It has told the President and the nation that paperwork ordered by Congress or implemented by the Executive Branch in carrying out laws passed by Congress costs about one hundred billion dollars each year. The Commission, using tons of paper for 36 different reports, made 770 recommendations for reducing or eliminating paperwork.

One of its recommendations appeals to us. It would require that as legislation is considered, the House and the Senate consider what and how much paper-work the legislation would require. It's like an environmental impact statement required for large construction projects like the Alaskan pipeline. It's like a bill we supported in Springfield recently, a bill which would have required that the cost of implementing proposed legislation be included with the bill. Of course, estimating the paper-work required might require tons and tons of additional paper-work on Capitol Hill. But, that might be the quickest way to bring home the message to Congress. Faced by a paper-work mandate on them, they might be more considerate about the amount of paperwork they demand from us.

THE PATH TO QUALITY EDUCATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for October 12, 1977, into the CONGRESSIONAL RECORD:

THE PATH TO QUALITY EDUCATION

In recent weeks schools have reopened across America with renewed doubts about the quality and effectiveness of our educational system. The changes and challenges confronting American educators are formidable. They include:

Steadily declining scores on high school scholastic aptitude tests;

Continuing controversy over the multi-billion dollar federal role in education;

Increasing doubts about the educational innovations of recent years including team teaching, open classrooms and para-professional aides;

Declining enrollment and skyrocketing costs which have forced many classrooms to stand empty and many schools to close;

High rates of absenteeism, vandalism, violence and a noticeable lack of discipline in many of our schools;

Growing dissatisfaction and increased militancy among teachers; and

Disgruntled taxpayers who feel they are paying more for education and getting less in return.

Our educational system has gone through major changes in recent years. In the 1960s many schools reduced the number of academic classes, weakened graduation requirements, emphasized elective courses, placed greater emphasis on vocational training, and cut back basic courses in English, history and foreign languages. Consequently students spent less time in the classroom and the mission of the schools became less clear, even confused.

This same period was also one of great expectations for the schools. In the past the function of our educational system had been to teach the three R's: reading, writing and arithmetic, but more and more our schools have been expected to instill patriotism, mold character, develop civic responsibility, assimilate races and cultures, develop high moral standards, provide occupational training, create equality of opportunity, and promote good health habits. Some persons even feel that schools are primarily responsible for their childrens personality development.

With these changes, or perhaps as a result of these changes, the role of the federal government in education also grew, and, as it grew, it came in for increasing criticism. Federal aid for the countrys 50 million elementary and secondary school children now amounts to more than $6 billion a year, a sum that represents 8 percent of the $75 billion spent by the schools. The federal dollars have been used to prod schools to attend to the needs of economically disadvantaged children, to expand libraries, to provide early childhood education and to bring innovation into the classroom, including new math, phonics, the open classroom, and bilingual education. Though limited to disadvantaged students, the influence of the federal dollar in education has had a ripple effect far beyond the immediate beneficiaries, extending to the development of curriculums and instructional materials.

With federal money, however, has come federal regulation and recordkeeping. With good reason school administrators are distressed with the demand for bookkeeping and paperwork, and most of them contend that too many strings are attached to federal aid.

Outright control of education by the federal government, once feared, has not materialized, but the long-term impact of the innovations prompted by the federal government is uncertain. The federal role came at a time when the national test scores were declining, but that does not necessarily mean that the federal innovations were the cause for the decline. Some data suggest that the federal programs actually retarded or prevented the decline in achievement among disadvantaged children that would have occurred without the federal efforts.

The upgrading of America's educational system will require dollars and lots of them. But much more is needed. There should be, in my view, no federal takeover of education, but a systematic, sustained and strengthened effort at the local and state level to balance the federal effort and keep it secondary in importance. Together with many parents, I find myself sympathetic with the most popular slogan in education today: "back to basics". It means that the schools have slipped in their teaching of the fundamentals, and must reorder their priorities, and attach central importance to restoring the traditions of critical reading, careful writing, and accurate computation.

Beyond getting back to basics, some of the things I think must also be considered include: more parental involvement, not as mobs demanding "back to basics" or against sex education, but as helpers in finding answers to quality education; more emphasis on substantial improvement and achievement in learning the basic skills; smaller schools with more individualized attention; lowered expectations about what schools can be expected to accomplish; more attention to the needs of the teacher; and renewed emphasis on responsible behavior with strict measures against misbehavior and vandalism.

CONGRESSIONAL PRIVILEGES

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MARTIN. Mr. Speaker, several colleagues have noted that the legislative absurdity, alias "reform," that we were asked to adopt today is an expensive bit of self-serving foolishness. The last such "reform" has just produced another embarrassing scandal in today's news, as we predicted when we unsuccessfully tried to defeat it a year ago.

The people we represent cannot understand how Members of Congress can spend thousands of dollars for personal

items, flowers, regular meals, tuxedos, theater tickets, and such entertainment and charge it to the taxpayers as official expenses. It is outrageous and I want to commend the gentleman from Maryland (Mr. BAUMAN) for his research and speech yesterday which brought this outrage into public view. I had earlier requested the overdue reports and was puzzled that they had not been printed.

Those last reforms increased the allowances for travel, telephone expenses, office rent, and official expenses away from Washington to over $45,000 a year. It made it easier for those who wanted to spend it all, by allowing the money to be spent on anything a Member wanted to certify as an official expense. Now the new proposal was to hike that to $62,000. I do not spend half that much now and my staff and I make every effort legitimately to communicate with and be personally available to answer and to listen to my constituents. Clearly, these additional expensive "reforms" were not needed any more than the last extravaganza.

I commend those who voted in today's majority to reject any further greasing of the self-interest of the few who have embarrassed this House. The vote was 160–252, with not a single Republican voting for this measure, a responsible showing for which I congratulate the gentlemen from Arizona (Mr. RHODES) the distinguished minority leader, and his whip the gentleman from Illinois (Mr. MICHEL).

UNIVERSAL COVERAGE—WHY ALL THE OUTCRY?

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. PICKLE. Mr. Speaker, an editorial in yesterday's Washington Star reflects some of the same feelings I have had about universal coverage under social security. Universal social security coverage is good for the country and good for every individual who would be participating in the system—including Members of Congress. Social security provides the only almost totally portable basic pension and guarantee against hardship that is available in the country today.

I commend the editorial to my colleagues.

WIDENING SOCIAL SECURITY

It's understandable that federal employes would be concerned about efforts to put them under Social Security. Most of them think their existing retirement plan is pretty good; and the Social Security system, after all, is in financial trouble.

But it seems to us that government workers, or at least union leaders who represent a portion of the federal work force, are excessively agitated.

What is proposed is a meshing of Social Security and the existing Civil Service retirement program. Many employes in private business and industry have similar arrangements: Social Security provides the basic retirement benefit and a separate plan provides a supplement.

The bill not only would bring in 2.6 million federal employes but also some 4 million state and local government workers who have elected to stay out of the Social Security system. Two major benefits would flow from this: It would help shore up Social Security's financial underpinning; and it would put virtually all American workers under the same basic retirement plan.

The increased coverage would infuse the Social Security system with several billions of dollars a year. While that wouldn't solve the system's long-range financial problems it ought to provide some breathing space.

It also would end a sizable drain on the system from "double dippers" who now can retire under their civil service plans, then work a few years in a job covered by Social Security and qualify for the relatively generous minimum Social Security benefit, which is designed to help low-income workers.

Perhaps the more important advantage in bringing in government workers would be that everyone would have a stake in stabilizing and improving the Social Security system. Even the retirement program of members of Congress would be meshed with Social Security; and congressmen have a well-earned reputation of looking out for themselves.

There is considerable feeling on Capitol Hill that universal Social Security coverage is an idea whose time has come. If this is so, leaders of government employe unions might do more for the workers they represent by helping Congress work out the best plan, instead of trying to scuttle it.

AIRBAG ALERT: DISAPPROVAL RESOLUTION TABLED AFTER WIRE SERVICE REPORTS COVER-UP OF UNFAVORABLE AIRBAG DATA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. SHUSTER. Mr. Speaker, with curious congressional symmetry, a minority of the 43-member House Interstate and Foreign Commerce Committee voted 16 to 14 to table the airbag disapproval resolution today, days after the wire services reported that: "The National Highway Traffic Safety Administration suppressed test results highly unfavorable to airbags and threatened reprisals against one of its scientists who tried to make them public. . . . "

The UPI story is inserted in the RECORD following:

AIR BAGS

DETROIT.—The National Highway Traffic Safety Administration suppressed test results highly unfavorable to air bags and threatened reprisals against one of its scientists who tried to make them public, the Detroit News reported today.

The News, in a dispatch from its Washington Bureau, quoted the scientist, Thomas H. Glenn, as saying he was "pressured by NHSTA to testify before Congress that the test results were inconclusive, but I resisted.

"If this goes any further," Glenn said, "the bastards are going to kill me."

The news said Congressional investigators found that NHTSA officials withdrew the test results Aug. 26 shortly after Glenn, who suffers from a heart condition, had placed them on the public docket—a means of making them available to interested parties.

The test results were returned to the docket a week later, but only after Rep. John Dingell, D-Mich., and several other Congressmen demanded they be released to the public, the newspaper said. Dingell is a vigorous foe of mandatory air bags.

The investigators also told the news that an NHTSA staff analysis evaluating the test results was withheld from Congress until Sept. 26. By then, both the House and Senate had completed hearings on resolutions to overturn an order by Transportation Secretary Brock Adams requiring installation of air bags on some new cars in the 1982–model year.

The air bag rule will take effect Friday unless overturned by both the House and Senate.

The allegedly suppressed tests, conducted for NHTSA by Calspan, a private research firm in Buffalo, N.Y., compared the effectiveness of air bags versus safety belts in four offset collisions of cars traveling at 38 miles per hour.

None of the cadavers and dummies used as test subjects in the seat belt-equipped cars suffered crash impacts over the injury limit set by passive restraint standards. Two of the cadavers and one of the dummies in the air bag cars would have been killed had they been living humans, the tests showed.

The news quoted Congressional investigators as saying that Glenn, the NHTSA scientist, was subjected to "a systematic pattern of harassment" after he placed the test results in the public docket.

WHEN TRUMAN PARDONED THE CIA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HYDE. Mr. Speaker, as we read of the impending indictment of a former high ranking intelligence officer, it is useful to review a little history. Appeasing those elements in our country whose goal is to demoralize if not dismantle our intelligence agencies is dangerous, and in this context, the following column by Patrick J. Buchanan is essential reading:

[From the Chicago Tribune, Oct. 11, 1977]

WHEN TRUMAN PARDONED THE CIA

(By Patrick J. Buchanan)

WASHINGTON.—The odds are now given as even money that Justice will move to indict former Central Intelligence Agency director Richard Helms for misleading a Senate committee concerning CIA involvement in Chile.

Before the President and Atty. Gen. Griffin Bell allow this senseless hammer blow to fall upon the intelligence community, they might review how President Truman handled a similar matter 25 years ago.

In 1952, the CIA passed along to the Federal Bureau of Investigation and State a report, picked up in Seattle, that Prof. Owen Lattimore was planning a trip to Moscow. [On July 3, 1952, Lattimore was characterized by a Senate subcommittee as a "conscious articulate instrument of the Soviet conspiracy."] Receiving the Seattle report, the Department of State alerted customs officials to block Lattimore's departure. The matter broke into print.

The report proved inaccurate. Its source, a 32-year-old travel agent named Harry A. Jarvinen, was indicted by a federal grand jury. Two CIA agents, Miller Holland and Wayne H. Richardson, were called to testify. Both stonewalled, with Richardson refusing to testify "on orders of my superior." Along with Miller, he was sentenced to 15 days in prison for contempt.

But this was unacceptable to Harry Truman. Quietly bypassing Justice, the Presi-

dent issued pardons to both men, since, in the President's proclamation on Richardson's behalf, ". . . it has been made to appear to me that the said Wayne Richardson at the time of the aforesaid trial was an agent of the United States and acting in obedience to what he believed to be a lawful order from his official superior. . . ."

In passing on the President's clemency petitions CIA director Walter C. [Bedell] Smith, went further:

"That your conduct was correct and honorable is recognized by the President in granting this pardon," wrote Smith to agent Richardson. "In the eyes of the law, your record is as if the incident had never occurred. In the eyes of the agency, your meticulous compliance with orders made an enduring contribution to the national intelligence and the functioning of the Central Intelligence Agency.

"Legally and morally no fault exists, and your conscience can be clear that your conduct was honorable and in the best traditions of government service."

Truman's precedent is there for Carter to follow.

Clearly, testifying before that Senate committee, Helms was confronted with a serious moral dilemma. Should he protect at grave legal risk to himself the secrets he was sworn to protect; or should he spill the "whole truth" about CIA involvement and thereby cripple his agency, and perhaps his country? This is an issue to be debated in ethics courses in postgraduate seminars, not a matter for a federal indictment.

What sort of nation have we become? Helms, who has served his country honorably for decades, is facing this possible indictment, while the turncoat Philip Agee, who fingered dozens of CIA agents abroad, one of whom was subsequently assassinated, is told by the same Justice Department he faces no problem if he comes home to a country whose secrets he betrayed.

Indicting Richard Helms, along with John Kearney of the FBI, would further demoralize these already battered security agencies. It would necessitate opening the most sensitive strategic victory for those, here and abroad, who want the FBI and CIA further smeared, if not destroyed.

If Carter allows this travesty to proceed, it will demonstrate that he lacks utterly that sense of priorities which Truman showed. But, then, whom the gods destroy, they first make mad.

A THOUGHTFUL LOOK AT WORLD TRADE

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LUNDINE. Mr. Speaker, in the near future Congress will be called upon to make major decisions concerning international trade policy. The trade deficit in August was the second largest on record, and domestic manufacturers face increasingly severe competition in world markets and at home. We have all been shocked by recent news of massive layoffs in the steel industry, and the specialty steel industry, with which I am particularly familiar, is concerned by the present reexamination of the 3-year quota imposed upon foreign manufacturers just last year.

At the same time we must keep in mind that American interests can be served by developing world trade. Right now one out of every six manufacturing jobs and one out of every three acres of farmland in this country produces for export. We must seriously consider ways in which we can increase the export of American made goods, and that includes taking a realistic look at the manufacturing practices of other successful trading nations.

Earl F. Myerholtz, vice president and general manager of the Marlin-Rockwell Division of TRW, Inc., presented a thoughtful, balanced look at the present international situation in a recent interview published in the Jamestown Post-Journal of Jamestown, N.Y. I have had the privilege of working with Earl Myerholtz on a variety of projects in recent years because of our mutual interest in the economic development of the southern tier. I believe that his views on international trade deserve a wide audience and I, therefore, include them in the RECORD:

VIEWS ON INTERNATIONAL TRADE

MRC is an internationally respected name in the bearing industry and Myerholtz serves as chairman of the Antifriction Bearing Manufacturers Association. He has been to Japan and has developed a tremendous respect for the manner in which that country's bearing industry has been organized and developed.

Myerholtz pointed out that through August this year, imports of bearings into the U.S. were up 38 percent from the comparable period of 1976 and the Japanese now claim between 35–40 percent of the U.S. bearing market. He noted that the most severe penetration has been in the last five years in the ball bearing field with less impact on the roller bearing market.

The MRC official said he feels that without limitations on imports, the domestic bearing industry will suffer severe damage.

The industrial leader called attention to a number of situations that place the Japanese in the favorable competitive position they occupy. A major one, he said, is the productivity of the Japanese worker. He recalled being in a plant in the country during shift change and observing the arriving worker nudge the departing one on the shoulder—with the operation continuing without a missed movement.

A second primary factor, Myerholtz said, is that the Japanese bearing cartel has been able to rationalize production and assigns one bearing size to each manufacturer, who makes them for all other manufacturers, including putting their names on them. He explains this incorporates the economy of high volume production while U.S. companies produce smaller volumes at consequently higher costs.

Myerholtz said the bearing cartel is coordinated and guided by the Ministry of International Trade and Industry, which, if its counterpart existed in the U.S. undoubtedly would be charged with monopoly and restraint of trade.

A third consideration favoring the Japanese, the MRC official said, is they tend to have more modern plants as most were constructed since World War Two while the majority of American plants are between 40–50 years old. He noted that after the war, the bearing and electronics industries were principal ones the Japanese chose to enter.

Myerholtz said the Japanese then generally selected the high volume segments of the market for specialization, primarily those from nine to 170 millimeter outside diameters.

He pointed out that MRC works closely with many of its customers in bearing design, but they end up buying Japanese-made products on a price and quality basis. He explained that if an industry has specifications calling for MRC bearings, an interchange catalogue is consulted and Japanese bearings are substituted.

Myerholtz said bearings always are built in metrics so conversion has not been a problem in the U.S. but will represent a distinct disadvantage to other U.S. manufacturers while the Japanese are "already there."

He noted that wages in Japanese industry, while still below those in the U.S., now are comparable with those in Great Britain, Italy and France, along with "unbelieveable benefits." Myerholtz said of the Japanese work force, "It's truly a family with a great pride in their industry."

Along with an outstanding work force, he veiws their management and engineering as excellent, although feeling the Japanese have no technology the U.S. cannot duplicate or improve on. He noted that in the early days of the industry, the Japanese imported the best American equipment available and improved on it, but the U.S. machines now are on a par with it.

Myerholtz pointed out that in Japan, labor management and government work as a team with the common goal of increasing sales volumes and job security while in the U.S. these entities still frequently view each other as adversaries.

From a financing standpoint, the MRC official noted American industry traditionally operates on about 70 percent of stockholder funds and equity and 30 percent debt. The Japanese, he said, operate in reverse with about 70 percent debt and 30 percent equity, resulting in very high debt service payments requiring that high volumes be maintained.

Myerholtz pointed out that last year the four major Japanese bearing manufacturers had profits of less than one cent per dollar of sales, U.S. industry, he said, had an average of about 5.3 per cent which is low for the bearing industry, due to its very high investment costs.

The MRC official noted that in an effort to become more competitive, the U.S. bearing industry is becoming more selective in its markets and type of bearings produced, discontinuing some lines. Principal markets, he said, are the automotive industry, particularly heavy duty trucks, along with aircraft engines, helicopters, industrial trucks and construction equipment.

Myerholtz said the U.S. economy still is recovering from the depression and the capital goods market, including construction and industrial equipment, has not rebounded as rapidly as hoped for.

He pointed out that such industry is kept "off balance" by unresolved government programs such as those dealing with energy and taxes. The hope is, he said, that the economy will grow sufficiently to permit MRC to retain its employment levels while investing substantial amounts in new equipment to decrease costs.

Myerholtz said additional stress also will be given increased employee involvement as the Japanese do to realize the full potential of personnel.

He noted that the U.S. government in 1973 imposed increased tariffs on bearing imports for five years, setting the rate at about 22 percent, which at the end of three years was reduced by one-fourth with a similar reduction scheduled at the end of four years. At the end of five years—in May 1978—the tariff is slated to go back to its original level of about 11 percent.

Myerholtz said the Anti-Friction Bearing Manufacturers Association now is weighing whether it should file a new petition for further relief. He said he feels, however, that such relief is not a permanent solution and the future of the American bearing industry in 5–10 years will be determined by its ability to make improvements and lower costs.

The MRC official said all four major Japanese bearing companies now have U.S. locations, primarily for assembly only. He said they also stamp U.S.A. on their products in an effort to give the impression they are completely manufactured in the United States.

He explained that the U.S. has a good balance of trade with Europe, making imports from there much less competitive while very few American-made bearings are sold in Japan. Myerholtz said MRC sells the largest share of U.S. bearings going to Japan, but the effect on the market is miniscule. He emphasizes that licenses, issued by the Japanese government, are required to import bearings into the country.

Myerholtz said he does not object to fair trade, which he feels is necessary in world markets, but he does object to what he believes to be predatory practices employed by the Japanese. He said these involve a one-way situation, but if the U.S. had the same opportunity to sell in Japan as the Japanese do here he would not complain, but when there are two sets of rules to work within the problem becomes difficult.

The MRC official pointed out that since 1974, the company has invested $7,785,519 in capital goods at its Jamestown and Falconer plants. Such goods, he said, represent any equipment costing more than $500 and can be interpreted as the company's commitment to the area of its confidence of the future of the bearing industry locally.

POSTAL SERVICE: A VIEW FROM RURAL AMERICA—VII

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ABDNOR. Mr. Speaker, rising second-class postal rates have prompted the demise of a number of newspapers, magazines, and other publications in recent years. While many have been alarmed at the impact of the rise in first-class rates, few stop to realize that the reason they are paying more for subscribing to their daily and weekly newspapers is due almost entirely to the hike in postage rates—147 percent since 1972.

Shooting like a rocket, the increases now scheduled until 1987 will amount to an average of 41 percent over the 15-year period or a staggering 615 percent.

In preparation of the administration's recommendations for the U.S. Postal Service, the White House invited the National Newspaper Association to field a panel for a frank discussion of their concerns over mail deliveries and postage rates at a meeting in the Executive Office Building last week.

Representing the newspapers of rural America was Colin D. Monfore, publisher of the Yankton, S. Dak., Press and Dakotan. The Press and Dakotan is eldest in continuous publication among South Dakota's 159 community newspapers.

Mr. Monfore's prepared statement for the meeting succinctly demonstrates why South Dakota newspapers and those throughout rural America who must rely almost totally on the mails for distribution are worried about the outcome of current postal policies and what the Congress and the administration plan for the future:

COMMENTS OF COLIN D. MONFORE, PUBLISHER, YANKTON DAILY PRESS AND DAKOTAN, YANKTON, S. DAK., CONCERNING U.S. POSTAL SERVICE RATES AND SERVICE, OCTOBER 6, 1977

My name is Colin Monfore. I am publisher of the Yankton Daily Press and Dakotan, Yankton, South Dakota. Ours is a six day newspaper (no Sunday publication) with approximately 10,000 subscribers in South Dakota and Nebraska. Some 51.2% of our subscribers receive their newspaper via the Postal Service, 37.6% by Rural Route delivery or P.O. Box.

We go to press at 12:00 noon in order to meet a 1:00 p.m. mail deadline. Post Office trucks get the paper into most of the surrounding communities in time for same day delivery either by our carriers or in post office boxes. Farm patrons on rural routes receive their paper sometime the next day via the Postal Service Rural Route carrier. In that there is no Sunday rural route delivery, the Saturday publications do not reach the farmer until Monday, or on Tuesday if Monday is a holiday.

Suspension of Saturday delivery, as proposed by the Postal Service, would mean that any Friday afternoon publication would not be delivered on the farm until Monday. Should Monday be a holiday, the farmer would receive Friday, Saturday and Monday publications on Tuesday. According to our research, farmers do not consider this an acceptable level of service. Two or three day old news is just as unacceptable on the farm as it would be in Washington, D.C.

There is speculation as to whether loss of Saturday service would be a prelude to three day a week service—or even less—in the interest of a *self sufficient* Postal Service. Such fears seem augmented by rumors of suspension of the traditional "next day delivery" objective, or the closing of rural post offices. Although the "farm belt" is generally conservative by nature and as such appreciates the need to operate efficiently, there is serious question as to whether such drastic cuts in postal service would in fact result in a more efficient and economical postal operation. It appears to some that the USPS is trying to put the bridle on the wrong end of the horse.

Corn Belt philosophy might ask, "at what price is this economy?" Response from farm families to newspaper questionnaires on this subject overwhelmingly suggest that farmers would be the losers, and in agriculturally oriented states like South Dakota, when the farmer loses, everybody loses. The farmer has no corner drugstore a few blocks down the road where he can pick up his newspaper, prescription, or whatever. Farmers rely on the Postal Service. Unless they drive to town, or each supplier establishes some sort of farm to farm motor route to provide such delivery, the farmer must do without until the Postal Service next stops at his mail box.

In this day of energy crisis, it hardly seems logical to dismantle an established centralized delivery service for even one day of the week. Whatever it might save the Postal Service, if at all, such savings would probably be expended many times over at the expense of the energy picture, the national economy in general and the farmer in particular.

Our farmers are already in trouble. In 1935, South Dakota had 83,400 farms. For various reasons, this number had been reduced to 43,000 by 1975, a loss of almost 50 percent. The exodus to the already troubled cities continues even now—and why not. The work is hard, the hours long and the pay is lousy. According to USDA figures the average total net income per farm in 1975 for South Dakota was $11,372. USDA figures also show that Yankton County had 930 farms in 1975 with an average size of 340 acres. One local banker suggests that establishing such a farm would require a capital investment of at least $200,000, with the net result dependent on such unpredictables as good health, good weather and the political arena. A person could do better than that with a beginners job requiring no experience at the local Post Office, getting over $13,000 a year plus for a 40 hour week, no investment, and no risk, a whole package of fringe benefits. The farm today is not the peaceful, easygoing, grandma-grandpa type picture so frequently painted in the storybooks—and we fear invisioned by too many of our city cousins, and lawmakers. It is a tough racket. It involves all the knowledge and skill handed down through the generations plus vast amounts of modern technology. It is a seven day a week operation. The livestock never takes a weekend off. Crops must be tended when the time and the weather are right. Farming is a tough and risky way to make a living.

To be successful, the farmer needs up-to-date knowledge on a myriad of subjects. This includes not only technical knowledge which he might receive through his farm journals, etc., it includes current, in-depth information on local, state, national and international news which affect his operation and his future. It is the responsibility of the press to inform its readers, and at no time in the history of this country is dissemination of governmental news more important than it is today. The complexities of the new farm bill, the ramifications of tax reform, import-export information and markets can all be highlighted by the electronic media. But the in-depth knowledge and understanding must come from the printed word. Whether it be a governmental publication, a farm journal or a local newspaper, timely delivery to the farmer in rural areas is dependent on the Postal Service. Both the level of this service and its price are therefore of major concern.

If the term "public service" has a beneficial meaning, certainly a national communication system should be high on the priority list. A viable mail delivery system at affordable rates is imperative to a free society. To price the service beyond the ability to pay would be tantamount to termination of the service. Since 1972, our average 2nd class postage per in county mail subscriber has increased 147%. This figure will be upped to 615% by 1987 according to already scheduled rate increases—an average of 41% per year for the 15 year period. Although the scheduled rate increases for all classes of mail would suggest that the Postal Service might disagree, it has been our painful experience that there is a point of diminishing return, a point where people say "no more." We believe we provide a meaningful and necessary element to the informational needs of our farm readers. We feel obligated to serve them to the best of our ability and at a price within their reach. We believe the Federal Government and the Postal Service have a similar obligation.

In Yankton County, we have less than two farmsteads per linear road mile. Yet we firmly believe in the integrity of these farm units, however sparsely situated.

It is our hope that you, too, will acknowledge that the Postal Service is the basic means of communication in rural areas, and that you will lend your support to insuring the continuance of a viable service objective at affordable rates.

THIRD WORLD COUNTRIES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mrs. HOLT. Mr. Speaker, on October 5, our colleague, the gentleman from Michigan (Mr. DIGGS), inserted in the CONGRESSIONAL RECORD a speech by President Nyerere of Tanzania. He is certainly one of the admired and respected leaders of Africa. He is eloquent, but he makes a splendid illustration of why some third world countries are not only poor, but are destined to remain poor. It illustrates why, if they fail to change their internal social and economic policies, they are destined to remain in a perpetual condition of dependency on developed nations. It raises grave doubts as to the value of aid offered them by developed countries.

My remarks refer to third world countries that have embraced socialism, which has never been known to generate development or create wealth, but in fact prevents development and the creation of wealth. It is a system for redistributing wealth, which in the case of third world countries does not exist in the first place.

I quote from the speech of Mr. Nyerere:

Tanzania is one of the poor countries which endorses the demand for internal economic justice, and tries to implement it. We carry out land reform, or we end the exploitation of our workers and our nation by nationalizing the mines or major industries and financial institutions; we impose heavy taxes on the rich, and concentrate our public spending on services needed by the poor, and so on.

In other words, Tanzania has systematically destroyed the incentive for productive investment and work, imposing heavy penalties on its productive citizens and preventing foreign investment. One wonders how economic development will be possible, even though Mr. Nyerere emphasizes this enormous need.

I quote him further on the effects of his policies:

For example, if a country like Tanzania reorganizes its medical services and sends doctors to the rural areas, some of the doctors may emigrate; when we hold down the top salaries so as to reduce appalling wage differentials, some experienced managers and professional people will be tempted by higher incomes they can get in developed countries. The "brain drain" is another transfer of needed resources to the haves from the have-nots.

This is astonishing. He is complaining about a "brain drain" that the policies of his own Government have caused, and one would think that he would change those policies if they were having such a dreadful effect.

These phenomena are not peculiar to Tanzania. Even in developed industrial countries, the advent of socialism causes talent to flee and economic growth to stop. A prime example is Great Britain, from which the doctors are emigrating, capital investment has been reduced to a trickle, and productivity has diminished. The inevitable consequence of socialism is common poverty. There are lessons here for America.

Great Britain is in a condition of decline from her former eminence in the industrial world. She created the industrial revolution and achieved economic heights before starting her slide into socialism. Tanzania and other socialist nations of the Third World, however, are crushing the spirit of development before it even begins in their poor lands.

Mr. Nyerere appeals for "a new international economic order" for the transfer of resources from rich countries to the poor. Translated, this means more foreign aid of various kinds from the American taxpayers to countries such as Tanzania.

But what could we hope to achieve from such a sacrifice?

Is there some distant hope that Tanzania could develop to become a self-sufficient member of the community of nations? Or will its own internal policies keep it in a perpetual state of economic dependence, unable to rise from impoverished pleading for more welfare from free and productive societies?

There are examples where American aid has provided the seed for economic miracles. The free economies of Western Europe and Japan recovered very rapidly to self-sufficiency after World War II. The free economies of Taiwan and South Korea have reached self-sufficiency and a level of prosperity which is very high by Asian standards. Our only contributions to these countries are for the mutual purpose of common defense. But what of the aid we give to countries afflicted with rigid socialism? Mr. Speaker, it is like throwing money into the ocean.

TRIBUTE TO DR. CHARLES CALVIN COFFEY

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HEFNER. Mr. Speaker, it is with great sadness in my heart that I rise to address my colleagues on this solemn occasion. For our Nation, the State of North Carolina, and the city of Kannapolis have lost a great leader and a man of great wisdom and courage. He was a true servant of God, both proud and modest, who in his brief lifetime came a long way and accomplished a great deal. He was Dr. Charles Calvin Coffey.

The people of my district, specifically those in Kannapolis, knew him, and loved him, and will remember him with great warmth and admiration. Through his Christian leadership he demonstrated a dedication and devotion to Christ as he brought intense love and care to all human beings; the poor, the sick, the underprivileged, and to his church. Dr. Coffey served as pastor of the First Baptist Church of Kannapolis for 24 years.

He was born in Caroline, Va., January 12, 1922, of the late Mr. and Mrs. L. W. Coffey of Fredericksburg, Va. He was graduated from High Point College, High Point, N.C., with a bachelor of arts degree and graduated with a bachelor of divinity from the Southern Baptist Theological Seminary.

He undertook further studies at the Duke University Divinity School and the Princeton Theological Seminary. He held the master of divinity degree and the doctor of laws.

Mr. Speaker, time does not permit a litany of Dr. Charles Coffey in behalf of his community, his neighbors, and humanity at large. He spent most of his adult life in service to God and his fellow man, which needs no explanation on demands of personal time and energy. But in addition to this, Mr. Speaker, he left the following record of contribution:

Denominational experiences:

Vice-Moderator, Valley Association of Virginia, 1950–51.

Member, Virginia Baptist Training Union Advisory Board, 1950–52.

President, Roanoke Virginia Baptist Missionary and Social Union, 1951–52.

Chairman and member of Missions Committee, Cabarrus Baptist Association, 1959–60.

Speaker for 1958 Southern Baptist Pastor's Conference, Houston, Texas.

Member, General Board, North Carolina Baptist State Convention, 1959–62.

Member, General Board Committee to study and revise Constitution and By-Laws of NC Baptist Convention.

Member and chairman, B.S.U. Committee, General Board, NC Baptist Convention, 1959–61.

Member of the Executive Committee, General Board, NC Baptist Convention, 1959–62.

Chairman, Business Management Committee of the General Board Executive Committee, NC Baptist Convention, 1959–62.

Member, Convention Committee for Royal Ambassador Camp, 1960–62.

Member, Convention Committee on Advance Needs of Colleges, 1960–61.

Chairman, Division of Church Programs, NC Baptist State Convention, 1962.

Chairman, Christian Action Committee, NC Baptist State Convention, 1964.

Member of Development Committee of Camp CaRAway, NC Baptist State Convention, 1964.

Trustee, NC Baptist Foundation, 1966–71.

Trustee, Golden Gate Baptist Theological Seminary, 1962–75.

Chairman of the Faculty and Administration Committee of the Golden Gate Seminary Trustees, 1970–75.

Member of the Executive Committee of the Golden Gate Trustees, 1970–75.

Member of Committee of Nomination President of Golden Gate Baptist Theological Seminary, 1975—

Member of the NC Baptist State Convention Committee to propose plan for establishing a Convention Reserve Fund, 1976.

Pastoral experiences:

Missionary to the Deaf, Louisville, Kentucky, 1946.

Student Pastor, Beechgrove Baptist Church, Crab Orchard, Kentucky, 1947.

Associate Pastor, Bainbridge Street Baptist Church, Richmond, Virginia, 1947–48.

Pastor, Tabernacle Baptist Church, Roanoke, Virginia, 1948–53.

Pastor, First Baptist Church, Kannapolis, North Carolina, 1953–77.

Other:

Invited by the Foreign Mission Board of Southern Baptist Convention in 1967 to preach for six weeks in Tanzania, Kenya, East Africa.

Invited by Home Mission Board, Southern Baptist Convention in 1968 to preach in Alaska.

Invited by the Home Mission Board, S.B.C., and the Baptist Convention of New Brunswick, Canada, to preach in Evangelistic Crusade in 1969.

Invited by the Foreign Mission Board, S.B.C., and the Baptist Convention of Tanzania, East Africa, to conduct Evangelistic Crusade in 1976.

Civic:

Member of Cabarrus County Mental Health Advisory Board.

Clubs:

Member of Kannapolis Rotary Club since 1957, Director, Vice President, and President of Kannapolis Rotary Club.

Member and Director of Cabarrus County Executive Club.

Mr. Speaker, those who labor under a heavy load of responsibility or find it difficult to reach out and take the hand of others in need would do well to look at the examples of Charles Coffey. Few of us have the interest or the energy to accomplish as much as he did, but all of us have the opportunity.

On behalf of the Congress of the United States, I extend deepest sympathy to Dr. Coffey's wife, Jewell, his daughter, Judy, and his sons, Charles, Richard, and Edwin Lee.

Dr. Charles Calvin Coffey was born for a great purpose—and having accomplished that purpose his loss is felt by legions he has befriended. His life was an inspiration to us. We shall miss him. And we shall ponder who is capable and willing to take his place in the community, and in the State, here and for which he lived.

LET US NOW PRAISE CLEVELAND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Ms. OAKAR. Mr. Speaker, while some of our towns and cities have long been the victims of gentle chiding or more severe verbal abuse, those who live in these much-maligned communities have never considered it a laughing matter. As a lifelong resident of Cleveland, and on behalf of all the fine people of this great city on the shores of Lake Erie, I submit the following article by James Damico (Newsweek, October 17, 1977) for the RECORD:

LET US NOW PRAISE CLEVELAND

"If you don't read us," goes the ad of an ultra-trendy magazine, "you might as well live in Cleveland." A prominent television moderator shudders and pronounces "Cleveland" with the disdain he usually reserves for women's libbers. Aspiring comedians on the "Tonight" show, facing death at 12:35 in the morning and desperate for the surest laugh they can dredge up, shout "Cleveland!" and are momentarily reprieved by the automatic bark of laughter that echoes back. A new, thoroughly rational friend says grimly, "I was in Cleveland *once*," as if it were a combination Devil's Island and Chateau D'If worth any sacrifice of health and wealth to escape.

Well, I've lived in Cleveland. I even had the temerity to be born and raised there. And though I never used to give these circumstances much thought, I must admit that since it's become the pet target of every unimaginative copy writer, comedian and neighborhood life-of-the-party, I've grown defensive, even chauvinistic, about what I've always regarded as a pretty fair city, one possessed of more than its share of amenities, charm and good, honest folk.

BALLYHOO

Culturally, for example, it has a quality and range that most glamour towns can't begin to match. Its beautiful and prestigious art museum is a richly endowed jewel, which, had it been erected on Wilshire Boulevard in Los Angeles, would have been as ballyhooed as Disneyland and long ago accepted by the general public as the Taj Mahal West. Neither is it hard to imagine Atlanta happily trading its Hyatt Regency, or Houston a couple of its oil conglomerates, for the Cleveland Orchestra, one of the world's outstanding musical organizations. As for theater, Clevelanders have enough of a choice to put a healthy strain on their time, funds and behinds.

To satisfy the sports nut, the city provides a full set of professional teams, including the latest rages, team tennis and soccer. The Browns haven't won a championship since Joe Namath was a bonus baby, it's true, but they have an untarnished pedigree as one of football's class aggregations; and, for their part, the Indians have operated continuously in the same city for 62 years, which is slightly more than can be said for the Padres, Dodgers, Mets and whatever other baseball teams are destined to be swallowed up in the exswamps of New Jersey.

Architecturally, to be sure, Cleveland is no Paris. But its gracefully proportioned and somewhat revitalized downtown is also without that devastated, ground-zero look of parts of central Detroit—about which, incidentally, I never hear anyone cracking wise—and many of its neighborhoods retain the type of lively, individual character that was once an adornment of our cities.

But why is it that when I feel compelled to remind people of these and other positive features, their eyes glaze over and a patronizing smile of excruciating disbelief curls their lips? How has this insidious thing happened whereby my pleasant, inoffensive, totally congenial hometown has become the country's No. 1 joke city?

I'd always imagined that this kind of stigma was something a town was saddled with at birth. Like yearly flooding or rockslides from a nearby mountain, it was a congenital defect—obvious, irremediable and noncommunicable. And I'd thought that the list of those poor quaint burgs whose mere names would unfailingly provoke bemused scorn and easy laughter was fixed forever: Brooklyn (a natural), Philadelphia (a tip from traveling show people), Dubuque (the archetypal hick town), and Cincinnati (it sounded funny, especially through a vaudeville German accept). It never occurred to me that obloquy of this order was something that could be acquired by national consensus, or—God forbid—even earned.

I suppose the precise moment things started downhill for Cleveland was the day several years ago when its river, the Cuyahoga, caught fire. Sure, that's hysterical, but on reflection, it's perfectly reasonable. After a hundred years of absorbing the most noxious and volatile chemicals from bordering plants, that tiny stream should have exploded, not merely burned. If it had happened in Pittsburgh, though, it would have been rightly cursed and deplored as an inevitable excess of industrialization, but I doubt that anybody would have started to crank out Pittsburgh jokes.

SHENANIGANS

Admittedly, the situation was compounded shortly afterward when the mayor of Cleveland, making a play for the blue-collar vote, set his own hair on fire demonstrating his skill with a welding torch. More fuel was added to all these flames by the mayor's confession that his wife skipped a White House dinner because it fell on her bowling night. (In the current election year, the same politician chose to have his sanitation men pass out questionnaires on pornography). About such antics, there is little to be said. Yet, a city ought not to be permanently branded by the shenanigans of its elected officials. By that standard, New York might be the funniest two words in the English language.

Well, however it came about and however unfair it is, the deed is done and there surely seems to be no way, for one man at any rate, to rectify a social injustice done to an entire city. The only solace I have is the certain knowledge that someday this too shall pass. I've done a little research into the subject and I've discovered that other and far greater cities have been grossly maligned and have survived to take their proper places in the hearts and minds of their countrymen and posterity.

John's Gospel, for example, tells us that Nathanael, on hearing that the savior of mankind had arrived and that he hailed from Nazareth, exclaimed, "Nazareth! Can anyting good come from Nazareth?" I can just see the glaze over his eyes and the excruciating disbelief in his smile.

RESULTS OF QUESTIONNAIRE SUBMITTED TO CONSTITUENTS OF SIXTH DISTRICT OF PENNSYLVANIA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. YATRON. Mr. Speaker, I would like to call to the attention of my colleagues, the results of my annual constituent questionnaire which was mailed to the residents of the Sixth District of Pennsylvania in July 1977.

I firmly believe that a frank exchange of views between the people and their elected representatives is the most reliable means of insuring that the will of the people is reflected in the actions of the Federal Government. The overwhelming response to this year's questionnaire is further proof of the desire of the people of the sixth district to actively participate in the legislative process.

The results show that the state of the economy is of the greatest concern to the respondents. The strong, positive efforts by the Congress to deal with the economic situation indicate that this concern is being heeded by the legislative branch. As evidenced by the results of the survey, there is also considerable concern about the status of the Panama Canal, our relations with Cuba, the U.S. foreign aid program and other pressing issues.

I am sincerely gratified by this response. The voice of the citizens of our Nation must be heard and I am hopeful that the results which follow will contribute to the better understanding of American public opinion.

RESULTS TO QUESTIONNAIRE

PRESSING ISSUES

Please number the issues listed below in the order of their priority.

1. Inflation.
2. Reduce federal spending.
3. Crime prevention control and national energy policy (tie).
4. Defense.

5. Unemployment and welfare reform (tie).
6. Tax reform.
7. Environmental protection.
8. Human rights, national health insurance and senior citizens (tie).
9. Drug abuse, Middle East and nuclear arms limitation (tie).

EMPLOYMENT

Several proposals have been offered to combat unemployment. Please rank the following according to your preference. Rank in parentheses.

A. Public service jobs on state and local levels (3).

B. Public works projects on state and local levels to generate jobs in the private sector (2).

C. Tax incentives to encourage businesses and industries to expand the number of people they employ (1).

D. No federal activity to increase the availability of jobs (4).

PANAMA CANAL

The issue of the Panama Canal will be vigorously debated in the months ahead. Please select one of the following courses of action which you believe the U.S. should pursue in this matter.

A. Negotiate a new treaty with the nation of Panama, turning over control of the Canal and the surrounding Canal Zone by the year 2000: 7 percent.

B. Negotiate with Panama a new treaty guaranteeing the neutrality of the Canal and the Canal Zone: 31 percent.

C. Negotiate a new treaty with Panama retaining full U.S. sovereignty over the Canal and the Canal Zone: 43 percent.

D. Retain control over the Canal by military means if necessary: 19 percent.

FOREIGN AID

Please select the statement below which best represents your views on foreign aid.

A. The U.S. should give no foreign aid: 15 percent.

B. U.S. foreign aid policy should be flexible, depending upon developments in our relations with recipient countries: 40 percent.

C. Foreign aid should be withheld from countries which violate human rights: 16 percent.

D. Foreign aid should be granted only if necessary to ensure our national security: 29 percent.

CUBA

Please select one of the following which best reflects your opinion concerning U.S. relations with Cuba.

A. The U.S. should pursue negotiations toward establishing full diplomatic relations with Cuba: 22 percent.

B. Establishment of full diplomatic relations should be pursued after Americans are compensated for property confiscated by the Castro regime: 13 percent.

C. Establishment of full diplomatic relations should be pursued after Cuba withdraws its troops and military advisers from Africa: 8 percent.

D. Both B and C: 35 percent.

E. The U.S. should not establish full diplomatic realtions with Cuba: 22 percent.

POSTAL SERVICE

Several proposals have been made to improve the quality of postal service provided the American public. Please rank the following options in the order of your preference. Rank in parentheses.

A. Cut mail delivery to five days a week at an annual saving of $412 million (1).

B. Retain uneconomical rural post offices for their value as social institutions (6).

C. Increase the government subsidy for postal services and extend it to 1985 (5).

D. Emphasize dependability of mail delivery rather than speed (3).

E. Base postal rates on social factors as well as on the actual cost of sending each class of mail (4).

F. Return the Postal Service to full government operation (2).

TRADE POLICY

The unrestricted importation of shoes, mushrooms, textiles, color television sets, specialty steel and other items has resulted in considerable debate regarding the fundamental direction of U.S. trade policy. Please select from the following statements, the one which best represents your views on trade.

A. The United States should impose tariffs and/or quotas on imports which endanger U.S. industries: 36 percent.

B. The U.S. should impose tariffs and/or quotas on imports which compete in any way with American products: 20 percent.

C. The U.S. should seek to negotiate agreements with our trading partners which embody voluntary restraints on exports: 23 percent.

D. The U.S. should practice free trade: 21 percent.

ENVIRONMENTAL POLICY

Which of the following best represents your view of environmental policy? (Please select one.)

A. Commitment to environmental protection and conservation will pay off in the long run with savings in energy and raw materials and we should continue a vigorous protective policy toward our environment: 25 percent.

B. The current state of the economy demands that we put environmental considerations aside and concentrate on developing our resources (such as coal) and electric power without worrying too much about the environment for the time being: 29 percent.

C. While economic considerations require that environmental standards be relaxed, we must seek to achieve a balance between economic growth and environmental protection: 46 percent.

HEALTH CARE

If a national health care program were created, which of the following would you prefer? (Please select one.)

A. Total medical care for everyone, regardless of the patient's financial resources, financed by a payroll tax similar to Social Security: 19 percent.

B. Continued reliance on some system of private health insurance with government paying only for poor, elderly, disabled and for catastrophic illnesses for everyone. Under this proposal, total cost of private health insurance premiums paid by employer-employee and self-employed would be tax-deductible: 56 percent.

C. No change in the present system of health insurance: 25 percent.

ENERGY

With the President's recent messages to the nation and the Congress, the energy issue has become the subject of intense debate across the country. Do you agree or disagree with the following potential components of a national energy policy.

A. Increased exploration, excavation and consumption of coal: Agree 88 percent; disagree, 6 percent; undecided, 6 percent.

B. Mandatory conversion of industrial, commercial and utility boilers from oil and natural gas to coal: Agree, 46 percent; disagree, 37 percent; undecided, 17 percent.

C. Imposition of taxes to discourage consumption of gasoline: Agree 21 percent; disagree 72 percent; undecided, 7 percent.

D. Increased reliance on nuclear power for electricity: Agree, 66 percent; disagree, 22 percent; undecided, 12 percent.

E. Accelerated development of solar and other nonconventional energy sources: Agree, 94 percent; disagree, 2 percent; undecided, 4 percent.

CRIME

Do you agree or disagree with each of the following proposed anti-crime measures?

A. Revision of the U.S. Criminal Code to set mandatory sentences for certain crimes: Agree, 92 percent; disagree, 5 percent; undecided, 3 percent.

B. Capital punishment: Agree, 83 percent; disagree, 11 percent; undecided, 6 percent.

C. Compensation for victims of crime: Agree, 68 percent; disagree, 21 percent; undecided, 11 percent.

D. Ban on cheap, concealable handguns: Agree, 72 percent; disagree, 22 percent; undecided, 6 percent.

E. Reform of the prison system, including reduction of overcrowding and increased emphasis on rehabilitation: Agree, 57 percent; disagree, 30 percent; undecided, 13 percent.

MILITARY FORCES

Do you agree or disagree with proposals to reestablish a system of mandatory military services in the United States?: Agree, 61 percent; disagree, 26 percent; undecided, 13 percent.

HUMAN RIGHTS

The Carter Administration has emphasized human rights as a centerpiece of its foreign policy. Do you agree or disagree with the following statements?

A. The issue of human rights is an internal matter for each country to decide for itself and one upon which the United States should not intrude: Agree, 64 percent; disagree, 29 percent; undecided, 7 percent.

B. Violations of human rights in a country should automatically result in the curtailment of U.S. military aid to that nation: Agree, 59 percent; disagree, 30 percent; undecided, 11 percent.

C. Violations of human rights in a country should automatically result in the curtailment of U.S. economic aid to that nation: Agree, 61 percent; disagree, 28 percent; undecided, 11 percent.

D. National security considerations must take priority over human rights in our foreign relations, on a country-by-country basis: Agree, 70 percent; disagree, 18 percent; undecided, 12 percent.

LAETRILE

Do you agree or disagree with proposals which would ensure that substances with medical uses, such as laetrile, are available to the American public, provided they have not been proven unsafe?: Agree, 80 percent; disagree, 9 percent; undecided, 11 percent.

THE CAMPAIGN TO LEGITIMIZE THE PLO TERRORISTS GAINS MOMENTUM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. McDONALD. Mr. Speaker, despite a public stance by the U.S. Government that Israel should not be forced to negotiate with the terrorist Palestine Liberation Organization, there is substantial pressure on Israel from our Government to do just that. The PLO serves as Moscow's spearhead in the Middle East. The joint statement by the United States and Soviet Governments in support of "the legitimate rights of the Palestinian People" benefited not only the PLO but their Soviet masters. The "legitimate rights of the Palestinian people" is a widely recognized code phrase for the establishment of a PLO-controlled Palestinian state on the West Bank of the Jordan.

The shift in the American position on the Middle East has encouraged the supporters of the PLO terrorists in our country to expand their operation. Most of the PLO support comes from the ultraleft in this country. However, some inroads have been made in the center and even among some elements on the American right. This has helped promote a major Soviet goal which is to create a Soviet presence in the Middle East either directly or through fronts such as the PLO.

On September 19, 1977, readers of the New York Times found an ad from the American Palestine Committee. It covered one-third of the page and was headed "Are We Welcoming the Murderer of Our Sons?" with a picture of Israeli Foreign Minister, Moshe Dayan.

The bulk of the ad consisted of quotations from three documents obtained by Norman F. Dacey, national chairman of the American Palestine Committee from the Central Intelligence Agency under the Freedom of Information Act. The documents according to Dacey, showed that when Israeli planes and torpedo boats attacked an American naval vessel on June 8, 1967, the Israelis knew that it was an American ship, and Dayan ordered the attack.

I have obtained from the CIA the same set of documents given to Dacey. There were four documents, not three, and they show something entirely different than Dacey's allegations. The three documents quoted by Dacey were all marked "This is Unevaluated Information." Two of the documents did not indicate the source of the information. The third gave the source as the Turkish General Staff but said specifically that the source did not indicate that the information came from their military attaché in Tel Aviv.

The fourth document not quoted by Dacey was the official CIA report on, "The Israeli Attack on the U.S.S. *Liberty*." This official report said that the Israelis were not aware that the *Liberty* was an American ship until over an hour after the attack commenced. At one point, according to the CIA report, Israeli torpedo boats were offering assistance while Israeli planes were still attacking. The CIA report suggested that the Israelis might have confused the *Liberty* with the Egyptian transport *El Quesir*.

The New York Times accepted Dacey's ad without question, despite the fact that he had a history of misquotation and misrepresentation in previous ads. In 1972, Joseph Alsop protested to the Times that he had been misquoted in a Dacey ad of June 6, 1972. When such responsible organizations as Accuracy in Media attempt to place ads in the New York Times, they are compelled to prove every allegation before the ad is accepted. However, when irresponsibles place ads, the Times makes no attempt to prevent such misrepresentations of the facts as were contained in the ad of the American Palestine Committee.

Norman Dacey has a reputation of being a "right-winger". It is interesting to note, however, that in 1972 when he filed suit in Federal district court to deny tax-exempt status to the United Jewish Appeal and the United Israel Appeal, his attorney was Abdeen M. Jabara. Jabara is a member of the National Lawyers Guild, which is a coalition of leftist extremists now under the control of the Communist Party U.S.A. He is presently suing the U.S. Government and has received information showing that the National Security Agency had obtained contents of some of his overseas telephone calls. The NSA maintained a surveillance of calls exchanged with foreign intelligence services, subversive organizations, and terrorist groups.

According to the Socialist Workers Party newspaper the Militant of September 9, 1977, Jabara, "is a well-known defender of the freedom struggle of the Palestinians." Translated into English this means that he is a supporter of the PLO terrorists. The National Lawyers Guild has published Jabara's anti-Israel propaganda and has also collaborated with the PLO. The NLG Convention, which took place in Seattle, August 18–20, 1977, heard Hassan Rahman, a PLO representative at the U.N., praise the NLG for its support of "national liberation movements and just causes around the world." An NLG delegation to the Middle East recently returned to make press statements attacking Israel.

Jabara and an associate, James Zogby, have joined together to organize the Palestine Human Rights Campaign. This group claims that PLO terrorists are being mistreated in Israeli prisons. They have disseminated a series of articles from the London Sunday Times making such allegations. Both the Sunday Times and the Jabara group use the same sources of information, two Israeli attorneys who have represented PLO terrorists. They are Felicia Langer, a member of the Communist Party of Israel, and Leah Tsemel, a member of the Revolutionary Communist League, the Israeli section of the Trotskyite Fourth International. Israel has denied the accusations.

The Palestine Human Rights Campaign was organized by the Association of Arab-American University Graduates (AAUG). Jabara is a former president and James Zogby is now vice president of the AAUG. Among the organizations that participated in founding the Palestine Human Rights Campaign were: the Middle East Research and Information Project (MERIP), (the openly pro-PLO arm of the Institute for Policy Studies); Palestine Solidarity Committee (the most active PLO support group); the Committee for Just Peace in the Middle East (a front for the Communist Party, U.S.A.); World Peace Council/U.S.A. (the American branch of the Soviet controlled, international Communist front, the World Peace Council); the National Alliance Against Racist and Political Repression (a C.P. U.S.A. front); and the Socialist Workers Party (the American section of the Trotskyite Fourth International).

The Palestine Human Rights Campaign is now running a tour for Israel Shahak, an Israeli citizen, who has protested alleged injustices committed against PLO members captured by the Israelis. While Shahak is not a Communist, he collaborates with Felicia Langer and other members of the Communist Party of Israel. Among the local contacts for Shahak's tour are: Don Will, United Methodist Church/U.N.O., New York; Nabila Mango, Association of Arab-American University Graduates, Philadelphia; Jim Zogby, Philadelphia; Ted Swedenburg, Middle East Resource Center, Washington, D.C.; Raaf Ellis, National Association of Arab-Americans, Pittsburgh; Joanne McKenna, National Association of Arab-Americans, Cleveland; and Jean Hanna, Association of Arab-American University Graduates, St. Paul, Minn.

Jabara and Zogby have worked closely in this campaign with the Socialist Workers Party. Peter Seidman, an alternate member of the National Committee of the Socialist Workers Party, has been assigned by the SWP to work with them. They have indicated some misgivings about working with the SWP because of its history of attempting to take over other organizations and movements. Seidman has assured them that the SWP wants only to help. He suggested that the major campaign should be to organize a series of lectures during the fall by Israel Shahak, Leah Tsemel, David Frankel, and Abdeen Jabara. Zogby and Jabara organized the Shahak tour and the Socialist Workers Party has brought Tsemel in to the United States for a similar tour.

On Wednesday, October 12, Tsemel is scheduled to appear in Washington, D.C. at All Souls Church. The literature distributed by the SWP does not reveal that she is a member of the Revolutionary Communist League in Israel. However, she is so identified in the Militant of May 27, 1977. The Revolutionary Communist League, Israeli section of the Fourth International, openly supports the PLO terrorists and belongs to the International Majority Tendency of the Fourth International, which supports terrorism in various parts of the world.

Leah Tsemel is an attorney, who represents a number of PLO terrorists who have been captured by the Israelis. She works closely with Felicia Langer, a Communist Party attorney who also represents PLO terrorists.

David Frankel is a correspondent for the SWP newspaper, The Militant. A number of his recent articles were datelines Israel, and consist of the same pro-PLO propaganda line that is found in other ultra-left publications.

The PLO support apparatus in the United States also includes a small Trotskyite splinter group called the Workers League. This group split from the Socialist Workers Party some years ago and is affiliated with the Workers Revolutionary Party in England, which is led by Gerry Healey. Three leaders of the Revolutionary Workers Party visited Libya earlier this year and met with Colonel Kadhafi, the Libyan ruler. They arranged to obtain over a hundred thousand dollars for their propaganda work on behalf of the Arab cause. Some of the

money was used for the purchase of new printing and communications equipment. In June 1977, representatives of the Workers Revolutionary Party met with Palestinian terrorists at a conference organized by the Libyans. They have also been in touch with Iraqi intelligence agents and more funds may be forthcoming from that source.

Recent developments in the Middle East have created confusion in leftist ranks. A sharp line is now being drawn between those who now openly support the destruction of Israel through the establishment of a PLO state, and those who believe that Israel should have the right to exist. Breira is an organization that was set up by the Institute for Policy Studies to win Jewish support to leftist causes. It is the counterpart of MERIP, the IPS project which openly supports the PLO terrorists.

The official line of Breira was to acknowledge the right of Israel to exist, while trying to create a friendly attitude in the Jewish community toward the PLO. The election of Menachem Begin a hard-line anti-Communist as the Prime Minister of Israel, and the serious moves toward peace in the Middle East, have resulted in a split in Breira. David P. Tulin, a national vice chairman, and Rabbi Yaakov G. Rosenberg, a national board member, have both resigned from Breira. They represent a faction that while leftist still supports the State of Israel. Tulin is a member of Americans for Progressive Israel, the most leftist of the Zionist groups. It grew out of Hashomer Hatsair, which Prime Minister Begin describes as, "the pro-Soviet party in Zionism." Now, even people with that background are deserting Breira, leaving it to the handful of Jews that support the PLO terrorists.

Before the split Robert Loeb, the executive director of Breira, let it be known that if his faction were defeated "Sam Rubin would be informed and his money would dry up."

Rubin is a major financial contributor to IPS and Breira, despite the fact that Breira recently "severed" its IPS relations. Rubin is the father of the pro-Vietcong propagandist Cora Weiss and has paid for many of the proterrorist propaganda activities of IPS.

Menachem Begin understands communism. In 1940, he was arrested by the Soviet secret police and sentenced to 8 years in a Soviet slave labor camp. After the Nazi attack on Russia, he was released to serve in the Polish Army. His experiences in the camp were told by him in a moving book entitled "White Nights: The Story of a Prisoner in Russia." It is unfortunate that this book has never appeared in an American edition. It was published in 1957.

Begin is a nationalist and an anti-Communist. Because of this, he can understand Arab nationalism and anti-communism. Secretary of State Vance made a major error in bringing the Russians back into the Middle East situation. Begin understands that Soviet support for the PLO means that it is a weapon not only against Israel but against any pro-Western government in the Middle East, including Jordan, Saudi Arabia, Egypt, and even Syria.

The Trotskyite supporters of Soviet imperialism have made the clearest statement on Communist ends in the Middle East. In an article published in the International Internal Discussion Bulletin of the Fourth International, volume X, No. 21, November 1973, three leaders of the international Trotskyite movement supported the "complete and unconditional right of the Palestinian Arab people to self-determination; that is, their right to reclaim all the territory from which they have been expelled." They went on to say:

> The exercise of this right presupposes the destruction of the Zionist state * * * this solution cannot be envisaged outside the context of a revolutionary overturn in the entire Near East, which alone can provide the forces necessary to liberate Palestine from the Zionist and imperialist grip. That is, the destruction of the Israeli state goes hand in hand with the abolition of the other Arab states, on the road to creating a united Arab state.

The article was written by Gerard Vergeat, an alternate member of the International Executive Committee of the Fourth International; "Jaber," a member of the International Executive Committee and the leader of the Revolutionary Communist Group in Lebanon, which participated in combat as part of the PLO against the Lebanese Christians; and "Sami" of Iraq.

The Soviets would like the PLO to be accepted as the representative of the Palestinian people. The United States should not support this. The PLO is a terrorist organization operating on behalf of Soviet communism. During times of political strife, the violent and criminal elements that exist in every society raise their heads. When they take power, we have Nazi or Communist regimes. They do not represent anyone. The PLO does not represent the people of Palestine, just as the FALN does not represent the people of Puerto Rico and Jack the Ripper did not represent the people of England.

Peace is possible in the Middle East, but it can only be achieved without the intervention of Soviet imperialism and its tools.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STEERS. Mr. Speaker, the Social Security Financing Amendments of 1977 (H.R. 9346) is an example of congressional action moving so rapidly that legislation is being seriously considered—legislation which will have great impact on the lives of thousands of people—in spite of the fact that no hearings have been held to explore the ramifications, or the wisdom, of enacting the provisions. The concept of adopting "universal coverage" of all American workers by the social security system was raised only weeks ago at the Social Security Subcommittee of the Ways and Means Committee. It was at that time called a "trial balloon," merely a proposal with little chance of going anywhere," according to some subcommittee sources. Yet, it has now been reported out of subcommittee, has been the subject of much action in full committee mark-up, and may be reported out for floor consideration in the near future.

My office has been deluged by telephone calls and letters from constituents—and I have many civil servants living in my suburban Maryland district—who are absolutely outraged over the possibility that their pensions, which they have contributed to for years—may be "fouled up" by hasty action by the Congress. I am well aware of the fact that much misinformation has been published about the "universal coverage" provision and that this has caused a great deal of confusion. My constituents however, do not seem to be in the least confused. They are not concerned about whether or not the civil service retirement fund is merged with the social security fund. They do not care if the civil service fund bails outs the social security fund. They understand the difference between universal coverage and merger. They are concerned however, over the fact that so very few details have been addressed, that no hearings have been held, and that this action may pass the Congress in such record time that Federal workers and State and municipal workers who will be affected, will not even have heard about the changes until House action is complete. Such concerns are, to my mind, very valid. I urge my House colleagues to give very serious thought to the fact that we will be taking a totally unjustified step if we enact the universal coverage so swiftly.

My colleague and neighbor to the South, Congressman JOSEPH FISHER, is to be congratulated for his efforts in the Ways and Means Committee to at least gain a deferral in the implementation date so that a thorough review can be undertaken on the manner in which we can ultimately, if at all, merge the social security system with civil service. More importantly however, he was able to gain enough support for an amendment which specifies that no civil servant will receive a diminution of benefits or have to pay substantially more. This action by the full committee is encouraging. However, many questions remain unanswered, and my constituents are asking those questions: "If I am presently moonlighting and paying into the social security system at my second job, and paying into the civil service retirement fund at my regular job, won't my benefits be reduced if this plan is enacted?" The answer, as best I can determine, is "Yes." That, to me, is a diminution of benefits—which were paid for by the civil servant moonlighter. Another question is, "will I still be able to retire with full benefits at age 55, as I presently can under civil service retirement?" That too, has not been resolved by the language of this legislation. If such retirement

would no longer be allowed, it would surely be a diminution of benefits. But that issue, like many others, will not be addressed by the Congress until the HEW report on the methods of merging the system is completed by January 1, 1980.

It seems only fair and proper, as well as wise, at least to delay action on this proposal until Congress has given full and careful consideration to the full effects of universal coverage on the individuals employed by the Government, on the civil service retirement system, on the social security system. Serious thought should also be given to the modifications necessary in State, local, and nonprofit association pension plans in order properly to integrate them into the social security system. Focus on these and similar questions could be had in hearings of the Subcommittee on Employee Benefits of the Post Office and Civil Service Committee, which is chaired by fellow Marylander GLADYS NOON SPELLMAN.

I am, and will continue to be a strong supporter of the social security system and maintenance of the system's financial integrity. But I do not think it is fair to ask our Federal employees to join the system without giving them a chance to review the proposal and make their personal thoughts known. We also should not commit ourselves to a course of action in which none of the details are resolved. I understand that there may indeed be benefits in coverage for civil servants under this plan. However, until those details are ironed out and presented in a cohesive manner, and until I know that there will be no diminution of benefits or increase in payments for Federal employees, I cannot support this proposal.

PANAMA CANAL TREATY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ABDNOR. Mr. Speaker, the Panama Canal treaty has raised the ire of the country. It was the most prominent issue talked about when I was in South Dakota. I am sure that it is much the same throughout the country. I have long been on record as being opposed to the United States relinquishing its control of the canal and the Canal Zone. I have been active in trying to get the House to vote on the issue, and I would like to take this opportunity to place in the RECORD my testimony which was submitted to the Senate Foreign Relations Committee.

STATEMENT OF THE HONORABLE JAMES ABDNOR TO THE SENATE FOREIGN RELATIONS COMMITTEE

Mr. Chairman, I wish to thank you and the distinguished members of this Committee for permitting me to submit this statement for the record. There is no question that these hearings will be extremely helpful to the Senate as it considers ratification of the Panama Canal Treaty. The issue of the Treaty is a very emotional one. Almost every sector of the country has become involved and has taken a position on the treaty issue. My constituents are among those expressing themselves very strongly about the Treaty. I share the views of my constituents who almost unanimously oppose its ratification and believe it is important that these views are reflected in your record. I should also note that in addition to my expressions of opposition to the Treaty, I have joined with over 100 of my colleagues in the House in sponsoring H. Con. Res. 238 which would give the House an opportunity to vote on the issue of the Canal. I have also joined in a law suit against the President with several members of the House who feel as I do about the current proceedings. I sincerely believe that in a transaction such as this Treaty proposes that the House should have a role in the proceedings and I share the hope of my colleagues with whom I have joined in the suit that the Courts will rule in our favor.

Should that eventuate, the House will then be provided with the opportunity of voting on this very important issue. On the basis of all the information I have had an opportunity to review, I am convinced that this country's best interest could not and would not be served if this Treaty were ratified.

Many people have many reasons for opposing the Treaty. Some note the ownership question, others the matter of our national defense, and many are concerned about future use of the Canal. I have reservations about all of these issues, as well as others. I don't believe these issues and the questions surrounding them can be satisfactorily resolved to our national interest by the terms of this Treaty. I likewise share great concern over the economic implications that a new Treaty will have on this nation. We have stated in the Treaty that we will initially pay Panama $10 million a year. We will increase that by another $10 million a year if revenue permits. Panama will receive 30 percent on every ton that passes through the Canal—that could be as much as $70 million a year. We also guarantee $50 million in military sales over the next 10 years (It could conceivably be more). And we also guarantee up to $200 million in Export-Import credits, up to $75 million in A'D housing guarantees and $20 million in OPIC loan guarantees. That is well over $80 million. That is just assistance. According to the Treaty we still operate the Canal and take care of maintenance costs. Considering the fact that the Canal Company has operated in the red for several years, that figure could go considerably higher. It should be noted that the Canal Company has kept the rates unrealistically low. There is no guarantee that these rates will remain anywhere close to where they are today. Considering the fact that estimates predict that nearly 45 percent of the oil produced in Alaska, as well as other commodities, will continue to be shipped through the Canal, any increase in rates would have a marked effect on the American consumer and businessman.

I have touched very briefly on some of the issues I feel show that we should reject the Treaty. I might add that none of these things really mean a thing if the Canal is not kept functional and open to unrestricted passage by the world's shipping industry. I see no evidence what-so-ever that this is possible. I think we ought to look to history once again and heed the lessons of past experience. A case in point involves the Suez Canal. The similarities are overwhelming. A somewhat private company with British governmental participation operated under the sovereignty of another country. Egypt decided to expropriate and later close the Canal. The British thought they had retained rights to protect their property, and that the declaration of the Convention of Constantinople guaranteed right of passage to vessels of all nations. The present situation of the Suez Canal explains itself. The course being charted by the proponents of this treaty is so hazardous that I think there can be only one result—disaster for all concerned if this treaty is ratified.

Thank you for permitting me to submit this statement.

CONGRESS MUST HELP OUR SENIOR CITIZENS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RANGEL. Mr. Speaker, as many minority groups have spoken out recently in America, I am happy to say that one of these is just now beginning to demand their rights after many long overdue years. This minority group of which I am speaking is that of the senior citizens.

Contrary to many people's beliefs, old age is not automatically a signal for incompetence and senility. Mandatory retirement at age 65 is an outrage and I am extremely pleased to see that H.R. 5383 (Mandatory Retirement Age bill) has passed in the House and is now being considered by the Senate.

The advantages to using our senior citizen manpower are innumerable, however, I feel the most significant positive ramification of this is the morale factor. Our older citizens are getting sick and tired of being cast aside when they reach that dreaded age. It is about time something was done for this minority as they well deserve this new and progressive attitude.

I am sure you all will enjoy this enlightening article by Nicholas Von Hoffman as it points out some important issues with regard to this question. His comments follow:

WHO SHOULD BE ALLOWED TO WORK?

(By Nicholas Von Hoffman)

The city of Seattle and the state of Maine have both done the humane and just thing by rescinding their mandatory retirement rules for employees over the age of 65. The variety in the health, endurance and quality of human beings is such that some ought to be encouraged to work until they're centenary and others ought to be put out to pasture on their 21st birthday.

The abolition of fixed-age mandatory retirement may contribute to the happiness and well-being of older workers, and it may also take a little of the pressure off the Social Security system, but it must shrink the job market for younger people. Since we have no idea yet how many or what kind of workers may want to stay on after 65, we have no way of guessing what the effects will be. In some industries, like auto, workers under the age of 65 are availing themselves of early retirement; on the other hand they had to take J. Edgar Hoover out in a box, and William Paley, chairman of CBS, last saw 65 some years ago. Many corporations make even their topmost people go to Florida at a fixed age, but that would have to be cast aside if protection from age discrimination is added to our list of civil rights. Is gerontocracy, a la China and Russia, a possibility?

The most important case in 10 years involving discrimination arises out of the age of the plaintiff, Allan Bakke. Bakke was the man who was turned down by the University of California Medical School at Davis. When he learned that, under a special ad-

mittance program, blacks with lower rating scores were accepted, he sued. The California courts ruled the preferential admittance program unconstitutional, and the case has been appealed to the U.S. Supreme Court. Most people familiar with facts believe that Bakke, who was over 30 at the time he applied, would have been admitted, not if he were more darkly pigmented, but if he had been younger.

Medical schools are loathe to take older students. They believe that scarce places should not be allotted to people who will have fewer years to practice once they graduate, but such talk is writing in smoke. We've been able to expand and build new medical schools in the past 10 years with such alacrity that the fixers, administrators and arrangers in the profession are worried less there be too many physicians. There is no practical obstacle to creating enough places so that boards of admission don't have to choose between an older, white Bakke and a younger, black Mr. or Miss somebody else.

According to some, choices can be made under the present arrangements without quotas and without injustice; just pick the most qualified. Unfortunately we're only able to distinguish between least and most qualified in the grossest sort of way. With his combined numerical rating of 468 there were 35 other students with the same score or one point higher than Bakke. You can't pick the best among students so closely clustered.

Nor need we adhere to a policy of scarcity which has all of us snapping and biting at each other for a chance to work or even to go to a vocational school. Fighting over places in school is especially inexcusable because it is so easy and so relatively inexpensive to let in whoever wishes to try. You give diplomas only to those who deserve to be stamped with the seal of competence, however. This is the least we can do in the face of the mournful numbers: less than 2 per cent of the doctors, lawyers, engineers and architects in our country are black. O. J. Simpson may star for Rent-a-Car, but how much have things really changed between him and Jackie Robinson? The quickest way for a black kid to get ahead is still to know how to do something good with a ball—base, basket or foot.

Blacks are at least temporarily reduced to the position of older people. They can vote, petition and plead, but the whites aren't afraid of them anymore. Prior to the 1960s the fear of the fire bell in the night, to use Jefferson's expression, was the bad emotion in every white gut. Then we had burn, baby, burn, and the whites found out that the night dream of slave rebellion was worse than the actuality. Hence the dearth of emergency programs and handouts to buy off the looters in New York City.

White America knows it can tough out any long, hot summer black adolescents may heat up. In a not so long run, however, nobody wins under an arrangement where there are always three grasping people for every two jobs. We must either ration work by spreading it out, i.e., something like the old four-day week idea, or we must learn to create jobs that are efficient, useful and wanted, an art we have yet to master. If Snow White and the Seven (all over 65) Dwarfs can whistle while they work, America can too.

TELEPHONE PRIVACY ACT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ASPIN. Mr. Speaker, I am today dropping into the hopper a bill entitled the "Telephone Privacy Act", designed to protect citizens from a growing invasion of their privacy often called junk calls.

These are commercial solicitations made over the telephone. Over the years they have often been made by live sales persons. Just this summer a new, wholly automated selling device came on the market which may very well produce a flood tide of such calls into our homes. This unattended machine can dial 1,000 calls a day, deliver a taped spiel and then record an order or expression of interest—or a violent expression of disgust.

The bill I am introducing has four main points.

First, it requires that telephone companies give every subscriber the opportunity at least once a year to indicate if they do not wish to receive unsolicited commercial telephone calls.

Second, any firm wishing to make such calls would need to obtain the list of subscribers who have hung "No Solicitors" signs on their phones and would need to purge those numbers from their calling lists.

Third, violators would be subject to a fine of up to $1,000 or imprisonment of not more than 30 days for each call in violation. Because a firm trying to comply with the law might make periodic honest errors, the bill provides that no prosecution may begin until the 10th complaint against a single firm in a single year has been received by the local U.S. attorney.

Fourth, the bill provides that the administrative costs incurred by the telephone companies in carrying out the requirements of the act are to be recovered through fees charged the commercial firms for the lists of numbers they are not supposed to call. No charge will be imposed on telephone subscribers.

Please note that the bill applies these restrictions to the makers of "unsolicited commercial calls." The restrictions do not apply to noncommercial groups like politakers and charities.

Mr. Speaker, I am being joined in introducing this bill by 44 cosponsors. On the Senate side, Senator WENDELL ANDERSON of Minnesota is introducing an identical bill today. We are moved to act because of the considerable annoyance many Americans feel on receiving junk calls.

Junk calls are a far greater intrusion than junk mail, about which so much has been said and written. You can check your mailbox at your own convenience. You can tell most junk mail by its cover and chuck it if you choose. But junk calls bring you on the run from your garden, drag you from bed when you are trying to get over a cold, and fall smack in the middle of the family dinner hour.

There are essentially three different kinds of calls. First, we have the traditional boiler room from which banks of very live humans place calls. Then we have the semi-automated equipment which has been used for the past few years; a human places the call and when the customer comes on the line, the human front turns on a taped spiel. Third, we have the new, fully automated equipment which just came on the market in July. My legislation will give telephone subscribers the right to ban all incoming commercial solicitations, regardless of whether they are human, human-fronted, or fully automated.

With the new, fully automated equipment, junk calls will become a lot cheaper than junk mail. And that means we are likely to see—or rather, hear—a lot more junk calls. Already I am receiving letters from harried citizens in widely scattered parts of the country telling me of receiving three calls in a single day from different firms. To imagine the scope of the intrusion, check your mailbox tonight. There is usually around a half-dozen pieces of advertising mail. Imagine getting that many taped telephone advertising calls scattered through the evening.

There are other problems, as well. For example, the party placing the call controls the connection in many parts of the country. If the householder slams down the receiver while the taped spiel is going, and then picks the receiver up later, he will still hear that tape. It will not stop until the taped message has completed its cycle. A gentleman in Mobile, Ala., wrote to tell me that just as he was recently reaching for his phone to try to get a vet for his dog, the phone rang. On picking up the receiver, the tape began. The gentleman wrote that the tape continued for several minutes and eventually he had to go to a neighbor's house to call the vet. The gentleman asked, what if it had been a more serious matter than a sick dog. What if his house had been on fire or his wife had collapsed and he was trying to reach the firehouse or the emergency squad while some tape rattled on about a wondrous new product that would cure his acne. To respond to this particular problem, the legislation I am introducing limits any commercial call made with fully automated equipment to no more than 1 minute in length.

There are still other problems and annoyances resulting from these calls. For example, an unlisted number will not protect the telephone subscriber. The new automated equipment can be set to dial all numbers in an exchange serially from 0001 to 9999. That also means that a firm with 100 lines in serial will find its telephones ringing off their cradles as the machine dials each number in sequence. Another problem was pointed out to me by a small businessman who works out of his home and uses a telephone answering machine with a capacity for recording 30 incoming calls to take orders. He is already finding a number of junk calls on his answering machine and worries that they will be displacing his incoming business orders. There is, in this case, a touch of curious humor as we imagine the answering machine and the selling machine chatting with one another over the phone.

I have found some of the support for my legislation surprising. For example, a businessman who uses the boiler room technique recently called my office and voiced his support for this bill. He remarked that after one of his sales persons had had phones slammed down in her ear and been roundly cursed by several people, she was not very good at selling when she finally got through to someone who was interested. He said, "I'd just as soon know in advance who will be teed off at a call so my people can avoid them." Several other businessmen who use phone selling have voiced similar sentiments in calls to my office.

That emphasizes my point that this is not an antibusiness bill. We are not saying to businessmen, "You have no right to sell." We are simply saying to John Q. Public that he has the right to say, "My home is my castle. Don't bug me."

I have tried here to explain the problem in my terms. Perhaps the words of numerous irritated citizens can add another dimension. Let me read extracts from some of the many letters I have received from all over the country in the last few weeks:

From San Jose, Calif.

Several days ago I read that you were interested in sponsoring legislation against "junk telephone calls"—recorded messages delivered by phone to sell some commodity. I had never heard of this latest entrepreneurial twist, although of course I had been many times irritated and inconvenienced by "live" telephone solicitors. Well, today, for the first and, your legislation permitting, I hope last time, I was awakened from a pleasant afternoon nap to hear a telephoned voice COMMAND: "Please, listen carefully! This is a recorded message. We represent the International Magazine Corporation, and we want you to . . ." At this point, enraged, I slammed down the phone. What an utterly obnoxious, rude, incredible intrusion into an afternoon! The idea that I should be awakened to listen to a machine is really the last straw.

I ardently support any legislative efforts you can make to outlaw this idiotic electronic Fuller Brush Man surrogate.

From Seattle, Wash.

I receive a minimum of four such calls each week which have gotten me out of the shower, down off ladders, in from the yard to run across freshly waxed floors, away from cooking and company and at many other inconvenient times. One does not dare not answer the telephone as most of us have close relatives in distant cities and there is always the possibility of illnesses or other emergency calls.

From Kansas City, Mo.

It has come to our attention that you are sponsoring legislation which would stop telephone sales call—bless you, sir.

Only legislation will stop this invasion of privacy; we know, for we have tried everything else—from "no more calls, PLEASE", to an unlisted number. If persistence such as theirs were directed to the energy crisis, world hunger, unemployment and inflation, these problems would disappear over-night!

Please see this bill through to passage—and enforcement—and you will have served us well and earned the undying devotion of our family—and thousands more just like us.

From Los Angeles, Calif.:

They are a form of pollution that goes right into our homes. A good place to draw the line.

From Edina, Minn.:

Bravo! Please proceed with maximum speed to introduce your bill to "protect citizens from junk telephone calls." We are already plagued by too many syrupy voiced callers "in your area" trying to sell or service something. They are most annoying and definitely an invasion of my privacy! Thank you.

From Richland, Wash.:

We would like to add our complete support to you in your fight to end junk telephone calls. My husband and I recently moved from Detroit, Michigan, where during a two month period, we received several automated phone calls. Not only did the phone ring at dinner time, but while I was bathing my infant (which caused me to remove her, wrap her in a towel and dash to the phone to listen to a recording!), during nap-time, and many other inconvenient periods during the day and evening.

Thank you for working to relieve us of this intrusion in our lives.

From Mobile, Ala.:

I have received two of these calls. The first occurred on a Saturday evening about six weeks ago just as my wife and I were leaving the house. I hung up, we left, and there was no real problem. The second also occurred on a Saturday evening about three weeks ago. That time, I was attempting to get in touch with a vet about a very sick dog. The thing that really burned me up about that last call was that I immediately became aware that hanging up did not stop it! Those so-and-sos kept my line tied up for about fifteen minutes. I had to go next door to make my call and did not find out who was responsible for it. What if there had been a fire, a need to call the police or a physician? I personally would like to see this automated calling stopped completely. At least, those people should be required to set their equipment so that a hang-up will cut it off.

From Lincoln, Nebr.:

Nothing, through the years, has infuriated me more than these phone calls. I have a phone and pay my bill for my convenience, not to help defray expenses of some business.

I never could understand how it could be legal.

From Downers Grove, Ill.:

Let me recount a recent occurrence at my residence.

A caller identified herself as a representative of "Harris Research" and asked me to answer several questions. I informed her that I believed her call to represent a form of trespass and invasion of privacy. She became very belligerent, questioned my upbringing and my courtesy, and then became abusive. Over the course of the next three hours, this woman continued to call my home to heap verbal and obscene abuse on whoever answered.

I have a telephone in my home for my convenience, not the convenience of businesses who seem to hire any idiot off the street to start at the top of the page of the local telephone directory and call everyone on the page. This abuse of the telephone by businesses must be stopped.

From Tulsa, Okla.:

I, myself, am a businessman, but still object the way computer-dialed soliciting is being developed. I have talked to several people about this, and no one is in favor. Good luck in efforts to curb this abuse!

From Alameda, Calif.:

About a year ago the phone rang and I answered it. A woman started giving me a spiel for a product or service—the exact wording escapes me.

I stopped her and told her I had an unlisted number. I then asked her how she got my number.

She was very polite. She said she was in New York and that she had no idea where I even lived. She said that a computer gives her numbers to call.

I told her I wasn't interested in whatever it was she was trying to sell and she politely hung up.

Like most Americans we value our privacy and are not interested in receiving junk calls. Needless to say, we wish you much success with your bill to end such calls.

From Highland Park, Ill.:

We're with you 2,000% to restrict Junk Phone Calls. . . .

The Fifth Freedom: Freedom from telephone sales pitches.

From Santa Clara, Calif.:

This is not the First Amendment privilege—a computer voice selling a product to a person who cannot even respond. Unsolicited advertising should be within the domain of the Fourth Amendment, so that we are secure in our persons; I am not secure in my person, when I have been roused from rest, or scorched supper, whilst some bleeping computer is telling me to buy a product I neither need nor want.

From Austin, Tex.:

My family has recently been bombarded with telephone solicitors in our home. We have three different numbers in our home so we have to answer each line when these solicitors call. We feel so helpless in this situation.

I am extremely pleased to know that you have a plan to stop this kind of invasion of privacy.

From Richmond, Va.:

I am glad to hear that someone is at last going to do something about "junk" phone calls. Both my husband and I are disabled and often find it quite painful to rise and answer the phone to hear a sales pitch. I have long held that it was the ultimate invasion of privacy.

From Waukegan, Ill.:

I am all for advertisement, but when I no longer have the decision or ability to avoid it, if I please (the best resistance to temptation), it is no longer capitalism at work, it is infringement of my rights.

Mr. Speaker, this is just a sampling of the mail I have received. I have never received so much mail or such a positive response on any previous occasion when I have announced my intention to introduce a piece of legislation. Only four of the first 100 letters coming into my office were negative.

Mr. Speaker, if there is no objection I would like to include in the RECORD at this point the text of the bill I have just introduced. The text is self-explanatory with the exception of the solitary cross-reference which is to three paragraphs of the Internal Revenue Code. Those paragraphs define a variety of groups exempt from the provisions of this bill, basically religious, charitable, scientific, literary, educational, and prevention of cruelty groups which are nonprofit and non-lobbying plus labor, agricultural, and horticultural organizations.

The bill follows:

A bill to amend the Communications Act of of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telephone Privacy Act".

SEC. 2. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"PROHIBITION OF CERTAIN UNSOLICITED TELEPHONE CALLS

"SEC. 224. (a)(1)(A) No person may make or cause to be made any unsolicited commercial telephone call to any telephone if the person who is the subscriber for such telephone has given notice, in accordance with subsection (b), that he does not wish to receive unsolicited commercial telephone calls.

"(B) No person shall cause to be made any unsolicited commercial telephone call to any telephone if such call is made entirely by automatic equipment and has or may have a duration of more than one minute.

"(2) No person may employ, or contract for, any other person to make any telephone call in violation of paragraph (1).

"(b)(1) Any person who is a telephone subscriber and who wishes not to receive unsolicited commercial telephone calls may notify the telephone company which provides telephone exchange service for such telephone that he does not wish to receive such calls. The Commission shall prescribe regulations—

"(A) specifying the manner in which such notification shall be given,

"(B) specifying the manner in which telephone companies shall make available to persons making unsolicited commercial telephone calls the names and telephone numbers of persons who do not wish to receive such calls, and

"(C) specifying the times at which and manner in which a subscriber may give or revoke such notification. Regulations under subparagraph (C) shall require that a subscriber be given the opportunity to give such notification whenever a telephone is installed, and not less frequently than annually thereafter.

"(2) No telephone company may make any charge to a subscriber for the service of listing him as not wishing to receive unsolicited commercial telephone calls and the costs incurred by any telephone company to administer the provisions of this section shall be borne by those persons or institutions obtaining the names and telephone numbers of those subscribers who do not wish to receive unsolicited commercial calls under a fee structure to be prescribed by regulation of the Commission.

"(c)(1) Any person who violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than thirty days, or both. For purposes of this paragraph, each telephone call in violation of subsection (a) shall constitute a separate offense, but no person may be imprisoned for more than 6 months for any related series of violations.

"(2) No person may be prosecuted under paragraph (1) for a violation of subsection (a), unless (A) during the calendar year during which such violation occurred, the United States attorney for the judicial district in which such prosecution is brought has received at least ten written complaints of violations of such subsection by such person and (B) each of such ten complaints is made within fourteen days after the violation complained of.

"(d) For purposes of this section:

"(1) The term 'unsolicited commercial telephone call' means a commercial telephone call other than a call made—

"(A) in response to an express request of the person called, or

"(B) primarily in connection with a debt payment of which, or a contract performance of which, has not been completed at the time of such call.

"(2) The term 'commercial telephone call' means (under regulations of the Commission) any call made for business purposes by or on behalf of any business enterprise, other than a call made by an organization described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1954 on its own behalf, by a political organization, or by a public opinion polling, or radio or television rating, organization.

"(3) The term 'telephone company' means any carrier (whether or not engaged in interstate or foreign communication) which provides telephone exchange service."

SEC. 3. (a) Section 2(a) of such Act is amended by striking out "The provisions" and inserting in lieu thereof "Subject to section 224, the provisions".

(b) Section 2(b) of such Act is amended by striking out "section 301" and inserting in lieu thereof "sections 224 and 301".

SEC. 4. The amendments made by this Act shall take effect on such date or dates (not later than eighteen months after the date of enactment of this Act) as the Federal Communications Commission shall prescribe by regulation.

PROPOSED SEC STOCK EXCHANGE RULES CHANGES WILL AGGRAVATE UNEMPLOYMENT AND DAMAGE OUR CAPITAL INVESTMENT HOPES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. KEMP. Mr. Speaker, I have discussed with my colleagues on numerous occasions what I believe to be the ineffective approaches our Government often takes toward the goal of creating jobs in our economy. Frequently when we discuss these matters, the focus is on our tax code and its built-in disincentives for capital investment and savings, which is so important to the creation of real and long-term productive jobs.

Today, however, it is not the tax writers to whom I direct my criticism. It is the Securities and Exchange Commission, which has made a proposal which, if carried out, would aggravate unemployment in this country by damaging the capital markets essential to our economic health.

What the SEC has proposed to do is to allow stocks which are now traded in true auction markets on the national exchanges to be traded over the counter anywhere in the country, beginning January 1, 1978. The result of this action likely will be that our securities markets will be dispersed—or fragmented—into dealer markets, thereby denying investors the benefits and protections of the current auction market system. The resulting increased capital requirements for firms to participate in these dealer markets will drive out the smaller firms and make more difficult the raising of corporate capital which in turn makes jobs available.

From what I understand of this proposal, it is the SEC's way of spurring the securities industry to speed up its development of a so-called national market system, linking the markets nationwide.

Such a system was called for in a law we passed 2 years ago, known as the Securities Acts Amendments of 1975. While I am not here to suggest that the securities industry has moved as fast as we had hoped in setting up this national linkage, I am suggesting that the action proposed by the SEC to lift these off-board trading restrictions on January 1 would, in my opinion, be so damaging to our capital markets that it is highly questionable whether the damage could be undone. The New York Daily News in an editorial of September 26, entitled "A Terrible Mistake," states the case well in terms of economic impact. Noting that "nearly all the financial experts agree that if the SEC goes ahead with the disastrous ruling, it will cause unprecedented confusion and chaos in the stock markets," the editorial goes on to make the point that "it will make it much harder for small companies to sell stocks for raising money to expand and create jobs."

There are additional editorials from around the country which make similar arguments. Of particular note is an editorial dated September 19, from the New York Times entitled "Playing Chicken Among the Bulls and Bears." After summarizing the expected impact on our economy of this proposed SEC ruling, it touches on a point which I made earlier:

> The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "Chicken" to persist between the securities industry and its regulator.

Mr. Speaker, while this proposal by the SEC has disturbing implications nationwide for the employment picture, as a New Yorker I can tell my colleagues that the recent experience of New York State in losing jobs has been distressing enough without the SEC's proposed contribution. I summarized our State situation when I addressed the New York Chamber of Commerce and Industry Council in May, concerning a program to revitalize New York State. At that time I said:

> Everyone knows that New York State has been losing jobs and people for several years. Between 1970 and 1975, New York State had a net loss of approximately 121,000 in population. Over the same period, the state also lost 364,000 non-agricultural jobs. A loss of 45,000 additional jobs between February, 1976, and February, 1977, shows that this trend has not changed, and explains why New York continues to suffer from double digit unemployment in spite of the continuing economic recovery throughout the rest of the nation.

What would the SEC's proposal do to this already inflamed economic situation? According to Spencer Standish, of Albany International Corp. in a letter to the SEC, it would "make it more difficult and more costly for lesser-known issuers like ourselves to raise capital in the marketplace." Mr. Speaker, this theme has been repeated many times by companies large and small—from New York and around the country—which have written to the SEC and to Congress in recent weeks expressing their concern about what the SEC proposal will do to the capital-raising mechanism of this country. And when there are disincentives and impediments to raising capital, it follows that there will be a negative reflection in our employment figures.

It is important to note, Mr. Speaker, that it is not only the issuing corporations which have reacted to this proposal. Organized labor also regards it as an alarming development. A number of my colleagues have received recent communications from the Office and Professional Employees International Union, an affiliate of the AFL–CIO. Its letter points out that this union represents 1,800 employees of the New York Stock Exchange who would lose their jobs should the SEC's proposed action be carried out. The consequences likely to be felt by the capital markets are well stated, and I would like to quote:

> Without such needed capital, our major companies will find it difficult to attract capital and will be forced to curtail activities, including projected expansion, thus adversely affecting the economy of our country.

This fine union's assessment of the effect on jobs caused by this proposal is put dramatically, and its import is most disturbing. It says that the SEC's proposed action:

> . . . would result in severe dislocation of industry, the economy and tens of thousands of workers. Thousands of employees of exchanges who have made careers of their employment would lose their jobs in a relatively short period of time. Numerous other industries would be affected. Such industries and services include the legal and accounting professions, the financial press, financial printing, communications and computer services, insurance and other investment groups, and stock transfer agents. I would hazard to guess that the enactment of SEC's plan would directly or indirectly affect a million or more jobs.

Mr. Speaker, even if the figure of a million jobs is on the high side, the prediction itself should give us pause. More to the point, it should give the SEC pause.

In addition to the outcry from those sectors of our economy which will feel the impact of this regulatory burden, there also has been reaction from Congress. I am impressed with the number of my colleagues who have expressed to me their concern about this proposal, and its potential consequences in their own congressional districts. Certainly, Mr. Speaker, as I have already stated, I share those concerns. Moreover, I am encouraged to note that just last week a letter was sent by the Senate Securities Subcommittee chairman to the SEC chairman. This letter concludes, in effect, that it is questionable whether the elimination of off-board trading rules which are not "synchronized" with the development of a national market system "will serve either to facilitate a national market system or to achieve the other purposes of the Exchange Act."

Mr. Speaker, it is not the purpose of my comments today to address the rather involved legislative history of this legislation. But suffice to say it is significant that the chairman of one of the subcommittees which originally developed this legislation raises such a serious question about the SEC's course of action. Also, I noticed that the chairman of the Senate Select Committee on Small Business in a recent letter to the SEC expressed concern about this SEC proposal. The letter reminds us that "the securities markets provide a vital medium of financing for new, small and growing corporations," and fears that the proposal "might have an impact on the ability of small securities brokers and dealers in communities across the country to provide advice and assistance to smaller companies who wish to reach the public securities markets." In a later floor statement, the chairman added that "while there can be no absolute assurances of the effect of any future action, this SEC proposal seems to have more than its share of uncertainties," and so the Commission should proceed with caution." Mr. Speaker, these admonitions are timely, and I hope that the SEC will bear them in mind.

A number of economists have spoken out on the ill-timed action scheduled by the SEC. The most recent comment which has come to my attention was on NBC's "Today" show, September 26, in a discussion about the current economic woes of our country. Mr. Jay Schmeideskamp, a psychological economist with the Gallup organization, was questioned about the general wariness of consumers today. He responded that "there is a very considerable lack of confidence in the Government's economic policy," and that more specifically this is "not the time for the Government to undertake to do what the SEC has proposed to do, which is to allow firms to trade off the floor of the exchange. "That," the economist concluded, "could really undermine confidence in the investment community and with the result that it is harder to raise capital and for (the creation of) jobs." Mr. Speaker, our people need to have confidence in our Government, and our Government needs to respond with policies which will instill that confidence. The action now proposed by the SEC, as Mr. Schmeideskamp notes, will not bring about that confidence.

While the uncertainty and the expense of Federal Government regulation have a chilling effect on capital investment in a general and pervasive way, I must say that this SEC proposal would undoubtedly be one of the most economically devastating moves our Government—through its agencies—has ever presumed to force upon its citizens. The irony of this proposal, Mr. Speaker, is that the vast majority of the expert witnesses—representing the securities industry, academia, consumers, small investors, issuing corporations, and so on—who recently testified before the SEC on this issue, urged the agency not to take such a dangerous and far-reaching step, particularly given the economic consequences likely to ensue.

Why then does the SEC continue on its course of action, notwithstanding this overwhelming advice to the contrary? Perhaps a reflection from Prof. Irving Kristol, in his article entitled "A Regulated Society?" (from AEI's Regulation, July–August 1977) would add some insight here. Professor Kristol observes that many of those who fashion our Federal regulations "are discontented—often in a vague and unfocused fashion—with * * * the economic system," and that they "have little use for private economic enterprise, and are utterly indifferent to the costs they load upon us." My point here, Mr. Speaker, is not to cast aspersions on those who were instrumental in developing this off-board trading proposal. To the contrary, I assume their intentions were good. I am aware of the positive reputation the SEC enjoys among our agencies. But I must confess that Professor Kristol's observations come to mind when I consider the likely effect of this proposal on our unemployment statistics.

Mr. Speaker, from the standpoint of our Nation's economic well-being, I believe that the SEC is proceeding on a course of action which will have long-term and disturbing implications for the capital markets of this country and the millions of jobs—long-term, productive jobs—which they create. According to the Chicago Tribune of September 22, SEC Chairman Williams told that paper that the SEC "has not decided whether it will stick to its previously announced deadline of January 1." This gives me some encouragement to think that the matter is one about which the Commission still has an open mind. I hope such is the case, for there is much at stake for all of us on this issue.

MICHAEL CARDONE, A MAN OF DEDICATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. GAYDOS. Mr. Speaker, the dedication of an individual to helping others, particularly children, is a trait all Americans admire. Consequently, I am proud to recognize in the Congress of the United States a man who has devoted much of his adult life to the benefit of others—Mr. Michael Cardone of Pittsburgh, Pa., vice president of operations for Cinemette Corp. of America.

Mr. Cardone has established an outstanding record as a humanitarian and a friend of needy children. He lives by a principle that everyone should give at least 2 hours a week in service to others.

His record, however, proves he devotes a great deal more than that. He has been cited by the March of Dimes National Foundation for donating the use of a theater for a fundraising project and by the Pittsburgh Press Old Newsboys Fund, which contributes millions of dollar to Children's Hospital, for helping to underwrite that organization's operating cost and for being one of the group's "Top 10" individual fundraisers.

Mr. Cardone also has been instrumental in the raising of nearly a quarter of a million dollars for one of the most charitable organizations in the Nation, the Variety Club. In addition to utilizing his theaters to help raise funds for various projects, Mr. Cardone, along with his close friend, George Tice, arranged the 4-day visit last year of the "Freedom Train" in Pittsburgh, which drew more than 70,000 visitors and was a highlight of Pittsburgh's Bicentennial observance.

Furthermore, Mr. Cardone has scheduled audience collections in Cinemette and other theaters in western Pennsylvania for the benefit of the Will Rogers Hospital in White Plains, N.Y. His efforts have resulted in contributions totalling hundreds of thousands of dollars.

The personal life of this remarkable man is as intriguing as his humanitarianism. Born in Philadelphia, he was taken to Italy by his parents while a child. Later, his mother and father returned to the United States and, one by one, brought their children back home.

However, before Mr. Cardone could return, World War II erupted and, for the duration of hostilities, he was separated from his family. It was not until 1949 he was able to rejoin his parents in Greensburg, Pa.

Over the years, he had forgotten the English language and so, in addition to attending school, his mother encourages him to improve its use by attending the local theater. This, ultimately, proved to be the start of his business career.

Starting as a janitor, he worked his way up to usher, doorman and finally assistant manager. Later he managed Warner Brother theaters in Tyrone and McKeesport, Pa., and eventually the Stanley Theater in Pittsburgh. He became division manager for RKO Warner Theaters and when that chain was acquired by Cinemette, he was named to his present position with jurisdiction over 200 theaters in 9 Eastern States.

Mr. Speaker, I believe Mr. Cardone is a man all Americans will respect. The trials and tribulations of his early life tempered his ability to become successful with a deep and sincere interest in assisting others to attain the same plateau.

On behalf of the Congress of the United States, I commend Mr. Cardone and wish him continued success in future endeavors.

WELFARE FRAUD: FACT AND FICTION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HAWKINS. Mr. Speaker, the current debate over reform of the Nation's welfare system has highlighted the popular myths about welfare recipients and the poor in general. The popularly held views that welfare recipients are unwilling to work, remain in poverty and on welfare for generations after generation and are bent on fraud are simply not true.

In fact, information presented to the Welfare Reform Subcommittee by HEW Secretary Califano calls these asumptions into question. First, 60 percent of the Nation's poor are elderly or disabled adults or children not expected to work. Second, the poverty population is a fluid one—only 3 percent of the low-income population surveyed between 1967 and 1972 remained in poverty during the entire 6-year period. Third, the great majority of poor family heads either work or are unemployed and actively seeking work. Eighty-five percent of the poor male-headed families work at some time during the year with 29 percent working full time year round; 49 percent of poor female-headed families work during the year with 8 percent working full time year round. Nineteen percent of all poor family heads are unemployed and looking for work. With so few jobs available for these individuals, claiming that they do not want to work simply does not match the statistics.

It is distressing moreover, that the administration in emphasizing the antifraud nature of the welfare reform proposal has affirmed the public perception that welfare recipients are defrauding the Government.

In his testimony before the Welfare Reform Subcommittee on September 19 and 21, Secretary of HEW Joseph Califano reported on the results of Project Match which identified 1,712 Federal employees in the District of Columbia who received welfare benefits. Secretary Califano did not indicate how many of these individuals were in fact eligible for such benefits or how many were the results of statistical errors or inadvertent error on the part of the individual rather than fraud. In fact, only 380 of the 1,712 have incomes above the poverty budget. What we need to know is not the number of welfare recipients that are employed, but the percentage of those recipients who are in fact defrauding the Government. The administration's proposal claims that it will only allow for 4-percent fraud. How does this compare to the present system?

Unfortunately, the administration's presentation of this information and subsequent press reports underscored the inference of fraud.

Certainly we must be concerned with fraud in the system and eliminate it wherever and whenever it occurs. But releasing sensational figures to the press before a thorough investigation has been completed is not only premature but a disservice to the American public.

I would like to bring to my colleagues' attention an editorial appearing in the Washington Post on September 29 on the subject of "Project Match."

The editorial follows:

[From the Washington Post, September 29, 1977]

FEDERAL WORKERS ON WELFARE ROLLS

It probably wouldn't come under the category of "double dipping" as defined by President Carter, but many readers no doubt were troubled by a report last week that there are some federal employees who have been receiving welfare payments from the city's Department of Human Resources. At a glance, one might conclude that (1) it's one horrible example of "welfare cheats" and (2) it must be the result of a period during which DHR was being mismanaged by Joseph P. Yeldell. But neither conclusion holds up under closer examination.

For one thing, the report, disclosed by Health, Education and Welfare Secretary Joseph A. Califano, Jr. in testimony before a House subcommittee, was not the product solely of a federal "probe" of the District government. Rather, it was a city-federal effort to match the local welfare rolls with the roster of federal employees in the region. Similar checks are scheduled to be run in 19 cities; preliminary findings already indicate similar statistics in other places.

The check here turned up 1,712 federal workers, about 5 per cent of the city's total caseload under its program of Aid to Families with Dependent Children. But it wasn't known how many turned up on the list because of some error and how many might be fraud cases. Moreover, certain federal workers do qualify for public aid: Regulations permit some working parents to receive reduced public-assistance payments through the AFDC program. Also, officials note that there may still be other recipients whose eligibility may have changed without their realizing it.

This doesn't mean that the findings are invalid or that the system is fraud-free. And, as an HEW spokesman said, Mr. Califano was "not trying to prove that federal workers are worse than anyone else." The match-check is merely one of many ways to obtain information for further checking. The city government, in fact, has been running similar comparisons of Social Security payments in the city and Maryland and Virginia, as well as a match-check of its own employees and its welfare lists. DHR Director Albert P. Russo has noted that criminal prosecution will be undertaken where it's warranted.

So without excusing any infractions that may be verified later, we wouldn't read too much into what has been found so far. The city's monitoring of welfare rolls is a complicated business, and the matching of these lists is only one method of keeping tabs on the accuracy of payments. Still, the regular use and examination of available data in city hall are welcome evidence of better controls in a most sensitive area of administration.

HELSINKI'S UNFULFILLED PROMISE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. UDALL. Mr. Speaker, I am pleased to be able to join in the project of my distinguished colleague from Massachusetts, Mr. DRINAN, entitled "Helsinki's Unfulfilled Promise." The Helsinki accords, which were signed in Helsinki, Finland, in August 1975, included pledges from the signatory nations to allow freedom of movement across international boundaries and to facilitate unification of families split apart by political borders. Unfortunately, of the 35 nations which signed the accords, many have not chosen to fulfill their promises. The Soviet Union is one—it is the most prominent of those nations.

I would like to call the attention of my colleagues to the case of one family which has been caused great trauma and hardship by the actions of the Soviet authorities.

Yakov Izrailovich Beilin is a 45-year-old forestry technician living in Tula, in the Russian Soviet Federated Socialist Republic. Most of his family, including eight uncles and aunts who previously lived in Vilna, were all killed with their young children during World War II.

In 1973, his father died after a long illness, and the father's last request was that his family move to Israel, where, at that time, only his sister lived. Mrs. Beilin, his widow, decided to follow his wishes.

She was granted permission to emigrate, and has since moved to Israel, but her son and his family, including two children, have been refused permission, and no reason for the refusal has been given. It was surprising that Beilin was even able to obtain application for an exit visa, for other members of the small Jewish community in Tula have found it practically impossible to obtain the visas. Again, no official reason has been given for this, but unofficially, people are told that while pensioners, who are considered a burden upon the state, will be allowed to leave, young people with their productive years ahead of them, and especially children, will not be allowed to emigrate.

Since her arrival in Israel, Mrs. Beilin has tried to gain permission for her son's emigration, but has run into the stone wall of Soviet authority, and has turned to organizations in the United States, and to this Congress, for help in publicizing her plight.

The Belgrade Conference opened last week, with the ostensible purpose of overseeing observance of the Helsinki accords. It now appears possible that, despite a continuing U.S. commitment to human rights, the conference will turn into a vehicle for repairing U.S.-Soviet relations.

If this happens, the rights of the citizens of the Soviet Union, and of citizens of other states which follow repressive policies, will be seriously damaged.

It is no longer possible for the United States to isolate itself from the rest of the world, and it is no longer possible for the Soviet Union to persecute its citizens who are merely trying to claim their rights which have been promised to them, without attracting world-wide attention and reproach.

The Soviet Government still claims that the American human rights campaign constitutes interference in the internal affairs of the Soviet Union. That is a statement they can no longer make with any authority, for the U.S.S.R. has agreed to protect and promote the human rights of its citizens not only in the Helsinki accords, but in the Charter of the United Nations, and in other international treaties and agreements. I applaud Representative DRINAN for his dedication, and urge other Members of Congress to join us in calling attention to "Helsinki's Unfulfilled Promise."

THE NATIONAL ENERGY ACT

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ASHLEY. Mr. Speaker, a little more than 2 months ago this body passed and sent to the Senate H.R. 8444, the National Energy Act. According to your instructions, the five standing committees worked long and hard to meet exacting deadlines and deal with a massive bill that will result in a number of hard choices for the United States. The Ad Hoc Committee on Energy which I had the honor to chair considered the program as a whole, recommended certain amendments to the House of Representatives, and we hammered out a tough—but, we thought, fair—energy program for the crucial period between now and 1985.

It is no secret, Mr. Speaker, that the President's energy program as passed by the House has been severely curtailed in the Senate. I do not intend to discuss this at this point; we will be going to conference with the Senate in the near future, and we have high hopes of being able to produce a creditable energy bill.

To borrow a phrase from another generation, Mr. Speaker, the whole world is watching what we do here. If we cannot bring ourselves to send a strong signal to the world that the United States is taking seriously the ominous prospects of the energy situation, it is hard to see how smaller, less prosperous countries can be persuaded to take the steps necessary to buy the time needed to develop new sources of energy.

Last week, the International Energy Agency, a consortium of 19 countries, including the United States, who depend on oil for the continued health of their economies, met in Paris at the ministerial level. They made a joint decision to reduce their combined oil imports to 26 millions barrels a day by 1985. This is an ambitious goal. It will take extraordinary measures to meet it, in our country as well as in the other nations. Yet meet it we must, because as Secretary Schlesinger said in his remarks to the assembled energy Ministers, there is a very good chance that there will be only those 26 million barrels a day available to all the importing nations.

The United States accounts for a major portion of those oil imports. Their cost is seriously affecting our balance of trade. We are on a collision course with economic disaster, unless we take some steps that may be painful for our special interests, but which are vitally needed for our long-term national interest.

As Secretary Schlesinger said to the IEA Ministers:

The principal problem is one of sense of purpose, and the development of political will in each of our countries to achieve conservation, shift to more abundant sources of supply, and rapidly develop alternative sources of energy.

Mr. Speaker, I urge my colleagues in both bodies of this Congress to preserve and strengthen that sense of purpose we all shared when the President set his goals for a national energy policy.

I believe that the resolutions taken at the International Agency meeting and the words spoken by our Secretary of energy there will help to restore our perspective to this critical energy problem. I would like to share them with my colleagues:

DECISION ON GROUP OBJECTIVES AND PRINCIPLES FOR ENERGY POLICY ADOPTED BY THE GOVERNING BOARD OF THE IEA MEETING AT MINISTERIAL LEVEL ON OCTOBER 5, 1977

The governing board considering:

That the world is confronted with the serious risk that as early as the 1980's it will not have sufficient oil and other forms of energy available at reasonable prices unless present energy policies are strengthened;

That such a situation would have severe economic, social and political repercussions in all International Energy Agency countries and throughout the world;

That IEA countries must help reduce this risk by a strong and sustained policy response designed to make more effective use of energy resources and put more emphasis on less depletable energy sources;

That prompt action in this regard should be a major and essential element of IEA countries' energy policies in the development of their general economic strategy, taking into account environmental and safety aspects of the use of energy resources;

That the policy response of IEA countries should be concerted, having regard to the consequences of action in individual IEA countries for energy supply and demand in other countries, and taking into account the provisions of the Agreement on an International Energy Program and the Long-Term Co-operation Programme:

Decides:

1. That, in order to maintain equilibrium in energy market conditions, it will be the objective of IEA countries as a group to hold their total oil imports to not more than 26 million barrels per day in 1985; and that they will establish group objectives for successive periods;

2. That, in order to achieve the group objectives, IEA countries will reinforce their present efforts:

(a) By endorsing the Principles for Energy Policy set forth in Annex I hereto, which IEA countries are determined to follow in the establishment and implementation of national energy policies;

(b) By contributing, as individual IEA countries, to the achievement of the group objectives through the energy policies and measures which they adopt; the individual statements set forth in Annex II hereto describe the policies and measures which Governments intend to take for this purpose, having taken into account the Principles for Energy Policy set forth in Annex I hereto and the results of the IEA's country reviews;

(c) By reviewing systematically each year within the review process of the International Energy Agency:

The contribution of IEA countries to the achievement of the group objectives referred to in paragraph 1;

The continuing validity of the group objectives; and

The need for establishment of objectives for later years;

taking account of IEA countries' individual circumstances (including the timing considered appropriate for the implementation of energy policies), of the Principles for Energy Policy set forth in Annex I hereto, of the policies and measures stated in Annex II hereto, and of the need for ensuring equivalence of effort among all IEA countries;

(d) By accepting the need to further strengthen—by national action supplemented where appropriate by concrete measures for international cooperation and solidarity with due regard for the financial and technological implications—their policies and measures as may be necessary to meet the group objectives, taking into account the results of the reviews in the International Energy Agency.

ANNEX I

Principles for energy policy

1. Further development by each Participating Country of national energy programmes and/or policies which include the objective, formulated as specifically as possible, of reducing in absolute terms or limiting future oil imports through conservation of energy, expansion of indigenous energy sources and oil substitution.

2. Constant and careful attention to important environmental, safety, regional and security concerns to which the production, transportation and use of energy give rise, and improvement of the speed and consistency of public procedures for resolving conflicts which may exist between these concerns and energy requirements.

3. Allowing domestic energy prices to reach a level which encourages energy conservation and development of alternative sources of energy.

4. Strong reinforcement of energy conservation, on a high priority basis with increased resources, for the purpose of limiting growth in energy demand relative to economic growth, eliminating inefficient energy use, especially of rapidly depleting fuels, and encouraging substitution for fuels in shortest supply, by implementing vigorous conservation measures in various sectors along lines which include the following elements:

Pricing policies (including fiscal measures) which give incentives to conservation;

Minimum energy efficiency standards;

Encouragement and increase of investment in energy saving equipment and techniques.

5. Progressive replacement of oil in electricity generation, district heating, industries and other sectors by:

Discouraging the construction of new exclusively oil-fired power stations;

Encouraging the conversion of existing oil-fired capacity to more plentiful fuels in electricity, industrial and other sectors;

Encouraging the necessary structural adjustments in the refinery sector in order to avoid an excess of heavy fuel oil;

Directing efforts to the reduction of the use of heavy fuel oil as a primary energy source in those sectors where efficiency is low.

6. Application of a strong steam coal utilisation strategy and active promotion of an expanded and reliable international trade in steam coal, composed of the following elements:

Rapid phasing-in of steam coal as a major fuel for electrical power generation and in industrial sectors;

Further development of steam coal policies within producing, exporting and consuming IEA countries to support increased utilisation by enhancing market stability through reliable and increased export and import flows under reasonable commercial terms;

Development of policies to remedy anticipated infrastructure bottlenecks.

7. Concentration of the use of natural gas on premium users' requirements, and development of the infrastructure necessary to expand the availability of natural gas.

8. Steady expansion of nuclear generating capacity as a main and indispensable element in attaining the group objectives, consistent with safety, environmental and security standards satisfactory to the countries concerned and with the need to prevent the proliferation of nuclear weapons. In order to provide for this expansion, it will be necessary through cooperation to assure reliable availability of:

Adequate supplies of nuclear fuel (uranium and enrichment capacity) at equitable prices;

Adequate facilities and techniques for development of nuclear electricity generation, for dealing with spent fuel, for waste management, and for overall handling of the back end of the nuclear fuel cycle. (The following Delegations expressed individual positions regarding Principle No. 8, as set forth in the Conclusions of the Meeting of the Governing Board which adopted this Decision: Denmark, The Netherlands, New Zealand, Norway, Spain, and Sweden.)

9. Stronger emphasis on energy research, development and demonstration, including collaborative programmes, more intensive national efforts and greater co-ordination of national efforts, in order to make energy use more efficient and to meet future energy requirements. Each Participating Country should contribute to energy technology development, with emphasis on (a) technologies which can have relatively near-term impact, (b) policies which facilitate the transition of new energy technologies from the research and development phase to the point of utilisation, (c) technologies for broadly applicable renewable energy sources, and (d) investigation of whether there are technological possibilities for significant contributions from other renewable resources, through:

Providing the fullest possible financial support for energy research, development and demonstration;

Increasing participation in international collaborative projects to extend the effectiveness of funds available;

Encouraging investment in energy technology development by appropriate incentives;

Ensuring that R & D policies remain consistent with and supportive of the objective of ongoing energy policy.

10. Establishment of a favorable investment climate which encourages the flow of public and private capital to develop energy resources by appropriate pricing policies, by minimising uncertainties about the general directions of energy and other policies such as mentioned in Principle 2, and by providing government incentives where necessary, in order to:

Give priority to exploration activities including those in offshore and frontier areas;

Encourage rates of exploration and development of available capacities which are consistent with the optimum economic development of resources.

11. Providing in energy policy planning for alternative means, other than increased oil consumption, for meeting any development of supply shortfall or failure to attain conservation objectives, taking into account the appropriate requirements of economic development and social progress.

12. Appropriate co-operation in the field of energy, including evaluation of the world energy situation, energy research and development and technical and financial requirements, with developed or developing countries or international organisations.

JAMES SCHLESINGER, U.S. SECRETARY OF ENERGY, STATEMENT TO THE MEETING OF THE GOVERNING BOARD OF THE INTERNATIONAL ENERGY AGENCY AT THE MINISTERIAL LEVEL

Thank you, Mr. President.

Mr. President, you have stressed the gravity of the situation we prospectively face and I would like to underscore that point. Because each projection of supply/demand balance that we develop this year tends to be less favorable than the one we developed in the prior year. So that the point at which prospective demand for petroleum internationally exceeds that of prospective supply comes nearer and nearer. It now appears likely to manifest itself in the early 1980's. And therefore the question that was raised earlier with regard to access to supply is not only a matter of effective and favorable American policy. It is something that we are going to have to face ultimately. We may not be in a position in the middle 1980's, irrespective of other policies to guarantee access to supply at whatever price. The Secretary General, Mr. Van Lennep has urged us to formulate policies here today, and indeed we should. But we should also recognize that we already know what the policies must be. We already know what steps it is necessary for us to take. So it is less a question of the formulation of policies than a common determination, and a determination in each of the nations here represented to see that those policies are effectively implemented, painful as it may be internally.

And given the nature of our body politics, which are democracies, it becomes quite difficult to achieve the results of making sacrifices now against a goal which is in the somewhat more distant future. We already know what the substance of our policies must be, conservation, shifting to more abundant sources of supply, the more rapid development of alternative sources of energy. The problem of substance is not the principal problem that we face. The principal problem is one of sense of purpose, and the development of the political will in each of our countries to achieve that end. I speak for but one country. But I think that I have detected so far in the discussion some of the curiosity regarding the political will in the United States on this matter. It is, I gather, from your perspective like going to bed with an elephant. There is an apprehension the elephant might turn over and there is very little that one can do about it. And I can well understand some of the skepticism in the wake of the President's program. You have heard some of it before, starting with Project Independence in 1974. Project Independence was to reduce our oil import demand to zero. And it has not to this date been successful. President Ford's program was designed to reduce our external oil demand to 3 to 5 million barrels a day. We have not yet gotten there. So skepticism may be understandable on your parts. I think that there is a difference here, a number of differences that I will stress in regard to the President's program.

First, there is, I think, a clear-sighted recognition of the problem, and that it is not a problem that will be dissipated by rhetoric, by a wave of the wand. I think, secondly, that we recognize the very great difficulties in getting oil demand down to the level where we are a zero importer as we envisaged in Project Independence. And a much clearer recognition associated with that, that however great our own resources in the area of oil, they are limited. And, finally, we have established an objective which is hard. Let me stress that. It is hard given the character and the historical experience of the American people, who have been used to boundless expansionism and do not recognize readily finite limits. It will be hard to get down to the 5.8 million barrels a day import that the President's plan projects. But it is necessary. And let me stress that in a democracy the President has done something rare and unique: to ask for present day sacrifices to deal with the problem that goes well beyond the next election.

The problems with democracies are that they are inclined to get by with too little or too late and to put off the day of reckoning. The President has been prepared to pay the political costs. And I think that we will have success. I will come back to that in a moment.

You are all familiar with the program, which has been widely welcomed, far more widely and enthusiastically welcomed outside the United States than inside the United States. But it is designed from this standpoint to do three things: to reduce the rate of energy growth below two per cent a year; to curtail oil imports from a prospective 16 million barrels a day, were that oil available in 1985, to less than six million barrels a day and to reduce gasoline consumption by ten per cent. That means taking on the American motorist and that is a formidable force by itself. The only more formidable force that I know is the French motorist.

The important thing that I should state is that the goals have been generally accepted by the Congress and by the American people. There is an intellectual appreciation that indeed we have an energy problem. There was not that appreciation prior to January 20, or prior to the President's speech on April 18. Of course an intellectual appreciation is not sufficient. While many people recognize that somehow or other there is a problem, down in their viscera they have not necessarily developed the fortitude to deal with it. But we shall deal with that

presently. And we recognize that we have a unique responsibility. We have a unique responsibility for a number of reasons that I shall not bore you with. First, because of our size, secondly because of our national resources, resources that exceed that of other members of this group save those that border on the North Sea.

We cannot do it alone, as you know. It is necessary for us to have a high degree of cooperation from other states. We thoroughly endorse the goal of reduced dependence. That goal of reduced dependence—26 million barrels a day—will be dependent critically upon the success of the American experiment. Unless we are able to force consumption down to a level that requires less than six million barrels a day, quite obviously the 26 million barrels a day goal will not be achieved as a matter of policy. It will however, in all likelihood be achieved as a matter of brute force, because it does not appear now that there is going to be much supply in excess of 26 million barrels a day available to the IEA countries in 1985. If reality is forcing this policy upon us, let us accept it and consciously take those measures to deal with it, rather than to allow reality to creep up on us over the years and then suddenly overpower us with drastic implications for employment, inflation and for virtually insolvable balance of payments difficulties. There is one final point that I wanted to make prior to a brief discussion of where the energy program stands. And that is the necessity of nuclear power. That is enshrined in the President's program. There have been differences of view with regard to such matters as the timing of deprocessing, the character of reprocessing, the urgency of breeder development. But it should be clearly understood that in the American program nuclear power is regarded as indispensable. I think that in dealing with your own publics that this should be stressed, rather than what has occasionally been suggested that somehow or other the Administration in Washington is anti-nuclear. The program stresses total endorsement of the present generation of technology. The program also stresses, and I recognize there are differences of opinion in this regard, a certain caution and wariness before moving into the next generation of technology. But there is no question about the need to employ nuclear power more than we have in the past. I go back to the remarks of the President with regard to the gravity of the problem, the fact that our forecasts each year are more depressing than the previous year's forecasts and the very lively probability that whether or not we endorse a goal of 26 million barrels a day in 1985, something like 26 million barrels a day will be all that we will have to play with. So the policy will be continued emphasis on nuclear power.

And, of course, we intend to make much more use of our coal reserves. All of this reflects a slow and dawning recognition of the gravity of the problem that the United States faces.

Mr. Brunner, you have told us to send them a message. We shall certainly take advantage of that opportunity. But the message, at least in part, has been received. As you know, despite great skepticism, the House of Representatives acted on the President's program very quickly and very solidly. There were some elements that we removed. But within a matter of 90 days, a radical change in American policy was endorsed by the House of Representatives. Unfortunately at that time the Congress went into recess. And when the Senators went back to their States they encountered the representatives of the affected parties, as a result they came back into Washington somewhat more doubtful than exuberant.

Nonetheless, there is a momentum about this program such that it will be accepted in large part by the United States Senate. One can be deceived by reading the press today. Because in the press one sees stunning defeats in the headlines followed by stunning victories, up and down. There is much less action out there than one would infer from reading those headlines. We will expect to be reasonably successful in the program and we expect to have the legislation in place shortly. What we miss this year, we are going back for next year. Indeed, we chose in January and the following months to gauge just about what we thought we could get through, recognizing that what we were proposing was a moderate program, extraordinarily bold in relation to prior accomplishments in Washington, D.C. The goals were quite modest in terms of the gravity of the problem.

In subsequent years we will have to go back for additional legislation irrespective of whether we get the entire package. I do not expect to get the entire package, but I know that each year we will learn new things about technology, uncertainties will be resolved, there will be new opportunities to pursue. And as a consequence we will have to alter the composition of the energy package. But the President is fully determined to pursue this matter. We have the tools that are necessary for getting much of the work done and we will obtain the additional tools as they are required.

Let me reiterate. There is no question about the goals. The goals have been endorsed by the United States Congress. That means we are establishing a monitoring device so that any shortfall provides us with the justification to go back for additional legislation.

I have no doubt that in this matter we will gradually wear away the resistance. Indeed the resistance has been far less than we anticipated some months ago. Therefore I offer you these small hopes to dispel whatever skepticism you may have brought to this room, hoping that whatever skepticism that you carry away from this room will be much less than what you brought into it.

We are not doing this as a matter of virtue, but as a matter of necessity. We recognize that the United States probably is better able to compete for certain energy sources than other nations. That imposes upon us a greater responsibility.

We have the responsibility, it seems to me, to continue to play a leadership role in this matter as in other matters. And to the best of the ability of this Administration, we shall exercise it. That is part of our motivation. But the other part of the motivation is that we just have no choice. In the aggregate, the oil will not be available much beyond 1983 or 1985 or 1987 and we are all going to have to make this transition. We have about seven or eight years in which to make adjustments with some pain, but relatively painlessly. And that means that we begin now to take advantage of the time while we still have time to alter the capital stock of the United States in our case, to alter the capital stock of other countries, which is their responsibility so that we all become less oil dependent. Unless we do that, we will go on, slowly creating a capital stock that depends upon a continual rise in the flow of oil which will not be there, leading to gross wastage in future years and, of course, rising unemployment and a higher rate of inflation. These are fundamental problems. Democracy is a splendid form of government to live under, frustrating at times but, as Winston Churchill said, its advantages are not so clear until one looks at the alternatives. But democracy is a fragile form of government. And we are facing collectively and individually one of the most dramatic transitions through which the world and the economic world must go—transition away from cheap and abundant oil. Unless we take advantage of the time that we have and unless we wish to avoid going steaming into that wall in the middle 1980's, we will unleash, I fear, a degree of political and social unrest of a sort that we in the United States have not witnessed in the 1930's. I cannot refer to the experience of other countries; on the solution of this problem, rests the future of our free societies.

That is the fundamental basis on which the President has chosen to take action. It is a reflection of his commitment and his determination. We intend to carry it through. We cannot afford to fail. Thank you very much, Mr. President.

PADDY LIVINGSTON, DEAN OF BASEBALLERS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Ms. OAKAR. Mr. Speaker, it is with deep regret that I call the attention of the House to the recent death of a Clevelander who was one of the greats of early baseball, Paddy Livingston. At 97 years of age, Paddy had been the last surviving player of the inaugural season of the American League in 1901. He was a catcher, and he shared the field with many of the legendary figures of baseball, including Ty Cobb, Honus Wagner, and Nap Lajoie.

Earlier this year Paddy was interviewed by the Cleveland Plain Dealer, and his remarks show the tremendous spirit he had, and the delight he took in the game. In honor of Paddy, I would now like to insert into the RECORD a copy of the article which recounts this interview:

LIVINGSTON DIES AS DEAN OF BASEBALLERS

Paddy Livingston, last surviving player from the American League inaugural season of 1901, died Monday at St. John Hospital.

Livingston, who made his major league debut with Cleveland as a catcher in 1901, celebrated his 97th birthday Jan. 17.

Livingston's professional baseball recollections are especially striking in an era when major leaguers are signing million-dollar contracts.

He played only one game for Cleveland in 1901, then returned to his shipbuilding job here. He was next approached about playing for pay when 24.

"I didn't know anything about scouts," Livingston told Dan Coughlin in a recent Plain Dealer article. "This guy came up to me and asked if I'd be interested in going away. Pretty soon I got a letter from the Wheeling club. I wrote back and said I'd play for $150 a month. They said they could get any catcher for $100. I said you can't get this catcher. They gave me $125 and I went.

"Boys, what a year I had. I hit for two bases, three bases. I didn't hit many home runs. I caught. I ran like a deer and I threw."

Livingston went from Wheeling to Cincinnati to Indianapolis, where he made $400 a month.

"The next year they wanted to cut me to $300. I wouldn't go. I held out. So Indianapolis sold me to Philadelphia.

At Philadelphia Livingston played for Connie Mack, whom he came to idolize.

"They used to say that you had to be a Catholic to play for Connie Mack's Athletics, but that wasn't true," Livingston said. "We had about five or six Masons on the team. I roomed with one. George Burns. At night I'd kneel down next to my bed to say

my prayers and he'd get down on the other side. I'd say a Hail Mary and he'd be praying a lot longer than me."

Livingston played with Cleveland, Philadelphia, Cincinnati and St. Louis in the majors and for several minor league and sandlot teams.

He batted against Walter Johnson and threw to teammate Eddie Collins as Ty Cobb attempted to steal second. Honus Wagner, Chief Bender, Nap Lajoie, John McGraw and Cy Young were his contemporaries.

"They were gentlemen. All of them," he said. "There was no swearing and cursing in the locker room, not like today. There were no scandals."

Livingston never resented the salaries earned by modern players.

"The players are worth all they can get," he said. "I couldn't get it. I'm glad they can."

Mr. Livingston worked for 43 years in the City of Cleveland's bridge maintenance department. He retired in 1963.

He is survived by sons James J., Patrick J., Robert F. and John I., all retired; daughters Mrs. Ralph Hesland and Mrs. Emil Vistyak; 13 grandchildren, and 27 great grandchildren.

THE CONGRESSIONAL RECORD IS NOT A RECORD

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STEIGER. Mr. Speaker, had we taken up the Obey commission recommendations today, I would have spoken in support of making the CONGRESSIONAL RECORD an accurate reflection of our proceedings. This is an effort for which I have worked over the past 8 years.

Under the Obey commission recommendations, we would have made the first important step toward an honest record. During a 6-month trial period, statements not spoken in whole or in part on the House floor will be set off by use of a clearly distinguishable symbol preceding and succeeding them.

The fight for an honest CONGRESSIONAL RECORD is not a new one. I have worked for this since 1970. More than a decade before, the distinguished Senator from Oregon, Richard L. Neuberger, called for CONGRESSIONAL RECORD reform. In an April 20, 1958, New York Times magazine article, he made an articulate case for a verbatim record of proceedings.

Senator Neuberger's article is one of the most thoughtful and persuasive I have seen. The problems he detailed have only grown, and the Obey commission's proposals were the first firm step toward effectively dealing with them.

It is important to note that Senator Neuberger expressed concern that it cost approximately $1.7 million to produce the RECORD and that some RECORDS were as much as 256 pages long. The fiscal year 1976 cost of the RECORD was $14.6 million, nearly 10 times higher than 18 years before. A 256-page RECORD is commonplace; between fiscal years 1972 and 1976, the number of RECORD pages jumped from 38,500 to 51,000.

I hope his article will receive careful consideration by all who read the RECORD. It follows:

THE CONGRESSIONAL RECORD IS NOT A RECORD

(The public and history are entitled to a true account of what happens in Congress. But they won't get it, says a Senator, as long as members may revise the transcript at will.)

(By Richard L. Neuberger)

WASHINGTON.—In the tense debates over foreign policy and the domestic economy taking place these days beneath the stately dome of our Capitol, a member of the United States Senate often will explain that he is speaking primarily "for the record." This may be done to rationalize the lack of attention paid his remarks. On many occasions, however, it is undertaken by the sponsor of a bill to provide what he describes as "a record of legislative history," so that an executive agency or department of government, later administering the law under consideration, will have fairly precise knowledge of what the author of the act had in mind.

When these Senators use the term "record," they are not thinking of some nebulous chronicle or journal. They have specific reference to one particular record, and one only. This is the Congressional Record, which since 1873 has been the daily account of proceedings in our Senate and House of Representatives when they are in session. It is one of the most important publications in the land, for it is supposed to report faithfully the debates and discussions which shape the laws governing 171,000,000 Americans and their role in world affairs.

I use the word "supposed" advisedly, because the official transcript of debates in the Senate and House is frequently revised, amended, subtracted from and even embellished with lengthy additions. These changes occur before the transcript ever reaches the printed pages of the Congressional Record. Senators and Representatives are permitted to doctor and edit their speeches, virtually at will. It is for this reason that I have introduced a resolution to write into the rules of the Senate that "no changes of a substantive nature" can henceforth be made in the text of what is taken down by the Senate's staff of skilled shorthand reporters.

It is my hope and that of my lone cosponsor, Senator Gordon Allott of Colorado, that once the Senate adopts such a sensible and logical rule, the House will do no less than follow the example.

After a major debate in the Senate over an issue which stirs profound emotions, such as civil rights or foreign aid, I have seen many Senators sitting around a circular glass-topped table in the reporters' workroom, virtually rewriting the speeches and reports just delivered on the floor of the Senate. Some will totally expunge comments made in the heat of debate that may seem indiscreet or unwise in the cold, gray light of the next dawn and in the inflexible type of the Congressional Record. Others will be adding after-thoughts, which may furnish an extra fillip to a reply that was flat or ineffective when uttered under the duress of argument in the Senate chamber. This entire process of addition and revision has impelled one Washington wit to suggest that a United States Senator, or his counterpart in the House, is evidently the only person on earth who can sigh, "I wish I'd said that," and then actually say it!

Yet the privilege now vouchsafed Senators and Representatives of changing the Congressional Record has its grave and even alarming aspects. To some degree, the integrity of government is at stake. What is said on the Senate floor certainly helps to frame the content and tenor of our laws.

As a first term member of the Senate, I am particularly conscious of the impact of new facts and new ideas during debate. Legislators are as susceptible as anybody to startling claims and charges. Correspondents in the press galleries take down sensational or significant statements voiced on the floor, and flash them to newspapers and other outlets all over the nation. This, in turn, creates public opinion—the ultimate authority in a free land. Is it not absurd that many of these statements later can be edited, toned down or completely eliminated?

Indeed, the practice of altering the text of debate in the Senate and the House is so prevalent that it actually has been sanctified in the rules which regulate the publication of the Congressional Record. These even allow Senators and Representatives to take home transcripts of speeches delivered in the halls of Congress, to be leisurely reconstructed at the fireside in the presence of handy reference volumes and one's family and counselors. If this is not rewriting contemporary history, then what is it?

Let me emphasize that no personal opprobrium attaches to this practice, nor should it. The practice has become part of Congressional custom. It is now virtually second nature for a Senator or Representative to "revise" remarks which he uttered on the floor. Every member does it—frequently out of self-protection, because his antagonist in debate is quite likely to do so. The author of this article has done it, although he trusts he has done it with circumspection. The only way to end the habit is by a rule which cuts off the privilege of all legislators simultaneously.

So far as legal liability is concerned there are few holds barred in Senate debate. Under the Constitution, a member of Congress may not be required to answer in court for what he says in either chamber. This encourages many excesses. A Senator may compare the President of the United States to a convicted felon. A Senator can question the learning of a Supreme Court justice, the patriotism of a leader of labor, or the financial ethics of a corporation executive.

Such indiscretions cause a powerful ripple when they are spoken, and often they leave an atmosphere of controversy and bitterness for weeks thereafter. Is it right that they can be edited out of the Congressional Record? Senator Lyndon Johnson of Texas, Majority Leader of the Senate, has said that "there are few documents more important than the Congressional Record. Locked in its pages are the debates, the resolutions, the bills, the memorials, the petitions and the legislative actions that are the reason for the existence of the Senate. It is a document which affects our laws, our precedents and our judicial decisions." But would not the Record be of far more enduring value if it were immune to self-serving alterations?

When the rule proposed by Senator Allott and me is discussed in the cloakrooms, some of our colleagues express qualms that debate might be unduly inhibited if only grammatical corrections can be made before the transcript is set in type for the pages of the Congressional Record. Senators, they predict, may tend to tighten up and refrain from voicing their real feelings if every occasion in the Senate is to be governed by the words from the Rubaiyat: "The moving finger writes, and having writ, moves on."

To such warnings there may be some validity, but I believe they are canceled out by obvious advantages if the record written on the Senate floor is final. Men will count to ten before they give vent to the personal abuse and character assassination which have done so much to bring American public life into disrepute. If forbidding alterations in debate transcripts leads to a greater degree of restraint, is that necessarily bad? I would venture that our excesses in debate are worse than our inhibitions, such as they may be.

Undoubtedly a record which can be altered tends to encourage off-the-cuff remarks and so-called "horseback" opinions in debate, Senators are relaxed because the transcript can be doctored before a single issue of the Congressional Record is deposited in the mail sack. Yet is not the important fact what the Senators actually said in seeking to persuade each other in floor discussion prior to a roll-call vote, rather than what they subsequently want their constituents to think they said?

As I see it, the way to correct or improve an argument made in debate, if it proves inaccurate or reckless when read in type, should properly be in explanatory remarks spoken later on the Senate floor.

The very masthead, "Congressional Record," ought to assure rigid fidelity to truth and circumstances. Why else should the Government spend approximately $1,700,000 a year to publish some 43,000 copies of the Record?

The Record can be a tome of impressive proportions. During lengthy sessions, with both branches of Congress in operation, a single issue may total as many as 256 pages. This is by no means confined to actual proceedings on the floor. Actual debate may occupy less than half the space. Senators and Representatives routinely receive unanimous consent to print in the Congressional Record newspaper editorials, magazine articles, letters, telegrams, brochures, and even poetry which they regard as significant or meritorious. Such permission is rarely denied, because he who thwarts unanimous consent for a colleague may never receive unanimous consent for himself.

Thus members have included in the Congressional Record the entire text of Henry George's "Progress and Poverty," the French dueling code and a whole set of recipes for shrimp and other Louisiana table delicacies. I imagine there are few of us who always restrict our inclusions to the legislative business at hand. Essays about the history of the Pacific Northwest are my own particular weakness.

In the actual body of the Record, these inclusions may be of virtually unlimited length although, generally speaking, they must be germane to the matter under discussion. An appendix at the back of every issue, contains insertions which can be on virtually any subject but are held to about two printed pages in quantity—unless the member submits, at the time of his request for unanimous consent, an estimate from the Government Printing Office as to how much it will cost to publish his material.

Yet this restraint may readily be circumvented by separating voluminous documents into individual insertions of shorter length. On a single day last August, for example, a famous Democratic Senator of liberal reputation received unanimous consent to include in the appendix of the Congressional Record thirty-one separate pamphlets prepared by an anti-vivisectionist organization. Some members in both bodies use the appendix to publicize press releases from chambers of commerce in their districts or to herald prize-winning essays by local high school seniors. I have done the latter myself.

The House of Representatives allows far greater latitude even than the Senate in tolerating distortion of the Congressional Record. A member of the House can speak perfunctorily for two minutes on the floor and then receive unanimous consent to "revise and extend" his remarks. He later can transform such sweeping permission into an address of sixty-minute proportions, which is published in the Congressional Record as though spoken in its entirety on the floor.

These "phantom" speeches are nothing less than deception of the folk who see the Record back home. While we in the Senate enjoy considerable laxity in being able to alter the transcript of debate, at least what Senators change and edit was actually spoken in the chamber of the Senate. The practice by the House of encouraging "ghost" speeches is infinitely less defensible.

Despite its limited circulation, the Congressional Record enjoys an influential readership. Each Senator may send the Record free to one hundred of his constituents, while every Representative may place sixty-eight of the home folks on the mailing list. A paid subscription to the Record costs $1.50 a month when Congress is in session.

If my own mailing roster is at all typical, the Congressional Record goes to men and women in each state who are leaders in thought and opinion—editors, authors, teachers, school and college administrators, business executives, trade union officials, political party chairmen. I receive approximately four times as many requests for a free subscription to the Record as I am able to satisfy. Alas, few of these unrequited souls seem to want the Record eagerly enough to pay $1.50 monthly for the privilege; there is only a handful of paid subscribers in the entire nation—about 1,500.

My own readers of the Record frequently write to me about some passage which has won their fascinated attention. The letter can be a criticism that I seem to talk too much or a commendation for having said "just the right thing" when the Senate was considering national forest appropriations of urgent importance to Oregon.

This preoccupation with the Record might be still more intense if its readers realized the loving care with which it is edited by those professionaly entrusted with its publication. No group working on Capitol Hill is comprised more truly of career people than those who compile the Congressional Record. One reporter, the late Theodore F. Shuey, took down debates until he was 89.

James W. Murphy, 83 years old, the present chief reporter of Senate debates, is descended from a family whose members began taking down Senate proceedings as early as 1848, even before there was an official Congressional record of the kind published today. During that period, the Congressional Globe, owned by the private printing firm of Blair & Rives, disseminated Congressional debates in somewhat attenuated form. These elliptical summaries often left the reader suspended in mid-repartee, as it were. In spite of the Globes sketchiness, however, its reporters began to be paid at public expense in 1855. When the Government Printing Office was authorized five years later, it was merely a matter of time and patience until, in 1873, the publication of proceedings on "the Hill" became entirely a public undertaking.

Mr. Murphy who holds a law degree from Georgetown University, went to work in the Senate as a shorthand reporter in 1896. Regardless of his years, Mr. Murphy tries to read carefully every transcript taken down by his staff of six skilled shorthand reporters, who revolve their service on the Senate floor in hour-long shifts. This means that each reporter records debate for ten minutes out of every hour. He spends the rest of the time painstakingly reading his notes into a dictaphone, after which they are transcribed by an experienced typist. As a further precaution, the reporter reviews the transcript for accuracy before it ever reaches the desk of Mr. Murphy or of his chief lieutenant, John D. Rhodes.

Both of these men possess the authority and the knowledge to make such changes in syntax and grammar as seem necessary to preserve Senatorial reputations for profundity. Malapropisms in speech—but not in substance—are eliminated. Contractions get ironed out into finished phrases. Mr. Rhodes has told me that one of his favorite aphorisms is that of Mark Twain, who allegedly said, "The difference between the exact word and almost the exact word is the difference between lightning and the lightning bug."

It is the very diligence with which the Record is edited that has impelled me to introduce my resolution forbidding substantive changes in the transcript of debates. I am convinced that the transcript is as accurate as human effort can make it.

Can the Congressional Record be made a more popular avenue for circulating information about the principal policy-making arm of the American Government? I believe it can, and I would suggest these methods for doing so:

(1) There would be far more faith and confidence in the Congressional Record if the public knew, for a certainty, that the transcript of debate had to remain just as taken down by the reporters. Indeed, the inevitable added zest and controversy and slips and lapses could make the Record a far more lively and readable document.

(2) Too much extraneous material now clutters the main body of the Record. Actual proceedings on the Senate floor are all but lost in a vast mass of tables, letters and communications. This, in turn, adds to the forbidding size of the Congressional Record, so that the casual reader is discouraged from the start. I would restrict these inclusions to the appendix, which then could be printed separately once a week. In order to narrow the dimensions of the appendix, I would apply a ceiling to the amount of material any one Senator and Representative could ask to have published. Greater selectivity undoubtedly would be in the public interest.

(3) The Congressional Record might be made more prepossessing by indicating more clearly when a new participant is entering a debate. As the Record appears now, it requires virtual 20/20 vision to pick out at a glance the headings which separate one topic in the Record from another.

(4) Somebody like Mr. Murphy should have the authority to order the inclusion of charts or maps in the Record when they are fully justified—as, for example, the afternoon when Senator Allen J. Ellender of Louisiana addressed the Senate for three fascinating hours while he described the most extended tour ever made of Siberia during modern times by an official of the American Government.

None of these reforms will assure the Congressional Record an overnight popularity matching "Gone With the Wind" or "The Call of the Wild." But they could help to make it a far more readable and successful organ of free government at a time when such parliamentary bodies as the Congress of the United States face the sternest challenge of their whole existences.

SILVER JUBILEE OF SISTER CLARE O'KEEFE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. AMBRO. Mr. Speaker, on Saturday, October 15, 1977, the citizens of the town of Huntington, many civic and religious leaders, as well as the parishioners of St. Patrick's Church in Huntington, N.Y., will come together to celebrate the silver jubilee of Sister Clare O'Keefe as a member of the Dominican Sisters of Amityville.

For my colleagues who are not familiar with the Dominican Sister of Amityville,

this is a group of women who, under the patronage of St. Dominic, have long labored in the Catholic educational systems of both Brooklyn and Long Island. In tune with the trend of recent years, these women have also become increasingly involved in the community life outside of the parishes.

Sister Clare epitomizes both the traditional values and the new spirit which have been the hallmark of this order in that she is not only the administrator for religious education of a large suburban parish, a lector and eucharistic minister, but also a member of the town of Huntington's Consumer Protection Board, the chairperson of the Board of Directors of the Melville House for Boys, and a member of the Rockville Centre Diocesan Television Board.

Besides performing admirably in all of these functions, Sister Clare has found the time to obtain numerous graduate degrees including a masters degree in theology from Manhattan College, a masters degree in business administration from New York University, and presently is matriculating at C. W. Post College where she will soon be receiving a masters degree in counseling.

The town of Huntington and St. Patrick's Parish are blessed with her presence. I have nothing but the highest praise and regard for Sister Clare who has given of herself and her talents unselfishly, and I am proud to call her a friend. I salute her and congratulate her on her 25 years in the religious life and I commend her to this body as a model of dedication and enthusiasm.

TRIBUTE TO JULIAN BOND

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STARK. Mr. Speaker, I would like to take this opportunity to bring the work of the Muleskinners Democratic Club of Oakland, Calif., to the attention of my congressional colleagues. For many years the Muleskinners have been untiring champions of the Democratic Party in Oakland, performing every task from fundraising to getting out the vote in their community. Their assistance has been invaluable to many aspiring Democratic candidates, and in this work the Muleskinners have served the Democratic Party and their community with creativity, vision, and commitment.

This weekend the Muleskinners will be honoring Julian Bond—who has been of great assistance to many Bay Area candidates—in a testimonial dinner. Mr. Bond, currently a member of the Georgia State Senate and one of the foremost civil rights leaders of our times, has pursued his diverse causes with almost unequaled vigor and dedication. From his days as co-founder of the Student Nonviolent Coordinating Committee, his year-long battle to secure his rightful place in the Georgia House of Representatives, his cochairmanship of the Georgia Loyal National Democratic Delegation in 1968, through his current activities as—to name only a few—president of the Southern Poverty Law Center, State Senator, accomplished writer, and sometimes actor, Julian Bond has served as one of our country's leaders of conscience. He has lived, in the words of Daniel Berrigan, not in the comfortable center of our times in society, but at the farthest frontier—dreaming, daring, risking—living an out-front, authentic, caring, human life—only out of which human progress and fulfillment is possible. I wish to thank Julian Bond for his contributions to our times, and to applaud the Muleskinners for pausing to recognize his accomplishments.

PROPOSED RECORD STATEMENT HONORING MAYOR TOM CLARK

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HANNAFORD. Mr. Speaker, too often I find that deserving public officials perform their functions day in and day out while receiving little encouragement from their constituents or their peers. This sad fate has fortunately not befallen one servant of the people, namely Dr. Thomas J. Clark, the mayor of Long Beach, Calif., a thriving metropolis which constitutes much of the 34th Congressional District I represent.

Mayor Tom works quietly and effectively at his duties. No one of my acquaintance can recall a more responsible, thoughtful city leader for Long Beach than Mr. Clark has been. Republicans, Democrats, and political independents are united in praise of this man who has held the city's highest office since 1975.

Mayor Clark's public service career began in 1956 when he was elected President of the East Long Beach Lions Club. His further civic endeavors included memberships on the Long Beach City Park Commission, the Long Beach City Council—since 1966—and the State Board of the League of California Cities.

Most recently, the mayor was elected first vice-president of the Los Angeles County Division of the League of California Cities.

Numerous community organizations have seen fit to commend the mayor for his accomplishments. Long Beach City College last year placed the mayor in its "Hall of Fame." The Long Beach District Board of Realtors gave him a "People-to-People Service Award" for showing "outstanding civic responsibility." And the Toastmasters Club made Mayor Tom an honorary member as a "tribute to the qualities of his life which exemplify the attributes so valuable in those who dedicate their lives to civic duties."

In closing this brief tribute to a man who deserves still greater praise, I will state that it is sometimes better to let the words of others represent one's own thoughts. I hope my colleagues assembled here today will join with me in echoing the best wishes of those who have recognized the admirable civic spirit of Dr. Thomas J. Clark, mayor of Long Beach.

JACK C. VAUGHN—TEXAN

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. COLLINS of Texas. Mr. Speaker, last week Congress spent another busy week passing more and more laws. And as we were ending up on Friday, I heard about the death of my good friend, Jack C. Vaughn.

As soon as I got back to Dallas, Dee and I walked back down our alley to see Mary Jo Vaughn. As we turned into our neighbor's front door, I thought vividly that it is not the laws we pass in Washington that make America great. It is the men and women and their spirit that moves us forward. Last week we lost a good man.

Jack C. Vaughn was an outstanding Texan. As a young man just out of college, he was told he had a serious cardiovascular condition. He was advised to lead a sheltered life.

That was 30 years ago. During this period he has been a dynamic driving force active in every phase of our business and civic activities. He did not sit back, but instead stayed on the move every minute.

Jack called himself an independent oilman. His business interests were broad. He was a major stockholder in Vaughn Petroleum, Vaughn Building, Vaughn Capital, and Chama Cattle Co. He was on the executive committee of First International Bancshares, and the Dr. Petter Co. He was a large rancher, publisher and financier.

But Jack was also always in the forefront of every project in the community. He served on the board of Dallas Fine Arts, YMCA, Chamber of Commerce, Dallas Civic Opera, Wadley Molecular Medicine, Texas Board of Corrections, Southwestern Medical, University of Texas Foundation, St. Marks, Baylor Dental School, and the SMU Publications Board.

He was a member of Lovers Lane Methodist Church, Dallas Gun Club, YPO, William Bend Polo, Phi Delta Theta, and was president of Brookhollow Country Club. He was active in seven Petroleum trade associations.

As Dee and I extended our warmest sympathy to his wife, Mary Jo, and his children, Jack, Robert, David and Sharon, I thought of his full life. It was 30 years ago they told Jack to take it easy. But he was enthusiastic and wanted to get things done. He was never discouraged and always looked to the future. Jack C. Vaughn left a great record of achievement as he made every day count so that our community has grown and developed with his dynamic spirit.

FRANCES HARDIN

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 12, 1977

Mr. TALMADGE. Mr. President, we are all aware of the importance of education in the complex world in which we must live and work today. We very often lament shortcomings in public education and it must be said that there is good reason for concern in many areas.

However, we do not often enough recognize the dedication and hard work of teachers, without whom of course quality education would be impossible. Mrs. Frances Hardin of Sandy Springs, Ga., a classroom teacher for 27 years, has dedicated herself to quality education, and her good work was recently recognized in a local newspaper article.

I commend Mrs. Hardin for a job well done and ask unanimous consent that the article about her be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHE TRAVELS FOR BENEFIT OF OTHERS

(By Martha Sutton)

Being a school teacher is not all bad.

Dodging paper wads and saying "please be quiet" for the one-millionth time might not be everybody's cup of tea, but it does have definite advantages.

Like having summers off.

And for a great number of educators, the annual sabbatical means a chance to broaden their own education through travel.

Frances Hardin, a former social studies teacher at three Sandy Springs elementary schools and now a librarian at Northwestern Elementary, made the "wild-eyed" discovery in 1962 that learning geography out of a book and seeing it first hand are entirely different "animals."

That was when the Sandy Sprines resident made a three-week bus tour through the Western United States. Now, she hasn't stopped traveling since.

"I thought I went to the end of the world," Mrs. Hardin exclaimed. "For the first time I realized the relationship between geography and occupations, between geography and how people live."

She came back with a new enthusiasm and firsthand knowledge which she imparted to her students.

Since that time her worldwide travels have evolved into a series of lectures illustrated by color slides.

Mrs. Hardin is in demand as a speaker by such groups as Kiwanis, Golden Age Clubs, garden clubs and summer camps. She is listed in the Metro Council of Speakers. Also a member of the Audubon Speakers Group, she served as naturalist this summer at an Audubon Colony at Cedar Mountain near Brevard, N.C.

She has made presentations at the University of Georgia and on WETV, the Atlanta-Fulton educational station.

And when traveling, Mrs. Hardin goes with a purpose.

"I'm so pleased to use my travels for educational purposes," she exclaims. "In fact, I wouldn't travel at all were it not for the opportunity to enrich others. I'm always in hope that someone will take what I have brought back, be inspired and enlarge on it."

Mrs. Hardin studies curriculum needs and tailors her photography while abroad to meet those needs.

"If the sun is shining, I take my own photographs. If it's not, then I by a photo." She uses whatever means available, including photographing from other texts, to complete the study of a country.

The garage and closets of her Sandy Springs home are filled with cassette boxes marked with the names of countries and with filing cabinets full of information. Her slides are numbered and recorded so that any one is instantly available.

For instance, a teacher might want her students to see the Olduvai Gorge, where scientist Mary Leaky discovered the remains of the oldest man. Mrs. Hardin can not only provide the slide, but firsthand knowledge from having been there.

Following her initial trip, which took her to the American West, the social studies teacher took a 56-day trip to Europe, sailing both ways.

She signed up for programs like "Meet the Irish" so that she might visit homes, talk to members of chambers of commerce and make contacts with community leaders.

Mrs. Hardin, who has taught social studies at Liberty Guinn, Guy Webb and James L. Riley elementary schools, made other trips to Scandinavia and to the Iron Curtain countries, Czechoslovakia, Hungary and Yugoslavia.

She has also been on excursions to the Middle East, the Orient, India, Nepal and Kashmir, the Caribbean Islands and Central America.

From the outset, she incorporated her travels into her teaching.

She has carried all her own food into the Himalayas, as Hillary did, and fished for salmon on the Alaska Peninsula at Brooks Fishing Camp, the northernmost point in Alaska. It was in this Eskimo Village where she stayed in a nine-room hotel run by the man who sent out the search party after Will Rogers and Wiley Post.

J. T. Hardin, husband of the world traveler "would not budge" as far as traveling was concerned during most of the 30 years the Hardins have been married. But he finally did manage to tear himself away from his work recently, long enough to make a trip with her to Hawaii.

Mrs. Hardin says he fell in love with the islands and she thinks persuading him to do more traveling will be easier from now on.

THE WORDS OF PEGGY WILLIAMS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. WALKER. Mr. Speaker, I would like to share with you and my colleagues the words of a lady named Peggy Williams.

A recent article published in a newspaper in my district speaks of the many fine activities of a rare kind of individual. Peggy Williams is a victim of multiple sclerosis. Also, she has recently been named the "Outstanding Young Woman of 1977" by the Pennsylvania Jaycettes. The article fully outlines the vitality and zest for life that has led this handicapped person to work to ease the pain of many other human beings, similarly afflicted and fortunate enough to come in contact with her in the community of Lebanon, Pa.

Her work is a public service of the highest and most worthy caliber. As public servants ourselves, I believe we can all receive a great deal of inspiration from her words. While a victim herself she is fiercely working to conquer multiple sclerosis.

(By Peggy Williams as quoted by the Lebanon (Pa.) Daily News)

Try your best to ignore the stares and remarks of others. Instead, try to concentrate on your personal appearance. Self-consciousness depresses the spirit, so develop a good sense of humor, self confidence and a sense of independence.

Finally, draw on your spiritual resources for strength in time of need. Light a candle rather than curse the darkness and cherish everything that reinforces your determination to keep going.

I have to keep busy. I don't need time on my hands to think about my aches, pains and frustrations. So I keep busy and I pray.

I'm thrilled with my job. I'm doing something that suits me beautifully, helping others like myself and helping to find a cure for MS.

IDI AMIN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. DORNAN. Mr. Speaker, on September 11, CBS' "60 Minutes" broadcast an interview with Henry Kyemba, former Cabinet official and personal secretary to Ugandan Dictator Idi Amin.

In May of this year, Mr. Kyemba narrowly escaped being the sixth appointed minister to be murdered by Amin.

Kyemba's description of Amin, of the brutal murder of Ugandan civilians—estimated to be between 150,000 and 300,000—of the religious genocide directed against Christian tribes and Moslems, and of the terror which grips and rules Uganda confirms the worst of press accounts.

Kyemba describes Amin as timid and fearful. This is not so surprising when one recalls that mankind has before been oppressed by such men whose strength lies in the terror they wield and whose power is bought from the palace guard and sycophantic advisers. Amin is no different. His death squad, the State Research Bureau, is recruited from southern Sudanese tribes and paid to do his bidding with new cars, rich food, wristwatches, and fancy clothes. This praetorian guard orchestrates midnight raids on homes and villages, mutilates and dismembers bodies throwing their remains to the crocodiles, and orders prison inmates to smash the skulls of fellow inmates with sledgehammers. Amin's taste for blood is literal, he often boasts of how on several occasions he has eaten human flesh. Suffering from fits of rage and anger he is consumed with paranoia and its recipients are family, friends, and the population at large. Finally, we have all come to learn that Amin, wounded from the embarrassment of the Israel raid on Entebbe, ordered the execution of the lone remaining hostage, the bedridden, 70-year-old Mrs. Dora Block.

In the face of all Amin's barbarism, mass carnage, and suppression of basic

human freedoms, the world stands idly by, and the United Nations remains conspicuously quiet. Black African nations struggling for world political and economic equality, shamefully sanction Amin with their silence or an occasional standing ovation for a modern two-bit Hitler—last OAU meeting. It is long overdue for the United States, for this Congress, to do more than condemn the Amin regime with words.

Although the United States severed diplomatic and economic relations with Uganda nearly 4 years ago, U.S. dollars continue to support its government. U.S. coffee imports alone provided one-third of Uganda's total export earnings. Even worse, the United States has experienced a 33-percent increase in Ugandan coffee imports for the first half of this year over the same period of time last year. There is also evidence that U.S. companies are providing Amin with airplane parts, communications equipment, and luxury goods like cigarettes and liquor. These luxury goods and the cash from export sales are what Amin uses to pay his mercenaries, to buy military equipment from the Soviet Union, and to enrich his own personal fortune.

If we can further put the "economic squeeze" on Uganda then we may well contribute to toppling his government of which gifts and payoffs are vital to its mainstay. I have cosponsored and wholeheartedly endorsed Congressman DON PEASE's three-part legislative program of economic boycotts. One bill would prohibit the importation of Ugandan goods into the United States. A second would amend the Export Administration Act to stop U.S. exports to Uganda, and the third would amend the Tariff Act to establish a ban on Ugandan coffee imports into the United States.

I believe the American people would agree that a small increase in the price of coffee and an overall insignificant loss in export sales is more than worth the possible liberation of an oppressed people. More than that, though, this legislative packet represents a moral commitment by the Congress and the public to squash the fires of totalitarianism around the globe.

Mr. Speaker, I ask unanimous consent that the "60 Minutes" interview with Henry Kyemba be made part of the RECORD and I commend it to my colleagues' attention. Mr. Michael Wallace shows again in this incredible interview that he is without peer as an electronic journalist. For over a decade I engaged in this fascinating profession of television interviewing and I have never, repeat never, witnessed a more skilled artisan at work than Mike Wallace. He is truly the greatest. Read in horror what must have been his most shocking task ever as a prober for facts and truth.

[60 Minutes Interview]

KYEMBA AND AMIN

MIKE WALLACE. Fifteen high government officials or businessmen were executed two days ago in Uganda—convicted by a military tribunal of plotting against Uganda's President Idi Amin. Public executions are common in Uganda. Henry Kyemba, who was Amin's Minister of Health, told us these latest executions were just a continuation of the atrocities directed by the African dictator. He also told us that reports that Amin had been in a coma last week after an operation were just not true.

Kyemba had been Amin's personal private secretary before joining the cabinet. Living now in exile in Great Britain, after six years with Amin, he has written of his experiences in a chilling new book, to be published shortly in the United States. It is called *A State of Blood*. Kyemba left Uganda last May. We spoke to him recently in London.

Mr. Kyemba, how many killings do you believe have taken place?

HENRY KYEMBA: My estimate of the killings up to now is roughly a hundred and fifty thousand. Amin has killed everybody. Not only Christians, he has killed Moslems. He has killed the intelligentsia. He has killed the uneducated. He has killed women and children. He'll order to kill when he's having a cup of tea with you or having steak with you on a table.

WALLACE. You've heard him give those orders?

KYEMBA. I have heard him and I—I have known it to have been executed. He's ordered people to be killed with such phrases as, "Give him V.I.P. treatment."

WALLACE. The State Research Bureau, which is responsible for at least some of the killing. That's a mild and academic sounding euphemism for what is, in effect, the secret police, or his own private police force.

KYEMBA. Belonging to the State Research Bureau in Amin's government really means that you are licensed to kill without fear of being accountable for whatever action you've taken. They can kill in public, in full view of television cameras, anywhere, and nothing will be done about it. Most of the people in the State Research Bureau are not Ugandans. They are recruited by Amin from the southern Sudanese tribes.

WALLACE. If that is so, how are they paid? How much are they paid?

KYEMBA. Their wages are insignificant. They'll murder you. They'll murder anybody. [Gunshots] Loot his property. Take all the money from your account, as much as they want, and go back to the Sudan.

WALLACE: One hears that prisoners sometimes are given sledgehammers, and that they have to batter each other's heads in, sometimes in the sight of their own families, and then the last survivor is shot.

KYEMBA. My brother was killed in almost exactly the circumstances you described. He was taken to that headquarters of the Public Safety Unit when they are battering the victims as if they are killing chickens.

WALLACE. Mr. Kyemba, you stayed on with Amin from the very beginning, right through almost six years, until just last May. You knew about the atrocities. Why did you stay?

KYEMBA. I knew that, given my personal relationship with Amin, I might be able to restrain the excesses of his regime.

WALLACE. Yes. But you also got a—an anonymous letter which, my understanding is, said, "You're next!"

KYEMBA. That's true. It certainly was the catalyst, but I had already made my decision to leave.

WALLACE. Amin has said that you channeled government funds into what he called "a very fat bank account abroad". And one of his aides says that if Kyemba did return to Uganda, he would have a lot of charges to answer. You know that?

KYEMBA. I've heard about it. It doesn't surprise me. Amin knows very well when he says this sort of thing that there is no truth in what he says—because he would be the first person to send you a copy of the evidence he has got. And I wish you had any—the slightest evidence of what he has said. I don't have to answer that.

WALLACE. Do you fear for your life even though you are out of Uganda?

KYEMBA. Amin is stupid enough to try and channel some of the millions of dollars he keeps to some people to try and harm me. He sent his intelligence chap to London to find out where I was living, and he was stopped at London airport. He possibly will try through some other channels, but I'm taking care of myself.

WALLACE. You write that Amin, literally, has a taste for blood. What do you mean?

KYEMBA. I mean literally. He has admitted to me that he has tasted human meat, not once, not twice, and I believe it. He has described it in the presence of other people how he has tasted human meat, and how it tastes salty compared to some other meats and more salty compared to others.

WALLACE. Well, why would he want to brag about cannibalistic tendencies, if you will?

KYEMBA. I wouldn't call it mere bragging. It is something that he feels that has got to be known by those around him.

WALLACE. Is he himself a courageous man?

KYEMBA. Surprisingly not. Amin is very timid. He hides his cowardice into this fury where he orders the killing. But when fighting starts, Amin is the first to flee.

WALLACE. You have talked very soberly, Mr. Kyemba, and you have said that you will not say anything that you do not know to be true. What you are telling us now about Amin's cowardice you know to be a fact or you believe?

KYEMBA. I know this to be a fact. In 1969, when there was an attempt on Obote's life, when Amin's own soldiers ran to his house to tell him that the President then had been—an attempt had been made on his life, before he had stood to see what was happening, he was over the barbed-wire fence tearing his feet and fleeing 20 miles away into hiding. He had to be persuaded to come back later for the hospital to dress his wounds. These wounds I saw. When the fighting started at Entebbe during the Israeli raid, one of Amin's own close relatives telephoned us to say Amin had gone into hiding. This is the Field Marshal who masquerades as the most powerful and courageous man in the world.

WALLACE. We've heard so much about Entebbe and Amin's humiliation that the Israelis were able to fly in and take out the hostages under his very nose. What actually happened to Dora Block, the woman in her seventies, who was in the hospital after the rest of the hostages had been flown back to Israel?

KYEMBA. They snatched her from the hospital bed, leaving her handbag, her stick and her dress behind. They took her in the hospital gown, forced—ran her downstairs to the waiting cars, in full view of people in the casualty department. Everybody was running to this—out of the wards to see what the old woman was—what was being done to the old woman.

WALLACE. She must have been protesting?

KYEMBA. She was protesting. Nobody could raise a finger because they would turn their guns on the people who—who were coming in to assist. They've seen this sort of thing time and again. It was not the first time it had been done.

WALLACE. And so she was simply spirited away, murdered?

KYEMBA. She was spirited away, and within a short while everybody knew she would be a dead woman.

WALLACE. When you learned about this, what did you say to Amin? What did Amin say to you?

KYEMBA. I telephoned Amin within minutes of my being informed that the State Research boys had been to pick up this old lady. And he just said: "Oh, is that so? I will check." I knew he knew fully well what mission he had sent these people to do. Those people could not have gone into my hospital to pick out a 75-year-old woman and murder her without Amin knowing it.

WALLACE. Amin had been such a friend of Israel, and then five years ago—[snaps finger] almost like that—turned his back on Israel, ordered all Israelis out within three days, and developed this relationship with Muammar Qaddafi, the leader of Libya. What is that all about?

KYEMBA. Amin is a mercenary.

WALLACE. A mercenary?

KYEMBA. He—A mercenary. He will sell himself to the highest bidder at the first opportunity. Israel was not in a position to pay for his armaments. Libya was.

WALLACE. Do you have any idea how much money he has amassed?

KYEMBA. Millions of dollars.

WALLACE. And where does this money come from, Mr. Kyemba?

KYEMBA. Uganda produces a lot of coffee.

WALLACE. Yes.

KYEMBA. A lot of cotton. A lot—most of the coffee is bought by the United States of America. Amin's planes are serviced in the United States. He has got Boeings, C-130's, Gulfstreams, all maintained and serviced in the United States, with American crews. It is, certainly, ironical to find that the United States, a country with such a standard of human rights, should maintain one of the greatest tyrants in Africa today, while at the same time it is attacking the Soviet Union on human rights, and attacking Rhodesia on mistreatment of the black man.

WALLACE. What you seem to be saying is that the American policy towards Uganda is somewhat hypocritical?

KYEMBA. Absolutely. It is—It is hip—hypocritical in the sense that action is lacking on behalf of the Administration. We've had very nice words from President Carter and from Andy Young. They've said they hated Hitler, there is no reason why Amin should be loved. That is absolutely fine, but we still wait to see what action the United States is doing in this regard.

WALLACE. Should we expect Idi Amin to show up at the General Assembly meeting of the United Nations this year?

KYEMBA: Amin will try to put in an appearance—attend a meeting where he could possibly bring the meeting into disrepute. The United Nations has been absolutely inactive as far as Amin's atrocities are concerned.

WALLACE. Why?

KYEMBA. Well, Amin has been able to play for time, and the United Nations has been too preoccupied with the killings going on in Rhodesia and South Africa, and has completely forgotten the killings going on in black Africa.

WALLACE. You mean that Idi Amin is worse, if you will, than Ian Smith of Rhodesia and John Vorster of South Africa?

KYEMBA. How many people has John Vorster and Ian Smith killed? Or both of them put together? Amin has murdered no less than five of his own appointed ministers. Amin regards the entire country of Uganda as his own household, as his own bank. And any money that comes into the land—country is regarded as Amin's own money.

WALLACE. What does he do with all of this money?

KYEMBA. Well, Amin believes that, for his own security, for his future, he must carry millions of dollars with him and keep it readily available.

WALLACE. Now, wait—millions?

KYEMBA. Millions of dollars available for his use. We've heard him call out in the cabinet room to an official to get ready five or six million dollars, ready before he leaves for the United States when he went to address the United Nations Assembly. He told us in the cabinet that he needed this money because he was—he had some special mission to pay off certain people in the United States. He called it out—with all of us watching him, and we couldn't believe our ears that he's talking about five million dollars as if it is five, ten dollars—

WALLACE. Do you have any idea who he was going to pay off in the United States, or was the—just payment for services rendered, or for an airplane, or—?

KYEMBA. Well, Amin has got many contacts in the United States, and I believe this is where the money's spent.

WALLACE. On a broadcast recently, I saw a group of black journalists who had just returned from Uganda. And during the time that they were there, there was even an interview with Amin. And what they said, in effect, that life in Kampala, life in Entebbe, was calm. There was no terror. They seemed to give the lie to everything that we have heard, and certainly everything that you have said.

KYEMBA. Amin was under heavy pressure by the world press, and an attempt was made to improve his tarnished image. The 11-million Ugandans cannot accept that, by the black American journalists enjoying a free ride to Kampala and the hospitality of the Ugandan people on the blood of their brothers and sisters, and running back to the United States to tell the world, on the programs you referred to, does any—any good to the black race just because Amin happens to be black.

WALLACE. The fact is that Idi Amin has waged an expensive campaign to win the hearts and minds of black American journalists. He has flown numerous black reporters, all expenses paid, to Uganda, and apparently he has persuaded some of them. Assorted black-owned newspapers and radio stations have published considerable pro-Amin material. For just one example, New York's Amsterdam News. Their reporter, Carlos Russell, writes: "I did not feel the sense of oppression or terror which has characterized the negative diatribe prevalent in the Western press." And he went on: "President Amin possesses the street sense and strength of Malcolm X, the flamboyancy of Adam Clayton Powell, the fervor of Dr. Martin Luther King." There has been similar favorable coverage in The Bilalian News, distributed nationwide by the World Community of Islam in the West, formerly known as the Black Muslims.

Though each of the major U.S. black groups has come down hard against the regimes of Ian Smith of Rhodesia and John Vorster of South Africa, not one has taken an official position on Idi Amin's government. The NAACP, the SCLC, the Urban League, even the Congressional Black Caucus plead insufficient firsthand knowledge of conditions in Uganda to warrant their coming out against him. Certain black leaders, as individuals, notably Vernon Jordan, Roy Wilkins and Bayard Rustin, have come down hard on Idi Amin. But it is a fact, as Henry Kyemba told us, that there are those in America's black media and black leadership who have, so far, seen fit either to praise him, or to remain silent.

STATEMENT OF THE HONORABLE PAUL G. ROGERS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ROGERS. Mr. Speaker, on August 5, 1977, I introduced H.R. 8891, the Drug Safety Amendments of 1977, legislation which would significantly revise the existing treatment of drugs under the Federal Food, Drug, and Cosmetic Act. Today, I am joined by six other members of the Subcommittee on Health and the Environment, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, and Mr. WALGREN in reintroducing this legislation.

This measure will not only assure that drugs on the market are safe, but also will provide the individual with valuable information on specific prescription drugs in the form of patient package inserts, will provide the public with far greater information as to the reasons for the approval of specific drugs, and will assist the Food and Drug Administration in speeding the approval of important new drugs. The subcommittee expects to schedule hearings on this proposal in the near future.

ON U.S. INVOLVEMENT IN THE ULSTER ISSUE

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. CAPUTO. Mr. Speaker, at present the Carter administration is contemplating the possibility of U.S. involvement in the conflict currently taking place in Northern Ireland. Past experiences of American involvement abroad have taught us that before any successful action can be taken, we must have a clear understanding of the nature of the specific circumstances of the individual conflict in question. Vietnam was a clear example of the disasterous effect an intervention policy can have on a situation if we fail to understand fully the situation involved.

In an effort to prevent the repetition of this mistake, I would like to enter into today's RECORD a copy of a letter which appeared in the Letters to the Editor section of the September 7 New York Times.

Mr. Paul Towers' letter, dated August 30, 1977, is a fine example of the insight necessary on the formulation of any policy of foreign involvement. I would highly recommend to the administration that a great deal of study precede the formulation of any policy of involvement in Northern Ireland.

The article follows:

ON U.S. INVOLVEMENT IN THE ULSTER ISSUE

To the Editor:

Media reports of discussions within the Carter Administration and between it and the British and Irish Governments reveal that the United States may become involved in Northern Ireland. The critical question is how should Washington become involved. It would be counterproductive for American values and interests for the United States to provide economic aid to Northern Ireland or to encourage American investments there. The area is in conflict for political, not sectarian or economic reasons. These political reasons should be addressed first.

The Irish dimension of Northern Ireland should be recognized again by Britain as it did at the Sunningdale conference in late 1973. Even more important, the United Kingdom should be encouraged to declare its intent ultimately to withdraw from Northern Ireland with a view to facilitating Irish reunification. The largest party in Ireland, Fianna Fail, now governing in the Irish Republic, has periodically called for such a

British declaration. The risk of a civil war during a transitional period has been exaggerated. The long-settled unionists (Crown adherents) of Northern Ireland are entitled to a respected place in an all-Ireland state. Recent secular changes in the Irish Constitution and the growth of pluralist attitudes throughout Ireland suggest that a climate of toleration and mutual respect under the rule of law can be obtained in a united Ireland.

The Ulster problem is international and should be perceived as such. The creation of Northern Ireland in 1920 was an act of a paritially disengaging Britain that produced a majority community of unionists—who previously were a part of the unionist minority in Ireland. One-fortieth of the British electorate, the unionists of Northern Ireland, are not perceived as British by the Westminster regime. Indicative of the non-British nature of Northern Ireland, special legal, political and economic arrangements obtain in the center's direct rule of the periphery. Good-will central efforts have been made to narrow the community relations gap in Northern Ireland and to reform administrative performance and social practices. Yet violence and polarization persist, and the periphery of 1.5 million persons is guarded by 32,000 military forces, draining British resources without contributing to a long-term solution. Symptoms have been treated. Systemic issues have been neglected.

Supporting decolonization in Southern Africa and seeking a long-term settlement in the Arab-Israeli dispute, the United States is entitled and obligated to try to shape decisions in the Anglo-Irish context which look toward peaceful change consistent with the history of decolonization in many parts of the world. Economic aid for Northern Ireland will serve only to advance economic differences throughout Ireland and to strengthen forces in both communities of the area who for different reasons wish to perpetuate division and confrontation.

There is no overriding reason why Anglo-American relations should suffer if the United States were to raise basic political questions inherent in the Ulster issue with the oldest parliamentary democracy. Britain has led the way elsewhere in accepting nonviolent changes in vexing territorial situations inherited from the past. The United States has a voice, if it will use it.

PAUL F. POWER.

PITTSBURGH CHAMBER OPPOSES WATERWAY USER TAX

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. GAYDOS. Mr. Speaker, in the near future, it is expected this House will consider legislation that will have serious implications for users of the Nation's inland waterways system.

I would like, therefore, to insert into the RECORD for the attention of my colleagues a copy of the official position on this issue as taken by the Greater Pittsburgh Chamber of Commerce. It is the contention of the chamber a waterway user tax could have grave economic impact on western Pennsylvania, an observation with which I wholeheartedly agree.

The material follows:

WATERWAY USER TAX

The Greater Pittsburgh Chamber of Commerce supports a balanced national transportation policy which includes adequate Federal support for inland waterways. A waterway user tax could have grave economic impact on Western Pennsylvania and should be fully studied before being imposed in any form.

I. THE ISSUE

Senator Domenici (R., N.M.), has introduced S. 790 which would provide for the replacement construction of Locks and Dam 26 and establish an inland waterways users fee. Opponents' pressures have delayed the badly needed construction of the Locks and Dam resulting in a court order requiring a congressional mandate for any construction projects. This court order in turn has halted major reconstruction on the badly deteriorated locks and dams in the Pittsburgh area—especially Locks and Dam 3 on the Monongahela which is 70 years old. The bill (S. 790) has been ordered reported to the senate floor by two committees to which it was jointly referred. There are now two versions of the waterway user charge issue for senate consideration. The full Committee on Environment and Public Works has reported a version which calls for the immediate authorization of Locks and Dam 26 plus a user charge to recover 100% of all waterways operation and maintenance phased in over five years.

The second version of this bill has been reported by the Senate Committee on Commerce, Science and Transportation with an amendment by Senator Russell Long which deletes a waterway user charge stipulation and requires that a $5 million study of the impact of user charges be completed by January 1979.

II. THE CHAMBER'S VIEW

The Greater Pittsburgh Chamber of Commerce supports a balanced national transportation policy and believes that this must include adequate federal support for inland waterways.

While all modes are needed and used in industry, the tri-state waterways are vital to the economic life of the area. The Monongahela River carries more tonnage per mile than the famous European rivers—Rhur, Rhine or Thames. About 80% of America's coal is mined in the states on either side of the Ohio River. Because our rivers provide efficient transportation between the coal mines and the coal consumers, our local steel mills pay about 15% less for their coal allowing them that thin competitive edge with foreign producers. Local power stations also benefit.

The rivers provide the only practical means of transporting the massive amounts of coal consumed by the steel industry and in fact are the only way many local mines can ship their coal to their customers.

The steel consuming regions of the south and the southwest are prime targets for overseas steel mills. Unless the Pittsburgh area mills can ship their steel down the river by barge load, it will be as much as $20 a ton more difficult to compete with foreign producers. Therefore, an inland waterways tax would put local industry at a serious competitive disadvantage and affect other industries in the Pittsburgh area as well.

Not only is river transportation providing the most energy efficient mode, but it also causes less air and noise pollution as well as having the best safety record.

Any of the several Waterway Tax proposals, whether they advocate a ton mile tax, lockage fee or fuel tax will be a severe blow to Western Pennsylvania industry and crippling to the State's economy. Since Pittsburgh is 470 miles further from the Gulf ports than our Chicago competitiors, and some 800 miles further than the St. Louis industrial area, any user charge will tend to shift future industrial expansion from the Pittsburgh district to these areas. Likewise, a similar effect will result if the curtailment of waterway traffic caused by system deterioration is allowed to continue.

The Chamber therefore urges adequate federal support of the inland waterways be made available but cautions against the establishment of any waterway user charge/tax until such regional economic impacts have been thoroughly assessed as proposed by the Senate Committee on Commerce, Science and Technology.

III. THE OTHER SIDE

Proponents of the Waterway Users Tax argue that waterways should be self-supporting with regard to costs of operation and maintenance, amortization of capital investment and interest on unamortized investment. They claim the tax will help to eliminate the economic distortions which result from varying degrees of governmental support in the transportation industry. Failure to apply user charges equitably to all modes of transportation impedes competition and prevents rational economic growth in transportation.

IV. RECOMMENDED ACTION

(A) The Chamber Board of Directors should approve and endorse the above stated policy.

(B) At the appropriate times, letters in support of position should be sent by designated members of The Chamber to the appropriate public officials.

(C) Chamber members well versed in this issue should be prepared to give public testimony supporting The Chamber's views.

A PROTESTANT CLERGYMAN VIEWS ABORTION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HYDE. Mr. Speaker, on August 16, 1977, the Washington Post printed an interesting article by Wesley Seminary Dean, J. Philip Wogaman, entitled "Abortion as a Theological Issue."

An excellent response to this article was written by Dr. Harold O. J. Brown of the Trinity Evangelical Divinity School, Deerfield, Ill. Dr. Brown is a leading Protestant clergyman and author, and since the Post declined to published his article, I thought it might be useful to share it with my colleagues.

ABORTION A QUESTION OF FORMALISTIC TRIVIALITY?

(Harold O. J. Brown)

From the perspective of those of us deeply committed to the right of the developing child to life, one of the most frustrating features of the pro-abortionist party is its apparent determination to turn what for us is an inescapably burning question of life and death, of the dignity and ultimate meaning of human life, into a series of legal or formalistic issues. The recent column by Wesley Seminary dean J. Philip Wogamon, "Abortion as a Theological Issue" (The Post, August 16) furnishes a good example. Dean Wogaman's essay is part of a serious effort being made by a small, distinguished group of ethical scholars to counteract what seems to be a growing swell of anti-abortion sentiment in the Congress, the courts, and among the general populace. (Lest it be thought

that this represents the overly-optimistic assessment of an anti-abortionist, let it be noted that Wogaman, together with my former teacher James Luther Adams and several other similarly-famed ethicists, have expressly cited this swell as the reason for the recent publication of their "Call to Concern" in opposition to the Hyde Amendment banning the use of federal funds for elective abortion.)

Anti-abortionists have frequently found fault with the major news media for what we see as tendentious reporting—for example, the frequently-made statement that *Roe v. Wade*, the major 1973 Supreme Court pro-abortion decision, permits abortions "early in pregnancy." So it does. But it also permits them late in pregnancy, indeed right to live birth, provided only that a physician may be found to state that continuing the pregnancy would endanger the woman's physical, mental, or emotional health. Since no journalist can be a specialist in every area he has to cover, and given the exigencies of a daily newspaper or even weekly newsmagazine, such lapses will never be totally avoidable and may generally reflect only pressure of times not prejudice or the wish to mislead. When a prominent ethicist does the same thing, particularly when he offers the evidence refuting his own position in the very essay in which he pleads it, one is forced to ask just what it is about easy access to government-funded abortions that is so precious that scholars lose their wits over it.

Henry Hyde, Republican from Illinois and author of the controversial Hyde Amendment, has stated—quite correctly—that "medical science tells us the unborn is human life." Since Dean Wogaman cannot gainsay this, he first reduces its significance by a false concession: "If all he means by this is that the fetus is physically human in the sense that any part of a human being is fully human, then there is no argument."

But of course Congressman Hyde and the pro-lifers—in keeping with medical and biological science generally—mean more. They mean that the developing fetus is not merely "human," but "a human," a particular, individual human life with unique characteristics that will never be duplicated. By saying this, we have not yet met Dean Wogaman's basic contention, namely that we should be concerned not with merely being biologically a human, but with being a human person, defined in a particular way. But it is interesting that Dean Wogaman, even in arguing against Hyde, does not state the Congressman's case with complete accuracy. This suggests what both pro- and anti-abortionists all know, i.e. that it is much harder to make a convincing presentation of the pro-abortion case against a background of medical, biological fact than it is if one can move the argument over to areas of formal philosophical, legal, and even theological concern. Thus Dean Wogaman—contrary to Congressman Hyde—wants to make the argument a theological-philosophical one. Curiously, the only reason that Wogaman can adduce for making a theological argument out of what Hyde calls a medical-biological one is a philosophically and theologically based definition of what a person is: it involves the capacity for awareness and even God's relating to us. Wogaman is in effect giving us a theological reason for discounting what Hyde presents as a biological argument—a curious twist, inasmuch as Wogaman, at least by implication, claims to be a defender of the separation of church and state.

But it is not only here that Dean Wogaman, together with a number of other scholars, seems—if we may put it thus without offense—to have lost his wits. He offers "scientific evidence" to help us locate the dawning of personal awareness "possibly somewhere around the fifth month . . . hardly right after conception nor during the first two or three months," when, he reassures us, "most abortion occur." Later he argues against concern for the potentialities of a fetus "prior to the dawning of its awareness and personhood." But strangely he then goes on to argue for the total decriminalization of abortion (actually accomplished in *Roe v. Wade*), even though that means permission to abort long after the fetus, by Wogaman's own criteria, has become a human person.

This evident inconsistency—calling it a person but permitting it to be killed—is not a mere lapse, for Dean Wogaman made the same contention in a 1975 pamphlet produced for the Religious Coalition for Abortion Rights, reprinted in the Human Life Review, with which I was associated at the time. He is in effect so afraid that we right-to-lifers might mistakenly protect something that is not yet fully human on his own terms that he is willing to allow unchecked destruction of fetuses that he explicitly admits having attained personal awareness.

As a final touch, Wogaman and the cosigners of his "Call for Concern" appeal to Congress and the President not to adopt laws—such as the Hyde Amendment—that might imply that the judgment of several named "thoughtful religious groups," including Dean Wogaman's own, is somehow immoral. Has no "thoughtful religious group" ever misjudged the morality of anything?

The same argument could have been used against integration, since many thoughtful religious groups held—and some still do—that racial segregation is quite moral. Banning it certainly implied that those groups were somehow immoral. Surely the question is not what might cast aspersions on what more or less numerous, more or less thoughtful religious groups may think, but what is right. If the unborn child deserves protections according to Dean Wogaman's own criteria, then at the very least Hyde should apply from the sixth month of pregnancy onward, and not merely Hyde, but a total prohibition of late abortion. If the unborn child is from conception not merely "potentiality of life," as the United States Supreme Court erroneously called it, but "human life in the process of development," which every biologist and medical scientist knows it to be, then the question of the obligation to protect it and the limits within which such protection can be granted certainly takes precedence over the possible danger of somehow implying immoral judgments to thoughtful religious groups. If Dean Wogaman's argument is an example of their thoughtfulness, it would not suffice to implicate them in immorality, but it certainly would bring them under urgent suspicion of extreme mental fuzziness.

HEARING BY THE SUBCOMMITTEE ON CRIME REGARDING DISCONTINUATION OF THE NATIONAL CRIME SURVEY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, of the Committee on the Judiciary will hold a hearing on Thursday, October 13, 1977, to examine the announced intention of the Acting Administrator of the Law Enforcement Assistance Administration to discontinue the National Crime Survey.

The National Crime Survey, popularly known as the victimization survey, is conducted by the Bureau of the Census under contract with LEAA. The National Crime Survey represents a survey of over 60,000 households and 50,000 business establishments each year, designed to generate accurate statistics on the nature and incidence of serious crime in this country. The crimes that are surveyed include rape, personal and commercial robbery, assault, personal and household larceny, motor vehicle theft, and burglary of a household or business establishment.

This victimization survey differs dramatically from the FBI's Uniform Crime Reports in that data is also obtained from victims who fail to report the incident to the police, the survey is not subject to reporting differences among the police agencies that comprise the UCR, and the National Crime Survey enables us to collect a great deal of information about the victim, his or her offender, and the nature of the crime.

The hearing on October 13, 1977, will commence at 1 p.m., in room 2141 of the Rayburn House Office Building.

Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

EDUCATIONAL EQUITY FOR VIETNAM VETERANS

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mrs. HECKLER. Mr. Speaker, yesterday we shared the benefit of remarks by Dr. John R. Silber regarding the need to equalize educational opportunity for Vietnam-era veterans under the GI bill. Dr. Silber, many Members of Congress and veterans themselves believe that the best way to accomplish this goal is to provide supplemental tuition assistance for veterans who live and study in regions of the country where the cost of living and learning is higher than in others.

Yesterday, Dr. Silber demonstrated that the current flat-payment system of educational assistance allowances is inadequate for such veterans. By paying a veteran according to the number of dependents rather than according to the cost of living and of obtaining an education, we shortchange the Vietnam veteran.

We know that the higher the cost of living and of obtaining an education, the lower the participation rate in the GI bill by veterans. Thus, the flat-rate payment system creates inequity.

Today, Dr. Silber, who is president of Boston University and chairman of the legislation committee of the American Association of Independent Colleges and Universities, argues for a return to the World War II system of payments. Under this plan, the differences in tuition costs around the country are recognized and veterans may obtain additional edu-

cational assistance allowances when necessary and to compensate for this fact.

The information follows:

PART II

I would like to suggest the establishment of a separate entitlement for tuition expenses, treating these as distinct from living expenses. Ideally, this entitlement should be in the form of a voucher redeemable in an amount equal to the actual tuition charged by an accredited school chosen by a particular veteran. As budgetary restraints dictate, legislation should incorporate a ceiling, a self-help requirement, or a percentage formula. I would point out, however, that if such qualifications are too severe they vitiate the principle of tuition equalization.

The Congress has in the past been rightly concerned whether a tuition entitlement would lead to abusive tuition increases by educational institutions. To prevent such increases, legislation should prohibit any special tuition rate for veterans. Although with such a prohibition, market forces would probably be sufficient to prevent excessive tuition charges, assurance could be made doubly sure by calculating the benefit amount on the base of 1977–78 tuition fees, to be indexed in succeeding years to the Cumulative Price Index.

Living expense payments should consist of a basic entitlement, adjusted upward according to the number of dependents a veteran has and according to the cost of living index for the metropolitan area in which his school is located.

Much of the recent opposition to the reestablishment of a tuition entitlement has been based on a fear of a recurrence in abuses alleged to have occurred under the World War II G.I. Bill. Government policy should not tolerate such abuses. The government ought to revoke the eligibility of institutions guilty of repeated negligence, and prosecute individuals and institutions guilty of fraud. I believe that such a policy of prosecution, strictly and fairly enforced, would win the support and applause of higher education in the United States. No bill ever written was safe from abuse; it is the clear responsibility of the executive branch—in this case, the Veterans' Administration—to formulate rational administrative procedures to limit abuse and to repair to the courts when these fail. With a good good will, the control of abuses is not an insoluble problem, and I am sure that the VA recognizes its obligation to solve such problems as arise in the interest of the veteran. Given the serious inequities that exist in the absence of tuition equalization, the VA should not oppose a Congressional problem purely in the interests of making its own job easier.

It must be recognized that any effective tuition equalization program will constitute an increased cost to the federal taxpayer. I believe that the Vietnam veteran—who constitutes at least 90 percent of all veterans now entitled to benefits—is deserving of increased help from the taxpayer. The benefits under the G.I. Bill have long been justified as programs to aid veterans as they re-enter civilian life. No veterans in the history of our arms have faced so traumatic a re-entry as the Vietnam veterans. While others were exempted from the draft—or evaded it—the Vietnam veteran was sent into a war from which he did not return as a conquering hero. He now faces an employment rate higher than the national average: the rate for all Americans stands at 7.1 percent, but for Vietnam veterans it is at 7.8 percent. And among the youngest of these—those between 20 and 24—it is at the devastating rate of 17.4 percent compared to an overall figure of 11.3 percent. Countless studies have demonstrated that those without college degrees are very vulnerable to unemployment. The most recent of these, published by the Conference Board last April, showed that the unemployment rate among those who have completed college is less than one-third the rate of those who have not.

It is sometimes argued that other federal aid programs—such as the SEOG and BEOG grants—are available to allow veterans to attend the college of their choice. For veterans who are eligible for these programs, such funding is an appropriate mechanism for choice. That is why I have suggested that SEOG and BEOG grants be subtracted from the entitlement. But the various loan programs and the College Work Study program are not grants. To require veterans to make use of these programs is to reject the whole concept of special assistance for veterans. As long as we believe that veterans through their service earn an entitlement, tuition equalization programs are the most effective way of ensuring a reasonable amount of choice.

Education in the United States has historically served as a gateway to equal opportunity. In 1862, a far-sighted Congress passed the Morrill Act, which established a base for our superb sector of state-supported higher education. In 1944, an equally far-sighted Congress passed the first G.I. Bill, which opened higher education to millions of Americans who would otherwise have been very unlikely to get it. I should remark in passing that the Congress did not establish a vast system of federal universities in which to educate veterans: rather, it passed legislation to use the existing capacity, then still primarily in the independent sector. The present Congress, by establishing programs that will extend to our veterans not only access but choice, has the opportunity to pass landmark legislation in the tradition of its predecessors.

CARTER ENERGY PLAN IS A TAX BILL—NOT AN ENERGY BILL

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RHODES. Mr. Speaker, there has been much debate over the President's proposed energy legislation. The October 10, 1977, issue of Time magazine contained a very illuminating essay about the energy crisis. I would like to share with you a letter I wrote to the editor of Time, as well as the text of the essay:

OCTOBER 11, 1977.

THE EDITOR,
Time Magazine, Time and Life Building, Rockefeller Center, New York City, N.Y.

EDITOR: Though the "bottle" was not labeled as such, your essay entitled "Yes, There Is An Energy Crisis" expressed vintage Republican concern over the direction in which President Carter is pointing our national energy policy.

Your criticisms of the President's energy plan are the same as those expressed by Republican Members of the House when he introduced his legislative package.

His reliance on taxes to discourage consumption of oil and natural gas totally ignores the need to provide incentives for private industry to develop better means of utilizing domestic fossil fuel sources and to explore the potential in such new fields as nuclear, geothermal and solar energy.

In short, Mr. Carter's proposed energy plan is a tax bill, not an energy bill.

I hope Time's readers take note of your comments as the debate over the Carter energy program heats up in the weeks ahead. Given the President's approach, we may need to find a way to utilize that "heat" to help us keep warm this winter.

Yours sincerely,

JOHN J. RHODES, M.C.,
Minority Leader.

YES, THERE IS AN ENERGY CRISIS

Six months have passed since President Carter unwrapped his national energy plan, and the energy crisis has become a confusion crisis. Indeed, three Presidents, including Carter, have produced three separate energy programs, yet the nation remains as perplexed as ever by the fundamental question: Is there really an energy shortage? More precisely, since no one contends that coal and uranium supplies are running out, is there a shortage of oil and gas?

At one extreme, analysis like M.I.T. Professor of Technology Carroll Wilson argue that, given the wrong set of bad-luck breaks (for instance, a Saudi decision to hold back production), world oil supply could run short of meeting needs in as little as ten years. That agrees with Carter's warning last April that demand could begin to exhaust "all the proven reserves in the entire world by the end of the next decade."

At the other extreme, the United Nations Institute for Training and Research contends that there is enough oil and gas in the world to last 100 years or more—provided that industrial nations are willing to pay the price of developing it. Former Defense Secretary Melvin Laird says that there is no energy shortage, only a production shortage brought about by unwise Government policy. Says Economist Morris A. Adelman, an M.I.T. colleague of Wilson's: "The gap is like the horizon, always receding as you walk, ride, or fly toward it."

Getting the experts to describe the "crisis" often seems like asking them to analyze a Rorschach ink blot: each responds in terms of his own specialty. Most economists feel that the problem is not one of supply but of price—the cost of getting oil and gas to market. Specialists in international finance say that price as such is less important than the fact that consuming countries cannot keep handing over more and more money to the OPEC cartel members without imperiling global financial stability. By year's end the import bill for the U.S. alone will total $45 billion. Meanwhile, national security analysts say the real problem is what will happen if the U.S. continues importing half its oil, and producing nations decide one day to turn off the tap. The CIA finds the ultimate X factor to be the Soviet Union. In an analysis that Carter drew on heavily in shaping his national energy plan, the CIA predicted that the U.S.S.R. some time in the mid-1980s would switch from being an oil exporter to to a major importer, swallowing enough OPEC supplies to spread shortages throughout the West.

Making confusion worse, the experts nearly all use the same numbers—but confess that those numbers are far from fully reliable. Obviously, a key figure is the size of the world's pumpable oil reserves. Yet the most widely quoted data on global proven reserves come from trade journals, notably the Tulsa-based *Oil and Gas Journal*. The magazines get their figures from a hodgepodge of sources, particularly the governments of producing countries and the oil companies that operate there. Sometimes the sources give out widely divergent numbers, and an embarrassing amount of guesstimating goes on. On balance, the numbers show a gentle decline in proven reserves over the past five years, but no one knows for sure if that is really what is happening. Says Oil Economist John Lichtblau: "I find it a little frightening that world oil policy is made on the basis of the figures these magazines put out. The numbers are speculative, especially for

countries in the Middle East and Africa, yet everyone uses them."

The slippery statistics impress the public far less than do the headlines that new production from Alaska, Mexico and the North Sea has created an oil glut, forcing Saudi Arabia and Kuwait to make small discounts in prices (TIME, Sept. 26). Small wonder that a recent New York *Times*/CBS poll showed that 57 percent of those questioned thought the energy situation less serious than the Administration says.

That is a bad misjudgment. The situation is indeed serious, but not in quite the way that the Administration believes. The Carter program seems to assume that there is little margin to increase oil and gas production, especially in the U.S.—but if that is the assumption, it is wrong. If there are painful oil and gas shortages in the future—and there may well be—it will not be because the fuels are not there to be found. A shortage might strike because producers have not developed ways of bringing potential supplies to consumers at an affordable price. The Government is not giving them enough incentive to do so.

It may be, as Secretary of Energy James Schlesinger says, that there are no more than 120 billion bbl. of potentially recoverable crude in the U.S. at present prices—roughly an 18-year supply at current consumption rates. And though drilling activity has accelerated dramatically around the world since the quintupling of OPEC prices that began in 1973, new finds have been disappointing. But many promising sites have yet to be drilled—the outer continental shelf off the U.S. coast, for example, or much of the northern Norwegian coast. Oil geologists generally think there are no Saudi-size deposits waiting to be discovered, but there might be a few more North Slopes and North Seas.

Besides that, oceans of unpumped oil are known to exist in the U.S. Only about a third of the oil in a well is ever brought to the surface by present methods—primarily, letting it gush out under its own pressure. The remaining two-thirds is usually written off as "unrecoverable." Sophisticated secondary and tertiary recovery methods exist to get that oil out: injecting high-pressure steam or liquid chemical solvents to dissolve the crude from tiny fissures in the rock. Some drilling experts calculate that the recovery rate could be increased to 60 percent which would almost double U.S. recoverable reserves. The market price would be high—$14 to $20 per bbl.—but it might be reduced by technological breakthroughs.

The U.S. also has by present estimates more than 1.8 trillion bbl. of oil locked in shale in the Rocky Mountain states—about 15 times the nation's estimated potential reserves from conventional sources. Burning the oil out of the shale—the most promising method—would require a market price of perhaps as much as $25 per bbl. to make it profitable. Yet even at the present average U.S. price of $11.50 per bbl. for newly discovered domestic oil, Ashland Oil and Occidental Petroleum last month were given federal approval to begin development of a joint shale-oil project in western Colorado.

Perhaps another 2 trillion bbl. of oil is thought to lie in the great deposits of goo known as tar sands, much of which are in Canada. At present world prices, they are on the verge of becoming economical to develop. Two plants are already extracting oil from tar sands in Alberta's Athabasca fields, and Shell Canada plans to spend $4 billion for a third plant, which will start producing in the early 1980s.

The trouble with Carter's energy plan is that it does not provide for Government incentives that could help private industry bring petroleum from unconventional sources to market at a price the economy could afford. Instead, the program focuses on conservation—inducing the U.S. to use up more slowly the oil and gas that the nation knows it can count on producing. Conservation is necessary, but not sufficient: at best it only postpones the ultimate day of reckoning. As Laird observes: "Conservation alone is a slow walk down a dead-end street."

The centerpiece of the Carter program is a plan to raise U.S. oil prices, presently averaging $8.52 per bbl. at the well-head for domestic oil of all price categories, up to the OPEC-set world level of about $13.50. This would be done by imposing a tax on producers at the well. Then to soften the blow to the economy, the Government would give back most of the money to consumers in the form of rebates. The scheme is intended to discourage consumption, but it is doubtful how effective a deterrent it would be. Nearly 40% of all petroleum consumption in the U.S. on any given day is used to run the country's automobiles, and though the price of gasoline has all but doubled in the U.S. since the days of the Arab oil embargo, Americans are today consuming about 7% more gasoline than they were before the price shot up at the pump. Carter's wellhead tax would only add about 6¢ to 8¢ to the price of a gallon of gasoline by 1985, and who seriously thinks this will discourage Sunday driving by anyone?

Worse still, the oil companies would not get a cent of the revenues to invest in exploration and development of new energy sources; they would have to finance R. and D. on their own. A far better idea would be to channel the wellhead taxes into R. and D.—perhaps by setting up a federal corporation to underwrite the efforts of companies struggling to find economical ways of coaxing oil out of otherwise exhausted wells, burning it out of shale or extracting it out of tar sands. Russell Long, the Louisiana Democrat who heads the Senate Finance Committee, has threatened to eliminate the wellhead tax from the Carter program unless the revenues are used to help expand production. He has a powerful point. Politically, it would be improper to let the oil companies reap "windfall" profits from raising the domestic price to OPEC levels, and adequate safeguards can be drafted to ensure that R. and D. aid to the companies is used for only that.

The Senate could wisely take several other steps to improve the energy program that sailed through the House almost intact. One would be to phase out controls on natural gas, leaving prices to find their own level in a free market. The present controlled price of $1.47 per 1,000 cu. ft. is too low to lure enough gas out of the ground—as witness last winter's factory and school closings. A move to deregulate has run afoul of an on-again, off-again filibuster by Senators from states that rely heavily on low gas prices. The most likely compromise will be an increase in the regulated price, perhaps, to just over $2 per 1,000 cu. ft. That might be enough at present, and abrupt deregulation might be too great a shock to consumers. But drillers searching for hard-to-get gas need the assurance that perhaps two or three years from now the market rather than the regulators will set the price.

Also, the Administration and Congress need to rethink what must be done to increase the use of coal. Carter and Energy Secretary Schlesinger plan on a 65-percent increase in coal use by 1985, but they assume that this will happen as an automatic consequence of forcing power plants and factories to switch from oil and gas to coal as boiler fuel. This may be too ambitious a target, since it could be achieved only if that segment of U.S. industry that is capable of using coal as fuel multiplies its consumption four or five times above present levels in less than a decade. The Senate has voted the Administration less authority than it wanted to order plants to switch to coal, and Carter's plan to grant tax breaks to industry in order to spur conversion to coal use may not prove to be sufficient; the legislators would do well to vote more financial aid.

Most of all, the energy program needs basic reassessment. And that must begin with the old question: Will there be an energy shortage in the future? The answer: Only if we let it occur. There may be more shortages of natural gas, but they would be the consequence of inadequate price rather than nonexistent supply. There could well be a severe shortage of oil, but the scarcity would be less of the physical quality than of imaginative ways of bringing crude to market at an acceptable cost. There is no shortage of coal or nuclear power, but there are bottlenecks to be broken. In the case of the atom, the time is at hand to take a fresh, hard look at the wisdom of the Administration's opposition to breeder reactors, which produce more fuel than they consume. It is urgent to get started on a comprehensive plan for the development of alternative energy sources. Says Milton Russell of the Washington-based research house Resources for the Future: "If by 1985 alternative sources are in proper development, there will be no cause for alarm. You don't have to have them in place. You have to have them in train." To meet even that deadline, time is running out.

A major rewrite of the energy program is too much to ask of Congress in the few weeks remaining in this session. Whatever happens to this year's national energy plan, the nation will need another in 1978. In promoting it, the Administration should summon the nation to a long, patient effort both to conserve energy and to increase production—and instead of picturing the struggle as the "moral equivalent of war," should make it as plain as an oil rig in the desert that if the U.S. wants to avoid shortages, it has to pay the price.—CHRISTOPHER BYRON.

U.S. WOOL INDUSTRY AT A CROSSROAD

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. POAGE. Mr. Speaker, on September 29, the President signed into law the Food and Agriculture Act of 1977. Title III of that act provides for the continued support of wool and mohair at levels more in line with its costs of production. The support price for wool has been frozen at 72 cents per pound since 1970, even though the cost of producing wool has increased significantly during this period. The Food and Agriculture Act of 1977 removes the freeze on the wool support price and provides for it to be supported at what amounts to approximately 74 percent of parity through 1981. I comment the Congress for approving these needed improvements in the National Wool Act.

Even though the wool producers of the United States are assured of a fair price for their production for the next 4 years, the problems of the domestic wool industry are far from being solved. At other times, I have informed my colleagues of the great losses sheep producers are suffering from predatory animals. While some tools have been made available for controlling coyotes, it is vital that effective predicides be made available to our sheep producers if the sheep industry is to survive in the West. Surely, it is not necessary to destroy a great industry in order that individuals who never saw a

coyote should be comforted by the knowledge that these animals are not being disturbed.

The greatest economic problem faced by the wool producers of the Nation is whether or not there will be a domestic demand for their wool in the future. When the National Wool Act of 1954 was first enacted, wool production in the United States equaled almost 300 million pounds, grease basis, and in excess of 100 million pounds of scoured wool was being imported each year. Ten years ago, about 266.5 million pounds of scoured wool was used by the apparel industry of the United States with an additional 103.6 million pounds being used by the carpet industry. Prior to the explosion of the synthetic industry, wool was the king of the apparel industry.

The situation is much different today. Total domestic wool production in 1977 is expected to be only about 110 million pounds, grease basis, with the anticipated level of imported scoured wool being less than 20 million pounds. Total domestic mill consumption of scoured wool for both carpets and apparel will probably be less than 120 million pounds in 1977. It does not take an expert to see that the wool industry of the United States is in a critical period at present and that something must be done now to reverse the declining production trend of the industry before it is too late.

But first, it is important to consider why the American wool industry got into its present condition. Just as it was 20 years ago, wool is still regarded as the best fiber for outer wear and other apparel. Woolen suits are known for their wearability, warmth in winter, and coolness in the summer. Wool absorbs and holds dye as well, or better, than any other fiber and woolen garments retain their shape better than almost any other fabric. Yet, in spite of the desirability of wool as an apparel fiber, its demand has continued to slip in the face of growing competition from synthetics.

The staff of my Subcommittee on Livestock and Grains has recently contacted several dozen firms in the textile, apparel, and carpet industry to determine the reasons for the lack of demand for wool. Although there have been some exceptions, the reason most commonly given for the lack of demand for wool in their fabrics is the wide variations in its price. They point out that when an apparel manufacturer plans to market a new piece of apparel, it needs to be able to purchase the fabric necessary at a rather steady price during the period they produce the apparel item. Synthetic manufacturers have been able to agree to supply their products to the apparel industry for the same price over a long period of time. Wool scouring plants have been unable to do so due to the great variability of wool prices on the world market.

As a result of the competitive advantage of the synthetic industry, it has been able to dominate the apparel and carpet industry in the recent past. In 1960, only 29 percent of the fiber used in the textile industry was synthetic, but today over 70 percent of the fibers used are synthetic. In 1976, the total synthetic fiber usage by the textile industry was in excess of 8 billion pounds. During the same period, wool's share of the textile market dropped from 7 percent to less than 2 percent.

There are indications, however, that wool may have a brighter future if the wool industry immediately begins to capitalize on its opportunities. Synthetic fibers are almost totally derived from the world's scarce resources of oil and natural gas. The United States and the other nations of the world are now realizing that the supply of these sources is not inexhaustible and are taking steps to curtail their nonessential use through increased taxation and other means. Since the synthetic fiber industry uses about 1 percent of the total energy used in the United States, it is logical to assume that it, too, will face curtailments and increasing costs in the future. On the other hand, wool requires little fossil fuels in its production and processing and should be little affected by the energy situation in the future. Hence, its competitive advantage should increase in the future.

Another factor which should enhance the position of the wool industry in the future is the recent increase in consumer preference for natural fibers like wool, mohair, and cotton. The present generation of Americans have grown up using synthetics and have only recently discovered the great comfort and wearability of clothing made of natural fibers. As a result, the domestic demand for wool by the apparel industry has increased somewhat in recent months.

Clothing manufacturers have realized that Americans are changing in their clothing preferences and have begun to increase their output of all-wool and wool-blend apparel. Textile research of the recent past has led to development of wool-polyester blends which capitalize on the desirable qualities of both fibers while minimizing their undesirable traits. Indications point to an increase in such blends in the future.

One of the reasons that wool has recently been used more in the textile industry is its relatively stable price which has been brought about during the past year with the assistance of the Australian Wool Corp (AWC). The AWC has placed a large stockpile of scoured wool in bonded warehouses in Charleston, S.C. This wool is available to the textile industry at a floor price high enough to help hold up the domestic price of wool. Yet, the presence of the AWC wool stockpile serves to stabilize the wool price in the United States by assuring the textile industry that it will not run short of wool. For this, the American wool industry should be thankful since American textile manufacturers are now better able to assure apparel manufacturers of a steady supply of woolen fabric at a steady price over long periods of time. The net result has been an increase in the use of wool by the apparel industry.

Even with all of these improvements, the wool producers of the United States must still do much if they are to save their industry in the future. The greatest threat to the wool industry in the future is the loss of an American textile industry. Already many textile manufacturing operations have discontinued their wool operations and others are expected to do so in the future. Much of the wool fabric being used today in the United States was produced in Taiwan, Korea, and other countries in the Far East where labor rates allow textile manufacturers to be more competitive in the world market. If all of the wool-using textile manufacturers in the United States cease their operation, American wool producers would not be competitive with wool produced in Australia if this were to happen and it would result in the demise of the American wool production industry.

Such a situation cannot be allowed to occur. An American wool production and textile industry is essential, just as it is in cotton, if we are to be assured of supplies of natural fabric during periods of interrupted world trade resulting from armed conflict. For this reason, part of the responsibility of assuring a viable domestic industry must be with the Federal Government. However, the major responsibility must be assumed by the domestic producing and textile industries.

In my opinion, there are several things that can and should be done. First, the sheep producers of the United States must cooperate with the sheep industry of Australia in an effort to increase the demand for wool in the United States. I have been assured by representatives of the Australian Wool Corp. that the AWC is willing to increase its expenditures for the promotion of wool in the United States. The AWC does not have to support an American wool industry. Right now, it could just as profitably ship all of its wool to the Far East for spinning into woolen fabrics. However, the AWC has taken the position that a strong wool textile industry in the United States will prove to be more beneficial to Australian producers in the long run, because they feel that for a long time our buying power is going to be far greater than that of the Orient. I hope American wool producers will understand this and strive for greater cooperation with the AWC in improving the demand for wool in the United States.

The American textile industry must also assume a greater share of the costs of promoting wool in the United States. Only with a strong demand for its products can the domestic textile industry continue to exist in the future in the face of strong competition from imported textile products. Textile workers and their unions must also assume a share of the wool promotion effort if they are to have jobs in the future.

Achieving a steady increase in wool usage in the future will not be an easy task. American consumers must be taught the advantages of apparel made of wool or wool-blends and apparel must be made available in styles that will be purchased by consumers. More research must be done on blending wool and other fibers to produce more desirable and wearable clothing. But, most of all, research must be done to determine the kinds of wool and wool-blends that consumers will purchase.

Should the trend toward increased wool demand continue, the American wool industry must also be prepared to increase its production as well as accept increased foreign wool imports. At present, the sheep industry is slaughtering its young ewe lambs for the meat trade and not building up its wool producing ewe herds. Those who want to stay in the lamb business will, of course, follow a different course, but those who are interested in wool production must place more emphasis on wool producing sheep than on the meat-type sheep that are currently in great demand by the packing industry. Wool and lamb producers can, and should, continue to work together. Actually, each will be a part of the other's business, but the emphasis must be different and, at this time, we are considering the problems of the wool producers.

A controversial issue which must be considered is the wool import tariff of the United States. Currently, all imported fine wool is subject to a tariff of 25.5 cents per scoured pound. It is no secret that the Australian Wool Corp. is seeking a 60-percent reduction in this tariff during the Tokyo Round of the Multilateral Trade Negotiations about to enter full-swing in Geneva. Understandably, our sheep producers are very reluctant to agree to any reduction in the wool tariff, nor would I ask them to do so in the absence of other concessions, but I feel that they may find merit to a reduction in the tariffs provided the Australians agree to limit their imports and set a fairly high base import price as they have indicated they are prepared to do. Such an agreement would assure the domestic textile industry of a ready supply of wool at rather steady and reasonable prices without placing unnecessary economic pressure on the U.S. sheep industry. However, it is very important that such an arrangement does not also include a sharp reduction in the tariff on imported woolen and worsted textiles. Such a reduction would further increase the competitive advantage of foreign textiles in the United States and lead to an even greater reduction in the number of U.S. textile mills using wool and an ultimate increase in the price of woolen goods. Such price increases always accompany the loss of a domestic source of production, but they always come too late to help the domestic production.

Thus, in summary, the wool producers of the United States, through the National Wool Growers must begin now to seek a solution to the problems facing their industry while capitalizing on the growing demand for wool in the United States. To achieve a solution, the wool growers must work with the Nation's textile manufacturers, labor unions, and apparel manufacturers in an effort to achieve their mutual goals. This coalition may very well also need the cooperation which has been offered by the Australian wool growers. With the vast number of problems facing the wool industry, the industry can use all of the help and and cooperaton it can get. Without such an effort, there is a strong chance that the wool industry may soon find itself so far down the road to extinction that no one can save it.

THE B-1: COSTS OF RESTARTING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LAFALCE. Mr. Speaker, today I received a detailed report from the Comptroller General of the United States concerning the developments surrounding the B-1 bomber program in light of the decision of the Appropriations Committee late last month not to approve the President's proposed rescission of funds from the fiscal year 1977 budget for this program.

I believe that the Comptroller General's report is of definite interest, particularly with respect to the fact that the costs of stopping and restarting this program will come to at least $100 million and perhaps much more. Because of the intense interest in this program with in the Congress and elsewhere, I am inserting the text of the Comptroller General's letter in the RECORD.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 12, 1977.

Hon. JOHN J. LAFALCE,
House of Representatives.

DEAR MR. LAFALCE: This is in reply to your letter of September 30, 1977, in which you asked that we monitor the executive branch's actions and inform you of major developments in the B-1 bomber program. Pursuant to your request, we have been in contact with officials of the Department of Defense (DOD) and representatives of Rockwell International (Rockwell), one of the prime contractors for the B-1 program.

As you know, the Congress did not approve the President's proposal to rescind $462 million in budget authority that was determined to be excess to DOD's needs as a result of the decision to terminate the program. Consequently, this budget authority was required to be made available for obligation on October 5, 1977, by the Impoundment Control Act of 1974, title X of Public Law 93-344, July 12, 1974—the expiration of the 45-day period prescribed for the consideration of rescission proposals under the Act. We have confirmed that the $462 million rejected for rescission was made available by the Office of Management and Budget for obligation on October 5, 1977. We have also determined that the Secretary of Defense has taken steps to utilize this budget authority in the B-1 program. On October 4, 1977, the Secretary, DOD, requested the Department of the Air Force to submit a restructured B-1 program description that includes proceeding with the production of the fiscal year 1977 B-1 bombers. Pursuant to the Secretary's memorandum, the Department of the Air Force transmitted telegrams on October 4, 1977, to concerned departmental activities in order to obtain the material requested by the Secretary.

DISCUSSIONS WITH DOD

On October 6 and 11, 1977, members of this Office met with representatives of the U.S. Air Force in the Office of the Deputy Chief of Staff, Research and Development, Aircraft Division, who informed us that all of the budget authority that was appropriated for the B-1 program has been made available in the Air Force. This amount, approximately $1.16 billion, includes the $462 million that was proposed, but rejected, for rescission and approximately an additional $698 million that was to be used for both prior program expenditures and anticipated termination costs.

The DOD officials told us that, because of the earlier termination of the program, about $100 million would be lost as a result of terminating and then having to restart the B-1 program due to Congress' rejection of the rescission proposal. This sum is comprised of approximately $25 million in costs associated with personnel reductions and the later rehiring of such personnel and about $75 million for terminating future B-1 bomber production contracts.

We were told that the cost per aircraft will now probably increase due to having stopped the program. The exact amount of any increase, of course, will have to be the subject of negotiations between the Government and the prime contractors. In this regard, DOD told us that the Department cannot, at this time, afford to build the seventh B-1 aircraft and that termination costs for cancelling this aspect of the program will be roughly $25 million.

The departmental officials told us that if the decision was made to build all of the next three aircraft originally contracted for (numbers five, six, and seven) that the total cost for the program would increase from about $1.16 billion to approximately $1.4 billion—an increase of $240 million.

Insofar as restarting the program is concerned, we were told that a delay can be expected in the delivery of aircrafts five and six. Aircraft five was originally scheduled for delivery in August of 1979. Even assuming contract activities can resume promptly, DOD does not expect the fifth B-1 bomber can be delivered before February 1980. And, aircraft six, originally scheduled for delivery in November 1979, is not expected to be delivered before July or August 1980.

Rockwell sent an unsolicited proposal to the Department of Defense on October 6, 1977, for the construction of bombers five and six. While the specifics of any future contract with the prime contractor are a matter of negotiation, DOD representatives told us that it is possible hat some work may have to be done elsewhere if DOD and the prime contractor cannot reassemble the same team that was gathered for work under the original contracts.

We were also told that the U.S. Air Force Aeronautical Systems Division was planing on submitting to its higher command at Andrews Air Force Base, the Air Force Systems Command, its tentative plan for the B-1 bomber program on October 7, 1977, and that the final plan was contemplated for submission on October 17, 1977. At present, the Air Force estimates that it could, with the proper authorizations from higher headquarters, get Rockwell back into active program activities within 24 hours. In turn, DOD estimates that it would take Rockwell approximately 60 days to begin actual production work. This delay is due to the fact that over 8,000 people were laid off as a result of the termination of the B-1 program, and numerous subcontracts terminated.

DISCUSSIONS WITH ROCKWELL

Representatives of Rockwell agreed with DOD that delivery on aircrafts five and six would be delayed and costs increased as a result of having terminated the original contracts. Rockwell told us on October 7 and 11, 1977, that aircraft five could be delivered in March 1980 and aircraft six in September of that year. If constructed, B-1 bomber seven could be delivered in March 1981.

In discussing contract costs, in what the company described as "comparable environments," Rockwell said aircrafts five, six, and seven were originally estimated at a cost of $650-700 million. In light of recent events Rockwell says it could cost the Government up to $680 million to build only aircrafts five and six. If the Government chose to build aircraft seven, additional costs would be about $150 million. In summary, Rockwell says the additional cost to the Government

to build all three bombers, in light of having stopped and then restarting production, is expected to range between $130–180 million.

Rockwell said its unsolicited proposal of October 6, 1977, to build aircrafts five and six at a not-to-exceed cost of $680 million is good only until November 1, 1977. Company representatives estimate that costs are expected to increase between $5–10 million for every month of delay. Rockwell projects that it would take about 6 months to finalize any contract with DOD for B–1 bomber production and that it would take about 90 days to get the subcontractors back on the job. (There are said to be 53 major subcontractors involved.) During the 6-month period estimated for contract finalization, Rockwell said it would undertake its B–1 operations pursuant to the bilateral agreement proposed on October 6, 1977.

Finally, Rockwell told us that it believed it would cost the Government about $50 million in termination costs to discontinue production work on aircraft seven. When compared with a company-estimated cost of about $150 million to build the seventh B–1 bomber, this means that Rockwell projects an additional outlay of $100 million beyond already expected Rockwell costs would be needed for the Government to acquire the seventh aircraft.

We hope the foregoing will be of assistance to you. We will continue to monitor further actions by the executive branch and will notify you of further developments, as appropriate.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

A BILL TO ASSIST IN PRESERVATION OF URBAN NEIGHBORHOODS

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MICHAEL O. MYERS. Mr. Speaker, today I am introducing a bill which would establish a Neighborhood Reinvestment Corporation as a Federal Government Corporation to assist the urban neighborhoods in our large metropolitan cities to preserve and strengthen the urban neighborhoods which make up the building blocks of our cities. The Federal Government, over the past 30 years, has engaged in large-scale assistance to many of our cities, such as my city of Philadelphia, in an attempt to assist these cities in meeting their development and housing needs.

These efforts, it is true, have been massive insofar as the dollars involved, but have left much to be desired in the final product. These efforts, such as urban renewal, model cities, the neighborhood development program, the open space program, the urban beautification program, the Federal highway program, the urban mass transportation, and many others have sought to attack the urban problems on a citywide effort, rather than attempting to zero in on the smaller, yet most vital, part of the urban community, that is, the neighborhoods themselves.

Large cities, such as Philadelphia, are made up of hundreds of such neighborhoods, many of whose residents have lived in these neighborhoods for generations, but our Federal Government efforts have in most cases by-passed them. The recent experience of the community development block grant program has been encouraging, but this too depends on the effort of the city itself to spread the money in such a way so that all areas of the city can benefit.

The bill that I am introducing today seeks to use the dynamic energy of our urban neighborhoods and the community groups that have organized in these neighborhoods, together with the local government, in my case, the city of Philadelphia, and financial lending institutions in these communities to work together to pool their financial resources to assist in such efforts as rehabilitating the existing housing stock in these neighborhoods rather than whole scale demolition of good solid housing stock and the resulting new high-rise type housing in its place.

My city of Philadelphia probably has the largest amount of existing housing stock that is available for rehabilitation purposes for single-family use. This Neighborhood Reinvestment Corporation would provide the initial seed capital to begin neighborhood rehabilitation efforts and to begin at last to use the efforts of local community groups to improve their housing and to provide a better living environment for the citizens of these neighborhoods.

This bill draws upon the excellent efforts of the existing Neighborhood Reinvestment Task Force that has been ongoing since 1969. This task force is made up of representatives from the Department of Housing and Urban Development, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the Federal Reserve Board. It is currently active in 33 cities and primarily operates with some contributions from the participating financial regulatory agencies, and a small amount of private foundation support, and a grant from the Department of Housing and Urban Development.

My bill would institutionalize this effort, greatly expand the Federal Government's funds available for these purposes and pledge the Federal Government's assistance for housing the great energies that exist in our urban neighborhood communities.

TRIBUTE TO CHARLES E. CLELLAND, ON HIS RETIREMENT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STARK. Mr. Speaker, I would like to take this opportunity to thank Charlie Clelland personally for more than 30 years of public service as the fire marshall of Livermore, Calif. As a member of Livermore's Fire Service, Charlie has consistently and successfully sought to reduce the loss of life that all too frequently results from fire and panic. His down-to-earth common sense has, in fact, prevented many a tragedy.

This weekend Charlie will be honored with a testimonial dinner on the occasion of his retirement. Charlie's "old-fashioned" notions of tradition, loyalty, and dedication, enhanced by his personal honesty and fairness have been an enormous contribution to the community he has served so faithfully. Charlie's contribution to his community will not be forgotten on this occasion, or in the days to come.

THE LABOR BILL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MICHEL. Mr. Speaker, when business and labor get into an argument over labor law reforms, there is often an innocent bystander who gets hurt—the American worker. Big business speaks up for business. Big labor speaks up for big labor. But when the battle is joined, it is often the worker, for whom no one speaks, who is hurt.

This forgotten American, the working man, is the subject of an incisive and informative editorial in the Washington Post. As the Post points out, although much was said by business and labor during the recent debate over proposed changes in the labor law, "No one seems to talk in the workers behalf." When the most liberal newspaper in the United States makes that point in an editorial, I believe it can safely be said that there is wide agreement that it is in the public interest—and in the interest of every American worker—for Congress to make certain that any labor reform bill takes into consideration the interests of the worker as well as that of business and big labor.

I could not in all conscience support the version of this bill that passed the House because it was obvious that it was tilted too much toward the perceived needs of big labor unions, not enough toward the legitimate needs of business and not at all toward the worker. I hope the Senate comes up with a fair bill that meets the needs of all concerned—including the public.

At this point I wish to insert into the RECORD, "The Labor Bill" from the Washington Post, October 12, 1977:

THE LABOR BILL

The tinkering that was done to the labor bill on the floor of the House of Representatives improved it some, but not much. The friends of organized labor had the votes lined up, and from among the amendments offered they accepted only those that were quite palatable, never mind that their performance gave the impression that they were prepared to water down the bill. The result is that the Senate faces the major task of trying to turn this one-sided piece of legislation into the basic reform the labor laws need.

It is not to endorse everything that is in the House-approved bill to observe that our quarrel is primarily with what the bill fails to do, as distinct from what it does. It is true, as organized labor has successfully argued to a majority of House members, that some employers have abused the existing law and used its loopholes to frustrate legitimate organizing efforts and to deprive employees of their legal rights. But it is also true that organized labor has engaged in practices that are just as questionable. And this bill, unfortunately, attempts to deal only with the first half of the problem.

It became quite clear as the arguments over this legislation went forward that the people the labor laws were originally written to protect are being increasingly forgotten. Business leaders talk about their problems in opposing or bargaining with labor unions. Union leaders talk about their problems in bargaining with employers or trying to organize plants over management opposition. No one seems to talk in the workers' behalf. The union leaders, of course, claim that they do—and no doubt their predecessors once did. But the rhetoric of this debate underlines the degree to which much of organized labor now acts as an independent force, deeply concerned about its own internal and external needs, which sometimes are—but sometimes are not—the same as the needs of the people it is supposed to be representing.

That is the point we urge the Senate to keep in mind as it tries to add some balance to the bill the House has approved. Certain of the bill's provisions are designed to protect the interests of workers; but others are designed to protect the interests of unions as unions and not as representatives of workers. Similarly, some of the proposals that business leaders have been trying to get Congress to consider are designed only to protect business interests against unions without regard to their effect on workers. Sorting these out is not easy, but it is a job the Senate must do if it has any intention of producing a bill that deserves to be called a labor-reform act.

GEORGIAN MAKES GLOBAL IMPACT ON ENVIRONMENT

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. BARNARD. Mr. Speaker, a man in my district has attained statewide, national, and worldwide acclaim among people concerned with the future.

Dr. Eugene Odum of the University of Georgia is recognized as the father of ecology. His rational, probing approach to the problems of growth patterns and finite resources pioneered our present views of our ecosystem. He was making himself heard 25 years ago, when his first book on the subject was published.

Dr. Odum was awarded the internationally prestigious Tyler Award last April at the White House. EnviroSouth magazine has published a tribute to him, and I include it as an extension of my remarks in the RECORD:

GEORGIAN MAKES GLOBAL IMPACT ON ENVIRONMENT

There are awards, and then there are awards.

The Tyler Award is the latter. It is an international tribute, along with a check for $150,000, presented to outstanding ecologists by Pepperdine University, Malibu, CA. In essence, the honor is the greatest award presented in the ecological arena, and is viewed by many, indeed, as the equivalent to the Nobel Prize.

The 1977 "Tyler," given in April by President Carter midst the trappings of a White House ceremony, went to a Southerner, Dr. Eugene P. Odum of Athens, GA. Dr. Odum is Alumni Foundation Distinguished Professor, Callaway Foundation Professor of Ecology and Director of the Institute of Ecology (which he founded in 1962) at the University of Georgia.

In simple English, Eugene Odum is virtually the father of ecology, and in a multiplicity of ways. First of all, his *Fundamentals of Ecology*, which pioneered a new approach based on energetics and ecosystem concepts, has been the most widely used text in this country and abroad since its initial printing in 1953. And his shorter book *Ecology* (1963, 1975), has served as an important guide to ecological principles for both student and citizen.

His writings have just about run the environmental gamut, ranging through such topics as coral reefs, salt marshes, the environmental aspects of atomic energy, and distribution and population ecology of birds.

His research has spanned a seemingly unexcelled spectrum of ecological accomplishment among his fellow Southerners, research which has yielded not only regional but global impact. Having played a major role, for instance, in establishing in 1954 the University of Georgia's Marine Institute at Sapelo Island, Dr. Odum had a firm hand in 20 years of research on Georgia salt marsh estuaries which resulted in a new public awareness of the value of wetlands.

In 1955, he was named as a delegate to the first Atoms-for-Peace Conference in Geneva, and is an early pioneer in the field of radiation ecology. He planted the seed for what later evolved as the Savannah River Ecology Laboratory. His spadework on the International Biological Program and IBP's first national committee culminated in an intensive, five-year study of major ecological systems through which theoretical concepts of "systems ecology" was applied to large-scale resource management.

And the list goes on and on and on.

Having advanced through the ranks at the University of Georgia, beginning as an instructor in 1940, Dr. Odum, like we said, is virtually the father of ecology, through his writing, his research and his myriad other contributions. But perhaps more important, he is fathering a new brand of ecology which he calls a "holistic" or down-to-earth concept.

For all too long, he believes, we have been treating the environment as many separate and independent entities. Dr. Odum contends we must fuse all the parts and consider them as one, or "holistic." Such a theory Dr. Odum told us is "common sense wisdom," through which everything is dependent on everything else.

"The whole is more than the sum of the parts," he preaches, in the ecological sense that "a forest is more than trees, and water is not the sum of the two gases it is made of."

With this holistic approach in mind, we asked Dr. Odum, "What is the most critical, the most important environmental issue affecting the Southeast as a region?"

His answer was another question: "Are we going to be able to manage our growth to avoid some of the traps that others have made before us?"

As he explained it, "We have an opportunity to make a more orderly, sensible growth" than have other regions, and one in which we can "keep the general Southern traditions of enjoyment of nature and enjoyment of the out-of-doors"—if the Southern states, the members of the region work together as a whole.

Carrying his notion a step farther, Dr. Odum hopes the diverse fields of economics and ecology can be brought together as a whole, for while ecology is the study of the house, economics is the management of the house. Each working in harmony with the other can make a valuable contribution to the whole, according to "Odumism."

Using the Southern wetlands as a case in point, Dr. Odum said change leading toward wetland protection must begin at the educational and political level.

"We must try to influence our Southern legislators and congressmen, because they are frightened that any environmental protection will endanger the economy. It has been proven that the environment is beneficial to the economy."

"Like father, like son" is an all-too-worn-out cliche. But it describes Eugene Odum almost perfectly. His father, the late Howard W. Odum, who was Director of the Institute for Research in Social Science at the University of North Carolina, Chapel Hill, distinguished himself in the social sciences with his classic *Southern Regions Of The United States*, a 1936 volume which urges a regional approach to social planning, a way of thinking which set in motion the younger Odum's advancement of holism.

In similar tradition, Eugene Odum's son, William E. Odum, is expounding the precepts set forth by his own father as an associate professor of environmental science at the University of Virginia, Charlottesville.

Dr. Odum and his brother, Dr. Howard T. Odum, the respected professor of environmental engineering at the University of Florida, Gainesville, jointly received the Institut de la Vie International Award, in Versailles, France, in 1975, still another Nobel equivalent in ecological circles, for their collaborative work in ecology as an "integrative discipline."

Whether the topic is radioactive tracers in studies of food chains, or the ability of birds to endure long flights, or the kaleidoscope of other components of the ecosystem, the name Eugene Odum will endure for untold years, even generations to come.

His work has kindled life and spirit into a whole new trend of ecological planning. A life that may well offer salvation to the environmental quality of this region as we know it today.

GEN. HENRY HUGLIN COMMENTS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the European community and the strengths of economic integration.

His comments follow:

HOW FARES THE EUROPEAN COMMUNITY?

(By Henry Huglin)

BRUSSELS.—The European Community, EC, often known as the Common Market, headquartered here in Brussels, celebrated its 20th anniversary this year.

This international entity of nine European nations has achieved more than its detractors believed possible, but much less than the fervent European integrationists had hoped.

The EC is well established. It will evolve slowly, encompassing more nations and gradually further integrating its members' economies, currencies, and eventually, perhaps, their political structures and sovereignties.

The Community, as an overall economic entity, started out in 1957 with six member nations: Belgium, France, West Germany, Luxembourg, Italy, and the Netherlands. In 1973, Britain, Denmark, and Ireland joined.

Greece and Portugal have applied for membership, and Spain is expected to apply soon. But economic problems exist over these countries' entries; hence, full membership for them, if achieved, will come in the 1980's.

The treaty which set up the preceding grouping, the European Coal and Steel Community in 1951, expressed objectives of the member nations which are valid for the broader Community: "to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundations of a wider and deeper community among people long divided by bloody conflicts; and to lay the bases of institutions capable of giving directions to their future common destiny."

What has been achieved so far are a customs union, under which internal tariffs were eliminated; a common agricultural policy; and a common labor market.

By 1980, full economic and monetary union is to come into being. Then, goods, services, and capital will be able to move freely within the Community.

Direct elections are scheduled for next June for members of the European Parliament, which has, as yet, limited but growingly important functions.

The evolution of the Community has been and will continue to be an on-going, long-term process. Progress has been made by a gradual change in peoples' nationalistic habits of mind, through tangible benefits of progressive economic integration, followed by increased political cooperation and acceptance of growing interdependence in many fields.

The population of the European Community is about 25 percent greater than ours, living in an area one sixth our size. The Community's gross product is about 90 percent of ours. Yet its imports are nearly three times ours and its exports about 50 percent greater. We had a surplus of $7 billion in trade with the Community in 1976.

The overall EC forecast for 1977 projects 4 percent real growth, a reduction of unemployment to 4 percent, and a lowered inflation rate of 7–8 percent.

As to our country's attitude, for three decades we have supported the idea of and steps toward European integration.

The primary reason is that the two World Wars, into which we got deeply involved, started as internal European conflicts; and we obviously want no third.

Then it has been perceived as easier and better for us, in security, monetary and trade matter, to have one friendly unity of western European nations than the disparate conglomeration that has conflicted in Europe for centuries.

President Carter has said: "U.S.-Europe relations is at the heart of U.S. foreign policy. In economic policy, their cooperation with each other and with Japan is necessary both to their prosperity and to the progress of developing countries; growing European unity can help to fulfill this promise. Europe will be better able to fulfill its role in U.S.-European-Japanese cooperation in the degree that it can speak with one voice and act with one will."

Our government has been able to work closely and well with the evolving Community. And there are no Community developments in prospect which would harm our economic, security, or political interests in Europe.

Moreover, growing interdependence in all major fields is the unavoidable wave of the future. Hence, whatever promotes functioning interdependence in Europe can, in turn, generally promote interdependence across the Atlantic, with Japan, and the world as a whole—to our mutual benefit in the long term.

Therefore, we have good reasons to welcome the peaceful, effective evolution of the integration of the European Community.

CONVIVIAL POLITICS: GOOD WORDS FOR A NEW MINISTRY—BY ALAN GEYER

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. EDGAR. Mr. Speaker, Mr. Alan Geyer, executive director of the Churchs' Center for Theology and Public Policy, addressed a gathering of a number of our colleagues last Thursday. I was impressed by Mr. Geyer's contemporary perspective concerning the interface between religion and politics, and I would like to share his prepared remarks with my colleagues:

STATEMENT BY MR. ALAN GEYER

My Fellow Politicians:

That is not really a frivolous greeting! It is the essence of a truly free society that all of us regard ourselves as politicians and do not allow any special class to monopolize that distinction—or any special class to escape from it, including the clergy.

The French politician and lay theologian, Jacques Ellul, in his new book *The Ethnics of Freedom*, declares:

"All life today is in fact oriented to politics. The political question imposes itself on everything, and voluntarily or involuntarily all our judgments are political. It is a wrong question, then, to ask whether the Christian should take part in politics. He is fully doing so already. The only question is to know how to participate in such a way as to bring a certain freedom into this order of necessity, or to manifest Christian freedom within it."

I am sure that the first part of that quotation is already a deeply held conviction of everyone here tonight. You all believe that some kind of mixture of religion and politics is both good and inevitable, or you wouldn't be here. What we must consider is how to bring real human freedom into this order of necessity.

By any standard, some mixtures of religion and politics are more liberating than others—or more appropriate to this new study center than others are. Let me state very clearly what this center will *not* be, at least not in my primary sense.

1. We will not be a new lobby. The churches already speak with many voices through their many lobbies. If, however, we can provide a place where activists are welcome for periods of research and reflection; where they may encounter knowledgeable leaders in other fields; where they may be helped to understand their own style of work through action research—then the center's fellowship with activists may be a welcome complement to the lobbying profession. We pray that it shall be so.

2. Speaking of praying: we are disinclined to put all our eggs into prayer breakfasts—not because we're against either prayer or breakfast but because the personal piety of politicians is very lavishly attended to by others.

3. We will not be preoccupied with the personal morality of politicians—which is all some people mean by the term "political ethics." Now the honesty and chastity of politicians are greatly to be desired, I suppose, especially if you read political novels like "The President's Mistress" or "The 'R' Document"—but they are not fundamental issues of public policy or social justice. It is a horrendous flaw in our great spectator sport of personality politics that we allow such titillating matters to divert huge amounts of public energy from urgent policy matters.

4. Our center will not be primarily devoted to the study of the "civil religion"—that is, the presumed religious innards of our body politic to which we Americans appeal for all policy justifications, we "darlings of Divine Providence," as Reinhold Niebuhr put it. That topic has also been lavishly attended to by others.

5. This will not be a center for the study of the constitutional and legal niceties of church-state relations. There are, of course, some very serious issues on that front—but legal scholars and civil libertarians are quite vigilant there. We have a more basic interest in the theology of politics, which demands a much broader and richer content than any doctrine of church and state. Next spring, we will hold an inaugural consultation on the theology of politics which we hope will be the beginning of a continuing study fellowship among those for whom this is a serious vocational subject.

6. One more of these negatives: we will not become a second Brookings Institution. We should not even try to match the major secular policy institutes in doing specialized studies of the more detailed aspects of governmental problems. Rather, we shall always try to mix technical issues with the humanistic issues raised by theology and ethics. Our specialization is a thoroughly cross-disciplinary approach which permits no special claims of privilege for either technical expertise or religious authority.

The proper focus of this center, then, will be on secular issues and processes of public policy, especially those matters which concern "justice to the poor, the powerless, and the oppressed" and "peace for the whole human family." These are imperatives grounded in Christian faith—but that faith, in turn, is rooted in a more ancient prophetic heritage. One of the principal founders of the Washington Theological Consortium told me a couple of weeks ago that the more he studies the Scriptures, the more he is convinced that Jews and Christians must stand together on the common ground of justice interpreted as lovingkindness.

We must also reach beyond both Jewish and Christian traditions. Ananda Coomaraswamy, a thoughtful Hindu friend of Christians, once wrote:

"The modern Christian, who thinks of the world as his parish, is faced with the painful necessity of becoming himself a citizen of the world; he is invited to participate in a symposium and a convivium; not to preside—for there is Another who presides unseen—but as one of many guests."

It is in this sense that we need a convivial theology: an intellectual strategy, rooted in the Incarnation itself, for celebrating common humanity and the authentically universal work of Christ.

If ethically sensitive world religions cannot work together—and even draw spiritual strength from one another—I do not know how we can expect nation-states, or races, or classes, or competing ideologies to make peace or achieve justice together.

I confess that this seems, in some respects, a very bad time for launching such a center.

Many of the dominant moods and trends of American religious life seem forbidding. Some have called contemporary religious phenomena a new Great Awakening. It may really be a Great Impertinence. This is a season of religious narcissism and exhibitionism: of zealous retreat, on the one hand, and T-shirt, and-bumper-sticker piety, on the other. More seriously, churches are exhausting themselves in new schisms over sex and ordination, liturgy and charismatics, mindless emotionalism and Biblical literalism. There is an altogether scandalous introversion of religious energy.

This introversion, I believe, is completely contrary to the mission of a "Church for Others." Ten years ago, a World Council of Churches study declared that the church "must live 'ex-centeredly'. It has to seek out those situations in the world that call for loving responsibility and there it must announce and point to shalom. . . . We must stop thinking from the inside towards the outside."

If this narcissism in the churches were only an irrelevance which sapped prophetic energies, it would be bad enough. Unfortunately, there is a "mean streak" in the resurgent religiosity of these days which too easily inspires a "born-again" bigotry, a vengeful attitude toward criminal justice, and a resurrection of Cold War hostilities.

Similarly, there are some forbidding moods and trends in our political life. Public confidence in government—in the whole race of politicians and bureaucrats—is at a very low level, even lower than the normally low level which is endemic in this society. We have been through a long dark night of the soul in our national self-respect: repeated shocks of domestic violence, defeat in a protracted war, lawlessness at the highest levels of government have seemingly drained our moral energies and almost made us shockproof. Dissensus—by which I mean a fierce fragmentation of interests and groups within our society—runs very deep. Government seems stalemated on many fronts, which means stagnation in our economic and social policies. Never have so many politicians willingly, and even eagerly, retired from their own public careers. My political science students of recent years have come of age without much visible evidence that government can do them any good, or solve any difficult problem.

Whatever our political discouragements, this is hardly the most auspicious moment economically for launching such a center. It's not just that the economy continues to stagnate: it's that many foundations have diminishing resources for sustaining institutions in the private sector. Never have economists themselves, who have done so much to develop public policy studies, been so shattered in their professional self-confidence.

Why, then, with this mixture of religious impertinence, political disillusionment, and economic doldrums, should we meet to celebrate the inauguration of a new center for theology and public policy, of all things?

Perhaps, just perhaps because these very troubles of our times offer us a stunning opportunity to help renew the vocations of political leadership in our society. Some of you sophisticates know that the Chinese character for "crisis" is exactly the same as the one for "opportunity."

One way of describing the intellectual opportunity offered by this center is to say that we shall be studying systems as well as problems: that is, our political system and its interaction with the other systems of our society—and other societies. We mean to think (strange word!) about basic political and economic ideas about our system—and let them engage our most serious theological concepts. This will not be a center where we celebrate "the end of ideology": it will be a center where we hope to contribute vitally to the renewal of ideology. By the renewal of ideology, I mean the clarification and reconstruction of what we believe politically.

Neither an individualistic religion nor a purely pragmatic politics can adequately grasp systemic realities. Individualism never faces up to our organic interdependence, either in our own society or in the family of nations. Pragmatism forever tries to solve problems one-by-one, piecemeal, without facing up to the vital linkage among most if not all critical problems.

To study systems in religious perspective is to remember the appealing truth of the pioneer American conservationist, John Muir: "When you try to touch one thing by itself, you find it hitched to everything in the universe."

What this center is properly about is to inquire into the most severe systemic breakdowns in our own society and in its relationships with the world: the most hurtful and devastating derangements of human community. More positively, it is to help define a more equitable and compassionate political response to these breakdowns and derangements.

The indictment of a Ku Klux Klansman last week, 14 years after the bombing of Sixteenth Street Baptist Church in Birmingham, reminded me of Stokely Carmichael's lament of the last decade:

"When unidentified white terrorists bomb a Negro church and kill five children, that is an act of individual racism, widely deplored by most segments of the society. But when in the same city, Birmingham, Alabama, not five but 500 Negro babies die each year because of a lack of proper food, shelter, and medical facilities, and thousands more are destroyed and maimed physically, emotionally, and intellectually because of conditions of poverty and deprivation in the ghetto . . . society either pretends it doesn't know of this situation, or is incapable of doing anything about it."

To think systemically is to know about that situation and prepare to do something about it.

There is no coherent or humane system in this nation's approach to health care, even though we are now spending more on health than we are on the military. Millions of our poor are excluded from any dependable scheme of health care. Our more well-to-do citizens are exploited and victimized by medical, clinical, and drug entrepreneurs. Health security is not yet a human right in America.

All this has crucial implications for theological education. Training for ministry in our seminaries tends to neglect these systemic aspects of health. Clergy learn through clinical and other programs to become adjunct junior professionals to the present health establishment. They do not learn how to confront the health needs of their people on a broad social and cultural front. I would therefore propose that our center work with the Washington Theological Consortium in developing some new models of health ministry which are forthrightly oriented toward issues of public policy and toward citizen participation in the health sector.

There is likewise no system—no rational policy or policy structure—in this nation's approach to its cities. The administration, under a bit of pressure from black leadership, is scrambling around just now, trying to come up with an urban policy of some kind. Seventy-three years after Lincoln Steffens' "The Shame of the Cities," it is perhaps our greatest shame that we are sacrificing thousands of our urban young people on the altars of unproved dogmas about inflation and money and welfare. We have yet to become civilized enough to make it a national commitment to employment security as a human right. Surely we need new models of urban mission and ministry which are system-oriented and policy-directed. Perhaps here, too, we can work together through the Washington Theological Consortium.

There is no humane system—no effective framework of mutual respect and accountability—in this nation's relationship to the poorer countries of the world. If there were, how differently we would make our decisions about currency, the terms of trade and investment, agricultural production and food reserves, and energy policy!

We have no orderly system for political control of our own military technology. We have six times as many nuclear warheads as we had when the SALT talks began eight years ago. Our huckstering of arms to other countries is up from less than $1 billion in 1970 to over $11 billion in 1977. We keep promiscuously breeding new generations of weapons: Trident subs at $2 billion apiece, cruise missiles, M-X missiles, Mark 12-A missiles, neutron bombs, AWACS, satellite killers—and neither Congress nor the public nor other nations seem able to build a firm resistance to such promiscuity, partly because the bureaucratic momentum of military technology increasingly discourages any meaningful political participation in the crucial early decisions about research and development. And, because we are not yet very serious about the economic conversion of military industry, millions of American workers and thousands of industrialists cling desperately (and understandably) to weapons production for their livelihood—as if this "free economy" couldn't possibly survive without wars and rumors of wars.

If this were only a wasteful extravagance, it would be terrible enough. But the wasting of the human race is at stake. After some years of nuclear complacency, the probability of nuclear war has re-escalated since 1975.

Now, having bared my own soul so indulgently, I feel a lot better—and you probably feel a lot worse! But I will excuse you from the necessity of accepting my own brilliant judgments if you will agree that a focus on systemic inquiry, both politically and theologically (and in the same place), is a rather new and imperative kind of ministry.

Any controversial new ministry can only make its way effectively if it is prepared to de-mythologize some dominant styles of religious opinion and practice. This particular center would do well to scout the myths we shall surely encounter.

Some will say that religion in the 1960s was too radical and activist and that we must continue this long season of retreat and introversion. The truth, I think, is that most styles of religious activism in the 1960's were too sporadic, short-lived, and superficial: they attracted media coverage but they never really dominated our church establishments. In short, most church folk have no excessive habits of political engagement to withdraw from! Ralph McGill, editor of the Atlanta Constitution, wrote that most churches waited until the last act on civil rights, and even then had only a bit part to play.

Some will say: laity want clergy to go slow in politcal matters. I think the truth is more complicated. Laity do tend to resent monologue from their preachers. More and more laity are attaining levels of education and professional competence which equip them for a lay ministry far above being "pastor's little helpers." Johannes Hoekendijk laments our chronic tendency to create "church-domesticated laity, tamed and caged by the church" instead of being empowered for their apostolate in the world. I suspect that more persons (especially young persons) have been lost to the churches in the past decade after concluding that the churches simply don't do anything very important or very interesting, than have been lost because the churches are too provocative or controversial. Let us never underestimate the yearning of our laity for leadership nor the losses the churches suffer from lack of leadership.

Some will argue: when you emphasize politics, you weaken theology and spirituality. Let us learn to challenge that myth as being profoundly unbiblical and untrue to our prophetic heritage from Amos to Jesus. When Jesus set his face to go up to Jerusalem, he was deliberately going directly to the very centers of political power which could cost him his life—and which did. The Crucifixion can never be apprehended as a religious event until it is first grasped as a political event. How false it is to regard the relationship between religion and politics as a zero-sum game—as if any exaltation of politics will diminish religious faith, or vice-versa.

But some will still insist: Christian nurture must precede political involvement. That claim strikes me as both bad psychology and bad theology. At any rate, the churches are full of too many people who are always getting "nurtured" while forever postponing their involvement. Christian preaching and education which presupposes that folks can learn much about the meaning of discipleship without struggling with principalities and powers in the world is shallow indeed. The most genuinely spiritual congregations I know are those to whom members bring the burdens of their apostolate and therefore seek, in company with others, to understand what God is doing with their lives in the world.

The great prior fact that the church must never forget is that "God so loved the *world*. . . ." The right order in thinking and speaking about the church is God-World-Church, not God-Church-an-then-World.

Now at last, having tried to impress you with how spiritual I really am, I conclude with an appeal to you to recognize how patriotic I really am.

The churches must be concerned about our nationhood and renewing our self-respect as a people. We shall never have the commitment, the energy, or the consensus required for great political achievements if we do not identify with treasures in our own heritage as a people. My favorite source of such treasures is the late Judge Learned Hand, the great man who belonged on the Supreme Court but somehow never made it. He really returns us to our opening question tonight: how to bring true liberty into the necessary order of politics. The occasion was a most patriotic one: "I Am An American Day" 33 years ago in Central Park, with all the ethnic variety of New York City gathered 'round, in the very midst of a long war. Judge Hand asked his audience:

"What then is the spirit of liberty? I cannot define it; I can only tell you my own faith. The spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interest alongside its own without bias; the spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of Him who, near two thousand years ago, taught mankind that lesson it has never learned, but has never quite forgotten: that there may be a kingdom where the least shall be heard and considered side by side with the greatest. . . .

"(the) spirit of an America which has never been and which may never be; nay, which will never be except as the conscience and courage of Americans create it; . . . (the) spirit of that America which lies hidden in some form in the aspirations of us all. . . ."

Thank you, each and every one of you, for being here tonight.

POSTAL SERVICE: A VIEW FROM RURAL AMERICA—VI

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ABDNOR. Mr. Speaker, South Dakotans and rural America continues to be gravely concerned about the future of the U.S. Postal Service, and what the Congress has in mind as it ponders postal reform.

I commend to the attention of my colleagues two editorials appearing recently in our daily press.

[From the Sioux Falls (S. Dak.) Argus Leader, Sept. 30, 1977]

RESOLUTION FAVORING SIX-DAY MAIL SERVICE IS POSITIVE STEP

Question: Would you believe the members of Congress or the U.S. Postal Service about public support for or against elimination of Saturday mail service?

The House voted 377 to 9 earlier this week in favor of a resolution urging that the current six delivery days per week be retained. But at midweek, a Postal Service spokesman restated the same policy the agency had before the vote. He said: "We will not decide whether or not to eliminate Saturday delivery until after the completion of an opinion survey on public reaction."

The Postal Service has had a cutback in service in mind since last spring, following the recommendation of a federal study commission to go to five delivery days per week. The Commission on Postal Service said this would save the agency $412 million per year.

The study commission paid for a public opinion sampling which concluded that the majority of Americans would be willing to do without Saturday mail delivery if that would result in lower postal rates. That toll has been attacked by U.S. Reps. Charles H. Wilson, D.-Calif. and James M. Hanley, D.-N.Y. The Postal Service has since decided to Commission its own poll, but results of the new poll have not yet been announced.

In our opinion, the members of Congress have a much better feeling for the needs of the public with respect to mail service than either the first or second polls touted by the Postal Service. The congressmen have gotten an earful from their constituents about the agency's plans for the mails.

A saving of $412 million claimed by the Postal Service in eliminating six-day service should be questioned sharply. What is not calculated is the adverse effect on citizens and business. The resultant delay in the mails, already plagued with a weekend bulge, would not help either individuals or business. The curtailment would impede communication and commerce. A reduction would affect both urban and rural users in a detrimental way. However, rural states would feel the impact more, because citizens rely on the mail for more things, including second class delivery of their newspapers.

The congressional resolution against reduction in service has no force of law. Wilson and Hanley have introduced a bill requiring that Saturday service be continued. The bill would also increase the federal subsidy for the Postal Service and make the postmaster general a presidential appointee. An increased subsidy is essential for effective mail service. The postmaster general is now named by the 11-man board of Governors of the Postal Service; these members are appointed by the president. Direct presidential appointment of the postmaster general and his return to the cabinet would make the Postal Service more responsive to the public.

The resolution upholding six-day mail service is a positive step. The vote reflects the public's interest. Congress should now enact a law embodying the features of Wilson's and Hanley's measure. The Postal Service should be told to retain and improve six-day mail service. Unless the members act, the Postal Service will undoubtedly go its own bureautic way.

[From the Huron (S. Dak.) Daily Plainsman, Oct. 4, 1977]

POSTAL OPTIONS

Although the U.S. House of Representatives passed a resolution by a vote of 377 to 9, calling upon the Postal Service to maintain mail delivery six days a week, spokesmen for the service say they have not given up the idea of eliminating Saturday delivery.

What they are waiting for, they say, are the results of a public opinion survey on the proposed cutback. Depending upon where such polls are taken and what questions are asked, that survey could be slanted to come out just about the way the Postal Service wants it to.

For instance, a survey conducted on Wall Street would undoubtedly produce the answer that Saturday mail service is not important. And that answer would be correct there, because the stock market doesn't operate on Saturday. A survey taken in South Dakota where nearly everyone, particularly rural residents, depends upon Saturday mail, would promote an opposite response.

We expect that the Postal Service could get an excellent report on just where Saturday mail is considered very important part of the service by simply polling its own postmasters. And it would certainly not be too difficult to continue service in those areas where it is needed, even if it were to be discontinued in areas where it might not be considered to be essential.

There are several options open to the Postal Service if it is to live up to its name. One of these would be to ask the same representatives, who voted 377 to 9 to continue Saturday service, for the money to do so. Another would be to continue this service where it is needed.

There are also several options open to the Congress if the management of the Postal Service should insist that it no longer is a service organization. One of these would be to put that service back under congressional control and then provide some positive guidelines for its operation.

After nearly 400 members of Congress give an issue an affirmative vote, the idea of conducting another survey apparently to find out whether those congressmen understand what their constituents really want seems a little odd. As a matter of fact it could be interpreted as an insult to those elected legislators.

We have a hunch that the members of Congress who voted for the continuation of Saturday mail service are reading their mail a little more carefully than the top management of the Postal Service that delivers it.

THE ATTORNEY GENERAL'S BUREAUCRATIC ARROGANCE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RUDD. Mr. Speaker, I am most concerned and irritated by the bureaucratic indifference and arrogance of the Attorney General when it comes to responses to legitimate congressional inquiries and requests.

Despite repeated attempts to obtain information and answers to important questions concerning the Justice Department's questionable action against former FBI Special Agent John Kearney, Attorney General Griffin Bell has ignored my requests and refused to cooperate in any way to provide the information that I am seeking.

My colleagues will remember that Special Agent Kearney is the man who helped obtain critical evidence against criminal terrorists of the Weather Underground, who were responsible for more than 19 bombings around the country in the late 1960's. Mr. Kearney's investigative work led to the indictment of several of these criminals who are unfortunately still at large and have never been brought to trial for their heinous crimes.

Almost as soon as he took office, Attorney General Bell instructed the Department of Justice to press for the indictment and trial of Mr. Kearney on the highly questionable grounds that he had violated Federal law in obtaining the evidence that resulted in these indictments against members of the Weather Underground.

The Attorney General singled out Mr. Kearney for this action, since almost simultaneously he ordered that no indictments be brought against Special Agent Kearney's superiors who must have authorized the wiretaps and mail openings that produced the evidence used by the Government to obtain indictments against the Weather Underground terrorists.

I believe that documents exist within the Justice Depratment to show that Mr. Kearney was acting in accordance with clear policy established by high government officials—including the Attorney General of the United States who at that time was Ramsey Clark.

I have asked Attorney General Bell to provide some of that documentation, which has already been partially quoted by former Justice Department officials in Senate testimony that I discovered.

But the Attorney General has ignored all basic concerns and requests that I have registered with him in the Kearney matter. With the exception of one belated form-type response to my first letter on April 19—which has been followed up by other letters from me in an attempt to obtain the information I am seeking—the Attorney General has ignored my requests and steadfastly refused to produce this information.

Mr. Speaker, since when does a Cabinet officer have the right to invoke the awesome power and resources of the U.S. Government, and refuse to acknowledge or satisfy the requests of elected representatives of the people who seek information and justification for his action?

Mr. Bell has decided that the Government must prosecute John Kearney. He has ordered the Justice Department to use whatever resources it must—along with other agencies of Government—to indict and prosecute, leading to possible conviction and sentencing of a former FBI special agent who is now left to his own personal resources to defend himself, his reputation, and his future.

He must also depend upon evidence and documentation that is under the Attorney General's control in order to conduct such a defense.

I deplore the bureaucratic arrogance of the Attorney General. I publicly ask him now—as I have previously requested in my personal letters to him—for documentation concerning Justice Department policy on the Department's intelligence-gathering activities during the period in question.

Because of the course that he has taken of persistently ignoring and refusing such legitimate requests for information, I believe that it is incumbent upon me to bring this to the attention of Congress. The action he is taking against former FBI Special Agent John Kearney should be terminated.

Mr. Speaker, both those of us in the Congress and the general public are well aware of bureaucratic arrogance and unresponsiveness of Federal agencies to the public's concerns.

Columnists Jack Anderson and Les Whitten authored a recent column on the results of President Carter's survey of Congress concerning dilatory action, annoyance, and inefficiency experienced by Congressmen and their staffs when dealing with Federal agencies.

The Department of Justice was not included in Anderson's and Whitten's list of worst offenders, but as the result of my experience that agency under the administration of Mr. Bell deserves this dubious distinction, and I would like to add them to the list at this time.

It is ironic that the Federal Bureau of Investgation, according to the Anderson and Whitten column, received high marks from Members of Congress for being one of the "most responsive" agencies when it comes to congressional constituent inquires. I believe that the entire Justice Department under Mr. Bell would benefit enormously if the Attorney General would emulate the FBI's efficiency and cooperation in responding to congressional inquiries and requests.

Mr. Speaker, I would like to include the Anderson and Whitten column at this point in the RECORD:

[From the Washington Post, October 1, 1977]

IRRITATING BUREAUCRATS FACE CURBS

(By Jack Anderson and Les Whitten)

The dauntless Jimmy Carter, embarking on perhaps his most quixotic crusade, will next strive to take the annoyances out of government.

He has called upon members of Congress to help him determine which government agenices are the most obstructive and obnoxious. A confidential report, summarzing the responses of 200 legislators, has just been submitted to the President.

It fairly bristles with the caustic comments of congressional offices, which are engaged in the daily struggle of extracting straight answers from indifferent bureaucrats. The most powerful congressmen have found themselves stuck in the bureaucracy's flypaper.

Even more exasperating are the experiences of everyday citizens who deal with the bureaucracy. Increasingly, the governed are not giving their consent; rather, they are throwing up their hands in disgust over the complex forms, endless runarounds and unresponsive answers they get from their government.

We have had access to President Carter's confidential survey, which provides an extraordinary measure of the frustration level induced by the bureaucracy. The government office with the highest irritation rating appears to be the Office of Workmen's Compensation.

Liberals and conservatives alike have become hopelessly ensharled in the spiderweb of red tape surrounding the office. Some applicants simply "give up waiting for benefits and retire instead," Sen. Gary Hart (D-Colo.) reported to the White House.

Sen. Barry Goldwater (R-Ariz.) agreed. He found workmen's compensation "totally inefficient in every manner . . . It takes forever to get a reply." Aides to Sen. James Pearson (R-Kan.) said they "dread" dealing with the office because it "has repeatedly been insolent, arrogant and dilatory."

Rep. Norman Dicks (D-Wash.) told the White House about his vain attempt to secure workmen's compensation for an eligible and needy constituent. The effort took months; Dicks was promised eight times that officials would call him back; ultimately they lost the man's file.

The Social Security Administration also registers high on the annoyance index. Some of its executives take a totalitarian attitude toward inquiries; they tend to regard themselves as sovereigns instead of servants. They "cite cryptic rules in order to fend off inquiries," complained Rep. Joseph Ammerman (D-Pa.).

Sen. John Glenn (D-Ohio) reported that Social Security often doesn't acknowledge letters, and Rep. Philip Burton (D-Calif.) added that those who answer the letters have "a long way to go in improving their basic English." There were hundreds of complaints about "extremely long delays" and "rudeness."

The Occupational Safety and Health Administration came under fire for "harassment," "too many forms" and "unnecessary paperwork." No less than liberal Sen. George McGovern (D-S.D.) castigated it for "overregulation of small business [and] nitpicking enforcement."

The Immigration and Naturalization Service also scored high for sheer nastiness. Sen. Birch Bayh (D-Ind.) called it "confusing, understaffed and backlogged . . . No one," he added, "understands how its decisions are made." Echoed Sen. Howard Metzenbaum (D-Ohio): "It would be easy to form the impression that immigration employees hate all foreigners and wish they would just stay home."

A few agencies drew praise from Capitol Hill. The "most responsive" agency, said Sen. Carl Curtis (R-Neb.), is the FBI. The Defense Department was widely cited for its military efficiency in responding to requests. The Passport Office was lauded for its "well-trained personnel who care." And the Veterans Administration, despite some criticism, received more plaudits.

Perhaps Sen. Jack Garn (R-Utah), put it best: "If each administrator were simply to place top priority on a courteous response to each inquiry . . . you would probably cut my casework problems by 40 per cent."

President Carter will send copies of the confidential survey to the worst agencies, a White House aide explained, to "force them to look at the real world." Individual citizens can help him rate the federal agencies by reporting their experiences to the National Suggestion Box, Box 2009, Washington, D.C. 20013. A citizens' irritation rating will be compiled from the individual responses.

Of course, the government abounds with efficient and intelligent bureaucrats. But collectively, they seem constantly to provide more government but less service at higher cost.

TRADE AND THE DOMESTIC TEXTILE INDUSTRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LEHMAN. Mr. Speaker, because of my participation in the interparliamentarian conference, I was unable to take part in a discussion held under a special order on September 27 concerning the domestic textile industry and international trade. I wish to take this opportunity to express my views on this important subject at this time.

The textile and apparel industry is one of the most vital industries in America today. Employing 2.3 million workers,

over one in eight manufacturing personnel depend on this industry for their livelihood. Yet, a growing tide of textile and apparel imports has endangered the continued existence of this key industry.

According to the U.S. Census Bureau, the physical volume of textile imports has increased 250.6 percent since 1966. This has resulted in a decrease of both domestic employment. The International Ladies Garment Workers Union estimates that between 1961 and 1976 approximately 150,000 people lost potential employment in this industry. Further rapid growth of imports could have a critical impact.

It is for this reason that I urge the administration not to lower the import quotas in the forthcoming Geneva negotiations authorized by the 1974 Trade Act. Such action would be a catalyst for further unemployment in the textile industry.

The U.S. textile and apparel industry cannot withstand further competition for our domestic markets. The American textile worker earns an average wage of $3.50 an hour, and must compete with wages lower than one-seventh that amount in such countries as South Korea and the Republic of China. In an industry which is already highly competitive, more imports will simply mean more firms out of business and more workers out of jobs. This will only add to the high unemployment levels of minority groups and women, who constitute a large percentage of textile laborers. Such jobs should not be sacrificed to low cost imported goods from abroad.

Present duties on textiles and apparel are not excessive and do not prevent imports from coming to our shores. The past growth pattern makes this point clear. A reduction in duties could however, tip the competitive scale further in favor of imports and wreak havoc on our domestic industry. For this reason, I urge no further duty cuts for textiles and apparel.

ANTIREBATING BILL

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MURPHY of New York. Mr. Speaker, the Committee on Merchant Marine and Fisheries has been seeking to enact legislation that will carry out our national shipping policy as stated in the Merchant Marine Act of 1936 and the Shipping Act, 1916. That is, to establish and maintain a strong merchant fleet, owned by American citizens, manned by American crews, and capable of serving as a naval and military auxiliary in time of war or national emergency.

This national policy also specifically provides that we have a merchant marine sufficient to carry a substantial portion of our commerce in our foreign trades.

Common carriers by water in the foreign commerce of the United States are regulated by the Federal Maritime Commission. The Commission does not have regulatory authority over the transport of bulk cargo, including tankers, via vessels owned or chartered by the operators. The routes served by common carriers in our foreign commerce are referred to, generically, as "liner trades."

One of the most pressing problems facing the U.S.-flag liner fleets is that of rebating. Although the Shipping Act, 1916 prohibits any carrier subject to the jurisdiction of the Federal Maritime Commission from offering any direct or indirect monetary inducement to attract cargo that departs from the rates contained in its published tariff, nevertheless the Commission is now investigating 27 ocean carriers—9 U.S.-flag and 18 foreign flag—and 215 shippers or consignees known or believed to have paid or received rebates in our liner trades.

The basic cause of rebating is overtonnaging, and consequently, a measure of control over capacity is probably the long-term solution to this problem. Nevertheless, our shipping laws prohibit this practice although rebating is a commonly accepted competitive practice in virtually all foreign trades other than our own. That it is a harmful practice in the U.S. liner trades is best described in a statement made by Manuel Diaz, president of Adherence Group, Inc., with 30 years experience in ocean shipping:

> It results in unreasonable preference and advantage or prejudice and disadvantage to shippers, ports and other concerned interests.
>
> It never benefits the consumer; and ultimately, must result in predatory competition leading to unbridled rate wars which will ultimately make it impossible for privately-owned companies to continue to operate much less to replace their fleets.
>
> In a nutshell, the result of illegal rebating, whatever its degree, is the enrichment of a few at the expense of the public interest and commerce between nations.

I am introducing a bill, today, which has already been introduced by Senator INOUYE (S. 2008), which I believe will serve as an excellent framework for our committee to conduct hearings and fashion an effective and practical solution to the problem of maintaining equality of competitive opportunity among American carriers, and between American carriers and their foreign competitors, while best protecting the interests of all the shipping public.

The proposed legislation would provide for a 3-year period to reach a permanent solution of rebating practices in the U.S. foreign trades.

There are three major provisions in this bill:

First. All carriers and shippers in the Foreign Commerce of the United States must respond fully to an FMC order of hearing and investigation relating to rebates. Failure to cooperate subjects a carrier to severe penalties including denial of entry of such carrier's vessels into U.S. ports.

Second. An amnesty provision intended to encourage everyone who had engaged in rebating to come forward and disclose. This amnesty provision expressly will not affect any settlements already reached between the FMC and certain carriers, consignors, and consignees.

Third. A requirement that the FMC within 18 months of enactment of this bill report to the Congress on the results of rebating disclosures encouraged by the amnesty provision.

I have already reserved 2 days for hearings, October 14 and October 20, 1977, at which dates we expect to hear from numerous witnesses including all Government agencies which have statutory responsibilities affected by illegal rebating.

THE PROBLEM OF ULSTER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. BINGHAM. Mr. Speaker, President Carter recently broke the traditional silence of American Governments on the subject of Northern Ireland. His statement was not so much of interest because of its content, as because of the fact that it was made by an American President.

For too long British Governments have successfully argued that the problem of Ulster was an internal problem for the British, with which Americans had no business meddling. The argument flies in the face of President Carter's position that human rights everywhere are properly the concern of all humankind. Moreover, the problem of Northern Ireland is clearly an international problem, involving as it does the United Kingdom and the Republic of Ireland, as well as the people of Ulster, most of whom consider themselves Irish, not English.

Two recent editorials are of interest in this connection. The first is from the Advocate, an 84-year-old Irish-American Weekly Newspaper published in New York, and is dated September 24, 1977. The second is from The Irish Times of Dublin, dated October 1. The editorials follow:

> The British Government has been urged to make an "exolicit and symbolic expression of repentance" for the "long history of injustice visited by Britain upon Ireland." The call is made (July 26, 1977) in a special report commissioned by the Church of England on how the British people can help in bringing about a solution to the problems of the North.
>
> The report spells out the responsibilities of Christians in Britain to do something constructive about the troubles in the North. But it notes that attitudes to Ireland held in Britain have long been ambivalent and dominated by stereotypes.
>
> "There is a particular need for us to avoid the easy dismissal of a whole society and its problems—'those impossible people' which reflects surviving imperial attitudes rather than a realistic attempt of two close neighbors to live side by side.
>
> "In view of the long history of injustice visited by Britain upon Ireland, it may be that real neighbourliness can only be brought about by an explicit and symbolic expression of repentence on our part both for what has been done amiss in time past and for our part in its continuance," the report declares.
>
> It calls on the British Government to start political talks once again, saying that the only beneficiaries of the present political impasse are the paramilitary groups. But, it adds, that while power-sharing may prove to be essential in the long run, it should not be a precondition of talks taking place.
>
> "The effect of standing pat," says the report, "is not even wise in terms of the strategy of reducing terorism—as events in Malaysia in the 1950's demonstrated, you can only effectively defeat a modern guerrilla movement by making progress on the political front and engaging 'the hearts and the minds' of the community at large."
>
> However, it warns that Britain should not assume that it has even the germ of political solutions within its grasp, "Our contribution as the sovereign power may well be the crucial and painstaking one of holding the ring and identifying and removing obstacles to an agreement."
>
> The report says that it is unrealistic for British commentators to look for political solutions without at the same time engaging with the fact of violence and, in some measure, acknowledging their own part in it.
>
> "The history of Ireland—particularly that part recalled whenever the Catholic and Protestant communities celebrate their separate existence—is punctuated by scenes of violence enacted by Britain and answering violence from one or other of the Irish communities."
>
> Nevertheless, while Britain carries the constitutional and legal responsibility for Northern Ireland, the report says that that does not mean that all responsibility rests in Westminister. It is shared by the government and people of the Republic of Ireland and by the two communities in the North.
>
> The report, commissioned by the Church of England's Board of Social Responsibility, was written by Mr. Giles Ecclestone, secretary of the board, and Canon Eric Elliott, a minister working in Belfast. It was produced in response to a call from the Irish churches to discuss the Northern problem and bring it to the attention of the British people.

FANATICS ALL!

All Governments have one main aim: to stay in power; British or Irish, Tory or Labour, Fianna Fail or Coalition.

Mr. Callaghan's Government is no exception, and his gambit with Mr. Lynch and Mr. O'Kennedy this week is part of the pattern. He is, he makes clear, the Prime Minister of the United Kingdom of Britain and Northern Ireland; he is not going to give up any part of it without a struggle. Thus, he can tell Jack Lynch that he, Callaghan, is the guarantor of the people of Northern Ireland, while our men at the talks feel inhibited as to their long-term ideals for that same part of Ireland, our own country.

To be sure, we offended no-one too much in London. There was a bit about power sharing (not in the communique) and that will crackle for a bit; but nothing fanatical, of course. Fanatical is a great word in the English press; it denotes any Irishman or woman who believes that we could run our own country.

Yes, that's fanaticism for you, as some of the London journalists will define it.

One might think that those who hope for a united Ireland are, in fact, the people of balance and reason: who see the prospect of two nations with an interlocking history, with much in common today, with hostages to fortune mutually given, learning to live side by side as good neighbours and not in a relationship where bitterness and intermittent warfare continue, as they do today and have done for centuries.

To aspire to a united Ireland is to wish to be rid of factionalism and sectarianism, both of which are guaranteed to continue for as long as Britain remains.

Britain and Ireland must sort out their future or have it sorted out for them. Britain is now a minor country on the world scene. Ireland is one of the few remaining places where she can throw her weight about—and does so. It is as crude at that.

To know about war is an army's business. Britain's army is now well up on modern urban tactics. No-one else has gained from the present conflict.

One should not belittle the easing of a cross-border tangle here and there; an advance in economic co-operation can only do good; but if, at bottom, Callaghan continues to stake out the Six Counties as his terrain, as Norman magnates did eight centuries ago, then journeys to London are a waste of time, and, indeed, even a humiliation.

SUSPENSION OF THE NATIONAL CRIME SURVEY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. CONYERS. Mr. Speaker, I wish to call to the attention of my colleagues a decision by the Law Enforcement Assistance Administration to suspend data collection for this country's only ongoing survey of the victims of serious crime.

The national crime survey—the so-called victimization survey—is designed to collect accurate statistics on the incidence and nature of crimes involving serious violence and property offenses. Unlike the FBI's uniform crime reports, which depend on police departments to assess the incidence of crime, the national crime survey obtains its information from a representative sample of some 60,000 American households and 50,000 businesses across the United States. This survey collects detailed offender and victim data for rape, robbery, assault, larceny, household burglary, and the commercial crimes of burglary and robbery.

From strictly a statistical point of view, the survey is far superior to the existing FBI police reports since it gathers data on crimes both reported and not reported to the police. In addition, because the survey employs a large, representative sample and utilizes one format, it is not subject to serious differences in reporting practices among the 13,000 law enforcement agencies which comprise the FBI's uniform crime reports.

Among the advantages of the survey are the following:

First. Checks accuracy of FBI's police reports;

Second. Supplies offense and victim data identifying those most at risk;

Third. Provides an accurate assessment of changes in crime rates—quarterly and annually;

Fourth. Includes data on fear of crime and citizen evaluation of seriousness of crimes—supplements added to questionnaire;

Fifth. Gauges rates of reporting and nonreporting to the police; and

Sixth. Permits a more accurate assessment of criminal justice effectiveness—particularly city surveys.

With the above in mind, the subcommittee will hold an oversight hearing on Thursday, October 13, to review the decision to suspend this valuable survey for a period of approximately 1 year. Perhaps a little historical background might help underscore the reasons for our concern over the matter.

The Acting Administrator of LEAA 2 months ago approved a staff recommendation that this survey be suspended. Coincidentally, at the time LEAA was deciding to drop this survey, the Attorney General's staff was recommending to him that a criminal justice statistics bureau be set up in the Department, with the national crime survey to be a key component of that Bureau's activity. This struck me as a classic case of the right hand not knowing what the left was doing, prompting me to write the Attorney General to ask for clarification of this apparent inconsistency. I received an interim reply from the Office of the Attorney General, indicating that they were reviewing the matter. In the meantime, the subcommittee has been contacted by researchers and others in the criminal justice statistics user community, protesting the planned suspension of this survey.

Having received no further communication from the Justice Department, I was quite surprised to read in the Los Angeles Times, the Washington Post, and the New York Times of an interview with Acting Administrator Gregg, who announced that LEAA was suspending the survey because of "serious" questions about data collection, including the quality of the questionnaires that have been used.

I am deeply concerned about the apparent confusion and delay which has surrounded this decision. At a time when this Nation needs an accurate barometer to measure crime—particularly if we are to gauge whether a real decrease in the crime rate has occurred in 1977—it astounds me that LEAA would terminate data collection in apparent contradiction of its own published statistical goals, the policy of OMB, and the plans for a Bureau of Criminal Justice Statistics.

I call the attention of my colleagues to this most serious matter for it would appear that unless this decision is reconsidered, we in Congress will be forced to rely on the crime reporting system which is widely recognized as the least accurate of the two.

I am also informed that because of technological reasons and the start-up of the 1980 census, suspension of the national crime survey could well mean its termination until the mid 1980's.

I invite all those with a concerted interest in the reliability of crime statistics to attend our hearing at 1 p.m., in room 2141 of the Rayburn House Office Building. At this hearing, members of the user and statistical community will provide some background concerning the merits of continuing to collect victimization statistics. We will also have on hand a representative of the Census Bureau which conducts the survey for LEAA, and the Acting Administrator of LEAA, who we hope will provide an explanation of this most confusing and disturbing situation.

THE OPTICAL DELUSION—PART III

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to insert the third part of a recent investigative series in the New York Daily News on the retail eyeglass industry. The entire series focuses on widespread consumer fraud in the industry and this particular article goes right to the heart of the problem—namely the glaring disparity in eyeglass prices.

At best consumers are vulnerable to paying exorbitant prices for eyeglasses and equipment merely by virtue of where they shop. Contained in this article is a sample breakdown of prices for frames and lenses quoted from some 20 different stores surveyed by the Daily News reporters. The disparity is startling, the ability of the consumer to be protected is nonexistent.

Currently the FTC is developing rules to lift the ban on advertising on eyeglasses. This could result in savings of 25 to 40 percent, based on prices in those States where bans are in effect.

I now submit the article—"Eyeglass Prices Are Nothing To Be Proud Of," by William Sherman:

EYEGLASS PRICES ARE NOTHING TO BE PROUD OF

Americans are buying their eyeglasses in the dark. Part of the problem is advertising—virtually every state has prohibitions against optometric price ads.

The same pair of glasses—with the same frame and the same lenses—sells at anywhere from $36 to $83.50 at different stores around New York City. But if you didn't do shopping, you wouldn't know the difference.

What's more, if you bought the glasses in one of the three states, not including New York, where there are no restrictions on advertising, you would probably pay 25% to 40% less for those glasses, according to federal surveys.

The bans range from total prohibition of any type of advertisement, even a practitioner's name, in 25 states like Connecticut to states like New York where there are fewer restrictions.

And although these bans are supposed to protect the consumer, the real effect is price protection for the retailer.

Because of the prohibitions and other industry practices the Federal Trade Commission describes as "monopolistic," it is estimated that American consumers pay as much as $400 million a year in excessive eyeglass prices.

Advertising prohibitions keep retail prices artificially high, say economists who testified before the FTC, much higher than the 200% wholesale-to-retail markup on clothing, food and other staples.

Without active competition, say the economists, retailers charge whatever the market will bear and in New York City, where 2 million pairs are sold annually, the market bears plenty—600% to 800%.

Frame prices are the item retailers jack up most and on Madison Ave., an American Optical Co. "Stadium" frame which wholesale for $5.50 is sold as a separate item for $40.

Optometric lobbyists contend that price advertising would allow large corporate, or non-professional discount chains into the business, resulting in poor quality glasses. Most retailers in the United States are individual practices owned by optometrists.

Still, over the years, laws have been relaxed in many states allowing optometrists to work for lay, or non-professional corporations such as Peoples' Drugs in Washington, D.C., an area where there are no advertising prohibitions.

In New York State, prohibitions on all forms of eyeglass price ads were lifted only a year ago, but there are still restrictions against displaying discounts, coupons, endorsements and each ad must contain the specific frame manufacturer, model number, and type and manufacturer of lens. It is cumbersome.

Jan Dorman, executive director of the New York State Optometric Association, said frankly, "We're against advertising. We're against commercial optometry. There are too many variables, too many prescriptions, and the consumer deserves to have one man prescribe and dispense his glasses."

In almost every state where there is an optometric lobby, or a government board which controls the practice of otpometry, there are advertising restrictions.

Strangely enough, Dorman's opponents, the large commercial chains such as Cohen's Optical and Sterling Optical, members of the Optical Retailers' Association rarely advertise even though they supported lifting restrictions.

"Even the large commercial houses don't want to advertise because they don't want a price war," said Dorman. "There's enough business for everybody."

So there is almost no price advertising in New York City for eyeglasses even though it's a $170 million annual industry in the five boroughs.

Retailers argue that prescriptions are so complex that large discount houses can easily deceive customers as to what they are getting for their dollars.

However, a News investigation disclosed that there appears to be no relationship between how much you pay for glasses and the quality of the goods you receive, even if you go to "guild opticians."

Reporter Hugh Wyatt, who bought 20 pairs of glasses around New York City, found in many cases, the quality of his costlier purchases at fancy boutiques was worse than less expensive glasses bought at high volume stores. The glasses were evaluated by optometrists at the State University of New York's Optometric Center.

At prices ranging from a low of $31.90 to a high of $69 for the identical glasses, Wyatt's prescriptions were inaccurately filled and frames and lenses were mangled by technicians. Most of the stores he visited were large commercial establishments.

Reporter Kiki Levathes, who visited 20 Manhattan stores and asked for price quotations for duplicating her Bausch and Lomb Ray Ban glasses found a range from $36 to $83.50, a difference of 132%.

The high prices, said the expensive retailers, are due to better service. But at most of the stores, regardless of price, sales personnel pressured reporters to buy such things as more expensive high fashion frames, oversize lenses, or tints to match their eye or hair color.

Here is a sampler of their shopping experiences:

At three stores in one retail chain and two stores in another, different prices were quoted for the same glasses. In one case, two salespeople in the same store quoted different prices.

Most retailers told the reporters they could wear soft contact lenses costing up to $300 even though those lenses are contra-indicated, improper, for their vision problem, astigmatism.

Four stores refused to sell the relatively inexpensive Stadium frame even though that common model is easily available from the American Optical Co., one of the three largest ophthalmic manufacturers in the world.

Several sales people insisted to Levathes that she needs "oversize lenses" for her standard size frame. The oversize lenses cost about $15 more and according to optometists at the center, are unnecessary for her frame.

Both reporters were given advice on prescriptions, vision problems and fitting glasses by salespeople and clerks who are not licensed by the state as optometrists or opticians.

Questions about quality and price were often challenged by retailers who asked the reporters why they were so curious. Some acted insulted. Others refused to answer queries and one asked Levathes to leave his store.

Wyatt asked for an itemized bill at each store. Without such an account he wouldn't have had any idea of what he was paying for; was it the frames, the lenses, the examination, the labor? Still, many stores didn't break down his tab and told him simply that "everything" was included in the package.

At some stores, Levathes found practitioners who were frank. "Soft lenses wouldn't serve you any purpose," said optometrist Jay Baxter who works at Kimbe Opic, 711 Fifth Ave. "It wouldn't be correct for your prescription. I wouldn't even prescribe hard lenses for you. It's not worth it.

When asked why he would charge $15 for a frame which wholesales for $11.60 with no exam included in the package, Baxter shrugged and said, "You rarely hear of an optician operating with less than a 200 percent markup. It goes as high as 500 percent higher. We charge whatever the market will bear."

Stanley Bryer, an optician whose store is at 510 Madison Ave., quoted the highest price in the Ray Ban sample, $83.50: $48.50 for the frame, and $35 for the lenses which wholesale for about $5.00.

"I admit my frame is overpriced," said Bryer. "But I sell my services, I don't just sell the frame. I offer good eye care with follow ups and adjustments."

"Salesgirls in the low-priced chain stores who are not trained and licensed opticians or optometrists, are not qualified to be on the floor fitting and recommending frames," Bryer added.

Gerard J. Cevaseo, president of Sterling Optical Co., one of the largest low priced chains, dismissed the argument that his stores sell at a low price because "quality" care isn't provided.

"We get our lenses primarily from Bausch and Lomb and American Optical. We buy in bulk and we get a reduction in price because we buy in tremendous volume. Our average stores does 20 to 30 times the volume of the private optical shop."

Cevaseo, whose chain has 86 stores in 15 states, estimated that Sterling sells 750,000 pairs of glasses annually. "The gross markup in the business ranges from three to 20 times wholesale scale. You might pay $30 for a pair of glasses from Sterling that would cost $60 at Lugene's (an expensive optician)."

As for quality control, Cevaseo said his firm spot checks lenses for quality and added, "We can provide full one hour service; 15 minutes for an eye exam, 5 minutes to select the frame and another 15 to 20 minutes to mark edge and insert the lenses into the frames."

Optometrists at the university center said it is "impossible" to perform a proper eye exam including all the crucial tests in less than 45 minutes.

Cevaseo said, "An experienced optometrist can do it in seven minutes."

On giving advice on glasses, Cevaseo said, "Why pay an optician or an optometrist $28,000 to $35,000 a year to do something a reasonably intelligent girl can do for $110 or $120 a week."

James O'Keefe, head of the New York Division of Lugene Opticians, a high priced chain of eight stores in four states disagreed with Cevaseo. "We don't believe you can get good glasses in an hour. We are concerned about giving a good product which sometimes means disappointing people on time."

Both Lugene and Sterling advertise, but the Sterling campaign, especially outside of New York City, is much bigger. Cevaseo said advertising is "good" for the consumer adding that it "increases competition."

O'Keefe said, "I'm afraid the quality will suffer. It will help the dishonest opticians sell an inferior product."

The Federal Trade Commission, which has repeatedly urged lifting all bans on advertising, says that the "quality of material issue is a moot point with regard to eyeglass prices."

Surveys have shown that 85 percent of the lenses sold in the United States have a wholesale price ranging from about $5 to $7 a pair. FTC surveys show that lenses and frames are uniformly marked up much higher in states that prohibit advertising.

Expensive or not, there is virtually no eyeglass price advertising, in New York City.

One expert says he has the answer to the entire pricing and markup problem. Optometrist Charles W. McQuarrie, president of the American Optometric Association says, "It's simple. I charge $32 for an eye examination and provide the glasses to patients at cost. If I do one exam every 45 minutes I still make money. That way the buyer knows exactly what he's getting."

ONE PAIR, 18 PRICES

A pair of glasses passes through several stages from the manufacturers' machines to your eyes. And at each stage the product is marked up in price.

Manufacturers convert glass and plastic raw materials into frames and lenses. In the manufacture of lenses, two firms, American Optical Co. and Bausch and Lomb, control about 80 percent of the domestic market. They also produce about 25 percent of all the frames produced in this country.

Some 85 percent of all lenses are produced by manufacturers to a wide variety of prescriptions and need no special surfacing. Some strong prescriptions, bi-focals and tri-focals, are sent to wholesale laboratories for extra work.

But most lenses and frames go directly from the manufacturer to the retail store with a markup of about 100 percent. However, retailers buying in bulk can get discounts.

Finally, the retailer sells them to you and all the costs—raw materials, labor and profit—are passed along. It is at this stage that the materials are marked up the most, up to 500 percent.

But the price varies from store to store, and in New York City, where there is virtually no price advertising, the consumer has no way of knowing whether he or she is getting a bargain.

News reporter Kiki Levathes priced an identical pair of Bausch and Lomb Ban "aviator" glasses at 20 Manhattan stores.

There was no eye examination included in the price and the lenses, because of her mild prescription, would be stock, needing no special work.

The wholesale price for the frame is $11.60. The lenses, which would have been left to the retailer's discretion, average about $5 wholesale. Total wholesale package: $16.60.

Here are the retail prices she was quoted:

Practitioners	Frames	Lenses	Total
A. R. Trapp, 488 Madison Ave	$30.00	$30.00	$60.00
Cohen's Fashion Optical Co, 767 Lexington Ave	25.00	16.95	41.95
Community Lens, 788 Madison Ave	22.00	14.00	36.00
Gimbel's Optical, 125 E. 86th St	32.00	23.00	55.00
Grand Central Optical Co., Inc., Grand Central Station	22.00	23.00	45.00
I. J. Stone, 342 Madison Ave	25.00	25.00	50.00
Kimbe Optic, 711 Fifth Ave	45.00	30.00	75.00
Lugene Opticians, 1058 Madison Ave	35.00	46.50	81.50
Lugene Opticians, 38 E. 57th St	35.00	31.50	66.50
Maurice Jaitin Inc., 1314 Second Ave	27.50	18.50	46.00
Meyrowitz Inc., 555 Madison Ave	27.50	43.50	71.00
Meyrowitz Inc., 839 Madison Ave	27.50	38.50	66.00
Meyrowitz Inc., 1170 Madison Ave	27.00	43.50	70.50
Page & Smith Opticians, 33 58th St	25.00	38.00	63.00
Pildes Opticians, 1010 Third Ave	24.95	18.50	43.45
Purdy Opticians, 506 Madison Ave	25.00	27.00	52.00
Stanley Bryer, 510 Madison Ave	48.50	35.00	83.50
Sterling Optical, 795 Lexington Ave	23.95	23.95	47.90
The Lens & Eye Inc., 1051 Third Ave	35.00	30.00	65.00
Ultimate Spectacle, 1032 Third Ave	26.50	38.50	65.00

THE PANAMA TREATIES: FURTHER DECAY OF AMERICA'S INSTINCT FOR SURVIVAL

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RUDD. Mr. Speaker, I strongly believe that the Congress must seriously study the impact of the proposed Panama Canal Treaties in the context of the history of the past 30 years.

Testifying before the Senate Foreign Relations Committee yesterday, Dr. Lewis A. Tambs, professor of history at Arizona State University, gave his scholarly analysis that the proposed treaties are a further step in our Nation's consistent retreat around the world. He stated that—

The proposed new agreements with Panama are but another example of the decay of America's instinct for survival, sense of strategy, and commitment to freedom.

I believe that Dr. Tambs' historical overview and his straightforward analysis of the proposed treaties is one of the most important contributions to congressional consideration of these proposals. I include his testimony at this point in the Record:

STRATEGY, SEA POWER, AND SURVIVAL: THE CASE FOR RETAINING THE ISTHMIAN CANAL

On Monday, June 6, 1977, a hand-carried letter arrived at the White House. Addressed to President Jimmy Carter, the message cautioned him against the new Panama Canal agreements and warned: "that loss of the Canal, which would be a serious setback in war, would contribute to encirclement of the United States by hostile naval forces and threaten our ability to survive." The communique closed with the signatures of four former Chiefs of Naval Operations—Admirals Thomas Moorer, Arleigh Burke, Robert Carney, and George Anderson.

Presidents and admirals pass, but strategic imperatives and national interests remain. The bulk of the World's sea-borne commerce flows through 12 major maritime choke points: four inland seas—the South China Sea, the Mediterranean, the North Sea, and the Caribbean; two interoceanic canals—Suez and Panama; and six critical passage points—Singapore, Ceylon, the Horn of Africa, Gibraltar, the Cape of Good Hope, and the Straits of Magellan. These 12 choke points have been the scene of strife ever since the 16th century when Western Europe launched its maritime expansion. All the major sea powers—Spain, the Netherlands, France, and Great Britain—struggled for domination of these passages. But by 1945 the older commercial empires were ebbing. A new bipolar world emerged.

The United States stood triumphant. Control and responsibility for the global sea lanes rested with the Americans. But the other super power, the Union of Soviet Socialist Republics, also had national and ideological aspirations.

The U.S. sought to restrain Soviet ambitions with the Containment Doctrine of George Kennan. Containment was essentially an updating of Sir Halford Mackinder's Eurasian Heartland thesis, which envisioned land power (Russia) and sea power (Anglo-Americans) juxtaposed. Secure in their air, atomic, economic, and technological superiority, the North Americans erected a series of defensive encircling alliances in the Rimland or Inner Crescent of the Eurasian World Island.

Simultaneously behind the NATO, Northern Tier, and SEATO shield they sought to promote political progress by encouraging decolonization and liberal democracy while generating economic stability by fostering free trade and private capitalism in the Outer or Insular Crescent.

Containment was, however, basically defensive. The initiative passed to the Soviets. Seeping through the encircling alliance system, the Russians began fueling wars of national liberation and sowing subversion.

Meanwhile, ignoring the cries of their consumers, the Communists concentrated the vast resources of the Eurasian pivot area on the production of nuclear weapons, the development of heavy industry, and the advancement of space technology. Within a decade and a half they had achieved near parity. Atomic warfare became almost unthinkable; nuclear devices and intercontinental ballistic missiles unoperational. The world returned, if only temporarily, to the classical concepts of strategy and political geography where space, place, population, endowment, and development are paramount.

The Russians, noteably Field Marshal V. P. Sokolovsky and Admiral Sergi G. Gorshkov, having studied and digested the geopolitical theories of Mackinder, Karl Haushofer, and Thayer Mahan opted for imperial adventure.[1]

The holders of the Eurasian Heartland would challenge the Oceanic peoples of the Inner and Outer Crescents—the Americans and their allies. Construction of a high seas fleet and control of the world's sea lanes emerged as a prime objective of Soviet policy.

By 1959 the Russians, having made the North Sea a virtual *mare nostrum*, accelerated their intrusions into the three other inland seas—South China Sea (Viet Nam), Mediterranean (United Arab Republic), and Caribbean (Cuba). Of the two isthmian canals, Suez—since it provided the U.S.S.R.

with shorter seaborne link between its Atlantic and Pacific coasts, just as Panama served the United States—was targeted first.

In true 19th century colonial fashion, further efforts were directed at the six critical passage points—Singapore, Ceylon, the Horn of Africa, the Cape of Good Hope, Gibraltar, and the Straits of Magellan.

Between 1959 and 1975, the world was awash with diplomatic and military maneuvers. The People's Republic of China broke with the U.S.S.R. United States' efforts to salvage South Viet Nam and the South China Sea failed. Indonesia was, however, retrieved.

The Soviet Fleet entered the Indian Ocean in force. Conflict wracked the Middle East. The Suez Canal was opened and closed. From Cuba, Fidel Castro struck around the rim of the Caribbean, only to be frustrated by local nationalism and U.S. counter-insurgency. Salvador Allende came and went in Chile, and with him a potential threat to the Straits of Magellan.

Of greater import, the bipolar world of the post-World War II era faded and the day of the super-tanker dawned.

Four nations emerged as centers of economic and political stability in their respective regions: Japan in the Western Pacific, Iran in the Mid East, the Federal Republic of Germany in Western Europe, and Brazil in South America. Recognizing the new reality, the United States sought to shore up the shattered Mackinder-Kennan system along the Eurasian rimland while Brazil was given special recognition in South America.

But the world had also altered in another way. The repeated closings of the Suez Canal, the economy of petroleum transport, and the mounting dependency of the industrialized nations on imported oil heralded not only the advent of the super tanker, but also the evolution of a new strategic map.

The oil sea lines of communication (SLOC) which had previously passed from the Middle East to Western Europe and the United States by way of the Mediterranean now ran southward through the Indian Ocean, around the Cape of Good Hope, and up the South Atlantic. The world was turned upside down; the globe inverted. And the Soviets were astride the sea lanes on both coasts of Africa.[2]

In April, 1974, the dominoes had begun to totter. Portugal, targeted along with Spain and Morocco by the Soviets in their Plan Oran, trembled. Mozambique and Angola swayed with Soviet-supported insurgency. Saigon fell in March, 1975, and with South Viet Nam went Cambodia and Laos. Mozambique and Angola were pushed into the Socialist orbit by Russian-trained and supplied Cuban regulars.

The United States, apparently paralyzed by its inability to implant Wilsonian democracy in Indo-China, stunned by the failure of its machines to impose its will on the minds of the North Vietnamese, and torn internally by the defection of the intelligentsia, stood by helplessly. The United States, which had stood triumphant in 1945, was within 30 years in retreat everywhere. America's major allies—Japan, Iran, West Germany, and Brazil—sensing the metaphysical crisis, scrambled to save themselves.

The proposed new agreements with Panama are but another example of the decay of America's instinct for survival, sense of strategy, and commitment to freedom. Even John F. Kennedy's declaration that the mission of the United States was to make the world safe for diversity seems to be forgotten as totalitarian Marxist-Leninist regimes supported by Soviet subversion and seapower spread over the globe.

The cruise of the *U.S.S. Oregon* from the Pacific to the Atlantic during the Spanish-American War in 1898 dramatized the need for an American isthmian canal. The voyage around Cape Horn added 8,000 miles and almost two months travel time to the voyage. Assuming that Cape Horn and the Falkland Islands are in friendly hands, a modern war vessel steaming at 20 knots still needs an additional 17 days to complete the cruise around South America, compared with the 8 to 10 hours required for the Panama passage.

Possession of the Panama canal, moreover, has allowed the United States the economic advantage of maintaining one fleet by shifting units back and forth, rather than supporting the cost of a two-ocean navy.

The continuing value of this concept was proven during the Viet Nam War. In 1968, at the height of the conflict, 1,504 U.S. Government vessels utilized the canal. Even in the relatively sombulent years of 1974 and 1975 the number totaled 248 and 170.

Of the 176 combat surface ships and 75 attack submarines currently on active duty with the United States Navy, only 13 large aircraft carriers cannot transit the canal.

However the vast majority of warships can. The need for the U.S. Navy to retain the ability to shift units is further accentuated by the increasing presence of Soviet task forces in the Gulf of Mexico and the Western Atlantic. This is especially critical given the numerical superiority of the Soviet Fleet, which lists 214 major combat ships and 231 attack and cruise missile submarines—all of which, curiously enough, can pass through the Panama Canal.[3]

In modern naval warfare submersibles hunt submersibles. The USSR enjoys an advantage over the U.S. attack submarines. They also have a geographical advantage. While the U.S. is essentially a large land mass surrounded by water, the USSR is an even larger land mass essentially surrounded by land and frozen seas.

Thus Soviet submarines carrying relatively short-range missiles can stand off North American coasts and cover the continent, while U.S. Polaris submersibles stationed in the North Atlantic, Indian Ocean, and Western Pacific must be equipped with the expensive Trident missile system with a range of 4,000 miles.

Detection, location, and tracking of submarines depends on underwater sound and satellite systems; the kill by aircraft or attack submarines. Control of the Canal Zone adds to U.S. aerial surveillance and permits the immediate transfer of attack submarines to regions frequented by Soviet submersibles, and thus aids the defense of the continental United States.[4]

U.S. foreign and coastal commerce also depends on the Canal. In 1975 over 16 percent of all U.S. seaborne trade used the waterway. Moreover, statistics reveal that down through the years a constant average of about 70 percent of all cargo through the Canal is bound either from or to a U.S. port.

The economics of water transport for bulk products such as grain or petroleum are well known. Midwestern grain growers who ship their cereals by way of the inland waterways and the Missouri and Mississippi on to U.S. and foreign Pacific ports by way of the Canal depend on inexpensive tolls for their small margin of profit. If the Canal were closed, many would be ruined, for the Cape Horn route would result in an estimated 31-day increase in shipping time.

Under U.S. administration, rates remained relatively stable from the opening of the Canal to 1974. Current transit cost averages around $8,000 per vessel.

Tolls set merely to cover operational expenses cannot be guaranteed under the new isthmian treaty. Brigadier Omar Torrijos, Panamanian Chief of State, has repeatedly stated that the Canal is a natural resource and will be exploited as such.

Torrijos' need for funds is certainly understandable. Panama's external debt, which amounted to $167 million when the civilian government was ousted in 1968, now totals $1.5 billion. Most of these debts are owed to U.S. banks. Torrijos and his creditors need money, and the Canal is the milk cow.

Even Sol Linowitz, formerly of Marine-Midland Bank and currently the State Department's co-negotiator, has admitted that tolls will increase immediately 25 to 30 percent upon ratification of the treaty.

This initial increase in rates will also include petroleum shipments. Oil from Alaska's North Slope has already passed through the Canal. A super tanker from Valdez transshipped its cargo at Balboa into three regular tankers, which carried the oil to U.S. ports. Since Gulf ports are unable to accommodate super tankers anyway, off-loading at Balboa is currently the most feasible.

Nevertheless, utilization of the four existing 10 and 20 inch diameter U.S. Navy pipelines running through the Canal Zone might prove more economical in the long run for supplying the energy starved East Coast. Thus the argument of proponents of the new treaty that the Canal is obsolete because it cannot take super tankers is redundant. Particularly so since vessels such as the San Juan Prospector, at 108,770 DWT and with a length of 972 have already transited the isthmus.

Erroneous also is the contention that the Canal has already reached its limit. The Canal presently handles 30 to 40 ships a day. Maximum capacity is estimated at 70 vessels per day—a figure projected for 1990. Moreover, the Terminal Lake—Third Lock Plan initiated by President Franklin D. Roosevelt, but halted in 1942, would almost double the numbers of ships that could be handled if it were completed.

The charge that the Canal is vulnerable to atomic attack and sabotage is partially correct. Nothing is completely impervious to nuclear warheads. But given the prevailing balance of terror, this possibility is more potential than immediate. Especially now, since the Soviets through the application of sea power and subversion are gaining their objectives anyway.

Sabotage can be minimized by proper security measures. Moreover, if the existing U.S. garrison of 9,000 cannot assure the internal security of the Zone, how can the Panamanian National Guard of 6,000, tied down as it is with running the republic, protect the Canal? Especially when it must confront 1,700,000 citizens who have been deprived of their civil rights since the military coup of 1968.

The question of building up the Panamanian Armed Forces has a direct relationship to human rights and military dictatorship. If the National Guard, supported by U.S. subsidies and increased Canal tolls, is expanded to a level to provide even only adequate police protection, not military defense, will not the U.S. be responsible for strengthening the hold upon the Panamanian people of an already repressive military regime that has banned all political parties, but has permitted the Communist Party to operate openly, and whose Chief Negotiator Romulo Escobar Bethancourt is "an extreme leftist and friend of 'Che' Guevara."[5]

Given Soviet interest in Panama, the political coloration of Escobar, and Torrijos' open admiration for Fidel Castro, other Latin American nations are beginning to wonder about the wisdom of turning over the Canal to Panama.

Brazil has a burgeoning trade with the Far East. Some 8 percent of Brazil's foreign commerce is with Japan, and rising. If the Canal falls into hands hostile to Brazil there are only two other sea routes to the Pacific. One around the Cape of Good Hope is monitored by the Soviets. A second around Cape Horn is "precarious."[6]

Given the hazards of the Cape of Good Hope and Cape Horn, Brazil will probably have to seek a peephole on the Pacific. The most feasible is a transcontinental route from Santos to Africa, passing by way of Bolivia and Chile or Peru.

For the Brazilians, like the Russians, are avid students of geopolitics. They believe that since 70 percent of the world's population and 70 percent of the globe's unexploited natural resources lie along the rim in the Pacific basin which includes the Indian Ocean, that the Pacific is the ocean of the future. And Brazil is an emerging power—a land of the future.

The Pacific coast states of Latin America are also wary about the Canal, for they are even more dependent than Brazil. Thirty four percent of Chile's maritime trade passes through Panama; 41 percent of Peru's; 51 percent of Ecuador's; 66 percent of El Salvador's; and 76 percent of Nicaragua's.[7] Higher tolls are going to hurt.

Conversely, Mexican commerce will be the least effected. The Mexicans, however, should realize that as the Canal slips out of U.S. hands, Yankee interest is going to increase in the Gulf of California and the Isthmus of Tehuantepec.

Argentina finds itself in a similar situation. Like many of the other Latin American nations, they have vociferously supported a Panamanian takeover. As the date draws near, they are not so certain. For the Argentines want the British-held Falkland Islands, and fear that as U.S. sovereignty over the Canal slips away an enlarged North American presence will be felt in the Falklands and Cape Horn as well. Neither of these prospects are welcome in Argentina.

Victims of their own rhetoric, Latin American politicians are beginning to look to the U.S. Senate to save them from Panamanian economical extortion and mounting American pressure. Many would prefer to leave the situation as is for they are aware of the similarity with Suez. They could then continue to berate the U.S. and at the same time have their national interests preserved.[8]

But who speaks for America? In general the backers of the new treaty are the same ones who decried the reputed errors of Presidents Eisenhower, Kennedy, Johnson, and Nixon for involving the U.S. in Southeast Asia. Simultaneously, these supporters salute these same chief executives for their statecraft in Panama.

The concessions of 1959, 1963, 1964, 1967, 1970, 1973, and 1974 have, however, only provoked an escalation in Panamanian demands. Could it be that these presidents who supposedly followed a bankrupt policy in Viet Nam also erred in Panama?

Our negotiators Ellsworth Bunker and Linowitz have assured us that the U.S. retains the right to intervention and that U.S. warships will receive immediate dispatch through the Canal. This appears to be a private revelation, since both Torrijos and Escobar deny this interpretation.

Moreover, our diplomats have protested that the only way to protect the Canal was to deed it to Panama. The Panamanians, the argument went, would never destroy their prime natural resource. Torrijos has a different view. On October 7, 1977, he proclaimed that "Senate rejection of the treaty could lead to the closing of the Canal."[9] Who are we to believe? Bunker and Linowitz, or Torrijos and Escobar?

Who speaks for America? Once the sovereignty is lost, the Panamanian Government will have every legal right under eminent domain to expropriate the Canal, treaty or no treaty. Moreover, the U.S. has no assurance that Torrijos will not ally himself with his idol, Fidel Castro. Nor do we have any guarantee that succeeding Panamanian governments will honor the agreement. This is a chancy business.

The Panama Canal is one of the world's major maritime choke points. Since 1959, the Soviet Union has emerged at a great maritime power. Challenging the United States and its allies—the Sea Peoples of the Mackinder thesis and the Kennan Containment Doctrine—on all the oceans of the world, the Russians have intruded into every inland sea, canal, and passage point on the globe. Now as the United States withdraws into the shell of Fortress America, even maritime communication between our own Atlantic and Pacific coasts is endangered. As the four former Chiefs of Naval Operations warned the President: under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in overall United States defense.

Gentlemen, I urge you to reject the proposed Panama Canal Treaty.

Footnotes at end of article.

FOOTNOTES

[1] V. D. Sokolovsky, *Military Strategy: Soviet Doctrine and Concepts* (New York: Praeger, 1963), and Sergei G. Gorshkov, *Red Star Rising at Sea*. T. A. Neeley, Jr., trans (Naval Institute, Press, 1974).

[2] Geoffrey Kemp, "The New Strategic Map," *Survival* 19:2 (March-April, 1977), pp. 50–59.

[3] *The Military Balance, 1976–1977* (London: Institute of Strategic Studies, 1977), pp. 6, 9, Panama Canal Company, *Annual Report, 1973* Balboa Heights, C.Z.: 1973), p. 38, *Ibid., 1975*, p. 5, and Adm. William Read, Atlanta, in *Phoenix Gazette*, October 7, 1977, p. B–13.

[4] Richard L. Barkley, "The N-Boat Standoff," *National Review* (June 10, 1977), pp. 651–662.

[5] Raymond Estep, *A Decade of Political Change in Latin America, 1963–1973* (Maxwell Air Force Base, Ala.: Air University, 1974), p. 237.

[6] Interview with high Brazilian General Staff Officer, August 1977.

[7] Interviews Brazil, Uruguay, Argentina, Paraguay and Bolivia, August–September 1977.

[8] Council of the Americas, *United States, Panama and the Panama Canal* (New York: 1977), pp. 15–16.

[9] A.P. dispatch, Stockholm, in *Phoenix Gazette*, October 8, 1977, p. 1.

IN RECOGNITION OF GWEN TILLEMANS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following article in recognition of my constituent, Gwen Tillemans, and her outstanding efforts in both public and private life. She truly provides an example that all should try to emulate.

The article follows:

GWEN TILLEMANS PROUD SHE HELPED POLITICIANS

(By Tony Joseph)

Although she has every right to be, Gwen Tillemans is not bitter about the near-fatal attack on her. She's only puzzled by it.

And so is everybody else who knows her and can't understand why the robber who entered her modest Oxnard home last Halloween night would want to kill her.

He almost did.

Before running from the house with $30 from her purse, the intruder plunged a large knife into her back. She hovered between life and death for a week, and then miraculously recovered.

It was a senseless crime. Mrs. Tillemans would have given him the money. She's a giving person who has given so much of her time to others since moving to Ventura County 15 years ago. Although mostly working for political causes, Mrs. Tillemans has also been involved in community causes, strictly on a volunter basis.

And suddenly there she was, lying in her bdroom bleeding from her wounds while her husband Pat and 92-year-old mother were within a few feet from her in other rooms, oblivious of the event that had just taken place.

Such a paradox for someone who had made only friends, even among Democrats against whom she worked in a variety of roles with the Republican party. She began as a volunteer in the gubernatorial campaign of Richard Nixon in 1962 and soon became president of the Ventura County Republican Women's Club. Eventually, she held positions in connection with all Republican women throughout the state.

Mrs. Tillemans is not rich. At least not in terms of what you put in the bank. She and Pat owned the largest resort in the Midwest, but working there was more fun than profit. When they sold it in 1962 and came West, they did not make nearly enough money on which to retire. But they got more than just the money out of all those years.

"It was a beautiful way to live," Mrs. Tillemans recalled of the 20 years she and her husband worked the Hartford Beach Resort, located in Milbank, South Dakota. Part of the resort the Tillemans' bought from Hubert Humphrey.

Mrs. Tillemans' political loyalties are curious considering she was born and raised in the same state which elected George McGovern senator. Mrs. Tillemans worked actively in Ventura County to help defeat him.

Of course, that meant she also helped to put Nixon in the White House, but she has no regrets about that. "Watergate wasn't any worse than anything that's happened in the past," she said. "If I had those tapes, I'd have eaten them."

Naturally, when talking of her political achievements, Mrs. Tillemans prefers to discuss how she helped the career of Rep. Bob Lagomarsino from the time he was a state senator. For her work, Lagomarsino later appointed Mrs. Tillemans to his finance committee. She also worked hard to send Assemblyman Chuck Imbrecht to Sacramento. He returned the favor by making her a voting member of the state central committee.

Her personal career in politics is extensive, considering it has been centered in the county. After serving as treasurer of the Oxnard Republican Women's Club Mrs. Tillemans became president for two terms and voted second vice president of the Ventura County Republican Women's Club. Later, she would serve as president and treasurer of the Southern Division Republican Women and a voting member of the board.

After becoming budget chairman of the California Federation of Republican Women, she was appointed last year to the executive committee of the federation. She has been asked to run for office with the state federation, but her loyalty and dedication to improving things on the home front has discouraged her from doing so. "I don't want to leave my county post," she said. "There's too much to do here. This is an important county because of all the people moving here."

When Mrs. Tillemans moved here it wasn't to become active in politics, although she conceded she had always been fascinated by the political system and hoped one day to become a part of it. But she and Pat's real reason for coming to California was the weather. And the reason for their staying remains the same. "The weather here is beautiful," she said. After living her whole

life in South Dakota, Oxnard must indeed look like a Shangri-La.

Born Gwen Schultz in Twin Brooks, S.D. ("A town I doubt is even there any more"), Gwen was one of five children, the others all boys. Her father sold rural land owned by the government and also worked the farm that the family lived on. Gwen said her father was also involved in politics and her grandfather was a Civil War hero. "He was one of the best soldiers and finest horsemen in the Union Army," Mrs. Tillemans recalled. She wasn't just bragging. Much had been written about this man who came across the ocean from Holland as a shoemaker and eventually became a postmaster to the Senate under President Harrison.

It was a tough act for the rest of the family to follow, but Gwen did her best. After growing up in the isolated atmosphere of a farm, she became senior class president of Willow Lake (S.D.) High School and was a member of the school's championship women's basketball team. Her musical pitch not only won her a spot with the school's glee club, it also got her traveling around the state where the club performed.

The bad times Gwen Schultz had were also bad times for everybody else. When the Depression came, she felt it was time to be on her own and make her own way. "My ambition then was just to take care of myself," she recalled. "I wanted to get a job and relieve my parents of responsibility."

Naturally, she had to leave the farm, but her childhood memories were good ones. "Everybody should grow up on a farm," she said. "Today, everything, including pleasure, is created for kids."

Working in a department store and teaching in adult education barely left her enough time to meet anybody, but if people find love they're not looking for, this was the case for Gwen Schultz, whose last name changed two years after meeting her husband in Milbank, S.D., where he worked as a baker.

The Tillemanses' success story in business hardly compared with Carnegie or Rockefeller, but it was a success story nonetheless. Starting with only $40, they parlayed that and their good credit into their own bakery. They made a lot of dough, and some money.

Still, working long hours every day, they managed to save enough to buy the resort. And believe her when she says they were ready to get out of the kitchen and into the resort business. Besides, their only child, Patsy Lou, now 39, was born then and Mrs. Tillemans wanted a family life. "I ran the resort myself for a while until my husband sold the bakery," she said. "It was a funny thing then. The war was on and there was gas rationing, yet the resort business was booming. I still can't explain why we did so well."

The resort business in the Midwest is, of course, seasonal, and during the off-season, the Tillemanses came to California, where Pat Tillemans worked for Douglas Aircraft making airplane parts. It was just a job at the time, but it helped them make the eventual move to this state. They settled on Oxnard because of relatives living there. Besides by that time Patsy Lou had grown up and was working for a Catholic Church program with delinquent girls. She's currently enrolled at USC working on her master's degree in psychology. Patsy Lou has a story all her own to tell, what with her experience with the FBI in Washington, D.C. "She's always been very independent," said her mother.

While Pat Tillemans worked in Oxnard in the insurance business, his wife got involved in Republican politics and never regretted it even in light of Watergate. She said her enthusiasm for the GOP didn't wane even during the worst of the worst scandal in political history. "I liked him (Nixon) very much, but I feel sorry for him now," she said. "It's very unfortunate this happened. I can't imagine he let it go as far as he did.

In retrospect, Mrs. Tillemans believed Nixon made a good president because of his progress with foreign policy. "Many of his ideas were good. If he had only gotten the Congress to go along with him," she said

In any case, that's all Watergate under the bridge for both Mrs. Tillemans and the GOP, and she believes the party in Ventura County was never in better shape. "We're healthy here," she contended. "This and Santa Barbara County are the only two counties in the state that have gained membership in the GOP among women for the past two years."

Of course, she points to victories by Lagomarsino and Imbrecht as an example of the power the party wields in the area. But she also believes the two men would have made it regardless of party strength. "Lagomarsino is a good man. He really thinks of the people of this county. In Imbrecht—there's no end to his political heights."

Is there an end to Mrs. Tillemans' political heights? Probably. But even she won't say where. She plans to eventually run for Oxnard City Council and would also consider running for a school board post.

She's a woman who literally never says die. But she still thinks of that night when she almost did die.

"We had finished dinner. Pat was in the garage, and my mother was in her bedroom," she recalled. "The patio door was open when I lay down on my bed. Suddenly, I felt this terrible hit in my back—like a hammer." She felt a hand go over her mouth, but she was able to remove the hand and scream. That brought her mother charging into the room and scared her attacker away.

At first, Mrs. Tillemans wasn't even aware she had been stabbed. But as blood dripped on the carpet, she became painfully aware she had been, and it was serious. Just how serious was discovered at the hospital, where doctors told her the knife had struck one-quarter inch from her heart.

Her friends prayed for her as she lay in the intensive care unit for almost three weeks. She believes the prayers helped. "I am a devout believer in God," she said.

Incredibly, she not only fully recovered physically from her attack, but also emotionally. "I bear him (her attacker) no malice. I feel sorry for him. I feel sorry for anybody as mixed up as that," she said.

Did she ever think of moving from the area afterward? No. Mrs. Tillemans never ran from anything. "Maybe I'm dumb in a lot of ways," she said. "This is a good city. I like it here.

She has a lot of friends who like having her here.

CARGO PREFERENCE BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. McCLOSKEY. Mr. Speaker, with respect to the cargo preference bill, debate on which has been postponed until next week, the Baltimore News American ran an article on October 2 entitled: "Unionized Merchant Marine Unable To Compete."

The thrust of the article reflected the fact that our extensive program of maritime subsidies has not worked.

The wages we pay to our subsidized seamen have made our subsidized ships noncompetitive. Likewise, an almost-incredibly large percentage of those same seamen's wages is extracted by maritime union leaders for the purpose of electing candidates to Congress pledged to increase Federal assistance to the merchant marine.

Last week I inserted at page 32799 of the CONGRESSIONAL RECORD, on October 6, 1977, an article describing how one such maritime union, the Seafarer's International Union (SIU), has attained amazing political power through its diversion of the subsidized wages of its members into political campaign contributions.

For a union of 12,000 members, the SIU was the 13th ranked union in the United States in 1976, contributing $348,720 to Federal candidates, at a per capita of $29.06 per member.

It was recently called to my attention that another maritime union, the Marine Engineers' Beneficial Association (MEBA), has historically been even more effective in stimulating political contributions, not only from its members, but from its pensioners.

I must confess to my own surprise last year, in receiving a contribution of $1,500, not from the active Masters Mates and Pilots, but from the retired Masters Mates and Pilots Political Action Committee. I had never before received a contribution from a group of retirees, and I can only ascribe my new good fortune to the fact that I have recently ascended to the high position of ranking minority member of the House Merchant Marine Subcommittee.

For the benefit of our colleagues I am pleased to insert in the RECORD a Wall Street Journal article on the Marine Engineers Beneficial Association, written 6 years ago by one of the Nation's top reporters, Jerry Landauer. Mr. Landauer had the tenacity, back in 1971, to interview a number of retired members of the Marine Engineering Union (MEBA) which, 5 years later, in 1976, was to set a new national record for political involvement by contributing over $56 per active member to candidates for Federal office. MEBA's total of $539,771 ranked seventh among the Nation's unions, although the union itself numbers only 9,500 members. This per capita contribution was over 500 times larger than the average member of the AFL–CIO throughout the Nation.

The attached articles provide a good object lesson in practical political power in the United States today.

[From the Wall Street Journal, Nov. 15, 1971]

PENSIONS AND POLITICS—SHIP ENGINEERS' UNION GETS RETIRED MEMBERS TO FUND CAMPAIGNING; MEBA USES CONTRIBUTIONS TO AID FRIENDS OF LABOR

(By Jerry Landauer)

For half his lifetime, 73-year-old James Green has been a union man, proud of his membership in the Marine Engineers Beneficial Association, AFL–CIO. He's retired now, living in Baltimore and drawing a union pension of $315 a month. "Things are getting kind of tough," he reflects. Yet along with nearly 2,000 other pensioners he grudgingly gives his union $10 every month, "to help them out."

The Marine Engineers, or MEBA, is not a union that seems in need of help. It collects initiation fees of $1,000 from young men wanting to join, and it can afford to pay President Jesse Calhoon a $75,000 salary.

But MEBA lacks a membership willing to give generously to the union's political fund.

So, to compensate for stinginess among seagoing engineers, it leans on pensioners who can't so easily elude the political collectors—and at times leans on deceased members widows, too.

Supposedly, the retirees are all donating voluntarily, as federal law requires. But because the union controls pension payments, a member applying for retirement thinks twice before refusing to contribute. Once a pensioner has agreed to give, the union makes sure he doesn't forget; it deducts the $10 contributions from the monthly retirement checks it sends out.

In most cases, the oldsters supplying political dollars don't know where their money is going. "I didn't know it was for politics," says Jimmy Green.

HELP FOR SEN. FONG

The union's retired men are supplying more than $250,000 this year, mostly for campaign contributions to help AFL–CIO President George Meany reelect labor's friends and fight political battles such as the one brewing in Congress to compel payment of pre-freeze wage boosts. Collectively, MEBA's pensioners constitute the chief financial backers of the campaign-giving operation of the AFL–CIO's Committee on Political Education, the federations political-action arm.

Last year this union of only 13,000 members managed to send campaign checks to more than 120 candidates for Congress. The individual amounts ranged up to $6,250, which went to GOP Sen. Hiram Fong of Hawaii; the union brass bought 25 tickets at $250 apiece to a fund-raising event for Mr. Fong at New York City's Waldof-Astoria Hotel.

In all, the Marine Engineers spent $450,000 for political purposes last year, displacing the Seafarers International Union at the spearhead of a $1 million-a-year drive by maritime labor to expand subsidies for the U.S. merchant marine. (Just 11 Representatives opposed a $506 million maritime subsidy bill for this fiscal year; Senators authorized the money without a roll-call). And only two unions in any field, the 1.3 million-member United Auto Workers and the 455,000-member International Ladies Garment Workers, reported raising more for national politics last year than MEBA.

The bulk of MEBA's money—$224,617—came from 1,750 or so pensioners giving as much as $170 each to the Marine Engineers Beneficial Association Retirees Group, an uninformatively titled outfit that's actually a political fund. Pensioner Jimmy Green was among 1,535 men who gave precisely $120 each, in 12 installments of $10. As the money rolled in, the retirees group transferred $201,000 in eight installments, to Mr. Meany's COPE. No other union's fund came close to matching this big gift.

"I'M NOT TALKING ABOUT THAT STUFF"

MEBA's massive political fund-raising is known only to a few labor insiders. President Calhoon won't answer questions about any aspect of the union's fund-raising or political spending. "I'm not going to talk about this stuff," his public relations counselor quotes him as saying. And though the tactics used seem questionable to some, union chieftains appear confident that no government agency will act to break up their collective scheme. So far, certainly, the Justice Department has made no effort to determine how this little union has raised so much political cash.

The union has been careful, however, to avoid infringing certain legal prohibitions. The retirees fund is set up as an independent entity, separate and distinct from the union. If it were admittedly part of MEBA, the fund couldn't donate to candidates for President, Senator or Representative, either directly or through COPE; unions and corporations can't legally contribute members' dues or shareholders' assets to campaigns for federal office.

Apparently to give the appearance of independence, the retirees fund recently moved from MEBA headquarters near the New York waterfront to a small office in Washington, and to preserve that appearance the union shields the fund's five trustees from interviewers; though their names are known, the union refuses even to tell where they live. "This information isn't secret," President Calhoon's publicist explains. "It's just not available to the press."

What is available, though, is the record of political donations; by law, in reports to the clerk of the House of Representatives, a political treasurer must identify the source of all donations exceeding $100. These reports show, among other things, that MEBA's pensioners are giving more than are most of the union's highly paid brass.

President Calhoon, for one, isn't listed among the donors to separate, straightforwardly named political kitties sponsored by each of the two districts constituting the National Marine Engineers union. His salary last year exceeded $80,000, plus $15,473 in "retroactive pay." Vice President Charles A. Black (1970 salary: $68,851) started with $120 for politics, not one dime more than pensioner Jimmy Green (1970 retirement income from the union $3,780).

Moreover, the union's collectors rarely seems to tap themselves. John F. Brady, secretary of MEBA District 2 in Brooklyn (salary $28,620) and treasurer of the district's political fund, listed no donations above $100 in his reports to the clerk of the House, not even from district president Raymond McKay (salary: $43,112 plus $20,671 for expenses.) But Mr. Brady has on occasion collected more than $100 from widows whose dead husbands failed to pay political "voluntaries" as the union calls them, on time.

Among several cases that can be documented, Mr. Brady in 1969 collected $705, partly for his political fund and partly to pay union assessments, from Lorraine Clark, a widow in Oshkosh, Wis. He even issued a receipt—for political gifts that must by law be voluntary—in the name of her late husband, Otto Clark, a MEBA man who died months before.

In the same year, Mr. Brady required Jeanne R. Crehan of Kenmore, N.Y. to sign over a $325 check to the union before she could receive survivor's benefits following her husband's death. "Please have Mrs. Crehan sign this check and return it to this office," he instructed. The written reason: "Mr. Crehan didnt pay any voluntaries, and the $325 check represents voluntaries of $65 per year for the years 1964 through 1968 inclusive."

"A SONG AND DANCE"

Indeed, if voluntary means informed consent, no more than a small fraction of the union's vast political income can be so regarded. George Birmingham of Baltimore, an alert 81-year-old, does know that he's giving "to politicians who vote the way our lobbyists want them to." But talks with dozens of donating pensioners suggest that most don't know the political purpose.

Lawrence Henkel of Baltimore believes his annual $120 gift "pays for our doctors." Lionel Brown of Brooklyn assumes he's giving to some welfare fund: "I'm a union man and I listened to what they told me," he says. George Wansor of New York says he's donating "because the union came to me with a song and dance about hiring a lawyer to take care of our pensions." John E. Palmer, a pensioner in the Bronx, believes he's helping to buy eyeglasses or finance clinic care for other men; "It's got nothing at all to do with politics," he feels sure.

Some fraction of the retirees fund's expenditures ($30,560 of $294,312 last year) is indeed devoted to what the fund calls "nonpolitical purposes." But these purposes include large fees to friendly Senators who travel frequently to Baltimore for short speeches. In one six-month period, four Senators each earned fees (the largest, $2,500, went to Democrat Gale McGee of Wyoming) for imparting knowledge about maritime matters in brief talks to recruits at MEBA's training school there; delivery of just 805 words yielding $2,000 for Maryland Republican Charles Mathias.

MEANWHILE, BACK AT THE SEAFARERS

While the MEBA chiefs won't talk about their politicking, inside sources say they seem confident that the union's collection methods can withstand legal attacks. This confidence could be based on the respectful treatment that Congressmen and ranking Nixon men are still giving the Seafarers International Union, even though that union's political activities have run afoul of the law.

In June 1970, the Justice Department won indictment of the Seafarers on 17 counts of conspiring to violate the election laws. Among other things, the indictment alleged that foreign seamen were paying into that union's political fund (1970 receipts: $344,905) for the right to work aboard higher-paying U.S. flag ships.

The union has denied the charges. In any case, all sorts of things have happened since the indictment to keep the Seafarers happy. Lawmakers authorized $475,000 to dredge a channel leading to the Seafarers training base at Piney Point, Md. More recently, a galaxy of big names—House Speaker Carl Albert, House GOP Leader Gerald Ford, Sen. Ted Kennedy, presidential aspirant Henry Jackson, Commerce Secretary Maurice Stans (President Nixon's chief 1968 fund-raiser)—all appeared at the Seafarers annual convention to embrace the union leadership or, in the words of Maritime Administrator Andrew Gibson, to praise it "for proving that labor unions are looking ahead for the welfare of the working man."

[From the Baltimore News American, Oct. 2, 1977]

UNIONIZED MERCHANT MARINE UNABLE TO COMPETE

(By Sterling Noel, Hearst News Service)

From time to time writers, members of Congress and those concerned with the sea and ships comment upon the dramatic decline in recent times of the U.S. Merchant Marine.

The subject is generally treated as a phenomenon beyond the scope of human control, much in the manner of natural catastrophes such as volcanic eruptions and earthquakes.

It isn't that we don't know what has happened to the U.S. Merchant Marine. It's just that most people don't want to talk about it.

The reason for his is the fear of offending labor and their unions, which are largely responsible for said decline.

The simple economic principle involved is the cost of shipping. What has happened to the U.S. Merchant Marine is that the union pay scale for officers and crew of American ships has removed them from competition with the ships of all other nations.

This being the case, it is generally true that the only shippers who can afford to use U.S. bottoms are those who are subsidized by the government, or otherwise restricted by law from using more economic foreign transport.

Exceptions are found in the growing container-ship business, which is largely an American innovation. Foreign shipping people have not caught up with us yet, so we can still compete. When they do, then it will be a new ball game.

The figures show how depressing this situation has become. Thirty years ago America was the world's major maritime nation with some 4,000 merchant ships plying the oceans.

They carried 85 percent of all U.S. seaborne trade.

Twenty years later, by 1968, we had fewer than 2,000 left of this fleet and we were carrying 6 percent or less of our own seaborne trade.

Now our position is down to 10th place in world's shipping and we have only 530 ships in world trade.

In contrast, a country almost unknown in world shipping in 1947 when we were paramount, the Soviet Union, has now passed us in world shipping, rising to sixth place with 2,000 merchant ships plying the seas.

To combat this decline, Congress years ago took the obvious step of subsidization. The figures show that it hasn't worked, as it has with other nations. Analysts say American shipping rates are still too high to compete so all of these hundreds of millions have been largely wasted.

The federal subsidy amounted to $70,000 for each seagoing berth in 1970. By 1976 this had risen to 131,000 for each berth, for a total cost of more than $300 million, and it is still ineffective.

The question Congress is going to have to decide one day is what steps must be taken to make American ships competitive.

BATTERED WOMEN

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. KASTEN. Mr. Speaker, I would like to share with my colleague two articles written by a Milwaukee attorney that illustrate the problems of women who are repeatedly beaten by their husbands.

As L. Mandy Stellman documents, battered woman face an indifferent criminal justice system that considers wife beating a domestic problem, instead of the serious crime that it is.

Ms. Stellman's articles accurately describe the way things are today. They should emphasize to us the compelling need for action by Congress on a bill I have cosponsored to provide aid to cities like Milwaukee that are in critical need of facilities to aid battered women.

The articles follow:

STOP DOUBLE STANDARD IN BATTERED WIFE CASES

The police had been there many times before. They knew Patricia and her husband very well. While Patricia, now five months pregnant, was feeding her 2 year old son, her husband demanded his dinner and when it didn't come immediately, he grabbed Patricia by the throat kicked her in the stomach and beat her unmercifully with fists and elbows.

She went to the hospital with a ruptured spleen that had to be removed. She lost the baby. The husband was ordered to appear in the office of the district attorney. He was never prosecuted for a crime and Patricia lives in fear of another attack.

And then there is Elizabeth. When the police responded to a neighbor's telephone call, they found Elizabeth with red welts on her face, neck and arms. Her 9 year old daughter was crying. "Daddy wouldn't stop hitting mommy," the child kept repeating over and over between sobs. The hitting and the battering stopped only when a neighbor intervened. Elizabeth spent three weeks in the hospital. She sustained a broken jaw loose teeth and severe bruises. Time may heal the physical injuries. Her husband was charged with battery and the court found him guilty and placed him on probation. But he has threatened Elizabeth with "more of the same," and she lives in fear.

These are only two of the hundreds of cases of battery, a criminal act, brought to the attention of the district attorney's office. The names are fictitious, but the facts are only too true. Few cases ever result in prosecution of the man who beat a woman.

What we have in Milwaukee is selective prosecution of the battery law; a man attacking a man is battery; a man attacking a woman is often considered a "domestic quarrel."

DOUBLE STANDARD IN THE DA'S OFFICE

We have a double standard in the district attorneys office that is unconscionable for those sworn to uphold the law—yet the law on battery is very clear.

The Wisconsin Statute states: (Ch. 944.20) "Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed may be fined not more than $200 or imprisoned for not more than six months or both."

Until very recently, almost all cases involving wife battering were handled by the district attorney's office, even though few ended with prosecution in the courts. Recently, the district attorney and city attorney, ignoring Wisconsin law, have decided together that women being beaten by men should be given an even lower priority. Now they have been turned over to students as part of the law school training.

Now these students can "play judge" with the lives of powerless women, most of whom are of low income.

What this all adds up to is that sexist attitudes of community leaders such as politicians, judges, police, district attorneys, welfare workers, etc., are reflected by the way they treat those helpless, powerless women who have been beaten by men.

PROBLEM IS TREATED AS A DOMESTIC ONE

Almost all police departments and law enforcement agencies have treated, and continue to treat, the battered woman problem as a domestic issue and not as a serious problem involving violent criminal activity. It is not unusual to find law enforcement personnel advising the battered woman to "go home and make up with your husband."

According to the police and the district attorney's office, most battered women who come to their attention are a problem because they don't follow up on the charges against the men.

Why don't the women follow through? It starts with the woman being economically dependent upon the man who is the breadwinner and totally in control of the family money. If the husband or boy friend is a heavy drinker, and/or beats her, unless the woman has job skills and a place to provide for her children, she is literally trapped in an economic bind that forces her to remain with the husband or boy friend, or—almost as a last resort—she may become a welfare recipient.

Battered women are emotionally beaten down, too. Their self-esteem is low, as they feel ashamed of their "family problems." They avoid neighbors who may hear the screaming and the crying. The battered woman lives in isolation, reluctant to involve others with her problems. She somehow feels she has brought this upon herself, that she deserves what is happening. She not only lives in fear—she lives with no hope for the future.

When children are involved, the mother must deal with their fears and must often protect them from the rage of the man. Life is a constant state of terror for her and her children.

What does this all add up to? It adds up to an abomination! A woman gets little help from the prosecutor's office, and certainly no protection from further attacks from her assailant—who has no worry, since he faces little chance of the battery laws being enforced.

There is one exception. And the police know about it because it involved Teresa, who was well known to the police. They had been called many, many times to Teresa's residence, at least 10 times in the past two years for "domestic quarrels" and beatings. Twice her husband was ordered to the district attorney's office; never was he charged with a crime. The last time the police were called was to pick him up for first degree murder. He had put a pillow over Teresa's head; she died in a few mintues.

No, the police don't have to go to Teresa's home anymore; and the district attorney's office doesn't have to hesitate about prosecuting. Murder laws are always enforced.

REACTION—BATTERED WOMEN ENCOURAGED TO EXPOSE BRUTISH MEN

Hurray for Mary Beth Murphy and The Milwaukee Sentinel for the series on battered women!

Now when a woman tells her neighbors, friends and relatives that her husband beats her, they aren't going to be so hesitant about believing her.

More and more women have "come out of the closet" in recent months, taking positive action against the men who beat them. And more will speak out as a result of your excellent articles.

Since the police, the district attorney and the city attorney are obviously of no help to a battered woman, now what the women can do is to publicly announce to all she comes in contact—the butcher, the baker, the milkman and particularly his employer—my husband is a wife beater!

That should do it! Let's start shouting!

The recent Sentinel series on the battering of women certainly points out the shortcomings of our professional community. The women who have been beaten saw doctors, lawyers, clergy, social workers, psychiatrists, psychologists, marriage counselors and a whole host of other "experts."

Where have these concerned experts been over all these years of seeing women so conspicuously covered with the evidence of physical abuse—black eyes, bruises, broken bones?

In fact, there seems to be some evidence that many of these experts told the women that the women had brought this upon themselves. Others told these women to go back to their violent spouse and "make up"—knowing or suspecting that the husbands would beat them again.

This kind of insensitivity by our fellow Milwaukeeans says something about either male chauvinism or the attitude of "I don't give a care." Take your pick!

In the recent series on the battering of women, it is interesting to note how the public officials reflect their concern for the beaten women, knowing full well that death for these women is always lurking in the shadows.

David Felger, of the City Attorney's Offices, says that women's cases have not been given understanding; and then he allocates them to the lowest level of consideration in the City Attorney's Office—sending the battered women to talk with Marquette University law students who also handle neighbor arguments about garbage, and music playing too loud.

Dist. Atty. E. Michael McCann says his department takes battering of women seriously and promptly, then, with the agreement of Felger's office, sends them to the City Attorney's Office knowing full well that they will end up with students who haven't even been oriented as to the problems of battered women, and how to prevent the women from being battered.

This is being concerned? That's less consideration than is given to traffic violators, or to a person who passes a $10 worthless check.

If a man beats a man at a bar or on the street or anywhere without the police being present, that man will be arrested. The police don't have to be present, they don't have any concern about being charged with false arrest, or about being reprimanded by their superiors.

With respect to a man beating a women, a wife or a girl friend, then the police have a different set of rules of their own not based on the law. Now, for reasons which only the police have decided, when a woman is battered, the police have to be present when the assault takes place for them to do anything; they claim they might be accused of false arrest—even though the women is standing in front of the officer with all the evidence of the battering showing, and certainly, the police know their superiors couldn't care less if they take no action.

Isn't it interesting how the double standard is practiced, which means, of course, men can't batter men without being arrested, but men can batter women from here to next week without arrest.

At least there is only one standard when it comes to murder; when the man eventually murders his wife, or she fights back and kills him when she has passed the point of tolerance, then the police will be there—in force.

If the police believe in prevention, as we keep hearing from our police chief with respect to wife beatings, the police obviously have no program—and no interest.

When a woman is beaten by her husband or boy friend, if you are a police officer and do not wish to help in her time of crisis, then you announce publicly that she loves to be beaten (somehow or other, men never like to be beaten, only women) then, as a police officer, you don't have to do anything.

So, if a cop wishes to "cop out" of responding to a call by a beaten woman, he rationalizes not responding, or brushing off wife battering as unimportant by saying that women love to be beaten. Or, as a police officer, you use every tactic possible to discourage the woman from filing a complaint against her husband or boy friend and then joyfully announces, "But she won't prosecute, so why do anything?"

Maybe this attitude about women by police officers is reflected in the very high divorce rates, the high rate of alcoholism and the excessive number of family problems police display, as reported in literature about the personal lives of police.

One of the messages one gets from the articles in The Milwaukee Sentinel on the battered women is the obvious lack of concern of the husband for his children. Following the beating, the woman has to flee for her life with the children and try to find refuge away from the home where all the children's necessities remain. He gets the house all to himself with all the comforts—knowing full well that everything his wife and children need for survival are in the house he occupies.

So the perpetrator of the crime is left with the spoils, while the victim has to fend for herself and the children. What kind of man is this who thinks so little of his children that he lets them wander the city begging for food, clothing and shelter?

And the woman is supposed to go back to that man who obviously is prepared to beat her again. What kind of children will these be when they are older?

RELAXATION OF TENSIONS IN KOREA

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mrs. MEYNER. Mr. Speaker, I was pleased to take part in a Conference of Japanese and U.S. Parliamentarians on Korean problems which was held in the Cannon caucus room on September 19 and 20. Various aspects of the Korean situation were discussed in four working sessions.

I took a particular interest in the third working session on "Prospects for Tension Reduction and Political Accommodation in Korea." Discussions on Korea often seem to be characterized by vicious circles of fear and hostility. I feel that we must seek ways of breaking out of this distructive situation. Many of the participants in this session had interesting suggestions to make in this regard.

The Honorable Tokuma Utsunomiya, a member of the House of Representatives of the Japanese Diet, offered a particularly interesting paper on "Relaxation of Tensions and Korean Reunification." Although space does not permit inclusion of his full remarks, I would like to share his opening remarks on "Causes of Tension in the Korean Peninsula" with my colleagues. I am certain that you will all find it interesting and provocative:

I. CAUSES OF TENSION IN THE KOREAN PENINSULA

Military and political tensions, said to stem from differences in the political systems of the two Koreas, continue to exist in the Korean Peninsula. The South Korean Government, for instance, constantly refers to the dangers of direct and indirect Communist aggression from the North and this fear of the "threat from the North" forms the cornerstone of its domestic and foreign policies.

However, in addition to the simple reason of two states with differing systems existing in what was once a single nation, there are a number of other factors contributing to the present tension in the Korean Peninsula and I believe that we need to clarify these different factors in finding ways of lessening this tension.

I would first like to list these causes of tension and, later, add explanations.

(1) North and South Korea are more identical in their language, their alphabet and their culture than East and West Germany. Whereas a unified Germany emerged only a little over 100 years ago, Korea has been one nation and substantively maintained its independence from the year 938, when Wang Kon established the Kingdom of Koryo, until 1910 when it was annexed by Japan. Thus, there is today among the peoples of both North and South Korea a keen realization of the irrationalities inherent in the division of their country into two separate entities and a deep desire for unification of the entire Korean race. The governments of both North and South Korea interpret these identical sentiments on the opposite side of their border as threats and indications of aggressive intent against themselves.

(2) The Korean Peninsula is the only region in the world where the East-West Cold War of the post-World War II era erupted into a large-scale hot war. Regardless of what may have sparked the Korean War, the fact remains the 38th Parallel has been for many years the most tense of all frontlines in the East-West Cold War.

Because of this, the Korean Peninsula is where a situation and a consciousness of tension still remains the strongest. This is particularly so in South Korea, while it was North Korea, which was able to observe at first-hand confrontation developing between the Soviet Union and China, that early realized the East-West Cold War had lost its original significance and had substantially become a facade. However, in South Korea, the rapprochement between Japan and China and between the United States and China and the sudden change in Vietnam, served only to arouse a sense of heightened danger and to lead to a further strengthening of South Korea's Cold War setup. This sense of danger is evident in the covert activities of such organs as the Korean CIA aimed at expanding the influence of those circles in Japan, the United States and elsewhere still interested in perpetuating and escalating the Cold War.

(3) Economically, South Korea has always been a country centered on small-scale rice farming and small-scale fisheries along its complex seacoast. It has not been blessed, as in the case of North Korea, with underground mineral wealth, hydro-electric power and forestry resources. However, in such an economy as that of South Korea, the farming and fishing villages provide a constant source of surplus labor. The situation is the opposite to that in North Korea, which constantly complains about its labor shortage. The North-South division of Korea has made it impossible for both parts of the country to mutually complement each other and has made the economic independence of the Korean peoples extremely difficult.

In order to continue its economic growth, South Korea has no alternative but to push its industrialization by relying on foreign aid and foreign capital. To cover the deficits in its balance of payment arising from the induction of foreign capital, South Korea has had to rely on foreign trade earnings and cumulative foreign loans, aside from U.S. military procurements and tourist revenue, some of it earned in a questionable manner. The need to earn through foreign trade has resulted in brutal labor conditions in South Korea, including low wages and long hours of work. In order to suppress the dissatisfaction of the general populace at these condition, the South Korean Government has found it necessary to resort to repressive measures and spying on its own people by the KCIA.

To justify this repression, the South Korean Government has had to place undue emphasis on "the threat from the North." These policies have not only made natural economic exchange with North Korea impossible, but has resulted in an expansion of military expenditures. This, in turn, has forced the South Korean Government into the vicious cycle of having to further emphasize "the threat from the North," in order to gain greater military and economic assistance from abroad.

As one means of improving its balance of payments position and earning foreign exchange, South Korea has been exporting to Japan, at prices based on low wages raising suspicions of dumping, light industrial products and imitations of Japanese quality goods, such as Japan's famous hand-woven Oshima "kasuri" kimono material. This practice has come as a heavy blow to Japan's small and medium enterprises. In addition, South Korea has succeeded in winning bids on construction and public works projects in the oil-producing countries of the Near and Middle East by undercutting all other bidders and has dispatched Korean workers to work on these projects under poor work-

ing and living conditions. All this is being done in order to earn foreign exchange.

As a result, some 2,000 South Korean workers rioted in protest in Saudi Arabia on March 13 of this year. Further, the common practice of providing Korean prostitutes to foreign tourists, including Japanese, is regarded in Japan as a deliberate policy on the part of the South Korean Government to earn foreign exchange.

Practices unthinkable in a country that respects freedom of the press and human rights are rife in South Korea. All these practices may be regarded as arising out of the requirements of South Korea's economic expansion program. Whatever the case, these practices have aroused popular dissatisfaction and are one of the major causes of continued tension in the Korean Peninsula.

(4) Political freedoms, in the sense we know them, do not exist in North Korea and it is not difficult to imagine that repression of human rights, such as that described by Aleksandr Solzhenitsyn, is common in North Korea. However, repression is common in all Communist countries, in varying degree, and does not necessarily make North Korea a particularly dangerous country. When we examine North Korea's policies in the field of light industries, farming and housing, it is apparent North Korea needs peace to carry out its economic program.

However, North Korea fears war, for reasons which are apparent, and has built most of its war industries underground. There is no doubt the North Koreans are making preparations to maintain their war potential against sustained bombing over a long period of time.

At the same time, North Korea's excessive military expenditures and war preparations are obstructing its economic development and, it is apparent that the popular livelihood of the North Korea peoples is being subjected to heavy pressures. In addition, when North Korea has to purchase new and advanced arms from the Soviet Union, the conditions imposed by the Soviet Union both as to price and method of payment are most severe. There is no doubt these conditions have had a grave and adverse effect on North Korea's balance of payments position. Further, the fact that North Korea has close to 600,000 men under arms or assigned to military tasks has deprived the country of its most productive and youthful industrial and farm workers. Judging from North Korea's population, announced as being 15,950,000 in 1975, the maintenance of this large military force has placed a great strain on North Korea's economy.

South Korea's rapid economic growth, sustained by foreign capital, has made the leaders of North Korea worried and fretful and has prompted them to import industrial plants on a vast scale from West Germany, Japan and other countries on a commercial deferred-payment basis. However, the unexpected drop in the world prices of mining products, which are North Korea's prime export items, has made it extremely difficult for North Korea to keep up its payments for these imports of industrial plants. It appears North Korea must become more versed in international trading practices and, at the same time, must overcome its bureaucratic rigidity.

When we examine in detail North Korea's management of its present economy, it is difficult to imagine that North Korea has intentions of advancing south by force just for the sake of exporting its socialism to South Korea. Further, it is impossible for North Korea to wage a long-range war without the participation or without the assistance of the Soviet Union and China. The possibilities of such participation or assistance are far less today than in the 1950s. Further, it is much more apparent today than in the 1950s that the North Korean Government authorities do not want to have their country become a military appendage to either the Soviet Union or China.

However, there is one problem that could arise. If the withdrawal of U.S. forces from South Korea is carried out without any approach or any understanding being reached with North Korea and if vast military and economic aid is given to South Korea in compensation for the withdrawal and, furthermore, if the Park Chung-hee Government continues to maintain its deep hostility toward the North, there is no guarantee North Korea's leaders might not succumb to the temptation of getting rid of the Park Chung-hee regime should they find themselves at a military advantage over the South. This same thing may be said of the South.

FINANCIAL SECURITY OF SOME FEDERAL EMPLOYEES JEOPARDIZED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STARK. Mr. Speaker, I have been contacted by several social security offices in my district. Over 70 people in just a couple of days have expressed their deep concern about the uncertainty that exists regarding their pay due to the failure of the House and Senate to pass the 1978 Labor-HEW appropriations bill before the end of fiscal year 1977.

I can certainly understand their anxieties and frustrations, especially when most of these employees have a family to support. Thousands of other Federal employees find themselves in similar situations throughout the country. I am inserting the text of a letter I received from one group of employees which I think eloquently describes their feelings:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
October 7, 1977.

Hon. FORTNEY H. STARK,
Congressman, 9th District,
U.S. House of Representatives.

SIR: During the last 48 hours, the employees of this office have been notified that the very real possibility of not receiving full and timely remuneration for services rendered currently exists. The reasons for this circumstance have been presented to us by responsible authorities and duly discussed. However, this discussion has not assuaged our fears nor lessened our concern. On the contrary, our anxiety has been heightened and therefore, we feel that the authorities responsible for this situation be reminded of their obligations to their constituency.

It is our understanding that the delay in appropriating funds for the Department of Health, Education, and Welfare is political in nature due to a controversial and highly volatile issue. We feel that Congress fails to recognize the fact that waiting until the last moment to decide on funding for an entire department of the Federal government is, in itself, a highly volatile issue and deserves to be ranked in highest priority.

Granted, it is entirely feasible that Congress will act at the last moment, appropriate funds, and all employees will continue with their appointed job descriptions. In the strongest possible terms, the employees of this office object to this type of irresponsible legislative action.

To enumerate all the financial obligations each of us must meet, let alone feed and clothe our families, would be a mute point. What we object to is the mental and emotional anguish we are experiencing due to the delay in appropriating funds. The inaction by the House of Representatives constitutes harassment of the highest order and cannot be tolerated. The electorate has chosen its representatives to speak for them in Washington and, as a sizable portion of that electorate, we, as federal employees, feel that our voice and our concerns are not being heard.

In lodging this formal protest, the employees of this office feel that affirmative and expeditious action will take place to rectify the situation. We sincerely trust that our faith in speedy and timely congressional action will not be betrayed.

I am hopeful that in the very near future the House and Senate can agree to language regarding the Federal funding of abortions so we can pass the conference report and relieve this situation. Personally, I feel the position of the House has been inflexible and wholly lacking in compassion. But, regardless of how one feels on the abortion issue, I think it is imperative that we take action to insure the payment of these Federal employees is not jeopardized. After all, if these employees are not paid, aside from the enormous financial trouble that will be caused them as individuals, a critical problem will result from their inability to help those most in need—the aged, the blind, and the disabled.

Let us act promptly and with compassion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 13, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 14

9:00 a.m.
Armed Services
Arms Control Subcommittee
To hold a closed meeting to receive testimony on the current status of the SALT II negotiations.
S-407, Capitol

Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To hold hearings on S. 2019 and 2125, to delay the effective date for mandatory coverage of multiemployer pension plans; and H. Con. Res. 369, to revise the coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for single employer plans.
1224 Dirksen Building

Government Affairs
Civil Service and General Service Subcommittee
To hold a business meeting to consider S. 666, to provide early retirement benefits for non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service; and S. 1133, 865, 386, and H.R. 5054, to repeal the apportionment requirements for employment with the civil service system.
S-210, Capitol

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to delay the effective date for mandatory coverage of the multiemployer pension plans.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Foreign Relations
To continue hearings on the Panama Canal Treaties (Exec. N. 95th Cong., 1st sess.).
318 Russell Building

Governmental Affairs
To continue hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

2:00 p.m.
Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

2:30 p.m.
Foreign Relations
Foreign Assistance Subcommittee
To hold hearings on the international narcotics control program and the status of U.S. prisoners in Bolivia.
4221 Dirksen Building

3:00 p.m.
Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 1717, to amend the Internal Revenue Code with regard to taxation of distilled spirits.
2221 Dirksen Building

OCTOBER 17

9:00 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on S. 1265 and 1267, relating to the maintenance and orderly disposition of public records; and S. 1273, authorizing the GSA to renegotiate Federal property leases.
1318 Dirksen Building

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Investigation Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

Select Nutrition and Human Needs
To hold oversight hearings on nutrition as it relates to health policies at HEW, and to discuss research programs at N.I.H.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

Judiciary
Immigration Subcommittee
To hold hearings on the topic "Human Rights in Israeli Administered Territories."
6202 Dirksen Building

10:15 a.m.
*Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
4232 Dirksen Building

OCTOBER 18

9:00 a.m
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigation Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building

Special on Aging
To hold hearings on proposed extension of the Older Americans Act (P.L. 93-29).
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Governmental Affairs
To hold hearings on S. Res. 258, to establish a Senate Office on Nominations to assist the Senate in the exercise of its confirmation of nominees submitted by the President.
3302 Dirksen Building

2:30 p.m.
Judiciary
Antitrust and Monopoly Subcommittee
To hold a closed business meeting to consider S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
S-146, Capitol

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. Res. 258, to establish a Senate Office on Nominations to assist the Senate in the exercise of its confirmation of nominees submitted by the President.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
Until noon 6226 Dirksen Building

Rules and Administration
To hold hearings on the nomination of John J. Boyle, of Maryland, to be Public Printer, followed by a business meeting on pending calendar business.
301 Russell Building

OCTOBER 20

8:00 a.m.
Finance
Health Subcommittee
To hold hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.
2221 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10.00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10.00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee

To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building
10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3100 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2226 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

OCTOBER 14

10:00 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 18

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee on Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

SENATE—*Thursday, October 13, 1977*

(Legislative day of Tuesday, October 11, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JAMES R. SASSER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk and not faint.—Isaiah 40: 31.

Help us, O Lord, to pace our work according to Thy Word—to run when we are able, to walk when we ought, to wait when we must. Keep our strategy in the cadences of Thy spirit. In everything do through us only what is best for this Nation and give us the wisdom to leave undone that for which we are not ready.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 13, 1977.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES R. SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, October 12, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no use for my time.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no request or need for my time under the standing order. I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without prejudice to the orders for the recognition of Senators. I ask unanimous consent that it be charged against the time of the two leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 1833, THE SO-CALLED LABOR LAW REFORM BILL

Mr. THURMOND. Mr. President, I wish to speak briefly on legislation which is pending in the Human Resources Subcommittee on Labor—S. 1883. Initially, I had intended to testify before the committee, but the hearing at which I was scheduled to testify was canceled, and it appears it may be impossible to reschedule hearings before the Senate adjourns.

In the event I am unable to testify when the hearing is rescheduled, I am proceeding to make my remarks now, so as to formally express my opposition to the bill. This bill, as a whole, Mr. President, will disrupt the delicate balance in our Nation's labor-management laws, and, therefore, not serve in the best interest of a good national labor-management policy.

One of the cardinal principles of sound labor-management policy is fairness on the part of Government. Government should not favor one side in a labor dispute over the other. Neither should it dictate terms. The ideal role of Government is as referee.

I do not doubt the desire of the sponsors and the subcommittee to adopt an equitable labor policy for American workers. Nevertheless, it is my belief that S. 1883 allows an unfair advantage to unions in their organizational activities.

During the last 20 years, rank and file workers have shown an increasing dissatisfaction with unions, and especially big unions, and more especially the leadership of big unions—labor bosses. In the last 2 years, union organizers have lost more representation elections than they have won. Between 1967 and 1976, the number of elections to withdraw recognition of a labor union increased from 234 to 612.

Mr. President, as the unions have lost support with the rank and file workers, labor bosses have exerted ever-increasing pressure on Congress to enact legislation favorable to union organizing attempts. In the South, where unions have met their most significant resistance, their need is particularly great. In fact, the provisions of this bill seem tailor-made to facilitate the unionization of industry in the South and Southwest.

In testimony before the House Subcommittee on Labor-Management Relations on the companion bill to S. 1883, Mr. Robert T. Thompson, one of my constituents and one of the eminent attorneys in our State, stated what hundreds of South Carolinians have repeatedly told me within the last several months:

> The true impact of H.R. 8410 would be to arm union organizers with potent new organizing tools to foist unions on employees. Organized labor has sought this legislation not because of slow and inefficient Board proceedings, and not because of alleged employer abuse, but simply because it has failed to persuade significant numbers of workers that unionism is in their best interests.

I can only agree with Richard L. Lesher, president of the Chamber of Commerce of the United States, who, analyzing the interest of union bosses in this legislation, said:

> They hope to gain from the government what they have been unable to win from the workers.

Mr. President, this is a private relief bill for union bosses.

Now, Mr. President, I shall turn to several specific provisions of the bill which most trouble me.

First is the provision to increase the size of the NLRB from 5 to 7 members. This is reminiscent of the "court-packing" escapade of the 1930's.

Moreover President Carter, in his July 18, 1977, message to Congress on labor reforms, stated that it was his desire to make the regulatory agencies such as the NLRB more responsive. Efficiency experts, though, counsel a reduction in the size of regulatory boards. Their logic is impeccable. More Board members require larger staffs, and larger staffs create more bureaucratic red tape. If the end is greater responsiveness, we want less bureaucracy, not more.

Second, the election timetables established in S. 1883 are unduly short. It is my understanding that there are three different ones allowing three different intervals between petition by the unions for organizational elections and the actual date when the election is held: 15 days, if a majority of the employees have designated the union as their bargaining agent; 45 days, if a smaller number have signed cards; and 75 days, if the Board finds issues of exceptional novelty or complexity.

This arrangement is obviously designed for the maximum convenience of the prounion forces. It allows union organizers to work under cover until they have a majority of the votes, and then call an election, secure in the knowledge that the opposition will not have adequate time to make their case. On the other hand, if an election is called when the organizers have not rounded up a majority, they have a full 45 days, and maybe 75, to campaign further.

This setup is an organizer's dream. It is a nightmare, though, for anyone truly interested in fairness. To quote Mr. Thompson again:

Surely if any group should be sensitive to the basic inequity of this election process, it should be the Members of Congress. It is essential that voters in union elections, as well as political elections, have the opportunity to become fully informed on the issues in order to make a sound and reasoned decision. In labor-management relations, this requires that both the union and employer have an adequate opportunity to communicate, in a non-coercive fashion, with employees regarding the issue of union membership.

Another part of the bill, section 3 (b)(1)(A), goes so far as to require the NLRB to adopt regulations to permit union organizers to address employees on company premises during working hours when an employer has exercised his right to do so. S. 1883 does not, however, change the proscriptions, which are strict, on employer contact with employees. Here, once again, we see a departure from the Board's traditions of even-handed justice.

Mr. President, the presumption of unfairness raised by these three sections is only confirmed when we look at other provisions—double backpay for discharged employees, compensation for workers whose employers have refused to bargain, and debarment from Federal contracts of employers who violate NLRB orders. This bill contains a sackful of Christmas presents for unions, and management must be content with a lump of coal.

One of the most disturbing aspects of the bill is its implications for compulsory unionism. Reed Larson, president of the National Right to Work Committee, stressed the effect S. 1883 will have on the rank and file worker. In his testimony before the subcommittee, he stated:

Regrettably, enactment of S. 1883 in its present form will do nothing to correct these coercive provisions of the NLRA. It will do nothing to guarantee working people the right to represent themselves or to make up their own minds about union affiliation. On the contrary, its passage will promote compulsory unionism by forcing additional hundreds of thousands of employees to join or pay dues to unions whose representation they oppose. It will have this effect, despite Labor Secretary Ray Marshall's claim that nothing in the bill "will make union membership mandatory."

We applaud Secretary Marshall's statement of high purpose and his recognition of the fact that the American people strongly object to any expansion of compulsory unionism. But, sad to say, this is precisely what passage of S. 1883 will do.

I hope the subcommittee will reject the favoritism of S. 1883 and adopt instead the impartiality embodied in the bill proposed by Senator HATCH, S. 1855. This bill is not antilabor and it is not antimanagement; it is proemployee. It gives employees the right to secret ballot in deciding whether to have union representation and whether to call, maintain, or resume a strike; protects their right to hear from both sides during a campaign; and provides that they shall not be fined for exercising any rights guaranteed by the National Labor Relations Act.

The distinguished columnist, Anthony Harrigan, has pointed out that provisions contained in S. 1883 are changes, not reforms. We need to bring greater balance to our Nation's labor laws by enacting reforms such as the Hatch bill or by removing the special exemption given to unions under the antitrust laws. These are true reforms.

Mr. President, it is my hope that the committee will not report S. 1883 to the Senate; but in the event it is reported, I shall have to vote against it, in the interest of preserving some semblance of balance in our national labor-management policy.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 1 hour, with statements therein limited to 5 minutes.

PETITIONS

Mr. BAKER. Mr. President, I have received petitions requesting repeal of the Federal withholding tax from four of my constituents, Mr. Joe Horton, Mr. J. R. Bowman, Mr. H. C. Brown, and Ms. Theda B. Snyder. These Tennesseans have requested that I present their petitions to the Senate, and I now submit them for appropriate referral.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The petitions—POM-314—were referred to the Committee on Finance.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 13, 1977, he presented to the President of the United States the enrolled bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 287. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2149 (Rept. No. 95-496).

By Mr. MAGNUSON, from the Committee on Appropriations:

Without amendment:

H.J. Res. 626. A joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

ENROLLED BILL SIGNED

The bill (H.R. 1613) for the relief of certain postmasters charged with postal deficiencies was signed today by the Acting President pro tempore (Mr. SASSER).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY:

S. 2203. A bill for the relief of Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas; to the Committee on the Judiciary.

By Mr. GRAVEL (for himself, Mr. CURTIS, Mr. ANDERSON, Mr. BAKER, Mr. BARTLETT, Mr. BENTSEN, Mr. BUMPERS, Mr. CHURCH, Mr. CRANSTON, Mr. DOMENICI, Mr. DOLE, Mr. DURKIN, Mr. EAGLETON, Mr. FORD, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HASKELL, Mr. HANSEN, Mr. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. HEINZ, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCINTYRE, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. RIBICOFF, Mr. RIEGLE, Mr. SPARKMAN, Mr. STEVENSON, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 2204. A bill to amend section 4940 of the Internal Revenue Code of 1954 to reduce the excise tax based on the investment income of private foundations from 4 percent to 2 percent; to the Committee on Finance.

By Mr. SCOTT:

S. 2205. A bill to terminate the authorization for the Delaware Bay to Cape Charles Intra-Coastal Waterway; to the Committee on Environment and Public Works.

By Mr. MATHIAS:

S. 2206. A bill for the relief of Raymond Vishnu Clemons; to the Committee on the Judiciary.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2207. A bill to increase the authorization of appropriations for the development of Wilson's Creek National Battlefield, Missouri; to the Committee on Energy and Natural Resources.

By Mr. HEINZ (for himself and Mr. RANDOLPH):

S.J. Res. 92. Joint resolution to amend the "Joint Resolution to authorize the President to proclaim October 15 of each year as 'White Cane Safety Day'" (Public Law 88-628) to change the name of the day to "Blind Pedestrian Safety Day"; referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself, Mr. CURTIS, Mr. ANDERSON, Mr. BAKER, Mr. BARTLETT, Mr. BENTSEN, Mr. BUMPERS, Mr. CHURCH, Mr. CRANSTON, Mr. DOMENICI, Mr. DOLE, Mr. DURKIN, Mr. EAGLETON, Mr. FORD, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HASKELL, Mr. HANSEN, Mr. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. HEINZ, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCINTYRE, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. RIBICOFF, Mr. RIEGLE, Mr. SPARKMAN, Mr. STEVENSON, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 2204. A bill to amend section 4940 of the Internal Revenue Code of 1954 to reduce the excise tax based on the investment income of private foundations from 4 to 2 percent; to the Committee on Finance.

Mr. GRAVEL. Mr. President, I introduce on behalf of myself and several of my colleagues a bill to reduce the 4-percent tax on private foundations to 2 percent. The Senate voted for adoption of a nearly identical provision last year during consideration of the Tax Reform Act of 1976, but it was deleted in conference with the House. H.R. 8483 has been introduced in the House with bipartisan support and cosponsorship of a majority of the House Ways and Means Committee members. With the broad support evident in the House for this provision it appears that the time is ripe for Senate action.

The 4-percent tax was requested by Treasury in 1969 to cover the cost of auditing foundations and enforcing compliance with the law. Prior to 1969 foundations were free from tax. The 1969 Tax Reform Act instituted restrictions on foundations and required Treasury to enforce these restrictions. Since then the Internal Revenue Service has audited nearly all U.S. foundations and found high degrees of compliance with the 1969 reforms. The Service has determined that the tax could be reduced to 2 percent while still covering the costs involved in auditing and enforcing the law with respect to foundations. The Department of Treasury in a letter from Lawrence Woodworth, Assistant Secretary for Tax Policy, has taken the position that it will not oppose the change proposed by this bill.

Reduction of the 4-percent tax on foundations to 2 percent will restore $30 million annually to charitable purposes. The tax on foundations reduces directly on a dollar-for-dollar basis the charitable distributions of foundations. Foundations are required to distribute for charitable purposes the greater of their net income or 5 percent of the value of their assets. Under this minimum payout requirement the law allows foundations to credit as a payout for charitable purposes the amount paid as tax. Thus, the tax directly reduces the amount which foundations are required to distribute for charitable purposes. A reduction in the tax will directly increase dollar for dollar the flow of funds from foundations for charitable purposes.

Treasury has estimated the cost of supervising foundations at $10 million annually. By reducing the tax to 2 percent, Treasury will still raise $30 million annually from foundations, more than enough to finance IRS supervision and enforcement.

Private philanthropy has traditionally served an important function in our Nation. The foundations have taken leadership roles in education, health services, housing, and community development. Foundations have the flexibility and independence to act where Government cannot, to develop innovative and perhaps politically infeasible new ideas and programs. Once proven, these programs are often adopted by Government agencies and the foundations go on to new areas, breaking new ground in education, art, social services, and other areas of significant impact on our society. Therefore, I hope that the Senate would join me and my colleagues who have cosponsored this bill, and act to return to the charitable purposes for which it was dedicated the funds now flowing into the Federal Treasury. I urge my fellow Senators to reduce to 2 percent the 4-percent Federal tax on foundations.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 4940 of the Internal Revenue Code of 1954 (relating to excise tax based on investment income) is amended by striking out "4 percent" and inserting in lieu thereof "2 precent".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

Mr. CURTIS. Mr. President, I am happy to join with the distinguished Senator from Alaska, Mr. GRAVEL, and my other colleagues in the introduction of a bill which would reduce the tax imposed upon foundations from its present 4 to 2 percent.

At the time this was imposed we tried to limit the tax to an amount equal to the cost to the Government of auditing and policing nonprofit institutions in their dealings with the Internal Revenue Service. It has worked out that the 4-percent tax levied was more than twice the amount needed. This extra 2 percent turns out to be a tax on the beneficiaries of the foundations giving. In other words, if a foundation gives a sum of money to a college, the actual gift is reduced by the amount of tax that the foundation had to pay. I am strongly in favor of reducing the tax from 4 to 2 percent.

It has also been my finding, after studying the foundations for some years and becoming acquainted with those who have created foundations and those who have managed them, that very few foundations come into being for tax-avoidance reasons. They come into being primarily because the donor decides he wants to do something for his fellowman, that he wants a good work to be carried on that will improve our quality of life and that will make a contribution to society.

Our community foundations perform a needed role in our society. They become the agent for many small givers who would like to do good with their money. Memorials and gifts of all kinds which are too small to be handled as separate foundations—or even as separate funds—can be turned over to a community foundation. This plan has worked well. It has made it possible for a number of people to join together and accomplish a single purpose for the betterment of their community.

Nebraska is a small State population-wise, but it is typical of many States. We have in our State some very fine church colleges and independent colleges. They carry a sizable portion of the statewide burden of higher education. Were these institutions to go out of existence or cease to be first-rate institutions of higher learning, the burden on our tax-supported schools would become much greater, and Nebraskans would have to pay a great deal more in taxes. Individual giving is splendid; church support for colleges is likewise a great thing. But I doubt that any of our colleges could survive in a creditable manner without the help of foundations. Foundations have in the past, they are now, and they will continue to be in the public interest—as well as the taxpayers' interest.

Mr. President, I hope that this tax reduction bill can become law without great delay. It is long overdue.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2207. A bill to increase the authorization of appropriations for the development of Wilson's Creek National Battlefield, Mo.; to the Committee on Energy and Natural Resources.

Mr. EAGLETON. Mr. President, I am pleased to introduce this bill to authorize increased appropriations for developing Wilson's Creek National Battlefield, Mo. On this historic 1,752-acre site was fought the decisive Civil War battle that gave Union forces control of Missouri.

The National Park Service has designed a master plan to restore the site to its 1861 condition. Additionally, a visitors center and interpretive displays at key points will help the visitor understand the significance of the battle. This project is estimated to cost about $8 million and take 5 years to complete.

ADDITIONAL COSPONSORS

S. 1820

At the request of Mr. METCALF, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1820, the National Natural Diversity Act.

S. 1939

At the request of Mr. GRAVEL, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1939. to amend the Internal Revenue Code.

S. 1996

At the request of Mr. STAFFORD, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1996, to amend title 10. United States Code.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Concurrent Resolution 44, honoring Gen. Thaddeus Kosciuszko.

AMENDMENT NO. 1415

At the request of Mr. MELCHER, the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of amendment No. 1415, to be proposed to S. 457, the GI Bill Improvements Act.

SENATE RESOLUTION 293—SUBMISSION OF A RESOLUTION DISAPPROVING REORGANIZATION PLAN NO. 2

(Referred to the Committee on Governmental Affairs.)

Mr. RIBICOFF submitted the following resolution:

S. RES. 293

Resolved, That the Senate does not favor the reorganization plan numbered 2 transmitted to the Congress by the President on October 12, 1977.

Mr. RIBICOFF. Mr. President, I request that the text of Reorganization Plan No. 2 of 1977 be printed in the RECORD.

There being no objection, the plan was ordered to be printed in the RECORD, as follows:

REORGANIZATION PLAN NO. 2 OF 1977

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

AGENCY FOR INTERNATIONAL COMMUNICATION

Section 1. Establishment of the Agency for International Communication—

There is hereby established in the executive branch an agency to be known as the Agency for International Communication (the "Agency").

Section 2. Director—

The Agency shall be headed by a Director (the "Director"), who shall serve as the principal advisor to the President, the National Security Council, and the Secretary of State on the functions vested in the Director. The Director shall report to the President and the Secretary of State. Under the direction of the Secretary of State, the Director shall have primary responsibility within the Government for the exercise of the functions vested in the Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level II of the Executive Schedule.

Section 3. Deputy Director—

A Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act for, and exercise the powers of, the Director during the Director's absence or disability or during a vacancy in said office and, in addition, shall perform such duties and exercise such powers as the Director may from time to time prescribe. The Deputy Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level III of the Executive Schedule.

Section 4. Associate Directors—

The President, by and with the advice and consent of the Senate, may appoint four Associate Directors, who shall perform such duties and exercise such powers as the Director may from time to time prescribe and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule.

Section 5. Performance of Functions—

The Director may establish within the Agency bureaus, offices, divisions and other units. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee or unit of the Agency.

Section 6. Negotiations—

(a) Under the direction of the Secretary of State, the Director shall prepare for, manage and conduct negotiations with representatives of foreign states or international organizations on matters for which responsibility is vested in the Director or in the Agency.

(b) For the purpose of conducting such negotiations, or for the purpose of exercising any other authority vested in the Director or in the Agency, the Director may—

(1) consult and communicate with or direct the consultation and communication with representatives of other nations or of international organizations; and

(2) communicate in the name of the Secretary of State with diplomatic representatives of the United States in this country and abroad.

Section 7. Transfer of Functions—

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431–1479), except to the extent that any function in sections 302, 401, or 602 is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451–2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108; (B) to the extent that such functions were assigned to the Secretary of Health, Education and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f); and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c).

(3) Public Law 90–494 (22 U.S.C. 929–932, 1221–1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency.

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93–168;

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorization Act, Fiscal Year 1978, Public Law 95–105, 91 Stat. 844; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c.138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b));

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89–665, as amended by section 201(5) of Public Law 94–422 (16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95–86 (headed "United States Information Agency, Salaries and Expenses"), 91 Stat. 440–41;

(17) The twentieth unnumbered paragraph of title I of Public Law 95–86 (headed "Center for Cultural and Technical Interchange Between East and West"), 91 Stat. 424;

(18) Section 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c. 301, 63 Stat. 408 (22 U.S.C. 2681–2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

Section 8. Establishment of the United States Advisory Commission on International Communication, Cultural and Educational Affairs—

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, and business and professional backgrounds. The members shall be appointed on a nonpartisan basis. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466–1468, 1471(6)), and under sections 103(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency.

(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO.

Section 9. Abolitions and Supersessions—

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c. 143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315 (22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466–1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c.841, 70 Stat. 890 (22 U.S.C. 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

Section 10. Other Transfers—

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 11. Effective Date—

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

DEPARTMENT OF EDUCATION HEARINGS CANCELED TOMORROW

Mr. NUNN. Mr. President, on behalf of Senator RIBICOFF, I wish to announce that the hearings scheduled for Friday, October 14, 1977, on S. 991, to create a separate, Cabinet-level Department of Education in the Federal Government, and related bills, S. 255, S. 300, S. 894, and S. 1685, by the Committee on Governmental Affairs, have been postponed until further notice.

ADDITIONAL STATEMENTS

BOWHEAD WHALES AND THE IWC: BOTH ENDANGERED

Mr. CRANSTON. Mr. President, I have written the President of the United States to voice my deep concern over a possible U.S. objection to the proposed moratorium by the International Whaling Commission on the hunting of bowhead whales, a species on the edge of extinction. I believe, as do many others, that such an objection would be ill-advised and potentially ruinous to the declining population of bowheads and to the survival of the IWC itself.

I ask unanimous consent that the text of my letter to President Carter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 12, 1977.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: You are receiving recommendations from the Departments of Interior, Commerce, and State regarding a United States objection to the International Whaling Commission's zero quota for the taking of bowhead whales. I want to express my strong view that the survival of the bowhead whale, the posture of the United States as champion of the IWC, and the future of the IWC itself may well depend upon your decision, as President of the United States, *not* to file an objection to the proposed rule, but rather to seek other solutions to the problem created by the whale hunting desires of native Alaskans.

I believe that the arguments against a U.S. objection to the zero quota are both sound and compelling.

First, the bowhead whale may be the most endangered of the great whales. Its world population is six to ten percent of what it was a hundred years ago; the stock in Alaskan waters numbers between 800–3,000 whales.

Second, the take by Alaskan natives has grown from a 1946–1970 average of 10 per year to 48 in 1976, accompanied by an alarming rise in whales killed but lost: from zero to ten in 1973 to 37 in 1976. At the same time, the number of hunters has increased threefold. In 1976 the IWC directed the United States to take corrective measures. But the Spring 1977 hunt saw 26 whales killed, 77 wounded and lost and two killed and lost. This tragic waste is occurring at a time when the dependence of the Eskimo upon whale products for food and utensils has declined. And, sadly, the harpoon skills of the great native whalers, and the cultural tradition those skills evidenced, are overshadowed by the new and gory technology of bombs shot from shoulder guns. The inaccuracy of the new killing methods account, in large measure, for the steep rise in whales slaughtered, or painfully wounded, and lost.

Finally, the action of the United States in the matter of the bowhead whale could well determine the survival of the International Whaling Commission, which is just now—after years of effort by the U.S.—emerging as a strong arbiter for the whaling nations of the world. Those of us, Mr. President, who have worked to assure the success of the IWC remember your own efforts in 1972 when, as Governor of Georgia, you led the American delegation to the IWC in its successful fight for a ten-year moratorium on commercial whaling.

I respectfully ask you to reaffirm that commitment by not filing an objection to the IWC moratorium. The alarmingly low population of the bowhead, the future of the IWC as a viable international body, and the credibility of the U.S. as the foremost champion of the survival of the whale populations of the world are all, in my view, strong arguments for the course of action I urge upon you.

With best regards,
Sincerely,

ALAN CRANSTON.

THE NATIONAL EDUCATION ASSOCIATION NEEDS A LESSON IN THE FREE ENTERPRISE SYSTEM

Mr. GOLDWATER. Mr. President, several months ago I received a letter from a constituent and good friend of mine, Dr. Richard L. Harris, who is Superintendent of the Maricopa County schools in Arizona. His letter dealt with his concern about the steady erosion of belief in the free enterprise system among our Nation's young people. He called my attention to the direct attack the National Education Association is making on business and the free enterprise system through a publication jointly sponsored by the NEA entitled, "A Working Economy for Americans."

Now having had an opportunity to read this 30-page booklet, I am shocked. I am amazed to learn that the Nation's largest teacher union is bent on preaching a strong bias in favor of socialism to the children of this country. I am astounded to find that any group of educators would allow their name to be tied to propaganda which openly downgrades the achievements of private enterprise.

The "big brother" approach to our economic problems set forth in the NEA booklet is at best simplistic and shows a dismal ignorance of economic facts. At worst, it is a clear case of the NEA endorsing an effort to involve the Federal Government in every aspect of our free economy, which in the end will bring them, and other unions, more power, just as Government and union direction of the economy has done in, and to, Britain.

The message in this document is clear. It argues "the private enterprise system is in need of change."

In fact, it blames all the ills of our society on private business. According to the booklet, our system of "profit-motivated operations of private business have led to inequalities of wealth and income, unemployment, inflation, urban blight, pollution, and other problems."

From this, the NEA paper instructs that the solution to all our economic problems is for "Government to play a greater role in restructuring and planning the economy."

The booklet even indicates that our country was lucky to get as far as we have under the free enterprise system.

Mr. President, this pamphlet is an incredible composite of left-wing notions and socialist schemes.

It is antimilitary defense.

It defends massive Government spending as not being inflationary.

It supports economic manipulation and controls.

It suggests establishment of "public industries," which are in reality a misnomer for nationalization.

It argues for the Federal chartering of private corporations.

It calls for bigger public works programs.

It urges use of the tax system to achieve a redistribution of incomes and wealth.

And so on and so on.

In other words, the entire liturgy of socialist dogma is contained in this booklet.

And the truly disturbing part of it is the realization that this one-sided, bitter attack on deeply founded American principles has been jointly produced by a national teachers organization.

It is not known how widely this booklet is being used as suggested or required reading material for classroom instruction by individual member teachers of the NEA, but the potential for brainwashing our children at an impressionable age with this biased, political garbage is great. It could easily appear, if left unexplained, to be an authoritative document having the endorsement of teachers themselves.

Mr. President, it would be impossible in a brief statement to correct each and every fallacy and inaccuracy in the NEA booklet. But to illustrate the fact that this paper, in addition to being flagrantly prejudiced, is filled with errors and misstatements, I will discuss one such instance.

First, the booklet makes a big issue out of the claim that the cost of adequate housing today is supposedly beyond the reach of 80 percent of all American families.

Yet, the National Association of Realtors recently completed a report examining this very allegation in which it concluded that housing has actually become much more "affordable" today than it was in years past.

The NAR reports that a record 4.2 million house sales were made in 1976 with nearly half of all buyers being renters moving up to homeownership and half also being under 35 years old.

In addition, figures recently cited by Professional Builder magazine show that in 1940, the ratio of annual family income to the median sale price of housing was 5 percent. In 1975, this had dropped to only 2.8 percent. In other words, the typical house cost five times more than the average annual family income in 1940 and now costs less than three times the same family income.

Also, according to the 1975 annual housing survey of the Bureau of the Census, fully 65 percent of American households enjoy homeownership, almost the opposite of what is erroneously asserted by the NEA in its publication.

Thus, Mr. President, I charge that the NEA booklet is a fraud upon intellectual honesty. I charge that it is a biased and inaccurate polemic of socialist thought.

Instead of promoting such exercises in propaganda, I hope the teacher's union will take some lessons in the free enterprise system and rethink its position.

Mr. President, I would also urge those who cherish traditional American values to consider the advice of Dr. John Howard of Rockford College, who recently said:

> The defense of capitalism needs to be redirected to the values and attitudes of the people, and particularly the reestablishment of economic self-reliance as a cherished priority.

Our children need to learn and understand this. If they are misled by the National Education Association and publications such as "A Working Economy for Americans," then clearly we are losing the battle in showing children what has made, and can continue to make, this country great.

Mr. President, I applaud School Superintendent Harris for having called this matter to my attention, and I will conclude my remarks today by quoting from his letter to me.

Mr. Harris writes:

> America stands at a crucial point in history. America's future depends on her economic freedom. Either governmental economic coercion, or the people's freedom to buy, sell, and exchange will prevail. This is the struggle and America's freedom is at stake.

READJUSTMENT PROBLEMS FOR VIETNAM VETERANS

Mr. MELCHER. Mr. President, on Tuesday, October 4, I introduced amendment No. 1415 to S. 457 to provide for a one-time conditional extension of the delimiting period for veterans who served between 1964 and 1970. Because there has been considerable concern about the philosophical and fiscal implications of a delimiting extension I feel it necessary to briefly elaborate upon my amendment.

The amendment would extend the delimiting period only for those Vietnam-era veterans who truly demonstrate that they need an extension of the time period in which to initiate or complete their education and training, and that they have not reasonably readjusted from their military service. I believe that the inordinately high rate of unemployment among veterans age 25 to 35 indicates that there are still serious readjustment problems remaining among a significant minority of Vietnam veterans. Closer examination of the problem reveals that those who bore the greatest brunt of the war have been the least served by a readjustment program which at the time of their separation was designed for "cold war" peacetime veterans. Lacking civilian-related skills and an effective readjustment program they were forced to take menial dead-end "Jobs for Vets." These vets, being the last hired, became also the first fired.

Now they urgently need the readjustment education and training to acquire the skills necessary for productive and secure careers in the private sector. My amendment would provide these veterans who sacrificed so much for their country a limited 2-year period to avail themselves of their rightfully earned entitlements in their time of need.

After staff consultations with the Budget Committee, I have established that my amendment's cost is well within the funds available in the veterans' functions budget for new program initiatives, $450 milion. The amendment would allow sufficient funds for other program initiatives, including lowering the ceiling on the accelerated entitlement provision in S. 457 from the current $1,000 to a more realistic $500 figure for those who demonstrate need.

I believe that a reasonable criteria for the establishment of need for a conditional extension of the delimiting period would be comparable to the needs test imposed upon those persons seeking eligibility for accelerated entitlement under the provisions of S. 457.

The majority of veterans currently in training under the GI bill—62 percent—are earning in excess of $13,000 a year; an income that would preclude the vast majority of these veterans from an extension of the delimiting period provided under amendment 1415. I also believe that the majority of veterans in school have planned their education so as not to be terminated prior to completion by the delimiting period. So amendment 1415 would benefit substantially those veterans who are currently unable to use their readjustment benefits, who are unemployed or underemployed, and will be able to enter GI bill programs only with the enactment of the accelerated entitlement and a conditional delimiting date extension amendment.

This does not provide a 2-year delimiting date for all veterans seeking educational funding. It does instead provide for a 2-year period from January 1, 1978, to January 1, 1980, during which veterans who served in the earlier days of the Vietnam era and who can demonstrate need can have one last chance to use the entitlement they earned, but could not realistically use at the time of discharge.

CHALLENGES FACING INTERNATIONAL TRADE

Mr. JAVITS. Mr. President, on October 10, 1977, I had the opportunity to speak before the first Southern Forum under the auspices of the members' council of the Chamber of Commerce of New Orleans, in New Orleans, La., on a mounting protectionist fever in this country and its effect on the world economic system and a vital need for international action on loans and credits. In that speech, I sought to counter the simplistic arguments presented by protectionists about the regressive effect of international trade on the national economy to emphasize the effective laws we have on the books.

In the last 5 months, I have presented my views on the future direction of the world economy on the floor of the Senate, before the Senate Committee on Banking, Housing and Urban Affairs, and in questioning the witnesses who appeared before the Foreign Relations Committee, during our hearings on authorization for the U.S. participation in the IMF Witteveen Facility. In addition, I have discussed the matter before numerous public bodies. I am engaging in this debate to spur the responsible officials, business and labor leaders both in the United States and abroad, to develop the necessary economic, political, and diplomatic solutions to these problems. The situation, if unchecked, will have the gravest consequence for the free world.

I found the members of the Southern Forum to be very concerned about the rising forces of protectionism in this country and well informed about the severe repercussions on U.S. trade that may result from our going protectionist in this country. I would like to share with my colleagues the speech that I presented before that distinguished body and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR JACOB K. JAVITS

TRADE NOT AID

I appear today before this distinguished group to share with you my concerns about the state of the free world's monetary system and economy and particularly the challenges facing the United States in this respect. International trade is a vital element of the system.

The people of New Orleans do not have to be educated about the benefits of international trade. Recent economic impact studies have shown that the Port of New Orleans and its related trade industries generate more than 70,000 jobs in Louisiana, with a $4 billion economic impact, which accounts for almost 11 percent of the gross Louisiana state product.

The Port of New Orleans is closely linked to the rapid industrial development of the South, handling its growing exports of paper and paper products, woodpulp, and construction machinery and bringing in imports of iron and steel products, plywood, motor vehicles, coffee, meat and alcoholic beverages.

One does not have to be an expert specializing in international economics to understand that the world economy today is undergoing enormous pressures and is being subjected to unprecedented challenges. We read every day about the increasingly strident call by elements of U.S. business for protectionist action against imports and about the concerns for the continued creditworthiness of non-oil developing as well as some developed countries. We note with alarm the effect of continued current account surpluses in the OPEC countries on the ability of the rest of the world to finance its balance of payment deficits; and, the continued high levels of inflation and unemployment that are seriously cutting into the ability of many countries to undertake sustainable real growth policies.

In the last five months, particularly in testimony that I presented in late August before the Senate Committee on Banking, Housing, and Urban Affairs, I have sought to alert the American people to the danger of a severe economic depression, if adequate economic and political measures are not taken in time to strengthen the fragile structure of the international monetary and economic system.

Reaction to my public pronouncements has been particularly significant for its diversity. Senior Administration officials in the State and Treasury Departments have taken strong exception to my views and have gone out of their way to stress that the system as a whole is not in any such position of imminent danger. The reaction of the U.S. public has, however, been supportive of my concern. I have found the American people to be instinctively uneasy about the world's economy and money. Because of the technical nature of these international economic issues, they have, however, been unable to articulate their grave concerns about these potential economic dangers. I also have found this uneasiness and concern widely shared in Western Europe.

We are in the midst of a crisis of confidence with respect to capital investment and risk taking, but even worse, we are stagnant—without real innovation or enterprise in the industrialized free world.

President Carter has called upon us to act as if we were at war, but he does not heed this call himself in terms of the measures he asks of us. By the time we get to the balanced budget in fiscal year 1981, we may have tripped over enough rocks strewn in our paths to destroy ourselves economically. We need to reach out boldly, as in war, to build up markets, develop infrastructure, improve material productivity both in agriculture and in industry, and develop and improve new sources of energy. To take but two examples: improvements in coal utilization and development of alternate energy sources in the United States alone could add to what is required to keep us prosperous for a decade, while similar improvements in agri-business in the developing countries could give the people living in these countries adequate nutrition without undue import strains and together could keep the international economy strong until the year 2000. We have it in our own hands to accomplish these tasks.

The basic question that we must ask ourselves is whether the human personality is so blind or so perverse that it must experience catastrophe before it will act.

My purpose in raising these issues is not to be a "doomsday prophet" to be vindicated if the bottom falls out of the system which I shall work indefatigably to prevent. On the contrary, I am engaging in this debate to spur the responsible officials, business and labor leaders both in the United States and abroad, to develop the necessary economic political and diplomatic solutions to these problems. They must do so or face a situation, which, if unchecked, will have the gravest consequences for the West.

I am concerned about the rising forces of protectionism here and abroad that are presenting simplistic arguments about the deleterious effect of international trade on the national economy. These forces have been primarily responsible for the serious deterioration in the international economic climate, which has already undergone severe shocks as a result of the international debt question and its far reaching implications for the health of the international economy.

International trade and finance are integrally linked and must be dealt with in a systematic and coordinated manner. I am concerned that international policy-makers are concentrating on the details of these questions and are failing to develop a broad systematic solution to the overall problems facing the international economy. I would like to present briefly some of my views on international trade and then turn to the adequacy of international capital flows.

I can understand and sympathize with the concerns of US workers in a particular industry who are about to lose their jobs when the share of competing imports goes up in the US market. Protection from imports—through temporary quotas and increased duties—would appear to be an easy solution for the problems facing such workers in an industry. It is, however, not the solution for the problems of the U.S. economy, which is so closely tied to the world economy. For any strong movement towards protectionism in the United States will be met by similar restrictions by our trading partners against US exports. These now account for 7 percent of our GNP but our imports are a big factor in international trade because of the size and buying power of the huge U.S. market. Such constriction in world trade would only compound the slow down that is already evident in world trade this year and would hasten the economic catastrophe that we are seeking to avoid.

In opposing a "protectionist" solution to our trade problems, I face the existence of some serious problems in particular industries. The problems facing the US steel industry are especially familiar to all of us and

the intended shut down of US steel capacity will involve the loss of many jobs. Zenith Corporation which makes television sets has announced the laying off of 5–6,000 workers. The US textile industry continues to face serious competition from abroad.

In many cases, workers who are told they are losing their jobs because of imports are, in fact, losing their jobs for other reasons. These reasons may have some import content but are not primarily import related. For example, failure to modernize may often make a plant non-competitive, (there is a great deal of this in the steel business.); so, too, do changing markets, or regional or transportation factors. It is all to easy to blame a layoff on the foreigner. There are, however, cases which deserve governmental attention due to the impact of imports. These must be balanced against the demand of workers in the export industry; that concern does not help the individual worker who must be helped by us.

We in the Congress should not and cannot, thus, turn a deaf ear to the plight of workers who face severe dislocation or job loss due significantly to imports. In developing an open solution to our international trade problems, we must ensure that the individual workers are made whole and assisted through effective adjustment programs that will retrain them for work in growing sections of our economy, maintain them until they work and relocate them where there are jobs. These programs must be innovative, and if they are costly, we must be prepared to bear those costs.

Furthermore, we must reexamine our assistance programs to workers who are laid off due to imports and take a serious look at proposals for removing the link which bases worker adjustment assistance on import injury and for increasing the duration and quality of benefits. In any event, we cannot make the US worker a hostage to our continuing calculated trade deficits of $25–30 billion per year, which we are incurring as our contribution to the international adjustment process.

We must also ensure that US workers are not losing their jobs because of unfair competition from abroad. Import competition in the US market should be welcome, but only if it is not violative of US laws and does not put US industry at an unfair disadvantage in its own market. U.S. industry should be encouraged to file well-documented antidumping and countervailing duty actions. The Administration for its part should expeditiously investigate these complaints to ensure that US industry is protected by the legal remedies available under the law.

The potential repercussions on international trade of any moves in the US toward protectionism makes any unilateral solution very dangerous. In many cases, the restriction of competing imports will not even solve the problems facing a US industry as I have already noted.

To avoid the danger of miscalculation, we must resist the temptation presented by the easy solution of protectionism. Rather, we must enter into international discussions—both bilaterally and multilaterally—with our major trading partners to liberalize trade in a nondiscriminatory manner.

The Multilateral Trade Negotiations in Geneva as well as similar trade discussions in the OECD in Paris must be given the strong support of the American people in order to succeed. It is critical that we avoid the temptation to use these international discussions as legitimizing devices for internationally sanctioned "protectionism".

Recently, a new concept, "Organized Free Trade" was suggested as a way of avoiding protectionism and trade wars by French Prime Minister Raymond Barre, who also serves as his country's Minister of Economy and Finance. Noting that the application of the "principle of free trade as an absolute dogma can be very harmful," the French Prime Minister indicated that France is seeking some collective rules that will allow for orderly growth of trade and limit the ability of some nations to succeed in a "massive penetration" of other countries' domestic markets.

I reject this approach to international trade, because it appears to be a euphemism for cartelization or a division of markets. The international economy has not yet begun to recover from the disruptive actions of the OPEC cartel for me to even begin to entertain the thought of endorsing the concept of cartelization. The approach would play havoc with the notion of comparative advantage which is the cornerstone of an efficient international economic system and would perpetuate inefficient industries.

The French plan is, however, noteworthy in one respect; it focuses on the development of an agreed set of rules for international trade. The present rules under the GATT must be reviewed, not to make them more restrictive, but to ensure that they are responsive in dealing with trade-distorting measures that were not envisaged when the present rules were adopted after World War II. The Congress has given US trade negotiators the authority in the Trade Act of 1974 to revise the GATT and it is especially important that negotiations on GATT reform move ahead concurrently with progress in the more traditional tariff-cutting aspects of the trade negotiations.

These negotiations on GATT reform as well as on those on sectors, which will develop internationally-sanctioned solutions to problems in particular industries, will provide the fora for developing the "non-protectionist" answer to the trade issues buffeting the international economic system. The critical element in the "non-protectionist" solution that I am offering is the need to develop cooperative market management which will resolve the conflict demands on the international trading system resulting from the tension between conflicting domestic economic systems.

The new international trading system will have to deal with increased governmental intervention in domestic economies and particularly on the effect of full employment policies and other domestic goals on international trade. New international rules on "dumping" and "subsidies" as well as on unfair trading practices must be worked out to protect the legitimate concerns of importing countries while also taking into account the legitimate social goals of the exporting countries.

I concur with the conclusion of the annual GATT study of international trade that "the spread of protectionist pressures may well prove to be the most important current development in international economic policies, for it has reached a point at which the continued existence of an international order based on agreed and observed rules may be said to be open to question." Governments will have to undertake concerted efforts in the negotiations to ensure the continued maintenance of the international trading system by once again becoming sensitive to the "requirements of the system" and not only their parochial needs.

A vital element of the international economic system is the relative position of the less-developed countries, which collectively has deteriorated in the last four years as a result of their need to finance the deep imbalances in their balance of payments. These countries are quickly coming up against limits on their ability to borrow in the commercial channel and must increase their exports to the industrialized countries if they are to have any chance of improving their situation. World Bank President McNamara, in his recent address before the Bank's annual meeting, projected that the less developed countries will be able to increase their exports of manufactured goods from about $33 billion in 1975 to $94 billion in 1985 if the industrialized countries will display "a continued tolerance to accept such a rapid expansion in imports." It is crucial to the future viability of the system that the less developed countries find this tolerance for their exports otherwise they will be unable to pay their large oil bills and their increasingly burdensome debt service.

The trade problems that I have just described are symptomatic of a greater disequilibrium that has characterized the international economic and monetary system since the abandonment of the Bretton Woods system in 1971; and, the fourfold increase by the OPEC countries in the price of petroleum in 1974. The deep imbalances in the balance of payments positions of the oil importing countries, especially those in the non-oil producing third world, have, when added to their difficulties, resulted in excessive borrowing, depressed growth and high rates of inflation.

The non-oil developing countries financed these balance of payments imbalances by borrowing heavily both from private and public sources. Net private credit flows largely by commercial, and especially US banks engaged in international operations, to the LDC's have totalled more than $50 billion since 1973, with $21 billion advanced in 1976 alone. The outstanding external debt of these countries to both private and public entities in the industrialized countries, while only $83 billion in 1973, has been estimated at between $140 and $170 billion by the end of 1976 and nearly $200 billion by the end of 1977.

To overcome the shortfalls in their current accounts, these countries have mortgaged their futures and as we must look forward to perhaps continuing imbalances by them of up to $150 billion by 1985. I am extremely concerned that such a situation cannot continue indefinitely.

In the immediate period after the drastic OPEC price increase, it was possible for the non-oil LDC's to incur the debt because, as a whole, they were relatively debt free. We have now reached the point, however, where continued heavy borrowing to finance trade deficits without concomitant improvements in other aspects in their current accounts will put these countries further into debt without any real hope of generating the surpluses needed to get out from under that debt.

While it is essential that these developing countries receive large amounts of additional capital flows, these flows must not allow them to avoid needed economic adjustment policies, without which the additional capital will be only a holding action without generating real economic growth. Until now, the existence of a sophisticated and resourceful complex of financial intermediaries in the industrialized countries has given many developing countries the means for putting off sorely needed economic adjustment policies while having access to credits for financing balance of payments deficits. Several of the non-oil developing countries have commercial bank debts of more than $2 billion each.

While I believe that the commercial banks have followed conservative lending practices in their allocation of credit by country and risk category, the banks are quickly coming up against self-imposed or regulatory agency imposed limitations on their exposure in certain countries. Commercial bankers are seemingly agreed that they will not be able to continue to finance these deficits at the same level (75 percent of total financing) as in the 1974–1977 period.

New methods must thus be found to coordinate the lending policies of the private sector in problem countries with the involvement of the International Monetary Fund and other international financial institutions.

Member countries of the IMF are obligated to permit the IMF to supervise their economic policies if they avail themselves of the so-called upper credit tranches. Commercial banks must insist that countries in weak balance of payments positions first enter into IMF standby arrangements requiring economic performance criteria—conditionality—before considering any increases in their country exposure. By conditioning their loans on these LDC's successfully meeting the IMF criteria, the banks would reinforce the IMF in ensuring that recipient countries are meaningfully seeking to resolve their basic economic problems.

Although the actual operation of any working relationship between the private financing institutions and the IMF would have to be carefully designed, I support, in principle, Treasury Secretary Blumenthal's recent call for a study of the possibilities of developing a closer interaction between the private commercial banks and official financing through the IMF.

The pivotal role played by our private commercial banks in successfully helping to recycle the massive amounts of petro-dollars from their OPEC depositors to their oil importing customers must not obscure the fragile basis on which the financing arrangements have been built. The essential weakness of this system is in the short term structure of the OPEC deposits and the longer term nature of the credit that the banks extend to the deficit countries. The dependence of the banking system on the goodwill of a small group of depositors makes the banks "hostage" to the threat of sudden withdrawals.

Commercial banks cannot stand indefinitely the danger of borrowing short and lending long in an international system subject to extreme political pressures. We must take steps to reduce this dependence. We must insist that if OPEC countries want the financial security afforded by our strong economy, their deposits must be of a longer term so that the overall term structure of the banking system's external credits and debits more closely tracks.

In addition, we must urge the OPEC countries to bear a greater part of the risk for recycling these funds. Until now, the OPEC surplus countries have avoided the risk that comes with the investment of these funds by letting the banks of the major industrialized countries do the actual lending to the weaker countries, while receiving a guaranteed return on their deposits. The OPEC countries must be encouraged also to provide much greater lending through international financial institutions to the countries most affected by their oil price increases.

Even if we are able to persuade the OPEC countries to assume increased responsibility for the maintenance of the international monetary system, the industrialized countries and the international financial institutions will continue to bear the major responsibility for finding ways to finance the expected current account deficits.

As a general proposition, it is essential that we recognize that the system now requires virtually permanent and substantially higher levels of capital flows to the developing non-OPEC world. The consequences of failing to recognize this fact could be the major policy mistake of this generation.

Bilaterally we must maintain and increase all forms of our aid programs, international lending, direct private investments and bond financing.

Multilaterally we must provide the international financial institutions with the means and authority to play a much greater role in making the transfer of resources and technology more efficient.

As I have already indicated, it has been the commercial banking system which has met the challenge to the monetary system posed by the need to recycle the petro-dollars back to the deficit countries. It is now time for the official institutions, the IBRD, the IMF and the national development banks, to assume the leadership in meeting the recycling needs of the system. With annual current account oil price induced deficits of between $20–$25 billion annually expected to continue for the developing countries alone for the next ten years, it is incumbent upon the world leaders to develop an overall plan on how these deficits will be funded, rather than to come up with patchwork solutions.

I am particularly encouraged by the recent creation within the International Monetary Fund of the "Witteveen Facility". With its additional $10 billion in available credit, this emergency capital pool will expand the IMF's ability to meet the challenges posed by the present massive deficits. I regret only that the size of the facility could not have been the $16 billion Mr. Witteveen had originally asked for. I believe, therefore, that further increases in IMF quotas are needed to expand more substantially the capital available to the IMF for balance of payments financing and to insure that the international economic system will not break down under the strain of continued large deficits. Total quotas will stand at $45 billion when the expansion agreed to in the 1976 Jamaica Agreement goes into effect early next year. A further increase of another $25–$30 billion should be seriously considered.

Although the creation of the "Witteveen facility" may have reduced the immediate need for the OECD Financial Support Fund, the so-called "safety net" proposal first made by Secretary Kissinger in 1974, I continue to believe that its importance has not diminished. This is evidenced by the economic and monetary problems of a number of developed countries in Western Europe, Latin America and Asia. By supplementing resources available through the IMF, the "safety net" would provide emergency sources of credit for OECD countries encountering serious balance of payments difficulties.

The IBRD and the other international lending banks should continue to have our support. These institutions have proved to be an effective mechanism for stimulating economic development in the developing world, and should be provided with the needed capital to increase significantly their lending to that part of the world. I support an increase in the general capital of the World Bank, which will reach $40 billion when the selective capital increase of $8 billion goes into effect next year. The general increase should be significantly larger than the last $8 billion increase, conceivably as high as $20–$25 billion.

We must realize, however, that foreign borrowing cannot be a substitute for export earnings. A strong export performance is the indispensable base for a sustained use of foreign credits. The developed countries must, therefore, increase the opportunities for trade expansion with—and among—the developing countries; accelerate technology transfers; and give greater encouragement to private sector investment on fair terms to investors and host countries in the developing areas of the world.

Any attempt at outlining the specific mechanisms for effecting the resource transfers must recognize the dual nature of the problem.

On the one hand, the real threat posed to the viability of the international economic system by the credit stringency comes from a small group of better off countries. Although still considered in the "developing camp" their economic problems more closely resemble those of the industrialized countries. Countries such as Mexico, Brazil and South Korea have this potential for dislocating the system; so, too, do the OECD members on the northern periphery of the Mediterranean—Turkey, Spain and Portugal—with aggregate current account deficits of $8 billion and outstanding external obligations to both private and public sources of $20 billion at the end of 1976.

For these and other countries in this category aid alone is not the answer. Concentrated programs involving monetary and trade policies geared to making fundamental changes in the long-term structure of their internal as well as external accounts are necessary. Such programs should be worked out by the individual countries together with the IMF, the IMRD and creditor countries. Specific attention should be paid to the impact of domestic economic and political conditions on private foreign investment. Short-term credits should be used only to provide the necessary financing to bridge the financial shortfalls, but in no instance, should these credits be used to avoid real economic adjustment.

The poorer non-oil developing countries, with lower per capita GNP, fall into the second group. Individually, these countries do not pose real threats to the continued viability of the system. Had the recently completed rescheduling of Zaire's external public debt not occurred, the system would probably not have been threatened by the default, although Zaire's creditors would have been severely affected. Yet the problems of a Zaire coupled with those of other countries in this category are real and immense, and if the number of countries in that category greatly expanded, a general collapse could be touched off. To help these countries, we must continue to provide bilateral and multilateral aid that will assist the needy elements of the population and provide the required capital for projects that will contribute to economic growth, with marked attention to food needs which can be met.

Because the poorer countries face similar problems, we should develop a general approach to helping them. In addition to working closely with individual countries on a case by case basis in situations where restructuring their debts may be necessary, we should be prepared to help them increase their export earnings by providing economic opportunities rather than concentrating only on aid.

Although I am opposed to meeting the LDC demands for commodity indexation, we should accept fair plans to stabilize commodity prices by engaging in specified commodity agreements, providing for some financing of selected buffer stocks and underwriting export earnings through economic programs similar to the Stabex Plan under the Lome Agreement.

We should also expand our system of Generalized Trade Preferences, which will permit the LDC's to increase their exports of manufactured and semi-manufactured products. I believe that an expansion of GSP can be undertaken while taking into account the very legitimate concerns for ensuring that our own labor force is not adversely affected.

A restructuring of the relationship between donor countries is also needed. Major diplomatic efforts should be undertaken to require effective redeployment of the excess resources drained from both the developed and the developing countries by the OPEC cartel.

In addition, we must quickly adopt a strategy to reduce the price of oil and the imbalance in international payments resulting from our large oil imports by developing alternative sources of energy and introducing drastic conservation policies.

Also, we should encourage the Soviet Union and other Eastern European countries to participate actively in the operation of the international economic system by joining the World Bank, the IMF and other international financial institutions. With the exception of Romania and Yugoslavia, these countries have stayed away from these institutions, although the Soviet Union was to have been a member of the IMF and was assigned a quota at the Bretton Woods Conference.

It is important that we bring these countries more fully into the system not only because their financial systems have become increasingly tied to the capitalist world (Eastern Europe's external debt to both governments and commercial banks in the West reached $36 billion in 1976 while Eastern European deposits in the Western banks totalled $6 billion), but as importantly because the financial relationship between Eastern Europe and the developing countries has also mushroomed. The outstanding debt of the LDC's to the Soviet Union and its Eastern European allies under economic and military aid agreements is estimated to have exceeded $11 billion at the end of last year.

Whether the Socialist leadership of the Eastern countries likes it or not these countries are part of the system and we must ensure that they accept their share of the responsibility for its operation. We must avoid the recurrence of situations such as that which occurred in Egypt last year when the Soviet Union insisted that Egypt continue to repay its military debt (estimated at $4 billion) on schedule while the Western industrialized countries were feverishly raising funds to bail out Egypt's balance of payments.

Even with the expanded official resource transfers and the increased cooperation between governments that I have described, we simply cannot provide enough aid under present bilateral or multilateral programs; nor will aid by other nations appreciably fill the gap which exists today in what is needed for reasonable development by the LDC's. The private enterprise system of the developed world simply must be brought into the picture in a massive way.

Government policies must take note of the factors which foster, and those which threaten, the international business system and ensure that it operates—with proper safeguards—at greater levels of efficiency and productivity.

Government policies in the industrialized countries must be reexamined and developed further to ensure that they properly support private sector efforts in the developing countries. The developing countries, for their part, must demonstrate their receptivity by generating the proper investment climate and setting fair economic conditions that are conducive to foreign investment.

An agreed upon code—or treaty—for foreign private investment is vital.

The complex economic issues that I have described raise political questions that cannot be resolved by Finance Ministers or central bank heads alone. It is crucial that these economic programs be dealt with at the highest political level by Prime Ministers and heads of state at well-planned summit conferences. The May, 1977 London Summit Conference gave the United States and the leading industrial countries the chance to exercise their leadership role; such summit conferences must be institutionalized and continued annually. In addition, we must develop ways to bring the responsible leaders of the LDC's into the international decision-making process to ensure that their views and concerns are reflected in these critical decisions.

I have sought to share with you today my concerns about two interrelated problems facing the international economic system: the need for both continued open trade and for higher levels of capital flows to the countries most affected by the oil price increases.

It is essential that responsible world leadership develop a long-term, coordinated solution that takes into account both the trade and financial aspects of the question. The most far-reaching and generous program of bilateral and multilateral assistance will fail in the face of increased protectionism and trade barriers. Similarly, meaningful reductions in trade barriers will not significantly help in LDC's in the long-run, if they do not get the needed short-term financing to "bridge their financial shortfalls" until the expected increase in export earnings takes place.

The American people will not give their all—and properly so—if they are presented with piece-meal programs and analyses that down-play the seriousness of the international economic situation. I am, however, confident that the American people would be prepared to make the necessary sacrifices if they are properly informed of the gravity of the situation and are presented by the Administration with a detailed and appealing plan.

In conclusion, we must never lose sight of the fact that the major industrialized countries, with a combined GNP of well over $3 trillion, have the wherewithal to meet these challenges to the international economic system.

I consider that these issues pose the major political and economic dilemma of the coming decades which will only be solved if the industrialized and developing countries, as well as those in the OPEC cartel and Eastern Bloc can work together effectively. If we can achieve this cooperation, then I believe that we will be able to act in time to avoid a major depression.

MERIT SELECTION FOR DISTRICT JUDGES

Mr. HUDDLESTON. Mr. President, the creation of judicial selection commissions to assist in the selection of Federal judges is rapidly gaining momentum. In October 1976, Senator FORD and I were the second to adopt such a commission and since that time, the number of formal and informal commissions has grown to a total of 14. This method of selecting Federal judges is clearly an idea whose time has come, and I anticipate that more Senators will use it as they become acquainted with its tremendous advantages. The distinguished former Senator from Maryland, Joseph D. Tydings, has written an article on this subject for the September 1977, Judicature journal. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MERIT SELECTION FOR DISTRICT JUDGES

(By Joseph W. Tydings)

Patronage, the saying goes, is the lifeblood of politics. For United States senators, patronage consists in large part of federal judgeships. Yet, in the last three years, a surprising number of senators have relinquished their control of this plum. Since 1974, when Florida Senators Lawton Chiles and Richard Stone adopted a merit-selection plan, senators of thirteen states have promised to choose federal judges on merit.[1] By formal charter, most of these senators have established standing commissions to evaluate and recommend candidates for federal district judges. These plans signal the advent of openness and objectivity in the nomination of judges.

Openness and objectivity are too often rare commodities under the traditional system of senatorial courtesy which gives United States senators a virtual veto over nominees not to their liking, if not the basic power to nominate federal judges in their state. Briefly, senatorial courtesy works as follows:

(1) The senator or senators from the state involved, if of the President's party, suggest one (or at times more) candidates for the bench to the attorney general and the President. (If the state has no senator of the President's party, the suggestions come from the congressional delegation or other political allies of the President).

(2) The Department of Justice does a limited amount of screening for competence, and the FBI conducts a background check.

(3) The twelve-member ABA Committee on the Federal Judiciary investigates and reports on the qualifications of the nominee in confidence to the attorney general.

(4) In most instances, the attorney general then submits the "senatorial nominee" to the Senate for confirmation.

(5) The Senate Judiciary Committee holds a hearing if the senators from the nominee's state have returned their "blue slips" indicating approval. The power of any senator to kill a judicial nomination lies in their discretionary return of the "blue slip," since the custom of the Judiciary Committee is not to hold hearings until the slip is returned.

CHANGING THE SYSTEM

The present system has its staunch supporters, led by the Judiciary Committee's long-time Chairman James Eastland. For the most part, it has worked well over the years, producing a sound judiciary with some balance of input by the legislative and executive branches.

Many senators would undoubtedly consider it an usurpation of senatorial prerogatives for the President to initiate any mandatory changes in the selection procedure. One reason that there was so little opposition to President Carter's executive order creating thirteen merit selection nominating committees for Courts of Appeal judges was that each appellate court generally covers several states; thus, no single senator automatically controls each appellate judgeship. But selection of a United States district judge is a power jealously guarded by many senators. It is an extremely important source of political patronage, and many senators consider judicial selection to be one of the duties they were elected to perform. Thus, there is a natural reluctance to relinquish this power even to non-elected merit selection bodies, which are the decision-makers under most of the new voluntary selection panels.

Nevertheless, merit selection plans are gaining in popularity. In addition to intragovernmental pressures on individual senators to adopt merit plans, there are a number of other important considerations such as administrative convenience and public opinion which may induce even more senators to rely on nominating commissions. The imminent enactment of S. 11, the omnibus judgeship legislation which would create more than one hundred new federal judgeships, will bring with it demands on senators' time and staff—and a deluge of favor seekers. Since senators are almost always identified with their appointments, they usually take considerable care in making them. A flood of vacancies will make this process more difficult and will inevitably delay nominations. A merit selection panel could free a senator from most of the detail work involved in investigating candidates, not to mention the tough political "base touching" procedures required. If the senator becomes involved at all, it would be towards the end of the process instead of the beginning.

President Carter, an early champion of the merit selection system as governor of Georgia, and Attorney General Bell, whose support of merit selection was made very clear in his nomination hearings, probably will not make any recommendations to change the process of federal district judge selection until a review has been made of the work of the "citizen nominating committees" created in each U.S. circuit for the Courts of Appeal judgeship vacancies. Moreover, as differing district court voluntary systems are established, other senators will have an opportunity to observe the strengths and weaknesses of each method before considering or instituting plans of their own. Logically, the spread of voluntary plans will probably forestall any executive order or proposal for mandatory change in the selection process for at least the next two years.

FLEXIBILITY

One important benefit of this spate of individual plans is that senators may tailor their plans to the needs of their states. For example, Senator Birch Bayh has proposed two panels in Indiana, one for each judicial district, and Senators Herman Talmadge and Sam Nunn have divided Georgia's seventeen-member commission into three groups, one for each district. The division of the panels is not a substantive distinction since the selection process and criteria are the same for the panels operating in the same state. It does highlight, however, how senators can freely fashion their own system. An executive plan adopted today would probably not retain this flexibility.

The commissions are also demonstrating their flexibility in the varying degrees of confidentiality which they observe. In Iowa, commission meetings will be open to the public. In California, Florida, Iowa, Kentucky and Massachusetts, the names of all those nominated will be published. In Colorado, Senators Floyd Haskell and Gary Hart designed a merit plan which provides that, upon the President's nomination to fill a vacancy, "the criteria used or developed by the [selection] commission in its recommendations as to the nominees shall be made available to the general public."

The senators retain varying degrees of control over the ultimate selection of a candidate. Under the Pennsylvania plan, the senators submit the three to five panel-chosen names directly to the President without any indication of preference. The Kentucky, Iowa, and Colorado plans similarly minimize senators' involvement.

The Florida panel submits about five names to its senators, who then pick one and send it to the President. Indiana Senator Birch Bayh's proposed system would have him submit a list of names to the appropriate panel which would then pare the list to five, from which he would select one. Massachusetts Senator Edward Kennedy chooses one name from the four submitted by his panel. Though this procedure limits the power of the President to make the final selection, it is still a tremendous improvement over the present system. Its greatest virtue is that it precludes an obviously unfit nominee.

CHOOSING THE COMMISSIONERS

Senators from four states have kept sole authority to appoint panel members. Senator Kennedy, at his sole discretion, chooses his nine-member commission as does Senator Harry Byrd of Virginia. New York Senator Daniel Moynihan also selects the entire panel, though he has stipulated that he will choose six lawyers and three professors of government—currently, one each from Harvard, Yale and Columbia. Senators Nunn and Talmadge of Georgia choose their entire seventeen-member panel jointly.

In other plans, senators make some appointments, but other sources, including the state bar, also choose commissioners. For example, each Pennsylvania senator chooses six members of the panel, and two are chosen by the deans of the state's six law schools. Each Kentucky senator has three appointments, and the state bar association has three choices; the Florida and Iowa plans are identical in this regard.[2]

The Oklahoma Bar has six appointments on a thirteen-member panel; six nonlawyers are chosen by the governor, and the odd choice, a nonlawyer, is chosen by the other twelve commissioners. The Oklahoma panel is unique, however, in that the senators have absolutely no input in the selection process; rather, they use the state merit selection panel, which was established when Senator Dewey Bartlett was governor. (Senator Wendell Ford of Kentucky created a panel in his state as governor, but he and Senator Walter Huddleston use a separate commission for federal nominations.) The Oklahoma panel's list is sent directly to the President without comment by the senators.

Bar representation, whether by charter or informal, is important because of the unique perspective and legitimate expertise lawyers can contribute, and because the bar must have confidence that the judges are worthy representatives of the profession. Nominees from all plans, of course, are still subject to scrutiny by the Justice Department and the American Bar Association.

The Oklahoma plan's requirement that there be a nonlawyer majority on the panel is a concept followed by other plans.[3] In fact, the impetus of many of the plans is, in part the desire to give diverse voices a say in selection of judges. Consequently, members are chosen by charter or senatorial affinity to represent the state populace in regards to race, sex, hometown, occupation, and party affiliation.

The Kentucky panel includes a minister, newspaper editor, and college administrator; the Iowa commission has on it a farmer, housewife, and a former mayor; the California panel consists of businessmen and women, a former president of the National Organization for Women, and the general counsel of the Mexican-American Defense Fund. Diversity of occupation is a barometer of a panel's overall diversity, since, for example, businessmen and bankers tend to have many of the same values and acquaintances as the lawyer members. Characteristics which are underrepresented in the bar should be brought to the panel by the lay members. An anticipated result of these plans is that the judiciary will be more closely identified with the citizenry over whom it presides.

One procedure that all the President's Circuit panels and some senatorial panels follow—advertising vacancies and soliciting applications—is bound to produce a more diverse and representative pool of talent than a single senator is likely to gather on his own. Recruitment of outstanding candidates who are reluctant to seek the office is essential to the success of this process. As long as the individual panel members reflect their constituency, bringing a familiarity with the particular interest group, occupation, or region each represents, the panels will contribute real dynamism to the make-up of the federal bench. The lay members, then, must perform more than a mere evaluating role to provide the desired balance to the lawyers' input.

BIPARTISAN REPRESENTATION

Consistent with the goal of promoting diversity and public confidence are quotas on party affiliation. Only Ohio and Pennsylvania formally provide for bipartisan membership on the panel.[4] In California, however, the senators are from opposite political parties, and this represents a significant political sacrifice on the part of senior Senator Alan Cranston. Since he became a senator in 1969, Cranston has served under Republican presidents and he has had little influence over judicial appointments. Now, with a Democratic administration, he could recoup missed opportunities by recommending faithful party members to fill vacancies. Instead, the senator has created a merit selection panel, on which he selects four members and his Republican colleague, S. I. Hayakawa, selects two. Theirs is the only panel on which senators from opposite parties cooperate.

Party politics also present a potential source of confrontation with the White House. An illustration of this occurred in Florida in 1975. The merit panel submitted to the Democratic senators a list of six qualified people, one Republican and five Democrats. The senators chose a Democratic nominee to send to President Ford. Subsequently, an unofficial group from among the state Republican leadership recommended to the President the names of three Republican state court judges and urged the President to appoint one of them rather than the senators' nominee from the selection panel. Ultimately, the President chose the panel's nominee.

An analogous situation now exists with the Pennsylvania and Oklahoma plans, since both senators from those states are Republicans. However, whereas the Florida panel was heavily Democratic, the party representation on these Republican senators' panels is more evenly divided. Although President Carter is not committed to accepting the names submitted by any senators, his record of support of merit plans should make a state Democratic party think twice before challenging a merit selection panel recommendation. Moreover, almost all the participating senators, either formally or by a tacit understanding, are committed to attempting to block a nominee who is not from a merit panel list for the vacancy, and the President probably would not want to spark such a controversy.

After this article was written, Senator Thomas J. McIntyre of New Hampshire, a Democrat, announced the creation of a district judge nominating commission in his state. The commission will include the chief justice of the state supreme court, the president of the state bar association and five other members whom the senator appoints. Four of its members are lawyers and three are nonlawyers, though no specific quotas were established.

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[1] One or both senators from California, Colorado, Florida, Georgia, Indiana, Iowa, Kentucky, Massachusetts, New York, Ohio, Oklahoma, Pennsylvania, and Virginia have set up some form of "merit plan" involving one or more nominating commissions. In addition, Senator Adlai Stevenson submits names of judicial candidates to five Illinois bar associations for their comments and evaluation before suggesting a name to the attorney general.

[2] California, Colorado, Florida, Indiana, Iowa, Kentucky, Ohio, and Oklahoma involve the state bar in appointing commissioners. Other appointing authorities are: the governor of Oklahoma, law school deans in Indiana and Pennsylvania and the Indiana Trial Lawyers Association.

[3] Only Ohio, however, has a formal nonlawyer "quota" in its charter.

[4] On the Ohio panel, no more than eight of the twelve members may be of the same party. In Pennsylvania, the majority cannot be from one party.

The panel will meet confidentially and it will transmit five nominees in confidence to the senator. A spokesman said the senator intends to recommend only those whom the commission nominates.

New Hampshire is the only state where two senators from the same party are not working together on a commission. New Hampshire's junior senator, John A. Durkin, will continue to evaluate candidates himself.

THE FUTURE

There remain many imponderables with these panels, since some of them have yet to make their first recommendations.[5] The senators may discover that it is not worthwhile to publish notices in general circulation newspapers, or they may find their questionnaires deficient in some area, or they may find it helpful to allow judges on their panels, or they may find the lawyer members unduly influencing the panels. These and many other problems will arise which each senator must work out, keeping in mind the goals of prompt, high quality appointments. How well these panels can function without staff or subsidies or how willing senators will be to devote resources to them will be other indications of their futures. Another harbinger will be the inclinations of the 1978 freshman class of senators, many of whom will undoubtedly come from states with merit selection plans for their state judiciary.

Public opinion, of course, weighs heavily in the minds of senators considering whether to establish a merit selection plan. Those who have already initiated a plan undoubtedly feel that, even if the judicial candidates ultimately recommended by the panels are identical to those who would have been picked under the traditional system, the change is welcome because it opens the process to public scrutiny and it thereby establishes the integrity of government. The traditional system has always been subject, however unfairly, to the inference that it was a political refund counter for campaign IOU's held by senators' close friends, campaign contributors and supporters. The appointments more often than not surface as a *fait accompli*, already immune from public scrutiny. A purely political selection procedure, which has nonetheless produced a fine judiciary, does little to inspire public confidence.

Although it has always been important for Americans to know how their judges are chosen, it has become even more important in the last two decades as federal judges have undertaken traditional "legislative functions." Ordering the funding for road and prison construction and mandating the integration of schools and the reapportionment of legislatures are decisions which go to the heart of our national governance; such decisions are made regularly by federal district judges. Citizens are entitled to know how these judges were chosen. They should be confident that careful study and investigation preceded a nomination, that objective criteria (not political trade offs) were the basis for selecting our federal bench.

There was a time when the judiciary even more than the Congress and the Presidency was perceived as sacrosanct, and judges were beyond public reproach, but this national climate has changed. The merit selection process goes a long way towards adapting to contemporary pressures and perceptions of our basic governmental operations.

The Missouri plan for state merit selection was enacted in 1940, but a generation later there were still barely a handful of state plans. Today there are plans in twenty-eight states plus the District of Columbia, Guam, and Puerto Rico. Senators have adopted merit plans for federal judgeships at a far more rapid pace. With the leadership of President Carter and Attorney General Bell there is every reason to expect this trend to continue.

We can reasonably expect that the current example of the participating senators will put pressure on adherents of the traditional system. The moment will soon come—if it has not come already—when a voter holds up his hand at a campaign question and answer session and asks, "Senator, your colleague from our neighboring state spells out exactly how he chooses federal judges and who helps him decide. What do you do?"

When that happens, our senators will realize that an open process is not only good for the judiciary but also good politics.

[5] As of July 15, nine panels had acted to nominate district judges or U.S. attorneys: California, Florida, Georgia, Iowa, Kentucky, Massachusetts, New York, Ohio, and Pennsylvania.

INVESTMENT POLICY ACT OF 1977

Mr. PERCY. Mr. President, the House Committee on Banking, Finance and Urban Affairs recently held hearings on H.R. 7102, the Investment Policy Act of 1977 introduced by my colleague, Congressman DAN ROSTENKOWSKI. This legislation is identical to S. 1055, which was introduced by Senator HUMPHREY and myself on March 21, 1977.

Consideration of this legislation could not have come at a better time, particularly in light of the crisis we are now experiencing in the steel industry.

While the short-term problem with steel, according to the industry, centers on dumping of products onto the U.S. market at prices less than what is charged in the exporting country, the long-range solution can come only from plant modernization, expansion, and improvements.

If enacted, this legislation would go a long way to make that possible by declaring for the first time a national policy in support of sufficient incentives to assure maximum capital for investment in the private sector.

It would do this by requiring that the President make an annual investment policy report to Congress on how to deal with the levels of capital necessary for small, medium, and large businesses. The administration also would be required to implement declared investment policy.

I should point out, Mr. President, that neither the need for capital investment nor the knowledge of that need is new. Warning signs have been apparent for years. It has now become particularly acute as a result of growing foreign competition and rapidly rising interest costs here at home raising the costs of debt financing and a depressed stock market making equity financing less feasible. There is now little doubt that in future years the need for capital will become even more critical.

Without increased capital formation greater productivity will be stifled, real economic growth will diminish and fewer jobs will be created.

Let us look for a moment at what our growth requirements will be. By 1985, the United States will need $4.5 trillion in capital. This is three times the $1.5 trillion of the past decade.

In addition, at least 19 million new jobs will need to be created, which is 7 million more than we created during the past decade.

A large percentage of investment during this period—it was 62 percent during the 1960's—will have to be devoted only to plant modernization, for meeting environmental standards and expansion.

According to the Commerce Department private fixed investment must increase from the 10.4 percent of GNP of the 1965 to 1974 period, to 12 percent of GNP between now and 1980. Only then will we have a capital stock sufficient to promote full employment, control pollution and fully develop domestic energy resources.

Unfortunately, the United States since 1960 has had the lowest level of capital investment among the major industrialized countries. Take, for example, the fact that the investment and productivity growth of Japan has been three times greater than our own. In addition, the growth and investment rates of Germany, France, and Canada have all been substantially greater than that in the United States.

Mr. President, Congress and the administration must begin now to turn this series of events around and come up with answers on how to reach the future investment levels needed in the U.S. private sector.

Insight into how to achieve these investment levels was presented in testimony on September 27 before the House Banking Committee's Subcommittee on Economic Stabilization by Mr. Robert W. Galvin, chief executive officer of Motorola Inc. and by Dr. Richard W. Rahn, executive director of the American Council for Capital Formation of Washington, D.C.

Mr. Galvin, a former member of the President's Commission on International Trade and Investment, and the Intelligence Review Board, has also served as a director and president of the Electronic Industries Association. He is currently on the board of directors of Chicago Junior Achievement and is a trustee of the University of Notre Dame and the Illinois Institute of Technology.

Dr. Rahn is a member of the National Association of Business Economists and serves on the advisory board of the business division of the Borough of Manhattan Community College, CUNY.

Dr. Rahn was also a Washington representative for the New York Merchantile Exchange and was the acting head of the management department of the Polytechnic Institute in New York.

Mr. President, I ask unanimous consent that the statements of Mr. Galvin and Dr. Rahn be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY ROBERT W. GALVIN

Members of the Committee, my name is Robert W. Galvin. I am Chief Executive Officer of Motorola Inc.

Motorola for 49 years has been a leader in the design and manufacture of electronic parts and equipment. We operate plants in seven states and fifteen foreign countries, with a total employment of 57,000 people. This year our sales will be about $1.8 billion dollars.

I am here to support H.R. 7102, the Investment Policy Act of 1977.

The economy of this nation touches us all. Each of us is part worker, customer and owner.

The American economic system is firmly based on the principle of the private ownership of the means of production and service. Competitive private enterprise has been a key, indispensable factor in developing a U.S. economy where citizens enjoy a living standard equalled in few parts of the world.

It has made us a leader in world trade. It makes more goods available to the public at reasonable prices. It expands market opportunities and spurs innovative development. It creates wider employment opportunities and more jobs. It contributes to price stability, generates government revenues in the form of taxes, and it provides profits for a renewed cycle of investment and expansion.

Private investment is the seed from which private enterprise grows. Successful private enterprise must be encouraged—it does not simply happen. Encouragement for capital investment needs to be provided in order for us to move toward more and better jobs for our citizens and a better quality of life for this country.

There is no clear public policy which recognizes the role of investment or capital formation in our economy. There is no adequate understanding as to the need for investment encouragement if the private sector is to meet new demands. A link is missing. A legislative policy is the appropriate remedy. The Environmental Policy Act and the Employment Act are models. They state policy without implementation.

The Employment Act of 1946 originally included a policy to "promote free competitive enterprise . . . maximum employment, production and purchasing power." This wording was deleted during Conference. The final bill dealt primarily with employment—hence, its title. No public policy on investment—a linking issue—has emerged. It is time to correct this oversight.

Why?

What is a policy?

Why is it important?

How does an investor feel and think, and how is he or she motivated by policy?

A constructive policy is a guiding, driving force. For example, our company has a policy of respect for the dignity of each individual. From this policy flows cooperative human relations, improved work, customers better served. Through satisfaction, the employee and company prosper.

I suggest that federal declaration of investment policy will have favorable consequences. Among them are: A constructive way for government and business to pull together. Some see government and business in adversary roles. What new forces may be harnessed if the perception moves to a balanced view of common interests? Such a change does not preclude the government's conventional and simultaneous responsibility to appropriate regulation. But on this subject, we could move forward on common policy. All instrumentalities of government could work to respect investment. More confident investors would invest more.

A pre-condition for private investors is reasonable confidence in the political environment in which they invest and compete. Investors over the world are being demotivated by the absence of sufficient political respect for investment and the property it employs. Significant increments of private investment funds are being withheld from progressive use and/or are being moved to comparatively more hospitable environments.

Our country's history of respect for private ownership of the means of production and service makes the U.S. a comparative magnet today. But that attractiveness has a certain tentativeness to it. We hear newcoming foreign investors say, "I can't afford to risk—to invest as much in my country. Yours is better, at least for now." Ironically, they add, "But it looks like your country is only a decade or two behind ours in closing out fair opportunities for investment."

How much better if these investors could know explicitly of our government's respect for investment? How much more enthusiasm—how much more investment would they bring?

Of greater importance, American investors echo the same Most say, "The U.S. is not far behind Britain where the political environment discourages investment." Driven by such feeling, you can be sure that some businesses are not being started or others not being expanded. That means jobs foregone, incomes not earned, tax bases not increasing. If the feeling magnifies, the results would be tragic.

Just as the Employment Act policy of seeking maximum employment helped move the country toward that objective for decades, so can a positive Investment Policy move us even closer to the employment goal and the other positive objectives of a dynamic economy.

Is there a potential shortage of capital? Various numbers will be presented here. I have no numbers as I am not an expert on aggregates.

What I do know is that the need of most companies is big. If one wants to compete and survive selling many hamburgers, one better have equipment and inventory like the local McDonald's.

The steel maker will need to extensively modernize and may be pressed to liberalize stocking and financing of sales. To succeed in semi-conductors, one must invest in projection printers, ion in-planters and plasma equipment just to produce tomorrow's products which were only designed yesterday. And success will require more working capital.

Further, the social obligations of environmental requirements or putting each unemployed to work at the rate of $20,000 to $30,000 of investment per person show investment needs to be tremendous and essential.

Remember, the capital needs of business are two-fold. First, facilities, equipment and tools. Only if we put new tools and equipment in the hands of trained people every few years can they be productive and able to practice modern technologies. Second, working capital which is inventory that has to be afforded and receivables that have to be financed to provide the products or services in expanding amounts. Note, the new working capital needs of a company are large in relation to each increased dollar of sales.

A policy act does not call for specific implementation. It should be non-controversial. It should point the way and be our guide and influence for decades. So, I make no suggestions for later implementation. But I do suggest issues which I hope will be avoided.

Please don't let others in government force preference or guidances on us as to wherein we invest.

Please don't opt for federal financing of investment. Unproductive priorities and regulation would follow.

Tax us fairly. Regulate us fairly. Assure us you want us to earn a generous return on our investment, so we can reinvest. Help us communicate the truth as to the moderateness of the earnings of business in general.

If you do, you will be taking the constructive option to turn our country away from insufficient private employment long term and away from expanding welfare expenses.

Give tens of millions of investors the positive signal. Give them reasonable follow-through on the policy over the years, and watch us each over a reasonable time do a little bit more, and some a great deal more, which will aggregate to creating millions of jobs that would never be started, and all the sales and income and tax base and R&D that also would never be started.

With the resultant improved productivity, economics of size and positive motivation, the U.S. investor companies would be invincible in serving our domestic needs and unbeatable in competition with the Japanese and Continental companies throughout the world.

STATEMENT BY DR. RICHARD W. RAHN

Mr. Chairman and members of this distinguished committee: My name is Richard W. Rahn, Executive Director of the American Council for Capital Formation. I am grateful for this opportunity to express the Council's views on H.R. 7102, "The Investment Policy Act of 1977."

The American Council for Capital Formation is supported by a diverse and growing group of individuals, businesses, and other organizations. Our supporters are united in the belief that only through an increased rate of saving and productive investment will this nation be able to create adequate jobs for a growing labor force, sustain a high rate of economic growth, compete effectively in world markets, and ultimately win the battle against inflation.

The American Council for Capital Formation believes that one of the most effective ways to increase the rate of saving and investment is through policies which reduce the bias in our tax laws against capital formation. I will not take the time of the Committee today to outline the tax program we advocate, but I do wish to stress the great need for tax reduction which will enable business to maintain a high level of capital investment in productive plant and equipment, which will in turn provide jobs for our citizens and encourage a strong and durable growth path for our economy.

My statement is brief and can be summarized as follows:

1. The American Council supports passage of H.R. 7102, "The Investment Policy Act of 1977."

2. We believe that the Investment Policy Act can serve as a useful vehicle to draw attention to the critical capital shortage in our country today.

3. To improve the bill, we urge the Committee to amend H.R. 7102 to give the Council of Economic Advisers, instead of the Council on Wage and Price Stability, the primary responsibility for implementing this proposal.

PURPOSE OF H.R. 7102

The American Council supports the passage and implementation of the Investment Policy Act of 1977. The Act recognizes not only the importance of but the necessity for maintaining high levels of private investment, increased job opportunities, and increased production of goods as being the policy and responsibility of the federal government. However, we do not construe the Act to mean that any governmental unit has responsibility for engaging in national economic planning, or for providing direct or indirect investment capital to industry. On the contrary, we feel that such measures would be counter-productive and misallocate resources, thereby reducing economic efficiency and the economic freedoms of this nation.

This proposal does not require the creation of any new governmental bureaucracy, or the expenditure of significant amounts of public funds. Rather, it encourages a more systematic consideration of the capital formation needs of our country by the Congress and the Executive Branch. It is our hope that implementation of the Investment Policy Act, by identifying investment disincentives, will provide the information needed for our policymakers to develop more constructive tax and other economic policies.

We understand this Act to mean "to assure maximum investment in private enterprise," the existing bias in our tax laws against capital formation should be reduced.

FOCUS ON CAPITAL SHORTAGE

The American Council believes that the Investment Policy Act can serve as a useful vehicle to draw attention to the critical capital shortage in our country today.

Recent serious studies of the United States' long-term capital outlook by such organizations as the Bureau of Economic Analysis of the Department of Commerce, the Brookings Institution, the New York Stock Exchange, Data Resources, Inc., and others have all agreed that the demand for capital will be increasing at a much greater rate than we have experienced in the recent past. Yet there are some who say that capital investment is not a problem, and others even assert that we are over-invested.

In recent years, the United States has devoted a smaller share of its national output to capital investment than any of its major industrialized foreign competitors. A recent study prepared by the Treasury Department for the years 1960–73 showed that the United States trails all major competitors in the industrialized world, in terms of the percentage of the Gross National Product devoted to investment, and, not surprisingly, in the growth rate of worker productivity. Only the United Kingdom has a worse record in the growth rate of output.

The lack of investment over the last decade and a half has contributed in large measure to the shortages in basic materials industries during periods of expansion. This has substantially added to inflationary pressures, limited job opportunities, and lowered rates of advance in living standards for the average consumer.

We are convinced that the inadequate rate of saving and investment previously referred to is largely the result of this bias against saving and investment in our public policies. We tax saving and investment as if they were sins rather than virtues. Currently we tax some forms of capital well into the prohibitive range. By prohibitive range, I mean at such excessive rates as to discourage investment in capital. As a result, it is likely that we could actually increase governmental tax revenue by reducing the tax rate.

Let me give one brief illustration. If we decided to tax corporate-held capital at a 100% tax rate, how much revenue would the government receive? Of course, it would receive nothing, for over the long-run no one would invest in corporate-held capital. I assert that we already tax corporate capital in some cases at rates above 90%. One easily arrives at the first 84% by calculating the maximum tax that could be paid through the federal corporate profits tax combined with the individual income tax on dividends.

When one adds state and local income taxes, capital gains taxes, excise taxes, sales taxes, and takes into account the underreporting of depreciation and inventory expenses, plus the cost of tax and compliance advice from accountants and lawyers, it can easily be seen that we are approaching confiscatory tax rates on corporate capital.

It is the hope of the American Council that implementation of the Investment Policy Act, by identifying such investment disincentives, will provide the information needed for our policymakers to develop more construction tax and other economic policies.

IMPROVEMENTS ON H.R. 7102

There has been discussion as to whether operating responsibility for the Act should be given to the Council on Wage and Price Stability or to the Council of Economic Advisers. It is our understanding that the Act is designed as a complementary piece of legislation to the Employment Act of 1946, which resulted in the creation of the Council. Since the Investment Policy Act of 1977 explicitly recognizes the necessity of a high level of investment to create an adequate number of jobs in the private sector, it seems that it would be more appropriate to place the operating responsibility for the Act with the Council of Economic Advisers.

The Act also mandates the submission of an Investment Policy Report to Congress. For the Report to have a high level of visibility, we suggest the Investment Policy Report be included as a section in the Council of Economic Advisers' Economic Report of the President, submitted annually to Congress. Much of the information required by the Investment Policy Act is already included in the Council of Economic Advisers' Report. Since it is widely read and extensively reported in the press, any recommendations in the Investment Policy Report section would readily become known to the American people and their political leaders.

It is important to reiterate that the implementation of the Investment Policy Act will not require creation of any new governmental agency, or the expenditure of significant additional amounts of public funds. The Investment Policy Act will merely recommend programs to reduce the existing bias against saving and productive investment as well as programs for reducing regulatory impediments against capital formation. It will also recommend programs to reduce the risk premiums businessmen have been forced to include in their investment decision-making process, which in turn have reduced the aggregate amount of investment.

In conclusion, the Investment Policy Act of 1977, if properly interpreted and implemented, can be a step toward raising our consciousness of the importance of saving and investment in creating full employment, a high level of economic growth, and reducing inflationary pressures.

COURT DECISIONS UNDER THE FREEDOM OF INFORMATION ACT

Mr. ABOUREZK. Mr. President, since Congress passed the Freedom of Information Act in 1967 and amended it extensively in 1974, much information about Federal Government decision-making and operations has been disclosed to the public. However, a significant amount of information still is withheld by the Government. The act permits withholding if the material falls within nine specific exemptions designed to protect, among other things, personal privacy, trade secrets, national security and law enforcement activities. Nevertheless, many Freedom of Information Act requests are denied on questionable grounds, including avoidance of Government embarrassment.

The 1974 amendments provided for quicker and easier court challenges of these denials. As a result, many court actions have been brought under these amended procedures. To help agencies keep track of the decisions in these cases, the Justice Department's Office of Legal Counsel twice a year publishes a list of court rulings on the Freedom of Information Act. This list particularly is useful because it includes a notation of the exemption, or other provision of the act at issue in the ligitation.

The Subcommittee on Administrative Practice and Procedure, which I chair, recently received the latest case list comprising opinions issued up to July 1977. To enable Congress, and members of the public that use the act, also to keep abreast of current litigation, I want to place this revised list in the RECORD.

The list provides guidance to the public and to Federal agencies on court interpretations of the act's provisions. This may serve to reduce the vast amount of litigation over the act by avoiding duplicative lawsuits. The compilation also apprises litigants in pending suits of the success of certain arguments for disclosure, and clarifies for future requesters the Government's substantive information policies. The list also aids Congress in monitoring and evaluating the effectiveness of the statute.

Since the case list is not readily available to the public or to other Members of Congress, I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the list was ordered to be printed in the RECORD, as follows:

(1) *Abrahamson Chrysler-Plymouth* v. *NLRB*, 91 L.R.R.M. 2343 (N.D. Ill. Jan. 29, 1976), temporary restraint of agency proceeding pending disposition of FOI claim.

(2) *Abrahamson Chrysler-Plymouth* v. *NLRB*, Civ. No. 76–C–248 (N.D. Ill. Nov. 2, 1976), X7(A).

(3) *Ackerly* v. *Ley*, 420 F.2d 1336 (D.C. Cir. 1969), X5, 6.

(4) *Amerace Corp.* v. *NLRB*, 91 L.R.R.M. 2344 (W.D. Tenn. Dec. 15, 1975), preliminary injunction of agency proceeding pending disposition of FOI claim.

(5) *Amerace* v. *NLRB*, 92 L.R.R.M. 3497 (W.D. Tenn. June 10, 1976), X5, 7(A), (C), (D).

(6) *AFGE* v. *Rosen*, 418 F.Supp. 205 (N.D. Ill. 1976), attorney's fees (a)(4)(E).

(7) *American Jewish Congress* v. *Morton*, Civ. Act. No. 75-1541 (D.D.C. April 30, 1976), X3.

(8) *American Mail Line, Ltd.* v. *Gulick*, 411 F.2d 696 (D.C. Cir. 1969), X5.

(9) *AMF* v. *NLRB*, 91 L.R.R.M. 2420 (D. Colo. Feb. 12, 1976), temporary restraint of agency proceeding pending disposition of FOI claim.

(10) *Amway* v. *FTC*, 1976-1 Trade Cas. para. 60,798 (D.D.C. Mar. 10, 1976), X4, 5, 7(A), (D), *in camera* inspection.

(11) *Anchorage Building Trades Council* v. *HUD*, 384 F.Supp. 1236 (D. Alas. 1974), X7.

(12) *Anderson* v. *Butz*, 550 F.2d 459 (9th Cir. 1977), (a)(1)(D), (a)(2)(B) publication.

(13) *Ash Grove Cement Co.* v. *FTC*, 371 F. Supp. 370 (D.D.C. 1973), *remanded* 511 F.2d 815 (D.C. Cir. 1975), *rehearing denied* 519 F.2d 934 (D.C. Cir. 1975), X5, 7.

(14) *Aspin* v. *Department of Defense*, 348 F. Supp. 1081 (D.D.C. 1972), *aff'd* 491 F.2d 24 (D.C. Cir. 1973), X5, 7.

(15) *Associated Dry Goods Corp.* v. *EEOC*, 419 F. Supp. 814 (E.D. Va. 1976), parties (a)(4)(B), X1-9, discretionary release.

(16) *Association of American Railroads* v. *United States*, 371 F.Supp. 114 (D.D.C. 1974), X3.

(17) *Astro Communications Laboratory* v. *Renegotiation Board*, Civ. No. 2403-70 (D.D.C. May 16, 1974), (a)(2), X5.

(18) *Atlas Industries* v. *NLRB*, 91 L.R.R.M. 2676 (N.D. Ohio Feb. 23, 1976), injunction of agency proceeding pending resolution of FOI claim, X5, X7(A).

(19) *Aug* v. *Natl. Railroad Passenger Corp.*, 425 F.Supp. 946 (D.D.C. 1976), X2, 3, 4, 5, 6, 7, "agency".

(20) *Automobile Club of Missouri* v. *NLRB*, 71 CCH Lab. Cas. para. 13,672 (D.D.C. May 15, 1973), prohibiting termination of agency proceeding pending resolution of FOI request.

(21) *Aviation Consumer Action Project* v. *Washburn*, 535 F.2d 101 (D.C. Cir. 480 F.2d 1195 (D.C. Cir. 1972), exhaustion of administrative remedies.

(22) *Aviation Consumer Action Project* v. *CAB*, 412 F.Supp. 1028 (D.D.C. 1976) X3, 5, (a)(2).

(23) *Aviation Consumer Action Project* v. *CAB*, 418 F.Supp. 634 (D.D.C. 1976), X1, (by implication), X5, (a)(6)(C), "prompt disclosure."

(24) *Aviation Consumer Action Project* v. *Washburn*, 535 F.2d 101 (D.C. Cir. 1976), X5, FACA.

(25) *B & C Tire Co., Inc.* v. *IRS*, 376 F. Supp. 708 (N.D. Ala. 1974), (a)(3), X3, 5, 7.

(26) *Babcock & Wilcox Co.* v. *Rumsfeld*, 70 F.R.D. 595 (N.D. Ohio 1976), reverse FOI case, jurisdiction, X3 (18 U.S.C. § 1905).

(27) *Bachrack* v. *CIA*, No. CV 75–3727–WPG (C.D. Cal. May 13, 1976), X3.

(28) *Baker* v. *CIA*, 425 F.Supp. 633 (D.D.C. 1977), X3.

(29) *Baldwin* v. *Finney*, Civ. No. 75–1221 (D.D.C. Dec. 20, 1976), X7(A).

(30) *Bannercraft Clothing Co.* v. *Renegotiation Board*, 466 F.2d 345 (D.C. Cir. 1972), *rev'd and remanded* 415 U.S. 1 (1974), injunction of agency proceeding pending resolution of FOI suit, (a)(3).

(31) *Baptist Memorial Hospital* v. *NLRB*, 92 L.R.R.M. 2645 (W.D. Tenn. April 2, 1976), X5, 7(A), (C), (D).

(32) *Barceloneta Shoe Corp.* v. *Compton*, 271 F.Supp. 591 (D.P.R. 1967), X4, 7.

(33) *Barnes & Noble Bookstores* v. *NLRB*, 92 L.R.R.M. 2169 (S.D.N.Y. Mar. 12, 1976), X7.

(34) *Bayview Associates* v. *NLRB*, 75 CCH Lab. Cas. para. 10,524 (D.D.C. Dec. 20, 1974), injunction of agency proceeding pendng examination by plaintiff of (a)(2) indices.

(35) *Bell* v. *United States Department of Defense*, 71 F.R.D. 349 (D.N.H. 1976), X1, *in camera* inspection.

(36) *Bellingham Frozen Foods* v. *Henderson*, 91 L.R.R.M. 2761 (W.D. Wash. Mar. 5, 1976), X5, 7(A), (C), (D).

(37) *Bennett* v. *United States Department of Defense*, 419 F.Supp. 663 (S.D.N.Y. 1976), X1, 3, 5.

(38) *Benson* v. *General Services Administration*, 289 F. Supp. 590 (W.D. Wash. 1968), *aff'd* 415 F.2d 878 (9th Cir. 1969), X2, 4, 5.

(39) *Benson* v. *United States*, 309 F.Supp. 1144 (D. Neb. 1970), X7.

(40) *Black* v. *Sheraton Corp. of America*, 371 F.Supp. 97 (D.D.C. 1974), X7.

(41) *Blaisdell* v. *Department of Defense*, Civ. No. CV 77–83–DWW (C.D. Cal. May 5, 1977), X1.

(42) *Blue* v. *Bureau of Prisons*, Civ. No. C–75–2092A (N.D. Ga. August 12, 1976), "agency records", "agency", attorney's fees, X5, fees.

(43) *Bodner* v. *FTC*, 74–2 CCH Trade Cas. para. 74,289 (D.D.C. Oct. 31, 1974), discovery.

(44) *Bodner* v. *FTC*, 1975 CCH Trade Cas. para. 60,118 (D.D.C. Jan. 9, 1975), *Vaughn* v. *Rosen* index requirement.

(45) *Bodner* v. *FTC*, Civ. No. 74–1189 (D. D.C. Feb. 24, 1975), X5.

(46) *Boston University* v. *NLRB*, 95 L.R. R.M. 2447 (D. Mass. April 28, 1977), X7.

(47) *Boult* v. *Department of Justice*, Civ. No. C76–1217A (N.D. Ga. Oct. 22, 1976), (a)(6)(C), *Vaughn* v. *Rosen*, index requirement.

(48) *Brandon* v. *Sampson*, Civ. No. 73–2232 (D.D.C. April 24, 1974), X3.

(49) *Brawer* v. *FBI*, Civ. No. 75–1700 (D. D.C. Feb. 28, 1977), exhaustion of administrative remedies, time limits.

(50) *Bristol-Myers Co.* v. *FTC*, 284 F. Supp. 745 (D.D.C. 1968), rev'd 424 F.2d 935 (D.C. Cir. 1970), *cert. denied* 400 U.S. 824 (1970), X4, 5, 7.

(51) *Brockway* v. *Department of the Air Force*, 370 F. Supp. 738 (N.D. Iowa 1974), *rev'd* 518 F.2d 1184 (8th Cir. 1975), X4, 5.

(52) *Bryant* v. *IRS* Civ. No. 76–31–SD (D. Me. July 21, 1976), X7(A).

(53) *Burroughs Corp* v. *Schlesinger*, 403 F. Supp. 663 (E.D. Va. 1975), X4, reverse FOI case, 18 U.S.C. § 1905.

(54) *Campbell* v. *United States Civil Service Commission*, Civ. Act No. 75–M–494 (D. Colo. Sept. 4, 1975), *aff'd* 539 F.2d–58 (10th Cir. 1976), X2, 5, 6.

(55) *Capital Cities Communication, Inc.* v. *NLRB*, 409 F. Supp. 971 (N.D. Cal. 1976), injunction of agency proceeding pending resolution of FOI claim, X7(A).

(56) *Celmins* v. *United States Department of Treasury* Civ. Nos. 76–2161, 76–2162 (D. D.C. April 25, 1977), X6.

(57) *Center for Nationall Policy Review on Race & Urban Issues* v. *Richardson*, Civ. No. 2177–71 (D.D.C. Dec. 8, 1972), *rev'd sub nom. Center for National Policy Review on Race & Urban Issues* v. *Weinberger*, 523 F.2d 370 (D.C. Cir. 1974), (a)(3), X7.

(58) *Center for National Policy Review on Race & Urban Issues* v. *Richardson*, 534 F. 2d 351 (D.C. Cir. 1976), X7.

(59) *Cervase* v. *Department of State*, Civ. No. 76–2338 (D. N.J. April 1, 1977), X1, tardy classification, *in camera* inspection.

(60) *Cessna Aircraft Co.* v. *NLRB*, 405 F. Supp. 1042 (D. Kan. 1975), *rev'd* 542 F.2d 834 (10th Cir. 1976), (a)(3), (4)(B), X5, 7(A), (C), (D).

(61) *Chamber of Commerce of the United States* v. *Legal Aid Society*, 423 U.S. 1309 (Douglas, Circuit Justice 1975), X3, discovery.

(62) *Chamberlain* v. *Alexander*, 419 F. Supp. 235 (S.D. Ala. 1976), X3, 5, 6, 7(A), (C), (D), (a)(2)(C).

(63) *Chappell* v. *Hodgson*, Civ No. 15,-480 (D. Conn. July 23, 1973), X6.

(64) *Chassen Bakers Inc.* v. *NLRB*, 91 L. R.R.M. 2345 (M.D. Pa. Dec. 12, 1975), temporary restraint of agency proceeding pending disposition of FOI claim, X7(A).

(65) *Charles River Park "A", Inc.* v. *HUD*, 360 F. Supp. 212 (D.D.C. 1973), *remanded* 519 F.2d 935 (D.C. Cir. 1975), X4, reverse FOI case, 18 U.S.C. § 1905.

(66) *Chavkin* v. *Alexander*, 401 F.Supp.. 817 (S.D.N.Y. 1975), X7.

(67) *Chrysler Corp.* v. *NLRB*, 92 L.R.R.M. 3191 (S.D. Mich. July 7, 1976) X5, 7(A),, (C), (D).

(68) *Chrysler Corp.* v. *Schlesinger*, 412F. Supp. 171 (D. Del. 1976), X4, 18 U.S.C. § 1905, 5th Amendment notice requirement, reverse FOI case.

(69) *Church of Scientology of California* v. *Bell*, Civ. No. 76–1006 (D.D.C. June 8, 1977), X5.

(70) *Church of Scientology of California* v. *Bush*. Civ. No. 75–1048 (D.D.C. June 8, 1977, X1, 3, 7(E), *in camera* inspection.

(71) *Church of Scientology of California* v. *Department of Defense*, Civ. No. 75–4072F (C.D. Cal. June 2, 1977), X1, 6, 7(C), (D), *in camera* inspection.

(72) *Church of Scientology of California* v. *United States Department of Justice*, 410 F. Supp. 1297 (C.D. Cal. 1976), X1, 2, 5, 7(A), (D), (F).

(73) *Church of Scientology of California, Inc.* v. *ERDA*, Civ. No. 76–0011 (C.D. Cal. Sept. 23, 1976), "agency records", which agency's.

(74) *Ciba-Geigy Corp.* v. *Mathews*, 428 F. Supp. 523 (S.D.N.Y. 1977), "agency", "agency records".

(75) *Citizens for a Better Environment* v. *United States Department of Commerce*, 410 F.Supp. 1248 (N.D. Ill. 1976), X3, 4.

(76) *City of Concord* v. *Ambrose*, 333 F. Supp. 958 (N.D. Cal. 1971), (a)(1), (2), (3), X2, 5.

(77) *Cleaver* v. *Kelley*, 415 F. Supp. 174 (D.D.C. 1976), *vacated and remanded per curiam* Civ. No. 76–1831 (D.C. Cir. Nov. 23, 1976), *on remand* 427 F.Supp. 80 (D.D.C. 1976), (a)(6)(C).

(78) *Clement Brothers Co.* v. *NLRB*, 282 F.Supp. 540 (N.D. Ga. 1968), *aff'd* 407 F.2d 1027 5th Cir. 1969), X7.

(79) *Climax Molybdenum Co.* v. *NLRB*, 407 F.Supp. 208 (D. Colo. 1975), *aff'd* 539 F.2d 63 (10th Cir. 1976), X5, 7(A), (C), (D), discovery.

(80) *Cogswell* v. *FDA*, Civ. No. 51990–ACW (N.D. Cal. June 5, 1970), X3, 4, 5, 7.

(81) *Collins* v. *Federal Highway Admin.*, Civ. Act. No. 6486 (E.D. Va. July 29, 1968), X7.

(82) *Columbia Packing Company, Inc.* v. *United States Department of Agriculture*, 417 F.Supp. 651 (D. Mass. 1976), X6.

(83) *Comey* v. *AEC*. Civ. Nos 73–1258, 73-1358 (7th Cir. July 27, 1973), X5.

(84) *Commercial Envelope Mfg. Co.* v. *SEC*, 450 F.2d 342 (2d Cir. 1971), FOI suits brought in D. Cts., not Cir. Ct.

(85) *Committee to Investigate Assassinations, Inc.* v. *Department of Justice*, Civ. No. 71–1829 (D.C. Cir. Oct. 24, 1973), X7.

(86) *Committee on Masonic Homes* v. *NLRB*, 414 F.Supp. 426 (E.D. Pa. 1976), *vacated and remanded for clarification* 95 L.R.R.M. 2457 (3d Cir. May 9, 1977) venue, (a)(4)(B), (D), X5, 6, 7(A), (C), (D).

(87) *Communist Party of the U.S.* v. *U.S. Dept. of Justice*, Civ. Act. No. 75–1770 (D.D.C. March 23, 1976), (a)(4)(E), mootness, backlog.

(88) *Consumers Union* v. *Board of Governors of the Federal Reserve System*, Civ. No. 1766–73 (D.D.C. May 31, 1974), X4.

(89) *Consumers Union of the United States* v. *Board of Governors of the Federal Reserve System*, 410 F.Supp. 63 (D.D.C. 1975), (a)(4)(E) attorney's fees.

(90) *Consumers Union of the United States, Inc.* v. *Consumer Produce Safety Comm'n.*, 400 F.Supp. 848 (D.D.C. 1975), *rev'd and remanded* Civ. No. 75–2059 (D.C. Cir. July 5, 1977), case or controversy, reverse FOI case.

(91) *Consumers Union v. Interstate Commerce Comm'n.*, 1975 CCH F. Carr. Cas. para. 82,528 (D.D.C. Aug. 13, 1974), declaratory relief.

(92) *Consumers Union* v. *Saxbe*, 1974 CCH Trade Cas. para. 75,057 (D.D.C. May 9, 1974), declaratory relief, X4, 7.

(93) *Consumers Union* v. *Veterans' Administration*, 301 F.Supp. 796 (S.D.N.Y. 1969), *dis'd as moot* 436 F.2d 1363 (2d Cir. 1971), X2, 4, 5.

(94) *Continental Oil Co.* v. *FPC*, 519 F.2d 31 (5th Cir. 1975), X4, reverse FOI case.

(95) *Control Data Corp.* v. *FTC*, No. 4–74–Civ.–25 (D. Minn. May 3, 1974), X2, 5, 7.

(96) *Control Data Corp.* v. *FTC*, No. 4–74–Civ. 412 (D. Minn. Sept. 3, 1975) *motion for reconsideration denied* (Oct. 16, 1975), X5, 7(A), (D), *in camera* inspection, fees.

(97) *Cook* v. *Willingham*, 400 F.2d 885 (10th Cir. 1968), Ct. records are not agency records.

(98) *Cooney* v. *Sun Shipbuilding & Drydock Co.*, 288 F.Supp. 708 (E.D. Pa. 1968), X7.

(99) *Cooper* v. *Department of the Navy*, 396 F.Supp. 1040 (M.D. La. 1975), X5.

(100) *Cowles Communications, Inc.* v. *Department of Justice*, 325 F.Supp. 726 (N.D. Cal. 1971), X7.

(101) *Cox* v. *Levi*, 427 F.Supp. 833 (W.D. Mo. 1977), X2.

(102) *Cox* v. *United States Department of Justice*, Civ. No. 76 CV 470–W–3 (W.D. Mo. April 29, 1977), (a)(2)(C), X2, 7, "reasonably segregable."

(103) *Cox* v. *United States Department of Justice*, Civ. No. 77–0299–CV–W–3 (W.D. Mo. June 15, 1977), "records."

(104) *Cox* v. *United States Department of Justice*, Civ. No. 76 CV 777-W-4 (W.D. Mo. June 27, 1977), X2, 7(C).

(105) *Crown Central Petroleum Corp.* v. *Kleppe*, 424 F.Supp. 744 (D. Md. 1976), reverse FOI case, X3 (42 U.S.C. § 2000e-8(e), 18 U.S.C. § 1905, 44 U.S.C. § 3508).

(106) *Cuneo* v. *Laird*, 338 F.Supp. 504 (D.D.C. 1972), *rev'd and remanded in part sub nom. Cuneo* v. *Schlesinger*, 484 F.2d 1086 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974), X2, 5.

(107) *Cuneo* v. *Rumsfeld*, Civ. No. 75-2219, 40 Ad. L. 2d (P & F) 943 (D.C. Cir. March 24, 1977), (a)(4)(E) attorney's fees.

(108) *Cupp* v. *Levi*, Civ. Act. No. 75-399 (W.D. Pa. August 5, 1975), exhaustion of administrative remedies.

(109) *Cutler* v. *CAB*, 375 F.Supp. 722 (D.D.C. 1974), X3, 4.

(110) *David B. Lilly Co.* v. *The Renegotiation Board*, 521 F.2d 315 (D.C. Cir. 1975), (a)(2), X5.

(111) *Dean* v. *Butz*, 428 F.Supp. 477, 477-481 (D. Hawaii 1977), (a)(1)(D) publication.

(112) *Deering Milliken, Inc.* v. *Nash*, Civ. Act. No. 75-864 (D.S.C. Nov. 12, 1975), *rev'd in part and remanded sub nom. Deering Milliken, Inc.* v. *Irving*, 548 F.2d 1131 (4th Cir. 1977), X5, 7(A), (C), (D).

(113) *Diapulse Corp.* v. *FDA*, 500 F.2d 75 (2d Cir. 1974), fees.

(114) *DiModica* v. *FBI*, Civ. No. C75-2480A (N.D. Ga. April 19, 1977), duty of agency to search, burden of proof on whether records are exempt.

(115) *Disabled Officer's Association* v. *Rumsfeld*, Civ. No. 76-0520 (D.D.C. Feb. 24, 1977), X6, "agency records," "records."

(116) *Distillery, Rectifying, Wine and Allied Workers* v. *Miller*, 68 CCH Lab. Cas. para. 12,750 (W.D. Ky. May 17, 1972), X5, 7, discovery.

(117) *Ditlow* v. *Shultz*, 379 F.Supp. 326 (D.D.C. 1974), *decision deferred* 517 F.2d 166 (D.C. Cir. 1975), X4, 6.

(118) *Ditlow* v. *Volpe*, 362 F.Supp. 1321 (D.D.C. 1973), *rev'd sub nom. Ditlow* v. *Brinegar*, 494 F.2d 1073 (D.C. Cir. 1974), X3, 4, 5, 7.

(119) *Donn Products, Inc.* v. *NLRB*, 93 L.R.R.M. 2065 (N.D. Ohio Aug. 12, 1976), X7(A), 5, 6.

(120) *Dorl* v. *Levi*, Civ. No. 75-2077 (D.N.J. March 8, 1977), X5, 6, "agency records," "reasonably segregable."

(121) *Duncan* v. *United States Civil Service Commission*, 426 F.Supp. 41 (E.D. La. 1976), X6, discovery.

(122) *E. L. Rice and Co.* v. *Nash*, 92 L.R.R.M. 3280 (E.D. Mich. July 7, 1976), X7 (A), (C), (D).

(123) *East Tenn. Research Corp.* v. *Tennessee Valley Authority*, 416 F.Supp. 988 (D.D.C. 1976), (a)(4)(B, E).

(124) *Echols* v. *NLRB*, 525 F.2d 288 (6th Cir. 1975), jurisdiction.

(125) *Electri-Flex Co.* v. *NLRB*, 412 F.Supp. 698 (N.D. Ill. 1976), (a)(4)(B), injunction of agency proceeding pending resolution of FOI suit, X5, 7(A).

(126) *Emery* v. *Laise*, 421 F. Supp. 91 (D.D.C. 1976), (a)(4)(F).

(127) *Epstein* v. *Resor*, 296 F.Supp. 214 (N.D. Cal. 1969), *aff'd* 421 F.2d 930 (9th Cir. 1970), *cert. denied* 398 U.S. 965 (1970), X1.

(128) *Equal Employment Opportunity Commission* v. *Los Alamos Constructors, Inc.*, 382 F.Supp. 1373 (D.N.M. 1974), X5.

(129) *Etheridge* v. *IRS*, 74-1 U.S.T.C. para. 9354 (N.D. Ga. March 12, 1974), (a)(3), X7, exhaustion of administrative remedies.

(130) *Ethyl Corp.* v. *EPA*, 478 F.2d 47 (4th Cir. 1973), X5, executive privilege.

(131) *Evans* v. *Department of Transportation*, 446 F.2d 821 (5th Cir. 1971), *cert. denied* 405 U.S. 918 (1972), X3.

(132) *Exner* v. *FBI*, 542 F.2d 1121 (9th Cir. 1976), (a)(6)(C).

(133) *Exxon Corp.* v. *FTC*, *384 F.Supp.* 755 (D.D.C. 1974), "identifiable records," X5, 7.

(134) *Fackelman* v. *Department of Justice*, Civ. No. C-75-2157A (N.D. Ga. 1976), (a)(4)(A), fees waiver of *Vaughn* v. *Rosen* index requirement.

(135) *Farrell* v. *Ignatius*, 283 F. Supp. 58 (S.D. N.Y. 1968), Ct. will not entertain FOI suit until complaint filed.

(136) *Fenster* v. *Fletcher*, Civ. No. 822-71 (D.D.C. Aug. 16, 1971), X4, 5.

(137) *Fensterwald* v. *CIA*, Civ. Act No. 75-282A (E.D. Va. Oct. 22, 1975), X6, attorney's fees.

(138) *Firestone Tire and Rubber Co.* v. *Department of Transportation*, Civ. Nos. 75-232A, 76-965, 76-1053 (N.D. Ohio Oct. 21, 1976), X4, 5, 7(A), (E), discovery, Rule 34, (a)(2), (a)(2)(c).

(139) *First Girl, Inc.* v. *Department of Labor*, Civ. No. 75C-3133 N.D. Ill. July 7, 1976), X4, 7, equitable discretion.

(140) *Fisher* v. *Renegotiation Board*, 473 F.2d 109 (D.C. Cir. 1972), *on remand* 335 F.Supp. 1171 (D.D.C. 1973), X4, 5

(141) *Fitzgibbon* v. *CIA*, Civ. No. 76-700 (D.D.C. Jan. 10, 1977), Fees.

(142) *Florence* v. *United States Department of Defense*, 415 F.Supp. 156 (D.D.C. 1976), X1, (a)(4)(E) attorney's fees.

(142.5) *Fonda* v. *CIA*. No. 76-0285 (D.D.C. July 8, 1977), X1, 2, 3 (50 U.S.C. § 403), X5, 6, 7(F), duty of agency to search, description by requester of records sought, *in camera* inspection, discovery, work produce.

(143) *Forsham* v. *Mathews*, Civ. Act. No. 75-1608 (D.D.C. Feb. 5, 1976), "agency records" (constructive possession).

(144) *Fotomat Corp.* v. *NLRB*, 92 L.R.R.M. 3708 (N.D. Ohio July 21, 1976, X7(A).

(145) *Frankel* v. *SEC*, 336 F.Supp. 675 (S.D. N.Y. 1971), *rev'd* 460 F.2d 813 (2d Cir. 1972), *cert. denied* 409 U.S. 889 (1972), 4, 5, 7

(146) *Fruehauf Corp.* v. *IRS*, 369 F. Supp. 108 (E.D. Mich. 1974), *aff'd and remanded* 522 F.2d 284 (6th Cir. 1975), *vacated and remanded* 45 U.S.L.W. 3569 (Feb. 22, 1977), (a)(2()(C), X3 (26 U.S.C. §§ 6103, 7213), equity powers.

(147) *Fungone* v. *Bureau of Prisons*, Civ. No. C75-2498 (N.D. Ga. Feb. 27, 1976), X5, 7, discovery, burden of proof on whether records are exempt.

(148) *Furr's Cafeterias, Inc.* v. *NLRB*, 416 F.Supp. 629 (N.D. Tex. 1976), X5, 7(D).

(149) *Gates* v. *Schlesinger*, 366 F.Supp. 797 (D.D.C. 1973), X5, "agency."

(150) *General Cigar Company, Inc.* v. *Nash*, 89 L.R.R.M. 2863 (D.D.C. July 1, 1975), preliminary injunction of agency proceeding pending disposition of FOI claim

(151) *Genera Dynamics Corp.* v. *Dunlop*, 427 F.Supp. 578 (E.D. Mo. 1976), reverse FOI case X3 (18 U.S.C. § 1905), X4.

(152) *Gerico Inc. NLRB*, 92 L.R.R.M. 2713 (D. Colo. May 4, 1976), X5, 7(A), (D).

153) *Getman* v. *NLRB*, 77 L.R.R.M. 3063 (D.D.C. Jan. 21, 1971), aff'd 450 F.2d 670 (D.C. Cir. 1971), *app'l for stay of order den.* 404 U.S. 1204 (Black, Circuit Justice 1971) X4, 7.

(154) *Gibson* v. *Department of the Treasury*, Civ. No. C-3-75-316 (S.D. Ohio Nov. 5, 1976), X3, discretionary release.

(155) *Gideon* v. *Benson*, Civ. Act. No. TH 75-78-C (S.D. Ind. July 24, 1975), duplicate and derivative records.

(156) *Gifford-Hill, Inc.* v. *FTC*, 1975-2 CCH Trade Cas. para. 60,674 (D.D.C. Jan. 13, 1976), X4, 5, 7(A), (D), discovery.

(157) *Gimbel Bros.* v. *NLRB*, 92 L.R.R.M. 2733 (E.D. Pa. May 27, 1976), injunction of agency proceeding pending resolution of FOI suit on appeal, X7(A).

(158) *Ginsburg* v. *Richardson*, 436 F.2d 1146, 1152-53 (3d Cir. 1971), X5.

(159) *Ginsburg, Feldman & Bress* v. *FEA*, Civ. No. 76-77, 39 Ad. L. 2d (P & F) 332 (D.D.C. June 18, 1976), X2, 7, 7(E), (a)(2).

(160) *Glickman, Lurie, Eiger & Co.* v. *IRS*, Civ. Act. No. 4-75-Civ. 303 (D. Minn. Oct. 14, 1975), X3 (26 U.S.C. §§ 6103(a), 7213(a)).

(161) *Goland* v. *CIA*, Civ. Act. No. 76-0166 (D.D.C. May 26, 1976), X1, "agency records.""

(162) *Goldstein* v. *Levi*, 415 F.Supp. 303 (D.D.C. 1976), (a)(4)(E) attorney's fees.

(163) *Goodfriend Western Corp.* v. *Fuchs*, 91 L.R.R.M. 2454 (D. Mass. Feb. 23, 1976), *rev'd* 535 F.2d 145 (1st Cir. 1976), *cert. denied* 45 U.S.L.W. 3306 (Oct. 19, 1976), X5, 7(A), (D).

(164) *Grassetti* v. *Weinberger*, 408 F.Supp. 142 (N.D. Cal. 1976), X5, 6.

(165) *Green* v. *Kleindienst*, 378 F.Supp, 1397 (D.D.C. 1974), X4, 7.

(166) *Grissom* v. *NLRB*, 364 F.Supp. 1151 (M.D. La. 1973), Ct. not entertain FOI suit until complaint filed.

(167) *Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 425 F.2d 578 (D.C. Cir. 1970), *on remand* 325 F.Supp. 1146 (D.D.C. 1971), *aff'd* 482 F.2d 710 (D.C. Cir. 1973), *rev'd* 421 U.S. 168 (1975), X3, 4, 5.

(168) *Guckian* v. *GSA*, Civ. Act. No. 75-2156, 38 Ad. L. 2d (P & F) 1061 (D.D.C. April 20, 1976), *remanded with instructions to vacate per curiam* Civ. No. 1410 (D.C. Cir. July 8, 1976), *on remand vacated mem.* Civ. No. 75-2156 (D.D.C. Oct. 13, 1976), X5.

(169) *Halperin* v. *Colby*, Civ. Act. No. 75-676 (D.D.C. June 4, 1976), XI.

(170) *Hankamer Ready Mix Concrete Co.* v. *NLRB*, 92 L.R.R.M. 2720 (D. Kan. May 25, 1976), injunction of agency proceeding pending resolution of FOI suit, X5, 7(A), (C), (D).

(171) *Harbolt* v. *Alldredge*, 464 F.2d 1243 (10th Cir. 1972), X7.

(172) *Harbolt* v. *Bensinger*, Civ. No. 76-H-1737 (S.D. Tex. Feb. 28, 1977), "agency records," "records."

(173) *Harowe Servo Controls, Inc.* v. *NLRB*, 92 L.R.R.M. 2572 (E.D. Pa. Mar. 11, 1976), X7(A), (C), (D).

(174) *Hartford Fire Inc. Co.* v. *NLRB*, 73 CCH Lab. Cas. para. 14,409 (D.D.C. March 1, 1975), exhaustion of administrative remedies.

(175) *Harvey's Wagon Wheel, Inc.* v. *NLRB*, 91 L.R.R.M. 2410 (N.D. Cal. Feb. 5, 1976), *vacated in part and remanded* 550 F.2d 1139 (9th Cir. 1976), X7(A), *in camera* inspection.

(176) *Hawkes* v. *IRS*, 71-2 U.S.T.C. para. 9640 (W.D. Tenn. July 21, 1971) *rev'd and remanded* 467 F.2d 787 (6th Cir. 1972), *on remand* Civ. No. C-70-409 (W.D. Tenn. Nov. 5, 1973), *aff'd* 507 F.2d 481 (6th Cir. 1974), X2.

(177) *Hayden* v. *CIA*, No. 76-284 (D.D.C. Oct. 18, 1976), X1, 3, 6, 7(D), (E), (F), *in camera* inspection.

(178) *Hayden* v. *United States Department of Justice*, 413 F.Supp. 1285 (D.D.C. 1976), (a)(6)(A), (a)(4)(B).

(179) *Herman* v. *Middendorf*, Civ. Act. No. 75-1246 (D.D.C. Dec. 16, 1975), X5.

(180) *Hicks* v. *Freeman*, 397 F.2d 193 (4th Cir. 1968), X2.

(181) *Higgs* v. *CIA*, Civ. No. 76-884 (D.D.C. March 7, 1977), X2, 3, 6, Privacy Act, *in camera* inspection, "reasonably segreable".

(182) *Hogan* v. *United States Dist. Ct.*, 511 F.2d 192 (9th Cir.), *aff'd on non FOI grounds* 96 S. Ct. 2119 (1976), "agency," discovery.

(183) *Holiday Inns Inc.* v. *Kleppe*, 40 Ad. L. 2d (P & F) 66 (W.D. Tenn. Oct. 29, 1976), reverse FOI case, X3 (18 U.S.C. § 1905), X4.

(184) *Holiday Magic, Inc.* v. *FTC*, Civ. No. 1878-72, 32 Ad. L. 2d (P & F) 703 (D.D.C. March 16, 1973), X7.

(185) *Holly* v. *Acree*, Civ. Act. No. 75-2116 (D.D.C. Mar. 29, 1976), X6, 7(C), (a)(4)(F) (CSC disciplinary proceeding)

(186) *Holly* v. *Acree*, 72 F.R.D. 115 (D.D.C. 1976), (a)(4)(E) attorney's fees.

(187) *Honeywell Information Systems, Inc.* v. *NASA*, Civ. No 76-377 (D.D.C. July 28, 1976), reverse FOI, discretionary, releases X4.

(188) *Hook Drugs* v. *NLRB*, 91 L.R.R.M. 2797 (S.D. Ind. Mar 5, 1976), X5, 7(A)

(189) *Howard Johnson Restaurant, Inc.* v. *NLRB*, 95 L.R.R.M. 2471 (W.D. N.Y. April 14, 1977), injunction of agency proceeding pending resolution of FOI claim.

(190) *Hrynko* v. *Crawford*, 402 F.Supp. 1063 (E.D. Pa. 1975), unintelligible records.

(191) *Hughes Aircraft Co.* v. *Schlesinger*, 384 F.Supp. 292 (C.D. Cal. 1974), X3 (42 U.S.C. § 2000e), X4, delegation of responsibility for promulgation of regulations, reverse FOI case

(192) *Hurt* v. *United States*, Civ. No. 72-3183 (9th Cir. Sept. 11, 1974), rule 34.

(193) *Hyde Park Products Corp.* v. *Acree*, Civ. Act. No. 75 Civ. 2713 (S.D.N.Y. Nov. 18, 1975), X7.

(194) *ITT American Electric* v. *NLRB*, 92 L.R.R.M. 2815 (N.D. Miss. May 3, 1976), preliminary injunction of agency proceeding, X5, 7(A), (D).

(195) *ITT Continental Baking Co.* v. *FTC*, Civ. No. 75-1218, 40 Ad. L. 2d (P & F) 183 (D.D.C. July 9, 1976), X7(A).

(196) *ITT Gilfillan, Inc.* v. *Froehlke*, Civ. No. 416-73 (D.D.C. June 28, 1973), X4, 5.

(197) *In re Grand Jury Witness Subpoenas*, 370 F.Supp. 1282 (S.D. Fla. 1974), X4, 7.

(198) *Independent Investor Protective League* v. *New York Stock Exchange*, 367 F. Supp. 1376 (S.D.N.Y. 1973), "agency".

(199) *Institute for Weight Control, Inc.* v. *Klassen*, 348 F. Supp. 1304 (D.N.J. 1972), X7.

(200) *Instrument Systems Corporation* v. *United States*, 546 F. 2d 357 (Ct. Cl. 1976), discovery.

(201) *International Paper Co.* v. *FPC*, 438 F. 2d 1349, 1358-59 (2d Cir. 1971), *cert. den.* 404 U.S. 827 (1971), (a)(3), X5.

(202) *Irons* v. *Gottschalk*, 548 F.2d 992 (D.C. Cir. 1976), X3 (35 U.S.C. § 122), description by requester of records sought, "reasonably segregable".

(203) *Irons* v. *Schuyier*, 321 F. Supp. 628 (D.D.C. 1970), *aff'd in part and remanded in part*, 465 F.2d 608 (D.C. Cir. 1972), *cert. denied* 409 U.S. 1076 (1972), *on remand sub nom. Irons* v. *Gottschalk*, 369 F. Supp. 403 (D.D.C. 1974), X4, "identifiable records".

(204) *Jaffe* v. *CIA*, Civ. No. 76-1394 (D.D.C. April 7, 1977), *Vaughn* v. *Rosen* index requirement.

(205) *Jaffess* v. *Secretary, HEW*, 393 F. Supp. 626 (S.D.N.Y. 1975), (a)(6)(C).

(206) *Jamco International, Inc.* v. *NLRB*, 91 L.R.R.M. 2446 (N.D. Okla. Feb. 11, 1976), X5, 7(A).

(207) *Kaminer* v. *NLRB*, 90 L.R.R.M. 2269 (S.D. Miss. July 8, 1975), "agency records," X7(A), (C), (D), *in camera* inspection.

(207.5) *Kanter* v. *IRS*, Civ. Nos. 76 C3384, 76C 3515, 76 C 4264, 76 C 4265, 76 C 4267 (N.D. Ill. May 27, 1977), X7(A), burden of proof on whether records are exempt, discovery, *Vaughn* v. *Rosen* index requirement.

(208) *Kaye* v. *Burns*, 411 F.Supp. 897 (S.D. N.Y. 1976), (a)(4)(E), mootness, X8.

(209) *Kent Corp.* v. *NLRB*, Civ. No. 73-M-1090 (N.D. Ala. Feb. 27, 1974), *rev'd* 530 F.2d 612 (5th Cir. 1976), (a)(2)(A), (C), X5.

(210) *Kerr* v. *United States Dist. Ct.*, 511 F.2d 192 (9th Cir.), *aff'd on non FOI grounds* 96 S. Ct. 2119 (1976), "agency," discovery.

(211) *Klaus* v. *Blake*, 428 F. Supp. 37 (D.D.C. 1976), XI, *in camera* inspection.

(212) *Klaus* v. *NSC*, Civ. No. 75-1093 (D.D.C. Oct. 22, 1976), X1, 3.

(213) *Koch* v. *Department of Justice*, 376 F. Supp. 313 (D.D.C. 1974), X5, 7.

(214) *Kramer* v. *Antitrust Division, Department of Justice*, 40 Ad. L. 2d (P & F) 7 (D.D.C., July 15, 1976), X7(A), mootness, declaratory relief.

(215) *Kreindler* v. *Department of the Navy*, 363 F.Supp. 611 (S.D.N.Y. 1973), 372 F.Supp. 333 (S.D.N.Y. 1974) ("interim opinion"), X4, 5, 6.

(216) *Kruh* v. *GSA*, 61 F.R.D. 1 (E.D.N.Y. 1974), X1.

(217) *Kruh* v. *GSA*, 421 F.Supp. 965 (E.D.N.Y. 1976), X3.

(218) *LaMorte* v. *Mansfield*, 438 F.2d 448 (2d Cir. 1971), X7.

(219) *Larouche* v. *FBI*, Civ. No. 75 Civ. 6010 (S.D.N.Y. Feb. 16, 1977), time limits.

(220) *Legal Aid Society of Alameda County* v. *Shultz*, 349 F.Supp. 771 (N.D. Cal. 1972), X3, 4, 7.

(221) *L'Eggs Products Inc.* v. *NLRB*, 93 L.R.R.M. 2488 (C.D. Cal. Sept. 14, 1976), X6, 7(A), (C).

(222) *Lennon* v. *Richardson*, 378 F.Supp. 39 (S.D.N.Y. 1974), injunction of agency proceeding pending resolution of FOI suit.

(223) *Levin* v. *Department of Treasury*, Civ. No. 73-1215, 34 Ad. L. 2d (P & F) 633 (S.D. Fla. March 22, 1974), X4, 6.

(224) *Lewis* v. *Weinberger*, 415 F.Supp. 652, 658-661 (D.N.M. 1976), (a)(1)(D) publication.

(225) *Lincoln National Bank* v. *Lampe*, 421 F.Supp. 346 (N.D. Ill. 1976), (a)(4)(B).

(226) *Local 30, United Slate, Tile, etc. AFL-CIO* v. *NLRB*, 408 F.Supp. 520 (E.D. Pa. 1976), X5, 7(A), (C), (D).

(227) *Local 32, Plumbers* v. *Irving*, 91 L.R.R.M. 2513 (W.D. Wash. Feb. 24, 1976), X5, 7(A), (C) ,(D).

(228) *Lombardo* v. *Handler*, 397 F.Supp. 792 (D.D.C. 1975), "agency."

(229) *Long* v. *IRS*, 339 F.Supp. 1266 (W.D. Wash. 1971), X2, 5, 7.

(230) *Long* v. *IRS*, 349 F.Supp 871 (W.D. Wash. 1972), X2, 5.

(231) *Long* v. *IRS*, No. C75-2285 (W.D. Wash. June 1, 1976), "records," X3 (18 U.S.C. § 1905), "reasonably segregable."

(232) *Lord & Taylor* v. *United States Department of Labor*, Civ. No. 75 Civ. 2839 (S.D.N.Y. Aug. 27, 1976), (a)(2)(C), X2, 5.

(233) *Luzaich* v. *United States*, Civ. No. 4-76-Civ. 442 (D. Minn. Feb. 16, 1977), X3, 7(C), (D), attorney's fees.

(234) *M. A. Schapiro & Co.* v. *SEC*, 339 F.Supp. 467 (D.D.C. 1972), X3, 4, 5, 7.

(235) *Marathon Le Tourneau Co.* v. *NLRB*, 414 F.Supp. 1074 (S.D. Miss. 1976), X5, 7(A), (C), (D).

(236) *Maremont Corp* v. *NLRB*, 91 L.R.R.M. 2645 (W.D. Okla. Mar. 3, 1976), 91 L.R.R.M. 2804 (Mar. 17, 1976), Civ. No. 76-1402 (10th Cir. Oct. 5, 1976), X5, 7(A), (C) (D), (a)(4)(E).

(237) *Marks* v. *CIA*, 426 F.Supp. 708 (D D.C. 1976), X1, 3, 7.

(238) *Mason* v. *Levi*, Civ. Nos. 76-1205, 76-1404 (4th Cir. April 13, 1977), X3, "identifiable records."

(239) *McCoy* v. *Weinberger*, 386 F.Supp. 504 (W.D. Ky. 1974), X4.

(240) *McDonald* v. *General Mills Inc.*, 387 F.Supp. 24, 31-32 (E.D. Cal. 1974), (a)(2)(C).

(241) *McDonnell Douglas Corp.* v. *NLRB*, 92 L.R.R.M. 2072 (C.D. Cal. Mar. 17, 1976), X5, 7(A), (C), (D).

(242) *McIntyre* v. *Warner*, Civ. No. 1350-73 (D.D.C. Oct. 3, 1974), X2, 5, 7.

(243) *McNeal* v. *Department of Justice*, Civ. No. 6-70890 (E.D. Mich. Nov. 8, 1976), X6, Privacy Act.

(244) *Mead Data Central, Inc.* v. *Department of the Air Force*, 402 F.Supp. 460 (D.D.C. 1975), X5, describing withheld records.

(245) *Meisler* v. *United States Department of Justice*, Civ. No. 75-417 (W.D.N.Y. Feb. 24, 1977), X2, 5, 7(C), (D).

(246) *Merrill* v. *Federal Open Market Committee of the Federal Reserve System*, 413 F.Supp. 494 (D.D.C. 1976), "prompt discharge", (a)(1)(D), (a)(2)(B), X2, 5.

(247) *Mervin* v. *Bonfanti*, 410 F.Supp. 1205 (D.D.C. 1976), Privacy Act, "records".

(248) *Metropolitan Life Insurance Co.* v. *Usery*, 426 F.Supp. 150 (D.D.C. 1976), reverse FOI case, X3 (42 U.S.C. § 2000e-8(e), 44 U.S.C. §3508, 18 U.S.C. §1905), X 4, 6, 7, discretionary release.

(249) *Military Audit Project* v. *Bush*, 418 F.Supp. 876 (D.D.C. 1976), *motion to require service denied* Civ. No. 75-2037 (D.C. Cir. Jan. 14, 1977), *In camera* inspection, X1, 3.

(250) *Military Audit Project* v. *Kettles*, C.A. No. 75-666 (D.D.C. May 17, 1976), X4, 5.

(251) *Miller* v. *Smith*, 292 F.Supp. 55 (S.D. N.Y. 1968), X5.

(252) *Mims* v. *United States*, No. 8935 Civil (D.N.M. July 8, 1971), X5.

(253) *Mink* v. *EPA*, 464 F.2d 742 (D.C. Cir. 1972), *rev'd* 410 U.S. 73 (1973), X1, 5.

(254) *Misgades & Douglas* v. *Schuyler*, 328 F.Supp. 619 (E.D. Va. 1971), *dis'd as moot* 456 F.2d 255 (4th Cir. 1972), X3, 4, 5.

(255) *Misgades, Douglas & Levy* v. *Sonneberg*, 39 Ad. L. 2d (P & F) 1146 (E.D. Va. Nov. 5, 1976), attorney's fees.

(256) *Misgades, Douglas & Levy* v. *Sonneberg*, Civ. No. 76-481A (E.D. Va. Jan. 13, 1977), X3 (35 U.S.C. § 122), leaks, effect of.

(257) *Missouri Portland Cement Co.* v. *FTC*, CCH Trade Cas. para. 74,124 or 74,279 (D.D.C. Dec. 15, 1972), *on reconsideration* CCH Trade Cas. para. 74,280, X5.

(258) *Mitsubishi Electric Corp.* v. *Department of Justice*, 39 Ad. L. 2d (P & F) 1133 (D.D.C. Sept. 10, 1976), (a)(6)(C).

(259) *Mobil Oil Corp.* v. *FTC*, 406 F.Supp. 305 (S.D.N.Y. 1976), X3, 4, 5, 7, "informer's privilege".

(260) *Montrose Chemical Corp.* v. *Train*, 491 F.2d 63 (D.C. Cir. 1974), X5.

(261) *Moore-McCormack Lines, Inc.* v. *I.T.O. Corporation of Baltimore*, 508 F.2d 945 (4th Cir. 1974), X7.

(262) *Morton* v. *Ruiz*, 415 U.S. 199, 232-236 (1974), (a)(1)(D).

(263) *Morton-Norwich Products, Inc.* v. *Mathews*, 415 F.Supp. 78 (D.D.C. 1976), X2, 5, *in camera* inspection.

(264) *Moss* v. *Laird*, Civ. No. 1254-71 (D.D.C. Dec. 7, 1971), X1.

(265) *Mylan Pharmaceuticals, Inc.* v. *NLRB*, *Region 6*, 407 F.Supp. 1124 (W.D. Pa. 1976), X7(A), (C), (D), discovery.

(266) *Nader* v. *Dunlop*, 370 F.Supp. 177 (D.D.C. 1973), X5, FACA.

(267) *National Airlines* v. *CAB*, Civ. Act. No. 75-613 (D.D.C. Oct. 10, 1975), X3, *in camera* inspection.

(268) *National Association of Government Employees* v. *Hampton*, Civ. No. 76-1041 (D.D.C. Sept. 3, 1976), X3, 4.

(269) *National Cable Television Association* v. *FCC*, 479 F.2d 183 (D.C. Cir. 1973), "identifiable records", X4, 5.

(270) *National Commission on Law Enforcement and Social Justice* v. *CIA*, Civ. No. CV-75-3644-MML (C.D. Cal. Oct. 20, 1976), X1, 3.

(271) *National Courier Association* v. *Board of Governors of the Federal Reserve*, 516 F.2d 1229 (D.C. Cir. 1975), X5.

(272) *NLRB* v. *Biophysics System, Inc.*, 91 L.R.R.M. 3079 (S.D.N.Y. April 12, 1976), X7 (A), (C).

(273) *NLRB* v. *Hardeman Garmet Corp.*, 406 F.Supp. 510 (W.D. Tenn. 1976), *on motion to stay energy proceeding* 91 L.R.R.M. 2425 (W.D. Tenn. Feb. 3, 1976), *rev'd* 95 L.R.R.M. 2780 (6th Cir. June 22, 1977), X7 (A), (C), (D), preliminary injunction of agency proceeding pending resolution of FOI claim.

(274) *National Nutritional Foods Association* v. *Mathews*, 418 F.Supp. 394 (S.D. N.Y. 1976), X5.

(275) *National Parks and Conservation Association* v. *Kleppe*, 547 R.2d 673 (D.C. Cir-1976), X3 (18 U.S.C. § 1905), X4, 6, burden of proof on whether records are exempt.

(276) *National Parks and Conservation Association* v. *Morton*, 351 F.Supp. 404 (D.D.C. 1972), *rev'd and remanded* 498 F.2d 765 (D.C. Cir. 1974), *on remand* Civ. Act. No. 436-72 (D.D.C. Oct. 23, 1975), X4.

(277) *National Prison Project of the ACLU Foundation, Inc.* v. *Sigler*, 390 F.Supp. 789 (D.D.C. 1975), (a)(2)(A), X6.

(278) *National Public Radio* v. *Bell*, Civ. No. 75-1593 (D.D.C. Feb. 5. 1977), X5, 7(A).

(279) *National Resources Defense Council* v. *Nuclear Regulatory Commission*, Civ. No. 76-0592 (D.D.C. April 14, 1977), X5.

(280) *Nationwide Building Maintenance, Inc.* v. *Sampson*, Civ. No. 76-1453 (D.C. Cir. April 18, 1977), (a)(4)(E) attorney's fees.

(281) *Neal-Cooper Grain Co.* v. *Kissinger*, 385 F.Supp. 769 (D.D.C. 1974), "person", X3 (18 U.S.C. § 1905), X4, reverse FOI case.

(282) *New England Medical Hospital Center* v. *NLRB*, 548 F.2d 377 (1st Cir. 1976), exhaustion of administrative remedies, X7(A).

(283) *New Mexico ex rel, Reynolds* v. *Kleppe*, Civ. No. 75-684-M (D.N.M. Dec. 10, 1976), X5.

(284) *Nichols* v. *United States*, 325 F.Supp. 130 (D. Kan. 1971), *aff'd* 460 F.2d 67 (10th Cir. 1972), *cert. denied* 409 U.S. 966 (1972), "record".

(285) *Niemeir* v. *Watergate Special Prosecution Force*, 420 F. Supp. 794 (N.D. Ill. 1976), X5.

(286) *Nixon* v. *Sampson*, 389 F.Supp. 107 (D.D.C. 1975), X1, 3 (44 U.S.C. §§ 2101, 2107, 2108), "agency".

(287) *Nolen* v. *Rumsfeld*, 535 F.2d 890 (5th Cir. 1976), (a)(2, 3).

(288) *North American Van Lines, Inc.* v. *United States*, 412 F.Sup. 782, 795 (N.D. Ind. 1976), (a)(1).

(289) *Northern California Power Agency* v. *Morton*, 396 F.Supp. 1187 (D.D.C. 1975), (a)(1)(B), (C).

(290) *Ollestad* v. *Kelley*, Civ. Act. No. CV 74-2486-LTL (C.A. Cal. Dec. 18, 1975), X5, 6.

(291) *Open American* v. *Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976) time limits, (a)(6)(A), (C).

(292) *Orange County Vegetable Improvement Co-op Association* v. *Department of Agriculture*, Civ. Act. No. 75-842 (D.D.C. Nov. 17, 1975) X5.

(293) *Ott* v. *Levi*, 419 F.Supp. 750 (E.D. Mo. 1976), X2, 7(C), (D), (E).

(294) *Owens* v. *U.S. Bureau of Prisons*, 379 F.Supp. 547 (D.D.C. 1974), (a)(3).

(295) *Pacific Architects and Engineers, Inc.* v. *Renegotiation Bd.*, 505 F.2d 383 (D.C. Cir. 1974), X4, 5.

(296) *Pacific Molasses Co.* v. *NLRB*, 95 L.R.R.M. 2639 (E.D. La. April 22, 1977), X6, 7(A), (C), (D).

(297) *Pacific Photo Type, Inc.* v. *NLRB*, 92 L.R.R.M. 2560, (D. Hawaii May 6, 1976), X7(A).

(298) *Packer* v. *Kleindienst*, Civ. No. 1988-72 (D.D.C. July 8, 1974), "prompt disclosure".

(299) *Parker* v. *EEOC*, Civ Act. No. 74-1262 39 Ad. L. 2d (P & F) 1074 (D.D.C. May 29, 1975), *aff'd* 534 F.2d 977 (D.C. Cir. 1976), X3 (sec. 706 of the Civil Rights Act of 1964).

(300) *Pasco, Inc.* v. *FEA*, 252 F.2d 1391 (T.E.C.A. 1975), (a)(1), X2.

(301) *Pass* v. *Department of the Air Force*, Civ. No. 1-76-118 (D. Tenn. Oct. 1, 1976), X5.

(302) *Penzoil Co.* v. *FPC*, 534 F.2d 627 (5th Cir. 1976), X4, 9, reverse FOI case, discretionary release.

(303) *People of the State of California* v. *Richardson*, 351 F.Supp. 733 (N.D. Cal. 1972), *aff'd sub nom. People of the State of California* v. *Weinberger*, 505 F.2d 767 (9th Cir. 1974), X3.

(304) *Pepsi Cola Bottling Co.* v. *NLRB*, 92 L.R.R.M. 3527 (D. Kan. June 18, 1976), temporary restraint of agency proceeding pending disposition of FOI claim, X5, 7 (A), (C), (D).

(305) *Petkas* v. *Staats*, 364 F. Supp. 680 (D.D.C. 1973), *rev'd and remanded* 501 F.2d 887 (D.C. Cir. 1974), X4, promise of confidentiality.

(306) *Pharmaceutical Manufacturers Association* v. *Weinberger*, 401 F. Supp. 444 (D.D.C. 1975); 411 F.Supp. 576 (D.D.C. 1976), reverse FOI case, X4, 21 U.S.C. § 331j, 18 U.S.C. § 1905.

(307) *Philadelphia Newspaper, Inc.* v. *HUD*, 343 F.Supp. 1176 (E.D. Pa. 1972), X5, 7.

(308) *Philadelphia Newspaper, Inc.* v. *Department of Justice*, 405 F.Supp. 8 (E.D. Pa. 1975), X6, 7(C), (D).

(309) *Philippi* v. *CIA*, 546 F.2d 1009 (D.C. Cir. 1976), X1, burden of proof on whether records are exempt, *in camera* inspection.

(310) *Pilar* v. *S.S. Hess Patrol*, 55 F.R.D. 159 (D. Md. 1972), X5, 7.

(311) *Pitman* v. *Department of Interior*, Civ. No. 76-F-1022 (D. Colo. May 24, 1977), X2, 5.

(312) *Planning Research Corp.* v. *FPC*, Civ. No. 75-1540, 40 Ad. L. 2d (P & F) 1073 (D.C. Cir. March 10, 1977), reverse FOI case, X4.

(313) *Polymers, Inc.* v. *NLRB*, 414 F.2d 999 (2d Cir. 1969), *cert denied* 396 U.S. 1010 (1970), X2, 5.

(314) *Ponce* v. *Housing Authority*, 389 F. Supp. 635 (E.D. Cal. 1975), X4.

(315) *Pope* v. *United States*, 424 F. Supp. 962 (S.D. Tex. 1977), (a)(4)(E), X5, work product, attorney's fees.

(316) *Porter County Chapter of Isaak Walton League* v. *AEC*, 380 F. Supp. 630 (N.D. Ind. 1974), (a)(3), X4, 5, personal notes not agency records.

317) *Poss* v. *NLRB*, 91 L.R.R.M. 2232 (D.D.C. Dec. 17, 1975), X7(A), (D).

(318) *Preferred Land Corp.* v. *SEC*, *CCH* Fed. Sec. para. 94,555 (D.D.C. May 1, 1975), X7.

(319) *Production Molded Plastics* v. *NLRB*, 408 F. Supp. 937 (N.D. Ohio 1976), injunction of agency proceeding pending resolution of FOI claim.

(320) *Public Citizens Health Research Group* v. *United States Department of Labor*, Civ. No. 76-887 (D.D.C. May 20, 1977), X6, duty of agency to search, "agency records".

(321) *Rabbitt* v. *Department of the Air Force*, 383 F. Supp. 1065 (S.D.N.Y. 1974), *on motion for reconsideration* 401 F. Supp. 1206 (S.D.N.Y. 1974), X4, 5, 6, executive privilege.

(322) *Ramer* v. *Saxbe*, 522 F.2d 695 (D.C. Cir. 1975), (a)(1)(D), (a)(2)(B), publication.

(323) *Ray* v. *CIA*, Civ. No. 76-0903 (D.D.C. Jan. 25, 1977), X1, 3, *in camera* inspection, "agency records" (by implication).

(324) *Rayner & Stonington, Inc.* v. *FDA*, Civ. No. 68-1995 (E.D. Pa. Aug. 14, 1969), X5, 7.

(325) *Read's Inc.* v. *NLRB*, 91 L.R.R.M. 2722 (D. Md. Feb. 17, 1976), injunction of agency proceeding pending resolution of FOI claim, X7(A).

(326) *Reinoehl* v. *Hershey*, 426 F.2d 815 (9th Cir. 1970), fees.

(327) *Retail Credit Company* v. *FTC*, Civ. Act. No. 75-0895 (D.D.C. May 10, 1976), X5, 7(C), *in camera* inspection.

(328) *Retail Credit Company* v. *FTC*, 39 Ad. L. 2d (P & F) 1016 (D.D.C. Aug. 17, 1976), (a)(4)(E) attorney's fees.

(329) *Richardson* v. *Spahr*. 416 F.Supp. 752 (W.D. Pa. 1976), X1, 3 (50 U.S.C. § 403), Exec. Order 11652.

(330) *Robbins Tire & Rubber Co.* v. *NLRB*, 92 L.R.R.M. 2586 (N.D. Ala. April 16, 1976), exhaustion of administrative remedies, X5, 7(A), (C), (D).

(331) *Robertson* v. *Department of Defense*, 402 F.Supp. 1342 (D.D.C. 1975), X3 (Civil Rights Acts), privacy, 42 U.S.C. § 2000e.

(332) *Robertson* v. *FAA*. Civ. No. 1970-71 (D.D.C. Oct. 31, 1972), *aff'd* 498 F.2d 1031 (D.C. Cir. 1974), *rev'd* 422 U.S. 255 (1975), X3.

(333) *Robins & Weill. Inc.* v. *United States*, 74-1 U.S.T.C. para 9299 (M.D.N.C. Feb. 25, 1974), discovery.

(334) *Robles* v. *EPA*, 484 F.2d 843 (4th Cir. 1973), X6.

(335) *Rocap* v. *Indiek*, 539 F.2d 174 (D.C. Cir. 1976), "agency", "agency records", (e).

(336) *Rodriguez* v. *Swank*, 318 F.Supp. 289 (N.D. Ill. 1970), (a)(1)(D).

(337) *Roger J. Au & Son, Inc.* v. *NLRB*, 405 F. Supp. 1200 (W.D. Pa. 1975), *aff'd* 538 F.2d 80 (3d Cir. 1976), discovery, X7(A), (C), (D).

(338) *Rose* v. *Department of Air Force*, *Civ.* No. 72-1605 (S.D.N.Y. 1972), *rev'd and remanded* 495 F.2d 261 (2d Cir. 1974), *aff'd* 425 U.S. 352 (1976), *on remand* Civ. No. 72 Civ. 1605 (LRM) (S.D.N.Y. Jan. 21, 1977), X2, 6, "reasonable segregable".

(339) *Rural Housing Alliance* v. *United States Department of Agriculture*, Civ. No. 2450-72 (D.D.C. May 9, 1973), *rev'd and remanded* 498 F.2d 73 (D.C. Cir. 1974), *on bill of costs* 511 F.2d 1347 (D.C. Cir. 1974), (a)(2), X4, 6, 7.

(340) *Safeway Stores Inc.* v. *FTC*, 428 F. Supp. 346 (D.D.C. 1977), X5, leaks, waiver of exemption.

(341) *St. Elizabeth's Hospital* v. *NLRB*, 407 F.Supp. 1357 (N.D. Ill. 1976), injunction of agency proceeding pending disposition of FOI claim.

(342) *St. Louis Post Dispatch* v. *FBI*, Civ. No. 75-1025 (D.D.C. June 22, 1977), X2, *in camera* inspection, *Vaughn* v. *Rosen* index requirement.

(343) *Santoro* v. *Attorney General of the United States*, Civ. No. 76 Civ. 1803 (GLG) (S.D.N.Y. Oct. 8, 1976), duty of agency to search, "agency records."

(344) *Santra Belarus, Inc.* v. *NLRB*, 409 F. Supp. 271 (E.D. Wis. 1976), exhaustion of administrative remedies.

(345) *Saunders* v. *Dogin*, Civ. No. CV-75-4109-MML (C.D. Cal. April 28, 1977), X7(C), (D), "reasonably segregable.

(346) *Save the Dolphins* v. *United States Department of Commerce*, 404 F.Supp. 407 (N.D. Cal. 1975), X4, "record".

(347) *Schaffer* v. *Kissinger*, 505 F.2d 389 (D.C. Cir. 1974), X1.

(348) *Schecter* [*sic*] v. *Richardson*, Civ. No. 710-72 (D.D.C. July 17, 1972), X3.

(349) *Schecter* v. *Weinberger*, Civ. No. 2319-72 (D.D.C. June 7, 1973), *rev'd and remanded* 506 F.2d 1275 (D.C. Cir. 1974), X3 (42 U.S.C. § 1306).

(350) *Schwartz* v. *IRS*, 75-1 U.S.T.C. para. 9389 (Sept. 23, 1974), *clarification ordered* 511 F.2d 1303 (D.C. Cir. 1975), X5, reverse FOI case.

(351) *SDC Development Corp.* v. *Weinberger*, Civ. Act. No. CV-75-1799-IH (C.D. Cal. Nov. 11, 1975), *aff'd sub nom. SDC Development Corp. v. Mathews*, 542 F.2d 1116 (9th Cir. 1976), X3, records, library materials.

(352) *Seafarers International Union, AFL-CIO* v. *Baldovin*, 508 F.2d 125 (5th Cir. 1975), (a)(3).

(353) *Sealand Terminal Corp.* v. *NLRB*, 414 F.Supp. 1085 (S.D. Miss. 1976), X5, 7(A).

(354) *Sears, Roebuck & Co.* v. *GSA*, 384 F.Supp. 996 (D.D.C. 1974), *stay of order dissolved* 509 F. 2d 527 (D.C. Cir. 1974), *on action for declaratory judgment* 402 F. Supp. 378 (D.D.C. 1975), *remanded* Civ. No. 75-2127, 40 Ad. L. 2d (P & F) 1063 (D.C. Cir. April 1, 1977), X3 (18 U.S.C. § 1905), X4, 6, 7, reverse FOI case *de novo* hearing, burden of proof on whether records are exempt.

(355) *Sears, Roebuck & Co.* v. *NLRB*, 433 F.2d 210 (6th Cir. 1970), (a)(3).

(356) *Sears, Roebuck & Co.* v. *NLRB*, 346 F.Supp. 751 (D.D.C. 1972), *aff'd* 480 F.2d 1195 (D.C. Cir. 1973), *aff'd in part, rev'd in part and remanded* 421 U.S. 132 (1975), (a)(2)(A), X5, 7.

(357) *Sears, Roebuck & Co.* v. *NLRB*, 473

F.2d 91 (D.C. Cir. 1972), injunction of agency proceeding pending resolution of FOI case.

(358) *Sears* v. *Gottschalk*, 357 F.Supp. 1327 (E.D. Va. 1973), *aff'd* 502 F.2d 122 (4th Cir. 1974), "identifiable records", X3, 4.

(359) *Seattle Building & Construction Trades Council, AFL-CIO* v. *Henderson*, 82 L.R.R.M. 2352 (W.D. Wash. Jan. 22, 1973), X5.

(360) *Secretary of Labor* v. *Farino*, 490 F.2d 885 (7th Cir. 1973), (a)(3).

(361) *Seiler* v. *Department of Transportation*, Civ. No. 73-CV-143 C (W.D. Mo. March 25, 1975), X5, 6.

(362) *Sellers* v. *Kelly*, Civ. No. C 75-1458 A (N.D. Ga. May 14, 1976), X5.

(363) *Serchuk* v. *Richardson*, Civ. No. 72-1212 (S.D. Fla. Nov. 28, 1972), X3.

(364) *Shakespeare Company* v. *United States*, 389 F.2d 772 (Ct. Cl. 1968), *pet'n dis'd* 419 F.2d 839 (Ct. Cl. 1969), *cert. denied* 400 U.S. 820 (1970), use of FOIA as a discovery tool.

(365) *Sharp* v. *Federal Deposit Ins. Corp.*, Civ. Act. No. 75-1428 (D.D.C. Oct. 15, 1975), "agency."

(366) *Shaver* v. *Levi*, Civ. No. C75-1206A (N.D. Ga. April 20, 1977), X2, 7(C), (D), (E), (F).

(367) *Sheraton Inn* v. *NLRB*, 84 L.R.R.M. 2385 (D.D.C. Aug. 13, 1973), preliminary injunction of agency proceeding pending resolution of FOI claim.

(368) *Shouse* v. *Burris*, Civ. Act. No. CV 475-198 (S.D. Ga. Dec. 23, 1975), proper party defendant.

(369) *Sierra Club* v. *Morton*, 395 F.Supp. 1187 (D.D.C. 1975), X5.

(370) *Simons-Eastern Co.* v. *United States*, 55 F.R.D. 88 (N.D. Ga. 1972), X5.

(371) *Skolnick* v. *Campbell*, 454 F.2d 531 (7th Cir. 1971), (a)(3).

(372) *Skolnick* v. *Kerner*, 435 F.2d 694 (7th Cir. 1970), "agency."

(373) *Skolnick* v. *Parsons*, 397 F.2d 523 (7th Cir. 1968), jurisdiction.

(374) *Smith* v. *Switzer*, 73-2 U.S.T.C. para. 9490 (W.D. Pa. May 30, 1973), (a)(3), exhaustion of administrative remedies.

(375) *Sondregger* v. *United States Department of the Interior*, 424 F.Supp. 847 (D. Idaho 1976), X4, 6.

(376) *Soucie* v. *David*, 448 F.2d 1067 (D.C. Cir. 1971), X4, 5.

(377) *Southwest Motor Freight, Inc.* v. *NLRB*, 411 F.Supp. 1019 (E.D. Tenn. 1976), injunction of agency proceeding pending resolution of FOI claim.

(378) *Steadman Security Corp.* v. *SEC*, CCH Fed. Sec. para. 93-735 (D.D.C. Jan. 25, 1973), X5, 7, discovery.

(379) *Steinmer* v. *Department of the Army*, Civ. Act. No. 75-2617 (E.D. Pe. April 28, 1976), (a)(4)(B), X5, 6.

(380) *Sterling Drug, Inc.* v. *FTC*, 450 F.2d 698 (D.C. Cir. 1971), X4, 5.

(381) *Stern* v. *Richardson*, 367 F.Supp. 1316 (D.D.C. 1973), X2, 5, 7.

(382) *Stokes* v. *Hodgson*, 347 F.Supp. 1371 (N.D. Ga. 1972), *aff'd sub nom. Stokes* v. *Brennan* 476 F.2d 699 (5th Cir. 1973), X2, 5.

(383) *Stone* v. *Export-Import Bank of the United States*, Civ. No. 74-129 (N.D. Fla. April 17, 1975), *aff'd* 552 F.2d 132 (5th Cir. 1977), X4.

(384) *Stretch* v. *Weinberger*, 359 F.Supp. 702 (D.N.J. 1973), *aff'd* 495 F.2d 639 (3d Cir. 1974), X3.

(385) *Swift* v. *IRS*, Civ. Act. No. C75-77R (N.D. Ga. Dec. 8, 1975), X5.

(386) *Talbott Construction Co.* v. *United States*, 49 F.R.D. 68 (E.D. Ky. 1969), X5.

(387) *Tax Aanalysts and Advocates* v. *IRS* 362 F.Supp. 1298 (D.D.C. 1973), *modified in part and remanded* 505 F.2d 350 (D.C. Cir. 1974), (a)(2), X3 (26 U.S.C. §§ 6103(a)(1), 7213 (a)(1)), X4, 5.

(388) *Tax Analysts and Advocates* v. *IRS*, 405 F.Supp. 1065 (D.D.C. 1975), X3.

(389) *Tax Reform Research Group* v. *IRS*, 74-1 U.S.T.C. para. 9374 (D.D.C. April 17, 1974), X4, equitable jurisdiction.

(390) *Tax Reform Research Group* v. *IRS*, 419 F.Supp. 415 (D.D.C. 1976), X3, 5, 6, 7(C), "agency records".

(391) *Teamsters, Local 705* v. *NLRB*, 82 L.R.R.M. 3014 (D.D.C. Mar. 27, 1973), preliminary injunction of agency proceeding pending resolution of FOI claim.

(392) *Temple-Eastex, Inc.* v. *NLRB*, 410 F.Supp. 183 (E.D. Tex. 1976), burden of proof on whether records are exempt, X5, 7(A)(C), (D).

(393) *Television Wisconsin, Inc.* v. *NLRB*, 410 F.Supp. 999 (W.D. Wis. 1976), failed to state a claim because did not allege FOI request which complied with (a)(3).

(394) *Tennessean Newspaper, Inc.* v. *FHA*, 341 F.Supp. 1013 (M.D. Tenn. 1971) *rev'd* 464 F.2d 657 (6th Cir. 1972), X5.

(395) *Tennessean Newspaper, Inc.* v. *Levi*, 403 F.Supp. 1318 (M.D. Tenn. 1975), X7(C).

(396) *Theriault* v. *United States*, 503 F.2d 390 (9th Cir. 1974), *on remand* 395 F.Supp. 637 (C.D. Cal. 1975), equity jurisdiction, *de novo* hearing, executive privilege, X4, 5.

(397) *Thrifty Drug Stores Inc.* v. *FTC*, 40 Ad. L. 2d (P & F) 108 (D.D.C. Dec. 17, 1976), reverse FOI case.

(398) *Tietze* v. *Richardson*, 352 F.Supp. 610 (S.D. Tex. 1972), X2.

(399) *Title Guarantee Co.* v. *NLRB*, 407 F. Supp. 498 (S.D.N.Y. 1975), *rev'd and remanded*, 534 F. 2d 484 (2d Cir. 1976), *cert. denied* 45 U.S.L.W. 3251 (Oct. 4, 1976), (a)(4)(B), X5, 7(A), (C), (D), injunction of agency proceeding until records disclosed.

(400) *Tuchinsky* v. *Selective Service System*, 294 F. Supp. 803 (N.D. Ill. 1969), *aff'd* 418 F. 2d 155 (7th Cir. 1969), X6.

(401) *Turner* v. *Kelly*, 411 F. Supp. 1331 (D. Kan. 1976), venue.

(402) *Tyler* v. *Defense Supply Agency*, Civ. No. 76-752-N (E.D. Va. March 31, 1977), exhaustion of administrative remedies.

(403) *Union of Concerned Scientists* v. *Nuclear Regulatory Commission*, Civ. No. 76-370 (D.D.C. Feb. 1, 1977), X5.

(404) *Union Oil Company of California* v. *FPC*, *542 F. 2d 1036 (9th Cir. 1976)*, reverse FOI case.

(405) *United States* v. *DeVaughan*, 414 F. Supp. 774 (D. Md. 1976), (a)(1, 2).

(406) *United States* v. *Imbrunone*, 379 F. Supp. 256 (E.D. Mich. 1974), (a)(2)(C), (a)(3).

(407) *United States* v. *J. B. Williams Co.*, 402 F. Supp. 796 (S.D.N.Y. 1975), (a)(2)(A), (C), X5, 7.

(408) *United States* v. *Leichtfuss*, 331 F. Supp. 723 (N.D. 111. 1971), (a)(2).

(409) *United States* v. *Murdock*, 548 F. 2d 599 (5th Cir. 1977), discovery.

(410) *United States* v. *Trucking Employees, Inc.*, 13 F.E.P. Cases 376 (D.D.C. April 5, 1976), reverse FOI case, X3 (42 U.S.C. § 2000e-8(e)), X4, 7.

(411) *United States* v. *Wahlin*, 384 F. Supp. 43 (W.D. Wis. 1974), discovery.

(412) *United States* v. *Walker*, 491 F. 2d 236 (9th Cir. 1974), "records."

(413) *United States ex rel. Parco* v. *Morris*, 426 F. Supp. 976, 985-986 (E.D. Pa. 1977), (a)(1)(D) publication.

(414) *United States Steel Corp.* v. *Schlesinger*, 8 CCH E.P.D. para. 9717 (E.D. Va. Sept. 20, 1974), X4, reverse FOI case.

(415) *United Telephone Co. of Pennsylvania* v. *FCC*, 375 F. Supp. 992 (M.D. Pa. 1974), (a)(3), injunction of agency proceedings.

(416) *USS-OCF-W&M* v. *Eckard*, Civ. No. 76-1933 (D.D.C. Dec. 9, 1976), reverse FOI case, X4.

(417) *Vaughn* v. *Rosen*, 484 F. 2d 820 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974), *on remand* 383 F. Supp. 1049 (D.D.C. 1974), agency's burden on proof on whether records are exempt, X2, 5, 6.

(418) *Vaughn* v. *Rosen*, 523 F. 2d 1136 (D.C. Cir. 1975), X2, 5.

(419) *Vegas Village Shopping Corp.* v. *NLRB*, 92 L.R.R.M. 2683 (C.D. Cal. April 26, 1976), X5, 7(A), (C), (D).

(420) *Vermont Low Income Advocacy Council, Inc.* v. *Dunlop*, 71 F.R.D. 343 (D. Vt. 1976), *aff'd sub nom. Vermont Low Income Advocacy Council* v. *Usery*, 546 F. 2d 509 (2d Cir. 1976), (a)(4)(E) attorney's fees.

(421) *Verrazzano Trading Corp.* v. *United States*, 349 F. Supp. 1401 (Cust. Ct. (1972), X5.

(422) *Vietnam Veterans Against the War* v. *Laird*, Civ. No. 2277-70 (D.D.C. Oct. 15, 1971), X3, 6.

(423) *Virginia Independent Schools Ass'n* v. *Commissioner of Internal Revenue*, Civ. Act. No. 75-925 (D.D.C. Mar. 25, 1976), X5, discovery.

(424) *Virginia-Carolina Freight Lines, Inc.* v. *United States*, 411 F.Supp. 356 (W.D. Va. 1976), X5.

(425) *Washington Research Project, Inc.* v. *HEW*, 366 F.Supp. 929 (D.D.C. 1973), *aff'd in part, rev'd in part, and remanded* 504 F.2d 238 (D.C. Cir. 1974), *cert. denied* 421 U.S. 963 (1975), (a)(2), X4, 5, 6.

(426) *Wecksler* v. *Shultz*, 324 F.Supp. 1084 (D.D.C. 1971), X4, 5, 7.

(427) *Weisberg* v. *GSA*, Civ No. 75-1448 (D.D.C. March 10, 1977), X3, 5.

(428) *Weisberg* v. *United States Department of Justice*, 489 F.2d 1195 (D.C. Cir. 1973), *cert. denied* 416 U.S. 993 (1974), X7.

(429) *Weisberg* v. *United States Department of Justice*, 543 F.2d 308 (D.C. Cir. 1976), X7, discovery.

(430) *Weissman* v. *CIA*, C.A. No. 75-1583 (D.D.C. April 14, 1976), *remanded in part* C.A. No. 76-1566, 40 Ad. L. 2d (P & F) 829 (D.C. Cir. Jan. 6, 1977), X1, 3, 6, 7 *in camera* inspection.

(431) *Wellford* v. *Hardin*, 315 F.Supp. 175 (D. Md. 1970), *aff'd* 444 F.2d 21 (4th Cir. 1971), *on motion for reconsideration* 330 F.Supp. 915 (D. Md. 1971), X4, 5, 7.

(432) *Wellford* v. *Hardin*, 315 F.Supp. 768 (D.D.C. 1970), X7.

(433) *Wellman Industries* v. *NLRB*, Civ. No. 73-74 (D. S.C. April 13, 1973), *aff'd* 490 F.2d 427 (4th Cir. 1974), X4, 7.

(434) *Westinghouse Electric Corp.* v. *Schlesinger*, 542 F.2d 1190 (4th Cir. 1976), *cert. denied* 45 U.S.L.W. 3749 (May 7, 1977), X3, 4, reverse FOI case 18 U.S.C. § 1905, 42 U.S.C. § 2000e.

(435) *Westinghouse Electric Co.* v. *Schlesinger*, 392 F. Supp. 1246 (E.D. Va. 1974), X3 (42 U.S.C. § 2000e-8(e)), 4, 7, 18 U.S.C. § 1905, reverse FOI case.

(436) *Westinghouse Electric Corporation* v. *United States Nuclear Regulatory Commission*, Civ. No. 76-1611 (3d Cir. March 22, 1977), reverse FOI case, X4, discretionary release.

(437) *Williams* v. *IRS*, 345 F.Supp. 591 (D. Del. 1972) *aff'd* 479 F.2d 317 (3d Cir. 1973), X5, 7.

(438) *Wine Hobby, U.S.A., Inc.* v. *United States Bureau of Alcohol, Tobacco, and Firearms*, 363 F. Supp. 231 (E.D. Pa. 1973), *rev'd* 502 F.2d 133 (3d Cir. 1974), X6, "similar files".

(439) *Wolfe* v. *Froehlke*, 358 F.Supp. 1318 (D.D.C. 1973), *aff'd* 510 F.2d 654 (D.C. Cir. 1974), X1.

(440) *Wolfe* v. *Weinberger*, 403 F.Supp. 238 (D.D.C. 1975), X5, "agency," FACA.

(441) *Wood* v. *CIA*, Civ. No. 75-366 Civ. T-K (M.D. Fla. Jan. 6, 1977), X1, 3, *Vaughn* v. *Rosen* index requirement, refusal to disclose whether records exist.

(442) *Woolbright* v. *CIA*, Civ. No. CV 76-2448 LEW (C.D. Cal. Jan. 12, 1977), X1, 3, refusal to disclose whether records exist.

(443) *Wu* v. *Keeney*, 384 F.Supp. 1161 (D.D.C. 1974), X5.

(444) *Wu* v. *Natl. Endowment for Humanities*, 460 F.2d 1030 (5th Cir 1972), *cert. denied* 410 U.S. 926 (1973), X5.

(445) *Yamaha Int'l Corp.* v. *FTC*, Civ. Act. No. 74-475 (D.D.C. Dec. 9, 1975), X5.

SENATOR JESSE HELMS UPON FILING SUIT ASKS THE U.S. SUPREME COURT TO RULE ON MEANING OF ARTICLE IV, SECTION 3

Mr. HELMS. Mr. President, today I have been joined by three of our distinguished colleagues—Mr. McCLURE, Mr. THURMOND, and Mr. HATCH—in filing suit with the U.S. Supreme Court to settle the issue of whether or not the President can dispose of the Canal Zone by treaty without authorization from both Houses of Congress. We also have been joined by our distinguished colleague from the House, Mr. FLOOD, and by four States plaintiff, the States of Idaho, Iowa, Louisiana, and Nebraska. In addition, the attorney general of the State of Indiana, and Mr. William Drummond, of the Canal Zone, have joined in their own right.

The Constitution, in article IV, section 3, very clearly says that "the Congress" has power to dispose of U.S. territory and property. Ratification of a treaty does not meet this requirement because only one House of Congress, the Senate, is involved in a treaty.

The executive branch is saying that it has the power of disposing of U.S. territory "concurrently" with the Congress—that is, the President can dispose of U.S. territory by treaty, without action by both Houses.

We are asking the Supreme Court to rule that in the case of the Canal Zone the President has no power to act at all without authorization from both Houses. We are asking the Court to declare either that Congress has exclusive power, or that the President cannot exercise such power when Congress has already entered the field, or when it would deprive U.S. citizens of their civil and constitutional rights.

Of course, Congress began to legislate in the matter in 1902, when it authorized the President to acquire the Canal Zone. Congress has set up a code of law, a U.S. district court, a bill of rights. U.S. citizens in the zone presently enjoy these rights—all of which would be abolished under the proposed Panama Canal treaties.

It is highly significant that the attorneys general of five States have joined in this suit. Four States are parties plaintiff: Idaho, Iowa, Louisiana, and Nebraska. The attorney general of Indiana joins in his own right at the request of an Indiana Member of Congress and pursuant to a concurrent resolution of the Indiana Legislature and under Indiana Code 4–6–1–6.

Because of the States plaintiff, we have moved to seek original jurisdiction before the U.S. Supreme Court, as provided in the Constitution under article II, section 2, clause 2. The States are seeking a declaration that the President and the Secretary of State have exceeded their authority by the threatened loss of the votes of their delegation in the House of Representatives, and that their States will bear an unreasonably increased burden on their interstate and foreign commerce.

A similar suit was dismissed by the U.S. Supreme Court 3 months ago on grounds that it was "premature" without touching on its merits. The Court apparently felt that the issue was not ripe since no treaty had actually been presented. Now that a treaty has been signed and sent to the Senate, we feel that the issue is ripe.

WHAT WILL THE EFFECT OF THE SUIT BE?

If the Court declares that the President has exceeded his authority, then any action by the Senate would be null and void.

HOW COULD THE PRESIDENT HAVE EXCEEDED HIS AUTHORITY?

First. If the Court rules that the Congress has exclusive power to dispose of U.S. territory and property, then he has no authority whatsoever to dispose of the canal without action by both Houses of Congress.

Second. If the Court rules that the President does have concurrent authority with Congress to dispose of U.S. territory and property, but that Congress has already preempted the field, then he has no authority to repeal existing territorial legislation by treaty. The proposed Panama Canal treaty eliminates the Canal Zone Code and the U.S. District Court at Balboa.

Third. Similarly, even if the President does have concurrent authority, he cannot exercise that authority in such a way so as to deprive U.S. citizens of their constitutional and statutory rights. A long line of court decisions have established that the President cannot exercise his foreign relations power to deprive U.S. citizens of their civil rights. Citizens now living in the Canal Zone would find their legal jurisdiction transferred to Panama, and they would lose their constitutional protections and the safeguards established by Congress for their benefit.

Mr. President, I ask unanimous consent that the complaint of the plaintiffs and the motion for leave to file complaint by the States be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the Supreme Court of the United States, No. —, Orig.]

JESSE A. HELMS, JAMES A. McCLURE, STROM THURMOND, ORRIN G. HATCH, DANIEL J. FLOOD; STATE OF IDAHO, STATE OF IOWA, STATE OF LOUISIANA, STATE OF NEBRASKA; WILLIAM R. DRUMMOND, AND THEODORE L. SENDAK, PLAINTIFFS, V. CYRUS R. VANCE AND JAMES E. CARTER, JR., DEFENDANTS

COMPLAINT

Jurisdiction

1. The original jurisdiction of the Court is invoked under Art. III, Sec. 2, cl. 2 of the Constitution of the United States for declaratory relief authorized by Section 2201 of Title 28 of the United States Code. The suit prays for a ruling as to the exclusive authority of Congress to dispose of territory and property of the United States under Art. IV, Sec. 3, cl. 2 of the Constitution or, if such a right does not exist, a ruling that any concurrent disposal power lodged in the Executive branch as an implication from its acknowledged treaty power, (Art. II, Sec. 2, cl. 2) may not be so exercised by the President as to effect a repeal of existing territorial legislation or divest United States citizens residing in the Canal Zone of their recourse to Constitutional guarantees.

Parties

2. The States of Idaho, Iowa, Louisiana and Nebraska appear herein in their sovereign capacity and as representative of their citizens for the relief hereinafter prayed, suing on their own behalf and for the benefit of all other States similarly situated. These four States are represented in Congress by eight Senators and eighteen Representatives. On information and belief they annually ship by water to other States and foreign destinations in excess of $10 billion in farm and manufactured products, a substantial proportion of which passes through the Panama Canal, subject to its tolls.

3. Plaintiffs Jesse A. Helms, James A. McClure, Strom Thurmond and Orrin G. Hatch are duly elected members of the Senate of the United States having their official residence in the District of Columbia. They sue on their own behalf and for the benefit of all Senators similarly situated.

4. Plaintiff Daniel J. Flood is a duly elected member of the House of Representatives of the United States, having his official residence in the District of Columbia. He sues on his own behalf and to preserve the voting rights of all members of the House of Representatives.*

5. Plaintiff William R. Drummond is a citizen and employee of the United States, is a resident of the Canal Zone, and President of Local 1798, American Federation of Government Employees, AFL–CIO. He sues herein as an individual and as representative of the class of all United States citizens having their permanent residence in the Canal Zone.

6. Plaintiff Theodore L. Sendak is the Attorney General of the State of Indiana and has his official place of business at 219 State House, Indianapolis, Indiana. Pursuant to request of an Indiana Congressman and a concurrent resolution of the Indiana legislature dated April 15, 1975, he sues under Indiana Code 4–6–1–6 to request prior Congressional authorization of any alienation of the Canal Zone.

7. Defendant Vance is the Secretary of State of the United States. He is the principal Executive Branch official charged with enforcement of the policies of the President in foreign affairs, and has supervised negotiation of the proposed treaty with Panama, which defendants have submitted to the Senate for ratification.

8. The President is the head of the Executive branch and the responsible superior of Secretary Vance. By statute he exercises administrative and military control over the Canal Zone. The President possesses direct Constitutional authority as Commander-in-Chief of the Armed Forces of the United States and has the capability of authorizing unopposed Panamanian occupation of the Canal Zone at any time.

THE CANAL ZONE

9. In June, 1902 an Act was approved (57th Cong. 1st Sess., Ch. 1302, Public No. 183, the "Spooner Act") whereby Congress authorized and directed the President to negotiate for the acquisition of a suitable strip of land across the Panamanian isthmus for the construction and operation of a transoceanic canal, the legislative requirement being that the agreement should provide perpetual control thereof under United States jurisdiction.

10. On November 18, 1903 the President, specifying that statute as his authority, entered into an agreement with the newly formed Republic of Panama (Isthmian Canal Convention, a/k/a the Hay-Bunau-Varilla Treaty, 33 Stat. at L. Pt. II, pp. 2234–2241) which included the stated Congressional requirements. The agreement was proclaimed on February 26, 1904.

11. In accordance therewith, Congress

(a) Appropriated from the Treasury and paid:

*On October 3, fifty-one other Reprsentatives filed an action in the District Court for the District of Columbia for a similar declaration of their right of review. (Civ. No. 77–1733)

$25 million to Colombia;

$10 million to the Republic of Panama;

$40 million to a French company which held the Canal concession;

$4 million compensation to individual land holders of the Zone; and

$56 million in subsequent annuity payments to the Republic of Panama.

(b) Expended in excess of $1.5 billion for construction and maintenance of Canal and Zone facilities.

(c) Enacted legislation for the governance of the Zone, including the establishment of a judicial system, a bill of rights, and civil and criminal codes to be applied to resident United States citizens and nationals, (the Canal Zone Code, P.L. 87–845, 76 A Stat. 1, 48 U.S.C. §§ 1301 *et seq.*)

(d) Created the Panama Canal Company (until 1950, the "Panama Railroad Company") to operate the canal, giving it "perpetual succession in its corporate name, unless dissolved by Act of Congress." (2 C.Z.C § 61(b)).

(e) Directed the transfer of the Canal and its facilities to the Panama Canal Company (2 C.Z.C. § 73), which has since operated it.

12. Among the Courts so established by Congress is the United States District Court for the District of the Canal Zone (3 C.Z.C. § 10). It was made a part of the 5th Judicial Circuit (28 U.S.C. § 41) and this Court was given review jurisdiction over its judgments (28 U.S.C. § 1252). The Court is presently without any judge and on information and belief no nomination of any judge has been made by the President.

13. On February 7, 1974 the then Secretary of State, Henry Kissinger, without legislative authorization, executed with Panama in the name of the United States a "Joint Statement of Principles" pursuant to the terms of which the State Department promised to void the 1903 Convention, transfer the Canal and Zone properties to the Republic of Panama, and submit its residents, including American citizens, to the jurisdiction of the laws and courts of Panama. The current treaty proposal states that it is drawn in accordance with the 1974 statement.

THE PROPOSED AGREEMENT WITH PANAMA

14. On September 7, 1977 the President signed an agreement to enter into a treaty with Panama which by its terms

a) Terminates the Isthmian Canal Convention of 1903,

b) Recognizes the Republic of Panama as territorial sovereign in the Zone, and grants it "plenary jurisdiction over the former Canal Zone".

c) Dissolves "the Panama Canal Company and the Canal Zone Government".

d) Transfers to Panama without charge "all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon".

e) Turns over the Canal to Panama "in operating condition and free of liens and debts".

f) Grants to Panama "a fixed annuity of ten million United States dollars" plus an equal amount for services, plus a further $10 million if realized from Canal profits, plus .30/ton on all vessels transiting the Canal, (approx. $43 million) or a total of approximately $70 annually.

g) Extinguishes the jurisdiction of the United States District Court for the Canal Zone District and extends Panamanian civil and criminal jurisdiction over citizens of the United States resident in the Zone.

15. The proposed treaty is limited in time. Such time is referred to therein as a "transition period". It terminates on December 31, 1999 after which "only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory."

16. The described agreement between the United States and the Republic of Panama was submitted by defendants to the Senate for ratification as a treaty and on September 16, 1977 was referred by the Senate to its Committee on Foreign Relations (123 Cong. Rec. S. 15144) where it is presently pending.

THE THREATENED INJURY

17. The proposed payment of approximately $70 million annually to the Republic of Panama would result in an increase of more than 200% in the tolls now charged for the transit of goods shipped from the plaintiff States to the West Coast states and in their overseas trade and would thereby unreasonably increase the burden on such commerce.

18. Such an increase in tolls would not only cause a loss of trade to plaintiff States, but would burden anticipated shipments of oil from Alaskan or other Pacific sources to Eastern and Mississippi States, diminish the use of refineries now located in the South, and decrease the utilization of shipping facilities in seacoast ports.

19. Additionally, ratification of the said proposal as a treaty would deprive the plaintiff States of any consideration thereof by or vote thereon by their delegations in the House of Representatives and decrease the effective franchises of their citizens.

20. The plaintiff Senators would be injured by any ratification of the said proposal as a treaty in that they would thereby lose the benefit of any review by a Congressional conference committee and be deprived of its evaluation by the Senate Armed Services and Commerce Committees, which are the responsible bodies to evaluate Panama Canal legislation under Senate Rules 25.1(d) and (f). Further, the submission of the proposal in treaty form presents it as a moral commitment by the United States and the Senate consideration normally given to debatable legislation would be diminished.

21. Under the Constitution (Art. IV, Sec. 3 cl. 2) Congress has an exclusive right to dispose of properties of the United States. By submission of the proposal in treaty form it will be considered only by the Senate and the plaintiff Representative* will be completely deprived of any opportunity to consider or vote on its terms.

22. Under the proposal as signed and submitted, plaintiff Drummond and all other citizens of the United States resident in the Canal Zone would, without a hearing, lose their Constitutional protections and their reliance on the bill of rights and civil and criminal laws enacted by the Congress for there benefit.

23. On behalf of the interests of the State of Indiana, plaintiff Theodore L. Sendak complains of the loss of votes to the delegation of that State in the House of Representatives and the consequent deprivation *pro tanto* of the franchise of Indiana citizens, the threatened burden on Indiana's commerce, and the adverse effect on the State's relative position in government which would result from any recognition of unreviewable property disposal powers in the Executive branch.

Wherefore, plaintiffs pray the Court to issue a judgment pursuant to 28 U.S.C. § 2201 declaring that

1. The Canal, the rights to the use of the Canal Zone and the improvements therein are properties of the United States;

2. The Congress has an exclusive constitutional authority to direct their disposition; or

3. In the event that the Executive possesses concurrent power under the treaty clause to dispose of such property, a further declaration that such authority may not be exercised

a) in contravention of existing legislation, or

b) so as to deprive citizens of the United States of their Constitutional and statutory recourse.

Respectfully submitted,

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Attorney General of the State of Idaho.
RICHARD C. TURNER,
Attorney General of the State of Iowa.
WILLIAM J. GUSTE, JR.,
Attorney General of the State of Louisiana.
PAUL L. DOUGLAS,
Attorney General of the State of Nebraska.
GEO. S. LEONARD,
Attorney for the Individual Plaintiffs.

OCTOBER 13, 1977.

[In the Supreme Court of the United States, No. —, Orig.]

STATE OF IDAHO, STATE OF IOWA, STATE OF LOUISIANA, STATE OF NEBRASKA, PLAINTIFFS, V. CYRUS R. VANCE, AND JAMES E. CARTER, JR., DEFENDANTS

MOTION FOR LEAVE TO FILE AN ORIGINAL COMPLAINT

Pursuant to Rule 9 of the Rules of this Court and the annexed brief in support hereof, the States plaintiff invoke the Court's jurisdiction under Art. III, Sec. 2, cl. 2 of the Constitution of the United States, and pray the Court's leave to file the attached complaint as an original action, upon the ground that the States which are parties to the suit appear herein in support of their sovereign interest to preserve their proportionate voice in Congress and avoid a threatened burden on their commerce.

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE ORIGINAL COMPLAINT

The issue

Four States are parties plaintiff and allege an injury to themselves and to their citizens in a matter affecting their sovereign interest. Directly, and in their *parens patriae* capacity, they invoke this Court's original jurisdiction under Art. III, Sec. 2, cl. 2 of the Constitution to pray a declaration that the federal officials named as defendants have exceeded the authority of the executive branch of government to the injury of the States and their people by the threatened loss of the votes of their delegation in the House of Representatives and an unreasonably increased burden on their interstate and foreign commerce.

Defendants have asserted the existence of an implied Constitutional foreign affairs authority (Art. II, Sec. 2, cl. 2) to alienate United States property, pursuant to which they have executed and submitted to the Senate for ratification in the form of a treaty, a proposal which would dispose of the territorial rights and properties of the United States in the Canal Zone to the Republic of Panama and would cede civil and criminal jurisdiction over the United States citizens and nationals resident in the Zone from the courts established by Congress to the Panamanian courts.*

Plaintiffs in opposition claim that the Canal, the Canal Zone, its structures and the rights exercisable by the United States in the Zone are properties of the United States which may only be disposed of by the whole Congress under the authority of the property Clause, Art. IV, Sec. 3, cl. 2. Further, plaintiffs say that if in law the concurrent disposal powers claimed by the executive branch should exist, the many enactments of Congress previously approved by the executive for the governance of the Zone have foreclosed any further exercise of such right since statutes in areas of specific Congressional authority under the Constitution may

*Although the desirability of this proposed arrangement is being sharply debated by these parties and the public in general, that is conceded to be a political issue which is not involved in this case.

not be repealed by implication through a treaty which is inconsistent with their terms. Finally, plaintiffs argue that the executive's foreign affairs power would not in any event extend to the making of agreements with foreign nations which would deprive individual United States citizens of their rights under the Constitution.

The facts underlying this disagreement between the parties on the relative powers of the executive and legislative branches of government under the Constitution are set out in the attached complaint. Plaintiffs are not aware of any material dispute between the parties on these facts.

Jurisdiction

The original jurisdiction of this Court over States suing directly and as representatives of their citizens has been ruled on,

"Our conclusion therefore is that the original jurisdiction vested by the Constitution in this court over controversies in which a state is a party is not affected by the question whether the state is party plaintiff or party defendant; that a dispute as to the title to real estate is a question of a justiciable nature, and can properly be determined in a judicial proceeding; and that the United States is to be taken, for the purposes of this case, as the real party in interest adverse to the state. We are of opinion, therefore, that this court has jurisdiction of this controversy, and is called upon to determine the case upon its merits."—*Minnesota* v. *Hitchcock*, 185 U.S. 373, 22 S.Ct. 650, 656 (1902).

"An inspection of the bill discloses that the nature of the injury complained of is such that an adequate remedy can only be found in this court at the suit of the state of Missouri. It is true that no question of boundary is involved, nor of direct property rights belonging to the complainant state. But it must surely be conceded that, if the health and comfort of the inhabitants of a state are threatened, the state is the proper party to represent and defend them." *Missouri* v. *Illinois*, 180 U.S. 208, 21 S.Ct. 331, 344 (1901).

The jurisdiction of the Court over constitutional questions was spelled out by Mr. Justice Marshall in *Cohens* v. *Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed. 257, 291 (1821):

"It is most true that this court will not take jurisdiction if it should not; but it is equally true, that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do, is to exercise our best judgment, and conscientiously to perform our duty. * * *"

Since *Marbury v. Madison*, 1 Cranch 137, 5 U.S. (L. Ed.) 60 (1803) one of the most important of those constitutional issues has been the duty of the judicial branch to hold executive officials, including the President, within the ambit of their Constitutional powers, *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 72 S. Ct. 863 (1952), *National Treasury Employees Union v. Nixon*, 492 F. 2d 587 (CADC 1974).

Nor is it an objection that such questions most often arise in the context of heated public debate. As Mr. Justice Frankfurter pointed out in his concurrence in *Youngstown*, (343 U.S. at 596, 72 S. Ct. at 890),

"* * * To deny inquiry into the President's power in a case like this, because of the damage to the public interest to be feared from upsetting its exercise by him, would in effect always preclude inquiry into challenged power, which presumably only avowed great public interest brings into action. And so, with the utmost unwillingness, with every desire to avoid judicial inquiry into the powers and duties of the other two branches of the government, I cannot escape consideration of the legality of Executive Order No. 10340."

A determination of the property rights of the United States under a conflict between statute and treaty is a proper question for the exercise of this Court's original jurisdiction, *United States v. State of Maine, et al.*, 420 U.S. 515, 95 S. Ct. 1155 (1975). This principle has been many times reiterated with respect to the claims of the States to undersea lands.

"It is contended that since Texas was admitted to the Union with its maritime boundary not yet settled, United States foreign policy on the extent of territorial waters, to which Texas was admittedly subject from the moment of admission, automatically upon admission operated to fix its seaward boundary at three miles. This contention must be rejected. As we have noted, the boundaries contemplated by the Submerged Lands Act are those fixed by virtue of Congressional power to admit new States and to define the extent of their territory, not by virtue of the Executive power to determine this country's obligations *vis-a-vis* foreign nations. 363 U.S. at pages 30–36, 80 S. Ct. at pages 979–982. It may indeed be that the Executive, in the exercise of its power, can limit the enjoyment of certain incidents of a Congressionally conferred boundary, but it does not fix that boundary.

. . . the dealings of the Executive with other nations cannot affect the State's rights in any way as a domestic matter."—*United States v. States of Louisiana, etc.* 363 U.S. 1, 51, 64–5, 80 S. Ct. 961, 990, 997 (1960).

"It cannot be ignored that the application of the Convention to Texas here would allow Texas, unlike all other States except Florida, to expand its own state boundaries beyond the congressional limitation simply because of a rule governing the relationships between maritime nations of the world. This is a domestic dispute which must be governed by the congressional grant. There is no reason why an international treaty should be applied when it simply works to take away land from the United States in order to give to Texas more land than it ever claimed historically. We cannot believe that Congress intended such a result."— *United States v. State of Louisiana*, 389 U.S. 155, 160–1, 88 S.Ct. 367, 370 (1967).

Form of action

The parties having standing and the subject matter being one within the Court's proper cognizance, the principal question is whether the relief prayed is appropriate to the case. Basic authority arises under 28 U.S.C. § 2201 which provides that declaratory judgments may be issued by ". . . any court of the United States, . . .". The factors to be considered in exercising this jurisdiction were set out in *Maryland Casualty Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270, 273, 61 S.Ct. 510, 512 (1941).

"Basically, the question in each case is whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. See *Aetna Life Ins. Co. v. Hayworth*, 300 U.S. 227, 239–42, 57 S.Ct. 461, 463, 464, 81 L.Ed. 617, 108 A.L.R. 1000."

This analysis has been repeated in many cases, *Golden v. Zwickler*, 394 U.S. 103, 89 S.Ct. 956 (1969), *Steffel* v. *Thompson*, 415 U.S. 452, 94 S.Ct. 1209 (1974), *Roe v. Wade*, 410 U.S. 113, 125, 93 S.Ct. 705, 712 (1973), *Abbott Laboratories v. Gardner*, 387 U.S. 136, 148, 87 S.Ct. 1507, 1515 (1967), *State of Florida v. Weinberger*, 492 F.2d 488 (5 Cir. 1974) and is concurred in by the writers, 3 *Davis* Adm. Law Tr. c. 21 (1958), *Jaffe* Judicial Control of Administrative Action, C. 10 (1965).

The question raised by the complaint is substantial in law. Apart from the property interest of the United States in the Canal, and supporting structures, housing areas, railroads, government buildings and the like, this Court in *Wilson v. Shaw*, 204 U.S. 24, 33, 27 S.Ct. 233, 235 (1907) held that the Zone is itself a possession of the United States, the 1903 treaty being described in 1948 as a lease "extending until agreement for abrogation or unilateral abandonment by the United States", *Vermilya-Brown Co. v. Connell*, 335 U.S. 377, 383–4, 69 S.Ct. 140, 144, *Acc. U.S. v. Husband R.* (Roach), 453 F.2d 1054 (5 Cir. 1971) *cert. den.* 396 U.S. 935 (1972), *Lucas v. Lucas*, 232 E.Supp. 466 (D.C.C.Z., 1964) *Huasteca Petroleum Co. v. United States*, 14 F.2d 495, (E.D.N.Y. 1926), 26 Op. A.G. 376 (1907). Starting at least with *United States v. Fitzgerald*, 40 U.S. 785, 15 Pet. 407, 421 (1841), it has many times been held that the power to dispose of property of the United States is exclusively in the competence of Congress under the property clause, *Osborne v. United States*, 145 F.2d 892 (9 Cir. 1944), *Alabama v. Texas*, 347 U.S. 272, 74 S.Ct. 481 (1951), *Tugade v. Hoy*, 265 F.2d 63 (9 Cir. 1959). The power so given to Congress is "unlimited", *Sierra Club v. Hickel*, 433 F.2d 24, 28 (9 Cir. 1970) *aff'd.* 405 U.S. 727, 92 S.Ct. 1361 (1972) and includes authority to prescribe the times, conditions, and mode of transfer and selection of the recipient, *Gibson v. Chouteau*, 13 Wall. 92, 99 (1872), *Irvine v. Marshall*, 20 How. 558 (1858), *Embien v. Lincoln Land Co.*, 184 U.S. 660, 664, 22 S.Ct. 523, 525 (1902).

As the allegations of the attached complaint show, the controversy is also substantial in a factual sense, in that it involves the rights of the United States in approximately three hundred and twenty-five square miles of land, title to improvements who replacement value is estimated to be in excess of three and a half billion dollars, the repeal by implication of the Canal Zone Code and other statutes which provide the laws for the Zone, the existence of its courts and the complex administrative organization which has heretofore been created by the Congress, and any Constitutional recourse by more than 3500 citizens resident in the Zone who will be involuntarily transferred to Panamanian jurisdiction.

The issue also involves adverse legal interests in that question necessarily presents a choice between mutually incompatible interpretations of Constitutional authority by the branches of government represented by the parties plaintiff and defendant. Plaintiffs assert an exclusive Constitutional disposal power in Congress. The defendants assert a concurrent Constitutional disposal power in the Executive, offering in principal support a summarization of authorities in an opinion of the current Attorney General, —— Op. A.G. ——, August 11, 1977* to that effect. Of greater practical importance, however, to the question of adverse legal interests, is that the agreement with Panama has now been signed by the President and has been sent to the Senate for ratification as a treaty.

The final question is whether the current situation is also one of sufficient immediacy and reality to warrant the issuance of a declaratory judgment at this time? Admittedly, three months ago it was judicially held that it was not. A prior action raised the same legal question in the United States District Court for the District of Columbia following President Carter's announcement that a treaty proposal to deliver the Canal and its citizenry to the Republic of Panama would be completed and presented to the Senate by June, 1977 (Civ. No. 77–0063). The District Court denied an injunction to maintain the *status quo* and dismissed the case without reaching the merits, holding that the action was premature, the nonstate plaintiffs lacked standing, and the issue was probably a political question. On appeal (Nos. 77–1226 and 77–1295) the District Court was affirmed on the stated ground that the matters presented were not ripe for consideration. On June 20, 1977, this Court declined review (No. 76–1576). The decisions of the lower courts are reprinted in that petition.

*Contra, 34 Op' A.G. 320, 322, (1924).

The situation has now matured and the former areas of doubt have been resolved by publication of the proposed treaty language, (State Dept. Sel.Docs. Nos. 6, 6A, 6B). The signed agreement is now before the Senate for ratification, and that body has referred it to its Committee on Foreign Relations for review (123 Cong.Rec.S.15144, Sept. 16, 1977). The adverse positions of the parties have therefore been defined and the Senate is preparing to act on a treaty proposal which—if plaintiffs' contentions are valid—would be Constitutionally void regardless of ratification or rejection.

Nor is it an objection to ripeness at this time that the proposed agreement does not become effective until six months after an exchange of ratifications. In a similar situation, as this Court pointed out in *Buckley v. Valeo*, 424 U.S. 1, 96 S.Ct. 612 (1976), ripeness exists where an "all but certain exercise" of authority can be shown, 96 S.Ct. at 681.

Conclusion

A proper case for the exercise of the Court's original jurisdiction is presented. The interest of the States is sovereign in character, the issues are defined, the problem is immediate, the subject matter is justiciable and substantial, and the relief prayed is a traditionally appropriate judicial method of resolving the question. Leave to file the complaint under the Court's original jurisdiction should be granted.

Respectfully submitted,

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OCTOBER 13, 1977.

LEGAL SERVICES CORPORATION

Mr. McCLURE. Mr. President, the legislation we considered yesterday involved not only an increase and extension of funding for the Legal Services Corporation, but perhaps more importantly, as it came from the committee it contained a subtle and at the same time sweeping alteration of the charge the Corporation is directed by Congress to carry out. In my judgment, this change was wrong, not only from a basic philosophical objection, but because it effectively seeks to legitimize activities which clearly violate the scope and intention of existing law.

We adopted an amendment which I offered which seeks to maintain the ban against direct funding of special research and support centers known as "back-up centers." This ban, contained in the so-called Green amendment, was designed to insure that the attention of the Legal Services Corporation and its fund recipients is directed to those activities falling within the intent of the enabling legislation; specifically, as stated in the declaration of purpose, "to provide equal access to the system of justice in our Nation to individuals who seek redress of grievances," and "who would otherwise be unable to afford adequate legal counsel.

The declaration of purpose also states, "to preserve its strength the legal services program must be kept free from the influence or use by it of political pressures." Unfortunately, the intent of the original legislation has already been circumvented in many instances in spite of the safeguards included in the act, such as that created by the Green amendment. Legal services personnel have engaged in outright lobbying, political organization, solicitation of clients, class action suits, and other activities clearly outside the scope of congressional intent. Repeal of the Green amendment language can only exacerbate the tendency of fund recipients away from representation of poor clients before the bar and toward activities aimed at effectuating a particular political viewpoint.

Let me give some examples of the activities our tax dollars have supported through the Legal Services Corporation.

First. The Legal Services Corporation supported Massachusetts Law Reform Institute which actively lobbied in behalf of graduated State income tax to be voted on in a special election in the State, while at the same time working on a ccurt case which forbade corporate financial contributions to the campaign against the graduated tax.

Second. The Legal Aid Bureau of Baltimore argued for restructuring utility rates before the Maryland Public Service Commission.

Third. In Maine, Pine Tree Legal Assistance, Inc., is actively involved in the efforts to force the State to cede two-thirds of its territory to the Passamaquoddy and Penobscot Indian tribes.

Fourth. Legal Services Corporation attorneys have filed and become involved in school busing cases in direct contravention of the Legal Services Corporation Act.

Fifth. Legal Services Corporation fund recipients have actively solicited clients through publications and direct contact with individuals about their working and living conditions.

Sixth. Most recently, the Legal Services Corporation has intervened in the Bakke reverse discrimination case, and filed briefs on behalf of the petitioner in the case, the regents of the University of California.

Defenders of these activities argue that they are only examples of eligible clients using the legal system to protect their rights through legal means. They argue that even where a number of nonpoor are included in a class the commonality of interest brings specific class actions under the authority of the act since even one member of the class falls within the definition of elegible client. I cannot agree with this line of reasoning. What it means is that legal services is no longer a poor people's program created to serve a narrow, but very important purpose—the provision of legal counsel to those otherwise unable to obtain representation on their own. It becomes a program of social crusaders who use the poor as a springboard for activities aimed at affecting social and institutional change. What started in 1965 as a $3.1 million program has grown to a $125 million program, and this 40-fold increase has not resulted from a commensurate increase in the number of clients, but rather a growth in the sort of high profile, politically motivated activity, even in areas outside the geographic locality in which specific fund recipients are established, to which their lawyers seem so inexorably attracted.

It has become a program not to impartially seek justice in a court of law and to represent poor clients on a personal, individual level, but one which uses public funds to seek political change outside the electoral process. Statements to the contrary notwithstanding, this was not the intent of Congress when it created the Legal Services Corporation; moreover, I cannot believe the sort of perversion of congressional intent which has characterized legal services activities in several instances accords with the function most Members of this body feel the corporation should serve with tax dollars.

The crucial point is this: the fact public tax dollars are used to support Legal Service Corporation activities creates a unique responsibility. The Federal Government must not be in a position of favoring one side over another in a political matter; yet this is precisely the effect of allowing Federal dollars to be used in this manner. What is more disturbing is that this effect occurs not openly and aboveboard as a legitimate function of Government, but deceptively under the auspices of a program intended for a different purpose altogether. It may in fact be viewed as amounting to a violation of the first amendment guarantee of the right of free speech, since taxpayers are in effect forced to comment favorably on those political questions in which Legal Services Corporation fund recipients chose to become involved, through the forced contribution of tax dollars. The Supreme Court has repeatedly affirmed the principle that the first amendment guarantees the right to remain silent as well as the right to speak out on an issue, and recently concluded that the contribution of money for the purpose of engaging in advocacy is as much a question of speech as opening your mouth.

Mr. President, I do not argue that retention of the prohibition of direct funding of back-up centers would alleviate these problems; but it would forestall their continued growth and proliferation. Allowing direct Legal Services Corporation funding of activities clearly outside the scope of the desirable and necessary purpose of providing legal service to those unable to afford representation on their own, will only serve to use up resources that should be available for the representation of the genuinely needy. Taxpayer support of back-up centers will aid those militant activities in the ranks of

legal services lawyers in promoting activities and suits to encourage broad social changes of the attorneys' own preference, rather than focusing on individual cases of individual clients. Federal funding of such centers can amount to a taxpayer subsidy of advocacy of forced busing, liberalized abortion laws, and other actions with which many taxpayers do not agree. Public funds should not be used to support private political causes.

The amendment which the Senate adopted was a compromise. The future actions of those involved will tell whether it simply expanded the support for the legitimate representation of poor people in their individual legal problems or acted as the springboard for even more violations of the letter and the spirit of the law. I sincerely hope it is the former. I realistically expect it will be the latter.

DEPARTMENT OF ENERGY IN PERSPECTIVE

Mr. WALLOP. Mr. President, the rapidly rising cost of Government is a concern to us all. Sometimes, however, I am afraid that in the day-to-day conduct of our business, we become insensitive to meaning of the figures with which we deal. Western Crude Oil, Inc., a Denver-based company has published an information sheet that dramatically emphasizes the magnitude of those figures, using as an example the new Federal Department of Energy.

The projected $10.6 billion budget of the Department of Energy represents $50 for each and every member of the total U.S. population. It exceeds the 1975 capital and exploration expenditures of the petroleum industry for exploration and production of domestic crude oil, natural gas, and natural gas liquids by more than $1 billion. And it exceeds the 1974 profits of the seven largest oil companies—profits which have been called obscene.

Because these figures may be of interest to my colleagues, I ask unanimous consent that the information sheet to which I refer be printed in the RECORD.

There being no objection, the information sheet was ordered to be printed in the RECORD, as follows:

$10.6 BILLION? THEY CAN'T BE SERIOUS

The new Department of Energy will consolidate the functions of the Federal Power Commission, Federal Energy Administration and the Energy Research and Development Agency as well as acquiring energy functions from four cabinet departments and one independent agency.

Actually, by totalling the number of employees and the fiscal budget of all the departments and energy functions that now will be assumed by the Department of Energy, they will employ 19,767 people and dispose of a fiscal 1978 budget of $10.6 billion.

To put that budget in perspective, consider the following:

1. It represents $500,000 per Department employee.

2. It represents $50 for each and every member of the total U.S. population (212 million).

3. It represents $266,871 for each of the 39,763 wells drilled in 1976.

4. It represents $58.35 for each of the 181,855,700 feet drilled in 1976.

5. It represents $3.59 for each barrel of domestic crude oil production in 1976.

6. It represents $1.67 for every barrel of petroleum products consumed in 1976.

7. It represents 10¢ for every gallon of gasoline consumed in 1976.

8. It represents $0.3434 on every barrel of proven crude oil reserves as of December 31, 1976 (30.9 billion barrels).

9. It exceeds 1975 capital and exploration expenditures by the petroleum industry to explore for and produce domestic crude oil, natural gas and natural gas liquids ($9.4 billion, according to the Chase Manhattan Bank) and it is almost three-fifths of capital expenditures in all U.S. petroleum sectors that year ($17.7 billion).

10. It exceeds the 1974 profits of the 7 largest oil companies—profits which were called "obscene."

If you believe this budget won't increase next year, you'd better look under your pillow in the morning . . . someone may have left you a quarter.

TRIBUTE TO RAY KROC OF McDONALD'S FAME

Mr. PERCY. Mr. President, I would like to take just a moment of the Senate's time today to wish happy birthday to a good friend, Ray Kroc.

This past Saturday, in Chicago, a number of Ray's friends gathered to celebrate his 75th birthday and his distinguished and remarkable career.

As all my colleagues know, Ray Kroc is something of a legend. The McDonald story is famous worldwide. It is the story of an enterprising man who developed an idea to its fullest and made it successful.

Ray Kroc became involved in the fast food business during his years of selling restaurant equipment that could mix five milk shakes at one time. During his business rounds, he discovered two brothers, named McDonald, who had ordered several machines for their hamburger stand in California.

With his curiosity sparked by the notion of a restaurant mixing dozens of milk shakes at once, Ray Kroc approached the brothers with the idea of franchising the fast food business throughout the country. The first franchise was opened in Des Plaines, Ill.

The rest is history. There are now more than 4,300 restaurants throughout the world, employing more than 257,800 people, most of them young people, I might add.

Ray Kroc has proven that the American system, the free market works. He has shown that perseverance, dedication, and hard work pay off.

However, the true worth of a man, I think, is measured by what he does with his success. All of us owe a great deal of thanks to Ray Kroc for the contributions he has made to the arts and to sports. His creativity as a businessman is matched only by his concern as a philanthropist.

But Ray Kroc and his lovely wife Jean have done more than just donate their time and their interests to civic and social causes, they have remembered and given to those in less fortunate circumstances. Ray Kroc's generosity will never be forgotten.

HUBERT H. HUMPHREY BUILDING

Mr. HATHAWAY. Mr. President, one of the great pleasures of serving in the Senate is the contact that we have with people of great stature. It does not happen often, either here or anywhere else, but the occasional nearness to men and women of vision and goodness is one of our greatest rewards.

Politics may be thought by many to be an arena of scoundrels and self-servers. I must say it has not always been an easy charge to defend. But greatness and politics should blend together. And to our everlasting benefit, they sometimes do.

Plato, writing several hundred years before the birth of Christ, talked about the necessity of greatness in politics. In fact, he said that greatness and wisdom would be needed if his own state was to succeed. This is the way he put it:

> Until philosophers are kings, or the kings and princes of this world have the spirit and power of philosophers, and political greatness and wisdom meet in one, and those commoner natures who pursue either to the exclusion of the other are compelled to stand aside, cities will never have rest from their evils—no, nor the human race, as I believe—and then only will this our state have a possibility of life and behold the light of day.

The "possibility of life" that Plato talked about was given to us by such great men as Thomas Jefferson. And that wonderful gift has been and made even stronger—by such great men as HUBERT HUMPHREY.

Many of our elderly who have medical care under the medicare program can thank HUBERT HUMPHREY for their health. Parents whose children participate in the Head Start program owe a great deal to HUBERT HUMPHREY. People who have benefited from the Community Mental Health Act or the Elementary and Secondary Education Act or any number of other "people-oriented" program have benefited from the hard work and the vision of HUBERT HUMPHREY.

A look at Senator HUMPHREY's record shows his concern for the well-being of the American people. So much of his legislation was aimed at helping people with their health, and their education, and their happiness.

Much of Senator HUMPHREY's work has become people programs, administered by the Department of Health, Education, and Welfare. His visions are carried out, in part, in the HEW Building at 200 Independence Avenue.

HUBERT HUMPHREY's name should be on that building—just as it is in the hearts of the American people, for whom he has cared so much.

COMMON CAUSE STAFF DISTORTS TRUTH, MISLEADS MEMBERS

Mr. SCHWEIKER. Mr. President, it is with sincere regret that I rise today to advise my colleagues that the once effective and respected Common Cause Washington, D.C., lobby has changed.

In the early years of Common Cause's existence under the able direction of John Gardner, I was tremendously impressed by the goals, the style and the decency of the self-styled "people's lobby." On more than one occasion I replied to constituents asking my opinion of Common Cause that it was effective and respected on Capitol Hill. Time and again I have cast my vote on the same side of an issue that Common Cause favored, because I felt they were on the right side. According to Common Cause's own voting scorecards I voted against their position only 2 times out of 54 votes in the years 1971–76.

Sadly, earlier successes have apparently gone to the heads of the people on Common Cause's Washington payroll who are supported by the dues of interested citizens, many of them my constituents. I cannot now remain silent while these Common Cause Washington payrollers supply misleading and even false information to well-intentioned constituent members who are paying their salaries and relying upon them for the truth about what is happening on Capitol Hill.

I refer specifically to a large amount of material which Common Cause's staff has circulated widely to its members and to the media in the aftermath of the Senate's failure to enact a public financing measure. Common Cause favored the bill, but other Senators and I believed it had been so badly mangled and compromised that it was a sham to label it "election reform."

Common Cause's Washington staff, miffed because they did not get their way, leveled a personal attack on Senators CASE, CHAFEE, DANFORTH, JAVITS, HATHAWAY, HEINZ, PERCY, and me. On literature mailed to members, we were placed on what the Common Cause Washington staff labeled "The Common Cause Dishonor Roll" and their accounts of our actions were titled "Profiles in Political Cowardice." A Common Cause staffer publicly questioned our integrity.

Mr. President, were that all that Common Cause's Washington staff had done, I would have remained silent, though I must be frank and say that I was quite disappointed after all the times I have fought for the things Common Cause favored, to find myself the target of such a vitriolic personal attack.

But, Mr. President, I have now discovered that Common Cause, Washington, is circulating not only misleading and deceptive attacks on me but, in addition, has disseminated outright false information about my actions on the floor of the Senate. I feel other Senators should be made aware when a group such as Common Cause's Washington staff disseminates dishonest information about what happened in the Senate.

In a letter replying to one of my constituents, a member of Common Cause who had questioned the accuracy of their material attacking my actions, Common Cause, Washington, stated:

> First, Senator Schweiker speaks of a "backroom change" by which primary elections were excluded from coverage in S. 926. He does not explain how this came about. In the normal course of the legislative process, changes in any bill are made openly, in the committee which handles the bill. We have no record here, nor does there appear to be any record extant, of any "backroom change" in dropping the primary coverage from the original bill. It was done openly, during markup sessions. Senator Schweiker could have argued against it, and indeed may have done so. But he could also could (sic) have voted to let the Senate itself vote on the bill, and offered a floor amendment to put primary coverage back in. He did not do so. Three times, instead, he voted to keep the Republican filibuster going.

Frankly, I am shocked at the dishonesty of Common Cause's treatment of this issue. The CONGRESSIONAL RECORD of July 27 at page 25174 tells the true story. An amendment to reinstate primary coverage was in fact offered. The CONGRESSIONAL RECORD shows that I voted for it. The CONGRESSIONAL RECORD also shows that I stated that if Senators such as those which Common Cause has now labeled as its heroes truly wanted to pass a good public financing bill, they would accept the primary coverage amendment. My RECORD statement follows:

> Mr. President, I rise in strong support of the amendment of the Senator from Oregon.
>
> I have believed that the right kind of public financing could make significant improvements in the conduct of our elections by reducing the impact of big money and special interest money, and by giving our people fairer and better informed choices.
>
> But it is vitally important that the public financing bill we enact is the right one. If we enact a bad bill, the best we can hope for is that the idea of public financing will be discredited and the law repealed after one or two elections. The worst that can happen is that the law will favor one group over another, or will entrench incumbents, or will otherwise warp the electoral process in a way that the incumbent party is happy to make it permanent.
>
> Therefore it is essential that the Senate conduct full debate on this bill, carefully consider all amendments, and make sure any bill we approve is the right bill for America. The bill in its present form is badly flawed. There are a number of serious problems with it. Certainly one of the most serious is its failure to provide public financing coverage for primary elections. Public financing of Presidential elections pushed special interest money into congressional elections. And this bill, in its present form, would now push that special interest money into the primaries. In a primary the special interest money is not going to take a chance opposing an incumbent. So the present money edge already enjoyed by incumbents will become even greater.
>
> Therefore, Mr. President, I believe it is imperative that we adopt the amendment of the Senator from Oregon. I urge that my colleagues support it if they are serious about getting a good public financing bill passed rather than one which will give incumbents a special interest edge at public expense.

The amendment was defeated 56 to 37. It was after this vote, and in large part because of it, that I opposed cloture on a faulty bill.

What is so tragic is that these paid Common Cause lobbyists are supplying Members, who rely upon them for accurate information, with not only misleading but sometimes totally inaccurate reports and at the same time smearing Senators with whom they disagree. It is little wonder in my mind that Common Cause, Washington, is no longer held in the high regard it once was by many Members of Congress, because of such tactics. I think this sort of behavior is grossly unfair to the thousands of members of Common Cause who have put their faith and their dues behind Common Cause.

Mr. President, I appreciate the chance to set the record straight and to correct the misinformation circulated to the media and to trusting Common Cause members by their Washington staff.

CONGRATULATIONS TO CHARLIE FERRIS

Mr. PELL. Mr. President, on Monday, October 17, Charles D. Ferris will be sworn in as Chairman of the Federal Communications Commission. I take this opportunity to express my great pleasure at the appointment of Charles Ferris to this position and to extend to him my hearty congratulations.

The Federal Communications Commission plays an exceptionally important role in our national life, and in the lives of individual citizens. Interstate communications by telephone, telegram, radio, and television, via wires, the airwaves, and satellites, are a part of the daily lives of nearly every American. With constantly improving and more sophisticated technology, interstate communications will be playing an even more important role in our daily lives in the coming years.

The Federal Communications Commission has the heavy responsibility of assuring that our Nation is provided the best interstate communications system possible by our private communications industry. The Commission also has the responsibility of assuring that the public interest is given first and foremost consideration in our national communications policy.

Having worked with Charlie Ferris during his years as chief counsel of the Senate Democratic policy committee, I know he will do a superb job for the American people as Chairman of the FCC. He is an extremely intelligent and able man with a strong dedication and sensitivity to the public interest.

The American people will be well served by his chairmanship of the FCC. I congratulate him and look forward with pleasure to his chairmanship.

AN ASSESSMENT OF THE CARTER ADMINISTRATION'S PROPOSED ENERGY PROGRAM

Mr. HANSEN. Mr. President, in August, Mr. John Hill, former Deputy Administrator of the Federal Energy Administration who is now a vice president of F. Eberstadt & Co., Inc., spoke to the American Bar Association in Chicago, Ill. assessing the Carter administration's proposed energy program.

Mr. Hill very succinctly draws attention to one of the major fallouts that is occurring, because of the nature of the President's energy package. The Government under the Carter program is not a sharer of risks, rather it is a significant part of the risk that industry and consumers face in making choices to help solve the national energy problem. This

country cannot succeed in its task of meeting the grave energy problems when the Government itself becomes the major cause of uncertainty. I commend this address to my colleagues on the eve of the announcement of Senate and House conferees who will address these issues in conference, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AN ASSESSMENT OF THE CARTER ADMINISTRATION'S PROPOSED ENERGY PROGRAM

I appreciate this opportunity to be here today to address this distinguished audience on the subject of our nation's energy future. I frankly must admit that I have not seen so many lawyers under one roof since my days at FEA and the meetings I used to have with our General Counsel's office to finalize rule-makings. And the number is sure to grow. Although this room appears to be capable of holding at least a thousand persons, it will not be large enough to hold the Energy and Natural Resources Section of the ABA within five years if Washington follows the path outlined by the President. By 1982 this group may have to assemble at Wrigley Field.

My task here today is to provide my comments on the President's proposed energy program, much of which—curiously enough—passed the House of Representatives last Friday evening in what must stand as some kind of a speed record for that disjointed, highly spirited body. This is not an easy task, given the program's complexity and the fact that I am supposed to limit my remarks to 30 minutes, but let me give it a try.

Like Mr. Carter, I believe that the need to reduce our dependence on imported energy is not only a valid objective, but also one that is absolutely essential to our future well-being:

(1) Energy is central to our national security. If our energy supplies are not secure, we are:

(a) Neither secure as a nation;

(b) Nor ultimately free, either to make choices at home or to pursue our foreign policy objectives as we define them.

(2) Energy is central to economic stability and well-being. If our energy supplies are not secure, our economy is not secure and future growth is in doubt.

Against this general consensus, the immediate question at hand is whether or not the Carter program will reduce our dependence on foreign oil; whether or not it will remove the threat of current trends to our economic future and our national security.

In addressing this question, I should note that much of what I have to say here today is the result of some calm reflection on the nation's energy and economic situation that has occurred since I left Washington last year—the type of calm reflection that one never has the chance to do while immersed in the rough and tumble of our nation's capital. To the extent that I am critical of parts of the Carter program, I must acknowledge that many of the same criticisms apply as well to parts of the Ford program of which I was a part—in both its design and its marketing. Recognizing errors in one's past efforts, however, while not easy, is the price of calm reflection—of continually reassessing issues and where one stands.

In approaching the Carter program, let me start with some "descriptive" observations.

(1) The proposed program is long—Initially 580 pages as it left the White House last April and even longer as it left the House of Representatives last Friday night.

(2) The proposed program is comprehensive—No stone is left unturned. It addresses (through taxes, regulations, appropriations—all the tools of government) everything there is to address, including: cars; airplanes; busses; boats; highways; television sets; refrigerators; irons; air conditioners; heating systems in Federal office buildings; big oil companies; small oil companies; air quality; coal; nuclear power; bicycles; refineries; the North Slope; the poor; the rich; international shipping operations; colleges and universities; farmers; utilities; the OCS; hair dryers; steel production; benzene and toluene; trucks; houses; solar energy; geothermal; state regulatory commissions; competition with the petroleum industry; old oil; new oil; "new" new oil; SNG; plutonium, and so on, to name only a few.

(3) Besides being long and comprehensive, the proposed program is also quantitative and precise—If enacted into law, material provided by the White House indicates that:

(a) imports will be reduced to 6 million barrels per day by 1985—not 7, not 5.3, but 6;

(b) 4.6 million barrels per day—not 4 or 5 or about 5, but 4.6—of oil imports will be saved by 1985;

(c) GNP will be increased by 0.7% by 1978 and 0.4% by 1985 (these estimates, I might note, have been revised 4 or 5 times since April 20, but the same precision of 10ths of percentage points is always there);

(d) Cars getting 27.0–28.0 mpg will get a rebate of $299 in 1978, $259 in 1980 and $57 in 1985, a perfect curve of point estimates demonstrating where the consumer will cross-over;

(e) Fuel bills for homeowners will be 9% less in 1985 in New England, 11% less in New York, 14% less in the Southwest, and 6% in the Northwest.

Everything will be better with this program and we know how much better to the first decimal point.

(4) Besides being long, comprehensive, quantitative and precise, the program is economically staggering—It will raise billions of dollars of revenues for the U.S. Treasury between now and 1985. Part of the additional revenues will be returned to citizens through a precise formula; the rest—and apparently a far greater proportion—will be used to finance the pursuit of other objectives considered to be politically desirable in today's Washington. In addition to the large revenue or income redistribution aspects of the program, it is also economically staggering in terms of the degree of proposed intervention into every corner—every nook and cranny—of our national economy: autos, transportation, appliances, housing, industrial production, agriculture, etc. Virtually everything sold in commerce will have to be redesigned or revalued; materials competition and substitution will be the order of the day. Some plants will expand; others will close. Some will win, some will lose. We don't know who they are yet; neither the White House nor the House of Representatives examined these questions. We don't have estimates to the first decimal point for the bad news, but, we will find out in due course.

Given these descriptive attributes—the laudable goals and objectives, the program's comprehensiveness and length, its quantitative underpinnings and precision, and its staggering, but largely unknown, economic implications, what, we may ask, will the program do? If enacted, what will be achieved? After jumping through all of these hoops, what will the world look like 5–10 years down the road when the dust has settled? Let me briefly suggest first what the program will not do.

Of some importance, I think, is the difficult fact that in spite of all its complexity, its precision and its quantitative trappings, the program will not achieve the intended or proposed goal of reducing our oil imports to 6 million barrels per day by 1985. I am not the first (nor probably the last) to suggest this little piece of obtrusive reality. The Library of Congress has drawn the same conclusion; the Congressional Budget Office has drawn the same conclusion; virtually every economist I know who has taken the time to examine the question has drawn the same conclusion.

The reasons for this outcome are many. They include problems with the Administration's demand estimates; problems with the Administration's supply estimates; and perhaps, most important, an almost total lack of understanding of the impact of the role of government envisioned by the Carter program on our economy and individual corporations.

The FEA demand model (as modified at the last minute by expert consultants working with Mr. Schlesinger) is probably as sophisticated as any energy demand model around. I would pit it against those of MIT, the Ford Foundation, Standard of Indiana and Exxon. Although it is "state of the art," the only thing we know for certain about the model is that it is wrong—at least in its short-term mode. People simply cannot—and do not—rearrange their lives and their capital over the near term in response to price changes in something as fundamental as energy. The actual data for 1975 and 1976—which reflected much higher consumption figures than should have been the case with the FEA model—prove this to be the case. Equally troubling for the Administration's demand estimates is a new twist in energy economics. According to FEA data, homeowners will pay less for energy under the Carter program than they would without the program—and they will use less. A backward sloping demand curve? I doubt it, and to the extent that I am right, the Carter program will not achieve its demand projections.

There are even greater problems on the supply side, particularly in light of changes that must have been introduced into the FEA model by the Schlesinger team. In the case of oil, for example, we are told that the Carter program will produce more oil than the existing regulatory regime but that revenues to be received by producers from the Carter program will be less than existing law. Less revenues to producers, but more oil. This is, I suggest, not only counter-intuitive; it is also bad economics. Unless there is something unique about oil, it strains the imagination to believe that lower industry earnings over the next five years will produce more oil than higher industry earnings.

Apart from these general econometric problems regarding the Administration's supply and demand curves, there are other problems with the Administration's supply estimates of political and institutional nature. As best I can tell from material provided by the Administration and from discussions with various policy makers, their estimates regarding oil production on the OCS are based on an extrapolation of past rates of activity modified to reflect their plans for Federal lease sales. This rate, I suggest, is overly optimistic. It does not take into account delays in OCS activity which will occur as a result of the OCS legislation now winding its way through Congress with the Administration's support. This legislation will require new institutions at the State and Federal level; these institutions will have to define and establish their role and their staffs; relationships between these institutions and the industry will have to be established; regulations will have to be promulgated. These developments will take time; they will generate conflicts that have to be resolved. OCS exploration and development activity will be slowed down accordingly.

My concern here is not to debate the merits of the legislation; it may be good or

bad, legitimate or illegitimate. Rather, my concern is simply to request that policy makers recognize the "real world" delays associated with this kind of legislation and adjust their production estimates accordingly. It might even be prudent to build in some delays related to litigation that might potentially be generated by this legislation. New law is being established here and new laws (at least in the recent past) have been fertile ground for those seeking to block development of energy resources or industrial activities.

A similar problem exists with the Administration's supply estimates for coal between now and 1985—estimates based on (1) the assumption, perhaps "evangelical faith" is a better term, that we can have our environmental cake and eat it too and (2) on a complete lack of recognition of the constraints imposed on expanded coal utilization by declining labor productivity, internal problems within the UMW, and woefully inadequate transportation systems. The new amendments to the Clean Air Act regarding non-significant deterioration and the new surface mining law will impair the use of coal and delay its development for the same kinds of institutional and legal reasons noted above in the case of the OCS. To believe otherwise is to be totally ignorant of the events of the past decade.

Again, my concern is not to debate the merits or demerits of these bills. Rather, my concern is that the Administration has not reflected these realities in its estimates of coal production for 1985. In its rush to judgment, it has assumed these problems away. There is no "Murphy's Law" in their religion. I suggest, however, that we will know better in 1985 when coal production is far below 1.2 billion tons per year; when projects are tied up all over the U.S. in the courts or in administrative agencies. The realities of the real world will persist; they cannot be assumed away, no matter how earnest our faith.

I could continue this list of problems indefinitely, but I think my point is clear: the supply and demand expectations of the program's designers are much too optimistic. The program will not reduce imports to 6 million barrels per day by 1985. If I were a betting man, I would put my money on something closer to 10.

If, as I believe, the program will not achieve its energy objectives, what will it achieve? What will be the fruits of this amazing array of government laws, regulations, taxes, and exhortations? The list is long, but let me offer a few of the more critical results of the Carter program.

First, the program will help finance welfare reform, national health insurance, and perhaps even tax reform. And, if they use their energy revenues wisely, the decision makers may even be able to do all of these things while helping the President meet his policy objective of balancing the Federal budget by 1980.

Second, the program will encourage unemployment and inflation by first making much of the nation's plant and equipment both unproductive and non-competitive, and second, by diverting billions of dollars of purchasing power from the consumer to non-productive ends.

Third, it will create an even larger bureaucracy to interpret the laws, codify the necessary regulations, and carry out the necessary compliance. Several lawyers I know in Washington are frankly ecstatic about the program. They are probably right—the program's real title perhaps ought to be the "Lawyers Relief Act of 1977."

Fourth, the program will end the debate in the energy area about who—to use a concept developed by Lewis Lapham in his article "The Energy Debacle" in the August 1977 issue of Harpers—"controls buying and selling in the company store." Instead of the merchant class (the energy industry and the makers of energy consuming products) and the consumer interacting in the marketplace to define who sells what and at what price, this function will now be performed by the technocratic class—as Lapham calls them, the "ambitious mandarins" of the public institutions.

Fifth, the program will subsidize, at the expense of the consumer, at least two labor unions—the UMW and the Maritime Workers.

And finally, the program will create the need for another crash national energy program—probably just after the 1980 elections—to solve the energy problems that this program will not solve.

If these are some of the implications of the President's energy program, where, we may ask, did it go astray? This is, again, a complex question on which everyone seems to have a view. Although cognizant of this complexity let me offer my own observations in highly abbreviated form.

I am convinced, for starters, that the program and its designers started in the wrong place. Instead of starting from the basic realities of the dynamics of energy and economic behaviour, the Carter Administration appears to have started with:

(1) A static, almost accounting-like view of energy resource availability and utilization, and

(2) A moralistic, transcendental view of man—a view which sees man as wasteful, destructive to his surroundings, and essentially incapable of acting to insure his own-well being.

From this basic metaphysical posture, the President and his advisors proceeded to define how citizens ought to behave if they are to stand upright before their god. With this vision in hand, it was basically a straightforward step to establish those laws and regulations seemingly capable of engineering all of us towards our collective salvation—towards, to use a term prevalent in Washington today, a collective rebirth. In short, the program has little to do with energy and a lot to do with morality and 17th century social philosophy.

A second reason for the fact that the Carter program will achieve a series of unintended results—and not the intended objectives—centers around the Administration's belief in the government's ability to engineer even the most minute decisions in the market place and to do so on the basis of econometric models—the classical tool of modern day evangelists, regardless of their economic or political persuasion, regardless of their particular cause.

Most people, I find, don't understand economic models. The common view is that they not only tell us about the future, but that they do so with precision. The truth is that econometric models are nothing more than a complex set of equations which try to predict the future on the basis of statistical correlations perceived—or believed to be perceived—in the past. As such, they are useful—but they are extremely limited, particularly in the energy area where past data is spotty and there is no historical experience that corresponds to today's world. As you know, energy prices generally declined in real terms between 1935 and 1970. A data base in which to look for correlations involving rising energy prices simply does not exist.

The issue here is not that the Carter Administration has its econometric models; I am glad they do. Nor is my concern that they turned on their computers to generate their energy policy; they obviously didn't. My concern is the strength of conviction they appear to hold in the validity of their models—not only as a justifier of "truth," but also to the exclusion of all other models. Senator Bob Packwood was on to something when he asked Mr. Schlesinger last week if "anyone's estimates had any validity other than their (the Administration's) estimates." Knowing what I know about econometric models in general, and the Administration's in particular, it frankly makes me nervous to see the degree to which they believe in what their models say.

The concern is perhaps best described in an interesting article by Scotting Reston during the height of the Viet Nam conflict reflecting on a briefing by Secretary McNamara he had attended several days before. It seems that Mr. McNamara had his models. These models had their input data (body counts, tons of bombs dropped, number of mission's flown, etc. etc.) and they had their output curves. When the curves converged, the war apparently would be at an end, or, at minimum, in the final mopping-up stages. Mr. McNamara demonstrated great skill with the data—the estimates—the curves, and apparently was even willing to identify the point where the U.S. was at that time on the curves. Mr. Reston was very impressed by the display—the intellectual grasp, the scientific quality of the presentation. But when it was over, he had a simple question: This is all very impressive but does it mean anything? Does all of this data and these curves have any relationship to the reality of the jungles or the aspirations of the Vietnamese, both northern and southern? This was in 1965—and as we now know, the answer was NO. No, the models used to predict the future ulimately had no relationship to reality. Like those responsible for the conduct of the war, today's energy administrators have their systematic models; they have their data and their forecasts. Unfortunately, they also appear to have the same belief in their models as Mr. McNamara had in his. Like before, the results, in fact, will not be the same as those predicted in prophecy—of that I am absolutely certain.

Let me close this part of my comments by noting what I consider to be perhaps the chief reason why the Carter program will not achieve its intended objectives. The fatal flaw, in my mind, centers around the basic role it defines for government, a subject I have touched upon briefly before. Historically, government has generally viewed its role in solving national economic problems (which the energy problem is) as one of taking or sharing risks with individuals or private corporations. This was the case in the government's response to the depression, to World War II, to the economic pause of the late 1950's and early 1960's, to Sputnik and, to some extent, to the problems of urban decay. With the possible exception of urban decay, I would judge this approach to have been reasonably successful in the past. We came out of the depression; we survived the war economically intact; we moved the economy to new plateaus in the 1960's; we went to the moon.

We see another role for government in the Carter energy program however. Instead of being a sharer of risks, government is now a significant part of the risk that industry and consumers face in making choices to help solve the national energy problem. Instead of helping to facilitate the adjustment, it is now proposed that government become the primary agent for punishing errant behavior. The government has not acted to help remove uncertainty; it has become a major cause of uncertainty itself. The implications of this fact are not difficult to discern. As might be expected, people are already acting to minimize risks in the face of this governmental role. Capital investments are being deferred; shorter pay-back periods are being demanded on investments; everyone is trying to reduce their exposure to government's next move, whatever it may be. Few are thinking boldly or taking risks.

Such a mode, in my mind, is not conducive to solving our nation's energy problem—to

achieving Mr. Carter's 6 million barrels per day in 1985. If anything, it probably is only conducive to higher levels of imports by 1985 than if we did nothing.

These observations may sound overly cynical, but I hope that such a characterization will not be allowed to obscure the possibility that they may indeed be valid. If history is any guide, I think these observations have as much chance of being valid in 1985 when we are looking back as any others. It was certainly true with Prohibition—another moral venture. It was true with Viet Nam when David Halberstam's "best and brightest" came to town with their moral vision about Southeast Asia and their models and their intentions. It was true of the War on Poverty. After nine years of involvement in Washington, most of them spent trying to do the same things that Mr. Schlesinger and his staff are now trying to do and with the same tools, models, and hope, I am frankly skeptical about government's ability to engineer fine-tuned solutions to specific problems. In fact, I think Thoreau was right when he told us that we should run for our lives if someone from government drops by to tell us that for only a small sum, the government can solve all of our problems—can take away all of our worries. Clearly, history demonstrates the fact that government will not be particularly successful when it sets out to re-engineer its citizens into a morally upright stance on the basis of even the most noble of intentions and the best of intelligence.

I do not think, by the way, that the Carter program and the implications I have drawn should lead one to adopt any doomsday-type attitudes. I do not see the end of the West or a permanent decline in the economy—at least as a result of the Carter energy program. For one thing, economic forces are extremely powerful—even against Washington, and our economy is amazingly resilient—even against Washington. Government can facilitate or frustrate but it cannot reverse or redefine fundamental economic forces which are working in our favor. Secondly, we have a robust and creative society. People are continually going around creating things, solving problems, adjusting and persevering; and they are doing so with neither the permission nor the encouragement of their government. And third, there is still some chance that the more troublesome aspects of the Carter program will be changed while leaving the good parts (and there are a number of good parts) intact. There are some people, I hear, in the Senate that believe that government can often help solve problems better if it does so through simple means—through simple measures that are based in experience and not in morality. If their number is large, we may, in fact, have cause for joy by the end of the year.

AMERICAN JEWISH CONGRESS SUPPORTS PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, the American Jewish Congress recently called for "speedy ratification" of the Panama Canal Treaties, noting that the treaties "securely protect the interests of the United States and guarantee continued efficient operation of the canal."

The American Jewish Congress is a national human rights organization founded in 1916 by the revered Louis Brandeis, Rabbi Stephen Wise, and other American Jews to strengthen Jewish life in America and help Israel's people live in dignity and peace. The good work of this organization is well known in my State of California.

Rabbi Arthur Hertzberg, president of the Congress, made a fine statement concerning the treaties, and I ask unanimous consent for his statement to be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

POSITION OF THE AMERICAN JEWISH CONGRESS ON RATIFICATION OF THE PANAMA CANAL TREATIES

The American Jewish Congress welcomes the recent signing of the proposed treaties between the United States and Panama. This occasion can serve as an admirable example and precedent demonstrating that even in difficult and complicated situations, direct negotiations between conflicting parties with a sincere desire to avoid confrontation can result in compromise and resolution.

The proffered treaties acknowledge and take account of the sovereignty of the Republic of Panama over the Canal Zone. At the same time they securely protect the interests of the United States and guarantee continued efficient operation of the Canal. Most important, they carefully assure the long-term neutrality of the Canal and its continued, unobstructed availability for use by the United States and all other nations.

The American Jewish Congress supports the proposed treaties as correctly reflecting the legitimate aspirations, goals and obligations of both our own country and the Republic of Panama. We urge the speedy ratification of the pacts by the Senate, confident that such action will underscore our nation's long-held commitment to the preservation of peace and the protection of the rights of sovereignty of all states.

FUEL FROM AGRICULTURAL PRODUCTION

Mr. DOLE. Mr. President, I am pleased to be a cosponsor of the Alcohol Fuel Incentive Act S. 2201. At a time when we face an emergency in fuel supply shortages, we must do everything possible to increase our own supply and to derive benefit from our ability to produce in the agriculture and forestry sectors great quantities of renewable resources. Our present surplus situation in wheat, for example, has caused economic disaster in the wheat producing area because of resulting low prices. The gasahol idea must be advanced in every way possible.

This Senator from Kansas was one of the supporters of the provision in the farm bill to carry out research on this gasahol idea and to establish pilot plants to produce alcohol from agricultural products. My amendment to the energy bill, providing a 4-cent gallon tax exemption on fuel containing at least 10 percent alcohol, should also be an economic incentive for alcohol production.

I have some reservations about the implementation of this proposal. We must be careful not to increase the production of a commodity that is already in surplus which is the reason for a crop set-aside requirement in the first place. If an increase in production of a crop that is not in surplus can be encouraged for the purpose of producing alcohol then everybody benefits. If, for instance, trees could be planted on set-aside acres without penalty to the farmers, we would be encouraging a crop that is a good converter to alcohol and not in surplus.

Plants to make alcohol from these materials may take about 3 years to construct, so the sooner we pass legislation to encourage alcohol utilization as a fuel the sooner we will help alleviate our energy shortage problem.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses: Lane Kirkland, AFL–CIO, appearing on behalf of George Meany; Martin Gerber, United Auto Workers; Panelists from the Canal Zone: Alfred J. Graham, AFL–CIO, Canal Zone Central Labor Union & Metal Trades Council; Capt. J. R. Williams, Panama Canal Pilots' Association; Rene C. Lioeanjie, Central & South America National Maritime Union; John Fred Schlafly, American Council for World Freedom; Gary L. Jarmin, The American Conservative Union; Dr. Herminio Portell-Vila, American Security Council; Hon. Hamilton Fish, former Congressman from New York.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF GEORGE MEANY

Mr. Chairman, I appreciate this opportunity to appear before you to urge approval by the Senate of the Panama Canal treaties.

We of the AFL–CIO have a vital interest in these treaties both as citizens, concerned with the security and welfare of our country, and as trade unionists, representing thousands of workers employed in the Canal Zone.

At its last meeting, on August 29 and 30, the AFL–CIO Executive Council discussed the Panama Canal treaties at some length. Following this discussion and analysis of the summary terms of the treaties, the Council unanimously adopted the following statement:

"After thirteen years of on-again, off-again negotiations between the governments of the United States and Panama, two treaties have been agreed to which radically alter the Panama Canal Treaty of 1903.

"According to the Joint Chiefs of Staff, the treaties of 1977 provide for continuing freedom of action of the United States to maintain neutrality of the Canal and further guarantee U.S. access and rights to use all land and water areas and installations necessary for the defense of the Canal through the year 2000.

"Job security and rights of workers in the Canal Zone, both U.S. and Panamanian, will be assured. Since 1949, the AFL has called for justice in the Canal Zone in arguing for equal pay for equal work, so that Panamanian citizens would not be exploited through a double standard of remuneration. Through the years, particularly during the long and arduous periods of negotiations groping toward a new treaty, the AFL–CIO has maintained a vigilant stance concerning workers' rights in the Canal Zone and the safekeeping of the elements of U.S. defense inherent in the Panama Canal Agreement.

"We are satisfied that the new treaties cover both considerations adequately. U.S. citizens now employed in the Canal Zone will be protected and remunerated as U.S. government employees and will be offered new benefits tailored to fit the new treaty characteristics, such as early retirement.

"After reviewing the summary of the new treaties, and based on the assumption that it is an accurate reflection of the final treaty language, which is not yet available, the

AFL–CIO Executive Council views the two Panama Canal Treaties guaranteeing the permanent neutrality of the Canal and the operation and defense of the Canal through the year 2000, as instruments worthy of support by U.S. citizens and their elected representatives. These new instruments constitute a just and enduring basis for harmony in the Western Hemisphere, and we support their ratification by the Senate."

Mr. Chairman, our position is based on practical grounds, in the light of the circumstances of the modern world, and the conviction that we have more to gain today, in terms of the broad interests and ideals of the United States, then we have to lose, by approval of these treaties.

In the public debate of recent weeks over the wisdom of these treaties, some arguments have drawn attention to the dubious circumstances surrounding the original treaty of 1903. I do not propose to rehash that question, for it has no bearing on our position.

While historically interesting, revisionist aspersions on the role of this country in a by-gone era are scarcely relevant to the issues actually before you. Adverse judgments by this generation on the actions of another generation in another world, three-quarters of a century ago, may excite the moralism of some but they have little persuasive appeal to our members today. Nor are latter-day efforts to portray Theodore Roosevelt as some sort of an internatonal brigand likely to rally broad public support behind these treaties.

In fact, the Panama Canal treaty was renegotiated twice, in 1936 and in 1955, with duly constituted Panamanian governments, with significant modifications in its terms and increases in annual compensation to Panama.

In no way should the treaties now before you be painted or regarded as acts of atonement for American "guilt", for we are guilty of nothing. On the contrary, the construction and operation of the Panama Canal by the United States was and is an extraordinary service to humanity and to all the maritime nations of the world. The American people have every right and reason to continue to regard this as a proud chapter in our history, as has been taught to school children for generations. And I, for one, deeply deplore and resent the campaign by Latin American demagogues, and by our own guilt-mongers, to condemn it as a locus of American "imperialism" or "racism", as was put forward at the ILO last June.

But the time has now come to bring to the fore another aspect of American pride; our pride in the fact that we are not and do not want to become an old-time colonial power, clutching a sort of cloudy, semi-sovereignty over this strip of territory, for its own sake, like some faded banner of past glory.

Our real interest in this canal is simple and concrete and derives from its only real purpose and function. The function of the Panama Canal is to offer transit to the vessels of all nations (which can fit into its locks) from the Atlantic Ocean to the Pacific Ocean. That is all.

Mr. Chairman, I accept as valid the assurances by the President of the United States, supported by the Secretaries of Defense and State and by the Joint Chiefs of Staff, that the terms of the treaties afford adequate guarantees that this function will continue to be performed without let or hindrance and that there is no serious risk, as a consequence of these treaties, that American vessels, commercial or military, will ever be deprived of full access to this vital passageway between the oceans. I have no reason, in the face of those solemn and expert assurances, to interpose any less-informed judgment to the contrary.

Beyond that, I believe that the continued assertion of sovereignty, for no definiable further reason, over a narrow strip of land, inside and dividing the territory of another country, would not, in the modern world, be an asset, but could on the other hand, be a liability.

Mr. Chairman, speaking for the AFL–CIO, we therefore support and strongly urge the approval of the Panama Canal treaties.

STATEMENT OF MARTIN GERBER

INTRODUCTION

My name is Martin Gerber. I am a Vice President of the United States Automobile, Aerospace and Agricultural Implement Workers of America (UAW) and I office at 800 East Jefferson Ave., Detroit, Michigan 48214. I am accompanied by Stephen I. Schlossberg, UAW Director of Government and Public Affairs.

The UAW is the largest industrial union in the world. We represent approximately a million and a half workers and their families. Our members are concentrated mainly in the automobile, aerospace, and agricultural implement industries. Taken together with their wives and children, UAW represents more than 4½ million persons throughout the United States and Canada. These workers are organized into some 1400 Local, self-governing unions.

The UAW does much more than bargain for its members. It is active in world, national and civil affairs and citizenship and legislative activities, conducts schools and camps for actve members, and drop-in centers for retired members. We are, by mandate of our constitution and tradition, deeply involved in the larger issues of the quality of life of war and peace and morality in foreign policy.

UAW'S PARTICULAR INTEREST IN THE CANAL ISSUE

The UAW takes its position in favor of the Canal Treaties as a group of United States citizens interested in furthering and protecting United States interests in the Canal and in the Western Hemisphere. As you probably are aware, we do not have members of our union working on a regular basis in the Canal Zone. Therefore, we do not come to you as a special interest group. Rather, our concern is on a much larger scale. We are deeply concerned that the United States project an image abroad which truly reflects the nature of our country and the fundamental principles for which this nation has stood for the past two centuries. We are also concerned with maintaining efficient international transportation routes to speed international trade, and with our defense posture. Our examination indicates that the Treaties now before you protect our interests in all of these areas.

They represent a giant step forward in the relationships which the United States maintains not only with the Republic of Panama but with all of Latin American and indeed with the entire Third World. They show that the United States does not wish to deport itself as the world's larger nations did earlier in this century. Rather it is the intention of the United States to establish relationships with other countries based on fairness and mutual respect. It is not our intention to force our views on other countries nor to make them supine before us. We seek equality and justice, not superiority in our relations with others. These Treaties show that we both believe in and practice the fundamental principles on which our country was founded and under which we have lived since our own revolution.

The UAW International Executive Board acted in 1975 on the issue on the Panama Canal, urging then that the United States control over the Canal be phased out over a period of years. A similar resolution was passed by our more than 3,000 delegates at the 25th Constitutional Convention in May of this year. These resolutions were not adopted in a vacuum. They were based on our considered judgment as to what was morally right and in the best interests of the United States and on our findings growing out of constant and ongoing relationship with free trade unionists in Latin America, many of whom have suffered persecution, and free trade unionists all over the world.

August 30th of this year, our International Executive Board unanimously passed the following resolution:

"After 13 difficult years of negotiation, the United States and Panama have reached agreement on a treaty that would, over an agreed upon phase-out period, cede to Panama, between now and the year 2000, full sovereignty over the Panama Canal.

"The UAW supports this long overdue diplomatic effort and finds it consistent with the position we adopted in September, 1975, that U.S. control over the Canal should be phased out over an appropriate period. We urge the Senate to ratify this treaty promptly.

"It is clear that the draft agreement provides fully for the defense and safety of the United States, as well as the Canal itself and for labor and commercial interests connected with the operation of the Canal.

"We are assured by no less an authority than the Joint Chiefs of Staff that the proposed treaty gives the United States the necessary rights and powers to defend the Canal, guarantees our complete access to it and preserves its vital neutrality. We have even been assured of a role in the building of any new sea level canals in Panama. United States Navy and supply ships will have priority, when necessary, in the use of the Canal. We will, under these understandings, maintain naval bases there until the year 2000 and, moreover, the power, after the year 2000 to protect the integrity of the Canal.

"It is appropriate that the United States, a nation which was founded in a revolt against colonialism, takes this cooperative initiative to end the Canal Zone's status as an American colony.

"The Isthmian Treaty of 1903, which created the colonial enclave known as the Canal Zone, was signed between the United States and a Frenchman, Phillippe Bunau-Varilla, without participation by Panama.

"The negotiations just completed should, when the treaty is ratified, not only improve relations with Panama significantly, but with Latin American generally. Many countries there have regarded the U.S. conduct in Panama as an obsolete relic of the past.

"This treaty could lead to a new era of cooperation and stability. It proves that United States initiatives in such vital areas of life as human rights are not mere rhetoric.

"The Panama Canal Company, under the treaty, will be operated by a board of directors consisting of five Americans and four Panamanians and administered by an American with a Panamanian deputy until 1990, when the positions would be reversed. Thus, for the immediate future and beyond, the American presence will be constructive and continuing.

"Those employed by the Panama Canal Company and/or the American government, both American and Panamanian, would continue to work in the Canal Zone and would have complete protection, including benefits tailored to the special circumstances presented by the treaty. They would have the same rights and privileges as U.S. government employees overseas, although three years from ratification they would be subject to some Panamanian laws.

"The U.S. Senate should reject the unfounded propaganda barrage from the far right and those who have been misinformed and misled by the reactionaries.

"The Senate should overwhelmingly approve the proposed treaty because it adequately provides for U.S. interests as well as those of Panama and the rest of the world."

We do not agree wth those who say that

ending what we see as colonialism in Panama is a sign of weakness. On the contrary, we view the United States phasing out of control over the Canal Zone and the Canal—the tearing down of the fences and the ceding of full sovereignty over its land to a small nation—as a signal of strength, maturity, and enlightened self-interest. Only a major, secure power could make such a gesture. It is evidence of the internal and external national will to practice what we preach and to walk honorably in the world. It is those who are independently strong and powerful who can afford to do what is right. Doing what is right in the case happens also to be in our own self interest. If we are to continue to lead the free world, we must do so by commanding the respect and admiration of the world's nations and peoples—not by flaunting our size, wealth and power. International politics is not a game of virility and manhood testing. It is the pursuit of national self-interest, in the broadest sense, by means of reason and common sense.'

A recent article in the UAW publication, Solidarity, contains two significant interviews with UAW members. The article reports:

"Manuel Felix, 50, a member of Local 1183 in Newark, Del., recalled that 'the original treaty was signed by a government that only lasted two weeks. Most major governments of the world have given up direct colonialism, and we shouldn't hang on to it. The Panamanians must have the Canal to feel they are no longer a colony.

" 'Being from Mexico, I realize how they feel. From what I've read, our rights are fully protected by the treaty. If we don't ratify the treaty, world opinion will severely castigate us as a colonial power . . . and if you light a fuse, you get an explosion.' "

"His views were echoed by Dave Nicholson, 26, a committeeman for UAW Local 1975, Ypsilanti, Mich. 'That land belonged to the people of what is now Panama before we took it, and it must be returned. The Panamanians have got the short end of the stick. Strategically, the canal is almost indefensible. Economically, it's rapidly being outmoded. The big new supertankers just can't get through it. Older shipping can continue to use the canal under the terms of the treaty. Our rights would be the same as any other country's That's fine.

" 'A good friend of mine was raised in the Canal Zone. He says most Panamanians look at our presence there as U.S. manipulation of their political system.' "

NATIONAL DEFENSE OF THE U.S.

As an organization, we are concerned with the defense of our country. We believe that the United States must be militarily strong if it is to maintain a credible profile abroad. The treaties fully protect the United States defense interests in the Panama Canal. Our naval vessels will continue to be able to transit the Canal both during the time that we are responsible for its operation and the period thereafter.

This interest is, we believe better protected by the United States making certain changes with respect to the Canal's administration to take into account Panama's increasing aspirations. Indeed, we believe that failure to do this will present a threat to our defense posture. Increasing hostility to our operation of the Canal will make our job more difficult and could, if that hostility should rise to greater levels, pose a threat to the effecient functioning of the Canal.

There is no doubt that it is easier to protect the Canal against sabotage in a country with a friendly population than one in which a hostile people views our presence as an intrusion.

THE PERMANENT PROTECTION OF THE CANAL'S NEUTRALITY

We have heard much in the recent press of secret cables and of dispute as to the right of the United States, in perpetuity, to protect the neutrality of the Canal. I want now to present the UAW's view on that issue.

First of all, we respect and believe the President of the United States, the Secretary of State and the word of our military chiefs. We also believe the words of our trusted negotiators. Second, we believe in the inherent power of the United States, and the public statements our leaders have made absolutely commit us and, indeed, empower us to guarantee, permanently, that neutrality. Third, General Torrijos' own words lay this contention to rest. He has said that the Canal will be permanently "under the protective umbrella of the Pentagon." But we cannot expect too much of the other side. They have their treaty haters and difficult constituencies with which to deal. They have face-saving needs which a mature political democracy should be able to understand.

Fourth, defending the Canal against international attack is a defense task neither the Panama nor U.S. forces specifically stationed in Panama could by themselves undertake successfully. In World War II we were prepared to defend the Canal in areas far removed from the Zone itself, keeping enemy craft away from its approaches. In the nuclear age, we must depend even more on our overall hemispheric and global military posture to deter a specific strategic attack.

Fifth, in terms of U.S. defense interests, perhaps the most important aspect of these treaties is what they don't do—they do not limit in any way our ability to draw upon our whole range of military options to act in defense of the canal in any way we find necessary, not only during the duration of the Panama Canal Treaty, but thereafter into the 21st century. As a practical matter, we can, will and must defend the neutrality of the Canal.

Finally, I am a negotiator and know something about negotiation. In the final analysis, the real agreement rests on the strength and integrity of the parties and on what is promised and not promised—not on the unilateral claim or disclaim of one person on the negotiating team of one side. No one familiar with labor negotiations takes seriously an effort by a member of a management or union team to undermine public opinion by trying to draw doubts around a sphere of understandings. Sometimes it is in the best interests of both parties and the common good not to dot every "i" and cross every "t". Some things depend on reality and the facts of life.

While I am not an international lawyer, I am a negotiator. My reading of the public discussion of the Neutrality Treaty fails to show that substantial differences exist. The Panamanians, we must understand, have a political problem with anything which smacks of the right of the United States to take any action within their territory after the expiration of the Panama Canal Treaty. The Neutrality Treaty I would point out does not speak of intervention. It speaks only of maintaining the regime of neutrality. Comments by the Panamanian negotiators which have been published in the press indicate that Panama understands that the United States intends to assure the continued neutrality of the Canal after the year 2000. Panama's only reservation concerns the possibility of United States intervention in Panamanian internal affairs. Given the history of our relations with Panama and with Latin America, that concern is understandable. Moreover, as a trade unionist, I know that in many Latin American countries the word "intervention" has a sinister meaning. When a totalitarian government intervenes in the unions, it takes them over.

We should not be alarmed by statements from the Panamanian side on this subject. Indeed the absence of comments would be remarkable. We can have no right to intervene in any country. That is clear from both the UN Charter and from the OAS Charter. But under the Neutrality Treaty we do have the right to maintain the regime of neutrality of the Panama Canal. Our commercial and defense interest in the Canal is protected by this provision. Panama does not dispute our right to maintain the regime of neutrality. Therefore, the controversy is much ado about nothing.

Similarly there has been much discussion about the concept of expeditious passage contained in Article 6 of the Neutrality Treaty. Panama's negotiators have made clear that this means the speediest possible transit. I submit that a more rapid trip through the Canal than that would be difficult to arrange. I will leave it to the lawyers to debate these questions on a more sophisticated level. I merely wish to point out that in practical terms the Neutrality Treaty meets the test of being both sufficiently broad to cover various possible situations while at the same time being sufficiently precise so as to leave no doubts about the intention of the drafters.

PROTECTION OF THE GOVERNMENT AND PANAMA CANAL COMPANY EMPLOYEES

We are assured that the treaties adequately protect the economic security of those who are United States Citizens and Panamanians who have given long years of service to our Government and the Corporation. Our conclusions on this score do not rely entirely on government assurances but on conversations of UAW officials with Zone union officials.

The treaty provides job security for employees whose jobs are transferred to Panama. The same terms and conditions of employment will apply, and special provisions have been made concerning health and retirement benefits.

Of course, employees who are displaced are also of great importance. They should not be victimized by treaty provisions. For these employees—and the numbers should be relatively small—various options are provided: placement in other U.S. Government jobs, assistance in finding private sector positions, relocation allowances. Also, in view of the unique circumstances, the U.S. will provide a special optional early retirement program to all employees of the Panama Canal Company and Canal Zone Government with liberalized entitlement and annuity provisions. This language is imprecise but I would hope that the implementing legislation will provide for retirement after 20 years of service with no reduction in annuity. I believe this is fair treatment to these employees who have worked hard to keep the Canal running efficiently and safely over the years. So from a labor point of view, we find the Treaty provides well for current employees who will remain with the Canal enterprise and who will be displaced.

COMMUNISM IN PANAMA

There has been much scare talk of the potential danger of Communist takeover of the Canal once the treaty is ratified. I am constrained to comment on that talk. I note, at the outset, that my information is that there are not many Communists in Panama.

I recently returned from Canada where I met and talked with one of the Separatist leaders in Quebec. Many dispassionate observers feel that the seccession of the Province of Quebec would be tragic for Canada and also for Quebec itself. There is, however, some disagreement on the issue. But there is little disagreement that the treatment of the French speaking majority by the English speaking minority over the years bred this kind of response. There is similar breeding

ground for dissension and internecine struggle in the history of Northern Ireland.

It has been said that those who don't learn by history are doomed to repeat it. If we remain as a foreign and chronic irritant, in short as a colonial, imperial power on the soil of Panama, continuing to fence off the country from the enclave, denying national dignity to the country, treating the Canal not as a resource we operate by treaty but as a personal possession, do we not by these attitudes and actions create a breeding ground for Communist and other totalitarian movements in Panama? We in the UAW have struggled with Communists over the years. We know that they generally oppose genuine reforms because the worse conditions are, the better their chances to grow and prosper.

Of course, no one can say with certainty what the future will bring, but reasonable people would have to agree that Communism in Panama would be deprived of a root issue upon which to build if the treaties are ratified. Conversely, a turn down would give the Communists a ready made and controlling issue to run with—not only in Panama, but all over Latin America.

The Senate should never forget that the Communists oppose the treaty. It is their people who are agitating in the streets of Panama against the treaty. Simply put, it is the Communists who are placing their bets on the emotionalism and the frenzy of the far right in this country. Doesn't that tell us something?

The most sensible course to set back the present Communism drive and to cut off the Communist future in Panama is to take away their main rallying cry by ratifying the treaties. In doing so, this country not only "sends a message" to Panama and to South America, it sends one to the Communists too.

NATIONALISM IN LATIN AMERICA

The single most powerful political sentiment in Latin America is not Communism, however, but the far more conservative passion of national pride . . . old-fashioned nationalism, just as it is in the U.S.A. Virtually all Latin Americans, irrespective of their political coloration, view the canal issue primarily in terms of "Yankee" respect for a small Central American republic.

Every Senator here—and in the Senate—understands deeply the meaning of American patriotism. Why then not extend in generosity and magnitude that same understanding to one of the smallest and militarily weak countries in the world—Panama?

Why not, in short, legitimize their own fierce devotion to country, to history, to culture and, finally, to belief in national pride?

BIPARTISANSHIP

The UAW headquarters is in Michigan. That state is our heartland. For that reason we take particular pride in the fact that spirit of Senator Vandenberg lives on.

It is true that the Republican National Committee and some of its leaders have joined the chorus of emotionalism and voted to oppose the treaties. But the spirit of bipartisanship in crucial foreign affairs decisions by this country is alive and well. Former President Ford and former Secretary of State Kissinger have shown the way to good sense bipartisanship in this delicate matter. They, along with other prominent Republicans such as the junior Senator from California have urged the ratification of these treaties. We are pleased too that such very conservative forces as those represented by the National Review and its editor, William Buckley have endorsed the treaties. Indeed, Mr. James Burnham writing in National Review has said:

"Judging by the probable consequences for our national security and interest, it is time for us to leave. In fact, the weakest feature of the new treaty is its failure to get us out soon enough."

Burnham predicts that, if the treaty fails, "the aftermath would probably be bad, and might be very bad both for the country and for those responsible for the rejection."

Garry Wills, the Journalist, has reminded us of the words of Samuel Johnson, a great conservative which are appropriate in considering the Canal issue today. Mr. Wills wrote:

"The pride of power has destroyed armies to gain or to keep unprofitable possessions. Those are the words of Dr. Johnson in 1771. He was attacking the foolish zeal of Englishmen who wanted to wage war with Spain in order to assert not only the possession of the Falkland Islands but sovereignty as well.

"The case is uncannily similar to our Panama Canal controversy. Johnson, the great conservative, was merciless against those who confused 'shame of deserting a project' with real loss, and who would risk the lives of men on the terms of a legal phrase. The question was not one of pride and sovereignty, he argued, but of use and cooperative gain. He mocked the men who 'profess to be disturbed by incredibilities.' "

And Wills also says:

"Those who say we would be capitulating to blackmail by accepting the treaty are like men who say they will not be 'blackmailed' by rain clouds into carrying an umbrella. They are not brave; just dumb."

THE ECONOMICS OF PANAMA

The United States is clearly on record against exploitation of small countries and in favor of the development and economic independence of the "have not" nations. How else do we square our foreign aid programs and our participation in multinational projects?

In the light of the above given, the new treaties become a national imperative not only for Panama, but also for the United States.

Perhaps it has been laid on the record before, in any event, I will do so now. Panama's major natural resource is the Canal, which, in the final analysis, is there because of Panama's geography. In 1970 118.9 millions of tons of cargo passed through the Canal. That year Canal profits were 175 million dollars, of which Panama received a pitiful one per cent—less than $2,000,000. In that same year the Empire State Building's net profits were more than $13 million In 1976 the U.S. rented three military bases in Spain for $20 million a year. But how cheap is the rent on the Canal? Most of Panama's million and a half citizens live in abject poverty, while the world's richest and most powerful nation controls her major resource. By ratifying the treaties the Senate will enable this small nation to help itself rather than to raise the income of the world's richest nation.

So, we should ratify these treaties not because of any abstract theory of morality but because in simple bread and butter decency terms. It is right, fair and long overdue.

CONCLUSION

The Treaties are of course negotiable documents. In negotiation, neither party gets all that it asks for. General Torrijos has been quoted as saying that Panama did not get as much in the Treaties as he expected. Treaty critics in both countries have concentrated their opposition on areas where compromises were required. But the measure of any agreement is whether it protects the vital interests of the parties. The answer in this instance is clearly yes as far as the United States is concerned.

Because United States defense and commercial interests are adequately protected and because it is in the enlightened self-interest of the United States and the people of the world, particularly those of Panama, we urge ratification of these treaties.

We see this a felicitous moment in history when moral values coincide with security interests. We must take full advantage of this opportunity.

STATEMENT OF CANAL ZONE LABOR UNION AND METAL TRADES COUNCIL

Mr. Chairman, members of the Committee, my name is Alfred J. Graham, President of the Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO.

The CLU–MTC represents 14 local unions in the Canal Zone, affiliated with nine national AFL–CIO unions. We represent the largest organized group of U.S. citizen employees of the Panama Canal Co./Canal Zone Government. We also represent a significant number of non-U.S. citizen employees of the Company/Government.

Our presentation will be in two parts. The first part will cover Employee Privileges and Immunities along with labor provisions written into the Treaty. The first part has been submitted for the record. The second part will be an oral presentation to the Committee, on the Canal Zone, the Government employees working there, and the present and future interests of the United States in the Canal. We are U.S. Government Employee labor representatives. As such, our self-interests cannot overshadow the best interest of the United States in this matter. Our silence and acquiescence to the terms of this Treaty would surely put us in the position of parasites; "trading off" the best interests of the United States for "assurances" that our labor interests will be taken care of. The CLU–MTC refuses to take that position. Although, individually, we may differ in our approach to the problems of this Treaty, no CLU–MTC representative has, or will "trade off" the best interests of the United States in this matter.

EMPLOYEE PRIVILEGES AND IMMUNITIES

As written into the new Panama-U.S. Treaty, Employee Privileges and Immunities are for the most part satisfactory provided, of course, that one accepts in good faith these assurances of privileges and immunities given to us by our own government.

We are not satisfied with the lack of Treaty provisions that would solve the dual citizenship problem once and for all.

The Republic of Panama has a Citizenship Law that in our opinion was enacted for the sole purpose of harassing U.S. citizens born to American parents on the Isthmus of Panama. The law states that these Americans are Panamanian Citizens. The high officials of Panama have all indicated that these U.S. Employees will be treated as Panamanian Citizens. We requested that the Treaty stipulate that Panama will surrender all claim of Panamanian Citizenship, in the past and for the duration of the Treaty, on all U.S. Citizens born on the Isthmus of Panama, if the U.S. Citizen makes his or her intention known to the U.S. State Department. This request was denied. If Panama becomes sovereign over the Canal Zone these employees fear that they will be subject to further harassment from the Government of Panama. This apprehension is not without substance, citizens of Panama have no civil rights. At this time, with the Chairman's permission, I would like to present, for the record, the official position of our State Department in respect to these U.S. Citizens, dated March 4, 1975. Their position can be defined in one sentence extracted from this letter.

"Such persons continue to be Citizens of Panama although they may also be United States Citizens and are subject to the laws

and regulations of that Country while residing there."

We are not satisfied with the lack of Treaty provisions that would provide for the transfer of employees who do not wish to live or work under the joint administration of the Panama Government. For U.S. Citizens, this benefit is at the option of the new agency, "The Canal Commission", which is composed of that Government. For non-U.S. Citizens this benefit is not provided for at all. Without these provisions, guaranteed before ratification, the Canal Zone will not be efficient, and it will not be secure.

LABOR PROVISIONS IN NEW PANAMA—U.S. TREATY

As a result of the July meeting of the AFL-CIO Panama Canal Committee, I was elected by the Committee and appointed by AFL-CIO President George Meany to be the AFL-CIO Labor Advisor to the U.S. Treaty Negotiating Team. I worked with the U.S. Treaty Team on Treaty labor provisions until August 26, 1977. Most of the labor provisions we required are included in the new Treaty.

One of the most important labor provisions, Optional Open-Ended Early Retirement, will require legislation. However, we are grateful for the attention President Carter and his staff gave this matter by stipulating that the U.S. Government would sponsor this legislation in the Treaty.

We face other labor problems with DOD. Canal Zone Government operations that will become DOD functions, if the Treaty is ratified, are in danger of losing the Washington, D.C. pay base and Canal Zone leave benefits. Canal Zone teachers, in particular, are left in limbo as to what their entire future employment status will be.

The loss of repatriation rights and leave benefits are other factors now under consideration by the present Company/Government, that may affect as much as 50 percent of the present U.S. work force, prior to the possible ratification of this Treaty. Were the worst of these proposals implemented at least half of the present U.S. work force would be economically forced to remain in the Canal awaiting possible transfer rights that will be administered at the option of the new Canal administrators, "The Canal Commission". The new Canal Treaty addresses itself to this problem. The Canal Zone Governor, the Department of the Army, the Department of State and other agencies affected by this Treaty, have all indicated, and have all gone on record in this hearing or others, that they are opposed to affording transfer of the present employees "at the option of these employees".

There is no mention in this Treaty as to whether or not, the employee who remains working in the Canal, will retain his present benefits cited above. The Treaty uses the phrase, "Conditions will be generally no less favorable."

This leads the Canal employee to believe that he or she will lose something. The question of course is what. This Treaty makes absolutely no mention of protections for employees who, in good faith, trains someone to take his or her job and then is pressured out of the system by "The Commission" who no longer needs their presence. It makes no mention of protections for employees scattered throughout the work force who cannot or will not live and work under the conditions of this dictatorship.

An employee who is guaranteed an early retirement or job transfer, at his or her own option, throughout the duration of this Treaty, not just those displaced immediately, but all employees, would not be as apprehensive about staying.

Only through these guarantees will be new agency be able to maintain the necessary and willing personnel required to make this "transition" efficient and effective. By a simple Executive Order, these transfer guarantees, can be effected.

LABOR LEGISLATION

We will be seeking labor legislation for the following:

1. Optional open-ended early retirement (15 years, 50 percent, no loss of annuity). A benefit that would greatly support the new agency in the retention of qualified employees through the transition period.

2. Unemployment compensation for non-U.S. employees.

CONCLUSION

Although, it would appear, except for those important issues cited above, that the Treaty provides sufficient labor protections we wish to go on record at this time opposing the new Panama-U.S. Treaty. President Meany does not speak for the affiliated local unions of the CLUMTC when he supports this treaty.

President Meany's office is not aware, as we are, that the present provisions of this Treaty, by excluding all of the above, will not provide for the protection and efficiency of the Canal. The protection and efficiency of the Canal will directly depend upon whether or not the employees believe that they are being treated reasonably, and in good faith. They do not, generally, believe that they are.

This concludes the labor section of our testimony.

Legislative Representative Of The Canal Zone Central Labor Union and Metal Trades Council Statement Before The Senate Committee on Foreign Relations.

Contrary to the statements of our negotiators, and others, we believe it an accurate statement when we say that our Executive Branch has decided that it is in the best interest of this Nation to sacrifice the Canal in favor of the continued presence of the multi-billion dollar private foreign investment in Latin America. This action appears to be based on the theory that the turnover of the Canal will somehow appease and stabilize Panama and the rest of Latin America, that a new and more modern relationship will exist once this Treaty has been ratified.

In order to promote this action, it has been necessary for our Executive Branch to reinterpret history and the Constitution of the United States; economically, materially, and militarily support an oppressive, racist dictatorship in the subjugation of the Panamanian people; apart from the Canal assets, expend even further billions in tax funds, and sacrifice the economic base and political freedom of the very non-U.S. and U.S. employees who maintain this Canal. By so doing, this action will destroy the very efficiency and security that this Canal is dependent upon.

We finally believe that the reasons given, by our negotiators for ratifying this Treaty are neither valid nor sound.

FAST HISTORY OF CANAL

There has been much commentary made that the 1903 Treaty was made, not with a Panamanian, but with a Frenchman, Phillip Bunau-varilla, whose only interest was in recovering 40 million dollars promised to the bankrupt French Canal Company.

Little is mentioned of the fact that prior to entering into this 1903 Treaty, known as the Hay-Bunau-Varilla Treaty, the United States had entered into negotiations, and in good faith on our part did ratify the Hay-Herran Treaty with the then dictatorship Government of Colombia. Herran, the dictator's agent, agreed to the terms of this Treaty. But, this dictator was not dealing in good faith with the United States. After his personal agent had made an agreement for 10 million dollars, he decided to call an extraordinary meeting of the Colombian Senate for the sole purpose of rejecting the Hay-Herran Treaty, January 23, 1903, and to set the stage for further monetary negotiations on the matter.

It is interesting to note that the dictatorship of Colombia, in its very deposing of the lawfully elected President of that Country, used this very action as the reason for disbanding the Colombia legislature and thereby establishing himself as the supreme ruler of Colombia.

While this thinly masked shakedown was in progress, another of several previous Panamanian breakaway revolutions was set into play.

It was because of this Frenchman that the Panama Junta Government was able to secure 100,000 dollars to support and effect their revolution, and it was because of this help and this man's unique knowledge of the Congress and Executive Branch of the United States that he was appointed their Treaty negotiator. Without his help there could have been no revolution. By offering and effecting a new Treaty with the U.S., this Frenchman secured the independence of Panama. Contrary to statements otherwise on November 2, 1903 the U.S. Warship Nashville did not prevent Colombian troops from landing in Panama. In fact, they disembarked in full view of this Warship in Colon, Panama. The commanders of these Colombian troops crossed the Isthmus by train, were bribed with 10,000 dollars by the Panama Junta Government, returned to Colon and departed with their troops.

There has been much said of the unfortunate 1964 Panama riots in which 21 Panamanians were killed. These riots are presented, by our own negotiators as an act of nationalism when in fact, for the majority of these rioters, it was a chance to loot, steal and destroy property. They became unmanageable because the Panama Government refused to allow the Panama Guardia National Police enforce order in the streets of Panama. Little is said of the fact that the majority of the 21 Panamanians killed in these riots died of suffocation in a building in Panama that they themselves, or men like them, set on fire. They were found with their pockets stuffed with stolen monies.

It was not the Canal that was being threatened in 1964 and it is not the Canal that our negotiators are primarily trying to protect with this new Treaty today. It was, and is private foreign investment, and the expulsion of that investment in Panama and the rest of Latin America.

GOODWILL WITH THE PEOPLE OF LATIN AMERICA

Even apart from the allegations that there exists a Corps of Engineer Study, dated February, 1968 recommending that Panama should be ruled by a dictator, there is no doubt, at least in respect to Chile and Panama, that our Government relied upon and supported dictatorships in order to protect private foreign investment in these countries.

It is difficult not to notice that 90 percent of Latin America is composed of dictatorship governments. This Committee was given testimony that "Panama is not a full-blown democracy." It is, however, a full-blown racist dictatorship with a proven record of inefficiency and corruption.

It is the opinion of the CLU-MTC that President Carter's Treaty Signing Ceremony in Washington, D.C. sat democracy in Latin America back 100 years. It amazes us to witness a U.S. President, with a Human Rights Platform gather together the largest group of anti-human rights dictators in Central and South America and honor them by signing a Treaty with another dictator. These dictators do not represent the people of their country, they impose their will by force of arms supplied in many cases by our own Government.

To the people of these countries, the President of the United States is the Champion of

human rights and yet, by this one single act, he has repudiated their right to gain back these human rights. In Panama, this Treaty represents the last hope of the people of Panama for a return to a Democratic system of Government. These people will not soon forget that it was the United States that perpetuated this dictatorship.

GOOD FAITH FROM THE EXECUTIVE BRANCH

Ambassador Bunker and Mr. Linowitz have testified over and over again that the Canal Zone will be turned over to the *People* of Panama. This is what they label as "Educating" the American voter.

You can be assured that, even apart from the assets of the Canal, multi-billions of U.S. tax monies will not be turned over to the Panamanian "People". As usual with military dictators, the "People" will benefit little or nothing from this Treaty.

The American "People" will not benefit from this Treaty. Even the multi-national and banking interests will not gain the protections that they are seeking by this Treaty.

The Canal employees are being used as pawns to this Treaty according to a report submitted to our State Department in 1976. Mr. Chairman, you haven't read this report. I would like to submit it into the record of these hearings at this time. The State Department denies that this document represents their position, but yet every recommendation made in this report has been implemented. The recommendations given, range from influencing Canal labor and civil groups, with or without their knowledge, reeducating these employees through "manipulation" of the controlled news media, eliminating interference from the Canal Zone Company/Government, and the assistance of the Panama Government in all of the above. This report even has its own enemies list, of which of course I am a member. The object of this report is to use Canal Labor and civil groups to help sell this Treaty or to, at least, neutralize these groups.

At this time, Mr. Chairman, I would like to submit into the record, a protest letter dated September 21, 1977, to Congressman Zablocki, Chairman of the House International Relations Committee in which I describe the actors, and actions taken by our own State Department in which to comply with these objectives. Ambassador Jordan, and Mr. Linowitz are knowing principals to these actions at least.

If you still are not convinced that our Executive Branch has misrepresented the true objectives and benefits accrued from this Treaty, let me present several more issues that cannot be disputed.

Our Executive Branch has strongly emphasized that without this Treaty with this particular dictatorship, there will be sabotage in the Canal. They have not told this Committee that it was this dictatorship Government that bombed Canal Zone cars and buildings and that in a written protest letter from our State Department, delivered by Ambassador Jordan, our Government had "positive proof" that Guardia National Officers participated in these bombings. This letter further specifically cautioned against the public disclosure of its contents.

They have not told this Committee that it was this dictatorship Government, substantiated by our own intelligence documentation, that have on a number of occasions planned and participated in riots against the Canal Zone and the U.S. Government.

They have not told this Committee that it is this dictatorship government, through its controlled mass news media, that is pouring out hate against the Canal and the U.S. Government.

They have not told this Committee these substantiated facts because they are engaged in a "siege attitude". They are protected by a presidency that is generally regarded as open and honest. They are not confronted with a hostile U.S. news media, and finally the full damage of their actions cannot be assessed until after this Treaty has been implemented.

CONCLUSION

In conclusion Mr. Chairman I wish to state as a labor representative that all I seek, if this Treaty is ratified, is that the Canal Employee retain his or her civil rights, as you and I know them, without being economically destroyed. If this position makes me dangerous to our State Department, and they have indicated that they consider me as such, then I strongly insist that there is something fatally wrong with our State Department's position in this matter. If they are allowed to continue in these repressive actions described above, then surely there must be a weakness in our system of Government. Civil Rights is not a conservative issue, nor is our rights in the Canal.

This issue is a non-partisan issue and should be labeled as such. I am dismayed that it is not.

I would be more than happy to answer any questions that this committee wishes to ask.

Thank you.

STATEMENT OF CAPT. J. R. WILLIAMS

Mr. Chairman and Members of the Committee, I welcome this opportunity to provide certain employee related impressions on the new Panama Canal Treaty.

In order to further introduce myself to you, I have been a Panama Canal pilot for 11 years and possess a United States Coast Guard license as Master of Ocean Vessels, Unlimited Tonnage. I hold the rank of Commander in the United States Naval Reserve.

BACKGROUND

Although only recently of primary interest in the United States, the Panama Canal Treaty issue has been the dominant concern of employees for several years. Early in 1977, when a general outline of the Treaty began to emerge, the Panama Canal Pilots Association developed on active interest in what future situation pilots, and other employees, would be placed in a post-treaty environment characterized by two major changes to the current situation:

(1) The elimination of United States political jurisdiction over the community.

(2) An employee transition period that would be in progress for the entire life of the Treaty, which implies a reduced scope of employment and promotional opportunities for U.S. citizen workers. More importantly, however, the duration of the Treaty clearly stipulates a shorter career period that will profoundly influence the retention of newer employees in key positions.

A primary Treaty objective of the United States, and as expressed by our negotiators, is to keep the Canal open and efficiently operated for the benefit of all nations; certainly a worthy goal. An absolutely essential ingredient to its fulfillment will be the retention of a skilled work force that is dedicated to the Canal, competent, and highly motivated. Governor Parfitt's statement in this regard have already alerted you to this necessity.

The Pilots Association, therefore, in cooperation with other Canal Zone unions, sought to achieve Treaty language that recognized the unique situation created by the Treaty as it impacts upon the employees. This has been generally accomplished in two broad aspects; one being an early retirement concept, and second, a general provision for collective bargaining—as yet absent from the isthmian labor scene.

A very important characteristic that has typified employee union efforts during this period has been a mutual realization that our futures are as closely intertwined as our present interdependence. In this regard, Panama Canal pilots are only one of several essential categories of employees crucial to the operation of this international public utility. Further, these employees, and their families, constitute a community that is very dependent upon the continuation of good schools, medical care, and related services.

In short, gentlemen, we are all in the same boat.

SOME PROBLEMS THAT WE HAVE ENCOUNTERED

It has been, and continues to be, to some extent, extremely difficult to convince top management that the canal work force is career oriented; not the usual overseas employment that is rotational in nature, and that attracts a less committed type of individual.

For many employees on the waterway, particularly at the locks, where specialized skills are absolutely vital to the canal operation, the attitude has traditionally been demonstrated to be a highly motivated and professional one. The continuation of the Canal's efficiency is absolutely dependent upon this extraordinary degree of skilled dedication.

Pursuant to the retention of these, and other skilled employees, there will be required legislation consistent with the spirit of commitments made to employees, both in the Treaty and in Department of the Army Assurances.

Specifically important will be the development of a genuinely liberalized early retirement statute in keeping with Department of the Army intent to retain essential skills.

One personnel policy viewpoint of management pertinent to the period of a new Treaty, is to entice people to remain on the job with unspecified forms of premium pay. We are not opposed to this, of course, but our attitude becomes wary when it is clearly indicated that "at some point in time possibly these incentives would no longer be required, or would be adjusted for recruitment purposes as local skilled labor becomes available."

Being informed in advance that this viewpoint has a certain acceptance is helpful, but also causes an apprehension about management's intent once our skills become readily replaceable from the local labor pool.

Concluding this portion of my statement, I recommend that the gentlemen of this Committee obtain a report to the Chairman of the Board of Directors of the Panama Canal Company from the Personnel Committee of the Board, which was submitted last January. This report, we are informed, contains specific recommendations relating to employee matters, based upon board member perceptions of how Canal employees should be dealt with in a new Treaty.

IMPRESSIONS ON CHANGE IN JURISDICTION OVER THE CANAL ZONE

For most Canal Zone residents, the elimination of United States political jurisdiction over their communities is truly a profound change that will require individual and thoughtful adjustment by many, if not most, employees.

For second and third generation employees, this represents a complete alteration of their actual self-identity. This "crisis", such as it is, includes many Panamanians of West Indian origin, who have identified solely with a Canal Zone existence for their entire lives and English is that primary language.

However, most employees appear to be quietly developing an individual attitude that will cope with such an impending change. It is a very personal reaction that makes it nearly impossible to provide any sort of institutional or otherwise organized opinion.

These aspects, coupled with the fact that the jurisdictional change is not in keeping with the career expectations of most em-

ployees residing in the Canal Zone, is a very important fact that cannot be over-emphasized.

Recognizing this, however, it should be borne in mind that what was previously blind resistance to change has moderated considerably, to the point that a more open-minded tolerance to "wait and see" is now prevalent.

How many key employees, such as pilots, will terminate their employment if this Treaty enters into force? Preliminarily, our estimate is that perhaps fewer than five, possibly as many as ten, pilots would take steps to resign. This number could go much higher with the ranks of newer men, if legislative and related responses fall significantly short of expectations.

My conversations with other Canal Zone union officials provide a similar picture for other categories of employees.

This rather conditionally optimistic outlook on attrition of key employees should be received, however, by keeping in mind one very critically important element that will, to a great extent, determine the success of this Treaty. By this, I am referring to the necessity of a hospitable and cordial attitude towards former Zone residents by the Panamanian Government that translates into a spirit of active and harmonious cooperation in administering the affairs of the Canal.

That there is a realistically tolerant expectation of this development is probably a significant factor—among others—that has contributed to a marked reduction in the resignation rate of U.S. citizen employees.

The immediate post-Treaty transition era will obviously be a delicate period requiring the disciplined restraint and good judgment of all concerned.

A related aspect of this situation that should be recognized, however, is that in those categories of employment where loss of jobs is most likely to occur, the very generous application of severance benefits and priority transfer policies should govern in all cases. It is obvious that the extreme dislocation, coincident with loss of employment in this situation would justify such measures.

PANAMA CANAL PILOT REQUIREMENTS FOR THE FUTURE

The Panama Canal, compared with other major pilotage waters, presents a combination of navigational conditions that make for a very demanding shiphandling task; possibly the most difficult in the world.

Due to several reasons, including the prolonged and continuing uncertainty posed by this Treaty issue, there is a genuine concern, both by this Association and the Panama Canal Company, about the maintenance of a proficient pilot force with high professional standards that will assure the confidence of shipowners throughout the world.

Therefore, it is essential, in order to continue operating an efficient canal, that these high standards be maintained.

At present, Panama has very few pilot candidates ready to be trained. The Panamanian Government is aware of this, and is taking steps to train merchant marine officers at the recently established Escuela Nautica in Panama. The United States could assist in this situation by increasing the quota of Panamanian cadets eligible to attend the United States Merchant Marine Academy at Kings Point, New York.

There is one final observation on this subject that we would like to make, and stress its importance very heavily. That is the essential requirement for the United States to take every reasonable step to fulfill its Treaty obligations to the employees in order that no substantial exodus of pilots ensues. If, in reaction to a high resignation situation, short cuts or some form of "crisis management" were to be adopted to fill a sudden need for pilots, the resultant deterioration of professional standards—triggering even more resignations—could very well inhibit the ability of the Panama Canal to maintain its traditional high standards of performance.

CONCLUSION

Gentlemen, in these few pages, I have attempted to explain, with as much candor and precision as possible, the likelihood of a sufficiency of pilots, and other critically important workers, remaining employed in order to keep the Canal operating efficiently. If questions arise from my observations, I will attempt to answer them.

Concluding then, and conditioned by the viewpoints contained in this statement; the Treaty language, with its general recognition for the unique circumstances that it creates for employees, shows promise of providing a workable employee transition period.

STATEMENT OF RENE LIOEANJIE

I am Rene Lioeanjie, Regional Director for the National Maritime Union in Latin America and the Caribbean. I am appearing on behalf of the National Maritime Union, which represents approximately 7,000 workers of which approximately 98 percent are non-U.S. citizens, in all phases of the operation in the Canal Zone. These members are spread throughout the Panama Canal Company, Canal Zone Government, Department of the Army, Navy, Air Force and the Armed Forces Non-Appropriated Fund activities. These workers are employed in practically every bureau.

President George Meany of the AFL–CIO has expressed the views of organized labor with respect to the Panama Canal Treaty revisions.

The National Maritime Union's position has continually been since the beginning of the negotiations some 13 years ago, to do what we can as a labor union to look out for our members and leave the treaty negotiations to those experts in that field. Therefore, my brief comment is intended to reflect only on the labor guarantees and protections that are in the treaty for all Canal Zone employees.

Rather than enumerate and comment on every labor provision in the treaty, which we have been reviewing for some weeks, I shall summarize my comments by saying that it is our opinion that all of the employees employed in the Canal Zone will be adequately protected by the labor provisions in the treaty if unemployment benefits are extended to all employees in the Canal Zone that may be affected by the treaty and if the implementing legislation includes adequate open ended early optional retirement provisions for all employees.

Thank you Mr. Chairman. I shall attempt to answer any questions that you and the committee may have pertaining to these labor guarantees.

TESTIMONY OF FRED SCHLAFLY

My name is Fred Schlafly. I am a graduate of Georgetown University and Harvard Law School. I live in Alton, Illinois and practice law in the states of Illinois and Missouri. I am Chairman of the Emergency Task Force on the Panama Canal.

Here follows some of the many reasons why the United States Senate and House of Representatives should not ratify the treaty signed by President Carter and dictator Torrijos on September 7, 1977 calling for the surrender of our Canal and Canal Zone:

1. Starting in 1872 Presidential Commissions had repeatedly reported in favor of an American Canal through Nicaragua. In 1889 Congress chartered the Maritime Canal Company of Nicaragua. On November 16, 1901 the Walker Commission, appointed by President Theodore Roosevelt, reported in favor of the Nicaragua route. This route took advantage of the large deep lake in Nicaragua and of the San Juan River. However, in 1902 the French offered to sell all the canal work they had done and the equipment they had in Panama for $40 million dollars. This persuaded President Roosevelt that Panama might be the most practicable route. The residents of Panama were rightly concerned that the proposed canal might be built in Nicaragua because of the much shorter distances involved for American shipping.

As soon as they seceded from Colombia they energetically started negotiations with the United States and drafted the November 18, 1903 Treaty which Congress approved on February 26, 1904. The words "in perpetuity" in this Treaty, which occur seven (7) times, were taken from the recommendation of the United States Isthmian Canal Commission made on January 18, 1902 to Congress that the "grant" for a Canal Zone should not be for a term of years but "in perpetuity." See Senate Document No. 123, 57th Cong., 1st Sess., p. 9. As a consequence, the "in perpetuity" words were embodied in the 1902 Spooner Act authorizing the purchase of the Canal Zone, and also in the November 18, 1903 Treaty with Panama.

2. After the United States started work on the Canal, a law suit was filed to enjoin Leslie M. Shaw, Secretary of the Treasury, from paying money for the construction of the Canal on the theory that the Canal Zone is not part of the territory of the United States. In 1907 in this case of *Wilson* v. *Shaw*, 204 U.S. 24 at 32, 33, our Supreme Court unanimously decided that:

"The title to what may be called the Isthmian or canal zone, which, at the date of the act, was in the Republic of Colombia, passed by an act of secession to the newly formed Republic of Panama. . . . A treaty with it, ceding the canal zone, was duly ratified. 33 Stat. at L. 2234. Congress has passed several acts based upon the title of the United States. . . .

"Article 2 of the treaty, heretofore referred to, 'grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said Canal.' By Article 3, Panama 'grants to the United States all the rights, power, and authority within the zone mentioned and described in Article 2 of this agreement . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.'

". . It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate."

In *U.S.* v. *Husband Roach*, 453 F.2d 1054, 1057 (1971) cert. denied 406 U.S. 935, the United States Court of Appeals held:

"The Canal Zone is an unincorporated territory of the United States."

Our State Department ignores these cases and tried to claim that "The United States does not own the Panama Canal Zone . . . under law we do not have sovereignty in Panama."

These assertions are contrary to the unanimous Supreme Court decision in *Wilson* v. *Shaw* and to the clear language of our 1903 Treaty with Panama which excluded Panama "in perpetuity" from "any such sovereign rights, power or authority."

3. In the case of *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 324, 326 (1942) our Supreme Court held:

"Section 3 of Article IV of the Constitution confers upon Congress exclusively 'the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the executive's power to convey any interest in these lands must be traced to Congressional delegation of its authority."

Congress has not delegated to the Presidency its exclusive power to dispose of the public lands in Panama. Therefore, President Carter has no power to negotiate the Treaties he signed on September 7, 1977, before receiving such a delegation from Congress.

4. Besides the false argument that Panama has some kind of sovereignty over our Canal, the Carter administration also claims that, if we don't surrender the Canal, the Panamanians might destroy it by guerrilla warfare. The first answer is that our very powerful enemies in World War II were unable to destroy or injure the Canal, although they knew how vital it was to move our troops and ships. Second, Panamanians who plotted to destroy the Canal would probably be reported in advance because the Canal is Panama's chief source of income. Destruction of the Canal would bring poverty to Panama which now has the highest standard of living in Central America.

However, if the United States Congress approves the Carter-Torrijos Treaties then there will be opportunities for sabotage because the Canal Zone will disappear and the United States will lose ownership and share control of the forts and bases guarding our Canal and Canal Zone.

5. Paragraph 5 of Article IV of the Treaty obliges the United States:

"to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty."

Annex A to article IV of the Treaty requires the United States to permit Panama to jointly control a long list of our defense sites and bases as soon as the Treaty is ratified. Three years later another list of United States facilities will come under joint control with Panama. Paragraph (3) (a) of Annex B of the Treaty provides that:

"Only the Flag of the Republic of Panama shall be flown in Military Areas of Coordination."

Supporters of the Treaty allege that the United States could recapture the Canal Zone if the Treaty is violated. To do so, the United States would itself have to violate the Treaty. Paragraph 5 of article IV limits the armed forces to a level "immediately prior to entry of force of this Treaty." To recapture the Canal Zone and the many bases which the treaty requires us to surrender to Panama would require forces much superior to our present forces and much loss of life in attempting to recapture our bases. Why expose our military men to these most unnecessary dangers? Furthermore, nothing in the Treaties prevents Torrijos from inviting Communist troops from Cuba or Russia to come to Panama to defend the Canal and its forts.

6. The chief contention of witnesses for the Treaty seems to be either that the United States took advantage of Panama in 1903 or that the 1903 Treaty is out of date. The United States generously paid in full every claimant. We paid $10 million dollars to the Republic of Panama, $40 million dollars to the French Canal Company for what it had done and for its equipment, millions to the property owners in the Canal Zone for the purchase of all their land and other property, and $25 million dollars to the Republic of Colombia. The historians say that the United States paid a total of $80 million for title to our Canal Zone. All these claimants acknowledged fair and full payment. However, in November 1946 Alger Hiss, then head of the Political Affairs Office of our State Department, who later served time for denying that he turned secret documents over to the Communists, sent a report to the United Nations in which he described the Canal Zone as one of America's "occupied territories." In the 1960's and 1970's our State Department has been repeating Alger Hiss' argument that the Panama Canal is not "the sovereign property of the United States," and also that the "Panama Canal is a colonial enclave." In terms of both price per acre and total price, the United States was far more generous to Panama than to all other sellers of land the United States bought, including the Louisiana Purchase, the Florida Purchase, the Alaska Purchase, and the Gadsden Purchase of New Mexico and Arizona, added together. (House Doc. No. 474, 89th Congress p. 361.)

The Panama Canal Spillway reported on July 16, 1976 (Volume 14, No. 49) that the Canal benefits for fiscal year 1975 to Panama were $253,130,000. This gives Panama, with its 1.6 million population the highest per capita income in Central America, when it was the poorest country before the Canal was started.

It is a mistake to say that the United States pays "rental" for the Canal Zone. In 1903 the United States assumed the obligation of the Panama Railway Company for payment of its annuity, first made to Colombia and then to Panama, of $250,000 per year. Because of inflation the United States increased this annuity to $2,328,000.

7. The surrender of our Canal and Zone in Panama, proposed by President Carter and Ambassadors Bunker and Linowitz will cost the American taxpayers dearly. First, we will be giving up an asset for which our taxpayers paid approximately $7 billion dollars and which, with inflation, is now worth about $12 billion dollars. Second, Lieutenant General V. H. Krulak USMC (Ret.) in an article in the Strategic Review, 1976 Winter Issue, has described what surrender of the Panama Canal would mean to America in terms of our military security and financial costs:

"By closing down the canal at their own whim, [the Panamanians] could double the cost of maritime fuel for a voyage from the west to east coasts of the United States and more than double the average transit time from coast to coast. When it is realized that fully 8,000 ships a year carry cargo through the Canal, destined for U.S. ports, the resultant increase in retail costs of the commodities is evident.

"A common argument is that the Canal has largely lost its strategic value to the United States because our principal combatant ships are too large to get through the locks. Actually, a total of only 13 ships in the U.S. Navy have beams too great to permit passage through the waterway. The remainder of the fleet, some 470 ships—not to speak of an equal number in reserve—can use the Canal, and do so beautifully.

"Without absolute control of the Canal and the essential contiguous land, the United States could not accept the hazard of a one-ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or Pacific—a massive expenditure which we are now spared only because of our control of the Canal."

8. Not only does the proposed Treaty give control of the Canal and Zone to Panama, but it requires us to pay Panama to take the Canal. From 1978 to the year 2000, Panama will receive $10 million per year in guaranteed cash, plus $10 million per year for police and other utilities, plus 30 cents for each ton going through the Canal, estimated at $50 million per year, plus an additional $10 million per year if Canal revenues permit.

In addition, Panama will receive Export-Import Bank credits of up to $200 million, up to $75 million in credits from the Agency for International Development, $20 million in credits from the Overseas Private Investment Corporation, and $50 million in military sales credits. This totals $345 million in loans guaranteed by the U.S. taxpayers.

In short the shippers, most of whom are Americans, will be paying Panama about $80 million per year, and American taxpayers will be putting up $345 million, in order to give Panama the privilege of taking our great American Canal away from us.

9. The question must be asked, cui bono? For whose good is this surrender of America's greatest single investment? Of course it is for the benefit of Marxist Torrijos who allows only one political party, which is the Communist Party, to operate in Panama.

The next biggest beneficiaries are the ten giant American banks who have loaned over $2 billion to the bankrupt Torrijos government. . .

The evidence not only indicates that these big banks are willing to let our Canal be transferred to Torrijos so that he gets funds to repay their loans, but that they furnished the agent to negotiate this surrender of our Canal.

President Carter appointed Mr. Sol Linowitz to negotiate the surrender of our Canal.

When Congressman Robert Dornan exposed Mr. Linowitz's conflict of interest as a director and member of the Executive Committee of the Marine Midland Bank of New York, which had loaned large sums to Panama after Torrijos became its dictator, Mr. Linowitz resigned, but instead of resigning as U.S. negotiator, he resigned his bank directorship.

10. On July 19, 1977, the Soviet Union and Panama signed an Economic Pact which gave the Communists:

1. The right to build, open and operate a bank in Panama;

2. The right to take advantage of the Colon Free Zone, which includes Old France Field in the Canal Zone, for the selling of Soviet merchandise; and

3. The right to construct a hydro-electric plant in Panama.

Former Commander-in-Chief, Pacific, Admiral John S. McCain testified on July 29, 1977 that the United States should reclaim Old France Field in our Canal Zone and use it as an air base to protect our Canal. Instead Torrijos has made it available to the Russians, seven weeks before he came to the White House to sign the Treaty giving him title to our Canal and Canal Zone.

11. We sympathize with the ten giant American banks who made large, uncollectible loans to the Torrijos dictatorship. Most of them have branches in Panama and should have been able to discover that the interest alone on Panama's debts take 38 percent of its income. Perhaps these banks relied on the unauthorized and never ratified Kissinger-Tack Agreement signed February 7, 1974 which talked of ceding all the U.S. territory in the Canal Zone to Panama.

The directors of these giant banks are a Who's Who of American business and finance. Could that explain why two of our country's best known public relations men, F. Clifton White, who worked for Senator Goldwater in his 1964 campaign for the Presidency, and Joseph Neopolitan, who worked for Vice President Humphrey's campaign for the Presidency in 1968, were hired for $200,000 to sell the surrender of our Panama Canal?

12. Some of these same giant banks were criticized for very large loans to Bert Lance and for selling to unwary buyers their New York City bonds of questionable value. It is certainly hoped that these ten leading American banks are not directly or indirectly involved in the high powered campaign, extending from the White House to a movie

star in California, to persuade American taxpayers to approve the surrender of the greatest single construction and investment our country ever made, our Canal and American Zone in Panama. Another surrender, after the abandonment of our friends in Cuba, Southeast Asia, Angola, Mozambique, and our Monroe Doctrine, might be construed as the twilight of the great American Republic, which built the Canal for less than all the time and cost predictions.

STATEMENT BY GARY L. JARMIN

Mr. Chairman, the American Conservative Union appreciates the opportunity afforded by the committee to present our views with regard to the proposed Panama Canal Treaties. The ACU is the nation's largest conservative organization with over 100,000 members and 40 state affiliate chapters. The ACU is one of the leading organizations opposed to these treaties and has, as a part of this effort, established a "Task Force to Save the Panama Canal" headed by the distinguished senior Senator from South Carolina, Strom Thurmond.

We believe there are many valid reasons why these treaties should be rejected by the Senate, but chief among them is the problem of the contradictory interpretations by Panamanian and U.S. officials with regard to key provisions guaranteeing: (a) the United States the right to intervene to defend the canal; (b) preferential passage for U.S. warships in time of major conflict or war; (c) the neutrality of the canal; and (d) keeping it open under all circumstances (except in the case of natural disasters).

The major source for this conflict over interpretations is primarily based on the statement made by Panama's chief treaty negotiator, Dr. Romulo Escobar Bethancourt, before the Panamanian National Assembly on August 19th and the remarks by another of Panama's treaty negotiators, Carlos Lopez Guevara, as disclosed in a confidential State Department cable made public by Senator Robert Dole. The ACU, we feel is particularly justified in addressing this issue since it was the ACU which first obtained a copy of Dr. Escobar's speech as printed in the August 20th issue of *Matutino*, a Panamanian newspaper, translated these remarks and made them public on September 2nd by issuing numerous copies to many Senators, including some members of this committee, Congressmen, the media and others.

If there is no objection Mr. Chairman, I would like to submit for the record a full translation of Dr. Escobar's remarks made before the Panamanian National Assembly on August 19th:

TRANSLATION

"The original (American) position was that to reach an agreement with Panama there would have to be a neutrality treaty and a military treaty. The military treaty would be made before the end of this century to be operative after the year 2000. This kept the negotiations stalled for a long time, because Panama opposed the enactment of a military treaty. Such a treaty would have implied two things: First, the continued U.S. military presence in Panama after the end of the present treaty (2000); and second, the United States, as a great power, is a country frequently involved in wars in other parts of the world, and we did not want that, because of the existence of a military treaty, the future youth of our country to have to go fight in the American battlefields with the pretext that this related to the defense of the Panama Canal. This was a position that Panama maintained until the United States withdrew the idea of a military treaty. We were then able to negotiate a neutrality treaty alone.

With regard to the neutrality pact, the following situation arose: The United States asked if Panama would disagree with the idea of the Canal being neutral. We told them we didn't, that on the contrary, a long-standing aspiration of Panama had been that the Panama Canal would be neutral. They said that they wanted the Panama Canal to be neutral and we said we entirely agreed with them. Differences then arose only in what they understood by neutrality and what we understood by neutrality. They proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality. Panama was opposed to this concept, explaining that we did not want the United States to maintain a guarantee over the State of Panama, using the neutrality issue as an excuse. This was another source of debate that kept the negotiations stalled until the United States gave up the idea of its guaranteeing the Canal's neutrality.

Another of the positions they presented was that Panama must agree to maintain the Canal permanently neutral and permanently open. We told them that Panama could commit herself to maintain the Canal permanently neutral because that was her wish. Panama has no interest in having anything other than a neutral Canal, the Panama Canal, because otherwise the Isthmus of Panama could become a battlefield. But we said Panama could not promise to maintain the Canal permanently open because of three circumstances that might arise. One, because of natural causes; we explained that an earthquake could take place, for instance, which would close the Canal, and, in such a situation, Panama could not be under an obligation to keep it open. Another possibility was temporary disruptions—landslides could take place and the Canal would have to be closed to carry out clean up operations. The third possibility was that the Canal could become unprofitable for Panama; in such a situation, Panama could not be tied down to keeping open a canal which was not earning revenues. They (United States negotiators) accepted the first two reasons—natural causes and temporary disruptions—but they did not accept the third reason, lack of profits. This, too, kept the negotiations stalled for a long time.

They argued that if the Canal was not profitable, Panama could obtain money from the United States or the other countries that use the Canal to keep it open. We told them that when the new treaty with the United States ended, we did not want Panama to be under either direct or indirect obligation to turn to the United States or any other country to request money to keep the Canal open. Our respective positions remained unchanged until we reached the agreement I am about to describe. They said, we can't present to our Congress an article that states you will close the Canal because of insufficient revenues. And we said we could not present an article committing us to operating the Canal permanently when we have no way of knowing if the Canal someday will yield no profit. We finally agreed to eliminate that article, and so Panama was freed of the obligation to maintain the Canal open permanently. The negotiations then went exclusively to the issue of neutrality.

The United States then proposed that there be a neutrality treaty between Panama and the United States and no one else. Because they did not want for either the Russians, the Cubans or the Chinese—they said so exactly—to intervene in the neutrality of the Panama Canal. Our position was that neutrality didn't make any sense if limited to two countries as a result of a treaty between the United States and Panama and that we opposed the other countries not having the right to join in that treaty. They changed their position and agreed to allow the countries of the American continent (except for Cuba), but no others, to join. We said no, that this was meaningless, because in case of a war between the United States and Russia or China, those countries not being a part of the neutrality agreement would be under no commitment to respect the Canal or the Isthmus of Panama. That was another reason for long delays, until they finally accepted the idea that all the countries of the world could join the neutrality treaty.

Later, there arose the problem of choosing a forum for all the nations of the world to join the pact. We said it had to be done in the United Nations. They answered that they did not much like the idea of the United Nations because of their problems with the non-aligned countries, the Third World, the Arabs, etc. They proposed the O.A.S. We agreed, provided that this body only serve as a depository, as the physical location where all the nations of the world would sign the treaty, and that O.A.S. would have no say in determining which countries would sign. This was another cause for discussion. It was solved through a protocol of neutrality—that famous protocol which has been attacked as giving the United States the right to intervene in Panama by some who apparently read such a description in a Miami newspaper. This protocol is only a note* indicating the existence of the neutrality pact. It summarizes the agreement and sets down that country such-and-such agrees to abide by it. That is the famous protocol. It is the same thing as the neutrality treaty but in the form of a protocol (that is what it is called), and the O.A.S. is the depository.

Another issue was preferential right of way through the Canal for American warships. The Americans said that they had two problems. First, they had to please the Pentagon—they had to present it with something it liked so it would support the treaty; and second, that as they would be leaving Panama as soon as the treaty ended, they should be allowed at least that much, if nothing else, because they built the Canal. We pointed out that we recognized they had indeed built the Canal, but that writing in the neutrality pact that the United States warships would have preferential right of way over the rest of the vessels violated the neutrality treaty and that was contrary to the objective of the treaty we were negotiating. This was another cause for lengthy discussion and much analysis. They searching through their books and we searching through ours; they invoking their treaty writers and we invoking ours. This is how these discussions are carried out. Changing their position, they asked for preferential right of way during times when the United States was at war—originally they wanted it in times of peace and war—and that this right be granted only when requested by the ship's captain. We said no—that war time was the least appropriate moment to grant preferential passage rights since it would be a violation of neutrality. After long discussions they accepted that U.S. warships could not be granted preferential rights. Then both countries set about looking for a formula which would not involve preferential rights, and we came to the agreement that the warships of the United States, in times of peace or in times of war, and the warships of Panama—we still don't have any now, but maybe by the year 2000 we will have some—will have the right to speedy passage through the Canal. This means that they will have the right to as rapid a passage as possible. We were able to agree on this because it's not in any country's interest to have another nation's warships delaying for long in its territorial waters; so the faster they go through, the better.

Another of the issues in the neutrality pact that we were—I should explain that

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*The meaning of "note" is not clear. It could mean a note of explanation or a small piece of paper.

I am giving you the true picture of what the neutrality agreement will consist of. We did not give in either to the American's insistence that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone, in other words, that Panama be the one to declare the Canal permanently neutral. They proposed that in our declaration we say that the state of neutrality was intended to prevent the Canal from becoming a theater of war. We answered that we were declaring the Canal neutral so that neither the Panama Canal nor the Isthmus of Panama would become a theater of war. They wanted to separate the Canal and the Isthmus. We told them that we could not do that, that the Canal was part of our Isthmus, and that our neutrality only made sense if it covered both the Canal and the rest of the country. We wouldn't be any better off if, rather than dropping a bomb in the canal, they dropped it, for example, on Ocu or Santiago. They accepted that the declaration of neutrality be worded in such a way that neither the Canal nor any part of the Isthmus of Panama could be the object of reprisals in the course of another nation's conflict.

The other point we made in relation to our concept of neutrality is that it is not a neutrality which will allow the United States ships to transit peacefully, but rather one which will allow ships flying all the flags in the world to transit peacefully, notwithstanding what country may be involved, its being a communist country, a fascist country, or a monarchy—that we were not insistent on its being a democratic country to allow it peaceful passage. And finally, that the pact was to be made between the two countries, and it is stated there that Panama declared the neutrality of the Canal, in the manner that I already explained to you, following the establishment of a neutrality pact with the United States and a commitment being made on the part of both nations to maintain that neutrality. This concept of maintaining the neturality was that which replaced their original position of guaranteeing the neutrality. The upholding of the neutrality is indicated within the treaty and in the protocol all other countries are committing themselves to this protocol.

Later came a discussion on their proposal that the two countries commit themselves to upholding this neutrality under all circumstances. We said that if the phrase "under all circumstances" was included, two important exceptions would have to be made. The first was that this would apply only so long as internal order was not involved, since these are problems for one country or our national guard to address; and second, in the case of an attack on the Isthmus or the Panama Canal by a third country. This was cause for much discussion, and in the end, they preferred to leave out the phrase so that we would not include the exception. We also pointed out that the neutrality pact must indicate clearly that after the 31st of December 1999 at 12 o'clock noon—or at 12 noon as Edwin (Edwin Fabroga) says or at 12 midnight as Ahumada (Adolfo Ahumada) says—that from that date on, the American troops could not be in Panama. After much discussion, they said, "We don't like that phrase—that there can be Russian troops or Cuban troops." Then a proposal was made to change the phrase to read that from the 31st of December 1999 on only Panamanian troops could be stationed in Panama. We were in perfect agreement with them. They were happy, because they had been half-thinking that we are going to call in the Russians, and we were happy because one of our aspirations was precisely that our troops be the only ones here.

So this is the "problem" with the neutrality pact. (Sarcastic) The criticisms made of it—some that you have heard or have read—indicate that we give the United States the right to intervene in our country after the year 2000. These critics think that rights of intervention are granted in the treaty. To the great powers, no one gives the right of intervention; they intervene whenever they feel like it with or without a treaty. When they (the Americans) landed in Santo Domingo, they had no military treaty with Santo Domingo, nor had any right of intervention in Santo Domingo, and they landed anyway. But there are people here who think that it is in the articles of a code (law code) that tell a country if it has the right to intervene or not, and they don't know that it is the bayonets, the guns, and the atomic bomb that gives a country the strength to intervene. And so a country like the United States can land in Panama whenever it feels like it after the year 2000 with or without a neutrality pact. But it cannot land, for example, in Russia, even if Russia tells it to land. Those are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention. What we are giving is an assurance that the Canal will be permanently neutral, that we are not going to close the Canal so that their ships or this ship or that ship cannot go through. Why this neutrality pact? Because they are thinking, "By the year 2000 this country (Panama) may have gone socialist and become our (U.S.) enemy and we now want to make sure that even if they become socialist, they cannot close our passage."

And, frankly speaking, they do not need this neutrality pact to intervene or not intervene. They need it to present it to their Congress, to tell their Congress, "Look, we are giving the Canal to those Panamanians, but we retain the right to watch over it so that they behave themselves." That's the truth. It's an internal political problem; they are trying to solve an internal problem with a Congress intensely opposed to these negotiations and one which, in addition, includes members who have not been elected by the American people but rather who have become members of Congress of their own accord—these are certain Panamanians living here and others in Miami. (n.b. Referring to exiled people opposed to Torrijos' government.)

So about the neutrality pact, these are its real contents, distinguished Representatives. It was very carefully thought out, as you can see from my description of how its final form was arrived at. I might add that we feel very proud of the way the matter has been resolved. You should have seen the original draft they presented along with the military treaty. Agreeing totally to that would have been shameful; I would not have dared to sit at this table now to give you any kind of explanation if I'd brought with me their original draft for the military treaty and the neutrality treaty.

The other problem concerned the option for the construction of the sea level canal. Two months ago, almost on the day of the opening of the Alaskan pipeline, President Carter delivered a speech in which he said that his government was deeply interested in the construction of a sea level canal either through Panama or through another point in Central America, and right after President Carter's speech the American negotiators brought the question of the option to the negotiating table. During the earlier negotiations of 1966 and 1968 this issue had been intensely debated by the negotiators of that time, Doctor Diogenes de la Rosa and others since it was at that time that they (the Americans) were making the studies which they later completed and they wanted to speed up the time-table for possible construction. But in the present round of negotiations it appears they had put the problem aside until now, with President Carter's speech and the Alaskan oil.

And so the discussion of the option began. We talked about this option approximately two times and we arrived at no conclusion. Then came the Bogota conference.

There, the problem of the option truly made for a crisis, because there a very complete proposal was laid out for agreement by all the presidents, with Carter working through negotiators Linowitz and Bunker, and our side being represented by our Chancellor, Gonzales Revilla, and our negotiating team. The (U.S.) proposed that Panama have an option to build a sea level canal at an unspecified time, and second, that Panama commit herself to the idea that no other country could construct a sea level canal. They presented that proposal in Bogota, and we read it to the presidents. It was the proposal that the negotiators had brought and we read it to them, and as a result the negotiations between the two countries were broken off.

The General said in his statement that we had come to this Bogota conference to celebrate a new treaty only to find that we had come to a wake. There, the struggle between the two countries began, with Bogota taking part also, since the other presidents were meddling as if they were Panamanians too.

There was no way to reach an agreement on what they proposed. Panama's delegation wrote a proposal which met with general approval. Read word for word, it is more or less like this:

Article 3—The possibility of constructing a third set of locks or a sea level canal.

1. The Republic of Panama and the United States agree that a sea level canal could be important in the future or in the context of international relations.

Consequently, after its approval, the question of construction will be dealt with. There isn't even an option. The option relates only to studying the matter. We will sit down and analyze with the United States if it is feasible. If it is, the two countries will build it, maybe during the next 10 or 15 years. The generations of the future will be much more prepared. We do not give you a copy of the treaty because its release is pending on the announcement of President Carter and of General Torrijos, and its becoming an official document. We will publish it wholly when it does become (official), and we will debate it publicly.

The ones who cannot prove that this treaty is better than the one of 1903, that perpetuity is better, will have the problem. That the two million dollars a year is better than what is proposed now. We don't care if they say that General Torrijos is a dictator; those who are opposed and say that we are not revolutionaries—let them grab their knapsack and their grenades and go prove it with deeds.

CONTINUATION OF STATEMENT BY GARY L. JARMIN

In his speech, Dr. Escobar made eleven points about the Neutrality Treaty and its Protocol but, reduced to basics, four items stand out. First, the U.S. will not have any defense rights past the year 2000 and will not be the guarantor of the neutrality of the Canal. Second, U.S. warships will not get preferential treatment in terms of transiting the Canal, even in time of war, after the year 2000. Third, the Panamanians think that it will not be necessary for them to abide by the Neutrality Treaty in cases of foreign attack or internal disorder. In short, from the Panamanian standpoint, the U.S. role in Canal affairs will be very limited until 1999 and virtually non-existent thereafter, which is a far cry from what we have heard about how the Canal will be kept open and that

adoption of this treaty will make it easier to defend our interests.

The question of interpretation is extremely crucial with respect to any treaty and, especially, with regard to this one. But just as important, what actually transpired during these negotiations, i.e., what original proposals were offered by both the U.S. and Panama, what was rejected by either side, why it was rejected and what was compromised, is something that must be fully disclosed in order to clearly understand the intentions, interpretation and strategic outlook of the respective parties (fortunately, Senator Howard Baker had the wisdom to request this information from Secretary Vance on the opening day of these hearings). For example, when he made his speech before the Panamanian National Assembly, Dr. Escobar stated:

"You should have seen the original draft they presented along with the military treaty. Agreeing totally to that would have been shameful; *I would not have dared to sit at this table now to give you any kind of explanation if I'd brought with me their original draft for the military treaty and the neutrality treaty.*" (emphasis added)

The question that must be answered is: *What* was the United States' original draft for the military and neutrality treaty and *why* did we compromise?" It seems clear from Dr. Escobar's statements, and, those of other Panamanian officials, that they consider it absolutely intolerable for the United States to have the right to intervene to defend the canal. It should be equally intolerable for the United States Senate to agree to such an outrageous prospect. If the United States does *not* have the clear, legal right, under the terms of this agreement, to defend the Panama Canal, so vital to the protection of our commerce and national security interests, then how can we justify or have the right to defend our interests anywhere in the world?

The United States and Panama are now attempting to resolve these differences by issuing some statements to satisfy opponents of the treaties in their respective countries. But watered down, generalized agreements of interpretation to satisfy opponents of the treaties will not suffice. Whatever actions are necessary should be taken by the United States Senate in order to clarify in the neutrality treaty precisely what our (U.S.) rights are. We cannot, and should not, leave it up to anyone's "interpretation," now or in the future, as to exactly what the United States' rights and privilege are under the terms of this treaty.

Should the U.S. Senate ratify these treaties in their present form, we will be risking, down the road, a major confrontation with Panama over whether or not the United States can intervene militarily to defend the neutrality of the canal.

On the neutrality issue, it is clear that Articles I and II of the Neutrality section are unilateral statements of neutrality by Panama alone. Neither article mentions the United States in conjunction with a declaration of neutrality; they are simply a unilateral declaration by Panama. The fact that Panama alone makes the declaration of neutrality is crucial for one important reason: It simply means that only Panama can declare when the neutrality of the canal has been violated. This means the United States could not legally take any action to defend the canal, if it thought the neutrality of the canal was being violated, without Panama first declaring a violation of the neutrality.

For example, in his August 19th speech, Dr. Escobar stated that Panama could not agree, in writing, that it be obligated to keep the canal open if it was not "making money" or in the case of "internal disorder." Refusal by Panama to oblige itself with maintaining the openness of the canal under these circumstances is very important for several reasons. First of all, it must be understood that the Panamanian government is basically Marxist in orientation and outspokenly aligns itself with Cuba and other "pro-socialist" countries. In an international crisis, such as occurred in Cuba in 1962, can we be assured that riotous students, in sympathy to Cuba, would not attempt to disrupt the operation of the canal to prevent the passage of U.S. warships? Could not the Panamanian government conveniently declare during such a crisis that the canal was not making money and, therefore, have to close it indefinitely?

In addition, given the heavy communist influence in Panamanian labor unions, could not one day, in a similar crisis, the pilots who move ships through the canal suddenly declare a strike and, thus, paralyze the transit of U S. warships.

There is also one other provision that would provide for the Panamanians a perfectly legitimate (legal) excuse to hold the transit of U.S. warships. Under Article III, section 1, subsection (e), the treaty provides that warships can be "required to certify that they have complied with all applicable health, sanitation and quarantine regulations." Obviously, the Panamanians could, in an international crisis, declare that all U.S. warships transiting the canal be stopped indefinitely to undergo a health and sanitation inspection. And what could we do about it? Send in the Marines? It makes no sense that this provision be listed under the "vessels of war" section to begin with. Yet, it provides a convenient excuse for the Panamanians to violate the "principle" of neutrality.

MAINTAINING ADEQUATE DEFENSE OF THE CANAL

From the outset, it should be clearly understood that the Panama Canal is still and always will be vital to the defense of the United States. We do not have a two-ocean navy. We have instead a one-ocean navy with two-ocean responsibilities. The transit of warships and war material, troops, etc., from one ocean to another, as during the Cuban missile crisis and Bay of Pigs invasion, is still critical to our national security in moment of international crisis.

There is only one way to guarantee the adequate defense of the canal: The United States should continue, in perpetuity, to maintain a military presence in the Canal Zone. By the year 2000 all U.S. military troops are to be withdrawn and the defense of the canal will be entirely in the hands of the Panamanians. However, the Panamanians are poorly trained and equipped to adequately defend the canal. If 100,000 U.S. troops cannot completely defend the canal, as the Pentagon has stated, then how can 10,000 soldiers of the Panamanian National Guard defend it?

Today we have only 10,000 U.S. troops defending the Canal Zone and, thus far, they have been able to defend it without any major problems. The major reasons for this success is quite simple: They are U.S. troops, not Panamanian. This deterrent role is validated by the same reason our troops in Guantanamo protect it from attack by the Cubans. After all, if we accept the Defense Department's argument that we cannot defend the Panama Canal with 100,000 troops, then how can 5,000 U.S. troops in Guantanamo defend it against 300,000 Cubans? We can and do defend Guantanamo primarily because of the deterrent of a U.S. military presence. It is obvious that the United States military presence in the Canal Zone serves as a deterrent to any potential foe whether it be foreign or domestic. Once U.S. troops are withdrawn, the deterrent is removed. Under these circumstances the canal will become more vulnerable, not less. There is only one way to guarantee an adequate defense of the canal and that is to insure a permanent U.S. military presence.

The United States should have insisted on the right to keep U.S. troops in the Canal Zone indefinitely and not agree to any termination date. Ambassador Bunker told this committee that there is no country with which Panama maintains a "closer" relationship than the United States. If this is true, then why shouldn't the United States be allowed to keep troops in the Canal Zone? The U.S. has military forces in many countries throughout the world. There are few that would argue that Germans, Greeks or Koreans feel their national sovereignty and integrity are threatened by the presence of U.S. troops. And neither should the Panamanians. Yet the U.S. capitulated on this very crucial issue. Obviously, the best way to keep a military presence in Panama would be to reject these treaties and keep control of what is rightfully U.S. territory. However, at the very least, the U.S. and Panama could have agreed to lease military bases to the U.S. after the year 2000. If the U.S. had insisted on such a provision in these treaties, then the question over whether or not we have the right to intervene would not exist. The United States Senate can and should insist that the treaties be altered to provide for a continuing U.S. presence in Panama. The Canal is too vital to the commerce and defense interests of the United States to entrust that only the Panamanian National Guard (which can barely tame a mob of rioting students) will have the sole defense responsibility. The crucial aspect of deterrence must be maintained, and that can only be accomplished by guaranteeing a continued U.S. military presence in the Canal Zone.

VIOLENCE AND LATIN AMERICAN RELATIONS

Two of the central arguments that proponents of the treaties have given for their ratification are: (a) that if we don't give up the canal we will increase the prospects for violence and sabotage from the Panamanians, and, (b) that we will irreparably harm our relations with Latin America. Both are spurious arguments at best.

The United States has been able to adequately defend the canal against sabotage in the past and there is no reason we can't continue to do so in the future. But more importantly, it is the Panamanians who would want to prevent any sabotage since they benefit most from the Canal. Approximately 13% of Panama's GNP, 20% of its jobs and 3% of its foreign exchange comes from the Canal Zone, none of which the Panamanians are going to want to lose. If there is to be any substantial amount of violence, however, this will largely be the result of the U.S. raising the expectations of the Panamanians to an unrealistic degree and by allowing ourselves to be blackmailed by the threats of violence from Panamanian officials. Frankly, it is quite intolerable that our U.S. negotiators continued bargaining with the Panamanians when these threats were made. No nation should negotiate with another under such circumstances. We should have instead cut off negotiations immediately when such threats were made and told the Panamanians that, until they acted more reasonably, we would never discuss a new treaty

The real issue we are facing is a decision between the most acceptable and least acceptable risks Certainly we do run the risk of some violence if we reject these treaties, however, this risk is much less than taking the chance of one day finding ourselves having to send in Marines to protect the canal from external or internal threats. This risk of violence or sabotage is also far less of a risk than taking the chance of having Panama become a totally communist state or even a procommunist state (which many argue it already is), firmly allied with Cuba and the U.S.S.R.

Israel's problem with regard to the West Bank serves as an excellent example of confronting a similar "risk" scenario. Many

argue that Israel must give up the West Bank to the Palestinians or risk a new war with the Arab powers and continued guerrilla attacks by the PLO. However, Israel considers the prospect of a hostile Palestinian state next to its belly a far greater risk than holding on to the West Bank which is very strategic to Israel's defense. For Israel there are risks either way. Once again, it comes down to what is the most versus the least acceptable risk. When looking at the potential risk of violence from wild-eyed Panamanian students, it is certainly far less than the enormous risks the U.S. will be taking in giving up the canal to a Marxist dictatorship while having no guarantees of our right to protect the canal in the future.

There is one final point that should be made regarding the violence argument. If there is any violence because these treaties are rejected by the Senate, the fault for this should fall squarely on the shoulders of the Executive branch. The White House and our negotiators allowed themselves to be blackmailed by the threats of violence and, now, they are using the same tactics to pressure the Senate into ratifying the treaties. Had our government not negotiated such a terribly vague and unreasonable agreement in the first place, the Senate would not have to face such a difficult decision. In essence, the White House has attempted to place the onus of any future violence on those who conscientiously refuse to support such an unacceptable agreement. The White House is simply trying to avoid any political fallout by "passing the buck" to the Senate.

Perhaps one of the major reasons these treaties are basically unacceptable in the first place, comes as a result of the failure of the Executive branch to consult and advise the Senate during the negotiations. By totally ignoring the Congress, these treaties were presented as a *fait accompli*. Obviously, much more acceptable treaties could have been negotiated had the Senate been consulted. The Senate should not allow itself to be used as a "rubber stamp" by the White House but, instead, properly exercise its authority by insisting on the best treaty, not a document of capitulation to a cabal of Marxist dictators.

LATIN AMERICAN RELATIONS

Perhaps the greatest myth promoted by supporters of the treaties is that the Senate's rejection of them will severely harm our relations with other Latin American countries. The support among Latin American nations for these treaties is not nearly as widespread as is believed. Privately, many of our Latin American allies will state that they are extremely worried over the prospect of a Marxist, pro-Cuban government having control of the Canal Zone. One has to remember that many of these nations have been threatened by communist subversion, from both Cuba and the Soviet Union, and they are not terribly excited over having Soviet influence increase, or appear to increase, so dramatically in the Western Hemisphere.

The lack of enthusiasm by our Latin American allies for the Panamanian position was clearly demonstrated by an almost totally unnoticed event that occurred only two months ago. Panama called a conference in Bogota, Colombia, on August 5th and invited 25 Latin American nations to attend. This conference was to provide a demonstration of solidarity with Panama's position on the treaties. Only five nations, Colombia, Costa Rica, Jamaica, Mexico and Venezuela bothered to attend.

In addition, if threats of violence are deemed the best way to get concessions from the U.S., we should expect more unfriendly demonstrations from Latin American countries, rather than improved relations.

In conclusion, it must be understood, as the past has shown us, that Latin American respect for the U.S. goes up when we take a tough stance and goes down when we capitulate. The United States' stock in Latin America went up after the missile crisis of 1962 and the Dominican crisis of 1965, but we suffered a severe loss of prestige after the Bay of Pigs debacle. Ratification of these treaties will only signal to our Latin American allies that the U.S., once again, is capitulating to the Marxist advance in our hemisphere. Ratification will gain us few new friends but will only undermine even further the respect and credibility of the U.S. throughout Latin America.

In summary, these treaties pose graver risks than the United States and any of our Latin American allies can afford. It is particularly dangerous that we should turn control of the canal over to an oppressive regime that is ideologically aligned with our chief adversaries. Concluding a vague and unreasonable agreement with an irresponsible government is nothing more than a blueprint for disaster. Perhaps the time has come for a new treaty, but not *this* agreement with *this* Panamanian government. The American Conservative Union urges the Senate to act accordingly and to vote against the ratification of these treaties.

STATEMENT BY DR. HERMINIO PORTELL-VILA

Honorable Chairman, Distinguished Members of the Committee on Foreign Relations, Ladies and Gentlemen:

Much has been said in recent days about the manner in which the United States established its presence in the Panama Canal Zone. It is alleged that the U.S. "stole" the territory in order to build the Canal.

As a one time Cuban Ambassador, and as a former professor of history at the University of Havana and at a number of institutions of higher learning in the United States, I have had occasion to study the historical origins of the Panama Canal. And I must submit that the facts do not correspond to many of the popular conceptions now advanced in many quarters.

Let us begin at the beginning, for to understand the present, we must know the past.

The Republic of Panama (28,783 square miles and 1,670,000 inhabitants), came into being in 1903 as a result of the plans of President Theodore Roosevelt for the United States to build an inter-oceanic canal across the Isthmus of Panama after the French had tried and failed. The French rights were bought by the United States. Panama had up to then been an integral part of Colombia, although there had been some unsuccessful secessionist attempts. The first American dealings with the Republic of Colombia for an agreement regarding the canal ended in a deadlock, and not much foreign prodding was needed for a revolutionary movement leading to the proclamation of independence, as the separatist feeling was there and Colombian rule was ineffective.

The Panama Canal has been in operation since August 15, 1914, open to peaceful international traffic and with a continuous increase in the number of the ships using it and their total tonnage. For more than sixty years, it has functioned efficiently and peacefully, rendering most important services to world shipping, helping the economic life of the Republic of Panama, and being very useful to the security, the trade and the economy of the United States as well.

There can be no question that the security of the Panama Canal is vitally important to the United States. Neither can there be doubt that the Canal is in more danger now than at any time before because of Soviet bases and garrisons in Cuba and Soviet domination of the Castro regime. The Castro regime itself is an avowed enemy of the United States; the regime in Panama is only slightly less hostile.

Arnulfo Arias, the last constitutionally elected president of Panama, was inaugurated on Oct. 1, 1968, and ten days later had been deposed by an uprising of the Panamanian National Guard, led by its top officers. They in turn were deposed almost immediately by another officer, Colonel (now General) Omar Torrijos-Herrera. He has been the leftist dictator of Panama for the past 9 years, behind a caricature of constitutional government in which the nominal chief of state is "President" Demetrio B. Lakas.

Torrijos was barely 39 years old when he seized power. The son of school teachers, he climbed through the ranks by regular promotion, a stern but skillful military officer who had not opposed repressive measures against the Panamanian rioters in 1964.

In the first months of his dictatorship Torrijos was considered something of a "playboy." However, in 1969, while visiting New York City, Torrijos told a reporter for the local periodical "Tiempo' that he would like to return to Castro "the visit" that an invading Cuban "guerrilla" had made to Panama in April, 1959. He added that in fact the "first revolution exported by Castro had gone to Panama and that in just reciprocity he ought to return that blow." In the remarks, Torrijos indicated he favored granting the anti-Castro Cubans a base in Panama for their attacks against Communist Cuba, even if his Foreign Minister did not like the idea.

The Castro-controlled press in Havana exploded against Torrijos, and the official newspaper "Granma" said that "The abominable canal man, the gorilla Torrijos, who promoted himself to general and has his chest covered with embroidery and medals, did not surprise anybody with his effrontery." From then on, "Radio Havana," "Prensa Latina" and "Granma," called Torrijos a "gorilla."

All this changed when the Panamanian leftist lawyer Romulo Escobar-Betancourt (no relative of Venezuelan's ex-President, Romulo Betancourt), gained influence over Torrijos because of his close contacts with university students, workers and some demagogic elements surrounding Torrijos. Soon, the Torrijos regime helped organize excursions to Communist Cuba so that Panamanians might observe a communist dictatorship in action. As Torrijos began leaning more to the left, the Castroite press stopped calling him a "gorrilla." The Panamanian political police, under the comand of Col. Manuel Noriega, now lists anti-Communist Cuban exiles among the people to be watched and persecuted.

In 1972, Castro sent delegates, posing as students, to attend the VIII Congress of the Federation of Panamanian Students. Actually, they were specialists in propaganda, political repression and socialist "reform." That was the year in which Panama voted in favor of diplomatic relations with Communist Cuba at a meeting of the Organization of American States. But it also was the year in which the rubber-stamp National Assembly of Panama proclaimed Torrijos "The Maximum Leader of the Revolution." By mid-1974, Communist Cuba and Panama had restored diplomatic relations. Meantime, in Panama, agitation increased for new treaties with the United States regarding the Panama Canal. A massive propaganda campaign was launched to arouse and mold international public opinion against U.S. control of the Panama Canal. Government officials, diplomats, students, professional people, labor bosses, newsmen and others, also were enlisted in the campaign at home and abroad. Torrijos himself played an important role by travelling abroad and attending several international gatherings, some in Africa and Asia.

In Latin America, Venezuela's President, Carlos Andres Perez, became an enthusiastic supporter of Torrijos. So did Mexico's Echeverria, Chile's Allende, Peru's Velasco-Alva-

rado, Argentina's Campora and Peron, and Colombia's Lopez-Michelsen, the latter conveniently forgetting the millions of dollars Colombia had received from the United States in exchange for its endorsement of the original Panama Canal Treaty.

With Torrijos winning ever more international support, the U.S. government abandoned the psychological contest over the Canal and allowed itself to be cornered in a fight it chose not to continue.

In the early 1970's, neighboring Costa Rica opened its doors to Soviet agents, first for trade and later on for regular diplomatic relations. Soviet-Panamanian contacts increased via border crossings from Costa Rica. Panamanian leftists thus had the cooperation of both the Cuban communists and Soviet agents.

The controlled Cuban press now praised Torrijos. In April, 1973, Raul Roa, the Cuban Foreign Minister, while attending a meeting of the U.N. Security Council, formally gave Panama the backing of Communist Cuba in Panama's claims to the Panama Canal. Torrijos reciprocated with a statement that "each hour that Cuba is kept isolated are sixty minutes of Latin American shame." On August 20, 1974, Cuba and Panama announced that they were re-establishing diplomatic relations and that they had much in common as to international goals. From then on the two countries worked together in attacking the United States.

More government-financed and sponsored trips to Communist Cuba by Panamanian leftists were conducted. On January 10, 1976, it was dictator Torrijos himself, accompanied by scores of newsmen, diplomats, policemen and military, who visited Castro. He went from Havana to Santiago de Cuba for a spectacular gathering, followed by a special tour of Cuban military installations around the U.S. naval base at Guantanamo Bay. The idea was to link the Panama Canal and Guantanamo as "terra irredenta" to be rescued from the United States.

In April, 1976, Torrijos visited Jamaica and Prime Minister Michael Manley, already at work to impose a socialist dirtatorship there, urged that the negotitions for a new Panama Canal Treaty be intensified so that Panama "should have absolute control over that interoceanic waterway." Torrijos, meantime, continued his travels to all Latin American countries, trying to get direct, personal commitments from the other rulers.

The United States, outmaneuvered on all sides, soon resigned itself to tolerate attacks, insults, threats, slanders and protests until it finally approved the drafts of two new Panama Canal treaties. The ceremonial signing in Washington brought most heads of governments in this hemisphere, including those accused by the United States for dictatorial excesses. By all appearances, most came not to honor the United States for its concessions, but to celebrate its humiliation.

The Administration failed to recognize that it was helping dictator Torrijos consolidate the hold of his oppressive regime over the Panamanian people, now in its ninth year. Torrijos now emerged as a hero, statesman, redeemer, even a "reformer."

Panamanian exiles in the United States, and throughout the hemisphere, considered themselves betraved, and said so. The Christian-Democratic Party of Panama, at considerable risk, issued a protest against the help being given to the Torrijos dictatorship by the U.S.

But Panama's leftists are not yet satisfied. They want the United States out of Panama NOW, without waiting for a new date, and they are saying it. Torrijos' leftist adviser, Romulo Escobar-Betancourt, now advises Panamanians to be patient—for the time being, because, he says, there will soon be another round of national and international pressure against the United States.

Already, there are ill omens for the U.S. Cuba now serves as a powerful Soviet military base, less than eight hundred miles from the Canal. Cuba itself has demonstrated a military capacity to transport to Angola, across the Atlantic, twenty thousand soldiers with military equipment supplied by the Soviet Union. Last July 22, the Republic of Panama and the Soviet Union signed a treaty of trade and friendship that has had little publicity in the United States. Under the accords, Moscow would have its own stores in the Free Trade Zone at Colon harbor, in Panama, and a branch of the Soviet bank in Panama City. The Russians also are interested in developing the harbor of Vacamonte, on the Pacific Coast, a few miles from the U.S. Howard Air Force Base, and are reported ready to build a hydro-electric plant at Bocas del Toro, on the Caribbean coast of Panama. When the new round of pressure comes, the Soviet Union already will be established in Panama.

Let's look at the record of Torrijos himself. By seizing power, setting up a military dictatorship, and then veering to the left, Torrijos has shown time and again that he is a political opportunist not to be trusted. What he promises today, he will renege on tomorrow. Why should he respect the new Canal treaties any more than he respected the previous ones, or abide by the Constitution of his country, for that matter?

Panamanian citizens in great numbers have fled their country to save their lives or to avoid being put in prison, where torture and ill-treatment are the rule. Ezekiel Muhtar, a Panamanian citizen now living in exile in Miami, Fla., has described the atrocities at the Island of Coiba, on the Pacific Ocean, where Torrijos keeps his political prisoners, in his book "La Mordida," now in its second edition.

The Panamanian Committee on Human Rights in September 1976 issued its first report on the violation of human rights by the Torrijos regime. It begins with a list of 28 citizens who have been murdered during the political persecutions there. Three of them, Encarnacion Gonzalez, Dorita Moreno and Marlene Mendizabal, were women. The list included the name of Father Hector Gallegos, a Catholic priest who was arrested by the Torrijos police in Santa Fe, Veraguas Province, and has not been heard of since. There is reason to believe he was tortured and killed, and his body was dumped into the sea, weighed down with concrete blocks.

There is a partial list of Panamanian political exiles compiled by the Committee on Human Rights, and it comprises the names of 94 people: men and women, prominent citizens and humble laborers, businessmen, priest, lawyers, newspapermen, farmers, students, military officers and professors.

In January, 1976, while Torrijos was visiting Communist Cuba, a group of businessmen met and drafted an appeal for guarantees to agricultural and industrial production, and also as to tax collections and trade regulations. They were immediately rounded up and expelled, some as far away as Ecuador. They were not allowed to take with them money, valuables or even spare clothing.

The "G-2" of the political police in Panama, copied even to the name from the Cuban "G-2", terrorizes the people of Panama. Its boss is Col. Manuel Noriega, an admirer of Cuba's Secret Police Chief, the notorious Maj. Manuel Pineiro. Both meet with a certain frequency, in Panama or in Cuba. Pineiro has sent special groups of his agents to be stationed in Panama, among them Maj. Anselmo Martinez, who arrived in Panama by way of Belize in May, 1977.

Half a dozen broadcasting stations in Panama City and elsewhere have been taken over by the Torrijos dictatorship. All others are very much controlled, as is the case with periodicals and wire services—"Prensa Latina," the Castro propaganda organization, excepted.

The game played with the university and high school students is very clever. Their control is in the hands of communist leaders among the professors and sutdent body. They can easily and quickly fan passions, pushing the youngsters into violent activities with different degrees of virulence, especially as to the Panama Canal. They are given limited leeway, followed by beatings and persecution if they go beyond a certain limit.

Economically, Panama is very heavily indebted. The money spent by Trujillo and his friends in propagandizing the Panama Canal issue runs into many millions. The foreign debt is staggering and few know where the money goes or what is done with it. The economic crisis is part and parcel with political and administrative corruption.

Nepotism is rampant. One of Torrijos' brothers, Moises, who became wealthy as a trader and trafficker, is ambassador to Spain. Several nephews, after undergoing training in subversion and "guerrilla" warfare in Castro's schools for the foreign youngsters, now have important positions in the Torrijos dictatorship and they are known to work with the communists. Torrijos' brother-in-law, Marcelino Jaen; handles foreign relations and was the Panamanian official who signed the recent trade and friendship agreement with the Soviet Union.

"Panama will be the next 'Cuba,' under Soviet domination." This is the sad conclusion of those who know what is going on in Panama and the role that Communist Cuba plays in all of this in the service of Soviet imperialism.

Regardless of assurance to the contrary, the stage is set for a round of new pressures on the United States, designed to force it out of the Panama Canal Zone long before the year 2000. The Soviets and their Cuban and Panamanian followers are waiting.

It should be noted that General Torrijos has just completed another tour of Europe, with a final stop in Finland. Very little is known about the contacts Torrijos had while in Finland, which as we know, borders on the Soviet Union.

But it is well known that Torrijos admires Castro and approves his brand of a communist dictatorship. In an interview on Channel One of the French TV September 2, Torrijos said, (and I quote): "I greatly admire Fidel Castro because he changed his country's social structure despite the risks this entailed." (unquote) Does Torrijos want to change the social structure of Panama for a Communist one? What will happen then to the Canal treaties?

While Torrijos was flying back to Panama City from Washington, D.C., on September 9, after the ceremonial signing in Washington, he sent the following message to Castro: "As I fly across Cubas skies on my return to my fatherland, I greet you with friendship, as always. It is my wish that the Cuban people, under your skillful leadership, may continue on their march toward Latin American progress. In Latin America your name is associated with feelings of dignity linked to the elimination of all remnants of shameful colonialism."

That was the real Torrijos speaking!

SPEECH OF HON. HAMILTON FISH

I am honored to appear before this distinguished committee of the United States Senate in opposition to the surrender and giveaway of the American canal in Panama to the Communist existing government there.

I served for almost 25 years on the Foreign Affairs Committee of the House and for approximately 10 years was its ranking Republican member and was ranking Republican member of the Rules Committee for 4 or 5 years. I was also chairman of the first Congressional committee to investigate Communist activities, policies, principles and ideologies back in 1930 and believe I know as much about the aims and purposes of the Communists as anyone in the United States today. I have written several books on the subject.

I am convinced that the Communist tyrannical government at Moscow is the most monstrous form of government that has existed anywhere since Lenin seized power by force and violence in Russia 60 years ago.

The surrender and giveaway of the American canal in Panama to the Communist government of that nation might just as well have been given to Cuba or the Soviet Union and it is time the American people knew the truth of this aspect of this infamous blackmail treaty. If adopted it would be a day of infamy, playing directly into the hands of the Communist dictators at Moscow.

For years the leading Communists at Moscow have been endeavoring to encircle and surround the United States. The take-over by the Communist party and government in Panama would be the greatest victory the Soviet Union has achieved since our surrender to them at Yalta. Our committee back in 1930 did not persecute any liberals or radicals, as its main purpose was merely to find out the definite policies, principles and objectives of Communism at home and abroad. Those who testified such as the Communist candidates for President, minced no words—they hated our form of government. They hated both our religion and freedom. They preferred the red flag to an American flag and they favored a dictatorial, tyrannical government with a world capital at Moscow. There has been absolutely no change in their plans and objectives. The Communist hierarchy hates the U.S., our freedoms and human rights, the religion of our people and above all, because we are the only powerful nation with a limited arsenal of nuclear weapons and submarines that prevents them from Communizing the entire world. They have only one God and his name is Lenin who told them they must Communize the world and in doing so, if they exterminated three-quarters of the people and one quarter remained Communist, that would solve the problem.

This is the reason why they have built up an enormous arsenal of huge nuclear weapons and have a superiority over us for 2 or 3 to 1 in almost every category of nuclear weapons. That is the reason that they are going deeply underground to protect the Russian people whenever they get ready to attack us. They know as well as we do that we have no quarrel with the Russian people and have no desire for additional territory and will not turn on the nuclear button unless attacked. On the other hand, the Communists at Moscow who killed 30 million of their own people and Solzhenitsyn places it at 60, would not hesitate whenever it is to their advantage, to destroy between 100 and 130 million Americans in one night. The whole world would then go Communist within ten days time.

It is simply playing Russian roulette by trying to maintain that the Soviet Union and I don't mean the Communists of France or Italy, have changed their tactics or strategy. They are our enemies, and they are preparing to destroy the United States whom they regard together with the Chinese, as their bitterest enemy.

I want the American people simply to know the truth—and I have tried to convey that message to my old friend George Meany, President of the American Federation of Labor-CIO, who has been one of the most consistent opponents of Communism in this country and throughout the world, by the following letter.

SEPTEMBER 23, 1977.

Mr. GEORGE MEANY,
815 16th St., NW.,
Washington, D.C.

DEAR MR. MEANY: I am writing to you as one of my old friends whom I have always admired for your strong stand against the spread of world Communism and for human rights. I confess that I was shocked to learn of your support of the surrender of the American canal to the Communist government of Panama. Not only is the president of Panama an avowed Marxist, but is the virtual head of the Communist People's Party—the only party that exists in Panama. I am informed that both his father and mother were Communists. We might just as well turn the canal over to the Soviet Union. This is nothing but a blackmail scheme by the Communists in Panama to get the equivalent of 700 million dollars from the United States along with the canal or twice the cost of the canal.

To me it is almost treasonable, aiding and abetting our enemies and in case of war, it would amount to treason. I hope when you have a chance to read the contents of the treaty, in which we agree not to build any other canal and in which we have no right to defend it after the year 2000, other provisions affecting adversely the interests of our own American wage earners in Panama, that you will consider, or at least not be active or use your influence for it with the Senators. Polls show that 2 or 3 to 1 are opposed to it everywhere and I believe as soon as the truth is known, that it will become ten to one.

I have always been on the side of peace—I opposed World War II until the attack on Pearl Harbor. I opposed the war in Vietnam and I am still opposed to war with the Soviet Union unless attacked. For that reason I urge strengthening our nuclear defense so no nation would dare attack us.

I honestly believe that if the Senate ratified the treaty, it would be the greatest Communist victory since Yalta and start an epidemic of sequestration of American property throughout the world. And that even the NATO will lose faith in our reliability to keep our commitments to them if we surrender the American canal to a Communistic government in Panama.

Mr. Kissinger, who prevented President Ford from seeing Solzhenitsyn, the greatest freedom fighter in the world and opposed Ford's three defense recommendations in his last speech to Congress is now more responsible than anyone else in aiding and abetting our enemies.

With kind regards and best wishes:

Sincerely yours,

HAMILTON FISH.

The veteran organizations; the American Legion and the Veterans of Foreign Wars, non-partisan organizations composed of Democrats, Republicans and Independents, have taken a very outspoken stand against the surrender of the American canal. Why? Because it is against our own security and strengthens the power of the Communists. I take the position openly and without any apologies to anyone, because this is a free country and I believe in the rights of all people to that freedom that does not exist in the Soviet Union, to say to this distinguished Senate committee that to turn over the canal to the Communist government of Pamana is aiding and abetting our enemies and verges on treason. If it was in time of war it would be treason. Furthermore, I believe politically that 75 to 90 percent of the American people are unalterably opposed to this surrender to the Communists. If the treaty is adopted, Watergate would be a mere mosquito bite. If elected public officials, supposed to represent their people back home, defy them and surrender this canal, built by Theodore Roosevelt and the American people 68 years ago, and run efficiently ever since, to the Communists, that is their privilege.

There is probably not a single state that in any referendum, would support this blackmail treaty, aiding and abetting our enemies. No wonder that the American Legion, the Veterans of Foreign Wars and at least two-thirds of the members of the Democratic party, which control this Administration, are bitterly opposed to the surrender of the canal.

Any Senator, naturally has the right to vote any way he wants and to give his reasons. I am not here for the purpose of trying to prevent any Republican or Democrat from committing political suicide. I am not here even in behalf of my own party, for if I were, I would remain silent and hope that the treaty be adopted and that would bring back the Republican party in the biggest landslide that every occurred. But I am here as an American who loves our country and wants to see its nuclear defense weapons strengthened immediately so no nation would ever dare attack and destroy the United States. And in conclusion I quote a statement made by Max Eastman, a well known former pro-Bolshevik radical and Socialist who said: "One thing, one thing only can save freedom and democracy and that is a clear and bold understanding. Freedom and democracy must have from its leaders incisive and uncompromising exposures of the barbaric nature of the Communist society and the devious methods of the Communist attack. The closer our military and economic cooperation may be, the more pitiless must these exposures be. You cannot save democracy by shutting your eyes to the horrors of dictatorship. You cannot stop the night from falling by turning the lamps down."

In case any supporter of President Carter when a candidate for office a year ago pledged never to surrender "actual control of the canal," should take exception to my criticism of the President or members of his administration, let me quote what former President Theodore Roosevelt said: "To announce that there must be no criticism of the President or that we are to stand by the President, right or wrong is not only unpatriotic and servile, but is morally treasonable to the American people. Nothing but the truth should be spoken about him or anyone else, but it is even more important to tell the truth—pleasant or unpleasant—about him than anyone else."

President Theodore Roosevelt was the most courageous and popular President in the last 100 years and if he had lived one year longer, he would have been nominated by acclamation for President by the Republican party, and would have been overwhelmingly elected. He was the sponsor for the building of the canal and as a great admirer and supporter of T.R. having left the Republican Party to be elected three terms on the Progressive or Bull Moose ticket to the Assembly, I knew him politically and personally, probably better than anyone alive today except his own family. The very attempt to undo what he considered one of the most constructive acts in his great career is like impeaching him or sticking a dagger in his back in his grave at Oyster Bay. I would be derelict to the memory of this great American President if I did not raised my voice to defend his honor, integrity and patriotism.

GILBERT KINNEY AT THE CORCORAN GALLERY OF ART

Mr. PELL. Mr. President, I take pleasure in bringing to the attention of my colleagues an excellent article published in a recent edition of Art World on Mr. Gilbert Kinney, who was appointed in

July to serve as interim director of the Corcoran Gallery of Art here in Washington.

In part this article points out that Mr. Kinney's "steadying influence has been the most constructive force felt at the Corcoran in recent years."

The Corcoran is one of our Nation's most distinguished centers of art, both in an educational sense and as a setting for important exhibitions. Mr. Kinney has given new emphasis to the Corcoran's outstanding collection of 18th and 19th century American art. The American collection, Mr. Kinney explains, is "the gallery's keystone," and its emphasis is particularly in the public's interest.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, I commend Mr. Kinney for the important work he is accomplishing, and I ask unanimous consent that this article which details his contributions to the cultural vitality of Washington and the Nation be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KINNEY AT THE CORCORAN

(By Viola Drath)

Since Gilbert Kinney's appointment as interim director of Washington's Corcoran Gallery of Art in July, the search for a permanent replacement for Roy Slade, who accepted the presidency of the Cranbrook Academy of Art, proceeds at a more leisurely pace.

The ex-diplomat's quiet commitment and his fundraising expertise have already generated a new confidence at the troubled Corcoran. The ambitious goal of the summer fund drive, $300,000 to be matched by $325,000 from grants by the Cafritz and Ford Foundations and the NEA, has been met. With a nearly balanced million dollar budget, the first art museum of the nation's capital and one of the last surviving private institutions, has a new lease on its independence.

"For the first time in years, the Corcoran is on sound financial footing", Kinney, a life trustee and former vice president of the Corcoran's "Friends", explains. While discussing climate control for the sweltering upstairs gallery rooms, roof repairs, space utilization, the faculty enrichment program and other improvements, Kinney never loses sight of the Corcoran's unique status and responsibility and its resulting freedom.

Kinney's ideas for drawing more people into the museum range from a thorough cleaning of the facade and a good sculpture, preferably a donation, for the corner of 17th Street and New York Avenue, to broader support from corporations and a younger public. Along with the transients waiting in line at the White House he hopes to attract the people from the suburbs in Maryland and Virginia. Even though the Corcoran's membership has remained a stable 3,000 over the years, he recognizes that this is "a problem shared by Washington's public institutions." Considering their stiff competition for the spotlight, the Corcoran has become "a challenging place" for Kinney.

Fifteen years of service in the State Department have taught the new director to see to it that ideas are promptly realized. The Corcoran's treasured American Collection of 18th and 19th century art was swiftly moved up front where it is easily accessible to be public.

"The people who come to Washington," Kinney comments, "come to see, along with contemporary art, the works of Mary Cassett or William Morris, art they cannot see at home. Our emphasis on the American Collection, the gallery's keystone, simply reflects the public's interest."

The Corcoran's variegated exhibition schedule echoes its commitment to regional and contemporary art with retrospectives of Kenneth Noland's and Howard Mehring's work. Shows of current photographs by Sally Mann and Mike Mitchell as well as the photographs by Manuel Alvarez Bravo of the twenties confirm its leading role in the field of photography while tribute is paid to representational art with the exhibition of the William A. Clark Collection in celebration of the Corcoran's 50th anniversary in April 1978.

Kinney, 46, who inherited Henry Raeburn's splendid portrait of Eliza Gowdie from his father, a senior vice president and treasurer of the J. Walter Thompson advertising agency, has "always been interested in art."

Long before his realization that the foreign service was "not a growth industry" led to his departure from the State Department in 1973, Kinney's interest had been divided between political and cultural affairs. A collector since 1958, when he purchased a street scene by Utrillo, he and his wife Ann have shared in building a remarkable, predominantly postwar American abstract expressionist collection that includes works by Hopper O'Keefe, Hofmann, an early Still, Diebenkorn's exquisite "Ocean Park No. 7" and a sculpture by David Smith among others.

Kinney, a Phi Beta Kappa with a B.A. in History and a M.A. in International Relations from Yale, served as founder and executive vice president of the American Committee for Borobudur from 1973–75. Within a year he raised $1.3 million as the U.S. contribution toward the restoration of the crumbling 9th century Buddhist sanctuary in Indonesia. As a trustee and vice president he also became "very involved" in the affairs of the Archives of American Art, an affiliate of the Smithsonian Institution.

It was his summer neighbor in Northeast Harbor, Maine, Zbigiew Brzezinski, who introduced him to Jimmy Carter. Subsequently he became a supporter of Carter's campaign and its Mid-Atlantic Regional Finance Coordinator. After Carter's inauguration Kinney was briefly assigned to the State Department's educational and cultural division, headed by Assistant Secretary Joseph D. Duffey who will take charge of the National Endowment for the Humanities.

Kinney's considerable experienced in politics and art, his softsell methods, and his gift for understatment are not easily matched. In view of the detrimental succession of directors trying to follow Hermann Warner Williams' assured footsteps since 1968, Kinney's steadying influence has been the most constructive force felt at the Corcoran in recent years.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, October 20, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Wallace P. Bowen, of Oregon, to be U.S. marshal for the district of Oregon for the term of 4 years vice Everett R. Langford, term expired.

Harry H. Marshall, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years vice Carl H. Slayback, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, October 20, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

Mr. ROBERT C. BYRD. Mr. President, there is a measure that has been cleared for passage by unanimous consent. It is Calendar Order No. 442. I ask unanimous consent that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

(A bill (H.R. 4836) to extend by 7 months the term of the National Commission on New Technological Uses of Copyrighted Works.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, given the technological advances of recent years, the work of the National Commission on New Technological Uses of Copyrighted Works becomes increasingly important. I have become personally interested in this area as author of the 1974 Freedom of Information Act Amendments, as a member of the Judiciary Committee which developed the recent rewrite of the Federal copyright laws, and as chairman of the Office of Technology Assessment. Each of these areas of interest to me will be touched by the work of the Commission.

In its report on H.R. 4836, the Judiciary Committee encouraged the creation of a clearance mechanism for effectuating the provisions of the copyright revision law relating to library photocopying. Since the new law recognizes that certain library photocopying activities might constitute copyright infringement, and since it nonetheless is a matter of public policy to support reasonable and prompt access to copyrighted materials, Congress contemplated the development of "workable clearance and licensing procedures."

I do not believe, however, that this means that only a single clearance mechanism is inevitable. As chairman of the Antitrust Subcommittee of the Judiciary Committee, I am convinced that a number of copyright clearinghouses could well develop if the competitive forces in the marketplace are allowed to work. Public libraries, universities, professional educational organizations, and publishers could conceivably develop efficient and competitive clearance centers for all or even classes of published works.

I make this observation, Mr. President, only to make clear that the Judiciary Committee and the Senate are not endorsing establishment of any single clearance procedure by our encouragement of the establishment of some clearance procedure prior to the effective date of the copyright law revision. We are not approving any antitrust exemption or favored position for any single clearinghouse. That would be inconsistent with the basic principles of our competitive marketplace.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–477), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the proposed legislation is to amend Public Law 93–573 to extend the date for submission of the final report of the National Commission on New Technological Uses of Copyrighted Works from December 31, 1977, to July 31, 1978.

BACKGROUND

The Commission on New Technological Uses of Copyrighted Works in the Library of Congress was authorized by Public Law 93–573 which became effective on December 31, 1974.

The statutory purpose of the Commission is to study and compile data on the use of copyrighted works in conjunction with automatic data processing systems and photocopying machines.

It consists of 13 members appointed by the President, 12 of whom are drawn in equal proportions from among these groups:

1. Authors and copyright owners;
2. Copyright users; and
3. The general public.

The 13th member is the Librarian of Congress. The Register of Copyrights is an ex officio member.

The Commission was charged with making a report by December 31, 1977, to Congress recommending changes in the law necessary to deal with the copyright problems created by computer technology and photocopying.

The act, as it was passed in 1974, authorized an appropriation for only half of the Commission's statutory life. This original authorization expired on June 30, 1976, but was extended during the last session for the full term by Public Law 94–314, which was approved on June 21, 1976.

STATEMENT

Although the law creating the Commission was enacted on December 31, 1974, appointments were not made by the President until July 25, 1975, 7 months later. Because of this late start, the Commission has requested that its life be extended for 7 additional months. According to the Executive Director of the Commission, the extension will not require expenditure of funds beyond the original 3-year budget estimate of $2,461,400 largely because no funds were expended during the first 8 months following the enactment of the authorizing legislation.

The committee is recommending favorable action on H.R. 4836, not only to permit the Commission to conclude its work on the matters assigned to it by Public Law 93–573, but also to permit the Commission to continue its work in assisting the various interests in the formulation of guidelines interpreting the library photocopying provisions of the legislation for the general revision of the copyright law.

The report of this committee on the copyright revision legislation (Report No. 94–473) recognized that certain library photocopying activities would be acts of copyright infringement. The Congress obviously did not wish to prevent reasonable and prompt access to copyrighted materials and consequently the committee recommended that "workable clearance and licensing procedures be developed." The Chairman of the Commission has assured this committee that the Commission will assist the creation in the private sector of such clearance mechanisms. The committee believes that the creation of such a clearing house prior to the January 1, 1978, effective date of the revision act is highly desirable and that the efforts of those in the private sector to establish such clearance mechanisms should be encouraged by public policy.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 4836) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Education, Arts, and the Humanities Subcommittee of the Human Resources Committee be authorized to meet during the session of the Senate on Thursday, October 20, to consider S. 1753, education amendments of 1977, with the understanding that the bill will not be reported to the full Senate this session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 10:36 a.m., recessed until 10:46 a.m.; whereupon the Senate reassembled when called to order by the Acting President pro tempore (Mr. SASSER).

RECESS UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:30 a.m. today.

There being no objection, the Senate, at 10:46 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIEGLE).

RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 o'clock noon today.

There being no objection, the Senate, at 11:30 a.m., recessed until 12 o'clock noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed the joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes in which it requests the concurrence of the Senate.

The House has passed without amendment the bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

The House has passed the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The House has agreed to the concurrent resolution (H. Con. Res. 377) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 3, in which it requests the concurrence of the Senate.

QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum until Senator DOLE comes to the floor and then, as soon as Senator ROTH is ready, I will ask for consideration of the conference report on H.R. 3 at that time.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of conference on H.R. 3, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NELSON). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 11, 1977.)

Mr. TALMADGE. Mr. President, almost from their inception, medicare and medicaid have been plagued with widespread fraudulent and abusive practices.

Year after year Congress has investigated and repeatedly been shocked by the ripoffs in the health care programs designed to help our poor and older citizens.

Last year I was pleased to introduce, jointed by many of my colleagues, the original medicare and medicaid antifraud bill.

I described it as an opportunity for the Congress to give a clear loud signal to the thieves and the crooks and the abusers that we mean to call a halt to their exploitation of the public and the public purse.

Mr. President, with the enactment of H.R. 3, that signal will be heard in unmistakable tones.

This important piece of legislation is designed to slow down, if not halt, many of the fraudluent practices in the $47 billion medicare and medicaid programs.

But, if we cannot stop fraud, under these amendments we will have new capacity to detect and punish wrongdoing. For example, instead of medicare fraud being a misdemeanor as it is now, it would be classified as a felony punishable by up to 5 years imprisonment and a fine of up to $25,000.

But, once again, while Congress can enact laws which support vigorous investigation and prosecution, we cannot administer those laws.

Much will depend upon the skill and dedication of those charged with enforcing the law.

At this point, all we can do is provide every possible means of support to those committed to law enforcement.

H.R. 3 reflects in its provisions the extensive time and effort devoted by several committees of the Congress in exposing fraud and abuse in medicare and medicaid.

For example, the Senate's Special Committee on Aging has, for years, vigorously and imaginatively exposed the fastbuck artists and the exploiters who prey on our older Americans.

That committee has sought, as we on the Finance Committee have, to keep the Federal programs for the poor and sick and the old from being corrupted and subverted.

The permanent Subcommittee on Investigations of the Senate Government Operations Committee has also invested many months of hard—and often unpublicized—effort designed to reveal and remedy shortcomings in the multibillion-dollar medicare and medicaid programs.

The permanent subcommittee deserves the thanks and commendation of all of us.

I would be remiss if I were not to acknowledge the great and continuing contribution to this bill from its inception to this point made by my colleague, Senator BOB DOLE, Congressman DAN ROSTENKOWSKI, chairman of the Ways and Means Health Subcommittee, Congressman PAUL ROGERS, chairman of the Health Subcommittee of the Commerce Committee who, along with others, worked with us to improve and expand on the original antifraud proposal and provided amiable and constructive leadership in conference.

They have made a good bill even better.

H.R. 3 is significant and urgently needed legislation.

It does credit to both Houses of Congress and was in fact adopted by the House this morning by an overwhelming vote of 401 yeas to 5 nays, House Concurrent Resolution 377.

Mr. President, I move adoption of the conference report on H.R. 3, along with the accompanying concurrent resolution correcting a technical error in the enrollment of this bill.

Mr. President, before I move the adoption of the conference report, I am delighted to yield to my distinguished colleague who works with me on the Finance Committee, and also on the Subcommittee on Health.

Mr. ROTH. I thank the chairman.

Mr. President, I have no concern about almost all of the provisions of H.R. 3. I agree with the chairman that it contains many very desirable changes which will strengthen efforts to control medicaid and medicare fraud and abuse. I do have a very real concern, however, about the provisions of section 14, as they relate to new power given the Secretary to assign and reassign providers among intermediaries and to designate regional or national intermediaries.

As the Members of this body who serve with me on the Committee on Finance will recall, when this original language from the House reached us, I was very concerned about the power of the Secretary of Health, Education, and Welfare arbitrarily to assign providers in the State of Delaware or any other State, to fiscal intermediaries operating out of Philadelphia. We have too many situations now where the Federal Government decides it wants completely to bypass the small States, and I strenuously raised the point that providers within a given State should not arbitrarily have an intermediary in another State imposed upon them if they wished to be served by an intermediary within their own State. The Finance Committee adopted language reflecting that concern.

Later, the Finance Committee deleted the House-passed language and retained existing law on this question. I raised the issue of the Roth amendment again, and again the committee supported my view. Necessarily, however, the language which was drafted was within the context of existing law: but it stated clearly that the Secretary could not find an intermediary within a State to be inefficient or ineffective solely because it operated within one State alone, or because the providers it served could be served by another agency or organization which also serves providers located outside the State.

When the matter got to conference, there was only brief consideration of my amendment, and later only the first qualifying clause—that relating to operating within one State alone—was retained. I have asked for a qualifying letter from the Department of Health, Education, and Welfare on this subject, but I have not yet received it. Accordingly, I should like to direct certain questions on this matter to the distinguished chairman of the Subcommittee on Health, Mr. TALMADGE, if I may.

First, under what circumstances could the Secretary, under the provisions of the bill as it is now before us, impose a Philadelphia intermediary upon the State of Delaware?

Mr. TALMADGE. Only where he found that it was efficient and economical.

Mr. ROTH. Is it the chairman's understanding that it is the intent and purpose of the bill that providers should be served by intermediaries within their State if they wish to be so served?

Mr. TALMADGE. It is, when more efficient and economical only.

Mr. ROTH. I appreciate the chairman's giving these answers. I would say that this is a matter I would like to have the opportunity to further explore within the subcommittee at a later time.

Mr. TALMADGE. I would be delighted to do so.

If the Senator from Delaware will yield at that point, let me say I happened to be presiding in the Finance Committee, as the Senator knows, when his amendment was reconsidered and adopted. Unfortunately, it was rejected in a clarifying amendment in the House. Senator CURTIS asked for its reconsideration the second time. So the conferees considered it not only once, but they considered it twice.

As the distinguished Senator from Delaware knows, the conferees would not agree to the amendment proposed by the Senator from Delaware.

I would suggest that if the Department of Health, Education, and Welfare does not administer the act in accordance with the views and judgment of the distinguished Senator from Delaware, that he take the appropriate vehicle which comes from the House and again attach his amendment to that appropriate vehicle which comes from the House. I feel sure that the senior ranking Republican on the committee (Mr. CURTIS) would be delighted to appoint the Senator as a conferee so he could argue, with his usual eloquence, his own case with the House on another occasion.

I assure the Senator that I will be completely cooperative in his efforts in that regard as I was in this instance.

Mr. ROTH. I thank the distinguished Senator from Georgia. I appreciate his assistance both in the committee and in conference.

Mr. TALMADGE. Mr. President, I yield to the distinguished ranking minority member on our subcommittee, whom I have commented upon in my remarks as being most cooperative and helpful in the passage of this legislation, not only this legislation but all other legislation which has been before the Subcommittee on Health of the Finance Committee.

Mr. DOLE. Mr. President, I thank my distinguished chairman.

Mr. President, I commend Senator TALMADGE because it has been his initiative and leadership which have brought about these necessary changes, and I am pleased to join my colleague in bringing the conference report on H.R. 3, the medicare and medicaid antifraud and abuse amendments to the floor.

Senator TALMADGE deserves recognition for his leadership, commitment, concern and hard work on behalf of this legislation. His efforts to combat the insidious problems of fraud and abuse in these Government programs are well known.

H.R. 3 is designed to give us the tools necessary to accomplish the difficult task before us. Fraud and abuse is not the sole responsibility of any one group. Each of us, in our own way, must seek to put an end to practices that jeopardize the moneys in these programs that are meant to care for our poor, our elderly, and our disabled.

It is not the intention of this legislation, which I am proud to have cosponsored, to question the practices of the many honorable health professionals who participate in the medicare and medicaid programs. It is, however, our clear intention to penalize those who are less than honorable, those who cheat our citizens by cheating the programs.

Mr. President, we have all waited some time to have this legislation before us. The work that has been accomplished and the cooperation of not only my colleagues here in the Senate but those in the House says a great deal for our Government. Again I thank my distinguished friend from Georgia, Mr. TALMADGE, and join him in encouraging acceptance of this conference report.

Mr. TALMADGE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 3

Mr. TALMADGE. Mr. President, I send a House concurrent resolution to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 377) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 3.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 377) was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which House Concurrent Resolution 377 was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver at the desk, Senate Resolution 287, which accompanies calendar order No. 440, S. 2149. I ask unanimous consent that the Senate proceed to the consideration of the budget waiver. I do this on behalf of Mr. MUSKIE.

Mr. BAKER. Mr. President, reserving the right to object, I have no objection to proceeding to the consideration of these matters. Both the budget waiver and the measure that it relates to are cleared for consideration and passage on our calendar.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 287) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The resolution (S. Res. 287) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands. Such waiver is necessary to permit consideration of the bill in order to implement the Covenant to establish the Commonwealth of the Northern Mariana Islands.

On March 24, 1976, the President approved Public Law 94–241 which approved the joint resolution of the Congress approving the covenant to establish a Commonwealth of the Northern Mariana Islands. Pursuant to that covenant certification was made to the President that the Mariana Islands District Legislature and a plebiscite of voters domiciled in said islands had approved the covenant. On April 21, 1977, the Constitution of the Commonwealth of the Northern Mariana Islands was submitted to the President for approval pursuant to section 202 of the covenant. It is anticipated that prior to, or on or about, January 9, 1978, the President will proclaim the date or dates which terminate the Trusteeship Agreement and establish the de facto government of the Commonwealth under said Constitution and the covenant.

Under article IV of the covenant, the United States agreed to establish a court of record to be known as the "District Court for the Northern Mariana Islands". S. 2149 is a bill to create such court.

Since the government of the Commonwealth will require a period of time, after the date to be proclaimed by the President, within which to legislatively create the local courts required by the Commonwealth constitution, it is imperative the S. 2149 be enacted by the first session of the ninety-fifth Congress in order that the Federal court required by article IV of the covenant can exercise judicial authority at the earliest date after the said date to be proclaimed by the President.

Enactment of S. 2149 will authorize the expenditure of funds during fiscal year 1978 from budget function 750 in an amount estimated at $418,000.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2149, as reported by the Committee on the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar order No. 440, S. 2149.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 2149) to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 19, after "circuit" insert a comma and "including a judge of the District Court of Guam who is appointed by the President,";

On page 4, line 1, strike "and V" and insert "and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263)";

On page 6, line 21, following the period,

insert "The district court established by this Act shall be a district court as that term is used in section 3006A of title 18, United States Code.";

The preamble was amended as follows:

In line 4, strike "March 26, 1976" and insert "March 24, 1976";

In line 5, strike "90 Stat. 266" and insert "90 Stat. 263".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-475), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to implement article IV of the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America, by establishing the District Court of the Northern Mariana Islands, and specifying the jurisdiction of the court, both original and appellate.

PURPOSE OF AMENDMENTS

1. The first amendment to the preamble merely corrects an erroneous date of approval of the joint resolution which approved the covenant.

2. This amendment to the preamble corrects an erroneous citation to statutes at large.

3. Since the District Court of Guam is not a "district court" as technically defined in 28 U.S.C. 451, it is necessary to specifically include a judge of the District Court of Guam as one of the judges which may be assigned by the chief judge of the ninth circuit to serve temporarily as a judge of the District Court of the Northern Mariana Islands.

4. This amendment clarifies the fact that the references to articles IV and V are references to articles of the Covenant to Establish a Commonwealth of the Northern Mariana Islands as approved by Public Law 94-241, 90 Stat. 263. This also clarifies the reference to article IV in section 4(b) of this act.

5. The Criminal Justice Act is applicable in the District Court of Guam pursuant to subsection (k) of section 3006A of title 18 United States Code. Since the courts of Guam and the Northern Mariana Islands are generally treated equally, the language of this amendment makes certain that the Criminal Justice Act shall apply in the District Court of the Northern Mariana Islands.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The bill, with its preamble, reads as follows:

Whereas section 401 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by section 1 of the joint resolution of March 24, 1976 (Public Law 94-241; 90 Stat. 263), provides that the United States will establish a District Court for the Northern Mariana Islands: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be known as the District Court for the Northern Mariana Islands. The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

(b)(1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

(2) The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the ninth circuit, including a judge of the District Court of Guam who is appointed by the President, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District Court for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(3) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

(4) If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States attorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

(c) The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in articles IV and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263). The terms "attorney for the government" and "United States attorney" as used in the Federal Rules of Criminal Procedure (rule 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the attorney general of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

SEC. 2. (a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties, or laws of the United States, it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The district court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

SEC. 3. The district court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b)(2): *Provided, however*, That only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

SEC. 4. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in article IV of the covenant: *Provided*, That for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States court of appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties, or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Nothern Mariana Islands pursuant to section 3 of this Act.

(b) Those portions of title 28 of the United States Code which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in article IV of the covenant. The district court established by this Act shall be a district court as that term is used in section 3006A of title 18, United States Code.

SEC. 5. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 12:46 the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 1:33 p.m. when called to order by the Presiding Officer (Mr. CULVER).

ANNOUNCEMENT OF MEETING BY COMMITTEE ON APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to announce that the Appropriations Committee will have a meeting at 2:30 p.m. today to consider the continuing resolution which has come over from the House of Representatives, dealing with District of Columbia appropriations, Labor-HEW appropriations, and foreign aid appropriations. The acting chairman of the committee, Mr. MAGNUSON—he is the chairman of the subcommittee that handles the bill—and the ranking member of the committee, Mr. YOUNG, are very hopeful that a quorum of that committee can be quickly assembled at the hour of 2:30 p.m. I hope that our respective cloakrooms can get the word out and help the ranking member and the chairman get a quorum, so action can be taken quickly.

Mr. YOUNG. I do not think there is any objection to the bill itself, but just the procedure. The rules that it should go to the Appropriations Committee for their consideration. Many feel we can pass a bill this afternoon. I hope we can.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from North Dakota.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 1:34 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHILES).

RECESS UNTIL 2:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:45 p.m. today.

There being no objection, the Senate, at 2 p.m., recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

CONTINUING APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, from the Committee on Appropriations, I report, without a written report, House Joint Resolution 626, making continuing appropriations for the fiscal year 1978, and for other purposes.

The PRESIDING OFFICER. Will the Senator please send the resolution to the desk so that it may be stated?

Mr. MAGNUSON. I might say for the record that we sent to the House last night two continuing resolutions, one for HEW-Labor, the other for the District of Columbia, and the House resolution added foreign aid, so all three are combined in the continuing resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 626) making continuing appropriations for fiscal year 1978, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the joint resolution.

The Senate proceeded to consider the joint resolution.

Mr. MAGNUSON. Mr. President, the House passed and sent to the Senate earlier today House Joint Resolution 626. This joint resolution is the traditional continuing appropriations resolution with which we are all familiar.

The Committee on Appropriations met a few moments ago and reported this joint resolution back to the Senate without amendment.

It is urgent that we immediately pass this joint resolution so it can be sent down to the President for his approval. Otherwise, many employees cannot be paid and functions of Government cannot proceed.

This joint resolution covers the Departments of Labor; HEW, and related agencies, the District of Columbia, and salaries and expenses of employees administering foreign assistance and related programs. It is effective only until October 31, 1977.

Mr. President, I ask the Chair to put the question.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I am pleased that the Senate was able to act so expeditiously on this continuing resolution, which the House only passed last night. I thought it was necessary under our rules to refer the bill to the Appropriations Committee, even though part of it was approved yesterday. It does involve three major appropriations bills, but only effective for a short time. I hope the resolution will be passed without any changes at all.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as Chairman of the Senate Appropriations Subcommittee on the District of Columbia, I am pleased to support the joint resolution passed by the House this morning that will provide legal authority for the District of Columbia city government to continue its operations.

On September 30, legal authority for the city to incur obligations expired. Since that time, the city has been continuing its basic operations. In a practical sense, this has appeared to be necessary. In a strictly legal sense, however, this has not been proper, as the city has not had the legal authority to incur obligations to spend any money. Next Tuesday, the city government hopes to meet its payroll for the first payday since September 30 for salary earned in the month of October. Meeting next Tuesday's payroll without this continuing resolution would be a significant violation of the law. Not meeting next Tuesday's payroll would represent a significant disruption to the many employees of the District of Columbia city government and would represent a great disservice to them and their families.

Because of these circumstances, I initiated action yesterday on behalf of the Committee on Appropriations to provide a continuing resolution for the city government. This resolution, Senate Joint Resolution 90, passed the Senate yesterday evening. I am pleased that the House took the initiative this morning, also to pass a continuing resolution for the District of Columbia city government, which I fully support.

The House and Senate have both passed an appropriation bill for 1978 for the city government and the House and Senate conferees are meeting to try to resolve the differences in the two versions of the bill. In working toward this end, we had a conference meeting yesterday and, while we were unable to reach full agreement at yesterday's meeting, I am hopeful that an agreement will be reached in the very near future.

Mr. EAGLETON. Mr. President, we are now discussing the continuing resolution which will permit the employees of the Department of Health, Education, and Welfare to be paid.

As I read the continuing resolution, it will, on the subject of abortion, clearly preserve the law as presently established, that is, the Hyde antiabortion language of the fiscal 1977 HEW appropriations bill will be in full force and effect. This, in my personal opinion, is as it should be.

Now, if I may, Mr. President, I would like to address myself to a legislative event that occurred on the Senate floor last night. This event relates to the abortion question and thus has, at least, an indirect bearing on the instant continuing resolution.

Last evening, the Senate adopted the following compromise language in an effort to resolve the conflicting positions of the Senate and House conferees on the Labor-HEW appropriations bill with respect to the abortion issue. Let me slowly and carefully read the following language:

None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the mother or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

This action was taken by a voice vote rather late into the evening and at a time when most Members of the Senate were of the belief that no further substantive legislative activity would occur.

While I fully sympathize with the Senate managers of the bill, and respect their efforts to see that the programs operated by the Departments of Health, Education, and Welfare and Labor do not grind to a halt, I wish to go on record as opposing the "compromise" language adopted on the Senate floor last night. Although I am troubled that the language adopted would allow federally funded abortions in cases of rape or incest, the most serious loophole in the compromise language is the provision which would allow federally funded abortions "if the mother or fetus would suffer serious health damage."

Although I know this is a well-intentioned attempt on the part of Senator MAGNUSON to compromise with the House, the substitution of the "serious health damage" language is not substantively different from the original Senate language which allowed Federal payment for abortions when it was determined to be "medically necessary." In my view, this so-called "compromise" would leave the door equally wide open for abortion on demand.

It is my profound belief, Mr. President, that life is a continuum, from first beginnings in the womb to the final gasp of the dying, and that the first function of society, the primary responsibility of Government, is to protect life and to create conditions which permit each person to flourish and to reach his or her fullest potential. Where there is a question concerning human life, I believe that society, by its basic governmental charter, must come down on the side of life.

The PRESIDING OFFICER. The joint resolution is open to amendment. Are there amendments to be offered? If not, the question is on the third reading and passage.

The joint resolution was ordered to a third reading, was read the third time, and passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the resolution passed.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the enrolled bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. SASSER).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

RECESS UNTIL 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30 p.m. today.

There being no objection, the Senate, at 2:50 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

AUTHORITY FOR TELEVISION CAMERA IN SENATE CHAMBER

Mr. CANNON. Mr. President, I ask unanimous consent that a television camera be permitted in the Senate Chamber while the Senate is not in session at some time during the coming week, for the purpose of testing out the adequacy of the lighting, the adequacy of the sound system, and other matters related to the possible telecasting of the debates in the Senate next year on the Panama Canal treaties.

The PRESIDING OFFICER. Is there objection

Mr. CANNON. I might say, Mr. President, that this would be done at a time when the Senate is not in session, would not require the moving in of any equipment that would disturb the Senate when it is in session, and would be done in an unobtrusive manner entirely.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

What is the will of the Senate?

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 o'clock p.m.

There being no objection, at 3:32 p.m. the Senate took a recess until 4 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

RECESS UNTIL 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 5 o'clock p.m. today.

There being no objection, the Senate, at 4 p.m., recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

MESSAGE FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. SASSER).

RECESS UNTIL 5:33 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 5:03 p.m., recessed until 5:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a limitation on speeches during morning business at this point for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. ROBERT C. BYRD. I would ask that this request appear at the beginning of the period of morning business, otherwise Senators would not be permitted under the rules to speak at all.

Mr. ALLEN. Mr. President, I appreciate the majority leader waiting until I concluded my remarks when he pulled that time limitation.

Mr. ROBERT C. BYRD. My request had nothing to do with the Senator's speech. As the Senator knows, under the rules of morning business Senators cannot speak except by unanimous consent. So I think the record ought to show there was that unanimous consent.

The PRESIDING OFFICER. The Chair observes the Senator's speech was within the 10-minute rule.

Mr. ALLEN. I wanted to keep it short.

Mr. ROBERT C. BYRD. I note the Senator read his speech, which is rather unusual.

Mr. ALLEN. I wanted to keep it as short as possible. If I had ad libbed it might have been somewhat longer.

Mr. ROBERT C. BYRD. The Senator is a very able and resourceful Senator.

PANAMA CANAL TREATIES—NO. 16

Mr. ALLEN. Mr. President, I am going to count this my speech No. 16 on the Panama Canal since the treaties were signed by the two heads of state.

Mr. President, I read today in the Washington Star a very interesting article touching on a matter about which perhaps all Senators should become knowledgeable. The article reports that U.S. Department of Justice sources have confirmed that there is a sealed narcotics indictment in the eastern district of New York against one Moises Torrijos, brother of the present Panamanian Dictator Omar Torrijos. The Washington Star newspaper story does not state the substance of the indictment, but it does report that the indictment has never been disclosed allegedly, because Moises Torrijos has not returned to the United States since the time the indictment was issued, apparently some time during 1972.

You know, Mr. President, I wondered at the time of the signing of the Panama Canal treaties why Moises Torrijos was not in attendance inasmuch as he is currently Ambassador to Spain and presumably would have wished to share in the celebrations held down at the Pan American building. At the time, it did seem strange that since diplomats from every Spanish-speaking country in the world did seem able to attend, yet the brother of the present head of the Panamanian Government found it inconvenient to share in the festivities.

Sometimes, Mr. President, I am slow to get the full picture, but I am beginning to understand the answers to some of the questions that have been troubling me, and there have been plenty of questions, Mr. President, about these treaties. Since reading the article in the Star, I have had brought to my attention certain other bits and pieces of information which perhaps should be further highlighted or recalled. Apparently, Mr. President, back some time in early 1972 or perhaps late 1971, Rafael Richard, the son of the Panamanian Ambassador to Taiwan—I believe the correct date was July 8, 1971—was arrested in New York carrying luggage containing some 150 pounds of heroin. Mr. Richard, who was fairly young for a diplomat, was traveling on a diplomatic passport signed by Mr. Juan Tack, whom Senators will recall negotiated with then-Secretary of State Henry Kissinger for the Kissinger-Tack agreement which formed the framework for subsequent negotiations leading to these proposed treaties now being considered in the Senate. But Mr. Richard was not on his first visit to the United States; he was instead on his fifth visit. And according to a New York Times article by Benjamin Welles, dated March 15, 1972, Mr. Richard had brought into the United States 150 pounds of heroin each trip. But, Mr. President, let us see what happened to Mr. Richard. According to the New York Times—and, of course, that is the only information I have to go on as to this particular item, the information available in the newspapers—Mr. Richard was given the full privileges of diplomatic immunity and apparently allowed to leave the United States without further question.

Mr. Richard's uncle was not quite as lucky. As reported in the Times, his uncle, Guillermo Gonzalez, and I quote, "an intimate and former bodyguard of Moises Torrijos," was convicted of a felony charge related to heroin smuggling and sentenced to seven years in prison. If Mr. Gonzalez is in prison, perhaps he would know more about this matter, but I do not know whether he has been required to serve his full term and is, therefore, still incarcerated.

About this same time, Mr. President, three American narcotics agents were ordered expelled from Panama by Mr. Juan Tack on 24-hours notice. Mr. Tack asserted that the men, who were agents of the U.S. Bureau of Narcotics and Dangerous Drugs, were interfering with "the internal affairs of Panama." Some internal affairs, Mr. President, I might say, and some diplomats.

So, Mr. President, today we learned that there is a sealed indictment waiting for Mr. Moises Torrijos, Ambassador to Spain, waiting for Mr. Moises Torrijos up there in the eastern district of New York, waiting up there for some 5 years now with no public disclosure whatsoever that Ambassador Torrijos was being sought by our Government. Mr. Moises Torrijos may have known he is being sought by our Government. He found it convenient not to be in the United States over a 5-year period on any occasion. But, Mr. President, the American people did not know and the American people have got to have sharp eyes to pick this story up off the fifth page of the Washington Star to try to piece together just what is going on.

Now, there has been another recent sealed indictment, not 5 years old, but a fairly new sealed indictment which has recently been made entirely public. That indictment involves one Mr. Tongsun Park. Tongsun Park has shown no great inclination to return to the United States either, and quite properly the citizens of the United States have been advised that Tongsun Park is under indictment. Yet, Mr. President, Moises Torrijos is treated differently.

I hold no brief for Mr. Tongsun Park, but it does seem he received one type of treatment and Moises Torrijos another.

On Wednesday, I talked to some extent about the ironclad language used by our negotiators in securing the Panama Canal Treaty in 1903. I pointed out that our negotiators back in those days could and did draft a document which reflected a meeting of the minds, a document without ambiguity, and a document which could be enforced. I am pleased to report to the Senate, Mr. President, that the year following the negotiation of the treaty of 1903, our Government took the prudent step of negotiating with Panama a document entitled "A Treaty for the Mutual Extradition of Criminals." This extradition treaty of 1904 is also an ironclad document without ambiguity. The preamble reads this way, Mr. President:

The United States of America and the Republic of Panama, being desirous to confirm their friendly relations and to promote the cause of justitce, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Panama.

So, they set forth the purpose of this treaty pretty clearly there in the preamble. Article I of this treaty reads this way:

The Government of the United States and the Government of the Republic of Panama mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of Criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense has been there committed.

We have been advised by the Washington Star that there is a sealed indictment handed down by a grand jury in the eastern district of New York against Ambassador Moises Torrijos, but we do not know what the charges are, we do not know what the evidence is. So, Mr. President, we are left to speculate whether this treaty of 1904 would apply. Presumably, the crime charged would be a felony. Presumably, the crime charged would justify his apprehension and commitment for trial if the crime or offense charged had been committed in Panama. Mr. President, I do not know where Ambassador Moises Torrijos is located today. Perhaps he is

at his post in Spain, and perhaps the Department of Justice ought to see if we have an extradition treaty with Spain as we do with Panama. But one thing is certain, Mr. President, when I have referred to the regime in power in Panama as a gangster dictatorship, I have not used the term lightly.

Mr. President, I ask unanimous consent that an article from the Washington Star and an article from the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

UNITED STATES INDICTED BROTHER OF TORRIJOS, SOURCE IN JUSTICE DEPARTMENT SAYS

The brother of Panamanian chief of state Omar Torrijos was indicted in New York five years ago on federal narcotics smuggling charges but U.S. authorities have never been able to arrest him, Justice Department sources have confirmed.

"There is a sealed narcotics indictment in the Eastern District of New York" against Torrijos' brother Moises, a knowledgeable department official said yesterday.

"It has never been unsealed because we have never found him back in this country to arrest him," this source said.

The Miami Herald reported yesterday that Atty. Gen. Griffin Bell told President Carter about a variety of allegations that members of Torrijos' family have been involved in smuggling drugs to the United States.

Department spokesman Robert Havel confirmed that Bell discussed the matter with Carter on October 3.

After inquiries from members of Congress, Bell briefed Carter on the situation. The President agreed with Bell's recommendation that the Justice Department provide the same briefing to congressional leaders, Havel said.

HOUSE MEMBER CHARGES NARCOTICS SMUGGLING INQUIRY TOUCHES "HIGHEST LEVELS" OF PANAMA GOVERNMENT

(By Benjamin Welles)

WASHINGTON, March 15—Representative John M. Murphy charged today that an investigation into heroin smuggling into the United States had touched the "highest levels" of the Government of Panama.

Mr. Murphy, Democrat of Staten Island, who is chairman of a House subcommittee on the Panama Canal, named Juan Tack, Panamanian Foreign Minister, and Moises Torrijos, Panamanian Ambassador to Spain, as the officials allegedly involved in narcotics. Mr. Torrijos is a brother of Brig. Gen. Omar Torrijos, ruler of Panama.

José Antonio de la Ossa, the Panamanian ambassador here, issued a statement vigorously denying the charges. He suggested that Mr. Murphy was reviving old charges because he had been "cold-shouldered" by Panamanian officials during his recent inspection visit to the Panama Canal.

He suggested too that Mr. Murphy was using the drug charges to impede progress toward a new Panama Canal treaty which if negotiated, would restore "sovereignty" over the Canal Zone to the Panamanian Republic.

Late yesterday Mr. Tack ordered the expulsion of three American narcotics agents from Panama within 24 hours. He asserted that the men, agents of the United States Bureau of Narcotics and Dangerous Drugs, had "intervened in the internal affairs of Panama."

The expulsion followed initial reports two days ago in the syndicated column of Jack Anderson linking Mr. Tack and Mr. Torrijos with narcotics smuggling. The first hint of the development came a week ago in a brief allusion by the Panama Canal subcommittee to "confidential" information passed to the subcommittee by the Bureau of Narcotics.

United States officials involved in the treaty negotiations, which have been under way here since June, declined to speculate whether the flareup would jeopardize the talks. Panamanian diplomats, who denied recent reports of an "impasse," said that they thought the talks would not be fundamentally affected.

Mr. Murphy said in an interview today that he and other subcommittee members had been briefed here on Jan. 24 by Customs Bureau agents placed at their disposal by Myles Ambrose, then Director of the Treasury's Bureau of Customs and now President Nixon's special consultant for drug abuse enforcement. The subcommittee was then preparing to visit Panama and the Canal Zone.

A passage from the unpublished report of the subcommittee dated March 8 and entitled "Overview of the Narcotics Problem in Panama" cited a recent drug-smuggling case involving Panamanians and stated in part:

"The [customs] briefing team concluded that based on the customs investigation this case reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of Gen. Omar Torrijos and the Panamanian Foreign Minister, Juan Tack."

The subcommittee report also asserted that this involvement "was confirmed by B.N.D.D. officers in the Republic of Panama on Feb. 23 during the subcommittee briefing in that country."

The State Department said that the bureau had denied "in writing" that its agents had implicated Mr. Tack or Mr. Torrijos in its briefings of the House subcommittee.

A spokesman for the Customs Bureau said that it had nothing to add to what it had told Mr. Murphy and his subcommittee colleagues.

Charles W. Bray 3d, the State Department spokesman, said that the department considered the expulsion of the three agents, Wilbur Plase, Ruben Monzon and Charles W. Cecil Jr., as unwarranted.

Mr. Murphy, a graduate of West Point and a decorated infantry commander in World War II and the Korean war, cited growing drug abuse among American servicemen and dependents in Taiwan, Okinawa, the Philippines, Vietnam, and, especially, Panama.

The subcommittee recalled details of two recent drug-smuggling cases that, it contended, involved Mr. Tack and Mr. Torrijos.

One concerned the arrest in New York last July 8 of Rafael Richard, son of the Panamanian Ambassador to Taiwan. Mr. Richard, who was 23, was travelling on a diplomatic passport signed by Mr. Tack, which gave him immunity from prosecution.

At the time of his arrest he was on his fifth visit to the United States, during each of which he had brought about 150 pounds of heroin, the report said.

He was with Guillermo Gonzáles, his uncle, an intimate and former bodyguard of Moises Torrijos.

Mr. Gonzáles, who was believed to be the ringleader, was convicted and sentenced to seven years. The report said United States sources believe that Mr. Tack and Mr. Torrijos were not only sanctioning but were abetting this smuggling.

The other case involved Joaquin Gonzáles, former international transit chief of Tocumen International Airport at Panama, who was indicted in the smuggling of $1-million worth of heroin to Dallas.

Mr. Gonzáles was arrested by the United States authorities Feb. 6, 1971, when he entered the Canal Zone to attend a baseball game. He was flown to Texas to stand trial and was sentenced to five years. Mr. Tack exerted strong but unsuccessful diplomatic efforts to have him released, the subcommittee said.

DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kansas allow me to proceed for just two or three requests? I ask unanimous consent, on behalf of Mr. EASTLAND, that third reading and passage of S. 2149 be reconsidered for the sole purpose of offering a technical amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to reconsider the bill.

UP AMENDMENT NO. 934

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi (Mr. EASTLAND) I call up the amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of the Senator from Mississippi (Mr. EASTLAND) proposes unprinted amendment numbered 934:

On page 7, after line 4, insert the following:

SEC. 6. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be read the third time, passed, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING RECESS TO MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess which I anticipate will be a recess over until Monday noon, the Secretary of the Senate be authorized to receive and refer messages from the House of Representatives and from the President of the United States.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. ROBERT C. BYRD. Mr. President, I modify my request as follows: I ask unanimous consent that during the recess of the Senate over until Monday, the Secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday, the Vice President of the United States, the President of the Senate pro tempore, the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor to the distinguished Senator from Kansas who has been patiently waiting for recognition.

The PRESIDING OFFICER. The Senator from Kansas is recognized for a period of not to exceed 10 minutes.

THE PANAMA CANAL AND ALLEGATIONS OF DRUG TRAFFICKING

Mr. DOLE. Mr. President, Panamanian strongman Gen. Omar Torrijos will be in Washington tomorrow to meet with President Carter. Reportedly, they will discuss the proposed Panama Canal treaties, and the recent controversy circulating around differing interpretations of treaty language. There is another serious matter which has just come to my attention, which I hope will also be clarified during Torrijos' visit, or soon afterward. This involves allegations of direct involvement by General Torrijos and other members of his family in drug trafficking in the United States and elsewhere, that the distinguished Senator from Alabama (Mr. ALLEN) alluded to with regard to one incident.

Now, obviously the President of the United States cannot select the individual with whom he conducts his negotiations in international affairs. By the same token, however, our executive branch does have some choice in what is hidden or revealed to the public, which could bear upon those negotiations. It is my understanding that a number of documents now in the possession of the U.S. Drug Enforcement Administration have been "classified," which bear directly upon allegations of drug trafficking by General Torrijos. Those documents should be immediately turned over to the U.S. Senate for examination.

I am told that there is presently within the files of the Drug Enforcement Administration a large volume of materials bearing upon this matter. I have been given a list of 44 specific file codes containing information on the subject.

I am especially troubled to learn that an overt attempt was reportedly made to keep this information out of public purview by moving the intelligence files to another location for temporary safekeeping. I am advised that, just recently, perhaps to avoid embarrassment, these files were returned to the Drug Enforcement Administration's central office.

Mr. President, I do not like to jump to conclusions, and I do not necessary believe everything I am told. However, I do consider the source of this information to be sufficiently reliable to give me deep concern about the nature of the Panamanian leader with whom we are dealing. Suggestions that he—perhaps in conjunction with Fidel Castro—is involved in an illegal international drug operation is cause enough for concern. The allegation that these drugs are being funneled directly into the United States, and that General Torrijos himself may be profiting directly from drug sales, makes the matter all the more serious.

SENATE SHOULD HAVE INFORMATION

At the very least, I believe the Justice Department—and the Drug Enforcement Administration in particular—should make its findings on this matter known immediately to the appropriate Senate committee or committees, which can then decide what effect the information might have on ratification of the Panama Canal Treaties. I believe the Subcommittee on Separation of Powers, of the Senate Judiciary Committee, would certainly be entitled to take a look at this material, along with the Senate Foreign Relations Committee, and perhaps others.

Mr. President, I am calling upon the administration to address this serious matter immediately. I believe that President Carter should discuss these allegations with General Torrijos and request a full explanation. There is no better time for this than tomorrow.

In addition, it would be useful for the President himself to examine the files in possession of the Drug Enforcement Administration, and approve their release to appropriate Senate panels for full investigation. If any portion of these allegations are found to be accurate, I hope that the necessary information will be made available to all Members of Congress, and to the American public before the Panama Canal Treaty ratification process is completed.

Mr. President, as the Senator from Kansas indicated, the list containing DEA file references contains about 44 different references. In an effort to be totally cautious, and after making investigation as to whether or not the numbers themselves were classified, and being told that perhaps they were not, but to be on the safe side, after having experienced just last week with the State Department, the Senator from Kansas will not make public the reference numbers, but the Senator from Kansas does believe it is appropriate, at the proper time, to turn these references over to the proper committee, and I would hope that, based on the information available, the files could be subpenaed or otherwise brought before the appropriate committees in Congress, perhaps in executive session, and looked into very carefully.

But it seems to me that if someone were to ask, "How does this bear on the ratification of the treaties," the Senator from Kansas might state that if these allegations were true, it would have a great bearing on the ratification of the treaties, because it involves one of the principal participants and that individual's integrity.

So I would hope, based upon the statement that come tomorrow, the President will discuss this matter, if he checks with the DEA and finds the information to be accurate, with General Torrijos.

Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I once again commend the Senator from Kansas for his diligence and care in pursuing aspects of this matter which is of so much interest to us. The remarks made by him today, and earlier by the distinguished Senator from Alabama, are in excess of the information available to me, but I would like to add to the record that part that I know, so that he will be seized with what I know, and can determine where to go from here.

The majority leader is present and can corroborate what I am about to say, but I see no reason for not reporting to the Senate that the Attorney General briefed us in connection with certain matters in this respect, and he briefed the chairman and the ranking Republican member of the committee in certain respects. I have suggested to the Attorney General, and it is my understanding that he agreed, that the appropriate jurisdictional committees of the Senate be briefed on such matters as might be relevant to the subject of their consideration.

Mr. President, the only reason I say this is to let the Senator from Kansas know that there has been a contact with the administration, and that it has been my insistence, and I believe that of the majority leader as well, that the Senate be informed on whatever aspects may be relevant, if any. I do not know the details of the transactions or the allegations. I cannot speak for their truthfulness. But I thought, in view of the interest and importance of the matter, the Senate ought to be kept fully informed.

Mr. ROBERT C. BYRD. Mr. President, the minority leader has correctly stated the situation as to our being briefed, and we have been assured we would continue to be briefed as to any further information which comes to the attention of the Attorney General upon this matter.

Mr. BAKER. Mr. President, I would only reiterate one part, to make sure it is entirely clear: It was at our insistence that the Department of Justice make sure that the relevant committees of the Senate be fully apprised of whatever information might be relevant to our consideration of relevant matters.

Mr. DOLE. Mr. President, I appreciate being informed that the matter is moving along. Does that include information as to the allegation that the files may have been removed and then returned?

Mr. BAKER. No. I prefaced these remarks by saying that the Senator from Kansas had more information than I had, and it was to that that I was referring.

Mr. ROBERT C. BYRD. Mr. President, I want to say that I have full confidence in the intention of the Attorney General of the United States to bring to our attention the full relevant information, as he has done, and I have no doubt that he will continue to bring to the attention of the joint leadership and Senate committees any information that he has bearing on this matter.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I commend the able Senator from Kansas for bringing this information to the Senate. It would be my hope that the files referred to by him, that contain such information, would be made available by the administration to the Separation of Powers Subcommittee of the Committee on the Judiciary. I feel that these charges are too serious to be passed on lightly. I feel that this matter should be gone into carefully, and that there should be no action on the part of the administration to withhold files. I do not predict that they will, but I feel very strongly that the information in these

files should be made available to the Members of the Senate.

Mr. HATCH. Mr. President, as ranking minority member of the Separation of Powers Subcommittee, I also would like to thank the distinguished Senator from Kansas for his enlightenment of the Senate, and I think the country, today.

I have had a lot of reports from various sources that the Torrijos regime has been participating for a number of years in drug trafficking. I have, for the most part, chosen to carefully watch those reports, but have not had any particular source that I was willing to rely upon, until today, to give me any indication or information that would lead to reliable or verifiable proof of such trafficking.

We have held some extensive hearings in the Separation of Powers Subcommittee, and we have tried to do everything in our power to bring out a variety of matters concerning the Panama Canal on both sides. I commend the distinguished Senator, and I do believe that the administration ought to provide us with these files, ought to provide us with the appropriate people who can testify, and let us know who they are, so that we can once and for all get this matter out in the open, and determine exactly what type of regime we are dealing with, and above all, what kind of a person we are dealing with in Omar Torrijos.

The chairman of the committee is here on the floor, and I do not mean to usurp his function by making this particular request, but let me just say this, for myself personally: I feel that it is a very reasonable request, and we ought to be able to look into the matter. I think for the benefit of all Members of the Senate, and certainly for the benefit of the country as a whole. As everyone knows, this Panama Canal problem has become one of the paramount problems of our day. There are differing viewpoints and differing sides to this question, but I would like to see both sides brought out, and not just one side. I am not sure we have had enough brought out on the impact of the treaty side to keep people properly informed.

I think the people should know if there is evidence of drug trafficking, and if the evidence you have indicated can be obtained, I think we ought to see it.

I thank the Senator from Kansas for his statement on the floor of the Senate, and certainly want to give any support I can to the committee and to the American people.

ORDER FOR CONSIDERATION OF H.R. 3387 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 421, H.R. 3387, an act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. BAKER. I would say to the majority leader that I am sure that is cleared on our side, but with a notation on my calendar, I would ask that the majority leader withhold the request for a moment.

Mr. ROBERT C. BYRD. Mr. President, I withhold the request for the moment.

Mr. BAKER. Mr. President, I would say to the distinguished majority leader that the matter is cleared and we have no objection to proceeding as he suggests.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader and I renew my request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RECESS UNTIL 6:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still awaiting word from the other body which will allow the Senate to appoint conferees on the various and sundry energy bills, four in number, which have been passed by the Senate and sent to the other body. For the time being, I ask unanimous consent that the Senate stand in recess until the hour of 6:30 p.m. today.

There being no objection, the Senate, at 6 p.m., recessed until 6:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

DEFENSE PRODUCTION ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the tabling, reconsideration, passage, and third reading of S. 695 be vitiated for the purpose of offering a technical amendment to S. 695. The amendment is noncontroversial and has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 935

Mr. ROBERT C. BYRD. Mr. President, I call up the amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Wisconsin (Mr. PROXMIRE), proposes an unprinted amendment numbered 935:

On page 21, lines 19 and 23 and page 23, line 9 change the term "contracting officer" to "acquisitions officer"

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 6:34 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 6:56 p.m., when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney one of its clerks, announced that:

The House insists upon its amendment to the amendment of the Senate numbered 8 to the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Florida; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House insists upon its amendment to the amendment of the Senate to the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House insists upon its amendment to the amendment of the Senate numbered 6 to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House insists upon its amendment to the amendment of the Senate numbered 3 to the bill (H.R. 5037) for the relief of Jack R. Misner; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FLOOD, Mr. NATCHER, Mr. SMITH of Iowa, Mr. PATTEN, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. MAHON, Mr. MICHEL, Mr. CONTE, Mr. O'BRIEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The House has passed without amendment the joint resolution (S.J. Res. 89) to amend the Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session).

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

JOE CORTINA—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5289.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate numbered 8 to the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. HASKELL, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. MCCLURE, Mr. BARTLETT, Mr. WEICKER, Mr. DOMENICI, and Mr. LAXALT conferees on the part of the Senate.

DUTY ON CERTAIN ANTIBIOTICS—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4018.

The Presiding Officer laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate to the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. MCCLURE, Mr. BARTLETT, Mr. DOMENICI, and Mr. LAXALT conferees on the part of the Senate.

JACK R. MISNER—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5037.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate numbered 3 to the bill (H.R. 5037) for the relief of Jack R. Misner, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House agreed to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. HATFIELD, Mr. MCCLURE, Mr. WEICKER, and Mr. DOMENICI conferees on the part of the Senate.

DUTY-FREE ENTRY OF BOBSLEDS—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5146.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate numbered 6 to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. HASKELL, Mr. FORD, Mr. JOHNSTON, Mr. ABOUREZK, Mr. DURKIN, Mr. METZENBAUM, Mr. HANSEN, Mr. HATFIELD, Mr. BARTLETT, and Mr. LAXALT conferees on the part of the Senate.

SENATE CONFEREES ON ENERGY LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, the Senate conferees have now been appointed to work with the House conferees on the four energy bills which have been sent to the House. It was for this purpose that the Senate stayed in so long. Hopefully, now the conferees can progress while the Senate is awaiting the fifth and last of the energy bills, which will be reported by the Finance Committee.

I wish to express my appreciation to the leadership of the other body for its cooperation in taking action which makes a conference possible on each of the four measures, and thus makes possible the appointment of Senate conferees so that the conference action on those four energy measures will not have to be delayed until the Senate's final action on the fifth component of the national energy policy package which the Senate awaits, as I stated, reporting by the Finance Committee.

I thank all Senators, and especially the officers of the Senate, the people at the desk, the pages, who have waited so long and so patiently throughout this day.

ORDER FOR A RECESS UNTIL MONDAY, OCTOBER 17, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock noon Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO ROLLCALL VOTES OCCUR ON MONDAY PRIOR TO 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are in order prior to the hour of 2 p.m. on Monday they not occur until the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that bill is under a time agreement. It is anticipated that there will be rollcall votes during the afternoon.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 12 noon. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of Calendar Order No. 421, H.R. 3387, an act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

RECESS UNTIL MONDAY OCTOBER 17, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate. I move in accordance with the previous order, that the Senate stand in recess until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and at 7:05 p.m. the Senate recessed until Monday, October 17, 1977, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 13, 1977:

DEPARTMENT OF STATE

Oliver S. Crosby, of Washington, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

E. Gregory Kryza, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

DEPARTMENT OF JUSTICE

Herman Sillas, Jr., of California, to be U.S. attorney for the eastern district of California for the term of 4 years, vice D. Dwayne Keyes.

George L. Miller, of North Carolina, to be U.S. marshal for the middle district of North Carolina for the term of 4 years, vice P. Ellis Almond.

John A. Roe, of Iowa, to be U.S. marshal for the northern district of Iowa for the term of 4 years, vice Melvin A. Hove, term expired.

HOUSE OF REPRESENTATIVES—*Thursday, October 13, 1977*

The House met at 10 o'clock a.m.

The Reverend H. Jack Morris, pastor, Largo Community Church, Mitchellville, Md., offered the following prayer:

Almighty God, our Heavenly Father, we thank You for Your benevolent hand of blessing that so graciously rests upon our beloved land, its peoples, and its leaders.

Thank You for blessing us with life, liberty, prosperity, and the pursuit of happiness, and many other innumerable gifts.

Grant to all of us simple faith to walk in the ways of the Lord, courage and strength to bear life's burdens, humility of mind to acknowledge God and to be thankful, and the forgiveness of our sins so that we may live in harmony with God and our fellow man.

To You alone, O God, belongs dignity and honor, power and majesty, glory and praise, gratitude and thankfulness forever and ever. Amen.

CALL OF THE HOUSE

Mr. RHODES. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 647]

Abdnor	Dingell	Moakley
Ambro	Drinan	Moffett
Archer	Edwards, Okla.	Mollohan
Armstrong	Evans, Ind.	Murphy, N.Y.
Ashbrook	Fenwick	Patterson
Ashley	Fountain	Pepper
Badillo	Gammage	Pickle
Bafalis	Gibbons	Quie
Beard, Tenn.	Harrington	Rinaldo
Bedell	Harsha	Roncalio
Bellenson	Hightower	Rose
Bingham	Holland	Roybal
Boggs	Jacobs	Ruppe
Bolling	Jeffords	Scheuer
Bonior	Johnson, Calif.	Skubitz
Brown, Ohio	Johnson, Colo.	Udall
Burke, Mass.	Jones, Okla.	Van Deerlin
Chappell	Keys	Vento
Chisholm	Koch	Walker
Clausen, Don H.	Lujan	Watkins
Collins, Ill.	McCloskey	Whalen
Conyers	McDade	Whitten
Delaney	McKinney	Wiggins
Dellums	Mann	Wilson, C. H.
Dent	Meyner	Young, Alaska
Diggs	Mikva	Young, Tex.
	Miller, Calif.	

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference reported in disagreement on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7555) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1978, and for other purposes," and that the Senate agreed to the amendments of the House to the amendment of the Senate numbered 82 with an amendment to the foregoing bill.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3744) entitled "An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. HATCH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States;

S 2169. An act to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building";

S.J. Res. 89. Joint Resolution to amend an act entitled "To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session);

S.J. Res. 90. Joint resolution making continuing appropriations for the District of Columbia for fiscal year 1978; and

S.J. Res. 91. Joint resolution making continuing appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year 1978.

REQUEST FOR CONTINUING RESOLUTION

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, I have a statement to make, which is of interest to all Members of the House. We have tried in the Committee on Appropriations to avoid a continuing resolution this year. I think continuing resolutions are undesirable financing procedures. But we have come to the point where we have to have one or have chaos in some of the departments and agencies of Government. Members of the Committee on Appropriations, working in concert with the Speaker and the leaders of the House, are proposing now a continuing resolution for the period from October 1 to October 31. Insofar as I know, there is nothing controversial or difficult in respect to this continuing resolution. Certain employees are confronted with payless pay days and these people must be paid. There are a number of agencies of the Government which have employees who must be paid including employees the Department of Labor, HEW, the District of Columbia, and those working on assistance programs. So in a moment I will ask unanimous consent to bring up a continuing resolution. Under this procedure, unanimous consent is required. The Senate, in my judgment, will act quickly and get the measure to the White House.

I have taken this time because of the importance of the matter and I did not want to surprise anybody by making this unanimous-consent request.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I understand the unanimous-consent request will be for the immediate consideration for the resolution, not for the passage of the resolution.

Mr. MAHON. That is correct.

Mr. RHODES. There will be an hour of debate on the resolution itself, if the unanimous-consent request is granted?

Mr. MAHON. The unanimous consent would take only moments, if everybody would agree, and I think everybody would be in favor of doing what we have to do under the circumstances.

Mr. RHODES. Mr. Speaker, if the gentleman will yield further, there would be agreement by the chairman of the Committee on Appropriations to share the time available for debate with other Members?

Mr. MAHON. The gentleman is correct.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it shall be in order today to consider in the House a joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. STARK. Mr. Speaker, reserving the right to object, could I inquire of the distinguished chairman of the Committee on Appropriations whether, with this continuing resolution for the month of October in those States which do not currently pay for abortions for poor people, would poor women be able to have federally funded programs to provide abortions to them during this period of time?

Mr. MAHON. Mr. Speaker, if the gentleman will yield?

Mr. STARK. I will be glad to yield to the distinguished chairman.

Mr. MAHON. Mr. Speaker, the present law would obtain.

The present law with respect to abortion would continue from October 1 to October 31.

That is fairly simple, and there is no change in the present law with respect to abortion.

Mr. STARK. Further reserving the right to object, does the present law contain what is now referred to as the Hyde amendment, which prohibits abortion?

Mr. MAHON. The present law contains the Hyde amendment, which was adopted, if we can call it that, for fiscal year 1977, last year.

Mr. STARK. Then I must object.

The SPEAKER. Objection is heard.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, yesterday, October 12, responsibilities in my district prevented me from voting on final passage of H.R. 8390, the Department of Defense Supplemental Appropriations Act (rollcall No. 646). Had I been present, I would have voted "yes."

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET DURING DEBATE AND 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may be permitted to sit this morning during debate and under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

THE HUBERT H. HUMPHREY BUILDING

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of observing that however much any individual in this country may deserve respect for his public service——

Mr. ROBERTS. Mr. Speaker, I am unable to hear the gentleman. I do not know whether the acoustics are bad in here or what.

Mr. BAUMAN. I say to the gentleman from Texas, however much any public servant deserves credit for that service, we have already seen an instance recently where a Federal building in Baltimore was named for a former Member of Congress, who subsequently has been indicted by the Federal Government for alleged crimes while he was in office, to-wit, taking bribes. I do not make certainly the slightest intimation that the Senator from Minnesota would ever fall into a similar category.

But it seems to me that we get on dangerous ground when we continually name public buildings after living people whose records are open to future interpretation and revelation. Certainly all of us have a great deal of sympathy for the problems the Senator from Minnesota has faced. But I think it is a bad precedent to set, and I would hope that at some point we might get away from this kind of instant glorification while the public servant is still around.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2169

An act to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the South Portal Federal Office Building of the United States Department of Health, Education, and Welfare, located at 200 Independence Avenue Southwest, in Washington, District of Columbia, is hereby designated as the "Hubert H. Humphrey Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Hubert H. Humphrey Building.

Mr. FINDLEY. Mr. Speaker, I heartily endorse the proposal under which a new Federal building will bear the name of the esteemed Member of the other body, Mr. HUMPHREY.

Senator HUMPHREY is revered for many achievements and richly deserves this recognition. For the past few years I have had the privilege of an especially close relationship with him in connection with the development of the title XII, the famine prevention program, as well as other foreign policy and agricultural matters.

I have been amazed at his never-flagging zeal. In fact if a single word were to be selected to represent Senator HUMPHREY, I would choose the word zest. He has zest for every undertaking, and it has not diminished even in the difficult days when he has been hospitalized.

In giving my enthusiastic support for this recognition, I wish my dear friend from Minnesota a full recovery, so that he can impart zest to his wide-ranging endeavors for many years to come.

To me, he symbolizes the best in service to humanity.

Mr. MINETA. Mr. Speaker, I rise in support of S. 2169, a bill to name the new HEW South Portal Federal Office Building in Washington, D.C., in honor of Senator HUBERT H. HUMPHREY.

No one has more enthusiastically and effectively labored in the cause of all the programs which this department of Government encompasses.

HUBERT HUMPHREY's stature ranks with the greatest of our 20th century statesmen.

As a mayor, a U.S. Senator, as Vice President of the United States, and as a nominee of the Democratic Party for President, HUBERT H. HUMPHREY stands as no man's equal in his advocacy for the poor and disadvantaged and in his compassion and decency for programs to serve all Americans. As chairman of the Committee on Human Resources which authorizes many of HEW's programs, I know that the "people's programs" of HEW have become what they are today because of his tireless support and his unstinting labor to assure all Americans equal opportunity and a decent life.

The Civil Rights Act of 1964 was nursed from infancy to its passage by Senator HUMPHREY. The establishment of the Peace Corps and the Arms Control and Disarmament Agency are his achievements. Scores of vital Federal programs administered by the Department of Health, Education, and Welfare are operating today, because HUBERT H. HUMPHREY fought for them: Medicare,

Head Start, the Elementary and Secondary Education Act, the Community Mental Health Act, the Health Professional Scholarship Act.

His record in the Senate is so full of landmarks and achievements that it would take a Humphrey speech to do them justice. Wherever you look, he is leaving his mark as an outstanding and progressive leader.

He also knows how to represent the constituents of his State. I doubt that the people of Minnesota ever had a better champion of their interests. He loves his State, and he serves its people well.

Mr. Speaker, for these and many other reasons, I believe that HUBERT HUMPHREY will go down in history as one of the finest Senators America ever had. It is a privilege and an honor for me to join in this fitting tribute to his remarkable achievements.

Mr. WALSH. Mr. Speaker, it is an honor for me to rise in support of S. 2169, a bill to name the South Portal Federal Building of the Department of Health, Education, and Welfare after the distinguished senior Senator from Minnesota, HUBERT H. HUMPHREY.

Senator HUMPHREY has long been a champion of the disadvantaged. His concern for people includes the elderly, the mentally retarded, the handicapped, the poor, and the victims of discrimination.

Because of this sincere concern, Senator HUMPHREY worked tirelessly on legislative programs which were administered by the Department of Health, Education, and Welfare. The fruits of his labors were embodied in such programs as the Elementary and Secondary Education Act, the Peace Corps, Head Start, civil rights legislation, and countless others.

Since many of these vital programs have been entrusted to the Department of Health, Education, and Welfare, it is appropriate that this body bestow a small token of honor upon Senator HUMPHREY by naming one of the HEW buildings after him.

Even though Senator HUMPHREY has had his critics and has not obtained unanimous support on each and every issue, his work, complemented by sincerity, compassion, courage, and bipartisan spirit, has certainly inspired his colleagues.

I think we can all agree that Senator HUMPHREY has been one of the great political leaders of this century. He has been, and remains, a patriot in every sense of the word.

Without question, HUBERT HORATIO HUMPHREY, will continue to serve our country as well as he has in the past, and the people of this country are, indeed, fortunate to have HUBERT H. HUMPHREY in their service.

Mr. Speaker, I am privileged to lend my support to this bill in honor of this remarkable man.

Mr. ROBERTS. Mr. Speaker, we are considering a bill introduced by Senator DOLE, with the cosponsorship of the entire Senate body to name the new South Portal Building of the Department of Health, Education, and Welfare for the distinguished Senator from Minnesota, Senator HUBERT H. HUMPHREY. HUBERT HUMPHREY is a premier legislator of the country. Naming the new Health, Education, and Welfare building is a fitting gesture reflecting the esteem and affection that this great and good man has commanded throughout his public life.

Mr. Speaker, throughout three decades of public service, as mayor of Minneapolis, a U.S. Senator, a Vice President of the United States, and as the nominee of his party for President, HUBERT H. HUMPHREY has been in the forefront of the struggle for social and economic justice.

His strong feelings, sympathy, patience, and understanding have enriched the legislation he has supported. The lives of millions of Americans, the old, the young, the disadvantaged, are better today, because he has not hesitated to champion unpopular causes, taking a leadership position on key issues before they were national issues.

In 1948, HUBERT HUMPHREY was elected to the U.S. Senate and reelected in 1954 and 1960. In 1964, he was elected Vice President with President Lyndon Johnson. He continued to contribute to the health of American political life by returning to the U.S. Senate in 1970.

Many vital programs administered by the Department of Health, Education, and Welfare are here today, because of HUBERT HUMPHREY'S commitment to them. Medicare, the Elementary and Secondary Education Act, the Community Mental Health Act, Head Start, the Health Professions Scholarships Act—and the list goes on.

In light of his past and continuing achievements, it is most just and appropriate to name the new Department of Health, Education, and Welfare building in Washington for this champion of all Americans. The Hubert H. Humphrey Federal Building will serve as a constant reminder of what is best in this Nation and HUBERT H. HUMPHREY himself, will continue to work to bring out the best this country's Government can offer its citizens.

Mr. QUIE. Mr. Speaker, the bill we are considering today is one which allows all of us to express to Senator HUBERT HUMPHREY our recognition and appreciation for all he has stood for and accomplished in the areas of health, education, and welfare legislation. Because of HUBERT'S dynamic role in these areas, it is fitting indeed that the new South Portal Federal Office Building, housing the Department of Health, Education, and Welfare, should be named in his honor.

It is difficult to recall any major legislation in any of these areas upon which Senator HUMPHREY has not left his mark. Furthermore, his outstanding record is augmented daily, as this irrepressible man continues to do everything possible to improve the situation of all those in need—the poor, the sick, the old—and indeed, our entire population. Those of us who know him as our friend share this privilege with the hundreds of thousands who have benefited from his tireless efforts, through which they, too, know his friendship.

The entire Minnesota delegation joined me in sponsoring the House companion to S. 2169, and I am pleased that the House has agreed today to pay tribute to this man who has done so much for our Nation by passing this bill.

Mr. HAGEDORN. Mr. Speaker, I rise in strong support of S. 2169, a bill to name the new HEW South Portal Federal Building in Washington, D.C. in honor of Senator HUBERT H. HUMPHREY. I am privileged, as a member of the Minnesota House delegation, to be a sponsor of the House version of this bill.

There is no more appropriate building in the country with which to honor the man. For three decades, Senator HUMPHREY has been the pre-eminent advocate of legislation designed to promote the health, education, and welfare of the American people. Many of the programs which will be administered in this building were programs originally conceived by Senator HUMPHREY, including medicare, the Elementary and Secondary Education Act, the Health Professions Scholarship Act, and much civil rights legislation.

This is certainly not to suggest that we could not have selected scores of other buildings and named them just as appropriately for the Senator. His imprint upon legislation in the area of agriculture and foreign affairs has been an equally deep one. Senator HUMPHREY is one of those rare legislators whose expertise is broad, and whose impact in a variety of areas has been felt; he is one of a dwindling breed of Renaissance Men in the other body, an individual justifiably confident of his knowledge and abilities in the full realm of those issues with which government is concerned.

While I have not always agreed with Senator HUMPHREY on the specifics of legislation, it is impossible not to admire him for his commitment and courage on those issues that he felt were right, his articulateness and forthrightness in defense of his positions, and his ability and skillfulness in securing passage of his initiatives.

I am privileged to be a small part of an effort to honor this giant of a man, a man who has, and I know will continue, to do so much for Minnesota and the Nation.

Mr. VENTO. Mr. Speaker, the dedication of the Health, Education, and Welfare building in honor of my friend and esteemed colleague, Senator HUBERT H. HUMPHREY, may rank as one of the most important achievements of this 95th Congress.

A more fitting tribute to this stalwart and courageous Minnesota Senator is difficult to envision. More than any other legislator, HUBERT HUMPHREY deserves major credit for the many humanitarian programs which are the essence of our Government's efforts to bring about social and economic justice. So many vital Federal programs which we sometimes take for granted—medicare, Head Start, the Community Mental Health Act—are operating today because HUBERT HUMPHREY fought for them.

It is a special tribute to the Humphrey spirit and philosophy that all 99 of his Senate colleagues joined in sponsoring this legislation. I was proud to join Congressman AL QUIE and other Members of the Minnesota delegation in bipartisan sponsorship of the House companion bill. And the unanimous support of our colleagues in the House speaks well of the noble tradition that is so closely and

rightfully associated with Minnesota's senior Senator. From the beginning of his political career, Senator HUMPHREY has been the healer, the one who brought divergent groups and interests together for the consensus which is so vital and important to the workings of our democracy. What better honor than to have this consensus on legislation honoring his name and his philosophy.

It is also fitting that the HEW building be named after someone who has been such a strong leader in education. For many years, Senator HUMPHREY was a part, an important part, of every great step forward in education. He presented new ideas which are now considered fundamental.

Long before others in the field even thought about the problem, Senator HUMPHREY recognized that State and local governments could not bear the full costs of providing quality education. He declared education a right of all citizens and called for a Federal guarantee of full educational opportunities. He proclaimed schooling necessary to break the cycle of poverty eroding the backbone of our Nation. And he taught us that education is an investment, with full repayment through increased productivity and a more fully developed national potential. Because of his leadership, the Federal Government agreed to accept its responsibility to education and the general public understood more clearly the necessity of maintaining and nurturing quality education programs for all young citizens.

As a teacher, I share his feelings and have utmost respect for his integrity and achievements. But it is not only teachers and students who should be grateful. We have all benefited from his efforts. It is only right that we pay tribute to him by dedicating in his honor the building in which "his" programs will be implemented and the goals for which he stands will come closer to achievement.

Mr. STANGELAND. Mr. Speaker, I wish to rise in support of the resolution to name the HEW Southeast Annex in Washington, D.C., the Hubert H. Humphrey Building.

In supporting this legislation we are paying tribute to a great American who has distinguished himself with a lifetime of public service as mayor of Minneapolis, Senator of Minnesota, Vice President of the United States, and now again as Senator.

Mr. HUMPHREY has carried his party's label proudly and taken seriously the responsibilities of political office. His record is such that it serves as an example to us all, both as Members of Congress and as private citizens. His ability to follow through on his beliefs has made him well loved in Minnesota, the United States, and the entire world.

It seems to me most fitting and appropriate that this great honor be bestowed upon Mr. HUMPHREY who has fought so hard all these years for the things he believed would make life better for his fellow citizens.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTI-FRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I call up the conference-report on the bill (H.R. 3), to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 11, 1977.)

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman explain to us why it is necessary to do it by unanimous consent?

Mr. ROSTENKOWSKI. If the gentleman will yield, I asked for unanimous consent yesterday, and no one objected to it.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman is only asking unanimous consent to discontinue reading the statement?

Mr. ROSTENKOWSKI. That is right.

The SPEAKER. The Chair would state that the conference report is in order. The unanimous-consent request comes only to the reading of the statement.

Mr. ROUSSELOT. It is only to the reading of the statement?

The SPEAKER. Yes.

Mr. ROUSSELOT. I thank the Chair.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. ROSTENKOWSKI) and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. ROSTENKOWSKI. Mr. Speaker, I am very pleased to rise in support of the conference report on H.R. 3, the medicare-medicaid antifraud and abuse amendments. This report represents the culmination of a process that began more than a year ago when my colleague, Mr. ROGERS, and I joined with the distinguished gentleman from Georgia, Senator TALMADGE, to focus increased congressional attention on the problems of fraud and abuse in our Federal health financing programs. H.R. 3 demonstrates the ability of two House committees to work quite closely together on issues of such mutual concern. In this regard, both the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Kentucky (Mr. CARTER) are to be commended for the cooperation and assistance they have given Mr. ROGERS and me in the development of this bill and in guiding it through some admittedly complex procedural situations.

In the conference, Mr. Speaker, the minor differences between the two versions of H.R. 3 were amicably resolved with most time being devoted to four medicaid issues—State versus PSRO review, assignment of rights of medicaid payment, funding of State medicaid fraud control units, and medicaid penalties relating to utilization review of long-term care. I am sure my colleague from West Virginia, my friend (Mr. STAGGERS), will address these issues in a moment.

With respect to other issues, the House conferees accepted some changes in the disclosure, penalty and suspension sections which we regard as technical improvements. House conferees did not agree to several Senate amendments that we felt were more appropriate for consideration as part of other legislation.

One issue in particular, the interrelationship of tax policy and health policy, which emerged in the Senate amendment pertaining to the tax treatment of PSRO's is a broad subject area that we feel must be examined in significant detail. I have assured Senator DOLE and the other Senate conferees that the entire impact of the tax code on the financing and delivery of health care is an issue that the Ways and Means Subcommittee on Health hopes to explore during the next session. And I would even take this opportunity to solicit the views of members and others concerned about specific areas appropriate for the committee's review.

Another amendment that the House conferees were unwilling to accept was a Senate amendment originally sponsored by the Senator from California (Mr. CRANSTON) which would allow certain individuals age 60 to 64 to buy into the the medicare program. The Cranston amendment is designed to help a group of individuals who are particularly vulnerable to exhorbitantly high rates for health insurance. A typical situation is one in which the breadwinner, when he turns 65, retires and begins medicare coverage. Once his employment-based health insurance is lost, his spouse, if under 65, is left without health coverage at an affordable price. This is a very complex issue which we intend to review at the earliest opportunity. We must examine the policy questions inherent in expanding the medicare-eligible population as well as the administrative feasi-

bility of the approach outlined in the Senate amendment.

Mr. Speaker, aside from the provisions that I have noted, the other conference agreements were of a minor technical nature. As finally developed, H.R. 3 is a very good bill; it will help to defend medicare and medicaid against fraud and abuse; it gives HEW and the States sturdy tools to work with in other areas where the programs need to be strengthened. I urge my colleagues to support this report.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report. I am pleased to join my colleague, the gentleman from Illinois (Mr. ROSTENKOWSKI), in recommending the conference report on H.R. 3, the medicare-medicaid antifraud and abuse amendments.

I wish to compliment the two subcommittee chairmen, the gentleman from Florida (Mr. ROGERS) and the gentleman from Illinois, Mr. DAN ROSTENKOWSKI, for the great work they did in the conference. I think we came out with a very good report, one which maintains practically all of the House provisions. This legislation passed by a vote, I believe, of 362 to 5 when the bill was originally considered. Most of those original provisions are contained in the conference report. There was complete agreement between the Senate and the House on what those provisions should be.

I wish to compliment not only the conferees from our Committee on Interstate and Foreign Commerce, but the conferees from the Committee on Ways and Means. I commend also the Members of the Senate, because the conferees worked together very well, and the staff worked hard in getting these matters straightened out. The help that they provided the conferees in working out the agreement was invaluable.

So I wish to compliment and commend both the minority staff and the majority staff, as well as all the Members, the gentleman from Kentucky, Dr. CARTER, and all the other Members from our side, as well as the members of the Committee on Ways and Means, for the splendid job they did in bringing together an agreement on a very complex situation.

Mr. Speaker, the chairman of the Health Subcommittee of the Ways and Means Committee has noted that the House provisions were generally retained, although technical and clarifying amendments recommended by the Senate were included in many provisions. However, several provisions included in the conference report represent a compromise between the House proposal and the Senate amendment. These are:

First, section 2, regarding timely payment of claims by State medicaid agencies.

The conferees agreed to require State medicaid programs to pay 90 percent of clean claims within 30 days, and 99 percent within 90 days, effective July 1, 1978. Additionally, we agreed to recede from the provision establishing special funding for State programs of technical assistance to expedite the filing and payment of claims, since States may receive matching funds under the current law for these activities.

Second, section 5d, regarding State monitoring of PSRO performance.

The conferees agreed that when a State demonstrates that PSRO decisions are having a detrimental impact on total State medicaid expenditures, and that this is happening because a PSRO is approving inappropriate care, then the Secretary will suspend the PSRO's binding review authority under medicaid. The conference report clarifies that the Secretary must determine the reasonableness of the State allegation within 30 days, and immediately suspend the PSRO's authority if it is reasonable and corrective action has not been taken. The Secretary's decision is not subject to judicial review.

The conference report also clarifies that a State will be the reviewer of care in an intermediate care facility (ICF) unless the State requests that the PSRO do the review, or the State is not performing the review satisfactorily. The State would also review ICF services in facilities delivering both skilled nursing facility and ICF services unless the Secretary specificially finds that this arrangement is inefficient and burdensome.

Third, section 17, regarding State medicaid fraud units.

The conferees adopted the provisions for 90 percent funding recommended by the House. Provision for funding of units without statewide prosecuting authority was agreed to if the unit has satisfactory arrangements for referral of cases for prosecution.

Fourth, section 20, regarding reductions for failure to perform required medicaid reviews of institutional care.

The conference report provides for waiver of any reductions imposed for periods prior to 1977. Reductions imposed in 1977 would be waived if the State is in compliance with the requirements of the law by December 31. Any reduction in funds that is imposed if the requirements of the law are not met would be adusted to reflect the amount of noncompliance.

In addition to these provisions, the conferees agreed to a Senate amendment which was not contained in the House bill, section 11 allows States to require the assignment of medical care payments from absent parents or third party payors as a condition of medicaid eligibility. States may establish units, or use existing units, to collect these payments due, and they can retain part of what would be the Federal share of the collections as an incentive to carry out the activity.

Mr. Speaker. I recommend the conference report to the House.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Health and the Environment, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I am pleased to join my distinguished colleagues in recommending the H.R. 3 conference report to the House.

My colleagues have explained the agreements of the conferees. The basic provisions of the House bill have been kept intact. I am particularly pleased to note that the conference agreement has retained the significant role established for the States in the process of reviewing and monitoring the performance of the PSRO's in the medicaid program, while providing the PSRO's with the opportunity to function fully and demonstrate their capabilities. If a State provides reasonable documentation that a PSRO is not operating effectively, and is approving inappropriate care which is resulting in increased medcaid budgets, the Secretary will withdraw that PSRO's binding authority under medicaid until corrective action is taken. The conferees agreed that this protected the State's interest and preserved the concept of a single review authority for services covered under both medicare and medicaid. This provision, and the existing authority of HEW to carry out demonstration projects, made the amendment suggested by the Senate to mandate large-scale demonstrations of alternate State systems unnecessary in our view, and the Senate receded from it.

I also want to note that H.R. 3 provides the opportunity that the States have desired to free themselves of the reductions in medicaid matching assessed by the Secretary for past failure to perform required reviews of institutional care. Members will recall that $250 million was assessed against some 20 States this year, and similar amounts in reductions for failure to do the reviews in earlier years were pending. We have waived reductions assessed prior to this year, and allowed States to earn the waiver of 1977 reductions by coming into full compliance by the end of the year. We have also made the formula for loss of Federal matching more appropriate by tying it to the degree of noncompliance.

I would note one additional provision which was added to the Senate bill on the floor, and which was not included in the conference report; that is, legislation to postpone the effective date of the requirement that States pay for long-term care facility services on a basis reasonably related to cost. This provision has been in the law since 1972. It was to be effective July 1, 1976, allowing States ample time to prepare for it. HEW delayed issuing regulations until the effective date, so a further delay resulted. The regulations require the systems to be in place January 1, 1978. Postponement for an additional year did not seem warranted, and we did not agree to it.

I believe the legislation we present to you today can be of significant assistance to the prosecutors and program administrators who are determined to find and eliminate fraud and abuse in our publicly financed health care programs.

During hearings on H.R. 3, Attorney General Bell testified in favor of the concept of tightening up the law in order to crack down on abuses and fraud in the medicare and medicaid areas. And for good reason. HEW estimates that fraud and abuse in these areas cost the Government, and thus the American taxpayer as much as $800 to $900 million annually.

During the hearings, I asked the Attorney General if the Justice Department should not and could not become more involved in detecting and prosecuting fraud and abuse in the health sector.

I was pleased that the Attorney General, in a speech given last month, specifically mentioned medicare and medicaid as an area where the Justice Department intended to become more involved as part of its crackdown on white-collar crime. I commend Griffin Bell for this.

With the resources of the Justice Department involved, I think we will see more action.

Since then I have learned that the FBI is training men and women in the area of auditing medicare and medicaid records. In all, 350 FBI agents have received special training so far in these two areas. Additionally, 1,100 agents have received special training in auditing procedures which will be applicable to health investigations in general.

The Justice Department, working with the Inspector General of HEW, will give us the resources we need to enforce the provisions of H.R. 3 which make fraud and abuse a felony. I am optimistic that with this tougher law and the resources available we will see dramatic results.

H.R. 3 is the product of close cooperation between the Interstate and Foreign Commerce Committee and the Ways and Means Committee. The solid working relationship which these committees established in developing this legislation continued throughout the conference committee with the Senate, and has resulted in a conference report which we can jointly recommend to the Members without reservation.

I want to make particular note of the contribution made by my colleague, the Honorable DAN ROSTENKOWSKI, to this effort. His leadership in assuring that the working relationship of the two subcommittees was cooperative and mutually beneficial was most significant. Additionally, my good friend and colleague, Dr. CARTER, was most helpful and supportive throughout our work on this bill, as was Mr. DUNCAN, the ranking Republican member of the Ways and Means Health Subcommittee.

The cooperation with the Senate was also excellent. Senator TALMADGE should particularly be commended for his leadership and assistance in this area. We have a fine working relationship which will stand us in good stead as we move to mutual consideration of other health issues.

I urge the Members to support the conference agreement.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3, the medicare-medicaid antifraud and abuse amendments.

This legislation as agreed to and reported by the conferees, would go a long way toward helping to reduce the fraudulent and abusive practices that unfortunately exist in the medicare and medicaid programs, and that have become even more prevalent and costly to our taxpayers in recent years.

H.R. 3 reflects careful deliberation, and genuine cooperation, by members of several legislative committees involved with the legislation, in both Houses of Congress. It tackles many difficult issues boldly and responsibly, including the upgrading of criminal offenses for those who would attempt to defraud the programs, the duties and functions of PSRO's, the ability of the States to finance tough new programs for investigating and prosecuting medicaid fraud, and the required disclosure of ownership and financial information by providers in the programs. Many long-needed administrative reforms are provided for, and the various changes brought about by the legislation undoubtedly will be of significant benefit not only to the program beneficiaries and recipients, but to all of our country's taxpayers who pay the bill for the services that are provided.

Mr. Speaker, this legislation is absolutely necessary if we are to begin to get a handle on spiraling health care costs, as well as the more specific problems of fraud and abuse in health programs financed or operated with Government funds. I strongly recommend that my colleagues support the enactment into law of H.R. 3, by approving the report of the House and Senate conferees.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I support the conference report on H.R. 3—the medicare-medicaid antifraud and antiabuse amendments. This measure represents the final product of many extensive hearings and markup sessions which began in the 94th Congress.

I believe that this legislation is needed to strengthen our Government's capacity to detect and prosecute fraudulent and abusive activities under the medicare and medicaid programs.

However, we cannot expect this bill alone to solve the problem.

Coupled with this expanded authority to detect fraud—must come improved administration of these health programs.

We know that our programs can only be as good as the people who administer them—and I trust that the provisions of this legislation will be carried out and enforced as diligently as possible. Only with the cooperation and commitment of government on all levels can we expect significant progress in solving the fraud and abuse problem.

Mr. Speaker, this conference report is very similar to the House-passed bill—although there were actually 40 differences between the House and Senate bills. Most of the changes we adopted were relatively minor in nature.

Also—the conferees decided not to adopt two of the more controversial Senate amendments.

We did not accept the amendment which would have delayed for 1 year the requirement that State medicaid programs pay skilled nursing facilities and intermediate care facilities on a basis reasonably related to cost.

Second—we did not adopt the Senate amendment which would have directed the secretary of HEW to conduct demonstration projects to compare PSRO review methods with State programs.

The conference report does include a number of provisions which should strengthen the Government's ability to detect and prosecute fraudulent activities. These provisions include: increased penalty provisions and increased disclosure requirements to prevent the kind of "cozy relationships" we have heard reported between certain types of providers. However—I would like to emphasize that these disclosure requirements do not apply to individual practitioners or groups of practitioners—but instead apply to hospitals—skilled nursing facilities—independent clinical laboratories—and other facilities that claim reimbursement under medicare and medicaid and title XX of the Social Security Act.

In addition—the conference report also includes changes designed to assist the professional standards review organizations in their review of the quality and appropriateness of medical care.

It is not the intent of the conferees to convert PSRO's into fraud and abuse units. That is not their mission.

However—we hope that when the PSRO finds a pattern of abuse—it would notify the appropriate State agency which has responsibility for investigating fraudulent activities—to determine whether or not there is a problem.

Mr. Speaker, this is an important piece of legislation which will help prevent fraudulent diversion of program funds which are sorely needed to pay for health care for our Nation's poor and elderly.

I urge that the conference report on H.R. 3 be favorably considered.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, although this bill generally is a very good bill and I wish to commend the gentlemen from wish to commend the gentlemen from West Virginia, Illinois, and Florida on the work they did but, as they know, there is one provision in this bill that I seriously object to. As a result, when it passed the House I felt that it was necessary to vote against it. That was the provision on the antifraud units in requiring that the States do it the way it is provided for in the bill.

It bothers me to no end, having been a State legislator for 10 years in Missouri, and now to be here, to see Members of Congress feeling that they know better than do the State legislators and the State government concerning how to run the State government itself. That is just what is occurring in this bill. The bill says it can only be done in this way.

As a result, Mr. Speaker, I would like to take just a little time to tell the Members what is going to happen in Missouri as a result of the provision in this law. That is, that on Monday there will be meetings in this Federal Capitol of Missouri Government officials and HEW to try to work out the problem. As a result, we may have a single State agency administering HEW as a division instead

of a department with the fraud unit exactly where it is right now, with no change.

But what you have done, instead of a departmental director having overall authority over a medicaid program, which is one of the largest programs in the State, you will have a division director, but the departmental director will have no authority over that divisional director or that program.

That is one of the things that can occur and is being contemplated.

The SPEAKER. The time of the gentleman has expired.

Mr. ROSTENKOWSKI. I yield 1 additional minute to the gentleman from Missouri.

Mr. VOLKMER. To qualify for 90-percent funding the fraud unit can be transferred, as I read the law and understand it, to another department outside of the Department of Social Services. Not to the Attorney General's office, because that will not occur in Missouri.

I believe I know Missouri government and I believe the people in Missouri know Missouri government better than the Members of Congress from the other States do.

That unit may be transferred to another department outside the Department of Social Services in order to qualify for a 90-percent funding.

One of those two things will occur. The question is: Will that improve the operation of the fraud unit for medicaid? I guarantee you that it will not for the simple reason that this fraud unit is one that is doing a good job right now and I do not believe that you are going to improve it one bit. You will just cause trouble for the State government.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such further time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, in answer to the distinguished gentleman from Missouri (Mr. VOLKMER) I state that it is very necessary that the House and the Senate took the action which they did. I think it is very important that the antifraud groups be separate from medicaid in the States. Actually if we have a unit in one department that is policing that agency, then it is an in-house investigation and it does not amount to anything. It must be separate to be effective. I believe that that is the way it should be done. I believe it will benefit all the other 49 States, and Missouri also.

Mr. ROSTENKOWSKI. I have no further requests for time. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 5, not voting 27, as follows:

[Roll No. 648]

YEAS—402

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Baldus
Barnard
Baucus
Bauman
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Siak
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—5

Crane
Gonzalez
McDonald
Symms
Volkmer

NOT VOTING—27

Ambro
Badillo
Bafalis
Beard, R.I.
Beard, Tenn.
Bellenson
Brown, Ohio
Collins, Ill.
Delaney
Dent
Johnson, Calif.
Koch
Lujan
Miller, Calif.
Moakley
Moffett
Mollohan
Patterson
Pepper
Pickle
Roybal
Santini
Shipley
Skubitz
Vento
Whalen
Whitten

The Clerk announced the following pairs:

Mr. Dent with Mr. Bafalis.
Mr. Delaney with Mr. Whalen.
Mr. Santini with Mr. Lujan.
Mr. Shipley with Mr. Miller of California.
Mr. Ambro with Mr. Johnson of California.
Mr. Badillo with Mr. Beard of Rhode Island.
Mr. Pepper with Mr. Bellenson.
Mr. Pickle with Mrs. Collins of Illinois.
Mr. Roybal with Mr. Patterson of California.
Mr. Koch with Mr. Brown of Ohio.
Mr. Moakley with Mr. Mollohan.
Mr. Vento with Mr. Skubitz.
Mr. Moffett with Mr. Whitten.

Mr. CRANE changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DIRECTING CLERK TO MAKE CORRECTION IN ENROLLMENT OF H.R. 3

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the House concurrent resolution (H. Con. Res. 377) directing the Clerk to make a correction in the enrollment of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 377

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, the Clerk of the House of Representatives shall make the following correction: In proposed paragraph (3) of section 1903(b) of the Social Security Act (as contained in section 17(b) of the bill), strike out "(a)(7)" and insert in lieu thereof "(a)(6)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. BOLLING, from the Committee on Rules, reported the following privileged resolution (H. Res. 329, Rept. No. 95-703), which was referred to the House Calendar and ordered to be printed:

H. RES. 329

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes, in the House.

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 329 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 329?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 329.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual enough way of dealing with the problem, so that it occurred to me that the Members might actually want to know what is going on. We have just by a two-thirds vote agreed to the consideration of a rule which is designed to do something very simple.

I will yield in just a minute to the distinguished chairman of the Committee on Appropriations, but just a few minutes ago the chairman of the Committee on Appropriations and the ranking minority member, the distinguished gentleman from Michigan (Mr. CEDERBERG), appeared, as I understand it, representing the unanimous view of the members of the Committee on Appropriations, recommending this rule so that we could extend for 2 weeks the ability and the responsibility of the United States to pay some of the employees of the Federal Government.

There is no attempt in this resolution and in this action to alter any policy matter. As the chairman of the Committee on Appropriations will explain, this process makes it possible to meet the Federal payroll. It does not prejudice the right of anybody with regard to any policy decision which will have to be made in the future. It is an entirely neutral action with regard to policy. I think it is very important that we do it and do it promptly.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. MAHON), the distinguished chairman of the Committee on Appropriations.

Mr. Speaker, the gentleman seeks no time, I, therefore, reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise merely to express my support for the adoption of House Resolution 329.

The gentleman from Missouri (Mr. BOLLING) has correctly explained to the House the necessity for the adoption of a rule which would make in order the consideration of a continuing resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I take this time simply to affirm an understanding the gentleman from Texas (Mr. MAHON) gave me earlier this morning.

In the pending resolution allowing continuing appropriations until the end of this month, on page 2, paragraph 2, when it states that "Appropriations made by this subsection shall be available to the extent and in the manner available in the fiscal year 1977," that language in fact continues in effect the language of the Flood-Conte-Hyde amendment which states that "None of the funds contained in this section shall be used to perform abortions except where the life of the mother would be endangered if the fetus is carried to term"; is that correct?

Mr. MAHON. Mr. Speaker, if the gentleman from Illinois (Mr. ANDERSON) will yield, I agree that that is correct. That is the language contained in the law as it has applied during fiscal year 1977.

Mr. BAUMAN. Mr. Speaker, I have one other question to ask of the chairman of the Committee on Appropriations.

Yesterday the other body, in an extraordinary act of arrogance, passed a continuing resolution which in fact is a derogation of the House's constitutional right to appropriate funds and initiate appropriations. That action appears on page 33369 of the RECORD. No such provision as the one I just quoted appears in the other body's resolution.

Is it the intention of the chairman of the Committee on Appropriations to go to conference on these resolutions, or is it in fact his intention to present our resolution, if it is passed today, to the other body so that it can either accept it or reject it?

Mr. MAHON. Mr. Speaker, we would by all means stand solidly on the House's constitutional right to originate appropriation bills. I appreciate the defense made by the gentleman from Maryland with respect to the gesture that was made by the other body on yesterday. I can anticipate no circumstances under which the House would entertain such a procedure.

I feel that we will have no great difficulty in passing a simple continuing resolution of the nature being presented today.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Texas (Mr. MAHON) for his assurances, and I thank the gentleman from Illinois (Mr. ANDERSON) for yielding.

Mr. ANDERSON of Illinois. Mr. Speaker, if I may once again gain the attention of the distinguished chairman of the Committee on Appropriations, I have been asked to make this inquiry—and I believe the gentleman answered a similar question earlier when he sought unanimous consent for the consideration of the resolution—Under any discussion that may ensue on the resolution, is it the intention of the gentleman from Texas to yield 30 minutes of his time to the minority side of the aisle?

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the chairman of the committee.

Mr. MAHON. Yes; I would be glad to assure the gentleman that I will yield time in that fashion.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for his assurance.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I appreciate the gentleman's presenting that question to the chairman of the Committee on Appropriations, and I have one further question.

Under this rule, since it is a hastily drawn rule and we have not had time to analyze it, although it is a very brief rule, would amendments be in order or would amendments not be in order in the consideration of the joint resolution?

Mr. ANDERSON of Illinois. No. The resolution reads that it would be considered in the House and, therefore, amendments would not be in order under this resolution.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield further?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Would a motion to recommit or a motion to recommit with instructions be in order under this rule?

Mr. ANDERSON of Illinois. It is my understanding that a motion to recommit with or without instructions would be in order under this resolution.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his explanation.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, the purpose of the gentleman's yielding to me is so I may explain that with respect to the time, time will be yielded to Members for the purpose of debate only.

Mr. ANDERSON of Illinois. Mr. Speaker, I understand that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

This action today appears to be some kind of a speed record in getting a rule moved to the floor. I think it is an evidence of greased lightening procedure, when the Appropriation Committee can obtain a rule in less than 45 minutes.

What did this take, less than an hour?

Mr. ANDERSON of Illinois. I believe the gentleman is correct. Unanimous consent was sought shortly after the House convened at 10 o'clock this morning, and when that unanimous-consent request was refused, the chairman of the committee did promptly come before the Committee on Rules, which went into session at about 10:30 this morning.

We listened to the chairman of the committee, and I heard no audible dissent to his request for a rule. He was supported by the ranking minority member of the Committee on Appropriations, the gentleman from Michigan (Mr. CEDERBERG).

Mr. ROUSSELOT. I have no objection to the effort to obtain a quick rule, because I do understand the situation facing the conferees from the House. But that does show how fast we can move.

Mr. ANDERSON of Illinois. We are capable of expeditious action on occasion.

Mr. ROUSSELOT. Certain Government employees on the Federal payroll have been calling us and saying they are going to go out of business tomorrow if this continuing resolution does not get quick action. Social Security Administration officers have been encouraging their employees to call our offices to get quick action, because their payroll might be phased down tomorrow.

This action today certainly shows how fast we can respond.

Mr. ANDERSON of Illinois. Yes, indeed.

Mr. Speaker, I have no further requests for time, and I urge the adoption of House Resolution 829.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 626

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1977, and for which appropriations, funds, or other authority would be available in the conference agreement on the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H.R. 7555), but at a rate for operations not in excess of the current rate or the rate provided for in said appropriation act, whichever is lower.

(2) Appropriations made by this subsection shall be available to the extent and in the manner available in the fiscal year 1977.

(b) Such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1977, and for which appropriations, funds, or other authority would be available in the District of Columbia Appropriations Act, 1978 (H.R. 9005) as passed the House of Representatives or the Senate, but at a rate of operations not in excess of the current rate: *Provided,* That the Advisory Neighborhood Commissions shall be continued at an annual rate of not to exceed $500,000; and

(c) Such amounts as may be necessary to continue to pay the salaries and related personnel benefits of employees engaged in carrying out the functions which would be provided for in the Foreign Assistance and Related Agencies Appropriation Act, 1978 (H.R. 7797) as passed the House of Representatives or the Senate. The provisions of this subsection shall not be construed to provide appropriations to commence or continue any program, project or activity provided for in said appropriation act.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) October 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available apropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have already discussed this continuing resolution in some detail earlier today. I know of no one, with the exception of one Member, who would have any objection to it at this point.

The object of the continuing resolution is to enable persons who are working for the Government and who, under the law, are entitled to be paid to get their full pay next week when their pay becomes due.

That is the purpose of the continuing resolution, Mr. Speaker; and it affects the personnel working on the foreign operation programs; it affects employees of the District of Columbia; it affects the Department of Labor; it affects the Department of Health, Education, and Welfare, and other agencies.

This continuing resolution prohibits starting any new programs. Generally speaking, this is a typical housekeeping resolution designed to give a little more time for the settlement of issues on appropriation bills between the House and the othre body. At this time it appears we will be able to resolve the foreign aid appropriation bill next week.

Mr. Speaker, I see that the gentleman from Kentucky (Mr. NATCHER), the chairman of the Subcommittee on the District of Columbia, is here on the floor. I think we can resolve the conference differences in the near future.

Of course, we still have this problem of what to do about the abortion issue on the Labor-HEW appropriation bill; and the gentleman from Pennsylvania and others from his subcommittee are undertaking to resolve that matter, so that some sort of solution will be made of that in the near future, we hope.

Mr. Speaker, that is where we are at the moment, the object being, as I stated before, to provide pay for people who are entitled to be paid.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yiled?

Mr. MAHON. I yield to the distinguished gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I would hope that the House would act very promptly on this continuing resolution.

I recognize, as we all do, that there are certain controversial matters still pending, which brought about the necessity for this resolution.

I would hope that we do not get involved in trying to solve those problems here this morning.

What we are interested in and what we have to do is to pass this resolution so that we can assure those Federal employees whose pay is threatened next week that they will be paid.

That is what we are talking about here, Mr. Speaker.

Mr. MAHON. Mr. Speaker, the gentleman is indicating, I think, that he feels the issue is clear-cut. I share the view which the gentleman apparently has, and I think we should move the previous question as soon as reasonably appropriate and get this matter behind us.

Mr. CEDERBERG. I would hope so, Mr. Speaker. I do not want to imply by that statement that we should cut anybody off summarily; but I would hope that we would do our best in trying to get the previous question ordered as quickly as possible.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), for debate only.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I understand the gentleman has yielded for purposes of debate only, and I have no intentions of even attempting to offer an amendment at this point.

I just want to make sure that it is well understood that the one section of this joint resolution with which I have direct concern, section 102(c), that is in the area of foreign aid, we are talking only about salaries and other personnel services relative to those salaries of the persons who will be paid by this continuing resolution.

Mr. MAHON. Mr. Speaker, the gentleman is correct. We are not undertaking to solve the foreign aid program problems and issues. We are restricting ourselves in this continuing resolution to providing authority to pay the salaries of personnel working on the foreign assistance programs.

Mr. YOUNG of Florida. Mr. Speaker, I thank the chairman for his confirmation of my understanding of this language.

I want to say to the chairman that I support this continuing resolution.

However, I would also say to the chairman that the reason I am concerned with this particular section is the holdup of the conference report on the foreign aid bill. I would like my colleague to know while there are still some controversies surrounding that matter, they are not addressed in this resolution.

I do not want anybody to miss his or her payday, and I urge the adoption of this continuing resolution.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER) for the purpose of debate only.

Mrs. SCHROEDER. Mr. Speaker, I just want to ask the chairman, the gentleman from Texas (Mr. MAHON) one question. My understanding is that the new funding in the continuing resolution will then allow the funding to go on for this short period of time either at the conference level or the old level, whichever is lower?

Mr. MAHON. It would be the lowest, yes.

Mrs. SCHROEDER. It would be the lowest, whichever one it is?

Mr. MAHON. That is correct.

Mrs. SCHROEDER. So that there are many programs in which there were significant additions that will be in trouble in a short period of time because they will not receive the new funding if we do not finish the bills, is that correct?

Mr. MAHON. That is correct.

Mrs. SCHROEDER. I thank the gentleman. I support the continuing resolution. I appreciate the answers of the gentleman from Texas (Mr. MAHON) to my questions.

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 626) just passed by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1977

Mr. ECKHARDT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 3816, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 3, 1977, section 7, of the committee amendment in the nature of substitute, had been considered as read, printed in the RECORD, and open for amendment at any point, and pending was an amendment offered by the gentleman from Texas (Mr. KRUEGER).

AMENDMENT OFFERED BY MR. EVANS OF COLORADO

Mr. EVANS of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EVANS of Colorado: Page 37, line 1, insert after "action" the following: ", other than a class action,".

Page 37, after line 3, insert the following:

"(4)(A) The defendant in any civil action commenced under paragraph (1) may petition the court, before the court certifies such action as a class action, to conduct a preliminary hearing under this paragraph in connection with such action.

"(B) The plaintiff shall be required, in any preliminary hearing conducted by the court under this paragraph, to present such evidence as may be necessary to make a prima facie showing that the defendant has committed the alleged rule violation or cease and desist order violation and that injury or damage resulted therefrom. If the court determines that the plaintiff has failed to make such a showing, then the plaintiff may not proceed with such action as a class action under paragraph (1)."

Mr. EVANS of Colorado. Mr. Chairman, one of the problems that many of us have had with this section of the bill dealing with class actions has been the possibility that people or attorneys might bring frivolous actions without good justification or a sound basis for them, placing companies in court at great expense. None of us want this. My amendment is designed to prevent this.

Under the provisions of my amendment, before a class action could proceed after having been filed, and upon request of the defendant, the plaintiff would have to make a prima facie showing that there had been a violation of a rule of regulation, and a prima facie showing that there had been resulting damages. Failing that, the class action would be dismissed. The amendment is simple. I think it is a reasonable amendment, and I hope it can be accepted by both the chairman and the ranking minority member of the committee.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

What type of preliminary hearing or what Federal Rule of Civil Procedure is the gentleman referring to in the context of the preliminary hearing?

Mr. EVANS of Colorado. I believe it is rule 23. The chairman of the committee could better inform the gentleman on that request.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The bill establishes certain internal procedures in the bill with respect to governing class actions, but it also adopts the limitations of rule 23 with respect to class actions.

Mr. SANTINI. If the gentleman will yield further, and therein is defined a preliminary hearing?

Mr. ECKHARDT. That is the customary practice in putting into effect rule 23, because a class action may not be permitted by the court unless the court finds certain additional things, one of which is that the class action procedure is appropriate and is the preferred method of handling the case.

The amendment offered by the gentleman from Colorado (Mr. EVANS) would add another requirement but would not eliminate any of the requirements of rule 23, and that is the determination that a prima facie case has been shown by the plaintiff.

Mr. SANTINI. Then if I understand the gentleman correctly, there are no specific procedural provisions, but the gentleman is suggesting the general language in the bill and customary practice in the Federal Court is going to be the standard by which the preliminary hearing is conducted?

Mr. ECKHARDT. Essentially so, but under this amendment there would have to be a preliminary hearing if the defendant petitions for it.

Mr. EVANS of Colorado. I would say to the gentleman that as a protection against frivolous actions being brought and at the request of the defendant the plaintiff under this amendment would be required to show prima facie that a rule had been violated and that damage or injury flowed therefrom. The burden of proof, of course, would be on the plaintiff.

Mr. SANTINI. If the gentleman will yield further, the gentleman from Colorado has distinguished himself for many years as a legislator and, regrettably, he is going to terminate that impressive career. Has the gentleman in the course of either his legislative career or in the pursuit of his profession had occasion to experience first-hand preliminary hearings or judicial determinations of prima facie evidence?

Mr. EVANS of Colorado. I have not myself been personally responsible for the request for injunctions, for example, but I have been closely enough connected with them, brought by others in a firm, which provided me with the background and understanding of what those procedures are. And it is, as in most of the cases when a burden is placed on a party in a proceeding, to do certain things. There are evidentiary showings you have to present, hopefully to persuade a judge that you have made out a prima facie case, for example, in this case that a rule or regulation has been violated and that damage has flowed therefrom.

Mr. SANTINI. My concern is—and I really appreciate the gentleman's genuine interest in trying to clean up section 7—in my experience as a judge—and as a reflection of my observation of other judges—that in many preliminary hearings and prima facie evidentiary showings have become simply a perfunctory prelude to litigation and they are not hearings of substance or in depth determinations.

Our overly congested court system runs into this abrupt decisionmaking reality, "All right, you have got a case. Let's go."

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. EVANS of Colorado was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, I would respond by saying that obviously judges are human beings and so are attorneys and they are subject to error. We all are. But obviously the intent of the preliminary hearings, or the preliminary hearings I have been familiar with, have been based on the reasonable supposition that the judge will look objectively and he will require the burden of proof to be sustained with evidece that is brought to the court, and that is exactly what I meant.

Mr. SANTINI. Is the gentleman referring to preliminary hearings as opposed to civil proceedings?

Mr. EVANS of Colorado. I am speaking about civil proceedings.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, is the gentleman aware that the precise procedure he is recommending in his amendment has been precisely disapproved by the Federal courts, including the U.S. Supreme Court?

Mr. EVANS of Colorado. The gentleman is not aware of it.

Mr. WIGGINS. I think the gentleman should be aware of it. This is not a novel procedure. It is just a discredited one.

Mr. EVANS of Colorado. I would strongly disagree with the courts if that is their opinion.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(On request of Mr. ECKHARDT, and by unanimous consent, Mr. EVANS of Colorado was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Texas.

Mr. ECKHARDT. If the distinguished gentleman from California, who is very experienced in the field of law, can give me an example of a case in which the courts have said that this procedure is improper or unconstitutional, I would like to hear it, because then I may perhaps be able to answer.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield, on my own time I am willing to cite a good number of cases which hold exactly as I have indicated.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, there are many cases in which a prima facie case is required to be shown as a prerequisite to a court determination. One of those, of course, is in virtually every type of restraining order or injunction. In the law of many States, for instance in the State of Texas, there is a provision on the open beaches bill that a prima facie case exists as a matter of presumption that the public is entitled in the use of the beach unless overturned. There are many instances in which the prima facie case has a function with respect to judicial determination.

The gentleman may be talking about some provisions respecting a stay order. It is difficult to join issue with him unless he will mention the cases.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, I will be pleased to yield to the gentleman on my own time with respect to cases which are pertinent.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. EVANS) has expired.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the pending amendment establishes a preliminary hearing on the merits for the purpose of aiding the court in determining whether or not to certify the class under rule 23. The procedure has been tried before and in a majority of cases has been held insufficient as both unwarranted and unauthorized under rule 23, which is the class action rule. The procedure has been characterized as prejudicial and harmful to the parties, and has been disapproved. I want to refer to specific cases and specific pages as necessary to that effect.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, will the gentleman tell me one of these cases?

Mr. WIGGINS. If the gentleman will permit me to do so, I will be glad to.

The first case is the famous Eisen case. The citation to the circuit court opinion, for the gentleman's benefit, is 479 F2d, 1005.

The discussion of the so-called or minihearings commences on page 1015 of that opinion. I will read for just a moment from that opinion. It says:

> But neither in amended Rule 23 nor in any other rule do we find provision for any tentative, provisional or other makeshift determination of the issues of any case on the merits for the avowed purpose of deciding a collateral matter such as which party is to be required to pay for mailing, publishing or otherwise giving any notice required by law. In most cases the so-called tentative findings and conclusions arrived at without the salutary safeguards applicable to all full scale trials on the merits will be extremely prejudicial to one or the other of the parties who bear the brunt of such findings and conclusions, and such prejudice may well be irreparable.

Now, on the next page of that opinion the Court discusses other decided cases. The Court acknowledges that three cases, primarily the Dolgow case, which for the gentleman's information is cited at 438 F.2d 825 (2d Cir., 1971), holds to the contrary. It supports the position of the gentleman from Colorado, but in commenting on the Dolgow case, it says:

> Of the few Districts Court decisions on the point—

The point of minihearings—

> most of these disagree, as, of course, does the Fifth Circuit, with the innovations described in Dolgow—

The reference to the Fifth Circuit is to a very-well considered opinion by Judge Wisdom in which he reviews this concept of preliminary hearings.

The Supreme Court had occasion to consider this notion of a minihearing on the merits preliminary to a certification of the class. The Supreme Court disapproved the procedure, and in doing so it had the following comments. The Court said:

> Additionally, we might note that a preliminary determination of the merits may result in substantial prejudice to a defendant, since of necessity it is not accompanied by the traditional rules and procedures applicable to civil trials. The court's tentative findings made in the absence of established safeguards, may color the subsequent proceedings and place an unfair burden on the defendant.

The Supreme Court noted with approval, in the gentleman's own State, in the case of Mackey International, 452 F. 2d 424, Judge Wisdom said in that case:

> In determining the propriety of a class action, the question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 are met.

The issue of merit is irrelevant to that determination, but the gentleman's amendment places it squarely at issue. That is why I say that the gentleman is attempting to write into law discredited theories that have been considered and rejected by the weight of authority in our Federal court.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I did not disagree with Judge Wisdom, but what Judge Wisdom was saying is that the provisions of rule 23 do not require the making of a prima facie case. Now, I certainly agree to that. That is the only reason this amendment is necessary. If, of course, rule 23 required a prima facie case showing, this amendment would make no difference; but the court is certainly not telling Congress that such a process is discredited. That is not for the court to determine. That is for Congress to determine.

Mr. WIGGINS. I think those courts are entitled to careful attention when they describe the very process here proposed as being prejudicial.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am delighted the gentleman has done the research he has done and cites the decisions the gentleman has referred to.

I must confess a strong disagreement with the findings of the court he refers to. I believe that a procedure which could protect a defendant against frivolous actions that could be brought far outweighs any possible prejudice that may occur to a defendant by such preliminary proceedings.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. EVANS of Colorado and by unanimous consent, Mr. WIGGINS was allowed to proceed for 3 additional minutes.)

Mr. EVANS of Colorado. I just simply feel that there is a much stronger case for the acceptance of my amendment than for any prejudice that may occur to a defendant. Further, the choice would be the defendant's.

Mr. WIGGINS. Let me conclude by saying that it is clear that the maker of the amendment by his own admission had not considered these cases which have considered the very issue involved. There is no question about their holdings. They reject it. They reject it as a matter of statutory interpretation of rule 23, and they also reject it as a matter of policy with respect to prejudice and fairness. The suggested procedure is going to complicate issues involving class actions. To bifurcate such actions and have two trials is simply to multiply existing confusion by two. That is not in the public interest.

Miss JORDAN. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentlewoman from Texas.

Miss JORDAN. The gentleman from California is citing support for his argument and quoting from the circuit court decision. I am sure that the gentleman from California recognizes that the judgment of the circuit court was set aside by the Supreme Court.

Mr. WIGGINS. That is why I cite the Supreme Court opinion, which confirms the decision of the circuit court.

Miss JORDAN. But the point is that the Supreme Court did not deal with the rationale the circuit court dealt with.

Mr. WIGGINS. Quite to the contrary. On page 177 of the Supreme Court opinion which I previously cited, there is a discussion at length with respect to this problem, and the Court comes to precisely the same conclusion as did the circuit court.

Miss JORDAN. I really hestitate to get into the——

Mr. WIGGINS. I have the opinion before me, and I would be delighted to let the gentlewoman read it.

Miss JORDAN. What the gentleman from California is saying, in essence, however, is not that the amendment offered by the gentleman from Colorado should not be adopted by this body, because it has been soundly discredited by the Supreme Court of the United States? That is not the gentleman's position, is it?

Mr. WIGGINS. This language has never been before the Supreme Court, but the issue of a minihearing with respect to certification of a class has been before the Supreme Court. That is exactly what the amendment is addressed to, and the Supreme Court found it to be contrary to rule 23, and prejudicial.

Miss JORDAN. The Supreme Court was really talking about where the burden of proof lies.

Mr. WIGGINS. No, no, not at all. Again, I think the gentlewoman should read the opinion. It is right here.

Miss JORDAN. What the Supreme Court apparently did say is that the preliminary hearing would be prejudicial to the rights of the defendant; is that not correct?

Mr. WIGGINS. Yes, it said "substantial prejudice to the defendant."

Mr. SANTINI. Mr. Chairman, I rise in rampaging ambivalence about the amendment.

Mr. Chairman, I appreciate the merit and the thrust of the distinguished gentleman's amendment. It may be meritorious in addressing a serious deficiency and an outstanding argument of contention that has been raging over this section 7 since it was born. But I am also persuaded by the remarks of the gentleman from California that there may be some very serious legal deficiencies; and we are, rather than aiding or abetting a sinking ship, simply poking another hole in its hull. The distressing thing, to me, is that we are now attempting on the floor of this House to revamp, to patchwork, to mend up, to salvage the ignominious deficiencies of section 7. We are trying to write section 7 and deliberate on its legal merits here in the House. It is preposterous to think that a matter of this magnitude should be examined in this context. We do not know the legal consequences of the preliminary hearing proposal. This concept was never addressed in any debate testimony or evidence before the subcommittee or before a full committee of this Congress. So here we are, not at the 11th hour, not at the 12th hour—because there has been a stay of execution on section 7 for 1 week now—but here we are, at the 13th hour, trying to rewrite, revamp, and salvage a section that was deficient in its inception.

Mr. Chairman, I would urge my colleagues to reject it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

Mr. Chairman. I think, No. one, yes, we are trying to salvage section 7. There is no question about that. Whether we will be successful or not will be up to this body. But we do this every year, all the time, on bill after bill, trying to salvage this or that or to improve this or that. Let me just make one comment. And, in particular, I would direct my attention to the distinguished gentleman from California in this regard.

The gentleman from California criticizes my proposed amendment on the grounds that the Supreme Court has found that such a proceeding would be prejudicial to a defendant. I think if we look carefully at the language of my amendment it says that this pre-hearing will take place only in the event the defendant requests it. So the judgment is in the hands of the defendant. And if the defendant were to see what the defend-

ant thought was frivolous and unsupported class action filed against him, he might elect to ask for a preliminary hearing as provided in my amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, the proper procedure for the disposition of frivolous claims is not a minihearing on the merits but, rather, it is a motion for summary judgment. And I for one have said, in viewing this procedure recommended in the bill, that the procedure does violence to the whole summary judgment procedure. We all know how to work with summary judgments. That is the manner in which frivolous claims are historically and properly dealt with under the law.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, section 7 is an unnecessary piece of legislation. It would strain our judicial system; it would interfere with a mandate Congress has given the FTC; and it would not benefit the public as a whole. For these reasons, I urge you to support the Krueger amendment to strike section 7 of H.R. 3816.

Consumers should be able to defend themselves against unscrupulous and fraudulent operators who plague our country. And if enactment of section 7 of H.R. 3816 truly offered this guarantee, I would be an enthusiastic supporter. However, this is not the case.

Section 7 permits attorneys to sue for violation of the Federal Trade Commission's vague and technical rules and orders. Unfortunately, these regulations rarely address the hardcore fraud problems. Rather, they only formulate prohibitions against certain unfair or misleading consumer practices.

Consequently, a legitimate company might find itself the defendant in a class action suit for simply misinterpreting an imprecise rule or its notification section. Clearly, it would be unfair to impose a liability on a company under these circumstances.

Under section 7, individual consumers would not have to be notified of a law suit. Thus, the vast majority of consumers in whose names these class actions are brought might never know of the existence of the suits nor receive any money.

Mr. Chairman, I am concerned that consumers will reap little reward from the mushrooming of class action lawsuits which will inevitably go hand-in-hand with enactment of section 7. Further, the additional burden to our already overtaxed judicial system should not be minimized.

Does such an insignificant gain for the consumers justify the costs to our judicial system and legitimate business? I think not.

Presently, the Federal Trade Commission is required to act on behalf of all consumers. We cannot expect this sense of public responsibility to be duplicated by private attorneys.

Mr. SANTINI. Mr. Chairman, I would say, in conclusion, that I think each one of us present on the House floor this morning and into this afternoon should realize that we are asked to be engaged, in this 13th hour salvage effort because of the basic and inherent deficiencies in the section. I know there will be other conscientious and dedicated Members of this body who will come forward to join the gentleman from Texas in placing their fingers in the dike. But I would urge those Members who want this issue clearly thought through and analyzed to adopt the Dutchboy salvation of this deficient section.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Georgia, because I know he intends to place his finger in the dike.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I am sure the gentleman knows my great respect for him.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I sincerely respect the ability and the conscientiousness of the gentleman from Nevada (Mr. SANTINI), and I understand that he has joined with my colleague, the gentleman from Texas, in seeking to strike section 7 altogether.

However, I suggest that we as legislators have a responsibility to view each proposal by way of amendment on its merits, and if it is a meritorious amendment, if it improves a bill which has the possibility of passing, I do not think we should do a disservice to the people of America by saying we would rather have an imperfect piece of legislation to consider, rather than to make it as good as we can, before we exercise our judgment to strike or not to strike.

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's observations, and I respect both his legal and legislative acumen.

However, I disagree emphatically with the thrust of the gentleman's contention. It is my firm conviction that we would do an outrageous disservice not only to the American people but to the American system of jurisprudence if we attempt this 13th hour salvation effort. I know we do a lot of that sort of thing on the House floor, as the gentleman from Colorado (Mr. EVANS) observed, but I hardly think that precedent should encourage us to toss out all the established case law and all the established procedural practice in the critical area of class actions in such a pellmell, hurry-scurry, helter-skelter fashion.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield just briefly?

Mr. SANTINI. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, this issue of preliminary hearing is inexorably involved in the question of notice, because the plaintiffs and the defendants in a preliminary hearing are entitled to notice. And yet this whole matter of having the preliminary hearing is going to largely be for determining if there is enough substance in the claim in order to shift the cost and the onus or future onus to the defendant. As a court has already said, that is not permitted under rule 23.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it comes with ill grace from those who feel that there should be a most careful consideration of the validity of the case before the case may become a class action, to now urge, relying on a most specious argument, that such careful consideration injures the defendant.

As the distinguished author of the amendment, the gentleman from Colorado (Mr. EVANS), has pointed out, the defendant cannot possibly be prejudiced because he does not have to ask for the preliminary proceeding at all. The preliminary proceedings in which a prima facie case is established is triggered by the defendant's request for one.

It has been argued to me in private that there should be most careful consideration of whether or not a case has initial merit. I must say that those who have opposed the class action process, those who have been the most strongly heard in the halls and in the offices, have not made this argument public, and that is at least one of the reasons why, as the gentleman from Nevada (Mr. SANTINI) said, questions like this cannot be addressed in the committee. It has been argued by them that there ought to be the most careful consideration of whether or not a case is one having initial merit before it may be used as a class action, because of the powerful aspects of the class action suit with respect to the recovery involved.

The gentleman from Colorado (Mr. EVANS), the gentleman from Florida (Mr. GIBBONS), the gentleman from New Jersey (Mr. RODINO), and myself, as well as the gentleman from Iowa (Mr. SMITH), have offered this amendment as a reasonable answer. The authors and the supporters of this proposal are most sensitive to the concerns of business. I think the very listing of their names indicates their interest in the small business community. Yet this is opposed as somehow oppressive to the defendant.

I want to say here that although the gentleman from California (Mr. WIGGINS) is a most distinguished legal mind, he has rendered an almost "Frankfurterian" twist to the argument concerning the Supreme Court's decision in the matter.

In the Eisen case, the court below, whose judgment was completely vacated by the Supreme Court, had gone into this question to some extent. The Supreme Court only went into the question with respect to the matter of costs of notice and acted on that. Its statements were in deference to the interests of the defendant. The defendant might have been subjected to paying the costs of notice.

The whole concern was with respect to the defendant.

Furthermore, the Supreme Court was not enunciating a principle of constitutional authority; the Supreme Court was merely construing rule 23. The cases it cited were in substantiation of the Supreme Court's decision, which is a correct one, that rule 23, though it requires a determination that the particular suit lends itself to a class action and may best be tried that way, and that the suit is one in which an ordinary action, not a class action, would not be adequate to attain reasonable relief, rule 23 does not require a prima facie showing which goes to the question of whether or not the suit does more than state a cause of action. Rather, the suit has some evidence in support of the ultimate decision.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I ask the gentleman, What theory or rule of law would permit the court to go forward in a hearing for the purpose of determining the suitability of a class action?

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. WIGGINS and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. To continue, Mr. Chairman, how could that hearing go forward without notice to the plaintiffs because notice to the plaintiffs is only determined after the class is certified?

Mr. ECKHARDT. The suit does not attain the status of a class suit until, No. 1, it is filed as such; and No. 2, if the defendant petitions for a hearing before the court, the court certifies it as a class action. Until that point the suit may not proceed as anything other than an ordinary suit and may not proceed as a class action.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, I am concerned about the interests of the plaintiffs, that great mass of plaintiffs who do not even know about this lawsuit commenced on their behalf. Their rights are being litigated in this minihearing without provision for notice to them at all.

Mr. ECKHARDT. No. We only add one other requirement in addition to the requirements of rule 23.

As the gentleman well knows, a multijurisdictional suit, which most class actions are, is handled in this way. The court holds a pretrial hearing in which the court determines whether the standards of rule 23 have been complied with. Those standards, of course, include, first, that the suit is more expeditiously handled as a class action than as individual actions. It gives the court wide leeway in its judgment as to whether the class-action process is the better or the other process is the better.

An opportunity is afforded to the defendant, if he wishes to raise it, to make the contention that this is a strike suit, that there is really no basis to it, and that it is merely brought for the purpose of harassing the defendant. At that point, if the defendant asks that this be done, one of the elements of establishing a class action, not of ultimately winning the suit and without relation to ultimately winning the suit, is that the plaintiff establish that there is, in fact, a prima facie showing that a cause of action exists.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. To continue, Mr. Chairman, if we decide that this is a desirable measure—and I think it is; I have been urged by many Members here that we should be assured that the suit is a serious one—we can establish that.

There is nothing the Supreme Court can tell us to the contrary, whatever our policy may be. Policy is to be determined here, not a block or two away unless it is a constitutional question. I am sure the gentleman does not raise that question?

Mr. WIGGINS. No, I am not raising at this moment a constitutional question other than on the issue of notice. But let me repeat what a distinguished judge has said concerning this problem of notice to the plaintiffs.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment and one or two others that are proposed to be offered here were described as a compromise. I frankly do not know who the proponents are compromising with. Apparently the proponents of this section 7, those people who like section 7 trying to compromise with themselves. I do not see that as any compromise at all.

They are offering this amendment here, now, at this late hour. It shows very clearly that there are massive defects in this section 7 that should have been corrected at the committee level but the fast procedure that we used in bringing up this bill shows that the committee has not done its job and that we should strike this section and permit a more thorough consideration of this idea, not only in the Committee on Interstate and Foreign Commerce, but I suggest also in the Committee on the Judiciary.

I say that because the Department of Justice has before it at the present time a complete study and a survey of Federal class actions and a study of the class action problems, to determine whether or not the class actions are an adequate way to get redress of consumer complaints.

So, Mr. Chairman, it is amusing, if we were not discussing this right of action that is going to be put into the law here that has such a serious and far-reaching effect upon the total business community, that here, at the last moment, they are bringing in an amendment to try to fix up a bad provision.

Mr. ECKHARDT. Will the gentleman yield?

Mr. BROYHILL. I will not yield at the present time.

Mr. Chairman, it has been brought out that the amendment that has been put forward here is not going to do that much to improve the bill. In fact, it could not only have an adverse effect on the defendants, innocent defendants, but it also could have an adverse effect on defendants in that it prejudices their rights in a class action trial.

This is not my amendment. This is an amendment that is being advocated by those who bring you class actions, and if they want to amend their own turkey, then I say I am not going to oppose it.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. Yes.

Mr. ECKHARDT. The gentleman knows from his experience with me that we have usually had the opponents to various measures come before our committee and ask for amendments. Will the gentleman not affirm to me that neither J. C. Penney nor Sears, Roebuck appeared before our committee yet they had been in our offices almost every day when we were drawing the rulemaking procedure?

Mr. BROYHILL. The gentleman held hearings on this bill within a few days after introducing it. As far as I know, even the American Bar Association has had no opportunity to come in for testimony on this.

Mr. ECKHARDT. If the gentleman will yield still further, they were invited to appear and did not choose to come in.

Mr. BROYHILL. The American Bar Association came and they said they had not had time to come up with a position on that but that they had some very sincere reservations about this proposal and had not had time to develop all of their reasons.

The full effects that this section 7 are going to have, have not been considered either in hearings of the subcommittee. The fact that the gentleman said that certain people had not come forward certainly is not good reason to pass this legislation.

Mr. ECKHARDT. If the gentleman will yield further, will the gentleman not concede that the bar did come in and they had 2 weeks, and we told them they could come in at any time until a certain listed time and bring in a further statement? They did not do so.

Mr. BROYHILL. This just shows the complexity of this issue is such that even such a learned group as the American Bar Association takes a little more than 2 weeks to come up with their opinions on what the impact of this is going to have on the judiciary.

Mr. ECKHARDT. If the gentleman will yield further, they never came in and have not come in to this time.

Mr. BROYHILL. The gentleman has not held any more hearings. No one knows what the judiciary would say. There is no evidence in the hearing record. There is no discussion of the impact that this is going to have on the judiciary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. EVANS).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 15, noes 9.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7?

Mrs. SCHROEDER. I move to strike the last word.

Mr. Chairman, I just wanted to ask the gentleman, who is a very fine chairman and has worked so hard on section 7, a few questions that I had about section 7.

I have had many of my automobile dealers very, very worried about if section 7 were to pass whether or not there would be massive class actions on the commercial paper that they are handing out for their cars. I have read the section. There is nothing in there that I could find that would allow people to bring a lot of class actions on commercial paper because the allowable defenses all seem to be very singular, individual actions, and it would be very difficult to see how they could have a class action defense. Defenses allowed would be whether or not the car was delivered, or whether or not there was something defective about the car and so forth, and with those different defenses that a buyer would have, I see no way a class action could occur under rule 23 of the Federal Rules. I am asking the gentleman from Texas if that is the way he reads section 7, or if there is some new authority in there that we have not seen before in re the commercial paper of auto dealers.

Mr. ECKHARDT. Will the gentlewoman from Colorado yield?

Mrs. SCHROEDER. I will be delighted to yield to the gentleman.

Mr. ECKHARDT. I thank the gentlewoman for yielding. The gentlewoman is speaking about a rule of the Federal Trade Commission that provides that if an automobile dealer sells an automobile and receives for it a note, and then ultimately sells that note to a bank, it is necessary under the rule that the paper be stamped to indicate that it was consumer paper and is subject to the claims and defenses of the buyer.

Mrs. SCHROEDER. And that is the rule now. Is that correct?

Mr. ECKHARDT. That is the rule now.

Mrs. SCHROEDER. And it must be stamped, and then the buyer still has the defense. Is that the reason it is stamped? Is that correct?

Mr. ECKHARDT. That is right. Formerly the financial institution, there being no notification that this was consumer paper, might collect on the installments on the automobile even though the automobile might not have been delivered, or the automobile might have had a broken block, or other conditions might have existed that would create a defense by the purchaser of the automobile against payment to the seller. So this rule is for the purpose of notifying the world that this is consumer paper. Therefore the bank would know if it bought the note that it might be subject to the defense of failure to deliver or of a contention that express warranties or the implied warranty of suitability for use was in fact violated.

Now, No. 1, this rule could not possibly apply to class actions under section 7 because the rule is required to specify that it will trigger class actions. That was by virtue of the amendment offered by the gentleman from Florida, Mr. PAUL ROGERS, in the committee, an amendment which I favored and I think is a good amendment.

No. 2, even if this rule permitted class actions as a general proposition, rule 23 provides standards with respect to what constitutes a proper class action. All of the cases must be substantially alike. Well, automobile dealer A has failed to deliver a car or is alleged to have failed to deliver a car. Automobile dealer B delivered it solely to the purchaser who did not want it any more and he alleges it was a violation and he tried to give it back but the company would not take it. Automobile dealer C is alleged to have sold a car with a broken block when it was said to be a clean car. Obviously all of those cases are very, very separate cases based on entirely different facts. It is impossible for me to conceive of a situation in which a class action would lie under rule 23 even if the Federal Trade Commission has allowed that there be one.

Mrs. SCHROEDER. I thank the gentleman.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 36, line 9, insert ", subject to paragraph (3)(B)," after "then".

Page 36, line 25, insert "(A)" after "(3)".

Page 37, line 1, insert ", other than a class action," after "action".

Page 37, after line 3, insert the following:

"(B) Any person, partnership, or corporation which intends to commence a class action under paragraph (1) shall notify the Commission in writing of such intention. No such action may be commenced if the Commission, during the 60-day period following the receipt of such notice—

"(i) commences a civil action, based upon the rule violation or cease and desist order violation which is alleged by the person, partnership, or corporation giving notice to the Commission, against the person, partnership, or corporation which would be the defendant in the action which the person, partnership, or corporation giving such notice intends to commence; or

"(ii) transmits notice to the person, partnership, or corporation giving notice to the Commission that the class action which such person, partnership, or corporation intends to commence would interfere with, or would be inconsistent with, any policy or activity for the Commission in enforcing or otherwise carrying out the provisions of this Act.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, the purpose of this amendment is not to salvage section 7. It is not to put a finger in the dike. It is something that I think as a matter of policy this committee should agree with as we consider the substance of section 7.

Until the introduction of section 7, the FTC rules, the agency rules were enforceable only by the agency itself. The agency under section 5 of the Federal Trade Commission law has the power to deal with deceptive or unfair trade practices. By its rulemaking power the Federal Trade Commission has interpreted what is an unfair trade practice and it has taken that very broad language and specified by rule what specific practices are considered to be unfair.

When the agency finds violations of this rule, it initiates enforcement procedures which frequently end in cease-and-desist orders based upon the agency's interpretation of what its policy was as embodied in the rules to begin with.

If we are to permit private class actions to enforce Federal Trade Commission rules, it seems to me altogether appropriate that the Federal Trade Commission, since its rule is being enforced by the private action, should have two opportunities: They should be notified that this enforcement action is being commenced by a private citizen and following that the agency should have the opportunity to determine whether it wants to bring the enforcement action in its own name or to determine that the nature of the action being proposed to be brought by the private citizen is inconsistent with the policy the Commission imposed in its rule to begin with.

To do otherwise would go beyond the entire concept of the Federal Trade Commission, which establishes its rules as it understands the purpose of enforcement and the very broad language of the section 5 provision of unfair trade practices.

For that reason, and also to eliminate the possibility of specious suits and also to circumscribe to the proper ambit of enforcement the FTC rules, I think it is altogether proper to adopt this amendment, whether or not you decide to vote for section 7 or to vote for the Krueger amendment.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment offered by Mr. LEVITAS: In section 20(a)(3)(B)(ii) of the Federal Trade Commission Act, as proposed to be added by the amendment, insert before "transmits" the following: "if such notice is given to the Commission during the one-year period following the effective date of the rule or cease and desist order involved,".

Mr. ECKHARDT. Mr. Chairman, I generally favor the Levitas amendment. It does two things. The first thing, I believe, is certainly agreeable to the author and I think it is a very beneficial thing to do; that is, it provides that the Federal Trade Commission will have the first opportunity to bring a suit in which parties seek restitution and to afford them restitution. If the Federal Trade

Commission does not move to protect Jane Doe where she has been cheated in the marketplace, then Jane Doe may proceed by her own attorneys; but she has to first seek Federal Trade Commission aid.

I see nothing wrong with that, because the Federal Trade Commission may desire to handle those cases which might set precedents respecting Federal law. If they do so, she has no reason to complain.

The second section, though, does give me some problems.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, again proceeding under the same line of reasoning I used a few moments ago, if the gentleman wants to amend the gentleman's bad section and to make it in compliance otherwise, I would agree.

Mr. ECKHARDT. Mr. Chairman, I refuse to yield further. I will always yield for a serious question to my able and distinguished colleague from North Carolina.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield on that point?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to point out that the amendment which the gentleman is offering is not to the gentleman's section 7, but rather to my amendment to the gentleman's section 7.

Mr. ECKHARDT. That is correct. Now, the gentleman from Georgia in the gentleman's first proposal is absolutely correct and that is that the Federal Trade Commission should control the matter if it desires to get into it.

The problem I have had with the present law is that if Jane Doe is told, "No, we will not get you relief, though you have been cheated in the marketplace, we haven't got enough attorneys," she has no remedy and, of course, this first part does not disturb that proposition.

The second part of the amendment provides that if the Federal Trade Commission decides that Jane Doe's suit should not be brought, it may say no to Jane Doe on policy bases peculiar to the Federal Trade Commission.

And, of course, that also implies that it can say yes to Mary Roe, who has a similar case, and the Commission may make the determination purely subjectively. Now, I recognize what the gentleman from Georgia is trying to do there, and I think it is a desirable thing, but I think that perhaps his approach could be altered in an effective way without giving that much subjective authority to the Federal Trade Commission.

As I understand him, he feels that the Federal Trade Commission should not let these suits get completely out of hand, that there may be persons who are bringing actions that seek to obtain objectives far from those originally intended by the rule. I am suggesting a slight modification to his second portion—I do not touch the first—and that is to provide that the Federal Trade Commission may, within a year after the rule, do precisely what his amendment would do permanently.

I think that is desirable because the Federal Trade Commission might decide within that year, "Let's hold off a while; maybe we were wrong in putting into the rule the right to bring an individual action at all," and then it could rapidly, within that year, amend its rule so as to deny such action.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. SANTINI and by unanimous consent Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield.

Mr. SANTINI. Do I understand correctly that the gentleman is speaking in support of the Levitas amendment, provided it is modified by his amendment?

Mr. ECKHARDT. That is correct. I favor the Levitas amendment if it is so modified, and would vote for it.

Mr. SANTINI. Were the thoughts contained in the Levitas amendment ever discussed in subcommittee or full committee?

Mr. ECKHARDT. No, because the Federal Trade Commission did not ask for that protection. What Mr. LEVITAS is doing is offering additional protection to the Federal Trade Commission so that its policies will not be overturned. The Federal Trade Commission thought the bill was all right as it was.

Mr. SANTINI. When did the distinguished author of the legislation first give birth to his interest in and support of the Levitas concept?

Mr. ECKHARDT. Well, this is kind of getting like that abortion argument yesterday—when does a generation commence? All I can say is this: That I had always thought this floor was for the purpose of permitting the Members to bring their ideas forward.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield on that point?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. The committee system, as I understand, is for the purpose of working out legislation in committees so that it can be brought to the floor and not have all of this debate and discussion on differences here on the floor. That is why I insisted that this section be stricken.

Mr. ECKHARDT. I agree with the gentleman that I had nothing to do with a very salutory thing in order to get as close as we can to agreement, but I do not agree with the gentleman—I do not agree with the gentleman that this floor should be a kind of a stock exchange in which we register transactions on the board. I think we need the kind of exchanges that the gentleman from Georgia, the gentleman from Nevada or the gentleman from New Jersey bring forth.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

The gentleman might stay in the well of the House. It is not the opponents of section 7 who are offering amendments; it is the author of section 7 who is offering amendments to his own creation. I say the committee system has not worked.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, the gentleman from Georgia (Mr. LEVITAS) will tell the gentleman that I had nothing to do with generating this amendment; and I have some disagreement with it, but not total disagreement.

Mr. BROYHILL. The gentleman is endorsing amendments that are being brought to him from all over the chamber. For what purpose I do not know, but apparently it may be to try to patch up a bill that looks like it is going down in defeat.

Mr. ECKHARDT. I do it to make the bill a better bill than it was when we brought it out of committee.

Mr. BROYHILL. Why was not that done in committee then, so that we could have had a full discussion of these issues at that time and we could have had a full consideration of the impact that this bill is going to have on the judiciary?

Mr. ECKHARDT. Because, I will say to the gentleman, our committee, like every other one operates through considerable staff input and the first time members not on our committee have an opportunity for real participation from every quarter is on this floor, and I defend that process.

Mr. BROYHILL. In my judgement, the committee should be run by the members and not by a staff.

Mr. ECKHARDT. The committee is pretty well run by members, but we also have the duty to let other persons in the body have some part in the process.

Mr. BROYHILL. Mr. Chairman, if I could have my time back, let me comment for just a moment on the Levitas amendment.

The amendment does not really do anything. It has a very odd effect, in fact. If we have a whole raft of these class action suits, then the Chairman of the Federal Trade Commission is going to have to allocate a good portion of his resources to studying all of the suits that are going to be brought to his attention under the Levitas amendment. It is impossible for them to do an adequate job on even one suit, much less the likelihood of hundreds of suits that will be brought to their attention within the 60-day timeframe that is required in the Levitas amendment.

Furthermore, I am not sure that the Federal Trade Commission would actually stop any suits, because the Chairman of the Federal Trade Commission, it is my understanding, is saying that he hopes that they do have all of these suits coming up in county courthouses and in State courthouses and in Federal courthouses all over the land. This is rather odd, I think, that the Federal Trade Commission and the Chairman would take this position, but apparently this is the position that they have taken. So I do not see that the Levitas amendment is going to do anything, and as amended by the gentleman from Texas it just takes it right back to ground zero as to

where we are under the terms of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: Page 43, line 1, insert "(1)" after "(h)".

Page 43, after line 6, insert the following:

(2) The court, in awarding reasonable attorney fees paragraph (1), shall take into account—

"(A) the total amount of time during which the attorney for the plaintiff was directly engaged in preparing the action and in otherwise representing the plaintiff in connection with the action, and the amount of reasonable costs incurred by the attorney in connection with the action;

"(B) the prevailing rate in the community for attorney fees in similar actions;

"(C) an estimate of the likelihood that the plaintiff would prevail in the action;

"(D) the complexity and novelty of the factual and legal issues presented in the action; and

"(E) the expertise and experience of the attorney.

Mr. GIBBONS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Chairman, I do not think this is a very controversial amendment and I hope it improves this bill. This amendment merely sets out some criteria about which the court would be required to judge the reasonableness of attorney fees to be set by the court after the case is completed and the plaintiff has prevailed, if the plaintiff does prevail. That is all that the amendment does. The amendment simply says that the judge, in studying the reasonableness of attorney fees, must take into consideration the time that the attorney was involved, the skill of the attorney, the complexity of the matter, the reasonableness of all of the component charges that may be a part of attorney fees.

The amendment also says that they must be in line and certainly not excessive, compared to those that usually prevail in his own area where the case is tried.

As an illustration, a case tried in Tampa, Fla., would certainly not require the same attorney fees as a case tried in Washington, D.C., or New York City would require.

Mr. Chairman, I will be glad to answer any questions any Member may have. If there are no questions, I would be glad to yield back the balance of my time.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment offered by the gentleman from Florida (Mr. GIBBONS) is innocuous in one respect because it simply restates what the law is for determining the reasonableness of attorney fees.

It is more than innocuous, however, It is unintentionally deceptive, because it is advertised as a means of improving this bill. Of course, it does not do anything to remove the difficulties which have heretofore been stated with respect to section 7; it merely recites those factors now considered by the court in fixing reasonable attorney fees.

In addition to the amendment's being innocuous and perhaps unintentionally deceptive, it might also be unintentionally mischievous. At the present time courts may fix reasonable attorney fees and consider all factors bearing upon the reasonableness of the fees sought. Now, as far as I know, for the first time in a statute, we delineate five specific criteria.

That would by implication preclude the court from considering a sixth factor, a seventh factor, or an eighth factor, if in fact such factors were relevant to the issue of attorney fees.

For at least three reasons, therefore, Mr. Chairman, I would urge the defeat of the amendment.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, the gentleman from California (Mr. WIGGINS) is a distinguished lawyer and an able lawyer. I recognize his skill and his ability.

I want to assure the gentleman from California that it is not my purpose to deceive any Members here about this matter. I am merely trying to set out what I think the existing law is as far as attorney fees are concerned. I would rather have it in the statute books. I would prefer that rather than have it scattered around through a bunch of court decisions that are sometimes hard for people to pull together.

If the gentleman from California (Mr. WIGGINS) would like to add any other criteria, I would be most happy to consider those criteria. It is not my purpose to bind the hand of the judge who finally has to set reasonable attorney fees or to exclude from his determination any facts that are relevant to the reasonableness of those fees, and I hope, as the author of this amendment, that that explanation will be a part of the legislative history of this issue.

I realize that setting reasonable attorney fees is a very complex task. As a lawyer, I have been on both sides of that question. I have been on the side where I was looking for reasonable attorney fees, and I have been on the side where I had to defend against people who were seeking what were termed as reasonable attorney fees.

Mr. WIGGINS. Mr. Chairman, if I may reclaim my time, let me say that if I were drafting the amendment anew, I would include an escape valve at the end saying: "and such other factors as may be relevant to the issue of reasonable attorney fees and costs."

Mr. GIBBONS. Mr. Chairman, I would ask unanimous consent that that language be included in this amendment, if that is agreeable to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I think more important is the fact that this amendment was advertised in the gentleman's "Dear Colleague" letter received today in our offices in this fashion: The letter says that this amendment, plus the one we have already acted upon, meets the major objections to section 7.

That is what I meant, of course, when I said the amendment is unintentionally deceptive, because it does not meet those objections at all.

Mr. GIBBONS. Would the gentleman agree that the language he has proposed be included in the amendment? If he would, I would make a unanimous consent request to that effect.

Mr. WIGGINS. Mr. Chairman, I am not offering an amendment to the amendment.

Mr. GIBBONS. Mr. Chairman, I just want to be cooperative with the gentleman.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentlewoman from New Jersey.

PARLIAMENTARY INQUIRY

Mrs. FENWICK. Would it be proper, Mr. Chairman, to pose a parliamentary inquiry?

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. FENWICK. Mr. Chairman, I am wondering if perhaps I should offer an amendment to the amendment offered by our colleague, the gentleman from Florida (Mr. GIBBONS), adding the words at the end of the amendment as suggested in the colloquy.

The CHAIRMAN. The Chair will inform the gentlewoman that she may offer an amendment to the amendment if she so wishes.

Mrs. FENWICK. I thank the Chairman.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Frankly, Mr. Chairman, while the gentlewoman from New Jersey is drawing up her amendment, may I say that I think that this amendment is a desirable one. I think it has been drafted in the sense of an amendment to the amendment because it says that these considerations must be taken into account. It does not exclude other considerations by the court, but it would make the fact stronger and clearer that we do not intend to preclude other matters from being considered by the court than those enumerated.

Of course, the gentleman from California (Mr. WIGGINS) is correct in that many courts have delineated these considerations. The gentleman from Florida (Mr. GIBBONS) has agreed with him that that is true and he is not attempting to sell his amendment as something that goes beyond most of the State case law. However, the point is that not all courts consider all of these factors, nor are they compelled by law.

Mr. Chairman, the gentleman from Florida (Mr. GIBBONS) feels that a distillation of the court decisions should be placed in statutory law, and it seems to me that that is a most salutary purpose.

Mr. Chairman, I favor the amendment.

AMENDMENT OFFERED BY MRS. FENWICK TO THE AMENDMENT OFFERED BY MR. GIBBONS

Mrs. FENWICK. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK to the amendment offered by Mr. GIBBONS: At the end add the following: "and such other considerations as are, in the opinion of the court, desirable."

Mrs. FENWICK. Mr. Chairman, I offer this amendment to the amendment of our colleague, the gentleman from Florida (Mr. GIBBONS), in order that the court will be able to take into consideration any other elements which the court considers proper in deciding on the attorney's fee.

I thank the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) to the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The amendment to the amendent was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. ECKHARDT) for a recorded vote.

A recorded vote was refused.

So the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. KRUEGER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. ECKHARDT) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read section 8.

The Clerk read as follows:

INDEPENDENT APPOINTMENT OF PERSONNEL

SEC. 8. Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by adding at the end thereof the following new undesignated paragraph:

"The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.".

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 44, strike out line 6 and all that follows down through line 13.

And redesignate the following sections accordingly.

Mr. ECKHARDT. Mr. Chairman, section 8 would prohibit White House clearance of five policymaking positions at the FTC. While I am sympathetic to the purpose of the section, I do not think that this legislation is the appropriate place to address this matter. Our committee has before it a bill which would apply this principle to all of the so-called independent regulatory agencies. Frankly, I think that such a bill is the appropriate place to resolve this issue for all these agencies. Therefore, I urge adoption of the amendment.

Mr. BROYHILL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the gentleman from Texas has indicated, this amendment carries out the desires of the President as expressed in a letter that was addressed to the chairman of the committee recently. I feel that it does improve the bill and will support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 8?

If not, the Clerk will read section 9.

The Clerk read as follows:

SUBMISSION OF BUDGETARY AND LEGISLATIVE RECOMMENDATIONS TO CONGRESS

SEC. 9. The first section of the Federal Trade Commission Act (15 U.S.C. 41) is amended by adding at the end thereof the following new undesignated paragraphs:

"Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate or request to the Congress.

"Whenever the Commission submits any legislative recommendations or any testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations or its testimony or comments on legislation to any officer or agency of the United States for approval, comments, or review, before the submission of such recommendations, testimony, or comments to the Congress.".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 44, strike out line 14 and all that follows down through page 45, line 8.

And redesignate the following sections accordingly.

Mr. ECKHARDT. Mr. Chairman, I have an amendment to strike section 9. Section 9 provides for concurrent submission of budgetary and legislative recommendations to OMB and the Congress. Once again, this is a matter which I think should be resolved for all independent agencies at one time. Either all agencies should clear these matters through OMB, or none of them should do so.

I think the OMB bill is the appropriate place to consider this, and I urge adoption of the amendment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, for the same reasons I expressed with regard to the amendment preceding this, this is an amendment that does correct some of the concerns that were expressed by the President. I would agree with this amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read section 10.

The Clerk read as follows:

CITIZEN PETITIONS FOR RULEMAKING

SEC. 10. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively; and

(3) by adding at the end thereof the following:

"(2) If the Commission receives a petition for the issuance, amendment, or repeal of a rule described in subsection (a)(1)(B) of this section, the Commission shall either grant or deny the petition within 120 days after the date the petition is received by the Commission. If the Commission grants such a petition, it shall, as soon as is practicable after the date the petition is granted, commence a proceeding under this section as requested by the petition. If the Commission denies such a petition, it shall notify the petitioner of the denial and the reasons therefor and shall publish such reasons in the Federal Register.".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 10?

If not, the Clerk will read section 11.

The Clerk read as follows:

STATEMENT OF BASIS AND PURPOSE

SEC. 11. The last sentence of section 18(e)(15)(C) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(5)(C)) is amended to read as follows: "In the review under this subsection of such a rule, the court may not review the contents and adequacy of any statement of basis and purpose required by subsection (b)(4) except as part of a review of the rulemaking record taken as a whole.".

APPLICATION OF FEDERAL TRADE COMMISSION ACT TO SAVINGS AND LOAN INSTITUTIONS

SEC. 12. (a) Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting "savings and loan institutions described in section 18(f)(2)(D)," immediately after "banks,".

(b)(1) Section 6(a) of the Federal Trade Commission Act (15 U.S.C. 46(a)) is amended by inserting ", savings and loan institutions described in section 18(f)(2)(D)," immediately after "banks".

(2) Section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) is amended by inserting "savings and loan institutions described in section 18(f)(2)(D)," immediately after "banks,".

(3) The proviso at the end of section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by inserting ", savings and loan institutions described in section 18(f)(2)(D), immediately after "banks".

(c)(1) Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) in the first sentence thereof, by inserting "or savings and loan institutions described in paragraph (2)(D)" immediately after "banks";

(B) in the second sentence thereof, by inserting immediately after "System" the following: "(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (2)(D))"; and

(C) in the last sentence thereof—

(i) by inserting "each" before "such Board" the first place it appears therein;

(ii) by inserting "either" before "such Board" the second place it appears therein;

(iii) by inserting "or savings and loan institutions described in paragraph (2)(D), as the case may be," after "banks" the first place it appears therein;

(iv) by inserting "or savings and loan institutions, as the case may be," after "banks" the second and third places it appears therein; and

(v) by striking out "the Board" and inserting in lieu thereof "either such Board".

(2) Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(A) in subparagraph (B) thereof, by striking out "and" at the end thereof;

(B) in subparagraph (C) thereof by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) savings and loan institutions which are members of a Federal Home Loan Bank or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, by the division of consumer affairs, established by the Federal Home Loan Bank Board, under section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464).".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) The first sentence of section 21 of the Federal Trade Commission Act, as so redesignated by section 7, is amended—

(1) by striking out "and not to exceed" and inserting in lieu thereof "not to exceed"; and

(2) by inserting after "1977" the following: "; not to exceed $63,000,000 for the fiscal year ending September 30, 1978; and not to exceed $70,000,000 for the fiscal year ending September 30, 1979".

(b) The second sentence of section 21 of the Federal Trade Commission Act, as so redesignated by section 7, is amended by striking out "1977" and inserting in lieu thereof "1978".

TECHNICAL AND MISCELLANEOUS AMENDMENTS

SEC. 14. (a)(1) Section 5(m)(1)(A) and section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A); 45(m)(1)(B)) each are amended by adding at the end thereof the following new sentence: "In such actions, the district courts of the United States are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.".

(2) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by inserting after paragraph (h) the following new paragraph:

"(i) To accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b)).".

(3)(A) The first undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended—

(i) by inserting immediately after "for the purposes of this Act" the following: ", or any other provision of law enforced by the Commission,"; and

(ii) by inserting "or other physical" immediately after "documentary" each place it appears therein.

(B) The second undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49), as amended by section 3(a), is amended by inserting "or other physical" immediately after "documentary".

(C) The fourth sentence of section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) and the third sentence of the fifth undesignated paragraph of section 9 of such Act (15 U.S.C. 49) are amended by inserting immediately after "writing" the following: ", or shall be recorded through the use of any electronic or mechanical recording device,".

(D) The last sentence of the fifth undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by inserting "or other physical" immediately after "documentary" each place it appears therein.

(4)(A) Section 19(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57(b)(a)(1)) is amended to read as follows:

"(a)(1) If any person, partnership, or corporation violates—

"(A) any rule under this Act respecting unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)); or

"(B) any final cease and desist order issued by the Commission which is applicable to such person, partnership, or corporation;

then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in a district court of the United States or in any court of competent jurisdiction of a State.".

(B) Section 19(d) of the Federal Trade Commission Act (15 U.S.C. 57b(d)) is amended—

(i) by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)(1)(A)";

(ii) by inserting immediately before "or the unfair or deceptive act or practice to which" the following: "the cease and desist order violation to which an action under subsection (a)(1)(B) relates,"; and

(iii) by inserting "(as prescribed by section 5(g)(2))" after "has become final".

(b)(1) Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out "wood" in the second paragraph and inserting in lieu thereof "wool".

(2) Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out "volating" and inserting in lieu thereof "violating".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 11 and the rest of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to this section or to any other section of the remainder of the bill?

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, much has been said about the Federal Trade Commission's lack of resources to push for redress of consumer damages. That may be partially true, but I would like to suggest that the FTC is not making efficient use of its personnel. I refer specifically to the FTC's enforcement—or more accurately, lack of enforcement—of the Robinson-Patman Act. I have been following this matter for several years, including 2 years during the 93d Congress when I served as ranking majority member of the Special Subcommittee on Investigations of the House Committee on Interstate and Foreign Commerce. The subcommittee held extensive hearings on the FTC's enforcement of the act. We looked at a number of Robinson-Patman cases in close detail and found a consistent pattern where Robinson-Patman violations were downgraded or lost in the depths of the FTC. It appeared that the FTC, with Justice Department support, had virtually repealed the act and was not following the congressional mandate to enforce it. This can be seen by the fact that formal investigations initiated by the Bureau of Competition fell from a peak of 159 in 1967 to a low of only 5 in 1973.

These findings were supported by the 1976 report of the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters of the Committee on Small Business (H. Rept. 94–1738). The ad hoc subcommittee also examined charges that the Robinson-Patman Act is anticompetitive and concluded that "When these arguments are tested and compared with reality, in the light of experience, history, and the accepted principles of economics, such arguments are found to be fallacious and untenable."

The FTC's bias against Robinson-Patman cases can be seen in the FTC investigation of the beer industry, an investigation I have followed for too many years. In 1972, after four years of Robinson-Patman investigation, the FTC finally decided to make the beer investigation lead into a structure or a Sherman Antitrust Act case. As of this time, a report still has not been issued in the case. A staff report was finally submitted to the Commission last November. The Commission considered the matter until April of this year and then referred it back to the Economic Bureau and the Bureau of Competition for an economic report. They have a very tentative deadline to report back to the Commission by December 31, 1977.

Yet in all probability, a Robinson-Patman action could have been successfully brought five years ago. This is not just my opinion. In February, 1972, a Federal District Court in Houston (*Pearl Brewing Company* v. *Anheuser-Busch, Inc.* 339 FS 945; Eastern District Texas) stated indictum that evidence did exist proving Anheuser-Busch, Inc. had violated the Robinson-Patman Act by predatory pricing practices.

In spite of the Federal court's observations, the FTC decided after years of work to seek a structure case. I stated in testimony before the ad hoc subcommittee, "By the time one is developed, the RP violations may have driven all the regional brewers out of business." Since that time, two of the three independently owned breweries in Texas have been taken over by large corporations—Pearl Beer by the Southdown Corp. and Lone Star by Olympic Beer—and the continued production of some brands is in doubt. This situation is not unique to Texas, but has occurred throughout the nation as small breweries are overwhelmed by competition from large national brands.

Nor is the situation unique to breweries. The subcommittee hearings disclosed similar FTC reluctance to file RP cases against large supermarket chains and bakeries, to name just a few.

In essence, the record reveals a virtual administrative repeal of the Robinson-Patman Act by the FTC. The Commission seems satisfied to ignore Robinson-Patman violations which allow the formation of monopolies or oligopolies. Instead the FTC likes to grab the headlines with tough-talking press releases proclaiming the advent of another FTC trust-busting structure case. But that is often all the FTC gets, as the big cases often drag on for years without reaching a conclusion, as in the beer case or the more publicized IBM case. Would it not be wiser to stop the process of monopolization with a Robinson-Patman action instead of waiting for the monopoly to be created?

In ignoring the Robinson-Patman violations the FTC is also ignoring the expressed will of Congress. If the Robinson-Patman Act is a bad act—and I think it is not—then the FTC should come to Congress and make the case for its repeal. But until that time, it is the duty of the FTC to enforce the act.

I think it is quite possible that if the FTC concentrated on the more manageable Robinson-Patman cases, it would free personnel from the almost endless drudgery of structure cases. The additional resources might then be focused on recovery of consumer damages, and much of the need for section 7 would be eliminated.

I must confess, however, that my years of experience in dealing with the FPC do not make me optimistic that it will follow this course. The Commission seems only too happy to ignore congressional direction, and hostility toward the Robinson-Patman Act is deeply ingrained within the agency.

Mr. RAILSBACK. Mr. Chairman, I rise in support of the Krueger amendment to delete section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977. This section of the bill would create a new section 20 to the Federal Trade Commission Act containing a number of provisions which apply if the private suit is to be brought in behalf of a class. In essence, this would provide that notice to class members need only be given by publication in newspapers, radio, television or other medium, by posting at locations where class members are likely to see the notice, or by individual notice to each member of the class who can be identified through reasonable efforts. In addition, individual notice may be provided to a sample or subgroup of the class. The amount of damages would be aggregated by statistical sampling and estimates. I believe that the constitutional guarantee of due process requires more than this. The Federal Rules of Civil Procedure—rule 23 contains provisions for notice in class action cases and the Supreme Court has interpreted that as requiring individual notice to class members. In *Eisen* v. *Carlisle & Jacquelin*, 417 U.S. 156, the Supreme Court rejected sample and media forms of notice that could not guarantee notice to the individual members of the class. No doubt a sample or media method would be more convenient and less expensive, but improved efficiency is no justification for the contravention of constitutional rights. Stop to consider the possible impact of section 7: Those not receiving notice would be barred from litigating their claims and if they spoke up too late, the funds available for recovery might already be exhausted. Those latecomers are consumers, too, and their interests deserve protection. On the other hand, the defending firm would not have the opportunity to confront all of the plaintiffs, yet it would still have to provide damages sufficient to compensate each. No matter how well-intended, section 7 clearly should be deleted.

Mr. PREYER. Mr. Chairman, the various amendments that have been offered to section 7 of the bill do improve this section and address some of the problems concerning our judicial system in the section. Chairman ECKHARDT deserves credit for his efforts to compromise the differences over this section.

But I conclude that the problems created by section 7 are much too complex to be solved by amendments written on the House floor. We should wait for the results of the studies being undertaken by the Justice Department and the Judicial Council. We should get the views of the Judiciary Committee.

Let me list briefly these issues affecting our judicial system.

The first is the potential for court congestion. Class actions, especially of the type envisioned by section 7, require a good deal of judicial time. The impact of such actions on already overburdened judiciary should be carefully analyzed.

Second, section 7 would establish special class action procedures applicable to these private rights of action under the FTC Act. In effect, it would mandate a revision of part of rule 23 of the Federal Rules of Civil Procedure. The wisdom of piecemeal revisions of the Federal Rules is questionable, especially since the administration has indicated that it will be examining the entire question of class actions in some depth. In my opinion, it makes no sense to legislate piecemeal changes to rule 23 in these circumstances. It would be much preferable to wait until we have the products of the administration's efforts.

Another troublesome aspect of the special procedures that would be established by section 7 is its notice provisions. These requirements would relax the requirements imposed by the Supreme Court for notifying members of the affected class. This raises questions as to the constitutionality of these notice provisions and as to their basic fairness.

Another area of concern is the role that State courts would play under section 7. Enforcement of the FTC Act has been the exclusive responsibility of the FTC and Federal courts; we ought to be aware of the likely effects diffusing this responsibility before acting. A further area which needs examination concerns the wisdom of imposing complex procedural requirements, such as those set forth in section 7, on State courts.

A related issue that should be covered by the study is the concept of

fluid recovery of damages. If section 7 were enacted, it would establish a method of proving damages that is radically different from the present, longstanding rules as to proof of damages. We considered fluid recovery exhaustively when the parens patriae legislation was up last year and, in the end, we permitted fluid recovery but limited its applicability to cases involving hardcore antitrust cases on price-fixing violations, which are brought by State attorneys general. By contrast, section 7 would expand the use of fluid recovery to private actions involving alleged unfair or deceptive practices, an area of the law which is extremely vague. Before we authorize a major expansion in the use of fluid recovery, we should know whether it is necessary and advisable. This is one more reason why I urge that the amendment be adopted.

Mr. BROYHILL. Mr. Chairman, we have before us today H.R. 3816, amendments to the Federal Trade Commission Act. During the progress of that bill through the committee I raised several concerns over the broad sweep of this legislation and the impact that it could have on business. In the past few years the authority of the FTC has been expanded considerably under other legislative authority, and I continue to be concerned that additional broadening authority at this time would be premature and inappropriate. To that end I proposed a simple extension to the appropriations of the FTC in lieu of the present bill.

However, the committee decided that the authority of the FTC should be expanded and proceeded with H.R. 3816.

While I still have several reservations about this legislation, I am pleased that the committee has deleted one particularly offensive provision. That provision would have altered the term "corporation" under the present FTC law by including not-for-profit organizations. The effect of this major change would have been immediately to extend FTC authority to include regulation of not-for-profit organizations on the same basis as business corporations. That would have meant that every college and university, professional association, church, social club, philanthropy, charitable organization or any other voluntary membership or eleemosynary organization would have been subject to FTC regulation. During hearings on the bill and during special hearing on the specific issue of extending FTC statutory authority over nonprofit organizations, testimony by various parties clearly pointed out the unique status of not-for-profit organizations, and the undesirability and lack of justification for extending the present FTC power and authority to regulate profit-making corporations to the power and authority to do so for not-for-profit organizations. Clearly, the original FTC law was not intended to cover nonbusiness activities; and that authority should not now be extended. It seems to me that the agency has more than enough to do in regulating business concerns without the need to extend its jurisdiction to regulate nonbusiness groups—groups which are completely different from business organizations in purpose, intent, and "ownership". There does not appear to be a compelling reason, moreover, to add an additional layer of Federal regulatory authority upon groups which in many cases are already overburdened with Federal regulation. Contraction, rather than expansion, would comport with the present administration initiatives in the area of Federal regulatory power.

Further, during hearings on the bill the FTC itself provided a very weak case for the need or necessity of extending its already expansive ambit to encompass not-for-profit organizations. The not-for-profit organizations that testified, however, presented a strong and convincing argument against inclusion in FTC authority. Organizations, including the American Association of Medical Colleges, the American Dental Association, and the American Medical Association, pointed out the detrimental and potentially debilitating effects upon the nonbusiness activities of not-for-profit organizations that FTC regulation could have.

Mr. Chairman, while I reiterate that many of the provisions of this legislation should not, in my opinion, be enacted, I must also note my satisfaction that my colleagues on the committee agreed with me on the issue of not-for-profit organizations, and expressed their belief and intent that activities of such organizations are not properly the subject of FTC jurisdiction.

Mr. McCLORY. Mr. Chairman, the Federal Trade Commission does not require the additional enforcement efforts placed in the hands of private litigants under section 7. It has an abundance of authority under existing law to police and enforce its own rules and orders, specifically the Magnuson-Moss Act, wherein it is authorized to file civil actions "to redress injury to consumers" resulting from violations of agency rules or from unfair or deceptive acts or practices, and section 13(b) of the FTC Act, which gives the Commission authority to seek injunctions whenever it believes someone "is violating or is about to violate" the FTC Act.

There are a number of distinctions between parens patriae actions by the State attorneys general, which we authorized last year in the Antitrust Improvements Act, and the consumer class actions suits authorized by section 7 of the legislation now before us. An examination of these distinctions confirms my belief that parens patriae actions afford a necessary and desirable method of redress for consumers, but that section 7 suits will create difficulties for all concerned—the consumer, the courts, the businessmen, and the Federal Trade Commission itself.

Last year, when we enacted the parens patriae legislation, we limited the aggregation of damages provision to price fixing, thus confining the threat of multimillion-dollar recoveries to what has been generally regarded as the most heinous antitrust offense. Section 7 actions, on the other hand, can be founded not only on price fixing, and not only on other violations of the antitrust laws, but on a cornucopia of possible consumer abuses ranging from deceptive advertising claims to the minutiae and confusion of FTC-mandated changes in the holder in due course doctrine.

Suits can be brought under section 7, furthermore, by "any person injured" by a violation of a FTC rule or order. On its face, this appears to be a broader standard of actionable injury than the "injury to business or property" standard of Clayton section 4. If no limits are set in this legislation on the nature and extent of actionable "injury," even greater legions of new plaintiffs will come into the courts.

Under parens patriae, actions are brought by a State official who carefully evaluates consumer claims and, on the record to date, files only those cases which have substantive merit. The FTC proceeds with a similar sense of responsibility, it might be added, in exercising the authority which it now has under the Magnuson-Moss Act to bring suit on behalf of consumers. Under the provisions of section 7, however, the way is opened for harassment actions of little substance brought wholesale against businesses for their alleged violations of vaguely worded FTC trade regulations.

The parens patriae statute limits actions to Federal courts, whereas section 7 allows enforcement actions to be filed in State courts. The latter are unfamiliar with the process of dealing with Federal Trade Commission regulations and may be expected to render inconsistent and conflicting interpretations of the Federal Trade Commission Act. As a result, the resources of the FTC will have to be spread thin in an effort to monitor all these actions, rather than being applied in a coherent and consistent enforcement program.

In conclusion, I would suggest that the perfecting amendment offered by Mrs. FENWICK which we adopted, providing that the court may grant relief only if the violation of a cease-and-desist order "is one which a reasonable man would have known under the circumstances was dishonest or fraudulent," is not particularly helpful. Besides being vague in itself, it has no application to violations of a trade regulation. If the purpose of Mrs. FENWICK's amendment was to make sure that a businessman is not sued for a violation he committed unknowingly, it would seem more logical to direct it to the violation of a trade regulation applied industrywide than to a cease-and-desist order imposed on a single company.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease

and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, pursuant to House Resolution 718, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. ECKHARDT. Mr. Speaker, I demand a separate vote on the so-called Krueger amendment.

The SPEAKER. Is a separate vote demanded on any other amendment?

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROYHILL. Mr. Speaker, is it not correct that we would be acting on section 7 as written in the bill and not on the amendments as adopted by the Committee of the Whole if the Krueger amendment is adopted?

The SPEAKER. The amendment is to strike section 7 of the bill. The vote will be on that.

Mr. BROYHILL. Mr. Speaker, if the Krueger amendment is defeated, then what is in the bill is the section as written in the bill and not the amendments that were adopted?

The SPEAKER. We are back to the original committee bill.

Mr. BROYHILL. The original committee bill only, and not the amendments that were adopted?

The SPEAKER. The gentleman is correct.

Mr. BROYHILL. I thank the Chair.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 35, strike line 14 and all that follows through line 5 on page 44, and redesignate the following sections accordingly.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 125, answered "present" 1, not voting 27, as follows:

[Roll No. 649]

YEAS—281

Abdnor
Akaka
Alexander
Ammerman
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
Ashley
Badham
Barnard
Baucus
Bauman
Bedell
Bennett
Bevill
Blanchard
Blouin
Boggs
Boland
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornwell
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dicks
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Frenzel
Frey
Fuqua
Gammage
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Leggett
Lehman
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lundine
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Panetta
Pattison
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shipley
Shuster
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Tucker
Ullman
Vander Jagt
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zeferetti

NAYS—125

Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Beilenson
Biaggi
Bingham
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carr
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Danielson
Dellums
Diggs
Dingell
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Fary
Fascell
Fenwick
Fisher
Ford, Tenn.
Fowler
Fraser
Gibbons
Gore
Harrington
Harris
Hawkins
Holtzman
Howard
Jordan
Kastenmeier
Keys
Kildee
Le Fante
Lederer
Levitas
Long, Md.
Luken
McCloskey
McFall
Maguire
Markey
Metcalfe
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moorhead, Pa.
Moss
Mottl
Myers, Michael
Nix
Nolan
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Price
Rangel
Reuss
Richmond
Rodino
Roe
Rosenthal
Ryan
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
St Germain
Staggers
Stark
Steers
Stokes
Studds
Thompson
Tsongas
Van Deerlin
Vento
Walker
Waxman
Weaver
Weiss
Wirth
Wolff
Wydler
Yates
Zablocki

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—27

Bafalis
Beard, R.I.
Beard, Tenn.
Benjamin
Brown, Ohio
Buchanan
Carney
Dent
Dickinson
Fountain
Gaydos
Johnson, Calif.
Koch
Lujan
Miller, Calif.
Moakley
Moffett
Mollohan
Patterson
Pepper
Roncalio
Roybal
Sikes
Teague
Udall
Vanik
Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Moakley against.

Mr. Sikes for, with Mr. Pepper against.

Mr. Fountain for, with Mr. Koch against.

Mr. Dent for, with Mr. Moffett against.

Mr. Bafalis for, with Mr. Carney against.

Mr. Beard of Tennessee for, with Mr. Miller of California against.

Mr. Brown of Ohio for, with Mr. Beard of Rhode Island against.

Mr. Lujan for, with Mr. Vanik against.

Until further notice:

Mr. Benjamin with Mr. Dickinson.

Mr. Gaydos with Mr. Mollohan.

Mr. Patterson of California with Mr. Roybal.

Mr. Udall with Mr. Johnson of California.

Messrs. CAVANAUGH, HUGHES, LEHMAN, BAUCUS, GLICKMAN, TUCKER, Mrs. SPELLMAN, and Mr. KOSTMAYER changed their vote from "nay" to "yea."

Mr. VENTO changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment as amended.

The amendment, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BROYHILL. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROYHILL moves to recommit the bill H.R. 3816 to the Committee on Interstate and Foreign Commerce with instructions to report the same to the House forthwith with the following amendment:

Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (i), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, stimultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of , which rule was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.".

(c) The amendments made in this section shall apply to any rule of the Federal Trade Commission which has not become final on or before October 13, 1977. If any such rule becomes final after such date, but before the effective date of this section, such rule shall cease to be in effect and shall be subject to the provisions of section 18(i) of the Federal Trade Commission Act, as added by subsection (b).

Redesignate the following sections accordingly.

Mr. BROYHILL. Mr. Speaker, what this motion to recommit does is to add an amendment to this bill that would provide for congressional review and possible veto of Federal Trade Commission rules. This is the same amendment that the gentleman from Georgia (Mr. LEVITAS) and I and others have been attempting for so long to have added not only to the Federal Trade Act but also to so many other acts around here to provide for more congressional oversight, authority, and review of what these agencies are doing.

Mr. Speaker, the Federal Trade Commission has very broad and awesome powers to write rules and regulations over the economic life of our country. I would call attention to the report from the Government Operations Committee on some of the proposed rules that are being considered at the Federal Trade Commission at the present time. They are very broad.

What we are hearing from home from our businesses is this.

Mr. Speaker, we are hearing from home, from business people who are saying, "Mr. Congressman, we want to know what the rules of the road are, but we do not know what the rules are. We can't understand the rules and regulations you write."

One businessman told me, "It's like when we read Einstein's Theory of Relativity, when I read some of those rules up there; I can understand the words, but I don't understand the sentences."

Mr. Speaker, it is high time that the Congress has a say in what the rules are. Remember, rules and regulations have the effect of law.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to say that this motion to recommit with instructions is extremely important. It is the only means which we will have to add to this legislation the provision which would give the Congress the right to cast a veto over rules and regulations adopted by the unelected bureaucracy. This amendment is substantially identical with the legislative veto amendment I have offered on many other occasions and which this House has uniformly adopted.

This motion to recommit, if adopted, will be immediately reported back to the House with the amendment on it that we have adopted time and time again. This is our opportunity to say that we, the Congress, make the rules and not the unelected bureaucracy.

Mr. Speaker, I urge support for this motion to recommit offered by the gentleman from North Carolina.

Mr. ECKHARDT. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, a moment ago the distinguished gentleman from North Carolina was urging to the Committee of the Whole House that it was extremely inappropriate to bring up amendments that had not been presented before the Committee for the first time in this body. This amendment could have been brought up even in committee, or it could have been brought up in the Committee of the Whole House and we would have had time to debate it to find out what it is all about.

Now, let me tell you something about this provision. It is not like some of those that we have voted for before. This provision requires concurrent action of both Houses. Under the provisions of article I, section 7, paragraph 2 of the Constitution, anything requiring the concurrence of both Houses is itself subject to Presidential veto. Should we not have had an opportunity in an amendment brought before this body during the Committee of the Whole House to amend that provision?

This is the wrong way to legislate on important legislation before this body.

I know that this body has at times adopted the congressional veto; but do you know that that is one of the most complex matters that this body can deal with? Should we not have the opportunity to discuss it fully and amend it?

This is precisely as if we had a measure before us on a closed rule. Only the gentleman from North Carolina (Mr. BROYHILL), and those to whom he will yield during his 5 minutes, and myself have an opportunity to discuss it at all. It is not subject to amendment.

Mr. Speaker, I urge strongly that we vote against this provision brought up at the last minute. If we should adopt this provision, of course, we bring before this Congress the details of every single rule that the Federal Trade Commission makes.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I do not have sufficient time. The gentleman knows I only have 5 minutes. Had the gentleman brought it up earlier, the gentleman would have had full time; but I will yield.

Mr. LEVITAS. Mr. Speaker, I would just like to clarify one point. This

amendment will not require a concurrent resolution. It can either be done by a concurrent resolution or one House can exercise a one-House veto and the other body—let me finish.

Mr. ECKHARDT. Mr. Speaker, I refuse to yield further.

Mr. Speaker, I would like to point out that I only got this resolution a few minutes ago. I had to ask the gentleman from Georgia (Mr. LEVITAS) for a copy. The gentleman did not have one and I got it from the minority. But it is even worse if it permits one House to veto a rule that the Federal Trade Commission makes under the authority of both Houses.

I suggest we should have had time to debate this matter, this is entirely improper to do it in this way. If this honorable body will permit the minority, who commands the motion to recommit, to initiate legislation in this manner, then the majority has lost the control that it is entitled to by the votes of the people of the United States.

Mr. Speaker, I urge most strongly that we vote down this motion to recommit, as we nearly always do, when a last minute attempt is made to serve the interests of special interests—by permitting them a second chance to come to Congress and veto actions taken by the Government of the United States.

I urge most strongly that the vote to recommit be voted down.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BROYHILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 272, nays 139, not voting 23, as follows:

[Roll No. 650]

YEAS—272

Abdnor
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
AuCoin
Badham
Barnard
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Blanchard
Blouin
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Caputo
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flippo
Flowers
Flynt
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Krebs
Krueger
Lagomarsino
Latta
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Neal
Nedzi
Nichols
Nowak
O'Brien
Panetta
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stangeland
Stanton
Steed
Steers
Stockman
Stratton
Stump
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Ullman
Vander Jagt
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NAYS—139

Addabbo
Akaka
Allen
Ambro
Ammerman
Annunzio
Ashley
Aspin
Badillo
Baldus
Beard, R.I.
Beilenson
Biaggi
Bingham
Boland
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Danielson
Dellums
Diggs
Dingell
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Fary
Fascell
Fenwick
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gephardt
Gibbons
Harrington
Hawkins
Heckler
Hollenbeck
Holtzman
Howard
Jeffords
Jordan
Kastenmeier
Kostmayer
LaFalce
Le Fante
Leggett
Lehman
Long, La.
Long, Md.
Luken
McFall
McHugh
Maguire
Markey
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Gary
Natcher
Nix
Nolan
Oakar
Oberstar
Obey
Ottinger
Patten
Pattison
Pease
Perkins
Price
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
St Germain
Staggers
Stark
Steiger
Stokes
Studds
Thompson
Tsongas
Tucker
Van Deerlin
Vento
Waxman
Weaver
Weiss
Wiggins
Wirth
Yates
Young, Mo.
Young, Tex.
Zablocki

NOT VOTING—23

Bafalis
Benjamin
Bolling
Brown, Ohio
Buchanan
Carney
Dent
Gaydos
Gonzalez
Johnson, Calif.
Koch
Lujan
Miller, Calif.
Moakley
Moffett
Mollohan
Pepper
Roybal
Teague
Udall
Vanik
Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Carney against.

Mr. Bafalis for, with Mr. Koch against.

Mr. Brown of Ohio for, with Mr. Moakley against.

Mr. Buchanan for, with Mr. Moffett against.

Mr. Lujan for, with Mr. Pepper against.

Mr. Dent for, with Mr. Miller of California against.

Until further notice:

Mr. Benjamin with Mr. Whalen.

Mr. Gaydos with Mr. Vanik.

Mr. Gonzales with Mr. Mollohan.

Mr. Johnson of California with Mr. Udall.

Mr. Roybal with Mr. Patterson of California.

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. ECKHARDT. Mr. Speaker, pursuant to the instructions of the House, I report back the bill H.R. 3816 to the House, with an amendment.

The SPEAKER pro tempore (Mr. BROWN of California). The Clerk will report the amendment.

The Clerk read as follows:

Amendment: Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (i), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, simultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of ——, which rule was transmitted to Congress on ——', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date

on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rules may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 36, 60, and 90 calendar days of continuous session of Congress."

(c) The amendments made in this section shall apply to any rule of the Federal Trade Commission which has not become final on or before October 13, 1977. If any such rule becomes final after such date, but before the effective date of this section, such rule shall cease to be in effect and shall be subject to the provisions of section 18(i) of the Federal Trade Commission Act, as added by subsection (b).

Redesignate the following sections accordingly.

Mr. ECKHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 279, nays 131, not voting 24, as follows:

[Roll No. 651]

YEAS—279

Addabbo, Akaka, Alexander, Allen, Ambro, Ammerman, Anderson, Calif., Anderson, Ill., Andrews, N.C., Annunzio, Ashley, Aspin, AuCoin, Badillo, Baldus, Baucus, Beard, R.I., Bedell, Bellenson, Biaggi, Bingham, Blanchard, Blouin, Boggs, Boland, Bolling, Bonior, Bonker, Brademas, Breaux, Breckinridge, Brodhead, Brooks, Brown, Calif., Burgener, Burke, Calif., Burke, Mass., Burlison, Mo., Burton, John, Burton, Phillip, Caputo, Carr, Carter, Cavanaugh, Chisholm, Clay, Cleveland, Cohen, Coleman, Collins, Ill., Conte, Conyers, Corcoran, Corman, Cornell, Cornwell, Cotter, Coughlin, D'Amours, Danielson, de la Garza, Delaney, Dellums, Derrick, Dicks, Diggs, Dingell, Dodd, Downey, Drinan, Duncan, Oreg., Early, Eckhardt, Edgar, Edwards, Calif., Ellberg, Emery, English, Ertel, Evans, Colo., Evans, Del., Fary, Fascell, Fenwick, Findley, Fish, Fithian, Flood, Florio, Flowers, Foley, Ford, Mich., Ford, Tenn., Forsythe, Fowler, Fraser, Fuqua, Gammage, Gephardt, Giaimo, Gibbons, Gilman, Glickman, Gonzalez, Goodling, Gore, Gradison, Hagedorn, Hamilton, Hanley, Hannaford, Harkin, Harrington, Harris, Hawkins, Heckler, Heftel, Hightower, Hollenbeck, Holtzman, Howard, Huckaby, Hughes, Jacobs, Jeffords, Jenrette, Jones, Okla., Jordan, Kasten, Kastenmeier, Keys, Kildee, Kostmayer, Krebs, Krueger, LaFalce, Lagomarsino, Le Fante, Leach, Lederer, Leggett, Lehman, Lent, Levitas, Livingston, Lloyd, Calif., Long, La., Long, Md., Luken, Lundine, McClory, McCloskey, McCormack, McDade, McEwen, McFall, McHugh, McKay, McKinney, Maguire, Mann, Markey, Marks, Mattox, Mazzoli, Meeds, Metcalfe, Meyner, Mikulski, Mikva, Mineta, Minish, Mitchell, Md., Mitchell, N.Y., Moorhead, Pa., Mottl, Murphy, Ill., Murphy, N.Y., Murphy, Pa., Murtha, Myers, Michael, Natcher, Neal, Nedzi, Nix, Nolan, Nowak, Oakar, Oberstar, Obey, Ottinger, Panetta, Patten, Pattison, Pease, Perkins, Pickle, Pike, Preyer, Price, Pritchard, Pursell, Quie, Rahall, Rangel, Regula, Reuss, Richmond, Rinaldo, Risenhoover, Rodino, Roe, Rogers, Roncalio, Rooney, Rose, Rosenthal, Rostenkowski, Russo, Ryan, Santini, Sarasin, Sawyer, Scheuer, Schroeder, Seiberling, Sharp, Shipley, Simon, Sisk, Skelton, Skubitz, Slack, Smith, Iowa, Solarz, Spellman, St Germain, Staggers, Stangeland, Stanton, Stark, Steed, Steers, Stokes, Stratton, Studds, Thompson, Thornton, Traxler, Tsongas, Tucker, Udall, Ullman, Van Deerlin, Vander Jagt, Vento, Volkmer, Walgren, Walker, Walsh, Wampler, Watkins, Waxman, Weaver, Weiss, Wilson, Bob, Wilson, C. H., Wilson, Tex., Wirth, Wolff, Wright, Wydler, Wylie, Yates, Yatron, Young, Mo., Young, Tex., Zablocki, Zeferetti

NAYS—131

Abdnor, Andrews, N. Dak., Applegate, Archer, Armstrong, Ashbrook, Badham, Barnard, Bauman, Beard, Tenn., Bennett, Bevill, Bowen, Brinkley, Broomfield, Brown, Mich., Broyhill, Burke, Fla., Burleson, Tex., Butler, Byron, Cederberg, Chappell, Clausen, Don H., Clawson, Del, Cochran, Collins, Tex., Crane, Cunningham, Daniel, Dan, Daniel, R. W., Davis, Derwinski, Devine, Dickinson, Dornan, Duncan, Tenn., Edwards, Ala., Edwards, Okla., Erlenborn, Evans, Ga., Evans, Ind., Flippo, Flynt, Fountain, Frenzel, Frey, Ginn, Grassley, Gudger, Guyer, Hall, Hammer-schmidt, Hansen, Harsha, Hefner, Hillis, Holland, Holt, Horton, Hubbard, Hyde, Ichord, Ireland, Jenkins, Johnson, Colo., Jones, N.C., Jones, Tenn., Kazen, Kelly, Kemp, Ketchum, Kindness, Latta, Lloyd, Tenn., Lott, McDonald, Madigan, Mahon, Marlenee, Marriott, Martin, Mathis, Michel, Milford, Miller, Ohio, Montgomery, Moore, Moorhead, Calif., Moss, Myers, Gary, Myers, John, Nichols, Pettis, Poage, Pressler, Quayle, Quillen, Railsback, Rhodes, Roberts, Robinson, Rousselot, Rudd, Runnels, Ruppe, Satterfield, Schulze, Sebelius, Shuster, Sikes, Smith, Nebr., Snyder, Spence, Steiger, Stockman, Stump, Symms, Taylor, Thone, Treen, Trible, Waggonner, White, Whitehurst, Whitley, Whitten, Wiggins, Winn, Young, Alaska, Young, Fla.

NOT VOTING—24

Bafalis, Benjamin, Brown, Ohio, Buchanan, Carney, Conable, Dent, Fisher, Gaydos, Goldwater, Johnson, Calif., Koch, Lujan, Miller, Calif., Moakley, Moffett, Mollohan, O'Brien, Patterson, Pepper, Roybal, Teague, Vanik, Whalen

The Clerk announced the following pairs:

On the vote:

Mr. Moakley for, with Mr. Teague against.
Mr. Carney for, with Mr. Bafalis against.
Mr. Koch for, with Mr. Lujan against.

Until further notice:

Mr. Whalen with Mr. Benjamin.
Mr. Dent with Mr. Goldwater.
Mr. Moffett with Mr. Brown of Ohio.
Mr. Miller of California with Mr. Gaydos.
Mr. Fisher with Mr. Buchanan.
Mr. Pepper with Mr. Mollohan.
Mr. Vanik with Mr. O'Brien.
Mr. Roybal with Mr. Conable.
Mr. Patterson of California with Mr. Johnson of California.

Mr. ERTEL changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 3816.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 4836. An act to extend by seven months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H. Con. Res. 377. Concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 3.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) entitled "An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes."

AUTHORIZING CERTAIN APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 89) to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session), and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 89

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 of an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session), be amended to read:

"SEC. 403. Effective on the date when section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263) goes into force those laws which are referred to in section 502(a)(1) of said Covenant, except for any laws administered by the Social Security Administration, except for medicaid which is now administered by the Health Care Financing Administration, and except the Micronesian Claims Act of 1971 (85 Stat. 96) shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands.".

SEC. 2. This amendatory joint resolution shall be effective as of the approval of said Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session).

The SPEAKER pro tempore. It there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman in the well, the gentleman from California (Mr. PHILLIP BURTON) a question. Is the reason for the unanimous consent request intended to concur with the Senate action taken on the 12th of October relating to section 403 of H.R. 6550 and section 502 of the Marianas covenant and to remove the ambiguities involved; and is that the reason for the unanimous consent request?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, that is entirely correct.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I would say to my colleagues, I have discussed this matter with the gentleman from California (Mr. PHILLIP BURTON). It appears there is an ambiguity with regard to the legislation we just passed relating to trust territories, in that we referred to legislation that is not yet in effect. If this resolution before us today is not adopted, there could be—probably there is not—but there could be a situation where it could be claimed that some criminal laws, immigration laws and other laws, would not go into effect.

Mr. DON H. CLAUSEN. Mr. Speaker, let me further state that according to the Senate record the Senator from Louisiana, Mr. JOHNSTON, and Senator MCCLURE have stated their concurrence with this point of view.

Mr. Speaker, I, therefore, withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, and I do so only because of my respect for my colleague, the gentleman from California. As the gentleman knows, as we near adjournment time, it is the season to be jolly. I just wanted assurance that there is no nongermane amendment dealing with foreign aid, abortion, energy, or anything like that, that the other body might try to throw in.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, I can assure my colleague that thanks to the guidance and leadership of the gentlemen on that side of the aisle, we have avoided that pitfall in this matter.

Mr. BAUMAN. Mr. Speaker, with that assurance, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NAVIGATION DEVELOPMENT ACT

Mr. ROBERTS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8309, with Mr. MCFALL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 11, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, no amendment to title II of said substitute, and no amendment in the nature of a substitute changing title II of said substitute shall be in order, except amendments offered by direction of the Committee on Ways and Means, and said amendments shall not be subject to amendment.

The Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "Navigation Development Act".

SEC. 102. The project for the replacement of locks and dam 26, Mississippi River, Alton, Illinois, and Missouri, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–584, including authorization for the evaluation and study referred to in paragraph 16d of such recommendations, at an estimated cost of $432,000,000.

SEC. 103. The following inland and intracoastal waterways of the United States are subject to this Act:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

(2) Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

(3) Apalachicola-Chattahoochee and Flint Rivers: Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chatthoochee and Flint Rivers at RM 107.8. Chattahoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia, at RM 155; and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

(4) Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to port of Catoosa, Oklahoma, at RM 448.2.

(5) Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albermarle and Chesapeake Canal and Great Dismal Swamp Canal routes.

(7) Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374–411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

(8) Columbia River (Columbia-Snake Rivers Inland Waterways): From The Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

(9) Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

(10) Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

(11) Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

(12) Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0, to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(26) Willamette River: From RM 14 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

SEC. 104. The authorizations for appropriations contained in this Act are for those fiscal years which begin on or after October 1, 1977.

Mr. ROBERTS. Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLOUIN: Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downsteam from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) The Congress hereby authorizes and directs the preparation of a comprehensive master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission (hereinafter referred to as the "Commission"), acting through the Great River Environmental Action Team, and in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings and submitted in writing to the Commission and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Commission. The Commission shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Commission shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(b) The master plan authorized under subsection (a) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) For the purposes of developing the comprehensive master plan, the Commission is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Commission shall request appropriate Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

1. (a) The carrying capacity of the Upper Mississippi River System, and (b) the long- and short-term systemic ecological impacts of (i) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (ii) present operation and maintenance programs, (iii) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (iv) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources. For the purposes of this paragraph, the Department of Interior shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

2. (a) The relationship of any expansion of navigational capacity of the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity of the Nation's railroads and on shippers dependent upon rail service, (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System, and (d) a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois. For the purposes of this paragraph, the Department of Transportation shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

3. Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the flood plain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

4. Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(d) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the upper Mississippi River system.

(e) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(f) The upper Mississippi River system consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(g) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and

channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the upper Mississippi River system, until the master plan prepared pursuant to this section has been approved by the Congress.

(h) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other navigation-related construction activities initiated by the Secretary of the Army on the upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Gratton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Mr. BLOUIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BLOUIN. Mr. Chairman, let me explain just very briefly what this amendment does. I do not intend to take a long time on this proposal today. I think the need for a new lock and dam at Alton, Ill., is well documented. The legislation has been debated off and on around this House for enough years so that prolonging the debate at this point accomplishes very little.

What our amendment does—and our amendment is cosponsored by Congressmen, MIKVA, QUIE, FRASER, and OBEY, as well as myself—is to put two provisions into this legislation that are already included in the Senate bill, which has already passed the Senate.

The first is a prohibition on the deepening of the 9-foot channel other than routine dredging north of the Alton lock and dam, north of Cairo, Ill., on the upper Mississippi system.

The second provision establishes a comprehensive study of the upper Mississippi River system as to how it fits into our future water transportation plans in this country and how that, as part of water transportation, fits into our overall transportation program in this Nation. It accomplishes that study, unlike the Senate version which creates a new council but rather by working through the existing GREAT team, an arm of the Upper Mississippi River Basin Commission, and having that council, which already exists and which is already into a study, broaden its scope, work on the entire upper Mississippi River system and report back to this body with its findings before any further development of the upper Mississippi River system takes place.

The second provision, as I said, is a routine prohibition on a dredging or a deepening of the 9-foot channel.

Mr. Chairman, I would like to read a letter, if I may, a very brief letter, from the U.S. Department of the Interior, from Mr. Robert L. Herbst, Assistant Secretary for Fish and Wildlife and Parks:

DEAR MR. BLOUIN: It has come to our attention that you have cosponsored amendments to H.R. 8309, a bill addressing Alton Dam and the Upper Mississippi River System.

As you know, the Administration and this Department oppose any channel depth in excess of 9 feet north of Cairo, Illinois. We also support studies to determine carrying capacity, natural resource impact of expanded navigation, and the effect of any expansion on other aspects of the transportation network.

From the specific point of view of the Fish and Wildlife Service, we have no objection to the concept of the master planning provision.

A similar letter has been sent to cosponsors of the amendments.

Mr. Chairman, I think that letter states the case very clearly that this amendment will put this bill more in line with administration policy and more closely to a position where, if our version of the user fee prevails, the President would be more willing to accept the overall package in deference to a desire to have a higher fee.

Most importantly, in my opinion, it makes the bill far more acceptable to those who are concerned about the balanced development and growth of the upper Mississippi River system.

Mr. Chairman, I live on the river. I live in a town which has a history which goes back 150 years and longer. The town and the district I represent depends upon the Mississippi River and the whole system. It depends not just on the availability of that river for transportation, but for recreation, wildlife, fishing, and conservation uses, as well.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 3 additional minutes.)

Mr. BLOUIN. Mr. Chairman, there is no reason why this Congress or any body has to prohibit the proper navigational use or hinder the proper navigational use of that waterway. But at the same time, there is no reason why we have to turn it into a sewer. There is no reason why we have to inihibit the ability of others to use that river for other proper gains and proper recreational efforts. There is absolutely no reason why people in the small communities who make their bread and butter off of tourism dollars have to face the possibility or using that because of the increased unwise development and improper development of that waterway system.

I think our amendment strikes a balance. It allows all sides to live in reasonable harmony on a system that has meant so very much to the heartland of this country. It allows that part of the Nation—our part of the Nation—to use that system to move our products, as well as to fish and hunt and do whatever else people enjoy doing on a water system such as that.

Mr. Chairman, I think it is a good balance. I think it is a fair and equitable approach. I think it is essential if this bill is going to garner the kind of widespread support it ought to have.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I will be happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am trying to understand the mechanics of the gentleman's amendment.

The gentleman is authorizing a commission. Is this commission, then, to work over or act as an umbrella or another commission over the GREAT that is now operating?

Mr. BLOUIN. No, it does not replace the GREAT.

Mr. VOLKMER. This, then, changes the amendment as it was?

Mr. BLOUIN. The amendment is changed from what it was originally.

Mr. VOLKMER. As printed in the RECORD?

Mr. BLOUIN. It is not the version as printed in the RECORD. It is the same in every respect except for two small changes. No. 1, we do not create a new commission. We have to GREAT assigned the responsibilities of carrying out this study.

No. 2, we do not interfere with the construction of flood prevention projects on that river. This relates only to the navigation-related projects.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, we did not get a chance to see the gentleman's amendment before it was proposed.

It appears to me that the gentleman really wants to amend title III, on which there is a study. The amendment is substituting a separate study. Is it possible the gentleman is in the wrong section?

Mr. BLOUIN. Mr. Chairman, it really does not make much difference where we start, except at the very beginning we amend page 8 by restating identically the first paragraph of title I, except for the appropriations figure, and we adjust that accordingly to transplant the study funds in another section of the bill.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. BLOUIN was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield further?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, as I understand the gentleman's amendment, the gentleman provides $20 million or he authorizes that amount for this study in his amendment?

Mr. BLOUIN. That is correct.

Mr. FRENZEL. And the amendment reduces the base authorization by $11 million?

Mr. BLOUIN. That is correct.

Mr. FRENZEL. How does the gentleman reconcile those figures?

Mr. BLOUIN. The $11 million in the original appropriation in the basic bill was, as I understand it, what the committee assumed would be the cost of the studies that the basic bill called for, pro-

viding for the completion of the studies that were in the bill. The expansion of the studies, as approved by the Senate and as found in this amendment, are financially accounted for in the extra $9 million.

It is my opinion that since we are not creating a new council, we will more than likely not need as much money, and the $20 million figure will probably be able to be adjusted downward. I would hope that could be done in the conference committee when this issue certainly gets to conference.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has again expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield further?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the amendment seems to be a little bit more complicated than I had thought.

I thank the gentleman for his explanation.

Mr. BLOUIN. Mr. Chairman, the $421 million figure, in any event, is the same committee figure used to authorize construction of a new lock and dam, constructed in such a fashion as to provide for additional second lockage capacity if and when it is decided that is needed, and that is identical to the wording of the House bill.

Let me also make one further point. I intend to vote for this bill on final passage regardless of what happens to this amendment. I am convinced that this language is more than likely to end up in the bill in the conference committee anyway, if it is not put in here. I just cannot believe that this Congress is going to pass legislation without at least the provision for a 12-foot channel or some type of a channel on the Upper Mississippi.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has again expired.

(On request of Mr. OBERSTAR and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman's amendment grants a very substantial role to the Department of the Interior. It says that the Department of the Interior shall be considered the primary agency.

I would just like to know on what authority the gentleman is basing his language in this bill. What is the present role of the Department of the Interior on the Mississippi River?

Mr. BLOUIN. I am sure the gentleman is aware of their involvement. They have a very active and involved role in nearly all aspects of the river.

Mr. OBERSTAR. What is the role of the Department, under the gentleman's amendment?

Mr. BLOUIN. Mr. Chairman, let me tell the gentleman first why we chose the Department of the Interior.

The Corps of Engineers has an image as one agency that would automatically approve just about any kind of a transportation capacity for that river. On the other hand, the other agency, the Department of Transportation, which has to an extent been involved in the waterway transportation system, has just as much of a knee-jerk reaction in favor of substantial user fees and pay-as-you-go types of cost provisions.

We think that with those two agencies which are already involved, with as automatic reflex positions as they have, it would be wise to bring another agency into it, headed up, again, remember, through GREAT, going into the study with an open mind. We think that the Department of the Interior has that open mind in terms of how our Upper Mississippi waterway system fits into our transportation plan.

Mr. OBERSTAR. It just seems to me that the gentleman is vastly expanding a role of a department that is not clearly associated with, nor has it a history of association with, the waterway inland navigation development programs of the United States, and that the gentleman is giving the department a role for which it is not suited.

Mr. BLOUIN. I would agree with the gentleman's concern that he is now voicing if we had gone ahead with our original amendment to create a council chaired by the Secretary of the Interior. But we are not proposing that.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. HARSHA and by unanimous consent, Mr. BLOUIN was allowed to proceed for 3 additional minutes.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, on the first page of the gentleman's amendment, he says as follows:

> There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

That refers to the construction of a lock at dam 26, does it?

Mr. BLOUIN. If the gentleman will forgive me, would he read his question again.

Mr. HARSHA. I have the gentleman's amendment. I think it is the latest one.

In section 102, subsection (a), the gentleman authorizes the construction of dam 26 at a cost of $421 million.

Mr. BLOUIN. That is correct.

Mr. HARSHA. Then in subsection (c) the gentleman authorizes "such sums as are necessary" to be appropriated to the Secretary of the Army.

Can the gentleman tell me the reason for these two authorizations?

Mr. BLOUIN. It is to insure that there will be sufficient funds to complete the project.

Mr. HARSHA. Next, I want to make sure that I am correct in this assessment of the gentleman's amendment, that the amendment precludes any study of the feasibility of navigational projects on the Kaskaskia River, Ill., and the Illinois River and Waterway, Ill.; is that correct?

Mr. BLOUIN. It precludes any study.

Mr. HARSHA. But the gentleman also says, in subsection (b) on the first page, the following:

> . . . Neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels. . . ."

Mr. BLOUIN. Of deepening the navigation channels, correct. In terms of deepening, it precludes any study of anything below a 9-foot capacity. That point should be very clear.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. HARSHA and by unanimous consent, Mr. BLOUIN was allowed to proceed for 5 additional minutes.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield further?

Mr. BLOUIN. I yield to the gentleman from Ohio.

Mr. HARSHA. To continue, Mr. Chairman, in the event that there is an ongoing study of either the Kaskaskia River, Ill., or the Illinois River and Waterway, Ill., that would have to stop under the provisions of the gentleman's amendment, would it not?

Mr. BLOUIN. If it is a study involving the deepening of the river, yes, it would have to stop; that is correct. That is the clear intent of that part of the amendment.

Mr. HARSHA. I just wanted the Members from the State of Illinois to know that they would be preempted and that any studies now ongoing would have to stop.

Mr. BLOUIN. If they are Federal studies, that is correct.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I have not had a chance to study the gentleman's last amendment. I did look at the other amendment.

Mr. BLOUIN. They are substantially the same, as pointed out.

Mr. SNYDER. The gentleman has done away with the council in his amendment; is that correct?

Mr. BLOUIN. Correct.

Mr. SNYDER. And the gentleman is actually saying that the operation should be through the apparatus of the GREAT study which this body authorized at a cost, I believe, of $9.1 million, estimated. The GREAT studies provide for the participation of the States of Wisconsin, Minnesota, Illinois, Missouri, and the gentleman's State of Iowa. It includes the participation of EPA, the Department of the Army, the Department of Agriculture, the Department of the Interior, and the Department of Transportation.

How does the lead agency, Interior, function with those different departments under the gentleman's amendment?

Mr. BLOUIN. They would all remain involved in the study except that, insofar as where specifically referred to, the Department of the Interior would be the lead agency for the study, in terms of the expansion capacity of that river.

Mr. SNYDER. What does the gentleman mean by "lead agency"?

We are talking about the EPA, the Army, Transportation, Interior, and Agriculture, who are all involved in the GREAT study already. What function will Interior take that they do not already have in this joint effort with the other agencies?

Mr. BLOUIN. The intent is to put them in the leadership role in terms of steering the study.

Mr. SNYDER. Is the gentleman giving them a veto power?

Mr. BLOUIN. No.

Mr. SNYDER. Who will make the determination as to what weight they will get? You know, I think the GREAT study is a pretty great thing.

Mr. BLOUIN. But it has gotten to be a problem so much so that one State has dropped out. We are attempting to improve its scope and its credibility.

Mr. SNYDER. The purpose of it is as follows:

> The GREAT study will develop a master plan setting forth a multi-objective river system management strategy addressing navigation, fish and wildlife, recreation, watershed management, water quality, and other water and related land resource needs, and will stress the resolution of conflict between the use of the river for navigation and its viability as a fish and wildlife and recreation resource.

That is the charge to the GREAT study. What will the gentleman's study develop that is not already going to be developed in that charge with the GREAT study? What does the gentleman intend to develop further than that?

Mr. BLOUIN. Our intent is clearly spelled out in section 102(c) 1, 2, 3, and 4.

Mr. SNYDER. What are the goals that the gentleman is trying to arrive at that are not already enumerated in the charge for the GREAT study? Does the gentleman have anything he wants to arrive at that is not already enumerated in this GREAT study?

Mr. BLOUIN. If the gentleman will turn to page 3 of my amendment, he would be able to read it. As I have already stated, it is in section 102(c) 1, 2, 3, and 4.

Mr. SNYDER. I would if I had one.

Mr. BLOUIN. The gentleman's table has about eight of them, there are only five of you sitting there, that should leave a few open.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is obvious that there are several ambiguities in the amendment. The author of the amendment could not explain the two authorizations himself that I pointed out.

This same amendment was in the bill that was passed by the other body. Because of the broad scope of this bill and the uncertainty about what it contains, even the author could not explain it to me. It would tie the hands of the conferees on the House side if we adopted the amendment which is substantially the Senate language. We could not then perfect the amendment when we go to conference, because there would be nothing in the conference.

Both amendments having been accepted, the hands of the House would be tied, so that is one reason I think the amendment should be defeated. But more than that, there is an ongoing study of the entire Upper Mississippi River basin which encompasses everything that is conceivably pertinent to that particular river basin. This study is the so-called GREAT study that was authorized by the 1976 Water Resources Development Act, which authorized the Secretary of the Army to investigate and study, in cooperation with interested States and Federal agencies through the Upper Mississippi River basin, the development of a river system management plan in the format of the GREAT river study for the Mississippi River from the mouth of the Ohio to the head of navigation at Minneapolis, incorporating total river resource requirements—total river resource requirements—including, but not limited to, navigation, the effects of increased barge traffic, fish and wildlife, recreation, watershed management, and water quality, at an estimated cost of $9,100,000. Mr. Chairman, that study is going on at a Federal expenditure of over $9 million.

That is an all-encompassing study. It will provide all of the information that is possibly needed for the proper management of the Upper Mississippi River basin.

In addition to that, the bill authorizes another study by the Secretary of Commerce and the Secretary of the Army, found on pages 16, 17, and 18 of the bill, setting forth every conceivable economic, environmental, and recreational impact that this particular issue could have in the Upper Mississippi River Valley. I think that that is enough study, Mr. Chairman, and that we ought not to delay this process nor tie the hands of the conferees by this superfluous amendment here. Mr. Chairman, I urge the House to defeat it.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

I want to commend the gentleman for his statement and join him in opposing this amendment.

Obviously, the thrust of the amendment is nothing but a duplication, as the gentleman has indicated, of the GREAT study. We have authorized $9.1 million. All we are doing is blowing another $11 million to run it on up to $20 million. I think the taxpayers deserve a better break than that.

Mr. HARSHA. Not only that, but they are precluding the other States and the other Federal agencies from studying navigation projects, particularly the Illinois River system.

Mr. SNYDER. The gentleman is eminently correct.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

The gentleman from Ohio has spent a lot of time studying this question reflected in his comments today, and I want to say that I certainly concur in his argument, and especially the point he made at the outset that if there is anything in the pending amendment which merits the consideration of the conferees, it will be before the conference anyway, because the Senate has already adopted language in substance identical to that which is now pending before us.

Mr. HARSHA. The gentleman is correct.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Chairman, while H.R. 8309 addresses many of the economic needs of the upper Mississippi River and will facilitate the movement of commodities up and down the river, it does not address the numerous environmental concerns of the area's ecosystem. The Blouin amendment seeks to address these concerns in two ways. First it calls for a prohibition on building a 12-foot channel on the upper Mississippi or studying the possibility of such a channel.

One of the major controversies of lock and dam 26 is whether the new lock and dam is the beginning of a move for a 12-foot channel although the Rivers and Harbors Omnibus Act of 1930 sets the channel depth of the Mississippi at 9 feet. While the Army Corps of Engineers and the Public Works and Transportation Committee deny that this is the beginning of a 12-foot channel, numerous corps documents indicate that lock and dam 26 is designed to accommodate a 12-foot channel and once the new facility is built, the cost of dredging a 12-foot channel will be greatly reduced. A 1970 corps general design memorandum No. 2 on replacement of lock and dam 26 states:

> The lower sills in the lock were set at 18 feet below the minimum tailwater to provide a 15 foot clearance for a 12 foot navigation channel plus 3 additional feet to provide for ice, frozen soil, or debris that frequently clings to barges during winter months.

Numerous authorities do not believe that the corps has given up on the idea of a 12-foot channel although it is illegal. Judge Richey of the U.S. district court studied the 12-foot channel argument and concluded:

> The Corps would have this court conclude that the 12 foot channel has therefore been rejected and that no systemwide improvements to that effect are contemplated by the

proposed Lock and Dam 26. This contention is unworthy of belief. (382 Federal Supplement 610)

The imposition of a 12-foot channel would present numerous environmental problems because of the increasing dredging needed to sustain that channel depth. Increased dredging of the river presents the following environmental hazards among others:

First. The deeper channel will require more dredging to maintain the channel and too often the dredging spoil is disposed of on backwater areas which helps eliminate this valuable habitat which serves as the home for numerous species of birds and animals.

Second. Dredging destroys the bottom dwelling organisms which decompose organic matter and are an integral part of the river ecosystem.

Third. Dredging increases the turbidity of the river. This reduces the ability of light to penetrate the water, which reduces photosynthesis and oxygen production. In addition, the water becomes increasingly murky and less beautiful.

Fourth. Dredging resuspends biostimulants like phosphorus which are found in the sediment. These biostimulates then speed up algae production and increase eutrophication.

Fifth. As more of the river's life dies, their bodies cover the river bed with organic matter which fills in shallow portions of the river.

Even the corps final environmental impact statement entitled, "Mississippi River Between the Ohio and Missouri River Regulating Works," April 1976, indicated that approximately 25 percent of the remaining chutes and backwater areas will be destroyed due to navigational improvements without a 12-foot channel. With a 12-foot channel the loss would be much greater. This will ruin the habitat of a number of species of fish, animals, and birds as well as a number of plant species which thrive in this habitat. The impact of increased dredging can be seen all to well on the Missouri River which has lost 50 percent of its surface area due to channel-stablization procedures.

I agree with Judge Richey that the idea of a 12-foot channel is not dead, in spite of the legal prohibitation against it and the numerous environmental problems it would cause. I introduced an amendment in committee to prohibit a 12-foot channel and totally support the inclusion of this provision in H.R. 8309 especially when the consequences of a 12-foot channel are as damaging as they are.

The Blouin amendment also addresses environmental concerns by setting up a study by the GREAT team (great river environmental action team). They would develop a master plan for the river system taking into account not only the economic considerations but the environmental and recreational ones as well. Once this master plan is approved by the Mississippi River Commission and the Congress, no new construction could be undertaken unless it fit into the master plan. In developing this master plan, two studies would be mandated. The first would be a study of the environmental impacts of further construction on wildlife, water quality, and recreational use of the river. This study would be headed by the Department of the Interior and is very much needed.

The Blouin amendment also mandates a study of the relationship of any expansion of the navigational capacity of the Upper Mississippi to our national transportation policy, particularly the railroads. This study would be done by the Department of Transportation in consultation with other involved agencies. This study is needed because the continued expansion of the navigational capacity of the Upper Mississippi which is advocated by the Corps of Engineers has adversely impacted other forms of transportation. A study done by the corps would be prejudiced in favor of inland waterway transportation regardless of the consequences of transportation policy nationwide. DOT is concerned with the impacts of navigational improvements not only on the barge industry but on competing forms of transportation as well and would be able to make an objective study which would be needed before the master plan is developed.

One evidence of the corps' lack of concern for nationwide transportation policies is the corps' objection to user fees which would recover some of the huge investment this country has made in inland waterways. While the corps objects to them, DOT totally supports them because the investment in these waterways has amounted to a large subsidy by the American taxpayers to the barge industry. A 1975 study shows that 44 percent of the barge industries' expenditures were from Federal subsidies while Federal subsidies amounted to 1 percent of the expenditures of air carriers and highways and 2 percent of the railroads.

The user fees in this bill are hardly adequate, they will recover at the most only 25 percent of the operations and maintenance costs of the inland waterway system and none of the capital construction costs on this 25,000-mile system with 212 navigation locks and dams. Only 6 percent of the $488 the corps spent on commercial navigation projects in fiscal year 1977 would be recovered under the provisions of H.R. 8309 and it is expected that corps investment will climb to $841 by fiscal year 1982. Annually the corps and the Coast Guard spent almost $1 billion to support our inland and coastal waterways. Vessels on these waterways do not maintain or pay for the use of these waterways with the notable exception of the St. Lawrence Seaway where tolls on vessels and cargos not only cover operations and maintenance costs but annually return to the Treasury some of the original capital investment.

DOT has done numerous studies on the impacts of user fees on commodity prices and has shown that the average increase in feed crops costs would be less than 1 percent if a user fee recovered 100 percent of operation and maintenance costs, and the impact of the fees in this bill would be only one-fourth of that. The added cost of oil with a user fee recovering 100 percent of operation and maintenance costs would be 1.5 to 1.9 percent and the added cost of electricity because of added coal costs would be one-one hundredth of a cent per kilowatt hour.

Some have argued that we should not tax barges which are energy efficient, however, a Congressional Budget Office paper "Financing waterway development: the user charge debate" states:

> Estimates of barge energy use generally fall in the range of 500–700 BTUs per ton mile, the estimates for rail are usually in the 300–700 BTU's and oil pipelines, 400–500 BTUs.

For these reasons, I believe that the user fee in this bill is much too low and that we should adopt a policy of user fees which recover 100 percent of operation and maintenance and 50 percent of construction costs like the Senate has.

The Blouin amendment makes much needed improvements in this bill and addresses the environmental concerns which this bill does not. In addition, the inclusion of the Blouin amendment would make the bill more consistent with the Senate bill which contains these provisions.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Just very briefly, I oppose the gentleman's amendment. I think if we adopt it, we would see a classic case of Congress studying itself to death and authorizing yet another study on top of a study that exists already, which has been complemented by an ongoing study itself. So I think we have reached a point where our studies, instead of giving us vital information, end up killing projects badly needed. Therefore, I strongly oppose the amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Will my colleague tell me how many studies have been carried on with regard to an overall waterway program?

Mr. OBERSTAR. My time limits do not permit me to list all the studies that have been carried out.

Mr. SKUBITZ. But I read in title III where we are talking about another study. Since 1939 there have been 19 different studies carried on with respect to water users tax in this country.

Mr. OBERSTAR. That is the point I was making a moment ago, that there are too many studies. I thank the gentleman for his comments.

Mr. SKUBITZ. Why do we suggest another one in title III?

Mr. OBERSTAR. Mr. Chairman, it is not yet Halloween, but the hobgoblins are already out. In fact, we might call this the hobgoblin amendment. It is encouraged and inspired not by my colleagues but by folks who see hobgoblins and spooks and booby traps all along the Mississippi River. They want to prevent

the Corps of Engineers from taking any further action on the Mississippi River in line with its principal role to insure navigation along the inland waterways of our country. The proposal to give the Department of the Interior a role for which it is not suited and to give it responsibility for which it is not equipped is simply to add another layer of bureaucracy on the Mississippi River navigation program over the Corps of Engineers. It is clearly an effort to prevent something that has already been taken care of in the committee report, an effort to assure that a 12-foot channel cannot be built in the Mississippi River, and we have already done that in the committee report.

I would like to quote from the committee report, which says:

> The authorization of a replacement dam with a 1,200-foot lock in no way constitutes an endorsement of, or a commitment to a study or construction of a 12-foot channel on the Upper Mississippi River.

This language could not be any plainer or clearer about the intention of the committee. The language in the report is clear about the thrust of this legislation, which is to assure that careful analysis will be done, that careful study will be made before any further action is taken with respect to expanding navigation on the Mississippi River. The language of the gentleman's original amendment and the language that is now in the bill which has passed the other body would have added another layer on top of the GREAT river study project which is now under way. They are now conducting the very studies proposed in the gentleman's amendment and it would cost another $9 to $12 million, as the gentleman from Kansas pointed out, in addition to the other studies.

As I already pointed out, giving a role to the Department of Interior and other agencies would simply add another layer, preventing the Executive branch from having one clear line of authority on this Mississippi River study, and I think the amendment is clearly intended to prevent any report from being printed, any study from being conducted on the Mississippi River, let alone a favorable study to continue an already fine navigation program.

So this is simply an obstructive amendment that this body ought to defeat and defeat soundly.

Mr. HAGEDORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I would like to associate myself with the remarks of the previous speaker, the other gentleman from Minnesota (Mr. OBERSTAR), and in opposition to this amendment.

Mr. Chairman, if I were to suggest that the Federal Government use the taxpayers' money to construct an automobile plant, and then turn that plant over—free of charge—to the Ford Motor Co., I would not be taken seriously. And rightly so—even though such an action should result in lower retail prices on Ford automobiles.

But this is almost exactly what has been done in the case of commercial water transportation. The Federal Government—at public expense—has built, maintained, and operated a costly system of navigable waterways for the benefit, principally, of commercial barge companies and their customers. The barge companies have been using this system free of charge—and it has been justified on the basis that it has brought about lower barge rates than would otherwise be possible.

When you consider that every dollar spent by those who ship by water is matched by services worth 41 cents of taxpayer money, it is not surprising that barge lines are able to undercut their competitors.

But the majority of freight shippers do not have access to, or cannot use, barge transportation. They must use other forms of transportation—such as the railroads—whose rates reflect the full cost of doing business.

These shippers are greatly disadvantaged relative to their competitors who do use water transportation. Or—to put it another way—those who ship by water have the advantage of a significant subsidy for their transportation expenses.

The proposal before us is a proper one insofar as it does finally establish the principle that the barge industry should pay a user charge.

But the charge it proposes falls far short of adequacy. Even so, it establishes a vitally important principle.

The fuel tax proposed here would cover about one-sixteenth of current Federal navigation-related expenses. Even when that tax climbs from 4 to 6 cents per gallon, in 1981, it would recover less than one-tenth of these expenditures.

Thus, while the proposed tax would impose no real limiting dicipline over future waterway spending projects, nor does it create "instant" equity among competing forms of transportation, it is a small step in a very important direction.

Mr. HAGEDORN. Mr. Chairman, I rise in opposition to the amendment as a back-door attempt to rig—in advance—water resources development policy in this country.

It is nothing short of that, and the fact is obvious when you look at the amendment. This is the opening shot in a campaign to put the Department of the Interior in the catbird seat when it comes to calling the shots on water resources.

Why do I say that? Look at the amendment. It is loaded with meaningless provisions that serve as nothing but camouflage for its intent.

We find, for example, a ringing declaration that there shall be no channel in the upper Mississippi or related systems deeper than 9 feet. That is totally unnecessary. No one has any earthly intention of dredging the Mississippi to a 12-foot channel.

Then there is this study of the upper Mississippi. Who could object? Its only apparent deficiency on the surface is the fact that it duplicates a whole raft of studies already authorized or otherwise provided in this bill.

Here is the key. Not only is the study called for duplicative, but we find that the Secretary of the Interior made the lead agency with respect to that element of the study relating to carrying capacity of the river.

Moreover, with respect to the impact of any increase of navigation capacity on national transportation policy, railroads and shippers dependent on railroads, we find the Department of Transportation as the lead agency.

These are not arcane subtleties, Mr. Chairman, not to those of us who have historically had the legislative responsibility for the types of improvements involved. Such an approach would cut out, or severely subordinate, the role of the Corps of Engineers with its expert capability to make balanced recommendations encompassing both in navigation and environmental considerations.

There appears to be a new game in town, gamesmanship by studies. He who asks the questions is giving half the answer.

To put the Department of the Interior into this position with respect to the Upper Mississippi River Basxi Basin would shortchange considerations other than environmental. That is for openers.

But am deeply concerned that if we do so in this instance, and start cutting and trimming the role of the Corps of Engineers, we will wind up with the Interior Department gaining increasing control of water resources policy.

I may as well put it bluntly: Chop the corps out of its traditional role and you will diminish the ability of the Committee on Public Works and Transportation, with its jurisdiction over the corps, to authorize improvements needed for a variety of purposes throughout the country. This affects your district and mine.

The outcome of this vote could well help determine whether the programs of the Corps of Engineers winds up in the Department of the Interior.

Mr. RUPPE. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act, which, in pertinent part, authorizes replacement of locks and dam 26 at Alton, Ill., with a new dam and a single 1,200-foot lock at an estimated cost of $432 million including a study of the desirability and feasibility of a second lock, imposition of a 4- to 6-percent excise tax on fuels used by commercial cargo vessels on specified inland waterway systems, and studies, jointly and separately, by the Secretaries of Commerce and Transportation and by the General Accounting Office.

The studies will assess the impacts of this excise tax on carriers, shippers, users, and international trade. These agencies will seek to enlarge upon past studies and balance the equities in regional development and competing users of the waterways in a cooperative process with the National Transportation Policy Study Commission. Meanwhile,

the General Accounting Office will be asked to undertake a separate study of the effect of fuel taxes and other possible charges on the users of federally-maintained waterways in which it will give consideration of the subsidies extended to competing modes of commercial transportation and their impact on the national economy.

I am satisfied that a new modern locks and dam 26 is justified though I am very concerned about the possibility that this proposal in its present form could result in a precipitous rush to further develop the Mississippi River system. I will address this concern in greater detail later in these remarks.

I am satisfied also that the principle of user pay has been more positively established albiet in an understandably cautious approach. While mindful of the trite phrase, "There ain't no free lunch," which in this case is likely to result in some consumer burdens, I am optimistic that users of an affected system will likely be more cautious in their demands for Federal, and taxpayer, assistance. I should note the apparent misconception under which many of my colleagues labor and that is the notion that for the first time users of a U.S. waterway system are willing to pay a charge for services rendered. Users of the gateway into the Great Lakes, the St. Lawrence Seaway, have been paying tolls since 1959, and are at this very moment facing higher commodity and lockage tolls.

The studies initiated by the legislation, I expect, will not only address the problems of the systems primary users but will involve the secondary beneficiaries in an effort to balance the equities. A paramount concern of mine relates to the disposition of revenues derived from a system of user charges. As indicated in a recent Workboat article, I believe, for example, that shoreline property owners adversely affected by waterways use and development should receive fair compensation from the system rather than having all revenues set aside for the general fund or for further system development.

I have indicated my concern for any rush to expansion of the Mississippi River system especially above Cairo, Ill. To this end, I support the amendment surfaced by the gentleman from Iowa (Mr. BLOUIN). His detailed proposal would establish a council that would develop a master plan for the management of the upper Mississippi River system in cooperation with the appropriate Federal, State, and local officials. The process of developing a comprehensive master plan for the management of the upper Mississippi River system as a prerequisite to further development appears to have been built upon the sometimes traumatic experiences of a current winter navigation demonstration program for the Great Lakes. I would expect any plan developed to be subject to continuous review and improvement as any congressionally approved demonstration programs or other development initiatives proceed.

In balance, I find that an equitable compromise has been struck in H.R. 8309 as amended by the Blouin proposal.

AMENDMENT OFFERED BY MR. ROBERTS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BLOUIN

Mr. ROBERTS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS as a substitute for the amendment offered by Mr. BLOUIN:

Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation chanels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) The Congress hereby authorizes and directs the preparation of a comprehensive master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission (hereinafter referred to as the "Commission"), acting through the Great River Environmental Action Team, and in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings and submitted in writing to the Commission and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Commission. The Commission shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Commission shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(b) The master plan authorized under subsection (a) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommended guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) For the purposes of developing the comprehensive master plan, the Commission is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Commission shall request appropriate Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

1. The carrying capacity of the Upper Mississippi River System, and (b) the long- and short-term systemic ecological impacts of (i) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (ii) present operation and maintenance programs, (iii) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (iv) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources.

2. The relationship of any expansion of navigational capacity of the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity of the Nation's railroads and on shippers dependent upon rail service, (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System, and (d) a specific evaluation of the need for a second lock at Alton, Illinois, and the needs for such a second lock at Alton, Illinois. For the purposes of this paragraph, the Secretary of the Army acting through the Chief of Engineers shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

3. Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the flood plain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

4. Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(d) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(e) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(f) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; and Saint Croix River, Minnesota and Wisconsin.

(g) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(h) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other navigation-related construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Chairman, this amendment is an amendment in the nature of a substitute to the amendment offered by the gentleman from Iowa. This substitute is essentially the same as the gentleman's amendment but with some minor revisions which insure that the studies of the Upper Mississippi River and of the need for and impact of any expansion of navigation capacity are performed by the appropriate agencies.

The gentleman's amendment would assign the basic responsibility for the comprehensive study and development of a master plan to the Upper Mississippi River Basin Commission. We agree with this concept, as this is a proper role for the River Basin Commission. However, the gentleman's amendment in section 102(c)(1) designates the Department of the Interior as the primary agency for studying environmental impacts on, and protection measures for, the Upper Mississippi. We feel this is an unwarranted expansion of the traditional role of the Department of the Interior and that this part of the study, as the other parts of the study, should properly be done by the Commission. Our substitute provides for that.

Our substitute also makes it clear that the Secretary of the Army who is responsible for the development and maintenance of this Nation's inland navigation system, will play the primary role in determining the feasibility of, and need for, a second lock in the replacement of locks and dam 26 whenever a study of such a second lock is undertaken.

Finally, our substitute makes it clear that the prohibition against any construction activities by the Secretary of the Army which are not in accordance with the master plan applies only to navigation related projects and not to other projects such as flood control projects.

Mr. Chairman, the substitute we offer perfects the gentleman's amendment and insures that it will result in an effective and workable study and master plan for the Upper Mississippi River. I urge adoption of the substitute.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I want to compliment my chairman on this amendment, which responds to the questions that I had about the amendment of the gentleman from Iowa. It does keep the study intact, assigns the proper lead role to the Corps of Engineers, the agency that is properly endowed with talent and years of experience for handling navigation works and the substitute amendment retains the essential protection against deepening of the Mississippi River channels and consequent expansion of navigation unless specifically authorized by further act of Congress.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, the minority will accept the amendment. It is an improvement over the present amendment offered by the gentleman from Iowa; but it still does not relieve us of the problem of having three or four additional studies going on. I do not see the necessity of any further study, except what is already authorized, but this is an improvement and we will accept it.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the gentleman from Ohio talks about an additional study. As I understood, this will allow the GREAT Study to continue its work and that is the study we are talking about; is that correct?

Mr. ROBERTS. That is correct.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, I certainly support that, because while there have been some objections by some people, I think GREAT has been doing an outstanding job.

The second point that the gentleman raises, it is of tremendous concern along the Mississippi River that this may in some way lead to deepening of the channel. I believe we will stay at the 9-foot and never go to a 12-foot channel. Is this a part of the legislative history, or does the gentleman's amendment carry a prohibition going against deepening the channel below 9 feet?

Mr. ROBERTS. Mr. Chairman, it carries a prohibition.

Mr. QUIE. Mr. Chairman, I thank the gentleman and support the Roberts substitute.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Chairman, let me first ask a couple questions, if I may. As I understand it, the gentleman's amendment is language-wise nearly identical to our original amendment?

Mr. ROBERTS. Except with two or three points.

Mr. BLOUIN. To make the Secretary of the Army as the primary agency and to limit the study scope to what they are involved in at this point?

Mr. ROBERTS. Yes.

Mr. BLOUIN. Mr. Chairman, if the gentleman will yield further, judging by the temper of floor and the desire on the part of the committee to want to respond to many of our concerns, I think this is more than fair and I would be willing to accept this as a clear substitute.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ROBERTS was allowed to proceed for 1 additional minute.)

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding to me. All I want to do is to follow up on the question asked by the gentleman from Minnesota (Mr. QUIE) with respect to the prospects of any 12-foot channel. Do I understand correctly that the language in the gentleman's amendment absolutely forecloses the possibility of studying a 12-foot channel in the Mississippi above Cairo, Ill., including all of its tributaries? I ask this question because, as the gentleman knows, the Illinois River runs all the way through my district, and those of us who live along that river are dead set against deepening that channel. Anything that would lead to even a study of it would have to get our opposition.

Mr. ROBERTS. The answer to the gentleman is yes.

Mr. MICHEL. I thank the gentleman.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Minnesota.

Mr. FRASER. I want to make sure—I have not had a chance to compare the language of the two amendments, but is it the gentleman's intention that the environmental concerns expressed in the original amendment are carried forward in his amendment?

Mr. ROBERTS. Yes.

Mr. FRASER. The concern about the environment and the requirement to look at those issues, to look at this point?

Mr. ROBERTS. I emphasize again that this is the committee that brought that subject to the Congress.

Mr. FRASER. I thank the gentleman.

Mr. Chairman, the language we are offering is a compromise worked out between Representatives BLOUIN, OBEY, MIKVA, QUIE and myself. We fully support this amendment which is aimed at protecting the Upper Mississippi River System from what we see as potentially adverse environmental impacts if the safeguards we propose are not incorporated into the locks and dam 26 bill. Similar language was developed by Senator GAYLORD NELSON and included in the Senate-passed version.

Our two-part amendment does not affect the rebuilding of the new 1,200-foot lock at Alton, Ill. However, there can be no further expansion of the Upper Mississippi River's navigation system until Congress approves a master plan. The master plan, to be submitted to Congress

for approval in 1982, would identify the various economic, environmental and recreational objectives of the Upper Mississippi River system. The amendment also mandates a study of the Upper Mississippi by the Secretary of the Interior to determine the carrying capacity of the river system and a study by the Department of Transportation into the role of the new lock in the national transportation system. The second part of our amendment would prohibit any studies of the feasibility of deepening the present 9-foot navigation channel above Cairo, Ill., unless specifically authorized by Congress. Cairo is at the confluence of the Mississippi and Ohio Rivers and all 27 locks on the Upper Mississippi are north of this point.

We accepted the Quie proposal which would use the existing structure of the Upper Mississippi River Basin Commission to coordinate development of the master plan instead of creating a new Council to direct work on the master plan. In return, we would keep our original language directing the Departments of Transportation and Interior to be the lead agencies on certain environmental and transportation studies.

The Department of the Interior will be the lead agency working with the Commission when conducting studies on the following issues:

First, determining the carrying capacity of the Upper Mississippi River System; second, examining the long and short-term systemic economic impact of present and any projected expansion of navigation capacity on fish, wildlife, water quality, wilderness and public recreational opportunities; third, means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife; and fourth, analyze the immediate and systemic environmental effects of any second lock at Alton and provide for the mitigation and enhancement of such resources. Since Interior is the primary agency for these studies, this does not preclude participation by other agencies which the Commission feels should have a voice.

Bob Herbst, Assistant Secretary of Interior for Fish and Wildlife and Parks has expressed support for our amendment in an October 5 letter to my office. Herbst explains:

As you know, the Administration and this Department oppose any channel depth in excess of 9-feet north of Cairo, Illinois. We also support studies to determine carrying capacity, natural resource impact of expanded navigation, and the effect of any expansion on other aspects of the transportation network. . . . From the specific point of view of the Fish and Wildlife Service, we have no objection to the concept of the master planning provision.

The Department of Transportation working with the Basin Commission will be the lead agency when looking at the role of a new lock in our national transportation system. DOT will also examine: First, effects any expansion of navigational capacity will have on our railroads and on shippers dependent upon rail service; second, transportation costs and benefits to our country which might be derived from an expansion of the Upper Mississippi River's navigational capacity; and third, the need for a second lock at Alton, Ill.

Secretary Brock Adams supports the amendment. In a letter received by my office this morning, he writes:

I understand that your amendment would have no effect on the construction of a new lock and dam 26, would require a master plan for the Upper Mississippi navigation system, and would bar a deepening of the channel above Cairo, Illinois, without authorization from Congress. Since the Department supported the Nelson amendment, it would not be opposed to and would support your amendment.

We appreciate the Secretary's support and applaud his efforts to see that we study carefully the role of navigation development in our national transportation system.

The Western Railroad Association also supports this language. General Counsel J. D. Feeney writes:

These sections require, for the first time, careful consideration of how new barge projects affect the overall barge, rail and highway networks. The current practice is to consider barge projects as isolated changes without regard to their effects on shippers using other parts of the transportation system. This can lead to construction which increases overall transportation costs instead of promoting more efficiency.

In the October 5 letter, Mr. Feeney continues:

The formulation of a master plan . . . is a comprehensive approach to Midwest transportation which is absolutely necessary in order for Congress and the public to evaluate proposed barge projects. While the Upper Mississippi River Basin Commission's "GREAT I" study is a preliminary step in the right direction, the master plan mandates the assessment on a broader geographic basis which is needed to avoid grave financial impact on rail-oriented businesses.

The prohibition on studying the feasibility of a 12-foot navigation channel on the Upper Mississippi unless authorized by Congress is also an important part of our amendment. While the Corps of Engineers denies that rebuilding locks and dam 26 with an 18-foot sill depth is a step toward dredging for a 12-foot channel, Corps documents indicate otherwise. Representative DAVID BONIOR has done an excellent job of addressing this issue in his supplemental views in the committee report.

The concern is that the increased sill depth—from 10 to 18 feet—will make a stronger case for a 12-foot navigation channel. The sill depth in the lock would provide a 15-foot clearance for a 12-foot navigation channel plus 3 additional feet to provide for ice, frozen soil, or debris that frequently clings to barges during winter months. And 12-foot navigation could pass freely through the new lock and dam 26 of Alton, Ill. The Corps says this feature is only a side benefit. If all current locks were replaced on the Upper Mississippi's current 9-foot channel with locks like the one authorized in this bill, a 12-foot channel could be accomplished without major expenditures—a proposal that would have a good cost/benefit ratio.

Another matter to consider is the possibility of having the Corps dredge a de facto 12-foot channel. Last March, the first tow of the 1977 navigation season, the motor vessel *Ann King* with 12 loaded barges, grounded at Reads Landing, Minn. At the time, according to a March 29 corps report, the channel had depths of 9.5 to 10.5 feet. The overloaded barges had grounded within the buoy marked navigation channel.

On March 30, the Corps of Engineers, St. Paul District, initiated emergency dredging at Reads Landing. To quote from the corp's report:

Emergency dredging will be accomplished to a depth of 12-feet.

This concerns me especially when viewed in light of potential adverse environmental effects caused by the excess dredge spoil, such as turbidity of the river water and resultant wildlife loss and water quality degradation. Although this amendment does not prohibit such emergency dredging, I think it puts Congress on record as concerned about the possibility of having the Corps proceed with 12-foot channel studies without guidance from Congress. This is why I feel it is important to have the 12-foot channel language in the committee report and, more importantly, in the bill itself.

I believe our amendment is designed to insure the balanced growth of the Upper Mississippi River Basin. As representatives of States bordering the basin, we are particularly interested in maintaining the system's multipurpose character by providing recreation and environmental as well as commercial benefits.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

I do that for the purpose of addressing a question and, I hope, clarifying this.

Am I correct that in the gentleman's prohibition against more than a 9-foot channel, that is not intended to mean that the Corps of Engineers will have to go in to fill the pool right behind the dam or wherever it is over 9 feet deep?

Mr. ROBERTS. The gentleman is absolutely correct. It is also necessary that we have a deeper sill depth within the lock. The gentleman is correct. I appreciate his pointing it out.

Mr. SNYDER. I just thought that ought to be clear for the record. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ROBERTS) as a substitute for the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BLOUIN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS

SEC. 201. IMPOSITION OF TAX.

(a) Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) IN GENERAL.—There is hereby imposed a tax upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be—

"(1) in the case of a use after September 30, 1979, and before October 1, 1981, 4 cents a gallon, or

"(2) in the case of a use after September 30, 1981, 6 cents a gallon.

"(c) EXEMPTIONS.—

"(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) of subsection (d)(1) shall not apply with respect to use by a State or political subdivision thereof.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATER TRANSPORTATION.—The term 'commercial water transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United States' means any inland or intracoastal waterway of the United States which is subject to the Nevigation Development Act by reason of section 103 of such Act (as in effect on the date of the enactment of such Act).

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter."

(b) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32,".

(c) The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways."

(d) The amendments made by this section shall take effect on October 1, 1979. The first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. HARSHA. Mr. Chairman, I ask unanimous consent that we may offer a perfecting amendment to title I.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN: On page 12, line 21 of the bill, strike "14" and insert in lieu thereof "21".

Mr. HAGEDORN. Mr. Chairman, the purpose of this amendment is to correct an error.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. Yes, I yield to the gentleman from Texas.

Mr. ROBERTS. This is strictly a corrective amendment. It should have been "21" instead of "14" miles. It is 21 miles. The gentleman is correct, and we accept his amendment and would like to thank the gentleman for calling it to our attention.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The amendment was agreed to.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon to dispense with further reading of title II?

There was no objection.

The CHAIRMAN. Are there any committee amendments to title II?

Mr. PIKE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is my understanding that under the rule a motion to strike title II would not be in order. And that is too bad, because this product of a shotgun wedding between a needed public works project and an unneeded tax is poor legislation, to start with. It has been described, first of all, as a user tax. It is not a user tax. It is a sort of user tax. This is a tax which applies to commerce, which is vital to our Nation, but does not apply to pleasure. The commercial vehicles will pay the tax and the pleasure vehicles will not pay the tax.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Texas.

Mr. ROBERTS. The pleasure boats already pay the tax.

Mr. PIKE. The pleasure boats already pay the tax, but it does not go to any of this project. That is not where the shotgun was being pointed.

Mr. ROBERTS. If the gentleman will yield further, this goes right into the Treasury.

Mr. PIKE. The pleasure boat tax does not. It goes to the land and water recreation fund.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from California.

Mr. KETCHUM. The chairman is quite right. There is a tax for the pleasure boats, but that is used as a user fee for the land and water conservation fund.

Mr. PIKE. The gentleman is correct. The shotgun was aimed at commerce. It was not aimed at the pleasure boat. That is the first thing that is wrong with this tax.

The second thing that is wrong with it is that this is a tax on American commerce because it is a tax for the shallow water draft boats, and these are the American boats. We have the dredged Chesapeake Bay out there and we have all of the deepwater harbors in the area, and these are used by Liberian boats, by the Russian boats, and they do not pay the commerce tax; they do not pay the diesel fuel tax. So this is a tax aimed against American commerce while our competing ships do not pay any tax.

Finally, if there is one thing I thought we were interested in in this Congress, it was the conservation of energy. We spent weeks and weeks and weeks in the Committee on Ways and Means and we spent a long time on the floor of the House trying to find ways to conserve energy. We look for energy-efficient uses and, in so doing, for example, we took the tax off of the diesel fuel which is used by buses. Barges are 5 times as fuel efficient as buses in moving tonnage around the country. They are even more fuel efficient than oil pipelines in moving fuel around the country. So what we are doing here is that for the first time in 200 years we are putting a tax on the most fuel-efficient, energy-efficient method of transportation in the United States of America. This is a contradiction of everything we have been doing and everything we have been talking about, as far as energy is concerned. It is a terrible product of a shotgun pointed.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, what the gentleman is saying is absolutely 100 percent correct. There is only one problem, and that is that if we do not enact the fuel tax, we are not going to have any more further improvements on the navigational systems to go ahead and improve this great fuel-efficient way of moving cargo, because the administration has said they are going to veto the bill.

Mr. PIKE. Mr. Chairman, I think that what the gentleman is stating is also the fact. All I am saying to the gentleman is that I am not willing to submit to the shotgun, and I hope that the motion to recommit, which will come from the gentleman's side, will provide for striking out the fuel tax.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman is recognized. The Chair would, however, state that under the rule even pro forma amendments are not allowed to title II.

When the committee reaches consideration of title III, then it might be possible to discuss this in a more normal parliamentary fashion. If the gentleman from Pennsylvania (Mr. EDGAR) will permit, the Clerk will read title III.

The Clerk will read.

The Clerk read as follows:

TITLE III

SEC. 301. (a) The Secretary of Commerce and the Secretary of Transportation jointly shall undertake a study, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Administrator of the Federal Energy Administration (or his successor), and the Secretary of the Army, and make findings and policy recommendations, regarding any fuel tax imposed on inland waterway users, or alternative or supplemental charges, and on related matters. Such study shall include, but not be limited to, a consideration of the following areas:

(1) The economic impacts on (i) carriers and shippers using the inland waterways, (ii) users, including the ultimate consumers, of products which are transported on the inland waterways, and (iii) the balance of payments of the United States based on our international trade. The pricing and diversion effects on competition for freight. The effects upon the costs of energy, and the increases resulting therefrom, if any, in the amounts paid by consumers for energy. An evaluation of effects on regional development, including consistency with Federal policies as set forth in other legislation.

(2) The extent to which the Federal Government should seek to recover some or all of Federal expenditures for the benefit of waterborne transportation from the users of the facilities for which such expenditures are made.

(3) The classes and categories of waterway users upon whom fuel taxes, or other charges, should be imposed.

(4) The waterways of the United States (including specifically ports) which should be included in any system of fuel taxes or other forms of charges on users, together with the economic impact and effect on such waterways and users of such inclusion.

(5) The comparative levels of benefits received from Federal expenditures on waterways by (i) commercial users, and (ii) other users, including, but not limited to, users for recreation, reclamation, water supply, hydroelectric power, flood control, and irrigation purposes.

(6) The disposition and application of revenues derived from the taxes and other charges imposed on waterway users, including consideration of trust fund mechanisms.

(b) Not later than three years after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Transportation shall transmit to Congress a final report of the study authorized by this section, together with their findings and recommendations and those of the Secretary of the Treasury, the Secretary of Agriculture, the Administrator of the Federal Energy Administration (or his successor), and the Secretary of the Army.

(c) Nothing in this Act shall be construed to prohibit or otherwise restrict the National Transportation Policy Study Commission established by section 154 of Public Law 94-280 from studying any matter authorized to be studied by this section, and notwithstanding subsection (c) of such section 154, not later than six months after the submission of the final report by the Secretary of Commerce and the Secretary of Transportation required by subsection (b) of this section, the National Transportation Policy Study Commission shall submit to Congress its evaluation and review of such report, together with its recommendations, including any necessary legislation.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to speak to the comments of the gentleman from New York (Mr. PIKE) about energy efficiency. I would not like the RECORD to indicate that everyone is in agreement with his statement that barges are the most efficient energy transportation mode. I think pipelines are more efficient than barges.

There are studies that indicate that barges, while they do have some efficiency in the area of energy, are not necessarily the most efficient mode.

I draw the attention of the House to the Congressional Budget Office report of July 1977, in which the following statement is found:

> Opponents of waterway user charges argue that barge transportation should be encouraged by a subsidy because it is more energy-efficient than competing methods of transportation. Relative energy use varies greatly in specific circumstances because of differences in size, speed, and type of shipments for barges, railroads, pipelines, and trucks. When reasonable estimates vary so widely one can only conclude that blanket statements on energy efficiency are unwarranted . . .

One of the reasons that I focus our attention on this statement is that it is part of a whole series of reports that have come out relating to the issue of waterway user fees and charges. While I recognize the concern of the gentleman who took the well on title II, I would want the House to focus its attention on some of the many competent reports by the Department of Transportation, the Army Corps of Engineers, and the Congressional Budget Office, all of which suggest that reasonable recovery of waterway user fees is good policy today, and would have made sense 40 years ago.

Mr. Chairman. I would hope that the study authorized by title III of this bill will look at the impact of the minimal tax we are applying in title II. If the study concludes that a higher tax is more appropriate I hope we can come back in 2 or 3 years to provide for a higher recovery of the more than $400 million in annual Federal expenditures obligated to construct, operate, and maintain the inland navigation system.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. Before I yield to the gentleman from New York, I would like to clarify a part of Tuesday's debate.

Mr. Chairman, it has been brought to my attention that reference was made during Tuesday's debate on this legislation that the Public Works and Transportation Committee reviewed the environmental impact statement relating to the replacement of lock and dam 26, and finds this report to be in full compliance with the requirements of the National Environmental Policy Act. As a member of this committee, I want to make it clear that as far as I know, the committee did not officially consider the merits of the environmental impact statement. Even if we had, I do not see such consideration or authorization of lock and dam 26 in H.R. 8309 as waiving compliance with all the requirements of the National Environmental Policy Act, or any other applicable statutes. I strongly feel that it would set a bad precedent to give any legal foundation to this statement made during Tuesday's debate. Because this issue is being litigated currently, I feel it is important to clarify the statement made by the acting chairman of the Public Works and Transportation Committee.

I now yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, I will simply say that the Congressional Budget Office study did say that, but the Department of Transportation figures themselves are included in my dissenting views, which are found on page 49 of the committee report. After looking at the CBO studies and a lot of the other studies, we find that the Department of Transportation came down with statistics on Btu's per ton-mile showing the following figures:

Domestic waterway, 479; oil pipeline, 525; railroad, 649; and trucks, to which we have just given a break, 2,811.

Mr. EDGAR. Mr. Chairman, I appreciate the gentleman's clarification. I would indicate to the gentleman that there is also some controversy on the development of those studies, because many of the energy studies historically fail to include the energy used in getting the commodity to the barge, and I think all of that has to be taken into consideration.

I would like to point out that even if everything the gentleman says is correct about barges and energy efficiency, that is not enough in my mind to justify a Federal subsidy of a magnitude of 42 percent of revenues for the entire industry. The statistics cited by the gentleman from New York would indicate that there are only marginal energy savings by the barge mode over the pipeline mode, even neglecting the questionable methodology of the DOT study which was pointed out by the Congressional Budget Office report. No one suggests that we subsidize pipelines.

The fact remains that the barge industry continues to get a free ride at the expense of other transportation modes. The lack of a reasonable waterway user charge or tax is a distortion of Federal transportation policy. I feel title II is only a cautious first step in ending this outrageous raid on the Federal Treasury.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really have no wish to prolong the debate on lock and dam 26. I personally believe that the reconstruction is necessary; there are those Members in the House who do not. But by combining title II with the rest of the bill, we really are talking about apples and oranges.

If we really want to develop a system of user fees, I will be more than happy, as I am sure the gentleman from New York (Mr. PIKE) and some of the other Members of the House who are equally concerned would be, to sit down and try to discover an equitable way of applying user fees for public projects—not just for this one but for any public project. The way they are being applied in this bill is, in my opinion, which is shared by some Members, bound to be discriminatory.

We are taxing one mode of transportation involving diesel fuel. If we really want to tax diesel fuel, then I suppose we might talk about taxing the hundreds of thousands of gallons of diesel fuel used by the railroads.

There are user fees for highways. We all pay them. There are user fees for aircraft fuel. All of us who use aircraft pay them in one way or another, even though there are some inequities there, I might add.

However, Mr. Chairman, it seems to me that if we really want to approach this subject in a fair, equitable manner, not under blackmail from the White House that says, "If you do not do this, we will not do that," we should sit down rationally and discuss it rationally.

Mr. Chairman, I have right here before me a study conducted by the American Enterprise Institute of waterway user charges. They give us a number of alternatives; license fees, congestion charges, ton-mile taxes, lockage fees, et cetera. They even discuss fuel taxes and segment tolls.

However, the gentleman from New York is quite correct. I just do not believe that we should be operating under a blackmail principle to get something done that should be done.

Mr. Chairman, if the Members feel that there is no other way to get this bill passed, they should vote for my recommittal motion which I hope I will be recognized to offer and let the Committee on Ways and Means go back and discuss user fees in a more rational way, a way which will be equitable to pleasure boats, to anything using that waterway, not only that waterway, but all of the great waterways that we have in the United States.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

What we are doing here is making some equitable adjustment. Last year this Congress passed one bill that had the railroads using $900 million in providing their own rights-of-way. The trucks pay a portion for the highways.

Mr. Chairman, this is a step in the right direction. It may not be perfect. I am sure it is not, but I am sure we will have many more chances to look at it.

I thank the gentleman for yielding.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman.

I think so often we do these things, saying, "Let us do it now and we will talk about it later." Then we never talk about it later.

Mr. Chairman, the Assistant Secretary of the Treasury offered us this business about the railroads paying for their own rights-of-way. I have nothing against the railroads. I think that they did a marvelous job in building America, but nobody can tell me that they paid for their own rights-of-way.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, I rise today in support of H.R. 8309 and express my appreciation to the members of both the House Public Works and Transportation Committee and the House Ways and Means Committee for their efforts in bringing this legislation to the floor of the House. I would like to speak in support of an important project in my district that would be affected by congressional action on this legislation.

The Army Corps of Engineers, under the Flood Control Act of 1965, is constructing the Smithville Reservoir in northwest Missouri. When the dam is completed in 1978, it will inundate the Trimble Wildlife Area which is owned by the Missouri Department of Conservation. The Trimble Wildlife Area is the home of Missouri's native Canada geese flock. As part of the $70 million Smithville Reservoir project, the Corps of Engineers was required to replace the Trimble Wildlife Area.

In its September 1976 feasibility report to the Congress the corps recommended that Congress authorize acquisition of approximately 2,500 acres at a site known as Jackass Bend on the Missouri River and turn that land over to the State of Missouri to mitigate the loss of the Trimble Wildlife Area. The corps' decision was made in cooperation with the U.S. Fish and Wildlife Service and the State of Missouri and has been endorsed by Missouri Governor Teasdale.

When the lock and dam 26 authorization was taken up by the other body as S. 1529, the Rivers Harbors Basin Act, Senators DANFORTH and EAGLETON introduced an amendment that would authorize the corps to proceed with acquisition of Jackass Bend and to reimburse the State of Missouri for the value of capital improvements made at Trimble and the expenses involved in moving the Canada geese to the new site. This amendment was adopted, however, as you know, S. 1529 died when reported to this body.

The House rules prevent my offering this amendment as part of our consideration of H.R. 8309. However, both Senators have indicated to me that they are going to attempt to see that this amendment is adopted as part of H.R. 8309. It is likely that this bill will come back to conference with a number of Senate amendments attached, including the Danforth-Eagleton amendment to authorize the acquisition of Jackass Bend. Therefore, I rise to urge support by the members of the House Public Works and Transportation Committee for this important amendment when it comes up in conference.

Mr. KETCHUM. To continue, Mr. Chairman, many of the railroads did pay for their own rights-of-way. I am not trying to make a case against the railroads, but the western railroads certainly did not. For every section of land they obtained and helped to develop I commend them. I think they did a fantastic job. I hope we will not use that as an argument to establish a user fee which is placed on only one segment of industry, and that is what we will do if we pass this bill with title II contained in it.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I share many of the viewpoints expressed by the gentleman from California (Mr. KETCHUM), but I cannot agree with him in the totality of his remarks.

He is certainly entitled, I think, to characterize this user tax to be the result of blackmail, but I personally think that the Members on both sides of the aisle and the two committees which have considered this piece of legislation have done a remarkable job.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

(On request of Mr. DUNCAN of Oregon and by unanimous consent, Mr. KETCHUM was allowed to proceed for 1 additional minute.)

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, as I was saying, I think they have done a remarkable job in coming up with a piece of legislation which represents a very difficult compromise.

If we could agree that our mutual views were the only correct views, then I could subscribe 100 percent to what the gentleman said. However, I remember Adlai Stevenson years ago said in a speech that no matter how sure he was that he was right, he always tried to remember that just maybe the other guy was right.

Therefore, Mr. Chairman, I choose not to call it "blackmail." I choose to call it a compromise of a very difficult problem.

I believe that the gentleman from Texas (Mr. ROBERTS), the gentleman from Oregon (Mr. ULLMAN), and the minority members on these two committees have done a remarkable job.

I would like to say one more thing on the gentleman's time, if I might, and that is although the issue has primarily been joined here on the problems of the Mississippi Valley, that we in the Pacific Northwest are very proud of our inland waterway system which enables us to bring the produce of a great inland empire down that inland waterway to the docks in Portland.

Further, we are grateful for the correction of what was a typographical error in the original bill.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the most recent speaker, the gentleman from California (Mr. KETCHUM) indicated that we should support a motion to recommit that will send this decision back to the Committee on Ways and Means. I would simply like to remind the Members that the Committee on Ways and Means held extensive hearings and deliberated long and hard on this matter. It has brought title II to the Members as its best rec-

ommendation in a very difficult situation. The committee does not want the matter back.

I believe that the committee has produced the best compromise it could in the difficult situation it faced. As the distinguished gentleman from New York (Mr. PIKE) has indicated, it is a bit of a shotgun situation. However, if we do not use a shotgun, we may find ourselves in a position where there is a cannon pointed at the head of this vital transportation industry.

Mr. Chairman, I urge, at the proper time, that title II be sustained.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, it has been noted many times by proponents advocating full recovery taxes on the use of the inland waterways, a figure of $140,000,000 spent in 1976 by the Corps of Engineers for the operation and maintenance of those waterways.

The problem, Mr. Chairman, as I see it, is that the figure quoted comes from the Corps of Engineers Washington office which is a compilation of broad based budget sums from field offices of the corps. Now I cannot quarrel with the total amount which is stated, but in trying to find out what all is included in those O and M expenditures, I find that a lot of it has nothing to do with the commercial barge users to which the tax for cost recovery applies.

Part of the money in the O and M account is for water quality management, public use plan studies, such as the great study on the Upper Mississippi River, rainfall gaging, water quality investigation, and others.

A lot of the money stated is used for recreation in dredging small boat harbors, safety shelters for small boats, visitor facilities at dams and other areas, beach erosion, fish and wildlife habitat enhancement, dredging for ecological enhancement, aquatic plant control, the use of locks by recreational craft, and many of these locks are not even used by commercial barge traffic.

Further, a good deal of O and M money is expended to assist agricultural production by silt reduction bank protection, drainage and run-off control, and stream flow reduction which reduces erosion.

The O and M expenditures includes money for commercial and game fishing enhancement, bank stabilization to protect roads, cities, and railroad rights-of-way. A lot of the projects where locks were built, were not to improve navigation, but to provide for salinity control, such as the Old River lock and dam about 200 miles above New Orleans which was built to protect the Port of New Orleans and the water supply of the city. If nature had been allowed to take its course, and the corps had not built the Old River control structure, New Orleans would now probably only have a mud flat for the Mississippi River bed.

Present O and M costs also include money for area development, the regulatory costs of permits, and contracts made with local law enforcement agencies to protect visitors at facilities.

Now, Mr. Chairman, I find no fault with the way the Corps of Engineers keeps its accounts, as there has been no need in the past for each and every detail of this ledger to be broken down line by line, but I do believe before we start thinking about charging barge lines for everything that is in the O and M engineers figures we better know of what they consist. That is why I support this bill, Mr. Chairman, and the studies that will be generated by it in order that we can better address the impacts. I would also hope the corps will give a better account in the future of what O and M expenditures should actually be directly accountable to the commercial navigation interests, and what is accountable to others.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Minnesota (Mr. FRENZEL) for yielding this time and I join in the gentleman's plea not to send this bill back to the Committee on Ways and Means which has done such an excellent job on reviewing the matter of the tax.

It also should be pointed out, and I am sure the gentleman from Minnesota (Mr. FRENZEL) would also agree, that this is not a recovery tax, it is simply a method of finding some equitable means of having our inland waterway users pay their fair share of taxes. The question of recovery is an issue to be addressed in the study. That is the question to which the gentleman from Kansas (Mr. SKUBITZ) addressed himself, and that is farther down the pike, and will be addressed at a later time.

Mr. FRENZEL. I thank the gentleman for his observations and I do agree with the gentleman.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding to me and I wish to associate myself with his remarks.

Mr. Chairman, I also serve on the Committee on Ways and Means with the gentleman. I remember very well the debate that went on in that committee on this question. I agree with the gentleman that even though this may not be a perfect solution to an imperfect situation, I think we have arrived at a meaningful compromise.

I think it is important to point out that the bill calls for a study that one of our colleagues in the committee put into the bill which I believe will lead us to some definite conclusions.

If the gentleman from California (Mr. KETCHUM) believes we ought to reach some conclusions on where we ultimately should be on user fees, lockage fees and fuel fees, I think it is important to point out that this fuel tax has a definite precedent to the diesel fuel tax on trucks. In fact, this is based on that model. While there might be a question as to where we ultimately should go, I think the study called for in the bill will tell us where we should ultimately go and then the Congress can come back with lockage fees, or a fuel tax that will adequately and reasonably cover the situation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding to me.

As a person who represents a district that follows the Mississippi River from the Iowa border up to St. Paul, and then the St. Croix River north through Washington County and also as a person who is concerned and interested in the question of agriculture, I say that the alternatives to not adopting title II are totally unacceptable, both on the question of losing lock and dam 26, which is absolutely necessary, and the possibility of putting more serious roadblocks in the way of the barge industry that is needed to carry the goods not only from the midwest down, but back up to the midwest in order that we may survive.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman and I yield back the balance of my time.

Mr. SKUBITZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

Mr. MADIGAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SKUBITZ. Mr. Chairman, I have severe reservations about the failure of this bill to come to grips with the issue of water user fees. It is, in my opinion, unfortunate that we are choosing to pussy-foot around the users fee issue once again.

The barge industry in this country is not the poor struggling child of neglect that some of our colleagues would have us believe. Nor for that matter is it the kindly friend of the farmer and the shipper. The barge industry is—in fact—a consortium of giant corporations with collective sales exceeding $16 billion a year. Look at the names of a few of those poor struggling companies: United States Steel, Ashland Oil, Texas Gas Transmission Co., those folks are poor like July in Washington is cold.

Yet look at the bill we have before us today. We are asking for a measly 6 cents fuel tax on waterway traffic after a 2-year phase-in period—I sure hope United States Steel does not go broke.

What will that tax recover for the U.S. taxpayer of his dollars spent on rivers, canals, and inland waterways? Less than 10 percent of the Federal cost. H.R. 8309 represents a permanent guarantee of 90 percent plus Federal subsidy for the barge operators of this Nation.

I concur wholeheartedly with the administration's views on this matter as expressed to me by Transportation Secretary Brock Adams.

The administration has relayed to me that it views the level of recovery embodied in H.R. 8309—the waterway user fee—as being totally inadequate. Consequently the administration plans to actively work with Senate conferees to ensure that the recovery level is substantially higher.

I could not agree more with the administration on this matter. Taxpayers are currently providing subsidies for the barge industry to the tune of $400 million a year—and the barge industry is crying like a stuck pig over a 6 cents fee. That fee will not come close to the actual cost in question.

There is no earthly justification by which this free ride can be continued. Barge operators are a profitmaking business—and quite a business at that. One could do much worse than to run a business where profits are pocketed and costs are underwritten by the American taxpayer.

I need not take the time of this body to again point out that regulated barge operators are generaly owned by the Nation's largest corporations.

I do not again need to take the time of this body to explain that most barge traffic is completely unregulated so that perpetual manipulation and undercutting of railroad rates is not only permitted but encouraged by the system itself.

It is ironic, Mr. Chairman, that representatives of cities from the States of Ohio, Maryland, and Massachusetts were before the Interstate and Foreign Commerce Committee—pleading with us to advance them the money owed by the bankrupt railroads as back taxes.

If we do this the Federal Government will be shelling out $317 million owed by the bankrupt Penn Central. I might add that the Penn Central is not one of those railroads that received any free land from the Government.

The State of Illinois alone is owed more than $20 million by the Penn Central. All the while no one has indicated that the State will collect one nickel in taxes from the user of lock and dam No. 26 and yet the low construction cost on this project has been placed at $421 million.

How in the name of commonsense can this body shell out $421 million for the primary use of the barge industry while they fail to pay a single dime to the communities that they pass through?

That 90 percent of this industry is not regulated and is able to underbid its competitors—the trucking industry and the railroads—only adds to the ridiculousness of us levying a measly 6 cent tax against them.

I am going to support this bill but only because I am hopeful that the conference committee will get down to basics and tackle this gross inequity.

I do not need to remind this body that our treatment of waterway users continues to distort and make impossible a balanced national transportation policy.

Earlier this Congress I introduced H.R. 8254 which would have applied a tax on barge operators based on ton-miles. I used the ton-mile approach because that represented a way to equitably assess a charge against barges—which would recover at least 100 percent of the Federal dollars used—for the annual maintenance and upkeep of our waterway system—forgetting construction costs.

The trucking industry has paid most of its way as long as anyone can remember. You have all seen the signs on the back of semitrailer trucks reading "this vehicle pays so many thousands of dollars in highway taxes each year." Well, I guarantee you have never seen a sign like that on any barge.

The railroad industry is paying taxes for every little town and village through which railroad tracks pass. It is no wonder barge operators are offering—so-called cheaper rates. Why not? Every lock, dam, and channel they use is built, paid for and maintained by the Government.

The meaningless gas tax contained in this bill will permit water carriers to claim that they are repaying Uncle Sam for his generosity. In fact—Uncle Sam will be giving them a 90-percent subsidy in order to compete for the same traffic that railroads and common motor carriers are competing for.

Those supporting the token user charge in this bill will argue that railroads have received great grants and gifts from the Federal Government. They will argue that the land grants of a hundred years ago which helped open up the West now justify a Christmas tree for the barge operators. That is sheer nonsense. The eastern or southern railroads never got land grants. The few western roads that did get Government land long ago paid for it by providing service to the Government free of charge or way below cost.

It is high time we took decisive action to take this unnecessary burden off the back of the American taxpayer. The question of users fees has been studied to death—every administration since Franklin Roosevelt has favored waterway users fees. There have been over 15 major studies since 1939 favoring use of waterway user fees. Title II suggests another study with regards to any fuel tax or alternative tax.

I suggest it is time to stop studying the issue and start recovering a little money—and a lot of self-respect.

The issue is clear and, my friends, the question is simple. The question is: Who should pay the operating expenses of United States Steel and Ashland Oil? I believe those operating expenses should be paid by United States Steel and Ashland Oil—and all the other water carriers—and I am not going to vote to support this bill so long as it is nothing but a sop of a gasoline tax.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, lest there be some misunderstanding, all the hue and cry here is not because of the inequity of levying the tax on one user as opposed to not levying the tax on another user. The hue and cry here is the effort to send this bill back to the committee so that the tax that is levied can be raised substantially.

Let me point out any such tax represents a drastic change in the historic national policy dating back to the Northwest Ordinance of 1787. The free waterways policy then established, combined with assumption of Federal responsibility for continuing operation, maintenance, and improvement, has been of incalculable benefit to the Nation. On that foundation industries furnishing employment to millions have been established. Major cities have grown to their present size. Low-cost transportation of bulk commodities has been made available permitting the development of otherwise depressed regions, strengthening our American farm economy and our balance of payments, and providing an efficient and economical means for distribution of coal and petroleum products to offset in a measure rising energy costs.

In the Ohio Valley alone according to the most recent survey of the Ohio Valley Improvement Association more than $54 billion has been invested from 1950 through 1976 in new and expanded plant facilities in counties bordering the Ohio River and its navigable tributaries. The bulk of this enormous investment was induced by the availability of low-cost water transportation. In considering supplemental sources of revenue to fund the rising costs of waterway improvement, therefore, it has been necessary to consider also the grave risks involved in changing the rules governing our waterway transportation system both as to impacts on existing trade relations and investment and on essential future improvement of the waterways to accommodate our growing needs for water transportation. H.R. 8309, I believe, meets those conditions.

There are other innumerable benefits as a result of the now existing Federal policy in dealing with waterways.

However, there are many difficult issues to adjudicate here and this bill represents a carefully worked out formula for the imposition of a tax on fuel used by shallow draft vessels on specified inland waterways. It is designed to provide supplemental revenues for funding improvements to the inland waterway system, retaining strictly within congressional initiative and control all questions as to the level and form of the tax. It is a reasonable compromise, and because there are difficult issues and many unanswered questions about the level and the form of the tax, we have set forth this study because we do not know the impact of these taxes, how they are going to affect competing modes of transportation, or whether they are going to permit them to raise their rates and cause an inflationary impact on the entire Nation. This is a reasonable compromise.

Mr. Chairman, I urge any motion to recommit with instructions to take out title II be voted down.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important that the House understand exactly what has happened and exactly where we stand on the whole user fee situation. First of all, the Senate previously passed legislation which

called for the users to pay 100 percent of operation and maintenance and 50 percent of construction costs phased in over a 10-year period. Brock Adams, in testimony before the House Public Works Committee, stated that the President would not sign a bill unless it contained significant user fees, and he defines those in his words as being what was in the Senate bill.

There were a number of us who felt we should have an opportunity on the floor of this House to debate this issue as to whether there should be user fees in the bill. I had an amendment which would have called for 25 percent of operation and maintenance and 25 percent of construction costs to be phased in over 5 years, and I requested from the Rules Committee that there be an opportunity to discuss that one amendment. The Rules Committee did not grant such a rule.

I came to the floor with no intention of doing anything about it, but a vote was called for on the rule and very much to my surprise we received over 160 votes to oppose that rule. I think it is very clear that there are a significant number of Members in this Chamber who believe that there should be user charges on our waterways, not just a diesel tax.

My main argument is that whenever you have the user pay a percentage of the cost of any service furnished to that user, then the user serves as a watchdog to see that there is not unnecessary waste, because any of the waste is going to be partly charged against that user.

The point I would like to make very strongly to the committee chairman is that if we do pass this bill and if it goes to conference I hope the House conferees will not lose sight of the fact there was a significant indication there were a number of people in the House who felt there should be higher user fees. Certainly there has been no opportunity within the House to vote whether or not such higher user fees should be imposed.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for the gentleman's aggressive activities on this particular legislation. I shared with the gentleman my concern in the Committee on Rules that there be an open opportunity to discuss the policy issues which relate to the imposition over a phased-in period of time of some percentage of user fees. I supported the gentleman's amendment. I think it was a mistake of the Committee on Rules not to permit that amendment to be offered at this time. I would hope that in light of the fact the bill is now before us and the rule did succeed, that we have before us a 3-part bill that constructs locks and dam 26, puts the most minimal user tax on possible, 4 cents and then 2 cents, and finally calls for a study.

Mr. Chairman, I will support a motion to recommit, because I am opposed to the bill; but I will not support a motion if it is in order to recommit with instructions to strike title II, because while I am opposed to the section, title II as being too small, I do not think we should strike that from its impact on the construction of locks and dam 26, as well as moving on to a reasonable user fee concept.

I think that we in the House should have the opportunity to debate the possibilities of phasing in user fees; but I would hope that title II and the rest of the bill go intact to the Senate and in conference it is my hope that the 4 cents and 2 cents would be increased.

Mr. Chairman, I thank the gentleman.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I concur with the gentleman's remarks. I want to rise in opposition to the instructions to recommit.

I very much support the higher user fee. I think it is regrettable that we did not have the opportunity to debate that on the floor and at some reasonable point to send it back.

The Committee on Ways and Means tugged and pulled and did the best they could to make the job work. This lock and dam is a vital part of the transportation system of the river. We all like to see the projects go forward with a better hope of funding than exists.

I hope our comments are heard today and the conference committee will try to pursue a better record on this.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman. I appreciate the gentleman's remarks. I agree that the time for the user fee has come.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. GEPHARDT, and by unanimous consent, Mr. BEDELL was allowed to proceed for 2 additional minutes.)

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield further, I agree with the gentleman. The time for a user fee has come. I simply want to say that we are at a point where we can rationally and reasonably decide what that level should be.

I would ask the gentleman, does the gentleman not agree with me that it makes sense to have the kind of study called for in this bill, which would compare what the Federal Government has done with regard to other modes of transportation in terms of subsidy and would also address themselves to the terms of the question of what the overall impact of a user fee at a definite level would be?

Mr. BEDELL. I do. This is something that should be considered. We have already had a stack of studies this high. As pointed out earlier, I have a study put out by the Congressional Budget Office, which says:

> Federal subsidies are equal to about 42 percent of all barge revenue, compared with 3 percent for railroads, 1 percent for trucking companies, and no subsidy at all for pipelines.

It seems to me this tells it pretty clearly and answers that one question.

I agree, we should not do anything too radical. That is why my amendment would have put in only 25 percent with the taxpayers continuing to pay 75 percent. Under my amendment, we would be subsidizing barges for 30 percent of all revenues, compared to 3 percent for railroads and 1 percent for trucks. It seems to me that is a pretty modest way to move.

As I mentioned earlier, when users have to pay for a given percentage of services furnished, the users are concerned about waste in that program.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I want to thank the gentleman from Pennsylvania. There will be at least two votes for the motion to recommit. I intend to seek recognition for a motion to recommit and send the bill back to the Committee on Public Works.

I do not believe that it would be appropriate, given the circumstances, for us to attempt to send it to the Committee on Ways and Means, with the other alternative. Therefore, I am delighted to have at least another vote.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent Mr. BEDELL was allowed to proceed for 1 additional minute.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. MADIGAN. I want to thank the gentleman from Iowa for yielding, and associate myself with his remarks. I make the point that with the gentleman from Iowa, I voted against the rule. I have been an opponent of this bill. I do not think the lock and dam is necessary, and I think that to reasonable, open-minded people, that fact could be established. I am going to vote against the motion to recommit if I am able to be here, and I would like to have the opportunity to vote against the bill.

I am afraid I am not going to have that opportunity because I am going to be obliged to leave, which is the reason I objected to the earlier unanimous-consent request of Mr. SKUBITZ. I want to say now that I would not object again if Mr. SKUBITZ wanted to renew his request.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield.

Mr. SKUBITZ. I would like to call the attention of my colleagues to the fact that those who talked about having another study of user fees ought to realize that since 1939 we have had 19 different studies on this one topic alone, and every President from Franklin Delano Roosevelt down has recommended the user fee.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must say that I agree with a great deal of what has been said by the gentleman in the well and those who joined with him. I do find myself kind of betwixt and between on this whole problem of building lock and dam 26. It so happens that

3 years ago the unlikely combination of MIKVA and MICHEL joined up and caused this lock and dam 26 construction project to be struck out of an authorization bill that included some rather hangover language from the turn of the century that gave the Corps of Engineers blanket authority to go ahead with this lock and dam without this kind of proceeding ever having taken place. I feel we did the country and the Congress a service by bringing to public attention that we were not going to abdicate this responsibility in the future. We need to debate these projects openly and aboveboard, and that is of course what has taken place here now.

You know, the Panama Canal is in the news these days. If I can recall some of the comparative figures, if one added up all the imports and exports to and from the United States going through the Panama Canal it would approximate something like 83 million tons. Through locks and dam 26 the tonnage is something in the neighborhood of 53 to 60 million tons, so we are not talking about an insignificant facility at Alton, Ill.

We do have problems in my area, particularly with the rural community, which uses the barge lines for shipment of grain, particularly to the gulf ports, but I must say that the kind of tax, token tax that is in the bill leaves me somewhat cold. I would, in fact, prefer a significant user fee. I recognize, however, the conditions that prevail here today. We are either going to get that token tax or nothing at all, but simply want to make the record clear, that in my opinion the few cents of tax that is going to be in here certainly is not going to break up the barge lines and hope we get a better shake for the taxpayer out of the conference agreement.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I should point out that the reason the 6 cents does not yield very much in revenue is because barges are so efficient. There is no better way to raise money than by a fuel tax. To talk about a toll user fee on barges would be comparable to having toll gates on all of the highways and stopping trucks every few miles to collect a fee. We would spend more money collecting fees than we receive in fees. It is a good thing barges are so efficient that they will not raise much money with the 6 cents fuel tax. We do not levy tax on trucks according to so much per mile. It is so much per gallon. If someone can buy a truck which gets twice as many miles per gallon of fuel, they pay less tax per ton-mile. That is the way it ought to be. I think all this talk about setting up toll gates and collecting user fees would result in spending most of the money on $20,000 or $25,000 a year collectors and paperwork and nonsense. That could be more redtape, more paperwork, and ending up with little in the Treasury.

There has been talk about big barge companies. There are also some other big companies in this. Everyone knows the real opposition to this has been from the railroads. The railroads have been around here for the last several years wanting billions of dollars in handouts. For lack of a better solution, I have voted for them too but do not believe they are little proprietorships. The Burlington Northern Railroad has been one of those vigorously opposing this legislation. It has 4.2 million acres of Western land. They have 5 millions of acres of mineral rights and produce gas and oil. They have 35 affiliated companies. Talk about big companies that are involved, the railroad companies are as big as any of the other companies. If a conglomerate furnishes a service needed by society that is good and the barges have been doing that. Except for the Rock Island, the railroad companies are almost all a part of a conglomerate. We all know that the railroads lobbyists have been the principal opponents of this bill. They used the environmentalists for a front for a while. They hoodwinked them into acting as a front before they knew they were being used. But when that was exposed, they had to find some other scapegoat, so they started to talk about user fees and try to hold the bill hostage until we pass legislation providing user fees. The fact of the matter is that railroads are not doing their jobs and should spend more time taking care of other existing business instead of trying to deny us alternate transportation services.

In Iowa, from April 30, 1976, to April 30, 1977, 111 hopper cars were ordered and they only delivered 77. That meant 136 million bushels of grain could not move because the railroads did not provide the cars. They ought to take care of the business that is offered to them instead of trying to hold hostage a business they do not want to take care of.

What we really have here is a lock and dam that is badly needed. Let us forget about all of these other bugaboos and diversions that the railroad lobbyists have raised in this case. Talking about user fees, and other matters have merely been excuses for opposing approval of the project. That is all they are.

I urge the House to give an overwhelming vote of approval to this bill and illustrate what we think of the underhanded and heavyhanded lobbying that has held it up for 2 years.

Mr. KREBS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the benefit of my colleagues who want to vote on this issue very badly, let me state at the outset that I will reluctantly vote for the bill. I am convinced in my own mind that the dam apparently is necessary. The reason that I will vote for it only reluctantly is the same as some of the reasons mentioned by my colleagues, namely, the size of the fees. The only reason I rise to say a few words is that I believe I attended most of the discussions which took place here, but nowhere in this discussion have I heard any of my colleagues, particularly those who consider themselves fiscal conservatives, ever mentioning the question of a balanced budget.

I know that when it comes to all sorts of programs that cost substantially less than this particular project, which I understand is going to cost some $432 million—we invariably hear fiscal conservatives talk about a balanced budget. But here we are trying to recoup at least a fraction of the cost, and there is even an attempt to do away with that effort.

It seems to me that the 6 cents we are imposing here really represents an insignificant amount, as compared to the 42 cents that would be required to recoup the cost of this particular project.

The reason I am voting for the bill is that, the lock and dam is necessary, and, secondly, because of the precedent that I hope we will be setting by indicating that we are going to start recouping some of the costs of projects that have added so substantially to our budget.

Mr. DERWINSKI. Mr. Chairman, two wrongs do not make a right. The obvious strategy here is to use the imposition of a user tax as a belated argument for approval of this long-debated project, locks and dam 26. The locks and dam and user tax should stand each on its own merits and not be subject to this shotgun marriage.

This bill deliberately does not address the issues involved in the rebuilding of navigation systems above and below locks and dam 26, a multibillion-dollar, comprehensive series of projects contemplated by the Corps of Engineers.

If there is to be a user charge and the principle is accepted by the waterways industry, then obviously there should be a direct relationship between the user charge and Federal costs, rather than an artificial, arbitrary figure.

Therefore, taking note of all the conflicting interests and long-term implications of this bill, I believe that a vote against H.R. 8309 is the one which I must cast on behalf of my constituents.

Mr. HARKIN. Mr. Chairman, I'm going to support H.R. 8309, but not without some reservations about the relationship of the fuel tax provision to replacement of locks and dam 26.

My position on locks and dam 26 has always been that a number of conditions would have to be present before I would support replacement of the existing facility with one 1,200-foot lock.

First, it would have to be determined that rehabilitation of the existing facility would not be adequate to handle projected traffic growth, and would perhaps be as costly as replacement. While there continues to be disagreement on this question, with studies on both sides supporting the cost effectiveness of replacement and rehabilitation, one thing is clear; the existing facility creates a bottleneck for river traffic which results in long, costly delays. Shippers are losing $14,000 a day because grain, coal, and fuel sit at the locks waiting to go through. A new, single 1,200-foot lock appears to be justified at this time.

Second, there would have to be a prohibition against the dredging of a 12-foot channel. While the committee report states that the bill "does not change the existing 9-foot authorization" I would feel more comfortable with a strict prohibition against such a development. I intend, therefore, to support the Blouin amendment to prohibit any study of deepening the Upper Mississippi River channel, unless ordered by Congress.

Third, there would have to be some sort of user fee provision to accompany

authorization for locks and dam 26. This is where I do not believe the House has gone far enough. Recovering 6 percent of the total, annual Federal expenditures on the inland waterway system is not my idea of achieving fairness in the Government subsidization of various transportation modes. By constrast, the Senate user fee provision would eventually recover 50 percent of construction and all operation and maintenance costs.

For this reason I would have supported the Bedell compromise had it been made in order by the rule on H.R. 8309. Unfortunately it was not, and we are now faced with either supporting or rejecting a token fuel tax provision.

I cannot understand the rationale of such a small fee when we know that expansion of locks and dam 26 will direct badly needed rail shipments to bargelines, could result in railroad bankruptcies and put thousands of railroad workers out of jobs. This small tax completely ignores the barge industry's unfair advantage over competing freight carriers, with Federal subsidies equaling 42 percent of all barge revenues compared with 3 percent for railroads, 1 percent for trucking, and nothing for pipelines.

It is a fact that rail transportation can move most goods in volume between the same points with less than one-third the fuel, one-third the air pollution, and one-tenth the land as all other forms of transportation.

This is not the time to be penalizing the railroads while we pretend to be injecting fairness into these transportation subsidies. Between January 1970 and February 1977 my own State of Iowa lost 1,140 miles of rail line service through abandonments. No State in the Nation lost more track mileage during that time. I am concerned about this, and I think unless we adopt a user fee provision more resembling the Senate measure, we will unnecessarily further contribute to this trend.

For that reason, while I will vote for H.R. 8309, I intend to urge the House conferees to carefully consider the Senate user fee provision when this bill goes to conference. I would hope that my colleagues would do the same.

Mr. RAILSBACK. Mr. Chairman, as many of you know I represent the 19th District of Illinois which has 219 miles on the Mississippi River, and whose district is largely agricultural. The Mississippi River and lock and dam 26 are very important to my district and all of the Midwest.

Just as the farmers of New Jersey and adjoining States depend on the New Jersey Turnpike or the Garden State Parkway to transport their farm products to the great Northeast, the farmers of the Midwest depend on the Mississippi River and the Illinois Waterway.

Because of its position on the Mississippi, lock and dam 26 is just south of the place where the Mississippi and Illinois Rivers converge, bringing goods to and from busy Chicago and Lake Michigan. Lock 25, a 600-foot lock handles approximately 25 million tons of goods. The next lock south, lock 26 handles more than twice as much—55 million tons, due to its location below the water fork. Just south of this point on the river is lock and dam 27 which is in good condition. It is a 1,200-foot lock and it can handle the considerable waterborne commerce of the waterway. Beyond lock and dam 27 the Mississippi runs free to the great port cities of the Gulf of Mexico. I cite this to you because the Mississippi is truly a road in the same sense as any busy road here in the Northeast.

As the Midwest stretches to realize its full economic potential, traffic through lock and dam 26 has increased significantly. More than 58 million tons of cargo—10 percent of the total moved on all of the country's 25,543 miles of commercially navigable inland waterways were squeezed through the Alton locks last year.

It is expected that the tonnage moving through this facility will continue to grow by 2 or 3 million tons each year, with 73 million tons expected by 1981. Towboat captains pushing barges north and south disperse the Midwest's agricultural plenty upon which this Nation has learned to depend to such a great extent. Thirty percent of the total U.S. grain export moved through locks and dam 26 last year. This volume contributed over $4 billion to our balance of payments. Of the grain delivered to export elevators at the gulf ports, 80 percent arrived by barge.

Products needed by farmers to grow such crops are shipped upriver—fertilizers, chemicals, and fuels so critical to the food-growing process. As far as the 19th District is concerned agricultural products make up the obvious. However, energy-related products, coal, other fuels, not to mention steel, and a host of raw materials and finished products move upon the river daily.

At a time when we are all concerned about energy consumption a modern towboat moves a ton of freight 400 miles on a gallon of diesel fuel.

There is a power cooperative upriver, not in my district, which supplies power to more than 100,000 homes—most of them rural residents. It took 1,200,000 tons of coal to fuel this generator last year to provide them with electricity, and every ton of that coal moved through locks and dam 26. The only way this generator can receive this vitally needed fuel is by river transportation.

The farmers in the 19th District have informed me that they are not looking for a handout. They have said that they rely so heavily on efficient transportation for the exportation of their grain and for their fuel and fertilizer in return that they must insist on a first-class transportation system. To this end they have urged the implementation of user fees.

In considering all sides of this issue it is my opinion that the action we take today to authorize new construction will mean faster and more economical movement of our commodities to market, resulting in more income for our farmers, better prices for the consumer—and hopefully a big boost for the Nation's economy and energy consumption as well as output.

In the 94th Congress I joined Congressman PAUL FINDLEY in sponsoring legislation which would authorize the construction of a new lock and dam 26. Again, on February 9, 1977, I joined Congressman FINDLEY in sponsoring legislation which would authorize the construction of the facility at Alton, which is in his district and adjacent to mine. Nothing in either bill shall be construed as authorizing a 12-foot channel. The legislation which we consider today states that no plans exist for construction and maintenance of a 12-foot channel for the Lower Mississippi River at this time. It seems to me that the Public Works and Transportation Committee has done an outstanding job in protecting our environmental concerns. Title I of this bill in no way changes the existing authorization for anything but a 9-foot channel. I certainly agree with this provision and feel that any consideration of a 12-foot channel or a second lock must first be approved by the Congress.

I am delighted that this bill has now reached the House floor, and would urge my colleagues to agree to it.

Thank you very much.

Mr. FLORIO. Mr. Chairman, there are two questions that need asking as to the wisdom of Congress voting a half-billion dollars of taxpayers' money to be invested in new, larger capacity for barges on the upper Mississippi.

First. Is L. & D. safe? Is more barge capacity needed at Alton, Ill.—the site of locks and dam 26?

Second. Is such investment, in fact, creating public policy by distorting the financial foundations under the Nation's common carriers—the railroads—and also affecting other public policy in ways that need to be analyzed from a public point of view?

The answer to the first question is easy: Let me read you the September 27 report of the Minnesota Department of Agriculture:

> Grain shipments by barge on the upper Mississippi Waterway from Minnesota, through September 11, 1977, are down 32 percent, compared to the 1976 volume for the same period. . . . Cleared for export this season have been 2,072 barges, compared to 3,057 barges in 1976, each carrying an average of 1,500 tons of grain—3,108,000 tons in 1977 compared to 4,585,500 tons in 1976.

Is L. & D. safe? The Corps of Engineers knows what is wrong with L. & D. 26. They stated, in the corps June 1974, final environmental statement, that "the most critical major repair work needed at this time is protection against riverbed scouring immediately downstream of the structure."

Guess what the low bid for repair of the downstream protection stone was—

as the corps St. Louis District admits? $960,157. The bid was made last month by the Lukins Brothers of Columbia, Ill. Is the corps shy about telling why they did not replace the protection stone in the course of ordinary maintenance? Did they choose to pursue a decision to build a new locks and dam by citing the unsafe condition of L. & D. 26, as though it is not their entire responsibility to maintain it?

Further, as independent engineering studies have indicated, relatively modest investment could substantially improve the throughput at L. & D. 26—so that additional demand to 1990 and beyond could be satisfied. Inasmuch as the barge interests seem to want the taxpayer to invest half-a-billion in additional capacity, the alternatives should be examined with great care. Are the barge interests willing to pay for what they want the public to build?

The human cost of such a decision would also be large. Railroads are far more labor intensive than are barges. The ratio of nine rail jobs sacrificed for every barge job created seems to indicate that the States will acquire some very large welfare costs in addition to taxpayers' costs for capital, interest, and operating cost. Further, rail taxes would be threatened for thousands of school districts. Railroads, as common carriers and as economic forces in thousands of communities, cannot be ignored as an unfortunate byproduct of the Corps of Engineers rush to rebuild L. & D. 26.

Is more capacity needed at Alton, Ill.? It is very doubtful that such need can easily be demonstrated. At the height of the Russian grain shipments in 1973, the barge operators said they were experiencing delays that cost them $5 million per year. The proposal to rebuild L. & D. 26, in effect, saddles the U.S. taxpayer with perhaps $50 million per year to remedy an occasional constriction at L. & D. 26 that "costs" the owners $5 million per year. We obviously need to repair the facility and help the barge people become somewhat more expert at using what they have.

The second question: Is Corps of Engineers' investment in waterway capacity distorting the financial underpinning under the only national common carriers—the railroads—and also distorting other public policy?

Let me read you a letter written recently by the Manager of the United Purchasers Association in Des Moines, Iowa, Terry J. Voss. It says it all:

> Our company has some concern over the proposed enlargement of Locks and Dam 26 at Alton, Illinois. I work for nine co-op elevators located on the Burlington Northern, the Chicago and Northwestern, the Illinois Central Gulf, the Milwaukee and the Rock Island.
>
> Our concern is not directly concerned with L&D 26 itself, but of the adverse effects it will have on the railroads that serve us. Our major concern is that the barges take the "gravy" traffic and leave less desirable freight to railroads.
>
> This will surely increase our costs by reducing the railroads' profits. That, in turn, will increase our costs (and those of our farmer customers) by the rails raising the rates for grains, fertilizers, etc., to offset the loss of more of their bulk traffic to the barges. We fear the Iowa farmer—and everyone else not located near a river—will suffer because of this careless investment by the Corps of Engineers.
>
> We earnestly hope you will defeat this boondoggle Bill H.R. 8309 on L&D 26.

Aside from Mr. Voss' persuasive analysis of just how such projects as lock and dam 26 intrude into public policy in matters not intended nor approved by Congress—let me point out that massive threats to overall national employment, to the very nature of our free economy—are also inherent in H.R. 8309.

There is an obvious problem ahead if we persist in such uneconomic public investment as that contemplated by H.R. 8309. The unemployment of thousands of rail workers will cost the States, local communities, and tax districts great sums in welfare costs.

If the railroads in the Midwest are further undermined by such investment as H.R. 8309 requires, we will quickly have a ConRail-West on our hands. So far, ConRail has gotten more than a billion from the taxpayers; ConRail now needs more. H.R. 8309 provides the vehicle for the nationalizaton of the rail industry, and all that implies.

Are we so hell-bent to take care of the few dozen barge companies and the 50 or so large corporations that are barge owners that we are in danger of forgetting how we got here in the first place? The energy crisis, our resource concerns, land use, environmental questions, and other problems of contemporaneity remind us constantly that private capital, in free markets, has been the explosive driving force behind the U.S. economy for 200 years. If our society politicizes decisions about transportation capacity, which is, in effect, what H.R. 8309 does—can the rest of the U.S. economy escape the grim results that came with such abandonment of free markets in England, Italy, and other nations? It is not an idle question. H.R. 8309 is a dagger at the heart of the private enterprise system of the United States.

Ponder this: Railroad rates have to generate the capital required to pay wages, materials, fuel, taxes, and must replenish fixed and rolling stock, as well as finance necessary expansion of capacity. Rails spend 25 cents of every dollar they take in maintaining their rights-of-way. Trucks, 5 cents. Barges? Nothing. The 4 cents per gallon provided for in H.R. 8309 will not even begin to match the enormous public cost of the barge capacity sought—to say nothing of the burden that a collapsing rail network will impose on taxpayers.

Certainly a good way to express our concern for our free economy, our taxpayers, and our railroads—as well as the adverse environmental impacts of more barge traffic on the upper Mississippi is to vote against H.R. 8309.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise to voice my opposition to H.R. 8309. This bill would provide for the construction of a new locks and dam 26 and establish a fuel tax on users of the inland waterway system. The debate over locks and dam 26 has been ongoing for several years. The user fee issue has been argued for decades.

Both of these issues have generated a great deal of controversy. The obvious intent here is that by putting these two issues together, one will carry the other. I do not know whether either of these measures, standing alone, could pass this body.

When the Ways and Means Committee met to write title II of this bill, I voted to show my belief that the users of our expensive inland waterway system should help defray its enormous cost.

But now I am looking at legislation which is not merely a revenue bill. H.R. 8309, if enacted, will raise an estimated $35 million in annual revenues. Estimated outlays for fiscal year 1977 is $488.7 million, for both new construction and operation and maintenance of our inland waterway system. The cost estimate for replacement of locks and dam 26, funded by this bill, is $421 million. The impact of a 4-cents tax is negligible.

I cannot support new construction of locks and dam 26 until we have a more realistic user fee. The Secretary of Transportation unveiled a program that would recapture 50 percent of new construction and 100 percent of operation and maintenance. By imposing a straight fuel tax of 40 cents a gallon, the revenue generated would amount to $350 million. In relation to the figures I quoted above, it is my belief that this is a more realistic measure to justify the funding of a project like locks and dam 26.

It is because of this that I ask you to join me in voting against H.R. 8309.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MCFALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes, pursuant to House Resolution 776, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute

adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STEIGER

Mr. STEIGER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. STEIGER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. STEIGER moves to recommit the bill H.R. 8309 to the Committee on Public Works and Transportation.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 70, not voting 33, as follows:

[Roll No. 652]

YEAS—331

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Badham
Badillo
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Caputo
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Devine
Dickinson
Dicks
Diggs
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Findley
Fithian
Flippo
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Mahon
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Pease
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rose
Rousselot
Rudd
Runnels
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Siak
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stokes
Stump
Symms
Teague
Thompson
Thone
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Waggonner
Walsh
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—70

Applegate
Archer
Bellenson
Bonior
Brinkley
Burke, Fla.
Burleson, Tex.
Byron
Carr
Collins, Tex.
Conte
D'Amours
Dellums
Derrick
Derwinski
Dingell
Drinan
Edgar
Edwards, Calif.
Evans, Ga.
Fenwick
Fish
Florio
Harrington
Holt
Holtzman
Hughes
Jacobs
Ketchum
Kildee
Kostmayer
Lederer
Long, La.
Long, Md.
McDonald
Maguire
Markey
Mikva
Moore
Mottl
Murphy, Pa.
Ottinger
Pattison
Pike
Quayle
Rooney
Rosenthal
Rostenkowski
Ruppe
Russo
Sarasin
Seiberling
Skubitz
Spellman
Stark
Steiger
Stockman
Stratton
Studds
Thornton
Traxler
Treen
Tsongas
Tucker
Waxman
Weiss
Wirth
Wolff
Yates
Young, Tex.

NOT VOTING—33

Ashbrook
AuCoin
Bafalis
Beard, Tenn.
Benjamin
Broomfield
Brown, Ohio
Buchanan
Carney
Conable
Coughlin
Dent
Fisher
Gaydos
Goldwater
Guyer
Johnson, Calif.
Koch
Lujan
Madigan
Mann
Miller, Calif.
Moakley
Patterson
Pepper
Reuss
Roybal
Schulze
Taylor
Vanik
Walgren
Walker
Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Moakley for, with Mr. Walgren against.
Mr. Carney for, with Mr. Taylor against.

Until further notice:

Mr. Dent with Mr. Ashbrook.
Mr. Johnson of California with Mr. Goldwater.
Mr. Koch with Mr. Shulze.
Mr. Mann with Mr. Whalen.
Mr. Reuss with Mr. Brown of Ohio.
Mr. Pepper with Mr. Conable.
Mr. Patterson of California with Mr. Lujan.
Mr. Gaydos with Mr. Madigan.
Mr. AuCoin with Mr. Broomfield.
Mr. Fisher with Mr. Guyer.
Mr. Benjamin with Mr. Bafalis.
Mr. Miller of California with Mr. Beard of Tennessee.
Mr. Roybal with Mr. Buchanan.
Mr. Vanik with Mr. Coughlin.

Messrs. EDWARDS of California, CARR, YOUNG of Texas, ROSTENKOWSKI, PATTISON of New York, and Mrs. SPELLMAN changed their vote from "yea" to "nay."

Messrs. BAUCUS and BONKER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the House of the following title:

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

SENATE AMENDMENTS TO H.R. 5037, FOR THE RELIEF OF JACK R. MISNER

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5037) for the relief of Jack R. Misner, with Senate amendments thereto and concur in Senate amendments No. 1 and No. 2 and concur in Senate amendment No. 3 with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendments, as follows:

Strike out the text of the Senate amendment Numbered 3 and insert in lieu thereof the text of H.R. 8444 as passed the House (other than title II thereof and items in the table of contents relating thereto) as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Energy Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and statement of purposes.
Sec. 3. National energy goals.
Sec. 4. References to Federal Power Commission and Federal Energy Administration.

TITLE I—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

SUBPART A—UTILITY PROGRAM

Sec. 101. Definitions.
Sec. 102. Coverage.
Sec. 103. Residential energy conservation plans.
Sec. 104. Utility programs.
Sec. 105. Temporary programs.
Sec. 106. Federal standby authority.
Sec. 107. Relationship to other laws.
Sec. 108. Contract provisions.
Sec. 109. Rules.
Sec. 110. Product standards.
Sec. 111. Authorization of appropriations.
Sec. 112. Study respecting energy efficiency standards.

SUBPART B—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

Sec. 121. Federal Energy Administration weatherization grant program.
Sec. 122. Farmers Home Administration weatherization grant program.
Sec. 123. Availability of labor.

SUBPART C—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS

Sec. 141. Purchase by Government National Mortgage Association of loans to low- and moderate-income families for energy conserving improvements.
Sec. 142. Loan insurance for energy conserving improvements under title I of the National Housing Act.
Sec. 143. Loan insurance for energy conconserving improvements in multifamily projects under section 241 of National Housing Act.
Sec. 144. Standby authority of Government National Mortgage Association to purchase loans for energy conserving improvements.

SUBPART D—MISCELLANEOUS

Sec. 161. Energy conserving improvements for public housing.
Sec. 162. Energy conserving standards for newly constructed residential housing insured by Federal Housing Administration or assisted by Farmers Home Administration.
Sec. 163. Solar energy systems.
Sec. 164. Studies.
Sec. 165. Authorization for appropriations for new building performance standards grants.
Sec. 166. Secondary financing by Federal Home Loan Mortgage Corporation of solar energy and energy conserving improvement loans.
Sec. 167. Secondary financing by Federal National Mortgage Association of solar energy and energy conserving improvement loans.
Sec. 168. Weatherization study.

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

SUBPART A—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 201. Test procedures.
Sec. 202. Energy efficiency standards.
Sec. 203. Effect of standards on other law.
Sec. 204. Technical and conforming amendments.
Sec. 205. Appropriations authorization.
Sec. 206. Effects of other laws on procedures.

SUBPART B—DISCLOSURE OF AUTOMOBILE FUEL EFFICIENCY TAX

Sec. 211. Disclosure in labeling.
Sec. 222. Disclosure in advertising.

SUBPART C—USE OF RECOVERED MATERIALS

Sec. 241. Use of recovered materials.

SUBPART D—OFF-HIGHWAY MOTOR VEHICLES AND BICYCLES

Sec. 261. Off-highway motor vehicles.
Sec. 262. Bicycle study.

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

SUBPART A—SCHOOLS AND HEALTH CARE FACILITIES

Sec. 301. Statement of findings and purposes.
Sec. 302. Amendment to the Energy Policy and Conservation Act.
Sec. 303. Technical amendments.

SUBPART B—BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Sec. 321. Statement of findings and purpose.
Sec. 322. Amendment to the Energy Policy and Conservation Act.
Sec. 323. Application of Davis-Bacon Act.

PART IV—NATURAL GAS

Sec. 401. Findings and purposes.
Sec. 402. Definitions.
Sec. 403. Calculation of the current Btu related price.
Sec. 404. Sales of new natural gas.
Sec. 405. Sales of old natural gas under existing contracts.
Sec. 406. Sales of old natural gas under new contracts.
Sec. 407. Sales of old natural gas under rollover contracts.
Sec. 408. Effective dates of rules with respect to maximum lawful prices.
Sec. 409. Special pricing provisions.
Sec. 410. Incremental pricing of natural gas.
Sec. 411. Essential agricultural uses.
Sec. 412. Natural gas storage facilities.
Sec. 413. Administrative procedure, enforcement, and judicial review.
Sec. 414. Intrastate contracts and transactions.
Sec. 415. Relationship to the Emergency Natural Gas Act of 1977.
Sec. 416. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 417. Conforming amendments to the Natural Gas Act.
Sec. 418. Amendments to the Emergency Natural Gas Act of 1977.

PART V—PUBLIC UTILITY REGULATORY POLICIES

Chapter 1—GENERAL PROVISIONS

Sec. 501. Purposes.
Sec. 502. Definitions.
Sec. 503. Application to Federal Power Act.
Sec. 504. Advisory Committee.

Chapter 2—IMPROVING EFFICIENCY OF USE OF ELECTRICITY

Subchapter A—General Provisions

Sec. 505. Coverage.

Subchapter B—National Minimum Standards for State Regulated Electric Utility Rate Regulation

Sec. 511. Minimum standards for rates of service.
Sec. 512. Minimum standards respecting advertising.
Sec. 513. Minimum standards respecting pollution control costs.
Sec. 514. Automatic adjustment clauses.
Sec. 515. Prohibition against special nonaggregate inclusions.
Sec. 516. Relationship to other applicable law.
Sec. 517. Solar, wind, and small electric generating systems.

Subchapter C—Other Requirements for State Regulated Electric Utilities

Sec. 521. Load management techniques.
Sec. 522. Standards for information to consumers.
Sec. 523. Minimum procedures for termination of electric service.

Subchapter D—Nonregulated Utilities

Sec. 526 Requirements.

Subchapter E—Requirements Applicable to State Regulatory Authorities

Sec. 531. Compliance determination authority for State regulated electric utilities.
Sec. 532. Determination of costs of service.
Sec. 533. Alternative loan management techniques.
Sec. 534. Master metering.
Sec. 535. Participation in regulatory proceedings by States and by electric consumers.

Subchapter F—Enforcement and Review

Sec. 536. Prohibitions.
Sec. 537. Enforcement.
Sec. 538. Judicial review.

Chapter 3—IMPROVING EFFICIENCY OF, AND PRESERVING COMPETITION IN, GENERATION AND TRANSMISSION OF ELECTRICITY

Sec. 541. Interconnection, pooling, wheeling, and central dispatch.
Sec. 542. Continuance of service.
Sec. 543. Consideration of proposed rate increases.
Sec. 544. Automatic adjustment clauses.
Sec. 545. Electric utility reliability.
Sec. 546. Cogeneration.
Sec. 547. Interlocking directorates.
Sec. 548. Applicability of antitrust laws.

Chapter 4—CONSUMER REPRESENTATION AND ASSISTANCE TO STATE AGENCIES

Sec. 551. Financial assistance for State agencies and for consumer representation.
Sec. 552. Representation of consumer interests before Federal Power Commission.
Sec. 553. Responsibilities of Administrator.

Chapter 5—NATURAL GAS UTILITIES

Subchapter A—General Provisions

Sec. 561. Findings.
Sec. 562. Definitions.

Subchapter B—Requirements for Gas Utilities

Sec. 566. Coverage.
Sec. 567. Gas utility rate design proposals.
Sec. 568. Minimum standards respecting advertising.
Sec. 569. Minimum procedures for termination of gas service.
Sec. 570. Nonregulated utilities.

Subchapter C—Administration, Enforcement, Review

Sec. 581. Prohibitions.
Sec. 582. Enforcement.
Sec. 583. Compliance determination authority for State regulated gas utilities.
Sec. 584. Judicial review.

Chapter 6—SMALL HYDROELECTRIC POWER PROJECTS

Sec. 586. Incentive program.
Sec. 587. License charges.
Sec. 588. Transfers of authority.
Sec. 589. Conduit hydroelectric facilities.

PART VI—CONVERSION FROM NATURAL GAS AND PETROLEUM TO COAL AND OTHER FUEL RESOURCES

SUBPART A—GENERAL PROVISIONS

Sec. 601. Findings and statement of purposes.
Sec. 602. Definitions.
Sec. 603. Territorial application.
Sec. 604. Effect of environmental requirements.

SUBPART B—PROHIBITIONS; EXEMPTIONS

Sec. 611. New electric powerplants.
Sec. 612. New major fuel-burning installations.
Sec. 613. Existing electric powerplants and existing major fuel-burning installations.
Sec. 614 Supplemental natural gas boiler fuel conservation authority.
Sec. 615. Prohibition on use of natural gas for decorative outdoor lighting.
Sec. 616. Exemption for qualifying cogeneration facilities.
Sec. 617 Exemption for high Btu synthetic gas derived from coal.
Sec. 618. Terms and conditions of exemptions.

SUBPART C—ENFORCEMENT; ADMINISTRATION

Sec. 621. Administrative procedures.
Sec. 622. Enforcement and penalties.
Sec. 623. Citizen suits.
Sec. 624 Preservation of contractual rights.
Sec. 625. Information.

SUBPART D—MISCELLANEOUS PROVISIONS

Sec. 631. Emergency powers of the President.
Sec. 632. Federal activities.
Sec. 633. Impact on employees.
Sec. 634. Annual report.
Sec. 635. Authorization of appropriations.
Sec. 636. Studies.
Sec. 637. Effects of other laws on procedures.
Sec. 638. Conforming amendments.
Sec. 639. Effective dates.

PART VII—FEDERAL ENERGY INITIATIVES

SUBPART A—FEDERAL VAN POOLING PROGRAM

Sec. 701. Federal van pooling program.

SUBPART B—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

Sec. 721. Definitions.
Sec. 722. Federal solar program.
Sec. 723. Duties of Administrator.
Sec. 724. Transfer of appropriations.
Sec. 725. Submission of proposals.
Sec. 726. Authorization.

SUBPART C—USE OF ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

Sec. 741. Findings.
Sec. 742. Policy.
Sec. 743. Purpose.
Sec. 744. Definitions.
Sec. 745. Establishment and use of life cycle cost methods.
Sec. 746. Energy performance targets for existing buildings.
Sec. 747. Energy audits and retrofitting of existing Federal buildings.
Sec. 748. Energy preference for leased buildings.
Sec. 749. Budget treatment of energy items by Federal agencies.
Sec. 750. Reports.
Sec. 751. Transfer of functions.
Sec. 752. Authorization of appropriations.

SUBPART D—USE OF ADVANCED PHOTOVOLTAIC ENERGY DEVICES IN FEDERAL FACILITIES

Sec. 761. Short title.
Sec. 762. Photovoltaic energy program.
Sec. 763. Purpose.
Sec. 764. Acquisition of systems.
Sec. 765. Administration.
Sec. 766. Systems evaluation and purchase program.
Sec. 767. Advisory committee.
Sec. 768. Definition.
Sec. 769. Authorization.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs;

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for exhaustible energy resources of oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources; and

(4) consistent with all Federal, State, and local environmental requirements, the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare, and preserve national security.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are—

(1) to reduce the growth in demand for energy in the United States through carefully considered institutional and technological changes to conserve exhaustible energy resources produced in this Nation and elsewhere, while not significantly inhibiting beneficial economic growth:

(2) to reduce significantly this Nation's demand for oil (particularly imported oil) and natural gas, to discourage the use of oil and natural gas while assuring, to the greatest extent possible, that such fuels will be available for essential needs, and to encourage the use of coal and other fuels and renewable energy sources to the greatest extent possible, for the benefit of present and future generations;

(3) to establish, through regulation of interstate commerce, taxation, reform of electric utility rate structures, and other measures, a comprehensive energy conservation program applicable to all persons, including Federal and State agencies and local governments, and a program to develop this Nation's indigenous energy resources to achieve the national energy goals established by this Act;

(4) to ensure that all actions taken under or pursuant to this Act are carried out in accordance with applicable environmental requirements;

(5) to ensure that all Federal agencies fully utilize their authorities in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and oil as a primary energy source and by maximizing the efficient use of energy and conserve natural gas and petroleum of all forms in programs funded or administered by such agencies;

(6) to educate all users of energy to insist that all goods and services are energy efficient and to consider lifetime costs in purchasing decisions respecting goods and services of every kind and description;

(7) to prevent unemployment due to temporary or long-term shortages in supplies of natural gas and oil;

(8) to protect the security of the United States; and

(9) to provide incentives to increase the amount of domestically produced energy in the United States for the benefit and security of present and future generations.

SEC. 3. NATIONAL ENERGY GOALS.

The Congress hereby establishes the following national energy goals for 1985:

(1) Reduction of the compounded average rate of energy growth in the United States to not more than 2 percent annually and maintenance of that rate thereafter.

(2) Reduction of the level of oil imports to less than six million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Improvement of the efficiency in the energy use of heating and cooling systems in 90 percent of residential buildings, schools, and hospitals.

(5) An increase in annual coal production to at least 400 million tons above 1976 production levels.

(6) Use of solar energy in more than 2½ million homes.

SEC. 4. REFERENCES TO FEDERAL POWER COMMISSION AND FEDERAL ENERGY ADMINISTRATION.

If the Federal Power Commission or the Federal Energy Administration is terminated, any reference in this Act (or any amendment made thereby) to the Federal Power Commission or the Federal Energy Administration shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of such Commission or Administration (as the case may be) are vested, transferred, or delegated pursuant to law.

TITLE I—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

Subpart A—Utility Program

SEC. 101. DEFINITIONS.

As used in this subpart—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "natural gas" means natural gas as such term is defined in the Natural Gas Act.

(3) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, for purposes other than resale.

(4) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(5) The term "nonregulated utility" means a public utility which is not a regulated utility.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "residential building" means any building used for residential occupancy which is not a new building to which the final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a mechanical or electrical system for heating or cooling, or both.

(9) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(10) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of exterior doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency.

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed windows and doors;

(G) replacement furnaces which exceed the energy efficiency standards promulgated under section 325 of the Energy Policy and Conservation Act by not less than an amount determined by the Administrator to provide substantial energy conservation benefits;

(H) devices associated with load management techniques as defined in section 521 (b);

(I) devices to utilize solar energy or windpower for any residential energy conservation purpose, including (but not limited to) heating of water, space heating or cooling; and

(J) such other measures as the Administrator may by rule identify for purposes of this subpart.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this subpart unless such measure is warranted to meet a specified level of performance over a period of not less than three years.

(11) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 103(c) which is developed by a State regulatory authority or by a nonregulated utility.

(12) The term "State" means a State, the District of Columbia, and, at the discretion of the Administrator, Puerto Rico.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority such term means the Tennessee Valley Authority.

(14) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 103 (a), determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Administrator shall consider the resulting cost of the inspection required to be conducted under section 104 (a)(1)(B)(i) and its effect on the willingness of residential customers to participate in the utility program.

(16) The term "utility program" means a program meeting the requirements of section 104 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a State regulatory authority:

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued under section 106.

SEC. 102. COVERAGE.

This subpart shall apply in any calendar year to a public utility only if during the second preceding calendar year either (1) sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet or (2) sales of electric energy by such utility for purposes other than resale exceeded 200 million kilowatt-hours.

SEC. 103. RESIDENTIAL ENERGY CONSERVATION PLANS.

(a) PROMULGATION OF RULES BY ADMINISTRATOR.—The Administrator shall, not later than 120 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, acting through the National Bureau of Standards, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Administrator shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Administrator shall afford interested persons an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include—

(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards for the programs and procedures required under subsections (d)(4) and (e)(3) and standards, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsections (d)(2) and (e)(2); and

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1) Not later than 180 days after promulgation of rules under subsection (a), each State regulatory authority may submit and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or non-regulated utility, extend for good cause shown the time period for submission of a plan by such authority or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the State regulatory authority or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than 90 days after submission. After approval of a plan, a State regulatory authority or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) If the Governor of any State notifies the Administrator and the State regulatory authority not later than 30 days after promulgation of rules under subsection (a), the department or agency of such State, which is receiving funds under part C of title III of the Energy Policy and Conservation Act for purposes of carrying out a State energy conservation plan under such part, may (in lieu of the State regulatory authority) submit a proposed residential energy conservation plan to the Administrator for the utilities regulated by such State regulatory authority. In any case where such plan has been submitted by such department or agency, the references in this subpart (other than in section 101(13)) to the State regulatory authority shall be treated as references to such department or agency, with respect to each utility over which such State regulatory authority exercises ratemaking authority. Any such plan may, in the discretion of the Governor, apply to nonregulated utilities in the State in the same manner as to regulated utilities. In any such case reference in this subpart to regulated utilities (including reference to regulated utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references to nonregulated utilities shall not apply.

(3) Paragraph (2) shall not apply in the case of the Tennessee Valley Authority or to any public utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(3)(A) The Governor of each State (or his designee) shall, not later that 270 days after the date of the enactment of this Act, prepare with respect to the service area of each utility in such State—

(i) a list of suppliers and contractors who sell and install residential energy conservation measures, and

(ii) a list of banks, savings and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures.

The Governor (or his deignee) shall make such lists available to the utilities in such State and to other persons. In the case of any utility's service area for which the Governor or his designee has not prepared and made available any such list within such 270-day period, the Administrator shall prepare and make available such list, as soon as practicable after such period.

(B) The lists required under subparagraph (A) shall be prepared in a fair, open, and nondiscriminatory manner, and in preparing and making available such lists, the Governor or his designee (or the Administrator) shall take such steps as may be necessary to—

(i) prevent unfair, deceptive, or anticompetive acts or practices by persons selling or installing residential energy conservation measures and institutions offering loans for the purchase and installation of such measures, and

(ii) assure that any person who alleges any injury resulting from a violation of the requirements of this subparagraph shall be entitled to redress under procedures established by the Governor or his designee (or the Administrator).

(d) REQUIREMENTS FOR PLANS FOR REGULATED UTILITIES.—No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan—

(1) requires each regulated utility over which such State regulatory authority exercises ratemaking authority to implement a utility program which meets the requirements of section 104;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State, including—

(A) provisions to assure that the lists made available under section 103(c)(3) are prepared and sent as provided in section 104(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program.

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the State regulatory authority or an appropriate State agency designated by such authority, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that each regulated utility will carry out such utility program;

(4) contains adequate procedures to assure that each regulated utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located; and

(5) is adopted after notice and public hearing; and

(6) meets such other requirements as may be contained in the rules promulgated under subsection (a).

(e) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program which meets the requirements of section 104;

(2) contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices by such utility which relate to the implementation of such utility program including—

(A) provisions to assure that the lists made available under section 103(c)(3) are prepared and sent as provided in section 104(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the Administrator or an appropriate agency or authority designated by the Administrator, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that such utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located;

(4) contains procedures pursuant to which such utility will submit a written report to the Administrator not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated under subsection (a); and

(5) meets such other requirements as may be contained in the rules promulgated pursuant to subsection (a).

SEC. 104. UTILITY PROGRAMS.

(a) REQUIREMENTS FOR UTILITY PROGRAMS.—(1) Except as provided in subsection (b) and section 105, each utility program shall include—

(A) procedures designed to inform, no later than January 1, 1980, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(i) the suggested measures for the category of buildings which includes such residential building;

(ii) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(iii) the availability of the arrangements described in subparagraph (B) and the lists made available under section 103(c)(3);

(iv) suggestions of energy conservation techniques, developed by the Administrator, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the potential savings in energy costs that are likely to result from the adoption of the Administrator's suggestions);

(B) procedures whereby the public utility, no later than January 1, 1980, will, for each such residential customer, offer to—

(i) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing each suggested measure and keep a copy of the inspection report on file which shall be available to any subsequent owner without charge, except that a utility shall be required to make only one inspection of a residence unless a new owner requests and offers to pay for a subsequent inspection;

(ii) have the suggested measures (other than replacement furnaces described in section 101(10)(G)) installed if this clause applies as provided in subsection (b);

(iii) assist such residential customer in securing a loan to finance the purchase and installation costs of suggested measures;

(C) procedures whereby the public utility prepares and sends to each of its residential customers the lists made available pursuant to section 103(c)(3) to the extent that the sending of such lists is practicable, as determined by the Governor or his designee (or the Administrator in any case in which the Administrator prepared such list) and

(D) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 106) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility and are not charged to customers of the utility as part of any rate charged for electric power or natural gas, except that any amounts expended by the utility to provide information under provisions referred to in subparagraph (A) shall be treated for such purposes as a current expense of providing utility service and charged to all customers of such utility in the same manner as current operating expenses of providing such utility service.

(2) The costs of carrying out any activity as part of a utility program under this section (other than the costs of providing information under the provisions referred to in paragraph (1)(A)) shall be charged to the person for whom such activity is performed. Such costs shall be stated separately from the cost of providing utility service on any billing submitted by the utility to such person.

(3) In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980, and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subparagraph (A) of paragraph (1) and offer such person the opportunity to enter into arrangements referred to in subparagraph (B) of paragraph (1).

(b) SUPPLY AND INSTALLATION BY UTILITIES.—(1) After the date 2 years after the date of enactment of this Act, any public utility which directly or indirectly supplies or installs any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) shall be treated for purposes of this subpart as supplying or installing such measure under a program under this section. After such date 2 years after the date of enactment of this Act, the provisions of subsection (a)(1)(B)(ii) shall apply and public utilities shall be required to offer to have suggested measures installed under programs under such provisions, if the Administrator determines that—

(A) the supplying or installing of such measures by utilities would not have a substantial anticompetitive effect, and

(B) the supplying or installing of such measures would result in a substantial increase in the number of residential customers likely to install suggested measures, and would not result in excessive prices for residential energy conservation measures. Before making his determination under subparagraph (A), the Administrator shall take into account a report by the Federal Trade Commission respecting such determination. Such report shall be undertaken by the Federal Trade Commission and submitted to the Administrator within 18 months after the date of enactment of this Act and shall include a study of the effect on competition of requiring utilities to supply or install such measures under the program under this subpart.

(2) Subection (a)(1)(B)(ii) shall not apply and a public utility may not directly or indirectly supply or install any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) after the date 2 years after the date of the enactment of this Act if—

(A) the State regulatory authority or the Administrator determines that there are available sufficient numbers of suppliers or installers of suggested measures in the area to be served by the utility.

(B) the State regulatory authority, the Administrator, or the Federal Trade Commission determines that the supplying or installing of such measures by such utility would have a substantial anticompetitive effect, or

(C) the State regulatory authority or the Administrator determines that prohibiting utilities from supplying or installing such measures will not result in a substantial reduction of the number of residential customers likely to install suggested measures.

(3) Subparagraphs (A) and (C) of paragraph (2) shall not apply to any public utility which directly or indirectly supplied or installed any such measure prior to April 20, 1977.

(4) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

(c) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate or threaten to terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(d) LOANS BY UTILITIES.—(1) Except as provided in paragraph (2), nothing in this section shall be construed as prohibiting any public utility from making loans to residential customers for the purpose of financing the purchase and installation of residential energy conservation measures. In the case of any such loan made by a public utility to a residential customer for such purpose, the public utility shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he otherwise elects) except that—

(A) a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer (other than a late payment by such customer), and

(B) no penalty shall be imposed for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(2) After the date 2 years after the date of the enactment of this Act, no public utility subject to a plan under this subpart may make any loan to finance the purchase or installation of any residential energy conservation measure if the Administrator has determined, after notice and opportunity for public hearing, that—

(A) such loans are being made by such utility at unreasonable rates or on unreasonable terms and conditions, or

(B) such loans made by such utility have a substantial adverse effect upon competition.

(3) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

SEC. 105. TEMPORARY PROGRAMS.

Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of rules pursuant to section 103. A temporary exemption may be granted for the requirements of section 104 for a period not to exceed 3 years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or proposes to implement an energy conservation program for residential customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings in its service area.

SEC. 106. FEDERAL STANDBY AUTHORITY.

(a) STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.—If a State regulatory authority does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a), or within such additional period as the Administrator may allow pursuant to section 103(c)(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall—

(1) promulgate a plan which meets the requirements of section 103 and which applies to the residential buildings which would have been covered had such plan been so approved or implemented, and

(2) under such plan, by order, require each public utility in the State to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 104.

(b) NONREGULATED UTILITIES.—If a nonregulated utility does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a) or within such additional period as the Administrator may allow pursuant to section 103(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to promulgate a plan which meets the requirements specified in subsection (e) of section 103.

(c) FAILURE TO COMPLY WITH ORDERS.—If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2) A civil penalty under this subsection shall be assessed by an order of the Administrator made on the record after notice and opportunity for a hearing.

(3) Any person who requested a hearing in accordance with paragraph (2) regarding the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the appropriate United States Court of Appeals. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after the court in an action brought under paragraph (3) has entered a final judgment requiring such payment

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment as the case may be) in an action brought in such court. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) STATE AND LOCAL LAW.—Nothing in this subpart shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Administrator, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this subpart.

(b) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this subpart shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this subpart.

(d) PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—No loan made by a utility under a utility program under this subpart shall be treated as the acquisition of any security, asset, or other interest in any business for purposes of section 9 of the Public Utility Holding Company Act of 1935.

SEC. 108. CONTRACT PROVISIONS.

No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under this subpart.

SEC. 109. RULES.

The Administrator is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.

SEC. 110. PRODUCT STANDARDS.

The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Administrator for each of the first three fiscal years beginning after the date of the enactment of this Act $5,000,000 to carry out his responsibilities under this subpart.

SEC. 12. STUDY RESPECTING ENERGY EFFICIENCY STANDARDS.

(a) STUDY.—(1) The Administrator shall undertake a study and submit recommenda-

tions (including recommendations for legislative action) to the President and Congress respecting the application of energy conservation standards to existing residential buildings. Such study shall include an analysis of, and recommendations respecting—

(A) the type and coverage of residential energy conservation standards, if any, which are necessary and desirable to carry out the purposes of this Act, and

(B) any measures necessary to insure compliance with such standards.

(2) The study and recommendations referred to in paragraph (1) shall include an analysis of—

(A) whether or not Federal financial assistance (within the meaning of title III of the Energy Conservation and Production Act) should be withheld or conditioned in the case of existing residential buildings which do not meet energy conservation standards and whether or not some other means of insuring compliance with such standards should be implemented, and

(B) the classes or categories of existing residential buildings and building owners which should be exempted from any mandatory program which may be recommended under paragraph (1).

(b) CONSULTATION.—In carrying out his functions under subsection (a), the Administrator shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Administrator shall, to the extent practicable, make use of the National Institute of Building Sciences.

(c) CONSIDERATION OF FACTORS.—In making any recommendations under subsection (a) of this section, the Administrator shall consider—

(1) the economic impact of the measures recommended on the property owners,

(2) the savings in energy costs resulting from measures recommended throughout the estimated remaining useful life of the existing residential buildings to which such recommendation applies,

(3) the cost of complying with such measures,

(4) the cost of administering any such measures recommended under subsection (a)(1)(B),

(5) the total cost, per Btu, in obtaining the energy savings likely to result from such recommended measures, computed for each class of existing residential building to which such recommendation applies, and

(6) any other factors the Administrator considers relevant.

(d) SUBMISSION.—The recommendations developed by the Administrator under subsection (a) shall be submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act.

Subpart B—Weatherization Grants for the Benefit of Low-Income Families

SEC. 121. FEDERAL ENERGY ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

(a)(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting the following after "Budget,": "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b)(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material. Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendments and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

(2) Section 412(9) of such Act is amended to read as follows:

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) Section 415 of such Act is amended—

(1) by striking out "weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not to exceed 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any fiscal assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and materials to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.".

(d) Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

SEC. 122. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM

(a) Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Administrator of the Federal Energy Administration for the purpose of coordinating the weatherization programs under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit, the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling units will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that not more than $800 of any grant made under this section be expended, with respect to any dwelling unit, on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors.

"(4) For purposes for this subsection, the terms 'elderly', 'handicapped', 'low income' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

(b) Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of such amount is authorized to be appropriated for making grants pursuant to section 504(c)".

SEC. 123. AVAILABILITY OF LABOR.

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504(c) of the Housing Act of 1949:

(1) First, the Administrator of the Federal Energy Administration (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

Subpart C—Secondary Financing and Loan Insurance for Energy Conserving Improvements

SEC. 141. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

"SEC. 314. (a) As soon as practicable after the date of enactment of the National Energy Act, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires:

"(2) such loan or advance of credit involves an interest rate which the Secretary establishes (after consulting with the Secretary of Agriculture and the Administrator of the Federal Energy Administration), taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below that which the Association is required to pay under subsection (d); and

"(3) the amount of any such loan or advance of credit does not exceed $2,200.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Secondary Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount to exceed $2,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with the recourse to the originator.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 90 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 90 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

SEC. 142. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS UNDER TITLE I OF THE NATIONAL HOUSING ACT.

Subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(2) the term 'energy conserving improvements' shall mean the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and".

SEC. 143. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF NATIONAL HOUSING ACT.

Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act) and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage insured under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary

deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Administrator of the Federal Energy Administration, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation of the multifamily project to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment."

SEC. 144. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act), the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever he or she determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances if credit (and related purchase certificates and other related instruments) which are insured under title I or section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligation of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligation hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $3,000,000,000 at any one time.".

Subpart D—Miscellaneous

SEC. 161. ENERGY-CONSERVING IMPROVEMENTS FOR PUBLIC HOUSING.

Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to the approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

SEC. 162. ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.

(a) Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of the National Energy Act.".

(b) Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

"SEC. 528. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standard established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.".

SEC. 163. SOLAR ENERGY SYSTEMS.

(a) Subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar, wind, or other solar-derived energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration.".

(b) Section 203(b)(2) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(c) Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(d) Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this Act for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

SEC. 164. STUDIES.

(a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Administrator of the Federal Energy Administration, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

(b) In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the difficulties of administering such a requirement and the sanctions required to make such a requirement effective;

(5) the likely problems and disruptions for sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Department of Housing and Urban Development under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973;

(6) the extent to which the available supply of residential dwellings could be reduced at the time of application of such mandatory Federal actions, and the resulting effect on the price of those remaining dwelling units eligible for sale; and

(7) the impact on major housing rehabilitation efforts and voluntary efforts for energy conservation, during the period of development of the standards, as a result of the uncertainty with respect to what standards might be imposed.

(c) The Secretary shall report, no later than 1 year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

(d) In addition to the study described in subsections (a) through (c), the Secretary shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a preliminary report at the end of the first year after the date of enactment of this Act and a final report no later than 3 years after such date to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations made for legislative purposes which the Secretary determines should be enacted with respect to the subject of such study.

SEC. 165. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS.

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) in the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) in the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

SEC. 166. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof a new sentence, to read as follows: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' is also deemed to include a loan or advance of credit for such purposes not having the benefit of such insurance and to include loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income with or without other security.".

SEC. 167. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

SEC. 168. WEATHERIZATION STUDY.

The Administrator of the Federal Energy Administration, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of the Community Services Administration shall conduct a joint study which shall monitor, in a coordinated manner, the weatherization activities authorized by this Act and amendments made thereby and those weatherization activities undertaken independently of this Act and such amendments. Such officials shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby, and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

Subpart A—Energy Efficiency Standards for Consumer Products Other Than Automobiles

SEC. 201. TEST PROCEDURES.

(a) PUBLICATION OF TEST PROCEDURES.—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (6), such proposed test procedures shall be published not later than August 31, 1977.".

(b) PRESCRIPTION OF TEST PROCEDURES.—Section 323(a)(4) of such Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than December 30, 1977."; and

(3) by striking out subparagraph (B).

(c) EXTENSIONS.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

"(6) The Administrator may delay the publication of proposed test procedures under paragraph (3) or the prescription of test procedures under paragraph (4) for a type of covered product (or class thereof) if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall publish such proposed test procedures or prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (3) or (4), as the case may be.".

(d) REEVALUATIONS OF TEST PROCEDURES.—Section 323(a) of such Act (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7)(A) Not later than 3 years after prescribing a test procedure under this section (and from time to time thereafter), the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such procedure should be amended, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered product involved.

"(B) If the Administrator determines under subparagraph (A) that a test procedure should be amended, he shall promptly publish proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

SEC. 202. ENERGY EFFICIENCY STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a)(1)(A) The Administrator shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered product specified in paragraphs (1) through (13) of section 322(a).

"(B) The Administrator may, by rule, prescribe an energy efficiency standard for any type (or class) of covered product of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(i) the average per household energy use within the United States by products of such type (or class) exceeds 150 kilowatt-hours per year for any 12-calendar-month period ending before such determination;

"(ii) the aggregate household energy use within the United States by products of such type (or class) exceeds 4,200,000,000 kilowatt-hours per year for any such 12-calendar-month period;

"(iii) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(iv) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is tech-

nologically feasible to attain and is economically justified.

In the case of any type (or class) of covered product which uses a fuel other than electricity, the standards to be applied in clauses (i) and (ii) shall be the amount of Btu's of such fuel necessary to generate the kilowatt-hours of electricity referred to in clauses (i) and (ii), respectively.

"(C) Not later than 2 years after the date of the enactment of this subparagraph, the Administrator shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under subparagraph (B). The Administrator may revise such list from time to time thereafter.

"(2) No standard for a type (or class) of covered product shall be prescribed pursuant to paragraph (1) if—

"(A) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) product, or

"(B) the Administrator determines, by rule, that the establishment of such standard will not result in significant conservation of energy.

For purposes of section 327, a determination under subparagraph (B) with respect to any type (or class) of covered product shall have the same effect as a standard prescribed for such type (or class) under this section.

"(3) Energy efficiency standards for each type (or class) of covered product prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 3 years, through the establishment of intermediate standards, as determined by the Administrator.

"(4) In determining whether a standard is economically justified under paragraph (3), the Administrator shall consider, after receiving any views and comments furnished with respect to the proposed standard under section 336—

"(A) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(B) the savings in operating costs throughout the estimated average life of covered products in the type (or class) subject to such standard which are likely to result from the imposition of such standard,

"(C) the total energy savings likely to result directly from the imposition of the standard,

"(D) any increase in the initial charge for, and expenses of maintenance, repair, or use of, such covered products which is likely to result from the imposition of the standard,

"(E) the total cost, per Btu, in obtaining the energy savings likely to result from imposing the standard, computed for such type (or class) of covered product by dividing the average charges and expenses referred to in subparagraph (D) by the energy savings (expressed in Btu's) referred to in subparagraph (C),

"(F) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard.

"(G) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard, and

"(H) any other factors the Administrator considers relevent.

For purposes of subparagraph (G), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Administrator, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register.

"(5)(A) Subject to subparagraph (B), the Administrator may, on application of any manufacturer, exempt such manufacturer from the application of all or part of the requirements of any rule prescribing an energy efficiency standard under this subsection for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Administrator finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Administrator shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(B) The Administrator may not exercise the authority granted under subparagraph (A) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow such exemptions of manufacturers under subparagraph (A) would likely result in a substantial lessening of competition.

"(6)(A) A rule prescribing an energy efficiency standard for a type of covered product (or class) shall specify a level of energy efficiency higher or lower than that which otherwise applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Administrator, in his discretion, determines that products within such group—

"(i) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(ii) have a performance-related feature which is not part of other products within such type (or class), justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining under this subparagraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Administrator shall consider such factors as the utility to the consumer of such a feature, the capacity of the product resulting from, or which constitutes, such feature, and may consider such other factors as he deems appropriate.

"(B) Any rule prescribing a higher or lower level of energy efficiency under subparagraph (A) shall include an explanation of the basis on which such higher or lower level was established.

"(7) In prescribing energy efficiency standards under this subsection, the Administrator shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a).

"(8)(A) Not later than 5 years after prescribing an energy efficiency standard under this section (and from time to time thereafter, the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered product involved, and the economic impact of the standard.

"(B) If the Administrator determines under subparagraph (A) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule will apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Administrator—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered product (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (4), (7), (8), (10), and (11) of section 322(a), not later than 30 days after a test procedure with respect to that type (or class) of covered product has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Administrator shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency, the Administrator shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking the Administrator shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Administrator must consider under subsection (a)(4)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescibe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years

after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed before the effective date of the rule or amendment as the case may be.

"(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 203. EFFECT OF STANDARDS ON OTHER LAW.

Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed on or before the date of the enactment of the National Energy Act which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) of a covered product and which is not superseded by subsection (a)(2), then any person subject to such regulation may file a petition with the Administrator requesting that the Administrator prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Administrator finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after such date of enactment which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) or covered product and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Administrator requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulation; except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or similar requirement respecting energy use or energy efficiency for such type (or class) of a covered product may file a petition with the Administrator requesting a rule that such regulation not be superseded. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(4) The Administrator shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Administrator, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Administrator may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Administrator shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of the first sentence of paragraph (2) shall not continue in effect—

"(A) after 3 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (1), (2), (5), (6), (9), (12), or (13) of section 322(a), and

"(B) after 5 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (3), (4), (7), (8), (10), or (11) of section 322(a).".

SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO SECTION 324(a).—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance wtih this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(b) AMENDMENTS TO SECTION 324(c).—Section 324(c)(5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(c) AMENDMENT TO SECTION 326.—Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out his responsibilities under this section, the Administrator may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Administrator with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Administrator determines may be necessary to establish and revise test procedures and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.".

(d) AMENDMENT TO SECTION 333.—(1) Section 333 of such Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d) Before assessing against any person any civil penalty under this section, the Administrator or the Commission, as the case may be, shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after opportunity for any agency hearing pursuant to section 554 of title 5, United States Code. The order assessing such penalty shall state the findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator or the Commission, as the case may be, shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be promptly sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such order is filed the Administrator or the Commission, as the case may be, shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such order or the court may remand the proceeding for such further action as the court may direct.".

(2) Section 333(a) of such Act (42 U.S.C. 6303(a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(3) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)".

(e) AMENDMENTS TO SECTION 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(A) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(B) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(f) AMENDMENTS TO SECTION 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a) (1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336(a) of such Act (42 U.S.C. 6306(a)) is amended by striking out paragraph (2).

(4) Sections 336(b) (1) and (2) of such Act (42 U.S.C. 6306(b) (1) and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(g) AMENDMENT TO SECTION 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Administrator in carrying out this part during the period covered by such report, and those actions which the Administrator was required to take under this part during such period but which were not taken, together with the reasons therefor.".

SEC. 205. APPROPRIATIONS AUTHORIZATION.

Section 339(a)(3) of such Act is amended to read as follows:

"(3) in addition to amounts authorized for such purposes under section 29(a) of the Federal Energy Administration Act of 1974, $3,300,000 for fiscal year 1978.".

SEC. 206. EFFECTS OF OTHER LAWS ON PROCEDURES.

The procedures applicable under part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 and following) shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part (or provisions of law cited therein), or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to such part, and declaring that such provision supersedes the provisions of such part.

Subpart B—Disclosure of Automobile Fuel Inefficiency Tax

SEC. 221. DISCLOSURE IN LABELING.

(a) DISCLOSURE.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006 (a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile the sale of which is subject to the tax imposed by section 4064 of the Internal Revenue Code of 1954, a statement indicating the amount of such tax, and".

(b) TIME AND MANNER OF DISCLOSURE.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

SEC. 222. DISCLOSURE IN ADVERTISING.

(a) DISCLOSURE.—The Federal Trade Commission may prescribe rules requiring disclosure of any tax imposed by section 4064 of the Internal Revenue Code of 1954 with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile. In prescribing any such rule, the Federal Trade Commission shall take into account any special circumstances or characteristics.

(b) ENFORCEMENT.—A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act or practice in or affecting commerce, for purposes of the Federal Trade Commission Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

Subpart C—Use of Recovered Materials

SEC. 241. USE OF RECOVERED MATERIALS.

(a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increases to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this section are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part D of title III of the Energy Policy and Conservation Act is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"SEC. 374A. (a) For purposes of this section the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of enactment of this section, the Administrator shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: The metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Administrator shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Administrator—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

"(e) Within each of the industries subject to this section, the Administrator shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1978, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Administrator under section 375, or if section 376(g) applies, prepare and transmit a report which includes a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1979, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Administrator for its industry. Such reports shall contain such information as the Administrator determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Administrator shall include in his annual report under section 375(c) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievements of targets set by the Administrator under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—Section 376 of such Act is amended by—

(1) inserting "or 374A" after "section 372" in subsection (b), and

(2) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

Subpart D—Off-Highway Motor Vehicles and Bicycles

SEC. 261. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

"SEC. 385. Not later than one year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study. Such report shall contain recommendations respecting the desirability and practicability of applying fuel efficiency standards or taxes on fuel use (or both) to such vehicles."

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part E the following:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"Sec. 385. Off-Highway motor vehicle conservation study."

SEC. 262. BICYCLE STUDY.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than one year after the date of enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a sudy.

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Subpart A—Schools and Health Care Facilities

SEC. 301. STATEMENT OF FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and health care facilities are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and health care facilities through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and health care facilities in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and health care facilities to assist in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and health care facilities.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES

"DEFINITIONS

"SEC. 391. For the purposes of this part—

"(1) The term 'building' means any structure which includes a heating or cooling system, or both, the construction of which was completed on or before April 20, 1977.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source, including, but not limited to—

"(A) insulation of mechanical systems and the building structure;

"(B) storm windows and doors, multi-glazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications.

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems modifications, including replacement of standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) lighting fixture retrofits, to the extent that such retrofit reduces the watts per square foot level for illumination and conserves energy;

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use primarily within a building or a complex of buildings owned by a school or health care facility and which meet such fuel efficiency requirements as the Administrator may by rule prescribe; and

"(L) such measures as have been identified by an energy audit, carried out in accordance with rules promulgated by the Administrator under section 365(e)(2), for which it is shown that a substantial amount of energy will be saved, and such other energy conservation measures as the Administrator may determine appropriate under section 365(e)(1).

No lighting fixture retrofit which increases the general illumination level of a facility shall be treated as an energy conservation measure under this paragraph unless the Administrator finds that such increase is necessary to conform to any applicable State or local building code, or, if no such code applies, such increase is deemed desirable by the Administrator.

"(3) The term 'health care facility' means a public or nonprofit institution which is a medical facility as defined in section 1633 of the Public Health Service Act, as in effect on the date of the enactment of this part.

"(4) The term 'public or nonprofit institutioin' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"(5) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

"(B)(i) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (ii) of subparagraph (B); or

"(D) is a residential child care institution.

"(6) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(7) The term 'State' means a State, the District of Columbia, Puerto Rico and, at the discretion of the Administrator, any territory or possession of the United States.

"(8) The term 'State energy agency' means the State agency responsible for developing State energy plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit the State plan required under section 394 of this part.

"(9) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, private nonprofit institutions of higher education, public elementary and secondary schools, private nonprofit elementary and secondary schools, public residential child care institutions and private nonprofit residential child care institutions, public vocational educational institutions, private nonprofit vocational institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(10) The term 'State health care facilities agency' means an existing agency which is broadly representative of the public hospitals, the private nonprofit hospitals, public facilities for long-term care, and private nonprofit facilities for long-term care in a State, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

"(11) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures, and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

except that for the purposes of section 393 (a)(1), such term shall mean a survey which identifies the type, size, and energy use level of such building and the major energy-using systems of such building.

"(12) The term 'energy conservation project' means an undertaking to acquire and to install one or more energy conservation measures in a building which is a school or health care facility.

"(13) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures.

"(14) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to schools and health care facilities—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building, or as a result of the acquisition and installation of one or more specified energy conservation measures in such building, or as a result of both, and

"(B) the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

"(15) The term 'technical assistance program costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for a technical assistance program.

"(16) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"GRANT AUTHORIZATION

"SEC. 392. (a) The Administrator is authorized to make grants to—

"(1) States to assist in conducting preliminary energy audits pursuant to section 393,

"(2) States, schools, and health care facilities in payment of technical assistance program costs, and

"(3) schools and health care facilities in payment of energy conservation project costs incurred in connection with energy conservation projects.

"(b)(1) Except as provided in paragraph (2), the Federal share of the costs incurred in connection with any preliminary energy audit, any technical assistance program, or any energy conservation project shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds.

"(2) Funds available to the Administrator under section 396(a)(3) may be used to pay up to 90 percent of the program or project costs for technical assistance programs or energy conservation projects if the Administrator determines that such programs or projects meet the criteria of a class of severe hardship as such class is determined, by rule, by the Administrator, taking into account climate, fuel costs, or fuel availability, ability to provide the required matching non-Federal funds, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS

"SEC. 393. (a) The Administrator shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits required for the development of State energy plans, including a description of the type, number, and distribution of preliminary energy audits of schools and health care facilities that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State,

"(2) prescribe guidelines for the conduct of preliminary energy audits that may be required in determining which schools and health care facilities qualify for grants for technical assistance programs and energy conservation projects under a State plan, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits, taking into account the population and climate of such States and such other factors as he may deem appropriate.

In the case of States which, without the use of financial assistance under this part, conduct preliminary energy audits which fulfill the terms of the guidelines issued by the Administrator and which are approved by the Administrator as a part of the State energy plan of such State pursuant to section 394(c), the funds allocated for purposes of this subsection shall be added to the funds available for technical assistance programs or energy conservation projects for such State and shall be in addition to amounts otherwise available under the allocation for such purposes pursuant to paragraph (1) of section 396(a).

"(b) In any case in which a State does not conduct the preliminary energy audits required under subsection (a)(1) of this section within two years after the date of the enactment of this part, the Administrator may conduct such audits within such State.

"STATE PLANS

"SEC. 394. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for, and the implementation of energy conservation projects in, schools and health care facilities in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs and energy conservation projects will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals,

"(2) a description of the criteria to be used in establishing a State program to identify persons qualified to conduct preliminary energy audits, and carry out technical assistance programs and implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to section 394(a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a statistical survey of schools and health care facilities identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in such facilities,

"(2) a description of the number and type of school and health care facilities in such State that may qualify for financial assistance for technical assistance programs and energy conservation projects under the Administrator's guidelines,

"(3) a description of the energy conservation needs of the schools and health care facilities of such State,

"(4) a recommendation as to the types of technical assistance programs and energy conservation measures considered appropriate for schools and health care facilities in such State, together with an estimate of the costs of carrying out such programs and acquiring and installing such measures in each year for which funds are appropriated,

"(5) a program for identifying persons qualified to conduct preliminary energy audits, carry out technical assistance programs, and install energy conservation projects,

"(6) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs and energy conservation projects within such State, including recommendations as to how priorities should be established between schools and health care facilities, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings (except that schools in any State shall not be allocated less than 30 percent of the funds for technical assistance programs and for energy conservation projects within such State and health care facilities in any State shall not be allocated less than 30 percent of such funds within such State),

"(7) a description of procedures for assuring that certifications will be obtained from the appropriate State health facilities agency and State school facilities agency, respectively, that the proposed State plan is consistent with existing programs for health and education facilities, respectively, in such State pursuant to subsection (b) of section 395, and

"(8) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"(d)(1) If a State plan has not been approved under this section within two years and ninety days after the enactment of this part, or within ninety days after completion of the preliminary audits under section 393(a)(1), whichever is later, the Administrator may take such action as necessary to develop and implement without regard to subsection (b)(7), such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, in order that the energy conservation program for schools and health care facilities may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. Such plan shall be reviewed by the Administrator and approved or disapproved not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b) and is not inconsistent wtih any plan developed and implemented by the Administrator under paragraph (1), the Administrator shall approve the plan and withdraw any such plan developed and implemented by the Administrator.

"CONFORMANCE WITH STATE PROGRAMS

"SEC. 395. (a) Applications of States, schools, and health care facilities and State plans pursuant to this part shall be consistent with—

"(1) related State programs for educational facilities in such State, and

"(2) State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

"(b) No application of a State, school, or health care facility under this part shall be approved by the Administrator unless the appropriate State health facilities agency or the State school facilities agency, respectively, for such State shall have certified that it conforms to the requirement of this section.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 396. (a) The Administrator shall provide grants for carrying out technical assistance programs and energy conservation projects from the sums appropriated for any fiscal year under section 398 (b) and (c) only upon annual application and shall allocate the sums appropriated for that fiscal year in the following manner:

"(1) eighty percent among school and health care facilities in the several States in accordance with a formula to be determined by the Administrator, by rule, taking into account population and climate of each State, and such other factors as the Administrator may deem appropriate;

"(2) ten percent among schools and health care facilities in the several States, as the Administrator shall determine, after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and health facilities in the several States, and such other factors as the Administrator may deem appropriate; and

"(3) ten percent for making grants in excess of fifty percent of program or project costs as authorized by section 392(b).

"(b) Funds allocated to projects and programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under subsection (a) of this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year to schools and health care facilities in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 397. (a) Applications of States, schools, and health care facilities for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs and energy conservation projects shall be accompanied by a listing and description of technical assistance programs and energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance to States, schools, or health care facilities for technical assistance programs or energy conservation projects unless the application for a grant for such program or project has been submitted through, and been approved by the appropriate State health care facilities agency or State school facilities agency, respectively, and has been approved by the State energy agency.

"(d) The Administrator shall not provide financial assistance under paragraph (2) or (3) of section 392(a) unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established procedures for implementation of energy conserving maintenance and operating procedures in those facilities for which projects and programs are proposed;

"(5) implemented a program to identify persons qualified to conduct audits, to carry out technical assistance programs, and implement energy conservation projects;

"(6) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

"(7) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports; and

"(8) establish procedures to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 398. (a) For the purpose of making grants to States to conduct preliminary energy audits pursuant to sections 392(a)(1) and 393, there is hereby authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants to States, schools, and health care facilities pursuant to section 392(a)(2), there is hereby authorized to be appropriated not to exceed $60,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended.

"(c) For the purpose of making energy conservation project grants to schools and health care facilities pursuant to section 392(a)(3), there is hereby authorized to be appropriated not to exceed $220,000,000 for the fiscal year ending September 30, 1978, $250,000,000 for the fiscal year ending September 30, 1979, and $280,000,000 for the fiscal year ending September 3, 1980, such funds to remain available until expended.

"(d) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 399. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures utilized and not utilized, with funds allocated, and an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

"(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part G—Energy Conservation Program for Schools and Health Care Facilities

"Sec. 391. Definitions.
"Sec. 392. Grant authorization.
"Sec. 393. Preliminary energy audits.
"Sec. 394. State plans.
"Sec. 395. Conformance with State programs.
"Sec. 396. Allocation of financial assistance.
"Sec. 397. Applications.
"Sec. 398. Authorization of appropriations.
"Sec. 399. Annual report.
"Sec. 400. Administration.".

SEC. 303. TECHNICAL AMENDMENTS.

(a) SECTION 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

(b) SECTION 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act ■ amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) SECTION 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

Subpart ■—Buildings Owned by Units of Local Government

SEC. 321. STATEMENT OF FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government are major consumers of energy, and such units have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government in many instances need financial assistance in order to make the necessary improvements in buildings owned by them to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures to reduce the energy use and anticipated energy costs of buildings owned by units of local government.

SEC. 322. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

"DEFINITIONS

"SEC. 400A. For the purpose of this part—

"(1) The terms 'buildings', 'health care facility', 'school', 'State energy agency', 'technical assistance program costs', and 'energy conservation maintenance and operating procedure' have the meanings provided by section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

"(3) The term 'building owned by a unit of local government' means any building, other than a building utilized primarily by a school or health care facility, which is owned by one or more units of local government, and which is—

"(A) primarily occupied by the offices or agencies of such unit or units, and which is

"(B) not intended for seasonal use by such offices or agencies.

"(4) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

"(5) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to units of local government—

"(A) in conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building.

"(B) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building, and

"(C) in such other planning as the Administrator may deem appropriate.

"GRANT AUTHORIZATION

"SEC. 400B. (a) The Administrator is authorized to make grants to—

"(1) States and units of local government to assist in conducting preliminary energy audits for buildings owned by units of local government, and

"(2) States and units of local government in payment of technical assistance program costs for technical assistance programs for buildings owned by units of local government.

"(b) The Federal share of the costs incurred in connection with any preliminary energy audit or any technical assistance program, shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Fedral funds.

"PRELIMINARY ENERGY AUDITS

"SEC. 400C. (a) The Administrator shall, by rule, not later than sixty days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government by State energy agencies, including a description of the type, number, and distribution of preliminary energy audits of such buildings that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State.

"(2) prescribe guidelines for the conduct of preliminary energy audits by State energy agencies or by units of local government, or both, that may be required in determining which buildings of units of local government qualify for grants for technical assistance programs, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits for buildings owned by units of local government, taking into account the population and climate of such States and such other factors as he may deem appropriate.

"STATE PLANS

"SEC. 400D. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for the implementation of technical assistance programs for buildings owned by units of local government in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals, and

"(2) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to subsection (a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a description of the energy conservation needs of the buildings owned by units of local government of such State;

"(2) a description of the number and type of buildings owned by units of local government in such State that may qualify for financial assistance for technical assistance programs under the Administrator's guidelines;

"(3) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government in such State, together with an estimate of the costs of carrying out such programs;

"(4) a statistical survey of buildings owned by units of local government identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in such buildings;

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs within such State, including recommendations as to how priorities should be established between buildings owned by units of local government, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings; and

"(6) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 400E. (a) The Administrator shall provide grants for carrying out technical assistance programs from the sums appropriated for any fiscal year under this part only upon annual application.

"(b) Funds allocated to programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 400F. (a) Applications of States and units of local government for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs shall be accompanied by a listing and description of technical assistance programs proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expected expenditure as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance for technical assistance programs under this part unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established policies and procedures desgined to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part; and

"(5) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"AUTHORIZATION OF APPROPRIATION

"SEC. 400G. (a) For the purpose of making grants to States or units of local government, or both, to conduct preliminary energy audits under this part there is hereby authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants under this part to States and units of local government, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and $25,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 400H. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400I. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part H—Energy Conservation Program for Buildings Owned by Units of Local Government

"Sec. 400A. Definitions.
"Sec. 400B. Grant authorization.
"Sec. 400C. Preliminary energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Allocation of financial assistance.
"Sec. 400F. Applications.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Annual report.
"Sec. 400I. Administration.".

SEC. 323. APPLICATION OF DAVIS-BACON ACT.

The Federal employee or officer primarily responsible for administering any program established under any provision of, or amendment made by, part III of title I of this Act which provides for Federal funding shall take such steps as are necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such funds will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

PART IV—NATURAL GAS

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) the natural gas market changed dramatically through the course of the last 40 years as a national distribution system was built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas within the same State in which it was produced, to a regulatory standard based upon a determination of historic production costs;

(5) since 1973, the differential between the price of natural gas and the price of crude oil on a Btu basis has widened with the continuation of cost-based regulation of natural gas and with a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) at the same time as proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in growing critical shortages in the interstate market of the fuel which provides 30 percent of the Nation's energy; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas and to reflect the costs and risks associated with finding new supplies of natural gas, as well as the costs associated with reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) PURPOSES.—The purposes of this part are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas which provides fair and equitable producer revenues and protects consumers;

(2) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(3) to provide for the conservation of natural gas by pricing natural gas to low-priority users at a level which will provide incentives for conservation and conversion to other, more plentiful, fuels.

SEC. 402. DEFINITIONS.

As used in this part—

(1) The term "Commission" means the Federal Power Commission.

(2) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(3) The term "natural gas" has the same meaning as such term has under section 2(5) of the Natural Gas Act.

(4) The term "old natural gas" means natural gas other than new natural gas.

(5) The term "new natural gas" means natural gas—

(A) produced from a new lease on the Outer Continental Shelf; or

(B) produced (other than from the Outer Continental Shelf) from a new well the completion location of which—

(i) is 2.5 statute miles or more (horizontal distance) from any old well;

(ii) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well; or

(iii) is in a newly discovered reservoir.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(7) The term "new lease" means a lease, entered into on or after April 20, 1977, of submerged acreage—

(A) which was not leased before April 20, 1977; or

(B) which was leased before such date, under a lease which terminated or was abandoned before such date and was not in effect on such date.

(8) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(9) The term "old well" means any well which—

(A) produced crude oil, natural gas, or both, on or before April 20, 1977; or

(B) was capable of producing crude oil, natural gas, or both, on April 20, 1977.

(10) The term "completion location" means the subsurface location from which crude oil or natural gas is or has been produced from a reservoir.

(11) The term "horizontal distance", with regard to an old well and a new well, means the distance, measured horizontally and without regard to topography, between—

(A) the surface location of the old well, and

(B) the closest point of the completion location of the new well vertically projected to the same elevation as the surface location of the old well.

(12) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(13) The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas.

(14) The term "new contract" means any contract, entered into after April 20, 1977, for the sale of natural gas which was not previously subject to an existing contract.

(15) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(16) The term "exisiting contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(17) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 403.

(18) The term "inflation adjustment" means, with respect to any calendar quarter, the amount determined by dividing—

(A) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(B) the implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(19) The term "Mcf" means, with respect to natural gas, 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and a temperature of 60° Fahrenheit.

(20) The term "Btu" means British thermal unit.

(21) The term "United States" includes the Outer Continental Shelf.

(22) The term "State" means each of the several States and the District of Columbia.

SEC. 403. CALCULATION OF THE CURRENT BTU RELATED PRICE.

(a) CURRENT BTU RELATED PRICE.—Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring domestic crude oil during the preceding 3 calendar months, by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(b) COMPUTATION OF DOMESTIC REFINER COST OF CRUDE OIL.—For purposes of paragraph (1) of subsection (a), the average per barrel domestic refiner cost of acquiring crude oil shall be computed without regard to—

(1) costs associated with the purchase of entitlements under the regulation issued under section 4 of the Emergency Petroleum Allocation Act of 1973,

(2) the tax imposed by section 4986 of the Internal Revenue Code of 1954 or any credit or payment allowable under such Code in connection with such tax, or

(3) the cost of crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the

Emergency Petroleum Allocation Act of 1973).

SEC. 504. SALES OF NEW NATURAL GAS.

Except as provided in sections 409 and 413, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the higher of $1.75 per million Btu's or the current Btu related price at the time of such deliveries.

SEC. 405. SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS.

Except as provided in sections 409 and 413 (e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(1)(A) in the case of any such first sale subject to the jurisdiction of the Commission under the Natural Gas Act, the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to any appeal of such price determination pending on April 20, 1977), or

(B) in the case of any other such first sale, the price applicable on April 20, 1977 under such existence contract; by

(2) the inflation adjustment.

SEC. 406. SALES OF OLD NATURAL GAS UNDER NEW CONTRACTS

Except as provided in sections 409 and 413 (e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SEC. 407. SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS.

(a) MAXIMUM LAWFUL PRICE RULE.—Except as provided in sections 409 and 413(e)(4), and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b) LIMITATIONS.—(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum price permitted under a previous existing contract to the extent that such price is necessary to permit the recovery of increaed costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum prices permitted under a previous contract to the extent that such price is necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) the product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) the current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) COMMITTED OR DEDICATED TO INTERSTATE COMMERCE.—For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

SEC. 408. EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES.

The Commission shall promulgate and make effective rules required to be prescribed under section 407 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 407 applies and which occur on or after such date of enactment.

SEC. 409. SPECIAL PRICING PROVISIONS.

(a) GENERAL RULE.—The Commission may, by rule, prescribe a maximum lawful special price, applicable to the first sale of high cost natural gas produced in the United States. Such special price may exceed the applicable maximum lawful price established by section 404, 405, 406, or 407 to the extent that such special price is necessary to provide reasonable incentives for the production of high cost natural gas.

(b) HIGH COST NATURAL GAS.—For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) ADJUSTMENTS.—In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing, liquefaction, or transportation of such natural gas, the Commission may by rule, provide for an adjustment to the maximum lawful price established by section 404, 405, 406, or 407, or prescribed under subsection (a) of this section or section 413(e)(4), to reflect such cost borne by such seller.

SEC. 410. INCREMENTAL PRICING OF NATURAL GAS.

(a) GENERAL RULE.—(1) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after such date of enactment to any pipeline company exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period immediately before the date of enactment of this Act multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline company, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

until the rates or charges applicable to such low-priority users, served by such pipeline company or such local distribution company, equal the reasonable cost of substitute fuels (as determined by the Commission) to such low-priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low-priority users.

(3) The rule required to be prescribed under paragraph (1) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "low-priority user" means any user other than a high-priority user.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

SEC. 411. ESSENTIAL AGRICULTURAL USES.

(a) PRIORITY FOR ESSENTIAL AGRICULTURAL USES.—Notwithstanding any other provision of law, no pipeline company and no local distribution company may curtail deliveries to any person who uses natural gas for any agricultural use identified as an essential use by the Secretary of Agriculture under subsection (b)(1), unless such curtailment of deliveries to such person does not reduce the quantity of natural gas delivered to such person below the use requirement specified in subsection (b)(2) or is necessary in order to meet the needs of high-priority users.

(b) IDENTIFICATION OF USES AND DETERMINATION OF REQUIREMENTS.—The Secretary of Agriculture shall, by rule—

(1) not later than 60 days after the date of the enactment of this Act, identify those agricultural uses for which an assured supply of natural gas is essential and with respect to which alternative fuels are not economically practicable or reasonably available, as determined by the Commission, and

(2) not later than 120 days after such date of enactment, determine the natural gas use requirements of persons using natural gas for agricultural uses identified under paragraph (1) in order to meet the requirements of full food and fiber production and processing and to otherwise preserve public health, safety, and welfare.

The determination of use requirements under paragraph (2) may allow for additional amounts necessary in cases in which production capacities are extended or in cases in which new production facilities are added, but only if such extensions or additions are determined by the Secretary to be necessary in order to meet national food and fiber production requirements and to otherwise preserve public health, safety, or welfare.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "agricultural use" means, when used with respect to natural gas, an agricultural or food processing use of natural gas, including the use of natural gas—

(A) for irrigation pumping,

(B) for crop drying, or

(C) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, or food.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence,

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day, or

(C) uses natural gas in any other use the curtailment of which the Commission or the State regulatory authority, as the case may be, determines, by rule, would endanger life, health, or maintenance of physical property.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(5) The term "State regulatory authority" means any State agency which exercises ratemaking authority or reviews the conditions for termination of service by any local distribution company located within such State.

SEC. 412. NATURAL GAS STORAGE FACILITIES.

(a) GENERAL RULE.—Not later than 60 days after the date of the enactment of this Act, the Commission shall by rule, require that the injections to, and withdrawals from, storage facilities of any interstate pipeline company are made at such times and to such extent as will ensure that the needs of low-priority users served by such interstate pipeline company will not be satisfied to the detriment of high-priority users served by such interstate pipeline company. Such requirements may include—

(1) schedules of minimum net rates of injection of natural gas into such storage facilities during periods immediately preceding peak demand periods of high-priority users;

(2) prohibitions on the withdrawal of natural gas from such storage facilities for purposes of satisfying needs of low-priority users;

(3) provisions requiring that, if such interstate pipeline company fails to comply with any requirements of such rule and such failure results in the purchase of natural gas by such interstate pipeline company to satisfy needs of high-priority users at an average cost which exceeds the average cost of the natural gas which would have been available to high-priority users if the requirements of such rule had not been violated, such excess cost shall not be borne by high-priority users; and

(4) such other measures as the Commission determines appropriate to carry out the purposes of this section.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "high-priority user" means any person who—

(A) uses natural gas in a residence,

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day,

(C) uses natural gas as a process fuel of feedstock for which alternative fuels are not available,

(D) uses natural gas in any use identified by the Secretary of Agriculture under section 411(b)(1), but only to the extent of the use requirement established under section 411(b)(2), or

(E) uses natural gas in any other use the curtailment of which the Commission determines, by rule, woud endanger life, health, or maintenance of physical property.

(2) The term "low-priority user" means any person other than a high-priority user.

(3) The term "interstate pipeline company" means any person engaged in the transportation of natural gas who is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act.

SEC. 413. ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE PROCEDURE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order issued under this part having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and before the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment before the effective date of the rule may be waived if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in the Federal Register at the time of the publication of such proposed rule or order.

(3) To the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded with respect to any proposed rule or order described in paragraph (1). To the maximum extent practicable, such opportunity shall be afforded before the effective date of such rule or order. Such opportunity shall be afforded no later than 10 days after such date in the case of a waiver of the entire comment period under paragraph (2) and no later than 45 days after such date in all other cases. A transcript shall be made of any such oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by such officer or agency establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rules, regulations, or orders. If any such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, by rule, establish procedures, including an opportunity for oral presentation of data, views, and arguments, for considering requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any person aggrieved or adversely affected by any rule prescribed, or order issued, by the Commission under this part may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c) ENFORCEMENT.—(1) It shall be unlawful for any person—

(A) to violate any provision of this part; or

(B) to violate any rule prescribed, or any order issued, under this part.

(2)(A) Whoever violates any provision of this part or any provision of any rule prescribed, or order issued, under this part shall be subject to a civil penalty, which may be assessed by the Commission—

(i) in the case of any violation relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) in the case of any violation not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. The determination to assess such penalty shall state the Commission's findings and the basis agency hearing pursuant to section 554 of title 5, United States Code. The order of the Commission assessing such penalty shall state the Commission's findings and the basis for such assessment. If the person, against whom a civil penalty is assessed, fails to pay the penalty within the period precribed in such order, the Commission shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such an order is filed, the Commission shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Commission, or the court may remand the proceeding to the Commission for such further action as the court may direct.

(3) Whoever willfully violates any provision of this part or any provision of any rule prescribed, or order issued, under this part—

(A) shall be imprisoned not more than one year for each violation; or—

(B) shall be fined—

(i) in the case of any violation relating to the production, gathering, sale, transportation, or distribution of natural gas, not more than $40,000 for each violation, or

(ii) in the case of any violation not referred to in clause (i) of this subparagraph, not more than $10,000 for each violation; or

(C) shall be both so imprisoned and so fined.

(4) For purposes of this subsection each day of violation shall be treated as a separate offense.

(5) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any provision of this part or any provision of any rule prescribed, or order issued, under this part shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2) or (3), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3) unless he also had knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the Commission.

(d) INFORMATION.—(1) In order to obtain information to carry out its authority under this part and to enforce compliance with the requirements of this part, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or for other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(3) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under this subsection, the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission and any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(e) GENERAL RULEMAKING AUTHORITY.—(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this part and rules prescribe and orders issued under this part.

(2) The Commission shall have power to further define terms used in this part consistent with the definitions set forth in, and the purposes of, this part.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 404, 406, 407, or 409 apply or to any sale to which paragraph (4) applies, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(4)(A) Except as provided in subparagraph (B), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 404, 405, 406, 407, and 409 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(B) Subparagraph (A) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

(5)(A) On the request of any State agency having regulatory authority over the drilling of natural gas wells or the production of such wells, the Commission shall delegate to such State agency the authority to determine whether the requirements of section 402(5)(B)(iii) (relating to the definition of new natural gas) have been satisfied for purposes of applying section 404.

(B) Any such delegation shall be upon terms and conditions prescribed by the Commission. The Commission may rescind any such delegation at any time by notifying the State agency of such rescission. The Commission may review any determination made by any State agency pursuant to the delegation of authority under this paragraph and, within one year after such determination, reverse or modify such determination.

(C) For purposes of subparagraph (B), the one-year limitation of such subparagraph shall not apply in any case—

(i) involving a fraudulent filing with the State agency or the Commission, or

(ii) involving a failure to file information required by the State agency, or by the Commission pursuant to the terms and conditions of the delegation under this paragraph.

SEC. 414. INTRASTATE CONTRACTS AND TRANSACTIONS.

(a) MOST FAVORED PRODUCER CLAUSES.—No natural gas price determined under this part may be taken into account for purposes of applying any provision of a contract which determines, or permits renegotiation of, the price of any natural gas or terminates such contract on the basis of any sale of natural gas not sold under such contract, any sale of crude oil, or any sale of any refined petroleum product.

(b) AUTHORIZATION OF CERTAIN SALES AND TRANSACTIONS.—(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission determines appropriate. No person shall be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale, or engaging in any transportation, of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person, engaged in the transportation of natural gas by pipeline, who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person, engaged in the transportation of natural gas by pipeline, who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) CLAUSES PROHIBITING COMMINGLING.—Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) apply.

SEC. 415. RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977.

Nothing in sections 404 through 407 and sections 409 and 413(e)(4) shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

SEC. 416. JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT.

(a) DEREGULATION OF CERTAIN FIRST SALES.—(1) Section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 414(b) of such Act; or

"(F) to any person to the extent to which such person makes a sale of natural gas to which the provisions of section 404, 406, 407, 409 or 413(e)(4) of the National Energy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 414(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply or makes a sale or engages in the transportation of natural gas authorized by the Commission under section 414(b) of such Act.".

(b) COMMISSION JURISDICTION OVER SYNTHETIC NATURAL GAS.—Section 1(b) of the Natural Gas Act, as amended by subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the provisions of this Act shall apply to—

"(i) any facility owned and operated by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption,

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline-quality gas, and

"(iii) any natural-gas company affiliate engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the production of such pipeline-quality gas.

"(C)(i) If, before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the Commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any other provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this subsection, the term 'pipeline-quality gas' means a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) which is interchangeable and compatible with natural gas as determined, by rule, by the Commission.".

SEC. 417. CONFORMING AMENDMENTS TO THE NATURAL GAS ACT.

(a) AMENDMENT TO SECTION 4.—Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, shall be deemed just and reasonable if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

(b) AMENDMENT TO SECTION 5.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, shall be deemed just and reasonable if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

(c) AMENDMENT TO SECTION 7.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

SEC. 418. AMENDMENTS TO THE EMERGENCY NATURAL GAS ACT OF 1977.

The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipelines, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable," and inserting in lieu thereof "as expeditiously as practicable.";

(10) in section 4(f)(2)(B), by striking out "interstate" both places it appears;

(11) in section 7, by striking out "an interstate pipeline" both places it appears and inserting in lieu thereof "a pipeline" and by striking out "such interstate" and inserting in lieu thereof "such";

(12) in section 9(c), by striking out "August 1, 1977," and inserting in lieu thereof "April 30, 1979,"; and

(13) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

PART V—PUBLIC UTILITY REGULATORY POLICIES

Chapter 1—GENERAL PROVISIONS

SEC. 501. PURPOSES.

The purposes of this part are—

(1) to increase the efficiency of generation, transmission, and distribution of electric power through encouragement of competition, through incentives for efficiency, and through prescription of reliability standards;

(2) to establish national minimum standards for electric ratemaking to encourage efficient use of electric energy to—

(A) insure that electric utility rates are designed to encourage energy conservation by minimizing (i) energy consumption and (ii) the need for new generating capacity,

(B) provide for reasonable rates to electric consumers, and

(C) assure that States which implement rate reforms are not placed at a competitive economic disadvantage by reason of the failure of other States to implement such reforms; and

(3) to provide for greater consumer representation in regulatory proceedings, to provide notice procedures respecting termination of service to electric consumers, and to provide technical and financial assistance to State regulatory authorities.

SEC. 502. DEFINITIONS.

As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "Commission" means the Federal Power Commission.

(3) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(4) The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(5)(A) The term "State regulated electric utility" means any electric utility other than a nonregulated utility as defined in subparagraph (B).

(B) The term "nonregulated utility" means a nonregulated public system or a nonregulated cooperative. Such term does not include an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(C) The term "nonregulated public system" means an electric utility which is a State agency or Federal agency unless a State regulatory authority has substantially the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

(D) The term "nonregulated cooperative" means a private cooperatively organized electric utility unless a State regulatory authority has substantially the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

(6) The term "Federal agency" means any agency or instrumentality of the United States, but does not include the District of Columbia.

(7) The term "rate" means any (A) price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

(10) The term "sale" includes an exchange of, or a charge for transmission of, electric energy.

(11) The term "State" means a State or the District of Columbia.

(12) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than by such State agency), and, in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(14) The term "bulk power facility" means a bulk power generating facility or a bulk power transmission facility.

(15) The term "bulk power generating facility" means electric generating equipment (and associated facilities) designed for, or capable of, operation at a single site with an aggregated capacity of 200 megawatts or more.

(16) The term "bulk power transmission facility" means an electric transmission line (and associated facilities) designed for, or capable of, operation at a nominal voltage of 200 kilovolts or more, between phase conductors for alternating current or between poles for direct current.

(17) The terms "evidentiary hearing" and "evidentiary proceeding" means (A) in the case of a State agency, a proceeding (i) which includes notice to, and an opportunity for, participants to present direct and rebuttal evidence and to cross-examine witnesses, and a written decision based upon evidence appearing in a written record of the proceeding, and (ii) which is subject to judicial review; and (B) in the case of a Federal agency, a proceeding conducted in accordance with section 556 of title 5, United States Code.

(18) The term "class" means with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use, such as—

(A) the nature of requirements placed by such group upon the system of the electric utility, and

(B) the amount of kilowatt demand and kilowatt-hour requirements placed by such group upon the system of the electric utility.

SEC. 503. APPLICATION TO FEDERAL POWER ACT.

Section 3 of the Federal Power Act is amended by inserting "(a)" after "SEC. 3." and by adding the following at the end thereof:

"(b) For purposes of this Act, the term 'bulk power facility', 'bulk power generating facility', 'bulk power transmission facility', 'electric utility', 'evidentiary hearing' and 'evidentiary proceeding' have the same meaning as when used in part V of title I of the National Energy Act.".

SEC. 504. ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND COMPOSITION.—There is established a Utility Advisory Committee (hereinafter in this section referred to as the "Committee") to advise the Commission respecting its duties and functions under chapter 2 of this part, sections 541 through 546 of this Act, and chapters 4 and 5 of this part, and to advise the Administrator respecting his duties and functions under subpart A of part I and part VI of this title. The Committee shall be composed of at least 12 members appointed by the President as follows:

(1) at least 3 representing utilities (one representing publicly owned utilities, one representing privately owned utilities, and one representing nonregulated cooperatives);

(2) at least 5 representing State regulatory authorities from different parts of the country;

(3) at least 3 representing consumers of utilities (at least one from groups of residential consumers, at least one from groups of commercial consumers, and at least one from industrial consumers); and

(4) at least one representing conservation organizations.

A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(b) TERMS.—Members of the Committee shall serve for terms of 2 years.

(c) PAY AND TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) AUTHORIZATION.—There are authorized to be appropriated not more than $50,000 in each of the fiscal years 1978, 1979, and 1980 to carry out the provisions of this section. No other amounts are authorized to be appropriated unless specifically provided by law enacted after the date of the enactment of this Act.

Chatper 2—IMPROVING EFFICIENCY OF USE OF ELECTRICITY

Subchapter A—General Provisions

SEC. 505. COVERAGE.

(a) APPLICATION OF CHAPTER.—The requirements of this chapter do not apply to sales of electric energy by an electric utility—

(1) in any calendar year beginning less than 2 years after the date of enactment of this Act, or

(2)(A) in any calendar year beginning 2 years or more after the date of enactment of this Act but less than 7 years after such date of enactment unless such sales of electric energy by such utility during the second preceding calendar year exceeded 750 million kilowatt-hours, or

(B) in any calendar year beginning 7 or more years after such date of enactment unless sales of electric energy by such utility during the second preceding calendar year exceeded 200 million kilowatt-hours.

Except in the case of section 515 (relating to prohibition against special nonaggregate inclusions) and section 536(c) (relating to contracts by Federal agencies) the requirements of this chapter apply only to sales of electric energy for purposes other than resale.

(b) EXTENSION.—Upon application to the Commission by an electric utility, and for good cause shown, the Commission may provide that the 2-year period specified in subsection (a) may be extended for one additional period of not more than 2 years with respect to such utility.

Subchapter B—National Minimum Standards for State Regulated Electric Utility Rate Regulation

SEC. 511. MINIMUM STANDARDS FOR RATES OF SERVICE.

(a) MINIMUM STANDARDS FOR RATES.—Each State regulated electric utility shall, in making sales of electric energy subject to this chapter, comply with the following minimum standards respecting the rates at which such energy is sold:

(1) Except to the extent permitted under subsection (b), rates for providing electric service to each electric consumer (or class thereof) shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such consumer (or class). For purposes of carrying out this paragraph, the rate per kilowatt, or per kilowatt-hour, for electric service during any period to any electric consumer (or class thereof) shall not decrease as kilowatt, or kilowatt-hour, consumption by such consumer increases during such period except to the extent that such utility shows in an evidentiary hearing that such decrease reflects the decrease in such cost of providing electric service to such consumer (or class) as such consumption increases during such period.

(2)(A) The rates for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such electric consumers unless such rates have been determined (in an evidentiary hearing by the State regulatory authority, or the Commission in any case in which such authority has not assumed responsibility under section 531) not to be cost-effective with respect to such class.

(B) The rates for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such consumers unless such rates have been determined (in an evidentiary hearing by the State regulatory authority, or the Commission in any case in which such authority has not assumed responsibility under section 531) not to be cost-effective with respect to such class.

(C) A rate for a class of electric consumers shall be treated as cost-effective for purposes of subparagraph (A) only if the long-run benefits of such rate are likely to exceed the metering costs associated with the implementation of such rates.

(D) If any time-of-day rate has been determined not to be cost-effective under subparagraph (A) for any class of consumers, each electric utility shall offer such rate to each consumer in such class willing to pay the costs of metering associated with such rate.

(E) Each electric utility shall offer each electric consumer (or class thereof) an interruptible rate which reflects the cost of providing interruptible service to such customers.

(3) The Commission may prescribe voluntary guidelines respecting the terms and conditions of any rate offered under subparagraphs (A), (B), and (E) of paragraph (2) and the types of load management systems and terms and conditions of rates offered under section 521.

(4) For purposes of this section, costs of providing electric service shall be determined as provided in section 532.

(b) LOWER RATES.—(1) No provision of this title shall prevent an electric utility, a State regulatory authority, or other State agency from fixing, approving, or allowing to go into effect a rate for electric energy for essential needs of residential electric consumers (as defined by the State regulatory authority) which is lower than that otherwise required by paragraph (1) of subsection (a).

(2) A State regulatory authority which has enforcement responsibility may, upon application of any electric consumer, prescribe a temporary exception pursuant to which an electric utility rate schedule which does not comply with the requirements of subsection (a) will be fixed, approved, or allowed to go into effect, with respect to such consumer. Any such exception shall comply with the following requirements:

(A) such exception may apply only to the type of use and amount of use of electric energy as does not exceed the amount the electric consumer used prior to the date of enactment of this Act;

(B) the electric consumer who applies for such exception demonstrates to such State regulatory authority in an evidentiary hearing that such exception is necessary to avoid significant economic hardship to such consumer; and

(C) such exception does not remain in effect more than 5 years after the date of enactment of this Act.

(c) GATHERING INFORMATION ON COSTS OF SERVICE.—(1) Each State regulated electric utility shall gather information under such rules promulgated by the Commission as the Commission determines necessary to allow State regulatory authorities (and other persons) to determine the costs associated with providing electric service. For purposes of this section and section 532 (relating to determination of costs of service), such rules shall include requiring the gathering of the following information—

(A) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level and time of use; and

(B) representative daily kilowatt demand load curves for all electric consumer classes combined, and representative daily kilowatt demand load curves for each electric consumer class for which there is a separate rate; and

(C) annual capital, operating, and maintenance costs—

(i) for transmission, and distribution services of such utility, and

(ii) for each generating unit to meet kilowatt demand on such electric utility.

Such rules shall provide that information required to be gathered under this subsection shall be presented in such categories and such detail as may be necessary to carry out the purposes of this subsection.

(2) The Commission within 180 days after the date of enactment of this Act, shall, by rule, prescribe the methods, procedure, and format to be employed by electric utilities in gathering the information described in this subsection. Such a rule may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, if such utility shows and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments (and so states in such rule) that gathering such information is not likely to further the purposes of this chapter. The Commission shall periodically review such finding and may revise such rule.

(3) Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, each electric utility shall file with—

(1) The Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility the information gathered pursuant to this section (if such information is not otherwise required to be filed with such authority),

and publish or otherwise make such information available to the public, in such form and manner as the Commission shall prescribe. In addition, each electric utility shall publish or make such information available to the public, in such form and manner as the Commission shall prescribe, not later than 60 days prior to the commencement of any hearing on an application for any rate increase.

SEC. 512. MINIMUM STANDARDS RESPECTING ADVERTISING.

(a) RECOVERY OF EXPENSES.—For purposes of rate determinations, no rate of a State regulated electric utility shall be determined to be in compliance with this subchapter if such utility recovers from its electric consumers through such rate any direct or indirect expenditure by such utility—

(1) for promotional advertising, or

(2) for political or institutional advertising.

(b) CERTAIN ADVERTISING NOT COVERED.—Subsection (a) shall not apply to—

(1) advertising which informs electric consumers how they can conserve electric energy or can reduce peak demand for electric energy.

(2) notices required by law or regulation,

(3) public information regarding service interruptions, safety measures, or emergency conditions,

(4) advertising concerning employment opportunities with such utility, and

(5) public distribution or explanation of existing or proposed rate schedules, or hearings thereon.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(2) The term "institutional advertising" means any advertising which is designed to create, enhance, or sustain an electric utility's public image or goodwill with the general public or such utility's electric consumers.

(3) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative, or electoral matter, or with respect to any controversial issue of public importance.

(4) The term "promotional advertising" means any advertising for the purpose of inducing the public to select or use the service or additional service of an electric utility or to select or install any appliance or equipment designed to use such utility's service.

SEC. 513. MINIMUM STANDARDS RESPECTING POLLUTION CONTROL COSTS.

(a) RECOVERY OF COSTS.—Each State regulated electric utility may recover from its electric consumers the reasonable costs incurred by such electric utility for any pollution control facility.

(b) DEFINITION.—For purposes of this section, the term "polution control facility" means a facility which is used to remove, alter, dispose of, or store pollutants, contaminants, waste, or heat.

SEC. 514. AUTOMATIC ADJUSTMENT CLAUSES.

(a) PROHIBITION.—Except as otherwise provided in subsection (b), no increase in any rate may be made by any State regulated electric utility unless—

(1) opportunity for consideration of the lawfulness of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect,

(2) such rate increase is pursuant to an automatic adjustment clause which has been determined by the State regulatory authority (or the Commission as provided in section 531), after evidentiary hearing, to effectively provide incentives for efficient use of resources (including, in the case of fuel, incentives for economical purchase and use of fuel) and to be necessary to enable such utility to meet its immediate short-term financial obligations, or

(3) such increase reflects an increase in the cost of electric power purchased from a centrally dispatched power pool (as defined in section 202(b)(4)(B) of the Federal Power Act).

(b) INTERIM RATES.—The prohibition contained in subsection (a) shall not apply to interim rates which take effect subject to a later determination of the amount of such rates and to a requirement of refund of any overcharge with interest.

(c) REVIEW OF CLAUSE.—(1) No automatic adjustment clause shall be treated as meeting the requirements of subsection (a)(2) unless the rate schedule containing such clause is reviewed by the State regulatory authority having ratemaking authority with respect to such utility (or by the Federal Power Commission as provided in section 531) not less often than every 2 years to insure the maximum economies in those operations and purchases which affect such rates. No such automatic adjustment clause may be treated as meeting such requirements for any period in excess of 4 years after such clause has been reviewed in an evidentiary hearing unless such clause is again reviewed in such an evidentiary hearing before the expiration of such period and the State regulatory authority makes the finding required under subsection (a)(2).

(2) In making a review under this subsection, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such utility relating to expenses subject to an automatic adjustment clause. Each such utility shall provide reports on such practices as required by such authority, which shall be made available to the public, and shall contain such information as such authority may require to implement the purposes of this subsection (including a disclosure of any ownership or corporate relationship between such utility and the seller of fuel or other items).

(d) DEFINITION.—As used in this section, the term "automatic adjustment clause" means a provision of a rate schedule which provides, without prior evidentiary hearing, for increases and decreases in rates reflecting increases and decreases in the amount of operating expenses (not including any expense attributable to the imposition of any tax under section 4991 of the Internal Revenue Code of 1954).

SEC. 515. PROHIBITION AGAINST SPECIAL NONAGGREGATE INCLUSIONS.

(a) The rates of any electric utility which is a State utility agency shall, consistent with section 511(a), be based on the total costs of—

(1) all electric energy generated by all facilities of the entire system of such utility; and

(2) all electric energy purchased by such utility which is sold by such utility.

(b) The term "State utility agency" means an agency of a State (not including any political subdivision or agency thereof) which is an electric utility.

SEC. 516. RELATIONSHIP TO OTHER APPLICABLE LAW.

Nothing in this subchapter shall be construed as authorizing or requiring the recovery by an electric utility of revenues, or of a rate of return, in excess of the amount of revenues or a rate of return determined to be lawful under otherwise applicable State or Federal law.

SEC. 517. SOLAR, WIND, AND SMALL ELECTRIC GENERATING SYSTEMS.

Each State regulated electric utility shall—

(1) within 2 years after the date of enactment of this Act, include in the rates for the sale of electric power by such utility—

(A) rates which do not discriminate against the use of solar electric generating systems, including electric generating systems which use wind power, and other small electric generating systems of 15,000 kilowatts of capacity, or less, and

(B) rates and conditions under which excess power generated by such systems may equitably be sold to such utility except that such rates and conditions shall not require such utility to purchase electric energy from any such system during any period at any rate which exceeds the highest cost at which such utility generates electric energy, or purchases electric energy from any other source, during such period; and

(2) take such other steps as may be prescribed by the State regulatory authority, by rule, in order to prevent any other unreasonable discriminatory practice (as defined by the Commission) against such systems, or the regulated utilities to which such systems sell, or from which such systems purchase, electric power.

Subchapter C—Other Requirements for State Regulated Electric Utilities

SEC. 521. LOAD MANAGEMENT TECHNIQUES

(a) PRACTICABLE AND COST EFFECTIVE TECHNIQUES.—Each State regulated electric utility shall—

(1) offer to its electric consumers such alternative load management techniques which have been determined (as provided in section 533) to be practicable and cost-effective; and

(2) submit, as a part of any application for a rate increase, an analysis of the cost-effectiveness of such other load management techniques as have been identified under section 553(2)(A) prior to 1 year before the date of application.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "load management technique" means any technique (other than a rate described in section 511(a)(2) to reduce maximum kilowatt demand on the electric utility or the maximum kilowatt demand of an electric consumer, including ripple or radio control mechanisms, energy storage devices, interrupted or interruptible electric service, load-limiting devices.

(2) A load management techniques is cost-effective if—

(A) such technique is likely to reduce maximum kilowatt demand on the electric utility or the maximum kilowatt demand of an electric consumer, and

(B) the long-run benefits of such reduction are likely to exceed the long-run costs associated with implementation of such technique.

SEC. 522. STANDARDS FOR INFORMATION TO CONSUMERS

(a) PROPOSED RATE SCHEDULES.—Each State regulated electric utility shall transmit to each of its electric consumers—

(1) not later than 60 days after the date of commencement of service or 90 days after this title takes effect with respect to such utility, whichever last occurs, and

(2) not later than 30 days (60 days in the case of a utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer,

a clear and simple statement of the existing and any proposed rate schedule applicable to such consumer.

(b) EXISTING RATE SCHEDULES.—Each such State regulated electric utility shall transmit to each of its electric consumers not less than once each year a brief, clear, and simple summary of the existing rate schedules applicable to each of the major classes of its electric consumers, and identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the utility deems appropriate.

(c) STATEMENT OF CONSUMPTION.—Unless such information is otherwise provided as part of a bill for electric service (or in any other manner which has been determined by the State regulatory authority (or the Commission as provided in section 531) to be adequate to make such information available to the consumer), on request of an electric consumer of such an electric utility, such utility shall transmit to such consumer a clear and simple statement of the actual consumption (or degree-day adjusted consumption) of electric energy for each billing period during the prior year (except when such consumption data is not reasonably ascertainable by the utility).

SEC. 523. MINIMUM PROCEDURES FOR TERMINATION OF ELECTRIC SERVICE.

No State-regulated electric utility may terminate electric service to any consumer of electric energy except pursuant to procedures prescribed by the State regulatory authority (or the Commission, in any case in which such authority has not assumed responsibility as provided in section 531). Such procedures shall be prescribed by such authority (or Commission) not later than 30 days following assumption of enforcement responsibility and shall—

(1) provide that no electric service to an electric consumer may be terminated until reasonable prior notice (including notice of rights and remedies) has been given to such consumer and such consumer has had a rea-

sonable opportunity, at least 15 days before any such termination) to contest the proposed termination in an impartial hearing in which such consumer has had the opportunity to dispute the reasons for such termination and opportunity to establish whether or not a deferred payment plan for any amounts owed is reasonable, and

(2) provide that no electric service to a residential electric consumer may be terminated on account of nonpayment for electric service during any period where termination of service would be especially dangerous to health, as determined by the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility and provided in section 533) if such consumer establishes in an impartial hearing that such consumer is unable to pay for such electric service without undue hardship.

Such procedures shall also include special provisions for elderly and handicapped consumers to assure that such consumers are made aware of, and are able to avail themselves of, their rights (as provided in this section). No electric service may be terminated before the procedures required under this section have been completed.

Subchapter D—Nonregulated Utilities

SEC. 526. REQUIREMENTS.

(a) APPLICATION OF SUBCHAPTERS B AND C.—The provisions of subchapters B and C (other than section 521, relating to load management techniques, and, in the case of nonregulated cooperatives, sections 521, 512, relating to advertising, and 514, relating to automatic adjustment clauses) shall apply to each nonregulated utility in the same manner as such provisions apply to each State regulated electric utility, except that any action required to be taken by a State regulatory authority under such provision shall, in the case of a nonregulated utility, be taken by such utility.

(b) LOAD MANAGEMENT.—Each nonregulated utility shall consider alternative load management techniques (as defined in section 521 (b)) and shall promptly implement those which are practicable and cost effective (within the meaning of section 521(b)(2)).

(c) COSTS OF SERVICE.—Each nonregulated utility shall establish and utilize methods for determining cost of service in accordance with section 532.

Subchapter E—Requirements Applicable to State Regulatory Authorities

SEC. 531. COMPLIANCE DETERMINATION AUTHORITY FOR STATE REGULATED ELECTRIC UTILITIES.

(a) DETERMINATION BY STATE.—A State regulatory authority which has ratemaking authority with respect to an electric utility may determine whether or not such utility is in compliance with the requirements of subchapters B and C if—

(1) such authority notifies the Commission (at such time, and in such manner, as the Commission shall prescribe by rule) that such authority assumes such responsibility with respect to such utility and certifies that it has adequate authority to carry out the requirements applicable to such authority under this chapter.

(2) such authority makes such determination of compliance by an electric utility with the requirements of subchapters B and C in an evidentiary hearing, and

(3) complies with the requirements applicable to such authority under this chapter.

(b) DETERMINATION BY COMMISSION.—If such State regulatory authority has not complied with subsection (a) or if such authority withdraws its assumption of responsibility under subsection (a), the Commission shall, upon the application of any State regulated electric utility, determine in an evidentiary hearing whether or not such utility is in compliance with such requirements and shall carry out the requirements of this subchapter, until such time as such State regulatory authority notifies the Commission that it assumes such responsibility and certifies that it has adequate authority to carry out the requirements of this subchapter.

(c) COMMISSION REVIEW OF ENFORCEMENT.—(1) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has assumed responsibility under this chapter shall submit to the Commission a report (containing such information as the Commission by rule may require), describing the extent to which such authority has implemented the requirements of this part.

(2) If upon complaint to the Commission, or upon the Commission's own motion, and after notice and an evidentiary hearing, the Commission finds that any utility or utilities regulated by a State regulatory authority that has assumed responsibility pursuant to subsection (a) hereof exhibit a pattern of noncompliance with any requirement of subchapter B or C, the Commisssion shall publish such finding which shall be prima facie evidence in any court that the rates of such utility or utilities are not in compliance with such requirement under subchapter B or C of this chapter. The preceding sentence shall not apply in any case in which the Commission has not made any such finding or in any case in which the Commission, after notice and an evidentiary hearing, has reversed any such finding.

(3) The absence of any finding by the Commission under paragraph (2) shall not be treated in any court or administrative proceeding as a finding by the Commission that the rates of any utility regulated by any State regulatory authority are in compliance with the requirements of subchapters B and C.

SEC. 532. DETERMINATION OF COSTS OF SERVICE.

(a) METHODS TO DETERMINE COSTS OF SERVICE.—(1) Each State regulatory authority which has assumed responsibility under section 531 shall prescribe methods for determining costs associated with providing electric service to electric consumers (and classes thereof) by each electric utility over which it has ratemaking authority. The Commission shall prescribe such methods for each State regulated utility with respect to which no such assumption has been made.

(2) Such methods shall, to the maximum extent practicable and to the extent consistent with section 516, reflect differences in cost-incurrence, for each electric consumer (or class thereof), attributable to daily and seasonal time of use of service. In prescribing such methods, there shall be taken into account the extent to which total costs to an electric utility are likely to change if—

(A) capacity is added to meet peak demand relative to base demand, and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) FINDINGS REQUIRED.—A State regulatory authority which has assumed responsibility under section 531 (or the Commission in the case of an electric utility with respect to which no such assumption has been made) may not make a determination of compliance with section 511 unless—

(1) such authority (or the Commission, as the case may be) has made findings of fact respecting—

(A) the factors which cause changes in the daily and seasonal peakloads of such utility and of the electric consumer classes served by such utility;

(B) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level and time of use; and

(2) such authority (or Commission, as the case may be) bases the determination of such compliance on such findings and on the methods prescribed under paragraph (1) of subsection (a).

(c) LOWER RATES.—In the case of any electric utility which does not have a lower rate as described in section 511(b)(1) in effect on the date 2 years after the date of the enactment of this Act, the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility under section 531) shall determine, after an evidentiary hearing, whether or not such a rate should be implemented by such utility.

SEC. 533. ALTERNATIVE LOAD MANAGEMENT TECHNIQUES.

Each State regulatory authority which has assumed responsibility under section 531 (or the Commission in any case in which such authority has not assumed such responsibility) shall consider in an evidentiary hearing, initially within 2 years of the date of enactment of this Act and thereafter no less often than once during each subsequent 2-year period, alternative load management techniques for purposes of carrying out the requirements of section 521.

SEC. 534. MASTER METERING.

The Commission shall prescribe rules requiring each State regulatory authority which has assumed responsibility under section 531 to prohibit or restrict the use of such bulk or master meters in buildings as it deems necessary to carry out the purposes of this chapter. Such rules shall provide that in determining whether or not to prohibit or restrict such meters in any building, such authority shall consider the potential energy savings of central heating, cooling, and domestic hot water systems in buildings in which the output of such systems to separate units is measured separately and charged to such units. Such rules may apply to buildings construction of which commenced less than 1 year after the date of promulgation thereof only to the extent the Commission determines that such application is economically feasible.

SEC. 535. PARTICIPATION IN REGULATORY PROCEEDINGS BY STATES AND BY ELECTRIC CONSUMERS.

(a) INTERVENTION.—Any electric consumer or State agency may intervene as of right as a party in any evidentiary hearing or other proceeding of a State regulatory authority which has assumed the authority to make determinations under this chapter (or of the Commission in any case in which the State authority has not assumed such authority) if such hearing or other proceeding affects such consumer or State agency and relates to the determination of compliance with the requirements of this chapter.

(b) COMPENSATION FOR COSTS OF PARTICIPATION.—(1)(A) Unless an alternative means for assuring electric consumer representation is adopted in accordance with paragraph (2), if an electric consumer of an electric utility prevails in a ratemaking proceeding before a State regulatory authority (or before the Commission where responsibility has not been assumed by such authority under section 531) in which such consumer has alleged that any rate proposed by an electric utility is not in compliance with any requirement of subchapter B or C, such utility shall be liable to compensate such consumer for reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participation in, such proceeding (including fees and costs in obtaining judicial review of such proceeding). Such consumer may collect such fees and costs from such utility in a civil action in any court of competent jurisdiction, unless such State regulatory authority (or the Commission, as the case may be) has adopted a reasonable procedure pursuant to which such authority—

(i) determines the amount of such fees and costs, and

(ii) includes an award of such fees and costs in its order in the proceeding.

Such procedure may require that as a condition of receiving such award such consumer demonstrate in a preliminary proceeding that, but for the ability to receive such award if he prevails, such consumer may be unable effectively to participate in such proceeding.

(B) For purposes of subparagraph (A), an electric consumer shall be deemed to have prevailed in a proceeding if such consumer's participation in the proceeding substantially contributed to disapproval or modification of a rate proposed by an electric utility on grounds that the rate did not comply with any requirement of subchapter B or C.

(C) A State regulatory authority (or the Commission, as the case may be) may prescribe reasonable requirements that persons with the same or similar interests have a common legal representative in the proceeding, as a condition of receiving fees and costs under subparagraph (A).

(2) Paragraph (1) shall not apply to proceedings before a State regulatory authority if the State or such authority has provided an alternative means for providing adequate compensation to persons—

(A) who have, or represent, an interest (i) which would not otherwise be adequately represented in ratemaking proceedings, and (ii) representation of which is necessary for a fair determination in the proceeding, and

(B) who are unable effectively to participate in such proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness' fees, and other reasonable costs of preparing for, and participating in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) TRANSCRIPTS.—Each electric utility shall make available at cost of reproduction to parties in a proceeding before a State regulatory authority transcripts of such proceeding.

Subchapter F—Enforcement and Review

SEC. 536. PROHIBITIONS.

(a) STATE REGULATED UTILITIES.—Except for an increase referred to in section 514(a)(2) or (3), no State-regulated electric utility may increase any rate at which it sells electric energy unless such utility has been determined to be in compliance with the requirements of subchapters B and C. Such determination shall be made as provided in sections 531 and 532 at the proceeding at which such rate is fixed, modified, or approved by the State regulatory authority (or by the Commission in any case in which the State has not assumed responsibility as provided in section 531).

(b) NONREGULATED UTILITIES.—(1) Except for an increase referred to in section 514(a)(2) or (3), no nonregulated public system (as defined in section 502(5)(C)) may increase any rate at which it sells electric energy unless such system has determined that it meets the requirements of subchapter D.

(2) No nonregulated cooperative (as defined in section 502(5)(D)) may violate the requirements of this chapter made applicable under subchapter D.

(c) CONTRACTS BY FEDERAL AGENCIES.—No contract between a Federal agency and an electric utility for sale of electric energy by such Federal agency for purposes of resale may contain any provision inconsistent with the requirements of this chapter. Any such inconsistent provision shall be null and void. This subsection shall apply notwithstanding section 505(a)(2) (relating to volume of electric energy sold).

SEC. 537 ENFORCEMENT.

(a) INJUNCTIONS.—Upon petition of any Federal agency, or State agency referred to in section 535(a), the appropriate United States district court shall have jurisdiction to enjoin an electric utility from violating any prohibition contained in section 536. Each electric consumer of an electric utility (1) who may not maintain an action against such utility in a State court or (2) who is a consumer of a nonregulated public system which is a Federal agency may petition the United States district court to enjoin such utility from violating any such prohibition.

(b) NONREGULATED COOPERATIVES.—Any person who is a member of a nonregulated cooperative may bring a civil action in the appropriate United States district court against such cooperative for purposes of obtaining enforcement of the requirements of the prohibition contained in section 536 (b)(2) if such action may not be brought by such person against such cooperative in a State or local court.

SEC. 538. JUDICIAL REVIEW.

(a) COMMISSION OR STATE AGENCIES.—The Commission or any State agency referred to in section 535(a) may obtain review of any determination referred to in section 536 made by a State regulatory authority or a nonregulated public system by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(b) UTILITIES AND CONSUMERS.—(1) Any electric utility with respect to which a determination referred to in section 536 has been made or any electric consumer of such a utility may obtain review of such determination by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located if such determination was made—

(A) by a nonregulated public system which is a Federal agency,

(B) by a State regulatory authority or nonregulated public system whose determination is not reviewable by a State court of competent jurisdiction, or

(C) by a State regulatory authority or nonregulated public system whose determination is reviewable by such a court in a review proceeding in which—

(i) the Commission may not intervene as a matter of right, or

(ii) the court does not treat any finding under section 531(a) as prima facie evidence of noncompliance with the provisions of this chapter

(2) Any Federal agency which is an electric consumer of an electric utility with respect to which a determination referred to in section 536 has been made may obtain a review of such determination by commencing a civil action in the United States Court of Appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(3) Except as provided in subsection (c), nothing in this subsection or section 537 shall be construed to prohibit any electric consumer or electric utility from obtaining review in any State court of competent jurisdiction in the case of any determination referred to in section 536 made by a State regulatory authority or nonregulated public system which is a State agency, or to affect the jurisdiction of the United States Supreme Cour to review any decision of a State court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) REMOVAL.—In the case of any action brought by the Commission or a State agency under subsection (a) or by a Federal agency under subsection (b)(2), the court may order that any action respecting the same matter brought by any electric consumer or electric utility in a State court shall be removed to, and consolidated with, the action brought under subsection (a) or (b)(2) if such removal and consolidation will result in a more expeditious determination of such actions.

(d) FEDERAL COURTS.—Notwithstanding any other provision of law, no opportunity for review of a determination of compliance with the provisions of this chapter in the courts of the United States shall be available except as provided in this chapter.

Chapter 3—IMPROVING EFFICIENCY OF, AND PRESERVING COMPETITION IN, GENERATION AND TRANSMISSION OF ELECTRICITY

SEC. 541. INTERCONNECTION, POOLING, WHEELING, AND CENTRAL DISPATCH.

(a) REGIONAL DISTRICTS.—Section 202(a) of the Federal Power Act is amended:

(1) by striking the word "voluntary" from the first sentence; and

(2) by inserting "for the purpose of assuring the goals set forth in this part and to assure maximum competitive opportunities for the purchase and sale of electric energy at wholesale at the lowest possible cost" immediately after "districts" in the third sentence.

(b) Section 202(b) of such Act is amended to read as follows:

"(b)(1) Whenever the Commission, on its own motion or upon application of any State commission or of any electric utility or the owner or operator of any qualifying cogeneration facility (as defined in section 546(b)(2) of the National Energy Act), and after public notice and notice to each State commission and electric utility directly affected and after evidentiary hearing, finds it necessary or appropriate in the public interest, it shall by order direct an electric utility to—

"(A) establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator, or

"(B)(i) sell or deliver energy to or exchange energy with,

"(ii) provide pooling for,

"(iii) provide wheeling, or otherwise transmit energy for, or

"(iv) otherwise coordinate with,

such utility or cogenerator. For purposes of this paragraph, the term 'wheeling' means transmission of electric energy among electric utilities and qualifying cogeneration facility (as defined in section 546(b)(2) of the National Energy Act), but such term does not include the transmission of electric energy to an ultimate consumer (other than to a qualifying cogenerator for purposes of providing backup power, as determined by the Commission).

"(2) No order may be issued under subparagraph (A) of paragraph (1) unless the Commission determines that—

"(A) such order will benefit consumers of an electric utility by reducing costs of supplying electric energy to such consumers or will otherwise provide public benefits in assuring that supplies of electric energy are generally made available with greater economy and with regard to the proper utilization and conservation of natural resources, and

"(B) no utility subject to such order or consumers of such utility will suffer economic hardship thereby.

The Commission may not issue an order under paragraph (1) upon application of any electric utility or the owner or operator of any qualifying cogeneration facility to direct an electric utility to establish physical connection or to provide wheeling services unless the electric utility or qualifying cogeneration facility which makes an application for

such connection or wheeling demonstrates to the Commission that such electric utility or owner or operator of any qualifying cogeneration facility is ready, willing, and able to provide reimbursement reasonably due for the costs (including capital and operating costs) incurred by the electric utility or owner which is requested to make physical connection or to wheel electric energy.

"(3) Whenever the Commission, on its own motion or upon application of any electric utility within a regional district established under this Act, and after public notice and notice to each State commission and electric utility directly affected and after evidentiary hearing, finds such action necessary or appropriate in the public interest it may by order direct any electric utility owning or operating any bulk power transmission facility located (in whole or in part) within such district to increase the transmission capacity of such facility.

"(4)(A) With respect to each regional district established under this Act in which a centrally dispatched power pool is not operating, upon its own motion or upon application the Commission shall commence a proceeding to determine whether requiring operation of such a power pool in such area is technologically and economically feasible and in the public interest. To the extent that the Commission determines, after public notice and notice to each State commission and after evidentiary hearing, that operation of such a pool is technologically and economically feasible and in the public interest, the Commission shall by order require operation of such a pool.

"(B) For purposes of subparagraph (A), the term 'centrally dispatched power pool' means—

"(i) a power pool which utilizes a central dispatch system for all generation facilities (other than cogeneration facilities which are not required to be included as provided under regulations under section 546(a)(2) of the National Energy Act) in a regional district and in which, to the extent technologically and economically feasible as determined by the Commission, each electric utility which owns or operates a bulk power generation facility in such region participates, or

"(ii) an exchange or other system which the Commission determines is more effective or substantially as effective as a power pool referred to in clause (i) in assuring the most economical utilization of generation and transmission facilities in such area.

"(C) For purposes of subparagraph (B), the term 'central dispatch system' means a centrally coordinated system for controlling the generation and transmission of electric power in an area which system is designed to obtain the most economical utilization of generation and transmission facilities in such area.

"(5) The Commission shall prescribe the terms and conditions of the arrangement to be made between the persons affected by any order under this subsection, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them if the parties fail to agree to such terms and conditions.

"(6) The Commission shall have no authority under this subsection to compel the enlargement of generating facilities for purposes of this subsection, nor to compel an electric utility to take any action under paragraph (1) if the Commission determines that to do so would impair the ability of the electric utility to render adequate service to its customers.".

(c) APPLICATION OF FEDERAL POWER ACT.—(1) The first sentence of section 201(b) of such Act is amended by inserting "(other than sections 202(b), relating to interconnection, pooling, wheeling, and central dispatch, and 205(k), relating to unfair competition)" after "Part" and by adding the following at the end thereof: "The provisions of sections 202(b) and 205(k) shall apply to the electric utilities and other persons specified therein.".

(2) Section 201(e) of such Act is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of sections 202(b) and 205(k))" after "Part.".

SEC. 542. CONTINUANCE OF SERVICE.

(a) CONTINUANCE OF SERVICE.—Section 202 of the Federal Power Act is amended by inserting the following new subsection at the end thereof:

"(g) In order to insure continuity of service to retail and wholesale customers, the Commission—

"(1) shall require, by rule, each public utility to report promptly any anticipated shortage of electric energy which would affect such utility's capability of serving its wholesale customers,

"(2) shall require, by order, such utility to accommodate such shortage in a manner which affects the retail customers of the utility and the retail customers of such utility's wholesale customers in a nondiscriminatory manner, and which gives due consideration to public health and safety.

"(3) shall require, by order, such connection of facilities and such generation, sale, delivery, exchange, or transmission of electric energy, pooling, wheeling, or other transmission service or other coordination as in its judgment will best serve the public interest, and

"(4) shall, by rule, require each public utility to submit contingency plans respecting electricity supply shortages.

No order may be issued under this paragraph, except after evidentiary hearing.".

(b) CONFORMING AMENDMENT.—The last sentence of section 202(c) of such Act is amended by striking out "affected by such order" and inserting in lieu thereof "affected by any order under this subsection or subsection (g)".

SEC. 543. CONSIDERATION OF PROPOSED RATE INCREASES.

(a) NEW SCHEDULES.—(1) Section 205(e) of the Federal Power Act is amended by striking out "(e) Whenever" and inserting in lieu thereof the following: "(e) Except as otherwise provided in subsection (f) in the case of proposed rate increases, whenever".

(2) Section 205 is amended by adding the following new subsection at the end thereof:

"(f)(1) Whenever any such new schedule contains a change in any rate, charge, classification, or service, or any rule, regulation, or contract relating thereto, which results in any increase in the charges to any customer for electric energy, 30 days before filing such schedule, the public utility shall provide notice of such schedule to the Commission and to each customer which purchases electric energy for resale from the public utility.

"(2) The Commission may, open its own initiative, and shall, upon complaint, enter into an evidentiary hearing concerning the lawfulness of such schedule and shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service until a lawful schedule is established by final order of the Commission based upon the record of such evidentiary hearing. The last sentence of subsection (e) shall apply to any hearing referred to in this subsection.

"(3) The Commission upon its own initiative or upon application of any person, shall determine whether or not to require such public utility to furnish additional revelant data or information to support any such new schedule. In any case in which the Commission determines that a decision with respect to the application of such utility requires additional relevant data or information, except for a period determined by the Commission (not in excess of 14 days, or 21 days in case of the first such determination, the time after such determination and before such utility furnishes such additional data or information shall be added to the 10-month and the 12-month periods referred to in this subsection and subsection (d)(2).

"(4) The Commission shall render a decision with respect to such new schedule within 10 months of the original filing of such schedule. If the Commission fails to issue a final order within such period, it shall immediately notify the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the appropriate Committees of the House and Senate of such failure, and shall cease to have authority under this subsection with respect to such schedule.

"(5) In any case in which the Commission has not completed the evidentiary hearing within the 10-month period, the Chairman of the Commission shall continue and complete such hearing concerning the lawfulness of such schedule. In any case in which the Commission has not issued a final order within such 10-month period, the Chairman shall issue a final order thereon within 12 months from the original filing of such new schedule. The same provisions of law as apply to any hearing conducted or final order issued by the Commission under this subsection shall apply to any hearing conducted or final order issued by the Chairman under this subsection and the Chairman shall have the same authority as the Commission with respect to any such hearing or order. An order of the Chairman under this subsection shall be based upon the record of the hearing conducted under this subsection. A final order of the Chairman with respect to such schedule shall be treated for purposes of this Act as a final order of the Commission.

"(6) No schedule to which this subsection applies may take effect unless established by a final order under this subsection.

"(7) Notwithstanding section 3147, for purposes of this subsection, the term 'person' includes any State or political subdivision thereof or any agency or instrumentality thereof.

"(g) For purposes of this section, the term 'lawful', with respect to a new schedule filed by a public utility under subsection (d), means just, reasonable, and otherwise lawful. Such schedule shall not be considered lawful if differences between such utility's wholesale rates under such schedule and its retail rates are unreasonable or anticompetitive.".

(b) CERTAIN NEW SCHEDULES PROHIBITED.—Section 205(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2) A public utility may not file a new schedule which seeks to increase a rate to any customer for electric energy or power, which rate is the subject of a prior schedule which is pending before the Commission but which has not taken final effect, or any amendment to such pending schedule (other than a technical or clerical amendment), unless such prior schedule was filed 10 months or more before the filing of such new schedule.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to schedules filed after the date of the enactment of this Act under section 205 (d) of the Federal Power Act.

SEC. 544. AUTOMATIC ADJUSTMENT CLAUSES.

(a) AUTOMATIC ADJUSTMENT CLAUSES.—Section 205 of the Federal Power Act is amended by adding the following at the end thereof:

"(h)(1) Except as otherwise provided in paragraph (2) of this subsection, the Commission may not allow to go into effect any increase in any rate of any public utility unless—

"(A) opportunity for consideration of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect,

"(B) such rate increase is pursuant to an automatic adjustment clause which the Commission has determined, after evidentiary hearing, effectively provides incentives for efficient use of resources (including, in the case of fuel, incentives for economical purchase and use of fuel) and is necessary to enable such utility to meet its immediate short-term financial obligations, or

"(C) such increase reflects an increase in the cost of electric power purchased from a centrally dispatched power pool (as defined in section 202(b)(4)(B)).

"(2) The prohibition contained in paragraph (1) shall not apply to interim rates which take effect under subsection (e)(1)(B).

"(3)(A) If a rate schedule of a public utility contains an automatic adjustment clause, the Commission shall review such schedule not less often than every two years to insure the maximum economies in those operations and purchases which affect such rates. No such automatic adjustment clause may be effective for any period in excess of 4 years after such clause has been reviewed by the Commission in an evidentiary hearing unless such clause is again reviewed in such an evidentiary hearing before the expiration of such period and the Commission makes the finding required under paragraph (1)(B).

"(B) In making a review under subparagraph (A), the Commission shall examine and, if appropriate, cause to be audited the practices of such public utility subject to an automatic adjustment clause. Each public utility shall provide such reports on such practices as may be required by the Commission, which shall be made available to the public, and shall contain such information as the Commission shall require to implement the purposes of this subsection (including a disclosure of any ownership, corporate relationships, and other legal or financial relationships between the utility and the seller of such fuel or other items).

"(C) Any purchaser of electric energy for resale which purchases electric energy subject to such adjustment clause may examine the records of the public utility pertaining thereto from which it purchases electric energy to insure compliance with applicable schedules and Commission rules.

"(i) On its own motion or upon complaint, the Commission shall after affording an opportunity for evidentiary hearing, issue an order directing a public utility to cease or modify any practice which does not result in the most economical purchase and use of fuel or other items.

"(j) As used in this section the term 'automatic adjustment clause' means a provision of a rate schedule which provides, without prior evidentiary hearing, for increases and decreases in rates reflecting increases and decreases in the amount of operating expenses (not including any expense attributable to the imposition of any tax under section 4991 of the Internal Revenue Code of 1954).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date one year after the date of enactment of this Act with respect to public utilities which file a schedule containing any rate increase after the expiration of such one year period.

SEC. 545. ELECTRIC UTILITY RELIABILITY.

(a) RELIABILITY RULES.—(1) Not later than 2 years after the date of enactment of this Act, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for interested persons to submit oral and written data, views, and arguments, the Commission shall prescribe rules respecting electric utility reliability.

(2) The Commission shall base such rules on the availability of electric energy to a consumer at the point of use. The Commission shall, in prescribing such rules require a level of reliability—

(A) sufficient to meet the demonstrated public need; and

(B) not in excess of that which is cost-effective (except where necessary for purposes of subparagraph (A)),

as determined by the Commission.

(3) The Commission, in prescribing such rules, shall—

(A) give consideration to the technological feasibility, energy conservation, and environmental impact of such standards;

(B) minimize capital costs and operational and maintenance expenses related to such standards;

(C) recognize different requirements of reliability of different consumers due to use, need, alternative sources, location, and other matters;

(D) provide that the relationships between the reliability of generating, transmission, and distribution equipment and operating and maintenance procedures are consistent with the reliability of the entire electric system; and

(E) consider the availability of emergency electric energy from nonutility sources.

(4) Such rules may require minimum standards of quality in the purchase, construction, operation, and maintenance of bulk power facilities.

(5) Not less often than every 5 years, the Commission shall review and, after consultation with representatives of State regulatory authorities and after a reasonable opportunity for the presentation of oral and written data, views, and arguments, make appropriate amendments in such rules.

(b) IMPLEMENTATION RULES.—The Commission, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for interested persons to submit oral as well as written data, views, and arguments, shall prescribe such rules (and may issue orders and take such other action) as may be necessary or appropriate to assure implementation of subsection (a). Such rules (and other actions) under this subsection may include—

(1) sampling, testing, and other quality control requirements applicable to facilities (or components thereof) to which rules under subsection (a) apply, and

(2) provisions, relating to performance warranties and measure of damages, which shall be included by electric utilities in contracts between such utilities and their suppliers.

(c) ENFORCEMENT.—For the purpose of enforcement, a rule, order, or other action under this section shall be treated as a rule or order under the Federal Power Act.

(d) DELEGATION TO STATES.—The Commission may authorize (on such terms and conditions as it determines appropriate) any State regulatory authority to exercise any part of the Commission's authority under subsection (b) if the Commission determines that such State authority has the capability to effectively exercise such authority within its jurisdiction.

SEC. 546. COGENERATION.

(a) COGENERATION RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for other interested persons to submit oral as well as written data, views, and arguments, prescribe rules requiring electric utilities to offer to sell electric energy to the owner or operator of a qualifying cogeneration facility and to offer to purchase electric energy from such owner or operator. Such rules shall insure that rates for such sales and purchases are just, reasonable, in the public interest, and do not discriminate against cogeneration. Such rules shall include—

(1) rules for allocating costs of a qualifying cogeneration facility between those incurred in generating electric energy and those incurred in generating other forms of energy;

(2) rules respecting the interconnection of a qualifying cogeneration facility to the distribution system of any electric utility or to a centrally dispatched power pool as defined in section 202(b)(4)(B) of the Federal Power Act;

(3) rules respecting the responsibility of the owner or operator of a qualifying cogeneration facility during periods of electric shortage;

(4) rules respecting the minimum reliability standards for the qualifying cogeneration facility; and

(5) rules which specify the reliability of emergency electric energy service available to the qualifying cogeneration facilities.

Such rules may not (A) require an electric utility to purchase electric energy from a qualifying cogeneration facility during any period at a rate which exceeds the highest cost at which such utility generates electric energy, or purchases electric energy from any other source, during such period, or (B) authorize such cogeneration facility to make any sale for purposes other than resale.

(b) DEFINITIONS.—For purposes of this section:

(1) the term "cogeneration facility" means a facility which produces—

(A) electric energy and

(B) other forms of useful energy (such as steam or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

(2) The term "qualifying cogeneration facility" means a cogeneration facility which the Commission determines—

(A) meets such requirements respecting minimum size and fuel efficiency as the Commission, by rule, prescribes; and

(B) in the case of a cogeneration facility which is not owned by a utility and which is, or will be, directly connected to an electric utility, the owner or operator of such facility has offered such utility an opportunity to construct and operate such facility on terms acceptable to such owner or operator.

(c) ENFORCEMENT.—For the purposes of enforcement, a rule under this section shall be treated as a rule under the Federal Power Act.

(d) DELEGATION TO STATES.—The Commission may authorize (on such terms and conditions as it determines appropriate) any State regulatory authority to exercise any part of the Commission's authority under this section if the Commission determines that such State regulatory authority has the capability of effectively exercising such authority within its jurisdiction.

(e) EXEMPTION FROM FEDERAL POWER ACT.—Not later than 1 year after the date of enactment of this Act, the Commission shall, after consultation with representatives of State regulatory authorities, prescribe rules exempting qualifying cogenerators in whole or part from the Federal Power Act, the Public Utility Holding Company Act, and from State laws and regulations respecting electric utility regulation, if the Commission determines such exemption is necessary to carry out the purposes of this part. No such exemption shall be modified, except for good cause shown, with respect to any such cogenerator after such exemption takes effect with respect to such cogenerator.

SEC. 547. INTERLOCKING DIRECTORATES.

(a) DISCLOSURE.—Section 305 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) On the date one year after the date of enactment of this subsection, and annually thereafter, any person who is an officer or director of a public utility and who holds the position of officer, director, partner, ap-

pointee, or representative of any entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall prescribe, a written statement concerning all such positions held by such person. Such statement shall be available to the public.

"(2) The entities referred to in paragraph (1) are as follows—

"(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit (other than a bank-referred to in subsection (b), a mutual savings bank, or a savings and loan association;

"(B) any company or organization that is authorized by law to underwrite or participate in the marketing of securities of a public utility;

"(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear material, or other fuel, for the use of public utilities;

"(D) a company, firm, or organization which during any of the 3 immediately preceding calendar years, was one of the 20 largest purchasers of electric energy sold by such public utility (or by any public utility which is part of the same holding company system),

"(E) any entity referred to in subsection (b), and

"(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

"(3) For purposes of this subsection and subsection (d)—

"(A) the term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility and

"(B) the terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) PROHIBITIONS.—(1) Such section 305 is amended by adding the following new subsection at the end thereof:

"(d)(1) Except as provided in paragraph (2), if the Commission finds, after notice and opportunity for public hearing, that it adversely affects the public interest for an officer or director of a public utility to hold the position referred to in subsection (c)(1), it shall be unlawful for such officer or director to hold the position with respect to which such finding has been made. Such finding may be made—

"(A) on an individual basis,

"(B) in the case of entities referred to in subsection (c)(2)(A), on the basis of the extent of interests held by such entities in utilities, or

"(C) in the case of entities referred to in subsection (c)(2)(C), on the basis of the amount of equipment or fuel supplied to public utilities.

"(2) Paragraph (1) shall not—

"(A) apply in any case in which subsection (b) applies, or

"(B) prohibit any individual from holding any position with more than one company system, any company of which is a registered holding company,

"(3) The Commission may, by rule or order, exempt any individual within a class or category covered by a finding under subparagraph (B) or (C) of paragraph (1) from the prohibition contained in such paragraph if it finds, upon a showing in such form and manner as may be prescribed by the Commission, that neither the public nor private interests will be adversely affected thereby.

"(4) No authorization under subsection (b), the failure of the Commission to act under paragraph (1) of this subsection, nor any exemption under paragraph (3) of this subsection may be used as a defense to any action brought under section 8 of the Clayton Act.".

(2) The amendments made by this subsection shall not apply to any person before the date 2 years after the date of the enactment of this Act.

SEC. 548. APPLICABILITY OF ANTITRUST LAWS.

(a) APPLICATION.—Nothing contained in this chapter or the amendments made thereby shall—

(1) be deemed to convey to any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws, or

(2) restrict any authority the Commission may have under the Federal Power Act to regulate unfair methods of competition.

(b) DEFINITION.—For purposes of this section, the term "antitrust laws" includes—

(1) the Sherman Act (15 U.S.C. 1, and following);

(2) the Clayton Act (15 U.S.C. 12, and following);

(3) the Federal Trade Commission Act (15 U.S.C. 41, and following);

(4) the Wilson Tariff Act (15 U.S.C. 8 and 9; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

Chapter 4—CONSUMER REPRESENTATION AND ASSISTANCE TO STATE AGENCIES

SEC. 551. FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION.

(a) GRANTS.—Title II of the Energy Conservation and Production Act is amended by striking out section 203 and inserting in lieu thereof the following:

"ESTABLISHMENT OF PROGRAM

"SEC. 203. (a) The Administrator is authorized, in accordance with the provisions of this title, to make grants to State utility regulatory commissions—

"(1) for purposes of section 203A (relating to staffing);

"(2) for purposes of section 205(d) (relating to participation in proceedings); and

"(3) for purposes of section 204(1)(B) (relating to innovative rate structures).

"(b) No grant shall be made under this title unless an application therefor has been submitted to the Administrator in such form and manner as the Administrator may require. The Administrator may not approve an application of a State agency unless such authority assures the Administrator that funds made available under this title will be in addition to, and not in substitution for, funds made available to such State agency from other sources.

"(c) No grant may be made under this title after September 30, 1980.

"GRANTS TO IMPROVE STAFFING

"SEC. 203A. The Administrator may make grants to assist any State utility regulatory commission in improving its staff capacity to effectively regulate electric utilities. No grant may be made under this section unless the Administrator determines that such State utility regulatory commission—

"(1) requires additional staff in order to effectively carry out its regulatory authority, and

"(2) agrees to institute a system for assessing and collecting fees in a just and equitable manner from every electric utility subject to its jurisdiction, or otherwise secures the funds, to maintain the additional staff made possible under such grant following expiration of the grant.".

(b) FUNDING FOR INNOVATIVE RATE STRUCTURES.—Section 204(1)(B) of such Act is amended by inserting the following before the comma at the end thereof: "which encourage the development and operation of innovative rate structures which encourage conservation, are equitable and nondiscriminatory among the various classes of electric consumers, promote the efficient use of electric energy, and comply with the requirements of chapter 2 of part V of the National Energy Act".

(c) PARTICIPATION IN PROCEEDINGS.—(1) Section 204(2) of such Act is amended by inserting "or nonregulated public system (as defined in section 502 of the National Energy Act)" before "which relates".

(2) Section 205 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Administrator may make grants to State utility regulatory authority to provide for the establishment and operation of programs which meet the requirements of 537(b)(2) of the National Energy Act (respecting participation in proceedings) and which meet such other requirements as the Administrator shall prescribe by rule.".

(d) AUTHORIZATIONS.—Section 207 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. There are authorized to be appropriated—

"(1) not to exceed $40,000,000 in any fiscal year for grants under section 203A (relating to staffing);

"(2) not to exceed $5,000,000 in any fiscal year for grants under section 205(d) (relating to participation in proceedings); and

"(3) not to exceed $5,000,000 in any fiscal year for grants under section 204(1)(B) (relating to innovative rate structures).".

(e) ALLOTMENTS.—Such title II of such Act is amended by adding the following new section at the end thereof:

"ALLOTMENT OF SUMS

"SEC. 208. (a) In each fiscal year the Administrator shall allot the sums appropriated under this title equitably among the States on the basis of population, except that—

"(1) no State which qualifies for a grant under section 203A (relating to staffing) or section 204(1)(B) (relating to innovative rate structures) may receive less than one-half percent or more than 5 percent of amounts appropriated for grants under section 203A (relating to staffing) or section 204(1)(B) (relating to innovative rate structures), respectively, for any fiscal year; and

"(2) no State which qualifies for a grant under section 205(d) (relating to participation in proceedings) may receive less than 1 percent or more than 3 percent of amounts appropriated for grants under such section for any fiscal year.

"(b) The Administrator may withhold any part or all of any grant under this title if such Administrator finds that the State regulatory authority or other person is not carrying out the program as described in the application or has violated assurances contained in the application.".

(f) CONFORMING AMENDMENTS.—The table of contents for title II of such Act is amended by striking out the item relating to section 203 and inserting in lieu thereof the following:

"Sec. 203. Establishment of program.
"Sec. 203A. Grants to improve staffing."

SEC. 552. REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL POWER COMMISSION.

The Federal Power Act is amended by redesignating sections 319 and 320 as 320 and 321, respectively, and by inserting the following new section after section 318:

"OFFICE OF PUBLIC COUNSEL

"SEC. 319. (a)(1) There shall be established, within sixty days after the date of enactment of this section, an independent office in the Commission to be known as the Office of Public Counsel (hereinafter in this section referred to as the 'Office').

"(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates) at a rate not in excess of the maximum rate prescribed for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(3) The Director may appoint, fix the compensation, and assign the duties of employees of such Office, and he may procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States shall provide the Office with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties.

"(4) In addition to any other duties and responsibilities prescribed by law, the office—

"(A) shall have standing to become a party to any proceeding, formal or informal, which is before the Commission;

"(B) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission;

"(C) may seek judicial review of any Commission action, to the same extent such review is authorized by law for any person;

"(D) shall solicit, study, evaluate, and present before the Commission in any proceeding, formal or informal, the views of those States and political subdivisions thereof and consumers of electric energy affected by proceedings before the Commission, whenever the Director determines, for whatever reason (such as size or location), that such State or political subdivision or consumer might not otherwise be adequately represented before the Commission in the course of such proceedings; and

"(E) shall evaluate and represent, before the Commission and before other Federal agencies (when their policies and activities significantly affect public utility matters subject to the jurisdiction of the Commission) and by other means assist the representation of the interest of States and political subdivisions thereof and consumers of electric energy in safe, efficient, reliable, and economical electric utility services.

"(5) The budget requests and budget estimates of the Office of Public Counsel shall be submitted concurrently to the Congress and to the President.

"(6) There are authorized to be appropriated to the Office of Public Counsel for the purpose of carrying out the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.

"(b)(1) The Director of the Office may, pursuant to rules prescribed by him, provide compensation for reasonable attorneys fees, expert witness fees, and other costs of participating in any proceeding before the Commission to any person—

"(A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the proceeding taken as a whole, and

"(B) who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of preparing or making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceeding.

"(2) The aggregate amount of compensation paid to all persons in any fiscal year under this subsection may not exceed $2,000,000.".

SEC. 553. RESPONSIBILITIES OF ADMINISTRATOR.

The Administrator, for the purpose of carrying out his functions under title II of the Energy Conservation and Production Act, shall—

(1) publish a list identifying the State regulatory authorities and nonregulated utilities to which the provisions of chapter 2 of part V are applicable;

(2) inform, on a continuing basis, the State regulatory authorities and nonregulated utilities identified pursuant to paragraph (1) with respect to—

(A) the identification (for purposes of section 521 of the National Energy Act) and development of load management techniques, including the results of experiments in load management;

(B) developments and innovations in electric utility ratemaking throughout the United States, including the results of experiments in rate structure and rate reform;

(C) methods for determining cost of service under section 532; and

(D) any other data or information which the Administrator determines to be of assistance in carrying out the provisions of chapter 2; and

(3) State agency having responsibility with respect to planning and siting of bulk power facilities such technical assistance (including assistance in developing demand forecasting methods and in using techniques for choosing the desired degree of reliability) as he determines is appropriate; and

(4) provide on a formal or informal basis such appropriate technical assistance as is requested by a State regulatory authority, electric utility, or nonregulated utility.

Chapter 5—NATURAL GAS UTILITIES

Subchapter A—General Provisions

SEC. 561. FINDINGS.

The Congress finds that improvements in gas utility rate design and other improvements in the policies applicable to such utilities have great potential for reducing the cost of gas utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation.

SEC. 562. DEFINITIONS.

As used in this chapter:

(1) The term "gas consumer" means any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(2) The term "gas utility" means any person, Federal agency, or State agency which sells natural gas.

(3) The term "natural gas" shall have the same meaning as such term has under section 2 of the Natural Gas Act.

(4) The terms "State-regulated gas utility", "nonregulated utility", "evidentiary hearing" and "evidentiary proceeding", "nonregulated public system", "nonregulated cooperative", "rate", "rate schedule", "sale", and "State regulatory authority" shall have the same meaning as such terms have under section 502; except that the term "gas" shall be substituted for "electric" and "electric energy" wherever those terms appear in section 502.

Subchapter B—Requirements for Gas Utilities

SEC. 566. COVERAGE.

The requirements of this subchapter (other than section 567) apply only to sales of natural gas by a gas utility for purposes other than resale in a calendar year beginning two or more years after the date of the enactment of this Act; except that such requirements of section 569 shall not apply to a gas utility in any calendar year unless such sales by such utility exceeded 10 billion cubic feet of gas during (1) the second preceding calendar year or (2) any calendar year after 1975 but before such second preceding calendar year.

SEC. 567. GAS UTILITY RATE DESIGN PROPOSALS.

(a) STUDY.—(1) The Administrator, in consultation with the Commission, with the participation of representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design. Such study shall address the effect (both separately and in combination of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The study under paragraph (1) shall address the effect (both separately and in combination) of the factors listed in paragraph (1) upon the following:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from such designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;

(E) end use profiles of natural gas pipelines and local distribution companies; and

(F) competition with alternative fuels.

(b) PROPOSALS.—Based upon the study prepared pursuant to subsection (a), the Administrator shall develop proposals to improve gas utility rate design and to encourage conservation of natural gas. Such proposals shall include recommendations of the Commission, of any.

(c) TRANSMISSION TO CONGRESS.—The proposals prepared under subsection (b) shall be transmitted to each House of Congress not later than twelve months after the date of enactment of this Act for review and such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of natural gas, and other energy resources,

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of the proposals published under this subsection, and

(3) the effects of other provisions of this Act on gas utility rate structures.

SEC. 568. MINIMUM STANDARDS RESPECTING ADVERTISING.

(a) RECOVERY OF EXPENSES.—For purposes of rate determinations, no rate of a State-regulated gas utility which makes sales of natural gas subject to this chapter shall be determined to be in compliance with this subchapter if such utility recovers through such rate from its natural gas consumers any direct or indirect expenditure by such utility—

(1) for promotional advertising, or

(2) for political or institutional advertising.

(b) CERTAIN ADVERTISING NOT COVERED.—Subsection (a) shall not apply to—

(1) advertising which informs natural gas consumers how they can conserve natural gas,

(2) notices required by law or regulation,

(3) public information regarding service interruptions, safety measures, or emergency conditions,

(4) advertising concerning employment opportunities with such utility, and

(5) public distribution or explanation of existing or proposed rate schedules, or hearings thereon.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's natural gas consumers.

(2) The term "institutional advertising" means any advertising which is designed to create, enhance, or sustain a gas utility's public image or goodwill with the general public or such utility's natural gas consumers.

(3) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative, or electoral matter, or with respect to any controversial issue of public importance.

(4) The term "promotional advertising" means any advertising for the purpose of inducing the public to select or use the service or additional service of a gas utility or to select or install any appliance or equipment designed to use such utility's service.

SEC. 569. MINIMUM PROCEDURES FOR TERMINATION OF GAS SERVICE.

No State-regulated gas utility which makes sales of natural gas subject to this subchapter may terminate natural gas service to any consumer of natural gas based upon nonpayment for such service, except pursuant to procedures prescribed by the State regulatory authority (or the Commission, in any case in which such authority has not assumed responsibility as provided in section 583). Such procedures shall be prescribed by such authority (or Commission) not later than 30 days following assumption of enforcement responsibility and shall—

(1) provide that no natural gas service to a consumer may be terminated based upon nonpayment for such service until reasonable prior notice (including notice of rights and remedies) has been given to such consumer and such consumer has had a reasonable opportunity (at least 15 days before any such termination) to contest the proposed termination in an impartial hearing in which such consumer has had the opportunity to dispute the reasons for such termination and opportunity to establish whether or not a deferred payment plan for any amounts owed is reasonable, and

(2) provide that no natural gas service to a residential consumer may be terminated on account of non-payment for natural gas service during any period where termination of service would be especially dangerous to health, as determined by the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility as provided in section 583) if such consumer establishes in an impartial hearing that such consumer is unable to pay for such natural gas service without undue hardship.

Such procedures shall also include special provisions for elderly and handicapped consumers to assure that such consumers are made aware of, and are able to avail themselves of, their rights (as provided in this section). No natural gas service may be terminated based upon nonpayment for such service before the procedures required under this section have been completed.

SEC. 570. NONREGULATED UTILITIES.

The requirements of this subchapter (other than section 568 in the case of nonregulated cooperatives) shall apply to each nonregulated utility in the same manner as such requirements apply to each State-regulated gas utility, except that any action required to be taken by a State regulatory authority under such provision shall, in the case of a nonregulated utility, be taken by such utility.

Subchapter C—Administration, Enforcement, Review

SEC. 581. PROHIBITIONS.

(a) STATE-REGULATED UTILITIES.—No State-regulated gas utility subject to this subchapter may increase any rate at which it sells natural gas (other than pursuant to a purchased gas adjustment clause applicable to the rates and charges of such utility) unless such utility has been determined to be in compliance with the requirements of subchapter A. Such determination shall be made as provided in section 583 at the proceeding at which such rate is fixed, modified, or approved by the State regulatory authority (or by the Commission after such proceeding in any case in which the State has not assumed responsibility as provided in section 583).

(b) NONREGULATED UTILITIES.—(1) No nonregulated public system (as defined in section 561) may increase any rate at which it sells natural gas (other than pursuant to a purchased gas adjustment clause applicable to the rates and charges of such utility) unless such system has determined that it meets the requirements of subchapter A.

(2) No nonregulated cooperative (as defined in section 561) may violate any applicable requirement of subchapter A.

SEC. 582. ENFORCEMENT.

(a) INJUNCTIONS.—Upon petition of any Federal agency or affected State agency, the appropriate United States district court shall have jurisdiction to enjoin a gas utility from violating any prohibition contained in section 581. Each natural gas consumer of a gas utility (1) who may not maintain an action against such utility in a State court or (2) who is a consumer of a nonregulated public system which is a Federal agency may petition the United States district court to enjoin such utility from violating any such prohibition.

(b) NONREGULATED COOPERATIVES.—Any person who is a member of a nonregulated cooperative may bring a civil action in the appropriate United States district court against such cooperative for purposes of obtaining enforcement of the requirements of the prohibition contained in section 581 if such action may not be brought by such person against such cooperative in a State or local court.

SEC. 583. COMPLIANCE DETERMINATION AUTHORITY FOR STATE REGULATED GAS UTILITIES

(a) DETERMINATION BY STATE.—A State regulatory authority which has ratemaking authority with respect to a gas utility may determine whether or not such utility is in compliance with the requirements of section 581 if—

(1) such authority notifies the Commission (at such time, and in such manner, as the Commission shall prescribe by rule) that such authority assumes such responsibility with respect to such utility and certifies that it has adequate authority to carry out the requirements applicable to such authority under this chapter,

(2) such authority makes such determination of compliance by a gas utility with the requirements of this chapter applicable to such utility in an evidentiary hearing, and

(3) such authority complies with the requirement contained in subsection (c)(1).

(b) DETERMINATION BY COMMISSION.—If such State regulatory authority has not complied with paragraphs (1) through (3) of subsection (a) with respect to any utility or any determination or if such authority withdraws its assumption of responsibility under subsection (a), the Commission shall, upon the application of any State-regulated gas utility, determine in an evidentiary proceeding whether or not such utility is in compliance with such requirements until such time as such State regulatory authority notifies the Commission that it assumes such responsibility.

(c) COMMISSION REVIEW OF ENFORCEMENT.—(1) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has assumed responsibility under this chapter shall submit to the Commission a report (containing such information as the Commission by rule may require), describing the extent to which such authority has implemented the requirements of this part.

(2) If upon complaint to the Commission, or upon the Commission's own motion, and after notice and an evidentiary hearing, the Commission finds that any utilities regulated by a State regulatory authority that has assumed responsibility pursuant to subsection (a) hereof exhibit a pattern of noncompliance with subchapter A, the Commission shall publish such finding which shall be prima facie evidence in any court that the rates of such utilities are not in compliance with section 581.

(3) The absence of any finding by the Commission under paragraph (2) shall not be treated in any court or administrative proceeding as a finding by the Commission that the rates of any utility regulated by any State regulatory authority are in compliance with section 581.

SEC. 584. JUDICIAL REVIEW.

(a) STATE OR FEDERAL AGENCIES.—The Commission, or any affected State agency may obtain review or any determination referred to in section 581 made by a State regulatory authority or a nonregulated public system by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(b) UTILITIES AND CONSUMERS.—(1) Any gas utility or natural gas consumer of a gas utility with respect to which a determination referred to in section 581 has been made may obtain review of such determination by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located if such determination was made by a State regulatory authority in a review proceeding in which—

(A) the Commission may not intervene as a matter of right, or

(B) the court does not treat any finding under section 583(c) as prima facie evidence of noncompliance with the provisions of section 581.

Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(2) Any Federal agency which is a natural gas consumer of a gas utility with respect to which a determination referred to in section 583 has been made may obtain a review of such determination by commencing a civil action in the United States Court of Appeals for an any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(3) Except as provided in subsection (c), nothing in this subsection or section 582 shall be construed to prohibit any consumer from obtaining review in any State court of competent jurisdiction in the case of any determination referred to in section 581 made by a State regulatory authority or nonregulated public system which is a State agency, or to affect the jurisdiction of the United States Supreme Court to review any decision of a State court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) REMOVAL.—In the case of any action brought by the Commission or a State under subsection (a) or by a Federal agency under subsection (b)(2), the court may order that any action respecting the same matter brought by any natural gas consumer in a State court shall be removed to, and consolidated with, the action brought under subsection (a) or (b)(2) where such removal and consolidation will result in a more expeditious determination of such actions.

(d) FEDERAL COURTS.—Notwithstanding any other provision of law, no opportunity for review in the courts of the United States shall be available except as provided in this chapter

Chapter 6—SMALL HYDROELECTRIC POWER PROJECTS

SEC. 586. INCENTIVE PROGRAM.

Part I of the Federal Power Act is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The Congress declares that, because of the increasing shortages of natural gas and petroleum, and the urgent need to develop environmentally acceptable sources of electric energy to meet the needs of the Nation, the public interest requires the rapid development of the hydroelectric potential of the numerous existing dams on the Nation's waterways which are not being used to generate electric power where such development is technologically feasible, economically beneficial, and not environmentally harmful.

"(b) The Commission shall establish a program to—

"(1) encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric projects in connection with existing dams which are not being used to generate electric power, and

"(2) use simple and expeditious licensing procedures under this Act for such projects in connection with such existing dams in such manner as the Commission deems appropriate, consistent with the applicable provisions of law.

"(c)(1) The Commission is authorized to make grants (and commitments to grant) of up to 50 percent of the project costs of any small hydroelectric project which the Commission finds—

"(A) will be constructed in connection with any existing dam,

"(B) has received all necessary licenses and other required Federal, State, and local approvals,

"(C) will provide useful information as to the technical and economic feasibility of—

"(i) the generation of electric energy by such projects, and,

"(ii) the use of energy produced by such projects,

"(D) will have no significant adverse environmental effects, including effects on fish and wildlife, on recreational use of water, and on stream flow, and

"(E) will not have a significant adverse effect on any other use of the water used by such project.

"(2) In making grants under this subsection, the Commission shall give priority to any such project proposed by any municipality, electric cooperative, industrial development agency or nonprofit organization, or by any person other than a utility. An applicant other than an applicant entitled to priority under the first sentence of this paragraph which proposes such projects or participates jointly with any other person in such projects may receive grants under this section only on a finding by the Commission that no other similar project can carry out the purposes of paragraph (1) and that the proposed project cannot be reasonably carried out by any municipality, electric cooperative, industrial development agency, nonprofit agency, nonprofit organization, or person other than such a utility.

"(d)(1) The Commission is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or person other than a utility, of up to 50 percent of the project costs of a small hydroelectric project which meets the requirements of subsection (c)(1)(A), (B), (D), and (E) of this section. The Commission may make loans to a person or an industrial development agency only upon a finding that the operation of the project will result in substantially increasing employment or preventing a substantial loss of employment in the area to be served by the project.

"(2) The Commission shall give preference to applicants under this section who do not have available alternative financing which the Commission deems appropriate to carry out the project.

"(3) Every loan made pursuant to this subsection shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962–17(a)) and shall be for a term not less than twenty-five years and not more than fifty years, as the Commission deems appropriate.

"(4) Amounts repaid under loans made pursuant to this subsection shall be deposited into the Treasury as miscellaneous receipts.

"(e) The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

"(f) In making grants and loans under this section and in issuing licenses for small hydroelectric power projects, the Commission shall encourage joint participation, to the extent permitted by law, by those eligible to receive grants or loans under this section.

"(g) Nothing in this section shall be construed to preclude licensees of small hydroelectric power projects from entering into contracts to sell electric energy to (1) any person for such person's consumption, or (2) any utility for resale under such terms and conditions as the Commission may approve.

"(h) Notwithstanding any other provision of Federal, State, or local law, licensees of small hydroelectric power projects shall not be charged for the water used to operate such small hydroelectric power project licensed under this Act except to the extent that such water is consumed by such project or results in costs being imposed on the supplier of such water, or, upon a finding by the Commission that such charge is necessary or appropriate in the public interest.

"(i) Every licensee of a small hydroelectric power project licensed pursuant to this Act shall furnish the Commission with such information as the Commission may require regarding equipment and services proposed to be used in the design, construction, and operation of such projects and the Commission shall have the right to forbid the use in such project of any such equipment or services it finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Commission may make public information it obtains under this subsection, other than information which may not be released pursuant to section 1905 of title 18, United States Code.

"(j) In the case of projects receiving both grants and loans under this section, the total amount of Federal funds expended for such project shall not exceed 75 percent of the total project cost.

"(k) Before issuing any license under this Act for the construction or operation of any small hydroelectric power project (whether or not in connection with an existing dam) the Commission—

"(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structure), and

"(2) shall consult with the Council on Environmental Protection Agency, and the Department of Interior with respect to the environmental effects of such project.

Nothing in this subsection shall be deemed to exempt such project from any requirement applicable to any such project under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

"(l) Nothing in this section authorizes the grant or loan of funds, or simple and expeditious licensing, for construction of any new dam or other impoundment.

"(m) There is hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980—

"(1) $50,000,000 for grants made pursuant to subsection (c); and

"(2) $50,000,000 for loans made pursuant to subsection (d), such funds to remain available until expended.

"(n) For purposes of this section, the term—

"(1) 'small hydroelectric power project' means any project of not more than twenty thousand horsepower (or fifteen thousand kilowatts) of installed capacity;

"(2) 'electric cooperative' means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

"(3) 'industrial development agency' means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

"(4) 'project costs' means the cost of all facilities and services used in the design and construction of a project;

"(5) 'utility' means any person engaged in transmission, or distribution, or both, of electric energy for profit;

"(6) 'nonprofit organization' means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

"(7) 'existing dam' means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any dam construction or enlargement (other than repairs or recoonstruction) in connection with the installation of any small hydroelectric power project.".

SEC. 587. LICENSE CHARGES.

Section 10(e) of the Federal Power Act is amended by inserting before the period at the end thereof the following: ": *Provided further*, That, for licenses involving a Gov-

ernment dam issued subsequent to December 31, 1975, the annual charge shall be no more than $1 for each kilowatt of installed capacity".

SEC. 588. TRANSFERS OF AUTHORITY.

Notwithstanding section 4 of this Act, if the Federal Power Commission is terminated, any reference (other than a reference respecting licensing) in this chapter (or any amendment made therein) to the Federal Power Commission shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of the Federal Energy Administration are vested, transferred, or delegated pursuant to law.

SEC. 589. CONDUIT HYDROELECTRIC FACILITIES.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall grant an exemption from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

PART VI—CONVERSION FROM NATURAL GAS AND PETROLEUM TO COAL AND OTHER FUEL RESOURCES

Subpart A—General provisions

SEC. 601. FINDINGS AND STATEMENT OF PURPOSES

(a) The Congress finds that the protection of public health and welfare, the preservation of natural security, and the regulation of interstate commerce require the establishment of a program for the expanded use, consistent with applicable environmental requirements, of coal and other fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations.

(b) The purposes of this part, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use are in the best interests of the United States;

(2) to conserve natural gas and petroleum for uses other than as a boiler fuel or for the generation of electricity and to conserve such resources for the benefit of present and future generations;

(3) to encourage and foster the greater use of coal and other fuels, in lieu of natural gas and petroleum as a primary energy source for existing and new electric powerplants and major fuel-burning installations, and for other purposes;

(4) to encourage the use of synthetic gas derived from coal and, to the extent permitted by this part, to encourage the use of synthetic gas derived from coal mixed with natural gas;

(5) to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a primary energy source for existing and new electric powerplants, major fuel-burning installations, and for other purposes;

(6) to require the improvement or modernization of existing and new electric powerplants and major fuel-burning installations, which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other fuels, in order to conserve natural gas and petroleum;

(7) to require that existing and new electric powerplants and major fuel-burning installations which utilize petroleum, coal, or other fuels pursuant to this part comply with applicable environmental requirements;

(8) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this part by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such action as lies within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(9) to insure that adequate supplies of natural gas are available for essential agricultural uses, including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses; and

(10) to reduce the United States' vulnerability to energy supply interruptions.

SEC. 602. DEFINITIONS.

For the purposes of this part—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" means any individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, or any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States, or any agency or instrumentality thereof.

(3) The term "natural gas" means—

(A) natural gas, as defined in section 2(5) of the Natural Gas Act, other than—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity) as determined under rules prescribed by the Administrator; and

(ii) natural gas which is produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(B) liquid petroleum gas; and

(C) synthetic gas derived from crude oil.

(4) The term "petroleum" means crude oil, residual fuel oil, and products derived from crude oil other than—

(A) synthetic gas derived from crude oil;

(B) liquid petroleum gas; and

(C) liquid, solid, or gaseous waste by-products of refinery operations which are commercially unmarketable, as determined under rules prescribed by the Administrator.

(5) The term "coal" means anthracite and bituminous coal and lignite.

(6) The term "other fuels" means electricity or any fuel (other than coal, natural gas, or petroleum) and includes—

(A) petroleum coke, uranium, biomass, wood, and renewable and geothermal energy sources;

(B) synthetic gas derived from coal; and

(C) liquid, solid, or gaseous waste by-products of refinery operations which are commercially unmarketable, as determined under rules prescribed by the Administrator.

(7) The terms "electric powerplant" and "powerplant" mean any electric generating unit, including a gas turbine or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(A) has the design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination, of two or more electric generating units (excluding, if determined appropriate by rule by the Administrator, any such unit not having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Such terms do not include any such unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission.

(8) The term "new electric powerplant" means—

(A) any electric powerplant (other than a peakload powerplant) the onsite construction or replacement of which, in accordance with final drawings or an equivalent design document approved by the State regulatory authority, had not commenced on or before April 20, 1977; or

(B) a peakload powerplant (i) the construction or acquisition of which, in whole or in part, had not been contracted for on or before April 20, 1977, or (ii) if contracted for on or before such date, the construction or acquisition of which could be canceled, rescheduled, or modified without—

(I) adversely affecting electric system reliability (as determined by the Administrator after consultation with the Federal Power Commission and the appropriate State regulatory authority), or

(II) incurring significant financial penalty (as determined under rules prescribed by the Administrator).

(9) The term "existing electric powerplant" means any electric powerplant other than a new electric powerplant.

(10) The terms "major fuel-burning installation" and "installation" mean a unit, other than an electric powerplant, consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(A) has a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination, of two or more such units (excluding, if determined appropriate by the Administrator, any such unit having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming such fuel at a fuel heat input rate of 250 million Btu's per hour or greater.

(11) The term "new major fuel-burning installation" means any major fuel-burning installation—

(A) the construction or acquisition of which, in whole or in part, had not been contracted for, on or before April 20, 1977; or

(B) if contracted for on or before such date, the construction or acquisition of which could be canceled, rescheduled, or

modified without incurring significant financial penalty (as determined under rules prescribed by the Administrator).

(12) The term "existing major fuel-burning installation" means any installation—

(A) which is not a new major fuel-burning installation, and

(B) which has the design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 300 million Btu's per hour or greater.

The provisions of subparagraph (B) shall not apply to exclude any installation from being considered an existing major fuel-burning installation if the Administrator finds, by order, that it is technically and financially feasible (as determined under rules prescribed by the Administrator), in view of the remaining useful life of such installation, for such installation to comply with the prohibitions to which such installation would be subject if it were treated as an existing major fuel-burning installation.

(13) The term "primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel-burning installation or the use of which by such powerplant or installation is technically feasible, except it does not include, as determined under rules prescribed by the Administrator—

(A) the minimum amounts of fuel required for boiler startup, testing, flame stabilization, and control uses, and

(B) the minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the health, safety, or welfare which would result from electric power outages.

(14) The term "site limitations" means, when used with respect to any powerplant or installation, specific limitations associated with a particular site which relate to the use of coal or other fuels as a primary energy source for such powerplant or installation, such as—

(A) inaccessibility to coal or other fuels;

(B) lack of transportation facilities for coal or other fuels;

(C) lack of adequate facilities for the handling and storage of coal or other fuels;

(D) lack of adequate means for the disposal of wastes from such powerplant or installation; and

(E) lack of an adequate and reliable supply of water for use in compliance with applicable environmental requirements.

(15) The term "applicable environmental requirements" includes—

(A) any Federal, State, or local government law, standard, limitation, or other requirement (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other fuels or natural gas or petroleum as a primary energy source or from the operation of air pollution control equipment in connection with such use; and

(B) any standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or the National Environmental Policy Act of 1969.

(16) The term "peakload powerplant" means a powerplant the generation of which in kilowatt hours does not exceed, for any 12-month period, such powerplant's design capacity multiplied by 1,500 hours. Not later than 90 days after the date of the date of the enactment of this Act, the Federal Power Commission shall prescribe rules under which a powerplant's design capacity may be determined for purposes of this paragraph.

(17) The term "cost", unless the context indicates otherwise, means total costs (both operating and capital) incurred over the estimated useful life of an electric powerplant or major fuel-burning installation, discounted to present value, as determined by the Administrator in consultation with the State regulatory authority or other State agency, as appropriate. In the case of an electric powerplant, such costs shall take into account any change required in the use of existing electric powerplants in the relevant dispatching system and other economic factors which are included in planning for the production, transmission, and distribution of electric power within such system.

(18) The term "Btu" means British thermal unit.

(19) The term "Mcf" means, when used with respect to natural gas, 1,000 cubic feet of natural gas.

(20) The term "qualifying cogeneration facility" shall have the same meaning as given such term in section 546(b).

(21) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electricity by any electric utility.

(22) The term "electric utility" means any person or Federal agency which sells electric power.

(23) The term "Federal agency" has the same meaning as is given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 603. EFFECT ON ENVIRONMENTAL REQUIREMENTS.

Except as provided in section 631, nothing in this part shall be construed as permitting any existing or new electric powerplant or major fuel-burning installation to delay or avoid compliance with applicable environmental requirements.

SEC. 604. TERRITORIAL EXPANSION.

The provisions of this part shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that the provisions of sections 611, 612, and 613 shall only apply to powerplants and installations situated on lands within the contiguous 48 States, Alaska, and the District of Columbia.

Subpart B—Prohibitions; Exemptions

SEC. 611. NEW ELECTRIC POWERPLANTS.

(a) No new electric powerplant shall use natural gas as a primary energy source.

(b) No new electric powerplant shall use petroleum as a primary energy source.

(c) Any person who proposes to use petroleum or natural gas, or both, as a primary energy source for a new electric powerplant may file a petition with the Administrator requesting an exemption for such powerplant from the prohibition of such use under subsections (a) and (b).

(d) The Administrator, after consideration of a petition filed under subsection (c) for a temporary exemption and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(1) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely such supply will not be available to such powerplant;

(2) despite diligent good faith efforts, site likely such supply will not be available to expected to be overcome;

(3) the prohibitions of subsections (a) and (b) could not be satisfied without violating applicable environmental requirements; or

(4) the issuance of such exemption furthers the purposes of this part.

No exemption under this subsection, including any extensions or renewals thereof, may exceed a period of 5 years' duration.

(e) After consideration of a petition filed under subsection (c) requesting a permanent exemption and any comments thereon, the Administrator shall grant such permanent exemption, by order, if he finds that the petitioner has demonstrated that—

(1) there is no site at which—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely that such supply will be available at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the powerplant;

(B) despite diligent good faith efforts, site limitations would permit the location of a powerplant using coal or other fuel as a primary energy source;

(C) the prohibitions of subsections (a) and (b) could be satisfied without violating applicable environmental requirements; and

(D) the required use of coal or other fuels would allow the petitioner to obtain adequate capital for the financing of such powerplant; or

(2) the issuance of such exemption furthers the purposes of this part.

(f) Before the Administrator grants any petition for an exemption under subsection (d) or (e), the Administrator shall submit a copy of the petition to the Federal Power Commission for the purpose of the Commission's certifying that there is no alternative supply of electric power which can be obtained without impairing reliability of service.

(g) In the case of any petition for a permanent exemption from the prohibitions of subsection (b) applicable to a new electric powerplant, the Administrator shall grant such exemption, by order, if the petitioner certifies that such powerplant is to be constructed and operated solely as a peakload powerplant.

(h) If the appropriate State regulatory authority has not approved a powerplant for which a petition for an exemption has been filed under subsection (c), such exemption may not take effect until the Administrator has determined that approval by such State regulatory authority has occurred.

(i) Any new electric powerplant issued an order before the effective date of this part pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 shall, notwithstanding the provisions of such section 2(c), be subect to the provisions of this part, except that if such order became final before such date, the preceding provisions of this section shall not apply to such powerplant. Nothing in this subsection shall be construed to affect the validity of any such final order or to require the Administrator to reissue any such order.

SEC. 612. NEW MAJOR FUEL-BURNING INSTALLATIONS

(a)(1) No new major fuel-burning installation which is a boiler shall use natural gas or petroleum, or both, as a primary energy source.

(2)(A) The Administrator may, by rule, prohibit categories (identified in such rule) of new major fuel-burning installations, other than boilers, from using natural gas or petroleum, or both, as a primary energy source. In identifying categories of new major fuel-burning installations pursuant to this subparagraph, the Administrator shall take into account any special circumstances or characteristics of each category of such installations (such as the technical feasibility of burning coal or other fuels and the size or location of such installations). Any

such rule shall not apply in the case of any new major fuel-burning installation subject to such rule pending a resolution of any petition for an exemption for such installation which may be filed with the Administrator not later than 60 days after such rule is published under section 621(g).

(B) The Administrator may, by order, prohibit any new major fuel-burning installation, other than a boiler, from using natural gas or petroleum, or both, as a primary energy source if such installation is not, at the time of the issuance of such order, in a category identified in a rule prescribed under subparagraph (A). The Administrator shall not issue an order under this subparagraph to any installation if it is demonstrated that such installation would have been granted an exemption, if such prohibition had been established by rule pursuant to subparagraph (A) rather than by order pursuant to this subparagraph.

(b) Any person who proposes to use petroleum or natural gas, or both, as a primary energy source for any new major fuel-burning installation may file a petition with the Administrator requesting an exemption for such installation from the prohibitions of subsection (a)(1) or (2)(A).

(c)(1) The Administrator, after consideration of a petition for a temporary exemption from the prohibitions of subsection (a)(1) or (2)(A) and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate, if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels, it is likely such supply will not be available to such installation;

(B) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(C) the prohibitions of subsection (a)(1) or (2)(A) could not be satisfied without violating applicable environmental requirements;

(D)(i) such installation is not technically capable of using coal; and

(ii) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of synthetic fuels derived from coal, such supply will not be available to such installation and the petitioner has a contract or other similar arrangement binding on the petitioner and the supplier of such fuels to provide such a supply at the end of the period of the proposed exemption; or

(E) the issuance of such exemption furthers the purposes of this part.

(2) No exemption under paragraph (1), including any extensions or renewals thereof, may exceed a period of 5 years' duration, except that any exemption based on subparagraph (1)(D) may, upon petition, be extended an additional period of 5 years. Notwithstanding the preceding provisions, any exemption based on subparagraph (1)(D) may not be effective after December 31, 1994.

(d)(1) After consideration of a petition requesting a permanent exemption from the prohibitions of subsection (a)(1) or (2)(A) and any comments thereon, the Administrator shall grant such permanent exemption, by order, if he finds that the petitioner has demonstrated that—

(A) there is no site proposed by the petitioner at which—

(i) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuel, it is likely that such supply will be available at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the installation;

(ii) despite diligent good faith efforts, site limitations would permit the location of an installation using coal or other fuels as a primary energy source;

(iii) the prohibitions of subsection (a)(1) or (2)(A) could be satisfied without violating applicable environmental requirements; and

(iv) the required use of coal or other fuels would allow the petitioner to obtain adequate capital for the financing of such installation;

(B) the issuance of such exemption furthers the purposes of this part: or

(C) in the case of any installation other than a boiler—

(i) the use of a primary energy source, other than natural gas or petroleum, is technically infeasible; and

(ii) a substitute heat source is not possible due to process requirements.

(2) The Administrator, upon the filing of a petition, may, by order, grant a permanent exemption from any prohibition under subsection (a)(1) or (2)(A) applicable to a new major fuel-burning installation, if the petitioner certifies that—

(A) such installation uses, or proposes to use, a mixture or combination of petroleum or natural gas and other fuels as a primary energy source, and

(B) the petroleum or natural gas used in such combination or mixture will not exceed, during any 12-calendar-month period, 25 percent of the total Btu heat input of the primary energy sources of such installation or a greater percentage which is the minimum percentage needed to maintain fuel efficiency of such mixture or combination, as determined under rules prescribed by the Administrator.

(e) Any new major fuel-burning installation issued an order before the effective date of this part pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 shall, notwithstanding the provisions of such section 2(c), be subject to the provisions of this part, except that if such order became final before such date, the preceding provisions of this section shall not apply to such installation. Nothing in this subsection shall be construed to affect the validity of any such order or to require the Administrator to reissue any such order.

SEC. 613. EXISTING ELECTRIC POWERPLANTS AND EXISTING MAJOR FUEL-BURNING INSTALLATIONS.

(a)(1) No existing electric powerplant—

(A) shall use natural gas as a primary energy source on or after January 1, 1990;

(B) if such powerplant used petroleum as a primary energy source on or before April 20, 1977, shall convert to the use of natural gas as a primary energy source; or

(C) shall use natural gas as a primary energy source in greater proportions than the average yearly proportion of natural gas which—

(i) such powerplant used as a primary energy source in calendar years 1974 through 1976, or

(ii) if such powerplant began operations on or after January 1, 1974, such powerplant used as a primary energy source during the first two calendar years of its operation.

(2) The Administrator may prohibit any existing electric powerplant from using petroleum or natural gas, or both, as a primary energy source, if—

(A) such powerplant had on April 20, 1977, or thereafter acquires, the technical capability to use coal or other fuels as a primary energy source; and

(B) the use by such powerplant of coal or other fuels as a primary energy source is financially feasible (as determined under rules prescribed by the Administrator).

(3) In the case of any existing electric powerplant in which it is technically and financially feasible (as determined under rules prescribed by the Administrator) to use—

(A) a mixture of coal or other fuels and petroleum as a primary energy source, or

(B) a combination of coal or other fuels and petroleum or natural gas as primary energy sources,

the Administrator may prohibit, by order, such powerplant from using petroleum or natural gas, or both, in amounts in excess of the minimum amount necessary to maintain fuel efficiency of such mixture or such combination.

(b)(1) The Administrator may prohibit any existing major fuel-burning installation from using petroleum or natural gas, or both, as a primary energy source, if—

(A) such installation had, on April 20, 1977, or thereafter acquires, the technical capability to use coal or other fuels as a primary energy source; and

(B) the use by such installation of coal or other fuels as a primary energy source is financially feasible (as determined under rules prescribed by the Administrator).

(2) In the case of any major fuel-burning installation in which it is technically and financially feasible (as determined under rules prescribed by the Administrator) to use—

(A) a mixture of coal or other fuels and petroleum as a primary energy source, or

(B) a combination of coal or other fuels and petroleum or natural gas as primary energy sources,

the Administrator may prohibit, by order, such installation from using petroleum or natural gas, or both, in amounts in excess of the minimum amounts necessary to maintain fuel efficiency of such mixture or such combination.

(c)(1) The prohibitions under subsection (a)(2) and subsection (b)(1) shall be established—

(A) by rule, in the case of powerplants or installations in a category of powerplants or installations, respectively, identified by the Administrator in such rule, or

(B) by order, in the case of any powerplant or installation which is not, at the time the proposed order is issued, within any such category.

(2) In prescribing any rule under paragraph (1)(A), the Administrator shall take into account any special circumstances or characteristics of each category of powerplants or installations (such as the technical feasibility of burning coal or other fuels and the size, age, or location of such powerplants or installations). Any such rule shall not apply in the case of any existing electric powerplant or major fuel-burning installation subject to such rule pending a resolution of any petition for any exemption for such powerplant or installation which may be filed with the Administrator not later than 60 days after such rule is published under section 621(g).

(d)(1) Any person who proposes to use natural gas or petroleum as a primary energy source for any existing powerplant or major fuel-burning installation, and such use would be prohibited under subsection (a)(1) or under any rule prescribed under subsection (a)(2) or subsection (b)(1), may file a petition with the Administrator requesting a temporary or permanent exemption for such powerplant or installation from such prohibition. The prohibition of subsection (a)(1)(A) shall be stayed with respect to any existing powerplant, pending a resolution of any petition for any exemption from such prohibition which is filed at any time after the effective date of this part, but at least one year before the date such prohibition first takes effect.

(2) The Administrator, after consideration of a petition for an exemption from a prohibition under subsection (a)(1) or (2) or subsection (b)(1) and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely such supply will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the powerplant or installation;

(B) natural gas will be used as a primary energy source by the petitioner in a powerplant which is a peakload powerplant (determined only with regard to its usage of natural gas);

(C) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(D) such prohibition could not be satisfied without violating applicable environmental requirements;

(E) in the case of an existing major fuel-burning installation—

(i) such installation is not technically capable of using coal; and

(ii) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of synthetic fuels derived from coal, such supply will not be available to such installation and the petitioner has a contract or other similar arrangement binding on the petitioner and the supplier of such fuels to provide such a supply at the end of the period of the proposed exemption;

(F) the issuance of such exemption furthers the purposes of this part;

(G) in the case of an existing major fuel-burning installation, the use of a primary energy source other than petroleum or natural gas is technically infeasible, and a substitute heat source is not possible due to process requirements; or

(H) in the case of an existing electric powerplant, the Federal Power Commission has certified that there is no alternative electric power supply which can be obtained without impairing reliability of service.

(3) The Administrator, upon the filing of a petition, may, by order, grant a permanent exemption from any prohibition under subsection (b) applicable to an existing major fuel-burning installation, if the petitioner certifies that—

(A) such installation uses, or proposes to use, a mixture or combination of petroleum or natural gas and any other fuels as a primary energy source, and

(B) the petroleum or natural gas used in such combination or mixture will not exceed, during any 12-calendar-month period, 25 percent of the total Btu heat input of the primary energy sources of such installation or a greater percentage which is the minimum percentage needed to maintain fuel efficiency of such mixture or combination, as determined under rules prescribed by the Administrator.

(4) If a petition is filed with the Administrator for a permanent exemption from the prohibitions of subsection (a)(1)(B) for the use of liquefied natural gas by a powerplant as a primary energy source, the Administrator shall grant such exemption, by order, if the Administrator of the Environmental Protection Agency has certified that the use of coal by such powerplant as a primary energy source would not comply with applicable environmental requirements.

(5) No exemption (other than a permanent exemption) under this subsection, including any extensions or renewals thereof, may exceed a period of 5 years' duration, except that—

(A) any exemption on paragraph (2)(E) may, upon petition, be extended an additional period of 5 years, but such exemption shall not be effective after December 31, 1994; and

(B) an exemption based on paragraph (2)(B) shall not be effective after December 31, 1994.

(6) The Administrator shall not issue an order under subsections (a) and (b) to any powerplant or installation if it is demonstrated that such powerplant or installation would have been granted an exemption if such prohibition had been established by rule pursuant to subsection (c)(1)(A) rather than by order.

(e) Upon publication of any proposed order under subsection (a) or (b) in the case of any existing major fuel-burning installation or upon the recipt of any exemption under this section, the Administrator shall request the Federal Trade Commission to evaluate the impact of the proposed order or a denial of the proposed exemption on competition and provide to the Administrator, within 120 days of receipt of such request, written views and recommendations, if any, concerning such impact. Any such views or recommendations shall be available to the public. The Administrator shall consider such views and recommendations in issuing any such order or exemption.

(f)(1) Notwithstanding any other provision of law, no proposed order under subsection (a) or (b) (or modification thereof) which may result in the use of coal as a primary energy source may be issued—

(A) until the Administrator of the Environmental Protection Agency notifies the Administrator under section 119(d)(1)(B) of the Clean Air Act, or

(B) if such notification is not given, until the date which the Administrator of the Environmental Protection Agency certifies, pursuant to section 119(d)(1)(B) of such Act, is the earliest date which the powerplant or installation will be able to comply with all applicable requirements of section 119 of such Act.

(2) Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of such Act. Notice or certification pursuant to this subsection shall be provided within 270 days of the date the Administrator of the Environmental Protection Agency receives notice of such proposed order (or modification).

(g) The provisions of this section shall not apply to any powerplant or installation for which an order issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 before the effective date of this part is pending or final or which, on review, was held unlawful and set aside on the merits. Nothing in this subsection shall be construed to affect the validity of any such order or be construed to require the Administrator to reissue any such order.

(h) The Administrator shall, by rule, require that existing electric powerplants which, on or after April 20, 1977, uses a mixture or combination of petroleum and coal or other fuels as a primary energy source may not increase their use of petroleum as a primary energy source unless a permit is issued by the Administrator authorizing such increased use of petroleum. Such permit shall be issued if—

(1) the Administrator finds that the petitioner has (A) demonstrated that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in section 110(d) of the Clean Air Act, without the issuance of a permit and (B) established the duration of the need for increased petroleum to comply with such plan; and

(2) the appropriate State regulatory authority, as determined by the Administrator, has certified to the Administrator that the increased use of petroleum by such powerplant is necessary to permit the powerplant to comply with such implementation plan.

Such permit shall be issued only for such period as the Administrator determines a need exists for such increased use of petroleum.

(i) In making a determination of financial feasibility under this section, the Administrator shall take into account costs, as defined in section 602(17).

SEC. 614. SUPPLEMENTAL NATURAL GAS BOILER FUEL CONVERSION AUTHORITY.

(a) The Administrator may, by rule, prohibit the use of natural gas as a primary energy source in any existing boiler (other than a major fuel-burning installation) if the Administration determines that—

(1) such boiler is used to produce steam for space heating purposes;

(2) such boiler had the capability on or before April 20, 1977, to use petroleum as a primary energy source;

(3) such boiler consumes 50 Mcf or more of natural gas per day on a peak day; and

(4) such prohibition is consistent with the purposes of this part.

(b) The Administrator may, by rule, prohibit the use of natural gas as a primary energy source in any new boiler (other than a major fuel-burning installation) if the Administrator determines that—

(1) such boiler will be used to produce steam for space heating purposes;

(2) such boiler will consume 50 Mcf or more of natural gas per day on a peak day; and

(3) such prohibition is consistent with the purposes of this part.

(c) The Administrator shall exempt any person from any rule prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Administrator that an adequate and reliable source of petroleum is not likely to be available to such person during the period of exemption.

(d) For purposes of this section—

(1) The term "new boiler" means any boiler the construction of which the Administrator determines commenced on or after the date of the enactment of this section.

(2) The term "existing boiler" means any boiler other than a new boiler.

SEC. 615. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING.

(a) Not later than 180 days after the effective date of this part, the Administrator shall, by rule, prohibit any natural gas pipeline or local distribution company from providing natural gas service to any residential, commercial, or industrial customer for use in outdoor lighting. The Administrator shall take into account any special circumstances or characteristics in prescribing such rule.

(b) The Administrator shall, by order, exempt any natural gas pipeline or local distribution company from the rule required to be prescribed under subsection (a) concerning the continuation of such service in effect on the date of the enactment of this Act upon the filing of a petition therefor by such pipeline or company, or by any interested person. Such exemption shall be for such period as, and to the extent that, the Administrator finds—

(1) such exemption is necessary to protect public safety;

(2) such exemption is necessary to permit the installation of substitute lighting where

no outdoor lighting (other than that using natural gas) exists on the date of the enactment of this Act;

(3) compliance with such rule would entail extraordinary expense by the petitioner and would not be cost justified; or

(4) the issuance of the exemption furthers the purposes of this part.

(c) As used in this section, the term "outdoor lighting" means lighting by any stationary source which is not located inside any building.

SEC. 616. EXEMPTION FOR QUALIFYING COGENERATION FACILITIES.

The Administrator, upon the filing of a petition, may, by order, grant an exemption from any prohibition under this subpart applicable to any qualifying cogeneration facility, if—

(1) he finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the order a statement of the basis for such finding.

SEC. 617. EXEMPTION FOR HIGH BTU SYNTHETIC DERIVED FROM COAL.

(a) Any person who is prohibited by any provision of section 611, 612, 613, or 614, or any rule or order, thereunder from using natural gas as a primary energy source may petition for a permanent exemption from such prohibition pursuant to this section.

(b) The Administrator shall grant an exemption, by order, from any prohibition on the use of natural gas as a primary energy source under this part or any rule or order thereunder if the Administrator finds that the petitioner has demonstrated that—

(1) such petitioner owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal;

(2) the Btu content of such synthetic gas is equal to, or greater than, the Btu content of the natural gas to be covered by such exemption plus the approximate Btu content of any natural gas consumed or lost in transportation;

(3) such petitioner delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person;

(4)(A) in the case of any such transportation in interstate commerce (within the meaning of the Natural Gas Act), such transportation has been certified by the Federal Power Commission;

(B) in the case of any other transportation, such transportation has been approved by the State authority which exercises regulatory jurisdiction over the rates and charges applicable to such transportation; and

(5) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction or operation of the facilities for the manufacture of the synthetic gas involved.

(c) In granting any exemption under this section, the Administrator shall, after consultation with the Federal Power Commission, consider the appropriateness of the use of the synthetic gas involved for the benefit of the petitioner rather than for possible uses, including residential and small commercial users which consume less than 50 Mcf of natural gas per day on a peak day.

(d) Nothing in this part shall be construed as affecting the use by any major fuel-burning installation of synthetic gas which is derived from coal and which is not mixed with natural gas as the primary energy source of such installation.

(e) If, at the time the Administrator makes his findings under subsection (b), the petitioner has not demonstrated that all necessary permits, licenses, and approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for the construction and operation of the facilities for the manufacture of the synthetic gas with respect to which such exemption is sought under this section, such exemption, if granted, shall not be effective until the Administrator determines that such permits, licenses, and approvals have been obtained.

SEC. 618. TERMS AND CONDITIONS OF EXEMPTIONS.

Any exemption from any prohibition under this subpart shall be on such terms and conditions as the Administrator determines appropriate, including, in the case of any such exemption (other than from a prohibition under section 615), terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this part. The terms and conditions applicable in the case of any temporary exemption shall be designed to insure that upon the expiration of such exemption, the persons covered by such will comply with the otherwise applicable prohibitions.

Subpart A—Enforcement; Administration

SEC. 621. ADMINISTRATIVE PROCEDURES.

(a) Except to the extent otherwise provided in this section, rules prescribed under this part shall be made in accordance with the procedures set forth in section 553 of title 5, United States Code.

(b) Before prescribing any rule or issuing any order imposing a prohibition under this part, the Administrator shall publish such proposed rule or order in the Federal Register, together with a detailed statement of the reasons for such rule or order, and in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. In the case of any such order, a copy shall be transmitted to the person who operates any such powerplant or installation subject to such order.

(c) Any petition for an exemption from any prohibition under this part or for any permit under section 613(h), shall be filed at such time and shall be in such form as the Administrator shall by rule prescribe. The Administrator, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a detailed summary of the reasons set forth in such petition for requesting such exemption or permit, and provide a minimum of 45 days for written comments thereon. Rules required under this subsection shall be prescribed not later than 90 days after the date of the enactment of this Act.

(d) Any denial of any petition for an exemption or a permit under this part shall be published in the Federal Register, together with the reasons for such action.

(e) In the case of any rule or order by the Administrator imposing a prohibition or prohibition or granting an exemption (or permit) under this part, any interested person shall be afforded an opportunity to present oral data, views, and arguments, including an opportunity, by means of conferences or other informal procedures, to question—

(1) other interested persons who have made oral presentations, and

(2) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order, with respect to disputed issues of material fact, but only to the extent the Administrator determines that such questioning is likely to result in a more timely and effective resolution of such issues.

(f) A transcript shall be kept of any oral presentation made in accordance with this section.

(g)(1) Any rule or order to be prescribed by the Administrator imposing a prohibition or granting an exemption (or permit) under this part shall be published in the Federal Register and shall not take effect earlier than the 60th day after such rule or order is published.

(2) Any person aggrieved by a rule or order referred to in paragraph (1) or in section 631, or by the denial of such a rule or order, may at any time before the 60th day after the date such rule or order is prescribed (or denied), file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. Such agency thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of the petition referred to in paragraph (2), the court shall have jurisdiction to review the rule or order (or denial thereof) in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such rule or order (or denial thereof) shall be final, subject to review by the Supreme Court of the United States upon certain certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) A copy of any proposed rule or order to be prescribed or issued by the Administrator which imposes a prohibition under this part (other than under section 614, 615, or 632), or which grants an exemption, shall be transmitted by the Administrator to the Administrator of the Environmental Protection Agency and the Administrator shall request such agency to comment thereon within the period provided to the public unless a longer period as provided by the Clean Air Act. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (e).

(6) The Administrator, within 6 months after the initial public comment period applicable to any petition for an exemption or permit, shall grant or deny such exemption or permit, except that the Administrator may publish a notice in the Federal Register extending such period to a specified date. Such notice shall include the reasons for such extension.

SEC. 622. ENFORCEMENT AND PENALTIES.

(a)(1) Any person who violates any provision of this part, or rule or order thereunder, shall be subject to a civil penalty, which shall be assessed by the Administrator, of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation.

(2) In the case of any electric powerplant granted an exemption as a peakload electric powerplant, any person who operates such powerplant during any 12-calendar-month period in excess of that authorized in such exemption, shall be liable for a civil penalty, which shall be assessed by the Administrator. The amount of such civil penalty may not exceed an amount equal to $10 per barrel of oil or $3 per Mcf of natural gas used in operation of such powerplant in excess of that authorized in such exemption.

(3) Any person operating a major fuel-burning installation granted an exemption under section 612(d)(2) or section 613(d)(3) which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Administrator. The amount of such civil penalty may not exceed an amount equal to $10 per barrel of oil or $3 Mcf of natural gas which were used in excess of such use allowed by such exemption.

(4) Before assessing against any person any civil penalty under this title, the Administrator shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code. The order of the Administrator assessing such penalty shall state the Administrator's findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall promptly be sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such an order is filed, the Administrator shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Administrator, or the court may remand the proceeding to the Administrator for such further action as the court may direct.

(b) Any person who willfully violates any provision of this part, or rule or order thereunder, shall be subject to a fine of not more than $50,000, or by imprisonment for not more than one year, or both, for each violation.

(c) Any individual director, officer, or agent of a corporation who willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of this part, or rule or order thereunder, shall be subject to penalties under this section without regard to any penalties to which the corporation may be subject, except that no such individual director, officer, or agent shall be subject to imprisonment under subsection (b), unless he also knows, or reasonably should have known, of notice of noncompliance received by the corporation from the Administrator.

(d) No person shall be subject to any penalty under this section with respect to the operation of any powerplant in excess of that allowed by an exemption granted on the basis of the operation of such powerplant as a peakload powerplant if it is demonstrated to the Administrator that such operation was necessary to meet peakload demand and that other peakload powerplants within the same system as such powerplant were unavailable for service due to unit or system outages.

(e) Whenever it appears to the Administrator that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this part or any rule or order thereunder, the Administrator may request the Attorney General to bring a civil action to enjoin such acts or practices, and, upon a proper showing, shall grant, without bond, mandatory or prohibitive injunctive relief, including interim equitable relief.

SEC. 623. CITIZENS SUITS.

(a) Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against—

(1) any person who is alleged to be in violation of any provision of this part, or any rule or order thereunder; or

(2) any Federal agency which has a responsibility under this part if there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary.

The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) before the 60th day after the date on which the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of such provision, rule, or order; or

(B) if the Administrator has commenced and is diligently prosecuting a civil action to require compliance with such provision, rule, or order, but, in any such action, any person may intervene as a matter of right; or

(2) under subsection (a)(2), before the 60th day after the date on which the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as, the Administrator shall prescribe by rule.

(c) In any action brought under subsection (a), the Administrator, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including) reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator).

(f) For purposes of this section, if a person owning, operating, or controlling any electric powerplant or major fuel-burning installation complied in good faith with a provision, rule, or order under this part, then he shall not be deemed to have violated any provision of this part by reason of the invalidity of such provision, rule, or order.

SEC. 624. PRESERVATION OF CONTRACTUAL RIGHTS.

(a) The provisions of this section shall apply to any natural gas the use of which is prohibited by the provisions of section 611, 612, 613, or 614, or any rule or order thereunder.

(b)(1) Any person who receives such natural gas for such prohibited use pursuant to a firm service contract, in effect on April 20, 1977, between such person and any interstate pipeline, may transfer all or any portion of his interests under such contract to such interstate pipeline and receive in consideration therefor just compensation (as determined by the Administrator) from such pipeline.

(2)(A) Any person who receives such natural gas for such prohibited use pursuant to a contract, in effect on April 20, 1977, between such person and any person other than an interstate pipeline, may transfer his contractual interests under such contract to any person and receive in consideration therefor just compensation (as determined by the Administrator) from the person to whom such contractual rights are transferred.

(B) Any person who would have transported or distributed the natural gas subject to a contract with respect to which contractual interests are transferred to any other person pursuant to subparagraph (A) shall be entitled to receive just compensation (as determined by the Administrator) from the person to whom contractual rights are transferred.

(c)(1) Any provision of any contract which prohibits any transfer authorized by subsection (b) or terminates such contract on the basis of such transfer shall be unenforceable in any court of the United States and in any court of any State.

(2) No State may enforce any prohibition on any transfer authorized by subsection (b).

(d) For purposes of this section—

(1) The term "just compensation" means—

(A) in the case of paragraphs (1) and (2)(A) of subsection (b), an amount not to exceed the amount by which—

(i) the reasonable costs (excluding capital costs) incurred during the remainder of the period of the contract described in subsection (b) and directly associated with the use of an alternative fuel by the applicable existing electric powerplant or major fuel-burning installation,

(ii) exceeds the price of natural gas, to which the provisions of this section apply, during such period; and

(B) in the case of subsection (b)(2)(B), an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to subsection (b)(2), to the extent such loss is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to subsection (b)(2) and is not offset by revenues derived from other transportation or distribution which would not have occurred if contractual interests had not been transferred.

(2) The term "interstate pipeline" means—

(A) any person who transports natural gas, the transportation of which is subject to the jurisdiction of the Federal Power Commission; and

(B) any person who receives natural gas, from a person described in subparagraph (A), for distribution to ultimate consumers.

(3) The term "contractual interests", with respect to a contract described in subsection (b)(1), includes the right to receive natural gas as affected by any applicable curtailment plan of the interstate pipeline filed with the Federal Power Commission or State regulatory authority.

(4) The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any political subdivision of any of the foregoing.

(e) For purposes of paragraphs (1) and (2)(A) of subsection (b), in determining the amount of just compensation the Administrator shall, to the maximum extent practicable, apply any liquidated damages provision set forth in the applicable contract, but in no event may such amount exceed the maximum prescribed in subsection (d)(1)(A).

(f) The amount paid by any interstate pipeline pursuant to any transferred contractual interests and any amount paid by such pipeline as just compensation pursuant to subsection (b) shall be deemed just and reasonable for purposes of sections 4, 5, and 7 of the Natural Gas Act. If a transfer of contractual interests pursuant to subsection (b) requires the sale of natural gas to an interstate pipeline by any person other than the person whose contractual interests are transferred, such former person and such sale shall thereby become subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act.

(g) No supplier of natural gas under any contract, with respect to which contractual

interests have been transferred under this section, shall be required to supply natural gas in volume amounts which, on an annual basis, exceeds the lesser of—

(1) the annual volume determined by reference to maximum delivery obligations specified in such contract;

(2) the volume which would have been delivered or for which payment would have been made during such annual period pursuant to such contract but for the application of section 611, 612, 613, or 614 of this part; or

(3) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests pursuant to this section.

SEC. 625. INFORMATION.

(a) For purposes of carrying out his responsibilities under this part, the Administrator may require, under the authority of this part or any other authority administered by him, any person owning, operating, or controlling any new or existing electric powerplant or major fuel-burning installation or any other person otherwise subject to this part to submit such information and reports of any kind or nature directly to the Administrator with respect to implementing the provisions of this part and insuring compliance with the provisions of this part and any rule or order thereunder. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under such section.

(b) In the case of responsibilities expressly given by this part to the President or the Federal Power Commission, subsection (a) shall be applied as if the references to the Administrator were references to the President or the Federal Power Commission, as the case may be.

Subpart D—Miscellaneous Provisions

SEC. 631. EMERGENCY POWERS OF THE PRESIDENT.

(a) If the President—

(1) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

(2) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(C) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal to any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or both.

(b) In the event the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the President may, by order, prohibit any new or existing electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the period specified in the order. Any such order may authorize a waiver or modification of any Federal, State, or local law, standard, limitation, or other requirement applicable to emissions of environmental pollutants or any applicable environmental requirement if the President finds, and publishes such finding in the Federal Register, that such waiver or modification is necessary by reason of the prohibitions of such order (and the supply interruption on which it is based) and that no alternative means are practicable which would result in compliance with such environmental requirements. Any such waiver or modification shall be made under such terms and conditions as the President may prescribe to insure compliance with applicable environmental requirements to the maximum extent practicable under the circumstances. Such waiver or modification may cause or contribute to a violation of a primary ambient air quality standard only to the extent the President finds and publishes his finding that no alternative means are practicable to avoid such violation.

(c) The President may, by order, stay the application of any provisions of this part, or any rule or order thereunder—

(1) in the case of any provision, rule, or order applicable to any new or existing electric powerplant, if the Federal Power Commission finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant; and

(2) in any other case, to the extent the President determines is necessary to alleviate or prevent any emergency adversely affecting the public health, safety, or welfare.

(d)(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), any order issued under this section shall remain effective throughout the 15-calendar-day period during which any order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act.

(e) The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations implementing such order.

(f) Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to Congress of his intention to issue such order and state his reasons therefor.

SEC. 632. FEDERAL ACTIVITIES.

(a) No Federal facility (or unit thereof)—

(1) constructed by or on behalf of the United States or any agency or instrumentality thereof, after the effective date of this part, or

(2) effective beginning January 1, 1985, owned by the United States or any agency or instrumentality thereof,

shall use natural gas as the primary energy source for such facility or unit, unless the President determines in each case and informs the Congress of his determination, and the reasons therefor, that such use is necessary for national security reasons or to meet other requirements of law. The President shall review each such determination every two years and submit a report to the Congress on the results of such review. Any such facility permitted to use natural gas by the President shall establish and carry out effective fuel conservation measures, as determined by the Administrator.

(b) In order to implement the purposes of this part, the President shall, not later than 30 days after the effective date of this part, cause to be issued an order—

(1) requiring each Federal agency which is empowered to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance, to promptly effectuate the purposes of this part, particularly those relating to the conservation of petroleum and natural gas, by rule, in such contracting or assistance activities within 180 days after issuance of such order, and

(2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement effectively, including procedures for each agency to annually transmit to the President, and make available to the public, a report on the actions taken and to be taken to implement such order.

(c) The President may exempt by order any specific grant, loan, contract, or other form of financial assistance from all or part of the provisions of this section if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 60 days before it is effective.

(d) The President shall annually submit a detailed report to the Congress on the actions taken to implement this section, including the progress and problems associated with implementation of this section.

SEC. 633. IMPACT ON EMPLOYEES.

(a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any rule or order imposing any prohibition under this part, including, if appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such rule or order. The results of such evaluations and each investigation shall promptly be made available to the public.

(b) On a written request filed with the Administrator by or on behalf of any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against, by any person because of the alleged effects of any such rule or order, the Administrator shall investigate the matter and, at the request of any party, shall hold public hearings, after not less than 30 days notice, at which the Administrator shall require the parties, including any employer involved, to present information on the actual or potential effect of such rule or order on employement and on any alleged employee discharge, layoff, or other discrimination relating to rule or order and the detailed reasons or justification therefor. At the completion of such investigation, the Administrator shall make findings of fact as to the effect of such rule or order on employment and on the alleged employee discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

(c) Nothing in this section shall be construed to require or authorize the Administrator to modify or withdraw any rule or order under this part.

SEC. 634. ANNUAL REPORT.

The Administrator shall submit to the Congress on March 1 of each year a detailed report prepared by him in conjunction with the Administrator of the Environmental Protection Agency of the actions taken under this part and under section 2 of the Energy Supply and Environmental Coordination Act of 1974 during the preceding calendar year, and the actions to be taken. Each such

report shall include data on the effectiveness of this part in achieving the purposes of this part.

SEC. 635. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated to the Administrator for fiscal year 1978 $11,500,000, including such sums as are authorized in section 29 of the Federal Energy Administration Act of 1974, to carry out the provisions of this part (other than section 636(a)) and section 2 of the Energy Supply and Environmental Coordination Act of 1974.

(b) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 in fiscal year 1978 for the report required under section 636(a).

SEC. 636. STUDIES.

(a) The Administrator of the Environmental Protection Agency shall conduct, on a continuing basis, a program of monitoring, to the greatest extent possible and in accordance with the applicable authorities and provisions of the Clean Air Act, the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other fuels by reason of this part or otherwise using coal or other fuels and the effect thereof on the public health, safety, and welfare. Such Administrator shall submit an annual report to the Congress on such program. In carrying out his responsibilities under this section, the Administrator of the Environmental Protection Agency shall consult with the other Federal and State agencies concerned with the health effects of such emissions.

(b) The Administrator, in consultation with the National Governors' Conference, other Federal agencies, interested persons, and organizations, shall conduct a study of the socioeconomic impacts of expanded coal production on States, including local communities, and on the public, including the adequacy of housing and public, recreational, and cultural facilities for coal miners and their families and the effect of any Federal or State laws or regulations on providing such housing and facilities. Within 1 year after the date of the enactment of this part, the Administrator shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

(c) The Administrator shall conduct a detailed study of the uses of petroleum and natural gas as a primary energy source for combustors. In conducting such study, the Administrator shall—

(1) identify those categories of major fuel-burning installations in which the substitution of coal or other fuels for petroleum and natural gas is economically and technically feasible, and

(2) determine the estimated savings of natural gas and petroleum expected from such substitution.

Within 1 year after the date of the enactment of this part, the Administrator shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

SEC. 637. EFFECTS OF OTHER LAWS ON PROCEDURES.

The procedures applicable under this part, or section 2 of the Energy Supply and Environmental Coordination Act of 1974, shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part or section, or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part or such section, and declaring that such provision supersedes this part or such section.

SEC. 638. CONFORMING AMENDMENTS

(a) Section 11(g) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) by striking out paragraph (2), and

(2) in paragraph (1) by striking out "(g)(1)" and inserting in lieu thereof "(g)".

(b) The preceding provisions of this part shall not affect any order issued under subsection (a), or any final order under subsection (c), of section 2 of such Act, and the authority of the Administrator to amend, repeal, rescind, modify, or enforce any such order, or rules applicable thereto shall remain in effect nothwithstanding any limitation of time otherwise applicable to such authority. Except as provided in the preceding sentence, the authority of the Administrator under such section 2 of such Act shall terminate on the effective date of this part.

SEC. 639. EFFECTIVE DATES.

Unless otherwise provided in this part, the provisions of this part shall take effect 180 days after the date of the enactment of this Act, except that the Administrator may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment.

PART VII—FEDERAL ENERGY INITIATIVES

Subpart A—Amendment to Section 381 of Energy Policy and Conservation Act

SEC. 701. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsections:

"(e) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(f) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

Subpart B—Demonstration of Solar Heating and Cooling in Federal Buildings

SEC. 721. DEFINITIONS.

As used in this subpart—

(1) The term "agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity enumerated in subparagraphs (B) through (H) of paragraph (1) of section 5721 of title 5, United States Code.

(2) The term "building" means any structure owned by the United States or any agency, including any such structure occupied by an agency under a lease-acquisition agreement under which the United States or an agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods).

(4) The term "solar heating and cooling" means, with respect to any building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods) and all or part of the cooling needs of such building.

(5) The term "solar energy equipment" means equipment for solar heating and solar heating and cooling.

(6) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 722. FEDERAL SOLAR PROGRAM.

The Administrator shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 723. DUTIES OF ADMINISTRATOR.

(a) In exercising the authority provided by section 722, the Administrator shall—

(1) solicit and consider proposals by any agency to apply solar heating and solar heating and cooling technology to any existing or proposed building;

(2) promulgate, by rule, criteria by which such proposals will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value of the costs and benefits of the proposal to the agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of type of buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(3) evaluate each such proposal pursuant to the criteria promulgated pursuant to paragraph (2);

(4) provide assistance by interagency agreement for the cost of implementing a proposal (which costs shall be limited to design, acquisition, construction, and installation of solar energy equipment); and

(5) provide, by rule, that agencies report to the Administrator periodically such information as they acquire respecting maintenance and operation of solar equipment.

(b) In carrying out the responsibilities, pursuant to paragraphs (2) and (3) of subsection (a), the Administrator shall provide an opportunity for consultation to the Administrator of the General Services Administration and the Administrator of the Energy Research and Development Administration.

SEC. 724. TRANSFER OF APPROPRIATIONS.

In carrying out a proposal for which the Administrator has provided assistance, any agency may use funds transferred to it by the Administrator to enter into such contracts as may be necessary to complete the project described in that proposal.

SEC. 725. SUBMISSION OF PROPOSALS.

(a) Each agency responsible for the construction of new buildings or operation of existing buildings shall, within one hundred and eighty days after publication of criteria under section 723(a)(2), submit initial proposals to the Administrator for installation of solar energy systems on selected buildings under its control.

(b) Such initial proposal shall include a list of the specific buildings proposed to be provided with solar energy systems, the funds required for the system, the proposed implementation schedule, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Administrator.

(c) Thereafter, each agency may submit proposals to the Administrator for additional solar energy systems for buildings under their control on a schedule established by the Administrator but not greater than two-year intervals.

SEC. 726. AUTHORIZATION.

There are authorized to be appropriated to the Administrator through fiscal year 1980 to carry out the purposes of this subpart not to exceed $100,000,000.

Subpart C—Use of Energy Conservation and Solar Energy in Federal Buildings

SEC. 741. FINDINGS.

The Congress finds that—

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, being the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures along with the use of renewable energy sources.

SEC. 742. POLICY.

It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation and solar heating and cooling in Federal buildings.

SEC. 743. PURPOSE.

It is therefore the purpose of this subpart to promote the use of commonly accepted methods to establish and compare the life cycle costs of operating residential, commercial, industrial, and Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation and the use of solar heating and cooling. It is also the purpose of this subpart to aim for a reduction of energy use in existing Federal buildings by 20 per centum by 1985.

SEC. 744. DEFINITIONS.

For purposes of this subpart—

(1) the term "Administrator" means the Administrator of the Federal Energy Administration;

(2) the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems; in the case of leased buildings the life cycle cost shall be calculated over the effective remaining term of the lease;

(3) the term "preliminary energy audit" means a determination of the per square foot energy demand, either actual or calculated, of existing buildings and of the physical characteristics of such buildings including but not limited to their age, use, construction, and retrofit potential;

(4) the term "Federal building" means any building, structure, or facility or part thereof which is constructed, renovated, or leased specifically for use by the United States or by an agency or agencies thereof; and

(5) the term "existing Federal building" means any Federal building for the construction, renovation, or leasing of which funds have been appropriated or otherwise actually made available prior to the date of the enactment of this subpart, and the term "new Federal building" means any other Federal building; except that a building shall be considered a "new Federal building" even though funds for its construction, renovation, or leasing have been made available prior to that date if (A) its construction, renovation, or leasing has not been completed prior to that date, and (B) the Administrator determines that the plans for such construction, renovation, or leasing can still feasibly be modified to take into account the provisions of this subpart relating to new Federal buildings.

SEC. 745. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

(a) The Administrator, in consultation with the Director of the Office of Management and Budget, the National Bureau of Standards, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, and the Secretary of Housing and Urban Development, shall—

(1) establish practical and effective methods for estimating and comparing life cycle capital and operating costs for residential, commercial, industrial, and Federal buildings, including the life cycle fuel and energy requirements for such buildings; and

(2) develop and prescribe the forms to be used and the procedures to be followed in applying and implementing the method so established and in conducting the preliminary energy audits required by section 747.

(b) All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, preference shall be given to life cycle cost rather than first cost.

(c) In addition, the Administrator shall take such actions as may be necessary or appropriate to promote to the maximum extent possible the use and acceptance of such methods in the construction and renovation of non-Federal public buildings and in the construction and renovation of other buildings, structures, and facilities in all segments of the economy.

SEC. 746. ENERGY PERFORMANCE TARGETS FOR EXISTING BUILDINGS.

In addition to establishing methods for estimating and comparing life cycle costs under section 745, the Administrator, in consultation with the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget, shall establish energy performance targets for existing buildings, structures, and facilities, and shall take such actions as may be necessary or appropriate to promote to the maximum extent feasible compliance with such targets by all existing Federal buildings within the United States. The performance targets established under the preceding sentence shall be compatible with standards adopted or developed by the Secretary of Housing and Urban Development.

SEC. 747. ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS.

(a)(1) As soon as possible after the date of the enactment of this subpart, each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain thirty thousand or more square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1977.

(2) As soon as possible after the completion of the preliminary energy audits required under paragraph (1) (and concurrently with such audits to the extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain one thousand or more but less than thirty thousand square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1978.

(b)(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsection (a) appropriate buildings for retrofit measures to improve their energy efficiency in general and their life cycle cost effectiveness in particular. Such measures shall include, without being limited to, energy conservation measures and measures involving solar technology.

(2) At least 1 per centum of the total gross square footage contained in all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency, and which are included in a preliminary energy audit conducted by such agency under subsection (a), shall be retrofitted by such agency under paragraph (1) pursuant to actions taken or arrangements made by such agency during the first year after the date of the enactment of this subpart; and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) By no later than January 1, 1990, all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall have been the subject of such retrofit measures under paragraph (1) as will assure their maximum possible life cycle cost effectiveness.

SEC. 748. ENERGY PREFERENCE FOR LEASED BUILDINGS.

Each Federal agency, in leasing buildings or before exercising lease renewal options on buildings heretofore leased for its use or the use of any other Federal agency, shall give an appropriate preference to buildings which use solar heating and cooling or which otherwise have a high degree of energy efficiency in general life cycle cost effectiveness in particular.

SEC. 749. BUDGET TREATMENT OF ENERGY ITEMS BY FEDERAL AGENCIES.

Each Federal agency, in the preparation and submission of its budget requests for any fiscal year, shall specifically set forth (and identify in a separate line item or items) the funds being requested for retrofit measures to be undertaken in accordance with section 747(b), and the portion of any other funds being requested which represents the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy.

SEC. 750. REPORTS.

Each Federal agency shall periodically furnish the Administrator with full and complete information on its activities under this subpart, and the Administrator shall annually submit to the Congress a comprehensive report on all activities under this subpart and on the progress being made toward achievement of the objectives of this part.

SEC. 751. TRANSFER OF FUNCTIONS.

Within sixty days after the effective date of any law creating a Federal Department of Energy or its equivalent (or within sixty days after the enactment of this subpart if the effective date of such law occurs prior to the enactment of this subpart), the functions vested in the Administrator of the Federal Energy Administration under this subpart and any funds which may have been appropriated pursuant to section 752 of this subpart, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such Department.

SEC. 752. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator such sums, not exceeding $2,000,000 in the aggregate, as may be necessary to enable him to perform the functions vested in him under this subpart.

Subpart D—Use of Advanced Photovoltaic Energy Devices in Federal Facilities

SEC. 761. SHORT TITLE.

This subpart may be cited as the "Federal Photovoltaic Utilization Act".

SEC. 762. PHOTOVOLTAIC ENERGY PROGRAM.

There is hereby established a photovoltaic energy commercialization program (hereafter in this subpart referred to as the "program") for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in new and existing Federal facilities, using technologically and technically approved and proved equipment.

SEC. 763. PURPOSE.

The purpose of the program shall be to accomplish the following:

(1) accelerate the growth of a commercially viable photovoltaic industry in order to make this energy system available to the general public as an option which can reduce national consumption of fossil fuel;

(2) conserve fossil fuel costs of the Federal Government;

(3) stimulate the general use within the Federal establishment of life-cycle costing and innovative procurement methods; and

(4) develop program performance data to support policy decisions on future incentive programs with respect to energy.

SEC. 764. ACQUISITION OF SYSTEMS.

The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability, primarily for use by the Department of Defense. The acquisition of photovoltaic electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques. The Administrator is authorized to make the acquisitions authorized by this section through the use of multiyear contracts.

SEC. 765. ADMINISTRATION.

The Administrator shall administer the program and shall—

(1) insure that the installation of photovoltaic electric systems pursuant to this subpart shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this subpart; and

(3) report annually to Congress on the status of the program.

SEC. 766. SYSTEMS EVALUATION AND PURCHASE PROGRAM

The Administrator and the Administrator of the Energy Research and Development Administration shall jointly establish, within sixty days following the date of the enactment of this subpart, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Secretary of Defense to carry out this subpart. In acquiring photovoltaic systems under this subpart, the Administrator of the Energy Research and Development Administration shall insure that such systems reflect the most advanced technology and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States.

SEC. 767. ADVISORY COMMITTEE.

There is hereby established an advisory committee to assist the Administrator in the establishment and conduct of the program. Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Postmaster General, and such other persons as the Administrator deems necessary.

SEC. 768. DEFINITION.

As used in this subpart, the term "Administrator" means the Administrator of the Federal Energy Administration, or his successor.

SEC. 769. AUTHORIZATION.

For photovoltaic system acquisition, there is authorized to be appropriated to the Administrator not to exceed $39,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia could inform the House precisely what the nature of this request is.

It is my understanding that it is not just for the relief of someone on a private bill.

Mr. STAGGERS. If the gentleman will yield, no, the intent of this, I will inform the gentleman from Maryland, is to go to conference on the Senate amendments which we will take from the Speaker's table if this is passed. It has to do with the National Energy Conservation Policy Act and automobiles, and so forth.

Mr. BAUMAN. Could the gentleman from West Virginia explain to the House precisely how the leadership has determined these energy bills are going to be treated. There was a great deal of speculation in the press about the Senate submitting the various parcels of the energy bill and the House treating them as one. How is this to be treated parliamentarily?

Mr. STAGGERS. I think I can explain that to the gentleman. By this method the other body has attached to the bill for the relief of Jack R. Misner, a small bill, the National Energy Conservation Policy Act.

Mr. BAUMAN. The National Energy Conservation Policy Act?

Mr. STAGGERS. That is right, and that has to do with conservation and putting onto appliances the electrical or whatever energy they would use, and it also has to do with automobiles.

If this is granted we would ask to go to conference and we do it on each separate part until we come to one title of the bill and we say on that they have to go to conference on one title of the bill.

Mr. BAUMAN. The conferees of the House will be selected from the Ad Hoc Committee on Energy?

Mr. STAGGERS. They have not been selected, but if this is done they will be selected immediately, all from the Ad Hoc Committee.

Mr. BAUMAN. They certainly will not be selected from the objectors to the Private Calendar. The gentleman's request does deal with a private bill.

Mr. STAGGERS. I am not talking about the private bill.

Mr. BAUMAN. Mr. Speaker, I assume the distinguished gentleman from Ohio (Mr. ASHLEY) and others will be among the conferees.

Mr. STAGGERS. I understand they will be included.

Mr. BAUMAN. Mr. Speaker, may I also inquire, is it correct this arrangement totally destroys the rules of germaneness within this body?

Mr. STAGGERS. It is within the rules of germaneness of the other body.

Mr. BAUMAN. Mr. Speaker, germaneness is out the window but I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia.

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5037, FOR THE RELIEF OF JACK R. MISNER

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5037) for the relief of Jack R. Misner, with the House amendment to the Senate amendment thereto numbered 3, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. STAGGERS, ASHLEY, ULLMAN, BOLLING, FOLEY, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, STEIGER, COLLINS of Texas, and ARCHER.

AMENDING TARIFF SCHEDULES OF THE UNITED STATES PROVIDING FOR DUTY-FREE ENTRY OF COMPETITION BOBSLEDS AND LUGES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5146) to amend the tariff schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, with Senate amendments thereto and concur in Senate amendments numbered 1, 2, 3, 4, and 5, and concur in Senate amendment numbered 6 with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike out the text of Senate amendment numbered 6 and insert in lieu thereof the text of H.R. 8444 as passed the House (other than title II thereof and items in the table of contents relating thereto).

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I just wanted to ask the gentleman from West Virginia if this is what the Carter energy plan has finally come to, bobsleds? In view of the tough sledding?

Mr. STAGGERS. Mr. Speaker, I might say the other body might think so, but we are experienced on this side and we are trying to do the best job we can.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5146, DUTY-FREE ENTRY OF COMPETITION BOBSLEDS AND LUGES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, with a House amendment to the Senate amendment thereto numbered 6, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. STAGGERS, ASHLEY, ULLMAN, BOLLING, FOLEY, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, STEIGER, COLLINS of Texas, and ARCHER.

SUSPENDING DUTY ON CERTAIN ANTIBIOTICS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, with a Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike out the text of the Senate amendment and insert in lieu thereof the text of H.R. 8444 as passed by the House (other than title II thereof and items in the table of contents relating thereto).

(Text of the amendment appears during consideration of H.R. 5037 today.)

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4018, SUSPENDING DUTY ON CERTAIN ANTIBIOTICS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, with a House amendment to the Senate amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ASHLEY, ULLMAN, BOLLING, FOLEY, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, STEIGER, COLLINS of Texas, and ARCHER.

HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 5289, FOR THE RELIEF OF JOE CORTINA OF TAMPA, FLA.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 5, 6, and 7, and concur in the Senate amendment numbered 8 with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike out the text of the Senate amendment and insert in lieu thereof the text of H.R. 8444 as passed by the House (other than title II thereof and items, in the table of contents relating thereto).

(Text of the amendment appears during consideration of H.R. 5037 today)

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GIBBONS. Mr. Speaker, reserving the right to object, I only do so to point out to the chairman that this is my little bill. The gentleman whose relief we are trying to obtain is quite ill and quite elderly, and badly needs the relief. I realize this is a very controversial bill he has the honor of sponsoring here, and I certainly hope the conference will do all it can to protect at least Joe Cortina.

Mr. STAGGERS. We have already done that.

Mr. GIBBONS. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman has repeatedly asked permission to agree to certain Senate amendments and to disagree with a substitute amendment to others. The Senate amendments we have been asked to agree to, are all these germane to the different bills, or do they also deal with other matters?

Mr. STAGGERS. They are all technical changes to conform to what the House has passed.

Mr. BAUMAN. They do not deal with any substantive matters?

Mr. STAGGERS. That is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5289, FOR THE RELIEF OF JOE CORTINA

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., with a House amendment to the Senate amendment No. 8 thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS; ASHLEY; ULLMAN; BOLLING; FOLEY; DINGELL; ROGERS; ECKHARDT; SHARP; MOFFETT; CHARLES WILSON of Texas; REUSS; ROSTENKOWSKI; VANIK; CORMAN; WAGGONNER; RANGEL; ANDERSON of Illinois; BROWN of Ohio; HORTON; WYDLER; BROWN of Michigan; STEIGER; COLLINS of Texas; and ARCHER.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7073, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION, 1978

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–705) on the resolution (H. Res. 830) providing for consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 7555, LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

Mr. FLOOD. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD moves to take from the Speaker's table the bill H.R. 7555, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

PREFERENTIAL MOTION OFFERED BY MR. STEERS

Mr. STEERS. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STEERS of Maryland moves that the House concur in the Senate Amendment to the House Amendment to the Senate Amendment No. 82.

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) is in control of the time, and the gentleman is recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. RHODES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RHODES. Mr. Speaker, since the gentleman from Maryland (Mr. STEERS) made the motion which is being considered by the House, does the gentleman from Maryland not have control of the time?

The SPEAKER. In response to the parliamentary inquiry, the preferential motion made by the gentleman from Maryland (Mr. STEERS) does not take the time from the gentleman from Pennsylvania, the chairman of the committee, who previously had the time under his original motion. The motion was in order. The vote will come first on the preferential motion.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleagues know, yesterday, by a vote of 263 to 142, we adopted compromise language relating to Federal payments for abortions. As the Members know, this was done in a sincere effort to break the deadlock over the Labor-HEW appropriation bill for 1978. That bill had been stalled for some 2 months over the issue of Federal funds for abortions. Time and again the House has expressed its position on this issue by re orded votes.

The language adopted by the House yesterday was a retreat from the strong position taken by the House in adopting the original language of the Hyde amendment, make no mistake about that. The House has compromised its original position.

The compromise language adopted by the House yesterday was sent to the Senate late yesterday. The Senate, by voice vote, amended the compromise language of the House and has sent its amendment back to the House for further action.

Just so the Members will know what has taken place, let me make it clear that the Senate did not vote on the House language. It chose, instead, to send back its own amendment, which was adopted by a voice vote. The language sent to the House by the Senate reads as follows:

None of the funds in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the woman or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Mr. Speaker, this language is very, very similar to the language that was submitted earlier to the House conferees. In the judgment of the House conferees, this language does not differ substantially from the original Senate language. It does not represent a real compromise; it bears no semblance to a compromise at all.

Mr. Speaker, I think the House should disagree to the Senate amendment and send the bill back to conference, with the expectation that a satisfactory agreement can be reached. Both the House and the Senate have debated this issue long enough now. I believe that a further confrence is the best alternative to resolve the issue so that the Labor-HEW appropriations bill can be cleared for the President's signature.

Mr. Speaker, I urge the adoption of the motion which I have offered.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I just want to ask the distinguished gentleman a question. The gentleman from Pennsylvania stated that he urges the adoption of his motion. I assume the gentleman from Pennsylvania, then opposes the motion to concur in the Senate amendment offered by the gentleman from Maryland (Mr. STEERS).

Mr. FLOOD. That is correct. I could not have stated it better myself.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to urge the support of the Steers motion. I would like to point out to those Members who have a concern for life that although there is a continuing resolution for 30 days, the continuing resolution does not include some $500 million for health care and research for the living.

This is an amount they suggested so strongly they would like to have for health care. The Senate is also preventing elementary and secondary assistance in the amount of another $550 million from going into effect.

I think we have debated this enough and we have had enough votes on the issue. All Members have had a chance to be recorded once a day for the past 5 days. I also think that if we do not adopt the Steers motion now, we will be denying billions of dollars in programs for health research to help the living and to help these people that the right-to-lifers so eloquently suggest they would like to save. Yet, by the same token, by not proceeding with this reasonable and far too compromising compromise, we are delaying these programs.

Mr. Speaker, we ought to proceed with this matter and give these funds to HEW. I urge the adoption of the Steers motion.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

I guess, technically, with the motion of the gentleman from Pennsylvania (Mr. Flood) deserving an hour's time of debate, and with the preferential motion of the gentleman from Maryland (Mr. STEERS) also deserving an hour, rather than having 1 hour of debate on whether we should or should not agree with the Flood position and another hour on whether or not we should or should not agree with the Steers position, for the sake of debate and for the sake of facilitating the debate, I would at this juncture yield to the gentleman from Maryland (Mr. STEERS) to make the case for his preferential motion. Then we can debate both in context so that, I think, the Members will more clearly understand what the issue is.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Speaker, I thank the gentleman.

This is, of course, really the same issue which I approached the House on yesterday afternoon, but at that time the Members will recall that we were not able to vote on the motion that I had described to them because the House, in its wisdom, decided to approve the Flood version.

Mr. Speaker, I said yesterday that there was little chance that the other body would concur in the Flood amendment, and now I have to say that they have rejected the Flood amendment and it has come back to us with the exact wording which I had urged us to adopt yesterday.

Mr. Speaker, it seems to me, laying aside for the moment the merits of the issue, that we have a very clear choice here as to whether we, as a responsible body, wish to continue and perpetuate an impasse, or whether we wish to resolve that impasse and settle it and put it behind us once and for all.

Mr. Speaker, if I can get the Members, or if we can get the Members, to approve the motion that is now before the House, which is to concur in the language of the other body, why, then, we have solved the problem; and it will not thereafter be confronting us, as it will again if we continue in this uncompromising position.

I know many Members think, perhaps, that the other body has been uncompromising; and I understand that they believe we have been uncompromising.

Certainly the amendment which was approved by the House yesterday was something of a concession toward the viewpoint I hold. However, it cannot be claimed that it was anywhere near the mid-point.

Mr. Speaker, I want to say a few words about the Senate language which is now before the House. The key words are "serious health damage."

I realize that that language is going to be subject to some abuse, but the fact is that whenever we leave any choice to a doctor, we are saying, to a degree, that we are leaving it to the woman and her doctor. I happen to believe that that is a reasonable position.

Mr. Speaker, I want to run through two or three of the same things that I went through yesterday which are not going to be solved if we do not do something today to approve the Senate language.

Remember, "serious health damage" is not what the other body wants. It is what the other body has grudgingly given up its position for. It is what the Senate has offered us as a compromise. It is not as broad as "medically necessary." Keep in mind that "medically necessary" would

allow the doctor to take into account such things as the economic position of the pregnant woman. It would determine that the Federal Government should fund even in cases where there might not be a serious health damage problem, but where there were other factors.

Mr. Speaker, some of the Members heard this yesterday, and I apologize, but some certainly have not. It is very important to realize that these examples which I am going to recite are examples of illness on the part of a pregnant woman, whether incurred before or after she became pregnant, but they are things which would not be provided for under the Flood amendment language, which the gentleman from Pennsylvania is urging us to adhere to, to perpetuate the impasse.

Mr. Speaker, they are things which a woman could be suffering from, and yet she would be forced to have her baby, since she has no money, even though the fetus or she will face serious health damage.

Let me mention six major items:

Cardiovascular disease. For example, rheumatic fever, thrombosis, and heart and blood disease.

I repeat, these are things where the woman has these diseases where we would not be allowing her to get Federal funding. We would force her to go to term, in effect, or somehow get an abortion without any funding.

Second, neurological disease. Examples are: multiple sclerosis and muscular dystrophy.

Third, Carcinomas. These are cancers, such as cancer of the breast, cancer of the cervix, cancer of the bone, or cancer of the blood.

Fourth, severe psychiatric diseases. Such examples are schizophrenia, suicidal or diagnosed paranoia.

The SPEAKER. The time of the gentleman has expired.

Mr. MICHEL. I yield 2 additional minutes to the gentleman from Maryland.

Mr. STEERS. Fifth, metabolic disorders. Examples are diseases of the liver, kidney, pancreas, and thyroid.

Finally, sixth, gastrointestinal disorders. Which would include ulcers and colitis.

Let us keep in mind that, again, the underlying problem here is, "Do we want to get rid of this problem once and for all?" If you will vote for the motion now pending before the House, we will deal with this problem on this appropriation bill.

If you want to continue this impasse and have Federal employees face payless paydays, when the continuing resolution has expired, then you will not do so.

Let me tell you, I put in a bill which will deny Members of Congress their own salary checks if executive branch employees do not get paid. It is my belief that you will probably not want to vote your own salary as long as you are denying the salaries to tens of thousands of Federal employees who are ready and willing and who work hard.

Finally, keep in mind that defeat of my amendment says: "Madam, you can afford an abortion. Please feel free to buy one, for we are talking only about legal and permissible abortions. But if you do not have the money, you must have this unwanted child, which you would not have if you had enough money.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Is it not the truth that the Members of Congress who derive their medical benefits from the Government's medical program, if their wives want to have an abortion because of a serious medical problem, that the Government will pay for that abortion? Should we not deny ourselves that which we are going to deny to poor people, that same opportunity?

Mr. STEERS. That is a very good point.

Mr. SEIBERLING. I would also like to ask the gentleman, if the gentleman would yield further, if the gentleman does not agree, when the gentleman from Illinois (Mr. MICHEL) yesterday said:

> If we are going to have language developed here in the House, I would like to see a good, fair shake given to us with the full Senate voting on our language.

That it is a fact that the Senate has now voted?

Mr. STEERS. The Senate was so unimpressed with the Flood amendment, they did not even have a recorded vote, but they did vote.

The SPEAKER. The time of the gentleman has expired.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I did not hear what the gentleman from Ohio (Mr. SEIBERLING) said. I wonder if the gentleman would repeat what he said?

Mr. SEIBERLING. I merely said what the gentleman said yesterday. The gentleman from Illinois said yesterday that he would like to see a good fair shake given to us with the full Senate voting.

Mr. MICHEL. Yes?

Mr. SEIBERLING. They have voted.

Mr. MICHEL. Yes; but let me remind the gentleman that the vote that was taken in the Senate was by a voice vote immediately following on an amendment by Senator BROOKE amending the continuing resolution to put a change in the language. This was defeated 11 to 9, 20 percent of the Senators there, which, in my judgment, is not a very good representative vote of that body.

Whereas, when we have votes on this issue, whether in the committee or in the House, we have made it a significant kind of a vote. I submit we have got good grounds on which to ask the other body to put it to a rollcall vote.

Frankly, we are now back in the parliamentary situation where this body will have an opportunity no doubt to vote on the preferential motion of the gentleman from Maryland, which is the Senate language, and, defeating that, hopefully consent to the motion of the gentleman from Pennsylvania (Mr. FLOOD).

I would say further that what we have in that Senate language is not their original language, but it certainly is not a measure of compromise. When they were talking about it earlier, it was permanent health damage. Now it is serious. It is really not a tightening up but a relaxing of even more than their original position. So to have the House today adopt the motion of the gentleman from Maryland puts us 180 degrees just opposite of the position we have traditionally taken three or four or five times. As a matter of fact, somebody earlier today asked me, "Bob, what is coming up next?" and I said, "Well, you haven't voted on abortion yet today, so why don't we bring it up one more time?" Obviously we can dispose of it. But at this juncture I will yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

I just would like to bring this to the attention of the House, and I am not going to take even 1 minute. What we are doing here if we do not vote for the Steers amendment is to say that we will deny public funds for a legal operation, a procedure that is done legally if you have the money. We will deny it when the doctors say that severe health damage is in prospect. It is almost unbelievable. We are talking about cancer and heart disease, somebody who may die, and we are saying, no, because this is a medicaid program you cannot have the money. That is the question.

Are we serious in this House that we are really going to say, no, we are not going to let a poor woman have a lifesaving operation or be spared severe health damage, that we are not going to let her have a perfectly legal medical procedure which other people can afford? I cannot believe this House is going to do that.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. I thank the gentleman for yielding.

I certainly would urge the support of the Steers amendment to this bill. We have been up and down this hill now for God knows how many weeks. It does not make any difference what one's position is on abortion; we are talking about a humanitarian gesture. I just cannot believe that this House will stand so obdurate and obstinate that they will not at least yield this far.

I strongly support this amendment and urge its adoption.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, the House makes all of us very proud from time to time. If we review the record of this session of the Congress, we will see it has been a magnificent record of accomplishment, of reform, and of improvement. The record we have compiled so far is an excellent record, and an evidence of how excellent it has been is the increase in the popularity of the Congress. Our ratings have gone up from nearly zero to a decent point.

Now we threaten all the gains that we have made by a bull-headed, intransigent position that we have taken, which does not make any sense at all. We threaten to undo what we have done with the American people by "hanging tough" on an issue, and now the questions are being raised.

My constituents ask me: Has the Congress gone insane to hold employees in a blackmail position?" My constituents are asking me: "Is the issue really that important that we who live from pay check to pay check must suffer because of a bull-headed, intransigent position taken by the House?"

I do not think we are. I do not think we should be willing to do this. I think that in a sense of compromise, no matter where we stand on the abortion issue, in the sense of compromise we can clean ourselves up so that no one may say we are mad men dealing with the lives of human beings and no one can say we are trying blackmail because of something we feel so strongly about.

The Steers proposal offers an honorable compromise. Take it away from just this issue, take it in the level of the importance of this House in the whole process of government, and we will then support the Steers amendment.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, first of all I would like to direct the attention of my good friend, the gentleman from Maryland, who said that people were suffering because of payless paydays, to the fact that it is not so, and I told that to the gentleman from Maryland (Mr. STEERS) yesterday when he tried to impress upon the House that unless we accepted the Senate language there would be payless paydays.

I stated, that I for one, as a member of the conference committee would not stand for payless paydays or allow good programs that I have voted for and fought for along with the gentleman from Maryland to go by the boards. I would not see them go down the drain. I said we could have a continuing resolution here in a matter of a day, and we did, and we passed a continuing resolution today and the Senate has adopted that continuing resolution and it has gone down to the President, so there will be no payless days and no programs will go down the drain.

Now let us see what the Senate has done. Some say we are bullheaded. Let us go back in retrospect. The first amendment we had here was the so-called Hyde amendment which said no medicaid funds for abortion—period. Then we went to conference with the Senate and there I amended that amendment and said no medicaid funds for abortion except where the life of the mother is in danger. That was the first compromise. And since that time what has the Senate done? They took out their words "except where medically necessary" and they have inserted words in here that are tantamount to the same thing, "except if the woman or fetus would suffer serious health damage."

Some of the experts say that just about in every birth there is damage to the veins of a woman, so any woman would have serious health damage if the pregnancy were carried to term.

Furthermore, they have the term in here, "or in the case of rape or incest."

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. MICHEL. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. CONTE. Mr. Speaker, these words were unnecessary. I told them on the Senate side that the language was not necessary.

Pregnancy resulting from rape is extremely rare. In Buffalo, N.Y., a study in 1969 indicated that there had not been a pregnancy from confirmed rape in over 30 years; in Chicago up through 1967 in over 9 years; and in St. Paul up through 1972 in over 10 years.

In the District of Columbia, there was only one. In a District of Columbia report it indicates that out of 300 rape victims only 1 victim became pregnant. So why put it in here? There is a reason. Under the compromise language that we offered to the Senate, we said that this section would not prohibit payment for medical procedures performed before the fact of pregnancy is established if the treatment were prompt. If victims of forced rape and incest were treated promptly, there would not be a pregnancy. They can go in the day after or a week later and be treated with DES or D & C and they would not become pregnant.

So why put this language in the Senate bill? I will tell you why. It is for only one reason, to prevent abortion upon demand.

Any woman, who wants an abortion under medicaid, could go in and say, "I was raped," and there could be a lot of perjury. There would be a lot of complications. This is the problem with the language in the Senate amendment. I say we have compromised. Give us a chance to go back to the Senate. Give us a chance to see whether we can reach a compromise between the House and the Senate and not let them jam this language down our throats.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, the House has worked its will, and by an impressive vote, on the language offered by the gentleman from Pennsylvania, that language is a concession to the other body. It is one that does not compromise the position of those of us who oppose abortion. It does not compromise our position, because it does not in any way allow abortion. It is responsive, on the other hand, to the very genuine, realistic, understandable concerns of those who want to protect a woman from pregnancy resulting from forcible rape or incest. That is a very understandable concern.

The Flood language does allow medical treatment, stopping short of abortion, for a rape or incest victim before pregnancy has been established.

Now, medical treatment is something entirely different from abortion. That period of time, that interval between fertilization and implantation, is a very critical time to which the Flood language addresses itself. It is language that pro-life advocates can support. It is language I can support.

Mr. Speaker, I commend the gentleman for offering it. It is language that I hope the House will support. But first, I appeal to the House to reject the preferential motion of the gentleman from Maryland.

Mr. Speaker, I urge support for the language of the gentleman from Pennsylvania.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, the Senate language provides each and every doctor with a dual capacity. Instead of being just a healer, he now becomes an executioner as well. It provides him with a license to kill. I am weary unto death of hearing people say, "I am against abortion, but"—and then refuse to lift a finger to stem the tide of 1 million abortions in this country every year.

Incidentally, I wish my good friend, the gentleman from Maryland, could have been with me Monday night when someone got up in a meeting and said, "Hyde, why are you so much against abortion? Don't you know there are too damn many people on welfare?"

We hear time and again how many people would like to exterminate the poor and get rid of that problem by cutting down on their numbers. That is their solution to the welfare problem. That is not my solution, but it is some people's solution. To be an accessory to that solution, to me is outrageous and incredible.

Now, let us talk about the rape and incest language that the gentleman from Maryland offers. That is an invitation to gigantic wholesale fraud. A woman merely walks in and says, "I was raped, assailant unknown," and she gets an abortion and the unborn child is killed forthwith.

By the way, the Supreme Court said that capital punishment for a rapist is cruel and unusual punishment, but of course the product of that rape is expendable, socially expendable. There is no requirement that the rape be reported to the police, but it provides a financial inducement to a woman to report a crime. The International Association of Chiefs of Police and the International Association of Sheriffs have said:

> Don't do this to us. We will have to investigate every report, and you know that 90 percent of them are going to be fraudulent.

We are not insensitive to the problems of women who have been raped. The language the House offered yesterday provides some guidelines that would take care of the true rape situation and would not invite the fraud. The House language is infinitely superior.

Then, we come to the really outrageous language in the proposal offered by the gentleman from Maryland; that is, "if the woman or fetus would suffer serious health damage." What is the tradeoff? A human life for some doctor's judgment call on what is serious health damage. Would you kill Helen Keller? What about the Director of the Veterans' Administration if he had been born with

the disabilities he has today, under the Senate language, would you say he is socially expendable?

The term "serious health damage" is a judgment call by a doctor who has a financial interest in making his judgment call. I submit to the Members that it is hopelessly vague, and I point out to them that in California, the Sunshine State that I admire so much, 92 percent of abortions are done for mental health reasons—mental health reasons. So, the Members know how reliable and how sensible a standard that is.

I ask the Members, are all people born with a disability subhuman? Is somebody going to decide, because this child may be born with some disabling health condition, it is therefore subhuman and should be terminated? I submit to the Members that life is not just for the privileged or the planned or the perfect. Life is for everybody, and we ought not allocate to ourselves the role of Almighty God and say:

This child may have some defect, this child may be born without arms, and hence it is disposable, expendable, and may be killed.

We are called cruel. Is there anything more cruel than killing a defenseless, innocent, human being? Is there anything more violent? This Nation tonight stands awash in the blood of 1 million abortions every year, 300,000 of them paid for by the taxpayers. What is so difficult, what is so conceptually difficult, about thinking of the unborn child?

We think of young girls who are pregnant, unwanted pregnancies, the tragedy of being brought up in the ghetto, the tragedy of renal disease. What about the tragedy of a human life being thrown away because we have no alternatives? Have we exhausted our capacity for caring for human beings by telling poor women that the only answer is killing their unborn young? The Senate, wants to subsidize death to the smallest, most voiceless, most defenseless human beings alive, and that is the unborn. I hope we will resist this overwhelmingly.

Mr. MICHEL. Mr. Speaker, we have no further requests for time on this side, except I would simply say, in summing up on this side, that as a member of the conference committee, and speaking solely for the other two members on this side—I am sure the chairman can speak for the rest of the members on this side—we are just as weary as all of the rest of the Members of going over the same old plowed ground in conference with the other body. But I would like to let all the Members know that we are willing to do that one more time if given the opportunity to bargain in good faith.

I would implore the Members, then, to vote down the preferential motion offered by the gentleman from Maryland (Mr. STEERS), because it is a complete abdication, absolutely, lock, stock, and barrel, of the earlier position which we took and concedes the Senate position.

There has been compromise in good faith on the part of the House Members. We would like to go back one more time. If we adopt the motion offered by the gentleman from Pennsylvania (Mr. FLOOD) and we go to conference, then we will make that one last effort and hope to come back here with an agreement.

Mr. FLOOD. Mr. Speaker, I, of course, rise in opposition to the preferential motion. The language that we are being asked to accept here is the same language exactly that the House conferees—and the Members know this—rejected at the conference table. We told the Senate conferees—the two of them who were there, by the way—that this language is too permissive and it is unacceptable to a great majority of the Members of the House. Therefore, this language is absolutely no different than the language that this House rejected on September 27, when we voted on House Resolution 780, the resolution, the Members will recall, to instruct conferees.

We have a difference here about words. Words may be different, so far as the Senate is concerned. But the end result is still the same. We would be permitting payment for abortions for all sorts of reasons, including emotional problems, and what have you. In short, we would still be paying for abortions on demand, no matter how the Senate thinks they change the words.

By the way, Mr. Speaker, seven times now we have voted on this matter, and each time the House has made it perfectly clear that it does not want to pay for abortion on demand.

Mr. Speaker, I could go on and on and on, like Tennyson's brook, about the objectionable aspects of this language in the motion offered by the gentleman from Maryland. But I do not want to take the time, obviously, of my colleagues now. I urge the Members to reject this motion. Do not forget that this is a preferential motion and we are voting "no" on the first motion. The first motion is the preferential motion. The first one we are voting on is the preferential motion, and the vote there, of course, is "no." That is the situation. I urge the Members to reject that motion and give us, for Heaven's sake, an opportunity to meet the Senate in order to arrive at an acceptable compromise.

Mr. STOKES. Mr. Speaker, I rise in opposition to Chairman FLOOD's motion to disagree and urge the House to concur in the Steers amendment. Mr. Speaker, just yesterday, I rose on the House floor and indicated that the "new" language was no compromise and that the Senate would reject it for that reason. Four hours after I spoke the Senate rejected the Flood compromise language and offered the Magnuson compromise language which read as follows:

None of the funds in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the women or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

As expected the Senate approved this language. In addition, the Senate passed a continuing resolution, carrying with it the Hyde language in the 1977 appropriations act.

Mr. Speaker, the Magnuson amendment was a substantial compromise from the Senate's position with regard to the provision of abortions where medically necessary. The Senator's proposal made provisions for abortions where the life of the woman would be endangered, for victims of rape or incest, and where the mother or the fetus would suffer serious health damage. In the name of humanity and decency, I cannot see how we can rationally reject this kind of proposal.

This is not talking about abortion on demand. This language is not talking about social justice—we evidently gave that issue up several months ago. This language is talking about very real concern for poor women and very real, serious medical problems.

How do we have the audacity to suggest that these women who are at higher risk of illness, because they are poor and have less access to quality medical care, should not be allowed abortions when they are seriously ill or are carrying a diseased or severely deformed fetus? Were these women related to us would we not be concerned about listening to their doctors when a serious medical problem was in evidence?

Mr. Speaker, throughout the conference committee deliberations, there has been a strong feeling among several of the House conferees that exceptions for women with medical problems would allow some women and some doctors to defraud the system. What are we saying about those we represent when we allow that kind of thinking to dominate public policy? What is this saying about those who are patients suffering from illness, of those women who may be suffering from cancer, from diabetes, or any number of other equally serious conditions? What are we saying about their doctors?

Mr. Speaker, when the American College of Obstetricians-Gynecologists and the American Medical Association have both made strong statements discussing the medical complications confronting pregnant women suffering from other medical problems, I am amazed that we in this House can so casually dismiss the medical judgment of those who know the situation best.

I must ask just for whom or for what are we working when we are unwilling to listen to those in a position to know? Are we saying that we are so afraid that someone may take advantage that we should say no to everyone regardless of their circumstances? How heartless and callous can we be? We do not stop the whole medicaid program because a few may take advantage. How can we say no to a woman who is already ill and for whom a pregnancy, in a doctor's opinion, would be inadvisable because of her condition? That is what we are talking about here.

We are also talking about women who may find as the result of prenatal testing (which is covered by medicaid) that they are carrying a genetically diseased or seriously deformed fetus. How can we refuse an abortion when the fetus has sickle cell, Tay Sachs or where deformed as the result of the mother having ingested certain drugs? How can we be that insensitive? Indeed, such a circumstance can prevent those parents from ever risking the birth of another child if this option is not available to them.

Mr. Speaker, I also find it paradoxical that those who seem to be so afraid of "fraud" by patients and by doctors are actually acknowledging the desperation felt by women faced with unwanted pregnancies. Yet those same Members have refused to discuss the issue in any substantive compromise.

Mr. Speaker, all the Senate is asking at this point is for some humane, decent compromise so we may at last achieve final passage of this bill. Certainly, on a HEW bill, which is the bill designed to administer to human needs and social service programs, we should be willing to accept a humane compromise such as that offered by Congressman STEERS. Mr. Speaker and my distinguished colleagues, I urge you to reject the Flood motion to disagree and instead to concur with the Steers amendment.

Ms. HOLTZMAN. Mr. Speaker, I believe it is unconscionable and self-defeating to deny medically safe abortions to indigent girls, teenagers, and women. Nonetheless, I reluctantly support the Steers amendment.

This amendment provides that abortions are to be financed by the Federal Government only in cases of rape or incest, or when the mother will suffer serious health damage as a result of pregnancy.

To defeat the Steers amendment would be to sanction "serious health damage" for poor women. To defeat this amendment would be to force poor women who are the victims of rape and poor youngsters who are the victims of incest to choose between the trauma of birth and the health risks of self-induced abortions.

To condemn the living in this manner is to make a mockery of the term "right to life."

By opposing this amendment the entire Health, Education, and Welfare appropriation bill will be held hostage to the most radical antiabortion position. The living will be deprived of the benefits of additional funding for many important programs contained in the bill. These include $580 million for health-related programs—for example, $19 million for maternal health care, $21 million for family planning, $281 million for medical research—$449 million for elementary and secondary education, $153 million for education to the handicapped, $327 million for student assistance for higher education, $27 million for social and rehabilitation services, $150 million for child development, $104 million for programs for the aging.

Surely those who claim to be pro-life should have some small compassion for the living and allow these expanded programs to take effect now.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion to disagree and on the preferential motion to concur.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Maryland (Mr. STEERS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. FENWICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 163, nays 234, not voting 37, as follows:

[Roll No. 653]

YEAS—163

Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Ashley
Badillo
Baucus
Bellenson
Bingham
Blanchard
Bolling
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Butler
Carr
Chisholm
Cleveland
Cohen
Collins, Ill.
Conyers
Cornwell
Daniel, R. W.
Danielson
Davis
Dellums
Derrick
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Del.
Fascell
Fenwick
Findley
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Fuqua
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gudger
Hannaford
Harkin
Harrington
Harris
Hawkins
Hefner
Heftel
Holland
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Kostmayer
Krebs
Krueger
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McKinney
Maguire
Martin
Mattox
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Moss
Neal
Nix
Ottinger
Panetta
Pattison
Pease
Pettis
Pickle
Preyer
Pritchard
Railsback
Rangel
Richmond
Risenhoover
Rose
Rosenthal
Ryan
Sarasin
Scheuer
Schroeder
Seiberling
Sisk
Slack
Solarz
Spellman
Stark
Steed
Steers
Stockman
Stokes
Studds
Thompson
Thornton
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Waxman
Weaver
Weiss
Whitley
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Yates

NAYS—234

Abdnor
Akaka
Ambro
Ammerman
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Aspin
Baldus
Barnard
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Breaux
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Clawson, Del
Cochran
Coleman
Collins, Tex.
Conte
Corcoran
Cornell
Cotter
Crane
Cunningham
D'Amours
Daniel, Dan
de la Garza
Delaney
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Flood
Florio
Flowers
Flynt
Fountain
Frey
Gammage
Gaydos
Gephardt
Gibbons
Goodling
Gore
Gradison
Grassley
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harsha
Heckler
Hightower
Hillis
Hollenbeck
Holt
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Livingston
Lloyd, Tenn.
Long, La.
Lott
Luken
McClory
McDade
McDonald
McEwen
McHugh
McKay
Mahon
Markey
Marks
Marlenee
Marriott
Mathis
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Patten
Perkins
Pike
Poage
Pressler
Price
Pursell
Quayle
Quie
Quillen
Rahall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Russo
Santini
Satterfield
Sawyer
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steiger
Stratton
Stump
Symms
Thone
Traxler
Treen
Trible
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walsh
Wampler
Watkins
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—37

Anderson, Ill.
Ashbrook
AuCoin
Badham
Bafalis
Beard, Tenn.
Broomfield
Brown, Ohio
Clausen, Don H.
Clay
Conable
Corman
Coughlin
Dent
Diggs
Ertel
Fisher
Goldwater
Guyer
Johnson, Calif.
Koch
Lujan
Madigan
Mann
Miller, Calif.
Moakley
Murphy, N.Y.
Patterson
Pepper
Reuss
Roybal
Schulze
Taylor
Teague
Walgren
Walker
Whalen

The Clerk announced the following pairs:

On this vote:

Mr. AuCoin for, with Mr. Moakley against.
Mr. Clay for, with Mr. Ertel against.
Mr. Koch for, with Mr. Walker against.
Mr. Diggs for, with Mr. Schulze against.

Until further notice:

Mr. Dent with Mr. Ashbrook.
Mr. Teague with Mr. Reuss.
Mr. Mann with Mr. Repper.
Mr. Miller of California with Mr. Murphy of New York.
Mr. Corman with Mr. Badham.
Mr. Fisher with Mr. Bafalis.
Mr. Conable with Mr. Broomfield.
Mr. Patterson of California with Mr. Brown of Ohio.
Mr. Roybal with Mr. Beard of Tennessee.
Mr. Anderson of Illinois with Mr. Don H. Clausen.
Mr. Johnson of California with Mr. Coughlin.
Mr. Lujan with Mr. Goldwater.
Mr. Walgren with Mr. Guyer.
Mr. Madigan with Mr. Taylor.

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the

gentleman from Pennsylvania (Mr. FLOOD).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Without objection, the Chair appoints the following conferees: Messrs. FLOOD, NATCHER, SMITH of Iowa, PATTEN, OBEY, ROYBAL, STOKES, EARLY, MAHON, MICHEL, CONTE, O'BRIEN, and CEDERBERG.

There was no objection.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 9418

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report to accompany H.R. 9418.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON OCTOBER 20, 1977, DURING THE 5-MINUTE RULE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may be permitted to meet on Thursday, October 20, 1977, during the 5-minute rule to have a markup on legislation pending before the committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman fromTexas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us which bills are involved and whether or not this has been cleared with the minority?

Mr. ROBERTS. If the gentleman will yield, they have been cleared with the minority. These are three minor bills that are primarily in the Aviation Subcommittee that they wanted to finish up. This would complete our legislative program, and that is the only day we would have a chance to get them out and to get them on the extension.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman's unanimous-consent request is only for 1 day?

Mr. ROBERTS. Yes, sir, just 1 day, October 20.

Mr. ROUSSELOT. Next week?

Mr. ROBERTS. Yes, sir, and that is the only day the full committee can meet to get them out, and, assuming we meet our deadline, that is the last chance we have to get them on the extension.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs may be permitted to sit tomorrow during the 5-minute rule. We are taking testimony on the mining law, and there is no markup. It will be just the taking of testimony.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman assures us that there will be absolutely no markup of any kind?

Mr. KAZEN. Absolutely no markup.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. VANIK. Mr. Speaker, this afternoon I had to miss attendance in the House and several votes in order to attend a White House conference on the steel import problem. I regret that this was necessary.

THE CHALLENGE OF GROWTH: INSIGHTS OF MAYOR MICHAEL A. BILANDIC

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, it gives me a great deal of pride to share with you and my colleagues the recent remarks of the mayor of Chicago, Michael A. Bilandic, before the Commercial Club of our great city.

This address captures, I believe, that spirit of far-sightedness and civic cooperation so essential to the successful leadership of any great city. The mayor identifies those qualities of citizenship which have made great improvements possible in Chicago since its earliest days as a commercial and cultural center. He traces the business community's heroic response to the disastrous great fire of 1871 and its magnificent support of the historic Columbian Exposition in the 1890's. Outlining the 1909 "Chicago Plan," Mr. Bilandic praises the Commercial Club's leadership in promoting one of the most exciting and fruitful architectural periods in city history.

With these historical perspectives as a backdrop, the mayor calls for a rekindling of the civic pride so evident in that city's early days. Today's challenge, the building of the long-awaited Burnham Corridor, presents another opportunity for Chicagoans to unite for future progress.

Mr. Speaker, this address offers real insight into what makes a great urban center grow and prosper, providing constantly improving conditions of life for its citizens. I am pleased, therefore, to offer the remarks of our distinguished mayor:

ADDRESS BY MAYOR MICHAEL A. BILANDIC

Thank you Mr. Stuart. It is indeed a pleasure to be with you tonight at your 677th meeting. It is appropriate that the first meeting of this historic club's season should fall so near the 106th anniversary of the great fire of October 8, 1871. The great fire that fanned through the city, gutting 18,000 buildings and virtually destroying the central business district, left 100,000 Chicagoans homeless and killed over 250 of our citizens.

In the midst of this desolation, many of the residents viewed the ruins and were disheartened, predicting that Chicago would never rise again. John Greenleaf Whittier, the celebrated poet, described the cry as "The City of the West Is Dead."

But louder even than the doomsayers were other voices. John Stephen Wright, an early Chicago business leader, stood surveying the smoldering ashes of his home.

When one of Wright's friends asked him, "well, what do you think of the future prospects of Chicago now?", he resolutely responded, "Chicago will have more men, more money and more business within five years than she would have had without the fire."

The Chicago Tribune, whose own building at Dearborn and Madison had been destroyed, still managed to publish a paper within three days, that proclaimed, "cheer up!"

Joseph Medill, capturing the spirit of the city, wrote: "In the midst of a calamity without parallel in the world's history, looking upon the ashes of thirty years' accumulation, the people of this once beautiful city have resolved that Chicago shall rise again."

As in all times of tragedy there are those who despair and abandon hope. And there are those who are courageous and stay to fight. Those who stayed to fight in Chicago worked miracles even by today's standards.

Incredibly within two decades, the city was not only physically and financially rebuilt, but was vying with other leading cities in the nation to host the Columbian exposition, the 400th anniversary of the discovery of America by Columbus. Although all of the cities came forward with generous offers of sites and subsidies, "Chicago surpassed them all in the munificence of her pledges and as a result won the much coveted honor."

The Official designation of Chicago as the site of the Fair was made by Congress on April 25, 1890. Following this came the miracle of the creation of the Columbian exposition with its magnificent marble buildings—and a miracle it was.

As the official souvenior booklet of the exposition expounded, "A miracle in the brief space of time employed, in the magnitude of the work accomplished, in the beauty of the landscape gardening, in the glory of the architecture, and in the perfect adaptation of means to ends. The swamps along the shore of Lake Michigan became a dream of Venice, the sand heaps bloomed in parterres of glowing flowers, the barren spaces were made glad with graceful forms of art, and where nature had rioted in almost savage desolation arose the . . . Palaces of Peace, the highest type of architectural skill and the most marvelous manifestation of man's mastercraft that ever charmed the world."

Behind the design of this magnificent achievement were several gifted architects

and planners, one of whom was Daniel Burnham. Burnham's imagination and passion were fired by the idea of creating a vast, open and green shoreline. He was determined to make Chicago "a city beautiful." For years he appealed to civic-minded groups to support his plan. Finally one group caught the spark of Burnham's dream: that group was the Commercial Club, earning the designation "the parent of the Chicago plan", which was published in 1909.

However, the publishing of this visionary, but practical plan was just the beginning of the struggle to breathe life into the architectural drawings.

The first step was the establishment of a planning commission to study and execute the Chicago plan. This task fell to Mayor Fred Busse.

Now history tells us that Mayor Busse was a very practical-minded fellow, but I can't help but believe he had a strong romantic streak. After all, Fred Busse set a precedent with which I am in full accord and followed myself. We were the only two Chicago mayors to marry while in office.

Mayor Busse recognized the compatibility of both the practical and beautiful aspects of the Chicago plan, when he told the city council: "This plan is not to be considered as the embodiment of an artist's dream or the project of theoretical city beautifiers who have lost sight of everyday affairs and who have forgotten the needs and interests of the mass of people. On the contrary, the men who produced the Chicago plan are all hard-boiled businessmen. Making Chicago attractive to visitors from all parts of the world will add to Chicago's resources a very great asset, the value of which will be reflected in every piece of real estate within our limit."

The resulting Chicago Planning Commission was a group of 328 business and civic leaders charged with the implementation of Burnham's plan. Not surprisingly, and almost without exception, the members of the Commercial Club's plan committee turned up on the Chicago Planning Committee, evidencing a clear commitment on the part of this organization to follow through with the monumental proposal it had sponsored.

And this commitment was essential. Like all new and progressive ideas, the Chicago plan was roundly criticized. There were those who felt it was simply impractical and idealistic. There were those who felt, in those hard times, that money spent for public improvements was wasteful. To combat these sentiments, one of the plan's proponents, Frederick Stanley Oliver, urged the citizens to consider "what it means to our city to have . . . a great broad highway from the congested districts of the west side to the lake front, where the poor may come to mingle with nature to slake their thirst for health-laden air at the brink of old Michigan; what it means to have North Michigan Boulevard widened and extended to Chicago Avenue, with a proper and befitting bridge over our grand canal; what it means to have at the mouth of the Chicago River, an outer harbor—as well as to possess modern bridges for the great thoroughfares that cross the river; realize, if you can, the importance to our city of the proposed subway system, and then stand with us."

By 1911, the committee was ready to effect the first concrete improvement called for under the plan. A successful bond issue would pave the way for the widening of 12th Street and carrying it by viaduct across the railroad yards south of the Loop. However, the bond issue initially met with great resistance and it appeared at the outset that the referendum would fail. It took all segments of the city working together to reverse this prediction. Books were published. The press mounted an intensive campaign. Finally the people of Chicago were convinced. The 12th Street project got underway.

The plan commission then pushed further ahead with the Burnham Plan. Textbooks were written for the schools—the first time a text in planning was admitted for study by an American school board. Lecture programs were created to reach the citizens with solid information in a successful attempt to convince the public of the need for the proposed park land, lakefront development, and the street and highway programs.

Slowly, but inevitably, people's skepticism and opposition were converted to confidence and devotion to the Chicago plan. The citizens of the city saw the wisdom of the plan, saw that the expenditure of funds now could only save money in the long run, as well as be an investment in Chicago's property values.

All finally came to agree with your distinguished commercial club member, Charles H. Wacker, Chairman of the Chicago Planning Commission, when he stated: ". . . A beginning must be made. Obviously, the work that must first be done should be made of a nature to benefit the largest number of people and that which is most necessary. All thinking persons who are not prejudiced will agree on that. Also work must first be done where it can be done before the cost becomes prohibitive through high property values." His words, and the spirit of this club, and the commission on which your members so ably served, are again equally applicable in today's Chicago.

Just as the Commercial Club and Daniel Burnham in 1909 stood at the threshold of an historic event, so does the Commercial Club stand in such an important position today. I have reference, of course, to the Burnham corridor.

The Burnham corridor is but another part of the total Burnham plan. Many phases of that plan have been long completed—the widening of Michigan Avenue, the creation of the outer drive, lakefront parks—but this most recent chapter of the Burnham plan remains for us to complete.

An outlying transportation artery, such as the Burnham corridor, was sketched in Burnham's original plan. Its feasibility is not in doubt. It has been the object of extensive study for several years. And in fact, all unbiased and fair-minded people have admitted the wisdom of this plan.

The Burnham corridor development is, in fact, an economic classic. It will cause the infusion of one billion 200 million dollars into the economy of the city and the State of Illinois. With other related public works programs, it will provide 47,000 jobs. It will rejuvenate an industrial area, improve the flow of traffic and revitalize Midway Airport—all without adding one cent to the tax burden of the citizens of this Nation, in that the necessary money has been lying idly in a trust fund awaiting an agreement satisfactory to all concerned parties.

It will not be easy. We may well experience more difficulties in building a road than Daniel Burnham did, simply because Burnham did not have to deal with the modern-day intrusion of Federal governmental processes in local government.

Opposition has been voiced. This is not unusual, perennially opposition always develops when public improvements and change are suggested.

As that prominent citizen Oliver stated in discussiong opposition to the 1909 Burnham plan: "In a great city like this, made up of so many heterogeneous elements, it would be, of course, too much to expect, on any important matter, anything approaching unanimity of opinion, but it does not seem unreasonable to look for it occasionally when the best thought of broadminded public-spirited citizens, eminently qualified to pass an intelligent opinion, have indicated the undoubted wisdom of a certain line of action. Yet it is difficult to recall any great proposed public work, which has been frequently given years of patient and intelligent study, which has not felt the virulent assault of an ofttimes ignorant and selfish, but too frequently sordid opposition. Sometimes it is due to an honest and differing opinion, but more often to a narrow and unreasonable selfishness . . . and too often to a demogogic assault for political advantage."

Like Daniel Burnham, we are going to need the strong support of all segments within our city to achieve our goal. The beginnings of that cooperative spirit are here. The media, for instance, have all supported the Burnham corridor concept.

The Sun-Times editorialized, "Chicago must reclaim decaying areas of the city and a declining tax base if it is to remain an economic and cultural center. . ."

Just recently the Tribune explained: "unless better transportation is provided for trucks and for workers, thousands of acres that could be contributing to the city's prosperity will continue to deteriorate into vacant lots, junk yards, stagnant business, and dilapidated housing. The loss to the city—in real estate values, taxes, industrial production, and jobs—will be measured in the billions of dollars. . . . Compared with what is to be gained, the price is still a bargain. It is worth noting that if construction had not been delayed by years of sniping, haggling, political vacillation, and stubborn governors [just as construction of the Michigan Avenue bridge in 1920 was delayed by objections which are now wholly forgotten], the expressway could have been built for half what it will cost now. And by 10 or 15 years from now, the cost will have doubled again."

Just recently the Federal Government has indicated that it will support us by trying to speed up the paperwork involved in completing the corridor. Once again, on the State level we are experiencing the intergovernmental cooperation we enjoyed under your member, Richard Ogilvie, a great governor and statesman, an early supporter of the Burnham Corridor and a good friend.

I am certain that the commitment of the Commercial club to Chicago in 1977 is equal to, if not greater than that of the Commercial Club in 1909. Evidence of this fact is that almost one-half of the business representatives on our economic development commission are commercial club members.

I think this is a tribute to the business community that more should be aware of. As Paul Harvey, the news commentator, recently implored: "Pray that our battered businessmen survive! The teachers, the writers, the 'thought shapers' have been condemning businessmen."

He noted that "in the sixties, with our Nation's productive economy in high gear, business and businessmen were disdained, accused of 'lacking a social conscience'."

"When recession pinched off some luxuries, the detractors switched to suggesting panacea. Because however intellectual one might be, he still uses and wants cars and clothes and packaged foods and handy appliances and the money with which to buy them. And he can't produce them. Only businessmen can. The teachers and preachers and writers want theaters and concert halls and museums and libraries and schools and colleges, and philosophers don't pay for those things; they are suported by the profits from business!

The 'socially conscious' want urban renewal and less poverty and more employment.

They imagine that Government can provide such.

But Government can provide only what profitable business can support."

Mr. Harvey continues, "Congress is contemplating a 'guaranteed annual income for all Americans.'

Good or bad, Congress could not even consider such expenditures if business did not provide a taxable surplus.

We can give food stamps to unemployed only as long as our farmers produce more food than they eat.

You want to help the poor—start a new business.

A profitable business.

Because without profitable businesses there is no money for medical research, social justice, education or the arts.

There will be no lights without generators.

Let's bandage the image of our battered businessman and help him get about his business of providing everything we need and most of what we want."

These comments of Mr. Harvey's highlight the importance of the business community, an importance we in Chicago have always appreciated. Without a doubt, the business leaders of Chicago have always done more than their fair share. It was our businessmen and women who helped take Chicago from the ashes to where it is today. Most people would be shocked to learn that only nine countries in the world generate more gross national product than we do in the city of Chicago.

This incredible achievement is the result of business, labor, Government and the community working together to reach a level of production that even optimistic John Stephen Wright, on that long ago October day, would never have imagined for the city of Chicago.

Historically the Commercial Club has always figured prominently in Chicago's progress. We look forward to your continued prominence in Chicago's future. I am confident that the Commercial Club of 1977 will surpass the work of their illustrious predecessors by rallying with us to bring about the early completion of the Burnham Corridor.

To accomplish this we may need to consider a campaign of the type the Commercial Club undertook to convince Chicagoans of the merits of Burnham's original plan—a campaign to shake people free of the misconceptions and misunderstandings of this worthwhile transportation and industrial corridor.

Your participation and support of this Burnham Plan of 1977 is essential. The shaking and planning have begun. Let us move forward together!

IMPLICATIONS OF MANDATING UNIVERSAL SOCIAL SECURITY COVERAGE BY 1982

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, it is imperative that my colleagues understand the implications of the recent action of the Social Security Subcommittee of the Committee on Ways and Means. I am referring to the approved proposal mandating universal social security coverage by 1982 included in H.R. 9346. This bill represents a rather frantic effort to solve the problems of a depleted social security fund at the expense of more than 6 million Federal, State, and local government employees.

I find it extremely distressing, that a bill that affects the retirement benefits of so many Federal employees has not yet been considered by the Committee on Post Office and Civil Service. This bill requires the melding of the civil service retirement system with the social security system. This is obviously under the jurisdiction of the Committee on Post Office and Civil Service Committee and this committee should have the opportunity to review the pertinent sections of H.R. 9346. I am pleased to learn, Mr. Speaker, that you have sequentially referred this bill to the Post Office and Civil Service Committee.

One major problem presents itself immediately—the civil service retirement fund and the social security system were not created for, or serve the same purpose. The civil service retirement fund was created in 1920 in order to attract and retain talented career civil servants. Congress wanted to offer Governent workers a full retirement income based on years of service. The social security system on the other hand was formed to provide an income assistance plan to supplement private pension plans and savings. Two vastly different plans, and yet the Social Security Subcommittee apparently sees little difficulty in integrating them. To be more accurate, they do not know what problems might emerge.

The subcommittee's legislative approach to this matter is not at all comforting. The bill provides for a study to be done by the Secretary of Health, Education, and Welfare in consultation with the Civil Service Commission. The Secretary is to include features to assure that Federal employees not be put at a disadvantage during this integration, either in their coverage protection or in contributions. This study is to be completed by 1980, 2 years before universal coverage is to become effective. This is a blatant legislative flaw. It is a classic cart before the horse situation.

Is it not conceivable that in the course of this study it could emerge that the two systems cannot be equitably merged? Is it not conceivable that it may simply prove to be unworkable, financially unsound, and may deprive many civil servants of the rights and benefits they now enjoy. The bill does not cover these contingencies; and that means that the subcommittee is mandating universal coverage irregardless of the results of the study. It would be far more logical to legislate a study to be done to examine, in total, the problem of the social security system. Let the Secretary of the Department of Health, Education, and Welfare and the Civil Service Commission determine why the funds have become depleted over the years and outline all the possible ways to remedy the situation.

By mandating universal coverage by 1982 the subcommittee has chosen a route that could be a short-term solution without recognizing some long-range implications in other areas. It would be unfortunate, to say the least, to have this measure passed and have the social security fund solvent only to get in trouble because the root causes of the deficiency were not carefully examined. It would be terribly unfair to augment the sinking social security fund with money that Federal employees have set aside, in good faith, in order to assure themselves a decent retirement.

I am very much opposed to H.R. 9346 in its present form and sincerely hope that my colleagues will review this legislation carefully. Let us not balance the books of the social security system at the expense of millions of career civil servants.

REPEAL 1976 ESTATE TAX MISTAKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, I am sure that by now all of my colleagues are aware of the uproar created by the Gift and Estate Tax Reform Act of 1976. I have received numerous calls and letters from constituents, voicing their objections to the carryover basis provisions contained in that act.

On October 6, the House Ways and Means Committee held hearings on the carryover basis to consider repealing these provisions. Mr. Speaker, I believe the so-called carryover basis provisions constitute bad tax policy. I am inserting into the CONGRESSIONAL RECORD a copy of the statement which I submitted to the committee during these hearings:

STATEMENT BY THE HONORABLE TOM CORCORAN

Mr. Chairman, I believe that the Committee should be commended for its initiative to conduct these hearings on the carryover basis provisions of the Estate and Gift Tax Reform Act of 1976. I am pleased to present this testimony on an issue which has created a most anxious and growing concern among my constituents and citizens throughout the country as they become aware of its meaning. People want these provisions repealed as quickly as possible.

The Estate and Gift Tax Reform Act of 1976 (H.R. 14844) evolved out of the concern of the Congress, and specifically, the Committee on Ways and Means, for the need to preserve the nation's family farms and for the need to reduce the trend toward greater concentration of business ownership into fewer and fewer hands. Overall, the estate tax provisions of the bill are responsive to the basic problem, including a substantial increase in the level of tax-free estates by means of the basic estate tax credit. I am also supportive of the measures which provide family farms and small businesses with an alternate valuation standard to allow a portion of their assets to be assessed at their current economic use, rather than according to the value which the government determines to represent the highest and best use of the property. H.R. 14844 represents a significant effort to alleviate the problems which, before its enactment, required the forced sale of farms and small businesses to pay the Federal estate tax.

However, Mr. Chairman, the beneficial effects of these reforms have been severely diluted by Section 6 of that bill which amends the income tax law to provide that the basis of property acquired from a decedent dying after December 31, 1976, shall be the same in the hands of his executor and heirs as it was in the hands of the decedent immediately before his death. Conservative estimates have revealed that the carryover basis provision will reduce the total relief provided in this legislation by more than $1 billion in the long run. Thus, the present estate tax burden on farmers and small businessmen which H.R. 14844 sought to eliminate, has been replaced by an income tax burden of perhaps greater magnitude! In addition, I believe that an income tax provision for a carryover basis has no place in an estate and gift reform bill.

Section 6 also adds to the complexity of our tax laws by requiring a determination of the basis of a capital asset in the hands of the decedent. In many cases these records are not available, particularly in instances where family farms and small businesses have been passed down through several generations. And once the basis has been determined, these records must be maintained for long periods of time until the property is eventually sold. Almost paradoxically, these record-keeping requirements will be particularly burdensome on the very farmers and small businessmen that this legislation was supposed to help and hardly represent a simplification of the laws prior to this reform.

Another primary objective of this estate bill was to provide relief to highly illiquid estates. But because the carryover basis provision does not contain an exception for farm or small buisness property, it is equivalent to a capital gains tax at death to the extent that appreciated property must be sold. For example, if it is necessary to sell appreciated farm assets to pay the estate tax, the carryover basis provision requires the payment of a capital gains tax before payment of the estate tax. Thus, the executor order to pay the combined income and estate taxes is forced to sell more assets of the estate in tax liability of the estate.

This tax policy has created the so-called "lock-in" phenomenon, whereby a beneficiary who receives property with a low carryover basis is obviously encouraged to hold the property beyond the time when prudent investment sense would otherwise dictate its sale. The capital gain subject to tax would be too large to permit a sale, and the longer an asset is held, the more generations it passes through, the larger its increase in value over that at its original acquisition, and the stronger the lock-in. I believe this to be unsound tax policy, because property should neither be held nor disposed of for tax reasons only, but for personal or business purposes.

Mr. Chairman, the Estate and Gift Tax Reform Act of 1976 was intended to make long overdue changes in the estate and gift tax areas, with particular emphasis on the special problems faced by farmers and small businessmen. The carryover basis relief in the Act, I believe, has negated the relief which other provisions have provided relative to the estate tax. Therefore, I urge the Committee to support H.R. 6123, introduced by the gentleman from New York, Mr. Conable, and cosponsored by myself and many of our colleagues, to repeal these unwanted and unfair carryover basis provisions contained in the Act.

DEBATING THE PANAMA CANAL'S FUTURE IN THE RIGHT CONTEXT IS CRUCIAL TO THE VALIDITY OF OUR ACTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I have been following the national debate over the new Panama Canal Treaties with great interest. I have read newspaper accounts of its terms and of support for, and opposition to, it. I have read quite carefully the statements of the administration on what they construe the treaties' terms to mean. I have studied the testimony now being presented in Congress, and I have made a diligent attempt to secure as much information as possible on what the Panamanians and other Latin Americans are saying to their own people, in their press and in private, about the terms of the treaties.

I am fearful that the almost unanimous concentration of the public's foreign policy attention on these treaties will draw too much of their attention away from matters equally as crucial to our national security, and I speak specifically of negotiations about a new strategic arms limitation agreement with the Soviet Union, about what the administration is doing to decimate our strategic deterrent capabilities—eliminating the B-1 strategic bomber, canceling production of the Minuteman III intercontinental ballistic missile program, jeopardizing the advantage of U.S. leads in Cruise missile development, et cetera.

As a member of the House Subcommittee on Defense Appropriations, I believe the Panama Canal issue must be examined, and then hopefully decided, in the context of international moves with respect to the major, strategic waterways of the world.

I wish to concentrate my remarks today on this point—the Panama Canal in the context of Soviet actions and initiatives in countries commanding approaches to the world's most important waterways.

Let me make a point at the outset. The campaign to ratify the proposed treaties has become just that—a campaign. It is being orchestrated by political operatives who are advised daily by people in and out of government on how to garner and publicize additional support. The Panamanian Government has retained the services of a leading, professional political campaign organization here in Washington to help it sway public opinion here, on how to sell the treaties through Madison Avenue techniques similar to selling soap.

I regret this, not because it has never happened before; we all know that it has. But, rather, because that kind of fanfare and fireworks approach can obscure the real issues. And control over the world's major waterways is certainly a real issue.

In a world whose dimensions have been shrunk by instant communications, by satellites which can report the location of, and identify with high accuracy, every vessel on the oceans' surfaces, and by the new phenomenon on a Soviet white water navy operating anywhere it wants any time it wants, every major waterway becomes a component which relates to every other. If you know what is going on at every one of them at the same time, you know how to effect what will go on at every one of them at a future point in time. And the Soviets have the increased capability of doing just that.

Yet, in my opinion, an examination of what proponents and opponents of the treaties have said so far shows too little discussion of the future of the canal in the context of the world's waterways.

There are not that many of these waterways. Only about 2 dozen of truly major commercial importance for international trade, and about half of these are crucial for the deployment of naval vessels. They are, as one would expect by logic, spread out over the globe's surface, from Gibraltar, Suez, to the Strait of Malacca, the Cape of Good Hope, the Strait of Magellan, the Strait of Hormuz, to the Panama Canal. There are others.

In 1955, the Soviets had control of none of these waterways and effective influence over almost none. It has not been that way since, and I only wish I had a chart of the world on the wall behind me so I could show my colleagues the dramatic impact the Soviets have had in gaining control or influence of the waterways. That influence has become global in every sense, and it has, in one way or another, reached every single waterway.

Let us look at them one by one.

THE STRAIT OF GIBRALTAR

This is probably the most familiar strait to Americans. It is, of course, between the southernmost tip of the Iberian peninsula—the peninsula on which we find Portugal and Spain—and the northernmost tip of western Africa, specifically at Morocco. It figures in our history back to the days of the Phoenicians and Greeks, when the strait was called the Pillars of Hercules, and the days of the Roman Empire. Until the opening of the Suez Canal at the eastern end of the Mediterranean Sea at the beginning of this century, it was the only entrance into and exit out of the Mediterranean. I do not think I have to recite its importance during the Second World War and the fight for North Africa, Sicily, and Italy.

Its importance has not diminished since then. Whether it is a war in the Mideast, as we had in 1948, 1956, 1967, and 1973, or a crisis on Cyprus, or the trade route for oil from the Arab producing countries, or in relation to NATO and our 6th Fleet or the Soviet's massive buildup of naval vessels in the Mediterranean, it must be seen as a vital waterway.

I made note of this back in December 1975 in remarks in this Chamber, "The Strategic Implications of the Rapidly Growing Soviet Presence along the Vital Sea Routes to the Suez Canal," pages 39129–39134, December 8. One paragraph in those remarks summarized the relative strengths of the United States and the Soviet navies in the Mediterranean at the height of the Yom Kippur war in 1973, and I quote:

> At the height of the Yom Kippur war in 1973—and the Yom Kippur confrontation between the United States and the Soviet Union—the Soviet Mediterranean fleet had 90 heavy ship-killing missiles of the 150-mile range class aimed at the United States' 6th Fleet. In contrast, the American fleet had only 14 such missiles with a top range of 35 miles. Every major combatant ship—or "high-value target" as the Navy refers to them—in the U.S. fleet was targeted around the clock by a trailing Soviet missile ship, each fully prepared for an instant first strike. This disparity between U.S. and Soviet capabilities was crucial in that war and confrontation, because when the Soviets pressured us into coercing Israel to halt its assault on the Egyptian 3d Army or risk an assault on our forces, we had no alternative but to back down and insist the Israeli's back down.

The Soviets understand the importance of this waterway to us and to them. It is not a secure strait today—for us.

Two years ago the Communists came to power in Portugal. They failed to consolidate their gains early enough to keep from sliding back out of power, but they

are still a heavy influence in the governing socialist coalition. What happens to be one of the largest ports in Europe and not by coincidence one of the closest to the Strait of Gibraltar? Portugal's capital city, the port of Lisbon.

After one passes through the Strait, heading west to east into the Medterranean, a ship has Moscow and Cuba-oriented Algeria on the southern littoral then equally Communist-oriented Libya also to the south both lying on the Mediterranean coast of North Africa.

You then approach Egypt and the northwestern entrance to the Suez Canal and then the Red Sea, the route to the oil-producing States of the Persian Gulf, thence the Indian Ocean, thence the Pacific. It is appropriate to discuss the Suez Canal and the Red Sea at this point.

THE SUEZ CANAL AND THE RED SEA

The Suez Canal is, of course, the northwestern entrance to the Red Sea. If the canal is closed, there simply is no means of seaborne transit to western Europe and the United States from the oil-producing countries, except to go all the way down the east coast of the African Continent, around the Cape of Good Hope, and then all the way around the west coast of the continent to get to western Europe or across the South Atlantic to get to the United States. When the canal is closed, as it was for 8 years following the 1967 Mideast war, thousands of miles—and billions in cost—are added to oil transportation and thousands of miles—and days of valuable time—are added to naval movements.

The Suez Canal was originally controlled by a joint British-French-Egyptian company. But the canal was nationalized in 1956 by Egyptian President, Col. G. A. Nasser. Nasser moved increasingly into the Soviet orbit, and the direct Soviet military influence along the canal was felt.

Although Egypt under President Anwar Sadat has moved out from under the Soviet orbit, the Mideast remains one of the most volatile hotspots in the world. It is a place where peace simply is not assured and where major outbreaks of hostility always seem to be on the horizon. It is disturbing to me, too, that the Egyptian Government has again begun discussions on various types of assistance from the Soviet Union, engaging in a formal series of meetings earlier this year.

But the Suez Canal is not solely an Egyptian question. Even if the canal itself is open, access to it from the Indian Ocean cannot be guaranteed if the southern entrance to the canal—the Red Sea and the Gulf of Aden—is closed. And that is becoming an increasing possibility, if the port of Djibouti in the former French Federation of Afars and Issas should fall in Communist hands, either from Ethiopia or Somalia, both of which have territorial claims over the recently independent colony.

As you travel southeast from the canal, you go south through the Red Sea. Saudi Arabia is to the east, Yemen and the Peoples Democratic Republic of Yemen. To the west, after you leave the Egyptian coast on the Red Sea is Sudan, with its unstable history of pro- and anti-Communist military coups, and then the pro-Soviet government of Ethiopia, which is presently engaged in a Soviet-supplied border war against the Somalians, who are also supplied by the Soviets. The Red Sea narrows severely at its southeastern exit into the Gulf of Aden, and it is here that you have on one side, Djibouti, the principal rail center for access to the sea for Ethiopia.

And, on the other side, the Peoples Democratic Republic of Yemen, formerly the British colony of Aden, now clearly alined with the Soviet Union. Please note that this means you have Soviet-supplied Somalia to the south and the PDR of Yemen to the north as you go from the Red Sea into the Indian Ocean through the Gulf of Aden.

The Soviets have for several years had a naval missile handling facility at the Somalian coastal town of Berbera, the former capital of British Somaliland, located on the Gulf of Aden, only about 250 miles from the strait joining the Red Sea and the Gulf of Aden. Then Secretary of Defense, James Schlesinger, addressed himself to this facility in testimony before the Senate Committee on Armed Services on June 10, 1975. I quote from it:

As early as 1962, the Soviets agreed to assist the government of Somalia in constructing port facilities in Berbera, a small port overlooking the entrance to the Red Sea. The harbor was completed in 1969, and by 1971 sixteen Soviet ships paid visits to the port. In 1972, Marshal Grechko visited Somalia for the signing of a Soviet-Somali Agreement, and this was soon followed by an increase in Soviet use of facilities at Berbera, including the establishment of a naval communications site and the arrival of a barracks and repair ship which has remained as a permanent feature ever since. In late 1973, the USSR began initial construction of what has subsequently been identified as a missile storage and handling facility at Berbera, suggesting that the Soviets had plans for such a facility even before the events of the October 1973 war and the introduction of a more frequent U.S. presence.

In July of last year, the USSR signed a Treaty of Friendship and Cooperation with Somalia, similar to those signed with Egypt, Iraq and India. Several months later, approximately coincident with a visit by the Commander of the Soviet Navy, Admiral Gorshkov, we noted the beginning of a significant expansion of Soviet facilities at Berbera, including expansion of the POL storage, construction of additional housing ashore, and the beginning of a very long airstrip. The emerging configuration of a missile storage and handling facility became apparent. It is evident that the USSR is in the process of establishing a significant new facility capable of supporting their naval and air activities in the northwest Indian Ocean.

The USSR has also provided assistance to the Government in South Yemen in managing the former British port of Aden, which was the fourth largest bunkering port in the world when the Suez Canal was in operation. This port lies directly across the Gulf of Aden from Berbera and commands the northern side of the entrance to the Red Sea.

Mr. Speaker, details were provided both in the following weeks and on November 11, when a UPI wire of that day summarized the more recent Soviet developments in Berbera:

The Soviet Union has stationed a guided missile patrol boat at Berbera, Somalia, along with 15 to 20 antiship missiles, according to intelligence reports reaching the Pentagon.

The boat and missiles could cut off an entrance to the Red Sea, an approach to the Suez Canal. "This is evidence of a major new weapons system being introduced into the Indian Ocean (area)," one source said.

Early this summer, Schlesinger said, "we have evidence of Soviet missiles at Berbera." He backed it up with photographs taken from a spy plane. Somalia denied the statements and Congressional delegates which went to see for themselves were not allowed inside the complex, one group was turned away by an armed Russian marine.

At that time, the sources said, two missile crates had been detected. At the end of October, U.S. intelligence found between 15 and 20 SSN2, Styx missiles, with a range of about 25 miles and a conventional warhead. A Styx sunk an Israeli destroyer in the 1967 fighting.

The ship is the 128-foot OSA-II class. Navy sources say it is "the most numerous missile boat in Soviet service with 120 units operational in the Soviet navy."

Mr. Speaker, it should be made clear the facility is still there and serving these purposes for the Soviets.

Now that one is in the Indian Ocean, there are two routes out of it. One is to the South Atlantic, around the Cape of Good Hope at the southernmost tip of the African Continent, the route which had to be used when the Suez Canal was closed. The other is across the Indian Ocean and to the South China Sea, via the Strait of Malacca, and thence to the Pacific. Let me discuss each of these.

THE CAPE OF GOOD HOPE

This cape's importance is obvious. It is not only the means of going between the South Atlantic, thus to Europe and North and South America, and the Indian Ocean, thus to the Persian Gulf States, South Asia, and the Far East, but it is in that context, the principal alternative to the Suez Canal.

The cape's future lies with the future of South Africa. It is the southern tip of South Africa. Thus, its future is embroiled with the tension associated with the future of the area, a future already shaping its use, for to get from the Persian Gulf to the cape, the quickest route along the east coast of Africa is down through the Mozambique Channel, the waterway lying between Mozambique and the Malagasy Republic—formerly Madagascar.

We know from press reports, because it has been openly acknowledged, that Mozambique is receiving massive aid from the Soviet Union. Its president has hosted the Soviet leadership and has been hosted by them; he has welcomed Fidel Castro; and, he has served willingly as the main point of entry for arms and munitions against Rhodesia, which is landlocked west of Mozambique. But let me return to the question of the Cape of Good Hope.

There are four major ports in South Africa for commercial traffic—Durban, East London, and Port Elizabeth on the Indian Ocean side, and Cape Town on the Atlantic side. You also have the

naval port of Simonstown, lying right at the cape. Their future will be decided by the future of the country.

Few things could better summarize the importance of the cape and what is going on there now—with respect to Soviet and United States naval forces and with respect to maritime commerce—than several paragraphs from the report to me of my administrative assistant upon his return from Simonstown last December. I quote:

1. Before the reopening of the Suez Canal, 70 ships per day went around the Cape, headed to or from North and South America and Western Europe and, principally, the oil fields of the Persian Gulf. That figure has *not* declined significantly, because many of these vessels are too large to use the Suez Canal. All the supertankers still go around the Cape, and this is about 12 per day. Seventy-percent of the oil to western Europe, from the Persian Gulf, goes around the Cape today. To the supertanker, the Suez Canal is irrelevant.

* * * * *

3. Simonstown is the most sophisticated naval base on the African continent. It has full machinery and technological capabilities for modern weaponry. * * * * * Simonstown is being dramatically enlarged and modernized too.

* * * * *

6. The "increase in Soviet activity has been phenomenal in recent years"—enormous amounts of war material on their cargo ships.

Two things of interest:

First, before the Angolan war, the Soviets were very discreet. Their military hardware was below deck, and one had to find out through intelligence sources. (The first arrival of major arms equipment from the Soviet Union to the Angolan port of Luanda was March 25, 1975.) After the Angolan war was over, they stopped making pretences. They now carry missile launchers, heavy armor, and even aircraft on top of the decks.

Second, in response to my question as to how many U.S. naval vessels are operating along the sea lanes at any given point in time, either on the Atlantic side or the Indian Ocean side, I was informed, "Zero." Not one. Only an occasional submarine. Yet, in contrast, the Soviets often have 30 vessels operating along this route, naval vsesels.

Mr. Speaker, it goes without saying that the use of port facilities along the South African coast would greatly enhance the at-sea capability which the Soviets are already deploying and demonstrating. This could be accomplished in the next decade, if the United States is unmindful of the strategic consequences of the future of the area.

THE STRAIT OF MALACCA

As I indicated a moment ago, the Strait of Malacca is the principal passage from the Indian Ocean to the Pacific, via the South China Sea. The strait lies between the southernmost tip of the Asian mainland—at Malaysia and Singapore—and the Indonesian island of Sumatra.

This strait's future has been dramatically effected by the outcome of the war in Indochina. The strait lies about 700 miles south of Vietnam and Cambodia. If traffic through it were ever interdicted, ships would have to go hundreds of miles further, out of the way, and at great expense of time and dollars.

The future of the South China Sea, into which the strait runs at its eastern end, could be heavily influenced, as would the strait, by what happens to the naval port facility at Cam Ranh Bay, Vietnam. Prior to the U.S. buildup in South Vietnam, Cam Ranh Bay was of no real military importance. Its only conceivable importance lay in what could be done with it. And, we did it. Cam Ranh Bay was turned into the second largest man-made naval port in the world, second only to the one the Allies constructed at Normandy for the invasion in 1944. We withdrew, and the Communists won.

What is the future of Cam Ranh Bay? The Soviets are now negotiating with the Vietnamese for full use of that Bay—and those facilities. If they obtain them, they could dominate the South China Sea and the Strait of Malacca because the Soviets have no warm water port in the Pacific. Access of the trade routes to Japan and the United States could be easily and quickly intercepted.

THE STRAIT OF MAGELLAN

Lying at the southern tip of South America, this strait is owned outright by Chile. As a matter of fact, the strait actually goes through an island chain at the country's southernmost point.

Which was the first country in South America to "go Communist?" It was, of course, Chile, under Salvador Allende. Allende's outright support of guerilla movements in Latin America and his ties to Moscow and Havana told the world where he stood. So did his internal policies. He was overthrown by tactics repugnant to most Americans, but it kept Communist control away from the strait, and in this particular context, worked significantly to our advantage.

THE PANAMA CANAL

Thirteen major trade routes of the world go through the Panama Canal. Claims to the contrary notwithstanding, all but the largest naval vessels and crude oil carriers use it easily. The reason we have had such a dramatic decrease in U.S. naval vessels using the canal has to relate to directions from Washington associated with the negotiations, and no one can convince me to the contrary. The percentage decline was too dramatic for it to have related to any other factor, especially the size of vessels.

Shadowed first by Soviet submarine capabilities operating from Castro's Cuba on the Caribbean side of the canal, then by Allende's Chile on the Pacific side, the future of the canal now rests with the decisions made by the United States and the government of General Omar Torrijos.

Where does Torrijos stand on this matter of the Soviet Union and the United States? There is an answer which takes this out of speculation. The answer is what he is now doing with respect to his relations with the Soviet Union. On July 19, his government signed an agreement with the Soviet Union setting forth five areas for future bilateral talks. Those talks will cover Soviet purchases of Panamanian sugar at per ton prices higher than Panama can sell them anywhere else, construction by the Soviets of a hydroelectric plant, Soviet use of the free trade zone at the Panamian city of Colon, and establishment of a major Soviet bank in Panama to facilitate Soviet trade in all of Latin America.

This agreement did not happen overnight. Torrijos has made it clear that he sees Castro's Cuba as the trend setter in the Caribbean, and the relationship between the two has amounted to more than handshakes.

I think the new agreement with the Soviet Union and the increasingly friendly association between Torrijos and Castro may explain the context in which the Panamanians are offering the terms of the new treaties. Their context, not the one which has been explained to us by American negotiators and proponents, is quite obviously how they view the treaties' terms and how they intend to rely upon and enforce them. When one considers the United States's intended future use of the canal and its critical importance to our national security—and it must be of such importance because our national administration is putting its heaviest emphasis on how it interprets the treaties' terms in a framework of security interests, nothing could be more important than understanding how the Panamanians intend to interpret those terms.

This need not be speculation. Direct light has been shed upon it this week, and not by us. Rather, by them.

On October 4, Senator ROBERT DOLE of Kansas released the text of a confidential State Department cable which shows conclusively that the United States and Panamanian officials have far different interpretations of key defense provisions in the proposed treaties. This cable says that the U.S. Embassy is likely to be faced with increasing irritation and perhaps public disavowals of U.S. interpretations of the treaties. It warns that any assertion that seems to claim a right to intervene in Panama to protect U.S. use of the canal is almost sure to be challenged there.

Yet, that right is what we have been told by U.S. negotiators and our administration that we do and will continue to have. It is the central point of the debate. And, it is in severe disagreement among the two parties to the treaties. If the United States does not have a right of expeditious passage—giving U.S. warships preferential or head-of-the-line treatment for passing through the canal—then our use of that canal in times of war or international crisis is so limited as to pose a severe threat to our react capability. The cable from Panama says that the preferential passage section had been tentatively accepted by Panama but was subsequently "specifically rejected." The cable goes on to say the Panamanians are disturbed over U.S. assertions that the treaties give the United States the right to intervene in Panama.

In order that there be no speculation about the text of this cable, I will place it into the RECORD at this point in our proceedings:

Subject: Negotiator's concern over hearings:

1. The Political Counselor called Carlos Lopez Guevara on another matter this morning and found him disturbed over some of the testimony before the Senate Foreign Relations Committee—particularly the first day. Two matters seemed to trouble him most:

A. Interpretation of the expeditious-passage clause that U.S. war vessels get "pref-

erential" treatment or that they may "go to the head of the line". Lopez Guevara said that Royo and Escobar tentatively accepted preferential treatment for U.S. and Panamanian war vessels, but in a later session this was specifically rejected by Panama and the word "expeditiously" was substituted.

B. Assertions that the treaty gives the U.S. any right to "intervene" in Panama. He said that article IV means nothing more than what it says. "Intervention is simply forbidden by international law," he said. "Panama cannot agree to the right of the U.S. to intervene." He urged that U.S. officials stop using the term "intervention" in describing its rights under the treaty. He also expressed the view that those testifying before the committee on Monday had made too much of General Torrijos' statement that Panama was under the umbrella of the Pentagon. "The General was stating a fact, not giving the U.S. any right to intervene." He said he had no way of knowing what Torrijos thought of the testimony, but he, Lopez, personally was disturbed with many of our interpretations. He promised to "set the record straight" in a speech he is to make tonight.

2. The political counselor pointed out some statements which Panamanian negotiators had made which do not accord with our understanding of the neutrality agreement. He said that, on balance, the positions on neutrality given by Escobar and Royo, while not identical with our interpretation, were moderate in the Panamanian context. However, certain statements taken by themselves and out of the overall context, have proved difficult to explain to skeptical senators. He pointed out that most of the difficulties in the Senate so far have some from uncommitted senators such as Baker and Stone, rather than hardline treaty opponents. He suggested that it might be useful if the Panamanians would establish a standard position, rather than speak extemporaneously on this delicate question.

3. Lopez Guevara said he understood the difficulties which U.S. negotiators face and asked for copies of some of the offending remarks. However, he cautioned that, no matter how necessary in the American process, there were some things that no Panamanian government could accept.

4. Comment: As the negotiators are aware, Lopez Guevara, though a moderate and reasonable man, is relatively inflexible on some questions. As he pointed out, he was at the head of those who did not accept the concept of priority passage for U.S. war vessels.

He is considered a technician within the government, but he is influential. As we talk with other negotiators and officials who are campaigning for the treaty here, we will urge caution on any statement concerning U.S. rights under the neutrality treaty. But we are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged here.

Mr. Speaker, this cable raises exactly the kind of question to which the American people—and the Congress of the United States—are entitled to have answers drawn from reality, not hoped-for circumstances.

You cannot expect a Member of Congress, or any informed American citizen, to look at what is going on in terms of the world's strategic waterways, then look at what the substantial and substantive differences of opinion are between the United States and Panama over the treaties now before us, and expect them to be supported.

NATIONAL GRANDPARENTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Florida. Mr. Speaker today I introduced a bill which will provide for the annual proclamation of the first Sunday of September after Labor Day of each year as National Grandparents Day.

Bernice and Alan Courtney, two well-known and outstanding American radio personalities from South Florida, formed an organization named CROG. The letters stand for Civil Rights of Grandparents and the organization is dedicated to serving the long-ignored rights of grandparents. The following is a press release sent out earlier this year spelling out the rules of this organization:

CROG—CIVIL RIGHTS OF GRANDPARENTS

Bernice and Alan Courtney are proud to announce the formation of CROG—Civil Rights of Grandparents. CROG is a non-profit, non-partisan organization dedicated to serving the long ignored rights of Grandparents (GP).

We have Mothers Day, Fathers Day. Isn't it time we observed GP Day?

GP should have the right to spoil their Grandchildren without Parental interference.

GP should have the right to discipline their Grandchildren without Parental interference.

GP should have visiting rights by inviting their children and Grandchildren to dinner but the children and Grandchildren must make and serve the dinner.

GP should have the right to exaggerate the talents and charms of their Grandchildren even as they have the right to be critical of their shortcomings.

GP should have the right to expect their Grandchildren to consult them when they claim to have a problem.

All CROG members must carry snapshots of their Grandchildren for proper identification.

CROG will make available to its members who never attended College, a Special Diploma from the "University Of Hard Knocks".

CROG will fight to protect its members from being deprived of their right to work, if they wish, regardless of age, so long as they are capable and willing.

CROG will sponsor Radio, Tv, and press articles to educate all politicians and fellow citizens about the rights of GP.

CROG will fight to preserve the Free Enterprise Capitalistic System that made this Country possible.

CROG will petition U.S. Congressmen, State Legislators, and local Officials to recognize the voting power of some thirty million Grandparents.

CROG will sponsor annual Dinner Testimonial Awards for the outstanding GP of the year.

CROG will sponsor a newsletter, bumper stickers and other promotional methods to make this a widely recognized and respected National Institution. The dues will be nominal yearly.

Will you help us?

Mr. Speaker, on May 16, 1977, the Senate passed Senate Joint Resolution 24 which would authorize the President to issue a proclamation designating the first Sunday in September following Labor Day each year as National Grandparents Day.

It is my understanding that the House Post Office and Civil Service Committee referred this bill to the Subcommittee on Census and Population.

Mr. Speaker, I am introducing a bill today as a companion measure to the one passed by the Senate on May 16. It is my understanding, however, that there are 3 other dates proposed by various House Members, one setting the date November 16, which has 26 cosponsors in the House. I do not feel that the dates are significant or for that matter the first Sunday after Labor Day is better than another insofar as it relates to grandparents. But, Mr. Speaker, I would think the designation of such a day is a good idea since it will expand the interest of people today in tracing their parental roots to honor not only their grandparents, but their great-grandparents and great-great grandparents.

Mr. Speaker, it is my opinion that people will learn a great deal by the study of history and study of one's family history can be very enlightening. Although my bill may, to some, sound frivolous, I however, believe it is important to children to learn and appreciate their heritage and they should learn firsthand from their grandparents and their other relatives the accomplishments, the struggles and successes of past generations.

We are more and more becoming aware that for too long now, our culture has been youth-oriented—now we know that the amount of the elderly in our population will be older in the future. I think it is now time that we reinstituted a learning and appreciation among our young for their forebears.

Mr. Speaker, I urge my colleagues to join with me as a cosponsor.

VETERANS' EDUCATIONAL EQUITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 10 minutes.

Mrs. HECKLER. Mr. Speaker, I am today pleased to introduce, along with my distinguished colleague from Wisconsin, Father CORNELL, the Veterans' Educational Equity Act. This much-needed legislation would equalize educational opportunity for millions of veterans across our land.

The primary purpose of the Veterans' Educational Equity Act is to further refine and develop both the conceptual premises and the practical application of one of the most successful social programs our Nation has ever known—the GI bill of educational rights.

Since the time that the Pilgrims first resolved that those who served their colony in a military capacity merited special compensation, our Nation has honored its veterans with benefits which range from medical services and treatment to educational readjustment opportunities. I can say from my experience as ranking minority member of the Veterans' Subcommittee on Education and Training that this principle endures. Indeed, the legislation I introduce today is a qualitative extension of this principle.

It would implement the following three refinements:

First. After paying the first $400 of his or her tuition, a veteran with higher tuition costs could obtain compensatory payments by the Veterans' Administration of two-thirds of the remaining tuition, up to a maximum payment of $1,000. This tuition equalizer would be paid directly to the veteran after successful completion of the semester or term, thus preventing fraud or abuse;

Second. Tuition equalizer payments cannot increase by more than 6 percent a year. This cost containment provision prevents unfair or unscrupulous increases in tuition costs;

Third. The time period available to veterans to utilize their educational benefits would be extended by 2 years. This additional time is necessary in order for the veteran to recover lost opportunity precipitated by operative constraints in the existing legislation.

This legislation addresses the needs of today's young veteran who wishes to pursue educational opportunity but who is restricted or prevented from doing so because of the prohibitively high cost of living and of obtaining an education in many areas of the country. It improves upon, but does not replace, the current flat-rate system of educational assistance payments.

Under the flat-rate system, each veteran is granted the same amount of money (subject to the number of dependents) regardless of where he or she may live and regardless of tuition costs. This schedule of payments is most inflexible.

In contrast, the World War II GI bill was more finely tuned and took into account such factors as cost of living and of obtaining an education. It granted each veteran a $76 monthly subsistence allowance and a $500 maximum annual tuition payment. With the average cost of tuition for the World War II veteran at $505, this was, in effect and for most, a total payment of tuition costs.

Today, however, the average tuition cost for the Vietnam veteran who must attend a private, independent college or university is $2,100. The flat payment system does not approach meeting this expense. In fact, it is shocking to learn that, according to the Veterans' Administration's own figures, a veteran attending a private college today needs $1,700 more annually to reach the benefit level of his World War II counterpart.

The evidence is very strong that the differences between the two GI bills produces unequal educational opportunity for today's veteran. The veteran who attends California State University (San Francisco) pays 15 percent of his or her benefit allowance for tuition and has 85 percent remaining to meet subsistence expenses. But the veteran who attends Northeastern University (Boston) pays 97 percent of his or her benefit allowance for tuition. The remaining three percent must contribute toward paying living expenses which the Department of Labor says are the highest in the Nation.

This example is not extreme; it is typical for the great number of veterans who have limited or no access to low-cost institutions of higher learning. As an example of this situation, a veteran in Boston who desires to enroll in an engineering program has no alternative—he must enroll in a high cost institution or not at all. This no-choice situation nearly always occurs in a community which has a high cost of living. This double difficulty fails to be addressed by the current flat payment system.

As I have already noted, the Veterans' Administration would be authorized by this legislation to pay annual tuition increases up to a limit of 6 percent. This protective cap prevents the kind of unscrupulous increases in tuition which opponents of this measure fear.

But, Mr. Speaker, the real protection that will be afforded to the veteran, the Federal Government and the taxpayer in this regard is the marketplace itself. While existing law prohibits educational institutions from charging veterans higher tuition than other students, and while the protective cap provision of this bill is a further safeguard, the marketplace will provide the ultimate iron-clad protection we seek. No institution or class of institutions can afford to price itself out of the market by attempting to increase tuition for the sole purpose of taking advantage of what is but a limited amount of Federal funds. And by paying the veteran only upon successful completion of his program, the possibility is precluded that an individual may take the money and run without ever having attended courses.

The tuition payment formula Father Cornell and I propose is consistent with the historical posture of the Congress with regard to veterans' educational assistance allowances. That is, it pays only a part of the tuition and subsistence expenses of the veteran.

The GI bill has never been designed to pay all of the education and/or subsistence expenses of the veteran. Rather, the educational adjustment program is designed to provide a form of assistance to the veteran in his effort to leave military life and return to his previous status as a civilian. Indeed, the return that this program has brought to our Nation in terms of tax dollars obtained and lives fulfilled is immeasurable; while the GI bill clearly is a social program, there is no need whatsoever to transform it into a social welfare program. Adjusted to allow for tuition equalization, the GI bill is further and adequately refined to meet the needs of changing times.

The 2-year extension of the period in which a Vietnam-era veteran may pursue his or her education is necessary because of the unique circumstances which marked the Vietnam war.

During the first 6 years of the Vietnam-era GI bill, educational assistance payments were extraordinarily small. In 1966, for example, the first year of the bill's operation, the monthly assistance allowance for a single veteran was $100. Even a veteran attending a low-cost institution could gain no comfort or encouragement from this rather paltry sum.

Major increases in educational assistance allowances did not occur until the current decade, and even then the level of assistance did not begin to reach a realistic state until after 1972, a full 6 years following the inception of the program. Mr. Speaker, the incentive to the Vietnam veteran to utilize this bill has been absent throughout most of its existence.

It has been argued that this unprecedently low level of educational assistance was the direct consequence of the fact that the war was a confusing conflict to many and, from its beginning to its end, cause a great deal of tumult at home. Regardless, the fact remains that no other GI bill has had such an inadequate and unheralded history. Given these considerations, our investment in this legislation is both appropriate and just.

Mr. Speaker, the cost of this legislation, as reckoned by the Veterans' Administration, is $332 million for fiscal year 1978. As a total figure for tuition equalization and a 2-year extension of the delimiting date, this amount is very economical.

Tuition equalization is supported by the American Legion and numerous Vietnam veterans' groups, such as the National Association of Concerned Veterans and the National Association of Veterans' Program Administrators. It is supported by the prestigious American Council on Education, numerous other higher educational organizations and associations, and the National League of Cities and U.S. Conference of Mayors.

This bill is a considered attempt to address the necessary and unfinished busines of Vietnam: We have a great deal to accomplish in this regard. But, Mr. Speaker, our young veterans deserve no less.

EQUITY FOR VIETNAM VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. CORNELL) is recognized for 5 minutes.

Mr. CORNELL. Mr. Speaker, I am pleased to join the gentlewoman from Massachusetts (Mrs. HECKLER) in introducing the Veterans Educational Equality Act. This legislation is intended to correct a serious defect in the present GI bill—the failure to provide veterans in all States with the same educational opportunities.

If a veteran happens to live in a region where education costs are comparatively high, or if a private institution best meets his or her educational goals, the present payment program will simply provide less educational opportunity than afforded the more fortunate veteran who lives in an area where tuitions are lower.

Our bill is aptly titled for it does indeed bring greater equity into the veterans' educational training program. By making VA payments comparable to tuition costs, it provides every veteran, no matter where he or she lives, with the same educational opportunities.

Another problem that has plagued many Vietnam-era veterans has been the 10-year delimiting-date restriction. For

quite a few of these young people the monthly payments were inadequate to support a family and pay educational expenses so they delayed using their GI bill and now face the loss of these benefits because of the delimiting date. Our legislation extends the period to use educational benefits up to 2 more years for those veterans currently enrolled in a course of study in order to enable them to complete their educational programs.

One of the most striking features of our bill, Mr. Speaker, is its simplicity. Because the veteran is paid directly by the VA, the schools will have a minimum of paperwork to handle. Because the veteran receives a tuition-equalizer payment after he or she has succesfully completed the semester or term, the chances for overpayments or fraud are practically eliminated. Because tuition-cost payments cannot be increased by more than 6 percent a year, the opportunity for schools to take advantage of this program is greatly reduced. This is not a complicated, cumbersome, unmanageable program we are proposing. It is a direct, simple way of addressing a source of great inequity in the GI bill.

Mr. Speaker, I urge my colleagues in the House to join us in working for the enactment of the Veterans Educational Equity Act.

A BILL FOR TAX RELIEF AND FUTURE SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, on October 4, I reintroduced H.R. 7587, which will allow certain individuals to establish modified individual retirement account (IRA) plans and to make their contributions to employer-sponsored pension plans deductible from their gross income. This legislation has up to this point received the bipartisan support of 31 Members of the House, reflecting all shades of the political spectrum.

H.R. 7587 is designed to meet two present inequities in the tax law. First, this legislation improves the system for IRA plans, which now allow an individual not covered by an employer-sponsored pension plan to set aside the lesser of $1,500 or 15 percent of his or her income per year and receive a current tax deduction from their gross income for the amount set aside. H.R. 7587 would enable people to set up modified IRA's even if they are covered by a pension plan, yet if that plan offers only meager benefits. Currently, if an individual is covered by an employer-sponsored plan, regardless of the extent of the benefits, then that individual is ineligible to set up an IRA plan. H.R. 7587 would enable such individuals to set up IRA plans, which, when combined with their current contributions to the employer-sponsored plan, would equal the current IRA limits.

Second, H.R. 7587 would enable individuals who contribute to employer-sponsored plans to deduct those contributions from their current gross income. In this way, these contributions would be treated the same as IRA contributions are now treated, which are in fact themselves contributions to a pension plan. As a result, the individual who contributes to an employer-sponsored pension plan will, like the present contributor to an IRA plan, be able to have the advantages of deferred taxation. That is, both of them will be able to deduct their contributions now and pay taxes on the income which made up the contributions later and at, most likely, a lower tax rate due to their retirement.

Mr. Speaker, I therefore believe that H.R. 7587 will add a greater equity to our tax system, and deserves the thoughtful consideration and full support of the Congress.

HOUSE RESOLUTION 766—ADMINISTRATIVE REFORM (OBEY COMMISSION)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on yesterday the House debated the rule for the consideration of House Resolution 766, administrative reform (Obey Commission). The rule was defeated, but had we debated House Resolution 766, I was prepared as chairman of the Subcommittee on Personnel and Police of House Administration to bring to the attention of my colleagues some of the responsibilities under my jurisdiction which affect this House.

The Subcommittee on Personnel and Police, which I have the privilege to chair in its original report in 1973, recommended the consolidation of some of the functions of the House in order to do away with duplication and to achieve greater efficiency. It made recommendations on the barbershops, the House document room, the Clerk's document room, and so forth. It went so far as to recommend the abolishing of the Office of the Doorkeeper, and the consolidating and realining of the duties of that office with the Clerk and Sergeant at Arms.

Mr. Speaker, on the whole, the present system functions well. It is about time the positive side is given equal emphasis, for it is far more impressive. We have heard only the negative from the critics of the House.

For example, under the present system the U.S. Capitol Police Force was changed from an inept patronage police force to a fine, well-trained professional police force with an outstanding performance record. We are now phasing out, by attrition, the Metropolitan Police Unit detailed to the Capitol Police Force at a savings in salaries of approximately $300,000 annually. And when this program is completed, the annual savings will be well over $1,000,000 annually.

Another example is the House Post Office. Under the guidance of the committee, working with the new postmaster, Robert V. Rota, an outstanding job has been done. In the past 3 years, the volume of mail handled in the House Post Office has more than doubled. Presently, the post office handles approximately 8,400,000 pieces of mail per month, and delivers mail to two additional buildings, HOB Annex No. 1 and HOB Annex No. 2. Special expedited delivery services have been established with the White House, the State Department, the Social Security Administration, and the Library of Congress. Also, the House Post Office now X-rays every piece of mail and every package which comes through the post office as a special precaution to stop delivery of mail that might have been rigged with explosive devices.

This was accomplished by changing the classification of certain positions, rearranging the hours and the workload of the existing positions, and by the addition of only six people who were specially trained to X-ray the mail.

Another example is the office of records and registration which operates under the jurisdiction of the Clerk of the House and administers the Federal Election Campaign Act. The Committee on House Administration and the Clerk structured that office to utilize existing facilities and thus saved the taxpayers thousands of dollars. This savings is especially evident when one compares the operating costs of the records and registration office with the office of the Secretary of the Senate and the General Accounting Office which are the other administering agencies specified in the Federal Election Campaign Act of 1971.

Hundreds of thousands of dollars have been saved through the in-house typewriter repair service and stencil cutting service now available under the office equipment service and all the in-house services carried on by the office of property supply and repair service such as, making our own draperies, doing our upholstering and refinishing of desks and furniture, cabinetmaking, and so forth.

There are many other examples but my brief remarks do not permit their enumeration at this time.

Mr. Speaker, I want to emphasize that these are not services that are going to become operative in 1978 or 1979. These services have been in operation and are being offered this very minute. They have been brought about over the years by the Committee on House Administration and the House officers.

I believe that the present system of the House officers and the Committee on House Administration is capable of bringing about any and all of the so-called reforms that are being recommended by the Commission. The House officers and the Committee on House Administration are responsive to the needs and wishes of the Speaker and the Members. As elected public officials they are sensitive and responsive to the needs of the House and the wishes of the taxpayers.

Many of the so-called problems are overstated. The Obey commission report mentions that there are no job descriptions for the positions in the Office of the Doorkeeper and the Office of the Sergeant at Arms. That is not so. In 1973, as chairman of the Subcommittee on Personnel, the first action taken by the subcommittee was to bring in outside professional classifiers at no cost and they reevaluated and reclassified and updated the position descriptions for every

position under the four House officers—a total of 750 jobs. These position descriptions are on file in the office of our subcommittee. By the way, the net result of this survey was the abolishment of 30 positions, downgrading of 167 positions, upgrading of 70 positions, transferring some functions to the Architect, and combining other functions for greater efficiency which resulted in a savings of approximately $900,000 per Congress. This is an ongoing program.

Mr. Speaker, I would also like to emphasize that all of the classification was done with the help of the U.S. Civil Service Commission, the General Accounting Office, my staff director, and my secretary in the office. I would also like to point out that in 1973 my staff director received a salary of $15,000 and my secretary received a salary of $9,000 annually.

A desk audit was completed on every position under the jurisdiction of the four House offices. The individuals involved were given an opportunity to correct their job descriptions, the final classifications were based on the job descriptions, and we have held the line firmly to this day.

The Committee on House Administration controls the number of jobs under the four House offices. All requests for new jobs are made through the House officers to the Subcommittee on Personnel and Police. After the subcommittee has held a hearing and made a recommendation, be it for 1, 10 or 50 jobs, the recommendation is then sent to the full committee for final action.

I would like to point out at this time the total number of job increases since 1973, even with the addition of the two new House office buildings, has been low, and absolutely no jobs have been added unless they were fully justified. I know my colleagues will agree with me that we have been extremely careful in making expenditures, and yet, we have not cut services to the Members and the citizens they represent.

It is my feeling that with a few changes, the Commission's basic concerns can be brought about more efficiently and more economically under the present system. Possibly it may be necessary to add a coordinator or troubleshooter or an ombudsman to the staff of the Committee on House Administration. The duties of this individual would be to coordinate the functions of the House officers, to be a troubleshooter, to seek out problems and make recommendations to the leadership and the Committee on House Administration that would prevent or clear up problems, and to work closely with the Members and committees in order to meet their specific needs.

The addition of this function to the Committee on House Administration would certainly result in greater efficiency in carrying out the duties of the House and would also bring about substantial savings to the taxpayers.

It has been said that we are in an era of reform just for sake of reform, but I want to say that I have been around this House much too long and have too high a regard for this House to stand idly by while its image is being destroyed in the name of reform.

Mr. Speaker, in conclusion I would like to wholeheartedly endorse title VII. Title VII is needed now, for it is absolutely necessary that we straighten out the jungle of committees that have been created in the name of reform and that exist today in the House of Representatives. We already have had enough reform. We have had so much reform that it is virtually impossible for a Member to work effectively, attend committee meetings without disruption, and to pay attention to the job he was elected to do and that job is to be a good lawmaker.

It was never intended by our forefathers to have men elected to the Congress of the United States to devote their full time on procedural matters, instead of on legislative matters.

The problems facing this country are great. We must get this House back in order. It is in disarray. We already have over 180 subcommittees. We also have too many select committees which have infringed on the rights of the standing committees of the House and have duplicated their efforts.

I strongly urge the Speaker and the leadership to do everything in their power to introduce a resolution, as suggested under title VII of the Obey commission report, authorizing the formation of a special committee for the purpose of putting this House in order. Only when the House is restored to order can we act effectively in resolving the energy problem, the inflation problem, the unemployment problem, the tax reform problem, the trade problem, and the myriad of other problems that confront our Nation today. These problems are great, but they are not insurmountable.

However, we must first reorganize this House so that we can meet without interruptions and without four or five meetings going on at the same time. I urge all of my colleagues in the House to urge the Speaker and the leadership to move full speed ahead on title VII.

ODAP AND THE REORGANIZATION PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, because I represent a district in which drug abuse is a very real and pressing problem, and as a member of the Select Committee on Narcotics Abuse and Control, I am deeply concerned by one aspect of this reorganization plan. I am referring to the section which would abolish the Office of Drug Abuse Policy (ODAP).

ODAP was created by the Congress to carry out several important functions. Specifically, it was Congress intent to establish at the highest level an entity which would: formulate drug abuse policy and strategy; coordinate the efforts and functions the various Federal agencies involved in the fight against drug abuse in this country; and insure executive accountability to the Congress on drug abuse policy.

I might add that numerous efforts were made by the distinguished gentleman from Florida (Mr. ROGERS) and myself to statutorily establish ODAP, and this was finally accomplished despite the strenuous opposition of the Ford administration.

The Carter administration has indicated on several occasions that this reorganization plan will not eliminate any of the functions presently performed by ODAP. We have received assurances that the President will clearly delineate the role and authority of his Special Assistant on Health. Issues and that this assistant, in consultation with the domestic policy staff, will formulate a comprehensive Federal policy to deal with this serious problem of drug abuse. Further, we have been assured that the Special Assistant will be fully accountable to the Congress and that there will be no invocation of Executive privilege with regard to testimony before congressional committees.

By means of these assurances, the administration has indicated to the Congress and the Nation that it recognizes the underlying purposes and objectives which led to the creation of ODAP and that it will develop alternative means for the attainment of these objectives.

It is important to reemphasize that the problems which existed at the time ODAP was established still remain. ODAP has made much progress in dealing with these problems in the brief period of its existence, and this progress should continue. The administration has assured us that it will; and I know that my colleagues and I will monitor closely the activities and operation of the alternative mechanism which is established to formulate drug policy and to direct interagency coordination efforts.

In conclusion, Mr. Speaker, I am confident that the elimination of ODAP does not represent a lessening of the President's commitment to attacking the problem of drug abuse in this country. I am hopeful that the new structure for Presidential decisionmaking in this area will prove to be very effective and that high priority, including the allocation of necessary resources, will continue to be accorded to this serious national problem.

STATEMENT OF CONGRESSMAN WILLIAM D. FORD ON H.R. 9512, A TECHNICAL AMENDMENT TO THE HIGHER EDUCATION ACT THURSDAY, OCTOBER 13, 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, as chairman of the Subcommittee on Postsecondary Education, I call to the attention of my colleagues legislation scheduled for consideration next week which is designed to correct a problem only recently brought to our attention.

I was informed early this month of an Office of Education determination that

institutions of postsecondary education in the Trust Territory of the Pacific Islands were not eligible for participation in programs authorized by several titles of the Higher Education Act of 1965, as amended.

This determination in February of this year was a reversal of the Office of Education's earlier certification of eligibility and resulted from the discovery that statutory authority did not exist despite the widely held understanding, both in Congress and in the executive branch, that such authority was intended.

Specifically, the trust territory has been denied participation in the programs authorized by the following titles of the Higher Education Act: Title I, Community Services and Continuing Education; Title II, College Library Programs; Title III, Strengthening Developing Institutions; The VI-A, Undergraduate Instructional Equipment; and Title VIII, Cooperative Education.

At this point, I should like to insert in the RECORD a letter dated September 13, 1977, from the Commissioner of Education to the Director of Territorial Affairs in the Department of the Interior which explains the actions of the Office of Education in detail.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., September 13, 1977.

Mrs. RUTH G. VAN CLEVE,
Director, Office of Territorial Affairs, Department of Interior, Washington, D.C.

DEAR MRS. VAN CLEVE: Thank you for your letter requesting my review of the recent determinations that the Community College of Micronesia and the Micronesian Occupational Center do not meet the statutory eligibility requirements for five of the institutional assistance programs authorized under the Higher Education Act of 1965, as amended.

When these two institutions applied for eligibility to participate in Federal programs of financial assistance to students and institutions of higher education in 1971 and 1972 respectively, they were correctly cited as eligible to participate in the student assistance programs under Title IV of the Higher Education Act (20 U.S.C. 1088(a), 1088a), and in the academic facilities programs under Title VII of the act (20 U.S.C. 1132e-1(10)). Extension of eligibility to residents of the Trust Territories to participate in these student financial aid programs was provided under Sections 461 and 462 of the Higher Education Act as added in 1968 by Section 451 of P.L. 90-575. Institutions in the Trust Territories became eligible to participate in the academic facilities program in 1972 under the amendment to the Higher Education Act made by Section 161 of P.L. 92-318, which added a new Title VII to the Higher Education Act (see 20 U.S.C. 1132e-1(10)). There are other specific provisions of the Higher Education Act that make permanent residents of the Trust Territories eligible to participate in programs of Federal assistance authorized by the Higher Education Act, such as the College Work-Study program, where eligibility was extended in 1968 (42 U.S.C. 2752(a)), and the Teacher Corps Program, where eligibility was extended in 1974 (20 U.S.C. 1103(c)(2)).

As stated in the attached letters to the two institutions, the Higher Education Act contains no general statutory authority to declare these institutions eligible to apply for participation in Title I, Community Service and Continuing Education; Title II, College Library Programs; Title III, Strengthening Developing Institutions; Title VI-A, Undergraduate Instructional Equipment; and Title VIII, Cooperative Education.

This is because eligibility for purposes of these programs is governed by Section 1201 (a) and (b) which require an eligible institution to be in a State (20 U.S.C. 1201(a)), but in the definition of State do not include the Trust Territory of the Pacific Islands (20 U.S.C. 1201(b)).

Two of these programs have definitions of eligibility set out in the program statutes which do not include the Trust Territories. For instance, the State grant program under Title I (20 U.S.C. 1003(a)) makes no provision for an allotment to the Trust Territories, despite providing allotments for other U.S. dependencies. Similarly, the provision which governs allotments under Title VI-A makes no reference to the Trust Territories (20 U.S.C. 1122(a)(2)). Finally, the amendment made by Section 129 of P.L. 94-482 which struck out Part D of Title IV (Cooperative Education) and made it Title VIII of the Higher Education Act, placed this program under the eligibility provision of Section 1201(a) and (b), explained above, and thus removed eligibility to participate in the Cooperative Education Program from the two institutions of higher education in Micronesia.

While we regret that these determinations may adversely affect these institutions in Micronesia, we have no authority to waive basic statutory requirements for institutional eligibility.

If I may be of further assistance, please let me know.

Cordially,

ERNEST L. BOYER,
U.S. Commissioner of Education.

At a meeting of the Committee on Education and Labor yesterday morning, this situation was discussed. The committee unanimously agreed that this omission was not intended, and I was directed to prepare and introduce legislation in the form of a technical amendment to correct it. This legislation, H.R. 9512, was introduced yesterday and was cosponsored by the distinguished chairman of the Subcommittee on National Parks and Insular Affairs of the Committee on Interior and Insular Affairs (Mr. PHILLIP BURTON).

Further, the committee unanimously directed the chairman (Mr. PERKINS) to seek to have this bill placed on the suspension calendar for House consideration next week.

Mr. Speaker, in anticipation of such consideration, I am bringing this situation to the attention of my colleagues at this time in an effort to assure expeditious passage so that the schools which are now participating in these programs will not be jeopardized.

In this connection, I would like to insert in the RECORD at this point the text of H.R. 9512, a letter from the Director of the Congressional Budget Office indicating that enactment of this bill will result in no additional cost to the Federal Government, a letter from the Director of Territorial Affairs and a letter from the Office of Education requesting that this situation be remedied.

A bill to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Subsection (b) of Section 1201 of the Higher Education Act of 1965 is amended to read as follows:

"(b) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.".

(b) Subsection (a) of section 491 of the Higher Education Act of 1965 is amended by striking out "includes the Trust Territory of the Pacific Islands" and inserting in lieu thereof "has the meaning set forth in section 1201(b)".

(c) Sections 602(a)(2), 1001(b)(2), and 1012(a) of the Higher Education Act of 1965 are each amended by inserting ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" after "American Samoa".

(d) Nothing in this Act, the Higher Education Act of 1965, or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 13, 1977.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the House reported bill H.R. 9512, which technically amends the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands and the Northern Mariana Islands in the definition of a state. The Higher Education Act Amendments of 1976 had omitted defining these territories as a state under several provisions.

Based on this review, it appears that no additional cost to the government would be incurred as a direct result of enactment of this bill. However, this bill would make the Trust Territories of the Pacific Islands and the Northern Marianas eligible for benefits under a number of discretionary federal programs. Thus, while no additional expenditures are mandated by the bill, the relevant federal agencies might seek additional funds in order to provide such benefits.

Sincerely,

JAMES BLUM,
For ALICE M. RIVLIN,
Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. October 11, 1977.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, House of Representatives, Washington, D.C.

DEAR CHAIRMAN FORD: I was pleased to receive a copy of your October 4 letter to Commissioner of Education Boyer requesting of him draft legislation to correct a legislative oversight so as to grant eligibility to the Trust Territory of the Pacific Islands for Titles I, II, III, VI-A and VIII of the Higher Education Act, as amended.

Your letter stated that, since there is no legislative history to indicate this ineligibility was intentional, and since the Micronesian institutions were previously declared eligible by the Office of Education, you are anxious that this situation be remedied as soon as possible. We agree with your position.

The Trust Territory is eligible to participate in other portions of the Higher Education Act of 1965, as amended, such as Title IV—Student Assistance—Grants, Guaranteed Student Loans, College Work Study, National Direct Student Loans, and Title VI—Academic Facilities.

Last February, Micronesia's two post-secondary institutions, the Community College of Micronesia and the Micronesian Occupational Center, received letters from the U.S. Office of Education stating that those institutions were no longer eligible to participate in Titles I, II, III, VI-A and VIII, for which they were previously declared eligible. This decision was reached because the definition of a "State" in Section 1201(b) includes the States, the Commonwealth of Puerto Rico, the District of Columbia, and the territories of Guam, American Samoa, and the Virgin Islands, but not the Trust Territory of the Pacific Islands.

During FY 76, the Community College of Micronesia and the Micronesian Occupational Center each received $3,930, or a total of $7,860, under Title II-A of the Higher Education Act—College Library Programs, and in FY 75, each received $3,918 under Title II-A of the Higher Education Act, or a total of $7,836. This is not much money compared to state-side standards, but even that small amount is a substantial contribution to the development of college libraries and to the students in the Trust Territory.

Last year the U.S. Office of Education informed the Trust Territory of the Pacific Islands that it was eligible to apply for a grant under Title III of the Higher Education Act—Strengthening Developing Institutions, and was encouraged to do so. Following submission of the application, the Trust Territory was held to be ineligible.

In addition to discussions with HEW staff about this matter, I had written to Commissioner Boyer last May 9 requesting that the issue be reviewed to determine whether the Micronesian post-secondary institutions could continue to participate in the programs for which they were previously declared eligible. Enclosed for your information is a copy of Commissioner Boyer's September 13 response.

We are pleased with the progress made to date by the Micronesian post-secondary institutions. The Micronesian Occupational Center received full accreditation this year from the Western Association of Schools and Colleges. The Community College of Micronesia is due to have an accreditation review this coming spring. These institutions would undoubtedly benefit from the provisions of the Higher Education Act, including such titles and provisions as Strengthening Developing Institutions and Post-Secondary Planning Commissions, if they were eligible to participate.

Sincerely yours,

Mrs. RUTH G. VAN CLEVE,
Director,
Office of Territorial Affairs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF THE SECRETARY,
Washington, D.C., October 13, 1977.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR BILL: Thank you for your letter of October 4, 1977, to Commissioner Boyer relating to the eligibility of institutions in the Trust Territory of the Pacific Islands to participate in several programs authorized by the Higher Education Act of 1965.

The Higher Education Act of 1965 contains no general statutory authority making institutions in the Trust Territory eligible for all programs authorized by that Act. While specific statutory authority exists for institutions in the Trust Territory under Title IV (Student Assistance) and Title VII (Construction of Academic Facilities), no authority exists for participation in Title I (Community Services and Continuing Education), Title II (College Library Assistance and Library Training and Research), Title III (Strengthening Developing Institutions), Title V (Education Professions Development), Title VI (Financial Assistance for the Improvement of Undergraduate Instruction), Title VIII (Cooperative Education), Title IX (Graduate Programs), Title X (Establishment and Expansion Community Colleges), Title XI (Law School Clinical Experience Programs), and the authorization for statewide postsecondary planning under Title XII.

It is my understanding that this situation resulted from legislative oversight. We recognize that you are attempting to correct it and agree with your objective.

Sincerely,

DICK WARDEN,
Assistant Secretary,
for Legislation.

CRITIQUE OF PROPOSED ORDER ON SECURITY CLASSIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, several weeks ago, the White House solicited the views of the Subcommittee on Government Information and Individual Rights, which I chair, with regard to the proposed Executive order on security classification. I think the willingness of the Carter Administration to have our comments on this order before it is issued is, indeed, commendable.

In response to their request, I have submitted a lengthy critique which, in view of the importance of the order and the lack of public comment thus far, deserves wider circulation. I am including my general comments at this point in the RECORD. In addition to these general comments, a section-by-section analysis has also been prepared but, due to its length, I will not place it in the RECORD. Persons who are interested in it may obtain a copy from the Government Information and Individual Rights Subcommittee office.

The comments follow:

CRITIQUE OF THE PROPOSED EXECUTIVE ORDER ON SECURITY CLASSIFICATION

INTRODUCTION

The following critique is divided into two parts. The first is a general evaluation of the proposed order, with emphasis upon its treatment of the following areas: the classification process, the authority to classify, oversight and accountability, the marking of unclassified portions, and secrecy agreements. The second part is a section-by-section commentary.

In both parts, an effort has been made to identify those provisions which appear to be praiseworthy as well as those deserving of criticism.

PART I: A GENERAL EVALUATION

The proposed Executive Order on security classification drafted by the Carter Administration is an improvement over Executive Order 11652, the current order on this subject. Its provisions should result in curbing to a greater degree, improper and unnecessary use of the classification system. Information classified under previous orders should also become available sooner than would otherwise be the case. The proposed order also attempts, for the first time, to remedy problems which have not heretofore been treated in previous orders on this subject.

But, for its good points, the proposed order is nonetheless weighted towards secrecy, and does not adequately balance, as it purports to do, the competing interest of public access. While the order does restrict the number of federal agencies with classification authority, it is not clear that the order will result in fewer officials exercising such authority, or will result in less information being classified, or will result in earlier declassification than under the existing order. Moreover, the proposed order does not go far enough in some instances in correcting the problems which it seeks to remedy. Its oversight and control mechanisms, in particular, are notably deficient in detecting and correcting abuses of the system. Finally, it contains a number of provisions not directly related to the classification process itself, which could have the effect of promoting secrecy, rather than openness.

THE CLASSIFICATION PROCESS UNDER THE PROPOSED ORDER

The proposed order retains the three classification categories of previous orders: "Top Secret", "Secret", and "Confidential". For a "Top Secret" classification to be applied, disclosure of the document in question must be "reasonably expected to cause exceptionally grave damage to the national security". For a "Secret" designation to be applied, "serious damage" must be reasonably expected; and for a "Confidential" classification, "significant damage" must be reasonably expected.

In addition to making this judgment, the classifier must also determine prior to classification that the document in question contains information meeting any one of thirteen classification criteria, set forth in proposed order. For the most part, these criteria elaborate in more specific terms what is meant by the phrase "national security", defined elsewhere in the proposed order as the "foreign policy or national defense interests of the United States".

The proposed order also identifies several categories of information whose classification is prohibited per se. Included in this section are requirements that if the classifier is in doubt whether a particular document should be classified, that he should strike the balance in favor of public access, or where in doubt as to the level of classification, that the lower level should be assigned.

At the time the original classification decision is made, the order imposes on the classifier the responsibility of assigning a declassification date or event to the document being classified. The proposed order provides no general declassification schedule, however, as the current order does, to guide this decision. It is left entirely to the discretion of the classifying authority. For persons who hold only "Secret" or "Confidential" classifying authority, and who are not "heads of agencies" with classifying authority, the order imposes a 6-year maximum on the period the document may be classified. For persons who hold "Top Secret" classification authority, or who are heads of agencies with "Secret" or "Confidential" authority, however, two additional options are available. First, an automatic declassification date or

event later than 6 years, but no more than 20 years, may be assigned the document. Alternatively, if the head of the agency has designated certain categories of information for review at the end of 20 years, and the information falls within any such category, the classifier may simply assign such information to be reviewed at the end of 20 years.

If persons with "Secret" or "Confidential" classification authority wish to specify a declassification date in excess of 6 years, or, if the information falls into the categories established by the agency guidelines, wish to mandate its review in 20 years from the date of origination, they must presumably obtain the approval of a person with "Top Secret" classification authority, or the approval of the agency head, as the case may be.

All classified documents which have not been automatically declassified within 20 years of their origination must be reviewed by the agency concerned at such time to determine if continued classification is necessary. If such documents do not fall within the categories established by the agency's guidelines, their classification cannot be continued. However, if they do fall within the guidelines, their classification may be continued indefinitely thereafter in ten-year increments. The order further provides that agency heads and the Director of Central Intelligence may even seek a waiver of the ten-year review requirement for particular documents.

Declassification of a document may be requested at any time by a member of the public, and the order implies, but does not expressly require, that a denial of such request may be appealed within the agency concerned to a special departmental committee. No interagency review mechanism for appeal of agency decisions is apparently available, however, except for denials of requests for presidential papers. This procedure contrasts with the existing order which permits declassification requests only for documents which are at least ten years old, but provides an interagency appeal mechanism for denials of requests which have been appealed within the agency.

COMMENTS ON THE PROPOSED CLASSIFICATION PROCESS

The standards for imposing "Top Secret" and "Secret" classifications under the proposed order are the same as those under the existing order. The standard for imposing a "Confidential" classification, however, has been altered slightly in the proposed draft to require that disclosure be "reasonably expected to cause significant damage", rather than simply "cause damage", to the national security.

The proposed classification criteria are new and are unquestionably desirable. Whether they are drawn tightly enough, however, to prevent their being used to justify improper use of the classification system, however, is debatable. (See the specific comments on the classification criteria at pp. 11–12, *infra*.) Further the order contains no requirement that the classifier mark the document he is classifying to show which of the criteria he is relying upon. Such a requirement would considerably strengthen this provision.

Most importantly, the proposed order, in setting the criteria for classification, contains no requirement that the classification decision be weighed in terms of the competing interest of the public in having the information in question. In this regard, it ignores the spirit of the Freedom of Information Act. The order should expressly direct that classifiers take the public's need for the information in question into account at the time the classification decision is made.

The prohibitions on classifying particular types of information do expand on those contained in the existing order, and on balance, must be considered an improvement. It should be recognized, however, that certain "prohibitions", e.g. "when in doubt, don't classify", are not really prohibitions at all, but are matters left to individual judgment. Furthermore, in this particular case, the National Security Council directive implementing the present order contains a similar provision.

Perhaps the most significant change in the classification process proposed by the new order is the manner in which declassification is carried out. The General Declassification Schedule contained in the present order is done away with entirely, and, similarly, the authority to "exempt" documents from the general schedule has been eliminated. In their place, the new order would establish a declassification procedure which is based largely upon the discretion of the classifying agency and official.

Under the General Declassification Schedule contained in the existing order, "Secret" documents are classified for a maximum of 8 years; and "Confidential" ones, for a maximum of 6 years. "Top Secret" documents assigned to the general declassification schedule are declassified after 10 years. Under the existing order, however, persons with "Top Secret" classification authority could "exempt" a document from the general schedule providing it fell within one of four categories of information. Any document so exempted would be reviewed under the existing order 30 years from the date of its origination.

Under the proposed order, the fact that "Secret" classifiers can only classify a document for a maximum of 6 years instead of 8 years, seems a modest improvement over the timetable called for in the general schedule. But the significance of this change pales when considered in light of the remaining provisions which permit the classification of a document to be continued without review for up to 20 years, largely at the discretion of the agency and the classifier. The proposed order would permit persons with "Top Secret" classifying authority, and the heads of agencies with "Secret" or "Confidential" authority, to assign a classification review date of 20 years to any document which falls into general categories established by guidelines promulgated by the head of the agency concerned. There are no standards contained in the order to govern the promulgation of such guidelines, no requirement that the guidelines be published, or even that they be transmitted to the Oversight Office created by the order. Without such controls, the proposed order, in effect, allows each agency to decide for itself which types of information will be assigned to 20-year review, and which will not.

It is possible, then, if not probable, that more classified documents will be assigned to a 20-year declassification review, than are now being "exempted" and assigned to 30-year review. The procedures established by the proposed order could easily result, therefore, in more information being kept secret longer than is the case under the existing order, despite the fact that the maximum period of classification prior to review has been shortened from 30 years to 20 years.

A preferable approach would be to assign all documents to a General Declassification Schedule (and permit advance dates to be assigned in the judgment of the classifier), and simply a classification review at the expiration of the date called for in the schedule. This would provide a means whereby a document with continued sensitivity could be reassigned to the schedule, but would be subject to continuing reviews at specified intervals. Such a declassification schedule might provide for reviews of "Confidential" material to take place after three years; "Secret" material after five; and "Top Secret" after seven. If continued classification were found desirable upon such review, the document could be reassigned to the schedule to be reviewed again upon the expiration of the specified time limit. If felt desirable, special allowance could be made for the declassification of documents provided by foreign governments to allow for greater periods of classification.

Under both the existing and the proposed orders, the classification of a particular document can be continued indefinitely. Under the proposed order, however, classification reviews must take place every ten years, except where the head of an agency or the Director of Central Intelligence has obtained a "waiver" of the ten-year review requirement. The proposed order sets no limits on the length of the waiver, nor does it provide who shall grant the waiver. It also sets no standards to govern the award of such waiver. In theory, at least, it provides a means where the head of an agency could prevent declassification review at any time.

This is a particularly objectionable provision. As a matter of policy, no classified document should be exempted from the ten-year review requirement.

The proposed order would allow the public to request the declassification of any document at any time. Under the present order such requests may be made only for documents which are at least ten years old. This is an improvement, but one should note that it only succeeds in making the order consistent with the rights a member of the public already has to seek declassification under the Freedom of Information Act. The proposed order fails to clarify, as well, the appeals process for such requests. It would appear that an appeal within the agency concerned is contemplated, similar to the appeal of an FOIA request, but agencies are not explicitly required by the order to have such a process. This should be required.

THE AUTHORITY TO CLASSIFY

The proposed order reduces by ten the number of agencies which have the authority to classify information, and downgrades the degree of classification authority which some agencies possess under the current order. (For a list of those agencies whose classification authority would be eliminated or downgraded, see discussion at page 13, *infra*.)

The proposed order also changes somewhat the manner in which this authority is delegated. Under the current order, the head of an agency with classification authority is empowered to designate an unlimited number of "senior principal deputies and assistants" within the agency to have classification authority. This authority cannot be further delgated. Under the new order, the heads of agencies with classification authority may also delegate classification authority to an unlimited number of officials, subject only to the qualification that their duties regularly require the origination of classified information. However, this level of officials is authorized to delegate this authority (except for "Top Secret" authority) further to a second level of officials, subject also to the same general limitation. The new order, therefore, permits an even greater diffusion of classification authority than under the present order.

The elimination of classification authority for ten Executive agencies is unquestionably an improvement. However, its actual impact upon the number of persons currently authorized to classify information, as well as the number of classification actions taken by the government, can only be considered as minimal. For example, in the ten agencies

whose classification authority would be eliminated, a total of 22 persons presently have classification authority. Thus, the proposed order would reduce the total number of officials with classification authority—13,976 in 1976—very slightly. Moreover, the total number of classification actions taken by these ten agencies in 1976 was only 297 actions. When compared with the 4,517,914 classification actions which took place government-wide, the anticipated reduction resulting under the proposed order must be considered as negligible.

Finally, the fact that the proposed order permits an unlimited delegation of "Secret" and "Confidential" classification authority from one level of officials to a subordinate level may well result in a significantly greater number of officials with the power to keep information secret than we have under the present order. There is no requirement in the proposed order that the head of an agency approve such delegation of authority, and no provisions that lists of such delegations be published or even transmitted to the Oversight Office.

ACCOUNTABILITY AND OVERSIGHT

In general, the proposed order contains several provisions designed to provide greater accountability and oversight of the classification system. It further creates a new office, the Security Information Oversight Office, to monitor the implementation of the order. But the new Oversight Office is left out at many crucial junctures in the classification process, and the provisions of the draft order which do seek to provide greater accountability, for the most part, fall short of their goal.

1. *The Security Information Oversight Office*. The Oversight Office is placed under the General Services Administration, rather than under the National Security Council where the current oversight office is assigned. Given GSA's lack of political or economic leverage over most agencies with classification authority, placing the Oversight Office within GSA does not seem to portend particularly vigorous enforcement of the order.

The Oversight Office is given the power under the order to overturn classifications it finds to have been improper, but the order apparently does not envision the Oversight Office acting on appeals of declassification requests from the agencies. This would mean that the power to overturn classifications would only be exercised in those cases where improper classifications were identified by the Oversight Office during inspections of the agencies concerned, or brought to its attention on an ad hoc basis. Exercise of this authority, therefore, will presumably be rare. The order itself does not require the Oversight Office to make inspections for the purpose of identifying improper or unnecessary classification, or provide any mechanism for it to challenge an assigned classification.

2. *Accountability in the Classification Process*. Although the order provides that a document must meet one of thirteen classification criteria before it can be classified, it does not require that the classifier indicate which of the criteria he is relying upon to classify the document. Nor does it require that the classifier place his identity on the document so classified.

The proposed order does require that the person who assigns a document to a 20-year review must place his name and the reasons for assigning this document to the 20-year review on the originator's file copy. It does not require, however, that this same information be placed on copies of the document, or on documents which are subsequently derived from this document. To ascertain whether such document had been properly assigned to a 20-year review, therefore, the Oversight Office, or an agency official making a review pursuant to a declassification request, must obtain access to the originator's file copy. At the least, such a procedure will be inconvenient; at the worst, it will be ignored as part of the review process. If this provision is to result in greater accountability, the markings placed on the originator's file copy should be carried over to other copies as well.

The proposed order also gives the Oversight Office no role in approving the guidelines adopted by each agency which will serve as standards for assigning documents to a 20-year review, or in checking the practice of obtaining waivers for subsequent 10-year reviews.

Finally, the proposed order provides no mechanism or incentive for personnel within the agencies to assert challenges to the classification of a particular document. It suggests that an agency may adopt such a procedure but it does not require it. A procedure whereby challenges were encouraged, and could be made and evaluated without an employees' career being jeopardized, would be an improvement.

3. *Sanctions*. The proposed order provides that willful violations of the order which the agency head determines are serious may be punished by a variety of administrative means. All of the sanctions recommended were available under the existing order, although they were not specifically identified. The order does not provide, however, that violations of the order be reported to the Oversight Office, nor that the Oversight Office be apprised of the action taken. It further provides no authority for the Oversight Office itself to take action, or recommend action, against agency employees.

4. *Derivative Classifications*. The proposed order contains provisions which attempt to deal, for the first time, with the problem of derivative classification, or the practice of persons without classification authority assigning classifications to documents which they have generated on the basis of other classified materials on which they have relied as sources. In essence, the proposed order would require that such persons attempt to verify the classification status of the document upon which they rely, and requires such persons to assign the same declassification date as the source document. Although the enforcement of these provisions is likely to be difficult, they are commendable efforts to deal with the problem.

5. *Compartmentation*. The proposed order also deals, for the first time, with the practice of compartmentation, or the practice of limiting the dissemination of classified materials by assigning special designators to such materials. This practice has been conducted by intelligence agenices of the government for many years, although not expressly authorized by the Executive order. The new order would require that such compartments be approved by the head of the agency concerned, that they be terminated unless renewed every three years, and that existing compartments be reviewed. These provisions, although legitimizing, in effect, additional "classifications" appear to institute appropriate controls over their use.

MARKING UNCLASSIFIED PORTIONS OF CLASSIFIED DOCUMENTS

The proposed order requires the marking of unclassified portions of classified documents, but provides that an agency may seek waiver of this requirement from the Oversight Office "for good cause".

This aspect of the proposed order is one of its most important features. The marking of unclassified portions should greatly facilitate declassification reviews under the order, as well as reviews for purposes of responding to requests under the Freedom of Information Act. Waivers of this requirement should, therefore, be the rare exception. It would be preferable to replace the "good cause" standard with more specific criteria to justify such waivers.

SECRECY AGREEMENTS

The proposed order requires that the Oversight Office develop a uniform "secrecy agreement" which agencies with classification authority "may require" as a condition to gaining access to classified information.

This provision is singularly objectionable. In practice, it would add very little to an agency's authority. Indeed, the CIA already requires its employees to sign such an agreement as a condition of employment. If an agency finds that one of its employees has revealed classified information, it may already terminate his employment or deny him further access. Where the government has found secrecy agreements to be particularly useful, however, is in laying a legal basis to enjoin the publication of classified materials. To sanction the use of such a procedure government-wide should have a distinctly "chilling effect" on potential "whistle blowers", and seems particularly inappropriate in an Executive order whose objective is greater openness.

EXTENSION OF INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 10 minutes.

Mr. EILBERG. Mr. Speaker, on October 18, the House will consider under Suspension of the Rules, a Senate amendment to H.R. 7769, a bill to adjust the immigration status of Indochinese refugees.

The Senate amendment extends the Indochina refugee assistance program for a year, and thereby continues authority for special projects and social services, which are urgently needed by Indochina refugees. Equally important, it continues reimbursement to States and local governments, with a 4-year phasedown formula, for those welfare costs incurred in behalf of Indochina refugees.

The Senate amendment has received the unanimous support of my Sucommittee on Immigration, Citizenship, and International Law, since in our judgment, it provides for an orderly phasedown of the Federal responsibility for Indochina refugees.

For the benefit of my colleagues, I wish to insert in to the RECORD at this point a copy of the Senate amendment:

SENATE AMENDMENT TO H.R. 7769

Strike out all after the enacting clause and insert:

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least two years.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d) (5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 101 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

TITLE II—EXTENSION OF THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

SEC. 201. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"SEC. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under title IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2)) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

"(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purposes for the fiscal year ending September 30, 1978.

"(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.".

SEC. 202. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.".

(b) Section 4(c) of such Act is repealed.

Amend the title so as to read "An Act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Loas, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.".

HOUSE TELEPHONE DIRECTORY ISSUED TODAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, Members' offices, committees, and other House offices are now receiving copies of the fall 1977 issue of the official telephone directory of the House of Representatives. This is the first such comprehensive directory ever compiled and published by the House.

Its publication, under the auspices of the Committee on House Administration, received outstanding cooperation and assistance from the Clerk of the House and his able staff, from the House Information System staff, the Architect of the Capitol, the Joint Committee on Printing, the staff of the Government Printing Office, and the House Postmaster, who handles the distribution of the directory. To all of these House officials and employees, I express my thanks and that of our committee.

The directory contains an alphabetical listing with room numbers and phone numbers of the House staff members who require the regular use of the phone in their daily work. This section is followed by a listing of employees of Members' offices, both Washington and district staff personnel, with addresses and phone numbers. Next is a listing of all committee staff and subcommittee staff employees, with similar information. The directory also contains similar data on the leadership staff, officers of the House, ad hoc legislative service organizations, the executive branch, a general classified listing of House service offices, and miscellaneous offices.

Mr. Speaker, the House telephone directory should be an important tool for Members and staff of the House and Senate, as well as for executive agencies, the public, and others having reason to deal with congressional offices. We are hopeful that it will increase office efficiency by reducing the need for second or third calls to locate an employee of a subcommittee, office, or other staff facility.

It also contains the new centrex system Government dial numbers for Federal agencies, which has just recently become effective.

The directory will be available for sale to the public through the Superintendent of Documents, U.S. Government Printing Office. The price will be $2.50 per single copy. Beginning next year, the House telephone directory will be published in updated versions four times each year. The annual subscription rate through GPO will be $9.50 for the four issues.

In a directory of this size, there are bound to be some errors and omissions. The data included has been updated through September 15 in most instances. There is a correction form included at the back of the directory to inform the committee of errors noted. Please let us know of necessary changes for the next issue and also let us have your suggestions to improve the format organization, or to expand the scope of the directory.

GOOD WISHES TO JACK VALENTI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY. Mr. Speaker, I am pleased to call the attention of my colleagues to the announcement on Tuesday of this week that the Motion Picture Association of America has extended the contract of its president and chief executive officer, Jack Valenti, for 7 years.

It was my privilege to come to know Jack Valenti during the years from 1963 to 1966 when he served on the White House staff as special assistant to President Lyndon B. Johnson.

He joined the Motion Picture Association in 1966. He is the third president of the association, which was established in 1922, succeeding Will H. Hays and Eric Johnston in that capacity.

It was under his administration that the Motion Picture Association adopted the widely-used and extremely useful system of rating motion pictures according to their suitability for viewing by various age groups. As a result, parents particularly, are able to judge whether a particular film will be be appropriate for their children to view, and all movie goers are accorded an opportunity to be better informed about the nature of films they may wish to see.

That Mr. Valenti has been a popular and able chief executive of MPAA is evident in the fact that his contract still had a year to run when the board of directors unanimously voted to retain his services through 1984. At that time he will have completed more than 18 years as president of the association.

The member companies of the association are:

Allied Artists Pictures Corp.; Avco Embassy Corp.; Columbia Pictures Industries, Inc.; Metro-Goldwyn-Mayer, Inc.; Paramount Pictures Corp.; Twentieth Century-Fox Film Corp.; United Artists Corp.; Universal Pictures, a division of Universal City Studies, Inc.; and Warner Bros., Inc.

I congratulate them for their good judgment in keeping such a qualified and personable individual as Jack Valenti in this important position, and I extend my warm regards and good wishes to Jack for his continued success.

THE SMALL BUSINESS CAPITAL, INVESTMENT, AND BUSINESS OPPORTUNITY ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, the Small Business Capital, Investment, and Business Opportunity Act of 1977 represents, in my judgment, a unique and multifaceted approach to alleviating what is perhaps the most urgent need of small business today—its ability to obtain access to equity funds.

During the latter part of 1976, the former Administrator of the Small Business Administration, Mitchell P. Kobelinski, commissioned a task force to consider small business' problems in attracting venture and equity capital. This blue ribbon panel, chaired by William J. Casey, a distinguished lawyer and businessman, who served as the Chairman of the Securities and Exchange Commission, as President and Chairman of the Import-Export Bank, and as Under Secretary of State, issued its report early in 1977 indicating an urgent need for legislative relief. Since that time, I have personally considered this problem in depth, and have held hearings before my Subcommittee on Capital, Investment, and Business Opportunities, taking testimony from Vernon Weaver, the present Administrator of SBA, Mr. Casey, and the most respected economists, venture capitalists and small businessmen I could find. My investigation reveals a consensus of opinion that enhancement of the ability of small business' to form and attract new capital is essential for a healthy economy. Small business accounts for 97 percent of all businesses, more than half of all business receipts, and more than half of our Nation's work force. The problems of small business, therefore, are the problems of our Nation.

Mr. Speaker, I ask that a section-by-section analysis of the text of the legislation, which incorporates many of the task force's recommendations, be printed at the conclusion of these introductory remarks.

SECTION-BY-SECTION ANALYSIS TO SMALL BUSINESS CAPITAL, INVESTMENT, AND BUSINESS OPPORTUNITY ACT OF 1977

TITLE I—AMENDMENTS TO SMALL BUSINESS INVESTMENT COMPANY ACT OF 1958

SEC. 101. SBA Purchase of Certain Small Business Investment Company Debentures.

While SBIC's are authorized to provide for equity financing to small business concerns, there is an increasing tendency for them to make capital available in the form of debt. This results from the SBIC's need for funds to service its own leveraged debt; pure equity investments, such as common stock, do not generally provide them with funds with which to do this. This section is designed to provide the SBIC with funds at 3% interest *only if* these funds are used to make true equity investments. These are referred to in the section as "equity capital" which is defined to include stock (or similar interests in the event the small business concern is conducting its affairs in other than a corporate form). "Equity capital" is further defined to exclude stock or other interests which require the regular payment of interest, or which are required to be repurchased by the small business concern (which would make them the equivalent of debt).

SEC. 102. Guarantees on Start Up Financing.

Start up situations are generally the riskiest of all venture capital investments. Presently, the SBIC shares with the government the risk of loss on such investments in that the SBIC is allowed a deduction from ordinary income for the amount of any losses on such investments. However, this has not served to stimulate SBIC participation in start up situations; rather, more mature and hence less risky venture capital situations are presently being sought. This section enables the SBA to guarantee the SBIC up to 75 percent of any loss it may sustain as the result of investment in equity capital of any start up investment in a small business concern. "A start up small business concern" is defined to mean a business less than one year old, or a business less than 5 years old which (a) has never earned a profit, or (b) has had revenues less than $250,000 over its last two years.

SEC. 103. Associate Administrator for Investment.

This would clarify that the Associate Administrator for Investment shall be responsible solely for the SBIC program.

SEC. 104. Effective Date.

Amendments made by Title I are effective upon enactment.

TITLE II—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 201. Materiality of Information; Limited Offering Exemption.

The SEC promulgated Rule 146 to provide a "safe harbor" for private offerings claiming the protection of the private offering exemption set for that section 4(2) of the act. As a result of certain ambiguities in the Rule, some uncertainty as to the Rule's application has resulted. It is unclear from the Rule that the only information required to be furnished under the Rule is *material* information. This section amends section 19 of the Securities Act of 1933 to clarify Rule 146 in that it authorizes the Commission to require merely material information.

Further, this section liberalizes Rule 144. That Rule presently provides a limitation on the amount of restricted securities that can be sold within any six-month period by limiting such sales to the lesser of 1 percent of outstanding securities of the same class or the trading activity within a four-week period. The amendment reduces the measuring period to three months, and provides that where such securities are traded on a national exchange, sales of such securities may be the *greater* of such sales or 1 percent of the outstanding securities of the same class.

This amendment becomes effective 120 days after enactment, in order to give the SEC sufficient time to amend its rules to the extent they are inconsistent with the provision of the Act.

It is thought that this Amendment will facilitate small business' access to the public security markets, which has fallen off dramatically in recent years.

Sec. 202. Increase in "Regulation A" Offering.

Presently, the Securities Act of 1933 provides for a limited registration for security offerings not in excess of $500,000. This dollar limit has not been increased since 1933. As a result of the magnitude of legal fees and other expenses involved, relative to the maximum amount to be netted on such an offering, this provision has fallen into disuse. In order to restore the original statutory intent, and to encourage smaller offerings, this amendment extends the availability of the "Regulation A offering" to offerings not greater than $3 million.

Sec. 203. Standing to Sue.

This amendment is intended to rectify the anomaly, under present law, which enables a purchaser who has been fully informed to seek recession from the issuer if the issuer has not fully complied with Rule 146 with respect to another purchaser. It provides that a purchaser who has been fully informed in a transaction, may not seek recision of the transaction as a result of the issuers failure to furnish all necessary information to another purchaser.

Sec. 204. Effective Date.

The amendments made by Section 202 and 203 shall take effect upon enactment.

TITLE III—AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of Prudent Man Rule.

This amendment clarifies that a fiduciary's performance is to be judged by total portfolio performance, as distinguished from the performance of individual assets comprising the portfolio.

Additionally, this section provides for the creation of a "basket exemption" of up to 5 percent of the plans assets, which may be invested in "small business securities". This provision is intended to permit the nation's pension plans, who are controlling an increasing large proportion of assets available for investment, to invest in venture capital situations.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE

Sec. 401. Increase in the Amount of Surtax Exemption.

Presently the rate of corporate of income tax if 20 percent on the first $2,000, and 22 percent on amounts thereafter. However, for amounts in excess of $50,000, there is an additional "surtax" of 26 percent. Section 401 amends the surtax provisions to extend the surtax exemption to the first $100,000. Thus, after the amendment, the corporate income tax rates will be as follows: first $25,000, 20 percent; next $75,000, 22 percent; amounts in excess of $100,000, 46 percent.

Sec. 402. Non Recognition of Gains on Certain Sales and Exchanges in Small Business Concerns.

In recent years, much of the incentive to invest in venture capital type situations has been dissipated as a result of confiscatory provisions in the Internal Revenue Code. The capital gains tax and the provisions for taxing preference income can together approach a tax of almost 50 percent on long term capital gains. As a result, investment in venture capital situations has been inhibited, since the risk-reward ratio has made such investments unattractive. The amendment would create a deferral of tax by way of roll-over for certain equity investment in small businesses. If an equity investment in a "small business concern" is sold, and within the ensuing eighteen months, reinvested in another equity interest in a small business concern, then any gain on the first transaction will be deferred. The definition of "a small business concern" is similar to that found in Section 1244. For a corporation, paid in capital and surplus cannot exceed $1 million; net worth cannot exceed $2 million. The definition of small business concern, however, is not restricted to corporations; it may include other persons such regulations as the Secretary of Treasury may prescribe. There is an additional limitation up on ownership of a small business concern: no part of equity can be owned directly or indirectly by a corporation other than an SBIC, or another small business concern. The deferral is accomplished by reducing the basis of the new property by the amount of the gain deferred.

Sec. 403. Restoration of Qualified Stock Option.

Until recently, a corporation was able to provide its management with qualified stock options which provide an incentive for management's continued participation in the growth of the business. However, recently these provisions were curtailed for all corporations: This has the effect of unduly hampering the ability of emerging corporations to attract top quality people, as a result of inability to compete effectively with larger corporations in the area of direct compensation. By being able to grant qualified stock options, it is hoped that small business' ability to attract top management personnel will be enhanced.

Sec. 404. Eligibility of SBIC To Be Shareholder of Subchapter S Corporation.

A Subchapter S corporation although nominally a corporation is taxed, at its election, similar to a partnership—which taxes its partners, not the partnership. Presently, SBIC's are unable to be shareholders in such corporations. The amendment merely makes an SBIC eligible to be such a shareholder.

Sec. 405. Reserves for Losses On Equity Investments of Small Business Investment Companies.

Presently, an SBIC is allowed to create a loss reserve for debt investments only; expected losses from equity investments cannot be reserved. This in part provides a stimulus for SBIC's to provide funds to small bsuiness concerns by way of loans, rather than equity. The effect of this amendment is to treat equity investments the same as debt investments for reserve purposes, so as to negate any distinction between the two from a tax perspective.

Sec. 406. Increased Availability of Section 1244 Stock.

Section 1244 treats certain stock as a noncapital asset, and permits a deduction from ordinary income from losses resulting from investment therein. Generally, these losses are limited in any one year to $25,000 for an individual, $50,000 in the case of a married couple filing jointly. The amendment would extend these annual loss deductions to $50,000 in any one year for an individual, and $100,000 in any one year for a married couple filing jointly.

Furthermore, the amendment would also change the definition of Section 1244 stock. Presently, it is defined to include only those corporations issuing less than $500,000 worth of stock, with a net worth of less than $1 million. The amendment would extend these limits to include those corporations issuing up to $1 million worth of stock, with a net worth of up to $2 million.

TRIBUTE TO JAMES M. ROCHFORD: A LAW ENFORCEMENT PROFESSIONAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I was surprised and saddened to learn that a close friend of mine announced that he was ending a long and admirable career of service to the city of Chicago. My friend is James M. Rochford who has been a member of the Chicago Police Department for several decades and its leader since 1974.

Superintendent Rochford served his city and his department well. His career spanned 30 years and much of that time was spent on the streets: 10 years as a patrolman and 4 as a sergeant. Yet, even after moving to the top command, Jim seized every opportunity to get in the trenches with his men. Because of his street sense, he had the respect not only of his police force but also of the community.

That was his trademark during his tenure, first as part of the management team and later as its commander. He took the helm during a time when department morale was low. With a firm hand, he attacked the department's problems immediately upon assuming office. Soon his men and women could point with pride to their vigorous leader.

His zeal to be a leader of his men naturally provided him an opportunity to be one of the leaders of his city. He used the knowledge he gained on the streets to accomplish that end. Jim Rochford took himself to the neighborhoods where the people live. He made himself visible and accessible. Whether riding subway trains or touring the site of a natural disaster or a civil distubance, the citizenry and the department saw their superintendent of police and his concern for their problems.

Jim Rochford most certainly was a leader in the fight against crime. He set high standards for himself and demanded the same of his officers. His commitment was to make the city safe, and he did much in that regard. By being an innovator, the department developed the finest communications network of any police force.

The superintendent was never a man to duck the difficult assignments. Perhaps this attribute was merely an extension of his much-decorated military service in the South Pacific during World War II.

It was that training that led Jim Rochford, as first deputy superintendent, to forgo ordering one of the 13,000 men under his command to launch an assault on a man barricaded in his apartment. Instead, it was Jim Rochford who entered the dwelling unarmed and talked a man who had killed two police officers and wounded four others, into surrendering. He was a chief who led not simply by command, but through example.

But he was also cautious. In 1967, the police department was searching for a new head and Jim Rochford was asked to submit his name. He declined by ananouncing that he did not have enough experience for the top post. Recognizing his professional police talent and experience, the new superintendent chose Jim as his No. 1 man.

Once the superintendent's job next opened in 1973, the Chicago Police Board began its search for a replacement. The board contacted the International Association of Police Chiefs to assist them in screening candidates from across the country. As the selection process continued, the Association of Police Chiefs recommended Jim to the Chicago Police Board. In turn, the police board recommended Jim and two other well-qualified candidates for the post. Finally, no one was surprised when our late Mayor Richard J. Daley chose Jim Rochford as the best man for the job.

It is difficult for me to imagine the Chicago Police Department without Jim Rochford. In the 4 years he has been superintendent, his leadership has been progressive. But, a man must also be progressive when it comes to his other equally important job as head of his family.

As he heads to a new career in private industry, I am sure that Jim will be blessed with good fortune in repayment for his long and dedicated service to the public. But, if I know my friend, Jim Rochford, his retirement as superintendent of the Chicago Police Department will not end his career as a major contributor to the safety and well-being of the city of Chicago and the people he loves.

REMARKS OF MELVIN C. HOLM, CHAIRMAN OF THE BOARD OF THE CARRIER CORP.

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, much has been said across this land, and indeed in this Chamber, about how the public sector and the private sector must work together to deal with the problems confronting our great Nation.

Often, those of us in the Congress debate at great length exactly how far the Federal Government should go in dealing with these problems, how much the Federal Government has a right or a duty to infringe upon the free enterprise system. Often, we question the role each should have in dealing with issues of vital national concern.

I think it would do us all some good to take a moment to dwell on the comments of a great American, a man who literally has worked his way from the ground up to head a corporation whose success he can be most proud of. I speak of Melvin C. Holm, chairman of the board of the Carrier Corp.

On the 26th of September, Mel Holm spoke eloquently to the annual meeting of Associated Industries of New York State, Inc., at Lake Placid. His remarks dealt with the very issue of the private sector and the public sector working together for the good of both, and for the good of all the people of this Nation.

I offer his comments now, for the benefit of my colleagues:

I believe that the best time to deal with problems, if one can pick his time, is the first thing in the morning when you are fresh and full of vim and vigor. So let's have at it.

Do you ever get the feeling that the world is moving faster and faster? So many different crises seem to develop with paralyzing swiftness and at least some of them seem to be almost beyond solution. In less time than it takes to pronounce "intercontinental ballistic missile", I am sure that you can think of many that have cost you long hours of anxious thought.

I am not qualified to discuss the control of nucelar weapons or an easy solution to Middle Eastern problems. But there are other problems which I run up against constantly that I sometimes wish were not there. Of course, wishing won't help, but a real desire for solution by all parties to a problem can help a great deal.

There are those that question whether our free enterprise system can survive. My answer is that it will survive because it must survive. We are all in it together—government, labor, industry and the farmer. As one of our nation's founders said, "We must all hang together or assuredly we shall all hang separately."

But I have been made notably uneasy by a kind of centrifugal motion in our society, a falling apart of its necessary elements, a growing lack of sympathy among governmental purposes, business, the public in general, organized labor and agriculture. If it continues, we will all have difficult times.

Of course it's easy to blame someone else and this may be part of the problem.

Let's start out with government. As an opener, consider the problem of government expenditures at the local state and national levels.

I certainly hope that you agree with me when I say that this problem is king-sized. These costs keep mounting at an alarming rate. Fiscal irresponsibility is spread so wide as to endanger our free enterprise system. And too often the proposed solution is to increase taxes.

A case in point is the matter of the personal income tax in New York State. I'm not going to dwell on this subject—all of you know it painfully well. We as businessmen must press strongly for corrective action in this regard, and if we can't get action from certain of our present government officials, then we should get busy and elect those who will act.

The same applies to government expenditures in total. We must fight hard to bring about the action that is needed to bring them under control.

And then there are those who feel that whenever there is a problem in industries serving the public that government should step in. But how many industries operating under strict government regulations have served the public as well as those that were free to develop.

At times of high unemployment, we hear that the government should be the employer of last resort. I ask you at what point will the heavy weight of unproductive employees overbalance the constructive contribution of useful work and destroy our economic system?

We as businessmen certainly are concerned about these matters. However, we need to be more than just concerned.

Each of us must be involved in good politics and governmental affairs. Each of us has too much at stake personally, for our famalies, for the coming generations and for the state and the nation to accept the luxury of letting someone else do it.

Let me tell you about a recent experience Carrier has had in working with government. As our population grows and we are packed tighter together and at the same time as resources are harder to come by, some action by government is needed.

In a landmark piece of legislation, the California legislature passed a statute requiring the state energy commission to set minimum standards for a long list of appliances, including air conditioners and heating products. The California commission proposed a set of standards and then scheduled hearings. It put a fork in the road for our industry. Some went down one path and chose to fight and some went down the other and chose to work with the commission.

Some years before, Carrier Corporation already had made a carefully considered decision to work for higher efficiency in air conditioning and heating. This occurred before the energy crisis and the decision was based on economic grounds. We knew energy costs were going up. We knew that operating expense would soon become as important as first cost for purchases of equipment in extreme climates and that some day operating cost would be more important. Although higher efficiency increased manufacturing cost, we believed it to be the wave of the future. We led the industry in the breadth of our line of high-efficiency cooling and furnaces and the array of heat pumps we offered. Nevertheless, the standards proposed by the California Energy Commission were so extreme that they would have wiped out most of the industry, including many Carrier products, in the state of California, an extremely important market.

Some people objected. They charged that the word "appliance" was not meant to cover central residential air conditioners and furnaces. They sued on the basis that Federal energy laws would preempt state standards. The suit was dismissed.

We took a different road. We believe in Federal preemption of energy standards, but California was already there and Federal action appeared to be some time away. We believed that insofar as we could, we should help the California commission reach rational decisions. We put our research people, engineers and executives to work preparing the facts the commission needed to consider. We made available to the commission the knowledge gained from thousands of hours of research and engineering on what efficiencies can be achieved and how long it takes. Our people returned again and again many times to expand on information the commission indicated a special interest in. Eventually the printed testimony from Carrier could have been piled in a stack more than a foot high, and it was information, not argumentation.

The California Energy Commission established their standards. We believe they are based on rational considerations. They have required and will continue to require considerable engineering effort. But they can be met and they will have energy.

We believe high efficiency can be sold where it is important. But we also believe in minimum standards that place a floor under the marketing effort. We are not dismayed or disappointed by the action taken in California. And the time we put into it is proving to have been completely worthwhile. The California standards appear to have become the basis for similar standards now being established by a number of states. With some changes in concept to accommodate seasonal conditions and different climatic zones, they may provide an important influence in the creation of Federal energy standards. There are smart people in the government as well as in business. Given a fair shake at working together, we can do wonders.

Do we know how to work with government? If we don't, we'd better learn. It is becoming less and less possible to ignore.

Let me talk briefly about labor. I suspect that almost every man in this room has at one time or another lived by the sweat of his brow. Although I did not finish, I attended the agricultural school at Michigan State College. I supported myself by milking cows in the very early morning and in the very late afternoon; like digging ditches and riding a bicycle you don't forget how.

So we are not so different after all from the people who work in our plants. We are tied by our common humanity and our common wish for the good of mankind. We are working very hard to tell our employees what our problems and our goals are, and how we hope to solve the one and achieve the other. For example, Carrier has just completed a very well attended course conducted for us by the Federal Mediation Service at which our personnel executives and our labor leaders went to school side by side to learn to get along together.

Sometimes we are prone to consider ourselves as the good guys and all those in government and organized labor as the bad guys. I suggest that we take a good look at ourselves because I think this is an erroneous conclusion.

Do we really know what business and industry are about? Are we doing what we need to do so as to have a predictable future? Do we really believe in competition all the way or only so long as it benefits us? Are we ready to live by the law of supply and demand? If not, we will all be in serious trouble because it can't be repealed.

Certainly a primary responsibility of business is to make a profit. And along with it are other responsibilities—to make products and services of value and to create and maintain personally rewarding and steady employment.

I said at the outset that we have serious problems to cope with. I believe that we can solve our problems by reasoning together, by talking together and by working together—business, government and labor. If we do it energetically and successfully, the problems will find answers and we assuredly will not hang separately.

My friends, let us resolve to hang together.

Thank you very much.

PINELANDS PRESERVATION ACT

(Mr. FORSYTHE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FORSYTHE. Mr. Speaker, the approximately 970,000 acres which constitute the New Jersey Pinelands are the most extensive wildland tract on the mid-Atlantic seaboard. Described by the Department of the Interior as "a land that time forgot" this area is situated on the outer portion of the Atlantic Coastal Plain and was until recently, in geological terms, part of the ocean floor.

This seemingly remote region of flat unbroken pine-oak forests, low shrubs, and dense swamps contains the vegetational patterns one expects from an area which is in geological transition from ocean floor to forest. In fact, the vegetation of the Pinelands is considered to be one of the last relics of that which is believed to have existed along the ice perimeter during the last major glaciation.

This unique area, which sits above an enormous underground reservoir containing about 17.7 trillion gallons of water, has spawned an ecosystem that can be found nowhere else in the United States. In addition to their historically significant vegetational patterns, the Pinelands are the home of over 38 species of mammals, 91 species of butterflies, 24 species of fish, 13 species of frogs and toads, 10 species of salamanders, 18 species of snakes, and 144 species of birds and waterfowl, many of which depend on the marshes of the Pinelands on a seasonal basis.

At least 21 species of northern plants and 6 species of butterflies reach their southernmost limits in the Pinelands. In precisely the same area, over 110 types of southern plants and 5 species of butterflies reach their northernmost limits. A combination of such range overlaps of this magnitude occurs nowhere else in North America.

The overlap of wildlife and plant ranges, the transitional geological status of the region and the unique flora and fauna which can be found in the Pinelands make this an area of national significance.

The Pinelands are also rich in history. Although early farmers bypassed this inhospitable region in favor of the richer farmland to the west, the area supported such industries as iron, brick, tile, glass, and paper. Little of that industrial activity has endured, but many historical sites remain which provide good insights into the early attempts of our American forebears to tame the North American Continent and the wilderness called the Pinelands.

For the over 50 million people who today have easy access to the region, this island of primeval wilderness provides an important educational and recreational opportunity for interaction between man and a natural ecosystem. Its beautiful lakes, wild streams, and expansive forests constitute a laboratory for scientists and an extensive outdoor playground for a constantly increasing number of hunters, campers, and fishermen.

Mr. Speaker, I have described to you the present ecology of the Pinelands and I hope my description also will fit the future. Unfortunately, the multitude of educational and recreational values within the Pinelands depend on the wild character of the area. A character which is being threatened.

Because of their unique land and water resources, the Pinelands are being subjected to ever-increasing demands for varying forms of development. In fact, the changes in land use patterns have been accelerating over the years so that the Pinelands are being eroded. The Pinelands were originally estimated to comprise over 2,000 square miles. Today, however, as a result of developmental pressures only about 1,500 square miles remain.

This island of primeval wilderness which exists amidst a sea of urbanization deserves—no, it demands—to be protected for present and future generations of Americans.

It is for this reason that I and Congressman HUGHES are today introducing the Pinelands Preservation Act which provides for the creation of a national wildlife refuge of no more than 50,000 acres in the Pinelands. Our legislation provides for the creation of ecological management units which may be managed by local governments for the benefit of the refuge. Our legislation also provides financial assistance to local governments which wish to undertake management programs within the ecological management units. If local governments elect not to manage the area, the State may create a commission to protect the ecological and other values of the refuge. If such a commission is created it must count among its members representatives of the Pinelands residents, as well as other interests. However, there is no mandate that such a commission be created and there are no sanctions if the State or the localities elect not to move forward.

Mr. Speaker, I believe the Pinelands can and should be preserved not only for the sake of New Jersey but also for the entire United States. I am looking forward, therefore, to the early enactment of the Pinelands Preservation Act.

The bill follows:

H.R. 9539

A bill to establish the Pinelands National Wildlife Refuge, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pinelands Preservation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

1. The New Jersey Pinelands are the most extensive wildland tract along the Middle Atlantic seaboard.

2. The rich diversity of wildlife and plants in the Pinelands which include a variety of vanishing, rare and restricted species, represent a unique natural laboratory for study by scientists and students.

3. A large number of northern flora and fauna reach their southernmost limits in the Pinelands while in the same area numerous southern flora and fauna reach their northernmost limits, thereby creating an overlap of ranges of a magnitude which occurs nowhere else in eastern North America.

4. The vegetation of the Pinelands is a relic of vegetation which is believed to have existed along the ice perimeter during the last major glaciation.

The unique geological formations found within the Pinelands represent significant processes illustrating the interrelationship between natural aquifers and vegetation patterns.

The ecological, historical and educational and scientific values of the Pinelands offer an unparalleled educational and recreational opportunity to more than 30 million people who live in close proximity to the region.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "ecological management unit" means any area of lands and waters within the Pinelands which—

(A) is adjacent, or near, to the boundaries of the refuge; and

(B) if appropriately protected, conserved, and managed by the owners thereof (whether public or private) will preserve or enhance the ecological, historical, scenic, recreational, and educational resources of the refuge.

(2) The term "lands and waters" includes lands, waters, and interests in lands and waters.

(3) The term "local government" means any political subdivision (including, but not limited to, any city or township) of the State.

(4) The term "Pinelands" means the area within the State consisting of approximately 970,000 acres which is commonly known as the Pinelands.

(5) The term "refuge" means the Pinelands National Wildlife Refuge required to be established under section 5.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "State" means the State of New Jersey.

(8) The term "unit management plan" means a program of specific actions, that are consistent with the general guidelines established by the Secretary under section 4(c)(2)(C), undertaken within an ecological management unit for the purpose of preserving or enhancing the ecological, historical, scenic, recreational, and educational resources of the refuge.

SEC. 4. SECRETARIAL STUDY AND REPORT

(a) Study.—(1) The Secretary shall conduct a comprehensive study of the Pinelands for purposes of—

(A) determining which lands and waters therein should be included within the refuge;

(B) determining which lands and waters should be included within ecological management for the protection, conservation, and management of such lands and waters in order to achieve the preservation or enhancement of the ecological, historical, scenic, recreational, and educational resources of the refuge; and

(C) developing a comprehensive plan for the management of the refuge.

(2) In undertaking such study, the Secretary shall—

(A) consult with appropriate officials of the State and of any local government which has jurisdiction over lands and waters within the Pinelands; and

(B) conduct public hearings at places within, or near to, the Pinelands, and in such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the study.

(3) The study required under paragraph (1) shall cover such matters as are necessary and appropriate to achieve its purposes, including, but not limited to, the identification and evaluation of—

(A) the species of fish, wildlife, and plants, and the biotic communities, which are within the Pinelands, with particular emphasis being given to any such species or communities which are endangered, threatened, or unusual;

(B) all significant habitats within the Pinelands of the species and communities referred to in subparagraph (A).

(C) the dangers, if any, which threaten to degrade the quality of the habitats referred to in subparagraph (B), taking into consideration water supply and water quality, land availability, air quality, and other relevant factors;

(D) the historical, scenic, recreational, and educational resources of the Pinelands; and

(E) the existing land use patterns, as well as alternative beneficial uses of the Pinelands.

(b) Report.—After the study required to be made under subsection (a) is completed, the Secretary shall promptly prepare and publish in the Federal Register a report thereon (hereinafter in this Act referred to as the "report") which shall—

(1) set forth those matters required to be identified and evaluated under subsection (a)(3);

(2) propose those lands and waters, of not more than 50,000 acres in the aggregate, of the Pinelands which should be included within the refuge because of their significant fish, wildlife, and plant values and unique ecological, historical, scenic, recreational, and educational resources;

(3) set forth a refuge management plan, which shall—

(A) provide a mechanism for a continuing assessment of the matters listed in subsection (a)(3), which mechanism shall provide for review and comment by interested members of the public during the assessment process,

(B) specify those actions which are necessary to preserve and enhance the ecological, historical, scenic, recreational, and educational resources of the refuge,

(C) provide guidelines to assist the Secretary in determining priorities for implementing the actions referred to in subparagraph (B), and

(4) propose those areas of lands and waters which should be designated as ecological management units and recommend general guidelines referred to in subsection (a)(1)(B) with respect to such lands and waters.

(c) Hearings and Actions by Secretary After Report.—(1) After publication of the report under subsection (b), the Secretary shall—

(A) provide such technical assistance as the Secretary deems appropriate to any State or any local government which has jurisdiction over lands and waters within the Pinelands and which requests such assistance to enable it to evaluate the report; and

(B) hold public hearings in, or near to, the Pinelands and in such other places as may be necessary to provide interested persons with an opportunity to comment on the report.

(2) After holding public hearings under paragraph (1), the Secretary shall by regulation—

(A) designate the boundaries of the refuge;

(B) establish, and designate the initial boundaries of, ecological management units;

(C) promulgate general guidelines referred to in subsection (a)(1)(B) with respect to lands and waters within such ecological management units; and

(D) promulgate a refuge management plan.

(d) Time Limitations.—The Secretary shall carry out this section as soon as pacticable, but in no case shall the regulations required under subsection (c)(2) be issued later than October 1, 1979.

SEC. 5. ESTABLISHMENT AND ADMINISTRATION OF REFUGE.

(a) Establishment.—The Secretary shall establish the Pinelands National Wildlife Refuge by publication of a notice to that effect in the Federal Register at such time, after the designation of the refuge boundaries under section 4(c)(2)(A), that the Secretary determines that lands and waters within such boundaries sufficient to constitute an efficiently administrable refuge have been acquired.

(b) Adjustment of Boundaries.—After all lands and waters within the boundaries of the refuge designated under section 4(c)(2)(A) have been acquired by the Secretary, the Secretary may thereafter add to the refuge any lands and waters he deems appropriate which are acquired through donation and shall by regulation make corrections in the boundaries of the refuge to reflect the acquisition of any such lands and waters.

(c) Administration.—The Secretary shall administer the refuge (including any lands and waters acquired for purposes of the refuge before the date of the establishment of the refuge) in accordance with the refuge management plan promulgated under section 4(c)(2)(D), the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–ee), and such other laws, rules, and regulations applicable to the refuge system as the Secretary deems appropriate to carry out the purposes of this Act, including the administration of the refuge for public recreation uses in accordance with the Act of September 28, 1962 (16 U.S.C. 460k—4).

(d) Acquisition of Lands and Waters.—(1) Except as provided in paragraph (2), the Secretary may acquire lands and waters within the boundaries of the refuge by one or more of the following means:

(A) Donation.

(B) Purchase (with donated, transferred, and appropriated funds).

(C) Exchange.

(2) The Secretary may not acquire lands and waters within the boundaries of the refuge which are owned by the State or any local government except through donation.

(3) Any lands and waters within the boundaries of the refuge which are under the jurisdiction of any Federal agency other than the Department of the Interior shall be transferred to the Secretary unless the executive officer of such agency determines that the retention of jusrisdiction thereof within such agency is necessary for the accomplishment of the mission of such agency.

SEC. 6. STATE COMMISSION FOR THE PINELANDS.

(a) In General.—If the State establishes a legal entity (hereinafter referred to in this Act as the "Commission") which the Secretary finds to meet the requirements set forth in subsection (b), the Commission shall be eligible for financial assistance under section 7.

(b) Requirements for Commission.—The requirements for the Commission are as follows:

(1) The Commission must have a governing body consisting of not more than 18 members appointed by the Governor of the State. The membership of the governing body must be apportioned as follows:

(A) One-third of the membership must be officers or employees of counties of the State that are, in whole or part, within the boundaries of the refuge or any ecological management unit, or both.

(B) One-third of the membership must be officers or employees of local governments (other than counties) that are, in whole or part, within any such boundaries.

(C) One-sixth of the membership must be officers or employees of the State.

(D) One-sixth of the membership must be individuals not associated with any local government or the State, who are specially qualified to serve as members because of their knowledge of the ecological, historical, scenic, recreational, and educational resources of the Pinelands.

In addition, the Secretary or his delegate must be an ex officio member of the Commission.

(2) The Commission must possess authority—

(A) to develop and implement a unit management plan for any ecological management unit for which it is the eligible government under section 7(a); and

(B) to delegate to any local government the responsibility for carrying out, within its jurisdiction, any action or function under a unit management plan developed by the Commission for an ecological management unit.

SEC. 7. FINANCIAL ASSISTANCE.

(a) Definition.—For purposes of this section, the term "eligible government" means, with respect to any ecological management unit—

(1) the local government which owns, or exercises any governmental jurisdiction over, any lands and waters within such unit;

(2) the State, if it owns, any lands and waters within such unit;

(3) two or more of the eligible governments referred to in paragraph (1), or two or more of the eligible governments referred to in paragraphs (1) and (2), acting collectively in the development or implementation, or both, of a unit management plan for such unit; or

(4) the Commission, if—

(A) no financial assistance under subsection (c) with respect to the unit is applied for by the eligible government referred to in paragraph (1), (2), or (3, as the case may be, before the close of the 12-month period after the date on which the unit is established under section 4(c)(2)(B), or, if such assistance is applied for, the Secretary does not approve the application within such 12-month period;

(B) the Secretary refuses to provide further financial assistance under this section to any eligible government referred to in paragraph (1), (2), or (3), as the case may be, after finding that such government has not satisfactorily developed or implemented a unit management plan for such unit; or

(C) responsibility for the development or implementation or both, of a unit management plan for the unit is voluntarily transferred to the Commission by the eligible government referred to in paragraph (1), (2), or (3), as the case may be; or

(b) PLANNING GRANTS.—(1) The Secretary may make a grant to any eligible government for purposes of assisting the eligible government to develop a unit management plan.

(2) Any grant made under this subsection shall be equal to 100 percent of the reasonable costs, as determined by the Secretary, of developing the unit management plan concerned.

(c) MANAGEMENT GRANTS.—(1) The Secretary may make annual grants to any eligible government for purposes of assisting such government to manage such unit in accordance with a unit management plan. The amount of any annual grant made under this subsection with respect to any ecological management unit shall not exceed 75 percent of the reasonable costs, as determined by the Secretary, of implementing the unit management plan for such unit during the year for which the grant is awarded.

(2) The Secretary may not make a grant under this subsection to implement any unit management plan unless the Secretary finds that—

(A) the specific actions proposed to be taken by the eligible government under the plan are consistent with the general guidelines established under section 4(c)(2)(C) and will preserve or enhance the ecological, historical, scenic, recreational, and educational resources of the refuge; and

(B) the eligible government has such governmental powers, including, but not limited to, the acquisition of scenic, conservation, and agricultural easements, as may be necessary to carry out such actions.

(3) No eligible government is required to have received a grant under subsection (b)

as a condition of eligibility for a grant under this subsection.

(4) The Secretary and the appropriate eligible government shall annually review each unit management plan to determine if modifications to the plan, or changes in the implementation of the plan, are necessary in order to achieve the purposes of this Act. The Secretary shall require, after consultation with the eligible government, any such modification or change deemed necessary or appropriate to be made.

(d) ADMINISTRATION AND LIMITATIONS.—(1) Applications for grants under this section shall be submitted in such form and manner as the Secretary shall prescribe.

(2)(A) Except as provided in subparagraph (B), in any case in which there is with respect to any ecological management unit two or more eligible governments referred to in subsection (a)(1), or two or more eligible governments referred to in subsection (a)(1) and (2), no application for a grant under this section with respect to such unit shall be considered by the Secretary unless that number of those eligible governments which, in the opinion of the Secretary, is required to act collectively in order to achieve the purposes and objectives for which the grant is sought file a joint application for such assistance as an eligible government referred to in subsection (a)(3).

(2) In any case in which the State and one or more local governments would be required to act collectively as the eligible government with respect to any ecological management unit and the State refuses to participate in a joint application for a grant under this section, or refuses to join with the other local governments in voluntarily transferring responsibility to the Commission for the development or implementation of a unit management plan for such unit, the Secretary shall declare the lands and waters located within such unit that are under the jurisdiction of the State not to be a part of such unit. After declaring lands and waters under the jurisdiction of the State not to be a part of any ecological management unit, the Secretary shall by regulation—

(i) adjust the boundaries of such unit to reflect the withdrawal of such lands and waters; or

(ii) if the lands and waters remaining after such withdrawal do not, in the opinion of the Secretary, constitute an ecological management unit—

(I) rescind the establishment of such unit outright, or

(II) rescind the establishment of such unit and include, through appropriate boundary adjustments, any of such remaining lands and waters within one or more other ecological management units.

(3) Any grant made under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States.

(4) The Secretary may make payments of grants awarded under this section in advance or by reimbursement.

(5) The Secretary shall approve or disapprove any application for a grant under this section not later than the 60th day after the application is received by the Secretary. If the Secretary disapproves any such application, the Secretary shall provide to the eligible government a written statement of his reasons for disapproval. Any eligible government whose application is so disapproved may resubmit the application to the Secretary after making appropriate changes.

(6) The Secretary may not consider any application for a grant under this section with respect to any ecological management unit for which the Commission is the eligible government (except in cases where the Commission is the eligible government by reason of voluntary transfer under subsection (a)(3)(C)) until after the close of the 12-month period beginning on the date on which the unit is established under section 4(c)(2)(B).

(7) Any eligible government which receives a grant under this section shall make available to the Secretary and to the Comptroller General of the United States, or any of their authorized representatives, for purposes of audit and examination, any book, documents, papers, and records that are pertinent to the funds received by it under the grant.

(8) The Secretary shall issue such regulations as may be necessary and appropriate to carry out this section.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) for the fiscal year ending September 30, 1979, $4,500,000 for the purpose of carrying out section 4 (other than subsection (c)(1) thereof);

(2) for the fiscal year ending September 30, 1980, $1,000,000 to provide the technical assistance authorized under section 4(c)(1);

(3) for the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, a total of—

(A) $25,000,000 to acquire the lands and waters which will compromise the refuge;

(B) $10,000,000 to administer the refuge; and

(C) $7,500,000 to carry out section 7.

ADJUSTING TRAVEL ALLOWANCE

(Mr. THOMPSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON. Mr. Speaker, the Committee on House Administration, under the authority granted in Public Law 92-184, as amended, has issued Committee Order No. 32 which is effective October 1, 1977.

The purpose of the order is to adjust the travel allowance to compensate for inflation and maintain parity with the rest of the Federal Government.

The committee order follows:

COMMITTEE ORDER No. 32

Resolved, That effective October 1, 1977, until otherwise provided by order of the Committee on House Administration, reimbursement for travel by members and employees by privately owned conveyance shall be at the rate of 17 cents per mile for automobile, 15 cents per mile for motorcycle, 36 cents per mile for aircraft, and that such reimbursement shall be made in accordance with rules and regulations established by the Committee on House Administration.

RESOLUTION INTRODUCED TO DECLARE THE RECENT AGREEMENTS AND PROPOSED TREATY INVOLVING THE FUTURE OF THE PANAMA CANAL ARE NULL AND VOID

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, I have introduced a concurrent resolution that declares the recent agreements and proposed treaty involving the future of the Panama Canal are null and void.

Article IV, section 3, clause 2, of the Constitution of the United States provides that Congress "shall have power to dispose of and make all needed rules and regulations respecting the territory or other property belonging to the United States." My resolution prohibits the President from conveying, relinquishing, ceding, or otherwise transferring any sovereign rights of the United States in the Panama Canal Zone without specific authority enacted into law by the House and Senate. Furthermore, this resolution would halt Senate consideration of a treaty until such legislation is passed.

While there have been several other resolutions and bills introduced concerning the proposed Panama Canal Treaty, they generally address the subject with an assumption that the treaty will be considered by the Senate. My resolution would resolve any doubts concerning the legality of the recent negotiations and the resulting treaty agreements between Panama and the State Department negotiators. If passed, my resolution declares the recent negotiations and agreements are not valid because the President has no authority to negotiate such an agreement. Since the President was not authorized by Congress to negotiate the treaty, and Congress alone has the power to dispose of any U.S. property or territory, the President should not even submit the treaty to the Senate for ratification.

In recent months there has been a considerable amount of debate and testimony concerning the role of the House of Representatives in any agreement that would dispose of the Panama Canal or property and territory in the Canal Zone to Panama. I believe this to be a very relevant issue and must be resolved before the United States enters into any permanent agreement with Panama.

It should be noted that any action initiated by the executive department in the past concerning Panama has been done as a result of congressional legislation. The Hay-Varilla Treaty of 1903 was in fact authorized by an act of Congress. The Spooner Act directed the Executive to make an arrangement with Panama to acquire in perpetuity the properties necessary for construction of a transoceanic canal.

In later years, additional agreements were made with Panama involving boundary changes and disposal of small amounts of territory. In 1932, Congress granted authority to the Secretary of State to adjust the boundary line between Panama and the Canal Zone so a legation building could be built on land that had been a part of the Canal Zone.

Again in 1955, property transfers, in the treaty of mutual understanding and cooperation with Panama were conditional upon congressional approval. This treaty specifically stated:

> The United States of America agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama . . .

In each case the executive department sought and obtained legslation passed by Congress before these agreements could be implemented.

These precedents cannot be overlooked when we are talking about negotiations or a proposed treaty that would dispose of total U.S. control and ownership of the Panama Canal to Panama. If previous administrations felt it necessary to seek congressional authorization and approval before entering into any agreement involving the transfer of property or territory to Panama, surely the present administration should follow the same course.

At recent hearings before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, State Department officials were asked whether the Carter administration would involve the House of Representatives in the actual decision to transfer the canal to Panama. They answered that the question was still undecided because negotiations were still in progress. Now that the full provisions of the treaty are known, we can see that the administration clearly has no intention of seeking full congressional approval.

The 1903 treaty was a result of an act of Congress. Therefore any annulment of this treaty should require full congressional approval. Anything less would be an abdication on the part of the House of Representatives of its constitutional authority. I, for one, do not want to be associated with this type of action.

Mr. Speaker, I would like to have printed in the RECORD a copy of my resolution as follows:

> Whereas article IV, section 3, clause 2, of the United States Constitution vests in the Congress the power to dispose of territory or other property belonging to the United States; and
>
> Whereas the United States possesses full and absolute sovereign rights with respect to the Canal Zone; and
>
> Whereas the Congress has not authorized the President or any other representative of the United States to enter into or to conclude treaty or other negotiations which may result in disposition of Canal Zone territory or other property; and
>
> Whereas any impairment of the sovereign rights of the United States in the Canal Zone would be inimical to the welfare of the United States and to international peace and security: Now, therefore, be it
>
> *Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress of the United States that, unless hereafter specifically authorized by a law enacted by the Congress—
>
> (1) the sovereign rights of the United States in the Canal Zone shall not be conveyed, relinquished, ceded, or otherwise transferred, wholly or in part; and
>
> (2) no Federal funds shall be made available for the conduct of any negotiations or the implementation of any treaty or other agreement which may impair the sovereign rights of the United States in the Canal Zone.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CORMAN (at the request of Mr. WRIGHT), after 4:30 today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks, and to include extraneous matter to:)

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. BURKE of Florida, for 20 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mrs. HECKLER, for 10 minutes, today.

(The following Members (at the request of Mr. YOUNG of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. CORNELL, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. EILBERG, for 10 minutes, today.

Mr. THOMPSON, for 5 minutes, today.

Mr. ROONEY, for 5 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROYHILL, to revise and extend his remarks and include extraneous matter just before final passage of H.R. 3816.

Mr. FORSYTHE, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $805.

(The following Members (at the request of Mr. GOODLING), and to include extraneous matter:)

Mr. ARCHER in three instances.

Mr. WHALEN in two instances.

Mr. CARTER in two instances.

Mr. DERWINSKI in two instances.

Mr. GOLDWATER.

Mr. LAGOMARSINO in four instances.

Mr. BURGENER in two instances.

Mr. WHITEHURST.

Mr. ASHBROOK in four instances.

Mr. CUNNINGHAM.

Mr. VANDER JAGT.

Mr. DORNAN in three instances.

Mr. MOORE.

Mr. ABDNOR in two instances.

Mr. GILMAN in two instances.

Mr. FRENZEL in three instances.

(The following Members (at the request of Mr. YOUNG of Missouri) and to include extraneous matter:)

Mr. EDWARDS of California.

Mr. MAZZOLI.

Mr. NIX.

Mr. SCHEUER.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. FRASER in ten instances.

Mr. BEARD of Rhode Island.

Mr. RODINO.

Mr. DOWNEY.

Mr. RAHALL.

Mr. ROE.

Mr. AUCOIN.

Ms. OAKAR.

Mr. JONES of Oklahoma.

Mr. BLANCHARD.

Mr. VANIK.

Mr. NOLAN.

Mr. MURPHY of New York.

Mr. LEHMAN.

Mr. STARK.

Mr. SATTERFIELD.

Mr. DRINAN in three instances.

Mr. MANN.

Mr. RUSSO.

Mr. PICKLE.

SENATE BILL REFERRED

A bill of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States; to the Committee on Interior and Insular Affairs.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; and

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2169. An act to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building".

ADJOURNMENT

Mr. YOUNG of Missouri. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 39 minutes p.m.) the House adjourned until tomorrow, Friday, October 14, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2547. A letter from the Director of ACTION, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2548. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide for the classification of certain aliens as special immigrants; to the Committee on the Judiciary.

2549. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on affirmative action, pursuant to secton 104(b) of Public Law 85-315; to the Committee on the Judiciary.

2550. A letter from the Acting Comptroller General of the United States, transmitting a report on U.S. military sales to Saudi Arabia (ID-77-19, October 11, 1977); jointly, to the Committees on Government Operations, and International Relations.

2551. A letter from the Acting Chairman, Federal Energy Regulatory Commission, transmitting the Commission's comments on the President's decision and report on the Alaska natural gas transportation system, pursuant to section 8(f) of Public Law 94-586; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of Oct. 12, 1977*]

Mr. LONG of Maryland: Committee of conference. Conference report on H.R. 7797 (Rept. No. 95-701). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution 829. Resolution providing for the consideration of House Joint Resolution 626 Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes (Rept. No. 95-703). Referred to the House Calendar.

Mr. ROBERTS: Committee on Veterans' Affairs. Report on allocation of budget totals to subcommittees (Rept. No. 95-704). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 830. Resolution providing for the further consideration of H.R. 7073. A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Rept. No 95-705). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 9378. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans; with amendment (Rept. No. 95-706). Referred to the Committee of the Whole House on the State of the Union

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9418. A bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes; with amendment (Rept. No. 95-707). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[*Omitted from the Record of Oct. 12, 1977*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; with amendment (Rept. No. 95-702, Pt. I). Referred to the Committee on Post Office and Civil Service for a period ending not later than October 17, 1977, for consideration of section 301 of the bill and amendment as reported by the Committee on Ways and Means, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DELLUMS (for himself and Mr. MCKINNEY):

H.R. 9544. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. BRINKLEY (for himself and Mr. WHITEHURST):

H.R. 9545. A bill to amend title 10 of the United States Code to provide essential medical and dental care to members or former members of a uniformed service and their dependents where the member or former member is entitled to retired or retainer pay or equivalent pay; to the Committee on Armed Services.

By Mr. BURKE of Massachusetts:

H.R. 9546. A bill to amend title XVI of the Social Security Act to provide for an exclusion from resources of an amount deposited as prepayment of funeral and burial expenses; to the Committee on Ways and Means.

By Mr. FITHIAN:

H.R. 9547. A bill to encourage the use of agricultural commodities in the production of certain blended fuels; to the Committee on Agriculture.

By Mr. GOLDWATER:

H.R. 9548. A bill to amend title 38 of the United States Code in order to waive the payment of premiums for the National Service Life Insurance by certain persons who have attained age 70; to the Committee on Veterans' Affairs.

By Mr. LAFALCE:

H.R. 9549. A bill to encourage investment in small business concerns, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, Small, Business, and Ways and Means.

By Ms. OAKAR (for herself, Mr. CAVANAUGH, Mr. PEPPER, Mr. RANGEL, Mr. RAHALL, Mr. DOWNEY, Mr. CORRADA, Mr. YATRON, Mr. DUNCAN of Tennessee, Mr. GOODLING, Mrs. LLOYD of Tennessee, Mr. MURPHY of Pennsylvania, Mr. FAUNTROY, Mr. CORNELL, Mr. VENTO, Mr. HORTON, Mr. JEFFORDS, Mr. ROE, Mr. HARRINGTON, and Mr. WON PAT):

H.R. 9550. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. SKELTON, Mr. EILBERG, Mr. HILLIS, and Mr. AKAKA):

H.R. 9551. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. GILMAN, Mrs. HECKLER, Mr. JEFFORDS, Mr. MICHAEL O. MYERS, and Mr. STEERS):

H.R. 9552. A bill to require that the Hungarian Crown of Saint Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on International Relations.

By Mr. TEAGUE (by request):

H.R. 9553. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration; to the Committee on Science and Technology.

By Mr. WALKER (for himself, Mr. PANETTA, Mr. WALGREN, Mr. JENRETTE, Mr. MARRIOTT, and Mr. BENJAMIN):

H.R. 9554. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. WYLIE:

H.R. 9555. A bill to amend the Truth in Lending Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BUCHANAN:

H.R. 9556. A bill to amend the worker adjustment assistance provisions of the Trade Reform Act of 1974 in order to provide that workers may be covered under certification of eligibility to apply for such assistance if they are totally or partially separated from adversely affected employment within 2 years before the date of the petition for such certification, to extend by 52 weeks the period for which workers may receive trade readjustment allowances, and for other purposes; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN (for himself, Mrs. HECKLER, Mrs. FENWICK, Mr. FRENZEL, Mr. FREY, and Mr. GRASSLEY):

H.R. 9557. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. DUNCAN of Tennessee (for himself and Mr. DON H. CLAUSEN):

H.R. 9558. A bill to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain, specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Forces; to the Committee on Armed Services.

By Mr. HARRIS (for himself and Mr. KEMP):

H.R. 9559. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to include resue squad members in the group of persons eligibe for public safety officers' death benefits; to the Committee on the Judiciary.

By Mr. HARRIS (for himself and Mr. KASTENMEIER):

H.R. 9560. A bill to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children; to the Committee on the Judiciary.

By Mrs. HECKLER (for herself, Mr. CORNELL, Mr. EDGAR, Mr. GUYER, Mr. MOTTL, Mr. WALSH, Mr. BALDUS, Mr. BRODHEAD, Mr. CLEVELAND, Mr. D'AMOURS, Mr. DELANEY, Mr. DOWNEY, Mr. HANLEY, Mr. BARRINGTON, Ms. HOLTZMAN, Mr. MCHUGH, Mr. MOAKLEY, Mr. NEDZI, Mr. PANETTA, Mr. QUIE, Mr. REUSS, Mr. RINALDO, Mr. STUDDS, Mr. THOMPSON, and Mr. WHITEHURST):

H.R. 9561. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mrs. HECKLER (for herself, Mr. CORNELL, Mr. CAPUTO, Mr. CARR, Mr. FLORIO, Mr FORD of Michigan, Mr. LAFALCE, Mr LEDERER, Mr. LEHMAN, Mr. LUNDINE, Mr. MITCHELL of New York, Mr. MOORHEAD of Pennsylvania, Mr. NOLAN, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PURSELL and Mr. RISENHOOVER):

H.R. 9562. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mr. KEMP (for himself, Mr. COLLINS of Texas, Mr. CONABLE, Mr. DICKINSON, Mr. EMERY, Mr. EVANS of Delaware, Mr. FORSYTHE, Mr. FRENZEL, Mr. FREY, Mr. GRASSLEY, Mr. HANSEN, Mr. HILLIS, Mr. JEFFORDS, Mr. KASTEN, Mr. KETCHUM, Mr. LATTA, Mr. MILLER of Ohio, Mrs. PETTIS, Mr. PRITCHARD, Mr. PURSELL, Mr. QUILLEN, Mr. SCHULZE, and Mr. THONE):

H.R. 9563. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. KEMP (for himself and Mr. LIVINGSTON):

H.R. 9564. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ROUSSELOT, Mr. RAILSBACK, Mr. WALGREN, Mr. CLEVELAND, and Mr. GOODLING):

H.R. 9565. A bill to provide for an alternative amortization period for pollution control facilities; to the Committee on Ways and Means.

By Mr. MAHON:

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. NOLAN (for himself, Mr. ABDNOR, Mr. AKAKA, Mr. BEDELL, Mr. DE LUGO, Mr. EVANS of Delaware, Mr. EVANS of Georgia, Mr. FORD of Tennessee, Mr. FRASER, Mr. FRENZEL, Mr. HUGHES, Mr. MITCHELL of Maryland, Mr. OBERSTAR, Mr. PATTISON of New York, Mr. PEPPER, Mr. PURSELL, Mr. QUAYLE, Mr. RUSSO, Mr. TRAXLER, Mr. TUCKER, Mr. WALGREN, Mr. WOLFF, Mr. YOUNG of Alaska, and Mr. YOUNG of Missouri):

H.J. Res. 627. Joint resolution authorizing the President to proclaim the third week of May of 1978 and 1979, as National Architectural Barrier Awareness Week; to the Committee on Post Office and Civil Service.

By Mr. BURKE of Florida:

H.J. Res. 628. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. MILFORD:

H. Con. Res. 378. Concurrent resolution expressing the sense of the Congress regarding the sovereign rights of the United States in the Canal Zone; to the Committee on International Relations.

By Mr. KEMP (for himself, Mr. BADHAM, Mr. BURGENER, Mr. COLLINS of Texas, Mr. FORSYTHE, Mr. GOODLING, Mr. HEFTEL, Mrs. HOLT, Mr. HUGHES, Mr. HYDE, Mr. KINDNESS, Mr. JOHN T. MYERS, Mr. QUIE, Mr. STEERS, and Mr. WHITEHURST):

H. Res. 831. Resolution to express the sense of the House with respect to administrative policy changes by the Internal Revenue Service; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 9566. A bill for the relief of George F. Roth; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 9567. A bill for the relief of Judge Louis Le Baron; to the Committee on the Judiciary.

By Mr. JEFFORDS:

H.R. 9568. A bill for the relief of Renate Irene McCord; to the Committee on the Judiciary.

By Mr. KEMP:

H.R. 9569. A bill for the relief of Jack R. Misner; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

290. By the SPEAKER: Petition of the Executive Committee of the Legislative Council of the State of Oklahoma, relative to U.S. relations with the Republic of China; to the Committee on International Relations.

291. Also petition of the 119th Convention of the International Typographical Union, Cincinnati, Ohio, relative to postal service; to the Committee on Post Office and Civil Service.

292. Also petition of the Iosco County Democratic Party, Hale, Mich., relative to the retirement age under social security; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

DR. ROSALYN S. YALOW

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. SATTERFIELD. Mr. Speaker, it is a pleasure for me to call attention to the fact that two of the three Americans who were honored today with the Nobel prize in medicine are full-time, career employees of the Veterans' Administration.

Dr. Rosalyn S. Yalow is a senior medical investigator at the Bronx, N.Y., Veterans' Administration Hospital. She was awarded half the prize for her pioneering work in endocrinology, the study of glandular secretions, using the technique of radioimmunoassay which he and the late Dr. Solomon A. Berson, also of the Bronx VA Hospital, devised and introduced.

Dr. Andrew V. Schally, senior medical investigator at the New Orleans, La., VA Hospital, shares the other half of the prize with Dr. Roger Guillemin of the Salk Institute. Dr. Schally and Dr. Guillemin have made many pioneering discoveries in peptide hormone chemistry.

Dr. Yalow has spent her entire professional career in the Bronx VA Hospital, and has won numerous other high honors for her scientific contributions. She was the first woman to be appointed a VA senior medical investigator. She holds the rank of distinguished service professor at the Mount Sinai School of Medicine, in addition to serving as chief of the nuclear medicine service and director of the Solomon Berson Research Laboratory at the Bronx VA Hospital.

Dr. Yalow established the first radioisotope laboratory in the VA system, in 1947. She was one of the first winners of the annual Federal Women's Award for outstanding achievement. She and Dr. Berson were jointly honored with the first presentation of the VA's highest research recognition, the William S. Middleton Award.

A year ago Dr. Yalow received the Albert Lasker Basic Medical Research Award, the first woman to be so honored.

She also has been honored with the Dickson prize of the University of Pittsburgh, the Howard Taylor Ricketts Award of the University of Chicago, the Koch Medal of the Endocrine Society, and the Award of the American College of Physicians for distinguished contributions in medical science.

She has been the recipient of the Veterans' Administration Exceptional Service Award and the American Medical Association's Scientific Achievement Award, Modern Medicine magazine's Distinguished Achievement Award and the A. Cressy Morrison Award in natural sciences of the New York Academy of Sciences.

Dr. Yalow is a member of the National Academy of Sciences.

Her research has been associated with the technique of radioimmunoassay and extending its use. This important research methodology has led to numerous advances in physiology and clinical medicine because of its precision and value in measuring minute quantities of many pharmacologic and biologic sub-

stances, including drugs, hormones, viruses and enzymes.

The technique is used in more than 4,000 laboratories in this country alone, and has been described as one of the most important advances of the past 20 years in basic research that can be directly applied to clinical medicine.

The independent discoveries of Dr. Schally and Dr. Guillemin also are examples of basic research that has direct application to patient care. Their findings were recognized by the Royal Caroline Institute for laying the foundations of modern hypothalmic research, and have potential value in treating infertility, diabetes, acromegaly, arthritis and kidney disease.

Dr. Schally has been chief of the Endocrinology and Polypeptide Laboratory at the New Orleans VA Hospital since 1962. He holds the academic rank of professor of medicine at Tulane University School of Medicine.

Dr. Schally also was awarded the Albert Lasker Basic Medical Research Award, in 1975, and the William S. Middleton Award of the Veterans' Administration, in 1970.

His contributions also have been recognized with the Van Meter prize of the American Thyroid Association, the Ayerst-Squibb Award of the U.S. Endocrine Society, the Charles Mickle Award of the University of Toronto, and the Gairdner Foundation National Award.

More recently he has been recipient of the Edward T. Tyler Award and the Borden Award of the Association of American Medical Colleges.

Selection of these two Federal employees for the highest honor in medical research is of great importance to American veterans, as well as to the Nation as a whole. The honor is not only a tribute to their own accomplishments, but to the outstanding medical research being conducted throughout the Nation by the Veterans' Administration.

Conduct of research is one of the three legislative missions of the Veterans' Administration, as spelled out in title 38, the enabling legislation of the department of medicine and surgery. Nearly 6,000 VA physicians participate annually in research activity at 130 VA hospitals.

The VA medical research budget is approximately $105 million annually. Last year, individual VA scientists published more than 6,000 scientific articles in professional journals and presented almost that many lectures at scientific meetings throughout the country, sharing their knowledge with other scientists and physicians.

In addition to these individual projects, however, the VA annually conducts about 30 multihospital cooperative studies. These traditionally have generated significant knowledge of benefit not only to patients in the VA health care delivery system, but to the entire world.

Landmark contributions of these cooperative studies include those which first established the value of chemotherapy for tuberculosis and for mental illness. Other findings of significant importance evaluated drug treatment for hypertension, delineated new knowledge of neurological disease, metabolic disorders, stroke prevention, the aging process, arteriosclerosis, chemotherapy as an adjuvant treatment after cancer surgery, the value of anticoagulant drugs, the nature of sickle cell disease and treatment for alcoholism.

Veterans' Administration researchers performed pioneering studies in kidney and liver transplants, the implantation of heart pacemakers, and in other fields.

It is therefore especially gratifying to me to see that this fine research activity has been recognized today, as well as the outstanding scientists whose individual studies have contributed so much.

MAN OF THE YEAR AWARD TO HON. NICHOLAS J. BUA

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. RUSSO. Mr. Speaker, the Honorable Nicholas J. Bua has been chosen by the Justinian Society of Lawyers in Chicago as the recipient of their Man of the Year Award and will be honored the evening of October 17 by the group.

He is currently president-elect of the American Justinian Society of Jurists, a 1,100-member organization of Italo-American judges throughout the United States and its possessions.

It is an honor for me to be personally acquainted with Judge Bua and I want to take this opportunity to share with my colleagues some of the accomplishments of this distinguished jurist that led to his selection for the coveted award.

Judge Bua was appointed as a Judge of the U.S. District Court of the Northern District of Illinois in July of 1977. Prior to his appointment to the Federal bench by President Carter, he served as a judge of the circuit court of Cook County, 1964–76. In 1976, he was elected a justice of the Illinois Appellate Court—First District, Chicago.

In 1972 the Supreme Court appointed him a member of the prestigious Supreme Court Rules Committee, a position he still holds, and since 1970 he has served on the executive committee of the Judicial Conference of the State of Illinois. He is a member of many professional associations and has received special awards for his contributions to programs of continuing legal education. A 1953 graduate of DePaul University College of Law, he was selected this year as the recipient of their Distinguished Alumni Award.

Obviously it is difficult to list all the achievements of a man such of Judge Bua, but I think it might help provide a clearer picture of just how effective and talented he is if I cite home comments and statistics from law groups themselves.

In November of 1975, he was the recipient of the highest rating of the Chicago Bar Association Committee on Judicial Candidates—94.7 percent—in connection with the screening of over 300 applicants for supreme, appellate, and circuit court judges.

In September 1976, the Chicago Bar Association announced the results of the poll of its members concerning the retention election of 32 circuit judges. Judge Bua, again, received the highest rating ever given to any judge during the entire 100-year history of the Chicago Bar Association—a finding of over 99 percent in categories involving the candidates' integrity, legal knowledge, judicial temperament.

In 1977, in connection with the screening of 18 prospective nominees for appointment to the Federal District Court for the Northern District of Illinois, the judge was found "highly recommended" by the Chicago Bar Association, receiving a percentage rating of 96.19 percent, the highest among the 18 names submitted by Senator ADLAI E. STEVENSON, to the association.

The judge is also a writer, a lecturer and has done extensive work with groups such as the Committee on Continuing Legal Education of the Chicago Bar Association, the University of Chicago Law School, De Paul University College of Law and the Illinois Judicial Conference.

I think it is evident that the Justinians have chosen a most outstanding gentleman as their Man of the Year. Next Monday will be a festive evening for all involved, and it will be a pround evening for Judge Bua and his lovely wife of 34 years, Camille and daughter Lisa Annette.

I know my colleagues join with me in congratulating Judge Bua and commending him for his fine service to the legal world.

TRIBUTE TO INMAN MILLS

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MANN. Mr. Speaker, this month, Inman Mills of Spartanburg County, S.C., is celebrating its 75th anniversary—an event in which all concerned, both past and present, can take great pride. It is a particular source of pride to its president, James A. Chapman, Jr., whose family founded and has provided the dynamic leadership that has sustained Inman Mills throughout its 75-year history.

As a corporate citizen of Spartanburg County, Inman Mills is an important part of a local textile community that is providing 18,600 persons with gainful employment in the production of goods that are valued at $628.6 anually.

The textile-fiber-apparel industry, as you know, Mr. Speaker, is vital to the economic health of America, and we are most fortunate to have stable companies such as Inman Mills, forming the backbone of this essential industry and contributing to the well-being of community, State, and country.

I am proud to have this opportunity to congratulate Mr. Chapman, the officers, stockholders, and employees of Inman Mills on this diamond jubilee and to offer my sincere hope that Inman and the scores of mills like it in other communities of our Nation will continue to prosper long into the future.

REPUBLIC OF CHINA CELEBRATES DOUBLE TEN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, on Monday of this week the Republic of China on Taiwan celebrated its national day—the commemoration of its founding by Dr. Sun Yat-sen.

In recent years under the previous administrations and the present one there has been a move by some to abandon our ally the Republic of China on Taiwan to get closer relations with Communist China. As I have stated previously, this would be a mistake. It would hurt us. It would seriously harm Taiwan's ability to survive. I urge continuation of our full range of relations with the Republic of China.

Recently the Air Force magazine published an interesting article entitled "Taiwan and the U.S. Posture in the Pacific." At this point I include its text in the RECORD:

TAIWAN AND THE U.S. POSTURE IN THE PACIFIC

(By Gen. T. R. Milton, USAF (Ret.))

As we all know, there is a move afoot to establish full diplomatic relations with the People's Republic of China. But the PRC has intimated that first we should sever relations with the Republic of China on Taiwan, abrogate our defense treaty, and withdraw all U.S. military personnel from the island.

Naturally enough, there also is a move afoot to meet these demands as a way of speeding the consummation of this new relationship. Prominent among the advocates of abandoning our old friends on Taiwan is Sen. Ted Kennedy of Massachusetts, along with various other people in and out of government.

The rationale behind all this is simple. We will gain great stature, if not immediate friendship, with a nation of 800,000,000 people at the expense of a nation of only 17,00,000. We will also be enlisting this huge nation on our side against the USSR. Or, perhaps, it will be enlisting us. Seemingly, it will not matter in that joyous union of former enemies. As for Taiwan, well, we can give those Chinese some sort of reassurance. It will necessarily be well short of what we have given them in the past, but that is the way it goes.

When Chiang Kai-shek and the remnants of his army came ashore on Taiwan twenty-eight years ago, it was a bleak moment for him and for those who dreaded a Communist Asia. For all practical purposes, Marshal Chiang and his side were finished, and much of the Western world made that judgment. For a variety of reasons, the U.S. did not. As time passed the Nationalists on Taiwan became the military force they should have been on the mainland. Corruption was replaced with discipline and dedication. The Double Ten parades of the fifties and sixties, with the old Marshal reviewing his troops, were something unforgettable. Meanwhile, Taiwan began to prosper in a remarkable way, and the initial resentment of the native Taiwanese toward the mainlanders subsided with the realization that things had never been better.

The beautiful subtropical island of Taiwan has always been coveted by someone. The Dutch wanted it, and for nearly forty years of the 17th century, had it, shared during part of that time with the Spanish. It was the Dutch, in fact, who imported the Chinese from the mainland as a source of labor, the Taiwan aborigines being either incapable or intractable. It was a Chinese pirate who drove out the Dutch and brought in a more educated class of Chinese. Peking took control of the island for the first time at the end of the 17th century. The Japanese conquered Taiwan late in the 19th century and kept it until 1945. It has not, then, had an unbroken record as a Chinese province. However, that is beside the point. It is Chinese territory now, Nationalist Chinese territory, and if we concede that there is only one legitimate Chinese government, Taiwan goes along in the deal. That seems to be the position of Peking and the rapprochement advocates in this country.

Putting the matter of ethics and loyalty aside for the moment, consider what Taiwan means to the United States military posture in the Pacific. Presumably, we intend to remain faithful to our Korea and Japan defense obligations. Our bases in the Philippines are still basic to our ability to operate in the western and southwestern Pacific, and so the security of the Philippines is important to our own self-interest. A line drawn from Japan through Okinawa to the Philippines passes by Taiwan. It is scarcely logical not to include Taiwan in the line.

It has made sense in other ways over the past twenty-five years. The Chinese have been far more to us than mere base providers. As sophisticated and highly skilled people, they have been one of our best allies in the real sense of the word. During Vietnam much of our fighter overhaul was done in Taiwan. And while it is still not possible to detail their contributions, the Nationalist Chinese did some significant, and dangerous, jobs for us during that unhappy war.

Our strength in the Pacific is reaching the point of bare credibility, and will, with the Korean withdrawal, grow even more marginal. Giving up a strong ally makes no sense, and never mind the moral implications. When that ally has proved itself over the years to be faithful, as well as capable, it makes even less sense.

However, there is another consideration that does not come up for much discussion these days. Suppose the Nationalist Chinese refuse to roll over. It is a likely course for them to take, given their past record. Having taken that stand, and bereft of their old friends, where do they turn for arms and security? To the USSR, says Professor David Rowe of Yale, an Asian specialist, in an article in the July 22 *National Review*.

There is a certain logic in that prediction. After all, it would unite the two sworn enemies of Communist China. An unfriendly Taiwan would do very bad things to that western Pacific frontier of ours.

From what we know of them, the Chinese Communists are a pretty tough bunch. Sentiment seems to play a minor, or even nonexistent, role in their affairs. Thus, while it would appear that we, as the other world power, could capitalize on the present Soviet-Chinese enmity, we should do so with our eyes open. There is nothing in Communist China's past history, nor in Mao's little Red Book, to indicate we really can be good friends. They have more to gain, it would seem, than we, by a closer relationship. Why, then, should we sacrifice our friends, and a good deal of self-respect, by throwing Taiwan into the deal?

THE ENERGY TAX PLAN: "FACING THE BOGYMAN"

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ARCHER. Mr. Speaker, the Wall Street Journal published on September 28, 1977, an editorial commentary on the Senate's consideration of the energy tax bill. I hope that my colleagues will take the time to read it:

FACING THE BOGYMAN

The U.S. Senate is saving us from President Carter's tax increase/energy plan. It has been an admirable display of common sense. Now if the Senate can sort out correct economics from prevailing economics, it could take a giant step toward solving our energy problems.

After the Senate broke the filibuster against natural gas deregulation and the Finance Committee sidetracked the proposed wellhead tax, Mr. Carter exhorted it to "act responsibly" and ward off "special interest attacks." Well, the special interests that we worry most about are those that want some $35 billion in new tax revenues with which to buy votes. Mr. Carter got his plan through the House, for instance, by loading it up with handouts to New England fuel oil consumers. Speaker Tip O'Neill's constituents would not have to pay replacement costs for the energy *they* burn. Happily, the Finance Committee has its own notions of responsibility, and has been chopping down the taxes and handouts one after another.

The Finance Committee is still bedeviled, though, by a set of widespread but incorrect notions: That the wellhead tax would increase prices and thus promote conservation; that U.S. consumers are not currently paying the world price for energy; that removing price controls from crude oil would result in new "windfall profits" for the oil companies; that decontrol would be costly for the consumer. None of these things is true, for reasons cogently outlined nearby by Charles E. Phelps and Rodney T. Smith of the Rand Corp.

Prices are set on the margin. All of the above misconceptions result from the failure to understand or apply this simple and universally accepted rule of economics. The price of a commodity will be the cost of producing the last unit necessary to bring supply and demand into balance. What counts is not the average cost of production, but the cost of the most expensive unit. Throughout the energy debates, even most economists have suffered an apparent congenital inability to apply this simple lesson to petroleum.

In the U.S. market, the marginal barrel of oil is imported, at the world price. The marginal price is the world price. The price of energy is the world price. Price controls on refined products have now been eliminated or made ineffective, simply because it eventually became apparent to nearly everyone that product prices could not be set by controls, but only by world market forces.

Price controls remain on domestic crude oil. But the effect of the controls, and the accompanying entitlements program, is

merely to transfer profits from one oil company to another. This is why the "special interests" have in fact been deeply divided. Specifically, the current program transfers profits from domestic producers to importers. In its folly, the United States government has been subsidizing the purchase of OPEC oil.

The effect of Mr. Carter's wellhead tax would be to capture these profit transfers for the politicians. With the money in hand, the politicians can divvy up the largess, so much for Mr. O'Neill's homeowners, so much for Senator Long's energy research quasi-corporation. Meanwhile, the wellhead tax receipts of $12 billion a year would be drained out of the energy companies. Incentives to produce in the U.S. would be further diminished, and reliance on imports would further increase.

Once you understand that prices are set on the margin and consumers are already paying the world price, though, a painless solution emerges. If you decontrol the price of crude oil the world price of refined products will not go up. The consumer won't have to pay an extra penny.

If you decontrol, you simply will end the profit transfers. The rewards for producing oil in Texas will no longer have to be divided with the sheiks, nor will they go to the politicians. The incentives will be in the right place. People will be able to explore for oil and develop energy alternatives with less fear that Washington will expropriate the rewards of a successful venture. Production will be maximized. Imports will be minimized. Alternative energy sources, of which there are plenty at the right price, will be brought on as they become economically competitive. Once the government stops making the problems worse instead of better, we can all applaud Mr. Carter for building up a strategic petroleum reserve to minimize the national security problem.

The Senate is timidly edging toward this solution, trying to find a way to phase in the imagined costs. It is willing to pay a price to avoid Mr. Carter's Rube Goldberg devices. There will be a stampede the day enough Senators recognize that the costs of decontrol are a child's bogyman.

TRIBUTE TO VOLUNTEER FIRE DEPARTMENT OF LAUREL, MD.

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mrs. SPELLMAN. Mr. Speaker, I rise to salute an organization which has dedicated itself to the safety and well-being of the citizens of the Laurel, Md., area for over three-quarters of a century. As a resident of the community for the past 10 years, it has been my pleasure to have witnessed the dedication, zeal, and unselfish valour of those who are members of the Voluntary Fire Department of Laurel, Md.

It was after a devastating fire in 1888, which leveled 12 buildings and the Presbyterian Church on Main Street, that citizens, headed by Albin Fairal, were motivated to organize what was a loosely knit fire brigade into three viable units, one company for each of the wards of the city. These three companies, located at 8th and Main, comprised of just a handful of men and equipped with hand-drawn reels, merged into one department which is now located at 9th and Montgomery. On October 13, 1902, the by-laws for the first fire department of Laurel were written.

David M. Fisher was the first chief of the fire department, and since his day, some 75 years ago, the organization has grown from that small band of brave men to the 125 volunteer members and 5 career fire fighters which comprise the department today. Under the leadership of James Chenault, the fire chief, and Warren H. Litchfield, the president, the Laurel Volunteer Fire Department responds to over 1,200 calls a year, and, as it did in those early days, serves the surrounding communities of Anne Arundel Howard, and Montgomery as well.

Mr. Speaker, the city of Laurel is a very special city, because its people are very special people. They have a finely honed sense of community without being parochial; they willingly involve themselves in mutual concerns yet judiciously maintain their individuality; they protect the integrity of the privacy of others but never fail to help their neighbors in need. The Voluntary Fire Department of Laurel reflects the fine virtues of those it serves. The department's motto, "Service to Others," precisely describes the commitment each member has made to his neighbor, and I find it a great privilege to stand before this body today to express my respect and admiration for these individuals who serve so selflessly. I know my colleagues will join me in wishing this fine organization a memorable 75th birthday and in extending our most sincere congratulations and appreciation for the irreplaceable service it has rendered to the citizens of their corner of Prince George's County.

TRIBUTE TO PASTOR J. ALFRED SMITH

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. STARK. Mr. Speaker, I would like to take this opportunity on the 58th anniversary of the Allen Temple Baptist Church to pay tribute to Pastor J. Alfred Smith of Oakland, Calif., who serves this congregation and the Oakland community with particular honor and dedication.

Pastor Smith has worked to solve a wide range of community problems; housing for senior citizens, a youth center for teenagers, an improved economic climate for the city, better police/community relations. His leadership in the United East Oakland Clergy, the New Oakland Committee, the Board of the Clorox Youth Center, and the board of directors of the Spanish Speaking Unity Council all pay tribute to his concern for the Oakland community. He is also a teacher and, as such, has served as an inspiration to students at Merritt Junior College and the Golden Gate Theological Seminary. He has done all this with tireless dedication, high principle, enthusiasm and notable success.

Allen Temple Baptist Church and Pastor Smith have made their church a community center offering a year-round tutorial program for students, a creative living center for those who need emotional support, an educational scholarship program for young people in need of financial help, and a source of information for those in east Oakland who do not know where to turn.

Pastor Smith's sense of public duty and tireless attention to the needs of the community is a special witness to his Christian faith and serves as an inspiration to all who serve and worship with him.

POSTAL SERVICE: A VIEW FROM RURAL AMERICA—VIII

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ABDNOR. Mr. Speaker, my office, like those of all my colleagues, has been hearing a lot in the past few years from constituents about what has been happening with the U.S. Postal Service. I would like to share some observations about the USPS costs and operations which have come to me from Mr. Ray Stoltz of Rapid City, S. Dak. Mr. Stoltz has owned and operated the Coast to Coast Store in Rapid City for 40 of his 68 years, during which he has had a lot of contact with the postal system.

His comments merit consideration, in particular, his observation:

> In my 40 years in business I *never* found I could increase my volume of business by raising prices.

Mr. Stoltz writes:

> In these 40 years I mailed 80,000 sale circulars per year or a total of 3,200,000 over the 40 years. At an average cost of 6 cents per piece, I spent a total of $192,000 a year with the post office. There were about 12 businesses that mailed the same quantity over these years for a total of $2,304,000 a year.
>
> When I first started business we merely counted the total number of circulars for each local city route and bundled them. The carrier did not have to case these circulars but merely left one at each house. Then came a new order that each circular mailed in the city had to have an address. So *now* the carrier had to case all the circulars and get them in the proper receptacle. Now the carrier had more work and he had to place the addressed circular at the correct home address. Delivering these 3rd class sale circulars in Rapid City did not make any added expense to the local post office and it paid them $2,304,000 a year.
>
> What is happening today in every town and city in the United States? The newspapers are including the circulars in their newspapers at a much smaller charge than the post office. This revenue alone probably would be nearly sufficient to pay the deficit.
>
> Now what about parcel post packages. I am sure the post office has lost about 50 percent of the package business. They also have lost some of the 1st class mail. Today we receive or send nearly 80 percent of our packages via U.P.S. and it is a very satisfactory system. When we used parcel post, our damages ran about 30 percent of the packages or the package was badly broken up. Now we have no problem.

> In my 40 years in business I *never* found I could increase my volume of business by raising prices. If I raised prices above my competitors or above value, the items did not sell. In the past inflationary years our prices raised in proportion with inflation but *not* like the post office at 300 percent or 400 percent above inflation.
>
> I certainly agree the post office is entitled to an increase in the postage rate but not to 13 cents. A 9-cent rate in first class and fast delivery will eventually bring back the business. A reasonable rate on parcel post and proper care of packages plus fast delivery will also increase the parcel post business. The 3rd class will immediately come back if the rate is decreased to competitive costs.
>
> It is my opinion the post office department thought they had a monopoly on letters and packages and no one would infringe on this business. They could run the post office as sloppy as they felt like and still retain business. They have lost the confidence of the American people. It is the fault of the postal department themselves for the loss of this volume business.

TRADE AND THE DOMESTIC TEXTILE INDUSTRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LEHMAN. Mr. Speaker, because of my participation in the Inter-Parliamentarian Conference, I was unable to take part in a discussion held under a special order on September 27 concerning the domestic textile industry and international trade. I wish to take this opportunity to express my view on this important subject.

The textile and apparel industry is one of the most vital industries in America today. Employing 2.3 million workers, over one in eight manufacturing personnel depends on this industry for a livelihood. Yet, a growing tide of textile and apparel imports has endangered the continued existence of this key industry.

According to the U.S. Census Bureau, the physical volume of textile imports has increased 250.6 percent since 1966. This has resulted in a decrease of both domestic employment and domestic productivity. The International Ladies Garment Workers Union estimates that between 1961 and 1976, approximately 150,000 persons lost potential employment in this industry. Further rapid growth of imports could have a critical impact.

It is for this reason that I urge the administration not to lower the import quotas in the forthcoming Geneva negotiations authorized by the 1974 Trade Act. Such action would be a catalyst for further unemployment in the textile industry.

The U.S. textile and apparel industry cannot withstand further competition for our domestic markets. The American textile worker earns an average wage of $3.50 an hour, while workers in such countries as South Korea and the Republic of China receive wages lower than one-seventh of that amount. In an industry which is already highly competitive, more imports will simply mean more firms out of business and more workers out of jobs. This will only add to the high unemployment levels of minority groups and women, who constitute a large percentage of textile laborers. Such jobs should not be sacrificed to low cost imported goods from abroad.

Present duties on textiles and apparel are not excessive and do not prevent imports from coming to our shores. The past growth pattern makes this point clear. A reduction in duties could, however, tip the competitive scales further in favor of imports and wreak havoc on our domestic industry.

SEXUAL ASSAULTS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. SCHEUER. Mr. Speaker and Colleagues, last evening an episode of the television show "All in the Family" was previewed to congressional staff and members of the public under the auspicies of our very distinguished colleagues; the Honorable PETER RODINO of New Jersey, and the Honorable HERBERT HARRIS of Virginia.

The episode dealt with the very important and tragic subject of sexual assaults. The woman many of us have come to know as Edith Bunker was attacked and sexually assaulted in her own living room by a stranger with marked sexually psycopathic tendencies. While the incident was confined to a television screen during this particular incident, the pattern so poignantly dramatized by a talented cast of actors is an all too frequent occurrence in our society.

We must make a determined effort to stop sexual assaults in America. Until sexual assaults are ended, however, we must sensitize and humanize the treatment that is afforded to the victims of such horrible crimes. We must break the all too familiar patterns of the past in which the countless victims of sexual violence have been treated by the criminal justice system as if they were the criminal. No longer can we tolerate conditions which lead to victims of these offenses feeling like prisoners of fear. But there is more that must be done urgently.

We also must look deeper into the factors that are causing Americans to commit these senseless crimes of personal violence. The Committee on Science and Technology's DISPAC Subcommittee, which I chair, plans to conduct hearings early next session on the subject of Research into Violent Behavior. The first aspect of violence that we intend to explore is that of sexual assault. It is my hope that our subcommittee can work together with several of our colleagues on the complex problems related to sexual assault prevention and control.

Again, I salute my distinguished colleagues for their valuable work in this field. I also applaud Mr. Norman Lear and the members of the "All in the Family" team for their courage and sensitivity in dealing with the emotion-charged issue of sexual violence.

ANYONE FOR SETTING FEDERAL BUDGET PRIORITIES: THE CASE AGAINST SUPPLEMENTAL AUTHORIZATIONS FOR THE PENTAGON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CONYERS. Mr. Speaker, last week I had the opportunity to testify before the House Budget Committee's task force evaluating the problems and potential of the congressional budget process after 2 full years of operation. I argued that of all the goals set forth in the Budget Act of 1974, the one that has received the least attention is the goal of "establishing national budget priorities," as mandated in section 2(4). My argument was as follows: First, we have not found a method for defining and ordering the goals, or priorities, reflected in the budget resolutions we approved; second, until we have some yardsticks for comparing Federal goals, the values, needs, and costs underlying these goals, for example, of full employment, price stability, decent housing, revitalizing cities, energy self-sufficiency, national security, and so forth, we will not possibly be in a position to determine how much is enough to spend on the various goals, what is the most effective means to implement them, and what tradeoffs will be necessary; third, we continue to make budget choices by tinkering with existing programs, adding or subtracting increments from the budget base, rather than evaluating whether these programs are adequate or necessary at all in relation to the goals we have; and fourth, the budget process currently does not anticipate and plan for future needs and, essentially, has us confirm budget choices we made years ago about conditions that existed years ago, particularly in the area of "national security."

The question of setting national priorities that I addressed in my testimony before the Budget Committee has come into sharper focus this week as the House considers supplemental authorizations for defense.

Yesterday the House approved a $561 million defense supplemental bill, which includes funds for further development of Cruise missiles. Next week the House will be called upon to consider an additional $1.4 billion to resurrect the B-1 bomber. And to complicate the matter further, the President recommended funds to study the viability of the FB-111H so-called penetrating bomber as a backup weapon, should the B-1 bomber program be ultimately eliminated and should the Cruise missile system prove inadequate. We now find ourselves in the position of having two or three weapons systems that accomplish the same thing. If past experience is any guide, the Pentagon will get more than it wants and far more than it needs. The capability of the military machine to create weaponry faster than we can comprehend the costs and consequences of is inexhaust-

ible. But leaving aside this matter for the time being, the real question, that the madcap process by which we approve weapons development illustrates, is: How much is enough, and how much are we sacrificing of our domestic goals by always acceding to Pentagon wishes? That we are making such sacrifices all the time should be clear to us, as it was to Arthur Burns, Chairman of the Federal Reserve Board, when he observed in a New York lecture he gave in 1968:

> To the extent that we allocate labor, materials, and capital to national defense, we cannot satisfy our desires for other things. The civilian goods and services that are currently foregone on account of expenditures on national defense are, therefore, the current real cost of the defense establishment.

I ask my colleagues whether there really is any rhyme or reason in our current approach to defense spending and, if not, whether or not we should fashion some better means of establishing Federal budget priorities that enable us to compare the values, needs, and costs across the whole spectrum of Federal activity? For how else will we be in a position to make judgments among the capital needs of the future and the tradeoffs that will be necessary, which according to Brookings and other sources, will involve: $400 billion by 1980 to build 25 million new homes in order to meet the national housing goal; $400 billion over the next 10 years to maintain current levels of agricultural production; $600-$900 billion to create an adequate energy supply over the next 10 years; $70 billion through 1990 for public transportation; $165 billion through 1983 to maintain adequate pollution controls; and $4-$11 billion, depending on the comprehensiveness, to establish national health insurance; and so forth.

VETERANS INSURANCE PREMIUM WAIVER

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. GOLDWATER. Mr. Speaker, I have again introduced legislation to provide a premium waiver exemption for certain veterans, holding a national service life insurance policy.

Essentially, the bill will exempt those veterans, upon reaching 70 years of age, who have paid premiums on their term insurance for 25 years or more, from any form of premium payment.

Many veterans have informed me that, at their time of separation, they were advised not to convert their policies because GI rates were, and would continue to be, less than commercial rates. Unfortunately, this was not the case, and rates have increased exorbitantly. A veteran, at age 70, now pays a monthly premium of $61.80 for the maximum $10,000 insurance policy. If he is fortunate, or unfortunate enough to live to the age of 90, his premium payment soars to $554.00 monthly. By the time a veteran reaches age 70, he has more than paid for his policy.

In addition, because of technicalities within the present law governing premium waivers which require 100 percent disability, and waiver requests before age 65, some veterans who are 100 percent disabled are faced with these astronomical monthly payments.

In most cases, these veterans are retired. They are receiving Federal retirement assistance in one form or another, such as social security, medicare, medicaid, et cetera. It makes absolutely no sense at all, after having encouraged these veterans to keep their policies, to make them turn around and pay a substantial percentage of their modest income back to the Federal Government.

The provisions of this bill insure that the value of the policy has been paid to the Federal Government. Given that this is the case, these senior citizens need and merit relief.

ISLANDS IN THE SHAME

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DORNAN. Mr. Speaker, just 2 weeks ago one of President Carter's principal appointed officials—a militant left-wing activist prominent in pro-Hanoi efforts during the war in South Vietnam—celebrated the Communist triumph over that blood-soaked land with an impassioned speech in New York City.

At the very moment Sam Brown, director of ACTION, praised Hanoi's agents on Manhattan Island, attempts were being made to identify the remains of 22 young Americans on the beautiful island of Oahu. A few brief hours before, I stood with my distinguished colleague from Mississippi, Mr. MONTGOMERY, at Hawaii's Hickam Air Force Base, among a handful of officials whose tragic honor it was to welcome home fellow citizens who gave their lives in the cause of freedom. Thus continued, with little public notice and virtually no national respect, the painfully slow, humiliating return of American prisoners of war and missing in action.

The same men who now take bows in New York, and who presided over the devastation of South Vietnam, participate in this sneering effrontery with which the Hanoi regime treats the Government of the United States and the loved ones of Americans who disappeared in the jungles, waters, and often the prisons of Communist Vietnam.

Mr. Speaker, I have, at times, voiced angry and emotional words on this incredible travesty against national pride and human sensibility. The contrast of that Sunday 2 weeks ago, however, seemed beyond such anger and emotion, until I found it expressed profoundly by columnist Patrick J. Buchanan in the article I submit to you for thoughtful review. I urge all Americans to consider these sad and bitter words:

ALL OF HANOI'S LITTLE HELPERS GATHER FOR HUGE GALA ANTI-AMERICAN PARTY

(By Patrick J. Buchanan)

WASHINGTON.—A decade ago, using old press credentials, this writer was right in the thick of the violent demonstration before the Pentagon, mounted by the "antiwar movement."

At one point there passed by, hauled arm and leg by half a dozen sweating U.S. marshals, what appeared to be a semi-crazed, middle-aged college professor, bellowing into every open mike shoved in his direction something about his constitutional rights and the horrors of U.S. policy in Asia.

Who's the nut, I inquired of one of the marshals. David Dellinger, he replied. Sure enough, it was the selfsame Dellinger then heralded in the press as the conscience of the "peace movement."

We know now the kind of peace Dellinger had in mind. It was not the just peace where the people of South Vietnam would choose, free of coercion, their own form of government. It was the Carthaginian peace of a Communist victory.

The evidence is conclusive. Last Sunday, Dellinger surfaced in the midst of a throng of 2,500 Americans who applauded, cheered and wept with joy in a New York theater as in bobbed the little stooges Hanoi has sent over to spout the party line at the UN General Assembly.

"Welcome, welcome in the name of the American people," beamed Ms. Cora Weiss, another movement leader. As one reporter described the scene, "The audience . . . rose to its feet, roared and clapped for many minutes."

Given his turn to speak, Dellinger turned to his newest cause, the "war against the people of Puerto Rico," presumably being waged by the United States. This reference, too, was cheered. Strange, is it not, how the latest cause of the American haters in the Communist and Third World is almost invariably the personal cause of Dave Dellinger?

Another celebrity spotted in the crowd applauding Hanoi's demand for U.S. aid was former Attorney General Ramsey Clark, apparently unfazed that he was sent home from Hanoi stuffed like a Christmas goose with Communist propaganda about how well the American POWs were treated.

Consider if you will the character of the regime these Americans were celebrating.

It is one to whom atrocity and terror were legitimate weapons of war, which traffics diplomatically in the bodies of American servicemen, which two years after its victory, hold in concentration camps 300,000 former friends and allies of the United States. Its repressive rule in the south has created a new classification of refugees, "the boat people." These are the thousands of families of Vietnamese, from infants to aging grandparents, who push off in leaky boats and rafts into the South China Sea, preferring death by drowning to life under the regime which those 2,500 were cheering.

But perhaps the most startling presence in that hall was that of President Carter's Director of Action, Mr. Sam Brown. Apparently, overcome with emotion, Brown told a reporter:

"I am deeply moved . . . It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?"

Well, Sam, some folks might say that any American who spent 15 years working for a Communist victory in Vietnam does not deserve to be a citizen of this republic, let alone serve in an official position of high honor.

When the thousands of Vietnam veterans lying maimed in hospitals around the country reflect on their wounds, and the friends lost, resisting Hanoi's aggression, one wonders what they must think of the nauseating spectacle which took place in New York a week ago.

WHALEN CALLS FOR ACTION ON PREGNANCY DISCRIMINATION BILL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. WHALEN. Mr. Speaker, earlier this year I called for prompt action on legislation to amend the Civil Rights Act in order to protect pregnant workers from sex discrimination. In particular, I expressed concern over the Supreme Court's decision in the case of General Electric Co. versus Gilbert.

In the Gilbert decision, the Court held that it was permissible for General Electric to offer its employees a sick leave and health benefits plan that covered all manner of elective surgical procedures and accidental injuries—but denied benefits in cases related to pregnancy. It is my opinion that the Court was unduly narrow in its interpretation of the sex discrimination provisions of title VII of the Civil Rights Act, so I gladly joined with many of my colleagues in cosponsoring legislation that would overcome that interpretation of the law.

When I commented on this matter in the March 8 CONGRESSIONAL RECORD, I noted my concern that the Gilbert decision would result in additional challenges to the laws we have enacted to protect against sex discrimination. This is one time that it is a sad duty to have to say that I was right.

Last week, the Supreme Court heard arguments in two more sex discrimination cases. These were Nashville Gas Co. versus Satty, and Richmond Unified School District versus Berg.

Mr. Speaker, in light of continuing developments, I renew my call for action in the House on legislation to outlaw sex discrimination against pregnant workers. The Senate has overwhelmingly approved similar legislation and I hope that we will soon follow suit.

At this point in the RECORD, I wish to insert two items. The first is a story that apeared in the October 6 issue of the Washington Post, reporting on the Satty and Berg cases. The second is an editorial that the Post ran on September 21, just after the Senate voted 75–11 to pass legislation to end discrimination against pregnant workers.

JOB PENALTIES FOR PREGNANCY CITED IN TWO COURT CASES—JUSTICES ASKED TO DECIDE WHETHER REGULATIONS CONSTITUTE SEX DISCRIMINATION

(By Morton Mintz)

The Supreme Court heard lawyers argue yesterday whether the penalties for pregnancy imposed by two employers violated civil rights laws forbidding sex discrimination.

One of the employers, Nashville Gas Co., as a matter of policy pays sick leave to employees disabled by heart attack, auto accidents, back trouble and other afflictions unrelated to their jobs. The Tennessee utility also credits them with across-the-board pay increases approved while they are away and lets their seniority build normally.

But when female employees take pregnancy leave, the firm, also as a matter of policy, puts them on leave without pay and strips them of their job seniority.

For Nora D. Satty, whose clerical job was eliminated by a computer after she had an unplanned pregnancy, these were the results:

She lost $732 in wages during the three months she was away to have a baby in early 1973.

Her 3½ years of seniority were wiped out.

She was rehired for a temporary project, at a starting wage $10 under her previous pay of $142.80 a week.

She applied for three permanent jobs, any one of which would have been hers had she been on sick leave, but lost each to a woman with less seniority.

She was fired when the temporary project ended a month after it had started.

Justices Harry A. Blackmun and Thurgood Marshall asked for the company's justification for taking away seniority from women employees who leave to have a child.

Nashville Gas rewards employees whose personal values dictate that they stay on the job rather than putting their personal lives over their employer's interests, replied attorney Charles K. Wray.

Justice William J. Brennan Jr. inquired if the utility would give its usual sick-leave advantages to an employee injured in an auto accident caused by his or her own gross negligence.

Marshall embroidered the hypothetical negligence to include drunkenness, "smoking reefers and injecting heroin."

Wray said that such an employee was owed the same presumption as a heart-attack victim: he'd rather be at work than in a hospital bed.

But in the case of a pregnant woman, the presumption is that she wants a child, he said. No one inquired about the possible relevance of the accidental nature of Satty's pregnancy.

Wray apparently astonished Marshall by citing a company "right" to return Satty to her job, giving her preference over an outsider.

"She also had a right to the job if no one in the world wanted it," Marshall remarked.

For Satty Robert W. Weismuller Jr. argued that the company had injured his client "forever," partly by sending her to the bottom of the seniority and pay scales, without demonstrating such actions to be business necessities.

Wray, however, said the company merely had followed a "straightforward pregnancy policy" that was not a subterfuge to evade the Civil Rights Act of 1964, and that was consistent with a Supreme Court decision in a case involving General Electric Last December.

The justice devoted a second hour to arguments involving Sonja Lee Berg, a Richmond, Calif., kindergarten teacher. She was the sole breadwinner for her husband, who was studying for the ministry, and herself.

After she became pregnant five years ago, she sought to continue teaching right up to the onset of childbirth. Her personal physician certified that she could do this.

But the Richmond Unified School District insisted she comply with a policy requirement to take maternity leave, without drawing on her accrued sick leave pay, starting the first day of the seventh month of pregnancy. The school board also ordered her to submit to an examination by a board physician. She refused, and won a court injunction allowing her to work until just before the baby's birth.

Berg's attorney, Mary C. Dunlap, argued yesterday that the board never showed distrust of a non-pregnant employee by ordering an examination by its own doctor. In contrast, school board attorney Arthur W. Walenta Jr. said school authorities had a right to seek medical information about Berg through the board's own physician.

The Ninth U.S. Circuit Court of Appeals ruled for Berg, saying she was entitled to both the sick and legal fees, and ordered the school board to grant similar benefits in similar cases.

In like fashion, the Sixth U.S. Circuit Court of Appeals ruled that Nashville Gas owed Satty sick leave pay, $9,456 in gross wages she otherwise would have earned, reinstatement with full seniority, and attorney's fees.

Arguing for overruling the appellate courts, lawyers for both employers cited the GE decision which involved a sickness and accident plan providing benefits without regard to sex, but excludiing benefits arising from pregnancy.

A divided court held that the plan did not violate the Civil Rights Act, saying that gender-based discrimination does not result simply because disability benefits are not all-inclusive.

Last month, the Senate voted 75 to 11 to require employers to include pregnancy benefits in any workers' disability plan they offer.

EQUAL RIGHTS AT WORK

The Senate took a needed step toward providing women with on-the-job equality last week. By a vote of 75 to 11, it passed an amendment to the Civil Rights Act of 1964 requiring that pregnancy be included in any worker's disability program offered by employers. The immediate effect of the legislation, if it becomes law, will be to overturn a Supreme Court decision holding that the exclusion of pregnancy from such programs is not discrimination based upon sex. That decision seemed to be a strained interpretation of the 1964 act when it was announced last December, and we urge the House to join the Senate promptly in undoing it.

The way in which many employers look upon pregnancy has long been a problem for many working women. A male employee unable to work because he has broken a leg, say, playing touch football usually was able to use sick leave or receive disability pay until he recovers. But a female employee who has been unable to work because she was having a baby has often been denied sick leave as well as disability pay and sometimes summarily was dismissed. This attitude began to change a decade or so ago; but it is still sufficiently widespread to put a hardship on many women who either must work before, during and after pregnancy, or who want to. The amendment passed by the Senate says employers must not treat women who can't work because of pregnancy differently from the way they treat men (or women) who can't work because of some other physical condition. About half of the states already have similar laws.

In a country in which 36 million women work and some 80 per cent become pregnant during their working lives, this change is not insignificant. Yet it is overdue. Two-thirds of those 36 million are in the work force because of pressing economic needs at home. About 40 per cent of all pregnant women now work during pregnancy, and many of them return to work as quickly as they can after the baby is born. Common sense requires that for these women, at least, pregnancy be treated as no more a disruption of their working lives than a broken leg. When continuity at work has as large a role in determining pay scales, promotions and pension rights as it now does in many industries, treating pregnancy as such a temporary disruption rather than a termination of employ-

ment is a major step toward giving working women equal rights.

GUN CONTROL IS NOT CRIME CONTROL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, the gun control zealots will use anything to try to strengthen their case. The nationally syndicated columnist John Lofton recently pointed out how the communications director of the National Council to Ban Handguns recently blamed the "Son of Sam" killings on "the absence of effective gun control laws."

As my good friend John Lofton points out the answer to crime is not gun control but criminal control. But those who would take the guns away from the law abiding are caught up in their own fantasy world. Instead of dealing with the very real problem of crime, they want to restrict a right that Americans have had for more than two centuries.

John Lofton's column is deserving of attention by all those concerned with this issue. At this point I include its text in the RECORD and commend it to the attention of my colleagues:

WHY NOT HAVE CRIMINAL-CONTROL LAWS?

(By John D. Lofton, Jr.)

I am not what the anti-gun nuts (AGN) in their rhetorical recklessness would call a gun nut. I do not own any firearms. I have never hunted. I have never even fired a gun. However, I am constantly amazed at just how stupid and law-abiding the AGN's think criminals are.

In a letter to the editor to the Washington Post, Susan Love, communications director for the National Coalition to Ban Handguns, addresses herself to the recent mass murders in New York City committed by the so-called "Son of Sam." Asking the question why these senseless killings occurred, Ms. Love answers, in part:

"In the absence of effective gun-control laws, fear begins to take hold and spread among citizens who realize that virtually anyone can obtain a gun—usually on short notice. Had a simple, nationwide licensing and/or registration law been in effect, Son of Sam's purchase of his .44 cal. handgun would very likely have been a matter of public record—a record that would help to solve the mystery of his identity."

Now, think about this observation for a moment. Does anyone really believe that a person planning to commit a crime with a gun, especially a murder, is going to commit this illegal act with a firearm either licensed or registered in his or her own name? Isn't it much more likely that anyone contemplating a criminal act using a gun would use a gun that is either stolen or registered or licensed in somebody else's name? Of course.

In fact, the day after Ms. Love's letter appeared, David Berkowitz was arrested and charged with the Son of Sam murders and from what we now know, this is exactly what he did!

According to press reports, federal firearms agents say that Berkowitz obtained the $144 Charter Arms Bulldog .44 caliber revolver he allegedly used in the Sam murders from an old Army buddy. Billy Dan Parker, who bought it legally from a local pawnshop in Houston, Tex. Berkowitz reportedly asked Parker to buy the gun because he did not have a Texas driver's license, which is required for identification in weapons purchases in the state. Parker says he used Berkowitz's money to make the purchase.

What Ms. Love's letter does is once again raise the question of gun control laws and just how effective they really are in deterring crimes like the one allegedly committed by the Son of Sam. In my own judgment, applying basic common sense and elementary logic, the answer is: not very. How could they be?

By merely possessing the gun he had in New York City, Berkowitz was violating one of the strictest gun control laws in the nation. In transporting his weapon from Texas to New York, Berkowitz undoubtedly violated numerous gun-control laws along the way. Obviously none of these laws deterred Berkowitz one iota.

Why in the world do the AGN's assume that someone who is going to commit murder, or any other serious gun crime, that this someone will have second thoughts because in committing their crime they might also be violating a gun control law? The assumption is ridiculous on its face.

In an interview, Ms. Love tells me that, as the name of her organization states, their real goal is the banning of all handguns, not just the licensing and registering of these weapons. Irrationally, in my opinion, she says this is to be desired even if it could be demonstrated that handguns do more good than harm. That is, that on balance, for example, it could be shown that more handguns are used by innocent people to defend themselves than are used to accidentally shoot loved ones or friends.

So, how would all handguns be banned, since there are an estimated 40-million-plus of these illegal weapons in circulation and their average lifetime is said to be about 100 years? Well, either through outright confiscation, which raises serious constitutional problems, or by asking the owners of these weapons to voluntarily turn them in, the cost of which would run into the billions of dollars.

But, again, what the Anti-Gun Nuts visualize as happening seems to me to be totally out of touch with reality. Would an individual contemplating a gun crime, which carries a much more severe penalty than the violation of a gun-ban law, really turn in his weapon? I think not. Thus, only the law-abiding citizen would be the person most likely to disarm.

And what if it were possible to completely ban all handguns in the United States? Would it be feasible to completely stop the flow of illegal handguns into the country, most of which would be easily accessible to criminals? Again, I think not in light of the fact that the government has been unable to stop the flow of millions of illegal aliens into the country.

The most effective way to reduce gun crime is to control gun criminals, not guns. There should be mandatory heavy penalties for anyone using a gun in the commission of a crime. The more I listen to the AGN's talk, the more I am convinced that this is the way to proceed.

NATIONAL BELLAMY WEEK

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. RAHALL. Mr. Speaker, Princeton High School and the surrounding communities in my congressional district are today celebrating National Bellamy Week with a number of special activities which will be climaxed with the Princeton High School, Mercer County, W. Va., receiving the national honor which is presented annually to one high school in the Nation.

West Virginia Gov. John D. Rockefeller IV has proclaimed October 14 as "Francis Bellamy Award Day" throughout West Verginia in honor of the 36th annual Bellamy Flag Award presentation. Princeton Mayor Herbert Fink has signed a proclamation making this "National Bellamy Week" in the city.

Princeton High School was named for the award last spring by the directors of the Bellamy Foundation, based on the evaluation of faculty, a curriculum which meets the needs and benefits of the student body.

I would like to take this opportunity, Mr. Speaker, to express my heartfelt congratulations to Princeton High School and the surrounding communities for a job well done.

WATER RESOURCE DEVELOPMENT IN SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ABDNOR. Mr. Speaker, the importance of the legislation on our calendar this week has prompted me to forego an invitation to appear before the South Dakota Water Development Association, holding their annual convention in Pierre today.

Next to our people, water is South Dakota's most important resource. The development of environmentally and economically sound projects to carefully utilize this precious commodity is, in my view, the foremost issue in our State.

My remarks for this meeting were delivered by my field representative, Vern Larson, and I include them in the RECORD:

WATER RESOURCE DEVELOPMENT IN SOUTH DAKOTA

Members of the Water Development Association and friends, I am pleased to have the opportunity to appear before you today on behalf of Congressman Jim Abdnor. I appreciate the chance to share with you some of Jim's views on such an important issue as water resource management, development, and policy. It is especially nice to be with you—the members of the South Dakota Water Association—with which the Congressman has such close ties, such a strong allegiance, and so many warm friendships. I hope I can do justice to his views for you today. . . .

Water resource development policy is not, and should never be allowed to become, a politically partisan issue. There is no more important issue to the future of our State, and although we should not be politically partisan in this respect, we can and must be partisan when it comes to the notion that we cannot continue to let opportunity pass us by each year in the Missouri River.

Each acre-foot, of the millions which flow by us each year, is quite literally an opportunity lost to improve the economic, social and aesthetic lives of our citizens—not to

mention their health. We may find ourselves miles apart on other issues, but there can be no doubt that our abundant water resources must be put to work for us.

Of course, there are many sincere and valid differences of opinion as to exactly how we ought to proceed on any particular project; which projects ought to be given the highest priority; and, in some cases, even if a particular proposed project should be considered at all. Each of these disagreements must be weighed on its own merits, however, in its own context and in full recognition of the overall costs and benefits to the people of South Dakota.

None of us knows all the answers—or even all the questions. We all want what is best for our state, however, and just what will be best is not always clear. All sides of the issue must be discussed. It is in that spirit that Jim Abdnor takes the positions he does and that I offer these comments.

If there was ever a question that our water ought to be put to work for us, the 1976 drought—the worst in this century for many parts of our State, and just one of several in recent years—should have dispelled any doubt which may have remained.

Make no mistake: Even the maximum development of our surface and groundwater resources cannot take the place of adequate and timely rainfall. There is no reason, though, that South Dakotans should always be faced with potential shortages of water for domestic and livestock purposes.

Nor is there any reason why the ravages of drought must be permitted to maintain a stranglehold upon the State's crop production. No one is idealistic enough to suggest that every cropland acre or even every farm will ever enjoy the benefits of irrigation. But Congressman Abdnor, for one, is idealistic enough to believe a substantially increased level of development can materially reduce the impact of future droughts—which are inevitable—and exert a stabilizing influence upon the State's economy far beyond that experienced by those who benefit directly from these projects.

A vital link in the effort to obtain maximum use of our water resources is often overlooked, however, in the drive to develop irrigation. Irrigation can greatly increase our farm production, but so can more efficient use of the moisture which is delivered naturally. Conservation is the only hope for the future as far as many of our natural resources—including land and water—are concerned. In many cases, conservation is already the only hope for today. We'd better become experts in conservation before it's too late.

Assuming even the most efficient possible use of precipitation, however, South Dakota will always remain a water short State. According to the Water Resources Council, the Missouri River Basin has only one-tenth the annual run-off per acre as compared to the New England States. Only the arid, desert States of the southwest have less run-off per acre.

In terms of run-off per capita, though, the Missouri River Basin actually has more run-off than rainy New England. In this sense, South Dakota is blessed with an abundant quantity of water. Many people are surprised to learn there is enough water stored in the great Missouri reservoirs of the State to cover all of the nearly 50 million acres in South Dakota to a depth of nearly a foot. Enough water flows through the State each year to cover the entire State to a depth of about six inches.

It's painfully obvious we are missing the boat, so to speak, by not putting this resource to use where it is so badly needed. But, seeing the need to put the resource to use and actually doing so are two different things. The economics of agriculture and the financial wherewithal of those in need of water are not always equal to the expenses involved. Furthermore, we all agree that water resource planning is important but it often seems that the need for planning becomes an excuse for failing to act to develop our water resources. Certainly, policy and planning studies are essential. But what's the point if nothing is accomplished?

Let me discuss some of the major water resource development issues of importance to South Dakota in which Congressman Abdnor has been actively involved:

Among the water resource problems we have been concerned with in Washington are flood, erosion and sedimentation control. Hopefully, the funds we were able to secure for the Rapid City and Sturgis flood control projects will provide the necessary protection for South Dakota's "monsoon belt". As far as erosion on the Missouri is concerned, we again failed last year to achieve authorization of an operational program under which the federal government accepts its full responsibility in dealing with this problem. We did, however, persuade the Congress to double the funding authorization for the "Streambank Erosion Control Research and Demonstration Program". This program was authorized in the Water Resources Development Act of 1974 at a level of $25 million nationwide. Last year, in lieu of an Abdnor bill to authorize a full-fledged operational program, Congress increased the authorization limit to $50 million. We anticipated a comparable doubling of funding for erosion control in our state. Subsequently, in the appropriations bill passed this year, we were successful in obtaining nearly a million dollars for the Goat Island area in Yankton County.

The Corps' "umbrella study" which was forwarded to Washington earlier this year addressed erosion control further, and Congressman Abdnor will continue his efforts to provide the necessary legislative authorization and direction for them to fully live up to their responsibility.

Another issue addressed in the "umbrella study" is the potential for additional hydropower facilities on the Missouri. In light of our still increasing dependence upon foreign oil, this matter requires our closest attention.

Environmental trade-offs must be fully weighed, but it appears that at least the Gregory pumped-storage site should be authorized and constructed without delay. With it, all possible multipurpose features, such as irrigation as well as rural and municipal water supplies, should be considered. Congressman Abdnor has had legislation drafted to authorize construction of the dam and will be introducing it very soon. Senator McGovern will offer it on the Senate side.

Jim has also had legislation drafted to authorize the Bureau of Reclamation to make available low-cost Missouri Basin hydropower to irrigation projects constructed and operated by irrigation districts organized under state law. This bill would give privately constructed projects the same benefit of low-cost power as is available to projects built by the Federal Government. We are negotiating the final form of the bill and expect to introduce it prior to adjournment of Congress at the end of this month. Both Senator McGovern and Congressman Pressler have expressed their interest in joining Jim in sponsoring this measure.

A third bill Congressman Abdnor has had drafted will re-authorize the Belle Fourche Irrigation Project. The intent is to authorize the Bureau of Reclamation to bring this project up to modern day standards. As you know it was among the very first projects built by the Bureau. It is time the project is given a complete renovation, and we have been working with the Belle Fourche Irrigation District Board to bring it about. The Board is currently reviewing the draft bill, and Jim will introduce it as soon as they give their final approval.

Those are the three primary water development bills on which we are concentrating our attention at the present time. Their prospects are uncertain but so were prospects for enactment of Congressman Abdnor's bill to authorize the Pollock-Herreid Unit. Indeed, prospects for the Pollock-Herreid Unit, like the Oahe Unit, remain uncertain. We did get the necessary authorization legislation passed over the odds against it, though, and we can only and must continue to persevere if water development is to amount to more than a slogan in our state.

Speaking of the Oahe Unit, let me get right to the point concerning Jim's perspective by reading his September 27 letter to the Governor:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 27, 1977.

Hon. RICHARD F. KNEIP,
Governor of South Dakota,
Pierre, S. Dak.

DEAR DICK: I am in receipt of a copy of Senator McGovern's letter of September 14 enclosing correspondence from Secretary Andrus and pointing out that unless there is agreement within South Dakota on the Oahe Unit the Administration plans no further action. As far as the Administration is concerned, of course, the position of the Sub-district Board is key as long as they hold the master contract.

As you will recall, I wrote every Senator who supported the Abourezk Amendment, to delete funding for the Oahe Unit, to ask if a referendum would be persuasive in reversing their position. Enclosed for your information are copies of the replies I have received. You will note that, generally speaking, the Senators have an open mind. It is evident, though, that the position of the Administration will continue to be important, that the Congressional delegation must be united, that South Dakotans must take some action to demonstrate conclusively our support for the project, and that in the final analysis funding is unlikely as long as the local contracting authority remains negative.

In my view the project is not dead yet but may never recover from its current dormancy if people of the state and the Sub-district as currently districted do not elect officials who will actively support it. Alternately, I believe there is some potential that the project could be continued if (a) redistricting of the Sub-district results in a positive position on the part of the board or (b) the master contract is assigned to an authority which is more representative of the interest of the prospective beneficiaries and supportive of the project. (In the latter instance providing representation of those who have a valid negative interest in the project, e.g., a canal or wildlife habitat site, would be a problem and a subject of criticism, I'm sure.)

Finally, we have made a concerted effort to impress upon both the Administration and Congress the obligation to our state, which has made the idea of "alternatives" plausible to South Dakotans. Unfortunately, few in either branch of government appreciate our point of view in this regard, with the result that there are really no alternatives in the sense that Oahe Unit funding can be transferred to them. Any project which might be proposed must stand on its own merits. I have enthusiastically endorsed each proposal which has been suggested and will continue to do everything I can to see to fruition any water development proposal which will benefit our state. I am, frankly, skeptical that any can pass the strict economic, environmental, and political criteria which have been applied to the Oahe Unit in the past and the still tougher criteria which apparently will be applied to new starts, however.

I hope this is helpful, Dick. I am furnishing a copy of this letter to the Republican

leadership of the Legislature for their information also. I look forward to being of any possible further influence on this important issue and to any suggestions you may have in this regard.

Sincerely,

JAMES ABDNOR,
Member of Congress.

We look forward to the meeting Senator McGovern has scheduled for the 12th of November in Sioux Falls. We will be participating and certainly hope it will be a productive meeting.

Jim would also want me to add that, while we disagree with the position of the Oahe Sub-district Board on the Oahe Unit, we are actively and as forcefully as possible pursuing the other projects they have proposed. These are not alternatives to the Oahe Unit but, rather, additional projects to be considered on their own merits.

It goes without saying that Jim wholeheartedly supports the Lower James addition to the Oahe Unit. It is unfortunate that the opposition of the Oahe Board may hold the Lower James project up, as it has the Oahe Unit itself.

There are, of course, other projects which deserve to be discussed in detail. But in the interest of time, I'll just mention them and Congressman Abdnor's most recent efforts to promote them:

The WEB pipeline—Jim initiated extensive contacts with various Federal agencies in an effort to obtain financial assistance to support their ongoing activities. He has also offered to introduce legislation to authorize the pipeline as a Federal Reclamation project if the local sponsors wish.

The Potter County irrigation project—the Congressman has corresponded with the Department of Interior. Upon receiving a somewhat negative reply, he urged that they take a closer look and send someone out to view the project area and visit with the local supporters.

The Yankton and Mitchell community drought projects and the Springfield project—the Mitchell and Yankton projects were funded by the Economic Development Association after we attended meetings in Denver and were able to convince regional EDA officials these projects are within the authority of the law as passed by Congress. The Springfield project is covered under a separate authorization.

Jim has been in repeated personal contact with EDA on Springfield's project, and we are delighted it was funded Wednesday

The West River pipeline—our involvement in this potential project thus far has been limited to attending several meetings at which it has been discussed. The Congressman feels, however, that we should not let the fact this project would entail out-of-state diversion of water for industrial purposes stand in the way of its consideration. It may be the only way to provide a decent water supply to many western South Dakota communities; and it should be judged on the merits of its potential to do so, as well as its overall implications for the state.

The issue of industrial water marketing and water allocation has generated a great deal of controversy. There should be no controversy surrounding this issue—the control of water in the Missouri River Basin was given to the states west of the 98th Meridian by the express will of Congress in the Flood Control Act of 1944. No executive memorandum or administrative action of any type can change that policy—only Congress can do so. And, I don't believe Congress will be inclined to do so unless the states of the Basin get into a dispute among themselves.

Unfortunately, it is evident from the actions of the Administration in the water policy review currently underway that they do not share the commitment to states' rights, which has been demonstrated by Congress and the states themselves.

This matter culminated recently with the passage of a resolution offered by Senator Curtis from Nebraska which expressed the sense of the Senate that no new national water resources policy shall be implemented without Congressional concurrence. Senator McGovern was a co-sponsor of the resolution, along with 33 other Senators, and it passed without dissent. In addition to calling for Congressional oversight, the resolution establishes reasonable periods of time for citizen and state input into the final regulations.

Hopefully Senator Curtis' resolution will signal greater consideration of the views of others on the part of the Administration and a halt to the way certain members of the Administration have attempted to arbitrarily enforce their will with respect to water development policy. In a related issue I should also mention Congressman Abdnor has urged that a hearing be scheduled in South Dakota to take testimony on the Administration's proposed acreage limitation regulations. These proposed regulations are still another of numerous examples of the arbitrary position taken by certain members of the Administration in ignoring historical precedents, local circumstances, and the views of others.

I could go on at much greater lengths. There is just no end to the water development issues of importance to South Dakota. The potential for water development to benefit our state is truly boundless; and I hope it has been evident from my remarks that Congressman Abdnor's effort to meet the challenge has also been considerable. If you have any suggestions how we can improve our efforts and enhance water development in our state, I know Jim is anxious to hear them. Your comments are always welcome.

The activities of the Association are a valuable service to the future of the citizens of our state. We commend your efforts. It has been my pleasure to be with you and, again, thanks for the opportunity to express a few thoughts on Congressman Abdnor's behalf.

A TRIBUTE TO DR. JAMES C. McDONALD

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BURGENER. Mr. Speaker, a good friend, an outstanding educator in my district stepped down from his post as superintendent of the Fallbrook Union High School District, and he is owed a special salute for his exemplary career. Dr. Jim McDonald has served as Fallbrook's superintendent for 14 years and has become recognized throughout the State of California as a leader in the advancement of education and public school administration. Under Dr. McDonald's leadership, the Fallbrook system was selected as one of the pilot school districts by the State Advisory Commission for Planning, Programing, and Budgeting System for California and has remained in a leadership role in school planning, programing, and budgeting.

Always concerned with scholastic achievement of our young people, in 1974 Jim McDonald was chosen as a member of the board of directors of the National Merit Scholarship Corporation and continues to serve with distinction in policy development which guides this nationwide corporation whose aim is scholastic excellence.

A graduate and hall of fame member of Hamline University, Jim McDonald has not confined his tireless efforts to the classroom, but has exerted an important leadership role in community and civic affairs, as well. He has served as president of the Rotary Club in both Vista and Fallbrook, American Red Cross chairman, and chairman of the United Community Chest.

In conclusion, Mr. Speaker, I don't think the Fallbrook area could have enjoyed any better school administrator and community leader than Dr. Jim McDonald, an outstanding educator. Jim McDonald will be missed in the Fallbrook Union High School District but will undoubtedly contribute his experience and energies for many years to come in other endeavors.

THE CRUDE OIL TAX

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ARCHER. Mr. Speaker, the Wall Street Journal published an excellent commentary on the proposed crude oil tax in its September 28, 1977, edition. I commend it to the attention of my colleagues in the Congress:

THE FLAW IN THE CRUDE OIL TAX

(By Charles E. Phelps and Rodney T. Smith)

The U.S. Senate has been grappling with the crude oil tax proposed by President Carter. So far the debate has centered on whether the revenue should be rebated to consumers or used for development of new energy sources. Inability to agree on that issue led the State Finance Committee to vote against the tax Monday, but because it's the centerpiece of the administration's energy plan immediate efforts were begun to resurrect it.

Aside from arguments about how to spend the revenue, there are important economic questions that need to be raised about a crude oil tax.

The stated purpose of the Carter plan is to raise the cost of petroleum products to the "world price." By conventional calculations this would mean an increase of five cents to seven cents a gallon, and thus would promote conservation. In fact, however, U.S. consumers already are paying the world price for refined products. The chief effect of the tax would be to extract some $12 billion a year from the oil industry, in the process increasing U.S. dependency on imported oil.

A simple way to understand why the U.S. consumer is already paying the world price is to look at the world trade in refined products. U.S. price controls do hold down the price producers receive for domestic crude oil. But at the same time the U.S. is importing gasoline and fuel oil, principally from refineries in the Western Hemisphere. The exporting countries, especially the Netherlands Antilles and Venezuela, also ship refined products to the European market.

Naturally, these refineries sell their goods to the highest bidder. If the U.S. market were not paying the world price, all of their products would flow to Europe instead. In fact, the U.S. has continued to import all

types of refined products throughout the period of the controls, although the volume of trade has fluctuated during the period. In a vain attempt to discredit the primacy of world market forces, government studies have calculated that the cost of importing European products into the U.S. exceeds domestic prices. Actually, the pattern of world product trade already shows such a transaction could be uneconomic because Europe is a net importer of refined products from the Western Hemisphere.

MISFOCUSED DEBATE

The U.S. government, in its attempt to influence refined product prices, has consistently failed to understand the importance of the world-wide pricing mechanism. Because the crude oil tax would affect only U.S. refiners, it would have no noticeable effect on product prices, which are set in world markets. Thus the debate on the crude oil tax is misfocused because of the mistaken belief that consumers will bear the major burden of the tax. Instead the proposals would set up huge fund transfers without affecting the final cost. This can be seen by simply assessing the impact of various petroleum regulations.

The price of domestic crude oil is held below the world level by controls initially imposed in 1971 and extended by the 1975 Emergency Petroleum and Conservation Act. These controls reduce U.S. crude oil production below what it otherwise would be because producers receive less than the world price for their product. For vertically integrated firms such as the "majors" this is not too important, because the production of oil for their affiliated refiners allows them to offset imports of foreign oil at the world price. Instead of taking the profit in producing subsidiaries, they take it in refining subsidiaries. In effect they get the world price for domestically produced oil, and thus have no incentive to artificially increase imports.

Another regulation, called the Allocation Program, established the rights of refiners to the lower-priced, domestic crude oil—on the basis of historical contracts for deliveries in the base year of the program (1972). This forced crude oil producers to sell oil to refiners for $5 per barrel, while comparable oil was valued at $12 to $14 per barrel on the world market. Because the market for refined products operated at the world level, this was a transfer of funds from producers to refiners. These transfers can be calculated at $16 billion in 1975 and $19 billion in 1976, though due to vertical integration much of this was a bookkeeping transfer of profits from production subsidiaries to refining subsidiaries.

However, prices of refined products were unaffected, since these transfers didn't alter the margin cost of refining, and according to conventional economic theory prices are set by the marginal costs of production.

Next, the government attempted to control market prices by establishing price ceilings on refined products. This proved totally ineffective because the conditions of the market dictated lower prices for products than the regulations required. This again confirms that prices of refined products were being set by market forces.

In late 1974 the government inaugurated the entitlements program. Under it, refiners using more than the national average of "old oil"—oil from existing domestic fields at their 1972 rate of output—were required to purchase monthly "entitlements" from refiners that use less than the average. The purchase price of the entitlements reflected the difference in cost between the price-controlled old oil and the world price.

The idea, of course, was to provide a financial cushion for the companies that didn't have much "cheap" domestic oil. But a corresponding impact was that refiners promptly began to import more foreign oil to run through domestic refineries, thus increasing their volume of crude oil and their share of the entitlements. In effect, the entitlements program now subsidizes imported oil to the amount of $2.50 to $3 a barrel. The expansion in domestic refining replaced imports of refined products but domestic consumption and domestic product prices were virtually unchanged.

Finally, the inability of the U.S. government to overcome the world pricing mechanism in refined products was further evidenced in January 1976, when President Ford removed a $2 a barrel supplemental tariff on imports of crude oil. This reduced the price of crude oil to U.S. refiners by nearly five cents a gallon. But once again the prices of refined products in U.S. markets did not change when the tariff was removed. The price was set not in the U.S. but in the world market, which was not affected by the change in U.S. government policy.

EFFECT OF CRUDE OIL TAX

On the basis of this experience, what will happen if the Senate enacts the crude oil tax? The profit transfers that take place under current regulations from crude oil producers to refiners will terminate. The tax will capture these transfers for the U.S. government, which will receive $12 billion per year when the tax is fully implemented in three years. Refiners will not be able to recoup lost profits by charging higher prices for their products, because prices will continue to be determined primarily by the world market. This transfer, like the earlier ones, will not affect consumer prices. And if it does not affect consumer prices, it will create no new incentive for conservation.

After the imposition of the crude oil tax, all domestic oil will be valued at the controlled price, not the world price. Consequently, domestic oil production by the vertically integrated corporations will decline. Since there will be no incentives to increase conservation and reduce demand, this shortfall will have to be made up by imported oil. U.S. dependence on foreign oil will increase.

If the crude oil tax is adopted, it will have significant economic effects, primarily income transfers. The government will receive about $12 billion in tax revenues, implying that after-tax net revenues of petroleum corporations will fall about $6 billion. This transfer will be noticeable to stockholders of these corporations, since after-tax net revenue of U.S. petroleum corporations was about $15 billion in 1976.

The price of refined petroleum products will continue to be set by forces at work in the world market and not by current efforts of our government to regulate consumer prices. The price of products will not change, and consumers will be essentially unaffected, unless the Senate decides to rebate to them a portion or all of the tax. The goal of encouraging further energy conservation will not be achieved, and the U.S. as a country will increase its income transfers to OPEC as a result of the increased dependence on foreign oil.

MINIMUM WAGE EXEMPTION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. PICKLE. Mr. Speaker, I want to place in the CONGRESSIONAL RECORD the language of my amendment adopted by the House on September 15, 1977. My amendment raises the exemption for retail and service establishments that are privately owned and operated under the minimum wage laws from $250,000 gross annual sales to $500,000.

The Senate passed another version of this amendment, and thus my amendment will be subject to discussion in the conference.

My amendment is as follows:

ENTERPRISE COVERAGE

SEC. 12. (a) Section 3(s)(1) (29 U.S.C. 203 (s)(1)) is amended to read as follows:

"(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated;".

INADEQUACIES OF CURRENT BAIL LAWS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent article from Parade magazine which examines the deficiencies in our current bail laws.

This article highlights some of the problems associated with inadequate bail laws which in some cases allow suspects to be released from jail before their victims are out of the hospital.

Statistics show that a significant number of repeat offenders are released on bail who then commit additional dangerous or violent crimes while awaiting trial for the first offense. For example, 22 percent of those defendants arrested in the District of Columbia for a felony offense in the last quarter of 1976 were either on bail, probation, or parole at the time of their new arrests.

The House on September 26, 1977, approved H.R. 7747, a bail reform bill for the District of Columbia. This bill seeks to protect the public from dangerous or violent criminals and to ameliorate some of the inequities in the present bail system.

I am hopeful that this bill will serve as a model for other jurisdictions which are considering changes to their bail laws.

The article reads as follows:

OUR BAIL BREAKDOWN

(By Murray Teigh Bloom)

When Charles Gray and Barbara Gaston were arrested in Miami in August 1975 on charges of smuggling $7.5 million worth of heroin, the Drug Enforcement Administration (DEA) estimated it had spent $375,000 trying to nab this much-traveled courier couple.

At first their bail bond was set at $500,000 each. But their expensive lawyer argued that the Bail Reform Act of 1966, covering all federal prisoners, called for either no bail or only reasonable bail. The U.S. Attorney argued forcefully against bail reduction because the couple had several sets of false identification and access to Swiss bank accounts worth several millions. Nevertheless, bail was reduced to $100,000 each, which meant they could get out by producing only $10,000 cash each and assuring the bailbondsman of adequate collateral.

Very quickly they put up the $20,000 cash—brought by an associate—and very quickly they disappeared. A week later federal investigators learned they had withdrawn $400,000 from their account in Zurich. The DEA has spent more than $150,000 trying to recapture them. The couple's piddling $20,000 cash was forfeited, but at this writing the U.S. still has not collected the remaining $180,000 from the bonding company.

BUSINESS AS USUAL

There are more than a thousand similar cases around the country: major drug law violators who have forfeited their bail or appeal bonds and fled. And usually they resume their trade.

But it's not just the drug cases where bail is one of the thorniest issues in criminal justice today. Consider:

Chicago Police Superintendent James M. Rochford has complained that each year the police there arrest 40,000 criminals already out on bond.

Some 60–70 percent of armed holdups in the nation's capital are committed by persons out on bail, according to the Washington Chief of Police.

In 1976 Chief Justice Walter H. McLaughlin of the Massachusetts Superior Court told a U.S. Senate committee that "one of the greatest causes of crime is letting known criminals loose without bail or small bail for months and sometimes years before we are able to reach them for trial."

Still, our tradition is to presume innocence until proven guilty. Confining a suspect merely because he can't post bail flies in the face of this concept.

The 1966 revolution in our bail practices arose largely from a desire to give the poor a better break. Bail experiments in New York and elsewhere found that under controlled conditions many many suspects could be released in their own recognizance, without having to post high bail through professional bondsmen. At the same time bondsmen all over the country were coming under increasing scrutiny because of high profits and low practices. In a continuing federal investigation in Pennsylvania, more than 71 defendants—mainly bail bondsmen—have been accused of giving kickbacks to magistrates, bribing city and country officials and accepting payoffs from defense attorneys. The indicted owed millions to various county courts on forfeited bonds because the people they bonded didn't appear for trial.

NO BAIL NECESSARY

Similar problems in many states helped lead to the Bail Reform Act. In essence the new law was pegged on reliability rather than money; if the accused seemed likely to appear for trial, then he could be released without bail. In time some 48 states adopted various reform programs. Illinois and Kentucky eliminated bail bondsmen altogether. They made it easy for almost anyone to be released on his own recognizance or by posting only 10 percent of the total bail.

All this prompted the bitter comment in Washington, D.C., of U.S. District Court Judge George L. Hart, Jr..: ". . . if a defendant promised me he was going to murder three persons, I would have to let him go on bail."

And in Chicago, Judge Arthur Dunne of the Cook County Circuit Court commented: "You lie awake worrying what some person you admitted to bail may be doing to some innocent citizen." As the law now stands, he added, you cannot deny bond except in murder cases. Yet an Illinois investigation in 1974 even found that 15 persons charged with murder were out on bond.

Apparently under the new bail rules even a suspect deemed an immediate danger could get out. When Albert B. Underwood III, a University of California student, was arrested for possession of two sawed-off shotguns, he was released on $500 bail. He promptly built several pipe bombs and mailed them to the officers who had arrested him. His bail was revoked and he was imprisoned—only to be ordered released by California's highest court on the ground that a judge cannot consider a defendant's dangerous propensities.

The liberal bail rules went even further. In July 1976, a Los Angeles grand jury reported that convicted criminals were frequently freed on bail while their cases were being appealed. And in many cases the appellate courts took a year to reach a decision. The grand jury statement added: "Criminal law loses its effect if punishment is not swift and sure. This principle is violated when a defendant is released on bail during a lengthy period of appeal."

Many judges, police chiefs and prosecutors have also concluded that the state and federal bail reforms of the 1960's went much too far. "A depressing failure," former Deputy U.S. Attorney General Harold R. Tyler called it.

130,000 FUGITIVES

And in New York City, where it was estimated there might be 130,000 fugitives from bail, the Daily News commented: "In a properly working system bail might make sense. In a battered and sinking ship, it's just another hole in the side through which the rats can scurry."

One reason for the present bail mess is that some arguments made for the Reform Act depicted the typical criminal as a poor and downtrodden victim of society. He usually isn't anything of the kind. More typically, he's a cunning professional who uses his free time on bail to commit other crimes, partly to provide money for his defense. As Chicago Police Superintendent Rochford pointedly wondered recently: "Do the courts ever inquire about the fee an attorney receives for handling a repeater, and the source of his money?"

Besides committing more crimes, criminals out on bail can intimidate witnesses. In Washington, D.C., according to one study, 1,000 criminal cases a year are dropped because of witness intimidation. As former Assistant U.S. Attorney Lee Cross said: "There is something wrong in a society in which a girl who has been shot in the back must hide from her attackers because the suspects were freed after being caught."

IRONIC JUSTICE

As a result of this and similar cases all over the country, justice inevitably moved to its logical and ultimate indignity: the prosecution witness is locked up for his own protection while the accused is let out on bail.

No one pretends that pretrial detention is the perfect answer. For example, what do we do about defendants who are jailed without bail and later found innocent? But clearly it's time for our states to amend the easy bail provisions that disregard common sense and the frightening criminal statistics. Isn't it time we accepted the fact that many criminals, because of their known histories, are simply too dangerous to be allowed out on bail while awaiting trial—or an appeal?

PERSONAL NOTICE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRENZEL. Mr. Speaker, yesterday on rollcall No. 643, I was recorded as paired against the motion on the rule on House Resolution 766. That pairing was a mistake. Had I been present, I would have been obliged to vote for the rule.

NEW PROPOSALS: NO ANSWER TO SOCIAL SECURITY PROBLEMS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, two recent proposals concerning the social security system I believe have little merit. These are the proposals to raise the age for social security benefits and to place Federal, State, and local government employees under social security.

The House Ways and Means Committee has approved a bill mandating universal social security coverage. All Federal employees, all State and local government employees and all employees of nonprofit organization would be required to participate in social security. The bill also provides for a study of methods of integrating the social security system, the civil service retirement system and other retirement systems.

Some 2.6 million Federal employees would be affected by the provisions of this bill. In addition, approximately 4 million State and local government workers would be brought into the social security system.

I am strongly opposed to such a move. The legislation raises uncertainty about retirement benefits for those now outside the social security system. These people have paid into their own retirement programs—many of which are excellent—and they are counting on the benefits they have been promised. It would be unfair now to change the rules of the ball game and merge the various retirement programs into social security.

In addition, the Carter administration's Secretary of Commerce Juanita Kreps has recommended raising the social security age to 68. I strongly believe that raising the age for social security benefits would be a serious mistake. After working 30 or more years and paying money into the social security system, a person deserves to receive the benefits he or she has been counting on. It would be a breach of faith to now raise the age for benefits.

Both these proposals are attempts to bail out the social security system. By raising the age for benefits and bringing more workers under the system, it is contended, the financial situation could be eased at least temporarily.

The social security system does have some difficult times ahead. One of the main problems has been that too many have tried to make a welfare plan out of social security instead of fulfilling its its original purpose. Raising the age for benefits or mandating universal social security coverage, however, is no way to solve the financial difficulties.

I urge my colleagues to reject both these proposals.

DON'T BE FUELISH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. McDONALD. Mr. Speaker, as a partial response to the President's outbursts over opposition to his energy program at his press conference today, I would like to call attention to an article called "Don't Be Fuelish," by Robert G. Anderson that appeared in The Freeman for October, 1977.

In my view, Mr. Carter sounded more like Ralph Nader than the President of the United States. Evidently, the President does not understand the economics of the free market system under which we are supposed to be operating. Government controls have never increased the amount of any commodity. Government regulation has stifled natural gas production by holding the price down artificially and the same is going to happen to oil under the President's proposal. The natural gas shortage of last winter was created by the Federal Government—the culmination of long years of price controls. The free working of the law of supply and demand will provide the necessary incentive to bring in the additional supplies of gas and oil that everyone knows we have. Conservation is just not the answer without increased production. Rationing and controls merely spread the shortages out evenly and distort the market and inevitably dry up supplies.

The article follows:

"DON'T BE FUELISH"

(By Robert G. Anderson)

The American consumer finds it hard to believe the commercial: "Please don't use my product." Buy small, drive less, lower the thermostat, recycle, stop wasting energy—the latest culprit in the energy debate has become the "piggish" consumer.

Millions in advertising are now expended to reprimand the consumer for consuming. Public utilities as well as the petroleum industry urge consumers to use less of their products. Even the automobile industry has joined in the plea—promoting smaller cars, car pooling, and less travel.

Such strange behavior is not the way of the market. Providing the consumer with more for less—creating better products—has been the traditional role of the producer. Producers in competition with one another have turned to advertising as a means of promoting, rather than curtailing, the use of their products.

That suppliers of energy should call upon consumers to curtail energy consumption would seem to be an act of irrationality in a free, competitive market place. But such behavior by producers today is not so much a mark of their insanity as it is a measure of the extent to which market forces have been blocked or abandoned in the energy business. An unfettered market for energy simply does not exist.

Price, in a free market, reflects changes in supply and demand. Assuming a steady demand, prices tend to fall when supply becomes abundant, and prices rise when things are scarce. High prices are a signal to consumers to conserve; and to producers, high prices are a spur to increased productivity. But the free movement of price is now restricted by government.

This political interference has hampered the use of price as a means of allocating energy resources. Higher prices, a signal to increase energy supplies and decrease energy consumption, are prevented by government edict. Such government controls on price, as well as regulations hampering production, have discouraged any significant increase in the total supply of energy.

These political barriers to higher prices, and restrictions on production, have generated a widening gap between available supplies of energy and consumer demand. Producers—unable to respond to this disequilibrium through upward price adjustments or increased production—are forced into an advertising program to discourage consumption of their own products and services.

This strange turn in advertising is one of the inevitable consequences of earlier political intervention. Nevertheless, many people blame the market for this new development. Only when it is realized that such behavior is a product of government interference with market forces can any remedy be found.

The extent of government ownership of energy resources and energy-generating facilities is a primary source of the problem. Government legal ownership and government control in the energy field is awesome. Unlike private owners, government owners of resources need not respond to the demands of consumers. The motivating force of gain, which activates the employment of private resources, is absent when the resources are owned by government. Government employs its resources according to political determinations rather than market decisions.

Throughout the world, huge energy-rich land and sea areas are either directly owned or controlled by governments today. Access to these properties by private energy producers, if permitted at all, is at the total discretion of government. In many cases, the government reserves to itself all rights to exploit these resources.

POLITICAL DOMINATION

The presence of government is even more universal in the delivery of electricity and natural gas. Much of the utility industry is legally owned by government. That which remains nominally in private hands is under the direct control of government, and decisions regarding prices, production, and distribution are under government jurisdiction. As a result, the entire industry is dominated by political concerns.

The tragedy of our age is that political decisions are so heavily motivated by envy and guilt. Political redistribution of wealth and deprivation of consumers has been the logical consequence of these attitudes. The law has been used to reallocate property and direct the activities of the citizenry; and the government-owned resources are employed in a similar manner. Convinced that the "social justice" of collectivism demands both a reordering and a redistribution of economic resources, government responds by using all of its resources toward that end.

Obviously, what the political planners seek is radically different from what individual consumers want. A private owner of resources is forced to respond to the will of consumers if he wishes to prosper, but the resources of government are responsive to political rather than market pressures. The political will of a collectivist society is never the same as the individual consumer's choice in the use of his own purchasing power.

Today's political will decrees that low prices, resource preservation for posterity, the reduction of private profit, and reduced consumption are desirable goals in the energy field. To implement these goals, the government enacts various restrictive laws and withholds its resources from production.

Industries that traditionally have served the consumer well in the energy field rapidly are losing their freedom to do so. Government insists that energy resources must be preserved for future generations and that today's consumer is guilty of massive waste. Political concern for the poor prevents energy price rises, and political bias against industrial profits discourages increased production.

ECONOMIC SABOTAGE

The pursuit of these political goals is as effective a program of economic sabotage as anyone could devise. The conflict generated by a collectivist philosophy of envy and guilt assures ultimate chaos in our society. Meanwhile, producers of energy respond as best they can with the freedom they still retain.

The utility industry, forbidden by government to raise rates and hampered in developing additional capacity, is the classic victim of this political philosophy. Government, believing that low rates are best, that consumers are wasteful, and that resources must be preserved for future generations, thus restrains the utility industry. The industry, in desperation, resorts to a campaign urging consumer conservation, a program costly to consumer and producer alike.

The petroleum industry also is the victim of these political beliefs. Legislation holding oil prices below market rates restricts profit margins and destroys incentive to produce. Legal barriers against private producers remove government-owned oil lands as a source of additional supply. International government cartels limit world supplies of oil. Adverse tax laws and production quotas further limit the output. With production thus restrained, the petroleum industry responds, as do the utilities, to advocate reduced consumption. Limiting the gap between existing supplies and growing demand becomes the primary concern of both industries.

The withholding of government-owned energy resources and the political bias against private production has left energy producers with but one option—to advertise for lower consumption of their products. Unable to expand productive capacity, they are attempting to forestall the political alternative: bureaucratic rationing of resources thus rendered scarce.

An advertising campaign to discourage consumption may allow frozen prices to continue to serve temporarily as the means of allocating resources. However, the limitation of production steadily raises costs and applies pressure for price increases. The hampering of new production ultimately will be borne by the consumer in a lower standard of living as energy resources are either not available in quantities desired, or available only at significantly higher prices. The fundamental problem still remains.

PLEASING THE GOVERNMENT

"Conservation" advertising also is being done by some of the energy-related industries. Automobile manufacturers, for example, have been urging a reduction in the use of their energy-using products. Unlike the petroleum and utility industries, these producers still retain their freedom to expand production and sell their products at market-determined prices. Still, they engage in aggressive promotion of small cars, urge less driving, and encourage owners to trade less often, keep the old car longer.

The frightening aspect of this advertising is that it is undertaken to "please" the government rather than to serve the consumer. The automobile industry clearly is intimidated after a decade of continual harassment by government regulations and production

standards. More and more, the type of vehicle produced is ordained by government rather than by the consumer. The automobile industry is well aware of its dependence on a satisfied government.

In a free market the consumer is sovereign. The producer responds by diverting his resources and directing his advertising toward the desires of the consumer. Today, the regulatory power of government is gaining ascendance over the sovereign consumer. To survive, the producer must be ever conscious of government's will as well as the consumer's choice.

Whether consumers want small cars, less driving, more car pooling, or more aged cars is irrelevant. It's what the government says is best! The automobile companies recognize this fact and respond to these political goals through their advertising programs. Just as they have been forced to meet government-imposed standards of construction, they likewise structure their advertising to government orders. Hypocrisy in advertising becomes a condition for business survival.

These pleas by the private producers of energy and of energy-using products are not of their own making. Just as the well-being of the consumer suffers from a decline in total production, so, too, does the well-being of the producer. The fault must be placed on government, and its counter-productive political philosophy of envy and guilt. As long as our society is governed by this collectivist mentality, our economic well-being must suffer.

Yet, the market continues to respond. When hampered by radical government intervention, market forces turn to the areas remaining free. The options of energy producers have declined to the extent that they must now resort to advertising against the interests of themselves as well as consumers.

In the pursuit of political goals in the energy industry, government has hampered production, taxed away profits, frozen prices below the market, and frustrated consumer choice. The result is a decline of our standard of living, and even our remaining freedom to be "fuelish" may soon be denied.

Isn't that foolish?

PERSONAL EXPLANATION

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, regretably I was absent from the floor of the House during the vote taken on H.R. 3, the conference report on medicare-medicaid antifraud and abuse amendments. During the time of this vote, I was attending a historical event for the State of Rhode Island and also had a special audience with the Secretary of Commerce, Juanita Kreps. At that time, a grant amounting to $4.1 million was presented to the Rhode Island O.I.C. before a substantial number of Rhode Island business, clerical, and government leaders.

If I was present, I would have voted in favor of H.R. 3 which I had previously voted in favor of on September 23, 1977.

WHERE CREDIT IS DUE

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MATTOX. Mr. Speaker, next week is International Credit Union Week and I would like to take this opportunity to salute the achievements of our Nation's credit unions and congratulate them for so many years of service to millions of working Americans.

Through recession and inflation, credit unions have continued to be of great benefit to their 17 million members, many of whom would likely face financial difficulties were it not for the reliable, low-cost services provided by credit unions.

Before the advent of credit unions, it was the commercial banks and certain other private lending institutions that were the primary sources of credit for Americans.

But the Great Depression of the 1930's eroded both the confidence of citizens in their banks and the ability of those institutions to provide services to their customers. Especially hard hit were the millions of working-class Americans who found needed loans beyond their reach—loans that could have served as a spur to the sluggish Depression economy.

As more and more citizens moved from rural areas into urban industrial surroundings, it became apparent to the Nation's lawmakers that an alternative institution was needed to provide credit for the growing population of working Americans—an institution in which they could have the utmost confidence and one that could provide easily obtained, low-cost services.

There were many who said it was an outlandish idea. Working men and women cooperatively owning and operating their own financial institution? It seemed an impossible dream.

But the years since 1934, when the Federal Credit Union Act first established credit unions, have shown those early critics to be wrong—credit unions have firmly established themselves as a viable and beneficial part of this Nation's economy.

Because they are nonprofit, and because the credit union members cooperatively own and run the organization, they are better able to "cater" to the specific needs of their members, with services and dividends that commercial banks and other types of lending institution are not set up to provide.

And, more often than not, when those banks and lending institutions refuse to loan money to certain customers, the credit union has been there to assist.

In the age of "problem banks," credit unions have maintained an untarnished image and are held in the highest regard by their members.

Mr. Speaker, not only have credit unions been of unparalleled service to their members, they have shown themselves to be beneficial to the economy as a whole. By providing the resources for millions of Americans to purchase homes, cars, and other items, they are helping to stimulate our Nation's economy and are thus assisting in the battle against unemployment and inflation.

During the week of October 16–22, International Credit Union Week, I urge my colleagues in Congress and my fellow citizens to take note of and commend credit unions for the valuable services they have provided to their members and this Nation.

THE BURDEN OF ILLEGAL ALIENS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DERWINSKI. Mr. Speaker, illegal aliens are becoming an increasing burden to the American taxpayers and the American economy. In order to solve this growing problem, we must have streamlined and effective enforcement procedures, which includes a tightened and expanded border patrol force.

This proposal is effectively addressed in an editorial broadcast over Chicago Radio Station WBBM, on September 23. I direct the attention of the Members to the editorial which follows:

ILLEGAL ALIENS

Illegal aliens are a big problem for the United States, but how to stop them from coming into the country is an even bigger problem. Millions of the illegals are working in jobs our own citizens should have and they get about $13 billion a year in benefits paid for by tax dollars. But given our heritage as an immigrant nation and our relationship with other countries, particularly Mexico, President Carter has found it hard to crack down on the illegals who are already here, although he proposes beefing up the border patrol and imposing stiff fines on U.S. employers who hire illegals. Soon after the announcement of the President's plan, however, the Border Patrol estimated the flood of illegals increased by 51 percent.

That's exactly what we see as the problem. If the President is going to grant a kind of amnesty to the illegal aliens already in this country, what's to stop more from hurrying in under the deadline? The Border Patrol is admittedly too small to cover the ground now. And what's that supposed to mean to the thousands of people abroad who wait patiently and legally for their visas? Doesn't it make a sham of our immigration laws and quotas?

If the United States had guards along every foot of our borders it wouldn't stop all people from sneaking into the country, but the present force must be strengthened. With that part of the President's program we agree. But we can't support the sections which offer lenient terms to those illegals already here. They make a mockery of fairness. And, even worse, what kind of citizens can we expect these people to be when we reward them at the outset for disobeying the law and getting away with it?

That's our opinion. We'd welcome a reply.

THE MORAL RIGHTS OF ARTISTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DRINAN. Mr. Speaker, on July 13, 1977, I introduced H.R. 8261, a bill to amend the copyright law "to secure the rights of authors of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, and for other purposes." The short title of the bill is the "Visual Artists Moral Rights Amendment of 1977."

The moral rights of artists is a doctrine well known in many nations around the world, except the United States. The concept is a part of the Berne Convention which has been ratified by a large majority of foreign countries. The United States has never acceded to that treaty in large part because of its provision on moral rights. If H.R. 8261 becomes law, I am hopeful we will then be able to join the rest of the world in recognizing this important right.

NATURE OF THE RIGHT

It should be noted that the moral right of artists is, in some respects, an amorphous doctrine. While it has certain well defined features, it also contains elements of ambiguity at the perimeters. Legal scholars disagree on the nature and scope of the concept, and other nations, while agreeing on some central features, disagree on the outer limits. In order to understand fully the contours of H.R. 8261, it is helpful to examine briefly the nature of the doctrine.

It should first be recognized that the moral right of an artist is really an extension of the personality of the author and seeks to protect the creativity which produced the art work. It must be carefully distinguished from copyright, which seeks to protect the economic or property interest of the artist. Because copyright is a property right, it follows the work of art and in one sense adheres to it wherever it may be. Thus a copyright is transferable and assertable by the owner of the copyright, irrespective of the creator of the copyrighted work.

On the other hand, the moral right is, as I noted, a part of the artist's personality and as such remains with the creator of the art work even though that work may be transferred to other owners. The work moves on with the copyright, but the moral right stays with the creator of the work. Because of this fundamental difference between copyright and moral right, it has been argued that statutory recognition of the moral right should not be undertaken in the context of the copyright law.

As I indicated earlier, H.R. 8261 is an amendment to the copyright statute. I have taken that approach because that law is a readily available vehicle to carry the moral right and because that law embodies, at the Federal level, the full extent of protection for artists. While the moral right could be established in separate legislation, it makes sense, in my judgment, to incorporate it into the existing copyright statute.

SCOPE OF THE RIGHT

Having noted the differences between copyright and moral right, it follows that the scope of the moral right consists of different elements. The Berne Convention contains the most widely accepted definition of the moral right and it is thus a good starting point. That convention expressly recognizes two aspects of the moral right and contains a third, open-ended provision.

First, the Berne Convention gives the artist the right to claim authorship of a work—the so-called right of "paternity." Thus if a work should be published or exhibited without the artist's name, the creator may assert a right to have the publisher or exhibitor identify the work by name. In addition the artist may require the publisher or exhibitor to remove her or his name if the work is improperly identified. And of course, the artist has the right to remain anonymous if that is the course he or she wishes to follow.

Second, the Berne Convention gives the artist the right to object to any "distortion, mutilation, or other alteration thereof." This is frequently referred to as the right of "integrity." It protects the artist's work from misuse by subsequent owners—misuse in the sense that the work is being distorted against the original design of the author. In the American case of Crimi against Rutgers Presbyterian Church, the artist sued the defendant church for obliterating frescoes he had created for it several years earlier. A New York court refused to recognize the moral right of integrity of the work and thus denied the artist any relief.

Third, the Berne Convention has a kind of residual clause that seeks to pick up a number of other elements of the moral right. It states that the artist may object to "any other action in relation to the said work which would be prejudicial to his honour or reputation." It is not altogether clear what specific rights this give to the artist, except to allow each nation which signs the Convention to identify such rights through its legislative, executive, or judicial branches. It would undoubtedly cover the case in which Shostakovich and other Russian composers sued 20th Century Fox to prevent it from using their music as background in an anti-Communist movie. Those Russian composers lost their case in the American courts because we do not recognize the moral right in any respect. When they brought a similar suit in France, the court awarded them a judgment because that nation does recognize the moral right.

DESCRIPTION OF H.R. 8261

Of the three elements of the moral right contained in the Berne Convention, my bill contains the first two expressly, that is, the rights of authorship and integrity are given explicit statutory recognition. With respect to the third, somewhat open-ended provision, my bill contains a more limited provision. It allows the artist to protect any condition on the use of the work which the artist has recorded in the Copyright Office.

I am aware that a number of visual artists have not been accustomed to and indeed have not utilized the copyright law as a means of protecting their interests. I am also advised that organizations like the Boston Visual Artist Union and groups in the Bay Area in San Francisco are seeking to encourage artists to use the copyright law more frequently. But whatever use is made of that law by visual artists, my bill would not require that the work first be copyrighted before the moral right attaches. Even the third part of my bill, which allows protection of conditions recorded in the Copyright Office would not require the artist filing such conditions to copyright the work.

In my judgment, requiring the artist to record the specific limitations he or she wishes to impose on subsequent owners of the art work is a fair way of giving some content to the open-ended provision of the Berne Convention. It will also serve to blunt criticism that owners are left to the whim of an artist in the use of the work. Thus using the example of the Shostakovich case, if my bill had been law at that time, the Russian composers would have won that suit in U.S. courts if they had first recorded their desire not to allow their music to be used as background without their prior consent. Therefore, even if an artist is unavailable or even dead, the owner of the work will be able to check with the Copyright Office first so that he or she will not run afoul of any restriction on the use of the work.

DURATION OF THE RIGHT

This bundle of three distinct aspects to the moral right comprises the heart of H.R. 8261. To be sure, the bill raises other issues related to the assertion of the right. First, in European countries there has been much discussion over the duration of the moral right. Some have argued that it should last as long as the work is in existence, assertable by the heirs of the artist or in their absence by a governmental agency. On the other hand, some argue that, since the moral right is really an extension of the artist's personality, its duration should be coterminous with the life of the artist.

My bill adopts a kind of middle ground. Since it would incorporate the moral right into the copyright law, it gives that right the same duration as copyright, which is the life of the author plus 50 years. I should note that this period of duration has been, together with the moral right, the two major stumbling blocks to U.S. ratification of the Bern Convention.

COVERAGE

H.R. 8261 also raises another important question: who shall be covered by it? The Bern Convention covers any "author," a word whch is defined very broadly as it is in our own copyright law. My bill is more limited. It would apply only to authors of "pictorial, graphic, or sculptural" works. This limitation was included because the so-called "visual" artists are the least organized and are the least protected among artists in America.

Many composers, for example, protect their interests through contractual arrangements which are negotiated with the help of other persons and organizations in the industry. Visual artists, on the other hand, tend to be fragmented and unorganized, a condition which appears to be changing. I have noticed in recent years a growing awareness among the visual artists to assert their just concerns through organizational strength.

I should add too that, in all candor, the major opposition to establishing the moral right in America in the past has come from the so-called users of copyright: the movie makers and the television industry. While I do not think that alone should be grounds for denying protection to other artists, if such additional protection is needed, it may well be a factor in seeking to take a first, modest step to enact some moral rights legislation.

RELATED ISSUES

Needless to say, H.R. 8261 does not exhaust the subject of moral rights. There are a number of issues which my bill leaves unresolved. For example, some countries have recognized, as part of their moral right, the privilege of the artist to withhold the work totally from the market. In one sense, the United States already observes that right in the copyright law. Furthermore some nations give the artist the right to make modifications in the original work or even to withdraw it from the public domain, compensating the current owner for it. Additionally some scholars maintain that part of the moral right is to be free from "vexatious" criticism of the art work. That concept is, of course, contrary to our copyright law which authorizes nonconsented use of the work for criticism under the "fair use" doctrine. In addition any attempt to legislate in this area would raise serious first amendment questions.

Finally I should note that the laws of foreign countries are divided as to whether any aspect of or the entire moral right may be transferred or waived. Some nations have adopted the view that moral rights may be waived, but not transferred. Let me give you an example of what I mean. Suppose a painter notices that the current owner of one of her paintings has altered the work in some significant, offensive way. At this point, the painter, knowing of the mutilation, has a choice of either asserting her claim or foregoing it. If the latter course is followed, it may be that she will be held to have waived any objection if on some future occasion she wishes to assert her claim of unlawful distortion.

This waiver concept must be compared carefully to the doctrine of transfer. Nations that recognize a waiver may not recognize transferability. That is, the artist may not, by contract or otherwise, transfer her or his moral rights. In a nation where such transfer rights are recognized, the artist may, because of youth, need for money or recognition, contract away all of his or her moral rights. Frankly I am not sure whether American law should allow waiver or transfer of the moral right.

I should note, in this connection, that in 1946 Western Hemisphere nations met in Washington, D.C., and signed the Inter-American Convention on the Rights of the Author in Literary, Scientific and Artistic Works. That convention, which incidentally the United States has also refused to sign, gives the artist the right "to dispose of or waive" the moral rights recognized in that convention.

CONCLUSION

I should note, in concluding, that the arts have always been the orphan in the American political family. Writing in the Harvard Law Review over 35 years ago, Martin Roeder observed: "Busy with the economic exploitation of her vast natural wealth, America has, perhaps, neglected the arts." That is a large understatement of the insensitivity which has characterized the attitudes of elected officials for a very long time.

In a very real sense the greatness of a nation is measured by the respect which it accords the creative work of its people. And a large measure of that respect is reflected in the attitudes of the Government toward the arts, attitudes which inevitably are embodied in the laws of the land. If the Congress fails to enact positive, effective statutes to protect the rights of artists, the United States, with all its wealth, power, and achievements, will be judged, at best, a second rate civilization.

COMMENDATION OF TULSA'S MUSCULAR DYSTROPHY TELETHON

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. JONES of Oklahoma. Mr. Speaker, it is again with the greatest pleasure that I am able to take this opportunity to inform my colleagues of the success of my State's participation in the recent 1977 Labor Day Telethon.

This year was the eighth annual Labor Day Telethon telecast by one of my district's broadcasting stations, KTUL-TV. The management and staff of KTUL-TV have rendered notably generous services to this particular cause—undoubtedly shown by the final off-the-air toteboard figure of $211,294.

This favorable outcome of Oklahomas' involvement in and contributions to the 1977 Labor Day Telethon was further shown by the 16-percent increase of contributions by the people of eastern Oklahoma over last year's contributions. Clubs and organizations too numerous to mention joined with firefighters, letter carriers, Kiwanis, U.S. Jaycees, CB'ers, McDonald's Restaurants, Seven-Eleven Stores, youth groups, church groups, and others to insure the success of this year's telethon.

Furthermore, hundreds of volunteers manned pledge phones for 19 consecutive hours not only in the city of Tulsa, but also in other cities such as Bartlesville, Claremore, Cushing, Hartshorne, Henryetta, Mannford, Muskogee, Okmulgee, Owasso,. Pawhuska, Ponca City, Poteau, Pryor, Stillwater, Tahlequah, Vinita, Wagoner, and McAlester.

It is also important to note that Representative LES ASPIN of Wisconsin has nominated Jerry Lewis, the national chairman of Muscular Dystrophy Association, for the Nobel Peace Prize. The nomination has been accepted by the Nobel Prize Committee of the Norwegian Parliament for the 1978 award.

I hope my colleagues will join with me in their sincere appreciation for the generous support of my State and various other States for this commendable cause to help the victims of muscular dystrophy.

A TRIBUTE TO G. W. "BUD" QUADE

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BURGENER. Mr. Speaker, one of the outstanding school administrators in southern California has announced his retirement, and I would like to pay a special tribute to a friend and outstanding public official, Bud Quade. The Escondido Times Advocate recently devoted its lead editorial to Bud Quade's career, and I could not state Bud's value any better. I would like to include the editorial here and add my own special congressional salute to an exemplary administrator and a fine gentleman:

[From the Escondido (Calif.) Times-Advocate, Sept. 22, 1977]

A PUBLIC OFFICIAL WHO WILL BE MISSED

The time for retirement from our chosen professions or vocations eventually comes for all of us. Such retirements are seldom noticeable if that person has been in the private sector of our society, although the private person's contributions to society may have been just as valuable.

The person working in the private sector (for a private business) is not necessarily subject to public scrutiny, public ire, public praise, public comment—not like the public official, working for a public agency.

Being a public official—especially an administrator of a public agency—has to take its toll over the years in some way, as that public official is subjected to the pressure of dealing with public employes, the elected officials of the legislative body to which you're responsible and the public itself. Some public officials can cope with that sort of pressure; some cannot.

Some public officials have that certain something, that intangible thing, that personality quality, that ability to get along with people, that diplomacy that is necessary to marry with the ability to be a business manager; the two facets being necessary to make an outstanding administrator.

What's this got to do with retirement? This community is going to lose an outstanding public administrator through retirement. And this is the time to say it, although it may be a personal embarrassment to him, as he's that kind of person: He doesn't want any fuss about it.

G. W. "Bud" Quade (nobody calls him Guilford, which is his given name) has announced his retirement (technically it's a resignation) as superintendent of the Escondido Union High School District, effective next June 30. We think that Bud Quade

fits our comments above. He is an outstanding administrator in our book. He will be missed. We know that we will miss him.

Quade has been in the district 30 years, 22 of them as superintendent. He has survived in a post in the same district for a longer period of time than could be expected, as school superintendents are subject to the whims of changing boards of trustees.

We imagine that one of the reasons that Bud wanted to stay in Escondido (many school superintendents choose to move on periodically for more money, a bigger district, or incompatibility with the staff or trustees) is because the district and the job had become a part of him. He said as much when he told trustees in his written resignation: "My employment with the district has been far more than a job or position for me. It has been a vital part of my life, . . . I deeply appreciate the opportunities that I have had in this district, and I trust that I have contributed to the successful operation of what I consider to be an exceptionally fine high school district."

Knowing Bud Quade, those comments were sincere and from the heart. We suggest that we're not alone in assuring Bud that he has, in fact, contributed greatly to the successful operation of the Escondido Union High School District.

Quade will carry some fond memories with him, especially from the early days of his career—tent classrooms, a split campus, the opening of Poway and San Marcos high schools (both of which were then in this district), the opening of Orange Glen and San Pasqual high schools, Poway and then San Marcos breaking away and forming their own districts.

We salute Bud Quade: a teacher, an educator, an administrator and a first-class guy.

THE DEPARTMENT OF ENERGY: $10.6 BILLION?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ARCHER. Mr. Speaker, the attached commentary on the budget of the new Department of Energy was recently brought to my attention. It puts the moneys involved into a unique perspective and I think that it is well worth reading by my colleagues in the Congress.

$10.6 BILLION? THEY CAN'T BE SERIOUS!

Actually, by totalling the number of employees and the fiscal budget of all the departments and energy functions that now will be assumed by the Department of Energy, they will employ 19,767 people and dispose of a fiscal 1978 budget of $10.6 billion.

To put that budget in perspective, consider the following:

1. It represents $500,000 per Department employee.

2. It represents $50 for each and every member of the total U.S. population (212 million).

3. It represents $266,871 for each of the 39,763 wells drilled in 1976.

4. It represents $58.35 for each of the 181,855,700 feet drilled in 1976.

5. It represents $3.59 for each barrel of domestic crude oil production in 1976.

6. It represents $1.67 for every barrel of petroleum products consumed in 1976.

7. It represents 10¢ for every gallon of gasoline consumed in 1976.

8. It represents $0.3434 on every barrel of proven crude oil reserves as of December 31, 1976 (30.9 billion barrels).

9. It exceeds 1975 capital and exploration expenditures by the petroleum industry to explore for and produce domestic crude oil, natural gas and natural gas liquids ($9.4 billion, according to the Chase Manhattan Bank) and it is almost three-fifths of capital expenditures in all U.S. petroleum sectors that year ($17.7 billion).

10. It exceeds the 1974 profits of the 7 largest oil companies—profits which were called "obscene."

If you believe this budget won't increase next year, you'd better look under your pillow in the morning—someone may have left you a quarter.

GROWING POLITICAL TURMOIL IN FRANCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the growing political turmoil in France:

FRANCE IN GROWING POLITICAL TURMOIL

(By Henry Huglin)

NORMANDY, FRANCE.—The French evoke in us Americans a mixture of admiration, of their elegance, savoir faire, and gracious way of life, and annoyance, over their superiority attitudes, pessimism, and self-centeredness.

But now relations between our country and France are excellent.

On their part, the French are again getting into political turmoil. They seem to have difficulty governing themselves quietly for very long. And the stability knitted together by the imperious Charles de Gaulle appears to be unravelling. Their politics are welling up once more into fervent partisanship and bitter rivalry—over the election of members of the National Assembly, which is due next March.

The three-year-old administration of President Giscard d'Estaing has been a disappointment and is in trouble. Inflation is running 12 percent and unemployment 8 percent; and production is falling. And the rich-poor gap in France continues to be the greatest of any advanced country, and a cause of discontent.

A coalition of Socialist, Communist, and Left Radical parties, under Mr. Francois Mitterand, is leading in the opinion polls. Yet, this coalition is coming apart—under the bind created by Moscow's attacks on Eurocommunism and the French Communist party trying to follow a very tricky path.

If the coalition of the left were to hold together and present a sound, workable platform, the coalition of Mr. Giscard's governing Republican party and Mr. Jacques Chirac's Gaullist party would likely be defeated.

But any program the left coalition can now agree upon will likely appear too radical and too subject, potentially, to authoritarianism and fiscal recklessness for the majority of the basically conservative, individualistic, and liberty-loving French to support when the election comes.

Further, two recent books are having an effect on French opinion. In "The Totalitarian Temptation" Jean Francois Revel effectively points out the chasm between what Communists say and do. And in "Mitterand's 180 Days" novelist Philippe de Commines cuttingly forecasts how, if the Socialist-Communist coalition should come to power, it would quickly break apart.

So, the outcome of next year's election is now quite uncertain. But, in any event, the French are in economic trouble and embarked on another period of political ferment and, perhaps, drift.

As to the ties between France and our country, we need to recognize that they are and never have really been close.

Although France was our first ally, she allied herself with us out of hostility to Britain, and not because the French government under Louis XVI believed in government of, by, and for the people.

And, though in World Wars I and II we became allies and are allies now in NATO, France and our country have never been as close politically as we have been and are with Britain and Canada, or even are now with Japan.

Recently, an experienced French correspondent based in Washington put our attitudes in good perspective:

"The Americans are, of course, weaned on Lafayet ' and on our role in your revolution. From that point on we were not so close. Even your soldiers in two world wars went to Europe to find the French living all closed up in their little worlds—closed even to other Frenchmen . . .

"You have a small number of Americans who have a passionate love for France, and a great mass of Americans who are rather indifferent but think the French are a difficult people, hard to understand. As we are. But, as you do, we believe passionately in democracy and freedom."

Although we are not close, we and the French have no grave problems in prospect. However, for overly-sensitive prestige reasons, they would make a permanent denial of landing rights for their supersonic Concorde airliner—which denial now seems unlikely—a cause celebre for a minor wave of anti-Americanism.

For the future, if the French deal effectively with their internal problems, which in the long term they likely will, our ties could become stronger, but principally within the various grouping of nations in which we interact.

We should hope that the French again will find good leadership, and political stability with continued economic and social progress.

With their basic strengths and experience, they have a significant contribution to make, if they will, in helping deal with the future of Europe, the Atlantic Community, the economic, trade, fiscal, and geopolitical problems we commonly face—and indeed with all the major troubles of the world.

LABOR LAW REFORM

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FISHER. Mr. Speaker, on October 6, the House passed a labor law reform bill (H.R. 8410) that will expedite existing procedures for determining employee representation and impose addi-

tional sanctions against those who would obstruct an orderly process. I voted for this bill because it helps to insure that workers have a fair chance in choosing the representation they prefer, insulating them from unfair pressures on the part of employees and unions.

Unfortunately, labor and employer protagonists have greatly exaggerated the scope and the purpose of this measure and have strived mightily to make this a political litmus test. In my judgment the bill is essentially a procedural reform that will facilitate the working of the law. No basics of labor law would be altered significantly by passage of this bill.

Critics of the bill claim that it does not go far enough, that more basic reform is required. Perhaps more structural change is needed, and I hope that the Education and Labor Committee will consider such legislation in the near future, but for the time being this bill addresses some of the more obvious flaws in existing law.

The mix of provisions in this bill, I believe, represents an evenhanded approach for improving labor relations law.

Specifics of the bill include:

A reasonable time schedule for elections once the principle of an election is agreed to;

Protection for employees who are fired illegally for union organized activities;

Expanded employee access to information from both unions and employers;

Moderate additional penalties on companies that have bargained illegally;

Improved ability of the National Labor Relations Board to prevent wildcat strikes; and

Expansion of the NLRB from five to seven members to speed up what have been very slow moving procedures.

My votes on amendments to this bill reflect my judgment that an even handed approach should be retained. I voted against an amendment that would have delayed election procedures. I voted for amendments that improved employee access to both union and management information. I voted against the proposition that the NLRB could award employees for lost pay due to a delay in bargaining because I think this would be difficult to administer. (The majority of the House voted for this proposition.)

I believe the bill will prove beneficial to both employees and employers as it firms up the rules of the game. If employers feel it to be one-sided, I would welcome preparation of legislation to improve labor relation law from their viewpoint.

GI EDUCATION AND TRAINING PROGRAM

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. EDWARDS of California. Mr. Speaker, recently the Washington Post carried an article by Colman McCarthy in reference to the current GI education and training program. The article expressed the view that the current program was inadequate and Mr. McCarthy placed most of the blame on the distinguished chairman of the Subcommittee on Education and Training, the Honorable OLIN E. TEAGUE, for failure to enact a variable tuition supplement for education and training purposes.

Mr. Speaker, Mr. TEAGUE's record of service to his country in war and peace is well known to my colleagues and those familiar with veterans' benefits and services administered by the Veterans' Administration. Few people received more recognition for distinguished service in combat during World War II than the very able gentleman from Texas. His record of service in the Congress in behalf of all veterans is unsurpassed and because of his dedication to veterans he is affectionately known in the Congress and throughout the "veterans' world" as "Mr. Veteran."

Mr. Speaker, I have been privileged to serve with Mr. TEAGUE for a number of years as a member of the Committee on Veterans' Affairs. During this period we have worked to establish a very good GI education and training program for all veterans. This is not to say that I do not have some problems with certain aspects of the program. I am deeply concerned with new administrative burdens placed upon colleges and universities in my State of California by the enactment of Public Law 94-502, I am concerned with what I consider to be lack of due process under current VA hearing procedures; the VA's continuing insistence that educational institutions maintain records of students' attendance, although the law does not require them to do so; holding educational institutions secondarily liable for overpayments to veterans; and satisfactory progress standards currently being imposed on educational institutions by the Veterans' Administration. These are some of the things that seriously concern me and I have had serious discussions with VA officials regarding these problems which I hope can be resolved.

In no case, Mr. Speaker, have I ever known the gentleman from Texas to refuse to hear both sides of any issue. He usually goes out of his way to make sure everyone has an opportunity to express their view. This certainly was the case during hearings held on September 15 and 16 on pending bills that would provide for variable tuition subsidies and accelerated entitlements under the GI education and training program. Some 14 witnesses testified during the hearings and had ample opportunity to present their views. I am not aware that most of the witnesses found it shameful "that all the Carter administration and the leadership of the committee could offer was an across-the-board increase," as suggested by Mr. McCarthy.

On the contrary, any veteran with at least 18 months of active duty is entitled to $310 per month under the bill already passed by the House. If the veteran uses his full 45 months of entitlement, he will receive more than $13,000 in cash assistance. Of course, there are various other benefits available in addition to the monthly benefit through the Veterans' Administration.

Although there could be improvements in the current program, there is no basis to conclude that the very able gentleman from Texas (Mr. TEAGUE) is responsible for the failure of the House committee to enact a variable tuition subsidy for those attending so-called high tuition schools in some States.

It is Congress as a whole which must bear the responsibility for any shortcomings in the veterans' education program and Congress as a whole which must act to alter the program if need be.

LT. HERBERT DYNGE, RETIRING POLICE OFFICER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the fact that one of my constituents, Lt. Herbert Dynge of the Ventura Police Department, is retiring after 25 years of outstanding service to the public and, specifically, to the Ventura County communities of Santa Paula and Ventura.

Throughout his life, Lieutenant Dynge has had many accomplishments. He is a graduate of numerous special schools, among them the National FBI Academy and the Delinquency Control Institute. In addition, the lieutenant has raised a fine family of six children, two of whom are married.

During his career in Ventura, Lieutenant Dynge has served in a variety of responsible positions, including both a patrol and detective lieutenant. When the lieutenant returned to the Ventura Police Department after 3 years in Santa Paula he was required to begin again as a patrolman. With tremendous dedication and determination he was transferred to the Detective Bureau within a year of his return, and promoted to lieutenant by November 1963.

In honor of his retirement, the lieutenant's friends and coworkers are holding a retirement party Saturday, October 15. The retirement party will be held at the American Legion Hall, 83 South Palm Street, Ventura, Calif.

We all wish him the best. His dedication and sense of duty will be sorely missed by all of our citizens.

HAMILTON FISH, SR., OPPOSES PANAMA CANAL TREATY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. GILMAN. Mr. Speaker, a distinguished former member of this body, the Honorable Hamilton Fish, Sr., testified today before the Senate Foreign Relations Committee, which is formally considering the Panama Canal treaties. Former Congressman Fish whose home is in my congressional district and whose distinguished son, the Honorable HAMILTON FISH, Jr., is also a Member of this body, is an internationally recognized expert on International Relations. While in the House, he served for nearly 25 years on the House Foreign Affairs Committee, 10 of which he was the ranking minority member.

As we continue our deliberations of these important treaties, I recommend to my colleagues for their consideration these thought-provoking comments on the Panama Canal. The full text of Congressman Fish's testimony follows:

SPEECH OF HON. HAMILTON FISH BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THURSDAY, OCTOBER 13, 1977

I am honored to appear before this distinguished committee of the United States Senate in opposition to the surrender and giveaway of the American canal in Panama to the Communist existing government there.

I served for almost 25 years on the Foreign Affairs Committee of the House and for approximately 10 years was its ranking Republican member and was ranking Republican member of the Rules Committee for 4 or 5 years. I was also chairman of the first Congressional committee to investigate Communist activities, policies, principles and ideologies back in 1930 and believe I know as much about the aims and purposes of the Communists as anyone in the United States today. I have written several books on the subject.

I am convinced that the Communist tyrannical government at Moscow is the most monstrous form of government that has existed anywhere since Lenin seized power by force and violence in Russia 60 years ago.

The surrender and giveaway of the American canal in Panama to the Communist government of that nation might just as well have been given to Cuba or the Soviet Union and it is time the American people knew the truth of this aspect of this infamous blackmail treaty. If adopted it would be a day of infamy, playing directly into the hands of the Communist dictators at Moscow.

For years the leading Communists at Moscow have been endeavoring to encircle and surround the United States. The take-over by the Communist party and government in Panama would be the greatest victory the Soviet Union has achieved since our surrender to them at Yalta. Our committee back in 1930 did not persecute any liberals or radicals, as its main purpose was merely to find out the definite policies, principles and objectives of Communism at home and abroad. Those who testified such as the Communist candidates for President, minced no words—they hated our form of government. They hated both our religion and freedom. They preferred the red flag to an American flag and they favored a dictatorial, tyrannical government with a world capital at Moscow. There has been absolutely no change in their plans and objectives. The Communist hierarchy hates the U.S., our freedoms and human rights, the religion of our people and above all, because we are the only powerful nation with a limited arsenal of nuclear weapons and submarines that prevents them from Communizing the entire world. They have only one God and his name is Lenin who told them they must Communize the world and in doing so, if they exterminated three-quarters of the people and one quarter remained Communist, that would solve the problem.

This is the reason why they have built up an enormous arsenal of huge nuclear weapons and have a superiority over us of 2 or 3 to 1 in almost every category of nuclear weapons. That is the reason that they are going deeply underground to protect the Russian people whenever they get ready to attack us. They know as well as we do that we have no quarrel with the Russian people and have no desire for additional territory and will not turn on the nuclear button unless attacked. On the other hand, the Communists at Moscow who killed 30 million of their own people and Solzhenitsyn places it at 60, would not hesitate whenever it is to their advantage, to destroy between 100 and 130 million Americans in one night. The whole world would then go Communist within ten days time.

It is simply playing Russian roulette by trying to maintain that the Soviet Union and I don't mean the Communists of France or Italy, have changed their tactics or strategy. They are our enemies, and they are preparing to destroy the United States whom they regard together with the Chinese, as their bitterest enemy.

I want the American people simply to know the truth—and I have tried to convey that message to my old friend George Meany, President of the American Federation of Labor-CIO, who has been one of the most consistent opponents of Communism in this country and throughout the world, by the following letter.

NEW YORK, N.Y.,
September 23, 1977.

Mr. GEORGE MEANY,
Washington, D.C.

DEAR MR. MEANY: I am writing to you as one of my old friends whom I have always admired for your strong stand against the spread of world Communism and for human rights. I confess that I was shocked to learn of your support of the surrender of the American canal to the Communist government of Panama. Not only is the president of Panama an avowed Marxist, but is the virtual head of the Communist People's Party—the only party that exists in Panama. I am informed that both his father and mother were Communists. We might just as well turn the canal over to the Soviet Union. This is nothing but a blackmail scheme by the Communists in Panama to get the equivalent of 700 million dollars from the United States along with the canal or twice the cost of the canal.

To me it is almost treasonable, aiding and abetting our enemies and in case of war, it would amount to treason. I hope when you have a chance to read the contents of the treaty, in which we agree not to build any other canal and in which we have no right to defend it after the year 2000, other provisions affecting adversely the interests of our own American wage earners in Panama, that you will consider, or at least not be active or use your influence for it with the Senators. Polls show that 2 or 3 to 1 are opposed to it everywhere and I believe as soon as the truth is known, that it will become ten to one.

I have always been on the side of peace—I opposed World War II until the attack on Pearl Harbor. I opposed the war in Vietnam and I am still opposed to war with the Soviet Union unless attacked. For that reason I urge strengthening our nuclear defense so no nation would dare attack us.

I honestly believe that if the Senate ratified the treaty, it would be the greatest Communist victory since Yalta and start an epidemic of sequestration of American property throughout the world. And that even the NATO will lose faith in our reliability to keep our commitments to them if we surrender the American canal to a Communistic government in Panama.

Mr. Kissinger, who prevented President Ford from seeing Solzhenitsyn, the greatest freedom fighter in the world and opposed Ford's three defense recommendations in his last speech to Congress is now more responsible than anyone else in aiding and abetting our enemies.

With kind regards and best wishes.

Sincerely yours,

HAMILTON FISH.

The veteran organizations; the American Legion and the Veterans of Foreign Wars, non-partisan organizations composed of Democrats, Republicans and Independents, have taken a very outspoken stand against the surrender of the American canal. Why? Because it is against our own security and strengthens the power of the Communists. I take the position openly and without any apologies to anyone, because this is a free country and I believe in the rights of all people to that freedom that does not exist in the Soviet Union, to say to this distinguished Senate committee that to turn over the canal to the Communist government of Panama is aiding and abetting our enemies and verges on treason. If it was in time of war it would be treason. Furthermore, I believe politically that 75 to 90 percent of the American people are unalterably opposed to this surrender to the Communists. If the treaty is adopted, Watergate would be a mere mosquito bite. If elected public officials, supposed to represent their people back home, defy them and surrender this canal, built by Theodore Roosevelt and the American people 68 years ago, and run efficiently ever since, to the Communists, that is their privilege.

There is probably not a single state that in any referendum, would support this blackmail treaty, aiding and abetting our enemies. No wonder that the American Legion, the Veterans of Foreign Wars and at least two-third of the members of the Democratic party, which control this Administration, are bitterly opposed to the surrender of the canal.

Any Senator, naturally has the right to vote any way he wants and to give his reasons. I am not here for the purpose of trying to prevent any Republican or Democrat from committing political suicide. I am not here even in behalf of my own party, for if I were, I would remain silent and hope that the treaty be adopted and that would bring back the Republican party in the biggest landslide that ever occurred. But I am here as an American who loves our country and wants to see its nuclear defense weapons strengthened immediately so no nation would ever dare attack and destroy the United States. And in conclusion I quote a statement made by Max Eastman, a well known former pro-Bolshevik radical and Socialist who said: "One thing, one thing only can save freedom and democracy and that is a clear and bold understanding. Freedom and democracy must have from its leaders incisive and uncompromising exposures of the barbaric nature of the Communist society and the devious methods of the Communist attack. The closer our military and economic cooperation may be, the more pitiless must these exposures be. You cannot save democracy by shutting your eyes to the horrors of

dictatorship. You cannot stop the night from falling by turning the lamps down."

In case any supporter of President Carter when a candidate for office a year ago pledged never to surrender "actual control of the canal", should take exception to my criticism of the President or members of his administration, let me quote what former President Theodore Roosevelt said: "To announce that there must be no criticism of the President or that we are to stand by the President, right or wrong is not only unpatriotic and servile, but is morally treasonable to the American people. Nothing but the truth should be spoken about him or anyone else, but it is even more important to tell the truth—pleasant or unpleasant—about him than anyone else."

President Theodore Roosevelt was the most courageous and popular President in the last 100 years and if he had lived one year longer, he would have been nominated by acclamation for President by the Republican party, and would have been overwhelmingly elected. He was the sponsor for the building of the canal and as "a great admirer and supporter of T.R. having left the Republican Party to be elected three terms on the Progressive or Bull Moose ticket to the Assembly, I knew him politically and personally, probably better than anyone alive today except his own family. The very attempt to undo what he considered one of the most constructive acts in his great career is like impeaching him or sticking a dagger in his back in his grave at Oyster Bay. I would be derelect to the memory of this great American President if I did not raise my voice to defend his honor, integrity and patriotism.

THE FEAST OF ST. GERARD MAIELLA

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. RODINO. Mr. Speaker, I would like to call to the attention of my colleagues a very special celebration to be held in my home district this weekend, one in which I traditionally participate. It is the feast of St. Gerard Maiella, an annual celebration that has been a part of my home parish of St. Lucy's Church in Newark for 78 years.

The person who the feast honors, St. Gerard, was a humble man who led a simple but meaningful life. Living in the town of Muro, Italy in the mid-18th century, he was an apprentice to a tailor when his religious faith guided him to the monastery of the Redemptionist Brothers. He continued his craft as a lay brother in the monastery, while doing good works for the people of his community. The life of St. Gerard provides us with an example of deep faith and human compassion, of diligence to his craft and commitment to his church—even without the formal recognition of becoming a part of the monastic order.

In the spirit of St. Gerard, my friends and neighbors have joined together in the St. Gerard Men's Society and the St. Gerard Ladies Guild of Newark to do good works for almost a half century now. In recognition of their community service, I am proud to mention a special honor of this year's feast. The shrine of St. Gerard at St. Lucy's Church has been dedicated recently by Newark Archbishop Peter Gerety as a national shrine.

In honoring the St. Gerard Shrine at St. Lucy's, we are also remembering the late Gerard Spatola, a very active member of St. Lucy's parish, who helped make St. Lucy's the heart of my home community.

And it is thanks to his daughter, my good friend Mrs. Geta Spatola O'Connor, that we have our 3-day celebration this weekend. Geta, who is president of the St. Gerard Ladies Guild, and her husband Gerald O'Connor, who is president of the St. Gerard Men's Society, planned the feast along with the most reverend pastor of St. Lucy's Church, Father Joseph J. Granato.

This weekend's feast is a time when the faithful gather together to pay tribute to the saint whose simple humanity and unshakeable faith have given strength to our community for generations.

HEALTH CARE IN THE ARMED SERVICES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DOWNEY. Mr. Speaker, yesterday the Military Personnel Subcommittee of the House Armed Services Committee held hearings on the general quality of health care delivery in the armed services. A portion of those hearings were devoted to a particularly critical situation at the Oakland Naval Hospital in California.

The Oakland Hospital has been suffering from serious equipment and staffing shortages for some time, as is the case with most major military medical facilities. These specific deficiencies have resulted in tragic consequences, which I have been investigating. My office has uncovered at least seven deaths and numerous injuries due to the general shortages at Oakland. Additionally the overall morale at Oakland and throughout the military medical corps is at an all-time low.

Various members of the Oakland house staff have tried to correct the situation there, but have unfortunately met with marginal success. It was only after one courageous doctor went public with revelations of shortages and unacceptable health care that the Navy began to take the Oakland situation seriously.

I would like to publicly thank Mr. Michael T. Rose of the law firm Robins, Davis & Lyons of St. Paul, Minn., for his invaluable and untiring help. His assistance in preparing my testimony and general remarks has resulted in an excellent set of opening hearings into this most serious matter.

I would also like to convey my appreciation to Robins, Davis & Lyons for permitting Mr. Rose, an acknowledged expert in the field of military law, to travel to Washington for these hearings.

WILDERNESS AREA IN VIRGINIA

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. WHITEHURST. Mr. Speaker, on June 22, 1977, I introduced H.R. 7970, a bill to designate certain lands within the National Forest System in Virginia as wilderness. At the same time, I inserted in the RECORD a description of the various areas which would be affected.

In further reference to my bill, which I believe is an important step toward protection of the remaining wilderness in the eastern part of our country, I am pleased to take this opportunity to share with my colleagues an article which appeared in the October 1977 issue of Commonwealth, the magazine of Virginia. The article, entitled "Ah, Wilderness," was written by Randy Johnson.

I hope that my colleagues will give this material full consideration, and I would welcome cosponsors for my bill.

AH, WILDERNESS

(By Randy Johnson)

Why are citizens groups like the Virginia Wilderness Committee lobbying for federally protected wilderness areas in Virginia when almost two million acres of National Forest already exist? Focusing on areas that may contain Virginia's last remnants of virgin forest, a strong movement among conservationists, fishermen, backpackers and other concerned citizens is aiming its appeal at Congress this fall. The supported legislation, introduced by Rep. G. William Whitehurst, will extend the protection of the Wilderness Act to five parcels of land in Virginia's National Forests, where, as part of the National Wilderness system, the processes of nature would be allowed to dominate.

Few Virginians have been as affected by the appeal of the state's wildlands as John Connelly. As the owner of Richmond-based Alpine Outfitters, John has watched his business grow from one store to three in seven years. Although he worries about the ecological impact on the outdoors of the hikers he has equipped, he views his role philosophically: "I rationalize this by saying that these people are going to buy the equipment anyway, so if they buy it from me I can emphasize the conservation techniques of camping. The more people that go out and enjoy the outdoors the more people there are to write to their representatives in support of wilderness designation. If nobody knows about it then nobody cares."

John explains the popularity of backpacking and his shops demographically: "The majority of our customers are in the 21 to 35 age group, in the middle and upper middle income bracket, and they are typically

college-educated, many with graduate degrees." Besides resembling many of Richmond's leisure-oriented young professionals, those frequenting Alpine Outfitters appear similar to the typical wilderness user described by Forest Service studies. But, like Virginia Wilderness areas, John's customers are by no means typical. "Right now we have a program going with the Manpower Authority in Norfolk and we're taking 50 underprivileged kids into the outdoors, many of whom have never seen the mountains. We're taking them up near the James River Face Wilderness for swimming, canoeing, and backpacking. Just today I got an order from the Bon Air Learning Center. The Corrections people in this area are taking problem kids out and doing outdoor things. They've had psychologists find that, after these trips, the kids self esteem and confidence levels are much improved. The therapy of wilderness!"

Like most who try, John finds it difficult to explain the lure of the wild areas. "Why does anyone climb any mountain? It's pretty neat being up there, if only for a few minutes; it does something to you, to me anyway."

From the standpoint of that indescribable aura of the wild, Virginia's wilderness proposals are pertinent indeed. Both the Ramsey's Draft and the Rich Hole Wilderness proposals involve huge stands of virgin spruce and hemlock that tower over the deep shade beneath their crowns. Neither of the areas has ever felt the logger's saw. Ramsey's Draft, the St. Mary's River acreage is an enclosed watershed, hemmed in by a horseshoe of mountain ridges which drain into the Shenandoah Valley over the spectacular waterfalls and cascades of the St. Mary's River.

The Mountain Lake Wilderness acreage is a highland plateau which sits squarely on the Eastern Continental Divide; the streams on its Eastern flank flowing to the Atlantic and those on its West flowing to the Gulf of Mexico. In addition to possessing its own stand of virgin forest, the Mountain Lake area is noted for its mature hardwood forest and the unbelievably lush blanket of ferns flourishing beneath it. The Peter's Mountain territory is also a fine hardwood forest distinguished by a high mountain bog, where grows the round-leafed sundew, one of those extraordinary plants which seizes and eats insects. The St. Mary's River is also the site of a rare high mountain pond. These botanical rareties illustrate the ecological reasons why preservationists feel these unique areas require wilderness status. The Wilderness Act emphasizes the need to preserve areas where a constant genetic pool of common and rare plant and animal species can survive for scientific study. The scientific and educational emphases of the Wilderness Act are especially germane to Virginia's Mountain Lake proposal, where the University of Virginia's Biological Research Station is located. If given wilderness designation by Congress, the station's long-term studies of this Southwestern Virginia wilderness could continue without risking interference by man. The Wilderness Act, prohibiting timber harvesting and motorized travel in designated areas, provides the solitude and challenge associated with backpacking while assuring that mature forests of unharvested timber will retain the primeval and virgin scenery associated with wilderness.

What about those who don't care to heft a 50-pound pack for an extended trek into the wilderness? Marvin Garrette, assistant managing editor of the Richmond Times-Dispatch, personifies the hiker who occasionally likes to get away from "things like police radios and ringing telephones" to a place "to take my kids walking." Some opponents of wilderness designation fear that the lack of motorized access to wilderness will inhibit its use by the average citizen, not to mention the aged or the handicapped. Preservationists stress the generally small size of the Virginia areas proposed for wilderness designation and the fact that day hiking, like that preferred by Garrett, is perhaps the primary use of these areas. The Virginia Polytechnic Institute and State University Outing Club publishes a short hiking guide that includes many day hikes in nearby wilderness proposal areas as suggestions for students with limited time.

The proposed Ramsey's Draft and Mountain Lake Wildernesses are especially suited to family day hikes. Since the 1940s the Augusta County Garden Club has maintained a short nature trail through the giant hemlocks of the Ramsey's Draft. The proposed Mountain Wilderness preserve is easily explored by a short loop trail that winds through mature hardwood forests, passes a virgin stand of hemlock and returns past a viewpoint and a stand of mountain laurel that blooms brilliantly in June.

Wilderness proponents point out that Virginia, with its Skyline Drive, Blue Ridge Parkway, and numerous roads to mountain summits, has ample facilities for those who require a motorized glimpse of natural terrain. Is it too much, they ask, to protect some of the last stands of virgin forest in Virginia to balance the trend that has for decades eroded the wilderness?

Like many Virginians, Garrette has reservations about increased participation of the federal government that he feels might accompany wilderness designation. Yet the land proposed for protection is already part of the National Forest and, in Garrette's view, "If you look at it with any understanding of Virginia history you see what has happened to wilderness if you don't put in some restrictions.

"I think it has to be designated a wilderness area," he continues, although "the government has hurt some areas, like the James River, in attempting to help them when they should be protecting these areas where you have to get a couple of scratches or burrs in your hair."

Wilderness preservation does have its opponents. Often those opposing statutory wilderness charge that much needed harvestable timber is "locked up." Virginia wilderness seems exempt from this charge, not only because the size of the proposals are small in comparison to those in the Western United States, but also because four of the five Virginia areas are already classed by the Forest Service as noncommercial timber. Both the Peter's Mountain and the St. Mary's River areas produce poor quality commercial timber on slopes too steep and rocky for logging. The timber in the Ramsey's Draft and Rich Hole areas is also classified as noncommercial in order to protect the scenic value of the giant hemlocks. The inclusion of these lands in the wilderness system will add legislative permanence to what conservationists fear may be only temporary concern by the Forest Service.

At present, with but one statutory wilderness in Virginia, 8,800 acres of 1,600,000 in Virginia National Forests are protected as wilderness. If all the areas proposed are approved by Congress, something less than 4 percent of the total National Forest acreage in Virginia would be affected. When one considers that an area like Ramsey's Draft harbors the state's largest hemlock and one of the few "natural balds" in this part of the Appalachians, then "locking up" these areas appears to its supporters an admirable goal.

One Virginia organization on record against wilderness designation is the Virginia Bear Hunters Association. In their opposition to the legislation, the bear hunters emphasize the banning of motor vehicles from wilderness areas as a restriction on their and others ability to use the areas. Ironically, supporters insist, the Wilderness Act in no way restricts wilderness proponents are anti-hunter. The hunting despite the bear stalkers' charge that hunters' emphasis on the banning of vehicles from these small areas seems all the more puzzling when one considers that most of both the Jefferson and George Washington National Forests are open to hunting and accessible by vehicle. In addition, large acreages are maintained as Wildlife Management Areas where habitat is specifically manipulated to promote forage for game animals.

In viewing this situation, preservationists emphasize the importance of large tracts of roadless and undisturbed forest that black bear require to maintain a healthy breeding population between hunting seasons. Michael Penfold, supervisor of the Jefferson National Forest, is charged with the responsibility of weighing the two sides of this conflict before he and his staff make their recommendations opinion of the wilderness proposals. When asked if bear hunters are simply averse to carrying their kills out of the woods without the aid of a vehicle, Mr. Penfold responded "That's certainly part of it. The basic technique for bear hunting with dogs is one of putting the dogs on the bear and following your prey by road system, so bear hunters want roads open. However, in terms of bear habitat you need to have roads closed. It's kind of a conflict and in terms of the Jefferson proposals, the roads have already been closed so there isn't a drastic change in management." As in the Jefferson, the roads traversing proposed wildernesses within the George Washington National Forest have also been closed making access by vehicle unlikely whether or not wilderness status is granted by Congress. Ramsey's Draft, St. Mary's River, and Rich Hole have large populations of black bear with hunters constituting a large number of the Virginians using these areas. When hunting seasons ends, the protection of the Wilderness Act would further ensure that the black bear, deer, grouse, bobcat, turkey, beaver, grey fox, and other rarely seen species that populate Virginia wildlands would have the room and remoteness to rear their young.

Wilderness often combines ecological and wildlife benefits with recreational ones. Like the mutual benefits to hunter and hunted, wilderness provides the assurance that wild streams, on the one hand, will remain free-flowing and unpolluted, and on the other hand, will continue to provide anglers with native trout to outwit. The Ramsey's Draft is enormously popular with fishermen, as is the St. Mary's River. The Rich Hole also supports native brook trout in all its major streams.

The problems attributed to recreational use may be the most controversial objection to statutory wilderness. Litter, overcrowding, and the deterioration of facilities which have accompanied the recreation boom of the last few years have led some rural residents to envision hordes of strangers and city folks descending on them in search of the ideal wilderness, bringing all their urban ailments with them. This situation prompts a Forest Service policy of nonpromotion in Virginia's first wilderness and presumably in those that are proposed for inclusion in the legislation before this Congress. "Right now we're following a policy of quiescence; you won't see any signs on maps or on the Blue Ridge Parkway saying 'the James River Face Wilderness'," says Forest Supervisor Penfold.

It's understandable that rural residents prefer those uses of our National Forests that bring revenue into local economies or emphasize traditional uses like hunting. In making its recommendations to Congress, the Forest Service has to balance the needs of local residents against the sometimes national significance of public land. The relative lack of appropriate wild land in the East makes the protection of wilderness one such balancing act between local and national goals. "I think there is a need for

wilderness designation in the East," reflects Mike Penfold. "If you look at the land ownership patterns, the opportunity for appropriate forest land, it has to be provided and it boils down to the responsibility of the Forest Service in the absence of any similar state or private land."

Not that every wilderness area proposed is therefore worthy of designation. "In terms of studying wilderness and other roadless areas for inclusion, we need to get it out of the realm of controversy and emotionalism and deal with it on the basis of the best use of the resource. If we don't, the first national crisis on timber will erode the worst wilderness areas from the system and begin a dangerous precedent. Wilderness preservationists should ponder this," warns the Jefferson National Forest supervisor.

Most important to wilderness proponents is the understanding that wilderness is not just a recreational resource. As today's wilderness recreationist gets older and the leisure boom moderates, the emphasis on wilderness recreation may very well be replaced by an emphasis on the ecological and scientific importance of these undisturbed natural environments. When this occurs, whether one visists wilderness or not, one may benefit from its existence.

Concern for the long term preservation of these ecologically balanced enclaves is perhaps the driving force behind those who write letters and lobby for Congressional action on wilderness. In the instances where the Forest Service is currently managing these areas for their scenic, not commercial value, conservationists worry that changing priorities could wipe out what remains of the primeval forest that once covered Virginia.

Wilderness proponents urge that, as citizens of a state that values its historical landmarks, Virginians base their present efforts in an appreciation of the past. If those working for wilderness are successful, Virginians would not only be able to proudly claim places like Mount Vernon, but also the last remnants of a wilderness heritage that stood even as George Washington himself surveyed it.

FIREMEN—OUR BEST FRIENDS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CUNNINGHAM. Mr. Speaker, this week is National Fire Prevention Week as designated by Congress. Many designations of special days or weeks are merely honorary. However, the observance of National Fire Prevention Week is a most serious matter. Last year over 700,000 families were struck by flaming disasters. Lives are lost and untold millions of dollars are wasted each year due to fire.

Fire Prevention Week dramatizes the need for more effective communication with our citizens to help them save lives and property—lives and property that are sometimes lost due to a failure to adequately prepare for and prevent fires.

Mr. Speaker, for the past 2 weeks my staff and I have had the privilege of having a fireman from my home district in Seattle serve as a special projects intern in our office. Mr. Robert H. Clark, a 19-year veteran of the Seattle force is a fine example of all our Nation's firefighters. Men dedicated to saving the lives of our citizens. Men with particular traits designed to cope with waiting for and coping with disaster.

Bob Clark performed a great service for me. As Members of this body know, we are faced with a wide variety of issues in our day-to-day work. Sometimes we may not have the time to fully explore those issues and problems facing various segments of our society. Bob shared his expertise with my staff and myself and I can say that now we are aware of certain problems facing those in the firefighting profession. These problems range from training programs, arson prevention, pension plans, and a myriad of others.

The experience of having Mr. Clark in our office was both illuminating and enjoyable. I urge my colleagues to consider implementing an intern program such as this and to get to know the men who fight fires. They may be our best friends.

I congratulate Bob Clark and every single fireman in this Nation for their hard work and devotion to duty.

FLUIDIZED BED COMBUSTION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CARTER. Mr. Speaker, over the past few weeks I have been inserting in the RECORD information concerning a new process for burning coal known as fluidized-bed combustion (FBC) system. The two previous inserts can be found in the Extensions of Remarks on September 20 and on September 23.

To briefly review the information in those articles, FBC uses sized and crushed coal and limestone that are mixed in a heated chamber in such a manner that the mixture of coal and limestone is aerated to produce a mass of particles that behave like a fluid. The coal and limestone fluid is then burned. Water flows through coils that are submerged in the combustion chamber and is heated into steam.

The FBC process promises low sulfur dioxide and nitrogen oxide emissions coupled with high overall efficiency in generating heat and power. In addition, FBC boasts the capability of burning many types and grades of coal, including eastern coal, as well as municipal sludge and refuse, industrial and agricultural cellulosic waste material, oil shale, and petroleum fractions. Also, FBC offers low capital and operating costs as compared with conventional coal-fired boiler systems.

With these articles on FBC, I have been trying to bring to the attention of every Member that there is a need for more research and development into cleaner and more efficient methods of burning coal.

Coal is a vital part of this Nation's energy future. In the development of the national energy plan, we have found that the well-being of the United States will depend heavily upon a continuous and secure supply of fossil fuels and especially, on a greater use of America's coal.

Why is America's coal so important? The General Accounting Office in a report entitled "U.S. Coal Development—Promises, Uncertainties," states that—

It (coal) represents 90 percent of the Nation's total fossil fuel reserves. Yet, it currently supplies only 18 percent of energy needs. Coal's importance grows, however, when you consider that domestic oil and gas supplies are limited, and declining rapidly . . . and that the dependence on (uncertain) foreign energy sources continues to increase.

It is well established that coal constitutes a secure and abundant alternative energy source. Increased use of coal would greatly reduce the amounts of oil and gas used by the utility and industrial sector. It would thus make domestic supplies of these fuels available for the unique requirements of the residential, commercial, and transportation sectors of the economy.

It is expected that coal will provide for at least one-half of our domestic energy needs by the year 1984. Such an increased use of coal would help in balancing our foreign trade deficit and lessen the U.S. dependence on foreign energy supplies.

Most important, the increased use of coal for heat and power would benefit not only the coal mining regions of the United States but would ease the supply problems facing the energy-starved Northeast, the cold Midwest, and, to a great extent, all other areas of this great country of ours.

Mr. Speaker, fluidized-bed combustion is one technology being developed to provide more clean and economically efficient ways to use our vast coal resources to meet national energy needs. The objective of the Federal Government's coal program is to develop, on an accelerated and cost-effective basis, technology that will permit rapid commercialization of processes that are technically and economically sound, environmentally acceptable, and which represent efficient use of natural resources. The FBC system has been given optimistic reviews by both the Energy Research and Development Administration and the Tennessee Valley Authority with respect to these objectives. ERDA and TVA have pilot projects underway which have every indication of success.

I am pleased to insert into the RECORD today a summary of a report entitled "Application of Fluidized-Bed Technology to Industrial Boilers." This report summarizes a new area in which the FBC technology is being applied successfully: industrial boilers. The manufacturing industries that consume most of the industrial boiler fuel in the United States include chemicals, petroleum refining, paper, primary metals, food, and many other industries. The application of the FBC process to industrial boilers is one design, a step away from being put into commercial use. ERDA has funded several projects on FBC. Among these are the Georgetown University/Fluidized-Bed Combustion Corp. and the Exxon Research and Engineering Co.

The report that follows was written by M. H. Farmer, E. M. Magee, and F. M. Spooner of the Exxon Research and Engineering Co., Linden, N.J.:

SUMMARY

This study is a small part of the Government's program to develop coal-fired fluidized-bed combustion technology. The study is confined to industrial boilers, and the purposes are to determine the potential for applying coal-fired FBC to industrial boilers with a firing rate of at least 100 million BTU/Hr. and to assess the various impacts associated with deployment of the technology through the year 2000.

A survey of operators of large industrial boiler systems shows that the installation of coal-fired FBC boilers will be considered when:

The reliability of FBC technology is commercially demonstrated to achieve continuous boiler operation of about one year duration and with effective control of emissions.

The economics of FBC technology are demonstrated to be competitive with alternative ways of firing solid coal.

The principal alternatives with which FBC must compete are:

Use of low sulfur "compliance" coal in a conventional boiler, with an electrostatic precipitator (ESP) to control particulate emissions.

Use of high sulfur coal in a conventional boiler, with a flue gas scrubber to control SO_2 emissions and particulates.

The economics of these alternatives have been developed in 1975 constant dollars, for a Gulf Coast location, on a basis excluding the cost of coal itself, whether it is of compliance quality or high sulfur. As an example, the results for alternative technologies are shown below for the case of adding a single coal-fired 100 KPPH industrial boiler system at an existing manufacturing plant that has a petroleum-fired boiler system.

SINGLE COAL-FIRED BOILER SYSTEM ADDING TO EXISTING OIL-FIRED PLANT

[Steam cost (ex. fuel) in 1975 dollars per thousand pounds]

	High-sulfur coal		Low-sulfur "compliance" coal	
	FBC	Conventional with scrubber	FBC	Conventional with ESP
100 KPPH	3.59	3.95	3.15	2.90
400 KPPH	2.49	2.83	2.05	2.01

The estimates (based on current FBC costs) indicate a distinct advantage for FBC technology over conventional coal-firing plus flue gas scrubbing for high sulfur coal. With compliance coal, results are a stand-off in cost at the larger size, with a moderate advantage for conventional firing at the 100 KPPH size. All FBC costs (in constant dollars) are expected to improve significantly as this new technology matures.

FBC technology has potentially important and even decisive, advantages that are not captured by the above estimates. The advantages include flexibility to combust different coals, good control of NO_x emissions, flexibility to readily achieve higher sulfur capture if SO_2 emission regulations are tightened, relatively unobjectionable solid wastes for which uses are under development, and ability to be fabricated and shipped in modules for simple field assembly.

However, it is important that commercial development should occur before the growing coal-fired industrial boiler market is preempted by other coal-use technologies. Preemption is possible if, at the time industrial decision-makers must make commitments to new boilers, other technologies are commercial while FBC technology has not been fully demonstrated. It is believed that the industrial boiler potential of FBC could be impaired if the technology is not demonstrated to be commercially reliable by 1981. Major Governmental funding of FBC development programs suggests that reliability will be demonstrated in time. The estimates of coal-fired FBC potential assume that this will be the case. On this basis, the most probable nationwide potential is estimated to be:

Year	Cumulative number of industrial FBC boilers	10^{15} Btu per year	1,000 bbl/d of oil equivalent
1980	7	0.01	5
1985	200	.29	136
1990	685	.99	462
1995	1,170	1.69	793
2000	2,050	2.97	1,400

Most of the estimated potential is expected to be in the chemicals, petrochemicals, petroleum refining, paper, primary metals, and food industries. Geographically, more than 90 percent of the potential is expected to be in regions that FEA has designated Appalachian, Southeast, Great Lakes, and Gulf Coast.

The FBC potential can be related to the value of manufacturing that is estimated to be supported by large coal-fired FBC boilers. For the above regions, the FBC-related "Gross Product Originating" is estimated to be:

[In billions of 1975 dollars]

Region	FBC-related GPO			
	1985	1990	1995	2000
Appalachian	3.5	12	22	30
Southeast	3.1	11	19	35
Great Lakes	3.1	11	19	36
Gulf coast	4.2	15	26	48
Total	13.9	49	86	159

The above estimates are for the "most probable" case considered and apply to existing manufacturing applications. Separate estimates were also made of maximum and minimum potentials and amount, respectively, to slightly less than double and approximately one quarter of the above figures.

Other estimates associated with the most probable potential are that:

The equivalent of 2000 industrial FBC boilers, with an average capacity of 200 KPPH and a cumulative erected cost of almost $6 billion (1975 constant $), would be installed through the year 2000.

Coal requirements for the FBC boilers would approximate 140 million tons in the year 2000, and would have an F.O.B. mine value of $2 billion.

Associated limestone requirements would be about 50 million tons in the year 2000, with an F.O.B. quarry value of $170 million.

Also, in the year 2000, emissions relating to the coal-fired FBC boilers in compliance with Federal Standards for new point sources, would approximate 48 million tons of solid wastes, 132,000 tons of particulates, 660,000 tons of NO_x, and 1.6 million tons of SO_2.

Despite the seemingly large estimates of emissions, examination of two Air Quality Control Regions (Metropolitan Houston-Galveston and West Central Illinois) suggests that utilization of FBC-technology industrial boilers is likely to have a much smaller impact on ambient air quality than (a) the impact caused by sources other than industrial boilers, and (b) the emissions impact of existing coal-fired equipment in regions that currently use coal to a significant degree. In the latter case and in the long run, a net beneficial effect is possible if FBC installation replace existing coal-fired units.

Low sulfur coals containing appreciable amounts of alkaline ash, when used in conjunction with FBC technology, may alleviate the problem of switching to coal from natural gas and oil. Available technical data are inadequate, and thorough experimental investigation of this important possibility appears desirable. Most Southwestern lignites, which also contain appreciable amounts of alkaline ash, are not compliance coals if combusted conventionally but may become so in fluid-bed units. This possibility is of considerable potential importance to industry located in the Gulf Coast area. Thorough experimental investigation appears desirable.

Compliance with New Source Performance Standards (NSPS) may not be sufficient in some industrial areas of the country which are already at, or beyond, the Federal or state/local limits for ambient air quality. The Metropolitan Houston-Galveston area (AQCR 216) is an example of a highly industrialized area, of critical economic importance to the nation, where current levels of particulates and NO_2 are close to the primary standards for ambient air quality. Directionaly, even with excellent control technology, coal use in new installations will make matters worse unless the existing situation is improved.

Where FBC technology is not the technology of choice, industrial boiler fuel demand is expected to be satisfied by a combination of:

Conventional use of compliance coal

Application of control technologies such as FGDS ("scrubbers") to non-compliance coal

Use of solvent refined coal or other forms of cleaned coal

Use of coal-in-oil slurries

Continuing use of oil and natural gas

Additionally, it is speculated that some industrial plants will purchase steam from central plants while others may substitute electricity for steam in some industrial processes.

COFFEE VERSUS OPIUM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DERWINSKI. Mr. Speaker, the Chicago Tribune's distinguished columnist, Bob Wiedrich, very effectively discusses the new crop substitution program aimed at eradicating the opium poppy crop in his column of Tuesday, October 11. This program could have a dramatic effect on the international drug racket.

His column directs attention to the overall importance of the new Asian coffee market:

THAI COFFEE MAY CROWD OUT OPIUM

(By Bob Wiedrich)

LOS ANGELES—Some of northern Thailand's Meo hill tribesmen are converting their primitive economy from junk to java.

In fact, they are getting so adept at growing coffee beans instead of opium poppies that there are fears that the industrious Thai might become serious competitors on the Asian coffee market.

And that has prompted Kenya and several South American countries to balk at furnishing the Thias with any more seeds with which to carry out a program aimed at substituting other crops for the deadly but traditional opium.

Maj. Gen. Pow Sarasin, a Thai police official here for meetings with his American counterparts, disclosed the blacklisting of

Thailand in the world coffee marketplace during an interview.

"The nations of the world all deplore the international heroin traffic from Southeast Asia that has created an intolerable addiction problem for Western Europe," he said.

"But few of them seem ready to meet their responsibility with the kind of financial aid necessary to end the production of 600 tons of raw opium a year in the Golden Triangle region of Southeast Asia."

Right now, Gen. Sarasin said, Thailand only has 500,000 young coffee trees under cultivation by about 1,000 Meo tribesmen living in some 25 villages near the junction of the Thai, Laotian, and Burma borders.

Under a $2.3 million, five-year United Nations crop substitution program that ends this year, the hill people have slowly discovered that growing coffee and other crops can be just as financially productive as raising opium poppies on the hillsides.

This year saw the first harvest of Thai coffee grown at altitudes of more than 3,000 feet.

And the report received from an impartial expert in Geneva, Switzerland, is that the initial crop is of very high quality.

"Bearing in mind that the coffee tree lasts between 50 and 100 years and that villagers are now asking for 30,000 to 40,000 seedlings for each village, we can see the beginning of a settled agriculture and prospects of an income that will satisfy these people," Gen. Sarasin said.

The Thai government has asked the UN for a three year extension of the crop substitution program, the bulk of whose funds come from the United States.

However, it is Sarasin's conviction and that of the Thai royal government, that the nations of Western Europe also should make greater contributions to Southeast Asian opium eradication.

Because, as Sarasin points out, at least 500 tons of the Golden Triangle opium comes from Burma on its way to Western clandestine markets.

And Thailand, because of its strategic location as a major drug trafficking route, also has become a victim country of the burgeoning smuggling operations.

In 1959, there were about 79,000 registered opium addicts in the country. Now, there are an estimated 300,000 heroin addicts in Thailand, 50 per cent of whom are between the ages of 14 and 25, injecting and smoking Southeast Asian heroin that often reaches 99 per cent purity.

Compare that with the 2 or 3 per cent average strength of the street level Mexican heroin being sold on most American streets and the extent of the Thai heroin problem becomes dramatically apparent.

Only the United States, with 500,000 to 600,000 heroin addicts, ranks ahead of Thailand in the severity of drug addiction.

Three years ago, 3½ pounds of raw opium sold for $200 to $250 at the Burma-Thai border. Now it sells for a mere $50.

"That means people are afraid to buy opium because of the fear of arrest," Sarasin explained. "The price has been down since 1976.

"In that year, our forces seized 642 kilograms [1,412 pounds] of heron. They arrested over 100 major traffickers.

"This forced the traffickers to stop moving opium in 10 ton quantities by caravan from Burma into Thailand. They have now started converting the opium to morphine base or heroin on the Burma side of the border. They are having to resort to individual body carriers to smuggle drugs through.

"And our goal—the game plan—is to keep the pressure on through enforcement efforts to keep the price down and to force the hill farmers to turn to other agricultural crops."

The average opium farmer used to derive about $250 a year from a half acre plot of opium poppies. Now he gets only $50 at depressed prices.

However, the same Meo tribesman can grow about $400 a year worth of coffee on the same half acre. And he also can plant another $60 worth of kidney beans a year between the coffee trees.

Cabbages are another crop that can share living space with coffee at a profit of about $350 annually per half acre, Sarasin said.

In all, the crop substitution program is teaching the hill people how to grow 17 different agricultural crops, including potatoes at $600 a half acre annually.

And there are long range plans for a coffee processing center at Chiang Mai, the last large population center in Northern Thailand before the jungles of the Golden Triangle embrace the mountainous terrain.

Obviously, eradicating the 50-ton-a-year Thai opium poppy crop isn't going to solve the problem. There still are the 550 tons grown annually in neighboring Laos and Burma.

But, as Sarasin explains, the hill tribesmen recognize no international boundaries. And good news travels fast. Burma has also started a crop substitution program with UN help. And there is hope that Communist Laos might do the same.

FOREIGN AID DOESN'T AID

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DORNAN. Mr. Speaker, the issue of whether or not foreign aid actually helps the people of the countries concerned is one that comes before this body at frequent intervals. I would like to call my colleague's attention to an article on this subject, in the summer issue of Policy Review, a publication of the Heritage Foundation of Washington, D.C. The authors, Prof. Peter Bauer of the London School of Economics and John O'Sullivan, an economic journalist for the Daily Telegraph of London, present a perceptive analysis of the new international economic order (NIEO) as it was presented at such recent conferences as the Commonwealth Conference in London and the north-south dialog in Paris.

Their analysis covers the underlying assumptions of the proposed system, its likely results, as well as the value of its main policies such as greater foreign aid, stabilization of commodity prices, debt cancellations, and the transfer of technology. They point out that the material backwardness of Asia and Africa is not due to Western exploitation and assert also that Third World poverty is not as severe as often stated, due to problems involved with statistics and differing means of measuring income.

The authors conclude that the objectives of the NIEO—and of government-to-government foreign aid in general—are both undesirable and unattainable, especially since only a world government with extensive or almost totalitarian powers could enforce NIEO goals. I would like to insert their informative and interesting analysis of the actual effects of well-intentioned foreign aid in the RECORD at this time:

ORDERING THE WORLD ABOUT: THE NEW INTERNATIONAL ECONOMIC ORDER

(By Peter Bauer and John O'Sullivan)

In 1975, to mark Somalia's commitment to the ideals of the International Women's Year, the President announced that in the future women would enjoy equal rights of inheritance with men. Twelve Muslim religious leaders protested that this violated Koranic law. Whereupon they were shot.

This instructive tale should warn us that the liberal ideas and phraseology of the West, once transplanted to the Third World, often assume fantastic and distorted forms. We might bear this in mind when assessing the interminable discussions on the establishment of a "New International Economic Order" (NIEO) at the "North-South Dialogue" in Paris, The Commonwealth Conference in London and the numerous United Nations Conferences on Trade and Development (UNCTAD) and other UN gatherings in Geneva, New York, Nairobi, Delhi and wherever else luxury hotels are to be found.[1]

For, on the face of it, the NIEO boasts an impeccably Western, indeed English, genealogy. It is the most far-reaching application of Fabian socialist theories of wealth distribution, state control and economic planning to international economic relations yet attempted by Third World governments and their Western cheerleaders. In no sense, of course, is it new. Its Fabian inspirations apart, the various UN and other declarations, in which the NIEO is embodied, contain wearisomely familiar demands for still greater foreign aid; comprehensive schemes for "stabilizing" (i.e. raising) commodity prices, transferring technology and cancelling debt repayments by developing countries; and even hazy notions of restricting Western production of synthetic substitutes for Third World products.

But some little novelty is introduced in the arguments justifying these claims. No longer is foreign aid solicited as an act of charity. Indeed, charity is indignantly rejected as demeaning. Nor is it still justified principally as the means of ensuring economic development in less developed countries—though that remains a secondary argument. Today, in international forums, the large-scale transfer of resources from the West to the Third World is demanded as a *right*. It is presented as some small recompense for the West's unjust economic exploitation, past and present, which is alleged to have caused the poverty of the developing world. But the NIEO goes beyond even this. Its demands clearly imply that everyone everywhere should be entitled to a substantial income by virtue of being alive, regardless of economic performance.

Dr. Julius Nyerere, the austeritarian Tanzanian dictator, put these arguments succinctly during his 1975 state visit to Britain:

"In one world, as in one state, when I am rich because you are poor, and I am poor because you are rich, the transfer of wealth from rich to poor is a matter of right; it is not an appropriate matter for charity.

"The objective must be the eradication of poverty and the establishment of a minimum standard of living for all people. This will involve its converse—a ceiling on wealth for individuals and nations, as well as deliberate action to transfer resources from the rich to the poor within and across national boundaries."

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[1] For a restrained and relatively reasonable statement of the views of the proponents of the NIEO see a new book by a UN civil servant of Indian nationality: Jyoti Shankar Singh, *Toward a New International Economic Order*, N.Y., 1976.

Endlessly and sanctimoniously repeated, almost never rebutted, such arguments have not been without effect. Mr. Callaghan told Commonwealth statesmen that 650 million people had *per capita* incomes of less than $34 a year and that this was "the most serious challenge to our age and to our leadership." At the recent Paris Conference, the West, alias the "North," agreed to set up a commodity stabilization fund and to grant more aid, beginning with another $1,000,000,000 to the hardest-hit poor countries. And, expressing a general journalistic consensus, Mr. Keith Richardson of the *London Sunday Times* admits that the West enjoys a "disproportionate share of the world's wealth" (does it not also have a disproportionate share in creating that wealth?) and doubts if we can keep our present ill-gotten living standards.[2]

But are the arguments in support of the NIEO valid? And would the consequences of implementing it be those desired by the Third World's Western sympathizers? Or those experienced by the Somalis?

WAS LENIN RIGHT?

Is it, first, really true that Western prosperity is founded on the economic exploitation of Asia and Africa? For this seems to be plainly contradicted by common observation. Sweden and Switzerland, two of the world's richest nations, had no colonies at all and few direct economic contacts with the Third World. Portugal, on the other hand, which relinquished large colonies only recently, is the poorest nation in Western Europe.

Nor can the extreme poverty and backwardness of aborigines, pygmies, nomads and African tribesmen be due to exploitation in international transactions since these groups have almost no links with the rest of mankind. Indeed the usual relationship is between material backwardness and lack of external contacts. If we examine the "Fourth World" countries listed in the U.N. agency documents as least developed, namely Burundi, Chad, Lesotho, Ethiopia, Rwanda, Afghanistan, Bhutan, Nepal and Sikkim, we find that they are scarcely involved in trade with the West. Certainly their trading links are fewer and less extensive than those between the West and Malaysia, Hong Kong, Venezuela, South Korea, Singapore, Mexico and Taiwan—all relatively prosperous and developing rapidly in flat contradiction to NIEO reasoning.

Such examples clearly support the traditional pre-Leninist view of international trade, namely that it benefits both parties. In more modern jargon, it is not a "zero-sum game" in which one man's gain is necessarily another's loss. Western nations undoubtedly benefited from the access to raw materials brought by trade. Yet did not developing nations also obtain access to markets, to a variety of goods, to new ideas and information and to such complementary resources as capital, enterprise and specific skills? Without these, would not the Third World be much poorer today?

Moreover, even amongst developing countries with equal access to trade opportunities, some have prospered more than others.[3] Why? Surely the principal reason is that nations, peoples, tribes, communities and ethnic groups are not equally endowed with those qualities which mainly determine economic achievement. These are not, as is commonly supposed, plentiful raw materials and the supply of capital on easy terms, but aptitudes, social customs, motivations, modes of thought, social institutions and political arrangements. For it is these qualities which influence people's willingness to save, work hard, take risks, and to seek and develop the economic opportunities, however limited, that are available.[4]

How else can we explain the many startling group differences in economic performance where economic opportunities have been identical, or broadly similar, or even relatively unfavorable to the successful group—the Chinese, Indian and Malays in Malaya, the Asians and Africans in East Africa and the Greeks and Turks in Cyprus? Have not some groups "failed" in the narrowly economic sense because of such factors as a preference for the contemplative life over the active; a reluctance to undertake profitable tasks traditionally regarded as demeaning; and a social hierarchy in which mere economic success is not particularly esteemed? Why should such preferences necessarily be condemned?

HUMAN RIGHTS IN THE THIRD WORLD

In recent years, however, a less justifiable influence favoring poverty and economic backwardness has made its appearance—namely, the economic and other policies pursued by Third World governments. Everyone is well-informed about the expulsion of Asians from East Africa which, incidentally, at a stroke reduced *per capita* income in those countries and widened the gap between them and the heartless West. But, in general, Western liberal opinion has been strangely and culpably blind to the extent of the persecution of economically productive, perhaps relatively well-off, but politically unpopular minorities.

It ranges in kind from discrimination in employment to expulsion and even massacre, and geographically from Algeria to Burma, Egypt, Ghana, Indonesia, Iraq, Kenya, Malawi, Malaysia, Morocco, Nigeria, Sri Lanka, Tanzania, Uganda, Zaire and Zambia. So much for the theory that wealth is synonymous with power.[5]

And when such groups as the enterprising Indian community in Burma are driven out, they take with them scarce skills, the ability to generate capital locally and often an indispensable service to the local community. President Mobutu's expulsion of Greek and Portuguese traders from Zaire, for instance, caused a breakdown in the bush trading and distribution system. Farmers were thus unable to market their produce effectively: in some cases, planting stopped altogether.

Some regimes do not stop at persecuting minorities. Dr. Nyerere's government in Tanzania has in the last decade forcibly moved millions of people into collectivized villages, and sometimes simply into the bush. Among the methods of encouragement employed are the destruction of existing homes, physical force and barring recalcitrant elements from such social facilities as communal transport, beer shops, ceremonial dances and cattle auctions. The numbers of people subjected to this new life certainly runs into millions. Some estimates are as high as six to eight million (*The Washington Post*, May 6, 1975) and even thirteen million (*The Times*, April 20, 1977) out of a total population of fifteen million.

It is hardly likely that agricultural prosperity will be improved by this disruptive move to a variant of the collective farming that has been a disaster everywhere else. Another article in *The Washington Post* (February 7, 1977) reports that both food production and rural living standards have in fact declined. Is that perhaps the reason there is so little official data on the economic achievements of *ujamaa* policy, as a sympathetic official of the World Bank lamented?

Tanzania's general economic failure, relative to less ideological neighboring countries, is unmistakable. It has indeed provoked Dr. Nyerere into sour complaints that Kenya's prosperity is merely the tawdry jewelry of the harlot. He can hardly claim, however, that Tanzania aims at a higher goal than wealth—equality, spartan virtue, African socialism, or whatever. For, like a quiz contestant who asks both to open the box *and* take the money, President Nyerere demands that nations which have successfully sought enrichment should subsidize his nation's austerity.

That is only one, admittedly glaring example. Other government policies, which have served to impoverish further the people in developing countries, include restrictions on the inflow of foreign capital and on the activities of expatriates; the establishment of costly and inefficient state monopolies in trading, transport, banking and industry; widespread restrictive licensing on economic activity; penal taxation of small-scale farmers; the political diversion of resources to state-sponsored enterprises that cannot survive unassisted; and the suppression of private firms that inconveniently compete with them.

HOW POOR IS THE THIRD WORLD?

But the Third World is far from being a homogeneous, uniform group of countries, all sunk in an identical poverty that is irremediable without foreign aid. Numerous regions and groups there are actually more

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[2] Two recent articles in *Commentary* further elucidate a more critical view of the NIEO. See Peter Bauer, "Western Guilt and Third World Poverty," *Commentary*, January 1976 and Peter Bauer and B. S. Yamey, "Against the New Economic Order," *Commentary*, April 1977.

[3] Edwin J. Feulner, Jr. in *Congress and the New International Economic Order*, Washington, D.C., 1976, provides a brief and incisive comparison of two island economies, Sri Lanka and Taiwan:

"Another comparison is between the island nations of the Republic of Sri Lanka (Ceylon), a nation of 14 million and the Republic of China (Taiwan) a nation of 15 million inhabitants. Foreign capital was a major factor in the early post war development of both Taiwan and Sri Lanka. Then the government of the latter started a widespread nationalization program in 1961 and strengthened this in 1970 to form a national plan for a socialist society. The effect of these policies has been to limit the investment of new private funds in Sri Lanka. Per capita output has dropped from $128 in 1963 to $110 in 1974.

"The Republic of China was also essentially an agrarian economy but they have followed a policy of industrialization encouraging private investment by a liberalization of government control and tax concessions. Today Taiwan is one of the fastest growing economies in Asia. In 1967 output per capita was $209, in 1974 it had jumped to $700, second only to Japan among Asian countries. Even allowing for the possibility that significant error is present in the figures, the correlation between economic freedom (including private foreign investment) and successful development (and improved personal well-being) is vividly illustrated by these comparisons."

[4] A full-length analysis of the underlying conditions and of their economic importance is provided in Peter Bauer and B. S. Yamey, *The Economics of Under-Developed Countries*, Chicago, 1957. For a debate on some of these issues, see Barbara Ward and Peter Bauer, *Two Views on Aid to Developing Countries*, London, 1966.

[5] In order to carry out such policies a tame press is, of course, highly desirable. There has been much discussion among Third World nations (who disagree on many points but who tend to agree on this one) on the best means of insuring a controlled flow of information. The Fall 1977 issue of *Policy Review* will include an article by the American journalist, Jeffrey St. John, on this increasing tendency toward organized suppression of a free press. For a broad view of the decline of human rights around the world, see Robert Moss, *The Collapse of Democracy*, New Rochelle, N.Y., 1976.

prosperous than some in the West—compare Chinese communities in South-East Asia with much of rural Ireland and Southern Europe. And among Third World countries which have enjoyed rapid economic growth are South Korea, Taiwan, Hong Kong, Malaysia, the Ivory Coast, Kenya, Brazil, Colombia, Mexico, Venezuela and, of course, the oil states of the Middle East which were treated as less developed until 1973 despite high *per capita* incomes.

Properly considered, then, the Third World is little more than an arbitrary classification covering half the world's population and including societies ranging from millions of aborigines to populous cities—the composition of which is occasionally altered with an arbitrariness bordering on caprice. The developed world is only slightly more homogeneous. It would make little sense to talk of an income "gap," especially a "widening gap," between two such shifting classifications, even if the statistical bases for comparison were otherwise valid. Of course, they are nothing of the sort.

Professor Oscar Morgenstern, in his book, *On the Accuracy of Economic Observations*, quotes an unnamed civil servant as admitting: "We shall produce any statistics that we think will help us to get as much money out of the United States as we can. Statistics which we do not have, but which we need to justify our demands, we shall simply fabricate." His light-hearted approach is certainly not contradicted by the black comedy of the Nigerian population estimates. When Professor Peter Kilby, a leading independent American scholar, put the population at 37.1 million, the official 1963 census produced an estimate of 55.6 million—a figure not unconnected with the then government's need for inflated parliamentary representation. Even today, when parliamentary representation is of little moment in Nigeria, the UN's estimate of its population is ten million less than the Nigerian government's.

Honest statistics, however, would be only marginally less inaccurate. National income comparisons, for instance, are rarely adjusted for differences in age composition. Yet the proportion of children is much larger in developing countries than in the West. And both the incomes and requirements of children are lower than those of adults—not to allow for age composition in such statistics is to transform age differences into income differences.

Another major flaw arises from how changes in life expectation are interpreted statistically. In the last 25 years, mortality has declined substantially in the Third World. Since most people like to live longer and to see their children survive, this is surely an improvement. Without much doubt the standard of living of those who would otherwise have died has improved. But there are, as a result, more children and old people in the population. So this improvement is registered in national income statistics as a decline in per capita income and a widening of the gap.

The aggregate effect of these and other flaws is to exaggerate, often wildly, the poverty of developing countries and hence the gap between them and the West. In an article published in 1963, subsequently expanded into a book, Professor Dan Usher, who lived and worked for several years in Thailand, estimated on the basis of personal observation and sophisticated statistical analysis that living standards there were approximately one-third of those in Britain. Yet, as Professor Usher points out, calculations based on conventional statistics put per capita income in Britain at fourteen times that of Thailand, where accordingly the people must be "desperately, if not impossibly, poor." It is such Laputan estimates which form the basis of NIEO declarations, of presidential demands for "reparations" from the West and of Mr. Callaghan's conviction that 650 million people have to subsist each year on less than the goods and services that £20 would purchase in Britain or $34 in the United States, or one breakfast every three weeks with nothing left over for other meals, accommodation, clothing, medicine or any other goods and services.

So much for the arguments justifying the NIEO. What of its likely effect?

IS FOREIGN AID ENOUGH?

Let us first deal with two general points. Were the NIEO to be implemented seriously, it would clearly mean a transfer of resources from groups in the West to groups in the Third World. If people's aptitudes, motivations and economic capacities were everywhere the same and official policies broadly favorable, this could be achieved without a reduction in the wealth and income of mankind as a whole. NIEO documents often assume tacitly that this is so.

Yet we have already noticed that people's abilities to take advantage of economic opportunities differ very radically. And, paradoxically, this is confirmed by one of the NIEO's principal demands—namely, debt cancellation. For the argument that debtors face great, even insurmountable, difficulties in repaying loans means that the borrowed capital has been wastefully employed. Otherwise the incomes in recipient countries would have increased by more than the cost of the capital. This is further confirmed by the fact that the great proportion of Third World government debt arises from foreign aid loans on concessionary terms. Often the grant element in these loans has been over half the nominal value, sometimes over 90 percent. Moreover, the burden of debt has *already* been much reduced by inflation and by various disguised forms of substantial default.

The NIEO, therefore, especially in the form of debt cancellation, represents a transfer of resources from those who can use them productively to those who cannot. World income as a whole must therefore either fall or fail to rise as it otherwise would. If this effect were concentrated in the West, some NIEO advocates would presumably count it as a gain—a step towards a more egalitarian, if poorer, world. But, insofar as the West's income is reduced, so is its capacity to trade with developing countries, some of which in consequence share in this virtuous impoverishment.

Secondly, official wealth transfers go to Third World governments, not to the population at large. Inevitably, this increases the power of the ruling groups over their peoples—an effect often reinforced by the preferential treatment accorded to governments establishing state-controlled economies.[6] To Western supporters of aid programs, there is nothing objectionable in this. They enthusiastically urge vigorous state action to promote development and social and economic equality.

But this is where the Somali distorting mirror effect intrudes. For between the intentions of Third World governments and those of their Western sympathizers, there is a wide and widening gap.

It is the over-riding aim of almost all Third World governments to consolidate and extend their own power over their subjects. Surely this is patently clear from the policies they consistently pursue? Monopolies, valuable licenses and other privileges are granted to those who support the government, often very prosperous people. Quite small properties and businesses, on the other hand, are often confiscated wholesale. Small-scale producers of export crops have often been singled out for penal taxation at the hands of state export monopolies. And there have been countless instances of massive discrimination against poor members of ethnic minorities distinct from the ruling group, even though they may sometimes be indigenous to the country—such as Tamil plantation workers in Sri Lanka and Ibo clerks and laborers in Nigeria.

What have such policies got to do with promoting either equality or development? Very little. In fact, they hold development back. But they have a great deal to do with placating government supporters, winning over entrenched groups, making more and more people dependent upon government decisions for their economic success or failure, and depriving potential opponents, or merely disfavored groups, of power, advantages and even of their livelihood. Indeed, a Burmese cabinet minister was candid enough to admit privately that, although the expulsion of foreigners damaged the economic interests of the Burmese, he favored the policy simply in order to rid his country of aliens.

And, as for equality, some conspicuous beneficiaries of aid are relatively well-to-do, even very rich. They are rulers, politicians, civil servants, members of Westernized elites, businessmen close to the government and the more politically astute local academics—not to mention foreign economic advisers and employees of international organizations.

Would not the large-scale transfer of resources under the NIEO strengthen such governments in power, keep them financially solvent, help to conceal the disastrous results of their policies, and generally increase state power and politicization of society? And, in a contemporary politicized society, the rewards of political power rise proportionately; but the penalties of exclusion rise exponentially.

During Mrs. Gandhi's rule in India, well over ten million people were sterilized, very many forcibly, sometimes with great brutality and fatal results. According to an academic Indian report, which forms the basis of an article in *New Scientist* (May 5, 1977) the compulsory sterilization campaign included such methods as: organized manhunts; dawn police raids to catch people, physical force to hold down the victims; entire villages fleeing from sterilization squads; refusal to admit unsterilized people to hospitals; the withholding of licenses from taxi-drivers, rickshaw-drivers and others unless they could produce sterilization certificates; and the use of economic policy and civil service pay and promotion to foster the program "voluntarily." And the report noted significantly that compulsion was exercised on a partial basis. Administrators, the urban elite and local politicians were able to avoid it, even when they had more than the usual quota of children; whereas an almost random brutality was employed against poor people, village-dwellers and minorities like the Muslims, who rioted in consequence and were shot down.

[6] A clear-cut example of how government-to-government aid programs often enrich the class at the expense of the needy is given in an article entitled "Food Bungle in Bangladesh" by Donald F. McHenry (Ambassador Andrew Young's deputy at the UN) and Kai Bird (a journalist for *Newsweek International*). Writing in the Summer 1977 *Foreign Policy* they relate in detail how approximately 90 percent of the U.S. food aid to Bangladesh went to favored groups in the cities (bureaucrats, the armed services, rich businessmen, etc.). Practically none went to the starving people in the countryside. This sort of activity is not confined to the Third World, of course. *The Washington Post* on July 7, 1977, reported that a substantial amount of Small Business Administration funds intended to help minorities actually went to white (and prosperous) businessmen using blacks as fronts.

It is, of course, commonplace in societies that are both multi-racial and highly-politicized for minorities to find themselves economically ruined and even physically threatened. Who controls the government becomes a life-and-death matter, sometimes literally so. Asians have been expelled from East Africa, Ibos massacred in Northern Nigeria and the Chinese subjected to various degrees of discrimination all over South-East Asia. Naturally they suffer most. But such struggles, expulsions and civil wars also inflict extreme hardship on the rest of the population as, for instance, food shortages when the trading system breaks down.

Does all this sound a far cry from bland World Bank communiques hymning "partnership in development"? Well, in November 1976, at the very height of the compulsory sterilization campaign, Mr. Robert McNamara, the President of the World Bank and a large supplier of finance to India, congratulated the Indian Health and Family Planning Minister on his government's "political will and determination" in popularizing family planning. It is the Somali distortion again—some spice being added by the report that Somalia is Mr. McNamara's "second favorite African country." His "real African favorite," however, is Tanzania where he doubtless imagines an exciting development in rural democracy is spontaneously erupting.

Third World governments have nonetheless taken precautions against Mr. McNamara and others suddenly realizing what Somalia is really like. Into one of the NIEO declarations they have written the condition that: "Every country has the right to adopt the social and economic system that it deems most appropriate for its own development and not to be subjected to discrimination of any kind as a result." Discrimination here is broadly defined; it includes failure to provide aid.

DO THE POOR REALLY BENEFIT?

We have so far assumed that the NIEO will actually transfer resources from the rich to the poor. But will it do so? Take, for instance, one specific and widely-canvassed proposal to which Western countries have now reluctantly agreed—commodity agreements to maintain stable prices. If these are intended to transfer wealth from rich to poor, then they are inefficient to the point of perversity.

To begin with, primary producers of raw materials are by no means necessarily poor. The OPEC countries are an extreme example of the opposite—and were so long before 1973. Rich countries, in fact, are net exporters of major primary products and their close substitutes. Moreover, within the less developed world, those countries which export such products are generally to be found among the most prosperous. And, within the exporting countries themselves, the main beneficiaries of commodity agreements and higher prices are likely to be existing producers, the scheming administrators and politicians—all relatively prosperous people already.[7]

And how will such schemes work in practice? Commodity agreements can normally be maintained only if they exclude potential producers from entering the market. Only thus can supply be restricted and prices raised. Yet the excluded producers are usually poorer than those inside the cartel—and than those who otherwise gain, both internationally and within exporting countries. Their poverty is thus perpetuated.[8]

It is also noteworthy that most of the suggested agreements cover commodities (e.g., tea, rubber, copper) that are subsequently used in mass consumption products. Poor Third World countries are net importers of many of these. So the contrived increase in prices will tax consumers, often regressively, in rich and poor countries alike, at a time of world-wide inflation. And the experience of the OPEC cartel suggests that poor people will not be protected against these price rises by anything more substantial than rhetoric.

But commodity agreements also tend to be unstable. If the incomes of those inside the cartel are to be kept up, then not only must the supply of the commodity reaching the market be controlled effectively; so must the supply of its close substitutes. Yet the resulting high price itself stimulates the search for new sources and the development of new substitutes. So, save in very exceptional circumstances where control of a scarce and indispensable resource is confined to a few countries, any commodity scheme will succeed in raising prices for a prolonged period only at the cost of large sums of the money being tied up in unsold stocks.

In the meantime, while prices remain high, potential producers and excluded countries will grow increasingly hostile and restive. Why should they not be allocated export rights and quotas? Why should they be denied this arbitrary and guaranteed "license to print money"? Only massive international pressure could prevent them from undermining the agreement by introducing or expanding their competing supplies. International tensions far more destructive than those exhibited in the North-South dialogue would thus be stimulated by the scheme's continuance; and, should it eventually collapse, incomes and prices would fall through the floor.

It is clear, therefore, that commodity agreements would harm many poor people, benefit few poor people and enrich quite a number who are already prosperous. Some relatively rich people in the West might also be discommoded, but that is surely an insufficient benefit for so much waste, conflict and distress. So much for his cornerstone of the NIEO. Debt cancellation, as we have already shown, specifically benefits the improvident and affects the poorest least of all. And the transfer of technology, as expounded in NIEO documents, is a notion too vague and mystical for systematic assessment.

WOULD AN NIEO WORK IN PRACTICE?

But all this does not justify dismissing the NIEO as unimportant. If the "eradication of poverty" and the confining of income differences, both within and between countries, to within a narrow band were to be seriously pursued, then a far-reaching, intensive and persistent coercion would be required. Nothing less would remove or overcome the wide and deeply-rooted variety of attributes, motivations, values, customs, social institutions, living conditions and political arrangements of different countries, societies, groups and individuals which lie behind income differences.

NIEO advocates admit, for instance, that the use of substitutes and the application of new inventions in Western industries would need to be limited in order to protect commodity agreements and to maintain Third World export earnings. What else is this but the internationalization of industrial restrictive practices, maintaining high-cost production and thus harming the poorest everywhere? Yet if Western governments fail to enforce such luddite interventions, will they not be pressed to step up direct tax-financed wealth transfers by way of compensation? Indeed, Dr. Nyerere has obligingly made clear that they will be required to step up such transfers in any event—until world economic equality has been substantially achieved or, in practice, indefinitely.

But who will enforce these policies and transfers? Western governments acting voluntarily? Hardly. National governments acting under pressure from a combination of other governments, or from international organizations, in accordance with agreements they had thoughtlessly endorsed? Perhaps, but for how long? Would policies that substantially depressed or retarded the living standards of Western voters survive more than a few democratic elections? Again, hardly. Only a world government with extensive, or indeed almost totalitarian powers would stand a reasonable chance of enforcing such an economic order indefinitely.

And such powers would need to be exercised indefinitely. As with commodity agreements, the exercise of some powers would perversely create and reinforce economic differences rather than reduce them. They would thus be continually manufacturing the justification for their own existence: and if, for whatever reason, economic differences were to be reduced within and between countries, this would not abate egalitarian demands one whit. As Tocqueville observed, when social differences have narrowed, those that remain appear particularly offensive.

And, finally, the commitment to the NIEO is by its very nature open-ended. Third World incomes, as we have already seen, depend principally upon domestic factors, not on external donations. So any obligation to establish minimum living standards in the Third World, or to reduce international income differences substantially or to any specified extent, implies a completely open-ended Western commitment, determined by the Third World's performance. At the very least, international redistributive taxation would be required. Attempts to enforce this permanent, world-wide standardization, then, would lead to increasing international tension, a Hobbesian war of all against all, the spread of totalitarian powers and to further erosion of the West's power and influence.

Is it unreasonable, in the light of these considerations, to regard Dr. Nyerere's call for a world "ceiling on wealth" as "first and foremost a matter of political will and determination" as something more, and more sinister, than harmless cant? Or to hope that, when Western leaders warmly endorse the NIEO's objectives, they are simply indulging in the political equivalent of singing "Auld Lang Syne" on New Year's Eve?

In summation, the objective of the NIEO is, of course, quite unattainable. There is no prospect whatever of transforming the Third World into a series of prosperous, socially just, high-income Swedens by the methods proposed. But we might well create one, two, three, many Somalias.

[7] William Schneider, Jr., of the Hudson Institute, has written a useful book on this subject, *Food, Foreign Policy and Raw Materials Cartels*, N.Y., 1976.

[8] See Peter Bauer, "Foreign Aid Forever?" *Encounter*, March 1974.

HIGH CANCER RATES IN COUNTIES WITH PETROLEUM INDUSTRIES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CARTER. Mr. Speaker, I should like to call to the attention of my esteemed colleagues a recent article about the pattern of elevated cancer death rates in counties where the petroleum industry is most heavily concentrated.

That article, from the October 7 issue of Science magazine published by the American Association for Advancement of Science, concludes that "further study is needed to determine whether these patterns result from exposure to chemical carcinogens, including polycyclic hydrocarbons, involved in the manufac-

turing of petroleum." Nevertheless, the statistics show significantly higher rates for cancer of the lung, the nasal cavity and sinuses, and of the skin in those counties.

On October 4, I had noted another Science article about a National Institute for Occupational Safety and Health sponsored study of which industries are most hazardous to their workers. That study indicated that the petroleum industry ranked as the sixth most hazardous in exposing workers to carcinogens or toxic chemicals.

While we are concerned about the on-the-job hazards to America's working men and women, I submit that this new article points to perhaps the greater concern about the possibility of a pollution hazard spreading beyond the workplace.

I want to stress that I note this information not as an attack on the oil industry but as further evidence that we need to continue the critical work of finding the causes of cancer and, where possible, eliminating them. We also need, as the article points out, further study before reaching final conclusions about what actually may be causing our alarming cancer incidence.

Mr. Speaker, I include for the RECORD this article about the cancer mortality in U.S. counties with petroleum industries:

CANCER MORTALITY IN U.S. COUNTIES WITH PETROLEUM INDUSTRIES

Abstract. A survey of cancer mortality from 1950 to 1969 was conducted in U.S. counties where the petroleum industry is most heavily concentrated. Male residents of these counties experienced significantly higher rates for cancers of the lung, the nasal cavity and sinuses, and the skin (including malignant melanoma) compared to male residents of counties with similar demographic characteristics. Further study is needed to determine whether these patterns result from exposure to chemical carcinogens, including polycyclic hydrocarbons, involved in the manufacturing of petroleum.

Polycyclic aromatic hydrocarbons (PAH) are found in crude petroleum, in the high boiling residues of catalytically cracked oils, in other pyrolysis products, in soots, and in air surrounding refining operations (1). Although exposure to PAH in several occupational groups has induced cutaneous and pulmonary cancers in man (1, 2), there has been no clear indication that petroleum refinery workers are exposed to excess risk (3). However, indirect evidence of a hazard was suggested recently by a national survey of lung cancer mortality indicating that such mortality was higher among males in U.S. counties with petroleum manufacturing industries, and by a Los Angeles study correlating lung cancer rates in census tracts to airborne levels of PAH emitted, in part, from petroleum refineries (4). To evaluate this issue further, we compared the mortality rates from various cancers during 1950 to 1969 in U.S. counties involved in petroleum manufacture with the rates in a group of counties with similar demographic characteristics but no involvement in the industry.

A total of 604 U.S. counties had plants engaged in petroleum manufacture (standard industrial classification code 29) according to the 1963 *Census of Manufactures*, although there were less than 20 employees in over one-third of these counties (5). Selected for study were 39 petroleum-industry counties (PIC) where at least 100 persons were employed and where the estimated number of workers divided by the county population exceeded 0.01. The fraction employed reached 0.07 in one PIC but was usually under 0.02. It was 0.017 for the 39 PIC combined, involving about 50,000 petroleum workers. The number employed by sex was not available per county, but national statistics show a predominance of male workers over female (ratio 7:1), with 95 percent of all of the employed being white (6).

TABLE 1.—*Demographic indices for the petroleum-industry counties (PIC) and control counties in 1960*

Indicator	PIC	Control counties
Percentage urban	74.2	71.1
Population density*	53.5	58.1
Median school years completed by adult population	10.6	10.7
Median family income	6083	5635
Percentage nonwhite	11.2	9.4
Percentage foreign parentage	10.5	11.1

*Population per square mile.

Nearly all the PIC were involved in petroleum refining, at least since 1940. Although located in 16 states, over one-half were concentrated in Texas, Louisiana, Arkansas, Oklahoma, and Kansas. The PIC ranged in population from about 5000 to 500,000 (median 37,000) as of 1960, the midyear of the study period, with a total of about 3 million.

For comparison, we selected 117 counties comparable by geographic region (same or neighboring state), population size, and various demographic indicators (Table 1). Nonpetroleum manufacturing industries were nearly equally apportioned between the PIC and control counties, except that chemical manufacturing plants tended to occur in the PIC. In 11 of the 39 PIC the chemical and petroleum work forces were about equal. Only 6 of the 117 control counties had similar involvement (a fraction employed of at least 0.01) in the chemical industry.

Age-adjusted mortality rates during 1950 to 1969, for 23 cancer sites, were calculated among white residents in the individual PIC and control counties (7), in all PIC combined and all control counties combined, and in groups of PIC and control counties stratified by urbanization category. Standard errors were computed (8) for comparisons (Student's t-test) of the differences in mortality rates between the PIC and control groups.

Ratios of the age-adjusted cancer mortality rates among white males in the PIC to the rates in control counties are shown in Table 2. Mortality in the PIC was significantly high for all cancers combined. The largest ratios were for cancer of the nasal cavity and sinuses and for lung cancer. In addition, mortality was significantly high for cancers of the skin (both malignant melanoma and nonmelanotic skin cancer), testis, stomach, and rectum. Low mortality was observed for brain cancer.

Table 3 lists the mortality ratios for these cancers among white males in three groups stratified by population. The rates for cancers of the nasal cavity, lung, and skin were high for all three groups, while the excesses for other cancers were limited to highly populated counties (9). Among white females in the PIC, the mortality rates were significantly high for lung cancer but not for cancers of the nasal cavity and skin nor for all cancers combined (10).

The cancer patterns in the PIC may be due partly to the concomitant presence of chemical industries, which have been previously correlated on a county level with various cancers, including cancers of the nasal cavity, lung, and skin (11). For the 11 PIC with heavy involvement in the chemical industry, the nasal cancer mortality rate was exceptionally high, while the rate for the remaining 28 PIC exceeded the control rates to a far lesser extent (12). For lung and skin cancers, rates were also highest in those PIC with chemical plants, but the relative excess associated with the presence of both industries was not as great as for nasal cancer (13). Bladder and liver cancers, prominently correlated with chemical industry counties (11), were not excessive in the PIC.

If, in fact, the higher cancer rates in the PIC resulted mainly from the small percentage of males employed in the industry being exposed to petrochemicals, and if the remainder of the population were at normal risk, then the relative risk to workers would be substantial, particularly among subgroups exposed to hazardous processes. However, these correlations should be interpreted cautiously. Information was not available on the occupations or other exposures of county residents who died of cancer, or on their specific location or duration of residence within the county. Nonfatal cancers were not ascertained, and the information obtained from death certificates may not accurately reflect incidence. Although the PIC and control counties were generally comparable with respect to region, urbanization and socioeconomic status, there may be differences in other variables that influence the results.

TABLE 2.—*Ratios of age-adjusted mortality rates, 1950 to 1969, among white males in petroleum industry counties to those in control counties by cancer site*

Cancer site	*Ratio*
Buccal cavity and pharynx	1.04
Esophagus	1.06
Stomach [1]	1.09
Colon	1.02
Rectum [2]	1.07
Liver	1.06
Pancreas	1.05
Nasal cavity and sinuses [1]	1.48
Larynx	1.09
Lung [1]	1.15
Prostate	0.98
Testis [2]	1.10
Kidney	1.05
Bladder	1.02
Melanoma and other skin [2]	1.10
Brain [2]	0.94
Thyroid and endocrine	1.04
Bone and connective tissue	0.98
Hodgkin's disease	0.96
Other lymphomas	1.01
Multiple myeloma	1.05
Leukemia	1.03
All sites combined [1]	1.06

[1] $P<.01$.
[2] $.01<P<.05$.

TABLE 3.—*Ratios of age-adjusted mortality rates from 1950 to 1969 among white males in petroleum industry counties to rates in control counties separated according to population size for selected cancer sites*

Cancer site	Population (1,000's) Less than 25	25 to 99	100 plus
Stomach	0.99	1.02	[1] 1.15
Rectum	0.85	1.01	[1] 1.13
Nasal cavity and sinuses	1.29	[1] 1.78	[1] 1.45
Lung	[2] 1.10	[1] 1.15	[1] 1.17
Testis	0.89	0.94	[2] 1.18
Brain	1.01	0.98	0.93
Melanoma and other skin	1.21	1.03	[2] 1.12
All cancers combined	1.03	[1] 1.05	[1] 1.08

[1] P less than .01.
[2] .01 less than P less than .05.

Nevertheless, the geographic patterns are in line with published observation on cancer in related occupational groups. Squamous skin cancers have been reported as a complication of exposure to PAH among wax

pressmen, workers in the shale oil industry, and mule spinners and machinists exposed to cutting oils (1). A possible excess of melanoma was recently noted among workers who handled polychlorinated biphenyls in a northeastern petrochemical plant (14). Nasal cancers have not been related to petroleum exposures, except for tumors of the ethmoid sinus in a small group of workers manufacturing isopropyl alcohol (15). Potentially leukemogenic is exposure to benzene in the petroleum industry (16), but no significant excess of leukemia was found in the PIC. The correlations with lung cancer in the study are a cause for concern because lung cancer occurs excessively among other PAH-exposed groups, including roofers, coke-oven workers, and gas-generator employees (1, 2); and the high rates of lung cancer among female residents in the PIC raise the possibility of a pollution hazard speading beyond the workplace.

The findings of this survey suggest the need for industry-wide epidemiologic studies to clarify the risk of cancer among various groups of petroleum workers and to evaluate the possible effects of petrochemical emissions released into neighboring communities.

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9. For lung cancer, the rates (deaths per year per 100,000 population) increased from 30.0 to 35.7 to 45.5 among the three urbanization groups of the PIC as opposed to 27.2 to 31.1 to 39.0 for the control counties. The rates for nasal cancer varied little with urbanization, remaining at about 0.6 in the PIC and 0.4 in the control counties. Skin cancer rates declined with urbanization (4.2, 3.3, and 3.3 in the PIC compared to 3.4, 3.2, and 3.0 in the control counties).

10. The PIC/control counties mortality ratios for white females were (total and three urbanization categories of Table 3, respectively): lung cancer, 1.06, 1.21, 1.07, 1.05; nasal cancer, 0.77, 0.70, 0.58, 0.76; skin cancer, 1.01, 1.00, 1.05, 0.99; all cancers combined, 1.01, 0.98, 1.02, 1.02.

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12. The mortality rate for nasal cancer for the 11 PIC combined was 0.8 (about double the control and national rates) and exceeded 0.7 in eight of the 11 counties. The rate for the 28 PIC without heavy chemical industrial involvement was 0.5.

13. The mortality rates for each of nasal, lung, and skin cancers were reported to be higher by 10 percent in chemical-industry counties (*11*). The mortality rates for lung and skin cancers in the PIC where chemical industries were heavily concentrated were roughly 10 percent higher than in the PIC without a heavy concentration of chemical industries, which were in turn higher (12 percent for lung cancer and 7 percent for skin cancer) than the control rates. However, rates for nasal cancer in the PIC with chemical industries were over 50 percent higher than rates in the remaining PIC.

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WHO IS CHARLIE MATTHEWS? WHAT DOES HE HAVE TO DO WITH H.R. 1037 AND H.R. 1614?

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MURPHY of New York. Mr. Speaker, who is Charlie Matthews?

He is the executive director of the National Oceans Industry Association.

Who or what is the National Oceans Industry Association?

NOIA was established by Thomas D. Barrow, the president of Humble Oil Co.—now the Exxon Corp.—to promote the interests and protect the privileged status of Exxon and the big oil companies who subsequently became members—and the big oil companies' foreign-flag fleet.

The foreign-flag fleet was set up by U.S. oil companies to carry foreign oil to America. By using foreign-flag ships, big oil can avoid millions of dollars a year in U.S. taxes; they can employ low-paid foreign crews who work for as little as $160 a month; and they can use cheap, unsafe ships—such as the *Argo Merchant*, the "rust bucket" that had inadequate navigational equipment—she was 24 miles off course when she grounded—and a multicountry foreign crew including a captain and helmsman who could not communicate with each other in the minutes before disaster struck. That floating time-bomb ran aground and spilled 7.5 million gallons of oil off Nantucket Island creating an oil slick 120 miles long.

The above are represented by Charlie Matthews.

On May 5, 1976, at high noon, Charlie Matthews told the administrative assistant of the Outer Continental Shelf Committee:

You'd better tell Jack (Murphy) to cancel going before the Rules Committee on Wednesday because we have eight sure votes there and he is going to be embarrassed when he loses.

He did not have the votes in the Rules Committee, but he did put full-page two-color ads in newspapers such as the Washington Post claiming the OCS bill would set up a Federal oil company, which it would not, of course. However, Charlie's "Exxon's" propaganda worked—the OCS bill was recommitted by a 2-vote margin, on September 26, 1976, 2 days before the 94th Congress ended. The stated reason of the bill's opponents was that it would set up a Federal oil company.

On October 6, 1977, Charlie Matthews said:

We stopped him (Jack Murphy) on cargo equity and we're going to stop him on OCS this session.

On September 29, Charlie "Exxon" and his friends sent a letter to NOIA members with the following message:

. . . We are working with House Rules Committee members in an effort to kill the bill in that Committee this year. This, however, is more a hope than a reality. The bill could be on the House floor as early as the week of October 10th or more likely the week of the 17th.

The OCS bill is on the President's and on Speaker Tip O'Neill's "must list" of legislation for completion this year. The Maritime and Building Trades Labor Unions are unitedly supporting the Murphy version of the bill as reported by his Committee. Joining forces against us also are environmentalist groups, consumer groups, no-growth advocates and the coastal zone management forces in the state government on the East and the West Coasts.

Late last week we met with representatives of the Departments of Energy and the Interior and some of the House and Senate Committee staff people to tell them what we didn't like about the bill. All the government people at the meeting were either responsible for drafting or implementing the OCS legislation. This was undoubtedly the most distressing meeting I ever attended. The average age of those people involved was approximately thirty years. We are about to place in their hands control over our future activities on the OCS. They cannot have on the average more than one month's exposure to what the OCS is all about and they totally lack any understanding of our business.

I found these people to be very pleasant, congenial, well-meaning, and idealistic. Their lack of experience and almost total naivete and the years of "catch-up" education which they require is very scary. It is frightening to think they will be responsible for the future orderly development of the OCS under the new legislation. If they get their way with this bill, it will have a crippling effect on our business and yours.

And so on.

And on August 18, 1977, Charlie's friends at Exxon sent a letter to their 687,000 stockholders again darkly warning of the OCS bill. They trotted out the same old argument, that the bill would put the Federal Government in the oil and gas business. They even made up an acronym for it—FOGCO, the Federal

Oil and Gas Co.—as if this term were used in the bill.

And these are the same people and the same tactics being used against H.R. 1037, the cargo equity bill.

And they are doing it in the mass media—especially the New York Times and the Washington Post, the latter now identified with the major groups opposing the bill. These two newspapers have incessantly, repeatedly and hysterically attacked the cargo equity legislation.

The most noxious charge is that the cargo bill is a "political payoff" to President Carter, to members of the Merchant Marine and Fisheries Committee and to me for accepting legal contributions from the maritime industry.

Never mind the fact that the bill would:

Start to rebuild America's merchant marine flag fleet and its shipbuilding industrial base;

Increase seafaring, shipyard, and related jobs by 25,000 especially among minority groups;

Protect the marine environment by using well trained U.S. crews on safely equipped U.S. vessels;

Aid our balance of payments deficit by $75 million.

These newspapers have alleged impropriety on the part of the bill's supporters, and they have enlisted public interest groups by "scare" stories of the high cost of the bill. They have used Charlie Matthews' figures developed by the big oil/foreign-flag fleet lobby.

When the General Accounting Office study, which I requested, proved that against all of the bill's benefits it would cost the average American consumer only $1 a year in extra gasoline costs, a hysterical newspaper campaign was developed to inflate the GAO figures.

What could possibly be the relationship between these attacks on a modest cargo equity bill by two newspapers who purport to be the pillars of journalistic excellence and Charlie "Exxon"?

Perhaps there is none.

But consider the following facts.

The major oil companies do not want the bill—everyone knows that.

And neither do the operators of the foreign-flag fleet.

And who are they? Here is a list of foreign-flag tanker ownership:

Foreign-flag tankers owned by major petroleum companies

	Number of vessels	Total deadweight tons (thousands)
British Petroleum	71	6,547
Chevron	30	4,449
Exxon	164	16,257
Gulf	29	2,572
Mobil	45	5,168
Shell	123	14,499
Texaco	55	5,889
Total	517	55,372

Notice the last five companies who own 80 percent of the foreign-flag tankers: Exxon, Gulf, Mobil, Shell, and Texaco.

Now how much did the New York Times earn in advertising revenues from the major oil and gas companies in recent years?

A sum of $1,000,000 in the first 8 months of 1977—$4,000,000 since 1974.

And this does not even include money spent on product advertising, such as the "put a tiger in your tank" ads. These were only revenues on policy statements by the oil giants—statements against Congress attempts to pass energy legislation like H.R. 1037 and H.R. 1614. The total advertising revenues if product advertising were included would be even more astronomical.

And who paid 95 percent of that $4,000,000 to the New York Times?

Exxon, Gulf, Mobil, Shell, and Texaco.

And what about the Washington Post, who timed their most hysterical attack on cargo equity the day before H.R. 1037 was to come up on the floor of the House? How much did the Washington Post earn in advertising revenues from the major oil and gas companies since 1974, $619,000 in the first 8 months of 1977—$2,358,000 snce 1974.

And who paid 82 percent of that $2,358,000 to the Washington Post?

Exxon, Gulf, Mobil, Shell, and Texaco.

Now I do not say there is anything wrong with that. But if you accept the standards these two papers have used concerning the legal campaign contributions made to the President, members of the Merchant Marine and Fisheries Committee, and myself, is it not fair to question their aggressive advocacy of the vested interests of Charlie Matthews—and Exxon and Gulf and Mobil and Shell and Texaco?

Charlie Matthews said on October 6, 1977:

> We stopped him (Jack Murphy) on cargo equity and we're going to stop him on OCS this session.

And that is all right, Charlie.

You represent the "big guys" who use a foreign-flag fleet because they do not want to pay U.S. taxes; they do not want to pay highly trained U.S. merchant seamen; and they do not want to pay for the safety equipment on their floating rust buckets.

That is your job, Charlie—but I have mine.

I am committed to a U.S.-flag merchant marine crewed by U.S. seamen on U.S. ships and a U.S. shipbuilding industrial base to support the United States in times of national emergency.

And when you and your big oil bosses "pooh-pooh" the defense argument and claim the foreign-flag tankers will be available in an emergency, just remember, Charlie: President Tolbert of Liberia did not support the objectives of the United States in the Middle East war and in 1973 ordered the American-owned tankers flving his nation's flag not to go to the Middle East. And remember during the Korean and Vietnam conflicts, foreign crews on foreign-flag tankers refused to sail or sailed under violent protest, the ships carrying war supplies to our troops in South Korean and South Vietnam because they disagreed with the wars.

Finally, I say to Members who have witnessed the supposed unbiased mouthings of those who have lied and unleashed an unbelievable barrage of garbage against this bill and its supporters, to consider the ultimate source.

And I ask Members to remember, a vote against H.R. 1037 or H.R. 1614 is a vote for Charlie Matthews—and Exxon and Gulf and Mobil and Shell and Texaco.

HUMAN RIGHTS IN SOUTH KOREA—I

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, the conference of Japanese and United States Parliamentarians on Korean problems, which was held in Washington September 19 and 20 under the sponsorship of the Institute for Policy Studies, produced a number of significant papers which addressed problems of concern to the House, including human rights in South Korea. One of the papers on that subject which I found very useful is "Political Repression and Economic Development in the Republic of Korea: A Necessary Relationship?" by Prof. Bruce Cumings of the University of Washington.

In his paper, Professor Cumings develops the provocative thesis that political repression and authoritarianism in South Korea is related more to the pattern of economic development that has been pursued in South Korea since the mid-1960's than to either national security concerns or political culture. His argument is that the economic development strategy adopted by South Korea of export-led growth, using cheap labor as the primary lure to foreign investment, has required the exclusion of political parties, unions and other organizations which would otherwise represent the interests of workers.

This is a very disturbing thesis, but one which deserves careful consideration. If Professor Cumings is correct, the relationship between economic development strategy and political repression in South Korea is one to which we should pay far more attention than we have in the past. I would like to enter into the RECORD excerpts from Professor Cuming's paper:

EXCERPTS FROM POLITICAL REPRESSION AND ECONOMIC DEVELOPMENT IN THE REPUBLIC OF KOREA: A NECESSARY RELATIONSHIP?

(By Bruce Cumings)

We must start this discussion paper with the obvious: the Republic of Korea has, in the past several years, changed from a system of formal procedural democracy to one of frank, thorough-going authoritarianism with only the slightest pretense of democracy (what is called "Korean-style democracy"). We must also begin with the understanding that South Korea is not unique in this respect. The past decade has witnessed the proliferation of similar authoritarian regimes throughout the world; Brazil, Chile, Argentina, Iran, and others, taking their place

alongside existing dictatorships of the right and left. Unlike earlier authoritarianisms, however, the above cases occurred in nations with at least rudimentary democratic systems (with the exception of Iran) and the promise that there might be more democracy to come as their economies developed. Thus we witness the defeat of the hopes of an entire generation of democrats, in the U.S., Korea, and elsewhere.

How are we to understand and explain this phenomenon? In the case of Korea, we find multiple explanations, each worthy of our discussion. Some suggest that Korea has always had an authoritarian political pattern; the years of formal democracy under Syngman Rhee (1948–60) and Chang Myun (1960–61) simply put a facade on this traditional system. Others find in Korean culture, or in the Korean family, or in childrearing patterns, a continuing hierarchy of unquestioned authority. Gregory Henderson has interpreted the Park regime's dictatorial tendencies in terms of a military intrusion into a tradition of civil rule. One could also cite the specific background of Park Chung Hee in unquestionably authoritarian structures, meaning the Japanese Imperial Army before 1945 and the ROK Army ever since. Last, we hear the argument that South Korea never institutionalized fundamental guarantees of human and political rights; thus the principles that Americans have taken to be "self-evident" are hardly so in the Korean context, and who are we to impose our standards on them? (This has become almost a litany among apologists for the Park regime, in Korea and elsewhere.)

We do not lack for explanations, it seems. I would like to offer yet another one (which I think is better, of course!) which has the virtue of linking Korean authoritarianism with that found in many other developing countries. In this way Korea, long held to have a political pattern so unique that it required unique theories (Henderson, 1968),[1] joins the world. In short, I wish to argue that Park's authoritarianism is directly linked to the pattern of economic development that has been pursued in the ROK since the mid-1960's; indeed, that given the economic strategy of export-promoted growth the political outcome (repression) is almost overdetermined. I will briefly outline the argument and then provide some detail and a couple of case studies.

* * * * *

IV. THE PARADIGM: FREE EXPORT ZONES

The pattern we are discussing reaches its logical conclusion with the so-called free export zones, of which Korea has two: in Masan (MAFEZ) and a newer one in Iri. Here foreign firms (almost exclusively Japanese and American) invest directly in wholly-owned subsidiaries or joint ventures with Koreans; these are labor-intensive enterprises, mostly electronic component manufactures and simple things like nuts and bolts, screws, nails, etc. Advanced technology is not required; cheap labor is. The Korean government is expected to provide "adaptable low-cost labor, all with at least primary education . . . expected to be continually available from the surrounding towns . . . workers are not allowed to organize labor unions or to take any collective action." (Choe, 1975) In addition to this, the government is expected to provide all sorts of "service": guarantees of certain levels of profit remission to the metropolitan country; tariff and tax exemption; simplified customs procedures; law and order. In 1973 the MAFEZ paid 11,500 won (or about $28) per month to its unskilled workers who in turn constituted 83 percent of the total MAFEZ work force. Of these 70 percent were females, mostly young girls from the surrounding countryside. Anti-pollution measures are nonexistent. Finally, there is not even the trickling-down of technology in such circumstances; the "product cycle" (Vernon, 1966) stops working when people are just sampling out nails, making integrated circuits with hand-me-down technology, and so on (Choe, 1975). The MAFEZ is simply an industrial platform that would be in Japan or the United States if either country could supply labor at about 15 cents per hour.

V. THE LEADING SECTOR: ELECTRONICS

It is a common feature of "late" (in world time) industrialization that the less-developed countries maximize their comparative advantage in cheap labor to lower the costs of producing a given item, so that the item is then competitive on the world market. Then, through diffusion of technology, entrepreneurship, and innovation the backward country outstrips the competition and comes to dominate world trade in a given commodity. The Japanese have done this with electronics, automobiles, steel, and other items. If the Koreans can do likewise, so the argument goes, the current repression of labor is simply the price that must be paid for future development, when Korea's comparative advantages shift to other areas. Unfortunately the Korean electronics industry, constituting 10 percent of all exports in 1973, does not exhibit this pattern. South Korea did not begin exporting electronic equipment and components until 1962. In the mid-1960's, major multinational firms such as Motorola, Fairchild, Signetics, Toshiba, Control Data, and others entered the Korean market. By 1972 eight foreign firms produced 34 percent of Korea's total production and 54 percent of electronic exports (Suh, 1975). They came to the ROK, of course, because of the abundant supply of skilled labor at low cost.[2]

They brought with them capital, advanced technology, production know-how, and market structures abroad. As Suh points out, "when the already developed technologies are brought in for predetermined markets, there is unlikely to be any incentive for technical innovation." He finds, indeed, a conspicuous lack" of any such innovations on the Korean side, which bespeaks the inequality in resources between greater and lesser in this international system.

Growth targets for the Third Five-Year Plan envision a trebling of 1976 levels of electronics production and exporting. In 1980 the ROK is expected to produce $2.5 billion in electronics exports. When Japan reached that level, its exports accounted for only 25 percent of its total production; the rest went to the domestic market. In 1980 in Korea, however, exports will constitute 60 percent of total production. Yet without a big domestic market, the product cycle effect rarely works.

Suh concludes his excellent article with the following statements:

"The relationship between the product cycle and the shift of comparative advantage among nations becomes meaningless to those countries where the international specialization of electronics is based only on labor cost advantages.

". . . there is a real danger that the Korean electronics industry may develop into a permanent satellite of a few advanced countries under the guise of the international division of labor."

We are thus left with the possibility that this pattern of very "late" development may mean little real development at all; drawing an analogy with agriculture, one wag termed this a sort of "slash-and-burn" program. That exaggerates the situation, but it delineates metaphorically the current costs of Korean development, quite apart from the political and social ones we have been discussing.

CONCLUSION

There are no doubt examples of countries where the Korean-type pattern of economic development has not had authoritarian political consequences, although they do not pop easily to mind. It is also true that other factors entered into Park's decision to go authoritarian in the early 1970's. Two prime ones would be the serious threat to Park's power posed by Kim Tae-jung in 1971, and the American withdrawal from Indochina which bred in South Korea the perspective of the last domino in East Asia. Yet the turn to frank authoritarianism was possible only because of the existing repressive apparatus, symbolized by the KCIA. In other words, we witness in the early 1970's a kind of "breaking out" of the basic repressive structures; what was latent became manifest. This structure was, in turn, elaborated under American guidance after the coup in 1961. If Americans did not actually urge such structures on the Koreans, they at least provided *post facto* blessings by lauding the stability of the regime. In this they have been joined by Japanese, World Bank, and IMF pundits who frankly advocate a repressive political economy. In other words, the responsibility for Korean repression spreads widely; it is not limited to Park Chung Hee. To answer, finally, the question posed in Part III, I am convinced that such a politics *is* contingent on and interdependent with the pattern of economic development pursued in South Korea.

There remains one last question, that of the projected U.S. troop withdrawal and its effects on the Korean political economy. Since this will be treated in detail in our conference, I will simply make one point. The center-periphery dependency relationship in which South Korea finds itself is now guaranteed not just by the economic arrangements we have been discussing, but by the presence of American power on the ground in Korea. Most analysts believe that this American guarantee was essential to the initial, mid-1960's, foreign investor confidence in South Korea that made possible the very high subsequent capital inflow. In other words, the troops have been another element in the required political stability in the South. If and when they are withdrawn, the military component will be weakened (of course) but the psychological sense of security and confidence will suffer even more. Although South Korea seems to me to be fully capable of defending itself, by itself, many in Korea and elsewhere do not believe this and consequently see their economic interests threatened. I would suggest that this is a key source of the current opposition to the withdrawal.

[1] See suggestions for additional reading at the end of this paper.

[2] Suh quotes a top manager of the leading multinational corporation in Korean electronics as privately admitting that "the average productivity of the Korean workers was 20–25 percent higher than similar workers in the U.S. But, the wage rate in Korea is less than one-tenth the U.S. rate."

WAYNE GIRL SCOUTS CROP WALK FOR HUNGER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ROE. Mr. Speaker, on Sunday, October 16, residents of the township of Wayne, my congressional district and State of New Jersey will join with Senior Girl Scout Troop 29, first-class Scouts of our community, in a 10-mile walk through Wayne in a CROP Walk for Hunger to raise funds to help hungry people; participate, by experience, in the

daily existence of millions of poverty-stricken people throughout the world; and register, by their deep concern, the need for food and self-help aid to CROP to help hungry people help themselves.

I rise in support of their efforts and seek national recognition of the outstanding public service that CROP—the Community Hunger Appeal of Church World Services—is making to the world's hungry. To better understand this distinguished organization's purpose, goals and objectives, with your permission, I would like to insert at this point in our historic journal of Congress the following information:

CROP works to do two things: To make people in the United States aware of the extent and nature of world hunger, and to raise funds for Church World Service—CWS—and other agencies to use in combating it. For hundreds of thousands of Americans, CROP is the way they can extend a helping hand to fellow humans they could not otherwise reach. For hundreds of thousands in other lands, CWS and CROP are indeed the hand of friendship and God's love—not a handout, but a hand up.

Church World Service is the cooperative agency through which some 30 denominations bring relief and development aid to people in great need. Through offerings taken in their congregations, these denominations provide the basic financial support for the work of CWS. CROP, the Community Hunger Appeal of CWS, works outside the regular church channels to raise public awareness of hunger issues and to seek additional funds.

The way CWS applies CROP resources outlines its approach to world need:

Food—for nutrition centers and food-for-work—to help people who are hungry now build a future with food—and more.

Appropriate Technology—equipment and other materials that may seem primitive to us, but are "just the thing" in other societies.

Technical consultants—augmenting appropriate technology with the experience, knowledge, and ideas of experts.

Seeds—for small farms, home, and school gardens—perhaps the most welcome aid CWS gives.

Emergency aid—people in a Guatemala earthquake or a Colorado flood, both are the concern of CWS/CROP. Aid to refugees, family planning, and development education round out a comprehensive program of assistance now, self-development for the future and learning together to understand hunger's causes.

Across the United States of America volunteers form the backbone of CROP. They speak at community gatherings, schools, service clubs, and churches. They write articles or appear on radio and TV. They tell their friends and neighbors, and they organize fund raising events that educate about world hunger while raising much-needed resources.

Some of the more popular CROP events are:

Hunger walks. Walkers secure sponsors who give on the basis of miles walked. Many local committees now use this method to stimulate both giving and community interest.

Fasts for the hungry. Participants identify personally with hungry people while raising funds through sponsors who give according to how many hours the fasters go without eating.

Home-to-home canvasses. For years the chief method of carrying out CROP appeals, volunteers raise funds and commodities by calling on their neighbors and organizing others to do the same.

Friendship farmer program. Whether cooperatively farming a large tract, donating the proceeds from an acre of grain or selling an animal for CROP, many rural Americans have found this to be an ideal way to share.

Individual and group projects. Vacation church school projects, coin cards, special offerings, work days and other marathons such as bowl-a-thons and hymn-a-thons are just some of the ways people are showing their concern.

Educational programs. Schools, clubs, churches, ecumenical meetings, wherever people want to learn more about world hunger, CROP has supportive materials—films and filmstrips, program and study resources—as well as speakers and leaders, ready to help them out. Last year CROP provided assistance to educational gatherings in nearly every State.

Mr. Speaker, may I also take this opportunity to express my personal deep concern which I know is shared by all of us in the Congress for the worldwide hunger and malnutrition that exists today—and yet should not be with the vast wealth of natural and human resources, knowledge, technical expertise, and know-how available today—and respectfully urge early consideration of the following legislation that I have joined with many of our colleagues in sponsoring to provide a greater commitment by the people of the United States of America in this critical area of need:

H. CON. RES. 44

Whereas an estimated four hundred and sixty million persons, almost half of them young children, suffer from acute malnutrition because they lack even the calories to sustain normal human life; and

Whereas those who get enough calories but are seriously deficient of proteins or other essential nutrients may include half of the human race; and

Whereas the President, through his Secretary of State, proclaimed at the World Food Conference a bold objective for this Nation in collaboration with other nations: "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas all the governments at the World Food Conference adopted this objective; and

Whereas in our interdependent world, hunger anywhere represents a threat to peace everywhere, now and in the future;

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) every person in this country and throughout the world has the right to food—the right to a nutritionally adequate diet—and that this right is henceforth to be recognized as a cornerstone of United States policy; and

(2) this policy become a fundamental point of reference in the formation of legislation and administrative decisions in areas such as trade, assistance, monetary reform, military spending, and all other matters that bear on hunger; and

(3) concerning hunger in the United States we seek to enroll on food assistance programs all who are in need, to improve those programs to insure that recipients receive an adequate diet, and to attain full employment and a floor of economic decency for everyone; and

(4) concerning global hunger this country increase its assistance for self-help development among the world's poorest people, especially in countries most seriously affected by hunger, with particular emphasis on increasing food production among the rural poor; and that development assistance and food assistance, include assistance given through private, voluntary agencies, increase over a period of years until such assistance has reached the target of 1 per centum of our total national production (GNP).

H.R. 1184

To establish grants for research endeavors for the purpose of assisting in the development and utilization of new and improved methods of food and fertilizer production.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Research and Development Act of 1977".

SEC. 2. (a) The Congress finds that—

(1) the world is facing a serious shortage of food;

(2) current agricultural techniques are inadequate to meet the food needs of future generations in the United States and other countries;

(3) with many areas of the world facing actual or imminent malnutrition and starvation, it is essential that the proportion of food resources used to produce meat and dairy products in the United States be reduced so as to free greater amounts of food resources for direct human consumption;

(4) dependence on energy-intensive agricultural techniques has made the food system in this country vulnerable to disruption by drastic price increases in energy sources and to the exhaustion of available supplies of fossil fuels in the years ahead; and

(5) the large amount of fertilizer and chemicals now used to produce agricultural commodities in the United States is having an adverse impact on our environment.

(b) It is the purpose of this Act to fund new research for the purpose of assisting the development and utilization, in the United States and other coutries, of (1) new low-cost foods of high nutritional value, and (2) improved, low-cost methods of food and animal feed production, fertilizer production, and irrigation which make maximum efficient use of energy, land, water, and protein resources and promote the preservation of environmental quality.

SEC. 3. There is established a Food Research Advisory Committee within the United States Department of Agriculture (hereinafter referred to as the "Committee").

SEC. 4. (a) The Committee shall be composed of one representative from each of the following organizations:

(1) the Board of Agriculture and Renewable Resources, National Academy of Sciences,

(2) the Cooperative State Research Service, United States Department of Agriculture;

(3) the Agriculture Research Service, United States Department of Agriculture;

(4) the Experiment Station Committee on Organization and Policy of the National Association of State Universities and Land Grant Colleges, Division of Agriculture;

(5) the Food and Agriculture Organization of the United Nations;

(6) the National Science Foundation;

(7) the Office of Sea Grant of the National Oceanic and Atmospheric Administration, United States Department of Commerce;

(8) the Office of Technology Assessment of the Congress of the United States;

(9) the Agency for International Development, United States Department of State;

(10) the Food and Nutrition Board, National Academy of Sciences;

(11) the Industry Liaison Panel, Food and Nutrition Board, National Academy of Sciences; and

(13) the Consumer Liaison Panel, Food and Nutrition Board, National Academy of Sciences.

(b) The representative from each such organization shall be appointed by the head of such organization.

(c) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

SEC. 5. The Committee shall—

(1) determine the specialized research areas for which the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall appoint review boards described in section 8;

(2) accept evaluations of applications for research grants under this Act from such review boards for the purpose of evaluating them further on the basis of scientific merit and on the basis of funding priorities, and making recommendations to the Secretary with regard to the applicants who should receive such research grants;

(3) accept recommendations from such review boards and make recommendations to the Secretary pursuant to section 9(d); and

(4) make the recommendations specified in subsections (b) and (g) of section 8.

SEC. 6. (a) Members of the Committee shall serve without pay.

(b) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 7. (a) The Committee shall appoint a Director who shall be paid at a rate not to exceed the rate paid an individual holding a grade GS-17 of the General Schedule.

(b) With the approval of the Committee, the Director may appoint and fix the pay of such additional personnel as he deems desirable.

(c) The Director and the staff of the Committee shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this Act.

(e) The Administrator of General Services shall provide to the Committee, on a reimbursable basis, such administrative support services as the Committee may request.

SEC. 8. (a) There is created within the Committee a review board for each specialized research area with regard to which the Committee makes recommendations for the purpose of awarding grants under this Act.

(b) Each review board shall be composed of not more than six members appointed by the Secretary upon the recommendation of the Committee. These members shall be selected from distinguished authorities in the specialized area of agricultural research for which the review board to which they are appointed is responsible.

(c) Each member of each board shall serve for a four-year term, except that the Committee may provide that not more than one-half of the first members appointed to each board shall serve a two-year term.

(d) Any member who has served on any such review board may not serve on such board for a period of at least two years after his previous term on such a review board expires.

(e) The specifications which apply to the Committee and which concern pay, travel expenses, staff personnel, use of personnel of other Federal agencies, and administrative support from the Administrator of General Services shall apply to each review board.

(f) Each review board shall accept and review applications for research grants to be made under this Act with respect to the specialized area of research for which the review board is responsible. After reviewing such applications, the board shall make recommendations to the Committee that certain of the applications should be considered by the Committee for purposes of the Committee's making a further recommendation to the Secretary concerning the applicants who should receive a grant under this Act. Each board shall review and evaluate such applications on the basis of the scientific merit, feasibility, and significance of the research project proposed in the application and on the basis of the competency and facilities of the applicant to perform the project.

(g) Each review board shall meet as often as necessary, as recommended by the Committee, to perform its functions under this Act.

SEC. 9. (a) In January of each year the Secretary shall make grants to colleges and universities, agencies of the Federal or State governments, and private or international organizations and businesses which have applied and been selected for such grants under this Act. These grants shall be made to applicants for the purpose of financing research projects which are designed to develop new, low-cost foods of high nutritional value and to improve methods of food and fertilizer production through making maximum efficient use of energy, land, water, and protein resources while promoting environmental quality. These research projects may include—

(1) the treatment of waste materials with microorganisms:

(2) the separation of protein from inedible plant fibers;

(3) the enhancement of nitrogen fixation and photosynthesis in plants;

(4) the improvement of aquaculture techniques;

(5) the development of methods of increasing the protein content and yield of crops;

(6) the development of methods of improving the resistance of crops to insects, diseases, weather conditions, and other growth-inhibiting factors;

(7) the development of improvements of fertilizer production through the more extensive use of natural fertilizers and microbiological techniques;

(8) the development of improved methods of irrigation and dry-land farming, including techniques involving the use of desert areas and salt water;

(9) the development of improved methods of processing vegetable and nonanimal protein into nutritious, low-cost foods and low-cost livestock feed; and

(10) improving the digestibility of foods.

(b) Each application shall be filed no later than the July 1 which precedes the January in which the awards of grants will be made.

(c) Not less than 10 per centum of the sums available for grants in any year shall be reserved for grants to applicants who are from or working in agriculturally underdeveloped nations, as determined by the Secretary, and whose work is directly related to serving the food needs of such nations, except that such sums may be made available to other applicants if the Committee advises the Secretary that not enough meritorious applications from applicants from or working in such nations were submitted.

(d) Each applicant who receives a grant under this Act shall commence the research project no later than six months after receiving the grant and shall file an annual progress report with the Secretary who shall review such report. If the Secretary determines that any project is progressing unsatisfactorily, he shall notify the appropriate review board which shall evaluate the progress of such project and may make a recommendation to the Committee that funding under this Act for the project be terminated. The Committee may been recommend to the Secretary that such funding be terminated by the Secretary in an appropriate manner.

(e) No grant made under this Act shall be made for the purpose of funding a project for a period exceeding five years.

(f) Payments pursuant to any grant made under this Act shall be made in annual installments.

SEC. 10. There is created a Special Food Research and Development Fund (hereinafter referred to as the "fund"). The fund shall consist of sums appropriated to it and shall be used for the sole purpose of making research grants under this Act.

SEC. 11. (a) The Secretary may make full use of the Agriculture Extension Service, the Agriculture Marketing Service, and other appropriate bodies within the Department of Agriculture for the purpose of encouraging market acceptance of food products and production techniques developed as a result of research projects funded under this Act.

(b) The Secretary shall take steps to utilize, as much as practicable, in nutrition programs funded by the Federal Government the food products developed as a result of projects funded under this Act.

(c) The Secretary, in conjunction with the Commissioner of the Food and Drug Administration, shall take such steps as may be necessary to insure that any food product developed in whole or in part pursuant to a grant issued under this Act is both safe and nutritious before it may be commercially marketed or used in federally sponsored nutrition programs.

SEC. 12. Any commercially marketed food product developed in whole or in part pursuant to a grant issued under this Act shall be labeled according to its ingredients and their percentage predominance, and vitamin, protein, fat (saturated, unsaturated, and polyunsaturated), and calorie content in accordance with regulations which shall be promulgated by the Commissioner of the Food and Drug Administration.

SEC. 13. The Secretary of Agriculture shall convene annual International Conferences on Food Research and Development. At such conferences he shall present and disseminate information relating to new developments in food and fertilizer production, including information derived from projects funded under this Act. The Secretary shall provide assistance to participants from underdeveloped nations with food shortages to attend such conferences.

SEC. 14. The Secretary of Agriculture shall conduct a study of the effect of existing public policy, including Federal and State regu-

lation of food products, on the utilization of new methods of food production, fertilizer production, irrigation, and processing vegetable protein. The study shall be submitted to Congress no later than eighteen months after the date of enactment of this Act.

SEC. 15. The Secretary shall conduct a study of the effect of new methods of food production, fertilizer production, irrigation, and processing of vegetable protein on the economic condition of small farmers. The study shall be submitted to Congress no later than eighteen months after the date of enactment of this Act.

SEC. 16. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act $50,000,000 for the fiscal year ending June 30, 1976, and such sums as may be necessary for any fiscal year thereafter.

(b) Not less than 85 per centum of the sums appropriated for any fiscal year under this section shall be appropriated to the fund described in section 10.

SEC. 17. The Committee shall continue to exist until Congress provides a specific termination date.

H. RES. 792

Whereas hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas there is a need to examine the continuing paradox between increasing worldwide hunger and malnutrition and the burdensome grain surpluses in the United States;

Whereas it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself: Now, therefore, be it

Resolved, That the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereinafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2. (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition; and

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition, and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the Public; and

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. 3. The Commission shall be a balanced membership composed of fifteen persons appointed by the President from individuals who represent diverse backgrounds, taking into account age, wealth, and relationship to the problems of hunger and malnutrition.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of section 2 of this resolution together with a schedule of activities and goals for the following six months;

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations; and

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States.

SEC. 5. The Clerk of the House shall transmit a copy of this resolution to the President.

Mr. Speaker. I appreciate the opportunity to call your attention to our Girl Scouts CROP Walk for Hunger and know you will want to join with me in extending our best wishes and deep appreciation for their noble action program to help eliminate human misery and the enormous waste of mind and body that hunger and poverty feed upon.

In closing, let me share with you for thoughtful consideration the CROP appeal for the future which reads as follows:

A FUTURE WITH FOOD . . . AND MORE

The future is bleak for the 1.85 billion people of the developing world. More than half of them are malnourished. Some are starving. Almost all are impoverished.

CROP is committed to change this. Through food for today's hunger. Through self-help programs for tomorrow. Through changing life-styles. By providing the resources. By helping people develop their full potential . . . with dignity . . . justice . . . and food for all.

It's not going to be easy. It won't happen overnight. But it must happen. In our interdependent world, their hunger is our hunger. Their future our future.

Will it be a future free from hunger and poverty? It can be, but more is needed.

More than food. More than relief. More than a handout. A helping hand. The means to grow. To develop.

That's what CROP is giving. Won't you help.

COUNCIL ON WAGE AND PRICE STABILITY REPORT ON AMERICAN STEEL INDUSTRY: HOW LONG IS "FOR VERY LONG"?

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. VANIK. Mr. Speaker, on October 7, the Council on Wage and Price Stability released its report to the President on "Prices and Costs in the United States Steel Industry." Like most Government reports, it offers a good deal of information but no solutions.

I was interested in statements which appeared on pages 12 and 13 of the summary of the report. On page 12, the report noted—

The present discounts of as much as 10 to 20 percent below U.S. list prices are indicative of aggressive price competition by European and Japanese exporters. Given their production costs, they cannot sustain such deep cuts *for very long*. Nor will they continue to discount at this rate if world demand for steel revives. Until such a revival takes place, however, U.S. steel firms, like their foreign counterparts, will continue to suffer from aggressive price competition. (Emphasis added.)

What is politely described in this paragraph is massive dumping and continued selling below cost of production by state-backed-and-subsidized European steel firms. If the various European governments cannot keep up these massive subsidies "for very long," then American private enterprise steel firms probably can survive. But since in many cases, the foreign government and its entire national treasury stands behind the foreign steel companies, they can continue to sell drastically below price indefinitely. And on the next page of the report, it is stated:

Worldwide demand for steel, heavily dependent on the pace of continued economic recovery, is expected to fall short of supply *over the next few years*, creating pressures in many countries to increase exports to maintain operating rates and employment. The U.S., a net importer with low tariff barriers, will be sharply affected by these competitive pressures from imports. (Emphasis added)

In other words, the pressures which led various foreign governments increasingly to subsidize their steel operations to maintain full employment will continue over the "next few years."

Thus it appears to me that there is a contradiction within these two pages of the council's report: Foreign producers cannot keep exporting at prices so drastically below the cost of production "for very long" but the pressures to do so will continue for the "next few years."

Mr. Speaker, U.S. steel companies cannot survive the "next few years" of continued dumping and foreign government-subsidized exports.

The council's idea of "for not very long" means the destruction of tens of thousands of domestic steel jobs and the economic collapse of steel mill towns throughout the Nation.

We need solutions, Mr. Speaker, not studies promising relief sometime "over the next few years."

CHILD PORNOGRAPHY FOUGHT BY THE HONORABLE DALE E. KILDEE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BLANCHARD. Mr. Speaker, one of our colleagues, the Honorable DALE E. KILDEE of Flint, Mich., has worked hard his freshman term in Congress to advance legislation to prevent the exploitation of children in pornographic materials. While such abuse of children is widely deplored, developing legal language to effectively put a stop to the practice requires both skill and diligent work. A Flint Journal editorial described his work on the bill and the issues faced by the Senate at the time it neared a vote on this vital legislation. I was happy to support Congressman KILDEE in his effort.

Therefore, it is my pleasure to insert this editorial so that all of us may share its account of our colleague's efforts:

SENATE'S APPROVAL DUE PORNO BILL

Passage of the bill introduced by Rep. Dale E. Kildee, D-Flint, aimed at halting trade in child pornography may prove to be a landmark piece of legislation.

Its importance lies as much in the manner in which it approaches its objective as it does in the objective.

The objective is, of course, to prevent the exploitation of children to satisfy the sexual aberrations of a few. It is difficult to imagine many areas in which a law could gather wider support.

Kildee's bill approaches the problem not from the traditional basis of trying to halt the activity because it is obscene and offends the popular moral standards, but from the grounds that the law is necessary to protect children from harm.

This bill met some opposition from members of the House Judiciary Committee, which is considering a bill of its own. It was argued that the bill might be unconstitutional because it provides for the prosecution of distributors and sellers of pornography without requiring that the matter be proved obscene.

Kildee disputed the arguments by pointing out that his bill does not deal with the Constitutional question of obscenity, but aims at stopping child abuse in the manner of child labor laws passed early in this century.

Kildee also argued that those child labor laws set a precedent for making the sale of the products produced by illegal child labor subject to prosecution.

It is this distinction that makes the Kildee bill of even greater interest than the bill itself might warrant.

The fact the House passed the bill by the overwhelming margin of 375 to 12 is significant, but it is necessary to point out that this does not settle the question of constitutionality. Who wants to be on record as having voted in opposition to any bill designed to do away with such a reprehensible act as using immature children for pornographic purposes?

Nor does the fact the Kildee bill attempts to evade entirely the question of obscenity and freedom of speech necessarily mean that the courts will not ultimately decide the bill does limit the rights of the sellers of the material.

The decision on that is what makes it quite possible it will become a landmark piece of legislation.

The Flint Journal along with a growing number of others have urged new approaches to the problem of pornography to avoid those pitfalls such as trying to decide what is obscene or what constitutes a set of moral standards common to the people or how far the First Amendment can be stretched—or limited—without undermining the concept of free speech and a free press.

One way in which to do this is to consider pornographic activities in the light of the harm they do to individuals. Such an approach cannot deal adequately with the overall production and distribution of pornography without slipping back into the problems mentioned above, but it does provide an avenue for dealing with specific phases of the pornographic industry.

The very obvious phase of the industry to consider first in this approach is the exploitation of children. Here are self-evident victims, individuals who are being harmed by any acceptable social standard. Furthermore, they are members of a class (the immature) with a long history of legislation designed specifically to protect them from harm.

The Kildee bill offers a simple, clear test for the concept of dealing with pornography separate from having to decide what constitutes a universal set of moral standards in a diverse and changing society.

It is a sound and promising approach to a particularly obnoxious aspect of pornography and as such deserves a full hearing before the public and a complete examination in the courts.

That is why we urge the Senate to accept it as it stands for early consideration and quick adoption

INDOCHINA LIBERATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DORNAN. Mr. Speaker, in all of the praise over the liberation and democratization in which many in this country have seen fit to revel since the fall of Saigon in April 1975, one fact is quite clear. During the last 2 years, internal events in the countries of Indochina, especially Cambodia, have shown that these so-called "liberation movements," which the Peter Bournes, Sam Browns, and Tom Haydens of this country so enthusiastically defended, have unleased a repressive reign of terror which history will surely rank alongside those as fiendish and dehumanizing as Stalin's purges and Hitler's concentration camps.

A recently published article in the Washington Post and an editorial in the New York Times cogently commented on this point and I insert it in the RECORD at this point.

"LIBERATION" COMES TO VIETNAM

In the swell of opposition to the war in Vietnam during the decade before America's withdrawal, there was always a minority, small but vehement, that looked to the Communists as saviors of that unhappy land. They carried Vietcong flags in peace demonstrations, hailed Ho Chi Minh as the George Washington of his country, and invariably spoke of the North Vietnamese as liberators.

One organ of this celebration was The New York Review of Books, and so it comes as a surprise—a welcome one—to find reprinted in a recent issue an article from the French journal L'Express by André Gelinas, a French-Canadian Catholic priest and Chinese scholar who settled in Vietnam in 1948, and was expelled in July 1976, 15 months after the North Vietnamese troops arrived in Saigon.

The picture that Father Gelinas paints of South Vietnam since its "liberation" is one of widespread misery, constant surveillance, incessant propaganda, endless indoctrinations, arbitrary arrests, executions, imprisonments, and exile to remote areas. He describes a society where an arrogant bureaucracy reaches into every corner of life, where books are burned, citizens are denounced, and informers thrive.

Father Gelinas observes that "the methods, the doctrine and very weight of the police and bureaucratic apparatus" in the South now "are entirely Russian." That seems right. At least, it is in accord with Hannah Arendt's observation, based largely on the experience of Stalinism, that "terror is the essence of totalitarian domination." In the list of countries that are today suffocating the rights of their citizens, Vietnam must rank high.

To be sure, this finding, however repugnant, does not make a case in favor of the American intervention in Vietnam. The men we supported were scarcely true-blue democrats. Nor should it impede the ongoing efforts by the Administration to establish relations with Hanoi. There are good reasons for coming to diplomatic terms with regimes that do not share American values, and the United States owes a special debt to the Vietnamese people. But for those who opposed the war, Father Gelinas's report contains bitter and inescapable ironies.

The British magazine Spectator has drawn an interesting parallel between our war against the Vietcong and the British war against the Boers: "The pro-Boers and the pro-Vietcong were wrong about the "enemy' but right about the war. The Boers were idealized as gallant underdog nationalists, which, like the NLF [the National Liberation Front], they were, but which view overlooked the fact that they were fighting as well to keep their hands on the wealth of the Rand and to continue oppressing the blacks, as the NLF was fighting to institute a mindless totalitarian dictatorship."

The Vietnam experience was always more complex than ideologues of either side could allow. America may have played a villain's role there, but the heroes of that tragedy were never easy to discern.

[From the Washington Post, Aug. 1, 1977]

SOUTH VIETNAM TODAY: A HARSH LIFE

(By Lewis M. Simons)

BANGKOK, THAILAND.—One year after the unification of the two Vietnams, life in the southern part of the country and its former capital, Saigon, seems not so much oppressive as harsh.

The Hanoi government has put pressure on the southerners to make them conform to Communist ways, but this pressure has been applied gradually and according to a well-defined plan.

Gathering details of how this plan is taking effect is somewhat easier than learning about xenophobic Cambodia and, to a certain extent, Laos. An extensive foreign diplomatic corps lives in Hanoi and there are some consulates in Saigon, now called Ho Chi Minh City.

The main sources of information about life in the south, however, are letters from residents to relatives living abroad, the government's own news media and the continuing flow of refugees.

These bits and pieces of information making their way to Bangkok, a major Vietnam-watching outpost, make it clear that life is tough, but unlike Cambodia, that there apparently have been few executions of anti-Communists.

Instead, the regime has arrested, isolated or, as Prime Minister Pham Van Dong put it recently, "rehabilitated" active supporters of the U.S.-backed Nguyen Van Thieu government. This is a euphemism for psychological or physical punishment.

Groups singled out for particularly harsh treatment are former senior military officers, activist clergy, and private businessmen.

Between 40,000 and 400,000 southerners, many of them senior officers in the former southern army, have been sent to "rehabilitation" or "reeducation" camps since the Communist victory more than two years ago.

According to reports from some of the 15,000 refugees who have fled Vietnam since the end of the war, life in these camps is extremely hard. An unknown number of internees have died from malnutrition and disease, they say.

A refugee who reached Thailand last month said in an interview that his two brothers, who had been officers in non-combat positions, were arrested just after the fall of Saigon. "No member of our family has heard from them since. We don't know where they are or if they are dead or alive," said the refugee, who asked that he not be identified, for fear of jeopardizing his relatives still in Vietnam.

Both Buddhist and Roman Catholic clergymen are having difficulty. As they have done in the North, the Communists are working toward eliminating organized religion in the South, or at least reducing its effectiveness.

A Western diplomat who served recently in Hanoi said that the authorities have moved to bring the clergy under their influence by granting them privileges and by creating such groups as the Patriotic Buddhist Organization.

Although Communist authorities in Hanoi often make a point of conducting Western visitors to church services, this diplomat said, young Vietnamese were being taught to shun religion and most congregations comprised only older people.

Acording to several Western and nonaligned diplomats here who observe Vietnamese affairs, the authorities have been rounding up clergymen who had been active opponents of the Thieu government simply because it was feared that they might organize opposition to the Communists.

A Vietnamese monk who has lived in Bangkok for six years said two Catholic bishops, Tran Huu Thanh and Nguyen Van Thuan, were arrested and died in jail of "unknown causes." Other Catholic clerics still held include Archbishop Nguyen Van Binh; the bishop of Danang, Pham Ngoc Chi; and the bishop of Vinhlong, Nguyen Van Diep.

The monk showed personal letters and circulars from Saigon, Paris and several cities in the United States that contained these and the names of others reportedly arrested in the last few months.

Among them were Thich Tri Quang, a leader of Saigon's An Quang pagoda, who had been labeled "the red monk" by Thieu and was perhaps the most important religious figure to oppose the former government. Others were the leader of the Hoa Hao sect, Luong Trong Tuong; most leaders of the Cao Dai sect, and a highly venerated wandering monk, Nguyen Thanh Nam.

There have been some news reports in recent months of large-scale self-immolations of Budhist monks.

Some observers, however, believe that these reports are somewhat exaggerated. One diplomat whose government maintains an embassy in Hanoi said he had seen only one confirmed report of six nuns and three monks burning themselves to death last year in Cantho, a city in the Mekong Delta.

Another, and perhaps the most obvious, target for the new government is the capitalist system in the South. The Ho Chi Minh City Communist Party organization recently announced that it intended to "complete the transformation" of private industry and commerce and turn all farms into collectives in the next two years.

Private business still goes on in the South, but the government's statements, monitored in Bangkok on radio and over the Vietnam News Agency wire, make it clear that entrepreneurs are being squeezed out of the economic picture.

"Capitalists" and "speculators" are frequently blamed for the massive economic problems that have plagued southern Vietnam since the flow of U.S. aid was halted.

Although the economy is still described as "multi-sectoral," the Communists emphasize the takeover of the private sector by the state. The Vietnam News Agency has warned businessmen that they must realize that socialism is the "inevitable law of the Vietnamese revolution."

The news agency and Vietnam Radio mention from time to time that the government faces considerable problems, particularly in the South. Usually though, reference to difficulties is couched in reports of progress, such as increases in irrigation canal mileage or electrical power wattage.

Some observers believe that the drive toward socialism in the agricultural sector is partly to blame for a 45,000-ton rice shortfall this year, although they concede that Vietnam was struck by a severe drought and unusual cold in the rice-producing areas of the Mekong Delta and the Red River.

One of the problems the Communists inherited from the Thieu government was unemployment. According to official statements, some 1 million Saigonese were out of work when the Communists came to power. Since then, half of these people have been sent out of the city to "new economic zones," collective farms reclaimed from the jungle.

Another 200,000 "volunteers" have also gone out to the zones. Some refugees reaching Thailand have told of extreme hardships in these areas, including shortages of food, tools, housing material and medicines.

One Eastern European diplomat described the new economic zones as a "brilliant stroke of organization talent" by the Communists. But, he conceded, "There probably have been some deaths from malnutrition and disease. This is only natural because of bureaucratic shortcomings in a project of such scope."

Some observers in Bangkok and in Western capitals believe that the impressive organizational ability of the Vietnamese government is responsible for keeping the flow of refugees out of the country relatively low.

Compared with an estimated 15,000 Vietnamese, mainly the so-called "boat cases" who have reached various Southeast Asian countries, 25,000 Cambodians and 88,000 Laotians have fled to Thailand.

Refugee workers here believe though, that the basic reason for the relatively small number of Vietnamese leaving is that their journey is much more hazardous.

"I'm sure that if it was as easy to cross the South China Sea as it is to swim the Mekong from Laos to Thailand, we'd have many, many more Vietnamese making a run for it," one international agency officer said.

BOUNDARY WATERS, A ROMANCE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, the October/November issue of Outdoor America, an Izaak Walton League publication, contained an article describing the allure of the Boundary Waters Canoe Area to wilderness seekers. Written by Justin Isherwood, the article sketches a portrait of an area whose fate is now in the hands of Congress.

Isherwood eloquently constructs the case for bringing full wilderness protection to the area. He notes its uniqueness:

Few places remain in the United States where man and the wilderness can become one, where the solitude of nature can be felt and the intricacies of the life-cycle can be explored to the fullest . . .

It is a place that a nation needs, a place to send its people so they might get a fix on where they are and where in continuing journey they wish to go.

And he draws attention to its history:

There is an answer to whether the BWCA should be preserved. It is an answer dictated by the long memory of that region. A memory that knows the curious chemistry that is compounded between people, water, rocks, and woods . . .

The earth keeps a diary of the way things were. With a pencil of its own manufacture it selects privileged places to write letters of its experience. The Boundary Waters is special container where the old correspondence is kept. A place that remembers.

He concludes:

Such should be reason enough to leave the BWCA alone, as a memorial to the planet's first days and to the ghosts of mountains.

I commend the article to my colleagues' attention.

BOUNDARY WATERS, A ROMANCE

(By Justin Isherwood)

The canoe is an invention of the earth itself. Born of birch and cedar and spruce it was a vehicle built for the highways that the American land provided. In the northern regions of this continent the canoe made it possible to go from sea to sea despite the almost impenetrable forest. It was sacrement in the religion of a race. The Iroquois Messiah, Hiawatha, was said to have spent the last years of his life clearing rocks from the river roads that connected the many tribes of his people.

The canoe allowed the early explorers to reach the continent's interior long before overland exploration. The names of those explorers still ring with their achievement. Marquette, Joliet, Grosliers, Radisson, Carver, MacKenzie.

As men they were giants, they traveled the portages at a wolf's lope carrying 180 pounds. It could easily have been sadness, from the drugery, pain and dying, that they gave as inheritance. The sheer gut bustin' work that labored heart and drove the breath wild while tormented by flies. Sadness was not the inheritance, instead they bestowed a joy, the simple life loving pleasure they felt at being alive, a gift given to the generations by men who loved their work. The songs they sang reflected the cadence of the paddles in unique harmony with the land. They had a brag that as voyageurs they were the best of mankind, who could sing the sweetest, work the longest, carry the heaviest loads and love the best.

Much of that tradition has been lost in today's mechanized world. The canoe has almost been replaced by the power boat, and the satisfaction derived from a hard day's toil in the wild has become a rare experience instead of an accepted way of life.

Few places remain in the United States where man and the wilderness can become one, where the solitude of nature can be felt and the intricacies of the life-cycle can be explored to the fullest.

The course of history has been an endeavor to teach the land tricks, from which rise the farms, the cities, great dams, highways, mines, quarries, oil wells. The land became the obedient and loyal hired hand whose principle was to service. We developed engines with which we can put furrows to any ground, only the question remains whether all ground shall be put to the plow. That question takes on its real value when a wilderness area sits astride a considerable wealth. It is easy to say yes to those natural and wilderness area for whom a use has not yet

developed. The test of course and courage is to leave be an area whose potential resource wealth is great.

The Boundary Waters is a long enduring romance. A romance fueled by the millions who have been to that kingdom of water, millions who have been there under primal conditions propelled only by muscle and bone. Many come to that country searching the unexplored wilderness that is within themselves. They come to hear in the silences the words of wood and water that are orchestrated with the workings of their own heart. Soldiers have come to the Boundary Waters after a war's end, to let their bodies uncoil from the fist that held them, to forget the sounds they have heard of anger at full throttle.

Others come to find their gods or some solid definition of goodness, a definition strong as the white pines that have grown huge among the rocks. They come to find definitions for words, much used words, to find fit for them in their own lives. It is this place, the BWCA, that permits a million travelers their search among the unchanged stillnesses. The wilderness experience is the quaint expression, being beyond tongue to properly tell it, for the nourishment comes direct, as if our bodies sprouted leaves to make muscle and sense of sunlight. A need that is ancient among us. Moses went to the wilderness, and Jesus, and Twain and Melville and Thoreau. Wilderness has had its wrench on the wisdom of man for as long as man has been. It is a long and constant romance, beginning with the raw stuff of tourists creating from them something more than a sightseer with a handful of photos to show where they have been. It is a place that a nation needs, a place to send its people so they might get a fix on where they are and where in continuing journey they wish to go.

There is an answer to whether the BWCA should be preserved. It is an answer dictated by the long memory of that region. A memory that knows the curious chemistry that is compounded between people, water, rocks and woods. This is a special reaction that leaves minds touched with the soft sound of winds passing over vanished mountains. And rocks that once hearing songs sung, echo and re-echo the music that builds in volume till the tune becomes manifest in each who pass.

One of those remaining places is the Boundary Waters Canoe Area in northern Minnesota.

The BWCA is an old and experienced place. The naked or thinly clad rocks of the region were once high and ancient mountains. Mountains that were higher than the Rockies, higher than the Alps, some say as high as any that ever were. The Laurencian Mountains that were made from the just cooled mantle of a new born planet. A crust heaved up by the titanic groans of continental collision.

Those mountains fell in gentle cataclysm with but thin thunder made of their passing. Time took the mountains down. Time incarnate with sinews of wind and rain, it was time that unbolted those mountains, grain by grain till only the foot prints of the lofty peaks remain. The rocks of the BWCA are like cellar walls left in the wake of old farm houses long after the farmer passes, a testament of what once was. The mind has instruments sensitive enough to touch old walls of house and mountain and hear the faint echoes of the hollers and shouts that the lives in those mountains and houses made.

The earth keeps a diary of the way things were. With a pencil of its own manufacture it selects privileged places to write letters of its experience. The Boundary Waters is a special container where the old correspondence is kept. A place that remembers. The soil is shallow there, glaciers polished the rocks smooth so there'd be memory of the mountains. Other places got the till, layers and layers of sand, gravel and clay, a ground good for farmers, corn and potatoes. The BWCA was left a bare boned skeleton for the curious to see what is underneath, so to see how the land was made, a favor granted by creation itself. Such should be reason enough to leave the BWCA alone, as a memorial to the planet's first days and to the ghosts of mountains.

AID TO ARGENTINA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I have received from the Argentine Embassy yesterday and a few of my comments regarding the amendments in the foreign aid appropriations bill dealing with Argentina:

WASHINGTON, D.C.,
October 12, 1977.

Hon. ROBERT LAGOMARSINO,
U.S. Congress,
Washington, D.C.

DEAR MR. LAGOMARSINO: For your information I am enclosing the text of Law No. 21.650, as it was published in the Argentine morning daily "La Opinión". By this law, put into effect on September 27, 1977, the Government has restored the constitutional option to leave the country, granted to people held without charge under the state of siege.

I would also like to point out that on the same date a commission was established to study, on an individual basis, the corresponding cases.

Finally, I want to tell you that in the continuous process that is taking place and according to an information received yesterday, October eleventh, 132 persons were freed.

Sincerely

JORGE A. AJA ESPIL,
Ambassador.

COMMENTS BY ROBERT J. LAGOMARSINO, M.C.

Mr. Speaker, I am strongly opposed to the amendments to bar funds for military training assistance and FMS sales credits to Argentina.

On May 23, the House rejected an attempt to eliminate these funds for Argentina. The reasons for not prohibiting such aid to Argentina are just as valid today as they were in May.

The issue of human rights is the focal point of debate on the question of providing assistance to Argentina. I believe as does the Carter administration that it can best implement its human rights objectives by retaining the option to make funds for training programs available. I must repeat what Assistance Secretary of State for Latin American Affairs Terrence Todman has said about security assistance. He says it is "a political tool that provides us an opportunity to exert some influence on (government's) attitudes and actions." The administration wants to retain these funds for Argentina so that it may have flexibility in pursuing its goals in human rights and in promoting hemispheric security. If we cannot maintain a dialogue with Argentina on the question of human rights, we will restrict the possibility of exercising any significant influence on them.

Already, we see that the conditions in Argentina are improving. Late this summer I had, along with several of my colleagues on the Inter-American Affairs Subcommittee, the opportunity to visit Argentina. Our discussions with government officials there left me with the clear understanding that American ties with Argentina serve as a positive influence in that country. I strongly believe, and my personal visit reconfirms this, that an elimination of assistance to Argentina would be counter-productive. By singling out Argentina, we offend their national pride and enhance the prospects of a new military regime—a regime which would be more repressive and less willing to accept American representations for improved respect of human rights.

Just recently, the Argentinian government has taken significant steps to improve its internal conditions. President Videla has given certain prisoners the option of exile over a term in prison and, on Oct. 11, released 132 prisoners. These positive actions in the area of human and political rights illustrate that, given the right combination of pressure and understanding, the situation in Argentina can continue to be improved.

Some of my colleagues have argued that U.S. assistance helps to glorify the military in Argentina and that it ties our country to the repressive policies of the Argentina government in the eyes of its people.

The repressive policies of that government, as unacceptable as they are, do not occur in a vacuum, but are prompted by serious terrorist activities. Threats to American diplomats and business executives, kidnappings of businessmen and even an American child, and destruction of American property are all acts which we should equally deplore. We certainly will not protect American interests by passing legislation in this body which only serves to reduce the administration's leverage and credibility with the Government of Argentina.

We met many individuals and groups concerned with human rights. While none of them could be said to be satisfied with the situation in Argentina, almost all of them did say they felt that President Videla was an honest man trying to do his best. They did say that things could, and probably would, be worse should Videla be replaced by others in the military.

Finally, I find it difficult to understand why, in particular, the training programs for Argentina should be so controversial. The courses included are: "Aircraft rotor-propeller repair," "aircraft electrician", "aircraft instrument repair," "maintenance management", "quartermaster officer advanced", "academic instructor school," "English language", and "personnel management officer". These courses are clearly not designed for police training or civilian police action.

HENRY REUSS ON THE URBAN DILEMMA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Ms. OAKAR. Mr. Speaker, the commitment of HENRY REUSS to the solution of our urban problems is common knowledge to all of us in the Congress as well as those who dwell in our cities. Mr. REUSS, as chairman of the Banking Committee and the recently created Subcommittee on the City, has shown an extraordinary sensitivity to and understanding of the urban dilemma.

I would like to take this opportunity to place in the RECORD an interview with HENRY REUSS, conducted by Leo Penne of the National League of Cities (Nation's

Cities, September 1977). This is the first installment in a two-part interview. I believe that it demonstrates the work and wisdom of HENRY REUSS, and the article follows at this point:

WHAT IS HENRY REUSS UP TO?

(NOTE.—Last fall when Rep. Henry Reuss (D-Wis.), chairman of the influential Committee on Banking, Finance, and Urban Affairs, announced that hearings on the rebirth of the American city would be open only to experts and thinkers from the academic community as well as representatives of community and civil rights organizations, some eyebrows were raised in the urban fraternity, including ours (see "No City Officials Need Apply," Nation's Cities, October, 1976). Come the first of the year, Reuss announced that he would chair a non-legislative Subcommittee on the City and has, since, embarked on an ambitious series of hearings that have had as witnesses city officials, including Tom Moody, mayor of Columbus, Ohio, and NLC's second vice president, and Chris Lindley, council member from Rochester, New York, and NLC board member, as well as members of the wider community concerned with urban policy. "What," many people have asked since then, "is Henry Reuss up to?"

(To find out, we asked Contributing Editor Leo Penne to go to Capitol Hill and ask the man himself. Their conversation went on for an hour, and because it offers such a clear view of one of the most important and incisive minds in American urban affairs, we have decided to print it for you almost in its entirety, half this month and the remainder in the October issue.—F.J.)

NATION'S CITIES. Logically, the first question to ask about the subcommittee is, "why?" I guess especially since the Congress already has a transportation committee that deals with public transportation, a housing committee that deals with urban housing; a public works committee that deals with urban public works. One can go down the line, and for every problem and program area, you have a committee or a subcommittee operating. But you thought it important to exert some effort and to invest considerable resources in creation of a subcommittee on the city. Why?

REUSS. Simply because Congress wasn't looking at the overall problem of the city in any systematic way. Your listing of the various committees with jurisdiction is itself a reason why some central focal point to look at it altogether was needed.

Incidentally, to your list you could have added Ways and Means with its tax and social security and welfare programs; Government Operations with its revenue sharing; and Interior with its open space and historic area programs, and many, many others.

In fact, in my view, the problems of the city are inseparable. Those problems, indeed, do make a seamless web. And our effort has been to try to see the interrelationships between various problems and various programs designed to deal with them.

One of the troubles, of course, is that Congress over the years has responded to individual problems by individual programs, and the side effects and by-products of those programs have frequently contributed to the problem rather than the solution. It's necessary to have a highway system, but we found that urban highways were splitting neighborhoods and causing economic devastation to the central city. It is necessary to have mortgage insurance, but as is well known, the application of FHA over the years has contributed considerably to the proliferation of suburbs and exurbs and urban sprawl generally.

So we'd want in the Congress one place where we could take an overall look at things. And the mere fact that we don't have legislative jurisdiction, that is, the power to ourselves produce a statute, is, in my view, a good thing rather than a bad thing because we aren't diverted by the necessity of working endlessly in the specific wording of specific statutes.

N.C. So you don't see the subcommittee as a sort of residue committee that is simply picking up items that are not picked up elsewhere. Rather, you see it as a place where coherence can be made or a place where questions pertaining to the intersection of separate issues are taken up?

REUSS. Definitely the latter. To the extent that no committee pays attention to some issues, we are, I suppose, a residue, catchall subcommittee. But our main function is to look at things that do receive intensive attention from other committees.

For example, I certainly don't fault Ways and Means for not spending plenty of time considering the taxes that affect the city. Yet, it is apparent that large parts of the federal tax code either work in ways that hurt cities or produce consequences that Congress never really foresaw and didn't specifically legislate.

N.C. I'm interested that you think that not having legislative responsibility is an advantage. I would think that at first glance an outsider would perceive that to be a disadvantage or a weakness—that the subcommittee would be less likely to be taken seriously because it didn't have power.

REUSS. A man alighting here from the moon would probably say that it doesn't make sense to boast about one's lack of power. But, in fact, if we were to try to set up a committee here that would have jurisdiction over everything having to do with the cities—all housing, all transportation, all taxation, all revenue sharing, all job legislation, all environmental legislation—it would be a committee with 435 members and be the entire House. So it just wasn't within the realm of practicality to think of that. So maybe my gloating about the fact that we don't have legislative jurisdiction is making the best of reality, but actually if we are to be a thinking committee rather than a committee that fusses around with specific statutory language, it is just as well not to have the responsibility of getting out 10 bills a year, which would absorb all our time.

Part of this, I suppose, is personal. I've been here now for 23 years. I'm chairman of the Committee on Banking, Finance, and Urban Affairs, which is the closest to a city committee, I believe, that we have, comprising as it does the Subcommittee on Housing, the Subcommittee on Economic Stabilization, which deals with traumas like New York City, and several other subcommittees that have some city jurisdiction like that on financial institutions.

So being here and in charge and having been, long before I got to Congress, intensely interested in the city, and, I must confess, being apprehensive of the fact that nature abhors a vacuum and that if we didn't fill it with something, some other enterprising committee might do it, we're doing it.

N.C. Would you expect that at any time in the future it would become a legislative committee?

REUSS. No. I wouldn't want to start trying to raid other committees of their jurisdiction. One, it would fail. And secondly, it would make everybody hopping mad in the process and absorb all my time in a war that I was sure to lose.

N.C. On the substance side, you've had now, I think, three hearings—one on the impact of the federal budget on cities, one on foreign experience and its relevance to American cities, and one on the impact of tax policy. Out of those hearings, what have you concluded that might be forwarded as recommendations to legislative committees?

REUSS. We are drawing up a report on the first hearing that you mentioned, namely, that on the impact of the federal budget, and our recommendation, assuming my subcommittee goes along with me, would be that the Office of Management and Budget and the congressional budget committees that are working on similar problems work out an arrangement whereby to the maximum possible extent the impact of the budget on cities is separately delineated, just as the impact of the budget on state and local government is now separately delineated.

So we will get out a very specific report on it. On our European experience and its relevance to activities here, there have been a whole series of spin-offs from that. I'm not yet sure we're going to get out a generalized report on that, but from the hundreds of ideas dredged up at the hearing from foreign experience, we're now planting those ideas quite broadly in city governments, in congressional committees, in the executive branch, and wherever.

On the third hearing you mentioned, namely, the hearing on the effect of the federal tax code on urban development, we plan to get out a set of recommendations very shortly to both the Ways and Means Committee, which is going to have to write tax reform legislation, and to the administration, namely, the Treasury, which is going to have to forward its recommendations by next fall, and we want to get in our recommendations in timely fashion before they start work on whatever changes in the code they're going to make. And this is very important because in bygone days, the taxwriting committees have had to work on city problems starting at scratch on their own. We think that we can have a constructive impact there.

We've got another couple of hearings coming up within the next couple of months that I think will be timely. One on the city and energy: what will be the impact of the president's energy program on the cities, and what other things can the cities do that will help on the energy question.

In my view, the city is due for somewhat of a renaissance because of the energy shortage. The city is a marvelous way to save on commuting and travel. It is a marvelous way to save on heat by grouping housing together, row housing or clusters or whatever.

N.C. I think, to follow up on that issue, our point of view is very much consistent with what you have expressed, that the city is inherently an energy conserver. But we saw very little in the president's packaging proposals that either explicitly or implicitly took that into account.

There seemed to be much less emphasis on alternative sources; alternatives to the traditional fossil or to nuclear that might be appropriate for cities. There was no mass transit money contained in the proposal. There was very little indication that what was being proposed in the energy package consciously had been related to what had been or might be proposed in transportation or in housing or in other areas of policy. Do you agree?

REUSS. Yes, I note the same gap, but nobody is perfect, and there will be a round two on energy. And that is why we want to have a series of hearings at which, of course, the leading witnesses will be city people to try to evolve a city-oriented energy Phase II program in which special attention will be given to the energy-saving potential of mass transit, more use of bicycles, and the shanks' mare for walking, changes in city planning to effect energy conservation, and architectural methods of conserving energy, which really hold out, in my view, quite as much promise as some of the things in the president's existing program.

N.C. What is the strategy for trying to take the kinds of recommendations that the Subcommittee on the City might develop

and that might pass Congress to the point where they can actually be implemented by the executive branch, where fragmentation of urban responsibility also exists?

REUSS. You're right in saying that the executive branch is also in a state of turmoil as far as the city is concerned. And one of the first things I did after setting up our city subcommittee here in Congress was to urge upon the new Carter administration the evolution of some institution in the executive branch that would take an overall view. It may well be, and maybe we should be optimistic about it, that the urban committee headed by the secretary of HUD, Pat Harris, can evolve into just such a city-concerned coordinating agency.

So far as I know, OMB hasn't institutionalized the problems of cities at all. They need a lot of basic education over there. They look to their regular budget headings, and as long as it falls under that, that's the extent of their concern.

But as I view what's needed, you need, one, a city-oriented committee or subcommittee in Congress. I think we've got that now in the House. You need a city-oriented coordinating body or agency in the federal government. They are now, given a little luck, moving toward that though they certainly need to co-opt the Office of Management and Budget in the coordinating process.

Thirdly, and very importantly, an urban—a national urban policy, which is what our subcommittee is all about, requires huge institutional input from the mayors and governors and other local officials, and from the public: business, labor, and thoughtful citizens.

And my idea is that we ought to get these groups together: the Congress, the executive, state and local government, plus private citizens and institutions. But at least we're started on the process in the Congress, and I hope in the executive.

N.C. That last point suggests maybe a theme consistent with the hearings on the taxation and on the impact of budget, that we may be well advised to look less to federal direct grant programs for solutions to city problems and more to the causes and results of public actions in the private sector.

REUSS. Yes, that's fair. It's my feeling that it doesn't really help much to talk about a great new Marshall plan for the cities, implying the expenditure of unrealizable billions each year to rescue them from the agonies to which they have been put very largely by the federal government.

N.C. What do you mean by that?

REUSS. By that I mean that it was the federal government that brought about the unemployment and the inflation that has dogged the city during the 1970s and brought New York City, for instance, to its knees. It's the federal government that has bollixed up the welfare system so that it is detested alike by those that contribute to it and those who receive its benefits. It's the federal government that spawned knock-them-down urban renewal projects, neighborhood-dividing urban highways, inhuman high-rise public housing projects like Pruitt-Igoe in St. Louis and lack of attention to rehabilitation and neighborhood development.

It's the federal government that has set up a tax system that is absurdly costly in terms of revenues lost and largely produces, so far as appears, bonanzas for the wealthy, whether they are in the form of second and third homes for millionaires who get very juicy tax subsidies or in the form of rewards paid to speculators for building suburban shopping centers and, thus, doing their bit to fracture the economics of the central city.

So if the federal government would simply stop doing that which is wrong, the cities might surprise their detractors by doing a good deal of reviving all by themselves. Having mentioned some things for which I think the federal government is responsible, I should point out, too, that the states are considerable sinners. It's the states that have failed to provide localities with either tax systems that enable them to survive or geographical and metropolitan arrangements that enable them to govern. There are some honorable exceptions, of which Minnesota is a shining example.

But, it's the states like New York, which loaded New York City up, shortchanging it of welfare funds, shortchanging it of higher education funds, and creating ridiculous municipal employee pension schemes without funding them, that have failed.

So if the states and federal government would reform themselves and stop ruining the city, it would be just amazing how soon the city could recover. Having said all that, I certainly would not for one moment suggest that the federal government does not have an important and money-heavy role to play in aiding cities. It's got to help on housing; it's got to help on general expenditures; it's got to help on air and water pollution; it's got to help on mass transit and other things.

But if we would stop doing that which is wrong and then put adequate assets onto the commanding heights of urban problems such as those that I've just named, I think we could forget about three or four hundred dinky programs that give psychic joy to their authors but are inadequately funded and don't really accomplish very much.

N.C. Do you think that the likely squeeze on the availability of federal grant money makes this approach not only right but necessary?

REUSS. Yes, I do because if we go on as we have, continuing the errors that contribute to the sickness of the cities and then attempting to put bandages on the wounds by hundreds of little underfunded or unfunded programs, we're just going to see more fiscal decay and social bitterness.

N.C. You have apportioned shares of the blame to the federal government and to the states. What about city governments?

REUSS. There is enough blame to go around, but in general my observation is that even the best mayor in the world with a sensitive and cooperative local common council or legislature can't really make headway against the mass of wrongheaded federal and state programs or lack of programs.

EPA SHIFTS TO EMPHASIZE RECYCLING SEWAGE ON LAND

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. VANDER JAGT. Mr. Speaker, an article by Tom Grubisich appears today in the Washington Post titled "EPA Shifts to Emphasize Recycling Sewage On Land." As Members of the House are aware, I have had a long term interest in this method of management of municipal wastewater, so, of course, I am pleased by this new direction being emphasized by the Environmental Protection Agency under the very capable leadership of its Administrator, Douglas Costle; Deputy Administrator, Barbara Blum, and Assistant Administrator for Water and Hazardous Materials, Thomas Jorling.

It is gratifying to note the article's credit to the Muskegon system in my district which provides ample demonstration of the low cost and high quality water resulting from the utilization of this approach. It simply makes great economic and environmental sense. It makes particular sense when compared with "conventional" and so-called "advanced waste treatment" processes that attempt to "dispose" of wastes, the out-of-sight, out-of-mind syndrome that we must outgrow, because it is too costly and too wasteful of resources. Common chemicals in sewage are pollutants and cause severe problems when discharged to lakes and streams, but are nutrients when applied to crop land. Attempts to remove those "pollutants" from sewage by physical, chemical, or biological means have become very costly in recent years. The Muskegon type alternative avoids those costs by recycling the "pollutants," nitrogen, and phosphorus, through farm crops. The result is clean water and agriculture production to help offset the cost of sewage treatment.

Mr. Grubisich discusses related legislation now being considered by the House and Senate conferees as they work out differences in amendments to the Water Pollution Control Act. Our very capable and highly esteemed colleague, Mr. CLAUSEN, has developed this legislation earning the nearly unanimous support of his House associates in the conference. Combined with the EPA directive, it will provide a powerful incentive for mayors, county and city council members, and the sanitary engineering profession to stop building "conventional" treatment processes that are costly and leave water dirty, and give much more attention to recycling systems that are less costly and provide clean water. Mr. Speaker, I commend this article to your attention and to the attention of our colleagues in both the House and the Senate:

EPA SHIFTS TO EMPHASIZE RECYCLING SEWAGE ON LAND

(By Thomas Grubisich)

After years of promoting expensive, elaborate plants that treat sewage and then discharge it into streams and rivers, the federal Environmental Protection Agency, in a major shift, plans to "press vigorously" for recycling sewage on land.

Under the process emphasized by the new policy, partially treated sewage would be sprayed onto fields where it would be absorbed slowly and enrich the soil. The change was detailed last week in a memo from EPA administrator Douglas M. Costle to officials at the agency's regional offices throughout the country.

One immediate effect, according to an official at the regional office covering metropolitan Washington, is that "it will stiffen our backs" in resisting Montgomery County's efforts to build a 60-million-gallon regional sewage treatment plant at Dickerson that could cost over $400 million. The plant would discharge treated wastes above water intake pipes on the Potomac River.

Because EPA dispenses the federal grants that pay for 75 per cent of the cost of constructing water clean-up projects, the new policy could have a major impact on the technology and politics of sewage treatment.

Instead of concentrating on choosing among types of expensive sewage-plant hardware, as many local jurisdictions did in the past, communities seeking federal money to help build sewage treatment facilities will have to show they gave thorough consideration to land treatment.

Such treatment involves extensive spraying of pretreated sewage onto agricultural land or other open space. The sewage is absorbed and purified by the soil instead of being discharged into rivers and streams, officials say. The spraying operation is similar to irrigation projects on farmland in the Western states in the sense that movable sprayers are used.

If land treatment becomes widespread, it could have a major impact on land use. A large sewage treatment operation would require thousands of acres that would be used over and over again. The sprayed fields could be farmed but not developed for housing or other similar uses.

Besides getting a big, new push from EPA, land treatment also is gaining more support in Congress. Conferees from the House and Senate public works committees are considering legislation that would increase the federal contribution from 75 to 87½ per cent, to promote use of the widely known but not extensively used process.

In his memo, EPA administrator Costle said:

". . . The utilization of land-treatment systems has the potential for saving billions of dollars. This will benefit not only the nationwide water pollution control program, but will also provide an additional mechanism for the recovery and recycling of waste water as a resource."

This is because substances that would be pollutants in the water become nutrients when sprayed on the soil.

Applicants for clean-up funds, to build treatment plants, he said, in an underlined passage "should be required to provide complete justification for the rejection of land treatment."

In asking for federal funds to build a big regional plant at Dickerson, Montgomery County officials said they had considered land treatment, but rejected the alternative because it was too costly and required too much land.

However, EPA, in rejecting the Montgomery application last year, said the county had not given land treatment enough attention and that, furthermore, the proposed Dickerson plant was itself too expensive as well as oversized.

One of the few major municipal land-treatment operations started in recent years is in Muskegon, Mich. For some time after it opened, in 1973, the facility limped along and was widely criticized for not living up to expectations.

But all that changed, says its director, Dr. Ara Demirjian, after irrigation equipment became fully operational, objectionable odors were eliminated through equipment changes, and corn yields on land sprayed with the treated sewage were increased from 30 to 81 bushels per acre.

Demirjian said Muskegon's land treatment, which covers 5,200 acres, costs 17 cents per thousand gallons, versus 50 to 60 cents per thousand gallons in an advanced treatment plant.

Last year's corn crop, he said, brought in $1 million, and revenues from this year's should be higher. There have been no recent increases in sewage service rates, he said, even though the cost of energy—used in the pumping and spraying operation—has doubled.

In addition to influencing negotiations between EPA and Montgomery County on the Dickerson proposal, the new policy thrust also could have an impact on rapidly growing Poolesville in northwestern Montgomery.

The town commissioned Kamber Engineering Inc. of Rockville to assess land treatment, but after the consulting firm's negative analysis was criticized, local officials hired another firm from Chicago to take another look.

"We've got one helluva fight going on," Sam E. Zattiero, president of the town council, said. Some landholders, he said, oppose land treatment because "let's face it, the process takes a lot more acreage out of development than a sewage-treatment plant."

HUMAN RIGHTS IN SOUTH KOREA—II

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, on September 19 and 20, parliamentarians from the United States and Japan met in the caucus room of the Cannon House Office Building to discuss problems of U.S. and Japanese policy toward Korea. The Japanese delegation included 17 members of the Diet, representing four different Japanese political parties as well as a contingent of independents. They brought with them a deep concern over the issue of human rights in Korea and over the high level of tensions between North and South Korea. I was privileged to participate in some of the discussion at this conference.

I would like to call to the attention of my colleagues three papers in particular dealing with the subject of human rights in South Korea. Prof. Richard Falk of Princeton University presented a paper on "Human Rights and U.S. Policy toward Korea;" Prof. Jerome A. Cohen of Harvard Law School wrote on "The State of Human Rights in South Korea," and Prof. Bruce Cumings wrote on "Political Repression and Economic Development in the Republic of Korea: A Necessary Relationship?"

I would like to enter into the RECORD excerpts from the paper by Prof. Falk, which analyze U.S. policy toward human rights in South Korea and concludes that the Carter administration is moved to take human rights into account in its policy mainly because it is dependent on large appropriations of funds from Congress. His analysis emphasizes that congressional funding of South Korea constitutes the main form of leverage available to the U.S. Government in regard to human rights in South Korea. As he points out, verbal declarations on this subject are empty as long as there is no willingness to take into account the performance of the Park regime on human rights when enacting appropriations bills in Congress. I commend this paper by Professor Falk to my colleagues:

HUMAN RIGHTS AND U.S. POLICY TOWARD KOREA

There is an obvious tension between the abuse of human rights by the South Korean government and continued American support for that government by way of aid and protective security arrangements. A basic contention of this paper is that the Carter Administration is seeking, so far at least, to resolve this tension without altering fundamental U.S. policy toward Korea as it has evolved since 1945. At the same time, the Carter stand on human rights places the new Administration in a defensive posture on Korea. As such, it creates an opening through which to mount pressure for a new approach toward Korean issues. To be effective, this pressure must be mounted by the U.S. Congress, reinforced by Japanese support at the highest possible levels. My objective in this paper is to clarify this opportunity as it relates to human rights as well as to suggest the direction of a different, more positive Korea policy for the United States.

II. THE CARTER PERSPECTIVE

In his campaign for the Presidency, Jimmy Carter displayed a concern for American policy in Korea. He promised to withdraw nuclear weapons and the remaining American troops from South Korea. Candidate Carter singled out South Korea, along with Chile, as a country where American support for a repressive regime was objectionable. In the primaries preceding his nomination Carter said, "It should be made clear to the South Korean government that its internal oppression is repugnant to our people."

The transition from candidate Carter to President Carter is still underway. The results to date are mixed. Most attention has been fixed on the fulfillment of the troop withdrawal pledge. The announcement by President Carter of an intention to withdraw 33,000 of the 41,000 or so American troops in South Korea over the next few years has been hailed as an important step in disengaging the United States. Even Richard Barnet, an acute critic of Carter's overall foreign policy, calls "the Korean withdrawal . . . the most explicit foreign policy initiative yet made by the Carter Administration; unlike most of the others, it does not appear riddled with exceptions, caveats, and loopholes . . ." (Barnet, "Carter's Patchwork Doctrine," Harper's, Aug., 1977, p. 34). To similar effect correspondent William Beecher writes that, "On Korea, the President overrode the doubts of his generals, his CIA director and some of his most experienced diplomats . . ." (The Boston Globe, Aug. 19, 1977, p. 23). What is less noticed, however, are the compensatory reassurances made by the Carter Administration to soften opposition to the withdrawal both in Washington and Seoul. Part of this process involves assisting with the military buildup of Korean armed forces to the tune of $2 billion over the next few years. Another more relevant part of this process is the reaffirmation of the reality of America's strategic interest in South Korea. This reaffirmation has gone so far as to have President Carter reassert more or less, the Schlesinger view that American nuclear weapons would be available, if needed, to halt a North Korean military advance.

Most relevant, however, in relation to our inquiry here is the clear indication by authoritative Administration officials that the American security commitment to Seoul will not be influenced by failures on the part of the South Korean government with respect to human rights. In a significant sense, I think it is fair to conclude that the Carter Administration has traded off human rights in exchange for relative acquiescence in the troop withdrawal. In the background of such an approach is the older view that North Korea is so repressive that human rights for Korea as a whole is upheld by assuring the security of South Korea, no matter how repressive the latter becomes.

In effect, human rights is automatically assimilated into the containment approach to security in the peninsula. As William Barnds expresses this view, "Even a minimal concern for human rights requires the recognition that a takeover of the entire peninsula by North Korea—one of the most rigid totalitarian states on earth—would spell the end of any hope that Koreans would enjoy the most basic human rights (Worldview).

Referring specifically to Korea (and Iran) Secretary Vance indicated quite clearly that in these instances where "the strategic situation is of critical importance," the United States would not allow human rights considerations to get in the way of arms transfer or sales (see Press Conference, Dept. of State Bull., Feb. 28, 1977, p. 164). More comprehensively, Richard Holbrooke, Assistant Secretary for East Asian and Pacific Affairs, in testimony before Congress, suggested that the essence of U.S. policy toward Korea is "to phase out our ground forces in Korea, while insuring that the security of Korea is in no way threatened" (Dep/State Bull., LXXVI, April 4, p. 322). In the course of this testimony Mr. Holbrooke indicated that the "primary objective" of the United States is "to maintain a deterrent that will insure peace on the peninsula" (p. 324).

As was also made clear, such an objective could only be achieved by helping "in the strengthening of the armed forces of the Republic of Korea through a program of foreign military assistance . . . designed to concentrate on areas where Korean capabilities need improvement," (p. 324). In the course of this testimony Mr. Holbrooke also indicated, somewhat ritualistically that the United States was concerned about human rights in South Korea and asserted that, "We will continue to express our concern in authoritative ways" (p. 325). He qualified this posture, however, by arguing that whatever was happening vis-a-vis human rights "it would be a serious mistake to cut back our longstanding assistance to the South Korean armed forces which helps forces better cope with the formidable task of protecting their country against the threat from the north" (p. 325).

It would appear, then, that human rights considerations are relevant mainly because the Carter Administration realizes that its security policy for Korea depends on large appropriations of funds that must be approved by Congress. To the extent that the Park government engages in blatant forms of repression, especially against widely respected individuals, it will arouse Congressional resistance.

Such resistance will be an embarrassing encounter for a leadership that has placed such a premium on its commitment to the realization of human rights. For this reason there seems to be evidence of Carter-based pressure on Seoul to do away with the most blatant outrages. It is in this spirit that we should understand reports from South Korea of "intense psychological and physical pressures" on imprisoned political dissidents "to get them to sign statements of repentance" so as to gain release from jail (NYT, Aug. 3, 1977, p. A3).

As one dissident leader said to an American journalist: "We think these partial releases are a public relations facesaving gimmick and an effort to divide us "(NYT, Aug. 3, 1977, p. A3). It is indicative of the human rights situation in South Korea that such a statement to a foreigner is made punishable by emergency decree and can lead to a seven-year jail sentence, constituting the crime of criticizing the government to a foreigner.

At this stage I find it persuasive to conclude that American policy toward Korea is unchanged in the Carter Administration. The troop withdrawal represents an accelerated application of the Nixon Doctrine, and although controversial, cannot be understood as a decisive step toward military disengagement. What is more significant is that the withdrawal is occurring in a diplomatic context in which "security" considerations are being considered exclusively in the "containment" sense.

In other words, as yet, there is no evidence of any Carter initiative to redefine America's security interest by opening up possibilities for "peaceful settlement" of the conflict. Instead our role seems designed to perpetuate the conflict by encouraging South Korea to believe it can idefinitely count on U.S. military support in the event that the status quo is challenged. Finally, the available evidence suggests that Carter's Korean policy will subordinate human rights concerns to security goals, although this assesment may be revised to the extent that Congressional support for military aid is less likely to be forthcoming unless the human rights situation in South Korea seems to be improving.

There is no indication however, that President Carter or his close advisors accepts the position argued by Congressman Donald Fraser to the effect that South Korea's capacity to defend itself militarily presupposes liberalization of governing policies and a widening base of political support among the Korean people (see also Barnds, Worldview July/Aug. '77, p. 14). This position implicitly draws on the Vietnam experience to contend that military hardware is much less critical to the national security of a dependent ally than is political morale.

Such a view would have far-reaching implications, moving human rights from its present status as windowdressing to the very center of American efforts to make South Vietnam "secure." I do not think, therefore that there is much reason to be encouraged so far by what the Carter Administration has done or proposes to do about Korean policy, either on the diplomatic front or with regard to human rights.

* * * * *

IV. HUMAN RIGHTS AND A NEW U.S. POLICY TOWARD KOREA

Previous sections have argued that abuses of human rights in South Korea are severe and structural, and that American policy toward Korea in the Carter period appears to be only tactically different from that of previous administrations. The basic alternative position taken by both Donald Fraser and Kim Dae Jung argues that the political viability of South Korea depends on establishing democratic rights, and on an economic system that makes a far greater effort at fair distribution of the growth dividend.

Of course, even those who believe in the Fraser-Kim approach do not advocate that the United States now deal with Park Chung Hee as it did a few years earlier with Salvador Allende, or for that matter with Ngo Dinh Diem, or numerous others. "Destabilization" of a foreign government by covert operations is not an acceptable form of statecraft, and it should be renounced as an instrument of U.S. foreign policy. At the same time, the U.S. Government is free to condition its support for South Korean security as it sees fit, and it certainly has the discretion to insist upon a shift toward a political approach to security on the part of the Seoul government.

At present, these possibilities to exert influence seem virtually blocked by the play of forces within the executive bureaucracy. Whatever President Carter's personal preferences may be, it is unlikely that, as matters now stand, much can be practically done to encourage human rights in South Korea. Presidential dependence on Congressional authorizations (included in the context of engaging U.S. military forces under the 1953 Mutual Security Treaty), however, creates considerable leverage on the part of Congress, and ultimately for American public opinion. This leverage can be used to make Carter diplomats insist that a failure by Seoul to improve their human rights image will jeopardize American support, direct and indirect, and can be exerted in a variety of settings with different degrees of severity.

The degree of Congressional willingness to challenge Carter on Korean policy depends on several factors. First of all, the influence-peddling scandal has been aptly described as "a wild card" with reference to Congressional attitudes. A reliable public opinion poll, for instance reveals a surprisingly high level of concern among the American people about the scandal, with 63% of those interviewed indicating that the investigation has not been going fast enough (NYT, Sept. 1, 1977, pp. A1, A14). In the afterglow of Watergate members of Congress may be exceedingly reluctant to support Seoul to the extent that such support could be construed unfavorably by voters, as evidence of having been influenced or taken gifts.

In this climate the Carter Administration may be under pressure to distance itself from the Park regime, especially if its repressive policies gain any prominence, and as a consequence, the Fraser-Kim approach to internal security may begin to attract significant support. In this event, the United States, besides becoming more pointed on the human rights situation, might be induced to undertake independent diplomacy designed to reduce tensions on the peninsula, including normalization of relations with North Korea, even making a move toward a "two Koreas" stand similar to the one Japan has been evolving (and similar in image to the American relationship since 1967 with both sides in the Arab-Israeli conflict).

If North Korea is receptive, as there is reason to think it would be, then South Korea would have to become increasingly "provocative" to maintain any credible claim that an emergency situation persisted to justify suspension of political freedoms. Moves in that direction would tend to stiffen American opposition to the mutual security commitment, and might create serious splits among the ruling groups in South Korea, including even some support in Seoul for tension-reduction in North-South relations.

For reasons indicated earlier, without repression Park woud soon fall and therefore it is unlikely that advocacy of human rights from outside will alter the style of domestic governance, although a Korean variant of "decompression" may emerge. What is possible to envision, however, is a move away from the pretext that repression is a response to external danger. Ironically the human rights initiatives, therefore, open up a political dynamic in Korean-American relations that holds out some real prospect for contributing to peace in Korea without much hope of improving greatly the protection of human rights.

This limited improvement in the Korean situation could be better encouraged by Japanese diplomacy and public opinion. A major rationalization of the American approach to Korean policy, especially in recent years, is that its revision would upset the Japanese to such an extent as to endanger the Japanese-American relationship. If the Japanese diplomatic stance made it evident that the reverse were true—namely, that a continuation of the present American "tilt" on Korean security was deeply disturbing to the Japanese—then the pressure in the Carter Administration would become very great indeed.

Of course, there are uncertainties in the course proposed here. For one thing, the pressure produced has a polarizing effect on options and could lead Seoul to pursue a nuclear weapons program of its own as a way of perpetuating the status quo. Such a plan of action has some obvious frightening implications in the Korean context, but its plausibility is far from evident.

It is possible that North Korea would not be responsive to a diplomacy of tension-reduction. Such a development would tend to vindicate the orthodox American position that "containment" of North Korea via military means is the overriding priority of Korean policy. On balance, it seems unlikely that North Korea would reject American moves to move in a "two Koreas" direction; even if it did, adjustments could be made as the approach unfolded.

In conclusion, then, it seems possible to envision concern with human rights as an important element in "forcing" a new Ameri-

can policy on Korea, especially in the realm of security thinking and planning. Ultimately, the future of human rights in South Korea will be shaped by domestic factors, but these factors can be influenced in a positive way, by tension-reducing diplomacy that removes any credibility from claims that repression is an outgrowth of the external threat. Authoritarianism which is rampant throughout the Third World, and connected closely with economic strategies and imperatives, and should not, therefore, be primarily understood in South Korea as being a special legacy of divided country tensions or the American presence.

These features of the Korean situation may inhibit to some degree oppositional tendencies, and, therefore, it is arguable, but by no means assured, that American disengagement will contribute also to liberalizing pressures within South Korea.

SOLAR AND WIND POWER

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. AuCOIN. Mr. Speaker, I rise today to introduce into the RECORD an exchange of letters between the Energy Research and Development Administration and me. My purpose in placing these letters in the RECORD is to underscore my concern for development of decentralized solar and wind power generating facilities.

We frequently hear that these new forms of power generation are not economically competitive today, and that they will not produce any major portion of our Nation's energy supply for many years to come. These remarks usually apply to centralized solar and wind generating facilities.

We also are told that even the most active solar heating systems on the market today have relative long pay off periods when compared to conventional fuel costs.

Advocates of solar and wind power contend that the best way to overcome these obstacles for both centralized and decentralized power facilities is to accelerate applied research and to devise tax incentives for their use.

I agree with those advocates. But I believe another ingredient to the eventual success of solar and wind power application is convincing the American public these are not will-of-the-wisp fantasies.

Not long ago man yearned to go to the moon, but thought it was an impossible dream. We proved that false. We also have disproved that we were powerless to combat and conquer debilitating and crippling diseases such as polio. We are even hot on the trail of killers such as cancer and heart disease. On a less grand scale, we have created virtual wonders in our computers, in our machines, even in our everyday household appliances.

Therefore, it is not unreasonable to assume we can overcome the obstacles preventing us from harnessing the Sun and wind. If we want to bad enough, we can. It will take leadership and imagination, and it will take perseverance.

As my letter to the acting administrator of ERDA suggests, I believe the Pacific Northwest represents a prime testing ground for solar and wind power generating facilities.

I think our region, with its hydroelectric system in place, is an excellent place to begin experimenting, not just with large solar and wind power facilities, but also with decentralized systems. The reply from ERDA is encouraging in that it concurs with me that more must be done to advance solar and wind power generation opportunities of this type.

Further, I am encouraged that ERDA recognizes that small firms, indeed individuals, have the potential to make great contributions and, therefore, should not be overlooked in terms of supporting research they carry out:

Mr. ROBERT W. FRI,
Administrator, Energy Research and Development Administration, Washington, D.C.

DEAR MR. FRI: Lee Johnson, editor of a publication called *Rain*, has written me, as he has you, regarding his concern over attempts, whether deliberate or not, to undermine small efforts everywhere to accelerate development of solar power.

Mr. Johnson, in his letter, complains that Honeywell, Inc., the contractor for the Transportable Solar Laboratory, undercut public confidence in efforts to develop solar power in the Northwest, calling it one of the poorest regional candidates for solar power in the nation.

Without engaging in polemics with Honeywell, Inc., I would like to register my own displeasure with such notions.

I have been among the leaders in the Northwest in calling for a national experiment combining the existing Columbia River hydroelectric grid with centralized *and* decentralized solar and wind generating facilities. The value of this would be to offset solar and wind powers' weakness of generating power when the sun shines or the wind blows and not being able to store power for dormant periods. The Columbia River dam system, with its tremendous capacity to impound water, could literally serve as a giant battery.

My idea has received brickbats from those who claim centralized solar plants are not commercially competitive with other generating sources. I will concede that. However, as Mr. Johnson noted in his letter, there are a number of existing solar technologies, largely decentralized in nature, that are competitive now. Installed on a large enough scale, they could be a significant factor in a subregional energy conservation/new generation strategy.

Moreover, the argument advanced that the Pacific Northwest with its relatively cheap hydroelectric power is a poor candidate to enter into solar power development is off base.

The exact opposite should be true. The base of a cheap power source gives the Northwest greater negotiating room to experiment. Indeed, legislation already is being placed before Congress to consolidate power sources in the Northwest into a pooling arrangement to maximize the benefits from this resource of cheap energy in order to build new, expensive thermal generating plants.

Surely, if the concept has validity as a way to buffer the impact in terms of cost passed on to consumers from the construction of nuclear plants, the concept can be applied to solar and wind power sources.

Finally, let me conclude by theorizing that power generation in the future may not be as we know it today. That is, power may be generated in localities for use in the immediate area around the generation source.

There are many reasons arguing for this approach, not the least of which is the waste involved in transmitting power great distances. The power loss, not to mention the unused ground swallowed up into right-of-ways, is inefficient.

Thus, we should do all we can to encourage, rather than discourage, efforts to develop small power sources. It is no reflection on large firms, but, in truth, we might expect such a breakthrough to come because of the diligence of a small firm, if not a single man toiling at a work bench.

Regardless of the outcome, however, I believe it is extremely important to stimulate exploration in this field, and to instill public confidence in possible alternative energy sources.

With warm regards,

Sincerely,

LES AUCOIN,
Member of Congress.

WASHINGTON, D.C.,
September 30, 1977.

Hon. LES AUCOIN,
House of Representatives.

DEAR MR. AUCOIN: Thank you for your letter to Mr. Robert W. Fri, Acting Administrator, dated August 17, 1977, which has been sent to me for reply.

I am impressed with the time and thought you have devoted to using solar and solar-derived energy in conjunction with the hydro storage potential in the Northwest.

A considerable dialogue continues among energy planners on centralized and decentralized applications of solar technologies. Of course, solar space heating and cooling applications are on-site applications, and the Northwest indeed can make much use of such direct thermal conversion systems. Other solar related technologies can be modular in nature and adaptable to both on-site and centralized utility oriented applications.

It is in the solar electric applications areas, and principally with wind systems, photovoltaics and thermal power systems, that a choice can be made. In our program activities up until now, we have tended to emphasize large systems because these require the most development and offer an easily accessible market (the utility grid). However, we are developing a strong program in dispersed solar thermal power systems and are funding a number of activities in the area of small-scale wind systems. Our program plan for photovoltaics calls for a wide variety of demonstrations of different size and application. Our technology assessment activities for FY 78 center around a comprehensive program to assess the social, economic and technological feasibility of decentralized solar systems. We estimate that about half of our funding goes toward decentralized applications.

Enclosed for your information is a copy of a letter to Mr. Lee Johnson of RAIN Magazine in response to his comments about the ERDA Transportable Laboratory appearance in Portland in 1976. Also included are copies of the study entitled "Solar Energy in America's Future" and the Mitre analysis of the economics of "Solar Space and Water Heating."

We also are quite aware of the contribution which small firms can make to the energy efforts. It is ERDA's policy and practice to encourage and support the participation of small business in our programs. A recent analysis indicates that 25% of the Solar Energy outlay for FY 1976 and the Transition Quarter went to small and minority businesses. We are proud of this record of achievement.

The solar solicitations have been drafted in such a way as to encourage maximum participation by small business concerns. We have simplified the application process by providing specific proposal instructions, by imposing page limitations, and by including sample task diagrams and blank forms. Small business involvement is itself one of the selection criteria.

A number of solar solicitations are being released with a predetermined proportion of the awards set aside for small business. Some are only open to small businesses. We plan to expand these efforts in the future to further increase the amount of funding going to such enterprises.

Thank you for your interest in the ERDA solar energy program. Please let me know if we can be of any further assistance.

Sincerely,

H. H. MARVIN,
Director, Division of Solar Energy.

SON OF FAP

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, President Carter's welfare reform proposal—the job and income security program—is a dismal flop. Despite all the ballyhoo, what Carter has given us is a warmed-over version of the family assistance plan.

I am in strong support of welfare reform. The current situation is an expensive mess. It is fraught with abuse and poor administration.

President Carter's job and income security program, however, is no solution to this mess. Instead, it would establish a single nationwide program of cash assistance. This is a return to the ill-fated guaranteed family income concept which went down to a ringing defeat during the Nixon administration.

If the Carter proposal is accepted, more, not less, people would be the recipients of public funds. More, not less, money would be required to finance the program. I am sure that this is not what most taxpaying Americans have in mind when they consider welfare reform.

For the information of my colleagues I am including an editorial by nationally syndicated columnist James J. Kilpatrick on the Carter welfare proposal:

[From the Washington Star, Oct. 11, 1977]

MEET JISP, SON OF FAP

(By James J. Kilpatrick)

This was the way the headline read, a couple of weeks ago: "Moynihan Unhappy at Welfare Plans." From the news story, it appeared that Daniel Patrick Moynihan, who had praised the President's welfare program in August, had changed his mind in October. Now he found it "grievously disappointing."

"My God," cried the junior senator from New York, "it's certainly not liberal legislation."

For all practical purposes, the senator's pronouncement made it unanimous. Heavens to Betsy, I would add, it certainly is not conservative legislation either.

What we have, in Mr. Carter's Job and Income Security Program, is a direct descendant of Mr. Nixon's ill-fated Family Assistance Program. The same causes that brought the death of FAP are likely to kill off JISP as well. And fine with me.

One hates to be excessively critical, for today's welfare mess is precisely as Mr. Carter has described it: a mess. The several programs are shot through with fraud and maladministration. The present system tends to encourage a status of permanent dependency. Almost any change, it might be supposed, would represent an improvement.

But liberals and conservatives alike are discovering, as they dig more deeply into Mr. Carter's program, that often it is indeed better to bear the ills we have than to fly to others that we know not of.

The White House asserts, in defense of JISP, that Mr. Carter's program would "simplify" the administration of public welfare. The President would abolish Food Stamps, Supplementary Security Income and Aid to Families with Dependent Children. In their place he would substitute a single uniform, nationwide program of cash assistance.

This sounds simpler. But on close examination, it becomes evident that the proposed reforms are far more complicated than the existing programs; they would require vastly more checking and monitoring by inspectors and auditors; they would not reduce the number of welfare claimants, but rather would make the number greater still.

When the President first started tinkering with "welfare reform," he was confident that a more equitable plan could be devised at no higher price. He knows better now.

At the federal level, welfare now costs about $27.9 billion a year. Mr. Carter would raise that sum to $30.7 billion, but that is only for starters. The White House projection gives no account of $3.4 billion that would be lost to the Treasury through Mr. Carter's income tax credit proposals. These days, everything gets inflated. In net added costs to the Treasury, we are talking of a price tag around $36 billion.

A line could not be held even at that figure. Once JISP were written into law, Congress would confront an irresistible temptation to raise the level of cash assistance in every election year. The Carter program is compounded like a basic recipe for lemonade: Add sweeteners as desired.

The President's greatest problem, as Sen. Moynihan's blast made clear, is that the White House has no constituency for this bill. Almost everyone is vaguely in favor of "welfare reform," but few persons feel passionate on the issue. Take away the federal bureaucrats, and whom do you have left?

Welfare claimants might provide a potent constituency in themselves, but people on welfare instinctively distrust the name of "reform." Well they might. As a general proposition, poor people are better off in the hands of their oppressors than in the arms of their benefactors.

Most of the truly important elements of Mr. Carter's plan already have been written into law. Federal welfare statutes already contain stiff work requirements; the food stamp program already has been made more generous, so that it amounts to a veritable guaranteed annual income. The administration already has taken significant steps to cut down on fraud.

My thought would be to hang onto the mess we have, which is at least a known and familiar mess, and to make haste slowly in fashioning "reforms." Mr. Carter's warmed-over hash made no hit with Sen. Moynihan, and the senator has a chef's credentials. After all, Pat Moynihan was father to FAP.

HUMAN RIGHTS IN SOUTH KOREA—III

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, I have previously mentioned my participation in a conference of United States and Japanese Parliamentarians on Korean Problems held on September 19 and 20 here in Washington. One of the papers presented to this conference which I believe deserves careful consideration by Members of this body is Prof. Jerome A. Cohen's paper on "The State of Human Rights in South Korea." Professor Cohen has been one of the most assiduous and careful students of human rights in Korea, both North and South, for many years, and has testified before my Subcommittee on International Organizations on human rights problems in both North and South Korea.

In his paper, Professor Cohen documents in detail some of the aspects of the violations of human rights. He describes the use of torture by the Korean Central Intelligence Agency, including running a flame over an individual's whole body, forcing cold water into nostrils through a tube and electric shocks applied to genitals. He also mentions the case of a Korean student, So Sang, who was so horribly disfigured by torture by the time he appeared in court on espionage charges that his eyelids and ears had disappeared and his fingers no longer separated from each other. Professor Cohen also mentions a case which is too little known to Members of this body: 13 former members of the national assembly were arrested and tortured by the KCIA after President Park seized emergency powers in 1972, and one of them was paralyzed from the waist down as a result of his torture. Professor Cohen's paper is a grim reminder of conditions in South Korea. I enter into the RECORD excerpts from his paper prepared for the conference of Japanese and United States Parliamentarians on Korean Problems:

THE STATE OF HUMAN RIGHTS IN SOUTH KOREA

"Human rights practices in Korea have been carefully considered in formulating this proposed security assistance program." So reads the United States Defense Department's "Congressional Presentation" for the fiscal year 1978 security assistance program, which attempts to justify the recently authorized appropriation of $280,400,000 for military aid to the Republic of Korea (ROK).

What does this delphic statement mean? What weight should the United States and Japan attach to human rights considerations while jointly seeking to maintain the peace and security of East Asia? What "human rights" should we be concerned with in Korea? To what extent are they being observed? What policies can we suggest to promote the observance of human rights in Korea?

These, I take it, are fundamental questions to be discussed at this important conference. We meet almost five years after President Park Chung Hee declared martial law and

dissolved the National Assembly in October 1972, as the first formal steps toward ending the then existing constitutional system and substituting in its place the so-called "Yushin Constitution." Since then, Park's "revitalizing reforms" have made South Korea a far more repressive place than it was during the decade that followed his 1961 military coup against democratic government. The role that I have been assigned at this conference is to summarize the fate of human rights in the South during the past five years. I have not been asked to discuss the even graver repression that exists in North Korea, nor the extent to which South Korea's KCIA has inhibited Koreans in the United States, from exercising rights guaranteed to them by our law. But my views on both the situation in the DPRK and in this country have been made known in my testimony before the Fraser Subcommittee on various occasions.

This summary will focus on political and civil rights rather than economic and social rights, for it is the former that have created the major controversy both inside and outside Korea. Moreover, other speakers will focus on economic and social policies and their implications for Korea's development and for human rights. Observers plainly differ over the costs and benefits of the ROK's developmental strategy that makes the country increasingly dependent upon foreign capital and resources, and they debate such matters as whether the ROK has done enough to reduce income differentials among various strata of its population or to improve the status of women. Yet it seems clear that in many respects the ROK has continued to make impressive, if uneven, economic and social progress. We would not be meeting here had the Park regime made commensurate progress in fostering political and civil rights. Instead, what we have witnessed since 1972 is tragic retrogression repression so thorough and comprehensive that it has created profound doubts in the U.S. and in Japan about the long-run viability of our two countries' support for the Park regime and even perhaps for the ROK itself.

This brief report on the state of human rights in South Korea will focus on three aspects: (1) state officials' arbitrary violation of the integrity of the person outside the judicial system; (2) arbitrary manipulation of the judicial system for purposes of political repression; and (3) restraints upon freedoms of expression.

ARBITRARY VIOLATIONS OF THE PERSON

As to the first, political murder has not become a staple of life in the South as it has at various times in certain communist countries and as it is today in Uganda, to cite only the leading non-Communist example. Nevertheless, there have been cases of "mysterious" deaths. For example, on October 16, 1973, Professor Tsche Chong-Kil, who spent the year 1970–72 at Harvard Law School on a prestigious Harvard-Yenching Fellowship, was picked up by the Korean Central Intelligence Agency shortly after having lamented, in a supposedly secret faculty meeting, policy brutality against some of his colleagues and students at Seoul National University's Law Faculty. He was never seen alive again. Four days later the government announced that Tsche had been arrested on charges of spying for North Korea and that after making a full confession he had committed suicide by jumping out the window of an interrogation center. Yet the accusation of spying was never substantiated, Tsche's supposed confession was never published, the report of his "suicide" has been treated with the utmost skepticism, and the fact that his widow, a medical doctor, was denied permission to examine the corpse hardly inspired confidence in what appears to have been a hastily contrived story.

Even more mysterious was the subsequent death of the ardent patriot and intellectual leader, Chang Chun-Ha, who initiated a "one million citizens' petition for a democratic amendment of the Yushin Constitution" in early 1974. When the movement began to snowball, the Park regime put an end to it by invoking newly-promulgated "emergency decrees" that authorized up to 15 years in prison for any person who "asserted, introduced, proposed or petitioned for revision or repeal" of the Yushin Constitution. Chang was arrested with his colleagues, was "hanged upside down and simultaneously . . . burned with a flame on several parts of his body," and then sentenced to the maximum term by a court-martial rather than regular court. Domestic and foreign pressures later forced the regime to release Chang and hundreds of intellectuals, students and religious and literary figures condemned by the military tribunals. Shortly afterward, however, Chang, an experienced mountain climber who had once conquered the formidable mountains of Western China to join the Chinese and Korean forces resisting Japanese imperialism, was reported to have fallen to his death from a cliff while climbing a hill near Seoul. An unidentified man was reportedly seen near him just before he fell. When a prosecutor showed interest in the circumstances of Chang's death, he was immediately hushed. Many others were puzzled but no one could afford to be too curious.

Kim Dae Jung, the charismatic democrat who made such an impressive showing against Park in the 1971 presidential election that Park put an end to such elections, was undoubtedly targeted for a similar fate. After kidnapping Kim from a Tokyo hotel room and spiriting him out of Japan by ship in August 1973, the KCIA was on the verge of dumping him overboard, bound, gagged and weighted, when a nationwide outcry in Japan and vigorous behind-the scene diplomacy by the United States saved Kim's life. Kidnapping itself, of course, is one of the most flagrant violations of the person short of murder.

Obviously, mysterious deaths and kidnaping have a profoundly chilling effect upon those who might wish to speak out against the policies of the Park regime as Tsche, Chang and Kim did, each in his own way. Yet far more intimidating has been the widespread use of torture following arbitrary arrest. This is why Korea's only living ex-President, Yun Po-Sun, has characterized the Park regime as "government by torture," for it has been highly dependent upon pervasive and systematic violations of human bodies and minds to maintain its control. The "Genghis Kan cooking" to which Chang Chun-Ha was subjected when the KCIA ran a flame over his body is only one of many exquisite and esoteric techniques the Park's missions have devised. The reports of Amnesty International and other organizations that have investigated KCIA torture have documented how cold water is forced up the nostrils through a tube, how electric shocks are applied to the genitals, toes and other sensitive parts, and how people are hung from the ceiling and spun around, beaten and kicked mercilessly, stripped naked in sub-zero weather and doused in water, made to stand or sit without sleep for days on end, and subjected to various forms of psychological intimidation.

Most of those tortured are unknown to the press and the outside world. Those whose detention tends to attract publicity are often better treated. Nevertheless, even well-known persons suffer physical abuse if their behavior is considered sufficiently provocative, as occured in the cases of Tsche, Chang and Kim. In 1975, after students recently paroled from jail spoke out against the tortures they had suffered, 13 former opposition National Assemblymen revealed that they too had been tortured shortly after President Park seized emergency powers in the autumn of 1972. One of them, Ch'oe Hyong-U, was paralyzed from the waist down as a result of this mistreatment. In his statement to the National Assembly he noted that several cattle dealers had recently been arrested for forcing their animals to drink a large amount of water to increase their weight just before they were sold for slaughter. Ch'oe asked: "Why haven't the KCIA and other agents who used water torture on national assemblymen been arrested? Are the assemblymen less important than the cattle?"

In these circumstances is it any wonder that the Park regime has gone to great lengths to hinder Congressmen like Donald Fraser and agencies like Amnesty International from interviewing victims of Park's terror? Of course, after they are released from interrogation centers and torture chambers, most victims are extremely reluctant to talk about their experiences, out of fear that government agents might make good their threats to retaliate against those who break their silence. In some cases shame is also a factor. For example, in his speech to the National Assembly, Ch'oe Hyong-U declined to reveal details of his wife's torture on the ground that human decency prevented him from describing it. A number of women students who protested against Park's repression have been arrested by the KCIA, tortured and repeatedly raped, as in the case of several Ewha University students in late 1973. Understandably, most of these rape victims have kept silent about their ordeal.

In many cases people have been tortured not so much to elicit information and evidence from them as to intimidate them. Large numbers of persons have been detained, interrogated, tortured and then released after a few days, with no thought apparently given to bringing any legal proceeding against them. Like the even more widespread overt surveillance of people's homes, their activities and their mail, this type of official action is designed to frighten Koreans into conformity.

In other cases torture has been applied for the specific purpose of obtaining evidence to be used in criminal prosecutions. One of the most grisly instances of this involved So Song, a handsome Korean resident of Japan who had returned home to study at Seoul National University. By the time he appeared in court on espionage charges after interrogation by the KCIA, his body and face were horribly burned. His eyelids and ears had disappeared, his fingers had adhered together, and his eye-glasses had to be bound to his head. His condition presented a certain challenge to interrogators who operated under bureaucratic requirements that the accused authenticate his confession by placing his fingerprints upon it. Since So had no fingers left, his captors proved as imaginative as they were punctilious by having him authenticate his confession with a toe-print. The fact that the Yushin Constitution maintains the previous Constitution's prohibition of torture did not lead the court to exclude the confession from evidence, for the new Constitution pointedly fails to retain its predecessor's ban on the admission of coerced confessions.

Another gruesome case that is far from unique is that of medical student Suh Kwang Tae, who in late 1975 was seized by the ROK Counter Intelligence Corps on suspicion of espionage. By the time he appeared for trial, he was obviously deranged and unable to recognize his relatives. Nevertheless he was sentenced to 15 years in prison. After a month in a hospital he recovered his sanity and repudiated the purportedly "voluntary"

confession that had helped to convict him. Suh's arms were scarred by what he said had been the lighted cigarettes of army investigators. He also testified that he had been beaten and forced to kneel with a stick behind his knees while men wearing army boots stamped on his legs, that he had been denied food and sleep for seven days, that he had been tortured until he became unconscious and that a stick had been poked into his stomach until he vomited blood. Yet, Suh claimed, it had been the psychological torture of being held in solitary for six months without access to family visitors, and not the physical abuse, that had driven him mad. After hearing Suh's testimony the appellate court confirmed the verdict but reduced his sentence to eight years.

ARBITRARY MANIPULATION OF THE JUDICIAL PROCESS

If such drastic methods have to be used to obtain evidence for formal legal proceedings, the pressure becomes enormous to distort those proceedings in order to prevent revelation of the methods of extracting the evidence as well as the dubious nature of the evidence itself. Thus the judicial process has inevitably become corrupted in various ways despite the continuing claim of regime spokesmen that "the independence of the judiciary is guaranteed by the Constitution, and is not subject to interference by anyone." The classic case was the 1974 conviction of 22 members of the so-called "People's Revolutionary Party" for alledgedly having organized to overthrow the government and replace it with a regime sympathetic to North Korea. By universal—not merely Western—standards of fairness, the judicial process by which those defendants were tried can only be termed a farce.

The trial was held not before a regular court but before a military tribunal established by the 1974 emergency decrees. Hearings were closed, with only one member of each defendant's family allowed to attend. The "confessions" submitted as evidence were admitted even though they were extracted under hideous forms of torture. Moreover, 42 prosecution witnesses testified in the absence of defense lawyers, who were apparently under house arrest at the time. In any event the defense was not permitted to question prosecution witnesses and statements. No defense witnesses were allowed. Government-controlled media proclaimed the guilt of the accused before judgment was rendered. No foreign journalists were permitted at the trial because, according to the Prime Minister, "[t]here was too great a risk they might misunderstand and misrepresent what happened in court." In April 1975, after the Supreme Court upheld the eight death sentences and all but two of the prison sentences meted out below—but before the accused could exercise their rights to petition the Supreme Court for retrial and petition the President for mercy—the eight condemned to death were unlawfully hung, despite assurances from the Public Prosecutor's Department that no executions would take place until the accused had an opportunity to exhaust their rights.

The government cremated the bodies of a number of those executed, thereby preventing any examination for signs of physical torture. After a careful investigation that pieced together a coherent account of this case, Amnesty International concluded that the charges against the so-called PRP had been fabricated just as a 1964 prosecution of the same group had been.

Because of the outcry at home and abroad against these judicial murders—even the normally discreet U.S. Department of State protested—and because resort to courts-martial for punishing civilians is generally unattractive, military tribunals no longer enforce Park's continuing rule by emergency decree. Yet the regular courts that have had to deal with subsequent political prosecutions have behaved in most irregular fashion. This was demonstrated by the trial of Kim Dae Jung and the 17 other prestigious leaders who on March 1, 1976, issued a declaration of national conscience calling upon President Park to resign and restore democratic government. The March 1 group was immediately proscribed for violating Emergency Decree No. 9, a Draconian catch-all that prohibits 'disseminating falsehood," opposing the new Constitution that guarantees Park's one-man rule and publicly defaming" the emergency decree itself. The three levels of judicial proceedings that resulted in long prison sentences for the principal "offenders," and even longer deprivations of political and civil rights for virtually all, mocked minimal standards of fairness.

Although the accused and their families demanded an open and free trial, the admission of spectators was restricted to limited numbers of ticket-holding friends and relatives, and the trial was conducted in what the Washington Post reporter on the scene called "an atmosphere of intimidation and hostility." Since the defendants were charged with disseminating groundless rumors and misrepresenting facts, they sought to call a variety of witnesses to demonstrate the truth of what they had stated, but the court permitted merely three. The only defense witness allowed to testify in support of their statements on the economy was taken to the KCIA office prior to his court appearance, so that, by the time he testified, he had become a prosecution witness; this economist who had often criticized the regime's reliance upon foreign lenders and investors dropped his head and kept silent when questioned by the defense. Frustrated by the court's refusal to allow the testimony and documentary evidence they sought to introduce, defense attorneys walked out in protest. They were also outraged by the regime's refusal to allow them freely to confer with the dependents who were in detention.

The bizarre nature of the trial is best illustrated by the fact that the accused were not permitted to challenge the validity of the decree they were charged with violating because by its terms it had prohibited judicial scrutiny. Moreover, despite the fact that the prosecutors were permitted to quote passages from the March 1 declaration to support their case, the defendants were precluded from showing why those statements were accurate. Nevertheless, in the hope of giving the appearance of a fair trial, the defendants were allowed to deliver long orations, often including opinions that would bring arrest outside the courtroom, since the court was confident that the heavily censored news media would give the public no hint of the views expressed. "These aren't legal proceedings," one diplomat declared. "They remind you of showcase trials in Communist countries."

There was never any danger that the defendant's arguments might persuade the judges. Not only were they precluded by law from considering challenges to the emergency decree itself, but Park's "revitalizing reforms" have subjected the judiciary to a "reappointment" process that has screened out the less cooperative elements. Scores of judges have been purged, including nine of the ten Supreme Court judges who constituted the majority vote in a landmark decision rendered just before "revitilization" that aroused Park's ire. Thus one can well understand why the March 1 group called for the creation of a judiciary that is truly independent of the political authorities and capable of protecting the people against tyranny.

LEGAL SERVICES FOR THE ELDERLY AND POOR

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MURPHY of New York. Mr. Speaker, the United Jewish Council of the East Side is an organization providing social services for the elderly and poor on the Lower East Side of Manhattan. The executive director of this council, Rabbi Joseph Langer, has been very active in securing improved legal services for the ethnic poor of the Lower East Side. Rabbi Langer recently appeared before the Board of Directors of the Legal Services Corporation to discuss the council's interest in this matter. I include his statement at this point which I commend to your reading:

LEGAL SERVICES FOR THE ELDERY AND POOR

The United Jewish Council of the East Side, a coordinating body of forty-five neighborhood religious, secular, civic and fraternal organizations, has been serving as an advocate on behalf of the elderly and poor for almost a decade. The Council sponsors a variety of projects to assist Lower East Side residents, currently operating out of seven offices within the neighborhood. Similar Jewish Community Councils can be found in more than 20 neighborhoods throughout New York City and in most major metropolitan areas within the United States.

Many Jewish Community Councils were born as a result of feelings of systematic exclusion of the Jewish Poor and other ethnic poor from Office of Economic Opportunity (OEO) programs when they were initiated during the mid-sixties. A report by the New School for Social Research then estimated that 272,000 or 15.1% of the Jewish population of New York City fell below the poverty level. On the Lower East Side of Manhattan a study for the Brookdale Foundation indicated 26.5% of the Jewish population can be considered poor.

The Inspection Division of OEO and the New York Human Resources Administration Office of Review have confirmed the exclusion of the Jewish poor from New York City anti-poverty projects. Senator Daniel P. Moynihan has excellently documented this factor in his book Maximum Feasible Misunderstanding which I highly recommend. Since my time is limited to elaborate comprehensively on this topic, I will be glad to provide a copy of my paper Anti-Poverty Efforts and the Ethnic Poor: A Decade of Exclusion to the members of the Board of the Legal Services Corporation.

I am happy to report that during the last few years the City's Administration has made significant attempts to resolve the many issues that particularly affect the ethnic poor. In the forefront of this effort have been the members of New York City's Congressional delegation.

The Jewish Community has always been a strong supporter of the concept of free legal services to the poor. I would like to underscore and reaffirm our belief in the need for legal protection to all regardless of economic circumstances. Personally I am proud to have served on the Advisory Board to the Brooklyn C.A.L.S. office for the last three years.

To successfully provide legal services to all the poor I would like to offer some suggestions and comments from our experiences during this last decade.

OUTREACH

To successfully fulfill the mandate of service to the poor a neighborhood storefront cannot be opened with the expectation that all poor will immediately "break down the doors" seeking assistance and relief.

There are many barriers; age, handicaps, language, cultural isolation or tradition, fear and economics are just a few that prevent utilization of this service by all poor. This is an area neglected by some offices.

The delivery system established in each office should provide the mechanism to address these problems. There are many innovative approaches that result in success. They range from circuit riding—outposting staff in local institutions, i.e. senior centers, housing projects, clubs, schools—to door to door information outreach in certain specified residential sections of a neighborhood.

It can include speaking engagements by the managing attorney at locations where the poor congregate informing them of their legal rights—preferably in their own language—and describing the services the Local Legal Services office can provide. It may be necessary to deal with the entire framework of free service, which to many groups of poor smack of welfare and is frowned upon through a traditional cultural reluctance of taking "relief". A useful tool is the utilization of the ethnic media, press, radio, and television, to get this message across. Multilanguage mailing is highly effective to target population groups. Lists are available through churches, senior centers, housing projects, clubs and local governmental agencies.

In New York City outreach is continuously waged by the Department for the Aging, in mandating that programs under Title III and VII of the Older Americans Act, have outreach components. Many of the techniques mentioned previously have successfully been adapted in Council projects aimed at reaching the isolated, homebound and non-English speaking.

Other governmental agencies—the Social Security Administration, Department of Social Services, to mention just a few—have initiated projects aimed at reaching this population.

Of course language proves to be the fundamental problem.

LANGUAGE

I am sure I do not have to elaborate on the problem of language in the delivery of legal services. Section 1006(b)(6) of the Legal Services Corporation Act states "In areas where significant numbers of eligible clients speak a language other than English as their princioal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients." I am afraid that some legal services projects, intentionally or unintentionally, are violating this part of the Act.

We find a lack of adequate Yiddish speaking personnel in legal services projects in New York City. This is true at all levels—attorney, clerical and social work.

In other areas of government there have been affirmative attempts to meet the need of the Yiddish speaking. As a result of Executive Order 11625 the Department of Commerce has effectively extended their services and those of the Office of Minority Business Enterprise to the Yiddish speaking. The Social Security Administration publishes Social Security, S.S.I. and Medicare informational pamphlets and forms in Yiddish. Department of Health, Education and Welfare Secretary Joseph Califano has directed HEW agencies to make efforts in this area. The Alcohol. Drug Abuse and Mental Health Administration Minority Advisory Committee has been asked by the Secretary to include the Yiddish speaking community in its deliberations.

New York State and City employ Yiddish as a language in hiring personnel for programs and compoosing documents and forms. The New York City Board of Education offers bi-lingual programs in its schools in Hebrew, Yiddish and Russian. Incidentally, the concentration of Soviet immigrants in New York has become overwhelming. They are unfortunately a new large class of Jewish poor that must be assisted.

GROUP REPRESENTATION

Perhaps the most difficult question facing legal services projects is the representation of groups or classes of poor clients. This issue must be addressed by the Legal Services Corporation in the context of developing policy and adequate grievance procedure for when inter-group conflict arises. Compliance with Section 1607.3(a) of the Legal Services Act, providing integrated poor representation of Legal Services Project Boards, is one step to resolution of this issue.

We have witnessed legal services projects strongly emphasize community development; with the net result of the exclusive representation of one group, leading to conflict and the polarization of poor against poor. Hand in hand goes the role as "house counsel" to anti-poverty agencies. The goals of some of the agencies may be questionable.

As you are aware, community development is not primarily limited to appearance in the courts. It is the systematic representation at all levels of governmental agencies and elected officialdom. This means local school boards, community planning boards, hospital boards, mental health boards, poverty boards, health systems agency boards, and local housing projects boards. It means meeting with planners, developers, financiers, packagers, banks, private and non-profit housing companies.

One poor group will see the benefit of the utilization of urban renewal land for the development of much needed low income housing. Another may see it as a tool for economic development projects that translate in jobs for poor neighborhood residents. This group is not against housing for the poor. . . It perceives the interests of the poor differently.

Exclusive representation can actually exclude a poor group from the entire system with no mechanism to legitimately represent its interests. Inter-group conflict intensifies polarizing poor against poor. A vehicle must be established to represent the poor denied counsel.

I appreciate this opportunity to present my views. I respectfully urge that the Corporation focus on these significant issues with corrective action wherever possible to be an immediate goal. Thank you.

WHEN EVERY FARM HAD A HIRED MAN

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. NOLAN. Mr. Speaker, for enjoyment and something light to think about, I direct the attention of my colleagues to the following article, which aptly describes what it was like "when every farm had a hired man."

WHEN EVERY FARM HAD A HIRED MAN

(By Dave Wood)

Strides in agricultural mechanization are sweeping a picturesque character from our midst. Time was when every one of our neighbors who farmed more than 80 acres and milked more than 15 Holsteins also fed and sheltered that wonder of rural wonders, a Hired Man.

Nowadays, with pipeline milking systems, self-propelled combines and tractor-powered augers that dig a post hole zip-zip, the hired man has been dumped on the garbage heap of progress, along with the sulky plow, the corn binder and the DeLaval cream separator.

But anyone who grew up on a farm in the '40s remembers the three basic types of hired men.

First, there was the Married Hired Man, Edward. He and his wife Mathilda worked for the "well-fixed" farmer and lived with their kids in a rent-free bungalow down by the cow pasture. He got free milk from the milk house, free eggs from the hen house, a side of beef every year and $50 to $75 a month, whether he needed it or not. Edward lacked vision and the spirit of adventure—but he was "steady."

Then there was the Neighbor Boy Hired Man, Leroy. He came from a large family at the end of the coulee. He helped with chores morning and night during the winter and rode the bus to high school in town. In the summer, Leroy worked a 12-hour day, his pay went up, he bought an old Model A, hung a squirrel tail from its aerial and then rolled it over the first time he drove it to a Wednesday night dance. The following week, Leroy joined the U.S. Army.

And finally there was the Confirmed Bachelor Hired Man, Adolph. Adolph was Norwegian. And he was 54 years old. He'd sold his share of the home place to his married brother Norris years back. Although Norris had never bothered to pay him, Adolph was happy to have shucked off "awl dat ree-sponsability." Adolph wore long johns year 'round, smelled not unpleasantly of sweat and horse manure.

He said little to the farmer and nothing at all to his wife, managing a wisp of a grin if she served lutefisk, gammel ost or blood klub for supper. But he was good to their kids. He teased the little girl about "dat Nelson boy" across the road, and he taught the boy how to whittle.

Adolph built the straightest fence in the coulee. He knew more horse remedies than the veterinarian. He shocked a shock of oats that never fell down. He stacked straw at threshing time with the artistry of Peter Paul Rubens.

And he drank. Like a fish. On Saturday night, Adolph got his pay check and headed for town, on foot, and didn't return until the money was gone. Prof. Einar Johnson of Augsburg's Education Department well remembers his father's Adolph. Seems that Einar worked every Saturday with Adolph:

"Val, Einar, it's Saturday agin, kid."

"That's right, Adolph."

"Yah, it'ss Saturday. Ay gass ay gott go tew town tewnight an' get *drunk*. Dew-ay ever *dread dat!*"

And off he'd go to Alexandria, where the bartenders were waiting.

Curiously, the rigors of such a weekly ritual never seemed to take their toll on Adolph. "Goldarn, but that Adolph sure is a tough son-of-a-buck," said the townspeople as they watched Adolph stride back toward the farm on Monday morning, late for milking.

Recently, two farmer friends and I traded Adolph stories regarding his physical durability. Art Munson told us a story about an Adolph he'd hired back in the '40s.

"Damned if Adolph didn't go tew town diss vun veekend. He came back tew home on Sunday night, but he couldn't find da house. He got intew da silo rehum an' apparently taught it vuss hiss bedrheum. I gass he must haf laid down right in al da silage jewce. Becuss vhen vee found him on Monday morning, hiss hair vuss *froze* right tew da floor! Vee had tew pore hot vatter on hiss hair yustt tew gat him lewce."

"My God, Art, did he die?"

"Die, Hell! Heece op at da old folk's home right now. Heece ninety-tree jeerce old."

Our Adolph never got frozen to the silo-room floor, but he was usually late for Monday morning milking. And he didn't live to be 93. Just 81. When I read in the Whitehall Times last week that Adolph had "passed away at the home of his sister," I thought hard about Adolph, how he smelled, how he built fence, how he stacked straw, how he shoveled lutefisk, and I went down into our south Minneapolis basement and got me a stick to whittle.

HOUSE OF REPRESENTATIVES—*Friday, October 14, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The righteous shall be glad in the Lord, and shall trust in Him.—Psalms 64:10.

Our Father God, we offer unto Thee the gratitude of our hearts for Thy goodness to us and we pray that Thou will grant unto us, the Representatives of our people, the wisdom we need that with understanding and positive thinking we may make sound decisions and pass just laws for the benefit of our Nation.

Give to us strength of body, clarity of mind, and health of spirit which will enable us to face the challenges of this day with courage and live through the troubles of these times with faith and hope. In times of doubt give us light; in periods of despair give us life; and in moods of discouragement give us love that we may make this day a better day for our people and every tomorrow a better day for all Thy children. In the spirit of Him who gives life to all we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 4018) entitled "An act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. BUMPERS, Mr. METZENBAUM, Mr. MCCLURE, Mr. BARTLETT, Mr. DOMENICI, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate numbered 3 to the bill (H.R. 5037) entitled "An act for the relief of Jack Misner," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. HATFIELD, Mr. MCCLURE, Mr. WEICKER, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the amendment of the Senate numbered 6 to the bill (H.R. 5146) entitled "An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. HASKELL, Mr. FORD, Mr. JOHNSTON, Mr. ABOUREZK, Mr. DURKIN, Mr. METZENBAUM, Mr. MCCLURE, Mr. BARTLETT, Mr. DOMENICI, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the amendment of the Senate numbered 8 to the bill (H.R. 5289) entitled "An act for the relief of Joe Cortina of Tampa, Florida," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. HASKELL, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. MCCLURE, Mr. BARTLETT, Mr. WEICKER, Mr. DOMENICI, and Mr. LAXALT to be the conferees on the part of the Senate.

THIRTIETH ANNIVERSARY OF BREAKING THE SOUND BARRIER

Mr. DORNAN. Mr. Speaker, today, I would like to salute a remarkable American and a remarkable Air Force. Thirty years ago today, Capt. Charles E. "Chuck" Yeager climbed into the Bell XS-1 rocket powered research plane at Muroc, Calif., now Edwards AFB, and took a historic flight for his service, his country, the world. That day, he became the first man to fly faster than the speed of sound.

While he eventually became a national hero because of that flight, recognition of his great feat was delayed because the flight was classified. Only a few knew of his bravery or of the accomplishment of our Air Force. Fewer still knew that Yeager had broken three ribs in an accident the day before the flight, kept it to himself and obtained a special device to enable him to close the X-1's door.

As his military records reflect, now-General Yeager has always shown great courage and heroism in both war and peace. That first supersonic flight was as meaningful as any in winged flight because it was truly a step into the unknown—a world Chuck Yeager has never feared.

His exploits make him one of America's most honored fliers. A double ace in World War II with 13 victories, General Yeager has flown more than 10,000 hours in 155 different types of aircraft. During 9 years as the Nation's leading test pilot he also became the first man to fly mach 2 in the Bell X-1A on December 12, 1953.

General Yeager has received all of his country's top awards for contributions to the history of flight, including the Collier, Mackay, and Harmon trophies.

On December 14, 1973, at age 50, he became the youngest and first military person on active duty ever to be enshrined in the Aviation Hall of Fame.

On February 28, 1975, Chuck retired after 34 years of service. On December 23, 1975, the President, on behalf of the Congress, presented him with a special medal for his historic flight in the Bell XS-1 rocket which now hangs next to Lindbergh's *Spirit of St. Louis* in the National Air and Space Museum.

After President Ford so honored Chuck this airman without peer indicated his desire to retire to his home in Indio.

After all, General Yeager has earned his right to relax in the Sun.

PERMISSION FOR SUBCOMMITTEE ON MERCHANT MARINE OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO MEET TODAY DURING 5-MINUTE RULE

Mr. ZEFERETTI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries may be permitted to meet today during the 5-minute rule to have a hearing on H.R. 9518, to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the United States foreign trade.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. ZEFERETTI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce may be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING SPEAKER TO APPOINT RESIDENT COMMISSIONER FROM PUERTO RICO TO SELECT COMMITTEE ON POPULATION

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint the Resident Commissioner from Puerto Rico as one of the members of the Select Committee on Population authorized by House Resolution 70.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I am not certain I heard the gentleman. I wonder if the

gentleman could tell us what committee this is?

Mr. WRIGHT. Mr. Speaker, it is the Select Committee on Population.

The SPEAKER. It is an appointment to the Select Committee on Population.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON POPULATION

The SPEAKER. Pursuant to the provisions of House Resolution 70, 95th Congress, and the authority of the House just granted, the Chair appoints as members to the Select Committee on Population the following Members and Resident Commissioner from Puerto Rico: Mr. SCHEUER, New York, chairman; Mr. HARRINGTON; Mrs. COLLINS of Illinois; Mr. NEAL; Mr. RICHMOND; Mr. SIMON; Mr. AKAKA; Mr. BEILENSON; Mr. GEPHARDT; Mr. KILDEE; Mr. CORRADA; Mr. ERLENBORN; Mr. MCCLOSKEY; Mr. KINDNESS; Mr. HOLLENBECK; and Mr. STOCKMAN.

CONFERENCE REPORT ON H.R. 6415, EXPORT-IMPORT BANK ACT EXTENSION TO SEPTEMBER 30, 1978

Mr. NEAL. Mr. Speaker, I call up the conference report on the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1977.)

Mr. NEAL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. The gentleman from North Carolina (Mr. NEAL) and the gentleman from Ohio (Mr. STANTON) will will be recognized for 30 minutes each.

The Chair recognizes the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 6415 retains almost all the provisions of the bill the House passed in May by a 281 to 126 vote. It deserves our full support.

I would like to take a few minutes to explain the need for this legislation and the few changes that were made in conference. The Eximbank is the official export credit institution of the United States. All the major trading nations have similar institutions or programs, some of which are heavily subsidized.

Exim's function is to foster the expansion of U.S. exports by extending credit and guaranteeing loans in support of export sales. Since it lends at market-related rates, it makes a profit and pays its own way. It has a beneficial effect on our balance of trade and was responsible for 500,000 U.S. jobs in 1977.

The Bank requires a 3-month extension of its charter—from June 30, 1978, to September 30, 1978—in order to bring its programs in line with the recently revised fiscal year. This provision of H.R. 6415 was agreed to by the Senate.

The need for a 3-month extension gave us an opportunity to deal with other issues such as human rights, nuclear exports and subsidized export financing that are simply too important to wait until next year, when the Bank will require a charter renewal and new commitment authority.

The human rights provision of H.R. 6415 was designed to insure that the Bank's actions are consistent with U.S. human rights policy. The provision recognized that the Bank is not an aid program, but a trade promotion institution. It called on Exim's Board of Directors to "take account" of the human rights situation in the country to receive the Exim-supported exports and also of the effect the export itself would have on the human rights situation.

This provision was accepted in principle by the Senate, but altered slightly in conference to make clear that the Bank should rely on the State Department for advice on human rights rather than make its own determination. The Bank has already begun to act in accordance with the intent of this amendment. The Department of State reviews proposed Bank credits from a U.S. foreign policy perspective, including a human rights consideration. H.R. 6415 insures that Eximbank actions will continue to be consistent with U.S. human rights policy.

The House-passed provision concerning international competition in export financing was revised slightly in conference to mandate the Bank to cooperate with other U.S. Government agencies in international negotiations directed toward reciprocal reduction of Government-subsidized export financing. The Bank is already engaged in negotiations toward reducing international competition in export financing. The conferees deleted language which could have been misconstrued to imply a desire for unilateral reduction in U.S. export financing.

All but one of several House-passed provisions concerning nuclear exports were accepted by the conferees. The conference provisions would: Require Exim to bring any nuclear-related loan to Congress for the same 25-day consideration period that loans over $60 million must now pass; mandate that any country which materially violates U.S. or International Atomic Energy Agency (IAEA) safeguards, or detonates a nuclear device—except the United States, Britain, France, China, and Russia—shall receive no more Exim support, unless the President waives the prohibition for "national interest" reasons; and prohibit the Bank from supporting the export of liquid metal fast breeder nuclear reactors and nuclear fuel reprocessing plants, neither of which has ever been exported.

The House provision requiring advance consultation between Congress, and the Secretary of State and the Director of the Arms Control and Disarmament Agency before any proposed Eximbank financing of nuclear exports has been replaced by language in the report. The administration agreed to conduct such consultations upon request by the appropriate committees or subcommittees of Congress. Letters to that effect are appended to the conference report.

This legislation is supported by the Eximbank, and the State and Treasury Departments. It was cosponsored by all 19 members of our International Trade Subcommittee and passed the Banking Committee with only one dissenting vote. It passed the House by over a 2 to 1 margin, and the Senate without objection. The conference report deserves our full support.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to support the conference report before us.

This is in fact quite a noncontroversial conference report. In the bill, which you will remember we passed handily under suspension of the rules, the Congress takes care of minor technical problems in the U.S. Export-Import Banks authorization legislation.

The main purpose of H.R. 6415 is to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978, to September 30, 1978, in order to bring the Bank's statutory operating authority into line with the fiscal year. When the Export-Import Bank Act was last extended, the fiscal year ended on June 30; since the fiscal year has now been changed to end on September 30, the expiration date of the Export-Import Bank Act required changing as well. The House and the other body were in agreement on the need for this 3-month extension of the Bank's authority.

The difference between the House and the other version arose from the inclusion by the House in this extension bill of substantive amendments concerning human rights, international export financing competition, and antinuclear proliferation policy. The other body deleted these sections from H.R. 6415 on the grounds that such amendments could be considered when a bill to approve a multiyear extension of the Eximbank is before Congress. The House refused to give up its amendments and a conference was called.

Following consultations with our colleagues in the other body, we agreed to some modifications in the House language to satisfy a few valid objectives which they raised. There are only three such changes.

First, in the human rights section, we changed the language slightly to make sure it was understood that the Export-

Import Bank was to rely on the State Department for information on whether the proposed Exim transaction involves a human rights violating country. We believe the new language is absolutely clear. My colleagues would be interested to know that the Eximbank on its own has begun submitting proposed projects to the State Department for guidance on human rights conditions in anticipation of this legislation.

Second, the conferees cleared up a section of the bill which could have been wrongly construed as requiring Exim to unilaterally reduce its official export financing. In the revised language, Exim is required to continue its negotiations with other countries to reduce their export subsidies.

Finally, in the realm of financing nuclear power exports, the conferees agreed to scrap the somewhat cumbersome consultation process. The original language would have required a meeting between a State Department representative, an Arms Control and Disarmament Agency representative, and the Congress. The committee has now received letters from State and the Arms Control Agency expressing their willingness to consult with us whenever there is a question about the nuclear proliferation aspects of any Eximbank transaction.

All conferees have signed this conference report and it enjoys the support of the administration and the Export-Import Bank. Again, let me remind my colleagues that the Export-Import Bank will be before the Congress again next year for its multiyear authorization. We have already begun a thorough review of the Eximbank's policies in anticipation of our hearings early next year.

I urge support for this conference report.

Mr. ROUSSELOT. Mr. Speaker, I have serious misgivings regarding this legislation. It is important, as the House recognized, that any extension of the Export-Import Bank Act be coupled with a determined effort to achieve, through international negotiations, the elimination of "all forms of government supported export financing." The conference report provides a mandate for such negotiations to proceed, and I would hope that the U.S. Government will work vigorously to negotiate the necessary agreements without undue delay.

I believe that the conference report language on human rights has several significant shortcomings:

One. The committee of conference deleted the requirement that the Export-Import Bank take into account "all available information" concerning human rights conditions in the country which receives assisted exports. I believe it is desirable to insure that the Bank would consider views from all available sources which might bear on the human rights implications of exports and that "principal" reliance upon the Department of State may reduce the ability of the Bank to make a fully informed judgment on the merits of a loan.

Two. The deletion of the reference to "fundamental freedoms" is unfortunate. Although I would agree that "fundamental freedoms" could be said to be encompassed within the term "human rights," if we are sincerely interested in promoting the cause of human rights, we should take every opportunity to explain what we consider the term to mean, so that "human rights" cannot be interpreted in any manner which would be inconsistent with the total disregard for fundamental freedoms by the governments of such countries as the Soviet Union, Communist China, and Uganda.

Three. Finally, it is unfortunate that the Bank will no longer be required, but will only be permitted, to take the human rights situation in a given country into account in determining whether to assist exports to that country. The conference report states that:

> The reason for this change is that, the conferees recognize that the effect of the exports on human rights cannot be predicted with certainty and precision, and therefore, prefer language which reflects such indeterminacy.

I do not believe that the fact that human rights effects canot be predicted precisely is a sufficient excuse for relieving the Export-Import Bank of the duty to take human rights considerations into account.

In my opinion none of the above changes does anything to advance the cause of human rights for which the Carter administration so loudly proclaims its commitment at the same time that it quietly accepts weakening amendments.

Mr. REUSS. Mr. Speaker, as one of the seven House conferees on H.R. 6415, I rise in support of the conference report. The Senate adopted virtually all of the House-passed bill, which was approved in May by a 281 to 126 vote. The bill was sponsored by all 19 members of the Subcommittee on International Trade, Investment and Monetary Policy. Mr. Neal, the subcommittee chairman, is to be congratulated for his leadership in getting such wide-ranging support for the legislation, as is Mr. STANTON of Ohio, the ranking minority member, who has also done an outstanding job.

The House and Senate conferees were in agreement on the need to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978, to September 30, 1978, in order to have the Bank's authority coincide with the fiscal year.

The disagreements on House provisions concerning human rights, nonproliferation policy, and international export credit competition were resolved by compromise language that clarifies the intent of the House on these provisions. The conference report on the bill insures that Eximbank loans and guarantees are consistent with U.S. policy on human rights and nuclear powerplant financing without imposing additional burdens on the Bank's staff.

Exim is mandated to get human rights clearance on its transactions from the State Department—which it is already doing. On nuclear-related Exim exports, the State Department and Arms Control and Disagreement Agency have agreed in letters to conduct thorough consultations upon the request of the appropriate committees or subcommittees. The conference report, like the House-passed bill, also requires that the Bank increase its efforts to achieve reciprocal international reductions in Government-supported export financing.

The legislation is supported by Exim and the Treasury and State Departments. It has already been overwhelmingly approved by the House and the Senate. I support this report as submitted by the conference committee and urge my colleagues to do the same.

Mr. STANTON. Mr. Speaker, I have no further requests for time.

Mr. NEAL. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 62, not voting 91, as follows:

[Roll No. 654]

YEAS—281

Akaka	Corman	Grassley
Alexander	Cornell	Gudger
Allen	Cornwell	Hagedorn
Ambro	Cotter	Hall
Ammerman	Coughlin	Hamilton
Anderson, Calif.	D'Amours	Hanley
	Daniel, Dan	Hannaford
Andrews, N. Dak.	Daniel, R. W.	Harris
	de la Garza	Hawkins
Annunzio	Delaney	Hefner
Applegate	Dellums	Heftel
Ashley	Derrick	Hightower
Aspin	Derwinski	Hillis
Baldus	Dicks	Horton
Barnard	Dingell	Howard
Baucus	Downey	Hubbard
Beard, R.I.	Drinan	Huckaby
Bedell	Eckhardt	Hughes
Benjamin	Edgar	Hyde
Bennett	Edwards, Ala.	Ireland
Bevill	Edwards, Calif.	Jeffords
Blanchard	Eilberg	Jenkins
Blouin	English	Jones, N.C.
Boggs	Erlenborn	Jones, Okla.
Boland	Ertel	Jones, Tenn.
Bonior	Evans, Del.	Jordan
Bonker	Evans, Ga.	Kastenmeier
Brademas	Evans, Ind.	Kazen
Breaux	Fary	Kildee
Breckinridge	Fascell	Kostmayer
Brinkley	Fenwick	Krebs
Brodhead	Findley	LaFalce
Broomfield	Fish	Le Fante
Brooks	Flippo	Leach
Brown, Calif.	Flood	Lederer
Brown, Mich.	Florio	Leggett
Broyhill	Flowers	Lehman
Burlison, Mo.	Foley	Lent
Burton, Phillip	Ford, Tenn.	Levitas
Butler	Forsythe	Lloyd, Calif.
Carney	Fountain	Long, La.
Carr	Fraser	Long, Md.
Cavanaugh	Frenzel	Lott
Cederberg	Fuqua	Luken
Chappell	Gammage	Lundine
Chisholm	Gaydos	McClory
Cleveland	Gibbons	McCloskey
Cochran	Gilman	McCormack
Cohen	Ginn	McDade
Coleman	Glickman	McEwen
Conable	Gonzalez	McFall
Conte	Gore	McHugh
Corcoran	Gradison	McKinney

Madigan	Pattison	Steers
Mahon	Pease	Steiger
Markey	Perkins	Stockman
Martin	Pettis	Stokes
Mathis	Pike	Stratton
Mattox	Preyer	Studds
Mazzoli	Price	Stump
Meeds	Pritchard	Teague
Meyner	Quie	Thompson
Michel	Railsback	Thone
Mikulski	Rangel	Thornton
Mikva	Regula	Trible
Milford	Rhodes	Tsongas
Minish	Richmond	Tucker
Mitchell, Md.	Rinaldo	Udall
Mitchell, N.Y.	Rodino	Vander Jagt
Moffett	Rogers	Vanik
Mollohan	Rooney	Vento
Montgomery	Rosenthal	Waggonner
Moore	Ruppe	Walgren
Moorhead, Calif.	Ryan	Walsh
Moorhead, Pa.	Sarasin	Wampler
Murphy, Ill.	Sawyer	Watkins
Murphy, Pa.	Scheuer	Weiss
Murtha	Schroeder	White
Myers, Michael	Sebelius	Whitehurst
Natcher	Seiberling	Whitley
Neal	Sharp	Whitten
Nedzi	Shipley	Wilson, Bob
Nichols	Sikes	Wilson, C. H.
Nix	Simon	Winn
Nolan	Skelton	Wirth
Nowak	Skubitz	Wright
O'Brien	Smith, Iowa	Wydler
Oakar	Smith, Nebr.	Wylie
Oberstar	Solarz	Yates
Obey	Spellman	Yatron
Ottinger	St Germain	Young, Fla.
Panetta	Staggers	Young, Tex.
Patten	Stangeland	Zablocki
Patterson	Stanton	Zeferetti
	Stark	

NAYS—62

Abdnor	Fithian	Myers, Gary
Archer	Flynt	Myers, John
Armstrong	Hammer-schmidt	Poage
Ashbrook	Hansen	Pressler
Badham	Harsha	Quayle
Bauman	Holt	Quillen
Burgener	Holtzman	Risenhoover
Burke, Fla.	Ichord	Roberts
Burleson, Tex.	Jenrette	Robinson
Byron	Kasten	Rousselot
Caputo	Kelly	Satterfield
Carter	Ketchum	Schulze
Collins, Tex.	Kindness	Shuster
Davis	Lagomarsino	Snyder
Devine	Latta	Spence
Dickinson	Lloyd, Tenn.	Symms
Dornan	McDonald	Taylor
Duncan, Tenn.	Marlenee	Traxler
Early	Miller, Ohio	Volkmer
Edwards, Okla.	Mottl	Walker
Emery		Weaver

NOT VOTING—91

Addabbo	Fisher	Moakley
Anderson, Ill.	Ford, Mich.	Moss
Andrews, N.C.	Fowler	Murphy, N.Y.
AuCoin	Frey	Pepper
Badillo	Gephardt	Pickle
Bafalis	Giaimo	Pursell
Beard, Tenn.	Goldwater	Rahall
Bellenson	Goodling	Reuss
Biaggi	Guyer	Roe
Bingham	Harkin	Roncalio
Bolling	Harrington	Rose
Bowen	Heckler	Rostenkowski
Brown, Ohio	Holland	Roybal
Buchanan	Hollenbeck	Rudd
Burke, Calif.	Jacobs	Runnels
Burke, Mass.	Johnson, Calif.	Russo
Burton, John	Johnson, Colo.	Santini
Clausen, Don H.	Kemp	Sisk
Clawson, Del	Keys	Slack
Clay	Koch	Steed
Collins, Ill.	Krueger	Treen
Conyers	Livingston	Ullman
Crane	Lujan	Van Deerlin
Cunningham	McKay	Waxman
Danielson	Maguire	Whalen
Dent	Mann	Wiggins
Diggs	Marks	Wilson, Tex.
Dodd	Marriott	Wolff
Duncan, Oreg.	Metcalfe	Young, Alaska
Evans, Colo.	Miller, Calif.	Young, Mo.
	Mineta	

The Clerk announced the following pairs:

Mr. Dent with Mr. Anderson of Illinois.
Mr. Addabbo with Mr. Frey.
Mr. Koch with Mr. Pursell.
Mr. Bingham with Mr. Bafalis.
Mr. Murphy of New York with Mr. Goldwater.
Mrs. Burke of California with Mr. Rudd.
Mr. Biaggi with Mr. Beard of Tennessee.
Mr. AuCoin with Mr. Young of Alaska.
Mr. Badillo with Mr. Whalen.
Mr. Giaimo with Mr. Wiggins.
Mr. Fowler with Mr. Del Clawson.
Mr. Pickle with Mr. Crane.
Mr. Steed with Mr. Kemp.
Mr. Slack with Mrs. Heckler.
Mr. Wolff with Mr. Livingston.
Mr. Waxman with Mr. Lujan.
Mr. Mineta with Mr. Cunningham.
Mr. Moakley with Mr. Gephardt.
Mr. Miller of California with Mr. Guyer.
Mr. Diggs with Mr. Hollenbeck.
Mr. Bowen with Mr. Marriott.
Mr. Harrington with Mr. Roncalio.
Mr. Jacobs with Mr. Krueger.
Mrs. Keys with Mr. Marks.
Mr. Mann with Mr. McKay.
Mr. Van Deerlin with Mr. Metcalfe.
Mr. Ullman with Mr. Charles Wilson of Texas.
Mr. Santini with Mr. Treen.
Mr. Russo with Mr. Sisk.
Mr. Rostenkowski with Mr. Roe.
Mr. Reuss with Mr. Holland.
Mr. Rose with Mr. Johnson of Colorado.
Mr. Moss with Mr. Brown of Ohio.
Mr. Runnels with Mr. Bellenson.
Mr. Roybal with Mr. Buchanan.
Mr. Danielson with Mr. Clay.
Mr. Burke of Massachusetts with Mr. Duncan of Oregon.
Mrs. Collins of Illinois with Mr. Dodd.
Mr. John L. Burton with Mr. Don H. Clausen.
Mr. Conyers with Mr. Fisher.
Mr. Evans of Colorado with Maguire.
Mr. Pepper with Mr. Rahall.
Mr. Harkin with Mr. Johnson of California.
Mr. Ford of Michigan with Mr. Young of Missouri.
Mr. Andrews of North Carolina with Mr. Goodling.

Mr. STANGELAND and Mr. APPLEGATE changed their vote from "nay" to "yea."

Mr. SPENCE changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6415, EXPORT-IMPORT BANK ACT EXTENSION TO SEPTEMBER 30, 1978.

Mr. NEAL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 46) providing for corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 46

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representative, in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, shall make the following correction:

At the beginning of the bill, strike out "That".

At the end of the bill, strike out "8 of the Export-Import Bank Act of 1945 is amended by striking out 'June 30' and inserting in lieu thereof 'September 30'.".

The SPEAKER. The gentleman from North Carolina (Mr. NEAL) is recognized for 1 hour.

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 46 is simply a technical measure that corrects the conference report on H.R. 6415, a bill to extend and amend the Export-Import Bank Act of 1945. The correction is necessary because a provision not in dispute between the House and Senate was inadvertently included in the conference report on H.R. 6415. If the bill were to be enrolled as it stands, two identical and duplicative provisions would appear in the statute. I have cleared this measure with our ranking minority member, Mr. STANTON.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 6415, to extend and amend the Export-Import Bank Act of 1945.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CAPABLE STAFF MAKES QUICK ACTION POSSIBLE

Mr. MAHON. Mr. Speaker, comments in the press and otherwise today suggest that the House of Representatives moved with lightning speed in passing a continuing resolution avoiding a payless payday for thousands of Federal workers.

That was indeed the case, Mr. Speaker, and I think it would be appropriate at this time to pay tribute to the unexcelled staff which made this highly technical and complicated resolution and floor action possible.

The chief staff person responsible for preparing the continuing resolution was Keith Mainland, clerk and staff director of the Committee on Appropriations. With the assistance of other members of the committee staff, staff of the leadership, the House Parliamentarians, and the staff of the Senate Appropriations Committee, this whole process was made possible in less than a 24-hour period.

Mr. Speaker, the criticism is frequently made that there is too much staff on Capitol Hill, and without doubt that is true in some instances. But a situation such as the continuing resolution shows

that there are many employees on Capitol Hill who are extremely capable and dedicated and who without question work long hours and exemplify the finest traditions of public service.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, I missed the last rollcall because of having attended a conference at the White House. If I had been present, I would have voted "aye."

AUTHORIZING SECRETARY OF TREASURY TO INVEST PUBLIC MONEYS

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5675) to authorize the Secretary of the Treasury to invest public moneys, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods of up to ninety days in (1) obligations of depositories maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided*, That the authority granted under this section shall not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further*, That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution. Investments in obligations of depositaries maintaining such accounts shall be made at rates of interest prescribed by the Secretary of the Treasury, after taking into consideration prevailing market rates of interest.

Sec. 2. (a) Section 5(k) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(k)) is amended by adding after "Bank" in the first sentence thereof the following: "shall be a depositary of public money and" and by striking the period at the end thereof and inserting the following: ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by adding the following at the end thereof: "Insured institutions shall be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in such insured institutions, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depositary of public money and shall prescribe such regulations as may be required of its including services in connection with the collection of taxes and other obligations owed the United States.".

(c) The Federal Credit Union Act (12 U.S.C. 1751–1790) is amended—

(1) by inserting after section 209 the following new section:

"Sec. 210. Any credit union the accounts of which are insured under this title shall be a depositary of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositaries of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositaries of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States."; and

(2) by redesignating section 210 of the Federal Credit Union Act (12 U.S.C. 1790) as section 211. (d) Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

Sec. 3. (a) Subsection (c) of section 6302 of the Internal Revenue Code of 1954 (relating to use of Government depositaries) is amended—

(1) by striking out "or trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, or credit unions": and

(2) by striking out "and trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, and credit unions".

(b) Subsection (e) of section 7502 of the Internal Revenue Code of 1954 (relating to mailing of deposits) is amended by striking out "or trust company" each time it appears and inserting in lieu thereof ", trust company, domestic building and loan association, or credit union".

(c) The amendments made by this section shall apply to amounts deposited after the date of the enactment of this Act.

Sec. 4. (a) The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended—

(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

(2)(A) by inserting "(a)" immediately after "Sec. 14."; and

(B) by inserting at the end of section 14 the following new subsection:

"(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information.".

(b)(1) Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended—

(A) by striking out "to and" immediately following "necessary" and inserting in lieu thereof a comma; and

(B) by inserting immediately after "International Monetary Fund" the following: "regarding orderly exchange arrangements and a stable system of exchange rates: *Provided, however*, That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months".

(2) Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by striking out the phrase "stabilizing the exchange value of the dollar" in the fourth sentence thereof and inserting in lieu thereof the phrase "the purposes prescribed by this section":

(c) The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

Mr. MITCHELL of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman could explain to us why a unanimous consent request is needed on this.

Mr. MITCHELL of Maryland. Mr. Speaker, if the gentleman will yield, this was requested merely to expedite the proceedings here. We know we are under a tight timetable today and that was the only justification for asking unanimous consent.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, could the gentleman explain to us what this is?

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield so as to permit me to proceed?

Mr. ROUSSELOT. Mr. Speaker, I am glad to yield to the distinguished gentleman.

Mr. MITCHELL of Maryland. Mr. Speaker, I will briefly explain the bill.

Mr. Speaker, H.R. 5675 passed the House on April 25 by a vote of 384 to 0. An amended version passed the Senate on October 11. The amendments are either technical or relate to the IMF. They are completely acceptable. The basic purpose of the legislation is to permit the Treasury to invest its cash bal-

ances. The authority is long overdue. The General Accounting Office and many Members of the Congress including most notably the late dean of the House, Wright Patman, long contended that the Treasury annually foregoes substantial revenues because it obtains no interest on its cash balances.

The legislation involves three major issues. The first is the proposed investment authority; the second is the inclusion of savings and loan associations in the T.T. & L. system. The third concerns minority-owned banks.

The advantages of the investment authority granted in section 1 of H.R. 7675 are threefold:

First. It will promote efficient government cash management and at the same time enable Treasury to earn $50 to $100 million net revenues annually, as Treasury Assistant Secretary David Mosso testified before my Subcommittee on Domestic Monetary Policy.

Second. It permits equitable compensation to depository institutions for services they render to the Treasury. Under the new system, depositories will be compensated for services which they now render free of charge. Compensable services will include maintaining T.T. & L. accounts, processing Federal tax deposits, and issuing and redeeming U.S. savings bonds.

Third. Finally, by no means of little importance, by allowing Treasury to use accounts in commercial banks as their working balances rather than shifting cash in and out of Federal Reserve banks, as in recent years, this legislation will insulate bank reserves from volatile transfers of funds between the public and the Treasury, thereby facilitating the smooth conduct of monetary policy.

It is, thus, amply clear that the investment authority granted in H.R. 5675 is in the public interest—in the interest of equitable treatment of depository institutions, increased potential revenues to the Government, and smoother money management. Now let me turn to the second major issue which this legislation involves; that is, inclusion of S. & L.'s in the T. T. & L. system.

One of the greatest inequities of our current tax and loan collection system is the exclusion of savings and loan associations as depository institutions. H.R. 5675 would correct this situation. Section 2 of the bill authorizes federally insured S. & L.'s, as well as those insured by States, and corporations chartered by States, to act as public depositories and members of the T. T. & L. system.

The U.S. League of Savings Associations, in a statement submitted for the House record, has endorsed this legislation, and in regard to section 2, stated that—

Tax and loan accounts can potentially help moderate the economic swings which affect deposit flows to savings associations and consequently funds available for mortgage lending. Skillful management can no doubt utilize tax and loan deposits to keep funds flowing to home borrowers in times of slack savings performance.

Several other reasons mentioned in the Banking Committee's report on H.R. 5675 indicate further why S. & L.'s should be brought into the T.T. & L. system. Briefly, these reasons include:

First. Thrift institutions such as mutual savings banks are already in the system.

Second. Federally chartered credit unions were made eligible to act as depositories under 12 U.S.C. 1767.

Third. Those S. & L.'s that issue bonds are not currently compensated for their services because they are not members of the T.T. & L. system.

Fourth. Nearly all of the services performed for Treasury by commercial banks are also provided by S. & L.'s.

Fifth. S. & L.'s already have the authority to and do make short-term investments.

Sixth. Under the proposed new system, S. & L.'s would be treated equally with other depository institutions.

Seventh. In order to receive T.T. & L. deposits, eligible S. & L.'s would have to pledge collateral. If individual S. & L.'s cannot pledge collateral, they cannot receive these funds. This, therefore, covers the issue of assurances on the financial condition of eligible S. & L.'s.

Clearly, these interests are important to all of us; and in this regard, I strongly urge your support of section 2 of H.R. 5675.

Finally, let me turn to the question of the impact of the investment authority granted in H.R. 5675 on the Nation's 83 minority-owned banks. In testimony before the Domestic Monetary Policy Subcommittee on March 9, representatives of the National Bankers Association, while supporting this legislation, emphasized that without a program to soften the immediate impact of the proposed payment of interest on T.T. & L. deposits on minority-owned banks, recent efforts which they have made to strengthen their development by attracting hitherto interest-free T.T. & L. deposits would be undermined. Treasury's position on this potentially adverse impact buttresses the NBA's concerns. Treasury favors establishing "special demand deposit" balances in minority-owned banks which would be based on the average T.T. & L. balance in such banks during a selected base year. These special deposits would be available to the minority-owned banks on an interest-free basis. However, over a 5-year period, special deposits would be decreased by 20 percent annually and thereby phased out. Both Treasury and the NBA agree that this method will adequately cushion the immediate impact of the proposed T.T. & L. investment authority embodied in H.R. 5675.

Let me affirm that our legislative history is intended to prevent the viability of minority-owned banks from being undermined: implementation of the investment authority in H.R. 5675, which has been amply documented, will generate annual net revenues of $50 to $100 million to the Treasury; provide for more equitable compensation to institutions now providing services free to the Treasury; and finally facilitate the smooth conduct of monetary policy.

Mr. Speaker, the amendments which the Senate added to H.R. 5675 are all acceptable. Two are technical. One changes the IRS code to permit credit unions to serve as tax and loan account depositories, thereby allowing implementation of their eligibility under the Credit Union Act, 12 U.S.C. 1767. The second simply requires Treasury to use the new investment authority with due regard for market interest rates. The remaining amendments are, as I said earlier, unrelated to the basic substance of H.R. 5675. They amend the Bretton Woods Agreements Act and Gold Reserve Act in four minor ways as follows.

First, prior congressional approval will be required of any new agreement to use IMF resources through a trust fund for the benefit of a single IMF member or segment of the membership of the IMF. Second, the administration will be required to inform Congress about any information provided by the IMF to the U.S. Government. The third limits to 6 months—unless waived by the President—any loan or credit extended to a foreign government or entity for the Exchange Stabilization Fund. The fourth permits people to make contracts requiring payment in gold if any two people wish to do so.

The Treasury, the State Department and OMB have no problems with any of these amendments. Nor do I. This is a good bill, a constructive bill and in the public interest. I urge its adoption.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, while I have this opportunity, I would like to commend the distinguished chairman of the Committee on Banking, Finance and Urban Affairs (Mr. REUSS) and the distinguished subcommittee chairmen (Mr. MITCHELL and Mr. NEAL) for the efforts they have been making to convince the Federal Reserve that there is an urgent need to keep the growth of the monetary aggregates within a range which is consistent with the ability of the economy to increase the production of goods and services.

Today's Washington Post reports that—

> The worst fears of the financial markets were confirmed (yesterday) as the Federal Reserve reported that the basic money supply spurted $4.9 billion in the week ended Oct. 5, one of the largest increases ever, and a jump portending still higher interest rates.

This continues a trend of excessive money growth which has extended over many months and about which all of the distinguished gentlemen have expressed concern. Since I believe that steady, moderate growth in the money supply is essential if we are to have stable prices, full employment, and reduced long-term interest rates, it is important that Congress recognize that this issue cuts across partisan and philosophical lines and that the Nation should have a sound, bipartisan monetary policy.

In this same spirit, I would ask my distinguished colleagues to refer to a letter dated October 13, 1977, from Senator JESSE HELMS to Chairman REUSS, a copy of which was delivered to my office yesterday.

I insert the full text of the letter in the RECORD at this point:

Although I know of no error in drafting the Rousselot amendment to Public Law 94–564, there might be some benefit in clarifying the intent of my amendment. That intent was to insure that congressional approval would be required before resources contributed by U.S. taxpayers would be used for the benefit of a single member or segment of the membership of the IMF. Therefore, if the IMF used existing funds or the proceeds of further gold sales to establish such a fund, congressional approval would be required. If, however, such a fund were established entirely by new contributions from member countries, then Congress would have the opportunity to express its will through the authorization process, and no separate approval would be required under the Rousselot amendment.

The Treasury knows full well that the purpose of my amendment was to avoid a repetition of the events of last year in which a trust fund to provide balance of payments assistance to the poorest members of the IMF was established with part of the IMF gold sale. Even though the establishment of the fund violated the IMF articles of agreement which were in force at the time and involved funds which otherwise might have been restituted to the United States, both the IMF and the Treasury took the position that the gold sale proceeds belonged to the IMF, that the IMF could do with them as it pleased, and that no congressional approval was required to establish the fund. There was bipartisan agreement at the time that such an incident should not be repeated, and the distinguished chairman (Mr. REUSS) was instrumental in achieving the passage of the Rousselot amendment to clarify the role of Congress in the establishment of future IMF trust funds.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield briefly to me for the purpose of yielding to two Members who have done magnificent yoeman work to move this legislation through the House.

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I yield to the gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, I thank the gentleman from Maryland (Mr. MITCHELL) for yielding.

Mr. Speaker, I would like to urge my colleagues in the House to join with me in agreeing, by unanimous consent, to Senate amendments to H.R. 5675 which was passed unanimously by the Senate 3 days ago.

This bill, which we have spent countless hours on for almost 3 years, would require banks to pay interest to our taxpayers on tax and loan accounts deposits. As recently as January 1974, the average daily balance in these accounts averaged about $5.7 billion. Even invested at the modest rate of 5 percent, this would have netted the taxpayers an additional $285 million a year.

Since then, the Treasury Department has been more practical and prudent in its investments after considerable prodding by several of us. Nonetheless, the average daily balance in 1977 still is about $1.5 billion. If these funds were in interest-bearing accounts, we would be netting about $75 million a year additional for the taxpayers.

Consequently, each day we delay final passage costs the taxpayers about $206,000.

So, I ask you to join with us and pass H.R. 5675 by unanimous consent. It is a measure which should have been passed 60 years ago.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I rise in support of this legislation. I appreciate the work the gentleman from Ohio, my colleague, has done on it.

For the last few years, the Treasury has been using stopgap measures to minimize losses involved in keeping large cash balances in tax and loan accounts at commercial banks. The result has been that the monetary policymaking of the Federal Reserve has been greatly complicated, as it tries to counteract the effects of large swings in Treasury holdings of reserves, and the money markets have been subject to uncertainty and unnecessary confusion. The present bill goes right to the root of the trouble and gives to the U.S. Treasury an option already exercised by State and local governments throughout this country. This is simply the option to invest excess operating balances in interest-bearing short-term securities, instead of holding these balances as idle, nonproductive bank balances.

The best estimates of the Treasury and of the Congressional Budget Office is that this legislation will save the Treasury, on balance, between $50 and $100 million annually. We passed this bill unanimously in this House on April 25 of this year. I am delighted that the other body has been able to act during this session in adopting this bill.

The Senate amendments are noncontroversial and have been accepted by the Treasury and the Department of State.

By passing the bill now, instead of holding it for the next session of this Congress, we will be saving the taxpayers a minimum of $25 million.

I urge acceptance of the bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield very briefly.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding to me.

In a letter addressed to the chairman of the committee (Mr. REUSS) from Senator HELMS and dated October 13, 1977, there is a discussion in regard to language added by Senator HELMS.

The letter reads:

> DEAR MR. CHAIRMAN: As you know, the Senate adopted my amendment number 919 during consideration of H.R. 5675, the Treasury Tax and Loan Account Legislation.
>
> Part of my amendment, paragraph (1), modifies the Rousselot amendment adopted by the House of Representatives last year to H.R. 13955, the Bretton Woods Agreement Act Amendments of 1976, which President Ford signed into law as P.L. 94–564.
>
> The new language as proposed in my amendment reads as follows:
>
> "(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";
>
> In a letter from the Department of the Treasury on S. 2003, a bill which I sponsored identical to amendment 919, the following two paragraphs appear:
>
> "Section 5 of the Bretton Woods Agreements Act was amended by P.L. 94–564 as proposed by Congressman Rousselot. The amendment was intended to require prior Congressional approval of any new agreement to use the resources of the IMF through a trust fund for the special benefit of a single member or segment of the membership of the IMF. (Congressman Rousselot's amendment does not affect the decision by the IMF to sell 25 million ounces of gold for a trust fund to provide balance of payments financing to lesser-developed-countries.)
>
> "However, due to an error in drafting, the Rousselot amendment as presently enacted could be interpreted more broadly than was intended. P.L. 94–564 presently can be construed to require prior Congressional approval for the U.S. to vote in favor of the establishment of any new trust fund in the IMF—including one funded entirely by contributions from individual countries, for which the IMF would have only management responsibilities and no financial participation. Section 2 of S. 2003 clarifies the Rousselot amendment to reflect the Congressional intent accurately. The Treasury Department fully supports that proposed statutory change."
>
> In the Treasury statement, concern is expressed that Congressional approval might be required for "the U.S. to vote in favor of the establishment of any new trust fund in the IMF—including one funded entirely by contributions from individual countries, for which the IMF would have only management responsibilities and not financial participation." If circumstances arose that the IMF wanted to establish or administer a trust fund supported by assets from nations other than the United States, no Congressional approval would be required for the U.S. vote to be cast in favor of IMF establishment or administration of such a fund. However, if the U.S. chose to make a contribution, it would be my view that procedures would be followed similar to those now being undertaken in seeking approval of the U.S. contribution to the so-called Witteveen Facility, the new Supplementary Financing Facility.
>
> There is no doubt in my minde that this amendment is meant simply to insure that Congress gives its specific approval before the IMF utilizes more of the gold reserves it holds, or any added funds from the United States for the Trust Fund or any new facility that would benefit a single member of a particular segment of the membership.
>
> I believe Congress was concerned when the Trust Fund was established without its ap-

proval and I believe there is full agreement that Congress' approval should be sought in the future.

Thank you for your concern and assistance.

With best personal wishes, I am

Sincerely,

JESSE HELMS.

The subcommittee chairman agrees with Senators HELMS' statement:

I believe Congress was concerned when the Trust Fund was established without its approval and I believe there is full agreement that Congress approval should be sought in the future.

Mr. MITCHELL of Maryland. This is my understanding.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Idaho.

Mr. HANSEN. I am delighted to support the gentleman from Maryland's request for unanimous consent to concur in the Senate amendments to H.R. 5675. The bill gives authority to the Treasury to make short term investments of presently idle bank funds. This is a simple cash-management option now used by private business, and there is no reason why the Treasury should not be permitted, even encouraged, to use the same efficient financial techniques. This basic provision was unanimously approved by this House on April 25, and I am sure there will be no objection to it now.

The amendments added by the Senate are noncontroversial, and I am particularly glad that one provision has been added to effectively repeal the gold clause prohibition of 1935.

Mr. Speaker, in 1935 the U.S. Government acted to deprive its citizens entirely of the right to deal in gold in any way. The gold clause prohibition made unenforceable any contractual clause which required payment in gold or which was indexed in gold. A few years ago we ended the dark ages and again permitted our citizens to exercise their ordinary and natural right to buy and sell gold. You will remember, Mr. Speaker, the temerity of the Treasury in doing so. Our benevolent Government was afraid that the citizens would go overboard in hoarding gold. You will also remember, Mr. Speaker, that those speculators who believed that nonsense and drove the price up in anticipation of widespread gold hoarding lost their shirts. The citizens of this great land had demonstrated their level-headed approach to gold: There are legitimate uses for gold, and these were satisfied, and there was little in the way of speculative or other hoarding.

There was one anomaly left in the law, however—one way in which gold continues to be hedged with needless restriction. Today, it is still not possible for our citizens to write an enforceable contract in which payment is specified in gold, or in dollars equal to so much gold. Mr. Speaker, no other commodity is so restricted. Contracts can be made payable in silver, in wheat, in rubber, coffee, eggs, hog bellies, pianos, or any other commodity you care to think of, with the sole exception of gold.

There is, however, some judicial opinion which holds that this restriction is no longer valid, in view of the decision by the Government to permit citizens to buy and sell gold and generally do what they want with it.

Therefore, on May 2, 1977, I introduced legislation which would repeal this prohibition and thus clarify the status of gold in this country, as well as returning to our citizens a small but basic right denied to them for over 40 years. The provision in the amendment to the present bill is not worded the same as my bill, but reaches the same objective. It is a particular pleasure to me and a source of much gratification, that the Senate has adopted this measure without objection. Those who worry that our citizens will go overboard in putting gold payment in all their contracts are again wrong. I am confident the citizens of this great country will once again demonstrate that commonsense for which they are justly esteemed. Where there is a legitimate need for the exercise of this right we are returning to them, it will be responsibly filled. Where the purpose is speculation, there will be little activity.

Therefore, Mr. Speaker, I express again my appreciation at having the opportunity to support this legislation as amended. And I further express to our subcommittee and full committee chairman my appreciation for his efforts to expedite consideration of the measure.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland that the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill H.R. 5675 to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON S. 1811, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1978

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

(For conference report and statement, see Proceedings of the House of October 7, 1977.)

PARLIAMENTARY INQUIRY

Mr. UDALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. UDALL. Mr. Speaker, I desire to make a point of order against the conference report. Is this the appropriate time?

The SPEAKER. It is.

POINT OF ORDER

Mr. UDALL. Mr. Speaker, I make a point of order against the conference report.

The SPEAKER. The Chair will hear the gentleman.

Mr. UDALL. Mr. Speaker, I make a point of order. Section 106(d)(3), adopted by the conference committee on the bill now before the House, exceeds the authority of the conference committee in that it inserts new substantive provisions in the legislation which were not included in the bill, either as passed by the House or passed by the Senate.

I would like to be heard briefly on the point of order.

The SPEAKER. The gentleman from Arizona is recognized.

Mr. UDALL. The point of order, Mr. Speaker, is based on the conference report violation of rule 28, which requires that the report shall not include matter not committed to the conference committee by either House. The offending provision of the conference report is section 106. It amends section 103 of Public Law 91–273 as amended, and impose new requirements on the Clinch River breeder project.

Specifically, section 106 would require that the project be located at the existing Clinch River site unless that site is determined to be unsuitable from the standpoint of radiological health and safety; that the "maximum extent possible" the project shall be designed, constructed and operated in accordance with existing arrangements, objectives and schedules; and the Secretary and "all other appropriate Federal agencies" (assumably the Nuclear Regulatory Commission) are directed "to undertake all such efforts as are necessary to assure the earliest possible decisions on a limited work authorization and a construction permit."

Neither the relevant sections of the House bill nor the Senate amendment contained any provisions relating to this substantial modification of the conditions and procedures by which the project would otherwise be licensed under the Atomic Energy Act as amended.

Mr. Speaker it cannot be argued that anything in the Senate bill or House amendment justifies this conference report's treatment of licensing issues. That both the House and the Senate conferees may have concluded that the project be built at Clinch River has nothing to do with the fact that under existing law the project must be licensed by the Commission at that site or another location. Under section 182(a) of the Atomic Energy Act "the place of the use" of the facility must "be in accord with the common defense and security" of the United States. By excluding the defense and security consideration, the conference report directly modifies licensing requirements and nothing in either the House or Senate version addresses this issue.

The other provisions I mentioned are also modifications of existing licensing law and like the siting provisions, these modifications have no relation to the authorizations of the House and Senate bills.

By requiring that the project be licensed to "the maximum extent possible" in accordance with existing plans the report seems to be limiting by law the statutory authority of the NRC to impose modifications of the project's design to assure safety.

Moreover, by requiring that the NRC expedite the licensing of the project, the conference report would create new licensing priorities for the NRC. This change will certainly modify the procedural rights of other participants in the licensing process that are guaranteed under existing law.

The point of order should be sustained.

Mr. TEAGUE. Mr. Speaker, I would like to be heard in opposition to the point of order.

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) is recognized.

Mr. TEAGUE. Mr. Speaker, this report has been adopted by the other body. During the debate on the floor, Senator HART of Colorado asked Senator CHURCH, the chairman of the subcommittee in the other body, about the same point the gentleman from Arizona raises here. I would like to read Senator CHURCH's answer because I think it is the best way to be stated.

Senator HART said to Senator CHURCH:

* * * I am concerned with one provision of the conference report which deals with the Clinch River breeder reactor project, and that language is contained in section 106 (d)(3). * * * I want to make sure that the record is absolutely clear that this section does not modify in any way the licensing and regulatory authority of the discretion of the Nuclear Regulatory Commission under the Atomic Energy Act. * * * I would greatly appreciate it if the Senator from Idaho would give me his assurances to that effect.

Senator CHURCH. * * * The provision in the report to which he refers in no way limits the authority of the Nuclear Regulatory Commission to protect public health and safety or the common defense and security.

The Nuclear Regulatory Commission's authority to protect the environment of the Clinch River site is not limited. * * *

There are no alternative sites before the Commission. The language of the report in no way interferes with the discretionary authority or the power of the Commission to proceed as it normally would to a conclusion of this proceeding.

The SPEAKER. Do any other Members desire to speak on the point of order?

Mr. FLOWERS. Mr. Speaker, may I be heard further in opposition to the point of order?

The SPEAKER. The gentleman will be heard.

Mr. FLOWERS. Mr. Speaker, I think it would be in order very briefly to review the facts of the matter.

First of all, the House passed the 1978 authorization bill for the project in the amount of $150 million, which contemplated construction at the site. The project was first authorized in Public Law 91–273.

The Senate-passed bill contains language which incorporates a heading entitled "The Clinch River Breeder Reactor Project."

Furthermore, the Senate incorporates by reference a letter from Dr. Robert Fri, Acting Administrator of ERDA, and a letter from the Comptroller General, Mr. Elmer Staats, both of which talk about the Clinch River breeder reactor project at the site, Clinch River.

We have not in the conference report done anything except specify the site. What has not been done is anything that would affect the licensing for the facility.

I certainly agree with the chairman of the committee, the gentleman from Texas (Mr. TEAGUE) in what he has said, and I agree with the Senate conferees in their consideration of the conference report just this week. This matter was cleared up, and there is no attempt here to short circuit the NRC in connection with the duly authorized functions of the NRC.

The conference committee has tried to bring together a fair compromise of the House and Senate positions. Both contemplate construction at the Clinch River, Tenn., site. That is what we are talking about, the Clinch River site.

What we tried to do in the conference report is to clearly focus our attention on that point so the issue is drawn.

Mr. Speaker, that is all we are trying to do, and I do not think that the point of order should be sustained.

The SPEAKER. Do any other Members desire to be heard on the point of order?

Mr. CARR. Mr. Speaker, I desire to rise in support of the point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. CARR. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks.

The SPEAKER. The Chair will inform the gentleman that his request to revise and extend his remarks is not in order on a point-of-order discussion.

The gentleman from Michigan (Mr. CARR) will be heard.

Mr. CARR. Mr. Speaker, it is hard to think of a more classic case in which the rules against exceeding the scope of the disagreement should be applied.

On two occasions this House has gone on record as saying it separates the promotion and development of nuclear power from its regulation. We did it when we separated the Atomic Energy Commission and ERDA and established the NRC. We did it the year when we stripped the committee which maintained jurisdiction of its jurisdicton and transferred promoton and development of nuclear power into the committee chaired by the gentleman from Texas (Mr. TEAGUE) and the regulation of nuclear power into the committee chaired by the gentleman from Arizona (Mr. UDALL).

Yet here we have a committee, the Committee on Science and Technology, whose job it is to develop and promote nuclear power, going to conference with Members of the Senate, the Senate counterparts of the House, and returning with new regulatory guidelines contemplated by neither the House nor the Senate in the original legislation.

I might point out, Mr. Speaker, in response to the point of order, that the gentlemen from the Committee on Science and Technology have failed to respond to the point made by the chairman of the Committee on Interior and Insular Affairs that the report—and I quote—"Provided, that site preparation and those construction activities for which a construction permit is required shall not commence during the fiscal year ending September 30, 1978: Provided, the Secretary and all other appropriate Federal agencies"—parenthetically, meaning the Nuclear Regulatory Commission—"are directed to undertake all such efforts as are necessary to assure that the earliest possible decisions on a limited work authorization and a construction permit are obtained."

Mr. Speaker, that applies to the Nuclear Regulatory Commission. It is an effort by the Committee on Science and Technology and the conferees from the Senate side to revise the priorities of the Nuclear Regulatory Commission. That is a jurisdiction which is properly before the Committee on Interior and Insular Affairs of the House, but in any event, it is a matter which was not considered on the floor of this House or in the Senate before it went to conference.

Mr. McCORMACK. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. The Chair will hear the gentleman.

Mr. McCORMACK. Mr. Speaker, I rise in opposition to the point of order, and I recommend that it not be sustained.

Mr. Speaker, I think the point of order is splitting hairs in attempting to divert the attention of the Chair and the body from the fact that when this issue was drawn and debated and voted upon by this House, we overwhelmingly supported an authorization of $150 million to continue the construction of the Clinch River breeder project.

Mr. Speaker, part of that operation of continuing to build the Clinch River project is to finish up the licensing of it. There is no way it can be built without the licensing; and when this House was voting, we were saying to go ahead, and clearly implied in that vote was to go ahead with whatever is necessary to do the job. The licensing studies on a limited work authorization or construction permit are clearly implied.

This bill does not revise the activities or restrict the activities of the Nuclear Regulatory Commission or of any other agency in any way. The licensing is an ordinary part of the procedure of constructing, and what the bill simply emphasizes is what the House passed, that we should go ahead with the construction.

Mr. Speaker, I would like to point out that I have here on the table before the Members the environmental impact statements completed, the proposed environmental impact statement for the liquid metal fast breeder reactor, which is dated December 1974, and the final environmental impact statement, in three volumes, which is completed, Mr. Speaker, for the Clinch River site and that by the Energy Research and Development Administration, and the final environmental impact statement, which is completed, in draft form, with only the final approval being necessary; and written right across the front of the document is "The Clinch River Breeder Reactor Plant."

Mr. Speaker, the only thing that the conferees were saying was that this operation in no way would be interrupted by the appropriation of this money. The authorization of the appropriation implies the continuation of the construction of the project, and that involves all the agencies.

What we simply said is that we are not restricting them in any way from doing their job.

Mr. Speaker, we simply say, "Go ahead."

The SPEAKER. Do any other Members desire to be heard on the point of order?

Mr. JEFFORDS. I do, Mr. Speaker. I desire to be heard on the point of order.

The SPEAKER. The Chair recognizes the gentleman from Vermont (Mr. JEFFORDS) on the point of order.

Mr. JEFFORDS. Mr. Speaker, it seems to me that the critical question here is simply this: If neither the House nor the other body, in their provisions, amended a provision of the law, in this case section 106 of Public Law 91–273, can the mere fact that one of the bodies, in their action, references a document—in this case it is, I believe, the Comptroller General's report—which mentions the law, they broaden the scope as they then did in conference so as to amend the law?

Mr. Speaker, to me that would open up incredibly the ability of committees of conference to amend laws all over the place. In other words, if we referenced the Encyclopedia Britannica, we could then, in conference, do anything we wanted with any law.

It seems to me that that kind of broadening of the scope is so repulsive to the general theory of trying to contain conference committees within some bound of reason that this is clearly a gross violation of that concept.

The SPEAKER. Do any other Members desire to be heard on the point of order. If not, the Chair is ready to rule.

If not, the Chair is ready to rule on the point of order.

The gentleman from Arizona makes a point of order against the conference report on S. 1811 on the grounds that the conferees have included in their report new matter not committed to conference, in violation of clause 3 of rule XXVIII.

Section 106 of the conference report amends existing law to require that the Clinch River breeder reactor project be located at a certain site, unless determined unsuitable from the standpoint of radiological health and safety, to prohibit certain construction activities on such project in fiscal year 1978, and to assure expedited decisions on work authorizations and construction permits. Section 101 of the House amendment authorized a sum for the liquid metal fast breeder reactor project, and earmarked a certain portion of that sum for certain development and testing. Section 103 of the Senate bill S. 1811 amended existing law to require that funds appropriated for the Clinch River breeder reactor project, pursuant to the authorization in existing law, be applied towards the continuation of that project, and not towards its cancellation or termination.

Section 103 of the Senate bill S. 1811 amended existing law to state the intent of Congress and to require that funds appropriated for the Clinch River breeder reactor project, pursuant to the authorization in existing law, be applied towards that project, and not towards its cancellation or termination; the Senate bill also endorsed an opinion of the Comptroller General relating to the continuation of the project. Insofar as section 106 of the conference report requires that funds shall not be used to terminate the Clinch River project and requires that funds appropriated pursuant to an authorization for a specific project shall only be used to proceed with that project, the report constitutes a proper modification of the issues which were contained in section 103 of the Senate bill.

But the mandate of the new subsection 106(d)(3) added to Public Law 91–273 as amended, by section 106 of the conference report, which requires that the project be located at a certain physical location, was not included in the Senate bill. Although the Senate bill did endorse on behalf of Congress an opinion of the Comptroller General which discusses the necessity of constructing the project at a certain site, the Senate bill did not absolutely require that result as does the conference report. Moreover, the report would allow altering that designated site in the case of unsuitability from the radiological health and safety standpoint. While is may be desirable as a matter of policy to include that exception, neither the House amendment nor the Senate bill addresses that policy. The remainder of subsection (d)(3) added by the report specifies a certain construction schedule as a matter of law, which the gentlemen from Texas and Washington have characterized as a compromise between the full level of funding adopted by the House and the lesser authorization adopted by the Senate.

The Chair appreciates the difficulty of the conferees in fashioning a recommendation incorporating the concerns of the House and Senate in this complex area. It appears to the Chair, however, that the Senate bill and the House amendment, as well as the hearings, reports and debates in both Houses addressed a variety of conceptual issues but did not commit to conference language which allowed the conferees to enact those issues into affirmative and mandatory privisions of law.

The Chair feels that a precedent relevant to the present situation occurred on December 20, 1974, as cited in Deschler's Precedents, chapter 33, section 6.9. On that instance, Speaker Albert ruled that the inclusion of a new provision in a conference report, relating to the Alaska Native Claims Settlement Act, was in violation of clause 3 of rule XXVIII, since that specific topic had not been addressed in either the House bill or the Senate amendment thereto. The argument was made on that occasion that the Senate amendment if enacted would have required, under existing law, the result mandated by the new provision in the conference report. The Chair ruled as follows in response to that argument: "If what the gentleman says is true, the addition of this language in the conference report would have been redundant. To have put it in the conference report would have been unnecessary; the Chair must conclude that a new issue has been injected which was not contained in the Senate amendment."

For the reasons stated, the Chair sustains the point of order.

MOTION OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TEAGUE moves that the House insist on its amendment to the Senate bill S. 1811 and request a further conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

APPOINTMENT OF CONFEREES ON S. 1811, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1978

The SPEAKER. The Chair appoints the following conferees: Messrs. TEAGUE, FUQUA, FLOWERS, MCCORMACK, BROWN of California, THORNTON, OTTINGER, HARKIN, AMBRO, Mrs. LLOYD of Tennessee, Messrs. WATKINS, WYDLER, WINN, FREY, GOLDWATER, and GARY A. MYERS.

REORGANIZATION PLAN NO. 1 OF 1977

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 688) to disapprove Reorganization Plan No. 1 of 1977; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate continue not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 688), with Mr. KILDEE in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the State of the Union for the consideration of House Resolution 688, which the clerk will report by title.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to section 912 of Public Law 95–17, and the unanimous-consent request, the gentleman from Texas (Mr. BROOKS) will be recognized for 1 hour, and the gentleman from New York (Mr. HORTON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, one of the major commitments of the new President who took office in January of this year is the reorganization of the Federal Government. Earlier this year, the Congress enacted legislation giving him the authority to carry out appropriate reorganizations in an expeditious manner by submitting reorganization plans. Today we have before us the first such plan.

The President has chosen to begin his reorganization with his own office. Reorganization Plan No. 1 of 1977 substantially restructures and streamlines the Executive Office of the President. The purpose of the reorganization is to enable the President to receive the best possible input from his staff so that he can maximize his effectiveness in the decisionmaking process.

This reorganization plan eliminates the Domestic Council, the Office of Drug Abuse Policy, the Office of Telecommunications Policy, the Economic Opportunity Council, and certain advisory committees. It will transfer to the President or to departments or agencies outside of the Executive Office certain functions of the Council on Environmental Quality, the Office of Management and Budget, the Office of Science and Technology Policy, and the Office of Telecommunications Policy. It will create an Assistant Secretary of Commerce for Communications and Information in the Department of Commerce, who will carry out some of the OTP functons. It also creates an Office of Administration within the Executive Office of the President to centralize support activities now being carried out by various units.

Our committee studied this reorganization in considerable detail. Hearings were held at which the Director of the Office of Management and Budget and his associates presented the purposes of the plan and responded to questions from our Members. We also heard testimony from Members of Congress and the public. The principal objections which arose to the plan were focused primarily on the abolition of the Office of Drug Abuse Policy, recently established by legislation, and the transfer of functions of the Office of Telecommunications Policy to the Department of Commerce. The President was made aware of the objections raised by the witnesses and by the committee. He saw fit to make certain changes which were submitted to Congress on September 15 and have been incorporated into the plan. It was the opinion of the committee that the amendments met most of the objections.

The administration estimates that the reorganization plan and other steps being taken will reduce staff levels in the Executive Office of the President from 1,712 full-time permanent positions to 1,459 (a reduction of 15 percent), resulting in savings of at least $6 million.

The plan meets the requirements of the Reorganization Act; it will improve the administration of the Executive Office and result in better staff support for the President. For these reasons, along with the budgetary savings that will result, the plan has merit.

House Resolution 688 is the instrument by which we act upon the President's first reorganization plan. The resolution was reported by voice vote from the Committee on Government Operations. Our recommendation to the House is that House Resolution 688 be rejected. Since the resolution reads that the House does not favor Reorganization Plan No. 1 of 1977, a vote to support the plan will be a "no" vote on the resolution. Those who oppose the plan will vote "yes."

Inasmuch as we can only accept or reject the whole package, I believe it should go into effect, and I urge that the Members vote "no" on the disapproval resolution.

The CHAIRMAN. The gentleman from Illinois (Mr. CORCORAN) is recognized.

Mr. CORCORAN of Illinois. Mr. Chairman, the ranking minority member of our Subcommittee on Legislation and National Security, that considered this resolution, as our able chairman so aptly pointed out, is, like myself and everybody who serves on that subcommittee, in support of the President's attempt to reorganize the Executive Office of the White House.

I think in general we would ask the full membership of the House to support the President, because it is an attempt by the President to reorganize the Executive Office of the White House in order to give him more direct management control, more streamlined control over the various agencies of the Government. After all, it is through the exercise of control over the staff and the adjoining facilities within the White House that the President can make his influence felt.

There are some disagreements with parts of the resolution, particularly as I recall the action which would be taken pursuant to this reorganization plan regarding the Office of Drug Abuse, but I think in the main there is a recognition on the part of the membership of the subcommittee and I believe a majority of the full committee that this action on the part of the President is something which is necessary and something that we support.

I yield to the ranking minority member of our subcommittee such time as he may consume.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as one who has long been concerned about the enormous size of the Federal Government, I welcome this opportunity to take a critical look at the President's first plan to reorganize the executive branch. I give high marks to the President for tackling the problem right there in his own back yard—the White House, the Executive Office of the President, and related parts of OMB. The gentleman from Texas, (Mr. BROOKS) also gets high marks for his determined efforts to comply with the oversight provisions of the Reorganization Act of 1977.

I am pleased to report that the Committee on Government Operations did hold 2 days of hearings on this important Reorganization Plan. While there were some legitimate and troubling questions raised about some of its provisions, there was general agreement that we should give the President the opportunity to reorganize his own Executive Office as he seees fit. There was also general relief that the President submitted, at our request, an amendment to the plan which, in effect, gives the President considerable flexibility in delegating functions within his own office. At the same time, it preserves and maintains proper congressional oversight in the transfer of functions outside of his office.

Like each Member of this Congress, I reserve the right to object to future plans and even to some of the provisions of this one. But I think it is important that we encourage the President and cooperate with him at this early stage. Certainly, I hope his plan works.

While I basically support Reorganization Plan No. 1 and have no intention of objecting to it, I do have some misgivings about it. Accordingly before I urge my colleagues to support this plan, I will briefly tell you why I am troubled about some of its key provisions.

As Chairman of the Commission on Federal Paperwork, I have become increasingly aware of the alarming amount of unnecessary paperwork that is generated by poor and ineffective planning. Frankly, I cannot help but wonder if unnecessary paperwork and needless duplication will be the result of the President's decision to dismantle the Statistical Policy Division of the Office of Management and Budget. SPD, after all, was found by the Paperwork Commission to be one of the key elements in eliminating paperwork in the executive branch. Splitting the functions of that office hardly seems to be a move that will lead

to reduced paperwork. Even more obvious is the fact that, unless OMB or some other central unit is given all of the functions of SPD, there may be no single unit to review and reduce paperwork, and that worries me. I might add at this point that Comptroller General Elmer Staats, himself a firm advocate of reduced paperwork, shares my concern about this particular provision of the reorganization plan. I might also add that Jim McIntyre, Acting Director of OMB, has assured me in writing that there will be no adverse effects on either OMB or the Department of Commerce, which will inherit some of SPD's functions. He further assured me that a close working relationship on statistical policy matters will be maintained between his office and the Department of Commerce. I find that reassuring, but certainly the SPD transfer is a provision of the plan that bears watching in the months ahead.

Another provision of the plan that concerns me is the abolition of the Office of Drug Abuse Policy, an office that was authorized by Congress for a specific purpose. ODAP was created to be the principal unit within the Executive Office of the President responsible for coordinating the functions of more than 50 departments, bureaus, agencies, and administrations having jurisdiction over drug abuse prevention and control programs. There are many of us in this Congress who were and continue to be very much concerned about the drug abuse policy of this Nation. We took great heart and great pride in the fact that an office close to the President would be formulating and administering a national drug abuse program. Understandably, there was great concern in the committee that the abolition of this important office would mean that drug abuse prevention would no longer receive the high priority attention it deserves.

Mr. Chairman, I would like to point out that I have another letter from Mr. McIntyre, this one assuring me that the functions of ODAP will be continued and that the President will continue to be interested in the drug abuse prevention and control programs. That is reassuring in one sense, but I continue to be concerned that the abolition of ODAP will lead to a diminishing of the priority which has rightfully been given to this serious national problem.

In summary, as I understand it, there are three goals of reorganization. One is cutting paperwork; two is improving efficiency by centralizing units; and three is saving money. Dismantling the Statistical Policy Division clearly fails all three of these goals. Dismantling the Office of Drug Abuse Policy, if not failing these goals, certainly fails the test of fulfilling the mandate of the Congress.

As I indicated at the outset, I have some misgivings, some troubling questions about this Reorganization Plan. Still, they are changes favored by the President for his own office and I am willing to cooperate with him at this early stage. Accordingly Mr. Chairman, I recommend the approval of Reorganization Plan No. 1.

WASHINGTON, D.C.,
September 28, 1977.

Hon. FRANK HORTON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HORTON: This letter responds to your inquiry concerning the effect on our paperwork reduction efforts due to the transfer of statistical policy functions from the Office of Management and Budget (OMB) to the Department of Commerce. There will be no adverse affect on OMB's Federal Reports Act functions due to this transfer. After the transfer, a close working relationship on statistical policy matters will be retained between our office and the Department of Commerce. Moreover, the transfer will allow the personnel remaining in OMB to devote their full efforts toward implementation of the Federal Reports Act rather than the past division between these duties and statistical policy functions.

The personnel implementing the Act will be relocated within the Office in the new Regulatory Policy and Reports Management Division. This organizational placement will allow the coordination of efforts involving regulatory policy and those concerning the reporting burden. Since the greatest burden upon private citizens stems from rules and regulations imposed upon the public, this close working relationship should be more effective in carrying out those policies set forth in the Federal Reports Act.

I will be pleased to answer any further questions you may have.

Sincerely,

JAMES T. MCINTYRE, JR.,
Acting Director.

WASHINGTON, D.C.,
September 29, 1977.

Hon. FRANK HORTON,
House of Representatives,
Washington, D.C.

DEAR MR. HORTON: I understand that you are concerned about the disposition of the Office of Drug Abuse Policy (ODAP) in Reorganization Plan No. 1. This letter explains the arrangements we plan to make for handling ODAP functions and answers questions that have been raised about it.

In proposing the abolition of ODAP as a statutory unit, the EOP reorganization group recognized the value of its work and made provision for each of its functions to continue:

ODAP's policy development and coordination functions will be handled within the new policy management system which is to be used for most domestic issues. The basis of the system is the formation of interagency working groups, coordinated by the Domestic Policy Staff, to recommend policy and handle specific problems. The system will link the skills and experience in line agencies with the Presidential perspective in the Executive Office. In the drug abuse area, Domestic Policy Staff members will work with the revitalized Strategy Council on Drug Abuse to make the system a reality. Because of the President's personal commitment to more effective action in the drug abuse area, a White House adviser will continue to provide strong policy guidance.

We anticipate that ODAP's current reorganization work will be completed in January 1978. However, the Office could continue until April 1 if additional time is needed to complete its work. After the Office is terminated, its reorganization responsibilities will be assumed by the President's Reorganization Project, in cooperation with the President's drug and health adviser.

The President's decision on ODAP is, in no sense, an attempt to deemphasize drug abuse problems. He has asked Dr. Bourne to take the lead in formulating a comprehensive national drug abuse policy, including planning, enforcement and other critical issues. His August 2, 1977, message to the Congress on drug abuse stressed his continued deep personal concern about the effects of narcotics and the need to act. The President has also assured the Congress that Dr. Bourne will be available to testify as he has been.

In summary, we believe that the new arrangements for carrying out ODAP functions will improve the effectiveness of drug abuse policy development and coordination. The system will place the drug issue in the mainstream of Presidential decision making within the new policy management system and reorganization efforts, thus better integrating it with related concerns. By retaining a visible White House adviser, priority will be given to the issue and coordination will be assured. I hope that you and your colleagues will view the ODAP reorganization in the context of the new arrangements that the President proposes.

Enclosed are answers to commonly asked questions. If I can provide further information, I will be happy to do so.

Sincerely,

JAMES T. MCINTYRE, JR.,
Acting Director.

QUESTIONS AND ANSWERS ABOUT ODAP AND THE EOP REORGANIZATION STUDY

1. CONDUCT OF THE EXECUTIVE OFFICE REORGANIZATION STUDY

Question: How was the study conducted?

Answer: Soon after assuming office, the President requested OMB to perform a comprehensive management assessment of the White House and the Executive Office of the President (EOP). On March 7, 1977, the Director of OMB sent a memorandum to the President outlining such a management study with the following goals:

Improve advisory, decision-making, management, coordinating and follow-up capabilities.

Streamline the advisory, coordinating and administrative support functions.

Minimize duplication and overlap of mission by combining or eliminating functions and improving processes.

An advisory committee of senior Presidential advisers was established to provide overall guidance. A. D. Frazier, Jr., was named project leader with the ability to form study teams and use outside resource people. A work plan was prepared as a guide to managing a comprehensive study.

The President approved the plan and work began to recruit an interdisciplinary team of analysts. Each EOP office was asked to detail a professional staff member to work with the study analysts to assist in the fact-finding, to review work and to serve as a daily contact point to provide substantive input on policy matters handled by each office.

The work was divided into three major studies:

(a) A fact-finding and functional analysis of each EOP office.

(b) A study of the decision-making process in the EOP.

(c) A study of EOP administrative support services.

In addition, plans for discussions with Congress and for public awareness were developed and administered.

The study was conducted from March 22 through July 1, 1977, when a report was presented to the President. Background information relative to ODAP included: the legislative history and related congressional testimony; previous drug strategy reports; other agency reports; information on planned ODAP studies; program and budget information; information on the purpose and objectives of ODAP, its organization, functions and activities; and results of interviews with ODAP professional staff and other knowledgeable agency and congressional staff.

The study was conducted with the cooperation of Dr. Peter Bourne of ODAP and his staff. They provided useful comments to the team at regular intervals and on the results of the study.

2. PRESIDENTIAL DECISION-MAKING

Question: How did the President make his decision on ODAP?

Answer: On July 1, 1977, the President received the completed report on the EOP reorganization study. This report covered major structural options for reorganization of the EOP, options for each office, options for improving the decision process and channels by which the President receives advice and implements decisions, and options for integrating administrative support functions. All information developed on ODAP was provided to the President because of his special interest in the field.

The President reviewed the information over the July 4th holiday. He requested that the Vice President review the report and provide him with his assessment. He asked his staff and EOP office head to provide him with final comments. He received and reviewed communications from several members of Congress.

After meeting with the EOP Project staff and receiving all of the information, the President made decisions.

When the President decided to terminate ODAP as a statutory entity, he also made several other related decisions. These related issues assure that drug abuse functions will be properly handled and that the issue will receive the priority attention it deserves. The most significant follows:

To deliver a planned message to the Congress on drug abuse which would clearly affirm his commitment to act. This message was delivered on August 2.

To retain a highly visible adviser to the President on drug matters who would be available to testify before the Congress as the Administration's chief spokesperson on drug abuse issues. This individual would be responsible for overseeing the effort to develop a national drug abuse policy and for mobilizing and directing coordination efforts.

To revitalize the Strategy Council on Drug Abuse, an existing interagency group. This group and ad hoc task forces, working with the President's adviser and Domestic Policy Staff, would be responsible for policy development and interagency coordination problems. Thus, drug abuse issues would be handled as a part of the new policy management system, developed to handle such issues.

To ensure that ODAP had sufficient time to finish its important reorganization work. ODAP has scheduled completion of its projects by the end of the year.

To direct the President's Reorganization Project to handle other drug related reorganization efforts.

To structure a system that left operational functions in line agencies and made use of agency expertise in developing policy.

3. CHANGE OF PRIORITY ON DRUG ABUSE

Question: Does elimination of ODAP signal the Carter Administration's disinterest in the serious drug abuse problem?

Answer: No.

(a) The President's commitment to fighting drug abuse can hardly be doubted. His message to the Congress of August 2, 1977, and the establishment of an adviser to the President on drug matters signals the Administration's continued commitment to resolution of drug abuse problems. Replacing ODAP with an adviser to the President plus support from the President's Domestic Policy Staff, OMB's President's Reorganization Project and a revitalized Strategy Council on Drug Abuse reflects a different process approach rather than a change in objectives. We think this approach can be more effective.

(b) When the President activated ODAP, he did not have the benefit of a comprehensive study of his office with alternate ways to handle important issues like drug abuse. The adoption of the policy management system creates a better means for handling such issues than continuing a separate office.

(c) Significant work of ODAP will be completed by the end of the year and the President has indicated he will act quickly on its recommendations.

(d) The presence of an assistant and a revitalized Strategy Council on Drug Abuse provides a visible focus for the national drug abuse effort. It cannot be assumed that in order to focus attention on a problem and mobilize resources, an EOP office must be established. Alternative ways of solving problems can be found and we feel that enlisting the resources of the agencies and departments involved is the best way.

(e) The discontinuation of ODAP will not result in other resource reductions or program reallocations. The President's August 2 message provides additional priorities and direction.

4. FUNCTIONS OF ODAP

Question: What functions does ODAP currently perform and who will carry them out after reorganization?

Answer:

Current function	*After reorganization disposition*	*Comment*
(a) Recommend to the President, policies objectives, and priorities of Federal drug abuse functions.	Special Assistant to the President and Domestic Policy Staff.	The Special Assistant will also handle international health matters.
(b) Provide strategy in terms of policy direction and coordination of the law enforcement, international and treatment prevention programs (written strategy).	Special Assistant, Domestic Policy Staff and Strategy Council on Drug Abuse.	
(c) Coordinate the interagency/interdepartmental performance of drug abuse functions and the implementation of Presidentially approved drug abuse strategies.	Special Assistant working with the Domestic Policy Staff through the Strategy Council on Drug Abuse.	
(d) Recommend to the President changes in organization, management, and personnel of relevant Federal agencies.	OMB's President's Reorganization Project.	Part of normal reorganization responsibility of OMB. Several reorganization studies are underway in this area.
(e) Represent the United States, at the President's discretion in international discussions and negotiations related to drug abuse functions.	Department of State.	No formal transfer of functions nor positions to State required since this is its normal responsibility.
(f) Review regulations, guidelines, requirements, criteria and procedures regarding above functions within Federal agencies.	OMB President's Reorganization Project.	
(g) Evaluate performance and results of drug abuse programs in Federal agencies.	OMB President's Reorganization Project and NIDA.	This must be done as part of the reorganization but ongoing work should be done in an agency.

5. ESTABLISHING POLICY

Question: How will drug abuse policy be set without ODAP?

Answer: Drug abuse policy should be set in cooperation with the responsible agencies. The President has asked Dr. Bourne to begin formulating a comprehensive drug abuse policy working with the Domestic Policy Staff and with relevant agencies through the Strategy Council on Drug Abuse. The President will expect his Adviser on drug-related matters to advise him if the responsible agencies' policies are deficient in any way.

6. INTERAGENCY COORDINATION AND REORGANIZATION

(a) Question: How will the coordination function be handled? With so many Federal entities involved in drug abuse, how can they be effectively coordinated without ODAP in the Executive Office?

Answer: Even for serious and complicated national problems such as drug abuse, the Carter Administration expects appropriate Cabinet Secretaries or agency heads working with the Domestic Policy Staff to assume full responsibility. The Drug Adviser working with the Domestic Policy Staff through the Strategy Council will be the main mechanism for coordination. Since drug abuse programs are so fragmented as to preclude effective assignment of responsibility to Federal executives, the appropriate course of action is reorganization of the drug abuse programs rather than maintenance of ODAP. Several reorganization studies are underway that will deal with organization of the Federal effort to combat drug abuse. The OMB reorganization effort will continue thereafter as needed to examine the fragmentation of drug abuse programs. Indeed, the legislative history (Senate Report No. 94–218) shows that the Labor and Public Welfare Committee recognized that ODAP's functions might be effectively carried out in other parts of the executive branch. That Committee anticipated Reorganization Plan as the vehicle for any such changes. We agree with their general assessment.

(b) Question. How can the proper budgetary balance in the various Federal drug abuse programs be maintained without ODAP?

Answer: Examination of program budgets for similar functions across organizational lines for compliance with overall Administration priorities and policy is a normal Office of Management and Budget function. We have every reason to believe that OMB, using zero-based program information, will effectively carry out this responsibility.

7. STAFFING OF DRUG ISSUES IN THE EXECUTIVE OFFICE

(a) Question: What Executive Office staff will work specifically on drug abuse problems?

Answer: Two persons on Dr. Bourne's staff and at least four people on the Domestic Policy Staff will work on drug-related mat-

ters. Personnel from the Office of Management and Budget's President's Reorganization Project will be assigned to work on any unfinished reorganization efforts and any new drug agency projects. On the budget side, OMB examiners, using zero-base program information, will be able to provide better program data for decision-making. Experts from the agencies will be used in the policy management system and as representatives on ad hoc interagency working groups to solve specific problems as they arise. This is more effective and economical than maintaining a full-time office staff.

(b) Question: Why eliminate ODAP to achieve a mere $500,000 saving?

Answer: Cost savings were secondary to the goal of an improved capability to address drug problems.

8. CONTINUATION OF A SPECIALIZED OFFICE

Question: Only last March ODAP was established by the President in recognition of the seriousness of the drug problem. Now you are abolishing it. What has changed in such a short time to cause this reversal?

Answer: Three things have changed. First, we think that the Domestic Policy Staff and the new policy management system can better handle Presidential level policy development and interagency coordination than can separate organizational entities like ODAP. Second, an OMB reorganization staff now exists to address the excessive fragmentation of drug abuse programs that has led to a need for an ODAP-like approach. This OMB reorganization effort will pick up where ODAP leaves off using the results of ODAP's reorganization studies. Third, ODAP has already achieved momentum in studying drug abuse problems; Dr. Bourne as Presidential Adviser and the Domestic Policy Staff can sustain that momentum.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, we should take note as we act on the first of the reorganization plans that President Carter will propose and as we are about to move forward in the process of Government reorganization, which was one of the basic commitments the President made to the American people in the recent campaign, that this is the beginning of a great undertaking. We should also recognize the work which the chairman of our committee, the gentleman from Texas (Mr. BROOKS), and the ranking minority member, the gentleman from New York (Mr. HORTON), have done in expediting and bringing this first plan to the attention of the House.

I think it is a good plan. I think the President started in the right place by setting his own house in order before he moves on to other areas of the Government. Indeed, if I have any criticism at all of the plan we have now before us, it is that it is not as bold as it might have been. It is not as dramatic or creative as it might have been. If we cannot make major, fearless changes in the Executive Office of the President, we will surely not be able to make bold changes when we begin to deal with agencies and programs that have their own vocal, parochial constituencies in Congress and in the public.

I think as we look ahead at some of the other plans which potentially may be coming to us for consideration, I would only hope the President would send us bold plans that will bring about major streamlining in the organization of Government, which I believe the American people want, which I believe they have demanded. I know our committee, under the leadership of our distinguished chairman, will be able to consider those plans, weed out the bad ones, and bring us the good ones, so we can take a major step forward in partnership with President Carter in the reorganization of the bloated, somewhat befuddled governmental structure of the present.

Mr. HORTON. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding, and rise in support of House Resolution 688, disapproving the President's Reorganization Plan No. 1 of 1977.

Mr. Chairman, I am opposed to this reorganization proposal primarily because it dismantles the Office of Drug Abuse Policy (ODAP) from the Executive Office of the President (EOP) without substituting a satisfactory unit within the Executive Office that would fulfill the functions that Congress sought in creating ODAP in 1976, namely; to provide "for effective, ongoing and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy" (Public Law 94–237).

Approximately 100 Members of Congress have expressed the view that this congressionally created unit should not be dismantled from the President's Executive Office.

Literally hours before the President submitted his reorganization proposal to the Congress, on July 12 and 13, 1977, and again on September 23, 1977, the select committee received testimony from the chief narcotics policymakers in the executive branch. The following themes emerged from that testimony, which I would like to bring to my colleagues attention:

First. The Office of Management and Budget (OMB) which drew up the reorganization proposal did not consult with the top narcotics administrators before arriving at its recommendation to abolish ODAP. It did not provide these narcotics policymakers with an opportunity to comment on OMB's termination proposal or for them to assess the impact that this recommendation would have in fulfilling the objective of Public Law 94–237.

Second. OMB did not consult with Members of Congress, particularly the Select Committee on Narcotics Abuse and Control, prior to proposing that ODAP be abolished. The failure of this administration to consult with Members of Congress on matters that directly involved the Congress—in this instance a congressionally created unit in the Executive Office that would provide a comprehensive coordinated national drug policy—is not unique to the drug issue. Last week, the Wall Street Journal reported that the distinguished Speaker of the House (Mr. O'NEILL) voiced a similar complaint that—

> The Administration is not paying enough attention to Congress in making its major foreign policy and domestic decisions.

Third. OMB's reorganization project team did not have any narcotics experts on its staff. Since OMB did not consult with the narcotics administrators or with Congress, and since OMB did not have any narcotics experts on its staff, it did not arrive at an informed and objective decision regarding ODAP's effectiveness in formulating a comprehensive, coordinated national drug abuse policy and in fulfilling the congressional mandate in Public Law 94–237.

Fourth. OMB misinformed the President in its assertion that only four options were available to him with regard to ODAP. An OMB representative testified before the select committee that one option would be to "permit ODAP to continue until its statutory termination date which is this fall."

Mr. Chairman, that testimony is erroneous. Public Law 94–237 does not contain any termination date with regard to ODAP's life existence and the "expiration" of its appropriations was not properly explained to the President, if it was explained at all.

Fifth. The three other options that OMB presented to the President dealt with eliminating ODAP and transferring its functions to other Federal departments and drug abuse agencies. This is the antithesis of what Congress intended when it created ODAP. OMB's approach toward managing the drug problem perpetuates the fragmentation that currently exists in the Federal Government. Instead of centralizing a leadership role in the EOP as Congress intended, OMB's decentralized approach shatters the efforts of the Congress to develop a coordinated drug policy in the EOP.

Mr. Chairman, why did OMB not provide the President with the alternative option of retaining ODAP within the Executive Office, particularly when the President activated the Office only last March? Under Dr. Bourne's leadership, ODAP has just begun to fulfill its congressional mandate.

Sixth. OMB's contention that it is streamlining the Executive Office by dismantling Dr. Bourne's seven-member professional staff and by providing him with a four-person staff from the domestic policy staff, two individuals from his present staff, and support from OMB's reorganization project, thereby "saving" at best, one position, does not constitute any appreciable savings in reduced manpower. This reshuffling of units and staff can hardly be regarded as "streamlining." The asserted $300,000 saving by eliminating ODAP's unused budget is miniscule compared to the loss in momentum obtained by ODAP and the loss that would result in developing a comprehensive, coordinated national drug policy, which, under the reorganization proposal, would be scattered through the Federal bureacracy.

Mr. Chairman, unless either the House or the Senate disapproves reorganization plan No. 1 by Saturday, October 15, this ill-conceived plan will become effective and the efforts by the Congress to develop a comprehensive, coordinated national drug policy will be shattered. Narcotics trafficking and drug abuse impact upon virtually every city and town in this

Nation. It has created an addiction population in this country estimated between 700,000 and 800,000 and supports the illicit business activities of organized crime estimated at over $20 billion annually.

Mr. Chairman, this is far too important an issue to be summarily dismantled from the President's Executive Office without properly considering its impact on our Nation.

Obviously, if the President does not want to utilize ODAP, then he will disregard it. But let us impress upon him the importance of this congressionally created office, the need for the administration to consult Congress. and the importance of providing a unit in his Executive Office to formulate a coordinated national drug policy.

I realize that we must vote on the reorganization plan in its entirety without singling out elements of the plan for disapproval. However, in view of the magnitude of this issue, I urge that my colleagues support House Resolution 688, and return OMB's ill-conceived proposal to the drawing boards.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, President Carter's reorganization proposal should certainly not be taken as any indication of a lack of commitment to seeking solutions to our drug problem. Earlier this year, the President sent a special message to Congress on the drug problem. This response on the part of the new administration certainly shows its concern for and interest in resolving this problem which is taking such a severe toll in human resources in our country.

President Carter has clearly stated many times his intention to methodically review the organization of the Government and to make recommendations for making it more efficient. That study with regard to the Executive Office of the President has been completed and he has concluded at this time that the drug abuse problem can be dealt with more effectively through the mechanism he has proposed in reorganization plan No. 1. The President has indicated that his drug advisor, Dr. Bourne, will remain in the Executive Office working closely with the agencies, such as HEW, the Department of Justice, the Customs Bureau, and others that deal with the drug problem. He has also indicated every intention of making Dr. Bourne available for congressional appearances.

The President's desire is to make the Executive Office of the President an efficient, streamlined, and responsive tool with which he can, hopefully, direct major Government policy, including that relating to drug abuse. Abolishment of the Office of Drug Abuse Policy certainly in no way directly or indirectly can be equated with a lack of concern on the part of the President or this administration.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I would like to suoport the resolution that is being considered, although I had wanted to make a point of order against the whole thing. I was told that they preferred to rule on the point of order, and nobody is really quite sure whether it would stand. I feel that under the terms of the Reorganization Act that we passed last year, the terms of it said that the President could not submit reorganization plans which would have the effect of creating authorizations for new entities that would replace old entities which are not authorized.

Mr. Chairman, I chair a subcommittee which has been attempting to try and do an authorization bill for the White House for a long time, and we have had no cooperation. Our fear is that Reorganization Plan No. 1 is the way to maybe skirt what we have been attempting to do. I want to get this authorization through at the White House, and I think a lot of us feel very strongly that the White House should be like any other executive agency and should not be given the keys to the Treasury. But we have not been able to proceed on this because we have not been able to get the administration's help.

Within Reorganization Plan No. 1, the White House Office, the Executive residence, the special assistance to the President, the Vice President's funds, and the domestic council are all being reorganized. But I do not see how they can possibly be reorganized when they do not have any current authorizations in the law.

Last year, when we were considering appropriations on all of these different aspects of the Executive Office, there were very many points of order that were upheld against the appropriations for these entities that I have just mentioned. So my question is: How can we possibly have a reorganization plan to reorganize entities which have not been authorized.

Then I also want to know how we can possibly proceed to get those authorizations moving from the White House. Our frustration has been that every week there is a new team dealing with it and that nobody wants to come over and testify. Because of a lot of things that happened during Watergate, as the Members are aware, and a lot of funds being misused, my subcommittee feels there should be an authorization for the Executive Office of the White House and there should be more control of these funds.

We did pass an authorization with the Ford White House going along with it. As I say, we have been unable to get any help on a White House authorization with this administration.

My real fear is that this reorganization plan is a way to make an end run around my subcommittee's authorization process so we cannot get our hands back on the authorization and appropriation process in order that we really do have an accounting and do know where those White House funds are going. We must have an authorization to have some way of making the executive branch accountable for what is going on over in the White House.

Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is nothing in Reorganization Plan No. 1 that exceeds the scope of the Reorganization Act. The question is raised regarding four units in the Executive Office of the President: First, the White House Office; second, the Executive residence; third, the special assistance to the President—Vice President's funds; and fourth, the Domestic Council. The first three of these are not dealt with in the reorganization plan. While the reorganization may affect them, the plan itself contains no mention of any of those three units.

The fourth unit, the Domestic Council, was created by Reorganization Plan No. 2 of 1970. Reorganization plans have the full force and effect of law and, therefore, the Domestic Council is a proper entity to be treated in a subsequent reorganization plan.

The Government Operations Committee concluded in its report on this plan:

> After a careful analysis of Reorganization Plan No. 1 of 1977, the Committee concludes that it meets the requirements of the Reorganization Act (Public Law 75–17).

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished colleague, the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, as I understand the Reorganization Act, it provided that the President could not submit reorganization plans that would create authorizations for new entities that would replace old entities which were not authorized. That is essentially what we are doing here with this reorganization plan.

Mr. BROOKS. Mr. Chairman, I appreciate the gentlewoman's concern and her interest, and I hope that in the future she might have more interest in appropriations and authorizations at the executive level.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield further, I assure the gentleman from Texas (Mr. BROOKS) that I will have a standing interest in the appropriations and authorizations at the executive level.

Do I have the gentleman's assurance that this is not a secret way to make an end run around the authorization process?

Mr. BROOKS. Mr. Chairman, I do not believe that this action has any motivation along that line.

Mrs. SCHROEDER. So the gentleman would still feel that authorizations at the White House level would still be required and there would be no change in that procedure?

Mr. BROOKS. Mr. Chairman, I would have to look into that further before I make that commitment, I will say to my distinguished friend, the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman.

Mr. HORTON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have taken this time to ask the chairman of the committee the procedure with regard to a vote on this matter.

In the event that we have a recorded vote, I understand it is the recommendation of the committee that those who favor the plan should vote "no," because the disapproval resolution is just that, a resolution to disapprove, and, therefore, under the procedure that we have established for these authorization bills, this is the manner in which the matter is presented.

So in order that the Members will understand the procedure, if they wish to record their vote for the plan, they should vote "no" on the resolution; is that correct?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, the gentleman from New York is absolutely correct. If Members are for the President's Reorganization Plan No. 1, as the committee is and as I certainly am, they should vote "no" on this disapproval resolution.

Mr. HORTON. Mr. Chairman, I thank the gentleman.

Mr. WEISS. Mr. Chairman, although I am in general agreement with Reorganization Plan 1, I have grave reservations concerning that portion of the plan which eliminates the Office of Drug Abuse and Prevention—ODAP. That is why I voted "present" in committee and intend to do the same on the floor. A brief look at the reorganization's plan for ODAP will, I hope, make it clear why I am voting this way.

On March 14, President Carter stated that: "Drug abuse continues to drain human resources, especially from our youth, with no end in sight. I am determined that we make every effort to reverse this trend." However, only 4 months later, he announced, at the urging of the Office of Management and Budget, that he was terminating ODAP, the one agency in the executive that has begun to provide visible Federal action in developing and carrying out a comprehensive, coordinated national drug abuse policy.

ODAP is responsible for formulating a comprehensive national drug program and coordinating the functions of more than 50 departments, bureaus, agencies, and administrations having authority over drug abuse prevention and control programs.

Under this reorganization proposal, ODAP's director, Dr. Peter Bourne, his staff—reduced from 10 to 2—the revitalized Strategy Council and the OMB Reorganization project would be responsible for formulating and coordinating the Nation's drug program. All these organizations will have numerous additional responsibilities covering a wide range of issues. They will not have enough time to meet the problems of drug abuse. It is far too important a problem to be relegated to a part-time occupation fragmented among several Federal agencies. A decentralized approach will not effectively deal with our Nation's problem with drug abuse.

The redelegation of drug-related functions would give almost unrestrained authority to the executive without any oversight or approval by Congress. This is contrary to the Public Law 94-237 which, in creating ODAP, called for Presidential appointment, with the advice and consent of the Senate, and directed that ODAP be the executive agency for formulating and recommending polices, objectives, and priorities in the fight against drug abuse.

In this new proposal, various unrelated agencies will acquire functions previously the responsibility of ODAP. OMB, for example, will be acting as a policymaker in the drug abuse field, rather than as a consulting agency. Even the President's Reorganization project would have a hand in the decisionmaking.

I am fearful that this fragmentation of responsibilities will irrevocably erode Federal leadership in combating drug abuse. The reorganization plan relegates drug-related issues to a far lower priority than President Carter placed on them last March.

I urge my colleagues to give their attention to the testimony of the Honorable BENJAMIN GILMAN and of Hon. LESTER WOLFF, chairman of the Select Committee on Narcotics Abuse and Control, who urged disapproval of the President's reorganization plan.

The drug abuse problems in the United States must continued to be a high priority. We need viable answers, and for this we need strong leadership. We must restore ODAP to its original strength.

Mr. WOLFF. I thank the gentlemen for yielding.

Mr. Chairman, this portion of the reorganization proposal, which was prepared by the Office of Management and Budget (OMB) and which would terminate the Office of Drug Abuse Policy (ODAP) is an ill-conceived plan, and the President was poorly advised as to the ramifications that this proposal would have on this Nation's efforts to control narcotics trafficking and drug abuse.

The House Committee on Narcotics Abuse and Control, of which I am privileged to serve as its chairman, recently conducted oversight hearings on the Federal drug strategy. We heard from the administration's top narcotics policymakers—Dr. Peter Bourne, Director of the Office of Drug Abuse Policy (ODAP), Peter Bensinger, Administrator of the Drug Enforcement Administration, Mathea Falco, the Secretary of State's Senior Narcotics Adviser, and Dr. Robert DuPont, Director of the National Institute on Drug Abuse—and we learned that none of these narcotics experts were consulted regarding the dismantling of ODAP.

Mr. Chairman, the Congress created ODAP in 1976. It is a statutory unit within the President's Executive Office that derives its mandate from Public Law 94-237, which, among other things, requires this Office to provide "an effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy." Under the reorganization proposal, not only will ODAP be scrapped, but I am at a loss to locate its functions on the proposed reorganization chart. This is hardly the highly visible Federal leadership that Congress had in mind when it created ODAP.

Furthermore, Members of Congress—and especially the select committee—were not consulted regarding the proposal to abolish ODAP. In my view, this lack of consultation is an affront to the American people and to the Congress. Congress must be consulted in such vital matters of public policy, particularly when it involves a congressionally created plan.

Reorganization Plan No. 1 as it relates to formulating a comprehensive, coordinated national drug abuse policy is the very antithesis of what Congress intended when it created ODAP. The reorganization proposal perpetuates the fragmentation that currently exists in the Federal executive branch by scattering ODAP's functions to the very departments and agencies that would require coordination if this Nation is to develop a comprehensive national drug policy. The legislative efforts of the Congress, culminated in Public Law 94-237, has been shattered. If this part of the proposal is not rejected by either the House or the Senate by this Saturday, October 15, then this Nation will be required to start from scratch in its efforts to develop a comprehensive, coordinated national drug policy out of the fragmented cloth that currently exists in the Federal executive branch.

ODAP has just begun to fulfill its congressionally created mandate. Let us not scrap ODAP. Rather, let OMB redesign its proposal and resubmit it to the Congress and, hopefully, after it consults with the administration's narcotics experts, none of whom reside in OMB, and with the Congress, it will formulate a meaningful program to arrest this invidious cancer, drug abuse, which is attacking the very vitals of this Nation.

Mr. ROGERS. Mr. Chairman, while I support most of the reorganization proposals in the President's Reorganization Plan No. 1, I am opposed to the provision which would terminate the Office of Drug Abuse Policy in the Executive Office of the President.

The Office of Drug Abuse Policy, which I shall refer to as ODAP, was created by statute in 1976 to direct the establishment of a high-level drug abuse policy and coordinating entity in the Executive Office. ODAP replaced the Special Action Office on Drug Abuse Prevention, which was established in 1972. The congressional effort leading to the enactment of legislation which created ODAP encountered considerable opposition from the former administration, which also failed to implement that legislation, despite the clear statutory requirement that it do so. I was extremely pleased when in March of this year, the President announced that he was activating ODAP and had appointed Dr. Peter G. Bourne as its Director. During the months of April, May, and June, ODAP was staffed and it launched many important drug abuse initiatives which are currently being carried forward. I was therefore completely surprised and dismayed when in July the President transmitted to the Congress Reorganization Plan No. 1 which provided for ODAP's termination.

Although I am sympathetic with the President's concerns about the proliferation of categorical, mission-oriented offices in the executive office, I do not believe that the termination of ODAP and its proposed replacement for drug abuse policy and coordination, will address these concerns. In fact, I believe that there is sound basis to conclude that the proposed policymaking and coordinating network to be substituted for ODAP will probably aggravate the proliferation of uncoordinated drug abuse entities in the executive office. It is my understanding that the proposed substitute for ODAP's drug abuse policy development, coordination, and reorganization study functions will be composed of three functional groups in the executive office. The first group is to be an office headed by Dr. Bourne which is to advise the President respecting drug abuse and other health matters. A second group is to be composed of domestic council staff members assigned to drug abuse policy. A third group is to be composed of staff members of the President's reorganization project assigned to drug abuse reorganization. Then, to complicate matters further, the OMB will no doubt also have some role in the process. It seems to me that the splintering of ODAP into these three functional groups, without a clear indication of lines of authority and responsibility respecting the assumption of ODAP's previous functions, is likely to be counterproductive to the development of a strong voice on drug abuse matters in the executive office as well as causing further proliferation of executive office drug abuse entities. Many additional questions seem to me to still be unanswered with respect to the accountability to Congress of the proposed drug abuse policy and coordination network.

I adhere to my previous view that an entity with a clear mandate based upon statutory authority, such as ODAP, is vital to our national efforts to develop and coordinate diverse and often conflicting drug abuse strategies and activities. Drug abuse policies and activities cut across numerous Federal, State, local, and proprietary entities. In fact, there are over 20 Federal agencies in several Cabinet-level departments with significant drug abuse responsibilities. Over the years, many intense conflicts have developed between the policies and activities of the various domestic law enforcement, health, and international agencies involved in drug abuse problems.

During its brief existence, ODAP has already demonstrated that it can be an effective drug abuse policy and coordinating entity. It has demonstrated that it can surmount interagency rivalry and integrate drug abuse law enforcement, regulatory, international, prevention education, treatment and rehabilitation functions. In my view, it is an indispensable as the units in the executive office, such as the Council on Environmental Quality and the Council on Wage and Price Stability, which are to be retained under the reorganization plan. I therefore strongly disagree with the decision to terminate it.

Despite my disagreement, I have not elected to oppose the entire reorganization plan as proposed by the President, as I believe there are broader considerations involved than ODAP—particularly the need for reorganization of other entities in the executive office. We are restrained by the reorganization law from disapproving one portion of this reorganization plan. We must either accept or reject the entire plan. However, I would like to point out that ODAP was a creation of the Congress. It would certainly be an appropriate exercise of the legislative powers of Congress to reestablish ODAP or a comparable entity in the executive office if it decided to do so. Therefore, I can assure my colleagues that as chairman of the subcommittee which has legislative jurisdiction over drug abuse policy development and coordination, my subcommittee colleagues and I will be closely monitoring future drug abuse policies and activities in the executive office to determine their viability and effectiveness. I am hopeful that the Subcommittee on Health and Environment will be able to schedule oversight hearings early next year for this purpose. If, as a result of the subcommittee's oversight activities, the need for reestablishment of ODAP or a comparable entity is demonstrated to be desirable, I will not hesitate to recommend that appropriate implementing legislation be acted upon by the House and Senate, and I am sure that many of my colleagues in both Houses would join me in that action.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 688

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 1 transmitted to the Congress by the President on July 15, 1977.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KILDEE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 688) to disapprove reorganization plan No. 1 of 1977, had directed him to report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the resolution.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 20, nays 350, answered "present" 1, not voting 63, as follows:

[Roll No. 655]

YEAS—20

Ashley
Bauman
Bennett
Burke, Fla.
Dornan
English
Gilman
Hagedorn
Hawkins
Holt
McClory
McDonald
O'Brien
Rangel
Rosenthal
Scheuer
Schroeder
Spence
Walsh
Wydler

NAYS—350

Abdnor
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Aspin
Badham
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gudger
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Markey
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak

Oakar	Ryan	Thornton
Oberstar	Santini	Traxler
Obey	Sarasin	Trible
Ottinger	Satterfield	Tsongas
Panetta	Sawyer	Tucker
Patten	Schulze	Udall
Patterson	Sebelius	Vander Jagt
Pattison	Selberling	Vanik
Pease	Sharp	Vento
Perkins	Shipley	Volkmer
Pettis	Shuster	Waggonner
Pike	Simon	Walgren
Poage	Sisk	Walker
Pressler	Skelton	Wampler
Preyer	Skubitz	Watkins
Price	Smith, Iowa	Waxman
Pritchard	Smith, Nebr.	Weaver
Quayle	Snyder	White
Quie	Solarz	Whitehurst
Quillen	Spellman	Whitley
Railsback	St Germain	Whitten
Regula	Staggers	Wiggins
Rhodes	Stanceland	Wilson, Bob
Richmond	Stanton	Wilson, C. H.
Rinaldo	Stark	Winn
Risenhoover	Steers	Wirth
Roberts	Steiger	Wright
Robinson	Stockman	Wylie
Rodino	Stokes	Yates
Roe	Stratton	Yatron
Rogers	Studds	Young, Alaska
Roncalio	Stump	Young, Fla.
Rooney	Symms	Young, Mo.
Rousselot	Taylor	Young, Tex.
Rudd	Thompson	Zablocki
Ruppe	Thone	Zeferetti

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—63

Addabbo	Ford, Mich.	Pepper
Anderson, Ill.	Fowler	Pickle
AuCoin	Frey	Pursell
Badillo	Giaimo	Rahall
Bafalis	Goldwater	Reuss
Beard, Tenn.	Goodling	Rose
Biaggi	Guyer	Rostenkowski
Bingham	Harrington	Roybal
Boiling	Holland	Runnels
Bowen	Johnson, Calif.	Russo
Brown, Calif.	Kemp	Sikes
Burke, Calif.	Keys	Slack
Burton, John	Koch	Steed
Clausen, Don H.	Livingston	Teague
	Lujan	Treen
Clay	Maguire	Ullman
Collins, Ill.	Mann	Van Deerlin
Conyers	Marks	Whalen
Crane	Metcalfe	Wilson, Tex.
Delaney	Miller, Calif.	Wolff
Dent	Moakley	
Diggs	Murphy, N.Y.	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Moakley.
Mr. Dent with Mr. Frey.
Mr. Bingham with Mr. Anderson of Illinois.
Mr. AuCoin with Mr. Bafalis.
Mrs. Burke of California with Mr. Goldwater.
Mr. Biaggi with Mr. Beard of Tennessee.
Mr. Miller of California with Mr. Whalen.
Mr. Pepper with Mr. Goodling.
Mr. Sikes with Mr. Crane.
Mr. Murphy of New York with Mr. Kemp.
Mr. Badillo with Mr. Livingston.
Mr. Fowler with Mr. Lujan.
Mr. Wolff with Mr. Guyer.
Mr. Harrington with Mr. Pursell.
Mr. Russo with Mr. Treen.
Mr. Reuss with Mr. Johnson of California.
Mr. Bowen with Mr. Holland.
Mr. Roybal with Mr. Marks.
Mr. Koch with Mr. Brown of California.
Mr. Diggs with Mr. Teague.
Mrs. Collins of Illinois with Mr. Clay.
Mr. Delaney with Mr. Don H. Clausen.
Mr. Conyers with Mr. Giaimo.
Mr. John L. Burton with Ms. Keys.
Mr. Ford of Michigan with Mr. Mann.
Mr. Maguire with Mr. Metcalfe.
Mr. Rose with Mr. Pickle.
Mr. Rostenkowski with Mr. Steed.
Mr. Slack with Mr. Runnels.
Mr. Van Deerlin with Mr. Ullman.

Mr. Charles Wilson of Texas with Mr. Rahall.

Mr. RONCALIO, Mrs. MEYNER, and Mr. BROWN of Ohio changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the resolution (H. Res. 688) just rejected.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE CONFERENCE REPORT ON H.R. 5101, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a conference report on H.R. 5101, to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

FEDERAL BANKING AGENCY AUDIT ACT

Mr. ROSENTHAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2176) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2176, with Mr. CORNWELL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Wednesday, September 14, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substittue recommended by the Committee on Government Operations now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Federal Banking Agency Audit Act".

SEC. 2. Section 117 of the Accounting and Auditing Act of 1950 is amended by adding at the end thereof the following new subsection:

"(d)(1) The Comptroller General of the United States shall make, under such rules and regulations as he may prescribe, audits—

"(A) of the Federal Reserve Board, all Federal Reserve Banks, and their branches and facilities;

"(B) of the Federal Deposit Insurance Corporation; and

"(C) of the Office of the Comptroller of the Currency.

"(2) For purposes of this subsection, the term 'agency' means the agencies, banks, facilities, and corporation, listed in paragraph (1).

"(3) An audit made under paragraph (1)(A) shall not include transactions conducted on behalf of foreign central banks and foreign governments, transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account, or monetary policy deliberations and decisions or the economic effects of such decisions.

"(4) The General Accounting Office (hereinafter in this subsection referred to as the Office) shall not conduct onsite examinations of open insured banks or bank holding companies without the written consent of the agency concerned.

"(5)(A) Except as otherwise provided in this paragraph, no officer or employee of the Office shall disclose to any person, nor shall the Office disclose in its report or otherwise outside of the Office, any information in a form which would (i) identify a specific customer of an open or closed bank or bank holding company, or (ii) identify a specific open bank or open bank holding company.

"(B) The Office may disclose information in a form which would identify a customer of a closed bank or closed bank holding company only if that customer, in the opinion of the Comptroller General, had a controlling influence in the management of such closed bank or closed bank holding company or was related to or affiliated with such a controlling person or group, and then only to the extent that such disclosures relate to the affairs of such closed bank or closed bank holding company.

"(C) Subparagraph (A) shall not be deemed to prohibit the Office or its employees from discussing specific customers, banks, or bank holding companies with officials of any of the agencies or from reporting apparent criminal law violations to appropriate State or Federal law enforcement agencies.

"(D) Nothing in this subsection shall authorize the withholding of information by any officer or employee of the Office from a duly authorized committee or subcommittee of the Congress. Any information requested by such committee or subcommittee which would not be authorized to be disclosed by the Office under subparagraph (A) shall be furnished to such committee or subcommittee or subcommittee only when sitting in executive session.

"(E) Nothing in this subsection shall authorize the withholding of information by any officer or employee of an agency from a duly authorized committee or subcommittee of the Congress.

"(6)(A) The Comptroller General shall, as

frequently as may be practicable, make reports to the Congress on the results of audit work performed under this subsection.

"(B) An advance draft of such Office audit report shall be made available to the agency concerned (other than banks, branches, and facilities) for thirty days for agency comment on the contents thereof. The final report shall include, as an addendum, any written comments submitted by the agency within such period.

"(7)(A) For the purposes of, and to the extent necessary in making audits required by paragraph (1), representatives of the Office shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by the entities being audited, including reports of examination of banks or bank holding companies, from whatever source, together with workpapers and correspondence relating to such reports whether or not a part of the reports; and all without deletions.

"(B) The Comptroller General shall have the authority to authorize Office personnel to coduct such audits and to have access to agency materials described in subparagraph (A) and shall provide the agencies with an up-to-date listing of such personnel, who upon proper identification shall be granted access to such agency materials and shall be permitted to make whatever notes or copies they deem necessary to proper conduct of the audit.

"(C) The agencies shall provide such Office personnel with suitable, lockable office space and furniture, telephone, and access to copying facilities.

"(D) All Office workpapers, and agency materials described in subparagraph (A) which come into possession of the Office during an audit, shall remain on the agency's premises, except for temporary removal of Office workpapers which do not identify a specific customer, bank, or bank holding company as provided in paragraph (5)(A). Such agency materials shall be strictly maintained in order to prevent any unauthorized access.".

SEC. 3. Section 1906 of title 18, United States Code, is amended by inserting immediately after "or either House duly authorized," the following: "or as authorized by section 117(d) of the Accounting and Auditing Act of 1950,".

Mr. ROSENTHAL (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I offer two amendments and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ASHLEY: Strike the text of paragraph (3) and insert in lieu thereof:

An audit made under paragraph (1)(A) shall not include—

(A) transactions conducted on behalf of or with foreign central banks, foreign governments, and nonprivate international financing organizations;

(B) deliberations, decisions, and actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(C) transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account; and

(D) those portions of oral, written, telegraphic, or telephonic discussions and communications among or between Members of the Board of Governors, and officers and employees of the Federal Reserve System which deal with topics listed in subparagraphs (A), (B), and (C) of this paragraph.

On page six, line 14, of the Committee Print of H.R. 2176, insert after the word "include" the phrase "statistically meaningful samples, determined by the Office, of".

Mr. ASHLEY. Mr. Chairman, the first of my amendments would change the monetary policy exclusion to specifically exclude Federal Reserve discount window operations from GAO audits. As voted out by the Committee on Government Operations, H.R. 2176 excluded all Federal Reserve monetary policy activities. In the legislative report, however, an attempt was made to distinguish between "monetary policy" and "bank supervisory" discount window operations, with the understanding that the GAO would have authority to audit discount window transactions which relate to bank supervision, but not those which implement monetary policy. Though I understand and appreciate the distinction, I am convinced it has no practical applicability. Ample evidence of this is provided by the example given in the legislative report itself.

The report suggests the Federal Reserve loans to Franklin National Bank were supervisory in nature; that is, they were made because Franklin was a "problem bank." While it is true Franklin was a "problem bank," the loans were made mainly to keep Franklin's problems from upsetting international money markets, and not to save the bank.

It would be impossible for GAO to audit the Federal Reserve loans to Franklin without delving into the Federal Reserve's monetary policy responsibility to maintain the stability of domestic and international money markets. This is actually the case for all discount window loans, whether they are made to large international banks such as Franklin or to small country banks. All such loans in one way or another relate to local or regional credit needs and money market stability and, consequently, are inextricably bound up in monetary policy.

To assure this legislation will not become a device for putting political pressure on monetary policy formulation, we must amend the monetary policy exclusion to prohibit the GAO from auditing discount window loans.

The amendment I offer to accomplish this is the result of discussions among supporters of H.R. 2176 and represents, I believe, a constructive consensus of varying points of view.

My second amendment, Mr. Chairman, would alter the access provisions of H.R. 2176 to enable the GAO to have access to samples of bank examination reports which are representative and suitable for GAO's audit purposes.

This amendment will not reduce GAO's audit effectiveness in any way. The focus of the audits authorized by H.R. 2176 is on agency operations and not on banks or bank holding companies. Consequently, examination report samples should be acceptable in documenting agency practices and procedures. The samples GAO used in their recent audit of Federal bank regulation are good examples of this.

Nevertheless, no agency should interpret this amendment as a means of thwarting a GAO audit by not agreeing with the GAO on what is a suitable sample. Whether the audit is initiated by the GAO itself as provided for in this legislation or is the result of a request by a congressional committee or subcommittee, the GAO has full authority to determine which examination reports will be audited so long as the reports chosen are statistically relevant to the purpose of the audit.

Mr. Chairman, I support this legislation and strongly believe my two amendments will make H.R. 2176 an effective addition to Congress' ability to oversee the operations of the Federal bank regulatory agencies. I urge my colleagues to vote favorably on these amendments.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from New York, the distinguished chairman of the subcommittee.

Mr. ROSENTHAL. Mr. Chairman, when the Commerce, Consumer and Monetary Affairs Subcommittee marked up H.R. 2176, Congressman ST GERMAIN sought to distinguish between "monetary policy" and "bank supervisory" discount window loans to commercial banks. This distinction makes a great deal of sense to me, and I believe if the functions of the discount window were better understood, there would be little objection to authorizing GAO audits of nonmonetary policy loans.

The distinction, however, is difficult to express in legislation at this time, and will require oversight hearings into Federal Reserve use of the discount window to determine precisely what kinds of loans relate to monetary policy and which do not. With the help of my friend and colleague, Mr. ST GERMAIN, I intend to convene such hearings and if the distinction can be documented, we will seek to amend the Federal Banking Agency Audit Act to allow the GAO to audit nonmonetary policy discount window loans.

In the meantime I accept the monetary policy amendment offered by Mr. ASHLEY, and urge my colleagues to accept it also.

Mr. Chairman, I also accept Mr. ASHLEY's second amendment so long as it is understood that the GAO has the final say on whether any sample satisfies its audit objectives and that this authority exists whether an audit is initiated by the GAO, or by a congressional committee or subcommittee.

Because the legislative intent in this amendment may not be clear, Mr. Chairman, I insert at this point in the RECORD an example of how statistical samples are selected:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 19, 1976.

To: The Honorable Benjamin S. Rosenthal, Chairman, House Committee on Government Operations, Commerce, Consumer and Monetary Affairs Subcommittee.

From: Dr. Daniel Melnick, Analyst, Government Division (Frederick Pauls, Deputy Division Chief).

Subject: Sampling procedure for the Subcommittee's proposed study of the Comptroller of the Currency's examination and supervision of large national banks.

This memorandum responds to your request for an opinion on the appropriate sampling procedure for a contemplated study of the examination of large national banks. It transmits the report of Dr. Benjamin Tepping which was commissioned by CRS at your specific request.

Because the Subcommittee has decided to restrict its study to those banks with $1 billion or more in deposits as of December 31, 1975,[1] Dr. Tepping's recommendations are confined to the case in which this limitation applies.

Dr. Tepping's report concludes that:

1. The most valid and cost effective procedure would call for the inclusion of all 61 banks in the sample.

2. Several "feasible and mathematically valid" procedures are available for sampling the loans for study within each bank. However, the information currently available to the Subcommittee is not adequate to determine which of these plans would be most advisable and valid. Nevertheless, once the Subcommittee has access to the basic documents, it would be possible to recommend a valid sampling technique. Dr. Tepping presents an outline of the considerations which might enter into the design of the sampling plan.

Dr. Benjamin J. Tepping [401 Apple Grove Road, Silver Spring, Maryland] is an experienced statistical consultant. He holds the PhD in Mathematics from Ohio State University and served with the Bureau of the Census for 24 years before his retirement from Government service in 1973. For a period of 10 years he was the Chief, Research Center for Measurement Methods, U.S. Bureau of the Census.

I trust this memorandum and the accompanying report meet your needs. If there is any way in which I can be of further service to you, please do not hesitate to call me on 426-5824.

SAMPLING PLAN FOR A STUDY OF BANK EXAMINERS' EVALUATIONS

(By Benjamin J. Tepping, Ph.D.)

Recommendation: A proposed study of the supervision and examination of the 61 largest national banks would require an analysis of the accuracy of examination evaluation of bank assets.

After careful consideration of the statistical problems involved, I recommend that the sample include all 61 of the largest banks, and that a sample of loans be selected for observation in each bank. The precise size and design of the sample of loans should await the determination of the relevant parameters. Plans should be made to estimate the sampling errors of the important statistics that are to be based on the sample.

Statement of the problem. For the ten-year period 1965–1975, it is proposed to study the evaluations by bank examiners of loans in the 61 largest banks of the United States. More specifically, the problem may be described as follows. In each bank, bank examiners review the loans outstanding at a given time, and classify them into five classes of degree of risk:

1. Satisfactory.
2. Specially mentioned.
3. Substandard.
4. Doubtful.
5. Loss.

The examination in a given bank may take place at intervals of 6 months, 12 months or 18 months. Generally, only loans of $3,000 or more are subjected to examination. A loan once classified by the examiner as less than satisfactory (classes 2–5) is reviewed during subsequent examinations until the debt has either been satisfied or has been written off its books by the bank.

It is the object of the proposed study to estimate the proportion of the loan value that turns out to be "actual loss." The proportion would be estimated separately for each of the classes 2–5 listed above, in each of three phases of the economic cycle: rising, level and falling. (For the latter purpose, each examination period would be defined as belonging in one of the three phases of the economic cycle.) In this study, an "actual loss" would be defined as a loan which has been classified by the examiner as less than satisfactory for three years and which is in arrears at the end of three years.

The data-gathering process. The basic record consists of a record for each loan classified by the bank examiner as being in classes 2–5 at the given examination or at the preceding examination. The records are organized by bank and examination period, and alphabetically within these groups. For each bank and examination period, the loans of concern to the study are those that were in classes 2–5 for the first time in this examination period. Thus, the data-gathering process consists of determining whether a given loan listed for the examination period was also listed for the preceding examination period, and if not how it is classified in each examination period for the following three years, including the determination of whether the loan is in arrears.

Some alternative study designs. The first question that arises is whether it is necessary to observe every loan in every one of the 61 banks for the ten-year period, or whether satisfactory results can be obtained from a suitably selected sample of banks and/or of loans. This question should be considered in the light of (a) the degree to which examiners in different banks may differ among themselves in the way in which they classify loans, and (b) the relationship of the cost of including a bank in the study to the cost of including an individual loan in the study. With respect to (a), we anticipate that there may be variation examiners and among banks. This fact should lead to the inclusion of a larger number of banks in the study than would otherwise be the case. With respect to (b), we expect that the operational cost of including a bank in the study may be of the same order of magnitude as the cost of including a single loan in the study. This would indicate that increasing the sample by one bank would cost about the same as increasing the sample by one loan. Since the former course would decrease the average sampling error more than the latter course in view of the expected variation among banks, it is better to increase the number of banks in the study. The mathematical analysis sketched in the Appendix bears this out. We therefore recommend the inclusion of all 61 banks in the study.

We now consider the selection of a sample of loans for the study. There are several alternatives which are both feasible and mathematically valid. Without more information, not yet available, it is not possible to choose among these. However, some principles that should be applied may be noted.

The classes 2–5 may differ from one another considerably in the number of loans that they include. Nevertheless, if it is desired to make estimates for each of these classes, the number of loans selected for study should be about the same in each class since such a choice will make the sampling errors approximately equal for the various classes. Alternatively, further study of the problem may indicate that the estimates should be made for some combinations of classes, rather than for individual classes.

Having determined the number of loans to be selected from each class, maximum precision of the estimates will be attained by selecting the sample loans with probability proportionate to their values. In application this means including in the study every loan whose value exceeds a specified critical value, which can be determined when more information is available. Smaller loans should then be sampled by cumulating their values and selecting the loans that contain every n-th dollar of value (preferably with a random start). Such a plan can be implemented simply. An alternative is to group the loans of similar value, and to select a sample of loans in each group with the number of loans selected being approximately proportional to the total value of the loans in the group.

Estimation of sampling error. For any of the sampling plans noted above, it will be possible to make estimates of the sampling error based on the data contained in the sample itself. This is an important advantage of the use of probability sampling designs in such surveys. The appropriate form of the estimate of sampling error will depend upon the way in which the sample is drawn and upon the manner in which the estimates of the required proportions are construed.

APPENDIX.—OPTIMUM CHOICE OF A SAMPLE OF BANKS AND LOANS

For a given phase of the economic cycle, let us define

M=number of banks (=61)

m=number of banks selected at random for the sample

$\overline{N}_i$=average number of loans, per bank, assigned to class i by the bank examiner for the first time (i=2, 3, 4 or 5)

$\overline{n}_i$=average number of loans selected at random among the $\overline{N}_i$

Then the variance (square of the standard error) of the estimated proportion of "actual loss" for class i may be given approximately in the form

$$\frac{\sigma^2}{\bar{x}_i}=\frac{P_i(1-P_i)}{m\overline{n}_i}[1+(\overline{n}_i-1)\delta_i]$$

where δ_i is a certain measure of the homogeneity of the loans of class i within the same bank, with respect to whether the loan is an "actual loss" or not, and P_i is the proportion of "actual loss" among the dollars in the loans of class i.

We assume that the total cost of carrying out the study may be written in the form

$$C=C_0+C_1m+C_2m\Sigma\overline{n}_i$$

To simplify, we suppose that the same number of loans is selected for study in each class i, and hence let $\overline{n}_i=\overline{\overline{n}}$. In this cost formula, C_0 denotes the total fixed cost which is independent of the number of banks or loans that are included in the sample, C_1 denotes the cost per bank selected (including such costs as those of obtaining the records for the bank, organizing them suitable and identifying the loans to be included in the sample), and C_2 denotes the cost per loan included in the sample. It can then be shown that the values of $\overline{\overline{n}}$ and m which minimize the sampling error for a given total cost C are, approximately,

$$\overline{\overline{n}}=\frac{1}{k}\sqrt{\frac{C_1}{C_2}\;\frac{1-\delta}{\delta}}$$

where k=4 is the number of classes involved, so that kn is the average number of loans in the sample per bank. With the relationship between C_1 and C_2 that is expected, and with even unrealistically small values of δ, the indicated optimum value of m is large.

[1] There are 61 banks.

This is a study prepared by the Congressional Reserve Service presenting the proposed study of the Comptroller of the Currency's examination and supervision of large national banks. I am not suggesting the procedure in this report should be the model for GAO's selection process. This report is simply an example of what is intended in this amendment—that is, the GAO will only have access to examination report samples selected by the GAO which are statistically meaningful in light of the objectives of the audit.

Mr. Chairman, both the monetary policy and the sampling amendments have been worked out and agreed to. The amendments are noncontroversial, and I strongly urge my colleagues to join me in accepting them.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the distinguished chairman of the full committee.

Mr. BROOKS. Mr. Chairman, I rise in support of this legislation and of both of these amendments offered by my distinguished friend, the gentleman from Ohio (Mr. ASHLEY).

I have supported this legislation to authorize the General Accounting Office to audit the banking agencies. As I said in my remarks during general debate on this bill, these agencies spend over $800 million a year, and this legislation is necessary if Congress is to carry out its oversight responsibilities in an effective manner.

As reported from the Committee on Government Operations, the bill excluded certain areas from GAO review. These exclusions included monetary policy deliberations and decisions; transactions of the Open Market Account; and certain transactions of foreign governments. The amendments offered by the gentleman from Ohio do not conflict with the provision reported by the committee, but further clarifies those areas that are intended to be outside the purview of the GAO, particularly with regard to discount window operations in the Federal Reserve System.

The other amendment, which provides that the GAO shall have access to a statistically meaningful sample of examination reports will not restrict the GAO in its ability to carry out its responsibilities under this bill, and it is, in essence, a statement of what would undoubtedly be the practice in any event. I urge acceptance of the amendments.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Michigan. Were two amendments offered, or only one?

The CHAIRMAN. Two amendments were offered en bloc.

Mr. BROWN of Michigan. I thank the chairman.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, the need for greater oversight on the activities of the Federal bank supervisory agencies is painfully apparent and our colleague, the distinguished chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, is to be commended for bringing this audit bill to the floor.

And I know that BEN ROSENTHAL joins me in commending JACK BROOKS, chairman of the full Committee on Government Operations, who has so steadfastly supported the work of the subcommittee and who has worked diligently to clear the roadblocks from the path of this much-needed legislation. It has been an excellent display of teamwork within the committee and it is the kind of cooperation that makes legislation move.

Mr. Chairman, some have expressed great concern about the Federal Reserve and this audit—fear that the monetary policy of the Federal Reserve would be second-guessed by the accountants at the General Accounting Office. The Ashley amendment being offered today is designed to further build a wall between the GAO and certain functions of the Federal Reserve. In my opinion, this is not necessary, but in the interests of seeing this legislation move, I am willing to join Mr. ROSENTHAL in accepting the amendment.

While no one ever seriously expected the GAO to comment on monetary policy, I do find this almost emotional concern over the open market committee operations to be troublesome. I find it peculiar that anyone would suggest that anyone, anywhere in this United States of America, should be restrained from studying or commenting on any policy and the manner in which it is carried out by any agency of the Federal Government. Any citizen should have that right; and certainly the Congress should question why it would be limiting its access or that of its agents to any functons carried out in the executive branch or the regulatory agencies.

In addition to firmly shutting off the GAO from aspects of the Federal open market committee operations, the Ashley amendment would prevent the GAO from looking at the discount window operations—the mechanism by which the Federal Reserve extends those low-interest loans to commercial banks.

In my opinion, this little service which the Federal Government provides the banking industry should be audited from time to time. It is not a monetary policy function in any large sense; it is often used as a supervisory tool and it clearly has the potential for awarding or penalizing commercial banks. We ought to review its functions and its impact on the industry and on regulation.

We know that the discount window was used to prop up the now-defunct Franklin National Bank in New York, long after it was clear that the bank was going under. In fact, the Federal Reserve poured $1.9 billion into that failing bank and this action had a major impact on two other bank supervisory agencies—the Comptroller of the Currency and the Federal Deposit Insurance Corporation and the discount window advances undoubtedly had an impact on the rights of the shareholders and the creditors of that bank.

On September 28, I questioned Mr. George LeMaistre, Chairman of the FDIC, during hearings in the Financial Institutions Subcommittee and he agreed fully that the discount window had substantial impact on bank supervision including the insurance fund of FDIC. I want to place in the RECORD a copy of that exchange with Chairman LeMaistre:

Mr. ST GERMAIN. Mr. LeMaistre, if my information is correct, the FDIC is paying off the Federal Reserve for its advances through discount window to the failed Franklin National Bank. Is that correct?

Mr. LEMAISTRE. Yes, sir.

Mr. ST GERMAIN. That is still occurring?

Mr. LEMAISTRE. Yes, sir. I think that the balance due is somewhere around a half a billion dollars at the moment. It was originally a billion, seven hundred million dollars.

And at the present time, that note will come due in October, sometime within the next 60 days. I think that we will probably pay the balance and simply pay ourselves for the advance, rather than continue to carry it as an outstanding liability.

Mr. ST GERMAIN. Therefore, Chairman LeMaistre, is it not fair to state that the operations of the Fed's discount window does in fact have an impact on the insurance fund, and on bank supervision?

Mr. LEMAISTRE. Well, it is going to have an impact if we pay them out of the insurance fund. There's no doubt about it. Actually, we have enough assets to repay ourselves as we collect them. And I don't think there will be an adverse impact. But you are right, it does affect the insurance fund.

Again, I do not want to imperil this bill today by fighting the Ashley amendment. But, we are limiting the audit as it relates to the Federal Reserve and this is something we will have to return to in the near future if Congress is to properly carry out its constitutional duties in these areas.

This bill is an important step forward. While it comes out of the Government Operations Committee, it will provide important tools for the Banking Committee as well. It should be passed by an overwhelming vote.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to my colleague from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. I thank the gentleman for yielding to me.

The gentleman's amendment includes in the exclusion for monetary policy, margin requirements, operations of the discount window. The third area there was some concern about was the including in the audit of the payments mechanism of the Fed. There is a distinction between what may be determined from

the payments mechanism, that is, the purely operational aspects of this activity and that data which affects monetary policy,

Would not the gentleman agree that it is the intent of his amendment, plus what is already in the bill, to exclude from the audit all aspects of monetary policy and to extent that the payments mechanism involves or affects the determination of monetary policy, that it would not be subject to or commented upon by the GAO in its report?

Mr. ASHLEY. The gentleman has stated it precisely, as I see the situation. It reflects my motives for offering this particular amendment, that is to say, the one that the gentleman is addressing himself to.

The legislation reported by the Committee on Government Operations, the legislation itself, it seemed to me, was appropriate; but the report language raised some questions which I felt did need to be answered, specifically, in the legislation itself.

Mr. Chairman, I appreciate very much the contribution of my good friend, the gentleman from Michigan (Mr. BROWN). I think that he has spread on the record more precisely and with considerable perspective the exact reasons why he and I, and others, the chairman of the committee, the chairman of the subcommittee, the gentleman from Rhode Island, all of us, understand, I think, more fully now the reason for the importance of the amendment.

Mr. STANTON. Mr. Chairman, would the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of these two amendments, and I would only say to my good friend in the well, the gentleman from Ohio (Mr. ASHLEY), of course, that not everybody is happy with this legislation. The Chairman of the Federal Reserve Board has some basic objections to the legislation as a whole. But I think that the Committee on Government Operations, combined with our committee, is to be congratulated in doing the job as we have seen fit to do here today, and I congratuate the gentleman in the well for all of this.

Mr. ASHLEY. Mr. Chairman, I appreciate very much the comment of the gentleman and the gentleman's help.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. ASHLEY).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan:

SEC. 3. Section 1906 of Title 18, United States Code, is amended to read as follows:

"§ 1906. Disclosure of Information from a Bank Examination Report

"Whoever, being an examiner, public or private, or a General Accounting Office employee with access to bank examination report information under Section 117(d) of the Accounting and Auditing Act of 1950, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or bank insured by the Federal Insurance Corporation examined by him or subject to General Accounting Office audit under Section 117(d) of the Accounting and Auditing Act of 1950 to other than the proper officers of such bank, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of Congress or either House duly authorized or as authorized by section 117(d) of the Accounting and Auditing Act of 1950 shall be fined not more than $5,000 or imprisoned not more than one year or both.".

Mr. BROWN of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROWN of Michigan. Mr. Chairman, I think there is general agreement upon this amendment. It merely extends the criminal sanctions to those additional persons who would have access because of this legislation to bank examination reports as are presently applicable to bank regulators and their employees.

I think that we want those who would have access to the reports subject to the same criminal sanctions as the personnel of the regulators are presently subject to.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from New York.

Mr. ROSENTHAL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan (Mr. BROWN) proposes that we subject GAO auditors to the same penalties for unauthorized examination report disclosures as now apply to bank examiners.

GAO auditors are already prohibited from disclosing confidential materials and information in an unauthorized manner by title 18, United States Code, section 1905—the general Federal confidentiality statute. Though it might be somewhat redundant, subjecting GAO banking agency auditors to 18 U.S.C. 1906 would not be harmful.

Mr. Chairman, we have no objection to the amendment offered by the gentleman from Michigan (Mr. BROWN) and we urge its adoption.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment. The gentleman from Michigan, the ranking member of the subcommittee which handled this legislation, has worked very hard on it and is very knowledgeable in this area. His amendment would make certain that GAO auditors having access to bank examination reports are subject to the same sanctions as bank examiners having access to the same reports. The amendment is entirely consistent with the intent of the committee, and I would urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROWN).

The amendment was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of H.R. 2176, the Federal Banking Agency Audit Act, which will authorize the General Accounting Office to conduct audits of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The issue of whether the GAO should audit the Federal Reserve System has been before this House for several Congresses, and it is gratifying to see that we are finally going to pass this legislation, which applies to all of the banking agencies.

Although there has been a great deal of discussion about the possible effects of an audit upon the Federal Reserve's monetary policy and supervisory functions of the Fed, it is not the purpose of this legislation to infringe upon either of these functions. Congress has sufficient tools to exercise direct oversight over these functions without interfering in day-to-day operations.

The reason why I believe it is important that this legislation be enacted and implemented is so that the GAO, as an arm of Congress, can audit those aspects of the Fed's operations which would be audited if they were performed by any other agency. Although the Federal Reserve is not subject to the appropriation process, it is a creature of Congress, and the excess of its income over expenses is returned to the Treasury, so that it does in fact operate with public funds.

There are several aspects of Federal Reserve operations for which a thorough audit is long overdue, the most significant of which is the automatic clearing house (ACH) facilities which the Fed has put in place over a period of years at an annual cost for capital investment and operations. Such an audit would assist Congress in determining, first, why the Federal Reserve System has moved to assume control of the check clearing functions of the American banking industry, and second, whether the continued provision by the Fed of "free" check clearing services to member banks is justified in view of the effects on competition of "tying" these services to membership in the Federal Reserve.

Nothing less than a thorough, independent assessment of the efficiency and economy with which check clearing and other operational services are performed

will suffice to enable Congress to fulfill its oversight responsibilities with respect to the Federal Reserve System.

I urge my colleagues to approve this legislation, so that these long-overdue audits will not be further delayed.

The CHAIRMAN. Are there additional amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CORNWELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2176) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, pursuant to House Resolution 728, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 24, answered "present" 3, not voting 71, as follows:

[Roll No. 656]

YEAS—336

Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badham
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Blanchard
Blouin
Boggs
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Cleveland
Cohen
Coleman
Conte
Corcoran
Corman
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Ketchum
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Mahon
Markey
Marlenee
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rousselot
Rudd
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Stump
Symms
Thompson
Thone
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—24

Bauman
Burleson, Tex.
Clawson, Del
Cochran
Collins, Tex.
Conable
Derwinski
Devine
Frenzel
Grassley
Hammer-schmidt
Hansen
Holt
Kelly
Latta
Lott
McClory
McEwen
Madigan
Marriott
Montgomery
Satterfield
Taylor
Waggonner

ANSWERED "PRESENT"—3

O'Brien
Quillen
Winn

NOT VOTING—71

Abdnor
Addabbo
Anderson, Ill.
AuCoin
Badillo
Bafalis
Beard, Tenn.
Biaggi
Bingham
Boland
Bolling
Bowen
Brown, Calif.
Broyhill
Burke, Calif.
Burton, John
Clausen Don H.
Clay
Collins, Ill.
Conyers
Cotter
Crane
Dent
Diggs
Evans, Ga.
Ford, Mich.
Fowler
Frey
Giaimo
Goldwater
Goodling
Guyer
Harrington
Holland
Johnson, Calif.
Kemp
Keys
Koch
Livingston
Lujan
Maguire
Mann
Marks
Metcalfe
Miller, Calif.
Moakley
Murphy, N.Y.
Pattison
Pepper
Pickle
Poage
Pursell
Rahall
Reuss
Roberts
Rogers
Rose
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Sikes
Slack
Steed
Stockman
Teague
Treen
Van Deerlin
Whalen
Wolff

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Frey.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Dent with Mr. Bafalis.
Mr. AuCoin with Mr. Goldwater.
Mrs. Burke of California with Mr. Beard of Tennessee.
Mr. Biaggi with Mr. Pattison of New York.
Mr. Koch with Mr. Goodling.
Mr. Miller of California with Mr. Crane.
Mr. Pepper with Mr. Kemp.
Mr. Murphy of New York with Mr. Livingston.
Mr. Badillo with Mr. Lujan.
Mr. Fowler with Mr. Treen.
Mr. Wolff with Mr. Johnson of California.
Mr. Harrington with Mr. Holland.
Mr. Russo with Mr. Marks.
Mr. Reuss with Mr. Teague.
Mr. Bowen with Mr. Clay.
Mr. Roybal with Mr. Don H. Clausen.
Mr. Diggs with Mr. Giaimo.
Mrs. Collins of Illinois with Ms. Keys.
Mr. Conyers with Mr. Metcalfe.
Mr. Ford of Michigan with Mr. Pickle.
Mr. Maguire with Mr. Runnels.
Mr. Rogers with Mr. Abdnor.
Mr. Rose with Mr. Rahall.
Mr. Rostenkowski with Mr. Brown of California.
Mr. Slack with Mr. Broyhill.
Mr. Van Deerlin with Mr. Guyer.
Mr. Bingham with Mr. Stockman.
Mr. Boland with Mr. Steed.
Mr. John L. Burton with Mr. Ruppe.
Mr. Sikes with Mr. Pursell.
Mr. Cotter with Mr. Mann.
Mr. Roberts with Mr. Evans of Georgia.

Messrs. SATTERFIELD, DEVINE, LATTA, LOTT, and HANSEN changed their vote from "yea" to "nay."

Mr. BEDELL changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended to read: "A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes.".

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR TODAY AND WEEK OF OCTOBER 17

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the day and next week.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, there is only one more bill remaining on our calendar for this week. It will be taken up as soon as we have completed the announcement of the calendar for next week. That bill is H.R. 4297, the Marine Protection Authorization Act. All general debate has been finished, and when the votes are concluded on that bill, and any amendments that may be offered, the business of the House will have been concluded and it will be our purpose to adjourn until next Monday.

On Monday next the House will meet at noon and have the Consent Calendar, and there are seven bills scheduled for consideration under suspension of the rules. These are:

H.R. 8518, saccharin ban moratorium;

H.R. 9418, Health Professions Education Amendments of 1977;

H.R. 5643, Cultural Property Implementation Act;

H.R. 5858, Tariff Schedule Amendments for Canadian Petroleum;

H.R. 8149, Customs Procedural Reform Act of 1977;

H.R. 8422, rural health clinic services amendments to Social Security Act; and

H.R. 6715, Texas, Technical Corrections Act of 1977.

Votes on these suspensions will be postponed until the end of all debate on the suspensions.

Thereafter we will take up the bill H.R. 9090, exempt disaster payments on certain crops. That is under an open rule with 1 hour of general debate.

On Tuesday the House again will meet at noon. There will be the Private Calendar and six bills have been scheduled for consideration under suspension of the rules. Those are:

S. 393, Montana Wilderness Act;

H.R. 4140, extend Fishermen's Protective Act;

H.R. 6405, Endangered Species Act amendments;

H.R. 9512, Pacific Island Trust Territories;

S. 2089, establish position of Associate Attorney General; and

H.R. 7769, Indochinese refugees.

Again the votes on these suspensions will be postponed until all debate on the suspensions has been finished.

Thereafter, on Tuesday we hope to take up H.R. 1037, Energy Transportation Security Act of 1977. That is coming to us under an open rule with 2 hours of general debate recommended.

On Wednesday the House will meet at noon. We will have H.R. 9375, Supplemental Appropriations Act, and waivers have been granted by the rule recommended to the Rules Committee; and H.R. 9346, Social Security Financing Amendments of 1977 will follow. We will take the rule and the general debate only, subject to a rule being granted.

Then on Thursday the House will meet at 10 o'clock in the morning. We will have:

H.R. 9346, Social Security Financing Amendments of 1977, voting on amendments and the bill;

H.R. 7073, Federal Insecticide, Fungicide, and Rodenticide Act, voting on amendments and the bill; and

H.R. 2329, Fish and Wildlife Improvement Act of 1977, which comes under a recommended open rule with 1 hour of general debate.

And having concluded all of those things, we would assume that the business of the week had been concluded. Of course, conference reports may be brought up at any time and any other program may be announced later.

It would be our hope that we could conclude all business for the week on Thursday. If we are able to do that we will have only a pro forma session on Friday next; and the Monday that follows Friday next will be October 24, which is a national holiday. The Nation will be observing Veterans Day, and it would be our plan not to schedule legislative business on that day.

The House will adjourn by 3 p.m. Friday and by 5:30 p.m. on all other days except Wednesday. Any further program may be announced later.

Mr. RHODES. Mr. Speaker, may I suggest to the distinguished majority leader that it is possible on Tuesday we may have a little problem finishing up by 5:30. Certainly as far as I am concerned, and I think I speak for most of the Members in the minority, we would have no objection to staying in on Tuesday until we finish the program for that date, knowing that Wednesday is a rather heavy day. The supplemental appropriations bill, as my good friend knows, will have some controversy over the B–1 and other aircraft. The social security financing amendments are certainly a major piece of legislation. We will want to give each of those pieces of legislation all the time necessary. I say this so that if the majority leader feels constrained to do away with the proviso that we quit at 5:30 on Tuesday, it might be a good idea to suggest it.

Mr. WRIGHT. Mr. Speaker, if the distinguished minority leader will yield further, the majority leader appreciates that suggestion very much. Let us see how rapidly the six suspensions go on Tuesday. It may be that they will not consume lengthy debate, in which event it might be possible for us to conclude our consideration of H.R. 1037; but if not, the leadership will certainly bear in mind the suggestion made by the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, will the minority leader yield for a question?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, does this suggest that with very little business, if anything, next Friday and a holiday on Monday that any kind of sine die adjournment is absolutely out of the question for the 29th of October? Assuming, that is, the majority leader is prepared to offer any kind of prospects for the following week?

Mr. WRIGHT. Mr. Speaker, if the distinguished minority leader will yield further, the majority leader is not clairvoyant and has little in common with Jimmy the Greek; but I did not mean to suggest that all hope for an October 29 adjournment is forlorn. I do not believe it is forlorn. It depends, as the gentleman well knows, on the dispatch that the conferees on the energy bill may make. We will come in full of steam and energy on the 25th of October, Tuesday, with high hopes of concluding the business of this session during that week.

Of course, we have additional appropriations bills that are in conference. We probably will have a conference committee report, for instance next week on the foreign assistance bill.

We will need to conclude the appropriations bills and any conference reports that are ready to be considered and adopt the conference report on the energy bill, assuming that is brought to us.

Once those things are done, the majority leader sees no reason why we could not adjourn.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, OCTOBER 17, 1977

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AUTHORIZATION

Mr. BREAUX. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4297, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 11, 1977, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "September 30, 1976),"; and

(2) by adding immediately after "fiscal year 1977" the following: ", and not to ceed $4,800,000 for fiscal year 1978,".

SEC. 2. Section 204 of such Act (33 U.S.C. 1444) is amended—

(1) by striking out "and" immediately after September 30, 1976),"; and

(2) by adding immediately after "fiscal year 1977" the following: ", and not to exceed $6,000,000 for fiscal year 1978".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 9, strike "$6 million" and insert "$6,500,000".

Mr. BREAUX. Mr. Chairman, the committee has no requests for time on this amendment. We agree with it and support it.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

The Clerk will read.

The Clerk read as follows:

SEC. 3. Section 304 of such Act (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "September 30, 1976),"; and

(2) by adding immediately after "fiscal year 1977" the following: ", and not to exceed $500,000 for fiscal year 1978".

COMMITTEE AMENDMENT

The CHAIRMAN. If there are no amendments to section 3, the Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 17, insert the following new section:

SEC. 4. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the Administrator) shall end the dumping of sewage sludge into ocean waters, or into waters described in section 101(b) of Public Law 92–532, as soon as possible after the date of enactment of this section, but in no case may the Administrator issue any permit, or any renewal thereof (under Title I of the Marine Protection, Research, and Sanctuaries Act of 1972) which authorizes any such dumping after December 31, 1981.

(b) For purposes of this section, the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, I rise in support of the amendment. It is an amendment that puts an absolute termination date on all ocean dumping of sewage sludge by December 31, 1981. It is somewhat controversial. We debated it extensively in subcommittee and also in the full committee. It is an amendment that I personally disagreed with, both in the subcommittee and the full committee, but I do support it as the committee saw fit to adopt this language.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I rise in strong support of H.R. 4297, authorizing appropriations for fiscal 1978 to carry out the Marine Protection Research, and Sanctuaries Act of 1972.

Also contained in this legislation is an amendment that was agreed to in committee by a vote of 22 to 12 to prohibit the dumping of harmful sewage sludge in the ocean after December 31, 1981.

The purpose of the 1972 act was to provide a means of regulating the disposal of various harmful and hazardous materials into the ocean. It was drafted in response to the growing tendency toward ocean disposal of all kinds of wastes that in sufficient quantities could seriously downgrade the quality of our ocean waters, and present a significant hazard to marine life, fishing, and human health.

Unfortunately, despite the act's clear direction to prohibit harmful ocean dumping, there has been and continues to be large amounts of sewage sludge being dumped into the ocean by a number of northeastern municipalities in the New York-New Jersey area.

These sludges contain high concentrations of a number of metals that are a serious risk to marine life, and also to humans if they should eat fish or shellfish that come from the dumping areas. EPA has reported that the sewage sludge dumped in 1974 in the Atlantic contained about 24 tons of cadmium and that sludge dumped in New York Bight alone contained about 2 tons of mercury.

In addition, there exists the possibility that sludge dumping may contribute to the problem of excess nutrients in the ocean waters, leading to algae blooms that deplete oxygen in the seawater, and result in fish kills.

In response to this problem, the EPA has adopted by administrative rulemaking a deadline of December 31, 1981 to bring an end to sludge dumping. However, that deadline is now bulging at the seams. It is clear that many of the municipalities who are doing the dumping have not taken the deadline seriously, and have made little or no progress toward finding alternative methods for disposing of sewage sludge.

The problem is made more serious because, in coming years, we will be producing more and more sludge, as more and more secondary sewage treatment plants come on line. But so long as ocean dumping remains the cheapest and most convenient means of disposing of sludge, there will remain a tremendous pressure to continue dumping. The uncertainties in existing law will continue to invite litigation, and EPA will be placed under increasing pressure to postpone its administrative deadline.

That is why it is so important for us to begin the process of phasing out harmful sludge dumping now, while we still have some time to develop alternatives. We can no longer afford the old "out of sight, out of mind" attitude about disposing of municipal wastes.

The language in H.R. 4297 would provide clear notice to the municipalities that are dumping sludge in the ocean that they must be out by a date certain, and to do that, they will have to begin now to develop alternatives.

Mr. BREAUX. Mr. Chairman, I yield to the chairman of the Subcommittee on Fish and Wildlife, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in support of section 4 of this bill which prohibits the dumping of sewage sludge into our ocean waters after 1981. This provision would legislatively implement the deadline on the dumping of sewage sludge which has already been adopted by Environmental Protection Agency regulations.

In enacting the Ocean Dumping Act of 1972, Congress stated very clearly that it wanted to end the treatment of our ocean as a garbage pit. The Ocean Dumping Act reflects the realization that we cannot continue to expect the oceans to act as a food resource, recreation center, and cesspool. The Ocean Dumping Act prohibited the dumping of wastes which unreasonably degraded the marine environment. The EPA has already determined that sewage sludge does degrade the environment.

Nevertheless, the EPA realized that an immediate ban on dumping would cause economic harm for those Atlantic coast communities still using the ocean as a sludge dump site. Thus, EPA developed a mechanism to end ocean dumping gradually. It granted these communities so-called interim permits, and placed them on notice that they are expected to develop land-based dumping alternatives no later than 1981. All we are attempting to do here today is make sure that this 1981 date remains very firm.

There are three urban areas dumping sewage sludge into the ocean—Camden, N.J.; Philadelphia; and the New York-New Jersey metropolitan area. The first two communities have assured the committee that they have found a solution to the sewage sludge predicament. Camden has developed an effective composting system which has already ended their need to use the ocean as a dump site. Philadelphia indicated to the committee

in June that they should be out of the ocean by 1980.

The New York situation is apparently somewhat more pessimistic. The problem there is insufficient surface area for composting and insufficient funds to develop land-based alternatives. Nevertheless, the Assistant Administrator for the Environmental Protection Agency testified in June that sufficient alternative did exist for New York, and that the deadline could be met. Further, the administrator of New York City's Environmental Protection Administration indicated that New York was determined to meet the 1981 date.

We have a situation, then, where all of the principals indicate the deadline can and should be met. It is perplexing, then, when these same principals oppose the legislative imposition of the deadline.

A large part of the opposition to the termination of ocean dumping stems from the fact that it remains the cheapest means of disposing of municipal waste. The ocean dumping of sewage sludge generally costs $1.80 per ton, while alternatives cost $5 per ton.

My concern is that while it may be cheaper for the particular communities involved, it is quite likely very expensive for the Nation as a whole. For example, the Department of Commerce has indicated that the shellfish industry has ceased harvesting in over 18.5 percent of the shellfish waters because of intolerable levels of pollution.

The ocean dumping of sewage sludge, of course, is a small part of this problem—but it is a part. The draft environmental impact statement on the New York Bight site indicated that the water quality of the area would not improve if sludge dumping was moved elsewhere for the simple reason that so many other pollutants are poured into that body of water. This includes street runoff, industrial pollutants and raw sewage.

I am not convinced that the fact that sewage sludge is a small part of the problem is a good reason for permitting the dumping of sludge to continue. Alternatives to the dumping of sludge are available. A firm deadline will insure that they are implemented.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 4297, and also the amendment offered by the gentleman from New Jersey (Mr. HUGHES) to ban all harmful ocean dumping as of a certain date, December 31, 1981. In 1972, the Congress, stated as a national policy goal that we would end harmful ocean dumping within 5 years.

I am delighted to see that finally we are going to begin implementing that noble objective. I think it is reasonable. It is needed. And I would like to also remind all of those who come to visit our Delaware beaches, Rehoboth, Fenwick Island, Bethany, et cetera, that we want you to get good clams, good oysters and to enjoy our beaches.

Mr. BREAUX. We will continue to send Louisiana crabs and oysters to your beach area.

Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I rise in strong support of the pending committee amendment and this legislation. The pending amendment, which was sponsored in committee by the distinguished gentleman from New Jersey (Mr. HUGHES), will put a definite end to ocean dumping of sewage sludge no later than December 31, 1981. It is unfortunate that the Congress has to set a deadline to end a source of pollution most of us assumed was already outlawed by the original 1972 Marine Protection Act. This amendment was necessary, however, because of the Environmental Protection Agency's continued interpretation of the law so that it allows such pollution on what they call "an interim basis."

Whatever EPA may call it, the continued practice of dumping sewage sludge from Philadephia and other areas into the Atlantic Ocean off the coasts of New Jersey, Maryland, and Delaware has caused widespread marine damage and the closing of important shellfishing areas. It has presented a continuing health hazard to coastal resort cities such as Ocean City, Md., which I have the honor to represent. There is certainly no more beautiful and appealing ocean resort in America, in my opinion, especially for the thousands of families who enjoy its pleasures each summer, and now all year around. To have all this jeopardized by the unwillingness of the EPA to enforce the law and the refusal of Philadelphia officials to clean up their act is appalling. So Congress must and should act and this bill is a long step forward in my view.

I urge adoption of the committee amendment and the bill.

Mr. BREAUX. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I too rise in strong support of this section of this bill. I think it is a very good amendment. It does assure that we are going to stop ocean dumping in 1981. It was the policy. Now it will be the law.

Mr. Chairman, I urge support of the amendment and the bill.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 4297, a bill to authorize funds to extend the Marine Protection, Research and Sanctuaries Act for fiscal year 1978.

Better known as the Ocean Dumping Act, this law is very important in the protection of our oceans and shores.

The Environmental Protection Agency (EPA) is the lead agency in the administration of title 1, a title which provides for mandatory regulation of the dumping of harmful wastes into the ocean.

As reported by our Merchant Marine and Fisheries Committee, this bill requires the "dumpers" to end all dumping of municipal sewage sludge by December 31, 1981. This is feasible, given the support of the EPA, combined with research on and working alternatives to ocean dumping.

The pollution of our oceans, especially along many areas of the Alantic seaboard, is a problem that the Congress must address with strong statutes. I support this bill with the 1981 cutoff date for dumping into the ocean.

Mr. FREY. Mr. Chairman, almost 10 years ago, when I first came to Congress and was still assigned to the Merchant Marine and Fisheries Committee, the legislation now before us caught the attention of my district. The reason? The Army had dumped a large amount of toxic substances off the coast of Brevard County.

The resulting outcry caused me to work within my committee for some kind of safeguards against a future occurrence.

In 1971, 50 Members cosponsored my legislation prohibiting ocean dumping. The bill was authored in response to what I thought was a "softer" bill then being touted by the administration. In 1972 Congress accepted the Marine Protection, Research and Sanctuaries Act establishing regulatory control over the dumping of certain materials into U.S. waters.

The bill specifies how ocean dumping shall be regulated; sets out research activities to support limitation of ocean dumping; and provides for the designation and regulation of marine sanctuaries.

The intervening half decade has proved we cannot relax our efforts against ocean pollution. While the Environmental Protection Agency has made progress against industrial sewage dumping—phasing out 81 former or potential dumpers in the last 5 years—municipal sewage remains a problem. In the Mid-Atlantic region, where municipalities dump their sewage, over one-fifth of the Nation's shellfishing beds have been closed by the Food and Drug Administration because pollution has rendered these organisms unsafe for human consumption. As a scuba diver I have personally seen how reefs can be ruined by sewage.

There seems to be some confusion among the agencies involved as to whether Congress is serious about ocean dumping—specifically municipal sewage dumping. This amendment to the original legislation makes clear our intent to prohibit anyone—municipal or industrial—to dump dangerous sewage into our oceans after the last day of 1981.

To this end today's legislation authorizes $11.8 million: $4.8 million toward the EPA's regulatory program; $6.5 million into the National Oceanic and Atmospheric Administration's research on ocean dumping; and $500,000 toward the marine sanctuaries program administrated by the Office of Coastal Zone Management.

I would urge Members to pay special attention to the provision appropriating a half million dollars toward the sanctuaries program. Already, the Department of Commerce has designated two area, one off the coast of North Carolina and the other off the coast of Key Largo, Fla. Four other areas have been nominated for designation, including a killer whale area in Puget Sound. It would seem a half million dollars for four new sanctuaries is a bargain—probably one of the best in the Federal Government.

There are few of us, I believe, who would quarrel with a designated area to be saved from the ravages of ocean dumping. Extending that protection to our entire coastline, to both oceans, is the purpose of this amendment.

In the name of our oceans, our environment, our sea life, the economic well-being of our fishing industry, and the health of coastal dwellers, the House must accept this amendment and authorization.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DAN DANIEL), having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978, pursuant to House Resolution 798, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 1, not voting 74, as follows:

[Roll No. 657]

YEAS—359

Akaka
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badham
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Blanchard
Blouin
Boggs
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hannaford
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Markey
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Quillen
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rooney
Rosenthal
Rousselot
Rudd
Ruppe
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

McDonald

NOT VOTING—74

Abdnor
Addabbo
Alexander
Anderson, Ill.
AuCoin
Badillo
Bafalis
Barnard
Beard, Tenn.
Biaggi
Bingham
Boland
Bolling
Bowen
Brown, Calif.
Broyhill
Burke, Calif.
Burton, John
Clausen, Don H.
Clay
Collins, Ill.
Cotter
Crane
Dent
Diggs
Ford, Mich.
Fowler
Frenzel
Frey
Giaimo
Goldwater
Goodling
Guyer
Hanley
Harrington
Harsha
Holland
Johnson, Calif.
Kemp
Keys
Koch
Livingston
Lujan
McCloskey
Maguire
Mann
Marks
Metcalfe
Miller, Calif.
Moakley
Murphy, N.Y.
Nolan
Pepper
Pickle
Pursell
Rahall
Reuss
Runnels
Russo
Slack
St Germain
Steed
Stockman
Teague
Treen
Van Deerlin
Whalen
Wolff

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Frey.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Dent with Mr. Bafalis.
Mr. AuCoin with Mr. Goldwater.
Mrs. Burke of California with Mr. Beard of Tennessee.
Mr. Biaggi with Mr. Abdnor.
Mr. Koch with Mr. Goodling.
Mr. Miller of California with Mr. Crane.
Mr. Pepper with Mr. Kemp.
Mr. Murphy of New York with Mr. Livingston.
Mr. Badillo with Mr. Lujan.
Mr. Fowler with Mr. Treen.
Mr. Wolff with Mr. Johnson of California.
Mr. Harrington with Mr. Holland.
Mr. Russo with Mr. Marks.
Mr. Reuss with Mr. Teague.
Mr. Bowen with Mr. Clay.
Mr. Roybal with Mr. Don H. Clausen.
Mr. Diggs with Mr. Giaimo.
Mrs. Collins of Illinois with Mrs. Keys.
Mr. Cotter with Mr. Metcalfe.
Mr. Ford of Michigan with Mr. Pickle.
Mr. Rose with Mr. Runnels.
Mr. Rostenkowski with Mr. Alexander.
Mr. Rahall with Mr. Mann.
Mr. Roberts with Mr. Barnard.
Mr. Bingham with Mr. Van Deerlin.

Mr. John Burton with Mr. Pursell.
Mr. Boland with Mr. Broyhill.
Mr. Brown of California with Mr. Frenzel.
Mr. Hanley with Mr. Harsha.
Mr. Maguire with Mr. McCloskey.
Mr. Nolan with Mr. Whalen.
Mr. Rogers with Mr. Steed.
Mr. St Germain with Mr. Slack.
Mr. Roncalio with Mr. Stockman.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 4297 just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERSONAL EXPLANATION

Mr. RUDD. Mr. Speaker, I would like to have it made a matter of record that I was unavoidably detained at the White House this morning and missed the first vote on the conference report on the bill H.R. 6415. Had I been present I would have cast a "no" vote.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1139, NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT AMENDMENTS OF 1977

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 1139 to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NIAGARA COUNTY'S ABORTION RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, I know that the questions surrounding abortion, particularily the extent to which Government should be allowed to promote or restrict access to them is a matter of concern to many of my colleagues. I, therefore, would like to submit for their review a copy of a resolution recently passed by the Niagara County legislature which unambiguously defines the legislature's position:

RESOLUTION

Whereas, recent Supreme Court decisions seem to indicate that state and local governments cannot be forced by Federal government to pay for elective abortions, and

Whereas, Niagara County Welfare funds have been used for such purposes; and

Whereas, the Supreme Court has stated that such abortions need not be funded by the states social services department; and

Whereas, the Governor of the New York State has mandated that the social services departments in the counties of the State of New York pay for such abortions; and

Whereas, the Niagara County Legislature recognizes the authority of the Supreme Court and its own moral laws; now therefore, be it

Resolved, that the County Legislature does hereby direct the Social Services Department of the County of Niagara to review its procedures concerning the promotion and/or permission for abortions which cannot be medically demonstrated as necessary to preserve the life of the unborn child's mother, and be it further

Resolved, that the Social Services Department be directed to cease and desist support for such abortions not so medically related to the health of the mother, from this day forward; and be it further

Resolved, that copies of this resolution be forwarded to the State Social Services Department; Governor Carey; area State legislators; and all New York State Boards of Supervisors and County Legislatures.

COMMITTEE ACTION WOULD LIMIT PRESIDENT'S AUTHORITY TO LIMIT OIL IMPORTS

Mr. VANIK. Mr. Speaker, I want to place in the RECORD a statement by myself and my colleagues on the Committee on Ways and Means, Hon. BARBER B. CONABLE, JR., and Hon. WILLIAM A. STEIGER, concerning recent action in the Senate Finance Committee to limit the President's authority to act on oil imports when the national security is threatened.

The statement follows:

STATEMENT OF REPRESENTATIVES CHARLES A. VANIK, BARBER B. CONABLE, JR., AND WILLIAM A. STEIGER

We are shocked by the action of the Senate Finance Committee last week to terminate the President's authority to impose tariffs and quotas on imports of petroleum if such imports threaten the national security. The amendment adopted by the Senate Committee would repeal the President's authority to act under section 232 in limiting oil imports except for periods and circumstances relating to war or other hostilities.

At this time the President's energy legislation does not deal directly with the serious problem of limiting oil imports as one means of stemming our growing dependency on imported oil.

The Senate Finance Committee amendment appears to be an emotional reaction to statements that an import fee on oil might be necessary, if effective energy legislation is not adopted.

If the Senate Finance Committee's proposal is adopted, the President would be denied the only authority he would have to limit oil imports. It will signal the world of our inability and our unwillingness to deal at all with the energy crisis. It could threaten to condemn our troubled economy to a future of uncertainty, dependency and depression.

CHAIRMAN MELVIN PRICE WARNS OF THE DANGERS IN A COMPREHENSIVE TEST BAN TREATY—CTB

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, earlier this month several members of the Armed Services Committee, led by Chairman MELVIN PRICE, visited the Lawrence Livermore Laboratory in Livermore, Calif. The laboratory is operated for the ERDA by the University of California, and is one of our two major nuclear weapons development laboratories. The Lawrence Livermore Laboratory was responsible for developing the hydrogen bomb, under the leadership of Dr. Edward Teller.

The occasion of our visit also marked the 25th anniversary of the laboratory, and following our tour of the facilities, and receiving a briefing on the laboratory's current activities, a banquet was held to celebrate the anniversary. At that banquet, Chairman PRICE was the principal speaker.

Some weeks ago, Soviet Foreign Minister Gromyko proposed that the United States and the Soviets enter into a comprehensive test ban treaty CTB. This is an appealing-sounding proposal, to be sure, as was President Kennedy's original test ban treaty. But for the initiated—those who, like MEL PRICE, have been following nuclear matters closely for over 30 years—the CTB has some very real and special dangers. This is what Mr. PRICE discussed in his speech at Livermore. And his words deserve to be read and pondered by every Member.

The speech follows:

REMARKS BY THE HONORABLE MELVIN PRICE

I am most honored to have the opportunity of participating in this memorable observance of the 25th anniversary of the Lawrence Livermore Laboratory. This is an appropriate time to convey, on behalf of the Congress, our thanks to all of the members of this outstanding institution. The nation owes so much to you for its security and welfare. I want to especially thank those here this evening who were here at the beginning and are still contributing to the outstanding achievements of the Laboratory—to Roger Batzel, Mike May, Duane Sewell, Carl Haussmann, and the other "plank owners" of this great institution.

As we move into your second quarter century, something must be in the forefront of your minds, as it is in mine—the offer last Tuesday of Soviet Foreign Minister Gromyko to enter into a test moratorium. My long association with you and the whole nuclear weapons program provides me with special insight into the potential harm of a hiatus in our testing program.

History provides proof of this. I am sure you recall the moratorium which was also instigated by the Soviets in 1958. Then about three years later, they announced, unilaterally, that the moratorium was over. The Soviets then immediately proceeded with one of the most comprehensive and intensive weapons test programs ever conducted. Obviously, during the moratorium they worked every minute to be prepared to resume tests.

I think you will agree that, as a consequence, our relative position of technological proficiency was hurt by those developments.

We cannot let this history repeat itself.

We must carefully consider any new offer to assure that adequate safeguards are provided. Under no circumstances should we agree to anything that would erode our ability to maintain a position of technological leadership.

Frankly, I am concerned that we may not have taken as much of an advantage of the research and development opportunities during the SALT I Treaty as we should have. My concern in this respect was expressed on the floor of the House yesterday.

I am sure you will indulge a bit of reminiscence on my part. As you know, I go back to the beginning in the consideration of the atom in the Congress. I recall back in 1945, as a member of the Committee on Military Affairs, which was the predecessor of the Armed Services Committee, we considered the first piece of atomic energy legislation. Thus, 32 years ago we legislated the development of nuclear energy for the national security of the nation. The legislation which was finally enacted created the Atomic Energy Commission and the Joint Committee on Atomic Energy. The history under this Act and the updating of the Act, covers the genesis of this great Laboratory and many of its accomplishments.

I recall the period of turmoil which preceded the establishment of the Livermore Laboratory. The Korean War was in progress. Great controversy and doubt surrounded the feasibility of a fusion weapon, then called The Super. We on the Joint Committee were continually trying to pull the nuclear weapons program ahead by increasing production of special nuclear materials, by getting the military to rethink its strategy in terms of the availability of completely new weapons concepts and also by increasing nuclear weapons research and development resources. Of course, that is where the Livermore Laboratory fitted in.

I particularly recall our February 21, 1952, Joint Committee meeting during which we developed a consensus on the need for Livermore.

I am sure there is no question concerning the fact that the late and great Ernest Lawrence and your co-worker Edward Teller provided the primary force for the establishment of the Livermore weapons effort. I understand Dr. Teller is in Europe at this time. I want to specially convey my thanks and appreciation to him for his accomplishments in creating this Laboratory and, of course, for his vital role in the development of the fusion weapon. Dr. Teller, in the establishment of this Laboratory, attained his objective; a laboratory without limited goals.

I would like to honor the other leaders of the Laboratory who also could not be with us tonight. I am referring to Herb York, the first Director; to Harold Brown; and to Johnny Foster. This Laboratory obviously has illustrious alumni.

Your scientific accomplishments are legion. Of course, the nuclear weapons program was the primary purpose for the creation of the Laboratory and continues to be your primary mission, in particular the Polaris and Poseidon systems. But from my direct association with the programs of the Laboratory, I would like to take note of other scientific and engineering efforts which also were very successful.

One of the programs carried out by the Laboratory which has always stood out in my mind as a model of success in an exceedingly complex and diversified technical field was the Pluto Nuclear Ramjet program. I cannot help but recall how many people advised the Joint Committee of the doubtful feasibility of attaining the unique performance characteristic of this weapon delivery system. But you did what many considered impossible. The proof of this nuclear engine was well demonstrated on the desert in Nevada. It was indeed unfortunate that our military, at the time, did not deem it advisable to carry the system to deployment. Those of you familiar with the characteristics of Pluto can visualize the limitless performance available from such a delivery system, especially when it is compared to systems such as the present cruise missile.

Another completely different technical area in which the Laboratory has contributed so much is in the energy field. I especially remember those at the Laboratory who developed the energy flow charts that our Joint Committee used so much. I firmly believe that these charts which we commonly referred to as spaghetti charts, did more to educate members of Congress on energy than any other single communication effort.

Time does not permit me to cover all of the fine work you have performed here. But I also would like to take special note of the leadership you have provided and continue to provide to the development of the most promising types of magnetic and laser fusion systems.

I also want to mention that the efforts of this Laboratory have kept us at the forefront of computer technology. Special accolades are due the scientists and engineers who carry out the work.

My best wishes and hopes for the future are that you will continue to be as successful as you have been in the past.

As you will recall, legislation we of the Joint Committee sponsored in 1971 broadened the charter of the nuclear laboratories to perform research and development work in fields other than nuclear. This greatly broadened the programs at the Laboratory. In addition, earlier this year when the Congress set up the new Department of Energy, we were successful in maintaining Livermore and its associated laboratories as a separate entity in the new Department with organizational representation at an Assistant Secretary level. Obviously, you have good friends in Washington who look after your interests.

The Joint Committee's period has ended and the responsibilities for the nuclear weapons program in Congress has gone full circle and is back where it was over 32 years ago—under the Armed Services Committee. And I have gone full circle also. I still have the job of looking after this Laboratory.

We must continue to work together to assure that this fine institution can continue to contribute to our nation's future.

"CARTER SIGNS U.N. TREATIES WORSE THAN PANAMA"

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the very talented Alice Widener wrote an article on October 6 revealing some startling information about two United Nations treaties signed by President Carter on October 5, which appear to be of considerably more consequence than the Panama Canal matter currently pending before the Senate.

All Members should read and digest the article which follows:

CARTER SIGNS U.N. TREATIES WORSE THAN PANAMA

(By Alice Widener, Publisher, U.S.A. Magazine)

NEW YORK CITY, October 6, 1977.—The two United Nations treaties that President Carter signed publicly at the U.N. on October 5, 1977, are worse, far worse than the two Panama Canal treaties he already signed. The Panama Canal treaties can gut us from without; the U.N. treaties can gut us from within.

Why?

The United Nations Covenant on Civil and Political Rights and the United Nations Covenant on Economic, Social and Cultural Rights—both signed by President Carter and subject now to ratification by the U.S. Senate—specifically exclude private property, as a human right. Both U.N. treaties exclude our right to own private property individually or in association with others. Both U.N. so-called 'human rights' treaties permit government seizure of property without any kind of compensation.

The U.N. so-called Human Rights Treaties are in violation of our Constitution. It specifically protects our property rights. The Fifth Amendment states: ". . . nor shall any person . . . be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation." The Fourteenth Amendment states: ". . . nor shall any State deprive any person of life, liberty, or property without due process of law."

As finally drafted in 1966, the United Nations Covenants signed by President Carter authorize the expropriation or nationalization of any private property considered as "necessary or desirable" by any Member State of the United Nations. This amounts to U.N. sanction of the right of theft of property, a fact that has repeatedly been pointed out by U.S. delegates to the U.N. by all administrations previous to the Carter Administration since 1948, when the U.N. Universal Declaration of Human Rights was adopted.

After that event in 1948, the United Nations continually tried to codify the Universal Declaration. From the very first discussions, the Soviet Union and its satellites strenuously objected to Article 17 of the U.N. Universal Declaration of Human Rights which stated: "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property." That is the fundamental U.N. Human Right approved by President Harry Truman when he endorsed the U.N. Universal Declaration. That is the essential human right—the right to own private property—which has made our country great. That is the prime right all Americans enjoy. Without it, all our other rights would be without significance.

Repeatedly, some ultra-liberals in our State Department have tried to get away with the assertion that the two United Nations Covenants which President Carter signed are not "treaties." The reason they allege this is that they know full well that according to our Constitution, treaty law is the supreme law of our land and international treaties supersede all else. But the United Nations itself refers in all its historical documents to the Human Rights Covenants as "treaties." Furthermore, Kathleen Teltsch, New York Times correspondent at the U.N., says in her article of October 6 about the President's signing of the two U.N. covenants, "Previous American administrations declined to sign the pacts, which also require Senate ratification. They felt that Americans' rights were adequately protected, and United Nations treaties were regarded as interference . . ."

There is some talk on Capitol Hill that because the Senate is balking at quick ratification of the Panama Canal treaties, there might be an effort by some Senatorial supporters of the Carter Administration to win quick ratification of the United Nations Covenants in order to shore up Presidential prestige and pacify the Administration. Many Senators honestly believe that President Carter's big push for human rights is essentially anti-Soviet. The facts are, however, that nothing could be more pro-Soviet and socialist than the United Nations Covenant on Civil and Political Rights and the United Nations Covenant on Economic, Social and Cultural Rights.

They must not pass the Senate. They are much worse than the Panama Canal treaties. The U.N. Covenants—treaties—will commit our nation to giving up each American's constitutional right to own private property and the right to keep the government from confiscating our property without any compensation.

The time to let our Senators know we strenuously object to the two U.N. Human Rights Covenants signed by President Carter is now. Don't wait a moment, for there isn't one to lose. If the Senate were to ratify the

two U.N. treaties, each of us could lose everything we own down to our last nickel.

GI EDUCATIONAL BENEFITS AVAILABLE TO VIETNAM VETERANS

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, during the past few days several Members of the House have responded to an article that recently appeared in one of the city newspapers. As I recall, the remarks were somewhat critical as to the adequacy of the current GI education program administered by the Veterans' Administration.

In addition to that particular article, the Washington Post, on occasion, urged the Committee on Veterans' Affairs and the Congress to support a "direct tuition subsidy" or "supplemental tuition allowance" for certain veterans attending high cost schools.

Mr. Speaker, the Disabled American Veterans and the Veterans of Foreign Wars are very much opposed to this suggested policy change in the GI education program. The Disabled American Veterans view such proposed change as "a device to subsidize high cost schools or State educational systems."

In testifying before our Subcommittee on Education and Training on September 15, 1977, Mr. Oliver E. Meadows, DAV national commander, said:

We are aware of the argument advanced that some states do not provide low cost education, therefore, the Federal Government should subsidize those veterans in states with higher tuition rates. Comparisons are made between California with its low tuition schools and certain eastern states where tuition is high. We see no reason why the taxpayers of California should pay twice, once to support their own system and then again by Federal taxes to support certain eastern states that have not placed as high a priority on low cost education for its citizens.

The Disabled American Veterans supports the principle of "equal benefits for equal service." So I recognize that some may disagree with the current payment system; however, the few critical articles I have noted never seem to let the reader know what is now available to the Vietnam veteran for education and training purposes.

Mr. Speaker, the distinguished chairman of our Education and Training Subcommittee, the Honorable OLIN E. TEAGUE, of Texas, recently responded to a Washington Post editorial in a letter to Mr. Philip L. Geyelin, editorial page editor. There follows a copy of the chairman's letter which I think will be of interest to my colleagues and the American people. I hope the letter will be printed in the Post as I think the chairman has clearly established that Congress and the executive branch over the years have provided adequate educational benefits for all veterans.

SEPTEMBER 14, 1977.

Mr. PHILIP L. GEYELIN,
Editorial Page Editor,
The Washington Post,
Washington, D.C.

DEAR MR. GEYELIN: I have just returned from Texas, and received your letter of August 5th. Mr. Geyelin, in no way, form or fashion was I trying to be facetious or funny about your editorial. I certainly recognize your power as an editorial writer. I only wish I had as much power as a Member of Congress to influence the thinking of people in our country.

I assumed that to write an editorial such as you did that you would have studied all the history pertaining to the question, and there is plenty of history. You did attack me personally, but I would question whether any Member of Congress this year or any other year has given as much thought to trying to work out a GI Bill that is best for the GI, best for the country, and best for the colleges as I have.

When we rewrote the bill some twenty odd years ago, we made a very, very careful study, with a great deal of assistance from the U.S. Office of Education. Prior to enactment of the GI Bill, the proportion of students going to private colleges versus public colleges was approximately fifty-fifty. Under the World War II bill, that proportion became approximately sixty-forty. In our study, it was reported that the cost of going to a school was second or third down the list when the veteran was determining what school he wanted to attend. The bill was not written casually. It was written after very careful study and debate.

I again would like to renew my invitation to you to testify before our Committee. Obviously, from your editorial, you have given a lot of thought to this problem, and it is a problem.

Your editorial makes a blanket indictment of the leadership of the House Veterans' Affairs Committee and singles out by name the Chairman, Ray Roberts of Texas, and myself as the villains who have helped steer through the Committee a six percent cost-of-living increase while at the same time in effect working to block accelerated entitlement proposals, either in our Committee or in the future as provided in the Senate veterans' education bill, since ordered reported to the Senate.

As I am the author of the Korean GI Bill, the War Orphans Scholarship Program, a House sponsor of the Vietnam Veterans' Education Program, I have more than a passing interest in keeping these programs fair, equitable and functioning properly. I think most veterans and their families and the public believe that a scholarship of $13,950 for a single veteran based on 18 to 24 months of service is a fair and substantial contribution by the Federal government. Your editorial conjures up a bleak picture of those who cannot make it on the $13,950 proposed in the House reported bill, H.R. 8701. Accelerated entitlement is needed to pay for the schooling they can't get, your editorial alleges.

First, a provision in the Senate bill would permit accelerated entitlement only for veterans attending a high-cost school. A high-cost school is one whose tuition and fees exceed $1,000 for a school year. Such a provision would give additional money to the veteran who chooses a high-cost school, yet deny opportunity to the poorer veteran attending a low-cost community college who is faced with problems other than tuition costs. It escapes me how this Senate provision is going to remove any of the undefined "structural inequities found in many parts of the GI Bill" which, according to the Post, are serving to keep a million veterans from using their GI Bill assistance.

Although our Subcommittee on Education and Training has held a number of hearings this Congress over a period of months on the veterans' education program, as well as the previous Congress which focused on educational overpayments and abuses in the program, your editorial nevertheless leaves the impression that the Committee rushed through our cost-of-living increase without any attention to accelerated entitlement proposals such as Congressman Wolff's bill with a first-year cost of $2.5 billion and a five-year cost of $7.5 billion. The fact of the matter is Congressman Wolff offered an amendment to add $800 million to our Committee budget resolution last March to be earmarked for education. His amendment was defeated, which has precluded my Subcommittee from taking up Mr. Wolff's measure or any other proposal beyond the cost-of-living increase as approved by our Committee and the Congress.

In constant dollars, we are spending more money for each Vietnam veteran in training than we spent on veterans of the two previous wars. In addition, mindful of special problems of some Vietnam veterans, Congress has created a series of special benefits that were not available to veterans of Korea or World War II. For example, there is available to the Vietnam veteran a VA low-cost education loan for each year of $1,500 in addition to the veteran's basic monthly payment, a work-study program of up to $625 per year with $250 paid in advance, a tutorial assistance program of $65 a month up to $780 a year, free high-school education with no charge against the veteran's entitlement, a longer period of training with no requirement for prompt initiation of the training required of World War II veterans. Most important, a Vietnam veteran is entitled to a maximum of 45 months of entitlement to educational benefits if he served as little as 18 months.

The previous Congress authorized a new position in the Department of Labor, a Deputy Assistant Secretary for Veterans' Employment, to help veterans obtain job counseling and jobs under programs administered by the Department of Labor. One of the President's first announcements was a number of programs to assist unemployed and disabled Vietnam veterans. These programs, called HIRE, a Labor Department funded program to provide jobs and training for veterans in private employment, Disabled Veterans Outreach Program (DVOP) to help disabled veterans to find jobs and job assistance and earmarking up to 35 percent of CETA funds for veterans in public service employment jobs, are well underway. The position of Deputy Assistant Secretary for Veterans' Employment has been filled, and the Congress is hopeful that these Department of Labor programs will help to sharply reduce unemployment among Vietnam veterans.

These are some of the reasons I resent the contention of your editorial that some Vietnam veterans are not being treated fairly and that the GI Bill is not helping them. To imply that some veterans have not used the GI Bill because it is inadequate, is not only misleading to veterans and the public, but indicates a blind acceptance of the propaganda of self-serving groups who have been lobbying on this issue around Capitol Hill for a number of years.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education, and Training.

OPPOSITION TO TAX CUTS

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, in recent days much attention has been given to the idea of sweeping tax cuts.

I want to register strong opposition to such proposals. What this country needs is a commitment to financial and governmental stability—not constant tinkering with tax cuts which without doubt, if we can judge from past experience, will increase inflation and have only a minimal effect on stimulating the economy.

Mr. Speaker, there is no great clamor from the people of the Nation for a tax cut—the unlamented death of the inglorious $50 rebate is evidence of that.

What the people do want is more efficient operation of the Government with less Federal interference in their lives.

The economic merits of a tax cut are quite uncertain. But what is not uncertain is that such a reduction in Federal revenues would drive us further away from our commonly shared goal of balancing the budget by 1981. And we must not be unaware that the budget deficit this year is estimated to be in the range of $61 billion.

Mr. Speaker, I am heartened by the stand taken by the distinguished chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. ULLMAN) in opposing a tax cut at this time.

Mr. Speaker, we cannot afford to think in such terms until we have exercised the restraint and discipline to get the Federal budget in better balance.

CONFERENCE REPORT FILED ON H.R. 1139, NATIONAL SCHOOL LUNCH ACT AMENDMENTS

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-708)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National School Lunch Act and Child Nutrition Amendments of 1977".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 2. Section 13 of the National School Lunch Act is amended to read as follows:

"SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

"SEC. 13. (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) 'program' means the summer food service program for children authorized by this section; (B) 'service institutions' means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966; (C) 'areas in which poor economic conditions exist' means areas in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) 'children' means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public school program established for the mentally or physically handicapped; and (E) 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

"(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

"(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

"(B) have not been seriously deficient in operating under the program;

"(C) either conduct a regulatory scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

"(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

"(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

"(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

"(B) service institutions that prepare meals at their own facilities or operate only one site;

"(C) service institutions that use local school food facilities for the preparation of meals;

"(D) other service institutions that have demonstrated ability for successful program operation; and

"(E) service institutions that plan to integrate the program with Federal, State, or local employment programs.

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

"(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966.

"(b)(1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.

"(2) Any service institution shall be permitted to serve up to three meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap. Such meals may include a breakfast, a lunch, a supper, and meal supplements.

"(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subjejct to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

"(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

"(i) an evaluation of meal quality as related to costs; and

"(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

"(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescrbe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

"(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

"(c) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school

vacation at any time under a continuous school calendar.

"(d) Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

"(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: *Provided*, That (A) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

"(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

"(f) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section. To assure meal quality. States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

"(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year: *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

"(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

"(i) If any State (1) is unable for any reason to disburse the funds otherwise payable to it under this section, or (2) does not operate the program in accordance with the requirements of this section, the Secretary shall assume authority for administration of the program in such State, and shall disburse the funds directly to service institutions in the State for the same purposes and subject to the same conditions as are required of a State disbursing funds made available under this section. In cases described in clause (1) of the preceding sentence, the State shall notify the Secretary, not later than January 1 of each fiscal year in which the program is operated, of its intention not to administer the program.

"(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $50,000 in funds distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $100,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2 percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

"(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

"(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

"(l)(1) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

"(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

"(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

"(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

"(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

"(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

"(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

"(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

"(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

"(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (3) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4) the State's plans and schedule for providing technical assistance and training eligible service institutions; (5) the State's schedule for application by service institutions; (6) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (7) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State's plan and schedule for registering food service management companies; (9) the State's plan for timely and effective action against program violators; (10) the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments; (11) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (12) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.

"(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

"(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(p) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

CONFORMING AMENDMENT

SEC. 3. The National School Lunch Act and the Child Nutrition Act of 1966 are each amended by striking out "nonfood assistance" each time such phrase appears in such Acts and by inserting in lieu thereof "food service equipment". The heading of section 5 of the National School Lunch Act is amended to read "Food Service Equipment Assistance", and the heading of section 5 of the Child Nutrition Act of 1966 is amended to read "Food Service Equipment Assistance".

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 4. Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary. States shall apportion their share of funds under this subsection by giving priority to schools without a food service program and schools without the facilities to prepare and cook hot meals at the schools (including schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals) or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools. After making funds available to such schools, the State shall make the remaining funds available to schools with a food service program and with the facilities to prepare and cook hot meals at the schools or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools, for the purpose of purchasing needed replacement equipment.";

(2) amending subsection (e) to read as follows:

"(e) For the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, 33⅓ percent of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals. In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by the State, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If any State cannot use all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionment to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If after such further apportionment, any funds received under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section. Payment to any State of funds under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools that are especially needy, as determined by criteria established by each State and approved by the Secretary.";

(3) adding at the end thereof a new subsection (f) to read as follows:

"(f)(1) Funds authorized for the purposes of this section shall be used only for facilities that enable schools, or local public or private nonprofit institutions under the conditions prescribed in paragraph (2) of this subsection, to prepare and cook hot meals or receive hot meals at the school or institution unless the school can demonstrate to the

satisfaction of the State (or, in the case of nonprofit private schools in States where the Secretary administers the food service equipment program in such schools, to the satisfaction of the secretary) that an alternative method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast program in such school or to improve the consumption of food or the participation of eligible children in the program.

"(2) If a school authorized to receive funds under this section cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private nonprofit institution to provide the school lunch or breakfast program for children attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (A) the school retains legal title to such facilities and, (B) in the case of funds made available under subsection (e) of this section, the institution would otherwise be without such facilities."; and

(4) striking out the comma after "as amended" in subsection (a), inserting a period in lieu thereof, and striking out the remainder of the sentence.

COMMODITY DISTRIBUTION PROGRAM

SEC. 5. Section 6(b) of the National School Lunch Act is amended to read as follows:

"(b) Not later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection (e) of this section, the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection (e) of this section. In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.".

PURCHASE OF FOODS FOR THE COMMODITY DISTRIBUTION PROGRAM

SEC. 6. Section 14 of the National School Lunch Act is amended by—

(1) striking out "September 30, 1977" in subsection (a) and inserting in lieu thereof "September 30, 1982"; and

(2) adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under section 707(d)(1) of such Act (42 U.S.C. 3045f(d)(1)). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

"(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

"(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

"(2) solicit the views of States with respect to the acceptability of commodities;

"(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

"(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

"(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966. Within eighteen months after the date of the enactment of this subsection, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

"(e) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.".

REFUSAL OF COMMODITIES

SEC. 7. Section 6(a) of the National School Lunch Act is amended by inserting immediately after the first sentence the following: "Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year.".

ACCEPTANCE OF OFFERED FOODS

SEC. 8. The third sentence of section 9(a) of the National School Lunch Act is amended to read as follows: "Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.".

SPECIAL ASSISTANCE

SEC. 9. Section 11(a) of the National School Lunch Act is amended by inserting immediately after the first sentence the following new sentences: "In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the 'first school year') are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.".

PILOT PROJECTS

SEC. 10. The National School Lunch Act is amended by—

(1) inserting in section 6(a)(3) immediately after "participants in these programs" the following: ", for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 20 of this Act,"; and

(2) adding at the end thereof a new section 20 as follows:

"PILOT PROJECTS

"SEC. 20. (a) The Secretary shall conduct pilot projects with respect to local school districts or other appropriate units, or groups of program participants, for the purpose of determining whether there may be more efficient, healthful, economical, and reliable methods of operating school lunch, school breakfast, and summer feeding programs under this Act and the Child Nutrition Act of 1966, and methods for operating such programs that will result in improved delivery of benefits thereunder in accordance with the purposes of such Acts. Such projects shall, notwithstanding any other provision of law, include (1) not more than ten projects providing participating schools or other institutions the option of receiving all or part cash assistance in lieu of commodities under such Acts for such nutrition programs operated in such schools or institutions, (2) projects designed to streamline or reduce reporting requirements by local school districts, and (3) projects using the United States Department of Agriculture Extension Service to aid in nutrition training and education in schools and other institutions.

"(b) The Secretary shall conduct a study to analyze the impact and effect of cash payments in lieu of commodities. The study shall be limited to a comparison between a State that phased out its commodity distribution facilities prior to June 30, 1974, and elected to receive cash payments in lieu of donated foods, and a State not eligible for cash payments in lieu of donated foods. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, and the impact on plate waste in school lunch and breakfast programs.

"(c) The Secretary shall report to Congress, not later than eighteen months after the date of the enactment of this section, on the results of the pilot projects and study conducted under this section. In connection with such pilot projects, such report shall include an assessment of the methods employed in such projects for operating school lunch, school breakfast, and summer feeding programs, in terms of the following factors—

"(1) the administrative feasibility and nutritional impact;

"(2) the cost savings that may be effected at Federal, State, and local levels;

"(3) the impact on Federal programs designed to provide adequate income to farmers;

"(4) the impact on the quality of food served; and

"(5) the impact on plate waste.".

SPECIAL MILK PROGRAM

SEC. 11. The fifth sentence of section 3 of the Child Nutrition Act of 1966 is amended to read as follows: "Children who qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk, when milk is made available at times other than the periods of meal service in outlets that operate a food service program under sections 4 and 17 of the National School Lunch Act and section 4 of this Act.".

SCHOOL BREAKFAST PROGRAM

SEC. 12. Section 4 of the Child Nutrition Act of 1966 is amended by—

(1) inserting "(1)" after the subsection designation for subsection (b);

(2) striking out the last sentence in subsection (b); and

(3) adding at the end of subsection (b) a new paragraph (2) as follows:

"(2)(A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced-price meal at schools that are in severe need.

"(B) The maximum payment for each such free breakfast shall be the higher of—

"(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

"(ii) 45 cents, which shall be adjusted on a semiannual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent six-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

"(C) The maximum payment for each such reduced-price breakfast shall be five cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph."; and

(4) amending subsection (d) to read as follows:

"(d) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need where the rate per meal established by the Secretary is insufficient to carry out an effective breakfast program in such a school. Such eligibility standards shall be submitted to the Secretary for approval and included in the State plan of child nutrition operations required by section 11(e)(1) of the National School Lunch Act. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.".

REDUCTION OF PAPERWORK

SEC. 13. The National School Lunch Act is amended by adding at the end thereof a new section 21 as follows:

"REDUCTION OF PAPERWORK

"SEC. 21. In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under such Acts. The Secretary shall report to Congress not later than one year after the date of enactment of this section on the extent to which a reduction in such paperwork has occurred.".

STATE ADMINISTRATIVE EXPENSES

SEC. 14 Section 7 of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) The Secretary shall pay to each State for its administrative costs incurred pursuant to the administration of this Act and the National School Lunch Act for the fiscal year ending September 30, 1978, an amount equal to 1 percent, and for each of the fiscal years ending September 30, 1979, and September 30, 1980, an amount not less than 1 percent and not greater than 1½ percent of the funds used by each State under section 4, 11, and 17 of the National School Lunch Act and under sections 3, 4, and 5 of this Act during the second fiscal year preceding the fiscal year for which the amounts are to be paid: *Provided*, That in no case shall the payment to any State under this section be less than $75,000 per year nor shall any State receive less than the amount allocated to it for fiscal year 1977. The percentages specified in the foregoing sentence shall apply only to the first $100,000,000 in funds used under the prescribed sections of law. For those funds used that exceed $100,000,000, the Secretary shall pay an amount equal to 1 percent of such funds.

"(2) The Secretary shall make available to States administering the child care food program, for the purpose of conducting audits of participating child care institutions, an amount up to 2 percent of the funds used by each State under section 17 of the National School Lunch Act during the second fiscal year preceding the fiscal year for which the amount is to be paid.

"(b) The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act, and sections 3, 4, and 5 of this Act, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

"(c) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

"(d) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

"(e) Notwithstanding any other provision of law, funds available to each State under this section for fiscal year 1978 that are not obligated or expended in that fiscal year shall remain available for obligation and expenditure by that State in fiscal year 1979. For fiscal year 1979, and the succeeding fiscal year, the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary deems appropriate.

"(f) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

"(g) Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

"(h) Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the National School Lunch Act (except section 13 of that Act), not less than the amount expended or obligated in fiscal year 1977.

"(1) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.".

NUTRITION EDUCATION AND TRAINING

SEC. 15. The Child Nutrition Act of 1966 is amended by adding at the end thereof a new section 19 as follows:

"NUTRITION EDUCATION AND TRAINING

"SEC. 19. (a) Congress finds that—

"(1) the proper nutrition of the Nation's children is a matter of highest priority;

"(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

"(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

"(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

"(5) there is a need to create opportunities for children to learn about the importance

of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

"PURPOSE

"(b) It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

"DEFINITIONS

"(c) For purposes of this section, the term 'nutrition information and education program' means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training school food service personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; and (D) developing and using classroom materials and curricula.

"NUTRITION INFORMATION AND TRAINING

"(d)(1) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) the food service management training of school food service personnel, and (C) the conduct of nutrition education activities in schools and child care institutions.

"(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; and other interested groups and individuals concerned with improvement of child nutrition.

"(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized in this section available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

"(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

"(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

"(6) Notwithstanding any other provision of this section, if, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

"AGREEMENTS WITH STATE AGENCIES

"(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

"USE OF FUNDS

"(f)(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutrition education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

"(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

"(3) An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section.

"(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

"ACCOUNTS, RECORDS, AND REPORTS

"(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

"(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

"STATE COORDINATORS FOR NUTRITION; STATE PLAN

"(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in paragraph (2) of his subsection, prepare a State plan as provided in paragraph (3) of this subsection, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

"(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

"(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

"APPROPRIATIONS AUTHORIZED

"(j)(1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than $75,000 per year.

"(2) For the fiscal year beginning October 1, 1979, there is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs, an amount equal to the higher of (A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) $75,000 for each State. Grants to each State from such appropriations shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than $75,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

"(3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.".

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

SEC. 16. Section 15 of the National School Lunch Act is amended by—

(1) striking out in the first sentence "fifteen" and inserting in lieu thereof "nineteen";

(2) inserting immediately after "classroom teacher," in the second sentence the following: "two members shall be parents of children in schools that participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act,";

(3) amending subsection (b) to read as follows:

"(b) The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary."; and

(4) striking out the period at the end of subsection (h) and inserting in lieu thereof the following: ": Provided, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.".

REGULATIONS ON SALE OF COMPETITIVE FOODS

SEC. 17. Section 10 of the Child Nutrition Act of 1966 is amended by inserting "approved by the Secretary" after "competitive foods" in the second sentence.

NATIONAL ADVISORY COUNCIL ON THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 18. Section 17(h)(8) of the Child Nutrition Act of 1966 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "Provided, That parent recipient members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.".

TECHNICAL AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 19. Effective July 1, 1977, the National School Lunch Act is amended by—

(a) striking out "fiscal" the second and third time that word appears in section 6(e) of the Act and inserting in lieu thereof "school";

(b) amending section 7 of the Act as follows:

(1) by amending the first sentence to read as follows: "Funds appropriated to carry out section 4 or 5 during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies, for the purpose of assisting schools of the States in supplying (1) agricultural commodities and other foods for consumption by children and (2) food service equipment assistance in furtherance of the school lunch program authorized under this Act.";

(2) by striking out "fiscal" the second time that word appears in the third sentence and inserting in lieu thereof "fiscal or school";

(3) by striking out "fiscal" in the fourth sentence and inserting in lieu thereof "fiscal or school";

(4) by amending the sixth sentence to read as follows: "For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year.";

(c) inserting at the end of section 12(d) of the Act a new paragraph (7) as follows:

"(7) 'School year' means the annual period determined in accordance with regulations issued by the Secretary."; and

(d) striking out "fiscal year" each time that phrase appears in the last sentence of section 17(e) of the Act and inserting in lieu thereof "school year".

TECHNICAL AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

SEC. 20. Effective July 1, 1977, the Child Nutrition Act of 1966 is amended by—

(1) striking out "fiscal" the second and third time that word appears in the sixth sentence of section 3 of the Act and inserting in lieu thereof "school";

(2) striking out "thereafter, beginning with the fiscal year ending June 30, 1976," in the sixth sentence of section 3 of the Act;

(3) striking out "fiscal" the first and second time that word appears in section 5(b) of the Act and inserting in lieu thereof "school";

(4) striking out "fiscal" each place that word appears in section 5(d) of the Act and inserting in lieu thereof "school";

(5) inserting at the end of section 15 of the Act the following new paragraph (e):

"(e) 'School year' means the annual period determined in accordance with regulations issued by the Secretary."; and

(6) striking out "by January 1 of each year (by December 1 in the case of fiscal year 1976)" in the second sentence of section 17(d) of the Act and inserting in lieu thereof "each year by not later than a date specified by the Secretary".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

CARL D. PERKINS,
WILLIAM D. FORD,
IKE ANDREWS,
MIKE BLOUIN,
PAUL SIMON,
LEO C. ZEFERETTI,
RON MOTTL,
AUSTIN J. MURPHY,
JOSEPH A. LE FANTE,
TED WEISS,
CEC HEFTEL,
BALTASAR CORRADA,
DALE E. KILDEE,
GEO. MILLER,
ALBERT H. QUIE,
JOHN BUCHANAN,
LARRY PRESSLER,
BILL GOODLING,
SHIRLEY N. PETTIS,
CARL PURSELL,
Managers on the Part of the House.

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
HUBERT HUMPHREY,
DICK CLARK,
PATRICK J. LEAHY,
ROBERT DOLE,
HENRY BELLMON,
JESSE HELMS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966, to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by

the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The *House* bill provides that the bill may be cited as the "National School Lunch Act and Child Nutrition Amendments of 1977".

The *Senate* amendment provides that the bill may be cited as the "Child Nutrition Act of 1977".

The *Conference* substitute adopts the *House* provision.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SEC. 2)

(1) Definition of agency

The *House* bill uses the term "service institution" to define the local agency responsible for administering the summer program.

The *Senate* amendment uses the word "sponsor" to define the local agency responsible for administering the summer program (and, at times, in the text of the bill uses the word "institution").

The *Conference* substitute adopts the *House* provision.

(2) Eligible participants in summer food program

The *House* bill defines eligible children as (a) individuals who are 18 years of age or under and (b) individuals over 18 years of age who are mentally and physically handicapped and participating in a public school program for the mentally or physically handicapped.

The *Senate* amendment defines eligible children as individuals who are 20 years of age or under.

The *Conference* substitute adopts the *House* provision.

(3) Definition of State

The *House* bill defines "State" to include the Northern Mariana Islands.

The *Senate* amendment contains no comparable provision.

The *Conference* substitue adopts the *House* provision.

(4) Onsite meal preparation

The *Senate* amendment provides that from the annual appropriations for the summer program, $1.5 million will be used to assist sponsors (which offer federally subsidized food service year-round) with equipment to establish, maintain, and expand onsite meal preparation.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(5) Application by more than one eligible sponsor

The *House* bill authorizes the Secretary of Agriculture to establish priorities for approval when more than one eligible institution applies to serve the same area or children and designates the criteria—among others—the Secretary is to use.

The enumerated criteria are:

(A) whether the service institutions use local school food facilities for the preparation of meals;

(B) whether the service institutions prepare meals at their own facilities or operate only one site;

(C) whether the service institutions have demonstrated successful program performance in a prior year;

(D) whether the service institutions are public or nonprofit private schools with food service facilities;

(E) whether the service institutions plan to integrate the program with other Federal, State, or local employment programs; and

(F) whether the service institutions have demonstrated successful program performance in a prior year.

The *Senate* amendment establishes an order priority when more than one eligible sponsor applies to serve the same area that must be used by the States. The order of priority is:

(A) sponsors that have demonstrated successful program performance in a prior year;

(B) sponsors that prepare meals at their own facilities or that operate only one site;

(C) sponsors that use local school food facilities for the preparation of meals;

(D) other sponsors that have demonstrated ability for successful program operation; and

(E) sponsors that plan to integrate the program with other Federal, State or local employment programs.

The *Conference* substitute adopts the *Senate* provision with an amendment to include schools among the institutions to be given first preference in the order of priority. Service institutions that have demonstrated successful program performance are the other category receiving first preference.

(6) Rural areas

The *House* bill requires the Secretary and the States to actively seek eligible institutions located in rural areas and assist them in applying for participation in the summer program.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(7) Reimbursement for meals served by camps

The *House* bill limits reimbursement to camps to meals served to children eligible for free or reduced price meals.

The *Senate* amendment is the same as the *House* bill but applies specifically to residential camps.

The *Conference* substitute adopts the *House* provision.

(8) Multiple meal service

The *House* bill provides that service institutions other than camps may serve up to three meals a day, *only* if (a) the institution has the administrative capability and the food preparation and holding facilities to manage more than one meal a day, and (b) the service of different meals does not coincide or overlap.

The *Senate* amendment provides that sponsors other than residential camps and day camps may serve up to three meals a day.

The *Conference* substitute adopts the *House* provision. "Camps" means both residential camps and those nonresidential service institutions serving four or more meals per day.

(9) Secretary's study

The *House* bill requires the Secretary to conduct a study of the cost of food service operations. The Secretary may make such adjustments in the maximum reimbursement levels as he determines appropriate. The findings of this study (and a study of administrative costs) are to be reported to the President and Congress by February 1, 1978.

The *Senate* amendment requires the Secretary to conduct a study of the costs of food service operations. Consideration is to be given to whether different levels of reimbursement for such costs should be established for meals prepared by the sponsor and those prepared by a vendor and which, if any, costs incurred at a site should be considered as administrative costs. The study shall include an evaluation of meal quality as related to costs and a determination whether adjustments in maximum reimbursement levels for food service operation costs should be made. The findings of the study (and a study of administrative costs) are to be reported to Congress by December 1, 1977.

The *Conference* substitute adopts the *Senate* provision.

(10) Advance payments to States

The *Senate* amendment requires the Secretary to forward a letter of credit to the States not later than April 15, May 15, and July 1 of each year in an amount that the State demonstrates is necessary for advance payments to sponsors. The Secretary shall forward such advance payments to States that operate the summer program in months other than May through September by the first day of the month prior to the month in which the program will be conducted. The Secretary is further required to complete the payment to States of any summer program funds due within sixty days following the receipt of valid claims.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(11) Meal specification

The *House* bill requires the States, with the assistance of the Secretary, to prescribe model meal specifications *to the degree practicable*.

The *Senate* amendment is the same as the *House* bill does not include "to the degree practicable."

The *Conference* substitute adopts the *Senate* provision.

(12) Contract contents

The *House* bill requires that service institutions that contract with food service management companies for food preparation must include menu cycles and food quality standards approved by the States in the contracts.

The *Senate* amendment contains the same provision as the *House* bill but also requires inclusion of food safety standards.

The *Conference* substitute adopts the *Senate* provision with an amendment clarifying that it is the local food safety standards that must be met.

(13) Periodic inspection

The *House* bill requires that meals provided by food service management companies be periodically inspected by local health departments or independent agencies in accordance with local health standards to determine bacterial levels in the meals being served.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(14) Publication of fiscal year 1978 reimbursement rates

The *House* bill provides that all proposed program regulations be published by November 1 and final program regulations by January 1.

The *Senate* amendment contains the same provision as the *House* bill but provides that the regulations dealing with food service operation and administrative cost reimbursement rates for fiscal year 1978 need not be published until December 1 and February 1, respectively.

The *Conference* substitute adopts the *Senate* provision.

(15) Startup funds

The *House* bill limits startup funds to 20 percent of the administrative costs provided for in a service institution's approved administrative budget.

The *Senate* amendment authorizes the payment, as startup funds, of a percentage of the administrative costs provided for in a sponsor's approved administrative budget.

The *Conference* substitute adopts the *House* provision.

(16) USDA Administration

The *House* bill requires the Secretary to administer the program if the State is unable to administer it or if the State does not operate the program in compliance with the Federal requirements.

The *Senate* amendment requires the Secretary to administer the program if the State is unable to administer it.

The *Conference* substitute adopts the *House* provision.

(17) State administrative expenses adjustment

The *House* bill provides that the basic State administrative expenses formula *may* be adjusted to reflect changes in the State's program since the preceding fiscal year.

The *Senate* amendment is the same as the *House* provision but substitutes "shall" for "may".

The *Conference* substitute adopts the *House* provision.

(18) Health facilities inspection and meal quality tests

The *House* bill provides an amount of funds, not to exceed actual costs or one percent of program funds, whichever is less, for State and local health departments to carry out inspections of health facilities and meal quality tests provided for in the bill.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(19) Vendors

The *House* bill allows sponsors to contract on a competitive bid basis with food service management companies registered with the State.

The *Senate* amendment allows sponsors to contract on a competitive bid basis *only* with food service management companies registered with the State.

The *Conference* substitute adopts the *Senate* provision.

(20) Food service management company's capacity

The *Senate* amendment requires the State, upon award of any bid for program participation, to review the company's registration to calculate how many remaining meals the company is equipped to prepare.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Vendor registration

The *House* bill requires the States to provide for the registration of all food service management companies that desire to participate in the summer program and specifies the information that must be included in the registration.

The *Senate* amendment contains the same provision as the *House* bill but (a) requires that the addresses of the venders food preparation and distribution sites be included in the registration and (b) does not require the disclosure of past company owners or sanitary code violations.

The *Conference* substitute adopts the *House* provision and the *Senate* provision requiring the disclosure of the addresses of the company's food preparation and distribution sites.

(22) Bid and contract procedures

The *House* bill requires the Secretary to prescribe requirements governing bid and contract procedures for acquisition of food service management companies' services, including, but not limited to, bonding requirements, procedures for review of contracts by States, and safeguards to prevent collusive bidding activities.

The *Senate* amendment contains the same provisions as the *House* bill but does not include bonding requirements.

The *Conference* substitute adopts the *House* provision with an amendment permitting the Secretary to exempt contracts of $100,000 or less from the bonding requirement.

(23) Use of small businesses and minority-owned businesses

The *Senate* amendment requires that positive efforts be made by sponsors to use small businesses and minority-owned businesses in the program.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Standard form of contract

The *Senate* amendment requires the States, with the assistance of the Secretary, to prescribe a standard form of contract for use by sponsors and food service management companies.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Submission of State plan for management and administration

The *House* bill requires all participating States to submit a State plan for management and administration to the Secretary for approval prior to a date established by the Secretary and states what the State plan must contain.

The *Senate* amendment requires States desiring to participate in the program to notify the Secretary by January 1 of each year of their intent to participate and to submit a State plan for approval by February 15. The *Senate* amendment contains all of the requirements for the State plan contained in the *House* bill, and in addition (a) requires inspection and monitoring of feeding sites, the State's schedule for sponsor application, and the State's plan and schedule for registering food service management companies, and (b) requires the State to include its plan for determining and disbursing "program payments" instead of "advance payments."

The *Conference* substitute adopts the *Senate* provision.

(26) Criminal penalties

The *House* bill provides criminal penalties for fraud or embezzlement by partners, officers, directors, or managing agents of an organization that receives benefits under the National School Lunch Act.

The *Senate* amendment contains the *House* provision but applies it specifically to entities receiving benefits under the summer food program.

The *Conference* substitute adopts the *Senate* provision.

(27) Authorization for appropriations

The *House* bill authorizes appropriations for fiscal years 1978 and 1979 of such sums as are necessary to carry out the program.

The *Senate* amendment authorizes appropriations for fiscal years 1978, 1979, and 1980 to carry out the summer food program.

The *Conference* substitute adopts the *Senate* provision.

FOOD SERVICE EQUIPMENT ASSISTANCE (SEC. 4)

(1) Priority for nonreserved funds

The *House* bill requires that States establish criteria approved by the Secretary of Agriculture for the determination of especially needy schools that are not required to fully match the cost of equipment financed under section 5(b) of the Child Nutrition Act.

The *Senate* amendment incorporates the provision in the *House* bill and further provides that States shall give priority in the apportionment of funds to schools without a food service and schools without the facilities to prepare and cook hot meals and allows unused funds to be used in assisting schools with a food service (and with the facilities to cook and prepare hot meals) to purchase needed replacement equipment.

The *Conference* substitute adopts the *Senate* provision with an amendment establishing that kitchens operated by private schools and schools having antiquated or impaired equipment are included in the priority provision. The determination whether equipment is antiquated or impaired would be made by the State educational agency (or by the Secretary in those cases where the Secretary directly administers the program).

(2) Reservation of funds

A. The *House* bill extends for three years the requirement that one-third of the funds appropriated for section 5 of the Child Nutrition Act of 1966 be reserved.

The *Senate* amendment extends this provision for five years.

The *Conference* substitute adopts the *House* provision.

B. The *House* bill expands the types of schools eligible to receive the reserved funds to include not only "no-program" and "cold meal" schools but also schools without the facilities to *prepare and cook hot meals or to receive hot meals.*

The *Senate* amendment expands the types of schools eligible to receive the reserved funds to include not only "no-program" and "cold meal" schools but also schools without the facilities to *prepare and cook hot meals.* "Schools without the facilities to prepare and cook hot meals" is defined as schools without the facilities both to prepare and cook hot meals at the school or at a kitchen operated by the local school district that serves the school.

The *Conference* substitute adopts the *House* provision.

C. The *House* bill provides that unused funds are first to be reapportioned among schools for use in assisting schools without a food service or the facilities to *prepare and cook hot meals or receive hot meals* and may then be used to assist schools with food service programs and the facilities to *prepare and cook hot meals or receive hot meals.*

The *Senate* amendment provides that unused funds are to be reapportioned among schools without a food service or the facilities to *prepare and cook hot meals.* Any further remaining unused funds are to be reapportioned to schools with a food service program and to schools with the facilities to *prepare and cook hot meals.*

The *Conference* substitute adopts the *House* provision.

(3) Use of funds

The *House* bill specifies that food service equipment assistance funds may be used only for facilities that enable schools to prepare and cook hot meals or receive hot meals or at public and private nonprofit institutions that, under an agreement, act in lieu of a school in cooking and preparing school meals for children from a participating school unless the school can demonstrate to the State's satisfaction that an alternative method of meal preparation is necessary for the introduction or continuation of the school lunch or breakfast program or to improve the consumption of food or the participation of eligible children in the program. In order to be able to use funds for equipment in public and private nonprofit institutions, the institutions must be under an agreement with that school and the school is required to retain the legal title to the equipment.

The *Senate* amendment specifies that food service equipment assistance funds may be used only for facilities to prepare and cook hot meals at the school or at a kitchen operated by the school district unless the school can demonstrate to the State's satisfaction that an alternative method of meal preparation is necessary for the introduc-

tion or continuation of the school lunch or breakfast programs.

The *Conference* substitute adopts the *House* provided with (1) an amendment clarifying that the provision applies only to funds authorized for this section, and (2) an amendment clarifying the situation in States in which the Secretary directly operates the program for the benefit of private school children. In adopting this language, it is the purpose of the *Conferees* to emphasize that it only creates a priority category for the use of these funds for onsite preparation of school lunch or breakfast programs or to enable schools to receive hot meals. Many schools, particularly in urban areas, have no practicable alternative to using other methods of food preparation. The Department, in allocating food service equipment funds, should not discriminate against those school lunch or breakfast programs that have demonstrated quality and use methods such as prepiated frozen meals heated and served on the school site. In approving equipment funds for such alternative methods, the Department should ensure that only meals that are of necessary quality to be not only nutritious—but appetizing and attractive to students—would be acceptable.

(4) Transfer of equipment

The *House* bill deletes the provision in current law allowing nonprofit private schools to transfer no-longer-used equipment to another school participating in the school lunch or breakfast programs or to have the residual value of the equipment revert to the United States.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

COMMODITY DISTRIBUTION PROGRAM (SEC. 5)

The *Senate* amendment requires the Secretary of Agriculture to make an estimate by May 15 of each school year of the value of agricultural commodities and other foods that that will be delivered during the school year to States for the school lunch program. If the value estimated by the Secretary is less than 100 percent of the value of the commodities programed for delivery in that school year, the Secretary is to pay educational agencies by June 15 an amount that is equal to the difference between the value of the deliveries programed and the total level of assistance authorized under section 6(e) of the National School Lunch Act.

The *House* bill contains no comparable provision and, therefore, continues existing law which requires the Secretary to make an estimate by February 15 of each fiscal year of the value of commodities that will be delivered during the fiscal year to the States for the school food service programs. If the value is less than 90 percent of the value of the commodities programed for delivery in that fiscal year, the Secretary must pay the educational agencies by March 15 the amount of funds that is equal to the difference between the value of deliveries programed and the total level of assistance authorized under section 6(e) of the National School Lunch Act. The *House* bill retains the requirement in current law that the share of such funds to be paid to each State educational agency must bear the same ratio to the total of such payments to all agencies as the number of meals served under the school lunch and school breakfast program during the preceding fiscal year bears to the total of all such meals in all the States during that fiscal year.

The *Conference* substitute adopts the *Senate* provision.

PURCHASE OF FOODS FOR THE COMMODITY DISTRIBUTION PROGRAM (SEC. 6)

(1) Commodity purchases for elderly feeding program

The *Senate* amendment authorizes the use of funds appropriated from the general fund of the Treasury to purchase foods of the types customarily purchased for donation to the elderly under the Older Americans Act of 1965.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a conforming amendment made necessary by the recent amendments to the Older Americans Act offering the option of cash in lieu of commodities.

(2) Report of local agency views

The *House* bill requires the Secretary of Agriculture to establish procedures that will ensure that States fully and accurately report the views of schools within each State with respect to the type of food assistance needed and to consider such views in the purchase and distribution of commodities to the States for allocation to schools under the National School Lunch Act.

The *Senate* amendment contains the same provisions as the *House* bill but requires the views of local educational agencies rather than schools and extends these requirements to purchases and distributions under the National School Lunch Act and the Child Nutrition Act.

The *Conference* substitute adopts the *Senate* provision with an amendment ensuring that the views of nonprofit private schools would also be required.

(3) Technical assistance

The *House* bill requires the Secretary to make available technical assistance on the use of commodities distributed under section 4 of the National School Lunch Act.

The *Senate* amendment contains the same provisions as the *House* bill but includes commodities distributed under the commodity distribution programs.

The *Conference* substitute adopts the *House* provision making it specifically applicable to commodities distributed under the National School Lunch Act and the Child Nutrition Act of 1966.

(4) Advisory council

The *House* bill requires each State to establish an advisory council composed of local school representatives to advise the State as to the needs of the local school relating to the selection and distribution of federally donated commodities.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

REFUSAL OF COMMODITIES (SEC. 7)

The *House* bill permits any school to refuse to accept up to 20 percent of the agricultural commodities and other foods offered to it in any year and to receive other commodities in their place to the extent that other commodities are available to the State.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

ACCEPTANCE OF OFFERED FOODS (SEC. 8)

The *House* bill amends section 9(a) of the National School Lunch Act to authorize local school authorities upon their option to permit junior high and middle school students to refuse foods that are offered to them in federally supported school lunch programs.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The *Conferees* encourage the Secretary of Agriculture to make use of funds available under existing authorities to produce informative and entertaining public service messages for television that will educate children in proper nutrition.

SPECIAL ASSISTANCE (SEC. 9)

The *House* bill amends the special assistance provisions of the National School Lunch Act (section 11) in the following two ways:

1. In any school in which at least 80 percent of the children are eligible for free or reduced price lunches, special assistance payments for these lunches can be made for either one or two fiscal years based on the number of children determined eligible for such lunches during the first year and the number of such lunches served during that year to other children determined for that year to be eligible for such lunches, if the school requests the payments; and

2. In any school that elects to serve children free lunches for three years and pays for the lunches for non-needy children from sources other than Federal funds, special assistance payments for free and reduced price meals are to be made to that school for a period of three years based upon its number of children determined eligible for free and reduced price meals during the first year.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts part 2 of the *House* provision and part 1 of the *House* provision with an amendment limiting to one additional year the payments of schools with very high concentrations of children eligible for free or reduced price meals.

PILOT PROJECTS: STUDY OF CASH PAYMENTS IN LIEU OF COMMODITIES (SEC. 10)

A. The *House* bill requires the Secretary of Agriculture to conduct pilot projects with respect to local school districts, or other appropriate units, or groups of program participants to determine more efficient, healthful, economical, and reliable methods of operating the school lunch, school breakfast, and summer feeding programs. The pilot projects will include: providing all or part cash payments in lieu of commodities, streamlining or reducing local school district reporting requirements, and of use the Extension Service to aid in nutritional training and education in schools and other institutions. An assessment of these pilot projects will be reported to Congress within 18 months of the date of enactment. The Secretary is authorized to fund these projects from the maximum of one percent of school food service programs appropriations provided for under section 6(a)(3) of the National School Lunch Act.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision but limits the number of cash in lieu of commodities pilot projects to no more than ten. The *Conferees* expect the Department to choose an appropriate mix of localities to participate in these pilot projects. This mix should include both urban and suburban and both large and small school districts.

B. The *Senate* amendment requires the Secretary to conduct a study of the effect of making cash payments in lieu of delivery of commodities. The study will be limited to a comparison of the situation in one of the States that receives donated foods with the State of Kansas that receives cash. The Secretary must report his findings to Congress within 18 months of the date of enactment of the bill.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

SPECIAL MILK PROGRAM (SEC. 11)

The *Senate* amendment provides that children eligible for free lunches under the school lunch program, are also eligible for free milk, when milk is provided at times other than the period of meal service in outlets that operate a school lunch, breakfast or child care food program. If schools and institutions participating in these programs choose not to serve additional milk at times other than meal service, needy children will

receive no free milk other than as a component of USDA-subsidized meals.

The *House* bill contains no comparable provision and continues existing law under which children eligible for free lunches may receive free milk.

The *Conference* substitute adopts the *Senate* provision.

SCHOOL BREAKFAST PROGRAM MAXIMUM REIMBURSEMENT (SEC. 12)

The *House* bill increases the maximum reimbursement for free or reduced price breakfasts in especially needy schools to 10 cents above the national average payment for each free breakfast and to 5 cents less than the maximum payment for each free breakfast for each reduced price breakfast.

The *Senate* amendment indexes the maximum reimbursement for free breakfasts in specially needy schools (which is now 45 cents) for each free breakfast and provides that there be a 5-cent differential between the maximum reimbursement for reduced price breakfasts and free breakfasts in these schools. The maximum reimbursement rate for especially needy schools is to be adjusted semiannually according to changes in the series for food away from home of the Consumer Price Index published by the Department of Labor's Bureau of Labor Statistics.

The *Conference* substitute requires the Secretary of Agriculture to make calculations each year under both the formula contained in the *House* provision and the formula contained in the *Senate* provision, and to make payments on the basis of the resulting higher figure.

REDUCTION OF PAPERWORK (SEC. 13)

The *House* bill directs the Secretary of Agriculture to reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under the National School Lunch Act and the Child Nutrition Act of 1966. The Secretary is required to report to Congress within one year after the date of enactment of the bill, on the extent to which such reduction has occurred.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

STATE ADMINISTRATIVE EXPENSES (SEC. 14)

(1) Apportionment of funds

The *House* bill provides that for fiscal year 1978, an amount not to exceed one percent of funds expended in fiscal year 1977 under sections 4, 11, and 17 of the National School Lunch Act and sections 3, 4, and 5 of the Child Nutrition Act of 1966 shall be allocated to States, in accordance with a formula determined by the Secretary of Agriculture, for State administrative expenses. The Secretary is required to conduct a study of administrative costs, and report the results of this study with recommendations for a formula to allocate administrative cost payments to Congress by March 1, 1978.

The *Senate* amendment provides a new apportionment formula for State administrative expense funds. For fiscal year 1978, an amount equal to one percent of the funds used in that State during the second preceding year under sections 4, 11, and 17 of the National School Lunch Act and sections 3, 4, and 5 of the Child Nutrition Act will be advanced. The same formula will be used in fiscal years 1979 and 1980, except that the percentage in those years is set at one and one-half percent. However, in States that used more than $100 million under sections 4, 11, and 17 of the National School Lunch Act and sections 3, 4, and 5 of the Child Nutrition Act, the percentage will be one and one-half percent of the first $100 million and one percent of the remaining program funds used. In addition, no State shall receive less than $75,000 nor less than the amount paid to it for administrative expenses for fiscal year 1977.

The *Conference* substitute adopts the *Senate* provision with an amendment setting the payments for fiscal years 1979 and 1980 to an amount not less than one percent and not more than one and one-half percent for each such year.

(2) Audits of child care institutions

The *House* bill provides for payments to States, from such amounts appropriated for fiscal year 1978, in a total amount not in excess of two percent of funds expended in fiscal year 1977 under section 17 of the National School Lunch Act, to be allocated and paid in accordance with a formula determined by the Secretary for purposes of conducting audits of participating child care institutions under that section.

The *Senate* amendment contains the same provision as the *House* bill but the two percent maximum would be based on the funds used by the State in the child care food program in the second preceding fiscal year.

The *Conference* substitute adopts the *Senate* provision.

(3) Nonprofit private schools or child care institutions

The *House* bill provides that when States administer food service programs in nonprofit private schools or child care institutions previously administered by the Secretary, an appropriate adjustment is to be made in the administrative expense funds paid to the State in the succeeding fiscal year.

The *Senate* amendment contains the same provision as the *House* bill but does not specify the year in which the adjustment is to be made.

The *Conference* substitute adopts the *House* provision with an amendment requiring the adjustment to be made not later than the succeeding fiscal year.

(4) Carryover funds

The *House* bill provides that unobligated or unexpended funds appropriated for State administrative expenses shall remain available to the State for obligation and expenditure in the succeeding fiscal year.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision for fiscal year 1978. For fiscal years 1979 and 1980, the *Conference* substitute (1) requires the Secretary to establish a date for the submission of the State plans for the disbursement of administrative funds, and (2) authorizes the Secretary to reallocate any unused funds (as evidenced by the State plans) to such other States as the Secretary deems appropriate.

(5) Maintenance of effort

The *House* bill requires State educational agencies to contribute no less for running the child nutrition programs than they did in fiscal year 1977.

The *Senate* amendment requires State agencies to contribute no less for running the child nutrition programs (other than the WIC program and the summer feeding program) than they did in fiscal year 1977.

The *Conference* substitute adopts the *Senate* provision.

(6) State staffing standards

The *House* bill directs the Secretary to develop State staffing standards that will ensure sufficient staff for the planning and administration of the national school lunch program, school breakfast program, child care food program, special milk program, and the food service equipment assistance program.

The *Senate* amendment contains the same provision as the *House* bill but further requires that the staffing standards be developed in cooperation with the several States.

The *Conference* substitute adopts the *Senate* provision. However, the *Conferees* wish to emphasize that section 7(b) of the Child Nutrition Act of 1966, as amended by the bill, does not imply that the Secretary has the authority to require each State to hire a certain number of individuals, place them at specific levels within the State organization, nor mandate uniform national staffing standards that would be applied to each State. Unique administrative structures exist in each of the fifty States. The Secretary, recognizing these differences, should ensure that sufficient staff exists for the efficient and effective administration of the programs.

(7) Annual plan

The *Senate* amendment requires State agencies to submit to the Secretary, for approval by October 1 of each year, an annual plan for the use of State administrative expense funds. This plan must include a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(8) Authorization for appropriations

The *House* bill authorizes the appropriation of necessary sums for State administrative expenses.

The *Senate* amendment authorizes the appropriation of necessary sums for State administrative expenses for fiscal years 1978 through 1980.

The *Conference* substitute adopts the *Senate* provision.

(9) Insufficient funding

The *House* bill provides that if insufficient funds are appropriated for State administrative expenses, the Secretary shall ratably reduce the amounts of administrative expense payments to the extent necessary so that the total amounts paid do not exceed the funds appropriated. If additional funds become available, these amounts will be increased on the same basis as they were reduced.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

NUTRITION EDUCATION AND TRAINING (SEC. 15)

The *Senate* amendment adds a new section 19 to the National School Lunch Act, entitled "Nutrition Education and Training".

The *House* bill contains no comparable provision.

Except as noted below, the *Conference* substitute adopts the *Senate* provision.

(1) Findings

New subsection (a) contains the finding of Congress respecting the importance of proper nutrition of the Nation's children and a proper understanding of the principles of good nutrition on the part of children, school food service personnel, and school teachers, and the recognition of the significant influence parents exert on their children's nutritional development habits.

(2) Purpose

New subsection (b) states that the purpose of section 19 is to encourage effective dissemination of scientifically valid information on nutrition through grants to State educational agencies for the development of nutrition information and education programs. School lunch and child nutrition programs are to be used as a learning laboratory.

(3) Definitions

New subsection (c) defines nutrition education as including instructing students with

regard to the nutritional value of foods and the relationship between food and human health, training school food service personnel in the principles and practices of food service management, instructing teachers in sound principles of nutrition education, and developing and using classroom materials and curricula.

(4) Nutrition information and training

A. New subsection (d)(1) authorizes the Secretary of Agriculture to formulate and carry out a nutrition information and education program through a system of grants to State educational agencies.

B. New subsection (d)(2) requires the coordination of the program at the State level with other nutrition activities conducted by education and health agencies. This subsection further instructs the Secretary and the States to solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; representative members of the American School Food Service Association; the American Public Health Association; the American Home Economics Association; the Society for Nutrition Education; and other concerned groups and individuals.

The *Conference* substitute adopts the *Senate* provision but makes the requirement for solicitation of advice permissive rather than mandatory and deletes the references to the nongovernmental organizations.

C. New subsection (d)(3) permits the Secretary to make section 19 funds available to HEW nutrition education components of the State program without requiring an additional grant application.

D. New subsection (d)(4) directs the Secretary to make grants to State educational agencies. Such agencies may contract with land-grant colleges, other institutions of higher education, and nonprofit organizations for the training of teachers and school food service personnel with respect to the relationship between food, nutrition and health, education methods and techniques, current issues relating to nutrition education, and principles and skills of food service management.

E. New subsection (d)(5) allows the State to contract with State and local educational agencies, land-grant colleges, and other institutions for pilot demonstration projects in elementary and secondary schools with respect to nutritional education.

F. New subsection (d)(6) authorizes the Secretary to administer the provisions of this section in schools and institutions in States where the State educational agency is prohibited by law from doing so.

(5) Agreements with State agencies

New subsection (e) authorizes the Secretary to enter into agreements with State educational agencies for administration of the program and to issue necessary regulations.

(6) Use of funds

A. New subsection (f)(1) provides for the issuance of guidelines by the Secretary on the use of funds by the State for employing a nutrition education specialist to coordinate the program, including the use of funds, travel and related personnel costs; undertaking an assessment of the nutrition education needs of the State; developing a State plan of operation and management for nutrition education; applying for and carrying out planning and assessment grants; pilot projects; the planning, development, and conduct of nutrition education programs and workshops for food service and education personnel; coordinating and promoting nutrition information and educational activities in local school districts; contracting with public and private educational institutions for the conduct of nutrition education instruction and programs; and for related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids.

The *Conference* substitute adopts the *Senate* provision with an amendment making it clear that the private educational institutions with which State agencies may contract are to be nonprofit.

B. New subsection (f)(2) provides for the issuance of planning and assessment grants to any State for employing a coordinating specialist, assessing the nutrition education needs of the State, developing a State plan, and applying for and carrying out planning and assessment grants. This subsection also provides for advance payment of a portion of the grant with the remaining amount authorized on the basis of completion by the State of activities prescribed in subsection (f)(1).

C. New subsection (f)(3) authorizes the State to use up to 15 percent of its grant for administrative and supervisory purposes in connection with the program authorized by this section.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that Federal funds for administration and supervisory expenditures shall be limited to no more than 50 percent of such expenditures.

D. New subsection (f)(4) states that nothing in section 19 will prohibit State or local agencies from making use of nutrition education materials, resources, and activities developed under this section for adult nutrition programs.

(7) Accounts, records, and reports

A. New subsection (g)(1) requires that States maintain accounts and records for not in excess of five years.

B. New subsection (g)(2) requires the States to submit reports on the operation of the program authorized by this section in such form and at such time as the Secretary prescribes.

(8) State coordinators for nutrition education; State plan

A. New subsection (h)(1) requires the States to appoint a nutrition education specialist to serve as State coordinator for State nutrition education as a precondition to receiving funds under this section.

B. New subsection (h)(2) requires the State coordinator, upon receipt of funds under this section, to prepare an itemized budget and assess the nutrition needs of the State. Such assessment shall identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

C. New subsection (h)(3) requires the State coordinators to develop, prepare and furnish to the Secretary, for approval, a comprehensive plan for nutrition education within nine months after the award of the planning assessment grant. The Secretary is required to act on the plan within 60 days after receipt of the plan. This subsection further requires that the plan include the findings of the nutrition education needs assessment within the State; provisions for coordinating the nutrition education program with other publicly supported programs within the State; plans for soliciting the advice and recommendations of various concerned organizations; plans for reaching all students in the State with instruction in nutrition and for training food service personnel in principles and skills of food service management and for instructing teachers in sound principles of nutrition education; and plans for using land-grant colleges (including the Tuskegee Institute) on a priority basis. To the maximum extent possible, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including public hearings.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting references to all nongovernmental organizations.

(9) Resources Center

A. New subsection (i)(1) provides for the establishment within the National Agricultural Library of the United States Department of Agriculture, of a Food and Nutrition Information and Education Resources Center to assemble and maintain food nutrition education materials and provide training for the State coordinators and other personnel needing special training relating to nutrition education.

The *Conference* substitute deletes the *Senate* provision.

B. New subsection (i)(2) provides that the Secretary may establish other resources centers, for the same purpose as the center established under subsection (i)(1), at land-grant colleges, institutions of higher education, and other public or private nonprofit educational or research institutions.

The *Conference* substitute deletes the *Senate* provision.

C. New subsection (i)(3) authorizes the use of $1,500,000 of the funds appropriated for this section for funding the food and nutrition information centers.

The *Conference* substitute deletes the *Senate* provision. The Conferees note that section 1411(b) of the Food and Agriculture Act of 1977 (Pub. Law 95–113) establishes a resources center substantially similar to that proposed in the *Senate* provision. The *Conferees* intend that the resources center established under Public Law 95–113 may provide training for the State coordinator and for interdisciplinary personnel designated by the State coordinator who may need special training in nutrition education.

The *Conferees* intend that the Secretary, under existing authorities, may establish other resources centers, for the same purposes as the resources center established under the Food and Agriculture Act of 1977, at land-grant colleges, institutions of higher learning, and other public and private nonprofit educational or research institutions.

(10) Appropriations authorized

New subsection (j) provides that grants to the States for fiscal years 1978 through 1982 shall be based on a rate of 50 cents for each child enrolled in schools or institutions in the State. Enrollment figures will be the latest available from the Department of Health, Education, and Welfare. No State shall receive less than $75,000 per year.

The *Conference* substitute adopts the *Senate* provision with an amendment limiting the grants to three fiscal years and making the grants for the third fiscal year (fiscal year 1980) subject to an authorization of appropriations. In adopting the new section 19, entitled "Nutrition Education and Training", the *Conferees* wish to emphasize that the program is to benefit the teachers, students, and school food service personnel of both the public and nonprofit private elementary and secondary schools.

Consequently, under section 19(h)(3)(D), it is required that the State plan for the program shall describe plans for reaching *"all students in the State"*, which would include children in both public and nonprofit private schools. Furthermore, if a State is prohibited by law from administering the program in nonprofit private schools, section 19(d)(6) authorizes the Secretary to administer the program directly for these schools.

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION (SEC. 16)

The *Senate* amendment amends section 15 of the National School Lunch Act to add four additional members to the National Advisory Council on Child Nutrition.

This amendment will broaden the representation on the Council by including two parents of children in schools participating in the National School Lunch Program and two senior high school students participating in the program.

This section also changes the term of appointment from three to two years to accelerate the rotation of members, requires that participation by parents and students be balanced between urban and rural representation, and allows for compensation of parents for personal expenses such as the loss of wages or child care expenses incurred during the performance of duties on the Council.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

REGULATIONS ON SALE OF COMPETITIVE FOODS (SEC. 17)

The *Senate* amendment amends section 10 of the Child Nutrition Act of 1966 by deleting the sentence which restricts the authority of the Secretary to regulate foods served at the same time and place as the National School Lunch Program is operated. (As noted in the Senate report on the provision, the amendment ". . . would permit the sale of nutritious foods, such as fruits, vegetables, dairy products, pure fruit and vegetable juices, and other items determined to be nutritious." (S. Rept. No. 95–277, 95th Cong., 1st Sess. 17 (1977).)

The *House* bill contains no comparable provision.

The *Conference* substitute amends existing law by requiring the Secretary to approve competitive foods that may be offered.

The intent of the language in the *Conference* substitute is expressed in a letter to Congressman Carl D. Perkins, Chairman of the committee of conference, from Ms. Carol Tucker Foreman, Assistant Secretary of Agriculture for Food and Consumer Services, as follows:

"We are aware of the opposition to this provision but believe much of the opposition is based on ungrounded fears and misunderstanding of our intentions. It is decidedly not our intention to ban large numbers of competitive food items or to do anything aimed at giving the regular school lunch program a monopoly in the cafeterias. It is decidedly not our intention to prohibit the sale of all foods from vending machines. We are aware that many nutritious food items—such as fruits, soups, sandwiches, nuts, ice cream, and other items—are sold as competitive foods, and sometimes from vending machines. We have no intention in taking action to stop the sale of such items. We would consider regulating only those foods that do not make a positive nutritional contribution in terms of their overall impact on children's diets and dietary habits."

NATIONAL ADVISORY COUNCIL ON THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (SEC. 18)

The *Senate* amendment amends subsection 17(h)(8) of the Child Nutrition Act of 1966 to allow the Secretary of Agriculture to reimburse parent recipients appointed to the National Advisory Council on the Special Supplemental Food program for Women, Infants, and Children for personal expenses, including child care costs and lost wages, incurred during scheduled Council meetings.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

TECHNICAL AMENDMENTS (SECS. 19 AND 20)

The *Senate* amendment contains a technical amendment reflecting the change from July 1 to October 1 in the beginning of the Federal fiscal year. The amendment also moves to a school year basis certain provisions regarding State matching requirements and food service equipment assistance. Finally, the amendment would authorize the Secretary of Agriculture to establish the date the State plan of operations for the Special Supplemental Food Program is required to be submitted.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

INSTITUTE OF FOOD MANAGEMENT AND TECHNOLOGY

The *Senate* amendment authorizes the establishment of an Institute of Food Management and Technology to further the purposes of the National School Lunch Act and the Child Nutrition Act of 1966.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

CARL D. PERKINS,
WILLIAM D. FORD,
IKE ANDREWS,
MIKE BLOUIN,
PAUL SIMON,
LEO C. ZEFERETTI,
RON MOTTL,
AUSTIN J. MURPHY,
JOSEPH A. LE FANTE,
TED WEISS,
CEC HEFTEL,
BALTASAR CORRADA,
DALE E. KILDEE,
GEO. MILLER,
ALBERT H. QUIE,
JOHN BUCHANAN,
LARRY PRESSLER,
BILL GOODLING,
SHIRLEY N. PETTIS,
CARL PURSELL,
Managers on the Part of the House.

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
HUBERT HUMPHREY,
DICK CLARK,
PATRICK J. LEAHY,
ROBERT DOLE,
HENRY BELLMON,
JESSE HELMS.
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GARY A. MYERS) to revise and extend their remarks, and to include extraneous matter to:)

Mr. RAILSBACK, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. WALGREN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROUSSELOT, to revise and extend his remarks immediately prior to the last vote.

Mr. HORTON, to include during debate on House Resolution 688 two letters from Acting Director McIntyre, dated September 28, 1977.

Mr. DORNAN, to revise and extend his remarks and include extraneous matter in the front part of the RECORD for today.

Mr. ST GERMAIN, to revise and extend his remarks and include extraneous matter during debate on H.R. 2176, Federal Banking Agency Audit Act.

Mr. STRATTON, to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. GARY A. MYERS) and to include extraneous matter:)

Mr. WHALEN.
Mr. MCCLOSKEY.
Mr. RINALDO.
Mr. STEERS.
Mr. SHUSTER.
Mr. RUDD.
Mr. KASTEN.
Mr. HORTON.
Mr. COLEMAN.
Mr. RUPPE.

(The following Members (at the request of Mr. WALGREN) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. DODD in two instances.
Mr. MAZZOLI.
Mr. COTTER.
Ms. OAKAR in two instances.
Mr. MCDONALD in three instances.
Mr. EDGAR.
Miss JORDAN.
Mr. EDWARDS of California.
Mr. BONIOR.
Mrs. SCHROEDER.
Mr. HAMILTON.
Mr. THOMPSON.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Joint Resolution of the Senate of the following title:

S.J. Res. 89. Joint resolution to amend the act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Congress, 1st session).

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6415. An act to extend and amend the Export-Import Bank Act of 1945.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 13, 1977 present to the President, for his approval,

bills and a joint resolution of the House of the following title:

H.R. 3. To strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes;

H.R. 1613. For the relief of certain postmasters charged with postal deficiencies; and

H.J. Res. 626. Making continuing appropriations for the fiscal year 1978, and for other purposes.

ADJOURNMENT

Mr. WALGREN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, October 17, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2552. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Theodore M. Hesburgh and John E. Downs, and by members of their families, pursuant to section 8 of Public Law 93–126; to the Committee on International Relations.

2553. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Robert E. White, Ambassador-designate to Paraguay, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2554. A letter from the Secretary of Transportation, transmitting a report on the effects of the regulatory reform provisions of the Railroad Revitalization and Regulatory Reform Act of 1976, pursuant to section 202(g) of the act (Public Law 94–210); to the Committee on Interstate and Foreign Commerce.

2555. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Arlington, Va., Federal Building 2, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee of conference. Conference report on H.R. 1139 (Rept. No. 95–708). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORCORAN of Illinois:

H.R. 9570. A bill to amend the National Trails System Act to require the Secretary of the Interior to determine the feasibility and desirability of designating the Illinois Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. FAUNTROY (for himself and Mr. DIGGS):

H.R. 9571. A bill to assist in reducing crime and the danger of recidivism in the District of Columbia by requiring speedy trials in criminal cases in the District of Columbia courts, and for other purposes; to the Committee on the District of Columbia.

By Mr. KASTEN (for himself, Mr. ABDNOR, Mr. COUGHLIN, Mr. EDWARDS of Oklahoma, Mr. FRENZEL, Mr. HARRINGTON, Mr. HORTON, Mr. HYDE, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. LIVINGSTON, Mr. MCCLORY, Mr. MCEWEN, Mr. NOLAN, Mr. RAHALL, Mr. ROE, Mr. ROYBAL, Mr. SANTINI, and Mr. YATRON):

H.R. 9572. A bill to amend the National Housing Act to provide for the insurance of graduated payment mortgages, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCHUGH (for himself, Mr. BROWN of California, Mr. ADDABBO, Mr. JENRETTE, Mr. BRODHEAD, Mr. MITCHELL of Maryland, Mr. REUSS, Mr. LEHMAN, Mr. FRASER, Mr. BONIOR, Mr. HOLLENBECK, Mr. PURSELL, Mr. NEDZI, Mr. KASTENMEIER, Mr. PERKINS, Mr. NOWAK, Mr. EILBERG, Mr. STEERS, Mr. PEASE, Mr. HARRINGTON, Mr. GEPHARDT, Mr. PRITCHARD, Mr. TSONGAS, Mr. SEIBERLING, and Mr. COTTER):

H.R. 9573. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committees on Agriculture, and International Relations.

By Mr. MOTTL:

H.R. 9574. A bill to amend the Elementary and Secondary Education Act of 1965 to provide assistance for the establishment of basic standards of educational proficiency applicable to public school students; to the Committee on Education and Labor.

By Mr. MOTTL (for himself, Mr. WALSH, Mr. BEARD of Rhode Island, Mr. STANTON, Mr. WALGREN, Mr. EDGAR, and Mr. HARRINGTON):

H.R. 9575. A bill to grant priority in payment from the estate of a bankrupt railroad to tax claims of local school districts, other units of local government, and States; jointly, to the Committees on the Judiciary, and Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. BEDELL, Mr. BOWEN, Mr. CAPUTO, Mr. COTTER, Mr. DODD, Mr. FISH, Mr. FORD of Michigan, Mr. DE LA GARZA, Mr. HEFNER, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. LEDERER, Mr. LEHMAN, Mr. LONG of Louisiana, Mr. MATHIS, Mr. PREYER, Mr. QUIE, Mr. RAHALL, Mr. RINALDO, Mr. ROSE, Mr. SOLARZ, Mrs. SPELLMAN, Mr. YOUNG of Alaska, and Mr. WHITLEY):

H.R. 9576. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 9577. A bill to amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents; to the Committee on House Administration.

By Mr. RUPPE:

H.R. 9578. A bill to amend the Merchant Marine Act, 1936, to promote the series construction of U.S.-flag merchant vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. WAGGONNER:

H.R. 9579. A bill to amend section 1021 of the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois:

H. Con. Res. 379. Concurrent resolution urging the adoption by the United States and by the Organization of Economic Cooperation and Development of the standards of business conduct for companies operating in South Africa, adopted earlier this year by the European Economic Community, which include recognition of the right of black employees to form or to affiliate themselves with trade unions and to bargain collectively with their employers; to the Committee on International Relations.

By Mr. CORRADA (for himself, Mr. BADILLO, Mr. HANNAFORD, Mr. DAVIS, Mr. EMERY, Mr. BOB WILSON, Mr. EDWARDS of Oklahoma, and Mr. STEERS):

H. Con. Res. 380. Concurrent resolution expressing the sense of Congress that the value of military exchange and commissary privileges should not be considered by any Federal agency in determining the entitlement of any retired or former member of the Armed Forces to any other Federal benefit or in determining the amount of any other Federal benefit; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE:

H. Res. 832. Resolution disapproving the deferral of certain budget authority (D78–30) relating to the Energy Research and Development Administration, gas cooled thermal reactor program, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 833. Resolution disapproving the deferral of certain budget authority (D78–33) relating to the Energy Research and Development Administration, magnetic fusion energy program, Fusion Material Test Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 834. Resolution disapproving the deferral of certain budget authority (D78–34) relating to the Energy Research and Development Administration, magnetic fusion energy program, Intense Neutron Source Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 835. Resolution disapproving the deferral of certain budget authority (D78–35) relating to the Energy Research and Development Administration, high energy physics program, intersecting storage ring accelerator, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BALDUS:

H.R. 9580. A bill for the relief of Sudhir Birkner; to the Committee on the Judiciary.

By Mrs. HECKLER:

H.R. 9581. A bill for the relief of Melba Robateau; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 9582. A bill for the relief of Claudine E. Abbott; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

293. The SPEAKER presented a petition of Assemblyman Alister McAlister, Sacramento, Calif., relative to designating the week of April 24, 1978, as National Forgotten Victims Week; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. LAGOMARSINO:

Page 277, immediately after line 18, insert the following new section:

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 508. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment,

is properly trained to operate, or supervise the operation of, such equipment, as the case may be.

Page 277, line 20, strike out "SEC. 508." and insert in lieu thereof "SEC. 509.".

Page 129, in the table of contents for title V, strike out "Sec. 508. Relationship to existing law." and insert in lieu thereof the following:

"Sec. 508. Recommendations for training program.".

"Sec. 509. Relationship to existing law.".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of October 4, 1977 (page H10591).

H.R. 5951. April 4, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse to local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 5952. April 4, 1977. Interstate and Foreign Commerce. Prohibits the shipment in interstate or foreign commerce of any fur or leather, raw or in finished form, from animals trapped in any State or foreign country which has not banned the manufacture, sale, or use of leg-hold or steel jaw traps.

Directs the Secretary of Commerce to publish a list of such States and foreign countries.

H.R. 5953. April 4, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to eliminate the prohibitions against payments to States for expenditures which (1) are in the form of goods or services provided in kind by a private entity, or (2) are made from donated private funds and have restrictions imposed by a donor who is a sponsor or operator of a program to provide services with respect to which the funds are to be used.

H.R. 5954. April 4, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5955. April 4, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to revise the scope of Federal permit authority with respect to discharges of dredged or fill material in navigable waters. Requires permits for such discharges into wetlands adjacent to navigable waters.

Exempts farming, ranching, construction, and related activities from such permit requirements.

H.R. 5956. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from gross income amounts received under tuition-remission programs at institutions of higher education.

H.R. 5957. April 4, 1977. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives.

H.R. 5958. April 4, 1977. Post Office and Civil Service; Judiciary. Requires Federal employees, grade GS–13 and above, who have been employed by the Government for less than three years to file an annual statement describing present and former positions and recent or pending agency actions over which such employee has any influence and in which such employee's former employer has an interest. Requires persons who have terminated their Federal employment at a grade of GS–13 or higher during the past three years to file a statement with regard to actions in which such person's present employer was interested.

H.R. 5959. April 4, 1977. Banking, Finance and Urban Affairs. Amends the Renegotiation Act of 1951 to limit the terms of members of the Renegotiation Board to five years, set rates of compensation for such members, and to declare the Chairman of the Board its chief executive officer and confer upon him the duty to direct the executive functions of the Board.

Increases the minimum money value of contracts and subcontracts to which the Act is applicable. Sets other requirements with respect to exemptions under the Act and audits of reports submitted pursuant to the Act.

H.R. 5960. April 4, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5961. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses paid for the higher education of the taxpayer, or a dependent, not exceeding $1,500 for each student.

H.R. 5962. April 4, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 5963. April 4, 1977. Ways and Means. Amends the Internal Revenue Code with respect to the rate of tax imposed on tax preferences and the amount of tax preferences exempt from such tax.

H.R. 5964. April 4, 1977. Judiciary. Amends provisions of Federal law setting forth penalties for interstate or foreign commerce in stolen cattle to include stolen swine, sheep, fowl, insects, horses, mules, or carcasses thereof.

H.R. 5965. April 4, 1977. Education and Labor. Amends the Higher Education Act of 1965 to allow second, third, and fourth year undergraduate students to have certain loans insured in excess of 50 percent (up to $2,500) of their estimated cost of attendance.

H.R. 5966. April 4, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living pay adjustments for Members of Congress from taking effect unless specifically approved by resolution by both Houses of Congress.

Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to the rates of pay for Members of Congress effective only upon a resolution by Congress approving such recommendations.

H.R. 5967. April 4, 1977. Ways and Means. Amends Title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act to provide for the continuation of benefit entitlement through the month of death (or through the month of the insured's death in the case of a dependent), unless the continuation of entitlement (and the consequent delay in survivor entitlement) would result in a reduction in the total benefits to which all persons are entitled for such month on the basis of the insured's wages and self-employment income.

H.R. 5968. April 4, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Establishes the Boundary Waters National Recreation Area, Minnesota.

H.R. 5969. April 4, 1977. Judiciary. Allows nationals of Chile who are being persecuted in Chile or are in danger of being persecuted if returned to Chile, and the spouses, children or parents of such nationals, to be granted admission into the United States and the status of permanent residents if specified requirements are met.

H.R. 5970. April 4, 1977. Armed Services. Authorizes appropriations for fiscal year 1978 for weapons procurement and research and development by the armed forces. Establishes the authorized strength levels for each of the military departments and the level for civilian personnel positions within the Department of Defense. Sets forth the authorized military training load for each of the armed forces. Establishes an education assistance program for members of the reserve forces and establishes reenlistment bonuses for such reserve service.

Authorizes appropriations for the programs of the Defense Civil Preparedness Agency. Sets forth limitations regarding Department of Defense human experimentation.

H.R. 5971. April 4, 1977. Public Works and

Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

Directs the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River.

H.R. 5972. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to extend the time for a small business corporation to elect subchapter S status from the first month to the 15th day of the third month of the taxable year, and to any time during the preceding taxable year.

H.R. 5973. April 4, 1977. Judiciary. Amends the Immigration and Nationality Act to subject an alien who has become a public charge, within five years after entry, to deportation regardless of the legal liability of such alien to repay the public support received.

Requires that aliens who receive specified types of public assistance be investigated by the Attorney General to determine whether or not such aliens are deportable as public charges.

H.R. 5974. April 4, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 5975. April 4, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire lands and interests in lands in specified areas of Nebraska and to establish the Trails West National Historical Park in Nebraska and Wyoming once sufficient lands have been acquired.

H.R. 5976. April 4, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 5977. April 4, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to allow medical facilities to be reimbursed by the Federal Government for emergency medical treatment given aliens unlawfully in the United States if such aliens are unable to pay the cost of such treatment or can pay only a part of the cost and the aliens or medical facilities which provided such treatment are not eligible under any public assistance program for payment of or reimbursement of such cost.

H.R. 5978. April 4, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5979. April 4, 1977. Post Office and Civil Service. Reinstates civil service retirement survivors annuities for surviving spouses of employees whose annuities were terminated due to remarriage before July 18, 1966, and surviving spouses of Members of Congress who died before January 8, 1971, whose annuities were terminated due to remarriage.

H.R. 5980. April 4, 1977. Public Works and Transportation. Authorize the Administrator of General Services to provide space in the Old Post Office Building in the District of Columbia to persons designated by the National Endowment for the Arts as being engaged in artistic or cultural enterprises at rentals approximating commercial charges for other Federal buildings space.

H.R. 5981. April 4, 1977. House Administration. Amends the American Folklife Preservation Act to authorize appropriations for fiscal years 1979, 1980, and 1981.

H.R. 5982. April 4, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5983. April 4, 1977. Banking, Finance and Urban Affairs; Judiciary. Prohibits any United States entity or representative from obtaining copies of, or access to, information contained in the financial records, toll records, or credit records of any customer of a financial institution, communication common carrier, credit card issuer, or consumer reporting agency. Lifts such prohibition if: (1) the records are described with sufficient particularity; and (2) the customer has authorized disclosure, the disclosure is obtained in response to an administrative subpoena, search warrant, or judicial subpoena, or disclosure is in compliance with specified provisions of the Fair Credit Reporting Act. Restricts the use of mail covers and the interception of wire and oral communications for purposes of supervisory observing by communication common carriers and others.

H.R. 5984. April 4, 1977. Rules. Amends the Legislative Reorganization Act of 1970 to require that each committee report accompanying a public bill or resolution contain a paperwork impact statement estimating the number of reports which would be required of private business enterprises, the complexity of the forms which would be required, and the cost and time which would be required in making and keeping such reports.

H.R. 5985. April 4, 1977. Judiciary. Entitles, absent certain findings persons to be investigated and indicted by a Federal grand jury to notice and a right to appear.

Grants certain rights, including the right to counsel, to Federal grand jury witnesses.

Revises procedures for, and sets forth defense relative to, finding recalcitrant grand jury witnesses in comtempt.

Entitles witnesses compelled to testify before a Federal Grand jury, Congress, or executive agency to transactional immunity.

Specifies guidelines regarding the rights and authority of a Federal grand jury, including the power to initiate independent inquiries.

H.R. 5986. April 4, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5987. April 4, 1977. International Relations. Grants the consent of Congress to retired members of the uniformed services, members of Reserve components of the armed forces, and members of the Public Health Service Reserve Corps to accept employment with foreign governments with the approval of the Secretary concerned and the Secretary of State.

H.R. 5988. April 4, 1977. Judiciary. Restricts the power of a State or political subdivision to tax the income of an individual residing or earning income in another State.

H.R. 5989. April 4, 1977. Post Office and Civil Service. Prohibits the Secretary of the Treasury from reporting to any city requiring the withholding of city taxes from the pay of employees the name, address, other identifying particular, or pay of any Federal employee unless release of such information is ordered by a United States district court as necessary to the conduct of a criminal investigation.

H.R. 5990. April 4, 1977. Post Office and Civil Service. Prohibits the taking of civil service disciplinary action against any civil service employee who refuses to comply with directives to report to any place for the service of State or local process in connection with a claim against such employee for taxes allegedly owed such State or unit of local government.

H.R. 5991. April 4, 1977. Education and Labor. Amends the provisions of the National School Lunch Act concerning the summer food service program for children to authorize appropriations for 1978. Specifies the level of disbursement for, and the meals that may be served by, participating service institutions Specifies the time at which payments must be made to States and service institutions.

Directs the Secretary of Agriculture to study the costs of food service operations and administration of the program. Authorizes the Secretary to conduct demonstration projects to better assure that needy children receive balanced meals during the summer.

H.R. 5992. April 4, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 5993. April 4, 1977. Ways and Means; Small Business Amends the Internal Revenue Code to allow individuals limited income tax credits for residential insulation and solar energy expenditures. Amends the Small Business Act to provide low interest loans for commercial investment in energy conservation and renewable resource measures.

H.R. 5994. April 4, 1977. Agriculture. Extends the provisions of the Rice Production Act of 1975 through the 1981 crops year. Sets formulas for the established price and the loan for each such crop and requires cooperators to plant no less than 90 percent of their allotments. Directs that acreage not planted because of disaster or condition beyond the producer's control be considered acreage planted to rice.

H.R. 5995. April 4, 1977. Judiciary. Prohibits commerce in contraband cigarettes and defines "contraband cigarettes."

Subjects dealers in cigarettes to such reporting requirements as the Secretary of the Treasury may prescribe.

H.R. 5996. April 4, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to local educational agencies for energy conservation measures, technical assistance related to such measures, and energy demonstration projects showing unusual promise.

H.R. 5997. April 4, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communication Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 5998. April 4, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

H.R. 5999. April 4, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to increase the amount of capital stock or the principal value of other securities which may be issued by motor carriers without authorization by the Interstate Commerce Commission.

H.R. 6000. April 4, 1977. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such Act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the Act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the Act.

H.R. 6001. April 4, 1977. Judiciary. Amends the Clayton Act to prohibit any corporation engaged in any activity affecting commerce from acquiring stock, other share capital, or assets of one or more corporations where the effect of such acquisition is the substantial lessening of competition or the tendency to create a monopoly.

H.R. 6002. April 4, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 6003. April 4, 1977. Agriculture. Amends the Agricultural Act of 1949 to base specified disaster payments for wheat and feed grains on the actual acreage planted, in lieu of the farm acreage allotment base.

H.R. 6004. April 4, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 6005. April 4, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6006. April 4, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 6007. April 4, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 6008. April 5, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to increase the percentage of the cost of a water or waste project which the Department of Agriculture may fund by grants to local associations. States general formula for the calculation of grant amounts according to prescribed maximum rates for the project facility use payment made by an average domestic user of an area to be served by a project. Revises the priorities for recipients of project grants.

H.R. 6009. April 5, 1977. Interstate and Foreign Commerce. Creates an Electric Energy Office in the Federal Power Commission to establish and enforce national minimum standards for electric utility rates to be binding upon all utilities and regulatory agencies. Requires that utility rate structures be designed so as to provide lower rates for residential and small business users and to penalize wasteful consumption of electric energy.

H.R. 6010. April 5, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Secretary of Transportation to insure domestic and foreign air carriers against loss or damage arising out of any risk (previously only war risks) from the operation of an aircraft under specified conditions.

H.R. 6011. April 5, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 6012. April 5, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 6013. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 6014. April 5, 1977. Agriculture; International Relations. Directs the Secretary of Agriculture to establish a food reserve to help meet emergency food conditions in any area of the United States or in any foreign country which suffers a severe loss of its food supply because of a natural disaster. Authorizes the Secretary to permit foreign countries to participate in the program by purchasing certain commodities and paying the required storage and handling costs.

H.R. 6015. April 5, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to revise the method of computation of annuities for certain retired employees and their suviving spouses.

H.R. 6016. April 5, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to permit any increase in rates of pay for Members of Congress to take effect only if expenditures of the United States did not exceed receipts of the United States in the last completed fiscal year.

Subjects any increase in the rate of pay for the Vice President to the same condition.

H.R. 6017. April 5, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to prohibit an employer from discriminating against an employee who is enrolled in a full-time program of secondary, vocational, or higher education for nonmembership in or failure to provide financial support to a labor organization.

H.R. 6018. April 5, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to repeal provisions allowing an employer and a labor organization to enter into an agreement to require membership in such organization as a condition of employment.

H.R. 6019. April 5, 1977. Post Office and Civil Service. Declares that all Federal employees have the right to form, join, and assist a labor organization or to refrain from any such activty without fear of penalty or reprisal.

H.R. 6020. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 6021. April 5, 1977. International Relations. Grants the consent of Congress to retired members of the uniformed services, members of Reserve components of the armed forces, and members of the Public Health Service Reserve Corps to accept employment with foreign governments with the approval of the Secretary concerned and the Secretary of State.

H.R. 6022. April 5, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from the definition of the term "immigrant" those persons entering the United States for a period of not more than one year to perform temporary services or labor if the Secretary of Labor has determined and certified to the Attorney General that there are not sufficient workers available at the aliens destination who are willing and able to perform such services.

H.R. 6023. April 5, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 6024. April 5, 1977. House Administration. Directs the Librarian of Congress to transfer one of the Gettysburg Address manuscripts to the Secretary of the Interior for the purpose of placing such manuscript on display in Gettysburg National Park, Pennsylvania.

H.R. 6025. April 5, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to revise procedures governing regulation of prices of new natural gas by the Federal Power Commission. Directs the Commission to undertake mandatory conservation and allocation measures during natural gas shortages.

Amends the Energy Supply and Environmental Coordination Act of 1974 to authorize the Federal Energy Administrator to prohibit major facilities for burning natural gas.

H.R. 6026. April 5, 1977. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to authorize the appropriation of funds to the Secretary of Commerce for apportionment to the States for fiscal years 1978, 1979, and 1980 to carry out the purposes of the Act.

H.R. 6027. April 5, 1977. Merchant Marine and Fisheries. Amends the Atlantic Tunas Convention Act to: (1) authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the purposes of the Act; and (2) redefine "fisheries zone" to fix the outer boundary of such zone at a point which is 200 nautical miles from the baseline from which the territorial sea is measured.

H.R. 6028. April 5, 1977. Interstate and Foreign Commerce; Ways and Means; Government Operations; Science and Technology. Amends the Internal Revenue Code to 1954 to give preferential status to users of recycled oil in Federal procurement activities.

Authorizes the Administrator of the Environmental Protection Agency to make grants for implementation and operation of State waste oil management plans.

Directs the Administrator of Energy Research and Development to conduct a program to improve the performance and marketability of recycled oil.

H.R. 6029. April 5, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to expand the programs for the treatment of burn injuries, research on burns, and the rehabilitation of burn victims by establishing additional burn centers and burn units and by supporting research and training programs in the treatment and rehabilitation of burn injury victims.

Authorizes funds for the continuation of present burn treatment programs and authorizes the appropriation of additional funds for such expanded programs.

H.R. 6030. April 5, 1977. Interior and Insular Affairs. Amends the Atomic Energy Community Act of 1955 to authorize the Administrator of the Energy Research and

Development Administration to continue assistance payments to specified local governmental units in Los Alamos, New Mexico, beyond the deadline dates specified in such Act.

H.R. 6031. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax exclusion for the interest on governmental bonds the proceeds of which are used for facilities to furnish hydroelectric energy.

H.R. 6032. April 5, 1977. Judiciary. Prohibits disclosure of information identifying or tending to identify a person as a present or former participant in United States foreign intelligence operations if (1) the information has been designated by statute or Executive order as requiring some degree of protection of (2) the person disclosing the information knows or has reason to believe that such disclosure may prejudice the safety or well-being of the person identified.

H.R. 6033. April 5, 1977. House Administration. Provides for the designation of any nationally accredited law school as a depository library upon request of such law school.

H.R. 6034. April 5, 1977. Merchant Marine and Fisheries. Amends the Shipping Act, 1916, to include within the definition of "common carrier by water in foreign commerce" under such Act common carriers engaging in the ocean transportation of property of United States origin or destination via ports in nations contiguous to the United States who advertise or arrange the transportation of such property within the United States or who issue or deliver within the United States, ocean or through intermodal bills of lading or other contracts of freightment for such transportation.

Establishes minimum rates for such transportation.

H.R. 6035. April 5, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 6036. April 5, 1977. Agriculture. Amends the Agricultural Act of 1949, as amended, to set loan levels for the 1977 crops of wheat, corn, and upland cotton, and to set the 1977 price supports of milk and wool.

H.R. 6037. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitation on adjusted gross income for purposes of the credit for the elderly.

H.R. 6038. April 5, 1977. Armed Services. Establishes a Dental Corps within the Department of the Army to be headed by the Assistant Surgeon General. Establishes a Dental Service within the Air Force.

H.R. 6039. April 5, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow use of food additive for human health purposes, even though such additive induces cancer in animals, if the Secretary of Health, Education, and Welfare determines the benefits of such use outweigh the risks.

Directs the Secretary to consider in his evaluation (1) scientific data and information on the additive; (2) the scientific validity and other conditions concerning the additive's testing on animals; and (3) the reliability of predicting cancer in humans from use of an additive found to induce cancer in animals.

H.R. 6040. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles from the highway motor vehicle excise tax, excepting vehicles owned by corporations with gross annual receipts exceeding $950,000, or which derive more than 50 percent of their gross receipts from nonfarming activities.

H.R. 6041. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow a State, a possession of the United States, any political subdivision of any of the foregoing, the District of Columbia, or an issuer of qualified scholarship funding bonds to elect to issue taxable obligations, the interest of which will be included in the gross income of the recipient.

Directs the Secretary of the Treasury to pay without condition or requirement a percentage of the interest yield on each obligation for which the election of taxability has been made.

H.R. 6042. April 5, 1977. Government Operations. Establishes a Department of Senior Citizens Affairs. States that the Department shall serve as a clearinghouse for information related to the problems of the elderly and shall assume specified responsibilities from other government agencies.

H.R. 6043. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such Title.

H.R. 6044. April 5, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to direct the Secretary of Labor to provide financial assistance to prime sponsors submitting approved plans for school year youth incentive and summer youth incentive programs.

H.R. 6045. April 5, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veterans' claim for benefits is based solely on such upgraded discharge. Requires the Secretary of the armed service concerned to provide the Administrator of Veterans' Affairs with appropriate records indicating the initial issuance of any discharge or release from active service which is upgraded.

H.R. 6046. April 5, 1977. Veterans' Affairs. Requires the Secretary of Defense to pay a lump-sum to each qualified Vietnam-era veteran, and an additional lump-sum to each qualified Vietnam-era combat veteran, or to such veteran's survivor if such veteran is deceased.

H.R. 6047. April 5, 1977. Small Business. Authorizes the Small Business Administration to provide emergency drought assistance loans to assist small business concerns to overcome the effects of actual or prospective substantial economic injury resulting from the 1976–1977 drought.

H.R. 6048. April 5, 1977. Agriculture. Increases from $250,000 to $500,000 the amount of any Resource Conservation and Development loan for which funds may be appropriated under the Bankhead-Jones Farm Tenant Act without prior approval of such loan by certain congressional committees.

Extends the loan-making power of the Secretary of Agriculture to include loans for the conservation, development and utilization of water for aquaculture purposes.

H.R. 6049. April 5, 1977. Agriculture. Amends the Watershed Protection and Flood Prevention Act to increase the maximum allowable amount for single loans or advancements for watershed improvement projects.

H.R. 6050. April 5, 1977. Public Works and Transportation. Directs the Secretary of Transportation to convey a reversion interest in specified patent lands to Redmond, Oregon.

H.R. 6051. April 5, 1977. Judiciary; Banking, Finance and Urban Affairs; Armed Services; Government Operations. Prohibits intelligence activities which interfere with first amendment rights. Limits the jurisdictions of such Bureau and the Central Intelligence Agency to criminal investigations and foreign intelligence gathering, respectively. Renames such agencies. Repeals specified statutes relating to the exercise of the first amendment rights of freedom of speech and association. Establishes procedures to investigate law violations committed by Federal officials involved in intelligence activities.

H.R. 6052. April 5, 1977. Agriculture. Amends the Food Stamp Act of 1964 by revising: (1) eligibility standards; (2) the method of determining the coupon allotment; and (3) administration of the program by State agencies.

H.R. 6053. April 5, 1977. Armed Services. Establishes within the Department of Defense a Weapons and Munitions Security Office which shall be responsible for formulating, coordinating, and supervising a continuing program of security and accountability for weapons and munitions of the Department of Defense.

H.R. 6054. April 5, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 6055. April 5, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to exclude certain employers from coverage.

Revises certain procedures dealing with (1) standards and their promulgation; (2) inspections, investigations, and recordkeeping; (3) citations and notices; and (4) enforcement.

Provides for (1) certain affirmative defenses by employers; (2) consultative visits by the Secretary upon employer request; and (2) voluntary compliance agreements between the Secretary and an employer.

H.R. 6056. April 5, 1977. Judiciary. Amends provisions of the Gun Control Act of 1968 imposing additional penalties for individuals who use or unlawfully carry a firearm during the commission of a Federal felony.

H.R. 6057. April 5, 1977. Judiciary. Imposes specified separate penalties for disclosure of classified information to unauthorized persons by an individual who had possession or obtained such information as a Federal public servant.

H.R. 6058. April 5, 1977. Requires any rule proposed by any Government agency to be submitted to Congress with a full explanation of such rule. States that such rule shall become effective no later than 60 days after submission to Congress unless either House adopts a resolution disapproving such rule.

H.R. 6059. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a tax credit for the sum of FICA (and in specified instances, FUCA) taxes withheld and paid for a limited number of new employees. Directs the Secretary of the Treasury, in consultation with other departments and agencies, to make annual reports to Congress on the impact of this credit as an employment incentive.

H.R. 6060. April 5, 1977. Ways and Means. Requires that expenditures by the Federal Government shall not exceed its revenues except in time of war or national emergency declared by Congress.

Establishes a schedule for systematic reduction of the public debt.

H.R. 6061. April 5, 1977. Interstate and Foreign Commerce. Amends the Federal

Trade Commission Act to authorize the appropriation of funds for the administration of such Act during fiscal years 1978, 1979, and 1980.

H.R. 6062. April 5, 1977. Rules. Requires specified congressional committees to conduct sunset reviews of programs relating to military personnel and education and training by the end of fiscal year 1979, to determine whether such programs should be expanded, restricted, continued or terminated. Prohibits, thereafter, the enactment of new budget authority for such programs unless a sunset review report has been submitted to the appropriate House.

Terminates all tax exclusions, exemptions, deductions, credits, preferential tax rates, and tax deferrals by 1983 or five years after their enactment, whichever is later. Forbids their re-enactment unless specified congressional committees have conducted sunset reviews of such provisions.

H.R. 6063. April 5, 1977. Judiciary. Amends the General Revision of Copyright Law to limit performance rights in sound recordings, to impose a compulsory licensing procedure on the public performance of sound recordings, to establish royalty rates for broadcast stations, and to outline the procedure for the distribution of royalties to claimants.

H.R. 6064. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to define integrated auxiliaries of churches which are exempt from certain filing requirements for tax exempt organizations.

H.R. 6065. April 5, 1977. Ways and Means. Redefines "head of household" under the Internal Revenue Code to include otherwise qualified individuals who maintain households without dependents.

H.R. 6066. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the withholding requirements for certain gambling winnings.

H.R. 6067. April 5, 1977. Public Works and Transportation. Directs the Administrator of the General Services Administration and the Secretary of Defense to develop energy conservation guidelines for Federal buildings, federally assisted buildings, and Federal procurement. Authorizes increased Federal assistance to buildings constructed or renovated with solar energy or other energy-conserving equipment.

H.R. 6068. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (Registered) nurses.

H.R. 6069. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 6070. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 6071. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one physical checkup a year under the supplementary medical insurance program.

H.R. 6072. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-age, survivors, and disability insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a formulary committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 6073. April 4, 1977. Post Office and Civil Service. Specifies civil penalties for persons who continue to engage in conduct which the Postal Service determines constitutes either (1) a scheme or device for obtaining money or property through the mail by means of false pretenses or (2) a lottery, gift enterprise, or similar scheme for the distribution of money or property, and for persons who fail to comply with orders issued by the Postal Service as a result of such a determination.

H.R. 6074. April 5, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veterans' claim for benefits is based solely on such upgraded discharge.

H.R. 6075. April 5, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

Prohibits an employer providing benefits under a fringe benefit program which is in violation of this act from reducing benefits or compensation in order to comply with this act.

H.R. 6076. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to apply the same rate schedule presently applied to unmarried individuals who are not heads of households, all individuals, estate and trusts, and to require each employed individual earning more than $750 annually to file a separate income tax return regardless of marital status.

H.R. 6077. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to treat amounts paid for permanent improvements to property for medical care purposes as deductible medical expenses without reducing the deductions for any increase in the value of the property.

H.R. 6078. April 5, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small independent producers from regulation by the Federal Power Commission.

H.R. 6079. April 5, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 6080. April 5, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 6081. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 6082. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 6083. April 5, 1977. Rules; Interstate and Foreign Commerce. Establishes an Office of Consumer Protection within the legislative branch to represent the interests of consumers before Federal agencies and the courts, to encourage and support research on consumer products, to receive and act upon consumer complaints, and to gather and disseminate information on matters of consumer interest.

Requires Federal agencies considering actions which may substantially affect the interests of consumers to notify the Office, and to consider the interests of consumers.

Permits Congressional committees to order the Director of such office to intervene, representing consumer interests, in proceedings of Federal agencies which may substantially affect consumers.

H.R. 6084. April 5, 1977. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to establish a program of Federal assistance to the States for the preservation of natural game fish streams, administered by the Secretary of the Interior.

H.R. 6085. April 5, 1977. International Relations. Directs the Director of the United States Information Agency to make available to the National Archives of the United States a master copy of the film "Hirshhorn Museum and Sculpture Garden." Directs the Administrator of General Services to provide copies of the film for public viewing within the United States.

H.R. 6086. April 4, 1977. Public Works and Transportation. Authorizes the Regents of the Smithsonian Institution to construct museum support facilities.

H.R. 6087. April 5, 1977. Interstate and Foreign Commerce; Interior and Insular Affairs. Amends the Energy Supply and Environmental Coordination Act of 1974 to direct the Federal Energy Administrator to publish quarterly reports containing specified information on domestic energy resources.

H.R. 6088. April 5, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to require States applying for assistance under such Act to establish and implement basic standards of secondary students' educational proficiency, including the passing of reading, writing, and mathematics examinations.

Establishes the National Commission on Basic Education and directs it to (1) establish such standards; and (2) review and approve or disapprove State plans implementing such standards.

Requires the Commission to report to the President and to the Congress no later than three years after the effective date of this Act.

H.R. 6089. April 5, 1977. Interstate and Foreign Commerce; Merchant Marine and Fisheries; Public Works and Transportation. Amends the Shipping Act, 1916 to require the filing of specified intermodal transportation agreements with the Federal Maritime Commission. Requires the rates for such service over a through route to be set forth in a tariff filed with the Commission.

Directs the Federal Maritime Commission, the Interstate Commerce Commission, and the Civil Aeronautics Board to promulgate uniform rules and regulations governing the content, format, and filing of tariffs for intermodal services.

H.R. 6090. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishings or sale of electrical energy, steam, sewage disposal services, gas or telephone services.

H.R. 6091. April 5, 1977. Post Office and Civil Service. Sets the maximum average workweek for Federal firefighters at 54 hours. Entitles such firefighters to premium pay in lieu of overtime pay equal to up to 25 percent of their basic pay rate.

H.R. 6092. April 5, 1977. Education and Labor. Amends the Juvenile Justice and Delinquency Prevention Act of 1974 to designate the Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention, of the Law Enforcement Assistance

Administration as such Office's Chief Executive Officer and set forth provisions relative to his authority.

Revises the composition and functions of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and State Juvenile Justice Advisory bodies.

Revises guidelines for use of, and for matching shares with respect to, Juvenile Justice formula grants.

Amends the grant program under the Runaway Youth Act.

H.R. 6093. April 5, 1977. Judiciary. Amends the Immigration and Nationality Act to: (1) grant permanent resident status to certain aliens in this country on January 1, 1977; (2) increase the number of total lawful admissions of aliens; (3) remove the English language requirement for citizenship; (4) direct the Attorney General to collect and remit wages due deported aliens after paying the taxes thereon; and (5) remove the residency requirements for persons seeking citizenship after serving in the U.S. Armed Forces.

Directs the Secretary of Health, Education, and Welfare to establish and maintain an index of thumbprints of social security account applicants.

Establishes a Commission on United States-Mexico Immigration Policy.

H.R. 6094. April 5, 1977. Public Works and Transportation; Interior and Insular Affairs; Agriculture. Establishes in the Department of the Interior an Office of Dam Safety and Construction to plan, design, and construct certain dams. Directs the Secretary of the Interior to promulgate safety regulations for dam construction. Transfers to the Secretary all dam planning, design, and construction functions of United States departments and agencies.

Establishes a Dam Safety Review Panel to examine and assess dam safety. Directs the United States Geological Survey to examine proposed dam construction sites. Directs the Office of Management and Budget to carry out certain transfer functions.

H.R. 6095. April 5, 1977. Interstate and Foreign Commerce. Amends the Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring that the locomotive and rear car of all passenger, freight, and commuter trains be equipped with bulletproof glass and equipment which is capable of providing controlled temperatures.

H.R. 6096. April 5, 1977. Agriculture; Education and Labor. Provides States with the option of consolidating and reorganizing the following food assistance programs (1) the food stamp program, (2) the child feeding programs under the National School Lunch Act and the Child and Nutrition Act of 1966, (3) the expanded food and nutrtion education program under the Smith-Lever Act, and (4) the commodity supplemental food program. Sets forth the procedures and requirements for participation by the States.

H.R. 6097. April 5, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to require that the pay recommendations of the President with respect to salary increases for Members of Congress be approved by legislation by both Houses of Congress.

Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living adjustments for Members of Congress.

H.R. 6098. April 5, 1977. Judiciary. Establishes a Competition Review Commission to study the effect of certain laws, regulations, policies, governmental practices, and the competitive structure of major industries on employment, price levels, profit levels, efficiency, quality of goods and services, and the ability of domestic corporations to compete with foreign corporations. Directs the commission to recommend a program of legislative and executive action to the President and the Congress which is designed to ameliorate anticompetitive conditions found to be detrimental to the public interest.

H.R. 6099. April 5, 1977. Banking, Finance and Urban Affairs. Permits the provisions of the Renegotiation Act of 1951 to be effective only when the President determines, during a period of national emergency, that having such provisions in effect is in the best interest of the United States and neither House of Congress passes a resolution within 60 days thereafter disagreeing with such determination.

Establishes a Commission to Study the Renegotiation Act of 1951 to consider and recommend to Congress whether the act should be continued, amended, or repealed. Requires such recommendations to be made within 2 years from the date of enactment of this act.

H.R. 6100. April 5, 1977. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such Act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the Act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the Act.

H.R. 6101. April 5, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 6102. April 5, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey specified lands in Lake County, Colorado, a named individual.

H.R. 6103. April 5, 1977. Judiciary. Declares a certain individual to have achieved the grade of major-general in the Air Force, for the purpose of computing his retired pay. Directs the Secretary of the Air Force to pay him the difference in salary and retired pay to which he would have been entitled if he had been so promoted.

H.R. 6104. April 5, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6105. April 5, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6106. April 5, 1977. Judiciary. Specifies that the presumptions relating to diseases and disabilities shall apply in determining whether a certain individual is entitled to veterans disability compensation.

H.R. 6107. April 5, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6108. April 5, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6109. April 5, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6110. April 6, 1977. Interior and Insular Affairs. Amends certain provisions of law (1) to authorize appropriations for the benefit of (a) the Trust Territory of the Pacific Islands, (b) the Trust Territory Economic Development Loan Fund, and (c) Guam; (2) to abolish the offices of the comptroller of Guam and the Virgin Islands; and (3) to require that certain U.S. payments to the Virgin Islands be made in installments. Authorizes appropriations for the benefit of certain territories in the Pacific. Permits consolidation of government grants to insular areas. Compensates former holders of real estate on Guam whose land was taken without compensation.

H.R. 6111. April 6, 1977. Education and Labor. Amends the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to: (1) duties and meetings of the Coordinating Council on Juvenile Justice and Delinquency Prevention; (2) power of the Administrator of the Law Enforcement Assistance Administration to delegate his authority under such Act; (3) formula grants for State and local delinquency programs and State plans and cash matching shares relative to such grants; and (4) disclosure of certain records gathered for the purposes of such Act.

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to revise requirements for the composition of State law enforcement planning agencies.

H.R. 6112. April 6, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to set forth a formula which the Secretary of Housing and Urban Development must follow in order to determine the amount to be allocated to each city and urban county under the supplemental block-grant program. Authorizes the Secretary to make urban development action grants to severely distressed cities.

Amends the Housing Act of 1937 to increase the limit on funds that are authorized to be appropriated for contracts for annual contributions to low-income housing projects in 1977.

Amends the National Housing Act to extend specified Federal Housing Administration insurance programs.

H.R. 6113. April 6, 1977. Government Operations. Amends the Intergovernmental Cooperation Act of 1968 to require the Federal Government to coordinate any sale, purchase, or change of use of Federal real estate with State and local authorities. Requires as a condition for Federal areawide development assistance that State and local governments and areawide agencies prepare coordinated areawide development plans.

H.R. 6114. April 6, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures on family farms.

H.R. 6115. April 6, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increases reflect the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installation of solar energy equipment.

H.R. 6116. April 6, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation of solar heating and/or cooling in a dwelling which he owns and occupies.

H.R. 6117. April 6, 1977. Armed Services. Amends the National Security Act of 1947 to establish procedures and standards for the classification and declassification of sensitive official information and material. Establishes criminal penalties for unauthorized disclosure of such information or material.

H.R. 6118. April 6, 1977. Government Operations. Establishes a Consumer Protection Agency within the executive branch to represent the interests of consumers before Federal agencies, to receive and act upon consumer complaints, to perform research on consumer products, and to gather and disseminate information on consumer products and services.

Requires Federal agencies considering policies or regulations which may affect the interests of consumers to notify the Agency, and to consider the interests of consumers.

H.R. 6119. April 6, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 6120. April 6, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available to a person unable to operate a voting machine.

H.R. 6121. April 6, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available or a voting assistance be permitted to a person unable to operate a voting machine.

H.R. 6122. April 6, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available of a voting assistance be permitted to a person unable to operate a voting machine.

H.R. 6123. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 6124. April 6, 1977. Ways and Means. Amends various provisions of Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act with respect to the determination of an individual's eligibility for benefits under such Title, the amount of such benefits, and the duration of a period of eligibility under such Title.

H.R 6125. April 6, 1977. Ways and Means. Revises the Internal Revenue Code by amending and repealing portions of the Code with respect to capital gains and losses, income derived from the extraction of minerals, individual and corporate income, the estate and gift tax and State and local obligations.

H.R. 6126. April 6, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for clinical psychologists' services under the supplementary medical insurance program.

H.R. 6127. April 6, 1977. Education and Labor Amends the Elementary and Secondary Education Act to treat Puerto Rico on the same basis as a State for certain program allocations under such Act.

H.R 6128. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 6129. April 6, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, couple on their combined earnings record.

H.R. 6130. April 6, 1977. Post Office and Civil Service. Prohibits charging against the allowance, appropriation, or other fund from which a congressional employee is paid the amount such employee's salary is decreased by reason of the fact that such employee is receiving a Federal pension.

H.R. 6131. April 6, 1977. House Administration. Repeals the Presidential Primary Matching Payment Account Act.

H.R. 6132. April 6, 1977. House Administration. Amends the Federal Election Campaign Act of 1971 to (1) prohibit all political committees other than National, State or local committees of national political parties from making contributions to candidates or their committees and (2) forbid all political committees from making contributions to other political committees, with the exception of transfer between and among National, State and local party committees.

H.R. 6133. April 6, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 6134. April 6, 1977. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of, or substitute for regular nutrition projects assisted under such Act.

H.R. 6135. April 6, 1977. Agriculture. Amends the United States Grain Standards Act of 1976 in order, among other things, to: (1) grant discretion to the Administrator of the Federal Grain Inspection Service to make recordkeeping requirements for transactions and processes not directly related to grain inspection and weighing; (2) reduce fees for activities of the Service in connection with such inspection or weighing; and (3) clarify the jurisdiction of official inspection and weighing agencies and clarify the authority of the Secretary of Agriculture to delegate specified functions to the Service.

H.R. 6136. April 6, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 6137. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide honorably discharged veterans of the Vietnam War a refundable, $500 income tax credit for taxable years ending between 1976 and 1980.

H.R. 6138. April 6, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to: (1) establish a National Young Adult Conservation Corps for youths and young adults, to be administered by the Secretary of Labor through agreements with the Secretaries of Agriculture and the Interior, to carry out projects on public lands and waters; (2) authorize the Secretary of Labor to enter into agreements to pay for youth and young adult community improvement projects; and (3) authorize the Secretary of Labor to financially assist programs for employment opportunities and training services for unemployment youths and young adults and to establish experimental programs relative to such pensions.

H.R. 6139. April 6, 1977. Judiciary. Makes it a Federal crime to fire a firearm or in any manner propel any object at or upon any railroad car engine used by any common carrier engaged in interstate or foreign commerce.

Expands the Federal prohibition against entering a train in any territory, District, or other place within exclusive Federal jurisdiction with an intent to commit robbery, murder, or other violent crime to encompass entry upon any railroad car used by any common carrier engaged in interstate or foreign commerce.

H.R. 6140. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than 6 percent.

H.R. 6141. April 6, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of marital status in (1) public accommodations, (2) public facilities, (3) public

education, and (4) federally assisted opportunities. Prohibits such discrimination in housing. Amends the Education Amendments of 1972 to prohibit such discrimination in federally assisted education.

H.R. 6142. April 6, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 6143. April 6, 1977. Interior and Insular Affairs. Enlarges the boundaries of Sequoia National Park, Calif., by including the Upper Kaweah River addition.

H.R. 6144. April 6, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 6145. April 4, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 6146. April 6, 1977. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to require the establishment of progressively lower quotas for the taking of marine mammals incidental to commercial tuna fishing.

Requires the Secretary of the Treasury to ban the importation of fish and fish product from foreign nations causing the incidental killing of or serious injury to marine mammals in excess of standards set by this Act.

H.R. 6147. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a deduction an amount equal to 25 percent of the gross income from geothermal resources property. Provides for the deduction of intangible drilling and development costs in the case of geothermal property.

H.R. 6148. April 6, 1977. Judiciary. Subjects, with certain exceptions, to the appropriate punishment for the commission of a criminal act within the special maritime and territorial jurisdiction of the United States persons committing a like act in Antarctica if (1) such person is a United States national or a member of a United States expedition, or (2) such act is committed against property of the United States or against the person or property of a United States national or a member of a United States expedition.

H.R. 6149. April 6, 1977. Judiciary. Directs the Secretary of the Treasury to pay to the Contra Costa County Water District, Concord, California $156,000 in settlement of any claim of the Water District against the United States due to Federal condemnation of land surrounding the Naval Weapons Station in Concord.

H.R. 6150. April 6, 1977. Agriculture. Amends the Commodity Exchange Act to authorize the President to remove for cause a Commissioner of the Commodity Futures Trading Commission.

EXTENSIONS OF REMARKS

MASON W. GROSS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. THOMPSON. Mr. Speaker, those of us who have over the years legislated in the area of higher education were enormously saddened with the news of the death of Dr. Mason W. Gross, former president of Rutgers, the State University of New Jersey.

Dr. Gross assumed the presidency of Rutgers at a time when the university was rather uncertain as to its direction and role in higher education. With enormous skill and a good deal of courage, Dr. Gross put into effect policies which have brought the university into a position of esteem and prominence. Perhaps his finest moment came when he prevailed against those who challenged the principle of academic freedom at the university. Later, he insisted upon giving minority students an opportunity to enter the university under a special program. Time has vindicated his wisdom and judgment in that regard.

Mr. Speaker, I am pleased to share with you an editorial from the Home News of New Brunswick, which commented recently upon Dr. Gross and his contributions:

MASON W. GROSS, 1911–77

He was a civilizing influence—upon the state of New Jersey, the nation and upon higher education. He was a Renaissance Man who did several things well and was interested in everything from football and crew to the most abstruse problems of symbolic logic.

His name meant "Great Builder," an apt description of a man who lifted Rutgers, during his 11 years as president from a rather mediocre school to a first-rate American university. During his tenure the school spilled over the banks of the old Raritan throughout the state, the enrollment grew to 32,000 students and the physical plant quadrupled in size.

While presiding over such a massive undertaking he miraculously found time for active work in the community and the nation—as president of Middlesex General Hospital, founder of the Middlesex County Planning Board, chairman of the state Labor Mediation Board. He played a leading role in helping refugees after their flight from Soviet-occupied Hungary in 1956.

An outspoken man who refused to be politically neutral, he was state chairman for the election of LBJ in 1964, fought against the Vietnam war, protected the academic freedom of a controversial history professor who called for a Viet Cong victory.

One was likely to find him in sophisticated talk with publishers or on a late-night TV spot for clean air and water.

He called on those upset by student protests in the 1960s to look for the causes and not just the phenomena of American unrest, and he never feared a battle even with governors and state legislators to further his university.

The students called him a folk hero and he was probably the only university president in America whose face adorned an undergraduate sweatshirt. He always had time for individual problems and was an excellent listener. Once he found time to counsel for an hour every week, a student with emotional problems.

Naturally he made enemies. He was sometimes an impatient man with little tolerance for what he considered nonsense. His detractors were never able, however, to convince the public that this strong-minded man was weak and vacillating.

His favorite role was teacher. Even as a college President Mason Gross continued to teach philosophy courses, and one of the themes that he repeatedly struck was that education was more than a matter of expertise, but had to do with a sense of beauty and humane feeling.

"Knowledge is power," he said in a commencement address, "and power that thrives on being put to work. When we lose sight of this, we tend to trivialize our intellectual efforts."

To him knowledge was not an arcane matter for scholars to argue at conventions, but connected with the values by which he lived. It was quite a life, and we are all the richer for it.

COMPARES CHINESE AND UNITED STATES SCHOOLS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. SIMON. Mr. Speaker, the distinguished and respected columnist, Carl T. Rowan, had a column the other day about Chinese schools and U.S. schools that merits wide circulation and attention.

Precisely how we can effectively respond to the challenge which he presents, I am not sure, but I am certain that much of the determination of how and where we go in the future rests on how we respond to that challenge.

CHINA'S SCHOOLS BEAT OURS

(By Carl T. Rowan)

SHANGHAI.—I have just completed a visit to the Children's Palace, a sort of "community center" where 800 or so children go after school.

There I saw and heard violin recitals by 12- to 16-year-olds, puppet shows by 4-year-olds, dances by 8-year-olds, a band concert by children 10 to 14, accordion solos by junior high schoolers, artistic work with paint, clay, paper, by children of all ages.

I left the Children's Palace, as I have left other Chinese schools, certain of two things:

1. The Chinese are counting on education to launch them into economic, technological and military parity with the Soviet Union and the U.S.

2. The Chinese made me ashamed of the abominable excuse for education that is being given to millions of American youngsters.

I watched Chinese 15-year-olds studying advanced physics, building transformers and radios that worked, printing electronic circuitry. I watched children 5, 10, 12, demonstrate remarkable poise and articulation—children taught and coached painstakingly by teachers who obviously care—and I contrasted that with schools in my own land which push kids out of school who cannot read, cannot talk, cannot play any instrument and who have no respect either for themselves or the society in which they live.

Some readers will say angrily that "Rowan is glorifying them Commies," but "the truth is the light." The truth is that the Chinese are preparing some 400 million youngsters to rule the world while we are warping and abusing millions of our children, inviting them to destroy America.

China's schools are disciplined almost beyond a modern American's belief.

China's students have no problem with heroin, marijuana, LSD, whisky or any other drugs.

Mrs. Chu Ching-pai, deputy chairperson of the Women's Federation in a "new workers residential area" in Shanghai, looked at me as if I were insane when I asked if any girls had had to leave school because of pregnancy.

A senior government official told me proudly that his 14-year-old daughter wouldn't even speak to a boy at school.

The Communist party here seeks to take credit for better education, high morality and all else. In Canton they boast that enrollment in primary and night school is five times what it was at the time of "liberation"; Nanking claims "15 institutions of higher education, 163 factory run . . . colleges, 6 . . . agricultural colleges, more than 380 high schools, and over 1,900 primary schools as against 5 colleges, 70-odd middle schools, and 800-odd primary schools before liberation." Nanking also claims a 400 per cent increase in enrollment. Shanghai claims universal education with 2,190,000 pupils in 5,300 schools and 33,000 students in 16 institutions of higher learning.

The Chinese now have day-care centers, nurseries, primary and high schools, and sometimes colleges connected with every factory or commune.

From what I saw, China's system is changing the people and the country—even though China is beset by grinding debates over fundamental education vs. modern, exams or no exams, studying foreign languages and cultures or not.

The important reality is that China is preparing her children to cope. In a tragic number of cases, we are not.

Our distaste for Communism ought not prevent us from looking for what we might learn from China in this regard.

HARLEY WYATT, JR.

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. COLEMAN. Mr. Speaker, I wish to take this opportunity to recognize a constituent of my sixth congressional district who recently was honored by his peers in the field of college admissions counselors

On October 6, 1977, at the 34th annual conference of the National Association of College Admissions Counselors, Mr. Harley Wyatt, Jr., director of admissions at William Jewell College of Liberty, Mo., received the coveted Gayle C. Wilson Award.

Harley Wyatt, Jr., is a people-oriented man. He approaches life with a twinkle in his eye. He is the kind of person that is always there to lend a helping hand to a new student or a colleague in the field of admissions or high school counseling.

The number of people whose lives have been touched and helped by this unselfish individual are too numerous to mention, but suffice it to say, he is a man who puts himself last and truly cares about what happens to people.

In addition to his position as director of admissions at William Jewell College, Mr. Wyatt has also been past chairman of the NACAC convention, and credentials committee. Mr. Wyatt was past president of the Missouri ACAC and former president of the Association of Collegiate Registrars and Admissions Officers, among many other professional educational associations.

Mr. Wyatt is an outstanding leader in the field of college admissions. I consider it an honor to be counted among his friends and I congratulate him on this significant award.

CHOOSING VICTIMS FOR A HOLOCAUST

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. EDWARDS of California. Mr. Speaker, in the debate on the neutron bomb it was made clear that the U.S. military plans to equip the NATO forces in Europe with this new weapon.

Le Monde, the influential French newspaper, views this idea with dismay. The following is an editorial from the September 29, 1977 issue:

CHOOSING VICTIMS FOR A HOLOCAUST

The nuclear plans group which brings together in Brussels experts from the bigger NATO countries, except France, has not formally objected to the United States government's intention to mass-produce neutron bombs and deploy them eventually in Europe if President Carter decides to give the go-ahead for the project as is expected Hesitating, as one diplomat put it between "indecision tending to assent and assent tending to reservation," NATO's experts have agreed, without enthusiasm, to sacrifice Europe to the nuclear holocaust set off by what the Soviets describe as the "cruel and barbarous bomb."

Scientists call it an enhanced radiation weapon. The public has come to know it as the neutron bomb, ever since a very large part of the Western and Soviet press condemned this summer the existence of a thermonuclear fusion device favouring, of one may put it that way, the spread of neutron radiation at the expense of its blast, heat and shock effects, which have all been deliberately reduced.

These same scientists triumphantly point out, of course, that the neutron bomb is not new, for it was tried out as far back as in 1963 by the United States, and the Soviet Union—even France for that matter—probably have the wherewithal for manufacturing it. Nonetheless, world opinion discovered with horror and surprise that there could be weapons able to distinguish enemy equipment and buildings from enemy personnel, the better to destroy people and space the material for use in a military occupation of an adversary's territory.

Unmoved by world reaction, military men say the neutron bomb has a precise deterrent role. It is considered the most effective way of blunting a massive armoured attack on European soil, which is the assumption usually invoked by Western military high commands in their assessments of the present strategy of the Warsaw Pack power. At the same time these Western military men dream—technology permits them to dream—of having low-powered miniature tactical nuclear weapons with a selective field strike capability so as to counter-balance the increase in conventional forces of the Eastern countries.

Whatever the Americans say, the neutron bomb is destabilising. It opens the way to a gradual shift from conventional to nuclear war. It makes people used to the idea that the nuclear weapon has ceased to be an unusable deterrent and become a weapon to be actually employed on battlefields. What is more, its high degree of miniaturisation and the ease with which it can be handled reduce the effectiveness of keeping a political check on it from a distance, and increase the chances of its being used without warning as a tactical weapon.

Europe has everything to lose by becoming an operational theatre or testing ground for such weapons which make nuclear war possible and which mainly serve the strategic interests of an American anxious to limit its commitment in conventional forces in Europe. At a time when Washington says it is optimistic, in the long run, about the talks on arms reduction and Moscow is proposing a suspension of underground testing, it is dismaying to note that NATO's European members have agreed henceforth to be the chosen and willing victims of the neutron bomb.

PEACE INITIATIVES IN MIDDLE EAST

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. COTTER. Mr. Speaker, 2 weeks ago the United States and the Soviet Union issued a joint communique outlining a common policy for the Middle East Geneva Conference. This policy statement generated a great deal of alarm both within Israel and this country because of the major shift it indicated in the administration's attitude toward a Middle East peace settlement.

I was disturbed by this development and explained the reasons for my concern in a recent letter to President Carter, which I would like to share with my colleagues.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 11, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I respect your foreign policy record, especially your defense of human rights, *but* I want to share with you my concern, and that of many of my constituents, over our government's recent peace initiative in the Middle East.

First, why did the joint U.S.-Soviet communique outlining a common policy for the Geneva conference fail to mention that United Nations resolutions 242 and 338 should be the basis of negotiations? Did the United States make any effort to press the Soviets on this point?

Second, the method by which the communique was released is also of concern. The communique signifies the specific inclusion of USSR in the Geneva negotiations. This, of course, was the cause for the outburst of concern. Perhaps much of this adverse reaction could have been alleviated if you had personally explained its significance in an address to the American people. The element of surprise in this most sensitive area of the world is counterproductive.

Third, what is the Administration's present attitude toward the role of the Palestine Liberation Organization in the Palestinian homeland you have advocated? Would the United States delegation at Geneva resist any attempt to impose a P.L.O. regime on the West Bank Palestinians?

It seems to me that, among the "legitimate rights" of the Palestinian people, would be the right for all political forces to participate in their community's political future. The official Arab posture that the P.L.O. is the exclusive representative of the Palestinian people seems to stand in the way of that goal.

Mr. President, I know you support Israel's right to exist and America's traditional friendship with Israel. But I think Israel's many friends in this country, including myself, would be grateful for more specific assurance that a peace settlement will not be imposed on the Israeli people.

I am looking forward to your response.

Sincerely,

WILLIAM R. COTTER,
Member of Congress.

THE LABOR LAW REFORM BILL

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. STEERS. Mr. Speaker, on Thursday, October 6, 1977, the House passed by a vote of 257 to 163, the bill H.R. 8410, Labor Law Reform Act. I voted for this bill, because after the House completed action on the bill, I felt that most of the legitimate concerns of the business community had been answered.

I would be less than frank if I told you that I supported this bill from the outset. I had several major concerns that had to be resolved before I would vote for H.R. 8410. The bill as reported by the House Education and Labor Committee had inserted the provision that no more than a simple majority of the board members may be a member of the same political party. I felt that it was possible that the administration in power, this one or one in the future, could stock the board and eliminate careful nonpartisan work that has marked the efforts of the National Labor Relations Board. The committee's action prevented any such occurrence.

There were also provisions in the bill to allow for three two-member panels to sit and decide on noncontroversial standard labor law decisions. I felt that the two-member panels were inadequate to protect the interests of both parties. I supported an amendment that would increase the panels to three members. This amendment was adopted.

The bill as approved by the committee called for elections to be held within 15 days if the labor organizers had obtained signatures on authorization cards of a majority of the workers. In my discussions with business leaders it was clear that they felt that the 15 days would not be sufficient time for them to present their case to the workers. This time limit was increased from 15 to 25 days, and longer for the more complicated cases. This amendment was approved, also.

Finally there were two other provisions that were amended by the House. The first extended the equal access provisions of the bill to allow employers to visit union halls and other prounion gatherings. The second provision eased the debarment remedy by giving the Secretary of Labor greater flexibility in applying that section of the bill against noncooperative employers.

Let me stress that I believe this bill strikes the proper balance between the rights of unions to organize and the rights of employers to operate their businesses. I do not believe that H.R. 8410 will lead to "rampant unionism" that could destroy our economy. I do believe the bill is fair and is aimed to deal effectively with employers who have flouted the law and have never paid the penalty. This is the sort of positive legislation that will, I hope, take much of the conflict and antagonism out of labor-management relations.

CANONIZATION OF FATHER CHARBEL MAKHLOUF

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Ms. OAKAR. Mr. Speaker, the recent canonization of Father Charbel Makhlouf, a Lebanese Marinite hermit monk is the cause for celebration. This holy man, who died in 1898 at the age of 70, is the first member of the Maronite Catholic rite to be canonized in the Roman Catholic Church.

At a time when Lebanon is attempting to recover from such devastating internal problems, Father Charbel's canonization bears a special significance for the people of that troubled land. This was evident in that some 6,000 Lebanese representing the entire spectrum of Lebanese political and religious life were present at the ceremony in St. Peter's Basilica, Rome. They participated with thousands of other Christians from all over the world in this joyful occasion.

It is also symbolic of the special link between the Roman Catholic Church and the Maronite Catholic Churches that Maronite Patriarch Antoine Pierre Khoraiche participated in the canonization ceremony, and joined with Pope Paul VI in celebrating the Mass.

Father Charbel is Lebanon's first saint, and although he has been canonized by the Roman Catholic Church, he truly belongs to all faiths. His shrine is a mecca for all Lebanese and Maronite and Catholics everywhere and hopefully with his intercession, peace will finally come to a such a beautiful country. May I submit for the RECORD the following article which appeared in the Washington Post.

LEBANESE CHRISTIANS SEE SPECIAL SYMBOL IN NAMING OF SAINT

(By Thomas W. Lippman)

BAABDA, LEBANON, Oct. 9.—For the Maronite Christians of Lebanon, this was a day of exaltation and of defiance.

Charbel Makhlouf, a 19th Century monk and hermit, became the first Maronite in history to be formally canonized as a saint of the Roman Catholic Church.

The Vatican ceremonies, conducted by Pope Paul VI, were carried live on television here and whole families gathered to see their political and spiritual leaders take part. Thousands more marched barefoot for hours to St. Charbel's hilltop monastery in a demonstration of their faith.

President Elias Sarkis, Christian like all his predecessors, joined them there in a solemn Mass of celebration.

For Lebanon's Maronites, the significance of the event was more than religious. The Maronites, Christian Arabs who broke with the Roman Catholic Church in the 7th Century and returned to it 500 years later, have proclaimed their own saints in the past, but Charbel was the first to be canonized by the Vatican.

Thus, the ceremony reaffirmed the Maronites' ties to the West that have sustained them through centuries of conflict with the Moslems who surround them. They took it as a sign of recognition by the outside world that Lebanon's Christians are something more than the trigger happy militiamen who fought the country's Moslems in the recent civil war.

The government has been criticized for its decision to televise the canonization proceedings, to encourage Lebanese to go to Rome to participate and to assist in organizing the trek to the monastery, which, critics say, has only contributed to the country's divisions. Others say that failure to acknowledge the event would have so antagonized the Christians that the results would have been worse.

In a message sent from Rome, where he assisted the Pope in the Mass of canonization, the Maronite Patriarch, Antonious Boutros Kuraish, said that Charbel's sainthood "means a great deal for the Maronite sect, for Lebanon and for the church as a whole."

He said it means "great spiritual rejoicing after the great crisis to which the church was subjected, after the loss of thousands of its children, the attacks on its churches and institutions and the smearing of its reputation."

He also said it was a source of hope that "God will not abandon the Maronite sect in the future," because of "the sacrifice of the many martyrs who preferred death to apostasy."

It appeared that a cynical Moslem observer was not far wrong when he said, "They think it shows that God is on their side."

That was certainly the atmosphere in which the ceremonies were watched here in the home of Joseph Nahme, an amateur historian who spent 40 years in Lebanon's Christian dominated army. Nahme and his wife and daughters were like American football fans cheering for their team as the Pope and their patriarch canonized Charbel while their Christian countrymen sang and prayed.

"Today, all the world can see that we are not savages," Nahme said. "We aren't fanatics. It's the Moslems who think that unbelievers are infidels and heathens. But we had the courage to fight for ourselves."

In phrases that have been heard from countless Lebanese Christians during the years of religious strife here, Nahme blamed the country's majority Moslems for the trouble, saying they wanted to "massacre" the Christians. He complained that until today, the Maronites' fellow Christians in Europe and America had chosen to ignore this persecution because "Your God is Arab oil money.

This kind of thinking is not unusual in Lebanon, where the civil war ended only when the Syrian army imposed peace. No one imagines that the roots of the strife have been killed or that the bitterness of the war has faded.

Nahme's feelings are common among the Christians of Lebanon, who have continued to recruit for their militias and to solidify their control over the parts of the country they dominated during the war.

The sentiments are just as strong on the other side, among the Moslems who resent the domination of the country's economic and political life by a European-oriented minority and by their Palestinian allies who know that the Christian leadership wants to throw them out of Lebanon. The Christians' military alliance with Israel did nothing to improve relations with the Moslems.

Former President Charles Helou, Phalange Party Leader Pierre Gemayel and members of Sarkis' government were among the estimated 20,000 persons who attended the canonization ceremony at St. Peter's Basilica.

Charbel was born at Beqa Kafra in 1828, entered the Monastery of Our Lady of Mayfoud 23 years later and was ordained a priest. He died at age 70 after spending his last years at Annaya as a hermit.

INFLATION TOP CONCERN IN WISCONSIN'S NINTH DISTRICT

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. KASTEN. Mr. Speaker, nearly 25,000 residents of Wisconsin's Ninth Congressional District took the time this year to complete my annual legislative questionnaire.

Not surprising, inflation was considered by most people as one of the three most important issues facing the country.

As a reflection of this concern, an overwhelming 92 percent favored a reduction in Government spending even if it meant cutting back some programs they support.

As further evidence of their concern, "Government spending" ranked third among the most important issues facing the country.

Mr. Speaker, this is a clear signal to Congress to eradicate the chief cause of the continuing high rate of inflation—deficit spending. We must work to reduce spending and cut taxes.

I would like to share with my colleagues the complete results of our 1977 legislative questionnaire:

COMPLETE RESULTS OF 1977 LEGISLATIVE QUESTIONNAIRE

1. Do you support a permanent federal income tax cut, rather than a one-time $50 rebate proposed by President Carter?

	Percent
Yes	93
No	7

2. Should we reduce government spending even if it means cutting back some programs you support?

	Percent
Yes	92
No	8

3. Congressmen just received an automatic $13,000 pay raise without voting on it. Should they be required to vote on their pay raises?

	Percent
Yes	95
No	5

4. Should there be a limit on the number of years a congressman can serve?

	Percent
Yes	66
No	34

5. Do you support court-ordered busing to achieve racial balance in our schools?

	Percent
Yes	6
No	94

6. Would you favor removing government price controls on oil and natural gas produced in the U.S., if this would encourage development of more oil and gas production here at home?

	Percent
Yes	69
No	31

7. Do you support increased defense spending by the U.S.?

	Percent
Yes	45
No	55

8. Which three of the following do you consider most important issues facing the U.S. today?

(Listed in order of importance)

1. Inflation
2. Energy Crisis
3. Government Spending
4. Too Much Government
5. High Taxes
6. Welfare Abuses
7. Crime
8. Unemployment
9. Environment
10. Farm Income

CARTER ADMINISTRATION NAMES RADICAL TO $36,000 A YEAR POST

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. RUDD. Mr. Speaker, there are thousands of dedicated American citizens with spotless reputations and unswerving loyalty to our country's political and economic institutions who would qualify for an important $36,000-a-year position in the Federal Government.

However, it appears that such high qualifications and deep loyalty to American traditions and institutions are not always a key consideration for President Carter and his top advisers.

Sometimes it helps to get a job under this administration if a person has joined in burning American flags, participated in violent demonstrations, and battled against police at a Democratic National Convention, praised the Hanoi government at a time when North Vietnam was killing Americans and South Vietnamese, and espouses a radical leftist philosophy of world socialism.

This is the case in the Carter administration's recent appointment of John Froines, a member of the notorious "Chicago 7," as the first Director of the Occupational Safety and Health Administration's new Office of Toxic Substances.

Froines has a long history of radical leftist associations, which have included violent and nonviolent activities in behalf of asserted causes against American policies and institutions.

In addition to the violent assaults with the likes of Rennie Davis, Abbie Hoffman, Bobby Seale, and other leftists against delegates to the 1968 Democratic National Convention in Chicago, authoritative public sources such as the pink sheet on the left have documented that Froines has been:

A member of the "People's Coalition for Peace and Justice," an antiwar group heavily infiltrated by the Communist Party, U.S.A. He represented this group in France at the Kremlin-sponsored "World Assembly for Peace" in 1972.

A sponsor of the "National United Committee To Free Angela Davis and All Political Prisoners," a group that has been cited by the Federal Bureau of Investigation as a front of the Communist Party.

A delegate to the pro-Hanoi "National Anti-War Unity Conference" in 1973, organized by Tom Hayden and Jane Fonda following their strategy meetings with Hanoi officials in North Vietnam.

Mr. Speaker, is this the kind of person that the American people want to receive a $36,000 a year job running a key Federal Government office that affects American business and our economy? I think not.

Why has the Carter administration passed over the thousands of qualified candidates for this position, to appoint a man who according to news reports still ardently advocates a radical leftist philosophy, and most likely will use his new position to help impose unwanted and unnecessary Government regulation and interference on small businesses and employers throughout the country?

I do not believe that a man with Mr. Froines' background should have any job with the Federal Government—let alone a key policymaking position. It is my firm hope that public outrage at such an appointment will convince the administration to give this job to a suitable person.

It is also my hope that such questionable appointments will convince Congress of the need to reestablish some mechanism such as a Committee on Internal Security to maintain proper information about radical activists and groups.

Internal subversion must be closely monitored by our Government, including the Congress, and I believe it was a serious mistake when the House Internal Security Committee was abolished. As a cosponsor of House Resolution 48 to reestablish this committee, I hope that my colleagues will see the far-reaching need for our own mechanism in this area to assist us in the consideration of appropriate national security legislation, as well as of candidates for important high-paying Federal Government jobs.

CHAMBERSBURG, PA., FINALIST IN ALL-AMERICAN CITY CITIZEN ACTION AWARD PROGRAM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. SHUSTER. Mr. Speaker, I was recently very pleased to learn that one city in the Commonwealth of Pennsylvania had been chosen as one of 22 finalists in the All-American City Citizen Action Award program conducted by the National Municipal League. That city I am proud to say is Chambersburg which is located in my congressional district.

All of the people of Chambersburg should take pride in this achievement since the city was chosen from over 470 applicants. Another unique aspect of this program was stated very well by Borough Manager Julio Lecuona:

It should be stressed the award is really given to the citizens of the town who demonstrate they can organize or meet a challenge to improve the conditions for other citizens. The application was clear in that they (National Municipal League) didn't

want to see what government was doing for the citizens, but what citizen organizations were doing for each other.

The people of Chambersburg are involved and concerned in their community and use their own initiative to solve problems rather than waiting for some government entity to take control.

I wholeheartedly congratulate Chambersburg on reaching the finals and would consider their chances excellent to win it all when the announcement is made early next year.

BILL INTRODUCED TO AID SHIP CONSTRUCTION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. RUPPE. Mr. Speaker, today I am introducing legislation which is designed to create an incentive for series construction of vessels in U.S. shipyards. Specifically, this legislation would require the Secretary of Commerce to reduce the construction-differential subsidy rate payable under title V of the Merchant Marine Act, 1936, by 5 percentage points if the Secretary finds the type of vessel to be constructed is not a standard vessel and is not an innovative type likely to become a standard vessel; and a standard vessel could substantially serve the purpose for which the vessel is intended to be used.

The concept of series construction of merchant vessels has received the general support of the Shipbuilders' Council of America, the American Institute of Merchant Shipping, and the Maritime Administration during the marine policy oversight hearings conducted by the Merchant Marine and Fisheries Committee in the 94th Congress. The hearing record amply indicates that one of the key reasons why Swedish yards, and other Western European yards in countries having a standard of living comparable to the United States, are competitive on the world shipbuilding market is that they utilize series production.

The concept is, of course, not novel in the United States. Series construction was effectively used by our shipyards during World War II; for example, Liberty and Victory ships. Also, the Secretary of Commerce developed the C-1-, C-2-, C-3-, and C-4-type vessels, as well as the Mariner-class vessels. The Mariners are generally considered by knowledgeable experts as the finest break bulk cargo vessels ever developed in the United States and were by far the most productive and efficient dry cargo ships of their day.

I would like to point out that this legislation, unlike past efforts to promote series construction of merchant vessels, would not result in a reduction in the construction-differential subsidy rate where the vessel design is likely to become a standard design or where a standard vessel would be inappropriate for the trade route on which the vessel is intended to be utilized. Thus, the bill encourages innovation and takes into account the realities of the commercial marketplace.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION: ARTICLE I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. McDONALD. Mr. Speaker, until recently, the manipulations of David Rockefeller's Trilateral Commission were the subject of concern by a relatively small number of expert conservative political analysts. The pioneering exposé of the total political indebtedness of the former Governor of Georgia to David Rockefeller and his clique of elite international financiers and corporate executives was published in 1976 shortly after the national political conventions by Gary Allen.

Chapter 6 of Mr. Allen's hard-hitting political critique, Jimmy Carter, Jimmy Carter (76 Press, 1976) entitled "The Un-Free Candidate" provided the first account of how a man with virtually no base in any political party was catapulted to the apparent leadership of the free world. The chapter follows:

THE UN-FREE CANDIDATE

Nearly a month before the Democratic National Convention followed its predetermined course, Joseph C. Harsch, featured columnist for the Christian Science Monitor, laid down a line that would be dutifully echoed by other columnists and commentators in the national press:

"[Carter] has that nomination without benefit of any single kingmaker, or of any power group or power lobby, or of any single segment of the American people. He truly is indebted to no one man and no group interest."

Undoubtedly, most of Harsch's readers—in fact, most Americans—believe every word of it. One of the few persons who knew it was a clever fabrication was the author himself.

Harsch knew that Mr. Goober is owned, lock, stock and peanut barrel, by the most powerful lobby in the country—the one organization that could truly claim to be kingmakers (and unmakers). The group is the Council on Foreign Relations, and Harsch is one of its members.

In a moment, we will document our charge that the Council on Foreign Relations, or, as it is generally called, the CFR, will be the real power behind the throne of a Carter Administration. But first some background information is necessary on this secretive combine—which Harsch himself has described as "the true core of the so-called 'Eastern Establishment.'"

For more than fifty years, the CFR has operated like the Invisible Man in the novel by H. G. Wells. Its influence could be felt everywhere, but its actual existence was seldom seen.[1] The 1650 members of this elitist organization virtually dominate the fields of high finance, academics, politics, commerce, the foundations, and the communications media in this country. As John Franklin Campbell put it in New York magazine on September 20, 1971:

"Practically every lawyer, banker, professor, general, journalist and bureaucrat who has had any influence on the foreign policy of the last six Presidents—from Franklin Roosevelt to Richard Nixon—has spent some time in the Harold Pratt House, a four-story mansion on the corner of Park Avenue and 68th Street, donated 26 years ago by Mr. Pratt's widow (an heir to the Standard Oil fortune) to the Council on Foreign Relations, Inc. . . .

If you can walk—or be carried—into the Pratt House, it usually means that you are a partner in an investment bank or law firm—with occasional 'trouble-shooting' assignments in government. You believe in foreign aid, NATO, and a bipartisan foreign policy. You've been pretty much running things in this country for the last 25 years, and you know it."

Just how powerful is the Council on Foreign Relations? Its membership includes top executives from the New York Times, the Washington Post, the Los Angeles Times, the Knight newspaper chain, NBC, CBS, Time, Fortune, Business Week, U.S. News & World Report, and many others. If you have never heard of the CFR before, it is probably because the national media—which it controls—have planned it that way. (And if those same media decide to make a peanut farmer from Georgia an overnight political sensation, they can do that, too.)

CFR members control the big name foundations which expend more money and effort on politics than philanthropy; other members dominate the "best" colleges and universities; in the business community, there is scarcely a company in Fortune's Top 100 that is not directed by a CFR member.

But the major influence of the Council on Foreign Relations is exercised in the most important public power center in the United States—the federal government in Washington, D.C. As Anthony Lukas commented in the New York Times Magazine:

". . . Everyone knows how fraternity brothers can help other brothers climb the ladder of life. If you want to make foreign policy, there's no better fraternity to belong to than the Council. . . .

"When Henry Stimson—the group's quintessential member—went to Washington in 1940 as Secretary of War, he took with him John McCloy, who was to become Assistant Secretary in charge of personnel. McCloy has recalled: "Whenever we needed a man we thumbed through the roll of the Council members and put through a call to New York."

"And over the years, the men McCloy called in turn called other Council members. . . . Of the first 82 names on a list prepared to help President Kennedy staff his State Department, 63 were Council members. . . ."

The CFR provided the key men, particularly in the field of foreign policy, for the Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, and now Ford Administrations. Indeed, the man who is probably the most powerful member of the Ford Administration (including the President) is Henry Kissinger, who has admitted that he was virtually "invented" by the CFR.[2] And Vice President Nelson Rockefeller is not only a long-time member of the CFR, his brother David is Chairman of the Board of the group. The CFR has rightly been called the "Shadow Government" or the "Invisible Government" of the United States.

What is the goal of the Rockefellers' CFR? The organization makes no bones about it. The CFR doesn't have to disguise its ambitions because the media are not about to excite the public with exposes of it. The Rockefellers and the CFR call their "grand design" a "New World Order." This is a phrase you will hear used again and again by Rockefeller allies and hirelings.

"New World Order" is a CFR code phrase for a one-world government. As John D. Rockefeller, Sr. learned so well, when you control the government, you can control the economy. The Rockefellers have been working for five decades to control the American government so they can dominate the economy.

But, most of the Rockefellers' wealth is located outside the United States. The family has assets and does business in 125 separate countries. The Rockefeller game plan is to consolidate control over the world's economies by merging all the nations of the world under a single Rockefeller-controlled tent. Such a government would have to be a dictatorship, ruled by Rockefeller puppets or by the Communist-Third World bloc.

Since the Rockefellers' assets are spread across the globe, they long ago recognized the need to control U.S. foreign policy, regardless of whether the Republicans or the Democrats are in the White House. But to control policy, you must select the policy makers. This the Rockefeller-CFR combine has done for more than thirty years. Your only choice is between a Rockedem and a Rockepub foreign policy—whichever party is in power, the foreign policy decisions are always in the hands of dependable Rockefeller-CFR men.

What has all of this got to do with Jimmy Carter, that maverick politico from the deep South, who campaigned as a mortal enemy of the Eastern Establishment and the Washington bureaucracy?

It has everything to do with him—because the evidence is overwhelming that it was the CFR, operating as usual far behind the scenes, that "invented" Jimmy Carter for the 1976 election, as it "invented" Henry Kissinger to protect its interests under Richard Nixon.

Jimmy first came to the attention of the Shadow Government in 1970—not by winning the governorship of Georgia, but by demonstrating after the election that he could be as devious and dishonest as any New York banker. By the time his face appeared on the cover of CFR-controlled Time in 1971, some very important people were watching him with interest.

In late 1972, a Harvard professor named Milton Katz received a telephone call from "the grand old man of the Democrats," W. Averell Harriman. Harriman, whose service to internationalism dates back to 1922, when he helped arrange some crucial financing for the Bolshevik conquest of Russia, called Katz's attention to a rising young southerner, Jimmy Carter. CFR-member Harriman knew that fellow-CFR-member Katz had important connections: as a director of the Ford foundation, the World Affairs Council, the World Peace Foundation, and chairman of the Carnegie Endowment for International Peace (four of the most important groups in the country promoting one-world government), Katz could certainly help a deserving young man get ahead.

Katz delivered like a slot machine hitting the jackpot; he arranged to introduce Carter to David Rockefeller. The talented Rockefeller, who is chairman of both the CFR and the ultra-influential Chase Manhattan Bank, has been called the most powerful man in the world.[3] It was an auspicious moment for the Georgia crackerjack.

In the fall of 1973, David invited Jimmy to have dinner with him in London. Over the hors d'eouvres, David asked Jimmy to become a member of the Trilateral Commission—an important new group David was forming to promote world government. By the time dessert was served, Jimmy had agreed to come on board. The Trilateral Commission in another CFR front (over half of its 65 North American members also belong to the CFR); its purpose, according to Rockefeller, is "to bring the best brains in the world to bear on the problems of the future"—which is Rockespeak for the creation of a World Government.

The founding Director of David's Trilateral Commission was Dr. Zbigniew Brzezinski; he is, of course, a member of the CFR. If you find his name hard to pronounce, we suggest you practice it—for by 1976 Brzezinski had emerged as Carter's chief adviser on foreign affairs and the odds-on favorite to dictate U.S. foreign policy in a Carter Administration. Henry Kissinger has called Brzezinski my "distinguished presumptive successor," and admits that Carter's foreign policy pronouncements are almost carbon copies of his own. If you like Kissinger, you'll love Brzezinski!

Brzezinski, with Carter's blessing, assembled quite a team for the Boy Wonder from Plains. As reported in the June 24, 1976 issue of the Los Angeles Times, here are Carter's key task force members and foreign policy advisers: Zbigniew Brzezinski of Columbia University; the United Nations' major American propagandist, Richard N. Gardner; Richard Cooper of Yale University; Henry Owen of the Brookings Institution, an Establishment "think tank"; Edwin O. Reischauer, former U.S. Ambassador to Japan; retired diplomat W. Averell Harriman; Anthony Lake, a former aide to Henry Kissinger; Harvard professors Robert Bowie, Milton Katz, and Abram Chayes; former Undersecretary of State George Ball; and, former Secretary of the Army Cyrus R. Vance. It would be worth noting if Carter tapped even three or four CFR insiders to help him. But every person on the list is a member of the Council on Foreign Relations!

As Newsweek magazine reported on June 21 of this year, Jimmy Carter is far from being an opponent of the Liberal Establishment:

"Despite the anti-Washington tone of his campaign, a surprising number of Carter advisers are old Washington hands. Joseph Califano, a top LBJ aide, and Theodore Sorensen, JFK's close adviser, will recommend appointments to a Carter Administration. Johnson's former Secretary of Defense, Clark Clifford, will advise the reorganization task force. Other counselors come from Washington's Brookings Institution (frequently referred to as the Democratic government-in-waiting) and that epitome of Eastern establishmentarianism, New York's Council on Foreign Relations."

By this time, we hope you will not be surprised to learn that Califano and Sorensen are CFR members. And while Clifford is not, his Establishment credentials are otherwise impeccable.

But the above list is by no means complete. Added to it should be the names of such major Carter advisers and supporters as: Bayless Manning, president of the CFR; SALT negotiator Paul Nitze; LBJ adviser Paul Warnke; Richard Holbrooke, editor of Foreign Policy magazine; former Air Force Secretary Thomas K. Finletter; Michael Forrestal, a lawyer for big New York investment firms; Alexander C. Trowbridge, Jr., a former Esso (now Exxon) executive who, as Commerce Secretary, helped open the floodgates for shipping strategic goods to the Communist bloc on credits guaranteed by Washington; Gerard Smith, onetime chairman of the Arms Control and Disarmament Agency; and Yale law professor Eugene Rostow. Every single one is a member of the CFR.

Other CFR members who have helped make Jimmy what he is today include those early contributors to his campaign, Dean Rusk, C. Douglas Dillon, Henry Luce, and Cyrus Eaton, Hail, hail, the gang's all here!

Syndicated columnist Paul Scott, one of the few reporters with the courage to blow the whistle on the Rockefeller-CFR combine, confirmed Carter's close working relationship with the insiders' Godfather, David Rockefeller, in this July 7 report:

"Most intriguing political connection of former Georgia Governor Jimmy Carter is his relationship with international banker David Rockefeller, one of the most influential men in the world.

". . . Carter was picked several years ago to serve on the Trilateral Commission, which was organized by Rockefeller to study problems of common interest to the U.S., Western Europe, and Japan.

"The first director of the Commission was Zbigniew Brzezinski, a long-time associate of the Rockefeller family and now Carter's number one foreign policy adviser.

". . . Friends of Brzezinski describe him as close to David Rockefeller as is the present Secretary of State Henry Kissinger to David's brother, Vice President Nelson Rockefeller."

David Horowitz, author of *The Rockefeller Dynasty* and a reporter with a solid-brass Liberal credentials, has said that the interconnection of Rockefeller, Brzezinski, and Carter is "very close." Yes, the Carter bandwagon runs on Standard Oil, not peanut oil. He and Rockefeller are as close as two peanuts in a shell.

With friends like these, it is possible to arrange all sorts of amazing "coincidences." Does the CFR want their man to get more attention in the media than any other candidate? Simply turn on the spigot, and paens of praise to Smiling' Jim roll off the presses.

Want to show how it is possible to butter both sides of a peanut at the same time? Voila! You have Leonard Woodcock, dictatorial chief of the United Auto Workers, and Henry Ford II, the creme de la creme of big business, both endorse Carter on the very same day. (But please don't reveal that Woodcock and Ford are both members of the CFR, or that Woodcock also shares a seat with Carter on the Trilateral Commission. You don't want to give away the game, do you?)

Need a Vice President to go with him? How about a leftist Senator from Minnesota who is a member of both the CFR and the Trilateral Commission? When the envelope is opened, out pops Walter Mondale.

Jimmy Carter has been picked by the powers-that-be as their man to ride the wave of the future. To make sure he keeps his surfboard headed in the right direction, they have already surrounded him with veteran campaigners in their march to a New World Order. And Jimmy is proving he is a very willing recruit.

It is no coincidence, therefore, that Carter's two major foreign policy addresses during the primary campaign were both delivered to CFR front groups—the first, before the Chicago Council on Foreign Relations in March; the second before the Foreign Policy Association in New York in June. In both speeches, Carter repeatedly used such CFR code phrases as "a just and peaceful world order" and "a new international order." Those good ol' boys back in Georgia might not have known what was going on, but you can be certain that the makers and shakers in New York, Washington, and a dozen foreign capitals realized precisely what signals were being flashed to them.

James Reston of the New York Times, who is probably the top media insider, said it was "reassuring" to hear young Jimmy echoing "the basic theme of Woodrow Wilson

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[1] In 1972, my own book exposing the Council of Foreign Relations, *None Dare Call It Conspiracy*, sold over 3 million copies—although the national media never even acknowledged its existence.

[2] For the complete story of Kissinger's service to the CFR on behalf of "a new world order," see the author's previous book, *Kissinger: The Secret Side of the Secretary of State*. (1976: '76 Press, Seal Beach, Calif.)

[3] For the complete story of the Rockefellers' incredible power, influence, and ambition, see *The Rockefeller File* by this author. (1976: '76 Press, Seal Beach, Calif.)

and the League of Nations, of Roosevelt and Truman at the founding of the United Nations in San Francisco. . . ." It was the same old shell game; only this time it was being played with peanuts, not walnuts.

Conservative columnist Jeffrey Hart saw the shells being switched, but even he didn't realize how thoroughly we marks are being suckered:

"In the primaries, (Carter) ran as a critic of the establishment and of the Washington bureaucracy. He was a totally unfamiliar figure, and he seemed to represent the South, including the Sun Belt. As he rolled on toward the nomination, he gave the inhabitants of the Cambridge-New York-Washington axis some sleepless nights. They know now that he is going to save their bacon."

Carter's speech at the United Nations on May 13, declaring that "Balance of power politics must be supplemented by world order politics;" his comments before the Chicago Council on Foreign Affairs condemning "the strident and bellicose voices of those who would have this country return to the day of the cold war with the Soviet Union;" his pledge to the Foreign Policy Association in New York to work for "a just and peaceful world order;" Dr. Brzezinski's declaration to Democratic Congressmen that "We have to establish some sort of global equity"—such messages were more welcome to the audiences they were addressing than an interest-free loan from Chase Manhattan Bank. Needless to say, this is hardly the rhetoric of a Georgia goober-grower who just happened to be visiting a big Yankee city.

The few foreign-policy specifics that Carter has expressed could have been written in the New York offices of the CFR. (In fact, they probably were!) He has said, for example, that he would remove our troops from Europe and Korea, strengthen the United Nations, promote international controls of all atomic power, yield "part" of our sovereignty over the Panama Canal, kill the B–1 bomber, slash $5 to $7 billion from our defense budget, and increase foreign aid.

The accent may come from Georgia, but the words are straight from the CFR.

Only a select handful of insiders are supposed to get the message, of course. The fodder that has been prepared to keep the rest of us sheep happily munching, while we're herded into a Rockefeller-CFR world government corral, comes cleverly disguised.

The following editorial from the Scripps-Howard newspaper, the Fullerton Daily Tribune, is typical:

"Rarely has a politician rocketed from obscurity to capture a presidential nomination as has Jimmy Carter, lately an out-of-office peanut farmer in Plains, Ga., and now the morning line favorite to win the White House.

"His feat is all the more remarkable in that he did it with only a small band of disciples in Atlanta and without early help from Democratic party power brokers—congressional leaders, governors, big city mayors, labor chiefs, and wealthy contributors.

"As a result Carter is unusually free of obligations, owing as he does his nomination mostly to himself. "Nobody has hooks in Carter," as the politicos put it elegantly and thus if elected, his policies would be set by his own desires and conscience."

Sure. There is about as much chance of James Earl Carter, Jr. double-crossing the Establishment that has made him, as there is of Richard Nixon winning a clean government award. And if, for some reason, the peanut politico does decide to switch sides once again, he will learn—as have other politicians before him—how quickly the Shadow Government can turn a proud peacock into a discarded feather duster.

WHAT IS HENRY REUSS UP TO?

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Ms. OAKAR. Mr. Speaker, yesterday I placed in the RECORD the first installment of an interview with HENRY REUSS that appeared in Nation's Cities. Today, I would like to place in the RECORD the second part of this interview.

The efforts of HENRY REUSS are an inspiration to all of us who are concerned with the resurgence of America's great cities.

Article from Nation's Cities (October 1977) follows:

WHAT IS HENRY REUSS UP TO?—PART II

Nation's Cities: At the Rebirth of the City hearings last fall before the full House Banking Committee, there was expressed the strong opinion that at the root of the urban problem, as it is generally described, were race and income. Was that your feeling from those hearings?

Reuss: I hesitate to come down on any one problem as the sole or even as the principal cause. Certainly, I don't think race is the problem. Poverty is a problem, and many blacks are poor. I wouldn't call that a race problem. Many whites are poor and live in cities, too.

And some of those most disadvantaged in cities aren't so poor at all; they're the lower middle class who suffer from the fact that they get none of the benefits but bear all of the burdens.

The reason why pockets of poverty and unemployment dog the cities is that the federal government has not lived up to, and is still not living up to its obligation to see that every man and woman willing and able to work has an opportunity to do a job.

In fact, since last November, while general unemployment has gone down, happily, by a full percentage point from 8 percent to 7 percent, unemployment among black women and unemployment among black teenagers has not only not gone down, it's actually gone up. We must do something.

FDR, it should be noted, two weeks after he was inaugurated in 1933 started a Civilian Conservation Corps, which became law 10 days after he introduced it. And two weeks after that, 500,000 young men were at work doing useful things. In that case, most of it was out in the countryside. Here the majority of useful things need to be done right at home in the cities making them livable once again.

And there is no reason under the sun why we shouldn't immediately embark upon such a program. No reason other than the torpidity and languor of some of the bureaucracy, particularly the Department of Labor; which, not having done anything for these many years, wants to continue not doing anything.

N.C.: On a different issue, we see the regional disputes growing and growing, and, of course, from the point of view of the cities, this is rather complex. The National League of Cities does not represent northern cities or southern cities. It represents all the cities of the nation.

Do you see beneath that regional fight a reality of problems that are in part attributable to Federal actions and can be remedied? Or do you see in that dispute a working out of what might be described as natural trends that should be allowed to work out? Or do you see it as a journalistic smoke screen of this year?

Reuss: Well, I see it in terms of everything that you've said and something else, too. Last summer I was one of those who founded the Northeast-Midwest Congressional Coalition, which is now in full cry trying to redress the imbalance seen in the older and colder sections of the country that is losing jobs, losing populations, losing income, growing obsolescent.

I in fact do not agree with those of my colleagues from the Northeast and Midwest who sometimes sound as if they wanted to start another war between the states. This should not be a war between the states.

I believe it's desirable to revisit all the formulas in our various aid programs. We have done so in the case of the community development block grant, and I think it has been useful.

And, incidentally, the Congressional Budget Office is going to make a report to us, which we will then issue as a committee print, analyzing all of the formulas and all of the federal grant programs and making observations as to whether they can be made fairer.

While I believe that formulas should be reexamined and programs fixed up where they tend to be unkind to the Northeast and Midwest, nevertheless, here again, I think, the main problem is undoing wrong-headed things that the federal government has been doing. For example, there's no reason whatsoever why the federal government should, as it now does, give a subsidy through tax-free industrial revenue bonds to a community, which, let us say, is in the sunbelt and has zero unemployment in order to pirate away from a New England or Midwest community or Middle Atlantic community an industry that is desperately needed to provide jobs for the people who live there.

Certainly our governmental intervention ought to be neutral. I'm not saying that we should have an expensive program for pirating them back from the South. I wouldn't suggest that. Equally our Economic Development Administration—I think it's in the process of change under Secretary Kreps—has to much too great an extent fostered new development in new areas at the expense of modernizing and rejuvenating the older and colder places.

So I think that what we need is not a dog-eat-dog war between the states, but an attempt to revise and revisit our existing programs so that people who need help wherever they are can get it, and jobs, wherever they are needed, can be fostered. We should not continue to run with programs that have long since outlived their rationale, if they ever had one.

N.C.: Do you think there will be a great deal of stress on this matter over the next couple of years?

Reuss: Yes. I think that the Northeast-Midwest coalition has a reason for being. And it needs to stick to its guns in this connection.

Another upcoming hearing in the next few months concerns the loss of population in our cities, and this mainly means Northeast-Midwest cities. The question we would want to ask in those hearings is, how does the city grow old gracefully?

It may well be that some of our big cities are too big. Very well, how do they adjust themselves to new circumstances of life in a way that prevents acres of wasteland, boarded-up buildings, arson, and a tax base that declines while service needs grow?

N.C.: Certainly in the '60s you would have gotten wide agreement that many cities should be smaller. Now we find reduced population seems to create worse problems.

Reuss: That's because the reduced population hasn't been accompanied by adequate attention to how you live with a reduced population and still produce a good civil life.

That would be the purpose of our hearing. Obviously a city like Detroit, which has concentrated on the auto industry, is going to have to do some deep thinking. A city like New York, which increasingly finds a polarization between it and the neighboring states of Connecticut and New Jersey, is going to have to do some rethinking.

But there is no reason why, for example, American cities can't do what Vienna did. Vienna was the capital of the Hungarian empire, which, with the fall of the Hapsburgs, ceased to exist.

But today, Vienna has adjusted to a smaller population in the most genial and jocund fashion and yields a very happy life to its people including visitors such as myself.

N.C.: Won't that be a tremendous adjustment for this country? I sense that many would view that to be defeat.

Reuss: It will be a tremendous adjustment, and, therefore, the sooner we start thinking about it, the better, and that is why we're scheduling hearings on it. I certainly have the view right now that a smaller population needn't be a defeat and that a New York City with a million less people than it had boasted of in its prime, but with more open space and with a more humane life style, would be a lot better than it was before. You don't, for instance, solve the problems of Detroit, with all due respect to the city fathers there, by building a Renaissance Center. If that's all they're going to do, it isn't going to work because beyond the Renaissance Center lie square miles of ghetto that are untouched. Beyond it lie office buildings whose economics have been knocked galley-west by the construction of the Renaissance Center so that while the Renaissance Center may well be a glorious component of an overall plan, here it's a component of nothing. It's a free-standing entity and does not really, in my judgment, make contact with the problems of Detroit.

Sure, it's very fine that Ford moves in white-collar employees from the suburbs to the Renaissance Center. But what happens to the suburb? What is Detroit doing about its future?

I don't mean to pick on Detroit, but here is an American Vienna that ought to be considering how it can grow old gracefully.

N.C.: On the issue of declining population, one of the problems seems to be that the decline is uneven. It is not simply reduced numbers, but it is a different mix, primarily of income. It is the standard story of the relatively well-to-do leaving, the relatively poor remaining, and the concentration then of the problems and the burden on services that is too great for the resources.

What can be done, or what ought to be done, to address that problem? One school of thought argues that there needs to be a balanced population and thus a return of the prosperous to the central city.

The other argues that there need to be policies that will make those people who are poor prosperous. The outcome for the territory would be the same, but for the people involved, quite different.

Reuss: Well, I think they are both right. I can think of about four things that need examination here. You're quite right, of course, that the population evolving out of the central cities, particularly in the Northeast and Midwest, has been uneven, and to a large extent it has been the affluent who have departed.

I think there are several things that ought to be looked at. Number one is something I've mentioned several times already. To what extent have existing laws and customs accelerated this instead of just remaining neutral?

Of course, this is a free country, and the affluent may move wherever they want, and I would not stand in their way. But it is also true that the highway system; the system of liberal FHA mortgages; the system of revenue sharing, which gives some money to fairly well-off suburbs; and the system of home-ownership tax deductions, which basically benefits just the top one-quarter of the population because other people take the standard deduction and don't get that benefit—all of those things ought to be looked at to endeavor to get to a position where public policy is at least neutral about whether they opt to leave the city or not.

Second, as you have suggested, we ought to move vigorously to bring jobs and economic activity, blue collar and white collar, back to the city. That means the revival of the neighborhoods; that means some sort of method of getting equity capital—some public, some private—into city neighborhoods so that blue-collar and white-collar jobs improve and increase.

Third, you can take some of the curse off the affluent leaving if you have decent arrangements for metropolitan fiscal burden sharing. For instance, in metropolitan Minneapolis-St. Paul, as we all know, there is an excellent law that says that 40 percent of the increase in revenues of the metropolitan area shall inure to the benefit of people throughout the region on a per capita basis. That means that Minneapolis and St. Paul get a little help when somebody puts new tax values on the books out in one of the suburbs.

So some solution to the metropolitan fiscal mismatch is needed. I'm not saying do in the suburbs, I'm saying just the opposite. Suburbs are neighborhoods, and I'm for neighborhoods and want them to continue. But there ought to be fiscal equalization to the maximum extent within our metropolitan areas. And it's the real sin of the states that though sovereignty is lodged in them, they—with a few honorable exceptions—have done nothing about it.

Fourth, I think that if it is done properly, the return of some of the affluent from the suburbs to the cities is a good thing. It saves energy if they're white-collar workers and can walk to work instead of drive 40 miles every day. And it will help on the tax base though I think there are better ways to handle the tax base problem, as I've just mentioned.

From the standpoint of energy saving alone, it's a good idea to have white-collar people who work in the city live in the city. But if you're going to do that, if you're going to encourage the building of luxury apartments and townhouses in the city, if you're going to encourage individual rehab-ers to upgrade Dupont Circle or Capitol Hill in Washington, or similar areas in a score of cities around the country, you're going to, in my judgment, have to accompany that movement by at least two things.

One, the city or the state—I really think it's the state that ought to assume responsibility for it—is going to have to see that every low-income person has a place to go when the house in which he is living is bought by some affluent person who comes in and wants to rehab it and make a $100,000 house out of a $10,000 house. You're going to have to see that a person's housing needs are very well taken care of at a rent or at a price he can afford. And that takes some doing. But there are the tools in Section 8 and other programs to do it.

Second, you're going to have to have some change in tax philosophy by the localities if a poor person who stays in his humble home, or humble small business, near where a big rehab movement by the affluent is taking place, finds that his tax valuation is raised by the local assessor on the grounds that he now lives in a classier neighborhood. That is not going to work.

Somehow or another you're going to have to see that that poor person gets tax treatment similar to what he had before the powers and principalities moved in on him.

N.C.: You mentioned equity capital. There are floating around a variety of proposals like the urban development bank that are calculated to attract investments into cities where investment has not occurred or where disinvestment has occurred. Is the simple creation of a financing mechanism like an urban development bank likely to meet the capital needs of older cities?

Reuss: Well, part of the trouble with the existing urban development bank proposals we hear about is that they are so loosely formulated that they conjure up huge bureaucracies, opportunities for political shenanigans such as clouded the last days of the Reconstruction Finance Corporation, and there is imprecision, to say the least, as to what they're supposed to do.

I think that I would like to see three things. First, I would like to see enacted the consumer cooperative bill, a very modest measure but useful and neighborhood-oriented, which has now been favorably reported out by our Banking Committee and just got a rule from the Rules Committee the other day.

Second, I think that the willingness of the banking industry—the financial industry generally—to contribute to the provision of longer-term capital to central-city economic effort ought to be much better tested than it has been. I think that it may be that wiser treatment of our financial institutions can get a lot of run for our money out of them.

Third, however, I think that some kind of a very carefully calibrated urban development bank, federally sponsored and rather lean in its administration, could do some good.

N.C.: A brief and final question. As I recall in the original enactment of revenue sharing, you advanced a variety of reform proposals to be attached to it. Are you still disposed that way?

REUSS: Yes, I think we would be well along the road toward viable cities if we had done what I had unsuccessfuly urged we do in 1970 when we passed the revenue sharing bill and what we tried to do again in 1976 and failed to do when we renewed it—namely, tell the states that they will get their revenue sharing widow's mite if, and only if, they make an effort to put forth a long-term plan for helping and saving their cities.

The states' record, it seems to me, is the shabbiest of all three of the levels of government. I haven't given up yet on seeing if we can do something about that.

SHIRLEY MULDOWNEY—FIRST WOMAN IN RACING

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. BONIOR. Mr. Speaker, I would like to bring to the attention of my colleagues the achievements of an outstanding female athlete. This woman, who I have the pleasure of calling my constituent, has made it to the top in a field of endeavor which has been dominated by men from the beginning. Her achievement is considerably greater because she competed, not in a special woman's division, but against the best men in the sport.

The woman is Shirley Muldowney and her achievement is the 1977 national title

in the National Hot Rod Association, NHRA, top fuel dragster class. Ms. Muldowney is the first woman to ever win that title.

But this title is not Ms. Muldowney's first first. Shirley was the first—and only—woman in the United States licensed to drive a top fuel dragster—the fastest of all dragsters, the first woman to reach the finals in a National Hot Rod Association professional category, the first woman to break the 5-second barrier, the first woman to win a NHRA national event in a professional category and the first woman to break the 250 mph barrier.

Beyond these firsts, Shirley has held the record for the fastest drag racing speed ever—252.10 mph—and has once broken her own speed record. Shirley's record itself has since been broken by Jerry Ruth but Shirley can still lay claim to the title of the "world's fastest woman in racing."

Shirley's title means a bit more than the glory of a championship; for her it means she will get a chance to spend more time with her family. In her own words,

It'll mean I'll take off at least one weekend a month without feeling guilty.

Ms. Muldowney should be a source of inspiration to both men and women for her ability, her courage and her simple determination have brought her to the top.

NEW CITIZENS AT HICKEY-FREEMAN COMPANY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. HORTON. Mr. Speaker, with the complete cooperation of the District Director of Immigration and Naturalization in Buffalo, N.Y., Mr. Benedict Ferro, the citizenship training for Hickey-Freeman aliens was held for the fifth consecutive year. This citizenship training was operated under the auspices of New York State continuing education for adults program under the direction of Stephen D'Agostino. Classes were held on Mondays and Wednesdays from 4:30 to 6:30 p.m. in the Hickey-Freeman cafeteria. By holding the classes in the plant, candidates were able to complete their full day's work without the need for extra travel to an evening school. The teacher for this year's program at Hickey-Freeman was Mrs. Frances Fox.

The names of those persons who were sworn in at the ceremony are:

Francesco Mastroberardino, Concetta Carmela Mastroberardino, Leonardo Pagani, Maria L. Pagani, Maria P. Pagani, Raffaele Parisi, Carmela Callerame, Olexa Charczenko, Nadia Charczenko, Maria Fesik, Archip Fesik, Vincent Vella, Giuseppe Morici, Fina A. Russo, Filippo Sampognaro, Raffaele Telaro, Armando Meli, Concetta Cavallaro, Bartolo Alleto, Fernando A. Sanrocco, Rosa Terranova, Giovanna Ferrauto, Maddalena Dell'-Olio, Gisela D'Agostino, Federico Formica, Rosa Visconti, and Dorotea Arbore.

These 27 future citizens took the oath of allegiance before Supreme Court Justice Wilmer Patlow. Speaking to the group of candidates was the Honorable Supreme Court Justice Robert Wagner.

Mr. Speaker, Americans must never forget that our land grew to greatness by being the land of hope and opportunity for peoples from around the globe. It is heartening to me that the melting pot process continues today in my home community of Rochester. I am certain that my colleagues will join me in congratulating these fine new citizens on their achievement, and in welcoming them to full participation in our American system of free and democratic government.

TRIBUTE PAID TO CHARLES MARSHALL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. SIMON. Mr. Speaker, Ed Darby, the financial editor of the Chicago Sun-Times, wrote his column recently about Charles Marshall, the president of the Illinois Bell Telephone Co., who grew up in Greenville, Ill., which is in my district.

We are proud of the new president of Illinois Bell Telephone, and I am inserting it into the RECORD, not only because of that but because the column touches upon some of the issues that we are discussing in Congress these days.

I hope my colleagues will read the column.

[From the Chicago Sun-Times, Sept. 30, 1977]

WHY PHONE BILL MAY GO HIGHER

(By Edwin Darby)

Like everyone else Charles Marshall knows he is in the hole when he looks at the statistics on the increase in the cost of living. Only the pain is double for him.

Marshall has been president and chief executive officer of Illinois Bell Telephone since April 1977. He arrived in Chicago from New York City where he had been treasurer of parent-company AT&T only a month before the Illinois Commerce Commission handed down a decision that was most painful—for Illinois Bell.

In July, 1976, the telephone company had asked the commission to approve a package of rate increases on a variety of telephone services that would have netted Bell additional revenues of $110 million a year. Eleven months later the commission told the company it was entitled to increases that would generate only $8.9 million a year.

Now, after six more months of inflation, Marshall has concluded that the only answer for Illinois Bell is a general increase in basic telephone rates.

"The only major problem our company has here in Illinois," says Marshall, "is inflation. We can live with an inflation rate of 2½ to 3 per cent a year. We can live with that kind of inflation because we expect to achieve an increase in productivity through technology, modernization, smarter management and greater contributions from our people that will keep us even. Our record on productivity increases is excellent. Our gains are often double the national average.

"Anytime you are in a monopoly position—and we are not nearly the monopoly we used to be—you ought to do everything you possibly can to hold down prices. But an inflation rate double that 2½ to 3 per cent is not tolerable for us without rate relief. Illinois Bell has not had an increase in basic telephone rates in 3½ years and in May the commission denied our request for such things as an increase in the rate for a home telephone extension. We had asked to increase the rate from 95 cents to $1.25 a month. More than a year ago Ohio Bell was given permission to go from 90 cents to $1.20."

Marshall is not at all abashed by last week's AT&T announcement that Bell System profits in the first nine months of this year totaled $4.3 billion. "We simply have to have earnings on that order and better when you consider our investment base and our needs for new investment," Marshall says.

These are home truths for Marshall. He was born in Vandalia, Ill., and grew up in Greenville, a town (then) of 3,000 in southwestern Illinois. His grandfather homesteaded in that country in the 1880s and when Marshall was a child the family farm was on a party line shared by 16 families. It pleases Marshall that nearly 97 per cent of Illinois Bell subscribers now have single party service.

Marshall is also directly familiar with what lack of capital can mean. What he wanted to be as a young man was a farmer like his grandfather and others in his family. His father, a part-time farmer, worked for the Federal Land Bank appraising farmlands for farmers who needed to borrow money. In 1952 Marshall was "farming some bottom land on shares," the "family had just graduated from mules to an inexpensive tractor," and "didn't have the capital to buy the machinery we really needed." In late summer, 1953, Marshall, who had a degree in agriculture from the University of Illinois, spent the early morning hours one day combining wheat and then took off for Chicago to apply for a job with Illinois Bell, having decided there must be a better way. In November that year, after the harvest was in, he went to work for Bell in Chicago as a service engineer. A more accurate title might have been salesman. Marshall spent his time trying to convince service station owners that there was profit for them in installing a coin box telephone.

In the next 23 years, Marshall and his family (a wife, two daughters and two sons) moved 14 times as Bell moved him up the executive ladder.

When Marshall says the Bell System was once more of a monoply than it is now he is expressing more than a little regret. Bell's standard service and rates for residences and businesses have been threatened particularly, he says, by the entry of the microwave relay people into the business of providing private, leased wires between major cities for corporations. "We no longer have any of the private line business between Chicago and St. Louis," Marshall says, "These competitors move in, use our technology, cut prices below our regulated rates, skin off the cream and leave us with the problems."

PANAMA CANAL: GIVEAWAY OR MAIL FRAUD?

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. MAZZOLI. Mr. Speaker, every office on Capitol Hill is deluged with preprepared telegrams, post cards, and mimeographed letters as each controversial issue comes before the 95th Congress.

Every Member encourages his or her constituents to write or send messages on matters of concern. We are all pleased to receive these comments. We learn much from them. They help us cast thoughtful and accurate votes.

However, a situation has come to my attention which causes me to wonder how many of our constituents actually sign, authorize, or even know anything about the communications arriving in our offices over their names.

I recently got a letter from two constituents who complained about having received a response from me on the Panama Canal treaties. My constituents stated they had not contacted me on the subject.

As it turned out, these folks had not written me. Yet I—and other members of the Kentucky delegation—received mimeographed letters with their names signed thereon. A check of my files reveals that other letters I have received on the canal treaties question appear to be signed in the same handwriting.

These deceptive and misleading communications undermine the credibility of all of the post cards, telegrams, and mimeographed letters which reach our offices. If such mailings are unreliable, how are we to gage accurately the public's position on the pressing issues of the day?

My purpose here is to alert my colleagues to the questionable tactics which are apparently used by some to generate mass mailings.

I would be interested in knowing whether any of my colleagues have encountered an experience similar to mine.

CIVIL RIGHTS ENFORCEMENT

HON. BARBARA JORDAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Miss JORDAN. Mr. Speaker, on September 27, 1977, Congressmen EDWARDS and DRINAN and I introduced H.R. 9329, the Federal Assistance Equality Act of 1977. At that time, I stated that the bill was introduced to focus debate on current enforcement of title VI of the Civil Rights Act of 1964 and the organizational structure used to coordinate enforcement.

During the same week that my bill was introduced, the Department of Justice's Civil Rights Division sponsored a comprehensive 3½-day Title VI Conference—September 26–29—here in Washington. Invitees included not only Federal agency personnel and U.S. attorneys but distinguished members of the public interest community as well. Some 300 people attended coming from as far as California. I was pleased to have been able to contribute to this effort by serving as a keynote speaker.

The conference was the first such meeting of the title VI community since 1966 and its success can be largely attributed to the vigorous leadership of the new Assistant Attorney General for the Civil Rights Division, Drew S. Days, III. Mr. Days' credentials are well known to the civil rights community. Before entering Federal service, he was first assistant counsel to the NAACP Legal Defense and Educational Fund, Inc. in New York City from 1969 until his nomination.

I want to share with those who will be considering my bill, H.R. 9329, Mr. Days' thoughtful and informative opening statement of September 26, 1977, to the conferees. It demonstrates his commitment to insure affirmative action in title VI enforcement.

His statement follows:

SPEECH BY DREW S. DAY III

I welcome you to this conference and ask that over the next several days we forge a partnership to ensure that federal dollars are no longer used to support programs that discriminate on the basis of race, color or national origin. In this regard, affirmative action requirements attach to each application for federal assistance that is placed upon the desk of a federal official responsible for passing upon it. We must start by assuring that each such person is trained to ask the right questions. Such questions should be extended beyond the pre-award stage to include post-award reviews as well.

In order to accomplish this, meaningful data and information must be collected so that disparities in the delivery of services on the basis of prohibited discrimination can be identified. For example, agency program guidelines should require information that serves to define the population eligible to be served, by race, color and national origin. On the subject of program guidelines, by now each agency should have guidelines that describe such things as the nature of Title VI coverage, methods of enforcement and examples of prohibited practices in the context of the particular type program. With regard to public dissemination of Title VI information, where a significant number or proportion of the population eligible to be served needs service or information in a language other than English, such service should be provided. As counsel for HEW, we litigated such a need for that type of service to be provided to Hispanics by the Connecticut Welfare Department, a case recently affirmed by the Second Circuit.

Turning back to our regulations, I want to remind you that every six months each federal agency is required to report to me, as Assistant Attorney General, the receipt, nature and disposition of all Title VI complaints filed with that agency. Additionally, federal agencies are required to notify me when after a finding of probable noncompliance, negotiations have continued for more than sixty days. In that instance, notice to me is to include the reasons for the length of the negotiations.

I realize that to some extent the change in Administration with its attendant delays caused by the natural process of selecting new people for sub-cabinet positions has slowed down agency efforts somewhat. However, by now we should be prepared to quicken our efforts in this area and if there is one thing that I have become increasingly aware of in my job it is the extent to which Title VI enforcement has been neglected over the years.

Perhaps the most basic requirement of our Title VI coordination regulations is that each federal agency subject to Title VI shall develop a written plan for enforcement which sets out its priorities and procedures. This plan is to be available to the public. It is my hope that this conference will serve to assist in expediting the development of such plans for each agency in attendance here.

On July 20, President Carter sent a directive to the heads of executive departments and agencies listing Title VI enforcement as a high priority in this Administration. His message is clear and I quote:

"This means first that each of you must exert firm leadership to ensure that your Department or Agency enforces this law."

As you know, the Attorney General is responsible for the coordination of the Title VI enforcement effort of the Executive Branch. Last July's Presidential directive reaffirmed the Attorney General's authority to provide central guidance in this area and this conference is designed to implement that responsibility. The workshops listed in your agenda are the result of numerous meetings with personnel from various agencies in an effort to cover a broad range of topics that commonly concern us. Those workshops will enable us to both put finishing touches on that portion of our Title VI draft Manual that you now have, and at the same time, obtain the additional information necessary to expand it into those areas listed in the outline that you have been provided. We have included experienced persons from the public interest bar on various of our workshops whose comments we know will be both useful and provocative.

When efforts to obtain voluntary compliance fail, we must stand ready to apply the sanctions provided by law. Such sanctions are either to proceed by administrative hearing or to refer the matter to the Department of Justice for possible suit. We stand ready to assist agencies in making such determinations.

Within the Civil Rights Division, the Federal Programs Section is assigned the responsibility for Title VI enforcement. Those agencies that have already been selected for reviews by personnel from that Section know that a concerted effort is being made to effect constructive changes. It is our intention to implement the recommendations contained in our interagency survey reports by continuing to effect Memoranda of Understanding with those agencies reviewed. Generally, I have been quite pleased with the cooperation that those agencies have afforded us in this regard during these first eight months since I have arrived. If, however, I am advised that in a particular instance, negotiations have broken down, then if appropriate, I shall recommend to the Attorney General that pursuant to his authority, he issue a directive to such agency. In other words, it is our intention effectively to police our own efforts in the area of Title VI enforcement rather than await federal officials being turned into would-be clients of the Justice Department by my former colleagues in the public interest bar. It is our intention to be much more than reactive, we intend to stimulate action.

It is important that through our efforts this week, we take steps to assure that federal assistance programs are administered in a consistent and fair way. We are working closely with the Office of Management and Budget to develop a joint plan of action in this regard. At the same time, it is necessary for us to examine the subject of interagency delegation agreements and I am particularly pleased that there will be a workshop on that subject.

Tomorrow morning, we have scheduled a workshop that will include a discussion of the kind of evidence necessary to justify a suit based either on services discrimination or covered employment. In this regard, I want to make it clear that as a matter of policy we will continue to require that goals and timetables be a necessary part of any court settlement in which the United States is a party. Without such benchmarks, it is impossible to monitor effectively the quality of a recipient's efforts to implement an agreement. With regard to services discrimination, we will continue to require that a plan to

equalize services be part and parcel of our settlements. For example, earlier this year a court approved equalization plan regarding the provisions of municipal water and sewerage to a City's black community was filed as a matter of record in Folkston, Georgia.

I have seen estimates that indicate somewhere between 65 to 70 billion dollars a year are disbursed to recipients covered by the provisions of Title VI. We will have a more definite view of the specifics as to the exact number of federal programs involved after agencies have all succeeded in supplementing their Title VI regulations with an appendix listing the types of federal financial assistance (including specific reference to statutes) to which those regulations apply. Such a current listing is basic to our efforts. I have seen some estimates that would indicate about 400 programs will be included as the final figure.

Additionally, we all recognize that within disbursing agencies there is a need for closer cooperation between the Office of General Counsel and Title VI personnel. I hope that the scheduled workshop on this topic will provide a discourse that will give these two resources a better awareness of what each has to offer the other. While on the subject of workshops, I might point out that the purpose of the one scheduled to be conducted jointly by Assistant Attorney General Babcock of the Civil Division and myself is to make it known that identical standards will be applied by our respective Divisions when evaluating the merits of an existing civil rights suit.

Also, I am most interested in the conclusions that you arrive at in terms of striking a balance between centralization and decentralization. Although active regional offices are desirable, it is similarly important for Central guidance to be provided by the national office. In other words, decentralization should not be an excuse for abdication of responsibility by the Washington office.

At this point, it is tempting to digress and provide you with anecdotal material that would illustrate why I have a sense of excitement over the tremendous task before us. Instead, I will close simply by saying, so much for the welcome, let's get started. We cannot require the recipients of federal funds to go out and make that extra effort at affirmative action unless we begin to set the example and show the way, here and now.

WE CAN DO ANYTHING TO YOU YOU CAN'T STOP US FROM DOING

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mrs. SCHROEDER. Mr. President, the double standard is not new around these parts. Certainly if Congress did not invent the practice, it has adopted it as its modus operandi, and enthusiastically used it in all those situations where Joseph Heller's rule applies: We can do anything to you you can't stop us from doing.

Thus the miserable state of affairs described in the New Republic article below:

ABORTION DOUBLE STANDARD

If anyone in the family of Representative Henry J. Hyde should need an abortion, the federal government has arranged to have it taken care of without charge. Representative Hyde is covered by the federal employee Blue Cross-Blue Shield health insurance plan, which pays for 100 percent of the cost of any legal abortion performed for any reason. President Carter, Rosalynn Carter and Amy have the same benefit. So do HEW Secretary Joseph Califano and his family. Thanks to the government, none of these people needs to worry about suffering an unwanted pregnancy or back-alley butchery for lack of funds to pay for a competent doctor and decent hospital.

In fact, virtually every federal government employee is covered by a group insurance plan that pays for all or most of the cost of a legal abortion. The government pays for about 60 percent of the cost of this health protection, with the rest coming from the individual employee.

Some of these federal employees have been spending a lot of their working hours lately trying to deprive poor people, equally dependent on the government for their health care arrangements, of the abortion benefit they themselves enjoy. As of this writing, the Senate and the House have been unable to settle their differences over the extent of the abortion exclusion to be written into the 1978 HEW appropriation bill. The Senate wishes to permit abortions under Medicaid and other social service programs whenever the woman's life or health is threatened. The House feels this is too generous, and wants to restrict abortions to occasions when full-term pregnancy would threaten the woman's life. (It has agreed to permit "medical procedures" including dilation and curettage, as long as pregnancy has not been diagnosed.)

Last year's HEW bill actually contains this extreme restriction, known, after its most ardent congressional supporter, as the Hyde amendment. Until the Supreme Court indicated otherwise in June, most people assumed that the Hyde amendment was unconstitutional and therefore unenforceable. Now that it stands as a genuine threat, the Senate is making an admirable attempt to temper its harshness. Meanwhile President Carter and Secretary Califano both are on record in favor of restricting medicaid abortions. If they find the "life or death" language of the Hyde amendment a bit extreme, they are not going out of their way to say so.

Unfortunately, this nasty little measure and all the misery it will cause won't even begin to achieve its symbolic purpose of getting the government out of the abortion business. Not only do government employee health plans cover abortions, the military is a major provider of abortions as well. The regulations governing military hospitals permit abortions to be performed there on military personnel and their dependents, and on military retirees and their dependents (no joke, given the military's extravagant early retirement arrangements) "when medically indicated, or for reasons involving mental health"—the usual code words for "on demand." Furthermore, the military's own CHAMPUS insurance program for civilian medical care of dependents and retirees pays for about 75 percent of the cost of any legal abortion. The plan, as you might expect, is non-contributory, meaning that the government pays the whole premium.

If Carter, Califano and Hyde feel that the government has blood on its hands because of its payment for abortions, why don't they do something about these federal employee health plans and military arrangements? The answer is simple: they wouldn't dare. Federal employees and their families, military personnel and veterans are simply too politically powerful to be denied what most Americans now consider to be a basic health care requirement. Poor people, on the other hand, make the ideal sacrificial victims to pacify the rabid right-to-life campaign. Rarely has the class bias of government policy been more vividly on display.

THE ETHIOPIAN-ISRAELI CONNECTION AND THE HORN OF AFRICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I had recently with the Department of State regarding press reports of continued Israeli-Ethiopian military cooperation. Recent press stories have focussed on continuing Israeli support for the Ethiopian Flame Unit, a relatively new elite combat unit.

This Israeli-Ethiopian cooperation comes at a time when United States-Ethiopian relations are at a low ebb, United States military relations with Ethiopia have been terminated by Ethiopia and Ethiopia is engaged in two regional conflicts, an old one in its Eritrea Province and a new one in the Ogaden area with Somalian forces and Somalian supported forces.

We have both complementary and divergent interests with Israel in the Red Sea and Horn of Africa regions. We desire good relations with both Somalia and Ethiopia. In the present situation it may well be in our interest for states friendly to us to maintain working ties with Ethiopia, but under present conditions, we cannot support continued military supplies coming into the Horn of Africa.

Over the last few years, an important revolution has occurred in Ethiopia. That revolution has not run its course, but many aspects of it have frustrated sincere American efforts to come to grips with a new manifestation of African socialism.

In the coming weeks, it should be our goal to try to defuse tensions in the Horn of Africa. Continued hostilities in this region serve no useful purpose and threaten stability and peaceful development throughout the Red Sea region.

My correspondence with the State Department regarding Israeli-Ethiopian military ties follows:

SEPTEMBER 1, 1977.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: There have been reports recently that the Israeli Government has transferred or loaned a squadron of planes to Ethiopia.

I would like to know whether we have any evidence of Israeli transfers to Ethiopia, whether any U.S. equipment is involved, what the precise extent of Israeli assistance to Ethiopia is at this time, what Ethiopia activities include Israeli military personnel and whether there are still Israeli military advisors in Ethiopia.

I would appreciate an early reply to this matter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and Middle East.

DEPARTMENT OF STATE,
Washington, D.C., October 6, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your letter to the Secretary of September 1, in which you ask about the military relationship between Israel and Ethiopia. I regret the delay in this reply.

It is our understanding that Israel may have transferred small amounts of military equipment to Ethiopia and may have provided some military personnel and training assistance. The extent of such transfers and their precise nature are not known, however, nor do we know whether Israeli advisors are still present in Ethiopia. We have no information to support reports that the Israeli Government has transferred or loaned a squadron of aircraft to Ethiopia.

We have been assured, however, that no equipment of U.S. origin has been involved in such transfers as may have taken place. As you are aware, our policy is not to approve third-country transfers of U.S.-origin equipment which the United States would not itself transfer. As long as our position remains against sales of U.S. equipment to Ethiopia, we would not approve sales by Israel of U.S.-origin equipment to that country.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

LABOR LAW REFORM LONG OVERDUE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. WHALEN. Mr. Speaker, my duties as a member of the U.S. Delegation to the United Nations General Assembly precluded my participation in the debate on H.R. 8410, the Labor Reform Act of 1977. Nevertheless, I feel that it is important to outline my position regarding this important legislation.

When Congress passed the National Labor Relations Act in 1935, it declared it the "policy of the United States—to encourage—the practice and procedure of collective bargaining—by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." Today, that basic principle has been undermined by the growing number of cases before the National Labor Relations Board and by ineffective remedies to thwart needless delay and willful violation of the act. The result: many workers who want a union to represent them at the bargaining table experience unreasonable delays and frustrations because of the sluggish and outmoded procedure involved in gaining recognition for their union. Of course management benefits from such delays since workers have no bargaining power during the interim period.

The NLRB currently takes an average of 2 months to hold an election after receiving a petition from workers seeking union recognition. But if the election is challenged by management, it often takes 2 years to settle the dispute. As the Chattanooga Times recently noted, "There is not much justice for the workers who decide in a secret election that they want to be represented by a union, only to find that the present NLRB procedures are in effect a mechanism for thwarting their right to organize, as they are allowed to do under the Wagner Act of 1935."

Furthermore, without congressional action, the delays will surely worsen. The total number of cases has increased 70 percent in 10 years. Even worse is the increasing backlog of cases. At the end of fiscal 1966, the NLRB had 9,317 cases still pending; by April 30 of this year, that figure had climbed to 20,897.

More ominous, Mr. Speaker, is the increasing number of charges of law violation by employers. While the total number of cases has climbed 70 percent over the last decade, cases involving employer violations has risen by 115 percent. Still more alarming is the growing evidence, so well documented by the hearings conducted by the Labor-Management Relations Subcommittee under the able direction of the gentleman from New Jersey (Mr. THOMPSON), that some employers find it more profitable to break the law than to observe it. The record of one company, J. P. Stevens & Co., is so bad that a three-judge panel of U.S. Court of Appeals recently found that the company's antiunion efforts "raises grave doubts about the ability of the courts to make the provisions of the Federal law work in the face of the persistent violations."

The growing delays and increasing abuse of the labor law clearly indicates that new legislation is necessary. Congress cannot allow the goal of the Wagner Act—to protect the right of workers to organize—to be negated by obsolete procedures and ineffectual penalties.

Many constituents have written me to express their preference for H.R. 8310, the "Employee Bill of Rights Act," over H.R. 8410. While I support at least one provision of H.R. 8310—the religious freedom clause that would protect any individual with religious scruples against belonging to a union from being forced to join one—I oppose the bill itself because it would seriously undermine the system of collective bargaining. Furthermore, the drastic changes it proposes have not been studied by a congressional committee—we have yet to hear a single employee's testimony on this legislation. Finally, I feel that H.R. 8310's provisions do not address the twin problems of increasing procedural delay and rising incidence of labor law violations by employers.

In my view, H.R. 8410 represents the superior approach in correcting the inadequacies of the present law. It is the product of years of study and oversight hearings by the Education and Labor Committee and its subcommittees. Rather than drastically reforming the Wagner Act, it provides the modern means for guaranteeing a workers right to full "freedom of association" by limiting opportunities for bureaucratic delay and by strengthening the penalties for violation of the law. As Labor Secretary Marshall noted, "law-abiding employers and unions have nothing to fear from this bill."

Mr. Speaker, workers attempting to organize a company or unions trying to negotiate a first contract should not be subjected to endless litigation. Had I been present I would have voted for H.R. 8410 because I believe it represents a reasonable method of expediting the labor-management process in a manner consistent with the Wagner Act.

Labor law reform, Mr. Speaker, is long overdue—the shortcomings of the present law were apparent years ago. One panel of labor law experts, chaired by Archibald Cox, had this to say about the need for changes:

> A major weakness in the labor management relations law is the long delay in contested NLRB proceedings. In labor-management relations, justice delayed is often justice denied.

That report was issued in February 1960. Last week, 17 years later, Congress finally acted on its findings.

ISSUANCE OF THE NATHAN HALE COMMEMORATIVE POSTAL CARD

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. DODD. Mr. Speaker, today marks a special event for residents of the town of Coventry as well as for all Americans. The Nathan Hale Stamp Committee together with the U.S. Postal Service will be holding a ceremony for the First Day Issuance of a Nathan Hale Postal Card.

Nathan Hale, a native of Coventry, Conn., is noted for his dedicated contributions to education and to the cause of the American Revolution. Connecticut cherishes with special pride the patriotic spirit of Nathan Hale. He exemplified the ideals of patriotism and freedom for all Americans. It was revolutionary leaders like Nathan Hale who with a burning love for freedom helped to lay the foundations for our existing democratic political system. The importance of freedom was expressed in Nathan Hale's teachings as a school master in East Haddam and New London, and in every action of his life. The story of Nathan Hale is a continuing reminder of his service and sacrifice in the fulfillment of patriotic courage.

Gov. Ella Grasso has issued a proclamation declaring September 22, 1977, as "Nathan Hale Day" in order that the spirit of his sacrifices in the struggle to establish a free and independent United States might be recognized by all citizens of Connecticut.

It gives me great pleasure to bring to the attention of the Members of Congress the magnificent contributions that Nathan Hale made for our Nation as the

commemorative postal card is issued in his honor today.

I would at this point in the RECORD, like to submit a statement by the Antiquarian & Landmarks Society of Hartford, Conn. noting, on this historic occasion, the issuance of the postal card today in Coventry:

Over the years the name of Nathan Hale has become in everyone's mind the ultimate symbol of patriotism and self sacrifice. When volunteering for the dangerous spy mission in 1776, he said: "I am not influenced by the expectation of promotion or pecuniary reward; I wish to be useful, and every kind of service necessary to the public good, becomes honorable by being necessary."

While spoken over 200 years ago by a brave 21 year old youth, born and raised in Connecticut, these noble words may well serve today to inspire everyone concerned with loyalty to and the preservation of his country.

Today, the 1776 Nathan Hale Homestead, South Street, Coventry, Connecticut, birthplace of the patriot, stands as a fitting symbol and lasting memorial to the memory of Nathan Hale. The Nathan Hale Homestead is owned and maintained by the Antiquarian & Landmarks Society, Incorporated of Connecticut and is open daily to the public May 15 through October 15.

The Antiquarian & Landmarks Society is deeply appreciative of the issuance of the new nine-cent postal card bearing the likeness of Nathan Hale. In keeping with the highest ideals of patriotism for which Nathan Hale stood, the Society is proud to have a part, along with the United States Postal Service in perpetuating his last contribution.

SOCIAL SECURITY REFORM SHOULD NOT IMPAIR PUBLIC RETIREMENT PLANS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. McCLORY. Mr. Speaker, today about 9 out of every 10 American workers participate in the social security system. It is becoming increasingly difficult—especially in light of the current social security funding crisis—to justify to the "nine" why the "one" is not covered. Social security is a nationwide social insurance system, and therefore it is a natural and desirable goal to provide for universal coverage.

The Advisory Council on Social Security stated in its most recent report to the President that—

It is of great importance from the standpoint of assuring good protection for all workers on an equitable basis that all jobs be compulsorily covered under social security.

Heeding this advice, the Ways and Means Committee recently voted to require that all American workers participate in Social Security beginning in 1982.

I have received numerous letters and petitions from my constituents who are concerned about certain aspects of the universal coverage provision of H.R. 9346. Therefore, I feel that it is in order to provide an explanation of what the bill will do and what it will not do.

H.R. 9346 would provide universal social security coverage—that is, it would require all Federal employees, all State and local government employees, all the employees of nonprofit organizations—and all Congressmen—to participate in social security. Roughly 70 percent of State and local government employees and 90 percent of the employees of nonprofit organizations are today covered by social security on a voluntary basis. They would not be affected by this provision. However, the bill terminates their option to withdraw from the social security system.

The move to universal coverage is a step which the Congress must take. The social security system suffers a tremendous loss because of the large numbers of noncovered employees who eventually draw social security benefits due to jobs they have held in the past, post-retirement jobs, and moonlighting. These workers get nearly the same benefits as others but pay in far less. Second, millions of people in State and local government service do not have insurance coverage as broad and basic as social security provides. These individuals will be provided with important new protection under this provision. Third, the contributions these workers make will provide important short-term benefits to the social security trust fund and will cause no long-term loss.

Funds from the civil service retirement fund will not be used to shore up social security. The bill cannot and does not authorize that one penny be transferred from any other retirement system to the social security fund. Moreover, it does not change any of the rights or benefits earned by employees under Federal, State, local, or private retirement plans.

Likewise, this bill will not require that the Federal civil service program be merged with social security. At some future time Congress may want to alter the Federal civil service retirement system to take account of the new social security coverage. Even if this should happen, we expect the Federal civil service program to remain a large, independent retirement program—similar to a private pension plan—which would be supplemented by social security benefits. There would not be a "merger."

The bill provides that universal coverage would not become effective until 1982. Prior to this date, in order to assure that no one is burdened with excessive taxes or suffers a loss in benefits, the Civil Service Commission and the Department of Health, Education, and Welfare, along with the appropriate committees of Congress, will conduct a study of the best method to phase in universal coverage. The basic plan is to make adjustments in the Federal civil service retirement program so that the total costs and total benefits to each Federal employee will remain the same when universal coverage begins.

No person should be allowed to suffer an economic loss as a result of universal coverage.

DRUG TRAFFIC LINKED TO TORRIJOS FAMILY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. McDONALD. Mr. Speaker, on October 5 in testimony before the Senate Committee on Foreign Relations calling for the rejection of the Panama Canal Treaty, I called attention to the involvement of the Torrijos family in trafficking in narcotics in our own country.

Since my testimony I note from press accounts that the Attorney General has briefed President Carter in this matter, and that much speculation has been generated as to the extent of this problem. References have been made to sealed indictments and secret reports which can only serve to obscure the known facts.

I would remind my colleagues that our Committee on Merchant Marine and Fisheries in their report to the 92d Congress (January 2, 1973) revealed the narcotics problem that we were experiencing with Panama. A problem that has not been solved and can only be increased by the shameful treaty that seeks to abrogate our national responsibility.

In 1973, the Merchant Marine Committee reported that some 20,000 American drug addicts were getting their daily supply through Panama. The committee reported on a special report prepared by Mr. John Ingersoll, then the Director of the Bureau of Narcotics and Dangerous Drugs that—

Panama is one of the most significant countries for the transshipment of narcotic drugs to the United States. Its geographic location facilitates the illicit traffic because it is a terminus for air and sea transport. Additionally, domestic and international telecon facilities are well developed. The significance of Panama is evidenced by the fact that during the past twelve months, 641 pounds of heroin were seized in the United States which had transited through Panama. This 641 pounds consists of only four single seizures and does not include seizures of less than 100 pounds. . . .

It is clear that the Republic of Panama has not and is not paying sufficient attention to narcotic enforcement activities to achieve noticeable results. This may be due to high level apathy, ignorance and/or collusion.

The committee report continued:

This conclusion was given further support in a January 1972, briefing arranged by Myles Ambrose, former head of the Bureau of Customs. Special agents of the Customs Bureau briefed the Chairman of the Subcommittee on the "major" seizure cases during the pre-Republic of Panama, specifically the Rafael Richard, Nicholas Polanco, Guillermo Gonzalez case. (Information developed during investigation of the case indicates this was the fifth instance wherein similar quantities of heroin were smuggled into the U.S. in this manner.)

The briefing team concluded that based on the Customs investigation this case reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of General Omar Torrijos, and the Panamanian Foreign Minister, Juan Tack. This involvement was confirmed by BNDD officers in the Republic of Panama on February 23 during a Subcommittee briefing in that country. In summary, the Customs files show the following:

Rafael Richard Jr., (23) was arrested in New York on July 8, 1971, with Nicholas Polanco who was chauffer for Guillermo Gonzalez. Gonzalez, a long-time friend and former bodyguard for Moises Torrijos, is Richard's uncle. After his arrest, Customs agents determined that Richard and Polanco were to call Gonzalez in Panama to inform him that the 70 kilos had been delivered to two consignees in New York. Customs instead had Richard call Gonzalez and convince him to come to New York to handle the delivery personally. Gonzalez—who had accompanied Richard on the alleged previous four smugglings of 70 kilos each—came to New York and was arrested by Customs agents. He was found guilty on a narcotics charge and was sentenced to seven years in prison. The Customs agents deduced that because Richard's father was in Taiwan at the time of these transactions that he got his diplomatic passport from Moises who had access to them as a Panamanian Ambassador. Customs confirmed the BNDD report that Juan Tack had personally signed the diplomatic passport despite the fact that Rafael Richard Jr., had absolutely no credentials warranting such a passport.

The 1973 report continued to provide further shocking details of the involvement of Panamanian officials in the drug traffic. It stated:

Another case which prompted the original BNDD assessment of Panamanian official involvement centered around Joaquin Him Gonzalez, a notorious smuggler who was arrested in the Canal Zone by U.S. authorities on February 6, 1971. Within two weeks he was brought to Dallas, Texas, for his active participation in the drug market and tried for conspiracy.

Him Gonzalez was international transit chief at Panama's Tocumen Airport and he used his high position to protect shipments of drugs to the United States. He was accused on this occasion of sending to Dallas somewhat over a million dollars worth of heroin. Gonzalez was allegedly a Torrijos protege and this relationship was made clear when the Panamanian Government mobilized all its resources, something it had not done until that point, for the offender to be returned to Panama. Reports in the press cited the "angry outburst" and "outraged" protest of the Panamanian Government—led by Juan Tack—over the arrest of Gonzalez.

An indication of the duplicity of certain Panamanian officials is found in a comparison of their public statements and their private or official actions in this regard. For example, in October 1972, Colonel Manuel Moriega, the Intelligence Chief of the National Guard, proclaimed a desire for Panama to become the enforcement center for fighting the drug traffic in Latin America. Yet that same month intelligence reports of the United States Government sustains the 1971 BNDD assessment and we still find that Panamanian officials and security agents are allegedly involved in narcotics trafficking. A similar "offer" was made on April 8, 1972, which received worldwide publicity. However, U.S. officials, when questioned by the Subcommittee, were unaware of any direct contact by the Panamanian Government which would have brought this about.

The arrest of Manuel Rojas Sucre, the nephew of Panama's Vice President Arturo Sucre at Kennedy International Airport on December 3, 1972, with cocaine, liquid hashish, and a diplomatic passport (his mother is Panama's consul general in Montreal) is further indication of a need for continued efforts by the United States Government to impress upon the Panamanians the seriousness with which we view the drug problem.

Then as now, there was information of a coverup by our Department of State, House Report 92–1629 stating:

THE POSITION OF THE DEPARTMENT OF STATE

The State Department has had a history policy of ignoring or denying the involvement in the narcotics traffic into the United States of high-ranking officials of friendly foreign governments.

While the Department has taken a "soft" approach to the narcotics problem generally, in Panama it has reached an absurd extreme. For example, the Subcommittee was told by the director of the BNDD that as a result of the strong Panamanian objections to the arrest of Him Gonzalez, it is highly doubtful that the State Dep.rtment would ever again allow the arrest of a Panamanian national in the Canal Zone; BNDD agents claimed the Panamanians were only paying lip service to narcotic drug enforcement and that the big trafficking was going on full tilt with the knowledge, sanction and even involvement of certain Panamanian officials and Guardia members.

The report continued by quoting a Government law enforcement intelligence report which in part read:

Generally speaking, the greatest detriment to effective enforcement in Latin America is corruption. The corruption goes all the way to the top of some Latin American governments. One of the more glaring examples of official corruption is the country of Panama, . . .

. . . Because of the known involvement of Panamanian government officials in the international narcotics traffic, the U.S. Government should take a firm stand in the current negotiation of a new treaty for the continued use of the Panama Canal Zone.

Mr. Speaker, we have no information that there has been any change in the Panamanian attitude toward flooding our country with narcotics. Just the reverse. Moises Torrijos, who has a currently pending indictment in the United States for trafficking in narcotics, has been appointed as the Panamanian Ambassador to Spain.

I am urging that the appropriate committee hold public hearings on the present state of the narcotics traffic in Panama and the involvement of the Torrijos family in these activities.

NATURAL GAS REGULATION: THE BIG RIPOFF

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. EDGAR. Mr. Speaker, I would like to congratulate the President for correctly pointing out the "war profiteering" which would result by allowing domestic energy producers to "ripoff" American consumers by becoming de facto members of the OPEC cartel. Yesterday, an excellent article by Hobart Rowen, which appeared on the op-ed page of the Washington Post pointed out the absurdity of a policy of natural gas deregulation. The article calls to mind the study released last month by the Subcommittee on Energy of the Joint Economic Committee which explodes the myths about the need for deregulation.

I would like to share with my colleagues the conclusions of this study and I urge my colleagues to obtain a copy of the full report from the committee. I would also like to share the article by Mr. Rowen, which I feel is right on target:

[A staff study from the Subcommittee on Energy of the Joint Economic Committee]

THE ECONOMICS OF THE NATURAL GAS CONTROVERSY

CONCLUSIONS

This paper has been prepared to provide information and discussion on the economics of the natural gas pricing issue. It describes the historical experience under Federal Power Commission price controls, potential future supplies of gas, and methods for curbing demand. The potential macroeconomic effects of natural gas price increases are dealt with along with measures by which the natural gas pricing dilemma can be resolved.

Some of the more important points made in the study are:

The early years of Federal Power Commission (FPC) regulation probably resulted in prices higher than would have been the case without regulation. However, the 1960s saw real prices decline as a result of controls.

Savings on the order of $6.7 to $12.0 billion annually accrued to both inter and intrastate gas users during the 1960s as a result of controls.

New reserve additions dropped sharply after 1967, and production declines followed in 1973. Drilling activity, especially for gas wells, has risen sharply since 1973.

The existing regulatory structure will result in substantial rises in gas prices in the foreseeable future. Under prevailing tariff rulings, consumers eventually will pay $10 billion per year more than they are paying now for today's supply of gas.

The lower 48 States and readily accessible offshore areas already have been extensively exploited. Recent estimates see much lower potential reserves discovered compared to just a few years ago. Estimates of possible production levels have been consistently reduced, even at high projected prices.

Production economics are such that higher prices beget higher costs. Potential excess profits in the producing sector are, to a significant extent, captured by the equipment and labor supply sectors and mineral rights owners.

Expectations of increasing gas prices create a situation in which gas left in the ground is perceived as a better investment than cash in the bank. An incentive to withhold production is thereby created. There is circumstantial evidence that producers recently have been responding to this incentive and withholding production.

At today's prices, only wells with very high costs and low potential production will not be produced. No substantial finds will be rendered uneconomic by maintaining price constraints within today's price range.

The profitability of new energy production in the United States remains higher and more secure than in virtually any other part of the world.

An unambiguous statement that gas price increases will be limited to moderate rates below the returns on other investments is essential to end the incentive to withhold production. Such a clarification of price policy must be a primary objective of Congress as it considers legislation reforming natural gas regulation.

The demand for gas is not very price sensitive, implying that price is a relatively poor conservation tool, especially in the short run.

In the face of rigid constraints on domestic supply and the very limited availability of natural gas imports, gas prices in the absence of controls could go to extremely high levels. High prices for domestic production can be

justified, however, only to the extent that they serve U.S. national purposes such as reduced import dependency.

After the 1973 oil embargo, energy prices rose by $58 billion over a two-year period, causing perhaps one-half of the inflation of 1974 and 1975.

The immediate deregulation of gas prices would cause similar, although smaller, inflationary effects. Under deregulation, the Nation's gas bill would be about $25 billion per year higher than under extension of the regulatory status quo.

Because clauses in many existing natural gas contracts for large volumes of gas stipulate price renegotiation in the event of deregulation, this action would increase prices on old as well as new gas, unless measures are specifically mandated to proscribe this. Old gas prices would then gravitate toward the upper price level.

There are numerous ways in which the potential inflationary impact can be both minimized and spread out over time. The most important options are:

(i) A ceiling price which would prevent scarcity pricing of gas;

(ii) A tight definition describing what gas is eligible for the higher price. This will place the incentive strictly on the discovery of truly new gas in locations other than in currently known producing fields;

(iii) Strong measures to ensure that producers continue to deliver old gas at old gas prices;

(iv) Measures to protect intrastate gas users from higher energy prices;

(v) Unification of the national gas market and abolition of the inter-intrastate dichotomy is desperately needed in order to achieve a semblance of proper allocation.

[From the Washington Post, Oct. 13, 1977]

GAS DEREGULATION: "THE PUBLIC IS BEING HAD"

(By Hobart Rowen)

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.).

It's important to get some impression of the monumental nature of the ripoff. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 per cent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 per cent, and profits boomed by 50 per cent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observes that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-tax-table maximum of 48 per cent. Of course, no industry pays 48 per cent. "If they paid more than 7 per cent [as an effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.03 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming. . . .

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower, for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious worldwide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispers, fretful of the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about moral attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural-gas prices as well.

TREATIES WITH LIBERIA NOT AFFECTED BY CARGO EQUITY LEGISLATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. MURPHY of New York. Mr. Speaker, one of the arguments offered in opposition to cargo equity legislation is that the bill would create some conflict with existing treaties with other seagoing nations. In that vein, I recently received a communication from the Ambassador of Liberia—a nation which provides a very large percentage of the documentation for foreign-flag vessels which carry American-bound cargoes—the essence of which was the Ambassador's concern for the effect of the legislation on existing treaties.

I would therefore like to enter into the RECORD the copies of both his letter to me expressing his concern about the matter, and my reply to him which indicates that the findings of the Merchant Marine and Fisheries Committee do not support such an allegation. Indeed, the Department of State has not supplied us with any such information, which we had specifically requested during hearings on the bill.

It is such misinformation which has plagued the committee during the consideration of this vital legislation. I trust that the Members of Congress who are interested in fact rather than fiction will take note of this exchange.

EMBASSY OF THE REPUBLIC OF LIBERIA,
Washington, September 30, 1977.

Hon. JOHN M. MURPHY,
Chairman of the Merchant Marine and Fishery Committee, U.S. House of Representatives, Capitol Hill, Washington, D.C.

MR. CHAIRMAN: An article in the September 30th, 1977 issue of the Journal of Commerce of New York, New York, reported that Honourable John M. Murphy, Chairman of the Merchant Marine and Fishery Committee, declared in a letter to each member of the House of Representatives that the United States does not have treaty obligations to the Republic of Liberia. I respectfully wish to advise that on August 8, 1938, the United States and Liberia entered into a Treaty of Friendship, Commerce, and Navigation which was subsequently ratified by each country and which has remained in effect since November 21, 1939 (54–Stat. 175) (TS No. 956).

The terms of the treaty would, in the opinion of the Republic of Liberia, clearly be violated by either nation's unilateral allocation of a percentage of its commercial cargoes in international shipping on the basis of national flag.

Very sincerely yours,

FRANCIS A. DENNIS,
Ambassador.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C., October 12, 1977.

His Excellency FRANCIS A. DENNIS,
Ambassador of the Republic of Liberia, Washington, D.C.

DEAR MR. AMBASSADOR: This will acknowledge receipt of your letter of September 30, 1977, in which you called my attention to the fact that the United States and Liberia entered into a Treaty of Friendship, Commerce, and Navigation which has remained in effect since November 21, 1939. You questioned an article in the Journal of Commerce, reporting an earlier statement attributed to me to the effect that the United Sates does not have treaty obligations with the Republic of Liberia. Although the language in question may be ambiguous to some, the intent was that there is no such treaty obligation which would guarantee equal access to cargo.

While I appreciate the fact that you wish the record to be absolutely correct, and are concerned on the subject of treaties between our respective nations, I question the propriety of my entering into a direct discussion with a foreign representative on differences of opinion in the interpretation of treaties existing between our two nations.

In connection with the Journal of Commerce report, I point out that in the wording

of my letter of September 22, 1977 to certain Members of the House of Representatives, in connection with legislation pending before the House, I stated that the United States does not have *such* (emphasis added) treaty obligations, referring to certain treaties with other nations.

I have carefully reviewed the Treaty of Friendship, Commerce, and Navigation between the United States and Liberia, signed at Monrovia on August 13, 1938 and ratifications exchanged at Monrovia, November 21, 1939. I can find nothing in the terms of that Treaty which would be violated by the enactment of H.R. 1037. In considering this same subject, the Committee on Merchant Marine and Fisheries has requested from the Department of State the citation of any treaty provisions involved not only in our treaty obligations with the Republic of Liberia but also with any other nation which would be violated by the passage of cargo equity legislation. Thus far, we have received no such information.

Since I note that in your letter you make reference to a clear violation of the terms of the Treaty, presumably by the passage of H.R. 1037, I respectfully suggest that it would be in the interest of both our governments if you would express your concern to the Secretary of State, with specific citations as to the articles of the treaty involved. The Secretary of State would then be in a position to furnish to the responsible Congressional officials the specific information which the Congress should take into account on the subject of our treaty obligations.

I sincerely appreciate your concerns, and I understand the reason for expressing those concerns directly to me. However, I believe that the discussion would be more fruitful and better handled if the detailed information which would be necessary were transmitted through regular diplomatic arrangements.

With assurances of my highest personal regard, I remain,

Very truly yours,

JOHN M. MURPHY,
Chairman.

SENATE—*Monday, October 17, 1977*

(Legislative day of Tuesday, October 11, 1977)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

God of grace and God of glory, we thank Thee for Founding Fathers who built an altar of faith at the heart of our national life and kindled a flame upon it in the morning hours in this Chamber. Thou knowest we need Thee every hour of every day. Grant us wisdom, grant us courage for the living of these days. When there is darkness give us the sight and insight of the pure in heart. When there is confusion and uncertainty keep our minds clear and clean that we may speak for justice and freedom and brotherhood. And when some grow mad and sad give us the grace and serenity, the peace and power of Thy spirit that we may be instruments of healing in our troubled world.

For thine is the kingdom and the power and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 17, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, October 13, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE DURING THE RECESS

Under authority of the order of October 13, 1977, a message from the House of Representatives was received on October 14, 1977, stating:

The House further insists upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes; requests a further conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. FUQUA, Mr. FLOWERS, Mr. MCCORMACK, Mr. BROWN of California, Mr. THORNTON, Mr. OTTINGER, Mr. HARKIN, Mr. AMBRO, Mrs. LLOYD of Tennessee, Mr. WATKINS, Mr. WYDLER, Mr. WINN, Mr. FREY, Mr. GOLDWATER, and Mr. GARY A. MYERS were appointed managers of the Conference on the part of the House.

The House agrees to the amendment of the Senate to the bill (H.R. 5675) to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The House agrees without amendment to the concurrent resolution (S. Con. Res. 46) providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3816. An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes;

H.R. 8309. An act authorizing certain public works on rivers for navigation, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

H.R. 6415. An act to extend and amend the Export-Import Bank Act of 1945.

S.J. Res. 89. Joint resolution to amend the act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session).

The enrolled bill and joint resolution were signed on October 14, 1977, by the Acting President pro tempore (Mr. METCALF).

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

TIME-LIMITATION AGREEMENT—H.R. 5383, AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 5383, Calendar No. 451, is made the pending business before the Senate, there be a time limitation thereon of 1½ hours of debate on the bill, to be equally divided between Mr. WILLIAMS and Mr. JAVITS; that there be a time limitation on any amendment of 1 hour; that there be a time limitation on any debatable motion, appeal, or point of order of 20 minutes; and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 5383 (Order No. 451), an act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1½ hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. WILLIAMS) and the

Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, at the moment, I have no indication of need for my time.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

THE CASE FOR THE ESKIMOS AND THE BOWHEAD WHALE

Mr. STEVENS. Mr. President, I call to the attention of the Senate the editorial in the Washington Post this morning by William Byler, the executive director of the American Association of Indian Affairs. Mr. Byler has stated categorically and concisely the case for the Alaska Eskimo and the bowhead whale. He has urged the administration once again to take a firm position with the International Whaling Commission to protect those who hunt whales for subsistence purposes while, at the same time, continuing very vigorously the longstanding U.S. policy against commercial hunting of whales. I ask unanimous consent that that article by Mr. Byler be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE FOR THE ESKIMOS * * * AND THE BOWHEAD WHALE

(By William Byler)

The whites told only one side.
Told it to please themselves.
Told much that is not true.
Only his own best deed, only the worst deeds of the Indians has the white man told.—Yellow Fork of the Nez Percé.

In June 1977, without prior notice to the Eskimo community, the International Whaling Commission imposed a moratorium on Eskimo hunting of the bowhead whale—hunting that has taken place for more than 7,000 years. By Oct. 24 the United States must decide whether to preserve the Eskimos' historic right to hunt the bowhead whale or whether to abide by the potentially genocidal actions of the IWC.

To date, The Post has told only one side of this issue. In its Oct. 1 editorial and in full-page advertisements on Sept. 28 and Oct. 12, The Post has presented the putative case for the magnificent bowhead whale. This is the case for the Eskimos . . . and the bowhead.

The death threat posed by the IWC action to the Eskimo culture is, of course, a proper question for public dialogue, editorial comment and advertisements for those who can afford to commercialize their point of view. However, the dialogue and debate (at least within the parameters of The Post) has ignored to date the fateful admonitions of history. We sentenced the American Indian culture to death by slaughtering the great herds of buffalo and forcing him at gunpoint to live like the white man. Regrettably, some extremists are so bent on allegedly preserving the bowhead whale species that they are prepared to sentence the Eskimo culture, and concomitantly, the Eskimo people as a distinct ethnic group, to death without trial or hearing. How can sensitive and concerned people care so much for whales and so little for their fellow man?

The Oct. 1 editorial states in part: "The issue with the Eskimos has more to do with human exploitation than with human rights."

Nothing could be further from the truth.

Do not take our word for it. Seek the opinion of Secretary of the Interior Cecil Andrus, who has determined that the United States must file an objection to the IWC's arbitrary action because the federal government has a special trust responsibility to the Eskimos.

The editorial and the advertisements make the claim that in the 1977 spring hunt, 79 whales were struck and lost. Again, nothing could be further from the truth. This phony census counted many struck whales twice or even more; was based on spotty interviews with a few observers of the 1977 spring hunt rather than the whalers themselves; and is founded on so little objective evidence that no one takes the figure seriously, except, perhaps, The Post.

There can be no serious question but that the editorial writer and those who paid for the full-page advertisements are genuinely concerned about the bowhead whale species.

Much is made of the United States as the world's conscience in whaling matters. The Eskimos support the United States in those international efforts. But commercial whaling is for profit; aboriginal whaling is for food and celebration of a culture thousands of years old.

Moreover, there is ample evidence to support the Eskimos' claim that the bowhead population has been increasing or is at least stabilized. In 1964, Rice estimated the population at 1,000; in 1973 Harry estimated the population to be between 1,000 and 3,000; in 1974, Durham estimated 2,500 whales; in the same year Mitchell estimated the population to be in the high hundreds or low thousands; in 1975, Fry estimated 1,000 whales; and in 1976, Sheffer estimated 2,000 whales.

These estimates would not seem to support the assertion that the bowhead species is losing population, let alone threatened with extinction by subsistence hunting.

The editorial and the advertisements make the unsupported allegation that the 7,000-year-old hunt is "wasteful" and that two-thirds of each bowhead carcass is discarded by the Eskimos.

And again, nothing could be further from the truth.

The Environmental Impact Hearings held by the Department of Commerce have fully documented our claim that every carcass is utilized to the maximum extent possible.

Why have you failed to report on the creation of the Alaskan Eskimo Whaling Commission? This entity will be supported by Eskimo funds and is focusing its initial effort on bowhead whale research far more sophisticated than any undertaken to date by the white man. It has also taken steps to minimize the striking of whales that then escape.

Far more than self-styled conservationists, the Eskimos realize the importance of preserving the bowhead whale. For the Eskimo to do otherwise would be self-destructive, given the integral importance of the hunt and the whale itself to the unique Eskimo culture.

Eskimo community restraints have worked effectively in the past to limit the number of whales killed, and the species have survived and may even be increasing. There is no reason to believe self-determination and self-restraint will not work in the future, particularly in light of the Alaskan Whaling Commission's intent to control Eskimo whaling activities.

As Motavato (Black Kettle) said to the Indians at Medicine Creek Lodge:

We were once friends with whites, but you nudged us out of the way by your intrigues, and now when we are in council you keep nudging each other. Why don't you talk, and go straight, and let all be well?

This is all that the Eskimos ask. Go straight with them, and all will be well for the Eskimos and for those sincerely interested in whale conservation . . . and culture preservation.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may retrieve the time I yielded back so I may put in a quorum to charge against it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following three calendar orders, numbered 450, 452, and 453, all of which have been cleared for action by unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GEN. THADDEUS KOSCIUSZKO MEMORIAL

The joint resolution (H.J. Res. 573) commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–491), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The purpose of this resolution is to provide congressional sanction to a ceremonial event already scheduled to occur. No cost to the American taxpayer is involved.

October 17, 1977, marks the 200th anniversary of the battle of Saratoga, during which, in the words of the resolution, General Thaddeus Kosciuszko "played a vital and significant role." The American Council of Polish Cultural Clubs has arranged for a memorial plaque to be erected near the Kosciuszko sarcophagus in Krakow on the anniversary date. The U.S. Ambassador to Poland will make the presentation.

The plaque will bear the words "On the Bicentennial Anniversary of the victory at Saratoga, October 17, 1977, grateful America remembers General T. Kosciuszko, fighter for your freedom and ours." Enactment of this resolution will provide for additional words to appear at the plaque's base: "A gift to the people of Poland by joint resolution of the Congress of the United States."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF HEARINGS ON PANAMA CANAL TREATY, PART 2

The resolution (S. Res. 289) authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of the United States Territory), Part 2," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and eighty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 2".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–494), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 289 would authorize the printing for the use of the Committee on the Judiciary of 380 additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of the United States Territory), Part 2".

The printing-cost estimate supplied by the Public Printer is as follows:

Printing-cost estimate

380 additional copies at $3,154 per 1,000 ---------- $1,197

A letter in support of Senate Resolution 289, addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration by Senator James B. Allen, chairman of the Subcommittee on Separation of Powers, Committee on the Judiciary, and also signed by Senator James O. Eastland and Senator Strom Thurmond, chairman and ranking minority members, respectively, of the Committee on the Judiciary, follows:

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON SEPARATION OF POWERS,
Washington, D.C., October 12, 1977.

Senator HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: The Subcommittee on Separation of Powers has received countless requests for printed copies of hearings on the "Panama Canal Treay (Disposition of United States Territory), Parts 1 and 2", which requests have gone unfilled inasmuch as supplies of the hearings have been exhausted by prior public demand. The bulk of these requests have come from educational organizations and governmental agencies, and in my judgment the public would be served by the additional printing which would be authorized by Senate Resolution 289 and Senate Resolution 290.

Accordingly, I respectfully request the committee report favorably on the two resolutions.

Respectfully,

JAMES B. ALLEN,
JAMES O. EASTLAND,
Chairman, Judiciary Committee.
STROM THURMOND,
Ranking Minority Member, Judiciary Committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF HEARINGS ON PANAMA CANAL TREATY, PART 1

The resolution (S. Res. 290) authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and sixty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–495), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 290 would authorize the printing for the use of the Committee on the Judiciary of 360 additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1."

The printing-cost estimate supplied by the Public Printer is as follows:

Printing-cost estimate

360 additional copies at $3,333.02 per 1,000---------- $1, 198. 80

A letter in support of Senate Resolution 290, addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator James B. Allen, chairman of the Subcommittee on Separation of Powers, Committee on the Judiciary, and also signed by Senator James O. Eastland and Senator Strom Thurmond, chairman and ranking minority member, respectively, of the Committee on the Judiciary, follows:

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON THE SEPARATION OF POWERS,
Washington, D.C. October 12, 1977.

Senator HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: The Subcommittee on Separation of Powers has received countless requests for printed copies of hearings on the "Panama Canal Treaty (Disposition of United States Territory), Parts 1 and 2", which requests have gone unfilled inasmuch as supplies of the hearings have been exhausted by prior public demand. The bulk of these requests have come from educational organizations and governmental agencies, and, in my judgment, the public would be served by the additional printing which would be authorized by S. Res. 289 and S. Res. 290.

Accordingly, I respectfully request the committee report favorably on the two resolutions.

Respectfully,

JAMES B. ALLEN,
JAMES O. EASTLAND,
Chairman, Judiciary Committee.
STROM THURMOND,
Ranking Minority Member, Judiciary Committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield so much of the leadership time as the Senator from Kansas desires to use.

Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. STEVENS. There are 10 minutes remaining. The Senator may have all of it.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized for 10 minutes.

TREATY AMENDMENTS WOULD CONFIRM JOINT STATEMENT

Mr. DOLE. Mr. President, I am today submitting two amendments to the "treaty concerning the permanent neutrality and operation of the Panama Canal" which is now pending before the U.S. Senate. My amendments are based upon the joint statement issued by President Carter and Panamanian Gen. Omar Torrijos last Friday concerning American defense and passage rights to be guaranteed under this treaty. The Carter-Torrijos statement was intended to reconcile differing interpretations of our rights to defend the canal and to transit the canal quickly in time of crisis. My amendments are intended to clear up the ambiguities in the treaty itself which caused those differences in interpretation. In so doing, I am using virtually the same language contained in the joint statement of October 14.

A POSITIVE STEP

I think that the joint statement issued on Friday by President Carter and General Torrijos was a step in the right direction in clearing up confusion over our defense and passage rights under the Panama Canal Treaty. This had become a source of extreme concern to myself, and to many other Members of the Senate. The Carter-Torrijos statement indicates that there is, at least, some agreement between the two heads of state about U.S. rights under the treaty. But it does not end there. The solution is not that simple.

Since the leaders of both nations have agreed upon this more specific language, it should be incorporated into the treaty itself. There is no longer any justification for leaving the treaty language ambiguous. In fact, it is essential that the treaty itself be modified to reflect the agreement.

AGREEMENT MUST BE WRITTEN INTO LAW

It is important to remember that the joint statement, by itself, is not binding. It has no legal effect. In fact, General Torrijos announced on his return to Panama that he did not sign anything while he was in Washington. So I would

suggest that he may not think it is even binding at all. Neither Carter nor Torrijos will occupy positions of authority when the treaty provisions becomes significant in the year 2000, so there must be some basis in law to insure that their pledge will be honored.

It is for that reason, that I am introducing these two amendments to the treaty on permanent neutrality, containing language which is virtually identical to that in the Carter-Torrijos statement.

Because my amendments seek to incorporate the same language used in the statement, I trust that the administration will have no objections to their adoption by the Senate. For several weeks now, the administration has argued that any amendments or reservations to the Panama Canal treaties would be unacceptable because they would require renegotiation of certain portions of the treaties. But the Carter-Torrijos agreement disproves the notion that renegotiation of certain parts of these treaties is impossible. It disproves the notion that the present proposal is necessarily "the best treaty we can get."

In fact, improvements in both the basic treaty and the treaty on permanent neutrality are both possible and practical. I believe that Congress has a responsibility to continue to press for direct clraflications and improvements in both treaties. Certainly, the joint statement issued last Friday would never have been made if congressional pressure for clarification had not been exerted during the past several days.

Previously, I introduced amendments and reservations bearing on other aspects of these treaties as well. Each of them is based upon genuine concern about significant portions of the treaties. I do not undertake these modification efforts lightly. But I do think that this recent instance has demonstrated just how important it is that all of us in the Senate continue to carefully analyze this treaty for possible defects or omissions. And if we find them, we must seek to correct them. This is our constitutional responsibility and our duty to the American people.

Mr. President, I ask unanimous consent that the text of the amendments be printed in the RECORD at this point.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMDT. No. 7 (EXEC. 95–1)

At the end of article IV, add the following: "Each of the Parties shall, in accordance with their respective constitutional processes, defend the Canal against any threat to such regime of neutrality, and shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal. Any United States action shall be directed at insuring that the Canal shall remain open, secure, and accessible, and such action shall not be directed against the territorial integrity or political independence of the Republic of Panama.".

AMDT. No. 8 (EXEC. 95–1)

At the end of the first paragraph of article VI, add the following: "The provisions of this paragraph are for the purpose of, and shall be construed as, assuring the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, assuring that such vessesl go to the head of the line of vessels awaiting transit of the Canal, in order to transit the Canal rapidly.".

PRIVILEGE OF THE FLOOR—H.R. 3387

Mr. DOLE. Mr. President, I ask unanimous consent that Sheila Burke of my staff be granted privilege of the floor during consideration and votes on H.R. 3387.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask that the time that may be remaining be held available in the event the Senator from New Mexico wishes to use it now. I do not know what the plan might be.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

H.R. 8309—RIVERS AND HARBORS AUTHORIZATIONS

Mr. DOMENICI. Mr. President, have we received a message from the House on H.R. 8309?

The ACTING PRESIDENT pro tempore. It was received Friday last under the authority to receive messages.

Mr. DOMENICI. Mr. President, I ask unanimous consent that H.R. 8309 be considered as having been read twice.

Mr. LONG. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be read for the first time by title.

The legislative clerk read as follows:

H.R. 8309, an act authorizing certain public works on rivers for navigation, and for other purposes.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senate will state it.

Mr. DOMENICI. Mr. President, is it correct that based upon my request and the objection to it, and with the bill having been read, as it just was, for the first time, that the next event that will occur is that if the Senate adjourns it will then be read for the second time, unless there is objection?

The ACTING PRESIDENT pro tempore. Objection will not lie. After the adjournment of the Senate and the Senate reconvenes, it will be read the second time.

Mr. DOMENICI. I thank the Chair.

Mr. President, I have taken action that I hope will lead to the placing of H.R. 8309 on the Senate calendar. This is not an effort to circumvent the rights of any Member. But because the Senate has considered these issues at great length earlier this year, my action seeks to facilitate the most prompt action possible on this important legislation.

H.R. 8309 involves two interwoven issues: Proposals for establishment of a waterway users charge, and the reconstruction of locks and dam 26 on the Mississippi River at Alton, Ill. The Senate resolved our position on these issues 4 months ago, on June 22. I do not believe that these issues need be delayed further by a complicated referrel procedure that would probably involve three committees, with multiple reports back to the Senate.

These issues have been before the Senate for a year. Last autumn, the threat of a fillibuster forced the removal of two similar provisions from a then-pending water resources bill. At that time, the distinguished chairman of the Water Resources Subcommittee, Mr. GRAVEL, and I pledged to our Senate colleagues that we would work in committee to reach an early resolution on these issues.

We achieved that objective, I believe, by reporting S. 790 to the Senate earlier this year. S. 790 was then attached on the Senate floor to a new water resources bill, S. 1529. The Senate substituted the language of S. 1529 for the language of a water resources bill out of the House (H.R. 5885), asked for a conference, and appointed conferees. The House never responded to that request for a conference.

Instead, the House took a course designed to avoid consideration of the Senate-passed version of H.R. 5885. The House developed this new bill, H.R. 8309, in the apparent hope that the Senate's position on waterway user charges, embodied in H.R. 5885, would die or be forgotten without a fair hearing in conference.

By asking now that this new bill (H.R. 8309) be read and placed on the calendar, I in no way wish to bypass any Senator or any committee. But I believe that placing the bill on the calendar will encourage all of us to act with dispatch and to move ahead with consideration of waterway user charges, to get to conference during this session, and to resolve the issues finally before the adjournment.

While the differences between the Senate and House approaches is significant, they can and must be resolved quickly. The House calls for a recovery rate from the barge industry of less than 10 percent of what the taxpayers spend annually on inland waterway improvements benefiting the big barge companies. The approach already adopted by the Senate calls for a decade-long phase-in of a user charge related directly to the level of expenditure, retaining a 50-percent taxpayer subsidy on new construction. That subsidy, I might add, is a far more generous Federal handout than that which is given to communities for a water supply project, or to a farmer buying Federal hydropower, or to competing systems of transportation.

When H.R. 8309 is brought up on the floor, I shall propose to substitute the language already adopted by the Senate, language the House has sought to ignore. My amendment will not alter the fuel tax provision in the House bill; rather, the

fuel tax would be a credit against user charges due under the Senate-passed approach. Mr. President, I believe such an approach will result in a fair and reasonable solution.

And I believe that my approach is the only one that will assure passage into law of an authorization for the construction of locks and dam 26. We all know that the administration has opposed user charges as low as those contained in the House bill. To reach the goal of the waterway industry, and to assure a more balanced national transportation policy, I believe it is in the interest of all of us to act quickly on H.R. 8309, and to reiterate our Senate position by repassing the Senate's comprehensive waterway user charges amendment.

I can assure my colleagues that if my amendment is adopted, I will work day and night to obtain an early resolution with the representatives of the other body.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, has the bill been laid before the Senate? I am talking about the order of business for today.

SOCIAL SECURITY SERVICES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3387, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3387) to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. (a) For purposes of title XX of the Social Security Act, section 3 of Public Law 94–401 shall be deemed to apply to the fiscal year ending September 30, 1978, in the same manner in which such section applies to the fiscal year ending September 30, 1977; except that the figure "108" in section 3(a)(1)(B) of such Public Law shall, with respect to the fiscal year ending September 30, 1978, be deemed to read "102.667".

(b) Section 5(b) of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "January 31, 1978" and "February 1, 1978", respectively.

(c) Section 6 of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "January 31, 1978" and "February 1, 1978", respectively.

(d) Section 7(a)(3) of Public Law 93–647 is amended by striking out "October 1, 1977" and inserting in lieu thereof "February 1, 1978".

(e) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 (definition of Federal welfare recipient employment incentive expenses) is amended by striking out "October 1, 1977" and inserting in lieu thereof "February 1, 1978".

(f) Section 6 of Public Law 95–59 is amended—

(1) by striking out "for calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977" and inserting in lieu thereof "for the period commencing April 1, 1977, and ending January 31, 1978"; and

(2) by striking out "April 1, 1977" the second place it appears and inserting in lieu thereof "October 1, 1977".

(g) The amendments made by this section shall be effective on October 1, 1977.

SEC. 2. (a) Section 3304(a)(6)(A) of the Internal Revenue Code (relating to approval of State unemployment compensation laws) is amended by striking out "and" and the end of clause (ii) and by adding at the end thereof the following new clause:

"(iv) with respect to any services described in clause (i) or (ii), compensation payable on the basis of services in any such capacity may be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose an 'educational service agency' means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and".

(b) The amendment made by subsection (a) shall apply with respect to weeks of unemployment which begin after December 31, 1977.

SEC. 3. (a)(1) Section 403(a) of the Social Security Act is amended by striking out "10" in each of the last two sentences and inserting in lieu thereof "20".

(2) Section 406(b) of such Act is amended—

(A) by striking out the semicolon at the end of clause (2)(E) and inserting in lieu thereof a period; and

(B) by adding at the end thereof (after and below clause (2)(E)) the following new sentences:

"Payments with respect to a dependent child which are intended to enable the recipient to pay for spcific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.".

(3)(A) Section 406(b) of such Act is further amended by adding at the end thereof (after the new sentences added by paragraph (2)(B) of this subsection) the following new paragraph:

"In addition, payments with respect to a dependent child to cover the cost of utility services or living accommodations or any part thereof may be made (in the discretion of the State or local agency administering the plan in the political subdivision but without regard to any determination under clause (2)(A)) in the form of checks drawn jointly to the order of the recipient and the person furnishing such services or accommodations and negotiable only upon endorsement by both such recipient and such person, if such child or the relative with whom he is living specifically so requests in writing; but not more than 50 per centum of the amount of the aid which is payable with respect to such child for any month may be paid in that form, and any such request shall be effective until revoked by the child or relative.".

(B) The last sentence of section 403(a) of such Act is amended by inserting before the period at the end thereof the following: ", or any individual with respect to whom payments of the type involved are made (without regard to clause (2) of section 406(b) or the second sentence of such section) upon request as provided in the last paragraph of such section".

(4) The amendments made by this subsection shall apply with respect to payments of aid to families with dependent children made for months beginning on or after October 1, 1977; except that the amendments made by paragraph (3) shall be effective only with respect to payments of aid to families with dependent children made for months during the twenty-four-month period beginning October 1, 1977.

(b) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act, for quarters (with respect to which expenditure reports were timely filed by the State) during the period beginning with the calendar quarter in which Public Law 90–248 was enacted and ending with the first calendar quarter of 1977, shall not be denied, on or after October 1, 1977, by reason of the provision of goods, services, or items in the form of a check which is drawn jointly to the order of such goods, services, or items and which shows the purpose for which the check is drawn, or by reason of the failure of the State to meet the requirement of the last two sentences of section 403(a) of such Act or the failure of the State (or any political subdivision thereof) to carry out the functions and duties prescribed in clauses (A), (B), (C), and (E) of section 406(b)(2) of such Act, regardless of the form in which the aid involved was paid, if (and to the extent that) the amount of such aid was correct and the payment of the aid in that form did not result in assistance in cases or in amounts not authorized by or under part A of title IV of such Act.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Nebraska (Mr. CURTIS), with 1 hour on any amendment, except one to be offered by the Senator from New York (Mr. JAVITS), on which there shall be 2 hours, and one to be offered by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 1½ hours, with 20 minutes on any debatable motion, appeal, or point of order.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, is it necessary to yield back the remainder of our time?

The ACTING PRESIDENT pro tempore. The time has expired.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that during Senate consideration of H.R. 3387, including votes, the following staff members of the Committee on Finance be accorded the privilege of the floor: Michael Stern, Joseph Humphreys, William Galvin, Jay Constantine, Robert Hoyer, John Kern, George Pritts, and Dave Swoap.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, at the end of last month, the Finance Committee reported out a bill with an amendment that involves a number of provisions which had October 1 deadlines. The committee added this amendment to H.R. 3387, a minor tariff bill. The committee amendment would extend for an additional 4 months, through the end of January 1978, expiring provisions relating to additional child care funding, the use of the added funding for employment of welfare recipients, a tax credit related to the hiring of welfare recipients for child care jobs, a suspension of certain Federal child care staffing standards, and certain provisions concerning social services for drug addicts and alcoholics.

The committee bill also contains a provision relating to protective and vendor payments under the aid to families with dependent children program which has already been approved by the House of Representatives, and a provision making a conforming change in the unemployment insurance program. Another part of the bill provides for the suspension of certain HEW reduction in medicaid funding. This provision is no longer necessary since a similar provision is included in another bill, H.R. 3, already passed by the Congress. An amendment will be offered to delete this section.

SUMMARY OF PROVISIONS OF H.R. 3387

The bill as passed by the House of Representatives provided for a suspension of tariff duties on synthetic rutile. A similar suspension has already been incorporated by the committee as an amendment to H.R. 2850. The Finance Committee amendment strikes the text of the House bill after the enacting clause and substitutes new language relating to certain extensions and waivers of Social Security Act provisions.

The Committee on Finance has approved legislation making several changes in the medicaid, social services, and aid to families with dependent children (AFDC) programs. The committee anticipates that this legislation will be considered by the Senate in the near future. There are, however, a few issues related to these programs which require particularly expeditious action in order to prevent program disruptions or the imposition of sanctions. The extension and waivers recommended in this bill are, in every instance, no more extensive than similar provisions which have already been approved by the House of Representatives in other legislation. In addition, the committee bill clarifies the unemployment compensation status of certain State employees who are employed to provide specialized services for schools.

Child care and social services.—The committee bill would extend to February 1, 1978, certain provisions relating to the title XX social services program which would otherwise expire September 30, 1977. The provisions are:

First. Additional child care funding.—A 4-month continuation of the increase in social services funding for child care (at a $200 million annual rate), at a 100-percent Federal matching rate.

Second. Use of added fundings for employment of welfare recipients.—States will continue to be authorized to use part of the added child care funding to directly subsidize the employment of welfare recipients in child care jobs.

Third. Welfare recipient tax credit.—The credit against income taxes of up to $1,000 (20 percent of wages paid) available under present law for employers who hire welfare recipients for child care jobs will be extended 4 months.

Fourth. Child care staffing standards.—Federal staffing standards for pre-school-age children are currently in suspense so long as States continue to meet September 1975 standards. In addition, present law allows waiver of Federal staffing standards for child care facilities which serve only a few children whose care is funded under the title XX program. Present law also allows family day care mothers to not count their own school-age children in determining whether they meet the Federal standards for such facilities. All these provisions will be extended until February 1, 1978.

Fifth. Addicts and alcoholics.—Provisions adopted in the 94th Congress permit certain aspects of treatment of addicts and alcoholics to be funded under the title XX social services program even though they do not fully meet restrictions in that program. The same legislation also requires the observance of certain special confidentiality provisions when addicts and alcoholics receive services under title XX. These provisions will also be extended until February 1, 1978.

Nursing home patient evaluation.—Present law requires that States conduct regular independent professional evaluation of medicaid patients in skilled nursing and intermediate care facilities and in mental hospitals. Under the 1972 social security amendments, Federal matching payments are to be automatically reduced by one-third for patients who are in skilled nursing homes or intermediate care facilities for more than 60 days. The reduced matching does not occur where a State demonstrates that it is satisfactorily undertaking the required regular independent review of all patients in all facilities.

The Department of Health, Education, and Welfare planned to reduce medicaid payments to 20 States by a total of $250 million in the October–December 1977 quarter because of noncompliance with statutory requirements for independent medical review of medicaid patients. The committee amendment would have prevented any reduction in Federal matching payments to States until February 1, 1978, because of any prior noncompliance. (This section of the committee bill is now unnecessary since a similar provision was included in H.R. 3, as finally approved by the Congress.)

Protective and vendor payments.—Under existing law States are allowed to make protective or vendor payments, instead of direct cash payments, for recipients of AFDC. The number of recipients for whom payments may be made in any State may not exceed 10 percent of the number of AFDC recipients, and the payments may be made only under specified conditions, including a determination by the agency that the child's relative is unable to manage funds in the child's interest.

H.R. 7200 as it passed the House contains several provisions relating to protective and vendor payments. First, in cases in which the State agency made a determination of inability to manage funds, payments could be made in the form of joint checks as a kind of vendor payment. Second, the limit on the number of recipients with respect to whom a State could make such protective or vendor payments would be increased to 20 percent. Third, in addition to the protective and vendor payments which the State or local agency could make subject to the new 20-percent limitation, States would be allowed at their option to make payments to cover the cost of utility services or living accommodations in the form of checks drawn jointly to the order of the recipient and the person furnishing the services or accommodations. Such joint checks would have to be requested by the recipient in writing, and the request would be effective until revoked by the recipient. The amount of the monthly payment which could be made in the form of joint checks would be limited to 50 percent. There would be no limit on the number of recipients with respect to whom joint checks to pay for housing or utilities could be written. This third provision for joint checks would be limited to 2 years, from October 1, 1977 to October 1, 1979.

In addition to authorizing increased numbers and forms of protective and vendor payments, H.R. 7200 would provide that Federal matching funds could not be denied to any State for the period between January 1, 1968, and April 1, 1977, first, because the State exceeded the 10-percent limitation on these payments; second, because it provided assistance in the form of joint checks; or third, because it did not comply with other specified conditions.

The committee amendment to H.R. 3387 incorporates the House vendor payment provisions in H.R. 7200.

Unemployment insurance benefits to professional and nonprofessional school personnel.—Last year, Congress enacted legislation—Public Law 94–566—to deny unemployment compensation to teachers and other professional school personnel between terms, and to make optional the denial of such benefits to elementary and secondary nonprofessionals, if there is a reasonable assurance that the employee will be reemployed the following term. This year, legislation was enacted—Public Law 95–19—to permit States to deny unemployment benefits to these persons during an established vacation period if there is a reasonable assurance that they will be reemployed after that vacation. The committee agreed to an amendment to provide that these same provisions will apply in the case of professional and nonprofessional school employees who work in a school and whose employment contract is with a public educational service agency, rather than with a local school district.

Mr. CURTIS. Mr. President, I join my distinguished colleagues from the Committee on Finance in urging the speedy enactment of H.R. 3387. Formerly a tariff measure, this legislation extends certain deadlines, or makes other modifications, in a number of critical social programs.

First, the bill extends until February 1, 1978, certain provisions which relate to title XX and child care. These provisions, which govern the extent of additional Federal financing, support for the employment of welfare recipients in child care jobs, tax credits for similar activity, and staffing standards for child care facilities.

Second, the measure also extends until February 1, 1978, certain provisions which assist alcoholics and drug addicts to receive rehabilitative institutional care under title XX.

Third, this legislation incorporates House-passed language governing the use of vendor payments in the AFDC program, providing a measure of retroactive relief when current statutory ceilings have been exceeded and establishing a substantive policy for the future in this important area.

Fourth, H.R. 3387 also protects the States—until February 1, 1978—against further threatened medicaid claim cuts under the utilization control provisions of section 1903(g) of the Social Security Act. We believe we have reached a permanent solution on this in S. 143, which recently has emerged from conference, and I believe an amendment may be offered which will dovetail the dates we are establishing as a result of these two items of legislation.

Mr President, extending these dates and ceilings provides for the continuation of programs on which the States rely heavily I urge swift adoption of these extensions by the Senate.

Mr. LONG. Mr. President, we expect a number of amendments to be offered as set forth in the unanimous-consent request. In view of the fact that I do not see Senators present in the Chamber who wish to offer such amendments, I ask unanimous consent that I might suggest the absence of a quorum and that it not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr STEVENS. Mr. President, I ask unanimous consent that Angie Hoffman of Senator DANFORTH's staff be accorded the privilege of the floor during consideration of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Eileen Winkelman of my staff be granted the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call be reinstated under the same terms as previously stated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 936

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is this the amendment on which the Senator desires 1½ hours of debate?

Mr. DOMENICI. This is the amendment that I have reserved 1½ hours on, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator has sent a bill to the desk. Does he have the amendment at his desk or is the bill intended to be offered as an amendment?

Mr. DOMENICI. The bill is intended to be offered as an amendment.

The ACTING PRESIDENT pro tempore. Will the Senator then make his corrections of the document? Will the Senator indicate the page and line where the amendment is supposed to be offered?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Lee Rawls of my staff be granted floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. I suggest the absence of a quorum, Mr. President.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 936—AS MODIFIED

Mr. DOMENICI. Mr. President, I send to the desk an amendment properly modified as requested by the Chair, and further modified by the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 936.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the clerk dispense with further reading of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 14, add the following new section:

SEC. 4. That (a) section 1903(a) of the Social Security Act is amended—

(1) by adding "plus" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by adding after and below paragraph (5) the following new paragraph:

"(6) an amount equal to 90 per centum of the sums expended during such quarter, in no case to exceed $250,000 dollars, which are attributable to the proper and efficient administration of so much of the State plan as relates to the provision of medical assistance in Indian Health Service facilities which are eligible for reimbursement under the State plan pursuant to the provisions of section 1911; plus".

(b) The amendments made by subsection (a) shall be effective with respect to expenditures made, under State plans approved under Title XIX of the Social Security Act, beginning with Fiscal Year 1978.

Mr. DOMENICI. Mr. President, section 1911(e) of the Social Security Act, added by Public Law 94–437, the Indian Health Care Improvement Act, specifically states that—

. . . The Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services.

However, while the Federal Government pays for 100 percent of medical care given to Indians under the act, it only pays for 50 percent of the administrative costs which the States incur in implementing the act. The remaining 50 percent of administrative expenses is borne by the States.

My amendment would change the law to provide for 90 percent Federal financial participation for State administrative costs incurred as a result of the implementation of the Indian Health Care Improvement Act. The Federal Government has traditionally assumed the major responsibility in matters relating to Indians. It is my feeling that the Federal Government should, to the greatest extent possible, assume the financial burdens incurred by the States in implementing Indian-related programs. For this reason, I am proposing a 40-percent increase in the rate of reimbursement for State administrative costs.

This legislation will benefit all States with federally recognized tribes, State

recognized tribes, and tribes which have been terminated since 1940. The moneys would come from general revenues. HEW estimates the cost would be minimal and Senate Budget Committee has given its approval.

Mr. President, I say to the distinguished floor managers of the bill that the amendment in their possession has been changed by adding language indicating that in no event would this exceed $250,000 per quarter. That has been properly inserted in the amendment.

I would just briefly state that I have been asked by my State, and I am quite sure other Senators have been asked the same question, and that is that their particular State departments of health are administering a program that is called the Indian Health Care Improvement Act. It is peculiarly a Federal program. It is 100 percent Federal dollars, but in the scheme of things the State must pay 50 percent of the administrative costs of that program.

It seems to my State that is somewhat unfair in that it is asked to run a totally Federal Indian program and pay 50 percent of the administrative costs.

My amendment would change that 50–50 to 90–10. I have left in some State resources as an inhibitor against any practices which might be exorbitant on their part in terms of management expenditures.

Further, at the suggestion of the distinguished Senator from Louisiana (Mr. LONG) I have maximized the total expenditure nationally for this 90-to-10 ratio at $1 million, $250,000 per quarter. We have been told by HEW that that is what it would be, in that neighborhood, perhaps a little bit less.

I ask the floor managers, in fairness to the States, to accept this amendment and to minimize their resource expenditures. They are more than willing to administer these programs, but since they are peculiarly the Federal Government's role, we ought not to maximize their administrative costs but to rather minimize them.

Mr. LONG. Mr. President, if the Senator will yield, I would suggest that the amendment the Senator had offered be modified by a slight difference to say "but in any case not to exceed $250,000," rather than "in no case."

Mr. DOMENICI. I accept the modification, and since it is at the desk, I ask that it be so modified.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. The amendment is so modified.

The modification is as follows:

On page 7, after line 14, insert:

SEC. 4. That (a) section 1903(a) of the Social Security Act is amended—

(1) by adding "plus" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by adding after and below paragraph (5) the following new paragraph:

"(6) an amount equal to 90 per centum of the sums expended during such quarter, but in any case not to exceed $250,000, which are attributable to the proper and efficient administration of so much of the State plan as relates to the provision of medical assistance in Indian Health Service facilities which are eligible for reimbursement under the State plan pursuant to the provisions of section 1911; plus".

(b) The amendments made by subsection (a) shall be effective with respect to expenditures made, under State plans approved under Title XIX of the Social Security Act, beginning with Fiscal Year 1978.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. LONG. Mr. President, as modified I would be willing to take the amendment to conference and to discuss it with the House.

We have, as the Senator suggested, previously agreed to assume the burden of 100 percent of the cost of benefits to Indians under this program.

I was somewhat concerned about the open-ended nature of the cost of this amendment as originally proposed. But as amended, I find no strong objection to it.

It occurs to me that, for the future, in view of the fact that only a very small State contribution would be required, perhaps this matter rather than being looked upon as a matching program ought to be handled as an annual appropriation. That way the Appropriations Committee could take a look at it and see what the estimated needs were and how much money should be made available for it.

As the amendment has been modified, I would have no objection to agreeing to it at this point and discussing it with the House of Representatives in conference.

Mr. DOMENICI. I thank the distinguished Senator from Louisiana. I wonder if the Republican manager of the bill is willing to accept the amendment as amended.

Mr. CURTIS. Mr. President, we will not oppose the amendment. In general, we believe the 50–50 arrangement has merit, but in this particular case it is minor, and there are circumstances a little different than in a good many of these programs.

We have no objection to the amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from Louisiana yield back the remainder of his time?

Mr. LONG. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, of the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 937

(Purpose: Simple extension of Section 167 (k) of Internal Revenue Code relating to depreciation of expenditures to rehabilitate low-income rental housing.)

Mr. JAVITS. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is this the amendment on which the Senator desires 2 hours of debate?

Mr. JAVITS. No, it is not.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 937: At the end thereof add the following new section: Section 4. (a)—

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof add the following new section:

Section 4. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978," where the date appears in paragraph (1) and in paragraph (2)(d) and inserting in lieu thereof "January 1, 1979,".

(b) The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 1977, and before January 1, 1979, and expenditures made pursuant to a binding contract entered into before January 1, 1979.

The ACTING PRESIDENT pro tempore. Under a previous order of the Senate, debate on the amendment is limited to 1 hour.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

This amendment gives the taxpayer the opportunity to allow 5 years straight line depreciation for expenditures to rehabilitate low-income rental housing. There is a provision in the law to that effect now. That provision will expire while we will be in recess, and I am seeking an extension of 1 year.

Mr. President, HUD agrees with this proposal, and the Ways and Means Committee of the other body has reported out a bill containing a similar 1-year extension. The Treasury agrees to it.

Within the last few years, this provision has resulted in about 80,000 units of low- and moderate-income housing being rehabilitated that would not have been rehabilitated otherwise. Prior to that time, that is, prior to 1969, only 15,000 units were rehabilitated, and we believe that this provision in the law has had a very heavy influence upon rehabilitation of low-income housing.

The Joint Committee on Internal Revenue Taxation has recommended, of course, a 5-year extension. We are seeking only 1 year, with the cost to range from $1 million in 1977 to a high of $5 million in 1980, with the 1978 cost estimated to be $4 million.

We in the slum-ridden cities believe this to be very helpful, and since it is already in the law and this is strictly a matter of an extension, I would hope very much that the managers of the bill will see fit to accept it. We do not know how many bills will be in conference between now and the end of this session, but this is a bill which undoubtedly will be.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LONG. I yield myself such time as I may require.

Mr. President, we have not had the opportunity to consider this amendment in the Committee on Finance. I would

rather hope that the Senator would let us consider it in connection with some other measure, so that we would at least have a chance to ask questions about it in the committee. We have agreed to two extensions in the past, but I would at least like to have the opportunity to offer the committee a chance to hear the Senator, and to seek some understanding of what is being accomplished by the provision, and whether it might be the best way to achieve the objective of rehabilitation of housing.

Would the Senator be willing to offer this proposal on some other legislation?

Mr. JAVITS. I will do anything the Senator wishes. My only problem is that we have such uncertainty for the end of the session, and in order to have maximum usefulness, it ought to be extended.

Would the Senator consider taking it to conference, and then, if he does not approve of it, he can work his will on it? I have no desire——

Mr. LONG. The only problem that gives me is that the Senator has stated in his presentation here that the House apparently has considered the matter and decided favorably.

Mr. JAVITS. Yes.

Mr. LONG. We on the Finance Committee have not had an opportunity to consider it, and if we take it to conference, I would assume the House conferees would certainly agree to accept their own recommendation when the bill goes to their side.

I would hope that we would have an opportunity to look at it in the committee, just because of the fact that the House, having committed itself to the amendment, would certainly take it if it went to conference.

The question is whether our committee would agree with it. I think maybe they would. The chances are very good, since they have agreed to extensions twice already. But I would like to have an opportunity for them to consider it.

Mr. JAVITS. My only question is as to time. The committee is not going to have any further hearings on new proposals, with the energy matter, and so on. May I make a suggestion?

Mr. LONG. Yes.

Mr. JAVITS. I will take it out now. Perhaps you could have your staff talk with the Department about it, and in the course of the day I will ask Senator CURTIS to do the same, and if we could agree on it sometime before the bill is locked up, it would be extremely helpful to New York.

Mr. LONG. Could I suggest to the Senator that we simply extend it for 6 months?

Mr. JAVITS. That is fine.

Mr. LONG. Mr. President, I ask that the amendment be amended to change the date from January 1, 1979 where it appears to July 1, 1978.

Mr. JAVITS. Mr. President, I ask that the amendment be modified accordingly.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment, as modified, is as follows:

At the end thereof add the following new section:

Section 4. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978," where the date appears in paragraph (1) and in paragraph (2)(d) and inserting in lieu thereof "July 1, 1978,".

(b) The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 1977, and before July 1, 1978, and expenditures made pursuant to a binding contract entered into before July 1, 1978.

Mr. JAVITS. I thank the Senator very much. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time also.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, of the Senator from New York.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Who yields time?

UP AMENDMENT NO. 938

(Purpose: To extend for an additional period of time the exclusion from income of amounts received under the Armed Forces Health Professionals Scholarship Program (and similar programs).)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 938:

At the end of the bill, add the following new section:

SEC. 4. Subsection (c) of Section 4—

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 4. Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out "and 1975," and all that follows and inserting in lieu thereof the following: "1975, 1976, 1977, and 1978.".

Mr. DOLE. Mr. President, as our distinguished colleague from Louisiana will recall, the amendment I propose has already been considered by the Finance Committee and approved. I understand that a similar measure has also been approved by the House Committee on Ways and Means, earlier.

The amendment would reinstate for 2 years the tax exempt status for moneys received by participants in the Armed Forces health professionals scholarships program (AFHPSP), the Public Health Service/National Health Service Corps scholarship program, and programs of similar intent. There are approximately 10,000 participants in the Armed Forces and National Health Service Corps programs alone.

This tax exemption was a part of the law until December 31, 1975. When the 1976 tax reform legislation was enacted, it contained a 1-year extension of the provision: The final expiration date was thus December 31, 1976.

Discussions about the merits of this exemption have taken place for a number of years. The IRS has in the past noted, and correctly so, that scholarships such as the Armed Forces health professions, and the National Health Service Corps include service quid pro quo arrangements. Normally, such amounts are not excludable from gross income as they represent compensation for services. But Mr. Chairman, these programs are not typical scholarship programs. Their purposes are not solely to finance a specific individual acquiring a specific type of education. Their goals are much more far reaching. The special exemption for these moneys was first written into the law in 1974 as an amendment to an act to suspend until June 30, 1975, "the duty on carboxymethyl salts."

On July 25 of this year, I introduced legislation that would have placed in the law a permanent exemption for these moneys. The amendment I now offer would exempt the moneys for only a 2-year period of time.

During the markup of the 1976 Tax Reform Act, it was suggested that what was needed was a thorough staff review of the appropriate tax treatment of the grants in view of the overall national policy toward the military health professions programs, and other similar programs. It has come to my attention that information pursuant to this suggestion is just beginning to be gathered. I am hopeful that the information will be compiled and available prior to our consideration of new major tax reform legislation. I indicated in a letter to the Joint Committee on Taxation my interest in this matter and my desire to have this type of information available as soon as possible.

The 2-year exemption that I suggest insures that students in these fine scholarship programs will be covered while a final decision on tax exemption, based on sufficient information, is made by the Congress.

Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Kentucky (Mr. HUDDLESTON), who has been working closely with me on this amendment, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUDDLESTON

I am pleased to join with my colleague, Senator Dole, in offering this amendment to H.R. 3387. The amendment, extending for two years the tax exempt status for amounts received by individuals enrolled in the Public Health Service/National Health Service Corps and Armed Forces Health Profession Scholarship programs, is similar to a bill which I have introduced, S. 1698. Though my bill would offer a permanent tax exemption for those in the above programs, I believe that the two-year extension in this amend-

ment will provide us with the time necessary to justify the permanent exemption.

The need for the tax exemption called for in this amendment is readily apparent. For example, our nation's defense establishment is faced with ever-increasing difficulties in recruiting qualified medical personnel. Just this past summer, drastic cutbacks in medical services were announced affecting numerous institutions across the country, indeed around the world. The situation was most dramatically brought to my attention when it was announced that Ireland Army Hospital at Ft. Knox would reduce the number of services available to military retirees and their dependents. The understandable public outcry which has ensued has caused me to take a very close look at both the short-term solution to the particular problems at Ft. Knox and the long-range outlook for an adequate supply of military doctors.

The amendment before us today is an effort to speak to the long-range problem. Very simply, the amendment would remove for two years the requirement that amounts received by Health Profession Scholarship Program (HPSP) students be subject to income tax. HPSP was created on Sept. 21, 1972, under P.L. 92–426. Under this program the uniformed services pay tuition, educational expenses, and a $400 monthly stipend to health profession students in exchange for an agreement to serve not less than one year for each year of support. In early 1973, IRS ruled that amounts received by HPSP students were subject to income tax. The basis for this decision was section 117 of the Internal Revenue Code which states that amounts received as scholarships are taxable if they represent compensation for future employment services, in this case the obligated military service.

Income tax exemption for amounts received during calendar years 1973, 1974, and 1975 have already been granted by Congress. However, these relief measures all expired on Dec. 31, 1975, and the services began withholding in March of 1976. This morale problem, added to the already frustrating situations which face doctors in the military, has caused the Department of Defense even more difficulty in recruiting military doctors. Either we repair the damage which has been done to the HPSP program now or as I have been assured by the surgeons general of all the military forces, we will face very adverse conditions during future recruiting efforts.

It should be clear that HPSP is expected to supply over one half of defense health professionals in fiscal year 1978 and beyond. Thus, the relief offered in this amendment is needed now. Without enactment of this amendment, I believe that the shortage of military doctors and National Health Service Corps physicians will undoubtedly reach crisis proportions in a very short time.

The amendment is by no means an easy solution to the overall problem of maintaining adequate military personnel in these vital programs, nor will the amendment solve the immediate problems which exist at Ft. Knox Ireland Army Hospital or any particular military facility in the world. However, I do strongly believe that adoption of this amendment is part of the complex equation which must be developed if we are to find an answer to meeting future medical manpower needs for our active and retired military personnel as well as those citizens residing in certain medically-needy communities.

Mr. HATHAWAY. Mr. President, it is my great pleasure to join with Senator DOLE today, as a cosponsor of his amendment to reinstate the tax exempt status of scholarship funds for health care programs. This is extremely important in the case of the National Health Service Corps which trains doctors and nurses for Rural Health Care programs.

The July volume of Public Health Reports notes that "the Emergency Medical Services Systems Act is especially important to many rural communities," particularly crucial for the rural communities is the localized shortage of trained physicians and dentists. "The worsening geographic maldistribution is difficult to resolve in a rapid, yet effective, manner." The Emergency Systems Act created the National Health Service Corps scholarship program, designed to provide medical services to the medically underserved areas.

Many small communities have no physician. Often, the nurse practitioners and physician assistants who are the only available personnel cannot get reimbursed for their services, and third party coverage is inadequate. All of these factors are complicated by the fact that people who live in rural areas have a higher proportion of elderly, have more illness and are disabled more often than those who live in urban areas.

Among the differences between urban and rural areas that have become apparent recently both in the Nation in general and in northern New England, are that in rural areas physician and dentist shortages are far more critical, emergency medical services are less available and many indicators of health status indicate a serious and growing disparity in the health of rural Americans in contrast to the general population.

Health statistics paint a bleak picture. The unadjusted death rate for Maine is among the highest in the Nation. Infant mortality is high but improvements have been market in the last decade. Death rates for heart disease, cancer, stroke, lung diseases and cirrhosis are all higher than for the Nation as a whole as well as higher than for New England.

Maine has a shortage of primary care physicians and no operating school of medicine or osteopathy to bring physicians to our rural areas. Maine has 37 dentists per 1,000 population compared to 48 per 1,000 for the United States as a whole.

I have recently held hearings in Maine on the state of rural health care. The need for more physicians, nurses, and dentists cannot be overemphasized.

I believe that the reinstatement of the tax exempt status of the scholarship program for the National Health Service corps is imperative. This reinstatement is for a 2-year period. During that time, the tax exempt status of these scholarships will be reviewed by the staff of the Joint Committee on Taxation.

I am pleased to join with Senator DOLE and the other distinguished sponsors of this legislation. It is necessary and imperative for the elderly and the aged rural people of the State of Maine. I shall lend my full support to the rapid adoption of this important legislative program.

Mr. LONG. Mr. President, I have no objection to the amendment. As far as I am concerned, this is the appropriate measure to which this amendment should be attached.

Mr. CURTIS. If the Senator will yield, I will say that I also support the amendment.

Mr. DOLE. Mr. President, I thank my distinguished manager on the Republican side and the chairman of the committee. I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 939

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 939.

On page 2, strike lines 23 through 25, and on page 3, strike lines 1 through 6.

Mr. DOLE. Mr. President, I rise to speak in favor of this legislation before us and request expeditious consideration by my colleagues.

There are a number of provisions in this bill that are merely extensions, designed to allow program continuation while discussions continue on a major piece of legislation, H.R. 7200, that encompasses these and many other items. The extension of the title XX child day care money authorization is of particular note. These moneys are utilized for such things as employment of recipients of AFDC moneys in child care jobs and to provide child care to children of working parents—many of whom are single parents who would be unable to work if child care were not available.

Also included in this bill is a delay in the imposition of any reductions in medicaid moneys to States due to prior noncompliance with certain utilization review requirements.

I offered this amendment in committee along with the other provisions extending authorizations for certain programs. As many of you may recall, I offered a similar provision last July that delayed the reduction scheduled to take place on July 1. At that time, it occurred to many of us that the law was unduly harsh and perhaps needed to be examined closely for possible improvements The Finance Committee and the Committee on Interstate and Foreign Commerce considered this issue in conjunction with H.R. 3, the medicare and medicaid antifraud and abuse amendments.

I am pleased to note that this legislation was sent to the President for signature last week. The provision contained in H.R. 3 that dealt with the problem of medicaid reductions deals with our concerns completely. The law will, in the future, take into consideration good faith attempts by States and the difficulties they may legitimately encounter in their review efforts. More importantly, our concern for the care of patients is still clearly noted.

Because of our action on H.R. 3, the provision contained in the legislation before us that would continue to delay any reduction from taking place until February 1, 1978, is no longer necessary.

Mr. CURTIS. Mr. President, I believe it is good legislative practice to do as the Senator proposes, to strike it from this bill inasmuch as it was covered in an action which has now been completed. We have reason to expect the President to be signing that legislation.

Mr. DOLE. That is my understanding.

Mr. CURTIS. Mr. President, I favor the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, there might be some misunderstanding of a technical nature. Will the clerk inform me how many lines on page 3 this amendment would strike?

The assistant legislative clerk read as follows:

On page 3, strike lines 1 through 8.

Mr. LONG. Mr. President, the amendment should only strike lines 1 through 6.

Mr. DOLE. Mr. President, I ask unanimous consent to modify the amendment.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. LONG. Mr. President, as modified, I support the amendment. I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment, as modified, offered by the Senator from Kansas.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 940

Mr. LONG. Mr. President, I send to the desk a purely technical amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 940.

On page 6, strike out lines 4 and 5 and insert in lieu thereof the following: "amended by striking out 'or section 402(a)(26)' and by inserting in lieu thereof the following: ', section 402(a)(26), or any individual with respect to whom pay' ".

Mr. LONG. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the technical amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. Who yields time? Are there further amendments?

Mr. LONG. Mr. President, I yield myself 1 minute.

In view of the fact that certain Senators who desire to offer amendments are not present at this moment, I am going to ask unanimous consent that I might suggest the absence of a quorum and that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 941

(Purpose: To protect disaster victims from having their Supplemental Security Income benefits either reduced or terminated.)

Mr. CHURCH. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment numbered 941.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I shall explain the purpose of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Act add the following new sections:

SEC. . (a) Section 2(b) of Public Law 94–331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. . (a) Section 4(b) of Public Law 94–331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. . (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (10) thereof,

(2) by striking out the period at the end of paragraph (11) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (11) thereof the following new paragraph:

"(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period)."

(b) The amendment made by this section shall be effective July 1, 1976 with respect to catastrophes which occurred on or after June 1, 1976 and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. . (a) The first sentence of section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (4) thereof,

(2) by striking out the period at the end of paragraph (5) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after the below paragraph (5) thereof the following new paragraph: "(6) assistance referred to in section 1612(b)(11) for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term 'assistance' includes interest thereon which is excluded from income under section 1612(b)(12).".

(b) The amendment made by this section shall be effective July 1, 1976 with respect to catastrophes which occurred on or after June 1, 1976 and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

Mr. CHURCH. First of all, Mr. President, this amendment, I understand, has the approval of the managers of the bill on both sides of the aisle. Its purpose is to protect Supplemental Security Income recipients from having their benefits reduced or terminated because they receive assistance to replace lost or damaged property. Actually, Mr. President, this is an amendment to take care of flood victims, victims of fire and hurricanes, and other such natural disasters.

This measure has already been adopted by the Senate Finance Committee as a part of H.R. 7200, the public assistance amendments.

However, I am offering this proposal now because it seems unlikely that H.R. 7200 can be enacted into law in 1977 since it includes numerous provisions—many of which are markedly different in the House and Senate bills.

In addition, a failure to enact my amendment into law this year could create hardship for many SSI disaster victims.

My amendment would make four major changes:

First, assistance received under the Disaster Relief Act or other Federal disaster statutes would be exempt from income for purposes of determining eligibility and benefit levels for SSI. My amendment would make this provision—enacted into law last year on a temporary basis—permanent.

Assistance received under the Disaster Relief Act is designed to replace damaged personal and real property. Therefore, this compensation is not actually income for disaster victims because they must, under the Disaster Relief Act, use the assistance to replace their lost or damaged property.

Second, it would exempt disaster assistance as a countable resource for purposes of determining SSI eligibility. This exemption, which would be effective for 9 months after receipt of the assistance, is necessary because of the time lag between the receipt of assistance and the actual restoration or reconstruction of damaged property.

For example, after the Teton Dam disaster devastated southeastern Idaho in June 1976, it took months for many residents to enter into contracts to repair or rebuild their homes. If their disaster compensation increased their savings above $1,500 for an individual and $2,250 for a couple—the maximum countable resource limitations under SSI—they would become ineligible for SSI.

Many of these recipients rely almost entirely on SSI for their support. They were simply using the disaster assistance to replace their damaged property. I

think it is unfair for these individuals to lose SSI benefits because they received compensation to reconstruct or replace their property. Under my amendment these victims would be given a 9-month grace period to rebuild or repair their damaged homes before their SSI benefits would be reduced or terminated.

Third, interest earned on the disaster assistance would also be exempted for 9 months as countable income. This exemption, which can be extended by the Secretary of Health, Education, and Welfare for good cause, is necessary because some disaster victims cannot use the disaster payments immediately for their intended purpose. My amendment would allow disaster victims 9 months to settle their financial matters without having the disaster assistance claimed as a resource or the interest from these funds included as income.

Finally, my proposal makes permanent a provision which I advanced last year to allow SSI recipients to live in the household of another and receive their full SSI benefit for 18 months while their damaged home is being restored or replaced. This period is necessary because existing law requires SSI benefits to be reduced by one-third if qualifying individuals live in the household of another.

These disaster victims do not live voluntarily in the homes of others, but are forced to reside outside their damaged or destroyed homes. My amendment would allow them an 18-month grace period to complete repairs or reconstruction and move back into their own homes.

Mr. President, each one of these provisions would help to alleviate the burdens suffered by SSI disaster victims. These persons live on low incomes and should not be forced to endure more economic hardship.

Latest figures from the Social Security Administration reveal that only 10 percent of all SSI recipients receive any unearned income other than social security benefits. Only 3 percent report any earned income.

My amendment permits these persons to be treated fairly when faced with catastrophes such as floods, hurricanes, and snowstorms. It also assures them of continuous SSI payments at a time of great need. For these reasons, I urge my colleagues to act favorably upon this amendment.

Mr. CURTIS. Mr. President, I believe that this amendment is a reasonable one. I think it should be adopted. I understand that the distinguished chairman of the committee holds likewise and has authorized me so to state. We have no objection to the amendment.

Mr. CHURCH. I thank the Senator very much.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. CHURCH. I yield back the remainder of my time.

Mr. CURTIS. I yield back my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments to the bill?

Does the Senator from Nebraska suggest the absence of a quorum?

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. CURTIS. On my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask for the yeas and nays on my unprinted amendment No. 942.

Mr. CURTIS. Mr. President, what was the request?

The ACTING PRESIDENT pro tempore. The request is to order the yeas and nays on the amendment offered by the Senator from Indiana.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CURTIS. Mr. President, reserving the right to object, will that preclude a point of order being made against the amendment?

The ACTING PRESIDENT pro tempore. It will not.

Mr. CURTIS. No objection.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, will the Senator yield so that I may get the yeas and nays on my amendment?

Mr. BAYH. I am glad to yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that it be in order for me to request the yeas and nays on unprinted amendment No. 943.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on unprinted amendment No. 943.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mary Kinsey and Robert Fulton of the staff of the Committee on the Budget be accorded the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that Barbara Dixon, of my staff, be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BAYH. I yield to the other Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mr. Ed King, of my staff, be accorded the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 942

(Purpose: An amendment to provide equitable standards for medicaid eligibility and benefits.)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 942.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. 4. (a) Section 1902(f) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any State in determining whether an individual is or would be eligible for medical assistance for any month if its plan for medical assistance approved under this title and in effect on January 1, 1972, had been in effect in such month, shall not take into account any income or resources of such individual based on the income or resources of such individual's spouse which would not be taken into account under the Standards which are prescribed by the Secretary pursuant to section 1902(a)(17)(B) and which are applicable to applicants and recipients of medical assistance under State plans which furnish medical assistance to all individuals with respect to whom supplemental security income benefits are being paid under title XVI.".

(b) The amendment made by subsection (a) shall be effective on and after the first day of the first calendar month which commences more than thirty days after the date of enactment of this Act.

Mr. BAYH. Mr. President, for the advice of my colleagues, I shall take about 7 or 8 minutes to discuss this amendment.

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate the Senator has 30 minutes, 1 hour divided equally.

Mr. BAYH. At that time, I might feel compelled to ask for the yeas and nays unless there is some success in presuading the distinguished chairman of the committee to accept the amendment. I just wanted to alert my colleagues that at some time between now and the expiration of this time we will have to get the yeas and nays.

Mr. President, the amendment that I bring to the Senate's attention today seems to me to be a very basic amendment from the standpoint of the standards and values that exist in society generally. We respect the relationship

of marriage; we respect the sanctity of the home, we try to provide assistance for citizens who are in trouble and need help, and yet because of the nuances of the way our medicaid and SSI laws work together we find that two individuals who happen to be living together as man and wife are treated much stricter under medicaid than two citizens living together not in matrimonial bliss.

The amendment I offer today seeks to correct what I feel is a basic inequity in the treatment of married couples under the medicaid program. At the present time there are two widely divergent standards being applied by State welfare departments to couples in need of financial assistance for medicaid. The amendment I am offering will establish a uniform standard in the financial evaluation by a State welfare department of a married couple where one spouse is an institutionalized medicaid recipient.

The problem confronting many married couples across the Nation concerns a practice known as "medicaid deeming." Under this practice several State welfare departments "deem available" certain amounts of income from a noninstitutionalized spouse to care for the institutionalized partner. Although the precise methodology varies by State, the common premise is that the spouse has an obligation to provide some portion of the cost of the care of the other partner, the remainder of which is to be paid for by the State and Federal Government as part of the medicaid program. The amount an individual could be required to provide is determined by the State's maintenance allocations for institutionalized care, and therefore, a noninstitutionalized spouse could be reduced to living substantially below the State's welfare level.

The logical inconsistencies with such an approach are several. The most glaring, of course, is that effective result is to force the noninstitutionalized spouse into a poverty-level lifestyle in order to insure that the institutionalized spouse remains eligible for medicaid. Second, deeming income in this context is an irrational application of the "economies of scale" theory, which presupposes that two can live more cheaply than one. That may well be the case when the two spouses are living together under the same roof, but when they are physically separated by the institutionalization of one, the analysis, it seems to me, is most inappropriate. The fixed costs of the noninstitutionalized spouse remain the same; there are still mortgage or rent payments, automobile costs and insurance, utility bills, water bills, and the other myriad living costs which a couple might have. Whereas a couple previously living in poverty would be less likely to have many fixed costs, a working class or retired couple, with a reasonable, if not substantial, income would suddenly find that the need for institutionalization of one spouse meant that the couple would lose everything.

The choices open to the noninstitutionalized spouse are not appealing. If the couple cannot afford to be assessed the "deemed" income, they take the serious risk that the spouse in need of institutionalized care will be evicted from the nursing home providing the necessary care. The other option is to keep the needy spouse in the nursing home, and have the income of the noninstitutionalized spouse reduced so drastically that the couple may be forced to sell their home. A third option, suggested by some well-meaning State welfare workers, is for the couple to get a divorce.

This is precisely what happened to a couple in my own State of Indiana. A gentleman by the name of Kurt Benninghoff and his wife of 16 years, Karen, were advised by the Indiana Welfare Department that the only way they would receive medical assistance to pay for Mrs. Benninghoff's nursing home care would be if she applied as a single woman. Karen Benninghoff, paralyzed from the waist down, suffers from multiple sclerosis. The Benninghoffs found that the group health insurance policy that Kurt received with his $13,000 a year job as a meterman would not cover nursing home care, and that the cost of this care was $500 a month more than his monthly paycheck.

The State welfare agency told him that the State would provide assistance only if the process of "deeming" were applied. This meant that the State would take over all of the paycheck for Kurt Benninghoff except for $400. This would leave Kurt with $4,800 a year with which to pay for rent, food, clothing, and school expenses for all of their children. The Benninghoffs took the State welfare department's advice and applied for a divorce.

It seems to me that is a tragic situation, to say that you are actually going to force a man and a woman, a husband and a wife, a mother and a father, to make one of three critical choices: One, take the spouse out of the institution and deny her the medicare she needs; two, force the remaining spouse and children to live beyond the poverty line; or three, force the mother and father, husband and wife, to get a divorce.

That is exactly the kind of thing that this amendment is designed to prevent.

What I am trying to do, Mr. President, at a time when I think this country is looking more to the morality of Government than it has before, is to say it is inconsistent to have a standard where if a man and woman are living in what our President would call sin, not legally married, deeming does not apply, but if they happened to be married as man and wife with a household full of children then you may deem income.

At the present time, deeming of income remains a problem in only 10 States, the rest of which for one reason or another do not practice this requirement. A 1973 amendment to the Social Security Act permitted the option of allowing all those persons eligible for SSI payments to be eligible for medicaid assistance as well. The Department of Health, Education, and Welfare has interpreted this amendment to allow States to use whatever medicaid eligibility standards were in effect as of January 1972 or to use the minimum criteria for SSI eligibility.

The Department of Health, Education, and Welfare issued regulations in January 1977 which attempted to clarify financial eligibility for medicaid for all those States choosing to use SSI standards. These regulations effectively ended the practice of deeming for 35 States. Five additional States have ended this practice voluntarily or by court order. For 10 States and the District of Columbia, however, the practice of deeming continues to provide an arbitrary portion of one spouse's income for the care of the other without any regard to the financial needs of the spouse living outside the nursing home. These States include Colorado, Illinois, Indiana, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, and Utah. Ohio has been attempting to change its status, but a court case brought by some Ohio legislators has kept the State in the minority fold.

My amendment will amend section 1902(f) of the Social Security Act so that even if a State has opted not to provide automatically for medicaid benefits to SSI recipients, that State will not be able to employ deeming as a method of requiring support from a noninstitutionalized spouse.

Mr. President, I think that pretty well says it. I have been advised that for those of us who are concerned about the impact this amendment will have on States, only 10 States now discriminate in this manner, and HEW tells us that only 7 percent of medicaid recipients who are institutionalized have living spouses. It is clear that the financial impact would be minimal.

What my amendment would require is fairly straightforward. It would require all States to apply the standards pursuant to the January 1977 HEW regulations, 45 CFR 248.3(b)(2). These regulations have been interpreted to require that the spouses be treated separately in the calendar month beginning after the month in which the institutionalization begins. Thus couples will be able to remain married, but will have their incomes evaluated on an individual basis, which should at least permit the noninstitutionalized spouse to retain a reasonable portion of the couple's total income.

This change will not deflect the intent of section 1902(f) of the medicaid statute. That section's purpose, as set out in its legislative history, was "not to impose a substantial fiscal burden on these States." The congressional fear at the time of enactment was that the requirement that States provide medicaid benefits to all SSI recipients would have had a devastating financial impact, as the SSI eligibility requirements were considerably more liberal. The numbers of eligible medicaid recipients would have increased dramatically. Our amendment does not make all SSI recipients eligible for medicaid. What it does do is require States who do not use SSI eligibility standards for their medicaid recipients to end the practice of deeming.

Mr. President, our responsibility in cases like this is very clear. Our intentions in writing the medicaid provisions to provide necessary health care in a fiscally responsible manner were entirely proper. Unfortunately, the complexity of the law has led to unforeseen inequities.

The deeming requirements are forcing many of our citizens to live in poverty. Some have even sought divorce, so their loved ones can receive proper care. This situation cannot be tolerated, and we must take action to set the law straight.

I hope the Senate will act favorably on this amendment to end the unnecessary emotional and financial problems created by the inequitable treatment of married couples under medicaid in States such as Indiana.

It seems to me from an equitable standpoint it makes no sense to put a man and woman, a husband and wife, in a situation where they have to choose the least evil of three very evil and undesirable alternatives.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CURTIS. Mr. President, will the chairman yield me some time?

Mr. LONG. Yes, I yield the Senator 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. CURTIS. The distinguished Senator from Indiana is making his plea in the wrong forum. There is no reason in the world why Indiana cannot act in this case. What has previously been done insofar as existing law is concerned is that the States have a right to follow their old standards or to come up to the new. So it is not necessary to change the law. Indiana can meet that case if it wants to.

This is a situation where the Federal Government is asked to mandate a list of States to do something because a complaint is made about one State not doing it. This would compel the States of Colorado, Illinois, Indiana, Minnesota, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, and Utah to liberalize their medicaid requirements at the very time that Congress made a commitment to them that they could make the decision.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. CURTIS. Yes.

Mr. BAYH. I have been advised that Nebraska is no longer in that category, and Minnesota, which was on an earlier lists——

Mr. CURTIS. They just recently changed their rules. But that illustrates that Indiana can change its rules, and it also illustrates that Nebraska can change them back. It will take away from 50 States the right to make a determination as to who is eligible for medicaid.

Furthermore, this affects the rights of this long list of States and they have never had a hearing. Not one of these States has been notified of this proposal and had a chance to come before the Committee on Finance and state its position on it.

Congress made a commitment to them that they could follow their own rules and, because of that, Mr. President, when the time is all used or yielded back I shall make a point of order against the amendment because it is not germane. It is an offer of an amendment to a bill that deals with the extension of some dates only, and this deals with an entirely remote subject of the allocation of income.

I thank my distinguished chairman, and I yield back the remainder of the time to him that he yielded to me.

The ACTING PRESIDENT pro tempore. Does the Senator from Nebraska now make his point of order—he will not do so until the time has expired, yes.

Mr. CURTIS. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, of course I sympathize with the argument the Senator from Indiana has just made, because he is speaking in favor of the kind of regulations that the State of Louisana has and the kind of regulations that the Federal Government approves for SSI eligibility.

But, as the Senator from Nebraska so well stated, when we agreed to the SSI program we left it to the States to decide whether or not they wanted to make all the people who would be eligible for the SSI eligible for medicaid.

The Senator's State, the State of Indiana, chose not to do so. I can understand his feeling respecting the plight of a constituent, or perhaps a number of constituents, who feel they were not treated as well as they should have been treated—or as well as they would have been treated in the majority of the States of the Union had Indiana taken the same attitude towards the same problem as most other States have taken.

But the fact, nevertheless, remains that implicit in what we did was to assure the States—Hawaii being one of them—that if they did not want to adopt the Federal standard, they could continue to abide by their own standard, and that is what is involved here.

Now, in a way it would cost all the States money to force these States to adopt the standard that most States have seen fit to adopt.

When the Federal Government makes a commitment it ought to be willing to keep it and, under those circumstances, Mr. President, I cannot favor the amendment because it amounts, at least to some extent to reneging on a commitment that was made by the Federal Government to the States. They involve the States of Colorado, Connecticut, Hawaii, Illinois, Indiana, Mississippi, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Utah, and Virginia. It does not involve the State which I have the honor, in part, to represent. But a commitment in good faith is a commitment and, having made it, it seems to me the Federal Government ought to keep it.

Does the Senator desire that I yield to him for a question?

Mr. BAYH. I was just going to observe that the latest list shows Hawaii has also changed, and they are in the group that recognizes the wisdom of the position of the State of Louisiana and the position of the State of Nebraska. I also understand the State of Virginia does not deem income. Unfortunately, that is not the position of the State of Indiana.

Mr. LONG. Well now, you see, Hawaii did that strictly of its own volition. That was the legislature and the Governor of Hawaii who appreciated the merits of the Senator's argument and did what the other States have done.

Basically, those of us who do not favor the amendment feel that the States have a right to decide that issue for themselves. I should think that if the State of Indiana had seen fit to appreciate the wisdom that the Senator from Indiana is arguing, we would not be having the amendment here, because the Senator would not be confronted with something he thinks is an injustice done to a citizen of Indiana.

Therefore, Mr. President, I would feel that, once we start picking out first one point and next another where the State standard is not as generous or not as sympathetic, perhaps, as the Federal standard, and forcing States to go to it, I do not know where we would stop. That being the case, I think we would be wise just to leave it up to the States to do it as they have been doing, to study this problem, give it sympathetic consideration, and, if the Federal standard is better, to hope that the States will in due course adopt it.

Mr. BAYH. Mr. President, I understand the sensitivity of my good friend and colleague, the Senator from Louisiana. I am not reneging on a statement that was made to the States at the time the act was passed. I would be willing to at least suggest, that at the time this bill was passed there was not a single one of us—I know it did not enter the mind of the Senator from Indiana and I was here—who voted for that bill who ever thought it would result in the possibility of forcing a man and wife to make a choice of whether one of them was going to get hospital care, or whether they would be subjected to poverty, or, as the third choice, that they would have to be divorced. I do not suppose a one of us ever thought that two people who were married would be subjected to a higher standard than two people who were living together who were not married.

I am not going to stand on the floor of the Senate and render judgment on the moral character of other people, but it seems to me we ought to at least say to people who are living in wedlock, "We are not going to cause you to suffer being discriminated against in this manner."

I think the concern of the Senator from Louisiana could be met by suggesting that the passage of time has shown us problems that existed, or a problem that exists, that we did not anticipate at the time we made the commitment.

Both the Senator from Nebraska and the Senator from Louisiana are absolutely right, that if the State of Indiana had chosen what I feel is the equitable course, the Senator from Indiana would not be standing here. But unfortunately the welfare director of Indiana looks at the matter a little differently than I do. I have a responsibility, it seems to me, to represent my constituents, and if I cannot persuade the Governor and the State legislature—which is divided, one party one way and the other party the other—and if I cannot persuade the welfare director to be concerned about a man and woman who are forced to get a divorce in my State, what other recourse do these constituents have? I have a right, certainly, to try to see that their problem is resolved, and that is why I am here.

The problem, as I see it, from a political standpoint, is that we are talking about a problem that really does not affect very many people. We are talking about much less than 7 percent of the people in 10 States. In fact, when my staff approached the Finance Committee staff and asked to have hearings on this legislation, we were told that this matter is not important enough, it is not consequential enough.

It seems to me we in Congress have traditionally been protectors of individual rights, and that it does not make any difference whether it is just a handful of individuals or whether it is a million individuals.

Right now what I am suggesting is not that we tell the States what standards they are going to apply, but that they are not going to be able to discriminate against the different classes of people.

I understand my friend and colleague from Nebraska feels that this is perhaps nongermane, and I certainly know he has the right to suggest that to the Chair. We have had a number of other amendments that have been proposed and accepted. I assume that he has been on the floor during that period of time, and I do not know whether he has been equally concerned about their germaneness or not.

I would just ask him, if he is concerned about the wisdom of this proposal, to at least let the Senate decide whether they think it is a good idea to apply one set of rules to a married couple and treat them more harshly than a couple who are not married.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BAYH. I will be delighted.

Mr. CURTIS. First, let us set the record straight. There is nothing in the Federal law compelling any State to discriminate in situations where the individuals are married. That is entirely a State matter.

Mr. BAYH. The Senator from Indiana has not said there was, and the Senator from Nebraska is absolutely right; there is not.

Mr. CURTIS. So we do not want to argue that. Nor should legislation coming from the Finance Committee be so drafted that we would be guilty of such a practice.

However, this proposal does change an arrangement with a number of States. They have never had a hearing.

Mr. BAYH. Will the Senator yield?

Mr. CURTIS. It is with reluctance that I make a point of order, but I think it is not a good legislative procedure to mandate States to do certain things when they have been promised that we would not do it, and at least not to do it without a hearing.

Mr. BAYH. As the Senator from Indiana observed a while ago—I am not certain that the Senator from Nebraska heard me—of course, we all have a number of things to be concerned about, but my staff requested the possibility of hearings from the Finance Committee staff, and were told that this was not an important enough matter to be considered for hearings.

I can understand that, because the committee deals with a lot of very important and critical things that affect the whole country. We are talking about a mere handful here compared with 230 million Americans, but it seems to me that someone ought to look out for their interests and their rights; and although the social security law does not mandate this, it does indeed permit it.

What I am suggesting to my friend from Nebraska and the Senate is to let us not dictate to the States what standards shall be applied, but let us just say we are not going to permit those standards to be applied in such a way that one standard can be applied to two people living together in matrimony and another more lenient standard can be applied to two people living together not in matrimony. That is what the Senator from Indiana is saying.

Mr. CURTIS. I thank the Senator for yielding.

Mr. BAYH. I would just like to point out that I can see how the distinguished Senator from Nebraska, who has worked so hard in the Finance Committee, and our distinguished colleague from Louisiana, the chairman, have very difficult problems to consider, but usually when these amendments come along we at least get a vote on them.

I sat here and listened to an amendment discussed by the Senator from Idaho dealing with disaster victims, clearly not germane, yet that was not objected to.

Mr. CURTIS. Will the Senator yield a moment at that point?

Mr. BAYH. I am glad to.

Mr. CURTIS. That is alleged to have become germane by reason of a unanimous-consent request. In a few moments, I have a fear that the distinguished Senator from Oklahoma will offer a nongermane amendment. The Parliamentarian may rule that it is germane by reason of a unanimous-consent request.

I am opposed to the amendment. It jeopardizes the interests in my State. I knew nothing of the unanimous-consent request until I read it in the RECORD.

Mr. BAYH. There was also an amendment of the Senator from New York dealing with low-rent housing, which is clearly nongermane.

Mr. CURTIS. If the Senator will read Order No. 421 he will see how that happened.

Mr. BAYH. I am very well aware of how it happened. All I am suggesting is that it seems rather strange to me that nobody imposed an objection there. I would not have. In fact, I was glad to see the Senator present his amendment.

It seems rather strange to me that we will let other amendments go by unanimous consent and not impose an objection, and this amendment, which deals only with a handful of people, is something else. That is my problem. If I had a problem which dealt with millions of people, I could probably get support. But when I am dealing with a few people, who happen to be husbands and wives, who are discriminated against when one has to go to a hospital and they are faced with the possibility of having to get a divorce, this will be objected to.

I would hope the Senator from Nebraska would think differently because his own State has seen the wisdom of this. It is just that I cannot convince the welfare director of the State of Indiana to deal with it the same way 40 other States deal with it.

The PRESIDING OFFICER (Mr. SARBANES). Who yields time on the amendment?

Mr. LONG. Mr. President, it seems to me this amendment has been debated as much as it ought to be debated. I am prepared to yield back the remainder of my time.

Mr. BAYH. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment——

Mr. CURTIS. Mr. President, I make the point of order against the amendment that it is not germane.

The PRESIDING OFFICER. Under the unanimous-consent order, pursuant to which the bill is being considered, germaneness is required on amendments offered to the bill. The amendment does introduce a new subject matter which was not included in the bill. It is, therefore, not germane. The point of order is sustained.

UP AMENDMENT NO. 943

(To delay the effective date for implementing certain methods of determining reasonable costs for skilled nursing facility services and intermediate care facility services.)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 943.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 7, after line 14, insert the following new section:

SEC. 4. (a) Section 1902(a)(13)(E) of the Social Security Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) The Secretary may waive the requirements of section 1902(a)(13)(E) of the Social Security Act with respect to the period beginning January 1, 1978 and ending June 30, 1978, with respect to any State which has submitted to him, on or before December 31, 1977, a modification of the State plan for medical assistance which is designed to comply with he requirements of such section, if the Secretary determines that there is good cause why such requirements could not be met prior to January 1, 1978.

(c) Notwithstanding the provisions of section 1902(a)(13)(E) of the Social Security Act, a State plan for medical assistance shall not be regarded as failing to comply

with requirements imposed with respect to approved State plans under title XIX of such Act, and the amount payable to any State under such title shall not be decreased, solely because of the failure of such State to meet the requirements of such section during any calendar quarter ending prior to January 1, 1978, or, in the case of a State with respect to which the Secretary has waived such requirements under the provisions of subsection (b) of this Act, during any calendar quarter ending prior to July 1, 1978.

Mr. CHURCH. Will the Senator yield so I may have Senate conferees appointed?

Mr. BELLMON. I will be happy to yield.

ERDA AUTHORIZATIONS

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1811.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes and requesting a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BELLMON. Mr. President, could I inquire, has this been cleared with the minority leader?

Mr. CHURCH. Yes. It is my understanding that this has been cleared on both sides of the aisle.

Mr. BELLMON. I have no objection.

Mr. CHURCH. Mr. President, on Wednesday, October 12, 1977, the Senate adopted the conference report to S. 1811, the ERDA authorizations bill for fiscal year 1978, civilian applications. Subsequent to that action, the House took up the conference report, but the Speaker sustained a point of order made against that report. The Speaker ruled that the conferees had exceeded their scope of authority with respect to provisions dealing with the Clinch River breeder reactor project. As a result of the action taken in the House, it is necessary to reappoint conferees to the bill and to file a new conference report.

Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and agree to the request of the House for a further conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. BUMPERS. Mr. President, before the vote, I want to be sure I understand. The conferees we are about to appoint are those conferees who will go back to the House conference and absolve the Speaker's upholding the point of order; is that correct?

Mr. CHURCH. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT conferees on the part of the Senate.

SOCIAL SECURITY SERVICES

The Senate continued with the consideration of H.R. 3387.

The PRESIDING OFFICER. Is the amendment which the Senator from Oklahoma has offered, and which is now at the desk, the amendment on which 1½ hours was agreed to in the unanimous-consent order?

Mr. BELLMON. That is correct.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I recently introduced an amendment to H.R. 3, the medicare and medicaid antifraud and abuse bill which would have delayed implementation of the section 249(a) requirement of the Social Security Act related to cost-related reimbursement for nursing homes. This amendment was passed by the Senate, but was deleted in conference with the House. The major argument against the amendment was that it was passed in a rush during debate on the national gas bill and had not received adequate debate on the floor of the Senate. I am offering a compromise version of this amendment, Mr. President, as an amendment to H.R. 3387.

As I have emphasized in my earlier statements, Mr. President, the purpose of my amendment is to provide greater flexibility in the implementation of the cost-related reimbursement requirement for nursing homes and to clarify the financial liability of States which implement plans after July 1, 1976. The issue of retroactive liability stems from the fact that the law mandated implementation of cost-related reimbursement on July 1, 1976. HEW regulations, however, while technically requiring implementation by July 1, 1976, stated that plans had to be in effect on January 1, 1978. It should be emphasized that implementing regulations were issued at about the same time as they were, by law, supposed to be implemented.

That is the point I want to make to our colleagues from Nebraska and Louisiana. These regulations were issued at the time they were supposed to go into effect immediately. There was no way for the States to get ready for these regulations because they were not even known until they were supposed to be put into effect.

As a result, States were given until January 1, 1978, to develop acceptable plans.

Unfortunately, Mr. President, the discrepancy between the law and implementing regulations has opened the door to possible extensive litigation between the States and the nursing home industry. This litigation could cost millions of dollars which could better be spent providing care to older citizens.

I make it clear now there is a chance for litigation whereby the nursing homes would go back and try to be paid extra money for services they have already delivered. It serves no good purpose to go back and make possible litigation to force States to pay money retroactively for services which have already been received.

Mr. President, it is almost certain that several States may not be able to meet the December 31, 1977, deadline for the development of approved plans. Currently, only 21 plans have been approved or are approvable by the central office, HEW. Any State, even one with an approved plan, is potentially liable for additional costs. Thus, State officials responsible for administering these programs are greatly concerned, both about the deadline for approval of plans and the issue of liability for retroactive charges. This concern was expressed by the National Council of State Welfare Directors which endorsed my original amendment on September 20, 1977.

Mr. President, I have before me a letter from the American Public Welfare Association, signed by the director, in which they say:

> We believe such legislation is necessary to allow States additional time to prepare for the implementation of section 249. In addition, the States welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, health care costs are increasing at an alarming rate. Currently, nursing home care accounts for approximately 40 percent of all medicaid expenditures. It is imperative that we spend money wisely and permit States as much flexibility as possible in the development of payment mechanisms. This amendment will provide time for careful, comprehensive review of State plans and avoid spending millions of dollars on unnecessary litigation, which serves no useful purpose for older citizens who need care. This amendment is consistent with a compromise developed by HEW and offered by Representative ROGERS during the conference on H.R. 3.

Thus, Mr. President, there is evidence that this amendment has support from the administration and from the House. It is strongly supported by State officials faced with the difficult task of administering the medicaid program. I urge adoption of the amendment.

EXHIBIT 1

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, D.C., September 26, 1977.

Hon. HENRY L. BELLMON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BELLMON: The National Council of State Public Welfare Administrators of the American Public Welfare Association is composed of administrators of all state welfare agencies. These agencies have primary administrative responsibility for the Medicaid program. The Council wishes to extend its full support for S. 2005, the bill you authored and introduced which would extend the implementation date of Section 249 of P.L. 92-603 [Cost Related Reimbursement of Nursing Homes] from January 1, 1978 to January 1, 1979. We understand the bill would also absolve state Medicaid programs of possible fiscal liability from HEW's postponement of the original date of implementation of July 1, 1976 to January 1, 1978. We believe such legislation is necessary to allow states additional time to prepare for the implementation of Section 249. In addition the states welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

Thank you for your attention in this matter.

Sincerely,

JOHN J. AFFLECK,
Director, State Department of Social and Rehabilitative Services, Rhode Island and Chairman, National Council of State Public Welfare Administrators.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, will the chairman yield to me?

Mr. LONG. How much time does the Senator want?

Mr. CURTIS. Ten minutes.

Mr. LONG. I yield 10 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I find it not an easy or pleasant task to oppose this amendment which my distinguished friend from Oklahoma believes in so strongly, but I think there is a moral principle involved here. I have the paper which the distinguished Senator has placed on our desks today, wherein he cites as the main objective that it would absolve States of liability for retroactive payments.

Well, Mr. President, if a State owes a bill, or a bill is in litigation and the court says, "Yes, this is a just debt," what right does the Congress of the United States have to absolve them from liability? What right have we to exert the sovereign power of the Government and say to the States, "Even though a court may say you owe these obligations, you do not have to pay them?

Mr. President, that is not budget balancing. That is not even doing fair business. If we have too many expenditures and too many programs, the way to do it is to reduce them, not to come in afterwards and say we are going to deny payment for services that have been performed.

I do not think that this amendment should be enacted. I know it should not be enacted without any hearings by the committee. I hold in my hand a bulletin by the American Health Care Association on behalf of its 7,500 members. It says:

> ACHA, on behalf of its 7500 member long-term health care facilities throughout the nation, wishes to convey its strong opposition to a further delay in the implementation of Sec. 1902(a)(13)(E) of the Social Security Act. The section requires States participating in the Medicaid program to reimburse long-term care providers on a reasonable cost-related rather than on an arbitrary basis.

It says further:

> Subsection (b) of the amendment attempts to effect a retroactive repeal of this law in order to shield States from the potential consequences of their failures to carry it out.

Now, Mr. President, I have no desire that nursing homes or anybody else should get any money that they are not entitled to; but the question of whether or not they are entitled to certain funds in the State of Nebraska is now in court. If the court says they are entitled to it, it ought to be paid. But it will never be paid if the Bellmon amendment is passed.

The Bellmon amendment is this big Government idea to wipe out an obligation. Whom are we wiping it out for? There is a possibility that this would materially discriminate against the providers of care in Maine, South Carolina, Louisiana, Iowa, Missouri, Nebraska, Montana, California, Oregon, Florida, North Carolina, Arkansas, Colorado, Hawaii, maybe Nevada—it is quite close there—Guam, and the State of Washington, with a possibility that it would take rights and funds away from providers of health care that a court might hold they are entitled to in the States of Alabama, Georgia, Kentucky, Michigan, New Mexico, Oklahoma, Kansas, South Dakota, North Dakota, and Idaho.

That is what it does.

The distinguished Senator's own argument here says, "absolves States of liability for retroactive payments." If they are liable for them, should they not be paid? They cannot determine that liability until the litigation is ended.

Mr. President, this is a serious matter. I know it is popular to blame the hospitals, to blame the nursing homes, to blame everybody else for the expenditures of Government. Well, maybe some of them ought to be blamed. Maybe there are some of them that are doing things that are wrong. Let us deal with those. But certainly it is unethical for the Congress of the United States to come in here and pass a law that absolves States of liability for debts that a court may say they owe.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. CURTIS. Yes.

Mr. BELLMON. If the Senator will read the rest of the paragraph, he will understand the reason for this amendment. The reason is that the Department of Health, Education and Welfare gave the States an additional 18 months in the regulations. All we have done here is trigger extensive litigation that is going to be a windfall for lawyers. It is up to Congress, which let these people get into this shape, to straighten them out. All we are trying to do is straighten out a mess that the Government has created for itself.

Mr. CURTIS. Maybe there are some unethical lawyers.

Mr. BELLMON. I said nothing about unethical lawyers. There is nothing unethical about this amendment.

Mr. CURTIS. I think there is. I think if the Congress uses its sovereign power to say to States, "You don't have to pay bills that the courts have said are owed"——

Mr. BELLMON. No courts have said they are owed. All we are trying to do is stop litigation before it gets started.

Mr. CURTIS. These nursing homes have asserted claims. They have said to the courts, "You adjudicate them." Before the courts have a chance to answer, Congress comes in and removes the liability, retroactively.

I say that that is not the way to treat any of our citizens. I am not here to defend any particular business or profession or anybody else. I suppose they all have some whose ethics and performance and efficiency could be challenged. But there is a reason why these nursing homes are here, en masse, opposing this proposal. There is a reason why we are hearing from individual providers.

Mr. President, the cost of all these programs is tremendous. But the answer to that is not to take rights away from individuals, who believe they have a claim and have submitted it to court, and to say, retroactively, we are absolving the States of that liability. I do not think that is right. But even if my opinion is wrong on it, Congress should say that a committee should hear this first.

This is not a simple amendment involving policy, or something. This is an adjudication of claims, and it has never been heard by a committee.

Mr. President, I reserve the remainder of my time.

Mr. BELLMON. Mr. President, I yield myself 5 minutes.

Mr. President, on the point that this matter has not been heard by a committee, let me call to the attention of the Senator from Nebraska that S. 2005, a bill dealing with this question, was introduced on August 4.

The Finance Committee has had all that time to deal with the matter, and it comes to a head as of January 1, 1978, when every State is supposed to have all these regulations in place and be in a position to abide by the requirements of section 249.

So on the argument that there has been no time for hearings, there has been ample time.

Mr. CURTIS. I made no argument that there has been no time for hearings. I said that there have been no hearings held.

Mr. BELLMON. That is because the Senator has not wanted them. There was plenty of time and the Senator from Oklahoma——

Mr. CURTIS. I never heard of the Senator's bill until——

Mr. BELLMON. It has been before the Senator's committee since August 4.

Mr. CURTIS. Until it was passed here, during a lull in the filibuster on the natural gas matter.

Mr. BELLMON. The reason for trying to move this is that we are facing a deadline.

Mr. CURTIS. I understand that.

Mr. BELLMON. The law requires section 249(a) to be in effect as of January 1. If the Finance Committee will not move it, it is up to the Senate to take an interest in it.

Mr. CURTIS. The Finance Committee——

Mr. BELLMON. The Senator from Oklahoma has the floor and I refuse to yield until I finish my statement.

Mr. CURTIS. All right.

Mr. BELLMON. Mr. President, the other point is that nursing homes en-

tered into these contracts now in force totally voluntarily. They were not required to enter into them. They knew the States were making an effort to abide by section 249, but that section was not in force at the time.

So the question is whether or not the States want to be forced to rewrite old contracts, in effect in some cases almost 18 months, and base those contracts which the nursing homes entered voluntarily on the provisions required by 249(a).

We are not trying to do something the nursing homes did not do for themselves.

The provisions that are going to be settled if this amendment is approved are subject to widely divergent interpretations. It has touched off litigation, which I do not believe HEW or Congress intended when we passed section 249 originally or when the regulations were handed down.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, as far as this Senator is concerned, I would just as soon vote on the issue and decide it one way or the other.

I suggest we simply yield back the remaining time and suggest the absence of a quorum thereafter.

But first, I will yield for a unanimous-consent request.

Mr. NELSON. Mr. President, I ask unanimous consent that Judy Robinson of my staff be granted privilege of the floor during consideration of the pending legislation and the rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment.

Mr. LONG. Then I suggest that we have a quorum call.

Mr. CURTIS. If the Senator will withhold that quorum call, Mr. President, I make the point of order against the amendment that it is not germane.

The PRESIDING OFFICER. The amendment offered by the Senator from Oklahoma has been accorded a specific time grant under the unanimous-consent request, specifically to this amendment.

Therefore, under the precedents, the point of order will not lie against the amendment and the Chair must reject the point of order.

Mr. CURTIS. May I inquire whether or not there is any rule of the Senate to that effect?

The PRESIDING OFFICER. The precedents of the Senate with respect to the effect of unanimous-consent agreements are well established.

Mr. CURTIS. The Senator from Nebraska is aware that there are such precedents. My understanding of the precedents is this, that a point of order can be waived and that it can be waived by unanimous consent, that means consent of the two contending parties.

I never consented to it and did not know anything about this consent arrangement.

I believe those precedents go to the point, where the contending parties over an amendment agree that it shall be disposed of in a certain length of time, that that is a waiving of the point of order.

I do not know how a point of order can be waived by someone who is not here and has no knowledge of it.

The PRESIDING OFFICER. The precedents are to the effect that where there is an agreement on a specific time block, or an amendment under the unanimous-consent order, the point of order of germaneness has been waived and does not lie against the amendment.

Mr. CURTIS. Very well.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BUMPERS (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

On this vote, the Senator from North Carolina (Mr. MORGAN) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Minnesota would vote "nay."

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "nay."

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Kansas (Mr. PEARSON) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 22, nays 57, as follows:

[Rollcall Vote No. 562 Leg.]

YEAS—22

Baker	Heinz	Sarbanes
Bartlett	Javits	Schweiker
Bellmon	Laxalt	Scott
Cannon	Lugar	Stevens
Chafee	McIntyre	Stevenson
Glenn	Metzenbaum	Young
Goldwater	Pell	
Griffin	Percy	

NAYS—57

Allen	Garn	Nelson
Bayh	Gravel	Nunn
Brooke	Hansen	Packwood
Byrd, Harry F., Jr.	Hart	Proxmire
Byrd, Robert C.	Haskell	Randolph
Case	Hathaway	Ribicoff
Chiles	Hayakawa	Roth
Church	Hollings	Sasser
Clark	Inouye	Schmitt
Cranston	Jackson	Sparkman
Culver	Johnston	Stafford
Curtis	Kennedy	Stone
Danforth	Leahy	Talmadge
DeConcini	Long	Thurmond
Dole	Magnuson	Wallop
Domenici	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McGovern	Zorinsky
Eastland	Melcher	
	Muskie	

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—20

Abourezk	Hatfield	Morgan
Anderson	Helms	Moynihan
Bentsen	Huddleston	Pearson
Biden	Humphrey	Riegle
Burdick	Mathias	Stennis
Ford	McClellan	Tower
Hatch	Metcalf	

So Mr. BELLMON's amendment (No. 943) was rejected.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy, of my staff, be accorded the privilege of the floor during consideration and votes on the bill before the Senate and any amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make a similar request with respect to Jerry Rosen of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 944

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 944.

At the end of the bill add the following new section:

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . That (a) chapter 25 of the Internal Revenue Code of 1954 (relating to the general provisions for employment taxes) is

amended by adding at the end thereof the following new section:

"SEC. 3506. INDIVIDUALS PROVIDING COMPANION SITTING PLACEMENT SERVICES.

"(a) IN GENERAL.—A person engaged in trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated, for purposes of this chapter, as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

"(b) DEFINITIONS.—For purposes of this section, the term 'sitters' means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purpose of this section.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 3506. Individuals providing companion sitting placement services."

(c) This section shall be applicable as to tax years commencing after December 31, 1974.

The PRESIDING OFFICER. Will the Senator suspend for just a moment until we obtain order in the Chamber?

Will Members please take their seats and withdraw from the aisles?

The Senator from Alabama.

Mr. ALLEN. Mr. President, this amendment has been passed by the Senate before, but at the time that it was passed there was some objection raised by the joint committee. Since that time Dr. Woodworth, of the Treasury, has agreed to accept the amendment on behalf of the Treasury Department, and I have talked to the distinguished manager of the bill and the ranking minority member.

What it does is to provide that babysitter placement services shall not be treated as the employer of babysitters and other companion sitters who perform services for someone else and are paid by the parties for whom they work and the service does not receive the money in any way.

It just would hold that they are not employees of the placement service.

As I say, the amendment has passed the Senate before and, so far as I know, there is no objection to the amendment. I hope it might be approved.

Mr. LONG. Mr. President, I have no objection to the amendment. I have discussed it with Mr. CURTIS, the ranking member of the Finance Committee, and he has no objection to it. I know of no objection to the amendment, and I would be prepared to accept it.

COMPANION SITTER AMENDMENT

Mr. ALLEN. Mr. President, I am introducing today an amendment which is similar to an amendment adopted by the Senate last year during consideration of H.R. 10612, the Tax Reform Act of 1976. The amendment is designed to permit employment agencies placing campanion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to FICA—social security—and FUTA—unemployment—taxes. Also it would exempt such agencies from the requirement of withholding Federal income taxes on income earned by companion sitters inasmuch as the agencies involved are not the source of the wages paid and are not the taxpayer's employer.

This proposed legislation is made necessary by Revenue Ruling 74–414, which defines a companion sitter agency as an employer within the meaning of the employment tax regulations. In my judgment, the ruling was ill advised, because in practical effect it would drive out of business many agencies performing a valuable public service and because it fails to acknowledge the fact that sitter agencies are not employers, but are rather agents acting either for the sitter or the party employing the sitter. The effect of the ruling has been to drive companion sitter agencies out of business or to bring them to the brink of bankruptcy.

Typically, a companion sitter agency will work from a list of names and phone numbers of persons willing to act as sitters. When contacted by an individual desiring a sitter, the agency will check from its list and put a sitter in touch with the person needing those services. Obviously, if a sitter agency is required to act as an employer for tax purposes of some 50 to 100 employees, then the administrative and financial burden is overwhelming. Unless Congress acts, in effect, virtually all such owner-operated agencies will fail and only those with substantial financial resources will be able to remain in business—with corresponding costs to the public in increased sitter fees to cover administrative overhead.

Although the companion sitter amendment adopted last year was dropped in conference with the House of Representatives, the conference agreement noted the seriousness of the problem and urged the Internal Revenue Service to withdraw Revenue Ruling 74–414. Yet, Mr. President, the IRS has not withdrawn the revenue ruling involved and, in fact, is pursuing vigorously many of these small sitter placement services and is demanding from them payment of the various taxes associated with their alleged status as employers.

From time to time, I have been advised that the IRS is reconsidering its position with respect to Revenue Ruling 74–414, and on the basis of such advice, I did not call up the companion sitter amendment I introduced on April 26, 1977, when the Senate was considering the tax bill, H.R. 3477. Yet, in spite of these assurances, I have continued to receive reports of IRS harassment of small sitter agencies, and it should now be obvious, Mr. President, that we were mistaken in our belief that the IRS would react favorably to the guidance set forth in the conference report on the Tax Reform Act of 1976. Apparently, the guidance and the desire of Congress expressed formally in a conference report are not going to be sufficient to get appropriate action. The matter is going to have to be nailed down and made crystal clear before the agents of the Service will relent. The IRS has never been noted for its flexibility, and I reckon this is going to be one more example of Congress being required to resolve fully, by statute, a problem which should never have existed in the first instance.

My hope, Mr. President, is that the Senate will again see the wisdom of adopting the measure I have proposed and that our efforts in this case will not again go down the drain as a result of a desire to accommodate the sensibilities of the one agency of the Federal Government whose attention is difficult to get except with a club.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. ALLEN. Mr. President, I ask unanimous consent that an excerpt from the conference report of last year be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCLUSION OF CERTAIN COMPANION SITTING PLACEMENT SERVICES FROM EMPLOYMENT TAX REQUIREMENTS

House bill.—No provision.

Senate amendment.—Under present law, certain tax payment and reporting requirements are placed upon employers in regard to F.I.C.A. (social security) and F.U.T.A. (unemployment) taxes and withholding at the source on wages. The Senate amendment excepts companion sitter placement services from the definition of "employer" for purposes of Federal employment taxes if the service does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis. The provision applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement omits this provision. The conferees note that the Joint Committee staff is studying for the Senate Finance Committee the overall definitions of "independent contractor" and "employee" for Federal tax purposes. This subject will be included in the study. The conferees urge that the Service withdraw its Revenue Ruling 74–414 on babysitting placement services.

Mr. ALLEN. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the only amendment that remains is the amendment by Mr. BROOKE. Mr. MOYNIHAN will not be back on the floor until 4 p.m. today, and I am told he has an interest in that amendment. I have discussed the amendment with the distinguished manager of the bill and the advisability of the Senate's recessing until 4 o'clock, and it seems agreeable.

Therefore, if no Senator wishes to secure the floor at this time, I ask unani-

mous consent that the Senate stand in recess——

Mr. MAGNUSON. Mr. President, if the Senator will yield for a unanimous-consent request——

Mr. ROBERT C. BYRD. I yield.

REAPPOINTMENT OF JACK VALENTI AS PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE MOTION PICTURE ASSOCIATION OF AMERICA

Mr. MAGNUSON. Mr. President, I was delighted to learn that Mr. Jack Valenti will continue for another 7 years in his position as president and chief executive officer of the Motion Picture Association of America. I know that many of my colleagues recall, as I do, the excellent job that Jack did during his years as Special Assistant to President Johnson. Likewise, I am sure that those who have followed Jack's career with the Motion Picture Association feel, as I do, that he has not only been an excellent representative of that organization but that he has also always borne in mind the special responsibility which the motion picture industry has to the public. I congratulate Jack on his reappointment and do so with every confidence that he will continue to forcefully remind the industry of that special responsibility.

ORDER THAT H.R. 9090 BE HELD AT THE DESK

Mr. TALMADGE. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TALMADGE. Mr. President, the House will send over an emergency bill, H.R. 9090. I have discussed it with the distinguished ranking minority member of the Committee on Agriculture and Forestry. It is emergency legislation of importance affecting disaster relief and drought in the agricultural area.

I ask unanimous consent that the bill be held at the desk when it comes over.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator say when he expects it?

Mr. TALMADGE. I understand the House will act on the bill today, and rather than transmitting it to the Committee on Agriculture and Forestry, it is an emergency matter, and both the ranking minority member and I agree that we ought to send it to the floor of the Senate at the earliest possible moment.

Mr. ROBERT C. BYRD. Could that even be this afternoon following the disposition of the present matter?

Mr. TALMADGE. As soon as it comes it is agreeable so far as the Senator from Georgia is concerned.

The PRESIDING OFFICER. Without objection, H.R. 9090 will be held at the desk.

LABOR-HEW APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7555.

The PRESIDING OFFICER (Mr. DECONCINI) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MAGNUSON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the presiding officer appointed Mr. MAGNUSON, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, Mr. MCCLELLAN, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG conferees on the part of the Senate.

Mr. MAGNUSON. I thank the Chair.

SOCIAL SECURITY SERVICES

The Senate continued with the consideration of H.R. 3387.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate resumes its consideration of the pending bill at 4 p.m. today Mr. BROOKE be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. today.

There being no objection, the Senate, at 3:04 p.m., recessed until 4 p.m.; whereupon the Senate reassembled when called to order by the Acting President pro tempore (Mr. MATSUNAGA).

Mr. LONG. Mr. President, I ask unanimous consent that I might suggest the absence of a quorum without the time being counted against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MOYNIHAN, SENATOR SCHWEIKER, SENATOR FORD, AND SENATOR GLENN ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in whatever order suits their convenience: Messrs. MOYNIHAN, SCHWEIKER, FORD, and GLENN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SOCIAL SECURITY SERVICES

The Senate continued with the consideration of H.R. 3387.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally against both sides on the bill.

Mr. CANNON. Will the Senator withhold that?

Mr. ROBERT C. BYRD. Mr. President, I withhold it.

Mr. CANNON. Mr. President, I ask unanimous consent that Messrs. John Kirtland, Doug Buttrey, and Bob Ginther be granted the privileges of the floor during the consideration of the pending bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Mr. Chuck Finn and Mr. George Kuhn be granted the privileges of the floor during the debate on this bill and on the one to follow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum with the time to be charged equally on both sides of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that the unanimous-consent agreement which gives me 2 hours on an amendment may be transferred to Senator BROOKE. May I, before the question is put, explain the reason?

He is the principal sponsor. I am a cosponsor of the pending amendment. Somehow or other, it was in my name that this stipulation was made. I should like to correct that.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. JAVITS. I ask unanimous consent that it be not charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 945

benefit checks for utility services or living

(Purpose: To delete provision allowing joint accommodations.)

Mr. BROOKE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself and Messrs. BELLMON, HATHAWAY, HOLLINGS, JAVITS, METZENBAUM, SPARKMAN, RIBICOFF, PROXMIRE, RIEGLE, DOMENICI, HATFIELD, and HEINZ, proposes an unprinted amendment numbered 945.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike out the matter beginning on page 5, line 9, through the end of line 9 on page 6.

On page 6, line 10, strike out "(4)" and insert in lieu thereof "(3)".

On page 6, strike out the matter beginning with "; except that" on line 13 through the end of line 16 and insert in lieu thereof a period.

Mr. BROOKE. Mr. President, I offer the amendment to H.R. 3387 on behalf of myself, Senators BELLMON, HATHAWAY, HOLLINGS, JAVITS, METZENBAUM, RIEGLE, PROXMIRE, DOMENICI, SPARKMAN, HATFIELD, HEINZ, and RIBICOFF.

Our amendment strikes the authorization for State welfare departments to make unlimited so-called "voluntary" two-party checks to AFDC recipients and landlords or utility companies for up to 50 percent of the recipient's total AFDC payment. We propose this amendment because we believe Congress should not address such an important issue in a bill such as H.R. 3387. For the primary purpose of H.R. 3387 is simply to extend for 4 months a number of Social Security Act provisions which expire September 30. But this sweeping provision would threaten the rights of AFDC recipients and create a type of housing policy of doubtful effectiveness and desirability.

In authorizing "voluntary" two-party checks by AFDC recipients, we would place them in a position where they can be coerced by the welfare officials who control their income, and by the landlords who control their housing. All landlords under the existing bill could simply demand that an AFDC recipient authorize such two-party payments before the landlord would agree to rent to such a tenant. And there would be no effective way of preventing such coercion.

For AFDC recipients may be the least likely in our society to understand their right that their consent be "voluntary." The so-called "voluntary" sterilization of teenage girls on welfare only a few years ago proves the dangerous potential of placing welfare recipients in a position where they can be coerced—however well meaning the intent.

Although a welfare recipient could cancel his or her "voluntary" authorization of two-party checks, it could take considerable time for the cancellation to wind its way through the well-known welfare bureaucracy and case backlog. And until the cancellation actually took effect the recipient's check would continue to be under the control of his existing landlord.

For although the two-party checks require the AFDC recipient's signature, it also requires that of the landlord or utility company. Thus a large portion of the AFDC recipient's income would not be at his or her disposal should it be necessary or desirable to move to better or less expensive housing.

In addition to the threat of coercion, the system of "voluntary" two-party checks lacks other effective safeguards for AFDC recipients. Although these checks in practice establish a type of housing subsidy, there are no tenant protections or safeguards in the bill which have been fundamental to our housing subsidy programs. These include requirements that landlords provide housing that meets health, safety, and housing code standards.

Under this bill as it now stands, tenants might even lose existing remedies allowing them to make necessary repairs and to deduct the cost of repair from their rent to insure compliance with the minimum code standards. And there is no reason to believe that such a program would provide an inducement to landlords to maintain or manage their buildings, or to improve the substandard housing in which many welfare recipients now live.

Thus, the so-called "voluntary" two-party checks could actually encourage or perpetuate overpriced, substandard housing for persons of low income. As the ranking minority member of the Senate Subcommittee on Housing, I can assure you that there are more effective ways of answering the needs for low-income housing which safeguard the rights of the low-income family and do not present the potential dangers of the existing bill.

The argument has been made that we should disregard all these strong objections to unlimited "voluntary" payments because their use might encourage landlords to rent to low-income recipients who are financial risks. But they ignore the fact that we are specifically leaving in the bill the provision that a State itself, not the recipient, could initiate two-party checks for approximately 20 percent of its AFDC recipients. This doubles the existing allowance of 10 percent and should be at least sufficient to assure prompt payment to landlords and utilities by those AFDC recipients who do mismanage their funds and are financial risks to their landlords and utilities.

Our amendment also leaves in the bill the "forgiveness" provision for States who have exceeded the 10-percent limitation in the past.

Another strong argument against the authorization of unlimited "voluntary" two-party checks is the adamant opposition to the institution of this practice by the National Council of State Public Welfare Administrators. Surely they better than anyone know whether this provision is really needed in the administration of our welfare programs. And surely they know better than anyone that this provision would cause more problems than it solves. Indeed, one need only realize the administrative chaos in welfare departments which could result from large numbers of recipients requesting State agencies to issue two-party checks in amounts which changed from month to month as they would in the case of utility payments. While an AFDC recipient could protect his or her rights by canceling the agreement for a two-party check, this too would create administrative chaos. For welfare departments would have to cope not only with the AFDC recipient's original authorization of two-party checks, but subsequent cancellations and reauthorizations. Do we really wish to further complicate the administration of our welfare programs when those programs already so clearly are in need of simplification and reform?

But above all, without our amendment, H.R. 3387 would violate a principle established at the time AFDC was enacted by the Congress. This principle explicitly rejected past practices under which welfare agencies paid many recipients' bills directly to vendors. Instead Congress stated that families dependent on society should not be penalized for their poverty by being deprived of the responsibility and dignity that comes from controlling how their resources, however meager, should be spent.

Our amendment would simply reaffirm this basic principle while, with due process, making provision for those AFDC recipients who actually are a financial risk to their landlords and utility companies.

I ask my colleagues to support our amendment and conclude by listing some of those groups which join us in opposing the unlimited so-called voluntary two-party checks by AFDC recipients. Included are:

American Friends Service Committee;

National Conference of Catholic Charities;

AFL–CIO;

National Urban League;

League of Women Voters;

American Public Welfare Association;

National Council of State Public Welfare Administrators;

Center on Social Welfare Policy and Law;

Consumer Federation of America;

Welfare rights organizations from Michigan, Wisconsin, Pennsylvania, California, New York, and Massachusetts.

And, up until a few moments ago, the Department of Health, Education, and Welfare, as well.

Mr. PROXMIRE. Mr. President, will the Senator yield.

Mr. BROOKE. I am happy to.

Mr. PROXMIRE. Mr. President, I warmly and strongly support the distinguished Senator from Massachusetts and I am delighted to rise as a cosponsor of the Brooke amendment.

I think it is shocking that the Congress might go ahead and authorize a program which would permit 100 percent of the AFDC recipient's total welfare payment to be paid in two-party checks. That section of H.R. 3387 would

authorize local welfare departments to draw, without limitation, two-party checks to the order of recipients of cash assistance under the aid to families with dependent children (AFDC) program and landlords and utility companies in an amount up to 50 percent of the AFDC recipient's total welfare payment.

It should first be noted that the AFDC program is the largest of the public cash assistance programs. In 1976, an average of 3.5 million families received monthly AFDC payments, involving a cost to the Federal Government of more than $5.2 billion. As a general rule, aid must be provided in the form of unrestricted money payments to the family. This means that the State welfare agency cannot tell the family how much it should spend on food, how much it should spend on shelter, and so forth. This also means that families retain the freedom, in the case of housing, to demand, in exchange for their rental payments, decent, safe, and sanitary housing.

It is the one area in housing where it is particularly important that the tenant, who is usually poor and at a disadvantage when dealing with a landlord in every way—psychologically, educationally, and financially—be given some opportunity to have some leverage.

Mr. President, as chairman of the Banking, Housing, and Urban Affairs Committee, I have felt very strongly that Federal housing programs should pursue a policy of insuring that there is an adequate supply of such housing at prices which are within the financial means of low-income families. This concern, moreover, is shared by Senator BROOKE, the distinguished ranking minority member of the committee. I really feel that the landlord/vendor payment provision in H.R. 3387 would undermine that objective.

It is significant that there are no legislative standards in H.R. 3387 to assure that landlords who benefit from the vendor payments would be required to certify that housing provided to tenants receiving AFDC payments be safe and sanitary. This defect in this legislation is fundamental and distinguishes it from the requirements insisted on by Congress for all Federal housing programs of the Department of Housing and Urban Development, the Veterans' Administration, and the Farmers Home Administration.

The families which receive AFDC payments are all poor. As I say, many, perhaps most, live in egregiously poor housing. Their only real leverage over landlords who refuse to make repairs or to provide safe and sound housing units is to withhold rent from such landlords or to use part of their payments to make the repairs themselves. The landlord/vendor payments authorized by section 3(a)(3)(A) would remove this leverage and could intensify the extent to which most of the more than 3.5 million AFDC families suffer from overpriced and substandard housing.

Mr. President, the landlord/vendor provision of this bill requires the most careful scrutiny. Such payments represent a kind of "housing voucher" program which threatens to compete with—and in some inner city areas of the country, replace—present HUD low-income housing programs. At a minimum, legislation with such potentially far-reaching consequences deserves full and open examination, especially by the relevant housing authorization committees of Congress.

So I strongly urge my colleagues to support the Brooke amendment, and I hope it will be adopted.

I thank the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague.

I think it is very important and significant that the distinguished chairman of the Banking, Housing, and Urban Affairs Committee has spoken out for this amendment and against what is contained in this committee bill.

Actually, it is a matter which should be under the jurisdiction of the Housing Subcommittee anyway. It is a housing matter. It is purely and simply a housing matter and has no place on this bill; and I am very, very grateful to my distinguished chairman for making such a strong and forceful statement in support of this amendment.

Mr. President, I yield to the distinguished Senator from New York, a cosponsor of this amendment.

The ACTING PRESIDENT pro tempore. How much time?

Mr. JAVITS. Two minutes, or three minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I support this amendment, and I must say that, as I have explained to my own colleague from New York, who takes the other point of view, I understand perfectly the closeness of the question, and he himself has put it very accurately. I do not know that he has yet debated it. But he has put it very accurately in saying there are two sets of values which are here involved. The one set of values is that on the whole the poor are honest, on the whole, and also that we are trying to give them a certain quotient of dignity in the control of their own resources. Especially is this true, as we learn, because people slip in and out of this poverty category, and that is not necessarily a life sentence. Of course, it is this very syndrome, which I myself have given so much to in my work on the Human Resources Committee as an example in the legal services program which has as its objective the very same point. So I am ambivalent about it myself, but I have come down on this side of the amendment which Senator BROOKE has given us and for this reason.

I shall take the worst case theory. I found it extremely interesting—I do not know whether this has been referred to, but it probably has—to read a piece about the South Bronx in which I have been very heavily involved since 1968 myself, because I thought to there duplicate the experience of Robert Kennedy's brilliant initiative in Bedford-Stuyvesant in Brooklyn—and this is in the Bronx—in which I joined when he first started it, because the Bronx was even further gone than Bedford-Stuyvesant. In the course of that work I found an enormous amount of resource in the development of cooperatives, et cetera. So I read with unique interest a story dated October 14 in the New York Times about a landlord's view of the deterioration of the South Bronx and the fact that he attributed it very importantly to the fact that a good many of these welfare tenants did not pay their rent, and this to me a critically important point.

Has this been printed in the RECORD yet?

Mr. MOYNIHAN. It will.

Mr. JAVITS. Mr. President, I ask unanimous consent that this article entitled "A South Bronx Landlord Says Poverty Is Not To Blame for Blight" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Oct. 14 1977]

A SOUTH BRONX LANDLORD SAYS POVERTY IS NOT TO BLAME FOR BLIGHT

(By Alan S. Oser)

Without the fanfare of a Presidential tour, a long-experienced owner and manager of Bronx apartment houses drove a visitor through the South Bronx this week and branded the task of resurrection in the most blighted neighborhoods all but hopeless.

The only hope he said, is to focus on occupied housing in still-functioning neighborhoods. The essential first step, he declared, is to reform the rent-payment system for welfare tenants.

Just yesterday, President Carter at his news conference reaffirmed the importance of his visit to the South Bronx on Oct. 5 as a way of demonstrating to the American people his concern with urban problems. He spoke of the need to concentrate more of the existing rehabilitation money in blighted areas, urban and rural.

But the Bronx apartment-house owner and manager, Eli Cooper, contended that no past government spending effort had succeeded in restraining the march of property abandonment, destruction, depopulation and ultimate demolition.

AN OWNER'S VIEW

"I no longer accept the idea that poverty is the cause," he said. "Declining population, yes. That started with Co-op City and the Mitchell-Lama program." Racial change and the rise of an unskilled lower-income population as job opportunities fall are fundamental contributors, he said.

The size of the buildings and the density of residential concentration makes the abandonment phenomenon more devastating in the Bronx than in other low-income urban communities, housing specialists believe.

Branching well beyond the President's route, Mr. Cooper sought to demonstrate that blight and the start of abandonment was spreading into the West Bronx to still heavily populated neighborhoods. Occasional examples of government-aided restoration looked pathetic in the total context.

Mr. Cooper is the 58-year-old head of Cooper Realty, and one of the few remaining on-the-scene owners and managers of South Bronx properties.

A tenacious man with an emotional stake as well as an economic interest in buildings he has nurtured for 20 years or more, Mr. Cooper insists he is still an optimist about the salvation of hundreds of buildings not yet abandoned.

Even granting the fundamental facts of economic decline and population loss, he said, the housing that remains can still attract sufficient occupancy at affordable rents to be habitably sustained.

Mr. Cooper owns and manages a stock of 700 apartments in 19 buildings, all but two of them south of Fordham Road in the Bronx. The two others are in Queens.

Only this year did he "abandon" a building for the first time, he said. It was on Fox Street, where fires in adjacent buildings frightened out his tenants. "The building abandoned me," he said.

To prove that the cycle of abandonment, destruction, depopulation and ultimate demolition is already in progress well beyond the devastated neighborhoods visited by President Carter, he drove a visitor through the West Bronx. The tour included such housing-packed streets as University Avenue, Nelson Avenue, Woodycrest Avenue and Macombs Road.

In Mr. Cooper's view, it is possible to own and manage this stock profitably even with a vacancy rate of 5 percent, provided rent collections are continuous and assured.

The heart of the rent-collection problem—with more serious impact in the Bronx than anywhere else in the city, past studies suggest—is the Department of Social Service's practice of lump-sum payments to welfare clients. They, in turn, are supposed to pay their rent and all other bills.

Enough of the rent money fails to find its way into the housing stock to precipitate housing abandonment on a serious scale, according to Mr. Cooper and many other housing managers.

In practice, according to Mr. Cooper and others, an institutionalized structure has been established that makes it easy for welfare tenants to avoid rent payments entirely, if they choose to. Supposedly, landlords can obtain two-party checks from the Department of Social Services for nonpaying tenants.

But under present law these checks cannot exceed 10 percent of the caseload. Even if these checks are obtained, many tenants cash them with countersignatures other than their landlord's.

There is no system to assure that rent money is used for rent.

Exacerbating the situation in the Bronx from the housing standpoint is the improved legal services for tenants available in housing court.

The hard pressed or unscrupulous tenant, defended by federally financed legal services, can avoid adjudication for months as rent bills pile up, usually by claiming uncorrected housing violations or utilizing procedures of delay. Finally, he may move or be evicted, owing months of rent.

Mr Cooper estimated that 7 percent of the welfare tenancy in the Bronx was not paying rent. "Two years ago it was 3 percent," he said. "Next year it will be 10 percent."

Even a small number of tenants not paying rent is enough to force the building into abandonment, housing experts say.

The typical 40-family walk-up building in the South Bronx requires an annual rent roll of about $80,000 to be sustained. Mr. Cooper calculated that even with 5 percent vacancy rate, such a building in still-sound neighborhoods can be operated profitably if there are full rent collections.

But even one tenant avoiding six months of rent payments in a $150-a-month apartment deprives the building of $900 in rent money.

The Department of Social Services has 101,000 welfare cases in the Bronx, most of them concentrated in the area South of Fordham Road. The average rent, citywide, of a welfare client is $142 a month. A spokesman for the department said there was no way to determine what portion of the money allowed for rent is actually paid as rent.

In the Bronx, the welfare departments payments to clients for rent amount to $14.4 million a month.

VIEWS ON POVERTY

On the broader issues, Mr. Cooper said he no longer accepted the notion that poverty itself is a significant contributor to housing losses. "This housing can be provided at a rent that even poverty people can pay," he said.

But if the bank has lost its mortgage, if the owner has lost his equity investment and there is no other stake in the building than that of the tenants themselves who are depending on it for shelter, "there is no way that this complicated multifamily building can be maintained," he said.

The housing stock in the Bronx consists of innumerable buildings that went up between 1920 and 1940. These buildings could provide housing for another hundred years, in Mr. Cooper's view, if they are properly maintained and not "cannibalized."

From a structural standpoint, they are superior to many buildings going up today, he said. "There are full plaster walls, complete ceramic-tile bathrooms, high ceilings." The workmanship cannot be duplicated.

"But we can't provide palaces. What the tenant will get is heat and hot water, repairs of the walls and ceilings and tiles. What we can't assure is clean halls and protection against burglaries.

In elevator buildings, we can't assure protection against breakdowns. I won't even own an elevator building. The maintenance problem is enormous—as soon as you fix it, it's broken."

Mr. JAVITS. Mr. Cooper, the landlord in question is quoted as follows. This is from the article.

Mr. Cooper estimated that 7 percent of the welfare tenancy in the Bronx was not paying rent.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. JAVITS. I ask that I be yielded 2 additional minutes.

Mr. BROOKE. I yield the Senator 2 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 additional minutes.

Mr. JAVITS. I thank my colleague.

Then the landlord is quoted by saying:

"Two years ago it was 3 percent," he said. "Next year it will be 10 percent."

We are very familiar with that kind of situation here where people will lay a whole policy on their fears for the future. When I saw that figure compared to the fundamental point made by this landlord that the whole problem was attributable to the fact that welfare tenants did not pay their rent, that was a very important point to me in favor of the Brooke amendment, because if the number is that small then we need to give the other aspects of this bill an opportunity to operate.

The fact is that if we are going to give the right to two-party checks to twice as many poor as had them before, we are going from 10 to 20 percent, and it seemed to me that, in view of the marginal number with which we are here concerned, we should give that improvement, upon which there is general agreement by Senator BROOKE and those who agree with him, by myself, et cetera, to operate before we took this further step which we are taking at one and the same time really on the supposition that the doubling of the number who may now be submitted to two-party checks would not do what needs to be done.

It is for those reasons and for that finite reason, notwithstanding my deep concern about these two sets of values, Mr. President, that I am for this amendment and that I hope the Senate will support it.

I thank my colleague for yielding.

Mr. BROOKE. I thank my distinguished colleague.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague from New York, and I know it was a very difficult decision for him because New York has had some very serious housing problems.

The present law does allow a State to place 10 percent of its AFDC recipients who mismanage their funds on two-party checks, or one-party checks made out only to the landlord. New York City has chosen to use two-party checks, except when two-party checks fail, to offer some protection to AFDC tenants against unreliable landlords in low-income housing areas, although one-party checks would be more effective if one's sole interests were to assure that landlords be protected against financially irresponsible tenants. New York City did exceed the 10-percent limitation in 1975 when it had about 25 percent of its AFDC recipients on State-initiated two-party checks.

The reason for this figure in New York City is not clear. Financial mismanagement by recipients was determined by caseworkers working only on very general guidelines, and the records are insufficient to prove what percentage of the 25 percent should actually have been on a two-party check.

Many tenants withheld their checks or their rent for good and for legal cause, and all agree that the welfare department had grossly inadequate review of the cases put on two-party checks. Among other deficiencies of the review was the infrequency of examination to see what recipients should be taken off restricted payments.

When HEW invoked the 10-percent limitation, New York City reduced its restricted payments to that figure by restricting payments for only those tenant cases facing eviction.

A landlord can go into court for eviction immediately upon nonpayment of rent. The problem is that the courts in New York were clogged—still are clogged, I take it—and cases involving tenants were and are dragged out.

However, it does not seem wise to me—and I think the distinguished senior Senator from New York will agree—to enact sweeping national legislation of very dubious effectiveness to try to make up for some shortcomings of New York City's administration of its welfare program and its court system. I think that by doubling the figure from 10 to 20 percent the percentage of AFDC cases which a State can place on two-party or even one-party checks, we will adequately take care of all the cases about which the distinguished junior Senator from New York is concerned. I am as-

sured by the New York City welfare administration that 20 percent should adequately take care of the problems which it has with financially irresponsible AFDC tenants.

I know Senator MOYNIHAN has some very real concerns, as does the distinguished senior Senator from New York, about the problems of New York, and we all do. But we are here to make a national policy for the entire country, and nowhere in the country do we find a need for State-initialed two-party or one-party checks even approaching 20 percent except in New York City.

There was an agreement to increase from 10 to 20 percent, the allowance of State-initiated restricted payments in order to take care of the New York situation. But it would be unjustified and unconscionable to add to the 20 percent, the authorization of unlimited voluntary two-party check. And I put "voluntary" in quotation marks, because the tenant's agreement certainly would not be voluntary. If I were a landlord and someone came to me to rent my tenement and I wanted to let them have that tenement, I could very easily, and possibly would very easily, say to them, "All right, if you'll enter into a contract for a two-party check." That would assure me of the Federal Government and the State government stepping in to see that I was paid.

But the poor tenant is going to be at the landlord's mercy, because if he or she does not enter into this contract, they will not get the tenement at all. Therefore, we are creating a difficult situation for AFDC recipients.

I am pleased that the distinguished senior Senator from New York has seen fit, weighing this whole issue on balance, to cosponsor this amendment.

Mr. President, I reserve the remainder of my time.

Mr. MOYNIHAN. I yield myself such time as I may require.

Mr. President, I rise in pain and difficulty to join this debate, and I should like that to be made clear at the outset. But I also should like to make clear that I rise without hesitation to defend the decisions of the Secretary of Health, Education, and Welfare, of the House of Representatives, and of the Senate Committee on Finance in this matter.

I am particularly grateful to my cherished colleague, the senior Senator from New York, and to the distinguished Senator from Massachusetts. I recognize and thank them for acknowledging that there is a conflict of rights at issue here; and in no certain sense will we be able to make an unambiguous, explicit, clear finding as to which side should prevail. Yet, it seems to me that the arguments of reason and experience make so strong the case of the Secretary of Health, Education, and Welfare, of the House of Representatives, and of the Finance Committee, after the hearings held on this measure, as to command our assent.

Before I proceed to a formal statement, I wish to make clear to the Senate one detail which has not been referred to so far, with respect to the two-party checks and the unlimited ability of welfare recipients voluntarily to enter into such agreements.

This provision would be enacted for 2 years, during which time the Secretary of Health, Education, and Welfare would be asked to make a judgment as to whether or not this responds to one of the most extraordinary phenomena of this age in America, which is the wholesale destruction and abandonment of housing in our center cities—a degree of destruction and abandonment which no Congress that I can imagine, elected in this age, will ever agree to provide the funds to replace.

The distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, just a moment ago, said that he found this measure shocking. I find the South Bronx even more shocking, and I do not anticipate that any legislation coming out of that committee will replace in any way the destruction and savaging of a whole urban community which has taken place before our eyes—and before the eyes of this Nation.

How many of us watched the televising this year of the first game of the world series? At a break between innings, the television cameras of the Nation turned from the Yankee Stadium ballpark, and a commentator said, "Would you like to see yet another spectacle—the burning of the South Bronx?" They turned their cameras to the conflagration which is steadily destroying what, on its own, would be the fifth largest city in the United States.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. LONG. I was just looking at an article which the Senator made available to us, entitled "South Bronx Can Be Saved," from the Daily News of October 16 of this year. It reads:

> An average of 10 fires a day, 7,000 in two years and in 1975, and more than $20 million in insurance losses were recorded.

If the Banking Committee is able to bring about the erection of 10 new buildings a day, 7,000 in 2 years, in the South Bronx, I would say they are doing a pretty good job. That is the kind of problem we have to contend with.

Mr. JAVITS. Mr. President, will the Senator yield

Mr. MOYNIHAN. I yield.

Mr. JAVITS. Mr. President, let us not get euphoric around here. This bill and this change for which Senator MOYNIHAN contends are not going to make it or break it, nor is Senator BROOKE's amendment whether it is adopted or not.

We are talking about the South Bronx, which is bankrupt of jobs. That is what is troubling the South Bronx. It is in a city that is broke.

For 10 years, we have been trying to buy, for $10 million, the railroad yards up there in order to establish an industrial complex, and for 10 years we have not been able to raise the money.

So, while I appreciate the lineaments of this argument—which is legitimate and proper—the world is not going to fall in, no matter which side wins. Neither is the South Bronx going to be redeemed or saved from fires or restructured. It is in very, very deep trouble, and it is going to take a massive infusion of capital and of opportunities for jobs in order to make it remotely viable.

Mr. MOYNIHAN. I could not agree more with my colleague from New York.

I point out that it was the chairman of the Committee on Banking, Housing, and Urban Affairs who introduced the thought that something of enormous import was taking place here, when what is happening, in fact, is a prudent, limited experiment to go forward under the direction of the Secretary of HEW, who asks that it be done.

Mr. President, the Committee on Finance intended H.R. 3387 to be a noncontroversial measure, temporarily extending certain expiring provisions of the Social Security Act pending the enactment of H.R. 7200.

At my insistence, the committee agreed to include in H.R. 3387 a set of provisions dealing with what are known as protective and vendor payments in the program of aid to families with dependent children. All of these had previously been adopted by the House and had earlier been agreed to by the committee as part of its consideration of H.R. 7200.

I wish to be clear about the content of these provisions. They have three parts, as carefully set down in the committee report on H.R. 3387.

First, in cases where a State determines that an AFDC recipient is unable to manage his or her funds, the State is empowered to make "protective payments" on behalf of the recipient directly to a landlord, utility company, or other provider of necessary goods and services. Whereas, previously, States could make such payments for no more than 10 percent of their AFDC caseloads, the bill before us would raise that limit to 20 percent.

Second, a number of States, notably including New York, have exceeded the 10-percent limit in recent years. H.R. 3387, in effect, spares those States from the financial penalties that they might otherwise have to pay to the Federal Government. In the case of New York, those penalties could total upward of two-thirds of a billion dollars, most of it accounted for by New York City. It goes without saying that New York could not afford this, and that to require it to pay such sums at this time would go far to bankrupt it.

Third—and here, of course, is the area of disagreement—in addition to "protective payments" based on a finding of inability to manage funds, the bill would allow welfare recipients to request that as much as half of their monthly benefits be paid in the form of "two-party checks," jointly drawn to themselves and their landlord or other vendor of needed services. This provision is voluntary, would only take effect upon the written request of the recipient, could be revoked by the recipient at any time, and would, in any case, last only for 2 years, during which time the Secretary of HEW is expected to monitor and evaluate it.

The Subcommittee on Public Assistance heard testimony on these provisions during its July hearings on H.R. 7200. In particular, we listened with care to the eloquent and foreful presentations of two New York Congressmen, the Honorable CHARLES RANGEL and the Honorable JONATHAN BINGHAM. I should like at this time to quote briefly from their testimony.

Congressman RANGEL explained the actions of the House of Representatives in these words:

> The Ways and Means Committee wanted to address both the problem wherein many recipients find themselves unable to rent apartments because the landlord fears that recipients will not pay their rent and the problem of continued decline in housing stocks within urban centers. These have been recurrent problems. . . . It was made clear in the Committee report and on the floor of the House that neither the local welfare agency nor the vendor could use this provision to coerce the recipient into entering a voluntary two-party check agreement. In fact the recipient may at any time after the first thirty days terminate the arrangement at will. Because of the voluntary nature of the agreement the provider of the service would have no legal recourse for the recipient's action of revocation. . . . This provision should not be considered a windfall for landlords, but rather a method by which recipients can obtain services which have been denied them illegally.

Congressman BINGHAM testified that:

> Many recipients lack both the necessary tools, checking accounts, payroll deductions, etc., and the budgeting skills most of us take for granted to make the monthly grant meet all the family obligations.
>
> Increasingly, recipients are defaulting on obligations which involve large expenditures such as rent and utilities. As a result, states are forced to make duplicate payments to avoid eviction of the tenant or the closing off of utilities, at a substantial cost to the taxpayers. Frequently, the client moves, often not paying rent or utilities that are owed several months in arrears at a considerable cost to the landlord or utility. Landlords so treated become reluctant to rent to welfare tenants, or will rent to welfare tenants only at rentals much higher than the general market.
>
> In some cases landlords, anxious to make a fast profit and then let the building go, will deliberately load up a building with high rented welfare tenancies, squeeze out as much as they can, reduce services and finally walk away.
>
> These and other difficulties lead a whole neighborhood into ever faster decay. In the Bronx the collection problem has contributed to a sharp decline in property values. . . . I believe it is vitally important to insure that welfare rents are used as rent. . . . We must put an end to the condition which now exists in New York, where thousands of apartments are being abandoned by their owners because of an inability to collect rent and a consequent inability to maintain the buildings. The spectre of abandonment is destroying neighborhoods in all parts of New York and threatening the very viability of the Bronx.

The committee heard also from Carmen Shang, acting commissioner of the New York State Department of Social Services, representing Governor Carey. He forcefully stated the Governor's support for "the new provision which permits States, at the request of the AFDC recipient, to issue dual payee checks for up to 50 percent of the family's monthly grant." While acknowledging the possibility of abuse, he pledged New York State "to take all necessary steps to insure that recipients are not coerced into requesting voluntary vendor payments."

As may be expected, there is an opposing view, and the subcommittee heard it articulately presented by Henry A. Freedman, the director of the Center on Social Welfare Policy and Law, an organization largely funded by the Federal Government. Mr. Freedman offered the general proposition that welfare payments should be made entirely in cash to the welfare recipients, and indicated his concern with the possibility that voluntary "two-party checks" would lead to coercion of recipients by landlords, utility companies and other suppliers of goods and services.

The Committee on Finance carefully considered both points of view. It also paid close attention to the Administration's position, as summarized in Secretary Califano's testimony of July 12:

> We support the provision to remove the limit on AFDC vendor payments to providers of utility and housing services voluntarily authorized by the AFDC recipient. While the current limitations on vendor payments were put into law to protect recipients from coercion and to allow the freedom to manage their own financial affairs, it is our belief the current system denies financial management options to welfare clients available to others in our society.

The amendment being offered today addresses only the last of the three provisions I mentioned above, that pertaining to voluntary "two-party checks." It would strike that authority from the bill. The proponents of the amendment assert that the provision they object to "could result both in coercion of recipients to agree to such payments, and in serious administrative problems for States and local governments which administer AFDC." Listed as agreeing with this amendment are nine named organizations, "welfare rights organizations" in six States, and the Department of Health, Education, and Welfare.

I would pause a moment on the last of these, for it does seem to me that if the administration's views are being accurately reflected, then one must ask why those views have changed since July. In truth, I do not know the answer, but would hypothesize that the permanent government's well-known capacity for undercutting administration policy is once again in evidence.

My own view in this matter has been shaped primarily by the persuasive arguments of Congressmen RANGEL and BINGHAM, by the cogent testimony of New York State officials, by the insights offered me by New York State Assemblyman Oliver Koppell, and by my own observation of the devastation that has befallen large sections of New York City as landlords, unable to collect rent from welfare recipients inhabiting their dwellings, have simply abandoned the buildings.

I have placed on every Senator's desk a copy of the front page photograph from the New York Times of October 6, showing President Carter standing amid the ruins of the south Bronx. No bomber could have wrought more complete destruction than that surrounding the President.

The experience of the south Bronx is something we have not previously had to reckon with, quite simply because it has never happened before. In the history of urban settlement, I do not suppose there has ever been a phenomenon such as the destruction of the south Bronx over the past decade. Never. Nowhere on earth. In history, places aplenty have been destroyed by conquerors, and more places abandoned than we tend to recall, but never has an urban settlement been so destroyed by people still living there.

The proposal to permit the issuance of "two-party checks" at the request of a welfare recipient may seem a limited remedy for so severe an urban malady. And so it is. I would not claim that a minor modification to the Social Security Act will restore the south Bronx or other areas like it. But it would help to halt the deterioration. In another of the articles I have circulated today, Alan S. Oser of the New York Times states that:

> The heart of the rent-collection problem—with more serious impact in the Bronx than anywhere else in the city, past studies suggest—is the Department of Social Service's practice of lump-sum payments to welfare clients. . . . Enough of the money fails to find its way into the housing stock to precipitate housing abandonment on a serious scale. . . . In practice . . . an institutionalized structure has been established that makes it easy for welfare tenants to avoid rent payments entirely, if they choose to. . . . The hard-pressed or unscrupulous tenant, defended by federally financed legal services, can avoid adjudication for months as rent bills pile up. . . .

In view of this grave situation, and in view of the assurances from knowledgeable persons that H.R. 3387, as reported by the Committee on Finance, would alleviate it, it seems to me that those who oppose the measure have a responsibility to address themselves to more than the abstract issue of entitlement. I recognize that we face a conflict of rights in the present instance, and that those proposing the deletion of voluntary two-party checks base their views on principle. But what do they have to say about the reality of the south Bronx? How do they explain it? What do they propose we do about it?

I have the utmost respect for the welfare rights and antipoverty lawyers, many of them federally supported, who have been lobbying us in opposition to two-party checks. But I am reminded of an aphorism around the criminal courts of New York: The lawyer always goes home. And I would ask of the serious and well-spoken young attorneys who believe they represent the interests of welfare recipients in this matter: Do they go home at night to the south Bronx? Or to comfortable suburbs where they live nicely on professional salaries?

I would ask the lobbyists what it is they are protecting: their own self-esteem and image, or the interests of these poor people? And to those in the administration and elsewhere who are now listed in opposition to the measure as reported to the Senate, I ask what they propose to do? Have they really gone out since July and learned more about the relationship between this bill

and the needs of people living in the south Bronx and elsewhere? Have they examined the relationship between nonpayment of rent by welfare recipients and housing abandonment? Or did some lobbyist come along and whisper to them that something illiberal is being considered in the Senate?

I believe that public assistance payments should ordinarily take the form of cash paid directly to the recipient. But I also believe in the need to safeguard the future of our urban centers and to ensure that welfare recipients will be able to find housing when they need it. In voting for the Finance Committee bill, and against the amendment being offered to that bill, I am making a difficult choice. To those who will choose differently, I leave the serious query: What is it that you propose to do about the south Bronx?

I ask unanimous consent that the three newspaper articles attached hereto be printed in the RECORD at the conclusion of these remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily News, Oct. 16, 1977]

SOUTH BRONX CAN BE SAVED!

(By Owen Moritz)

Chicago after the fire, Frisco after the earthquake—both pale beside the South Bronx.

More than 250,000 people in this section of New York have been dislocated, more than 2,000 square blocks devastated. And each week, another four blocks fall to physical decay.

President Carter toured the area with fanfare 10 days ago, pronounced the experience "sobering," and says:

"Give me a map of the whole area, and show me what should be done."

During the World Series, ABC Television cameras pan away from Yankee Stadium and zero in on a blazing South Bronx building. Howard Cosell, instant urbanologist, pronounces it a tragedy.

The South Bronx has become the great urban landmark of the 1970s. Jimmy Carter goes there as the Pope went to Harlem 13 years ago—because it's there, because it's the worst expression of us and if it can be saved, so can the rest of society.

Can the South Bronx be turned around? Can the Bronx be saved? Yes it can—but replacing the housing alone will cost $3 billion. Are we willing to pay the price?

"Frankly, I'm worried," says Bronx Borough President Robert Abrams, "not only for the Bronx, but for all of urban America.

How bad is the South Bronx? This bad:

An average of 10 fires a day, 7,000 in two years and in 1975, more than $20 million in insurance losses were recorded.

In 12 years, 80,000 apartments have been abandoned, punched out and remanded to the rubble pile.

One walkup apartment building in three and one elevator building in five have defaulted on taxes.

In a scant 15 years, half of the borough's white population has left, largely in the southern half, and incomes have fallen behind alarmingly. If the Bronx with its 1.5 million people, were detached (it is the only part of New York City on the American mainland) it would be the nation's fifth largest city, larger than Houston or St. Louis, and the largest with a nonwhite majority.

One doesn't have to be a member of the Chamber of Commerce to point out the Bronx has many noble and marvelous neighborhoods and sights—City Island, Riverdale, Parkchester, ethnic Belmont, Yankee Stadium, the Zoo and attractive parks. Indeed, 22 percent of the borough is parkland, a remarkable proportion.

But today, an area taking in 2,000 square blocks from the southern tip to the Cross Bronx Expressway, from the Harlem River to the Bruckner Expressway, is considered far enough gone—gone meaning abandoned buildings and fire-scarred streets, with crime and instability widespread—that the talk, the only talk, is of vast redevelopment.

"Morrisania is self-destructing," a planning official was warning a couple of years ago as the decay raced north. "It is bombed out Berlin all over again." The decay has left Morrisania behind.

Ride the MTA's Disaster Bus 3 and one can almost hear the conductor call out of the once-thriving communities that have fallen by the wayside: "To your left, folks, the ruins of Mott Haven. That was Morrisania, named for the 18th-century political leader, Gouverneur Morris, who wanted the town to be capital of the United States. Over there, well that was a neighborhood we used to call Melrose . . ."

Urban experts generally agree on why the South Bronx happened. Home to a series of generations escaping Manhattan ghettoes, the area never had a chance to stabilize. There was no neighborhood structure, no sense of neighborhood comparable to that of, say Brooklyn. And while Brooklyn's Brownsville has had its abandonment, too, it was in part prompted by city urban renewal policies designed to rebuild Brownsville.

But in the Bronx as the cost of running buildings soared and the faces of the occupants changed, landlords were unable or unwilling to maintain the buildings. Deterioration set in. Suddenly the building went, the landlord departing after falling behind in taxes, the tenants staying put perhaps until the first cold snap of winter and they, too, departed. Drug addicts, vandals and arsonists move in and in time one block, then another goes.

In 1969, the opening of huge Co-Op City attracted many of the remaining white families of the South Bronx, though the elderly have remained. In 1973, the Nixon Administration froze housing subsidies, effectively sidetracking new public construction. The city's fiscal problems in 1975 meant cutbacks in services and inspections.

In a position paper issued last May Borough President Abrams and Victor Marrero, the City Planning Commission chairman, argued that the South Bronx needed 10,000 new and rehabilitated units a year for 10 years.

One problem with that is the sheer cost of it—100,000 apartment units at an average price of $30,000 each works out to a price tag of $3 billion. And then there's the cost of support services and probably subsidies to keep them within range of its lower-income tenants.

Even assuming that money out of Washington is forthcoming, and that the bureaucracy is able to crank out 10,000 new units for the South Bronx each year, there may still be problems of execution and strategy.

As the Rev. Louis Gigante, a councilman from the South Bronx, points out, there is vitality in the area that can be tapped. But politics in the South Bronx is not easy, what with the internecine warfare among Hispanic groups, the omnipotence of gangs and the evergreen Herman Badillo-Ramon Velez conflict.

Model Cities, the across-the-board urban aid program of President Johnson's Great Society, got bogged down in the South Bronx precisely because of these political crosscurrents.

And what strategy? Should the land be left to lie fallow until it becomes big enough for a vast industrial park?

There is in city government today a cell of officials who believe that nature should take its course and, when the land is all vacant, an industrial center be built. The thinking is that the South Bronx has enormous industrial attractions—water transportation, a highway network and subways to bring workers.

Can the Bronx be saved? It can, though even the area's stoutest supporters admit that the cost will be on the scale of the space program, or the Marshall Plan. It will take money of that magnitude to do it. Is the nation ready?

Or, as Borough President Abrams puts it: "We are capable of saving our cities. The question is, will we?"

[From the New York Times, Oct. 14, 1977]

A SOUTH BRONX LANDLORD SAYS POVERTY IS NOT TO BLAME FOR BLIGHT

(By Alan S. Oser)

Without the fanfare of a Presidential tour, a long-experienced owner and manager of Bronx apartment houses drove a visitor through the South Bronx this week and branded the task of resurrection in the most blighted neighborhoods all but hopeless.

The only hope, he said, is to focus on occupied housing in still-functioning neighborhoods. The essential first step, he declared, is to reform the rent-payment system for welfare tenants.

Just yesterday, President Carter at his news conference reaffirmed the importance of his visit to the South Bronx on Oct. 5 as a way of demonstrating to the American people his concern with urban problems. He spoke of the need to concentrate more of the existing rehabilitation money in blighted areas, urban and rural.

But the Bronx apartment-house owner and manager, Eli Cooper, contended that no past government spending effort had succeeded in restraining the march of property abandonment, destruction, depopulation and ultimate demolition.

AN OWNER'S VIEW

"I no longer accept the idea that poverty is the cause," he said. "Declining population, yes. That started with Co-op City and the Mitchell-Lama program." Racial change and the rise of an unskilled lower-income population as job opportunities fall are fundamental contributors, he said.

The size of the buildings and the density of residential concentration makes the abandonment phenomenon more devastating in the Bronx than in other low-income urban communities, housing specialists believe.

Branching well beyond the President's route, Mr. Cooper sought to demonstrate that blight and the start of abandonment was spreading into the West Bronx into still heavily populated neighborhoods. Occasional examples of government-aided restoration looked pathetic in the total context.

Mr. Cooper is the 58-year-old head of Cooper Realty, and one of the few remaining on-the-scene owners and managers of South Bronx properties.

A tenacious man with an emotional stake as well as an economic interest in buildings he has nurtured for 20 years or more, Mr. Cooper insists he is still an optimist about the salvation of hundreds of buildings not yet abandoned.

Even granting the fundamental facts of economic decline and population loss, he said, the housing that remains can still attract sufficient occupancy at affordable rents to be habitably sustained.

Mr. Cooper owns and manages a stock of 700 apartments in 19 buildings, all but two of them south of Fordham Road in the Bronx. The two others are in Queens.

Only this year did he "abandon" a building for the first time, he said. It was on Fox Street, where fires in adjacent buildings frightened out his tenants. "The building abandoned me," he said.

To prove that the cycle of abandonment, destruction, depopulation and ultimate demolition is already in progress well beyond the devastated neighborhoods visited by President Carter, he drove a visitor through the West Bronx. The tour included such housing-packed streets as University Avenue, Nelson Avenue, Woodycrest Avenue and Macombs Road.

In Mr. Cooper's view, it is possible to own and manage this stock profitably even with a vacancy rate of 5 percent, provided rent collections are continuous and assured.

The heart of the rent-collection problem—with more serious impact in the Bronx than anywhere else in the city, past studies suggest—is the Department of Social Service's practice of lump-sum payments to welfare clients. They, in turn, are supposed to pay their rent and all other bills.

Enough of the rent money fails to find its way into the housing stock to precipitate housing abandonment on a serious scale, according to Mr. Cooper and many other housing managers.

In practice, according to Mr. Cooper and others, an institutionalized structure has been established that makes it easy for welfare tenants to avoid rent payments entirely, if they choose to. Supposedly, landlords can obtain two-party checks from the Department of Social Services for nonpaying tenants.

But under present law these checks cannot exceed 10 percent of the caseload. Even if these checks are obtained, many tenants cash them with countersignatures other than their landlord's.

There is no system to assure that rent money is used for rent.

Exacerbating the situation in the Bronx from the housing standpoint is the improved legal services for tenants available in housing court.

The hard-pressed or unscrupulous tenant defended by federally financed legal services, can avoid adjudication for months as rent bills pile up, usually by claiming uncorrected housing violations or utilizing procedures of delay. Finally, he may move or be evicted, owing months of rent.

Mr. Cooper estimated that 7 percent of the welfare tenancy in the Bronx was not paying rent. "Two years ago it was 3 percent," he said. "Next year it will be 10 percent.

Even a small number of tenants not paying rent is enough to force the building into agmoonment, housing expert say.

The typical 40-family walk-up building in the South Bronx requires an annual rent roll of about $80,000 to be sustained. Mr. Cooper calculated that even with 5 percent vacancy rate, such a building in still-sound neighborhoods can be operated profitably if there are full rent collections.

But even one tenant avoiding six months of rent payments in a $150-a-month apartment deprives the building of $900 in rent money.

The Department of Social Services has 101,000 welfare cases in the Bronx, most of them concentrated in the area South of Fordham Road. The average rent, city-wide, of a welfare client is $142 a month. A spokesman for the department said there was no way to determine what portion of the money allowed for rent is actually paid as rent.

In the Bronx, the welfare departments payments to clients for rent amount to $14.4 million a month.

VIEWS ON POVERTY

On the broader issues, Mr. Cooper said he no longer accepted the notion that poverty itself is a significant contributor to housing losses. "This housing can be provided at a rent that even poverty people can pay," he said.

But if the bank has lost its mortgage, if the owner has lost his equity investment and there is no other stake in the building than that of the tenants themselves who are depending on it for shelter, "there is no way that this complicated multifamily building can be maintained," he said.

The housing stock in the Bronx consists of innumerable buildings that went up between 1920 and 1940. These buildings could provide housing for another hundred years, in Mr. Cooper's view, if they are properly maintained and not "cannibalized."

From a structural standpoint, they are superior to many buildings going up today, he said. "There are full plaster walls, complete ceramic-tile bathrooms, high ceilings." The workmanship cannot be duplicated.

"But we can't provide palaces. What the tenant will get is heat and hot water, repairs of the walls and ceilings and tiles. What we can't assure is clean halls and protection against burglaries.

"In elevator buildings, we can't assure protection against breakdowns. I won't even own an elevator building. The maintenance problem is enormous—as soon as you fix it, it's broken."

[From the New York Times, Oct. 15, 1977]

SPENDING RENT ON HOUSING

When society gives needy people welfare allowances big enough to cover their rent, it should be able to expect that rent is what the money will be used for. But experience has shown that many welfare families, in New York and elsewhere, fail to turn their rent allowances over to their landlords. Sometimes they are threatened with eviction, sometimes government pays their rent a second time, but most often the owner simply takes in less money. That means he can't afford to keep the building from dilapidation—and, often enough, simply abandons it. Diversion of welfare rent thus hurts everyone, notably welfare recipients.

To forestall rent diversion by chronic nonpaying welfare clients, the Federal Government has long permitted a locality to issue as much as 10 percent of its welfare payments in checks payable both to the tenant and the landlord. The checks are valueless until both endorse them. This offers a measure of protection against misspending or the denial of services. But in many cities, New York included, far more than 10 percent of welfare families spend their rent money on other things. The law limits the two-party checks to 10 percent of welfare spending because it does not wish to impinge unduly on the dignity of those whom government helps. The objective recalls the hope that giving the poor money will strengthen their ability to run their lives. But the massive diversion of rent funds threatens the destruction of large parts of the remaining housing stock.

To protect against further such devastation, two New York City Representatives noted for their service to the poor, Jonathan Bingham and Charles Rangel, have urged the Senate Finance Committee to report favorably on two major changes in welfare disbursement procedures. First, they suggest that the ceiling on two-party checks be raised from 10 to 20 percent of welfare spending. Second, they have urged that there be no limit at all on the number of two-party checks issued to welfare grantees who volunteer to be paid in that form.

After an initially favorable response, the committee is now deadlocked over the question of whether voluntary participation violates the dignity of welfare recipients. Opponents of a change contend such agreement can never be truly voluntary. But we find it difficult to see any issue of principle here—only one of degree; the two-party checks already are widely used. The Finance Committee should recognize that, realistically, the broader use of such checks involves dignity much less than it involves the safety and general welfare of those who increasingly are being forced to live in decaying buildings on the way to abandonment.

Mr. MOYNIHAN. Mr. President, I wish to read into the RECORD at this point a letter I have just received from Secretary Califano who writes, after stating his approval of this measure:

As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concern and mine.

Mr. JAVITS. Mr. President, will my colleague yield at that point?

Mr. MOYNIHAN. With great pleasure.

Mr. JAVITS. This is a very important point whether or not this amendment is agreed to. I think we ought to have very strong legislative history by the manager of the bill that we are charging the administering agency with an affirmative responsibility to satisfy itself that the individual welfare client is not being coerced, and that the landlord has reasonably complied with safety and other standards in his building.

Now, I am too sophisticated about New York City or any other city to assume they are going to monitor every case. But if we have strong legislative history—and I hope very much that you and Senator LONG would see that that was carried over into the report—then we have got something to holler about if we run into that kind of inadequacy or slackness.

I deeply feel, and I think my colleague should feel the same way as I do, that we ought to make very strong legislative history that we are charging the administrative agency with those two responsibilities.

Mr. MOYNIHAN. I could not more agree with my colleague from New York. I see the chairman of the Committee on Finance indicates his assent.

Mr. President, I ask unanimous consent to have printed in the RECORD Secretary Califano's letter in which he states that he wishes to do just that and to have it understood that it is the intent of the Senate that this be done.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH, EDUCATION, AND WELFARE,
Washington, D.C.

Hon. DANIEL MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR PAT: As I indicated in our recent conversation, I have supported and continue to support the concept of two-party checks in the AFDC program. That concept appears in H.R. 3387, as reported by the Finance Committee, and H.R. 7200, as passed by the House of Representatives.

As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve

the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concerns and mine.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. With pleasure.

Mr. PROXMIRE. I dread disagreeing with my distinguished friend from New York. I have the greatest admiration for him. He is an excellent Senator, but I just cannot understand the reasoning behind this provision.

One of my problems is that we have not had a chance to study it. It does seem to be very largely a housing matter. It goes right to the heart of the housing program. Assisted housing is one of the principal responsibilities of our committee.

I cannot see any urgency in this matter. The Senator has made a very strong argument, but I cannot see that it matters whether we act on it now or give the Banking Committee an opportunity to hold hearings and to get into it.

It is my understanding the House Ways and Means Committee held no hearings on this at all. It is something that came up on the floor. It is my understanding that the Committee on Finance did have Congressman RANGEL and Congressman BINGHAM testify, but there was no opportunity really for the kind of mature, careful consideration of this and which the Senator from Massachusetts has brought out is opposed by a whole series of fine organizations, organizations that know a great deal about this field, and have every reason to be concerned.

It seems to me that we ought to have some record of the pros and cons on something as profound as this and as far-reaching as this, and which goes to our biggest welfare program in such a decisive way before we act on it.

It may well be we could support this provision. But I hope it would be withdrawn now to give us an opportunity in the Banking Committee, that has the basic jurisdiction over housing, to hold hearings, hold them promptly, and have action on this early next year.

Mr. MOYNIHAN. Mr. President, let me respond to the distinguished Senator.

Mr. LONG Mr. President, will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. LONG. This is a problem that is not limited entirely to housing. Basically, it is a problem in trying to provide for the needs of the people, and we can come a lot nearer providing for those needs if the money provided is spent for the purpose for which it was provided. Landlords can provide a lot better for the needs of tenants if the landlords are going to be paid.

Where you find a very severe problem about people not using the money to actually pay rent, and the buildings do not yield enough income to maintain the buildings, landlords abandon those buildings.

It is completely within the jurisdiction of the Committee on Finance to say with regard to a welfare program that if the tenant voluntarily agrees and the landlord agrees, and if we think it is a good idea that it would make possible better housing and more housing for people, then there can be a voluntary two-party check.

Basically, the whole purpose of it is to see that the money is spent for the purpose for which it is paid out to begin with; that is, in this case, shelter.

Now, insofar as jurisdiction is concerned, the Committee on Finance has complete jurisdiction over the welfare program. It initiated the aid to families with dependent children program as title IV of the Social Security Act, and while I totally respect the right of the Committee on Banking, Housing, and Urban Affairs to act within the area of its jurisdiction, in many cases it is a matter not of what you do, but the way you do it that determines jurisdiction.

In this area Banking does not have any jurisdiction at all. This is entirely a matter that has to do with the Social Security Act, title IV, which is a public welfare section of the act, and the Committee on Banking, Housing, and Urban Development does not have jurisdiction over that.

I say that as one who once served on that committee, and I applaud the committee for the fine work it is doing. I want to cooperate with that committee in every way I know. It can provide for the building of houses; it can provide for the financing of the mortgages, but I have yet to see it suggested that the Committee on Banking, Housing, and Urban Affairs had any jurisdiction over the welfare program under title IV of the Social Security Act.

Mr. MOYNIHAN. I would have to agree. I would point out that the same argument can be used to suggest that this is somehow the concern of the Energy Committee, because many of these checks would be made out to utilities. It has to do with the management of the resources of dependent families. That is the Social Security Act, and that is what this is addressed to. Of course, in this case, it will only proceed for 2 years.

Mr. PROXMIRE. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. PROXMIRE. I certainly understand the viewpoint of the distinguished chairman of the Finance Committee and the distinguished Senator from New York. I can see there is a strong argument that they have a jurisdictional right here. What I would like to ask the Senator to recognize that this goes right to the heart of a principal area of responsibility for our committee. That responsibility is to provide safe and sanitary housing. We feel very strongly that if this provision of H.R. 3387 is enacted, the right of the tenant to demand and secure safe and sanitary housing is seriously injured, abridged, and damaged.

I realize the Senator can argue that this is a social security problem, a welfare problem, and so forth. But this two-party check is primarily for the purpose of paying landlords; is that correct, in other words, for housing? Is that right?

Mr. MOYNIHAN. It would be about equally used for landlords and utilities.

Mr. PROXMIRE. And utilities, yes. Of course, it has an energy component which I am sure is part of the social security situation. It also is the very heart of our housing program, too. Our committee has had a number of hearings on the utility area. We have a serious responsibility there, too. In both of the areas we have such a fundamental interest. What I am pleading for is an opportunity for our committee to promptly get into this and to help advise the Senate in an area, as I say, where there is no urgency which has been demonstrated, where we do not have a satisfactory record, and where the many fine organizations which strongly oppose this have had no chance to come in and indicate why, and to give their arguments.

It seems to me we could act with much greater and better deliberation if we had an opportunity to consider this. I promise the Senator from New York we will give it every consideration possible, and promptly.

Mr. MOYNIHAN. Mr. President, that could not be a more reasoned and reasonable position.

I respond to the chairman, however, that there has been developed a data base in respect to this question. Assemblyman Oliver Coppell, in New York State, an assemblyman from the Bronx has, for several years now, very elaborately inquired into this particular phenomenon. It was in large measure his research which persuaded Congressman BINGHAM and Congressman RANGEL. This, at the present time, is all we know about this issue. In 2 years' time, after the Secretary of HEW has seen the operation work, we will then know more. We may find this is only a marginal matter, and we may find it is a central matter.

Before the chairman asks me to yield again, and I will be happy to yield, let me say that when we speak to the provision of fairly priced housing we must remember that in a city such as mine more and more welfare families are forced into the most awful housing situations because of the simple fact that landlords with suitable premises available will not rent to them for fear of not being paid. It is a dilemma we all have. It is for this reason that the New York State Commission of Social Services asks for this measure. It is for this reason that the Governor of New York asks for this measure.

There is a crisis. There is a phenomenon before our eyes in central cities which we have never seen before. No one has an explanation.

Mr. PROXMIRE. If the Senator will yield, the Senator is absolutely right. He has made a very strong case. Of course, with all the information he has stated, and I took down his words, all he knows comes from the studies the Senator has referred to, all from New York. New York is a very important city, our biggest city, and we want to do all we can to assist New York. But it would seem we certainly need to have evidence on the other big cities in this country. New York is only 1 city of 15 or 20 very large cities which have similar problems.

What we are asking for is an opportunity to have nationwide input before we act. The Senator says in 2 years we

will know, and this provision will expire in 2 years. It seems to me it would be far better for us to have the information first and then to act, rather than to act and say, "Well, if it turns out to be bad or harmful, we can drop it."

Mr. BROOKE. Will the Senator yield?

Mr. MOYNIHAN. I will in a moment.

To the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, may I say that we will not know the use of this experiment until it has been run. I think we have in Secretary Califano a man we can depend upon to do it intelligently, and hopefully to bring us some information. In the meantime, and I can only speak in this respect for the people who have come before us, who persuaded the House, who persuaded the Department, there is a crisis. As I say, it was a crisis that anyone watching the first day of the World Series would be able to view from the top of the Yankee Stadium.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I thank the Senator.

Let me say that the Senator is basing all of his statements upon the statements of a State assemblyman in New York who represents the south Bronx. I am not familiar with the south Bronx, but I would agree with the distinguished chairman of the Banking, Housing, and Urban Affairs Committee that the Senator has not made the case that we need this sweeping authorization of unlimited nationwide "voluntary" two-party checks even though they might, and I stress might, have a marginal effect in south Bronx. But the general counsel of the Department of Social Services in New York City has said 20 percent would be sufficient for New York, including the south Bronx. So we are not even assured that New York is in such a severe crisis situation to warrant a possible 100 percent of AFDC recipients on a two-party check.

In testimony before the junior Senator from New York's own Finance Committee on July 14, 1977, the Detroit Free Press reported that the local landlord association had dropped its demand for unlimited vendor payments as authorized in this bill. The demand was dropped because a well-publicized landlord survey conducted by the association received only 200 complaints about recipient nonpayment of rent at a time when Detroit has an AFDC caseload of more than 80,000 families—200 out of 80,000.

In addition, a New York Times story on Thursday, October 13, reported that a landlord spokesman estimated that only 7 percent of AFDC recipients even in the south Bronx failed to pay their rent when due.

What I am saying to the distinguished junior Senator from New York is that he now wants 100 percent coverage and that is not justified and not wise. He wants the 20 percent, which may be needed, but he also wants the other 80 percent under the voluntary payment plan, which means that 100 percent of AFDC recipients would have to have two-party checks.

The junior Senator from New York is going to say that is not true because the unlimited two-party checks would be voluntary. I am going to say to the Senator that it is not going to be voluntary when an AFDC recipient goes up against a landlord. AFDC recipients will be forced by not getting the rental unless they enter into a two-party-check contract. That is what we who cosponsor this amendment fear.

If we were addressing ourselves only to the limited problem of south Bronx, it would be one thing. But we are not. We are addressing the whole Nation, and we are not justified in authorizing 100 percent AFDC two-party checks. That is what we are trying to say.

The Senator has been citing the distinguished Secretary of HEW. He has objected to the shocking words used by Senator PROXMIRE. The shocking thing to me was when the HEW Secretary abruptly and at the last moment reversed his position.

I refer the Senator to a letter addressed to the Honorable WILLIAM D. HATHAWAY, who is in the Chamber and who will speak shortly on the administration's position. This is what HEW said:

> HEW does not object to the principle of two-party payments where appropriate, but does not support the unlimited use of this device.

Without our amendment, I say to my distinguished colleague from New York, the bill authorizes unlimited use of this device.

I have a letter from the Secretary of Housing and Urban Development.

Mr. MOYNIHAN. Will the distinguished Senator yield?

Mr. BROOKE. Yes. I yield.

Mr. MOYNIHAN. He is making an excellent speech. I wonder if he would not wish to have it charged to his own time?

Mr. BROOKE. Certainly, I should be delighted to have it charged to my time. I shall put in the RECORD a letter from the Secretary of Housing and Urban Development addressed to the Honorable DANIEL P. MOYNIHAN, today. But I want to read a section from it because I think it is important.

The Secretary says:

> I do, however, have two concerns with respect to these provisions as they pertain to protective payments for dwelling units. First, since these provisions do nothing to encourage compliance of the dwelling unit in question with applicable code or other housing requirements, I fear that they may result in a form of guaranteed income for the landlord, without a corresponding assurance that the dwelling unit is decent, safe and sanitary.
>
> Second, there is no assurance that the rent to be paid is reasonable. By permitting up to 50 percent of AFDC payments to be earmarked for housing costs, the measure would provide no disincentives to excessive rental charges and allocation of a higher percentage of income for housing than is consistent with Federal policy.
>
> Accordingly, I have reservations with respect to the desirability of these features of H.R. 3387.

So, at one time, up until today, the Secretary of HEW was opposed to the unlimited so-called voluntary use of two-party checks. The Secretary of HUD is opposed to it and many other knowledgeable and concerned organizations are opposed to it. And they, and we do not oppose it because we do not want landlords to get their rent. Of course we all want landlords to get their money. But why must we presume that an AFDC recipient will not pay the landlord that rent, when the data is to the contrary?

In Detroit, California, Wisconsin, Virginia, and New York, as well as in Massachusetts, AFDC recipients with rare exception are making those payments. Why should we put that stigma upon them and say, "We do not believe that you are responsible enough to pay your rent?"

Mr. MOYNIHAN. Mr. President, the Senator from Massachusetts has made points which would appeal to any of us. I hope that the Senator will remember—and I know he does—that this is not an initiative that began in the Senate. This is an initiative that began when two Members of the House, pressed by what seemed to them to be an overwhelmingly plausible case with respect to an unimaginably bad situation, came forward and did something which none of them, in other circumstances, could have imagined doing. We are here to witness—I stand in witness of—the courage of the two Congressmen who did this. I know how much easier it would be to make certain of one's liberal credentials by saying no.

I understand that the opposition which has come forth primarily to this measure is from the Center on Social Welfare Policy and Law. Mr. Henry A. Freedman, who is the very capable Director of that Center, testified before our committee and testified well. But he testified in the manner of a man arguing from principle. His was, in no sense, an empirical argument. He said that the maximum freedom ought to be accorded a person, howsoever dependent. This proposal would marginally diminish that freedom. Anything that diminishes that freedom is bad; this diminishes that freedom, therefore, it is bad—a syllogism which has all the clarity of logic but none of the fuzziness and grit and dirt and detail of reality.

Mr. President, I do not know that any great purpose is served by continuing this debate. But before ending, I have one further point which I should like to make to the Senator from Massachusetts and the Senator from Wisconsin and the Senator from Maine. I do not have to make it to the Senator from New York, because he knows it. There is a saying around the criminal courts in New York City which is that the lawyer always goes home. I know that the poverty lawyers who find this measure so offensive really do find it offensive. But I would like to ask, when they go home, where do they go home to? They do not go home to these slums. They do not go home to these burned out and devastated areas which are most conspicuously found in a critical condition in New York, but which are in fact to be found in every aging city in America. Those poverty lawyers do not go home to the places that the people we are concerned for have to live in.

One can maintain the purity of one's purpose, the unmistaken clarity of one's commitment to all that is gentle and good and progressive, but, in the end,

who is being served here? Are we serving the self-esteem of a professional social worker-social science group? Or are we serving these poor people and their terrified children, who do not just see the flames of the South Bronx on the evening that the World Series opens, but who see it every night and who live there every night? In the name of what seems to me a decent respect for the complexity of this problem, I hope the Senate will allow a reasonable and restrained experiment for 2 years to go forward.

Mr. BROOKE. Will the Senator yield?

Mr. MOYNIHAN. With great respect.

Mr. BROOKE. The Senator touches my heart when he says that the welfare recipients' lawyers do not go home to the slums. I have heard that statement. But let me add to that statement: The landlords do not go home in the slums either.

Mr. MOYNIHAN. No, the lawyers always go home.

Mr. BROOKE. Landlords do not go home to those tenements. They go to Park Avenue, to Fifth Avenue, to the suburbs. They do not go back to those tenements after collecting their rent.

We are not helping the tenants with unlimited "voluntary" two-party checks. We are helping the landlords. Maybe the Senator from New York does not understand the nature of this. We are not helping the tenants, we are hurting tenants. We are saying to those tenants: "We will rob you of your dignity, we will rob you of any self-respect you have from paying your rent, even though you have proven by the overwhelming evidence that you can and do pay your rent." As for those tenants who do not pay, we provide for them. But without our amendment, we would be penalizing those who do because of the few who do not.

What we are guaranteeing is that the landlord, who does not live in the slums where he rents to AFDC recipients any more than that recipient's lawyer get his rent, and the tenant is robbed of his self-respect and dignity.

That is what I am saying to the distinguished junior Senator from New York. Whether he recognizes it or not, that is a fact. Our amendment would say to those citizens who do pay their rent: "All right, you get your AFDC check, you pay your rent, pay for your food, pay for your clothing. We expect you to do so, as you have been doing. If you do not do so, then you fall in that 20-percent category." And if we later find that 20 percent needs to be raised to 25 percent, then we will seriously consider it.

But before we enact this bill as is, let us look at the rest of the country, not just at New York.

Mr. PROXMIRE. Will the Senator yield?

Mr. MOYNIHAN. The Senator from New York is happy to yield.

Mr. PROXMIRE. Will the Senator permit me to take this on Senator BROOKE's time?

Mr. BROOKE. How much time is remaining?

Mr. PROXMIRE. I think 30 minutes.

Mr. BROOKE. The Senator from New York has been most generous.

The ACTING PRESIDENT pro tempore. There is an hour remaining. The Senator from New York has 31 minutes, the Senator from Massachusetts has 30 minutes.

The Senator from Wisconsin is recognized for 4 minutes.

Mr. PROXMIRE. I want to respond to a very powerful point the Senator from Massachusetts has made.

It is my understanding that for almost 20 years now, 10 percent of the checks can be made out in this way—both to the vendor and to the tenant. That is used when the welfare recipient is a chronic nonrent payer. I should like to ask, in the first place, what has been the effect? Is there any study of what the effect of that has been on the housing of the welfare recipients? Has that been helpful. Do we know? Do we have any record?

Mr. MOYNIHAN. I think the answer is that there is no such data. To my knowledge, there is not.

Mr. PROXMIRE. Again, it seems to me that before we act and extend this so very broadly, make it comprehensive, we should know to what extent this has been true.

Also, I should like to ask, in this legislation, unobjected to by Senator BROOKE, Senator HATHAWAY, and myself, whether there is an increase, a doubling, from 10 to 20 percent? Is that correct?

Mr. MOYNIHAN. There is. That is correct.

Mr. PROXMIRE. What the Senator from New York is proposing we do is that we go to a complete 100-percent coverage. Instead of 10 percent, it goes not to 20 percent, but it will be possible to make this check made out to both the vendor and the tenant in all cases without having an opportunity to study what the effect of the 10 percent has been, to study what the effect of an experience under an increase to 20 percent is. We go automatically all the way without subtantial hearings, and without giving the opposition an opportunity to testify.

Mr. MOYNIHAN. The Senator would want to make the distinction that the first group of checks are those which may be made out directly to a vendor upon the judgment of the welfare agency.

Mr. PROXMIRE. The Senator is correct.

Mr. MOYNIHAN. The others are voluntary.

I really do wish we could be more clear that there were hearings in some detail on this. As chairman of the subcommittee, we sat and listened until all those who wished to present themselves had done so, and the overwhelming burden of testimony was that this is a desirable thing to try.

I would like to speak, if I may, to the chairman of the Committee on Banking, Housing, and Urban Affairs.

I would like to offer a personal judgment that more is required of liberalism in this time than an unexamined attachment to the social welfare doctrines of half a century ago. The men who came forward and asked that this initiative be taken have been distinguished for the consistency of their previous commitment, yet they came forward and said, "Circumstances have changed our mind."

They said, and this is the point which I asked the Senate to consider, that we are not talking about a situation that is moving incrementally in such way that the events of the past 5 years would allow a legitimate projection to the events of the next five. We are talking about the onset of a crisis, the onset of panic, in city after city.

To my understanding, and to my knowledge in my own city, the prospect of welfare families living in a house is seen as the prospect of ruin. I mean, we have a changed condition. Events are not what they were.

The South Bronx burns every night. The President of the United States went up there and stood as if in Berlin in 1945.

It is in the context of what I think has to be described as a crisis that this 2-year experiment is proposed.

Mr. PROXMIRE. If the Senator will yield, I have great respect for him, not only in his rhetoric, but in the substance of his position. He is always innovative. He is not one who is bound by 50-year-old social legislation or social principle. He is one who advances with time.

I think he is right. But I think he would agree that if we make a fundamental change as far-reaching as this, we ought to have a record that gives the committee that has very fundamental housing jurisdiction, has the basic housing jurisdiction, an opportunity to hold hearings.

We have not had it.

The Senator said those who wanted to testify could. May I ask the Senator if the various organizations that were enunciated by the Senator from Massachusetts had an opportunity to testify. Did they testify, and did the AFL-CIO testify?

Mr. MOYNIHAN. I do not want to speak to each organization appearing on that list, but I know that a number were called and they testified on other aspects. Not all of them testified on this, but all were invited to submit their views on all subjects for the committee's consideration.

I think the Center for Social Welfare Policy and Law has done its work.

It is not hard to invoke the doctrines of an increasingly doctrinaire and adversarial social welfare policy, to get such agencies to sign up on something like the present amendment.

Secretary Califano's own Department was half moved. I might make clear that when the Secretary first appeared before us—and let us understand how this came about—the Secretary of HEW came to us and asked for this legislation, and the hearings opened with the two Congressmen saying the House asked for it. Then the Secretary seemingly changed his mind in a letter to Senator HATHAWAY and now, of course, he has apparently changed his mind yet again.

All of which reflects the ambiguities and the difficulties of it. But it also reflects what I stand here and say, that

if those men had had enough courage to do this in the first place, we should have had enough endurance and stamina together.

Mr. PROXMIRE. I thank the Senator.

Mr. HATHAWAY. If the Senator will yield on that point, that is reason enough to hold hearings, to find out exactly how the Secretary stands.

Mr. MOYNIHAN. The Secretary's letter is explicit that he supports this measure.

Mr. HATHAWAY. He does not explain why he changed his mind from the letter he wrote me; what idea he has in respect to some kind of matter that will protect voluntariness. I have never seen any regulation promulgated in this field. I would be very much interested to hear what he will do along that line. I doubt it will protect adequately the voluntariness of the welfare recipient in a case such as this.

We all know the coercion which the landlord, or bureaucrat, or both, could have just on Members of this body, to say nothing of the welfare recipient who is probably happy to get the check and is willing to sign anything.

Mr. MOYNIHAN. I agree.

Mr. HATHAWAY. That is what disturbs me about it.

Mr. MOYNIHAN. I agree. Secretary Califano does not disagree.

CHARLES RANGEL does not disagree. But he asks the immediate question, what is the condition of the dependant welfare family looking for an apartment in a great city?

Are they seen by the landlord as the advent of the ruin of his property or as stable tenants?

In New York City, elevator apartments built in the 1930's are being abandoned. There is a panic going on. There is a crisis that has occurred.

We do not find the editorial writers of the New York Times idly or randomly writing an editorial, as they did on Saturday morning, asking for this legislation. Two years ago they would not have considered it, nor would I, nor would the persons who asked us on behalf of the House of Representatives.

I have already received unanimous consent to have printed in the RECORD an editorial that was in the New York Times and some related articles that have come out on this same matter. They appear at the end of my prepared remarks.

The point the Times makes, the point that the sponsors of the proposed legislation make, and the point I make, as the person responsible to defend the committee's action, is that this is a responsible effort to experiment with what can only be a limited measure but maybe a useful one in a situation of crisis which demands the courage to innovate, even at the cost of some disapproval from that formidable liberal audience which is ever there to censure heresy and to enshrine the authoritative and increasingly authoritarian view of a half century ago, but does not live in the South Bronx, where even tonight the fires will be burning.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. BROOKE. The Senator several times mentioned "this great liberalism," referring to this amendment. I hope the Senator realizes that this is not a liberal-conservative issue. If anything, it is more conservative than it is liberal. It is really a conservative concept which is embodied in this amendment, concern for individual rights and administrative orderliness.

As cosponsors of this amendment we have the distinguished Senator from Alabama (Mr. SPARKMAN) and the Senator from Oklahoma (Mr. BELLMON)— not considered a liberal, as such. We have Senator DOMENICI, who is not considered a liberal, as such. We have Senator HOLLINGS who is not considered a liberal. Senator PROXMIRE is not considered what is sometimes referred to as a "bleeding heart" liberal although I do not know how he wants to be classified.

Mr. PROXMIRE. Not a liberal.

Mr. BROOKE. Not as a liberal. If you watch his votes, you would call him an independent. In many matters he is conservative and austere.

The junior Senator from New York keeps referring to liberalism when speaking of this amendment. Even the conservatives are moving to cash payments for welfare recipients. The administration has been advocating cash in the hands of welfare recipients.

Mr. JAVITS. Food stamps.

Mr. BROOKE. Put the cash in their hands and let them do it. This is a giant step backward.

Mr. JAVITS. And the reverse income tax.

Mr. BROOKE. Right on down the line.

The junior Senator from New York, at a time like this, is taking a giant step backward.

Mr. MOYNIHAN. I say to that Senator that I am aware of the 19th century view of liberalism that was certainly one of its better periods. I point out to the Senator that in the original justification for this measure, the Department of Health, Education, and Welfare stated of the present situation that it denies to welfare recipients a financial management tool available to others. The Department took, in a sense, the classical position that what we now have is an unnatural restraint imposed by an insensitive and unthinking Government.

The Senator from Massachusetts knows the issues here—the necessarily indeterminate outcome of this debate.

Mr. President, I do not think that any large purpose of inquiry is much to be served by continuing the debate.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Senator CURTIS wishes to speak.

Mr. BROOKE. I point out that I thought the Secretary of HEW had done a flip-flop, but now the Senator from New York indicates that he has done a flip-flop-flip. [Laughter]. He went in three directions. But then I read his letter to the Senator from New York, and I am not quite convinced. It is a sort of meaningless letter. Perhaps this is in between the flip and the flop. He says:

> DEAR PAT: As I indicated in our recent conversation, I have supported and continue to support the concept of two-party checks in the AFDC program. That concept appears in H.R. 3387, as reported by the Finance Committee, and H.R. 7200, as passed by the House of Representatives.
>
> As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concerns and mine

Hardly is that a ringing endorsement of that part of this bill which the distinguished Senator from New York has mentioned, and it certainly does not seem to me to be strong opposition to the amendment.

Mr. President, I ask unanimous consent that the entire letter of the Secretary of HEW, addressed to the Honorable DANIEL P. MOYNIHAN be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> THE SECRETARY OF HEALTH,
> EDUCATION, AND WELFARE,
> *Washington, D.C.*
>
> Hon. DANIEL MOYNIHAN,
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR PAT: As I indicated in our recent conversation, I have supported and continue to support the concept of two-party checks in the AFDC program. That concept appears in H.R. 3387, as reported by the Finance Committee, and H.R. 7200, as passed by the House of Representatives.
>
> As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concerns and mine.
>
> Sincerely,
>
> JOSEPH A. CALIFANO, JR.

Mr. BROOKE. I do not wish to carry on the debate much longer. I believe the Senator from Maine wishes to speak. I know he is a distinguished cosponsor of this amendment and serves on the Finance Committee. If he would like to speak, I will yield the floor to him.

The ACTING PRESIDENT pro tempore. How much time does the Senator yield?

Mr. BROOKE. How much time does the Senator desire?

Mr. HATHAWAY. Three minutes.

Mr. BROOKE. I yield.

Mr. HATHAWAY. Mr. President, I am pleased to join my colleagues in opposing the unlimited "voluntary" two-party checks for AFDC recipients. This provision of H.R. 3387 is bad social policy. It is bad welfare policy. It is bad housing policy. It is bureaucratic nightmare.

As has been pointed out, our action does not affect the protected vendor payment provisions of existing law. Current law permits a State or local government to institute protective or vendor payments for AFDC recipients where there is a finding that the recipient is incapable of properly managing his funds. The State or local government agency has been permitted to use vendor payments for up to 100 percent of the welfare assistance. However, these actions could not exceed 10 percent of the AFDC caseload. This bill permits the caseload percentage to rise to 20 percent. I support this increase.

However, we do oppose the creation of a new category of vendor payment. The provision of H.R. 3387 which we oppose would permit the nearly unlimited use of so-called voluntary AFDC vendor payments for rent and utilities. An AFDC recipient may agree to authorize his check to be paid to his landlord or utility provider without any substantive protections being provided to the welfare recipient.

It is argued that the fact of voluntary compliance with the two-party check procedure is adequate protection. For some it may be. Many recipients, however, will not understand that their consent must be freely given.

Subtle coercion from the landlord, pressure on welfare case workers and demands on the local housing authority may be the legacy of this provision.

Furthermore, in 1972, the Commissioner of the Social Security System received an evaluation of a vendor payment program in Monroe County, N.Y. The report concluded:

> The device [vendor payment] is primarily for the protection of the landlords and utility companies; it leaves the recipient with almost no freedom in the use of his funds and denies him the safeguards included by Congress in the 1962 and 1965 Amendments to the Social Security Act.

I ask unanimous consent that the full text of this report be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. HATHAWAY. Mr. President, I am also concerned that this tactic may promote bad housing policy. Where there is "guaranteed" payment of rent, there is little incentive to improve substandard housing. Where the rent is always paid by the State, there is little reason to be concerned about price.

Many inner city housing projects and rural housing units are substandard. There is no easy solution to our housing shortage, either in quantity or quality. To guarantee rents on the units occupied by AFDC recipients, however, seems a desperate leap into even worse housing conditions.

Finally, the use of the two-party check for rent and utility payments becomes an administrative burden of incredible magnitude.

Imagine an unlimited number of welfare recipients requesting that up to 50 percent of their monthly check be made to their landlord, the electric company, the gas company, and the telephone company. The checks may be written for different amounts each month. One company may be added or deleted. What happens when the 50-percent ceiling is violated? Who will make the appropriate allocations?

We hear complaints from State and local agencies about paperwork burdens, redtape, and endless forms. Adoption of an unlimited amount of "voluntary" payments subject to a 50-percent ceiling on the total amount of the payments will result in a cacophony of complaints.

Gentlemen, no matter how meritorious the goal of this legislation, the end does not and cannot justify the means. It is bad welfare policy. It is bad housing policy. It is bad administrative policy. I urge the deletion of the unrestricted vendor payment provisions of H.R. 3387.

I have not heard the distinguished Senator from New York—for whom, with others, I have the utmost respect—answer the argument that was made by the Senator from Massachusetts when he read the report of a survey published by the New York Times, that only 7 percent of vendor payments were actually needed in New York itself. I do not know whether that was based on an accurate survey, but it was published by the Times, the same Times that editorialized on Saturday contrary to that.

Mr. MOYNIHAN. That is the statement of an individual landlord. I do not believe that number exists at the level of reliable statistics.

Mr. HATHAWAY. Do they have statistics that show we need more than the 20 percent with which we are willing to go along? It seems the Senator wants an experimental time. If we are going from 10 to 20 percent, we should experiment and see if it is adequate before we should in effect get into 100 percent vendor payment.

Mr. MOYNIHAN. I should like to speak to that point, so that the Senator is clear about what he is choosing here. It is easy to be confused.

The 20-percent figure refers to checks that, upon the decision of the social welfare agency, are paid to one person only. What we introduced on a 2-year experimental basis here is the opportunity for the welfare recipient voluntarily to have a two-party check made out.

Mr. HATHAWAY. I understand that.

Mr. MOYNIHAN. That is new. This would be a new provision, and the proposition is that it might turn out to be an important one.

Mr. HATHAWAY. The benefit of both is that the landlord is going to get paid. It seems to me that we should try to see if the increase from 10 to 20 percent of the total amount caseload would be sufficient to cover what the landlords are complaining about.

Mr. MOYNIHAN. I have to correct what may be a misimpression of the Senator from Maine. The 20-percent provision refers to situations in which a social welfare agency judges a welfare recipient not competent, not to be trusted, not capable, and just does it.

There is the curious language of Edwardian liberalism that the Secretary invoked when he testified the first time. He said that this new provision would make available to the welfare recipient—I love the language—a financial management tool not now available to them—to wit, the option of saying to a landlord, "Not only do I like your apartment, and I will rent it, but I'll agree to see that a check comes every month, which I have to sign and you have to sign, so you're going to be sure you get the rent."

Mr. HATHAWAY. I recognize that a finding has to be made that a person has not paid his rent in the past.

Mr. MOYNIHAN. I could not speak with knowledge to that point. I could not speak to any data. I do not have it.

Mr. HATHAWAY. I should like to reiterate my deep concern about the voluntary nature of the sign-off procedure. It seems to me that there could be a definite coercive relationship between a landlord and a tenant, be it a bureaucrat or a welfare recipient; I have grave misgivings that most individual welfare recipients are going to sign off voluntarily. I should like to hear what the Secretary of HEW has in mind, in general, as to the regulations he is going to promulgate, before committing myself to support the proposal in the bill advocated by the Senator from New York.

I yield back the remainder of my time.

EXHIBIT 1

ASSISTANCE PAYMENTS ADMINISTRATION

August 2, 1972.

To: Mr. John L. Costa, Commissioner.

From: Director, Division of Program Payment Standards.

Subject: Monroe County, New York review of method of payment for federally aided assistance programs.

1. This report is prepared as the result of a review of federally aided assistance cases in Monroe County, New York.

2. There has been an outstanding question for some time as to the consistency in practice of the method of payment with Federal law and regulations.

3. The provisions of the Social Security Act which are applicable to the situation in Monroe County are:

a. With regard to money payments for all titles—Sections 6(a); 406(b); 1006; and 1405 and 1605;

b. With regard to protective payments for adult titles—Sections 6(a); 1006; 1405; and 1605;

c. With regard to protective and vendor payments for title IV-A—Section 406(b).

I. BACKGROUND

In July, 1970, the Monroe County (N.Y.) Department of Social Services began using a method of payment which they described as a voluntary limited power of attorney to permit the county public assistance agency to make vendor payments for rent and utilities for certain public assistance recipients. After specific instructions from the New York Department of Social Services to stop using this method of payment with regard to the federally aided assistance programs because it constituted a restricted payment, and as such violated the "money payment" provisions of the Social Security Act, county officials appealed to Congressman Barber B. Conable for his help in resolving the issue.

In August, 1971, the Regional Commissioner, (SRS) Region II, forwarded a letter from the Commissioner, New York State Department of Social Services, which expressed some support of the County's practice; Mr. Smith requested reconsideration of the Federal position in his covering memorandum. In October, 1971, Mr. Smith appealed to the

Administrator for further consideration of the issue; Mr. Conable also wrote to Mr. Veneman. The responses of APA, SRS and Mr. Veneman consistently held that the voluntary "power of attorney" method as used by Monroe County was a restricted payment for the federally aided assistance programs and was a violation of the Social Security Act. (Copies of pertinent correspondence are attached.)

On January 26, 1972, Mr. Costa met with representatives of the County, the New York State Department of Social Services, staff of APA from both the Region and Washington and representatives of the Office of General Counsel; the meeting was requested by the County and was for the purpose of presenting its position. The County feels strongly that vendor payments under the voluntary "power of attorney" arrangement are not restricted payments and should not be included under the statutory 10 percent limitation for protective and vendor payments in the AFDC program. APA agreed to make an on-site review of cases receiving assistance under the federally aided programs to determine whether such payments should be held to be unrestricted.

II. PROVISIONS OF THE SOCIAL SECURITY ACT

All public assistance titles of the Social Security Act define assistance as "money payments" to or in behalf of needy individuals. "Money payments" as defined in H.B. IV-5120–5132 means that payments must be made to the grantee or his legal guardian with no restriction on the use of the funds by the individual. The statutory provision that assistance be in the form of money payments preserves the right of the individual to manage his own affairs; to decide what use of his assistance check will best serve his interests; and to make his purchases and expenditures through the normal channels of exchange, enjoying the same rights and discharging the same responsibilities as do his neighbors and friends in the community.

In 1962 and 1965 the Congress amended the Social Security Act to provide that States may make other than money payments with Federal matching to recipients who have demonstrated inability to manage money The 1962 Amendments provide for both protective and vendor payments, with specific safeguards, in the AFDC program when the caretaker relative has demonstrated such inability to manage that the welfare of the child is endangered, if the State plan provides for: (Section 406(b)(2))

(1) determination that the relative has such inability to manage funds that making payments to him would be contrary to the welfare of the child;

(2) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(3) periodic review to determine whether conditions justifying the determination still exist with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal respresentative when it appears likely that the need for such payments is continuing or is likely to continue beyond a period specified by the Secretary

(4) aid in the form of foster home care in behalf of children; and

(5) opportunity for a fair hearing.

The number of such individuals for whom such payments may be made with Federal matching is limited by Section 403(a) of the Social Security Act to 10 percent of the number of AFDC recipients in the State in any month. The State may decide whether the same percentage limitation is applied in each administrative subdivision or it may use a method of assuring that the number of recipients for whom matchable payments are made does not exceed the limitation for the State as a whole. The 10 percent limitation is a statutory one and not subject to administrative decision. The provision permits the payment of rent on a vendor basis when all other conditions are met; it also permits the selection of agency staff as protective payees. (45 CFR 234.60 (a)(6)).

The Social Security Amendments of 1965 provide for Federal matching for protective payments in all the adult public assistance titles for individuals who have demonstrated such inability to manage money that making payments to them would be contrary to their welfare. (Sections 6(a), 1006, 1405 and 1605 (a) of the Social Security Act.) In addition to the above determination, State plans must include provisions for:

(1) making such payments only when all needs of the individual are met;

(2) undertaking and continuing special efforts to protect the welfare of the individual and to improve to the extent possible his capacity for self-care and to manage funds;

(3) periodic review of the determination to ascertain whether it should be terminated or whether the judicial appointment of a legal representative is indicated; and

(4) opportunity for a fair hearing.

There is no restriction on the number of aged, blind or disabled individuals who may be included and agency staff may be selected as payees under the conditions outlined in Federal regulations (45 CFR 234.70(a)(3)).

The law also provides for payments to suppliers of goods or services under the emergency assistance provisions of title IV-A of the Social Security Act (Section 406 (c)). Under emergency assistance the State may specify the emergency needs it will meet and the assistance and services it will provide; such assistance is limited by statute to one period of 30 days or less in any 12-month period.

Thus, the States have three provisions which enable them to make other than money payments to a recipient or his legal guardian with Federal matching:

(1) Protective and vendor payments in the AFDC program;

(2) Protective payments in the adult programs; and

(3) Emergency assistance in the AFDC program.

These provisions, although essential to deal with unusual situations are to be used only for such cases. Judging from the experience of States nationally, there is no reason to believe that they do not provide public assistance agencies sufficient flexibility to deal with problem of money management among recipients.

III. METHOD OF REVIEW

Assistance Payments Administration staff from the Region and Central Office reviewed a statistical sample of "Power of Attorney" cases in Monroe County in April, 1972. A systematic sample of every 15th case was drawn from a total caseload of 1526 AFDC and AD cases for whom POA payments were made in February, 1972; the sample totalled 107 cases.

A sample of 15 OAA cases was also drawn but since 7 were later found to be either Home Relief or belonged to another category, only 8 were included in the review. In addition a random sample of 15 Protective Payment cases was drawn for purposes of comparison. In all except one case in which the Social Service record was not available, both the income maintenance and social service records were reviewed.

Cases were reviewed to determine if the POA payments could be considered an unrestricted payment or if they could be considered to meet the conditions for protective and vendor payments (Section 406(b)(2)) or protective payments under the adult titles. No cases involving emergency assistance payments were included in the review.

Because of the difference in protective payment provisions in the AFDC program and the adult programs, the cases are discussed separately. A copy of the form used in the case review is attached.

IV. FINDINGS—AFDC

Of the 90 AFDC cases reviewed, 57 were Negro families, 18 were white, 2 were listed as Puerto Rican and in 13 cases, race was not identified. All but one family lived in rented quarters. In more than half the cases (52) the landlord (payee) was not identified, in 4 cases rent was paid to public housing; the remainder, by and large, had different landlords.

In 18 cases the Rochester Gas and Electric Company was a payee; in several of these cases there was a notation to the effect that clients could not manage the high utility bills as they were not covered in their budgets. Payments to Rochester Gas and Electric ranged from $15 to $167.

Although the records are not clear it appears that the agency pays the full amount when it pays the company directly; the amount allowed in the budget appears to be deducted from the future payments made to the client. Since the amount varies from month to month, clients must sign a new POA each month for utility bills. The New York State plan allows for additional amounts to be paid for fuel in severe weather, overly exposed locations or unusually poor construction, or for reasons of poor health. There was no indication that this provision was used. Although the focus of this review was not on assistance standards this practice could raise question as to whether the State is following its plan with respect to assistance standards statewide. The question will be referred to the Regional Office for further review.

Record had inadequate information as to who was responsible for the decision to make vendor payments by POA and the frequency of review. In general once such a payment was made to a landlord, it appears to continue. A copy of a lease agreement in one recipient's record contains the clause that the tenant agrees that the power of attorney signed at the welfare office will not be changed so long as they are tenants (copy attached).

Of the 90 AFDC cases, 52 had one or more out-of-wedlock children, 41 were Negro, 6 were white and 2 were identified as Puerto Rican.

Fifty-nine (59) were referred for social services, 14 for recertification only, 7 for recertification plus another service and 3 to sign power of attorney.

A tabulation of the problem precipitating a change in payment status (No. 8) showed no indication of a money management problem in 56 cases; in 18 cases the landlord required that rent be paid him directly; 11 had problems with utility bills and 14 had problems with previous landlords.

In 67 cases, there was no indication of how the problem of money management came to the attention of the agency. (No. 10) High Rochester Gas and Electric bills accounted for 9 and eviction or delinquency in paying rent accounted for 6. It is not known whether this was a money management problem of the family, or whether they did not have the resources.

In 21 cases, there was some recorded evidence of a problem with managing money, 8 of these were due to high utility bills not covered by the payment and 8 had problems with landlords or were delinquent in paying rent. It is not possible to evaluate the extent of the money management problem because the recorded information is limited and does not support a finding such as is required under Federal policy for protective or vendor payments.

In 13 cases, there was clear evidence of child neglect, in at least 7 of which the problem was serious. All but three of the

cases had been referred to Social Services for some service. In our opinion these are the only cases in the AFDC group for whom the agency has a basis for making restricted payments. The provisions of its own State plan for making protective or vendor payments were not followed, however.

In none of the 90 cases was the determination made that the relative of the AFDC child (or children) had such inability to manage funds that making payments to him was contrary to the welfare of the child. Vendor payments were generally initiated for reasons unrelated to problems in money management or to the welfare of the child.

ADULT POA AND PROTECTIVE PAYMENT CASES

Seventeen Aid to Disabled were reviewed; 14 of these rented; 3 had other living arrangements. Eleven (11) were Negro; 5 were white and one unknown. In 13 of these cases there was no indication of the reason for payments by POA; in 3 cases it was by request of the landlord and one appeared to be because of accumulated utility bills.

Three recipients could have been expected to have problems managing money; two were female diabetics with alcoholism and one had a diagnosis of psychosis with mental defiency recently discharged from the State Hospital and with a long history of difficulty managing in the community. A protective payee might have been a more appropriate arrangement than a vendor payment for rent and/or utilities for such recipients.

OLD AGE ASSISTANCE

All of the 8 OAA cases reviewed lived in rented apartments; 5 were white, 2 were Negro and one was of unknown race. In two cases there was indication of possible money management problems, but otherwise there was no indication in the records of the reason for the use of POA. Two cases clearly should have been referred for protective payment and services.

PROTECTIVE PAYMENT CASES

In addition to the POA cases, a random sample of cases receiving protective and vendor payments under the provisions of 45 CFR 234.60 and protective payments under the provisions of 45 CFR 234.70 were reviewed for purposes of comparison.

In only 2 of the 9 AFDC protective payment cases was there evidence of a need for protective payments. In none of the cases, however, was a protective payee identified. Four of the nine families owned their homes; some repair and fuel bills were paid by POA although there was no evidence of child neglect or money management. All of the families renting living quarters had their rents paid by POA; one family had additional living expenses paid by voucher. All but one case had been referred to social services and except for one case, services provided were limited or none found to be needed.

To summarize, only two cases in this group could be considered protective payment cases. In none of the cases were the conditions for making such payments met.

All the adult titles of the Social Security Act provide for protective payments when the recipient has such inability to manage money that making payments to him would be contrary to his welfare. The other provisions for making such payments are similar to those in title IV, except that in the adult titles, provision is made only for a protective payment to be made to a concerned individual and the agency must meet all needs of the recipient.

None of the 6 adult protective payment cases met Federal provisions. In no cases was there evidence that a protective payee was appointed; in all cases part of the payment was made by voucher or POA. In three cases voucher payment was made for meals-on-wheels, two were for rent by POA and payment in one case was for house repairs and a large oil bill. In one case (possible a second) there was an indication of a problem managing money.

The principle problem with the utility company appears to be the fact that the amount allowed for this in the payment ($16.60) does not begin to meet the bills cited of $100 or more a month. Although requests from the utility company came as the result of unpaid bills, the agency apparently does not necessarily check the validity of the bill with the recipient before it pays. In some cases the agency paid the bill and then notified the recipient that future deductions would be made in his payment to cover the arrears paid by the agency. This was confusing to some recipients, particularly to one woman who maintained she had paid her utility bills.

"Power of Attorney" payments for rent were clearly made at the insistence of the landlord or by agency decision. Agency staff see no impropriety in such a request and do not question the landlord's demand; the case focus at this point becomes one of trying to accommodate the landlord.

The County agency claims that the "voluntary power of attorney" method of payment is a voluntary one because it says it is voluntary. This is a specious argument and does not take into account the customary use of power of attorney or the nature of the relationship between the recipient and the agency. Power of attorney is ordinarily used when an individual expects to be away or incapacitated for a period. He authorizes a friend or relative (or an attorney) to act for him for a given period or purpose; the individual not only makes a free choice in the selection of the person he wishes to act for him, but he normally selects someone he is confident will act in his best interests. Such a relationship is certainly not the usual one between recipients and the public assistance agency.

The recipient of public assistance is dependent for his very livelihood on the agency and the public officials who have it in their power to give or deny him that very livelihood. There is still a great deal of discretion inherent in the public assistance system. Recipients have no assurance that they can refuse the suggestions or proposals of the agency that "power of attorney" be given for the payment of rent without this decision not affecting their eligibility or amount of payment. Assurances of this kind cannot be given for the people administering public assistance programs are human beings, subject to feelings of frustration and irritation. They are also under pressure from the landlords and the utility company; they may be sincerely trying to help the individual. If agency help is refused, however, there can be no assurance given that it will not affect the recipient's present or future claims against the agency. The relationship between a dependent person and his benefactor is such that free choices are not possible on the part of the recipient.

And for the record, entries in the case records reveal that the client is aware that the landlord and/or the agency are largely responsible for the decision to use the "power of attorney" method of payment and that refusal to agree carries risks as well as certain penalties. In several cases the Rochester Gas and Electric Company appears to have been paid directly by the agency for bills owed by clients with no notice to the client until the transaction was completed. In one case there was a note, "If unable to get woman to sign POA, stop check till she comes in". Usually, however, the landlord asked for the arrangement verbally or in writing and the agency sent the client a note asking him to come in and sign the POA. In some instances, the landlord accompanied the client to the County office to have the client sign the POA. The records generally did not support the claim that the recipient has a free choice. The fact that the agency claims to advise all clients that they have a choice as to whether to sign the POA form is not of itself proof of "free choice" if the alternatives are taken into account.

V. SUMMARY

A sample of cases in which the Monroe County public assistance agency was making payment in February, 1972, for rent and/or utilities by means of a voluntary "power of attorney" was reviewed to determine if such a method of payment could be considered unrestricted within the meaning of the Social Security Act; or if it were restricted could such payments be found to meet the conditions of Section 406(b)(2) or Section 1605(a) of the Social Security Act.

There was no evidence found in any of the cases reviewed to support the County's claim that "power of attorney" payments are unrestricted payments. This method of payment is usually initiated at the request (or demand) of the landlord or the utility company and occasionally by the agency.

The request from the landlord and/or utility company clearly is the major determinent as to whether this payment method is used. Although recipents are advised that they are free to refuse to sign the POA form, the agency as well as the landlord obviously prefer this way of doing business and in face of such pressure the recipient is not free to refuse.

There is, moreover, no provision in Federal law or regulations for the use of a "power of attorney" method of payment. The law is specific in defining the ways in which a State can deal with recipents' demonstrated inability to manage money and they do not include the use of "power of attorney". Failure to pay bills is, in itself, not a determinent as to poor ability to manage. This is evidenced by the fact that the recipent is given $16.60 per month for utilities in his assistance payment, although the agency may pay $100 directly to the vendor. If given a larger payment the recipient himself might manage better.

There is no substantive difference between a payment made by agency power of attorney and a voucher payment. The only difference is that the recipient is asked to sign a paper that he agrees to the agency paying his rent and fuel bills. The device is primarily for the protection of the landlords and utility companies; it leaves the recipient with almost no freedom in the use of his funds and denies him the safeguards included by Congress in the 1962 and 1965 Amendments to the Social Security Act. Penalties for nonpayment of rent and utility bills are imposed on all citizens and the agency has no more responsibility for protecting the client against due process of law than it has to protect landlords and utility companies against the possibility that recipients may not pay their bills.

VI. RECOMMENDATIONS

1. That the New York agency cease claiming Federal funds for any case in which payment is made by means of agency "power of attorney."

2. That the New York agency review Monroe County's program of protective and vendor payments under tile IV–A and protective payments under title XVI and take steps to bring the County into compliance with Federal and State plan requirements.

3. That the State agency advise the County to phase out its POA program and make fuller use of protective and vendor payment options with full supporting evidence in case records that all conditions specified in Federal regulations are met (45 CFR 234.60 and 45 CFR 234.70).

4. That in the absence of a commitment to the above items within a 30-day period, the Federal Government will no longer match any vendor or protective payments made by the State. (45 CFR 234.60(b)(2)(iii) and 234.70(b)).

MILDRED K. HOADLEY.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CURTIS. Mr. President, will the Senator yield me 5 minutes?

Mr. MOYNIHAN. I yield.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, I rise in support of the committee position and opposed to this amendment.

To my mind, it is to the advantage of every tenant, young or old, whether he has property, income, a job, or must be dependent upon other sources. If in attempting to secure living quarters he can assure the landlord that he will get his money, he will get a better deal, he will get better premises, and he will get a better price.

There is nothing coercive about this amendment. It is entirely voluntary. It is giving to the poor of the land a weapon whereby they can go out and get the very best deal possible in their living quarters.

I remind my colleagues that this is totally voluntary. A request for joint checks must be made by the recipient in writing and it would be effective until revoked by the recipient and would be limited to 50 percent of the check. We do not imply that it be 50 percent spent for rent, but for all purchases. He cannot enter into such an arrangement for more than 50 percent. It is very much of a compromise between those who want unlimited cash payments, on the one hand, and those who want unlimitcd vendor payments, on the other.

It is precisely what the House of Representatives passed and sent to the Senate as part of H.R. 7200.

Congressman RANGEL and Congressman BINGHAM, who have given great attention to this matter, both came and testified before the Committee on Finance, urging the adoption of this provision. They live where the problem exists, and they wondered. It may, as they pointed out, actually assist welfare recipients, in securing needed housing. I am convinced that it will. It is limited for a period of 2 years, and the committee report calls for careful monitoring by the Secretary of HEW.

The House report language makes it clear that the voluntary agreement does allow for the recipient to revoke the two-party check after 30 days without notice and thus prevents coercion by the landlord in specifically providing that he can revoke it.

This is a voluntary arrangement to protect those who need protection, to give them a hand in the transaction. Checks cannot be cashed without their signatures. Yet they can enter into an arrangement that creates confidence and assurances with those with whom they deal so that they can get the most for their money.

I believe the proponents of this amendment are vitally concerned about the interest of these people. I do think that some of the outside sources who have painted this amendment as harsh and coercive frankly do not understand the situation and have not gone into it in the depth that such individuals as the distinguished Senator from New York, in charge of this bill, and the distinguished Congressman, the Honorable Mr. RANGEL and the Honorable Mr. BINGHAM.

I think we should give great weight to their testimony and reject this amendment.

Mr. MOYNIHAN. Mr. President, I thank the distinguished and revered ranking minority member of our committee.

Mr. President, before yielding back my time, I shall make only two points which would emphasize what the Senator from Nebraska has said.

The first is, if there is a question of fact, before the Government limited this measure to 10 percent in my particular city the number of such unilateral payments was up to 25 percent.

But I have one other point and one last point. I ask the Senator from Maine to look here just a moment and if the Senator from Wisconsin would take just one look here at the front page of the New York Times. He will see the President of the United States walking amidst the ruins of a borough which on its own would be the fifth largest city in America. The rubble the President is walking over was once housing and it has been ruined, and the people who live there keep fleeing farther and farther from the perimeter of this place seeking housing. Where they go now, they are sometimes looked upon as carrying the virus of this very urban blight.

The one thing they may not now do is what Senator CURTIS pointed out. They may not say to a prospective landlord:

I am prepared to enter into an agreement with you in which there will be a monthly check made out jointly to us. I have the right to rescind that agreement on 30 days' notice and without any other agreement, but I am prepared to make that agreement. So I am a good tenant. You can take me. You can be confident of me.

That is a right they do not have and, Mr. President, I submit in the judgment of people who are close to this situation, that they now need. This is an experimental measure which in 2 years may turn out to be much more important than we think. If it is not it will quietly lapse.

With that, if there is no other Senator who wishes to speak, I am prepared to yield the remainder of my time and to thank my colleague from Nebraska for his thoughtful remarks.

Mr. BROOKE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. MOYNIHAN. Mr. President, if the Senator will yield, before I do conclude, I wish to say further that I thank all those who participated in this debate. We clearly are divided not by values but by judgments about necessarily obscure facts, and there is nothing, I think, but a high regard on this side of the aisle for those who have submitted the amendment.

Mr. BROOKE. Mr. President, I join with my distinguished colleague from New York in thanking all the participants in this debate. I think we have made good and sound legislative history.

Mr. President, I think my colleague, the junior Senator from New York, has failed to make the case that there is a crisis so great as to justify the sweeping provisions of the present Finance Committee bill.

I think that Assemblyman Coppell from the South Bronx, who I said I do not know, but I am sure is a very able, a very vigorous assemblyman from New York, has convinced my colleague and some in Congress that there is a necessity for this in the South Bronx. I do not know whether it is or is not except I have not seen any supporting data for it.

The data that I have seen would indicate the South Bronx does not have any more of a crisis than Roxbury, Mass., or Detroit, Mich., or California, or some other places as well.

Certainly no case has been made that there is need for such sweeping national legislation as presently embodied in the bill, that there is a crisis which would cause us to take a step backward and compel all AFDC recipients to enter into two-party contracts.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. BROOKE. I yield.

Mr. JAVITS. It is awfully easy because the President took a walk in the South Bronx, and the South Bronx is bombed out and one of the worst areas in the country, to universalize. What the Senator last said is what is critical to this matter. We are dealing with a nation with millions, not thousands, and as to those in the South Bronx, as I said before, this is not going to make it or break it. It may help marginally; it may hurt marginally. The question is, What shall be the national policy?

For my thinking, what Senator PROXMIRE said, whether it is his committee or not, was a critical point, to wit, we really do not know enough about this thing to legislate it, and it is deep. In 2 years it is very likely to be perpetuated because in 2 years we will not know. It will not be determinative; it will not have been proven one way or the other.

That is my reason for feeling that I am with the Senator from Massachusetts, and I represent the South Bronx as much as my colleague from New York.

Mr. BROOKE. Mr. President, I do not want to be facetious, but when my distinguished colleague, the junior Senator from New York, was in Cambridge, I think the senior Senator from New York was walking around the South Bronx at that time, and I believe even then the South Bronx had serious problems as it always had.

Mr. MOYNIHAN. Mr. President, will the Senator yield for one point?

Mr. BROOKE. I yield.

Mr. MOYNIHAN. I went to high school in East Harlem directly across the river from the South Bronx. My revered and distinguished senior Senator comes from the Washington Heights area which if the Senator will look at the map is much closer to the North Bronx.

Mr. BROOKE. I do not want to get into identifying New York City geog-

raphy. I can tell you we are all concerned in the Senate about New York. As you will remember Senator PROXMIRE and I had the responsibility in the Banking, Housing, and Urban Affairs Committee for the Senate's response to the New York City financial crisis. We want to do everything we can for New York. But we cannot set national policy based solely on a portion of New York.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. JAVITS. I was once asked on a television program about some very serious political decision, whether I would run for Governor, and I said, "If I am going to commit hara-kiri, it won't be on this program."

I think that applies here, Senator MOYNIHAN. I would never, whether I am right or wrong, challenge your credentials to speak for New York. All I meant to say—and you know I am much older than you and have been in our town a long time—was just that I, too, had heavy on my heart the same considerations which you have. I came to a different conclusion, but I have the same considerations.

Mr. BROOKE. I want to assure the Senator I have the needs of New York on my heart as well. We all do. We all love New York. I am not sure I am going to be with you tomorrow night at the World Series, but I love it anyway.

However, the point is that here we are making national policy, and very serious national policy, and I hope that our colleagues in the Senate will not take a backward step when we are moving forward and having faith and confidence in welfare recipients to pay their bills, and pay their bills on time. That to me is the real principle involved in this whole amendment. I have that faith and confidence, and I ask my colleagues in the Senate to have that faith and confidence as well.

I yield back the remainder of my time.

ADDITIONAL STATEMENT SUBMITTED

Mr. DOMENICI. Mr. President, I join today with Senators BELLMON, BROOKE, JAVITS, HATHAWAY, METZENBAUM, and HOLLINGS in cosponsoring an amendment to H.R. 3387 to strike that portion of the bill which authorizes State welfare departments to make unlimited "voluntary" two-party checks to AFDC recipients and landlords or utility companies for up to 50 percent of the recipient's total AFDC payment.

My reasons for opposing this portion of H.R. 3387 are threefold:

First, authorizing the nearly unlimited use of two-party checks for rent and utility payments could result in coercion of recipients to agree to such payments. Recipients might not be aware of the "voluntary" nature of these payments and they could be forced by landlords to agree to two-party checks before rent and utility services are provided.

Second, our public assistance programs already pose a multitude of administrative burdens for the States. If the two-party check provision is implemented, the program could become even more unwieldly to administer. The potential difficulties are especially apparent in the case of utility payments, since the amount of the AFDC payment used for such services would vary from month to month.

Third, in my opinion, H.R. 3387 is not the appropriate forum for enacting substantive changes in existing law. The legislation is intended primarily to extend for 4 months a number of Social Security Act provisions which would expire September 30, 1977. It would be better to attach this two-party check amendment to H.R. 7200, or similar legislation, which proposes substantive changes in law. In this manner, the two-party check provision can be more thoroughly considered and debated.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question now occurs on agreeing to the amendment proposed by the Senator from Massachusetts, amendment No. 945.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Kansas (Mr. PEARSON), is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 62, nays 20, as follows:

[Rollcall Vote No. 563 Leg.]

YEAS—62

Allen	Culver	Hayakawa
Baker	Danforth	Heinz
Bellmon	DeConcini	Helms
Biden	Dole	Hollings
Brooke	Domenici	Inouye
Bumpers	Durkin	Jackson
Burdick	Eagleton	Javits
Cannon	Eastland	Kennedy
Case	Glenn	Leahy
Chafee	Gravel	Lugar
Chiles	Hart	Magnuson
Church	Haskell	Mathias
Clark	Hatch	Matsunaga
Cranston	Hathaway	McGovern
McIntyre	Ribicoff	Stone
Meicher	Riegle	Thurmond
Metzenbaum	Sarbanes	Weicker
Muskie	Sasser	Williams
Nelson	Schmitt	Young
Pell	Stevens	Zorinsky
Proxmire	Stevenson	

NAYS—20

Bartlett	Hansen	Packwood
Byrd, Harry F., Jr.	Johnston	Randolph
Byrd, Robert C.	Laxalt	Roth
Curtis	McClure	Schweiker
Garn	Morgan	Scott
Griffin	Moynihan	Talmadge
	Nunn	Wallop

NOT VOTING—18

Abourezk	Hatfield	Pearson
Anderson	Huddleston	Percy
Bayh	Humphrey	Sparkman
Bentsen	Long	Stafford
Ford	McClellan	Stennis
Goldwater	Metcalf	Tower

So Mr. BROOKE's amendment was agreed to.

(Later the following occurred:)

Mr. HASKELL. Mr. President, I ask unanimous consent that my vote on the Brooke amendment, which was a "nay" vote be changed to "aye," I not having understood the nature of the motion that was being voted upon and the result of my change from "nay" to "aye" would not affect the outcome of the vote.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments?

Mr. NUNN. Mr. President, I have an amendment which I believe will be agreed to without a rollcall vote. I do not know whether there will be a rollcall vote on final passage or not.

Mr. MOYNIHAN. Will the Senator yield?

Mr. NUNN. Yes.

Mr. MOYNIHAN. It is not now contemplated that there will be a rollcall vote on final passage, but I am advised that there might be.

UP AMENDMENT NO. 946

(Purpose: To add a provision dealing with the treatment of certain child support collections after termination of AFDC assistance)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 946.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7 after line 14 add the following new section:

TREATMENT OF CERTAIN CHILD SUPPORT COLLECTIONS AFTER TERMINATION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ASSISTANCE

SEC. 4. Section 457(c) of the Social Security Act is amended—

(a) in paragraph (1)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represent monthly support payments," immediately after "amounts so collected", and

(b) in paragraph (2)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represents monthly support payments," immediately after "amounts so collected", and

(3) by striking out the period at the end thereof and inserting in lieu of such period a comma, and

(c) by adding at the end thereof the following new provision:

"and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).".

Mr. NUNN. Mr. President, today, I am offering an amendment that would clarify language in the child support provisions of Public Law 93-647. Under present law applicants and recipients of AFDC are required, as a condition of assistance, to assign the State any rights to support they may have, and which have accrued at the time the assignment is executed. Present law also requires State agencies to collect child support payments on behalf of the AFDC recipient. Amounts collected which represent the child support obligation for the current month are generally retained by the State to the extent necessary to reimburse it for the current AFDC payment. If the amount of the child support collection made by the State is in excess of the court-ordered monthly support payment for the family, the amount of the excess is retained by the State to reimburse it for assistance payments previously made to the family. Present law also allows States at their option to continue to collect support payments from an absent parent for up to 4 months after AFDC payments have been terminated and then at the option of former recipients, to continue to collect support payments for them and deduct the cost of collection from the amounts collected.

Mr. HART. Mr. President, may we have order in the Senate so the Senator can be heard?

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will cease conversations. The Senate will please come to order.

The Senator from Georgia.

Mr. NUNN. If they do this, HEW regulations require them to continue to retain payments in excess of the required monthly support order as reimbursement for past assistance payments. The HEW regulations have been challenged as inconsistent with the statute. There is a court suit pending in Georgia against the HEW regulations which the director of the Georgia Child Support Recovery Unit, the Commissioner of Human Resources and the Secretary of HEW as defendants.

My amendment would add clarifying language to uphold the HEW interpretation that States are required to continue to retain support payments in excess of the regular monthly support order as reimbursement for past assistance payments. This is consistent with the intent of the Congress in establishing the child support program that legally responsible parents who owe child support to AFDC families accrue an obligation to the State for assistance paid to their families.

My amendment clarifies present law, section 457(c) of the Social Security Act. It is in accordance with HEW regulations. It has already been approved by the Finance Committee on another bill, which is not likely to come up this session.

In effect, it will really add money to the State governments and the Federal Government, assuming that the plaintiffs in the lawsuit might have some case.

This amendment does not cost money, but it saves money for the taxpayers at both the State and Federal levels. It is in accordance with HEW regulations, and in accordance with the intent of the Congress in the previous law which was passed. I hope the committee will consider the amendment.

Mr. MOYNIHAN. Mr. President, the Senator from Georgia is entirely correct in his statement. This measure complies with the intention of the Congress, complies with the regulations of the HEW, and it has been adopted by the Committee on Finance with respect to another measure, H.R. 7200, which we have recently been considering. The committee would move to accept the amendment.

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. NUNN. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, the Senate is again considering the matter of Federal day care staffing standards. This is a subject which I have long opposed and feel should have been deleted during one of the several debates of the 94th Congress.

I opposed similar legislation to H.R. 3387 during the 94th Congress. This bill again attempts to gloss over the real problem by using taxpayers' dollars to hide the issue of Federal staffing standards.

The Congress has been waiting for HEW to produce its long-promised staffing study. Earlier in this session we provided HEW with additional time to prepare this study. Obviously, I think that all of us should be concerned about its content. It seems that we have commissioned a study by an organization with a vested interest.

I do not oppose the portion of this bill which postpones the Federal staffing standards until February 1, 1978. However, this exercise is totally unnecessary because the problem should have been settled during the 94th Congress.

I do still question the use of tax dollars purposed in this bill. If you will recall, when the standards were to go into effect last year, there was a proposal to use tax dollars to defray a part of the additional cost of the salaries for the added personnel in the day care centers. There is some logic to this, although a very limited amount. However, once we delayed the standards, what logic remained in continuing this expenditure? This bill continues the extenditure, and at the same time continues the delay of standards.

Actually, as of October 1, 1977, the standards went into effect, and a wave of concern swept across my State. This concern was expressed not only by operators of day care centers, but by parents. There are many parents, particularly single working mothers, who will find it difficult, if not impossible, to pay for day care if anything like the present standards are put into effect.

These are working women, who are not on welfare, and who will not have the cost of additional staffing deferred by a Federal supplement.

It should also be noted that the minimum wage is probably going to jump 13 percent during this next year, and 31 percent by 1981. All of this will have to made up by working parents.

I have grave concern over the effect of all this on the quality of care that children will receive. If working parents cannot pay for licensed day care, they will have to turn to other sources which may be of questionable quality.

There is a proposal before the Finance Committee which will actually delete the standards rather than merely postpone them, and it is my understanding that this bill will later be reported to the floor for action. However, the public and my distinguished colleagues should note that this deletion is done with the intent that there will be new standards adopted during the second session of the 95th Congress.

I would like to thank the Finance Committee for reporting this bill. It will at least temporarily allay the fears of parents in my own State. But the problem still exists, and there is only one solution—a complete deletion of these standards or any future standards.

The ACTING PRESIDENT pro tempore. Are there further amendments?

If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The ACTING PRESIDENT pro tempore. Do the Senators yield back their time?

All time having been yielded back, and the bill having been read the third time,

the question is, Shall the bill, as amended, pass?

Mr. MATHIAS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Kansas (Mr. PEARSON) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 80, nays 0, as follows:

[Rollcall Vote No. 564 Leg.]

YEAS—80

Allen	Garn	Metzenbaum
Baker	Glenn	Morgan
Bartlett	Gravel	Moynihan
Bellmon	Hansen	Muskie
Biden	Hart	Nelson
Brooke	Haskell	Nunn
Bumpers	Hatch	Packwood
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Randolph
Byrd, Robert C.	Heinz	Ribicoff
Cannon	Helms	Riegle
Case	Hollings	Roth
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schmitt
Clark	Johnston	Schweiker
Cranston	Kennedy	Scott
Culver	Laxalt	Stevens
Curtis	Leahy	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Wallop
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
	Melcher	Zorinsky

NAYS—0

NOT VOTING—20

Abourezk	Hatfield	Pell
Anderson	Huddleston	Percy
Bayh	Humphrey	Sparkman
Bentsen	Long	Stafford
Ford	McClellan	Stennis
Goldwater	Metcalf	Tower
Griffin	Pearson	

So the bill (H.R. 3387), as amended, was passed.

The title was amended so as to read:

An act to extend certain Social Security Act provisions, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 3387.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

SENATE TO RECONVENE ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, as the Senate continues to mark time awaiting the clearance of conference reports and other measures considered necessary to be acted upon before the session adjourns for the year, the Senate will not be in session tomorrow but it will come in early on Wednesday, at 9 a.m., and Wednesday will be a busy day.

I thank the Chair.

RURAL CLINICS—H.R. 8422

Mr. TALMADGE. Mr. President, on behalf of the Committee on Finance, I ask unanimous consent that when H.R. 8422 is sent over to the Senate, the bill be held at the desk.

H.R. 8422 is the House-passed bill designed to provide coverage of certain services by rural clinics under the medicare and medicaid programs.

H.R. 422, a bill previously passed by the Senate, contains the committee and Senate counterpart provisions for coverage of rural clinics.

It is our intention to move to substitute the text of the Senate provisions in H.R. 422 as an amendment to H.R. 8422.

The purpose of this, of course, is to assure that both the complete house version and the complete Senate version of coverage of rural clinics' services will be in conference.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business with statements limited therein to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he has approved and signed the following measures:

On October 12, 1977:

S. 1435. An act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act.

On October 13, 1977:

S. 1331, An Act to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

On October 15, 1977:

S.J. Res. 89. Joint resolution to amend an act entitled "To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Congress, 1st session).

S. 667. An act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

REPORT ON OLDER AMERICANS ACT—PM 124

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Human Resources:

To the Congress of the United States:

Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89–73) provides that the Commissioner on Aging shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act, not later than 120 days after the close of each Fiscal Year.

The Secretary of Health, Education, and Welfare has forwarded the Annual Report of the Administration on Aging for the Fiscal Year 1976 to me, and I am pleased to transmit this document to the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1977.*

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2176. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes;

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

ENROLLED BILLS SIGNED

At 1:12 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4836. An act to extend for 7 months the term of the National Commission on New Technological Uses of Copyrighted Works.

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro temport (Mr. MATSUNAGA).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC–2168. A letter from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals for October, 1977 (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Armed Services, and Judiciary, and Governmental Affairs.

EC–2169. A letter from the Deputy Secretary of Agriculture transmittting a draft of proposed legislation to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interest under his control (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2170. A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of approval of an REA insured loan in the amount of $2,145,000 to Central Kansas Electric Cooperative, Inc., of Great Bend, Kansas (with accompanying papers); to the Committee on Appropriations.

EC–2171. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, the second quarter fiscal year 1977 report of receipts and disbursements, pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products (with an accompanying report); to the Committee on Appropriations.

EC–2172. A letter from the Deputy Secretary of Defense transmitting, pursuant to law, a report on the initial allocation of the total civilian authorization among the Military Departments and the Defense Agencies and the rational for the allocation; to the Committee on Armed Services.

EC–2173. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistant transmitting, pursuant to law, information concerning the Department of the Army's proposed Letter of Offer to Nigeria for Defense Articles (with an accompanying report); to the Committee on Armed Services.

EC–2174. A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the effects of the regulatory reform provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 (with accompanying reports); to the Committee on Commerce, Science, and Transportation.

EC–2175. A letter from the Acting Chairman of the Federal Energy Regulatory Commission transmitting, pursuant to law, the Commission's comments on the "Decision and Report to Congress on the Alaska Natural Gas Transmission System (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2176. A letter from the Comptroller General of the United States transmitting, for the information of the Senate, information supporting GAO's conclusion concerning crude oil production (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2177. A letter from the Secretary of Commerce transmitting, pursuant to law, a report of the Economic Development Administration's achievements and activities during the fiscal year 1976 and the transition quarter (with an accompanying report); to the Committee on Environment and Public Works.

EC–2178. A letter from the Administrator of the General Service Administration transmitting, pursuant to law, a prospectus for alterations at the Arlington, Virginia, Federal Building 2, in the amount of $7,942,000 (with accompanying papers); to the Committee on Environment and Public Works.

EC–2179. A letter from the Assistant Legal Adviser for Treaty Affairs and the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by he United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–2180. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Tennessee Valley Authority's Tellico Dam Project—Costs, Alternatives, and Benefits" (EMD–77–58, October 14, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2181. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Alternatives Available for Reducing Requirements for Spare Aircraft Engines" (LCD–77–418, October 12, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2182. A secret communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report identifying the military hardware, training, and construction services sold to Saudi Arabia and analyzing the U.S. rationale for doing so (with an accompanying report); to the Committee on Governmental Affairs.

EC–2183. A letter from the Attorney General of the United States transmitting, pursuant to law, the Department of Justice's intention to add a new subsystem to the system of records maintained by the Immigration and Naturalization Service, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2184. A letter from the Director of ACTION transmitting, pursuant to law, a report on a new proposed system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2185. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the third annual report of the Emergency Medical Services Systems Act (with an accompanying report); to the Committee on Human Resources.

EC–2186. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide for the classification of certain aliens as special immigrants (with accompanying papers); to the Committee on the Judiciary.

EC–2187. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, orders in the cases of aliens who have been found admissible to the United States (with accompanying papers); to the Committee on the Judiciary.

EC–2188. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, orders entered in 1,027 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

EC–2189. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, 567 reports covering the period September 16 through September 30, 1977, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

EC–2190. A letter from the Deputy Director of the Administrative Office of the United States Courts transmitting a draft of proposed legislation to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses by United States Marshals for persons released pending appearance in another district (with accompanying papers); to the Committee on the Judiciary.

EC–2191. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance transmitting, pursuant to law, information concerning the Department of the Army's proposed Letter of Offer to Israel for Defense Articles (with an accompanying report); to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATHAWAY, from the Committee on Human Resources:

With an amendment:

S. 1328. A bill entitled the "Career Education Implementation Incentive Act of 1977" (Rept. No. 94–498).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. Con. Res. 56. An original concurrent resolution expressing the concurrence of the Senate and the House of Representatives with respect to presidential action affecting the limitation of strategic armaments (together with supplemental views) (Rept. No. 95–499).

By Mr. CANNON, from the Committee on Rules and Administration:

Report entitled "Review of Laws Related to Contributions Made by or Solicited from Senate Officers and Employees and the Use of Official Staff by holders of Public Office in Federal Campaigns," pursuant to sections 307 and 308 of S. Res. 110, 95th Cong., 1st session (Rept. No. 95–500).

By Mr. MATSUNAGA, from the Committee on Energy and Natural Resources:

With an amendment:

S.J. Res. 4. A joint resolution establishing the Hawaiian Native Claims Settlement Study Commission, and for other purposes (title amendment) (Rept. No. 95–501).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. Res. 294. An original resolution authorizing additional expenditures by the Committee on Energy and Natural Resources for routine purposes. Referred to the Committee on Rules and Administration.

CONFERENCE REPORT SUBMITTED DURING RECESS

MINIMUM WAGE INCREASE—H.R. 3744—REPT. NO. 95–497

Under authority of the order of October 13, 1977, Mr. WILLIAMS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate

to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, on October 14, 1977, during the recess of the Senate, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ALLEN, from the Committee on the Judiciary:

Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LONG, from the Committee on Finance:

Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare.

William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 2176. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes; to the Committee on Governmental Affairs.

H.R. 3816. An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes; placed on the calendar.

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize apropriations to carry out the provisions of such act for fiscal year 1978; placed on the calendar.

JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on October 14, 1977, he presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 89. Joint resolution to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Congress, 1st session).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAYH (for himself and Mr. GOLDWATER):

S. 2208. A bill to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes; to the Committee on the Judiciary.

By Mr. CULVER:

S. 2209. A bill for the relief of Munnie Surface; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 2210. A bill to establish a system for the development of mineral resources on public lands of the United States; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself and Mr. STEVENS) (by request):

S. 2211. A bill entitled the International Maritime Mobile Satellite Telecommunications Act of 1977; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. STAFFORD, Mr. MELCHER, Mr. HOLLINGS, Mr. HART, Mr. MATSUNAGA, and Mr. STONE):

S. 2212. A bill to provide chiropractic treatment when requested for veterans eligible for outpatient medical care; to the Committee on Veterans' Affairs.

By Mr. WILLIAMS:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for certain amounts paid for domestic assistance for disabled individuals; to the Committee on Finance.

S. 2214. A bill relating to certain lotteries authorized under foreign law; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself and Mr. GOLDWATER):

S. 2208. A bill to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc., and for other purposes; to the Committee on the Judiciary.

BIG BROTHERS-BIG SISTERS OF AMERICA TO MERGE

Mr. BAYH. Mr. President, today I am introducing legislation along with my distinguished colleague from Arizona (Mr. GOLDWATER), to merge Big Brothers and Big Sisters of America. This bill would amend the original congressional charter (36 U.S.C. 36) of Big Brothers of America to recognize the merger with Big Sisters International, Inc. Similar legislation, H.R. 7249, has been introduced by Congressman CHRISTOPHER DODD and Congressman CARR in the House, and is presently pending before the House Committee on the Judiciary.

Senator GOLDWATER and I take great pride and pleasure in accepting positions on the honorary board of Big Brothers-Big Sisters of America, joining with other distinguished Americans in this category.

Passage in the Senate is vital so that the organizations may move from being Big Brothers-Big Sisters of America de facto to Big Brothers-Big Sisters of America de jure.

Amending the BB-BSA Federal charter will help solidify their organizational position, reduce unneeded costs and help them to provide better social service to American families.

Mr. President, BBA and BSI are companion programs with 332 and 126 respective local affiliated agencies throughout the Nation, which in turn seek to "match" carefully screened and professionally supported adult volunteers in a unique "one-to-one" relationship with a child of school age primarily from a single parent home. Since some local affiliates are already providing services to both boys and girls, the new organization—to be called Big Brothers-Big Sisters of America—will have 357 affiliates.

At the present time, affiliated member agencies have over 115,000 active "matches" between volunteer and child, and almost as many additional children on waiting lists as the organization seeks to develop recruitment programs to identify additional volunteers.

The Big Brothers movement began in Cincinnati, Ohio, on the Fourth of July, 1903, when a young businessman, Irvin F. Westheimer, found a young boy rummaging through a garbage pail outside the rear entrance of Mr. Westheimer's office. Discovering the boy had no father, Mr. Westheimer befriended the boy, became his "Big Brother" and began to urge his friends to do the same for other young boys from fatherless homes. Incidentally, Mr. Westheimer is still alive, maintains a keen interest in the development of the national movement, and plans to attend the 75th anniversary of the movement, scheduled to be held in Washington, D.C., in June 1978.

The very next year, Col. Ernest Coulter, clerk of the New York City Children Court, noting the overwhelming number of fatherless boys coming before the bench, began a formal program in New York City, which we believe is one of the earliest juvenile delinquency prevention programs in the Nation.

Four years later, in 1908, the first Big Sisters program for girls was begun in New York City.

In 1917, the first meeting of local Big Brothers and Big Sisters programs was held in Grand Rapids, Mich.

A large number of local programs in various communities came into being, each due to individual initiative, each using the name Big Brothers. The parallel development of local Big Sisters programs was at a much lesser rate. During the depression of the 1930's, many small agencies collapsed and a few larger agencies in metropolitan areas operated camps for the many homeless as well as fatherless boys and girls of the time.

In 1946, Charles Berwind of the Philadelphia Big Brothers Association chaired a meeting of 13 agencies from coast to coast and a national organization, Big Brothers of America, was formed. In 1958, a congressional charter was issued to BBA, a charter which 7429 seeks to alter to accommodate the national merger of BBA and Big Sisters International, Inc. BSI had become a national movement in 1970, when five local Big Sisters programs formed a parent organization.

In 1973, the two organizations began to discuss the possibilities of merging into a single, national youth serving organization concerned with all children of school age in single parent homes.

In June 1975, the membership of each respective organization authorized the establishment of a joint merger study committee. A year later, in June 1976, the merger study committee recommended to the two organizations that a merger in principle be approved, a recommendation endorsed by large majorities of the memberships of BBA and BSI, which then called for a complete detailed merger plan. In February 1977, the boards of directors of BBA and BSI independently and formally accepted the detailed merger plan and recommended to the memberships that BBA and BSI merge into Big Brothers-Big Sisters of America.

The joint merger committee was unanimous in recommending that the form of merger entail retention of the congressional charter of BBA, hence the legal work has taken the form of BSI merging into the BBA Corp. This was upon the legal advice of an outside, independent counsel and endorsed by the legal counsel of both organizations and by the boards of directors of each organization.

The new national organization has shared the same office suite for 3 years in Philadelphia, and a predominantly joint staff has reported independently to two different boards of directors during this period. Big Brothers-Big Sisters of America will continue to offer a wide range of professional and technical services to both existing and potentially new affiliated members throughout the country.

While affiliates within the federation do not have to offer joint services at the local community level, over 100 agencies are already merged at the local level and it is anticipated that the number of local joint Big Brothers-Big Sisters programs will continue to grow rapidly during the next 5 years.

Among the services offered local affiliates are standard operations and administrative advice, recruitment programs for volunteers, information services in both the print and visual media, local program evaluations, staff training, resource development assistance, legal services, and a range of other forms of assistance.

There are now over 7 million children of school age in single parent homes in the United States and a full 20 percent of all the children in the Nation live with only one parent, up from 15 percent of the Nation's children in the last 5 years.

Demographers predict the number of children in single parent homes will continue to grow until 1990.

Many children in single parent homes are assisted by either extended families; that is, an uncle or aunt, an older brother or sister, or by group oriented youth programs such as the Scouting movement, Boys' Clubs, Girls Clubs, and many other private and volunteer groups.

At the same time, we have come to realize that as many as a million children are not able to be assisted by their extended family or by group programs, and suffer from the disease of loneliness and without the helping hand of an adult replacing the absent parent. In many cases, the single parent is working hard to keep the family intact and lacks sufficient individual time for each child.

Big Brothers-Big Sisters of America can, through its affiliated agencies, assist a child for less than $350 a year, with all costs involved in recruiting and screening volunteers, in the costs of maintaining small staffs to provide ongoing consultation and supervision to "matches" already made. This is, in our minds, an emminently cost effective service when contrasted with the per child annual costs of most publicly supported alternatives. An increasing number of juvenile courts and other institutions are referring children to local Big Brothers-Big Sisters services.

Quite obviously, the merger will control costs by requiring only one national staff, one headquarters, and by the leveraged costs of single printings, accounting systems, just to mention a few areas of improvement.

Additionally, the merger will provide a major thrust in delivering more services to girls without any diminishment of services to boys, and as such is reflective of the heightened national awareness of the lack of adequate services for girls and young women.

Of course, the major reason for the merger was the belief that in merging, the new and larger organization would be in an improved position of meeting the needs of children in single parent homes, a number that has increased to epidemic proportions growing larger at a more rapid rate than either BBA and/or BSI.

A final rationale for the merger was increasing urging of local funding sources to affiliated agencies to expand services to include serving girls or deferring of consideration of new Big Sister funding requests until they merged with the local Big Brothers program. This has led to a mandate from affiliates that the national organization reflects this groundswell from grass roots sources.

Mr. President, the priorities of the national program, as determined by the board of directors, are as follows:

Direct services to members agencies.
Development of service delivery techniques.
Field consultation (on site).
Evaluation of Agency performance.
Training of Agency personnel (professionals and volunteer leadership).
Development of service standards.
Research on effectiveness.
Planning analysis to improve local organizational operations.
Regular conferences and workshops (Regional and National).
Resource development technical assistance.
Local advertising and promotional materials.
Career development.
Advocacy of the National Movement:
National public relations programs.
National/state/local government monitoring.
Interaction with other movements.
Fund raising technique development.
Volunteer recruitment programs.
Community relations campaign.
Growth of the National Movement:
Assistance in individual Agency growth.
Development of new Agencies.

Mr. President, immediate enactment of this legislation will be of significant importance to the Big Brothers-Big Sisters of America.

Big Brothers-Big Sisters is the fastest growing youth-serving organization in the country, with 17 agencies in my own State of Indiana, many of which cover multicounty areas. Indiana Big Brothers-Big Sisters agencies rank second in the Nation, in terms of strength of program and number of youth served in proportion to the population. I commend them for the inspirational work they have done to serve youth from single-parent homes, not only in my own State of Indiana, but throughout our country.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to incorporate the Big Brothers of America", approved September 2, 1958 (36 U.S.C. 881 et seq.) is amended—

(1) by inserting "(a)" before "the following";

(2) by striking out "Big Brothers of America" and inserting in lieu thereof "Big Brothers-Big Sisters of America"; and

(3) by adding at the end thereof the following new subsection:

"(b) This Act may be cited as the 'Big Brothers—Big Sisters of America'."

(b) Section 3 of such Act (36 U.S.C. 883) is amended—

(b) by striking out "boys" and inserting in lieu thereof "individuals"; and

(2) by striking out "and Canada".

(c) Section 5(a) of such Act (36 U.S.C. 885(a)) is amended by striking out "and in Canada to the extent permitted by Canadian laws".

(d) Section 7(a) of such Act (36 U.S.C. 887(a)) is amended by striking out "section 16" and inserting in lieu thereof "section 16(a)".

(e) Section 15 of such Act (36 U.S.C. 895) is amended—

(1) by striking out "the name, The Big Brothers of America" and inserting in lieu thereof the following: "any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers"; and

(2) by striking out "section 16 of this title" and inserting in lieu thereof the following: "section 16(a) of this Act, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 16(b) of this Act,".

(f) Section 16 of such Act (36 U.S.C. 896) is amended—

(1) by inserting "(a)" before "The corporation"; and

(2) by adding at the end thereof the following new subsection:

"(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.".

SEC. 2. Paragraph (11) of the first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101(11)) is amended to read as follows:

"(11) Big Brothers—Big Sisters of America.".

By Mr. THURMOND (for himself, Mr. STAFFORD, Mr. MELCHER, Mr. HOLLINGS, Mr. HART, Mr. MATSUNAGA, and Mr. STONE):

S. 2212. A bill to provide chiropractic treatment when requested for veterans eligible for outpatient medical care; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, I am introducing a bill which will amend title 38 of the United States Code to authorize eligible veterans, upon request, to receive chiropractic care on an outpatient basis under the VA medical care program.

The total current chiropractic patient population of the United States is estimated to be 21.5 million. It is not known how many of this number are among the Nation's 29 million veterans population. Nevertheless, the likelihood is overwhelming that a substantial number of veterans who receive medical care at VA facilities are either active or potential chiropractic patients. Under present VA policy, however, chiropractic services are provided to eligible veterans only in the event that such treatment is recommended, on a case-by-case basis, by a physician paid by the VA.

Chiropractic services have been recognized under a variety of State and Federal health care programs. In addition to the medicare program, reimbursement for chiropractic services is also currently provided for under the Federal Employees Compensation Act. Additionally, a number of States include chiropractic service under their medical assistance programs.

The lack of readily available chiropractic care within the VA health care system stands in sharp contrast to that under the medicare program, which is administered by HEW. Under the medicare program, it is typical for eligible persons in need of chiropractic care to seek and obtain the services of a doctor of chiropractic. That person is then reimbursed for the cost of such services.

At a time in the area of veterans affairs when the importance of freedom of choice is being emphasized more than ever before, particularly in the areas of representation before the VA and of review of administrative determinations by the Administrator of Veterans' Affairs, I think it is important for veterans to have a modicum of freedom of choice regarding selection of health care providers within the VA health care system. Clearly, the disparate treatment of citizens in need of chiropractic care before two Federal administrative agencies, both of which spend billions annually in the provision of health care to the American public, cannot be justified and should not be allowed to continue.

The bill which I am introducing would simply allow an eligible veteran to receive chiropractic care if he so desired. Accordingly under this proposal a person would be entitled to the same choice within the VA health care system as he or she would have under the medicare program.

Mr. President, I sent the bill to the desk and ask unanimous consent that it be referred to the appropriate committee for prompt consideration and that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) chapter 17 of title 38, United States Code, is amended by adding a new section 629 at the end of subchapter III as follows:

"§ 629. Chiropractic care

"Any veteran eligible for medical services under the provisions of this chapter and who requests chiropractic care shall be furnished chiropractic care provided the doctor of chiropractic holds a degree of doctor of chiropractic from a school or college approved by the Administrator and is licensed to practice chiropractic in any of the States or territories or in the District of Columbia and has practiced chiropractic for a period of a least two years."

(2) By adding after

"628. Reimbursement of certain medical expenses," in the table of sections at the head of the chapter the following:

"629. Chiropractic care."

By Mr. WILLIAMS:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for certain amounts paid for domestic assistance for disabled individuals; to the Committee on Finance.

A TAX CREDIT FOR THE DISABLED

Mr. WILLIAMS. Mr. President, a sad problem came to my attention recently in a letter from Mr. Howard M. Comer, former machinist and a most articulate constituent from Plainfield, N.J.

As chairman of the Senate Committee on Human Resources which has initiated several important programs to improve the lives of older and disabled citizens, I was particularly touched by the problem he described.

Mr. Comer is 93 years of age and blind in one eye. Since his wife passed away in December 1969, he has been forced to rely on a housekeeper to keep his home. He pointed out that the tax law permitted people who could earn a living to receive a credit for similar costs, but he was denied tax relief on his other income because he was forced to pay for his housekeeper with his meager social security funds rather than income earned from outside employment.

In reviewing the Tax Code on this issue, it appears that if household and dependent care services are provided for one who is disabled and a dependent of someone who had a job, the credit would be allowed for the person who works. Since Mr. Comer struggles not to be dependent on others, and is disabled and too advanced in age to work, he is denied this tax relief.

Clearly, the applicable law in section 44A of the Tax Code promotes an important Federal policy of helping the disabled who otherwise might be denied home care. Therefore, I feel it would be appropriate to include the people facing the financial hardships that Mr. Comer does among those who qualify for a deduction under this section.

The distinguished chairman of the Senate Finance Committee, Mr. LONG, has previously noted the employment opportunities which might be gained by a tax incentive for this kind of work.

In this particular instance not only is there an incentive to provide employment for some unskilled workers, but there is an overriding moral issue which should compel us to relieve the financial hardship and even physical suffering which threatens in these cases. In considering the moral issue here, may I comment on the fact that I am somewhat awed to realize that Mr. Comer has been a witness to and participant in the events of nearly one-half of our great Nation's total history. Surely, his contributions deserve serious consideration in our decisions on this critical matter.

My proposal would enable a disabled taxpayer in Mr. Comer's situation to take a limited tax credit of 20 percent of the cost of household and dependent care services up to a limit of $2,000 for a single taxpayer and $4,000 for a couple filing a joint return.

Indeed, it would seem to be in everyone's interest to improve the living conditions of the elderly and disabled. Probably, more than any other factors, aging and the possibility of becoming disabled are the common denominators of mankind. Whatever our social or economic standing, ethnic background, sex, aptitudes, or beliefs, we share the fact that we all grow older and are all subject to debilitating illness or serious injury. What we do to aid today's order or disabled citizens, we potentially do for each of us no matter how remote retirement or ill health may seem.

Mr. President, I believe we should act immediately to provide badly needed relief in these cases, and I ask unanimous consent that the pertinent portions of Mr. Comer's letter and the text of the proposal be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR DOMESTIC ASSISTANCE COSTS INCURRED BY OR ON BEHALF OF DISABLED PERSONS.

(a) IN GENERAL.—Subsection (a) of section 44A (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) HOUSEHOLD AND DEPENDENT CARE SERVICE NECESSARY FOR GAINFUL EMPLOYMENT.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during such taxable year.

"(2) DOMESTIC CARE SERVICES FOR DISABLED PERSONS.—In the case of—

"(A) an individual who is disabled (within the meaning of section 72(m)(7)), or

"(B) a taxpayer who maintains a household which includes as a member an individual who is disabled (within the meaning of section 72(m)(7)),

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amounts paid or incurred by such individual (in the case of an individual described in subparagraph (A)), or by the taxpayer (in the case of a taxpayer described in subparagraph (B)), for household services and for the care of such individual. No amount shall be taken into account for purposes of this paragraph which is taken into account for purposes of paragraph (1) and no amount shall be taken into account for purposes of this paragraph with respect to the same individual for whom any amount is taken into account for purposes of paragraph (1).".

(b) Refund of Excess Credit Relating to Care for Disabled Persons.—

(1) REFUND.—Section 6401(b) of such Code (relating to excessive credits) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "44A (relating to expenses for household and dependent care services) disregarding any portion of such amount attributable to the provisions of subsection (a)(1) of such section, and 43 (relating to earned income credit),", and

(B) by striking out "39 and 43" and inserting in lieu thereof "39, 44A, and 43".

(2) ASSESSMENT AUTHORITY.—Section 6201 (a)(4) of such Code (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39 or 43" in the caption and inserting in lieu thereof "section 39, 44A, or 43", and

(B) by adding at the end thereof the following new sentence: "If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 44A (relating to expenses for household and dependent care services) attributable to the amount determined under subsection (a)(2) of such section, the amount so overstated which is allowed as a refund may be assessed by the Secretary under the procedures applicable to overstatements of credit under section 39 or 43.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 44A (relating to dollar limit on amount creditable) is amended to read as follows:

"(d) DOLLAR LIMIT ON AMOUNT CREDITABLE.—

"(1) GAINFUL EMPLOYMENT-RELATED EXPENSES.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under paragraph (1) of subsection (a) shall not exceed—

"(A) $2,000 if there is one qualifying individual with respect to the taxpayer for such taxable year, or

"(B) $4,000 if there are two or more qualifying individuals with respect to the taxpayer for such taxable year.

"(2) DISABLED PERSON EXPENSES.—The amount of expenses incurred during any taxable year which may be taken into account under paragraph (2) of subsection (a) shall not exceed—

"(A) $2,000 with respect to one individual, or

"(B) $4,000 with respect to two or more individuals.".

(2) The caption of section 44A is amended by striking out "NECESSARY FOR GAINFUL EMPLOYMENT.".

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 44A and inserting in lieu thereof the following:

"SEC. 44A. Expenses for household and dependent care services.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act apply with respect to taxable years beginning after December 31, 1976.

DEAR SENATOR WILLIAMS: I was about to write you a letter regarding my income tax. I was a machinist working for Walter Scott Co. when you first ran for the Senate. My tax problem is I am a widower, my wife having passed on December, 1969. I still live in the same house but I have to have a housekeeper. I pay her a salary and her one-half of the S.S. tax which means I pay 11.85 percent tax on her salary, none of which I can take off my income tax, while couples can both work and take off what they pay for a babysitter. My question is, why can't I take off what it costs me to keep a housekeeper? I am past 93 yrs., blind in one eye and the other operated on for cataracts. It takes all of my S.S. check to pay my housekeeper and that is reasonable. Still I get no reduction for that expense and working couples can deduct babysitting expenses.

HOWARD M. COMER.

By Mr. WILLIAMS:

S. 2214. A bill relating to certain lotteries authorized under foreign law; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

LOTTERY MATERIALS IN FOREIGN COMMERCE

Mr. WILLIAMS. Mr. President, I am today introducing legislation to remove an inconsistency in the present law governing the transportation of lottery tickets and related materials. Specifically, my legislation would permit American manufacturers of such items to sell their products for use in lotteries authorized by foreign countries.

Certain sections of title 18 of the United States Code regulate the transportation of lottery equipment and paraphernalia from State to State and from the United States to foreign countries. Prior to 1975, such interstate and foreign commerce in lottery materials was prohibited, although section 1172 of title 15 exempted from these prohibitions certain gambling devices that did not involve lottery activities and which were transported to States where the devices were legal. In 1975, Congress recognized that certain restrictions in title 18, including those prohibiting interstate transport of lottery materials and the advertisement of lotteries, were interfering with the successful operation of State lotteries which have aided States in raising revenues. The statutes were revised, and as a result, lottery tickets and materials manufactured in one State could be sold for use in another State having an authorized lottery. However, the sale of lottery materials overseas was not addressed, and these sales are still prohibited

This prohibition against foreign sales of lottery tickets and equipment is wholly inconsistent with provisions of law permitting interstate sales, and unnecessarily denies American businesses access to readily available markets for their products. Removal of the prohibition would lead to increased employment opportunities for our people and would pump additional dollars into local economies. One firm located in New Jersey, for example, estimates that it could hire as many as 80 new workers and could increase its present earnings by as much as $7.5 million if it were allowed to sell its products overseas.

Hundreds of legal lotteries operate around the world, and foreign companies now have this market virtually all to themselves. In light of the present restrictions against foreign sales of lottery materials, the only alternative for American lottery ticket manufacturers wishing to serve foreign markets is to build plants overseas. Considering that this country's unemployment rate still hovers around 7 percent, it makes no sense to retain these prohibitions and, thus, deprive American workers of badly needed jobs.

Mr. President, I believe that we should take speedy action to make our laws regulating lottery materials sales abroad more consistent and more responsive to our country's economic needs today. I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (b) and (c) of section 1307 of title 18, United States Code, are amended to read as follows:

"(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing to addresses within a State or a foreign country of tickets and other material concerning a lottery which is (1) conducted by that State acting under authority of State law, or (2) authorized by the laws of that foreign country.

"(c) For the purposes of this section (1) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and (2) 'foreign country' means any empire, country, dominion, colony or protectorate, or any subdivision thereof (other than the United States and its possessions).".

SEC. 2. Subsection (b) of section 1953 of title 18, United States Code, is amended to read as follows:

"(b) This section shall not apply to (1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets or materials used or designed for use (A) within a State in a lottery conducted by that State acting under authority of State law or (B) within a foreign country in a lottery which is authorized by the laws of that country. For purposes of this subsection, 'foreign country' means any empire, country, dominion, colony or protectorate, or any subdivision thereof (other than the United States and its possessions).".

SEC. 3. Subsection (d) of section 3005 of title 39, United States Code, is amended to read as follows:

"(d) Nothing in this section shall prohibit the mailing of (1) a newspaper of general

circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery, or (2) tickets or other materials concerning such a lottery within the State to addresses within that State, or (3) tickets or other materials concerning a lottery which is authorized by the laws of a foreign country to addresses within that country. For purposes of this subsection, 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and 'foreign country' means any empire, country, dominion, colony or protectorate, or any subdivision thereof (other than the United States and its possessions).".

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished acting Republican leader has no objection to the following request.

I ask unanimous consent that the bill, S. 2214, introduced by Mr. WILLIAMS relating to certain lotteries authorized under foreign law be referred jointly to the Committee on the Judiciary and the Committee on Governmental Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 311

At the request of Mr. ROTH, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 311, the College Tuition Tax Relief Act of 1977.

S. 312

At the request of Mr. BELLMON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 312, to amend the Consolidated Farm and Rural Development Act.

S. 457

At the request of Mr. DURKIN, the Senator from Colorada (Mr. HART) was added as a cosponsor of S. 457 to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

S. 1209

At the request of Mr. PROXMIRE, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1209, the Federal Emergency Assistance and Preparedness Administration Act.

S. 1328

At the request of the Senator from Maine (Mr. HATHAWAY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. RIEGLE) the Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Vermont (Mr. STAFFORD), the Senator from Utah (Mr. HATCH), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from California (Mr. HAYAKAWA) were added as copsonsors to S. 1328, a bill entitled the "Career Education Implementation Incentive Act of 1977."

S. 1997

At the request of Mr. INOUYE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1997, to amend the Internal Revenue Code.

S. 2020

At the request of Mr. CRANSTON, the Senator from Montana (Mr. MELCHER) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2020, to amend the Longshoremens' and Harbor Workers' Compensation Act.

S. 2099

At the request of Mr. WEICKER, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2099, to amend the Regional Rail Reorganization Act.

S. 2128

At the request of Mr. INOUYE, the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. FORD), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2128, to amend the Internal Revenue Code.

S. 2142

At the request of Mr. PACKWOOD, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor to S. 2142, the Tuition Tax Credit Act of 1977.

AMENDMENT NO. 1433

At the request of Mr. DURKIN, the Senator from Hawaii (Mr. INOUYE) and the Senator from Colorado (Mr. HART) were added as cosponsors of Amendment No. 1433 intended to be proposed to S. 457 to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

SENATE RESOLUTION 294—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. JACKSON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 294

Resolved, That the Committee on Energy and Natural Resources is authorized to expend from the contingent fund of the Senate, during the Ninety-fifth Congress, $50,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act approved August 2, 1946.

SENATE RESOLUTION 295—SUBMISSION OF A RESOLUTION RELATING TO MOTOR VEHICLE OCCUPANT RESTRAINT SYSTEMS

(Referred to the Committee on Governmental Affairs.)

Mr. DOLE submitted the following resolution:

S. RES. 295

Resolved, That the Comptroller General of the United States shall conduct an independent investigation and study to determine the desirability of the Federal motor vehicle safety standard transmitted to Congress pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 on June 30, 1977. Such investigation and study shall include an evaluation of presently used and proposed motor vehicle occupant restraint systems, including lap belts, shoulder belts, air bags and passive shoulder belts, and shall also include but not be limited to the following considerations:

(1) the safety benefits of alternative occupant restraint systems including the benefits of a passive system;

(2) the effectiveness of alternative occupant restraint systems in all types of crashes, such as frontal, rollover, side impact and rear-end collisions;

(3) the comparative costs of such systems;

(4) the potential impact of such systems on insurance costs;

(5) the reliability of such systems;

(6) the repairability of such systems; and

(7) any other occupant safety system which may achieve the same purpose as such restraint systems but in a preferable manner.

The Comptroller General shall report the results of such investigation and study, including his recommendations, to the Congress not later than December 31, 1978.

Mr. DOLE. Mr. President, last week the Senate failed to overturn Secretary of Transportation Brock Adams' decision to require the installation of airbags or other passive restraints in all new cars by the 1984 model year. At that time, I stated that my opposition to the new rule was based upon the inadequacy of available information on the safety of airbags. To correct that serious deficiency, I am submitting a resolution to mandate a GAO study of the effectiveness of alternative passenger restraint systems.

This resolution would help to resolve many of the concerns expressed during the debate on Senate Concurrent Resolution 31. This resolution requires that the General Accounting Office conduct an independent investigation into the costs, benefits, and drawbacks of alternative passenger restraint systems. This study will evaluate lap belts, shoulder harnesses, airbags, Volkwagen-type passive style seatbelts, and any other possible systems.

HIGHER COST MAY NOT MEAN GREATER SAFETY

Mr. President, the higher costs of airbags could be justified if a significant increase in the safety of automobile passengers would occur. Unfortunately, airbags have not been proven in actual real-world tests. A mere 150 collision deployments have occurred, excluding 12 inadvertent deployments. This is insufficient testing to base such a costly requirement on.

The small number of real-world crashes has, however, raised some disturbing questions. The effectiveness of airbags to operate in any situation but a headon collision is seriously in doubt. Airbags offer little or no protection in rollover accidents, rear-end collisions, and side impacts. Passengers in airbag-equipped cars would be left with only the protection of a lap belt and not a shoulder harness. With the sometimes extravagant claims of airbag proponents, many of the passengers could be lulled into the belief that the airbag would be the only protection needed. The fate of a passenger

in a rollover accident without any protection is clear.

PRESENT INFORMATION INADEQUATE

The debate on Senate Concurrent Resolution 31 focused on whether enough information is currently available to justify the mandatory installation of airbags. The Senator from Kansas feels that there is not.

The Commerce Committee has relied on evidence furnished by the Department of Transportation. The sincerity of DOT officials is not in question, however, they have undeniably taken an advocate position in favor of airbags. A bias towards airbags can easily be discerned from the testimony of Secretary Adams and others in DOT.

Automobile industry studies have arrived at findings in conflict with DOT's conclusion on the issue of safety. The committee report is rightfully skeptical of these studies saying there "was a large degree of judgmental decisions built into their comparisons which may have affected the outcome of the study." I not only share this healthy cynicism but would in fairness extend it to the DOT conclusions as well.

COMPREHENSIVE STUDY NEEDED

DOT has examined various aspects of the passenger safety problem, but they have not conducted a comprehensive study. Even with the evidence DOT submitted, the conclusions can certainly be questioned. Outside experts have evaluated the same raw data with different conclusions.

The only way to resolve this difference of opinion is to have a thorough, independent study made by an uninterested source. The General Accounting Office has no stake in whether airbags are placed in cars and could offer an unbiased, expert opinion.

Passage of this resolution will start the necessary process of gathering the information we need. When the GAO report is received not later than December 31, 1978, Congress can make a much more informed decision on the airbag issue. I urge the Commerce Committee to act expeditiously in consideration of this amendment.

SENATE CONCURRENT RESOLUTION 56—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO PRESIDENTIAL ACTION AFFECTING LIMITATION OF STRATEGIC ARMAMENTS

(Placed on the calendar.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original concurrent resolution:

S. CON. RES. 56

Whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms expired on October 3, 1977;

Whereas a temporary further observance of the limitations of the interim agreement will provide time for further negotiations, consistent with Public Law 92-448, toward a treaty limiting strategic offensive arms;

Whereas the Congress desires that the United States negotiate a treaty supportive of United States nation security without the burden and pressure of imminent deadlines;

Whereas the Arms Control and Disarmament Act contemplates close cooperation and consultation between the executive and legislative branches on matters of important substance;

Whereas the interests of the United States are best served by a mutual recognition, in a spirit of comity, by the Congress and the Executive, of the importance of close consultation, cooperation, and adherence to the constitutional and statutory sharing of responsibility in the conduct of foreign affairs;

Whereas the administration has stated its unilateral intent that, while the strategic arms limitation negotiations are being completed, the United States intends not to take any action inconsistent with the interim agreement: Provided, That the Soviet Union exercises similar restraint; and

Whereas the administration has expressly represented to Congress that the aforesaid declaration of intent is nonbinding and nonobligatory upon the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President is authorized to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977, and the Senate and the House of Representatives of the United States concur: *Provided, however*, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement, or deployment heretofore or hereafter authorized or provided for by the Congress of the United States.

Be it further resolved, That the Secretary of State shall at least once every six months during negotiations for a SALT II Agreement report to the Congress on the exact status of negotiations for such SALT II Agreement.

AMENDMENTS SUBMITTED FOR PRINTING

TRANSFER OF PROPERTY IN HAWAII—S. 1661

AMENDMENT NO. 1458

(Ordered to be printed and referred to the Committeee on Governmental Affairs.)

Mr. MATSUNAGA. Mr. President, my colleague (Senator INOUYE) and I are submitting today an amendment to our bill, S. 1661, which would transfer to the State of Hawaii certain surplus railroad track belonging to the U.S. Government.

On the day that S. 1661 was introduced, the General Services Administration announced the sale of the 28 miles of track described in the bill to an out-of-State bidder who is planning to use the old tracks for scrap metal. Nothing could more dramatically illustrate the importance of early action on the amended measure which provides for the transfer of 15.5 miles of similar track located at the West Loch Branch of the Naval Magazine, Oahu, Hawaii. The track is being sought by the State of Hawaii for the Hawaiian Railway Society, a nonprofit historical organization which plans to restore it and use it in a railroad museum and public park. The Railway Society already owns several old railroad cars and locomotives which are being restored for use in the park and museum.

Members of the Hawaiian Railway Society sought information last year on plans to dispose of 28 miles of railroad track at Lualualei, in the Naval Magazine. Much to their distress, the General Services Administration announced plans to sell the track earlier this year without much advance warning.

It is essential that the Railway Society obtain the remaining 15.5 miles of track since it is about the only railroad track left in Hawaii. Unlike her sister States, Hawaii never had a "great age of railroads." The only railroads in the island State were those used by the Armed Forces and a few which were used by sugar companies to haul sugar cane. Since World War II, they have fallen into disuse.

S. 1661 provides that the proposed railroad museum and park will be constructed within 3 years after its enactment. The people of Hawaii want the museum and park to preserve for their children and grandchildren the experience of seeing and riding a real train. The State government has expressed strong support for the project. It only remains for Congress to act to make this dream a reality.

PANAMA CANAL TREATY

AMENDMENT NO. 9 (EX. N, 95TH CONG., 1ST SESS.)

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to Ex. N, 95th Congress, 1st session, concerning the Permanent Neutrality and Operation of the Panama Canal.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS—H.R. 5383

AMENDMENT NO. 1459

(Ordered to be printed and to lie on the table.)

ELIMINATION OF EXCLUSIONS

Mr. CRANSTON. Mr. President, I submit for printing an amendment I am submitting to H.R. 5383, an act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes. Joining with me as cosponsors of this amendment are the distinguished Chairman of the Special Committee on Aging, the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. RIEGLE), and the Senator from Arizona (Mr. DECONCINI).

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the text of the amendment we are submitting along with the cosponsorship letter we have circulated to our colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1459

On pages 9, 10, and 11, strike out all of section 6.

On page 11, line 14, strike out "SEC. 7" and insert in lieu thereof "SEC. 6".

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

DEAR COLLEAGUE: The Age Discrimination in Employment Act of 1967 (ADEA) was enacted to prohibit age discrimination in such employment matters as hiring, job retention, compensation, and other conditions of employment. The Act currently protects workers aged 40 through 64 from discrimination by most employers of 20 or more persons, including Federal, State, and local governments, employment agencies servicing covered employers, and labor organizations with 25 or more members. The Act contains exceptions for cases where age is an established occupational qualification reasonably necessary to the normal operation of a particular job.

On September 22 the House of Representatives approved legislation (H.R. 5383), by an overwhelming vote of 393–4, which includes provisions to raise from 65 to 70 the upper age limit of coverage under the ADEA. The House bill contains no exclusions. The Senate bill, S. 1784 as ordered reported from the Human Resources Committee on September 30, also raises the age of coverage to 70, but includes an amendment (section 6) adopted during full Committee consideration, to exclude from the extended coverage tenured teachers, college professors, and certain employees with substantial retirement benefits.

We strongly oppose these exclusions, which we believe undermine the purpose of the ADEA and are contrary to the principle of equal treatment and equal rights for all Americans.

An individual's competency, not age, should determine his or her job performance capability, and this is so regardless of the category of work involved. The blanket exclusion of these categories of workers bears no relationship to questions relating to competency and is contrary to the principles underlying the ADEA, which is a cornerstone in our national commitment to secure basic civil rights for all older Americans.

We will offer an amendment to the ADEA bill to delete these exemptions in section 6. We are seeking widespread, bipartisan support for this effort, which has the support of the American Association of Retired Persons, the American Retired Teachers Association, the American Association of University Professors, the National Education Association, the National Council on Aging, the National Center on Black Aged, the National Association for the Spanish-Speaking Elderly, the National Indian Council on Aging, the National Association of State Units on Aging and many other organizations. If you would like to cosponsor this amendment, please have your staff contact either Fran Butler at 48706 or Dave Affeldt at 45364 by October 18 at noon.

We look forward to your early expression of support.

Sincerely,

ALAN CRANSTON,
DONALD W. RIEGLE, Jr.,
FRANK CHURCH,
DENNIS DECONCINI.

NOTICES OF HEARINGS

PROBLEMS OF SMALL BUSINESS IN THE UPPER MIDWEST

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing on the problems of small business in the upper Midwest on November 7, 1977. Some of the problems witnesses will discuss will be product liability insurance, Government regulation and paperwork, workmen's compensation, and urban renewal as well as those of small broadcasters.

The hearing will be held in St. Paul, Minn., beginning at 9 a.m. in the courtroom on the 7th floor of the Federal Building at 316 North Robert Street.

Further information can be obtained from the committee offices, room 424 Russell Senate Office Building, telephone 224–5175.

CHANGE IN HEARING DATE

Mr. CHURCH. Mr. President, the Senate Committee on Aging's hearing on "Senior Centers and the Older Americans Act" has been changed from October 18 to October 20 at 10:15 a.m. in room 6226 of the Dirksen Building. The hearing is one of several activities conducted in conjunction with forthcoming legislative hearings by the Subcommittee on Aging of the Committee on Human Resources on extension of the Older Americans Act.

THE ALCAN PIPELINE PROJECT

Mr. JACKSON. Mr. President, the Senate Committee on Energy and Natural Resources will hold another day of hearings on Tuesday, October 25 on the President's recommendation that the Alcan Pipeline project be approved pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1977.

The hearing will convene at 9:00 a.m. in room 3110 of the Dirksen Senate Office Building. Witnesses will include representatives of the North Slope producers and the State of Alaska. Any questions concerning this hearing should be addressed to Elizabeth A. Moler on extension 4–0611.

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has rescheduled the second day of our hearing on the cost, management and utilization of human Resources Program Evaluation to Wednesday, October 19, 1977, from 9 a.m. to 12 noon in room 4232 Dirksen Senate Office Building.

If there is no objection, I believe that the witness list will provide an overview of this oversight hearing.

In order of expected appearance, the witnesses will be: Dr. Henry Aaron, Assistant Secretary for Planning and Evaluation, Department of Health, Education and Welfare; Dr. Arnold Packer, Assistant Secretary for Planning, Evaluation and Research, Department of Labor; Mrs. Eleanor Chilemsky, director of planning and policy analysis, the Mitre Corp.; Dr. Bertram Brown, Director of the National Institute of Mental Health; Dr. John Evans, Assistant Director of the Office of Education; Dr. Robert Landman, Assistant Director of the Community Services Administration; Dr. Marcia Guttentag, professor at Harvard University and president of the Evaluation Research Society.

Persons wishing to submit statements or desiring information please contact: Franklin Zweig of the committee staff, (202) 224–9285.

CROP INSURANCE

Mr. HATHAWAY. Mr. President, the unusual weather conditions which we have experienced around the country this year persist, and nowhere is this more obvious than in northern Maine.

Our corn and oat crops have been devastated by adverse weather. But in particular, the weeks of heavy rains in Aroostook County have made it impossible to harvest about 30,000 acres of potatoes—about one-quarter of the crop.

The chances of getting these potatoes out of the ground diminish with every day that passes. Mid-October generally signals the onset of severe frosts and the first snow storms. Once the ground is frozen, the potatoes are lost.

I believe that it would be wise to provide a crop insurance plan for potatoes similar to those enjoyed by other commodities.

While Aroostook County has never had a total crop failure, we are facing a situation this fall which looks to be a disaster.

Some relief, such as low-interest loans, will be available if a disaster is declared.

Based on my Small Business bill which the President signed into law on August 4, the Farmers Home Administration has the authority to declare an economic or physical disaster subsequent to certification by a Governor of a State in which a disaster has occurred.

This includes production losses on account of the disaster, as well as actual losses.

In any case in which the Governor certifies that the economic or natural conditions are of sufficient magnitude that without the loan assistance a significant member number of businesses in the impacted area would either become insolvent or be unable to return quickly to their former level of operation, these loans, at lower-than-market rates, become available.

Before this change, either the President or the Secretary of Agriculture had to certify that a natural disaster had occurred. This usually meant something like a hurricane, a flood, or an earthquake.

By this change, the disaster can include the economic consequences of a crop failure. And such a disaster can now be certified by the Governor, who, as an on-the-scene official, has ready access to afflicted areas. In turn, this simplifies procedures by cutting out cumbersome bureaucratic steps not needed in reaching a disaster judgment.

But for real protection, crop insurance for potatoes and dairy corn ought to be made available. At the very least, farmers ought to be able to recover the production costs of their crops when that crop is lost by act of natural disasters. This may, like the Federal flood insurance program, require Federal participation.

But I believe we are better off with insurance designed to meet a disaster rather than after-the-fact loans which may be less efficient for the victims and more costly to the Government. I shall have such a bill prepared for introduction shortly.

ADDITIONAL STATEMENTS

SEVERE FOOD SHORTAGES IN VIETNAM

Mr. GARN. Mr. President, the New York Times has carried a revealing account on a serious food problem the Socialist Republic of Vietnam is now facing. Citing analysts, Times correspondent Fox Butterfield estimated that the shortage this year will run as high as 2 million tons of rice, approximately 20 percent of the country's normal rice crop.

The food crisis has been caused, according to Butterfield, by a combination of factors—a prolonged drought this year, government mismanagement, and resistance to collectivization.

I would like to focus attention on this fact: Drought has been a lingering calamity this year in all Southeast Asia, not only in Vietnam. But, as matters stand, there are only food shortages in the new Communist states in Indochina, especially Vietnam, which was before the war one of Asia's largest rice producers. Now, Vietnam lives in peace. It is not short of manpower. According to official figures, at least 70 percent of Vietnam's work force are now working on the fields. Why these food shortages?

An explanation is not hard to find: Forced collectivization with elimination of private ownership of land, coupled with political, cultural, and religious repression in what was the Republic of Vietnam, have paralyzed agricultural production.

However, the point I would like to make today is not to score Hanoi's failure to feed its own people. My aim is to stir up awareness of what really happened in Vietnam in anticipation of what is going to happen here, in the United States.

Vietnam's Communist authorities have just released what they called the initial results of an investigation into U.S. war crimes in the southern part of the country. These results held us responsible, among other things, for Vietnam's chaotic economy. A new stage was being set for Vietnamese propagandists and their American apologists to call for emergency U.S. aid to Hanoi.

The other day, former antiwar activists, including Sam Brown, a top ranking official of the Carter administration, attended a gathering in New York in honor of Hanoi's entry to the United Nations. Some participants have said that a nationwide campaign for U.S. aid to Vietnam will be launched. I am certain that these apologists will say that the current food shortages in Vietnam have been caused by the United States.

Mr. President, to help foster a clearer understanding of the issue, I commend the Times article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 2, 1977]

SHORTAGE OF FOOD IS FORCING VIETNAM TO CUT RICE RATIONS

(By Fox Butterfield)

HONG KONG, October 1—Vietnam is facing a serious food problem, with a shortage this year estimated by analysts to run to as high as two million tons of rice, or almost 20 percent of the country's normal rice crop.

The shortage has led to sharp cuts in rice rations in many parts of Vietnam, the dismissal of Hanoi's minister of agriculture and appeals to some of Vietnam's friends in the West for urgent aid. According to diplomatic sources, the food problem has also set back Hanoi's ambitious plans to increase exports this year by more than 50 percent and reduce its large trade deficit.

One indication of the magnitude of Vietnam's food problems came this week with a report in Copenhagen that Hanoi had asked Denmark for emergency food aid. A Danish minister said in Parliament that Hanoi had estimated it had a million-ton shortfall in grain. Other specialists have estimated the shortage at closer to two million tons.

The food crisis appears to have been caused by a combination of factors—a prolonged drought this year, government mismanagement and resistance to collectivization.

In addition, with the end of the war in 1975, Vietnam lost large amounts of food aid to the south from the United States and to the north from China.

"FACING MANY DIFFICULTIES?"

In a somber speech marking Vietnam's national day last month, Prime Minister Pham Van Dong reported that "now we are facing many difficulties in feeding ourselves." He indicated that the area under cultivation for rice this year was actually somewhat smaller than in 1976, though the acreage for other, less popular food crops, including cassava and beans, had been expanded.

In August Vietnam's press agency belatedly disclosed that the Vietnamese Communist Party's Central Committee had adopted a special resolution in June admitting the party had made mistakes in agriculture. "We have made big mistakes in leadership, especially in guiding and organizing the implementation of the partys' line and policies on agriculture," it said.

The agency did not describe the errors in any further detail, nor did it explain why it had taken two months to disclose the resolution.

The food shortage is one of several major problems that appear to have plagued Hanoi in making the transition to peace after three decades of war. Because the Vietnamese Communists are often very candid in admitting their troubles, partly as a way to stimulate action by their people, it is sometimes difficult to gauge the seriousness of their problems. Recent official broadcasts and articles have referred to these other troubles.

The Prime Minister's office issued a directive last month requiring all government offices in the north to "streamline" their personnel so they could send more party workers to the south to reinforce the Communists' rule there. The Hanoi radio said that "tens of thousands" of party workers from the north had already been sent to the south, but that there was still a shortage of trained manpower in the southern half of the country. Part of the problem seems to be that perhaps 100,000 army officers and officials of the former Saigon government remain in so-called re-education camps, and the Communists have chosen not to employ many southern professionals such as doctors, businessmen and technicians.

The chairman of Hanoi's central nationalities commission, Vu Lap, indicated in an article this week that there was continuing resistance to Communist rule among the country's 5 million people who are members of non-Vietnamese ethnic minorities. Writing in the party theoretical journal, Tap Chi Cong San, he said, "Since liberation day the reactionaries have secretly incited disturbances in a number of ethnic minority regions and have taken advantage of our temporary difficulties and our cadres' weaknesses and shortcomings in implementing some policies to sow division among ethnic minorities." One of the sources of trouble seems to be that Hanoi has tried to resettle the semi-nomadic Montagnards in fixed areas.

The Communist authorities in Saigon, now referred to as Ho Chi Minh City, have been conducting a campaign against "manifestations of bureaucracy, red tape and authoritarianism," according to a dispatch by Vietnam's press agency. Party committees have been instructed to cut down on the number of meetings they hold, make more effort to meet the people and provide lists to the people of the addresses and telephone numbers of government offices to help them solve problems.

Recruits drafted for the army in the southern half of the country apparently are affected by some of the same problems that disrupted the now defunct army of former President Nguyen Van Thieu. A recent editorial in Hanoi's army paper, Quan Doi Nhan Dan, reported that draftees in the south had to be indoctrinated not to "unjustifiably leave their units for places of amusement or for home, change the pattern and color of their uniforms, let their hair grow and leave their nails uncut, roll up their shirt sleeves, use obscene languages and procrastinate in their duties."

GAS DEREGULATION—ARMED ROBBERY IN BROAD DAYLIGHT

Mr. PROXMIRE. Mr. President, Hobart Rowen, the economic writer for the Washington Post, has an article in today's edition entitled "Gas Deregulation: The Public Is Being Had."

It is a superior article in both analysis and clarity. As he points out the price of natural gas will go up from the 13- to 14-cents level in 1968 to the world price equivalent for oil, or to $2.50 to $2.75 under deregulation. That is a twentyfold increase.

The Federal Power Commission has already set the price for new interstate gas at $1.42. The Carter administration has proposed an excessive amount at $1.75, and the proferred compromise in the Senate was for a price in excess of $2. But what has happened? Prices have gone up but the supply has fallen. And there is not the slightest evidence that gouging the public again will bring forth needed gas. The reason: When prices go up at this rate—40 percent or more per year—gas in the ground is better than money in the bank. For the latter, pro-

ducers get interest at 7 percent instead of a gain of 40 percent or more.

Rowen's column says all this and more.

I commend it to both the Senate and the public and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION: "THE PUBLIC IS BEING HAD"

(By Hobart Rowen)

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.)

It's important to get some impression of the monumental nature of the ripoff. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 per cent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 per cent, and profits boomed by 50 per cent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observes that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural gas was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-tax-table maximum of 48 per cent. Of course, no industry pays 48 per cent. "If they paid more than 7 per cent [as an effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.08 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming....

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower, for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious world-wide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispers, fretful of the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about moral attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural-gas prices as well.

SUBVERTING THE LAW ON B–1

Mr. GARN. Mr. President, on October 12, the Comptroller General of the United States, responded to my telegram of October 6 requesting prompt monitoring of the executive branch's actions under the terms of the Impoundment Control Act of 1974. Under this act, the President is obligated to resume the expenditure of any funds withheld from obligation during such 45-day period, unless the Congress within such period, enacted legislation approving the rescission of the funds. Despite the Impoundment Control Act and that the House Appropriations Committee recommended that no congressional action be taken to rescind funds previously appropriated for the B–1 bomber, the Commander in Chief has not acted properly in authorizing the Air Force and Rockwell back into active production for this national defense program.

The Impoundment Control Act is specific in terms relating to President Carter's responsibility for upholding the law, and not subverting it—(excerpts from the Impoundment Control Act of 1974 section 1012 (a) and (b).):

RESCISSION OF BUDGET AUTHORITY

SEC. 1012. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

Mr. President, the Comptroller General's response to my telegram clearly states that—

At present, the Air Force estimates that it could, with proper authorization from higher headquarters, get Rockwell back into active program activities within 24 hours.

I feel that full attention to the actions of our Commander in Chief is worthy of each Senator's consideration and I ask unanimous consent that my telegram to the Comptroller General, the Secretary of Defense and the General Accounting Office's response to my inquiry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HON. ELMER STAATS,
Comptroller General of the United States, Government Accounting Office, Washington, D.C.

DEAR MR. STAATS: On July 19 the President submitted a special message to the Congress under the provisions of the Impoundment Control Act of 1974 requesting rescission of $463.4 million dollars for the B–1 bomber aircraft program and the Short Range Attack Missile (SRAMS). On Tuesday October 6 the forty-five day waiting period provided for in such Act expired.

As you know, under the terms of the Impoundment Control Act of 1974, the President is obligated by law to resume the expenditure of any funds withheld from obligation during such forty-five day period, unless the Congress, within such period, enacted legislation approving the rescission of the funds.

I request that you promptly monitor the Department of Defense to ensure that they are properly proceeding as required by the Impoundment Control Act. I further ask that you give me a full report on this matter by telephone on Tuesday, October 11, 1977.

Sincerely,

JAKE GARN, *U.S. Senator.*

OCTOBER 6, 1977.

HON. HAROLD BROWN,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR SECRETARY BROWN: Please be advised that today I requested the Comptroller General of the United States to immediately monitor the obligation of funds for the B–1 bomber and Short Range Attack Missiles (SRAMS).

As you know, under the terms of the Impoundment Control Act of 1974 the forty-five day waiting period authorized by such Act expired on October 6, 1977. Consequently, the President is now obligated by law to resume the expenditure of funds for this vital defense program.

Sincerely,

JAKE GARN, *U.S. Senator.*

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 12, 1977.

HON. JAKE GARN,
U.S. Senate.

DEAR SENATOR GARN: This is in reply to your telegram to October 7, 1977, in which you asked that we monitor the executive branch's actions and inform you of major developments in the B–1 bomber program. We have been in contact with officials of the Department of Defense (DOD) and representatives of Rockwell International (Rockwell), one of the prime contractors for the B–1 program.

As you know, the Congress did not approve the President's proposal to rescind $462 million in budget authority that was determined to be excess to DOD's needs as a result of the decision to terminate the program. Consequently, this budget authority was required to be made available for obligation on October 5, 1977, by the Impoundment Control Act of 1974, title X of Public Law 93–344, July 12, 1974—the expiration of the 45-day period prescribed for the consideration of rescission proposals under the Act. We have confirmed that the $462 million rejected for rescission was made available by the Office of Management and Budget for obligation on October 5, 1977. We have also determined that the Secretary of Defense has taken steps to utilize this budget authority in the B–1 program. On October 4, 1977, the Secretary, DOD, requested the Department of the Air Force to submit a restructured B–1 program description that includes proceeding with the production of the fiscal year 1977 B–1 bombers. Pursuant to the Secretary's memorandum, the Department of the Air Force transmitted telegrams on October 4, 1977, to concerned departmental activities in order to obtain the material requested by the Secretary.

DISCUSSIONS WITH DOD

On October 6 and 11, 1977, members of this Office met with representatives of the U.S. Air Force in the Office of the Deputy Chief of Staff, Research and Development, Aircraft Division, who informed us that all of the budget authority that was appropriated for the B–1 program has been made available to the Air Force. This amount, approximately $1.16 billion, includes the $462 million that was proposed, but rejected, for rescission and approximately an additional $698 million that was to be used for both prior program expenditures and anticipated termination costs.

The DOD officials told us that, because of the earlier termination of the program, about $100 million would be lost as a result of terminating and then having to restart the B–1 program due to Congress' rejection of the rescission proposal. This sum is comprised of approximately $25 million in costs associated with personnel reductions and the later rehiring of such personnel and about $75 million for terminating future B–1 bomber production contracts.

We were told that the cost per aircraft will now probably increase due to having stopped the program. The exact amount of any increase, of course, will have to be the subject of negotiations between the Government and the prime contractors. In this regard, DOD told us that the Department cannot, at this time, afford to build the *seventh* B–1 aircraft and that termination costs for cancelling this aspect of the program will be roughly $25 million.

The departmental officials told us that if the decision was made to build all of the next three aircraft originally contracted for (numbers five, six, and seven) that the total cost for the program would increase from about $1.16 billion to approximately $1.4 billion—an increase of $240 million.

Insofar as restarting the program is concerned, we were told that a delay can be expected in the delivery of aircrafts five and six. Aircraft five was originally scheduled for delivery in August of 1979. Even assuming contract activities can resume promptly, DOD does not expect the fifth B–1 bomber can be delivered before February 1980. And, aircraft six, originally scheduled for delivery in November 1979, is not expected to be delivered before July or August 1980.

Rockwell sent an unsolicited proposal to the Department of Defense on October 6, 1977, for the construction of bombers five and six. While the specifics of any future contract with the prime contractor are a matter of negotiation, DOD representatives told us that it is possible that some work may have to be done elsewhere if DOD and the prime contractor cannot reassemble the same team that was gathered for work under the original contracts.

We were also told that the U.S. Air Force Aeronautical Systems Division was planning on submitting to its higher command at Andrews Air Force Base, the Air Force Systems Command, its tentative plan for the B–1 bomber program on October 7, 1977, and that the final plan was contemplated for submission on October 17, 1977. At present, the Air Force estimates that it could, with the proper authorizations from higher headquarters, get Rockwell back into active program activities within 24 hours. In turn, DOD estimates that it would take Rockwell approximately 60 days to begin actual production work. This delay is due to the fact that over 8,000 people were laid off as a result of the termination of the B–1 program, and numerous subcontracts terminated.

DISCUSSION WITH ROCKWELL

Representatives of Rockwell agreed with DOD that delivery on aircrafts five and six would be delayed and costs increased as a result of having terminated the original contracts. Rockwell told us on October 7 and 11, 1977, that aircraft five could be delivered in March 1980 and aircraft six in September of that year. If constructed, B–1 bomber seven could be delivered in March 1981.

In discussing contract costs, in what the company described as "comparable environments," Rockwell said aircrafts five, six, and seven were originally estimated at a cost of $650–700 million. In light of recent events, Rockwell says it could cost the Government up to $680 million to build *only* aircrafts five and six. If the Government chose to build aircraft seven additional costs would be about $150 million. In summary, Rockwell says the additional cost to the Government to build all three bombers, in light of having stopped and then restarting production, is expected to range between $130–180 million.

Rockwell said its unsolicited proposal of October 6, 1977, to build aircrafts five and six at a not-to-exceed cost of $680 million is good only until November 1, 1977. Company representatives estimate that costs are expected to increase between $5–10 million for every month of delay. Rockwell projects that it would take about 6 months to finalize any contract with DOD for B–1 bomber production and that it would take about 90 days to get the subcontractors back on the job. (There are said to be 53 major subcontractors involved.) During the 6-month period estimated for contract finalization, Rockwell said it would undertake its B–1 operations pursuant to the bilateral agreement proposed on October 6, 1977.

Finally, Rockwell told us that it believed it would cost the Government about $50 million in termination costs to discontinue production work on aircraft seven. When compared with a company-estimated cost of about $150 million to build the seventh B–1 bomber, this means that Rockwell projects an additional outlay of $100 million beyond already expected Rockwell costs would be needed for the Government to acquire the seventh aircraft.

We hope the foregoing will be of assistance to you. We will continue to monitor further actions by the executive branch and will notify you of further developments, as appropriate.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

AMENDMENT TO SELECT COMMITTEE PROCEDURAL RULES

Mr. STEVENSON. Mr. President, at its meeting of October 6, the Select Committee on Ethics amended its procedural rules to permit the chairman and the vice chairman, or their designees, acting jointly, to approve blind trusts and foreign travel requests during adjournment and recess periods. The Select Committee's procedural rules were agreed to April 5, 1977, and were published in the RECORD of May 9, 1977, at page 14011. I ask consent that the amendment to these procedural rules be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

SENATE SELECT COMMITTEE ON ETHICS
COMMITTEE RESOLUTION

Agreed to, as amended, October 6, 1977.

Resolved, the Supplementary Procedural Rules of the Select Committee on Ethics, agreed to April 5, 1977, are amended by adding thereto the following paragraph:

"24. *Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses.* During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond 14 days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to

approve or disapprove blind trusts under the provisions of Rule 42, and to approve or disapprove foreign travel requests which require immediate resolution.

THE GENOCIDE CONVENTION: A PUZZLE TO OUR ALLIES

Mr. PROXMIRE. Mr. President, among the many responsiblities of a world power such as the United States are the duty to set a moral example for the emerging nations of the world and the duty to make consistent policy decisions in dealing with our allies. Our failure to ratify the Genocide Convention is a failure to fulfill these responsibilities. Not only is it a poor example for the emerging nations of the world, it is clearly inconsistent with the expressed policy, traditions, and precedents of our own country.

First, the legality of supporting a treaty which calls for the settlement of disputes by an International Court of Justice has been repeatedly upheld. Among the treaties which include this clause and which the United States has already ratified are the Antarctic Treaty, the Japanese Peace Treaty, the Statute of the International Atomic Energy Agency, the Convention on the Privileges and Immunities of the United Nations, and the Supplemental Convention on Slavery.

Second, the propriety of human rights as a subject for U.S. treaties has much support and many precedents. As a member of the President's Commission for the Observance of Human Rights Year, retired Supreme Court Justice Thomas C. Clark, stated:

> Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty-making power of the United States. . . . It may seem almost anachronistic that this question continues to be raised.

In addition, the United States has already ratified many international human rights conventions. Among these are the Convention on the Nationality of Women, the Protocol Relating to the Status of Refugees, the Convention to Suppress the Slave Trade and Slavery, and the Supplemental Convention on Slavery.

Mr. President, in light of our Nation's repeated support for international treaties upholding human rights and calling for an independent and objective settlement of disputes, our unwillingness to ratify the Genocide Convention is a complete puzzle to our allies. I remind my colleagues of our need to maintain consistent policies and fulfill our obligations to our allies by ratifying the Genocide Convention immediately.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, during the previous 3 weeks beginning September 26 and running through October 14, the Committee on Foreign Relations held a series of hearings on the proposed Panama Canal agreements. During that 15-day work period, the committee devoted 11 days to the consideration of these agreements, hearing a total of 68 witnesses, including 16 executive branch witnesses, 15 witnesses from Congress, and 37 outside experts and public witnesses. Regrettably, neither President Ford nor Governor Reagan was able to accept the committee's invitation to testify on this matter, despite our best efforts to accommodate them.

I believe, nevertheless, that the committee has compiled a full and complete hearing record, both pro and con. We will further endeavor to get these hearings printed just as quickly as we can for the information of the Senate, the Congress, and the public-at-large.

In view of the clarifying statement issued last Friday, the committee will meet Wednesday morning to go over this matter with the conegotiators, Ellsworth Bunker and Sol Linowitz. While nothing further is scheduled beyond this meeting, the committee in the days ahead, I am sure, will be discussing how it wishes to proceed. The necessity for further hearings, it seems to me, will depend in very large part on any gaps that may be uncovered in reviewing the hearing record established thus far.

I want to thank all the members of the committee for their diligence and cooperation throughout the committee's hearing process on the proposed treaties and I ask unanimous consent that a complete list of all the witnesses heard by the committee be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF WITNESSES TESTIFYING ON THE PROPOSED PANAMA CANAL AGREEMENTS WHO APPEARED BEFORE THE COMMITTEE ON FOREIGN RELATIONS, SEPTEMBER 26–OCTOBER 14

ADMINISTRATION WITNESSES

Monday, September 26:

The Honorable Cyrus Vance, Secretary of State.

The Honorable Ellsworth Bunker, Ambassador at Large and Co-Negotiator, Panama Canal Treaties.

The Honorable Sol Linowitz, Co-Negotiator, Panama Canal Treaties.

Tuesday, September 27:

The Honorable Harold Brown, Secretary of Defense.

General George S. Brown, Chairman, Joint Chiefs of Staff.

Adm. Robert L. J. Long, Vice Chief of Naval Operations.

Lt. Gen. D. P. McAuliffe, Commander-in-Chief, U.S. Southern Command.

Thursday, September 29:

The Honorable Griffin B. Bell, Attorney General.

The Honorable Herbert J. Hansell, Legal Adviser, Department of State.

The Honorable Clifford L. Alexander, Secretary of the Army.

Maj. Gen. H. R. Parfitt, U.S. Governor of the Canal Zone.

The Honorable William J. Jorden, U.S. Ambassador to Panama.

Friday, September 30:

The Honorable Brock Adams, Secretary of Transportation.

The Honorable Richard N. Cooper, Under Secretary for Economic Affairs, Department of State.

The Honorable Anthony Solomon, Under Secretary for Monetary Affairs, Department of the Treasury.

Howard F. Casey, Deputy Assistant Secretary for Maritime Affairs, Maritime Administration.

CONGRESSIONAL WITNESSES

Tuesday, October 4:

Senators—The Honorable Strom Thurmond, The Honorable Ernest F. Hollings, The Honorable James B. Allen.

Congressmen—The Honorable Samuel S. Stratton, The Honorable Baltasar Corrada, The Honorable Daniel J. Flood.

Wednesday, October 5:

Senators—The Honorable Mike Gravel, The Honorable Paul Laxalt, The Honorable Robert Dole, The Honorable William L. Scott, The Honorable Jesse Helms.

Congressmen—The Honorable John M. Murphy, The Honorable Larry McDonald, The Honorable Donald M. Fraser, The Honorable Robert L. Leggett.

OUTSIDE EXPERTS AND PUBLIC WITNESSES

Admiral Thomas H. Moorer, USN-Ret.

Admiral Elmo R. Zumwalt, Jr., USN-Ret.

General Maxwell Taylor, USA-Ret.

Mrs. Patricia Fulton, President, Pacific Civic Council, Canal Zone.

Mrs. Charlotte Kennedy, President, Cristobal-Margarita-Brazos Heights Civic Council, Canal Zone.

Mr. Harold Green, President, Gamboa Civic Council, Canal Zone.

Mr. Louis Fattorosi, Vice President, Canal Zone Federation of Teachers.

Tuesday, October 11:

Professor Jorge Dominguez, Center for International Affairs, Harvard University.

Dr. Abraham F. Lowenthal, The Woodrow Wilson Center.

Professor Donald Dozer, University of California.

Professor Lewis Tambs, Arizona State University.

Robert M. Bartell, Liberty Lobby.

Franklin Delano Lopez, Chairman, Puerto Rico Democratic Party.

Phillip Harman, Canal Zone Non-Profit Public Information Corp.

Wednesday, October 12:

William P. Thompson, President, National Council of Churches.

John Cardinal Krol, Archbishop of Philadelphia on behalf of U.S. Catholic Conference.

Morris Levinson, Vice President, Synagogue Council of America.

Professor Donald E. Miller, Church of the Brethren.

Kenneth Boehm, Young Americans for Freedom.

Mrs. (Leopoldo) Rose Marie Aragon, Mr. Richard Eisenmann, Panamanian Committee for Human Rights.

Dennis Small, U.S. Labor Party.

Thursday, October 13:

Lane Kirkland, Secretary-Treasurer, AFL–CIO.

Martin Gerber, Vice President, United Auto Workers.

Alfred J. Graham, President, Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO.

Capt. J. R. Williams, President, Panama Canal Pilots' Association, Canal Zone.

Rene C. Lioeanjie, Regional Director, Central & South America National Maritime Union, Canal Zone.

John Fred Schlafly, Chairman, Emergency Task Force on the Panama Canal, American Council for World Freedom.

Gary L. Jarmin, The American Conservative Union.

Dr. Herminio Portell-Vila, Editor, Radio Free Americas, American Security Council.

The Honorable Hamilton Fish, Former Congressman from New York.

Friday, October 14:

The Honorable Henry A. Kissinger, Former Secretary of State.

The Honorable Dean Rusk, Former Secretary of State.

Robert Charles Smith, National Commander, The American Legion.

Frank D. Ruggiero, National Commander, AMVETS.

Maj. Gen. J. Milnor Roberts, USAR, Executive Director, Reserve Officers Association.

Col. Phelps Jones, USA-Ret., Veterans of Foreign Wars.

ARMS RESTRAINT PLAN FALTERS

Mr. PROXMIRE. Mr. President, based on the evidence now available I must reluctantly conclude that President Carter's arms sales restraint plan appears to be a flop. It has so many technical loopholes that it actually could allow massive shipments of U.S. arms to continue instead of restricting them.

The President's six point arms restraint package is bordering on being useless. In some cases the administration simply is not adhering to its own principles. In other cases exceptions and loopholes have the effect of overturning the basic thrust of the proposals.

Here is how the President's own package is being circumvented:

Point one states that fiscal year 1978 foreign arms sales and assistance will be reduced from fiscal year 1977 totals. This sounds good, but two intervening factors must be considered. First, sales alone for fiscal year 1977 are so high—$9.9 billion—that any contemplated reduction—such as 10 percent—would be almost meaningless. Second, it may be impossible to attain any reduction if the President insists on the AWACS sale to Iran, F–15's to Saudi Arabia and more F–16's to Iran. Counting those three sales in fiscal year 1978 would push the totals over fiscal year 1977.

Point two states that the United States will not be the first to introduce weapons of increased sophistication into a region or sell weapons abroad before they are in use there at home. This policy already has been violated by the $1.2 billion sale of Airborne Warning and Control System aircraft to Iran. The AWACS is the most sophisticated weapon of its kind in the world.

Point three states that development or significant modification of weapons solely for export will not be permitted. This policy is being negated by the development of the land based version of the F–18, called the F–18L. Although the President denied sale of the F–18L to Iran, it is still being considered for sale to NATO countries—another exception in the guidelines.

Point four states that coproduction agreements will be limited or ruled out. The loophole here is that it does not apply to NATO countries, Japan, Australia and New Zealand and some other treaty nations. These exemptions exclude almost three-quarters of existing coproduction agreements.

Point five limits transfers of U.S. weapons to third parties. The weakness here is the lack of enforcement powers. During wartime, such paper agreements have little meaning. Furthermore, with the great changeover in governments worldwide, it is possible, even likely, that new governments might not find such agreements binding. Is there anyone who would deny that Saudi Arabia would send its U.S. aircraft to the aid of other Arab States if faced with a military emergency?

Point six states that U.S. corporations and military personnel abroad will not be permitted to promote arms sales without State Department approval. This is a sound provision in theory but weak in practice. Discussions to ascertain market potential and service contracts are still permitted. And the history of prior negotiations between U.S. contracts and foreign governments indicates such business is carried out in deep secrecy.

In addition to these exceptions and loopholes, the arms restraint plan also contains broad language to supply arms in violation of the guidelines if the President certifies it an extraordinary condition or where it applies to NATO countries, Israel, Korea, and other nations with major defense treaty obligations with the United States. This reduces the sales market falling under the restrictions by 45 percent.

The idea of an arms restraint plan is excellent. But the plan put forward has too many loopholes to be successful in drastically reducing U.S. arms sales abroad.

KOREA WEEK, 1978

Mr. INOUYE. Mr. President, it is estimated that there are about 250,000 Korean people in the United States, most of whom are American citizens. As a U.S. Senator from the State of Hawaii, I represent about 7,000 persons of Korean ancestry. I believe that Americans of Korean ancestry have become successful as an immigrant group far out of proportion to their numbers; they have taken tremendous strides in our society, perhaps more rapidly than our Nations Japanese- or Chinese-American population.

Therefore, I am saddened by reports I receive from my constituents and from concerned Asian-Americans elsewhere in the country that Korean Americans are becoming victims of unwarranted racial slurs and increasing distrust by fellow Americans.

News stories in the past 2 years about foreign lobbyists, influence peddlers, and unorthodox religious leaders have unfairly, and probably unintentionally, encouraged people to conjure up certain stereotypes of Korean people. Although I have no evidence showing that most Americans have negative stereotypes of Korean people, I am concerned that such stereotypes may become widespread and malicious.

I am proud to report that the Korean community in Hawaii is attempting to head off such a development by focusing local attention on the rich cultural heritage of its ancestors and on the impressive social and cultural contributions of the present generation.

The Korean Community Council in Hawaii has informed me of its plans to sponsor a "Korean Week" celebration this coming January to honor the 75th anniversary of Korean immigration to Hawaii. Korea Week will enable local Hawaii residents to learn more about the Korean culture and the people who brought it to the United States. Needless to say, this will be a most valuable public event.

Korea Week, scheduled for January 13–21, 1978, has been recognized in proclamations by the officers of the Governor of Hawaii and mayor of Honolulu as well as by the Hawaii State Senate.

Positive public exposure of the Korean American community can help the Korean people cope with the threat of racism stemming from the questionable activities of a handful of foreigners. That is why I wish to applaud and endorse the plans of the Korean Community Council in Hawaii to sponsor Korea Week.

REMARKS BY NASA ADMINISTRATOR ROBERT FROSCH

Mr. STEVENSON. Mr. President, in a major address at the recent EASCON '77 Conference in Washington, D.C., Dr. Robert Frosch, Administrator of the National Aeronautics and Space Administration, described the principles that should guide the Nation's future space program. Dr. Frosch emphasized the concept of "usefulness." More specifically, he pointed out how future development of our satellite projects, such as the communication and remote sensing satellites, will enable us to predict weather conditions with greater accuracy and increase the efficiency of food production, to manage ocean and air transportation more effectively, and to interconnect remote parts of the world with better transmission of health and educational information. He also described how the exploration of our planet and our solar system will expand our knowledge of climate variations and provide us greater insight into the preservation of our Earth environment.

After two decades of space exploration and the advent of the era of the Space Shuttle, we have a unique opportunity to build on this base of technology and knowledge for the benefit of this and future generations. I commend these thoughtful remarks on the future of the U.S. space program to my colleagues.

Mr. President, I ask unanimous consent that the remarks of Dr. Robert Frosch at the EASCON '77 Conference be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Dr. FROSCH. I have been asked to talk about the immediate future roles of NASA and where we are going in the space program. I shall break my own personal precedence by

talking about the subject which was announced, that seems reasonable in this museum which is a kind of exhibit and dedication of where we have been as a human race going into space, technologically.

I visited a lot of space museums in the past couple of months, and there is an awful lot of hardware around. I must say that I have the feeling that at least 500 to 1000 people must have been in space just counting the number of vehicles that could hold people. We know that isn't the case, but the course of the next 20 or 30 years, we think it will probably be the case.

I have been spending the past couple of months trying to define and redefine, in my terms, and in this administration's terms, what the role of NASA and the role of space in American life and in human life ought to be. I define a role of being a doing agency, and being an agency which is an advocate of space, a finder of things that can usefully be done from space for people. In fact, I think the the single goal over the next few years may be summed up in the word "usefulness". We have paid a very high price in money, talent, and manpower to learn how to go into space, how to do things there, and the time is now to continue and to reap benefits that will be useful for everyone.

Before launching into some discussions of what I mean by those comments on space, I would remind you that NASA also has an important goal and program in aeronautics. Indeed it was the first job of the space agency before it was a space agency, to be a technological and scientific developer of flight, of flight from the very beginning, of flight very close to the beginning, to provide the research base, the facilities for doing research, and the stimulus for American aviation and as it turned out, thus for world aviation.

The NACA was a developer of aircraft, a developer of technology and technique for aircraft, starting shortly after World War I, and one which cooperated with industry to develop an American aviation industry which became the dominator of the development of world aviation. This government stimulator and partner with industry provided really most of the technology between industry and NACA, out of which the current fleets and their predecessors or aircraft around the world were developed.

We expect, over the next few years, that we will continue this important role, and that we will be able to provide the technology out of which new generations of commercial and military aircraft will come.

A short range set of goals have to do with the improvement of fuel economy and general efficiency for aircraft. We expect to be able to produce, in cooperation with industry, engines with better fuel specifics, airframes that are lighter and have better drag and life coefficients, and control systems that can optimize both the engine characteristics and the airframe characteristics. So, we are working on the pieces of development that can produce new aircraft that we hope will continue to dominate the world markets.

We provide the facilities that aircraft and aircraft systems can be tested in most efficiently, not only for government programs, but for industry programs.

Let me comment on space applications, space science, and space technology. The revolution in global communications that was made by geostationary space satellites is now so conventional that when one asks people what it is that space has brought them, they seldom bother to mention the fact. Having lived two years in Africa, we know precisely how much of a connection the space satellites make for remote cities and remote places with the rest of the world. When the 36-foot dish is down for maintenance, one is cut off with all other cities. The whole bulk of global communications now gets from the surface to 22,000 miles and back down to the surface, routinely, in large numbers of channels, and continually, so routinely that we have forgotten that this is a space service.

The current experiments and development projects with Earth sensing will, in due time, also become forgotten pieces of space technology that are built into our ordinary and everyday operations. We are used to seeing the weather on television. We will become used to seeing the way in which our crops grow, perhaps not on television, but in our understanding of how to manage agriculture. We will become used to seeing the way in which we can find new mineral resources, the way in which we can understand the motions of the surface of the ocean and the properties of the near surface of the ocean, perhaps again, not on television, but built into the ways in which we manage fisheries, the ways in which we manage ocean transportation, and perhaps the ways in which we find people who are lost.

We have satellites that are experimentally doing all of these things, and we hope, in the next few years, to carry forward the next stages of technology that will make the details more real. We are working with the Department of Agriculture on the ability to predict the growth of wheat all over the world to a high degree of accuracy. It is clear that we can detect the basic characteristics of crops and understand their state of health. We believe that we can sense and predict the way in which moisture is in the soil and will characterize the future growth of these crops. We are looking at simple ways of using communciations transponders in search and rescue missions. We have a number of instruments which will be flown in the next several years that can sense the characteristics of the atmosphere, not only at the upper atmosphere, but down to the surface, by looking at the limb, at the edge of the Earth, and the edge of the atmosphere above the Earth, so that we can tell what the pollution properties of the atmosphere may be.

In communication, we now have a capability which I think we will not exploit in the terms I am about to describe for global CB. I find this a horrifying thought with everyone trying to talk to everyone else at the same time, but still, the capability to connect very small stations with other very small stations anywhere in the world can have an important value for emergencies, for the connection of remote places with not so remote places for the transmission of health information and education information, for connecting parts of the world that cannot be connected together in any other way. Some parts of the world do not really have telephone communications among them. This is true of most of Africa, where it has been impossible to provide enough copper spiderweb to connect the entire continent together, and it may never be economical to connect the islands of the Pacific together with copper wire, but the provision of a satellite can make it possible to go telephone to telephone with an intermediary in space, and so parts of the world are likely, in due time, to get their telephone and other communications via space.

In space science, we have just begun to look at the universe, and there is a long tradition of people trying to look at the universe. There is a very interesting book about the building of Stonehenge, the great granite and hard stone monument on Salisbury Plain in Britain. Horkin's book suggests that it must have taken a very large number of man hours to build that monument, and the analysis suggests that it is an astronomical observatory, built some three to five thousand years ago.

The curious thing is that his computation for the number of man hours necessary to build that observatory of the motion of the sun and the moon make it about equal in the number of man hours or in the price to what it takes us to send a probe to Jupiter, or to look, as we now look, at any major planetary body. If you compute his number of man hours in our current cost per man hour, you get about $200,000,000, and that is about what a planetary probe costs, so I conclude, in a vague and general sort of way, that we have been trying to look at the solar system and the universe at about the same scale for some thousands of years. We can do it a little better, a little more precisely, and get a lot better data out of what we do, and we do it as a continuation of a great human interest in understanding the solar system and the universe in which we live, but we also are beginning to understand that our interest in the solar system is not only an interest in where we are in an extended neighborhood, but it is an interest in what we are and what our planet may have been and what it may yet become. This is called "comparative planetology", which is a fancy name for the fact that the solar system is doing experiments that we could not do and would not dare to do with our own Earth.

We look at Mars and see a planet that may once have had water and an atmosphere but is now a desert with global sandstorms. We look at Venus whose history we do not know, but now a dense and very high carbon dioxide atmosphere, and we worry about our own atmosphere with an increase in carbon dioxide. Perhaps we can learn from the planetary environments elsewhere in the solar system, some things that would tell us what experiments we cannot do and would not dare do here on Earth would mean.

We also have an opportunity to look at planetary bodies with different crustal properties, with different ionospheric properties and different characteristics, so we are doing a kind of comparative geophysics with other kinds of experiments. We are also looking at the interaction between the sun and the Earth's atmosphere, and hence the Earth's climate. We are certain that the sun's radiation, and the way in which it interacts with the high atmosphere has something to do with the way the climate varies on the Earth, but we really do not understand the details. Somewhere in those characteristics of near space, the near part of the solar system, are major clues for understanding of weather, drought, and glaciation. They are clues that are not in the field of applications yet, they are in the field of understanding basic science, and we want to try to understand that science so that we can understand what may happen to us, and what ways we may effect our own future fate on this planet.

We look outward into the universe and we see strange objects, especially since we have put astronomical observatories of one sort or another in space, where we can look at how the universe looks in x-ray light, how the universe looks in gamma ray light, which we cannot see on the surface of the Earth. We see strange objects, new things that may be new physics that we do not understand from our old observations. We hope, in a few years, to put up a major telescope which will be above the variations of the atmosphere, above the Earth's shine, both by reflection and from the light we produce, and above the atmosphere which filters out some of the radiation so that we can see the universe as it cannot be seen from the surface of the Earth, through the atmosphere and in the light that we, ourselves, make that interferes with our own astronomy. We will be pursuing these objectives of applications and of science in the next few years.

In order to do some of these things, we need technology which we will build upon the technology that we built to go to the moon, and to do the things that we have already done in space. In the next few years, we will bring in the space shuttle and begin to fly routinely with reusable vehicles into space, which will give us an opportunity to do manned experiments with new instruments on a regular basis from low Earth orbit, will enable us to fly the instruments we already want to put into space more cheaply than we can now do so. So, we will be developing new kinds of technology and new kinds of ability to do things in space.

The whole point of the game, for the next few years, will be to bring in useful applications based on the technology that we already have to expand our base of science, looking outward into the universe, into the environment, between the sun and the Earth, and back down to Earth, and to build some of the technology that we will need in the future to go beyond these applications and this science. I think that we will have an exciting time with the new technology, and seeing what the new science and the new applications will bring us. I look forward to it and I hope you do too.

Thank you.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties on Friday, October 14, receiving testimony from the following witnesses:

(1) The Honorable Dean Rusk, Former Secretary of State.

(2) The Honorable Henry A. Kissinger, Former Secretary of State.

(3) Panelists:

Robert Charles Smith, National Commander, The American Legion.

Frank D. Ruggiero, National Commander, AMVETS.

Maj. Gen. J. Milnor Roberts, USAR, Executive Director, Reserve Officers Association.

Col. Phelps Jones (USA-Ret.), Director, National Security & Foreign Affairs, Veterans of Foreign Wars.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

REMARKS BY DEAN RUSK

Mr. Chairman and distinguished Senators.

I am very glad to be here this morning to express my views on the Panama Treaties now pending before you. I am especially glad to be here with my distinguished friend Mr. Henry Kissinger. The fact that we are here together is a reminder that four Presidents and four Secretaries of State, of both political parties, have been closely involved in the negotiations which have led to the documents now before you for your consideration under the Constitution. Other Presidents in this post-war period have also felt the pressures for a change in the status quo originated by the Treaty of 1903.

My remarks will be relatively brief and will consist of the two or three main considerations which led me to support the proposed Treaties with Panama. Since you are exercising a solemn constitutional responsibility, you will necessarily go into every aspect of these Treaties in great detail but as a private citizen, I propose simply to point to those aspects of the problem which seem to me to be decisive in forming my own opinion.

I begin with the conviction that the Treaty of 1903, as amended, offers a very fragile platform on which to try to stand in these closing decades of the 20th Century. In the mid-1960's, during and after the tragic riots in Panama, it became apparent to us that history had overtaken the status quo in Panama and that a new relationship would have to be found if our vital interests in the operation and safety of the Canal were to be assured. Here I do not rest upon the murky circumstances surrounding the secession of Panama from Colombia and the conclusion of the Treaty with Mr. Bunau-Varilla, a citizen of France with uncertain credentials as a representative of Panama. It is a fascinating story with a colorful cast of characters. But I see little point in our now wearing sack cloth and ashes over what our grandfathers did in another historial era, when what happened in most of the world was determined by decisions made or not made in a handful of western capitals. We should not, however, be under the illusion that those events could stand the test of modern standards of treaty making.

The 1903 Treaty seemed to me to take its place alongside the so-called "unequal" treaties which certain western powers imposed upon China in the Nineteenth Century and the Capitulations which gave certain powers extraterritorial rights in the Ottoman Empire. Even if we had acquired absolute title to the Canal Zone, which we did not, the general international policy and practice of decolonization would have rendered the status quo in Panama untenable.

The Vienna Convention on the Law of Treaties is now pending before your committee and your action upon it has been delayed for reasons well known to you. I would suppose, however, that the contents of that Convention already apply to the United States and to other nations since the Convention simply codifies established rules of customary international law.

It seems to me that the 1903 Treaty with Panama is vulnerable to the doctrine of "fundamental change of circumstances" (rebus sic stantibus) found in Article 62 of the Convention. In my view, the United Nations Charter contains the overriding statement of international law and policy—despite our occasional irritations over the conduct of Members in some organs of the UN organization itself and the many failures of Members of the world community in giving effect to Charter precepts. The Charter insists upon the "sovereign equality of all its Members" (Article 2, paragraph 1) and calls for respect for "the equal rights . . . of nations large and small" (Preamble). I have already mentioned decolonization, well established both in principle and practice by the Charter and by the history of this post-war era.

Treaties are the primary source of international law partly because they are drafted in relatively precise terms of legal obligation and, more importantly, because they represent the consent of the sovereign parties who agree to them. We can not seriously suggest that the 1903 Treaty represents the consent of Panama or of its people. It would be accurate to say that if the United States were a party to a treaty which became obnoxious to our public policy and repugnant to our people, we would move to denounce it and relieve ourselves of its burdens.

Article 64 of the Convention on the Law of Treaties states, "if a new preemptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates." Lawyers have debated at considerable length this doctrine of "jus cogens" and the identity of the norms which can be said to be preemptory in character. They are probably few in number. I would suggest to you that, in the modern world, one nation can not maintain a presence within another nation without the consent of the second nation. If the situation in Eastern Europe is different, the contrast merely emphasizes the general rule and provides no precedent for the United States. We have withdrawn from valuable bases and installations in Libya, Ethiopia and Pakistan; we have seen the use of bases in Turkey sharply restricted by that Government; we withdrew our forces from France on the demand of President de Gaulle. I can imagine the astonishment on President de Gaulle's face had I been instructed to tell him that we could not withdraw our forces from France because their presence was covered by an agreement between our two countries. We know that such bases and personnel as we have in other countries require the consent of the governments concerned and that some of them have charged us very high prices for that consent. The 1903 Treaty with Panama is not an adequate substitute for such consent: it is not an arrangement which could be negotiated in this latter part of the 20th Century. I do not know whether President Theodore Roosevelt was accurately quoted in a remark about Panama: "We wanted it; we took it." But let us be under no illusion—an attempt to maintain our position in the Panama Canal Zone on the basis of the 1903 Treaty would be an act of force—as in Eastern Europe. We can choose that course if we are prepared to pay the heavy political, economic and military costs involved.

In concluding my comment on the status of the 1903 Treaty, let me add that I do not believe that we could afford to allow the validity of that Treaty to be tested in the International Court of Justice. I am glad that that Treaty has not been pursued in the General Assembly of the United Nations where I would suspect we would be almost alone in the voting. Some of our closest friends would leave us because of considerations of general policy. When the United Nations Security Council met in Panama in 1973 and had before it a resolution on Panama, hostile to United States interests, it was necessary for our representative to exercise a veto, with no Member of the Council voting with us. There were 13 "yes" votes, the U.K. abstained, and the United States cast the only negative vote. Close friends such as France, Australia, Austria and Kenya voted against us.

An alternative is to try to safeguard our interests in the Panama Canal by agreement between ourselves and Panama in a modern setting. There are very strong feelings among the peoples of our two countries, feelings which make it very difficult for governments to find agreement with which all can be satisfied. These feelings will be further acerbated during the present debate in both countries about the new treaties; already what is said in one country is being used to inflame feelings in the other country. Opponents of these treaties object to our making such agreements with a dictator. Having been involved with this problem before the present regime in Panama came to power, I would suggest that the more democratic the government in Panama, the more insistent they would be on a prompt and fundamental change in the arrangements regarding the Canal.

Our national interest lies in access to and the safety of the Panama Canal itself, not in a continuation of our special position in the Zone. I believe that our interest in the Canal includes a residual responsibility to the maritime nations of the world and to certain nations of our own hemisphere for whom the Canal is a life line. But surely we should attempt to satisfy these interests by agreement and should seek to engage the friendship and cooperation of the Panamanian government and people in the decades

ahead. We can give ourselves a chance to repair the injuries we have inflicted upon national pride and individual dignity and proceed in the future on the basis that we and the Panamanians need each other in these matters.

We must take into account, however, the possibility that events will not work out as we now hope. Under the new treaties, we shall have 23 years to test the ability of Panama and ourselves to proceed on the basis of agreement. The responsibilities which we would have until the year 2000 clearly make it possible for us to insure the operation and safety of the Canal. Beginning with the year 2000, questions regarding passage and safety of the Canal would be governed by the provisions of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal. Under Article IV of this Treaty, "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty." The joint responsibility of the United States and Panama for that "regime of neutrality" as spelled out in the Treaty gives us, in my judgment, all that we need to maintain our essential interests in the matter, namely, passage and the security of the Canal itself.

I am aware, Mr. Chairman, of the discussion which has occurred about whether Article IV of the Neutrality Treaty is understood in the same way by both ourselves and Panama and that discussions have been going on between Senators, the Executive Branch and Panama on that point. It would be inappropriate for me to inject myself into those discussions at this point. I might offer one observation, however, which may be relevant. I hope that we and Panama would not get tangled up with each other over the word "intervention". That is a word which has accumulated many barnacles over the years and carries with it memories which we ought to try to forget. What we are interested in is access to and the security of the Panama Canal. Measures to assure its passage and safety do not mean interference in the internal affairs of Panama.

In any event, I do not believe that we should approach such matters in terms of the worst case imaginable but rather through a genuine desire and expectation to work things out on an amicable basis. Providence has not given us the ability to pierce the fog of the future with accuracy and the year 2000 is a long way off. Perhaps we should not, today, try to answer every problem which might be posed to some future President and Congress. I must confess, however, that Article IV of the Neutrality Treaty played a major role in my own decision to support these two Treaties. If, God forbid, it should ever become necessary for a President and a Congress to take strong measures to keep the Canal functioning and safe, they would be in a far stronger position to do so under the Treaties of 1977 than under the anachronistic Treaty of 1903.

Thus, whether we are thinking of the principles upon which we hope to see a cooperative community of nations move into the future or are thinking about a hard headed approach to adverse contingencies which may lurk in the future, it seems to me to be to our advantage to give effect to these two new Treaties. The consequences of not doing so could be very severe. I see no point in inviting these consequences upon ourselves now when we have a good chance to avoid them altogether.

STATEMENT OF THE HONORABLE HENRY A. KISSINGER

Mr. Chairman, I am pleased to have the opportunity to express my views on the proposed treaties with Panama which are before you. Over a period of years I participated in the negotiations and have given much thought to the question of how we can best assure in the decades ahead our interest in the free, neutral, and efficient operation of the Panama Canal.

You have already heard from the Secretaries of State and Defense from Ambassadors Bunker and Linowitz, from the Joint Chiefs of Staff and other officials of the Administration. You have had an opportunity to assess the detailed provisions and background of the two new treaties and the Administration's reasons for urging that the Senate advise and consent to ratification. In supporting ratification I want to address not the detailed clauses of the agreement but some fundamental issues raised by the treaties.

Our nation's foreign policy must be based on a conception of enduring national goals and permanent responsibilities, not on the accidents of personality or change for the sake of novelty with the advent of each new Presidential Administration. The future well-being and security of this country can never be a partisan issue. They affect every American, and, given our central role, every human being concerned with the preservation and strengthening of the cause of freedom.

Our substantial stake in the Panama Canal is a case in point. The United States has a vital interest in the free, neutral, and efficient operation of the Canal. This interest cannot be compromised; we cannot foresee the day when it will be inconsequential.

Up to now this interest has been identified with the precise treaty relationship we established in 1903 under vastly different circumstances. But four successive Presidents and their Secretaries of State, representing both political parties, have been persuaded over a period of thirteen years that a new treaty relationship with Panama is more likely to serve the long-term security and foreign policy of the United States; above all that it would best assure what is the essence of our interest: the efficiency, neutrality, accessibility, and security of the Canal. All four Presidents come to the view that the Treaty of 1903 no longer adequately assures that interest. The present arrangements include provisions which are no longer essential and which could over time actually make protection of our vital interests more difficult by forcing us into actions increasingly in conflict with our traditional allies in the Western Hemisphere.

It is my conviction that the two treaties recently negotiated with Panama do indeed protect our long-term interest in the Canal more effectively and under conditions more in keeping with present-day realities than is possible under the 1903 Treaty

We must recognize that however we in the United States may view that Treaty, the rest of the world and especially the nations of the Western Hemisphere do not regard it as an equitable and freely negotiated agreement. It was reached in ambiguous circumstances and no Panamanian ever signed it. Some even question its legality. To insist on these arrangements would mean that over time we would be compelled to fall back on the use of force as the ultimate basis for our presence. This we should be prepared to do when our vital interests can be defended in no other way. But this is not the case here because the treaties give us a clear, and on balance a better, alternative.

Under the terms of the new Panama Canal Treaty, nothing of real significance to us in the existing arrangement for management and defense of the Canal will change during the remainder of this century. The United States will continue to control operation of the Canal; United States military forces will continue to provide for defense of the Canal from within Panamanian territory. At the same time, the new treaty arrangement establishes a cooperative working relationship with Panama which will enhance our ability to ensure the Canal's security and efficient operation, provide for an orderly transition, and increase Panama's stake in the long-term secure and neutral operation of the Canal.

After the year 2000, when management of the Canal passes to Panama, Article IV of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal will become controlling. The Neutrality Treaty not only establishes the legal obligation of both Panama and the United States to maintain a permanently neutral Canal, it also defines neutrality clearly in terms of concrete standards for the operation of the Canal which both parties are pledged to maintain. Article IV makes the United States a guarantor of that permanent neutrality. It thus gives the United States the continuing right, unilaterally if necessary, to defend the Canal and its operation against threats to the neutrality of the Canal—and thus, the ability to defend the Canal for the indefinite future. And this same regime of neutrality, and our right and responsibility to underwrite it, will apply as well to any other international waterway that might be built in Panama in the future.

Furthermore, under Article V of the Neutrality Treaty, Panama would relinquish the right to invite or accept foreign military forces or foreign military installations anywhere in the Republic. This would bar Panama from engaging in an alliance with any other power in a way which involved the presence of military personnel on its soil. By the same token, Panama's breach of that commitment would entitle and oblige the United States to take appropriate action to ensure the Canal's neutrality.

We would not, in short, have a general right of "intervention" in Panama's internal and domestic affairs. Nor would we want such a right. But we have under the new treaties the right and obligation to take such action as is required to ensure that the Canal remain permanently neutral—free of the threat of foreign military presence and forever open to the ocean-borne commerce of the world on a non-discriminatory basis.

The new treaties will establish a far stronger legal underpinning and political environment for the protection of our interests in the Canal while retaining all the essentials of assuring the Canal's security. Their ratification is thus an opportunity to advance fundamental American foreign policy interests. Their rejection, on the other hand, would be read by the nations of the Hemisphere as a demonstration that this nation stands on force as the final arbiter even when a constructive alternative is available. Such a course would be unnecessarily costly to many other of our interests, particularly to the solidarity and alliance of the Western Hemisphere nations that has been central to our foreign policy for generations. And I am convinced that we shall not again be given the opportunity to safeguard and advance our interests on terms as favorable as those which have just been negotiated. The moment when we are clearly strong enough to defend our rights in the Canal and while the Canal is free of immediate threat and menace provides the best opportunity to preempt a potential crisis and to secure the future of the Canal on mutually beneficial terms.

Let me turn now to some of the concerns and questions that have been raised with respect to the new treaties.

First, some have asked what would happen if Panama were to abrogate the treaties. There is no question that this is a possibility. But it must be viewed against the near-certainty that the 1903 Treaty will not be accepted any longer either by Panama or by the other nations of the Hemisphere. The question therefore is which arrangement puts us in the best legal, political, and military position to protect our rights and interests if we are forced to do so by the unilateral action of Panama. I believe that the new

treaties will significantly *reduce* the risks of abrogation, and will also create far better conditions in which we could defend our rights if abrogation should occur.

By establishing a relationship of shared responsibility and benefit, the new treaties make Panama a partner in a successful Canal enterprise. They increase Panama's stake in safeguarding the vital interests we wish to assure—a free, open, safe, and well-run Canal. The new arrangement accords with the reality that consent and cooperative endeavor are the only bases for secure operation of a canal which is located within Panamanian territory and even now is run by a predominantly Panamanian labor force. But if, despite everything, we have to act to defend the Canal, we would be in a far stronger position to do so in the name of a 1977 treaty freely negotiated and signed in the presence of the heads of government of most of the Western Hemisphere nations than in the name of an agreement concluded seventy five years ago and which every Latin American nation in every recent meeting of the Organization of American States has repeatedly urged us to replace.

One of the strongest arguments in favor of ratification is in fact its impact on cooperative Western Hemisphere relationships. Our decisions on these treaties will testify to them whether or not we are willing to resolve disputes with them on the basis of negotiation. This does not mean that ratification of the treaties will resolve all differences between us and our neighbors to the south. Our capacity for cooperation, understanding, and imagination will be tested in this Hemisphere long after the Panama issue is resolved and for as far into the future as one can see. There will be many who do not wish us well in the area even if we ratify the treaties. But failure to ratify will provide hostile forces with a permanent issue of incalculable value around which to rally and encourage a vast new tide of anti-American sentiment and make it politically impossible for our friends to rally to our side.

I find it significant that no Hemisphere leader, regardless of what his private feelings on this issue might be, feels able publicly to take any position other than that of strongest support for the modernization of the 1903 Treaty. This reflects the depth of public sentiment on the issue. No government and no public opinion in any of the countries of this Hemisphere would be willing to support us if we now refuse to modernize the Canal relationship. We would witness a gradual deterioration of our relationships even when some leaders might prefer to retain constructive ties. If the treaties are accepted, on the other hand, our many friends in the Hemisphere will be enabled to cooperate in the development of a constructive Western Hemisphere policy.

Another question which has been raised is whether the neutral status of the Canal would mean that hostile warships could transit the Canal and, in effect, benefit from U.S. protection. I can only comment that the United States has and must continue to have at its disposal other means to defend its vital security interests in any such situation. The United States must have the capacity to control the sea lanes; hence we must be able to prevent hostile ships from reaching the Canal. If we do not maintain that capability, we are in a perilous condition indeed and the provisions of a legal document will be precious little help.

I recognize the deep feeling of many Americans who wish, after the Vietnam tragedy, to see an end to yielding and retreat by the United States. No one can appreciate such concerns better than one who strove for an honorable outcome during the Vietnam period. But the Canal is not the issue to select to demonstrate that we remain strong and resolute. Panama is the smallest and weakest of nations. We are not "giving" the Canal to Panama; we are, rather, ensuring our ability to protect it. By taking constructive action now to revise our relationship with Panama in an atmosphere free of physical pressure, while we are still able objectively to assess the long-term risks and benefits, we will be demonstrating fundamental strength, not weakness. It is just this ability to distinguish between symbol and reality, to plan for future needs and to take timely action to advance our basic interests that is the essence of a strong and effective world policy.

Firmness in the defense of essential national interests is vital. But a nation assures its international position by understanding and defining clearly what its interests are and taking the precise appropriate and necessary action to safeguard those interests. Unreasoning adherence to the status quo has never been the mark of an effective and vigorous foreign policy.

We have demonstrated ourselves capable of meeting the challenge of the unprecedented on many occasions in the past. At the end of World War II, we embarked on a number of new initiatives—the Marshall Plan, the North Atlantic Treaty, Point Four, to cite a few—that constituted a dramatic change from the course we had followed in the past. We did so because we realized that the new circumstances of the post-war era required new responses—that we could not assure the security and prosperity of our nation by adhering to the isolationist policies of the past. To cling to outmoded approaches was to allow ourselves to be overwhelmed by future events.

And there are many more recent examples of constructive response to changing world conditions. The efforts to control the arms race, the opening of relations with China, our efforts to modernize the institutions of international economic cooperation are cases in point. In each case, we did not hesitate to modify old policies and arrangements when we felt that our national interest would only be preserved by doing so.

The new Panama Canal treaties should be viewed in the same light. They mark a step forward, an improvement over the present situation. They present you and the people of this country with an opportunity to modernize an outdated arrangement that has itself come to threaten the very interests it was designed to protect.

Beyond the immediate issue with which they deal, these treaties represent the most important and serious international undertaking formally submitted to the Congress by the Administration of President Carter. Thus you have a doubly grave responsibility: a rejection of the treaties would not only cause a crisis in our relations with the nations of the Western Hemisphere; it would in addition weaken the President's national authority at the beginning of his term. It would thus be a demonstration of national weakness, which would be taken by friend and enemy alike as evidence that we are systemically incapable of recognizing and pursuing our international objectives because of domestic division, doubt and conflict. This would be all the more so because we have every reason to consider that the new treaties in fact advance our interests and are seen as such throughout the world.

In supporting both the concept of a new treaty arrangement and the essential structure of what has been negotiated I do not mean to imply that the Senate's role in the ratification process should be that of a mere rubber stamp. On the contrary I believe that the Senate can and should make a constructive contribution clearing up ambiguities in the current texts and assuring the American people that our vital interests are indeed being safeguarded.

My support of the treaties is based on my reading of two key provisions—a reading which coincides with the Administration's interpretation:

First is our right to "maintain the regime of neutrality" under Article IV of the Neutrality Treaty, and

Second is the meaning of our right to "expeditious transit" under Article VI of the Neutrality Treaty.

With respect to our right to defend the Canal, I concur in the Administration's interpretation that we have the right and obligation to act, if necessary unilaterally, to defend the Canal's neutrality. It is unfortunate that the word "intervention" has been injected into the debate to characterize that right; this word conveys implications with respect to interference in the domestic affairs of Panama that we neither need nor claim, and which are provocative throughout Latin America. With respect to expeditious passage, I consider that it must mean "priority passage" in wartime and speediest possible passage at all times.

The fact remains that these interpretations have been drawn into question—partly by ambiguous statements of Panamanian officials understandably concerned with their own ratification process and subject to attacks, which are the mirror image of the opposition in this country, that they have yielded too much to the US. Ambiguity is, of course, the essence of diplomacy; it often permits each side to maintain its domestic position while safeguarding essential international interests. I have resorted to it in negotiations on several occasions.

I have never considered ambiguity of language acceptable, however, if it masked a true difference of interpretation. Whatever the words of an international instrument may say, it is vital in my experience that both sides share the same understanding of the intent of that instrument. In this particular case, ambiguity or lack of public understanding could sow the seeds of future crisis if in fact the parties are not of a single view as to the central provisions of the treaties.

I believe, therefore, that the Senate can play its constructive role by explicitly and formally endorsing the interpretation of Article IV that has been put forward by the President and the Secretary of State: that the new treaty confers upon the United States the right and obligation unilaterally to defend neutrality of access to the Canal, and to defend the Canal itself should that ever become necessary. I see no need at this juncture to renegotiate the treaties. Nor do I favor a Senate reservation which implies a split between the Congress and the Excutive on a matter which calls for national unity.

The Senate interpretation should be reduced to formal and explicit language with the Senate's advice that it be submitted by the Administration as an integral part of the instrument of ratification either by protocol or some other method which would ensure that it becomes the authoritative and mutually acceptable explanation. Another way of dealing with the interpretation would be an agreed minute between Panama and the United States which would then be endorsed by the Senate as part of the ratification process. Either course would ensure that there could be no question or ambiguity in the future.

The same procedures could be followed with respect to the meaning of "expeditious transit." Either the Senate or an agreed minute with Panama should state that in time of war United States naval ships and auxiliaries should be given priority passage and at all times the speediest passage possible. In either case the full Senate should approve the interpretations by a two-thirds majority.

I wish to express my strong hope that these steps be taken in harmony and cooperation with and not in repudiation of the Adminis-

tration. They are fully consistent with the Administration's interpretation. They reflect our necessities; they take nothing away from Panama's dignity. The ability of the two branches of government to work out a constructive solution to this problem is a great service they could render to America's position of continued leadership in the world. I can think of no event more reassuring to our friends and allies around the world than the positive resolution of this difficult debate in cooperation between the Congress and the President after all the divisions of the last ten years.

This is now the real issue of the Panama Canal treaties and their ultimate significance. I am confident that statesmanship on the part of all concerned will bring this debate to its proper, positive conclusion. For thirty years this country has borne a vital responsibility for international security, for the health of the world economy, and for the cause of human freedom. To fulfill this historic role we must be a united people; Congress and the President, Republicans and Democrats, must all have the sense that we are engaged in a shared enterprise. It is in this spirit that the Panama Canal treaties must be considered, and it is in this spirit that I respectfully urge their ratification.

STATEMENT BY ROBERT CHARLES SMITH

Mr. Chairman and members of the committee: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention, and to spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

With me this morning is our Chairman of The American Legion's Foreign Relations Commission, Dr. Robert P. Foster, who for the past 14 years has served as President of Northwest Missouri State University located in Maryville. Dr. Foster has visited Panama and, along with Commission members, has examined the Panama situation for quite some time. During this time, he has discussed the matter with treaty proponents and opponents, including both U.S. and Panamanian negotiators. He will be available for questions from the Committee following my statement.

Today, I have come to speak for our four million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . altogether we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post has been the same deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

What our Legion people do not understand is why is it necessary to have a new treaty. Have we, the people of the United States, been unfair, unjust or dishonorable with the Panamanians? I think not. We have lived up to our agreements of 1903, and subsequent revisions of that Treaty. No one has accused the U.S. Government with inefficiency. In fact, the contrary is true.

There are suggestions that the discovery of Alaskan oil by our space satellites in the early '60's brought about sudden realization by the oil industry that the U.S. Canal Zone, a U.S. Government reservation, was not the ideal type of property for the shipment of large tonnage of crude oil. Perhaps some type of commercial arrangement, even with a foreign country, was preferable for a booming international business.

Witnesses before this Committee from the U.S. Canal Zone told our staff that one major oil company is already building a large oil pipeline across the Republic of Panama. The tree line is cut and the pipes are being unloaded. One of the Canal pilots told us he was on board the S.S. Pennsylvania Sun and S.S. Cove Trader when bargaining was going on inside the U.S. Canal Zone between Panamanian customs officials and the ships officers. The Canal pilot, Capt. Leonard E. Bell, heard the full story and it sounded like tales from the Barbary Pirates of another century.

There are suggestions that a few large international bankers saw the possibility for placing large loans with Torrijos, either because Torrijos offered high interest rates, improved Panamanian management with lower labor costs, or some of the profits from the crude oil flowing from the north slope. In any case, the bankers must have seen the possibility of profits. We know that numerous U.S. and international banks have loaned billions to the Torrijos government and to Panamanian addresses.

There have been suggestions that Communist subversion started in the mid-50s from Prague inciting people to oppose U.S. ownership in the Canal Zone. This may have had a profound effect. The Washington Evening Star ran a story from Bonn, Germany on September 13, 1956 that "international communism has opened an agitation campaign in Latin America against U.S. control of the Canal Zone." Of one thing we can be sure. It was not U.S. national security interests that abet these new treaties.

There are political considerations and military considerations to this treaty. There are economic and environmental problems of considerable magnitude for the United States, the Western Hemisphere and the entire world.

From a political standpoint, I think our firm consideration must be the beliefs and convictions of the people of the United States. Within the last two years, we have seen numerous polls to determine the attitude of U.S. citizens. Those polls have shown that from 50–90% Americans oppose the proposed Treaties which were signed on September 7, 1977 by President Carter and Gen. Omar Torrijos.

We in The American Legion believe under our system of government that the will of the people is very important. The knowledge, the will and the dedication of our people provide the amperage to our national life.

At the Legion National Convention in Denver, we heard the pros and cons of the proposed Treaty. We heard from Ambassador Sol Linowitz as pro-Treaty, and we heard anti-Treaty viewpoints from expert witnesses, including those of Senator Hatch. In our American Legion Magazine, we invited Panama's Foreign Minister Gonzalez Revilla's pro-Treaty and Congressman Daniel Flood's anti-Treaty to give their positions. When it came time to vote on our Foreign Policy resolution at the Convention, we deliberately set the Panama Resolution, No. 445, aside so we coud offer each Department from each State the opportunity to vote. The pressure to vote was so strong from the thousands of convention delegates that we could not take a roll call vote by state. Support of The American Legion's Resolution 445 which opposes the Treaty was unanimous. The silence of pro-treaty support seemed even more persuasive than did the unanimous. The silence of pro-treaty support even more persuasive than did the unanimous vote against the Treaty. (A copy of this resolution is attached for your perusal.) perusal.)

I will now discuss the reservations and objections which we have to this proposed Treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed Treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can transverse the Canal, making the Canal even more important in a military sense in the years ahead.

Hanson Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945 the Navy must have a quick transfer capability between the Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak, USMC (Ret.), writing in the summer 1975 issue of Strategic Review, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bone, one-ocean Navy.'

"During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total, approximately 33 percent were loaded in East and Gulf Coast ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the letter of four distinguished Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the give away of the Zone and the Canal.

As you are aware, Admiral Moorer forcefully reaffirmed his views to this Committee earlier this week and clearly stated the indispensable strategic importance of the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired agree on that point.

From an economic perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45 percent originated in the United States and 23 percent were bound for the United States. No other nation even approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96 percent of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pineline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

From an over-all economic perspective, should the tolls go up another 25–30% as projected by Ambassador Sol Linowitz, and the tolls since 1973, have already gone up about 50%, many of our exports will be priced out of the world market. The grain producers and dealers, for example, frequently depend on a fraction of 1% as their profit margin.

You may have read in the Journal of Commerce, September 20, 1977, where the New Orleans Port Director, Mr. Edward S. Reed stated: "Since grain exports are the United States' best source of balance of payments loans, I think it is incumbent upon the Federal Government to closely scrutinize the possible effects of canal toll increases on the farm commodities exported from the United States." Mr. Reed's comments would pertain to all farmers, farm commodities, shippers and port facilities involved in our U.S. agricultural exports.

In the same Journal of Commerce article, the President of Lykes Brothers Steamship Company, Mr. W. J. Amoss, Jr., expressed his opposition to the Treaty because of its adverse impact on Canal users. Mr. Amoss, who had previously supported the Treaty, said the proposed Treaty spelled sheer disaster for operators east of the Canal and going westbound through the canal.

I stress the economic impact that United States commercial interests will suffer because this starts the day the Treaty is ratified, Ambassador Linowitz has stated the tolls will immediately go up 25 to 30 percent. And just what are the economic facts for such port and shipping centers as Boston, New York, Baltimore, Hampton Roads, Charleston, Mobile, Houston and New Orleans?

I mentioned New Orleans last because Louisiana is my home state. People living along the bayou are genuinely concerned about the ramifications of this proposed Treaty on our trade, jobs and general economic conditions.

I do not wish to overstate the dangers we foresee for Louisiana and the Gulf States but 38% of all water-borne commerce, over $30.0 billion in world trade, move from the Gulf ports. Over one-half of all the grain exported from the United States moves from the Gulf ports and about one-third of these grains pass through the Panama Canal. The Port of New Orleans is the nation's number one importer of iron and steel products. Eighty-seven percent of these products arrive via the Panama Canal.

We could spotlight other ports and jobs threatened by toll increases. Hampton Roads for example is the world's largest coal port. Over half of the 32 million tons of coal leaving Hampton Roads goes through the Panama Canal. It is my understanding that over 300,000 jobs in Virginia are either directly or indirectly affected by the Hampton Roads port complex.

I noticed in a letter to the Editor of the Washington Post on 7 October 1977 that the Port of Baltimore has a vital interest in the Panama Canal. Seventeen percent of all Baltimore's foreign commerce utilizes the Canal. The letter also stated that Maryland's State Senate and House of Delegates had by unanimous vote supported Resolution 34 calling for the United States to retain sovereignty over the U.S. Canal Zone and the Canal.

Moreover, at the present time, the United States has an over-all investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $50.0 million per year, plus about $350.0 million in economic and military aid to have the Torrijos group take over the territory and property.

In short, all these elements of economic benefits which I have mentioned in structures, payments and loans for development will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama would receive under the current Treaty during that same period, which would be the ridiculous amount of $52 million.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50% of the capital investment in Panama; and U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy" in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos government which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no recognized party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore, the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As we are all aware, the Panamanian constitution requires a plebscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39% of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America as well as a series of other multi-million-dollar-trade and construction projects with Panama.

Whether it was a Treaty of intent or a pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America."

Of deepest concern is Torrijos' close ties with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Several weeks ago, the New York Times reported that 4000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the Sea Wolf, which was operating inside Canal Zone waters and burning and desecrating the United States flag.

Our Ambassador, whose official car was shamelessly destroyed several days ago, has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behavior will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the

United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50-miles long and 10-miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one has it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following the formal signing acknowledged United States sovereignty and I quote: "What nourished the hopes of Panamanians for *the recapture of their sovereignty* was the feeling that the North American people fundamentally harbored no colonial aspirations," (emphasis added).

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to the layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to our analysis of the Treaty, should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be an usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canala Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23 year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservation and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Even more confusing is the interpretation placed on the word "expeditiously," by the Chief Panamanian negotiator, who said that the United States would not be given "preferential rights."

In Louisiana we regard a contract as no better or no worse than the intent and interpretation of the contracting parties. Treaties are actually a form of international contracts where nations agree to abide by the terms specified. As this Committee knows, we are getting a wide variety of interpretations on such matters as the right of intervention, the right of priority passage for U.S. warships. Escobar Betancourt has recently told Panamanian audiences that the United States wanted but did not get "priority or privileged passage." This information was later authenticated in a "confidential" cable released by Senator Dole which quotes Lopez Guevara that Article IV on neutrality urges U.S. officials to stop using the word intervention. Intervention is prohibited by international law.

It would be unwise at best to even further consider ratification of any treaties in any form until the serious differences in U.S. and Panamanian interpretations are closely and unquestionably resolved.

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977 . . . a bad day for the United States.

United States military and national security losses alone are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the U.S. taxpayer is in the billions. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The Treaty signing festivities on September 7 were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people . . . with people like our members.

I will close with one qeustion: if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the Senate must know what the people are thinking. You know the Legion Posts and grass roots opinion runs about 80% against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

PANAMA CANAL

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by the American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to bypass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

STATEMENT OF AMVETS NATIONAL COMMANDER FRANK D. RUGGIERO

Mr. Chairman and Honorable Members of the Committee:

AMVETS is grateful for this opportunity to present the views of our organization on such a vital issue as the much publicized and highly controversial Panama Canal Treaties. It is our opinion that few matters in recent history have held the importance or portentousness of this fateful issue.

In concert with our great brother organizations, AMVETS speaks to this matter in the sense that we, the veterans of our Nation's wars, are of a right and necessity deeply concerned with the future of the U.S. defense posture in general and in the Western Hemisphere specifically. As do other concerned Americans, we address ourselves also to those issues which affect international and hemispheric commerce and embrace our national economy. Therefore, the issues involved here are directly germane to our concerns and activities, for what segment of our society has more right to oppose that which we believe threatens the United States' defense and economic position on the "American land mass."

The Administration and some Members of Congress have challenged the term "sovereignty" as that term pertains to the Hay-Bunau Varilla Treaty of 1903. They claim that the United States was never granted sovereignty over the Canal Zone in the legal sense. We do not argue that point. The dictionary definition of the term "sovereignty" is of little importance in this issue as we see it. The fact remains that any reduction in American military forces on the Isthmus of Panama and the loss of United States control over the Canal Zone could be disastrous. The U.S. defense posture, south of the Rio Grande would be virtually non-existent. The Canal, regardless of its inability at present, to accommodate the super-carriers and supercargo vessels remains as the single most important water-way on the western half of the globe. The Isthmus itself, the Canal notwithstanding, serves as the roadway between all of the Americas and is, in our opinion, the "crossroads" of the hemisphere. This demands American presence and control to ensure that Communistic or otherwise adverse influences will not "choke off" North America from South America. The President's concern over "human rights" can best be served by maintaining our strong position in Panama and preventing the influence of Castro Cuba and other elements from establishing a toe-hold.

Furthermore, we are not convinced that the people of Panama, and we refer to the common people, not the pseudo-intellectuals, are desirous of having the United States pull out of the Canal Zone. Indeed, we have reason to believe that is the last thing they want to see happen. In this regard, we quote from an article which appeared in the Chicago Tribune of March 25th by Mr. Ronald Yates:

"Incredibly, and in spite of an almost daily diet of government inspired anti-American rhetoric in the Panamanian press, the poor and the unemployed of this Nation of 1.7 million say they are not ready to run Americans out of Panama but rather are prepared to fight to keep the Canal in United States hands." And Mr. Yates found this to be a typical remark of a Panamanian-on-the-street: "'You see, the only people in Panama who have ever given the United States trouble are Communists, rich university students, and parasitic intellectuals who live off the blood and sweat of people like us,' he continued. 'We have nothing against America or the Canal Zone because we know as long as America has control of the Canal, there will be jobs for Panamanians. But as soon as you (America) give it back to Panama, it's going to go all to hell and nobody will have jobs.'"

We fully appreciate that the passage of seven decades would necessitate adjustments in monetary considerations commensurate with today's values. We do not oppose any reasonable arrangements in this connection. Our sole opposition is to any Treaty which would dilute or compromise U.S. control of the Canal Zone now, or in the future.

General Torrijos was reported to have said "in the event that peaceful negotiations for a phasing-out of United States control were closed, a campaign of violence against the 15,000 Americans in the Zone would be inevitable." "Two options would be open to me," he continued. "To smash it or to lead it—and I am not going to smash it." If we give in to this "threat," how could we guard against "sabotage" by subversive elements of Panamanian military forces? This prompts other questions:

1. If we (the United States) grant the desired concessions to Panama, what guarantee will we have that Panama will live up to its end of the bargain?

History should have taught us that treaties with dictator forms of government are not worth the paper they are written on. One has but to remember the "Munich Pact" between Nazi Germany and England, inter alia to realize the value of such agreements. We are informed that, notwithstanding the Torrijos' Government, every Government of Panama since the creation of the Republic in 1903 has expressed the desire for a new treaty. It occurs to us that to turn over the control of a facility such as the Canal, which requires great financial sustenance and technological expertise, to a nation whose governmental foundations are so weak as to allow dictators to take over, would be a great disservice to all nations whose commerce rely to a large degree on the Panama Canal.

2. If Communistic influences prevail, such as those we suspect exist currently in the Caribbean area, how will we defend the Canal Zone should Panama succumb to these influences?

The interpretation by American proponents of the Treaties is that the United States will be entitled to intervene to protect the Canal and that United States warships will be entitled to expeditious or privileged passage through the Canal. This has been their strong argument in favor of the Treaties. Yet, on August 24th of this year, Panama's chief treaty negotiator, Dr. Bethancourt, stated at a press conference that "the pact does not establish that the United States has the right to intervene in Panama, nor does it provide the United States with the right to determine when (that) neutrality is violated."

The right to expeditious or preferential passage is also a matter of interpretation. According to Dr. Bethancourt, the Panamanian interpretation differs from the American dramatically when he said "if the gringos with their warships say 'I want to go first,' that is their problem. We cannot go that far." In view of these statements it would seem that closer examination is in order.

A strong stand must be made if we are ever to regain the "image" we once projected abroad. Some would say that by granting the Panamanian demands the United States would gain the respect of the "Third World nations." We think not. We believe that the opposite reaction would take place and that we would be looked upon as a "pushover." Respect is given to the strong, the assertive, the fair. Again, we do not oppose a fair financial arrangement, but not in the form of tribute.

We are asked if we were in the position to make the decision: "Would we be willing to go to war in order to retain United States control of the Canal Zone?" We ask, in turn: war with whom? Are we to believe that Panama by herself or all of the Latin American nations collectively would wage war against the United States over this or any other issue? Or, do we believe that the Third World and/or Communist nations, including Red China and the Soviet Union, would join forces in such an adventure? We believe the possibilities of such an occurrence are too remote to merit consideration.

It has been further suggested that should the Treaties not be ratified, the veterans' organizations and other anti-Treaty groups would share collectively the blame for whatever "reprisals" are taken against American personnel in the Canal Zone. That, in effect, "their blood would be on our hands."

It is, and would be, the responsibility and solemn obligation of the Commander-in-Chief of the U.S. Army, Navy and Air Force to take whatever measures necessary, including armed force, to ensure the defense of the Canal Zone and the safety of its inhabitants.

In conclusion, Mr. Chairman and Members of the Committee, we offer no alternatives to the current status of the United States on the Isthmus of Panama except in the area of more financial equity, and, indeed, recognize no need to enter into any further negotiations with the Republic of Panama which would attempt to eliminate or phase-out United States control of the Canal Zone.

Again, and finally, Mr. Chairman, we thank the Committee for this opportunity and will attempt to answer any questions the Members may wish to ask at this time or we will be happy to respond in writing, for the record.

STATEMENT OF MAJ. GEN. J. MILNOR ROBERTS

Mr. Chairman and Members of the Committee: I wish to thank you for the opportunity to testify before your committee and in such distinguished company. The Reserve Officers Association is a professional association of officers of all the armed services, regular and reserve, but primarily consisting of citizens who dedicate extra time and effort to the national defense over a full time civilian career in your local communities. Twice in the last four years, these reservists have expressed their opposition to any arrangement which would result in diluted control, operation, and defense of the Panama Canal and Canal Zone. We believe that this particular treaty that is before you today is appeasement in phases which can only whet the appetites of those who would disrupt the peace and freedom of the nations of the Caribbean and Central and South America, as well as disrupt the defense of the United States.

We recognize that the Panamanians are less than happy with the 1903 Treaty. It is not hard to see why. The Panama Canal cuts through their country like an interstate highway through your home town. It is a highly visible barrier and while it is a major source of the Panamanian national income it is not like Arabian oil or a Chinese port. We built it and we paid for it three times. We paid off the French Company, the Panamians and the Colombians. It is ours in any real sense of the word, and the Panamanians have profited greatly from our management of the Canal.

The question is therefore one of giving it up or sharing it. The proponents of the treaty ask, why keep the Canal? And say that

there is no good reason to keep it. We would rather ask, why should we give it up? And we say, there is no good reason to give it up.

We have been told, in essence, that the Canal is not vital to our economy or our national defense, and that we cannot defend the Canal against a presumed Panamanian Viet Cong. The evidence used to substantiate these allegations is presented in a manner which classically illustrates the old propaganda trick called "card stacking'. Much of the evidence is misleading, flimsy, even irrelevant. For example, for what earthly reason would a submarine officer desire to submerge his submarine while in the Canal? All warships are vulnerable while in the Canal and always have been.

In a more serious vein, it is alleged that we have a two ocean navy and therefore we do not need the Canal. It is also pointed out that very few naval ships have used the Canal in recent years and several ships such as the super carriers and super tankers are too large to use the Canal.

In response to this seductive but spurious argument, we point out that we have had a "two ocean Navy" since the Canal was built, a Navy which is dependent on the Canal for wartime logistical support. Heavy bulk cargoes such as ammunition, fuel, food, and vehicles are used in prodigious amounts in a combat zone. Ninety-six percent of the tonnage that went to Vietnam went by ship, over seventy percent of which went through the Panama Canal. A peacetime force uses less than one-tenth of the wartime tonnage requirements, much of which is procured locally, hence the smaller number of ships.

We also point out that there have been serious discussions of making the Navy a "one-ocean Navy" because of the high cost of ships which also would be of smaller size.

The risks and costs of a 6,000-mile detour around South America in the event of the denial of the Canal to U.S. shipping would be devastating to overseas military combat operations, particularly in the Pacific. First, the increase in mileage would cut the amount of tonnage received in a combat zone by half or require a doubling of the size of the cargo fleet. Secondly, the detour itself would increase the vulnerability of the shipping lanes to submarines, commerce raiders, land based aircraft, and missile armed fast patrol boats. This in turn would require more naval assets to be spent on sea control missions in lieu of missions related to the strategic projection of national power.

The fact that many of the super tankers and super carriers cannot use the Canal is more a liability of the ship than of the Canal. We would also point out that a super tanker of 100,000 tons is both a lucrative and vulnerable target for military action.

In addition to the naval and shipping aspects of the Panama Canal, the Canal Zone also features the only major U.S. airbases for ready access to Central and South America. These facilities are significant not only for the defense of the canal, but for the defense needs of the Southern Hemisphere. We may have need for the Panama Zone air facilities that are related to problems in areas outside Panama. At the same time, we may lose the fields themselves or have restrictions on their use resulting from renegotiations of our military presence in the former Zone such as has happened in Italy, Libya, and Spain.

On the economic side, we find it hard to believe that the Canal is not vital to the national economy at the very time that Alaskan oil is being shipped to a fuel hungry Northeast. We should also note that as much as three quarters of the shipping of some of the Central and South American nations goes through the Canal.

We believe that there can be no doubt that the Canal is vital to both our national economy and particularly our national defense. The administration has used the Joint Chiefs of Staff to present evidence of the Canal's non-essentiality and indefensibility. What you hear from the Joint Chiefs is what the administration wants you to hear and should be viewed as evidence of the discipline and obedience of the Joint Chiefs to their civilian bosses.

The Joint Chiefs tell us that it will take 100,000 U.S. troops, the equivalent of an Army Corps with supporting Naval and Air Forces, to defend the Camal against a determined guerrilla threat. The annual operating costs of an Army combat division in a Vietnam style war is approximately one billion dollars; therefore the costs of defending the Canal, according to the JCS estimate, is approximately two or three billion dollars a year.

We must also examine the nature of the internal threat to the Canal. By internal we mean, from Panama by largely Panamanian forces. It must be conceded that many of the key ingredients of another Vietnam are there. The high school students form a vocal, articulate, and influential nucleus with widespread popular support. There are outside groups who would be more than happy to fund, train, and equip Panamanian guerrilla forces. There is a visible symbol of what some consider "colonialism," the Canal itself.

One major ingredient is missing, however. It clearly is not in the Panamanian national interest to destroy the Canal. Forty percent of the national income comes from the Canal. Destruction of the Canal would be an unparalleled disaster to the Panamanian economy outrivaling crop failure, drought, or a drop in the price of bananas.

A more likely threat to the Canal by Panamanians is a threat of selective interdiction or blockade of American shipping by a threat to the ships in the Canal. This threat can be accomplished by relatively conventional landbased forces using short range combat weapons including tanks, anti-tank systems, light artillery, and small arms. The size and shape of the Zone as a buffer around the Canal prevents this type of action short of actual invasion of the Zone itself.

Selective interdiction may also be accomplished by guerrilla forces equipped with anti-tank weapons and special demolitions. This military capability will exist regardless of who runs the Canal and must be regarded as a constant threat to guard against. We must take into consideration the fact that as long as Old Glory flies over the Canal in any capaicty, there will be those in and out of Panama who will desire to use the threat of closing the Canal to achieve political leverage over the U.S.

It is against this latter threat that the friendliness of Panama is extremely important. On the other hand, placing Panamanian military forces in close proximity to the Canal interdiction by unfriendly Panamanian interest. World public opinion might cause us to hesitate to move against Panamanian troops blockading the Canal if those troops were there by treaty right.

The Canal Zone, as a military buffer area, is affected the most by the treaty. If the Zone is abolished, most of the military installations and Canal facilities under the control of the U.S. or the U.S. Canal Corporation until the year 2000 will be left in an exposed position. We note that the Canal Zone is unique in the sense that not only is it U.S. territory, an agency of the U.S. Government holds the title to the land. This is clearly illustrated by the fact that no one may own his own home in the Zone. All those who live in the Zone live in government owned housing and are either Panama Canal Company employees or U.S. military personnel and their dependents.

Much has been said about the Americans who live in the Zone. Proponents of the treaty say that these citizens have caused considerable unrest by their so-called colonial privileges of low cost stores, housing, etc. It is ironic to note that the status of those who live and work in the Zone will not change substantially in this regard as they will be covered in a Status of Forces Agreement (SOFA) like American military and civilian government employees are in places all over the world.

We are also concerned over the financial arrangements of the treaty. We note that some $50–70 million will be paid to Panama from the proceeds from the Canal. This increase is allegedly to come from an increase to tolls of thirty cents a ton. With ships weighing many thousands of Canal tons, the increase in tolls is expected to be substantial. An upper limit on Canal tolls is placed in the fact that the tolls must be less than the cost of a trip around the Horn. Since the Canal runs at a $7 million deficit, we ask whether the American taxpayer is going to pay directly into the coffers of the Panama Canal Commission that replaces the Panama Canal Company? If such is to be the case, we have a case of a direct payment to Panama using the treasury of the Panama Canal Commission as a laundry or conduit.

We should also examine the inflationary impact of increased Canal tolls on our own economy, which needs no inflationary pressures, and those of our neighbors to the South who need inflation even less.

Absolute neutrality of the Canal, as envisioned by the Treaties, is not in the best interests of the United States nor of the nations of the Western Hemisphere. Economically, the Panama Canal's customers are substantially different from those of the Suez Canal, being fewer and mostly American, North and South. Three quarters of the traffic in the Canal is related to U.S. trade, representing 16.8% of U.S. waterborne commerce. While the tonnage may be less for Latin American trade, the percentages are higher; Panama Canal traffic as a percentage of national waterborne commerce is 76.8% for Nicaragua, 41.3% for Peru, 34.3% for Chile, and 32.5% for Columbia. Clearly, Western Hemisphere interests should dominate control of the Canal.

Traditionally, the U.S., through the Monroe Doctine, has over-watched and protected the Western Hemisphere from outside influence; this treaty opens the door for substantial outside influence. In this light it should be remembered that the U.S. had the right to "restore order" to the Isthmus of Panama long before the Canal was a gleam in DeLessups eye.

The ambiguities of key concepts of this treaty, recently highlighted by Senator Dole, remind us of the old adage, "good fences make good neighbors." When territory is being divided between two nations for defense purposes, ownership of a few yards of ground may be of great significance and substantial argument, as was illustrated in the negotiations in the Korean War at Panmunjon and in Palestine in the late forties and early fifties. We may be creating a can of worms, not a concrete treaty of lasting value.

Given a real or implied Panamanian threat of violence to the present Canal, the question of a sea level canal or third lock in Panama is not relevant to argument favoring adoption of the treaty, as any new canal construction in Panama is subject to the same threat. On the other hand, a sea level canal on route 8 in Nicaragua and Costa Rica or on route 25 in Colombia might prove to be cheaper than defending the present canal or taking it back from unfriendly hands.

Finally, we recognize that the Panamanian people want a new arrangement. We can understand and sympathize with the desire of the Panamanian people to go from one part of their country to another without going through foreign customs or without harassment from our police. Unfortunately, we have not heard enough from the Panamanian people as to what are their specific complaints against us so that the American people and this Senate can judge the merits of the treaty, or devise one more amenable to both peoples.

In summary, we find no good reason to give up the Canal and its Zone, and the protreaty arguments are unsound, fallacious or frivolous. Finally, we wish to point out that this treaty appears to be a form of appeasement in phases to a conjured threat of a Panamanian Viet Cong; a threat which is more spectre than substance. We know, and the world knows, that appeasement, even the appearance of appeasement is too tempting a morsel to the hungry hounds of war. It is also particularly humiliating to the American public to appease anyone so soon after our misfortunes in Vietnam and Angola.

We caution the Senate to examine carefully the exact wording of this treaty and all the multiple annexes and side agreements and the nuances of the words used therein that describe our rights to keep the Canal open, accessible, efficient, and under our control.

BIOGRAPHICAL SKETCH

Major General J. Milnor Roberts, USAR, became Executive Director of the Reserve Officers Association 1 October 1975. He had served as Chief U.S. Army Reserve from 1 June 1971 until 2 June 1975, after nomination by the President and confirmation, on 5 April 1971, by the United States Senate. Previously he was Deputy Chief Army Reserve and was the first general officer to hold that post.

General Roberts was commissioned a Second Lieutenant, Infantry, from ROTC at Lehigh University, Bethlehem, Pa., in May 1940. He entered on active duty in January 1942 and served as an instructor at the Ft. Benning Infantry School and at an Infantry Replacement Training Center. Following assignment as Commanding Officer, Company "E", 88th Glider Infantry, he participated in the landing at Omaha Beach 6 June 1944 as Aide-de-Camp to LTG Leonard T. Gerow, CG, V Corps. Subsequently, he was Assistant Military Government Officer; Executive Officer, Military Government Section; and Assistant Intelligent Officer for V Corps.

After his release from active duty in December 1945, he served with the US Army Reserve's 314th Infantry Regiment first as Intelligence Officer, then Operations Officer, Executive Officer, and Commanding Officer of the 1st Battle Group. He subsequently commanded the Combat Command Section, 79th Command Headquarters (Divisional) following which he was named Mobilization designee to the Office, Chief of Information, Department of the Army. In December 1967 he was appointed first commander of the 99th Army Reserve Command headquartered in Pittsburgh. He was promoted to Brigadier General in May 1968.

General Roberts has been awarded the Distinguished Service Medal; Legion of Merit; Bronze Star Medal; French Croix de Guerre with Silver Star; the Czechoslovakian Military Cross of 1939; the Bronze Arrowhead for participation in the "D Day" Normandy Invasion; and other U.S. and foreign awards.

A member of ROA since 1946, he has served as an officer of his local chapter and on several national committees. He is Past Commander, Pittsburgh Chapter, Military Order of the World Wars; Past President, Fort Pitt Chapter, Association of the US Army; Past President, Pittsburgh Sigma Chi Alumni Chapter; Past Director, National Advertising Agency Network, and is Vice-President-at-large, Society of American Military Engineers.

General Roberts is a member of the Sons of the American Revolution and a direct descendant of one of General George Washington's commanders at Valley Forge, Colonel George Gibson, who lost his life later during the campaign for the Northwest Territories in 1791.

STATEMENT OF COL. PHELPS JONES, U.S. ARMY, RETIRED

Mr. Chairman and Members of this Distinguished Committee: My name is Phelps Jones and I serve the more than 1.8 million members of the Veterans of Foreign Wars of the United States as their Director of National Security and Foreign Affairs.

I am pleased and honored to have been invited to appear before this distinguished body to share with you the position of the V.F.W. on the proposed treaties affecting the interoceanic canal and its framework, the U.S. Canal on the Isthmus of Panama. Our National Commander-in-Chief, Dr. John Wasylik, of Sandusky, Ohio, has asked me to convey to you his appreciation for this opportunity.

Last month, Dr. Wasylik presented the V.F.W. position to the Committee on International Relations of the U.S. House of Representatives. This September 16th statement covers, in detail, V.F.W. rationale for opposing both the assumptions undergirding the U.S. negotiating position and the treaties which emerged from the negotiations.

To avoid pointless repetition, I request that the Chairman include our National Commander's earlier statement as a part of the record cf these proceedings.

This earlier statement includes the unanimously passed Resolution Number 402, the heart of which reads:

"Be It Resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

"(a) U.S. operation, control and defense of the Canal are non-negotiable;

"(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

"(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

"(d) the foregoing position be again communicated to both the President (who in October, 1976 asserted that he would 'never give up complete or practical control' of the Canal) and the Congress;

"(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

"(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress."

If anything, since this resolution was passed on August 23rd, both additional reflection and events have fortified our resolve.

The September 7th White House signing extravaganza was unmistakably designed to be a "media event" which would overwhelm any serious consideration of the proposed treaties on their merits—or lack thereof. In candor, my organization was affronted by this stagey event and the inherent premise that U.S. national interest on this issue could best be discerned and advanced by polling foreign nations.

The trumpeted U.S. right to act militarily to preserve the Canal's neutrality, under Article IV of the Neutrality Treaty, has been directly disavowed by two Panamanians most directly involved: negotiators Carlos Lopez Guevara and Romulo Escobar Bethancourt. Mr. Bethancourt assured the rubber stamp Panamanian National Assembly on August 19th that, not only was U.S. military intervention not permitted under Article IV, but also the Canal could be closed by Panama if: (a) no profits accrued; (b) internal disorders erupted; or, (c) there was a landslide. A few days later, Mr. Bethancourt offered some observations on the "expeditious" passage reportedly assured U.S. warships:

"Expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage was rejected . . . if after examining the provision, the Gringos with their warships say, 'I want to go through first,' then that is their problem with the other ships waiting there. We cannot go that far."

Mr. Chairman, we have long heard that the proposed treaties are the product of thirteen years of painstaking negotiations fully supported by four Presidents. Yet today we witness American negotiators unable properly to explain with any conviction what it is that Panama agreed to in the very elastic language of Article IV of the Neutrality Treaty. As we well know, Panamanians, with alacrity and acerbity, repeatedly tell us what they did not agree to.

I find it impossible to believe that four Presidents, their Secretaries of State, and the current Joint Chiefs of Staff could now find solid reasons to support the tragic/comic opera bouffe being played out to ascertain what it is, in fact, that thirteen years of "painstaking" negotiations have really meant.

Certainily, Mr. Linowitz missed the mark badly when he informed this body on September 29th that "in no way does (the proposed treaty) limit our ability to act," and "U.S. warships can go to the head of the line even if other ships are waiting to get in." Mr. Linowitz convinced only Mr. Linowitz on these points. His Panamanian colleagues were clearly unmoved.

We have all noted that the Joint Chiefs of Staff have been assigned a key role in "educating" the presumably backward American public on the proposed treaties.

As a retired career soldier whose service included duty on the Joint Staff and in the office of the Chairman, JCS, I have an abiding appreciation of our senior military people as officers of honor and perception. They are among the most convinced Constitutionalists in our country. I do not, and will not, question their sincerity and conviction on this matter. I do, however, point out that the aggressive use of the service chiefs by the Administration makes shabby use of the JCS in what is obviously an intense domestic debate with important political overtones.

Over the 30 years since 1947, when the JCS System was formally set up, my research shows me only three occasions—one per decade—when the JCS was invoked by various Administrations in an effort to pre-empt prolonged political consideration of a national policy issue: (a) in 1951 when General Bradley supported President Truman's desire not to expand the Korean War as called for by General MacArthur; (b) the 1963 support of the JCS for the limited test ban Treaty; and, (c) the current use.

One final point on this matter of the Administration and the JCS. If the Administration truly believes the Chiefs collectively represent an unassailable source of policy wisdom on the matter of the proposed treaties the question can be fairly put: why limit the public role of the JCS to the matter of the Treaties only? The decision on the B-1 Bomber, the proposed withdrawal from Korea and a host of other defense issues could have the "wraps" removed and the JCS urged to come forward and tell-it-like-it-is. My concern is that such transparent use of the senior military will, rightly or not, decrease their credibility on some future occasion when the Chiefs, on their own, feel compelled to stand up and be counted on some issue central to our survival.

Mr. Chairman, some concluding thoughts.

As this Committee was supremely unimpressed by the argument that five American Presidents sought an outcome in Vietnam different from that which happened, I urge you to apply the same level of skepticism to

the current "four Presidents have favored" argument advanced by the Administration.

As to the possibility of violence absent treaty ratification, the recent burning of Ambassador Jordan's automobile in Panama suggests that some level of violence will arise from some quarter no matter what happens. The U.S.—most certainly to include the V.F.W.—is threatening no one. We are being threatened periodically by a Panamanian regime which alternately forecasts violence or states their abhorence of the violence they have earlier forecast. A nice trick.

I have attempted to think through formulae short of uninterrupted U.S. sovereignty which would assure the President the "practical control" he stated a year ago he never would cede. It doesn't work. So-called U.S. "Pre-eminence" or "practical control" short of uninterrupted U.S. sovereignty, equals being on the Isthmus on Panamanian sufference which could be withdrawn over night. When we cede sovereignty, as the proposed Treaties would have us do, we are placed on a slippery slope without a solid case under the law should Panama, for whatever reason, elect to nationalize the Canal operation. There is no way to get from the cession of "sovereignty" to "practical control." As Hanson Baldwin has pointed out, to talk as if we can is "double-talk."

One aspect of this issue has escaped notice to this point.

This body is deeply aware of the high, and increasing, level of inter-dependence between and among the nations of the world. Often this undeniable fact of growing interdependence is cited as a compelling reason for a muted American response to some event outside our borders. What has, I believe, never been emphasized is that the responsible professional 63-year American custodianship of the Canal, for the benefit of the entire world maritime community, is a practical example of the inter-dependence among nations being understood, accepted, and efficiently served.

Finally, after words and perceived symbols fade, geography endures. Along with Gibraltar (British since 1713, not just since 1903), Suez, and the Straits of Malacca, the U.S. Canal and its protective framework, the Zone on the Isthmus of Panama, will be important to the commerce of many nations and vital to hemispheric and Free World safety for as far ahead as any of us can see.

It is the considered judgment of the Veterans of Foreign Wars of the United States that uninterrupted U.S. sovereignty over the Canal and the Canal Zone is in the supreme national interest and we urge the United States Senate, as an act of enlightened and unapologetic statesmanship, to return the proposed Treaties to the President with your advice, but without your consent.

I will try to answer such questions as you choose to ask.

Thank you.

STATEMENT OF DOCTOR JOHN WASYLIK

Mr. Chairman and Members of this Distinguished Committee: My name is Doctor John Wasylik, and my home is in Sandusky, Ohio. As National Commander-in-Chief of the Veterans of Foreign Wars of the United States, I am pleased and honored to appear before this distinguished body to share with you our views on the proposed Treaties affecting the Inter-Oceanic Canal and its framework, the U.S. Canal Zone on the Isthmus of Panama.

I am accompanied here today by two of my V.F.W. colleagues, Mr. Cooper T. Holt, Executive Director of our Washington Office and Colonel Phelps Jones, USA (Ret.), my Director of National Security and Foreign Affairs.

As you may be aware, positions in the Veterans of Foreign Wars are arrived at democratically at our annual National Conventions.

Our 78th National Convention was held in Minneapolis, Minnesota during the period August 20–26, 1977. Fourteen thousand delegates, representing more than 10,000 V.F.W. Posts and 1.8 million members were joined by delegates representing more than 600,000 members of the V.F.W.'s Ladies Auxiliary.

Our delegates gave respectful attention to arguments supporting the proposed treaty advanced by the Chief of State, U.S. Army, General Bernard W. Rogers, USA, and arguments opposing the treaty as set forth by Senator Strom Thurmond (S.C.).

Following these two thoughtful presentations by two patriotic and dedicated Americans, on Tuesday, August 23d both the V.F.W. and the Ladies Auxiliary delegates were asked by the Chair for an expression of their views. Both groups of delegates voted unanimously to accept Resolution Number 402, 'U.S. Sovereignty Over the 'United States Canal' Located on the Isthmus of Panama."

Following this display of solidarity, the Chair gavelled the Convention into order and repeatedly asked if there was anyone there present who desired to speak in favor of the Treaty and assured the delegates that anyone who so desired would be given a courteous and respectful hearing.

No one rose to oppose the unanimous views of the delegates.

With the Chairman's permission, I would like to read the "Be It Resolved" portion of Resolution Number 402, with the request that the entire Resolution be included in the transcript of these hearings.

On the Canal Treaties issue, the heart of our mandate reads:

"Be It Resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

"(a) U.S. operation, control and defense of the Canal are non-negotiable;

"(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

"(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

"(d) the foregoing position be again communicated to both the President (who in October, 1976 asserted that he would 'never give up complete or practical control' of the Canal) and the Congress;

"(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

"(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress."

This is where we stand. Now why do we hold so resolutely to this view?

In the first instance we are totally unpersuaded both by the assumptions which led to the treaty negotiations and by the proposed treaties which emerged from these negotiations.

Since August, 1914, the United States Canal on the Isthmus of Panama has been responsibly operated and defended to the benefit of the United States, the International shipping community, Panama, Central America, and Latin America.

The "payaway treaty" clique has fallen back on (1) implied blackmail ("unless we give it to the Panamanians, they may blow it up"), (2) self-fulfilling prophecy (forecasts of Vietnam-like guerrilla warfare), and, (3) self-inflicted descriptions of "colonialism."

The current ploy of much of the "prestige media" on the Canal question is, feigning more disdain than anger, to dismiss all who have stood in steadfast opposition to the proposed "payaway" (an accurate term, "sell-out" would imply the Panamanians are seeking to buy our 67 billion Canal; they are not) as jingoistic non-readers of history who are carelessly calling for war.

Nothing could be farther from the truth.

Long before the Canal and the Canal Zone turned into a political issue, the V.F.W. sought to inform the American public of the true nature of the issues involved.

There follows arguments advanced by the "payaway apologists" and the relevant V.F.W. response.

"Payaway" apologists: How can anyone in 1977 argue for a policy of "colonialism?"

V.F.W. Response: Colonialism is, definitively, an exploitative arrangement wherein a natural resource; i.e., cotton, rice, tin, etc., is farmed, harvested, or mined by an oppressed people for processing, manufacturing, packaging and sale of the finished product abroad.

Panama "oppressed?" Clearly not! Panama (a) has the highest per capita income of any of the seven countries of Central America and stands 4th (of 20 nations) in all of Latin America; (b) is dependent on the Canal and the Zone for 30% of her foreign currency earnings while 13% of her gross national product arises from the same source.

Panamanian per capita wealth is about twice that of Colombia who, until 1903, was the country of which pre-1903 Panama was a province.

Panama "oppressed?" Tell *that* to Cambodia!

"Payaway" Apologists: What is needed is a modern arrangement to replace a treaty (Hay-Bunau Varilla) now 74 years old.

V.F.W. Response: Modernity, like beauty, rests in the eye of the beholder. Britain has occupied the "Rock of Gibralter" since the 1713 Treaty of Utrecht which ended the War of the Spanish Succession. (Sensible people are thankful the British have been on the "Rock" for the past 264 years.) Unlike the Canal, Gibraltar has not played any significant role in Spanish economic growth. Like the Panamanians, the Spanish are unhappy about the status quo. Unlike our State Department, the British Foreign Office has kept a lid on the situation (to the benefit of us all) for 264 years, not 74.

Perhaps we should ask the British Foreign Office to conduct a "crash course" on how to protect vital national interests for our State Department.

'Payaway" Apologists: But the Hay-Bunau Varilla Treaty of 1903 gave the U.S. all rights, powers, and authority "as if it (the U.S.) were the sovereign of the territory." The words "as if" indicate that it is Panama, and not the United States, which holds either "titular" or "residual" sovereignty.

V.F.W. Response: Those who so happily produce the "as if" clause conveniently forget to add what follows in this "in perpetuity" treaty; ie, "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The bulk of the scholarship on the sovereignty issue supports the V.F.W. view. A family of treaties (a) with "New Granada" in 1846; (b) with Britain in 1901; and, (c) with Colombia in 1922, all undergird and extend the sovereign pre-eminence of the U.S. as clearly recognized in the 1903 treaty with Panama; a treaty, incidentally, deliberately ratified after the signing by the Panamanian Senate.

"Payaway" Apologists: Secretary of State John Hay advised President Theodore Roosevelt that the 1903 Treaty was advantageous to the United States and disadvantageous to Panama.

V.F.W. Response: Is there some natural order that mandates that most or all of the treaties entered into by the U.S. must be disadvantageous to America; the Paris Accords of 1973 bringing "peace" to Southeast Asia comes readily to mind.

Hays view notwithstanding, as earlier indicated, the 1903 Treaty has been a success story for all concerned, most specifically including Panama.

"Payaway" Apologists: How would you like to see America divided in two by the Mississippi River as the Canal divides Panama?

V.F.W. Response: Unlike the example of the Mississippi, the construction of the Canal and the birth and continued existence of a Panama, independent from Colombia, are inextricably linked. So while the U.S. Canal and the U.S. Zone, given human nature, may never be objects of popular admiration in Panama, nonetheless, the clear linkage between the U.S. presence and their national existence is there and, we suspect, most Panamanians understand this unalterable fact of their nationhood.

"Payaway" Apologists: Who wants to fight another "Vietnam" over the Canal?

V.F.W. Response: No non-institutionalized person ever wants (a) any war, or, (b) most especially a Vietnamese-type encounter in which we will the battle, but not the victory.

The war-like language about the Canal and the Zone arises from occasional flights of oratory by General Torrijos ("We will walk the Ho Chi Minh Trail. It is long and exerts a heavy toll in blood."), from various Panamanian student groups, from supportive revolutionary rhetoric from Castro, and most disturbingly, by U.S. officials who, I would judge, believed that even an allusion to our defeat in Vietnam would suffice to unnerve the American people in their natural desire to retain our preeminence in the Canal. This latter tactics has backfired badly, and, if anything, has produced an opposite effect.

The real question is: apart from the 1964 student disorders, we've had 74 years of peace, stability and progress in the Canal. Can this record be sustained or improved upon by the transparent "partnership" with Panama being advocated by the State Department? Remember, once America is meeting her responsibility as a matter of Panamanian sufferage and not unequivocal U.S. rights, we can be asked to pull out overnight.

"Payaway" Apologists: But the Canal is especially vulnerable to sabotage.

V.F.W. Response: It always has been, but it has only been in the last three years that this long standing vulnerability has been pointed out to us, often by our own negotiators. Again, how would the pullout of the U.S. garrison enhance the security of the Canal from any group or faction seeking to make some irrational Third World "point" by blowing a lock or draining Gatun Lake?

If the Panamanian Government's reply is that they are unable to control their own citizens' actions in the face of a continued U.S. presence in the Canal, the question then looms: how reliable a "partner" would the Government of Panama be in any "partnership" with the United States in confronting any non-Panamanian; ie, Cuban pressure?

"Payaway Apologists: But the Canal and the Conal Zone are Panama's most important "natural resource."

V.F.W. Response: The Canal is not a "natural resource." It was built over a 10-year period by the Corps of Engineers. It is a quintessentially "artificial" or man-made enterprise. Secondly, the weight of history, law, and logic demonstrates that it is "ours" not "theirs."

"Payaway" Apologists: But whatever the merits of the cause might have been in the past, aren't we "painted into a corner" by the February, 1974 "Statement of Principles" agreed to by Secretary Kissinger and Foreign Minister Tack and the recent Treaty signing extravaganza?

V.F.W. Response: When you're "painted into a corner," you have two basic choices: (a) keep on painting; or, (b) use whatever turpentine is on hand to "unpaint" and get out.

In 1967, Panama rejected an initialed draft of a new treaty. Our State Department can well use this earlier Panamanian rebuff as a valid precedent for re-examining the validity of the 1974 "Statement of Principles" and the resultant proposed treaties.

"Payaway" Apologists: Have you ever seen the stark contrast between the "manicured" lawns of the U.S. Canal Zone and the poverty and squalor of Panama over the fence?

V.F.W. Response: Yes. A ridiculous bit of imagery insulting to both the Zonians and the Panamanians, who are placed in the nonsensical position of favoring litter and uncut grass.

The Canal Zone is not Grosse Pointe. Beverly Hills, Tuxedo Park or Chevy Chase. It is—and it should be—a typical American community adjusted for life in the tropics.

The best way to assure Americans in the Zone have a spokesman is to have the Canal Zone send a delegate to the U.S. Congress as does Guam, Puerto Rico, the Virgin Islands, and the District of Columbia.

"Payaway" Apologists: But the U.S. pays an annual "rent" to Panama. Doesn't this mean that Panama owns the Canal?

V.F.W. Response: It is not "rent" for land or the Canal (we bought the property four times; from Panama, from the individual land owners, from the failed French enterprise and from Colombia). It is an annuity paid to Panama (as it was earlier to Colombia) for displacing the old trans-Isthmus railroad. Not even the U.S. government is so soft in the head that it pays "rent" on land that it owns four times over.

"Payaway" Apologists: What is the matter with the proposed Treaties' goals on this issue; ie, "to assure that the Canal is operational, secure, efficient and open, on a non-discriminatory basis to world shipping."

V.F.W. Response: The "goals" cited above are a precisely accurate description of the present arrangement. In short, why seek "goals" that have already been achieved?

"Payaway" Apologists: Do you mean break off negotiations and thereby incur the wrath of all of Latin America, bring an abuse of America in the UN, and incur, perhaps, the public opposition of even our NATO allies?

V.F.W. Response: If we retreat when we're clearly right, we will have surrendered, in advance, all our influence on other and more ambiguous international disagreements.

Three or four (of 20) Latin American countries, not, of course, including Panama, enjoy a significant degree of democratic freedoms. Democratic or authoritarian, many need the Canal operation even more than we do. I have neither seen nor heard of any hard intelligence that even suggests an international army drawn from Latin American states would either march on the Canal or seek to infiltrate the Zone in an international Vietnam-type operation. (Cuba, of course, having tasted a "revolutionary victory" in Angola is a separate matter.)

As for NATO, as the Arab-Israeli "Yom Kippur War of 1973" so clearly underscored, our allies do not have concerted policies apart from the defense of the NATO treaty area. I would expect a resolute U.S. stand on the Canal would gain the understanding and support of our major European friends.

As to the UN, we are in a classic "no win" posture with the General Assembly and its Third World plus communist majority. Former Ambassador "Pat" Moynihan's perception that many Third World countries in wanting to rip off the wealth of others are really calling for "duly sanctioned looting." His view has relevance here.

To sum up our total opposition to the proposed treaties:

If we wrongfully "cave in" on the sovereignty issue, we are on the Isthmus at the sufferance of the volatile dictatorship of Brigadier General Torrijos. We could be asked to leave overnight. Do we then skulk out or do we stand our ground?

The Canal is much closer to Cuba than is Angola. Soviet-inspired Cuban involvement on the Isthmus could well wear a "Panamanian Cloak." We would undoubtedly agonize, but we would probably acquiesce.

The proposed "Neutrality Treaty," which we are told, would permit U.S. military action to defend the Canal, is "waffling" brought to an art form. The Panamanians have agreed to no such thing in writing or in their rhetoric. The Administration may kid itself. It should not be allowed to kid the American people.

Panama's wretched record in "human rights," as attested to by the January 30, 1977 "Freedom House" study, needs no amplification here. The Administration seems unembarrassed by this manifest hypocrisy. Our President went so far as to embrace, literally, General Torrijos following the signing extravaganza.

I mean no disrespect to the Joint Chiefs of Staff, but until the late 1975 they were silent upon the Treaty negotiations. I will not comment upon their recent shift in view, but the unfettered military advice of former Chief of Naval Operations calling for continued U.S. pre-eminence makes the compelling military case.

In reviewing the Panamanian Student riots of 1964, I note the following prominent Americans were then quoted as follows:

Ambassador Ellsworth Bunker: the assault on the Canal Zone had been led by "persons trained in communist countries for political action of the kind that took place" and that "the Government of Panama instead of attempting to restore order, was, through a controlled press, television, and radio, inciting the people to attack and to violence."

Former President (then Minority Leader) Gerald R. Ford: "With Cuba under the control of the Soviets through its puppet, Castro, and with increased Communist Subversion in Latin America, a Communist threat to the Panama Canal is clearly a grave danger. The American people will be shocked by the terms of this (Johnson Administration) treaty."

Joseph A. Califano, Jr. (Currently Secretary of HEW, then an Assistant to the Secretary of Defense): "We know that some of the leaders were known and identifiable Communists, members of the Communist Party of Panama, and people who belonged to the Vanguard of 'National Action,' which is openly and proudly the Castro Communist Party in Panama."

Now, I realize that 13 years have passed and that people often change their minds over time.

My question is: what hard evidence, available to all of us in 1977, caused these three distinguished Americans to change their minds over recent years about the nature of the Communist threat in Panama? We would all profit if they would share this new information with us.

In conclusion:

What the proposed Treaties embody is a slow motion act of strategic self-mutilation.

Only 13 of our warships cannot transit the Canal today. As Navy ships get smaller, even this small number will decrease.

The Canal and the Zone (a) save 8,000 miles and 15–30 days; (b) have the only ship repair facilities within 1,600 miles on the Atlantic side and 2,500 miles on the Pacific side; (c) have, in Howard Air Force Base, the only high performance air base within 1,000 miles; and, (d) is the only U.S. logistical base south of the Rio Grande.

As to the possibility of violence should the Treaties not be ratified, no one in America, especially including the V.F.W., is threatening anybody. We are being threatened by a Panamanian strong man who, seemingly on alternate days, either threatens violence or abhors it. And this is the man with whom we seek a "partnership?"

What, then, does the V.F.W. propose?

(a) A revised U.S. position which would immediately disabuse Panama of any major

territorial, defense, control or operational aspirations; ie, America is not running the Canal on Panamanian sufferance.

(b) Generosity and imagination on real life human grievances (ranging from parking places to job opportunities) where a long term U.S. administration may have needlessly chafed Panamanian citizens; and

(c) A major modernization packet to ready the Canal for ships now too large for passage and other measures all of which would combine to give a major boost to Panama's diversifying, albeit debt-ridden, economy.

To conclude:

An opinion research poll indicated that Americans favor, by 76–16%, continued U.S. sovereignty over the Canal and the adjacent Zone.

Change is an imperative when a given status quo is unworkable.

Change does not equal progress when current arrangements not only do a job, but do it superbly.

The Panamanians want very badly to have their way and far too many in the State Department see it their way; ie, reciting "Panamanian Perceptions" ad nauseam.

Our people can, should and must be brought unapologetically to defend a 74-year record America and the world maritime community have unarguably benefitted from.

Thank you.

RESOLUTION NO. 402: U.S. SOVEREIGNTY OVER THE "UNITED STATES CANAL" LOCATED ON THE ISTHMUS OF PANAMA

Whereas, Article II of the 1903 Convention between Panama and the United States, modified in part by the 1936 Treaty between the two Governments, states:

ARTICLE II

"The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described shall not be included in this grant . . .

"The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamence; and"

Whereas, the United States has more than fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated a large number of transits and amount of tonnage through the canal; and

Whereas, the United States has paid for the Canal and the Canal Zone four times (1) to Panama, (2) to the failed French Consortium, (3) to private citizens of Panama, and, finally, (4) to Colombia; and

Whereas, the revolutionary government of Panama, a product of coup d' etat, has since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign and anti-American propaganda fueled in large part by Cuban and Soviet communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama, set to explode to the detriment of the United States and the world shipping community; and

Whereas, due largely to our unswerving V.F.W. support, patriots in the United States Senate, led by Senators Thurmond (S.C.), Helms (N.C.), and McClellan (Ark.), have gone on record in opposition to the unprincipled "Statement of Principles" signed by former Secretary of State Kissinger and the Panamanians, and a parallel effort is being similarly supported in the House of Representatives, led by Congressman Dan Flood (Pa); now, therefore

Be it resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. operation, control and defense of the Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

(d) the foregoing position be again communicated to both the President (who in October 1976 asserted that he would "never give up complete or practical control" of the Canal) and the Congress;

(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress.

JUST COMPENSATION SOUGHT FOR U.S. INVESTOR IN AUSTRALIA

Mr. INOUYE. Mr. President, almost 5 months ago, on April 27, I expressed my concern to my colleagues over the taking, without compensation, of the property of a U.S. private investor, the Dillingham Corp., by the Government of Australia. On September 22, 1977, Australian Deputy Prime Minister Anthony announced that his Government was prepared to offer $4 million in full settlement of the claim. When I learned of this development, I was shocked and disappointed since the proposed figure does not even approach one-half of the book value of the investment.

As my colleagues may recall, Dillingham was engaged in a joint venture mining operation for which all the necessary governmental authorizations, both State and Federal, had been obtained. Then, in November 1976, the Australian Government revoked the company's export permits in order to convert the site of the mining operation, Fraser Island, into a national wilderness area.

When I first brought this problem to the attention of the Senate, I suggested that my concern lay not with the Australian Government's decision to create a national park, but rather with its failure to provide just compensation to the owners of property taken. I also expressed my hope that a prompt settlement of this problem would not only further the strong bonds that tie our two countries together, but would also remove the cloud over the security of all foreign investment in Australia which a precedent of this nature invariably creates. Today I must regretfully report that no progress has been made toward this objective.

In the past few months, I have carefully studied this problem and followed with great interest the reports on this case in both the Australian and international press. It is my view that there is no doubt that the Australian Government authorized this project with the understanding that environmental considerations had already been scrutinized and resolved by the State government. A significant investment was then made in reliance upon this clear grant of authority from the Government. Now that the Government has made this facility worthless by revoking export permits in order to create a wilderness area for the Australian people, simple justice suggest that just compensation be made. International law requires that just compensation be made.

Despite the obvious inadequacy of the proposed $4 million settlement, I think that some positive signs can be drawn from last Thursday's offer. In this regard, I believe that it is reasonable to view the Australian Government's proposal as the first step toward an eventual solution. In addition, the offer is a helpful sign since it indicates that the Australian Government believes that some compesation should be provided. Consequently, if the only unresolved issue is the amount of that compensation, it would clearly be in the best interests of Australia if this figure were arrived at objectively.

Experience has shown that one of the best ways to handle valuation problems is to turn the problems over to technical experts. This could easily be accomplished by the appointment of one or more independent appraisers. These specialists could examine all of the various components of the Fraser Island mining operation and ultimately determine the true value of the investment on various bases and assumptions. Their findings would then provide a viable framework for a prompt settlement.

I believe that a swift resolution of this problem is extremely important not only to those directly involved, but also to the international investment community. The future growth of the Australian economy will be dependent in large measure on continued access to foreign sources of investment. Australia is rich in mineral resources. The world needs them to prevent shortages and inflation. Australia needs to sell them for its own economic prosperity.

However, history has taught us that financing will not flow to countries where investors have been dealt with unfairly in the past. As a result, I am deeply concerned that failure to resolve promptly the Fraser Island situation will create further uncertainty over the security of foreign investment in Australia at a time when that investment is sorely needed and is being actively pursued.

I am confident that these problems can be avoided and that the Australian Government can take a positive step toward improving the investment climate in Australia by dealing with the Dillingham claim directly.

ALLOCATION OF PROGRAMS UNDER HOUSE CONCURRENT RESOLUTION

Mr. TALMADGE. Mr. President, in compliance with section 302(b) of the Congressional Budget and Impoundment Control Act of 1974 the Senate Committee on Agriculture, Nutrition, and Forestry is herewith submitting to the Senate its allocation of programs under its jurisdiction as included in the Second Concurrent Resolution on the Budget for fiscal year 1978 (H. Con. Res. 341).

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I.—DIRECT SPENDING JURISDICTION

[Millions of dollars]

Function, program, and subcommittee	Amount	
	Budget authority	Outlays
300 Forest service and soil conservation:		
Environment, Soil Conservation, and Forestry	96	77
350 Commodity programs:		
Agricultural Production, Marketing, and Stabilization of Prices	55	4,811
Research and services:		
Agricultural Research and General Legislation	6	6
450 Farmers Home Administration rural development insurance fund:		
Rural Development	8	34
850 Forest Service permanent appropriations:		
Environment, Soil Conservation, and Forestry	191	191
Total	355	5,118

TABLE II.—ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

[Millions of dollars]

Function, program, and subcommittee	Amount	
	Budget authority	Outlays
350 Dairy and beekeeping indemnity:		
Agricultural production, marketing, and stabilization of prices	4	4
600 Food stamps:		
Nutrition	5,627	5,321
Women, infants and children (WIC):		
Nutrition	247	325
Child nutrition programs:		
Nutrition	2,517	2,644
Total	8,395	8,294

THE NOBEL PRIZE FOR MEDICINE

Mr. CRANSTON. Mr. President, it is a source of great pride to me and to this country that on Thursday, October 13, the 1977 Nobel Prize for Medicine was awarded to three Americans, Dr. Rosalyn Yalow, Dr. Andrew Schally, and Dr. Roger Guillemin. These three Nobel laureates are cited for their discoveries in the field of peptide hormones.

It is an additional source of pride to me that Drs. Yalow and Schally are both career employees of Veterans' Administration hospitals, and that Dr. Guillemin is from the great State of California. As chairman of the Committee on Veterans' Affairs and also chairman of the Subcommittee on Health and Readjustment, I have been vitally concerned with issues of health care for veterans. Dr. Yalow has been with the Bronx Veterans' Administration hospital continuously since 1950 and is now the chief of the nuclear medicine service. The Swedish Caroline Institute cited Dr. Yalow for starting "the birth of a new era in endocrinology." She and the late Dr. Solomon Berson, also of the Bronx Veterans' Administration hospital, have worked to pioneer new techniques for measuring the presence of hormones in the human body. Dr. Schally has been with the Veterans' Administration hospital in New Orleans since 1962. Dr. Guillemin has been with the Salk Institute near San Diego, Calif., since 1970. They were cited for parallel developments in showing the effect of the brain and central nervous system on the secretion of hormones and their work has been hailed as revolutionizing the understanding of brain function.

On July 22, 1977, the National Academy of Sciences issued a report entitled "Biomedical Research in the Veterans' Administration," which unanimously and enthusiastically supported the special funding of the VA research program. The report stated that the VA has made "important contributions to medical science." I know of no better way that the enthusiastic findings of this report could be borne out than by the exemplary research achievements of Veterans' Administration doctors. It is gratifying that the significance of these research achievements have now been recognized by the world.

The veterans of this country receive a direct benefit from these kinds of research efforts. The Academy report found that high-quality research improved the excellence of health care delivery, and the work of these two Nobel laureates and Dr. Berson has shown us that research at Veterans' Administration facilities is among the best in the world. At a time when the VA health care system is undergoing close scrutiny, these achievements demonstrate that although improvements can be made, the unique structure of the VA system offers unparalleled opportunities for it to be at the forefront in many areas of medical care.

Mr. President, I ask unanimous consent that various articles and features from the New York Times of October 14 on these Nobel Prize recipients be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 14, 1977]

HORMONE RESEARCHES OPENED UP NEW FIELDS

(By Harold M. Schmck, Jr.)

The research for which Dr. Roger C. L. Guillemin and Dr. Andrew V. Schally shared the Nobel Prize in Medicine yesterday is credited with opening up a whole new realm of knowledge of the brain's control over the chemistry of the body.

The work is pointing the way toward new types of contraception, new ideas for the control of diabetes and a wealth of knowledge of the ways in which the brain acts as the chemical master of the body.

Current research also seems likely to offer insights into the chemistry of human emotions and their derangements.

The scientists and their teams of coworkers have discovered and synthesized hormones produced by the hypothalamus, a part of the brain that plays important roles in regulating temperature, appetite, thirst, sleep and wakefulness, the level of sugar in the blood, salt and water in the body and even the emotions.

The hormones have proved to be relatively simple substances called peptides, which are short chains of amino acids, the building blocks of proteins.

THOUSANDS OF ANIMAL BRAINS

A whole family of these peptide hormones has been discovered since the late 1960's in painstaking research in which each team has had to glean small fractions of an ounce of pure material from literally hundreds of thousands of brains and pituitary glands of sheep and pigs.

The hormones produced by the hypothalamus act by governing the action of the pituitary, the small organ attached to the base of the brain that is the body's master gland.

The pituitary, in turn, sends out hormones that govern the activities of other glands, responsible for sexual behavior and reproductive functions; the thyroid gland, responsible for adaptation to cold, and the adrenal glands, which are crucial in the response to and adaptation to stress.

The question of how the pituitary gland is regulated in its production and dispersal of all the other important hormones has intrigued scientists for decades. It is this picture of the brain as master controller of the body's chemical life that has been coming into focus with the studies of the two teams of scientists.

CHEMICAL ORCHESTRATION

As a scientist of the National Institutes of Health put it yesterday, all complex multicellular organisms from mouse to man have been able to evolve and prosper because of exquisite chemical orchestration of all their myriad cells and cellular functions. It is this incredible orchestration that is becoming understood through the pioneering work of Dr. Schally's group at the Veterans Administration Hospital and Tulane University in New Orleans and by Dr. Guillemin's group at the Salk Institute near San Diego. The National Institutes of Health has for years contributed support to the work on the ground that it has great potential.

It is generally believed that the hypothalamus produces other hormones still undiscovered. The scientific teams of Dr. Guillemin and Dr. Schally are hard at work trying to find them.

Although the two Nobel Prize winners were once colleagues at Baylor University, they have since the 1960's worked independently of and in competition with each other in the research.

NECK AND NECK

The pace of the work has been so fast, and the advances so evenly matched between the two groups, that other scientists are often unsure which of the two teams was first to reach a specific goal.

The first of the hypothalmic hormones to be discovered is now called TRH, for thyrotropin releasing hormones. It was originally called TRF because each of the hormones was first called a "factor" before the status of hormone was agreed upon.

TRH was discovered in 1968 virtually simultaneously by each of the two groups, one senior scientist from another institution said yesterday. The work with tons of animal tissue cost an estimated $5 million, but now that the hormone has been isolated, characterized and made artificially, large amounts can be produced relatively cheaply—testimony, as one expert put it, to the dollar value of knowledge.

Minute amounts of TRM cause the pituitary gland to release the substance called thyrotropin, which in turn acts upon the thyroid gland, causing it to release thyroid hormone.

EFFECTS ON PREGNANCY

A highly important hypothalamic hormone found later is now called LM-RH (lutenizing

hormone releasing hormone), which has profound effects, through the pituitary, on pregnancy. This, according to an expert familiar with the field, was found first by Dr. Schally's group.

Still another product on the hypothalamus, called somatostatin discovered and synthesized still later, is widely credited first to Dr. Guillemin's group. This compound seems to have multiple functions, including effects on insulin production, a fact that has led to hopes that it may be useful in treating diabetes.

In its announcement yesterday, the Nobel Prize committee in Stockholm said the discoveries of the two groups had, between them, laid the foundations of modern hypothalamic research.

[From the New York Times, Oct. 14, 1977]

PROFILES OF TWO WHO WON NOBEL PRIZES FOR MEDICINE

ROGER C. L. GUILLEMIN

Roger Charles Louis Guillemin fought with the Resistance in France in World War II, discovered some notebooks of the French scientist Claude Bernard in a Paris attic in the 1960's. Yesterday he was awarded a Nobel Prize in Medicine for major contributions to knowledge of the brain's chemical control over the body.

Colleagues say he has been unusually generous in giving other laboratories samples of the chemicals synthesized by his own group.

Friends also describe him as a connoisseur of wines. He has been quoted as saying, possibly in jest, that his knowledge of French wines gives him proper appreciation of the wines of California, of which he is a resident. He became a Resident Fellow and Research Professor at the Salk Institute, near San Diego in 1970, and later a United States citizen.

Dr. Guillemin was born Jan. 11, 1924 in Dijon, earned a bachelor of arts and science degrees at the University of Dijon in the early 1940's. Then came World War II, and his service with the Resistance.

He received his medical degree at Lyons in 1949, and then moved to Canada, where he served as a research assistant at the University of Montreal under Dr. Hans Selye, prominent for his research on stress.

In 1953 Dr. Guillemin was appointed assistant professor of physiology at Baylor College of Medicine in Houston and while there became a colleague of Dr. Andrew V. Schally, with whom he shares the prize.

From 1960 to 1963 he held a joint appointment as associate director of the department of experimental endocrinology, College de France, and as a faculty member at Baylor.

Dr. Guillemin underwent an operation for cancer a few years ago, a colleague said today, but appears to be in excellent health today.

A 5 A.M. today Dr. Guillemin was awakened in California by a telephone call from Stockholm informed him of the award. It was a surprise, he said later, that was well "worth waking up for."

ANDREW VICTOR SCHALLY

Because the German army invaded Poland in 1939, Andrew Vincent Schally, then barely in his teens, left that war-torn country with his family. Later, he was trained by British scientists. His father, a major general, served with the Allies in World War II.

At the Allan Memorial Institute for Psychiatry at McGill University, Dr. Schally's work on endocrine factors in mental illness led to an absorbing interest in hormones.

After decades of intense work in the United States, all the events and efforts of his 51 years were crowned with the award of a Nobel Prize in medicine.

Dr. Schally, an intense and aggressive worker, has devoted most of his career to discovering hormones produced in the brain that act on the pituitary gland and thus give the brain ultimate control over body chemistry.

Characteristic Generosity

With characteristic generosity, Dr. Schally said yesterday in a telephone interview that he owed much to the inspiration of Dr. Geoffrey Harris, a pioneer hormone scientist of Oxford University, who died in 1972.

Dr. Harris's work had suggested hormone links between the pituitary and the brain, but there were only scattered pieces of evidence. Dr. Schally's work since the early 1950's has been of major importance in converting those pieces into an edifice of scientific understanding.

Dr. Schally was born on Nov. 30, 1926, in Wilno, Poland. He studied in Scotland, at the National Institute for Medical Research in London and at McGill University in Montrea', where he received a Ph.D. magna cum laude in biochemistry in 1955. He is married and has two children.

In the United States, he went first to Baylor University as a research associate in the department of physiology, and then to New Orleans in 1962 as a staff scientist at the Veterans Administration Hospital and a faculty member at Tulane University. He has been with both institutions ever since.

[From the New York Times, October 14, 1977]

NOBEL-WINNING TEST KEY AID IN RESEARCH

(By Lawrence K. Altman)

Twenty years ago, when Dr. Rosalyn S. Yalow and the late Dr. Solomon Berson applied to diabetes research a test they had developed, the paper describing the step was rejected by the editor of a leading medical research journal.

Yesterday, Dr. Yalow, a medical physicist, was awarded one-half of the share of the Nobel Prize for Medicine and Physiology for the revolutionary impact that the test has had on medical research and practice. Dr. Yalow became the sixth woman to win a Nobel Prize in science.

Another researcher hailed the work done at the Bronx Veterans Administration Hospital as the most important in this century.

While some researchers may debate that contention, few will dispute the significance of the use of the test. It has been applied in virtually every field of medicine, and even in crime.

The Nobel citation said that through this work biologists could measure in the laboratory many more substances than before, which represents "an enormous development in hitherto closed areas of research."

DIFFICULT DAYS RECALLED

Recalling in an interview the difficult days in the early stages of the research, Dr. Yalow said, "I have saved Stan Bradley's letter of rejection." Dr. Stanley E. Bradley, a medical professor at Columbia-Presbyterian Medical Center here, was editor of The Journal of Clinical Investigation when Dr. Yalow and Dr. Berson submitted their paper, which was eventually published.

The test that the Bronx researchers developed is called the RIA, for radioimmunoassay. It is so sensitive that it is capable of detecting a billionths of a gram. A Nobel committee member likened the test's sensitivity to the ability to detect the presence of half a lump of sugar in a lake 100 kilometers wide and long and 10 meters deep, or about 62 miles wide and long and 30 feet deep.

"It was accomplished by a spectacular combination of immunology, isotope research, mathematics and physics," the citation said.

The RIA test is used to measure the concentrations of hundreds of hormones, vitamins, viruses, enzymes, drugs and other substances to help determine changes between normalcy and diseased.

The test has helped doctors to diagnose in patients conditions that previously escaped detection because the established methods were too crude to measure the seemingly trivial changes in the amount of hormones that can so drastically affect an individual's health.

Use of the test is continuing to lead to new discoveries and understandings of the nature of man.

Dr. Yalow's researchers recently reported in the Proceedings of the National Academy of Sciences the discovery that a hormone called cholecystokinin that acts on the bowel exists in the brain in concentrations equal to that found in the intestines.

Dr. Yalow said her research group was about to report that another form of the test might prove useful in detecting tuberculosis bacteria in the blood, where they could not otherwise have been found.

The test is already used by thousands of blood banks to remove blood contaminated with a hepatitis virus from potential use in transfusions.

It is also being used in cancer research to track the life history in a mouse of a leukemia-causing virus long before a tumor becomes evident. Dr. Yalow predicted that this work would serve as a model for research into other types of viral diseases and that the test might have as important an impact on infectious disease work as it has in the understanding and treatment of hormonal disorders of the thyroid, adrenal and other glands.

[From the New York Times, October 14, 1977]

A BRONX PUBLIC SCHOOL PRODUCT—ROSALYN SUSSMAN YALOW

(By Laurie Johnston)

Dr. Rosalyn Sussman Yalow, winner of half of yesterday's Nobel Prize in Medicine, was born and grew up in the South Bronx, "the part that's now a disaster area," and is a product of that borough's public schools—P.S. 51, P.S. 10 and Walton High School. In 1941, Hunter College graduated her as its first physics major.

Dr. Yalow worked first as a secretary, she reca'led yesterday with a suggestion of bitterness despite the congratulations and the flowers that surrounded her in her office at the Veterans Administration Hospital in the Bronx.

"They told me that, as a woman, I'd never get into graduate school in physics, so they got me a job as a secretary at the College of Physicians and Surgeons and promised that, if I were a good girl, I could take courses there," she said.

With her generous smile returning, she added, "Then I got an assistantship in physics at the University of Illinois, and I tore up my steno books."

A NORMAL 70-HOUR WEEK

When the call informing her of her prize came from Stockholm at 7 A.M., Dr. Yalow was at her desk in the middle of one of her "normal 70-hour weeks" at the hospital, where she has worked since 1950 and been chief of nuclear medicine since 1970. She was working on a paper at that hour and, she said, would resume work on it at the same time this morning.

"This is great sport," she said in mid afternoon as colleagues and visitors swirled around her and champagne was poured. "But tomorrow, everything will be the same. I live by my work and my family."

On hand for the celebration were the 56-year-old laureate's husband, Dr. Aaron Yalow, a physics professor at Cooper Union, and their 25-year-old son, Ben, a computer systems analyst for the City University.

COOKS IN LABORATORY

Sharing the excitement, too, were what Dr. Yalow, who is also a professor at Mount Sinai Hospital's School of Medicine, calls "my professional children," young research scientists who have served their postdoctoral training with her in the nuclear medicine unit. Others are scattered around the world.

Dr. Yalow has been known to cook in the laboratory. But for a hospital party for 100 persons last year, when she became the first woman to receive the Albert Lasker Basic Medical Research Award, she brought roast turkeys from home.

"But she was peeling potatoes and making potato salad in the middle of a research meeting, while we were reporting our data to her," said Dr. Roberta Moldow, one of the research fellows.

At home, Dr. Yalow keeps a kosher kitchen but has turned it into something of a laboratory.

"I have three things going for me there," she said. "I have a big freezer, a microwave oven and good organization."

Although she was "a victim of discrimination as a woman all these years," Dr. Yalow said that she did not believe in "reverse discrimination for women."

"Let them just give us equal opportunity," she said. But then she added:

"It's true that women are different from men. If you want to be a good wife, you have to work a little harder."

Born July 19, 1921, Dr. Yalow is the daughter of Clara Zipper Sussman, aged 92 and still a Bronx resident, and her late husband, Simon, who had a small paper-and-twine business in what is now SoHo. Both first-generation Americans, they did not go beyond grade school.

A BRONX ACCENT

At the University of Illinois, where she received her Ph. D. in 1945, Dr. Yalow was the only woman with the 400 men in the College of Engineering.

She and her husband met on their first day of graduate school. "I detected a Bronx accent," Mr. Yalow said, "so I made some snide remarks, as an upstate New Yorker."

Dr. Yalow said that she took "four days off from work" at the hospital for the birth of her son and again for the birth of her daughter, Elanna, who is now working for a doctorate in educational psychology at Stanford University. The daughter plans to be married Dec. 3 and hopes to spend her honeymoon in Stockholm when the Nobel prizes are awarded.

Both of the Yalow children attended Bronx public schools and the Bronx High School of Science.

"What you get out of the public school system depends on your commitment to learning," Dr. Yalow said. "I didn't come from educated parents, but the impetus, the atmosphere was there. A child must learn from the cradle that upward mobility depends on what people themselves do."

[From the New York Times, October 14, 1977]

BRONX WOMAN AND 2 U.S. MEN SHARE NOBEL PRIZE IN MEDICINE

STOCKHOLM, Oct. 13.—Three Americans, including a woman from the Bronx, were awarded the 1977 Nobel Prize in Physiology or Medicine today for their pioneering research in the role of hormones in the chemistry of the human body.

Dr. Rosalyn S. Yalow, who was born and raised in New York City, became the second woman ever to win a Nobel Prize in medicine, and only the sixth woman to win in any science category.

The 56-year-old Dr. Yalow, a scientist at the Veterans Administration Hospital in the Bronx, won for her development of the radioimmunoassay, which is the use of radioactive substances to find and measure minute substances, particularly hormones, in the blood and body tissues.

Dr. Roger C. L. Guillemin and Dr. Andrew V. Schally also shared the Nobel Prize for their research into the production of peptide hormones in the brain.

Dr. Guillemin, who is 53 years old and was born in France, is a reseacher at the Salk Institute at La Jolla, Calif. The 50-year-old, Polish-born Dr. Schally is affiliated with the Veterans Administration Hospital in New Orleans and Tulane University.

The Karolinska Institute here announced that Dr. Yalow would receive one-half of the 1977 prize, while Dr. Guillemin and Dr. Schally would share the other half. The prize is worth about $145,000.

In its citation, the institute said that the discoveries of the three recipients "have led to a formidable development of their own fields of research" and "have opened new vistas within biological and medical research far outside the border of their own spheres of interest.

Prof. Rolf Luft, chairman of the award committee, said the three scientists had laid the field of peptide hormone research "wide open."

Hormones are chemical substances produced in the body that have regulating effects on the activity of a specific organ or organs. Many of the body's hormones belong to the peptide category, including insulin, the adrenocorticotropic and growth hormones.

For more than 20 years Dr. Yalow worked with Dr. Solomon Berson to develop a new, more sensitive way of measuring how many of various hormones were present in the body. Dr. Berson died five and a half years ago, and Nobel Prizes are given only to living persons.

SETS UP COMPETITION

The measuring technique they came up with involves combining a natural hormone in the human body with its antibody, which results in a competition between the two substances. Then a small amount of radioactive form of the hormone is introduced. By measuring how much of the radioactive form survives in competition with the antibody, researchers can tell how much of the natural hormone was present in the body to begin with.

An early use of their technique showed that diabetics, who had been thought to lack insulin altogether, actually had some, but were unable to use it because their bodies resisted its action.

Scientists have hailed the work of Dr. Guillemin and Dr. Schally, conducted independently, for revolutionizing the understanding of the whole field of brain function.

By isolating and analyzing various substances from a specialized portion of the brain, the hypothalamus, they were able to demonstrate that hormones produced by the pituitary gland (those regulating body growth, development and metabolism) are actually inhibited by other hormones produced by the hypothalamus.

NEW PEPTIDES ISOLATED

According to the Karolinska Institute, in describing the work, "several new peptides were isolated from the hypothalamus, the foremost one probably being the first inhibitor of pituitary function, somatostatin, which decreases the production of pituitary

This was the third consecutive year that the medicine prize went to American scientists. Of the 121 laureates in this category over the last 77 years, the only other woman was Dr. Gerry Cort of Washington University in St. Louis, who shared the 1947 prize with her husband.

Earlier this week, two Americans and a Briton shared the Nobel Prize in Physics, and a Belgian scientist won the chemistry award. The physics winners were John H. Van Vleck of Harvard University, Philip W. Anderson of Bell Telephone Laboratories and Sir Nevill F. Mott of Cambridge University in England. The chemistry winner was Dr. Ilya Prigogine of the Free University of Brussels.

The 1977 prize for literature was won by a Spanish poet, Vicente Aleixandre. The award for economics will be announced tomorrow.

COSPONSORING BILL TO REDUCE TAX ON PRIVATE FOUNDATIONS TO 2 PERCENT

Mr. DOLE. Mr. President, private foundations perform a very useful social purpose by supporting a wide variety of charitable, education, and related projects. The foundation has the freedom of choosing the particular use for the funds within broad categories established by Congress. If the foundation maintains a minimum payout rate, they are rewarded for their efforts by being granted tax-exempt status.

TAX FOR ADMINISTRATIVE EXPENSES

Congress in the Tax Reform Act of 1969 imposed a tax on private foundations to cover the cost of the Internal Revenue Service's administration of the tax laws pertaining to exempt organizations. This private foundation excise tax was never intended to be a revenue generating provision. Yet, the current 4 percent excise tax on the net investment income of private foundations not not only compensated the IRS for expenses but has created a substantial surplus. Revenues exceeded the cost of supervision and audit by $32.5 million in 1974 and $32.1 million in 1975.

CONGRESSIONAL INTENT

To restore the original congressional intent, I am today adding my support and sponsorship to a bill which would reduce the foundation tax to 2 percent. The real effect of this change will be to increase the amount distributed each year by these foundations.

Under current law, a private foundation may reduce their annual required distribution amount dollar for dollar for any taxes paid. A 2-percent decrease in the tax rate will give these foundations that much additional money to be utilized for charitable purposes. Estimates are that $30 million would be channeled into these exempt purposes instead of into the Federal Treasury if this bill becomes law.

SENATE ACTION

The other point which should be emphasized is that a 2-percent tax rate will be sufficient to meet the related expenses of the Internal Revenue Service. The Senator from Kansas understands that the Treasury Department will not oppose the adoption of this bill.

The Finance Committee on which I serve recommended that the rate be reduced to 2 percent as part of the Tax Reform Act of 1976. Unfortunately, this recommendation was not accepted by the conference committee. This bill affords the Senate another opportunity to further two separate goals of the tax system. One is that private foundations should bear the costs for the administration of the tax-exemption provisions of the tax code. The other is the encouragement of charitable giving by private tax-exempt foundations. Adoption of this bill

will be a boost to both of these commendable purposes.

EPA POLICY ON LAND TREATMENT OF MUNICIPAL WASTEWATER

Mr. BELLMON. Mr. President, I have long been a strong supporter of section 201(A)(1) of Public Law 92-500, which calls for recycling potential sewage pollutants through agriculture, silviculture or aquaculture production; therefore, I would like to call to the attention of my colleagues recent Environment Protection Agency action which point to aggressive implementation of this section of the act.

EPA Administrator Douglas Costle announced October 3, that a new EPA policy will press vigorously for consideration of land treatment processes in reclamation and utilization of municipal wastewaters. In order to qualify for the Federal grants that pay 75 per cent of construction costs, communities will now have to prove they gave thorough consideration to land treatment as a method for disposal of municipal sewage. I commend Mr. Costle in this decision.

Land treatment systems have the potential to save billions of dollars and to provide an additional mechanism for the recovery and recycling of wastewater as a resource. The substances that are pollutants in municipal wastewater become nutrients when appropriately applied to the soil.

I am pleased to note that a cooperative effort among EPA, the Corps of Engineers and the Department of Agriculture has produced the "Process Design Manual for Land Treatment of Municipal Wastewater." This manual provides the technical knowledge necessary for both small and large communities to effectively implement land treatment processes.

The recycling of municipal wastewater through agriculture is clearly demonstrated at Muskegon, Mich., where the wastewater is used to irrigate 5,000 acres of land. In 1976, 400,000 bushels of corn were harvested with a market value of approximately $1 million. The cost for municipal wastewater management at Muskegon is about one-third the cost of providing the same level of treatment by conventional in-plant facilities. In addition, substantial energy savings were accomplished, including reduced requirements for electrical energy to treat the municipal wastewater and the saving of energy that otherwise would have been used to produce thousands of tons of fertilizer.

I am proud of the fact that my home State of Oklahoma is a leader in recognizing the value of land treatment of muncipal waste. More than 40 projects are in operation or are in the process of being planned or constructed. Among these plants is the facility for the city of El Reno which utilizes the latest technology and recycling practices, including irrigation of land which will remain in private ownership.

The Robert S. Kerr Environmental Research Laboratory, an EPA facility located in Ada, Okla., has conducted the principal research in land treatment. Overland flow treatment of municipal waste, pioneered at the Ada Lab, is being demonstrated through a project at Pauls Valley, Okla. This new approach looks especially promising for small, rural communities.

Mr. President, it is my understanding that of the $18 billion appropriated for construction of sewage waste treatment systems for the years 1973-75, 90 percent went for the conventional cement and mortar-in-plant facilities which are of the energy intensive and nonrecycling technology that led us into the water pollution problem in the first place. It is my belief that proper utilization of land treatment for municipal waste will have a large impact on this country. Land treatment systems could be used in approximately 50 percent of the communities needing improved sewage treatment. Assuming that one-half of the $24.5 billion proposed for constructing sewage treatment facilities for these communities is allocated for land treatment, it would represent a savings of approximately $3 billion plus the benefits of saving energy and recycling resources.

Mr. President, I cite this change of policy of the EPA as an example of success in the bureaucracy in recognizing the potential for tremendous savings of money and energy and in implementing the intent of Congress. I shall stay alert to see that this is accomplished.

I ask unanimous consent that Mr. Costle's memorandum on EPA policy on land treatment of municipal wastewater be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 3, 1977.

Subject: EPA Policy on Land Treatment of Municipal Wastewater.

From: The Administrator.

To: Assistant Administrators and Regional Administrators (Regions I-X).

President Carter's recent Environmental Message to the Congress emphasized the design and construction of cost-effective publicly owned wastewater treatment facilities that encourage water conservation as well as adequately treat wastewater. This serves to strengthen the encouragement under the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) to consider wastewater reclamation and recycling by land treatment processes.

At the time P.L. 92-500 was enacted, it was the intent of Congress to encourage to the extent possible the development of wastewater management policies that are consistent with the fundamental ecological principle that all materials should be returned to the cycles from which they were generated. Particular attention should be given to wastewater treatment processes which renovate and reuse wastewater as well as recycle the organic matter and nutrients in a beneficial manner. Therefore, the Agency will press vigorously for publicly owned treatment works to utilize land treatment processes to reclaim and recycle municipal wastewater.

RATIONALE

Land treatment systems involve the use of plants and the soil to remove previously contaminants from wastewaters. Land treatment is capable of achieving removal levels comparable to the best available advanced wastewater treatment technologies while achieving additional benefits. The recovery and beneficial reuse of wastewater and its nutrient resources through crop production, as well as wastewater treatment and reclamation, allow land treatment systems to accomplish far more than most conventional treatment and discharge alternatives.

The application of wastewater on land is a practice that has been used for many decades; however, recycling and reclaiming wastewater that may involve the planned recovery of nutrient resources as part of a designed wastewater treatment facility is a relatively new technique. One of the first such projects was the large scale Muskegon, Michigan, land treatment demonstration project funded under the Federal Water Pollution Control Act Amendments of 1966 (P.L. 84-660), which began operations in May 1974.

Reliable wastewater treatment processes that utilize land treatment concepts to recycle resources through agriculture, silviculture and aquaculture practices are available. The technology for planning, designing, constructing and operating land treatment facilities is adequate to meet both 1983 and 1985 requirements and goals of P.L. 92-500.

Land treatment is also presently in extensive use for treatment of main industrial wastewaters, particularly those with easily degraded organics such as food processing. Adoption of suitable in-plant pretreatment for the removal of excessive metals and toxic substances would expand the potential for land treatment of industrial wastewater and further enhance the potential for utilization of municipal wastewater and sludges for agricultural purposes.

APPROACH

Because land treatment processes contribute to the reclamation and recycling requirements of P.L. 92-500, they should be preferentially considered as an alternative wastewater management technology. Such consideration is particularly critical for smaller communities. While it is recognized that acceptance is not universal, the utilization of land treatment systems has the potential for saving billions of dollars. This will benefit not only the nationwide water pollution control program, but will also provide an additional mechanism for the recovery and recycling of wastewater as a resource.

EPA currently requires each applicant for construction grant funds to make a conscientious analysis of wastewater management alternatives with the burden upon the applicant to examine all available alternative technologies. Therefore, if a method that encourages water conservation, wastewater reclamation and reuse is not recommended, the applicant should be required to provide complete justification for the rejection of land treatment.

Imposition of stringent wastewater treatment requirements prior to land application has quite often nullified the cost-effectiveness of land treatment processes in the past. We must ensure that appropriate Federal, State and local requirements and regulations are imposed at the proper point in the treatment system and are not used in a manner that may arbitrarily block land treatment projects. Whenever States insist upon placing unnecessarily stringent preapplication treatment requirements upon land treatment, such as requiring EPA secondary effluent quality in all cases prior to application on the land, the unnecessary wastewater treatment facilities will not be funded by EPA. This should encourage the States to re-examine and revise their criteria, and so reduce the cost burden, especially to small communities, for construction and operation of unnecessary or too costly facilities. The reduction of potentially toxic metals and organics in industrial discharges to municipal systems often is critical to the success of land treatment. The development and enforcement at the local level of pretreatment standards that are consistent with national pretreatment standards should be required as an integral part of any consideration or final selection of land treatment alternatives. In addition, land treatment alternatives must be fully coordinated with on-going areawide planning under section 208 of the Act. Section 208 agencies should be involved in the review and development of land treatment options.

Research will be continued to further improve criteria for preapplication treatment and other aspects of land treatment processes. This will add to our knowledge and reduce uncertainties about health and environmental factors. I am confident, however, that land treatment of municipal wastewaters can be accomplished without adverse effects on human health if proper consideration is given to design and management of the system.

INTER-OFFICE COORDINATION

The implementation of more recent mandates from the Safe Drinking Water Act (P.L. 93-532), the Toxic Substances Control Act (P.L. 94-469), and the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) must be closely coordinated with the earlier mandate to recycle wastes and fully evaluate land treatment in P.L. 92-500. Agencywide coordination is especially important to the proper management of section 201 of P.L. 92-500, because the construction and operation of thousands of POTW's involve such a broad spectrum of environmental issues. A concerted effort must be made to avoid unilateral actions, or even the appearance of unilateral actions, which satisfy a particular mandate of one Act while inadvertently conflicting with a major Agency policy based upon another Act. The intention of P.L. 92-500, as it concerns land treatment, is compatible with the pertinent aspects of more recent environmental legislation.

ACTION REQUIRED

Each of you must exert maximum effort to ensure that the actions of your staffs reflect clearly visible encouragement of wastewater reclamation and recycling of pollutants through land treatment processes in order to move toward the national goals of conserving water and eliminating the discharge of pollutants in navigable waters by 1985.

This policy will apply to all future municipal construction grant activities, as well as all current grant applications in the Step 1 category that have not been approved as of this date. Detailed information and guidance for implementation of this policy is under preparation and will be issued in the near future.

VA PHYSICIANS RECEIVING THE NOBEL PRIZE FOR MEDICINE

Mr. THURMOND. Mr. President, I wish to commend to my colleagues and to the Nation the recognition and honor that was bestowed last week upon three American physicians and medical researchers who were awarded the Nobel Prize in the field of medicine. In particular, I want to call to the attention of my colleagues that two of the recipients of the award are career physicians with the Veterans' Administration.

Receiving half the award was Dr. Rosalyn S. Yalow of the Bronx, N.Y. VA Hospital for her work in the development of radioimmunoassays of peptide hormones in the field of diabetes research. Sharing the other half of the award were Dr. Andrew V. Schally of the New Orleans VA Hospital and Dr. Roger Guillemin of the Salk Institute in San Diego for their work in the area of peptide hormone production of the brain.

Mr. President, this award is certainly a great event for the Veterans' Administration, particularly its Department of Medicine and Surgery headed by its able Director Dr. John Chase. This is the first occasion that the Nobel Prize has been conferred upon a medical researcher of the VA and is an event that reflects great credit upon the medical care program, particularly its research function.

Doctors Yalow, Schally, and Guillemin certainly deserve the commendation and esteem of all of the Members of the Senate and of our citizens throughout the Nation for the great honor that they have brought upon themselves and upon the quality of American medical research.

Mr. President, I ask unanimous consent that a news release from the Veterans' Administration announcing the Nobel Prize for these distinguished American physicians be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

VETERANS ADMINISTRATION

Two Veterans Administration career physicians and senior medical investigators have been awarded the coveted 1977 Nobel Prize in the field of medicine, it was announced in Stockholm this morning.

The two VA awards represent one of the few times Nobel awards have ever gone to scientists employed by the U.S. Government, and are the first ever to go to VA medical researchers.

The VA winners are Dr. Rosalyn S. Yalow of the Bronx, N.Y., VA Hospital, and Dr. Andrew V. Schally of the New Orleans VA Hospital.

One half of the $145,000 Nobel Prize was awarded to Dr. Yalow for the development of radioimmunoassays of peptide hormones. In making the award, the Swedish Caroline Institute said Dr. Yalow and her co-workers "directed diabetes research into new tracks and gave it a new dimension. We were witnessing the birth of a new era in endocrinology, one that started with Dr. Yalow. This modern endocrinology continues to develop and gives us continuously new outlooks on the causes and nature of diseases within the whole spectrum of medicine."

The other half of the $145,000 award will be shared by Dr. Schally and Dr. Roger Guillemin of the Salk Institute in San Diego "for their discoveries concerning the peptide hormone production of the brain."

In telephone calls personally congratulating the two VA physicians, Max Cleland, Administrator of Veterans Affairs, said, "the honors you have won stamp you as true giants in the world of medicine. The Nobel award is a deserved and fitting climax capping all of the many other honors you and your co-workers have earned over many years through the brilliance of your research.

"All of us in VA are so very proud and grateful to be associated with such distinguished physicians."

Dr. John D. Chase, VA's Chief Medical Director, in eulogizing the work of the two doctors, said, "Dr. Yalow and Dr. Schally have added greatly to the stature of American medicine, and their Nobel award is the greatest recognition ever accorded the VA medical research program."

Dr. Yalow, who is also Distinguished Service Professor of Medicine in the Mt. Sinai School of Medicine at the City University of New York, is a native of New York. She is married and the mother of two children.

She received her AB Degree from Hunter College in 1941; her Master's Degree from the University of Illinois in 1942, and her Ph.D. Degree in physics from the University of Illinois in 1945.

She served as a lecturer in physics at Hunter College from 1946 to 1950, at which time she joined the staff of the Bronx VA Hospital.

Last November Dr. Yalow became the first woman to win the prestigious Albert Lasker Award for basic research. The award was in recognition of her discovery of the technique of radioimmunoassay, a discovery made in collaboration with the late Dr. Solomon A. Berson of the Bronx VA Hospital.

Radioimmunoassay combines aspects of nuclear medicine and immunology to measure minute quantities of biological substances in the blood.

Her previous awards also include VA's highest research honor—the William S. Middleton Award; the University of Pittsburgh's Dickson Award; the American College of Physicians Award for distinguished contribution in science related to medicine; the Scientific Achievement Award of the American Medical Association, and the Cressy Morrison Award of the New York Academy of Sciences.

Dr. Schally is a native of Poland and is a magnu cum laude graduate of McGill University of Montreal, where he received a Ph.D. in biochemistry in 1957.

Prior to becoming Chief of the Endocrine and Polypeptide Laboratories at the VA hospital in New Orleans in 1962, Dr. Schally both taught and conducted research at the National Institute of Medical Research in London; the Allan Memorial Institute for Psychiatry of McGill University; and at the Baylor University College of Medicine.

In addition to his duties at the VA hospital in New Orleans, Dr. Schally is a Professor of Medicine at the Tulane University School of Medicine in New Orleans.

Among the many honors he has received are the Albert Lasker Award, the William S. Middleton Award, the Van Meter prize of the American Thyroid Association; the Ayerst-Squibb Award of the U.S. Endocrine Society; the Charles Mickie Award of the University of Toronto, the Gairdner Foundation International Award, Toronto; the Edward T. Tyler Award; and the Borden Award of the Association of American Medical Colleges.

Dr. Schally has been honored for findings with diagnostic and therapeutic applications to fertility. His discovery of several brain hormones, including one that stimulates the pituitary gland to release substances that regulate male and female reproductive systems, is expected to lead to development of additional fertility and contraceptive compounds for human use.

The VA budget for the fiscal year started on October 1 provides obligations of $113,518,000 for medical and prosthetic research.

According to the latest fiscal year statistics available, research was conducted at 130 VA medical facilities with 3,652 principal investigators engaged in 5,952 studies. There were 6,087 reports of VA research published in the professional literature, and at least 6,000 research papers presented at medical meetings.

Each year a dozen or so VA investigators receive recognition on a national scale for their studies in medical research.

NO PALESTINIAN STATE

Mr. CRANSTON. Mr. President, yesterday I had the honor of speaking at the dedication of an outstandingly beautiful new campus of the University of Judaism in Los Angeles.

I took that occasion to express my views of the opportunity—and the

danger—that Israel now faces in the Middle East. I would like to share these views with my fellow Senators, and I ask unanimous consent that the text of my address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR ALAN CRANSTON

As I've heard and read about this magnificent new campus I've been struck by the comments in the B'nai B'rith Messenger that the opening of the beautiful William and Fred Fingerhut Academic Building, and the dedication of the Isadore and Sunny Familian Campus, represent the beginning of the coming of age of Jewish education for much of the North American continent.

These events herald a renaissance in Jewish education—at a time when there is a general awakening of interest in ethnic studies sparked by a demand for knowledge about one's roots.

It is this increased involvement in our past, as well as a growing understanding that we must know more about our present—and about the possibilities that await us in the future—that have led the Jewish community to support the development of the University of Judaism until it is about to become the focal point for Jewish education throughout the west coast.

Indeed, it will form one of the major centers of advanced Jewish education anywhere in the world.

As a lover of learning and a respectful admirer of the rich ethnical, spiritual and historical heritage of American Jewry, I am proud—very proud—that all this is taking place here in California, and that I can share this great occasion with you.

Beginning just 30 years ago—in two borrowed rooms as the west coast branch of the Jewish Theological Seminary of America—the University of Judaism now consists of the University College of Jewish Studies, the Graduate School, the Graduate School of Judaica, and the Adult College—with accreditation by the Western Association of Schools and Colleges, and with academic ties to both UCLA and UC–Irvine.

And now this striking new campus!

At this moment of history, it is worthy of note that this beautiful campus might have been completed sooner, but that construction was delayed when all available funds went to support Israel in the Yom Kippur war in 1973.

Let us pray that war in the Middle East will never again rage. But let us face the fact that while Israel now has great opportunities, she at the same time faces great dangers.

Foreign Minister Moshe Dayan has enunciated 4 principles as the basis for Middle East peace:

The four principles are:

1. Israel's security must be ensured.

2. There must be freedom of navigation in all international waterways in the area.

3. The main water sources of Israel, such as the Jordan River sources in the north, should be secured.

4. Equal rights and full coexistence should be guaranteed between Israel and Palestinian Arabs in the Gaza Strip and on the West Bank. I support those 4 principles.

I also believe and I'm sure most Americans feel that there must also be:

1. A just settlement of the refugee problem that includes Jewish refugees from the Arab nations.

2. A withdrawal of Israeli armed forces from territories occupied in the six-day war in 1967.

You will note that I do not say all territories—just as the word "all" is not used in resolution 242, from which this wording is taken.

3. Acknowledgement by all parties of the sovereignty, territorial integrity and political independence of each existing state in the area, and its right to live in peace within secure and recognized boundaries.

But only Israel and the Arab nations—by sitting down together—can work out the details of how to bring all this about.

There must be no effort by outside powers—and that includes the U.S. as well as the Soviet Union—to impose a settlement.

An imposed peace implies that it is against the will of one or more of the parties concerned.

That kind of peace is not peace at all. It is merely an interlude before the next war.

That is why I believe that U.N. Resolution 242, and Resolution 338 which the Security Council passed after the 1973 Middle East War, should be the only basis for a reconvened Geneva Conference.

Moshe Dayan said that within the framework of those resolutions, Israel would enter the negotiations without any preconditions and would consider all issues as being subject to negotiation.

I hope the Arabs are also willing to talk business on that basis.

If they are not, then much as we all want to see a Geneva Conference, no Geneva Conference at all would be preferable at this time.

After decades of unrelieved enmity and three costly, bloody and—thank God, unsuccessful wars intended to "drive the Israelis into the sea", the rulers of Egypt and Jordan appear to be ready to talk seriously with Israel about peace.

Unfortunately Syria does not seem to be ready to join them, though I would hope that moderation on Israel's part will be met with moderation on the part of all the Arab nations.

I see absolutely no place in this peace formula, however, for the extremism and terrorism of the PLO.

For years everyone assumed that under UN Resolution 242, which the Security Council passed after the 1967 War, any conquered territory that Israel agreed to give up would be returned to Egypt, Syria or Jordan.

But a different and far more dangerous idea has been put forward by the Arab nations.

They now suggest that some of the land—specifically the West Bank and Gaza—be used instead to create a new, independent state under the PLO.

This is something they did not suggest when they occupied the West Bank and Gaza.

And to do so now would be unilaterally changing the rules in the middle of a life-or-death game.

At stake is the very existence of Israel.

Israel will not—and should not be expected to—surrender territory to create still another hostile neighbor—a neighbor which, under the convenant of the PLO, denies Israel's right to exist and is pledged to destroy her.

No such development should be expected from a reconvened Middle East peace conference in Geneva.

It would be totally unrealistic. And it would make no sense—no sense for Israel, and no sense for the cause of peace in the Middle East.

I find it very easy to understand why Israel—and friends of Israel—objected so strenuously to the unprecedented use of the phrase "legitimate rights of the Palestinian people" in the joint U.S.-Soviet statement on Oct. 1.

That was no mere semantic hangup.

As you know so well, the words "legitimate rights" rather than "legitimate interests" of the Palestinian people are code words of the PLO and Arabs that mean not just the creation of an independent, sovereign Palestinian state, but a Palestinian state that would wipe out Israel and take its place.

Similarly, I find it easy to understand why the Israelis refuse to deal with representatives of the PLO at Geneva.

Unfortunately for the prospects of peace, Arab extremists do not distinguish between Palestinians and the PLO.

Farouk Kaddoumi, the equivalent of the PLO's foreign minister, gave the following warning to the General Assembly in New York just last Tuesday: "Let it be crystal clear", he said. "No peace without the Palestinians and no Palestinians without the PLO".

That is not a formula for a lasting peace.

It is a formula for inevitable war.

A PLO-dominated Palestinian state on Israel's border would be a loaded gun aimed at Israel's head at point-blank range.

Such an idea cannot be tolerated.

Israel understands this.

You and I understand it.

We must see to it that the world understands it.

Thank you and Shalom.

A DIFFICULT VOTE TO CAST

Mr. ROTH. Mr. President, I voted against the Legal Services Amendments of 1977, S. 1303. This was an extremely difficult vote for me to cast. There is no question that the less fortunate citizens of our Nation deserve to receive legal representation of the highest quality whenever they need such services. Access to our judicial system is an essential right of every American and the legal services program was created in an effort to assure such legal assistance to those who could not afford the expense. Only the strongest considerations of policy could have led me to oppose the measure and I would like to take this opportunity to explain my reasons for doing so.

I supported the Legal Services Corporation Act in 1974 because the act contained important and necessary restrictions on the powers and activities delegated to the Corporation. These restrictions were carefully designed to prevent a recurrence of the controversial policies pursued under the legal services program as administered by the former Office of Economic Opportunity.

Several of these restrictions have been removed by the amendments contained in S. 1303. One important safeguard which has been eliminated is that which places strong restrictions on staff attorneys with respect to off-duty participation in partisan and nonpartisan political activities. These provisions in the original act have been replaced by the much less stringent requirements of the Hatch Act. The possibilities for conflicts of interest are greatly magnified by the dilution of these strong restrictions and the changes made by the amendments simply invite further controversy over the program. The need to keep the legal services program free from political influences was acknowledged during its passage. Much of the litigation initiated by legal services has placed it in direct conflict with State and local governments. The program is thus subject to extreme political pressures by its very nature. Softening the restrictions contained in the act on political activity by staff attorneys can only add to these pressures.

I am most disturbed by the removal of

the provision prohibiting representation by Corporation lawyers of poor clients in school desegregation cases essentially allowing attorneys to become involved in the busing issue. Under amendments passed to the Civil Rights Act, individuals can bring suit in desegregation cases and these suits can be supported by Federal funds. The Justice Department, and until recent amendments prohibited it, HEW has the power to intervene in such cases and has often exercised its prerogatives in this area. The busing of school children to achieve racial balance is an emotional and controversial subject. Years of court decisions and orders have not resolved the problems and the removal of the restrictions on the Legal Services Corporation with regard to desegregation cases can only further confuse the picture.

I understand that a compromise on the bill was made. Although some compromise may have been necessary, I cannot support any attempts to change the intent, language, or meaning of the Green amendment. Long hours of careful study and work went into the drafting of the Green amendment. Congresswoman Edith Green made a superb effort to insure that the legal services program remains a program to provide legal assistance to those who are indigent and not a means to alter our social policies. Basic legal research is a necessary part of this program and the Green amendment provides for such research. There has not been any evidence presented to me which indicates that any change in the amendment is necessary. There are some indications, although denied by the Corporation, that there have been attempts to circumvent the requirements in the Green amendment and involve the Corporation in research and litigation promoting changes in our national social policies. Social policy is most appropriately formulated in the national legislature, not in the courts. For this reason, I believe that we must seek to insure that the provisions of the Green amendment are faithfully followed or strengthened rather than weakening its substance.

The proposed amendments display little concern for middle-class Americans whose taxes support the program and who must pay for their right to seek judicial redress. Once the amendments in S. 1303 are signed into law, the taxes of the average American would be freed for use by activists, reform attorneys who would be able to file suits supposedly on behalf of poor clients that the taxpayer himself would have neither the time nor the money to conduct. Often his town or county would be forced to hire a lawyer—again using his taxes—to defend against the suit.

It should be noted too that the average middle-class citizen, in comparison with less fortunate Americans, has as much, if not more, difficulty in obtaining legal services. Hearings held by a Senate Judiciary subcommittee in 1973 highlighted the problems experienced by many middle-income Americans in obtaining legal representation. The subcommittee found that, in many cases, both the very rich and the very poor can secure legal aid more easily than the average citizen. In light of these facts, I could not, in good conscience, support the legislation.

The fundamental problems with the act can only be effectively addressed if the Congress takes a careful, intensive look at the program as it is now constituted. Reauthorizing the Legal Services Corporation and making any changes in its structure before the Congress has conducted a thorough investigation into its performance is an abdication of our responsibilities. Because the Corporation is not subject to executive control and review, the oversight responsibilities of the Congress are of added importance to the efficient, effective operation of the program. The report required to be submitted to the Congress by the Corporation in July of this year is not yet completed and may not be for some time. To enact amendments to the program without sufficient information is extremely premature and hasty.

It is possible to design an equitable and responsive program which will be acceptable to all Americans. In my opinion, the only way this goal may be reached is by objectively and critically evaluating the data becoming available from the Corporation and that which can be gained through committee hearings and reports.

PANAMA CANAL POLL

Mr. THURMOND. Mr. President, the overwhelming opposition of the American people to the giveaway of the Panama Canal was amply proven in a recent poll on that subject by the weekly National Enquirer newspaper which claims 15 million in circulation throughout the United States.

Ninety-seven percent of those responding said "no" to the question "Should the United States turn control of the Panama Canal over to Panama?"

The Enquirer took no position on the question, but offered to its readers arguments on both sides of the issue by two distinguished Members of this body.

The newspaper pointed out that over 4,500 replies had been received in the poll to date with 4,376 against giving up control and 140 in favor.

Mr. President, I ask unanimous consent that this article in the October 18, 1977 issue of the Enquirer, published in Lantana, Fla., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLL: 97 PERCENT SAY DON'T GIVE CONTROL OF CANAL TO PANAMA

An overwhelming majority of readers responding to an Enquirer poll say the United States should not turn over control of the Panama Canal to Panama.

First results of our poll, announced in the September 27 issue, show that of 4,516 ballots cast, 4,376 or 97 percent voted "no" on the question: "Should the United States turn control of the Panama Canal over to Panama?" Casting "yes" votes were a total of only 140 readers, or 3 percent.

As usual in our polls, The Enquirer took no sides on the question, but presented the pro and con views of leading spokesmen. Arguing against the Panama Canal Treaty, which is backed by President Carter and awaiting Senate ratification, U.S. Sen. Orrin G. Hatch (R.-Utah), warned that giving up the Canal undermines U.S. security and well-being.

Opposing this view, U.S. Sen. Mike Gravel (D.-Alaska) said that the new treaty is not only fair, it also protects American interests.

Watch for further results of this poll in future issues.

LETTER TO ATTORNEY GENERAL BELL WITH REGARD TO DEA REPORT ON GEN. OMAR TORRIJOS

Mr. HELMS. Mr. President, last Friday, I sent a letter to Attorney General Griffin Bell urging him to report to the American people on what steps the Drug Enforcement Administration of the Department of Justice is taking with regard to the investigation of Gen. Omar Torrijos and his family. There have been numerous allegations that General Torrijos and/or his family have been involved in drug trafficking.

In particular, the House Panama Canal Subcommittee reported that in 1973 one-twelfth of all cocaine and heroin entering the United States came through the Panama route. There is a considerable body of evidence that the general himself is or was involved in the trade, or at least has condoned it when engaged in by his brothers.

It is now well known that the Drug Enforcement Administration has many files relating to these allegations. The distinguished Senator from Kansas (Mr. DOLE) reported lask week that numerous files were removed from the central office of DEA and transferred to another site, in an apparent effort to keep the public from knowing the extent of the Torrijos involvement.

On Friday, I wrote to the Attorney General, asking him to report to the American people, and enclosing a copy of a DEA investigative report which made serious allegations against General Torrijos. Of course, the allegations in one report do not constitute proof. But when the files are as extensive as they appear to be, the American people deserve an explanation in detail of how thorough DEA's investigation of these allegations was, particularly when we have signed a treaty with one of the principals involved.

Moreover, on Saturday, CBS Evening News carried a story alleging that the material in the files includes the following: Col. Manuel Noriega, the head of Panama's secret police, is described as the "bag man" for General Torrijos, and as the liaison between Torrijos and Castro. CBS also reported that the files contain allegations that General Torrijos and his associates planned to assassinate former Panama President Arnufo Arias, who was then in exile in Miami; and that as late as 1975, Hugo Torrijos, brother of the Chief of State, was using Panamanian Air Force planes to transport drugs.

These are charges that cannot be covered up. They must be answered, and answered directly. If these charges are groundless, then it will be a simple matter to bring out the facts and refute them. But if this administration is at-

tempting a grand coverup, then the consequences for this Nation, both at home and abroad, will be profound.

Mr. President, I ask unanimous consent that my letter to the Attorney General and its attachment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 14, 1977.

Hon. GRIFFIN B. BELL,
Attorney General, Department of Justice, Constitution Avenue, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I am enclosing what purports to be a facsimile of a Drug Enforcement Administration investigative report which contains serious allegations against General Omar Torrijos. It appears to be the same report which was mentioned this morning on the CBS Morning News.

Inasmuch as the House Panama Canal Subcommittee reported in 1973 that as much as one-twelfth of all heroin and cocaine enters the United States through the Panamanian route—enough to destroy the lives of 20,000 addicts in the United States—the question of whether General Torrijos and his immediate family condone this trafficking or participate in it is of crucial importance to the American people.

I therefore urge you to report to the American people on what steps DEA and the Department of Justice have taken to investigate these allegations. Several close associates of the Torrijos family have been apprehended and convicted of drug trafficking by U.S. Courts; moreover, your own Department has confirmed, according to press accounts, that a sealed indictment exists against Moises Torrijos, the brother of the head of state of Panama.

Unless this matter is fully aired, the American people will never accept any agreement with the Republic of Panama which is tainted at the very source by such allegations. Once again, I urge you to explain this to the nation with full candor.

Sincerely,

JESSE HELMS.

INTELLIGENCE REPORT

This report is for the confidential and exclusive use of law enforcement agencies only. Information contained herein is not for evidential use as contents were collected by sensitive sources. The information is for the purpose of supplying investigative leads and contains neither recommendations nor conclusions.

DETAILS

1. In early February, 1975, a confidential source, in direct conversation with Ramiro Rivas, owner of a cement block company located in Pedregal, Panama, learned that Rivas maintains a $750,000 bank account at the International Bank of Miami located at 627 S.W. 27th Av., Miami. Rivas stated that he was in partnership with Omar Torrijos, a Panamanian General, in narcotics trafficking and was attempting to purchase a transportation company that would provide a greater capability in moving narcotics through Panama for Torrijos.

2. Rivas stated to the source that Panamanian aircraft are currently being used to transport narcotics from Cuba, Peru and Colombia to Panama. After the narcotics arrive in Panama, they are transported to the U.S. by aircraft, vessels, and in some cases, by vehicles overland to the Mexican border. Rivas did not specify the type of narcotics involved but implied that it was marijuana and cocaine.

3. Rivas further stated to the source that Hugo Torrijos, brother of Omar Torrijos, Genaro Barreras, Julio Arosemena, Samaniego, (FNU), (military intelligence stationed at Tocumen International Airport; "El Cholo" (NFI), (aid to Colonel Antonio Noriega); and Eduardo Guzman-Hilos, an auditor of the Presidente Remon Racetrack in Juan Diaz (Panama), are all involved with him and Torrijos in narcotics trafficking.

4. A check of MRO records reveals that Omar Torrijos is mentioned in GF-Panama along with Hugo Torrijos, Rivas, Barreras, Samaniego, Arosemena, "El Cholo", Noriega and Guzman were negative.

CUBAN-AMERICANS EXPRESS CONCERN ABOUT ADMINISTRATION'S CUBAN POLICY

Mr. DOLE. Mr. President, I had the opportunity to meet this morning with a delegation of Cuban-American representatives of 10 Cuban organizations, who presented me with a petition opposing the Carter administration's policies toward Cuba. That petition carries the signatures of more than 11,300 persons. In particular, the petition points to noncompliance by the Carter administration with a 1962 Senate joint resolution which established sanctions against the Castro regime.

That measure, Senate Joint Resolution 230, was enacted as Public Law 97–733 on October 3, 1962, and has apparently never been officially revoked or repudiated by either Congress or any American President.

The resolution clearly stated that the United States would use "whatever means may be necessary" to prevent the Communist Cuban regime from extending its influence to other parts of the Western Hemisphere. It determined to prevent the presence of any external military power within Cuba. And it clearly supported "the aspirations of the Cuban people for self-determination."

Mr. President, there are thousands of Cuban exiles and Cuban-Americans in this country who feel that the Carter administration's moves toward "normalizing" relations with Cuba will work to the disadvantage of democracy and human rights observance within Cuba. It is their feeling that formal ties between our two governments can only strengthen the domestic power of Fidel Castro, encouraging his revolutionary activities abroad and his repressive intentions within Cuba. I was advised by the delegation I met with this morning—many of whom have relatives imprisoned in Cuba—that more than 20,000 Cuban political prisoners are presently incarcerated by Castro.

Earlier this year, I introduced Senate Resolution 182, to establish four preconditions to "normalization" of relations with Cuba. At that time, I asked the question: "Just what is the rush in restoring relations with the Communist government in Cuba?" Today, I ask the same question. More than 11,000 persons have signed this petition, within a short space of time, calling upon the Carter administration to observe and comply with the Senate resolution enacted into law in 1962 with the concurrence of President John F. Kennedy. I hope that this administration will heed the concerns of thousands of native and naturalized Americans who strongly object to a restoration of diplomatic ties with Cuba, at least until important concessions are made by the Castro regime.

Mr. President, I ask unanimous consent that the full text of the petition, presented to me this morning, be printed in the RECORD.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF CUBAN LAWYERS, INC.,
Miami, Fla., October 17, 1977.

HONORABLE SENATORS: We hereby come representing the Cuban Exile due to the presence of a Communist Regime in Cuba. Here are Messrs. Fausto Lavilla, President of the National Association of Cuban Journalists in Exile; Roberto Carballo, President of the Association of Bay of Pigs Veterans (Brigade 2506); Mario Pestonit, Delegate of the Latin Chamber of Commerce (CAMACOL); Cristobal Gonzalez Mayo, President of the Confederation of Cuban University Professionals in Exile; Luis H. Vidaña, Delegate of the Confederation of Cuban Workers; Claudio Benedi, Delegate of the Cuban Lion Club in Exile; Ruben Gonzalez De La Heria, Delegate of the Municipalities of Las Villas in Exile; Gerardo Mora Adelit, Delegate of the Cuban Representation in Exile (RECE); and Humberto Quiñones Del Sol, President of the National Association of Cuban Lawyers, Inc.; which is the Institution that prepared the pamphlet regarding the non-compliance of the Congressional Joint Resolution of September 1962. Sanctioned then on October 3, of that same year, by President John F. Kennedy; and was published under the Public Law 87–733; 76 Stat. 697.

The purpose of our visit is to call the attention to the lack of compliance shown by the foreign policy of the present Administration with the above mentioned Resolution of the U.S. Congress. In the enclosed documents, you will find the reasoning that make us believe the Joint Resolution is mandatory, unless and until it be modified or derogated by the Congress and the President.

Our petition and exposition is being backed by thousands of signatures, as they appear on the attached documents. We expect that you will have this message reach the 95th Congress and the Hon. President of the United States of America.

PETITION

To the President of the United States of America, Hon.: James Carter, and the 95 Congress of The United States.

We the undersigned, Respectfully petition the enforcement of Public Law 87–733, 76 Stat. 697 (S.J. Res. 230) approved October 3, 1962; that reads as follows:

Joint Resolution expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination. Approved October 3, 1962.

The following representatives presented to me the petition signed by over 11,000 individuals: Señor Humberto Quionnes del Sol, Señor Cristobal Gonzales Mayo, Señor Roberto Carballo, Señor Mario Pestonit, Señor Fausto LaVilla, Señor Ruben Gonzalez De la Heria, Señor Gerardo Mora Adelit, Señor Luis Vivana, Señor Claudio Benedi, Señor Tomas Regalado, Señor Humberto Quionnes, Jr., Señor Carlos Benitez.

TRIBUTE TO CHARLIE FERRIS

Mr. WILLIAMS. Mr. President, today Charles D. Ferris is being sworn in as the new Chairman of the Federal Communications Commission. I join many of my colleagues in congratulating Charlie and wishing him well in this important position.

Those of us who worked with Charlie Ferris during the 13 years he served the Senate know him to be both dedicated and resourceful. As Chief Counsel to the Senate majority, he participated in some of the most crucial decisions in our national life. The ability and experience that he brings to his new post will surely benefit the Commission and the American people.

Mr. President, I am confident that Charles Ferris will provide the leadership needed to apply our national communications policy in the public interest. I look forward to working with him toward this end.

ALASKAN DEVELOPMENT ISSUE

Mr. STEVENS. Mr. President, the Alaskan d–2 issue is coming more and more to the attention of American citizens. The American public is beginning to realize that this is an issue not only of Alaskan interest but of national interest as well, and the future of the Nation's lifestyle will be greatly affected by the congressional decision regarding Alaska's public lands. Alaska has 15 sedimentary basins, all of which could be potential producing oil and gas provinces. Sixteen of eighteen minerals listed by the Federal Government on the strategic commodities list are found in Alaska. If Congress makes a rash decision on the d–2 lands question, many of the potential uses of Alaska's public lands will be precluded.

The American public is rapidly realizing that there is a real need to insure that Alaska's public lands are placed in categories which will allow both environmental protection and appropriate and reasonable development. Indicative of this realization is an article recently printed in the Journal of Commerce which describes the importance of the d–2 lands issue to both Alaskans and the rest of the Nation. I commend this article to the other Members of the Senate for their attention and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALASKANS FIGHT DEVELOPMENT BAN

(By Maureen Robb)

ANCHORAGE.—In what has been called Alaska's bitterest struggle since it achieved statehood, Alaskans are fighting a bill in Congress that would ban development on a quarter of the state's lands, and which could severely reduce the rich amount of energy and mineral resources available to the rest of the nation.

Congress must decide by December 1978 what part of the state's vast territory will be set aside as wilderness area, where no development, not even roads, would be allowed. The main bill now being considered by Congress, H.R. 39, would prohibit development on 146 million acres of federal land that the government retained when Alaska became a state.

OPPOSED BY ALASKANS

The bill is opposed by the majority of Alaskans, who say it would spell economic disaster, while it is supported by many Alaskan environmental groups who helped draft the bill, and by the majority of those persons testifying on it in government hearings across the country.

It is also quite popular with Washington legislators, who say they have a mandate to preserve the nation's last frontier. Spearheading the Alaskan effort to modify the bill are Sen. Ted Stevens, Rep. Don Young and Gov. Jay S. Hammond, while Teamsters in the state are also beginning to get support from organized labor throughout the country to amend Rep. Morris K. Udall's Alaska National Interest Lands Conservation Act, or H.R. 39

LOSS OF RESOURCES

A spokesman for Sen. Stevens says that the bill would set aside lands that are known to have significant energy or mineral reserves, such as the central Brooks Range and areas in the Wrangell Mountains which have commercially mineable copper deposits.

Other valuable properties that would be withdrawn from use, the senator's office reports, include what is believed to be one of the largest molybdenum deposits in the country (more than 100 million tons) that is being explored by United States Borax & Chemical corp.

The senator's aide says there are also deposits of 16 of the 188 minerals on the federal government's strategic commodities list which are needed for national defense and which are in deposits "great enough to justify commercial extraction right now." These include, he said, chromium, lead, molybdenum, platinum, tins, copper, iron, silver, and zinc.

Opponents of the bill say that in addition it would:

Prevent development of 70 million acres of sedimentary basins of potential oil and gas deposits.

Preclude development of 6.5 million acres of potential farmland.

Remove from the market about 14 million acres of commercial grade timber.

Another major complaint is that Alaska's energy and mineral resource potential remains largely unexplored, and the bill would lock up land which might have great development value.

Sen. Stevens, in a statement to President Carter, for instance, said that only half of the land which would be designated as wilderness has been adequately assayed at level 3. The United States Geological Survey, he said, conducts a four-level study to determine mineral deposits on federal land, and it is not until level 3 tests are made that scientists have good indications of mineral deposits.

In addition, Alaskans claim that the bill would reduce all types of development in the state because wilderness lands would lie in pockets throughout Alaska and cut off land access in towns on state and private owned acreage, thereby isolating these communities and making development impractical.

Alaskans protect too that relatively few Americans would be able to enjoy the wilderness areas, since they may not be entered by any motor vehicle, boat, or plane.

What most Alaskans would prefer to H.R. 39 is a bill granting multi-use of the land to temporarily set aside certain areas as national parks while leaving open the option for future development.

A bill by Sen. Stevens, for instance, which is supported by Rep. Young and Gov. Hammond, asks that 25 million acres be given over to national parks, wildlife refuges and the like, while 55 million acres be temporarily devoted for development later.

The majority of Alaskans, many of whom have moved to the state during the last ten years, say they want to both preserve its scenic beauty and abundant wildlife while developing its resources as well. Certain development is needed to provide a secure economic base, they say, after the state's history of boom and bust development in gold, fishing, and timber.

The unemployment rate, which usually runs at about 13 per cent, is also a spur to development. It has lately hit 17 per cent because a number of out-of-state residents who came to work on the recently finished oil pipeline have stayed on.

Another issue is that Alaskans see the proposed legislation as too great an interference with state's rights. Many residents say Alaska is being treated as a "fiefdom" of Washington, including persons who support the concept of H.R. 39 but who would prefer that the state itself had more control over the use of the lands. And, they add, Alaskans don't want to pay for environmental sins that were committed by over-zealous developers throughout the rest of the country.

The bill's supporters, on the other hand, would agree with this statement by the Alaska Coalition, a large environmental group: "If we must err because of lack of specific knowledge of all resources present in areas of high scenic or other natural values, let us err initially on the side of protection, for this judgment can be amended later." And, "Proportionately within the United States, wild lands are becoming the rarest of commodities."

Thus, as Congress prepares to evaluate H.R. 39 this year, it appears that there is only one major point of agreement among the bill's advocates and detractors—they except a long, hard fight.

DEADEND ROADS FOR OUR TAXPAYERS

Mr. HEINZ. Mr. President, an article in Friday's edition of the Pittsburgh Post-Gazette shows in clear and stark terms the price we pay for allowing our roads to fall into a state of disrepair. The statistics presented in this article, showing the extremely high number of accidents caused by poor road conditions, serve as a reminder of the need to increase our efforts at road rehabilitation across our Nation.

According to information supplied by the road information program, the Post-Gazette reported that hazardous roads accounted for 24 percent of the highway accidents which occurred in my State of Pennsylvania during 1976. After human failure, poor road conditions constituted the second most frequent cause of highway accidents. In a sense, hazardous roads are in themselves a result of human failure—because we have it in our power to prevent mayhem on the highways by investing greater knowledge and resources in road repair and rehabilitation. The cost of neglecting this need is high, in human as well as economic terms.

In Pennsylvania last year, the financial cost of the 71,690 accidents attributed to hazardous roads was estimated at $214.8 million, including hospital fees, property damage and payments to accident victims. Of course, it is impossible to quantify the cost in human suffering that is incurred by automobile accidents, but that cost too must be considered in calculating the benefits and savings of better road repair programs.

Mr. President, the Federal Government must work in cooperation with the States and localities to advance the cause of highway safety through effective rehabilitation programs. Highways remain an important social and economic resource that are central to the lives of communities and the welfare of individuals. To help my colleagues consider the situation we face and the job that needs to be done, I ask unanimous consent that the Pittsburgh Post-Gazette article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette, Oct. 14, 1977]

72,000 ACCIDENTS EACH YEAR BLAMED ON STATE'S ROADS

(By Dave Leherr)

Bad roads cause nearly 72,000 accidents a year in Pennsylvania at a cost of $215 million annually, according to a study released yesterday.

Produced by the national nonprofit group, The Road Information Program (TRIP), the study listed these conclusions:

Hazardous roads ranked second only to human failing as the principal cause of accidents, accounting for 24 per cent or 71,690 of the state's 1976 highway accident total.

Those accidents occurred because road conditions allowed little or no margin for human error, TRIP said.

Human failing contributed to 44 per cent of 303,774 of the state's total highway accidents in 1976.

More than 17,000 miles of Pennsylvania road are contributing to the annual accident rate because they were designed and built 40 years ago for smaller vehicles, lighter traffic and slower speeds.

TRIP noted that the 303,774 accidents attributed to human error resulted in 2,025 fatalities and 135,308 injuries.

Total cost of those accidents to the state and its citizens was $910.1 million or an average of $2,996 an accident.

The 71,690 accidents attributed to hazardous roads cost an estimated $214.8 million in hospital fees, property damage and payments to accident victims.

"While the number of traffic deaths has been declining in Pennsylvania over the past four years, these accident rates are still too high a price—in money and in human suffering—to pay for obsolete roads," said Henry D. Harral, former state highways secretary who now serves as state chairman of TRIP.

"The first priority should be reducing hazards at the 6,000 highway locations throughout the state where the Pennsylvania Department of Transportation has recorded more than 20 accidents each per year."

According to TRIP, 14,801 miles of Pennsylvania's arterial and connecting roads are too narrow for safe passing by large vehicles such as school buses, farm equipment and bulky recreational vehicles.

Another 2,451 miles were listed as hazardous and unsafe because of sharp curves, soft shoulders, steep rises and dips, roadside obstructions and restricted sight distances.

Harral quickly acknowledged that part of the dilemma is the insufficient revenues available to the state, and its counties and cities.

The study cited a nationwide survey by the Federal Highway Administration showing that road design and engineering improvements reduce accidents.

One year after hazardous conditions at 634 high-accident prone locations were eliminated, the number of accidents declined by an average of 19 per cent, the government study showed.

Meanwhile weather and other envionmental factors represented the third leading cause of accidents, numbering 46,781, and mechanical failures were fourth.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Douglas Coulter, of New Hampshire, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977 (new position).

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years vice James T. Lunsford.

Cecil M. McCall, of Georgia, to be a Commissioner of the U.S. Parole Commission for the term of 6 years vice Maurice H. Sigler.

Benjamin J. Malcolm, of New York, to be a Commissioner of the U.S. Parole Commisison for the term of 6 years vice Curtis C. Crawford, term expired.

Robert D. Vincent, of Oklahoma, to be a Commissioner of the U.S. Parole Commission for the term of 6 years vice Lawrence A. Carpenter, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, October 24, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

FALLON PAIUTE AND SHOSHONE LAND TRANSFER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 378, and I make this request on behalf of Mr. CANNON.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 785) to declare that all right, title, and interest of the United States in two thousand six hundred and forty acres, more or less, are hereby held by the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause and insert the following:

That (a) subject to valid existing rights, all right, title, and interest of the United States in two thousand seven hundred acres, more or less, described below are hereby declared to be held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Nevada:

MOUNT DIABLO MERIDIAN

Township 19 north, range 29 east, section 29, south half northwest quarter northwest quarter and the southwest quarter northwest quarter;

Township 19 north, range 30 east, section 2, northwest quarter; section 3, north half and southwest quarter; section 4, all; section 8, north half and southwest quarter;

Township 20 north, range 30 east; section 33; south half; section 34, south half; section 35, west half southeast quarter and southwest quarter.

(b) Notwithstanding any other provision of this Act, the United States shall be entitled to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres, more or less, of such lands referred to in subsection (a) for irrigation canal purposes.

SEC. 2. The lands held in trust pursuant to this Act shall be included in and deemed a part of the Fallon Indian Reservation and Colony, Nevada.

SEC. 3. The Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony shall hereafter be entitled, from the date of enactment of this Act, to the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement covering lands declared to be held in trust by this Act. In the event that such trust lands do not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, said tribes shall hereafter be entitled, from the date of enactment of this Act, to the proportionate amount of the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the land declared to be held in trust pursuant to this Act and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

SEC. 4. (a) Upon the request of Indian allottees, their heirs, or successors, and with the consent of the Fallon Paiute and Shoshone Tribes Business Council, the Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe after consultation with the Paiute and Shoshone Tribes Business Council, to transfer the right, or any part thereof, to the use of water appurtenant to other lands within the Fallon Indian Reservation, to the lands, or any part thereof, declared to be held in trust by this Act: *Provided*, That the Secretary of the Interior may act for any minor without natural parent or guardian, adjudicated incompetent, or unknown heir in effecting any such transfer.

(b) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange, the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The tribes are hereby authorized to transfer such acquired water right, or any part thereof, to the lands, or any part thereof, declared to be held in trust by this Act. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

SEC. 5. (a) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Fallon Indian Reservation in Nevada for the purpose of consolidating landholdings, eliminating fractionated heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. Title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

(b) Nothing in this section or subsection 4(b) of this Act shall confer any authority or impose any requirement on the Secretary to exchange, dispose of, or otherwise utilize other lands or interests therein under his administration in connection with any exchange, disposal, or acquisition of Indian trust land or interests therein authorized by this section and subsection 4(b) of this Act. Nothing in this section or in subsection 4(b) of this Act shall supersede or repeal by implication the requirements of the Act of October 21, 1976 (90 Stat. 2743). Any acquisition of exchange pursuant to this section or subsection 4(b) of this Act which involves public lands or interests therein as defined in the Act of October 21, 1976, shall also meet the requirements of said 1976 Act.

SEC. 6. Nothing in this Act shall affect rights subject to adjudication in United States against Alpine Land and Reservoir Company, et al., Equity No. D-183, U.S. Dist. Ct., Nevada, and United States against Truckee-Carson Irrigation District, et al., Civ. No. R-2987, U.S. Dist. Ct., Nevada.

SEC. 7. The Secretary of the Interior is authorized and directed to make as his first priority: (a) the improvement and extension of the existing system for the delivery and distribution of irrigation water within the Fallon Indian Reservation; (b) the construction of such additional canals, laterals, and irrigation works as are necessary to deliver sufficient water to irrigate the practicably irrigable acres included in the Fallon Indian Reservation pursuant to this Act; and, (c) the subjugation of up to one thousand eight hundred acres for agricultural purposes

To implement this section, there are hereby authorized to be appropriated up to $5,400,000 for construction purposes under this act, such amount to remain available until expended

Mr. CANNON. Mr. President, the bill under consideration culminates almost 6 years of effort in behalf of the Fallon Paiute-Shoshone Tribes of Fallon, Nev. It is intended to correct a serious injustice inflicted on the tribes more than 70 years ago.

In 1906, tribal members held more than 31,000 acres in 160-acre allotments located in what today is the heart of the Carson division of the Newlands reclamation project. In order to guarantee the success of the Newlands project, the United States requested that the Indians relinquish their allotments and retain a smaller part of the original allotment area. The members of the Fallon Paiute and Shoshone Tribes agreed on condition that all of the smaller land base contain arable acres and that the United States guarantee a free water right for the lands. The United States accepted the conditions of the Indians. The tribes relinquished approximately 26,000 acres of land and retained a 4,640-acre area which was ultimately reallotted in 10-acre allotments. In 1917, an 840-acre parcel was added to the Fallon Indian Reservation. The United States has purchased water rights to cover 4,877.3 acres of the 5,480-acre reservation. The tribes, however, have never been able to farm substantial portions of their lands because of waterlogging and the alkalic condition of the soil.

Today, due to soil and topographical conditions, 1,597 acres of Indian land with paid-up water rights on the Fallon Indian Reservation cannot be farmed. The purpose of S. 785 is to provide the Fallon Paiute and Shoshone Tribes lands that can be farmed. The 2,640-acre tract included in this legislation contains approximately 1,600 arable acres.

Additionally, the bill authorizes $1.25 million to be appropriated for the construction of water resource project facilities and the improvement and extension of the existing reservation water delivery system. If we are, in fact, to correct the injustice done to the tribes, it is essential that the tribes have a delivery system in place so that they can actually put their water right to beneficial use.

It has become necessary, because of the development of a unique situation, to make one amendment in the bill.

I ask unanimous consent to have printed in the RECORD a letter to Senator ABOUREZK from Mr. Krulitz, Department of the Interior.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 14, 1977.

Hon. JAMES ABOUREZK,
Chairman, Select Committee on Indian Affairs, Washington, D.C.

DEAR CHAIRMAN ABOUREZK: You asked us to address the question of whether or not the Secretary of Interior has the authority to allow the Indian allottees on the Fallon Reservation in Nevada to transfer the right, or any part thereof, to the use of water, appurtenant to other lands within the Fallon Reservation to the lands, or any part thereof, transferred to the Fallon Indian Reservation under S. 785.

The Secretary's authority in this matter is dictated by the statutes relating to reclamation projects. Several general statutes are applicable. The Secretary has general authority to supervise both Indian affairs and reclamation. 43 U.S.C. § 1457. Pursuant to 43 U.S.C. § 373 the Secretary has authority to perform any and all acts and to make rules and regulations as may be necessary and proper for the purpose of carrying on reclamation. 43 U.S.C. § 373. He is also authorized to regulate the use of water for irrigation on Indian reservations. 25 U.S.C. § 381. More specifically, applicable to the issue at hand, pursuant to the second paragraph in 43 U.S.C. § 389 the Secretary is authorized:

For the purpose of orderly and economical construction or operation and maintenance of any project to enter into contracts for exchange or replacement of water, water rights, or electric energy or for the adjustment of water rights as in his judgment are necessary and in the interests of the United States and the project.

Nothing in the general grants of authority to the Secretary regarding either reclamation or Indians forecloses the transfer of water rights to and the use of water on lands other than those originally certificated. 42 U.S.C. § 389 anticipates and gives authority for such transfers.

The water certificates issued originally in the name of the Commissioner of Indian Affairs for Fallon Indian Reservation lands were issued pursuant to the Reclamation Act. 43 U.S.C. § 389 authorizing contracts for exchange or replacement of water, water rights or electric energy or for the adjustment of water rights is applicable to the Fallon water certificates. Should the situation arise in which the reclamation of irrigable lands cannot be accomplished without a transfer of water rights, the Secretary could, pursuant to 43 U.S.C. § 389, make the necessary water rights adjustments in the interests of the project or the United States. In fact, precedent for such actions is evidenced by the departmental transfer forms printed for the purpose of applications for transfers.

On March 2, 1973, operating criteria and procedures for coordinated operation and control of the Truckee and Carson Rivers for service to the Newlands Project (Nevada), from which the Fallon Reservation gets its waters, were published.

The language of the criteria recognizes the authority of the Secretary to approve such transfers. Though couched in the negative and though placing limitations upon the Secretary before approval can be granted, nevertheless, the language recognizes the Secretary's authority and plainly contemplates transfers:

The Secretary shall not approve applications for transfers of water rights within the Newlands Project pursuant to 43 U.S.C.

§ 389 unless he finds . . . Transfers of water rights shall be restricted to the extent that there shall be no enlarged consumptive use of water within the lands of the Newlands Project. 38 F.R. 6697.

The criteria as set forth are still in effect. 42 F.R. 39492. The provisos set forth the parameters of the authority, they do not address the question of whether or not the authority exists.

One final note, apparently because the Truckee-Carson Irrigation District has violated the Secretary's operating criteria, the Secretary has at his discretion determined not to approve any further transfers of water rights on the Newlands Project. However, that is not to say he is without authority under 43 U.S.C. § 389 to make a determination otherwise.

The Secretary of Interior does have the authority to approve the transfer of water rights on the Fallon Reservation from certificated lands to other lands to be acquired under S. 785. Whether or not such transfers as a practical matter can or will actually be approved at any particular point in time is another matter and is not addressed in this letter.

Sincerely,

LEO KRULITZ,
Solicitor.

UP AMENDMENT NO. 947

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON and Mr. LAXALT, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senators from Nevada (Mr. CANNON and Mr. LAXALT), propcses an unprinted amendment numbered 947.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 8, line 11, strike out all through page 9, line 11, and insert in lieu thereof the following: "SEC. 4. The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange, the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.".

Mr. CANNON. Mr. President, this amendment deletes language in section 4 of the bill which authorizes the transfer of water rights held by the tribes to any lands conveyed by this bill.

Since May 1973, the Department of the Interior has not permitted the transfer of water rights from one parcel to another within the Truckee-Carson Irrigation District as a result of litigation involving the allocation of water from the Truckee River.

The Secretary is authorized by law to administer reclamation projects such as the Newlands project and also to carry out trust responsibilities for Indian tribes. The amendment will permit administrative consideration of these coordinate interests at the proper time. The effect of this amendment is to place the Paiute-Shoshone Tribes on the same footing with respect to the Department's water rights transfer policy as all other water users within the Newlands project. The amendment is not intended to prejudice any administrative action by the Department or to preclude the transfer of water rights held by the tribes or allottees to any lands conveyed by this bill at an appropriate time as determined by the Secretary.

This amendment has been accepted by the Fallon Paiute-Shoshone Tribes and has been cleared by the Select Committee on Indian Affairs and by the Department of the Interior.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senators from Nevada.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in two thousand seven hundred acres, more or less, described below are hereby declared to be held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Nevada:

MOUNT DIABLO MERIDIAN

Township 19 north, range 29 east, section 29, south half northwest quarter northwest quarter and the southwest quarter northwest quarter;

Township 19 north, range 30 east, section 2, northwest quarter; section 3, north half and southwest quarter; section 4, all; section 8, north half and southwest quarter;

Township 20 north, range 30, east; section 33; south half; section 34, south half; section 35, half southeast quarter and southwest quarter.

(b) Notwithstanding any other provision of this Act, the United States shall be entitled to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres, more or less, of such lands referred to in subsection (a) for irrigation canal purposes.

SEC. 2. The lands held in trust pursuant to this Act shall be included in and deemed a part of the Fallon Indian Reservation and Colony, Nevada.

SEC. 3. The Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony shall hereafter be entitled, from the date of enactment of this Act, to the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement covering lands declared to be held in trust by this Act. In the event that such trust lands do not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, said tribes shall hereafter be entitled, from the date of enactment of this Act, to the proportionate amount of the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the land declared to be held in trust pursuant to this Act and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

SEC. 4. The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

SEC. 5. (a) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Fallon Indian Reservation in Nevada for the purpose of consolidating landholdings, eliminating fractionated heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. Title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

(b) Nothing in this section or subsection 4(b) of this Act shall confer any authority or impose any requirement on the Secretary to exchange, dispose of, or otherwise utilize other lands or interests therein under his administration in connection with any exchange, disposal, or acquisition of Indian trust land or interests therein authorized by this section and subsection 4(b) of this Act. Nothing in this section or in subsection 4(b) of this Act shall supersede or repeal by implication the requirements of the Act of October 21, 1976 (90 Stat. 2743). Any acquisition of exchange pursuant to this section or subsection 4(b) of this Act which involves public lands or interests therein as defined in the Act of October 21, 1976, shall also meet the requirements of said 1976 Act.

SEC. 6. Nothing in this Act shall affect rights subject to adjudication in United States against Alpine Land and Reservoir Company, et al., Equity No. D-183, U.S. Dist. Ct., Nevada, and United States against Truckee-Carson Irrigation District, et al., Civ. No. R-2987, U.S. Dist. Ct., Nevada.

SEC. 7. The Secretary of the Interior is authorized and directed to make as his first priority: (a) the improvement and extension of the existing system for the delivery and distribution of irrigation water within the Fallon Indian Reservation; (b) the construction of such additional canals, laterals, and irrigation works as are necessary to deliver sufficient water to irrigate the practicably irrigable acres included in the Fallon Indian Reservation pursuant to this Act; and, (c) the subjugation of up to one thousand eight hundred acres for agricultural purposes.

To implement this section, there are hereby authorized to be appropriated up to $5,400,000 for construction purposes under this Act, such amount to remain available until expended.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON WEDNESDAY, THURSDAY, AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, Thursday, and Friday—October 19, 20, and 21—Mr. ALLEN be recognized for not to exceed 15 minutes at the beginning of each day, following the orders for the recognition of the two leaders or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday of this week, immediately after the orders for the recognition of Senators, Mr. WILLIAMS be recognized to call up a minimum wage conference report; that upon the disposition of the conference report, the Senate proceed to the consideration of Calendar No. 451, the bill to amend the Age Discrimination in Employment Act; that upon the disposition of that measure, the Senate proceed to the consideration of Calendar No. 433, the veterans bill; that upon the disposition of that bill, the Senate proceed to the consideration of Calendar No. 449, the wilderness bill; that on that measure there be a time limitation of 4 hours on the bill, to be equally divided between Mr. CHURCH and Mr. HANSEN, with 1 hour on any amendment, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order; that there be a 2-hour limitation on an amendment by Mr. DOMENICI, and that the agreement be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I wonder whether the majority leader would consider an amendment to that request, to provide that Calendar No. 449, the wilderness bill, in any event would not be made the pending business before Thursday. That was the agreement we had worked out with the distinguished Senator from California.

Mr. ROBERT C. BYRD. Yes, that is agreeable.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 3454 (Order No. 449), an act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, debate on any amendment in the first degree (except an amendment to be offered by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Idaho (Mr. CHURCH) and the Senator from Wyoming (Mr. HANSEN): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR ADJOURNMENT UNTIL 9 A.M., WEDNESDAY, OCTOBER 19, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. on Wednesday.

Mr. ALLEN. Mr. President, will the Senator make that 9 o'clock, on account of the Senate prayer breakfast?

Mr. ROBERT C. BYRD. Yes. I will be glad to change my request.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. Wednesday next.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

CORRECTION IN ENGROSSMENT OF SENATE AMENDMENTS TO H.R. 4018 (S. CON. RES. 58)

Mr. BAKER. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 58

Resolved by the Senate (the House of Representatives concurring), That the following language be inserted immediately after section 141 in the engrossment of the Senate amendments to H.R. 4018 and be considered as being in conference:

SEC. 141A. No action by the Federal Power Commission pursuant to this or any other Act shall, directly or indirectly, take from a natural gas distribution company any volumes of gas which such company demonstrates resulted from energy conservation measures: *Provided, however,* That such conserved volumes shall be applied first to existing residential customers, second to existing small commercial customers, third to existing industrial customers with nonsubstitutable natural gas requirements, and fourth to other customers.

For purposes of this section, the term "natural gas distribution company" means any utility which sells natural gas.

For purposes of this section, the term "energy conservation measures" includes but is not limited to measures taken pursuant to a residential energy conservation plan as defined in the National Energy Conservation Policy Act.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BAKER. Mr. President, I have sent this concurrent resolution to the desk on behalf of the distinguished Senator from Michigan (Mr. GRIFFIN). It relates to the supplying of an omission through a clerical error of the so-called savers-keepers amendment to the utility regulatory bill, S. 2114, to H.R. 4018, which is now in conference.

It is my understanding that the conferees will meet this week and that since this matter is now in conference, the error—that is, the omission of this amendment from the engrossed bill—can only be supplied by the adoption of this concurrent resolution. It is for that purpose that the concurrent resolution is offered at this time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object, of course—this resolution has been cleared on this side of the aisle, and it was for the purpose accurately stated by the minority leader that there was no objection to the consideration of the resolution on this side of the aisle.

The concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PANAMA CANAL TREATIES

Mr. THURMOND. Mr. President, late Friday evening, President Carter and General Torrijos issued an unsigned joint statement of understanding on differing

United States and Panamanian interpretations of the treaties.

After reading press reports over the weekend, it appears the so-called understanding is a very informal diplomatic document. It is not even a signed agreement as General Torrijos pointedly said on his return to Panama when he declared in a cavalier manner, "I haven't even signed an autograph."

On the issue of intervention, the statement, in part, provides—

. . . each of the two countries shall in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

In addition to this language, however, the joint statement provides—

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama.

The point is that the canal becomes internal to the affairs of Panama 6 months after ratification of the treaties. Sovereignty and control pass to Panama, and any action taken by the United States will be subject to the above proscription. I am unable to determine who defines intervention or what the definition of intervention would be.

The issue of expeditious passage also remains unclear. I am unable to discern who determines priority passage and what conditions constitute emergencies sufficient to bring about expedited treatment.

This vague two-party statement has clarified nothing, and any further drafting should be approached as treaty amendments, not general statements subject to varying interpretations. The new "understanding" is merely an interpretation of the treaties by the current leaders of the two countries affected and the fact such an interpretation was needed testifies to the ambiguities in the treaty itself. Only the treaties are permanent and only the treaty documents will serve as a basis for future decisions.

Today the United States does not base its rights in Panama on what leaders of that period said it meant, but rather upon the bare words of the 1903 treaty itself. This same application will apply in future years to the Panama Canal treaties we are being asked to ratify today.

Even if the statements were clear, which they are not; even if they were signed, which they are not; even if they were in the form of amendments, which they are not; they still leave unsettled the central objection to the treaties—relinquishing ownership and control of a vital commercial and defense asset to the unstable, left-wing dictatorship of General Torrijos.

Again, the question comes to mind—Who can best operate, defend, and keep the canal open for the rest of the world—the United States or the Torrijos regime?

Mr. President, in order to share a number of news items on this matter with my colleagues, I ask unanimous consent that the statement of understanding as issued by the White House, the Foreign Information Service broadcast report, and an article carried by the Washington Post, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF UNDERSTANDING

Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

The Neutrality Treaty provides that vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.

[From the Foreign Information Broadcast Service]

PANAMA: TORRIJOS RETURNS, SAYS NOTHING SIGNED IN WASHINGTON

Gen. Omar Torrijos Herrera arrived back home at 1700 today, when all the world's newspapers are reporting and commenting on his interview this morning with President Jimmy Carter. He returned in a special jet which landed at the Rio Hato Air Base. He was accompanied by Agricultural Development Minister Col. Ruben Dario Paredes, Presidency Minister Fernando Manfredo and Romulo Escobar Bethancourt, chief of the Panamanian negotiating team. He was also accompanied by special guard Sergent Jose de Jesus Martinez and his private secretary, Celia De Gaswell.

General Torrijos was received by the Rio Hato garrison chiefs and by the guards which are stationed at his farallon home. Our reporters filmed General Torrijos arrival and recorded his brief statements concerning his long and positive trip.

Torrijos said that he was tired from the trip and wanted to rest before making extensive statements. He said that he considered the tour very beneficial for Panama and that we could rest assured that everything negotiated and everything discussed was in his people's favor. He added that he understands that the people are very defensive concerning their sovereignty and that during his meeting with President Carter he had not signed even one autograph. Questioned about the comments which arose after his meeting with Carter, Torrijos repeated that he had signed nothing at all and had done nothing to change the new treaties signed on 7 September. He said that the small groups which are opposed to the treaties also have their rights, but that this is nothing to worry about, that on the contrary, this provides stimulation for positive accomplishments.

Torrijos' wife, children and other relatives arrived on a special flight in Rio Hato a few minutes after Torrijos arrived. Bidding farewell to our reporter Santa Maria Llamas, Torrijos said that he will soon hold a news conference.

[From the Washington Post, Oct. 16, 1977]

GEN. OMAR TORRIJOS DENIES SIGNING NEW CANAL PACT

PANAMA CITY, October 15.—Gen. Omar Torrijos, fresh from a meeting with President Carter on the Panama Canal treaties, has denied reports here that he signed a pact giving the United States the right to military intervention in the canal.

"I haven't even signed an autograph," Torrijos said yesterday when his flight from Washington landed at the Rio Hato air force base, near his beach house. He said he was too tired to make further comments.

Torrijos said Carter had been very affable and that they had talked about the process of ratifying Panama Canal treaties by the U.S. Senate and the people of Panama.

[After Torrijos and Carter met Friday, the United States and Panama issued a joint communique clarifying Washington's treaty right to intervene to maintain neutrality of the canal even after it reverts to Panamanian control in the year 2000. Neither leader signed the communique.]

CORRECTION OF ENROLLMENT OF S. 717

Mr. WILLIAMS. Mr. President, I send to the desk a concurrent resolution and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 57) to correct the enrollment of S. 717.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

Mr. WILLIAMS. Mr. President, this is, as it is stated, necessary to correct some errors that appeared in the conference report on S. 717, and it is as simple as that. All have agreed this is necessary to correct those errors.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate is authorized and directed, in the enrollment of the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, to make the following corrections:

(1) In section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "this section and in accordance with" after "in" the second time it appears.

(2) In section 101(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "health or".

(3) In section 104(h) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "subsections (b), (c), or (d)" and substitute "this section".

(4) In the fourth sentence of section 109 (d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "case," and substitute "case".

(5) In section 110(d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "and section 107" immediately after "section 104".

(6) In section 115(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "(g)" and substitute "(f)".

(7) In section 202(e) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 202(a) of the bill, strike "means" and substitute "mean".

(8) In section 301(b)(1) of the bill, strike "or other".

(9) In section 301(b)(2) of the bill, strike "under section 101 of the Federal Mine Safety and Health Act of 1977.".

(10) (A) In section 302(a) of the bill, strike "Amendments", and (B) strike "Mining Enforcement and Safety" and substitute "Mine Safety and Health".

(11) In section 303(a)(5) of the bill, strike "last" and substitute "first".

(12) In section 305 of the bill, strike "Health and Safety" and substitute "Safety and Health".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will not be in session tomorrow, it being felt that by the Senate going over until Wednesday this will give the Senate conferees on various measures that are in conference an opportunity to work throughout the day without interruption by rollcalls and quorum calls in the Senate Chamber, and the Senate will also be awaiting the further processing of measures on which action will be necessary before the Senate adjourns for the year. It is hoped that conferees will be able to take advantage of this full day tomorrow.

On Wednesday, the Senate will convene at 9 a.m., and after the two leaders or their designees are recognized under the standing order, there will be five Senators for whom orders have already been entered beginning with Mr. ALLEN and proceeding with Mr. MOYNIHAN, Mr. SCHWEIKER, Mr. FORD, and Mr. GLENN, not necessarily in that order, but as they may for their own convenience arrange their appearance.

On the disposition of those orders, the Senate will take up the minimum wage conference report, H.R. 3744. Upon the disposition of that conference report, the Senate will take up Calendar Order No. 451, H.R. 5383, the Age Discrimination in Employment Act, and there is an agreement covering the debate on that bill and amendments thereto.

Upon the disposition of Calendar Order No. 451, the Senate will proceed to the consideration of Calendar Order No. 433, S. 457, a bill to extend the delimiting period for completion for certain veterans, and other certain conditions, and that bill is under a time limitation agreement. So there will be rollcall votes throughout the day on Wednesday. I anticipate that the Senate could be in late in order to complete action on both of those measures.

The wilderness bill, Calendar Order No. 449, H.R. 3454 is also under a time limitation agreement, but it will not be taken up on Wednesday. That would be a good candidate for Senate consideration on Thursday.

ADJOURNMENT UNTIL 9 A.M. WEDNESDAY, OCTOBER 19, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. on Wednesday.

The motion was agreed to; and at 7:04 p.m., the Senate adjourned until Wednesday, October 19, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate, October 17, 1977:

AMBASSADOR

George H. Aldrich, of Virginia, for the rank of Ambassador during the tenure of his service as Deputy Special Representative of the President of the United States for the Law of the Sea Conference, and Deputy Chief of Delegation.

FEDERAL COMMUNICATIONS COMMISSION

Tyrone Brown, of the District of Columbia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1972, vice Benjamin L. Hooks, resigned.

THE JUDICIARY

Pierre N. Leval, of New York, to be U.S. district judge for the southern district of New York, vice Donald B. Bonsal, retired.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Richard Luther West, 384-12-6688, U.S. Army.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

To be first lieutenant

Adams, John W., 396-48-2609.
Adams, William D., Jr., 250-98-2605.
Aertker, Alan F., 453-82-0609.
Agnew, Robert F., 226-66-4148.
Albaugh, Gary L., 265-96-2521.
Albergo, Epifanio J., 101-40-6346.
Albright, Randolph A., 212-62-1518.
Allenback, Albert A., Jr., 214-48-5280.
Alston, Warner L., 408-90-3513.
Altendorf, Dennis A., 464-82-3816.
Alvstad, Martin C., 389-52-0951.
Anders, Melvin D., 443-50-1936.
Anderson, Carolyn N., 413-76-9839.
Anderson, Darrell E., 451-92-2869.
Anderson, Donald L., 217-54-8876.
Anderson, Gerald, 408-92-4343.
Anderson, Steven T., 263-08-7972.
Andrews, Mark W., 349-44-7296.
Ashley, Eugene D., 262-94-6485.
Ashton, Mark S., 435-88-3625.
Aultman, Ronnie W., 424-72-2556.
Auschwitz, Freddie G., 447-46-0877.
Ausenbaugh, James B., 400-70-3034.
Austin, Terry W., 462-82-3036.
Baker, Joel M., 248-98-8862.
Bartlett, Michael W., 462-90-7036.
Bartok, John N., 322-42-4673.
Baryza, Francis X., 098-42-4996.
Bateman, Charles S., 518-54-4598.
Battagliola, John W., 119-42-4498.
Batten, Reginald W., 507-60-6707.
Bauer, Robert L., 135-44-6825.
Baughman, Richard E., 298-42-2642.
Bayles, George W., 230-76-7452.
Beaver, John W., Jr., 240-74-3878.
Beckham, Garry M., 457-92-0469.
Beekman, Annabelle D., 263-17-5703.
Beil, David L., 055-40-7230.
Beisser, Frederick G., 387-42-9899.
Beitel, Richard J., 540-58-2781.
Bell, Larry L., 412-82-5438.
Benda, Mark F., 480-64-5955.
Berggren, Stephen R., 406-72-0302.
Bergjans, Steven B., 500-56-6052.
Betsher, Terry A., 505-66-4230
Beveridge, Daniel J., 478-68-6208.
Beverley, Donald B., 346-38-8303.
Bierig, Barry N., 442-52-4201.
Birt, Harold E., Jr., 007-52-6541.
Blair, George R., Jr., 454-88-7734.
Bogert, Jean, 155-38-2153
Bondzeleske, Edward A., 292-46-2839.
Bonillavaldez, Jesus M., 457-84-2706.
Booker, Grover L., 254-62-8729.
Borgersen, Karl N., 574-16-5894.
Bottemiller, Kenneth W., 531-46-1311.
Bourgeois, Chris M., 438-86-7557.
Boyd, Donald E., 534-48-9529
Bradley, Charles T., 409-86-7739.
Bradshaw, Richard C., 464-58-7812.
Brashear, Michael D., 535-50-2467.
Braswell, James C., Jr., 260-72-1817.
Braun, Werner, W. F., 514-48-7181.
Brendel, Lance C., 527-94-3372.
Bringman, Marc A., 326-42-9400.
Brooks, Charles P., Jr., 261-92-6226.
Brotchie, Craig F., 561-84-2717.
Bryant, Seth C., Jr., 253-72-1587.
Buchenhols, Dennis M., 041-46-7729.
Buck, Robert S., 167-42-8943
Buntyn, John R., Jr., 410-68-2520.
Bures, Gary L., 508-68-9019.
Burmeister, William H., 484-40-9165.
Burnett, Louis R., 448-44-6831.
Bush, Robert A., 110-44-4464.
Bynum, David J., 029-30-2122
Byrd, Robert W., 242-54-6993.
Byrne, Carolyn E., 570-76-9572.
Byrne, John M., 016-38-4188.
Byron, Michael W., 436-86-4603.
Byzewski, Robert H., 530-36-7636.
Caldwell, George A., 485-58-6394.
Calkins, John W., 515-54-5217.
Capell, Richard S., 416-76-3887.
Carignan, Edouard A. J., 002-30-8732.
Carpenter, Ronald L., 237-72-6068.
Carroll, David D., 417-72-1447.
Carter, Christopher W., 585-32-7720.
Carter, Glen, 552-68-6656.
Carter, Richard M., 236-82-6953
Cawl, George A., 134-40-1359.
Chaney, James H., 430-86-3100.
Chapman, Raymond C., Jr., 527-72-9072.
Charles, James P., 187-40-0255.
Chauret, Keith N., 450-02-2761
Chealander, Steven R., 556-66-4183.
Cherry, Dennis L., 486-56-9961.
Chestler, Harry C., 383-54-3816.
Childs, Henry, 257-80-7017.
Cisler, Douglas G., 467-84-7665.
Clark, Jerry L., 413-62-1337.
Clarke, Marvin C., 120-38-4556.
Clayton, Patricia B., 497-54-4636.
Clemons, Eugene, Jr., 265-94-7479.
Clifford, James A., 540-58-2912.
Coats, Robert L., 464-70-5187.
Cohen, Anita Irene, 079-38-7267.
Coker, Oliver D., III, 430-96-4101.
Collins, David E., 215-58-7452.
Columbo, Ronald, 158-34-1650.
Comins, Donald J., 388-44-5738.

Comley, Richard W., 461-92-9590.
Connell, Thomas M., II, 365-50-1385.
Connelly, Norris L., 266-02-1265.
Conrey, William M., Jr., 412-86-7062.
Cooksey, George D., 566-86-0361.
Cooper, Robert T., 466-90-5773.
Counts, Richard W., 301-50-1161.
Cravens, Michael A., 530-36-2232.
Crawford, Phillip J., 546-80-4251.
Crist, William H., 460-94-3319.
Crook, Jimmy C., 455-86-2864.
Crossey, Terrence G., 167-42-5586.
Cruea, Ernest D., 311-42-4987.
Cucinella, Gina C., 559-62-4699.
Curtis, Mary C., 310-54-5909.
Curtiss, Glenn D., 398-54-0360.
Cwiak, James J., 325-44-6253.
Daley, Michael P., 181-36-0489.
Dairymple, Kimberly J., 051-46-1841.
Daniel, Jean C., 404-60-7602.
Daniels, Ronald H., 562-64-9562.
Dash, Michael G., 251-90-2594.
Day, Myles E., 041-40-6628.
Dayton, Thomas E., 466-88-9385.
Deangelo, James R., Jr., 127-38-8677.
Defronzo, Michael, 341-42-2461.
Delker, Warren B., 348-42-2605.
Dendy, Lewis H., Jr., 432-86-6525.
Denesia, Thomas E., 507-68-3515.
Derrell, John H., 509-46-0520.
Devereux, Desmond C., 285-46-6001.
Devore, Roger K., 349-44-8188.
Dewitt, Gary M., 128-40-9544.
Dickerson, Harry W., Jr., 276-34-2194.
Ditti, Michael L., 393-58-3041.
Dixon, Malcolm R., III, 263-96-7956.
Doan, Robert D., 405-64-3388.
Dodds, Dale I., Jr., 570-64-6878.
Dodge, Clark F., II, 009-38-5690.
Doherty, John R., 141-36-9207.
Doiron, Michael J., 433-74-8533.
Donnell, James H., 165-42-3603.
Donovan, Eddylou, 536-54-5173.
Duffy, Larry G., 420-60-4569.
Dugan, Thomas R., 316-40-2653.
Duggan, John J., 024-30-8083.
Dulaney, Bob D., 553-84-3361.
Duncan, Kathleen T., 566-86-2947.
Duran, Wesley E., 230-54-7685.
Dziuban, Richard V., 224-76-6322.
Ebert, George A., 147-46-3877.
Eberz, Robert, 209-32-8045.
Ebner, Douglas R., 066-40-9457.
Elder, James W., III, 406-64-4194.
Elliott, Barrett S., 055-46-6899.
Elliott, Dale A., 512-46-5917.
Emmons, Duane, 305-58-4862.
Essig, Tom A., 370-50-9114.
Estapa, Glenn A., 439-82-3076.
Estes, Ronald N., 516-60-5976.
Eversole, John F., III, 228-68-7683.
Ezzell, Richard A., 237-80-3697.
Faggart, James C., 298-38-6258.
Fass, Robert J., Jr., 209-40-3129.
Fedrizzi, Jefferson R., 568-54-4170.
Feeman, Robert J., 171-36-0651.
Felder, Larry L., 518-60-3389.
Fingerlin, Richard A., 442-54-2303.
Fish, John O., 532-48-8846.
Fisher, David M., 431-98-4875.
Fleishel, Victor S., 262-82-4221.
Flood, Charles J., 101-42-6891.
Flynn, Michael J., 548-64-8530.
Foote, Stephen D., 549-72-5009.
Foster, John O., 557-76-3788.
Foster, John W., Jr., 326-34-6821.
Fox, Jeffrey D., 027-36-3430.
Fox, Lowell E., 568-62-3333.
Foy, Leslie E., 435-76-4661.
Frederick, Robert A., 111-42-1209.
Frey, James L., 300-48-1450.
Friedly, Robert, 059-32-5086.
Fulbright, Barry D., 435-72-1490.
Furmanek, Frederick J., 355-46-9182.
Fussell, James C., 422-70-4334.
Gage, Wade M., 466-86-5351.
Garcia, Carlos R., 457-94-4783.
Gardner, J. C., Jr., 423-64-9223.
Garner, William B., 237-76-1985.
Garrison, Patrick M., 434-76-7674.
Gass, Gregory J., 534-46-5574.
Gatewood, James D., 482-64-0406.
Gavin, Dennis W., 071-40-8604.
Gee, David R., 119-38-9553.
Gemmill, Douglas D., 485-62-9799.
Giere, Martin D., 516-66-6059.
Gilchrist, Ronnie L., 421-72-2558.
Gillespie, Darrell D., 507-70-3108.
Gillis, John F., 374-56-1661.
Glass, Michael F., 266-88-1367.
Gmitter, Roy E., 229-54-4486.
Goebel, Lucky A., 508-52-5375.
Golley, Michele A., 282-44-5474.
Grainger, John C., 526-94-7130.
Grant, Graves J., Jr., 439-68-5947.
Green, James E., 436-82-8047.
Green, Thomas J., Jr., 577-58-1823.
Greenberg, Harvey R., 157-42-1185.
Grickis, Ronald G., 184-42-9475.
Griffin, Hal B., 508-64-4654.
Griffiths, Donald A., 449-88-8365.
Griffiths, David J., 472-64-5664.
Griggs, Roy A., 256-82-9231.
Gross, Wayne D., 192-42-8097.
Guerra, Robert R., 218-60-3779.
Gusmus, Louis M., 417-62-7315.
Hageney, Iris M., 436-78-5011.
Hall, Michael W., 457-98-5441.
Hall, David C., 344-44-2156.
Hall, June L., 477-50-1980.
Hall, Ronald D., 232-82-9580.
Hall, Ronald R., 561-76-4856.
Hallen, Andrew J., 219-48-6173.
Hallstrom, Robert N., 302-38-3352.
Hambrick, George M., 381-48-4112.
Hanson, Robert C., 526-84-1236.
Harding, Charles T., 477-38-4093.
Hare, Terry L., 251-74-4807.
Harrington, Steven M., 537-46-0877.
Harris, Donald, 259-72-7317.
Harris, Kenneth D., 180-40-1730.
Haszard, John R., 231-56-0699.
Hatfield, Terrell W., 422-56-7238.
Hawkins, Dennis L., 319-46-4376.
Hebert, Donald A., 226-66-6352.
Hebert, John S., 002-42-0710.
Hecke, Daniel L., 429-96-5362.
Henderson, Steven R., 566-72-9649.
Henley, Mark O., 461-92-5689.
Henry, William A., 221-32-4234.
Hickman, Paul S., 443-40-0547.
Hicks, David M., 443-46-9151.
Hicks, Donald L., 234-84-2494.
Higgs, Stephan D., 467-94-0620.
Hill, Wilson M., 459-60-0139.
Hillegass, Sallie H., 178-42-8494.
Hines, Bobbie J., 463-78-6236.
Hobbs, Craig L., 550-74-4353.
Hodgkins, Williams F., 422-64-0138.
Hoffsommer, Monty S., 444-56-9384.
Holland, Neil D., 575-58-2219.
Hollenberg, Joseph M., 067-44-7897.
Holshouser, Jeffrey, 561-92-1505.
Honeycutt, Earl D., Jr., 238-68-3377.
Honeycutt, Laura A., 142-40-0353.
Howell, John W., 266-86-1487.
Hrapla, Michael F., 172-44-8181.
Hresko, Michael J., 165-30-0346.
Hrynyk, Thomas P., 459-80-0485.
Huddleston, Richard A., Jr., 357-42-6779.
Hudspeth, Louis E., 451-52-9961.
Huff, Robbin G., 294-48-4606.
Hughes, Denis J., 469-62-3436.
Humphreys, William W., 158-44-7264.
Hunter, Kirk R., 379-48-8166.
Huntington, William B., 506-68-4478.
Husby, David J., 392-42-7670.
Hutchings, Robert K., 332-40-6423.
Hutchins, Robert V., 482-46-7474.
Ibero, Francisco J., 137-42-5344.
Ingalls, Michael L., 271-48-3636.
Jackson, Elmore, Jr., 450-76-3380.
Jackson, James J., Jr., 418-74-8607.
Jackson, Raymond M., 247-96-6458.
Jacobs, John A., 220-50-7255.
Jaggers, Jaureguy L., 405-64-6990.
Jagodnik, Warren L., 302-50-9672.
James, Larone L., 431-90-9385.
Jeanes, Gerald M., 239-90-4182.
Jenkins, Steven A., 538-48-6847.
Jimenez, Luis A., 463-74-2039.
Johansen, Pamela C., 542-62-7810.
Johnson, Clarence A., 425-96-2594.
Johnson, Donald I., 448-44-5750.
Johnson, James C., 500-56-2018.
Johnson, Jay G., 465-78-1331.
Johnson, Jessie L., 428-88-1334.
Johnson, Louis R., 443-50-5242.
Johnson, Ronald H., 571-74-7910.
Johnson, Ronald M., 463-92-1388.
Johnson, Sheila J., 455-82-3923.
Johnson, Thomas W., 384-46-3980.
Johnson, William W., 260-76-4107.
Johnston, Mickey L., 433-84-4103.
Jolly, Mark B., 535-52-8084.
Jones, Dennis A., 267-90-6244.
Jones, Douglas, Jr., 422-72-7405.
Jordan, Charles W., 219-38-1938.
Justet, Emil V., 528-62-8738.
Jydstrup, Jill B., 530-46-4318.
Kahle, Kenneth E., Jr., 276-42-7400.
Kaiser, Richard L., 109-26-2972.
Kallestad, Wayne H., 473-58-1752.
Karst, Joseph P., Jr., 422-64-1015.
Keeler, Terry W., 505-62-8330.
Keith, Charles D., 415-82-3813.
Kern, David W., 501-64-0284.
Khare, John F., 133-38-9654.
Kiessling, George C., Jr., 192-42-6713.
Kight, Mary J., 566-76-8947.
Kim, Jai K., 366-46-0113.
Kinzie, Daniel L., 448-50-7523.
Kirkpatrick, David L., 445-44-4084.
Kitchen, Donald R., 269-44-0837.
Kloeppel, James H., 498-50-1178.
Knall, William H., 381-46-9591.
Knoth, Robert L., 497-44-7947.
Knowles, Christopher G., 572-62-4714.
Knutson, Ella M., 428-82-8861.
Komar, David M., 171-40-6847.
Komisarz, Joseph J., 502-62-1720.
Korver, Gerald A., 564-76-1074.
Koslowski, Edward A., Jr., 095-36-1300.
Krenik, George T., 473-66-2200.
Krnavek, Ronald L., 464-92-4478.
Krohn, Daryl E., 558-72-7596.
Krussel, Larry J., 499-56-5183.
Kuerz, William F., II, 487-58-5761.
Kukler, Jesse V., 041-46-7242.
Kyles, Eddie E., 587-20-1083.
Lane, Nadine G., 412-86-9677.
Lane, Vernon K., 194-30-3681.
Langley, Richard L., 436-88-4199
Latham, James M., 238-76-5929.
Laubhan, Roger S., 444-56-9525.
Lauro, Michael J., 071-38-7438.
Lavoie, Donald A., 004-44-4559.
Lawrence, Frank R., 210-36-0915.
Lawrence, William O., III, 218-46-0610.
Leeds, William R., 340-38-2919.
Lentz, Eva M., 366-54-3887.
Lesyea, Joseph R., 264-90-4930.
Lindeman, Scott T., 439-70-7018.
Locker, David S., 453-78-6861.
Lockyer, George F., 105-38-4224.
Logan, Samuel R. III, 210-42-4284.
Lonas, James H., 231-76-7916.
Lopez, Edwin C., 437-88-2630.
Lucas, Virgil H., Jr., 498-44-3531.
Lucas, Raoul O., 108-42-8413.
Luebbers, Gary M., 532-46-7609.
Lyons, Thomas G., 515-48-0469.
Lyter, Harvey W., III, 173-38-5995.
Maas, David R., 561-58-4554.
MacGregor, Hugh G., 378-48-1880.
Manchester, David F., 047-36-5033.
Manchester, David J., 018-38-2090.
Mangan, Edmund L., III, 328-36-7172.
Mann, Jimmy C., 455-84-0210.
Marino, Joseph A., 052-38-1387.
Martin, Charles W., 429-92-2781.
Martin, Michael D., 403-66-9866.
Mason, Michael C., 031-32-3680.
Matheny, James D., 279-44-4013.
Mathis, Frederick W., 526-92-6898.
Matthews, Cynthia A., 456-78-5445.
Mayer, Terry N., 265-78-1522.
Mayes, Gregory N., 224-68-1393.
Mayo, Gary L., 410-90-6978.
Mays, Augustus, Jr., 522-52-3773.

McCormick, Earle L., Jr., 004-42-0308.
McDuffie, Dennis W., 453-74-3193.
McGarry, David E., 567-74-2860.
McGinty, Christian W., 094-36-5666.
McGraw, William M., 435-68-3149.
McKee, Guy S., 468-82-2341.
McKee, John R., 283-44-2366.
McKinney, Harold G., 403-72-6198.
McKnight, Thomas N., Jr., 219-56-7821.
McLendon, Larry E., 245-74-2395.
McNulty, James P., 449-90-0277.
McPhee, Albert D., Jr., 013-32-3238.
McRee, Julius R., 422-74-1353.
Merritt, Don W., 506-68-8129.
Merritt, Michael L., 328-42-0592.
Metcalf, Russell E., 269-50-9316.
Metzinger, Marvin L., 444-48-9056.
Michalec, William T., 291-50-9662.
Middleton, Mark A., 462-82-6747.
Miller, Jerome R., 194-38-9207.
Miller, John H., 256-76-5526.
Miller, Wayne K., II, 520-54-0940.
Minnich, Gerald L., 209-40-9357.
Mitchell, Richard L., 526-86-3894.
Mitchell, Roy D., 440-54-9476.
Mize, Perry J., 247-94-7990.
Moore, Kindall W., 495-56-1555.
Moore, Robert L., 416-74-3122.
Moore Ronald G., 368-46-6902.
Moore, Terrence L., 186-38-6465.
Morris, Timothy J., 324-42-9444.
Morris, William F., III, 450-96-9147.
Morris, Wyatt A., 462-96-1526.
Morrison, Roger G., 234-82-2274.
Mouser, Lonnie R., 496-46-0192.
Moxon, David A., 225-74-0466.
Murphy, John P., 383-50-7152.
Murphy, Thomas J., 398-40-3335.
Murray, Kevin A., 091-44-9889.
Myers, Curtis K., 566-82-9444.
Myers, Steven D., 378-54-9930.
Nall, Timothy F., 453-82-5892.
Neacy, Anne M., 032-42-7145.
Nemeyer, George I., Jr., 242-70-8059.
Neu, Russell C., Jr., 253-88-6346.
Newhard, Lewis J., 181-42-5082.
Noll, Roger A., 484-60-2506.
Nord, Wileyn F., 454-86-9847.
Noyes, Carolyn J., 445-46-3296.
Nunez, Ramon E., 260-84-0500.
Nunley, Lewis W., 463-92-6185.
O'Connor, Mark T., 287-44-9963.
O'Grady, Lawrence P., 117-34-2470.
Oliveira, Michael F., 016-46-1767.
Oliver, Clarence M., 455-60-0685.
Olson, Randall R., 527-74-5268.
O'Neal, Marcia R., 573-80-4427.
Ormsby, Lenard T., 505-72-5711.
Owczarski, Gregory J., 358-38-8228.
Page, Bobby V., 433-90-6076.
Pantesco, William J., 096-44-5790.
Parks, James G., 388-38-2137.
Patmos, Richard A., 380-54-3668.
Pawlishak, David J., 186-44-0956.
Payne, William H., 028-34-2591.
Pease, George W., 454-82-3253.
Peters, Kenneth E., 258-90-3277.
Petersen, John C., 550-88-9233.
Peterson, Michael W., 587-38-5177.
Petrucci, Ronald J., 568-70-3927.
Phelps, James A., 502-58-5322.
Pickerill, William B., 406-72-2731.
Pickett, David A., 455-80-2453.
Pippy, Dennis C., 167-42-3434.
Pontiff, Glenn N., 586-05-5798.
Popp, Stephen C., 407-76-2575.
Potts, Richard S., 525-70-7058.
Powell, James F., 458-76-8240.
Powers, Michael B., 407-62-1172.
Priest, Patricia L. C., 230-74-9241.
Proske, Howard W., 463-94-9003.
Prowse, Robert S., 232-84-3747.
Prucka, Lawrence J., Jr., 385-52-3660.
Psalmonds, Joseph B., 256-70-2753.
Puckett, Kathleen M., 561-84-8596.
Pugh, Edward N., 232-84-2819.
Pulis, Richard J., 079-40-7562.
Putnam, Michael D., 461-82-8052.
Rambo, Carl P., 444-46-0857.
Ramsay, Paul H., 450-80-8431.
Ramsey, Tony B., 432-88-9617.
Ratchford, Harry L. II, 309-50-2269.
Ratcliffe, Richard W., 587-50-2797.
Raubach, Gerald C., 389-58-4333.
Rauch, Sidney M., 264-62-3094.
Ray, Harlan W., 462-96-5697.
Razer, Bruce A., 430-04-3156.
Reed, Charles E., Jr., 260-74-2522.
Reese, Lee R. E., 484-52-9795.
Reeves, Donald A., Jr., 539-46-8838.
Reno, Loren M., 275-46-7129.
Rethke, John T., 504-66-4383.
Reyes, Arnold D., 585-52-0611.
Rice, Robert J. C., 301-50-2256.
Rice, William L., 554-80-1073.
Richards, James L., 577-70-6051.
Richardson, William H., 551-58-2627.
Riddle, Donald K., 452-82-7093.
Robb, Patrick, 146-44-5507.
Robert, David, 060-38-6558.
Robichaux, Roger J., 587-34-4467.
Robinson, Michael J., 508-70-2574.
Rodriguez, Alfred, 054-36-8184.
Roe, Malcolm W., 402-60-9277.
Rogers, Coleman E., 231-58-3483.
Rogers, Elizabeth H., 403-74-1574.
Rohan, Neil A., 261-96-9158.
Rolinger, Thomas L., Jr., 027-42-9494.
Ronat, Ronald D., 359-40-3149.
Ross, Douglas E., 499-56-4026.
Ross, Herman D., 440-46-9912.
Rouge, Joseph D., 216-54-3281.
Rowe, Katherine, 228-72-6032.
Rubottom, Ronald G., 466-60-0636.
Rudowske, Kay L., 251-92-1438.
Saltsman, Timothy V., 088-42-9284.
Sanborn, Jarisse J., 214-58-1396.
Savage, J. R., 444-56-5549.
Sawdy, Jack O., 404-74-3871.
Schaetzle, William G., 209-40-8905.
Schantz, Edward T., 162-42-0587.
Schantz, Jeffery A., 188-38-8875.
Schilling, Mark L., 504-66-4934.
Schloss, Robert W., 245-76-4020.
Schutt, John E., 505-72-7156.
Sckerl, Ronald W., 504-64-9089.
Seebaldt, Curtis S., Jr., 575-60-3711.
Selstrom, John P., Jr., 516-62-1254.
Shaffer, William C., 078-40-7977.
Shannon, Janice D., 412-76-7374.
Shealy, Francis W., Jr., 248-94-7533.
Shepherd, Ray B., 437-84-0943.
Shinkle, Charles S., 416-64-4957.
Shirley, Fred A., 219-52-6437.
Short, George H., Jr., 259-64-0672.
Short, William R., 498-58-9432.
Shuck, Larry E., 315-58-1757.
Simon, James C., III, 530-42-0613.
Singleton, Ray J., Jr., 453-96-8703.
Skoch, Bernard K., 429-02-2109.
Sladek, Richard W., 217-60-6019.
Slaydon, Stanley T., 438-72-0634.
Slone, Gary B., 406-62-7761.
Smith, Dennis B., 304-48-5638.
Smith, Donald L., 105-42-9591.
Smith, Gerald O., 486-42-5762.
Smith, Gregory D., 491-52-9928.
Smith, Lionel G., 306-56-5129.
Smith, William C., 084-40-1163.
Smolen, Robert L., 190-38-7953.
Sneegas, Stanley A., 515-54-5397.
Snell, John R., 111-40-3586.
Snyder, Terry G., 214-58-1543.
Soriano, Ronald, 137-48-0540.
South, Charles C., 460-86-0876.
Stanford, William D., 538-46-7099.
Staples, Gregory O., 536-46-0502.
Steel, Mark A., 200-36-2645.
Stemp, Donald L., 132-42-5117.
Stephan, Ricrard G., 086-40-2216.
Steudler, David A., 174-40-0553.
Stevens, William J., II, 433-74-5583.
Stong, Teresa A., 451-82-8354.
Storck, Dennis D., 278-50-5669.
Stoudenmire, Mark S., 247-02-5124.
Stouffer, Joyce K., 179-38-3707.
Strack, Edward R., 523-76-9440.
Street, Bradley K., 490-58-8327.
Strieter, Stephen L., 220-54-1712.
Stuka, Joe B., 007-52-6763.
Sullivan, Jill W., 193-38-5241.
Sutley, Kurtis E., 432-94-9182.
Sutton, Robert L., 412-84-8563.
Swanson, David V., 320-42-0327.
Swisher, Robert E., 305-52-1825.
Sykes, Bernard L., Jr., 076-36-9526.
Taylor, Donna M., 465-82-0365.
Temples, Felix M., III, 238-74-3556.
Terrell, Clifford M., 225-68-6077.
Thibodeau, Karen A., 546-66-0006.
Thomas, Edward J., Jr., 273-44-8089.
Thomerson, Jimmie, 315-46-2707.
Thun, Michael S., 455-90-3244.
Tinius, Konrad S., 277-42-6750.
Tirey, Robert W., 585-07-3191.
Tott, Bobbie L., 249-90-2632.
Tolentino, Geronimo E., 546-84-1553.
Tompkins, Daniel T., 433-86-1290.
Torma, Leo J., 293-48-9910.
Towne, Oscar L., 432-92-2740.
Truel, Barry R., 446-46-5082.
Tumblin, Randall N., 560-70-7920.
Tunstall, Francisco P., Jr., 266-80-3880.
Turner, Randall L., 527-92-4507.
Tuson, Andrew R., 531-54-6896.
Tynes, Edward R., 373-50-4350.
Ulm, William A., 321-48-7414.
Upton, William J., 321-44-1156.
Valenta, David L., 479-58-3706.
Vankirk, Dale W., 557-72-3460.
Varley, Ronald M., 359-36-8309.
Vaughn, Roy C., Jr., 404-76-5156.
Venable, Samuel A., 228-60-1726.
Vento, Robert D., Jr., 418-72-7113.
Vidas, Cathy K., 485-70-5984.
Vidrine, George A., Jr., 245-84-4400.
Visoskis, George E., Jr., 192-42-3970.
Vivit, Murline A., 554-78-4723.
Voelbel, Wesley C., Jr., 162-44-5799.
Volk, Kenneth R., Jr., 059-40-1911.
Vonloh, John F., 505-62-9724.
Wallace, David J., 303-42-5997.
Ware, Kenneth M., 234-78-7313.
Wasson, Thomas G., 245-76-0482.
Waters, Alvin L., 410-90-3157.
Waters, Harry J., 493-50-7699.
Watson, David E., 426-96-8131.
Webster, Bruce L., 225-80-3824.
Weisel, Brian M., 526-84-9839.
Weismantel, Kenneth R., 325-46-8714.
Wert, Wayne N., 516-46-5023.
West, Johnny C., 429-98-8737.
Weston, John M., 266-84-9914.
Whitford, John L., 011-32-6532.
Whitten, Kathy S., 465-90-4635.
Whittle, Harold D., III, 585-20-2340.
Wienke, Paul D., 500-56-8705.
Willeford, Hugh B., 310-54-9077.
Williams, John H., 193-42-0544.
Williamson, Keith E., 513-48-9922.
Wills, Augustus O., 417-48-3638.
Winbauer, Carl J., 501-54-5558.
Winget, Brent E., 529-60-6522.
Wise, William M., 262-94-7459.
Wodke, Kenneth E., 436-86-3720.
Wolfe, Floyd J., 218-38-0563.
Woodard, James E., Jr., 416-58-9736.
Woodman, Russell T., 003-28-8397.
Wright, Kerris L., 308-52-7924.
Wright, Michael A., 358-36-7020.
Yamasaki, Westley N., 575-50-6932.
Young, Philip C., 404-74-4025.
Zahorsky, Frank J., Jr., 560-82-3943.
Zander, Joseph J., 495-58-2117.
Zelasco, Joseph J., Jr., 203-36-0255.
Zemke, Linda H., 409-86-7482.
Ziegler, Barbara A., 451-86-0022.
Ziehm, Robert D., 539-48-0472.
Zmora, Joseph P., 344-46-4194.

To be second lieutenant

Abbott, Barton L., 466-88-2345.
Abel, Michael D., 316-56-6077.
Acree, Robert L., 435-70-5613.
Baum, Michael E., 003-38-3796.
Caputo, Edmond J., Jr., 156-42-4632.
Chatham, Michael C., 412-90-5020.
Chisholm, Dale T., 384-54-9232.
Copp, Paul David, 033-42-4195.
Davenport, Richard P., 142-38-2523.

Dovey, Douglas A., 556-82-6667.
Dunn, Stephen J., 261-08-4047.
Gilbert, Arthur H., Jr., 437-82-2635.
Hagman, Thomas V., 215-58-4666.
Hayes, John R., Jr., 225-70-5898.
Hicks, Alfred B., Jr., 587-50-0532.
Keranen, Roger L., 549-80-2370.
Leahey, John M., Jr., 418-62-2855.
Marsh, Ralph E., Jr., 185-36-2419.
McIntosh, Duncan B., 225-64-7051.
Meade, Carl J., 449-84-0449.
Neal, Parris C., 528-66-9848.
Roberts, Terry J., 442-56-8409.
Scholl, Dennis M., 572-68-0298.
Shea, John R., III., 215-56-1288.
Sherbo, Andrew J., 478-64-1711.
Sheridan, John T., 039-30-8566.
Sullivan, John B., 537-52-8660.
Tollefson, Mark V., 333-40-2713.
Uyehara, Nathan Y. K., 575-58-2766.
Wright, Lawrence A., 345-42-9622.

HOUSE OF REPRESENTATIVES—*Monday, October 17, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D. D., offered the following prayer:

God has made of one blood all nations to dwell upon the face of the earth, that they should seek the Lord and find Him.—Acts 17: 26, 27.

Almighty and most merciful God we thank Thee for the rest of the night and for the opportunity to serve Thee and our Nation in this new day. Breathe Thy spirit of wisdom, truth, and love upon us that we may think the thoughts, possess the emotions, and do the deeds which make us good leaders of a good people in a good day.

By Thy grace may we keep our country true to the principles upon which she was founded, may we keep the glow and glory of freedom alive in our world, and may we keep awake our concern for the needy and poor in our land and in other lands.

We pray that bitterness and strife may cease in our world and that justice and liberty, good will, and peace may prevail: to the glory of Thy holy name. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ROSTENKOWSKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 658]

Addabbo
Alexander
Allen
Ambro
Andrews, N.C.
Applegate
Archer
Ashley
Badillo
Bolling
Bonior
Bonker
Burke, Calif.
Burton, John
Carney
Chisholm
Collins, Ill.
Conyers
Cornell
Cotter
Coughlin
Cunningham
Davis
de la Garza
Dellums
Dent
Derrick
Diggs
Dingell
Dornan
Drinan
Early
Eckhardt
Edwards, Calif.
Evans, Ga.
Fish
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Gephardt
Gibbons
Ginn
Gonzalez
Hall
Harrington
Harsha
Hillis
Holland
Holtzman
Ichord
Jordan
Kemp
Koch
Krueger
Lundine
McDade
McDonald
McEwen
McKay
McKinney
Meyner
Mikva
Milford
Moffett
Moss
Murphy, Ill.
Nichols
Nolan
Obey
Patten
Pepper
Quie
Rangel
Rhodes
Rodino
Ruppe
Santini
Scheuer
Shuster
Sisk
Smith, Iowa
Spellman
Staggers
Steed
Stokes
Teague
Thompson
Udall
Wampler
Waxman
Whalen
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Young, Alaska
Young, Mo.
Zeferetti

The SPEAKER. On this rollcall 334 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On October 12, 1977:

H.R. 6655. An act to amend certain Federal laws pertaining to community development, housing, and related programs.

On October 13, 1977:

H.R. 5645. An act to raise the limitation on appropriations for the United States Commission on Civil Rights;

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes; and

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

On October 15, 1977:

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 695. An act to amend the Defense Production Act of 1950, as amended; and

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6666) entitled "An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JAVITS, Mr. HATCH, Mr. CHAFFEE, and Mr. STAFFORD to be the conferees on the part of the Senate.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the one bill on the Consent Calendar.

ESTABLISHING A UNIFORM STANDARD FOR AWARDING THE GOLD STAR LAPEL BUTTON

The Clerk called the bill (H.R. 6966) to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1126 of title 10, United States Code, is amended to read as follows:

"(a) A lapel button, to be known as the gold star lapel button, shall be designed, as approved by the Secretary of Defense, to identify widows, parents, and next of kin of members of the armed forces of the United States—

"(1) who lost or lose their lives during World War I, World War II, or during any subsequent period of armed hostilities in which the United States has been, or may be, engaged; or

"(2) who lost or lose their lives after June 30, 1958, while serving with friendly foreign forces engaged in an armed conflict in which the United States is not a belligerent party against an opposing armed force."

Mr. WHITE. Mr. Speaker, the Committee on Armed Services has reported without objection H.R. 6966, a bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button.

The gold star lapel button is a device which is authorized to be worn by the next of kin of certain members of our military forces who died while on active duty.

At present, the families of service men and women who died in the line of duty during World War I and II, as well as the Korean conflict, are entitled to wear the gold star lapel button. However, under the statute, since July 1, 1958, the honor has been restricted to the families of only those individuals who have died as the direct result of hostile action. As a result, the families of nearly 80,000 service men and women who have died during the periods of armed hostilities—but not as the direct result of hostile action—are denied the right to wear the gold star lapel button.

H.R. 6966 will, retroactively to July 1, 1958, and for the future, establish a uniform standard for awarding this button to the families of our military personnel who lose their lives during periods of armed hostilities.

H.R. 6966 is supported by the Department of Defense. The cost of this bill is anticipated to be $408,000 over the next several years and will not result in an increase in the budgetary requirement of the Department of Defense.

I urge passage of H.R. 6966.

Mrs. HOLT. Mr. Speaker, I rise in support of H.R. 6966.

As the gentleman from Texas, who is the chairman of the Military Personnel Subcommittee, stated, this bill will provide a fitting and proper honor for the next of kin of 80,000 American service men and women who have lost their lives in the defense of our country.

It is important that each of us understand the feeling of a mother who has lost her son in the line of duty during a military conflict. While that son may not have died as the result of hostile action, his military service during a period of armed hostilities is testimony of his dedication to those principles which we cherish. That mother's loss is no less than if he had died from an enemy bullet, and it is important to her that she should have the privilege of wearing that gold star—a symbol to others that her son was willing to make the greatest of all sacrifices. I do not believe we should be willing to deny that request.

Equally important is the fact that this bill will establish an appropriate standard to be carried into the future. This law should never again need to be altered. This bill will assure that the families of deceased American military personnel will be eligible for the award of the gold star lapel button, whether the death occurred as the result of hostile action or during a period of armed hostilities.

This legislation has been strongly supported by the Department of Defense since 1970, and I now urge its passage.

Mr. HANLEY. Mr. Speaker, prior to 1966, the Gold Star lapel button was awarded to the next-of-kin of any serviceman who died in the line of duty during a period of armed hostilities. However, unfortunately in 1966, the eligibility criteria were narrowed. Under the new formula the Gold Star is awarded only in cases where the serviceman's death occurred "in military operations involving conflict with an opposing force." It is my conviction and the feeling of the Armed Services Committee that the more recent standard is too narrow and ought to be replaced by the one which was established at the initial enactment of the program.

I believe that the family of any serviceman who loses his life in the service of his country is entitled to this small token of recognition. Under the proposed bill, the next-of-kin of a member of the armed services, who loses or has lost his life while the United States is engaged in armed hostilities, is eligible to receive this award. This criterion does not require the serviceman to be actually engaged in hostile activity, but only that his death be in the line of duty as a member of the Armed Forces of the United States.

My feelings and the findings of the committee are that the Gold Star lapel button should be a symbol of this Nation's remembrance to families of all servicemen who died in the line of duty while the United States was at war. This seemed to be the intent of the original law, and this is the intent of H.R. 6966.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 6966, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FRANK ALBERT STUBBLEFIELD

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding my distinguished predecessor, the Honorable Frank Albert Stubblefield.

Mr. Stubblefield, age 70, died last Friday night at Murray-Calloway County Hospital in his native hometown of Murray, Ky. He had been hospitalized extensively in Memphis, Tenn., for almost 2 years. He was a victim of emphysema and related complications.

The funeral for Mr. Stubblefield will be at 2 p.m. today at Murray's First United Methodist Church.

Stubblefield rose from first district railroad commissioner to Congress in 1958 by defeating former U.S. Representative Noble Gregory of Mayfield, who had held the office 22 years.

As a freshman Congressman, Mr. Stubblefield became a member of the House Agriculture Committee. During his 16 years as a Member of Congress he served as vice chairman of the Agriculture Committee, chairman of the Tobacco Subcommittee, and was a key supporter of developing the Tennessee Valley Authority's expansion to the advantage of Kentuckians who have enjoyed and now have TVA power. Much more could be said in complimenting this outstanding Kentuckian with whom many of you served.

Each of us can and do extend to his wife, Odessa, his three daughters, his father, his two brothers and five grandchildren our sympathy.

His family, fellow Kentuckians and former colleagues in the Congress can join today with me and say of Frank Albert Stubblefield, a truly great American, deserving words found in Matthew 25:21—"Well done, thou good and faithful servant."

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I was shocked to learn about the death of our former colleague who was a great American and one of the outstanding Members of this House during his years of service here, the late Honorable Frank Albert Stubblefield from Murray, Ky.

Mr. Speaker, Frank Stubblefield was a man of principle and a man of integrity. He was very reserved and very quiet. He was very dependable. All of the Members in this Chamber who had the opportunity to serve with him and to mix and mingle with him, knew where Frank Stubblefield stood on every issue that was before this Congress.

One of the greatest attributes of Frank Stubblefield that stands out in my mind is that he was as truthful as any individual I ever met in my lifetime. He represented his people with the deepest dedication. He always thought about their welfare. Although he was from a more conservative district than I represent, I would say he represented his people to an extent unequalled by any other Member in this Chamber.

He was very considerate and recognized and respected the views of the other Members of this Chamber. During his tenure here I do not think Frank Stubblefield ever made an enemy. He was a friend of all of the Members. Although sometimes he disagreed with their views, he was never disagreeable because any Member disagreed with him.

Mr. Speaker, Frank was born on April 5, 1907 in Calloway County, where he always lived, and where Stubblefield is a famous name in public service. When he was 20 years old he went out to the University of Arizona for a year, but then he came home, graduated from the University of Kentucky, and went into the family business.

That was in 1933, and 6 years later, in 1939, he won election to the Murray City Council, where he served until 1942. He went into the Navy, and was discharged as a lieutenant, after being wounded in the North Atlantic.

He won several elections to the Kentucky Railroad Commission, resigning in 1958 to run for Congress, and he served from the 86th Congress through the 93d Congress.

Mr. Speaker, I was in my district last weekend, and the word of Frank Albert's death was in the news. It did not surprise me to learn that he had dozens of friends in the mountains of eastern Kentucky, a long way from the Purchase, as his home section was called.

That is fine farming country, and Frank Albert devoted his time here to agriculture, and to the kinds of issues that are important to the family farmer. Agriculture in the country, as well as agriculture in Kentucky are in his debt, and so are the millions and millions of people who are sustained every day by farm production.

Mr. Speaker, in closing I certainly want to extend my deepest sympathies to his family and say that the State of Kentucky, and especially the district he represented, has lost a great public servant.

I thank my colleague for yielding.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank my distinguished colleague, the gentleman from Kentucky (Mr. HUBBARD) for yielding to me. I wish to say that Frank Stubblefield was a congenial gentleman. It was my pleasure and privilege to serve with him for some 10 years. He was an able Member. He was extremely helpful to the State of Kentucky, not only to his own district, but to all of the others. Although we sat on different sides of the aisle we were close friends. This is true about the entire Kentucky delegation. There is a closeness between all of us. We stand together for the State of Kentucky and Frank Stubblefield was indeed such a man. Through his assistance it was possible for many of us to obtain agricultural benefits for the different districts in the State of Kentucky. Even as a member of the opposing party I received many benefits for my district through his leadership on the Committee on Agriculture.

Mr. Speaker, my heart goes out to his wife, Odessa, and to his children in their loss. May God be with them and sustain them.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I too want to join with my colleagues in expressing our deep sympathy to Frank Albert Stubblefield's wife, Odessa, and to the other members of his family.

I knew Frank Albert Stubblefield, as did the rest of the Kentucky delegation, and we developed a closeness. We used to stand back of the rail here and talk. He was not a flamboyant Member who went around expressing his views on every matter that came up but he was an effective Member, as my colleague from the Fifth District just said, he was the kind of a man who would do you every favor he possibly could. I certainly appreciated him. I am indeed saddened by the loss of Frank Albert Stubblefield. I join with the gentleman from Kentucky (Mr. HUBBARD) and our other colleagues in expressing sympathy to his family.

He was my friend.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

I wish to join with my colleagues in expressing a great sense of sorrow and extend condolences to the family of Mr. Frank Albert Stubblefield.

It was my privilege to serve with Frank for many years here, and I have never known a more conscientious Member of Congress nor a district that was better represented.

Frank was quiet by nature but a person who knew not only the people of his district but his district's problems. Though his occupation was that of a druggist, his knowledge and background made him well qualified to represent the agricultural and business interests of his district. Beyond that, he was a splendid citizen and a fine man. His friends in the Congress were limited only by the number of its membership.

In our service together I have never heard the first word of criticism or the first indication that he would not be sound from his viewpoint on any issue which arose.

Frank had a fine family. It was our privilege to be closely associated with his wife, Odessa, who not only was a real asset to Frank in his political career but in his service to his people. To Odessa and his family, we extend our sincerest sympathy in the loss of a husband and father and an outstanding citizen of the Commonwealth of Kentucky.

Mr. BRECKINRIDGE. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. BRECKINRIDGE. I thank the gentleman for yielding.

I wish to join with my colleagues in expressing my deep respect and sympathy to the family of the gentleman's friend and mine, Frank Albert Stubblefield, a man whom I knew for many, many years in Kentucky before coming to Washington to join this body. I knew him as one who was widely respected and fondly admired throughout not only the First Congressional District but throughout the State of Kentucky amongst those who knew him. I join with the gentleman in the well and with my colleagues in expressing my regrets and sympathy to the family.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I had the privilege of working with Frank Stubblefield on the Merchant Marine and Fisheries Committee for four terms. When I came to the Congress, I was impressed by the fact that he was a gentle soul. He was a quiet person. He was a helpful person, a characteristic he displayed during all of those years. Many a colleague benefited because of his kindness and knowledge. His was a tranquil disposition that masked an energetic effectiveness in this Chamber that was without parallel. This Member's life is enriched because I was privileged to know him.

Mr. NATCHER. Mr. Speaker, it is difficult to reconcile ourselves to the fact that our beloved friend, Frank Albert Stubblefield, has passed away.

It was a distinct honor and a privilege for me to serve in the House of Representatives with Frank Albert Stubblefield and not only have I lost a true friend, but this country has lost a great statesman. His character, achievements, and faithful service will long be remembered and will be an inspiration to generations yet to come. He served his district well and established an outstanding record while serving in the Congress of the United States. He had those qualities that are essential for leadership, sound judgment, patience, and perseverance and an unyielding adherence to the principles and policies advocated by his party for the welfare of the country. He was an outstanding member of the Committee on Agriculture and the Committee on Merchant Marine and Fisheries. For a number of years, he served as chairman of the Tobacco Subcommittee and he served with dignity and fairness.

He was loved and respected by all of the Members of the House. He had a quick mind and served his district well. The status of our Nation is built on the careers of such men as Frank Albert Stubblefield. He had a charm and wit and he extended a warm courtesy and consideration toward others at all times. He loved his country, his State and the House of Representatives. Never was there anyone more dedicated to the services he performed or the people he served.

I will miss my friend, Frank Albert Stubblefield, and it is my fervent wish that this House may forever dedicate and decide the matters before it with the same fairness which was always the trademark of Frank Albert Stubblefield of Murray, Ky.

Mr. Speaker, I extend to Mrs. Stubblefield and to the members of his family my deepest sympathy in their loss and bereavement.

Mr. MAZZOLI. Mr. Speaker, we have lost a great and good man and a great and good Kentuckian.

I rise to join my colleagues from Kentucky in expressing our deep sense of loss over the death of the Honorable Frank Albert Stubblefield, a former Member of the House of Representatives from Kentucky's First Congressional District, who died October 14.

As Frank Albert's colleague in the House, I respected his devotion to duty and his keen sense of justice. As a fellow Kentuckian, I respected him for the good and true service he gave to his beloved Commonwealth and to his district.

During Frank Albert's 16 years in the House, he compiled an enviable legislative record. He served as vice chairman of the Agriculture Committee, and as chairman of its key Tobacco Subcommittee.

He was an early and strong supporter of the Tennessee Valley Authority, which has improved the economic, the family, and the recreational life of all who live in its service area.

My wife joins me in extending our deepest sympathies to his wife, Odessa, his three daughters, his father, and all his family.

The Commonwealth of Kentucky, the United States of America, and this Congress are poorer today because of Frank Albert's death. But the Commonwealth, the Nation, and this Congress are much the richer because of his devoted service during life.

Mr. MILLER of Ohio. Mr. Speaker, it was with deep regret I learned of the recent passing of our former colleague, Frank Stubblefield.

For 6 years I had the privilege of serving and working with Frank on the House Agriculture Committee. America's farmers had no finer friend in Congress and more consistent supporter than Frank Stubblefield. He was ever sensitive to the special needs of the agriculture community and quietly, yet effectively, represented its interests in the Committee and the Congress.

His 25 years as a businessman before coming here in 1958 also left him with a deep appreciation for the problems of small businessmen and a firm commitment to improve their lot and ability to survive.

Frank Stubblefield was a good, decent man who served the people of Kentucky's First District and the country with honor and distinction.

GENERAL LEAVE

Mr. HUBBARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of the late Hon. Frank A. Stubblefield.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE A REPORT ON H.R. 9346, THE SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. NIX. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service have until midnight to file its report on H.R. 9346, the Social Security Financing Amendments of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, this is basically as a result of the unanimous vote by the full Post Office and Civil Service Committee meeting that we had last week on the issue relating to Federal employees being unduly forced into the Social Security System; is that correct? I yield to my chairman, Mr. NIX.

Mr. NIX. If the gentleman will yield, that is right. The gentleman is correct.

Mr. ROUSSELOT. I appreciate my colleague, the Chairman, for making sure that our committee report is printed and brought to the attention of the full House so quickly.

Mr. NIX. I thank the gentleman.

I urge my colleagues to read the Post Office and Civil Service Committee report on the subject of Federal, State, county, and local government employees pension and retirement plans vis-a-vis the social security retirement plan. It is important that my fellow House Members digest the material in this report before voting on H.R. 9346—the Social Security Financing Amendments of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MR. MITCHELL OF MARYLAND DOES NOT SUPPORT ANY BUSINESS ENDEAVOR CONNECTED WITH THE UNION OF SOUTH AFRICA

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, I am disturbed over a recent report which indicated that this Member of Congress is supporting a minority business effort which in some way is tied in with the Union of South Africa. I take to the well to categorically deny that I would support such an endeavor.

I believe the present Government of the Union of South Africa to be an illegitimate government. I believe the present Government of the Union of South Africa to be a racist government. I believe that the present Government of the Union of South Africa is capable of murdering black citizens as happened in the case of Steve Biko. In light of those strongly held beliefs, under no circumstances in the past, in the future, nor at the present would I support any minority business which dealt with the Union of South Africa directly or indirectly in any fashion. To do so it seems to me would facilitate the ongoing of that racist government.

I hope this will clear the record. I hope it will be abundantly clear to all those who hear me that my condemnation of the Union of South Africa is equally applied to any minority business which would seek to do business with that racist government.

TAX REFORM ACT OF 1976

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THORNTON. Mr. Speaker, in joining with the gentleman from Texas, Mr. BURLESON, in the introduction of his legislation to repeal the carryover basis provision of the Tax Reform Act of 1976, I am well aware that this provision was an attempt to regulate a significant problem under prior tax laws. However, I believe that the inclusion of the carryover basis provision has affected the relief provided by that act in such a serious and detrimental way, that it is necessary that we return to the prior law. Under prior law property transferred at death is valued at its fair market value on the date of death for both income and estate tax purposes. Thus, this temporary measure will simplify the administration of estates, while we seek more appropriate means to deal with this very serious problem.

Prior to passage of the Tax Reform Act of 1976, the basis of inherited property for income tax purposes was increased to its fair market value at the time of the decedent's death. When the individual heir sold that property he was taxed only on the appreciation which took place while he owned the property, and not on the appreciation that had occurred during the lifetime of the previous owner or owners. The 1976 Tax Reform Act substantially altered this treatment so that generally the basis for property transferred at death is its fair market value on December 31, 1976, or its basis to the decedent if acquired after that date. Thus, the heir of a decedent must pay capital gains tax on all appreciation in the value of property that occurs from the time of its purchase by the decedent until its subsequent sale or exchange by the heirs.

Moreover, as a practical matter, the carryover basis provision is so complicated and unwieldy that it creates an impossible burden for administrators and executors of estates who are attempting to comply with this new law. The carryover provision has forced lawyers, administrators and heirs to keep extensive and constantly changing records in order to meet stringent reporting requirements. Delays in the processing of estates have already been experienced and increases in litigation are expected. The accounting problems that are created by this provision are intensified in an estate which contains a collection of stamps, coins, art, antiques or other property the value of which often can only be determined after the negotiation of an actual sale between a willing buyer and a seller.

The enactment of the carryover basis provision created additional economic repercussions, as it tends to increase the "lock-in" effect in capital investments. Due to the higher capital gains tax liability, most heirs will now be forced to hold on to their inheritance to avoid this increased tax burden. This will have a very serious impact on capital formation in our economy. Most importantly, this provision will have greatest impact on those sectors of the economy that traditionally have restricted sources of new capital—farms and businesses. The increased tax burden that will necessarily result from the carryover basis provision will further deplete their scarce sources of capital and further aggravate this already critical problem in our economy.

The carryover basis provision will impose these conditions even upon the

average American family. Those families who own their own homes or any other real estate must comply with the same maze of recordkeeping requirements that now face businessmen and farmers. While the burden of those requirements may not appear to be large, at first, the consequences will increase as property is passed from generation to generation.

In my judgment these reasons are sufficient to call for repeal of this cumbersome provision in order to study carefully and meticulously the problems which this law was designed to cure.

THE LABOR REFORM ACT OF 1977

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, given the wide differences of opinion in my district regarding passage of H.R. 8410, the Labor Reform Act of 1977, I would like to take a few minutes to explain my vote in support of this much needed legislation.

In my view there is nothing worse than a law that is not only difficult to enforce, but also contains few deterrents to intentional violation. Substantive reform of the National Labor Relations Act of 1935, has not taken place since 1959. Since 1959, there is evidence that the goals of the NLRA—the right of self-organization of employees in industry for the purpose of collective bargaining—have been willingly and purposefully ignored by employers who are opposed to unionization and collective-bargaining procedures. No law can function effectively without sufficient deterrents to violations and adequate compensation of the victims of those violations. The legislation we have passed fills these needs and does it without either changing the purposes of labor law, or the rights and duties of management and labor.

We have achieved this end first by increasing the size of the National Labor Relations Board from five to seven members. Despite charges of packing the Board with pro-labor members, the bill simply continues and codifies the tradition of a simple majority of the Presidential party. In addition, evidence of extreme views being represented on the Board is difficult if not impossible to find. Documented evidence of the tremendous increase in the workload of the Board makes its expansion a desirable and logical step.

The bill assures that both labor and management will have an equal opportunity to convince employees seeking collective-bargaining representation on their respective views on the need for such representation. Equal access to captive audience presentations on both sides of the issue are provided for.

The bill provides more effective penalties for practices that have been outlawed since 1935, but have continued to exist simply because existing remedies have proven to be ineffective. This is accomplished by two key provisions of the bill. First, the bill requires double back pay for employees illegally dismissed for trying to form a union and retroactive compensation for wage and benefit increases lost while an employer illegally delays negotiations for an initial contract with a union. Second, the Secretary of Labor is permitted to ban a company from receiving Federal contracts for up to 3 years for repeatedly refusing to deal with a union. In both instances, the terms willful and repeated must be emphasized.

Finally, the bill takes the necessary step of setting deadlines for the holding of union certification elections. While the average time for such elections is currently around 45 days, numerous instances were cited in which the period has dragged on for months.

In conclusion, I would like to stress two important points to consider on the passage of this legislation. First, only those who intend to violate the law need fear the changes we have made. The free exercise of the secret ballot election will continue to determine the outcome of any organizing effort. Second, as a Representative from the State of New York, I have become increasingly concerned over the exodus of jobs and industry from my State to States where it is easier to thwart the goals of collective bargaining. Under provisions of the bill we have passed, this exodus will become far more difficult, and less lucrative.

PERSONAL EXPLANATION

Mr. ALLEN. Mr. Speaker, I apologize for being late on the first quorum call. I came in early this morning so that I would not miss any quorum calls, but just as I was going down the hall I was called back for an important long-distance call from Nashville. As a result, I was a few seconds late to make the quorum call. But I do not want people to know by the RECORD that I am here, and will be here during the legislative proceedings today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3 (b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question of each motion on which the further proceedings were postponed.

HEALTH PROFESSIONS EDUCATION AMENDMENTS OF 1977

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9418) to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 9418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 771(b)(3) of the Public Health Service Act is amended to read as follows:

"(3)(A) Except as provided under subparagraph (D), a school of medicine may not receive a grant under section 770 to be made in the fiscal year ending September 30, 1978, or in the next fiscal year unless its application for such grant contains or is supported by assurances satisfactory to the Secretary that such school will increase its enrollment of full-time, third-year students as prescribed by subparagraph (B).

"(B) The enrollment increase referred to in subparagraph (A) is an enrollment increase in a school of medicine—

"(i) which is to occur (I) in school year 1978–1979 in the case of an application of such school for a grant under section 770 to be made in the fiscal year ending September 30, 1978, and (II) in school year 1979–1980 in the case of an application of such school for a grant to be made under section 770 in the fiscal year ending September 30, 1979,

"(ii) in the number of full-time, third-year students over the number of full-time, second-year students who successfully completed the second-year program of such school in the preceding school year and enrolled in the third-year class of such school, and

"(iii) which is not less than 6 per centum of the number of—

"(I) fulltime, first-year students enrolled in such school in school year 1977–1978, or

"(II) full-time, third-year students enrolled in such school in school year 1977–1978, whichever is less.

"(C) In determining the number of full-time, third-year students enrolled in a school in a school year in which an increase is required by subparagraph (B)(i)—

"(i) full-time, third-year students of such school who were not second-year students in such school and—

"(I) who are not citizens of the United States,

"(II) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) applies,

"(III) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) does not apply because of the last sentence of subparagraph (D) and for whom a position in the third-year class of such school was available in such school year,

"(IV) who first enrolled after October 12, 1976, in a school of medicine not in a State,

"(V) who were previously enrolled in a school of dentistry or a school of osteopathy, or

"(VI) who were previously enrolled in a school of medicine which is in a State and which is not accredited by the body or bodies approved for such purpose by the Commissioner of Education, shall not be counted; and

"(ii) full-time, second year students enrolled in such year who are citizens of the United States and who were first enrolled before October 12, 1976, in a school of medicine not in a State shall be counted as third-year students.

"(D) The Secretary may waive (in whole or in part) the requirement of subparagraph (A) for a school of medicine—

"(i) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation; or

"(ii) upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, an increase in its enrollment of third-year students to meet such requirement will prevent it from providing high quality clinical training for each of its third-year students.

The requirement of subparagraph (A) does not apply to the application of a school of medicine for a grant under section 770 if in school year 1977–1978 such school had an enrollment of full-time, first-year students which exceeded its enrollment in such school year of full-time, third-year students by at least 25 per centum.

"(E) A school of medicine which did not receive a grant under section 770 because it did not comply with the applicable requirements of this paragraph shall not be eligible to receive a grant under such section to be made in the fiscal year ending September 30, 1980.".

(b) Section 772 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(e) For purposes of administering the requirements of section 771, a reference to a year class of students is a reference to students enrolled in that class for the first time.".

SEC. 2. Section 771(d)(2) of the Public Health Service Act is amended (1) by striking out "In" and inserting in lieu thereof "In the case of a school of dentistry which in school year 1976–1977 had at least six filled, first-year positions in dental specialty programs, in", (2) by striking out "a school of dentistry's" and inserting in lieu thereof "such a school's", (3) by striking out "filled positions" each place it occurs and inserting in lieu thereof "filled first-year positions", and (4) by striking out "shall be positions" and inserting in lieu thereof "shall be first-year positions".

SEC. 3. (a) Subsection (a) of section 748 of the Public Health Service Act is amended to read as follows:

"(a) The Secretary may make grants to—

"(1) accredited schools of public health, and

"(2) other public or nonprofit institutions which provide graduate or specialized training in public health and which are not eligible to receive a grant under section 749, to provide traineeships".

(b) Section 748(b)(3)(B) of such Act is amended (1) by striking out "or" at the end of clause (iii), (2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or" and (3) by adding after such clause the following:

"(v) preventive medicine or dentistry.".

(c) Section 748(c) of such Act is amended (1) by striking out "$8,000,000" and inserting in lieu thereof "$9,000,000", and (2) by striking out "$9,000,000" and inserting in lieu thereof "$10,000,000".

(d) The heading for section 748 of such Act is amended to read as follows:

"PUBLIC HEALTH TRAINEESHIPS".

SEC. 4. The Secretary of Health, Education, and Welfare shall conduct a study of—

(1) the type and quality of training provided by foreign medical schools,

(2) the need in the United States for the additional health professions personnel supplied by such schools,

(3) the conditions under which graduates of such schools are licensed to practice in the United States, and

(4) the adequacy of such conditions to assure that the health care provided by the graduates of such schools is of high quality.

Not later than December 1, 1979, the Secretary shall complete such study and report his findings and recommendations to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Human Resources of the Senate.

SEC. 5. (a) Subsection (a)(1) of section 731 of the Public Health Service Act (relating to eligibility of student borrowers and terms of federally insured student loans) is amended to read as follows:

"(1) made to—

"(A) a student who—

"(i)(I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

"(ii) is or will be a full-time student (as defined in section 770(c)(2)) at the eligible institution;

"(iii) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

"(iv) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by such student;

"(v) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965; and

"(vi) in the case of a pharmacy student, has satisfactorily completed three years of training; or

"(B) an individual who—

"(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

"(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid: and

"(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and".

(b) Subsection (a)(2) of such section is amended—

(1) by inserting before the semicolon at the end of subparagraph (D) the following: ", except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal"; and

(2) by striking out "student" in subparagraph (E).

(c) Subsection (b) of such section (relating to maximum interest rates) is amended by striking out "10 percent per annum" and inserting in lieu thereof "12 percent per annum".

(d) Such section is further amended by adding after subsection (c) the following new subsection:

"(d) No provision of any law of the United States (other than subsections (a)(2)(D) and (d) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.".

(e) Subpart I of part C of title VII of the Public Health Service Act is amended as follows:

(1) In section 727(a), insert "(and certain former students of)" after "students in".

(2) In the first sentence of section 728(a), strike out "students" and insert in lieu thereof "borrowers".

(3) In the second sentence of section 728(a), insert "or to obtain a loan under section 731(a)(1)(B) to pay interest on such prior loans" after "to continue or complete their educational program".

(4) In section 728(c), strike out "student".

(5) In the second sentence of section 729(a)—

(A) strike out "student" the first time it appears and insert in lieu thereof "borrower"; and

(B) insert "borrower who is or was a" before "student" the second and third time it appears.

(6) In section 731(a)(2)(B), strike out "student" and insert in lieu thereof "borrower".

(7) In the heading to section 731, strike out "STUDENT".

(8) In subsections (a) and (b)(2) of section 732, strike out "student" and insert in lieu thereof "borrower" each time it appears.

(9) In subsections (b)(1) and (e) of section 732, strike out "student".

(10) In section 733, strike out "student" each time it appears.

(11) In the heading to section 733, strike out "STUDENT" and insert in lieu thereof "BORROWER".

(12) In section 738, strike out "student".

(13) In section 739(a)(1), strike out "student" and insert in lieu thereof "borrower".

(f) The amendments made by this section shall take effect on October 1, 1977.

SEC. 6. (a) Section 1121(b)(5) of the Public Health Service Act is amended by inserting "fiscal year" before "ending September 30, 1977".

(b) Section 206(b)(6) of the Public Health Service Act is amended by striking out "senior" and inserting in lieu thereof "junior".

SEC. 7. Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended by inserting after the fourth sentence the following new sentences: "Any funds in the account not currently needed may be invested by the said disbursing agent with the approval of the Secretary of the Treasury. Such investments shall be made only in public debt securities, with maturities suitable for the needs of the account. The interest on such investments shall be credited to and form a part of the account.".

SEC. 8. (a)(1) Section 1515(b)(2) of the Public Health Service Act is amended (1) by striking out "which may not" and inserting in lieu thereof "which, except as otherwise provided in this paragraph, may not", and (2) by adding after the first sentence the following: "The Secretary may, upon application of a conditionally designated entity, extend for a period not to exceed 12 months the period of such entity's conditional designation if the Secretary finds that such extension will enable such entity to qualify for designation under subsection (c) and that such extension is necessary to carry out the purposes of this title.".

(2) The second sentence of section 1516(a) of such Act is amended by inserting before the period at the end a comma and the following: "except that in the case of a grant made to a conditionally designated entity with which the Secretary will not enter into a designation agreement under subsection (c), such grant shall be available for obligation for such additional period as the Secretary determines such entity will require to satisfactorily terminate its activities under the agreement for its conditional designation".

(b) Section 1521(b)(2)(B) of the Public Health Service Act is amended by striking out "twenty-four months" and inserting in lieu thereof "thirty-six months".

The SPEAKER. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, a little more than a year ago, after the adjournment of the 94th Congress, President Ford signed into law the Health Professions Educational Assistance Act of 1976, a measure which was the product of nearly 3 years of often heated debate as to the proper direction of Federal health manpower policy. The legislative proposal before this body today, H.R. 9418, addresses several issues which are outgrowths of 1 year's experience in implementing the 1976 act.

Under existing law, in order to be eligible for capitation support—a statutory amount of money per student per year—schools of medicine must reserve positions in their 3-year classes in each of school years 1978–79, 1979–80, and 1980–81 for an identified pool of eligible transfer students. A number of positions equal to the number of U.S. citizens who have successfully completed a 2-year special educational program in the United States or who had enrolled in foreign medical schools prior to October 12, 1976, had completed 2 years of study in such schools, and had passed part I of the National Board of Medical Examiners' examination is to be equitably apportioned amongst schools of medicine receiving capitation. Schools of medicine are prohibited from applying any academic or place of residence criteria to prospective applicants from the pool.

H.R. 9418 would replace the requirement of existing law with a new requirement that schools of medicine, in order to be eligible for capitation support, increase their third year enrollment by 6 percent in each of school years 1978–79, and 1979–80. It would eliminate any overt reference to an identifiable pool of eligible students or to admission criteria, but would prohibit schools from counting non-U.S. citizens, transfer students from schools of osteopathy, and dentistry and from schools of medicine which have a place for such students in the third year, and U.S. citizens who enrolled in foreign medical schools after October 12, 1976, in order to meet the required increase. The proposed legislation is intended to meet the objections of many schools of medicine that existing law infringes on their academic freedom to apply their own admissions criteria in the selection of students. By requiring an enrollment increase in the third year, it also preserves a reasonable opportunity for those individuals to whom the Congress made a commitment under the 1976 act to complete their medical education in the United States.

H.R. 9418 contains three other amendments to provisions of the 1976 act.

First, it would exempt schools of dentistry which in school year 1977–78 had less than six filled first year positions in dental specialty programs from the requirement that schools of dentistry, in order to be eligible for capitation support provide assurances that 70 percent of all new dental specialty positions be in general dentistry or pedodontics. This revision is necessary if emerging schools of dentistry are to develop strong, well-rounded curriculums.

Second, it would restore the authority under the Public Health Service Act to award public health traineeships to individuals not enrolled in schools of public health. Prior to the enactment of the 1976 act, section 302 of the Public Health Service Act authorized the Secretary of Health, Education, and Welfare to make grants to schools of public health and to other public and nonprofit private institutions offering graduate or specialized training in public health for the purpose of providing traineeships to individuals receiving such training. Under the old authority, for example, preventive medicine and dentistry residency programs, nutrition and environmental health training programs, and graduate programs in health planning, hospital administration and health administration were eligible to receive such grants, whether or not they were located in schools of public health. The 1976 act provided separate authority for graduate programs in health planning, hospital administration and health administration and, inadvertently limited the authority for public health traineeships to schools of public health. The proposed legislation would simply restore the authority to award grants to programs not in schools of public health, specify that individuals being trained in preventive medicine and dentistry programs would be eligible for traineeships, and increase the authorization of appropriations for public health traineeships by $1 million in each of fiscal years 1979 and 1980.

Third, H.R. 9418 contains several minor and technical amendments to the health professions guaranteed student loan program established by the 1976 act. These amendments were requested by the Office of Education and, for the most part, are intended to conform the health professions loan program to the Higher Education Act's guaranteed student loan program. According to the Office of Education, these amendments are necessary if the authority is to be properly implemented.

The proposed legislation would also require the Secretary of Health, Education, and Welfare to undertake a study of the type of training received by and the need for the services, and the conditions for licensure of graduates of foreign medical schools; authorize the disbursing agent of Saint Elizabeths Hospital to invest funds deposited in the U.S. Treasury on behalf of patients; and extend the period within which health systems agencies and State health planning and development agencies must meet HEW standards for full designation for an additional year.

Mr. Speaker, H.R. 9418 is a noncontroversial proposal which deserves the support of every Member of this body. I urge its prompt passage.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 9418 which amends the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition of medical schools receiving capitation grants.

Specifically—this bill would require schools of medicine—in order to be eligible for capitation over the next 3 fiscal years—to increase their third-year enrollments by 6 percent over the lesser of first- or third-year enrollment in school year 1977–78.

In reaching this enrollment increase requirement—medical schools would not be able to count as third-year students the following:

Aliens;

Transfers from 4-year medical schools;

Students who enrolled in foreign schools after October 12, 1976;

Students from schools of dentistry or osteopathy; or

Students from unaccredited U.S. schools of medicine.

However, medical schools could count—as third-year students—for the purposes of the enrollment increase—those transfer students enrolled in the second year—who were first enrolled in foreign medical schools prior to October 12, 1976. Moreover—schools would not be penalized for normal attrition of their class size.

Mr. Speaker, there has been a great deal of controversy surrounding the related provision in current law—but I believe that this bill represents a reasonable resolution of the issue.

This amendment is intended to respond to the objections of many medical schools that the current law interferes with their academic freedom to select their own students—and yet still provide a reasonable opportunity for U.S. citizens studying abroad to complete their medical education in the United States.

Since the proposed amendment does include authority for the Secretary of Health, Education, and Welfare to grant a waiver—in whole or in part—to schools for whom compliance would threaten their accreditation—or jeopardize clinical training—I would hope that no school will be forced to comply if it could not handle the increase.

In particular—I hope the Secretary will give careful consideration to the impact of this enrollment increase on our medical schools' clinical training—when he reviews the applications for waivers. We would be doing the people of this country a disservice if we require schools to over-crowd their clinical training programs. In the end—not only the students—but their future patients will bear the burden of inadequate clinical training.

Mr. Speaker, in addition to the enrollment increase provision—this bill also contains other revisions to the health manpower legislation—which I believe will improve those programs—and an amendment to the health planning law—to give the health systems agencies more time—if needed—to meet the requirements for qualification.

I was particularly glad that the subcommittee amended the traineeship authority for preventive medicine residency programs—which was inadvertently excluded from the legislation last year. We need more emphasis on the field of preventive medicine in general—and I expect this provision to be helpful.

The only concern I had with the other revisions included in this legislation—was the section which increased the maximum interest rate—under the guaranteed student loan program—from 10 to 12 percent. This is certainly a high interest rate—but apparently the increase is needed to encourage participation of lending institutions.

Mr. Speaker, I urge favorable consideration of this legislation.

Mr. MINISH. Mr. Speaker, I would like to rise at this time in support of H.R. 9418, the amendments to the Health Professions Education Act, which is before us today under suspension of the rules.

The intent of this legislation is very simple: to require medical schools to increase their third-year enrollments in order to remain eligible for Federal capitation grants.

Simply stated, this bill will help an increased number of qualified American medical students who are now studying in foreign schools to obtain positions in American medical schools.

I feel that this legislation is important to the continued assurance that adequate health care will be available to every American. Because of the limited number of of places available in American medical schools, many qualified students are forced to pursue on foreign shores their lifelong ambitions to become doctors and dentists.

H.R. 9418 requires that American institutions of medical learning increase their third-year enrollments by 6 percent. While an even higher figure would have been preferable, the Committee on Interstate and Foreign Commerce has arrived at a reasonable percentage of increases with this number.

Mr. Speaker, as we consider the merits of this proposal, I feel it is also important that we remember the tremendous expense inherent in obtaining a medical degree. By making space for a greater number of qualified American students here, at home, we will reduce for some parents and students, the additional expense of traveling to a foreign country.

In addition, passage of this legislation will allow more students to receive their training in the finest schools and clinical facilities in the world: those right here in the United States.

Mr. Speaker, for these reasons, I urge my colleagues to support H.R. 9418, the Health Professions Education Act amendments.

Mr. STAGGERS. Mr. Speaker, we have here today a bill which this Congress should pass in its present form in order to be consistent with legislation already passed by this Congress nearly 1 year ago. We have committed ourselves to require that there be additional positions in the third-year classes of medical schools throughout the United States for bona fide U.S. citizens who are enrolled in medical schools abroad and were enrolled in such medical schools before October 12, 1976. We need not go back into the rationalization for this original legislation. What we are here to decide on today are the parameters which we as responsible legislators must decide that such medical students must meet.

The scope of this law before you today is supported by the American Association of Medical Colleges, also by the individual interest groups supporting students, and U.S. citizens studying abroad.

Each third class in the U.S. medical school must increase by 6 percent. To fill these positions the medical schools can draw on U.S. citizens studying abroad and additionally, students studying in the United States already who go to schools which only offer the first 2 years of medical school. The academic qualifications of students are solely at the discretion of the schools involved. But the schools are not free in a real sense of admitting no one. Any school which does not increase its third-year enrollment by 6 percent from this pool of students must and will lose Federal capitation grants.

We have not totally locked in the medical schools of this country or the health of this Nation has not been put in peril by the possibility of having inadequate students become ultimately inadequate physicians. This program will only run 2 years and the results of the program will be studied. In addition, this program only authorizes the admission of these students to the medical schools: they still must perform adequately within the medical school themselves. They are subject to the same academic requirements within a medical school that the other medical students must meet. There is no penalty for the medical schools should they feel that academically within the schools these students are not up to their standards. They, therefore, may be disciplined academically just as any other student would be.

Because of this broad base of support which we have from all groups concerned, we feel that this legislation will be of benefit to the American public as a whole.

Mr. CARTER. Mr. Speaker, I have no further requests for time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. KAZEN). The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 9418, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SACCHARIN BAN MORATORIUM

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8518) to direct an 18-month review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic for 18 months; and to authorize the Secretary during those 18 months to require, in retail stores and in advertising, warning notices respecting the potential health risks presented by the use of saccharin, as amended.

The Clerk read as follows:

H.R. 8518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall arrange, in accordance with subsection (c), for the conduct of an assessment, based on available information, of—

(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in food, and which have been found to cause cancer in animals;

(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing authority and need for weighing such risks against such benefits;

(4) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to carcinogenic and other toxic substances used as other than foods.

Information respecting the chemical identity of any impurities contained in saccharin, the toxicity of any such impurities and their carcinogenicity in humans, and the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular shall be reviewed in making the assessment prescribed by this subsection.

(b)(1) Within one year of the date of the enactment of this Act the Secretary shall, on the basis of information assessed under the last sentence of subsection (a), report, to the extent known, to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Human Resources of the Senate—

(A) the chemical identity of any impurities contained in saccharin,

(B) the toxicity of any such impurities and their carcinogenicity in humans, and

(C) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

(2) Within eighteen months of the date of the enactment of this Act the Secretary shall report to the committees referred to in paragraph (1) the results of the assessment conducted under subsection (a) together with such recommendations for legislation as the Secretary considers necessary.

(c)(1) The Secretary shall first request the Institute of Medicine of the National Academy of Sciences (hereinafter in this subsection referred to as "Institute") to conduct the assessment, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Institute directly related to the conduct of such assessment will be paid by the Secretary. If the Institute is willing to do so, the Secretary shall enter into such an arrangement with the Institute.

(2) If the Institute declines the Secretary's request to conduct such assessment under

such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private group or association to conduct such assessment.

SEC. 2. (a) During the eighteen-month period beginning on the date of the enactment of this Act, the Secretary—

(1) may not amend or revoke the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin on April 15, 1977 (section 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), or

(2) may not take any other action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin, any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin,

solely on the basis of the carcinogenic or other toxic effect of saccharin as determined by any study made available to the Secretary before the date of the enactment of this Act which involved human studies or animal testing, or both.

(b) Subsection (a) does not limit the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act to prescribe labeling for saccharin or any food, drug, or cosmetic containing saccharin.

SEC. 3. (a) The Secretary may by regulation require retail establishments to display prominently, during the eighteen-month period beginning on the date of enactment of this Act, where saccharin, or any food containing saccharin, is held for sale, a notice (in such form as shall be prescribed in such regulation) of the risks to health which may be presented by the use of saccharin.

(b) The Secretary may promulgate any regulation under subsection (a) without regard to subsections (c) and (d) of section 553 of title 5, United States Code, but the Secretary shall provide a reasonable opportunity for an informal hearing (as defined in section 201(y) of the Federal Food, Drug, and Cosmetic Act) respecting the promulgation of such regulation. Such regulation may be promulgated without regard to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Any saccharin or any food containing saccharin which is sold in a retail establishment which did not, in accordance with subsection (a), display the notice required by that subsection shall, for purposes of the Federal Food, Drug, and Cosmetic Act, be considered a misbranded food.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, on March 9 of this year, the Food and Drug Administration announced its intention to ban the use of saccharin, the only nonnutritive sweetener now on the market, for use in food, drugs, and cosmetics. One of the principal bases for this action was a study conducted in Canada which demonstrated a positive association between bladder cancer and saccharin when the artificial sweetener was administered to rats in doses equalling 5 percent of their diets.

Following hearings by the Subcommittee on Health and the Environment in March and in June, the subcommittee ordered reported legislation, H.R. 8513, which has been reported by the Committee on Interstate and Foreign Commerce, which would direct the Institute of Medicine of the National Academy of Sciences to conduct an 18-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives—including saccharin—including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives. Two reports are to be submitted to Congress: An overall report of the results of the general study, to be submitted within 18 months of the date of enactment, and a report on saccharin itself—including a report on any impurities in saccharin, the toxicity of any such impurities, and the health benefits, if any, to humans from the use of nonnutritive sweeteners in general and saccharin in particular. This latter report is due 1 year from the date of enactment.

The legislation would also direct the Secretary of Health, Education, and Welfare—and thus the FDA—to permit the continued use of saccharin as a food additive, drug, or cosmetic for 18 months. It would continue the authority of the FDA to prescribe cautionary labeling on products containing saccharin and would authorize, but not require, the FDA to require the posting in retail establishments where saccharin or saccharin-containing food products are held for sale of notices setting forth the risks to health which may be presented by the use of saccharin. Saccharin, or any food containing saccharin, sold in a retail establishment which does not display a notice required by the new authority is deemed to be a misbranded food for purposes of the Food and Drug Act.

A great deal of concern has been engendered by the inclusion of the authority for the Secretary to require warning notices in retail establishments. In recognition of that concern, the committee report provides the following direction to the Secretary if he decides to implement the authority:

The Committee recognizes that it may be difficult for owners of retail establishments to know precisely, and on a daily basis, the existence in their establishments of each product offered for sale which contains saccharin. Further, the Committee would expect that if a store displayed one, two or three easily readable signs, depending upon the size of the establishment and volume of sales, listing the products or types of products which contain saccharin as well as any warning required by the regulations, the retailer should be deemed to have satisfied the requirements of the law. The Committee does not expect that the requirement extend to more than three separate notices per establishment. The Committee believes that it would be appropriate to require that, if more than one notice were required to be posted in a retail establishment because of its size of volume of sales, notice be posted proximate to high concentrations of saccharin-containing products such as diet sodas or dietetic foods. The Committee anticipates that if the Secretary decides to implement his authority with respect to notices in retail establishments, implementation will be consistent with this intent.

As I stated when I introduced the legislation proposing the 18-month delay, since the FDA's initial announcement of its proposed intent, a series of highly emotional arguments has all but made impossible a balanced judgment on the issue. I am sure that most Members of this body have received thousands of letters protesting the proposed ban. While I recognize that the majority of these letters result from a carefully orchestrated and heavily financed industry effort, there is no question that a substantial portion of the American public is outraged by this decision.

The singular purpose of this legislation is this: To allow consideration of all scientific evidence on saccharin, as well as the public policy issues surrounding the banning of carcinogenic substances, such as issues involving weighing of benefits and risks, in the proper manner and atmosphere. In my judgment this can be done only through enacting a moratorium on the proposed ban and requiring a valid, broad based scientific study.

Mr. Speaker. I urge the prompt passage of this important legislation.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to my distinguished colleague, the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, the distinguished chairman has made it crystal clear that if HEW does require signs to be posted in retail establishments, the number should not exceed three.

Mr. ROGERS. The gentleman is correct.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for making this statement, because it is so important that a retail establishment not be cluttered with unnecessary signs.

I would like to see only one sign required, and if HEW does implement such regulations, would the chairman agree that one, in some cases, would be sufficient?

Mr. ROGERS. Mr. Speaker, I am sure that in many stores, where there are not many saccharin containing products held for sale, I think the stores would be in compliance with the law with one sign, but I think in large stores we may want as many as three. For example, in stores where diet sodas are displayed in one area, you might want to put a sign there; you might have dietetic products in another area, and you might want to put a sign there.

Mr. QUILLEN. I understand that the Senate version requires a warning label will be affixed to all products containing saccharin; is that correct?

Mr. ROGERS. That is correct.

Mr. QUILLEN. I would hope that such a provision does not survive in conference and that the position of the House prevails, because I think under the chairman's leadership the committee has

drafted a good bill that deserves the strong support of the House. I want to congratulate the chairman and the ranking minority member on this committee for reporting this very fine legislation.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for his remarks and I appreciate his support.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, did I understand the gentleman to say that the store owner has to put up a sign enumerating the products that he is selling which contain saccharin?

Mr. ROGERS. That is correct.

Mr. KAZEN. The gentleman is putting a tremendous burden on the store owner. How is he to know what items he has on the shelf that contain saccharin?

Mr. ROGERS. The Secretary of HEW, if he decided to implement this authority could require the manufacturer of the product to advise the retailer that the product contains saccharin.

Mr. KAZEN. Would it not suffice just as well to say "products made from saccharin are sold here," instead of requiring the tremendous burden of bookkeeping, paperwork, and everything else, by enumerating every single article which contains saccharin?

Mr. CARTER. Mr. Speaker, will the distinguished gentleman yield on that point?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, this is the discretionary authority granted to HEW.

Mr. ROGERS. To the Secretary. Ultimately to the FDA.

Mr. CARTER. And it is not mandatory, I will say to my friend, the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, suppose the Secretary says, "This I will require." Then one can imagine the possible burden, with the size of the supermarkets that we have today and the number of edible articles that contain saccharin. I believe that we have a pitfall here that we should avoid, and we should avoid it now before we pass this legislation.

Mr. ROGERS. I refer the gentleman to the committee report. In the report, it is made clear that the committee recognizes that to require that each item be accompanied by a separate notice would probably be unworkable and expects the Secretary, if he decides to exercise his authority, to implement the requirement as outlined by the committee.

So we would expect, at the most, three signs to be posted in a single retail establishment. If the Secretary so required, the retailer could satisfy the notice requirement by making a list of the specific products or class of saccharin containing food products available to the consumer at the desk or counter.

Mr. KAZEN. If the gentleman will yield further, why would it not suffice to have on these three notices say that "products sold in this store may contain saccharin"? What is wrong with that?

Mr. ROGERS. The regulations could so require. In my view, a list of the actual products should be available to inform those consumers who wished to know which products contained saccharin. There is no reason why the warning notice authority could not be implemented in this fashion.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. SISK. I thank the gentleman for yielding.

Mr. Speaker, I want to say at this time that I want to commend the gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky Mr. CARTER) for the great job they have done. I support this legislation and I express my deep appreciation for the work that has been done.

Mr. ROGERS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank the chairman of my subcommittee for yielding me this time.

I do hope that the House will not pass this bill on suspension. This is a bill of considerable controversy. An amendment I offered to prescribe labeling lost by just 1 vote in committee and five members of the committee joined in the signing separate views in the committee report on various grounds.

There were members of the committee who felt very strongly, as I do, that even though we ought to grant the manufacturers time to develop a safe substitute since there is presently no safe substitute for saccharin, during the interim, inasmuch as there is very strong evidence of carcinogenicity in the ingestion of saccharin, there ought to be a clear labeling required. The FDA requested that we prescribe the terms of any warning label, as I will shortly outline in greater detail.

We cannot offer an amendment under this procedure. I offered another amendment in committee requiring lifting of the moratorium if a safe substitute that is certified—and there are a number of substitutes that are being tested at the present time, with a safe substitute, there would be no reason to continue this moratorium. We cannot consider that amendment now. There were a number of other amendments that were considered in committee.

I believe we have too often abused the suspension procedure. This is a controversial piece of legislation. The labeling amendment lost by only 1 vote in the committee. Therefore, I believe we ought to have an opportunity for an orderly consideration of this legislation under a rule.

There is no question about the carcinogenicity of saccharin. Tests in both the United States and in Canada, over a period of more than 20 years—in fact, starting in 1948—have demonstrated the carcinogenicity of saccharin in laboratory animals, sometimes in very small amounts, amounts comparable to those which an ordinary person would ingest in the course of drinking 1½ bottles of diet soda a day.

These tests started in 1948. The first evidence of carcinogenicity was demonstrated then, and it has been demonstrated consistently since. I will put the results of the specific tests in the RECORD.

This is not just a question of cancer of the bladder. The 1948 tests showed cancer of the lymph glands. Again, in 1950 cancer of the lymph glands was noted. In 1973 there was evidence of tumors of the uterus and the ovary; in 1975 the tests showed tumors of the breast. Another test in Tokyo, Japan, showed cancer of the ovary. There were tests which demonstrated lung cancer in 1973, and there have been a half a dozen tests which have showed cancer of the bladder in laboratory animals.

I sat through all the hearings on this matter. Scientist after scientist came to us, and the vast majority of them said that the testing procedures on laboratory animals are valid and are very important to us as the best means available to detect carcinogenicity.

And it was shown that there is no thereshold for carcinogenicity. Once we have shown carcinogenicity, there is no small amount one can take that would be safe. Any amount ingested over a period of 30 to 40 years will cause a certain number of cancers in human beings.

We have seen the results of a test in Canada, an epidemiological test showing cancer in human males. Epidemiological tests are very hard to conduct because it is hard to isolate the substance that causes cancer over a period of 30 to 40 years.

One of the most disturbing effects of the saccharin controversy is the deliberate attempts to undermine public confidence in the FDA, in animal tests for carcinogens and in the Delaney amendment. I believe there is ample evidence in the record that saccharin presents a risk to human health. Only the degree of the risk and possible benefits are in dispute.

In a statement presented to the Subcommittee on Health and the Environment of the House Commerce Committee on March 21, 1977, Dr. Sidney Wolfe of the Public Citizen's Health Research Group presented evidence that—

First. Saccharin has caused an increased amount of bladder tumors in at least six studies in rats, with cancer occurring in an animal fed as little as 0.05 percent saccharin in the diet—equivalent of just eight cans of soda per day.

Second. Saccharin has caused increases in other kinds of cancer, such as leukemia, lymphomas and lymphosarcomas—cancer of lymph tissues—female reproductive cancers—ovary, uterus, breast—with significant effect seen at doses as low as 0.01 percent saccharin—equivalent to 1.6 cans of soda per day.

Third. Since the excess cancer risk from saccharin is likely less than 30 percent, no human epidemiological study would be able to detect this. Thousands of excess saccharin-caused cancers

could exist in the United States and we would not be able to prove—or disprove—a cause-effect relationship. Studies purporting to show that saccharin does not cause cancer in humans are thereby misleading.

Table 1 below—from Dr. Wolfe's testimony—reviews six rat feeding studies in which animals fed saccharin got bladder tumors. The first of these was done in 1959 and all but the current Canadian study were completed 4 or more years ago. Table 2 reviews studies in which saccharin caused an increase in other types of tumors. These findings, some of which are almost 30 years old, should have given even further impetus for FDA to ban saccharin several years ago.

TABLE 1.—TUMORS OF THE URINARY BLADDER IN RATS INGESTING SACCHARIN

Study	Year	Dose (percent)	Animal	Number (percent) with tumors: Control Number	Control Percent	Treated Number	Treated Percent
Lessel [1]	1959	5	Rat (female)	0/20		2/20	10.0
Litton [2]	1972	5	do	0/20		1/26	3.8
FDA [3]	1973	7.5	do	0/24		4/31	12.9
			Rat (male)	1/25	4.0	7/23	30.4
Warf [4]	1973	.05	Rat (female)	0/17		1/17	5.9
		5	Rat (male)	0/16		7/16	44.0
Munroe (Canada) [5]	1973	.2	Rat (female)	0/56		1/56	1.8
		.2	Rat (male)	0/57		1/51	2.0
		2	do	0/57		2/52	3.8
Canada [6]	1977	5	do	1/78	1.3	19/83	22.9
			Rat (female)	0/85		2/89	2.2

TABLE 2.—OTHER THAN URINARY BLADDER TUMORS IN RATS AND MICE INGESTING SACCHARIN

Study	Year	Dose (percent)	Type of tumor	Animal	Number (percent) with tumors: Controls Number	Controls Percent	Treated Number	Treated Percent	Equivalent "bottles/day"
DA [7]	1948	0.01	Lymphosarcoma	Rat (male and female)	0/20		8/14	57.0	1.6
		5	do	do	0/20		9/17	53.0	800
Schmähl [8]	7	.2	Lymphoma, leukemia	do	4/104	3.8	6/104	5.8	32
		.5	do	do	4/104	3.8	8/104	7.7	80
Warf [4]	1973	.05	Malignant tumors of the uterus and ovary	Rat (female)	0/17		1/17	6.0	8
		.5	do	do	0/17		2/15	13.0	80
		5	do	do	0/17		4/20	20.0	800
FDA [3]	1973	.01	Breast	do	6/20	23.0	14/30	47.0	1.6
		.01	do	Rat (male)	6/29	21.0	14/25	56.0	1.6
NIHS, Tokyo [9]	7	.2	Ovary	Mice (female)	0/14		3/18	17.0	32
		1	do	do	0/14		7/11	64.0	160
Bio-Research [10]	1973	1	Lung	Mice (male)	9/19	11.0	14/29	48.0	160

[1] Lessel B., 1959, 1969. A 2-yr trial on saccharin for carcinogenic activity. Unpublished report No. 1014. Biol. Div., Boots Pure Drug Co., Ltd. (1959). Unpublished report No. P69455, an addendum to report No. 1014 (1969).

[2] Unpublished study, Litton Bionetics, 1972.

[3] Sodium saccharin: "Combined Chronic Feeding and Three-Generation Reproduction Study in Rats," FDA, May 15, 1973.

[4] Warf Institute, Madison, Wis., "Long-Term Saccharin Feeding in Rats, Mar. 26, 1973.

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[8] Schmahl, D. Lack of chronic toxic and carcinogenic effects of sweeteners (cyclamate and saccharin) in Sprague-Dawley rats. Unpublished data from the Institute of Toxicology snd Chemotherapy, German Cancer Research Center, Heidelberg.

[9] National Institute of Hygienic Science, Tokyo.

[10] Final report, "Studies in saccharin and cyclamate", Bio-Research Consultants, Inc., Cambridge, Mass., May 31, 1973.

After the March subcommittee hearings, two new epidemiological studies on saccharin were released in draft form. One of these, a Canadian study, coordinated by the epidemiological unit of the National Cancer Institute of Canada, shows a significant correlation between the use of saccharin and the occurrence of bladder cancer in human males. The resulting data from the 480 matched pairs of male individuals showed a bladder cancer risk ratio of 1.6 for users of artificial sweeteners—principally saccharin—versus nonusers. This means that there is an estimated 60-percent increase in the risk of bladder cancer associated with the use of artificial sweeteners in males. The other study, an American study employing a much smaller sample, does not show such an association.

I think the epidemiological tests on human populations, regardless of their results, are inconclusive because: First, the samples are inadequate; second, the period of time is inadequate; and third, the inability to isolate saccharin as the cause of cancer in the test population. At any rate, Congress should not undermine the FDA and substitute our judgment for that of the experts we assigned to make these determinations on subjects as technical as the health risks of a carcinogen.

If a moratorium is adopted, we must provide safeguards to protect the health of the public during this period. The bill reported by the Commerce Committee fails to provide these safeguards. Under suspension amendments to correct the situation are precluded:

One such safeguard that should at least be considered by the House is the requirement of a label on saccharin products warning the public of the risks of consumption.

In a recent joint statement, the Director of the National Institutes of Health, Dr. Donald Fredrickson, and the Chairman of the Federal Trade Commission, Mr. Michael Pertschuck, joined the FDA Commissioner, Dr. Donald Kennedy, and urged:

> . . . any legislation interposed by Congress that stays regulatory action against saccharin should, we believe, at least contain provisions designed to provide fair warning of the potential hazard of continued consumption of this compound.

Second, there would be no reason to require FDA to allow continued use of saccharin, which unquestionably presents some health risk to the public, if a safe substitute were available. An amendment should be considered which would end the moratorium if a substitute for saccharin were certified as safe and satisfactory in any product, group of products or all products. Such an amendment is supported by the Public Citizen Health Research Group.

These and all other amendments are precluded from consideration by the House by the suspension procedures.

H.R. 8518 in its present form does not adequately protect the health of the American public or give the industry an incentive to develop and market a safe substitute. I urge my colleagues to oppose this legislation under the suspension procedure.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I regret to say, but I believe it is to be true, that with this piece

of legislation Congress is sticking its collective head in the sand.

With this bill, we are saying to the American people that we will allow them to continue to consume what has been shown to be cancer-causing in rigorous testing procedures of the sort which have been scientifically accepted for decades.

Mr. Speaker, some questions had been raised in past years about some of the earlier tests. Therefore, the Canadian tests were designed to be definitive tests. But when they came in positive, people said, "Yes but we do not have tests with respect to human beings."

Then the Canadians came in with tests with respect to human beings, which were also positive. At that point people said, "They were Canadians; they were not Americans," or some such unscientific nonsense.

Mr. Speaker, this has gotten ridiculous to the point that now in this bill we are saying that we are not going to accept scientific information furnished as a result of tests conducted prior to a certain date, but we will accept scientific evidence that is furnished as a result of tests conducted after a certain date.

I cannot think of anything more unscientific.

In sum, what those who support this bill ought to be saying here is that, instead of a warning label on saccharin, what this Congress would like is to have an assurance label reading something like this: "Assurance: Saccharin does not cause cancer, in the opinion of your Congressman, despite all the scientific evidence that it does."

Mr. Speaker, I think we are going to look back on this day and recognize that we have regressed on the commitment of this body to protect the American people from cancer.

I deeply regret that. The fact is that no safe thresholds have been identified for carcinogens. The fact is that scientifically there are no or few practical alternatives to animal tests with limited numbers of animals at high dosages. The fact is that cancer causation by a chemical at any dosage in laboratory animals is a warning of hazard to man, specifically a hazard of carcinogenicity. The fact is that very few substances are carcinogenic and that when we find those that are we ignore that fact only at the peril of many lives.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation, H.R. 8518, which provides an 18-month moratorium on the Food and Drug Administration's proposed ban on saccharin and calls for further scientific assessment of the possible toxic and carcinogenic effects of saccharin and other food additives.

Mr. Speaker, as you well know, the so-called saccharin controversy has received more public attention than virtually any other health issue in recent years. Thousands and thousands of letters protesting the proposed ban have been delivered to Members' offices as well as to the Food and Drug Administration.

Our Health Subcommittee conducted extensive hearings on the proposed ban, and possible legislative alternatives, in March and June of this year.

We heard testimony from a wide range of experts, including scientists, epidemiologists, the National Cancer Institute, the Food and Drug Administration, and various interest groups.

What we found, Mr. Speaker, was a valid difference of opinion among eminent scientists and epidemiologists as to whether or not saccharin was carcinogenic in humans—and whether or not FDA had acted wisely.

In other words—the consensus was that there was no conclusive evidence indicting saccharin as a carcinogen for humans at this time.

The committee report echoes this point on page 8—stating:

> It also became clear during the hearing that there is a paucity of direct evidence linking bladder cancer in humans to the use of saccharin.

Since release of the original Canadian rat study—which prompted FDA's action—several recent human studies have raised further questions about the effect of saccharin in humans.

For example—in a study of 519 bladder cancer patients and an equal number of controls—Dr. Irving Kessler of Johns Hopkins University found no correlation between use of artificial sweeteners and bladder cancer.

In another study by Ernst Wynder of the American Health Foundation—no significant relationship between bladder cancer and saccharin consumption was found.

Moreover—examination of mortality rates from bladder cancer in Britain—by Professors Armstrong and Doll—have revealed no increase that might be attributed to saccharin consumption. Diabetics in Britain showed no excess mortality from bladder cancer though they used saccharin much more than the average person.

In contrast to these negative findings, there has been a recent Canadian study on humans which found a positive relationship between artificial sweetener use, and risk of bladder cancer for men. However, this study has received criticism from a number of experts, thus raising further questions about the relationship between saccharin and cancer in humans.

I would like to include for the RECORD a copy of an editorial published by the editors of the Lancet, a highly respected British medical journal, which criticizes the Canadian human study in the same edition which prints the study. The editorial concludes:

> We judge that most readers will find the case against saccharin unimpressive.

Mr. Speaker, in addition to the inconclusive evidence against saccharin, we heard testimony from a number of groups regarding saccharin's benefits.

Millions of Americans, including diabetics and the obese who must restrict their intake of sugar, depend on continued availability of saccharin.

Even if saccharin were proven to be a mild carcinogen, an argument can be made that the benefits of saccharin to persons who need it for health reasons would outweigh the risks.

However the present law does not permit such a benefit-risk assessment for food additives, and that is one of the reasons the bill calls for further study on this question.

Therefore, Mr. Speaker, since the evidence on saccharin's carcinogenicity in humans is not conclusive at this time, and because of saccharin's beneficial use to millions of Americans, I believe the 18-month moratorium proposed by this legislation, with the requirement for further study, is warranted.

I urge favorable consideration of this bill.

In addition, Mr. Speaker, I include a copy of an editorial to the New England Journal of Medicine, June 9, 1977, by Dr. Kurt Isselbacher, a distinguished member of the Harvard University faculty:

[From the Lancet, Sept. 17, 1977]

BLADDER CANCER AND SACCHARIN

Interest in saccharin in relation to bladder cancer in man has arisen out of experiments in which bladder cancers developed in rats receiving large quantities of saccharin. The meaning of these findings and their relevance to man are unclear, and several groups of workers have looked for evidence of an increase in bladder cancer in man that might be related to saccharin use. Examination of mortality-rates from bladder cancer in Britain and the U.S.A. have revealed no increase that might be attributed to saccharin consumption. Diabetics in both these countries showed no excess mortality from bladder cancer though they use saccharin much more than the average. Morgan and Jain investigated the question more directly by a postal questionnaire sent to 364 patients (240 male with bladder cancer and 470 control patients with benign prostatic hypertrophy (310) or stress incontinence (female). No positive relationship was found though interpretation of their findings is complicated by a low response-rate (69% in the cancer cases and 57% in the controls). Last year Kessler reported the latest results of a continuing study in Baltimore in which 209 patients (157 male) with recently diagnosed bladder cancer were interviewed together with a similar number of matched controls, no differences being found between these groups in their previous intake of artificial sweetners (mainly saccharin).

A study by Dr. Howe and his colleagues, reported on p. 578, suggests that a positive relationship exists between artificial-sweetener use and the risk of bladder cancer. This has already been publicised in the national Press, largely because recent U.S. legislation requires that documents submitted to federal departments and agencies must be made available to the public. Adequate appraisal is obviously not possible from summary Press reports, and The Lancet is publishing the work so that the data on which the claimed association is based are available for independent assessment by a wider audience. Under such scrutiny certain weaknesses in the study can hardly be overlooked.

632 patients (480 male) in three Canadian provinces with recently diagnosed bladder cancer were questioned about a number of variables including their use of artificial sweetners (mainly saccharin). Their answers were composed with those of local residents (matched for age and sex) who were willing to cooperate when the interviewers called. Significantly more males with bladder cancer reported having used artificial sweetners (A.S.) than did controls, and this Howe and his colleagues regard as suggesting that A.S.

use in males can cause bladder cancer—in keeping with animal experimental work in which an effect was found only in male rats. What is not stressed, however, is that women with bladder cancer used A.S. somewhat less than their controls such that overall (i.e., when both sexes are combined) no significant relationship is found. In general epidemiologists are familiar with the dangers (and the temptations) of drawing conclusions from findings in subgroups when the total results are not significantly different from expected. No non hormonal carcinogen in man is known to affect only one sex, and the case made by the Canadian workers that saccharin is the first such example is less than convincing.

But there are other reasons for questioning the conclusions drawn by Howe and his colleagues from the association between bladder cancer and A.S. use. If we accept that the findings are not entirely due to chance, we must consider the possibility that the association might be indirect. The most important established cause of bladder cancer is cigarette smoking, which in most studies is associated with a greater risk of the disease than the Canadian workers claim for A.S. use in males. There is also evidence from the U.S. that coffee consumption is associated with bladder cancer. It follows therefore that these factors must be carefully taken into account in any analysis. This is particularly so since smokers have been shown in several investigations—including the Canadian one—to drink more coffee than non-smokers and also because coffee is often artificially sweetened. It is therefore important to show that the association of bladder cancer with A.S. use is not merely due to an association of A.S. with smoking and/or coffee consumption. But the analyses reported by Howe and his colleagues are superficial. Moreover insufficient data are presented on these potentially important confounding factors to allow adequate analysis. Cigarette smoking was examined simply by dividing the males into those with a lifetime consumption equal to or less than 10,000 packs (200,000 cigarettes) and those who had smoked in excess of 10,000 packs.

Thus lifelong non-smokers (who would be of special interest) were merged in the first category with smokers of, say, 14 cigarettes per day for 40 years. Ex-smokers would go into either category though they might deserve separate attention since often they have more need of A.S. than most people because of associated weight gain. Equally surprisingly, coffee consumption was studied only in relation to whether instant coffee was "ever consumed" or "never consumed" and other types of coffee were not considered. It would be difficult to propose cruder divisions for either tobacco or coffee and the methods of analysis do little to clarify whether the apparent effect of A.S. is real or whether it is merely due to cigarette smoking and/or coffee consumption. It is possible that the data are insufficient to allow adequately for the confounding effects of tobacco and coffee but this is no argument for not making available the data on these crucial points.

There may be other biases in the Canadian study. The method of selecting controls is clearly of the greatest importance; "neighbourhood" controls interviewed at home as in the present study may not have as much time or interest as the cancer patients, so that differences in recall may influence the results. Similarly there is no means of knowing if those potentially suitable controls who were not at home when the interviewer called (an unknown number) or who refused (17% potentially eligible controls at home) had a different pattern of A.S. use from those who were interviewed. In this connection it is not reassuring that the investigators failed to report any respect in which the cases and controls were similar (except those specifically matched for) and substantial differences were detected in education, occupation, history of urinary infections, and source of water supply, besides tobacco and coffee consumption.

There is need for further work on saccharin and bladder cancer in man. One such study has already come to our notice through the U.S. public information rules previously mentioned. This is a careful study by WYDER and GOLDSMITH of A.S. use in 146 cases and in 132 matched hospital controls they report that the risk of bladder cancer in A.S. users of either sex was, if anything, somewhat lower than in non-users. We judge that most readers will find the case against saccharin unimpressive.

SACCHARIN—THE BITTER SWEET

(By Dr. Kurt J. Isselbacher)

A recently completed Canadian study shows that saccharin can act as a bladder carcinogen in rats.[1] As a result, the United States Food and Drug Administration proposes to prohibit the use of saccharin as a food additive. This action is required by a 1958 law, which includes the "Delaney clause" stating that ". . . no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal . . ." It has been claimed that the value of the Delaney clause lies in the maximum degree of protection that its unqualified language provides. However, as phrased, the clause precludes the use of judgment in drafting regulations for specific substances. Yet judgment is needed to guard against inappropriate generalization to man from other species and to permit a balancing of the benefits of a food additive against its dangers. The case of saccharin well illustrates these two needs. There is good reason to be skeptical about the relevance to man of the existing data on rats, and the medical, social and economic values of saccharin may be considerable. The opposition to the saccharin regulation is based on these considerations and is thus, more fundamentally, a challenge to the Delaney clause itself.

No study, including the Canadian one, has shown convincingly that there is an excess of bladder cancer in rats exposed to saccharin only after birth, the "F_1" generation. The Canadian study is persuasive only for male rats born of mothers fed a diet containing 5 per cent saccharin and weaned to the same diet, the "F_1" generation. The study is only weakly positive for F_1 females.

Unfortunately, the study evaluated saccharin only at the one dosage level since its major objective was to assess the carcinogenic activity of orthotoluenesulfonamide (OTS), a manufacturing contaminant in commercial saccharin. OTS was evaluated at several dosage levels and exonerated. Thus, the earlier positive studies of saccharin by the FDA [2] and by Tisdel at al.[3] can no longer be dismissed with the suggestion that OTS was the carcinogenic agent. These two studies are similar to the Canadian study in being clearly positive only among F_1 male rats (the F_0 animals were not examined). In fact, in the FDA study, F_1 males given a 5 per cent saccharin diet were similar to controls; only animals given a 7.5 per cent saccharin diet had an excess of bladder cancer.

It is not known why all three studies are essentially negative among female rats. Nor is it clear why only in utero exposure produced an excess of bladder cancer. Saccharin is concentrated in fetal tissues,[4] and, if this is the reason for the in utero requirement, the results of the animal studies pertain primarily, perhaps exclusively, to saccharin use by pregnant women. Finally, since positive results were restricted to rats receiving massive doses of saccharin, it is difficult to make inferences about low-dose effects either in rats or in human beings.

The issue of dose response is crucial. A diet containing 5 per cent saccharin has 500 to 2000 times more saccharin than is consumed by an adult human being. What would be the bladder-cancer risk of rats fed a diet containing, say, 0.1 per cent saccharin? The necessary extrapolation can be made only if we invoke a hypothetical model of a dose-response relation. Three models seem reasonable. The simplest is a linear relation. If a 5 per cent saccharin diet causes bladder cancer to develop in 18 per cent of F_1 male rats (the Canadian result), a 0.1 per cent diet would cause about 0.4 per cent of animals to be affected. Another model might incorporate a threshold value. If the threshold is above 0.1 per cent, rats fed such a diet would show no excess of bladder cancer. A third model is that the risk of bladder cancer is a more complex function of the saccharin dose—for example, risk may be proportional to the square of the dose. If this were the case, the 0.1 per cent saccharin diet would cause bladder cancer in only 0.007 per cent of rats, or about one in 14,000. Existing data do not permit us to choose from among these models, although they least favor the simple linear relation. However, even if we could extrapolate along the dosage scale to predict low-dose effects among rats, we could not confidently generalize over the species barrier to human beings. Such generalization requires knowledge of the relative sensitivity of the two species to saccharin-induced bladder cancer. We have no such knowledge, but it seems unlikely that adult human beings would be more sensitive than fetal rats. On the other hand, the long life of human beings suggests that saccharin-induced bladder cancer could develop in them. During a normal life-span a person could ingest a moderately high dose of saccharin and survive a latent period of several decades.

In view of these uncertainties, the information on man should be examined closely. Saccharin came into use in the United States about 1900, and per capita consumption has increased more or less steadily since then. Yet, during this century, bladder-cancer mortality rates have declined, especially for women. Incidence rates have been stable for women but have risen for men.[5] However, the rising incidence for men can be explained by their cigarette-smoking habits.[6]

At least seven pertinent epidemiologic studies show that bladder-cancer mortality patterns in England and Wales are not correlated with saccharin consumption [7] and that diabetic patients have no excess mortality from bladder cancer despite their relatively high consumption of saccharin.[8-10] The studies also show that patients with bladder cancer and controls do not differ in their use of saccharin.[11-13] All these studies may be criticized on several counts, the most serious being that they were too small. That is, each study might readily have failed to detect a small increased risk of bladder cancer—say, 30 per cent—among saccharin users. However, neither this nor other criticisms explain why all the studies are negative. A credible explanation of the negative findings is that, as used by human beings, saccharin does not cause bladder cancer or causes so few cases that its effect could be detected only by an enormous study. A small study is likely to be useful only if it focuses on a group of special interest, such as persons occupationally exposed to saccharin. Studies might also focus on women, who have low bladder-cancer incidence rates because they are less exposed than men to industrial and other causes of the disease.[14] Thus, any effect of saccharin may be more apparent among them.

Regarding possible benefits, it is widely acknowledged that saccharin is not a critical substance, and its benefits are difficult to quantify. Saccharin has economic value as a sugar substitute in some foods, and many physicians believe that it has a place in the

[1] Footnotes at end of article.

management of diabetes and obesity. Moreover, many healthy persons must value saccharin, for they elect to use it as an aid to weight control.

Despite the apparent benefits of saccharin, the difficulties of generalizing to man from the existing information on rats and the negative epidemiologic studies, it is likely that the FDA will restrict the sale, and use of saccharin. Nearly everyone will agree that pregnant women and children should not be exposed knowingly. There also seems little reason for a normal, healthy person to use saccharin, and many choose not to. These goals of avoiding unintended saccharin ingestion can be attained by the requirement that all saccharin-containing products be so labeled. This requirement is already the law for foods and cosmetics. It seems unwise to change this law to one that would limit the availability or increase the costs of saccharin-containing products used for medical indications. Yet these would be the effects of a general ban on the use of saccharin as a food additive. The ban would have the further disadvantage of being difficult to enforce, especially if saccharin remains available as a nonprescription "drug." For example, how would the law treat a person who added saccharin to his can of unsweetened soda?

Whatever regulatory action is taken by the FDA on saccharin, attention should be paid to changing the Delaney clause. In addition to excluding judgment, the clause is deficient in its restriction to "man or animal." In vitro tests will probably become a valuable part of the process by which the carcinogenic potential of a drug or chemical is evaluated. The revised or new law should take into account the difficulties of generalizing to human beings from animal and other kinds of studies. It should also permit the benefits of a food additive to influence decisions regarding its use.

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Mr. ASHBROOK. Mr. Speaker, I rise in strong support of H.R. 8518, the saccharin ban moratorium. This bill would prohibit the Federal Government from restricting the use of saccharin as a food additive for the next 18 months. During that time the Secretary of Health, Education, and Welfare would be required to conduct a study of the health benefits and health hazards resulting from saccharin.

As my colleagues will recall, about 6 months ago the Food and Drug Administration announced its intention to ban the use of saccharin. This action was not based on its own or any separate American investigation. Instead, the decision was based upon a Canadian study of rats.

These tests, moreover, had little bearing on actual usage. The Canadian rats were given the equivalent amount of saccharin that would be found in 800 bottles of diet drink. Who in the world does or even could consume such an incredible amount of liquid?

Obviously more tests should be conducted. Too little information is available to even consider taking such a drastic step as a saccharin ban. The 18-month moratorium proposed in H.R. 8518 would provide the time needed to conduct these tests.

I am also concerned about the proposed ban on saccharin from another standpoint, that of personal freedom. Increasingly the Federal Government is intruding into the private lives of its citizens. A ban on saccharin would be one more case of unnecessary governmental interference.

Americans should have free choice in this matter. The government should mind its own business and allow the individual citizen to make his or her own choice regarding saccharin.

Saccharin is an important sugar substitute. It is especially important to diabetics and overweight persons. To prohibit the use of this ingredient would impose a major hardship on those who depend on saccharin.

I urge the adoption of the saccharin ban moratorium although I am concerned that language in the bill may require a burden on store owners to display notices or lists on products with saccharin. This legislation is the best we can give in a liberal Congress which readily gives too much discretions to bureaucrats, and I might add, trusts bureaucrats to write regulations which will be fair. I have absolutely no trust of bureaucrats and will be surprised if the intent we express today will be carried out.

Mr. MOORHEAD of California. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Speaker, I certainly wish to join with the ranking minority Member, the gentleman from Kentucky (Mr. CARTER). I believe the evidence that has come before us recently is negligible that the American people have been put on notice that there is a possible danger from saccharin. At the same time, those people who are dependent upon an artificial sweetener for the maintenance of their health, such people as have diabetes, heart condition, obesity and other diseases may continue to use them until there is an adequate substitute for a place where they can go without getting a doctor's prescription, which I feel is highly necessary.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I rise in support of this legislation (H.R. 8518) which would prohibit the Secretary of Health, Education, and Welfare from taking any action with respect to saccharin for a period of 18 months. During this period the National Academy of Science is authorized to undertake research and studies to ascertain the danger to human health—if any—which use of saccharin involves. In my opinion, there is no reliable evidence indicating that any human beings have had their health impaired by the use of saccharin.

Mr. Speaker, several years ago a ban on cyclamates resulted in millions of dollars of damage and the elimination of cyclamates from distribution and sale. Later studies indicate—to my satisfaction—that cyclamates have not endangered the lives of any human beings because of cancer—or other ailment.

Mr. Speaker, a small amount of saccharin is used in the manufacture of cyclamate sweeteners. Accordingly, it is my expectation that cyclamates will be proved to be without danger to human health. The resumption of the manufacture and marketing of cyclamates may be dependent upon clearing the good name—and reputation of saccharin. For this added reason, I am hoping that the House will pass this bill (H.R. 8515) overwhelmingly.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MARTIN).

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 8518, Saccharin Ban Moratorium. I wish to associate myself with the remarks made by the gentleman from Kentucky (Mr. CARTER) and those made by the gentleman from North Carolina (Mr. MARTIN). This is badly needed legislation. I know of no issue that has so upset vast numbers of Americans. They—and I—simply cannot understand how and why HEW has taken action to ban saccharin on the basis of such flimsy evidence.

Mr. MARTIN. Mr. Speaker, I am here in support of H.R. 8518, which is an 18-month moratorium on the saccharin ban.

I want to commend the gentleman from Florida (Mr. ROGERS), the distinguished chairman of the subcommittee, and the distinguished gentleman from Kentucky (Mr. CARTER), who is the rank-

ing Republican member on the subcommittee, and the other members of the subcommittee for drafting what I regard as a very appropriate and very well crafted piece of legislation.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I want to say that the ranking minority member on the committee, the gentleman from Kentucky (Mr. CARTER) has done an outstanding job, and to express my appreciation to the gentleman now in the well from North Carolina (Mr. MARTIN) who has been most helpful in lending his expertise to the committee in the development of this legislation. The gentleman has been most active and most helpful to the committee. His leadership is well recognized.

Mr. MARTIN. Mr. Speaker, I thank the chairman for his kind words.

Mr. Speaker, what we are here doing today is not just to "bomb the ban" but to allow an 18-month study by the National Academy of Sciences with regard to the possible benefits of various food additives, and the ways in which we translate animal studies to human risks. This will give us an opportunity to develop a cautious modernization of the Delaney proviso in the food and drug law. In my view that proviso may have been adequate in 1958 when it was drafted, but it has now become a scientific anachronism. Consider the fact that analytical chemistry has reduced the level of trace detection from the order of parts per million, where it was in 1958 when I was a graduate student in chemistry. Ten years later that was down to the level of mere parts per billion. Now we are on the level of parts per trillion today.

Second, it must be pointed out that if the provisions and principle in the Delaney clause, which would ban any detectable trace of a food additive that is found in massive overdoses to be carcinogenic, would, if they were consistently applied, end up banning half of the food supply.

There are two concepts for solving this, which I would regard as cautious modernizations of the Delaney clause. One would be to provide for the assessment of benefits and risks, as a bill which I have drafted, H.R. 5166, and which has been introduced with 201 cosponsors, would seek to do.

A second way would be to establish an acceptable risk level, something on the order of perhaps 1 cancer in 1 million, or 1 in 10 million. Or it could be done in a different way, in terms of one one-hundredth or one-fiftieth of that level which is found in animal tests to have no effect whatsoever. At least six carcinogens have now been shown to show a "no effect" level.

The main thing we must do is to protect the public interest. Otherwise, unless we enact this bill, the ban will do more harm than good for that one-third of the public who use saccharin as an important part of their diet. It helps tens of millions of them to maintain their dietary control. I am speaking about the 10 million people who have diabetes, about the 4 million people who are heart patients, about the 10 million who have hypertension, and about the 40 million obese. It has been said they can do without saccharin. Perhaps that is true for thousands, but millions will find that they lack that rigid self-discipline, that they lack that iron will that would be required of them. They would find that they would simply return to sugar-sweetened beverages and desserts if saccharin were not available, just as they did in 1969 and 1970 when cyclamates were banned.

Let me say a word about the scientific evidence, if I may. I must maintain that if you are going to evaluate the scientific evidence, you must first look at the most valid scientific evidence. Certainly that would be the epidemiological evidence that is derived from human health statistics. There have been a dozen studies which show that there is absolutely no correlation between the normal human use of saccharin and any incidence of cancer. The only exception to that was one Canadian study based on a very limited number of people, which has now been discredited in the very journal that published it, as one of the preceding speakers has pointed out.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CARTER. Mr. Speaker, I yield 2 additional minutes to the gentleman from North Carolina.

Mr. MARTIN. I thank the gentleman for yielding.

This study has been discredited on the one hand because of the incorrect handling of the control group statistics and second, because it makes a rather curious finding of a 60 percent greater risk of cancer for women who do not use saccharin than for women who do.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I wonder if the gentleman is confident in making his statement about the epidemiological studies that he could in fact unscramble the possible causes of cancer one from the other over a 20- or 50-year period, so that saccharin could be sufficiently isolated to develop any meaningful scientific results from epidemiological techniques.

Mr. MARTIN. I will propose to the gentleman that epidemiological evidence would be used only where it is available. In the case of saccharin it is available in no less than 1 dozen thoroughly valid studies, and they all conclude that there is no correlation between the normal human use of saccharin and the incidence of cancer.

Mr. MAGUIRE. If the gentleman will yield further, the gentleman is fully aware that there have been some major criticisms made of those studies?

Mr. MARTIN. No scientific research is free of criticism. I maintain and point out that there have been some major criticisms of the Canadian evidence based on rate studies, and that is what I intend to deal with next.

In the first place, the only evidence that has shown any connection between saccharin and the incidence of cancer was the Canadian rat study, which was based on a $2\frac{1}{2}$ grams-per-kilogram exposure, that is, $2\frac{1}{2}$ grams per kilogram of body weight, for a two-generation sequence of rats, mother and child. Only in that case was there a significant incidence of cancer. On the other hand, if the rats were exposed only from birth at that dose level of $2\frac{1}{2}$ grams per kilogram of body weight, there was no significant effect. Furthermore, if from the moment of conception while the fetus was in utero, they were exposed at roughly one-half that massive overdose, namely, one kilogram per gram of body weight, there was no statistically significant effect.

Therefore I think one must conclude from the scientific evidence that saccharin is not a direct carcinogen and furthermore observe it is not an alkylating agent, which is a characteristic of carcinogens in general. From this I think it could be observed that it is only in the extreme overdose that the effect is noted and therefore perhaps due to the action of that overdose of saccharin as being a physical irritant, one which would increase the raw sensitivity of the rat's bladder tissue. The mechanism may be a secondary effect in which this massive, extreme overdose would affect the rat's detoxification mechanism. Either way it occurs only at a near lethal overdose.

Now let me say a word about the concept of a safe dose. Since the rats had no statistically significant increase in bladder cancer when two consecutive generations were fed a dose of one gram per kilogram of body weight, that may be taken as an approximation of the threshold, or "no effect," level. That is still an enormous overdose. Applying a safety factor of one-hundredth of that dose translates to the human consumption for a 125-pound woman of four large cans of diet soda daily.

If all the available data is plotted on a log: log graph of dose versus response, it is possible to estimate a dose that would risk at most 1 case of bladder cancer per million—or 3 cancer deaths per 10 million, which is equivalent to the risk of a 10-mile car ride—and that translates to 12 large cans of diet drink every day for a 170-pound man.

It would be difficult to specify a fair warning to the consuming public, but based on this evidence the most one can require would be as follows:

> It is recommended that you should not exceed a daily average of one 12-ounce can of diet drink for each 20 pounds of your body weight. Half that exposure level should be your limit if pregnant.

Nothing more restrictive than that is scientifically justified.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I rise in support of this legislation. I believe it is very needed. I want to commend the gentleman from Kentucky (Mr. CARTER) on the remarks he has just made, and those of the gentleman who was just in the well, the gentleman from North Carolina (Mr. MARTIN).

Mr. Speaker, I rise in support of H.R. 8518 which prohibits any ban or restriction on the sale of saccharin products for 18 month.

There has been a great deal of controversy over the proposed ban on saccharin products, and although it is certainly commendable to remove lethal products from the market, the evidence in this case is at best confusing. After all, saccharin has been used safely by hundreds of millions of people worldwide for 80 years, and numerous scientific studies conducted since 1912 have determined that saccharin in normal amounts is not harmful to humans.

The Canadian study of rats, which were fed abnormally high quantities of saccharin, indicated that the sweetener may have caused bladder cancer, but leading scientists and doctors are questioning the scientific validity of the tests. Certainly, when millions of Americans depend on saccharin for weight control and some 10 million diabetics need it to fill their need for sweets, we can take a more balanced look at saccharin to determine if it really needs to be restricted. The 18-month moratorium should afford ample time to make a valid determination, and I believe it would be an injustice to the American people not to pass this bill.

Mr. CARTER. Mr. Speaker, I yield all but 1 minute, which I reserve, to the gentleman from Ohio (Mr. DEVINE), a ranking minority member of the subcommittee.

The CHAIRMAN. The gentleman from Ohio is recognized for 6 minutes.

Mr. DEVINE. Mr. Speaker, I will try not to use the entire time. I hope to yield some back to my ranking minority member on the subcommittee.

Mr. Speaker, I must compliment the ranking minority member as well as the chairman of the subcommittee and the gentleman from North Carolina (Mr. MARTIN) for their great study and devotion to coming up with a solution to a problem that has disturbed the American people. I do not think that on other than some of the labor organization we have had more of an influx of mail on a subject than we have had on the proposed ban on the use of saccharin. I did not realize I had so many diabetics in my district or that there were so many across the country, but they certainly responded in the mail. That has caused us to look at the proposed ban by the Food and Drug Administration, which has caused the chairman to introduce this bill. I am in accord with this legislation in most respects, though I have reservations about the discretionary authority respecting the display of notices in retail establishments.

Our bill gives 18 months to take a look and see if the so-called Canadian study is soundly based. If it is not, we will take other steps. In the meantime we will prohibit the Food and Drug Administration from restricting the sale of saccharin during this 18-month period unless new evidence is produced.

I have been around here long enough to know we had a scare about cranberries and we took all the cranberries off the shelves right before Thanksgiving because somebody came up with a study that said maybe they would cause something terrible.

We had on September 15 four eminent scientists come and sit down for a congressional briefing. They included Dr. Irving Kessler, an epidemiologist from Johns Hopkins. We had Dr. Ernst Wynder, from the American Health Foundation of New York City. We had Dr. Philip Cole, associate professor of epidemiology at the Harvard School of Public Health.

We had as well Dr. Neal Brickner, director of the Institute of Kidney Disease, professor and vice chairman of the Department of Internal Medicine, at the University of Miami, School of Medicine.

All four of these men sat as a panel and discussed the findings of the Canadian study and all of them went over it in detail, and they too are generally in accord with us.

So I say, let us not allow FDA to act precipitously, let us require them to study this. Let us not just run helter-skelter to ban the use of the product when there has been no adequate proof. Let us pass this legislation.

This bill in my opinion is much more reasonable than the legislation passed by the Senate. I think we should have a strong vote in favor of the House position so that the conferees may be in a position to come up with a reasonable bill. The period in the Senate bill for study and assessment is only 1 year. They also require specific labeling. We continue the current labeling authority of the Food and Drug Administration rather than prejudice the issue by requiring specific language.

We should support the House position, have an 18-month study, and then see what happens.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. I appreciate the gentleman bringing out the point that this panel of four able and competent people have made a judgment on the Canadian study and that the gentleman can assure us that they have decided in their panel study that the Canadian so-called study was, in fact, not as disastrous to the American public or consuming public as originally indicated in some of the media; is that correct?

Mr. DEVINE. That is correct. They felt that there were numerous questions concerning the validity of the Canadian study.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, did this panel bring out the difference between the effects on rats and people?

Mr. DEVINE. Yes, they did. Each scientist had a different perspective, but they came to the same conclusion. They thought the Canadian study was flawed.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I appreciate my colleague's comments.

I also was interested in the gentlemen's notation of the fact that there was quite a difference between the House bill and the Senate bill especially as it relates to the labeling provisions. My understanding is that in the House bill before us today the manufacturers and others are not required to label a saccharin package in a detailed way. They are required to post the retail premises in an appropriate way so that there is clear notification to the consumer.

Let me review what our House committee stated on the subject of proper notice to consumers:

> NOTICE TO CONSUMERS
>
> The Committee feels strongly that during the proposed 18-month moratorium consumers should be afforded a reasonable opportunity to know what products contain saccharin so that they may make personal judgments concerning its use. Thus, the proposed legislation include new authority for the Secretary to require, during the 18-month moratorium, that retail establishments where saccharin or any food containing saccharin is held for sale prominently display a notice of the risks to health which may be presented by the use of saccharin. Because of the limited time period during which the Secretary is authorized to prescribe and enforce this new authority, the provisions of section 553 (c) and (d) of title 5, United States Code (relevant provisions of the Administrative Procedure Act relating to submission of data, views, or arguments and requiring that a substantial rule may not be made effective less than 30 days after its publication) are waived, although the proposed legislation requires that the Secretary shall afford reasonable opportunity for an informal hearing (as defined in section 201(y) of the Food and Drug Act) respecting the promulgation of the regulation. In addition, section 102(2)(C) of the National Environmental Policy Act of 1969 (relating to the requirement to prepare an environmental impact statement) is waived with respect to the promulgation of regulations under the time-limited authority.
>
> Under the provisions of the Committee proposal, saccharin, or any food containing saccharin, sold in a retail establishment which does not display a notice required by the new authority is deemed to be a misbranded food for purposes of the Food and Drug Act.
>
> The Committee recognizes that it may be difficult for owners of retail establishments to know precisely, and on a daily basis, the existence in their establishments of each product offered for sale which contains saccharin. Further, the Committee recognizes that to require that each type of product be accompanied by a separate notice would probably be unworkable. Thus, the Committee would expect that if a store displayed one, two or three easily readable signs, depending upon the size of the establishment and volume of sales, listing the products or types of products which contain saccharin as well as any warning required by the regulations, the retailer should be deemed to have satisfied the requirements of the law. The Committee does not expect that the requirement extend to more than three separate notices per establishment. The Committee believes that it would be appropriate to require that, if more than one notice were required to be posted in a retail establishment because of its size of volume of sales, notice be posted proximate to high concentrations of saccharin-containing products such as diet sodas or dietic foods. The Committe anticipates that if the Secretary decides to implement his authority

with respect to notices in retail establishments, implementation will be consistent with this intent.

I do believe I understand the reason why there is a difference from the Senate; that that is, that it would be very difficult to describe in adequate detail all the information needed on a small package of the saccharin.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. CARTER. Mr. Speaker, I yield an additional half-minute to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, I rise in support of the gentleman from Florida and the gentleman from Ohio and the gentleman from Kentucky. I do not think we have sufficient data to legislate a ban on sacccharin. I think we have to have this moratorium to examine the Delaney amendment. I think the bill has been reasonable in every case. I support it.

Mr. Speaker, I rise in support of H.R. 8518, which would direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food additive, drug, or cosmetic for 18 months. The Federal Drug Administration's intended ban on saccharin would not, under this bill, be allowed to go into effect at this time.

The Subcommittee on Health and the Environment held hearings on this legislation in March and in June. The bill as reported from the Interstate and Foreign Commerce Committee represents a carefully thought out approach to dealing with the subject of possible dangers to human health presented by food additives in general as well as saccharin.

The bill would, in addition to preventing a ban on saccharin, direct the Institute of Medicine of the National Academy of Sciences to conduct an 18-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives—including saccharin—including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives. Two reports are to be submitted to Congress: an overall report of the results of the general study, to be submitted within 18 months of the date of enactment, and a report on saccharin itself—including a report on any impurities in saccharin, the toxicity of any such impurities, and the health benefits, if any, to humans from the use of nonnutritive sweeteners in general and saccharin in particular. This latter report is due 1 year from the date of enactment.

Saccharin has been in use for 80 years and I quote the Acting Administrator of the FDA when stating that the substance poses "no immediate hazard to public health."

The FDA attempted to ban this product under the Delaney clause of the Food, Drug, and Cosmetic Act. This part of the law as it now stands is unwieldy and overbroad. It should probably be changed.

If it is going to be changed, let us change it so that people will no longer be harassed by inane dictates by the Federal Government designed to protect them from levels of saccharin that they will never consume. It is my opinion that the Federal Government should use its resources to protect people from known carcinogens that they involuntarily ingest daily—such as carbon tetrachloride in Cincinnati's drinking water. I cannot work up a lot of sympathy for a bunch of laboratory rats, but I am vitally concerned with exposure to industry-discharged toxic substances which do endanger the health of my constituents. I urge the Federal Government to get its priorities straight.

Mr. VOLKMER. Mr. Speaker, I, too, commend the gentleman from Florida and the gentleman from Kentucky for the work they have done on this. I wish to join in the remarks of the previous gentleman from Ohio, the Columbus district, in regard to the Senate bill, that I agree the House bill is a lot better than the Senate bill.

I wish also to commend the gentleman from North Carolina for the amount of work the gentleman has done, not only for this legislation, but for the whole problem.

I look forward to the next 18 months, because I am sure we are going to have this legislation finally passed where the subcommittee and the rest of Congress can look at the testing procedures used, can look at the Delaney amendment, to see if it needs any statutory change and look at the risk-benefit question to determine if it should relate to food additives as it does to drugs and whether or not these things need to be changed. I look forward to working with them in the coming months.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield what little time I have.

Mr. OTTINGER. Mr. Speaker, I believe, if I can get the attention of the gentleman from North Carolina, the gentleman made a misstatement. The gentleman said there was just one animal test, the Canadian test, that showed carcinogenicity. In fact, I believe there were three tests by the FDA itself.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I thank the gentleman for allowing me to clarify that statement. I would say there was only one definitive test with regard to the Canadian studies were based on several previous efforts, and was done to overcome flaws in the design of the earlier studies. In fact, the experimental basis for the "no effect" threshold level, that I have cited, came from the earlier studies, because the Canadian study used only one exposure level. Taken together, these studies demonstrate conclusively the point that I was making; namely, that saccharin causes no significant increase in cancer of the test rats if they were fed massive overdoses every day from the moment of birth, and that no significant increase in bladder cancer resulted from exposure where the rat and its pregnant mother were fed 2 percent of their diet, that is 1 gram of saccharin per kilogram of body weight, daily. Thus, only with the "double whammy," of 2.5 grams per kilogram daily for two generations, was there a significant effect.

That does not translate into much of a risk to humans.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield further, how does the gentleman define "definitive"?

Mr. MARTIN. Some of the evidence is that some of them got ridiculously massive overdoses for a two-generation exposure. That has a carcinogenic effect. Anything less does not.

Mr. CARTER. Mr. Speaker, I would say that these rats were fed, as a usual thing, 5 percent of their diet in saccharin.

Mr. BAUMAN. Mr. Speaker, as one of 100 bipartisan sponsors of a bill to allow for the free sale of saccharin while a comprehensive study is conducted to better determine its effects, I am glad to see this bill, H.R. 8518, brought to the House floor for a vote. I certainly support it.

I say now as I have said before, that I believe that the FDA ban on saccharin as originally proposed by them is irresponsible and unfair. It is irresponsible in denying the use of saccharin to diabetics and the many other citizens for whom a marketable substitute for sugar has not yet been made available. It is unfair to the many other citizens who despite the questionable findings by some FDA rat-testers, want to use saccharin anyway but are prevented from doing so by the self-appointed censors at FDA.

The bill we are here to consider provides for a broadly based scientific study of saccharin by the National Academy of Sciences and other responsible agencies not representing the vested interests of the Federal Government or FDA. It prohibits for 18 months any ban or restriction on the sale of saccharin products, therefore, letting the people decide whether or not they wish to use this sugar substitute.

People ought to decide this, and they should be given the freedom to do so. Let us not lose our sense of proportion, after all. We are not dealing here with heroin or any other type of dangerous drug, the use of which might endanger other citizens by its unpredictable effects. We are dealing here with an American citizen's right to choose.

Moreover, the bill allows the HEW to erect billboards or implant any other kind of sign into the counters of drugstores and supermarkets warning all comers as to the possible effects of saccharin. Of course, it is interesting to note that aside from all of the attention and the bad press saccharin has been getting since last year, sales for saccharin have gone up to nearly 6 million pounds. By these findings, it might serve the Nation's health if we asked the FDA to ban spinach and jogging, after which we would have a healthier Nation by this time next year.

I think this is a good bill, and I know that many of my colleagues agree with me. We should pass it, letting people once again have the right to decide their own fate.

Mr. KETCHUM. Mr. Speaker, I rise in support of H.R. 8518 which is currently before us.

My reasons for seeking to place a moratorium on the Food and Drug Administration's ruling has been due to the sound rationalization that the available scientific information before the FDA has not been properly reexamined and evaluated. By plunging ahead without establishing all the facts at hand, the administration has once again proven that it can arbitrarily impose undue hardships at will on the American consumer.

Thanks to these very American consumers who have been hard hit, however, letters have poured into Members' offices outspokenly against the ban. In response, the Congress is asserting its constitutional mandate of checks and balances and is finally drawing the line on behalf of those they represent.

Mr. Speaker, the issue of saccharin is not a new one. It was discovered in a Johns Hopkins laboratory in 1879, almost 100 years ago. Since that time literally millions of people have been exposed to the artificial sweetener, having consumed it as a federally proclaimed safe substitute for sugar. Despite the latest Canadian findings and primitive scientific studies which were conducted during the early part of the century, no convincing analysis on the dangers of saccharin have been brought to the public's attention. By the very fact that saccharin causes cancer to laboratory animals does not automatically dictate the FDA to ban the sweetener under the guise that all saccharin consumers will contract cancer.

Furthermore, Mr. Speaker, I reject the notion that the FDA necessarily knows best for the country. Let it prepare its case against the artificial sweetener and present its findings to the American consumer. The ball is then in the court of the consumer who should be entitled to freely choose whether he or she will buy the product on the basis of the evidence.

Mr. Speaker, I have examined this matter thoroughly. It is not my intent to take issue with my distinguished colleagues on minor points. Rather, it is my hope to draw your attention to the larger issues of regulatory excesses and the basic American freedoms which are being denied under the ban.

In many ways we are fortunate that saccharin has hit home to millions of people across the country. At the very least it has expanded our perceptions of how these basic American freedoms are being denied our people by the ongoing expansion of unnecessary regulatory intrusion. By the positive vote of this Chamber today we rightfully will have asserted our role in protecting the American interest of freedom of choice and governmental restraint.

Mr. STAGGERS. Mr. Speaker, I urge passage of H.R. 8518 in its present form. As you know, the rhetoric and polemics surrounding the saccharin question has been most intense. The total spectrum of thought on this subject from a complete ban of saccharin to an unlimited use of the chemical has been presented before our committee. We believe we understand the positions of private industry, of public interest groups, and of the Government and FDA. This bill represents a compromise on those positions, but is not a compromise on the health and safety of the American public.

As you know, according to current legislation and the so-called Delaney amendment, the FDA as they interpret that legislation has no discretion on whether or not to band a drug or in this case a food additive when any study shows that such food additive may be carcinogenic, and I emphasize may, in studies done on animals. The FDA only has discretion in deciding whether the studies were appropriate and were done by competent scientists using accepted scientific testing methods. We do not intend to do away with this Delaney amendment. What we plan to do in this legislation is for the specific use of saccharin to delay any outright ban on this chemical until further studies are completed. We do not propose, however, to place the American public's health in jeopardy. The Secretary has a right under this legislation to band saccharin should any studies within the stipulated 18-month moratorium period show that saccharin is indeed carcinogenic. In addition, this legislation requires that saccharin sold in products or separately must have at the place of sale a notice of the risks to health which may be presented by the use of saccharin and to declare misbranded saccharin and food containing saccharin which is held for sale not displaying any such notice.

Because the chemical saccharin is so important to the quality of life of so many Americans and because there have not been adequate studies and adequate studies are not required by current legislation, we urge that H.R. 8518 be adopted as a compromise to allow adequate studies to be performed and also to allow the Secretary at any time within this 18-month period when studies are to be performed to totally ban this chemical should any evidence be presented in acceptable form which clearly delineates the carcinogenicity of this chemical.

Mr. DON H. CLAUSEN. Mr. Speaker, we have before us today a bill to impose an 18-month moratorium on any action the Food and Drug Administration may take which will affect the sale and distribution of saccharin. I would like to take this opportunity to urge my colleagues to support this measure.

At the time of the FDA's announcement of the proposed ban on saccharin, my good friend, JIM MARTIN and I introduced legislation to amend the Federal Food, Drug and Cosmetic Act. While differing somewhat from the legislation before us, our legislation authorized an evaluation of the risk and benefits of certain food additives and would permit the marketing of saccharin until completion of the evaluation.

In calling for this moratorium, we are recognizing the importance of saccharin in the lives of the many diabetics and persons who are controlling their weight to avoid obesity. These persons will attest to the daily health benefits they derive from the use of saccharin.

In addition to the moratorium, the legislation we are considering calls for an evaluation of saccharin and the health benefits and risks which may be derived from its use, as well as an evaluation of the current scientific capabilities to correlate the effect of substances found harmful to animals with the affect these substances have on humans.

Therefore, I give my full support to this measure, as it assures an equitable judgment on this issue by providing for a careful and concise evaluation of all the factors involved.

Mr. HILLIS. Mr. Speaker, I wish to express my strong support of the bill, H.R. 8518. I do this on behalf of the numerous individuals who have contacted my office to inform me of the hardship the Food and Drug Administration's proposed ban on saccharin will impose. Like these individuals, there are millions of others who are afflicted with diabetes, heart conditions, weight problems, and other ailments who are dependent on saccharin as an artificial sweetener.

Obviously, no one wants the public exposed knowingly to a substantial risk of cancer. However, it makes no sense to allow the sale of cigarettes which extensive tests have linked to cancer, but ban the sale of saccharin which has been used safely for nearly a century. It would seem that if there were a link between usage of saccharin and cancer of the bladder in humans, this would surely have appeared in diabetics who have used saccharin for numerous years under close medical supervision. Yet, to my knowledge, the physicians who treat these individuals have discovered no evidence which would support the FDA's ban.

The bill, H.R. 8518, provides a rational approach to this issue by directing the Institute of Medicine to carefully review and evaluate all available information on the degree of risk in saccharin. The Institute is to report its findings in 1 year. In the meanwhile, for 18 months the FDA would be prohibited from taking action to implement the proposed ban. I see no logical reason why individuals should be denied the use of saccharin until enough scientific evidence has been obtained to make a reasoned decision.

This whole issue goes beyond the question of saccharin alone. In order for the public to maintain its confidence in the credibility of the Congress, we can do no less than to pass this measure.

Mr. MINISH. Mr. Speaker, it is widely held to be true that the Food and Drug Administration's proposed ban on the use of saccharin has been based on studies which are not conclusive. Bill H.R. 8518, which is similar in intent to a bill I have sponsored, will prohibit the Department of Health, Education, and Wel-

fare from putting the proposed ban into effect.

The bill will impose a moratorium of 18 months on the restriction of saccharin sales and use. This period of time will allow further and more conclusive study of this important issue.

Saccharin is important in an economic sense, but more importantly, it is the sole sweetener available to millions of Americans who for health reasons cannot use sugar. For this reason in particular, it is important that all the evidence be thoroughly appraised.

In addition, Mr. Speaker, the bill before us today will not prohibit the Department of Health, Education, and Welfare from labeling saccharin products with warning notices of the possible health risks.

Also of merit is the legislation's provision directing the Institute of Medicine to review and evaluate our ability to predict the carcinogenity in humans of food additives found to cause cancer in animals.

The existing means of weighing the risks of carcinogenity of food additives against their health benefits must also be scrutinized.

In conclusion, Mr. Speaker, there are many scientists who are of the opinion that the risks of saccharin use are outweighed by the beneficial qualities of that sweetener. This legislation will allow us to temper the strict letter of the Delaney clause with a needed regard for the general public good. I urge the bill's passage.

Mr. BINGHAM. Mr. Speaker, I support the 18 month delay in the imposition of the ban on saccharin. It seems prudent to delay until we know the extent of the danger posed by the continued use of saccharin and saccharin products. This bill directs the Institute of Medicine of the National Academy of Sciences to review and evaluate both the benefits and risks of continued use of foods like saccharin which are suspected of being cancer causing. The study will also examine the validity of the various laboratory tests now used to determine whether a substance is carcinogenic in humans. The delay, coupled with the study, will enable us to act with greater confidence in reducing exposure to dangerous substances and will make less likely the elimination of useful products which pose little or no danger.

Nevertheless I must vote against the motion to suspend the rules and pass H.R. 8518 without amendment. At least two amendments have been circulated which deserve consideration by the House. One would require a label on saccharin products which would warn consumers of the possible risks in consumption. The other would reimpose the saccharin ban if a substitute becomes available. I believe that the full House should have the opportunity to consider these amendments and others offering greater protection of the public health and hence shall vote "no" to allow that opportunity.

Mr. BIAGGI. Mr. Speaker, I rise in full support of H.R. 8518, a bill to postpone for 18 months the proposed FDA ban on saccharin. This legislation represents the best possible course of action Congress can take at this time with regard to this thorny problem.

Since early March, when the FDA first proposed the ban, this Nation has been embroiled in a controversy on the hazards of the use of saccharin. The catalyst for this debate was the nature of the experiments leading to the FDA proposal.

These tests were performed on Canadian rats. The findings showed saccharin to be a potentially cancerous additive. The FDA, invoking the Delaney amendment, ordered saccharin to be pulled from the market because of its "clearly unsafe nature."

It is my contention that a basis, which is more conclusive and scientifically valid, should be used as the determining factor in a decision to ban a product so widely and popularly used.

There are definite grounds upon which to challenge the Canadian tests. Firstly, and significantly, the rats were injected with amounts of saccharin far above normal human consumption levels. In addition, we must consider the old argument that animal and human reactions vary widely with respect to food additives.

Another related issue is the procedure by which the FDA can ban a product such as saccharin. Under the Delaney amendment, the FDA is required to ban any food product deemed unsafe where shown to be potentially cancerous when ingested by man or animal.

There is no question that measures, such as the Delaney amendment, to safeguard Americans from exposure to possible cancer-causing agents, are vital to the welfare of our country. The high incidence of cancer is a horrifying reality for all. But this FDA ban decision, and its method of application, need reforming. I have sponsored legislation, H.R. 6524, to modify present law by allowing the Secretary of Health, Education, and Welfare to prescribe regulations for additives found to induce cancer in animals when and if he determines that such additives present a significant risk to human health. Under this plan, the totality of all scientific data and the experience and needs of the public to be affected, would be evaluated before imposing a ban.

The press of time will prevent final action on the wider legislative solution. I view the legislation before us as a reasonable compromise. It will permit us some 18 months to develop a more deductive and unimpeachable basis for evaluating the future for saccharin. A decision of this magnitude, bearing indirectly on the well-being of so many people, cannot be the product of haste and hysteria.

I repeat that H.R. 8518 is a reasonable solution to the problem at this time. It should be noted that it includes a provision permitting HEW to prescribe labeling for saccharin or any product containing it. I now commend the distinguished chairman, Mr. ROGERS, for his leadership throughout this ban controversy, and urge the immediate passage of H.R. 8518.

Ms. HOLTZMAN. Mr. Speaker, I am compelled to oppose H.R. 8518, the saccharin ban moratorium bill both because of the manner in which this legislation has been brought to the floor for a vote and because of serious reservations about the substance of the bill.

I do not believe H.R. 8518 should be considered under a parliamentary technique that bars all amendments to improve the bill and protest by the public.

For example, an amendment is needed to require clear warning labels on all products containing saccharin to advise the public of the potential health hazards. Warning labels are not required by H.R. 8518; indeed, section 3(a) of the bill authorizes only that warnings be posted generally in retail stores. In effect, this represents no warning at all. Given the ample scientific evidence already on the record about the dangers of saccharin, I believe the Congress has an affirmative obligation at a minimum to require clear warnings on individual items to enable consumers to make an informed decision on whether to buy products containing saccharin.

An amendment is also necessary to allow a ban on the use of saccharin in animal feed and animal drugs. How can consumers wishing to protect themselves or their families by not using saccharin do so when the additive may be present in meat or other products they purchase? An amendment is similarly required to allow a ban on the use of saccharin in baby foods or other products where informed consent is impossible and consumption of saccharin involuntary.

Finally, I am concerned that no attempt is made by this legislation to regulate the advertising of saccharin products. Diet soft drink manufacturers, whose products contain three-fourth of the saccharin consumed by Americans, and other producers will continue their media blitz appeal to our country's sweet tooth without any responsibility to inform the public of the risks involved in consumption.

Mr. Speaker, to approve this bill without amendment is to ignore the weight of scientific evidence and to abdicate our responsibility and long-term commitment to protect the public health.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 8518, as amended.

The question was taken.

Mr. OTTINGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 8518 and H.R. 9418.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5643) to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, as amended.

The Clerk read as follows:

H.R. 5643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Convention on Cultural Property Implementation Act".

SEC. 2. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party, that—

(1) the cultural patrimony of the State Party is in jeopardy from the pillage of archeological or ethnological materials of the State Party;

(2) the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(3) the application of the import restrictions set forth in section 6 with respect to archeological or ethnological material of the State Party would be of substantial benefit in deterring a serious situation of pillage, and remedies less drastic than the application of such restrictions are not available; and

(4) the application of such import restrictions in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes;

the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 6 to that archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply comparable restrictions, with respect to such material.

In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD AND EXTENSION OF AGREEMENTS.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the 5-year period beginning on the date on which such agreement enters into force with respect to the United States. Any such agreement may be extended by the President for such additional periods of time as the President deems reasonable.

(c) PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement entered into under such subsection, the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information, regarding the request (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 3) or proposal, that is appropriate to enable the Committee to carry out section 5(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in the Committee report required under section 5(f)(1) or (2), if the report is submitted to the President before the close of the 120-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(d) INFORMATION ON PRESIDENTIAL ACTION.—In any case in which the President enters into or extends an agreement pursuant to subsection (a) or (b), or applies import restrictions under section 3, the President shall, promptly after taking such action, submit to the Congress a document containing a description of such action (including the text of any agreement entered into), the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and the reasons for any such difference. If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a document which contains the reasons why such agreement was not entered into.

SEC. 3. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) DEFINITION.—For purposes of this section, the term "emergency condition" means, with respect to any archaeological or ethnological material of any State Party that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular civilization the record of which is in jeopardy from pillage, dismantling, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 6 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, or fragmentation.

(b) PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 6 with respect to such material.

(c) LIMITATIONS.—(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 2(a) to the United States; but this section may be so implemented whether or not the State Party indicated, in such request, that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 5(f)(3) if the report is submitted to the President before the close of the 60-day period beginning on the day on which the President submitted information to the Committee under section 2(c)(2) on the request of the State Party under section 2(a).

(3) No import restriction set forth in section 6 may be applied under this section to the archaeological or ethnological materials of any State Party after whichever of the following days first occurs:

(A) The last day of the 2-year period beginning on the date on which the request of the State Party under section 2(a) is made to the United States.

(B) The day on which an agreement is entered into under section 2(a) with such State Party pursuant to such request.

SEC. 4. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement is entered into under section 2, or emergency action is taken under section 3, the Secretary, after consultation with the Secretary of State, by regulation shall promulgate, and when appropriate shall revise, a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 6 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 5. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Cultural Property Advisory Committee.

(b) MEMBERSHIP.—(1) The Committee shall be composed of 9 members appointed by the President as follows:

(A) One member from among two nominees selected by the College Art Association.

(B) Two members from among four nominees, two of which shall be selected by the American Association of Museums and two of which shall be selected by the Association of Art Museum Directors.

(C) Two members from among four nominees, two of which shall be selected by the Archaeological Institute of America and two of which shall be selected by the Association for Field Archaeology.

(D) Two members from among four nominees, two of which shall be selected by the American Association of Dealers in Ancient, Oriental, and Primitive Art and two of which shall be selected by the Art Dealers Association of America.

(E) Two members who shall represent the interests of the public.

(2)(A) No individual is eligible for nomination or appointment under paragraph (1)(E) if the individual is an officer or employee of, or is otherwise related in an official capacity to, any organization listed in paragraph (1)(A) through (D).

(B) No individual is eligible for nomination or appointment under paragraph (1) unless the individual is specially qualified to serve on the Committee by virtue of the individual's education, training, or experience.

(C) Appointments and nominations made under paragraph (1) shall be made in such a manner so as to insure fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) Except as provided in subparagraph (B), members of the Committee shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) three shall be appointed for terms of 1 year,

(ii) three shall be appointed for terms of 2 years, and

(iii) three shall be appointed for terms of 3 years, as designated by the President at the time of appointment.

(C) Any individual appointed as a member of the Committee is eligible for reappointment for one additional term (whether or not consecutive); except that any member initially appointed to the Committee for less than a full term is eligible for reappointment for two additional terms.

(D) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—(1) Seven of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(2) A Chairman and Vice Chairman of the Committee shall be elected by the members.

(e) STAFF AND ADMINISTRATION.—(1) The Secretary of State shall provide the Committee with such administrative and technical support services as are necessary for the effective functioning of the Committee.

(2) The Administrator of General Services shall furnish the Committee with such offices, equipment, supplies, and maintenance services as are necessary.

(3) Upon the request of the Committee, the head of any Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions.

(f) REPORTS BY COMMITTEE.—(1) The Committee shall, with respect to each request of a State Party referred to in section 2(a), prepare a report setting forth—

(A) the results of its investigation and review with respect to any matter referred to in section 2(a) (1) through (4) as it relates to the State Party or the request; and

(B) its recommendation, together with the reasons therefor, as to whether or not an agreement should be entered into under section 2(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 2(b), prepare a report setting forth its recommendations, together with the reasons therefor, as to whether or not such agreement should be extended.

(3) The Committee shall, in each case in which the Committee finds that an emergency condition under section 3 exists (whether or not the State Party indicated in its request under section 2(a) that an emergency condition exists), prepare a report setting forth its recommendations, together with the reasons therefor, as to whether or not emergency action under section 3 should be implemented. If any State Party indicates in its request under section 2(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 2 or the implementation of emergency action under section 3 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g) COMMITTEE REVIEW.—The Committee shall undertake a continuing review of the effectiveness of agreements entered into under section 2, and of emergency action implemented under section 3, and if the Committee finds, as a result of such review, that—

(1) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(2) changes are required to this Act in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for improving the effectiveness of any such agreement, action, or this Act.

SEC. 6. IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION.—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the effective date of the regulation listing such material under section 4 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than 10 years before the date of such entry and—

(i) no United States citizen or permanent resident of the United States contracted for or acquired an interest, directly or indirectly, in such material during the 10-year period preceding such date of entry, and

(ii) the State Party received, or should have received, fair notice of the location of the material by means of exhibition, publication, or other circumstances occurring after its exportation from the State Party; or

(B) on or before the effective date of the regulation prescribed under section 4 which lists such material,

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within 90 days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and judicial forfeiture.

(c) The term "satisfactory evidence" means—

(1) for purposes of subsection (b)(2)(A), one or more declarations under oath by the consignor or shipper and the importer or consignee which state that the material was exported from the State Party not less than 10 years before the date of entry into the United States, which names those persons having an interest in the material during the 10-year period preceding such date of entry and declares that they are not United States citizens or permanent residents thereof, and which shows compliance with regulations issued by the Secretary with respect to exhibition, publication, or other circumstances relating to fair notice of the location of the material after exportation from the State Party, together with certified copies of exporting documentation (including but not limited to bills of sale after exportation, catalogs of dates of exhibition, copies of publication, and export or import documents); and

(2) for purposes of subsection (b)(2)(B), one or more declarations under oath by the consignor or shipper and the importer or consignee which state that the material was exported from the State Party on or before the effective date of the regulation prescribed under section 4 which lists such material, together with certified copies of exporting documentation (including, but not limited to, the kind described in paragraph (1)).

SEC. 7. STOLEN CULTURAL PROPERTY.

No article of cultural property appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this Act, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 8. TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO ACT.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the United States in violation of section 6 or section 7, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article, and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 9. SEIZURE AND FORFEITURE.

(a) IN GENERAL.—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 6 or section 7 shall be subject to seizure and judicial forfeiture. All provisions of law relating to seizure, judicial forfeiture and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this Act.

(b) ARCHAELOGICAL AND ETHNOLOGICAL MATERIAL.—Any designated archaeological or ethnological material which is imported into the United States in violation of section 6 and which is forfeited to the United States under this Act shall—

(1) first be offered for return to the State Party and shall be returned if the State Party bears the expenses incurred incident to such return and delivery and complies with such other requirements relating to the return as the Secretary shall prescribe; or

(2) if not returned to the State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

(c) ARTICLES OF CULTURAL PROPERTY.—(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 7, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article or cultural property which is imported into the United States in violation of section 7 and which is forfeited to the United States under this Act shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 7 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 10. EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this Act in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 6, that the material has been listed by the Secretary in accordance with section 4; and

(2) in the case of any article subject to section 7, that the article—

(A) appertains to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this Act, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

SEC. 11. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM ACT.

The provisions of this Act shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been within the United States for a period of not less than 10 consecutive years and has been exhibited for not less than 5 years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(B) if paragraph (A) does not apply, has been within the United States for a period of not less than 10 consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States.

SEC. 12. REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this Act.

SEC. 13. ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this Act shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated after September 30, 1978, such sums as may be necessary to carry out this Act.

SEC. 15. DEFINITIONS.

For purposes of this Act—

(1) The term "agreement" includes any amendment to, or extension of, any agreement entered into under section 2.

(2) The term "archaeological or ethnological material of the State Party" means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaelogical interest unless such object—

(I) is of cultural significance,

(II) is at least 500 years old, and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or similar society,

(II) at least 50 years old, and

(III) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of the people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 5.

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational Scientific and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in Article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such Article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which is covered by an agreement entered into under section 2(a), or subject to emergency action under section 3, and listed by regulation under section 4.

(8) The term "Secretary" means the Secretary of the Treasury.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of any of the United States; or

(C) any department, agency, or entity of the Federal Government or of any government of any of the United States.

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the 90th day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such 90th day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 5 at any time after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5643, introduced by Mr. MIKVA on March 28, is to provide the legislation necessary for U.S. implementation of articles 7(b) and 9 of the UNESCO Convention of the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, to which the Senate gave its advice and consent to ratification on August 11, 1977. The basic purpose of the convention is to combat the increasing illegal trade in national art treasures.

H.R. 5643 as amended grants the President authority, subject to certain conditions and limitations, to enter into bilateral or multilateral agreements or to take emergency actions to restrict the importation of certain archeological or ethnological materials at the request of any state party to the convention whose cultural patrimony is in jeopardy from pillage. The bill establishes a Cultural Property Advisory Committee representing the interested segments of the art community to advise the President on the need for and elements of agreements and emergency actions. H.R. 5643 also prohibits importation of any article or cultural property stolen from the inventory of a museum or similar institution in any state party. There are provisions for recovery and return of material or articles

to the state party, including seizure and judicial forfeiture provisions.

The executive branch has sought legislation to implement the UNESCO Convention since 1972. The proposal received thorough consideration by the Subcommittee on Trade of the Committee on Ways and Means. The subcommittee held public hearings on H.R. 5643 on April 26, 1977, receiving extensive testimony and written correspondence from the administration and representatives of art museums, archeologists, antiquities dealers, private collectors, and the academic community. The trade staff held lengthy meetings with administration and art community representatives to seek reconciliation of differences in view and consensus on amendments to the bill. These interest groups also actively participated in the first subcommittee markup of the bill on May 12.

The subcommittee favorably reported the bill with amendments by a rollcall vote of 12 to 0 to the full committee on July 29. On September 15 the Committee on Ways and Means unanimously ordered the bill favorably reported by voice vote with further amendments.

The bill reported carefully balances the need to assist mostly underdeveloped countries, to protect their archeological and ethnological patrimony from pillage, with the legitimate interests of art dealers and other parties involved with cultural property. I urge its approval by the House.

Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, this bill that we are considering today, as the distinguished chairman, the gentleman from Ohio (Mr. VANIK), has indicated, provides the legislation necessary for the United States to move ahead on a treaty which we have already ratified, which allows foreign countries to enter into agreements with the President to protect their heritage.

Mr. Speaker, we sometimes tend to look at art, art objects, and archeological objects, only in their esthetic sense; we forget that there is also a historical dimension to those heritages, that frequently a country cannot maintain an identification of its own history without being able to protect its cultural heritage. An identity crisis can develop.

This bill for which we are asking support today will allow the President to enter into multilateral and bilateral agreements with those countries seeking to protect their heritage, with various protections to be given to archeological and ethnological items.

It is carefully drawn to make sure it does not go beyond those reasonable protections that those countries may seek to exercise over their archeological or ethnological items and to protect their cultural heritage.

Mr. Speaker, I might point out that almost all of the art museums and museum places in this country are in support of this bill. We have tried to recognize the legitimate concerns of American collectors and museums and at the same time put America on the side of allowing other countries to protect their cultural heritage.

Mr. Speaker, I urge the full support of the House for this bill.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this legislation, which I think is greatly needed. In fact, I would like to see it extended so that there would be some notice before treasures leave this country, quite legally not stolen, for example, the bust of Benjamin Franklin which left our shores last year. I think we should begin to consider our own important treasures.

This is good legislation, as far as it goes. I am a trustee of the Newark Museum, and voted with the others to return a mosaic that we bought, when we found it to have been stolen. It has gone back to Syria where it belongs.

I am heartily in favor of this approach, and I think there should be more borrowing and lending of objects, rather than buying.

However, I am concerned about the approach to the funding. We have provided $50,000, which seems reasonable, for 1978, but then we jump sixfold to $300,000 a year for the years to follow that. Why is that amount necessary?

Mr. MIKVA. Mr. Speaker, let me say to the gentlewoman from New Jersey (Mrs. FENWICK) that this is the estimate of the State Department as to the amounts that would be necessary to fund and staff the advisory committee that was sought by the museums and art collectors as a protection against the agreements going too far in protecting foreign countries and not taking enough account of the needs of museums and art collectors in this country.

Mrs. FENWICK. Mr. Speaker, it is absolutely without substance, in my opinion. If something is declared stolen—and if it is, according to the bill, the product of a tribal society or if it is less than 50 years old—that is a claim of the Government which is making the claim, and there is no need for maintaining an enormous staff over here.

Mr. MIKVA. Mr. Speaker, let me say to the gentlewoman that this goes beyond stolen property. This also seeks to protect other cultural heritages beyond those items which are stolen—archeological objects, for example.

In this respect, there are some delicately balanced questions that the advisory committee will, hopefully, enter into.

I can only say to the gentlewoman that the amount was not pulled out of a hat. It continues to be, I think, a reasonable amount to conduct rather extensive reviewing and oversight activities that the advisory committee will carry out relative to the manner in which these agreements are implemented and effected.

Mrs. FENWICK. But is it necessary to jump sixfold in the funding?

Mr. MIKVA. Mr. Speaker, let me say that the $50,000 for the first year is to be used while the committee is getting started. The $300,000 for subsequent years is necessary, because these are the costs related to the committee. The $50,000 amount is not a reasonable level for subsequent years.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the bill.

This has been an exceedingly complex subject. Rarely can I remember a time when the Committee on Ways and Means was more at sea than we were at times as we dealt with the mark-up of this bill.

H.R. 5643 provides a mechanism for the United States to implement the articles of the UNESCO Convention of the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. The U.S. Senate ratified this treaty on August 11, 1972, but the Congress has yet to pass the necessary legislation in support of our obligations under the convention.

Many archeological and ethnological objects, representing the history and national heritage of various developing nations, are being seriously pillaged or are under threat of being so. As a result of similar pillage of pre-Columbian artifacts, the Congress in 1972 passed legislation designed to discourage such activity by closing our borders to illicit traffic in these objects, H.R. 5643 follows the pattern of the Pre-Columbian Art Act, but on a broader scale.

The bill gives the President authority to enter into bilateral or multilateral agreements with any State party to the convention, or to take emergency action, to restrict the importation of particular endangered archeological or ethnological objects. However, the State party must have taken internal measures consistent with the convention to protect its cultural patrimony, and any import restrictions imposed by the United States must be of substantial benefit in alleviating a serious situation of pillage. These requirements should prevent carte blanche coverage of numerous artifacts and other material that could be said to have a relation to a country's national heritage but which are not under threat. Further, these limitations should discourage some countries from trying to get the United States indirectly to enforce vague or nonexistent internal laws.

Once an agreement is reached, the bill provides for documentation of articles to be imported into this country. Restricted articles could not be imported, and in fact would be impounded, if they were not accompanied by documents which establish that the article left the country of origin either before an agreement on its restriction was reached, or 10 years preceding the date of entry. During this 10-year period, the object must have received sufficient public display or exposure to give fair notice to any country that may have grounds to claim patrimony. Thus, a State party could not claim patrimony indefinitely, nor could it develop an undue interest in an article after many previous years of neglect.

Finally, the bill prohibits importation into the United States of any article of cultural property stolen from the inventory of a museum or similar institution in any State party. This prohibition requires no previous agreement and does not preclude any existing local, State, or Federal law from being invoked to prosecute theft or to recover stolen property.

I think the gentleman from Illinois (Mr. MIKVA) and the staff of the Subcommittee on Trade, as well as all the members of the subcommittee who worked out what I think can be an effective mechanism to implement the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

The bill is not an easy one. The bill does attempt to meet most of the most serious objections that have been raised. I think it is a relatively balanced bill.

I will, if I may, Mr. Speaker, make one further comment about the question raised by the gentlewoman from New Jersey (Mrs. FENWICK). The role of the advisory committee, which is the Cultural Property Advisory Committee, is established under the bill to guide the President of the United States in his decisions on agreements, renewals of agreements, or emergency actions. It is a 9-member committee, to be composed of members of the general public and of those with special interests in the art community, including art associations, museums, academicians, and dealers.

The committee is charged under the legislation with advising the President on each State party request, and in the case of emergency actions the President is required to take the views and recommendations of the advisory committee. Thus that advisory committee plays an important role, and I think the estimated budget is appropriate, given the responsibilities.

Mr. SPEAKER, I urge the adoption of the bill.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I wanted to pose a question to the gentleman from Wisconsin (Mr. STEIGER). Perhaps, however, the gentleman from Illinois (Mr. MIKVA) will be better able to respond to it.

My experience has been that in most countries which have rich archeological and cultural objects and works of art, there is a board or commission which must be consulted. In order to take any such work of art or any cultural object or any archeological objects or material out of the country, one has to get a permit from the Board of Art and Culture or Board of Archeology, or whatever it is called.

What I want to know is this: If a person purchases an item in such a country and gets a license or gets a permit, is the person nevertheless subject to have such an article seized in this country because it might be determined that it has some archeological or historical or ethnic significance in this country so as to make it violative of this bill?

Mr. STEIGER. Mr. Speaker, may I say to my colleague that the answer is no, that would not be the case. However, I will be delighted to yield to the author of the bill for further explanation and clarification.

Mr. MIKVA. Mr. Speaker, if the gentleman will yield, the answer is clearly no.

Under the act, first of all, the agreements are entered into with the President only at the request of the exporting country; and it is pursuant to their law, so that if they have established a procedure for the export of those articles pursuant to the permit which the gentleman from Illinois suggests, it is totally permissible under this act, and no further steps need to be taken.

Indeed, if anything, it is an additional protection for the purchaser because it is pursuant to the agreement rather than outside of it.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield further, in case the foreign official or functionary acts erroneously, it still will not subject the American citizen or importer to any liability under this legislation; is that correct?

Mr. MIKVA. That is correct. As long as he has purchased it under color of law, it is protected.

Mr. McCLORY. I thank the gentleman.

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

I just want to say, in further response to the issue raised by the gentlewoman from New Jersey (Mrs. FENWICK), that a good part of the cost of this proposal is an allocation of estimated costs for services provided by Customs officers who are directly involved in this work.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am happy to yield to my distinguished colleague, the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

I would like to thank the gentleman for bringing this bill to the floor and to compliment the author and the committee on the bill's being brought to the floor in such excellent form.

Mr. Speaker, as a member of the Board of Regents from this House of the Smithsonian Institution, I would especially like to thank all involved for making certain that the import restrictions are consistent with the international community's overall interest in encouraging the interchange of cultural property for scientific, cultural, and educational purposes.

Mr. VANIK. Mr. Speaker, I want to thank the gentlewoman from Louisiana (Mrs. BOGGS).

I also want to express my personal gratitude to the author of this legislation for his very diligent work in carrying this legislation through committee and for so reconciling the many differences and problems that were involved in this legislation.

Mr. STEIGER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 5643, Cultural Property Implementation Act.

I am a member of the United States-Mexican Interparliamentary Union. During our last meeting in Hermosillo, Mexico, this spring one of the most important topics of discussion was the very subject covered by this legislation.

The Mexican delegation felt very strongly that the United States should be taking even stronger action than we have in the past to protect the art and cultural treasures of the hemisphere, particularly pre-Columbian artifacts.

Mr. Speaker, I strongly agree with them, and I am very pleased to lend my strong support to this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill (H.R. 5643) as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read; "A bill to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.".

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–711)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE

SEC. 2 (a) Section 6(a)(1) (29 U.S.C. 206 (a)(1)) is amended to read as follows:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.10 an hour during the year beginning January 1, 1980, and not less than $3.35 an hour after December 31, 1980, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977.".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages at the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3) be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended (i) by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)(1)", (ii) by inserting "(A)" before "heretofore", and (iii) by inserting before the period the following: ", and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended (i) by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a)(1)", and (ii) by striking out "such subsection" and inserting in lieu thereof "subsection (a)(1)".

(D) Paragraph (4) of such section (as so redesignated) is amended by striking out "or (3)".

(3) Section 8(a) is amended by inserting after the first sentence the following new sentence: "The Secretary shall, from time to time, convene an industry committee or committees appointed pursuant to section 5, and any such industry committee—

"(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(2) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

(e)(1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the "Commission") which shall conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of that Act. Such study shall include but not be limited to—

(A) the beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens;

(B) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

(C) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

(D) the economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in a wage, price, or other index;

(E) the employment and unemployment effects (if any) of providing a different minimum wage rate for youth, and the employment and unemployment effects (if any) on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

(F) the effect (if any) of the full-time student certification program on employment and unemployment;

(G) the employment and unemployment effects (if any) of the minimum wage;

(H) the exemptions from the minimum wage and overtime requirements of that Act;

(I) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance—

(J) the overall level of noncompliance with that Act; and

(K) the demographic profile of minimum wage workers.

(2) The Commission shall conduct a study concerning the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 may apply to employees of conglomerates, and shall make a report, within one year after the date of the appointment of the members of the Commission, of the results of such study. For the purposes of this paragraph a "conglomerate" means an establishment (A) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employees and (B) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated). The report shall include an analysis of the effects of eliminating the exemptions from the minimum wage and overtime requirements of such Act that may currently apply to the employees of such conglomerates.

(3) The Commission shall make a report of the results of the study conducted pursuant to paragraph (1) thirty-six months after the date of the appointment of the members of the Commission. The report shall include such recommendations for legislation as the Commission determines are appropriate. The Commission may make interim or additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of the report required by this paragraph.

(4)(A) The Commission shall consist of eight members as follows:

(i) Two members appointed by the Secretary of Labor.

(ii) Two members appointed by the Secretary of Commerce.

(iii) Two members appointed by the Secretary of Agriculture.

(iv) Two members appointed by the Secretary of Health, Education, and Welfare.

The appointments authorized under this paragraph shall be made within 180 days after the date of enactment of this subsection.

(B) The Chairperson shall be selected by the members of the Commission. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(5)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

(D) The Department of Labor shall furnish such professional, technical, and research assistance as required by the Commission.

(E) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

(F) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

(G) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(6)(A) The Chairperson may appoint an executive director of the Commission who shall perform such duties as the Chairperson may prescribe.

(B) With approval of the Chairperson, the executive director may appoint and fix the pay of such clerical personnel as are necessary for the Commission to carry out its duties.

(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(D) The executive director, with the concurrence of the Chairperson, may obtain temporary and intermittent services of experts and consultants in accordance with the provisons of section 3109 of title 5, United States Code.

TIP CREDIT

SEC. 3. (a) Effective January 1, 1978, section 3(t) (29 U.S.C. 203(t)) is amended by striking out "$20" and inserting in lieu thereof "$30".

(b)(1) Effective January 1, 1979, section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50 per centum" and inserting in lieu thereof "45 per centum".

(2) Effective January 1, 1980, such section is amended by striking out "45 per centum" and inserting in lieu thereof "40 per centum".

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS AND FORESTS AND IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 4. (a) Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting before the semicolon the following: ", except that the exemption from sections 6 and 7 provided by this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than, in the case of the exemption from section 6, a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture".

(b) Section 13(b) (29 U.S.C. 213(b)) is amended (A) by striking out the period at the end of paragraph (28) and inserting in lieu thereof "; or", and (B) by adding after such paragraph the following new paragraph:

"(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.".

SHADE-GROWN TOBACCO EMPLOYEES

SEC. 5. Section 13(b)(22) (29 U.S.C. 213(b)(22)) is repealed.

COTTON GINNING EMPLOYEES

SEC. 6. (a) Section 13(b)(25) (29 U.S.C. 213(b)(25)) is repealed.

(b) Section 13 is amended by adding after subsection (h) the following new subsection:

"(i) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

SUGAR EMPLOYEES

SEC. 7. (a) Section 13(b)(26) (29 U.S.C. 213(b)(26)) is repealed.

(b) Section 13 is amended by inserting after the subsection added by section 6 the following new subsection:

"(j) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

AGRICULTURAL HAND HARVEST LABORERS

SEC. 8. Section 13(c) (29 U.S.C. 213(c)) is amended—

(1) in paragraph (1) by inserting after "paragraph (2)" the following: "or (4)", and

(2) by adding after paragraph (3) the following new paragraph:

"(4)(A) An employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment for not more than eight weeks in any calendar year of individuals who are less than twelve years of age, but not less than ten years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

"(i) the crop to be harvested is one with a particularly short harvesting season and the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(ii) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

"(iii) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

"(iv) individuals aged twelve and above are not available for such employment; and

"(v) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(B) Any waiver granted by the Secretary under subparagraph (A) shall require that—

"(i) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(ii) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(iii) such individuals be employed under such waiver (I) for not more than eight weeks between June 1 and October 15 of any calendar year, and (II) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

RETAIL AND SERVICE ESTABLISHMENT COVERAGE

SEC. 9. (a) Section 3(s) (29 U.S.C. 203(s)) is amended by renumbering paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively, and inserting after paragraph (1) the following:

"(2) is an enterprise which is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1980, whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated), and after December 31, 1981, whose annual gross volume of sales made or business done is not less than $362,500 (exclusive of excise taxes at the retail level which are separately stated);".

(b) Paragraph (1) of section 3(s) is amended by adding after "and beginning February 1, 1969, is an enterprise" the following: ", other than an enterprise which is comprised exclusively of retail or service establishments and which is described in paragraph (2),".

(c) Section 3(s) is amended by adding at the end the following: "Notwithstanding paragraph (2), an enterprise which is comprised of one or more retail or service establishments, which on June 30, 1978, was subject to section 6(a)(1), and which because of a change in the dollar volume standard in such paragraph prescribed by the Fair Labor Standards Amendments of 1977 is not subject to such section, shall, if its annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), pay its employees not less than the minimum wage in effect under such section on the day before such change takes effect and shall pay its employees in accordance with section 7. A violation of the preceding sentence shall be considered a violation of section 6 or 7, as the case may be.".

(d) Section 13(a)(2) is amended by striking out "section 3(s)(4)" and inserting in lieu thereof "section 3(s)(5)".

REMEDIES

SEC. 10. (a) Section 16(b) (29 U.S.C. 216(b)) is amended by adding immediately after the first sentence the following new sentence: "Any employer who violates the provisions of section 15(a)(3) of this Act shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 15(a)(3), including without limitation employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages.".

(b) Section 16(b) is further amended by—

(1) by striking out "Action to recover such liability" and inserting in lieu thereof "An

action to recover the liability prescribed in either of the preceding sentences",

(2) inserting "(1)" after "section 17 in which", and

(3) striking the period at the end of the last sentence and substituting the following: "or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3).".

(c) The third sentence of section 16(c) is amended by inserting after "an action by or on behalf of any employee" the following: "to recover the liability specified in the first sentence of such subsection".

RELIGIOUS OR NON-PROFIT EDUCATIONAL CONFERENCE CENTERS

SEC. 11. Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting after "recreational establishment," the following: "organized camp, or religious or non-profit educational conference center,".

STUDENTS

SEC. 12. (a) Section 14(b)(4)(B) (29 U.S.C. 214(b)(4)(B)) is amended by striking "four" each time it appears and substituting "six".

REDUCTION OF PAPERWORK FOR EMPLOYMENT OF STUDENTS BY SMALL BUSINESSES

SEC. 13. Section 14(b)(4) (29 U.S.C. 214(b)(4)) is amended by adding at the end the following new subparagraph:

"(D) To minimize paperwork for, and to encourage, small businesses to employ students under special certificates issued under paragraphs (1) and (2), the Secretary shall, by regulation or order, prescribe a simplified application form to be used by employers in applying for such a certificate for the employment of not more than six full-time students. Such an application shall require only—

"(i) a listing of the name, address, and business of the applicant employer,

"(ii) a listing of the date the applicant began business, and

"(iii) the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 14. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

EFFECTIVE DATE

SEC. 15. (a) Except as provided in section 3, 14, and subsection (b) of this section, the amendments made by this Act shall take effect January 1, 1978.

(b) The amendments made by sections 8, 9, 11, 12, and 13 shall take effect on the date of the enactment of this Act.

(c) On and after the date of the enactment of this Act, the Secretary of Labor shall take such administrative action as may be necessary for the implementation of the amendments made by this Act.

And the Senate agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
WILLIAM L. CLAY,
MARIO BIAGGI,
LEO C. ZEFERETTI,
AL QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, JR.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
DONALD W. RIEGLE, JR.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

INCREASE IN MINIMUM WAGE: MAINLAND

House Bill

Section 2(a) of the House bill increases the minimum wage rate as follows:

Jan. 1, 1978	$2.65/hour
Jan. 1, 1979	2.85/hour
Jan. 1, 1980	3.05/hour

Senate Amendment

Section 2(a) of the Senate amendment increases the minimum wage rate as follows:

Jan. 1, 1978	$2.65/hour
Jan. 1, 1979	2.90/hour
Jan. 1, 1980	3.15/hour
Jan. 1, 1981	3.40/hour

Conference Agreement

Section 2(a) of the Conference agreement increases the minimum wage rate as follows:

Jan. 1, 1978	$2.65/hour
Jan. 1, 1979	2.90/hour
Jan. 1, 1980	3.10/hour
Jan. 1, 1981	3.35/hour

INCREASE IN MINIMUM WAGE: PUERTO RICO

A. Employees at wages between $2/hour and $2.29/hour

House Bill

Section 2(d) of the House bill increases the minimum wage rate as follows:

Jan. 1, 1978	$0.25/hour
Jan. 1, 1979, and Jan. 1 of each succeeding year until parity is reached	.30/hour

Senate Amendment

Section 2(d) of the Senate amendment increases the minimum wage rate as follows:

Jan. 1, 1978	$0.25/hour
Jan. 1, 1979	.25/hour
Jan. 1, 1980, and Jan. 1 of each succeeding year until parity is reached	.30/hour

B. Employees at wages less than $2/hour

House Bill

The House bill increases the minimum wage rate as follows:

Jan. 1, 1978	$0.20/hour
Jan. 1, 1979, and Jan. 1 of each suceeding year until $2.30/hour	.25/hour
After $2.30/hour, until parity is reached, Jan. 1 of each succeeding year	.30/hour

Senate Amendment

The Senate amendment increases the minimum wage rate as follows:

Jan. 1, 1978	$0.20/hour
Jan. 1, 1979	.20/hour
Jan. 1, 1980, and Jan. 1 of each succeding year until $2.30/hour	.25/hour
After $2.30/hour, until parity is reached, Jan. 1 of each succeeding year	.30/hour

Conference Agreement

The Senate receded.

STUDY

House Bill

Section 2(e)(1) of the House bill establishes a Minimum Wage Study Commission which would conduct a study of specific economic and employment effects of changes in minimum wage and overtime provisions. Under the House bill, the Commission would be appointed by the President and would make two reports to the Congress, one at 18 months after its establishment and one 36 months after its establishment.

Senate Amendment

The Senate amendment contains no comparable study commission, but Secretary directed to make a study (1) of nature and extent of noncompliance with the Act, and (2) to determine the social and economic characteristics of workers affected by the minimum wage and changes in such wage.

Conference Agreement

The Senate receded with an amendment that provides:

(1) that the Secretaries of the Departments of Labor; Health, Education, and Welfare; Commerce; and Agriculture shall each appoint two persons to serve on the Commission;

(2) that the Chair shall be selected by the appointees to the Commission;

(3) that the Commission shall make one comprehensive report within 36 months after its appointment;

(4) that the Commission shall also report within one year after the date of its appointment, on the effects of eliminating the minimum wage and overtime exemptions with regard to employees of conglomerates as defined in the House bill.

TIP CREDIT

House Bill

Existing law defines a tipped employee to mean any employee who is engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips. Section 3 of the House bill raises that figure to $30 a month. The Senate amendment does not contain a comparable provision.

Senate Amendment

The Senate amendment does not change the definition of tipped employee, but section 3 of the Senate amendment contains a provision not in the House bill which reduces the existing tip credit of 50 percent of the applicable minimum wage as follows:

Jan. 1, 1978	From 50% to 45%
Jan. 1, 1979	From 45% to 40%
Jan. 1, 1980	From 40% to 35%
Jan. 1, 1981	From 35% to 30%

Conference Amendment

The Senate receded with regard to the definition of a tipped employee.

The House receded with regard to reduction of the existing tip credit with an amendment which provides:

Jan. 1, 1978	50%
Jan. 1, 1979	50% to 45%
Jan. 1, 1980	45% to 40%
Jan. 1, 1981	40%

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS, REFUGES, AND FORESTS

House Bill

Section 4 of the House bill provides that entities under contract with either the Secretary of the Interior (in the case of national parks and the National Wildlife Refuge System) and the Secretary of Agriculture (in the case of national forests) are excluded from the minimum wage and overtime exemption presently provided for amusement and recreational establishments under section 13(a)(3). The overtime exemption, however, is limited in that overtime compensation would be required for employment in excess of 56 hours in any workweek.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded with an amendment which preserves the existing exemption from section 6 as it applies to private entities engaged in providing services and facilities directly related to skiing.

SHADE-GROWN TOBACCO EMPLOYEES

House Bill

Section 6 of the House bill repeals the overtime exemption in the case of shade-grown tobacco employees.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded.

EMPLOYEES OF CONGLOMERATES

House Bill

The minimum wage and overtime provisions of section 13(a) and 13(b) of the Fair Labor Standards Act of 1938 would not apply to employees of certain conglomerates, except exemptions for executive, administrative, and professional employees and outside sales persons (sec. 13(a)(1)), employees of seasonal amusement or recreational establishments (sec. 13(a)(3)), persons employed under section 14 (sec. 13(a)(7)), and certain transportation employees (sec. 13 (b)(1), (b)(2), and (b)(3), and, until January 1, 1979, exemptions for restaurant employees. A conglomerate must have $100,000,000 annual gross volume sales made or business done.

Senate Amendment

No comparable provision.

Conference Agreement

The House receded with an amendment that requires the Minimum Wage Study Commission to report, within 1 year after the date of its appointment, on the effects of eliminating all minimum wage and overtime exemptions with regard to employees of conglomerates as defined in the House bill.

COTTON GINNING EMPLOYEES

House Bill

Section 8 of the House bill revises the overtime exemption for cotton ginning employees, and requires overtime pay for employment in excess of 10 hours in a day and 48 hours in a workweek for the entire 14 workweek period.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded.

SUGAR EMPLOYEES

House Bill

Section 9 of the House bill revises the overtime exemption for sugar employees and requires overtime pay for employment in excess of 10 hours in a day and 48 hours in a workweek, for the entire 14 workweek period.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded.

BABYSITTERS

House Bill

Section 10 of the House bill exempts babysitters from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938.

Senate Amendment

The Senate amendment retains the existing exemption for babysitters who are employed on a casual basis.

Conference Amendment

The House receded.

AGRICULTURAL HAND HARVEST LABORERS

Under both the House bill and the Senate amendment, the Secretary of Labor, may, within certain guidelines, waive child labor restrictions for employment of children as hand harvest agricultural laborers paid on a piece rate basis. Application may only be approved if the Secretary finds that there would otherwise be severe economic disruption of applicant's industry and that employment would not be deleterious to health and well being of employees. Children employed under waiver are to be employed outside of school hours, are to commute daily to their place of employment, and are to be employed between June 1 and October 15. The differences are as follows:

House Bill

(1) Secretary may grant waiver, on the basis of the application.

(2) Waiver can apply to anyone under 12.

(3) Child may be employed for 13 weeks a year.

Senate Amendment

(1) Secretary may not grant waiver unless it is based on objective data submitted by the applicant.

(2) Waiver cannot apply to anyone under 10.

(3) Child may not be employed for more than 8 weeks a year.

(4) Secretary must find that the crop to be harvested is one with a particularly short growing season.

(5) Secretary must find that exposure to pesticides or other chemicals will not have adverse affect on health or well being of employees under waiver.

(6) Individuals 12 and over are not available for employment.

Conference Agreement

The House receded.

ENTERPRISE COVERAGE

House Bill

Under section 12 of the House bill, the test for coverage of employees set forth in section 3(s) of the Fair Labor Standards Act is raised from its current $250,000 per year to $500,000 per year.

Senate Amendment

Section 11 of the Senate amendment changes the test for coverage of employees only for enterprises comprised of retail or service establishments. Under the Senate amendment, effective July 1, 1978, the required dollar volume is raised from $250,000 to $275,000 and, effective July 1, 1980, the required dollar volume is set at $325,000. The Senate amendment provides that the change in the test for coverage of such employees is not to result in a reduction in wages or loss of overtime compensation.

Conference Agreement

The Conference agreement increases the dollar volume test for enterprises comprised of one or more retail or service establishments to $362,500 in three steps, as follows:

July 1, 1978	$275,000
July 1, 1980	325,000
Dec. 31, 1981	362,500

Those uncovered by the change in the level stay at the minimum wage in effect when the change takes effect; the change in the test for coverage of such employees is not to result in a reduction in wages or loss of overtime compensation.

REMEDIES

House Bill

No comparable provision.

Senate Amendment

Section 4 authorizes employee suits for appropriate legal or equitable relief against any employer who discharges or otherwise discriminates against an employee who seeks to enforce the Act or cooperates with the Secretary in enforcing the Act.

Conference Agreement

The House receded.

RELIGIOUS OR NONPROFIT EDUCATIONAL CONFERENCE CENTERS

House Bill

No comparable provision.

Senate Amendment

Section 5 provides that employees of organized camps and religious or nonprofit educational conference centers operated on a seasonal basis receive a section 13(a) exemption from the minimum wage and overtime compensation requirements of the Act.

Conference Agreement

The House receded.

ISSUANCE OF CERTIFICATES FOR EMPLOYMENT OF STUDENTS AT SPECIAL MINIMUM WAGE

House Bill

No comparable provision.

Senate Amendment

Section 8(a) increases the number of students for whom certificates may be issued under section 14(b) upon employer certification from 4 to 6.

Section 8(b) permits a waiver of student hours of employment limitation upon a showing by employer that it would not have an adverse effect upon full-time employment.

Conference Agreement

The House receded to the Senate provision which increases the number of students for whom section 14(b) certificates can be issued upon employer certification from 4 to 6.

The Senate receded with regard to the waiver of limitation on student hours of employment.

REDUCTION OF PAPERWORK FOR EMPLOYMENT OF STUDENTS BY SMALL BUSINESS

House Bill

No comparable provision.

Senate Amendment

The Senate amendment contains an amendment to section 14 of the Act to require the Secretary of Labor to prepare and use simplified application forms for the issuance of special certificates for the employment of students. The purpose of the form is to reduce paperwork for small businesses and to encourage them to apply for such certificates.

Conference Agreement

The House receded.

CARL D. PERKINS,
JOHN H. DENT,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
WILLIAM L. CLAY,
MARIO BIAGGI,
LEO C. ZEFERETTI,
AL QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, JR.,
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DONALD W. RIEGLE, JR.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

TARIFF SCHEDULE AMENDMENTS FOR CANADIAN PETROLEUM

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5858) to amend the Tariff Schedules of the United States to permit the free entry of Canadian petroleum—including reconstituted crude petroleum—and crude shale oil, provided that an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum—including reconstituted crude petroleum—and crude shale oil has been exported to Canada, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the headnotes to part 10 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"4. (a) For purposes of this headnote, the term 'petroleum' means crude petroleum (including reconstituted crude petroleum) or crude shale oil provided for in item 475.05 or 475.10.

"(b) Petroleum shall, if a product of Canada, be admitted free of duty and any entry therefor shall be liquidated or reliquidated accordingly if, on or before the 180th day after the date of entry, documentation is filed with the customs officer concerned establishing that, pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Administrator of the Federal Energy Administration—

"(i) an import license for the petroleum covered by such entry has been issued by such Administrator; and

"(ii) an equivalent amount of domestic petroleum or duty-paid foreign petroleum has, pursuant to such commercial exchange agreement and to an export license issued by the Secretary of Commerce, been exported from the United States to Canada and has not previously been used to effect the duty-free entry of like Canadian products under this headnote.

"(c) The Secretary of the Treasury, after consulting with the Secretary of Commerce and the Administrator of the Federal Energy Administration, shall issue such rules or regulations as may be necessary governing the admission of Canadian products pursuant to the provisions of this headnote.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act pursuant to commercial exchange agreements referred to in headnote 4 of part 10 of schedule 4 of the Tariff Schedules of the United States (as added by such first section) which are effective for periods beginning on or after such date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5858 is to amend the Tariff Schedules of the United States to provide duty-free treatment for Canadian crude petroleum if an equivalent amount of domestic or duty-paid foreign crude petroleum is exported to Canada pursuant to a crude petroleum exchange agreement between domestic and Canadian refiners.

In 1974, Canada announced its intention to phase out exports of crude oil to the United States over the next few years. Several domestic refiners located on the border, not near pipelines from alternative sources, may be forced to shut down unless a continued supply of Canadian crude can be obtained.

In June 1975, after discussions between the United States and Canada, an informal agreement was reached which permitted commercial exchanges between United States and Canadian refiners. As presently implemented, Canadian crude oil can be exported to the United States in excess of amounts otherwise exportable under the phaseout schedule provided an equivalent amount of domestic crude oil is exported to Canada.

To alleviate this problem the administration is encouraging crude oil exchanges. Such exchanges would provide the necessary oil to our northern tiers oil refiners and would be exempt from Canada's export laws. To encourage these exchanges, the President removed the license fees on Canadian imports. The removal of the duty on these imports would also encourage these exchanges.

Public hearings were held by the Subcommittee on Trade of the Committee on Ways and Means on April 26, 27, and 28, 1977 on duty-free entry and temporary duty suspension bills. During these hearings, favorable testimony was received on H.R. 5858. Favorable reports were also received from interested executive branch agencies. No objections to the legislation have been received by the committee from any other source.

The committee was unanimous in reporting H.R. 5858, as amended, and I urge its passage.

Mr. QUIE. Mr. Speaker, as many of my colleagues are aware, certain crude oil refineries in the upper midwest have been dependent on Canadian crude oil since they were built. Canada's policy of reducing crude oil exports, with probable complete cutoff by the end of 1980, forces the employment of alternatives to Canadian crude.

In my State of Minnesota, and I believe in other Northern Tier States, the local refineries provide a sizeable amount of the petroleum product used in these areas, particularly fuel oil. In Minnesota, hospitals, schools and other users of heavy-grade fuel oil depend on them. I don't have to tell you what that meant during the past winter.

The Federal Energy Administration early in 1976 inaugurated an allocation program to supply refiners whose access to crude oil was limited almost totally to pipelines coming from Canada, which FEA designated as "first priority" users, and to other refiners in a second priority category, who were historic purchasers of Canadian crude. By this past summer, Canadian exports had dropped to the extent that allocation of light crude to second priority refiners was eliminated, with only a very small amount of heavy crude still going to them.

Meanwhile, though some progress has been made, the transportation systems necessary to provide first priority refiners with crude from other sources are still many months away. One of the short-term alternatives to help keep these refineries operating is a barrel-for-barrel exchange of oil with Canada, completely separate from the allocation program. The mechanics for delivery of the oil to Canada are being worked out. One system would utilize pipelines from the south which connect with the Lakehead pipeline into Canada, but there will be further discussions with Canada to best accommodate Canadian refineries as well.

An inhibiting factor in the exchange arrangement is the present duty on imports at the rate of 5¼ cents or 10½ cents per barrel, depending on whether the crude is heavy or light. When the same type of oil in the same quantity is going over the border the other way, this should not be treated as imported oil adding to U.S. supply. The bill H.R. 5858 would eliminate the duty, and I would clarify that it applies only to crude oil which is exchanged for the same type of domestic oil, on which, of course, no duty is due, or foreign oil on which the duty has already been paid. In view of this, the Treasury Department states that passage of this bill will not result in any revenue loss. The Department of Commerce, the Federal Energy Administration (Department of Energy) and International Trade Commission voice no objections to enactment. The Senate passed the measure on September 15 as an amendment to H.R. 3259. I hope the House will approve it.

Mr. STEIGER. Mr. Speaker, I rise to speak in support of H.R. 5858 which was unanimously reported out of the Committee on Ways and Means.

H.R. 5858, introduced by our distinguished colleague AL QUIE, provides for the duty-free entery of Canadian petroleum so long as an equivalent amount of domestic or duty-paid foreign crude oil has been exported from the United States to Canada. Further, it provides for consultation by the Secretary of the Treasury with the Secretary of Commerce and the Administrator of the Federal Energy Administration before the issuance of rules or regulations implementing this measure.

In 1974 the Canadian Government announced its plan to gradually phaseout exports of Canadian crude oil to the United States over succeeding years. There are several U.S. refiners located near the Canadian border but inaccessible to pipelines from U.S. oil fields. These refiners which have become dependent upon Canadian crude oil might be forced to shut down unless they can continue to receive Canadian oil. To aid these refiners and their customers the Federal Energy Administration has encouraged crude oil exchanges between the United States and Canadian firms in which the necessary oil would be provided to northern refiners. In such exchanges Canadian oil exports would be exempt from Canadian export laws and under this bill Canadian oil would be given duty-free treatment upon entry into the United States.

H.R. 5858 was without opposition before the committee and has the full support of the administration. I would urge my colleagues to give it their support.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 5858, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Tariff Schedules of the United States to provide for duty-free treatment with respect to certain petroleum imported from Canada if equivalent amounts of domestic or duty-paid foreign petroleum of the same type is exported to Canada."

A motion to reconsider was laid on the table.

CUSTOMS PROCEDURAL REFORM ACT OF 1977

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8149) to provide customs procedural reform, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

TITLE I—CUSTOMS PROCEDURAL REFORM

SEC. 101. This title may be cited as the "Customs Procedural Reform Act of 1977".

SEC. 102. Section 315(a) of the Tariff Act of 1930 (19 U.S.C. 1315(a)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) any article for which duties may, under section 505 of this Act, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.".

SEC. 103. Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484(a)) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENT AND TIME.—(1) Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, each consignee of imported merchandise, either in person or by an agent authorized by the consignee in writing—

"(A) shall make entry therefor by filing with the appropriate customs officer such documentation as is necessary to enable such officer to determine whether the merchandise may be released from customs custody; and

"(B) shall file (either at the time of entry or within such time thereafter as the Secretary may prescribe under paragraph (2)(B) of this subsection) with the appropriate customs officer such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation required under paragraph (1) of this subsection with respect to any imported merchandise shall be filed at such place within the customs-collection district where the merchandise will be released from customs custody as the Secretary shall by regulation prescribe.

"(B) If the documentation required under paragraph (1)(B) of this subsection with respect to any imported merchandise is not filed with the appropriate customs officer when entry of the merchandise is made, such documentation shall be filed at such time within the ten-day period (exclusive of Sundays and holidays) immediately following the date of entry as the Secretary shall by regulation prescribe.

"(C) The Secretary, in prescribing regulations to carry out this paragraph, shall provide, to the maximum extent practicable, for the protection of the revenue, the timely collection of import statistics, the facilitation of the commerce of the United States, and the equal treatment of all consignees of imported merchandise.";

(2) by striking out "subdivision" in subsection (c)(3) and inserting in lieu thereof "subsection"; and

(3) by striking out the second sentence in subsection (j).

SEC. 104. Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505) is amended to read as follows:

"(a) DEPOSIT OF ESTIMATED DUTIES.—Unless merchandise is entered for warehouse or transportation, or under bond, the consignee shall deposit with the appropriate customs officer at the time of making entry, or at such later time as the Secretary may prescribe by regulation (but not to exceed thirty days after the date of entry), the amount of duties estimated by such customs officer to be payable thereon.".

SEC. 105. The Tariff Act of 1930 is amended by inserting after section 507 the following new section:

"SEC. 508 RECORDKEEPING.

"(a) REQUIREMENTS.—Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records, statements, declarations, and other documents which—

"(1) pertain to any such importation, or to the information contained in the documents required by this Act in connection with the entry of merchandise; and

"(2) are normally kept in the ordinary course of business.

"(b) PERIOD OF TIME.—The records required by subsection (a) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.

"(c) LIMITATION.—For the purpose of this section and section 509 of this Act, the phrase 'knowingly causes to be imported' does not include a domestic transaction between an importer and a person ordering merchandise from him, unless—

"(1) the terms and conditions of the importation are controlled by the person placing the order; or

"(2) technical data, molds, equipment, or other production assistance, or material, components or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise."

SEC. 106. Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended to read as follows:

"SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.

"(a) AUTHORITY.—In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty and taxes due or duties and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance wtih the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

"(1) examine, or cause to be examined, upon reasonable notice of reasonable specificity, any record, statement, declaration or other document which may be relevant or material to such investigation or inquiry;

"(2) summon, upon reasonable notice—

"(A) the person who imported, or knowingly caused to be imported, merchandise into the customs terrritory of the United States,

"(B) any officer, employee, or agent of such person,

"(C) any person having possession, custody, or care of records relating to such importation, or

"(D) any other person he may deem proper, to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce such records, statements, declarations and other documents required to be kept under section 508 of this Act, and to give such testimony, under oath, as may be relevant or material to such investigation or inquiry; and

"(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant or material to such investigation or inquiry.

"(b) SERVICE OF SUMMONS.—A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable certainty.

"(c) SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—(1) For purposes of this subsection—

"(A) The term 'records' includes statements, declarations, or documents required to be kept under section 508 of this Act.

"(B) The term 'summons' means any summons issued under subsection (a) of this

section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

"(C) The term 'third-party recordkeeper' means—

"(i) any customhouse broker;

"(ii) any attorney; and

"(iii) any accountant.

"(2) If—

"(A) any summons is served on any person who is a third-party recordkeeper; and

"(B) the summons requires the production of, or the giving of testimony relating to, any portion of records made or kept of the import transactions of any person (other than the person summoned) who is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

"(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice.

"(4) Paragraph (2) of this subsection shall not apply to any summons—

"(A) served on the person with respect to whose liability for duties or taxes the summons is issued, or any officer or employee of such person; or

"(B) to determine whether or not records of the important transactions of an identified person have been made or kept.

"(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—

"(A) to intervene in any proceeding with respect to the enforcement of such summons under section 510 of this Act; and

"(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—

"(i) notice in writing is given to the person summoned not to comply with the summons; and

"(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

"(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (1) of this subsection may be made—

"(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

"(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

"(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.".

SEC. 107. Section 510 of the Tariff Act of 1930 (19 U.S.C. 1510) is amended to read as follows:

"SEC. 510. JUDICIAL ENFORCEMENT.

"(a) ORDER OF COURT.—If any person summoned under section 509 of this Act neglects or refuses to appear, to testify, or to produce records, the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or appear and produce records, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) CONTEMPT. Any person adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 509 of this Act and for refusing to obey the order of the court may, for so long as the failure continues and in addition to the punishment imposed by the court, be prohibited from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and the Secretary may instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by him or for his account. If such failure continues for a period of one year from the date of such instruction such officer shall cause all merchandise held in customs custody pursuant to this provision to be sold at public auction or otherwise disposed of under the customs laws.".

SEC. 108. Section 511 of the Tariff Act of 1930 (19 U.S.C. 1511) is repealed.

SEC. 109. Section 557 of the Tariff Act of 1930 (19 U.S.C. 1557) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BEFORE PAYMENT.—Merchandise may be withdrawn for consumption without the payment of the duty thereon if the consignee or transferee is permitted to pay duty at a later time pursuant to regulations prescribed by the Secretary under section 505 of this Act.".

SEC. 110. Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by inserting "or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest" immediately after "or the owner of such vessel or vehicle" each place it appears in the first sentence of the first undesignated paragraph of such section;

(2) by inserting "or any person directly or indirectly responsible for heroin, morphine, cocaine, isonipecaine, or opiate being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the first sentence of the second undesignated paragraph of such section; and

(3) by inserting "or any person directly or indirectly responsible for smoking opium, opium prepared for smoking, or marihuana being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the second sentence of the second undesignated paragraph of such section.

SEC. 111. (a) Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592 is amended to read as follows:

"SEC. 592. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE.

"(a) IN GENERAL.—Any consignor, seller, owner, importer, consignee, agent, or other person (hereinafter in this section referred to as a 'person') who by fraud, gross negligence, or negligence enters or introduces or attempts to enter or introduce any merchandise into the commerce of the United States by means of—

"(1) any invoice, declaration, affidavit, letter, paper, written or oral statement, or act which is material and false, or

"(2) any omission which is material,

whether or not the United States is or may be deprived by the lawful duties, or any portion thereof, shall be subject to a monetary penalty as provided for in subsection (d). If the Secretary has reasonable cause to believe that such person is insolvent or beyond the jurisdiction of the United States or that seizure is otherwise essential to protect the revenue of the United States or to prevent the introduction of prohibited or restricted merchandise into the customs territory of the United States, such merchandise may be seized and, upon assessment of a monetary penalty, forfeited unless the monetary penalty is paid within the time specified by law. Within a reasonable time after any such seizure is made, the Secretary shall issue to the person concerned a written statement containing the reasons for the seizure. After seizure of merchandise under this subsection, the Secretary may, in the case of prohibited or restricted merchandise, and shall, in the case of any other merchandise, return such merchandise upon the deposit of security not to exceed the maximum monetary penalty which may be assessed under subsection (d).

"(b) NOTICE.—If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for a monetary penalty. Such notice shall—

"(1) describe the merchandise;

"(2) set forth the details of the entry or introduction or the attempted entry or introduction;

"(3) specify all laws and regulations allegedly violated;

"(4) disclose all the material facts which establish the alleged violation;

"(5) state whether the alleged violation occurred as a result of fraud, gross negligence, or negligence;

"(6) state the estimated loss of lawful duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

"(7) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

No notice is required under this subsection for any violation of subsection (a) which is noncommercial in nature or for which the proposed penalty is $1,000 or less.

"(c) VIOLATION.—After considering representations, if any, made by the person concerned pursuant to the notice issued under subsection (b), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly notify, in writing, the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written claim to such person. The written claim shall specify all changes in the information provided under paragraphs (1) through (6) of subsection (b). Such person shall have a reasonable opportunity under section 618 of this Act to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under such section 618, the appropriate customs officer shall provide to the person concerned a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(d) PENALTIES.—(1) The monetary penalty for a violation resulting from fraud shall not exceed the domestic value of the merchandise.

"(2) The monetary penalty for a violation resulting from gross negligence shall not exceed the lesser of the domestic value of the merchandise which is the subject of the claim for such monetary penalty or four times the lawful duties of which the United States is or may be deprived. If such violation did not affect the assessment of duties, the monetary penalty shall not exceed 40 percent of the dutiable value.

"(3) The monetary penalty for a violation resulting from negligence shall not exceed the lesser of the domestic value of the merchandise which is the subject of the claim for such monetary penalty or two times the lawful duties of which the United States is or may be deprived. If such violation did not affect the assessment of duties, the monetary penalty shall not exceed 20 percent of the dutiable value.

"(4) Notwithstanding section 514 of this Act, if the United States has been deprived of lawful duties as a result of a violation of subsection (a), the appropriate customs officer shall require that such lawful duties be restored, whether or not a monetary penalty is assessed.

"(e) CLERICAL ERRORS.—Notwithstanding subsection (a), merchandise shall not be seized nor shall a monetary penalty be assessed for a violation resulting from clerical errors, or mistakes of fact, unless such errors or mistakes establish a pattern of negligent conduct.

"(f) PRIOR DISCLOSURE.—If the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, merchandise shall not be seized and any monetary penalty to be assessed under subsection (d) shall not exceed—

"(1) if the violation resulted from fraud—

"(A) the amount of the lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of this calculation of such unpaid amount, or

"(B) if such violation did not affect the assessment of duties, 10 percent of the dutiable value; or

"(2) if the violation resulted from negligence or gross negligence, the interest (computed from the date of liquidation at the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1954) on the amount of lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of this calculation of such unpaid amount.

The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

"(g) DISTRICT COURT.—Notwithstanding any other provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of this Act for the recovery of any monetary penalty claimed under this section—

"(1) all issues, including the amount of the penalty, shall be tried de novo;

"(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence;

"(3) if the monetary penalty is based on gross negligence, the United States shall have the burden of proof to establish all the elements of the alleged violation; and

"(4) if the monetary penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of proof that the act or omission did not occur as a result of negligence."

(b) Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by inserting "promptly" immediately after "to report".

(c) Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended—

(1) by striking out "any" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, any"; and

(2) by adding at the end thereof the following new subsection:

"(b) If merchandise is forfeited under section 592 of this Act, any proceeds from the sale thereof in excess of the monetary penalty finally assessed thereunder and the expenses and costs described in subsection (a)(1) and (2) of this subsection incurred in such sale shall be returned to the person against the penalty was assessed."

(d) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended by inserting "(other than those arising under section 592 of this Act)" immediately after "In all suits or actions".

(e) Section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) is amended by inserting the following after "Provided, That": "in the case of an alleged violation of section 592 of this Act arising out of gross negligence or negligence, such suit or action shall not be instituted more than five years after the date the alleged violation was committed: *Provided further*, That".

(f)(1) The amendments made by subsections (a) through (d) of this section shall take effect with respect to proceedings commenced on or after the 90th day after the date of the enactment of this Act; except that section 592(g) of this Act (as added by subsection (a) of this section) shall take effect on such date of enactment.

(2)(A) The amendment made by subsection (c) shall apply with respect to alleged violations of section 592 of the Tariff Act of 1930 resulting from gross negligence or negligence which are committed on or after the date of the enactment of this Act.

(B) In the case of any alleged violation of such section 592 resulting from gross negligence or negligence which was committed before the date of the enactment of this Act and for which no suit or action for recovery was commenced before such date of enactment, no suit or action for recovery with respect to such alleged violation shall be instituted after—

(i) the closing date of the 5-year period beginning on the date on which the alleged violation was committed, or

(ii) the closing date of the 2-year period beginning on such date of enactment,

whichever date later occurs, except that no such suit or action may be instituted after the date on which such suit or action would have been barred under section 621 of the Tariff Act of 1930 (as in effect on the day before such date of enactment).

SEC. 112. (a) Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500 each place that it appears therein and inserting in lieu thereof "$10,000".

(b) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610 (is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500" in such section and inserting in lieu thereof "$10,000".

(c) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by striking out "$2,500" each place it appears therein and inserting in lieu thereof "$10,000".

SEC. 113. The Tariff Act of 1930 is amended by inserting immediately after section 624 the following new section:

"SEC. 625. PUBLICATION OF RULINGS.

"Within 120 days after issuing any ruling under this Act with respect to any prospective customs transaction, the Secretary shall have such ruling published in the Customs Bulletin or shall otherwise make such ruling available for public inspection.".

SEC. 114. Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended—

(1) by inserting after "governing the licensing" in the first sentence of subsection (a) the following: "; and renewal of licensing,"; and

(2) by inserting after the third sentence in subsection (a) the following new sentences: "Three years after the date of the enactment of the Customs Procedural Reform Act of 1977, all licenses issued under this subsection before such date of enactment shall be subject to renewal. After such date of enactment, the Secretary of the Treasury shall only issue or renew licenses under this subsection which are valid for a period of three years after the date of their issuance or renewal. No license may be renewed unless the licensee make application therefor to the Secretary within the 90-day period occurring before the expiration date of the license.".

TITLE II—CUSTOMS SIMPLIFICATION

SEC. 201. This title may be cited as the "Customs Simplification Act of 1977".

SEC. 202. (a) Section 11 of the Act of March 1, 1879 (19 U.S.C. 467) is amended to read as follows:

"SEC. 11. The Secretary of the Treasury may by regulation require such marks, brands and stamps or devices to be placed on any container including any receptacle, vessel, or form of package, bottle, tank, or pipeline used for holding, storing, transferring or conveying imported distilled spirits, wines and malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines and malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on containers. Any container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand or stamp or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America."

(b) Section 5205(a)(2)(C) of the Internal Revenue Code of 1954 is amended to read as follows:

"(C) distilled spirits, lawfully withdrawn from bond, in immediate containers the sampling of which may be required (whether or not it is, in fact, required) under other provisions of internal revenue or customs law and regulations issued pursuant thereof;".

(c) The Secretary may issue regulations authorized under the amendment made by subsection (a) at any time after the date of the enactment of this Act, but the amendment made by such subsection shall not take effect until the 60th day after the date on

which such regulations are issued and shall not apply to other than merchandise which is entered, or withdrawn from warehouse, for consumption on or after such 60th day.

SEC. 203. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended as follows:

(1) Item 812.20 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms", by striking out "1 quart" and inserting in lieu thereof "1 liter", and by striking out "300 cigarettes" and inserting in lieu thereof "200 cigarettes".

(2) Item 812.25 is amended by striking out "(including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars)" and inserting in lieu thereof "(not including alcoholic beverages and cigarettes but including not more than 100 cigars)".

(3) Item 812.40 is amended by inserting "(including not more than 4 liters of alcoholic beverages)" after "Not exceeding $200 in value of articles".

(4) The prefatory note to item 813.10 is amended by inserting the following before the colon at the end of such note: "(including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States)".

(5) Item 813.30 is amended by striking out "1 quart" each place it appears and inserting in lieu thereof "1 liter", by striking out "1 wine gallon" and inserting in lieu thereof "4 liters", and by inserting "200 cigarettes and" before "100 cigars".

(6) Item 813.31 is amended by striking out "$100" wherever it appears, and inserting in lieu thereof "$250", and by striking out "$200" and inserting in lieu thereof "$500".

(7) Item 814.00 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms" and by striking out "1 quart" and inserting in lieu thereof "1 liter".

(8) Item 860.10 is amended by striking out "8 ounces" and inserting in lieu thereof "300 milliliters", by striking out "4 ounces" and inserting in lieu thereof "150 milliliters", and by striking out "2 ounces" and inserting in lieu thereof "100 milliliters".

(9) Item 860.20 is amended by striking out "⅛ ounce" each place that it appears and inserting in lieu thereof "3.5 grams".

(b)(1) The amendments made by this section with respect to metric conversion apply to merchandise entered on or after January 1, 1980.

(2) The amendments made by this section (other than those referred to in paragraph (1)) shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act.

SEC. 204. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is further amended by redesignating part 6 as part 7, by striking out "Part 6 headnote:" in part 7 (as so redesignated) and inserting in lieu thereof "Part 7 headnote:"; and by inserting after part 5 the following new part:

"

	PART 6.—NONCOMMERCIAL IMPORTATIONS OF LIMITED VALUE		
	Part 6 headnote: 1. For the purposes of this part the rates of duty for articles provided for in this part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles, unless the Secretary of the Treasury or his delegate determines, in accordance with regulations, that the application of the rate of duty provided in this part to any article in lieu of the rate of duty otherwise applicable thereto adversely affects the economic interest of the United States. Articles for personal or household use, or as bona fide gifts, not imported for the account of another person:		
	PAR.—6 TNONCOMMERCIAL IMPORTATIONS OF LIMITED VALUE—Continued		
869.00	Accompanying a person, arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $600 fair retail value in the country of acquisition, if such person has not received the benefits of this item (869.00) within the 30 days immediately preceding his arrival	10% of the fair retail value or 5% of the fair retail value of such articles ■ have been acquired in American Samoa, Guam, or the Virgin Islands of the United States	10% of the fair retail value or 5% of the fair retail value of such articles as have been acquired in American Samoa, Guam, or the Virgin Islands of the United States

"

(b) The amendment made by this section shall apply to persons and articles arriving in the United States on or after the 30th day after the date of the enactment of this Act.

SEC. 205. Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by striking out "weekly Treasury Decisions" and inserting in lieu thereof "Federal Register".

SEC. 206. (a) Section 321(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(1)) is amended by striking out "$3" and inserting in lieu thereof "$10", and by striking out "or" after "duties" wherever it appears and inserting in lieu thereof "and".

(b)(1) Subparagraph (A) of section 321 (a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)) is amended by striking "$10" and inserting in lieu thereof "$25", and by striking out "$20" and inserting in lieu thereof "$40".

(2) Subparagraph (B) of such section 321 (a)(2) is amended by striking "$1" and inserting in lieu thereof "$5".

(3) Subparagraph (C) of such section 321 (a)(2) is amended by striking "$1" and inserting in lieu therof "$5".

SEC. 207. Section 466(a) of the Tariff Act of 1930 (19 U.S.C. 1466(a)) is amended by striking out "; and if the owner or master" and all that follows thereafter down through the period at the end of the first sentence and inserting in lieu thereof the following: ". If the owner or master willfully or knowingly neglects or fails to report, make entry, and pay duties as herein required, or if he makes any false statement in respect of such purchases or repairs without reasonable cause to believe the truth of such statements, or aids or procures the making of any false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture."

SEC. 208. Section 483(1) of the Tariff Act of 1930 (19 U.S.C. 1483(1)) is amended—

(1) by inserting "or the holder of an air waybill" immediately after "bill of lading";

(2) by adding "in the case of a bill of lading" immediately before "if consigned to order, by the consignor"; and

(3) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; except that this section shall not limit in any way the rights of the consignor, as prescribed by article 12 of the Warsaw Convention (49 Stat. 3017)."

SEC. 209. Section 491 of the Tariff Act of 1930 (19 U.S.C. 1491) is amended—

(1) by amending the section heading to read as follows:

"SEC. 491. UNCLAIMED MERCHANDISE; DISPOSITION OF FORFEITED DISTILLED SPIRITS, WINES AND BEER";

(2) by inserting "(a)" at the beginning of such section;

(3) by striking out "one year" wherever it appears there'n and inserting in lieu thereof "six months"; and

(4) by adding at the end thereof the following new subsection:

"(b) All distilled spirits, wines, and beer forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by—

"(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and beer for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

"(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and beer for medical purposes;

"(3) sale by appropriate customs officer at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and beer under paragraph (1) or (2); or

"(4) destruction."

SEC. 210. (a) The Tariff Act of 1930 is amended by adding immediately after section 503 the following new section:

"SEC. 504. LIMITATION ON LIQUIDATION.

"(a) LIQUIDATION.—Except as provided in subsection (b), an entry of merchandise not liquidated within one year from:

"(1) the date of entry of such merchandise;

"(2) the date of the final withdrawal of all such merchandise covered by a warehouse entry; or

"(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under section 104 of this Act, duties may be deposited after the filing of an entry or withdrawal from warehouse;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent. Notwithstanding section 500(e) of this Act, notice of liquidation need not be given of an entry deemed liquidated.

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in regulations, if—

"(1) information needed for the proper appraisement or classification of the merchandise is not available to the appropriate customs officer;

"(2) liquidation is suspended or such extension is required by statute;

"(3) liquidation is suspended pursuant to court order; or

"(4) the importer, consignee, or his agent requests such extension and shows good cause therefor.

"(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that notice of such suspension be provided to the importer or consignee concerned and to any authorized agent and surety of such importer or consignee.

"(d) LIMITATION.—Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the date of duty, value, quantity, and amount of duty asserted at the time of entry by the importer, his consignee, or agent, unless liquidation continues to be suspended pursuant to statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom."

(b) The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

SEC. 211. Section 520(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1520(c)(1)) is amended to read as follows:

"(1) a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest, from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the appropriate customs officer within one year after the date of liquidation or exaction· or".

SEC. 212. (a) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended—

(1) by striking out "It" in subsection (a) and inserting in lieu thereof "Except as provided in subsection (d) of this section, it"; and

(2) by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS.—(1) The trademark provisions of this section and section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

"(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by the subsection. In the determining such quantities of particular types of trademarked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use.

"(3) If any article which has been exempted from the restrictions on importation of the trade-mark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

"(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.".

(b) Section 42 of the Act of July 5, 1946 (15 U.S.C. 1124), is amended by striking out "That" and inserting in lieu thereof "Except as provided in subsection (d) of section 526 of the Tariff Act of 1930,".

SEC. 213. Section 599 of the Tariff Act of 1930 (19 U.S.C. 1599) is amended by inserting "(other than a yacht or other pleasure boat)" after "part, any vessel".

SEC. 214. The first sentence of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), is further amended by deleting the word "thereof" where it first appears and by inserting in lieu thereof "of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported)".

SEC. 215. (a) Sections 2654, 4381, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58 and 46 U.S.C. 329, 330, and 333) are each repealed.

(b) The amendments made by subsection (a) shall not be deemed to prohibit the Secretary of the Treasury from the fixing of fees, charges, or prices under the authority of section 501 of the Act of August 31, 1951 (65 Stat. 290; 31 U.S.C. 483a).

SEC. 216. Except as may be provided in the Tariff Schedules of the United States, no officer or employee of the United States (including any member of the uniformed services) is entitled, when returning to the United States from abroad—

(1) to admission free of duty without entry of his or her baggage and effects; or

(2) to expedited customs examination and clearance of his or her baggage and effects;

unless such officer or employee—

(A) is seriously ill or infirm,

(B) has been summoned home by news of affliction or disaster, or

(C) is accompanying the body of a deceased relative.

For purposes of this section, the term "baggage and effects" means any article which was in the possession of the officer or employee while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

TITLE III—CUSTOMS SERVICE APPROPRIATIONS AUTHORIZATION

SEC. 301. (a) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as are authorized by subsection (b) or as may hereafter be authorized by law.

(b) There are authorized to be appropriated to the Department of the Treasury for the fiscal years beginning on October 1, 1979, and October 1, 1980, such sums as may be necessary for the United States Customs Service to carry out its functions.

TITLE IV—SEPARABILITY OF PROVISIONS

SEC. 401. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Act and the application of such provisions to other persons or circumstances, shall not be affected thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8149, the Customs Procedural Reform Act of 1977, is the first major piece of legislation designed to facilitate the customs clearance of merchandise and passengers since the 1950's.

The bill is the result of efforts of the U.S. Customs Service over a number of year to develop modernized customs clearance procedures. It has been considered at length by the Subcommittee on Trade of the Committee on Ways and Means both in the 94th Congress and this year. I would like to commend highly the author of the bill, Mr. JONES of Oklahoma, for his leadership as chairman of the Subcommittee Task Force on Customs Administration, and also our colleague Mr. FRENZEL of Minnesota, who served with Mr. JONES on the task force. Through the task force the subcommittee was able to conduct field visits, consult with importers and other business interests and work closely with the U.S. Customs Service in developing a well-balanced and greatly needed bill in a relatively brief period of time. Through the work of the task force and public hearings we have perfected a bill that reflects the legitimate interests of the private sector and will permit the U.S. Customs Service to modernize and simplify its procedures. The bill enjoys widespread support in the import community and among business interests in general.

Title I of the bill would allow Customs to institute up-to-date business methods and adopt accepted financial practices in conjunction with computerized techniques to the processing of importations.

The effect of the relevant title I provisions would be to permit the Secretary of the Treasury to alter the customs practices and procedures with respect to the entry, clearance, and verification processes applicable to commercial imports. Title I also establishes importer record-keeping requirements and strengthens the authority of customs officers to inspect importers and others with respect to customs-related books and records. Further, title I amends section 592 of the Tariff Act of 1930, the penalty and fraud provision with respect to penalty levels and judicial review.

Title II, entitled the "Customs Simplification Act of 1977" amends various provisions of the customs laws in an effort to avoid undue administrative expense or simplify the entry procedures for certain noncommercial importations. Most of the these provisions adjust

monetary levels for administrative purposes, or make compensation for inflationary factors.

Title III of the bill provides for congressional authorization for appropriations, thus bringing a new element of review and oversight over the customs service.

The bill was unanimously reported out by the full Committee on Ways and Means on September 15, 1977, and I urge its passage.

Mr. Speaker, I would like to yield 5 minutes to the distinguished gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, as the chairman has said, this bill will create the first substantial reforms in the Nation's Customs Service since the early 1950's. Since that time the value of U.S. imports, amounts of duties collected, and the number of passengers passing through customs have increased over 500 percent; yet customary procedures for handling this workload have remain unchanged. The need for long-overdue reform is recognized by the Treasury Department, the importing community, and anyone who has waited in long lines at airports as customs officials slowly apply antiquated rules and requirements.

Our vote today should culminate a legislative process which began over 1 year ago. Last August hearings were held on the Ford administration's Customs Modernization Act of 1976. Though no doubt on an exceedingly dry subject for most Americans, those hearings demonstrated there were considerable and often conflicting interests in customs reform from a wide variety of concerned parties. Thus in January Chairman VANIK appointed the Customs Task Force to investigate existing problems and potential solutions.

For the past 6 months the task force has held informal meetings with customs officials and members of the importing community in New York, Philadelphia, Baltimore, Houston, Los Angeles, San Francisco, Chicago, Savannah, Boston, and Laredo. H.R. 8149 includes many of the ideas and suggestions we obtained in these meetings. The bill also includes a proposal suggested by Congressmen STEED and HORTON and the Commission on Federal Paperwork which is expected to save over 3 million man-hours of work—worth over $25 million—each year.

H.R. 8149 will help modernize and simplify many outdated customs procedures. For example, it will enable customs to further computerize its merchandise processing, use more effective audit techniques of corporate records, and in general increase the efficiency and productivity of customs personnel. Let me touch on three particularly important provisions of the bill.

First, we have removed the basic inequities in section 592, the penalty and fraud provision of the customs laws. In the past importers have been subject to fines which in no way correspond to the nature of their violation. Existing laws also preclude effective judicial review of customs service decisions. H.R. 8149 sets up maximum penalty levels and burden of proof requirements for three levels of culpability and provides for de novo review of alleged violations in the Federal district courts.

Second, the bill increases the duty-free exemption for returning U.S. residents from $100 to $250 and from $250 to $500 for residents returning from U.S. insular possessions. These increases reflect the effect of inflation on the purchasing power of the dollar since the exemption was last changed over 25 years ago. This and other changes are expected to significantly speed the customs clearance of international passengers.

Finally, H.R. 8149 provides for congressional authorization of customs service appropriations. By doing so we can better perform our oversight function over an agency whose rules and regulations have often escaped congressional review.

Mr. Speaker, at the time of committee consideration of H.R. 8149 we received no objections from the private sector about the bill in the form that it was reported from the committee to the full House. Subsequently we have learned that individual Members have been urged by an affiliate organization of the National Customs Brokers and Forwarders Association of America that the bill be defeated. Consequently we have checked with officers of the National Association and have received in writing from its president a reiteration of that organization's support for the bill, strongly urging its passage.

The letter is as follows:

NATIONAL CUSTOMS
BROKERS & FORWARDERS
ASSOCIATION OF AMERICA, INC.,
New York, N.Y., October 12, 1977.

Hon. CHARLES A. VANIK,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN VANIK: The National Customs Brokers & Forwarders Association of America, Inc., is the only nationwide association of Treasury-licensed customs brokers and Federal Maritime Commission-licensed foreign freight forwarders, and our membership includes several hundred firms throughout the United States with which we maintain close liaison by means of twenty-one local affiliated associations of brokers and forwarders.

Our National Association has gone on record in support of H.R. 8149, the Customs Procedural Reform Act of 1977, because we feel that the measure incorporates many beneficial changes in the statute to the mutual advantage of both government and industry.

We were recently informed that one of our affiliates, the JFK Airport Customs Brokers Association, has written to you, and has urged the members of that Association also to write to you, soliciting your aid in defeating H.R. 8149.

As the national organization for this industry, we reiterate our support for this bill and strongly endorse its passage.

With many thanks for your consideration, we are.

Sincerely,

R. R. HUMMEL, Jr.,
President.

Under present law, customs brokers are licensed for life. During the course of onsite inspections of customs facilities around the country, the Customs task force learned that the Customs Service has little knowledge of the more than 3,000 brokers licensed in the country today. The amendment, therefore, is intended to provide a means for at least keeping current with the identity and number of brokers still practicing.

It was the intention of the Committee on Ways and Means that this relicensing provision would not involve any requalification, reexamination, or reinvestigation, but would serve only as a "re-registration," or pro forma filing for a renewed license.

As I noted earlier, the national association representing customs brokers nationwide supports H.R. 8149, including the license renewal provision, without qualification.

At the recent Ways and Means Committee markup of H.R. 8149 my colleague OTIS PIKE noted that the specifics in this bill are amongst the most boring he has ever chanced to come across. If I were not so involved with the bill, I would undoubtedly agree wholeheartedly. But given the aptness of his comment and the fact that the bill has been so thoroughly hammered out on the dull anvil of public field hearings and testimony, I would propose that I spare this House any further section-by-section review of its provisions.

Of course, I would be happy to respond to any questions or comments. Let me close by saying that in a very real sense this bill is the result of a very close effort between the executive and legislative branches and the public we represent. It has been a pleasure to take part in that effort and to know that everyone involved believes we have come up with a good product. I thank the chairman for his kind remarks and along with him urge the speedy passage of this bill.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I rise to speak in support of H.R. 8149 which was unanimously reported out of the Committee on Ways and Means.

H.R. 8149, the Customs Procedural Reform Act of 1977, is the product of 2 long years of hard work by the Trade Subcommittee. Over these 2 years the Trade Subcommittee has organized a special Customs Task Force, headed by JIM JONES and BILL FRENZEL, which has admirably tackled the many difficult problems in this area. It has held two extensive sets of hearings, taken several inspection trips to customs facilities, and on many occasions met with customs brokers, importers, and shippers. As well, it has worked very closely with the Treasury Department.

The net result of these long hours of work and deliberation is a complex but sound piece of legislation. This bill deals well with many of the problems caused by a lethargic and dated Customs operation. There are, however, some lingering problems in this area with which the subcommittee intends to deal in the future. But, for now, this legislation will give the Customs Service the ability to deal in a modern way with the modern problems facing it.

In particular, H.R. 8149, in title I, allows Customs to institute contemporary business practices and adopted accepted financial practices in conjunction with computerized techniques in processing imports. In addition, it establishes an importer recordkeeping requirement and strengthens the authority of Customs officers to inspect Customs related books and records of importers and others involved in importing. Moreover, this title makes major changes in the penalty provision, section 592 of the Tariff Act of 1930, to which importers are subject. This bill takes away what can only be described as the draconian character of the present penalty provisions as well as affording more effective judicial review of penalty assessments. Finally, this provision requires that licenses for customs-house brokers be issued for three years at a time.

Title II of this bill simplifies and updates laws dealing with the processing of international travelers and certain noncommercial importations. It introduces greater flexibility into the law and, thus, generates cost savings. In this connection, this title increases from $100 to $250 the value in duty-free items a returning resident may bring back into the country. It raises from $200 to $500 the duty-free amount available to a resident returning from U.S. insular possessions. These changes reflect the effect of inflation in the past 16 years the present rates have been in effect.

In addition, the duty rate assessed on items exceeding by $600 these duty-free amounts have been made a flat rate of 10 percent and 5 percent respectively. The application of the ordinary tariff classification procedures to merchandise brought back from abroad by returning residents for personal use requires an inordinate amount of time, creating bottlenecks and delays. This provision for a flat rate on values up to $600 over the duty-free amount would contribute to the elimination of such delays.

Two further innovations in this title include a 1-year limit on the time in which Customs has to process an entry and a reduction from 1 year to 6 months the time in which merchandise must be retained before it can be sold by Customs.

Title III would require annual authorization for appropriations to the U.S. Custom Service beginning fiscal year 1980.

As I have said, this bill attempts a major overhaul of our customs procedures. It is, therefore, complex and has not been without its controversy. However, H.R. 8149 is not now opposed by any of the groups it involves. I would strongly urge its passage and take this opportunity to thank JIM JONES and BILL FRENZEL for their dedicated and meticulous work in bringing this bill before us.

Mr. VANIK. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, first of all, I certainly agree that this is something that needed to be corrected. I commend the committee for what they have done.

The previous speaker indicated it has been a boring job for some. I think we should realize that if we do these things, we do not do everything exactly right, but we try to correct them.

Mr. Speaker, I have terrible difficulty with title II of the act. I would like to explain what we are doing in title II. We are increasing the duty exemption for anybody that travels abroad from $100 to $250.

For island possessions, we are increasing it from $200 to $500 and we are setting an additional $600 that will only be subject to 10 percent duty. If my wife and I were to go to the Virgin Islands and she were to buy a $2,200 coat at this time, it would then be that we would be entitled to $1,000 for all exemptions, would pay an extra 10 percent, or $1,200. In other words, we pay $120 of duty.

Under present law we would be entitled to $200 exemption, pay 18½ percent on the other $2,000, or $370 of duty.

What we have done in this for wealthy people who travel is to give them additional duty benefits which do not accrue to the people who cannot travel abroad.

I would have particular concern at this time, because I have just had in my district some 800 people laid off, because of television imports from Japan. We should not be lowering the duty for people traveling from Japan.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, how many television sets can you bring back from Japan at $250?

Mr. BEDELL. That is not the point. Whenever we buy foreign goods, there are that many less jobs available for our own people.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. VANIK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, when we bring back a fur coat or when you bring back a suit, whatever it may be, if you are able to do that without duty, you then have an advantage which does not exist at this time for goods on which duties are assessed for good reason.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, does not the gentleman have clothing stores and other discount outlets in the gentleman's district?

Mr. BEDELL. I certainly do.

Mr. ROUSSELOT. So the gentleman does have such places in which you get really good discounts for suits, or television sets. I do not really see how $250 to the "wealthy" applies. They are not the only ones that travel. Congressman travel, too. How many suits or how many television sets or fur coats can you bring back for a $250 exclusion?

Mr. BEDELL. You only have to bring back one fur coat in order to save yourself in this case $250.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, let us take $250 for a coat, from whatever foreign country you are going to bring it; how much does the gentleman think a wealthy person is going to save and what kind of fur coat is it, compared to what they can buy in this country?

Mr. BEDELL. Obviously, they are going to save $250 or more of duty that would apply if it came through regular channels, which would have been money to the Treasury of the United States. At least, I believe if we are going to create loopholes, we should not create them for the wealthy in New York City.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, let me say in response, the committee took into consideration the inflation factor. This law, the $100 allowance, had not been changd since 1960. If a person goes to several countries, that does not buy much more than a postcard or some tribute.

It has been the practice of the Customs Service to treat the wholesale price as governing. This will increase the allowance, but it is based on the selling price, so it is not that difficult.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. VANIK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Iowa.

Mr. Speaker, I just want to say that I do not think it is a matter of use. The Treasury has gone all through this. I think it is just recognizing the inflationary change.

Mr. Speaker, I would like to yield further to my colleague, the gentleman from Oklahoma.

Mr. BEDELL. Mr. Speaker, if the gentleman will yield further, would the gentleman tell us why it is they put in a $500 exemption for U.S. territorial islands?

Mr. JONES of Oklahoma. Mr. Speaker, if the gentleman will yield, I appreciate the interest of the gentleman in the well in the poor being discriminated against.

The fact of the matter is that for most foreign travel the poor are discriminated against anyway. What we tried to do in this legislation was to streamline and expedite the processing of goods and passengers who are in international trade.

What we find there is that we will actually save money for the Government, to the taxpayers, because of expediting this process and increasing this ceiling. That money could be used for other purposes of the Government. So, we are not going to lose money; we are going to save money, and we are going to allow our customs officials to get to the more important activities of really finding out the kind of trade coming in, the goods coming in, and keep accurate statistics.

Mr. BEDELL. Why is the $500 applicable to U.S. territorial possessions?

Mr. JONES of Oklahoma. That historic discrimination was established several years ago, where the country's territories were given double the amount.

Mr. BEDELL. Does the gentleman think that should be?

Mr. JONES of Oklahoma. They have made a good case for that.

Mr. VANIK. We have always had differential with respect to the island pos-

sessions. This really carries the same proposal.

Mr. BEDELL. I understand. It seems to me that we are here to correct things that may be wrong.

Mr. FRENZEL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise to speak in support of H.R. 8149, the Customs Procedural Reform Act of 1977. H.R. 8149 attempts to bring the administration of U.S. customs laws into the 20th century. But, it should be considered only as a first phase in the enormous task of customs reform.

Anyone who has done even a minor amount of international travel is well aware of the great potential for U.S. Customs to be a tiresome and inefficient process. But the delays and frustrations sometimes experienced by international travelers does not match the problems encountered by importers and brokers in their efforts to weave their way through the morass of the U.S. customs law.

For over 2 years the Trade Subcommittee has held hearings, made field trips, and had discussions with the Treasury Department and the Customs Service all with a view to finding some way to amend the customs law so that import transactions and foreign travelers can be processed smoothly and efficiently without compromising the important revenue and enforcement aspects of the customs law.

A particular concern of the subcommittee in this effort was to alleviate the onerous penalty provision under section 592 of the Tariff Act of 1930. Under section 592 importers could be liable to the extent of the full value of the shipment for so much as a clerical error in their import documentation. Through customs regulations, however, some of the more harsh provisions of this penalty section are ameliorated. Nevertheless, there still remains in the law and in customs regulations fundamental unfairness and extreme hardshness in dealing with violations of certain customs laws.

The bill we have before us today goes a very long way in achieving what this subcommittee has been working for 2 years to achieve. This bill allows the Customs Service to institute up-to-date business practices and to adopt widely used financial practices together with computerized and automated data processing techniques in handling imports. In granting the Service this authority the bill does establish an importer recordkeeping requirement, but this requirement is easily satisfied by anyone employing ordinary sound business practices with respect to recordkeeping. Moreover, the bill makes major changes in section 592 of the Tariff Act of 1930. It not only establishes reasonable penalty levels but affords parties a more effective judicial review of penalty assessments.

Furthermore, the bill brings efficiency to the processing of international travelers and certain noncommercial importations. By introducing greater flexibility into the relevant law, this bill will result in cost savings to the service and the Treasury. In the regard, this bill would increase from $100 to $250 the value in duty free items a returning resident may bring back to this country. It raises from $200 to $500 the duty-free amount available to a resident returning from U.S. insular possessions. As well, the duty rate assessed on items exceeding by $600 these duty free amounts will be dutiable at a rate of 10 percent with respect to residents returning from non-U.S. insular possessions and 5 percent with respect to residents returning from U.S. insular possessions. The net savings gained, result from the considerable reduction in processing time and administrative costs achieved by these changes.

The subcommittee is well aware of a few customs problems that remain untreated by this legislation and plan in the future to deal with them. All in all, however, H.R. 8149 is a good though complex piece of legislation. It was unanimously reported by the subcommittee and unanimously reported by the Ways and Means Committee. It is without opposition from any of the national interests which have been involved in the legislative effort from the very beginning. I strongly recommend its adoption and take this opportunity to thank JIM JONES for his strong leadership and very hard work in putting together H.R. 8149.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's mention of why it is necessary—in recognition of the inflation which has occured and not to provide additional benefits to the wealthy who travel—to raise this level from $100 to $250. I too attended the Mexican-American Interparliamentary Conference with our colleagues in Mexico this year. This provision was one of the suggestions that our colleagues in the Parliament of Mexico suggested as a simple item of fairness relating to inflation.

I compliment the committee in its understanding that inflation has occurred in this area as well as other areas, and I appreciate its efforts.

Mr. FRENZEL. Mr. Speaker, I think what is not commonly understood when we differentiate between rich and poor is the fact that many Americans return to the country of their birth or their ancestry once or twice in their lifetimes. They are often not rich. When they are in the foreign country, they are frequently given gifts by friends and relatives.

People from my area return to Sweden, and they be given a blanket or a sweater or a coat; or all three. They come back to the United States and find that their gifts are worth over a $100. They are then obligated to pay duty on their gifts, and to go through the administrative inconvenience of paying duty. When they have not paid a dime for the merchandise. We are also trying to keep those people from having to undergo an additional cost. They should not have to pay duty simply because they happen to receive a gift.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 8149, as amended.

The question was taken.

Mr. STEIGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8149, H.R. 5858, and H.R. 5643.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RURAL HEALTH CLINIC SERVICES AMENDMENTS TO SOCIAL SECURITY ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8422), to amend title XVIII of the Social Security Act to provide payment for rural health clinic services, as amended.

The Clerk read as follows:

H.R. 8422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(C) and insert in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2):

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2))" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(c) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Rural Health Clinic services

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under section 1861(s)(2)(A) if furnished as an incident to a physician's professional service, and

"(B) such services furnished by a primary care practitioner and such services and supplies furnished as an incident to his service as would otherwise be covered if furnished by a physician or as an incident to a physician's service,

when furnished to an individual as an outpatient of a rural health clinic.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) in the case of a facility which is not a physician-directed clinic, has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of covered services furnished by primary care practitioners, the supervision and guidance by such physicians of primary care practitioners, the preparation by such physicians of such medical orders for care and treatment of clinic patients as may be necessary, and the availability of such physicians for such referral of patients as is necessary and for advice and assistance in the management of medical emergencies; and in the case of a physician-directed clinic, such clinic has one or more of its staff physicians perform the activities accomplished through such an arrangement;

"(C) maintains clinical records on all patients;

"(D) has arrangements with one or more hospitals meeting the requirements under this title for the referral and admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(E) has policies, which are developed with the advice of (and with provision for review of such policies from time to time) a group of professional personnel, including one or more physicians and one or more primary care practitioners, to govern the services referred to in subparagraph (A) which it provides;

"(F) has a physician or primary care practitioner responsible for the execution of such policies relating to the provision of the clinic's services;

"(G) directly provides routine diagnostic services, including clinical laboratory services as prescribed in regulations by the Secretary and has prompt access to additional diagnostic services from facilities meeting requirements under this title;

"(H) has available for administering to patients of the rural health clinic at least such drugs and biologicals as are determined by the Secretary to be necessary for the treatment of emergency cases (as defined in regulations) and has appropriate procedures or arrangements in compliance with State and Federal law for storing, administering, and dispensing any drugs and biologicals; and

"(I) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For the purposes of this title, such term includes only a facility which (i) is located in a rural area designated by the Secretary as having medically underserved populations under section 1302(7) of the Public Health Service Act, (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a) and (b) of section 1833, (iii) employs a primary care practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases. A facility that is in operation and qualifies as a rural health clinic under this title or title XIX and that subsequently fails to satisfy the requirement of clause (i) shall be considered, for purposes of this title and title XIX, as still satisfying the requirement of such clause.

"(3) The term 'primary care practitioner' means, for the purposes of this subsection, a nurse practitioner or physician assistant who performs such services as such individual is legally authorized to perform (in the State in which he performs such services) in accordance with State law (or the State regulatory mechanism provided by State law) and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(d) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in other cases".

(e) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding the following new subparagraph at the end thereof;

"(E) rural health clinic services;".

(f) The second sentence of section 1861(s) of such Act is amended by inserting ", rural health clinic," after "physician's office".

(g) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,"; and

(3) by inserting "rural health clinic," in the last sentence after "facility," each time it appears therein.

(h) The amendments made by this section shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

SEC. 2. (a) Paragraph (2) of section 1905 (a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (1)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (1)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(1) The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa), except that (A) clause (ii) of section 1861 (aa)(2) shall not apply to such terms, and (B) the physician arrangement required under subparagraph (B) of such section shall only apply with respect to rural health clinic services and, with respect to other ambulatory care services, the physician arrangement required shall be only such as may be required under the State plan for those services."

(c) Section 1902(a) of such act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof "; and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary may prescribe in regulations under section 1833(a)(3) or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph,"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND OF RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

(f) The amendments made by this section shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of his Act.

SEC. 3. (a) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of title XVIII, for services provided by primary care practitioners employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing a primary care practitioner;

(2) the appropriate method of determining the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the present provisions of title XVIII of the Social Security Act as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as

may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

(e) As used in this section, the term "primary care practitioner" has the meaning given such term in section 1861(aa)(3) of the Social Security Act.

SEC. 4. (a) The Secretary, directly or through contracts with or grants to public or private agencies or organizations, shall develop and carry out demonstration projects to provide reimbursement under title XVIII for services provided in organized centers offering comprehensive outpatient mental health services.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages of various types of reimbursement, including reimbursement on a cost basis for outpatient mental health services;

(2) the relative effects on utilization and cost of services resulting from (A) various definitions for outpatient mental health services covered under title XVIII of the Social Security Act (when provided by a center described in subsection (a)) and (B) various limitations on such services;

(3) the appropriate definition for such a center;

(4) the appropriate definition of and qualification for individuals who provide services in such centers for which reimbursement is made under title XVII or this section, including their appropriate professional relationships; and

(5) such other changes as might be appropriate for the more efficient and cost-effective reimbursement of outpatient mental health services provided under title XVIII of the Social Security Act.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes in title XVIII of the Social Security Act which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

(e) In the case of any demonstration project under subsection (a), the Secretary may waive compliance with the requirements of title XVIII of the Social Security Act insofar as such requirements relate to methods of payment for services provided; and costs incurred in such project in excess of those which would otherwise be reimbursed or paid under such title may be reimbursed or paid to the extent that such waiver applies to it (with such excess being borne by the Secretary).

SEC. 5. If the Secretary acquires the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transfering to it the activities and functions of the Public Health Service hospital in Galveston, Texas, the Secretary may close the Public Health Service hospital in Galveston, Texas.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I do not oppose the bill, but I demand a second in order that we may have colloquy on the bill.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8422 is designed to make the medicare and medicaid programs more responsive to the severe problems created by the lack of primary health care services in rural areas.

Mr. Speaker, it is generally recognized that rural areas have had great difficulty and, in many cases, have been completely unsuccessful, in recruiting physicians. For a number of reasons—economic, personal, and professional—physicians generally have found it preferable to practice in more populous areas. Even if physicians were inclined to settle in rural areas, many communities are so sparsely populated as to make it inefficient to support a full time physician practice. Yet, the isolation of these areas makes it essential that they have some type of emergency and primary care services available full time.

Many of the same communities that once despaired of ever attracting a physician are now happy to rely on clinics which do not follow the traditional model of physician delivery of medical services. These clinics are staffed, not by physicians, but by specially trained nurse practitioners and physician assistants—personnel often referred to as primary care practitioners—who are trained to provide primary medical care services traditionally performed only by physicians. Although there is physician supervision of the services performed by the primary care practitioner, the supervision is indirect rather than "over the shoulder."

Other more populated, yet still rural communities that could financially support the practice of a physician, have had difficulty in retaining physicians. Physicians often leave these communities because of heavy patient loads with no relief available for time off. The development of clinics which have a full-time physician but use a primary care practitioner to take responsibility for a large part of the physician's patient load, has meant that many of these communities are now able to retain a physician.

Mr. Speaker, the members of the Subcommittee on Health of the Committee on Ways and Means were fortunate to have had the opportunity to visit several of these types of clinics. During hearings on national health insurance last summer in Tennessee, my colleague, Mr. DUNCAN, and I flew by helicopter to several clinics located in isolated areas of the Appalachian Mountains. I was most impressed by what I found—clinics that had been developed through efforts of these small communities. With money earned from bake sales, bingos, and donations, the communities were able to equip an office, which was often no more than a trailer, and recruit a nurse practitioner or physician assistant. With the assistance of a backup physician in a nearby town, the nurse practitioner or physician assistant was able to assure the community continuous availability of primary care services for the first time.

Not surprisingly, however, these and most clinics that have developed in a similar fashion are threatened by unstable sources of funding. Most private insurance will not provide reimbursement for the services provided by nurse practitioners or physician assistants practicing in these clinics. Medicaid pays for these services only in a handful of States. Many private paying patients are not able to pay the full cost of the services they receive. And, the present provisions of the medicare program allow payment for medical care services only when they are provided by physicians.

Fortunately, many of these clinics have been able to keep their doors open by securing Federal grants to cover their operating costs. Perhaps the most well-known and largest supporter of rural clinics has been the Appalachian Regional Commission. One of the factors spurring my committee to complete action this year is the scheduled expiration of clinic funding through the Appalachian Regional Commission over the next few months.

Mr. Speaker, the medicare provisions of the bill now before you have undergone careful examination and study by a great many individuals and groups involved in the delivery of rural health clinic services. Shortly after visiting a number of these clinics, I began to develop a bill to cover their services under medicare. In the process, I sent drafts to clinics, State programs,consumer groups, professional associations, and others interested in commenting on the proposal. With the assistance of all these groups and individuals, I was able to develop and introduce a bill last fall which is quite similar to the bill that is before you today.

Reaffirming my commitment to this legislation, I reintroduced the rural clinic bill early in this Congress. I was pleased that an almost identical bill

was introduced shortly thereafter in the Senate.

The Subcommittee on Health considered the legislation early in the year and, by July, a clean bill, incorporating several significant improvements made by the subcommittee, had been reported by the full Committee on Ways and Means. The bill, H.R. 8422, amended the medicare program so as to provide coverage for services furnished to beneficiaries in clinics located in these rural, medically underserved areas. Payment for covered services, including physicians' services provided in the clinic, would be made directly to the clinic and would be based on the costs incurred in furnishing these services to medicare beneficiaries. Services furnished by nurse practitioners and physician assistants would be covered if such services are otherwise covered under the medicare program when furnished by a physician and if they are rendered under the general supervision of a physician.

The bill also directs the Secretary to develop and carry out demonstration projects to evaluate reimbursement on a cost basis for services provided in clinics in urban areas, including services furnished by nurse practitioners and physician assistants. The Secretary would also be directed to conduct a demonstration project to evaluate the effects and implications of medicare reimbursement for services furnished in organized centers offering comprehensive outpatient mental health services.

The bill, H.R. 8422, after being reported by the Committee on Ways and Means was sequentially referred to the Interstate and Foreign Commerce Committee where payment for rural health clinic services was mandated for the State medicaid plans of all States where the practice of a nurse practitioner or a physician assistant is authorized. I am sure that my good friend and colleague, Chairman ROGERS, will comment more on the medicaid provisions of the bill.

The bill, as reported from the Committee on Interstate and Foreign Commerce, did at first embody some minor changes in the Ways and Meanss medicare provisions of the bill. I am pleased that, in our usual spirit of cooperation, these differences were resolved so that immediate action could be taken on this legislation.

Mr. Speaker, there is little that means more to those living in isolated rural areas than access to adequate medical care in their own community. This bill will do much to assure that access by providing a stable source of income for those delivery systems that are uniquely suited and have proven themselves successful in these areas.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Speaker, I am most pleased that the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce are bringing before the House today H.R. 8422, the rural health clinic bill.

Any of my colleagues who have constituents living in rural areas know that lack of health care services is one of the most severe problems in these communities and one of the most difficult to remedy. One promising solution to the problems created by the reluctance of physicians to locate in rural areas has been the development of clinics which use nurse practitioners or physician assistants. These practitioners are capable of furnishing a broad range of primary and emergency care services with only the backup services of a physician.

A major stumbling block to the further development of these clinics has been the uncertainty of reimbursement for the services they provide. Up to now, clinics have depended largely on support from State or Federal grants; no medicare coverage and, in many States, no medicaid coverage is provided for services furnished by nurse practitioners or physician assistants. This bill, H.R. 8422, would assure medicare and medicaid reimbursement for services of physician assistants and nurse practitioners in those states that authorize these practitioners to furnish the types of services covered under the program.

Mr. Speaker, even though the amounts of money involved in this bill are not great, I believe the bill is a giant step toward "targeting" medicare and medicaid funds to address serious problems of access to health care services. We have seen in the last 2 years that funds under both these programs are limited; we cannot afford to enact measures which significantly increase the cost of either program. This bill represents a successful marriage of the objectives that the programs be both cost effective and responsive to the needs of beneficiaries and recipients.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the chairman of the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I endorse the legislation before the House today.

Rural health clinics are an important source of delivery of health care services to persons living in sparsely populated areas; in many cases, they are the only source of health care available. However, their economic viability has been precarious, often because they were unable to secure medicaid funding, and because no medicare funds were available unless a physician was present on site. Yet it was the absence of an available physician on a full-time basis which caused the need for these facilities.

This legislation will provide the necessary ongoing financial support for rural health care facilities staffed by physician assistants and nurse practitioners. It will help to assure to residents of rural areas that adequate, humane, accessible medical care services are available to them. I am particularly pleased with the provision in the agreed-upon amendment to provide continued eligibility for medicare and medicaid payments once a facility has qualified as a rural health clinic. This is absolutely required if the clinics are to be assured of a stable economic future.

I commend the effort by my colleagues, the chairmen of the Health Subcommittees of the Commerce Committee and the Ways and Means Committee, PAUL ROGERS and DAN ROSTENKOWSKI, to reach agreement on a joint amendment which maintains the features of the legislation reported by both committees. This action was necessary to assure timely House consideration and action on the bill. Many of these clinics are on the brink of losing their grant funding, and provision for medicare and medicaid payments by the end of this calendar year is absolutely vital if they are to continue. Discussions are already underway with the Senate to assure rapid conference action on the legislation.

Mr. Speaker, I urge the Members' support.

Mr. BLOUIN. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Speaker, I rise in support of this legislation and commend those who were involved in drafting it and in moving it along.

Mr. Speaker, the ready availability of health care services is something that many people in this country tend to take for granted.

However, for the more than 31 million rural Americans such is not the case.

Doctor and dentist shortages in rural America are the norm rather than the exception.

Since more elderly people, with their corresponding higher need for health care, live in rural areas this shortage puts a greater burden on existing health care facilities.

Many isolated rural communities have been unable to either to attract or retain physicians.

To combat these probems these communities have come to rely on clinics which do not follow the traditional model of physicians delivery to supply medical services.

These clinics, and we are not talking about multimillion-dollar facilities, rely on physician extenders such as nurse practitioners and physicians assistants to provide basic health care.

These people operate under the supervision of a physician, but that supervision is indirect rather than the over-the-shoulder variety.

Unfortunately, current medicare policy presents serious obstacles for the reimbursement of primary care extenders such as physician's assistants and nurse practitioners—in these clinics—since only phyician services and certain services provided under the direct supervision of a physician are covered by medicare.

This bill would remedy that situation.

It allowed medicare funds to pay for rural health clinics services provided by physician extenders, if those extenders

are authorized by State law to perform such services.

But this bill, for which I must credit my Iowa colleague Senator DICK CLARK, America, it also authorizes the Federal Government to conduct a large scale demonstration project in a medically underserved urban area. This would help determine if programs such as physician extenders would offer viable alternatives to the lack of medical care in some urban areas.

Medicare and medicaid would cover the following costs delivered by the physician extenders: Reasonable compensation for the services of the physician's assistant, nurse practitioners, and any full-time physicians; the cost of services or supplies provided as an incident to the services of the physician, nurse practitioner, or physician's assistant; overhead costs related to the provision of the covered services; the costs of required supervisory services of a physician; and the patient care services provided by part-time physicians at the clinic.

Covered services would include those services provided within the clinic and those provided outside the clinic walls such as in-home services and nursing home services.

I think this bill will go a long way toward alleviating some of the health care delivery problems in this Nation and I strongly urge my colleagues to join me in supporting it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS), the chairman of the Subcommittee on Health and Environment.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a pleasure to be working jointly again with the distinguished chairman of the Ways and Means Health Subcommittee. I wish to compliment him for his work on this timely legislation which will help insure that many rural citizens have financial access to quality health care services.

I also want to compliment Dr. CARTER, the ranking minority member on the Subcommittee of Health and Environment, for his usual splendid cooperation in bringing this important piece of legislation to the floor. He has been a strong and consistent supporter of improved health services for rural areas; this bill is the latest of a number of pieces of legislation he has supported to accomplish this goal. Without his assistance, and that of Mr. DUNCAN, the ranking minority members of the Ways and Means Health Subcommittee, we could not have moved this legislation so rapidly. Acknowledgment is also due to the chairman of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, who has been most supportive in our efforts to have this bill enacted. He also has established a distinguished record of support for better health care in the rural and medically underserved areas of this country. I commend him for his record and thank him for his assistance and support.

The members of the Subcommittee on Health and the Environment and I wholeheartedly endorse the bill before you although it is slightly different from the bill as reported by the subcommittee and the Committee on Interstate and Foreign Commerce. These changes have been made in order to expedite passage of this important legislation.

As the distinguished gentleman from Illinois noted, the problem addressed by this legislation is a pressing one. Approximately 1 of every 2 rural residents live in a medically underserved area and 84 percent of the areas with a shortage of health personnel are rural. The citizens of these rural areas have not been passive, however. Of the 1,600 rural medically underserved areas, over 500 are now served by health clinics, most of which are staffed by specially trained nurse practitioners and physician assistants who work with physicians either directly or by consultation and written medical protocol. But medicare and, in most States, medicaid, do not reimburse for services rendered by these nurse practitioners and physician assistants.

H.R. 8422 will give rural medicare and medicaid beneficiaries financial access to the health care services which are available to them.

MEDICAID PROVISIONS OF H.R. 8422

It is the unanimous position of the Subcommittee on Health and the Environment that medicaid, as well as medicare, should cover services provided by rural health clinics. These clinics employ nurses practitioners and physician assistants who are licensed to practice by State law, so this expansion of medicaid coverage will be required only in those States which authorize the practice of nurse practitioners and physician assistants. If a State does not authorize such practice now but changes its law in the future, it would be required to expand its medicaid plan at that time to cover the services of a rural health clinic. Such coverage is not new to many States, however. There are 27 States which reimburse nurse practitioners and physician assistants in some way and there are 21 States which reimburse the services of a clinic.

The approach of the medicaid section of H.R. 8422 is to make medicare and medicaid reimbursement policy consistent wherever possible. Both will be reimbursing nurse practitioners and physician assistants when they render services—in accordance with State law—which would be covered if rendered by a physician; and certification for medicare will serve as certification for medicaid. Medicaid reimbursement will be on the same cost-related basis as medicare, but because medicare has a coinsurance it will pay at 80 percent while medicaid will pay at 100 percent.

The bill also authorizes rural health clinics to provide all other ambulatory services covered by the State's medicaid plan, but the clinic will be required to meet the same State certification standards for these other ambulatory services as other providers of those services. This provision will enable a medicaid patient who is ambulatory to receive all needed services at the same location. These other ambulatory services will be reimbursed on a cost-related basis.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8422, a bill that I have worked particularly long and hard to see enacted. In my opinion, this bill may be the impetus to a much-needed breakthrough in the delivery of health care services to people in our rural areas.

Although my remarks today will relate to the medicare aspects of H.R. 8422, I would like to express by belief that our medicaid recipients who will be served by these clinics undoubtedly will benefit greatly from this far-reaching legislation, and I am delighted that the Ways and Means Committee and our colleagues on the Interstate and Foreign Commerce Committee once again have demonstrated a high degree of cooperation in enabling this bill to reach the floor today.

Last year, the chairman of our Health Subcommittee, DAN ROSTENKOWSKI, went with me to visit rural health clinics in my own State of Tennessee. We observed, firsthand, how physician assistants and nurse practitioners could provide primary and emergency care of extremely high quality to many citizens—young and old—who otherwise would not have access to such treatment. Community support and acceptance of these clinics was indicated by virtually all the people we spoke with—the people who use these clinics and depend on them to provide medical care to their families.

Unfortunately, many of these clinics are not eligible for medicare reimbursement because medicare presently does not pay for medical services provided by the trained physician assistants and nurse practitioners who staff these clinics. The services provided to medicare beneficiaries in such cases often are paid for out-of-pocket by the elderly beneficiaries. Although most of them are financially "strapped," they pay their monthly part B premiums like all other program beneficiaries. But, since these people are unfortunate enough to be living in areas where reimbursable services are not available, the term "beneficiary" takes on a very hollow meaning. The services provided by these clinics for those who are unable to pay must now be paid for by grants and still others simply are written off as bad debts.

Unfortunately, some of these clinics may be forced to close within the next few months. In part this is because their grants, particularly those from the Appalachian Regional Commission, are due to expire. It became clear to our Health Subcommittee that most of those clinics, and other State and locally funded clinics, can only continue to operate if medicare reimbursement is made available for the services of these physician assistants and nurse practitioners, and for the supplies provided by clinics.

The bill, H.R. 8422, would make payment to clinics on the basis of costs incurred only for services already covered under medicare, when these services are provided to beneficiaries. The clinics would have to meet standards set forth in the bill. Reimbursement would be made for any service which would otherwise be covered under the medicare program if provided directly by a physician.

The bill will allow medicare to pay for services provided by primary care practitioners in rural clinics when there is a physician available on a full-time basis and in clinics where only physician backup services are available. Physician supervision and guidance would be required, but only for services covered under the medicare program, rather than all services provided in the clinics.

Our committee also recognized that there may be a need for similar coverage in certain urban medically-underserved areas. We therefore adopted an amendment that would direct the Secretary to conduct a broad-scale demonstration project that will help us find answers to questions concerning appropriate staffing of such clinics, the best methods of reimbursement, compensating physicians who provide services, and similar important but thorny questions. I believe that such a demonstration project is a wise and potentially valuable way to proceed at this time.

Our committee agreed, in addition, to adopt an amendment that would direct the Secretary to develop and carry out demonstration projects to provide reimbursement for services provided in organized centers offering comprehensive out-patient mental health services.

In conclusion, Mr. Speaker, I would strongly recommend that my colleagues enact this legislation, that will enable our elderly in rural medically-underserved areas to receive the kind of care they already are entitled to, and which they desperately need.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to my colleague, the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I rise in support of the legislation and would like to associate myself with the remarks of the gentleman from Tennessee (Mr. DUNCAN). I wholeheartedly agree with this statement.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding.

I support this legislation.

In addition to others to whom credit is due, I would also like to acknowledge the great debt of the committee and this legislation to the late Dr. Edgar Beddingfield of Wilson, N.C.

Prior to his untimely death earlier this year, Dr. Beddingfield had testified very helpfully on this improvement in health services to the rural communities. He spoke from his professional experience in serving his patients in eastern North Carolina as well as from his background in working with North Carolina Gov. James B. Hunt and former Gov. James E. Holshouser. He testified to the viability of using health care extenders who worked in the absence of, but under the professional guidance and supervision of a licensed physician.

That standard is an important improvement, crucial to the quality and access of health care in rural areas. This bill is a tribute to his testimony.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Tennessee (Mr. DUNCAN) for yielding me this time. Again I want to thank the chairman of our subcommittee, the gentleman from Florida (Mr. ROGERS), as well as the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS), the gentleman from Illinois (Mr. ROSTENKOWSKI), chairman of the Subcommittee on Health of the Committee on Ways and Means, and the gentleman from Tennessee (Mr. DUNCAN), ranking member of the Ways and Means Health Subcommittee for the excellent work they have done in connection with this legislation.

Mr. Speaker, in my district we have many of these clinics. I have been at the dedication of some of them. They render excellent care to people in isolated areas. I have been in mountainous areas and valleys where actually the surrounding mountains were as steep as a cat's face, and very difficult to get in or out of, and nurses and physicians' assistants go into these areas, and they give wonderful care.

In one section of my district, the Frontier Nursing Service has a hospital at Wendover, Ky., in Leslie County. As it happens, one of the Members of the Congress, Hon. JOHN BRECKINRIDGE, had a relative who established this wonderful service that is known throughout the Nation. Nurses are trained in midwifery in this area, and they go out through eastern Kentucky, often delivering youngsters in the home. They have rendered great service.

By this legislation 100 percent of the care of the very poor patients will be paid for by medicaid. Of course, medicare pays 80 percent. But it will be of great assistance.

Mr. Speaker, I support the joint committee amendment to H.R. 8422—which provides for reimbursement of rural health clinic services under the medicare and medicaid programs.

This bill has the potential of increasing access to health care for more than 30 million Americans who live in small towns and rural areas which are medically underserved and which have clinics—or develop clinics—that can be reimbursed under this legislation.

Moreover—this bill also provides demonstration authority to pay for comparable services in medically underserved urban areas, thus reaching several million more Americans in urban areas.

Mr. Speaker, I take particular interest in this bill because I am well aware of the lack of health services in many rural areas. As a representative of a rural district—and having practiced medicine for many years in southeastern Kentucky before coming to Congress—I can assure my colleagues that this legislation is needed.

In fact—I introduced my own proposal in April of this year which is very smiliar to the legislation we are considering today. I would like to mention the four main features of my bill—H.R. 6259 which are embodied in H.R. 8422.

First. H.R. 8422 and my legislation both provide for reimbursement to rural health clinics for the services provided by nurse practitioners and physician assistants—as long as those services are provided under the general supervision of a physician—and as long as such practice is consistent with State law. The reimbursement procedure in my bill was somewhat different than H.R. 8422—but the general approach of paying for costs incurred while providing services—is the same.

However, H.R. 8422 uses the term "primary care practitioner" to refer to physician assistants and nurse practitioners—and I do not think this is the best choice of terminology. It is too easy to confuse that term and to construe it to include physicians. Therefore I hope to adopt the dual terms in conference.

A second feature of my bill which is embodied in H.R. 8422 is the inclusion of physician-directed clinics. Earlier versions of this proposal applied only to clinics staffed by nurse-practitioners and physician assistants—and part-time physicans. I believe it is essential to allow an opportunity for physician-directed clinic to be eligible for this type of reimbursement if they choose to meet the conditions of the bill.

A third provision of my bill which is included in H.R. 8422 is the urban demonstration authority. I believe it is only fair to permit the secretary to test this reimbursement approach in urban areas—where there are medically underserved areas as much in need as some rural areas.

Mr. Speaker, the final distinguishing feature of my bill was the expansion of covered services to include preventive health services. I have long advocated the importance of incorporating the preventive approach in our health care delivery system—and I believe such an emphasis could well prove cost-effective in the long run.

I am pleased that the committee saw fit to include in the committee report language directing HEW to undertake a demonstration project to reimburse clinics for preventive services. The committee expects that the Secretary will conduct this demonstration in both rural and the urban demonstration clinics—and that a broad range of services should be included.

The information gained from this preventive services demonstration will be of great assistance to our committee and the Congress in evaluating the appropriateness of including coverage for these services under Federal health programs.

At another point in the debate—I expect to reaffirm the committee's intent with regard to this demonstration authority.

In addition to these four provisions, Mr. Speaker, the committee bill also in-

cludes a demonstration authority for comprehensive outpatient mental health center services. I support the intent of this provision as long as we can be assured that the Secretary will select the clinics carefully—to insure that the staff is appropriately qualified to deliver high quality care.

Finally, Mr. Speaker, I would like to emphasize my support for expanding this legislation to include payment under both the medicare and medicaid programs. The poor and elderly who are beneficiaries of these health programs in rural areas deserve the same opportunity to receive needed health care as those who are in less remote communities. I urge favorable consideration of this legislation which will go a long way toward improving access to health care for millions of Americans.

I would like to direct a question to my distinguished friend, the gentleman from Florida (Mr. ROGERS) at this time, Mr. Speaker, if I may have his attention.

Mr. Speaker, I note that the bill before us today is slightly different than the version reported by the Commerce Committee—which included the Commerce Committee report.

I am particularly interested in assuring that the language of our committee report which directed HEW to undertake demonstration projects to reimburse clinics for provision of preventive health services be considered part of the legislative history of this bill. As you remember—there was a good deal of support for such a preventive services demonstration.

Can my good friend the chairman, Mr. ROGERS, assure me that we still intend for HEW to go ahead with this demonstration as outlined in our committee report?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I would say the answer to that is absolutely, yes. We do expect them to go ahead. They did make a positive commitment. The committee felt strongly that this should be done, and I would expect them to honor the commitment that they have made to us that they would proceed.

Mr. CARTER. I thank the distinguished gentleman very much for his assurances.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. If I could also direct a question to the gentleman from Florida (Mr. ROGERS), I notice that in the bill it provides that HEW will require that the clinics have specialized services provided by hospitals available. Is that to be interpreted as that the services will need to be supplied at the location of the clinic, or is it by some sort of cooperative agreement where some services could be provided at that location or could be provided at the hospital itself?

Mr. ROGERS. If the gentleman will yield, I think what the gentleman is interested in is there would be referral arrangements.

Mr. GARY A. MYERS. Further on that question, I am aware of some problems that have occurred with the community mental health programs in which some of these programs have run into trouble keeping the Federal money because local hospitals have been unwilling to comply with the Federal requirements of reviewing their accounting, and setting aside certain facilities. Is there any way in which a clinic, if they do not get cooperation from local hospitals, could continue to function, or are they at the blessing of the local hospital for accepting these conditions?

Mr. ROGERS. Medicare is an entitlement program, not a grant but a program. Under medicaid the State gets a certain amount, but the State matches that.

Mr. GARY A. MYERS. The gentleman sees no problem in a clinic which wished to perform these functions running up against a local hospital which was not cooperative in providing specialized services or the information required by Federal regulations, blocking them from adequate service?

Mr. CARTER. Mr. Speaker, if the distinguished gentleman will yield, I will say that since there is a physician on call either at all times or part time, there would be no difficulty whatever in a clinic's being recognized by a hospital. Certainly I feel that their patients would be accepted by the hospital.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, further I think we simply want some pattern of referral established. It does not mean that the hospital has to accept every patient, but there would be services provided.

Mr. GARY A. MYERS. The hospital is not going to be required to have a certain number of beds set aside for the clinics or other requirements such as we find under present HEW regulations?

Mr. ROGERS. No.

Mr. CARTER. Mr. Speaker, if the gentleman will yield further, I believe he might have this a little bit confused with our comprehensive mental health program by which some hospitals have allocated a certain number of beds for mental patients. Actually in most areas I know of this has been done by local hospitals but not necessarily with a local health clinic, but I feel sure that there would be no problem in referring such a mental case or a person with a psychological problem to a hospital.

Furthermore, this provides for demonstration mental health clinics in addition.

Mr. GARY A. MYERS. I would say to the gentleman it is not a matter of confusion on my part but of concern over some confusion that has existed over the relationship of the mental health organizations and assuredness of care in a local hospital. I was just raising the question whether that was a possible problem at this point, and if the committee is satisfied that HEW will not have any such roadblocks I would appreciate knowing it.

Mr. CARTER. As a physician associated with some of these clinics I see no problem in that area.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, on September 23, the Department of Health, Education, and Welfare proposed rules to implement sections of the National Health Services Development Act of 1974, which required them to establish national guidelines for health planning Among the proposed regulations are those which establish minimum bed occupancy requirements, and maximum "beds to population" ratios. As a result, it appears that southern Minnesota, which is almost entirely rural, will have at least 30 percent of its hospital facilities closed down.

I am confused when I note then that the primary objective of the immediate bill before us, H.R. 8422, is to encourage medical care to underserved areas. Would the gentleman from Florida be able to tell me whether or not he is familiar with HEW's proposed new regulations, and whether or not they will not simply neutralize the accomplishments of this bill? Would the gentleman from Florida respond to this?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, the guidelines that have been established will not directly close any hospital. They will simply help the health planning agencies identify excess hospital capacity and prevent hospitals from making unnecessary capital investments. The guidelines do not close the hospital. It simply will not permit new capital investment.

Mr. HAGEDORN. So we are going to starve them out of existence.

Mr. ROGERS. No. It just says they will not build more beds if they do not have a fair occupancy rate in the hospital. As the gentleman may know, we have 100,000 too many hospital beds in the Nation. The guidelines just say that where we have beds in excess, let us not build more. That is basically what the guidelines are trying to get at.

I understand the gentleman's concern. The health planning agencies are not geared to the closing of hospitals, as the gentleman implied, but are in a position to say let us not build beds if they are not occupying the ones they already have.

We will have oversight hearings on the guidelines that have been issued and I would be glad to be in touch with the gentleman concerning his interest in the matter.

Mr. HAGEDORN. I would hope the chairman would because that is not the way the newspapers have reported it.

Mr. ROGERS. I am sure the gentleman knows we cannot always tell everything from the newspapers.

Mr. HAGEDORN. Mr. Speaker, I would simply like to state, for the record, that I am very concerned about the impact of the new HEW regulations upon rural communities, especially upon those which have exerted an effort in the past

to provide for themselves adequate health care facilities. I believe that the savings that HEW hopes to effect are illusory and certain to be consumed by legislation such as H.R. 8422 and by increased emergency medical services funds.

I am also concerned about the overriding objective of "equalized access" that HEW seems to be pursuing regardless of how that goal is to be achieved, and regardless of the level at which it is to be achieved. Finally, I am concerned about the impact upon the nature of family practice in this country if large numbers of rural hospitals are closed down. Rather than encouraging an environment in which the family practice is centered around the local hospital, it seems as if HEW would prefer that we go the way of the British Health Service in which the general practitioner cannot work in hospitals and must, rather, make references only to big-city specialists.

With all due respect to the gentleman from Florida (Mr. ROGERS), who is acknowledged by all to be one of the true experts in the field of health care in this body, I do not believe that the regulations are addressed only toward new capital construction. Neither the regulations, nor the discussion accompanying them, refer to capital construction. They state:

> . . . It is clear that conversion of excess acute care hospital beds to more appropriate uses, or the closure of excess capacity, can conserve resources. . . . All plans established by HSA's thereafter will be required to be consistent with the National Guidelines and will be reviewed by the Secretary on that basis. It is intended that Health Systems Plans establish goals and set forth plans designed to achieve the quantitative levels specified within five years.

The guidelines state:

> There should be less than four non-Federal, short-term hospital beds for 1,000 persons in a health service area; except under extraordinary circumstances.

I reiterate my concern about the impact of these regulations upon the delivery of health care in rural America.

Mr. ROGERS. Mr. Speaker, we will certainly look into that and will be going into that this Wednesday as we do some oversighting on those proposed guidelines.

Mr. HAGEDORN. I thank the gentleman from Florida.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PHILIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I do not oppose any definitive action, given the rules today; but I would urge the House conferees to examine the various titles of the Social Security Act, titles that include one or another, but not all the various offshore areas. In some instances it would not be appropriate and in some instances these areas should be treated alike.

Most importantly, I would urge the conferees to examine the various titles to insure that the Northern Mariana Islands, currently a part of the Pacific Trust Territories, but within the next 30 days or so will begin the establishment of their own administrative mechanisms, I would hope when this item gets to conference that particular emphasis will be given to make a judgment, first, as to whether or not there is unintended discrimination between one or another of the offshore areas.

Secondly, and perhaps most fundamentally, to see that the specific interests of the Northern Mariana Islands is given the most sensitive treatment; that because of the Northern Mariana covenant there is language that indicates that if they are not specifically mentioned, perhaps then they would not be included in the legislation.

This was intended to protect them on certain major policies, like cock fighting and the like, but it was not intended to preclude them from programs that are available to our fellow Americans generally.

Mr. Speaker, I would urge the conferees to give their best attention to that particular problem.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, this bill has some very positive implications for the health care of people in rural areas. I want to ask the gentleman about the definition of rural health clinics. In my area of Kansas and other rural areas, we have the position where physician extenders may be sent out to the hinterlands by other physicians. Do they have to operate out of a "rural health clinic"? Can they operate out of a hospital or a facility not a medical facility and still be eligible for medicare or medicaid funds?

Mr. ROSTENKOWSKI. Mr. Speaker, if these practitioners are providing services in a hospital, they are already covered.

In order for the services of the nurse practitioner or physician assistant to be reimbursed, that nurse practitioner or physician assistant must be practicing in a clinic, that is, a facility which meets certain standards, including certain health and safety standards.

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 additional minute to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield further, that particular facility, the rural health clinic, must meet the other criteria contained in the act?

Mr. ROSTENKOWSKI. That is exactly right.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield further, I would hope in reading this bill and trying to determine the concept of supervision that a physician must keep over his physician extenders, or what they call primary health care people, that the HEW and other people administering this bill do not get so bogged down in confusing regulatory positions that we will not, in fact, have the type of medical care equal to that in this bill. I fear that past experience with the HEW bureaucracy, if repeated here, could actually discourage the utilization of physician extenders and assistants. I hope I am wrong, because this program as enunciated under this bill, if implemented properly, could work wonders in improving rural health care.

Mr. Speaker, I commend the gentleman. It is a beautiful concept in rural areas, but perhaps we can maintain it as cleanly from over-regulation as possible. I hope the people in these departments are listening.

Mr. FORD of Tennessee. Mr. Speaker, those of us who come from States where many people depend on rural clinics for health care services are especially pleased by the expeditious way in which this legislation has been handled.

It will help greatly to assure availability of care to many in our rural areas by providing for medicare and medicaid payments to rural clinics for services of nurse practitioners and physicians' assistants without the need for direct supervision by a physician. Many of these rural clinics were established in response to a lack of physicians' services.

Without action on this bill, the continued existence of many of our rural clinics is threatened, so it has been essential that we work as quickly as possible. Though there might be some things that some of us would like to see worded differently, we hope for speedy passage of this bill because of the urgent need for it.

I would like to comment on one section, which has caused some concern. The American Nurses' Association has given its support to the bill but has seriously questioned the requirement for physician supervision as it applies to nurses. I would like to stress that this supervisory provision applies to "covered services" which means those services otherwise covered under medicare and medicaid when furnished by a physician or as an incident to a physician's services.

Of course, many services provided by nurses are not classifiable as medical. They often involve, for example, health education, preventive care, and counseling. I want to stress that it is not the intent of this bill to bring such services which are nonmedical within its purview.

Mr. BAUCUS. Mr. Speaker, like other rural States, Montana has many isolated rural communities which are unable to attract or keep physicians. Most of the health services needed in these small communities could be properly administered by specially trained nonphysician personnel under the direction of a physician. However, because medicare coverage presently does not include reimbursement for nonphysician services, clinics in some rural areas cannot survive and rural residents are denied health care they desperately need.

H.R. 8422 would amend title XVIII of the Social Security Act to include medicare reimbursement to rural health clinics for services provided by nurse practitioners and physicians' assistants who work under the general supervision of a physician. For States like Montana it would mean that for the first time elderly rural residents would have access to medicare benefits which, because of

their lack of mobility, they are effectively denied.

I think it is important to point out that this amendment which incidentally I cosponsored, does not expand reimbursable services, rather, the same services just become more available to the people who need them.

H.R. 8422 also addresses the similar and equally critical problem faced by citizens who live in urban medically underserved areas. It also provides for a workable project to evaluate the implications of providing reimbursements for outpatient mental health care.

We have moved too slowly in improving health care in this country. Passage of this amendment will mean that millions of older Americans who qualify for medicare will receive the health care they need and deserve.

Mr. SIMON. Mr. Speaker, I rise in support of H.R. 8422. This legislation, which is similar to proposals I have cosponsored, would provide medicare and medicaid reimbursement for rural health clinic services.

Many rural areas have no physicians. In these communities, many of the primary health care services traditionally performed by doctors are furnished by nurse practitioners and physician assistants. The Federal Government does not provide reimbursement for these services under medicare, and does not require State reimbursement under medicaid.

This lack of medicare and medicaid coverage discourages many people living in rural areas from getting proper care. They just cannot afford it on their own. I know personally that this situation applies to many of my constituents in southern Illinois and it inflicts unneeded hardship on them.

Passage of H.R. 8422 will help remedy this situation. The bill will extend medicare and medicaid reimbursement to cover primary care and diagnostic service provided by physician assistants and nurse practitioners in rural health clinics. In order to qualify for this special reimbursement, a rural health clinic must be located in an area designated by the Secretary of Health, Education, and Welfare as either "medically underserved" or as a "health manpower shortage area."

This expansion of medicare and medicaid to reimburse physician assistants and nurses will only apply in States where they are already allowed to perform some primary care and diagnostic services. Some changes in State laws may be needed to fulfill the purposes of this bill. Hopefully, its passage will provide the incentive for such changes.

Mr. Speaker, the health needs of our rural areas are extensive and critical. Some simple statistics show the wide gap in the availability of health care between rural and urban areas.

Only 7.3 percent of this Nation's physicians are located in nonmetropolitan areas. Yet they are expected to serve the health needs of the 17 percent of our population that lives in these areas. In the country as a whole, there is an average of 142.1 private doctors for every 100,000 people. In nonmetropolitan counties with less than 10,000 inhabitants, the average drops to 48.0. The figures are not much better for counties with populations of 10,000 to 24,999 and 25,000 to 49,999. In these areas, the average number of doctors per 100,000 people is 57.6 and 82.7, respectively.

Because of this doctor shortage, rural counties such as those in southern Illinois are—as I mentioned earlier—often served by nurses instead of physicians. H.R. 8422 recognizes this situation and attempts to deal with it.

Reimbursement of rural health clinic services will be especially helpful in the rural areas of my State of Illinois. Between 1960 and 1972, the rural counties in 28 States suffered a decline in the number of physicians. The greatest decline was in Illinois. In this period, the number of physicians in rural Illinois dropped from 160 to 106—a startling 33.8 percent decline.

According to a variety of studies, older people and poorer people tend to be sicker than other segments of the population. These people reside disproportionately in rural areas, which increases the need for affordable health care in these areas. This need just is not being met. Furthermore, people living in rural areas tend to have less health insurance coverage than urban residents, and when they are covered, they tend to get less for their money.

H.R. 8422 is not going to turn around the health situation in rural areas in a single stroke. In the long run, the biggest health improvements will be achieved by raising the standard of living in rural areas through progress in such areas as education, employment, housing, and sanitation.

The passage of H.R. 8422 will, however, recognize the realities of health care needs in rural areas, and deal with some of them in a forthright and constructive manner.

Mr. Speaker, I urge my colleagues to support this important legislation.

Ms. MIKULSKI. Mr. Speaker, H.R. 8422 is, in a sense, landmark legislation. It would for the first time make possible medicare-medicaid reimbursement to rural clinics for health services without a requirement for direct supervision by a physician.

This means that the services provided by nurse practitioners and physicians' assistants can be reimbursed whether or not there is an onsite physician. It should help greatly to insure the availability of care for segments of our population that too often lack adequate health services.

However, I would like to comment on one aspect of this bill that I think requires clarification. This relates to the matter of registered nurse supervision by a physician. While the bill does not require onsite M.D. supervision, it provides for general supervision by an M.D. This should not be construed to imply that such supervision extends to ordinary nursing services, but only to the medically oriented services covered by this bill.

The services referred to in this legislation are medical services as covered under medicare and medicaid and services "furnished as incident to a physician's professional service."

The registered nurse is licensed under State law as an independent health professional. It is not clear to me that the term "supervisory physician" as it applies to the services of nurses needs to be used as it is in this legislation.

The American Nurses' Association has serious concerns about this, but is supporting this bill because of its importance to the continuation of rural clinics. I would note that the provision for M.D. supervision of certain services rendered by nurses, as provided for in this bill, should not be construed as setting a precedent for future legislation.

Mr. SANTINI. Mr. Speaker, I rise in support of the bill now before us, which would allow medicare to reimburse physician assistants and nurse practitioners for care administered when a bona fide physician cannot be present.

In Nevada, towns are often hundreds of miles apart, and doctors are not always readily available. Moreover, we have many elderly people who have no means of traveling such great distances just to visit a physician.

Thus, the physician assistant, with proper reimbursements from medicare, can play a useful role in supplying day-to-day medical services to our rural areas.

The present law, however, prohibits medicare reimbursements for physician assistants unless a licensed physician is present when the care is administered.

This runs entirely contrary to the "physician extender" concept which our isolated, less-populated areas so desperately need, and which our House Commerce Committee was so quick to approve last month.

Not only would the bill provide for broader physician assistant services, but it would also insure that many rural and inner city clinics will have the necessary funds to remain open during the coming year.

Traditionally, these clinics have been funded through various agencies at all levels of government and through the communities in which the clinics are located. But, funds are rapidly running out, and when they do many clinics will be forced to close their doors.

Mr. Speaker, my dear colleagues, I ask you to give this bill your support so thousands of people in cities big and small can have easy access to qualified medical care.

Thank you.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 8422, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8422, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

TECHNICAL CORRECTIONS ACT OF 1977

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6715) to correct technical and clerical mistakes in the tax laws, as amended.

The Clerk read as follows:

H.R. 6715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Technical Corrections Act of 1977".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

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(i) Inclusion in gross estate of stock transferred by the decedent where the decedent retains or acquires voting rights.
(j) Amendments relating to individual retirement accounts, etc., for spouse.
(k) Provisions relating to treatment of joint interests.
(l) Amendments relating to orphans' exclusion.
(m) Disclaimer by surviving spouse where interest passes to such spouse.
(n) Amendments relating to tax on generation-skipping transfers.
(o) Adjustment in income tax on accumulation distributions for portion of estate and generation-skipping transfer taxes.
(p) Relief of executor from personal liability in the case of reliance on gift tax return.
(q) Amendment of governing instruments to meet requirements for gifts of split interest to charity.
(r) Indexing of Federal tax liens.
(s) Clerical amendments.
Sec. 4. Corrections of punctuation, spelling, incorrect cross references, etc.
(a) Erroneous cross references in investment credit.
(b) Prepaid legal services.
(c) Amendments relating to sections 219 and 220.
(d) Accrual accounting for farm corporations.
(e) Amendments of section 911.
(f) Transition rule for private foundations.
(g) Lobbying by public charities.
(h) Amendments to foreign tax provisions.
(i) Amendments to DISC provisions.
(j) Amendments relating to deadwood provisions.
(k) Capital loss carryovers.
(l) Amendments relating to certain aircraft museums.
(m) Inspection by committee of Congress.
(n) Amendment of section 6501.
(o) Conforming amendments to new definition of taxable income.
(p) Conforming amendments to repeal of section 317 of Trade Expansion Act of 1962.
(q) Effective date.

SEC. 2. TECHNICAL AMENDMENTS TO INCOME TAX PROVISIONS AND ADMINISTRATIVE PROVISIONS.

(a) AMENDMENTS RELATING TO RETENTION OF PRIOR LAW FOR RETIREMENT INCOME CREDIT UNDER SECTION 37(e).—

(1) CLARIFICATION THAT SPOUSE UNDER AGE 65 MUST HAVE PUBLIC RETIREMENT SYSTEM INCOME.—Paragraph (2) of section 37(e) (relating to election of prior law with respect to public retirement system income) is amended by striking out "who has not attained age 65 before the close of the taxable year" and inserting in lieu thereof "who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B))".

(2) CLARIFICATION THAT QUALIFYING SERVICES MUST HAVE BEEN PERFORMED BY TAXPAYER OR SPOUSE.—Subparagraph (B) of section 37(e)(4) (defining retirement income) is amended by inserting "and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services)" after "before the close of the taxable year".

(3) DISREGARD OF COMMUNITY PROPERTY LAWS.—Subsection (e) of section 37 (relating to election of prior law with respect to public retirement system income) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) COMMUNITY PROPERTY LAWS NOT APPLICABLE.—In the case of a joint return, this subsection shall be applied without regard to community property laws."

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 1976.

(b) AMENDMENTS RELATING TO THE MINIMUM TAX.—

(1) SPECIAL RULES FOR MINIMUM TAX OF SUBCHAPTER S CORPORATIONS AND PERSONAL HOLDING COMPANIES.—

(A) Paragraph (1) of section 57(a) (relating to adjusted itemized deductions) is amended by striking out "An amount" and inserting in lieu thereof "In the case of an individual, an amount".

(B) The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1), (3), and" and inserting in lieu thereof "Paragraphs (3) and".

(C) Subsection (i) of section 58 (defining corporations) is amended by striking out "Except as provided in subsection (d)(2), for purposes of this part" and inserting in lieu thereof "For purposes of this part (other than section 57(a)(9))".

(2) DIVISION OF $10,000 AMOUNT AMONG MEMBERS OF CONTROLLED GROUPS.—Subsection (b) of section 58 (relating to members of controlled groups) is amended to read as follows:

"(b) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $10,000 amount specified in section 56 shall be divided among the component members of such group in proportion to their respective regular tax deductions (within the meaning of section 56(c)) for the taxable year."

(3) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 57(b) (relating to computation of adjusted itemized deductions in the case of estates and trusts) is amended to read as follows:

"(2) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted

itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b),

"(iii) the deduction for casualty losses described in section 165(c)(3),

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), and

"(v) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends,

exceeds 60 percent (but does not exceed 100 percent) of the adjusted gross income of the estate or trust for the taxable year.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this paragraph, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(i) the deductions for costs paid or incurred in connection with the administration of the estate or trust, and

"(ii) to the extent provided in subparagraph (C), the deductions under section 642(c),

shall be treated as allowable in arriving at adjusted gross income.

"(C) TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS.—For purposes for this paragraph, the following deductions under section 642(c) (relating to deductions for amounts paid or permanently set aside for charitable purposes) shall be treated as deductions allowable in arriving at adjusted gross income;

"(i) deductions allowable to an estate,

"(ii) deductions allowable to a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B),

"(iii) deductions allowable to a trust which is a pooled income fund within the meaning of section 642(c)(5), and

"(iv) deductions allowable to a trust which are attributable to transfers to the trust before January 1, 1976."

(4) SECTION 691(C) DEDUCTION NOT TAKEN INTO ACCOUNT FOR DETERMINING ADJUSTED ITEMIZED DEDUCTIONS.—Paragraph (1) of section 57(b) is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) the deduction allowable under section 691(c),".

(5) ALLOCATION OF ITEMS OF TAX PREFERENCE IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (1) of section 58(c) (relating to estates and trusts) is amended by striking out "on the basis of the income of the estate or trust allocable to each" and inserting in lieu thereof "in accordance with regulations prescribed by the Secretary".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 301 of the Tax Reform Act of 1976.

(c) SICK PAY.—

(1) IN GENERAL.—Section 105(d) is amended by striking out paragraphs (4) and (6), by redesignating paragraph (5) as paragraph (4) and paragraph (7) as parargaph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) APPLICATION OF PARAGRAPHS (2) AND (3).—In the case of a joint return—

"(i) paragraph (2) shall be applied separately with respect to each spouse, but

"(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

"(C) DETERMINATION OF MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 143(a).

"(D) JOINT RETURN DEFINED.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

(2) CONFORMING AMENDMENT.—Subsection (c)(3) of section 505 of the Tax Reform Act of 1976 (relating to disability retirement) is amended by striking out "section 105(d)(5)" and inserting in lieu thereof "section 105(d)(4)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 105(d) of the Internal Revenue Code of 1954 as such section was amended by section 505(a) of the Tax Reform Act of 1976.

(d) NET OPERATING LOSSES.—

(1) AMENDMENT OF SECTION 172(2)(1)(B).—The second sentence of subparagraph (B) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (G)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to losses incurred in taxable years ending after December 31, 1975.

(e) EFFECTIVE DATE FOR FISCAL YEAR TAXPAYERS FOR CONSTRUCTION PERIOD INTEREST AND TAXES.—Paragraph (1) of section 201(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,".

(f) CLARIFICATION OF PROVISIONS PROVIDING TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.—

(1) DEFINITION OF CERTIFIED HISTORIC STRUCTURES.—Subsection (d) of section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

"(A) is listed in the National Register, or

"(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(2) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(A) any district listed in the National Register, and

"(B) any district—

"(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register."

(2) AMENDMENT OF CROSS REFERENCES.—Subsection (g) of section 191 (relating to cross references) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (16 U.S.C. 470 et seq.).

"(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250."

(3) SPECIAL RULES FOR RECAPTURE OF AMORTIZATION DEDUCTION.—

(A) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(i) by striking out "190, or 191" the first place it appears and inserting in lieu thereof "or 190" and

(ii) by striking out "190, or 191" the second and third place it appears and inserting in lieu thereof "190, or (in the case of property described in paragraph (3)(C)) 191".

(B) Subparagraph (D) of section 1245(a)(3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, or 191" and inserting in lieu thereof "or 190".

(C) Paragraph (3) of section 1250(b) (relating to depreciation adjustments) is amended by striking out "190 or 191" and inserting in lieu thereof "or 190".

(4) STRAIGHT LINE METHOD IN CERTAIN CASES.—

Subsection (n) of section 167 is amended to read as follows:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply, and

"(B) the term 'reasonable allowance' as used in subsection (a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

"(2) EXCEPTIONS.—The limitations imposed by this subsection shall not apply—

"(A) to personal property, and

"(B) in the case of demolition or substantial alteration of a structure located in a registered historic district, if—

"(i) such structure was not a certified historic structure, and

"(ii) before the beginning of the demolition or substantial alteration of such structure, the Secretary of the Interior certified to the Secretary that such structure is not of historic significance to the district.

"(3) DEFINITION.—For purposes of this subsection, the terms 'certified historic structure', 'registered historic district', and 'certified rehabilitation' have the respective meanings given such terms by section 191(d)."

(5) DEMOLITION OF CERTAIN HISTORIC STRUCTURES.—Subsection (b) of section 280B (relating to special rule for registered historic districts) is amended to read as follows:

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district (as defined in section 191(d)(2)) shall be treated as a certified historic structure unless the Secretary of the Interior has certified, before the beginning of the demolition of such structure, that such structure is not of historic significance to the district."

(6) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

(A) Paragraph (1) of section 167(o) (relating to substantially rehabilitated historic property) is amended by inserting "(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)" after "substantially rehabilitated historic property".

(B) Paragraph (2) of section 167(o) is amended by striking out "section 191(d)(3)" and inserting in lieu thereof "section 191(d)(4)".

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the respective provisions of the Internal Revenue Code of 1954 to which such amendments relate, as such provision were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976.

(g) FOREIGN CONVENTIONS.—

(1) DEDUCTIONS NOT DISALLOWED TO EMPLOYER WHERE EMPLOYEE INCLUDES AMOUNTS IN GROSS INCOME.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount includible in the gross income of such individual if such person treats such amount as so includible for purposes of part III of suchapter A of chapter 61 (relating to information returns)."

(2) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and inserting in lieu thereof "at least one-half".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

(h) CLARIFICATION OF LAST SENTENCE OF SECTION 337(c)(2).—

(1) IN GENERAL.—Subsection (c) of section 337 (relating to limitations on application of section 337) is amended by striking out the last sentence of paragraph (2) and by adding at the end of such subsection the following new paragraph:

"(3) SPECIAL RULE FOR AFFILIATED GROUP.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to a sale or exchange by a corporation (hereinafter in this paragraph referred to as the "selling corporation") if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation with respect to which section 333 applies.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) The term 'distributee corporation' means a corporation in the chain of includible corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A)(i).

"(ii) The term 'chain of includible corporations' includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includible corporations for purposes of section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). Such term includes, where appropriate, the common parent corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

(i) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

(1) AMENDMENTS OF SECTION 368(a)(2)(F).—

(A) The first sentence of clause (iii) of section 368(a)(2)(F) is amended—

(i) by striking out "more than 50 percent" and inserting in lieu thereof "50 percent or more"; and

(ii) by striking out "more than 80 percent" and inserting in lieu thereof "80 percent or more."

(B) The first sentence of clause (vi) of section 368(a)(2)(F) is amended by striking out "is not diversified within the meaning" and inserting in lieu thereof "does not meet the requirements".

(C) The second sentence of such clause (vi) is amended to read as follows: "If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B), clause (i) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange."

(D) Subparagraph (F) of section 368(a)(2) is amended by adding at the end thereof the following new clauses:

"(vii) For purposes of clauses (ii) and (iii), the term 'securities' includes obligations of State and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a-2(36)).

"(viii) In applying paragraph (3) of section 267(b) in respect of any transaction to which this subparagraph applies, the reference to a personal holding company in such paragraph (3) shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in such paragraph (3)."

(2) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall apply as if included in section 368(a)(2)(F) of the Internal Revenue Code of 1954 as added by section 2131(a) of the Tax Reform Act of 1976.

(B) Clause (viii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to losses sustained after September 26, 1977.

(j) AT RISK PROVISIONS.—

(1) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(c)(3) of the Tax Reform Act of 1976 is amended by striking out "section 465(c)(1)(B)" and inserting in lieu thereof "section 465(c)(1)(C)".

(2) CLARIFICATION OF SECTION 465(d).—Subsection (d) of section 465 (defining loss for purposes of the at risk provisions) is amended by striking out "(determined without regard to this section)" and inserting in lieu thereof "(determined without regard to the first sentence of subsection (a))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(k) AMENDMENTS RELATING TO USE OF ACCRUAL ACCOUNTING FOR FARMING.—

(1) AUTOMATIC 10-YEAR ADJUSTMENT PERIOD FOR FARMING CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING.—Paragraph (3) of section 447(f) (relating to coordination with section 481) is amended—

(A) by striking out "(except as otherwise provided in such regulations)", and

(B) by inserting "(or the remaining taxable years where there is a stated future life of less than 10 taxable years)" after "10 taxable years".

(2) AUTOMATIC 10-YEAR ADJUSTMENT FOR FARMING SYNDICATES CHANGING TO ACCRUAL ACCOUNTING.—If—

(A) a farming syndicate (within the meaning of section 464(c) of the Internal Revenue Code of 1954) was in existence on December 31, 1975, and

(B) such syndicate elects an accrual method of accounting (including the capitalization of preproductive period expenses described in section 447(b) of such Code) for a taxable year beginning before January 1, 1979.

then such election shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

(3) EXTENDING FAMILY ATTRIBUTION TO SPOUSE IN THE FARMING SYNDICATE RULES.—

(A) Subparagraph (E) of section 464(c)(2) (defining farming syndicate) is amended by striking out "(within the meaning of section 267(c)(4))" and inserting in lieu thereof "(or a spouse of any such member)".

(B) Paragraph (2) of section 464(c) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'family' has the meaning given to such term by section 267(c)(4)."

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (3) shall take effect as if included in section 447 or 464 (as the case may be) of the Internal Revenue Code of 1954 at the time of the enactment of such sections.

(l) EXTENSION OF CERTAIN PROVISIONS TO FOREIGN PERSONAL HOLDING COMPANIES.—

(1) SECTION 465.—Subsection (a) of section 465 (relating to deductions limited to amount at risk in case of certain activities) is amended—

(A) by striking out "In the case of a taxpayer (other than a corporation which is neither an electing small business corporation (as defined in section 1371(b)) nor a personal holding company (as defined section 542)) engaged" and inserting in lieu thereof "In the case of an individual engaged"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(2) SECTION 189.—Subsection (a) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(A) by striking out "an electing small business corporation (within the meaning of section 1371(b)), or personal holding company (within the meaning of section 542),."; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(3) SECTION 280.—Subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended—

(A) by striking out "Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)) and except" and inserting in lieu thereof "In the case of an individual, except"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 204(a) of the Tax Reform Act of 1976.

(B) The amendments made by paragraph (2) shall take effect as if included in the amendment made by section 201(a) of the Tax Reform Act of 1976.

(C) The amendments made by paragraph (3) shall take effect as if included in the amendment made by section 210(a) of the Tax Reform Act of 1976.

(m) DEFINITION OF CONDOMINIUM MANAGEMENT ASSOCIATION.—

(1) IN GENERAL.—Paragraph (2) of section 528(c) (defining condominum management association) is amended by striking out "as residences" and inserting in lieu thereof "by individuals for residences".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1973.

(n) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.—

(1) ADDITIONAL TAX TO APPLY ONLY TO RECOGNIZED GAINS.—

(A) IN GENERAL.—Subsections (a)(1), (a)(2), and (b)(1) of section 644 (relating to special rule for gain on property transferred to trust at less than fair market value) are each amended by striking out "gain realized" each place it appears and inserting in lieu thereof "gain recognized".

(B) SPECIAL RULE FOR SUBSTITUTED BASIS PROPERTY.—Subsection (d) of section 644 (relating to special rule for short sales) is amended to read as follows:

"(d) SPECIAL RULES.—

"(1) SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(2) SUBSTITUTED BASIS PROPERTY.—For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

"(A) the initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

"(B) subsections (a)(1)(B) and (b)(2) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

"(C) the amount determined under subsection (b)(2) with respect to such other property shall be allocated (under regulations prescribed by the Secretary) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property."

(2) TREATMENT OF NET OPERATING LOSSES, CAPITAL LOSSES, ETC., WHICH MAY AFFECT TRANSFEROR'S TAX IN OTHER YEARS.—Section 644(a)(2) (relating to additional tax on gain on property transferred to trust at less than fair market value) is amended by adding at the end thereof the following new sentence: "The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year."

(3) TECHNICAL AMENDMENT.—Paragraph (1) of section 644(f) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) (other than the 2-year requirement of paragraph (1)(A) thereof)".

(4) CONFORMING AMENDMENT TO REVISION OF SECTION 644.—Section 1402(b)(1) of the Tax Reform Act of 1976 (relating to holding period for long-term capital gains treatment) is amended by striking out subparagraph (K) thereof.

(5) EFFECTIVE DATES.—

(A) Except at provided in subparagraph (B), the amendment made by this subsection shall apply to transfers in trust made after May 21, 1976.

(B) The amendment made by paragraph (4) shall take effect on October 4, 1976.

(o) ALLOWANCE OF FOREIGN TAX CREDIT FOR ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Subsection (d) of section 665 is amended to read as follows:

"(d) TAXES IMPOSED ON THE TRUST.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'taxes imposed on the trust' means—

"(A) the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart) or

"(B) subject to paragraph (2), the amount of any income, war profits, or excess profits taxes which are imposed by any foreign country or possession of the United States for any taxable year of the trust,

and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) or (c) to any beneficiary.

"(2) SPECIAL RULES FOR FOREIGN TAXES.—

"(A) ELECTIONS TO TAKE FOREIGN TAX CREDIT.—Paragraph (1)(B) shall apply with respect to any taxes only if the trust is not a foreign trust and only if—

"(i) the trust chose the benefits of subpart A of part III of subchapter N for the taxable year of the trust for which the taxes imposed, and

"(ii) the beneficiary chooses the benefits of such subpart A for the beneficiary's taxable year in which the distribution to which such taxes were allocable includible in gross income.

"(B) SEPARATE COMPUTATIONS OF FOREIGN TAX CREDIT LIMITATIONS.—For purposes of applying paragraph (1)(B), the amount described therein shall be the amount determined after the separate application, with respect to the trust, of the limitations of sections 904 and 907 with respect to such taxes."

(2) SPECIAL RULE FOR FOREIGN TRUSTS.—Section 667 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES FOR FOREIGN TRUSTS.—In the case of amounts which are treated under section 666 as having been distributed by a foreign trust in a preceding taxable year, if the beneficiary chooses to have the benefits of subpart A of part III of subchapter N for the taxable year for which the distribution is includible in the beneficiary's income—

"(1) the income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States paid or accrued by such trust which are allocable to such amounts shall be treated as paid or accrued by the beneficiary in such taxable year,

"(2) an amount equal to the amount of the taxes treated as paid or accrued by the beneficiary by reason of paragraph (1) shall be included in the amount treated as having been distributed under subsection (b) or (c) of section 666 in a preceding taxable year,

"(3) for purposes of determining under paragraph (1) the amount treated as paid or accrued by the beneficiary, the beneficiary shall compute the limitations under sections 904 and 907 separately with respect to the beneficiary's distributions from such trust for such year, and

"(4) the items of income, deduction, and credit of the trust shall retain their charter to the extent necessary to apply paragraph (3)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions made in taxable years beginning after December 31, 1975.

(p) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—

(1) IN GENERAL.— Section 667 (relating to treatment of amounts deemed distributed by trust in preceding years) is amended by adding at the end thereof the following new subsection:

"(e) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempt interest."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

(q) LIMITATION ON ALLOWANCE OF PARTNERSHIP LOSSES IN THE CASE OF NONRECOURSE LOANS.—

(1) IN GENERAL.—The last sentence of section 704(d) (relating to limitation on allowance of partnership losses) is amended by striking out "the principal activity" and all that follows and inserting in lieu thereof "substantially all of the activities of which relate to the holding of real property (other than mineral property) for sale or rental."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to liabilities incurred after December 31, 1976.

(r) EXEMPT INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(1) TREATMENT OF TAX-EXEMPT INTEREST FOR PURPOSES OF THE 90-PERCENT AND 30-PERCENT TESTS.—Subsection (b) of section 851 (relating to limitations on the definition of regulated investment company) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (2) and (3), amounts excludable from gross income under section 103(a)(1) shall be treated as included in gross income."

(2) LOSSES ATTRIBUTABLE TO TAX-EXEMPT INTEREST WHERE STOCK IS HELD LESS THAN 31 DAYS.—Paragraph (4) of section 852(b) (relating to loss on sale or exchange of stock held less than 31 days) is amended to read as follows:

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) LOSS ATTRIBUTABLE TO EXEMPT-INTEREST DIVIDEND.—If—

"(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3)."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(s) AMENDMENTS RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) ANNUAL ACCOUNTING PERIOD.—Section 860 (relating to adoption of annual accounting period) is amended to read as follows:

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle—

"(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

"(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year.

Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976."

(2) AMENDMENT OF SECTION 856(c)(3)(D).—Subparagraph (D) of section 856(c)(3) is amended by inserting "(other than gain from prohibited transactions)" after "and gain".

(3) EXCISE TAX ON REIT UNDISTRIBUTED INCOME.—

(A) Paragraph (3) of section 6501(e) (relating to limitations on assessment and collection) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(B) Subsection (b) of section 1605 of the Tax Reform Act of 1976 (relating to technical amendments) is amended by striking out paragraph (1) thereof.

(C) Subparagraph (D) of section 1605(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(D) by striking out 'of chapter 43 tax for the same taxable years,' in subsection (c)(1) and inserting in lieu thereof 'of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year,'."

(4) CORRECTION OF CROSS REFERENCE.—Subparagraph (B) of section 859(b)(2) is amended by striking out "section 6601(c)" and inserting in lieu thereof "section 6601 (b)".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(t) AMENDMENTS RELATING TO TREATMENT OF FOREIGN INCOME.—

(1) FOREIGN TAX CREDITS NOT DISALLOWED ON CERTAIN DISTRIBUTIONS MADE BY POSSESSIONS CORPORATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 901(g) (relating to certain taxes paid with respect to distributions from possessions corporations) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation—

"(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

"(B)(i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

"(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized,

shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued."

(B) DEFINITION OF POSSESSIONS CORPORATION.—Paragraph (2) of section 901(g) (defining possessions corporation) is amended—

(i) by striking out "or during which section 931" and inserting in lieu thereof ", during which section 931", and

(ii) by inserting before the period at the end thereof the following: ", or during which section 957(c) applied to such corporation".

(C) EFFECTIVE DATES.—The amendment made by subparagraph (A) shall apply as if included in section 901(g) of the Internal Revenue Code of 1954 as added by section 1051(d)(2) of the Tax Reform Act of 1976. The amendments made by subparagraph (B) shall apply to distributions made after the date of the enactment of this Act in taxable years ending after such date.

(2) FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 904(b) (relating to treatment of capital gains for purposes of the foreign tax credit limitation) is amended by striking out "For purposes of subsection (a)—" and inserting in lieu thereof "For purposes of this section—".

(B) SOURCE RULE.—Subparagraph (C) of section 904(b)(3) is amended by striking out "For purposes of this paragraph, there" and inserting in lieu thereof "There".

(C) SOURCE RULE FOR LIQUIDATIONS OF CERTAIN FOREIGN CORPORATIONS.—Paragraph (3) of section 904(b) (relating to source rules for gain from the sale of certain personal property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) GAIN FROM LIQUIDATION OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (C) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1975.

(3) TREATMENT OF CERTAIN CAPITAL LOSS CARRYOVERS AND CARRYBACKS FOR PURPOSES OF THE LIMITATION FOR FOREIGN TAXES.—

(A) IN GENERAL.—Clause (iii) of section 904(b)(2)(A) (relating to treatment of capital gains of corporations for purposes of the foreign tax credit limitation) is amended by striking out "any net capital loss" and inserting in lieu thereof "for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a))".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(4) TREATMENT OF CAPITAL LOSS CARRYOVERS FOR PURPOSES OF FOREIGN LOSS RECAPTURE.—

(A) IN GENERAL.—Subparagraph (A) of section 904(f)(2) (defining overall foreign loss) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(B) FOREIGN OIL RELATED LOSSES.—Subparagraph (A) of section 904(f)(4) (relating to determination of foreign oil related loss where section 907 applies) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply—

(i) to overall foreign losses sustained in taxable years beginning after December 31, 1975, and

(ii) to foreign oil related losses sustained in taxable years ending after December 31, 1975.

(5) EFFECTIVE DATE FOR RECAPTURE OF FOREIGN OIL RELATED LOSSES.—

(A) IN GENERAL.—Paragraph (1) of section 1032(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) IN GENERAL.— Except as provided in paragraphs (2), (3), and (5), the amendment made by subsection (a) shall apply to losses sustained in taxable years beginning after December 31, 1975. The amendement made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (b)(2) shall apply to losses sustained in taxable years ending after December 31, 1975."

(B) FOREIGN OIL RELATED LOSSES.—Subsection (c) of section 1032 of the Tax Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(5) FOREIGN OIL RELATED LOSSES.—The amendment made by subsection (a) shall apply to foreign oil related losses sustained in taxable years ending after December 31, 1975."

(6) TRANSITIONAL RULES FOR CERTAIN MINING OPERATIONS.—The second sentence of paragraph (2) of section 1031(c) of the Tax Reform Act of 1976 is amended to read as follows: "In the case of a loss sustained in a taxable year beginning before January 1, 1979, by any corporation to which this paragraph applies, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to such loss under the principles of such section 904 (a)(1)."

(7) TRANSITIONAL RULES FOR RECAPTURE OF CERTAIN FOREIGN LOSSES.—

(A) COMPUTATION OF DEFICIT IN EARNINGS AND PROFITS FOR PURPOSES OF THE RECAPTURE OF CERTAIN FOREIGN LOSSES.—Paragraph (4) of section 1032(c) of the Tax Reform Act of 1976 (relating to limitation based on deficit in earnings and profits for purposes of the recapture of foreign losses) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, there shall be taken into account only earnings and profits of the corporation which (A) were accumulated in taxable years of the corporation beginning after December 31, 1962, and during the period in which the stock of such corporation from which the loss arose was held by the taxpayer and (B) are attributable to such stock."

(B) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

(i) Subsection (c) of section 1032 of the Tax Reform Act of 1976 (relating to effective dates for recapture of foreign losses) is amended by adding at the end thereof the following new paragraph:

"(6) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply if—

"(i) the taxpayer sustained a loss in a possession of the United States in a taxable year beginning after December 31, 1975, and before January 1, 1979,

"(ii) such loss is attributable to a trade or business engaged in by the taxpayer in such possession on January 1, 1976, and

"(iii) section 904(a)(1) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) applies with respect to such taxable year.

"(B) NO RECAPTURE DURING TRANSITION PERIOD.— In any case to which this paragraph applies, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, section 904(f) of the Internal Revenue Code of 1954 shall not apply with respect to the loss described in subparagraph (A)(i).

"(C) RECAPTURE OF LOSS AFTER THE TRANSITION PERIOD.—In any case to which this paragraph applies—

"(i) for purposes of determining the liability for tax of the taxpayer for taxable years beginning after December 31, 1978, section 904(f) of the Internal Revenue Code of 1954 shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of section 904(a)(1) of such Code (as in effect before the enactment of this Act); but

"(ii) in the case of any taxpayer and any possession, the aggregate amount to which such section 904(f) applies by reason of clause (i) shall not exceed the sum of the net incomes of all affiliated corporations from such possession for taxable years of such affiliated corporations beginning after December 31, 1975, and before January 1, 1979.

"(D) AFFILIATED CORPORATION DEFINED.—For purposes of subparagraph (C)(ii), the term 'affiliated corporation' means a corporation which, for the taxable year for which the net income is being determined, was not a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) as the taxpayer but would have been a member of such group but for the application of subsection (b) of such section 1504."

(ii) Paragraph (3) of section 1031(c) of the Tax Reform Act of 1976 is amended by striking out the last sentence.

(8) LIMITATIONS ON FOREIGN TAX CREDIT WHERE INDIVIDUAL HAS FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) REDUCTION IN FOREIGN TAX CREDIT FOR CERTAIN INDIVIDUALS HAVING FOREIGN OIL AND GAS EXTRACTION INCOME.—Subsection (a) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year,

"(2) multiplied by—

"(A) in the case of a corporation, the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11, or

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901 (a) is taken and the denominator of which is the taxpayer's entire taxable income."

(B) APPLICATION OF SECTION 904 SEPARATELY TO FOREIGN OIL RELATED INCOME OF INDIVIDUALS.—Subsection (b) of section 907 (relating to applications of section 904 limitation) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income."

(C) TECHNICAL AMENDMENT.—Paragraph (4) of section 904(f) (relating to recapture of overall foreign loss) is amended by striking out "In the case of a corporation to which section 907(b)(1) applies" and inserting in lieu thereof "In making the separate computation under this subsection with respect to foreign oil related income which is required by section 907(b)".

(D) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1954), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.

(9) EFFECTIVE DATE FOR DISALLOWANCE OF FOREIGN TAX CREDIT FOR CERTAIN PRODUCTION-SHARING CONTRACTS.—The second sentence of paragraph (3) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended to read as follows: "A contract described in the preceding sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date."

(10) FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—

(A) IN GENERAL.—The last sentence of section 911(a) (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), to the extent that such deductions are properly allocable to or chargeable against amounts excluded from gross income under this subsection. For purposes of this title, the amount of the income, war profits, and excess profits taxes paid or accured by any individual to a foreign country or possession of the United States for any taxable year shall be reduced by an amount determined by multiplying the amount of such taxes by a fraction—

"(A) the numerator of which is the tax determined under subsection (d)(1)(B), and

"(B) the denominator of which is the sum of the amount referred to in subparagraph (A), plus the limitation imposed for the taxable year by section 904(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976.

(11) SALE OF ASSETS BY A POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended by redesignating paragraph (2) as paragraph (3) and by amending so much of paragraph (1) as precedes subparagraph (A) thereof to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (3), if a domestic corporation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of—

"(A) the taxable income, from sources without the United States, from—

"(i) the active conduct of a trade or business within a possession of the United States, or

"(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

"(B) the qualified possession source investment income.

"(2) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are:".

(B) INCOME FROM SALE OF CARRYOVER BASIS PROPERTY NOT TAKEN INTO ACCOUNT.—

(i) Subsection (d) of section 936 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER BASIS PROPERTY.—

"(A) IN GENERAL.—Income from the sale or exchange of any assets the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

"(B) EXCEPTION FOR POSSESSIONS CORPORATIONS, ETC.—For purposes of subparagraph (A), the holding of any asset by another person shall not be taken into account if throughout the period for which such asset was held by such person section 931, this section, or section 957(c) applied to such person.".

(ii) The heading of such subsection (d) is amended to read as follows:

"(d) DEFINITIONS AND SPECIAL RULES.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply as if included in section 936 of the Internal Revenue Code of 1954 at the time of its addition by section 1051(b) of the Tax Reform Act of 1976.

(12) GAIN ON DISPOSITION OF STOCK IN A DISC.—

(A) DELAY IN EFFECTIVE DATE.—Paragraph (4) of section 1101(g) of the Tax Reform Act of 1976 (relating to effective date for amendment relating to gain or disposition of DISC stock) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

(B) TECHNICAL AMENDMENT.—Paragraph (1) of section 995(c) (relating to gain on disposition of stock in a DISC) is amended by adding at the end thereof the following new sentence:

"Subparagraph (C) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock."

(C) EFFECTIVE DATE.—The amendment made by subparagraph (B) shall apply to dispositions made after December 31, 1976, in taxable years ending after such date.

(13) LIMITATION ON PARTNER'S TAX WHERE PARTNER RECEIVES AMOUNT TREATED AS SALE OF SECTION 1248 STOCK.—

(A) IN GENERAL.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON TAX ATTRIBUTABLE TO DEEMED SALES OF SECTION 1248 STOCK.—For purposes of applying this section and sections 731, 736, and 741 to any amount resulting from the reference to section 1248 (a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations)."

(B) CROSS REFERENCE.—Section 736 (relating to payments to a retiring partner or a deceased partner's successor in interest) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e)."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date.

(14) EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.—

(A) TRANSFERS INVOLVING ESTATES.—Section 1491 (relating to tax on transfers to avoid income tax) is amended by striking out "trust" each place it appears therein and inserting in lieu thereof "estate or trust".

(B) CLARIFICATION OF PARAGRAPH (3) OF SECTION 1492.—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended to read as follows:

"(3) To a transfer described in section 367; or".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers after October 2, 1975.

(15) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) PROVISIONS AFFECTED BY ELECTION.—Paragraph (1) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended to read as follows:

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

"(A) for purposes of chapters 1 and 5 for all of such taxable year, and

"(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year."

(B) CONFORMING AMENDMENT.—Paragraph (5) of section 6013(g) (relating to termination of election by Secretary is amended by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5".

(C) CERTAIN AMOUNTS WITHHELD UNDER CHAPTER 3 TREATED AS OVERPAYMENTS OF TAX.—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) is in effect shall be treated as an amount allowable as a credit under section 31."

(D) EFFECTIVE DATES.—The amendments made by this paragraph—

(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1954, shall apply to taxable years ending on or after December 31, 1975, and

(ii) to the extent that they relate to wage withholding under chapter 24 of such Code, shall apply to remuneration paid on or after the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(16) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) IN GENERAL.—Paragraph (2) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended by striking out "who, at the time an election was made under this subsection," and inserting in lieu thereof "who, at the close of the taxable year for which an election under this subsection was made,".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976.

(u) HOLDING PERIOD OF COMMODITY FUTURES CONTRACTS.—

(1) IN GENERAL.—The last sentence of section 1222 (relating to other terms relating to capital gains and losses) is amended by inserting "agricultural" before "commodity" the first place it appears therein.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges after December 31, 1977.

(v) AMENDMENT OF SECTION 1239(a).—

(1) IN GENERAL.—Subsection (a) of section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by striking out "subject to the allowance for depreciation provided in section 167" and inserting in lieu thereof "of a character which is subject to the allowance for depreciation provided in section 167".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1954 by section 2129(a) of the Tax Reform Act of 1976.

(w) RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.—

(1) IN GENERAL.—Subparagraph (C) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to contracts transferred) is amended to read as follows:

"(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means the amount of any deduction allowed or allowable to the taxpayer for the depreciation of any contracts involved in such transfer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

(x) TREATMENT OF PENSIONS AND ANNUITIES FOR 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (defining personal service income) is amended by striking out "pension or annuity" and inserting in lieu thereof "pension or annuity which arises from an employer-employee relationship or from tax deductible contributions to a retirement plan".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(y) CHANGES IN THE SUBCHAPTER S PROVISIONS.—

(1) GRANTOR TRUST MAY BE TREATED AS PERMITTED SHAREHOLDER AFTER DECEDENT'S DEATH; GRANTOR OR GRANTOR TRUST MUST BE INDIVIDUAL.—Paragraph (1) of subsection (f) of section 1371 is amended to read as follows:

"(1)(A) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under subpart E of part I of subchapter J of this chapter.

"(B) A trust which was described in subparagraph (A) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the grantor, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(z) WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(1) IN GENERAL.—The last sentence of section 4973(b) (relating to excess contributions to individual retirement accounts, etc.) is amended by striking out "solely because of employer contributions to a plan or contract described in section 219(b)(2)" and inserting in lieu thereof "solely because of ineligibility under section 219(b)(2) or section 220 (b)(3)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in section 1501 of the Tax Reform Act of 1976 at the time of the enactment of such Act.

(aa) AMENDMENTS RELATING TO DISCLOSURE OF TAX RETURNS.—

(1) DISCLOSURE OF MAILING ADDRESS TO NATIONAL INSTITUTE FOR OCCUPATONAL SAFETY AND HEALTH AND FOR PURPOSES OF COLLECTING CERTAIN STUDENT LOANS.—

(A) Subsection (m) of section 6103 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

"(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) FEDERAL CLAIMS.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Commissioner of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made from a student loan fund established under part E of title IV of the Higher Education Act of 1965 for use only for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO INSTITUTIONS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Commissioner of Education to any educational institution with which he has an agreement under part E of title IV of the Higher Education Act of 1965 only for use by officers, employees, or agents of such institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made by such institution pursuant to such agreement for purposes of collecting such loans."

(B) Paragraph (3) of section 6103(a) is amended by inserting ", subsection (m)(4)(B)," after "subsection (e)(1)(D)(iii)".

(C) Paragraph (2) of section 7213(a) (relating to penalties for unauthorized disclosure of information is amended—

(i) by striking out "or any local" and inserting in lieu thereof ", any local";

(ii) by inserting ", or any educational institution" after "enforcement agency"; and

(iii) by striking out "section 6103(d) or (l)(6)" and inserting in lieu thereof "subsection (d), (l)(6), or (m)(4)(B) of section 6103".

(2) DISCLOSURE OF TAX RETURN INFORMATION REGARDING SPECIAL FUEL EXCISE TAXES.—Subsection (d) of section 6103 (relating to disclosure to State tax officials) is amended by inserting "31," after "24,".

(3) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Paragraph (2) of section 6103(l) (relating to return information other than taxpayer return information) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information."

(4) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—Paragraph (3) of section 6103(l) (relating to disclosure of return information concerning possible criminal activities) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal laws."

(5) CRIMINAL PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7213(a) (relating to unauthorized disclosure of information) is amended—

(A) by striking out "to disclose" in paragraphs (1), (2), and (5) and inserting in lieu thereof "willfully to disclose",

(B) by striking out "to thereafter print or publish" in paragraph (3) and inserting in lieu thereof "thereafter willfully to print or publish", and

(C) by striking out "to offer" in paragraph (4) and inserting in lieu thereof "willfully to offer".

(6) NO CIVIL LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION OF DISCLOSURE REQUIREMENTS.—Section 7217 (relating to civil damages for unauthorized disclosure of return and return information) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(B) by inserting after subsection (a) the following new subsection:

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103."; and

(C) by striking out "An action" in subsection (d) (as so redesignated) and inserting in lieu thereof "PERIOD FOR BRINGING ACTION.—An action".

(7) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect January 1, 1977.

(B) The amendments made by paragraph (6) shall apply with respect to disclosures made after the date of the enactment of this Act.

(bb) AMENDMENTS RELATING TO INCOME TAX RETURN PREPARERS.—

(1) NEGOTIATION OF CHECKS BY BANK.—Subsection (f) of section 6695 (relating to negotiation of check) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer."

(2) DEFINITION.—Clause (iii) of section 7701(a)(36)(B) (relating to exceptions from the definition of income tax return preparer) is amended to read as follows:

"(iii) prepares as a fiduciary a return or claim for refund for any person, or".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to documents prepared after December 31, 1976.

(cc) CLARIFICATION OF DECLARATORY JUDGMENT PROVISIONS WITH RESPECT TO REVOCATIONS OF OR OTHER CHANGES IN THE QUALIFICATIONS OF CERTAIN ORGANIZATIONS.—

(1) QUALIFICATION OF CERTAIN RETIREMENT PLANS.—Subsection (a) of section 7476 (relating to declaratory judgments relating to qualification of certain retirement plans) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification."

(2) CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.—Subsection (a) of section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1954 (as the case may be) at the respective times such sections were added to such Code.

SEC. 3. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS TO ESTATE AND TAX PROVISIONS.

(a) AMENDMENTS RELATING TO TREATMENT OF SECTION 306 STOCK.—

(1) APPLICATION OF "FRESH START" TO SECTION 306 STOCK.—Subsection (a) of section 306 (relating to dispositions of certain stock) is amended by adding at the end thereof the following new paragraph:

"(3) ORDINARY INCOME FROM SALE OR REDEMPTION OF SECTION 306 STOCK WHICH IS CARRYOVER BASIS PROPERTY ADJUSTED FOR 1976 VALUE.—

"(A) IN GENERAL.—If any section 306 stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under section 1023 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1)(A) of this subsection (or the amount treated as a dividend under section 301(c)(1)) shall not exceed the excess of the amount realized over the sum of—

"(i) the adjusted basis of such stock on December 31, 1976, and

"(ii) any increase in basis under section 1023(h).

"(B) REDEMPTION MUST BE DESCRIBED IN SECTION 302(b).—Subparagraph (A) shall apply to a redemption only if such redemption is described in paragraph (1), (2), or (4) of section 302(b)."

(2) CLARIFICATION THAT SECTION 303 OVERRIDES SECTION 306.—Subsection (b) of section 306 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) SECTION 303 REDEMPTIONS.—To the extent that section 303 applies to a distribution in redemption of section 306 stock.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(b) COORDINATION OF DEDUCTION FOR ESTATE TAXES ATTRIBUTABLE TO INCOME IN RESPECT OF A DECEDENT WITH THE CAPITAL GAIN DEDUCTION, ETC.—

(1) IN GENERAL.—Subsection (c) of section 691 (relating to deduction for estate taxes in the case of income in respect of decedents) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH CAPITAL GAIN DEDUCTION, ETC.—For purposes of sections 1201, 1202, and 1211, and for purposes of section 57(a)(9), the amount of any gain taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to decedents dying after the date of the enactment of this Act.

(c) AMENDMENTS RELATING TO CARRYOVER BASIS.—

(1) MINIMUM CARRYOVER BASIS FOR TANGIBLE PERSONAL PROPERTY.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(3) MINIMUM BASIS FOR TANGIBLE PERSONAL PROPERTY.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for and property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

"(ii) 1.0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death."

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained".

(2) TREATMENT OF INDEBTEDNESS.—

(A) IN GENERAL.—Paragraph (1) of section 1023(g) (defining fair market value) is amended by inserting "(without regard to whether there is a mortgage on, or indebtedness in respect of, the property)" after "chapter 11".

(B) TECHNICAL AMENDMENT.—Subsection (g) of section 1023 (relating to other special rules and definitions) is amended by striking out paragraph (4).

(3) ONLY ONE FRESH START WITH RESPECT TO CARRYOVER BASIS PROPERTY HELD ON DECEMBER 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(4) ONLY ONE FRESH START.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent."

(4) AUTOMATIC LONG-TERM STATUS FOR GAINS AND LOSSES ON CARRYOVER BASIS PROPERTY.—Subparagraph (A) of section 1223(11) is amended by inserting "or 1023" after "section 1014".

(5) CLARIFICATION THAT ADJUSTED BASIS IS INCREASED FOR STATE ESTATE TAXES.—

(A) Subsection (c) of section 1023 (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—

"(1) FEDERAL ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection(h)) which is subject to the tax imposed by section 2001 or 2101 in the hands

of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(2) STATE ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to State estate taxes in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the State estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the State estate taxes."

(B) The second sentence of paragraph (2) of section 1023(f) (defining net appreciation) is amended by striking out "For purposes of subsection (d)," and inserting in lieu thereof "For purposes of paragraph (2) of subsection (c), such adjusted basis shall be increased by the amount of any adjustment under paragraph (1) of subsection (c), for purposes of subsection (d),".

(C) Paragraph (3) of section 1023(f) (defining Federal and State estate taxes) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c)—

"(A) FEDERAL ESTATE TAXES.—The term 'Federal estate taxes' means the tax imposed by section 2001 or 2101, reduced by the credits against such tax.

"(B) STATE ESTATE TAXES.—The term 'State estate taxes' means any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

(6) CLARIFICATION OF INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAXES.—Paragraph (2) of section 1023(e) (relating to further increase in basis for certain State succession tax paid by transferee of property) is amended by striking out "for which the estate is not liable".

(7) CLARIFICATION OF APPLICATION OF FRESH START.—Paragraphs (1) and (2)(A) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are each amended by striking out "for purposes of determining gain" and inserting in lieu thereof "for purposes of determining gain and applying this section".

(8) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interests) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

(9) EFFECTIVE DATE.—The amendments made by this subsection shall apply in respect of decedents dying after December 31, 1976.

(d) AMENDMENTS RELATING TO VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—

(1) CLARIFICATION THAT SPECIAL VALUATION APPLIES ONLY TO INTERESTS PASSING TO QUALIFIED HEIRS.—Paragraph (1) of section 2032A (b) (defining qualified real property) is amended by striking out "real property located in the United States" and inserting in lieu thereof "real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and".

(2) PROPERTY RECEIVED IN SATISFACTION OF PECUNIARY BEQUEST.—Subsection (e) of section 2032A (relating to definitions and special rules for farm valuation property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY ACQUIRED FROM DECEDENT.—Property shall be considered to have been acquired from or to have passed from the decedent if—

"(A) such property is so considered under section 1014(b) (relating to basis of property acquired from a decedent),

"(B) such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

"(C) such property is acquired by any person from a trust in satisfaction of a right (which such person has, by reason of the death of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest."

(3) USE OF FARM EVALUATION PROPERTY TO SATISFY PECUNIARY BEQUEST.—Subsection (a) of section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by inserting "(determined without regard to section 2032A)" after "chapter 11".

(4) TTREATMENT OF CERTAIN COMMUNITY PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(10) COMMUNITY PROPERTY.—If the decedent and his surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property."

(5) SUBSTITUTION OF BOND FOR PERSONAL LIABILITY OF QUALIFIED HEIR FOR THE RECAPTURE TAX WITH RESPECT TO FARM VALUATION PROPERTY.—

(A) IN GENERAL.—Paragraph (6) of section 2032A(c) is amended to read as follows:

"(6) LIABILITY FOR TAX; FURNISHING OF BOND.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e) (11)."

(B) BOND REQUIREMENTS.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(11) BOND IN LIEU OF PERSONAL LIABILITY.—If the qualified heir makes written application to the Secretary for determination of the maximum amount of the additional tax which may be imposed by subsection (c) with respect to the qualified heir's interest, the Secretary (as soon as possible, and in any event within 1 year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subsection (c) and shall be entitled to a receipt or writing showing such discharge."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1970.

(e) AMOUNT OF SECURITY REQUIRED FOR EXTENDED PAYMENT PROVISIONS FOR CLOSELY HELD BUSINESSES—

(1) IN GENERAL.—

(A) Paragraph (2) of section 6324A(e) (defining aggregate interest amount) is amended to read as follows:

"(2) REQUIRED INTEREST AMOUNT.—The term 'required interest amount' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11)."

(B) Subparagraph (B) of section 6324A(b)(2) (relating to maximum value of required property) is amended by striking out "aggrate interest amount" and inserting in lieu thereof "required interest amount."

(C) Paragraph (5) of section 6324A(d) (relating to special rules) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(D) Paragraph (4) of section 6234A(e) (relating to application of definitions in case of deficiencies) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(f) CLARIFICATION OF THE $3,000 ANNUAL EXCLUSION FROM THE RULE INCLUDING IN GROSS ESTATE TRANSFERS WITHIN 3 YEARS OF DEATH.—

(1) AMENDMENT OF SECTION 2035(b).—Subsection (b) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

"(b) EXEMPTIONS—Subsection (a) shall not apply—

"(1) to any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) to any gift to a donee made during a calendar year if the decedent was not required by section 6019 to file any gift tax return for such year with respect to gifts to such donee.

Paragraph (2) shall not apply to any transfer with respect to a life insurance policy."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976, except that it shall not apply to transfers made before January 1, 1977.

(g) AMENDMENTS RELATING TO ESTATE TAX MARITAL DEDUCTION.—

(1) DEDUCTION NOT REDUCED FOR GIFT TO SPOUSE WHICH IS INCLUDED IN DONOR'S ESTATE BY REASON OF SECTION 2035.—Subparagraph (B) of section 2056(c)(1) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, a gift which is includible in the gross estate of the donor by reason of section 2035 shall not be taken into account."

(2) REDUCTION FOR GIFT TAX MARITAL DEDUCTION IN EXCESS OF 50 PERCENT OF THE VALUE OF GIFTS TO A SPOUSE.—Clause (ii) of section 2056(c)(1)(B) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by inserting "required to be included in a gift tax return" after "with respect to any gift".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to the estate of decedents dying after December 31, 1976.

(h) COORDINATION OF SECTIONS 2513 AND 2035.—

(1) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION OF SECTIONS 2513 AND 2035.—If—

"(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and

"(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035,

such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 2602(a)(1) (relating to amount of tax on generation-skipping transfers) is amended by striking out "section 2001 (b))" and inserting in lieu thereof "section 2001(b), as modified by section 2001(e))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the estates of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977.

(l) INCLUSION IN GROSS ESTATE OF STOCK TRANSFERRED BY THE DECEDENT WHERE THE DECEDENT RETAINS OR ACQUIRES VOTING RIGHTS:—

(1) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) VOTING RIGHTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the retention of the right to vote (directly or indirectly) shares of stock of a controlled corporation shall be considered to be a retention of the enjoyment of transferred property.

"(2) CONTROLLED CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the 3-year period ending on the date of the decedent's death, the decedent owned (with the application of section 318), or had the right (either alone or in conjunction with any person) to vote, stock possessing at least 20 percent of the total combined voting power of all classes of stock.

"(3) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035 with respect to paragraph (1), the relinquishment or cessation of voting rights shall be treated as a transfer of property made by the decedent."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 2036 is amended by striking out the last sentence thereof.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transfer made after June 22, 1976.

(l) AMENDMENTS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—

(1) APPLICATION OF ESTATE TAX EXCLUSION TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219" each place it appears and inserting in lieu thereof "section 219 or 220".

(2) TRANSFERS TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE TREATED AS TRANSFERS OF PRESENT INTERESTS.—Section 2503 (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(d) INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—For purposes of subsection (b), any payment made by an individual for the benefit of his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) to an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409,

shall not be considered a gift of a future interest in property to the extent that such payment is allowable as a deduction under section 220."

(3) EFFECTIVE DATES.—

(A) The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

(B) The amendment made by paragraph (2) shall apply to transfers made after December 31, 1976.

(k) PROVISIONS RELATING TO TREATMENT OF JOINT INTERESTS.—

(1) REMOVAL OF REQUIREMENT OF ACTUARIAL COMPUTATIONS FOR JOINT INTERESTS IN PERSONAL PROPERTY.—

(A) IN GENERAL.—Subchapter (B) of chapter 12 (relating to transfers for purposes of the gift tax) is amended by inserting after section 2515 the following new section:

"Sec. 2515A. TENANCIES BY THE ENTIRETY IN PERSONAL PROPERTY.

"(a) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of—

"(1) the creation (either by one spouse alone or by both spouses) of a joint interest of a husband and wife in personal property with right of survivorship, or

"(2) additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise,

the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any joint interest in property if the fair market value of the interest or of the property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses."

(B) CHANGE IN SECTION 2515 HEADING.—The heading for section 2515 is amended to read as follows:

"Sec. 2515. TENANCIES BY THE ENTIRETY IN REAL PROPERTY."

(C) CLERICAL AMENDMENTS.—The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2515 and inserting in lieu thereof the following:

"Sec. 2515. Tenancies by the entirety in real property.

"Sec. 2515A. Tenancies by the entirety in personal property."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to joint interests created after December 31, 1976.

(2) EXTENSION OF FRACTIONAL INTEREST RULE TO CERTAIN JOINT INTERESTS IN REAL OR PERSONAL PROPERTY CREATED BEFORE 1977.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsections:

"(c) JOINT INTERESTS OF HUSBAND AND WIFE CREATED BEFORE 1977.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of any joint interest created before January 1, 1977, which (if created after December 31, 1976) would have constituted a qualified joint interest under subsection (b)(2) (determined without regard to clause (ii) of subsection (b)(2)(B)), the donor may make an election under this subsection to have paragraph (1) of subsection (b) apply with respect to such joint interest.

"(2) TIME FOR MAKING ELECTION.—An election under this subsection with respect to any property shall be made for the calendar quarter in 1977, 1978, or 1979 selected by the donor in a gift tax return filed within the time prescribed by law for filing a gift tax return for such quarter. Such an election may be made irrespective of whether or not the amount involved exceeds the exclusion provided by section 2503(b); but no election may be made under this subsection after the death of the donor.

"(3) TAX EFFECTS OF ELECTION.—In the case of any property with respect to which an election has been made under this subsection, for purposes of this title—

"(A) the donor shall be treated as having made a gift at the close of the calendar quarter selected under paragraph (2), and

"(B) the amount of the gift shall be determined under paragraph (4).

"(4) AMOUNT OF GIFT.—For purposes of paragraph (3)(B), the amount of any gift is one-half of the amount—

"(A) which bears the same ratio to the excess of (i) the fair market value of the property on the date of the deemed making of the gift under paragraph (3)(A), over (ii) the fair market value of such property on the date of the creation of the joint interest, as

"(B) the excess of (i) the consideration furnished by the donor at the time of the creation of the joint interest, over (ii) the consideration furnished at such time by the donor's spouse, bears to the total consideration furnished by both spouses at such time.

"(5) SPECIAL RULE FOR PARAGRAPH (4)(A).—For purposes of paragraph (4)(A)—

"(A) in the case of real property, if the creation was not treated as a gift at the time of the creation, or

"(B) in the case of personal property, if the gift was required to be included on a gift tax return but was not so included, and the period of limitations on assessment under tax (if any) on such gift,

then the fair market value of the property on the date of the creation of the joint interest shall be treated as zero.

"(6) SUBSTANTIAL IMPROVEMENTS.—For purposes of this subsection, a substantial improvement of any property shall be treated as the creation of a separate joint interest.

"(d) TREATMENT OF CERTAIN POST-1967 TERMINATIONS.—

"(1) IN GENERAL.—If—

"(A) before January 1, 1977, a husband and wife had a joint interest in property with right of survivorship,

"(B) after December 31, 1976, such joint interest was terminated, and

"(C) after December 31, 1976, a joint interest of such husband and wife in such property (or in property the basis of which in whole or in part reflects the basis of such property) was created,

then paragraph (1) of subsection (b) shall apply to the joint interest described in subparagraph (C) only if an election is made under subsection (c).

"(2) SPECIAL RULES.—For purposes of applying subsection (c) to property described in paragraph (1) of this subsection—

"(A) if the creation described in paragraph (1)(C) occurs after December 31, 1979, the election may be made only with respect to the calendar quarter in which such creation occurs, and

"(B) the creation of the joint interest described in paragraphs (4) and (5) of subsection (c) is the creation of the joint interest described in paragraph (1)(A) of this subsection."

(l) AMENDMENTS RELATING TO ORPHANS' EXCLUSION.—

(1) ORPHANS' EXCLUSION WHERE THERE IS A TRUST FOR MINOR CHILDREN.—Section 2057 (relating to bequests, etc., to certain minor children) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED MINORS' TRUST.—

"(1) IN GENERAL.—For purposes of subsection (a), the interest of a minor child in a qualified minors' trust shall be treated as an interest in property which passes or has passed from the decedent to such child.

"(2) QUALIFIED MINORS' TRUST.—For purposes of paragraph (1), the term 'qualified minors' trust' means a trust—

"(A) except as provided in subparagraph (D), all of the beneficiaries of which are minor children of the decedent,

"(B) the corpus of which is property which passes or has passed from the decedent to such trust,

"(C) except as provided in paragraph (3), all distributions from which to the beneficiaries of the trust before the termination of their interests will be pro rata,

"(D) on the death of any beneficiary of which before the termination of the trust, the beneficiary's pro rata share of the corpus and accumulated income remains in the trust for the benefit of the minor children of the decedent who survive the beneficiary or vests in any person, and

"(E) on the termination of which, each beneficiary will receive a pro rata share of the corpus and accumulated income.

"(3) CERTAIN DISPROPORTIONATE DISTRIBUTIONS PERMITTED.—A trust shall not be treated as failing to meet the requirements of paragraph (2)(C) solely by reason of the fact that the governing instrument of the trust permits the making of disproportionate distributions which are limited by an ascertainable standard relating to the health, education, support, or maintenance of the beneficiaries.

"(4) TRUSTEE MAY ACCUMULATE INCOME.—A trust which otherwise qualifies as a qualified minors' trust shall not be disqualified solely by reason of the fact that the trustee has power to accumulate income.

"(5) COORDINATION WITH SUBSECTION (c).—In applying subsection (c) to a qualified minors' trust, those provisions of section 2056(b) which are inconsistent with paragraph (3) or (4) of this subsection shall not apply.

"(6) DEATH OF BENEFICIARY BEFORE YOUNGEST CHILD REACHES AGE 23.—Nothing in this subsection shall be treated as disqualifying an interest of a minor child in a trust solely because such interest will pass to another person if the child dies before the youngest child of the decedent attains age 23."

(2) AGE 23 FOR TERMINABLE INTEREST RULE IN THE CASE OF ORPHANS' EXCLUSION.—The second sentence of subsection (c) of section 2057 (relating to limitation in the case of life estate or other terminable interest) is amended by striking out "21" and inserting in lieu thereof "23".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(m) DISCLAIMER BY SURVIVING SPOUSE WHERE INTEREST PASSES TO SUCH SPOUSE.—

(1) IN GENERAL.—Paragraph (4) of section 2518(b) (defining qualified disclaimer) is amended to read as follows:

"(4) as a result of such refusal, the interest passes without any direction on the part of the person making the disclaimer and passes either—

"(A) to the spouse of the decedent, or

"(B) to a person other than the person making the disclaimer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1976.

(n) AMENDMENTS RELATING TO TAX ON GENERATION-SKIPPING TRANSFERS.—

(1) CERTAIN POWERS OF INDEPENDENT TRUSTEES NOT TREATED AS POWERS.—Subsection (e) of section 2613 (relating to definitions for purposes of the tax on generation-skipping transfers) is amended to read as follows:

"(e) CERTAIN POWERS NOT TAKEN INTO ACCOUNT.—

"(1) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDENTS OF THE GRANTOR.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

"(2) POWERS OF INDEPENDENT TRUSTEES.—

"(A) IN GENERAL.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual—

"(i) is a trustee who has no interest in the trust,

"(ii) is not a related or subordinate trustee, and

"(iii) does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries designated in the trust instrument.

"(B) RELATED OR SUBORDINATE TRUSTEE DEFINED.—For purposes of subparagraph (A), the term 'related or subordinate trustee' means any trustee who is—

"(i) the spouse of the grantor or of any beneficiary,

"(ii) the father, mother, lineal descendant, brother, or sister of the grantor or of any beneficiary,

"(iii) an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control, or

"(iv) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive."

(2) CLARIFICATION OF SECTION 2613(b)(2)(B).—Subparagraph (B) of section 2613(b)(2) defining taxable termination for purposes of the tax an generation skipping transfers) is amended—

(A) by striking out "an interest and a power" and inserting in lieu thereof "a present interest and a present power", and

(B) by striking out "interest or power" and inserting in lieu thereof "present interest or present power".

(3) ALTERNATES VALUATION IN CERTAIN CASES WHERE THERE IS A TAXABLE TERMINATION AT DEATH OF OLDER GENERATION BENEFICIARY.—

(A) IN GENERAL.—Subparagraph (A) of section 2602(d)(1) (relating to alternate valuation) is amended by inserting "(or at the same time as the death of a beneficiary of the trust assigned to a higher generation than such deemed transferor)" after "such deemed transferor".

(B) SPECIAL RULES.—Subparagraph (A) of section 2602(d)(2) (relating to special rules for alternate valuation) is amended by inserting "(for beneficiary)" after "the deemed transferor".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in chapter 13 of the Internal Revenue Code of 1954 as added by section 2006 of the Tax Reform Act of 1976.

(o) ADJUSTMENT IN INCOME TAX ON ACCUMULATION DISTRIBUTIONS FOR PORTION OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.—

(1) IN GENERAL.—Subsection (b) of section 667 (relating to tax on accumulation distribution) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN PARTIAL TAX FOR ESTATE AND GENERATION-SKIPPING TRANSFER TAXES ATTRIBUTABLE TO PARTIAL TAX.—

"(A) IN GENERAL.—The partial tax shall be reduced by an amount which is equal to the pre-death portion of the partial tax multiplied by a fraction—

"(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportinate basis) to amounts included in the accumulation distribution, and

"(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

"(B) PARTIAL TAX DETERMINED WITHOUT REGARD TO THIS PARAGRAPH.—For purposes of this paragraph, the term 'partial tax' means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

"(C) PRE-DEATH PORTION.—For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1954, to the estates of decedents dying after December 31, 1976, and

(B) in the case of the tax imposed by chapter 13, to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after April 30, 1976.

(p) RELIEF OF EXECUTOR FROM PERSONAL LIABILITIY IN THE CASE OF RELIANCE ON GIFT TAX RETURNS.—

(1) IN GENERAL.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(d) GOOD FAITH RELIANCE ON GIFT TAX RETURNS.—If the executor in good faith relies on gift tax returns furnished under section 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

"(1) are made more than 3 years before the date of the decedent's death, and

"(2) are not shown on such returns.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the estates of decedents dying after December 31, 1976.

(q) AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(1) CHARITABLE LEAD TRUSTS IN THE CASE OF ESTATE TAX.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or conformed on or before December 31, 1977, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1977 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (A) or (B) (as the case may be), a deduction shall nevertheless be allowed."

(2) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.

(r) INDEXING OF FEDERAL TAX LIENS.—

(1) IN GENERAL.—Paragraph (4) of section 6323(f) (relating to indexing of tax liens) is amended to read as follows:

"(4) INDEXING REQUIRED WITH RESPECT TO CERTAIN REAL PROPERTY.—In the case of real property, if—

"(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property

who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

"(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens.

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such manner that a reasonable inspection of the index will reveal the existence of the lien.".

(2) REFILING OF NOTICE OF LIEN.—Section 6323(q)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if—

"(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

"(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and".

(3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act.

(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.

(s) CLERICAL AMENDMENTS.—

(1) CLERICAL AMENDMENTS WITH RESPECT TO SECTION 6694.—

(A) IN GENERAL.—Section 6694 (relating to failure to file information with respect to carryover basis property) which was added by section 2005(d)(2) of the Tax Reform Act of 1976 is redesignated as section 6698.

(B) DEFICIENCY PROCEDURES NOT TO APPLY.—Section 6698 (as redesignated by subparagraph (A)) is amended by adding at the end of thereof the following new subsection:

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(C) TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 68 is amended by striking out

"Sec. 6694. Failure to file information with respect to carryover basic property."

and inserting in lieu thereof the following:

"Sec. 6698. Failure to file information with respect to carryover basis property."

(2) CLERICAL AMENDMENT TO SECTION 2051.—Section 2051 (defining taxable estate) is amended by striking out "exemption and".

(3) CLERICAL AMENDMENT TO SECTION 1016(a).—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by redesignating paragraph (23) as paragraph (21).

(4) CLERICAL AMENDMENT TO SECTION 6324B(b).—Subsection (b) of section 6324B (relating to adjustments to basis) is amended by tax attributable to farm, etc., valuation) is amended by striking out "qualified farm real property" and inserting in lieu thereof "qualified real property".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1976.

SEC. 4. CORRECTIONS OF PUNCTUATION, SPELLING, INCORRECT CROSS REFERENCES, ETC.

(a) ERRONEOUS CROSS REFERENCE IN INVESTMENT CREDIT.—

(1) AMENDMENT OF SECTION 46(f)(8).—The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(6)(D)" and inserting in lieu thereof "subsection (a)(7)(D)".

(2) AMENDMENT OF SECTION 46(g)(5).—Paragraph (5) of section 46(g) (relating to definitions) is amended by striking out "Merchant Marine Act, 1970" and inserting in lieu thereof "Merchant Marine Act, 1936".

(3) AMENDMENT OF SECTION 48(d)(1)(B).—Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(5)" and inserting in lieu thereof "section 46(a)(6)".

(4) AMENDMENT OF SECTION 48(d)(4)(D).—Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(c)(1)(B)".

(b) PREPAID LEGAL SERVICES.—

(1) Paragraph (2) of section 2134(e) of the Tax Reform Act of 1976 is amended by striking out "section 120(d)(6)" and inserting in lieu thereof "section 120(d)(7)".

(2) Paragraph (20) of section 501(c) is amended by striking out "section 501(c)(20)" and inserting in lieu thereof "this paragraph".

(c) AMENDMENTS RELATING TO SECTIONS 219 AND 220.—

(1) AMENDMENT OF SECTION 219(c)(4).—Paragraph (4) of section 219(c) (relating to participation in governmental plans by certain individuals) is amended by striking out "subsection (b)(3)(A)(iv)" each place it appears and inserting in lieu thereof "subsection (b)(2)(A)(iv)".

(2) AMENDMENT OF SECTION 220(b)(1)(A).—Subparagraph (A) of section 220(b)(1) (relating to retirement savings for certain married individuals) is amended by striking out "amount paid to the account or annuity, or for the bond" and inserting in lieu thereof "amount paid to the account, for the annuity, or for the bond".

(3) AMENDMENT OF SECTION 220(b)(4).—Paragraph (4) of section 220(b) is amended by inserting "described in subsection (a)" after "any payment".

(4) AMENDMENT OF SECTION 408(d)(4).—Subparagraph (A) of section 1501(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(A) by inserting 'or 220' after '219' each place it appears, and".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall aply to taxable years beginning after December 31, 1976.

(d) ACCRUAL ACCOUNTING FOR FARM CORPORATIONS.—Subsections (a) and (g)(2) of section 447 are each amended by striking out "preproductive expenses" and inserting in lieu thereof "preproductive period expenses".

(e) AMENDMENT OF SECTION 911.—Subsection (c) of section 911 is amended by redesignating paragraph (8) as paragraph (7).

(f) TRANSITION RULE FOR PRIVATE FOUNDATIONS.—Subparagraph (F) of section 101(l)(2) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended by striking out the period at the end of clause (i) and inserting in lieu thereof a comma.

(g) LOBBYING BY PUBLIC CHARITIES.—

(1) LOBBYING NONTAXABLE AMOUNT.—Paragraph (2) of section 4911(c) (defining lobbying nontaxable amount) is amended by striking out "proposed expenditures" in the heading of the table contained in such paragraph and inserting in lieu thereof "exempt purpose expenditures".

(2) TECHNICAL AMENDMENTS RELATING TO SECTION 501.—

(A) Section 2(a) of Public Law 94-568 is amended by striking out "subsection (h) as subsection (i) and by inserting after subsection (g)" and inserting in lieu thereof "subsection (i) as subsection (j) and by inserting after subsection (h)".

(B) Subsection (g) of section 501 of the Internal Revenue Code of 1954 (as inserted by section 2(a) of Public Law 94-568) is redesignated as subsection (i).

(C) The amendments made by this paragraph shall take effect on October 20, 1976, as if included in Public Law 94-568.

(3) MATH ERRORS RELATING TO EXCESS LOBBYING TAX OR UNDISTRIBUTED REIT INCOME TAX.—Paragraphs (1) and (2)(E) of section 6213(f) (relating to definitions relating to math errors) are each amended by striking out "chapter 42 or 43" and inserting in lieu there of "chapter 41, 42, 43, or 44".

(4) REFUNDS OR CREDITS OF EXCESS LOBBYING TAX OR UNDISTRIBUTED REIT INCOME TAX.—Subsection (a) of section 6405 (relating to Joint Committee review of large refunds and credits) is amended by striking out "or any tax imposed with respect to private foundations and pension plans under chapters 42 and 43," and inserting in lieu thereof "or any tax imposed with respect to public charities, private foundations, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44,".

(h) AMENDMENTS TO FOREIGN TAX PROVISIONS.—

(1) Paragraph (2) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended—

(A) by inserting "(as defined in section 907(c) of such Code)" after "gas extraction income" in subparagraph (A), and

(B) by striking out "(as defined in section 907(c)(1) of such Code)" in subparagraph (B) and inserting in lieu thereof "(as so defined)".

(2) Paragraph (1) of section 999(c) (relating to international boycott factor) is amended by striking out "995(b)(3)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(3) Paragraph (2) of section 999(c) is amended by striking out "995(b)(1)(D)(ii)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(i) AMENDMENTS TO DISC PROVISIONS.—

(1) The last two sentences of section 995(b)(1) (relating to deemed distributions to shareholders of a DISC) are amended—

(A) by striking out "gross income (taxable income in the case of subparagraph (D))" and inserting in lieu thereof "income"; and

(B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (G)".

(2) Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out "section 995(b)(1)(E)" and inserting in lieu thereof "section 995(b)(1)(G)".

(3) Paragraph (5) of section 1101(g) of the Tax Reform Act of 1976 is amended by striking out "section 993(e)(3)" and inserting in lieu thereof "section 995(e)(3)".

(j) AMENDMENTS RELATING TO DEADWOOD PROVISIONS.—

(1) TAX EXEMPT GOVERNMENTAL OBLIGATIONS.—

(A) The heading of paragraph (1) of section 103(b) is amended to read as follows:

"(1) SUBSECTION (a)(1) OR (2) NOT TO APPLY.—".

(B) Paragraph (1) of section 103(c) is amended by striking out "(a)(1) or (4)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "(a)(1) or (2)".

(C) Subparagraph (A) of section 103(c)(2) is amended by striking out "subsection (a)(1) or (2) or (4)" and inserting in lieu thereof "subsection (a)(1) or (2)".

(D) Paragraph (5) of section 103(c) is amended by striking out "subsection (d)(2)(A)" and inserting in lieu thereof "paragraph (2)(A)".

(E) Subsection (d) of section 103 is amended by striking out "subsection (c)(4)(G)" and inserting in lieu thereof "subsection (b)(4)(G)".

(2) AMENDMENTS RELATING TO SECTION 311(d)(2).—

(A) Subsection (b) of section 2 of the Bank Holding Company Tax Act of 1976 is amended—

(i) by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (F)".

(B) Subparagraph (H) of section 311(d)(2) is redesignated as subparagraph (G).

(C) The amendments made by this paragraph shall take effect as if included in section 2(b) of the Bank Holding Company Tax Act of 1976.

(3) AMENDMENT TO SECTION 453(c).—Paragraph (3) of section 453(c) is amended—

(A) by striking out "(or by the corresponding provisions of prior revenue laws)" in the first sentence, and

(B) by striking out the last sentence.

(4) AMENDMENT OF SECTION 801(g).—Paragraphs (1)(B)(ii) and (7) of section 801(g) are each amended by striking out "subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1)" and inserting in lieu thereof "section 805(d)".

(5) AMENDMENT OF SECTION 1002(a)(2).—Clause (ii) of section 1033(a)(2)(A) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(6) AMENDMENT OF SECTION 1375(a).—Paragraph (2) of section 1375(a) is amended by striking out "such excess" each place it appears and inserting in lieu thereof "such grain".

(7) AMENDMENT OF SECTION 1561(b)(3).—Paragraph (3) of section 1561(b) is amended by striking out "804(a)(4)" and inserting in lieu thereof "804(a)(3)".

(8) AMENDMENTS OF SECTION 1402.—

(A) The last paragraph of section 1402(a) of the Internal Revenue Code of 1954 (definition of net earnings from self-employment) is amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(B) Section 1402(c)(6) of such Code (definition of trade or business) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(9) AMENDMENT TO SECTION 46(a).—Subparagraph (C) of section 1901(b)(1) of the Tax Reform Act of 1976 is amended by striking out "Section 46(a)(3)" and inserting in lieu thereof "Section 46(a)(4)".

(10) AMENDMENT RELATING TO SECTION 6504.—Subparagraph (D) of section 1901(b)(37) of the Tax Reform Act of 1976 is amended by striking out "6515" and inserting in lieu thereof "6504".

(11) TERRITORIES.—Subsection (c) of section 1901 of the Tax Reform Act of 1976 (relating to Territories) is amended by striking out paragraph (1) thereof.

(12) ESTATE AND GIFT TAXES EFFECTIVE DATE.—Subsection (c) of section 1902 of the Tax Reform Act of 1976 is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (8), and paragraphs (12) (A), (B), and (C), of subsection (a) and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (9) of subsection (a) shall apply in the case of estates of decedents after December 31, 1970.

"(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (10), (11), and (12) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976."

(13) EFFECTIVE DATE FOR AMENDMENT MADE BY SECTION 1904(d)(22)(A).—Notwithstanding sect'on 1904 (d) of the Tax Reform Act of 1976, the amendment made by section 1904(a)(22)(A) of such Act shall take effect on the date of the enactment of such Act.

(14) AMENDMENTS TO SOCIAL SECURITY ACT.—

(A) Section 202(v) of the Social Security Act is made by striking out "section 1402(h)" each place it appears and inserting in lieu thereof "section 1402(g)".

(B) Section 205(p)(3) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(C) Section 210(a)(6)(B)(v) of such Act is amended by striking out "Secretary of the Treasury and inserting in lieu thereof "Secretary of Transportation".

(D) Section 211(a)(2) of such Act is amended by striking out "(other than interest described in section 35 of the Internal Revenue Code of 1954)".

(E) Section 211(c)(6) of such Act is amended by striking out "section 1402(h)" and inserting in lieu thereof "section 1402(g)".

(k) CAPITAL LOSS CARRYOVERS.—Clause (ii) of section 1212(a)(1)(C) (relating to capital loss carryovers for foreign expropriation losses) is amended by striking out "exceeding the loss year" and inserting in lieu thereof "succeeding the loss year".

(l) AMENDMENTS RELATING TO CERTAIN AIRCRAFT MUSEUMS.—

(1) Paragraph (2) of section 4041(h) (defining aircraft museum) is amended by striking out "term 'aircraft' means" and inserting in lieu thereof "term 'aircraft museum' means".

(2) Subsection (i) of section 4041 (as added by section 1904(a)(1)(C) of the Tax Reform Act of 1976) is redesignated as subsection (j).

(3) Subsection (d) of section 6427 (relating repayment of tax on fuels used by certain aircraft museums) is amended by striking out "Secretary or his delegate" and inserting in lieu thereof "Secretary".

(4) Paragraph (1) of section 7609(c) (defining summons to which section applies) is amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(f)(2)".

(m) INSPECTION BY COMMITTEE OF CONGRESS.—Paragraph (2) of section 6104(a) (relating to inspection by committee of Congress) is amended by striking out "Section 6103(d)" and inserting in lieu thereof "Section 6103(f)".

(n) AMENDMENT OF SECTION 6501.—Subsections (h), (i), and (o) of section 6501 are each amended by striking out "section 6213(b)(2)" and inserting in lieu thereof "section 6213(b)(3)"

(o) CONFORMING AMENDMENTS TO NEW DEFINITION OF TAXABLE INCOME.—

(1) Subparagraph (A) of section 443(b)(2) (relating to computation based on 12-month period) is amended—

(A) by striking out "taxable income" the second and third places it appears in clause (i) and inserting in lieu thereof "modified taxable income", and

(B) by amending clause (ii) to read as follows:

"(ii) the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amounts."

(2) Paragraph (1) of section 443(b) is amended by striking out "gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions)" and inserting in lieu thereof "modified taxable income for such short period".

(3) Subsection (b) of section 443 is amended by adding at the end thereof the following new paragraph:

"(3) MODIFIED TAXABLE INCOME DEFINED.—For purposes of this subsection the term 'modified taxable income' means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions)."

(4) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(p) CONFORMING AMENDMENTS TO REPEAL OF SECTION 317 OF TRADE EXPANSION ACT OF 1962.—

(1) AMENDMENTS OF SECTION 172.—

(A) Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended to read as follows:

"(A) Except as provided in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss."

(B) Paragraph (3) of section 172(b) (relating to special rules) is amended by striking out subparagraphs (A) and (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively.

(C) Subparagraph (B) of section 172(b)(3) (as redesignated by subparagraph (B)) is amended by striking out "subparagraph (C)(iii)" each place it appears and inserting in lieu thereof "subparagraph (A)(iii)".

(2) AMENDMENT OF SECTION 6501(h).—Subsection (h) of section 6501 (relating to net operating loss or capital loss carryback) is amended by striking out the last sentence.

(3) AMENDMENT OF SECTION 6511(d)(2).—The first sentence of section 6511(d)(2)(A) (relating to special period of limitation for net operating loss or capital loss carrybacks) is amended by striking out "(except that—" and all that follows down through the period at the end of such sentence and inserting in lieu thereof the following: "except that with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to losses sustained in taxable years ending after the date of the enactment of this Act.

(q) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on October 4, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6715 deals with technical amendments to the Tax Re-

form Act of 1976. The Tax Reform Act of 1976 was one of the most extensive revisions to our present tax system, containing approximately 200 separate provisions. In the process of drafting a tax bill as extensive as the 1976 act, it is inevitable that technical errors will occur.

As a result, in the early part of this year I directed the staff to begin working on a bill that would make technical changes necessary to implement the basic congressional policy embodied in the 1976 act. The amendments contained in this bill were developed after reviewing comments submitted to the committee from the Treasury Department, the Internal Revenue Service, various bar and accounting groups and others from the general public.

In addition to written statements submitted to the committee, the committee received public testimony on September 8, 1977. The committee subsequently made further amendments to the bill as a result of the testimony and comments received.

The bill is not intended to change the basic policies enacted by Congress in the 1976 act. The technical amendments are intended to clarify and correct provisions adopted by that act. For example, certain ambiguities arose as a result of the substantial revisions made in the area of estate and gift taxes. A number of changes contained in H.R. 6715 eliminate these ambiguities.

Included in these changes is a provision making it clear that certain preferred stock redemptions will be eligible for capital gains treatment. This change will facilitate the payment of death taxes and alleviate liquidity problems where a large portion of the estate consists of closely held stock.

In the area of income taxes, one of the changes conforms the retirement income credit rules so there will be no difference in the tax treatment of public retirees in community property and common law states where a married couple makes it clear that in the case of estates and certain charitable trusts, deductions for charitable contributions will not be treated as itemized deductions and therefore are not subject to the minimum tax.

The provisions of this bill are estimated to result in an aggregate revenue loss of $17 million for fiscal 1978, and losses of $7 to $8 million a year thereafter. Thus, although there is a small revenue loss, the significant impact of this legislation is to make the tax law clear and more workable for both taxpayers and the treasury department.

Mr. Speaker, it is important to taxpayers across the country that these technical amendments be enacted. I urge that H.R. 6715 be adopted.

Mr. CONABLE. Mr. Speaker, I rise in support of H.R. 6715, which makes technical, clarifying or clerical amendments to the Internal Revenue Code of 1954.

The bill amends various income, estate, and gift tax provisions of the Code, that were enacted as part of the Tax Reform Act of 1976, more clearly to reflect congressional intent or correct technical errors. Members will recall that particular bill was a voluminous one, and as is usually the case, some ambiguities, some technical errors, some failures to carry out the intent of the conferees, were apparent as we reviewed the legislation in the cold, gray light of dawn.

To limit H.R. 6715 to technical, clarifying, or clerical amendments, it was necessary for the Committee on Ways and Means to establish certain internal procedures, for which our chairman, the gentleman from Oregon (Mr. ULLMAN) is to be commended. Under these procedures, a screening committee was established to consider additional amendments to the bill and separate consideration was given to the extension of the effective date of several provisions of the 1976 Reform Act. In addition, the provisions of the 1976 act concerning carryover basis, the effective date of the generation-skipping trust rules and the deductibility of expenses for attending foreign conventions were the subject of special hearings.

Mr. Speaker, I would be the first to acknowledge that there are some substantive changes in this bill. We made every attempt, though, in the screening committee and in the Committee of the Whole to limit such substantive changes to very modest ones, such as were intended by the conferees and were the clear intent of the act before the errors of omission were discovered.

The hearings on the effective-date provisions resulted in these provisions and related amendments being incorporated into a separate bill—H.R. 9251—which the Committee on Ways and Means has approved.

I will not go into great detail with regard to the content of H.R. 6715. I would simply like to highlight two estate- and gift-tax provisions which I regard as particularly important.

The bill makes several modifications in the application of the so-called fresh start provisions under the carryover-basis concept. For example, the bill limits the amount of gain resulting from the sale or redemption of certain "section 306" preferred stock, that will be treated as ordinary income and not capital gain, to amounts in excess of the stock's adjusted basis, determined after the "fresh start" adjustments are made.

I continue to support and work for the repeal or a delay in the effective date of the carryover-basis provisions, but the modifications made to these provisions of this bill do make them operate somewhat more equitably, and I believe there should be no objection to the changes included in the Technical Corrections Act.

Finally, the bill clarifies current law and provides that capital gains treatment under section 303 is available to "section 306" preferred stock. This amendment removes the uncertainty that currently exists regarding the interrelationship of sections 303 and 306.

Numerous other technical amendments have been made by this act. I have counted them—some of them are only clerical in nature—and they are 80 in number. For this reason, it is impossible to go into the substance of the measure to any great extent, but I am sure we can answer any questions the Members may have concerning items of concern to them.

Mr. Speaker, I strongly urge the support of the enactment of this measure.

Mr. ULLMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I, too, want to pay my compliments to the chairman of our committee for having vastly improved the procedure over what it was before.

Having said that, though, I still continue to be uncomfortable with this kind of a procedure for bringing about changes in the tax laws before the House of Representatives. The bill that is before us today contains 130 pages of changes. Ninety-five percent of them are in fact technical, are in fact noncontroversial, are in fact clarifying, and are in fact exactly the kind of things we ought to do when we pass as big a bill as the one we passed last year as the Tax Reform Act.

However, there are two or three items in here that I do not think ought to be in here. If it develops they should be in here, they certainly ought to be the subject of substantial question, disagreement, and debate, because they deal with private tax relief for individual taxpayers.

One of the amendments, for instance, provides a $500,000 bail-out for one company which made a speculative guess on what the law was going to be as far as DISCs are concerned. There is another amendment in the bill which provides a substantial amount, perhaps as much as $11 million, of tax relief to another company. Even though the committee cut back the amount of relief we provided that company after the facts were reviewed, still this represents private relief for one taxpayer, which simply ought not be done in the way it is being done.

I am uncomfortable with the notion that an individual taxpayer can think that it has access to individual members of the Committee on Ways and Means and receive some private tax relief for one company. I am uncomfortable with the idea of holding out that possibility, however much we might reject that notion.

I would much prefer to see a procedure under which, if we are going to make these technical changes, the matter would go through the Treasury first, and let the Treasury present the changes to the committee on one package. That should be the technical reform package for that 1 year, rather than hold out this notion that somehow we are available for relief to individual taxpayers if somebody just has access to the Committee on Ways and Means.

For those reasons, Mr. Speaker, several of us wrote dissenting views on this bill, and we are going to reluctantly oppose the bill; not because everything in it is bad but because a couple of things

are bad—and because the process by which we get to the consideration of this kind of a bill is one that holds out some grave misconceptions in the way the tax process ought to work.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I would be glad to yield to the distinguished chairman of the committee.

Mr. ULLMAN. Mr. Speaker, I am sorry that the gentleman opposes the bill, knowing that the bill is absolutely essential in order to facilitate the operation of provisions of the 1976 act, and that many thousands of people are left high and dry, not knowing what the law is because of these technical difficulties.

There are certain companies that were caught with changes in the law in the middle of their operations, and we have tried to give them equity. We have tried to make an interpretation of the law that we think is equitable as applied to that type of situation. Because of that, the gentleman opposes the bill.

The gentleman would, I am sure, agree that we held public hearings and we had extensive discussions in the consideration of these matters. In the one instance dealing with losses from Puerto Rico, the Treasury Department recommended an amendment that was in effect a tightening amendment over what we agreed to in the conference last year. The committee adopted that tightening amendment.

We are dealing with a case in which the law, as it was, gave them certain privileges and afforded certain treatment. We changed that privileged treatment through loss recapture, and this company, having based its operation on existing tax law, was caught in a situation that was totally beyond its control.

The conferees last year agreed to delay the impact of these changes in this case, but the language was not included in the bill as enacted. All we are talking about is how we apply the law for a transitional period, and in this bill we have included the agreement of the conferees—as modified by Treasury—that would, we think, allow the company to survive; yet, over a period of a few years, under this bill, we believe we would get the company exactly where we want it to be under the new rules.

Mr. Speaker, would the gentleman agree with that?

Mr. MIKVA. Mr. Speaker, I would agree, and I would say further to the distinguished chairman of my committee that he has in fact confirmed my statement that we do have these problems.

For example, the gentleman insisted that the staff inform the committee members as to when a particular provision applied to only a single company so that we could take that into account.

I do not want to suggest that the committee chairman or the staff are insensitive to this problem. But just as we got away from the members' bill process, even though at that time it was thought to be absolutely essential for the working of the Committee on Ways and Means process—so I think we can improve further on this process.

Again, let me state that I am concerned about the very problems about which the chairman of the committee is concerned.

I think that there is still time for us to weed out those private relief provisions here and bring back those parts that are, in fact, technical corrections and tell every other single taxpayer, from here on out, that when they have some equitable tax relief problem, they ought to go to the Treasury first. If they persuade Treasury, Treasury can come in with some omnibus bill to provide that relief.

However, I do not like our being individual courts of appeal, which, in fact, is what we are doing when we sit here as in a screening process deciding which taxpayer gets some relief and which taxpayer does not.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

I would like to support strongly what the distinguished chairman of the Committee on Ways and Means has said and confirm to the Members that a great effort has been made to be fair and to provide adequate safeguards.

The substantive objections that could be adduced relative to the matters stated by the gentleman from Illinois (Mr. MIKVA) are complaints that he would have had about the Tax Reform Act of 1976.

In fact, with respect to the Puerto Rican situation, we did compromise the position actually taken by the conference, which Treasury wished us to do, thus reducing the relief the taxpayer would have if the conference report accurately reflected the decision of the conferees.

Mr. Speaker, I do not think that we can avoid the obligation of dealing with the problems of individual taxpayers here if it was the intent of Congress to deal with those problems in the earlier provision.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I would remind the gentleman of the one which has the biggest price tag on this, which is the so-called Pittsburgh Plate Glass amendment, which has $11 million revenue impact. That was brought before the House last year and rejected by the House. Here it is again, wrapped up in a large package, which sounds like it has the imprimatur of only technical corrections. I do not view it as a technical correction.

Mr. CONABLE. Mr. Speaker, I think the gentleman will acknowledge that it was in the Tax Reform Act of 1976 as passed by the House and was dealt with by the conferees at that time and that the agreement that was struck at that time was not adequately reflected in the wording of the measure.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, apparently this narrows down to Pittsburgh Plate Glass and the gentleman from New York (Mr. CONABLE) was at the conference, and the gentleman from Oregon (Mr. ULLMAN) was at the conference.

This provision clearly is consistent with what the conferees intended and, for reasons as yet unclear, did not get reflected in the conference report.

In any case, lots of people might have problems with the Pittsburgh Plate Glass situation; but this bill is absolutely essential because it involves so many corrections of a technical nature that have to be passed in 1977. If we delay today and we vote down the bill on suspension, we will have to go to the Committee on Rules and will end up having to come back to the floor, thereby running the risk of having a whole calendar year will go by, by which time millions and millions of American taxpayers who are relying upon the Committee on Ways and Means in the House to do their work, will then be found in a position that we have failed to do the job that we are supposed to do.

Therefore, Mr. Speaker, I hope the bill is passed.

I totally disagree with my colleague, the gentleman from Illinois (Mr. MIKVA), because while he may dislike the Pittsburgh Plate Glass provision, it clearly is consistent with what the conference in 1976 intended. To say it is anything else is very wrong, and I think it ought not to be the basis for Members to vote "No."

Mr. CONABLE. Mr. Speaker, I thank my friend, the gentleman from Wisconsin (Mr. STEIGER), for his further explanation.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the gentleman stated that we have rejected this in the House. I think the record ought to be corrected. The House originally passed a more generous provision than this in the Tax Reform Act and sent it to conference. The conferees agreed to a somewhat tighter provision. But the provision now before you includes a Treasury modification tightening it further and was never rejected by the House. The House in fact passed a much more generous provision than this one, dealing with this specific matter.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I still say—and I will have to check my records—that if it was not the House which rejected it, it was the other body which rejected it. Otherwise we would not be here today on this provision.

Is that not correct, Mr. Chairman? Somebody rejected it or we would not have to be correcting it further.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the version that came back from the other body did not include a provision but it was agreed to in conference.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

I would like to call the attention of my colleagues to the fact that, despite

the fact there were some 80 changes involved, the net impact is somewhere around $17 million for the first year and about $10 million less than that for successive years.

I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of this bill. I believe that the chairman of the committee has been extremely careful to restrict the features of this bill to that which is technical or clerical. I believe that the particular example raised by the gentleman from Illinois (Mr. MIKVA) was a matter which was in last year's bill, was agreed to in conference, and was inadvertently left out of the conference report. It is properly a technical correction in this bill.

I hope that this bill will be passed promptly.

I thank the gentleman for yielding.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill (H.R. 6715) as amended.

Mr. MIKVA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 8518, by the yeas and nays; H.R. 8149, by the yeas and nays; and H.R. 6715, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SACCHARIN BAN MORATORIUM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8518, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 8518, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 23, not voting 36, as follows:

[Roll No. 659]

YEAS—375

Abdnor
Addabbo
Akaka
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Derrick
Derwinski
Devine
Dicks
Diggs
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Oberstar
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Ralisback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncallo
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Ryan
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steers
Steiger
Stockman
Stokes
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ulman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—23

Badillo
Bellenson
Bingham
Burton, Phillip
Delaney
Dellums
Drinan
Edwards, Calif.
Holtzman
Kastenmeier
McHugh
Maguire
Markey
Myers, Gary
Nolan
Obey
Ottinger
Rosenthal
Roybal
Seiberling
Stark
Stratton
Yates

NOT VOTING—36

Alexander
Bolling
Bonker
Burke, Calif.
Collins, Ill.
Conyers
Cornwell
de la Garza
Dent
Dickinson
Dingell
Dodd
Dornan
Eckhardt
Ford, Mich.
Fraser
Gibbons
Ginn
Holland
Kemp
Koch
Krueger
Meyner
Moss
Murphy, Ill.
Pepper
Quie
Rhodes
Ruppe
Santini
Steed
Whalen
Wilson, C. H.
Wolff
Wright
Zeferetti

The Clerk announced the following pairs:

Mr. Alexander with Mr. Moss.
Mr. Zeferetti with Mr. Bonker.
Mr. Wolff with Mr. de la Garza.
Mr. Koch with Mr. Dickinson.
Mr. Dent with Mr. Kemp.
Mr. Cornwell with Mr. Dornan.
Mr. Ginn with Mr. Whalen.
Mr. Santini with Mr. Ruppe.
Mr. Murphy of Illinois with Mr. Quie.
Mr. Pepper with Mr. Krueger.
Mr. Steed with Mrs. Burke of California.
Mr. Charles H. Wilson of California with Mrs. Collins of Illinois.
Mr. Ford of Michigan with Mr. Eckhardt.
Mr. Dodd with Mr. Fraser.
Mr. Dingell with Mr. Gibbons.
Mr. Conyers with Mr. Holland.
Mrs. Meyner with Mr. Wright.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to direct an eighteen-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit for eighteen months the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic; and to authorize the Secretary during those eighteen months to require, in retail stores, warning notices respecting the potential health risks presented by the use of saccharin.".

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the Senate bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling, and Advertising Act".

SEC. 2. For the purposes of this Act, the term "saccharin" includes saccharin, calcium saccharin, sodium saccharin, and ammonium saccharin.

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

SEC. 4. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary shall arrange for the conduct of a study or studies to assess and evaluate—

"(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in food, and which have been found to cause cancer in animals;

"(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

"(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

"(4) instances in which current legal requirements to restrict or prohibit the use or occurrence of such substances do not accord with the relationship between such risks and benefits; and

"(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this section. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations if any for legislative and administrative action.

"(c)(1) The Secretary shall first request the National Academy of Sciences acting through the Institute of Medicine or other appropriate units (hereinafter in this section referred to as 'Academy') to conduct the study of studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study or studies will be paid by the Secretary. If the Academy is willing to do so, the Secretary shall enter into such an arrangement with the Academy.

"(2) If the Academy declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b).

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

"(1) the chemical identity of any impurities contained in commercially used saccharin,

"(2) the toxicity or potential toxicity of any such impurities including their carcinogenicity or potential carcinogenicity in humans, and

"(3) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include any recommendations for legislative and administrative action the Secretary deems appropriate.".

SEC. 5. During the eighteen-month period beginning on the date of enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin published on March 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety. In making such determination, the Secretary may take into account the cumulative significance of all existing data including data reported to the Secretary prior to the date of enactment of this Act.

SEC. 6. (a) Section 403 of the Federal Food Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o)(1) If it contains saccharin, unless its label and labeling bear the following statement: 'WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER'. Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such label and labeling. The Secretary shall periodically review and revise, if necessary, such statement to make sure that it accurately conveys the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the methods by which the statement required by paragraph (1) is to be affixed to such label and labeling. In prescribing such methods, the Secretary shall take into consideration whether or not the manufacturing process has been completed by the effective date of this subsection. The requirements of this subsection hall not preclude the Secretary from prescribing appropriate alternative methods for communicating such statement to consumers for food products for which manufacturing is completed on the effective date of this subsection, including sticker labeling or conspicuous notices accompanying the sale of such products at retail.

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.

"(q) If it contains saccharin and is offered for sale not for immediate consumption at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently diplayed notice of conspicuous and legible type and at a place of reasonably proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin. In prescribing the form, text, and manner of display of such notice, the Secretary should afford an opportunity for the submission of views from all segments of the public but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form, text, and manner of display of such notice shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

SEC. 7. It is not the intention of Congress that enactment of the Saccharin Study, Labeling, and Advertising Act, promulgation of regulations thereunder, or compliance therewith should be considered to in any way reduce or affect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

SEC. 8. (a) Section 204(d) of Public Law 93-348, as amended by section 18(a) of Public Law 94-573, is further amended by striking out "36-month period" each place it appears and inserting in lieu thereof "42-month period".

(b) Section 211(b) of Public Law 93-348, as amended by section 18(b) of Public Law 94-573, is further amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "November 1, 1978".

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike out all after the enacting clause of the Senate bill S. 1750, and to insert in lieu thereof the text of H.R. 8518, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to direct an eighteen-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit for eighteen months the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic; and to authorize the Secretary during those eighteen months to require, in retail stores, warning notices respecting the potential health risks presented by the use of saccharin.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8518) was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

CUSTOMS PROCEDURAL REFORM ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8149, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill (H.R. 8149), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 11, answered "present" 1, not voting 36, as follows:

[Roll No. 660]

YEAS—386

Abdnor
Akaka
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, N.Y.
Murphy, Pa.
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—11

Addabbo
Ambro
Bedell
Edgar
Kasten
Lent
Maguire
Pattison
Reuss
Richmond
Skelton

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—36

Alexander
Bolling
Bonker
Burke, Calif.
Collins, Ill.
Conyers
Cornwell
de la Garza
Dent
Dickinson
Dingell
Dodd
Dornan
Eckhardt
Ford, Mich.
Fraser
Gibbons
Ginn
Holland
Kemp
Koch
Krueger
Meyner
Moss
Murphy, Ill.
Pepper
Quie
Rhodes
Ruppe
Santini
Steed
Whalen
Wilson, C. H.
Wolff
Wright
Zeferetti

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Alexander.
Mr. Wolff with Mr. Bonker.
Mrs. Burke of California with Mr. Gibbons.
Mr. Koch with Mr. Fraser.
Mr. Dent with Mr. Eckhardt.
Mr. Dingell with Mr. Dornan.
Mrs. Meyner with Mr. Kemp.
Mr. Santini with Mr. Krueger.
Mr. Murphy of Illinois with Mr. Rhodes.
Mr. Pepper with Mr. Charles H. Wilson of California.
Mr. Ford of Michigan with Mr. Ruppe.
Mr. de la Garza with Mr. Whalen.
Mr. Cornwell with Mr. Quie.
Mr. Ginn with Mr. Holland.
Mr. Steed with Mr. Dickinson.
Mr. Moss with Mr. Conyers.
Mr. Dodd with Mrs. Collins of Illinois.

Mr. KASTEN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6715, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 6715, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 268, nays 128, answered "present" 2, not voting 36, as follows:

[Roll No. 661]

YEAS—268

Abdnor
Akaka
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, Tenn.
Bedell
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Derrick
Devine
Diggs
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fenwick
Findley
Fish
Fithian
Flippo
Flood
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Giaimo
Gilman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hanley
Hannaford
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hyde
Ireland
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Ketchum
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Meeds
Metcalfe
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Neal
Nichols
Nix
Nowak
O'Brien
Oberstar
Patten
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Risenhoover
Roberts
Robinson
Rodino
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Russo
Satterfield
Sawyer
Schulze
Sebelius
Shipley
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Steers
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Teague
Thone
Treen
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—128

Addabbo
Allen
Ambro
Ammerman
Anderson, Calif.
Armstrong
Aspin
Badillo
Beard, R.I.
Bellenson
Benjamin
Bennett
Bingham
Blanchard
Bonior
Brademas
Brodhead
Buchanan
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Clay
Coleman
Conte
Cornell
Dellums
Derwinski
Dicks
Downey
Drinan
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Ind.
Fascell
Fisher
Florio
Glickman
Gore
Hamilton
Harrington
Harris
Hawkins
Holtzman
Hughes
Ichord
Jacobs
Jeffords
Jones, N.C.
Kastenmeier
Keys
Kildee
Latta
Lehman
Lloyd, Calif.
Long, Md.
Luken
Lundine
McHugh
Maguire
Markey
Mattox
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mottl
Natcher
Nedzi
Nolan
Oakar
Obey
Ottinger
Panetta
Patterson
Pattison
Pease
Perkins
Pressler
Rahall
Rangel
Reuss
Richmond
Rinaldo
Roe
Rogers
Roncalio
Rosenthal
Roybal
Ryan
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Solarz
Spellman
St Germain
Stark
Stokes
Studds
Thompson
Thornton
Traxler
Tsongas
Vanik
Vento
Volkmer
Waxman
Weaver
Weiss
Whitley
Wirth
Wydler
Wylie
Yates
Yatron

ANSWERED "PRESENT"—2

Gonzalez
Runnels

NOT VOTING—36

Alexander
Bolling
Bonker
Burke, Calif.
Collins, Ill.
Conyers
Cornwell
de la Garza
Dent
Dickinson
Dingell
Dodd
Dornan
Eckhardt
Ford, Mich.
Fraser
Gibbons
Ginn
Holland
Kemp
Koch
Krueger
Meyner
Moss
Murphy, Ill.
Pepper
Quie
Rhodes
Ruppe
Santini
Steed
Whalen
Wilson, C. H.
Wolff
Wright
Zeferetti

The Clerk announced the following pairs:

Mr. Koch with Mr. Quie.
Mr. Dingell with Mr. Whalen.
Mrs. Meyner with Mr. Steed.
Mr. Moss with Mr. Ruppe.
Mr. Zeferetti with Mrs. Burke of California.
Mr. Ford of Michigan with Mrs. Collins of Illinois.
Mr. Eckhardt with Mr. Dickinson.
Mr. Bonker with Mr. Krueger.
Mr. Alexander with Mr. Pepper.
Mr. Conyers with Mr. Charles H. Wilson of California.
Mr. Cornwell with Mr. Holland.
Mr. de la Garza with Mr. Ginn.
Mr. Dent with Mr. Gibbons.
Mr. Dodd with Mr. Fraser.
Mr. Santini with Mr. Dornan.
Mr. Murphy of Illinois with Mr. Rhodes.

Messrs. BLOUIN, BEDELL, and AKAKA changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE CONFERENCE REPORT ON S. 1811, ERDA AUTHORIZATION ACT OF 1978—CIVILIAN APPLICATIONS

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a conference report on the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, MONDAY, OCTOBER 17, 1977, TO FILE REPORT ON S. 1617, OCEAN POLLUTION RESEARCH AND MONITORING PROGRAM ACT OF 1977

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight, Monday, October 17, 1977, to file a report on the Senate bill (S. 1617) to establish a program of ocean pollution research and monitoring, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISASTER PAYMENTS EXEMPTION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 820 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 820

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto

to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 820 provides for the consideration of H.R. 9090, a bill to provide an exemption for crop disaster payments from the overall payment limitations imposed for the 1977 crop year.

This is a simple, open rule providing for one hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The purpose of H.R. 9090 is to exempt disaster payments made for the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations imposed by the Agricultural Acts of 1949 and 1970, as amended. Under these statutes, no person may receive more than $20,000 in payments from programs relating to wheat, feed grains, and upland cotton or $55,000 from rice programs. This limitation includes both disaster and deficiency payments. Consequently, payments made to farmers stricken by drought, floods, and other disasters would be included in the total limitation.

In an earlier action this year, Congress recognized the hardship imposed by the limitation. The farm bill, S. 275, which was signed into law on September 29, 1977, provided for the exemption of disaster payments from the overall crop payment limit starting with the 1978 crop year. H.R. 9090 simply extends this exemption for the 1977 crop in order to address the severely depressed economic situation of our agricultural community.

The bill was reported from the Committee on Agriculture on September 27, 1977, and sequentially referred to the Committee on Appropriations pursuant to the provisions of the Budget Act. Section 401(b) of the Budget Act requires that any bill reported from an authorizing committee which contains an entitlement in excess of the budget resolution allocation must be referred to the Committee on Appropriations for review. H.R. 9090 provides an entitlement of $25 to $30 million for fiscal year 1978 which was not included in the final budget resolution for this fiscal year. The Committee on Appropriations reported H.R. 9090 favorably on October 5, 1977.

Mr. Speaker, H.R. 9090 will help to address the serious financial problems facing American farmers so that they may stay in business to feed the citizens of our country as well as to assist the overall economic well-being of this Nation by exporting food to millions overseas. I urge my colleagues to adopt House Resolution 820 so that we may proceed to the consideration of H.R. 9090.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted to inform this body that we have before us a straight, 1-hour open rule, providing for the consideration of the bill H.R. 9090, the disaster payments exemption bill. This legislation would exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1949. The reason given for this proposed exemption from the payment limitation is the fact that, largely through inadvertence, disaster payments were not excluded from the payment limitation as was done in the new act for the 1978 and later crops. Moreover, the committee report on this bill states that exempting disaster payments from the payment limitation will improve the economic situation for thousands of farmers across the United States in this year of severely depressed farm income.

According to a letter in the committee report from Secretary of Agriculture Bob Bergland, the Department supports this legislation. It was reported from the House Agriculture Committee by a vote of 36 to 8. The report does contain the opposing views of Representatives HARKIN, FINDLEY, and MADIGAN who term the bill the "Fatcat Farmer Relief Act of 1977." However, I know of no opposition to this rule, and therefore urge its adoption.

I am pleased to yield to my colleague the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. I thank the gentleman for yielding. The attendance in the Chamber is unusually good at this point, undoubtedly much better than will be the case during consideration of the bill itself in the Committee of the Whole.

I would urge every Members to think very carefully as he votes on this bill. If there ever was a bill on agriculture totally reprehensible, this is the one. This can properly be described as the Fat Cat Farmer Relief Act of 1977, because every penny of the benefits under this bill will go to the large corporation-type farmers; not 1 cent will go to the small family-size farmer. I urge my colleagues to vote no when the time comes.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, in view of the last remark, I just want to mention that there is a major disaster in central Iowa, and I was just recently in a meeting in Polk County, Iowa, where the Extension Director told me that 30 percent of the corn land which is leased in that county is now leased on a cash basis. The cash tenant farmer with only 250 acres of corn—and that is not enough to make a living off of—exceeds the disaster payment when there is a total failure. So it just does not follow when one says that this applies to only corporate farmers. Although a few large farmers may be affected, over 90 percent of those affected will be family farmers.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I take this time to say that I, too, along with the gentleman from Illinois (Mr. FINDLEY) oppose this bill. I believe he is right when he said it is the fat cat farmer ripoff of the year. I am sorry that I have to oppose my distinguished dean from the State of Iowa on this matter. I, too, represent a large part of central Iowa, and I meet continually with farmers in that area. In fact, the district I represent was probably the hardest hit by the drought of anyplace in the State of Iowa and any part of the United States this year. I will partake in the debate, and I will point out just which farmers will be getting this relief.

As far as I am concerned, agriculture has gotten enough black eyes in the past by handing out large sums of money to those large farmers who do not really need it. This is just another example of that. I think the lid ought to be kept on. I hope Members here will listen to the debate as it unfolds.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I am not going to take the 5 minutes. I am concerned when gentlemen whom I respect—and I respect the gentleman from Iowa (Mr. HARKIN) and the gentleman from Illinois (Mr. FINDLEY) very much; they are distinguished members of the committee—use language as exaggerated and inflammatory as the language that has just been spoken on this floor. To call this bill a ripoff or a fat cat farmer relief act is simply false.

I want to remind the Members that all of you who voted for the conference report on the farm bill—and most Members did—voted for a provision which exempts disaster payments from payment limitations for the crop year 1978 and 1979 as part of the new farm program, and in addition to that, substantially raised the payment limitation to $40,000 next year and $45,000 in 1979. All this bill does, while keeping the $20,000 payment limitation, is exempt the disaster payments for this year, making it perfectly consistent with what we are going to do for the next 2 years and putting farmers under the tighter restraints of the $20,000 payment limitation which exists under present law.

The problem we have is that there have been major agricultural disasters in the United States and farmers who have suffered that kind of disaster have to get their disaster relief out of the same $20,000 payment limitation which was designed to provide the income support of deficiency payments. So what happens is that the farmer who has a disaster may have all that $20,000 taken up in disaster payments and will not be treated equally with a farmer on the

other side of the country who does not have the disaster and can benefit from the program supports the Congress has given him.

The gentleman from Iowa (Mr. SMITH), who has served here with distinction a long time. As a Member of the House has said it does not take a large scale farmer to go beyond the amount of the $20,000 payment limitation. This is a notably equitable bill to bring this year into some partial balance with what we are going to do in the new farm act for the next 2 years.

I urge support for the bill.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the gentleman is absolutely correct. The farmers have had two disasters. They have had a price disaster out my way and therefore they are up to the limit on deficiency payments. On top of that they have had a disaster because of the drought. All we are saying here is that we apply the same rules in 1977 that we have already passed in this Congress for 1978 and 1979, which makes eminent sense.

I congratulate the gentleman.

Mr. FOLEY. I thank the gentleman from Oregon.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, whether we vote for this bill or not we should know better what we are doing here and in other legislative actions dealing with agriculture, because in the next few days we are going to be presented with a bill for the Small Business Administration disaster loans to farmers. This legislation started out as a small program, and although it is not tied into this $20,000 limitation it does raise questions as to where we are going in agricultural legislation. We have a disaster loan program under the SBA which has been funded in the past at a level of a couple hundred million dollars until recently, when it was extended to provide for farmers' disaster relief. At that point it became a totally new ballgame. The administration is presently asking in the House supplemental appropriation bill for $750 million in this budget year, and it is being increased in the other body to $1.4 billion to carry us only to January. Thereafter, they will need more money for the remainder of the fiscal year.

What I am saying is that we could have an exposure in this year of about $3 billion for fiscal year 1978. This would be in disaster assistance to farmers without a means test, for loans at 3 percent and in the cases of $10,000 or less for loans at 1 percent. All I am saying is we had better realize what we are doing. It may well be we have to have a disaster loan for farmers, and this type of legislation which provides for grants should be considered along with our total effort in agriculture. In this program together with the SBA and FMHA programs we are talking about billions of dollars for farmers and we had better be sure we know what we are doing.

Quite frankly, I think we had better look at the whole disaster program, restudy it and decide if we want to go down that road, because if we do we are talking about billions of dollars. I am afraid that we are rushing into this legislation and other farm legislation such as SBA disaster loan programs too quickly and recklessly.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield at this point, I want the Members of the House to understand, and I am sure the gentleman would like it to be clear, the large amounts of money the gentleman is talking about are funds that result from loans, disaster loans, and have nothing to do with the bill that is on the floor this afternoon.

Mr. GIAIMO. That is right.

Mr. FOLEY. The estimated cost of the bill this afternoon is $25 million or $30 million and has nothing to do with the SBA and other loan programs the gentleman referred to.

Mr. GIAIMO. That is correct. What I am saying is we will have a great deal of items of farm legislation which are coming before us, all of which together have price tags in the billions of dollars. We had better be sure we know what we are doing, because quite frankly unless there is a need, an economic need, I do not think we should be giving sub-market interest rate loans—for example, to wealthy farmers—and this is part of that whole picture.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, I just wanted to make clear, to avoid repetition, that this legislation does not involve any loan activity of any kind to the FBA or Farmers Home or any credit problems elsewhere or a means test. What the gentleman is referring to is a separate and different problem.

Mr. GIAIMO. Mr. Speaker, the gentleman is correct. The problem to which I am referring will be before the House later this week in the supplemental appropriations.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, my good friend and esteemed colleague, the gentleman from Washington (Mr. FOLEY), tried to draw a distinction between income support payments and disaster payments being the subject of this bill.

I think any rational person would recognize that money out of the U.S. Treasury to a farmer is income support, whether we label it a disaster payment or target payment or whatever.

The legislation now on the books puts a cap of $20,000 on the gross payments that can be made to any single farmer in various farm programs. The question arises how deep should one farmer be able to reach into the U.S. Treasury in 1 year? I think $20,000 is deep enough. If you think he should go deeper, then vote for this bill.

Mr. SISK. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I urge adoption of this rule. It is merely a rule that permits the Committee on Agriculture to debate the subject.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained is the Agricultural Act of 1970 and the Agricultural Act of 1949.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred twenty Members are present, a quorum.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingy the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9090, with Mr. BAUCUS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill (H.R. 9090). The bill is designed to exempt disaster payments received by farmers stricken by drought, floods, and other disasters, from the payment limitation applicable to the 1977 crop of wheat, feed grains, upland cotton, and rice.

H.R. 9090 is consistent with action already taken by the 95th Congress in approving S. 275, the Food and Agriculture Act of 1977. Section 101, clause (2) of the new act provides that starting with the 1978 crop year any payment which is determined by the Secretary of Agriculture to represent compensation received for disaster loss shall not be included in the payment limitation applying to wheat, feed grains, upland cotton, and rice. In taking this action, the 95th Congress recognized that disaster loss

was no respecter of the size of farms and that its was unfair to limit the amount of disaster payments that a particular producer could receive as opposed to another producer where the first producer had experienced a greater financial loss than the other producer.

For the 1977 crop, the limitation which applies to the total payments which any person can receive under one or more of the programs for wheat, feed grains, and upland cotton is $20,000 and the total payments which any person can receive under the rice program is $55,000. At the present time the limitation includes both disaster payments and deficiency payments (other than compensation for resource adjustment). These limitations have been in effect since enactment of the Agriculture and Consumer Protection Act of 1973, except in the case of rice for which the payment limitation became effective with the target price program for the 1976 crop.

Because of escalating production costs, the level of the payment limitation was raised by the Food and Agriculture Act of 1977 for the 1978 crop to $40,000 for wheat, feed grains, and upland cotton payments and to higher amounts for subsequent years. The payment limitation for the 1977 crop was left unchanged from that in effect since 1974 despite the increased costs that have occurred since its enactment in 1973. Largely through inadvertence, disaster payments were not excluded from the payment limitation as was done in the new act for the 1978 and later crops.

To illustrate the impact of the present payment limitation law as it now applies to the 1977 crops, a wheat or cotton producer (and to a large extent a corn producer as well) on an average size family farm would not be completely protected from disaster, or in the case of wheat or cotton if protected might not then be eligible for any target price deficiency payments on the balance of his production. A similar situation exists in the case of barley and grain sorghum. Since the payment limitation for rice is $55,000, few and possibly no rice producing farms are expected to be affected by enactment of this legislation.

In this year of severely depressed farm income, exempting disaster payments from the payment limitation will improve the economic situation of thousands of farmers across the United States and the economic situation of the rural communities centered in the various disaster areas.

Currently, farm prices and farm income are at a very low level. For example, grain producers are receiving market prices equal to only about two-thirds of their cost of production. Because of low farm prices, net farm income, even including Government payments, is projected by USDA to be less than $20 billion in 1977—compared with $33 billion in 1973. During that same period, production costs have increased by more than 30 percent. In those regions where the disaster problems have been severe, a major source of farm income will be derived from the disaster payments. To apply the payment limitation to these disaster payments for the 1977 crop year would result in economic hardship to many farmers. As a matter of equity and fairness, the committee believes that all producers should receive full protection from disaster losses for the 1977 crop.

Mr. Chairman, the following general farm and commodity organizations have announced their support of H.R. 9090: The National Corn Growers Association; the National Cotton Council; the National Association of Wheat Growers; the Grain Sorghum Producers Association; the National Farmers Organization; the Washington Association of Women Involved in Farm Economics (WIFE); the National Farm Coalition; the National Grange; the Midcontinent Farmer Association; and the National Farmers Union.

Mr. Chairman, I urge the Members to join me in voting in support of H.R. 9090.

Mr. SEBELIUS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of H.R. 9090, of which I am a cosponsor along with 15 other Members of the Agriculture Committee—excluding Chairman FOLEY—and four other Members of Congress not on the Agriculture Committee.

Chairman FOLEY has explained the need for this bill quite eloquently. I would like to underscore the fact that Public Law 95-113, the 1977 Food and Agriculture Act, has a provision similar to that which exempts disaster payments from the payment limitations. The recent survey by the Kansas Bankers Association revealed that about 10 percent of my State's farmers are unable to repay their debts, 35 percent have had to go through major refinancing within the past year and 86 percent of the wheat farmers will lose money this year. Low yield disasters from heavy rainfall during harvest and wind erosion during the past winter have been significant in Kansas. The passage of H.R. 9090 will be of significant importance to those farmers experiencing these disasters this year. My farmer constituents need help now!

I would also like to point out that the Secretary of Agriculture and Administration support this bill. The Office of Management and Budget supports the bill. Sure, it is going to add some to outlays in this fiscal year. But it is going to help prevent a lot of farmers from going bankrupt, and that will be a big plus to our nation's agriculture and our economy, now and in the future.

I urge my distinguished colleagues to support this bill.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I rise to speak in favor of this legislation. A few weeks ago, all of us had the opportunity to see on television the results of a flood in the Kansas City area. What the Members did not see is what I saw when I flew home and then in a light airplane I flew over Lafayette County. The 16 inches of rain that fell within 24 hours inundated some 30,000 acres of my home county of Lafayette County, Mo. If this disaster—and it is truly a disaster—occurred next year, there would be no question but that payments would be forthcoming. But it occurred this year. There is a $20,000 limitation. And we already know what the corn and wheat prices are. That, of course, in itself is a side disaster. Should we penalize those people in Lafayette County and counties such as that, who have been the object of this severe flooding this year, so that those others who have not could reap the benefits in competition with them?

Mr. Chairman, I wholeheartedly endorse this bill. I hope this bill will carry. I think it will be good legislation for this year, 1977. That is what it is designed to do.

Mr. JONES of Tennessee. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I strongly endorse the provisions of this bill, which will compensate farmers for their losses from natural disasters in the same manner which they will be entitled to under the 1978 farm bill. The bill is fair and equitable and needs to be made applicable to the 1977 crop year. Our wheat and feed grain farmers need this help desperately. I urge quick adoption of this bill.

Mr. JONES of Tennessee. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, there is no reason under God's blue canopy of heaven that this proposal should not be accepted today.

There is not a Member of this House of Representatives who participated in or listened to the debate having to do with the limitation of payments who can take the position that anything was ever intended except that support payments be limited. This is not a support payment. To say that disaster relief money should not be exempted is very much the same as saying that if one collects on his crop insurance policy because his land has not produced, that money should not in turn be exempted as well.

This bill, Mr. Chairman, should be passed today. It makes sense, it is fair, it is equitable.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I will be happy to yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, allegations have been made by at least two Members here that the only farmers who might benefit from the disaster payments are the so-called fat cats. I hope some Member is going to make an explanation here as to just who does benefit. What type of farmers will receive benefits from these disaster funds?

If the Members could have that information, I think they could make a better judgment as to how they want to vote.

Mr. WAGGONNER. Mr. Chairman, any farmer who suffers a disaster is going to benefit, just as is the case with somebody who has a casualty loss.

I hope the gentleman is not suggesting that we are going to say that because one man needs assistance more than another, we are going to give it to him and deny the man who has a lesser need the right to receive any disaster benefits. That is about as discolored as any view can be, and I hope the Members do not adopt that attitude.

We have to be objective. The people who take the position of denying benefits to certain farmers are the people who are saying it is wrong to make money out of farming.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield further?

Mr. WAGGONNER. I am happy to yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, let me ask this question:

Are there any limitations, such as the size of farms that might be eligible? How about the tenant-landlord relationship? Do both qualify for disaster payments?

Mr. WAGGONNER. Disaster relief programs always have limitations, and they vary from program to program. There is always a limitation on a disaster relief program, and whenever one comes along, those limitations will have application to whomever is involved.

The gentleman knows as well as I do that whatever relief is provided will be on some pro rata basis.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield for one further question?

Mr. WAGGONNER. I will be happy to yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Are there any crops that do not qualify, as far as eligibility for disaster payments is concerned?

Mr. WAGGONNER. As I understand it, this is intended to apply to those commodities for which limitations on support payments are in effect.

Mr. JOHN T. MYERS. Mr. Chairman, I thank the gentleman.

Mr. SEBELIUS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, during our consideration of the rule I described this bill as the "Fat Cat Farmer Relief Act of 1977." I stand by that assessment.

The only farmers who would be affected in any way by this bill are those whose operations are of considerable size. The estimate is that it would affect the farmers who have about 800 acres of wheat or more, or about 650 acres of corn or more, or 200 acres or more of cotton. Anyone who would have production less than those amounts would not be affected at all by this bill.

Farmers in the larger categories are, of course, farmers with immense capital resources. I do not doubt but what many of them have suffered disasters this year. I am not opposed to disaster relief for farmers, up to a limit, but this bill is actually one that changes the rules of the game at the very end of the game.

Every farmer knew, at the beginning of this year for the 1977 crop year, exactly what his opportunities were under the farm program for target price payments, for the loan aspect of the bill, and for disaster relief. They went into the planting season, knowing full well that there would be a $20,000 limitation on aggregate payments, not just on the target price payments but on disaster payments if disaster befell them.

So here we have a bill brought up in the middle of October after the crop year is all over. In other words, at the end of the game we are changing the rules for the benefit of what has to be described as the large-scale or the "fat-cat" farmers.

There are so many demands upon the public purse for assistance to people of very low income, of very low capital resources, that it seems to me entirely prudent for us to keep the cap at $20,000 for the total amount of U.S. dollars that any single farmer can get in grant assistance from the U.S. Treasury.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, will the gentleman tell me what the basis is for his having said that the law says that a farmer will not receive payments in the aggregate of more than $20,000 and why he includes disaster payments in that figure.

Mr. FINDLEY. I said that because that is the way the law now reads. I do not know whether the gentleman voted for the bill which established that law.

Mr. WAGGONNER. I did.

Mr. FINDLEY. It was clearly understood by farmers in the beginning of the crop year that any benefits, any payment support that they would get from the farm programs would have a limitation of $20,000.

Personally, I think that limitation is too high.

Mr. WAGGONNER. That is a support payment; is it not?

Mr. FINDLEY. It does change the rules at the end of the game.

Mr. JONES of Tennessee. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I think a record has to be made about some of the figures being bandied about here, as I said earlier.

Mr. Chairman, the area that I represent has been hard hit by the drought also, but I have some very serious concern about this bill.

For example, I figured that in wheat, if one had, let us say, an average of 30 bushels per acre and if he were totally wiped out, he would have to have at least 766 acres before he would bump up against that $20,000 payment limit. If he had at least a third of the crop, he would to have over 1,500 acres of wheat before he would bump up against that $20,000 limit.

In corn, in my area, if one had 100 bushels of established yield and he were totally wiped out, he would have to have 333 acres before he would bump up against that $20,000 limit.

I do not know of too many farmers, but there are a few in the area I represent, and the area I represent was hardest hit of all of the areas of Iowa. However, again, I do not know very many farmers that had a total wipeout. Most of them had a wipeout of half a crop or a third of a crop. If one had two-thirds of a crop wiped out, he would have to have 666 acres of corn before he would bump up against that $20,000 limitation.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I ask the gentleman this question: If there was a farmer with 1,000 acres and he had a total wipeout, he would still get $20,000, would he not? He would not be left out in the cold exactly, would he?

Mr. HARKIN. Yes, he would still get the $20,000. I might also point out that the Department of Agriculture is coming up with a new program to do away with the disaster payment program. It will be a new program to provide crop insurance for all crops for all areas of the United States.

Mr. Chairman, what we are looking at is this year and next year in terms of disaster payments.

It seems to me that limiting the disaster payments with respect to next year was done in order to get large farmers to comply with the set-aside provisions. We do not have that problem this year. We do next year, and that was the reason that the other body came up with that provision. The House did not lift the lid on disaster payments. The Senate did. That was to help get the large farmers to comply with the set-aside provisions.

Third, large farmers who, I believe, will be affected by this have ample credit to meet their emergency needs. Right now the SBA is providing these types of loans in my area. They are 3-percent interest loans up to $250,000; and 6⅝ percent on the balance, up to $5,000, and they have up to 30 years to repay. There is no "credit-elsewhere" test.

Mr. Chairman, later on this week we wil be voting for $725 million additional for this emergency loan program through SBA. I support this additional funding.

I know that this is a loan program, as the chairman of the committee said; but it is at 3 percent. It is a 3-percent subsidized loan, and these large farmers can get this type of loan to meet their emergency needs.

I might also point out there are other problems with respect to this, SBA in many areas is already providing these loans and will be providing more in the next few days.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. I yield 1 additional minute to the gentleman from Iowa.

Mr. HARKIN. Right now loan eligibility under SBA is based on the farmer's actual loss less ASC disaster payment received. If this bill is enacted and those farmers have already gotten their disaster payments, they will be affected by what we do here. We could be in a position where the loans will have to be recalculated. The farmers would have to come back in and pay some of the money back.

I think this is courting disaster with the SBA program that we have had enough problems with getting it set up, as it is. If we pass this bill it will affect the SBA program.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I would like to thank the gentleman for yielding. This past weekend a number of us on the House Committee on Agriculture went out to western Minnesota and down into northern Iowa and held some hearings on the problems of the small family farmers. In other words, concerning how young people are having difficulty getting established. I think what we are doing is exacerbating the problem for these potential young farm families when the U.S. Government comes along with unlimited payments.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FOLEY. I yield one additional minute to the gentleman from Iowa.

Mr. HAGEDORN. As long as the U.S. Government continues to give carte blanche loan authority and assurances that farmers will have a substantial amount of the risk they take picked up, then all we are doing is encouraging them to become bigger and bigger farmers, and causing them to pay more farm rent, or high purchase prices for farm land.

I think $20,000 is too low, but, to give unlimited assurances from the Government it seems to me goes far too far. My recommendation would be between $50,000 and $75,000 per farm operator. More importantly, we should be looking and encouraging a level which would encourage decent sized operations survive, but, at the same time, not to guarantee the big farm operations unlimited financial support by the U.S. taxpayers.

Mr. BEDELL. Mr. Chairman, if the gentleman will yield, it should be pointed out in the small business law the 3-percent loans, that there is no credit lessor provision there, it does not mean whether or not you can borrow money at other places, as is true for some small loans, you are eligible for 3-percent rates on the loans up to $250,000.

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just for the purpose of the record, I again point out that this debate is centering on the SBA and the FHA loan program. They have nothing to do with the bill that is on the floor today. The question of whether Members are in favor of 3 percent SBA loans and FHA loans, and so forth, has to do with other legislation before the House, namely, the supplemental appropriations bill. H.R. 9090 would merely make possible for 1977 the provision we have already adopted with respect to 1978 and 1979 crop years. The gentleman from Iowa is incorrect if he believes that the present law does not extend to both 1978 and 1979 crop years. I am sure that he knows that it does. He is talking about a crop insurance bill that has not even been considered by the Committee on Agriculture yet and whose form is totally unknown at this time.

So, for the next 2 crop years we will have the $40,000 to $45,000 limitation instead of the $20,000 limitation, and for those 2 years the payment limitation will be totally inapplicable to disaster payments. All we do in this bill is to retain the $20,000 limitation in current law but separate the disaster payments from this limitation. It just goes half way, if that, as to what we do next year and less than that as to what we do in the crop year 1979.

I am a bit confused by the vehemence that has been expressed by individual Members who oppose this bill, who apparently had no great difficulty voting for the conference report on the farm bill that went much further than this bill does for the ensuing 2 years.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I voted for that because, as I pointed out in the well, the limitation was lifted for the next 2 years because of the problem of getting large farmers to comply with the set-aside. We do not have that problem this year.

Mr. FOLEY. That may have been the gentleman's reason, but that was not the only reason advanced for separating these payments. Many Members agreed that deficiency payment should be controlled by the payment limitation, but they took the view that disaster payments were a matter that should be treated separately.

Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I think it ought also to be pointed out here, because it has not been previously, that there is another limitation which applies. Under the formula the producer is limited to about 30 percent of the cost of inputs. That is what it amounts to. Many farmers do have total disasters. It is not so that most of them only have a one-third or two-thirds loss. Many of them have total disasters and have plowed up or destroyed the entire crop residue. They are limited to about 30 percent of the cost of the inputs. The way it figures out, if they pay cash rent and they farm about 250 or 260 acres, they are bumping the $20,000 limit just on corn, and that is if they did not receive any other kind of payment. So we are talking about people who are not necessarily big farmers; we are talking about the farmer who starts out and has to rent all his land, who does not own any land and in every sense of the word a family farmer. He must farm more than 260 acres in corn to make a living. He finds out at the end of the year he has a once-in-a-lifetime disaster and he can only recover 30 percent of his cost of inputs, and then only on a portion of the crop. It will help a few large farmers but for each well financed farmer, it affects 20 times as many family farmers in severe drought areas.

I say while we are trying to work out a disaster and crop insurance program to replace the present programs which Secretary Bergland describes as a disaster, we ought to take this limitation off.

Mr. BAUCUS. Mr. Chairman, I support House Resolution 9090 to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949. This bill is an important measure that will help farmers whose 1977 crops were affected by drought, floods, or other disasters.

These producers—many of whom are in Montana—are facing financial problems. Disaster can strike any farmer and for many family operations, $20,000 cannot cover losses. H.R. 9090 will change present law to be consistent with the Food and Agriculture Act of 1977, which provides that in 1978 and future years, disaster relief will be exempt from payment limitations.

While we are on the subject of agricultural programs, I would like to make some additional comments about the recently enacted Food and Agriculture Act of 1977 and its application to Montana farmers during the coming crop year.

The USDA has announced intentions for administering the 1978 wheat and feed grains programs. These will apply to wheat planted this fall and to spring crops planted next year.

Under the new farm bill, historical acreage allotments will no longer be used for determining program payments and set-aside. Instead, the program will be based on "normal crop acreage." Normal crop acreage for a specific farm will be the total number of acres of the following crops planted for harvest in 1977: Wheat, barley, oats, corn, dry edible beans, flax, oats, rice, rye, sorghum, soybeans, sugarbeets, sugarcane, sunflowers, and upland cotton. Other crops recommended by State ASC committees and approved by the USDA may be added later. Local ASC committees will be authorized to adjust normal crop acreage if 1977 acreages on a farm were abnormal.

In the 1978 set-aside program, a farmer's planted acreage of the above crops plus the acreage set aside cannot exceed the normal crop acreage.

There will be a set-aside of 20 percent on the 1978 wheat crop. Thus, producers must set aside at least 2 acres for each 10 they plant.

If a producer voluntarily reduces his 1978 wheat acreage planted for harvest as grain from that planted in 1977 by at least 20 percent, he will be guaranteed target price protection on the normal production from the entire acreage and will qualify for the loan program on all he produces. Those who participate in the set-aside program but do not reduce plantings by at least 20 percent will be assured target price protection on not less than 80 percent of the acreage they plant for harvest as grain and will qualify for the loan program. Those who decide not to participate in the set-aside program will not be eligible for target price payments or loans.

The target price will be $3 per bushel if 1978 production is above 1.8 billion bushels or $3.05 if production is below 1.8 billion bushels. The 1978 loan rate will probably remain at $2.25 per bushel.

Due to this year's good corn harvests, a set-aside program for feed grains will probably be announced, with a set-aside of about 10 percent expected. In order to qualify for payments, a producer who raises both wheat and feed grains must comply with both the wheat and feed grain set-asides.

The following rules have been proposed for set-aside:

Land set aside must normally have been tilled in one of the last 3 years;

Excluded is land in orchards and vineyards, strips in skiprow planting patterns and other areas of small size or abnormal shape;

Vegetative cover must be established on the set-aside acreage. The cover shall consist of small grains (not allowed to mature), or annual, bienniel or perennial grasses or legumes;

No harvesting or grazing will be permitted on the set-aside acreage (except in emergency situations).

Land which is summer fallowed or clean tilled may not be designated as set-aside.

Total deficiency payments for wheat, feed grain, and upland cotton producers will be limited to $40,000 in 1978. However, there will be no limitation on disaster payments, because of the action of the House today, provided the measure before my colleagues now meets their approval. I trust it will.

The CHAIRMAN. Are there any other requests for time?

Mr. FOLEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 9090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the term "payments" as used in section 101 of the Agricultural Act of 1970, as amended, and section 101(g)(13) of the Agricultural Act of 1949, as amended, shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice.

The CHAIRMAN. Are there any amendments?

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Again I take this time to get 5 additional minutes to point out that in terms of the people who are cash-renting, to be affected by this $20,000 payment limitation, if you had a total wipe-out and your established yield was at least 100 bushels an acre of corn, you would have to have at least 333 acres rented. That might not be unusual. I am certain there are farmers who have that much rented. I doubt that they are new farmers just coming into the business. They are probably farmers more than likely who have a few hundred acres that they already own and are renting some more.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

To start out, many of them have a 220-bushel yield. That makes the gentleman's figures 16 percent off right there. So now we have 230 acres.

Mr. HARKIN. I have some farmers in my district that have around 120 bushels an acre yield established, and I will say again that my area was the hardest hit by the drought. I know very few farmers who were wiped out totally. Some were. Some of them have had maybe a third, a fourth, maybe a half of a crop of corn. In that case, if they had a one-third crop, even if they were renting, they would still have to have 666 acres rented before they would be affected by the $20,000 limitation.

I was on a farm about 2 weeks ago in my area where a farmer had about a third of a corn crop. At the same time he was harvesting 35 bushels of beans per acre, and he had a forward contract at $6 or $7 a bushel. So I think we have to keep in mind just who is going to get this money in this bill. I think only those farmers who are very large will. I have had some come to me and complain that they are going to be hurt by the $20,000 limitation. I had one just a few days ago, and I happen to know that that individual owns over 1,500 acres of prime land in Iowa.

He has a net worth of probably $4 or $5 million. He is also going down and getting SBA loans at 3 percent. I have no quarrel with that, I am supporting that, but again I do not think we ought to give him deficiency payments as much as that farmer would be eligible for if we take the lid off in this bill.

One last point I tried to make in the well has to do with the SBA program. We had a difficult time getting this started in Iowa and getting the forms to the farmers and getting the forms filled out. We made good progress. We have a good person in charge of it in Iowa. The amount of the loan is calculated on actual loss minus any disaster payments received. If they figure in their disaster payments right now, then we raise this lid and give them more disaster payments, that whole loan is going to have to be recalculated. We had to hire some 20 additional people to figure this out in Des Moines and we have right now 20,000 farmers who have signed up for this program. If this bill is passed we are going to have to go back and recalculate thousands and thousands of loans. It will just be a disaster for the SBA program.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, start with this, that they have only 54 papers returned as of Friday night and none of those are to do with the disaster payments. It will be several weeks or longer before they are in, before any loans are put out. So we are not talking about any great amount of paperwork.

Mr. HARKIN. I did not know only 54 had been turned in by last Friday, but I do know there are thousands in process and the farmers need that money right now. If this bill passes and has to go to the Senate and then to the President, people are going to wonder just what they should do. Should they wait until this bill is passed?

The SBA is moving rapidly ahead to fill those loan requests. A loan at 3 percent up to $250,000 and 6⅝ in the $500,000 with up to 30 years repayment I think is a good enough subsidy for those large farmers that are going to be affected by this bill. I think we ought to take this $30 million estimated cost and put it where it really belongs, into soil and water conservation and rural development. Let us give more benefits to the young farmer just starting out. That is where our emphasis should be placed.

Mr. Chairman, I urge the defeat of this bill.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I see from the report on the disaster payments exemption bill that it says farmers would receive payment for disasters "by drought, floods, and other disasters." Can the chairman of the committee explain to me what is meant by "other disasters"?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield, a disaster could include a flood, windstorm, freeze, hailstorm and other conditions beyond the producers control that would destroy a crop.

Mr. MILLER of Ohio. You are saying any disaster that would destroy a crop; is that correct?

Mr. FOLEY. Any disaster, yes, that would destroy a crop.

Mr. MILLER of Ohio. I noticed on page 2 of the report that it says, for the 1977 crop, the limitation which applies to the total payments which any person can receive under one or more of the programs for wheat, feed grains, and upland cotton is $20,000, and a total payment which any person can receive under the rice program, is $55,000.

Now on the front of the report—and I bring this up because there certainly has been contradictory conversation, and I have heard it on two differing points of view, but on the front of the page the language says:

The purpose of H.R. 9090 is to exempt disaster payments received by farmers stricken by drought, floods and other disasters, from the payment limitation applicable to the 1977 crop of wheat, feed grains, upland cotton, and rice.

Now, what that says to me is that H.R. 9090 is to exempt disaster payments from the payment limitation. Am I correct in that?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, yes, I think

the gentleman would be correct in that statement.

Mr. MILLER of Ohio. Then what the gentleman from Illinois (Mr. FINDLEY) says would be correct, if it is exempting the disaster payments from the payment limitation.

Mr. FOLEY. I do not know that I want to agree with the gentleman, because the gentleman from Illinois (Mr. FINDLEY) said a great many things as to what this bill does and whom it benefits most of which I totally disagree with, but I would say to the gentleman that the purpose has always been very clear. The purpose has been to apply the $20,000-payment limitation to those income supports or target-price payments which are considered deficiency payments and not to apply the $20,000 to disaster payments: that is right. That is exactly what we have agreed to do, as the gentleman knows, next year and the year after, on all these crops. In addition we have increased the limitation for deficiency payments by 100 percent for next year and more than that for 1979.

Mr MILLER of Ohio. Mr. Chairman, could I ask this question of the chairman? Could those people that are raising the wheat and feed grains and upland cotton still receive $20,000 without the bill?

Mr. FOLEY. They can receive a maximum of $20,000 from a combination of disaster and deficiency payments. But let us take two farms, each farm is normally going to be paid $3,000 or $4,000 in deficiency payments. Farm A has a disaster which uses up that $20,000 on other parts of the crop. Because of the disaster, he does not get any of the deficiency payment that his neighbor receives because he has reached the ceiling. If we eliminate the limitation that this bill is designed to do, he would be paid for his disaster. He could not receive both a disaster and efficiency payment on the same bushels, but he would get equal payment for the deficiency payment, as his neighbor does.

Mr. MILLER of Ohio. Is is correct that those same people could have $20,000 damage to their crops, could receive that $20,000 payment, and those people that had a rice crop damage could still receive $55,000?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

I yield to the distinguished gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from Kentucky for yielding.

The people who have crop damage to rice could still receive $55,000 without passing H.R. 9090; is that correct?

Mr. FOLEY. That is correct. One of the problems we have corrected in the language of the new farm bill is to bring over a period of 4 years the payment limitation on rice to the same level that applies to feed grains, wheat and upland cotton, whereas before this time rice had twice the payment limitation applicable to the other crops.

If the gentleman will permit, when we say that a wheat farmer or corn farmer can receive $20,000, that is true; but if he does so in the form of disaster payments, he cannot get the same target price payment that the law entitles him to get. He may have the same kind of income support due him as does his neighbor, but he is completely eliminated from receiving a cent of that deficiency payment.

Mr. MILLER of Ohio. Mr. Chairman, would the gentleman say if he received the $20,000 disaster payment that it paid for the crop once?

Mr. FOLEY. No, sir; he did not receive it. The gentleman is incorrect. You cannot receive a disaster payment and a deficiency payment on the same quantity. You would have to have, in this case, a disaster payment on a part of the crop and income support on the other part.

Mr. MILLER of Ohio. But the gentleman would have to have a large farm in order to receive the $20,000 in disaster payments.

Mr. FOLEY. The same bushels.

Mr. MILLER of Ohio. So apparently we are saying it would require a large farm in order to receive a payment.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, it depends on what the gentleman regards as a large farm. Some Members have spoken about big corporate farms.

There are farmers who do not own very much land, who are leasing land, who are affected by this disaster payment limitation. They have undertaken much effort and incurred great debt in order to produce. They are not all rich farmers. They are not owners of land with great amounts of money, and I think to imply that they are, is not correct.

Mr. MILLER of Ohio. I thank the gentleman.

The CHAIRMAN. Are there any amendments?

If not, under the rule, the committee rises.

Accordingly the committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. BAUCUS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949, pursuant to House Resolution 820, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FINDLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 127, not voting 42, as follows:

[Roll No. 662]

YEAS—265

Abdnor
Akaka
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Armstrong
Ashley
Aspin
AuCoin
Badham
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bevill
Blouin
Boggs
Boland
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cochran
Coleman
Collins, Tex.
Corman
Cornell
Cornwell
Cotter
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Devine
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
English
Ertel
Evans, Colo
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fish
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hannaford
Hansen
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Horton
Howard
Hubbard
Huckaby
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kindness
Krebs
LaFalce
Latta
Le Fante
Leach
Lederer
Leggett
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
McCloskey
McCormack
McEwen
McFall
McKay
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Milford
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nichols
Nix
Nowak
Oakar
Oberstar
Obey
Patten
Patterson
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Regula
Richmond
Risenhoover
Roberts
Robinson
Roe
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ryan
Satterfield
Sawyer
Sebelius
Sharp
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steiger
Stokes
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Waggonner
Walsh
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whitten
Winn
Wirth
Wylie
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki

NAYS—127

Addabbo
Ammerman
Anderson, Calif.
Annunzio
Archer
Badillo
Bafalis
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Bonior
Brodhead
Brown, Mich.
Caputo
Clawson, Del
Clay
Cleveland
Cohen
Conable
Conte
Corcoran
Coughlin
Crane
D'Amours
Danielson
Delaney
Dellums
Derwinski
Diggs
Drinan
Early
Eckhardt
Edgar
Emery
Erlenborn
Fascell
Fenwick
Findley
Fisher
Glaimo
Goldwater
Gradison
Hanley
Harkin
Harrington
Harris
Heckler
Hollenbeck
Holt
Holtzman
Hughes
Hyde
Ichord
Ketchum
Kostmayer
Lagomarsino
Lehman
Lent
Levitas
Long, Md.
Lujan
Luken
McClory
McDade
McDonald
McHugh
McKinney
Maguire
Markey
Metcalfe
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Calif.
Mottl
Nedzi
Nolan
O'Brien
Ottinger
Panetta
Pattison
Pease
Pike
Quayle
Railsback
Reuss
Rinaldo
Rodino
Rogers
Rosenthal
Russo
Sarasin
Scheuer
Schroeder
Schulze
Seiberling
Simon
Solarz
Spellman
Stark
Steers
Stockman
Stratton
Studds
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Weiss
Wiggins
Wilson, Bob
Wydler
Yates
Young, Fla.

NOT VOTING—42

Alexander
Ashbrook
Bolling
Bonker
Breckinridge
Broomfield
Burke, Calif.
Collins, Ill.
Conyers
de la Garza
Dent
Dickinson
Dicks
Dingell
Dodd
Fithian
Ford, Mich.
Fraser
Gibbons
Ginn
Holland
Kemp
Koch
Krueger
Lundine
Meyner
Mineta
Moss
Murphy, Ill.
Pepper
Quie
Rhodes
Ruppe
Santini
Steed
Teague
Whalen
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Wright for, with Mr. Wolff against.

Until further notice:

Mr. Zeferetti with Mr. Whalen.
Mr. Dent with Mr. Quie.
Mr. Santini with Mr. Ruppe.
Mrs. Burke of California with Mr. Dickinson.
Mr. Ginn with Mr. Dornan.
Mr. Murphy of Illinois with Mr. Ashbrook.
Mr. Charles H. Wilson of California with Mr. Fraser.
Mr. Dodd with Mr. Gibbons.
Mr. Ford of Michigan with Mr. Krueger.
Mr. Alexander with Mrs. Collins of Illinois.
Mr. Pepper with Mr. Kemp.
Mr. Moss with Mr. Broomfield.
Mr. Koch with Mr. Bonker.
Mr. Dingell with Mr. Conyers.
Mr. Breckinridge with Mr. Dicks.
Mr. de la Garza with Mr. Lundine.
Mr. Fithian with Mrs. Meyner.
Mr. Mineta with Mr. Steed.
Mr. Teague with Mr. Charles Wilson of Texas.

Messrs. LEHMAN, RINALDO, GOLDWATER, MOORHEAD of California, HANLEY, VAN DEERLIN, and BADILLO changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. PRICE). Is there objection to the request of the gentleman from Washington?

There was no objection.

PROPOSAL FOR FINANCIAL RESTORATION AND EQUITY STRENGTHENING OF THE SOCIAL SECURITY SYSTEM

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, today I have introduced in bill form an amendment in the nature of a substitute for H.R. 9346, the Social Security Financing Amendments of 1977.

I plan to offer this bill (H.R. 9595) as a substitute for H.R. 9346 when that measure is debated later this week. I have not asked that this amendment be published in legislative language in the CONGRESSIONAL RECORD because of the excessive cost involved. It is a comprehensive piece of legislation and the cost of publishing it would have been extremely high.

H.R. 9595, which is the substitute I will offer, will be available from the bill clerk for the information of the Members.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE A REPORT ON H.R. 6954, ETHICS IN GOVERNMENT ACT OF 1977

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on the bill H.R. 6954, Ethics in Government Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT FROM COMMISSIONER ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89–73) provides that the Commissioner on Aging shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act, not later than 120 days after the close of each Fiscal Year.

The Secretary of Health, Education, and Welfare has forwarded the Annual Report of the Administration on Aging for the Fiscal Year 1976 to me, and I am pleased to transmit this document to the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1977.*

JOINT RESOLUTION HONORING GRANDPARENTS

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I would like to share with you and my colleagues, assembled here today, the following letter from one of my younger constituents and other correspondence about "Grandparents Day":

1545 N. CALLOW,
Bremerton, Wash., August 30, 1977.

DEAR MR. DICKS: I wrote to the President as I am trying to start a "Grandpa's Day." Please read my letter which is enclosed.

I received a reply from the President's office suggesting that I contact our Congressmen. So I am writing to you and am also enclosing a copy of the letter from the President's office.

My Grandpa's name is Mr. Barney Tillery and he is a very special man. He tries to help everybody, and that is why I would like to have a Grandpa's Day every year for him and all the other Grandpas. I think the last Sunday in April would be a good day but if you think another day would be better, that will be fine with me.

I hope you will help me with this matter. My Grandpa will really be surprised. Please let me know soon as it is very important.

Sincerely,

ANNE TILLERY.

P.S.—I am going to attend Star of the Sea School and I will be in the 6th grade. Please write soon. My phone number is: 377–0496.

Attached to Anne's letter, were the following:

ANNE TILLERY,
1545 N. CALLOW,
Bremerton, Wash., February 27, 1977.

DEAR PRESIDENT CARTER: I heard you just got to be a Grandpa the other day. I bet you are very happy. I suppose Mrs. Carter is busy knitting all kinds of little sweaters and stuff. My Grandma is always knitting my brother and my cousin and I stuff. Maybe Mrs. Carter would like some patterns from my Grandma. My Grandma is right from Ireland, and her day is March 17th.

What I am really writing about is: I would like to have a Grandpa's Day. I would like to have it the last Sunday in April every year. Don't you think that would be a good date? I have a very nice Grandpa, and he is always asking me, 'Annie, when is Grandpa's Day?' So, I wonder if you could make a special day for Grandpas. Do you think the last Sunday in April is a good day? I hope you would let me know.

. . . . My Grandpa, will be very happy about Grandpa's Day. I hope you will be able to make it the last Sunday in April. Maybe we should start thinking about a special Grandma's Day too. But we work on that later. But this is all for now. I hope you will write to me soon. I don't think I can put this Grandpa's Day off any longer. . . .

Love,

ANNE TILLERY.

P.S.—Hello, Amy.

THE WHITE HOUSE,
Washington, April 28, 1977.

MISS ANNE TILLERY,
Bremerton, Wash.

DEAR ANNE: President Carter has received your letter and has asked me to thank you for your suggestion. I am sorry indeed that the great volume of mail has caused such a delay.

The President ordinarily issues proclamations designating periods for special observance only when a Congressional resolution authorizes him to do so. May I suggest that your next step in pursuing the cause of a "Grandpa's Day" would be to contact those who represent you in the Congress.

With the President's best wishes,

Sincerely,

VALERIO L. GIANNINI,
Staff Assistant.

Well, Mr. Speaker, after reviewing this correspondence, I thought to myself: "Why not?" But instead of just a Grandpa's Day, "why not including grandmas, too. Thus, why not a Grandparents Day?"

After all, we have a day honoring mothers, fathers, why not grandparents? Anne's idea had merit. So I had my staff research the possibilities.

Much to my surprise, I was advised that there had been just such legislation introduced in the past and that currently there are five resolutions in the House Committee on Post Office and Civil Service Committee. None of the House resolutions have accumulated the 218 Members' signatures necessary for the resolution to be seriously considered. Of note, however, is Senate Joint Resolution 24, introduced by Senator JENNINGS RANDOLPH of West Virginia. It has passed the Senate, but lays dormant in the House committee.

Incidentally, it is my understanding that your State of Massachusetts observes the first Sunday in October as "Grandparents' and Senior Citizens' Day."

Mr. Speaker, keeping in mind that "the heritage of the past is the seed that brings forth the harvest of the future," I am introducing a joint resolution on behalf of grandparents, and especially Anne Tillery. I would ask my distinguished colleagues to join in support.

THE LINE BETWEEN FACT AND FICTION IN THE CASE OF NUCLEAR ENERGY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, there have been a number of books published recently which are emotionally critical of nuclear energy. I might add that similar statements were made last week by an executive of the administration relative to both of the only two practical solutions to our growing energy dilemma—coal and nuclear. But now it appears we have a book written by a famous scientist, who is also truly gifted in a literary sense, which separates fact from fiction in the consideration of the choices we have in energy sources. This has been done in lay terms by the famous British astronomer, Sir Fred Hoyle, in a book entitled "Energy or Extinction?" As a result of his analysis, this famous scientist comes out in favor of nuclear power.

The October 4, 1977 issue of Energy Daily contains a review by David Fishlock of Sir Fred Hoyle's book. Since very significant points concerning this first basic new source of energy are covered, I would like to bring to the attention of my colleagues some excerpts from the review.

Hoyle's conclusions concerning the consequence of not planning and providing adequate supplies of energy for the future, command our attention. The consequence is contained in the title of the book. As the reviewer put it:

> In Energy or Extinction? Hoyle employs his considerable literary skill to parody the tactics of antinuclear campaigners. "There can be no disagreement with the statement that world reserves of coal, oil and gas can provide an adequate energy source for only a limited future . . . Nor can it be contested that most of the world's population, presently four billion, will die in a disastrous catastrophe should an adequate energy source not have been developed by the time that reserves of coal, oil and gas become exhausted . . . Nor can there be any serious debate over the statement that the only energy source presently known to be technically viable is energy from the nuclear fission of uranium or thorium."

The most emotional statements by the antinuclear groups are usually made about safety. The reviewer summarizes Hoyle's coverage of the nuclear safety issue thusly:

> But his longest chapter is reserved for the question of nuclear safety. The close association in many minds between nuclear energy and atomic bombs is no more logical, he says, than associating a piece of chocolate with a hand grenade just because the main ingredient of each is made up of atoms of hydrogen, carbon, nitrogen and oxygen.
>
> As for the safety of nuclear plants, he points out that statistically it is safer to live next door to such a plant than to move away and increase one's commuting distance by more than half a block. Even on the worst estimates of the nuclear opponents, living close to a nuclear plant is still 150 times safer than living in a city, he says.

Hoyle also addresses the other issues which have been raised in the popular arena of energy polemics. Included are the "renewable" energy sources, the breeder reactor and alternative fission reactor systems. He also covers the basis of the antagonism toward nuclear energy by antinuclear groups.

It is my intention to review the entire book. It is my hope that a number of us who are concerned about the need to do the right thing in the energy field will have the opportunity to read this analysis by such a noted scientist and gifted writer.

RESOLUTION TO REAFFIRM SUPPORT OF HOUSE FOR EXISTING LAWS RESTRICTING UNFAIR COMPETITION FROM IMPORTS

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEDELL. Mr. Speaker, I am today introducing a resolution which reaffirms the support of the House of Representatives for existing laws restricting unfair or subsidized competition from imports and which urges President Carter to direct the Department of the Treasury and the Office of Special Trade Representative to vigorously and aggressively enforce existing statutes to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on American industry.

I regret that this legislation is necessary. However, recent developments in the private sector of our economy have convinced me that this statement of congressional policy is needed to focus greater attention on a situation which poses a real threat to American jobs.

The steel and television and electronics industries are encountering serious problems as a result of unfair trade competition by foreign industries. Just recently, the Department of the Treasury announced that five Japanese steel companies were engaged in "dumping" carbon steel plates on the U.S. market. And in late September, the Zenith Corp. announced a nationwide production cutback which was precipitated by the importation of electronic products from Japan at less than fair market value.

Mr. Speaker, the human and economic consequences of these developments are overwhelming. For example, 5,600 employees across the country will be laid off within the next year as a result of the Zenith decision. In Sioux City, Iowa, 800 jobs will be eliminated, 500 of which are held by individuals who are the sole supporters of their families, with no immediate alternative for employment for most. These layoffs will also have a significant adverse impact on the local economy.

I believe that the Federal Government should not sit passively by and allow this type of situation to continue. It should address the problem head-on, and attempt to treat its causes as well as its symptoms. Administration officials repeatedly tell me that existing law is sufficient to deal with the dumping problem. It seems to me that if this is, in fact, the case, then we must not be enforcing the law effectively.

It is the responsibility of the executive branch to impress upon our trading partners that we insist upon a fair international trading system. I believe that this can be done more forcefully than is currently the case.

Mr. Speaker, it is time for the House of Representatives to serve notice to the administration that it is concerned about the dumping problem, and that it wants existing law enforced. My resolution would serve this purpose and it would hopefully stimulate greater attention—in the Department of the Treasury, in the Office of the Special Trade Representative, and, most importantly, in the White House—to this critical issue.

The text of the resolution follows:

H. RES. —

Reaffirming support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries.

Whereas the American steel, television, and electronics industries are facing an unprecedented crisis, having suffered layoffs of more than seventeen thousand workers;

Whereas a contributing factor to the problems facing these American industries is the dumping of imports subsidized by foreign governments into this country;

Whereas such imports have adversely affected the United States balance of payments and have been a factor in reduced unemployment opportunities in the American steel, television, and electronic industries.

Whereas the Department of the Treasury has failed to be sufficiently aggressive in pursuing dumping complaints filed by American industry to their conclusion and enforcement of existing dumping decisions, thus permitting the continued sale of imported products below cost.

Resolved, That the House of Representatives reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and, aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel, television, and electronics industries.

FARMERS NEED RELIEF FROM FINANCIAL DIFFICULTIES

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, many of the farmers in our country are in financial difficulty. The prices of corn, wheat, and soybeans have gone down tremendously. The price of corn is the lowest I have known it to be for many years. I submit that if something is not done immediately for the relief of our farmers, many farmers both large and small will go under.

To assist these people who provide us food and fiber, I am preparing legislation for 5 percent loans to farmers who are having serious difficulties in meeting their payments. Mr. Speaker, our great frontier where farmers at one time could take up land at nominal prices is gone. We must provide low interest loans for those of our young people who wish to buy farms. The legislation I propose, again, will lower the interest rate to 5 percent.

There are cooperatives throughout our country which charge as much as 11 or 12 percent. It is a known fact the average farmers simply cannot pay this high interest rate and survive. The farming population constitutes some of the finest citizens in our country. They need help and they must have it. I trust that the legislation which I introduce will have strong support.

Furthermore, Mr. Speaker, the steel industry is in difficulty, many steel mills are releasing employees. And, Mr. Speaker, this is a direct result of importation of subsidized foreign steel. Our industry and our workers must receive fair treatment, whether it be by trade agreements or by tariffs.

Again, the electronic industry in the United States is undergoing the same difficulty as the farming and steel industries are. One of our largest electronic manufacturing companies is moving 25 percent of its production abroad. Again, such legislation as is necessary to retain the jobs which are being shipped abroad must be enacted into law. It is time for us to realize now that we are faced with the possibility of a recession of serious proportions. One possibility is to give tax breaks or other incentives, for it costs far less to provide jobs through assistance to industry than for the Federal Government to attempt to form them by governmental actions.

FLOOR AMENDMENT PROPOSED BY CONGRESSMAN STEIGER FOR H.R. 9346

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER. Mr. Speaker, the committee bill provides that the annual exempt amount under the retirement test will be increased to $4,000 in 1978, $4,500 in 1979, with automatic increases thereafter. The increased exempt amounts would apply only to beneficiaries aged 65 and over. Under my amendment, the exempt amount would not be increased above the amounts provided under the automatic increase provisions in present law until 1979, when it would be increased to $4,000. The exempt amount would be further increased, under this proposal, to $4,500 in 1980, $5,000 in 1981, $5,500 in 1982, and $6,000 in 1983, with automatic increases thereafter. As under the committee bill, the increased exempt amounts proposed would apply only to beneficiaries aged 65 and over.

The total of the ad hoc increases in the contribution and benefit base during the period 1978–81 would be smaller under my proposal than under the committee bill. Ad hoc increases in the base would continue to be made through 1985, when the base would reach $31,800—$3,600 less than under the committee bill. Automatic increases would be made after 1985. Beginning in 1981, OASDI contribution rates would be increased by 0.10 percent for employees and employers, each, above the rates provided in the committee bill.

The financing schedules under the committee bill and under this amendment are shown in table 1, attached. Table 2, attached, contains short-range estimates of the effects of the amendment on the combined OASI and DI trust funds.

TABLE 1.—FINANCING SCHEDULE UNDER H.R. 9346 AS REPORTED BY THE WAYS AND MEANS COMMITTEE AND UNDER THE BILL AS MODIFIED BY THE STEIGER AMENDMENT

Calendar year	Committee bill			Steiger amendment		
	OASDI	HI	Total	OASDI	HI	Total
	Contribution rates for employees and employers, each (percent)					
1977	4.95	0.90	5.85	4.95	0.90	5.85
1978–80	5.05	1.00	6.05	5.15	[illegible]	6.05
1981–84	5.15	1.30	6.45	5.25	1.30	6.55
1985	5.45	1.30	6.75	5.55	1.30	6.85
1986–89	5.45	1.45	6.90	5.55	1.45	7.00
1990 and later	6.00	1.45	7.45	6.10	1.45	7.55
	Contribution and benefit base [1]					
1977	$16,500			$16,500		
1978	19,900			19,500		
1979	22,900			22,600		
1980	25,900			25,600		
1981	27,900			26,300		
1982	30,000			27,000		
1983	31,800			28,500		
1984	33,600			30,300		
1985	35,400			31,800		
1986	37,500			33,600		
1987	39,600			35,400		

[1] Under the committee bill, the increases in 1978–81 are ad hoc increases; after 1981 the base increases under the automatic increase provisions. Under the Steiger amendment, the increases in 1978–85 are ad hoc increases; after 1985 the base increases under the automatic increase provisions.

TABLE 2.—SHORT-RANGE ESTIMATES RELATING TO THE STEIGER AMENDMENT

[Amounts in billions]

Calendar year	Reduction in OASDI benefit payments resulting from retirement test changes [1]	Net effect of financing changes [1]	Total net effect [1]
1978	$0.3	(2)	$0.3
1979	.3	−$0.2	.1
1980	.2	−.8	−.6
1981	.1	−.3	−.2
1982	.1	(2)	.1
1983	(2)	.2	.2
1984	(2)	.2	.2
1985	(2)	(2)	(2)
1986	(2)	−.2	−.2
1987	(2)	−.2	−.2

ASSETS OF THE OASI AND DI TRUST FUNDS, COMBINED, AS A PERCENTAGE OF OUTGO

	Assets at beginning of year as a percentage of outgo during year		Assets at end of year as a percentage of outgo during year	
	Committee bill	Steiger amendment	Committee bill	Steiger amendment
1977	47	47	41	41
1978	37	37	34	34
1979	31	31	29	30
1980	27	27	27	27
1981	25	25	26	26
1982	24	24	34	34
1983	32	32	42	42
1984	39	39	49	49
1985	45	45	60	60
1986	55	55	69	69
1987	64	64	78	78

[1] Represents changes from benefit payments, or contribution income, under the program as modified by the committee bill.
[2] Less than $50,000,000.
[3] Under the automatic increase provisions in the law, the retirement test exempt amount under the committee bill for beneficiaries aged 65 and over is assumed to be $6,000 in 1983—the same amount as specified in the Steiger amendment. Therefore, there is no effect on benefit payments after 1983.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 Trustees Report.

PRESIDENT CARTER'S REMARKS CASTIGATING OIL INDUSTRY ARE NOT DESERVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, while I supported the administration energy bill which passed the House in early August, I wanted to take this opportunity to express serious concern about President Carter's remarks castigating the entire oil and gas industry for its opposition to his plan and blaming that industry for all of the energy problems facing this country. I am particularly disturbed that Mr. Carter has seemed to lump all opposition to his energy policy into one category and, in one fell swoop, to scapegoat an industry in a manner than is not completely deserved.

In my district, for example, there are a large number of independent oil and gas producers who cannot be blamed for our energy problems, and who, in fact, are discovering most of the new domestic reserves of oil and gas, and who are not engaging in anything like "war profiteering." While these independent producers and I do not see eye to eye on every substantive issue, I would hate to see them lumped into the scapegoated group about whom the President was talking.

Of course, the oil and gas industry—like every other group in this country—bears some responsibility for solving our energy problems. We all do. But it is patently unfair to blame the lack of success of President Carter's energy package on this one sector of industry. It seems more proper to acknowledge the fact that there are serious differences of opinion in this country on the President's energy package and that only the democratic process working its will, not a fixation for looking to someone to blame, is going to move us toward energy independence.

HEARING BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY ON THE TASK FORCE REPORT TO RESTRUCTURE THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, will hold its final hearing on the Justice Department's task force report on reorganizing the Law Enforcement Assistance Administration. This hearing will be held on Thursday, October 20, at 10:30 a.m. in room 2237 of the Rayburn House Office Building.

The Subcommittee has already held 3 days of hearings on this subject and testimony received contributed to the subcommittee's evaluation of the task force report.

Those wishing to testify or submit a statement for the record should address their requests to the Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

VETERANS' ADMINISTRATION TOO SLOW IN RESPONDING TO COMMITTEE'S REQUESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, over the years the Committee on Veterans' Affairs has experienced difficulty in obtaining information and data from the Veterans' Administration necessary for the committee to carry out its oversight and legislative responsibilities. Every effort has been made to get the agency to place a higher priority on various studies and surveys directed by the Congress and designed to give us data so essential for the conduct of our affairs. For unknown reasons, response by the VA has not been good; and it would appear things may be getting worse.

My colleagues will recall that for the past 2 years there has been much discussion in reference to the veterans' pension program, and the view held by some Members on the need to review the adequacy of the program.

In order to have the basic data and information necessary to determine what needs to be done in this area, last year the Congress directed the Administrator to conduct a study and to submit to the Congress no later than October 1, 1977, the results of the study that would include, among other things, the income characteristics of veterans and survivors currently in receipt of non-service-connected pension; actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors—and their families—who may be potentially eligible for benefits under the non-service-connected pension program during the next 25 years, and other vital information.

The committee received assurance from the Administrator that the report would be received on schedule. Nonetheless, we are now told that it will be at least November before any information is received and that it could be as late as January before receiving the major results of the study.

Unfortunately this is not an isolated case. Many of you may be aware that the National Academy of Science report directed to be conducted by law was only received by June 3, 1977, more than 8 months late. The VA was supposed to have responded no later than 90 days after that date. The agency's response was late.

Public Law 94-433 required the Administrator to conduct a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders. That study was due on June 30, 1977. Results of the study have not yet been received.

Public Law 94-433 also required the Administrator to complete and forward to Congress a thorough and detailed study of the dependency and indemnity compensation program by October 1, 1977. Results of the study have not been received.

Mr. Speaker, the committee continues to encounter problems in getting copies of the agency's testimony at least 24 hours prior to our hearings; we have problems in getting agency comments and reports on legislative initiatives subject to hearings, and numerous other delays.

The problem may be with the Office of Management and Budget, although I am not certain of that. I am rapidly coming to the conclusion that our only recourse will be to conduct open hearings in order to determine where the problem lies. I hope the Administrator will give his attention to this matter, and I urge the Office of Management and Budget to be a little more responsive.

CONGRESSMAN BRADEMAS ADDRESSES THE BUSINESS COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on October 15, 1977, our colleague from Indiana, the Honorable John Brademas, the distinguished majority whip of the House of Representatives, delivered an address to members of the Business Council in Hot Springs, Va.

The Business Council is composed of some of the Nation's most distinguished business and industrial leaders.

I insert at this point in the RECORD Congressman BRADEMAS' thoughtful address:

REMARKS OF CONGRESSMAN JOHN BRADEMAS

October 15, 1977

Before beginning, I want to answer that unspoken question that, if not already in your minds, is sure to be there before I finish.

No, I have never met a payroll.

I am politician, not a businessman. But just as I have never had to meet a payroll so I doubt whether many of you have ever had to convince a few hundred thousand people every two years to vote for you and not some other guy.

Although I am a politician, I used to be a professor of political science. So I hope you will forgive the recividism if I start these remarks with what sounds like a civics lesson.

In order to understand what happens in Washington, it is essential to recognize what our separation of powers system means and how it affects the actual functioning of our government.

I find that newcomers to Washington do not really understand our system, and I include visitors from our own country as well as those from other nations. I also include some Presidents.

People know the phrase, "separation of powers," but for some reason the words often lack meaning for them. The idea is somehow prevalent that Congress exists to do whatever a President wants it to do. According to this view, Presidents ask and Congress gives. This attitude is based loosely on the idea of what the structure of a corporation is thought to be. The President is perceived as the corporation's chief executive officer and Congress as a complaint board of directors.

Although some corporations may work that way, the government of the United States does not—nor was it ever intended to.

The President and Congress are elected separately. Each President, each Senator and each Member of the House of Representatives has his own mandate and his own responsibility to the people. This curious system of shared power has no real parallel in the world today, a fact that sometimes I think is recognized only by politicians and political scientists—and not all of them.

In order to get anything of consequence accomplished under this system of what Richard Neustadt called "separated institutions sharing powers," the President and Congress must work together. Although it is a system that no engineer or management expert ever would recommend, it also is a system that, by and large, works.

In the American government, when the executive and legislative branches are controlled by members of the same political party, the two branches are likely to have common goals—although rarely do they agree on just how those goals are to be reached.

There is a famous story about Speaker Sam Rayburn. Once asked how many Presidents he had served under, he responded: "None. But I have had the privilege of serving with eight Presidents."

That kind of attitude is more pronounced today in Washington than at any time since President Roosevelt took office in 1933.

In the 1970s, Congress has taken a series of initiatives that have buttressed its role. By these actions, Congress has not diminished the Presidency but has simply insisted on its own place in the sun of our constitutional constellation.

Congress, increasingly, thinks for itself. It does not tolerate the idea that all wisdom originates at the other end of Pennsylvania Avenue. It seeks to make its constitutional share of the national policy making function an affirmative—even an assertive—one. We in Congress work in harness with the President, but we do not work in tandem. The Founding Fathers did not intend that we should.

It has been said that the Constitution assures that the Congress and the President will fight fiercely, fight fairly and fight forever. To a certain extent that is true—and it is an important safeguard of the freedom that has distinguished our nation. It is also true, however—contrary to many news reports—that Congress and President Carter share a common commitment and, with all the fits and starts that are built into the process, have developed a fine working relationship that already has produced many solid accomplishments and will produce many more.

NEW LEADERS IN CONGRESS

This is an unusual year, for not only do we have strong new leadership in the White House, but there are strong, new leaders in Congress as well. The record of this year will show that Speaker Tip O'Neill in the House and Majority Leader Robert Byrd in the Senate are as strong, effective and outstanding as is President Carter in the White House. I am privileged to serve with Speaker O'Neill and our new Majority Leader, Jim Wright of Texas, on the House Leadership team. Way back last December, before either the new Congress or the new President had taken office, we of the congressional leadership already were meeting with President-elect Carter and his new counselors in Plains and laying out priorities for this year.

Since then, the congressional leadership, and particularly Speaker O'Neill, have made it plain that Congress wants coordination and cooperation with the White House—not conflict and confrontation.

President-elect Carter agreed that Pennsylvania Avenue, which joins the Capitol and the White House, is a two-way street. The President showed then, and he shows now, that he is a President who is willing to work with Congress and he is a man who does not fear sharing responsibility—and the credit and blame. He is a good listener, a quality that is not all that common in Presidents—whether of a nation or of a corporation.

President Carter, for example, went to the unusual length of holding a round table last January with 45 Members of Congress, including myself, on international affairs. This is an area where Presidents usually tolerate little advice from Congress. But for seven hours President Carter sat and listened while we of Congress told him what we felt about various foreign policy issues.

In the domestic area, our early priorities dealt overwhelmingly with economic and energy matters. Much of that priority program already is enacted, including a tax cut designed to encourage business expansion.

Energy is a new, urgent and immensely difficult issue. Congress, as you are seeing, is thoroughly exercising its prerogative of reviewing the President's proposals. In that regard, I want to say I do not think things are as irreconcilable as they appear to be right now. I think that all of us, in fact, will be better off for the independent and tough scrutiny by Congress of a major national issue.

The world we live in today, with its domestic and international tensions, its technological explosion and its dizzying change, has presented us with increasingly complex questions of national policy. Our well-being—in many cases, our ultimate survival—depends on our finding answers to questions that either were ignored or did not exist a short time ago. It is essential that we in Congress examine carefully every new proposal, test every thesis, question every premise, debate every solution before we help launch the nation on some new course of action.

The country needs the benefit of all the ideas and debate it can muster on such complex and controversial matters as energy policy, the neutron bomb, genetic research and international arms control. It also needs ideas and dialogue to help solve such less cosmic but equally difficult problems as health, schools, transportation, housing and jobs.

Seeking solutions—or even palliatives—to these problems is not always a neat process, as anyone who has followed the fortunes of the President's energy package in the Senate knows. But fashioning an effective and acceptable energy program is an unusually difficult problem, and I hope that our troubles with energy will not blind you to the real record of achievement that the new President and new Congress have put together.

INTERNATIONAL POLICY

On the international scene, the revitalization of Congressional authority has given the House as well as the Senate an increasingly important role in foreign policy. In fact, Kenneth Bradshaw, the Clerk of the House of Commons in Great Britain, wrote in his book, *Parliament and Congress:* "It can be said of Congress, to an extent that it could never be said of Parliament, that there are times when it initiates foreign policy."

Mr. Bradshaw cited as examples the Senate Foreign Relations Committee hearings on Vietnam in 1967 that gave voice to the misgivings about the war within the United States, the post World War II proposals that paved the way to the North Atlantic Treaty, and the insistence that controls be placed on the use of the atomic bomb. That last effort continues today; the House recently passed a Nuclear Non-Proliferation Act that provides guidelines to the executive in its dealings with other nations.

The Senate's role in foreign policy, including the constitutional power to ratify treaties and to advise and consent to the appointment of the Secretary of State and U.S. ambassadors, is well known. What may not be so well realized are the ways that the House of Representatives increasingly is making itself felt in the international arena.

First, through the legislative process, we authorize the President to make "executive agreements" with certain countries concerning specific matters; these agreements do not require Senate ratification, and, as Mr. Bradshaw pointed out, one of them was important enough to set up American bases in Spain and to commit the United States to keep troops there.

Second, the House plays a foreign policy role through laws authorizing American participation in international organizations. For example, we recently sent to the President a bill providing for U.S. contributions to international lending institutions, such as the World Bank, the Asian Development Bank and the African Development Fund.

Third, the House acts on much legislation needed to implement foreign policy. For example, the proposed Panama Canal Treaties, after Senate ratification, will require new laws passed by both House and Senate enabling the United States to meet the terms of agreement.

I do not say that congressional contributions to foreign policy always represent improvements. For example, like President Carter, I had severe reservations about the restrictions the House attached to the Foreign Assistance Appropriations bill. Many of them would have prohibited assistance to countries that did not measure up to our standards on human rights. Laudable as these objectives were, the restrictions would have hampered the President unduly in the difficult task of helping other nations and furthering American interests abroad. House leaders worked with the White House on this matter to arrive at a compromise that gives the President more flexibility in this vital area. We shall vote on this legislation next week.

CONGRESSIONAL BUDGET ACT

One of the major and little understood reasons for the resurgence of Capitol Hill in recent years is that Congress has moved to re-establish control of its most important constitutional function—the power of the purse—through the fiscal framework provided by the Congressional Budget Act of 1974. As you know, the Budget Act mandates that Congress approve a pair of budget resolutions—spring and fall—not subject to presidential review. These two resolutions set target levels for spending and taxes and then—after we have passed the actual tax and spending legislation in the summer—fix binding totals.

In this way, we know what we are shooting for when we start out the yearly cycle of budget-making and, if economic or other conditions necessitate adjustments along the way, we can make them.

Still more to the point, however, the Congressional Budget process provides us a mechanism through which we can impose fiscal discipline on ourselves. We now can make broad policy decisions about how much shall be spent for various purposes—national defense, commerce, transportation, health, education and welfare and other areas. And we are now able to view the budget—projected expenditures and projected revenues—as a whole. At the same time we can see the budget within the context of the economy at large.

The Congressional Budget Act, in effect, has retooled the mechanisms for making fiscal decisions in the United States government. The Act created the Congressional Budget Office, which gave Congress a professional staff, including its own economists, and

computer capability for the performance of in-depth budget analyses and projections.

THE NEW HOUSE

Congress, itself, meanwhile, has been undergoing a substantial and significant change of personnel. In the House of Representatives, in particular, we have a young, active, increasingly well educated group of new Members. Some 156 Members—more than one-third of the House—have served one term or less. And 242 Members—well over a majority—have been elected since 1970.

These newer, younger Members joined a cadre of seasoned, longer-term Members who are both knowledgeable on national issues and schooled in legislative skills. So what we have in the 95th Congress is a fortuitious balance of new blood and experience.

It is a combination that, in my view, is well serving the best interests of the American people.

With this House, in this post-Vietnam, post-Watergate world, it is difficult for either Presidents or Speakers easily to have their way. Neither a President nor a Speaker can fire, demote or transfer Members of Congress. To convince Members today, it is necessary to rely on reason and persuasion rather than mandate and command.

As its membership has changed, so has the House as an institution. It has become more open and more democratic—both small "d" and large "D."

I shall not here take time to recite the litany of reforms that have made the House of Representatives a more responsive and accountable body, but they are many.

I note, only by way of example, that some 30 to 40 subcommittees—where the bulk of the legislative work is done—have been opened to junior Members. Committee chairmen, once all powerful, now must pay heed both to the members of their committees and to their colleagues in the House for their ascension to committee leadership no longer is assured by seniority.

To be effective today, a full committee chairman must operate like a politician, not an autocrat.

The cumulative effect of all these institutional changes has made the House much more effective in dealing with the needs of the nation.

STEERING AND POLICY COMMITTEE

Among the barely noted changes in the House has been the emergence of the Democratic Steering and Policy Committee as a major policy making instrument.

The Committee, chaired by Speaker O'Neill, is composed of the Democratic Leadership, including myself, and elected Members reflecting the different shades of political philosophy within the Democratic Party, from conservative to liberal; a representative sampling of all geographical areas of the country: and a range of service from first-termer to senior House Members.

The Steering and Policy Committee is a true sounding board of the Democratic constituency of the House. The Speaker convenes it regularly; it serves as a means of planning strategy, testing legislative proposals and rallying support for party policy. Although its decisions are not binding, it is fair to say that the Steering Committee is the closest thing we have to a board of directors in the House of Representatives.

The Speaker also invites outsides groups to meet with the Steering and Policy Committee to give their views to House Democrats. On consecutive weeks, for instance, the Speaker asked George Meany and his colleagues in the AFL–CIO to discuss labor's goals and Irving Shapiro and his colleagues in the Business Roundtable to outline theirs.

SPEAKER O'NEILL

Although the Steering and Policy Committee helps to coordinate the majority party's policy in the House, the Speaker remains the chief custodian of leadership. I cannot praise too highly the effective leadership of Tip O'Neill. He understands the House and its Members deeply and thoroughly. His instincts and acumen are legendary. It is my job as Majority Whip to count votes for him on major legislation. But often he will know, even before he looks at the count, how much chance a given bill has in the House. And he'll tell you. You always know where you stand on an issue with Tip O'Neill.

Beyond that, Tip O'Neill is as sensitive and compassionate as he is strong. He believes deeply that our nation's strength and prosperity depend on the extent each of us has to participate politically, socially and economically in the growth of our country.

He deservedly is receiving major credit for the accomplishments of the new Congress and the new Administartion. President Carter has been very much a beneficiary of the Speaker's frank advice. I can bear personal witness to this since I participate in the meetings between President Carter and the House and Senate Leaders.

Every other week the Democratic leaders of the House and Senate have breakfast with the President at the White House. The President tell us what's on his mind and the Speaker and Senator Byrd then tell him what's on ours, with others chiming in whenever they wish.

The conversation is candid and pointed, but warm and friendly. We all want the President to succeed, not just because we are of the same party but because he is the President of our country.

LEGISLATIVE ACHIEVEMENTS IN 1977

This continuing communication and shared responsibility between the two branches of government has helped establish the best legislative record since Franklin Roosevelt's first term. Not since then has any new President seen so many major new laws enacted so soon after he took office.

Let me run over them briefly.

We made a strong start toward economic recovery with a major $34 billion, three-year tax cut, including a new jobs tax credit for employers and a $2.3 billion corporate tax saving in 1978. We have enacted public works, public service and youth jobs laws that are creating more than a million jobs and expanding your consumer markets.

We have established a Cabinet-level Department of Energy, and, as everyone in this room knows, we are in the throes of writing what we hope will be a bill creating a comprehensive energy policy.

Although the Senate is having its problems with energy, this most complex piece of legislation went through the House precisely on the timetable set by Speaker O'Neill early this year. The Senate is completing its deliberations and House and Senate conferees are going to work to develop a final bill that, hopefully, will give the nation a sound, far-sighted policy on a matter vital to the lives of every American, to the strength of our economy and to the security of our country.

Among other accomplishments this year, many of which would stand on their own in any other year, are a $13.7 billion, three-year housing and community development act; a $12 billion, three-year food, agriculture and food stamp reform act; a striping mining control and reclamation act; clean air act amendments that prevented a possible shutdown in the auto industry; and a $3-billion, two-year small business act. Next week we expect to pass amendments to the Social Security Act to assure its solvency.

Beyond these substantive accomplishments—and perhaps even more important—we have shown the people of this nation that Congress and the President can work together in their behalf.

As contention is replaced by cooperation, so will there be a return of consumer confidence, a corresponding increase in business activity and an upturn in the economy.

STILL MUCH TO DO

I do not wish to leave the impression that all is done and utopia is near. The stock market is just as disappointing to me as it is to investors and to those of you who seek to raise capital in it.

Inflation and unemployment rates remain too high. Unemployment among teenagers and minorities is particularly troublesome—and dangerous—although it is heartening to note that unemployment again dropped last month and is more than a full point below the 1976 high of 8 percent.

Without question, we will continue to be preoccupied by the energy issue.

We must have tax reform that is fair to the taxpayers while providing incentives to economic growth.

We cannot ignore the problems that continue to afflict our great cities.

Nor can urban America turn its back on the fact that falling farm prices threaten the strength of rural America.

High on the agenda of President Carter and Congress in the year upcoming must be welfare reform and an overhaul of the Social Security system.

Poll after poll shows that Americans are deeply worried about the skyrocketing cost of health care.

And even as our citizens want decent jobs and decent wages, they are insisting that the environment in which they live and work be safe and healthy.

In the international arena, our relationship with the Soviet Union continue to be of central concern and involve such questions as nuclear proliferation and arms control as well as trade.

Even now President Carter is seeking some viable basis for moving toward a stable peace in the Middle East.

We must look anew at our policy toward the increasingly vocal nations of the developing world, and we must attempt to fashion a policy toward the People's Republic of China that is at once realistic and responsible.

And, of course, we must maintain and strengthen our links both political and economic, with our most valued allies, the countries of Western Europe and Japan.

In all these areas, our government must act in the best interests of the citizens of the United States including your own interests as businessmen.

BUSINESS AND CONGRESS

In conclusion, let me turn to the relationship between business and Congress. Rest assured that Congress is no more anti-business than business is anti-Congress. As Americans, we are all in the same boat, a boat whose passengers include working men and women, farmers and consumers as well.

We will strive to see that business—big and small—can be conducted in the kind of an atmosphere that is conducive to its health.

There is not one Member of Congress who does not want business to prosper. We know, just as you do, that only a prosperous, thriving private economy can provide the jobs our nation needs, not to speak of the revenues required to operate the public sector. If any of you thinks that we enjoy voting money for welfare or for unemployment compensation or for public service jobs, he is wrong.

You and I know that programs like these are necessary evils that would not exist if your own businesses were expanding and were more profitable.

But just as you want us to foser an economic climate for your success, so we want you to understand and support programs and policies that will enable the less fortunate members of our society to sustain themselves. Just as you seek opportunity for yourselves, so must you recognize that others who may

not be as smart as you, as hard-working as you or as lucky as you need your help.

Like President Carter, we want a balanced budget, too. The continued high deficits in the Federal budget are as obnoxious to us as they are to you. But we also know—as, indeed, I'm sure you know—that a balanced budget can only be the product of a balanced economy.

You in business may be able to balance your budget by reducing your work force, by cutting your expenses. But we cannot balance the Federal budget by throwing people out of work, by reducing the assistance given to people who either cannot work or who want to work but cannot find work. The budget cannot be balanced by a recession. As we have learned to our sorrow, we all now know that a recession does not even reduce inflation

So we need to continue policies that help our economy grow, help to create jobs and help to expand business.

Such policies are the best kind of welfare reform because they get able-bodied men and women off public assistance and make them both consumers and taxpayers. It is a simple fact that every increase of one percent in the rate of national unemployment above four percent costs the Federal Treasury $16 billion in lost tax revenues and additional unemployment compensation and other recession-related payments.

I suggest that those of you who object to aid for welfare families and to other forms of public assistance do some quick calculating to determine the annual subsidy you get from the Federal government from deductions for interest and taxes and business expenses as well as from other tax advantages, and then compare that figure with what a family on welfare may receive each year.

In saying this, I don't want you to think for a moment that we do not recognize your problems or that we do not sympathize with your needs. We know, for instance, that capital formation is becoming increasingly difficult. We know that without action to stimulate new investment there cannot be the kind of economic expansion that will be lasting. We know that you need new plants and new equipment. We know that many of our laws designed to protect your employees from job safety hazards and to protect you and your families and your employees from environmental hazards are costly. We know that you need help.

But you must recognize that others also need help and that the kind of blind opposition that often comes from businessmen less enlightened than the membership of the Business Council brings on confrontation and ill-will rather than the kind of joint effort needed to solve problems that affect us all.

Just as we now have political leadership that is taking a new look at old problems and seeking solutions that will benefit all of us, so we need business leadership that looks beyond short-term problems and quick profits to the needs of our entire nation.

We need leadership from you as individuals and from the Business Council as an organization that recognizes that private enterprise cannot be successful unless the other parts of our society are successful, that the basis of stable, sustainable growth cannot come at the expense of one group over another.

The Business Council historically has been a major voice of business leadership in our country. I for one hope that you will continue in that role, not solely as champions of the interests of business, but as citizens of the greatest free nation in history.

For, as the great philosopher, Alfred North Whitehead, once said, ". . . a great society is a society in which its men of business think greatly of their functions."

May you think greatly of yours.

COAL CONVERSION NEED NOT BE INFLATIONARY

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, one of the special interests we all have today regarding the national energy plan are those prospective new costs which may be connected with any changes in public policy. As part of its role of monitoring inflationary pressures, when and where they may surface, the Subcommittee on Economic Stabilization, of which I am chairman, has been examining the potential results of recent Senate actions endorsing extension of the loan guarantee feature to provide for all costs of converting utilities to coal from petroleum or natural gas.

These actions raise a crucial question of whether the process equipment industry might ultimately experience another period of hyperinflation similar to that experienced from mid-1973 to early 1975. Key equipment items, such as heat exchangers, compressors, special valves, boilers, turbines, and so forth, would appear to be needed as such conversion to coal takes place. There would seem to be some evidence that the United States will first have to build up its process equipment manufacturing base; that is, small machine shops, foundries, and so forth, before advantage of such incentives can be taken by the users of such equipment for conversion.

In light of these conditions, the Subcommittee on Economic Stabilization asked the Congressional Research Service, the Congressional Budget Office, and the Office of Technology Assessment for their best judgments of the potential inflationary effects which might stem from this shift in public policy, if adopted by the Congress. So that my fellow colleagues may have the benefit of their comments and evaluations, I ask that their replies be inserted in the RECORD at this point. In each instance, it seems possible that some inflationary pressure could follow adoption of a policy favoring total conversion of industry as well as utility users if implementation of this aspect of the national energy plan were undertaken on a crash basis and thus strain industrial capacity. This possibility can be avoided, however, if the conversion effort is spread out over the next several years.

The replies follow:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., September 27, 1977.

To: House Banking Committee, Subcommittee on Economic Stabilization, Attn: E. W. Webber.

From: David E. Gushee, Specialist, Environment and Natural Resources Policy Division.

Subject: Inflationary Impact of Coal Conversion Loans and Loan Guarantees in S. 977.

As requested in your letter of September 16, we have examined the potential inflationary impact of the coal conversion loan and loan guarantees in S. 977 as passed by the Senate. We conclude that there will be minimal inflationary impact in the capital markets and probably minimal inflation in the costs of coal-fired equipment, although one can envision circumstances which would lead to rapid cost increases in coal-using equipment.

On the capital side, the $10 billion authorization for loan guarantees represents some $15 billion in total investment. Assuming that all such investment would be incremental—that is, in the absence of the loan guarantee provision none of it would occur—it is still only a very small percentage of utility and industry capital spending plans, which together will probably exceed $500 billion for the period. The increment from the loan and loan guarantee provisions is thus only 3% or so, and is smaller than variations in spending level from a number of other variables.

On the coal-using equipment side, the $15 billion would buy about 90,000 thermal megawatts of boiler capacity from an industry whose productive capacity is about 100,000 thermal megawatts per year. (Both capacity of the industry and capacity buyable for $15 billion depend strongly on the mix between coal and noncoal boilers produced; we assume about three fourths coal or other fuels for this exercise.)

On this basis, the loan and loan guarantee provisions would add a demand for about one full year's boiler production over the eight year period 1978–85. Currently the boiler manufacturing industry is operating well below capacity and is forecasting a healthy demand for boilers over the period but a demand well within current ability to produce. Thus, the additional demand for boilers provided by S. 977 would not stress production capacity and would not contribute to inflation. Should the added demand come rapidly, the boiler industry response would be to stretch out delivery times rather than to expand capacity, at least for several years, or until convinced that the high demand would continue long enough to warrant expansion.

Similar reasoning applies to auxiliary equipment such as heat exchangers, valves, fans, etc. None of these producers are currently overextended or foresee an expansion boom that would overextend them.

However, it is possible to visualize circumstances which would lead to rapid cost increases in coal-using equipment. The most probable circumstance would be a growing threat to the continued availability of oil imports or a growing probability of rapid increases in world oil prices. Currently, both public and private planners explicitly assume continued availability and either gradual or no increases in oil prices (in constant dollars).

Should there be a clear signal that the oil supply or price situation will worsen on a determinable schedule, demand for coal-fired equipment would leap upward (it is already rising for new boilers needed to meet expansion requirements).

With the loan and loan guarantee provisions in place, any such increase in demand for new coal-fired equipment to replace existing oil and gas fired equipment would be received by an industry (boiler manufacture) that much closer to its capacity to produce.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., September 27, 1977.

Hon. WILLIAM MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 16 concerning the potential inflationary effects of conversion to coal. Our recently completed *Analysis of the Proposed National Energy Plan* qualitatively addressed some of the points you raised. I am enclosing a copy of this report, of which pages 113–114, 131–134 and 136–140 are especially pertinent to your concerns.

The findings in this report are based on extensive meetings of tasks groups which in-

cluded individuals from companies affected by the Plan's coal conversion proposals. Our analysis indicated that, in general, shortages of equipment needed for burning coal in electric utilities should not occur, with the possible exception of pollution control equipment. Therefore, it was not anticipated that significant inflationary pressures would occur in the equipment manufacturing industry, at least as far as electric utility needs were concerned.

A problem could develop, however, if the demand for coal burning equipment by industry were to reach a point that caused substantial diversion of the resources of boiler and associated equipment manufacturers to industrial needs. When coupled with utility requirements, there may be insufficient boiler and equipment manufacturer capacity to meet total demand, with a resultant inflationary push in that sector. This all depends on the rate and degree to which industry switches to direct use of coal.

If, as our analysis points out, a large fraction of the conversion from oil and natural gas by industry is to electricity (indirect use of coal), then industrial boiler demand for conversion to coal will be considerably dampened. Of course, electric utility requirements would grow correspondingly, but there appears to be sufficient new electric generating capacity under construction or scheduled to take care of this. The fact that a large portion of this anticipated generating capacity will be coal fired was considered in our analysis.

I hope this information will be helpful to your Subcommittee. Our Energy Program Staff is continuing to monitor the situation, and if we can be of any further assistance, please let us know.

Sincerely,

DANIEL DE SIMONE,
Acting Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 11, 1977.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR BILL: Thank you for your letter of September 16, 1977, requesting information on the potential inflationary effects of the proposed programs for encouraging utilities to convert to coal from oil and gas. We have discussed this matter with Department of Commerce personnel and representatives of industry. On the basis of these discussions, we do not expect demand for turbines and boilers, the two largest components of a utility plant, to exceed the production capacity of the relevant manufacturers in the next several years.

According to Commerce personnel, since equipment of this sort generally must be ordered now if it is to be shipped in the next one to three years, order backlogs are a good basis for estimating future workload; the Edison Electric Institute reports backlogs or unfilled orders that are well below recent shipment levels. In 1972, for example, turbine capacity of 51,872 megawatts was shipped; the unfilled orders due in each of the next four years do not exceed 40,000 megawatts in any year.

A similar pattern exists for boilers. In recent years the annual boiler capacity shipped has exceeded 200 million pounds of steam per hour; unfilled orders due in each of the next few years do not exceed 140 million pounds of steam per hour in any year.

Thus, there appears to be room for expanded output in both industries. Of course, "crash" conversion programs could test capacity limits, especially for boiler manufacturers. Representatives of the boiler industry state that they do not foresee any problem in meeting new demand caused by federal energy programs as long as conversions of existing units are spread out over the next several years. For this reason, one cannot really know what will happen until a final version of the NEP is passed; although conversion should be gradual under currently considered plans.

It should be noted, however, that a lack of capacity constraints does not preclude cost-push inflation. Indeed, at least some of this equipment is sold under long term contracts with cost-escalation clauses. Commerce personnel suggest that the significant price increase in 1975 was the result, in part, of such escalation provisions.

If, as you suggest in your letter, you have evidence that capacity constraints will be encountered we would be happy to pursue the matter further with our industry contacts. Please let me know if you have any further questions.

Sincerely yours,

ALICE M. RIVLIN,
Director.

THE 30TH ANNIVERSARY OF 174TH TACTICAL FIGHTER GROUP OF NEW YORK NATIONAL GUARD

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HALEY. Mr. Speaker, I rise today with a very special sense of pride as a very special organization reaches a milestone. The 174th Tactical Fighter Group of the New York National Guard, well-known throughout the central New York areas as the "Boys from Syracuse," this month celebrates its 30th anniversary.

Assigned to this unit is a full strength of 700 officers and airmen who leave their civilian endeavors one weekend each month, in addition to 15 days of annual field training, to maintain proficiency to perform their M-Day assignment under the Tactical Air Command of the U.S. Air Force.

Although the 174th has undergone many changes in aircraft, organization and mission during its 30-year existence, the Hancock Field-based jet fighter group has continually been acclaimed as one of the top Air Guard flying units in the Nation.

Originally assigned the P-47 Thunderbolt, the 174th was the first Air Guard squadron to operate jet aircraft in New York State with the assignment of F-84's in 1950. In 1951, it was selected as one of two units in the country to test a secret program of Air National Guard runway alert to augment the regular Air Force. The results were so successful that this program is, to this day, a vital part of the Air Defense Command.

In 1960, the 174th was recognized by the National Guard Bureau as the best combat ready F-86 flying unit in the country. That same year, the group also was awarded the Governor's Trophy, symbolic of having been designated as the outstanding flying organization in the New York Air National Guard. The unit, subsequently, has been awarded this trophy on numerous occasions.

During the Berlin crisis of 1961, the 174th was activated, and all men, planes, and equipment were deployed to Phalsbourg Air Base, France within 30 days. On October 30, 1961, the largest movement of fighter aircraft to Europe since World War II began. It was the largest movement of jet fighters ever attempted. The aircrews island-hopped across the northern Atlantic route via Labrador, Greenland, Iceland, Scotland, and on to the mainland of Europe. Despite many dramatic moments—some pilots taking off from their station in raging blizzards—all aircraft arrived safely on the Continent. Operation "Stair Step," as it was tabbed, was a complete success for the Air National Guard.

Flying ground support missions for units of the Seventh Army in Europe, the 174th remained at Phalsbourg for approximately 10 months. With pilots and fighters returning by the same island-hopping route they used to take them to France, they arrived at Hancock Field, and were released from active duty in August 1962.

The 174th was again called up during the *Pueblo* crisis, and the unit was deployed to Cannon Air Force Base, Clovis, N. Mex. Its mission was to train forward air controllers to serve in Southeast Asia, assisting the Air Force in this ultimate task.

Transition to the newer A-37B was accomplished following the *Pueblo* crisis. Once again, the 174th set a record by transitioning to a new aircraft and attaining combat ready status in a remarkable 97 days—during the winter months.

During its 30-year history, the 174th also has compiled an enviable record of public service to the community. Accenting the blood donation drives and the Old Newsboys Campaign was a massive letter-writing campaign on behalf of American Prisoners of War/Missing in Action. The unit was responsible for the planting of the first "Freedom Tree" in the country in honor of the POW's, at the State fair grounds in Syracuse, N.Y., in September 1972. Members of the unit sold thousands of POW/MIA bracelets to both unit members and the public to obtain funds to support efforts to get the POW's returned.

In 1975, the unit undertook a project to resettle Vietnamese brothers in Syracuse. Numerous other activities, such as providing flyovers at patriotic events, rebuilding Little League ballfields and assisting the community in various goodwill programs have given the taxpayer a double return for his defense dollar.

From this brief history of the "Boys from Syracuse," I am certain that my colleagues can well understand my sense of pride in this very special unit. I am sure that they join with me in extending our appreciation to the men and women of the 174th Tactical Fighter Group, and offer our sincerest congratulations on the occasion of their 30th anniversary of outstanding service to the Air National Guard, the Air Force and the community of greater Syracuse, N.Y.

STATEMENT OF POLICY AND THREE SUPPORTING POLICY PAPERS FROM AIR FORCE ASSOCIATION

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, for 31 years, the Air Force Association has been keeping a close eye on our national defense and alerting its members and the

public about the threat it sees and what it feels must be done to meet that threat.

Meeting in convention here in Washington just a few weeks ago, delegates representing the association's 155,000 members around the Nation adopted the association's annual statement of policy and three supporting policy papers dealing with defense manpower issues, force modernization and readiness, and research and development. These well-reasoned statements continue in the tradition of the Air Force Association which has consistently examined the broad issue of national defense and placed in proper perspective the many elements that influence defense policy.

AFA's statement of policy and three policy papers each stand by themselves. But when taken together, they form an unusually comprehensive look at the total picture that I think is worthy of the attention of every Member of Congress. For these reasons, Mr. Speaker, I respectfully request that the texts of the Air Force Association's 1977-78 Statement of Policy and supporting policy papers be printed in the RECORD, and I commend them to my colleagues.

AIR FORCE ASSOCIATION STATEMENT OF POLICY FOR 1977-78 (ADOPTED SEPTEMBER 19, 1977 BY DELEGATES TO AFA'S 31ST NATIONAL CONVENTION)

The Soviet Union continues the cold war behind the smoke screen of detente. The Kremlin increases Soviet military power at a high rate, unswayed by U.S. and NATO restraints. The USSR's military programs and force levels exceed reasonable deterrence requirements. The Soviets outnumber us in every major weapon category except heavy bombers and aircraft carriers, and they outproduce us across the board. Our qualitative leads—in people and technology—no longer offset fully the widening numbers gap. With an economy half the size of ours, they invest half again as much as we do in both conventional and nuclear weaponry. Why?

Soviet capabilities span the spectrum from modern sea, air, and ground forces that have global reach, to offensive military space weapons. Soviet ideology is intrinsically antagonistic toward our own. As Soviet President Leonid Brezhnev has stated, the inevitability of communism's victory over capitalism remains Moscow's first commandment. The bulk of all Soviet defense spending goes toward the maintenance and enhancement of forces that constitute a direct threat to the United States and our European allies.

The military balance between the United States and the Soviet Union today stands in danger of reversal: from U.S. superiority fifteen years ago to rough equivalence now, and, unless we take resolute, timely action, to U.S. inferiority in the 1980s. The continuing Soviet commitment to military superiority is a matter of totalitarian decree; our national will to retain essential equivalence is being diluted by apathy, neo-isolationist tendencies, and the inclination to ascribe to the Soviet leaders the same goals and aspirations that motivate us. In this first year of our nation's third century of independence, this Association believes we must take a long, hard look at ourselves, where we stand in the world, and what it will take to remain a free and viable nation.

THE NATIONAL WILL

We remain convinced that the people of this country are willing to pay the price of second-to-none, stalwart defenses for ourselves and our allies, and are unwilling to settle for second-best. To believe otherwise is to sell America short. Yet, we find evidence of support for policy options that could reduce U.S. defense capabilities to second-best, premised on gloomy and unsubstantiated assumptions about the American people's lack of support for essential defense expenditures. We find no reason to doubt this nation's ability to choose boldly if it understands the facts about its alternatives. Recent public opinion polls substantiate this belief. But an electorate kept in the dark cannot be expected to make enlightened choices. A nation that isn't asked compellingly to rally its strength probably won't.

The principle of partnership between the people and their leaders must include the setting of national security goals and the formulation of fundamental strategies for reaching these goals. The first step is to fulfill the people's right to know, unfiltered and unalloyed, the fundamental facts and professional opinion concerning decisions on issues that bear on the survivability of our way of life. This must include frank assessment of the nature and extent of the politico-military challenges that confront us.

THE FALLACY OF MINIMUM DETERRENCE

The job of the U.S. armed forces is to deter conflict or, failing that, to bring conflict rapidly to a successful conclusion. Ideally, military power exists to preclude the need for its use. But our reliance on deterrence must not blot out the military fact of life that forces unable to inflict unacceptable punishment on an aggressor do not deter and may even invite attack.

Strategic deterrent forces are fundamental to preventing war. Their credibility affects decisively the credibility of all other military forces and of our foreign policy. An otherwise credible U.S. conventional warfare deterrent is weakened if the potential adversary has the edge in strategic capability, because it can checkmate all U.S. responsiveness to provocation and aggression. We are concerned, therefore, about proposals to retreat to a strategic philosophy of minimum deterrence limited to the ability to destroy only a certain percentage of Soviet industry and cities and devoid of nuclear war-fighting capability. Such a posture is strategic inferiority by another name, both in fact and in international perception. It would generate the same false sense of security the Maginot Line provided France in World War II.

We see these cardinal fallacies: The adversary to be deterred has to share this defense philosophy to the extent of permitting us to hold his own population hostage and of restraining his own force structure accordingly. The Soviet Union clearly is unwilling to do either. It has explicitly and consistently rejected the concept of nuclear sufficiency and mutually assured destruction. The Kremlin's strategic war dogma is unambiguous and a matter of record. The Soviets believe that nuclear war, in a case of last resort, is both thinkable and winnable. An impressive arsenal of new intercontinental ballistic missiles, tailored for attack on U.S. strategic forces, plus MIRVed, long range, submarine-launched ballistic missiles, is now entering the Soviet inventory or under flight test to translate dogma into hardware reality.

Cutting back our strategic force structure to fit the concept of minimum deterrence, according to the proponents of this concept, will lower the defense budget. But in the process, the nation would be shortchanged. Budget savings would be minor; our deterrent posture impotent and hence not credible. Lastly, we would be abandoning the hope of confining nuclear war to counterforce (strategic war-fighting) targets. The difference could be ninety million American lives. In our view, deterrence that fails to dissuade Soviet attacks on U.S. cities is morally unacceptable as national policy.

KEEPING DETERRENCE CREDIBLE

To assure credible deterrence we see, as the first priority, retaining and modernizing the strategic triad that has proved itself as a global peacekeeper so well for so long. We acknowledge the unique and crucially important contributions to deterrence of our fleet ballistic missile (FBM) submarines and fully support their upgrading through the Trident program. But those proponents of minimum deterrence who want to assign the FBM force most of the deterrence function are ill-advised. Sea-based deterrence, without synergistic reinforcement from ICBMs and strategic bombers, could fall prey eventually to advances in Soviet ballistic missile defense and antisubmarine warfare technologies.

The ICBM force, on the other hand, presents uniquely different problems to a potential attacker. Attacking USAF's ICBMs would force an aggressor into the open, without the cloak of slow attrition or stealth, since he would have to stage massive and rapidly detectable raids against targets deep inside sovereign U.S. territory. Consequently, the attacker must allow for the distinct possibility that his action will cause the U.S. to launch its ICBMs before his missiles can reach their targets.

Further, the ICBM force remains the component of the triad with the highest state of readiness and this nation's principal counterforce weapon. Neutralizing this force is clearly a high-priority goal of Soviet strategists, who spare neither effort nor resources in their long-term drive toward placing the U.S. ICBMs at risk through a first-strike capability. While realization of this objective—if feasible at all—is many years away, we see an urgent need to fortify the long-term survivability of our ICBM forces and, at the same time, to demonstrate U.S. determination to block the Soviet quest for a first-strike posture. Such U.S. action would go a long way toward making nuclear war unthinkable for the Soviets. The Air Force's proposed medium-throw-weight MX ICBM system would guarantee the Soviets a net loss in surviving forces relative to the U.S. regardless of how they might stage a massive strategic attack. We know of no more persuasive deterrent than the demonstrable ability to inflict unacceptable disadvantages on the attacker.

STRATEGIC SYSTEMS

We reaffirm our belief in the need for a manned strategic penetrating system that can operate in conjunction with air-breathing standoff cruise missiles. Contrary to popular belief, some technologies essential to the highly promising air-launched cruise missile concept are as yet in a formative stage. These weapons are years away from operational deployment. Even after the first generation of ALCMs reaches operational status, it will require still more years of maturing and refinement before they can attain the wide range of demanding capabilities that already are being attributed to them.

The need, therefore, for a mix of manned penetrators and standoff systems remains fundamental. We are encouraged by the Administration's plans to explore follow-on systems to the B-52 with an eye on their eventual deployment. To attain ALCM's full potential as expeditiously as possible requires that the entire cruise missile program be placed under Air Force management and that at least two aerospace industry teams be involved in their development and production.

Soviet space activities invalidate the view of those who hold that space can be maintained as a sanctuary from warfare if this country would only forego all forms of active and passive space defense. We, therefore, urge the unstinting application of advanced technologies that increase the survivability of US military space systems and their ability to function without interruption throughout the trans-attack and post-attack phases of nuclear war. We are con-

fident that the Space Shuttle will contribute significantly to military space capabilities, but believe that all broad national portions of this program should be funded in their own right and outside of the Air Force and Defense Department budgets.

SALT POSITIONS

The men and women of this Association welcome President Carter's statement that the United States position at SALT must be one of "elightened self-interest" and that, if no accord is forthcoming, the US "can and will do what it must to protect its security and to ensure the adequacy of its strategic posture." However, we continue to view as nonnegotiable preconditions for any SALT accord the provisions of equivalent capabilities and full verification; we continue to support all legitimate efforts to bring about equitable and balanced limitations of weapons of mass destruction and to strengthen strategic stability. We applaud the administration's steadfast refusal to rush toward a SALT II agreement by acceding to less than equitable terms.

We believe, on the other hand, that a Comprehensive Test Ban Treaty, prohibiting the testing of all nuclear explosive devices, entails major risks to national security. Low-yield tests are beyond our ability to detect, yet would provide important information about both nuclear hardening and nuclear weapons design for a power not party to the accord, or for a signatory willing to circumvent the terms of such an agreement.

Lowering, over time, the nuclear weapons expertise of this country and the Soviet Union to the point where other technologically advanced nations could in fact surpass us invites instability and increases the risk of nuclear war. In addition, foregoing all nuclear testing incurs risks brought on by the aging of our nuclear stockpile, handicaps future US nuclear weapons designs (as long as the Soviet lead in throw-weight continues), limits capabilities of our weapons, and leads to the disbanding of our nuclear weapons laboratories, a vital national resource.

NEW TACTICAL WEAPONS

In this context, the Association salutes the Administration's determination to remain unswayed by widespread misrepresentation of the purpose and nature of enhanced radiation weapons—the misnamed "neutron bomb." These proposed nuclear theater weapons, whose release is controlled by the US President, can reduce sharply casualties among civilians and friendly troops. These weapons are essential for the modernization of our forces in Europe and would increase the credibility of our NATO deterrent.

We are encouraged by indications of plans to increase the budget of our general-purpose forces by three percent per year in real terms during the next five years, and we urge support of this critically important force modernization. With tactical and strategic capabilities together forming cohesive and mutually supporting military deterrence, we believe that the funding of the former must not come at the expense of the latter.

Thirty years after becoming a separate military service, the United States Air Force is small when measured in terms of numbers of aircraft and manning. But the superb quality of USAF's people, along with their ingenuity and that of American industry, has provided a harvest of advances in force effectiveness and weapons that more than compensates for these numerical factors.

A decade and a half ago, President Kennedy told us that the nuclear age forces us to choose between being a great generation of Americans or being the last. We believe that, given the facts, the present generation of Americans will choose greatness.

AIR FORCE ASSOCIATION POLICY PAPER ON DEFENSE MANPOWER ISSUES (ADOPTED SEPTEMBER 19, 1977 BY DELEGATES TO AFA'S THIRTY-FIRST NATIONAL CONVENTION)

A calling—not an occupation.

There is no question that this traditional concept of military service has been eroded over the past few years. The causes of the erosion, and there are many, are not at issue here.

What is pertinent is that strong efforts are under way within the military to reverse the trend. We applaud and, with all our resources, support these efforts. The shift in emphasis of Air Force recruiting literature toward the concept of service rather than job training is a step in the right direction. We believe that the Air Force's "Impact 77," a study examining what the Air Force can do on its own to accelerate this trend, is encouraging. The all-volunteer force is no substitute for the obligation of all citizens to expend some of their time and talent in military service to our country. We refuse to believe that patriotism is an anachronism.

However, if we are to expect our nation's youth to accept military services as a calling, and not just as a job, then we must stand behind them once they put on the uniform. The sacrifices involved—deferring civilian career plans, serving "at the convenience of the government," and facing the ever-present possibility that they can be called upon to risk their lives for their country—demand the full understanding of our nation. This extends to support of the benefits designed to compensate for the many disadvantages of military life. Piecemeal hacking at compensation and benefits can only cause our men and women in uniform to question whether their service and sacrifice are truly valued by the nation they have sworn to protect. If we expect our military people to look upon their service as a calling, then we must protect them from heedless and random attacks by misguided and irresponsible critics. Military people do not expect applause. Neither do they deserve abuse. The coin of commitment has two sides.

The President's Blue Ribbon Commission on military compensation must view its task in this light. We urge the Commission to get on with its work. Further delay is intolerable.

If the concept of a calling is essential to our active military forces—and it is—then it applies with equal validity to the National Guard and Reserve. Our nation's citizen-soldiers serve in a civilian environment that often lacks understanding, and, at times, is hostile. The recruiting and retention problems facing our Reserve Forces clearly reflect this point.

The plight of the Vietnam-era veteran is distressing. A large proportion of those who served honorably in the Southeast Asia conflict—many despite personal reservations and per pressure—are still paying a high price for their sacrifice. The unemployment rate among Vietnam veterans is a blight on our national conscience. The nation owes all Vietnam veterans a great debt. Yet their problems are forgotten, their very existence too often ignored. A national commitment to properly recognize, train, and employ the Vietnam veterans, many of whom came from underprivileged backgrounds, is shockingly overdue.

The same factors that make military service as different as it is difficult make it incompatible with unionization. There is no place in the military system for a second chain of command that competes for the loyalties of its members. We commend the members of the American Federation of Government Employees (AFGE) for their overwhelming rejection of military unionization.

The duty of military and civilian leaders to speak up for the needs of those they lead is clear. We commend the few who have.

Only then will the American people understand the need for a full national commitment to the men and women who serve in their defense.

In turn, we urge American service people to continue to demonstrate the same dedication to cause, country, and excellence that illuminates their history.

To these ends, the Air Force Association hereby pledges its support of the following positions:

PERSONNEL POLICIES

We commend the Air Force for its efforts to involve all members of the Air Force family in recruiting activity through the Air Force Recruiter Assistance Program, and we pledge the Association's active participation in and support of this program.

We support:

Enactment of the Defense Officer Personnel Management Act (DOPMA).

Continuation of current military leave policies for federal employees who are members of the Reserve components.

Equitable military leave policies that do not interfere with normal vacations of all members of the Reserve components.

Current drill pay structure for the Air National Guard and Air Force Reserve.

The Air National Guard and Air Force Reserve civilian technician concept and current proposals to improve management procedures of the Air Force Reserve Technician Program.

A fully government-funded Airmen Education and Commissioning Program.

Direct commissioning of qualified enlisted people.

Continued graduate education for officers, and more efficient use of these graduates.

Award of E-3 rank to Junior ROTC graduates entering the active Air Force, Air Force Reserve, or Air National Guard.

The same tax advantage for federal employees who sell their homes when assigned to overseas duty as that provided military personnel.

Adequate housing for all ranks or suitable reimbursement for the lack thereof.

We oppose all inequities, current or contemplated, in United States agreements with foreign governments that would adversely affect the status of military personnel, civilian employees of the Department of Defense, or their dependents who are stationed abroad.

COMPENSATION

Pending results of the Blue Ribbon Commission on Military Compensation and other current studies on this subject, we support the present system of military and federal employee compensation, and we oppose interim piecemeal changes.

We oppose a military and federal employee "pay cap" in the belief that such action again will put military and other government people behind the cost-of-living curve.

We support:

Travel reimbursement for dependents of junior enlisted people.

Per diem allowances for enlisted people comparable to that for officers.

Equalized hazardous-duty pay for all military ranks.

Equalized environmental differential pay for all federal civilian employees.

Repeal of the restriction that prohibits enlisted band members from the same off-duty employment opportunities available to all other members of the armed forces.

Cost-of-living supplement for military and civilian people assigned to areas with higher than average cost of living.

Enlistment and reenlistment bonuses for members of the active force, Air Force Reserve, and Air National Guard.

Educational assistance for members of the Air Force Reserve and Air National Guard.

Amendment of the DOD Joint Travel Regulation (JTR) to eliminate discrimination against mobile home owners.

Federal employee reimbursement of moving/travel expenses, upon retirement or death, to home-of-record (or equal distance) if the move was for the convenience of the government.

SPECIFIC BENEFITS

Commissaries

We continue to urge improved management to reduce military base commissary stores subsidies, but we oppose any action that would reduce the benefits of this service to active military people and their dependents, retirees, eligible widows, and disabled veterans.

Military health care

Military people, active and retired, deserve a health care system that will fully serve their needs and the needs of their dependents. Therefore, we support:

Current and improved incentives to attract and retain military physicians and dentists.

Upgrading Air Force physician assistants to at least equal status with their counterparts in the other military services.

Dental care for dependents of active and retired personnel.

A change in the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) which would provide lifetime coverage under CHAMPUS for the military retiree, without regard to Social Security, Medicare, or service-connected disability treatment by the Veterans Administration; remove current nonavailability certificate requirements; and restore original procedures of determining allowable reimbursements.

Survivors' benefits and insurance

We support amendments to the current Survivors' Benefit Plan (SBP), which would:

Remove the provision whereby survivors eligible for Social Security benefits must have their SBP benefits offset by proportionate amounts of their deceased spouse's Social Security benefits.

Establish a provision that would permit survivors of Reservists and Guardsmen who die before reaching the established retirement age to receive a proportionate amount of the retirement annuity the Reservist or Guardsman would have received at retirement.

We support:

An amendment to the Veterans' Special Life Insurance program that would permit Reservists who are in a nonpay but active status to participate fully in the program.

An amendment to the Federal Employee Group Life Insurance program that would permit federal employees to contribute after retirement, with continued coverage.

The goals of the Air Force Enlisted Men's Widows' and Dependents' Home Foundation.

Retirement

We believe that any new nondisability retirement plan must guarantee no reduction in benefits for military and federal employees serving at the time of enactment, and such a plan should not be incorporated with any Social Security retirement program.

We oppose any proposal that would limit employment opportunities for retired military people, the great majority of whom are enlisted, or that would force them to forfeit any portion of their earned retirement income.

We favor removal of current dual-compensation limitations for retired regular military officers.

We support:

A new nondisability retirement plan on a reduced annuity basis for Reservists and Guardsmen who elect to retire before age sixty.

Lump-sum payments immediately upon retirement for those federal employees retiring for disability.

A lifting of the sixty creditable training point ceiling for retirement purposes for Reservists and Guardsmen.

Recomputation of military retired pay to reflect the changing military pay structure.

Proposals to authorize a three-year grace period for government-paid moves to home of choice upon retirement of military people.

RESERVE OFFICER TRAINING CORPS (ROTC)

In our support of vigorous and stable Air Force ROTC programs (Junior and Senior), we urge an increase in the number of USAF Junior ROTC units and the funding of AFROTC scholarships, equitable with that of other services. At the same time, we urge the Department of Defense to give serious consideration to changing the title "Junior Reserve Officer Training Corps (JROTC)" to a title that would more accurately reflect the level, nature, and purpose of the program.

COMMUNITY COLLEGE OF THE AIR FORCE

We continue to support the mission of the Community College of the Air Force (CCAF) and are proud of the fact that it can now grant Associate Degrees to qualified Air Force enlisted people.

CIVIL AIR PATROL

We support continued federal funding of the Civil Air Patrol and we favor increasing CAP's capability to perform its search-and-rescue mission.

SELECTIVE SERVICE

We are gravely concerned over the current and potential shortfalls in military recruiting, both for the active force and the Reserve components. Because national policy currently dictates that military manpower be maintained at an austere level, and because the Selective Service System has been virtually dismantled, thereby making it apparent that force expansion for military contingencies cannot be expeditiously accomplished, we urge the establishment of a fair and effective National Selective Service System.

MIA'S/POW'S

(Southeast Asia)

We urge the government to continue to pursue its attempt to resolve, as quickly as possible and to the maximum attainable degree, the status of all Americans identified as Missing in Action or Prisoners of War in Southeast Asia.

VETERANS

We support:

An expanded, more effective government program to encourage training and employment of Vietnam-era veterans.

A continuing network of Veterans Administration Hospitals, fully funded and adequately staffed.

An expanded system of National Cemeteries responsive to the need of the veteran population.

Passage of legislation allowing those disabled veterans who are retired from the service on a longevity basis to receive full military retired pay, in addition to VA disability compensation.

Proposals to eliminate time restrictions on eligibility for earned veteran's educational benefits.

The current system of Veterans' Preference for veterans employed in—or seeking employment with—the Federal Civil Service.

AIR FORCE ASSOCIATION POLICY PAPER ON FORCE MODERNIZATION AND READINESS

(Adopted September 19, 1977 by delegates to AFA's Thirty-first National Convention)

As the Soviet Union pursues with unrelenting determination its quest for military preeminence, our misgivings parallel those of the Chairman of the House Armed Services Committee, Congressman Melvin Price. He categorized termination of production of the B-1 strategic bomber, of the Minuteman III ICBM, and of the short-range attack missile (SRAM), combined with stretch-out of the MX program and a cut in nuclear naval carrier strength, as "unilateral arms restraint" on the part of this country. Along with Chairman Price, we search in vain for signs of commensurate Soviet restraint. Instead we note the Defense Department's recent report that "the Soviets continue to modernize their strategic posture at a steady pace" by deploying new SS-17, SS-18, and SS-19 ICBMs, new Delta Class strategic submarines, and Backfire bombers.

The decision to terminate production of the B-1 and Minuteman III will have a major effect on the strategic posture of the United States. It calls for a comprehensive, careful reappraisal and restructuring of these forces. While requisite analyses and economic tradeoff studies are not yet complete, several fundamental requirements are evident already.

MX MISSILE FULL-SCALE DEVELOPMENT

The MX advanced ICBM program must be entered into full-scale engineering development in FY '79 to prevent deficiencies in US strategic capabilities in the 1980s. The intercontinental ballistic missile—with its speed, accuracy, low operational cost, constant high readiness, and short flight time to target—remains the principal means for coping with time-urgent, hardened targets and thus for terminating nuclear conflict below the level of assured destruction. But this option remains open only as long as these weapons can cope credibly with the advancing technology and expanding capability of the Soviet strategic forces. By the time the first MX could become operational—assuming its expeditious development and deployment—conversion of the Soviet ICBMs to the new generation of high-payload, improved-accuracy weapons is likely to be completed. The bulk of that Soviet force then will be comprised of SS-19s, a weapon system almost identical to MX in size and throw-weight; the numerical size of the Soviet ICBM force will continue to be half again as large as the US small throw-weight Minuteman force; and the Soviet arsenal also will include some 300 SS-18s, the largest ICBM in the world, with twice the throw-weight of MX. Total throw-weight—and thus the potential number of individual warheads—of the Soviet force then would be at least five times that of the US ICBM force. Such a pronounced imbalance would be highly destabilizing and an open invitation to Soviet adventurism or worse. Timely entry into the inventory of the highly survivable MX missile will avert such a dangerous asymmetry.

MINUTEMAN UPGRADING

Programs to improve Minuteman, now in progress, as well as research and development to provide the option for a comprehensive upgrading, especially of the Minuteman II component, must be continued, including vigorous exploration of new reentry vehicle technologies under the Advanced Ballistic Reentry System (ABRES) program.

CRUISE MISSILES

The Administration's choice of air-launched cruise missiles over the B-1 as the principal air-breathing element of the strategic triad vastly increases the importance and scope of these new weapons. Development of cruise missiles—as yet in an early stage—and their mating to B-52 or other launching aircraft must be carried out expeditiously and with maximal efficiency. This goal, we believe, can be attained best by placing the joint cruise missile system program office under Air Force management. The Air Force clearly is to be the principal user of these weapons—both in the air-launched

strategic and the ground-launched intra-theater role—and, therefore, should be responsible for their design, development, and acquisition. Such an arrangement appears essentially also to carry out evolutionary improvements of these weapons in response to feedback from the using command and to assure rapid adjustments to changes in Soviet air defenses. Logistically, that organization also should serve as the manager of follow-up weapons, such as the highly promising Advanced Strategic Air-Launched Missile (ASALM). We believe that thus far austere funding and overly conservative approaches have held back development of ASALM. Termination of the B-1 production program makes mandatory acceleration of the ASALM effort in order to permit full flight testing and production at the earliest possible time.

The broader, more critical role that is being assigned air-launched cruise missiles make it mandatory that their performance capabilities and development mode not be restricted to the disadvantage of the United States by future SALT accords.

MANNED STRATEGIC AIRCRAFT

We see a continuing need for a manned strategic penetrator because the range of air-launched cruise missiles, measured against the Soviet target system from stand-off launch points, is marginal, and because the range of Soviet air defenses is being extended out from the Soviet perimeter through the use of airborne radar, advanced SAMs, and modern interceptors. The first requirement for the US is to upgrade the avionics and electronic countermeasure capabilities of the B-52 fleet to prolong its ability to operate both in offshore hostile airspace and to perform deep penetration missions.

We believe further that design options for a follow-on manned strategic aircraft—be that FB-111 derivatives or other concepts—must include some capability for deep penetration. Penetration by a manned strategic system, capable of making on-the-spot decisions about how and where to attack targets of opportunity, remains an essential element of effective strategic deterrence. The ability to penetrate steadily improving Soviet air defenses must not be abandoned in favor of possibly less costly but certainly less effective forms of deterrence.

WARNING AND ATTACK ASSESSMENT

While the strategic forces represent the core factor of our national defense capabilities, the ability to control these forces in real time and in step with changes in the battle situation also is of pervasive importance. Essential here are programs to improve that part of the national Early Warning System known as attack assessment, encompassing rapid detection and transmission of information about impending attacks by Soviet ICBMs, SLBMs, and bombers, and involving sufficient precision and detail to permit immediate formulation of counteraction by the National Command Authorities. The Defense Support Satellite Network; Pace Paws warning radar; Over-the-Horizon Backscatter System (OTH-B), essential for the detection of sea-launched cruise missiles; and the Joint Surveillance System rank high on this list of program priorities.

We see an urgent need to improve all strategic warning systems and their associated command control and communications systems to obtain comprehensive raid characterization information leading to appropriate and controlled responses. Near real time strike assessment is essential for retargeting and the ability to selectively execute or withhold strikes to control escalation.

Reliable warning and attack assessment constitute persuasive deterrence by quashing a potential aggressor's hopes of staging a successful first strike against USAF's ICBMs; no matter how great the attacker's warhead accuracy or their number, he must reckon with the high probability that his weapons will be attacking empty silos. Equally vital are command control and communications systems that permit rapid and reliable execution of responses to enemy attack, even when exposed to the effects of nuclear weapons countermeasures and jamming.

COMMAND CONTROL AND COMMUNICATIONS

Primary requirements here are the E-4 Advanced Airborne Command Post; the theater CINC Airborne Command Post; the World Wide Military Command and Control System and its subnets; the Air Force Satellite Communications System (AFSATCOM); its highly survivable follow-on, the Strategic Satellite System (SSS); and the General Purpose Satellite System (GPSS). Together, improved early warning, attack assessment, and survivable command control and communications capabilities multiply the effectiveness of all defense forces to a degree not attainable by other means. We see a pressing need to maintain a strong R&D program within DoD to preclude technological surprise in ABM defenses.

AIR DEFENSE

The Soviet Union's modernization of its strategic bomber force through the introduction of Backfire warrants reassessment of this country's extremely limited air defense capabilities. More than seventy Backfire supersonic intercontinental bombers, the most modern operational bombers in the world, are now in the inventory of Soviet Long Range and Naval Aviation. We see a clear need to modernize and improve US air defenses, primarily the assignment of E-3A Airborne Warning and Control System (AWACS) to that mission and development and acquisition of a dedicated follow-on interceptor for the Aerospace Defense Command.

USAF'S COLLATERAL MISSION

Other crucial elements of US deterrence, and probably the most likely to be tested in the future conflicts, are forward-based nuclear and conventional theater forces. The effectiveness of both, in case of sustained engagements, is impaired by limitations in available airlift and jeopardized by increasing Soviet threats to the US Navy's ability to keep the sealanes open. The Air Force's collateral mission of supporting the Navy in the sea-control mission thus takes on added urgency. There must be full and rapid development of USAF's intrinsic ability to assist in maritime search and identification, electronic warfare, attack against hostile naval surface and air units, and aerial minelaying.

AIRLIFT ENHANCEMENT

Full implementation of the Air Force's multifaceted Airlift Enhancement Program, including improvements of the C-141 and C-5 aircraft, and modification of the aircraft of the Civil Reserve Air Fleet (CRAF), must not be delayed further. We also endorse acquisition of the Advanced Tanker/Cargo Aircraft (ATCA) as well as development and eventual acquisition of the Advanced Medium Short Takeoff and Landing Aircraft (AMST) to modernize tactical airlift in the 1980s.

NEW TACTICAL AIRCRAFT

Nowhere are the erosive effects of declining USAF purchasing power more evident than in procurement of Air Force aircraft, which plummeted from a Korean War high of more than 8,000 aircraft per year, and an annual rate of more than 1,000 at the peak of the Southeast Asian War, to fewer than 220 for each of the past five years. The FY '78 buy sought by the Air Force is for 330 aircraft, reflecting a long overdue recouping of lost ground.

The Soviet tactical aircraft fleet now exceeds the equivalent US force by more than thirty percent. This condition is exacerbated by the increasing offensive capabilities and higher quality of Soviet late-model aircraft, able to perform deep strikes against NATO targets without prior forward deployment. Since 1968 the tactical aircraft of the Warsaw Pact forces (mainly Soviet) available for deployment against NATO have increased by 1,300, to an overall total of more than 5,000. The danger, then, is that we soon may lose our qualitative lead while at the same time suffering the consequences of aircraft age creep, obsolescence, and an ever-shrinking force structure.

Coming into the Air Force inventory now are aircraft and capabilities of unparalleled scope and versatility: i.e., the F-15, F-16, A-10, EF-111, F-4G Wild Weasel, AWACS, GBU-15, etc. The need is to acquire these weapons in the necessary quantities and on schedule to assure maximum return on these investments. As these aircraft enter the Air Force's active inventory, other, still-capable aircraft, such as the F-4 and the A-7 as well as some production A-10s, must replace obsolescent combat planes of the Air National Guard and Air Force Reserve to improve the combat capability of the Total Force. Fleshing out the operational aircraft inventory of USAF's twenty-six active-duty and ten Reserve Forces fighter wings to the authorized level must be completed on schedule.

Tactical combat forces must be trained and exercised under realistic, warlike conditions. Improvement and development of tactical training ranges, in accord with relevant Air Force programs, are of vital importance to the combat readiness of this nation's tactical airpower.

FOREIGN MILITARY SALES

In this context, the Air Force Association notes with concern the deleterious impact of blind opposition to foreign military sales on US defense capabilities. Judicious export of US weapon systems to allies under the direct control of the appropriate US government agencies is beneficial to the nation in a number of ways. Foreign sales on USAF weapon systems reduce unit costs to the Air Force and sustain the vital defense industry at a time when the profitability of defense business is marginal. Equally important, every efficient weapon system in the arsenal of our allies contributes directly to the Free World's total force strength, fosters equipment standardization, broadens USAF's logistics support base, and thus adds to force readiness.

FUTURE READINESS REQUIREMENTS

This Association recognizes the impracticality of matching the Soviet Union aircraft for aircraft and missile for missile. But as the Soviets get bigger and bigger, we must be smarter. US exploitation of defense technology must concentrate on high payoff areas, exemplified by systems that multiply the effectiveness of the existing force. Most important, we must be ready with concepts and technologies that can neutralize the massive Soviet investments.

AIR FORCE ASSOCIATION POLICY PAPER ON RESEARCH AND DEVELOPMENT (ADOPTED SEPTEMBER 19, 1977 BY DELEGATES TO AFA'S THIRTY-FIRST NATIONAL CONVENTION)

The growing and determined Soviet challenge to our technological superiority demands sustained real annual growth in military research and the active involvement of the nation's creative talent in government, industries, and the universities to maintain an adequate technology base for the long haul. Real growth of about four percent was achieved in FY '77. But one year's growth clearly can't make up for ground that was lost during the preceding decade. Our current technological lead is the product of past investments, past energy, and past innovation. Sustaining this lead in the future will require new investments, new energy, and yet more innovation.

The Soviets fully realize this; their long-term challenge has not abated. The Kremlin's quest for ultimate technological superiority is supported by the world's largest effort in basic and applied science; the world's largest military research and development work force; and a massive, long-term investment in all aspects of science and technology. We note, for example, that the Soviet level of military RDT&E investment, regardless of how it is measured, has exceeded that of the United States by more than 125 percent since 1970 and continues to grow consistently by a real three to five percent per year. Unless we can sustain a four percent minimum growth rate, the gap will widen further in favor of the USSR.

Similarly, the Soviet military R&D base continues to expand quantitatively and to improve qualitatively in terms of manpower, facilities, and output. In most of these indicators of program dynamism, the USSR leads the US in level of effort and in growth rates.

The long-range implications of this massive Soviet scientific and technological effort are clear. Unless we respond appropriately, our technological lead, already in jeopardy, will steadily dwindle until we can no longer maintain key military balances primarily by offsetting Soviet quantitative advantages with weapon systems of superior quality. The risk of technological surprise, already real, will further increase, and our ability to detect and respond rapidly and effectively to unforeseen developments will decline precipitously. In addition, the political, economic, and psychological costs of losing our technological superiority to the Soviet Union would be incalculable. Not only would the equilibrium of relative national power shift to the detriment of our interests and of peace and global stability, but we might be unable to pay the enormous price in time, effort, and treasure of attempting to regain our lead.

This Association is firmly convinced that the Soviet technological challenge is the most ominous long-term threat facing our nation and that we must meet it successfully with a commitment to maintain growth of a strong research and development program, including a superior technological base. Several steps must be taken now to ensure that this commitment is translated into real capabilities for the future.

First, we must increase the investment in the technology base—those basic research and exploratory development activities which generate innovative concepts and demonstrate their theoretical soundness and technical promise. The technology base lays the foundation for advances that will be incorporated into the next generation of military equipments or that may be retained as options to be developed as new military requirements are identified. Failure to push forward the frontiers of science and technology energetically and with the combined dynamics of government, industry, and academia is tantamount to mortgaging the nation's future in a national security as well as economic context. Science and technology are political neutrals that willingly serve any nation or ideology that can pay the price for exploring and exploiting them.

This Association supports, therefore, the DoD's goal of real annual growth of ten percent in research through FY '80 and five percent in exploratory development through FY '78. Once achieved, these investment levels in the technology base must then be maintained over the long term. We strongly urge congressional support for this investment strategy, and we urge USAF to adhere to it in future budget allocations. However, we would vigorously oppose any reductions below the minimum level.

Second, we must exploit our lead in high-payoff technologies if Soviet quantitative superiority is to be offset at affordable cost. Examples include aeronautical vehicle technology, such as the Advanced Fighter Technology Integration Program; propulsion technology, such as variable cycle and integral rocket ramjet propulsion systems; structures and materials technology, particularly composite materials; advanced high-energy physics; and electronics developments covering a wide range of activities, including automation, avionics, and flight support systems. Previous advances in these technologies have been crucial to the maintenance of our current superiority in military and commercial aircraft and to the development of such key systems as AWACS, NAVSTAR Global Positional System, cruise missiles, and the Space Shuttle. We must continue to nurture them with adequate investment and strong management attention to ensure that similar payoffs are achieved in the future. In this regard, the Association commends the progress USAF has made in incorporating its investment strategy review into the formal R&D management process.

Third, defense research and development cannot alone assure the future superiority of our national technological base. The contributions of industrial and academic research and technology must be intensified and integrated more effectively into the defense effort to facilitate the expansion of knowledge and innovation upon which our future security depends. In this regard, the Association supports DoD's efforts to increase the level of technology base effort being performed by industry and the universities and to expand the innovative contributions of the Industrial Independent Research and Development program. In addition, we believe that the concept of closer defense-university ties is crucially important, and that a program to increase both DoD support for university research and participation by young university faculty in DoD laboratory activities must be instituted without further delay. Finally, we applaud the close cooperation that continues among DoD and other federal agencies, particularly NASA and ERDA, in appropriate technology base efforts. This cooperation in planning, funding, and facilities development and use has been instrumental in creating a number of innovative concepts and systems, particularly in the field of aeronautics.

Fourth, we again urge strongly that more effective controls be placed promptly on the transfer of strategic technologies to potential adversaries. There is simply no national interest served by transfusing critical Soviet deficiencies in microelectronics, materials, advanced aircraft engines, computers, and certain production technologies, to name a few, with the advanced design and manufacturing technology of the US or its allies. This Association firmly opposes any transfers that may assist the Soviets in strengthening their technology base.

In summary, the Air Force Association remains convinced that this nation's technological superiority is its most important advantage in the long-term political, economic, and military competition with the USSR. We can and must retain that lead. But the scope, magnitude, and determination of the Soviet technological effort represent a significant challenge that cannot be underestimated; it has already produced adverse trends in the military technology balance which we must reverse promptly. Sustained investment growth and cost-effective management are the most immediate requirements facing us. We urge that priority attention be given to meeting this central need in the next Five-Year Defense Plan. Neither time nor momentum is on our side.

CONFERENCE REPORT AND STATEMENT

Mr. TEAGUE submitted the following conference report and statement on the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration, in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-714)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications". In accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 207), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration, for energy research, development, and demonstration, and related activities, the sum of $6,161,445,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

Fossil Energy Development

(1) Coal:

(A) Coal liquefaction, $107,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,000,000.

(E) Direct combustion (coal), $65,200,000.

(F) Advanced research and supporting technology, $50,000,000: *Provided*, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose: The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of the fine grinding of coal and dry vegetable residues for the purpose of preparing these substances as clean burning fuels.

(G) Demonstration plants and major test facilities (coal), $60,900,000.

(H) Magnetohydrodynamics, $70,800,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Enhanced oil recovery, $46,100,000.

(B) Enhanced gas recovery, $30,000,000.

(C) Drilling, exploration and offshore technology, $7,600,000.

(D) Processing and utilization, $1,400,000.
(3) Oil shale and in situ technology:
(A) Oil shale, $28,000,000.
(B) In situ coal gasification, $19,000,000.

Solar Energy Development

(4) Thermal applications, $104,700,000, including $94,400,000 for heating and cooling of buildings.

(5) Fuels from biomass, $20,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(6) Other Solar Energy Programs, $219,700,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $203,700,000 for other solar electric applications: *Provided*, That $7,500,000 of such sum is hereby authorized for design work for small community applications.

Geothermal Energy Development

(7) Engineering research and development, $15,500,000.

(8) Resource exploration and assessment, $17,600,000.

(9) Hydrothermal technology applications, $28,000,000.

(10) Advanced technology applications, $24,300,000.

(11) Utilization experiments, $16,000,000.

(12) Environmental control and institutional studies, $8,100,000.

(13) Low head hydroelectric program, $15,000,000.

Conservation Research and Development

(14) Electric energy systems and energy storage:

(A) Electric energy systems, $36,800,000.

(B) Energy storage systems, $48,500,000.

(15) End use conservation and technologies to improve efficiency:

(A) Industrial energy conservation, $38,000,000.

(B) Buildings and community systems, $59,500,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas and oil furnaces.

(C) Transportation energy conservation, $87,000,000, of which $1,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized for the Alternative Fuels Utilization Program, funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol.

(D) Improved conversion efficiency, $69,700,000.

(16) Energy extension service, $8,000,000.

(17) Small grants for appropriate technology, $8,000,000.

Environmental and Safety Research and Development

(18) Environment and Safety Research and Development.

(A) Overview and Assessment, $50,010,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

Nuclear Research and Development

(19) Magnetic fusion, $201,900,000.

(20) Fuel cycle research and development $363,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 108 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(21) Liquid metal fast breeder reactor, $413,300,000: *Provided*, That $5,000,000 of such sums are hereby authorized for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted.

(22) Nuclear research and applications, $228,829,000.

(23) Light water reactor safety facilities, $24,000,000.

(24) High energy physics, nuclear physics, and basic energy sciences, $413,394,000.

(25) Nuclear materials security and safeguards, $40,106,000.

(26) Uranium enrichment, $989,185,000.

All Other Programs, $444,604,000, including—

(i) Not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iii) Program management and support:

(a) Program direction $222,900,000.

(b) Institutional relations, $34,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended, and including $1,800,000, is authorized to be appropriated pursuant to this paragraph (iii) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $37,460,000.

(d) International cooperation, $5,000,000.

Prior Year Authorizations

(27) The sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76-1—a (clean boiler fuel demonstration plant (A-E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78-1-a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78-2-a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78-2-b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78-2-c, low Btu fuel gas small industrial demonstration plants, sites, undetermined (A-E and long-lead procurement only), $6,000,000.

(D) Project 78-2-d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78-3-a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78-3-b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A-E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78-5-a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement), $10,000,000.

(B) Project 78-5-b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A-E and long-lead procurement only), $3,000,000.

(C) Project 78-5-c, advanced isotope separation facility, site undetermined (A-E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78-6-a, modifications to reactors, $8,700,000.

(B) Project 78-6-b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78-6-c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78-6-d, experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only), $3,100,000.

(E) Project 78-6-e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A-E only), $4,000,000.

(F) Project 78-6-f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78-7-a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Projection 78-7-b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, at $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78-8-a upgrade Test Area North hot shop facility, Idaho National Ensearch facilities, various locations, $6,000,000.

(7) Environmental Research and Development:

(A) Project 78-9-a, modifications and additions to biomedical and environmental research for facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78-10-a, accelerator improvements and modifications, various locations, $4,500,000.

(B) 78-10-b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78-11-a, master substation reliability and capacity improvement, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78-12-a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78-12-b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6 000,000.

(10) Basic Energy Sciences:

(A) Project 78-13-a, national synchrotron light sources, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78-13-b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78-14-a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78-14-b, process control modifications, plants, various locations, $17,400,000.

(C) Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78-1-b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78-1-c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

(C) Project 78-19-a, program support facility, Argonne National Laboratory, Illinois (A-E and longlead procurement only), $5,000,000.

(13) Project 78-21, General Plant Projects, $44,265,000.

(14) Project 78-22. Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $8,670,000.

(B) Fossil energy development, $5,500,000.

(C) Solar-energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

(E) Magnetic fusion, $27,600,000.

(F) Fund cycle research and development, $25,300,000.

(G) Liquid metal fast breeder reactor, $35,650,000.

(H) Nuclear research and application, $18,595,000.

(I) Light water reactor safety facilities, $800,000.

(J) High energy physics, nuclear physics, and basic energy sciences, $61,300,000.

(K) Nuclear materials, security and safeguards, $2,794,000.

(L) Uranium enrichment, $19,000,000.

(M) Environmental research and development, $19,025,000.

(N) Program management and support, $4,955,000.

Changes to Prior Year Authorizations

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71-1-f), authorized by section 101(b)(1) of Public Law 91-273 (for a total project authorization of $920,000,000).

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74-1-g), authorized by section 101(b)(1) of Public Law 93-60 (for a total project authorization of $460,000,000).

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76-1-b) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $55,000,000).

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 70-1-c) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $150,000,000).

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76-2-b), authorized by section 101(b)(2) of Public Law 94-187 (for a total project authorization of $47,250,000): *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (projects 76-5-a), authorized by section 101(b)(5) of Public Law 94-187 (for a total project authorization of $238,600,000).

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center Fernald, Ohio (project 76-8-e), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $15,250,000).

(8) There is authorized an additional sum of $107,630,000 for the enriched uranium production facilities, gas centrifuge (project 76-8-g), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $362,630,000).

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77-1-d) authorized by Public Law 94-313 (for a total project authorization of $13,200,000).

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A-E only) (project 77-4-c) (for a total project authorization of $6,500,000).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77-4-d) (for a total project authorization of $30,000,000).

(12) There is authorized an additional $3,200,000 for the 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico (project 76-5-b) authorized by Public Law 94-187 (for a total project authorization of $25,300,000).

Sec. 103. Public Law 93-276, as amended, is further amended by rescinding therefrom authorization for project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 104. (a) Notwithstanding any other provision of law, jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

(b) Notwithstanding any other provision of law, the Secretary of Energy shall not be required to delegate to the Administrator of the Energy Information Administration any energy research, development, and demonstration function vested in the Secretary, pursuant to the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Heating and Cooling Demonstration Act, the Solar Energy Research, Development and Demonstration Act, and the Energy Reorganization Act. Additionally, the Secretary may utilize the capabilities of the Energy Information Administration as he deems appropriate for the conduct of such programs.

(c) As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

(ii) by November 30, 1977, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 105. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the study to the Congress the Administrator shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 106 Section 106 of Public Law 91-273, as amended by section 103(d) of Public Law 94-187, is amended—

(1) by striking out "and the interim period" in the second sentence of subsection (a);

(2) by inserting "the transition quarter ending September 30, 1976, the Fiscal Year ending September 30, 1977, and the Fiscal Year ending September 30, 1978," after "September 30, 1976," in the second sentence of subsection (a); and

(3) by adding at the end thereof the following new subsection:

"(d) The Congress declares that any funds appropriated pursuant to an authorization to design, construct, and operate this project or conduct the program under which this project is to be operated are intended to be used only for the design, construction, and operation of this project or the conduct of that program, in accordance with such authorization. Accordingly—

"(1) nothing contained in this section shall be construed as authorizing the Administrator to use the procedures of this section to propose or proceed with a cancellation or termination of the Clinch River Breeder Reactor Project and the cooperative arrangements associated therewith;

"(2) no funds appropriated pursuant to the authorization contained in this section shall be used in any way (directly or indirectly) to cancel or terminate the Clinch River Breeder Reactor Project or to plan its cancellation or termination; and

"(3) the Clinch River Breeder Reactor Project shall be located as provided under existing law, and to the maximum extent possible shall be designed, constructed, and operated in accordance with the existing project arrangements, objectives, and schedules.".

SEC. 107. (a) The Department of Energy shall conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the multinational and international management options available for utilizing the Barnwell facility;

(2) include an evaluation of how Barnwell facility might be used to contribute to the INFCE, including preliminary studies on siting and design for adjacent facilities to the Barnwell Separations Plant to solidify liquid waste and mixed oxide evolving from the chemical separations process (these preliminary efforts being consistent with similar efforts undertaken as part of the INFCE);

(3) include an evaluation of a possible role for the IAEA in utilization of Barnwell facility for international nonproliferation programs;

(4) include an evaluation of the means by which the Barnwell facility could be used in demonstration of improved safeguards equipment and proceedings;

(5) include an evaluation of how the Barnwell facility can be used to complement the U.S.-approved research and development program at the Japanese Tokai Mura Reprocessing Plant, and nonproliferation research activities to be undertaken at the British Windscale Reprocessing Plant; and

(6) include an evaluation of whether and how the Barnwell facility might be transferred to the Federal Government.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources and the independence of resource supply can have in assuring our national security objectives.

(d) The study shall be completed and a report submitted to the Congress not later than six months after the date that funds are appropriated for carrying out the purposes of this section. In addition, the report shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act an authorization of appropriations in the amount of $1,000,000.

SEC. 108. The Energy Research and Development Administration is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided*, notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds; *and provided further*, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, 30 days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407). Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings: *And provided further*, That nothing contained in this Section shall be construed in any Executive Branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977 for the issuance of License No. XSNM-845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (1) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action

"(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for 'plant and capital equipment' may be merged with amounts appropriated for 'operating expenses.'

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 102(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. The Administrator, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

SEC. 204. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 205. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essen-

tial to the Energy Research and Development Administration programs;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations,"; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District: or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however*, That the term of such contracts in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 206. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts.".

SEC. 207. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, biomass, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) and (y) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection and subsection (y) of this section the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socio-economic impacts on local communities: *Provided further*, That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular site, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof after expenses of such disposal to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or (y) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued:

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: Provided, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) or subsection (y) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribe by such facility, and cost of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a parcel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under Section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administra-

tor is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payment and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (1) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of obligations for such financing issued by eligible States, political subdivisions, or Indian tribes.

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such imports, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), (h), and (y) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuances of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(6) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa,

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity, and

"(4) 'biomass' shall include, but is not limited to, animal and timber waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) or subsection (y) of this section must be a citizen or national of the United States. A corporation, partnership, firm or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1) or subsection (y), to make guarantees or commitments to guarantees, or make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b), (j), and (y) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this

section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States, or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y)(1) The Administrator is authorized in accordance with such rules and regulation as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewage sludge, or other municipal organic wastes into synthetic fuels, and (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from municipal or industrial waste, sewage sludge, or other municipal organic waste. With respect to a guarantee or a commitment to guarantee authorized by this subsection; the following subsections of this section shall not apply: (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k), and (q).

"(2) In the case where the Administrator seeks to guarantee or to make commitments to guarantee as provided by this subsection he is authorized to incur an outstanding indebtedness which at no time shall exceed $300,000,000.

"(3) The Administrator shall apply the following provisions thereto:

"(A) With respect to any demonstration facility for the conversion of solid waste (as the term is defined in the Resources Conservation and Recovery Act (42 U.S.C. 6903), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resources Conservation and Recovery Act; and any applicable State or regional solid waste management plan.

"(B) The amount guaranteed shall not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup.

"(C) The maximum maturity of the obligation shall not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(D) The Administrator shall charge and collect fees for guarantees of obligations in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(E) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Resources Conservation and Recovery Act) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy From Solid Wastes, and provided specifically that in accordance with this agreement (i) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (ii) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (iii) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended, and any applicable State or regional solid waste-management plan.

"(F) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.".

SEC. 208. (a) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following the enactment of this Act;

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act;

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

(3) initiate and conduct a study involving the propects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, provided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

SEC. 209. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83-703 as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended).

SEC. 210. (a) In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damage farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

(b) As used in this section, the term:

(1) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(2) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, or range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(3) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(4) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

(c) For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with subsection (f) of this section by the Secretary of the Interior.

(d) Energy Research and Development Administration land as described in subsection (b)(2) of this section shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

(e) Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

(f) Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this section.

(g) Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976. Public Law 94-400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94-438, 90 Stat. 1415.

(h) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this section.

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this title to—

(1)(A) direct the Energy Research and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f-5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the

event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such programs, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely, to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administration shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f)(1) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Administrator shall issue administrative regulations, within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Administration project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Administrator or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications.

(4) The Administrator also shall include in the report required by section 310(a) of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Administrator in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension thereof.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environmental Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant."

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15 (a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $12,500,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 207 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $20,000,000 in the fiscal year ending September 30, 1978.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation Recovery Act of 1976 (Public Law 94-580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under section 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; (iii) any price established under this subsection shall be on such a basis as will recover not less than the Government's costs over a reasonable period of time; and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and normal and ordinary business expenses (such as taxes and return on equity which would otherwise be incurred by a private operator providing similar services): *And provided further*, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That any change in criteria or enrichment services prices in the first proviso above shall not be implemented for a period of sixty days, during which the Congress is in continuous session, after the transmission of the proposed criteria or price to the President of the Senate, the Speaker of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology. Such criteria or prices shall be considered authorized by the Congress unless either House of Congress approves a resolution of disapproval of such prices prior to the expiration of the aforementioned sixty-day period. The Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology shall have single jurisdiction over any such resolution of disapproval introduced pursuant to this section. If such a resolution of disapproval has been introduced, but has not been reported by the committee on or before the fortieth day after transmission of the message, a privileged motion shall be in order in the respective body to discharge the committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407).".

TITLE VI—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs;

"(G) an Assistant Administrator of the Environmental Protection Agency:

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Section 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof $100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter I of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued and under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum in the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemotions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purposes of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may —

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project, occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall rest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of which operations, management, and control for maximum wide-spread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurement will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984.

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end of the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

And the House agreed to the same.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
JOHN W. WYDLER,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.,
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811), Energy Research and Development Administration Authorization Act, 1978—Civilian Application, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXPLANATION OF FUNDING PROVISIONS

The compromise funding provisions adopted by the conference committee regarding the civilian research and development programs is reflected in the language of the Conference report.

This statement includes the table which reflects the level of program activities contained in the bill with authorization amounts and budget outlays. The Conferees expect that the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology be kept fully and currently informed of any proposed increase in the level of funding above the amount which has been appropriated for the activities contained in the table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
FOSSIL ENERGY DEVELOPMENT							
Operating Expenses							
Coal:							
Liquefaction	$72,957	$109,000	$$107,000	$107,000	$109,800	$107,000	$109,800
High-Btu gasification	44,054	51,200	51,200	51,200	42,800	51,200	42,800
Low-Btu gasification	33,052	73,900	73,900	73,900	47,200	73,900	47,200
Advanced power systems	22,500	25,500	25,500	25,500	23,800	25,500	23,800
Direct combustion (coal)	51,901	59,200	65,200	65,200	64,900	58,200	60,700
Advanced research and supporting technology	37,070	59,000	45,000	50,000	49,500	40,000	42,000
Demonstration plants	53,000	70,900	50,900	60,900	43,900	44,900	31,900
Magnetohydrodynamics	34,990	63,400	80,000	70,800	51,150	65,800	47,400
Total, coal	349,524	512,100	498,700	504,500	433,050	466,500	405,600
Petroleum and natural gas:							
Enhanced oil recovery	23,782	46,100	46,100	46,100	40,100	46,100	40,100
Enhanced gas recovery	14,874	30,000	30,000	30,000	25,500	26,900	23,400
Drilling, exploration, and offshore technology	2,400	10,600	1,600	7,600	6,500	1,600	2,000
Processing utilization	1,831	1,400	1,400	1,400	1,400	1,400	1,400
Total, petroleum and natural gas	42,887	88,100	79,100	85,100	73,500	76,000	66,900
In-situ technology:							
Oil shale	22,278	28,000	28,000	28,000	21,500	28,000	21,500
Coal gasification	8,236	27,600	11,000	19,000	18,000	11,000	12,000
Total, in-situ technology	30,514	55,600	39,000	47,000	39,500	39,500	33,500
General fossil energy reduction						−50,000	0
Energy Research Center, personnel and travel costs						−393	−0393
Total, operating expenses	422,925	655,800	616,800	636,600	546,050	531,107	505,607
Total, capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Total, plant	59,200	242,350	350,350	212,350	37,400	83,800	34,300
Total, fossil energy development	483,145	903,650	972,650	854,450	586,950	620,407	543,407
Capital Equipment							
Coal:							
Liquefaction	0	400	400	400	200	400	200
High-Btu gasification	100	300	300	300	200	300	200
Low-Btu gasification	0	500	500	500	300	500	300
Advanced power systems	0	200	200	200	200	200	200
Direct combustion (coal)	0	200	200	200	100	200	100
Advanced research and supporting technology	0	300	300	300	200	300	200
Demonstration plants	0	0	0	0	0	0	0
Magnetohydrodynamics	0	500	500	500	300	500	300
Other capital equipment	150	0	0	0	0	0	0
Total, coal	250	2,400	2,400	2,400	1,500	2,400	1,500
Petroleum and natural gas:							
Enhanced oil recovery	100	300	300	300	200	300	200
Enhanced gas recovery	0	300	300	300	200	300	200
Drilling, exploration, and offshore technology	0	0	0	0	0	0	0
Processing utilization	0	0	0	0	0	0	0
Other capital equipment	170	0	0	0	0	0	0
Total, petroleum and natural gas	270	600	600	600	400	600	400

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
FOSSIL ENERGY DEVELOPMENT—Continued							
Capital Equipment—continued							
In-situ technology:							
Oil shale	$459	$900	$900	$900	$600	$900	$600
Coal gasification	0	1,600	1,600	1,600	1,000	1,600	1,000
Other capital equipment	50	0	0	0	0	0	0
Total, in-situ technology	500	2,500	2,500	3,500	1,600	2,500	1,600
Total, capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Plant							
Coal:							
Demo plants:							
78-2-c—Low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only)	0	6,000	6,000	6,000	1,000	3,000	500
78-2-d—Solvent refined coal demonstration plant, site undetermined (A-E and long-lead procurement only)	0	30,000	2,000	30,000	6,100	0	0
78-2-e—High Btu coal gasification test facility, site undetermined	0	30,000	0	0	0	0	0
76-1-b—High Btu synthetic pipeline gas demonstration plant	10,000	30,000	195,000	30,000	10,000	29,000	10,000
76-1-c—Low Btu fuel gas demonstration plant	7,300	131,250	131,250	131,250	14,000	36,000	14,000
76-1-d—Fluidized bed direct combustion demonstration plant						2,000	
Prior-year projects	30,000	0	0	0	0	0	0
Total, demo plants	47,300	227,250	334,250	197,250	31,100	70,000	25,000
Magnetohydrodynamics:							
77-1-d—MHD component development and integration facility, total	5,000	5,500	6,500	5,500	4,000	4,200	4,000
Other coal related plants:							
78-2-1—Analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pa	0	6,600	6,600	6,600	1,300	6,600	1,300
78-2-b—Modifications and additions to energy research centers, various locations	0	3,000	3,000	3,000	1,000	3,000	1,000
Prior-year projects	6,900	0	0	0	0	0	3,000
Total, other coal related plants	6,900	9,600	9,600	9,600	2,300	9,600	5,300
Total, coal	59,200	242,350	350,250	212,350	37,400	83,800	34,300
Total, plant	59,200	242,350	350,350	212,350	37,400	83,800	34,300
SOLAR ENERGY DEVELOPMENT							
Operating Expenses							
Direct thermal application:							
Heating and cooling of buildings	84,800	91,900	97,400	94,400	88,375	93,900	88,000
Agricultural and process heat	7,800	10,300	10,300	10,300	7,600	10,300	7,600
Total, direct thermal application	92,600	102,200	107,700	104,700	95,975	104,200	95,600
Technology support and utilization	11,500	9,000	[2] 9,000	9,000	6,000	9,000	6,000
Solar electric applications:							
Solar thermal	51,300	55,600	61,100	61,100	49,850	60,100	49,100
Photovoltaics	59,400	95,200	57,200	76,200	59,250	57,200	45,000
Wind	20,500	35,300	35,300	35,300	26,000	33,300	24,500
Ocean thermal	13,500	45,100	25,300	55,300	24,500	35,300	24,500
Satellite solar power systems	0	5,000	0	2,800	2,100	0	0
Total, solar electric applications	144,700	236,200	178,900	210,700	161,700	185,900	143,100
Fuels from biomass	9,700	21,000	19,500	20,500	12,088	20,250	11,900
Total, operating expenses	258,500	368,400	315,100	344,900	275,763	319,350	256,600
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Total plant	24,500	41,000	55,000	[4] 41,000	17,000	41,000	24,000
Total, solar energy development	290,400	417,300	378,000	393,800	297,963	368,250	285,800
Capital Equipment							
Direct thermal application:							
Heating and cooling of buildings	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Agricultural and process heat	0	0	0	0	0	0	0
Total, direct thermal application	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Technology support and utilization	0	0	0	0	0	0	0
Solar electric applications:							
Solar thermal	0	3,000	3,000	3,000	1,500	3,000	1,500
Photovoltaics	4,600	300	300	300	150	300	150
Wind	1,100	1,400	1,400	1,400	700	1,400	700
Ocean thermal	0	700	700	700	350	700	350
Satellite solar power systems	0	0	0		0	0	0
Total, solar electric applications	5,700	5,400	5,400	5,400	2,700	5,400	2,700
Fuels from biomass	0	500	500	500	300	500	300
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Plant							
Solar electric applications:							
Solar thermal:							
76-2-b-10-megawatt central receiver solar thermal powerplant, Barstow, Calif. (A-E and long-lead procurement)	2,500	41,000	55,000	41,000	17,000	41,000	17,000
Prior-year projects	22,000	0	0	0	0	0	7,000
Total, plant	24,500	41,000	55,000	41,000	17,000	41,000	24,000

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriation: Budget authority	Fiscal year 1978 appropriation: Budget outlay
GEOTHERMAL ENERGY DEVELOPMENT							
Operating Expenses							
Engineering research and development	$13,500	$15,500	$17,100	$15,500	$13,600	$15,500	$13,600
Resource exploration and assessment	9,000	17,600	17,600	17,600	15,800	17,600	15,805
Hydrothermal technology applications	14,000	24,900	32,000	28,000	22,025	28,000	22,020
Advanced technology applications	11,900	24,800	23,500	24,300	19,050	22,500	17,700
Utilization experiments	0	8,100	8,100	8,100	7,100	8,100	3,500
Evironmental control and institutional studies	4,800	15,000	15,000	15,000	12,000	10,000	7,100
Low-head hydroelectric program	0	18,000	16,000	16,000	4,300	12,000	7,500
Total, operating expenses	53,200	123,900	129,300	124,500	93,875	113,700	87,225
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
Total geothermal energy development	54,700	126,400	131,800	127,000	96,075	116,200	89,425
Capital Equipment							
Engineering research and development	400	700	700	700	700	700	700
Resource exploration and assessment	300	500	500	500	400	500	400
Hydrothermal technology applications	400	700	700	700	600	700	600
Advanced technology applications	300	500	500	500	400	500	400
Utilization experiments	0	0	0	0	0	0	0
Environmental control and institutional studies	100	100	100	100	100	100	100
Low-head hydroelectric program	0	0	0	0	0	0	
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
CONSERVATION RESEARCH AND DEVELOPMENT							
Operating Expenses							
Electric energy systems and energy storage:							
Electric energy system	23,000	36,800	36,700	36,800	32,200	36,700	32,100
Energy storage	31,000	48,500	49,900	48,500	39,975	48,500	39,975
Total, electric energy systems and energy storage	54,000	85,300	86,600	85,300	72,175	85,200	72,075
End-use conservation and technologies to improve efficiency:							
Buildings	26,600	68,000	56,000	59,500	47,908	51,090	40,600
Industry	14,430	38,000	40,000	38,000	27,800	28,750	20,900
Transportation	27,170	111,000	88,000	99,500	77,225	64,400	50,900
Improved conversion efficiency	23,150	62,000	78,200	69,700	56,565	58,280	48,000
Total, end-use conservation and technologies to improve efficiency	91,350	279,000	262,200	266,700	209,498	206,250	164,400
Energy Extension Service	7,500	8,000	8,000	8,000	6,000	7,500	6,000
Small grants program	0	10,000	6,000	8,000	6,750	3,000	3,000
Municipal solid waste	0	200,000	0	20,000	15,000	4,000	4,000
Total, operating expenses	152,850	582,300	362,800	388,000	309,423	302,220	245,475
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Total, plant	0	800	800	[4] 800	200	800	200
Total, conservation research and development	160,850	592,270	369,770	397,470	314,841	309,190	249,645
Capital Equipment							
Electric energy systems and energy storage:							
Electric energy system	3,500	2,800	2,800	2,800	1,700	2,800	1,700
Energy storage	2,500	1,700	1,700	1,700	1,100	1,700	1,100
Total, electric energy systems and energy storage	6,000	4,500	4,500	4,500	2,800	4,500	2,800
End-use conservation and technologies to improve efficiency:							
Buildings	0	1,170	170	670	418	170	170
Industry	1,000	2,500	500	2,500	1,500	500	500
Transportation	500	500	500	500	100	500	100
Improved conversion efficiency	500	500	500	500	400	500	400
Total, end-use conservation and technologies to improve efficiency	2,000	4,670	1,670	4,170	2,418	1,670	1,170
Energy Extension Service	0	0	0	0	0	0	0
Small grants program	0	0	0	0	0	0	0
Municipal solid waste	0	0	0	0	0	0	0
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Plant							
Electric systems and energy storage:							
Electric energy systems:							
78-1-a—High-bay addition, Los Alamos, N. Mex	0	800	800	800	200	800	200
Total, plant	0	800	800	800	200	800	200
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT							
Operating Expenses							
Overview and assessment	37,148	51,910	43,010	50,010	43,881	48,010	43,381
Environmental research	131,606	143,970	[4] 143,970	143,970	137,819	143,970	137,069
Life sciences research	43,484	38,113	38,113	38,113	36,854	38,113	36,854
Decontamination and decommissioning	9,516	19,000	17,000	19,000	17,000	18,000	16,000
Total, operating expenses	221,754	252,993	242,093	251,093	235,554	248,093	232,304
Total capital equipment	13,753	19,025	19,025	19,025	15,870	19,025	15,870
Total plant	3,200	6,000	6,000	[7] 6,000	1,200	5,000	9,148
Total, Environment and Safety Research and Development	238,707	278,018	267,118	276,118	252,624	272,118	257,322
Capital Equipment							
Overview and assessment	1,782	3,400	3,400	3,400	2,445	3,400	2,445
Environmental research	10,931	14,425	14,425	14,425	12,341	14,425	12,341
Life sciences research	900	1,000	1,000	1,000	884	1,000	884
Decontamination and decommissioning	140	200	200	200	200	200	200
Total, capital equipment	13,753	19,025	19,025	19,025	15,870	19,025	15,870

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT—Continued							
Plant							
Environmental research:							
78-9-a—Modifications and additions to biomedical and environmental research facilities, various locations	$0	$6,000	$6,000	$6,000	$1,200	$5,000	$1,000
Prior-year projects	3,200	0	0	0	0	0	8,148
Total, environmental research	3,200	6,000	6,000	6,000	1,200	5,000	9,148
Total, plant	3,200	6,000	6,000	6,000	1,200	5,000	9,148
MAGNETIC FUSION							
Total operating expenses	195,000	207,900	199,900	207,900	196,200	203,900	193,200
Total capital equipment	23,000	27,600	27,600	27,600	17,165	27,600	17,165
Total plant	96,900	132,600	121,400	135,800	73,480	92,500	68,435
Total, magnetic fusion	314,900	368,100	348,900	371,300	286,845	324,000	27,800
Capital Equipment							
Magnetic fusion	23,200	27,600	27,600	27,600	17,165	27,600	17,165
Plant							
Magnetic fusion:							
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, Calif	0	94,200	94,200	94,200	3,000	14,000	3,000
78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Wash	0	14,400	0	14,400	2,880	7,500	1,500
78-3-a—Tokamak fusion test reactor, Princeton Plasma Pyhsics Laboratory, Plainsboro, N.J	75,400	24,000	24,000	24,000	59,000	71,000	59,000
78-3-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex	14,000	0	3,200	3,200	8,600	0	0
Prior-Year Projects	7,500	0	0	0	0	0	4,935
Total, plant	96,900	132,600	121,400	135,800	73,480	92,500	68,435
FUEL CYCLE RESEARCH AND DEVELOPMENT							
Operating Expenses							
Uranium resource assessment	31.335	59,485	67,485	67,485	57,330	59,495	51,300
Support of nuclear fuel cycle:							
LWR fuel reprocessing	33.900	35,100	34,000	24,000	18,000	0	0
HTGR fuel cycle R. & D	10,600	12,100	12,100	12,100	12,000	12,100	12,000
Breeder reactor fuel cycle R. & D	10,200	30,300	30,300	30,300	27,700	30,300	37,700
Alternate concepts	0	32,000	32,000	32,000	27,000	32,000	27,000
Thorium fuel recycle	0	18,000	8,000	18,000	13,500	18,000	13,500
Total, support of nuclear fuel cycle	54,700	127,500	116,400	115,400	98,200	92,400	80,200
Waste management (commercial)	82,500	165,000	154,000	160,000	118,300	158,500	117,175
Total, operating expenses	168,535	351,985	337,885	343,885	273,800	310,395	248,675
Total capital equipment	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Total plant	0	16,500	13,000	[9] 16,500	3,300	13,000	2,978
Total, fuel cycle research and development	182,535	391,785	376,185	385,685	292,750	348,685	267,303
Capital Equipment							
Uranium resource assessment	4,500	4,800	4,800	4,800	2,900	4,800	2,900
Support of nuclear fuel cycle:							
LWR fuel reprocessing	0	0	0	0	0	0	0
HTGR fuel cycle R. & D	1,450	990	1,000	1,000	995	1,000	995
Breeder reactor fuel cycle R. & D	900	3,000	3,000	3,000	1,900	3,000	1,900
Alternate concepts	1,950	3,000	3,000	3,000	2,000	3,000	2,000
Thorium fuel recycle	0	10	2,000	2.000	1.005	2.000	1.005
Total, support of nuclear fuel cycle	4,300	7,000	9,000	9.000	5,900	9,000	5,900
Waste management (commercial)	5,200	11.500	11 500	11.500	6.850	11.500	6.850
Total, fuel cycle research and development	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Plant							
Fuel cycle R. & D.:							
Support of nuclear fuel cycle (LMFBR fuel reprocessing R. & D.):							
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and longlead procurement only)	0	3,000	3,000	3,000	600	3,000	600
Prior-year projects							378
78-5-c—Laser isotope facility, site undesignated (A-E only)	0	6,500	3,000	6,500	1,300	3,000	978
Total, LMFBR fuel reprocessing R. & D	0	3,500	0	3,500	700	0	0
Total, support of nuclear fuel cycle	0	6,500	3,000	6,500	1,300	3,000	978
Waste Management (Commercial): 78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) total	0	10,000	10,000	10,000	2,000	10,000	2,000
Total, plant	0	16,500	13,000	16,500	3,300	13,000	2,978
LIQUID METAL FAST BREEDER REACTOR							
Operating Expenses							
Clinch River breeder reactor	237,600	150,000	75,000	80,000	205,000	0	145,000
LMFBR base program	304,283	333,300	333,300	333,300	304,400	304,200	300,100
Total, operating expenses	541,883	483,300	408,300	413,300	509,400	304,200	445,100
Total capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total plant	783,950	213,335	208,335	[10] 208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	670,771	732,285	652,285	657,285	578,310	439,535	568,700
Capital Equipment							
Clinch River breeder reactor	0	0	0	0	0	0	0
LMFBR base program	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total, capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
LIQUID METAL FAST BREEDER REACTOR—Continued							
Plant							
Breeder reactor:							
LMFBR base program:							
78-6-a—Modifications to reactors	$0	$8,700	$8,700	$8,700	$1,700	$8,700	$1,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill	0	4,935	4,935	4,935	1,000	4,935	1,000
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only)	0	20,100	20,100	20,100	3,800	14,050	1,300
78-6-d—Experimental breeder reactor II modification Idaho National Engineering Laboratory, Idaho (E-A only)	0	3,010	3,100	3,100	750	1,500	550
78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	0	9,000	4,000	4,000	1,000	1,600	500
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	0	134,800	134,800	134,800	3,500	5,200	1,000
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	0	3,600	3,600	3,600	500	2,700	500
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho		1,100	1,100	1,100	100	500	100
77-4-c—High-performance fuel laboratory, Richland, Wash. (A-E only	1,500	5,000	5,000	5,000	3,700	5,000	3,700
77-4-d—Fuel storage facility, Richland, Wash	1,500	23,000	23,000	23,000	4,400	16,200	4,400
67-3-a—Fast flux test facility						45,000	47,421
Prior-year projects	80,950	0	0	0	0	0	18,269
Total, Breeder reactor base program	83,950	213,335	208,335	208,335	20,450	105,385	80,440
Total, plant	83,950	213,335	208,335	208,335	20,450	105,385	80,440
NUCLEAR RESEARCH AND APPLICATIONS							
Operating Expenses							
Water cooled breeder reactor	37,000	38,500	38,500	38,600	37,500	37,600	37,600
Gas cooled thermal reactor	15,900	31,000	16,000	31,000	26,500	31,000	26,500
Gas cooled fast breeder reactor	12,800	14,670	14,670	14,670	12,800	14,670	12,800
Light water reactor technology	12,500	13,000	31,200	31,200	26,100	18,800	16,800
Technology development and special projects	11,322	14,842	14,842	14,452	13,478	14,842	13,478
Space applications	20,555	31,700	0	31,700	26,500	31,000	25,975
Advanced isotope separation technology	40,230	43,617	43,617	43,617	40,000	43,617	40,000
Nuclear energy assessments	7,687	23,300	23,100	23,300	18,750	23,100	18,600
Total operating expenses	157,994	210,629	181,929	228,829	201,728	215,529	191,753
Total capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Total plant	9,500	0	0	0	0	0	3,400
Total, nuclear research and applications	181,758	229,224	197,124	247,424	218,908	234,124	212,333
Capital Equipment							
Water cooled breeder reactor	2,350	3,100	3,100	3,100	2,600	3,100	2,600
Gas cooled thermal reactor	549	1,000	1,000	1,000	800	1,000	00
Gas cooled fast breeder reactor	800	1,330	1,330	1,330	1,200	1,330	1,200
Light water reactor technology	0	0	0	0	0	0	0
Technology development and special projects	1,545	1,280	1,280	1,280	1,180	1,280	1,180
Space applications	2,020	3,400	0	3,400	2,400	3,400	2,400
Advanced isotope separation technology	7,000	8,485	8,485	8,485	9,000	8,485	9,000
Nuclear energy assessments	0	0	0	0	0	0	0
Total, capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Plant							
Water cooled breeder reactor: Prior-year projects, total	9,500	0	0	0	0	0	3,400
Total, plant	9,500	0	0	0	0	0	3,400
LIGHT WATER REACTOR FACILITIES AND FUEL STORAGE							
Operating Expenses							
Light water reactor safety facilities	28,300	24,000	24,000	24,000	21,600	24,000	21,600
International spent fuel disposition	0	20,000	20,000	20,000	10,000	5,000	5,000
Total, operating expenses	28,300	44,000	44,000	44,000	31,600	29,000	6,600
Total, capital equipment	0	800	800	800	300	800	300
Total plant	0	3,000	3,000	[11] 3,000	700	3,000	700
Total, light water reactor facilities and fuel storage	28,300	47,800	47,800	47,800	32,600	32,800	27,600
Capital Equipment							
Light water reactor safety facilities	0	800	800	800	800	800	300
International spent fuel disposition	0	0	0	0	0	0	0
Total capital equipment	0	800	800	800	300	800	300
Light water reactor safety facilities:							
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho	0	3,000	3,000	3,000	700	3,000	700
Total light water reactor safety facilities	0	3,000	3,000	3,000	700	3,000	700
Total, plant	0	3,000	3,000	3,000	700	3,000	700
HIGH ENERGY PHYSICS							
Total operating expenses	170,000	189,450	187,950	188,950	186,300	187,950	185,550
Total capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100
Total plant	28,600	16,700	6,200	[12] 16,700	3,400	40,600	26,987
Total, high energy physics	220,700	249,650	236,150	248,150	215,175	270,550	237,637
Capital Equipment							
High-energy physics	20,400	41,000	39,500	40,000	32,854	39,500	23,479
Other capital equipment	1,400	2,500	2,500	2,500	1,621	2,500	1,621
Total, capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
HIGH ENERGY PHYSICS—Continued							
Plant							
78-10-1—Accelerator improvements and modifications, various locations	$0	$4,500	$4,500	$4,500	$1,000	$4,500	$1,000
78-10-b—Intersecting storage accelerator, Brookhaven National Laboratory, New York	0	10,500	0	10,500	2,000	5,000	1,000
78-11-a—Master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California	0	1,700	1,700	1,700	400	1,700	400
Positron-electron: Joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center						29,400	20,000
Prior-year projects	28,600	0	0	0	0	0	4,587
Total, plant	28,600	16,700	6,200	16,700	3,400	40,600	26,987
NUCLEAR PHYSICS							
Total operating expenses	64,918	68,444	74,444	74,444	70,340	68,444	65,840
Total operating equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Total plant	6,200	7,900	7,900	[13] 7,900	1,600	1,900	10,387
Total, nuclear physics	76,452	83,069	89,069	89,069	78,073	77,069	82,360
Capital Equipment							
Nuclear physics	4,834	5,525	5,525	5,525	5,100	5,525	5,100
Other capital equipment	500	1,200	1,200	1,200	1,033	1,200	1,033
Total, capital equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Plant							
78-12-1—Accelerator and reactor improvements and modifications, various locations	0	1,900	1,900	1,900	400	1,900	400
78-12-b—High-intensity uranium beams, Lawrence Berkeley Laboratory, California	0	6,000	6,000	6,000	1,200	0	0
Prior-year projects	6,200	0	0	0	0	0	9,98
Total, plant	6,200	7,900	7,900	7,900	1,600	1,900	10,387
BASIC ENERGY SCIENCES							
Operating Expenses							
Nuclear Sciences	25,022	26,467	25,667	25,787	24,753	26,063	24,960
Material Sciences	56,516	66,006	62,406	64,026	59,662	64,010	49,650
Molecular Mathematical and Geosciences	47,396	57,700	55,800	57,000	53,182	56,740	52,987
Advanced Energy Programs	0	3,187	3,187	3,187	3,000	3,187	3,000
Total, operating expenses	128,934	153,360	147,060	150,000	140,597	150,000	140,597
Total capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Total plant	12,800	33,400	33,400	[4] 33,400	2,000	13,000	11,967
Total, basic energy sciences	152,800	198,835	192,535	195,475	153,764	175,075	163,731
Capital Equipment							
Nuclear science	866	1,075	1,075	1,075	1,150	1,075	1,150
Material sciences	5,100	5,400	5,400	5,400	5,050	5,400	5,050
Molecular mathematical and geosciences	3,300	3,600	3,600	3,600	2,800	3,600	2,800
Advanced energy programs	0	0	0	0	0	0	0
Other capital equipment	1,800	2,000	2,000	2,000	2,167	2,000	2,167
Total, capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Plant							
Nuclear science:							
Prior-year projects	2,500	0	0	0	0	0	3,500
Total, nuclear science	2,500	0	0	0	0	0	3,500
Materials science:							
78-13-a—National synchrotron light source, Brookhaven National Laboratory, New York	0	14,000	24,000	24,000	1,000	5,000	1,000
77-8-d Conventional steam plant facilities ORNL, Tennessee						2,000	4,300
Prior-year projects	10,300	0	0	0	0	0	2,167
Total, materials sciences	10,300	24,000	24,000	24,000	1,000	7,000	7,467
Molecular mathematical and geosciences:							
78-13-b—Combustion research facility, Sandia Laboratories, Livermore, Calif	0	9,400	9,400	9,400	1,000	6,000	1,000
Total molecular mathematical and geosciences	0	9,400	9,400	9,400	1,000	6,000	1,000
Total, plant	12,800	33,400	33,400	33,400	2,000	13,000	11,967
NUCLEAR MATERIALS SECURITY AND SAFEGUARDS							
Total operating expenses	27,420	37,906	40,106	40,106	35,150	37,906	33,500
Total capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Total plant	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	31,352	40,700	42,900	42,900	38,150	40,700	36,695
Capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Plant: Prior-year projects	0	0	0	0	0	0	195
Total, plant	0	0	0	0	0	0	195
URANIUM ENRICHMENT ACTIVITIES							
Operating Expenses							
U^{235} production	799,566	899,145	895,445	895,445	888,050	859,245	860,900
Process development	68,150	85,650	77,400	77,400	68,300	77,400	68,300
All other U^{235}	20,629	14,840	17,740	16,340	17,300	23,940	23,000
Total operating expenses	888,345	999,635	990,585	989,185	973,650	960,585	952,200
Total capital equipment	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Total plant	664,475	376,350	303,980	[18] 303,980	361,750	443,050	401,052
Total, uranium enrichment activities	1,569,820	1,394,985	1,313,565	1,312,165	1,351,400	1,422,635	1,359,252

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
URANIUM ENRICHMENT ACTIVITIES							
Capital Equipment							
U^{235} production	$13,778	$15,000	$15,000	$15,000	$13,000	$15,000	$13,000
Process development	3,222	4,000	4,000	4,000	3,000	4,000	3,000
All other U^{235}	0	0	0	0	0	0	0
Total, capital equipment	71,000	19,000	19,000	19,000	16,000	19,000	16,000
Plant							
Uranium enrichment—U^{235} production:							
78 15-a—Water system improvements, gaseous diffusion plant, Kentucky	0	4,500	4,500	4,500	650	2,500	650
78 8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio	5,300	1,750	1,750	1,750	6,000	2,950	6,000
76-8-g—Enriched uranium production facility, Portsmouth, Ohio	167,235	180,000	107,630	107,630	82,000	15,000	67,000
74-1-g—Cascade uprating program, gaseous diffusion plants	161,000	42,700	42,700	42,700	108,000	63,900	108,000
74-1-f—Process equipment modifications, gaseous diffusion plants	267,800	100,000	100,000	100,000	160,000	143,800	16,000
77-9-a—Expansion of feed vaporizing sampling facility, gaseous diffusion plants, multiple sites						18,000	8,700
Prior-year projects	38,050	0	0	0	0	0	56
Total, U^{235} production	639,475	346,350	273,980	273,980	358,950	394,050	372,906
Uranium enrichment—Process development:							
78-14-a—Centrifuge facilities modifications, various locations	0	30,000	30,000	30,000	2,800	14,000	2,800
77-9-d—Centrifuge plant demo, facility Oak Ridge, Tenn						35,000	20,000
Prior-year projects	25,000	0	0	0	0	0	5,346
Total, process development	25,000	30,000	30,000	30,000	2,800	49,000	28,146
Total, plant	664,475	376,350	308,980	303,980	361,750	443,050	401,052
PROGRAM MANAGEMENT AND SUPPORT							
Operating Expenses							
Program direction	218,760	220,535	263,700	282,900	222,900	254,100	254,100
Institutional relations	26,451	33,368	[17] 34,179	34,179	34,100	28,379	28,779
Supporting activities	35,469	37,460	37,460	37,460	36,494	33,360	33,044
International cooperation	0	0	5,000	5,000	4,000	3,500	2,600
Cost of work for others	20,100	18,265	18,265	18,265	18,255	18,265	18,255
Total, operating expenses	300,780	[16] 309,628	358,604	[16] 317,804	315,749	337,604	336,778
Total capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total plant	0	11,530	11,530	[16] 11,530	1,780	6,730	6,936
Total, program management and support	306,220	326,113	375,089	334,289	322,484	348,439	347,819
Operating Expenses							
Changes in inventories, working capital and other adjustments	81,885	126,300	126,300	126,300	92,082	111,300	77,082
Transfer to Council on Environmental Quality	500	500	500	500	0	500	0
General reduction in operating expenses	−89,578	0	0	0	0	0	0
Capital Equipment							
Program direction	4,325	4,000	4,000	4,000	4,000	3,150	3,150
Institutional relations	790	755	755	755	755	755	755
Supporting activities	325	200	200	200	200	200	200
International cooperation	0	0	0	0	0	0	0
Total, capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total	192,307	239,089	233,189	239,589	197,473	220,039	189,700
Plant							
Supporting activities:							
78-1-b—Chiller modifications for energy conservation, Bendix Plant, Kansas City, Mo	0	830	830	830	80	830	80
78-1-c—Process waste heat utilization, gaseous diffusion plant, Paducah, Ky	0	5,700	5,700	5,700	700	900	700
Prior-year projects	0	0	0	0	0	0	5,156
78-19-s—Program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only)	0	5,000	5,000	5,000	1,000	5,000	1,000
Total, supporting activities	0	11,530	11,530	11,530	1,780	6,730	6,936
Total, plant	0	11,530	11,530	11,530	1,780	6,730	6,936
PLANT—OTHER							
General plant projects	40,800	44,265	44,265	44,265	9,338	42,665	8,995
Construction planning and design	7,200	10,000	10,000	10,000	2,000	9,000	1,800
Total plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
Summary totals							
Operating expenses	3,774,145	5,166,430	4,759,656	4,870,296	4,487,261	4,431,773	4,224,086
Capital equipment	192,307	239,089	233,189	239,589	197,473	230,039	189,700
Plant	1,037,325	1,155,730	1,175,160	1,051,560	535,598	901,430	691,920
Working capital adjustment						0	−52,016
Unobligated balance brought forward						−64,300	0
Unobligated balance carried forward						−65,500	0
Total, ERDA authorization	5,003,917	6,561,249	6,172,005	6,161,445	5,220,332	5,433,442	5,053,690
Less:							
Anticipated enrichment revenues	−660,000	−845,820	−845,820	−845,820	−845,820	−965,820	−965,820
Anticipated miscellaneous revenues	−77,900	−100,720	−100,720	−100,720	−100,720	−100,720	−100,720
Total	4,266,017	5,614,709	5,225,465	5,214,905	4,273,792	4,366,902	3,987,150

[1] This authorization for plant represents $114,800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[2] In H.R. 6796 project title does not include "A-E long-lead procurement only."
[3] S-1811 shows $12,000,000 for technology support and utilization. $3,000,000 of this has been incorporated in institutional relations—University programs.
[4] This authorization for plant represents $41,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[5] This authorization for plant represents $800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[6] Included in this amount is $1,000,000 for the Water Resources Council.
[7] This authorization for plant represents $6,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[8] This authorization for plant represents $110,300,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[9] This authorization for plant represents $16,500,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[10] This authorization for plant represents $75,535,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[11] This authorization for plant represents $3,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[12] This authorization for plant represents $16,700,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[13] This authorization for plant represents $7,900,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[14] This authorization for plant represents $11,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[15] This authorization for plant represents $420,050,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[16] Included in this amount is $1,000,000 for the Water Resources Council.

[17] Includes $3,000,000 that is part of the S-1811 amount of $12,000,000 for technology support and utilization under solar energy development. It was agreed that this $3,000,000 should be incorporated in institutional relations—University programs.

[18] This authorization for plant represents $6,730,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represents related budget authority.

COMPARISON BETWEEN HOUSE AND SENATE AUTHORIZATION PROGRAM STRUCTURE FOR NUCLEAR PROGRAMS

[In thousands of dollars]

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS		NUCLEAR PROGRAMS		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	$43,617	1. Advanced isotope separation technology	$43,617	$43,617
2. Light water reactor technology	13,000	2. Light water reactor technology	31,200	31,200
3. Technology development and special projects	14,842	3. Technology development and special projects	14,842	14,842
4. Light water reactor safety facilities	24v000	Light water reactor safety facilities and fuel storage: 4. Light water reactor safety facilities	24,000	24,000
5. Process development (U^{235})	85,650	Uranium enrichment activities: 5. Process development	77,400	77,400
6. Uranium resource assessment	59,485	Fuel cycle research and development: 6. Uranium resource assessment	67,485	67,485
7. LWR fuel reprocessing	35,100	7. LWR fuel reprocessing	34,000	24,000
8. Nuclear materials security and safeguards	37,906	Nuclear materials security and safeguards: 8. Nuclear materials security and safeguards	40,106	40,106
Total, light water reactors	313,600	Total	332,650	322,650
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	165,000	9. Waste management (commercial)	154,000	160,000
10. International spent fuel disposition	20,000	Light water reactor facilities and fuel storage: 10. International spent fuel disposition	20,000	20,000
Total, waste management	185,000	Total	174,000	180,000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
11. LMFBR base program	333,300	11. LMFBR base program	333,300	333,300
12. Clinch River breeder reactor	150,000	12. Clinch River breeder reactor	75,000	80,000
Total, breeder reactor	483,300	Total	408,300	413,300
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	38,500	13. Water cooled breeder reactor	38,500	38,500
14. Gas cooled thermal reactor	31,000	14. Gas cooled thermal reactor	16,000	31,000
15. Gas cooled fast breeder reactor	14,670	15. Gas cooled fast breeder reactor	14,670	14,670
Total, other advanced reactor concepts	84,170	Total	69,170	84,170
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	12,100	16. HTGR fuel cycle R. & D	12,100	12,100
17. Breeder reactor fuel reprocessing R. & D	30,300	17. Breeder reactor fuel reprocessing R. & D	30,300	30,300
18. Thorium fuel	18,000	18. Thorium fuel	8,000	18,000
19. Alternate fuel cycle	32,000	19. Alternate concepts	32,000	32,000
Total, advanced fuel cycle concepts	92,400	Total	82,400	92,400
		Nuclear research and applications:		
20. Nuclear energy assessments	23,300	20. Nuclear energy assessments	23,100	23,300
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	989,145	21. U^{235} production	895,455	895,445
22. All other U^{235}	14,840	22. All other U^{235}	17,740	16,340
Total, uranium enrichment	913,985	Total	913,185	911,785
		Magnetic fusion:		
23. Magnetic fusion	207,900	23. Magnetic fusion	199,900	207,900
Total, operating expenses	2,303,655	Total, operating expenses	2,202,705	2,235,505
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Total, plant	741,785	Total, plant	649,715	667,615
Total, nuclear programs	3,169,779	Total	2,978,759	3,029,459
Capital Equipment		Capital Equipment		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation techonlogy	8,485	1. Advanced isotope separation technology	8,485	8,485
2. Light water reactor technology	0	2. Light water reactor technology	0	0
3. Technology development and special projects	1,280	3. Technology development and special projects	1,280	1,280
4. Light water reactor safety facilities	800	Light water reactor safety facilities and fuel storage: 4. Light water reactor safety facilities	800	800
5. Process development (U^{235})	4,000	Uranium enrichment activities: 5. Process development	4,000	4,000
6. Uranium resource assessment	4,800	Fuel cycle research and development: 6. Uranium resource assessment	4,800	4,800
7. LWR fuel reprocessing	0	7. LWR fuel reprocessing	0	0
8. Nuclear materials security and safeguards	2,794	Nuclear materials security and safeguards: 8. Nuclear materials security and safeguards	2,794	2,794
Total, light water reactors	22,159	Total	22,159	22,159
Waste management:		Fule cycle research and development:		
9. Waste management (commercial)	11,500	9. Waste management (commercial)	11,500	11,500
10. International spent fuel disposition	0	Light water reactor facilities and fuel storage: 10. International spent fuel disposition	0	0
Total, waste management	11,500	Total	11,500	11,500

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS—Continued		NUCLEAR PROGRAMS—Continued		
Capital Equipment—Continued		Capital Equipment—Continued		
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	$3,100	13. Water cooled breeder reactor	$3,100	$3,100
14. Gas cooled thermal reactor	1,000	14. Gas cooled thermal reactor	1,000	1,000
15. Gas cooled fast breeder reactor	1,330	15. Gas cooled fast breeder reactor	1,330	1,330
Total, other advanced reactor concepts	5,430	Total	5,430	5,430
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	990	16. HTGR fuel cycle R. & D	1,000	1,000
17. Breeder reactor fuel cycle R. & D	3,000	17. Breeder reactor fuel cycle R. & D	3,000	3,000
18. Thorium fuel	10	18. Thorium fuel	2,000	2,000
19. Alternate fuel cycle	3,000	19. Alternative concepts	3,000	3,000
Total, advanced fuel cycle concepts	7,000	Total	9,000	9,000
		Nuclear Research and Applications:		
20. Nuclear energy assessments	0	Nuclear energy assessments	0	0
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	15,000	21. U^{235} production	15,000	15,000
22. A other U^{235}	0	22. All other U^{235}	0	0
Total, uranium enrichment	15,000	Total	15,000	15,000
		Magnetic fusion:		
23. Magnetic fusion	27,600	23. Magnetic fusion	27,600	27,600
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Plant		Plant		
Light water reactors:		Light water reactor facilities and fuel storage:		
1. Light water reactor safety facilities:		1. Light water reactor safety facilities:		
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	3,000
2. Process development:		Uranium enrichment:		
78-14-a—Centrifuge facilities modifications various locations (total)	30,000	2. Process development: 78-24-a—Centrifuge facilities modifications various locations	30,000	30,000
Total, light water reactors	33,000	Total, light water reactor facilities and fuel storage	33,000	33,000
Waste management:		Fuel cycle R. & D.:		
3. Waste management (commercial):		3. Waste management (commercial):		
78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	33,000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
4. LMFBR base program:		4. LMFBR base program:		
78-6-a—Modifications to reactors	8,700	78-6-a—Modifications to reactors	8,700	8,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill	4,935	78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill	4,935	4,935
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only)	20,100	78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only)	20,100	20,100
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	3,100	78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	3,100	3,100
78-6-e—Modifications to facilities Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	9,000	78-5-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	4,000	4,000
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	134,800	78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	134,800	134,800
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	3,600	78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	3,600	
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	1,100	78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	1,100	1,100
77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only)	5,000	77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only)	5,000	5,000
77-4-d—Fuel storage facility, Richland, Wash	23,000	77-4-d—Fuel storage facility, Richland, Wash	23,000	23,000
Total, LMFBR base program	213,335	Total, LMFBR base program	208,335	208,335
Total, liquid metal fast breeder reactor	213,335	Total, liquid metal fast breeder reactor	208,335	208,335
Advanced fuel cycle concepts:		Fuel cycle R. & D.—Support of nuclear fuel cycle:		
5. Breeder reactor fuel reprocessing R. & D.:		5. Breeder reactor fuel reprocessing R. & D.:		
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	3,000
78-5-c—Laser isotope facility, site undesignated (A-E only)	3,500	78-5-c—Laser isotope facility, site undesignated (A-E only)	0	3,500
Total, breeder reactor fuel reprocessing R. & D	6,500	Total, breeder reactor fuel reprocessing R. & D	3,000	6,500
Total, advanced fuel cycle concepts	6,500	Total, support of nuclear fuel cycle	3,000	6,500
Uranium enrichment:		Uranium enrichment:		
6. U^{235} production:		6. U^{235} production:		
78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	17,400
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	4,500
76-8-a—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	76-8-a—Conversion of existing steam plants to coal capability, gaseous diffusioh plants and Feed Materials Production Center, Fernald, Ohio.	1,750	1,750
76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	180,000	76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	107,630	107,630
74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	42,700
71-1-f—Process equipment modification, gaseous diffusion plants	100,000	71-1-f—Process equipment modification, gaseous diffusion plants	100,000	100,000
Total, U^{235} production	346,350	Total, U^{235} production	273,980	273,980
Total, uranium enrichment	346,350	Total, uranium enrichment	273,980	273,980
7. Magnetic fusion:		7. Magnetic fusion:		
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	94,200
78-3-b—Fusion materials irradiated test facility, Hanford Engineering Development Laboratory, Washington.	14,400	78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory ,Washington.	0	14,400
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	24,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	0	76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	3,200	3,200
Total, magnetic fusion	132,600	Total, magnetic fusion	121,400	133,800
Total, nuclear programs	741,785	Total, nuclear programs	649,715	667,615

EXPLANATION OF SIGNIFICANT NUMBER CHANGES

Nonnuclear energy

High Btu Coal Gasification Test Facility

The conferees agreed to add $10 million in operating funds for a feasibility study for a high Btu coal gasification test facility. The House receded to the Senate and no construction funds are authorized for the facility in fiscal year 1978. The high Btu coal gasification test facility would demonstrate and evaluate several second and third generation gasification technologies in a single installation.

A GOCO (Government owned, contractor operated) arrangement is proposed as a financing mechanism that will avoid the complications and time delays of the present cost sharing arrangement in the demonstration program. The test facility program is not intended to replace the present demonstration program. It does provide an option that ERDA has agreed is attractive. Dr. White has sent a letter to the House committee which affirms the value of such a facility and supports beginning design work.

The conferees view the test facility as expanding the options for demonstrating new gasification technologies at commercial size. The inclusion of this facility into the current fossil demonstration program indicates a dissatisfaction with the Administrator's execution of section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974. This section authorizes the Administrator to "identify opportunities to accelerate the commercial applications of new energy technologies and provide assistance for participation in demonstration projects." Great latitude is allowed in this section as to the kind and degree of cooperative agreements with non-Federal entities which may be entered into. The rigid fifty-fifty cost-sharing arrangement of the fossil energy demonstration program limits the flexibility granted under section 8. The introduction of the high Btu test facility and the feasibility study is intended to open up possibilities which are precluded by the present financial arrangements.

The conferees wish to emphasize, by this action, that this authorization is not intended, in any way, to stop, delay or inhibit the presently constituted demonstration program. The actual purpose of the demonstration program has always been clear and that is to insure that second generation technologies are demonstrated at selected sites to provide that information necessary to make decisions about the commercial viability of such technologies. Therefore, the feasibility study for the test facility should include a discussion about the relative merits of pursuing the construction of the test facility and its impact, if any, on the present demonstration program.

Gasifiers in Industry

Forty million dollars was reauthorized from the Clean Boiler Fuel from coal demonstration plant for the "gasifiers in industry" program. These funds were placed in operating expenses for the low Btu gasification program. This permits greater flexibility and quicker action in execution of this near-term program. The program objective is to get gasifiers operating and producing gas during the next 3 years. This will demonstrate the economic viability of low and medium Btu gas as a substitute for natural gas and also prove its environmental acceptability. State of the art gasification technologies would be used. However, modern environmental control equipment must be added to the gasifiers and the use of caking coals needs to be demonstrated.

Direct Combustion

A total of $12 million was added to the direct combustion program to further emphasize the conferees strong commitment to this program which has potential near-term impact. Two million dollars will be used for the utilization of anthracite waste in fluidized bed combusters and $6 million will be used for the component testing and integration facility for atmospheric fluidized bed combustion at Morgantown, W. Va. Four million dollars was not in dispute among the conferees and will support coal-oil slurries which are critical for the conservation of oil, the usage of coal and reduction of the retrofit problems of current oil burners. The conferees felt that this program should be enhanced by allowing larger scale tests and the initiation of commercial application.

Oil Shale and In-Situ Coal Gasification Program

The in-situ coal gasification program has made significant progress within the last fiscal year. The conference addition of $8.0 million for this work is meant to advance the Linked Vertical Well method as well as the Packed Bed method.

The conferees also direct the ERDA to prepare a management plan for oil shale R&D to include possible or likely efforts for process development units and pilot plants utilizing above-ground and in-situ processes. The above-ground efforts have not been carefully devised and there does not appear to be logical steps of mining, retorting, hydrotreating and refining. The funds for this plan are included in the conference amount.

Advanced Research and Supporting Technology

The conferees agreed to add $10 million to the advanced research and supporting technology program. This increase is intended to augment the materials and exploratory research program carried out within this program.

The long term increase in coal and oil shale used to meet the energy needs of the country will require new and environmentally sound technologies be developed. This means that fundamental knowledge of coal, coal chemistry, geology, rock mechanics and materials must be increased. According to the scientific and engineering communities ERDA's fossil energy program has not stressed this work sufficiently in the past. The increase is intended to enable them to expand these efforts.

Flash Liquefaction

The House receded from its addition for the flash liquefaction process. The conferees wish to emphasize their interest in support for the flash liquefaction but understand that there are carryover funds in the liquefaction program that can be used in support of the construction of a process development unit.

Drilling, Exploration, and Offshore Technology

With respect to increased funding for drilling technology development, the conference committee deleted $1.6 million under geothermal resource development added by the Senate, while selecting a compromise figure of $7.6 million in the fossil energy area. This latter figure is $6 million above the Senate authorization, and $3 million below the House.

The committee wishes to make clear that this action is in no way intended to indicate Congressional direction that fossil drilling technology be emphasized at the expense of its geothermal counterpart. The Committee recognizes that great similarities exist between the developmental needs in these two areas. Common problems such as coping with high temperature and corrosive environments, and common needs for improvements in directional drilling techniques, down-hole motor capability, and drill bit design and fabrication, insure that progress in one area will be of substantial benefit to the other.

Five million dollars will be used for the development of down hole electronics, severe service elastomers and steels and improved bit designs. In addition, testing and evaluation instrumentation is to be supported by the development of telemetry systems and better down hole motors. This new technology will have near term application and is not presently under development, because the drilling industry is small and does not have the capital resources to support sophisticated R&D programs. It is clear that in the past ERDA has made a considerable effort to insure that work in these two drilling technologies has been well-coordinated in order to minimize needless duplication and overlap. The Committee directs that of the additional funds authorized in this legislation at least $1.6 million should be used to emphasize problem areas common to both fossil energy and geothermal resource development, including subterranean melting research.

The addition also includes $1 million for an evaluation of the possible applications of zirconium hydride reactors as self-contained power systems for subsea oil recovery efforts.

Solvent Refined Coal (SRC) Demonstration Plant

The conferees action for this promising technology emphasizes both the SRC solids process, which has been the subject of extensive testing, and the SRC liquids process, which produces a desirable and versatile liquid product with some solids output, but is now in the early stages of large scale testing.

In May of 1977, the SRC pilot plant in Fort Lewis, Washington was adapted to operate in the SRC II mode. The conferees feel this test can provide the data needed for a realistic assessment and design of an SRC II plant. To take advantage of this information and to do the design work the conferees have provided $10 million in operating funds for fiscal year 1978.

In the case of the solid fuel SRC process, successful work has been concluded in several important areas including pilot scale process studies on seven different coals including high sulfur coals, a successful 3000 tons combustion test, and conceptual commercial designs sponsored both by EPRI and the Southern Company.

As a consequence, the conferees have agreed that $30 million be authorized for construction of an SRC solids demonstration plant to produce solid fuels. The conferees agree that this demonstration plant be constructed at the smallest commercial size module which can efficiently demonstrate the technology. Although commercialization is the ultimate goal, government involvement and expense are to be minimized. However, once the Secretary has selected a plant size, the conferees direct that the Department report to the appropriate committees in Congress on the cost considerations involved in the decision.

Geothermal Energy

The Conference Committee recommendation to the authorization for hydrothermal technology applications is $3.1 million above the House Bill. This increase is to be used to accelerate the pace of the Raft River Thermal Loop Experiment in Idaho. The Conferees feel that this experiment should be rapidly pursued because it utilizes moderate-temperature resources, which are more abundant than the high temperature hydrothermal resources.

The Conference recommends an increase of $11.9 million over the Administration request for Advanced Technology Applications. Of this figure, $2.1 million will go for hot dry rock resources, and $9.8 million for geopressured resources. The conferees encourage the ERDA to continue subterranean melting research. The House amendment to the Senate Bill includes an authorization of $6 million for Architect/Engineering design and long-lead procurement for construction of a second 50 MWe geothermal demonstration plant; the Senate bill includes $4 million. The Conferees understand that necessary project activities can be successfully initiated within the $4 million level and they have agreed to accept this figure as provided in the Senate bill. ERDA is hereby authorized to enter into a cost-share arrangement for the design, construction and operation of the 50 MWe geothermal energy demonstration plant.

Solar Energy

The Conferees feel that the Federal Government should take a stronger role in reducing the cost of solar photovoltaic cells. To do this the authorization for the photovoltaic program is increased by $19 million above the level provided in the Senate bill. Of this, $12.2 million will be used for the purchase of photovoltaic cells to be utilized on Federal sites where their applications are shown to be life cycle cost effective; $800,000 is earmarked for market studies; the remaining funds will be utilized for technology development, particularly related to cost reducing production technologies.

The Conference recommendation for Ocean Thermal Energy Conversion is to increase funding by $10 million over the Administration request. This is a $9.8 million reduction from the House amendment of $19.8 million to the Senate Bill. The Conferees feel that the potential of Ocean Thermal Energy Conversion is substantial for the production of energy intensive products and wish to insure that ERDA begins work on a 5 MW OTEC Tropic Ocean Grazing Pilot plant. At the same time, the Conferees wish to emphasize the importance of the ongoing base-line program by providing additional funds for this as well.

The Conferees accepted the House amendment funding level of $41 million for the construction of a 10 MWe Central Receiver Solar Thermal Pilot Plant in Barstow, California, and recommend that ERDA put this project back on schedule with no restriction as to the procurement of heliostats.

The Conference recommendation for solar heating and cooling of buildings is $2.5 million above the House Amendment to the Senate Bill. Of this, $2 million will go for research in retrofitting existing structures to utilize solar heating and cooling systems, and the remaining $500,000 is for support of the Solar Data Centers.

NUCLEAR ENERGY

NUCLEAR RESEARCH AND APPLICATIONS

Light water reactor technology

The conferees adopted the Senate authorization figure for the LWR technology program which included $12.4 million for standardization of designs for light water reactors which is part of the President's draft proposal to streamline the LWR licensing process, but was not included in the budget amendment.

It is the opinion of the Conferees that ERDA should seek as much private cost-sharing as possible for this program, hopefully over time as high as 40%.

Gas-cooled thermal reactors

The Conferees adopted the House figure of $31 million, which is $15 million above the Senate figure and the Administration request, for a program to develop a more proliferation-proof fuel for the gas-cooled reactor in both the High Temperature Gas Reactor (HTGR) Steam Cycle and the Advanced HTR direct cycle concepts. The HTGR can use either a low-enriched uranium (LEU) fuel cycle, or a LEU-thorium fuel cycle in which the bred U-233 is denatured with a U-238. Both of these cycles are attractive from the safeguards viewpoint because of the low enrichment of the Uranium at all points in the fuel cycle, and because the small amounts of plutonium produced (less than ⅓ as much as found in LWR spent fuel) can be discarded as waste. The Advanced HTR Program on directly gas-cooled reactors is a cooperative one with the West Germans.

Laser isotope facility

The Conferees adopted the House inclusion of $3.5 million in funding for A-E work only on a laser isotope pilot facility project 78-5-c with the site undetermined. This rapidly advancing technology promises great reduction in operating expenses and capital plant costs for uranium enrichment facilities.

SUPPORT OF NUCLEAR FUEL CYCLE

Light water reactor fuel reprocessing

The Conferees agreed on $10 million authorization to fund design work on a full-scale nuclear waste solidification facility, a waste storage facility and to conduct systems integration activity. The Senate had authorized $20 million for this work; the item did not appear in the House bill. The Conferees also adopted the Senate funding of $13 million and provisions pertaining to activities to be performed at the Barnwell Nuclear Fuels Plant and funding of $1 million and provisions with an amendment pertaining to a study on future utilization of the Barnwell Nuclear Fuels Plant. The amendment further refined the objectives of the study.

The House amendment to the Senate bill contained a proviso requiring submission to the Congress of a plan of the specific activities to be funded at the Barnwell Plant. The House receded to the Senate position. However, the Conferees indicated that they expected the Committee on Science and Technology and the Committee on Energy and Natural Resources to be informed of the nature of the activities to be undertaken at the Barnwell Nuclear Fuels Plant in conformity with the requirements of the Department of Energy Act that the Congress be kept "fully and currently informed." It was also the opinion of the Conferees that the Barnwell facility should be used in such a way so as not to limit the potential for eventual use as a reprocessing plant.

MAGNETIC FUSION

The Conferees adopted the House authorization level which was $8 million above the Senate Figure, to fund the following activities:

(1) Tokamak Confinement Systems work in neutral beam heating and impurity effects on the Oak Ridge ORMAK facility;

(2) Development and technology efforts on critical superconducting magnets and prototype development of neutral beam injectors to support the Tokamak Fusion Test Reactor (TFTR) at Princeton Plasma Physics Laboratory;

(3) Applied Plasma Physics theoretical support of Tokamak and Mirror Programs;

(4) Reactor Projects in diagnostics and test components for TFTR of at least $1 million.

The Conferees adopted the House position to include $14.4 million for project 78-3-b which is of highest priority in the Magnetic Fusion program and is a key support facility for fusion pilot plant materials selection.

The Conferees adopted the Senate position to increase the authorization for Project 46-5-b by $3.2 million for which would provide thorough materials understanding and provide tritium handling experience for scale-up to pilot-plant operation.

HIGH ENERGY PHYSICS

The House amendment includes an authorization of $10,500,000 in plant funds for the Proton-Proton Intersecting Storage accelerator facility (ISABELLE) to be located at the Brookhaven National Laboratory. This authorization provides for engineering design and preliminary construction activities. The conferees feel that ISABELLE should proceed and have agreed to accept the House authorization in full.

NUCLEAR PHYSICS

The Conferees adopted the Senate increase of $6 million to generally enhance the effectiveness of major facilities which have been underutilized chiefly because of inflation, particularly in power costs.

CONSERVATION

The House and the Senate both increased the Administration budget request for the superconducting magnetic energy storage facility. The Conferees accepted $0.1 million addition to the budget request.

The Senate and House both increased the Administration budget request for Industrial Energy Conservation by $15.0 million to accelerate cogeneration in industry, but allocated this increase differently between operating expenses and capital equipment. The Conferees agreed to accept the Administration's division of operating and capital equipment expenses.

The Conferees resolved independent increases to the Administration budget request for Buildings and Community Conservation as follows: a $2.0 million increase for research and demonstration of improved gas and oil furnace efficiency; $2.0 million to develop a program plan covering financing, development and demonstration of urban area designs based upon integrated energy use; and $2.0 million for community energy management planning demonstration. The Conferees also agreed to emphasize the importance of finding uses for hot water effluents from power plants as an extension of cogeneration project planning.

The House bill contained authorizations for Transportation Conservation in both Title I and Title III. Under Title I, the Conferees agreed to $1.0 million for the Alternative Fuels Utilization Program and, under Title III, $12.5 million for Automotive Propulsion Research and Development.

The Conferees increased the authorization above the Administration's request for Improved Conversion Efficiency by $12.5 million as follows: Thermionics, $0.2 million; Fuel Cells, $10.3 million; Methane Recovery, $2.0 million.

ENVIRONMENT AND SAFETY

Members of the conference committee agreed to accept an increase in the authorization level for Environment and Safety research and development activities of $9 million over the President's request of $252,093,000. Of this increase, $7 million is provided for overview and assessment activites for the purposes of reviewing the current status of ERDA's Environment and Safety Review Program, refining and enlarging the environmental-energy data and information effort, expanding the liquefied natural gas program, and continuing with the regional environmental energy assessments. The remaining $2 million increase is for the decommissioning and decontamination activities of which $1 million is to be used in conjunction with the study of the West Valley Nuclear Fuel Services facility and $1 million is to be used for the general environmental study of decommissioning and decontamination activities.

Since a $1 million authorization was provided in both the Waste Management Program and in the Environment and Safety Program for purposes of carrying out the West Valley study, the conference committee directs the Administrator to undertake this study with the joint cooperation and assistance of both Assistant Administrators.

The general study should consider a series of alternative institutional approaches for Federal Government and private sector management of a national decommissioning

strategy and program including but not limited to: 1) investigate the feasibility of having a lead federal agency approve and monitor an overall decommissioning strategy and whether ERDA should accelerate its decommissioning programs; 2) consider the needs of the nuclear industry, which will rely in large part on the research, demonstration and experience from ERDA decommissioning efforts; 3) examine the technical alternatives for decommissioning, decontamination and disposal as well as the costs for all recommended steps and alternatives for each type of facility and waste; 4) investigate alternative methods for financing the operation, including escrow and bonding procedures, and the cost estimates should be sufficiently detailed to assist in allocating the proper amounts to be set aside in such procedures; 5) investigate the possibility of an independent waste handling corporation, financed by current fees or preposted bonding; 6) examine and make recommendations for reasonable tax accounting methods for handling decommissioning costs, such as the possibility of including "negative salvage value" in the depreciation allowance; 7) review the extent to which ERDA is meeting State mandated requirements and recommend generic criteria for environmental impact statements; and 8) make recommendations for the coordination of ERDA, NRC, and EPA in the setting and implementation of decommissioning, disposal, and decontamination standards and criteria.

PROGRAM MANAGEMENT AND SUPPORT

The funding level of $317,804,000 for operating expenses for Program Management and Support agreed to by the conferees is $16.438 million above the Administration request. (This does not include any program management and support funding for military or joint civilian-military programs which are included in other legislation.) This additional funding is for staff support ($6.6 million), governmental relations ($4.038 million), university programs ($1.0 million for university reactor fuel, $1.65 million for occupational and vocational training and curriculum development, $1.35 million for traineeships), and small grants to inventors ($1.8 million).

Explanation of selected provisions

The Conference accepted an amendment to incorporate into the bill a program of loan guarantees for financing the construction and startup costs of demonstration facilities for the conversion of municipal and industrial wastes into synthetic fuels and other desirable forms of energy. Originally, the House bill contained a section 214 which authorized a $300 million loan guarantee program for the construction and start-up of demonstration facilities to convert various forms of biomass to desirable forms of energy (including synthetic fuels).

Section 214 contained provisions which were identical or similar to provisions contained in section 210 of H.R. 6796 and section 312 of S. 1811. Sections 210 and 312 of the respective bills, which authorized a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources, were identical for a provision relating to patent rights. Section 214 was deleted from the agreed upon bill and the amendment offered, and accepted, incorporated into the program authorized by section 210, the major provisions of the biomass loan guarantee bill. By this action, the Conference avoided enacting into law unnecessary and duplicative provisions which would have established two entirely separate and distinct loan guarantee programs. Also, however, those provisions of the biomass loan guarantee section which were different from section 210 and which were specifically designed to attract participation by municipalities and other public and private entities, were retained in the compromise amendment offered in Conference.

The major provisions of the amended section 214 as incorporated into section 210 are as follows:

(1) A new subsection (4) is added to section 19 of the Federal Nonnuclear Research and Development Act, as amended. The program authorized by this subsection is confined to loan guarantees for municipal and industrial waste, sewerage sludge and other municipal organic wastes.

(2) The Administrator is authorized to guarantee and to make commitments to guarantee loans, the outstanding indebtedness not to exceed $300 million at any one time.

(3) With regard to the program for municipal or industrial waste the following subsections of the loan guarantee program authorized in section 19 shall not apply (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k) and (q).

(4) Any demonstration facility for the conversion of solid waste shall, prior to issuance of such guarantee, receive a certification from the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that such guarantee agreement is consistent with applicable solid waste management plans and guidelines.

(5) In the case of such demonstration facilities the amount guaranteed shall not exceed 75 per centum of the total cost of the facility provided that 90 per centum of the total cost of the facility shall not be guaranteed during the period of construction and start-up.

(6) The maximum maturity on any obligation is not to exceed 30 years or 90 per centum of the projected useful life of the facilities physical assets.

(7) To cover administrative costs and probable losses or guaranteed obligations, the Secretary is to collect fees for guarantees of obligations not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

(8) No project is to be transferred to any other agency except pursuant to Act of Congress and the projects are to be administered in accordance with an interagency agreement between the Environmental Protection Agency and the Energy Research and Development Administration.

(9) With respect to any guaranteed obligation issued by a tax-exempt authority the interest which would otherwise be tax-free is made taxable provided that the Secretary shall repay to such issuer a portion of the interest on such obligations as determined by the Secretary of the Treasury.

The Senate bill contained a title on changing the basis for government charge for uranium enrichment services. The language of the title conformed to that submitted by the Administration except for an amendment. The amendment changed the procedure for the Congressional review of uranium pricing policy from a layover period of 45 days before the appropriate committees to a layover period of 60 days with a one-house disapproval resolution procedure for changes in the price charged for enrichment services. The House amendment also contained the title submitted by the Administration with amendments including a provision that the enrichment services pricing was limited to recovery of Government costs and normal and ordinary business expenses which would otherwise be incurred by a private operator. The conferees adopted the language in the Senate bill with an amendment. The amendment was to add the statement "(and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and the normal and ordinary business expenses, such as taxes and return on equity, which would otherwise be incurred by a private operator providing similar services)" to explain the general basis for determining government costs.

The identical language included in section 210 of the House bill and section 312 of the Senate bill to provide authorization for the establishment of a loan guarantee programs for the construction and operation of facilities to produce synthetic fuels from coal, oil shale and other domestic resources does not specifically define the word "demonstration". To insure that the intent of the Conference is clearly stated, the managers of the Conference include the explanation of this term given by Congressman Teague during floor consideration of H.R. 6796, the Fiscal Year 1978 ERDA Authorization bill.

The ERDA Authorization bill for fiscal year 1978, H.R. 6796, contains an amendment to the Non-Nuclear Energy Research and Development Act of 1974 which would provide authority to ERDA or its successor agency in the Department of Energy to use loan guarantees in the development of alternative forms of energy.

The purpose of this amendment is to give the agency new authority to set up a loan guarantee program as part of the Non-Nuclear Act.

The Congress has indicated in Section 8 of the Act the applicability and intent of the Act regarding demonstrations of full-size facilities. This section authorizes the Administrator to "enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis." The Act is clear in that the intent of Congress is that commercial scale facilities qualify for assistance.

If the development of coal gasification is to proceed through the assistance of loan guarantees it is important that the agency be able to look at different demonstration projects under this legislation with respect to coal, environmental and socioeconomic impact and other geographical limiting parameters. The agency must be free to consider all of the coal gasification projects so far announced based on their contribution to the energy technology and energy inventories of this country.

This Section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant would vary with the technology and with the particular situation. For example, if the Administration was considering proposing a high Btu coal gasification plant demonstration, it might choose to guarantee construction of a commerical size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential projects that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound energy RD&D policy would be to build a plant which would permit sufficient participants to bid for the award. The language of Section 210 does not prohibit the Administrator of ERDA from making his choice. It gives him the flexibility he needs.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place, it is important now that the Agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

The Conference Committee agreed to delete Section 601(3)(d) in the Senate bill which woud have specifically called for the ERDA to spend, during fiscal year 1978, at least $10 million of the solar program funding for the operation of the Solar Energy Research Institute (SERI). The deletion of

this language in no way reflects any prejudice to the SERI. The conferees confirm their full support for the ERDA and urge the ERDA to move as rapidly as possible to develop the SERI consistent with a wise expenditure of the Institute's funding.

The Senate bill contained a section which required a study of the options for decommissioning or other disposition of the Western New York Nuclear Service Center, but contained a provision that the section was not to be construed to commit the Federal Government to any new assistance or participation in the Center and that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. The House amendment contained a similar section which required a plan rather than a study, and the provision stating that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. That Conferees adopted the Senate language. However, it is the view of the Conferees that the section does not preclude future Federal participation.

The Conferees accepted House language which requires that the revenues received by the Administration from the enrichment of uranium be used to offset the costs which are incurred in providing existing and future uranium enrichment service activities, both for operating and plant and capital expenditures.

The Senate agreed to recede to the House to delete language contained in the Senate bill to establish an employee grievance procedure for the Lawrence Livermore Laboratory. The Conferees note that recently, the University of California has agreed to a new set of guidelines for relations with employee organizations. This agreement is an important step in establishing an improved labor management policy. For this reason it was felt that the amendment was not required.

The House bill had a separate Title III relating to automotive propulsion research and development. Title III of the House bill was amended on the House floor on September 21. The amendment changed the title from the "Automotive Transport Research and Development Act" to the "Automotive Propulsion Research and Development Act", and deleted the concept of "integrated test vehicles" from the bill. The Senate bill had no comparable title.

The conferees agreed to accept Title III of the House bill with an amendment to Sec. 304(f) which requires special reports on grants and contracts entered into under the "Automotive Propulsion Research and Development Act of 1977".

The Conferees adopted the House provision which required a report focused on the impact of the President's non-proliferation policy on cooperative agreements in research and development with an amendment. The Conferees amended the provision so that the report is to be transmitted to the House International Relations and Science and Technology Committees and the Senate Foreign Relations and Energy and Natural Resources Committees.

The Conferees directed that the report should be made as consistent as possible with other required reports to the Congress on nonproliferation policy and initiatives.

The Conference passed Sec. 313 with the clear understanding that the action taken under this section is in response to emergency conditions resulting from the Teton Dam disaster and that it is not a major federal action. They further agreed that the effectiveness of the section depends on its prompt implementation and encourage the Secretary of Interior to request the Council on Environmental Quality to exempt this action from the environmental impact statement requirements of the National Environmental Policy Act of 1969.

In both the House and Senate-passed authorization bills, $15 million was provided to develop a program whereby the United States would embark upon the research, development and demonstration of low-head hydroelectric technology. A good deal of foreign technology utilizing turbines that can generate electricity under low-head, run-of-the-river conditions already exists, but further refinement of this technology is called for in order to reduce cost. Based upon these complementary rationales, the conferees have agreed to retain the $15 million authorization and to further characterize purposes for which this authorization is made.

The House, in its report on H.R. 6796, indicated that the authorization would be used to develop a research and development program. This entails research work, systems evaluation, site analysis and selection, and other economic, environmental and technical activities. The Senate bill and accompanying report contemplated a demonstration type program whereby a majority of funds would be utilized for demonstrating the feasibility of installing small scale hydroelectric generators in existing dams. It is the judgment of the conferees that the programs contemplated by both houses should be initiated in fiscal year 1978. Specifically, the conferees believe that ERDA should embark upon demonstration programs with full consideration to existing but unused facilities and to refine existing technology to help meet short-term goals for producing energy from low-head hydroelectric technology. At the same time, ERDA should initiate a research and development program and perform studies which will define the locations and resource potential of the sites where this technology might be used. It should be emphasized that there is no intention upon the part of the conferees to establish at this time a large research and development activity at the expense of an aggressive demonstration program. Instead, ERDA should establish an appropriately balanced-program for accelerated introduction of low-head hydroelectric power generation.

The Senate bill contained a funding level of $75 million for the continuation of the Clinch River Breeder Reactor (CRBR) Project. This funding level was sufficient to retain the technical staffs of the principal contractors and to continue procurement of key components and hardware for which the contracts already exist. The Senate bill also contained provisions which prohibited the use of the funds for the CRBR Project for termination of the Project and cited an opinion from the Comptroller General that the Project cannot be terminated without Congressional authorization. The intent of these provisions was (1) to maintain the project schedule and to minimize additional unrecoverable delays so as to limit the escalation in total cost and (2) to preserve the Clinch River site for the Project.

The House amendment contained $150 million for the CRBR Project to proceed on the existing schedule (prior to April, 1977) which would preserve the project arrangements and objectives. The House funding figure contemplated aggressive procurement, commencement of site preparation and construction in fiscal year 1978, and continuation of all licensing activities.

The Conferees adopted an $80 million authorization level for the CRBR Project for Fiscal Year 1978. The Conference Committee also included Sec. 106, which amends P.L. 91-273, as amended. By this compromise funding level and the statutory provisions, it is the intention of the Conferees that the CRBR Project shall be pursued in a vigorous manner to maintain the viability of all project arrangements, objectives, and schedules (prior to April, 1977) and of the LMFBR program. To achieve this end, the Conferees intend that the Administration and all other relevant Federal agencies take all necessary actions with regard to the licensing process for the CRBR Project to assure the earliest possible decisions on a Limited Work Authorization and Construction Permit. Furthermore, the Conferees intend that the Clinch River site should be preserved as established by all past and present Congressional Authorization Acts and by the ERDA and the NRC Final Environment Statements unless the site is found to be unsuitable for reasons of affecting the public health and safety or the common defense and security. The intent of section 106(d)(3) is not to affect the authority of the NRC in any respect, but also not to affect previous law and intent with respect to location of the Project.

The Conferees realize that site preparation activities cannot commence during fiscal year 1978 with only $80 million of new authorization. However, this funding level shall not in any way limit or prohibit the grant of a Limited Work Authorization and Construction Permit during this or any other fiscal year.

The Conferees recognize the Administration's desire to defer the date when liquid metal fast breeder reactors would be put into commercial use. In this regard, it must be emphasized that the CRBR Project is and always has been a demonstration facility, and the Conferees reject any contention that continuation of the CRBR Project will necessarily lead to the commercialization of LMFBR technology.

With regard to the Comptroller General's opinion contained in the June 23, 1977 letter, the Conferees believe that it is the intent of Congress that funds appropriated for the CRBR Project shall be deemed to be deferred or rescinded (as appropriate) for purposes of the Impoundment Control Act of 1974 if such funds are withheld from use, or used to cancel or terminate such Project (or plan its cancellation or termination), rather than for the design, construction, and operation of such Project in accordance with the authorization.

The House bill included a proviso requiring that of the funds authorized for the Liquid Metal Fast Breeder Reactor (LMFBR) program, at least $10,400,000 shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development. The House bill also included an additional $5,000,000 in construction funds to build facilities for the testing of these steam generators.

These provisions were predicated on the availability of sufficient funds within the LMFBR program, as contained in the House bill, to assure that high priority component development and testing activities would be accomplished. Unfortunately, at the $80,000,000 level agreed upon for the CRBR by the conferees the impetus to component and advanced fuel development that would have been obtained by the provisions is no longer achievable, and the House proviso and capital funding addition are therefore withdrawn.

At the same time, the conferees believe that the LMFBR program should not lose sight of the need to maintain some focus on the development and testing of components of the type and size appropriate for an intermediate sized LMFBR plant, in the event that construction of such a plant may be warranted in the future.

The conferees recognize the possibility that the U.S. may need to rely on LMFBR technology at an earlier date than that currently projected, and that a strong technological base both in research areas, and in component development and testing is needed so that the U.S. will be in a position to utilize its LMFBR capabilities expeditiously should the need arise.

The Senate bill provided that all inventions made or conceived in the course of or under a guarantee authorized by this Act must be subject to the title and waiver requirements and conditions of section 9 of Public Law 93–577. The House amendment required the application of section 9 of Public Law 93–577 to a loan guarantee only in the case of default. The House receded to the Senate position.

The conferees reconfirm the fact that the Secretary has the full authority to grant apriori waivers of the United States' right to inventions made under a loan guarantee and to include provisions pertaining to terms and conditions under which the Federal government would recapture the rights to such inventions in case of default. The conferees expressed a strong consensus view that the Secretary should liberally use his authority to grant apriori waiver of Federal government rights to inventions made under a loan guarantee and in anticipation of a default the Secretary, in his discretion, has the authority to include provisions in the loan guarantee contract to insure that patents developed under the loan guarantee became part of the project assets and available to the United States.

It is noted that conceptual design of a demonstration plant for the HYGAS process is already underway within the demonstration plant program at ERDA. Seven and one-half million dollars is to be spent on this 20 month project through fiscal year 1978.

Demonstration plants for high Btu coal gasification processes have already been authorized, one in 1976 (Project 76–1–b), one in 1977 (Project 77–1–b). Two processes were chosen to begin conceptual design under the authorization for the first pipeline demonstration project. At the time that the second demonstration plant was authorized in fiscal year 1977, the conferees noted in their report (S. 94–1327, H.R. 94–1718): "HYGAS technology, which has been developed in an ERDA pilot plant, offers the potential for economic success as revealed in a recent independent study made for ERDA. The conferees urge ERDA to consider the selection of a process for the demonstration plant, which has both economic promise and process reliability. The conferees recognize the importance of cost-sharing aspects in any joint program but are concerned if the best technology for demonstration is not developed properly." With these objectives in mind, the conferees wish to emphasize their concern that the best technology for demonstration be developed properly.

While the cost sharing arrangements are important aspects of the demonstration programs, any rigid application of financial formulas is unadvisable, since the purpose of the program is to demonstrate second generation technology and thereby increase its chances for success in the market place.

The current contract for conceptual design of a HYGAS demonstration plant will result in three conceptual designs in competition for two demonstration projects. The fiscal year 1977 Authorization bill provided $10 million for the second demonstration plant but no appropriations were made for that plant in fiscal year 1977. Further authorization of this plant depends upon a competition where technological criteria are given equal weight with economic criteria.

The conferees are also concerned that previous proposals which developed the HYGAS process for a demonstration plant not be dismissed as a result of the ERDA-sponsored conceptual design contract. Any such previous proposals for a HYGAS demonstration should also be eligible for the competition for the second High Btu Demonstration Plant.

The Department of Energy has assured the conferees that the HYGAS process will be a candidate for the second demonstration plant in a letter from Dr. Philip White, Acting Program Administrator for Fossil Energy:

DEPARTMENT OF ENERGY,
Washington, D.C., Oct. 3, 1977.

Hon. WALTER FLOWERS,
Chairman, Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration Committee on Science and Technology, House of Representatives.

DEAR MR. CHAIRMAN: The following is provided for your information regarding the recommendation being made by Senator Ford to seek authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant dedicated to the HYGAS Process.

Fiscal Year 1977 ERDA authorization provided for a second High BTU Pipeline Gas Demonstration Plant (Project 77-1-b). The authorization did not specify the process and no funds were subsequently appropriated for this project. This authorization could eventually be utilized for the HYGAS Demonstration Plant if funds are to be appropriated.

On July 29, 1977, ERDA using available funds from its operating budget awarded a twenty (20) month contract with PROCON, Inc. The objectives of the contract are to (1) prepare a conceptual design of a commercial size plant employing the institute or Gas Technology HYGAS Process, and (2) select a demonstration plant side and prepare detailed process design and conceptual designs with economic evaluations. Funds in the amount of $3.6 million were obligated in Fiscal Year 1977. The balance of funds ($3.9 million) are programmed for Fiscal Year 1978 and 1979. Concurrent with this contract, the HYGAS Pilot is being operated to generate the firm data base required for optimization of a demonstration plant design for the production of pipeline gas from bituminous coal. Approximately 15 months of pilot plant R&D efforts will be required to obtain the information needed to complete the process design and economic evaluations. This step must be carried out to assure that the project can be carried forward with an acceptable technical and financial risk. The study contract will culminate in Fiscal Year 1979 with the delivery of documentation in sufficient detail to proceed directly with detailed design procurement and construction of the HYGAS Demonstration Plant, if warranted.

The rationale for the "if warranted" position is that a go-no-go detailed economic assessment will be made on the commercial plant design in mid-Fiscal Year 1978. If at that point a decision is made to proceed with the study, the earliest that this agency could use appropriated funds is Fiscal Year 1979. In anticipation of this decision, funds are being requested in the Fiscal Year 1979 budget for initiation of the HYGAS Demonstration Plant. A copy of the HYGAS Demonstration Plant Timetable is enclosed.

Based upon the above information, it has been concluded that authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant is not recommended at this time. Please also note that the overall agency High BTU Pipeline Gas Program consists of three (3) different processes competing for two plants to move forward to construction and operation.

Please advise if you need any additional information.

Sincerely,

PHILIP C. WHITE,
Acting Program Administrator for Fossil Energy.

Enclosure: HYGAS Demonstration Plant Timetable.

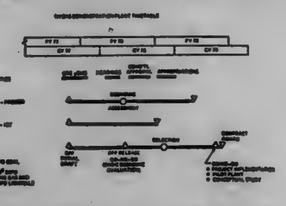

The House receded to the Senate and excluded language which required the Secretary of the Department of Energy to personally approve of each shipment of plutonium for national security purposes if the plutonium is not carried in an approved "safe container". The Conferees understand that such a safe container is currently under development by the Department of Energy and that it will be subject to certification shortly. The Conferees direct the Department to proceed promptly. After certification, such containers shall be used for all air transportation of plutonium as quickly as possible. Further, these casks should be able to accommodate all configurations of plutonium that might be shipped.

RESERVATION ON SELECTED ITEMS IN REPORT

Senator Durkin signed the Conference Report but has reservations with respect to the Clinch River Breeder Reactor Project.

Senator Hatfield signed the Conference Report with reservations as to the decision of the Conferees to recede from the Senate provisions concerning the Clinch River Breeder Reactor.

Representative George E. Brown Jr., although he signed the Conference Report on the part of the House, emphasized that he is strongly opposed to two items of the Conference Report authorizing funds for the continuation of the Clinch River Breeder Reactor Project and language which he believes unreasonably restricts the use of those funds.

Representative Richard Ottinger, although he signed the Conference Report on the part of the House, did so with reservations to the funding for the Clinch River Breeder Reactor, the language concerning the Clinch River Breeder Reactor, the generic loan guarantee provisions, and the nuclear energy research funding provisions.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
JOHN W. WYDLER,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.,
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WOLFF (at the request of Mr. WRIGHT), for an indefinite period, on account of serving as U.S. Representative at the U.N. General Assembly.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous matter:)

Mr. RAILSBACK, for 5 minutes, today.

Mr. STEIGER, for 10 minutes, today.

(The following Members (at the request of Mr. PANETTA) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BAUCUS, for 10 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. CORNWELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MILFORD, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,851.50.

Mr. ASHBROOK, to extend his remarks immediately following those of Mr. CARTER on H.R. 8518 today.

Mr. STEIGER, and to include certain tables and charts during his special order today.

Mr. DICKINSON, to revise and extend his remarks immediately following the remarks of Mr. MARTIN on H.R. 8518 today.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. WHALEN.

Mr. RINALDO.

Mr. STEERS in two instances.

Mr. LEACH in two instances.

Mr. ERLENBORN.

Mr. COLLINS of Texas in two instances.

Mr. MCCLORY.

Mr. ASHBROOK in three instances.

Mr. MICHEL.

Mr. DUNCAN of Tennessee.

Mr. CRANE.

Mr. WHITEHURST.

Mr. LAGOMARSINO.

Mr. BROWN of Michigan.

Mr. LOTT.

Mr. MCCLOSKEY.

Mr. TAYLOR.

Mr. WALKER.

Mr. DERWINSKI in two instances.

Mr. RAILSBACK.

(The following Members (at the request of Mr. PANETTA) and to include extraneous matter:)

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. HARRIS.

Mr. BEARD of Rhode Island.

Mr. ROSTENKOWSKI.

Mr. MILLER of California.

Mr. NATCHER.

Mr. MCDONALD.

Mr. SANTINI.

Mr. SIMON.

Mr. ZABLOCKI in two instances.

Mr. EDWARDS of California.

Mr. EDGAR.

Mr. BLANCHARD.

Mr. MINETA.

Mr. MILFORD in three instances.

Mr. VENTO.

Ms. MIKULSKI.

Mr. RODINO.

Mr. LUNDINE in two instances.

Mr. DANIELSON.

Mr. MOAKLEY.

Mr. CORNWELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4836. An act to extent for 7 months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 18, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2556. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interest under his control; to the Committee on Agriculture.

2557. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Nigeria (transmittal No. 78–2), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2558. A letter from the Secretary of Agriculture, transmitting notice of a proposed change in a records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2559. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Nigeria (transmittal No. 78–2), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2560. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2561. A letter from the Secretary of Health, Education, and Welfare, transmitting the third annual report on the emergency medical services program, pursuant to section 1210 of the Public Health Service Act, as amended (87 Stat. 603, 90 Stat. 2717); to the Committee on Interstate and Foreign Commerce.

2562. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act (66 Stat. 182); to the Committee on the Judiciary.

2563. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses by U.S. marshals for persons released pending appearance in another district; to the Committee on the Judiciary.

2564. A letter from the Comptroller General of the United States, transmitting a report on TVA's Tellico Dam project (EMD–77–58, October 14, 1977); jointly, to the Committees on Government Operations and Public Works and Transportation.

2565. A letter from the Comptroller General of the United States, transmitting supplementary information to accompany the previously submitted evaluation of the President's National Energy Plan (EMD–78–5, October 14, 1977); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. S. 1617. An act to establish a program of ocean pollution research and monitoring, and for other purposes; with amendment (Rept. No. 95–626, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. H.R. 6954. A bill to preserve and promote ethical standards throughout the executive branch, and for other purposes; with amendment (Rept. No. 95–642, Pt. II). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 266. An act to amend Public Law 92–314 to authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes; with amendment (Rept. No. 95–649, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. NIX: Committee on Post Office and Civil Service. H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of non-profit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; with amendment (Rept. No. 95–702, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on operation of CSA-supported antipoverty associations (Rept. No. 95–709). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on failure to meet commitments made in the Occupational Safety and Health Act (Rept. No. 95–710). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on H.R. 3744 (Rept. No. 95–711). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8499. A bill to amend section 16(b) of the Alaska Native Claims Settlement Act; with amendment (Rept. No. 95–712). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 8771. A bill to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes (Rept. No. 95–713). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of Conference. Conference report on S. 1811 (Rept. No. 95–714). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (for himself, Mr. MURPHY of Pennsylvania, Mr. THORNTON, Mr. JENRETTE, and Mr. EDWARDS of Oklahoma):

H.R. 9583. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. BRODHEAD (for himself and Ms. SPELLMAN):

H.R. 9584. A bill to provide for reimbursement to States experiencing high rates of insured unemployment; to the Committee on Ways and Means.

By Mr. BROWN of Michigan:

H.R. 9585. A bill to amend section 1340 of the National Flood Insurance Act of 1968 for the purposes of requiring congressional approval of any determination by the Secretary of Housing and Urban Development to operate the flood insurance program under part B of chapter II of such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROWN of Ohio (for himself, Mr. KETCHUM, Mr. DEL CLAWSON, Mr. BADHAM, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. STANTON, Mr. WINN, Mr. DUNCAN of Tennessee, Mr. STOCKMAN, Mrs. LLOYD of Tennessee, Mr. DERWINSKI, Mr. YOUNG of Alaska, Mr. FOUNTAIN, Mr. COCHRAN of Mississippi, Mr. CLEVELAND, Mr. BADILLO, Mr. CONABLE, and Mr. ERTEL):

H.R. 9586. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on House Administration.

By Mr. BURLESON of Texas (for himself, Mr. THORNTON, and Mr. HALL):

H.R. 9587. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 9588. A bill to amend the Federal Aviation Act of 1958, as amended, to permit the public greater opportunity to choose among competing airlines in the selection of air transportation prices and services, to lessen Federal restrictions on airline management decisions to encourage new companies to enter the airline industry, to provide compensation for essential services to small and isolated communities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CAVANAUGH (for himself, Mr. MITCHELL of Maryland, Mr. VENTO, and Ms. OAKAR).

H.R. 9589. A bill to require that the Federal reserve banks shall keep verbatim transcripts of all meetings of their boards of directors and make them public under certain limitations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HARRIS:

H.R. 9590. A bill to amend title 5, United States Code, to increase the contribution by the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. LATTA (for himself, Mr. ASHLEY, Mr. GUYER, Mr. STANTON, Mr. MOTTL, Mr. DEVINE, Mr. MILLER of Ohio, Mr. BROWN of Ohio, Mr. SEIBERLING, Mr. ASHBROOK, Mr. KINDNESS, Mr. CARNEY, Mr. REGULA, and Mr. APPLEGATE):

H.R. 9591. A bill to amend section 111 of title 23, United States Code, relating to agreements for the use of and access to the rights-of-way of the Interstate System; to the Committee on Public Works and Transportation.

By Mr. MILLER of California (for himself, Mr. BEDELL, Mr. DOWNEY, Mr. MCCLOSKEY, Mr. VENTO, and Mr. WEAVER):

H.R. 9592. A bill to require the Secretary of the Interior to establish a table of water rates to be charged irrigators who contract for water resources for agricultural purposes from the United States through the U.S. Bureau of Reclamation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York (for himself, Mr. LAFALCE, Mr. PRITCHARD, Mr. MOAKLEY, Mr. CHARLES WILSON of Texas, Mr. DE LUGO, Mr. EILBERG, Mr. AKAKA, Mrs. SPELLMAN, Mr. SEIBERLING, Mr. HUGHES, Ms. MIKULSKI, Mr. HARRINGTON, and Mr. OBERSTAR):

H.R. 9593. A bill to establish a national policy for the preservation of historic architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, to establish a maritime heritage preservation program, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 9594. A bill to amend section 201 of the Appalachian Regional Development Act of 1965; to the Committee on Public Works and Transportation.

By Mr. CONABLE:

H.R. 9595. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for a gradual increase in retirement age from 65 to 68, to improve the treatment of women (through the establishment of a working spouse's benefit and otherwise) and to eliminate gender-based discrimination, to provide coverage under the system for officers and employees of the United States, of State and local governments, and of nonprofit organizations, to increase and ultimately repeal the earnings limitation, and for other purposes; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 9596. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

H.R. 9597. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. RAILSBACK:

H.R. 9598. A bill to amend title 28, United States Code, to authorize the Attorney General of the United States to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals; to the Committee on the Judiciary.

By Mr. ROBERTS (by request):

H.R. 9599. A bill to amend title 38, United States Code, to establish a Court of Veterans' Appeals and to prescribe its jurisdiction and functions; to the Committee on Veterans' Affairs.

By Mr. ST GERMAIN (for himself, Mr. ANNUNZIO, Mr. CAVANAUGH, Mr. PATTERSON of California, Mr. MINISH, Mr. MITCHELL of Maryland, Ms. OAKAR, and Mr. BLANCHARD):

H.R. 9600. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Financial Institutions Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SKUBITZ (for himself, Mr. UDALL, and Mr. SEBELIUS):

H.R. 9601. A bill to provide for increases in development ceilings in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SISK:

H.R. 9602. A bill to amend the Federal Food, Drug, and Cosmetic Act to modify the definition of "food additive"; to the Committee on Interstate and Foreign Commerce.

By Mr. STEED (for himself, Mrs. SPELLMAN, Mr. HEFTEL, Mr. HARRIS, and Mr. LEACH):

H.R. 9603. A bill to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs, and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Post Office and Civil Service.

By Mr. STEERS:

H.R. 9604. A bill to amend the Railroad Retirement Act of 1974 to provide that a current connection with the railroad industry is not lost by reason of certain employment with the Department of Energy; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMMS:

H.R. 9605. A bill to allow greater participation by the State governments in the classification of public land within the boundarys of the affected State; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE:

H.R. 9606. A bill to amend title 38, United States Code, to modify the delimiting period under limited circumstances; to revise the so-called 50-percent employment requirement for vocational courses; require State approving agencies to notify the Administrator of educational institutions cited for deceptive and illegal practices; imposes certain restrictions on correspondence-residence courses; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TRIBLE:

H.R. 9607. A bill to amend the Internal Revenue Code of 1954 to further restrict the allowance as a deduction of entertainment, amusement, and recreation expenses; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.R. 9608. A bill to protect the economy of the United States; domestic agriculture, labor, and industry, by the maintenance of farm income and purchasing power; to the Committee on Agriculture.

H.R. 9609. A bill to amend title 39, United States Code, to provide that controlled circulation publications relating to agriculture shall be eligible for reduced rates of postage on the same basis as science of agricultural publications, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DICKS:

H.J. Res. 629. Joint resolution authorizing the President to proclaim the last Sunday in April of 1978 as National Grandparent's Day; to the Committee on Post Office and Civil Service.

By Mr. STEERS:

H.J. Res. 630. Joint resolution proposing an amendment to the Constitution of the United States providing that the terms of office of Members of the House of Representatives shall be 4 years, and for other purposes; to the Committee on the Judiciary.

By Mr. MOTTL (for himself, Mr. KINDNESS, Mr. DEVINE, Mr. KILDEE, Mr. LAFALCE, and Mr. WALGREN):

H. Con. Res. 381. Concurrence resolution expressing the sense of the Congress that the proposed toll increases on the Saint Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

By Mr. APPLEGATE (for himself and Mr. LUKEN):

H. Res. 836. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

By Mr. BINGHAM:

H. Res. 837. Resolution authorizing the printing of the committee print entitled "The Coordination of United States International Economic Policy"; to the Committee on House Administration.

Mr. FOLEY:

H. Res. 838. Resolution relative to the national telecommunications system; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

280. By the SPEAKER. Memorial of the Legislature of the State of California, relative to Japanese-American assembly centers; to the Committee on Interior and Insular Affairs.

281. Also, memorial of the Legislature of the State of California, relative to the entertainment industry; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAUMAN:

H.R. 9610. A bill for the relief of Raymond Vishnu Clemons; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 9611. A bill for the relief of Craig Day; to the Committee on the Judiciary.

By Mr. PURSELL:

H.R. 9612. A bill for the relief of Raji (c/o Mrs. J. R. Subedar); to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 9613. A bill for the relief of Eustace John D'Souza; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1037

By Mr. EMERY:

On page 11, after line 7, insert the following:

"(7)" In accordance with regulations prescribed by the Secretary, the Secretary:

(A) may, with respect to no more than 25 per centum of the vessels needed to meet the requirements of this Act, waive the requirement of paragraph (4)(B) of this subsection that such vessels be built in the United States: *Provided*, That such waiver shall be applied to vessels requiring reconstruction to meet United States safety and anti-pollution standards only if such reconstruction is carried out in the United States, and

(B) may, in order to satisfy only the transportation requirements of the Energy Transportation Security Act of 1977, waive the requirement of paragraph (4)(B) of this subsection that such vessels, if at any time documented under the laws of any foreign nation, be documented under the laws of the United States for no less than three previous years."

By Mr. FITHIAN:

That H.R. 1037 be amended by inserting on page 10, line 2, after the word "subsidy.", the following: "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930; *Provided, however*, That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary."

H.R. 9346

By Mr. FISHER:

Strike out sections 301 through 304 (beginning on page 164, line 20, and ending on page 176, line 25), and insert in lieu thereof the following:

Study Concerning Mandatory Coverage of Federal Employees

SEC. 301. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall jointly undertake and carry out a detailed study with respect to coverage of Federal employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a review of the methods by which full coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained;

(2) an analysis of the adjustments to such system (as well as to the civil service retirement and disability system and other Federal employee retirement systems involved, including the foreign service, judiciary, Central Intelligence Agency, and District of Columbia retirement systems) which are necessary under each such method to provide such coverage, particularly—

(A) adjustments in age, service, and other eligibility requirements; and

(B) adjustments in the nature and level of disability, death, and survivor benefits (taking into account any related factors such as the taxability of such benefits);

(3) a comparison of the financial aspects of each such method, particularly—

(A) the adjustments required by each such method in the contributions by Federal employees, the Government (whether by specific contribution or by appropriation), and others involved;

(B) the adjustments required by each such method in the manner in which benefits are financed under the retirement systems involved; and

(C) the effects of each such method on the solvency of the retirement systems involved;

(4) the effects of each such method of coverage on—

(A) recruitment and retention of Federal employees;

(B) other employee benefits (such as health benefits coverage provided for civil service annuitants); and

(C) Federal, State, and local income tax systems;

(5) a review of the methods by which partial coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained, together with consideration of the factors described in paragraphs (2), (3), and (4) as they would relate to such partial coverage; and

(6) alternatives to providing coverage of Federal employees within the old-age, survivors, and disability insurance system which would improve the solvency of the old-age, survivors, and disability insurance system.

In connection with such study, interested parties, including Federal employee organizations, associations of retired Federal employees, and heads of agencies administering

Federal employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing statutes shall be accompanied with draft legislation accomplishing such adjustments.

(d) With respect to Federal employees under the Federal employee retirement systems, the study and the report under this section shall include at least one method of coverage of such employees within the old-age, survivors, and disability insurance system which provides—

(1) that the benefits available to such Federal employees would not be less favorable than the benefits which are then currently available to such employees under the Federal employee retirement systems; and

(2) that the contributions required of such Federal employees would not be greater than the contributions which are then currently required of such employees under the Federal employee retirement systems.

(e) For purposes of this section, the term "Federal employee" means—

(1) an employee, as defined in section 2105 of title 5, United States Code;

(2) an officer or employee of the United States Postal Service or of the Postal Rate Commission; and

(3) any other individual in the employ of the United States or any instrumentality of the United States.

STUDY CONCERNING MANDATORY COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 302. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall jointly undertake and carry out a detailed study with respect to coverage of all State and local government employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a survey of the several States and their political subdivisions with the objective of determining—

(A) the types and coverage patterns of the various State and local retirement and disability systems now in existence,

(B) the categories of employees within each such State and locality not now covered under the old-age, survivors, and disability insurance system,

(C) the methods available in each such State and locality for financing full participation in the old-age, survivors, and disability insurance system,

(D) the financial ability of the various States and localities to participate in such system, and the ability of the Federal Government to require and administer such participation, and

(E) any special conditions or situations existing in particular States and localities which might cause problems in connection with the mandatory coverage of all their employees under the old-age, survivors, and disability insurance system;

(2) a review of the methods by which full coverage of all State and local employees within the old-age, survivors, and disability insurance system might be attained;

(3) an analysis of the kinds of adjustments to existing State and local retirement and disability systems which would be necessary under each such method to make effective provision for such coverage;

(4) a comparison of the financial aspects of each such method, particularly with reference to the ability of the various States and localities to bear the costs of participation in the Federal system on a mandatory full-coverage basis;

(5) the effects of each such method of coverage on existing coverage of State and local employees under their own retirement and disability systems;

(6) a survey of the legal and constitutional barriers to full participation in the Federal system, or to making the necessary adjustments to their own retirement and disability systems, which may exist in the various States and localities; and

(7) an analysis of the identifiable problems which may exist in particular States and localities in connection with the mandatory coverage of their employees under the old-age, survivors, and disability insurance system, with emphasis upon the special problems involved in returning employees to coverage under such system in States and localities whose employees were formerly covered pursuant to State agreement but which have heretofore elected to terminate such coverage.

In connection with such study, interested parties, including State and local employee organizations, associations of retired State and local employees, and heads of agencies administering State and local employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing Federal statutes shall be accompanied with draft legislation accomplishing such adjustments.

Strike out section 313 (beginning on page 188, line 18, and ending on page 191, line 9).

Redesignate sections 305 through 312 as sections 301 through 308, respectively.

Conform the table of contents (on page 117).

Page 225, lines 12 and 13, strike out "(as amended by section 302(d)(3) of this Act)".

Page 232, line 9, strike out "(e)" and insert in lieu thereof "(d)".

Page 232, lines 11 and 12, strike out "(after the new subsection added by section 304 of this Act)".

Page 232, line 14, strike out "(e)" and insert in lieu thereof "(d)".

Page 242, lines 1 and 2, strike out "(as amended by section 302(e)(4) of this Act)".

Page 119, line 18, strike out "5.15 percent" and insert in lieu thereof "5.25 percent".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 16 and 17, strike out "5.15 percent" and insert in lieu thereof "5.25 percent".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 14, strike out "7.70 percent" and insert in lieu thereof "7.90 percent".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.30 percent".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

Page 125, line 25, strike out "$27,900" and insert in lieu thereof "$29,700".

By Mr. JENKINS:

Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $18,000,

"(B) in 1979 shall be $20,500,

"(C) in 1980 shall be $23,000,

"(D) in 1981 shall be $25,500,

"(E) in 1982 shall be $28,000,

"(F) in 1983 shall be $30,500, and

"(G) in 1984 shall be $33,000."

Page 126, line 3, strike out "1982" and insert in lieu thereof "1985".

Page 119, strike out lines 13 through 18 and insert in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.15 percent;

"(3) with respect to wages received during the calendar years 1979 through 1984, the rate shall be 5.20 percent;".

Page 120, strike out lines 12 through 17 and insert in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.15 percent;

"(3) with respect to wages paid during the calendar years 1979 through 1984, the rate shall be 5.20 percent;".

Page 121, strike out lines 12 through 15 and insert in lieu thereof the following:

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 7.80 percent of the amount of the self-employment income for such taxable year;".

I. Add to the table of contents the following new title:

Title VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 801. Establish a National Commission on Social Security;

II. Add the following new title and section after Title VII:

Title VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 801. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of two years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income:

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both; and

(F) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or is delegate) shall be entitled to attend any such meeting.

By Mr. KETCHUM:

Page 220, line 17, insert "And Eventual Repeal" after "Liberalization" (and conform the table of contents on page 118).

Page 222, strike out lines 7 through 13 and insert in lieu thereof the following:

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981, and

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1980 and before 1982.".

Page 222, line 18, strike out "1977 or 1978" and insert in lieu thereof "1977, 1978, 1979, or 1980".

Page 223 strike out lines 5 and 6 and insert in lieu thereof the following:

(e) Subject to subsection (f) the amendments made by the preceding provisions of this section shall apply with respect to taxable years ending after December 1977.

(f) Effective with respect to taxable years ending after December 31, 1981—

(1) subsections (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act, and subsection (c)(1) of such section 203 (as amended by section 411(1) of this Act), are each amended by striking out "seventy-two" and inserting in lieu thereof "sixty-five";

(2) the last sentence of section 203(c) of such Act (as so amended) is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(3) clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if she or he became so entitled prior to attaining age 60, or";

(4) section 203(f)(3) of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 65";

(5) section 203(f)(5)(D) of such Act is repealed;

(6) section 203(h)(1)(A) of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 65";

(7) the heading of section 203(j) of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Sixty-five";

(8) subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act (as amended by section 501(d) of this Act) are each further amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount"; and

(9) the amendments made by subsections (a), (b), and (c)(1) of this section shall cease to be effective; and the provisions of section 203 of such Act (as otherwise amended by the provisions of this Act) shall read as they would if such subsections (a), (b), and (c)(1) had not been enacted.

Page 119, line 17, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 119, after line 18, insert the following new paragraph:

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.25 percent;".

Page 119, line 19, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 15 and 16, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 120, after line 17, insert the following new paragraph:

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.25 percent; and".

Page 120, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 21, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 13, strike out "1985" and insert in lieu thereof "1982".

Page 121, after line 15, insert the following new paragraph:

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 7.85 percent of the amount of the self-employment income for such taxable year;".

Page 121, line 16, strike out "(4)" and insert in lieu thereof "(5)".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.35 percent".

Page 121, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

By Mr. STEIGER:

Page 222, strike out lines 3 through 7 and insert in lieu thereof the following:

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1978 and before 1980,

"(ii) shall be $375 for each month of any taxable year ending after 1979 and before 1981,

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1980 and before 1982,

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1981 and before 1983,

"(v) shall be $500 for each month of any taxable year ending after 1982 and before 1984, and".

Page 222, line 8, strike out "(iii)" and insert in lieu thereof "(vi)".

Page 222, line 10, strike out "1979" and insert in lieu thereof "1983".

Page 222, strike out "in 1977 or 1978" in line 18 and all that follows down through the end of line 24 and insert in lieu thereof "in 1978, 1979, 1980, 1981, or 1982.".

Page 223, line 6, strike out "1977" and insert in lieu thereof "1978".

Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $19,200,
"(B) in 1979 shall be $22,200,
"(C) in 1980 shall be $25,000,
"(D) in 1981 shall be $26,000,
"(E) in 1982 shall be $27,000,
"(F) in 1983 shall be $28,700,
"(G) in 1934 shall be $30,300, and
"(H) in 1985 shall be $31,800."

Page 126, line 3, strike out "1982" and insert in lieu thereof "1986".

Page 119, line 15, strike out "5.05" and insert in lieu thereof "5.15".

Page 119, line 18, strike out "5.15" and insert in lieu thereof "5.25".

Page 120, line 2, strike out "5.45" and insert in lieu thereof "5.55".

Page 120, line 4, strike out "6.00" and insert in lieu thereof "6.10".

Page 120, line 13, strike out "5.05" and insert in lieu thereof "5.15".

Page 120, line 16, strike out "5.15" and insert in lieu thereof "5.25".

Page 120, line 20, strike out "5.45" and insert in lieu thereof "5.55".

Page 120, line 22, strike out "6.00" and insert in lieu thereof "6.10".

Page 121, line 10, strike out "7.10" and insert in lieu thereof "7.25".

Page 121, line 14, strike out "7.70" and insert in lieu thereof "7.85".

Page 121, line 18, strike out "8.20" and insert in lieu thereof "8.35".

Page 121, line 21, strike out "9.00" and insert in lieu thereof "9.15".

Page 122, line 9, strike out "1.00" and insert in lieu thereof "0.90".

Page 122, line 23, strike out "1.00" and insert in lieu thereof "0.90".

Page 123, line 15, strike out "1.00" and insert in lieu thereof "0.90".

EXTENSIONS OF REMARKS

A RESOLUTION FROM THE VIRGINIA PORT AUTHORITY

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, October 17, 1977

Mr. HARRY F. BYRD, JR. Mr. President, one aspect of the proposed Panama Canal Treaties which has not yet been adequately explored is the likely economic impact should those treaties be ratified.

Carter administration officials have already conceded that there will probably be an immediate 25- to 30-percent increase in tolls to help meet the costs of the treaties and this will surely have an effect on the amount and types of goods sent through the canal.

Such an increase would also have an adverse effect on cargo tonnage handled by Atlantic and gulf coast ports and on longshore employment in those ports.

I have today received a resolution from the board of commissioners of the Virginia Port Authority concerning the possible effects of the canal treaties on Virginia ports and employment.

The port authority estimates that over 22,000 jobs in the Commonwealth of Virginia are generated by Virginia ports and their related business activity and that those jobs could be put in jeopardy by nonavailability of the Panama Canal or a substantial increase in canal tolls.

Mr. President, I am sure that other ports on the eastern seaboard and the gulf coast would be similarly affected and therefore I believe that this matter should be fully explored by the Congress during the course of consideration of the proposed treaties.

I ask unanimous consent that the text of the Virginia Port Authority resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A RESOLUTION EXPRESSING CONCERN OVER THE FUTURE OF THE PANAMA CANAL AND THE POTENTIAL EFFECT ON THE PORTS OF VIRGINIA SHOULD THE CANAL BE CLOSED OR TOLLS DRAMATICALLY INCREASED

Whereas, much attention has been given to the new treaties dealing with the position of the United States with respect to the Panama Canal; and

Whereas, the Panama Canal is one of the major maritime gateways of the world providing Virginia ports and Virginia businesses with considerable economic benefits evidenced by the fact that ships carried 10,700,000 tons of cargo, valued at $1.6 billion from and to Virginia's ports via the Panama Canal in 1976; and

Whereas, Virginia industries, agricultural products and coal mines contributed some 2,100,000 tons of cargo valued at $320 million to this total; and

Whereas, this port and business activity provided some 22,500 jobs to Virginians; and

Whereas, the continued availability of the Canal at tolls competitive with alternate methods of cargo movement is essential to economic health in the Commonwealth as loss of the use of the Canal or prohibitive toll increases have the potential to divert cargo from Virginia ports and to dislocate 22,500 Virginia jobs; and

Whereas, such loss in jobs and maritime commerce would also lose to the Commonwealth $100 million spent to handle cargo and $6 million generated in direct taxes to Virginia.

Now therefore be it resolved, by the Board authority in regular meeting assembly at Richmond, Virginia, this 12th day of October, 1977, that the Virginia Delegation to the Congress of the United States is respectfully urged to protect the uninterrupted and efficient use of the Panama Canal at tolls competitive with alternate methods of cargo movement to the ports of Virginia.

SUNSET HEARINGS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BLANCHARD. Mr. Speaker, the Subcommittee on Legislation and National Security of the Committee on Government Operations held hearings this morning on the concept of "sunset" legislation.

I would like to take this opportunity to thank the committee chairman, Congressman JACK BROOKS, on behalf of the 140 Members of the House who have sponsored the various sunset bills which Congressman MINETA and I have introduced this year. The Goverment Operations Committee's schedule has been extremely crowded, and we appreciate the chairman's courtesy in setting time aside for us.

For the benefit of those members who are interested in the sunset concept, I would like to insert my testimony before the subcommittee in the RECORD. The testimony follows:

Mr. Chairman and members of the subcommittee, I am grateful for the opportunity to appear before you today to testify on the concept of "sunset" review of federal spending programs. I know that the schedule of your committee has been extremely crowded this year, and I appreciate your willingness to make time available for us on this issue.

The idea of sunset has come a long way since Congressman Mineta and I introduced our "Truth in Budgeting bill in 1975.

I believe that is because there is a genuine need for legislation of this type—an overwhelming need.

The size and complexity of the federal government are such that if we are to try to exercise oversight in a reasonably effective way, Congress must have a structure

which lends itself to efficient and regular program review.

As all of you know, the variety and number of federal spending programs which are going on today are little short of bewildering not only to the novice, but to the seasoned veteran.

Examples of the apparent waste and duplication which can result are not hard to find:

A 1971 General Accounting Office (GAO) study found 11 different child care service programs operating in the District of Columbia alone, administered by the Department of Health, Education and Welfare (HEW), the Department of Housing and Urban Development, and the Department of Labor.

A 1973 HEW study found 50 federal programs providing help to handicapped youth. Fourteen separate units within HEW administered the programs, and the GAO, which examined the HEW report, found that there was no central coordinating point.

There are over 1,000 federal programs adminstered by 52 agencies; they include 302 health programs and 259 community development programs. Even using a more specific heading does not help—there are 27 different vocational education programs.

Not long ago, the Senate Subcommittee on Intergovernmental Relations, which was then considering Senator Muskie's S. 2, asked the GAO for a list of federal programs, along with their committees of jurisdiction.

The "Table of Federal Programs" which resulted listed 160 programs under the jurisdiction of the Human Resources Committee. Asked to comment on this listing, the Committee replied that it exercised jurisdiction over 682 programs.

The "Table" lists a total of 1,250 programs. The federal catalog of domestic assistance for the same year listed 1,030. And so forth. Clearly, when there is still so much question as to the actual number of federal programs, we can conclude that overall evaluation of federal spending is still in a rather early stage of its development.

Add to that uncertainty the fact that the House of Representatives has 29 committees with 15 subcommittees, and that budget authority for some programs expires each year, for others every two years, for still others not at all, and the need for a simpler structure for dealing with federal spending becomes plain.

Mr. Chairman, despite the beginning we have made with the Budget and Impoundment Control Act, the federal budget today remains basically out of control. So much is going on at once in so many different areas that even with all due diligence, effective oversight is extremely difficult.

There are three major aspects to sunset, as represented by the latest version of our bill. (I should mention at this point, by the way, that we are here in support of a concept, rather than rigidly adhering to a specific bill—we have introduced several bills embodying various related and similar provisions during the last year.)

The first is a regular review of all federal spending programs on a three-Congress, six-year cycle.

The second, a concept that to my mind is even more important, is consideration of programs in the same functional categories at the same time and in relation to one another.

That is a concept which Congressman Mineta will be discussing in greater detail, and so I will leave it for him.

The third is the idea of a fixed termination date, basically as an action-forcing mechanism, to make sure that both Congress and the executive branch take the sunset process seriously, and to make sure that each and every program receives some form of review.

It is unfortunate that some have seized on the termination date as the embodiment of sunset. As we view the entire sunset concept, the termination date is intended as a triggering device to *ensure* program review—to ensure a conscious decision on programs.

For this reason, our legislation is geared around the specific program reauthorization. If a program is "terminated" for any reason, only the funding is knocked out. The substantive law remains on the books.

The basic structure of our legislation, and that now pending in the Senate, is as follows:

First, it sets out a schedule for review at fixed intervals of all programs, by budget subfunction;

Second, it requires that a program be considered according to that schedule in order to receive new budget authority;

Third, it requires that the authorizing committee's report on the reauthorization answer certain basic questions about the program;

Fourth, it establishes a procedure by which the House and Senate can select specific program areas, from among those scheduled for termination during a particular Congress, for intensive evaluation, and sets out guidelines for such an in-depth evaluation.

Fifth, it provides for a means of extending a program's life in the event that it becomes subjected to a filibuster or some other delaying tactic (without, however, any increase in funding).

These are the main features of the sunset structure. I am certain that your subcommittee has the needed expertise to form them into the shape which will be best suited for the needs of the Congress.

In the House, we now have 140 cosponsors. In the Senate, there are over 50.

I have been seeking the opportunity to testify before you because I believe it is important to begin moving toward a sunset law in the near future.

The obvious political benefits of the sunset idea have not been lost on many in the House, and I foresee a stream of amendments and proposals going at the concept piecemeal unless some form of comprehensive approach is undertaken.

Most recently, as I am sure you are aware, sunset was proposed as an amendment to the Department of Energy bill.

Subsequently, I should note, the conference committee, which included, I believe, some members of this committee, agreed to detailed sunset provisions which are similar, if not identical, in their intent to what we are proposing here today.

The DOE bill requires a comprehensive review by the executive branch of each program carried on by the department, and sets forth review guidelines which are *identical* to the in-depth sunset guidelines which I referred to earlier.

I mention this because I want you to understand that the legislative idea we are offering today is something which is already beginning to be written into law. The problem, as I see it, is that if it is written into law in variable, piecemeal fashion—with one provision finding its way into one bill and others into others—it will only add to the confusion, rather than decreasing it. It will add to our workload without a rational system. I want very much to avoid that prospect. We have seen it happen to good ideas in the past, and sometimes they never do get completely straightened out.

Sunset has a lot of appeal because it makes good sense. At a time when it is becoming clear that some programs in which we have invested a lot of money are yielding less return than we had hoped, sunset seeks to have programs examined and questions asked about what they are accomplishing. At a time when public confidence in government institutions is low, it seeks to simplify and streamline the organization of what is now an extremely complicated process, and to deliver a message that Congress is really interested in bringing better management into its work. And at a time when the number of new projects we can undertake is severely limited by budgetary constraints, it seeks to turn the focus of Congress toward improving what is already in place.

I do not endorse sunset as a panacea; we have seen far too many programs labeled as such in the past, and I hope we have outgrown the practice. I do believe this concept will allow us to get more of our dollar's worth out of government spending. I also believe that without this concept we in Congress will not be intelligent partners with the executive branch when important decisions about spending priorities are made. Sunset is a logical and needed means of allowing us to strengthen our oversight and budgeting capabilities, and to continue the effort we are all engaged in, of making our government better in the future than it is today.

COSPONSORS OF BLANCHARD-MINETA SUNSET LEGISLATION

William M. Brodhead, (D-Mich.), Joel Pritchard (R-Wash.), Joe Moakley (D-Mass.), Marilyn Lloyd (D-Tenn.), Richard L. Ottinger (D-N.Y.), Marjorie S. Holt (R-Md.), Millicent Fenwick (R-N.J.), G. William Whitehurst (R-Va.), Leo C. Zeferetti (D-N.Y.), Stephen L. Neal (D-N.C.), Willis D. Gradison, Jr., (R-Ohio), Andrew Jacobs, Jr. (D-Ind.), Ed Jones (D-Tenn.), Mark W. Hannaford (D-Calif.), Don Fuqua (D-Fla.), John F. Seiberling (D-Ohio), Jim Santini (D-Nev), Robert W. Edgar (D-Pa.), James C. Cleveland (R-N.H.), Bob Traxler (D-Mich.), Edward I. Koch (D-N.Y.), Charles Whitley (D-N.C.), Benjamin A. Gilman (R-N.Y.), and Nick Joe Rahall, II (D- W. Va.).

Martha Keys (D-Kan.), Berkley Bedell (D-Iowa), Dale Milford (D-Texas), Bill Frenzel (R-Minn.), Les AuCoin (D-Ore.), John J. LaFalce (D-N.Y.), Claude Pepper (D-Fla.), John J. Duncan (R-Tenn.), Richard H. Ichord (D-Mo.), Gladys Noon Spellman (D-Md.), Paul Simon (D-Ill.), Donald J. Mitchell (R-N.Y.), Elliott H. Levitas (D-Ga.), Jerome A. Ambro (D-N.Y.), Robert F. Drinan (D-Mass.), Edward P. Beard (D-R.I.), Michael T. Blouin (D-Iowa), Norman E. D'Amours (D-N.M.), Christopher J. Dodd (D-Conn.), Floyd J. Fithian (D-Ind.), Carroll Hubbard, Jr. (D-Ky.), William J. Hughes (D-N.J.), Robert J. Cornell (D-Wis.), and Jim Lloyd (D-Cal.).

George Miller (D-Calif.), Jerry M. Patterson (D-Calif.), Martin A. Russo (D-Ill.), Henry A. Waxman (D-Calif.), Timothy Wirth (D-Colo.), Charles Wilson (D-Texas), Charles J. Carney (D-Ohio), Elwood Hillis (R-Ind.), William S. Cohen (R-Me.) Kenneth L. Holland (D-S.C.), William Lehman (D-Fla.), Charles E. Bennett (D-Fla.), Richard A. Gephardt (D-Mo.), Ronald V. Dellums (D-Calif.), Joseph L. Fisher (D-Va.), Bob Carr (D-Mich.), Glenn M. Anderson (D-Calif.), Barbara A. Mikulski (D-Md.), Gerry E. Studds (D-Mass.), Paul S. Trible, Jr. (R-Va.), Norman D. Dicks (D-Wash.), Charles E. Grassley (R-Iowa), Cardiss Collins (D-Ill.), Joseph S. Ammerman (D-Pa.), and Philip R. Sharp (D-Ind.).

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Romano L. Mazzoli (D-Ky.), Mendel J. Davis (D-S.C.), Don Edwards (D-Calif.), Tom Harkin (D-Iowa), Louis Stokes (D-Ohio), Patricia Schroeder (D-Colo.), Austin J. Murphy (D-Pa.), Robert Duncan (D-Ore.), J. Herbert Burke (R-Fla.), Andrew Maguire (D-N.J.), Douglas Walgren (D-Pa.), David W. Evans (D-Ind.), John W. Jenrette, Jr. (D-S.C.), Bruce F. Vento (D-Minn.), Thomas B. Evans, Jr. (R-Del.), Gene Snyder (R-Ky.), Thomas A. Luken (D-Ohio), Ronald A. Sarasin (R-Conn.), Marc L. Marks (R-Pa.), Douglas Applegate (D-Ohio), Bruce F. Caputo (R-N.Y.), Adam Benjamin, Jr. (D-Ind.), and Bill Lee Evans (D-Ga.).

John B. Breaux (D-La.), Robert S. Walker (D-Pa.), Cecil (Cec) Heftel (D-Hawaii), Dan Glickman (D-Kan.), Mickey Edwards (R-Okla.), Donald J. Pease (D-Ohio), Robert J. Lagomarsino (R-Calif.), Max Baucus (D-Mont.), Doug Barnard (D-Ga.), Larry Winn, Jr. (R-Kan.), Dan Daniel (D-Va.), Dave Stockman (R-Mich.), Albert Gore, Jr. (D-Tenn.), William F. Goodling (R-Pa.), Glenn English (D-Okla.), Thomas N. Kindness (R-Ohio), Allen E. Ertel (D-Pa.), Paul E. Tsongas (D-Mass.), William F. Walsh (R-N.Y.), Tom Corcoran (R-Ill.), John E. Cunningham (R-Wash.), Clarence E. Miller (R-Ohio), and Margaret M. Heckler (R-Mass.).

JOHN AND MARY ANDIKIAN—50TH WEDDING ANNIVERSARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DANIELSON. Mr. Speaker, on Sunday, November 6, 1977, two of my constituents and good friends, John and Mary Andikian of Monterey Park, Calif., will be celebrating their 50th wedding anniversary. I would like to share with my colleagues some of the background of this remarkable couple who were married on November 12, 1927, in Los Angeles.

Mary—nee Kachadorian—Andikian arrived in the U.S.A. in 1917, having emigrated from Armenia with her parents, Mr. and Mrs. Louis Kachadorian and family. They settled in Providence, R.I., then later moved to Los Angeles, Calif.

John Andikian emigrated to the U.S.A. from Alexandropol, Armenia, with his mother, Mrs. Elizabeth Andikian in 1921. He settled in Los Angeles, where he has since been living.

Mary and John were married in the Holy Cross Armenian Apostolic Church of Los Angeles on November 12, 1927. In 1928, they had a daughter, Helen, now Mrs. Robert M. Shamlian. In 1939, their son, John Jr., was born. The Andikians saw to it that both children had college degrees. Helen is a graduate of UCLA and John, Jr., is a graduate of Whittier College. Helen was a schoolteacher for 21 years and John, Jr. is vice president in charge of the Dairy and Bakery Division of Certified Grocers.

John and Mary are proud of their five grandchildren, Helen and Robert Shamlian have one son, Greg. John, Jr. and Theress Andikian have four children, John Alexandar, III; Jennifer; Beth and Michael.

Ever since their arrival in Los Angeles, John and Mary have been staunch supporters of philanthropic causes for the Armenian and American communities. John was one of the founders of the State Rubbish Collectors' Association; an inspector for the Teamsters' Union, as well as the owner-operator of a thriving business, the Eagle Rubbish Co.

Mr. and Mrs. John Andikian were instrumental in founding and working tirelessly for the Armenian Educational Home in East Los Angeles. They have been active in politics, giving freely of their time, energy and money to democratic causes.

John Andikian has served on the board of trustees at Saint Sarkis Armenian Apostolic Church, The Ararat Home for the Aged, and the Armenian Educational Home. He has thrilled audiences with his acting ability in many artistic productions for the Armenian community.

John and Mary retired from their business activities in 1976, but they did not, by any means, retire from life. Mr. Speaker, I know that you and my colleagues join me in wishing the Andikians a glorious celebration of their 50th wedding anniversary, and many more years of health and happiness.

THE CONCORDE AT O'HARE AIRPORT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DERWINSKI. Mr. Speaker, the possibility of the Concorde landing at other cities outside of New York and Washington, D.C., has developed as a result of President Carter's recent decision.

One of the possible cities that would provide the Concorde service is Chicago's O'Hare Airport. In an editorial of September 26, Chicago—TV Station WLS very objectively discusses this subject:

THE CONCORDE AT O'HARE AIRPORT

If President Carter has his way, the Concorde supersonic jet will soon make regularly scheduled flights to O'Hare Airport. Of course, federal authorities admit the Concorde is noisier than other planes. And for that reason, some Chicagoans want to ban the Concorde from our city.

We think their protests are premature—and here's why. First, the Concorde has flown in and out of Dulles Airport, near Washington, D.C., for a year and a half, with few complaints. The decibel count is higher, but many residents say the extra noise really isn't detectable. Another point—as one of the 12 cities proposed for Concorde landings, Chicago could benefit from the extra flights. They could be both a convenience, and an economic plus for our city.

If city officials agree, British Airlines and Air France could bring the Concorde to Chicago for a few trial flights. The anti-noise protesters should welcome this opportunity, not stand in its way. O'Hare became the busiest airport in the world by taking advantage of its midwest location, using every opportunity to provide easy access to all the business hubs of this continent. Are we willing to sacrifice this reputation by turning down a plane none of us, protesters or admirers, has ever heard?

SUNSET REVIEW CONCEPT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MINETA. Mr. Speaker, the Subcommittee on Legislation and National Security of the Committee on Government Operations, chaired by Congressman JACK BROOKS, today held hearings on the various legislative proposals before the House which embody the sunset review concept. I am particularly grateful to Mr. BROOKS for taking time from his hectic legislative schedule to conduct this inquiry into sunset.

The Task Force on Budget Processes of the Budget Committee, of which I am a member, has been studying various budget reform proposals and have found sunset to be especially intriguing. Particularly given the extraordinary growth of uncontrollable spending in the Federal budget, we are convinced that some kind of Federal spending oversight reform would be especially timely.

For the benefit of the many Members of Congress that share my concern about the confusion that is pervasive in our budget I insert the complete text of the testimony I gave at Mr. BROOK'S hearings:

TESTIMONY OF CONGRESSMAN NORMAN Y. MINETA

Mr. Chairman and Members of the Committee, I want to commend you for holding these hearings on the sunset review concept. Sunset is an idea which has been talked about a great deal over the past two or three years. I think it is important for the Committee on Government Operations to sift through all of this talk and see if there is really something there. My colleague, Jim Blanchard and I think there is.

Our bill—the Sunset Program Evaluation Act is not perfect, but the concept is sound. I urge you and your committee to give this bill and the others before you a thorough review, evaluate them and tell us what you think. If Sunset is going to make a contribution to our legislative process there is a great deal of hard work ahead of us. I believe that the Committee on Government Operations is best equipped to undertake the comprehensive evaluation necessary to fashion and implement a bill that will be compatible with current Congressional procedures.

As Mr. Blanchard indicated, the objective of Sunset is straightforward: It seeks to compel the periodic review of federal spending programs in order to determine whether or not they should be continued. Most Sunset legislation contains two basic components:

1. An "Action-forcing" mechanism which carries the threat of automatic termination; and

2. A framework for the systematic review and evaluation of past program commitments.

In other words, sunset would make mandatory what is now voluntary: the legislative oversight of on-going Government activities. Further, it would encourage Congress to pursue its oversight responsibilities in a systematic, logical fashion.

As envisioned in this bill Congress would establish a review cycle that would force Congress to reconsider all Federal spending programs at least once every six years. The review cycle is arranged by broad program areas—subfunctions of the budget—so that all program within a given area will be examined together. This sunset is a process that tries to better enable us to determine which programs do not effectively fulfill the purposes for which they were created, which ones duplicate other programs, or simply no longer reflect the priorities of the American people.

The arguments for sunset are compelling. To make them I would like to draw from my experience as a Member of the Budget Committee and as former Mayor of San Jose, California.

Being on the Budget Committee has given me better appreciation of two aspects of recent budget growth: first, the growth of uncontrollable spending—and what the implication of that uncontrollability is for our future budget decisions; and second, many of the individual programs which make up recent budget growth, the programs that are the basic tools of Federal fiscal policy do not work.

To begin let's consider uncontrollable spending: despite the fact that the Constitution firmly and explicitly vests Congress with National power over the raising and expenditure of Government funds there is an obvious discrepancy between that Constitutional authority and the actual ability of Congress to control spending. A single statistic sums up this discrepancy: for fiscal 1978, more than $330 billion Federal expenditures—about 75 percent of total budget outlays—is recorded by the Office of Management and Budget as "relatively uncontrollable under existing law." If Congress had taken no action with respect to fiscal 1978—if we had adopted no budget resolutions, if we had written no new legislation, if we had made no additional appropriations—virtually all of the $330 billion would be spent anyway. Unless we begin to take steps to confront this problem of uncontrolled spending we will be overwhelmed by our budget.

During the decade that OMB has collected data on budget controllability, uncontrollable expenditures have soared from $93 billion to an estimated $330 billion. Uncontrollables accounted for 59 percent of total expenditures in 1967, but as I noted earlier, they are projected to be 75 percent of expenditures in 1987. It is important to realize that approximately ¾ of the total increase in budget outlays during the past decade has been in uncontrollable spending. From fiscal 1967 through fiscal 1976, Federal outlays rose by about $210 billion, more than $170 billion of that was in uncontrollable spending.

The growth of uncontrollable spending wreaks havoc on our budget process and is forcing us to change the way we think about the future. Until recently we could anticipate that economic growth would deliver an ample fiscal dividend which would be available for future programs. Multiyear budget projects commonly show a surplus in the future which we can use for new program starts. Unfortunately, given the growth of uncontrollable spending—with even the year-to-year increment in the budget becoming more uncontrollable (a fact due to the many entitlement programs which are indexed so their payments automatically adjust to the cost-of-living index) when the future arrives we are already encumbered by past decisions and our budget surplus is gone.

If we don't begin to fashion tools to manage this uncontrollable spending we will be overwhelmed. Sunset is one of those tools. It will help enable us to manage our budget to fulfill some of our campaign promises about making government more efficient, eliminating bureaucratic waste and reducing spending. Sunset is a necessary adjustment to the modern recognition that Federal resources are scarce. New programs and initiatives can no longer simply be thrown on top of a Federal heap.

If we are ever to begin to examine the totality of our $500 billion budget we will need something like sunset—a procedure that forces us to review programs in a systematic fashion. Our studies at the Budget Committee make it clear that money will not become available for substantial new federal initiatives in the future unless programs that no longer have high priority can be identified and eliminated, and the resources they currently consume made available for emerging needs.

As I mentioned at the beginning of my statement, being on the Budget Committee has convinced me that many of the programs which are the basic tools of fiscal policy simply do not work. Let me elaborate:

The Budget Committee has the principal responsibility for assisting in the setting of total fiscal policy. Yet we are forced to fashion fiscal policy without knowing how individual programs work—aggressive, systematic program evaluation is a crucial piece missing in our budget process. While we have successfully given ourselves a tool to set Macro economic budget policy, we do not yet have a systematic mechanism to assess the Micro economic effects of individual programs.

Mr. Brooks, before the Task Force on Budget Process of the Budget Committee on October 5, you said ". . . the Budget Committee can provide real insight and leadership in solving two major economic problems confronting this Nation: widespread unemployment and inflation." I hope you are right but, unless the Congress as a whole can begin to provide information on the effectiveness of on-going programs, I am afraid we will all be disappointed.

The failure of current fiscal policy is obvious. After several years of continued deficit spending, we are still saddled with relatively poor economic growth, high rates of inflation, and persistently high levels of unemployment. One is forced to conclude that our present programs are not working—it is time to start a wholesale, critical reexamination of all of our past programs and initiatives. If we are to make room in the budget for programs that can counteract recession, that can provide jobs and training, and that can assist the needy, we must scrutinize existing programs and eliminate those which are not working.

While the Budget Committee does recommend overall spending and revenue figures, it cannot undertake the critical scrutiny of government programs which is essential. That is the prerogative and responsibility of the various authorization and appropriation committees. If we are to meet the twin goals of a balanced budget and a full-employment economy, the Committees of the House must accept their oversight responsibilities and devote their resources and energies to weeding out bad programs.

I believe sunset will help Congress perform its oversight responsibilities effectively. The Task Force on Budget Processes is currently studying mechanims which will improve Congress' ability to review commitments more effectively. Sunset is one of the mechanisms we have found to be promising. However, it is important to point out that sunset itself is not a device that will automatically make Congress go beyond the kind of review that it can now do in the course of normal oversight activities. However, introduction of deadlines through sunset provisions would encourage program review by budget subfunction on a regular basis, and guidelines for an efficient detailed review procedure such as that suggested in Title III of the Sunset Program Evaluation Act would undoubtedly enhance the effectiveness of the oversight process.

To highlight the importance of a review procedure that would proceed along categorical budget subfunctions let me speak to you from the perspective of my former job as Mayor of San Jose. As mayor, I was the recipient of some of the billions of dollars of Federal grant programs directed at state and local governments. Seen from the local level these grant-in-aid programs are the epitome of confusion and inefficiency. The confusion makes it nearly impossible for the individual programs to achieve their objectives.

The funds—almost $80 billion in fiscal year 1978—are disbursed under a variety of programs and for a variety of purposes. One major objective is to provide income security and basic services to individuals—yet despite almost $25 billion of programs I doubt if we will provide security to those who need it. Other grant programs support on-going public services, demonstration projects, the construction of public facilities, the acquisition of land and the purchase of durable equipment yet local governments are still starved for funds.

State and local governments also have the ultimate responsibility for many programs enacted to counter recession. Countercyclical programs, such as public service employment, antirecession aid and local public works amounts to almost 13 percent of the Federal budget for fiscal 1978—but still the economy seems to be in need of more stimulus.

Rather than concentrating solely on finding more stimulus programs we ought to find out exactly why our existing programs do not work. One of the explanations for the failure of many of our grant-in-aid and stimulus programs is no doubt the competing, often contradictory objectives of individual programs. I feel that much of this could be eliminated by focusing Congressional scrutiny on entire sub-functional areas on a regular basis, rather than just programmatic parts in the piecemeal way we do now.

Such a systematic review process should also serve to eliminate some of the "red tape" associated with assistance programs which show up locally as added costs to overburdened taxpayers, and which is not directly related to the attainment of any program objectives.

Mr. Chairman, as I have tried to indicate, we must begin to limit budget growth and improve the cost-effectiveness of on-going programs. This is essential to our Congressional budget process and it is essential to improved Federal-local relations. Because there are severe needs which are not being addressed and national problems that must be attended to, we cannot allow present program deficiencies to continue uncorrected. For example, we have spent billions of dollars on health care and have enacted hundreds of health-oriented programs, yet the fundamental problem of providing quality health care at a price people can afford is not solved. We spend billions of dollars each year on education, yet every year students graduate from high school without basic reading and writing skills. We spend billions of dollars on transportation, yet in many respects transportation is a less vital sector of our economy than ever before and major questions of intermodal imbalance remain unaddressed by Congress' piecemeal, program-by-program deliberations. These are the kinds of questions that Congress might better answer if it assessed all programs within a given fundamental category at the same time.

Chairman Brooks, in my opinion the most pressing task before Congress must be to strengthen its control over the way we spend money. If our efforts at budget reform are to be successful Congress must be more than a

rubber-stamp accounting procedure that sums up expenses incurred as a consequence of past actions with little regard for what these actions accomplish. A budget process must provide genuine opportunities for making spending decisions. Decisions that while not completely free of past emcumbrances are not so predetermined by the past as to prevent meaningful and effective choice.

Naturally any legislation that seeks to change the way the Congress conducts its business must be enacted only after long and detailed study. The procedure in the Sunset Program Evaluation Act and the changes it has gone through in the past year are a good example of how a sunset trigger mechanism can be integrated into the Congress. For example earlier versions of the bill were unrealistic in the timeframe and review procedure which they called for. Critics justifiably claimed that the additional Committee workload would be enormous that reauthorization bills would be passed with no additional oversight and that automatic termination could wipe out ongoing programs accidentally.

The Sunset Program Evaluation Act addresses these criticisms. In place of the earlier more rigid provisions it establishes a longer 6 year review cycle that take a two-track approach giving the Committees of Congress flexibility—guaranteeing that they will set their own priorities.

As Mr. Blanchard pointed out Title I of the bill establishes a schedule for automatic termination and reconsideration of all but a few Federal programs. Title III provides a method for Congress to select a number of programs for intensive evaluation. Nothing in the sunset concept would require Congress to embark on a wholesale evaluation of all programs scheduled for termination. When a given program is scheduled for termination under the provisions of Title I the authorizing Committee will decide whether to re-authorize the program in such scope and detail as it deems appropriate.

Title III however establishes a procedure for the selection of certain programs to be subjected to in-depth evaluation. Under these procedures it is the authorizing committees which are the principal determinants of the selection process.

This approach recognizes important characteristics of Congressional committee activity—that some programs require more in-depth evaluation than other programs and that the authorizing committees must ultimately decide what those programs are.

The Sunset concept in this bill also employs a safeguard against automatic termination. Title V sets out provisions for the privileged consideration of a "sunset reauthorization bill." These provisions would ensure that no program would be terminated because of procedural delays and that the Congress will be given an opportunity to vote for a continuation of the program. A "sunset reauthorization bill" would extend funding for a program at no more than current appropriation level for anywhere from one year to the full length of the review cycle.

It is important to realize that it is not the intent of sunset to terminate programs. Termination of budget authority is merely a mechanism to force Congress to make a decision regarding the future of individual programs.

Of special concern to this subcommittee is Title II of the bill which provides guidelines for the development of a program inventory of all Federal programs by budget function and subfunction. Under this title the Congressional Budget Office, working with the authorizing committees would compile and continually update such a list. Obviously, if one is to review all Federal programs within a given budget subfunction one should know what programs are included in this subfunction. The fact that such an inventory is not currently available is ample testimony to the confused state of affairs in the Federal budget. The development of a program inventory is essential to the successful implementation of any procedures which try to improve oversight—I would think that the Committee on Government Operations would be especially well qualified to aid in the development of such a list.

Before I conclude my statement, I would like to point out the advantages of an oversight system that proceeds along budget subfunctional categories. By bringing up all programs within a given area at the same time we could more readily determine which programs duplicate or overlap others, and which programs operate at cross-purposes. We could be better equipped to alter, consolidate, reduce, or eliminate on-going programs, ultimately improving and co-ordinating Congressional management of federal agencies and programs.

Mr. Chairman, the bill which my colleague Jim Blanchard and I bring before you is certainly not perfect—but it shows what can be done if one takes the sunset concept seriously. This bill goes a long way towards the successful integration of sunset into the existing authorization and appropriation system. I am not asking you to pass this bill—I think a good deal of work remains to be done. But I am asking you to make it one of your major legislative concerns over the next year to foster a bill whose procedures will be effective in achieving sunset and program review goals.

HUMAN RIGHTS IN PANAMA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement by Rose Marie Aragon before the House Committee on International Relations on the issue of human rights violations in Panama. I believe that this statement is extremely significant in light of the fact that the Carter administration and the State Department claim that the human rights violations in Panama have not reached intolerable levels:

TESTIMONY OF ROSE MARIE ARAGON

Mr. Chairman: I deeply appreciate the opportunity of appearing before this Committee. I am Rose Marie Aragon, born in Argentina, a naturalized U.S. citizen and the widow of Leopoldo Aragon who immolated himself last month before the American Embassy in Stockholm protesting the violations of human rights in Panama and the signing of a treaty with the Torrijos dictatorship.

Gentlemen, I sometimes think that the blessings of freedom and democracy are more appropriated and more precious to a naturalized citizen. Some of you in this prestigious chamber may well remember those feelings expressed by your own parents.

With deep personal pain, I will describe the jailing without trial, the torture and imprisonment of my late husband, Leopoldo Aragon, in the infamous penal colony of Coiba, the Devils Island of Panama.

I will tell of, and offer documentation of the systematic and continuing pattern of gross violations of internationally recognized human rights by Panama's dictator, Omar Torrijos.

Until now, Panama's flagrant violations of human rights has been one of Washington's best kept secrets. This September 9, the Washington Post Editorial page article[1] raised questions: first, the reasons for State Department's cover-up of the true nature of the Torrijos regime; second, the reasons the State Department devised elaborate falsehoods to deny my husband a vistor's visa to accompany his American wife and American daughters to the U.S. this past August. I look to the Members of Congress to explore these implications.

THE WASHINGTON YEARS

I met and married Leopoldo Aragon, a Panamanian international journalist when he was assigned to Washington. He had received his law degree in the United States and completed graduate studies in International Law and Journalism in Spain and France.[2] Our twin daughters, now attending college in the United States were also born here. Leopoldo covered the White House, State Department and the Organization of American States for several Latin American and European newspapers. His first book, in Spanish, "The Kennedy Era—Inside Washington" was published then. At that time I worked for State Department with a top secret clearance. Later I worked with the Organization of American States. I have long been deeply involved with civil liberties and civil rights as my husband was devoted to the cause of human rights.

In 1967 my husband was assigned to Czechoslovakia by Interpress Service. We went with him. After nine months he was summarily given 48 hours to leave the country. He had written too many truths about communism.

THE PANAMA EXPERIENCE

In 1971 Leopoldo was assigned to Panama. For the first time since our marriage we went to make our home in his native land.

He was to set up Interpress Service. He also wrote articles for the local press and later developed a daily news analysis program on Radio Impacto. At first he viewed the political scene with a hopeful and open mind. As his views developed he began to express them privately and then publicly.

As a working journalist, he was shown a Corps of Engineers Draft Position Paper dated February 16, 1968. That paper, according to notes my husband gave me to carry to the United States, noted that popular opposition had rejected the 1967 proposed canal treaties that the Panamanian democratic government had negotiated with the United States. The paper concluded that a new treaty could not be passed in Panama except under a strong military dictatorship. This U.S. paper recommended Torrijos as the likliest man to do the job. At that time, my husband told me about this in Panama, but suggested it was better that I not know further details.

At the end of July 1972 Leopoldo, on his return trip from a short assignment in Mexico, stopped in Costa Rica at the invitation of Gonzalo Faszio, Minister of Foreign Affairs. At the dinner that evening there was also President Figueres. They held a frank conversation about the situation in Panama. These were the subjects on which Leopoldo was later interrogated.

The next day, on his arrival at the Panama International airport, Leopoldo was arrested by the G-2, the Security Arm of the National Guard.

His arrest was witnessed by a friend who informed the family. But the Guard Headquarters told me they knew nothing about my husband. After 4 days G-2 admitted to a lawyer friend that they were holding Leopoldo, but warned him not to take the case. That lawyer suggested another who had worked for other political prisoners. This Mr. Faundes agreed to present a Writ of Habeas Corpus though he accurately predicted no result. Through his contacts he learned that

my husband was charged with possession of marijuana.

He advised me to see the Attorney General. After many long days of waiting, I was told they were questioning my husband on drug charges.

I protested it was absurd and that no civilized country held a person on vague charges, denied counsel and ignored a Writ of Habeas Corpus. He replied, "In other countries, not in Panama."

I began to contact journalists throughout the world and Amnesty International, the International Committee on Human Rights and International Organizations.

My lawyer advised me to see the Minister of Justice, Materno Vasquez. For 10 days, day after day, from morning till night, I sat and I waited. When finally the Minister admitted me, it was only to say that Leopoldo was held for Subversion of Public Order.

Repeatedly I begged to see my husband. The Minister relented. I went to the jail only to be told they had received no orders. This continued for days. At last the doors of the prison opened for me and I talked with my husband after more than four weeks. He had been kept incommunicado for four weeks while tortures were inflicted on him. Which as he later told us were:

"Blows with a rubber hose; first blows to stomach and chest,

"Long questioning under strong lights without sleep."

"Electric shocks to the vital parts of the body, the ears, genital organs and the anus" that made him feel his insides were bursting.

"Hanging by the wrists and acted out executions with blank cartridges" so that each time he did not know whether he was alive or dead.

My daughters and I, having had the mental torture of not knowing whether he was dead or alive and imagining what they might be doing to him, were to start on a new stage in our anguish. I extract from the journal of my daughter, Yarmila; which she writes now for one of her classes:

"Reading other people's journals of high school romances, marijuana smoking, spaced out, partying. . . . I feel rather young and inexperienced. Though other experiences, I suppose will make up for the lack of those. Like waiting in line in the torrential tropical rains or scorching sun for an hour or more outside the "Model Prison" . . . most infamous place . . . where men whose ideas are too liberal and criticism too outspoken are thrown in among common criminals and tortured, most often to death . . . only waiting to catch a fleeting glimpse of a father's ravaged but beloved face."

My lawyer and I kept demanding that my husband be brought to trial. Instead, in December 1972 he was condemned, by simple writ, to five years in prison, and one day while standing in line to bring food and bedding to him we were told he was no longer there.

He had been sent to the Penal Colony on the Island of Coiba. The following are excerpts of Leopoldo's document:

"The prisoners are driven to Pier 18 in the Canal Zone port of Balboa under American jurisdiction, because Panama has no deep water port, and are loaded into the boat. If the trip to Coiba is hellish, it is worse if one tries to escape as I did at Pier 18 by jumping into water. It had been my hope that by doing so, I would be taken by American police who might be persuaded to take me to the hospital for injuries resulting from my torture. The shooting at me by the guards attracted a large number of American police. The shooting stopped and I shouted of my condition. The Americans agreed to take me to the hospital and so I surrendered. Then there, in front of the passive Americans I was given a severe beating with clubs, fists, rifle butts and kicks by the Panamanian guards. They handcuffed my hands behind my back. They heaved me toward the boat, but they missed. I fell into the water. I dove under the ship and made it to the underside of another pier. But I was spotted there by an American policeman. Recaptured I was turned over to the Panamanian guards who again beat me.

Half drowned, I was hanged from the handcuffs to a mast for several hours. When darkness came I was chained to a ring on the deck . . . Luckily the crammed conditions prevented the guards from kicking me as hard as they might have wished.

It was dusk of the next afternoon when the boat tied up to the jetty at the southern tip of Coiba. There were some 20 guards waiting with clubs and whips. . . . someone gave me a kick that sent me reeling over the jetty into the water . . . my delay in reaching the beach saved me from one of the most bestial practices on Coiba: the running of the gauntlet of the prisoners from the jetty to the central yard. The other prisoners were running like cattle under the whips and savage cries of the guards. These were swinging their clubs, rushing the prisoners to gallop, prodding them to run faster. The guards would run ahead of them, among them, and from behind, hitting and whipping in a happy demonical frenzy. If someone fell, several guards would converge on him, kick him, whip him, beat him and screaming louder, drag him to his feet, forcing him to sprint like crazy, the remainder of the 300 yard distance. . . .

Slumped on the ground, I watched from a distance. At first, the whole spectacle was incomprehensible because I did not grasp what was going on. It was a strange state of mind. . . . The black night in the background and the lights illuminating the goings on, sort of transported me to the environment of a theater. The play would soon be over and one would walk out with friends, have dinner or a drink and discuss the play. I felt no part of it. . . .

Then suddenly I realized with terror that the thing was real. I was in it, at the receiving end like the others. The Captain's welcoming speech was short and to the point: "You just got the Coiba shock treatment. You'll get it any time you're lazy or don't figure out what we want. In Coiba there's no God, no law, no nothing, only what is for our pleasure."

The horrors continue. At Coiba Leopoldo was told how Floyd Britton another of the political prisoners had died there. The government had announced he suffered a heart attack. The truth as Leopoldo recounted it was: "With his hands handcuffed behind his back, he was placed on a stool. Guards surrounded him and clubbed him until his brains flew out."

My husband stayed in Coiba for six months. Our appeals to the international human rights organizations and to important friends of Leopoldo in other countries bore fruit. Leopoldo was brought back to the city prison hospital. Although there are about 1,500 prisoners in Coiba, there is no medical facility. He was urinating blood and had Meniere's disease from beatings. His physical condition was terrible. Though I was told Leopoldo would be exiled, he was sent back to Coiba. Again we almost went mad. Finally in December 1973 I was ordered to buy him a one way ticket to Sweden and he was placed on a plane to Stockholm . . . where he spent two months in Karolinski hospital, recuperating from the physicial and psychological tortures.

He gave several press interviews until G-2 gave me a message: "Tell Leopoldo to keep quiet. While you are still in Panama there are ways of making him come back." I had to stay to complete the teaching jobs I had taken to support us. I, too, had a severe weight loss and was emotionally drained. When we finally left Panama they made trouble at the airport, even delaying the plane, but we had many witnesses with us.

While my husband was in prison he asked me to notify the American Consul of at least two Americans detained for no apparent reason. One was a graduate student, writing his thesis on Panama, who had come to watch the so-called election of "Corregidores" (Justice of the Peace). He was picked up and denied access to the Consul. Another American almost died of a beating in the cellars of the jail. U.S. Consul, Dodson's letter of resignation substantiates the U.S. passivity (3)(4) and the 1977 case of American citizen David Mendelson (with no political involvement) beaten and exiled, brings these cases into the present (State Department and Senator Sparkman have documentation.)

LEOPOLDO ARAGON

"Let my people decide freely" was Leopoldo Aragon's dying plea. His act of sacrifice, he said, was to "call attention to the enormity of the deprivation of human rights and political freedoms under the Torrijos dictatorship."

The exile or release of those who have been cruelly imprisoned and tortured is not the end of the story. The person changes. Psychological changes have now been recognized and a commission has been formed in Norway to study the effects of imprisonment and torture. I saw change take place in my husband. He immersed himself completely in the movement to restore human rights and democracy in Panama. Despite his dedication he did not isolate himself and had a multitude of friends. He corresponded with his colleagues who speak and write of his warm human qualities. One, at the N.Y. Times in a personal note to me, spoke of him as "a man of great character passionately devoted to a cause of extreme importance". He was a loving husband and a devoted companion to his daughters. Others remark that he was a consistent and rational man. This consistency and rationality was demonstrated in his methodical planning for his final sacrifice for his high ideals.

Twelve years ago he wrote of another "To immolate himself is to sacrifice onself for others—for an ideal—for a conviction. It is an individual decision which doesn't involve nor harm another." In an letter I received on September 2nd he had sent from Stockholm. "I know what I have to do to be faithful to my destiny. I feel it with all the depth of conviction that a man can have . . . And I am going to do something that can be instinctively understood and appreciated." On September 1st, in front of the American Embassy in Stockholm he immolated himself In his last personal message he asked me to continue the struggle, "your battle post is there."

I am here to carry on. I am here as one who has also suffered the tortures of Torrijos, tortures that continue. But mine is only one story, the only one you will hear in detail today. It started in 1972 . . . The many cases of others each year since then are documented in the volumes of The Panamanian Committee for Human Rights.

Yet Ambassador Bunker has repeated in the Congress and elsewhere what I quote from his national television interview on "Meet the Press" of August 14th. The transcript reads: "What is your impression of the record of the Torrijos Government in the area of human rights?" Ambassador Bunker answered, "Well, there have been some violations of human rights by the Torrijos Government. Most of those occurred prior to 1970 when he was consolidating his position. Amnesty International in 1973, I think, did report that most of those violations had

occurred in the early years of the regime. A year ago, they did exile some thirteen people of the right and the left who had been accused of subversion. Those, I think, have all since returned to Panama. Recently has received back nearly 100 exiles. In our report which the Administration made this Spring to the Congress, as required by law, the report stated that there was no evidence of any systematic abuse of human rights. Whenever there have been, we have called it to the attention of the Panamanian Government and have expressed our views about it."

The President of the International League for Human Rights, Attorney Jerome J. Shestock gave the Panama Human Rights Report as an example of State Department's inaccuracies and lack of candor.(5) (6)

What actually happened in 1976 or that which is known—

January 20: Thirteen professionals, businessmen and farmers, at least in the United States does not place them either on the right or the left. In addition an Argentinian born British subject, who had served the U.S. as a parachutist medic in Vietnam, was arrested, held incommunicado, tortured and then deported.

February: A Panamanian professor, a self-described Trotskyite was picked up at the airport on his return to Panama and planed to Ecuador to join the 13 exiles.

May: Marlene Mendizabal, a high school student of humble country family, and her finance, Jorge E. Falconet, an engineering student disappeared. Her body was found and autopsy prevented by the National Guard. Falconet was never found.

September: Attorney Eusebio Marchosky was arrested, tortured and exiled to Miami. Blanca de Marchosky, Alma Robles de Samos, Fulvia Morales are imprisoned and maltreated, but later released. Querube de Carles was exiled. Three men, one an American, employed in the Canal Zone were arbitrarily arrested on trumped up charges of fomenting riots for the C.I.A. A formal protest was lodged with the U.S. Embassy, but later withdrawn. . . . Carlos Gonzalez de la Lastra, an executive, and Humberto Lopez, a student, escape arrest and are exiled to Venezuela. . . . More than 150 students are arrested and tortured, according to a letter written by Reverend Fernando Guardia Jaen, S. J. in the Panama Archdiocese monthly publication.

BOMBINGS AND TERRORISM

Following the January exiles there were a series of five mysterious bombings at the places of business or homes of the exiles or their associates. The bombs were all of the same type. At the end of October and on November 1st a series of similar bombs exploded in the Canal Zone, damaging government property and automobiles owned by American critics of the dictatorship and treaty negotiations.[7] On November 29th a similar bomb was exploded in the Volkswagon of Jorge Rodriquez, seriously wounding his wife Gilma, but leaving untouched in the rear seat Dolores Montoto. On December 23rd, 1976, an official press release of the Panama Embassy in Washington makes public a letter from Torrijos protesting that the U.S. Ambassador in Panama had told Torrijos that "Certain members of the National Guard are involved in terrorist activities which have taken place in the Panama Canal Zone in connection with explosions which last October destroyed six automobiles and damaged certain buildings . . . that the United States authorities had proof of their assertions."

Let us sum up the 1976 human rights violations listed here, which are only a small part of the known violations by Torrijos in 1976:

Exiled	18
Arbitrarily arrested	3
Arbitrarily arrested and maltreated	3
Arrested and tortured	151
Bombings (1 person seriously injured)	12
Imprisoned without trial	3
Murdered	1
Disappeared	2

Returning to Mr. Bunker's assertions. Of the 13 January exiles 4 only have returned. Ambassador Bunker says also that Torrijos has recently received back nearly 100 exiles. This is simply untrue.

Let us look at the numbers. In 1 year 181 persons are known to have had their human rights violated in Panama's tiny population of 1.7 million (as opposed to heavily populated Chile, Brazil, or Argentina). Translating that number of the U.S. population is the equivalent of human rights violations of more than 21,000 citizens.

Gentlemen: I think it is abundantly clear that Panama shows a consistent pattern of gross violations of internationally recognized human rights.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION: ARTICLE II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McDONALD. Mr. Speaker, until recently the policies, plans, and operations of the Trilateral Commission established by Chase Manhatten Bank head David Rockefeller were the concern of a relatively small number of expert political analysts. Now thanks to the pioneering examinations by conservative political analysts of this powerful special interest group working to influence our Government's policies, the activities of the Trilateral Commission are beginning to receive a public airing.

In recent weeks several of my constituents have submitted extensive magazine articles and newspaper stories on the Trilateral Commission. Several of these are of particular interest and I intend to submit them for the attention of my colleagues:

THE TRILATERAL CONNECTION

(By Jeremiah Novak)

For the third time in this century a group of American scholars, businessmen, and government officials is planning to fashion a new world order. Discouraged by UN inadequacies, disheartened by chaos in the Bretton Woods institutions (IMF and the World Bank), and worried about the United States waning strength, these men are looking to a "community of developed nations" to coordinate international political and economic affairs.

"After every major war in this century Americans sought a new world order. Wilson pushed the League of Nations; Roosevelt and Truman constructed the UN-Bretton Woods system; and now, after Vietnam, Jimmy Carter gives us the Trilateral plan." So said C. Fred Bergsten, assistant secretary of the treasury and one of sixteen top Carter appointees who belong to the Trilateral Commission. All sixteen represent a deeply internationalist tradition that is part of the eastern American establishment. "Liberal internationalism is our creed," said Bergsten.

And Jimmy Carter is its prophet. Carter is a charter member of the Trilateral Commission and an advocate of its basic internationalist viewpoint. According to one Carter campaign aide, "Carter reeks of Protestant America's manifest destiny, and embodies the frontier tradition, the open door, and Cordell Hull's free trade internationalism, all wrapped up in one."

If there is one book in Carter's gospel, it is Zbigniew Brzezinski's *Between Two Ages*, published in 1970, in which Brzezinski, now national security adviser, formed the concept of "a community of developed nations" that would direct the world to new levels of freedom, human rights, and economic progress. He rejected both Kennedy's inaugural globalism and the establishment prejudice toward Atlanticism that dominated the Eisenhower, Kennedy, and Johnson years. Insisting that the community of developed nations should include Japan, he called his plan "more ambitious than the concept of an Atlantic Community, but historically more relevant."

Brzezinski's community would include not only the United States, Western Europe, and Japan, but eventually all other "advanced nations," even communist ones. The emphasis is on "developed" and "advanced." As Richard Cooper, who along with Brzezinski is a key architect of Trilateralism, wrote in a recent Trilateral paper, "Only those nations whose decisions can affect the whole group should be admitted."

Brzezinski's message did not find immediate acceptance. However, in December 1971, after the United States unilaterally went off the gold standard, causing the U.S.-Western Europe-Japan alliance to totter, Brzezinski convinced Huntington Harris, a Brookings Institution trustee, to fund a series of Tripartite Studies. Joining Brookings scholars were thinkers from the Japanese Economic Research Center and the European Community Institute of University Studies. The results of these studies influenced David Rockefeller to found the Trilateral Commision. According to his own testimony Rockefeller had begun calling in 1972 for the establishment of a Trilateral Community. He broached the subject at the Bilderberg Conference of corporate leaders, where it found immediate acceptance. Among those in attendance was Michael Blumenthal, now secretary of the treasury.

As chairman of the Trilateral Commission's executive committee, Rockefeller was able to attract members who include the chief executive officers of the Bank of America, First National City Bank, Exxon, Caterpillar, and CBS, as well as such labor leaders as I. W. Abel and Leonard Woodstock, and such scholars as Richard Cooper, provost of Yale, and Harold Brown, president of the California Institute of Technology.

From Europe came, among others, the heads of Thyssen, Royal Dutch Petroleum, and Unilever. From Japan, the chairman of the Bank of Tokyo and Fuji Bank. This high-powered group appointed Brzezinski full-time director of the Trilateral Commission, and he recruited a group of scholars who wrote a series of fourteen monographs dealing with political and economic problems facing Trilateral nations.

Although the commission's primary concern is economic—principally the same issues that concerned Cordell Hull, Henry Morgenthau, Harry Dexter White, and John Maynard Keynes at Bretton Woods—the Trilateralists pinpointed a vital political objective: to gain control of the American presidency. For, as Samuel Huntington, a Harvard government professor and a Trilateral scholar, has written: "To the extent that the U.S. was governed by anyone in the decades after World War II, it was governed by the President, acting with the support and cooperation of key individuals and groups in the executive office, the federal bureaucracy, Congress, and the more important businesses, banks, law firms, foundations and media, which constitute the private establishment."

In 1973, with Richard Nixon in deep trouble because he did not have this support, the Trilateralists found it essential to play a role in determining the direction of the American presidency. As early as May 1975, Brzezinski, at a Trilateral Commission meeting in Kyoto, hailed Carter as "one political leader with the courage to speak forthrightly on difficult political issues." And Peter Bourne, Carter's former deputy campaign chief, has been quoted as saying, "David Rockefeller and Zbig have both agreed that Carter is the ideal politician to build on."

Carter reciprocated by reiterating during his campaign that "we must replace balance-of-power politics with world order politics"—the Trilateralists' basic theme. Of late this theme has been echoing through the halls of Congress, as some of the Administration's Trilateral appointees, such as Cooper, Bergsten, and Cyrus Vance, have testified. "The basic philosophy of the Administration," Bergstein told Congress, "is that domestic and international issues are inextricably linked."

Such concepts are being well received by many in Congress. For instance, as Representative Henry Gonzalez of Texas said after attending the International Development Association (IDA) replenishment conference in Geneva in March, "The arrival of Bergsten and Cooper was like a breath of fresh air. There's a new sense of flexibility and understanding that has gained new respect for the U.S. among our allies. They know that the people in this Administration care."

The Administration's internationalist views have also received a big boost from Federal Reserve Chairman Arthur Burns, a Nixon appointee. Speaking at the Columbia University School of Business on April 12, he made an impassioned plea for a greatly strengthened IMF. His call echoed that of a 1973 Trilateral pamphlet written by Richard Cooper, now assistant secretary of state for international economic affairs.

The Trilateralists' emphasis on international economics is not entirely disinterested, for the oil crisis forced many developing nations, with doubtful repayment abilities, to borrow excessively. All told, private multinational banks, particularly Rockefeller's Chase Manhattan, have loaned nearly $52 billion to developing countries. An overhauled IMF would provide another source of credit for these nations, and would take the big private banks off the hook. This proposal is a cornerstone of the Trilateral plan, because it makes possible the continuation of free trade internationalism.

Perhaps the best example of Trilateralism was the post-Inaugural trip to Europe and Japan of Vice President Walter Mondale (also a Trilateralist). He assured leaders of Carter's determination to work in deep consultation with them. Institutionally, the Rambouillet, Puerto Rico, and London conferences, where Trilateral leaders have met to discuss economic issues, symbolize this new community of developed nations. To implement its aims, the Trilateral Commission has called for the formation of commissions to coordinate the political and economic power of the Trilateral area. These commissions will subordinate national economic policy to international needs. As Bergsten said in a speech on April 22 to the Chicago Council on Foreign Relations, "The world's major economic powers must, in a positive sense, exercise collective responsibility for the stability and progress of the world economy."

Many Americans, in government and without, view this new emphasis on collective responsibility as a threat to traditional national sovereignty. Others worry about the basic political philosophy that motivates the Trilateralists. In particular, many people are concerned about the views of Samuel Huntington, who is an editor of *Foreign Policy* magazine—often a showcase for Trilateral thinking. (Trilateralist Richard Holbrooke, the former managing editor, is now assistant secretary of state for East Asia and Pacific affairs.) Among other worrisome statements, Huntington wrote in *The Crisis of Democracy*." "In some measure the advanced industrial societies have spawned a stratum of value-oriented intellectuals who often devote themselves to the derogation of leadership . . . and their behavior contrasts with that of the also increasing numbers of technocratic and policy-oriented intellectuals."

Huntington also made the following statement in his essay: "Al Smith once remarked 'the only cure for the evils of democracy is more democracy.' Our analysis suggests that applying that cure at present could well be adding fuel to the flames. Needed instead is a greater degree of moderation in democracy."

Penn State political scientist Larry Spence criticizes Huntington's condemnation of value-oriented philosophers as "a direct attempt to raise the status of the technocratic elite, who curry to the needs of the wealthy corporations. If he gets his way," Spence declared, "we will have a new supernational community dominated by the multinational corporations."

Another critic is Walter Dean Burnham, professor of political science at the Massachusetts Institute of Technology. Writing in "Trialogue," the Trilateral Commission's newsletter, Burnham stated: "Firstly, Professor Huntington systematically inflates the claim of authority against the claim of liberty in any situation. . . . There is, I think it is fair to say, a visible pro-authority bias to his work. . . ."

Huntington's authoritarian views were widely debated by the Trilateralists themselves, many of whom demanded that Huntington's book not be published under Trilateral auspices. Yet, as Dr. Spence put it, "The book still stands as the official position of the Trilateral Commission."

Despite the debate over *The Crisis of Democracy*, the Trilateralists' internationalist stance is being lobbied for in Congress by a new organization called New Directions. The group was founded at the instance of Theodore Hesburgh, president of Notre Dame University and chairman of the Rockefeller Foundation. Hesburgh, with the support of Vance and Paul Warnke (a Trilateralist and Carter's chief arms limitation negotiator), was able to recruit John Gardner, chairman of Common Cause, and others to form the new lobby group. Essentially, the group's "Approved Action Program" reinforces Trilateral positions on expansion of international financial institutions, increased development assistance for poor nations, a strong plank for conservation of energy, and reduction of arms sales.

The alliance of Common Cause and New Directions with Trilateral thinking gives the Trilateralists two formidable companion organizations. It was Harlan Cleveland, a member of the board of governors of New Directions, who, on July 4, 1976, wrote a "Declaration of Interdependence" for the Bicentennial program in Philadelphia. He also published a paperback called *The Third Try at World Order*.

Jimmy Carter, as President, presides over this new internationalism. Indeed, it is said that when he faces Congress he goes as an internationalist; and when he travels to Western Europe and Japan he is welcomed as a brother Trilateralist. In the last analysis, it is Carter who directs the third try for a new world order.

PERSONAL EXPLANATION

HON. DAVID L. CORNWELL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. CORNWELL. Mr. Speaker, I was absent from voting on today's suspensions due to an urgent meeting at the Environmental Protection Agency this afternoon. The meeting concerned whether to construct or not to construct a sorely needed coal-fired energy plant in my district. Attending this meeting were a number of my constituents representing labor and local government, as well as representatives from EPA, the American Electrical Power, staff representatives from the offices of Senators BAYH, FORD, and LUGAR and the National Rural Electric Co-ops. I therefore, apologize to you, my colleagues, and to my constituency for being absent. Had I been present, however, I would have voted as follows:

H.R. 8518, aye; H.R. 9418, aye; H.R. 5643, aye; H.R. 5858, aye; H.R. 8149, aye; H.R. 8422, aye; H.R. 6715, aye.

B–1: AN EXPERT'S OPINION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DORNAN. Mr. Speaker, on Wednesday of this week, we are scheduled to vote on the supplemental appropriations for 1978. At that time we will be given the opportunity of responding to the administration's decision to cancel production of the B–1 aircraft.

Before any of us cast our votes on this crucial issue, we should weigh carefully all of the information and evaluate the opinions of the experts in the field of strategic aircraft. Of these opinions, none has greater claim to being called expert than that of Gen. Russell E. Dougherty, recently retired commander in chief of the Strategic Air Command.

On September 21, I wrote to General Dougherty requesting his opinion of the President's decision to cancel the B–1 aircraft. I would like to share his answer to my request with my colleagues and I print his opinion in the CONGRESSIONAL RECORD at this point:

ARLINGTON, VA., *October 14, 1977.*

Hon. ROBERT K. DORNAN,
House of Representatives,
Washington, D.C.

DEAR MR. DORNAN: I appreciate your letter of 21 September 1977 and the confidence you expressed in me and my background in seeking answers to some of the very difficult questions before you and your colleagues in the House of Representatives. Also, I well recall our day together at SAC Headquarters earlier this year and am grateful that you would remember favorably SAC's people and its continuing contribution to our nation's strategic TRIAD of deterrent forces.

I will do my best to address your questions on some aspects of the important strategic issues facing you—and hope that my opinions and analyses may be useful to you and

your colleagues. Certainly they will be "candid" and "unfettered," in accordance with your request. I must add, however, that I have never really chafed under the constraints and fetters of my official assignments. As CINCSAC, I did not feel any disabling constraint in expressing my opinions on fundamental matters affecting the continued effectiveness of our strategic forces; though, of course, I recognized I couldn't be repeatedly strident and critical as a serving commander.

You have asked for my opinions concerning the President's recent decision not to seek production funding for the B–1; and, additionally, you asked for my analyses of some of the pros and cons of the situation caused by the decision to cancel B–1 production.

First, to address myself to your questions concerning the President's decision to cancel the production of the B–1:

I was disappointed, of course. I thought we had developed a fine, capable aircraft to do a sorely needed job in the future . . . and to fill a potentially serious gap in our strategic capabilities in the mid 1980's, and beyond. Other related actions affecting our strategic futures are made more critical and dangerous as a result of the loss of time and capability associated with the cancellation of timely production of the B–1. We have lost a very valuable margin of future strength. I thought it error not to go into needed production with this modern well-designed and capable strategic bomber development. We may not have the time (nor the political consensus) to produce and make operational adequate numbers of any subsequent development.

On the other hand, I cannot complain that this momentous decision was made abstractly, by some third persons unknown in the bureaucracy of the Administration . . . this clearly was a Presidential decision, publicly made. While I think it was a wrong decision, it was not made obscurely or by default. The President had available all the arguments and rationale advanced by us in the Strategic Air Command, the Air Force, the JCS and other senior officials in DOD whose view of the future strategic requirements caused them to support a B–1 production program. I do not know to what extent all these views were considered, but the public rationale accompanying the decision leads me to believe that it was narrowly based. The public rationale indicates the decision turned on analytical studies and study factors of cost effectiveness and penetrativity assumed in the alternative examinations by the Administration staff—a very narrow and delicate basis for such an important decision. Also, I think the vast capability of a strategic penetrator throughout the full spectrum of deterrence and conflict was subsumed in a narrow analysis of the assumptions used in measuring the application of various weapons to a total strategic attack and counterattack. While such an analysis is extremely important, it is far from the only measure of merit of a flexible strategic system.

In the context of B–1 cancellation actions and other uncertainties within the Administration affecting SALT and our strategic weapons systems (MX, Minuteman II and III, MK–12A, aerial tanker futures, SRAM, ALCM, etc.), the decision not to produce the B–1 came at a particularly critical time. Lack of a modern, manned, penetrating delivery system is going to make every other aspect of our strategic decisions more difficult for we will not have the assured flexibility that comes with a penetrating bomber.

The time lost in providing an adequate operational inventory of modern long-range penetrating aircraft delivery systems could prove to be critical. Also, the superior U.S. technological iniatives and achievement represented by the B–1 may be lost. And, importantly, the confluence of disparate views of anti-B–1 zealots may be solidified and strengthened to the point that needed modernization in a manned penetrating delivery system (and not just the B–1) may, in fact, be lost to us in whatever form a modern penetrating bomber is subsequently posed.

On this latter point, it was extremely interesting (but not surprising!) to find in the minority report submitted with the recent House Armed Services Committee's action on the President's latest Supplemental the suggestion by Representatives Carr, Schroeder and Downey that the President's decision was designed to terminate forever any initiative leading toward a modern, long-range, manned, penetrating delivery system. George Wilson's article on page A–2, The Washington Post, Friday, October 7, 1977, cites Representative Carr as saying that President Carter's decision "didn't just get rid of an airplane, he got rid of a concept; low-level, strategic manned penetration." In my view, this is a very key issue for decision by Congress and by the people of the United States. Are we going to have a manned strategic penetrating delivery system beyond the B–52—or has that weapon concept been rejected for the future? If the penetrator concept has been rejected, those of us in the Air Force and elsewhere who have proposed a serious and thorough look at an alternative penetrator to the B–1—such as the FB–111H—are foreclosed, as is the B–1.

If it should turn out that Representative Carr and others who share his view that the real effect of the President's decision was to cancel forever a modernized strategic manned penetrating delivery system, then the effect of the President's B–1 decision will be far more adverse and far-reaching than if it were limited solely to the rejection of production of the B–1 and the acceleration of the cruise missile programs.

Now, to your broader questions concerning the effects of the decision to cancel B–1 production:

The ability and willingness of our Nation to respond resolutely to clear-cut national emergencies are great strengths of the United States. Our adversaries—current and potential—recognize these resolute propensities of Americans. This, as much as anything else, explains why the threats they choose to pose to our national security tend to be indirect and ambiguous. Direct, clear-cut threats are sure to produce a vigorous response by our government and our people in providing all required tools of defense and war.

Fortunately, we are not in a situation of extremes— we are not facing an immediate, clear-cut threat to our survival. The B–1 decision was made in an atmosphere characterized by an absence of war or conflict and with no clear-cut national emergency. The full military effect of the decision was futuristic by as much as a decade or so . . . maybe even longer. The ambiguity of active threats; the absence of pressing need and of extreme circumstances are far different from the traditional "clear and present danger" that spurs immediate decisions on needed systems. The B–1 requirement was a futuristic one of judgment and vision; without precise metes and bounds, without absolutes and without a clear-cut, present danger.

To the extent that it was possible to do so, my colleagues and I had considered all aspects of our present and future situation and the potential military threat situation facing our nation over the long haul, from the early 1980s and beyond. We assessed what would be needed unequivocally to preserve, as a minimum, an effective strategic equality with the Soviet Union, and any other potential aggressor, no matter what they did. In every basic measure of that future situation, we found it essential for the United States to preserve a modern, capable, strategic, manned penetrating delivery system—everything we might need to do was made more effective and assured with such a delivery system; everything was more difficult and less assured without it. The B–1 promised to provide us such a system; nothing else satisfied the requirements that we could determine to the same extent as did the B–1. It was apparent, of couse, that much of the technology of today's F/FB–111 could be incorporated into a stretched and enlarged version of that aircraft (since identified as the FB–111H); however, this did not offer all of the efficiencies and all of the desired characteristics that had been incorporated into the B–1 developmental design. Thus, the FB–111H concept was well known to us, but lacked some of the advantages and the timing of the more capable and developed B–1 as the major strategic penetrator for future decades.

To me—and I think to most of my colleagues—the real effect of the President's decision on the B–1 was to make a production program for that aircraft unacceptable to the current Commander in Chief and his administration. I chose not to belabor that decision for, at the risk of stating the obvious, it was my duty as the Commander of our Air Force's largest command and one of the nation's major combatant commands to make the best use of the force provided to them by the responsible elected officials, to accept the clear-cut decisions of constituted political authorities . . . and to go on from there as quickly as possible That the men and women of the Air Force, who had been among the staunchest advocates of the B–1 could swallow their disappointment on the B–1 cancellation was a source of deep pride for me as their Commander in Chief. It represented military professionalism in the best American tradition; it did not represent any abdication of our judgment or our views of the efficacy of a modern, manned penetrating bomber. Our reaction to the President's B–1 decision also represented to us the illogic of continuing to pursue the desire to be equipped with a primary weapon system that had been so studied by our Commander in Chief and so unequivocally rejected for production by our constituted authorities.

I thought at the time (and still do) that the most proper and effective course of professional behavior for me was immediately to advocate the next most effective and efficient alternative course of action to provide a modern, long-range penetrator. To me, that was the FB–111H concept, incorporating the exceptionally well-developed and capable engine for the B–1; the advanced avionics (both offensive and defensive) of the F/FB–111, and a larger and more flexible internal and external weapons-carrying arrangement.

If I look to the next decade, I find little to suggest that the vigor of the Soviet investment in strong total forces will diminish—particularly, their investments in strong strategic nuclear forces. I think it's a pointless argument as to whether the Soviets are involved in an all-out drive to be "number one", but I think it's sufficiently clear as to be noncontroversial that the Soviets are not willing to settle for being "number two."

This brings me to the crux of my thinking on these matters; e.g. If on-going Soviet programs are not matched and offset by firm, continuing U.S. actions, a serious imbalance could (and probably will) result by the mid-1980s or so. I told the Senate Armed Services Committee in early 1976 (and intervening events have only strengthened my conviction) that, if we are denied timely production and rapid introduction of a modern, manned strategic penetrating delivery system into our operational inventory, our nation's deterrent force mix soon will be seriously deficient in its ability to maintain an essential balance—real or perceived—with the strategic forces of the Soviet Union.

At the time I made that statement to the Senate Committee, the modern cruise missile development program was, to a considerable extent, still unproved. It still is. For instance, the first powered flight of the air-launched cruise missile had not yet taken place. The modern cruise missile is much further along than it was in early 1976—but, it is still many years away from becoming operational.

And, in any event, the cruise missile will be a far more capable weapon system development in conjunction with a modern penetrator than it would be without such a penetrator. On this point, it was my understanding that the President's B–1 decision was premised on the rapid development of air-launched cruise missiles and the retention of an effective penetrating bomber force with an opportunity to swiftly upgrade the penetrating force with new systems if cruise missile deployment ran into any unexpected difficulty or delay. If we are not to have the B–1, the stretched and improved version of the FB–111, incorporating the extraordinarily well-developed B–1 engine, is completely logical and needed alternative: less capable and less modern—but less expensive, available rapidly and not publicly rejected by the Commander in Chief.

It is my judgment that we must (and can) make prudent modifications to our B–52s and our few FB–111s to keep them capable and safe until we can get, into the operational inventory (I keep underlining operational inventory, Mr. Dornan, because it is very important that everyone understand the vast difference between concepts, ideas, development programs and operational hardware in the hands of trained operational military forces), a new and capable penetrating delivery system that will serve us well beyond the late 1980s or early 1990s when the air worthiness of a portion of our B–52 fleet is doubtful and when the operational effectiveness is probably reduced below an efficient system for retention in the active inventory.

It is easy for any experienced military planner to appreciate the full potential and flexibility of the cruise missile technology and TERCOM guidance accuracy. Not for a minute would I advocate anything less than full exploitation of this promising aspect of modern military technology; however, I see no reason and no logic that demands that this technology can be adapted to the uncertain requirements of the future only at the expense of abandoning the concept of strategic manned penetration as a future part of our strategic TRIAD.

I considered the B–1 production decision the single most important weapon system decision in front of our Administration and our Congress last year. The Commander in Chief elected not to accept the recommendations that I and others had made concerning B–1 production. Following his rejection of the B–1, and while I was serving as CINCSAC, I found it completely consistent, professionally and intellectually, for me to support and to advocate what I considered the next best alternative for keeping the U.S. equipped with a modern and flexible strategic penetrating delivery system in the future. I recommended we immediately initiate a program to look into the stretched FB–111H, with B–1 engines.

If Representative Carr is right, and if the President really intended to terminate the concept of including a modern strategic penetrating system in our strategic arsenal, then that is the real issue in front of the Congress and the people of the United States. If so, that possibility poses fundamental issues that are not merely important but could well be vital to our future ability to remain second to no other nation or group of nations in a future world. And this issue, I would observe, is too important to be left fallow in the recent minority report of the House Armed Services Committee or in exchanges of correspondence. It should be run out on center stage for all to see, to examine and to debate. In my view, there shouldn't be any ambiguity on the issue of the future of a long-range manned penetrating delivery system; this issue is too important for us to allow it to remain cloudy and ambiguous.

As to the Soviet strategy for U.S. strategic forces without the B–1, I don't pretend to know the full ramifications, of course—but I would think one thing will be certain: they will do everything in their power to keep us from having a capable and competent substitute for the B–1. I would hope that, through other strategic diversity and the multiple capabilities and characteristics of our weapon systems, we could reduce to near zero their calculations (or temptations) of achieving a disabling first strike. I would hope that this is so and that we can and will do these things. It certainly would have been easier and more effective for us in the strategic commands to give these assurances with the B–1 in our operational inventory. Every strategic task we undertake will be more difficult without the B–1—and some important tasks may not be achievable without a capable alternative to the B–1 beyond the mid-1980s or early 1990s.

Granted, Mr. Dornan, all of these things are matters of judgment. These judgments can be validated only through hindsights. What I have offered in response to your letter are solely my opinions and my views; they are, however, unfettered and, hopefully, unbiased judgments as to our Nation's needs. It took the tragedy of World War II to prove General Mitchell right in his judgments. Martyrdom in the nuclear age is too great a price for any of us, or our Nation, to pay for fatal errors in judgment concerning the diversity and strength of our central strategic systems in the future.

I hope that my views will be useful to you and your colleagues in your important considerations on the current Supplemental Bill, and others affecting our Nation's future.

Respectfully,

RUSSELL E. DOUGHERTY,
General, USAF (Retired).

NEWARK MINISTER STARS AT WHITE HOUSE PARTY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. RODINO. Mr. Speaker, I am very pleased to have the opportunity to share with my colleagues an article which appeared in today's Newark Star-Ledger, concerning Dr. Alex Bradford, one of my constituents. Dr. Bradford, a minister and musical director of the Greater Abyssinian Baptist Church in Newark, has served our community very well by encouraging civic involvement through music and church activities. He is truly a community leader who has willingly shared his great professional skills with others, and I am pleased to insert the following article into the CONGRESSIONAL RECORD in recognition of Dr. Bradford.

[From the Newark Star-Ledger, Oct. 17, 1977]

NEWARK MINISTER STARS AT WHITE HOUSE PARTY

WASHINGTON.—Dr. Alex Bradford of Newark was a special "guest of honor" at a White House party last week at which President Carter, his family and some 500 guests were enthralled by the music he composed for the hit broadway musical "Your Arms Too Short to Box With God."

Bradford, minister of the Greater Abyssinian Baptist Church in Newark, aso wrote several of the gospel numbers that the original cast of his famous Broadway show performed for the President and his friends.

Another special guest at the party was Bert Lance, former director of the Office of Management and Budget.

The Southern-style barbecue party was held on the White House's south lawn for some 500 members of the Georgia "Peanut Brigade."

The brigade is composed of the young men and women who rang doorbells around the nation in a two-year successful effort to get Carter elected President.

A native of Alabama, Bradford is music director of Newark's Greater Abyssinian Baptist Church and founder of the city's Creative Movement Repertory Theatre, a civic company.

Hailed by Newsweek Magazine as "the super gospel composer of the 70s," Bradford received on Obie for his role in Vinnette Carroll's "Don't Bother Me, I Can't Cope," and was nominated for a Tony. He also was featured in the film, "Save the Children:"

Bradford's gospel recording, "Too Close to Heaven," sold more than a million copies nationwide; his educational show, "The Black Seeds of Music," was seen throughout New Jersey's public schools.

In 1961, Bradford was chosen by the late poet Langston Hughes to be one of the original stars of "Black Nativity," the first genuine black musical on Broadway. He later made a tour of 29 countries with the production.

Accompanist and composer for such gospel greats as Mahalia Jackson and Sallie Martin, Bradford has been acknowledged by Ray Charles and Little Richard as a major influence.

He has been called one of the progenitors of the "soul music" movement.

Bradford presented his latest gospel musical—"Don't Cry, Mary"—in Newark last month at the Cathedral of the Sacred Heart. He is working on his first comedy, "From One Good White Person to Another."

FOREIGN ASSISTANCE APPROPRIATIONS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WOLFF. Mr. Speaker, the House of Representatives will tomorrow vote on whether or not to accept the conference report to H.R. 7797, foreign assistance appropriations. I urge my colleagues to support the conference report language to section 107 of this legislation.

When this section of H.R. 7797 was originally considered by the House, two amendments were agreed upon. The first, which I offered, prohibited any of these appropriations from being used to finance reparations to the Socialist Republic of Vietnam. At that time I stated to my colleagues that the word "reparations" implies a debt due and therefore must be distinguished from the word "assistance" which implies voluntary action. While I have no doubt that the United States is under no obligation, legal or moral, to provide such reparations, the purpose of this amendment was to put to rest the question that was raised by the letter which President Nixon sent to the Viet-

namese in early 1973. In part, that letter stated that the United States "will contribute to postwar reconstruction in North Vietnam without any political conditions." This letter is, of course, moot today.

The U.S. Congress, however, has yet to take a position on its contents. It is time that we did. The question of reparations is moot because the Paris peace accords were violated by both sides. Furthermore, we must separate, and very clearly separate, the question of reparations from the humanitarian issue of MIA's. And it is without hesitation that I again state that compassion dictates that regardless of reparations or not, it is imperative that information on MIA's be forthcoming from the Vietnamese.

The second amendment, offered by the gentleman from Florida (Mr. YOUNG), added the prohibition against "indirect" aid to certain specified countries. I voted for this amendment and I still support its intent that U.S. taxpayers' dollars not be used to finance assistance or reparations to these countries through the various international lending institutions of which the United States is a member. However, since this prohibition on the indirect use of funds could, in many instances, preclude the international institution from accepting U.S. contributions, I believe that its inclusion in the statutory law would be detrimental to our interests. In view of the assurances given by President Carter that he will instruct U.S. representatives to the international financial institutions to oppose and vote against loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba, I believe that the intent of the House will be carried out and that the President's conduct of foreign policy will not be jeopardized.

Mr. Speaker, I again urge my colleagues to support the conference report on section 107.

TRIBUTE TO ATTORNEY STANLEY J. CYBULSKI

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. ZABLOCKI. Mr. Speaker, I recently attended the funeral of a close friend, adviser, former employee, and longtime civic leader, Attorney Stanley J. Cybulski. For many years he served with distinction in a variety of posts, both public and private, leaving behind him an enviable record of accomplishments.

Attorney Cybulski was my home secretary for more than 16 years until his appointment as Milwaukee postmaster in 1965. To that position, as to every other, he brought high competence, dedication, integrity, and loyalty. His service as alderman in the city of Milwaukee Common Council, on the Governor's Commission on Human Rights, the Milwaukee Library Board, Milwaukee Art Commission, and countless other civic endeavors, created a legacy which will long be remembered by the community.

His affiliations, offices, and other contributions are summarized in the following article, printed in the Milwaukee Journal on October 5, 1977, which I would like to share with my colleagues:

[From the Milwaukee Journal, Oct. 5, 1977]

LONGTIME LEADER CYBULSKI DIES

Funeral services for Stanley J. Cybulski, former Milwaukee postmaster, alderman and civic leader, will be held here Saturday morning. He died of cancer in Florida Tuesday at age 71.

Cybulski was a longtime member of the Democratic Party and was active in Milwaukee politics for more than 30 years.

He was born in Milwaukee Nov. 1 1905. A graduate of Marquette University Law School, he was a practicing attorney from 1931 to 1965. Cybulski served as alderman for the old 24th Ward from 1936 to 1948.

Cybulski was a past president of the Milwaukee Society of the Polish National Alliance and the Polish Association of America and a former vice president and director of the St. Joseph's Home for Children Athletic Association.

He was treasurer of St. Adalbert's Catholic Church from 1930 to 1948 and a past president and director of the Layton Park Lions Club. He was a former vice president and financial secretary of the Pulaski Council of Milwaukee, past president and treasurer of the Joseph Conrad Club at Marquette University, former vice chancellor of the Sigma Nu Phi national legal fraterity at the university and a lifetime member of George Washington Post No. 2 of the American Legion.

He retired as postmaster in 1970 and lived in Largo, Fla., since 1972.

Survivors include his wife, Harriet; a son, James, of Springfield, Mo.; two daughters, Mrs. Robert (Francine) Kay, Seminole, Fla., and Mrs. Robert (Janice) Artis, Cadillac, Mich.

KIWANIS INTERNATIONAL HAD A GREAT YEAR UNDER PRESIDENT STAN SCHNEIDER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. ASHBROOK. Mr. Speaker, I want to share with you the pride I have for a good friend, constituent, and fellow Kiwanian, Stanley E. Schneider of Crestline, Ohio, a man who, on September 30, finished a 1-year term as president of Kiwanis International. In that capacity, Schneider was official spokesman for nearly 290,000 Kiwanis members in 7,000 clubs located in 61 nations around the world. Kiwanis International, one of the largest service organizations in the world, is now in its 62d year.

Like Stan Schneider, I take pride in my own Kiwanis membership, and am proud to share it with some 105 other members of the 95th Congress.

Schneider's term of office was marked with outstanding success both in the field of growth and in the field of service rendered. It is the primary purpose of Kiwanis clubs to render volunteer service to their communities. As Kiwanis grows, so does its capacity for service grow.

In the field of growth, Kiwanis added more new clubs and more new members under Schneider's leadership than in any other year in its 62-year history. At the end of his term of office the membership stood at an alltime high, while the average age of the individual members stood at an alltime low; a clear indication of the fact that Kiwanis attracts young people today just as it did in its formative years in the early twentieth century.

In the field of service, Schneider successfully led Kiwanis in a new and exciting program called Safeguard Against Crime. The majority of Kiwanis clubs both in the United States and abroad participated in the program which was aimed at informing all segments of society on the incidence of crime, the kinds of crime usually perpetrated against persons and property, and the steps that individuals can take to resist such crime.

The original concept of the program was developed by Schneider, himself, with technical assistance from the Federal Bureau of Investigation, the Royal Canadian Mounted Police, and law enforcement organizations of both the United States and Canada. The program has been hailed as outstanding both in format and results achieved.

Other established Kiwanis programs went on apace, especially in the field of work with youth. Kiwanis achieved extensive growth under Schneider in a new service club movement for junior high school students called Builders Clubs which was initiated just before Schneider took office. It saw growth in a locally sponsored program for girls, too, called Keywanettes.

In the area of international extension, Schneider's year of leadership saw the organization build its first clubs on the African Continent, and in the Middle East, the last steps in its effort to bring Kiwanis-type community service to every part of the globe.

Schneider, himself, traveled to most of the "Kiwanis countries" with his wife, Millie, to provide the inspiration and insight needed for sound development of clubs in areas new to Kiwanis.

Schneider returns to a private life which, like his Kiwanis career, has been and continues to be crowded with action. He is prominent in civic and service affairs in his town and his State. He is currently serving as a member of Ohio's advisory committee for Operation Crime Alert; and he holds memberships in professional associations related to his automotive occupation, plus the VFW, Marine Corps League, and Association of the United States Army.

I take pride in the contribution of a constituent and fellow Ohioan to the welfare of a great institution—Kiwanis—and the hundreds of thousands of people throughout the world whom it is Kiwanis' privilege to serve.

SHIPBUILDING PROGRESS AT INGALLS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LOTT. Mr. Speaker, at Pascagoula, Miss., the 25,000 employees of the Ingalls Shipbuilding Division of Litton Industries are hard at work producing two new fleets of ships for the U.S. Navy. In production are DD–963 Class destroyers and LHA general purpose amphibious assault ships. Eight ships in the 30-ship destroyer program are already in operation with the fleet. Eleven others are launched and are proceeding toward sea trials. All others are in some phase of production. Two of the LHA's are delivered, and the others, I am pleased to say, are progressing well.

With the destroyers and LHA's in full production, the rate of progress at Ingalls is increasing rapidly. The tempo of activity was dramatically demonstrated over a 7-day period beginning September 25, and I wanted to call to your and my other colleagues' attention the events of this busy week.

Two destroyers, manned by separate Ingalls' crews, simultaneously underwent sea trials for ship operations and testing—the DD–975 successfully conducted builder's trials, and the DD–971 successfully conducted Navy acceptance trials. The eighth destroyer in the program—the DD–970—was commissioned into service by the Navy. The DD–968, having returned to Ingalls after initial operation with the fleet, completed final stages of post-shakedown availability work, and the DD–981, the 19th destroyer in the 30-ship DD–963 program, was launched.

This pace of shipbuilding activity may very well be unequaled in peace-time maritime annals. Furthermore, I take pride in noting that the pace is continuing to increase.

THE A–7 AIRCRAFT WINS IN SCOTLAND

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILFORD. Mr. Speaker, the "obsolescent" aircraft has done it again. The USAF 23d Tactical Fighter Wing, flying the A–7D Corsair II fighter/bomber aircraft, has won the 1977 Royal Air Force Tactical Bombing Competition held in Lossiemouth, Scotland, October 5 to 8. Competing against four teams flying the Anglo-French Jaguar, two teams from the Royal Air Force flying Buccaneer's, and the USAF 20th Tactical Fighter Wing flying the swing-wing F–111, the pilots of the 23d, flying the A–7D, walked away with both individual and team honors. Out of a possible 976 points, the 23d "Flying Tiger" pilots received 886 points, compared to the second place finishers, the 41st Squadron flying Jaguars, with 794. In individual honors, the 23d took the first four places as well as sixth in bombing and the first three places in strafing.

Mr. Speaker, we can be proud of the 23d Tactical Fighter Wing who represented the Tactical Air Command located at England AFB, La.; their skill and dedication is apparent. What concerns me, however, is that the best light attack fighter/bomber aircraft in the world today, the A–7D Corsair as flown by these pilots, is to go out of production. President Carter said recently that the A–7 aircraft is obsolescent. I strongly refuted that statement then and I refute it now. The United States can ill afford to stop production of the A–7 aircraft, especially since there is no replacement aircraft on the drawing boards or in the Air Force inventory to take its place.

Mr. Speaker, you will note that the A–10 aircraft, the aircraft the Air Force claims is going to replace the A–7D, was not competing because it was designed for one mission and one mission only—to provide support in a close-in combat environment.

I have no argument over buying a specialized aircraft such as the A–10 for close air support. I do, however, have to ask some questions. Have the modes of war changed since the advent of the A–10? Is there no longer a requirement for an aircraft flexible enough to perform close air support missions and be equally as effective in the interdiction role? Is the Air Force going to rely on the F–16, mainly a fighter aircraft designed to repel other aircraft in air-to-air combat, to perform the interdiction mission? Or will they rely on the costly F–15, again designed for air-to-air interdiction of aircraft, to bomb enemy targets?

Mr. Speaker, the U.S. News & World Report issue of October 10, 1977, in a special report entitled "Our Arms Forces, Ready or Not," pointed out that the "Air Force is in the midst of a difficult transition as it absorbs an assortment of new fighter aircraft." There are still too few planes, and many are experiencing serious trouble, the article went on to say. In the same article, the Air Force Chief of Staff, Gen. David C. Jones, stated his concern about the smallness of the U.S. Air Force. He also said "that you can only go so far in quality in a trade-off for quantity."

The 26 wing Air Force of today has enough aircraft to fully equip only 23 wings. Yet we will stop production on a proven aircraft that is not only needed in the active inventory, but also needed to continue modernization of the U.S. National Guard, which is forced to fly 25 year-old F–100 aircraft with little, if any, combat capability.

There are serious questions that should be answered before the United States stops production of the least costly, yet most capable weapons system in the U.S. arsenal of aircraft, the A–7D Corsair.

Gentlemen, I think we should take another look.

Mr. Speaker, I have a news account giving full details of the competition in Scotland, and the names of the flyers on our winning A7–D team, which I would like included in the RECORD:

LOSSIEMOUTH, SCOTLAND, October 10.—The 23rd Tactical Fighter Wing, flying Vought A–7D Corsair II's, has won the 1977 Royal Air Force Tactical Bombing Competition and taken all of the awards available to it.

In ceremonies today, the 23rd TFW "Flying Tigers" team was awarded the Sir John Mogg team trophy, Top Gun Award, weapons trophy for best individual bombing and the leadership in bombing and navigation trophy. Two other awards went to the RAF 41st Squadron, Coltishall RAF Station in England, for the best RAF unit and best Jaguar unit.

Capt. John Miller of Marianna, Ark., won the bombing and leadership trophies for the Tactical Air Command unit and was followed by his teammate, Capt. Robert Gatliff of Jacksonville, Fla. Out of 48 pilots competing in the bombing, the 23rd took the first four places. Gatliff was second to Miller, Lt. Col. Hugh D. (Dave) Ebert of Lynchburg, Va., was third, and Capt. W. W. Turner, Winston-Salem, N.C., was fourth.

The strafing Top Gun award was another sweep for the Vought A–7 and the Flying Tigers. Maj. Ron Brekke of Reserve, Mont. was first, followed by Gatliff, Miller, and U.S. Navy exchange officer Lt. Cmdr. Mike Sullivan of San Luis Obispo, Calif. Thirty-six pilots were in the competition for that award, as the RAF Hawker-Siddeley Buccaneers did not compete.

Eight teams of six aircraft were in the competition, six from the Royal Air Force and two from the United States. Joining the 23rd and its A–7Ds was the 20th Tactical Fighter Wing, RAF Upper Heyford of the United Kingdom, flying swing-wing F–111s and representing the United States Air Forces, Europe. There were four Anglo-French Jaguar and two Buccaneer teams from the RAF. The 23rd, representing the Tactical Air Command, is located at England AFB, La. The 97-member team deployed to Scotland three weeks prior to the meet.

Originally the competition was to be held Oct. 5 and 6, but weather forced cancellation of the second day's events until Oct. 8, and even then all of the competing pilots had not completed their events. Today, those who had not finished took to the skies, including two of the Flying Tigers. Only eight points were needed by the 23rd to win and Gatliff and Sullivan scored 99.

There were two phases in the competition leading to the awards. On Oct. 5, the teams strafed a land-based target and bombed a target towed by a launch on the North Sea. From the strafing came the Top Gun award and the bombing scores counted toward the weapons trophy. In the second phase, teams were judged on timing and navigation, evasion of enemy aircraft, and bombing accuracy, as well as maintenance performance during weapons reloading and quick turnaround. This phase led to the team and leadership trophies and the two bombs dropped determined individual weapons winners.

During the quick turnaround, which took only 15 minutes, the weapons and maintenance people of the Flying Tigers and the 20th TFW teams recorded the only perfect score, which accounted for 100 of the team's points.

Out of a possible 976 points, the Flying Tigers received 886 points, compared to the second place finisher, the 41st Squadron, with 794.

FLOOD INSURANCE—CONGRESSIONAL APPROVAL

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BROWN of Michigan. Mr. Speaker, Today I have introduced legislation which would require the Department of Housing and Urban Development to get congressional approval before it could scrap the current or any future Government-industry partnership in the flood insurance program, and convert to a to-

tally Federal program. Under normal circumstances, the present statutory language which includes a report and justification to Congress prior to a HUD takeover of the program would provide enough protection against inappropriate administrative action. But, it is clear, on the evidence of the past 2 months, that HUD is determined to ignore expressions of congressional intent as well as the clear language of the statute.

The problem between the Federal Insurance Administration at HUD and the National Flood Insurers Association (FNIA) stems from the Department's attempt to exercise ever-increasing control over a relationship that Congress intended as a partnership. One of the most recent controversies has been over the asserted right of the Secretary to issue regulations which would unilaterally and automatically alter the contract between the parties which serves to govern their relationship.

Congress specifically provided in 1968, when the program was established, that:

> The Secretary will enter into an agreement with any such pool and the agreement will form the basis of the relationship between the Government and industry.

It is this basic relationship that HUD now wishes to change. Clearly, in light of increased program activity and the resulting complications, a new contract is needed. However, no case has been made that a change in the Government-industry relationship is either needed or desirable, as far as program operations are concerned.

Under current law, before HUD can convert from a Government-industry partnership (Part A) to Federal operation of the program (Part B), the Secretary is required to make a determination that the flood insurance program "cannot be carried out" as a partnership, or would be "assisted materially" by the Federal takeover. Upon making a determination, the Secretary is required to report to Congress and state the reasons for the determination, supported by pertinent findings. To date, this has not been done. Interestingly enough, a HUD progress chart of September 13, classified "Administratively Confidential," lists the formal report to Congress to be "ready for Secretarial review" on September 15 and shows the report to be presented to Congress on October 5. Obviously, they have fallen behind that schedule.

Upon request of the chairman of the Subcommittee on Housing and Community Development, THOMAS L. ASHLEY, HUD testified on September 8 concerning this issue. At that time, the Department's witness was asked by the chairman, "You want to stay under part A if possible?" The response was "Yes, sir." (Part A is the Government-industry partnership.)

Unfortunately, the committee did not have a copy, at that time, of the HUD Inspector General's "Review of the Administration of the Flood Insurance Program—Summary," dated September 7, 1977, which the Department's witness referred to under questioning.

In that report the Inspector General stated:

> With the recent decision by the Department to implement Part B of the Flood Insurance Act, the bearing these areas have on the administration of the Flood Insurance Program has changed substantially.

(Part B is the Federal operation of the program.) Also, reports from the bidders conference, held on September 7 by HUD on the Request for Proposals to replace the NFIA, indicated that HUD would not give preference to a part A proposal vis-a-vis a part B proposal, all things being equal. This report is disturbing in light of HUD's response to the chairman.

With this sort of historical background, I feel it is necessary that there be congressional approval before a part B program can be implemented. From inception, through to this very day, Congress envisioned a risk-sharing, profit sharing arrangement between Government and the insurance industry, with the ultimate goal of having the private sector assume full responsibility for the program, with only a residual Federal involvement such as through reinsurance. This program design may well be destroyed if Congress does not act, or HUD does not alter its plans.

In this regard, I wish to thank Chairman ASHLEY for sending a strongly worded letter to HUD, advising the Department of the subcommittee's feelings on this matter. I cosigned that letter, and ask unanimous consent that it appear in the RECORD immediately following these remarks.

While I am pleased that HUD has reopened negotiations with NFIA, I am quite concerned by the fact that HUD, on October 5, entered into a $623,000 contract to provide for the transition from NFIA to a fiscal agent yet to be selected by HUD. In any case, I believe Congress should act on my bill as a safeguard against precipitous action by the executive branch, which is contrary to the clear intent of Congress.

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C., September 20, 1977.

Hon. PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MADAM SECRETARY: As you know, the Subcommittee on Housing and Community Development recently completed two days of hearings on the impasse that exists between the Department and the National Flood Insurers Association with regard to the renewal of the flood insurance program contract. We regret the fact that this dispute has reached the point that no further negotiations are ongoing. It seems clear to us that the legislative intent expressed in the National Flood Insurance Act is that a Part A relationship between the Department and a pool of private insurance companies is the preferred arrangement, with a government-operated Part B program available only if a working relationship with the private sector should prove impossible. This was recognized in the statements of HUD General Counsel Ruth Prokop and of the National Flood Insurers Association, as well as the numerous other witnesses that testified before the Subcommittee.

This dispute has been ongoing for almost 17 months and after these long negotiations the issues still have not been resolved. If, as Mrs. Prokop testified, the basic disagreements existed during the whole course of these negotiations, we are concerned that we were not advised earlier and on a regular basis as to the magnitude of these disagreements, particularly since the Department is now seriously considering going to a Part B program. If we had been so advised, perhaps we could have assisted in clarification of the issues involved.

We are extremely concerned with the Department's threat of going to a Part B program in which the Department would be administering directly the contracts of some 1.2 million insurance policies. The flood insurance program is burdensome enough without the Department running the day-to-day operations. Clearly a Part B program was intended only as a last resort and from the information available to us during the course of our hearings, we are not of the view that a case for abandoning a Part A program has been established. Furthermore, time will not permit the effective implementation of a Part B program before expiration of the NFIA contract this December. Therefore, unless we can be assured that the Department can put together an effective Part A program beginning on January 1, 1978, we would urge the Department to extend the contract for an additional 90–120 days to permit you to either resolve your differences with the National Flood Insurers Association or to come up with another workable Part A industry partnership arrangement.

Sincerely yours,

THOMAS LUDLOW ASHLEY,
Chairman.

GARRY BROWN,
Ranking Minority Member.

TWO TEXANS FIND SUCCESS

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILFORD. Mr. Speaker, too often in this Nation we tend to think of the "Great" American as being someone who heads a big corporation, someone frequently seen in starring roles, or someone from our national or State capital. Yet, the really great people are those leaders found in each community—the people that make things happen.

Community leaders may emerge in many forms. Some inherit wealth and keep family businesses going. Others follow the blueprint of the American Dream and work their way to the top.

Jim and Larry Coker are living examples to show that the American Dream can come true. As the article below will reveal, Jim and Larry started out in life as hourly workers in an assembly line plant.

I have been able to witness, first hand, the growth of Coker Aviation. Grand Prairie, Tex., is my home, Grand Prairie Airport is home base for my personal airplane, and Coker Aviation is the provider of hangarage and maintenance to support my flying habit. I have watched the two brothers as they struggled to progress from their two-man operation—out of the rear end of a pick-up truck—to the modest hangar and office facilities that house them today. The real secret of their success stems from the fact that, in the early days, they worked out of their pickup trucks. In their present times, they are continuing to work.

The Coker brothers—at least one of them—can be seen almost any hour of any working day at the Grand Prairie Airport. And every day is a working day on that airfield. Unlike most airports, which have the appearance of a combination junk yard and landing field, their operation has a clean-cut look that encourages good business and good flying. While either can handle any phase of their operation, Jim usually works in the office and gives flight instruction, while Larry runs the shop.

The Coker brothers leadership in Grand Prairie has turned a "loser" airport into a leadership enterprise. Whereas the city of Grand Prairie—owner of the airport—once had a red ink monster on their hands, the Coker brothers have turned things around and now employ 33 people as part-time or full-time workers.

More information about Jim and Larry Coker was published in the October 11, 1977, issue of Flight Line Times in an article that was written by Joseph Weisberg.

Mr. Speaker, I would like to include Mr. Weisberg's article in the RECORD:

TWO TEXANS FIND SUCCESS IN SMALL TOWN FBO

By Joseph Weisberg

They were at the right place (Grand Prairie, Tex.) at the right time (1968).

That's part of the success story for brothers Jim and Larry Coker. They backed into the fixed base operator business when very few airports had planes for rent or flight instruction available. Now they run an entire airport.

Back in 1968, the brothers were working as tool and die makers for Ling Temco Vought, west of Dallas. After work, they enjoyed flying their 1960 Tripacer based at Grand Prairie Airport.

When they were not flying the plane, friends borrowed it and paid for the flight time. Within months, the Cokers had an ever-increasing waiting list and had accumulated considerable rental fees. So they traded for a Cherokee 140. Soon, even more people wanted flight time, so they also bought a Cessna 150.

But the airport was suffering from a lack of finances and qualified personnel, and was in an administrative nose-dive. The Cokers first negotiated a lease and became part-time FBO's. Within a short time, they had five customers housing planes in their T-hangers, and had their own aircraft heavily booked for rental and instruction.

By 1972, the Cokers had accumulated sufficient cash and established a credit rating so that they could buy the entire airport operation. Since then, the brothers have been full-time FBO's and have established a record of accomplishments that is the goal (and envy) of many other firms in the business.

At present all their 40 T-hangars are rented out, and there are also 84 tie-downs outside. A large hangar houses twin-engine planes. Every conceivable service in maintenance, repair, engine overhaul and avionics is provided daily from 7 a.m. until 11 p.m. Jim Coker prefers to call it "dawn to dark aircraft servicing."

The 3,400 runway is sturdy enough for commercial aircraft to land. Unicom operates from dawn to dark and gasoline in grades 80 and 100 is available.

In recent years, the Cokers have been granted a Part 135 certificate for air freight runs, and they now use Cessna 402's on daily flights to Tulsa, Houston, San Antonio and Amarillo. There's also a banner-towing operation on the field.

They now have 15 aircraft in their fleet to handle any kind of instruction, rentals or charters. Their combined ground and flight school boasts nearly 40 students and four instructors.

In addition, Coker Aviation is a certified Cessna dealer and franchised ground school, and a dealer for Bellanca Citabrias and Scout agplanes.

The airport cafe, situated in the main office building, features truly delicious home-cooked platters. The dining area is large enough so that one can read, study or socialize without interfering with other diners. Leon Wood is the genial chef-owner. He opened the cafe in 1970.

The Experimental Aircraft Association is now building a hangar on the field, and the Cokers are active in the 120-member Dalworth Chapter of EAA. Their homebuilt plane project is a Starduster, now more than 50 per cent complete and scheduled for a maiden flight next spring.

The Cokers had previously worked and reared their families in Illinois and Missouri. As tool and die makers, they were employed by McDonnell Aircraft in St. Louis. The job opportunities at LTV, coupled with the warmer Texas climate that made for more good flying weather, provided the reasons for the move to Grand Prairie.

Larry, 36 years of age, and his wife Sandra have three daughters, Becky, Jamie and Lisa. Jim, 43 years young, and his wife Barbara have two girls, Debby and Cathy, and a son, Kelly.

Future plans of Coker Aviation include lengthening the runway to 4,000 feet and providing 30 more tie-downs and 14 more T-hangars.

At the rate they are going, the Cokers will soon be among the largest "small town" FBO's in Texas!

EXCLUSIONARY RULE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. COLLINS of Texas. Mr. Speaker, a challenging article was written by U.S. Circuit Judge Malcolm R. Wilkey of the U.S. Court of Appeals. In the Wall Street Journal of October 7, he wrote a full statement on the "Exclusionary Rule" on evidence. Today our country is working diligently to reduce our crime pattern. Judge Wilkey's conclusion is that either the Supreme Court or Congress should abolish this Exclusionary Rule. I agree and believe we should take this progressive action right here in this session of Congress.

Judge Wilkey gave excellent examples and support for this need. For brevity, I am quoting only a few summary paragraphs from the Wall Street Journal. I believe this logic is sound:

WHY SUPPRESS VALID EVIDENCE

(By Malcolm Richard Wilkey)

Among nations of the civilized world we are unique in two respects: 1) We suffer the most extraordinary crime rate with firearms, 2) In criminal prosecutions, by a rule of evidence which exists in no other country, we exclude the most trustworthy and convincing evidence.

These two aberrations are not unconnected. In fact, the "exclusionary rule" has made unenforceable the gun control laws we have and will make ineffective any stricter controls which may be devised. Its fetters particularly paralyze police efforts to prevent, detect and punish street crimes involving not only weapons but narcotics.

What is this "exclusionary rule" that permits a professional criminal to swagger down the street with a handgun bulging in his hip pocket, immune to police search and seizure? It is not required by the Constitution. The Fourth Amendment only forbids "unreasonable searches and seizures." The exclusionary rule is a judge-made rule of evidence which bars "the use of evidence secured through an illegal search and seizure."

When it was adopted in 1941 it was applied only to evidence seized by federal agents and offered in federal courts. In 1960 it was broadened to bar in federal courts evidence originally seized by state police; over which the federal government had no control. Finally, the ban was extended in 1961 to evidence seized by state officials and offered in state courts.

The impact of the exclusionary rule is that the most valid, conclusive and factual evidence is excluded from the jury. This rule produces a distortion of the truth. Irrefutable facts of decisive importance are forever barred

In exclusionary rules cases involving material evidence there is never any question of reliability. Reliability is in question, for example, with a coerced confession or a faulty lineup for identification. Exclusion of evidence is then proper because the evidence is inherently unreliable. But when a pistol or narcotics is found on a person the legality of the search cannot impair the truth of the physical evidence.

If the exclusionary rule had merit, surely at least one other country since 1914 would have followed our example. All have shunned it. The rule in all other countries—in England, Canada, Germany, Israel, for example—is that relevant evidence is admitted, whether obtained legally or illegally.

The exclusionary rule has been devastating to gun control laws. Unless a police officer has "probable cause" to make a reasonable search, nothing found during a search—no sawed-off shotgun, automatic pistol or submachine gun—can be introduced as evidence. Therefore, since it is virtually impossible to be convicted in the U.S. of carrying a weapon illegally, American criminals do carry guns and use them. Since police know they carry and use them, they engage in far more searches and seizures than in the countries mentioned above, and some of those searches and seizures are blatantly illegal.

There are proven workable alternatives to the exclusionary rule. Either the Supreme Court (which created it) or Congress can abolish it, and surely one or the other will do so.

MEDIA ADVERTISING EXPENDITURES OF FIVE MAJOR OIL COMPANIES: AN EXPENSIVE LOBBYING CAMPAIGN AGAINST CARGO EQUITY LEGISLATION—H.R. 1037

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MURPHY of New York. Mr. Speaker, there has been an incredible campaign of opposition to the cargo equity legislation—legislation which is clearly necessary and clearly in the public interest. It is good legislation, well

drawn and designed to maintain an effective American merchant marine.

Opposition to the bill comes from two major areas: The big oil companies and the foreign-flag fleet lobbyists, both of whom would be directly affected in that their enormous profits and tax advantages would be slightly lessened. Since these opponents were unable to defeat the bill on its obvious merits, they have taken their high-powered, highly financed attack to the media to surround the legislation with misinformation, suspicion and controversy.

I want to show just how wrong they are.

I previously circulated to each Member of the House, and to all the media, a 26-page "dear colleague" letter which outlined most of the charges and the responses dealing with each. But the Congress does not have the advertising budget enjoyed by the oil companies and other lobbyists, which sometimes makes it difficult to be heard above the din of the massive propaganda campaign to misinform the public and the Congress.

Multinational oil companies oppose the legislation because without it, they can rely on cheap, unsafe tankers with equally cheap, poorly trained foreign crews, and avoid the payment of up to $140 million in U.S. taxes every year.

The cold truth of the matter is that we cannot afford to entrust the transportation of virtually all of our oil imports to foreign ships and foreign crews who could not care less about the national security or economic welfare of the United States.

We presently import over 50 percent of our oil needs, and 97 percent of that arrives in foreign-flag vessels over which we have no control. We cannot rely on those vessels in times of national emergency or, for that matter, at any time, a fact displayed by the 120-mile oil slick deposited when the *Argo Merchant* ran aground. May I also point out that Liberian President Tolbert, in disagreeing with our objectives during the Middle East war, simply ordered U.S. tankers flying the Liberian flag not to go to the Middle East.

Cargo equity legislation is supported by everyone from the President of the United States, the House Merchant Marine and Fisheries Committee, the Secretary of the Navy and the Maritime Administration, to the Veterans of Foreign Wars, the U.S. conference of mayors, the Navy League, the American Legion, and the NAACP. Such a broad base of support does not come to bad legislation.

I have attached a copy of the documentation of the multitude of dollars spent by the big oil lobbyists who have actively opposed the legislation. I recommend that each Member who wishes to know just where the newspapers—the molders of public opinion—derive their income from, study this carefully. We should be aware of the source of opposition to legislation:

STATEMENT OF MEDIA ADVERTISING EXPENDITURES OF THE FIVE MAJOR OIL COMPANIES WHO OWN 80 PERCENT OF THE FOREIGN-FLAG FLEET

For several years, the major oil companies have been spending great amounts on media advertising. Mobil, Exxon, and Shell have been among the Nation's top 100 advertisers, and Gulf and Texaco have also had large advertising budgets.

Advertising age, a national journal serving the advertising industry, publishes annually the advertising expenditures of the top 100, and these figures are very revealing. Over the past few years, Mobil has traditionally been the advertising leader among the oil companies. In 1975, it spent $35.9 million on advertising in all media; and in 1976, it maintained the pace, spending some $36.5 million. If its overall pace remained the same, Mobil's pace in newspaper advertising did not. In 1975, it spent $3.7 million on newspaper advertisements; in 1976, this figure dramatically jumped to $5.7 million.*

Exxon has been in second place and has been moving up fast. In 1974, it spent some $23.9 million on advertising in all media. In 1975, it increased its advertising expenditures substantially—to $30.2 million. This was an increase of approximately 20 percent. In 1976, it closed further on Mobil's lead—increasing its advertising expenditures by 6 percent to $32 million.

Shell has been third. In 1974, it spent approximately $18 million; and in 1975, almost the same—$18.5 million. But last year there was a significant increase—by 13 percent, to $21 million.

All this way seem normal if we think that the major oil companies are competing amongst themselves for a larger share of the domestic market for petroleum products. But the fact is that the major portion of these expenditures has not been for product advertising.

It has not been designed to sell gasoline or engine oil. The major portion has been spent for corporate advertising—advertising designed to improve the particular company's image, on environmentalism, and on economic and legislative issues of concern to the company.

In 1976, for example, Exxon devoted almost $21 million to corporate advertising. In that same year, it spent only about $800,000 on the advertising of gasoline products. Mobil, on its part, has devoted a very large share of its advertising budget to "idea" or "op-ed"-type advertisements.

One of the targets of oil company advertisements has been a bill that will soon be on the House floor—the bill to modernize the Outer Continental Shelf Lands Act of 1953 in order to promote the rapid, efficient, and environmentally safe development of offshore oil and natural gas. These major oil companies, including Gulf and Texaco, are also bitterly opposed to the Cargo Equity bill. Why? Because they themselves own large foreign-flag tanker fleets. In all, they have foreign-flag fleets totaling 416 (80 percent of the total) vessels with a deadweight tonnage of 44.9 million.

The advertising expenditures I have mentioned represent all media, and I have cited them to give an overall impression of the large amounts spent on corporate advertising by the major oil companies to achieve their ends. It is even more instructive to take a somewhat microscopic look. The Committee on Merchant Marine and Fisheries has obtained from a national organization that specializes in compiling statistical information on newspaper advertising expenditures, estimates of the amounts spent by all oil companies on advertising in two newspapers—the New York Times and the Washington Post. The period covered is the years 1974–1976 and the first eight months of 1977. Over this period, Mobil, Exxon, Gulf, Shell, and Texaco spent almost $6,000,000.00 in these two leading newspapers alone[1] and all this money was spent on corporate advertising—to sell the companies' point of view on environmental, economic, and legislative issues. Much of it was designed to influence the course of legislative events in Congress.

In all, the five major oil companies I have been talking about spent almost $4,000,000.00 on corporate advertising in the New York Times and $1,000,000 on corporate advertising in the Washington Post during this period. These are large revenues, and the newspapers are fully aware of this fact. Has it influenced their position in their editorials and in the way they write about legislation like the Cargo Equity bill? This is a large and serious question, and no one can answer it categorically.

There has been much criticism by the New York Times of the fact that members of the Committee on Merchant Marine and Fisheries, myself included, have received political contributions from persons identified with the maritime unions and shipping companies. The Times makes a simple mechanical connection—that the contributions have dictated our favorable position on the Cargo Equity bill. It disregards the fact that we have received contributions from others, such as representatives of the oil industry, who are opposed to the bill. If a contribution means a favorable vote, why have we not voted the position of these other contributors? And the Times refuses to recognize that these are some very strong arguments—economic arguments and arguments of national defense—in support of the bill.

In a matter like the Cargo Equity bill, where the issues are so complex, I think it is simplistic to make the kind of mechanical connection that the Times makes. But if it is logical for the Times to do so, as it claims, the logic works both ways. It suggests that the New York Times may also act out of its own economic interest—that the Times may be heavily influenced in its coverage of the Cargo Equity bill by the millions of dollars it received in advertising payments from the five major oil companies with large investment in foreign-flag tankers. If true, this is a very serious charge. It is a charge, of course, that no one can prove or disprove. But I think we are entitled to weigh what the Times, and the Washington Post say about the Cargo Equity bill in the light of their known economic interests—preserving the flow of advertising dollars from Mobil, Exxon, Gulf, Texaco, and Shell.

*Of this amount $925,373 or 16 percent of the total was spent in just two newspapers, the *New York Times* and the *Washington* Post.

[1] *Media Records* of New York.

LABOR-MANAGEMENT COOPERATION: A DEMONSTRATION

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LUNDINE. Mr. Speaker, on Tuesday, October 18, 1977, at 4 p.m. there will be a videotape showing in room 2222 of the Rayburn House Office Building featuring participants in labor-management cooperation and quality of working life projects across the Nation.

Labor management cooperation which focuses on improving the quality of working life and increasing the participation of workers in the decisionmaking process represents an exciting approach to economic development. This presentation offers an excellent opportunity for interested persons to learn by hearing directly from labor and management representatives.

As an example of the diversity and potential of such programs, I have attached a list of the participants in the 1977 Conference of the American Quality of Work Center which produced this videotape demonstration. Representatives of these industries and unions will be featured in the presentation:

MAY 1977 CONFERENCE PARTICIPANTS

1. American Store Equipment Company, United Brotherhood of Carpenters and Joiners of America, Muskegon, Michigan.
2. AMSCO, International Association of Machinists and Aerospace Workers, Jamestown, New York.
3. Dahlstrom Manufacturing Company, Inc., International Association of Machinists and Aerospace Workers, Jamestown, New York.
4. Eaton Corporation, United Auto Workers, Cleveland, Ohio.
5. Falconer Plate Glass Company, Ceramic Workers of America, Jamestown, New York.
6. Fisher-Body Division, General Motors Corp., United Auto Workers, Grand Rapids, Michigan.
7. Harman International, United Auto Workers, Bolivar, Tennessee.
8. H. J. Heinz, Amalgamated Meatcutters and Butcher Workers of America, Pittsburgh, Pennsylvania.
9. Minneapolis Star Tribune, Newspaper Guild of the Twin Cities, Minneapolis, Minnesota.
10. Mount Sinai Hospital, New York State Nurses Association, National Union of Hospital and Health Care Workers, Committee of Interns and Residents, New York, New York.
11. Nabisco, Inc., Bakery and Confectionary Workers International Union, International Brotherhood of Electrical Workers, Houston, Texas.
12. School District 281, Robbinsdale Area Schools, Robbinsdale Federation of Teachers, Minneapolis, Minnesota.
13. Rushton Mining Company, United Mine Workers, Philipsburg, Pennsylvania.
14. City of San Diego, American Federation of State, County, and Municipal Employees, San Diego, California.
15. City of Springfield, American Federation of State, County, and Municipal Employees, Springfield, Ohio.
16. Tennessee Valley Authority, TVA Engineers Association, Office of Professional Employees International Union, Chattanooga, Tennessee.
17. Weyerhaeuser Company, International Woodworkers of America, Springfield, Oregon.

IMPROVING HEALTH INSURANCE FOR THE FEDERAL EMPLOYEE AND RETIREE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. HARRIS. Mr. Speaker, today I am introducing a bill to make health care more accessible to Federal employees and retirees. My bill would increase the Federal Government's contribution to the employee's and retiree's monthly insurance premium from the current 60 percent to 75 percent. This 25 percent increase, I believe, will make the cost of health care easier to bear for the Nation's 2.8 million Federal employees and 1 million retirees and will help make the U.S. Government, as employer, more competitive with private industry.

OVERHAUL OF PROGRAM NEEDED

The Federal health insurance program needs an overhaul. Health insurance is an important employment benefit attracting a job-seeker to a job. The Government's current 60 percent contribution to monthly health insurance costs, I believe, is sadly lagging behind the trend in private industry.

INDUSTRY WAY AHEAD IN PAYING FOR HEALTH CARE

In the United States, 68 percent of the insurance programs offered by private industry are fully financed by the employer. For example, IBM, American Airlines, and General Electric pay the total cost of health insurance for both employees and retirees. United Airlines pays the full cost for the employee, and under United's plan, the retiree over 65 pays only $3 a month. Similarly, at Time, Inc., the retiree pays only $1.25 per month. At Safeway Stores, Inc., a major grocery chain in the Washington, D.C. area, the worker contribution averages $10 a month.

EMPLOYEE, RETIREE PAY MORE THAN HALF

The Federal employee and retiree frequently pay more than half the monthly premium for their health insurance, even though "on paper" the Federal contribution is 60 percent. The way the program works, the Federal Government, as employer, contributes 60 percent of the average of the top six health insurance plans with the most participants. Thus, the Government's share of the cost is not a straight 60 percent of the cost of each plan, as most participants believe. Hopefully, by raising the employer's contribution to 75 percent the employee's contribution will be more equitable to that of his counterpart in private industry.

HEALTH CARE COST INCREASES MUST STOP

The cost of health care and health insurance has seen unprecedented jumps in recent years. Nationally, the medical care price index has almost doubled. In the Washington area, it has been going up 10 percent a year, since 1974.

The cost of health care in the Washington, D.C. area is particularly acute. In 1974 the medical care price index was 150.5 for the country, but 161.1 for the Washington area. In 1976, the same trend existed: 184.7 nationwide, 197.6 in Washington.

Since 1950, the cost of a day in the hospital has escalated astronomically—more than 1,000 percent, over eight times the rise in the consumer price index. Twelve years ago, the average hospital stay cost less than $300; today that figure is a whopping $1,300. This year, health care will cost an average of $700 for every man, woman and child in the country. Private health insurance premiums rose 15 to 20 percent last year. According to HEW, the average American must work more than 1 full month to pay for a year's health care. It takes 2 weeks' wages to cover average annual hospital costs along. For the retired person, living on a fixed income, health care costs are a big slice of the budget.

FEDERAL PROGRAM, COSTS UP TOO

The total health insurance premiums in the Federal health insurance program have skyrocketed in recent years. In 1970, the total monthly premium for the Blue Cross-Blue Shield high-option family plan was $38.33. In 1976, that figure was $93.45, a 144 percent jump. The employee who in 1974 paid $15.30 a month for Blue Cross health insurance is paying $21.52 in 1977, a 41 percent rise. Similiarly, under the Aetna high-option family plan, the monthly premium in 1970 was $44.94; in 1976 it was $83.33, a 34 percent increase.

THE NATION'S HEALTH: A NO. 1 PRIORITY

Rising health care costs—a doubling every 5 years—is a devastating trend that we must stop. Initiatives like President Carter's Hospital Cost Containment Act and national health insurance must be explored. Sooner or later we have to stop this "hidden tax" on health care. Adequate health care should not be a luxury in one of the most progressive nations of the world. It is a disgrace that 38 million have no surgical insurance. We cannot let the Nation's health take a back seat. I will work to see that the 95th Congress acts affirmatively and promptly to alleviate this very critical problem, a sore in the Nation's economy and cancer in the family budget.

SWISS CIVIL DEFENSE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WHITEHURST. Mr. Speaker, I am pleased to bring to the attention of my colleagues an article by Richard F. Janssen which appeared in the Wall Street Journal today. It provides a remarkable insight into the civil defense program of the Swiss Government.

A handful of us in the House have tried to sound the alarm and make clear the need to make preparations in the event of a nuclear holocaust here in America. I am not suggesting that the United States adopt in toto the Swiss plan. What I do think is significant is the fact that one of the smallest nations in the world should devote such a large portion of its resources to counter a threat that it regards as very real. The Swiss obviously intend to survive a nuclear exchange, and they are clearly serious about the business of protecting themselves.

On the other hand, this year, the Congress appropriated approximately $90 million for our civil defense program, a sum so relatively insignificant that it is equally clear that we are not serious. The contrast between the Swiss effort and our own is truly striking, and I would urge my colleagues to pay it careful heed.

[From the Wall Street Journal, Oct. 17, 1977]

AN ALTERNATE WORLD, UNDERGROUND: SWISS CIVIL DEFENSE SETUP; PROTECTION FOR ALL MANDATED IN A $3 BILLION PROGRAM KEYED TO "A MODERN WAR"

(By Richard F. Janssen)

OSTERMUNDIGEN, Switzerland.—Outside this Bern suburb's newest public school, a mysterious ramp leads down to a pair of huge red doors, which open into a vast underground fortification—the headquarters for 130 rescue workers and their full equipment, ranging from uniforms and shovels to trailer-mounted fire engines.

Beyond is another set of red doors, opening into a shelter that can accommodate 150 persons. Adjacent, also underground, is a 276-bed hospital, complete from forceps to a nurses' quarters.

Switzerland, the most pacific of nations, is energetically digging in for the nuclear holocaust or lesser conflagration that might be triggered by more bellicose countries. This nation of 6.4 million persons is in the midst of a civil defense effort ranked as by far the most ambitious in the Western world.

If nuclear war broke out today, some 50 percent of the population would have places in "really modern, well-equipped shelters," and older shelters would accommodate another 25 percent, says Hans Mumenthaler, the crew cut, 49-year-old national director of civil defense.

SAFETY BY 2000

If the holocaust can be postponed until the year 2000, so much the better. The government is obliged by law to have facilities by that time to protect the entire population "against the effects of a modern war," Mr. Mumenthaler asserts. By that time, he says, the current shelter program, launched just after the 1962 Cuban missile crisis, will have been completed at a cost to the taxpayers of about $3 billion.

The drain on the individual goes beyond his tax bills. Generally, any time a home or apartment house is built or even remodeled, the owner must provide shelters up to exacting federal standards and pay half the cost himself (with various government bodies picking up the rest). The extra construction typically costs almost $3,000 for a family of four. Similar rules apply to such public buildings as factories, offices and hotels.

Nor is money the only burden on the public. Civil defense training is mandatory for some 420,000 Swiss men. This includes those aged 20 to 50 who are unfit for the universal military training done by other males. These civil defense aides do five days of training in their first year and two days each year thereafter at a network of 55 camps and nearly 1,900 local centers. The program also includes men who have done their military training and who then must do 10 years in civil defense.

DISSUADING OUTSIDERS

Is all of this undue alarmism? The Swiss don't think so. Partly, it is neutral Switzerland's way of offsetting its lack of defense alliances and nuclear deterrents. By showing potential enemies that the Swiss are deadly serious about defending their little country, the program should have "a dissuasive effect" on any aggressor, Mr. Mumenthaler explains.

The fighting in any conventional war would be "inside our own borders," he reasons, so the shelters also would reassure Swiss troops about the safety of their families. And even if Switzerland wasn't attacked, he says, "A cloud of fallout will not consider whether we are neutral." Officials point out that in World War II neutrality didn't spare Swiss from being slain on their own soil in apparently accidental air raids, warplane crashes and ground skirmishes.

The massive shelter-building programs reported to be underway in both the Soviet Union and China give the Swiss additional impetus for thinking their own program makes sense.

Not all are persuaded that it is necessary. There are critics and scoffers. "This country prepares for everything, including an attack from the man on the moon," says a banker laughingly. And a journalist, noting that this country is a favorite repository for foreign lands, jibes, "Who would bomb his own money?"

To protect the program from anti-military sentiment and budget cuts, it has been made part of the department of justice and police. Also, officials have convinced the parliament that having hospitals and other facilities underground could be helpful in natural disasters such as earthquakes and industrial catastrophes, too, such as any future accident at a nuclear power station or the factory exposion that spread poisonous chemicals last year in nearby Seveso, Italy.

Several Scandinavina countries also have ambitious civil defense programs, but the proportionate outlays are much greater here, notes Milan M. Bodi, secretary general of the Geneva-based International Civil Defense Organization.

The Swiss have ruled out the relatively cheap approach of mass evacuation, he explains, figuring they lack the space and might well lack the time, too. Moreover, the Swiss do make active use of their civil defense forces in peacetime, as in avalanches and doing auxiliary work at major fires.

The underground facilities at the heart of the Swiss program naturally are kept inconspicuous. Here in Ostermundigen, a passerby wouldn't suspect anything out of the ordinary about the wide green playing field adjoining the school. But the gray cement ramp at one edge leads to another world beneath: clean, quiet and snug, but strangedly chilling.

"We could stay for two weeks without any help from the outside," proudly says Arnold Haehlen, the suburb's gray-smocked chief civil defense engineer. Exemplifying the priorities, he is one of three full-time CD people on the town hall staff of only 20.

If outside power supplies failed, a generator would switch on, tapping 2,200 gallons of fuel oil. If radiation or poison gas clouds spread across the outside world, double airlock doors and an elaborately filtered ventilation system would keep the air pure below. Some 55,000 gallons of water would allow for such frills as dishwashing and showers. If the internal generator failed, pumps for toilet waste would be worked manually.

The hospital is the most elaborate feature, and perhaps the eeriest; in a labyrinth of wards, there are seemingly endless rows of double-decker beds, each with a thin olive drab mattress, neatly folded brown blanket with a red stripe, shiny aluminum chart holder and zipper bag for personal toilet articles—all empty, and waiting—reminiscent, somehow, of a well-kept military cemetery.

Each bunk is set in a cream-colored tubular metal frame, bolted down so that shock waves from, say, a second nuclear blast, wouldn't topple victims of a first one to the thick concrete floor. A special handcranked forklift truck can ease each mattress out of the frame, for moving a patient to the intensive-care unit or the operating room.

It, too, is ready for anything, with surgical masks and instruments at hand, and a third electrical system to keep the powerful light over the operating table going if both outside and central shelter power fails. Nearby are offices for two doctors, nurses' quarters (with distinctive plaid pillows), sterilizing equipment, stockpiles of bandages, medicines, oxygen and anesthetic gas cylinders, a pharmacy, kitchen, laundry, and a morgue.

The hospital, built along with the school two years ago, isn't a rarity. Many regular hospitals have been ordered to duplicate themselves below ground, and, to provide practical experience, some willing patients already have undergone operations underground. By the time the program is complete, the authorities intend to have 150,000 subterranean hospital beds—a staggering total nearly four times the 40,000 beds in conventional Swiss hospitals now.

Officials admit that that may sound like overkill, conceding also that the program helps the construction business and supports a mini-industry in specialized shelter accessories (in scattered stockpiles, there already is a gas mask for every man, woman and child). But they counter that modern wars are getting harder on civilians; while there was only one civilian death for each 20 soldiers killed in World War I, the ratio swung to 13 civilians for each soldier dead in Vietnam, they say, estimating a 100 to one ratio in a nuclear war.

For Swiss families living in newer (post-1962) homes, reminders of what could happen are no farther away than the basement. At number 7 Unterdorfstrasse (by coincidence, that translates into Under Village Street) here, the door to the storage area of the three-story garden apartment house resembles that to a Bank vault—it is gray iron filled with reinforced cement, a standard eight inches thick.

Behind the door, storage lockers for each of six families take up most of the space. They are made of standardized wood slats that could be fashioned into crude beds "within 24 hours," explains Gottfried Peter, a federal CD official. Typically, the shelter is equipped with three regular and three chemical toilets, two decontamination showers, double air-lock chambers, a valve to release blast pressure, a small emergency light, and chemical warfare electric air purifiers, which can be hand-cranked if necessary.

The ceiling is 14 inches thick, or twice normal basement standards. But in case a direct hit crumbles the building anyway, there is a cylindrical tunnel leading to an escape hatch in the lawn, just beyond the likely area of rubble. Officials don't insist that home shelters be stocked with food, although they recommend it, and local building inspectors assure that there is no skimping on the construction.

Despite this country's penchant for lean government, the program still is growing. full-time CD staff has more than doubled in the past five years to over 1,600, and plans are afoot for a corps of follow-up shelter inspectors, as well as for ending the shelter exemption for new houses in towns of under 1,000 people. When enough command posts and the like are built, officials would like to boost the ranks of volunteer women CD workers to 80,000 from the present 25,000, Mr. Mumenthaler adds.

Even so, authorities don't assume that people would simply be able to emerge into the same snug world they enjoy now. As part of their down-to-the-last-detail planning, they have provided each household with a hefty red handbook covering all eventualities, including how to get along with an occupying army while discreetly preparing for a guerrilla war against it. "We are a peaceful country, but we nevertheless have to realize we are not alone," says Mr. Mumenthaler.

EXTENDNG TERM OF U.S. REPRESENTATIVES

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. STEERS. Mr. Speaker, I have introduced today a joint resolution to

amend the Constitution of the United States to lengthen the term of Members of Congress to 4 years. I do this to counter the current tendency of members of this venerable body to spend too much time politicking when we should be legislating.

At present, a representative in Congress scarcely takes his seat in the House before he must once more take his case to his constituency.

Yet, our paramount purpose should be to work for our constituents, not merely to win votes from them.

The Founding Fathers who created the 2-year term believed that this would force Representatives to be fully accountable to their constituents. No doubt Members of the House are forced to be responsive, but can they also be effective?

Could those who devised the 2-year term ever have imagined legislation as complex as the energy bill this House recently considered? How often does important legislation die in one Congress because there was insufficient time to make a wise evaluation of the issues raised?

In the Federalist Papers, Madison contends that frequent elections are unquestionably the only means by which "dependence and sympathy" with constituents can be effectively secured. But his was an age prior to 20th century achievements in transportation and communications. At that time, the most remote districts in the farthest States of the Nation were days away—not hours, as is the case today; it was not a time when Congressmen could remain in constant communication with staffed field offices. Many of my constituents have voiced their belief that the 2-year interval between elections that Madison found proper in 1787 is just too short.

Madison himself described the sources of knowledge prerequisite to making wise decisions. "Some portion of knowledge may, no doubt, be acquired in a man's closet; but some of it can only be derived from the public sources of information; and all of it will be acquired to the best effect by practical attention to the subject during the period of actual service in the legislature." It is true that we cannot remain isolated from those whom we represent, and the proposed 4-year term will not isolate us from these people. We need only to isolate ourselves from unproductive activity; from empty promises, vague assurances, responding to constituents' criticisms with: "I was unable to accomplish this for you this term, but if you put me back for another one, I will do it then." Four-year terms would bring us closer to our electorate, not—as some would believe—farther from them. In 4 years they will be able to better judge their representatives and make a wiser selection at the polls. Madison said:

> Representatives need habitual recollection of their dependence on the people . . . (so that) they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

These are wise words, especially in light of the 4-year term proposal. Representatives would become more responsive to their constituents needs, rather than their passing moods.

Thus, I have joined several of my distinguished colleagues in attempting to extend Representatives terms to 4 years. Altogether there have been six resolutions introduced this Congress to lengthen the term and five in the 94th. Indeed, we have been debating this issue from the first Constitutional Convention.

For such a bill to pass, it must have the consent of the Senate. Obviously the Senate would oppose such legislation if they feared that it would allow Representatives to run for Senate seats in a year in which the Representative is not required to run for election. My bill takes this into account, and it provides that any Representative seeking election to the Senate must forfeit his seat in the House of Representatives (his term would expire on January 3 of the year following the Senate election).

My legislation also has a unique provision in the congressional elections would not coincide with Presidential elections. I think that this provision is important since it will insure that congressional candidates campaign on their own merits rather than their association with a Presidential candidate.

Mr. Jennifer argued at that first Convention that too-frequent elections rendered the people indifferent to them, and made the best men unwilling to serve in Congress for so short a period. Madison spoke to the same effect and argued that 3 years would be necessary in a government as extensive as ours (and this in 1787), for the members to acquire any knowledge of the various interests of the States. These words could not ring truer today, when we must deal with voter apathy, ineffectual leadership and government, a complicated governmental structure, and issues with so many ramifications.

In 1966, when President Johnson proposed reform similar to what I have introduced today, Gallup found that 61 percent of the American people were in favor of extending Representatives terms to 4 years. Since there has been support in this Congress and among the American people for such a proposal for some time, it warrants serious consideration and investigation.

COAL GASIFICATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. CARTER. Mr. Speaker, two gentleman visited me in my office this morning to discuss the development of their coal gasification system in South Africa.

Mr. Carl Noffke and Mr. Piet Gerber from the South African Embassy had the greatest enthusiasm about coal gasification which is being used in their country with great success. Actually, 8 percent of that country's oil needs are currently met by gasification of coal with predictions that by 1980 South Africa will make 40 percent of its motor fuel from its own coal at competitive prices.

In the past, South Africa's reliance on foreign sources of energy has spurred them to welcome the "second renaissance of coal."

As you know, for many years I in this great body have tried to get my colleagues to make haste on increasing the use of our abundant coal to meet our energy needs. In a time when we find that our oil and gas supplies are decreasing at a rapid pace and we have become so dependent on unstable foreign energy supplies it is imperative that we use more coal.

President Ford urged the American people to become energy independent and now, in the Carter administration, the call has again gone out to the people that we must take heed of the present situation and find alternative energy sources. The consequences of not doing so have been all too often enumerated but with too little results.

Coal, Mr. Speaker, is the greatest known energy resource that the United States possesses yet much of its sits idle in the Earth's depths. It is time to begin to consider a second renaissance of coal here in the United States. We must pay attention to more efficient and economical ways of processing and burning coal and coal gasification and liquefaction are just such processes.

Mr. Noffke and Mr. Gerber left with me a report on the state of their country's experience with coal gasification. It is a very fine report and I wish to insert it into the RECORD. The report will be in two parts. Part one follows.

OIL FROM COAL—AN ENERGY ALTERNATIVE

INTRODUCTION

The population of the Republic of South Africa constitutes only 6 percent of the total population of Africa. Its area constitutes only 4 percent of the total area of Africa.

Yet South Africa is the undisputed industrial giant on the continent of Africa. It accounts for 42 percent of Africa's industrial output, 25 percent of the total gross national product of Africa, 90 percent of total steel production, and 50 percent of all electricity generated. South Africa also consumes 68 percent of Africa's energy requirements.

With 80 percent of Africa's total known coal reserves, it should come as no surprise that South Africa is also a pioneer in the field of coal gasification.

As an alternative energy source, together with nuclear energy, coal gasification merits careful consideration. The U.S., largest energy user in the world, dependent upon outside sources for nearly 30 percent of total local energy consumption, cannot afford to neglect any alternative energy source. Imported oil costs the country about $3 billion monthly, while vast coal reserves lie nearly untapped within American soil.

Since 1955 South Africa has been producing gasoline and other oil products profitably from low grade coal. By 1980 the country will make 40 percent of its motor fuel from its own coal at competitive prices.

The United States of America is not only the world's largest energy user, but also the world's largest energy importer. America's monthly oil import bill is well in excess of $3 billion and foreign oil constitutes nearly 50 percent of total local consumption. It is clear that alternative energy sources will have to be considered as part of any energy program the U.S. adopts.

A plausible alternative is coal gasification. America possesses vast, relatively untapped coal reserves which could, together with nuclear energy, meet the ever increasing demand for energy.

The U.S. pays billions of dollars monthly for foreign oil and can only benefit by considering the coal gasification process as a source for future energy needs.

South Africa has been producing gasoline and other oil products profitably from low grade coal since 1955. By 1980 the country will make 40 percent of its motor fuel from its own coal at competitive prices.

SASOL—PART I

What is Sasol?

The popular answer to this question is that it is South Africa's oil-from-coal project. But Sasol is many other things as well. It is the main supplier of feedstocks to the nation's chemical industry. It also supplies pipeline gas to the densely populated and industrialized region of the southern Transvaal, whose most important resources are the water of the Vaal River and the coal along its banks. Sasol plays a major part in the country's hunt for oil and natural gas, and in stockpiling imported crude oil. It is also one of the most outstanding technical achievements in the world.

With no known oil reserves of her own, South Africa had always been interested in the possibility of producing oil from her relatively large deposits of coal. So when, in 1925, the research work of the German scientists, Frans Fischer and Heinz Tropsch, had shown conclusively that liquid fuels and chemicals could be produced when gas derived from coal was passed over a suitable catalyst, the economics of potential oil-from-coal processes began to receive dedicated attention in South Africa.

A White Paper on the subject was published in 1927, and when the Germans started to apply the Fischer-Tropsch process industrially in the early thirties, South Africa established a plant for the manufacture of motor spirit from an indigenous raw material, oil-shale. The oil-from-shale project was launched by the Anglo-Transvaal Consolidated Investment Company, called Anglovaal for short, which is a South African mining house. The plant produced small quantities of petrol until 1959, when the shale ran out.

But Anglovaal had also acquired the South African rights to the Fischer-Tropsch process with a view to applying it to the coal which occurred in association with the shale deposits. Progress on this project was interrupted by the outbreak of the second world war, however. In the meantime, and during the war, the Americans were developing an alternative application of the Fischer-Tropsch principles, and at the end of the war Anglovaal also came into the possession of the rights to this American recipe.

The company then officially expressed its desire to proceed with an oil-from-coal plant and applied to the Government for the necessary transport and fiscal structure which would make such an industry possible. This resulted in a license being issued to Anglovaal for the production of oil from coal, in terms of the Liquid Fuel and Oil Act of 1947.

But as a result of devaluation and the demands upon capital resources by the developing Free State gold fields, Anglovaal was forced to solicit financial assistance from the Government. After thorough investigation of the commercial viability of the proposed project, it was agreed that the rights to the coal deposits, land and processes should be taken over from Anglovaal and that a company, financed by the Government, should proceed with the plan.

Consequently, the South African Coal, Oil and Gas Corporation Ltd., better known as Sasol, was incorporated in 1950. It was decided that this company should be run as an ordinary commercial company and be subject to the same tax laws and the Companies Act, rather than be incorporated by an Act of Parliament.

With the erection in 1952 of the oil-from-coal plant at Sasolburg, just south of the Vaal River in the province of the Orange Free State, something new was added to the South African industrial scene. In size and complexity, and also in cost, it set fresh standards for a single project built from grass roots. The plant complex included several entirely new process units, such as the biggest oxygen plant and the largest coal gasification system the world had seen until then. The coal production of a complete new mine was required to feed this factory.

Sasol chose the Lurgi pressure gasification system instead of the old water gas generators used in the Fischer-Tropsch plants in Germany during the war. This unit, consisting of 13 huge steel vessels, or gasifiers, produces the gas from which hydrocarbons, such as petrol, are recovered. The gasification is achieved by burning the coal under pressure and in the presence of steam and oxygen. Apart from the synthesis gas, which is a mixture of hydrogen and carbon monoxide in specific proportions, various other products emerge from the gasifiers, such as ammonia and creosote.

The crude synthesis gas is then fed to a gas purification plant where unwanted components are removed. This unit is the prototype of a very successful gas purification system which has by now found application all over the world.

Sasol operates two different Fischer-Tropsch synthesis systems in parallel. Both were adopted from the pilot plant stage.

In one of them, the so-called Synthol process and of original American design, a powdered catalyst is swept along by the gas stream. Initially this unit refused to work as it should, but after a new catalyst had been developed, better operational procedures introduced and plant modifications effected, it proved to be the most effective process known for the production from coal of the lighter petroleum products such as liquefied petroleum gas, motor fuels, and chemicals like alcohol and acetone.

The other synthesis process is of German design and called the Arge process, from the word "Arbeitsgemeinschaft", meaning the consortium from which the design was bought. The two to three tubes per reactor of the pilot plant were multiplied to 2,000 at Sasol. In this process catalyst granules are packed into a fixed bed in the reactors, which produce mainly high boiling point materials, consisting of waxes, diesel oil and smaller amounts of petrol and chemicals.

The unique combination of the two processes yields virtually the full range of products normally derived from crude oil, in addition to a number of others usually manufactured in petrochemical plants. Furthermore, these processes provide the raw materials for the manufacture of nitrogenous fertilisers, synthetic rubber and plastic materials.

But, perhaps the most important Sasol product is the town it has spawned. Called Sasolburg, it has a population of 35,000. It is situated 80 kilometres south of Johannesburg and enjoys the healthy climate for which the country's highveld is renowned.

The most modern planning methods were employed in the development of the town. One of its finest features is its "green zones" in the residential areas, which serve as parks and playgrounds and are so laid out that children can walk along them to their schools.

In addition to the well appointed Sasol recreation club, with its associated sporting and cultural societies, the town's recreational amenities include a modern athletic stadium with a Tartan track, a heated Olympic standard swimming pool, cinemas, and a civic theatre. The nearby Vaal River is a fishing and an aquatic sports paradise.

The Sasol enterprise, which has acquired nicknames such as "the industrial whizz kid of South Africa" and "the queen of South African industries", was awarded the coveted business achievement award for 1975 by the Johannesburg paper, the Rand Daily Mail. Sasol also commemorated its 25th anniversary last year. Until then it had won no fewer than 48 national safety awards.

SECRETARY OF NAVY CONCEDES IGNORANCE ON CARGO PREFERENCE DECISION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McCLOSKEY. Mr. Speaker, the recently published print of the hearings before the Subcommittee on Merchant Marine of the Merchant Marine and Fisheries Committee on H.R. 1037, the Cargo Preference bill (serial No. 95–11), contains an omission and distortion, which appears both deliberate and misleading.

H.R. 1037 was the subject of 8 days of hearings before the Merchant Marine Subcommittee during the months of March through August 1977.

It was not the subject of a hearing before the full committee on July 13, 1977, which was called to consider the impact of tanker construction on Navy shipbuilding needs.

The notice of the hearing, dated July 7, 1977, stated that the hearing was before the full committee and the subject of the hearing would be, "open oversight hearings on Navy shipbuilding needs." Committee Chairman MURPHY emphasized the subject matter of the hearings when he stated in his opening remarks:

> The Committee would like to know the precise impact additional tanker construction will have on Navy shipbuilding requirements, and whether the shipbuilding industry is adequate as a mobilization base.

I have asked for this hearing in recognition of the importance of Naval construction to the shipbuilding and repair industry, and because national defense requirements must have top priority.

During this hearing, however, Secretary of the Navy W. Graham Claytor included in his prepared statement some comments on cargo preference, and answered a number of questions relating to cargo preference for which President Carter had announced his support 6 days earlier.

In Secretary Claytor's prepared statement he said several things which purported to attribute national security benefits to the bill. In his later answers on cross-examination, however, he conceded that he had played no part in the President's decision and that he knew nothing of any Defense Department consultation with the President. In the memorandum to the President from Secretary of the Treasury Blumenthal, the Secretary stated: "Defense—does not support H.R. 1037 on national security grounds." When the record of hearings

on H.R. 1037 was printed, Chairman MURPHY caused a copy of the Secretary's prepared remarks on H.R. 1037 at the shipbuilding oversight hearing to be included, but omitted the questions and answers by Secretary Claytor.

This seems both deliberate and misleading, since the answers by Secretary Claytor do a great deal to cast doubt on the validity of the facts and conclusions he offered to support H.R. 1037 in his prepared statement.

It likewise seems a violation of House custom and ethics to place testimony received in a hearing called for one purpose in the record of hearings on another bill, at least without a vote of the committee or upon a unanimous-consent request.

For the record, I attach hereto the text of Secretary Claytor's July 13 comments favoring H.R. 1037, and the questions asked by Mr. RUPPE, with the Secretary's answers, related to H.R. 1037, which Chairman MURPHY chose to omit from the hearing record on the bill.

Included in hearing record on H.R. 1037:

> Clearly, an efficient, productive shipbuilding and repair industry in the United States is essential to our Navy and to the Nation's Defense. It follows, therefore, since all of the Navy's new construction and some 30 percent of our ship repair is being accomplished in private yards, that the health of commercial shipbuilding in this country is most important to us. Beside that, the requirement to maintain an adequate mobilization base both for ship construction and repair is a defense requirement mandated by the Merchant Marine Act of 1970. While the Commerce Department is charged in that act with overall responsibility for the adequacy, Navy work has been—and will continue to be—a major factor in maintaining that base.
>
> A second area I would like to address concerns the value to our National Defense of having U.S. Flag ships transport American cargoes in preference to foreign vessels. Certainly, U.S. Flag ships, when owned and operated by U.S. citizens, are likely to be more responsive to national emergencies. However, current U.S. Flag tonnage, by itself, is inadequate to satisfy both defense and commercial needs in event of war or national emergency; any increase in U.S. Flag ships will obviously improve this situation. Even with increased U.S. Flag tonnage of tankers, we would have to continue to rely on our NATO allies and others to provide the reliable backup in merchant shipping on which we have depended during emergencies in the past. "In summary, the Administration plan to increase the percentage of petroleum imports carried by U.S. Flag tankers to 9½ percent over the next five years plainly would not overtax the U.S. shipbuilding industry; it would strengthen the nation's mobilization base; it is compatible with the Navy's own shipbuilding needs; and it contributes to our national defense needs.

Questions and answers excluded from hearing record:

> Mr. RUPPE. Mr. Secretary, the Carter administration has called for an oil cargo preference program that would raise the percentage of oil imports brought into the United States in American bottoms to 9½ percent over 5 years. I am very curious how we really got to 9½ percent instead of 9 or 10.
>
> Could you tell me how that number was derived, if you know it, and did the Navy have any part in developing that figure?
>
> Secretary CLAYTOR. No. I assume that it is a judgment figure which was reached by the President, but I was not in on that and I cannot give you any information on that.
>
> Mr. RUPPE. So it had nothing to do with national security?
>
> Secretary CLAYTOR. I do not want to speculate on what it had to do with.
>
> Mr. RUPPE. If it had national security implications or reasons behind it, I presume you would have—
>
> Secretary CLAYTOR. Not necessarily. There may have been some national defense consultation with the Defense Department. I was personally not involved, and I do not feel I am in a position to provide any information on that.

If it was proper to include Secretary Clayton's statement in the RECORD on H.R. 1037 and use it to support cargo preference—and I submit it was not—then his responses should have been included as well. I believe that the inclusion of his statement and the use of it to support cargo preference on national security grounds without making it clear that the Secretary stated that "I was personally not involved, and I do not feel I am in a position to provide any information on that"—the national security implications—was misleading and a disservice to the members of the committee and the Members of the House of Representatives.

In conclusion, I believe the inclusion of Secretary Claytor's testimony in the RECORD on H.R. 1037 was wrong and the suppression of his answers to questions put to him by members of the committee was a violation of normal committee procedure.

LOCK AND DAM 26 VITAL TO ILLINOIS AGRICULTURE AND INDUSTRY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McCLORY. Mr. Speaker, as a cosponsor of legislation authorizing the much needed construction of a new lock and dam 26 at Alton, Ill., I was more than pleased to join the majority of my colleagues in passing H.R. 8309, the Navigation Development Act on October 13, 1977.

The State of Illinois leads all States in our Union in the quantity of agricultural products sold in the export market. To maintain and expand these markets, the farmers in my district—and throughout the State of Illinois and the Midwest must have available efficient transportation by all modes. I believe H.R. 8309 will help meet those needs and, in the long run, contribute to our Nation's economic health.

Mr. Speaker, I was, however, disappointed in the 6 cents per gallon fuel tax imposed on the diesel fuel that drives the barges using the waterways. As I stated when I appeared before the Water Resources Subcommittee in favor of construction of a new facility at Alton, I preferred the imposition of a user's fee. Under such a provision, a larger part of the improvements would be paid by those using our navigable waterways—thus easing the burden on the taxpayer.

I remain hopeful that a more appropriate charge will be included in the final measure approved by the House and Senate.

WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. EDWARDS of California. Mr. Speaker, from time to time I have brought to the attention of my colleagues articles in the press which deal with the fate of the Wilmington 10. These young people were arrested in connection with racial unrest in Wilmington, N.C., and accused of burning a white-owned grocery store. Convicted on a conspiracy charge, nine of the defendants—a black minister and eight black teenagers—were sentenced to a total of 282 years in prison. The current issue of Barrister, the publication of the Young Lawyers Division of the American Bar Association carriers a fine article which reviews the case of the Wilmington 10. I ask that my colleagues take a moment to read it:

HOW DUE PROCESS DIED IN WILMINGTON, N.C.

(By Stan Swofford)

(NOTE.—"I think the human rights policy of the United States is based on the fact that we are not ourselves perfect. Unlike many of the countries that we deal with, we do have due process, and, while in most instances that works toward the fulfillment of justice, in some instances the very due process of our system makes it difficult for us to get justice. For instance, the Wilmington 10, I think, are very innocent. And yet, they were tried and convicted." U.N. Ambassador Andrew Young, Caracas, Venezuela, August 13, 1977.)

Due process of law for the Wilmington 10 began in March of 1972 when the nine young black men, led by the Rev. Benjamin Chavis, Jr., and one white woman, an anti-poverty worker, were arrested by Wilmington, North Carolina, police on charges of unlawfully burning a grocery store and conspiring to shoot police and firemen. The processes leading to their arrests, convictions and lengthy prison terms, however, began a long time before.

Wilmington, a city of about 40,000 on the extreme southeastern North Carolina coast, was once a major port of entry for the slave trade. Consequently, during the Reconstruction years a rather solid black middle class emerged and became quite active commercially, intellectually and politically.

But in 1898, with the return of so-called "home rule" and whites-only politics in North Carolina, that sort of participation by blacks in the everyday affairs of society ended—and in Wilmington the end was particularly harsh and abrupt. Bands of white vigilantes set out to eradicate once and for all any semblance of black leadership. Black members of the board of aldermen were forced to resign at gunpoint. The offices of two black newspapers were wrecked and burned, and their owners and editors were ordered never to publish again. Black business and civic leaders were escorted out of town. Many of them never made it out of town. They were shot and dumped into the Cape Fear River. The black leadership of Wilmington was wiped out al-

most overnight. It was to remain nonexistent, or cowed to such a degree that it was almost totally ineffective, for the next 70 years.

By 1970, however, Wilmington was about to have a confrontation with the times, and the effects brought on by court-ordered change. There was still little or no leadership among the city's 10,000 or so blacks, but there was a great deal of rumbling and discontent among young black high school students.

The city's all-black high school had been closed as part of an attempt to comply with court desegregation rulings. Black students were transferred to the previously all-white high school and had become incensed over what they considered to be inequitable representation in the school administration and faculty; unfair representation in the student governmental organizations, clubs and athletic teams; and the school's failure to establish black history and cultural studies. Fights and scuffles between white and black students became frequent. Finally, in January of 1971, after school authorities refused a request to hold a memorial service to the late Rev. Martin Luther King Jr., blacks began a boycott of the school.

WHITES REACT WITH ANGER, FEAR, DISTRUST

At that time Gregory Congregational Church, a part of the United Church of Christ, was an all-black church except for its young white minister, the Rev. Eugene Templeton. The boycotting black students asked Templeton if they could use Gregory Congregational Church as their meeting place and as a place of an "alternative school." Templeton, after consulting with the church trustees, gave his permission. But he also went further.

Sensing the students' need for leadership, he requested the United Church of Christ to send someone trained in the methods of organization, someone the students would respect and follow. The church responded by sending Ben Chavis, a young fieldworker and troubleshooter for the Commission for Racial Justice, an arm of the United Church of Christ.

Although Chavis was only 24, he already was a veteran at organizing, participating in, leading and/or mediating black civil rights protest movements throughout North Carolina and Virginia. He was well known to both whites and blacks in North Carolina.

When Chavis arrived in Wilmington in January, 1971, tensions in the town were running high. Nevertheless, he began to organize the students, and he also began to organize and gain the trust of their parents.

Nevertheless, that statement and others, plus the marches and demonstrations, angered many people and inflamed some—including the Ku Klux Klan and a similar organization named Rights of White People.

By Thursday, February 4, the tension in Wilmington was at a breaking point. Shooting broke out that afternoon. Templeton, his wife Donna and others who were at or in the vicinity of Gregory Congregational Church during that first week of February have described the shooting publicly and under oath in court proceedings. "There seemed to be an unending convoy of white men in pickup trucks driving slowly by the church," Templeton said. "At first they only stared. Then they began shooting at the church and parsonage."

Some of the blacks in and around the church parsonage began to arm themselves. Chavis, himself, was armed with a handgun at one time. "We felt that we had to stay and protect the church," Templeton said. "Everyone was very much aware of what happened in 1898. We were literally under siege, getting shot at. We were on the phone constantly begging for police protection and a curfew. We got neither."

Present and former state officials have confirmed that Chavis was indeed pleading for police protection and a curfew. The Rev. Aaron Johnson, who was at that time a member of the North Carolina Good Neighbor Council, the agency charged with finding ways to end racial strife, was in Wilmington that week trying to halt the violence. "I never heard Chavis or any other member of the so-called Wilmington 10 plan to shoot anybody or burn down anything," Johnson declared recently. "All I know is that he was asking for a curfew and for the police to come into the area of the church. I relayed this message back to the mayor and the police chief. Why a curfew was not ordered until after a white man was killed, I'll never know."

A WEEKEND OF TERROR AND KILLING

On February 6, a Saturday, Mike's Grocery, which stood a few hundred feet from the church, was destroyed by a fire which began shortly after 9 p.m. During the height of the blaze Steve Mitchell, a black youth, was shot to death by a policeman. The officer was not charged in the slaying. He said Mitchell aimed a gun at him.

Early Sunday morning a white man, Harvey Cumber, was shot to death about a block from the church. He allegedly had driven his pickup around a barricade that had been erected to keep whites out of the area. Witnesses said he stopped, got out of his truck and then pointed a gun toward the church. A loaded revolver was found beside his body.

Within hours of the death of Cumber, martial law and a curfew were declared in the city of Wilmington. The violence ended immediately. The Templetons left Wilmington very soon after the end of the hostilities. "We continued to receive threats, and the police said they could do nothing for us," Mr. Templeton said. Chavis stayed on in Wilmington for several months.

In March of 1972, more than a year after the violence, Chavis and eight young blacks—Marvin Patrick, Connie Tindall, Jerry Jacobs, Willie Earl Vereen, James McKoy, Reginald Epps, Wayne Moore and Joe Wright—were arrested by Wilmington police and charged with the unlawful burning of Mike's Grocery and conspiracy to assault emergency personnel. The white woman, Ann Shephard, was charged with being an accessory before the fact of those crimes. Except for minor traffic offenses, not one of the group had a prior criminal record.

James (Jay) Stroud was the assistant New Hanover County District Attorney in 1972 and the man who prosecuted the Wilmington 10. James Ferguson of the respected civil rights law firm Chambers, Stein, Ferguson and Becton, was the chief defense attorney. He has remained so throughout the long appeals process.

Because of the extensive publicity the case had received, neighboring Pender County was selected as the trial site. The trial ended abruptly, however, in June, before the jury selection process had been completed. Ten blacks had been selected to hear the case when Stroud, complaining of stomach problems, sought and was granted a continuance.

PROBLEMS WITH WITNESSES HIGHLIGHT THE TRIAL

The Wilmington 10 trial began anew in September, 1972. The jury seated this time was composed of 10 whites and two blacks, a domestic servant and a janitor.

Stroud's key witness at the trial was 18-year-old Allen Hall, a huge young man who had a tested IQ of 78, a history of mental disorders, and a lengthy police record.

Hall had been picked up by Wilmington police more than a year earlier on an unrelated assault case. While undergoing questioning by the police, he confessed to burning Mike's Grocery. He also said Chavis and the other Wilmington 10 defendants assisted in the burning. He was Stroud's only alleged eyewitness. Hall had just been sentenced to 12 years in prison for his confessed participation in the store burning. About a month after the trial, Hall's sentence was changed to youthful offender status at Stroud's request.

Stroud had two witnesses at the 1972 trial who, to some degree, corroborated Hall's testimony. The first was Jerome Mitchell, a young black man who several months before the Wilmington 10 trial had been declared an outlaw by the state of North Carolina. Under North Carolina law at that time, an outlaw could be shot on sight by any citizen of the state. A few weeks before Mitchell finally agreed to testify for the state, Superior Court Judge Winifred T. Wells handed Mitchell a youthful offender sentence of one day to 30 years. He had been charged with a brutal murder and armed robbery, charges unrelated to the 1971 racial upheaval in Wilmington. Stroud told the jury that Mitchell had nothing to gain; he already had been sentenced to 30 years.

Stroud's third major witness was 13-year-old Eric Junious, a child who could have passed for eight years old, and who testified that he saw Chavis and the others leaving the church to firebomb Mike's Grocery.

Ferguson vigorously attacked the testimony of Hall, Mitchell and Junious. (At one point Hall lunged for Ferguson and had to be restrained by bailiffs.) Ferguson was particularly interested in whether Hall had been the recipient of any special favors from the state or had been promised anything. Hall testified that he had received no promises or favors. Ferguson also fought vigorously, but unsuccessfully, for the inclusion into evidence of a statement Hall had signed for an agent of the federal Bureau of Alcohol, Tobacco and Firearms. That statement differed in detail from the statement Hall had later given Stroud and which was accepted by the court. Ferguson also argued that photographs of the 10 defendants had been marked by the prosecution to enable the state's star witnesses to readily identify them.

Ferguson had no witnesses to offer at the trial. Up until almost the last moment he had been counting on the testimony of the Templetons and of Aaron Johnson, the state Good Neighbor Council trouble-shooter.

The Templetons were prepared to testify that Chavis was at their home when Mike's Grocery was burned and that they had never heard Chavis exhort others to commit violence. The Templetons, however, never made it to the trial. When they arrived in North Carolina from their new home in New Jersey they heard a rumor to the effect that they would be arrested if they showed up at the trial. "We are not proud of that," Templeton was to say five years later. "But we were terrified. We were told that police would be waiting for us at the airport and that it would be the Wilmington 12 instead of the Wilmington 10." The Templetons went back to New Jersey.

Johnson and another state Good Neighbor Council worker, Preston Hill, were subpoenaed by Ferguson to appear and testify at the trial. The subpoena called also for any records the council might have relating to the violent days in Wilmington. Neither Johnson nor Hill made it to the trial.

Five years later Johnson was to explain publicly for the first time that his superiors on the Good Neighbor Council had strong misgivings at the prospect of any council worker testifying at the trial, particularly on behalf of Ben Chavis. "We were very much aware that our funding came from the legislature," Johnson said. He added that he and Hill were on their way to the trial, prepared to testify that Chavis had tried to end the violence, not evacerbate it, when they heard over their car radio that the defense had

rested. Johnson said he turned the car around and headed back to Raleigh. Ferguson was unaware that his subpoena had finally caught up with Johnson and Hill.

Judge Martin sentenced the defendants to terms averaging more than 28 years. Chavis drew the stiffest sentence, a maximum of 34 years. Sheppard received the lightest sentence, 10 years. The combined sentences totaled 282 years. Total appeal bond was set at $400,000, an amount the United Church of Christ Commission for Racial Justice, which financed, and continues to finance, the defense of the Wilmington 10, quickly met.

Two years ago, after the U.S. Supreme Court refused, without comment, to review the convictions, the Wilmington 10 surrendered to authorities and went to prison.

About the time the Wilmington 10 defendants were preparing themselves for prison, the star witness against them, Allen Hall, was getting out. He was released in June of 1975. A year and a half later, Hall was back in prison, his parole revoked. Hall's activities and statements preceding that parole revocation were of tremendous importance to the Wilmington 10.

PROSECUTION'S WITNESSES RECANT, CONFESS TO PERJURY

On September 24, 1976 Hall stated publicly that he lied under oath during the trial of the Wilmington 10, and that he was coached and coerced into lying by Stroud and the Wilmington police. Hall also said publicly, and in sworn affidavits, that his testimony against Chavis concerning explosives and "Molotov cocktails" was coached by ATF agent Bill Walden. He said his entire testimony was a lie. Hall said his conscience had bothered him so much since the trial that he had been "unable to live with myself as a black man."

Ferguson immediately sought to include Hall's recantation and admission of perjury in his petition for a writ of habeas corpus, which had been pending, and is still pending, in U.S. District Court in Raleigh. The motion to amend the petition was denied by U.S. Magistrate Logan Howell. Howell ruled that the state should have the opportunity to hear the matter first.

Four months after Hall's public recantation another major witness against the 10 defendants, young Eric Junious, signed a statement declaring that he lied at the trial. Junious said he lied because Stroud promised him a minibike and a job.

These statements by Hall and Junious prompted U.S. Attorney General Griffin Bell to order a Justice Department investigation to determine whether the civil rights of the Wilmington 10 had been violated. A federal grand jury convened in Raleigh in March to hear testimony from Hall, Junious, Mitchell and Stroud. Mitchell at that time became the third and final major witness against the 10 to recant his trial testimony. He told the jurors that Stroud had promised him he would be released from prison within a few months if he testified for the state. Mitchell also testified that he was not in the vicinity of Gregory Congregational Church or Mike's Grocery the night of the fire. Both Mitchell and Hall testified that Stroud coached them extensively in exactly what and what not to say on the stand.

Stroud denied emphatically that he arranged any deal with Hall and Mitchell in exchange for their testimony. He admitted, however, that he and a Wilmington detective bought Junious a minibike. He said he did this because he liked Junious and felt sorry for him. The grand jury, which was essentially investigative in nature according to a Justice Department attorney, returned no indictments.

When Hall, Mitchell and Junious testified before the grand jury, they did so as prisoners of the state. Hall's parole had been revoked upon his conviction in February of breaking into an unoccupied residence. Hall told police that he broke into the house because members of the Klan were chasing him.

Mitchell's parole was revoked only a few weeks after his release in late 1976. He was convicted of attempting to pass a counterfeit bill. Junious was serving a sentence for larceny.

DESPITE RECANTATIONS RETRIAL PETITION DENIED

Two months after their federal grand jury testimony, Hall, Mitchell and Junious testified before a post-conviction hearing for the Wilmington 10 at the same courthouse in Pender County that the 10 were convicted in five years before. The hearing, before Supreme Court Judge George Fountain, took almost two weeks to complete. Representatives of the North Carolina attorney general's office vigorously opposed the new trial request. Assistant State Attorney General Richard League had previously acknowledged that the state would not prosecute the 10 again if Judge Fountain granted a new trial. The state would have no case, he said. All of the important prosecution witnesses had recanted their testimonies.

At the hearing, Hall, Mitchell and Junious again testified that they lied for the state during the 1972 trial. Both the Templetons, their fear of arrest diminished after five years, testified that Chavis was at their home when Mike's Grocery burned. They recreated for Judge Fountain the three nights of siege under fire at the parsonage.

It was established at the hearing that the leader of a faction of the Klan in North Carolina visited the beach cottage in which deputies were keeping Mitchell and Hall during the 1972 trial. It also was established that in June of 1972, just before Stroud was granted a continuance until September, Hall was becoming very upset and unpredictable because of his worrying about a girlfriend 300 miles away. Hall was Stroud's only major witness at that time. Mitchell had not yet agreed to testify. Stroud admitted at the hearing that to ease his star witness' mind, he sent two detectives on a 600-mile round trip after the young woman. The officers returned with her the day after Stroud requested a continuance because of illness.

It was also established that long after the convictions of the Wilmington 10, Stroud continued to visit with Hall and Mitchell in prison, and to give them small amounts of money. Stroud testified he did this because as a prosecuting attorney, he always takes an interest in his major witnesses for the state. He said he considered Hall "a friend."

At the end of the long hearing, Judge Fountain ruled immediately from the bench that the constitutional rights of the Wilmington 10 had not been violated and that no new "credible" evidence had been presented in their favor. In his written order filed weeks later, he rejected completely every issue raised by the Wilmington 10 defense. Ferguson immediately gave notice of appeal.

A few weeks after Judge Fountain's adverse decision, Ferguson formally petitioned North Carolina Governor James Hunt for pardons of innocence for the Wilmington 10. Attorney General Griffin Bell, at the request of 60 members of Congress, has urged Hunt to seriously consider the pardon request.

Hunt has made no formal decision on the pardon petition and probably will not until after November 8, the date of a statewide referendum to determine whether the Governor can succeed himself in office. Hunt has stated publicly, however, that he is instinctively opposed to intervening in any case until all avenues of appeal, all routes of "due process," have been exhausted.

AIRBAGS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. RINALDO. Mr. Speaker, last week, we witnessed the last in a series of stalling tactics and parliamentary maneuvers aimed at forcing all Americans to buy passive restraints—better known as airbags—in their cars by 1982.

Under House rules, any legislation reported out of committee can be held up for 3 days by any Member wishing to file views on the proposal. So last Wednesday, when the Interstate and Foreign Commerce Committee had scheduled debate on a resolution to disapprove the mandatory airbag ruling, proponents said flatly that, if the resolution got out of committee, they would take up the full 3 days, making it impossible for the House to vote before the October 14 deadline. This tactic made committee consideration meaningless and effectively killed the resolution.

In my judgment, this is not the way to handle such an important issue. The serious questions raised about airbags necessitated a vote by the full House. Supporters of the DOT decision, however, used every trick in the book to keep this issued bottled up in committee. Unfortunately, they were successful.

As a member of the Consumer Protection Subcommittee which initially considered this question, I participated in hearings which clearly demonstrated that the hard facts are not there on which to base mandatory installation of air bags. I coauthored minority views which outline in detail my reasons for objecting to the Adams' ruling.

I would like to insert these remarks in the RECORD for the benefit of my colleagues and with the hope that, through concerted congressional action, we can eventually overrule this hasty decision.

These views follow:

MINORITY VIEWS ON AIR BAGS

On September 21, 1977, the Subcommittee on Consumer Protection and Finance reported to the full Committee on Interstate and Foreign Commerce H. Con. Res. 273 with a recommendation that it not be approved. This concurrent resolution provides that the passive restraint standard (commonly referred to as the air bag standard) transmitted to Congress on June 30, 1977, be disapproved. We disagree with the recommendation of the Subcommittee that the Resolution not be approved.

On December 6, 1976, Secretary of Transportation, William T. Coleman, issued a decision concerning motor vehicle occupant crash protection. In that decision, the Secretary called for a nationwide demonstration program to obtain more experience with air cushion restraint systems, to familiarize the American people with the benefits of air cushions, and to foster the continued development of passive restraint technology. The Secretary proposed to carry out this demonstration program by entering into agreements with automobile manufacturers to produce and sell, over a two-year period, 500,000 passenger cars equipped with an air cushion restraint system on a nationwide basis. The Department of Transportation later entered into agreements with Ford, General Motors,

Mercedes-Benz, and Volkswagen of America to carry out the objectives of this demonstration program.

However, on June 30, 1977, Secretary of Transportation, Brock Adams, rejected the Coleman approach and mandated a new occupant restraint standard which requires that front seat passive restraints be phased in all new cars between the 1982 and 1984 model years. We feel constrained to oppose that decision and to assist in such efforts as are necessary to assure that the standard is disapproved by the full House. We will here attempt to detail various factors and considerations which we believe clearly indicate that the decision of Secretary Adams is both premature and unwise as a national policy decision.

DATA SUFFICIENCY

The National Highway Traffic Safety Administration began gathering data on air bag experiences in the real world traffic environment in early 1973 with 831, 1972 Mercurys, and 1,000, 1973 Chevrolets. These air bag equipped vehicles were used in the manufacturers' test fleets. To these were added 75, 1975 Volvos, and 10,000 Buicks, Cadillacs, and Oldsmobiles between model years 1974 and 1976. The General Motors fleet of 10,000 vehicles is unique in that it is the only group of air bag-equipped cars which were sold to the public. Together, these vehicles make up the total of 12,000 vehicles from which NHTSA has derived its assessment of air bag performance in the field. As of September 1, 1977, these vehicles had travelled in excess of 480 million miles, 390 of which are attributable to the GM fleet. It is generally agreed that real world data is the soundest indicator of a safety device's performance. As Dr. Lawrence Goldmuntz testified before the Subcommittee, "we have come to the conclusion that there is a variety of data sources and that most reliable by far is real world data." However, out of 12,000 vehicles which have travelled over 480 million miles there have been only 165 air bag crash deployments.

In her letter dated July 21, 1977, responding to a request for comments from Honorable John E. Moss, Ms. Joan Claybrook, NHTSA Administrator, stated that "[a]lthough this field experience provides valuable information as to the practicability and reliability of air bags, all knowledgeable parties agree the fatality data are insufficient to permit drawing statistically supportable conclusions." In its "Summary of Air Bag Experience 1973–1977", dated May 31, 1977, NHTSA admitted it was true that "there are simply not enough cars in the field to permit statistically significant estimates of their effectiveness." The need for more data is obvious. This need is reinforced by the fact that there have been 15 non-crash deployments as of September 1, three of which occurred on the road. As noted by DOT in its discussion of considerations underlying the standard which accompanied the proposed FMVSS 208, "[t]he frequency of inadvertent deployment is . . . of special concern." They state that "[t]here is little question, however, that inadvertent actuation could cause loss of control by some segments (aged, inexperienced, distracted) of the driving population, and it must be viewed as a small but real cost of air bag protection." While DOT argues that the causes of the inadvertent deployments are known and can be eliminated, they continue to occur. The need for further design improvements to eliminate this occurrence is obvious, particularly since DOT estimates 7,000 on-the-road inadvertent actuations annually, or one for every 15,000 vehicles.

EFFECTIVENESS

The DOT has estimated that approximately 9,000 lives could be saved each year if all cars are equipped with air bags. This estimate is based on the use of assumptions, adjustments, and effectiveness factors, all of which have become critical in light of the very limited real world data. Other groups, such as GM, Economics and Science Planning, Inc., and the Cornell Aeronautical Laboratory have reached differing conclusions on the air bag's effectiveness. Even the DOT reached the paradoxical conclusion (Docket 74–12, Notice 10) that the air bag is more effectiveness in all modes of impact (front, side, rollover, rear) than it is in frontal impacts, the crash mode for which the air bag system was designed.

GM took issue with the DOT effectiveness estimates, because they are based on not only data from laboratory tests but also the subjective judgment of evaluators who have direct knowledge of how the value of their estimates will affect the overall outcome. The potential for bias is great. GM used a "matching case" technique with a case selection procedure which substantially reduced the chance for bias and found that the DOT estimates for air bag effectiveness appear to be significantly overstated. GM asked DOT to commission an independent group to review the basic data and analyses of both the DOT and GM in order to determine the validity of each.

In an independent study conducted by the Cornell Aeronautical Laboratory, a non-profit research organization, automobiles were crashed in offset front end collisions in a manner that simulated real world auto accidents. These tests, which used dummies and cadavers in the driver and passenger seat positions, were designed to determine the effectiveness of air bags as compared to seatbelts for drivers and right front seat passengers.

In all of the tests, with both dummies and cadavers seated as drivers and passengers, the seatbelt restraint systems did a better job in protecting the test subjects than did the air bag. None of the four occupants wearing seatbelts sustained gravitational forces above the standard for fatality. But three of the four air bag cases showed fatal forces. To our knowledge, DOT has never issued a substantive comment or analysis regarding these tests.

A discussion of air bag effectiveness should include some discussion of seatbelts and their relative merits in light of the availability and economy. Seat belts are present in over 90% of the cars on our highways today. A set of 5 seatbelts (2 lap/shoulder harnesses in the front seat and 3 lap belts in the back seat) costs $85 on the average in a new car today. In the testimony before the Subcommittee, all parties, including the DOT, agreed that a seatbelt usage rate of between 50% to 65% (usage percentage vary somewhat) would result in comparable, if not greater, protection for auto occupants. While air bags only provide protection in frontal and angular frontal collisions, seatbelts provide protection in these collisions as well as in rollovers and side and rear collisions. All of these factors constitute a solid argument for the seatbelt which, if combined with substantial effort to promote greater usage, could save more lives than the air bag.

SODIUM AZIDE

Sodium azide is currently being used by all of the major air bag suppliers as the solid propellant for inflation of the air bag. Each air bag is equipped with a canister containing approximately 1¼ pounds of sodium azide. This compound has been found to be a potent mutagen in a wide variety of organisms by two Washington State University geneticists, Professors Nilan and Kleinhofs. This finding has been confirmed by Dr. Bruce Ames, Chairman of the Genetics Department at the University of California a Berkeley. No genetic tests have been made on humans or human cell cultures but the likelihood of its being mutagenic in humans is high in view of the compound's mutagenicity in a relatively wide variety of organisms. The possibility also exists that sodium azide is a carcinogen since most mutagens are carcinogens. The carcinogenicity tests have not been extensive, however; and this aspect requires additional testing.

The Toxic Substances Control Act, which was approved by this Committee and by the Congress in 1976, not only granted authority to EPA to restrict or prohibit the production and sale of chemical substances for which there were insufficient data regarding their toxicity, but also encouraged the Administrator take actions promptly to keep such substances out of commerce. Now, another government agency, the Department of Transportation, has mandated an automobile safety standard which it knows will result in widespread use of a known mutagen and possible carcinogen, sodium azide. The agency has not mandated the use of this substance, but it is fully aware that the substance will be used extensively as a propellant for the air bag and has taken no action to restrict its use. This substance may well be banned by EPA at a later time for this particular use on the ground that it presents an unreasonable risk to our environment and to the health of our citizens.

Before the Federal Government mandates an action which it knows will result in an increased use of a known mutagen, it should engage in an extensive effort to clarify the risk and the long-term effects of this substance, determine if adequate and effective alternatives are available, and obtain proper assurances that alternative substances will be available in amount necessary to meet the large demand of the automobile manufacturers. We have seen no evidence that the agency undertook such an analysis prior to its issuance of the regulation, nor have we seen such an effort since the regulation has been issued, even though strong and numerous concerns have been expressed regarding the use of sodium azide.

This is one more area in which we firmly believe more data and information is needed before we reach a final decision concerning air bags.

COST TO CONSUMERS

While we are concerned about the effectiveness of air bags as projected from the limited data presently available, we are also concerned about unnecessary costs to consumers for a device which may prove to be a disappointment from a safety standpoint. Cost estimates for the air bag system vary substantially. Although NHTSA estimates the installation cost at $112 and the replacement cost at 325, their estimates are the lowest. (Ford Motor Company in its petition dated August 4, 1977, to DOT for reconsideration of the air bag standard indicated that DOT has in its possession supplier data which shows that the cost of air bag components alone exceeds the $112 DOT estimate.) Estimates from the auto manufacturers range from $193 to $250 for installation and from $300 to $600 for replacement. These estimates should be viewed as additional costs to consumers who have been paying for lap and shoulder belts in all cars manufactured since 1968 and who will continue to pay for 5 lap belts on the average (2 in the front seat and 3 in the back seat) under the mandate.

NHTSA's argument that air bag costs will be offset by savings which will be realized by car owners of the 1980's from the fuel economy standards announced by Secretary Adams in June, 1977, must be countered with the fact that the air bag system will add a minimum of 38 pounds to the car which will increase, by DOT's calculation, the annual consumption of fuel by automobiles by 0.71 percent (about 521 million gallons annually).

CONCLUSIONS

There is little question that the data and experience regarding air bags are totally insufficient to make a meaningful evaluation of their effectiveness. As we mentiond earlier, the data base used by DOT is so sparce that its conclusions from the data indicate that air bags offered a greater degree of protection in those types of crashes in which the air bag was not designed to deploy (non-frontal crashes) than it did in those types of crashes in which the air bag was designed to offer protection to automobile occupants (frontal crashes). These conclusions alone should indicate that the data used by DOT to evaluate the effectiveness of the air bag is totally incomplete and inadequate.

However, despite the fact that its conclusions are completely inconsistent, DOT chose to ignore General Motors' extensive evaluation of basically the same data using different methodologies in which serious questions were raised as to the air bag's effectiveness. Not only did DOT take the incredible action of dismissing the GM study, without substantive comment, on the grounds that "General Motors is a vastly interested party in these proceedings", but it also rejected GM's request to have independent and disinterested experts review the basic data and analyses of both DOT and GM in order to determine the validity of both. In addition, the potentially serious questions raised by the Corell Aeronuatical Laboratory regarding the safety and effectiveness of air bags have not been addressed by DOT in any substantive manner.

While we do not take the position that the studies conducted by General Motors and Cornell provide the correct analysis regarding the effectiveness of air bags, we do firmly believe that these studies taken in conjunction with the abvious inconsistencies in the DOT study make it abundantly clear that much more data and experience are needed before the Federal Government mandates the use of air bags.

The testimony before the Consumer Protection and Finance Subcommittee from both proponents and opponents of the passive restraint standard makes it clear that if seatbelts were used more extensively by the public they would provide comparable, if not greater, protection than air bags. Also, the very critical fact that air bags would not be available in our overall automobile population for at least 14 years, while seatbelts are now contined in over 90% of the care now on the road should not be overlooked.

We should certainly not, as a matter of national policy, mandate the substitution of a proven restraint system for one that may well prove to be less effective once sufficient data and experience is available. The lack of wisdom of the DOT decision becomes even more apparent when taking into account the fact that the implementation of this standard will cost the American public in excess of $2 billion a year and place into our environment large quantities of a known mutagen which will be distributed geographically throughout all regions of our country. In addition, such an action may well have the adverse effect of casting public suspicion on the effective belt system and thereby discourage its use.

If the air bag proves to be ineffective or if the toxic chemical sodium axide proves to present a substantial risk to our citizens, it will be years before we can fully correct the situation.

We sincerey believe that the wiser and more sensible approach would be to expeditiously reinstate the Coleman decision and enact such legislation with such funding as may be necessary to carry out extensive, intense, and comprehensive programs to educate the American public as to the value of seatbelts and strongly encourage their use. Unfortunately, a program of the magniture necessary to accomplish this objective has never been undertaken by the Federal Government and is well overdue.

The decision of DOT to mandate the use of air bags in our automobiles is clearly premature, and we ask the support of our colleagues in our efforts to disapprove this action.

BING CROSBY

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, millions of words have been written all over the world in tribute to Bing Crosby who died last week. I think it is natural to remember Bing as the singer, the Academy Award winner, as an actor, and as a powerful force in the world of both amateur and professional sports. However, I do not think enough has been said of Bing Crosby as a devoted family man, a devoted member of his church, and a quiet benefactor for an unknown number of deserving charities. That was Bing Crosby's style—unassuming, shunning the glare of show business publicity, sharing his good fortune without bugles or banners.

Although he was a national figure for 40 years, Bing Crosby was a bit special to Rhode Island. We well remember his relaxed style of life and his warm friendship during the months he spent in Newport making a film and his many visits in later years when his sons were attending one of Rhode Island's finest schools, the Portsmouth Priory.

The voice of Bing is not stilled—his records will live on forever. I commend to my colleagues the personality and the spirit of Bing Crosby of whom Frank Sinatra said:

Bing leaves a gaping hole in our music and in the lives of everybody who loved him. And that's just about everybody.

RAPID TRANSIT—IT CAN BE ECONOMICALLY SOUND—PATCO GENERAL MANAGER ROBERT B. JOHNSON ADDRESSES THE ISSUES

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. EDGAR. Mr. Speaker, rapid rail transit has been under attack in recent months by a variety of Government officials and transportation experts. I would like to bring to the attention of my colleagues a success story in this area which points out that good planning and good management can avoid some of the horror stories which have made rapid rail transit less attractive than alternative commuter modes. The following speech by PATCO Manager Robert B. Johnson was delivered 2 years ago in Detroit. In detailing the experience he has had with the very successful Lindenwold line, Mr. Johnson points out that rapid transit can work:

RAPID TRANSIT—IT CAN BE ECONOMICALLY SOUND

When the Delaware River Port Authority began operation of its Lindenwold-Philadelphia Rapid Transit Line in January 1969, there were dire predictions of trouble ahead. Within three years after operations began, Port Authority Transit Corporation was in trouble and those troubles have continued to grow ever since. We don't have enough cars to carry all the people who want to use our service. We don't have enough fare collection equipment to adequately and efficiently process the crowds of riders who surge upon us every workday morning and evening. We don't have enough parking capacity to receive and store the cars of those commuters who drive to our train stations, then voluntarily get out of their private automobiles and continue their ride on public mass transportation.

In an age when all other public mass transit agencies were piling up huge operating losses annually, where services were being abandoned or drastically curtailed, in a business which for the past two decades had each year been able to serve only a diminishing portion of an expanding potential market demand, how could this apparent paradox happen? The answer is, because we planned, built and operate it to be successful—it is economically sound.

Unfortunately, the successful achievements of the Lindenwold-Philadelphia Rapid Transit Line have been the exception rather than the rule for a major portion of public works projects today, and particularly so in respect to new rail rapid transit projects recently completed or under construction in major American cities. The enormous capital costs of the BART facilities on the west coast have, so far, not produced a system which is reliable for its users and economic in its operation. The WMATA system in Washington, D.C., was originally expected to require $2.5 billion to construct and now is estimated to require $4.5 billion. The MARTA system in Atlanta was expected to require a capital investment of $1.3 billion when the electorate gave its endorsement to the project and is now estimated to cost $2.1 billion and construction isn't really underway yet.

These seemingly uncontrollable capital costs, coupled with the growing demand for direct operating subsidies of virtually all forms of public mass transit, have led The Secretary of the U.S. Department of Transportation to issue a policy statement declaring that fixed guideway transit systems can be regarded as appropriate only in high-density metropolitan areas of approximately two million persons or more. If the Secretary's expressed policy is adhered to, then millions of our citizens throughout the nation will be sentenced to forever endure the choking congestion that is strangling the vitality and life from our cities.

I do not fault the Secretary's conclusion if based upon the evidence accumulated from these other areas. I do fault the managers of the planning, design and construction, and the operations of systems which have virtually preordained the extravagant waste of our precious public resources on unworkable schemes and unmanageable systems. This existent situation need not be. The Lindenwold Line is existing proof that modern rail rapid transit can be constructed and operated economically.

The Lindenwold Line is the first, and to this date only, rapid transit project to be conceived, designed, and constructed from the ground up with one foremost objective in mind—to win the patronage of the potential passenger and to accomplish it within the economic resources of its Authority. To achieve this objective, the designers adopted the best of known technology within the urban transportation field. Of course, new concepts and ideas were examined—but they were adopted only when examination proved they would actually improve reliability and efficiency for both passengers and operator. Concepts were not adopted just for the sake of being new (I happen to subscribe to the philosophy that a good design is modern

even if old in years if it is the most efficient way to perform the desired function: Wheels have been made round for hundreds of years—why change them?) Automation technologies were adopted only after careful examination proved they would enhance reliability and efficiency.

Our trains are operated by a one-man crew, regardless of the length of train. We recognized from the beginning that it would always be necessary for a train operator to be aboard every train. In the event of the unusual, or if a train becomes disabled for anyone of a dozen or more causes, someone must be present and in charge. You cannot leave a group of 800 or more persons entrapped in a stalled train listening to a recording saying "don't worry, don't worry, don't worry—". And so the designers were told there will be a train operator on every train, the train operator must be capable of operating the train in a manual mode without degradation of train performance, and the train operator must be an integral part of the Automation process. On PATCO, the train operator sets up the control console to notify the ATO system that the train consist is 1-car, or 6-cars, or any length in between; the operator opens and closes the doors; the operator determines how long a train should remain in a station; the operator initiates train acceleration; the operator, by depressing a station by-pass button, can cause the train to pass through a station without stopping. And just to be sure the PATCO train operators remain in a high state of readiness to perform their functions, each operator is required to make one of his off-peak round-trip runs each day in a fully manual control mode.

By assigning these functions to the train operator the capital cost of automation is reduced to but a fraction of the cost of master centralized computer automation systems. And by reducing the complexity of its systems, PATCO's automation systems have proven to be highly reliable, and are capable of being maintained at reasonable costs.

PATCO trains are designed to facilitate rapid changes in train-consist without any intervening moves to a marshalling or storage yard. There is an operating cab in each car and some cars (single units) have a cab at each end. Fully automatic couplers, controlled from the adjacent operating cab, make up the mechanical, electrical and air connections between cars. When a 6-car train on the PATCO system completes its morning rush-hour runs, it may be separated into three 2-car trains and each dispatched successively without any movements into or out of the yard and without any assistance from anyone other than the train operator. Frequently, within two minutes after a 6-car train arrives at Lindenwold at the end of the morning rush-hour, two cars from that train will be enroute back to Philadelphia.

PATCO operates the most successful automated rapid transit service in North America. I firmly believe in automation whenever the automation will result in a safe, more reliable and more economical operation than can be achieved by manual operation. But, I do not subscribe to the idea of automation just for the sake of automation. For example: PATCO trains normally operate under Automatic Train Operation (we call it ATO). The starting signal for a train departing a terminal point is automatically given by means of a punched-tape dispatching machine at the terminal point. The train operator presses a button to close the doors, then presses a second button to initiate acceleration of the train. The on-board ATO system automatically accelerates the train at the maximum programmed rate until it reaches the allowable speed in that particular track section. The ATO system regulates the train speed to within 2 miles per hour of the authorized speed, and causes the train to accelerate or decelerate whenever the corresponding change in speed is dictated by right-of-way conditions. As the front of the train passes over a point 1900 feet before the center of the next station platform, the train receives a station stop command. The ATO speed-distance regulator causes the train to decelerate at the optimum rate and to stop at the station with the center of the train at the center of the station platform. Then, the operator presses a button to open the doors. After the passengers have disembarked and/or boarded the train, the operator presses the button to close the doors and the process is repeated. PATCO relies upon the on-site, personal observation of the train operator to determine the appropriate dwell time at each station.

Not to be overlooked as a significant factor in achieving economy of operation is PATCO's novel fare collection system. The function of any fare collection system is to collect money from the users pocket and to deposit it in the bank for use in paying for the service. PATCO uses a self-service, automatic fare collection system, utilizing magnetically encoded tickets. Passenger stations are normally un-attended but are under closed circuit TV surveillance to protect against fare evasion and assure passenger security. Passengers buy a single or two-ride ticket from automatic vending machines or 10-ride tickets by mail or from the newsstands located in each station. The ticket is inserted into the Automatic turnstile upon entry, where it is electronically read, one ride is subtracted from its value, the ticket is re-encoded so that it must next be used for "exit", and the turnstile is unlocked to allow the passenger to enter into the "paid" area; this process requires approximately 0.6 of a second. Upon reaching the destination station the passenger inserts the ticket into the turnstile in the exit direction where it is electronically read to verify that the ticket was valid for the trip just completed. If the ticket is valid the turnstile is unlocked for exit and the ticket captured if zero rides remain, or returned to the passenger if valid rides yet remain on the ticket. Tickets are always captured in the exit turnstile upon completion of the last ride.

Automatic Fare Collection is a sound and valid concept. For one thing, it reduces the potential of fare evasion since the automatic electronic equipment doesn't have any friends; for example, it was reported by the Illinois Central Gulf Railroad that when it installed automatic fare collection on its commuter service that its revenues increased substantially without any apparent change in the number of passengers. However, the most significant benefit is the potential reduction in operating cost available to the operator. PATCO's fare collection costs are the lowest in the industry. In 1974 PATCO's cost of collecting money from its passengers' pockets and depositing the money in the bank, including all servicing, maintenance, processing material and administrative costs, and all closed circuit TV operation and maintenance cost, totalled 8.6% of revenue. This is to be compared with an industry average of roughly 25% and in some cases as much as 50% of revenue. By taking advantage of the full potential of automatic fare collection in utilizing unattended stations, PATCO saves approximately $1 million annually in direct labor cost.

In my opinion the planners, designers, and engineers of most of the other new rapid transit systems have lost sight of the real objective of the passenger. People use a mass transit system to get from a point of origin to a point of destination, and they want to do it quickly, reliably, comfortably and economically. The vehicle is nothing more than a people-box. The designers' job is to create a system which will enable that people-box to traverse the transit corridor rapidly and reliably, day after day after day. The passenger doesn't care—has no interest in knowing—whether the train is controlled by a master centralized computer, or localized control—whether it is powered by AC or DC motors or by little squirrels running around cages—whether it operates on standard gauge rails or extra wide rails—whether those rails are supported on timber cross ties or concrete cross ties. The passenger does care about being able to board his people-box every day at a pre-established time, riding in a clean and comfortable environment, arriving at his destination without being ruffled either physically or emotionally, completing the trip as quickly as possible, and accomplishing it all at a fare which he considers to be reasonable.

It is absolutely essential in urban mass transit systems that the facilities be designed to create within them an attractive and pleasant social environment, and that it will be economically possible to maintain that environment. The importance of cleanliness cannot be over-emphasized. The designers of some new systems have created marvelously beautiful stations. Yet, their stations are monsters to keep clean, lighted and maintained. It is little credit to the designer if what he creates cannot be economically maintained. Stations need not be palatial museums, but they must be attractive, functional, well illuminated, easily cleaned and economical to operate. This objective can be achieved without extravagant expenditure; the average cost of each of the six new stations on the PATCO system when built in 1968 was $600,000.

DESIGN CONCEPTS

Let's turn our attention more specifically to the planning, design, construction and operation of the Lindenwold Line. The basic starting point was recognition that the facility to be built would have to offer a level and quality of service so attractive to the potential user that he would voluntarily choose to use mass transit in his daily travel. The factors which influence choice of travel mode are (in their descending order of importance) speed, convenience, comfort, cost.

Speed is the most important factor of all. PATCO facilities were designed to reduce the overall travel time from the suburbs to downtown by 50%. This required that the transit line yield an overall average speed, including station stop times, of 40 miles per hour and maximum operating speed between stations of 75 miles per hour. The portions of route utilizing subway in Philadelphia and Camden, as well as the approaches to the Benjamin Franklin Bridge over the Delaware River have short radius curves where speed must be limited to 15 mph. All of the new portions of route where the line emerges from the Camden subway is designed with a maximum safe operating speed in excess of 100 mph.

Convenience is the next most important factor. Convenience means easy access to the transit facilities. It means availability of service when you want to travel. It means never having to wait long intervals for the next train if you just missed one. It means being able to count on service any time of day or night, 365 days a year. It means being able to depend on getting to your destination on time.

For the convenience of its passengers, PATCO provides nearly 10,000 automobile parking spaces distributed amongst its six suburban stations. There are kiss-n-ride facilities for those who are driven to the stations by their wives or sweethearts. There are feeder-bus docks for those utilizing buses of the local transit system, and of apartment, business and commercial developers. There is a platform at Lindenwold where passengers disembark from railroad trains arriving from Atlantic City, Ocean City and Cape May. There are bicycle racks at each suburban station for those choosing this mode of getting to and from the stations.

For the convenience of its users, PATCO operates 24 hours a day, 7 days a week and 365 days a year. On a normal weekday we operate 331 one-way revenue train trips per day. From 5:45 a.m. until 12:00 midnight, the longest interval between successive trains is 10 minutes, in fact from 6:45 a.m. until 11:00 p.m., it's 7½ minutes. During the morning rush-hour this headway is closer to 3 minutes, and during the evening rush-hour to 2 minutes. From 12:00 midnight until 1:30 a.m., there's a train every 30 minutes, then once an hour until 5:00 a.m. This is dependable service: in 1974 we again operated better than 98.16% of our trips "on time".

An example of the special convenience which PATCO provides for its passengers is the transportation to and from the Academy of Music, home of the famous Philadelphia Orchestra. The music hall is located at Broad and Locust Street, just one short block from our 15th and Locust Station. We have an arrangement with the management of the music hall to alert PATCO fifteen minutes before the final curtain. Five minutes after the final curtain falls we have a 2 or 4-car train ready to go at the 15th & Locust Station. And within 15-20 minutes after the final curtain, our riders are climbing into their automobiles at our suburban parking lots in their hometowns, while people who drove to the Academy are still waiting for their cars to be extracted from downtown parking garages.

Obviously for PATCO to be able to provide such a high level of service and convenience it was necessary to incorporate automation and its efficiencies into the overall design. Trains are automatically dispatched at the terminals at the beginning of each run. Each train is operated by a single crewman, regardless of the length of train. The trains are capable of being operated at full performance levels in both manual and automatic modes, assuring dependable service to the user. Automatic Train Control always assures safe maximum train speed and safe train separation between successive trains. The automatic signal system sets up routes and signals in advance of each train. Automatic change-making machines and ticket vendors supply passengers with magnetically encoded tickets in unattended passenger stations. Automatic Fare Control gates control passenger entry and exit to and from stations, subtracting one ride from each ticket in the process, and swallowing the ticket upon exit when the last ride has been consumed. Automatic equipment sorts the previously used tickets into ticket types and zones, and re-encodes the tickets for subsequent re-stocking in the automatic ticket vendors. Cars are automatically washed as they pass thru the car washer twice a week. Automatic supervisory-control systems monitor and control electric power and signal protective systems.

For the comfort of its users and neighbors the trains are designed to be quiet in operation, well illuminated inside and fully air conditioned with automatic temperature and humidity control. Car seats are well padded and upholstered and contoured to fit the human body rather than the car body. Seats are provided for 80 passengers per car. Two 50-inch wide bi-parting doors on each side of the cars permit quick loading and unloading of passengers and enable PATCO to maintain an average station dwell time of only 12 seconds per stop.

Cost of the PATCO service was priced to be competitive with or lower than the apparent out-of-pocket cost of driving, when considering fuel, parking and tolls, and with competing modes of mass transit. A 5-zone fare structure, ranging from a minimum of 35 cents to a maximum of 75 cents, results in a cost to the rider which is somewhat proportional to the length of ride. A significant percentage of the parking spaces in PATCO stations are free; a charge of 25 to 50 cents is made for the remaining spaces.

OPERATING ORGANIZATION

Our Board of Commissioners recognized that a properly motivated operating organization is just as important to the success of the transit venture as is the design of the facilities themselves. To achieve this objective, the Authority established its wholly owned subsidiary, the Port Authority Transit Corporation. Key personnel were selected to head up the various departments and other supporting functions. Detailed procedures were established prescribing how train service was to be operated and how the equipment and facilities were to be maintained. Special care was taken in developing these procedures to make full use of the advanced technical capabilities of the equipment and facilities being provided, and not to be encumbered with traditional but grossly inefficient practices, policies and work rules of the past. I believe the fact that there are no restrictive jobs descriptions existent in the whole PATCO organization has contributed significantly to making the individual PATCO employee one of the most (if not the most) productive workers in the mass transit industry. PATCO operates, today, with a small highly motivated work force of only 272 employees, which includes everyone from the janitor to the general manager. These employees are exceptionally capable and imaginative people who have learned to think and to anticipate where and when problems may develop and to take appropriate action.

OPERATING RESULTS

PATCO opened its doors to service on the New Jersey portion of the Line on January 4, 1969, and on into Philadelphia on February 15, 1969, almost 3 years to the day after the first shovel of dirt had signaled the start of construction. Prior to the start of construction, the number of riders using the railroad commuter service which had formerly utilized the new PATCO right-of-way had dwindled to approximately 1200 riders a day from a former high of about 3,000. And now the moment of truth had arrived—"The Delaware River Port Authority had gambled $94 million to build the Line; would the commuting public buy the service?"

The answer wasn't long in coming. On Monday, February 17, 1969, 14,850 riders paid their fares to ride on PATCO—and the ridership has continued to grow ever since. PATCO is now carrying approximately 42,000 fare paying riders per average workday.

Examination of the record of 6½ years of operation dramatically demonstrates the validity of the concepts under which the Lindenwold Line was conceived, planned, constructed and operated. At the end of 3 years we had reached the break-even point in paying our operating and maintenance costs from the fare box. In 1972, 1973 and 1974 we paid all direct operating and maintenance costs from revenue fares and had a small net earning which we paid over to our corporate parent, the Delaware River Port Authority, to aid in debt service. In all candor, I must acknowledge that we expect to accumulate a direct operating deficit in 1975 of approximately $600,000. The reasons for this deficit are that ridership growth is being stunted by the over-crowding of trains and saturated parking lots, and that we are still operating on schedules of fares established in April 1972 even though subsequent to the establishment of these fares our labor costs have risen by 46 percent, cost of consumable materials other than energy have risen 51 percent and the cost of electrical energy to propel the trains has risen 90 percent. If fares were permitted to rise in parallel with general inflation, PATCO would still be covering all operating and maintenance costs from the fare box. Interestingly, when PATCO raised its fares in 1972, and when it increased its parking rate in 1975, there was no drop in patronage.

Today, on one route, PATCO is carrying approximately 30% of all daily commuter work trips from South Jersey into center-city Philadelphia. And, even though PATCO has spurred a major boom in residential and commercial real estate development throughout the corridor it serves, it has also served to materially reduce traffic congestion on parallel major arterial highways. For instance, the average rush-hour speed of automobile traffic on White Horse Pike (parallels PATCO Line) increased by 30% between 1960 and 1970, primarily as a result of the startup of PATCO service.

An analysis of a survey of PATCO riders reveals that approximately 90% use the automobile to travel to and from the PATCO stations, 50% of these are kiss-n-ride passengers, and 40% are park-n-ride passengers. The same survey revealed that before PATCO 40% of our riders made their full trip by auto and 13% didn't make the trip at all. Thus 53% of PATCO patrons were brand new users of public transportation. Mass transit ridership in the corridor served by PATCO has more than doubled in the six years of PATCO operations, as compared with riders carried in buses before the start of PATCO service.

WHAT HAS BEEN LEARNED?

There are five major conclusions or lessons to be drawn from the PATCO experience.

First, and most importantly, it has been proven that attractive, modern, demand-responsive rail rapid transit trains working in coordination with the existing, highly developed, demand-responsive "Personal Rapid Transit", namely the private automobile, form a natural marriage to produce the best possible transportation system. The motoring public will voluntarily choose to transfer to a public transport mode, if the combined service provided is superior. For the specific purpose of commuting, or going downtown for other purposes, the PATCO service in coordination with the automobile is superior to driving for many people. 42,000 daily riders on PATCO trains and more than 9000 automobiles which daily crowd into the PATCO parking lots all serve to testify that PATCO has provided the proverbial "better mousetrap" and people are beating a path to our stations.

Second, good quality transit service can reduce air and noise pollution, and conserve energy. Electric trains draw power from electric utility stations where primary energy is converted to electrical energy under conditions which can be controlled to emit little or no air pollution. And with proper planning, design and maintenance, a high speed train traveling at 75 miles per hour and carrying from 600 to 800 persons emits less noise than does one diesel bus or truck traveling at 40 miles per hour, and consumes far less energy than alternative highway-oriented modes.

Third, high quality mass transit service can materially reduce traffic congestion. Even though there has been no new highway construction in the corridor, and despite major residential and commercial development throughout the area, there has been a 30% increase in the rush-hour travel speed by automobiles along the major highways paralleling the Lindenwold Line. This is a very significant benefit to those persons whose particular circumstances do not lend themselves to using public mass transit.

Fourth, existing and proven technology is fully capable of providing the kind of re-

liable, safe and socially desirable rapid transit service which will induce automobile drivers to become transit riders. There is little to be gained and much to be lost in delaying the implementation of meaningful rapid transit projects in our urban and metropolitan centers, on the vague hope that some mystical exotic new technology will evolve by some undetermined future date, and magically solve our problems. The technology is available, off-the-shelf, here and now, ready and able to do the job. To await "costly perfection is pointless if it means that reasonable transport can only be achieved in time for the next generation."

Fifth, rail rapid transit, when properly conceived, planned, constructed and efficiently managed, need not incur the huge and horrendous deficits which are common today. In planning and designing new transit systems, or in improving existing systems, we must utilize automation techniques wisely and skillfully, and resist the temptation to automate just for the sake of automation. It makes no sense to automate a process unless it can be proven that the automation will result in a safe, more reliable and more economical operation than can be achieved by manual operation. And for every automated process you must provide full capability of manual operation in order to be able to cope with all unusual and emergency situations which will come up. Operating organizations must be freed of the fetters of obsolete rules and labor practices, and of unnecessary regulations by various governmental agencies. The fact that PATCO is self-regulating in matters of safety and service standards thrusts an additional and welcomed burden of responsibility upon the PATCO management.

The principles which I have outlined have enabled PATCO to achieve the highest level of productivity of any mass transit agency in America.

On the Lindenwold Line, that is the way we conceived it, the way we planned and designed it, the way we built and operate it. And it works!

PRIEST WITH PANAMA BACKGROUND SPEAKS OUT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. SIMON. Mr. Speaker, the Chicago Daily News, the other day, carried an article by Ray DeLong about a sermon preached by Father John P. Enright, who spent 13 years as a parish priest in Panama.

Father Enright is correct in his assertions that the principle issue here is colonialism.

I am inserting the article into the RECORD at this point, and I hope my colleagues in the House and Senate will read this brief article:

CANAL PACT CAN RIGHT A WRONG

(By Ray DeLong)

"I preached Sunday on the gospel of Lazarus, the poor man who sat at the rich man's door, begging crumbs," said the Rev. John P. Enright. "It was a natural."

It was about the Panama Canal treaty.

To Father Enright, 50, the analogy and the subject came easily. He spent 13 years as a mission parish priest nine miles from the Panama Canal Zone before coming to Epiphany Roman Catholic Church, 2524 S. Keeler.

From 1964 to 1976, Father Enright served a working-class community of Panamanians in San Miguelito, a suburb of Panama City. From his unique position as an American viewing the American presence from Panamanian turf, he describes the U.S. role there as "radically colonial."

Colonialism has strong racist overtones, and the priest emphasized that "color still comes to bear in the Zone. The image that is cultivated in the United States and what we would hope to be presenting abroad is shockingly absent in the colonial mentality in the Zone."

Most of the Panamanians who work in the Zone live in Panama. But those living in the Zone are strictly segregated in their own living areas.

The second-class status produces a conflict for the ordinary worker, said Father Enright. While the Panamanians don't like that kind of treatment, they like the money. Workers in the Zone receive the American minimum wage of $2.30. If the same person worked in Panama, he would get about 60 cents an hour.

The existence of the Zone is the dominant force in the small Latin American nation. "There is an overwhelming presence of might and strength," the priest said. He makes fun of those who say that in approving the treaty the United States would be turning over the canal to a military dictatorship.

Even now, "the governor of the Zone is an American Army general," Father Enright said. The 14 American military bases dotted up and down the canal are "the thing that's really in the craw of the Panamanian university students" who are protesting the Panamanian government's signature on the treaty. The new treaty lets the United States keep the bases until 1999.

And that's not the only way the Americans embellish their supremacy with brass. There's also the School of the Americas.

This innocuous-sounding institution in the Zone is run by the American military as a teaching center—not to raise the education level of poverty-stricken Panamanians, but to pass on techniques of political and military science to the military elite throughout Latin America, he said.

One of the products of the school is Omar Torrijos, the general who took over in Panama in a 1968 coup.

The Chicago priest said that when he went to Panama in 1964, the Guardia Nacional, which has been roundly criticized in the United States for trampling on Panamanians' rights, was able to keep order simply with nightsticks. But from the time Torrijos came in, their sticks have become machine-guns and the "national guard" is now also an air force and a navy. "The United States has gone into the arms sales business there." Father Enright said.

According to the priest, it's another kind of commerce—a missing kind—that rankles many Panamanians: the commerce that goes through the big ditch itself and has always accrued to United States' interests.

"The canal is their one national resource," Father Enright said. Panama should be a commercial center, he believes, because of the canal.

Now that he's back in Chicago, Father Enright's parish is another Spanish-speaking one, but this time his parishioners are from Mexico, not Panama. And when he delivered the homily on the treaty last Sunday, he spoke in Spanish to a sympathetic audience.

His summarized his thoughts on the treaty ratification fight now under way: "We seem to find it very hard to do justice to our friends. This treaty gives us an opportunity to right a wrong."

CIVIL AVIATION REGULATORY REFORM ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. CRANE. Mr. Speaker, on April 29, 1976, I was pleased to introduce the Ford administration's proposal to reform the regulatory structure of the domestic airline system. Today, I have introduced a new bill which selectively borrows from various recent legislative proposals of 1977 while stressing the concept of increased competition in the airline industry. In offering the Civil Aviation Regulatory Reform Act, I wish to stress four major concepts at which the bill is aimed.

First, regulatory reform of the Civil Aeronautics Board will improve and stimulate the airline industry. There should be no mystery to the fact that industry does a better job when it competes for the public's business than when government shields it from competition. Exhaustive studies are available from both Houses of Congress, the Department of Transportation, the General Accounting Office, the Council of Economic Advisors, not to mention the private sector which prove this point.

Of the top 30 industries in the United States, the regulated airlines have the lowest return on investment, behind even the railroads. Yet, overwhelming evidence suggests that if air fares were allowed to drop below the Government mandated level, the average number of passengers per aircraft would increase and due to efficiencies of scale airlines would earn higher profits. If this were to happen, consumers would greatly benefit from regulatory reform.

Air fares would not necessarily go down on all flights; this being something the free market would have to determine. But as in the intrastate market where pricing decisions are largely left up to the airlines, the fares would probably be reduced. Amazingly, the intrastate airlines have successfully offered fares which are lower than the bus fare between cities. I offer as evidence the following chart which compares the fares of the unregulated intrastate carriers in Texas and California to the CAB regulated fares on the very same routes. The fares tabulated as of April 1, 1977:

Market [2]	Pacific Southwest Airlines [1]	CAB Formula Fare [3]
Burbank-San Jose	$25.50	$48
Fresno-Los Angeles	20.00	37
Fresno-San Francisco	16.01	32
Los Angeles-Sacramento	26.50	43
Los Angeles-San Diego	12.25	28
Los Angeles-San Francisco	25.50	49
Los Angeles-San Jose	25.50	49
Ontario-San Francisco	26.50	42
Ontario-Sacramento	26.50	54
Sacramento-San Francisco	12.25	25
San Diego-San Francisco	31.75	60
San Francisco-Stockton	12.25	23

[1] Footnotes on next page.

Market [2]	Southwest Airlines [4]	Certificated Carriers
Dallas-Houston	$15/25	39
Dallas-San Antonio	15/25	41
Harlingen-Houston	15/25	45

[1] Official Airline Guide, April 1, 1977

[2] Only Non-stop markets served by both certificated carriers and intrastate carriers have been listed since only these have been assigned official CAB mileages for "the purposes of calculating the appropriate CAB formula fare.

[3] Standard coach fare as prescribed by the CAB fare formula determined in the Domestic Passenger Fare Investigation and amended by subsequent orders to April 1, 1977. These fares would apply to any interstate air route in the continental U.S. of equal length to the corresponding PSA route.

Since these routes are not the main elements in the systems of these carriers, the evidence that fares will decline in these markets is somewhat less conclusive than for the short haul, high or medium density markets.

[4] Off-peak fare/peak fare.

Mr. Speaker, it is important to note that the possibility of lower fares offered by this bill will open air travel to middle and lower income travelers who presently cannot afford to fly. A study released by the General Accounting Office a few months ago shows that fares would have dropped 22 to 52 percent and that passengers would have saved $1.4 to $1.8 billion annually with reduced regulation. Although these savings would probably require passengers to give up certain conveniences, like exotic meals and award-winning movies, it is likely that the reduced rates would increase ridership.

The third concept that I wish to stress is that regulatory reform will reintroduce economic opportunities to those wishing to enter the airline industry but are excluded by law. Since 1950, the CAB has received 79 applications by new companies that wanted to enter the market. Not one was granted. The added competition would force airline management into more cost-efficient resource allocations than are presently practiced under Government protection. The Board has long recognized the inefficiencies that exist in domestic trunk airline operations but have attempted to reduce it by applying more regulations and we all know what the finished product looks like.

The last concept is that Federal interference in the market decisions of a competitive industry is inherently untenable. President Carter has stressed that the airline issue represents the test case for the goal of reducing Government regulations as an overall concept. I applaud the administration for these efforts as I have long been a proponent of alleviating the private sector of the burdens of excessive Government regulation. I hope that those opposing enactment of legislation of this nature realize that they should be competing for the consumers dollar just as other industries are.

I would also like to point out that in favor of regulatory reform there has been formed one of the most extraordinary, broad-based coalitions in lobbying history. This coalition, the Ad Hoc Committee for Airline Regulatory Reform, consists of the following members:

American Association of Retired Persons.
American Conservative Union.
Americans for Democratic Action.
Arkansas Consumer Research.
Association of Massachusetts Consumers.
Aviation Consumer Action Project.
California Consumer Action Group.
Common Cause.
Consumer Alert.
Consumer Education and Protective Association, International.
Congress Watch.
Cooperative League of the USA.
DHL Corporation.
Empire State Consumers Association.
Food Marketing Institute.
Iowa Consumers League.
Libertarian Advocate.
National Association of Counties.
National Association of State Aviation Officials.
National Retail Merchants Association.
National Retired Teachers Association.
National Student Lobby.
National Taxpayers Union.
New York Consumer Assembly.
Northeast Arkansas Citizens Committee.
Public Interest Ecoromics Center.
Sears Roebuck and Co.
Washington Committee on Consumer Interest.
Western Traffic Conference.

Also, actively supporting the concept of airline regulatory reform are: United Airlines, Pan American Airlines, Hughes Airwest, Frontier Airlines, and Southwest Airlines. Also included are: the Republican National Committee, National Governors Conference, Airport Operations Council International, American Farm Bureau, National Industrial Traffic League, and the National Association of Manufacturers.

The tremendous diversity of the preceding groups combined with strong bipartisan support from both Houses of Congress leaves no doubt in my mind that airline regulatory reform will soon become a reality. I wish to commend Representative GLENN ANDERSON and several other of my colleagues for their efforts in this area and hope to work closely with them in the future.

PULASKI DAY BANQUET

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DERWINSKI. Mr. Speaker, a former Member of the House, and now the greatly respected Senator from Delaware, Hon. WILLIAM ROTH, JR., addressed the Pulaski Day Banquet given by the Council of Polish Societies and Clubs in the State of Delaware on October 7.

In his remarks, he honors the great Polish freedom fighter, Gen. Thaddeus Kosciuszko, whose military genius played a decisive role in the winning of our independence from Britain, and gained him an honored place in American history.

It is a special pleasure for me to insert Senator ROTH's remarks for the attention of the Members:

REMARKS OF U.S. SENATOR WILLIAM V. ROTH, JR., PULASKI DAY BANQUET, COUNCIL OF POLISH SOCIETIES AND CLUBS

Mr. Chairman, officers of the council, distinguished guests, ladies and gentlemen.

I am especially pleased and moved to be here this evening, because, marking as it does the 200th Anniversary of the Battle of Saratoga, it has special meaning for me. It brings to mind one of the greatest Poles of all times, and it makes me personally aware of just how much we Americans owe that great land of Poland.

Fate plays strange little tricks on us especially when it comes to recognition of effort and achievement.

I dare say there isn't anyone in this room tonight who hasn't noticed, somewhere along the road of life, how some people just naturally get all the glory while others—often much more skillful and earnest—seem destined to labor forever in anonymous obscurity.

For instance, a rock singer who can barely carry a tune might be the plutocratic idol of millions, while a gifted baritone, who has studied voice for years, must eke out an uncelebrated living by humming jingles for radio commercials;

Or an actress, whose artistry ranges from Shakespearean tragedy to drawing room comedy, might barely get her name in the cast credits of a movie that gives star billing to a vacuous bathing beauty.

Or—Well, the list, from astronauts to zither players, is virtually endless. Wherever humans gather to do work, be it in entertainment or science or industry or politics, it seems the greatest achievers are often the least recognized.

Perhaps the most extraordinary personification of this irony is General Thaddeus Kosciuszko, whose military genius played a role—decisive, but today largely unacclaimed—in winning America its independence from the British Crown.

200 years ago this month, at Saratoga, New York, the Americans won a battle that historians judge to be among the 10 most important of all time. The Battle persuaded France and Spain that the Continental Army could fight and win against England's finest troops, and this stunning demonstration of American grit and capability brought these two powerful nations into the war as allies of the colonies.

And this, in turn, determined the ultimate political character of the entire North American wilderness.

Sure, the victory was the result of the tenacity and plain oldfashioned guts shown by the American soldier. Of course, there were quick and wise decisions by General Gates, the American commander, and certainly there were good breaks for the Americans and bad breaks for the Americans and bad breaks for the tough and courageous Englishmen. But the outcome of the battle still could have been disastrously reversed if it hadn't been for the brilliant tactical deployment of the colonial and the selection of a site on which they made their stand.

The deployment and site selection were no mere coincidences or last minute improvision on the part of Yankee platoon leaders caught between the proverbial "rock and hard place." As directed by Kosciuszko they represented a masterpiece of inspired military strategy brought coolly and surgically to bear on British forces, which—for all their superior strength and combat savvy—had lost the battle before it began.

Throughout the Revolutionary War Kosciuszko helped the Americans outsmart the Crown's forces at seemingly every critical turn. The British Navy attempt to cut off all of New England by sailing up and seizing control of the Hudson Valley was stopped in its tracks by Kosciuszko's shrewd fortifica-

tion of West Point; the British fleet's attempt to sail up the Delaware and trap Washington north of Philadelphia was nailed to a halt by Kosciuszko's twin forts that corked the River just south of what is now the Philadelphia Navy Yards; British operations in the south were split and confused and ultimately defeated at Yorktown, thanks to the wily tactics and fortifications engineered by Kosciuszko at key points in the long and arduous campaign.

Who was this Polish officer who did so much for us?

How incredible it is, actually, that Americans today must even ask the question.

Thaddeus Kosciuszko, descended from a famous line of Polish military heroes, was later to become Poland's combined equivalent of George Washington and Abraham Lincoln. He fought beside the American colonists because he thought that people come first—not governments—and that human rights should be universally enjoyed by all mankind, not just a few.

For the record, he was born of Polish landed gentry, but he was not of the nobility like Count Casimir Pulaski. He grow up in a rural area, learned to love the peasants—Poland's common people—and, because he understood both the aristocracy and the peasantry, he eventually was able to unite them in Poland's struggle to become free of Russian and German domination.

Unlike his triumphs in behalf of the Americans, his Polish efforts ended in calamity and defeat.

Kosciuszko nearly died of saber and lance wounds received while leading the peasants last desperate charge. But he survived, and, more concerned about his fellow prisoners of war than he was for himself, he agreed to exile if they could be allowed to return to their homes.

Kosciuszko, virtually paralyzed by his wounds, managed to return to the United States where he was given a tumultuous hero's welcome and grateful adultation from every quarter—from President Adams and Vice-President Thomas Jefferson, to the most obscure Philadelphia householder.

Nobody admired the valiant Pole more than George Washington, who, during his historic farewell to his officers, presented Kosciuszko with his personal pistols and sword, and, later, his own cherished cameo ring symbolizing the Order of the Cincinnati. When the crippled Kosciuszko was receiving America's acclaim, Washington sent a note from Mt. Vernon. It read:

"I beg you to be assured that no one has a higher respect and veneration for your character than I have; and no one more seriously wished during your arduous struggle in the cause of liberty and your country, that it might be crowned with success. But the ways of Providence are inscrutable, and mortals must submit . . ."

Thomas Jefferson wrote of Kosciuszko:

"He is as pure a son of liberty as I have ever known, and of that liberty which is to go to all, and not to the few and rich alone."

These were no mere, hollow words—no platitudes. Kosciuszko was a giant of intellectual prowess, technical skills, artistic talents, and spirituality. He was in fact a soldier, a painter, an architect, a composer, a scholar, and a philosopher. But above all he was a warm and kindly human being, who built a little rock garden and fountain beside which he could meditate during lulls in the Hudson Valley battle. Who nearly starved at West Point when, as his fellow officers finally discovered, he gave his own rations to sick British prisoners. Who accepted no pay from the hard-pressed American treasury. Who, after his final return to Europe lay nearly destitute and dying in Switzerland, not only shared his meager food with the poorest in the village but also directed in his will that his American assets—never claimed by him—be used to purchase the freedom and education of slaves.

It's no wonder that when they learned of his death, thousands of peasants from all over Poland—with no means for a monument—carried handfuls of soil from their villages to the battlefield outside Krakow. The tens of thousands of handfuls, piled where Kosciuszko had nearly died in the cause of his homeland, eventually made a monumental pile more than 200 feet high.

So, while we might shake our heads over the irony of such a great and noble man going so generally unacclaimed here today, Kosciuszko himself would no doubt have smiled and dismissed the matter out-of-hand.

Because it's evident that he knew, and lived by, a fundamental truth we so called "moderns" tend frequently to forget; fame, riches, notoriety, acclaim—these are ephemeral, transient, will-o-the-wisp. What counts is what a person is, what he does. What a man truly is, what he truly does, are the things that gives the fact of his life eternal, immutable meaning.

Thaddeus Kosciuszko would be unlikely to gain any attention under the standards of today's headline writers. In fact, it would be difficult to find a monument erected in his honor in more than a few places between Capo Cod and Big Sur.

But Kosciuszko would probably be the last to care. He knew that he left his own monument on these shores—a personal bequest that will stand for all time in all history books, wherever men recall the past. His monument is the United States of America, the Nation itself.

How proud I am to have shared the evening with all of you, who stem from the same heritage—who are moved by the same love of liberty—as that splendid man, Thaddeus Kosciuszko.

Thank you again, and good evening.

TRIBUTE TO JIMMY CROMWELL, JR.

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DUNCAN of Tennessee. Mr. Speaker, I would like to take this opportunity to ask my colleagues to join with me in honoring Jimmy Cromwell, Jr., of Townsend, Tenn., in winning two gold medals and a bronze medal in record-breaking performances in the World Deaf Olympics which were held in Rumania.

Jimmy, who is an 18-year-old senior at the Tennessee School for the Deaf in Knoxville, Tenn., has been deaf since childhood. Nonetheless, he has not allowed his handicap to stand in the way of living life to the fullest.

While he has been a student at the Tennessee School for the Deaf, Jimmy has been captain of the swimming team for the past 4 years, quarterback of the school's football team for 2 years, and a member of the track team.

Jimmy broke a world's record for the Deaf Olympics in winning a gold medal in the 100-meter breaststroke. He also set a new world's record and won a gold medal in the 100-meter medley relay. He captured a bronze medal in the 200-meter breaststroke.

His spirit and determination in overcoming his handicap should be an inspiration to all of us. Jimmy has represented himself, his family, and his country honorably and we wish him well.

WHAT HAS HAPPENED TO NIJOLE SADUNAITE?

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. STEERS. Mr. Speaker, many months ago, several of my constituents came to me about the violations of the human rights of a Lithuanian Catholic who is suffering great physical hardship in prison as a result of her religious beliefs. I have become active in trying to bring justice and humanity to the treatment of this courageous individual, but I am afraid her plight has not improved. I urge my colleagues to read an article that recently appeared in the Lithuanian daily Draugas, published in Chicago which states some alarming new developments in Nijole's case. I am also including a copy of a letter I sent to Ms. Patricia Derian, coordinator of Human Rights and Humanitarian Affairs for the Department of State asking for her assistance in this matter:

[Translated from the Lithuania daily Draugas published in Chicago, Ill., Aug. 30, 1977]

WHAT HAS HAPPENED TO NIJOLE SADUNAITE?—MYSTERIOUS SILENCE DOES NOT BODE WELL

What has happened to Nijole Sadunaite? ask those who recently visited Lithuania and report that all contact with Nijole ceased after July 1, 1977. In the city of Vilnius it apparently is well known that many influential world figures and organizations are working on behalf of Nijole's release. That her speech delivered during her trial has been translated into many languages, that her name is being mentioned in the United States Congress, that some congressmen, who initially had reservations concerning this case, now fear the revival of the Stalin, Beria era in the Soviet Union.

Numerous visitors returning from Lithuania report essentially the same story. Nijole is being tortured in the Mordavian prison. Her weight is down to one half the normal weight; although it is not known whether this is due to a hunger strike on her part or due to withheld food rations. According to the last received information, several months ago, Nijole received an unidentified visitor who inquired whether she would like to emigrate to the West. The reply was yes. Soon after that, her treatment took a turn for the worse. Some time later, the same person appeared again with the same question, the same reply and the same consequences. When he returned for the third visit, Nijoles answer was no. Since that time no one has been able to reach her, including relatives and friends (in prison).

Her friends say that this silence does not bode well. She is either in such poor condition, that no one is allowed to visit her, or no longer alive. It is known from past experience that in the case of death in the prison camps the relatives are notified after a long lapse in time. The information concerning the mysterious visitor and the start of her torture was told by Nijole to her friends (in prison) before all contact was lost with her.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 23, 1977.

PATRICIA DERIAN,
Coordinator, Human Rights and Humanitarian Affairs, Department of State, Washington, D.C.

DEAR MS. DERIAN: I am writing this letter to bring to your attention a very grave concern of mine with the hope of securing valuable assistance and information from your office.

On August 27, 1974, Nijole Sadunaite, a Lithuanian Catholic, was tried and convicted for the possession and distribution of *The Chronicle of the Luthuanian Catholic Church*. A partially typed copy of the document was found during a police search of her house. She was sentenced to three years hard labor to be followed by three years of internal exile.

The *Chronicle* is a type of "samizdat", or unofficial literature. Samizdat itself is not illegal, but if the Soviet authorities determine its contents to be defamatory, then the preparation, possession, and distribution of such documents becomes illegal. Quite often, the Soviets determine that religious literature is defamatory, thus ensuring that those who participate in religion unacceptable to the state are kept to a minimum.

I feel that the arrest and sentencing of Ms. Sadunaite violates several human rights guaranteed Soviet citizens by their government. Her arrest violates her freedom of expression as guaranteed in Article 19 of the Universal Declaration of Human Rights, Article 125 of the 1936 Constitution of the USSR, and the International Covenant on Civil and Political Rights of 1973 which was signed by many nations including the USSR.

I would like to point out that the Russians lobbied for many years to get nations to meet at Helsinki, and they were very pleased with themselves after the signing of the document that was the product of that meeting, the Helsinki Declaration. I feel that the United States has every right to attempt to secure Soviet compliance with this document. Ms. Sadunaite's arrest surely violates her religious freedom as stated in Article 7 of Basket Three of the Helsinki Declaration.

Furtheremore, Ms. Sadunaite's sentence, harsh labor and a harsh regime diet, violates Article 5 of the Universal Declaration of human rights which protects individuals from cruel or inhumane treatment. It also violates the Code of Corrective Labor Legislation of the USSR which states that the execution of a sentence shall not aim at inflicting physical suffering or degrading human dignity.

My primary objections to Ms. Sadunaite's treatment several months ago were based on the neglect of the Soviet Union of the documents and treaties mentioned above. In February of this year, I circulated among my colleagues a letter to General Secretary Brezhnev protesting the arrest and subsequent treatment of this Lithuanian Catholic. I was joined by forty Members of Congress in signing this letter.

I have recently received information that leads me to believe Ms. Sadunaite's health has become even worse, and I am enclosing a copy of an article that recently appeared in the Lithuanian daily newspaper published in Chicago, Draugas. I am also enclosing a copy of letter that I sent to Ambassador Anatoly Dobrinin in August, expressing my concern over the treatment that she is receiving. I have received no response or acknowledgement from the Soviet Embassy.

I would appreciate it if your office would gather information regarding the treatment and imprisonment of Ms. Sadunaite. Please transmit whatever material you are able to gather.

Should you feel, as I do, that Ms. Sadunaite's treatment does violate the aforementioned treaties and documents, I urge you to use your position as Coordinator for Human Rights and Humanitarian Affairs of the Department of State; to become actively involved in this matter.

Thank you for your time and effort in consideration of this most important matter.

Yours sincerely,

NEWTON I. STEERS, JR.

LOST BUT NOT FORGOTTEN—LOCATING THE UNIDENTIFIED DEAD

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. RAILSBACK. Mr. Speaker, I would like to bring to your attention an issue of significant concern to many Americans and especially those who work in our law enforcement agencies.

Currently, the United States has developed the technology to systematically search out and identify missing persons. But, to date, we have not used this same type of technology to search out and identify the unidentified dead persons in our country.

As it now stands, the police department in Chicago may have an unidentified body, and authorities in Buffalo may be seeking a missing person who matches the description. Through today's modern law enforcement procedures there is little likelihood of the two parties ever being able to come together to solve either case.

This would have been the fate of a teenage girl whose body was found in a Chicago River, had it not been for the tenacity of Detective Sheldon Cissna of the Missing Persons Breau.

Cissna exhausted all of the current law enforcement procedures in an attempt to identify the drowning victim. After all of the conventional city, county and State reports proved fruitless, Cissna broadened his scope of the investigation by using his personal funds to look further.

After searching through volumes of nationwide police reports, Cissna learned of an Iowa family who submitted a local police report that fit the description of the unidentified body. As it turned out, the family had even had a hood that buttoned onto the victim's coat.

Thanks to Cissna's dedication this unidentified body was claimed, and two cases were sorrowfully completed. But, it is rare that any police department in our country has the manpower or manhours to take on an indefinite hit-or-miss proposition like this.

Ms. Patricia Leeds, a Chicago Tribune reporter, has been covering police stories for a number of years and, to her credit, has not only brought this matter to my attention but has suggested a very reasonable solution. I commend her. Ms. Leeds proposed that a central location be created that would maintain information on all unidentified dead persons. This would be of great assistance to the law enforcement agencies of America and to those people directly affected by such unfortunate tragedies.

This idea has been presented to Chief Howard Shook, of the Middletown Township Police, Pa., who is currently president of the International Association of Chiefs of Police. Shook expressed that this idea has "great possibilities" and he has presented it to the IACP. In addition, many of the law enforcement officers in and around the Chicago area have enthusiastically agreed that it is a very good idea. Further and of great significance was the response to my inquiry to FBI Director Clarence Kelly. He said:

The issue of unidentified dead persons has been an area of some concern to the FBI, and if it appears that the FBI is a suitable repository for the unidentified dead person data, we will favorably consider the proposal.

Police officials estimate that approximately 500 unidentified dead persons are discovered each year. Thus, it is clear that the cost of maintaining data on these individuals will be minimal. It is feasible that one office with a small staff could be sufficient to handle the volume of victims. I would like to emphasize that this would be an information center for the unidentified dead only. To make this an extension of the missing persons bureau would be a self defeating and a duplication of services.

Because our society is becoming more mobile, the likelihood of discovering unidentified bodies increases year after year. Many times families spend thousands of their own dollars for private investigations which they cannot afford.

In response to those person's problems and in an effort to assist our law enforcement agencies which can surely use this valuable information, I am today introducing a bill to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals.

I would hope this bill receives early and favorable consideration. Thank you.

POLISH STORY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. ZABLOCKI. Mr. Speaker, thoughtful Americans agree that ethnic humor is demeaning and in poor taste.

In the past, broadcast media have been frequent offenders, prompting repeated complaints to the Federal Communications Commission.

For that reason, I would like to share with my colleagues an editorial entitled "Polish Story" aired by Mr. John E. Hinkle, Jr., of radio 11 WISN, Milwaukee, on September 30, 1977.

POLISH STORY

We heard a "Polish story" the other day, and although it was exaggerated and cruel, we chuckled. Just about everyone chuckles at Polish stories—including a lot of Polish people.

But wait a minute! As a group, Polish people are among the proudest, hardest-working, self-sufficient citizens on this planet! They take fierce pride in their her-

itage, their homes, their jobs and their kids—and demand law and order in their communities. They have deep moral and religious convictions, pay their bills, mind their own business. Polish officers and men helped this country gain its independence.

They're the kind of people we'd choose as citizens and neighbors.

So here's another Polish story: It's a fact that a Polish name rarely turns up on the welfare rolls!

Although the ability to laugh at ourselves is a priceless American resource, all of us should attempt to keep our humor in perspective.

ELECTRONIC MAIL: GODZILLA MEETS KING KONG

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WHALEN. Mr. Speaker, in the remaining days of this session, the House may have before it major legislation that seeks to reform and reorganize the U.S. Postal Service. But the debate most likely will focus on various short-term tinkerings with the existing system.

While we will be debating whether letter carriers should be walking their routes on Saturdays and how much of a discount should be given to persons mailing books and newspapers, the rest of the country will be moving along toward the era of electronic mail.

Already a great deal of commercial business that used to be conducted through the mails is being handled electronically, outside the postal system. For instance, right here in most congressional offices we now send printed messages around the country via telecopier and many of us get print-outs of all manner of information from computer terminals; some offices even use communicating typewriters.

This country is in the midst of a new wave in the communications revolution. Technological advances in the past two decades have made it possible for us to move on to whole new generations of communications technology.

On a number of occasions, I have spoken in the RECORD about the growing competition betweent he telephone companies and their new competitors in the telecommunications equipment and service markets. Nonetheless, the debate over competition in telecommunications is going to pale beside the likely clash between the U.S. Postal Service and the private sector when we finally get around to deciding who will control the electronic mail marketplace.

A seasoned observer of our national telecommunications policies, Quincy Rodgers, recently wrote:

The mere prospect of AT&T and the Postal Service doing battle is reminiscent of Godzilla meets King Kong.

This rather colorful remark takes on added significance when we recall the Asian proverb that when elephants do battle, the ants get trampled. In other words, those of us whose responsibility it is to safeguard the interests of the public had better start thinking now about the need to assure an orderly transition to the next generation of telecommunications technology, including electronic mail.

One of my personal interests is the general issue of citizens' rights to privacy. Several times this year, I have expressed my concern that neither the U.S. Postal Service nor the relevant oversight bodies have yet devoted significant thought to the problem of insuring the privacy rights of users of electronic mail systems, either now or in the future. Mr. Rodgers aptly points out that even the massive report of the Privacy Protection Study Commission is silent on this issue.

At this point in the RECORD, Mr. Speaker, I wish to insert the full text of a guest editorial that appeared in the Christian Science Monitor on August 12. It is written by Quincy Rodgers, who currently works as an attorney at the Washington law firm of Leighton and Conklin. Previously, he served as the executive director of the White House Domestic Council's Privacy Committee, and before that he was a legislative aide to Senator MATHIAS. I commend this article to my colleagues' attention:

THE GREAT ELECTRONIC MAIL RACE

(By Quincy Rodgers)

Privacy protection is back in the news. This time it is the report of the Privacy Protection Study Commission, which focuses on the effect of government and private sector information practices on the relationship between individuals and the institutions which shape their lives.

In the hardhcaded and easily distracted Washington community, the report has been largely greeted with indifference. Congressional staffers and most pundits are taking a "ho-hum" attitude. Even the news that the Russians are intercepting microwave telephone transmissions is creating few ripples—for some it is an old tale, others do not understand its commercial significance.

Yet privacy as a public issue has repeatedly shown remarkable staying power. It has been a component of every major information and communications controversy of recent years. Still, when the final decisions on these issues are made, somehow other considerations—law enforcement, preventing welfare fraud, etc.—seem to take precedence. The result is a gradual erosion of privacy protection.

Among the many proposals advanced by the privacy commission, one in particular demonstrates how privacy concerns get overtaken by other factors. The commission recommends that "no governmental entity be allowed to own, operate, or otherwise manage any part of an electronic payments mechanism that involves transactions among private parties." The reference is to Electronic Funds Transfer Systems (EFTS), the anticipated electronic banking which will bring about the checkless/cashless society. The commission singles out the Federal Reserve Board as a particularly inappropriate authority for EFTS.

Regrettably, the commission fails to indicate whether this recommendation is also intended to cover the United States Postal Service. This may be the result of political prudence and not oversight because, as everyone knows, the Postal Service is in deep trouble. While there is considerable argument over who is to blame as the source for this trouble (bad management, greedy unions, etc.), the big postal problem has yet to arrive—the anticipated diversion of from 40 percent to 70 percent of first-class mail to EFTS, facsimile systems, and alternative methods of business communications. As the Commission on Postal Service has warned, the potential revenue loss to the Postal Service will be crippling.

Consequently, people are concluding that the Postal Service must compete for the developing electronics communications market if it is to survive. Unquestionably, a Postal Service "race for the wire" will set off shock waves in political, legal and regulatory Washington. And, as with all information and communications controversies, it will have its privacy component. Each contending institution's ability to provide security and confidentiality is sure to be evaluated. But few see this as the major element of the controversy.

In fact, a "race for the wire" is already under way. It began with the Bell Telephone Company's maneuvers to retain its preeminent position in the next generation of communications and information transfer. Ma Bell's opening gambit, implausibly named the Consumer Communications Reform Act, would insulate her from growing competition from microwave and satellite systems, as well as from terminal equipment manufacturers. This gambit prompted the communications subcommittees of Congress to begin revising the communications laws to create a regulatory scheme for the coming decades. The result has been open warfare among the special interests—telephone companies, specialized common carriers, cable television, computer manufacturers—each attempting to position itself to maximize its future market share.

This struggle in the communications subcommittees, which has preoccupied the participants, will seem like a minor skirmish if the Postal Service enters the race. The mere prospect of AT&T and the Postal Service doing battle is reminiscent of Godzilla meets King Kong. It seems likely that a lot of smaller players could get trampled in the struggle.

But the Postal Service brings powerful muscle to the contest. Its congressional committees do not want to be shut out of the action. The postal unions are notoriously aggressive and fearful about lost jobs. Postal users are more well-organized than other communications users (a matter of historical necessity) and include the politically powerful publishers, direct mailers, and rural interests. As long as these groups have no alternative to the Postal Service, they will need to keep it afloat. Expanding its revenue base through electronic mail seems a more plausible alternative than taxpayer subsidy. Thus, the service is not to be counted out, particularly since those who require reform of the basic Communications Act of 1934 to plan their future development strategies may have deadlocked that reform effort in the Congress.

The interests (and there are many more than those named here) are surveying the terrain, drawing up battle plans, marshalling resources, and selecting their generals from among the Washington legal and political establishment. The struggle should be a classic for students of government and politics. It will demonstrate how broad is the view through the relatively narrow window of privacy protection.

QUOTAS AND SOCIAL PROGRAMS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WALKER. Mr. Speaker, as you know, I have been a very vocal opponent of the Federal Government's use of quotas as a tool to enforce social programs. Our Government must not be in a position of using a discriminatory tool like quotas for the purpose of ending discrimination.

I have spoken out on this topic on a number of occasions in the past. I am doing so once again, and will speak out in the future, because this issue is vitally important.

To end discrimination and to provide equal opportunity for everyone is a noble goal deserving of total support, however, the means to achieve this goal must be as worthy as the desired result. When the Federal Government forces the implementation of quotas in its programs, we witness the denial of equal opportunity for some individuals in the name of advancing the cause of others. This is morally and legally wrong.

The Supreme Court will soon address the quotas issue in the well-known Bakke case. Much has been said and written regarding the merits of Allan Bakke's arguments against the University of California's quota system and I am sure debate on the issue will continue.

Today, I want to commend to my colleagues' attention a most intelligent treatment of the issues involved in the Bakke case. Meg Greenfield's column in the October 24, 1977, edition of Newsweek is absolutely accurate in assessing the anti-Bakke arguments and their implications for minorities:

HOW TO RESOLVE THE BAKKE CASE

(By Meg Greenfield)

There are, I suppose, no truly interesting and important political arguments that reduce very well to placard-size, to the sort of thing you can chant in front of a public building or carry around on the end of a stick. But I'm hard-pressed to think of a collection of issues less well-suited to this treatment than those raised by the case of Allan Bakke—the white would-be medical student who has claimed that the University of California denied him a chance to compete for a place in one of its medical schools strictly because of his race. My own hope (and expectation) is that the Supreme Court, which heard the case last week, will find a way to blur the edges of the controversy and reaffirm the important values raised by both sides. You say that is fudging the issue? Fine. It ought to be fudged.

One of the important values I have in mind is Bakke's insistence that government-supported institutions not be permitted to treat some individuals better and others worse *solely on account of their race*, no matter how "benign" the purpose. The other is the university's insistence that certain compensatory programs are justified to help people who have been demonstrably hurt by past acts of official racial discrimination.

NEEDLESS CONFLICT

Never mind that the university, in this case, seems to have engaged in an especially heavy-handed and constitutionally questionable racial program, one that evidently strained the bounds of acceptable practice. The point is that these values do not have to be in conflict, for there are ways of organizing compensatory programs so they won't dance so close to the edge of out-and-out racial-preference schemes. To support one of these values, in other words, does not require you to reject the other. Yet, many people insist on viewing the matter otherwise, forcing it into the mold of an us-against-them political or racial issue.

Anti-Bakke demonstrators were on the street in Washington last week. According to an AP report, 1,000 students at Berkeley protested a student-newspaper editorial supporting him. And civil-rights leaders along with assorted liberal spokesmen have come down hard against Bakke, just as various Jewish and ethnic groups have mounted the barricades in his behalf. None of this can occur except at a certain cost to the complexity and honesty and fairness with which the subject is discussed. Politics does that to issues. It foreshortens and distorts and sacrifices cumbersome reality at the altar of public "impact." It also generates intense emotions. Surely the issues raised in the Bakke case can only become socially murderous given this treatment: racial preferences, racial characteristics, racial entitlements, racial qualifications (or lack of them) for certain jobs and certain rewards.

But my objections to the sloganeering approach go beyond its potential for setting off an ugly and destructive conflict. It also corrupts our understanding. The pro-Bakke view, for instance, is all too often transformed into a simple, false assertion that all these so-called "affirmative action" programs are little more than a cover for putting unqualified and incompetent minorities, mainly blacks, into plummy positions they couldn't otherwise achieve or handle—and at the expense of people who, by rights, should have the job or place in the school or whatever it is.

DEMEANING VIEWPOINT

That is a relatively obvious and predictable distortion, however. Far subtler are the condescending implications of much that is being argued on the other side by people who regard themselves as political and social liberals. Blacks and other racial minorities are demeaned by a view which holds that, intellectually speaking, until proved otherwise, they are all "disadvantaged" and in need of special help to compete. Yet, this is a view I have often heard expressed by people who consider themselves on the do-good, racially progressive side of the issue.

One hardly knows where to begin counting its pernicious effects. It is dehumanizing in that it refuses to see the individual, submerging him instead in the racial group which becomes the only reality. It is also insulting. One of the most mindless and damaging arguments that has been put about by so-called friends of minorities in this fracas is that a ruling for Bakke would undo all the gains made since enactment of the great civil-rights statutes of the '60s. The implication is that those gains were strictly the product of special help and various props which, if removed, would spell the end of black achievement.

I think those laws, removing as they did constraints on everything from politicial participation to freedom to have a sandwich in a public place, made it possible for black people to organize their energy and enterprise in ways available to the rest of us all along. And I think it is patronizing and wrong-headed to attribute the big changes that occurred after the enactment of those laws to something other than the talent and will of a people only lately liberated. To hear some of the alleged friends of minorities tell it, however, all rank and position and power and progress has had to be . . . well, you know what I mean . . . *given* to them.

HANDOUT "REWARDS"

All that is a matter of attitude, of course. There is, in addition, the practical matter of the kinds of laws and rules we want established. As reduced to its political short form, the anti-Bakke argument often seems to contemplate foisting a new kind of dependency on blacks, an elitist Lady Bountiful handing out of "rewards" in measured portions: here . . . take fifteen out of 100 openings . . . stay special and slightly stigmatized and dependent on our favor . . . do you mind terribly if we write it into law that we must do this because you are black and, well, "disadvantaged"?

I think it is—inadvertently—anti-black in impact and patronizing as hell. And to those who tell me they are only arguing for a short catch-up period in which government and other institutions will be invited to make these racial distinctions in a stark, flat-out way, I reply that they have more faith in bureaucratic sensibility than I do. When did the managers of our government and large institutions ever handle this kind of grant of authority in any but a clumsy and dangerous manner? My generation of liberals is currently hot and bothered by the excesses of our intelligence agencies. They forget that the writ to tap wires and break in was given in a "benign" anti-Nazi cause a generation earlier. And they are naive in thinking that current "benign" purposes are any guarantee that a bureaucracy will be using its power to deal with citizens on a racial basis "benignly" a generation hence.

But as they say in the Supreme Court, we don't really have to *reach* those issues, at least not if we insist on viewing the Bakke case in all its precious complexity. There are times when politics can only make things worse and this is one of them.

WATER RESOURCES MANAGEMENT AND PRICING REFORM ACT OF 1977

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILLER of California. Mr. Speaker I am introducing today the third piece of legislation I have sponsored this year to effect major reforms in the development and management of our national water resources. The first of these, H.R. 6335, would require public notice of, and the opportunity for public comment on, Federal water service contracts prior to their finalization in order to review the impacts of such contracts on other contractors and interested parties. This bill would end the abuse of secretive negotiations under which many millions of gallons of public water is sold, often at heavily subsidized rates.

The second major reform bill which I introduced earlier this year, H.R. 8468, would establish conservation as a fundamental and mandatory feature of Federal water programs. During this year of drought. we have become aware that there are finite limits to our ability to produce water reserves, and we have learned that our current planning and management of those resources is seriously lacking. H.R. 8468 would require recipients of Federal water to enter into conservation programs, and would provide long-term, low-interest loans to these customers, and to other eligible water users, in order to retrofit residential buildings or install agricultural service areas with appropriate irrigation equipment.

Several recent studies have revealed the widespread waste of valuable water, and the GAO went so far as to estimate

that only about one-half of the agricultural water supplied by the Federal Government is productively used for irrigation. The continuing drought of 1976–1977 surely must have taught us that, like energy, our water resources are expensive to develop, finite in their amounts, and therefore far too valuable to squander in this manner.

The bill which I am introducing today goes to the heart of much of what is wrong with the Federal water program. Numerous studies have documented the enormous subsidies to water users which are written into long-term contracts with the Bureau of Reclamation, amounting to billions of dollars over the lives of the contracts. These subsidies pass along the cost of this water to the taxpayers, who must ultimately pay for the bulk of the cost which is not paid by the irrigators.

Some Federal water contractors are currently provided with Federal water under 40-year contracts which contain no inflation escalator clause and which require no periodic reevaluation of the water rate during the life of the contract. A contractor who agreed to pay $7.50 per acre foot for irrigation water in 1965 will still be reeciving that water for $7.50 at the end of the contract, in 2005! Even today, the $7.50 may be only one-third of the true cost of delivering that water.

These artificially low prices serve to continue the notion, which most have come to dismiss in the past few years, that water is a boundless resource. This is not so. Heavily subsidized pricing encourages wasteful uses of water. Indeed, in my own State of California, we have seen Federal contractors grabbing whatever water they can find for the cheap rate, and we have seen the Bureau of Reclamation do nothing, even when able through annual supplementary contracts, to assure that Federal taxpayers receive a fair price for their water.

Unrealistically low prices additionally encourage growers to plant crops without regard to their suitability to the region. As a result, we find water intensive crops being planted in naturally arid regions, and irrigated with heavily subsidized Federal water. I am incapable of understanding why the Federal Government should provide large amounts of subsidized water to a farmer in an arid region to grow a water intensive crop like rice or cotton, when we at the very same time pay farmers, in other areas of the country where these crops would grow easily, not to grow them. Bizarre as that may be, that is the Federal policy today.

The legislation which I am introducing today, the "Water Resources Management and Pricing Reform Act," would bring our water policies into line with reality, improve our planning and management techniques, encourage conservation, and assure a better return to the Federal Treasury from the sale of our publicly owned natural resources. This bill would establish a graduated pricing scale for water, with the base being the amount determined necessary to grow crops indigenous to the area being served. It would also establish as that base price the actual cost of delivering water to the contractor, including the energy costs, which can be considerable.

My bill would also require, in all new contracts entered into by the Bureau of Reclamation, that there be a provision mandating the recalculation of the costs of delivering water no less frequently than every 2 years, and the modification of the pricing in the contract on the basis of this reevaluation.

The need for this type of legislation is proven by the emerging reports of millions of dollars in subsidies going to agribusiness and other irrigators, subsidies which come right out of the pockets of every American taxpayer. The management and pricing policies established in this bill are exactly those which any of us, were we to be running a business which was engaged in the sale of irrigation water, would certainly use. If we ran a water business like the Bureau has run our Federal business for us, we would have been broke a long time ago, and the only reason we are not is because the burden of underwriting this program has fallen to others.

Some might say that this legislation would exact a grave burden on irrigators. I think the facts challenge that argument. In California, irrigators who receive water from the State water project pay about three times as much as their Federal neighbors across the street, even though they use water which frequently comes from the exact same sources and conveyance facilities. Fair pricing and sound management are not going to damage agriculture, but will have the effect of requiring those who greatly benefit from federally supplied water to pay their fair share.

A copy of the bill follows:

H.R. —

A bill to require the Secretary of the Interior to establish a table of water rates to be charged irrigators who contract for water resources for agricultural purposes from the United States through the U.S. Bureau of Reclamation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Water Resources Management and Pricing Reform Act of 1977".

AGRICULTURAL WATER PRICES AND CONDITIONS

SEC. 2. All water provided by the Secretary of the Interior to any person for agricultural purposes shall be provided at the rates and subject to the conditions specified in this Act.

AGRICULTURAL WATER ANALYSIS

SEC. 3. In each region in which water is provided by the United States for agricultural purposes, the Secretary shall establish in acre-feet a "base volume" of water required to grow agricultural crops suited to that region. In establishing each "base volume," the Secretary shall consider such factors as average annual rainfall, climatic conditions and other pertinent conditions relating to the amount of water needed to grow crops indigenous to each region.

BASE RATES

SEC. 4. The Secretary of the Interior shall establish a "base rate" per acre-foot for water delivered for agricultural purposes in any region, which shall apply to the "base volume" of water for the region. The base price shall reflect, at a minimum, the cost of delivering such water to each contractor (not including any repayment for drainage and distribution or main project features) including the energy costs involved in the delivery of such water.

SUPPLEMENTAL WATER RATES

SEC. 5. Any volume of water sold to an agricultural user in excess of the "base volume" shall be treated as supplemental water for purposes of this Act and shall be sold at or above the following rates:

Volume of supplemental water sold and minimum price of excess volume

So much as exceeds base volume but does not exceed 150 percent thereof—base rate plus 75 percent.

So much as exceeds 150 percent of base volume but does not exceed 250 percent thereof—base rate plus 150 percent.

So much as exceeds 250 percent of base rate—base rate plus 200 percent.

COST RE-EVALUATION

SEC. 6. All water service contracts entered into, modified or amended, by the Secretary after the date of enactment of this Act shall provide that the Secretary shall re-calculate the actual cost of delivering water to each customer not less than once every two years and modify the price of such water pursuant to such re-evaluation.

PROHIBITION ON CERTAIN CONTRACTS

SEC. 7. No water service contract, or modification of a water service contract, or any other arrangement whereby water in excess of 250 percent of the "base volume" is provided by the United States for agricultural purposes may be entered into by the Secretary of the Interior after the date of enactment of this Act unless such contract, modification, or other arrangement is approved by the Congress by concurrent resolution.

STOPPING THE B–1 BOMBER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BINGHAM. Mr. Speaker, the House is apparently going to have to vote on whether or not to appropriate funds for the B–1 bomber once again, even though just last month we adopted the Addabbo amendment to delete all production funds for the B–1 from the fiscal year 1978 budget. B–1 supporters in the House are said to be planning to offer an amendment to the fiscal year 1978 supplemental appropriations bill which would appropriate $1.4 billion to build five production models of the B–1. They are trying to take advantage of the confusion generated by the Carter administration's willingness to accept a proposal by the Air Force that $20 million be authorized to explore the possibility of converting the FB–111 into a long range penetrating strategic bomber. If the Carter administration is willing to accept such a study, these B–1 supporters have argued, then there is reason to doubt the sincerity of the administration's opposition to production of any penetrating bomber. As President Carter has made clear in a letter to the gentleman from Michigan (Mr. CARR), however, continuing studies of various penetrating bomber alternatives in no way affect his decision not to proceed with development of such an airplane at this time.

Even though I believe any attempt to revive the B–1 at this point is an exercise in futility, it has to be taken seriously, Twenty-seven national churches, unions, environmental groups, peace and professional organizations today wrote to President Carter and asked him to step up his efforts to protect his decision to stop the B–1. I think my colleagues would be interested in seeing their letter and the names of the groups signing it, and I include it at this point in my remarks.

WASHINGTON, D.C.,
Monday, October 17, 1977.

DEAR PRESIDENT CARTER: We considered cancellation of the B–1 bomber program one of your finest and most courageous decisions, and we promised to continue our work against the bomber until your judgment was sustained by the entire Congress. We are still engaged in that controversy.

In our estimation, your decision to cancel the B–1 is now in serious danger of being reversed in the House of Representatives. Intense lobbying by contractors who would build the B–1 and clever parliamentary maneuvers by Congressional B–1 proponents have imperiled the three-vote margin by which the House endorsed the cancellation on September 8th. The Pentagon's confusing signals on its future bomber plans complicated the situation. But for many who oppose you, this is clearly a partisan attack on your defense program and SALT negotiating posture.

It is gratifying that your opposition to the B–1 has not wavered since last June, and your letter to Rep. Carr on the FB–111 was very helpful. We hope even more can be done.

We fully understand that you are already engaged on many fronts in behalf of your programs in the Congress, but we urge you to devote personal attention to protecting your B–1 decision. Your judgment was supported by the American public. We encourage you to take your case against the B–1 to the people and the Congress one more time.

We fear that, without your public leadership, the outcome of the debate may be determined on narrow and partisan grounds.

With best regards,

(The letter was signed by the following representatives of national groups:)

Leon Shull, Executive Director, Americans for Democratic Action; S. Loren Bowman, General Secretary, Church of the Brethren; Mike Cole, Leg. Dir., Common Cause; Jeff Knight, Leg. Dir., Friends of the Earth; Marjorie Boehm, President, U.S. Section, Women's International League for Peace and Freedom; Edward F. Snyder, Exec. Dir., Friends Committee on National Legislation; Peter Harnik, Coordinator, Environmental Action; Carol Coston, Exec. Dir., Network; Dr. Jeremy J. Stone, Exec. Dir., Federation of American Scientists; Henry Niles, Chmn., Business Executives Move for New National Priorities; Jane Leiper, National Council of Churches; Steve Chapman, National Taxpayers' Union; Terry Provance, American Friends Service Committee, and Rick Boardman, Clergy and Laity Concerned.

Ray Nathan, Director, Washington Ethical Action Office, American Ethical Union; Mary Jane Patterson, Director, Washington Office, United Presbyterian Church—U.S.A.; Pat Tobin, International Longshoremen's and Warehousemen's Union; Edith Villastrigo, Women Strike for Peace; Andre Burnett, National Student Association; Victor Lloyd, Director, Sane; Molly Freeman, National Association of Social Workers; Jim Stormes, S.J., Dir., Jesuit Social Ministries Office; Robert Alpern, Dir., Washington Office, Unitarian Universalist Association; Dana Grubb, Episcopal Peace Fellowship; Paul Kittlaus, Office for Church in Society, United Church of Christ, Sarah Nelson Labor Caucus, NOW—National Organization for Women; Herbert Scoville, Chairman, Task Force on Reducing the Risk of War and Violence, New Directions; and Edith Giese, National Coordinator, Grey Panthers.

UNIVERSAL COVERAGE UNDER SOCIAL SECURITY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. STEERS. Mr. Speaker, later this week we will be debating the Social Security Financing Amendments of 1977. One part of this measure will be universal coverage to place all Federal, State, municipal, and nonprofit organization employees under the provisions of social security. Last week, I submitted my thoughts on this matter into the RECORD, indicating that my constituents were concerned about this matter because of the fact that none of the details of the universal coverage concept had been worked out.

Today, I would like to share with the Members of the House the thoughts of my neighbor to the south, JOSEPH FISHER who, as a member of the Ways and Means Committee, is intimately familiar with the provisions of this legislation—as well as with the social security system as a whole. JOE FISHER wrote a guest editorial for the Washington Post today concerning the concept of universal coverage which I think should be read by all Members of this body before we take any votes on this complex, crucial matter.

The editorial follows:

SOCIAL SECURITY: CAN—AND SHOULD—IT COVER ALL?

(By JOSEPH L. FISHER)

This week the House of Representatives is expected to debate a bill containing proposed changes in the way the Social Security system is financed.

The bill, as approved by the House Ways and Means Committee, is intended to restore to the system short-term and long-term financial soundness. One of the bill's provisions would require that all workers be covered by Social Security beginning Jan. 1 1982. This provision, commonly referred to as "universal coverage," is the most controversial of all the proposed changes and would have the greatest impact on some 6 to 7 million government workers not presently covered.

Town meetings I held recently in my congressional district demonstrated that many persons are not only concerned but confused about the implications of universal coverage. Government employees now paying into their long-established retirement systems feel threatened that the benefits they have worked for may not materialize or may cost more. People already retired fear that some of the retirement benefits they now enjoy may be taken away.

What would universal coverage entail? The effect of this proposal would be to bring all federal, state and local government employees and employees of non-profit organizations under the Social Security system. Some newspapers have reported this as an impending "merger" of the Social Security and the Civil Service retirement systems. It is not. By itself it simply would require everyone to pay into Social Security as well as into their regular retirement plan, and receive benefits from each plan under the rules of those plans. If the bill were law now, this would mean federal government employees would have to pay 5.85 per cent of the first $16,500 of their salaries in addition to about 7 per cent for their existing Civil Service retirement system.

Most observers expect that before the plan would go into effect the federal and other retirement systems would be adjusted to coordinate with Social Security in order to eliminate double costs. But nothing in the proposed legislation requires this. In fact, the only requirement is that universal coverage be instituted. The proposal has raised hundreds of questions about the effect of universal coverage but has supplied no answers. As one example, how would years of federal service be credited to the Social Security system and which trust fund would pay the accrued benefits? This is a critical question in determining the success of this proposal as a partial solution for restoring financial soundness to the Social Security system, but it is not addressed in the bill.

One thing is certain. Universal coverage will not be retroactive, so it will not affect current retirees or those retiring prior to Jan. 1, 1982.

Congress in its present mood seems definitely to favor eventual universal coverage under Social Security, largely reflecting the opinions of those already covered who have long felt that fairness dictates that everyone should pay into the account.

If universal coverage is to be the law, there is one principle that must be followed: Employees should be entitled to receive the benefits they were promised at the time they were hired as well as any improvements made in benefits during their working careers, and to be able to make plans for their future on that basis. Any downgrading of such benefits would be a serious breach of faith. During the debate in the Ways and Means Committee, I succeeded in adding a provision to the bill in line with this principle. This provision requires HEW, in consultation with the Civil Service Commission, to develop a plan for presentation to Congress by Jan. 1, 1980 that would assure that federal employees will not be made worse off by the coordination of the Social Security and Civil Service retirement system in terms of benefit and contribution levels.

The two systems, federal retirement and Social Security, were established to fill different objectives, one a retirement income or pension for government staff, the other a minimum protection for elderly persons. Coordinating these systems requires thoughtful, sensitive, careful examination.

The approach I would have preferred, and the one preferred by the Civil Service Commission, HEW Secretary Joseph Califano and the House Civil Service Committee is to hold off any mandate for universal coverage, and instead enact legislation requiring a study of the issue. An amendment to this effect

failed in committee, but I intend to put forward this approach during the debate in the House.

There is no question that the financing of the Social Security system needs to be overhauled. For several years the financial reserves of the system have been diminishing. More has been paid out in benefits than has been taken in in contributions. The unemployment rate has been high, thus there have been fewer persons in the work force to pay into the system. There is also a trend toward earlier retirement and an increase in average life expectancy. The result is a growing percentage of older persons in our society and more retired people entitled to draw Social Security benefits. Furthermore, benefit payments go up automatically with the cost of living and have outstripped increases in contributions.

The Ways and Means bill offers many improvements: It accelerates the increase in the wage base subject to the employment tax; it corrects the overindexing of future benefits; it removes inequities in the treatment of widows, widowers and divorced persons; it increases the amount of wages that retirees can earn before their Social Security benefits are reduced; and it provides standby loan authority to bolster the trust funds if they fall below a certain level. The net increase in the cost of these and other changes would continue to be shared equally by individuals and employers. Meeting the higher cost would not be pleasant, but it would be necessary to put Social Security on a sound, long-term basis. This must be done.

But the extension of Social Security coverage to government employees, even if set for 1982, is unwise at least until a plan can be worked out and enacted to integrate Social Security with the existing Civil Service retirement. There is simply not enough information from which to conclude that universal coverage is prudent and fair at this time—from the point of view of costs and consequences to the employer in terms of new tax obligations, and to the employee in terms of changed or possibly diminished benefits. Many persons stand to lose in the wake of hasty, ill-considered action.

NEW ECONOMIC THINKING

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LUNDINE. Mr. Speaker, the American economy is today confronted by a new and significantly different set of challenges. We can no longer rely upon the twin assumptions of infinite resources and technological superiority. The energy crisis has demonstrated dramatically that our natural resources are finite; and increasing demands for trade restrictions bear witness that other nations have also mastered the technological revolution. The old-fashioned tradeoff between inflation and unemployment no longer prevails; this Nation has been suffering from high levels of inflation and unemployment for the past several years.

At such a time, it is essential that we reexamine the traditional definitions which have guided our economic thinking. We must insist upon new approaches to economic development and productivity growth which will strengthen our national economy and expand employment opportunities. In hearings before the Senate Human Resources Committee on S. 533, the Human Resources Development Act, Associate Professor James O'Toole of the University of Southern California presented testimony on behalf of the bill which is an eloquent example of new economic thinking. I am pleased to present it here for the benefit of my colleagues, many of whom have joined me in cosponsoring the Human Resources Development Act in the House, H.R. 8065:

TESTIMONY OF JAMES O'TOOLE

The Human Resources Development Act comes before the Congress at a unique juncture in the history of the American economy. It is my observation that our incredibly successful economy is now undergoing a process of fundamental transformation. The components of this change can be readily agreed upon: the introduction of new and powerful technologies, radical shifts in resource availability, departures from longstanding social and demographic trends, and alterations in the international political order. What is significant and controversial about these changes is that they may be conspiring to produce a discontinuity with past economic history. If this is the case, then the traditional assumptions that have guided our thinking about national economic policies and private industrial practices are now obsolete and invalid. In short, I shall argue that to think appropriately about the future development of human resources will require an updated, revised and more appropriate model of how our economy works.

When considering a bill such as the one before this subcommittee, it is important to keep in mind that the "laws" of economics have been "empirically derived." That is, economists have observed past behavior, codified it, and predicted that the same behavior will also prevail in the future. Significantly, the current ideas of economists are based on the era of industrialization in Europe and America, modified significantly as the result of the experience of the Depression.

But America's economic future is likely to be significantly different from this past, a past that unfortunately constitutes the data base for all our economic assumptions and human resource policies. Let me offer a few examples to support my assertion:

1. The United States was once one of the world's chief producers of cheap, manufactured goods. Today, our comparative industrial competitive advantage is in sophisticated high technology.

2. The United States was once a land of laboring immigrants, grateful for any job at any wage, to whom the most rudimentary benefit from society was considered a privilege. Today, ours is a generally-affluent population with increasingly egalitarian expectations, to whom the most advanced of society's benefits—free education and health care; lifelong economic security, interesting jobs—are seen not as privileges but as entitlements.

3. The United States was once a vigorously independent frontier economy, with limitless opportunities for financial and physical growth. Today, we find ourselves dependent on foreign sources for such vital and diminishing resources as chrome and petroleum, and our domestic stocks of uranium, natural gas and other energy sources are being quickly depleted. Related, growth is being slowed by the damaging environmental effects of the increased use of many of these scarce resources.

In such a world, traditional economic ideas about humans resources are obsolete. And, because these ideas are based on anachronistic data, the policies and programs generated by traditional economic analyses of the industrial era are often inappropriate. Nowhere is the obsolete nature of economic thinking more evident than in the traditional treatment of human resources. For example, to the economist, progress results from replacing workers with machines. The human is the factor of production that needs to be traded-off in order to increase productivity.

Let us examine this assumption, one that underlies most industrial practices in America today. Clearly, there are only three categories of resources from which people may draw in order to produce what they need to sustain life. These resources are land (including energy and all other natural resources), capital (including machines and all other man-made sources of wealth), and labor (including all aspects of human skill, intelligence, ingenuity, and other abilities). Significantly, the first two of these "factors of production" may be reaching the point of maximum exploitation. By the end of the current millennium, it is unlikely that great increases in productivity will still be wrung out of natural resources (unless power from the sun—or sunlike fusion power—can be effectively harnessed). But even if we make the risky assumption that there are no immediate limits to natural resources, it is not clear that humankind will continue to benefit from greater use of capital-intensive machines. The kinds of machines that industrial societies seem bent on producing often bring pollution, waste, inefficiency, cheap and shoddy goods, unemployment, and a general diminution of the quality of life. But economic growth, per se, is not at fault. Rather, growth pursued in the traditional mode of the industrial revolution seems inappropriate for tomorrow's constrained environment.

It would seem, then, that improvement in the quality of life will occur mainly through making better use of the third factor of production—human resources. And by "better use" I mean not harder work but smarter work. Humankind's puny muscle power is not a potential source of greater progress; rather, it is the intellectual powers of the race that constitutes an immense reservoir of productivity and advancement.

But here my notions of productivity and advancement differ from those of the economist. When the economist thinks about increasing productivity, he has in mind an assembly-line worker whom an industrial engineer should try to make work faster or, failing that, should replace with a machine. This model of economic development was quite appropriate for an era of cheap energy, surplus capital, high consumer demand for low-quality, mass-produced goods, little environmental concern, and a poorly-educated workforce. The model I have in mind is of an engineer trying to develop new uses for micro-processors—those tiny computers contained on a chip of silicon. This is a major area of growth in the world economy, and one in which the United States is the dominant force. In many cases, the United States does not even produce the goods that utilize micro-processors.

Nevertheless, American companies invent, design, finance and market these little miracles for the world. Our future standard of living depends not on our ability to produce shoes, shirts or shinola, but on our ability to remain competitive in high technologies—that is, all the knowledge industries including computers, scientific instruments, rockets, engineering services and management consulting. Important, high productivity in knowledge industries permits us to expand the services sector of the economy—where already over half of our workforce is employed and where most jobs for the disadvantaged can be created. Significantly, the key to productivity in both high technologies and services—which together probably constitute over three fourths of our private economy—is the development of the human resource. Even in the relatively shrinking heavy industries—steel, autos, etc.—the key

to productivity is not in workers' laboring harder, but in their working more cooperatively, intelligently and committedly. Consequently, the development of untapped human resources is likely to be the "technological" challenge of the postindustrial era, as the development of better tools and machines was the ultimates source of productivity in industrial society.

What kind of a system could best tap and develop these resources? Clearly, not our present system. Today, the vast majority of our workforce is underemployed, by which I mean that their skills, training, education, talent and other human resources are grossly underutilized on their jobs. Something like 80% of our workforce, by this definition, may be underemployed. The reasons for this waste are many—habit, lack of knowledge how to tap these energies, some union practices, etc. But the primary reason why we don't more fully develop human resources, I believe, is the attitude of most American managers that blue-collar and most lower- and middle-level white-collar workers are incapable of accomplishing tasks that require much intelligence. Therefore, managers design jobs to be repetitive, simple, and unchallenging. But facts about the labor force belie these employers' stereotypes. The IQ range of workers, for instance, challenges the wisdom of giving simplified tasks to many blue-collar employees. As the figures below show, there are few dull Ph.D.s, but there are many bright laborers. (In fact, because there are many more laborers than Ph.D.s, three times more laborers than doctorate holders have IQs over 130).

Occupation	IQ range	Mean IQ
Ph. D. (professor)	100–169	130
Engineer	100–151	127
Clerk	68–155	118
Laborer	26–145	96

Unfortunately, we design most laborers' jobs for the mean IQ of 96 (or lower), an action that leaves many exceptionally bright laborers in jobs that are unchallenging and, for them, demeaning. It is clearly a waste of human resources to place bright people in bad jobs because we fail to recognize their potential.

It is also a waste of human resources not to involve these workers in finding better ways to do their jobs—more productive ways and less demeaning ways. In interviews conducted for the Work in America study, the most frequent complaint of workers was that when they tried to suggest better methods for organizing their tasks, their employers invariably responded with indifference, disdain, or contempt. Finally, these workers gave up trying. They began to make the minimum possible commitment to their jobs that would still ensure a paycheck at the end of the week. Thus, a kind of self-fulfilling prophecy is at work: Managers, who feel workers are lazy, dumb and untrustworthy will treat workers accordingly; then, the workers respond by engaging in work restriction.

I think it is not inaccurate to describe much of labor/management relations in the United States as a system of mutual mistrust. To put this admittedly bald statement into some perspective, it is useful to compare the American system with two quite divergent European models. The first European system of industrial relations is based on class conflict. In Britain, especially, managers have viewed workers as the enemy whose back must be broken in battle. It is beneath the dignity of the managerial class to attempt to communicate with the working class. The attitude of the workers (and particularly of their union leadership) is that they would rather sink the ship—with themselves in it—than cooperate with the "exploiting" class. The other European model is based on cooperation. In Scandinavia and Germany, in particular, workers and managers see themselves as being afloat together in a single boat. While there is no illusion that the interests of labor and management will always coincide, there is, nevertheless, a working agreement that it is in the self-interest of both parties to keep productivity and employment high, and inflation low.

While the parties fight like cats and dogs in the national political arena, neither is so self-destructive as to allow these democratic struggles to capsize the boat of prosperity. While these characterizations of the two systems are necessarily oversimplified and overdrawn, I do not think it is a misstatement to claim that the class conflict of Britain and Italy, on the one hand, and the union/management cooperation of Northern Europe, on the other, are reflected in the relative prosperity and productivity of the two opposing systems. But my main purpose in undertaking this international comparison is to argue that American industrial relations are not nearly as bad as those in Britain and not nearly as good those in Germany.

We must admit, regretfully, that class differences continue to exist in this country, and that with these conflicts come a host of social and economic problems. Confining my remarks only to workplace problems, these class divisions prevent the society from more fully realizing the potential of its human resources. Indeed, I should argue that unless we move away from conflict and towards cooperation between management and labor, the nation will be unable to successfully negotiate the seas of the emerging post-industrial economy. Cooperation is simply the only appropriate mode for labor relations in a services and knowledge economy.

We must, then, find models of cooperation. Most emphatically, I feel that the monolithic industrial democracy legislation of Northern Europe is totally inappropriate for the needs of our pluralistic nation. All that is probably required on the part of government in this country is to provide some incentives and assistance to employers, workers and unions to find many and varied American responses to the complex issues of human resources development, productivity and class conflict in the workplace.

In this regard, the bill before you is particularly attractive because it recognizes that there is no simple and uniform response that is appropriate for the wide variety of industries, working settings, union agreements and other local conditions found across the nation. For example, there is no single job design capable of providing satisfaction to all workers. In the past decade, many employers tried and failed to enrich jobs using one or more of the many set formulas promulgated by management experts. Frustrated in these efforts, some of the most sophisticated employers are now discovering that they can't dictate happiness for their workers.

It is now being discovered that efforts to improve the quality of working life should be intended to make work organizations places where individuals have opportunities to grow, create, and exert some mastery over their environment. These actions may also increase productivity in the bargain, but that cannot be their prime purpose. The willingness to undertake these tasks will require a sense of social responsibility on the part of unions as well as employers. Although such a change in attitude is a great deal to expect, a small number of companies and unions have begun to work seriously on improving working life, continuing their efforts even when the recession offered them an easy way out of their commitment.

Important workplace experiments are under way in both Europe and America. These range from simple flextime (workers choose their own working hours) to the revolutionary notion of full equity sharing (the stock of an enterprise is cooperatively owned by the workers). Although each on-the-job experiment from the simple to the radical has been shown to have its unique limitations, almost all of these workplace changes directly or indirectly ameliorate some problems of underemployment. There is now ample evidence that jobs can be altered to engage the "unemployed self" of many workers. In particular, routine assembly-line and continuous-process tasks have been redesigned to give workers more autonomy, challenge, and participation in decision making.

The most successful of these programs have involved a total reconception of work systems. Here, not only are jobs more interesting, but responsibility and authority over their own tasks are delegated to workers. Characteristically, workers in such programs are divided into self-managing teams that decide how to divide their own labor, when they will work, what methods they will use, who will work with them, and how they will undertake quality control. The nature of supervision is also changed, as is the form of compensation (hourly wages usually give way to salaries, profit sharing, or some other equitable system compatible with the new work environment). General Foods, Procter and Gamble, Volvo, and Saab have pioneered in such total redesign efforts, and a mine in Rushton, Pennsylvania, and the entire community of Jamestown, New York, have successfully experimented with Labor-Management Councils like those advocated in the bill before the subcommittee.

At the Harman International Plant in Bolivar, Tennessee, the company and the union are working to find ways to improve working condition for workers who make mirrors and other auto accessories. Representatives of all the parties involved, including the workers, traveled to Sweden to see what they might bring back to their plant from the pacesetters in industrial democracy. After they returned to Tennessee, about sixty jobs at Bolivar were altered and rotated—in ways suggested by the workers—and the increased productivity that resulted was shared with the workers by giving them more time away from work. As workers have gained more experience and confidence they have begun to suggest ways to redesign other jobs in the plant and invented imaginative new ways to share in cost savings that have resulted from the changes they have either initiated or supported. Although still in its infancy, the experiment at Bolivar is significant because it is the first attempt to totally redesign the work environment in a unionized and existing facility.

Significantly, after two hundred years of political democracy, it now appears that the future of work will also be determined democratically. American workers are just now beginning to participate in the decisions that most directly influence their day-to-day existence. Although they spend more of their waking hours at work than at any other activity, only a few Americans have participated in such decisions as when they will work, with whom they will work, with what technological tools they will work, and how they will divide the tasks that need to be done. However, some managers are beginning to discover that workers are most satisfied and productive when they are given the rights, resources, and responsibilities of self-management. It is a lesson that was learned long ago in political affairs. Indeed, it permeated the thinking of the Enlightenment that influenced Jefferson and his contemporaries to advocate democracy not only as the most just system of goverance, but also as the most practical and efficient (for example "overhead" costs in a democracy are low because there is no need for secret police to be engaged in the impossible task of trying to keep

the populace "loyal" and "committed" to the goals of the nation).

I believe that the chance is great that employers, unions, workers and scholars will find better ways to develop human resources. But this will only be done through experiment and negotiation among the parties directly involved. For this reason, I urge the subcommittee to resist the temptation to tighten up the specific aspects of this bill. Union leaders and corporate executives will no doubt come before you with perfectly reasonable demands for specificity that will destroy the flexibility of the bill. Without flexibility, there will be a reduced likelihood of the kind of innovation that is needed to respond to the new order of social and economic challenges the nation will face in the future.

CORN SWEETENER SUIT

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LEACH. Mr. Speaker, in an attempt to bring equity between corn producers and sugar growers, the Corn Refiners Association, Inc., and the National Corn Growers Association last week jointly filed suit in U.S. District Court in Des Moines, Iowa, seeking immediate implementation of sugar price support provisions of the Food and Agricultural Act of 1977.

In filing the suit it was pointed out by the plaintiff that failure by the administration to implement the sugar provision of the new farm bill results in sugar continuing to hold a competitive advantage over producers of corn-derived sweeteners.

Named as defendants in the suit were the Secretary of Agriculture, the U.S. Department of Agriculture, and the Commodity Credit Corporation and the Executive Vice President of CCC.

At a time when corn prices are in a seriously depressed condition and facing even lower levels as the Atlantic and gulf coast dock strike continues to bring the marketing process to a halt, this is no time to delay implementation of a provision of the new farm law which was approved to provide equity between producers of corn and sugar. The corn growers of Iowa are anxious to compete fair and square for the sweetener market with sugar but cannot do so without implementation of the law as approved by Congress. The goal of that legislation was equity for the former producers of corn as well as sugar. Unfortunately after administrative approaches are prone to benefit the large sugar producers and sugar refineries rather than the small family producers of sugar and corn.

I am attaching to these remarks a copy of a statement by the president of the Corn Refiners Association regarding the suit:

STATEMENT OF ROBERT C. LIEBENOW, PRESIDENT, CORN REFINERS ASSOCIATION, INC., OCTOBER 13, 1977

This afternoon the Corn Refiners Association, Inc., and the National Corn Growers Association have jointly filed suit seeking immediate implementation of the sugar price support provisions of the Food and Agriculture Act of 1977. The suit, which names as defendants Secretary of Agriculture Robert S. Bergland, the U.S. Department of Agriculture (USDA), the Commodity Credit Corporation (CCC), and Mr. Ray Fitzgerald, Executive Vice President of CCC, was filed in United States District Court for the Southern District of Iowa in Des Moines.

We have requested the Court to: permanently enjoin the defendants from refusing to comply with the loan and purchase sugar price support system mandated by Section 902 of the 1977 Farm Bill; permanently enjoin the defendants from making payments to sugar processors under the program announced in the October 7, 1977, *Federal Register;* and to declare the processor payment program unlawful.

We have not taken this step lightly. However, in light of repeated statements and actions by Administration officials, we feel compelled to seek relief from the courts. Administrative actions and appeals have been exhausted. The insistence of Congress on enforcement of the sugar price support has not brought about compliance by the Administration.

Two issues are at stake here: the continuing refusal of USDA to enforce a law passed by Congress; and their repeated attempts to use a sham payment to give producers of sugar a competitive advantage over producers of corn-derived sweeteners.

In July and August, the question of U.S. sugar policy was thoroughly debated by the Congress. The result of these debates was the "de la Garza amendment," mandating a sugar price support through loans or purchases of processed sugar products. At the time of the conference on the Farm Bill, the Secretary and his representatives assured the conferees of their intention to immediately begin work to implement this support program, through a program of increased tariffs on imported sugar. This was 70 days ago. At that time, the conferees were told that the amendment would be in effect around October 1.

On September 7, a wire service story reported that USDA "has decided the sugar support program in the 1977 Farm Bill should not be implemented with tariffs or quotas," according to a staff aide.

On September 9, twenty-nine Senators wrote the President insisting the price support program be instituted "without further delay."

On September 15, USDA announced a "revised" direct payment plan for 1977-crop sugar—a plan which in practical effect is identical to a program ruled illegal by the Justice Department and the General Accounting Office.

On September 20, Secretary Bergland told reporters that the government would try and avoid implementing the Farm Bill program, and would seek "clearance" from Congressional committees to run a subsidy payment program. He noted that USDA wouldn't implement the price support program until around January 1.

On September 28, thirteen members of the House Conference Committee on the Farm Bill wrote the President, requesting immediate implementation of the Farm Bill.

On September 30, seven members of the Senate Conference Committee wrote the President, requesting immediate implementation of the Farm Bill.

On September 29, the President signed the Farm Bill into law. On October 1, all provisions of the bill not otherwise excepted became effective, including the sugar price support program.

On October 5, the USDA issued, without a public comment period, final rules instituting a subsidy payments program for 1977-crop sugar.

These dates are merely representative examples of the Department's continuing refusal to carry out the will of the Congress. Members have written the Secretary. Members have written the President. They have made themselves perfectly clear—the intent of Congress was that the Administration implement this price support without delay.

Today, imported sugar continues to flow into the country at the direct expense of domestic sugar producers and corn sweetener producers. In direct conflict with law, the Administration continues to pursue a course which would result in subsidy relief to some sugar producers at the direct expense of corn sweetener producers and the corn farmers who provide them one million bushels of corn a day. Having exhausted all administrative channels, we ask that the Court enforce the law.

THE DELANEY CLAUSE MUST BE AMENDED AND MODERNIZED

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. TAYLOR. Mr. Speaker, as we consider the need to place a moratorium on the decision of the Food and Drug Administration to ban the use of the artificial sweetener, saccharin, a decision that has dismayed millions of diabetics and individuals who must use the product for dieting purposes, I would like to call to the attention of my fellow Representatives a learned article on the Delaney clause published in the Chemical and Engineering News on June 6, 1977, written by our colleague JAMES G. MARTIN of North Carolina.

I would like to point out that JIM has outstanding credentials in the field of chemistry, having earned a B.S. in chemistry from Davidson College and a Ph. D. in the field from Princeton.

JIM also served as a member of the chemistry faculty at Davidson, specializing in organic chemistry. He has been a member of the American Chemical Society since 1959 and also chairs the Republican Task Force on Health.

It is obvious that JAMES MARTIN knows what he is talking about as the author of legislation to modify the Delaney clause.

We were indeed fortunate that the House of Representatives, at this point in time, had the benefit of JIM MARTIN'S expertise and input in this matter. He is due a great credit by all Members of this body and millions of Americans for his role of leadership in obtaining the 18-month moratorium on the ban of saccharin while a more realistic study on the effects of saccharin can be conducted.

I would hope that my colleagues would read the following article so that they may be fully informed on the subject of saccharin and the need to modernize the Delaney clause:

THE DELANEY CLAUSE MUST BE AMENDED AND MODERNIZED

(By Representative JAMES G. MARTIN)

Saccharin, the last of the approved artificial sweeteners, is about to be banned.

That will do more harm than good. That will not serve the public health interest, but will aggravate it. There's little anyone can do about it, however, until Congress amends the law governing food additives or specifically exempts saccharin.

The Food & Drug Administration is required by law to ban saccharin or any other food additive if massive daily overdoses of it cause cancer in test animals. That is a single, absolute test with zero tolerance. FDA must disregard the substantial benefits that 50 million consumers will lose when saccharin is banned. FDA must disregard the fact that for all the studies on saccharin, there is no evidence that anyone has ever gotten one tumor from normal use of saccharin. Regardless of such factors, saccharin must be banned "at the drop of a rat."

The Delaney clause provides that "no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal." This requires saccharin to be banned solely on the indisputable evidence that a significant increase in bladder cancer results from drastic overexposure of test rats to ridiculously extreme concentrations of saccharin prior to birth (in utero), followed by daily massive overdoses thereafter. How absurd! How absolute!

It is true, of course, that thousands can do without any sweetener in their food. On the other hand, there are tens of millions who lack that elite, ascetic self-discipline; they cannot marshal the iron will that will be required of them. They will resent those who take away another of the free choices they are still allowed to exercise in a world swarming with risks.

There is clear evidence that in the absence of diet drinks, those who have become accustomed to them will just shift to sugar-sweetened colas. When cyclamate was banned in 1969, the annual consumption of diet colas decreased 71 million cases (from 235 million to 164 million). This was accompanied by an increase in sugar-sweetened drinks of 159 million cases (from 1445 million to 1604 million). The trend of increasing consumption of all soft drinks hardly showed a dent when diet drinks were in short supply.

Furthermore, on the basis of 16,000 interviews each year, the number of Americans drinking a low-calorie diet drink on an "average day" dropped from 21 million in 1968 to 11 million in 1970. The number taking a sugar-sweetened (only) soft drink increased from 82 million in 1968 to 96 million in 1970. It is obvious that most of the decline in diet cola consumers simply shifted over to sugar-sweetened cola. The risk of this occurring again if saccharin is banned is extremely high, and the consequences are frightening.

RISK OF BLADDER CANCER

What is the risk of bladder cancer if saccharin is permitted to continue as a food additive? It is remote at worst, as can be seen from the following calculation. Let us assume that:

There is a rectilinear (proportional) dose-response relationship.

Humans are as sensitive at normal use as the test rats in the Canadian studies were at very high overdoses.

The sensitivity of human females (there being no significant incidence of bladder cancer in second-generation rat females) is one third that of human males (one third being the existing statistical ratio of current incidence).

The amount of saccharin actually consumed by humans in the U.S. annually is 6.0 million lb.

The proportion of pregnant women using saccharin is approximately the same as for nonpregnant women.

The percentage of second-generation male test rats developing cancer is the percentage actually observed (that is, 24%, not the figure of 40 used by FDA in its risk calculations, based on its use of the maximum experimental margin of error plus rounding off of the numbers). Then the only valid conclusion is that no more than 26 additional bladder tumors might be expected annually, resulting in no more than eight deaths.

Although those numbers are regrettably large, they are nowhere near the inflated calculation of 1200 tumors fobbed off on us by FDA. Furthermore, there is no evidence and little probability that anyone has ever gotten one tumor from normal use of saccharin. So the rational risk is somewhere in the range of zero to 26.

There is, moreover, no evidence that test rats get cancer from any conditions less severe than the dual protocol of high concentration prenatally plus near pathological overdosage every day thereafter. Testimony by the Health Research Group has claimed that a 1973 Canadian study showed cancers in test animals fed 0.2% and 1.6% levels of saccharin in their diet. That misuse of data conveniently overlooks the reported fact that animals at intermediate and even higher doses had no tumors, and test animals at all exposure levels and control animals at zero exposure had precisely the same percentage of cancer—0.9%.

It is customary and accepted practice to overdose test animals because of the small number used and the short life span. To be sure, a hypothetically weak carcinogen could not be detected in a hundred animals without resorting to a massive overdose.

Clearly, but cautiously, the Delaney clause must be amended and modernized.

The Delaney clause already had fallen into scientific disrepute, as analytical chemistry steadily lowered the threshold of trace detection to a few parts per billion. The clause is an inconsistent anachronism, because it will ban a food additive with only a very remote risk of carcinogenicity, while permitting the consumption of a host of "natural" foods containing traces of far more potent "natural" carcinogens. It is about to become a bizarre "hazard to your health," because without a noncaloric noncarbohydrate sweetener, millions of Americans will cheat on their otherwise bland diet, gain weight, and increase their risk of cancer (colon and breast), cardiovascular disease, diabetes, and hypertension.

These preventive medicine benefits of saccharin in diet control are enormous.

Therefore, I have introduced with 201 cosponsors (list available on request) a bill, H.R. 5166, to allow an exception to the Delaney Absolute if saccharin or any other suspected food additive is found to have public benefits outweighing the risk attributed to it. Priority would be given to health and nutritional benefits to the general public. Benefits to producers and investors would not be counted. This measure is a cautious exbalancing of consumers' interests. It is widely supported by consumer groups—representing real consumers who actually use the stuff, their parents, their children, and their doctors.

Ironically, the principal advocate of the saccharin ban is the Ralph Nader-connected Public Citizen's Health Research Group. Their "consumer" position is that the Delaney clause needs to be extended to cover all exposure to carcinogens (in which case we would starve).

Their view is that saccharin has no benefits, but is merely a nonessential convenience. Some convenience!

One irony of this is that some toxic substances—such as hydrogen cyanide, formic acid, and trichloroethylene—can be approved as food additives at lower than lethal concentrations without any way of knowing whether they are carcinogenic. Test animals would not survive even a modest overdose, let alone a massive one. Consequently, a poisonous substance that may be moderately carcinogenic has a better chance of being approved than saccharin does, under the existing law.

What is the probable mechanism of bladder tumor formation in second-generation rats? In all probability, the observed effect of saccharin was that of a mechanical irritant or abrasive, occurring only under the most extreme conditions. Through unrelenting abuse of bladder tissues, it produced higher sensitivity (or lower resistance) to a carcinogenic effect of some other chemical present. The general presence of microcrystals in the rats' urinary tracts cannot be ignored.

Consider the fact that first-generation rats show no incidence of saccharin-induced cancer, and second-generation rats show significantly higher incidence of bladder cancer only at the highest doses employed. There is thus no evidence of a proportional, linear relationship between dose and response—suggesting that there is a noneffect threshold in these experiments and that it is just a little bit lower han the massive exposure of the fetal rats in utero.

Consider also the reported fact that the 1977 Canadian study found the crucial second-generation test animals to be 20% underweight at birth! Clearly, they had survived, but on the verge of a pathological overdose.

TABLE TOP COMPROMISE

What about the "table top compromise," announced by FDA on April 14? I commend the agency and wish it well on that. It may be the most that it can do legally to ease the public hazard of its ban, until Congress changes the absolute law.

If FDA succeeds in approving saccharin for over-the-counter sale as a single-ingredient sweetener (under the drug section of the law), it will be a clear demonstration that the benefits are held to outweigh the risks. FDA is authorized to consider that balance in the law on drugs, but not on food additives. If it succeeds, it will reaffirm my belief that the same balance of public interests ought to be weighed in the food additives section of the law, as well—thus adding impetus to my bill.

Unfortunately, there are two major problems with this "compromise." First, there is great doubt that saccharin can be reclassified as an efficacious drug. In the Food, Drug & Cosmetics Act there is too sharp a statutory demarcation. Thus, there won't be a chance to weigh benefits against risks unless a way can first be found to include "this last of the approved noncarbohydrate, noncaloric, artificial sweeteners" within the statutory definition of a drug, according to a law proposed by Sen. Estes Kefauver in 1962.

In the second place, even if saccharin is continued as a "table top" sweetener (sold over the counter as tablets, powder, and liquid concentrate)—for which several million adults diabetics who use it only in their coffee and tea will be grateful—what about several million others who are accustomed to diet drinks? What about 2 million juvenile diabetics, facing enormous peer-group pressures at school and social events?

Then what about many obese millions who will lose control of their low-calorie diets, shifting irresistibly to sugar-sweetened desserts and beverages? Won't they be left with nothing but the old, proverbial" fat chance" of dietary management?

No, the "compromise" is inadequate. The law must be changed to allow all the evidence to be weighed, including the epidemiological evidence of public health statistics. A growing series of such statistical studies fails to detect any causal association of normal use of saccharin with cancer.

For example, Dr. Bruce Armstrong of Oxford University in the U.K. and coworkers found in 1976 that 5971 diabetics had a lower than expected incidence of bladder tumors. Omitting all kinds of cancers suspected of being due to smoking, they found that instead of the predicted occurrence of 213 other cancers, only 189 were found. That is not an

increase, but a 12% decrease overall [Armstrong, B., et al., *Brit. J. Prev. Soc. Med.*, 30, 151 (1976)].

LET THE PUBLIC DECIDE

The time has come to amend the Delaney clause and any other part of the food additives law (such as the general safety provision) that would ban saccharin on such flimsy grounds. If the benefits to the public are substantial and the risks remote, then put a warning label on it, but don't ban it. Let the people make their own choice, just as they do with alcohol, cigarettes, riding in automobiles and airplanes, swimming, hiking, and eating grilled steaks and various other wholesome but suspect foods.

According to a recent poll, the public opposes any saccharin ban by a margin of 5 to 1. An estimated million Americans have written to their government or their representatives to oppose the ban. The American Diabetes Association, the American Cancer Society, the present and past director of the National Cancer Institute, four consecutive former FDA commissioners, and thousands of private physicians have argued for a cautious modernization of the Delaney clause.

What can you do?

You can add your voice to that of others, expressing your own judgment on the merits of this issue. From thoughtful consideration of the points of view presented from all sides in this News Forum, you can reach your own conclusion as to the scientific validity of the evidence and arguments.

Then, as citizens, you can sort out the priorities of public policy like anybody else. Having done so, I suggest that you carry out your obligation to speak out on this subject—to your Congressman, your Senator, your local paper—and ask your neighbors to do the same. I think I know what the majority of you will conclude. But either way, you need to speak up for yourself, before it's too late.

RURAL HEALTH CARE IS WORKING AT LAFAYETTE COUNTY CLINIC

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. FUQUA. Mr. Speaker, in the October 9 issue of Florida Accent, a magazine published by the Tampa Tribune and Tampa Times newspapers, there appeared an excellent article detailing the importance of rural health.

The author used the Health Center in Lafayette County, which is in the Second Congressional District of Florida, as an example of how such health services should and can be provided to rural counties.

Through the help of the University of Florida Medical School and the hard work and cooperative spirit of the people of Mayo and Lafayette County, this rural health program is a tremendous success as is pointed out in the article.

I am very proud of this outstanding facility and of the people who made it work. Today I am inserting the article in the RECORD to share its success with my colleagues and the Nation.

The story follows:

THE RURAL MEDICS

(By Sharon Cohen-Hagar)

The large, rotary fan was used to cool the poultry house. Hundreds of caged hens, squeezed together in the confines of the tin and wire enclosure made the chicken house unbearably hot and rancid—for fowl and human alike. But one day, the behemoth fan, forgetting its function as an air circulator, became an instrument of destruction. And in doing so became the starting point for this story.

A young visitor to the farm wandered too close to the revolving fan, tripped and fell into the whirring blades, and lacerated his face and head. Bleeding profusely, he went into shock. He needed prompt, skilled medical attention to survive.

The accident had occurred in Mayo, a small, farming community in Lafayette County (pronounced La-FAYette) about 50 miles northwest of Gainesville. If the accident had occurred 10 years ago, the boy's parents would have had several options, none of them satisfactory in an emergency. Ten years ago, Lafayette County's 2,892 residents had no physician to call their own. People either ignored their medical problems, treated them with home remedies or drove to the nearest town with doctors: Gainesville; Live Oak; Perry; or even to Valdosta, Ga., 65 miles to the north.

When the boy tangled with the fan recently, Lafayette County still didn't have its own physician. But it did have a medical clinic at Mayo, a project of the University of Florida's College of Medicine. The boy was taken to the clinic, where he was given first aid and then driven to the Shands Teaching Hospital in Gainesville. He spent months in the hospital, undergoing plastic surgery for repair of his face. He has recovered now. And the emergency treatment he received at the clinic is credited with saving his life.

The Lafayette County Health Center is one of four rural health clinics operated by the University of Florida Medical School in cooperation with the communities served by the facilities. The clinic at Mayo opened in 1969. Three years later, a clinic was opened in Dowling Park, 15 miles north of Mayo, in a retirement community and nursing home operated by the Advent Christian Church. A third site was developed the same year in Trenton, the seat of Gilchrist County, which borders Lafayette County on the southeast. And a fourth clinic opened in 1975 in Cross City, the seat of Dixie County, south of Lafayette County.

The four locations share common problems: They are rural; their per capita income is low; and, prior to the opening of their clinics, they didn't have a permanent physician. Nor was their lack of medical services unique in Florida. Today, according to guidelines established by the United States Department of Health and Rehabilitative Services, 22 Florida counties have critical medical manpower shortages. Another 21 counties have critical dental manpower shortages, and 11 counties, many in the Panhandle and north Florida, have shortages in both.

"When we first took a look at Lafayette County in 1968, it had not had a permanent doctor for 10 years," said Dr. Richard Reynolds, chairman of the Department of Community Health and Family Medicine, University of Florida College of Medicine." The old doctor who had lived there for years had died. And they never could replace him. An anthropologist from the university had done a study there and was on good terms with many of the people. The county had built a building which served as the health department but it had no staff, only an itinerant doctor. For all these reasons, Lafayette County seemed a good place for us to start."

Under Reynolds' guidance, the medical school was embarking on a program designed to introduce its students to a wider range of medical problems than they had been encountering. At the university's Shands Teaching Hospital, medical students studied techniques in specialty areas but didn't have much real-life exposure to what he calls "ordinary things": the child with mumps, or the farmer with a broken arm. Through the new program, medical students would be trained in rural medicine, with its wide range of problems, and the rural communities would have on-site services of medical personnel.

The clinic opened in January, 1969, with a free fish fry provided by the local Rotary Club, the community's only service club. The fish fry, recalls W. G. Croft, Jr., the easygoing owner of the Thriftway grocery store in Mayo, drew 1,500 to 2,000 people anxious to eat fish and inspect the new facility. Seventeen persons actually sought medical attention.

Croft, chairman of the Lafayette County Health Trust, the clinic's governing body, said the citizens of Lafayette County were only too happy to cooperate with the university to bring health care to the community. They had been working toward the same goal since 1962, when Croft's late brother, Harold Croft, then mayor of Mayo, had appointed a committee to build a clinic. The clinic opened in 1967, but until the beginning of its association with the University of Florida, its only trained staff had been a public health nurse and an itinerant doctor.

But the county had to provide more than its cooperation to insure the clinic's success. Housing had to be found for the medical students and nurses who would work at the clinic, and the clinic had to be managed locally so that salaries could be paid for permanent clinic personnel. Today, the Mayo clinic is self-supporting, said Dr. Wilmer Coggins, chief of the medical schools Division of Rural Health. Fees paid for medical services ($8 to $10 for a typical clinic visit) are less than those paid to a private physician but are sufficient to keep the clinic going.

Mayo, like many other rural communities, had not been able to attract a young physician anxious to begin practice. The southern part of Lafayette County is swampy. Much of the usable land is given over to 16 dairy farms, to poultry houses and to tobacco and watermelon crops. Mayo has no real industry, but many of the residents travel the 28 miles to Perry to work in the cellulose plant there. The 1970 census listed the total population of Lafayette County at 2,892. Today, by some local estimates, it has increased to 3,300.

The Lafayette County Health Center sits on the north end of Mayo's winding Main Street, State Road 27. To reach it from the south, you pass West Pharmacy downtown, the magnificent Greek porticoed county courthouse, W. G. Crofts Thriftway and Folson's restaurant, but a step away from Cindy's Motel.

The health center is a squat concrete building with an institutional exterior that makes it easy to spot among the architectural styles of its folksy neighbors. Next door, is the modernistic, wood frame dental clinic, opened since January, an adjunct to the university's rural medicine program.

A row of mobile homes next door houses the four medical students and the four student nurses who serve a two-week rotation at the medical clinic. A resident physician spends one month in the community, and a permanent physician's assistant has been a recent welcome addition to the staff.

A resident pediatrician pays a weekly visit to the clinic, as does a physical therapist. Medical school teaching staff, including Reynolds and Coggins, also see Mayo patients weekly.

The waiting room is crowded, but people wait patiently to be called into one of the simple, appointed examination rooms. Although many will pay the basic clinic fee, other patients' fees will be scaled according to their ability to pay. Blacks and whites sit side by side on plastic chairs here, but the blacks still live in their own section of town called "The Quarters." Children, some obviously ill, sit quietly on their mothers' laps. Others play quietly on the floor.

Robert Snipes, a Mayo farmer, is being treated for a broken bone in his foot. The foot is in a cast, and he props himself up on his cane as he talks. Snipes said he would have to drive to Perry for treatment if the clinic didn't exist. He's thankful it does.

Lilly Mae Miller remembers the difficulty of getting medical care before the clinic opened. "If you didn't have a car," she said, "you had to hire a car to drive you to Perry. Sometimes it was hard finding someone to drive you. Now, I go to the clinic a lot. They treat me just fine."

Phyllis Land, project administrator for the health and dental centers, said during its busy season, just prior to the opening of Mayo's one comprehensive school, the clinic treated as many as 40 patients per day. The average number of patient visits per year is about 7,000. The number has steadily increased each year.

The clinic is open Monday-Saturday, but medical personnel are on call 24 hours a day. Because it is the only medical facility in town, the clinic treats a large percentage of trauma cases often found in city hospital emergency rooms: broken bones; lacerations; burns.

But the medical students and resident see their share of children with head lice and scabies; pregnant teenagers; and diseases resulting from poor nutrition.

"Diabetes and hypertension are particular problems here," Land said, "because they are diseases related to the nutrition of the area. The people have starchy diets and use a great deal of pork as seasoning in their food. Obesity is a problem."

Some of these chronic patients are now in the care of the clinic's physician's assistant, John Willis, 30, who spent six weeks at the clinic during his training and decided to stay on permanently.

With a bachelor's degree in zoology and two years spent in a physician's assistant program, Willis said he will handle trauma and emergency cases and see the regular patients with chronic problems. "They need to establish a rapport with one person here," he said. "I can be that person."

Willis, who is single, said he has no qualms about living in a small town and working in a rural medical clinic. "I like to hunt and fish, and there's plenty of that around here" he said." If I want to raise hell, I can go to Gainesville."

And clinic regulators consider Willis a welcome addition to the medical facility they now proudly call their own.

THE QUOTA SYSTEM: CHINESE STYLE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MICHEL. Mr. Speaker, news about the Supreme Court's hearing of the Bakke "reverse discrimination" case has appeared on every front page in the country. The case concerns a number of issues. Should the United States, even for the best of reasons, treat individual citizens as members of certain "classes" from which there is no way to remove oneself? Should the U.S. Government ask young men and women to pay the price for the discriminatory practices of others a generation ago? Should certain kinds of Americans be looked upon as not worthy of Government attention because of an accident of birth?

These questions have already been asked and answered in Communist China. In a chilling and horrifying story in the New York Times, October 13, 1977, Ross H. Munro tells of members of China's "sub-class." Members of this class can never get out of it. They are denied advancement and a chance to improve themselves. They are treated as outcasts by the government. What is their crime? They happen to have owned land when the Chinese Communists conquered China in 1949. Not only these people but their children as well are considered members of the "sub-class."

Mr. Speaker, what is the moral difference between denying an American of, say Polish ancestory, a place in school because he is not a member of an officially recognized minority group and the Chinese Communist practice of denying advancement to children of those who once owned land? I can see no moral difference between the two practices. In each case freedom is denied. In each case individuals are treated as members of a class. In each case those who call for such treatment do so in the name of some alleged high good. In China it is the "revolution." In this Nation it is "equality."

Equality, what crimes are committed in thy name.

Mr. Speaker, I place in the RECORD, "China Is Still Stigmatizing 'Rich Peasants' of the 1940's," New York Times, Thursday, October 13, 1977:

CHINA IS STILL STIGMATIZING "RICH PEASANTS" OF THE 1940'S

(By Ross H. Munro)

PEKING.—Fu Nung-ren has been a member of China's sub-class ever since the Red Army arrived in his village in —— when he was 26 years old.

Chen Fu Nung-ren's misfortune to have been born into a family categorized by the Communists as "rich peasants," a label he wears to this day. He is only one of at least 30 million Chinese who are openly and systematically discriminated against because of their "bad class background."

Like other members of the sub-class in the Chinese countryside, he gets lower wages, he is barred from his commune's free medical service, he cannot participate in any political activities, he is target for verbal abuse and he has hardly any hope of improving his lot in life.

Families like Fu Nung-ren's were "rich" only in comparison with the masses of poor and landless peasants in the war-torn China of the 1930's and 1940's. The average rich peasant in the 1940's owned two to three acres of land, but as long as he rented some of it out, or hired even part-time labor to work on it, then he was "rich."

Chen Fu-ching, the leader of the Tung Ku Cheng production brigade where the former rich peasant works as a field laborer, described what happened to families like his when the Communists took over an area near the city of Shinkichwang, 160 miles southwest of Peking.

PUNISHMENT FOR PAST "CRIMES"

"The poor and lower-middle peasants organized the Poor and Lower-Middle Peasants Association and brought the landlords and rich peasants together and settled accounts with their crimes in the past," he said.

As was not the case in many, and perhaps most, villages in China, no one there was executed or beaten to death, according to Mr. Chen. But "settling accounts" in Chinese Communist parlance suggests that some severe beating took place.

Then, Mr. Chen said, the Communists confiscated the lands of the landlords and rich peasants as well as those possessions that were deemed "surplus to their personal use." The land and belongings were distributed to everyone in the village. From then on, Mr. Chen said, the landlords and rich peasants "were not permitted to do or speak evil things, and they were deprived of their political rights."

Although Mr. Chen did not reveal the man's real name—Fu Nung-ren is a pseudonym meaning rich peasant—he is quite frank in discussing his case. Fu Nung-ren is after all, just one of 11 members of the subclass in the Tun Ku Cheng production brigade who 30 years ago lost their property but kept their class enemy status.

Some members of China's sub-class have succeeded over many years in convincing Communist Party officials that the "caps" should be removed from their heads. To "put a cap on" a person in China means to attach a negative political label to him. When Mr. Chen is asked why Fu Nung-ren has not succeeded in shedding his sub-class status, the response is vague.

BEHAVIOR IS "NOT SO GOOD"

"His behavior and manner are not good so he still has the cap on. The production team ask him to work honestly in the fields but he just doesn't work and he sometimes says nasty things and some nonsense."

Well, he was asked, how much work does this shirker actually do?"

"He works more than 300 days a year." He may find it necessary to. Like almost all members of the sub-class in rural China, Fu Nung-ren receives 10 to 20 percent less in wages than others alongside him doing the same work.

Rural wages are based on the type of job and the skill involved, the effort that the worker is judged to be making and, finally, his political attitudes toward his work and the Communist system in general. These last two, rather subjective, factors each count for about 10 percent of a peasant's wages under this work-point system. And, as Mr. Chen pointed out, "these two things are linked together."

"If he doesn't like to work, then of course he can't work hard," the brigade leader said.

The former rich peasant pays another economic penalty besides having had his wealth confiscated and his income cut 20 percent below those of the average field worker. Mr. Chen said that Fu Nung-ren could not get free medical care from the local clinic as do other members of the brigade. How common this particular form of discrimination is remains uncertain; many brigades still charge all their members for medical care.

NO CHANCE FOR ADVANCEMENT

As long as he remains a member of the sub-class, Fu Nung-ren is barred from political meetings and from what Mr. Chen calls "selecting and being selected," that is, from having any voice in choosing the brigade's officers. In fact, Mr. Chen suggested at one point that Fu Nung-ren really was not considered a member of the brigade at all. Fu Nung-ren's chances of getting any job except the lowliest are, of course, nil.

Mr. Chen insisted that the children of former landlords and rich peasants "get the same treatment as others" in this particular production brigade. But this is not the general rule in China today. In many communes, children and even grandchildren of rich peasants and landlords automatically inherit their fathers class standing and must

work hard to have their "cap" removed. And anyone with a "bad class background" anywhere in China falls under a political cloud.

"If they are of landlord family origin," said a brigade leader in Shansi Province, "then they may be influenced by that. So they need more tempering and transformation." The brigade leader indicated that this meant they must prove their worth by doing more ordinary labor than others.

EDUCATIONAL OPPORTUNITY LIMITED

Children with the wrong class background have only a very slim chance of being selected to attend a school of higher learning even if they have proven their ability. Visits by this correspondent to Chinese colleges and universities during the last two years provided evidence that there was some sort of regulation that restricted the number of students with a "bad class background" to a maximum of 5 percent of the enrollment. It is also evident that the actual proportion is well below 5 percent.

The records revealing class background follow Chinese citizens everywhere. Sometimes the class background of someone who has moved away from a rural area is ignored for years and then suddenly becomes relevant again and the person in question suffers.

There was the case of two Chinese citizens, for instance, who were idealistic and patriotic teen-agers when they joined the Red Army before the Communist victory in 1949. Over the years both established excellent records in the army and were advancing at a good pace.

Then along came one of these periodic campaigns during which officials were urged to pay more attention to the class background of those serving under them. The two men suddenly found that roads to further advancement were blocked and they were being systematically discriminated against because their grandfather was a small-scale landlord.

In addition, they became objects of suspicion because some of their relatives had left China soon after 1949. Today they hold factory jobs that are quite satisfactory by Chinese standards, but they know they have no hope of promotion and they worry that their children will have little chance of getting any advanced education because of the few acres of land their great-grandfathers once owned.

MANY SLAIN IN CULTURAL REVOLUTION

One of the most unpleasant aspects of being a member of China's sub-class is the social isolation that goes with it. Chinese children are taught from an early age that landlords and rich peasants are bad people. They are also told the identity of their village's former landlords and rich peasants and their children.

It seems that every political convulsion in Communist China has been accompanied by attacks on members of the subclass, who provide the easiest if not the most appropriate targets.

Sometimes the attacks are more than verbal. Ten years ago, during the Cultural Revolution, peasants in one area in northern China killed all the former landlords and rich peasants, as well as their wives and children, in one day. According to the official Chinese source of this story, the incident involved 10 production brigades, suggesting that hundreds may have been killed.

Many outsiders initially find it strange that Chinese officials are still regularly denouncing landlords, rich peasants and "bourgeois elements" nearly three decades after the wealth and property of these groups was confiscated. A partial explanation for the denunciations is that there is a lingering fear among some Communists that these elements would somehow regain their elite status if the Communists lowered their vigilance.

But Richard Curt Kraus, a United States sociologist and expert on China, has offered a second explanation that seems to gain greater validity each year. He argues that members of China's "new class" of officials have discovered that it is very much in their interest to keep the pressure on for landlords, rich peasants and old bourgeois elements.

By focusing attention on these groups, Professor Kraus reasons, Chinese officials divert attention from themselves, the new bourgeois, which Chairman Mao Tse-tung himself identified as posing new and more dangerous class problem that China faces.

DALLAS-FORT WORTH REACTION TO THE PRESIDENT'S OUTBURST

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILFORD. Mr. Speaker, Members of the House and Senate may be interested to know of the reaction brought about by President Carter's press conference this past week.

I would like to enclose for the RECORD three different articles: First, the lead editorial from the Fort Worth Star Telegram, Sunday issue, October 17, 1977; second, the lead editorial from the Dallas Times Herald, October 16, 1977; and third, an editorial by Bert Holmes, Dallas Times Herald, October 16, 1977:

[From the Fort Worth Star-Telegram, Oct. 17, 1977]

PRESIDENT'S OUTBURST DISAPPOINTING

We're disappointed.

Although we didn't endorse Jimmy Carter in the 1976 presidential election, we held great hope that a person of his integrity and poise would restore public confidence in the office of the presidency, which had been so shattered by Watergate.

We still nourish the hope, but it has been grievously diminished by the President's vicious attack on the U.S. oil industry.

Obviously fretting over the disaster suffered by his energy proposals at the hands of Congress, President Carter left his usual decorum and used a nationally televised news conference to unleash a rhetorical assault against the industry.

He employed inflammatory language such as "war profiteering" and the "greatest ripoff" in history to warn the public against what he envisions as the possible results of Congress' refusal to go along with his proposals for continued and expanded government control of the oil and gas producers.

". . . The oil companies apparently want it all," he said, in charging that the oil and gas industry operate outside the free enterprise system, a charge such as no other President to our knowledge has ever made.

The President's outburst appears to have been aimed at trying to pursuade the American people to chasten Congress for not approving his energy plan intact.

That seems particularly ironic in view of the fact that, in balking at the bulk of the Carter energy package, Congress has merely reflected the leanings of public sentiment on the issue.

The fault has not been with Congress—or more specifically the Senate, which has done most of the damage to the energy package. The fault has been with the package itself.

In emphasizing a penalty-oriented conservation approach to the energy crisis, the President's plan flew in the face of both human nature and American tradition.

What the President's plan said, in effect, was that it's time for the U.S. economy to grind to a halt.

That may be so, but the American people are not sold on the idea. They would like to give the fabled American technology and initiative just one more go at a solution that would not mean the abandonment of the high material standard of living we have achieved with such great effort and have become so deeply accustomed to.

The American people think in terms of the Panama Canal, the Manhattan Project and the man-on-the-moon when their country faces a problem.

The President offered them the prospect of ever higher fuel costs (through federal taxation), more government controls and very little hope that all the proposed hardship would get the job done.

His plan provided few positive incentives to inspire anyone to make an effort to do something about the energy crisis. It provided practically no such incentives for the one best situated to do the most in the short and intermediate term—the oil and gas industry.

The President's attempt now to blame others for the apparent failure of his ill-conceived program can only be counterproductive to his effort to get it approved.

His impugning of the character and motivation of those who constitute one of the country's largest private industries can only cost the presidency in terms of dignity and respect.

That's most disappointing.

[From the Dallas Times Herald Oct. 16, 1977]

FUEL "WAR" NOT ANSWER

If President Carter has any hope of achieving a sound energy program, he is going to have to work with and not against the Senate, the oil and gas industry and the American consumer.

In lashing out last week at the oil and gas producers, whom he compared with war profiteers, the President promised to follow the maxim of Gen. Ulysses S. Grant during the Civil War: "I propose to fight it out along this line if it takes all summer."

Grant eventually led his Union troops to victory over the starving Confederate armies, but he knew more about fighting a war than does the former Georgia governor now in the White House.

President Carter's self-assigned task of imposing his own energy program on a reluctant Senate is weakened by his apparent addiction to another, less famous quotation: "My mind is made up; don't confuse me with facts."

In attempting to document his charge that the oil and gas industry is seeking to profit from the biggest ripoff in history, President Carter said that if Congress rejects his program to continue regulation of oil and natural gas prices, $50 billion would "go into the pockets of oil companies themselves."

The man who calculated that figure for the White House, consultant Steve Muzzo, later pointed out that the President's interpretation was not quite right. The $50 billion represents gross revenues, before taxes and business expenses are subtracted, not profits into the "pockets" of the companies.

Stubbornness in defending his own energy plan will not help the President win over the senators who are working on a more sensible incentive program. Nor will the President be able to enrage consumers and thus get them to exert pressure on the Senate by using "ripoff" estimates which his own consultant admits are erroneous.

Threats of rationing and stiff tariffs on imported oil will not frighten any consumer who realizes that the senators are not about to approve these ideas either.

Oil spokesmen were generally restrained in replying to the President's charges. While they criticized the statements as untrue and unfair, they used the incident to point out again that incentives are needed to encourage maximum development of domestic energy resources.

The Senate Finance Committee, the real source of the President's frustration, has discarded all of the Carter energy tax program. It is developing a package of tax credits and incentives which could be financed with part of the energy taxes approved by the House.

The committee favors the creation of a new energy development corporation to offer loans to developers of new energy sources, energy research and energy efficient transportation.

If President Carter will back off his Gen. Grant position and look at the facts, he might be able to work with the House-Senate conference committee in the design of a sound energy policy. We do not need a civil war on energy; we need a leader who can follow President Johnson's advice: "Come, let us reason together."

[From the Dallas Times Herald, Oct. 16, 1977]

ENERGY AND THE AVERAGE CITIZEN

(By Bert Holmes)

President Carter may have stirred up additional resentment against the oil and natural gas industries in his "ripoff" charges last week, but he may be underestimating the common sense of the average American in his attempts to generate public pressure on the Senate.

The President said that we will have "acceptable energy legislation" this year "if the American people recognize the importance of this issue." The issue he was talking about was the continuation of controls on new natural gas prices and the increase in crude oil prices through taxes.

The Senate has rejected the oil equalization taxes, which would triple the price of domestic oil during the next three years. The taxes would increase the price of gasoline some 7 cents a gallon, which the President thinks would help force conservation.

The Senate has also voted for the deregulation of new natural gas prices contrary to the wishes of President Carter.

The average American may indeed buy the President's thesis that the oil and gas companies are greedy. But for that matter, he probably thinks that nearly every company is out to make as much money as possible. (Indeed, polls have shown that the majority of people think the profit margins of corporations generally are far higher than they are in fact.)

Our average American knows, however, that the oil exporting nations are greedier than any domestic company would dare to be. The quadrupling of the price of imported oil in the last four years is no secret, nor is the fact that gasoline pump prices have more than doubled.

One reporter at the presidential press conference raised an important point. How, he asked, does the President square his warnings about the energy crisis with the public perception that things are not too critical? It's a tough job, President Carter noted, and he hopes that it will not take another oil embargo and long lines at the gasoline stations to confirm the fact that there is an impending energy problem.

The average American knows that he can buy all the gasoline he wants to at the moment. He has likely read that there is an actual glut of oil and that Alaskan oil has hardly begun to reach the market. He perhaps has also heard that Mexico has an ocean of oil and natural gas awaiting development.

If given the choice of paying more to American companies or paying more to the Arabs, one would hope that our average citizen would opt for keeping as many of our dollars as possible at home. Huge deficits in our balance of payments may not be understood by too many of us, but the resulting inflation and the fears of recession are troubling to the most uninformed.

Before the average American gives up his auto commuting habits or reduces his consumption of gasoline, he is going to have to be convinced that there are no alternatives. If there is oil and gas awaiting discovery, why not find it? If the cost is higher than "old oil" but less than imported oil, why force us to depend further on foreign producers?

Even if Americans are convinced that we must conserve our dwindling reserves, they might join the Senate Finance Committee in asking whether it is not wise to encourage the development of alternate fuels, such as gasified coal, oil shale, alcohol or electricity generated in nuclear plants.

There is an innate faith among the ordinary citizens that American ingenuity can solve complex problems. After all, we went to the moon, didn't we? Our scientists invented the atomic bomb in time to help win World War II. They also developed synthetic rubber when that war cut off imported supplies.

The high cost of natural gas and electricity are getting the attention of homeowners, and tax incentives will speed the weatherization of homes. More fuel-efficient automobiles are being accepted in the market place.

Sacrifices will be made if enough people believe they are necessary, but there are few masochists. If there is a way to match supply and demand, through free enterprise or government incentives, why impose suffering?

President Carter is reaching for support of his energy plan from the ordinary American. He might have better luck in his educational campaign if he changed his textbook.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 18, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Foreign Relations
To resume hearings to receive testimony from Ambassador Ellsworth Bunker and Sol Linowitz, Co-Negotiators, on the Panama Canal Treaties (Exec. N., 95th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
Dirksen Building

Judiciary
Administrative Practices and Procedures Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Rules and Administration
To hold hearings on the nomination of John J. Boyle, of Maryland, to be Public Printer, followed by a business meeting on pending calendar business.
301 Russell Building

10:30 a.m.
Judiciary
Business meeting on pending calendar business.
2300 Dirksen Building

OCTOBER 20

8:30 a.m.
Energy and Natural Resources
To hold a business meeting on pending calendar business.
3110 Dirksen Building

9:00 a.m.
Human Resources
To hold a business meeting on pending calendar business.
4232 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings to examine the erosion of law enforcement intelligence gathering capabilities.
1114 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.
5110 Dirksen Building

Commerce, Science, and Transportation
To hold a business meeting on pending calendar business.
235 Russell Building

2:30 p.m.
Human Resources
Education, Arts and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

8:00 a.m.
Finance
Health Subcommittee
To resume hearings on S. 1391 and 1470, hospital cost containment bills, and H.R. 8423, to improve Medicare administration and operation of coverage for patients suffering from kidney failure.
2221 Dirksen Building

9:00 a.m.
Armed Services
Arms Control Subcommittee
To resume closed hearings to receive testimony from Secretary of State Vance on the current status of the SALT II negotiations.
S-407, Capitol

9:30 a.m.
Select Indian Affairs
To hold hearings on S.J. Res. 86, to extinguish title, if any, claimed by the Mashpee Tribe to property presently occupied by homeowners in Mashpee, Massachusetts.
6202 Dirksen Building

Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

*Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
Until noon 6226 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
To mark up S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
To continue markup of S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S.-flag vessels.
5110 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 8

*9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2226 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

*9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

CANCELLATIONS

OCTOBER 19

9:00 a.m.
Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 18, 1977*

The House met at 12 o'clock noon.

Rabbi Simcha Freedman, Temple Adath Yeshurun, North Miami Beach, Fla., offered the following prayer:

לחיים to Life

Dear G-d, Scripture enjoins us "choose life."

This shall be a life of Independence, not an existence subject to isolation and coercion;

A life of Security, not an existence in fear of terrorism;

A life of Righteousness, not an existence at the mercy of international injustice;

A life of Amity, not an existence menaced by war;

A life of Earnestness, not an existence dependent upon questionable safeguards and promises;

A life of Love, not an existence threatened by plots of extinction.

Dear G-d, we pray You vouchsafe Your blessings upon the Members of this great House. May their continued support be granted the State of Israel and all democracies which cling to those selfsame ideals upon which this Nation was founded and lives.

לחיים to Life!

Amen.

CALL OF THE HOUSE

Mr. MARTIN. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOLAND. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 663]

Ambro	Chisholm	Drinan
Archer	Conyers	Ford, Mich.
Armstrong	Coughlin	Goldwater
Ashley	Davis	Harrington
Badham	de la Garza	Harsha
Badillo	Dent	Hollenbeck
Burton, John	Derrick	Koch
Cederberg	Diggs	Krueger
Meeds	Ruppe	Vanik
Metcalfe	Sarasin	Waxman
Mikva	Scheuer	Whalen
Miller, Calif.	Seiberling	Wolff
Nolan	Shuster	Young, Alaska
Pepper	Solarz	
Rangel	Teague	

The SPEAKER. On this rollcall 391 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

RABBI SIMCHA FREEDMAN

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN. Mr. Speaker, Rabbi Simcha Freedman was born in Philadelphia, Pa. He graduated Yeshiva University. He was ordained by the Rabbi Isaac Hanen Theological Seminary in 1962 and received a master's degree in Hebrew literature from the Bernard Revel graduate school that same year.

Rabbi Simcha Freedman has served congregations in Shenandoah, Pa., and Philadelphia. He is currently spiritual leader of Temple Adath Yeshurun in North Miami Beach, Fla. Rabbi Freedman is a past president of the Philadelphia branch of the Rabbinical Council of America, and is a past secretary of the board of rabbis of Greater Philadelphia.

He now serves as secretary of the Rabbinical Association of Greater Miami and serves on the City Advisory Council of the Planning Commission of North Miami Beach. He has contributed articles to various local and national publications.

Rabbi Freedman is married to the former Anna Becher Wasser and they have two children, Sammy and Benjy.

During the years that I have known Rabbi Freedman personally and been acquainted with the extent of his community involvement, I have been impressed by not only his active commitments to Jewish causes but also his concern for the well-being of our entire religious and secular community. Rabbi Freedman is a great humanitarian as well as a true spiritual leader.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 573. Joint resolution commemorating General Thaddeus Kosciusko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3387. An act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes," agreed to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the House amendment to Senate amend-

ment numbered 82 to the bill (H.R. 7555) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes," disagreed to by the House; agrees to a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, Mr. MCCLELLAN, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 57. Concurrent resolution to correct the enrollment of S. 717; and

S. Con. Res. 58. Concurrent resolution to correct the engrossment of Senate amendments to H.R. 4018.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FIDEL GROSS-PADILLA

The Clerk called the bill (H.R. 3090) for the relief of Fidel Gross-Padilla.

There being no objection, the Clerk read the bill, as follows:

H.R. 3090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a)(23) of the Immigration and Nationality Act, Fidel Grosso-Padilla may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWI SOK BUCKINGHAM (NEE KIM)

The Clerk called the bill (H.R. 4401) for the relief of Kwi Sok Buckingham (nee Kim).

There being no objection, the Clerk read the bill, as follows:

H.R. 4401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a)(23) of the Immigration and Nationality Act, Kwi Sok Buckingham (nee Kim) may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with at this point, and I further ask unanimous consent that the remaining bills and resolutions on the Private Calendar be called up on next Tuesday, October 25, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REQUEST FOR RECOMMITTAL OF H.R. 3085 TO COMMITTEE ON THE JUDICIARY

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to revert to Calendar No. 16 for the purpose of reconsidering the bill (H.R. 3085) for the relief of Milos Forman and having the bill recommitted.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the bill (H.R. 3085) for the relief of Milos Forman be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CORRECTING ENGROSSMENT OF SENATE AMENDMENTS TO H.R. 4018, SUSPENDING DUTY ON CERTAIN DOXORUBICIN HYDROCHLORIDE ANTIBIOTICS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 58) to correct the engrossment of Senate amendments to H.R. 4018, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, could the gentleman explain to us what this language is all about?

Mr. STAGGERS. If the gentleman will yield, Mr. Speaker, I would like to explain to the gentleman that an amendment was passed in the other body and somehow did not get into the bill. It was actually passed, but the other body made a mistake and did not get the amendment into the bill.

All we are asking is that it be put into the bill as it was passed by the Senate.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, the gentleman says that something did not get into this critical energy bill through a mistake in the Senate, is that correct?

Mr. STAGGERS. That is right. It did not get into the bill.

Mr. ROUSSELOT. You mean in preparing the material to be included in the House-Senate conference, the Griffith amendment was omitted? How could that possibly happen?

Mr. STAGGERS. I do not know, but it did happen. Since we are all human, we make mistakes, and this is one of them.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 58

Resolved by the Senate (the House of Representatives concurring), That the following language be inserted immediately after section 141 in the engrossment of the Senate amendments to H.R. 4018 and be considered as being in conference:

SEC. 141A. No action by the Federal Power Commission pursuant to this or any other Act shall, directly or indirectly, take from a natural gas distribution company any volumes of gas which such company demonstrates resulted from energy conservation measures: *Provided, however,* That such conserved volumes shall be applied first to existing residential customers, second to existing small commercial customers, third to existing industrial customers with nonsubstitutable natural gas requirements, and fourth to other customers.

For purposes of this section, the term "natural gas distribution company" means any utility which sells natural gas.

For purposes of this section, the term "energy conservation measures" includes but is not limited to measures taken pursuant to a residential energy conservation plan as defined in the National Energy Conservation Policy Act.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A SIGNIFICANT VICTORY AGAINST THE TERRORISTS

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, last night West German commandos scored a major victory against the international terrorist apparatus. The victory of the German GSG–9 unit not only freed the 86 hostages held on a Lufthansa plane by 4 terrorists, but dealt a major blow to the terrorist movement. This morning three terrorists held in West German jails, whose freedom had been demanded by those holding the hostages, committed suicide. These included the important terrorist leaders Andreas Baader and Gudrun Ensslin. A fourth terrorist was unsuccessful in her suicide attempt. It is clear that the severe defeat of the terrorists caused the frustration that resulted in these suicides.

The dramatic rescue in Somalia has been referred to as "Entebbe Two." While it is true that the Israelis were the innovators of this successful antiterrorist tactic, other governments have also learned from them. Egyptian and Syrian commandos have won victories in airline multiple hostage situations. Dutch Marines stormed a hijacked train last May rescuing the hostages. More recently Japanese police using the same tactic freed hostages on a hijacked bus.

Experience shows that yielding to the blackmail demands of terrorists results in escalating the terrorist threat. Dramatic and forceful action that defeats the terrorists reduces the threat. When we make the price of terrorism too costly for the terrorists to pay, we will have eliminated the problem.

We mourn the loss of Jurgen Schumann, the courageous Lufthansa captain, who was murdered by the terrorists. We fear for the life of the German businessman, Hanns-Martin Schleyer, who remains in the hands of the terrorists, who kidnaped him. But, our warmest congratulations are extended to the courageous young German men who risked their lives to free the hostages.

WEST GERMANY STRIKES AGAINST TERRORISTS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, an international sigh of relief was heard last night following the news that West German commandos had rescued 86 hostages from a Lufthansa airplane hijacked and diverted to Somalia.

The daring rescue by a squad of highly trained West German soldiers ended one of the most harrowing of all hijackings. All told, the hijacking lasted 5 days and involved six different nations. At its conclusion there were five deaths—the four air pirates and the pilot of the plane who was gruesomely executed in front of the hostages. Miraculously, none of the hostages were seriously injured.

As President Carter observed, the Government of West Germany must be commended for its courage and resistance to the forces of terrorism. The world community is growing more apprehensive about the threat of terrorism. Yet the actions of West Germany in Somalia, much like those of Israel in Entebbe, may work to reduce the threat. Terrorism cannot be condoned. Those nations which harbor terrorists must be ostracized by the world community. Terrorism is a menace to the health and safety of the world. Its eradication must be considered a priority by all concerned nations.

KUDOS TO WEST GERMANY IN PUTTING DOWN THE LATEST ACT OF TERRORISM

(Mr. KREBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREBS. Mr. Speaker, I believe I am expressing the sentiment of the rest of the civilized world in saying that I am overjoyed at the success of the operation yesterday in Somalia and the release of the 86 innocent victims of the latest act of terrorism.

I think it represents a lesson well learned from the operation at Entebbe conducted last year by the forces of the State of Israel.

Mr. Speaker, I hope that West Germany's action will make it abundantly clear to those who are willing to knuckle under to terrorists' blackmail that this type of conduct is not going to be tolerated by the rest of the world.

A TRIBUTE TO A GREAT AMERICAN

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, at this very moment on the other side of our country, in my former parish, a Requiem Mass is being said for my friend Bing Crosby. The unique thing about this gifted entertainer is that everyone thought of him as their special friend. My lifelong pal, his eldest son Gary, proudly observed that his dad's large and beloved family literally had to share him with the world.

His career spanned an incredible half century. Whether you reach into the thirties or the seventies, or some fondly remembered moment between, a Bing Crosby ballad lifted from its recording year will bring back loving memories to people of every age. His dream of a white Christmas will touch our hearts for as long as America remembers the birthday of the Prince of Peace.

I know it is for all the Members of this Congress when I speak of a Nation's love for this fine man. From his special shows for wounded GI's at battlefield hospitals to his poignant goodbye in last week's performance for the poor at the London Palladium, Bing always made his country proud of him.

The church where Bing's Mass of the Resurrection is being celebrated is named after the great Apostle St. Paul, who ended his courageous life with the resounding words:

I have run the course, I have fought the good fight, I have kept the faith.

So did Harry Lillis Crosby, Jr.

It would embarrass Bing to have himself described as a man of loyal faith, but he was. When God said to this humble man, "Are you going my way?" Bing's answer was, "Yes."

THE LATE HONORABLE J. FLOYD BREEDING OF KANSAS

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, I would like to take this time to inform this body of the untimely death yesterday of a former colleague, the Honorable J. Floyd Breeding of Kansas.

Congressman Breeding was elected to the House in 1956 and held the seat until 1963. A farmer, he was appointed to the Agriculture Committee in 1959.

After he left Congress and because of his fine work in agriculture, both Presidents Kennedy and Johnson appointed him to tour 68 countries in the interests of U.S. agriculture.

Mr. Breeding was born in 1901 and attended college at Kansas State University. After his marriage to Mary Tavis in 1921, he and his bride moved to a farm in western Kansas. Like many farm families in the 1920's, they were "wiped out" by a succession of bad crops.

Not a man to be defeated, Breeding and his wife started over. He took on extra jobs and Mrs. Breeding raised turkeys to supplement their income. Always an activist, he helped organize the Kansas Association of Wheat Growers

and the Southwest Royalty Association, a group of gas property owners. He also served in the Kansas House of Representatives in 1947 where he was named minority leader in 1949.

Using his agricultural expertise, after his retirement his also served as economic consultant for 4 years to the U.S. Department of Agriculture.

J. Floyd Breeding will be remember by his many friends as a gentleman and a tribute to the political profession. Both Kansas and agriculture have lost an irreplaceable friend.

Funeral services for Mr. Breeding will be held Wednesday morning, October 19, in Dodge City, Kans.

BING CROSBY—THE TOTAL ENTERTAINER

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEL CLAWSON. Mr. Speaker, services in California today held by the family of Bing Crosby—if the experience of our own family is any criterion—hold shared meaning for countless others throughout the Nation. For those of us who recall the early career of Bing Crosby, then his later development into an international figure, his songs, his lopsided grin, his style, combining personal charisma with the art of understatement, paralleled our own growth. The resonant voice, words, and music, "The blue of the night and the gold of the day," "I'm dreaming of a White Christmas," "Would you like to swing on a star, carry moonbeams home in a jar," were background for courtship, for family holidays, and transcending the generation gap, the universal language of music captured the imagination of our children. His generous gift of talent and time will also be remembered by millions of men and women either now serving in our military forces, or U.S. Army, Navy, Marine, and Coast Guard veterans.

A gentle style of communication was characteristic of Bing Crosby. It is significant that it was so successful in reaching the hearts of so many of his countrymen and women. Our prayers and our sympathy are with his family. Their loss is shared worldwide. Bing Crosby's singing is so nostalgically entwined with the events of our personal lives that the sadness is almost overwhelming when we realize that this unique career has come to an end. But the memories endure and are the deeper for the gifts of this extraordinary American who found a warm welcome as he entertained us in the movies, as he entered our homes over the airwaves and later on the television screen during the course of his lifetime.

Bing Crosby, the total entertainer, will be missed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

STUDY OF CERTAIN LANDS TO DETERMINE SUITABILITY FOR DESIGNATION AS WILDERNESS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 393) to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

The Clerk read as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Montana Wilderness Study Act of 1977".

SEC. 2 (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated January 1974, comprising approximately twenty-one thousand acres which shall be known as the Mount Henry Wilde ness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mount Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, there is a point of historic merit and personal honor in my function today to ask this wonderful body of lawmakers to support S. 393. I say honor because this Montana wilderness study proposal really represents a culmination of about 25 years of work and service on the part of two of our most distinguished lawmakers, Senator LEE METCALF, who will not be running again for his office in the other body, and Senator Mike Mansfield, whose great third of a century of service to us was just concluded last year and who is now our Ambassador to Japan and serving us there.

We, because of the lack of time, were unable to pass this legislation in the last Congress. However, Senator METCALF reintroduced the bill this year, and it passed the Senate unanimously in May. It comes up here now, on its second attempt under suspension of the rules. We have passed it by a majority of 101 votes just a few weeks ago.

It is a complex piece of legislation in that it does represent one State that has two Congressmen, unlike the State of Wyoming which has only one Congressman. However, it is an impossibility to pass legislation that is always and in every detail exactly what the Congressmen of that particular area or State would like.

No one in Wyoming wanted the Grand Teton National Park enlarged 35 years ago. If either of the Senators or the Congressman from my State 25 years ago would have introduced a bill to enlarge the Grand Teton National Park, they probably would have been impeached or recalled from office; that is how much hatred there was in Wyoming 40 or 50 years ago of national parks. Today there is not a citizen of the State who does not live in everlasting gratitude for the vision, foresight, and guts of President Franklin Roosevelt for enlarging that park by Executive order, when nobody else in the country had the guts to do it. This is not unlike a parallel that is occurring today.

Montana has nine areas that ought to be studied for our wilderness system. Seven of them are in the area represented by the gentleman from Montana (Mr. BAUCUS). Two of them are in the area represented by my good friend, the gentleman from Montana (Mr. MARLENEE). Some would like to have some changes made.

I submit to the Members that it is not in the public interest to delay this bill in order that those changes be made because the time needed to make those changes next year will be time wasted, in the sense that we can get the wilderness studies started now, if we pass the bill today.

I would like to engage my colleague, the gentleman from Montana (Mr. MARLENEE) on these points. One, if we are going to try to bring the bill back next year under the rule with amendments and take half of next year to pass it—when it will again pass by 101 votes—what good will there be to do that, or what gain, when it costs 6 months to 9 months of a study period on a study that could very well be completed in 2 to 3 years? The Forest Service in compliance with our request has indicated that the nine studies can be completed within 2 to 3 years, and has assured us that these areas will receive the priority attention requested in our committee report on S. 393. In the two areas in Mr. MARLENEE's congressional district, timber harvesting cannot begin anyway until land management plans have been completed in early 1982. So I submit that his objection to this is invalid as relates to the impact of S. 393 on timber harvesting in his district.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I would rather yield to the gentleman from Montana, if anybody. I would rather do that because I feel an affinity with him. I represent an area with a lot of similar problems, and I believe this is legislation we have a duty to go on with. If there are at times big, vigorous, hot, vehement objections by some, in 10 years they will thank us for passing this bill.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I will be happy to yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

The gentleman spoke of the direction of the Forest Service to limit the time or to expedite the time the bill would be studied, but that does not address the problem of Congress taking its sweet time to act on this bill. Once the recommendation has been made by the President and until Congress acts, these areas are treated as wilderness and could be treated so in perpetuity.

Mr. RONCALIO. May I respond to that observation. Under the law, wilderness study areas are to be managed so as to preserve their wilderness characteristics. However, this does not mean they are to be managed as if they had already been designated as wilderness. For example, in wilderness study areas the use of off road vehicles is permitted. In designated areas it is not.

Further, I am sure the gentleman is aware that Congress is very quick to act when controversy arises in wilderness caliber areas, and I cannot agree that Congress would sit on these areas if important resource conflicts were in need of resolution. Thus, I do not share his fears that these areas economies could be adversely affected because Congress would somehow fail to act expeditiously on problems that may arise.

I will not be here the year after next. The gentleman from Montana may very well be here for a great many years and I wish him well in that regard. He will have years ahead in which to change nuances or make adjustments where we wish in this legislation, but now the package asks his support on the basis of two of the finest men who have ever come out of Montana. There is a great tradition in the Senate of the gentleman from Montana and his name begins with an "M", so I commend the gentleman in this regard but the Mansfields and the Metcalfs are not asking that this become law. Their reputations ask it. The goodness of the thousands of those the gentleman represents ask it on his part.

I plead with the gentleman from Montana in public and before our Creator and everyone else to please give this some thought and to give some consideration to the arguments for it. It means a great deal to me and to our committee and to the gentleman's constituents.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker, I rise in opposition to consideration of this bill under suspension of the rules and in opposition to this bill as it is now written.

First, let me point out that I do not object to the study of most of the areas within S. 393. As a matter of fact, I wholeheratedly support the study of six of the nine areas. However, neither the bill as it is now written nor the procedure we are following in consideration of this bill today, is responsive to the needs of the people who have to live with these studies once this bill is passed.

My concern is that under suspension of the rules I am not even able to offer and debate amendments to this legislation that directly affects my district. I believe that any Member should be given the opportunity to offer amendments on any piece of legislation that directly affects his district and would move to allow any Member such consideration.

My primary objection to the bill as written is with the indefinite time given for action to be taken on these nine Montana areas. The bill provides for 5 years for the Forest Service to study the areas, an additional 2 years for the President to make his recommendations to Congress and an indefinite amount of time for a final decision by Congress on whether or not these areas should be wilderness.

In the meantime, we have State and local governments, local industries, workers, and citizens who must live with the uncertainty of potential economic disruptions for an indefinite period of time.

For several of the areas, removing the timber from production during the wilderness study, even for a limited amount of time, will cause hardships on local industries and communities. With the extended time for study and with an unlimited period given for congressional action, as proposed with the present language in S. 393, timber mill closures are a very real possibility. And in communities in Montana that are totally dependent upon timber and its availability,

mill closures spell economic disaster for everyone.

I am convinced that the Federal Government can complete the necessary studies within 3 years and that Congress can make a decision within two terms of Congress.

In fact, the Indian Affairs and Public Lands Subcommittee accepted my amendments to shorten the study period, but the full Interior Committee deleted this provision.

I am also opposed to the inclusion of two areas in my district—the Big Snowy Mountains and the Middle Fork of the Judith River. Both areas are included in the Forest Service's new roadless area review evaluation where the wilderness characteristics of both areas will be compared with those of all other roadless areas and if the characteristics are of comparable quality, wilderness or additional wilderness study will be recommended at less cost to the taxpayer and less public resentment and controversy than with a congressionally mandated wilderness study that S. 393 mandates.

In addition, it appears that the cost of the studies mandated by S. 393 may be over 200 percent above the Congressional Budget Office's estimates submitted to the Congress May 6, 1977. The Congressional Budget Office may have failed to take into consideration the cost of studies that will be required of the U.S. Geological Survey and the Bureau of Mines to determine the mineral, oil and gas resources. In any event, if this bill fails to receive the necessary two-thirds vote today, we will have accurate and reliable cost figures during future consideration under an open rule.

I ask my colleagues to defeat S. 393 under the suspension of the rules so the bill can be amended to shorten the study period and to force a more timely decision.

If you share the growing frustration of many people over the lack of timeliness of the Federal Government in making decisions that affect local economies and jobs, then I urge you to join with me in voting "nay" on S. 393 under suspension of the rules.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Speaker, I rise in support of S. 393, the Montana wilderness study bill. I was present on the floor at the time we debated it the prior time. and was convinced at that time that since it had been under consideration by the Senate and this body for as many years, that it ought to fit under a suspension of the rules and we ought to proceed with it. Consequently, I think that having to go back to the Committee on Rules, having to go back through all the other processes, is an unnecessary procedure.

The study is ultimately going to be made. I think that the right thing to do is to go ahead and consider it now rather than to delay it for another year.

Mr. Speaker, S. 393, the Montana Wilderness Study Act would require the Forest Service to study nine roadless areas in Montana for their possible inclusion into the national wilderness system.

This bill was first introduced in 1974. Since that time it has been amended dramatically to avoid boundary conflicts. Additionally, the bill contains a provision which allows existing uses such as snowmobiling and off-road vehicle use to continue virtually unaffected during the course of the study.

The time for passage of S. 393 is today. The delays and stalling must end. Let us get on with the study of all nine areas so that Congress can make wise and equitable decisions regarding these lands.

I urge the passage of S. 393.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in opposition to S. 393. This is exactly the same bill which failed to muster a two-thirds vote under suspension of the rules on September 27. Because it is again being brought up under suspension of the rules, the reasons for opposing it remain unchanged.

As written, S. 393 provides a 7-year period for studies and Presidential recommendations to Congress regarding wilderness classification of nine national forest areas in Montana totaling 973,000 acres. The bill further provides that these study areas shall be managed as wilderness until Congress determines otherwise.

The bill sets no limit on the amount of time Congress has to act on the recommendations, which means that the study areas could remain in de facto wilderness status indefinitely. Consequently, the future of whole economies of adjacent communities which depend on multiple use of the timber and other resources in the national forests would be uncertain for years until Congress got around to acting on whatever recommendations would be submitted by the President.

In Montana this legislation is not without controversy, which is one reason why it should not be considered without possible amendments.

As I understand it, the Montana congressional delegation is evenly divided over this bill with Senator METCALF and Congressman BAUCUS favoring it in its present form and Senator MELCHER and Congressman MARLENEE favoring an amended bill. Their differences are not merely partisan in nature. Rather, they concern whether some areas should be included in wilderness study at all, whether certain boundary changes should be made, and whether the study period should be shortened and Congress required to take action on the wilderness recommendations by a date certain. These questions arise out of valid differences of opinion and reflect what we have been told is considerable local opposition as well as support for the proposed study areas. For this reason, I think the House has an obligation to consider S. 393 with amendments.

During subcommittee and full committee consideration of S. 393, the gentleman from Montana (Mr. MARLENEE) whose district includes two of the nine proposed study areas, offered several amendments which were narrowly defeated. The committee rejected all attempts to amend the bill, including boundary adjustments suggested by the Forest Service to reduce resource use conflicts in several of the study areas. When you consider that 9 of the 14 votes recorded in subcommittee were cast by proxy and that at full committee markup no more than 16 members of the 43-member committee were present at any one time, perhaps you will agree that the gentleman from Montana is entitled to further consideration from the full House.

To bring this bill up under suspension a second time and thus continue to deny him the right to appeal to the collective judgment of the House the committee's close decisions on matters of great significance to his district is simply unfair and an abrogation of our responsibilities as legislators. I would point out that in Mr. MARLENEE's case, we are talking of his interest in two areas totaling 172,000 acres, or 269 square miles.

My understanding of the legislative process is that it is supposed to encourage full airing of issues to allow competing interests to be heard and to facilitate compromise. Given the sharp differences of opinion over the implications of the proposed wilderness study area in S. 393, it clearly merits further consideration by this House.

I see no reason to rush this bill through this session. Certainly, Montana is in no danger without it for the time being. Congress already has designated some 1,796,000 acres of wilderness in that State. Proposed wilderness areas cover some 605,000 acres, and an additional 1,738,475 acres is currently under study for wilderness. The combined areas comprise almost 25 percent of the national forest system lands in the State of Montana.

Mr. Speaker, I believe it is imperative that this bill be voted down so it can be reconsidered at a later date under a rule permitting amendments. This is only appropriate for such a controversial piece of legislation. I therefore strongly urge that the Members join today in voting down S. 393.

Mr. RONCALIO. Mr. Speaker, I yield 2 additional minutes to the gentleman from Kansas (Mr. SKUBITZ).

Will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Wyoming.

Mr. RONCALIO. In the matter of Congress creating wilderness, of assuring there will be satisfactory yield and annual renewable cuts in the timber industry, in the continuation of oil and gas exploration, is it not necessary that we look at each area and each particular development and take the facts as they are in each area? In Montana, facts indicate no need to wait for 7 long years. It will set back oil and gas exploration, which this bill does not do. It does not create a delay where a man is in lawful pursuit of a bona fide BLM oil and gas claims.

We met recently with John Maguire of the Forest Service, to proceed with a systematic approach to the drilling requirements and provisions, and for putting in the pipe for removing hydrocarbons where found. I do not mind the objection my good friend raises for those who are categorically opposed to it now, but why say the time lag is too long and then add on to the time lag by insisting on a rule?

Mr. SKUBITZ. May I say to my colleague that the factions in Montana have been coming closer and closer together on this legislation, trying to correct their differences. It seems to me that inasmuch as it is in the State of Montana, they should try to correct their own problems, without the Congress interfering.

Mr. RONCALIO. If we had waited for the lawmakers of Wyoming to have preserved Grand Teton National Park, we would still be waiting.

Mr. SKUBITZ. The people of Montana are far more farsighted than that.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I just say to my friend from Wyoming that although I have personally enjoyed the pleasure of visiting the Grand Teton National Park and it is wonderful, it might not have been so bad if the Government had not made it a national park and Walt Disney would have gotten control of it. It might have been easier to get around in the park than it is now. Maybe people would be going around in a cable car or something of that sort. It is only what we see that concerns us, and what we do not see is more difficult to understand.

I would say to my good friend from Wyoming that we had this bill in the Committee on Interior and Insular Affairs, of which he is such a valued and hardworking member, but our good colleague who is now in the other body, Senator MELCHER, sat on this bill all the time he was in the House. It barely passed the House, with controversy, and he asked the question, Why should we oppose this bill under suspension?

One reason is that many Members disagree with the budget projection. Does not the gentleman from Wyoming approve of the House adopting the budget process? This bill is in clear violation of the House budget process. If this bill were in here under an open rule a point of order would stand against this bill because there has been no allocation in the budget. It calls for $3 million and is going to cost $6 million because they have not gotten the minerals study embodied in it.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield.

Mr. RONCALIO. The gentleman is correct if we were to bring this bill back under a rule, but it is not quite applicable here, under suspension.

Mr. SYMMS. If this came up under an open rule with the points of order being raised, a point of order would stand against this bill today because it is in direct violation of the House budget process.

Mr. RONCALIO. Correct, but that point of order does not stand against this legislation under suspension of the rules today.

Mr. SYMMS. That is right. That is one of the reasons I am going to vote against the bill.

Mr. RONCALIO. I thought perhaps the gentleman would give consideration to voting for the bill because of new materials that have been presented today, and the strong appeal to reason they contain.

Mr. SYMMS. I have not yet been able to get that reason from my former distinguished colleague in this body, now in the U.S. Senate on the other side of the Hill, to be in favor of this piece of legislation, whom we worked so closely with in the the passage of the National Forest Management Act. In fact, I doubt if that act would have been passed in Congress if it had not been for Senator MELCHER.

Mr. RONCALIO. It is my feeling that the gentleman opposed that bill and voted against it.

Mr. SYMMS. No. I voted for and was the Republican floor manager for the national forest management bill of 1976. And I helped work very closely with Mr. MELCHER at that time to help pass it. I think we would not have needed this then. But now here we are, putting the cart ahead of the horse. This is, in fact, putting 993,000 acres in Montana into a wilderness system now by de facto, instead of letting the Forest Service complete the resource planning studies and the RARE I and RARE II studies.

Mr. Speaker, I ask for a "no" vote.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I rise in strong support of S. 393. I think if I were involved in the forest products industry I would like this bill. Despite the protestations of the length of time that is going to be taken to study this issue and to bring it before the House, I submit to this body that it is a lot shorter time frame than we generally get. In fact, I wish we had in my State 5 years ago legislatively designated what areas we wanted to be put in wilderness, rather than leaving it to the administrative process of roadless area review, process No. 1, process No. 2. We have been dragging on out there now for 6 or 7 years, and we still do not have answers about areas which should be in wilderness.

Here is a bill that straightforwardly places in a wilderness study area nine areas, seven of which could not be otherwise designated, and says to the Secretary, "You come forward with a plan for putting these in wilderness in 30 months, not 5 years or 10 years, like we have been going through, but 30 months, and we will have an answer."

It is stated by the gentleman from Montana (Mr. MARLENEE) that that does not require the Congress to act with alacrity. Nothing requires the Congress to act with alacrity. The wilderness area review never required it, nor does any other process. We will work in due fashion here. I suggest we are working very rapidly to create these nine areas for a wilderness area, for a wilderness study area, and that this is the fastest way for the people of Montana to resolve this issue and get it behind them.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 1 minute to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Speaker, I know the gentleman from Washington is very sincere when he comes here and says that if he were in the forest products industry he would favor the bill. I would like to read to the Members what the Inland Resource Council and the Montana Wood Products Association say. These are people who make their living in the forest products industry in Montana and they say:

> The forest products industry opposes S. 393. It feels the bill circumvents a process that Congress charged the Forest Service with fulfilling. The bill causes unnecessary delays in implementation of multiple use management. It will continue to do so in the future unless killed by Congress. Delays disrupt timber sale plans of the Forest Service and companies with lands inside the proposed areas. Timber supplies to the mills are delayed and may not be available from these areas in the future.

That is what the people who are in the forest products industry in Montana are saying, that we are circumventing the process.

Mr. RONCALIO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the forest products industry, like the character in Shakespeare whose name escapes me, "protests too much." The forest products industry has taken a firm stand against the USDA set-asides and is now lobbying us from one end of this Hill to the other because they do not care to have a small area set aside for small mills and small plants. Another example involves the Medicine Bow National Forest in Wyoming. It is without one single solitary acre of wilderness.

The Endangered American Wilderness Act, which we just passed recently, put only 14,960 acres of the Medicine Bow into wilderness, but they protested vehemently about that. And now industry is before us again and is protesting on land which they know good and well ought to be studied for wilderness, because it has unique and undisputable value as a wilderness region in Montana. It seems to me that we must not yield too much on this issue.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I would just like to ask the gentleman a question:

Why is this legislation being considered under suspension, as opposed to going before the Committee on Rules and getting a rule?

Mr. RONCALIO. Mr. Speaker, let me answer the gentleman in this way: In order to save Montana 9 months of time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. BAUCUS), who has seven of the nine areas involved in his district. I yield this time because he has a right to be heard, and he deserves the consideration of the minority members.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to begin with the point made by the gentleman from Kansas (Mr. SKUBITZ), who said that the main point of our issue today should be to bring people together. Let me say to the Members of the House that is precisely why we are here supporting this bill—to bring people together.

The problem in Montana, as in every other State, particularly the Western States, is that people are competing with one another and making more demands for natural resources. We all know of the demands for hunting and fishing. We know of the demands of snowmobilers and campers. And we all know of the increased demands for recreation. There are many demands on our Nation's unsettled areas, and these demands are getting more and more intense in the West.

We in Montana feel that the best way to resolve conflicting and competing demands is to deal with them quickly but thoughtfully. That, Mr. Speaker, is the whole purpose of this bill.

The problem is that if this bill does not pass now, the question of a wilderness study will be prolonged. Debate will become more acrimonious and more intense. And factions in Montana will become more and more divisive.

If we begin the study now and shorten the term of the study period, which indeed I favor, then I think all of us in Montana will be in a much better position to resolve these demands. At this time I would like to point out that although the bill calls for a 5-year study, the committee report asks the Forest Service to complete the study within 3 years. I am happy to report that the Forest Service is willing to comply with this request as my colleagues can see from this reply from U.S.D.A. Assistant Secretary, Rupert Cutler:

WASHINGTON, D.C., *October 12, 1977.*

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We have already provided the Committee with the Department's report on S. 393, "the Montana Wilderness Study Act of 1977," and on September 13, 1977, we commented on the length of the study period provided by the bill. We stated that we would try to conduct the wilderness studies in as short a time as possible, not taking the entire 5-year period for all areas.

Because of continuing concern over the study period and other matters, I wish to offer the following clarification for your consideration. The Committee Report for S. 393 recommends that the study and recommendation period for all nine studies be limited to three years. Since land management planning has been largely completed on portions of the involved areas, *we believe that this Department can adhere to a 3-year deadline for all or most of the areas.** We can certainly give priority to the West Pioneers, Mount Henry and Taylor-Hilgard areas as requested by the Committee.

The average estimated cost to this Department for the wilderness studies is approximately $3 per acre. We will seek to hold the study costs to the minimum amount necessary to complete appropriate studies, and we will utilize the information available from land management plans to expedite the studies.

We appreciate this opportunity to clarify questions that have been brought to our attention.

Sincerely,

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research, and Education.

If we do not go ahead now, various groups are going to protest timber sales and land use plans, and, consequently, the resolution of these issues will be dragged out further and further and longer and longer.

PERMISSIBLE USES

During the study period, as the Members of the House know, grazing can be continued as before. There is no diminution required in those uses. Similarly, vehicular use can be continued; there is no change there. In fact, the only change is that there can be no cutting of timber during the study period.

To insure that my colleagues understand the intent of the drafters of the bill with respect to permissible uses, I would like to quote from the committee report:

USE OF AREAS

During hearings on S. 393 the committee encountered many doubts by witnesses as to what uses and activities are and are not permissible in wilderness and wilderness study areas. While many of these issues are discussed in House Report 95-540, the committee would like to elaborate further on two points which were most commonly mentioned during the S. 393 hearings:

OFF ROAD VEHICLE USE

The use of off-road vehicles, while generally prohibited in designated wilderness areas, is entirely appropriate in wilderness study areas, including the nine areas contained in S. 393. Nothing in S. 393 will prohibit the use of off-road vehicles, unless the normal Forest Service planning process and travel planning process, which applies to all national forest lands, determines off-road vehicle use to be inappropriate in a given area. Of course, commonsense dictates that certain areas may be temporarily closed to off-road vehicle use where fire danger or physical damage to terrain indicate a closure is warranted. However, absent such circumstances or Forest Service planning decisions, it is the intention of the committee that the areas in S. 393 (and other wilderness study areas) remain open to off-road vehicle use unless and until they are formally designated as wilderness.

GRAZING

Section 4(d)(4) of the Wilderness Act states that grazing in wilderness areas, if established prior to designation of the area as wilderness, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". To clarify any lingering doubts, the committee wishes to stress that this language means that there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness. As stated in the Forest Service regulations (36 CFR 293.7), grazing in wilderness areas ordinarily will be controlled "under the general regulations covering grazing of livestock on National Forests . . .". This includes the establishment of normal range allotments and allotment management plans. Furthermore, wilderness designation should not prevent the maintenance of existing fences or other livestock management improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range.

* Emphasis supplied.

While on the subject of permissible interim uses, I would like to include for the RECORD a letter I received this morning from the International Snowmobile Industry Association. I think this letter, especially the second paragraph, reflects an understanding that snowmobiling will be permitted during the study period:

OCTOBER 18, 1977.

Hon. MAX BAUCUS,
U.S. House of Representatives, Washington, D.C.

DEAR MR. BAUCUS: The Montana Snowmobile Bill, S. 393, slated for action on the floor of the U.S. House of Representatives today, is a matter of concern to the snowmobilers in Montana and throughout the United States. As you know, both the Montana Snowmobile Association and our organization originally were actively opposed to the legislation during the 94th Congress because of the immediate closure of areas now open to snowmobiling which would have resulted.

Subsequently, and in part through your efforts, clarifying statements by the Senate author of the legislation have asserted that current snowmobiling usage shall be authorized until and unless Congress acts to designate these areas as Wilderness because snowmobiling results in no permanent, adverse effects. This interpretation would allow continued use of the Big Sky Trail and other important snowmobiling areas in Montana. However, there is disagreement within the Montana Congressional delegation about the adequacy of this legislative history. We rely upon your judgment to protect the legitimate interests of snowmobilers in Montana.

Although this action has led the snowmobile community to abandon vigorous opposition to the measure, we are unable to support the legislation for reasons with which you are very familiar and with which you, too, have indicated serious concern.

First, the studies would duplicate previous and ongoing U.S. Forest Service planning efforts, such as the so-called RARE-II undertaking.

Second, the sense of the Montana snowmobile community is that alternatives to wilderness designation could better serve both to protect the areas and to allow access by those utilizing snowmobiles without incursions on the natural grandeur of the areas. As you know, many of these areas are essentially impossible to see in winter without the snowmobile.

Third, the areas will be in a "limbo" situation for an extended period of time: five years of Forest Service study and an unknown time period while Forest Service recommendations are before the Congress. We know you share our concern in this area. You offered an amendment to the bill in subcommittee to reduce this period of limbo, but were unable to achieve its acceptance by the full committee.

Finally, we are concerned about the impact this legislation will have on Forest Service efforts to control and eradicate disease which has become rampant throughout large portions of U.S. Forest Service lands in Montana. We hope that any action taken by the U.S. Congress will support, not hinder, Forest Service actions to exercise all available management expertise to control a condition which threatens Montana's aesthetic and economic environment. Vast areas of forest are dead and dying, and present acute fire hazards.

We are hopeful that this provides insight into the position of the snowmobile community on this important issue.

Sincerely,

DERRICK A. CRANDALL,
Director of Government Affairs.

TIMBER SALES

Mr. Speaker, there are no planned sales during the study period in any of the areas mentioned, save one, and that is down the road. In that particular area we are taking the necessary steps to insure that adequate timber will be available so as to prevent mill closings.

I can tell the Members, as one Member from Montana, that I will not stand for the loss of one job due to the wilderness study. I do not intend to let that happen, and I know the rest of the Members do not want to see this result.

My good friend the gentleman from Montana (Mr. MARLENEE), alluded to the point that a Member's own wishes should be respected whenever legislation affects his district. That is an excellent point. I do not want to get involved in tit for tat and in a discussion of small points, but I would like to remind the gentleman, as he knows, that we had a similar discussion last month when the endangered American wilderness bill came before the House. The full committee included in that bill, despite my objections, an area called Welcome Creek.

I did not make a fuss about that because I thought the merits of the entire bill overrode my objections to the particular area.

In that light, I would ask the gentleman from Montana (Mr. MARLENEE) to defer to the larger interests in Montana in this case, because seven of the nine total areas are in this Member's district, whereas only two are in his district. I remind the gentleman that although as a general rule it is wise to defer to a Member's wishes relating to his particular district, sometimes life is not black and white and all general rules have some exceptions.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for a great presentation.

Mr. BAUCUS. Mr. Speaker, I thank the Members of the House. I strongly urge them to help us resolve our interests in Montana. This is the way to go, and I urge an affirmative vote on this bill.

Mr. RONCALIO. Mr. Speaker, I yield the balance of the time to the gentleman from Arizona (Mr. UDALL), the chairman of the committee.

The SPEAKER pro tempore (Mr. YATES). The gentleman from Arizona (Mr. UDALL) is recognized for 2 minutes.

Mr. UDALL. Mr. Speaker, this is a modest, little bill involving a study. It does not put one acre of land in the wilderness. It involves only a study.

Mr. Speaker, this bill passed the other body unanimously. It came out of our committee without a great deal of support. Last month, this House, by a margin of 100 votes, said that we wanted to pass the bill.

Mr. Speaker, this is getting in the road of major wilderness legislation, as are other bills. It is important that we dispose of it today, and I would like to see a resounding vote in favor of this bill.

There is a political power play from Montana politics which is involved. I have said to the opponents of the bill that I am prepared to go into the problems they have, but we have to get this bill on track now.

As my friend, the gentleman from Kansas, mentioned, we need to get people together. This bill is designed to get people together. It sets up a study and this matter will not be resolved until the study is completed and recommendation get back to Congress. The Montana delegation and the people of that State will be consulted, and then we will decide what goes into wilderness.

Again, Mr. Speaker, I think it would be a mistake not to pass this bill.

Mr. Speaker, I would like to read what the Great Falls Tribune, a Montana newspaper, one of the most respected in the State, says about this bill.

After saying that it was disappointed that the House did not pass the bill previously, it said the following:

> The failure only means more delay in passage of a bill that has widespread congressional and public support. It only stirs up bill opponents and proponents with one more bit of misleading information.

The newspaper goes on to say:

> What truly is needed is an end to scare stories about wilderness lock-up and some intelligent discussion of the need for wilderness and whether any of the nine areas should indeed be wilderness. That's what comes after the bill is passed.

Mr. Speaker, I urge my colleagues to support the gentleman from Montana (Mr. BAUCUS), the gentleman from Wyoming (Mr. RONCALIO), and those of us on the committee and to pass this bill by a two-thirds vote.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 5 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to say to the gentleman from Arizona (Mr. UDALL) that I was not trying to be facetious a moment ago when I directed a question to the gentleman from Wyoming (Mr. RONCALIO). I was seeking information as to why this legislation was scheduled on the Suspension Calendar when there was this controversy.

Why did we not go to the Committee on Rules, I ask the gentleman?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, may I say that I do not like to legislate in this way, other things being equal. There are some amendments I could go along with. I told the gentleman from Montana (Mr. MARLENEE) that if we went ahead and passed the bill, the amendments could be incorporated in other legislation.

The fact is, Mr. Speaker, that we are going to lose the bill this year unless we pass it today, and everybody knows it.

Again, I do not like to legislate in this way, but we are dealing with practical facts.

Mr. DON H. CLAUSEN. Mr. Speaker, was there some reason for not going to the Committee on Rules because of the time set by the Speaker and the Committee on Rules?

Mr. UDALL. Yes. That was one of the problems. There is another problem that relates to disputes and personalities in the Montana delegation which I do not want to get into.

However, I think we can get what everybody wants if we pass the bill on suspension today.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will again yield, may I say further that the Suspension Calendar has traditionally offered a means to expedite passage of bills known to be noncontroversial. Clearly, the Montana Wilderness Act is controversial. It is a matter of record that Montana's Senators and Congressmen are evenly divided on the wisdom of designating all of the areas in S. 393 for wilderness study under the terms of the bill. The appropriate course of action is to go to the Rules Committee to get an open rule that will allow amendments on the floor. To do otherwise is contrary to the purpose of the Suspension Calendar. It is a situation that would seem to call for compromise or accommodation on at least some of the issues in disagreement. However, under suspension of the rules, no such accommodations are possible.

I would also point out that the Suspension Calendar is being used for this bill because if it were to come to the floor under a rule, it would in all probability be subject to a valid point of order, since it authorizes funds for the coming fiscal year in violation of the Budget Act. The Budget Committee has indicated that it would not grant a waiver of the Budget Act provisions for S. 393, so we find the bill coming to the floor under suspension of the rules and not subject to a point of order. We find ourselves facing a choice that appears to be: "better a bad bill than no bill at all."

I strongly believe that in considering legislation which may be of intense controversy within a single State or congressional district, the Members of the House should give great weight to the views of the local representatives who must live with the issue on a daily basis. We are here to represent the wishes and express the concerns of our constituents. Generally, the House defers to the judgment of an individual Member on legislation affecting mattters solely within his district. While this custom does not extend to provide the individual Member with a veto over such matters, neverthe-

less, it represents a sound principle of representative democracy.

It certainly appears that this principle has been given short shrift in the consideration of S. 393.

The chairman of the full Interior Committee has stated that there are some amendments he could go along with. If that is the case, why did he not agree to any amendments in committee and why then is this bill on the floor under suspension, where it cannot be amended?

I urge the House to reject S. 393. If we must have a Montana wilderness study bill, let us at least consider it fairly and under appropriate procedures.

Mr. JOHNSON of Colorado. Mr. Speaker, I hate to disagree with the chairman of the full committee and the chairman of the subcommittee, with whom I have worked closely on other legislation. They have been most thoughtful and most considerate when it comes to wilderness areas in my own district, but I am constrained to disagree, and I hope our relationship is such that they will not take offense.

However, Mr. Speaker, this is not a "modest, little bill." This is not even a study bill, Mr. Speaker, as it has been characterized. They call it a "study bill" on the first page; but, Mr. Speaker, this is a bill that will designate 973,000 acres in varying blocks in Montana for wilderness study, and it will be treated as wilderness until Congress says otherwise.

Mr. Speaker. I suggest the Members read section 3(a), on page 5, if they have any question about it. It reads as follows:

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study area designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

Mr. Speaker, what should, of course, happen is that the wilderness designation should require affirmative action on the part of the Congress. It is not happening here.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Missouri.

Mr. ICHORD. The gentleman said it will be treated as wilderness area under section 3(a).

I thought under a "wilderness" designation that you could not graze.

Mr. JOHNSON of Colorado. The gentleman is incorrect, you can graze.

Mr. ICHORD. You can?

Mr. JOHNSON of Colorado. Yes.

Mr. ICHORD. I thank the gentleman.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, first let me assure my colleague from Colorado that our relationship is much too solid to be hurt. I may carry a hurt feeling but not for very long, maybe for only 24 hours.

Second, let me say that we took some 5 years to get the 650 acres to set up the Shoshonee area and that was a modest amount. The gentleman should remember that all things in this world are relative. Nine hundred thousand acres in Montana are a relative number of acres to the total number of square miles in that State and the number of magnificent mountains that God put there. So the numerical figure itself does not mean too much. But this is very similar to the formula we have used before such as in the Sawtooth Peaks area. That is all we are doing. We will save 6 months' time if we pass this bill. You cannot saw timber until 1982 in the light of all the litigation because of Sierra versus Butz.

Mr. JOHNSON of Colorado. Mr. Speaker, what the gentleman from Wyoming (Mr. RONCALIO) has said is true, but it is not the whole story. The studies involved here are 5 year studies. They are under consideration in five out of the seven areas. The two areas not studied are in the district of the gentleman from Montana (Mr. MARLENEE). So we are talking in terms of 973,000 acres, and 172,000 acres are in the district of the gentleman from Montana (Mr. MARLENEE).

All we have to do is to bring this bill to the floor under an open rule and amend it so that the wishes of the gentleman from Montana (Mr. MARLENEE) can be met that the study be conducted but no affirmative action be required after the study is made, unless we want it to be a wilderness area. It seems to me that is a perfectly proper procedure. If you want it to be a wilderness area, then you can subsequently take affirmative action. We did not take action in other instances until there were wilderness studies and then they were designated after that. You know how difficult it is to redesignate something once it has been designated a wilderness area.

All we are asking for is simple justice for the gentleman from Montana (Mr. MARLENEE). We are not telling the gentleman from Montana (Mr. BAUCUS) what he should do in his district, what he has to have. And we are not saying that Mr. MARLENEE should have carte blanche. We are simply saying that we do not, by this process, by this study process, slip it into a wilderness designation where it will perhaps be impossible to remove it at a later time.

Remember that the two representatives from Montana are split and the two Senators from Montana are split.

I appreciate the gentleman from Wyoming (Mr. RONCALIO) giving us this impressions on behalf of Senator METCALF and Mr. Mansfield, both of whom were very fine Senators, but that really does not make a whole lot of sense to me because both of those gentlemen were here for over 30 years either in the House or in the Senate, and they were not in any rush to pass this legislation in that period of time.

So, Mr. Speaker, I do not see why we cannot bring this legislation to the floor of the House under an open rule so that it can meet the objections of the gentleman from Montana (Mr. MARLENEE) and so that it will subsequently come back to the floor and let the House designate by affirmative action whether it should be a wilderness or not. That is the proper method in which to do it.

You know, I doubt if there is a person in this Chamber who would be willing in his own area—and I repeat—in his own area, to do what you are asking the gentleman from Montana (Mr. MARLENEE) to do.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, the gentleman from Colorado knows that in the other instance the gentleman from California (Mr. KETCHUM) was happy with what we did.

Mr. JOHNSON of Colorado. Mr. Speaker, that is not an entirely correct statement because in that act, the endangered American Wilderness Act, those boundaries were approved by Mr. KETCHUM and we did not impose anything on Mr. KETCHUM, because the ultimate solution was one that was acceptable to him. In this case, we are indicating it to be a study, but it actually becomes a designation and you know how hard it is to remove something from an area that is being treated as a wilderness. So it is a totally unfair proposition, and to have this as an environmental vote, this cheap environmental vote imposing a burden on somebody else, is unfair.

When we went through the subcommittee, 9 out of 14 votes were cast by proxy. When we went through the full committee, 16 out of 43 people were there. That is not the way to legislate. It is not fair to the gentleman from Montana. It is not fair to the people of Montana for us to behave this way. If we want to impose something on them, we ought to do it through an open rule and at least have an opportunity for amendment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair's prior announcement, further proceedings on this motion will be postponed.

FISHERMEN'S PROTECTIVE ACT OF 1967, EXTENSION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4140) to extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978.

The Clerk read as follows:

H.R. 4140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 4140 is to extend the cooperative insurance program carried out under section 7 of the Fishermen's Protective Act for an additional year, until October 1, 1978. This bill has the strong support of the administration. In fact, it was introduced as a result of an Executive communication from the Department of Commerce.

The need for the legislation—other than the fact that the appropriation-authorization under section 7 expires at the end of this fiscal year—arises from the fact that the United States does not recognize the right of any nation to regulate tuna. Tuna is a highly migratory species which spawns and migrates over vast distances in the Pacific, Atlantic, and Indian Oceans and, therefore, necessitates international regulation. Consequently, whenever a tuna vessel of the United States is illegally seized by a foreign nation in contradiction of this policy, it is incumbent of the United States to indemnify the owners of such seized vessels for their losses when such vessel owners are following a policy clearly established by the U.S. Government.

This policy on the part of the United States which, incidentally, is shared by many other nations, dates back to 1954 when the Fishermen's Protective Act first came into being. Under that act, the U.S. Government agreed that when American fishing vessels were fishing in conformity with that policy and their vessels were seized and fines, fees and other direct charges were required to be paid to obtain release of their vessels and crews resulting from such seizure beyond 3 miles from the shores of any nation, then the U.S. Government would reimburse the vessel owners and crews for those charges.

In 1967, the act was broadened to add a new section 7 to the act which would allow any vessel owner—whether fishing for tuna, shrimp, or any other species of fish—to voluntarily enter into an agreement with the Secretary of Commerce for the purpose of providing reimbursement for certain losses incurred other than those for fines, fees, and other direct charges which are fully reimbursable under section 3 of the act. The losses to be covered by section 7 of the act would include such things as damage, destruction, loss or confiscation of the vessel, fishing gear or other equipment, dockage and utility fees, confiscated or spoiled fish, and 50 percent of the loss of fishing time during the detention period.

Mr. Speaker, this is the program under the act that would be extended by this legislation. Under this program, the participating vessel owners have been paying about 40 percent of the cost and the U.S. Government the remaining 60 percent.

It is estimated that the extension of this program for an additional year would cost the taxpayers of this country only $60,000.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT), a very distinguished member of the subcommittee.

Mr. LEGGETT. Mr. Speaker, as just explained by Chairman MURPHY, H.R. 4140 would extend the voluntary insurance program authorized by section 7 of the Fishermen's Protective Act for an additional year, until October 1, 1978.

Mr. Speaker, I would like to bring to the attention of the Members one additional feature of the program that should be highlighted.

Section 403 of the 200-Mile Fishery Zone Act amended section 2 of the Fishermen's Protective Act, which bears on the insurance program carried out under section 7 of that act.

Section 2 of the Fishermen's Protective Act, as rewritten, makes it clear that the United States does not recognize the claim of any foreign nation to a fishery conservation zone beyond such nation's territorial sea—recognized by the United States as of this date to be only 3 miles—if such nation fails to take into account traditional fishing practices of U.S. vessels; or fails to recognize that all species of tuna are to be managed by international agreements, whether or not such nation is a signatory to any agreement; or imposes conditions or restrictions on U.S. fishing vessels which are unrelated to fishery conservation and management, or which are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the fishery management authority of the United States.

Mr. Speaker, the net effect of these provisions is to allow seizure insurance protection under certain conditions for vessels other than tuna, such as shrimp, snapper, and grouper vessels, when such vessels are operating in the 200-mile fishery zones of other nations.

Mr. Speaker, if for no other reason, the insurance program provided by section 7 of the act should be continued so that our vessel owners can take advantage of this extended coverage which was just added to the act last year.

There were 166 vessels voluntarily participating under this program from July 1, 1976 to July 1, 1977. Of this 157 were tuna vessels and 9 were shrimp vessels. During the transition quarter, from July 1, 1977 to October 1, 1977, there are 126 vessels participating in the program, of which 119 are tuna, 4 are shrimp, and 3 are grouper and snapper vessels.

Mr. Speaker, I am pleased to report that there have been no seizures of any vessels since 1975. Naturally, no one knows what the attitude of the nations will be off whose shores our vessels might fish. Therefore, in the case of any seizures of such vessels when fishing off any nation's shores, this insurance program should be available to them so that any losses incurred by our fishermen while abiding by the policy of our country, as it was just recently expressed in the passage of our 200-Mile Fishery Zone Act, should be reimbursed as provided by section 7 of the Fishermen's Protective Act. The cost for administering this program for the past year has amounted to only about $20,000.

Mr. Speaker, earlier this year, H.R. 4140 was considered on the Suspension Calendar, but it failed to receive the necessary two-thirds majority. The Members expressed reservations about the extension of this act for an additional 3 years, however, I believe that these reservations have been somewhat dissipated since the bill, as amended, would extend this program for 1 year only.

Mr. Speaker, H.R. 4140 has the strong bipartisan support of the Members of our full Committee on Merchant Marine and Fisheries, and it has the strong support of the administration and our tuna and shrimp industry.

In fact, the administration forwarded to our full committee an executive communication calling for an extension of this act for an additional 2 years, instead of 1 year, as called for by H.R. 4140, as amended.

Mr. Speaker, I think this is a good piece of legislation, and I urge my colleagues to support its passage.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4140 which extends section 7 of the Fishermen's Protective Act for 1 year.

A review of the historical origins of the Fishermen's Protective Act reveals why there is a continuing need for section 7. In 1967, when section 7 was added to the act, the United States did not recognize the jurisdictional claims of nations asserting control over waters beyond 12 miles of their coast. Section 7, which established a cooperative insurance program to assist U.S. fishermen whose vessels were seized by nations claiming oceans jurisdiction not recognized by the United States, became an extension of our foreign policy.

Today section 7 of the Fishermen's Protective Act continues to represent the fisheries policy of the United States. The Fishery Conservation and Management

Act, which extended our fisheries jurisdiction to 200 miles, specifically excluded tuna from its jurisdictional reach. Tuna, which is found off the coast of several nations, including the United States, was excluded because the Congress recognized that the effective conservation and management of highly migratory species demanded a coordinated international program.

Section 7 of the Fishermen's Protective Act, therefore, continues to be a reflection of the U.S. fisheries policy. To defeat this legislation would be to signal a dramatic change in that policy. A negative vote by the House would telegraph to the world that the United States no longer recognizes the need to establish a coordinated international management program for highly migratory species. Such a change in U.S. fisheries policy will seriously undermine current efforts to negotiate a comprehensive international conservation program for tuna.

In view of these facts, it is important that section 7 of the Fishermen's Protective Act be extended for 1 additional year while U.S. fisheries negotiators are attempting to establish an international management regime for the conservation and protection of tuna.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 4140.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate bill S. 1184, to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 7 of the Fishermen's Protective Act of 1967, as amended (82 Stat. 729, as amended; 22 U.S.C. 1977), is further amended by deleting the date "October 1, 1977" and inserting in lieu therefor "October 1, 1979".

SEC. 2. The Fishermen's Protective Act of 1967, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 10. (a) After October 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

"(1) he receives an application for a loan under this section after such date; and

"(2) he determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation.

Any such loan—

"(A) may be for an amount not exceeding the value of such loss, damage, or destruction;

"(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

"(C) shall bear interest at the rate of 2 per centum per annum; and

"(D) shall be subject to such terms and conditions as the Secretary deems necessary or appropriate for the purposes of this section.

The Secretary shall use the Fishermen's Protective Fund created under section 9 for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring within one year prior to, and anytime after, October 1, 1977.

"(b) The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation.

"(c) The Secretary, with the assistance of the Attorney General and the Secretary of State, shall take appropriate action, pursuant to the provisions of title 28, United States Code, to collect on any right assigned to him under subsection (a). Amounts collected under this subsection shall—

"(1) if such loan was canceled pursuant to subsection (b), be paid into the Fishermen's Protective Fund created under section 9, to the extent of the amount so canceled;

"(2) if not so canceled, be applied to the repayment of such loan; or

"(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

"(d) For the purposes of this section, the term 'Secretary' means the Secretary of Commerce.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill, S. 1184, and to insert in lieu thereof the provisions of H.R. 4140, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4140) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ENDANGERED SPECIES ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6405) to amend the Endangered Species Act of 1973 regarding the requirements for State cooperative programs thereunder and to authorize appropriations through fiscal year 1981 to carry out such programs.

The Clerk read as follows:

H.R. 6405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is amended—

(1) by striking out the period at the end of subsection (c) and inserting in lieu thereof "; or", and by adding at the end of such subsection the following: "that under the State program—

"(A) the requirements set forth in paragraphs (3), (4), and (5) of this subsection are complied with, and

"(B) plans are included under which immediate attention will be given to those resident species of fish and wildlife which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs."; and

(2) by amending subsection (i) to read as follows:

"(i) APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

"(1) $10,000,000 through the period ending September 30, 1977.

"(2) $16,000,000 for the period beginning October 1, 1977, and ending September 30, 1981.".

The SPEAKER pro tempore (Mr. YATES). Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from New Jersey (Mr. FORSYTHE) are recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1973, Congress passed the Endangered Species Act in an attempt to slow the alarming rate at which wildlife species were becoming extinct in the United States and around the world. The Endangered Species Act provided for the development of a program for the protection of endangered and threatened species, and the conservation of the ecosystems on which endangered and threatened species depend. H.R. 6405 reauthorizes one small, but nevertheless vital, element of this historic act.

This legislation would authorize appropriations of $16 million under section 6 of the Endangered Species Act. In addition, the bill would amend section 6(c) of the act to facilitate the development

of cooperative agreement programs with the States.

Section 6 of the Endangered Species Act is a little known, but highly important part of the act. It established a mechanism for the development of cooperative endangered species programs with the individual States. The cooperation envisioned by section 6 includes consultation with the States concerned before acquiring any land or water under the Endangered Species Act, and the development of cooperative management agreements with States that establish a program for the conservation of endangered species. Those States that qualify under the act are eligible to receive section 6 matching grants on a 2-to-1 basis.

Section 6 of the Endangered Species Act expresses the congressional realization that a successful endangered species program depends upon a good working relationship with the States. Although the Federal agencies have the broad policy perspective and authority to carry out the Endangered Species Act, the States have the physical facilities and the personnel to see that State and Federal endangered species policies are properly executed.

Traditionally, State fish and game departments have had the primary responsibility for managing resident species of fish and wildlife. Section 6 of the Endangered Species Act insured that the States would continue to play an important role in the management of resident endangered and threatened species despite the Federal Government's assertion of general authority in the endangered species area. We recognized in 1973, as we do now, that if we want an endangered species program that works in fact, as well as on paper, it is imperative that the States be given authority to manage their resident species which are classified as endangered or threatened.

Unfortunately, the cooperative agreement program of the Endangered Species Act has not developed as rapidly as we had originally hoped. To date, only 17 States have signed cooperative agreements with the Federal Government and have qualified for Federal matching funds under the act. It is hoped that the changes proposed in this legislation, along with an increase in funding for State endangered species programs, will bring around the 33 States not now participating in the endangered species program.

Mr. Speaker, I would like to emphasize the noncontroversial nature of this legislation. It was reported out of the Committee on Merchant Marine and Fisheries without a single dissenting voice. This bill has nothing whatsoever to do with some of the more controversial aspects of the Endangered Species Act which have received press attention in recent months. Specifically, this bill has nothing to do with the conflict between some water development projects and the designation of critical habitat for a variety of endangered species.

Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 6405. This legislation authorizes appropriations of $16 million through fiscal year 1981 to carry out a small but important part of the Endangered Species Act of 1973. That act stands as the most far-reaching Federal effort to slow and prevent the destruction of hundreds of fish and wildlife species that are facing extinction as a result of man's activities. The important goal of the Endangered Species Act is the maintenance of a healthy diversity of wildlife species, and to conserve the all important ecosystems on which the wildlife species of the world depend for survival.

Although the Endangered Species Act expressed the preeminent authority of the Federal Government in the management of endangered species, it recognized that any effective conservation program demands active State involvement. Thus, section 6 of the Endangered Species Act established a mechanism for continuing State involvement in the management of resident threatened and endangered species.

Under the act, the Federal Government is authorized to enter into cooperative agreements with individual States that develop a qualifying endangered species program. Once a State has developed an acceptable endangered species program, it is eligible to receive Federal matching funds to carry out its program. In the past, these matching funds have been used for such activities as conducting peregrine falcon and bald eagle surveys, developing special gates to protect Indiana bats and propagating falcons for release into the wild.

The goal of this section is clear—the management of resident endangered species at the State level by those wildlife biologists best equipped to insure continued protection of the most beleagured members of the animal kingdom. Unfortunately, we are not close to achieving this goal.

Only 17 States have signed cooperative agreements with the Federal Government under section 6. What is worse, some of the States with the greatest number of species under their jurisdiction have not yet joined the program. Many States have not qualified for Federal financial assistance because they are frankly unwilling to provide blanket protection for any species which may be listed as endangered or threatened. The existing law requires the States to authorize such blanket protection before they can qualify for any Federal assistance.

H.R. 6405 would ease the requirements of existing law and encourage the remaining 33 States to join this all important program. I want to emphasize that this bill in no way diminishes the force or effect of the Endangered Species Act. In fact, if anything, the proposed amendment of section 6 should help to insure the full implementation of the act by encouraging the full participation of State agencies.

Authorizations and appropriations of section 6, Endangered Species Act

[In millions]

Authorization:	
1974	2.5
1975	2.5
1976	2.5
1977	2.5
1978	*4
1979	*4
1980	*4
1981	*4
Appropriation:	
1974	0
1975	0
1976	2
1977	4
1978	4
1979	---
1980	---
1981	---

*Proposed in H.R. 6405.

STATES SIGNING COOPERATIVE ENDANGERED SPECIES AGREEMENTS

Arkansas, California, Colorado, Delaware, Florida, Maine, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, South Carolina, South Dakota, Virginia, Washington, and Wisconsin.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the legislation, H.R. 6405, which would authorize section 6 of the Endangered Species Act of 1973. This bill has three purposes. First, it would extend the authorization section for section 6 of the act from October 1, 1977, through September 30, 1981. Second, the bill would establish a funding level of $16 million which would be authorized to be appropriated during the 4-year period October 1, 1977, through September 30, 1981. Third, it would amend section 6 of the act to facilitate development of cooperative and endangered species programs with the individual States.

H.R. 6405 has the broadest bipartisan support. Since 1973 we have made a great deal of progress as a nation under the Endangered Species Act in our efforts to provide a program for the protection of endangered and threatened species and the conservation of ecosystems on which endangered and threatened species depend. Much work remains to be done. In addition to extending the authorization period of the act, this bill concentrates its attention in an area which is very important to me.

The successful development of an endangered species program depends on a good working arrangement between Federal and State agencies. Federal agencies have broad powers and perspective to carry out their authority under the act. State agencies, however, must have the physical facilities and personnel to see that the policies which are set by State and Federal interaction are properly executed. Without this strong State role, no endangered species program will be fully effective.

However, one of the greatest impediments to the development of cooperative agreements between the States and Fed-

eral Governments has been the five requirements found in section 6(c) of the act. These requirements must be met before a State can qualify for a grant in aid funds. In essence these paragraphs require States to provide blanket protection for any species listed as endangered or threatened by the Secretary.

A number of States have failed to qualify for funds under section 6 because for internal policy reasons they have been unwilling to grant their State agency the broad authority required under the present wording of the act. Under H.R. 6405, States would be able to qualify for cooperative agreement funds if they met the requirement of present paragraphs 3, 4, and 5 under section 6(c) and if the State has a plan which would result in immediate attention being given to those species most urgently in need of conservation programs.

Mr. Speaker, I urge my colleagues to join with me in approving the authorization of these much-needed funds.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 6405.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973, a similar bill to H.R. 6405, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(i) of the Endangered Species Act of 1973 (16 U.S.C. 1535(i)) is amended to read as follows:

"(1) APPROPRIATION.—For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

"(1) $10,000,000 through the period ending September 30, 1977.

"(2) $9,000,000 to the Secretary of the Interior through the period ending September 30, 1980; and

"(3) $3,000,000 to the Secretary of Commerce through the period ending September 30, 1980.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill (S. 1316) and to insert in lieu thereof the provisions of H.R. 6405, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Endangered Species Act of 1973 regard the requirements for State cooperative programs thereunder and to authorize appropriations through fiscal year 1981 to carry out such programs."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6405, was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PACIFIC ISLANDS TECHNICAL AMENDMENT TO HIGHER EDUCATION ACT

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9512) to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act.

The Clerk read as follows:

H.R. 9512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 1201 of the Higher Education Act of 1965 is amended to read as follows:

"(b) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) Subsection (a) of section 491 of the Higher Education Act of 1965 is amended by striking out "includes the Trust Territory of the Pacific Islands" and inserting in lieu thereof "has the meaning set forth in section 1201(b)".

(c) Sections 602(a)(2), 1001(b)(2), and 1012(a) of the Higher Education Act of 1965 are each amended by inserting ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" after "American Samoa".

(d) Nothing in this Act, the Higher Education Act of 1965, or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us, H.R. 9512, seeks to correct a recent determination by the Office of Education that institutions of postsecondary education in the Trust Territory of the Pacific Islands are not eligible to participate in several programs authorized by the Higher Education Act. While statutory authority exists to allow these institutions to receive funds under title IV (student assistance) and title VII (academic facilities), no such authority exists for the remaining titles.

This determination is contrary to the widely held belief in both the executive branch and Congress that these institutions were included in the Higher Education Act for all purposes in the same manner as institutions in other dependent jurisdictions such as Guam, American Samoa, and the Virgin Islands.

This determination was made by the Office of Education after several years of providing funds to two institutions under title II (college library programs) and of considering them eligible for all Higher Education Act-authorized programs. This ruling denies these schools eligibility in programs authorized by the following titles: title I, community services and continuing education; title II, college library programs; title III, strengthening developing institutions; title V, teacher training and teacher corps programs, title VI, financial assistance for the improvement of undergraduate instruction; title VIII, cooperative education; and title X, establishment and expansion of community colleges.

On Wednesday, October 12, my distinguished colleague (Mr. PHILLIP BURTON) and I brought this situation to the attention of the members of the Committee on Education and Labor. There was unanimous agreement at that meeting that this omission was not intended and this legislative effort to correct it was endorsed. With the cosponsorship of Mr. BURTON, I introduced H.R. 9512 and have received letters supporting this effort from the Department of the Interior and the Department of Health, Education, and Welfare. Additionally, I have received a letter from the Congressional Budget Office which states: "it appears that no additional cost to the government would be incurred as a direct result of enactment of this bill." These three documents were printed in the CONGRESSIONAL RECORD on Thursday, October 13, at my request so that my colleagues could be aware of this legislation before it reached the floor.

It is my hope that my colleagues will join me today in voting for this bill so that the Trust Territory can regain its intended eligibility for these important programs.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I commend the gentleman from Michigan for permitting a clarification of the situation and, more importantly, for the next month or so, as we have learned over the past 4 or 5 months, the Northern Mariana Islands is moving into its own governmental system. It is important that they be specifically enumerated or there would be a risk—although I think it would be an improper interpretation of the law—that they may not qualify for the very limited amounts that they otherwise would be getting under the Higher Education Act.

So, I commend the gentleman from Michigan and urge the adoption of the proposal.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I will be happy to yield to my colleague from Ohio.

Mr. ASHBROOK. I think I heard the gentleman right when he said that this came out of the committee unanimously.

Mr. FORD of Michigan. Yes, I did say that.

Mr. ASHBROOK. I think that is a rare occasion when any bill can come out of our committee unanimously. My only regret, when I see Governor Burton of the Territories—my only regret is that there are about 24 Members, 6 House personnel and 1 staff member on the floor. Really, I wish there were more to see that something comes from the Committee on Education and Labor.

Mr. PHILLIP BURTON. We almost pulled off a similar miracle last Friday. We missed——

Mr. ASHBROOK. By $30,000.

Mr. PHILLIP BURTON. We missed by $12,500, which I think is more than we have in this proposal, in annual terms.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for me to speak would be redundant. As the gentleman from Ohio has underlined and as the distinguished chairman of the subcommittee has made plain, this does fulfill the intent of the committee and the Congress, in the first place. It is needed action. I can see no reason for any objection to the passage of this measure, and I urge its passage.

Mr. PERKINS. Mr. Speaker, the U.S. Office of Education has only recently concluded that postsecondary educational institutions in the Trust Territory of the Pacific Islands are not eligible to participate in institutional assistance programs authorized under five specific titles of the Higher Education Act, as amended.

While these institutions have traditionally been certified as eligible for all titles of the Higher Education Act, they were advised earlier this year that eligibility certification was being terminated for title I, community services and continuing education; title II, college library programs; title III, strengthening developing institutions; title VI-A, undergraduate instructional equipment, and title VIII, cooperative education programs.

I hasten to add, Mr. Speaker, that eligibility for title IV, student assistance programs and for grants and loans under the academic grant facilities program is not in question. Statutory authority exists in both titles providing eligibilty for these institutions.

Members of the Committee on Education and Labor have unanimously agreed that this technical oversight in the Higher Education Act should be corrected. Last week in committee there was agreement that we should seek a satisfactory resolution of this matter at the earliest possible date.

Pursuant to that agreement, the distinguished chairman of our Subcommittee on Postsecondary Education—BILL FORD—and the distinguished chairman of the Interior and Insular Affairs Subcommittee on National Parks and Insular Affairs—PHIL BURTON—cosponsored H.R. 9512, the bill before us.

This legislation proposes a technical amendment to provide eligibility for the two institutions of postsecondary education in the Trust Territory.

The legislation will provide eligibility for all titles and programs in the Higher Education Act. The practical result of this will be to make institutions in the Trust Territories eligible participants in the title I program of community services; the title II program of library assistance; the title III program of aid to developing institutions; the title VI program of grants for equipment assistance; the title X program of grants for community colleges; and the title XII program of grants for postsecondary education planning.

The Congressional Budget Office has advised that there are no additional costs to the Government which would be incurred as a direct result of an enactment of this kind. It is purely a technical matter which will provide statutory basis for what the Congress intended.

Mr. Speaker, before closing, I want to compliment Chairman FORD and Chairman BURTON for their prompt attention to this matter and for the very expeditious and fine way in which they have handled it.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill H.R. 9512.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 9512, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ESTABLISHING POSITION OF ASSOCIATE ATTORNEY GENERAL

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

The Clerk read the Senate bill as follows:

S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 31 of title 28, United States Code, is amended by adding immediately after section 504 the following new section:

"§ 504a. Associate Attorney General

"The President may appoint, by and with the advice and consent of the Senate, an Associate Attorney General.".

(b) The section analysis at the beginning of chapter 31 of title 28, United States Code, is amended by adding immediately after

"504. Deputy Attorney General."

the following new item:

"504a. Associate Attorney General.".

SEC. 2. Section 508(b) of chapter 31 of title 28, United States Code, is revised to read:

"(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.".

SEC. 3. Section 5314 of chapter 53 of title 5, United States Code, is amended by adding the following item at the end thereof.".

"(66) Associate Attorney General.".

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chaption of the Senate bill suggests, this is merely a

proposal to establish within the Department of the Justice the position of Associate Attorney General. This has been under consideration for some time. My recollection is that it passed the subcommittee and it passed the full committee without objection or opposition.

As the bill states, chapter 31 of title 28, United States Code, is revised to read:

"(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the Office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.".

Mr. Speaker, the bill would also provide that this Associate Attorney General will receive a salary at level III of the executive schedule.

Mr. Speaker, before reserving the balance of my time, I would state that the bill would result in an additional cost of $2,500. That comes about from the raising of the salary level from level IV to level III of the executive schedule.

Mr. Speaker, I reserve the balance of my time.

Mr. ASHBROOK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, the administration has requested this legislation with the laudable objective of improving the administration of the Department of Justice. The Associate Attorney General, who would be made a Presidential appointee by this bill, has been given supervisory responsibility for the civil activities of the Department under a recently adopted reorganization plan, while the Deputy Attorney General has been assigned similar authority over the criminal justice programs.

It should not go unnoticed, however, that the substantially equal authority of the Associate Attorney General and the Deputy Attorney General has not been recognized in equality of pay; the Deputy is compensated at level II of the executive schedule, $57,500, while this bill provides that the Associate shall be paid at level III, $52,500. The Deputy has precedence over the Associate in order of succession to the Attorney General. Perhaps this justifies the $5,000 difference in pay. However, I feel that careful consideration should be given to legislation placing the position of Associate Attorney General, and perhaps the Solicitor General as well, at level II.

We should also be alert, in my opinion, to any difficulties which this departmental reorganization may impose upon the supervision of the 94 U.S. attorneys, who handle both civil and criminal matters and will be receiving policy guidance through the Executive Office for U.S. Attorneys from two different people. I understand that Attorney General Bell is sensitive to this problem, and it is certainly my hope that he will be successful in minimizing tension and conflicts in this area.

Mr. Speaker, I know of no reason not to support this measure (S. 2089) and I urge an aye vote.

Mr. RODINO. Mr. Speaker, S. 2089 is a simple bill, and it is a bill this House can pass comfortably without a great deal of discussion.

But it is nonetheless important legislation about which the Attorney General feels very strongly, and it is legislation the administration believes is essential to an improved operation of the Justice Department.

The bill establishes officially, by statute, the Office of Associate Attorney General, a position first created administratively 4 years ago. Though the nature and function of the Office has varied over the course of the position's off again, on again history since 1973, in recent months the Office has evolved into that of a major policy official within the Department, and has become one upon which the incumbent Attorney General, Judge Bell, has relied very heavily.

Initially, the Office was envisioned as that of basically a senior staff adviser. Given the limited nature of the duties assigned to the Associate Attorney General, level IV of the executive schedule was considered to be the appropriate management level for the Office, and authority for the position was assigned from the President's pool.

Judge Bell, however, upon assuming office last January, evaluated the needs of the Department and concluded that proper policy level supervision was not being given to the Department's activities and that the complexity and scope of demands on the time of the Attorney General and the Deputy Attorney General actually precluded the proper policy level supervision required. Consequently, in March, Judge Bell reactivated the then dormant position of the Associate and reorganized the Department's central management activities, placing responsibility for coordinating programs in the criminal justice area with the Deputy Attorney General, and assigning to the Associate Attorney General responsibility for coordinating the Department's civil activities. In addition, the Associate was given the task of coordinating the Department's reorganization activities and overseeing the Department's executive selection process.

The incumbent Associate Attorney General, Mr. Egan, has become, in effect, the No. 3 man at the Department and is presently supervising individuals who have been appointed by the President and confirmed by the Senate. Mr. Egan, however, has not himself been confirmed and can not be until this legislation is passed and the Office becomes official by statute.

The Senate, as you may know, acted expeditiously in passing this bill last month after the Senate Judiciary Committee had assured the Attorney General it could confirm Mr. Egan this session if the authorizing legislation were enacted promptly. The Judiciary Committee in the House heard Judge Bell's testimony on September 27 and the full committee ordered the bill reported the following week. I am hopeful the full House will now bring this legislation to the President's desk by its action today.

Mr. ASHBROOK. Mr. Speaker I have no further requests for time, and I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the Senate bill S. 2089.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IMMIGRATION STATUS OF INDOCHINESE REFUGEES

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 7769) to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212 (a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least two years.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 1 of this title, the Attorney General shall establish a record, of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations as he may prescribe, if they meet the requirements specified in section 1(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

TITLE II—EXTENSION OF THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

SEC. 201. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"SEC. 2 (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

"(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

"(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant."

SEC. 202. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos."

(b) Section 4(c) of such Act is repealed.

Amend the title so as to read: "An Act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, before I discuss the Senate amendment, I want to explain to my colleagues "why" we are bringing this matter up under suspension of the rules.

The reason is very simple. The program for providing assistance to Indochina refugees expired at the end of last month. Therefore, unless we approve the Senate amendment which extends that program, the various forms of Federal assistance designed to help these refugees become self-sufficient will be abruptly terminated.

The arbitrary termination of the program at this time will have the effect of placing undue burdens on those States where large numbers of refugees have resettled and this may result in unfair tax increases to residents in those States.

In my judgment it is illogical and unreasonable for the Federal Government to terminate its responsibilities, for this group of refugees, just 2 short years after authorizing their admission and resettlement.

I should advise my colleagues that my Subcommittee on Immigration, Citizenship, and International Law was very aware of the expiration date for the program. Unfortunately, our consideration of this matter was delayed by the failure of the administration to submit its extension legislation to the Congress in a timely fashion.

In fact, the administration's legislative proposal was submitted just 3 weeks before the program actually expired. At that time, my subcommittee held emergency hearings to consider the administration's bill and related proposals introduced by the distinguished gentleman from California (Mr. STARK).

During the course of these comprehensive hearings, it became evident that the administration's bill was deficient in several respects. For example, it would have immediately reduced Federal reimbursement to State and local governments from 100 to 75 percent for the current fiscal year and discontinued special projects and social services which are urgently needed by the refugees.

The Senate amendment, on the other hand, provides a rational and orderly phase-down of the Federal program—and the Federal responsibility—over a 4-year period. Specifically, it continues 100 percent reimbursement for the first year. In each of the 3 succeeding years the reimbursement formula is scaled down by 25 percent—in other words 75, 50, and 25 percent—with the program terminating in fiscal year 1981. In addition, the Senate amendment authorizes a total of $25 million for special projects over the 4-year period. These funds will be used to assist the refugees in obtaining the skills and training which they need in order to become productive members of their respective communities.

I might add that my subcommittee met last week to consider the approach embodied in the Senate amendment to H.R. 7769. We were unanimous in our support of the Senate amendment. It was our belief that it adequately reflects the continuing Federal responsibility for this particular group of refugees, and at the same time, it assures us that the program will be terminated.

Mr. Speaker, the Senate amendment is strongly supported by the State governments, the private voluntary agencies responsible for resettling the refugees, and by all of the members of my subcommittee. I might add that the administration also strongly supports the enactment of legislation extending the Indochina refugee assistance program, despite the fact that they may have

some reservations about the formula we are today considering.

In view of the fact that the Senate amendment has been extensively considered by my subcommittee and because it will not be processed through normal legislative channels I believe it is important to create a legislative history on several issues addressed by that amendment. First of all it is not the intent of the House bill nor the Senate amendment to authorize funds for the movement of any additional Indochina refugees to the United States.

In addition, this legislation is not intended to provide Federal assistance—in the form of reimbursement to State and local governments or direct assistance through special contract or services—to any Indochina refugees other than those already here on the day of enactment, the 15,000 additional refugees whose admission has already been authorized under the new parole program, or to those coming under the normal immigration law.

Likewise, the Senate amendment to the adjustment of status provision in H.R. 7769 is not intended to include within the scope of eligibility any additional refugees coming to the United States under any other new parole program other than the previously mentioned 15,000 refugees. Finally the House bill and the Senate amendment have no relation whatsoever to the issue of reimbursing school districts for assistance provided to Indochina refugee children.

The Senate amendment is carefully structured to carry out in a reasonable and cost effective manner those objectives which the Congress established when it enacted the Indochina Migration and Refugee Assistance Act of 1975. The abrupt—and in my opinion premature—termination of the programs and services authorized by the 1975 act could well be disastrous. In order to avoid such a situation, I urge my colleagues to support my motion to concur with the Senate amendments.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend our most distinguished and able colleague, the gentleman from Pennsylvania (Mr. EILBERG).

Once again, Mr. Speaker, he has moved with great sensitivity and dispatch in this very important problem. The end of our involvement in Indochina carried with it the very difficult situation confronting the individual refugees involved, as well as the problem confronting a number of our local communities, in assisting the refugees playing a more meaningful role in life here in the United States.

Again, Mr. Speaker, I thoroughly applaud the Congressman EILBERG's action and leadership in this respect.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MCFALL).

Mr. MCFALL. Mr. Speaker, I wish to commend the chairman and the members of the committee for their prompt yet thorough action on this bill.

Without passage of this bill, which provides for extension of the Indochina Migration and Refugee Act of 1975, State and local government treasuries will suffer a shocking blow.

This is an especially serious problem in California where 1 in 3 of the 150,000 Indochinese refugees have settled. The State Department estimate of an additional 15,000 refugees entering the country each year for the next 3 years demonstrates that the problem will not improve.

Continuing assistance to these refugees without Federal funding could cost the State of California $35 million this next fiscal year alone.

Extension of the Refugee Act of 1975 is the only reasonable means of relief for the State and local governments with far more than their equal share of these refugees.

Since 1975, this act has provided the most important help for these families as they adjust to their own personal losses and the shock of a new culture.

I urge your support of this measure.

Mr. FISH. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 7769 with the Senate amendment. As you know, on September 27 of this year, the House passed my bill, H.R. 7769, to permit the refugees from Indochina to adjust their immigration status to that of permanent resident alien after they had been in the United States for 2 years. At that time, our Subcommittee on Immigration had held 2 days of hearings on legislation to extend the Indochina Migration and Refugee Assistance Act of 1975. Those hearings indicated the need for a short extension of the Federal assistance program for these refugees. The most recent report of the HEW refugee task force dated September 21, 1977, indicated that 85 percent of all refugee households receive income from employment. However, over one-third of these households must also resort to supplemental cash assistance. This is due to the fact that these refugees, while obviously willing to work, are experiencing difficulty in obtaining jobs adequate to support themselves. This is the result of the obvious difficulty they experience in making the cultural and economic adjustment to our society.

The original administration proposal to extend the existing Federal program failed to include any funding authority for social services and special projects. These include language and employment training, and I am pleased to note that the Senate has seen fit to authorize $25 million for just such projects. It is only through programs such as the 62 English and vocational programs now being funded under the original refugee assistance program that these refugees will be able to become self-sufficient.

The Senate has provided for a 4-year phase-out of this assistance program, with 100 percent Federal reimbursement during the present fiscal year of 1978, and a 25 percent reduction during each of the 3 succeeding fiscal years. This formula for Federal reimbursement would apply to social services programs such as day care and aid to the elderly. The non-Federal share of medicaid and aid for dependent children (AFDC) and similar State-funded programs, and the administrative costs connected with such a program.

Mr. Speaker, I want to emphasize that this extension in no way enlarges the assistance programs authorized by our 1975 legislation. However, failure to enact an extension of this program would shift the entire burden of welfare and public assistance for refugees to the various States. At this time only 17 States have general welfare assistance programs. This would leave refugees in the other 33 States without access to supplemental cash assistance, the very type of assistance that those working, but underemployed refugees need to supplement their present low incomes.

The Senate also made two minor amendments in what is now title I of H.R. 7769 which is the bill that passed the House on September 27, 1977. As passed by the Senate, refugees who are paroled into the United States before January 1, 1979, would be eligible to adjust their status, as contrasted with our bill which would have applied only to those refugees paroled as of the date of enactment. This will make coverage extend to the recent group of 15,000 refugees who have begun to arrive under the August action of the Attorney General authorizing their admission. The Senate version also provides 6 years rather than 3 as in the House version, for eligible refugees to seek adjustment of status.

With this new group of refugees not yet all here, it seems appropriate that this bill be drafted to cover them as well. Of course, they would not be eligible to adjust their status until they meet the requirement of 2 years physical presence in the United States.

The passage of title I of this bill to allow refugees to become permanent residents will open many more job opportunities for these refugees, and thereby decrease their need to rely on any cash assistance.

I am happy to join Subcommittee Chairman EILBERG in supporting the motion to suspend the rules and agree to the Senate amendment to my bill, H.R. 7769, and urge my colleagues to do likewise.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I rise in support of this legislation. The Senate version in my opinion—and I have spent time looking at it, being on the subcommittee—is a distinct improvement over the bill that was proposed by the administration. In particular, because it contains provisions

for social services which include training in jobs and in language. These people are a very industrious and work oriented people. We have 700 of them in Grand Rapids, Mich. Out of those that are on the labor market only one is unemployed. Out of 150 families some 19 require some form of public assistance. This is not because they are not working but because they are under-employed and have not yet been able to measure up to their skills because of the language problem and customs problems. That is what the $25 million social service program is designed to cure. It strikes me that this represents, as opposed to an expense, a very worthwhile investment in these new people in our community.

I want to congratulate again the subcommittee chairman, the gentleman from Pennsylvania (Mr. EILBERG) for expeditiously handling this matter. Hopefully, it will go through before the funds that are left on hand from the already expired program are exhausted.

Mr. EILBERG. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I am rising in strong support of H.R. 7769. Of special interest to me is the Senate's amendment to this bill extending the Indochinese refugee assistance program, known as IRAP. I have introduced several pieces of legislation over the past 6 months to extend IRAP. These gained over 50 cosponsors in the House. I was gratified that many of my provisions were included in the Senate's bill.

This extension is absolutely necessary. Although over 86 percent of the nearly 150,000 refugees in the United States employed last year, nearly 35 percent were receiving some sort of cash assistance under the program to supplement their very low wages. Without the continuation of Federal assistance, State and local taxpayers in many communities across the Nation will be faced with increased local taxes to meet the cost of assisting these refugees.

In California, where approximately 46 percent of Indochinese refugees were receiving cash assistance, these extra costs will amount to more than $34 million. Unless this bill is passed, about $12 million of this amount would have to be raised by increasing local property taxes.

Action is especially urgent since the program expired on September 30. HEW is currently continuing the program on a limited basis with unspent funds. These funds, however, will be completely exhausted by the end of the month. Not only would termination of IRAP at this time work undue hardship on more than 30 States and the refugees living therein, but it would also effectively deny assistance to the 15,000 additional refugees whose admission the Attorney General authorized on August 11. The Federal Government cannot deny assistance to these refugees who will be arriving over the coming year.

The Senate amendment to H.R. 7769 satisfies the need for a continuing Federal program refugee assistance, while avoiding the danger of institutionalizing dependency among the refugees. It provides for an orderly phase-down of IRAP and the transfer of the refugees into ongoing Federal and/or State programs over a 4-year period. Reimbursement to State and local governments would continue at 100 percent for the first year and then successively drop 25 percent over the next 3 years. The program would end in fiscal year 1981.

In addition, the amendment authorizes $25 million for special projects. These projects, run largely by voluntary agencies, have transmitted the skills and training necessary for the refugees to become self-sufficient. They have proven very effective in helping to take refugees off of cash assistance and are responsible for the remarkably high employment rate among the refugees.

This legislation is strongly supported by the administration. It also has the full support of the voluntary agencies and local communities involved in the resettlement effort. Of special importance in this regard, is the support of an ad hoc coalition of State governments and voluntary agencies called the Coalition for the Effective Resettlement of the Indo-Chinese Refugees. I have been working with Mr. Stan Breen, Special Assistant to the Governor of Minnesota, who has ably led this group, for over 6 months.

I would also like to thank the chairman of Judiciary's Subcommittee on Immigration, Citizenship, and International Law, Mr. EILBERG, and the ranking minority member, Mr. FISH, for their recognition of the need for this legislation and their support. It has been essential.

An extension of the Indochinese refugee assistance program will allow us to complete the process of resettlement we began in the spring of 1975. It is responsible, cost-effective, and humane. I urge you to join me and vote "yes" on H.R. 7769.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. PRITCHARD), one of the original cosponsors of this legislation.

Mr. PRITCHARD. Mr. Speaker, today we consider Senate amendments to H.R. 7769, a bill calling for the adjustment of status of Indochinese refugees and, as amended by Senator KENNEDY, providing for a 4-year extension of Federal funding of a refugee assistance program. This bill is of crucial importance to 150,000 refugees and of special significance to all Americans.

September 30, 1977 marked the termination of the Indochinese resettlement program. That program represented an essential and successful first step in our efforts to help resettle the largest influx of refugees at any time in this Nation's history. While that program extended our country as a haven from persecution, this bill extends our country as a permanent home for the refugees. This bill represents both the next logical step and the final step we must take in assimilating our newest refugee group.

If I may comment briefly on the refugees response to the resettlement program to date, it is especially noteworthy. During the first 2 years of resettlement, these people quickly displayed their willingness to become productive members of our society. Of those possessing an understanding of English and a competence in such professions as journalism, teaching, and business, many have accepted employment in such unrelated jobs as painters, carpenters, and security guards. Their efforts over this short period indicates a desire not to burden our society, but to contribute to it. But their quest for a productive self sufficiency depends on our actions today, as many of the paths to their goal are closed to them because of their status.

For example, most States limit employment in certain professions to U.S. citizens or permanent resident aliens who have declared their intention to become U.S. citizens. Enactment of this bill would authorize these refugees to adjust their status from parolees to permanent resident aliens and thus open a wide range of employment opportunities. Also, their present parole status effectively closes the door to higher education as most States require refugees with such an uncertain status to pay substantially higher out of State tuition to attend their community colleges and universities. These are but two of the many important consequences of passage of this bill.

Enactment of this bill as amended will also provide $25 million for special projects. These special projects to assist refugees in gaining skills and education necessary to become self-reliant have proven effective in removing refugees from the welfare rolls and thus warrant our continued support.

A 4-year phaseout of the program built into this bill clearly indicates that this is the final step toward completion of our refugee resettlement efforts.

For these reasons, I urge my colleagues to join me in support of this bill. With your support, we may today write an epilog of hope to a long and despairing chapter in our Nation's history.

Mr. FISH. I thank the gentleman from Washington very much for his statement.

Mr. Speaker, I know of no opposition to this legislation.

I have no further requests for time and reserve the balance of my time.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I am pleased to support today the Senate's amendment to H.R. 7769, a bill to grant permanent residence to Indochinese refugees. The Senate amendment will extend the Indochinese Migration and Assistance Act of 1975 for 4 years and provide funds for special language and vocational training.

It is my feeling—and the feeling of the other members of the Subcommittee on Immigration, Citizenship, and International Law—that providing such special services as language and vocational

training to meet the unique needs of Indochinese refugees will greatly reduce the possibility of these refugees becoming dependent on welfare and cash assistance and expedite their adjustment to American society. This bill would terminate Federal funding of social services and special programs after 4 years, at which time the refugees would be better prepared to market their skills in the economy.

As you may know, the Indochinese refugee assistance program expired on September 30, 1977. In my home State of Virginia alone, which has the fourth highest population of Indochinese refugees in the Nation, some two-thirds of the 541 refugees currently receiving cash assistance will not get their monthly checks unless the program is extended. Moreover, those refugees who are currently benefiting from social services and special programs may not be able to receive these benefits at all if Federal funding is cut back this year.

The record indicates that 85 percent of the Indochinese refugees in Virginia are employed. But since they are often only able to find low-paying jobs, some refugees require supplemental cash and medical assistance to make ends meet. I believe that continuation of social services and special programs for language and vocational training is a vital part of any program to help the Indochinese refugees make a smooth transition into the mainstream of American society.

Again, I urge my colleagues to join in support of the amendment to extend the Indochinese refugee and assistance program for 4 years.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I rise in support of the Senate amendment to H.R. 7769, which provides for adjusting the immigration status of the Indochina refugees and for extending the Indochina refugee assistance program.

I would like to commend my good colleagues JOSHUA EILBERG and HAMILTON FISH for the fine work they have done in developing the legislation we are considering today. I would also like to compliment my colleague and friend from California, PETE STARK, for his role in the effort to extend the refugee assistance program. The gentleman from California was one of the first Members of Congress to recognize the urgent need for an extension of the resettlement program and to introduce legislation to provide for further Federal reimbursement to the States for services to Indochina refugees.

The House last month passed H.R. 7769 by a vote of 390 to 22. The bill as approved by the House at that time provided for the adjustment of status of the Indochina refugees from that of parolees to permanent residents. I shared the feeling of the great majority of my colleagues that this action was necessary to provide for a successful settlement of the refugee population in the United States.

By allowing the refugees the opportunity to become permanent residents, the uncertainty of their immigration status is removed, and the way is cleared for the refugees to move into the mainstream of society as legal permanent residents, and eventually as U.S. citizens. It will make the refugees feel they have been accepted into our society, and will further encourage them to become active participants in our communities.

The Senate amendment to H.R. 7769 modifies only slightly the provisions for adjustment of status which the House approved. It extends the time period within which the refugees may apply for adjustment and extends the eligibility date to cover refugees admitted prior to January 1, 1979. This will enable the latest group of refugees paroled into the country to take advantage of this legislation. I am sure my colleagues would agree with me that these two small changes in the adjustment provision will make the bill even more effective.

The Senate language adds to the House bill provisions to extend the Indochina migration and refugee assistance program for 4 years. It provides for continued Federal reimbursement to States for the costs involving in providing assistance to the refugees. The Federal role will be reduced each year, to enable the States to gradually assume responsibility for public assistance costs. For fiscal year 1978, there will be 100 percent reimbursement, with 75 percent reimbursement in fiscal year 1979, 50 percent in fiscal year 1980 and 25 percent in fiscal year 1981.

The need for continued reimbursement to the States is clear. While some 34 of our 50 States have substantial refugee populations, the situation is particularly acute in my own State of California. It is estimated that over 50,000 or about one-third of the total Indochina refugee population has already settled in California, with this number continually increasing as secondary migration from other States continues and as more refugees are paroled into the country. In the San Francisco bay area, which includes my own congressional district, there are estimated to be some 18,000 Indochina refugees. The estimated public assistance costs for the refugees in California is $39 million for fiscal year 1978. Without the 100 percent Federal reimbursement, California will have to shoulder $27 million of this cost. The cost would have to be met by increasing local taxes or cutting back on services in other areas.

We are making good progress in the resettlement effort. The programs and services we are providing for refugees in California, and throughout the country, are paying off and the refugees are gradually becoming self-sufficient. It would be disastrous, in my opinion, to abruptly halt Federal reimbursement to the States. To do so would totally disrupt the resettlement process.

I strongly feel that the 4-year extension, as provided by the Senate amendment to H.R. 7769, is essential if the Federal Government is to meet its responsibility to assist in the resettlement of the refugees which it paroled into the United States. The gradual reduction in the rate of Federal reimbursement will insure that this assistance program will not go on indefinitely. We can expect that by the end of the 4-year extension this bill provides, the great majority of the Indochina refugees will have been successfully integrated into society and will no longer be reliant on public assistance programs.

I urge my colleagues to vote in favor of the Senate amendment to H.R. 7769.

Mr. VAN DEERLIN. Mr. Speaker, I am pleased to rise in support of H.R. 7769 which, as amended by the Senate, would continue the Indochinese refugee assistance program for another 4 years.

Enactment of this legislation will come as welcome news to my home county of San Diego, which otherwise would have to assume more than $2 million in welfare and related costs for these refugees.

When the arrangements were made to allow Vietnamese, Laotian, and Cambodian nationals to seek sanctuary in our country, it seemed only fitting that the Federal Government would assume the primary financial burden.

To precipitously end this commitment is to renege on a promise. Our county governments were not responsible for the unfolding of the tragic events which forced these people, some 150,000 of them, to seek refuge in our country.

Without the relief provided by this legislation, the taxpayers of San Diego would face a 3.3-cent increase in the property tax rate—which comes to about $5.25 for the typical household in the county. I urge swift approval.

Mr. OBERSTAR. Mr. Speaker, I rise in support of the Indochina Migration and Refugee Act amendments as approved by the House Judiciary Committee and modified by the amendments of the other body. We have the opportunity to fulfill our obligation to the States and people we represent and to the Indochinese refugees here in this country as the result of action taken by Congress following the fall of South Vietnam.

The readjustment for these refugees is an enormous challenge. The nature of their emigration from their homelands and the significant language and cultural differences are so great that they have required the assistance of both the private and public sectors in making that adjustment.

The response of the American people and the performance of the refugees have been excellent.

The States and local governments have provided cash, medical and social service assistance to the refugees under the Indochina Migration and Refugee Assistance Act.

The special projects to train and educate refugees and to place them in jobs have yielded encouraging results. The jobs programs has made 5,000 placements at an average cost of $700 per applicant. To help understand what an exceptional record that is, compare those figures to CETA, whose placement figures indicate an average cost per job

placement under CETA programs to be approximately $6,000 per job.

These programs have both humanitarian and practical aspects. Successful readjustment by the refugees will reduce their dependence on governmental assistance and will enable them to contribute to the American economy.

The employment rate of the refugees is already higher than that of the nation. Only 14 percent of the refugees receive no wage or salary income. While 34 percent receive cash assistance, only 17 percent are totally dependent on welfare. Thus for half of the recipients of cash assistance, that assistance represents only a supplement to earned income—income gained at low-paying jobs. While these jobs show the willingness of the refugees to work, they do not always provide them with a living wage to support themselves and their families.

The legislation we are considering today recognizes that the adjustment is progressing so well that in 4 years the States will be left with a vastly diminished assistance program.

The bill gives communities the time they need to adjust to gradually decreased support through the reimbursement program. During each successive year Federal reimbursement will drop 25 percent from the level of 1978 funding.

Furthermore, the amendment provides a one-time authorization of $25 million for special job training and placement programs.

At the same time as the States are assuming a larger burden of the costs, the refugees are becoming increasingly self-supporting. In this regard, the experience in my State of Minnesota has been exemplary. Under the leadership of Gov. Rudy Perpich, former Gov. Wendell Anderson and program director Stan Breen.

These programs will be necessary for the next 4 years whether or not we support them. Without our support, they will, of course, be diminished. The States and local communities will be forced to seek additional revenue to support the remaining programs; that simply would be neither fair nor reasonable. The Federal Government has an obligation here, one that cannot be abandoned to State or local governments. The legislation before us today will meet that obligation by providing the funds necessary to complete this highly successful and humanitarian program.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) to suspend the rules and concur in the Senate amendments to the bill H.R. 7769.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to the bill (H.R. 7769), just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on the motion on which further proceedings were postponed on S. 393, on which the yeas and nays were ordered.

STUDY OF CERTAIN LAND TO DETERMINE SUITABILITY FOR DESIGNATION AS WILDERNESS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill (S. 393).

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 315, nays 103, not voting 16, as follows:

[Roll No. 664]

YEAS—315

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Badillo
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfie'd
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Collins, Ill.
Conable
Conte
Corman
Cornell
Cornwell
Cotter
Cunningham
D Amours
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Grassley
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pursell
Quie
Quillen
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Skelton
Slack
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Watkins
Weaver
Weiss
White
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—103

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bauman
Beard, Tenn.
Bowen
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Butler
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Corcoran
Crane
Daniel, R. W.
Derwinski
Devine
Dickinson
Dornan
Edwards, Okla.
Emery
Findley
Florio
Forsythe
Frenzel
Frey
Giaimo
Goodling
Gradison
Guyer
Hagedorn
Hammer-schmidt
Hansen
Harsha
Hillis
Holt
Horton
Hyde
Johnson, Colo.
Kelly
Kemp
Ketchum
Kindness
Latta
Lent
Livingston
Lott
McClory
McDonald
Madigan
Marks
Marlenee
Marriott
Michel
Miller, Ohio
Moore
Motti
Myers, John
Poage
Pressler
Pritchard
Quayle
Regula
Rhodes
Robinson
Rousselot
Rudd
Ruppe
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Staggers
Stangeland
Steiger
Stockman
Stump
Symms
Taylor
Treble
Vander Jagt
Walker
Wampler
Whitehurst
Wilson, Bob
Young, Alaska
Young, Fla.

NOT VOTING—16

Badham
Brooks
Conyers
Coughlin
Derrick
Diggs
Goldwater
Metcalfe
Murphy, Ill.
Pepper
Sarasin
Teague
Treen
Waxman
Whalen
Wolff

The Clerk announced the following pairs:

Mr. Wolff with Mr. Badham.
Mr. Pepper with Mr. Coughlin.
Mr. Derrick with Mr. Goldwater.
Mr. Conyers with Mr. Sarasin.
Mr. Brooks with Mr. Treen.
Mr. Waxman with Mr. Whalen.
Mr. Murphy of Illinois with Mr. Teague.
Mr. Diggs with Mr. Metcalfe.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I call up the conference report on the bill (H.R. 7797) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 12, 1977.)

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr Speaker, I yield myself such time as I may consume.

Mr. Speaker, I make only a brief introduction of the fiscal year 1978 foreign assistance and related programs appropriation conference agreement.

First, as a result of the overwhelming acceptance by the House of the Miller amendment, the conferees felt compelled to bring back a bill providing total new budget authority as close as possible to $6.7 billion. I am pleased to report that the conferees have been able to do this.

No meat-ax cut was made, but the House managers considered this provision in dealing with each of the specific appropriation accounts. This is reflected by the fact that the final conference amount totals $6,772,654,000, which is a level lying halfway between the $6,851,854,000 as recommended by the Senate and the $6,694,131,300 as recommended by the House, including the provision requiring a general 5-percent reduction. This final figure was arrived at after much deliberation over individual items.

Second, I call to your attention several of the programs which shall be funded if this conference agreement is accepted: $931 million for development assistance; $23 million for the American schools and hospitals abroad program; $25 million for Italian disaster relief; $50 million for the Sahel development program; over $1.8 billion for Israel;

Over $100 million to help bring stability to Southern Africa; $63 million to help refugees all over the world; $231 million for various U.N. and OAS programs; $37 million for International Narcotics Control; $300 million for a balance of payments loan to Portugal; $15 million for Cyprus; $82 million for the Peace Corps; and $1.9 billion for six international financial institutions. This final figure for the international banks cuts the administration request by 26 percent.

As you well know, the original conference agreement was filed on September 26, 1977, and the House conferees brought back 10 amendments in disagreement. Since that time, the President made significant assurances regarding the House position on these issues and the Senate indicated a willingness to reach an agreement on the 10 items in disagreement. Because of these changes in position after the original conference agreement was filed, the Foreign Assistance Appropriation bill was sent back to the committee of conference and acceptable solutions were worked out on October 12, 1977.

As I said earlier, the administration has made unprecedented commitments regarding the U.S. position on loans or financial assistance by the international institutions to specific countries—commitments which would not have been forthcoming had it not been for the efforts of the gentleman from Florida (Mr. YOUNG). To quote from a letter which I received the week before last from the President:

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout fiscal year 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for fiscal year 1979 and beyond, in partnership between the Administration and the Congress.

Not only will the President direct the U.S. representatives to the international financial institutions to vote against and oppose loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, Cuba and for the production of sugar, palm oil, and citrus crops for export if it could injure U.S. producers, but he has also directed the Secretary of the Treasury to undertake a thorough study of the international banks. I thank the gentleman from Florida (Mr. YOUNG) for his help in getting these commitments from the administration.

In this endeavor, the Congress will take leadership. The chairman of the House Appropriations Committee, Mr. MAHON, has, at my suggestion, directed that the Foreign Operations Subcommittee, which I chair and of which Mr. YOUNG of Florida is the ranking minority member, conduct oversight hearings on these multilateral institutions with the following objectives in mind:

First. Is the multilateral assistance reaching the very poor—not only the poor countries but the poor people within those poor countries?

Second. Are the institutions' operations publicly accountable in the same way that the operations of U.S. Government agencies are accountable—through audits, openness, and disclosures?

Third. What amounts of multilateral assistance are channeled to countries, both Communist and right wind dictatorships, that are gross violators of human rights, and what measures are being used to stop these flows?

Fourth. What loan subsidies have been going to establish or expand production for export of commodities that could injure U.S. producers?

Fifth. How effectively and how economically are these international financial institutions being administered, with attention to the large salaries paid to management and staff, the benefits received by the institutions' staffs, the effectiveness of the administrators in directing assistance to the problem areas and to the poor people in poor countries.

Thus, as the year progresses, the multilater institutions will be subjected to oversight by our committee, by other House Committees and by Congress in general. If the institutions are not performing in the manner Congress feels they should, it will have the opportunity in fiscal year 1979 to take additional corrective steps. I can assure you that I have no intention of allowing these institutions to receive large U.S. contributions without the proper oversight to insure that these contributions are properly obligated.

In view of the willingness of the President to take these very stringent steps and with the cooperation of the Senate, we have been able to work out the following compromise on issues originally reported in true disagreement:

First. On the amendments dealing with the prohibition of indirect assistance to Vietnam, Laos, Cambodia, Uganda, Angola, Mozambique, and Cuba (amendments Nos. 42, 45, and 79), the "indirect" language has been eliminated. This can now be done because the President, in his

letter to me, said in no uncertain terms that he will instruct the U.S. representatives to the international institutions to vote against and oppose loans or other financial assistance to these countries. Language is included in the conference report which states that extensions of assistance to any country by multilateral institutions during fiscal year 1978, contrary to the opposition of the U.S. representatives as directed by the President, will be the subject of intensive committee oversight.

Second. On the provision prohibiting funds to the international financial institutions from being used for the purpose of establishing or expanding production of sugar, palm oil or citrus crops, (amendment No. 77) this language has also been deleted. Again, this deletion has been recommended based on the assurances of the President that he will direct the U.S. representatives to oppose and vote against loans for establishing or expanding production for export of palm oil, sugar, or citrus crops if such assistance will cause injury to U.S. producers of the same, similar or competing agricultural commodity. In addition, the authorization bill (Public Law 95–118) also addresses this subject.

Third. The House retained its provisions dealing with human rights (no military training to Argentina, amendment No. 37, no military aid, military training or military credit sales to Ethiopia and Uruguay, amendment No. 72, and no military credit sales to Argentina, Brazil, El Salvador, and Guatemala, amendment No. 73). One modification was made with regard to the limitations of military assistance, training and credit sales to the Philippines, amendment No. 74. We split the money amounts with the Senate but retained the provision setting these limits for the Philippines.

Mr. Speaker, the conference agreement is a compromise. I hope the House adopts it.

Mr. Speaker, I insert the letter I received from the President concerning the international financial institutions and a table which lists the amounts contained in the conference agreement:

THE WHITE HOUSE,
Washington, October 6, 1977.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1977	Estimates fiscal year 1978	House fiscal year 1978	Senate fiscal year 1978	Conference fiscal year 1978	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bil
TITLE I									
FOREIGN ASSISTANCE ACT ACTIVITIES									
Funds Appropriated to the President									
Economic Assistance									
Food and nutrition, development assistance	505,000,000	550,000,000	535,000,000	515,000,000	515,000,000	+10,000,000	−35,000,000	−20,000,000	
Population planning, development assistance	143,600,000	167,000,000	160,600,000	155,000,000	155,000,000	+11,400,000	−12,000,000	−5,600,000	
Health, development assistance	70,400,000	104,903,000	100,000,000	95,000,000	95,000,000	+24,600,000	−9,903,000	−5,000,000	
Education and human resources development, development assistance	70,000,000	84,430,000	80,000,000	75,000,000	76,000,000	+6,000,000	−8,430,000	−4,000,000	+1,000,000
Technical assistance, energy, research, reconstruction and selected development, problems, development assistance	67,000,000	99,950,000	95,000,000	90,000,000	90,000,000	+23,000,000	−9,950,000	−5,000,000	
Subtotal	856,000,000	1,006,283,000	970,600,000	930,000,000	931,000,000	+75,000,000	−75,283,000	−39,600,000	+1,000,000
Loans	(300,080,000)	(325,000,000)	(310,500,000)	(310,500,000)	(310,500,000)	(+10,500,000)	(−14,500,000)		
Grants	(556,000,000)	(681,283,000)	(660,100,000)	(619,500,000)	(620,500,000)	(+64,500,000)	(−60,783,000)	(−39,600,000)	(+1,000,000)
International organizations and programs	228,000,000	266,500,000	257,000,000	224,750,000	231,250,000	+3,250,000	−35,250,000	−25,750,000	+6,500,000
United Nations Environment Fund	(10,000,000)					(−10,000,000)			
American schools and hospitals abroad	19,800,000	7,500,000	25,000,000	19,800,000	23,750,000	+3,950,000	+16,250,000	−1,250,000	+3,950,000
American schools and hospitals abroad (foreign currency program)	(7,000,000)	(7,000,000)	(7,000,000)			(−7,000,000)	(−7,000,000)	(−7,000,000)	
Indus Basin Development Fund, grants	15,750,000					−15,750,000			
Contingency fund	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
International disaster assistance	25,000,000	45,000,000	18,500,000	18,500,000	18,500,000	−6,500,000	−26,500,000		
Italy relief and rehabilitation			20,000,000	30,000,000	25,000,000	+25,000,000	+25,000,000	+5,000,000	−5,000,000
Lebanon relief and rehabilitation assistance	20,000,000					−20,000,000			
Sahel development program		50,000,000	50,000,000	50,000,000	50,000,000	+50,000,000			
International narcotics control	34,000,000	39,000,000	39,000,000	38,000,000	37,100,000	+3,100,000	−1,900,000	−1,900,000	−900,000
Payment to the Foreign Service Retirement and Disability Fund	21,250,000	21,450,000	21,450,000	21,450,000	21,450,000	200,000			
Overseas training (foreign currency program)	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)				
Middle East Special Requirements Fund									
Middle East special requirements fund	23,000,000	25,000,000	8,000,000	8,000,000	8,000,000	−15,000,000	−17,000,000		
Security Supporting Assistance									
Security supporting assistance	1,734,700,000	1,887,200,000	2,214,700,000	2,202,200,000	2,202,200,000	+467,500,000	+315,000,000	−12,500,000	
Assistance to Portugal									
Assistance to Portugal (Balance of Payments Loan)		300,000,000					−300,000,000		

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted fiscal year 1977	Estimates fiscal year 1978	House fiscal year 1978	Senate fiscal year 1978	Conference fiscal year 1978	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bill
TITLE I—Continued									
FOREIGN ASSISTANCE ACT									
ACTIVITIES—Continued									
Funds Appropriated to the President—Con.									
United Nations Forces in Cyprus									
United Nations Forces in Cyprus		9,600,000	9,100,000	9,100,000	9,100,000	+9,100,000	−500,000		
Operating Expenses of the Agency for International Development									
AID operating expenses	195,055,000	220,200,000	215,200,000	210,200,000	213,000,000	+17,945,000	−7,200,000	−2,200,000	+2,800,000
Inter-American Foundation									
Inter-American Foundation (limitation on obligations)	(7,000,000)	(7,062,000)	(7,062,000)	(7,062,000)	(7,062,000)	(+62,000)			
Israel-United States Binational Industrial Research and Development Foundation									
Israel-United States Binational Industrial Research and Development Foundation	30,000,000					−30,000,000			
Total, economic assistance, title I	3,207,555,000	3,882,733,000	3,853,550,000	3,767,000,000	3,775,350,000	+567,795,000	−107,383,000	−78,200,000	+8,350,000
Military Assistance									
Military Assistance Program									
Military assistance	264,550,000	230,000,000	220,000,000	220,000,000	220,000,000	−44,550,000	−10,000,000		
Drawdown authority		(67,500,000)					(−67,500,000)		
International Military Education and Training									
International military education and training	25,000,000	35,000,000	30,000,000	30,000,000	30,000,000	+5,000,000	−5,000,000		
Total, military assistance, title I	289,550,000	265,000,000	250,000,000	250,000,000	250,000,000	−39,550,000	−15,000,000		
Total, title I, new budget (obligational) authority, Foreign Assistance Act activities	3,497,105,000	4,147,733,000	4,103,550,000	4,017,000,000	4,025,350,000	+528,245,000	−122,383,000	−78,200,000	+8,350,000
TITLE II									
FOREIGN MILITARY CREDIT SALES									
Foreign military credit sales	740,000,000	707,750,000	675,850,000	677,000,000	675,850,000	−64,150,000	−31,900,000		−1,150,000
Rescissions approved	−41,500,000					+41,500,000			
Total, titles I and II, new budget (obligational) authority	4,195,605,000	4,855,483,000	4,779,400,000	4,694,000,000	4,701,200,000	+505,595,000	−154,283,000	−78,200,000	+7,200,000
TITLE III									
FOREIGN ASSISTANCE (OTHER)									
Independent Agency									
ACTION—International Programs									
Peace Corps	80,000,000	84,800,000	81,000,000	84,800,000	82,900,000	+2,900,000	−1,900,000	+1,900,000	−1,900,000
Department of Health, Education, and Welfare									
Cuban refugee assistance	82,000,000					−82,000,000			
Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States	50,000,000					−50,000,000			
Total, Department of Health, Education, and Welfare	132,000,000					−132,000,000			
Department of State									
Migration and refugee assistance	28,755,000	30,054,000	53,054,000	53,054,000	53,054,000	+24,299,000	+23,000,000		
Assistance to refugees from the Soviet Union and other Communist countries in Eastern Europe	15,000,000					−15,000,000			
United States Emergency Refugee and Migration Assistance Fund	3,660,000	15,000,000	10,000,000	10,000,000	10,000,000	+6,340,000	−5,000,000		
Total, Department of State	47,415,000	45,054,000	63,054,000	63,054,000	63,054,000	+15,639,000	+18,000,000		
Funds Appropriated to the President									
International Financial Institutions									
Asian Development Bank:									
Paid-in capital	24,127,000	20,357,156	16,000,000	17,939,178	16,799,000	−7,328,000	−3,558,156	+799,000	−1,140,178
Callable capital	66,350,000	183,214,407	124,000,000	163,060,822	151,189,000	+84,839,000	−32,025,407	+27,189,000	−11,871,822
Development fund	25,000,000	60,000,000	60,000,000	54,000,000	49,512,000	+24,512,000	−10,488,000	−10,488,000	−4,488,000
Total, Asian Development Bank	115,477,000	263,571,563	200,000,000	235,000,000	217,500,000	+102,023,000	−46,071,563	+17,500,000	−17,500,000

	New budget authority					Conference compared with—			
	Enacted fiscal year 1977	Estimates fiscal year 1978	House fiscal year 1978	Senate fiscal year 1978	Conference fiscal year 1978	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bill
Inter-American Development Bank:									
Inter-regional paid-in capital	56,000,000	40,007,026	40,000,000	40,000,000	36,711,000	−19,289,000	−3,296,026	−3,289,000	−3,289,000
Callable capital	320,000,000	199,998,937	199,000,000	199,000,000	182,639,000	−137,361,000	−17,359,937	−16,361,000	−16,361,000
Inter-regional callable capital		159,997,304	159,000,000	159,000,000	145,927,000	+145,927,000	−14,070,304	−13,073,000	−13,073,000
Fund for special operations	210,000,000	200,000,000	125,000,000	125,000,000	114,723,000	−95,277,000	−85,277,000	−10,277,000	−10,277,000
Total, Inter-American Development Bank	586,000,000	600,003,267	523,000,000	523,000,000	480,000,000	−106,000,000	−120,003,267	−43,000,000	−43,000,000
International Bank for Reconstruction and Development:									
Paid-in capital		52,295,211	40,000,000	40,000,000	38,000,000	+38,000,000	−14,295,211	−2,000,000	−2,000,000
Callable capital		470,656,895	360,000,000	360,000,000	342,000,000	+342,000,000	−128,656,895	−18,000,000	−18,000,000
Total, International Bank for Reconstruction and Development		522,952,106	400,000,000	400,000,000	380,000,000	+380,000,000	−142,952,106	−20,000,000	−20,000,000
International Finance Corporation		44,597,200	40,000,000	42,000,000	38,000,000	+38,000,000	−6,597,200	−2,000,000	−4,000,000
International Development Association	430,000,000	1,175,000,000	950,000,000	800,000,000	800,000,000	+370,000,000	−375,000,000	−150,000,000	
African Development Fund	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Subtotal, International Financial Institutions	1,141,477,000	2,616,124,136	2,123,000,000	2,010,000,000	1,925,500,000	+784,023,000	−690,624,136	−197,500,000	−84,500,000
Total, title III, new budget (obligational) authority, Foreign Assistance (other)	1,400,892,000	2,745,978,136	2,267,054,000	2,157,854,000	2,071,454,000	+670,562,000	−674,524,136	−195,600,000	−86,400,000
TITLE IV									
EXPORT-IMPORT BANK OF THE UNITED STATES									
Limitation on program activity	(6,334,443,000)	(5,458,207,000)	(5,458,207,000)	(5,458,207,000)	(5,458,207,000)	(−876,236,000)			
Limitation on administrative expenses	(12,306,000)	(12,695,000)	(12,695,000)	(12,695,000)	(12,695,000)	(+389,000)			
Total, title IV, Export-Import Bank of the United States, limitations on use of corporate funds	(6,346,749,000)	(5,470,902,000)	(5,470,902,000)	(5,470,902,000)	(5,470,902,000)	(−875,847,000)			
Subtotal, new budget (obligational) authority, titles I, II and III	5,596,497,000	7,601,461,136	7,046,454,000	6,851,854,000	6,772,654,000	+1,176,157,000	−828,807,136	−273,800,000	−79,200,000
5-percent adjustment			−352,322,700					+352,322,700	
Grand total, new budget (obligational) authority, titles I, II and III	5,596,497,000	7,601,461,136	6,694,131,300	6,851,854,000	6,772,654,000	+1,176,157,000	−828,807,136	+78,522,700	−79,200,000
Romanian relief and rehabilitation fiscal year 1977 supplemental		13,000,000		13,000,000	13,000,000	+13,000,000		+13,000,000	

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I am delighted to yield to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I want to say to the distinguished chairman of the subcommittee, the gentleman from Maryland (Mr. LONG) that, in my judgment, the gentleman has done the best job that could be done with this legislation under the circumstances.

We all know that the foreign aid bill is a difficult bill for most of us and not all of us can support it. There are a number of reasons that this is so. However, let me say this, the subcommittee, through long and diligent effort on both sides of the aisle, have sought to come forward with a conference report that could be accepted by most Members.

Under the circumstances I hope the plea of the gentleman from Maryland (Mr. LONG) will be heeded and the conference report adopted.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I will be glad to yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I thank the gentleman for yielding. I want to join with the distinguished chairman of the committee, the gentleman from Texas (Mr. MAHON) in commending the gentleman from Maryland (Mr. LONG) and the ranking minority member, the gentleman from Florida (Mr. YOUNG) for the diligent and effective manner in which they have attempted to carry out the express wishes of the House. I think they have done a good job. They have gained from the President of the United States some significant recognition of the views of this body. They have driven as hard a bargain as could be driven. I think they have gotten as good a bill as could be written. I believe this conference report is a good balance between the wishes of the House and the responsibilities of the House. I think it ought to be passed, and I want to commend the gentlemen for their efforts in that regard.

Mr. LONG of Maryland. I thank the distinguished majority leader for his very kind comments.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, is the language regarding direct aid to those named countries included in this conference report?

Mr. LONG of Maryland. Yes.

Mr. SKELTON. So there can be no direct aid to Cuba, Vietnam, et cetera?

Mr. LONG of Maryland. That is correct.

Mr. SKELTON. Now regarding the so-called indirect aid which I suppose would go to the various world banking-type institutions, it is my understanding that the President is directing our representative to vote against such aid from those banks to those places.

Mr. LONG of Maryland. That is correct.

Mr. SKELTON. Let me ask the gentleman this. What type of oversight does his committee plan? Does it plan periodic oversight, an oversight of every vote, or just what does his committee plan?

Mr. LONG of Maryland. If I may respond to the gentleman, the committee intends to conduct oversight hearings into the banks on a broad range of issues. In addition to the issues of salaries paid to the bank personnel and public accountability, we shall look closely at specific loans to the countries where the U.S. representatives have been instructed to vote against such loans.

I will be writing a letter to the various banks, particularly to the World Bank and the International Development Association, warning them that if any money is provided to these countries or if any aid is given notwithstanding the direction of the President to vote against such assistance, that the Congress will take a very serious view of this conduct. I am asking them to regard this as a warning not to give the loans to these countries. If they do, it will be at their own risk, and then it will be up to the Congress in the next session to judge the actions they have taken in light of this criticism.

Mr. SKELTON. The gentleman has answered my question. I believe they have carefully thought this out and it is

the intent that this be a continuing serious oversight from this point on out.

Mr. LONG of Maryland. I can assure the gentleman it will be a serious oversight. We will conduct careful oversight hearings and I shall make recommendations according to our findings.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Speaker, it is with some reluctance that I rise in opposition to this conference report. It is not because I am generally opposed to so-called foreign aid. I think that there are international responsibilities that we have as a nation that should be properly handled in this legislation. The chairman of the subcommittee has adequately told the House just what happened. If Members will recall, when this bill went through the House we got into the country-naming business.

We named the countries all over the world as to those that were better than others in the area of human rights and we put on limitations and so forth. This has seriously disturbed the administration. As a matter of fact, my position is exactly the same as that of the administration.

We ought not name any countries in this bill. We should let the President of the United States, the Secretary of the Treasury, the Secretary of State, do what they think is in the best interests of the United States in this area.

Some of us have gone down to the White House several times and the President said very clearly that he did not want us to restrict him in dealing with these other countries.

When the conference report came back, we had all these amendments in disagreement, mainly in the area of human rights; so we recommitted the matter back to the conference.

When the minority went back to the conference, we did not know that a deal had already been made, that the House conferees knew, except the minority, just exactly what was going to happen. The House conferees receded from the so-called Young amendment, which applies to the international banks and other multilateral organizations. It provides that none of the banks' funds could be used for the countries that were named: Uganda, Laos, and Cambodia. The Senate receded on all of the amendments having to do with our friends in Latin America: Argentina, Brazil, Guatemala, and El Salvador.

So we find ourselves in the position of naming only countries in Latin America, where we have been trying to make friends.

My position has been exactly the same as the Senate position. We should name no countries. As a matter of fact, when the conferees met, we had a vote. A motion was made that we would name no countries. All the conferees on our side of the aisle supported that motion, even though some had reservations about it. But the majority defeated the motion.

Now I find myself in an untenable position. I voted against the bill when it passed the House, for the simple reason that I did not like naming countries. Now I am asked to vote for the conference report by administration officials. I understand their problem, but I want them to understand mine. I cannot vote for the conference report when we name in one part of the bill the countries in Latin America, and in the other part of the bill we recede from naming other countries that are in the Young amendment.

If we name countries, we lose the opportunity that I believe the President needs to try to make some progress in the area of human rights. The amendments in this report which single out for discrimination such friendly countries as the Philippines, Argentina, Brazil, El Salvador, and Guatemala, if adopted, will be in effect at least until October 1, 1978. There is no discretion left to the President in case one of these countries changes its internal policies which supposedly led to their being singled out. That is not wise policy if our intent is to improve the human rights of the citizens of these neighboring countries. What incentive is there for improvements in human rights policies? Our aid will be cut off no matter what they do in the next year.

I know there is concern here this afternoon in regard to what effect the defeat of this conference report would have on our aid programs elsewhere, particularly for Israel. I share that concern, but there is no doubt in my mind that if this report is indeed rejected, the committee will quickly bring out another conference report which will take care of Israel and our other friends around the world.

Frankly, I cannot understand how the majority leadership can support the adoption of this conference report, and, at the same time, say they are supporting the President. If the report is adopted, it will be the Congress, not the President, who will be directing the day-to-day operation of our foreign policy. How can the President's leadership in the House support that?

It would be my hope that any new bill would not include any provisions identifying individual countries for discriminatory or arbitrary treatment without some presidential discretion. The President needs and deserves a degree of flexibility in the exercise of his constitutional responsibilities, and we should not tie his hands in an appropriations bill.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I rise in opposition to the Foreign Aid Appropriations Conference Report now before this body.

My reasons for doing so center around the very persuasive and incisive remarks made by my distinguished colleague from the State of Florida. How is it that this Congress is applying double standards in allocating direct and indirect aid to certain countries and not to others? Whereas Vietnam, Uganda, Laos, and Cambodia stand to receive our aid through such channels as the United Nations Development Program and the International Development Association, the U.S. allies of Argentina, Brazil, Guatemala, and the Philippines do not.

Somehow the United States appears to be extending the Monroe Doctrine into Big Brother persuasion within the Western Hemisphere; that is where Argentina, Brazil, and Guatemala come into the picture. As for the Philippines the United States is still pulling the strings with its former colonial territory. It gave it its independence after World War II, but it continues to tell the Philippine Government how to run its own business under the nebulous banner of human rights.

On the other side of the coin U.S. aid is being furnished to the closed societies of Vietnam, Cambodia, Laos, and Uganda and I need not remind my colleagues what atrocities continue to be committed daily in each of these countries. Foreign journalists and expatriates who are able to provide bits and pieces of information on the internal strifes in these nations report mass murders and other bizarre atrocities. Such infamy far surpasses any so-called "human rights" violations among those countries in the conference report's "hit list."

What is the explanation? Are we witnessing a backdoor attempt by the authors of this bill to supply post-war reparations to our former adversaries on the battlefield? Are we handling Idi Amin's Uganda with kid gloves in light of some ambiguous Carter policy in the handling of our country's affairs with the continent of Africa?

Mr. Speaker, if the Members of this House choose to accept the Foreign Aid Appropriations Conference Report without attaching the crucial Young amendment, we will have cowered to a shallowness which borders on hypocrisy. Our allies will have lost while our adversaries will have handsomely gained. I therefore call upon the House to assert its constitutionally mandated initiative and soundly defeat the conference report as it currently stands.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, Members of the House, I rise very reluctantly to support this conference report. First of all, let me say that this bill, as I have said on the floor for the last 2 years and as long as I have been on this committee, has really no constituency whatsoever. It is not like the public works bill where Members are bringing home dams, irrigation projects, and so forth to their districts. Here, they are bringing back nothing to their districts. They are giving something away to the more underdeveloped and poor countries of this world.

And believe me, when they argue about the shortcomings of this bill, it is true that this bill really is a kettle of worms. It is very, very difficult for me to stand in the well of this House and try to justify this bill. But I support the bill. Government is the art of compromise, and I think that we have reached a compromise here. We need a foreign aid bill, and we should get it to the President as soon as possible.

Why am I upset? First of all, I think

that the President—and I told him so when we met at the White House with 100 or so Congressmen—that he should not have written a letter to the chairman of the committee as he did. He capitulated to the chairman of the committee and to Mr. Young, stating that he is going to instruct his representatives to international financial institutions not to vote any loans to those specific countries Mr. Young has delineated in his amendment, and for the commodities of palm oil, sugar, and citrus Mr. MOORE included in the bill.

Well, the Members know the reason why these Banks were started in the first place. It was to provide some flexibility to deal with the underdeveloped countries of the world. By capitulating, as the President has, I hate to say it, but next year everyone—and everyone rightfully so—who has a commodity in his district which has a problem will and should tack on an amendment. We will see amendments on steel, on footwear, on textiles, on dingleberries—you name it, everyone will have an amendment limiting loans for commodity production.

The only thing this will accomplish is to cripple the entire international banking program to which we contribute.

In addition some liberals will tack on further amendments restricting funds to conservative regimes and dictatorships.

Likewise some conservatives will include restrictive amendments for countries that, they feel, are not run by individuals who adhere to their particular political philosophy. And, as a result, they are going to cripple international financial institutions.

Let me tell the Members a little something about this bill and why we should vote for this compromise and for the entire bill.

There is $1,805 million in this bill for Israel; $1 billion in foreign military credit sales; $785 million in security supporting assistance; $20 million for refugees from the Soviet Union and Eastern Europe.

Of that $1 billion in foreign military credit sales, $500 million is to be forgiven.

There is $515 million for food and nutrition; there is $155 million for population planning; there is $95 million for our health program around the world; there is $75 million for education; there is $90 million for technical assistance; there is $231.25 million for the international organizations.

And besides Israel, in the Middle East we have $750 million for Egypt; $93 million for Jordan; $90 million for Syria; $20 million for Lebanon; $15 million for Cyprus.

And I will say to those Members, who, like myself, are interested in the problems of Africa, we have $80 million for South Africa for the special request fund; $3 million for Botswana; $5 million for Lesotho; $10½ million for Swaziland; $10 million for Zaire; $6½ million for regional Africa.

Mr. Speaker, this is a very important bill. This is a very important bill in regard to our foreign policy. As I mentioned earlier, there are a lot of sections of this bill that I do not like, but I think overall it is a good compromise and it should be approved.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, I commend the conference committee for arriving at a reasonable compromise, one which not many of us will be entirely happy with. Some of us would like to have no restrictions at all by specified nations. Others in the House want the particular nations named. I think the compromise is a reasonable one, as I say. I am particularly happy to have removed from the bill the language referring specifically to indirect aid as it would affect international financial institutions. I say that as a sponsor of bills which would impose a trade ban on Uganda, one of the seven nations mentioned. But I make a distinction between a trade ban, which is a direct obligation and responsibility and authority of the Congress, and a ban on U.S. aid by international financial institutions, which is quite different and, I think, beyond the proper role, by specific language, of the House.

As I say, I am happy that that language has been worked out of the bill. I think the assurances of President Carter will help in that respect.

Mr. Speaker, again, I commend the conference committee for its good work.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I urge my colleagues to reject this second conference report on the fiscal year 1978 Foreign Assistance Appropriations bill.

This is the only course remaining if the House wishes to stand fast in opposition to U.S. funds financing indirect or direct assistance or reparations to Vietnam, Uganda, Laos, or Cambodia.

The key word has always been "indirectly." Without it section 107 of the bill is meaningless. No direct U.S. aid was ever proposed for these countries.

Two proposals since the September 26 first conference report should actually reinforce our opposition to the indirect aid through the World Bank, IDA and the UNDP, now permitted in the second conference report.

The first is the so-called compromise by President Carter, whereunder he will instruct our Bank and IDA representatives to vote against loans to the four countries named in the Young amendment, and the other three in the Crane and Ashbrook amendments.

The second is the recommendation by the Development Coordination Committee, chaired by AID Director John Gilligan, that U.S. development assistance alone be increased to $14.5 billion by 1982. This is more than three times what is proposed in the fiscal year 1978 bill, and does not include the billions we spend on security supporting assistance.

Taken together, these proposals mean an enormous increase in foreign aid spending, and an enormous decrease in congressional control over that spending.

With all due respect to President Carter, his "compromise" fails on two counts.

First, quite simply accedes to World Bank President Robert McNamara's imperious assertion that the Charter forbids acceptance of funds to which the donor country attaches restrictions. Second, it proposes a remedy already tried by Congress with no success: Last year, for example, our IDA representative voted seven times against loans to India as required under the Long amendment, and seven times the loans were approved.

Now, Mr. Speaker, let us set forth five facts in this dispute the facts are clear.

First, the World Bank, IDA, and the UNDP have already given and are going to continue to give millions of dollars to Uganda. They are also preparing to give millions of dollars or soft loans—to Vietnam and Laos.

There is no doubt, there can be no argument on this. Mr. BILL YOUNG—to his great credit—has laid it all out for us.

Nor has there been any denial, or attempt to rebut by the administration, the Banks, or the UNDP.

It is, therefore settled policy. This is fact No. 1.

On the other hand, the House on June 23, 1977, voted against direct or indirect assistance to these countries. Two hundred and ninety-five Democrats and Republicans so voting makes for an emphatic statement. This was not a party-line or liberal versus conservative vote.

This is fact No. 2.

On the same date, the House made the point even more strongly with respect to Vietnam. Immediately after voting for the Young amendment, 339 Democrats and Republicans approved the Wolff amendment that there shall be no direct or indirect use of U.S. funds as reparations to Vietnam.

This is fact No. 3.

This month, in New York, the U.N. and the UNDP are planning to provide a large new assistance program for Vietnam or Laos.

This is fact No. 4.

To repeat, the World Bank, IDA and the UNDP wish to provide such aid. It is already their policy to do so. Thus a share of the unspent millions we already have given to these institutions will be used to assist Uganda, Vietnam, and Laos.

Now, we are being pressured to agree that fiscal year 1978 and future U.S. funds be given to these institutions with no restrictions attached, which means the money can continue to go to these countries.

In other words, the Banks and the UNDP are making no compromises or modifications in their policy. Why, then should a Presidential directive at this late date have any effect on such policy?

What then is the role of the House insofar as appropriating funds for the Bank and the U.N.?

Remember, we are speaking of one of the basic constitutional powers of the House. Remember, the administration

has before it a Cabinet-level proposal to spend $14.5 billion by 1982 on development assistance alone. Remember, the Banks and UNDP reject with scorn our claim to have any oversight power over them.

Well, we can shout and clamor, and do rain dances in our own little arena against U.S. taxpayers money going to such governments as Uganda, Vietnam, Laos, and Cambodia.

But nothing more than that.

After we have had our annual exercise, we are expected to give Mr. McNamara and his associates, and the UNDP, the money in fee simple.

The unrestricted $2 billion—which may balloon to $10 billion or more by 1982—is all that really matters and all they are interested in. And this is a fact.

Finally, next January, even as winter predictably is followed by spring, we will have a big, fat supplemental appropriations request to restore the funds we cut from the Banks and the UNDP in this bill.

So much for compromise and modifications.

It is indeed interesting that those hard-nosed Communists in Hanoi see so clearly the passive role Congress is supposed to play in funding the World Bank, IDA, and the UNDP.

Mr. Tran Duong, director of Vietnam's Central Bank says the U.S. will pay the "promised reparations to Vietnam." He explains it very simply:

> In the process the United States will put money into IDA—and these commitments would be fulfilled to Vietnam.

Would that others in our Government, the Banks, and the U.N. were so brutally candid.

It has been charged that the House, through the Young and Wolff amendments, is attempting to dictate policy to the Banks and the U.N.

No, Mr. Speaker, it is just the reverse. The Banks and the U.N. are, in fact, determining an important and costly segment of our foreign policy.

There will no longer be any doubt on this, if the House reverses itself and accepts this conference report.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, this is a compromise, and, as a compromise, I support it. But the gentleman from Michigan (Mr. CEDERBERG) was absolutely correct in what he had to say. We are excessively tying the hands of the Executive, and we simply do not have the flexibility to deal with foreign affairs that the Executive has. The time will come when we will regret doing this.

I recall about a year ago when my colleague, the gentleman from Illinois, JOHN ANDERSON, standing right over at the microphone, where the gentleman from California and the gentlewoman from Nebraska are now sitting, stood up and pointed to those of us on the Democratic side of the aisle and said,

> The trouble with you Democrats is that you think Richard Nixon is still President of the United States.

There was and there is some validity to what he had to say. We went through the era of Watergate and Vietnam when Congress abdicated a good portion of its responsibilities, and now we have gone to another extreme and we are getting involved excessively in things that the Executive can handle much more effectively. We ought to handle broad policy considerations, not details of administration.

But this is a compromise. I recognize this is the best we can get right now. The responsible vote is a vote in support of the conference committee.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think one of the greatest sighs of relief that the Members will heave today will be because of the fact that they are probably not going to get any more "Dear Colleague" letters from me on the subject of foreign aid for the next couple of weeks, anyway.

Mr. Speaker, I want to pay a compliment to the chairman of the subcommittee and to all the members of the subcommittee, including those on the minority side, and especially to the gentleman from Massachusetts (Mr. CONTE), who has spent more time as a member of his subcommittee than any of the rest of us. Although we have had strong disagreement on occasion, he has been very, very helpful in the conduct of the committee's affairs, and he certainly helped to give me an education on the subject of foreign aid.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, let me say this to the gentleman in the well: He is absolutely right. I have been on the committee for almost 20 years. I have seen a lot of men come and go on that committee; and although the gentleman in the well and I have disagreed on this issue and perhaps several others in this foreign aid bill, I have yet to see anyone on that committee who has done his homework better and has prepared himself better than has the gentleman in the well.

Mr. Speaker, whether it was here on the floor of the House or in the committee or down at the White House when we spoke to President Carter, the gentleman from Florida (Mr. YOUNG) was well prepared, he did his homework well, and we are proud of him.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his comments.

I want to further compliment our colleague, the gentlewoman from Nebraska (Mrs. SMITH). She and I served for the first time in our careers on this subcommittee this year. I want to say that she has been just a tremendous strength in trying to do what is right and in developing a bill that is going to be good for this country.

All of the members of the subcommittee worked hard together, and the chairman deserves a special compliment for being able to bring those divergent factors together.

With the nice words behind us, Mr. Speaker, I want to talk about the compromise. I will tell the Members that this compromise which they are hearing about is the compromise that allows U.S. dollars to go indirectly in aid to Vietnam, Laos, Uganda, Cuba, Mozambique, and a number of others, while placing restrictions on the direct aid to our old friends like Argentina, Brazil, and the Philippines.

That is the compromise, Mr. Speaker. Those were the only controversial issues that went back to the second conference committee to be compromised out.

I do not think it was a compromise, and I am not going to vote for it.

After having said that, I have to be honest with the Members and say that there is no doubt that we have made some strides toward an eventual goal.

Mr. Speaker, when we started this argument earlier this year, I said I was not going to try to kill the foreign aid program, but that I was going to try to make it a responsible program, one in which the aid and assistance got to the people whom we intended it to help, and one under which we would have some accountability for the dollars and some control over how our dollars were used, even through the international banks.

That is what we are working toward, Mr. Speaker. We have not reached that goal yet. This compromise does not reach that point, but we are on the way to it.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I am sure the gentleman in the well will recognize that there is no language, direct or indirect, which could affect the money going from the banks to these countries because of the fungibility of money. There is not a Treasury stain on each dollar to make sure that it does not go to the wrong place even if they put it in a separate account.

Mr. Speaker, let me point this out: In view of the President's letter to the committee stating that he shall direct the U.S. Representatives to vote against and oppose any loans to these seven countries—and that means not just U.S. money, but any money—and in view of the fact that this committee, with the gentleman's help, is going to conduct stringent oversight investigations into that question, they are now on warning that they had better not give any money, ours or anybody else's, to these countries or they are traveling at their own risk.

In some respects an informal Young amendment is stronger than the formal Young amendment.

Mr. YOUNG of Florida. Mr. Speaker, I understand what the gentleman is saying, but the gentleman, of course, realizes that our representatives to all of these organizations, with one minor exception, can vote "no" all day long and the loan is still going to go through to countries like Vietnam and Uganda.

Mr. Speaker, I have conceded that the President's commitment certainly is a

step toward our eventual goal but we have not arrived at that goal yet.

Mr. Speaker, the members of our committee, I hope, will help us reach that goal one day. Maybe one day we will get some accountability for U.S. funds spent by the multinational financial institutions.

Not only accountability, but a consistent concern for human rights through out the world. Not only a concern for human rights, but a concern about how much of our dollars are being loaned or given to countries that are often openly hostile to the United States.

I am concerned about what is to be the future of the foreign aid program. Maybe what we do today will help us find some answers.

I want to be able to find out, for example, what does the administration mean when they say they want to create a new international economic system? I want to know how that ties in with the words of Under Secretary of State Cooper, who said that the international banks should become the umbrella—the catalyst for all international finance.

I could not find answers to these questions in our hearings, hopefully through the oversight hearings that we will hold we will get the answers.

There are some good programs in this bill. I do not want anybody to get the idea that I am totally opposed to the bill. There are good things in the bill such as the gentleman from Massachusetts (Mr. CONTE) has mentioned and also the gentleman from Maryland (Mr. LONG) has mentioned, things that I can enthusiastically support. But the bill weighs still heavily in favor of a negative vote, so I will vote no.

I am sorry that the limitation of time will not allow us to go into new material that was developed since this proposal was on the floor the last time.

This so-called compromise bill calls for more dollars than the House bill contained when it left the House. However, this compromise bill has done something worthwhile and that is that the other body decided to cut IDA by $150 million.

IDA, as I am sure the Members know, is one of my favorite targets. I am happy to see that $150 million was cut from IDA.

But what does this mean? It means that we will have a supplemental appropriation for IDA before too many more months have gone by because the compromise not only does not provide the $375 million for the IDA 4 replenishment, it only provides the first installment of IDA's fifth replenishment.

Am I getting you confused? IDA 4 and IDA 5, the first replenishment and the last replenishment? I think the program is intended to confuse you. We are working on IDA 4 and IDA 5, the third installment and the first installment. There is going to have to be another supplemental because there is not enough money in this for IDA 4, especially since we are cutting IDA by $150 million.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I believe that we should make it perfectly clear in the record, though, that the bill that we are voting on today is $828,807,000 below the request of the President.

Mr. YOUNG of Florida. That is correct, but the bill is some $76 million over the figure originally passed by this House.

Mr. CONTE. I thank the gentleman for yielding.

Mr. YOUNG of Florida. Mr. Speaker, in closing, there are just so many things that I could not cover—because of the short time that I have remaining—that I may have to send a new "Dear Colleague" letter to the Members.

But, Mr. Speaker, if we have done nothing else, we have gotten a commitment from the committee to hold oversight hearings. These oversight hearings hopefully will permit us to get some accountability for some of our dollars going through the international banks. But, more than that, one of the things that I have been talking about for nearly a year, and that is the fact that those who set our foreign policy, those who spend our tax dollars, have too often ignored the constitutional role of the Congress to be the appropriating body to spend the tax dollars, and at least we have now gotten their attention. We now have the attention of the State Department. The Treasury Department, the White House, the World Bank and many national organizations headquartered here in Washington, have written to you or called you on the phone. The representatives from the U.N. have called you, you have gotten all kinds of attention, and if we have done nothing else for the Members of this House, we have let the other people who have been making foreign aid commitments in advance know that the Congress has a constitutional role to play, and, whether you vote yes or no, they at least know who you are today.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I will be glad to yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Speaker, on September 29, the United Nation's Economic and Social Council issued a resolution entitled "Assistance for reconstruction of Vietnam." Offered as a complement to the resolution granting Vietnam admission to the U.N., the new resolution expressed deep concern "over the grave economic and social consequences of the long years of war further aggravated by recent severe natural calamities," and urged "the Secretary-General to continue to encourage further mobilization of resources and efforts from the international community with a view to achieving the social and economic rehabilitation of Vietnam."

Regrettably, the United States did not support this resolution. Such action only adds to the painful memories of the Vietnam war. It also contradicts a written promise made by then President Richard Nixon in a 1973 message to Pham Van Dong, Prime Minister of the former Democratic Republic of Vietnam, stating that:

> The Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions.

That there is a great need for rebuilding that war torn country is self-evident. Thirty years of fighting have devastated its land. To restore just its agricultural economy, which last year had a shortfall of 1 million tons of rice, would alone require $142 million. Restoring the transportation system would require another $290 million.

As the representative from Sri Lanka said in introducing the resolution, what is needed is a spirit of reconciliation rather than confrontation. I further believe that withholding our support for the reconstruction of Vietnam is as shortsighted and tragic a decision as our entry into the Vietnam war itself. We must correct rather than add to the mistakes of the past. Supporting reconstruction provides us with an excellent opportunity for doing so. For the sake of our national conscience and our national honor I urge the President to provide leadership to our people in accord with the United Nations resolution.

A copy of the entire resolution follows:

[United Nations General Assembly, 32d session, Second Committee, Agenda item 12]

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Algeria, Angola, Austria, Bangladesh, Belgium, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Guinea, Guyana, Hungary, India, Lao People's Democratic Republic, Mongolia, Mozambique, Netherlands, Norway, Pakistan, Poland, Portugal, Romania, Sri Lanka, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and Yugoslavia: revised draft resolution

ASSISTANCE FOR RECONSTRUCTION OF VIET NAM

The General Assembly,

Having warmly welcomed the admission of the Socialist Republic of Viet Nam to the United Nations,

Expressing profound admiration to the courageous Vietnamese people in their struggle for independence and national reunification and their constant efforts devoted to national reconstruction,

Deeply concerned over the grave economic and social consequences of the long years of war further aggravated by recent severe natural calamities,

Recalling the Secretary-General's statement in his annual report for 1974/75 expressing the hope that the United Nations system would be able to assist countries in the Indo-China Peninsula in their efforts for national rehabilitation after the war,[1]

Recalling Economic and Social Council resolution 1944 (LVIII) of 7 May 1975 ap-

[1] *Official Records of the General Assembly, Thirtieth Session, Supplement No. 1A* (A/10001/Add.1), sect. XVII.

pealing to all States to come to the assistance of the peoples of Indo-China in their efforts to bring about the reconstruction of their countries, in accordance with the needs and requests of those countries, in the manner in which the latter deem most appropriate and consonant with full respect for their national sovereignty,

Recalling further resolution 33 adopted by the World Conference of the International Women's Year held at Mexico City from 19 June to 2 July 1975 on assistance to the Vietnamese people,

Noting with appreciation the prompt and pertinent efforts made by the Secretary-General and by the organs, agencies and programmes of the United Nations to mobilize assistance to meet the most pressing humanitarian needs in Viet Nam and to help organize relief, rehabilitation and reconstruction assistance to the Vietnamese people,

Further concerned that massive international assistance, notably in respect of food, equipment and project aid, remains urgently needed to speed up the rehabilitation and reconstruction of the social and economic infrastructure of the country,

Noting with satisfaction that the non-aligned group of countries has established, by resolution 28 adopted by the Fifth Conference of Heads of State or Government of Non-Aligned Countries, a Solidarity Fund for the Reconstruction of Laos and Viet Nam, to help in the reconstruction effort,

1. Recommends that the Socialist Republic of Viet Nam be included in the list of most seriously affected countries;

2. Appeals to the peoples and Governments of all Member States and all international economic, financial and social institutions to increase and intensify their efforts and contributions on a bilateral and/or multilateral basis to help the Vietnamese people in the reconstruction of their country;

3. Urges the Secretary-General to continue to encourage further mobilization of resources and efforts from the international community with a view to achieving the social and economic rehabilitation of Viet Nam;

4. Authorizes the Secretary-General to utilize the necessary resources for implementing the present resolution.

Mr. HARKIN. Mr. Speaker, I, too, am now supporting this compromise. I had not before. In fact, I had voted against it on previous occasions and voted to recommit the conference report before.

Let me just say in my brief 2 minutes that the concept of a World Bank or of pooling the rich nations' resources in an independent lending institution to help the less-developed countries is, I believe, an honorable concept and one that we ought to pursue. But I believe in recent years the direction that the World Bank and the international lending institutions have been taking is wrong. They have been lending more and more money to the more and more repressive governments throughout the world, but they have not been lending the money to the poor in the poor countries. I think there is a distinction there that must be redressed.

I have had a personal talk with President Carter, and he has assured me that he is going to take every step necessary to try to redirect these banks within the limits of the power that we have on those banks to redirect the money to the poor in the poor countries.

We have an authorization bill that spells out what we can do within our power in these international lending institutions. I would tell the Members that we have a strong human rights amendment in that authorization bill that provides for an even-handed approach, a comprehensive, consistent approach to every nation without singling out nations. But there is one thing in the authorization bill that I think is necessary, and that is to allow these banks and these institutions to meet the basic human needs of the poor people in the poor countries.

The gentleman who preceded me spoke about Argentina and Cambodia in the same breath, and I will, too. I do not feel that we ought to give direct aid or indirect aid either to the Governments of Cambodia or Argentina. But I do not want to unjustly punish the poor in these countries for the actions of their Governments. Therefore, the authorization bill allows our representative on the multilateral institution to vote "aye" and support loans to meet basic human needs of the people in countries with repressive governments. This is the decent and humane approach and is consistent with our Nation's ideals. So I support this appropriations bill, and urge my colleagues to support it also, because of the human rights language that controls our bilateral and multilateral aid.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, we are being told by supporters of the conference report on both sides that, "You have come a long way, Baby." I do not see it that way. I rise in opposition to this conference report.

I was a conferee on a similar subject on the Banking Committee's authorization bill on international financial institutions last summer when the House's position was totally rejected, and I say, "Here we are again." The House is being asked to totally retreat from amendments adopted by wide margins by this House.

Compromise? Yes. And that is a legitimate position to take. It is part of the parliamentary process. Retreat? No. Especially when asked to retreat from such an overwhelming position of strength as this House has shown on these issues before. Retreat once, maybe, as in the case of the IFI authorization bills, but retreat twice—twice in a row—no. A retreat from a strong position twice is not an admirable trait of any respected legislative body, and it leads to weakness and disrespect.

I ask just when will our conferees on foreign aid stand behind the strong House majority? We have a right to expect a negotiated compromise from our colleagues and not a wholesale cave-in.

The American people are asking us not to retreat. The American people do not want to pay reparations directly or indirectly to Vietnam. This Congress would never vote reparations directly to Vietnam. How can we do it, then, indirectly through the World Bank?—Only because we think that the American people are too dumb to figure it out. We should not try to deceive the American people by doing through the back door what we cannot do through the front door.

Then we ought to ask ourselves as Members of this body: Why retreat? Congressmen for the last 10 years have been trying to make Congress a copartnership in the establishment and formulation of foreign policy with the Executive. The adoption of these strong amendments previously by this House, now rejected by our conferees, is an extension of the principle of copartnership. Let us not now throw in the sponge and lose all that has been accomplished in the way of giving the American people a voice in foreign policy. If we reject a strong role now, the next time Congress wants to stop an unpopular "Vietnam war"—we may not have the muscle to do it.

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. Mr. Speaker, the criteria by which many of us judge individuals and by which we often judge nations is by the compassion they show for those less well off. We are voting today on a foreign aid conference report which shows U.S. compassion for the less-developed nations of the world through the assistance we offer them for food and nutrition, health and education, human resource development, and emergency relief for the devastation caused by drought, floods, and earthquakes. The appropriation measure includes both bilateral and multilateral aid, and it is through these programs that the United States can exercise its leadership among the Third World nations.

I strongly support this conference report because I believe that foreign aid is a critically important program. I am in basic agreement with the provisions of the bill which come to us today. I am not happy, however, with the process through which this comes to the floor and the fact that promises were made outside the legislative language. I hope this will not happen again.

There are parts of this bill which I do not like.

I opposed amendments which were added by the House to place sanctions on aid to specific countries. I believe the language of the authorizing legislation which places sanctions based on adherence to basic human rights and which waives the sanctions when the programs meet basic human needs, is a much more satisfactory and evenhanded approach. Nevertheless, my strong belief in U.S. assistance for the LDC's overrides this reservation and I am working hard for passage of the legislation.

On another point, I think some legitimate questions are being raised about multilateral lending institutions that need to be answered.

Chaff is the debate over Vietnam, Argentina, and palm oil and other commodities.

These issues have consumed the committee, the House, and the conference.

It has dominated the discussion today.

I strenuously oppose the dominance of these issues.

I, for one, reject the President's letter.

I deeply regret it. I regret the role of the committee to bring that letter into reality.

I do, however, feel that the bill is worth it.

This bill is meant to help people—poor people.

There are those who want to end foreign aid—the same ones who voted $150 billion in military aid to decimate Southeast Asia.

It's an attitude that baffles me, saddens me, and does injustice to what this country stands for. And it will come back to haunt us.

I cannot participate in this attempt.

This aid is needed.

The multilateral development banks are needed.

That is the bottom line.

I do not like the conference report, but I can live with it.

And I ask your support of the conference report.

In the authorizing legislation for the World Bank, we adopted an amendment to review the salary structure of the employees of this institution and to pay the executive director according to Level IV of the executive schedule. Recently, in the International Trade Subcommittee we adopted an amendment to cut the salary of the U.S. Director to the International Monetary Fund and to review the salaries of that agency.

We have also been struggling in Congress and with the administration regarding the best way to achieve our human rights objectives through multilateral lending agencies where strings cannot be attached to our contributions and where our vote cannot veto a proposed loan. President Carter, in his letter which accompanies this bill (legislative history of a sort) has asked for a review of how U.S. objectives can best be pursued in the Banks. I hope that Congress will take the leadership role in calling for oversight hearings along these lines, so that our future contributions to the banks will not become bogged down over the rhetoric of whether indirect aid should go to right- or left-wing governments. Instead, we should be involved in trying to assess if the programs of these institutions are meeting the basic needs to which they are directed and achieving the development from which all nations will benefit.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I think basically we are concerned with two points. The first point is whether or not we as Members of the Congress have a right to condition funds of the American taxpayers to these international lending institutions. I would say we do. These funds belong to the taxpayers and not to the international institutions.

The question is if we would not give money directly to these countries, how then can we do it indirectly through these international banks? We should not and should leave our peoples' money so conditioned. The international institutions are not prevented from accepting such conditioned money. The Library of Congress in a letter to me dated October 3, 1977, has said there is nothing in their charters to prevent it.

The second point is the economic future of this country. How can we lend our money to these foreign countries at rates far better than we can do for our own producers in this country to finance unfair competition? The President of the United States has verified that this is a serious problem by agreeing to instruct our representatives to vote against such loans. The Treasury Department has agreed that it will do what it can as well since we have a $30 billion trade deficit. The Department of Agriculture agrees and by its most recent report on foreign agriculture trade states in headlines, "Exports of U.S. Oilseeds and Products Decline, Palm and Cocoanut Oil Imports Climb."

So all agree we have a significant economic problem. But we have studied the matter to death. Two subcommittees of this House have already found this to be a problem, but the loans continue. Our representatives to these institutions have only one vote. Studies and voting instructions are not enough. The fact remains that $20 million in loans for palm oil were made earlier this year in direct contravention of previous similar promises and $200 million more are to be considered.

The only way we have to prevent these loans was adopt my amendment. Since the amendment has been deleted, all we can now do is vote against this conference report, to establish the conditions the people of the United States want and to give us the economic future this country deserves.

Mr. LONG of Maryland. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, I rise in support of the conference report.

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I thank the gentleman.

I realize, as Emerson once said, that:

A foolish consistency is the hobgoblin of little minds, . . .

But I am nonetheless always amazed when we find people outraged at the suppression of civil liberties in rightwing regimes but who totally ignore the suppression of civil liberties in leftwing dictatorships, just as I am equally amazed by those who thunder against suppression of civil liberties in leftwing dictatorships but ignore the suppression of those rights in rightwing regimes. It seems to me we ought to be against all forms of repression whether it is repression of the right or repression of the left.

In those terms, while I think we have every right and, indeed, a responsibility to terminate our bilateral economic assistance to repressive regimes, I think it is utterly inappropriate to condition our contributions to multilateral international financial institutions on such a basis. After all, Congress can add provisos to the U.S. direct-aid programs in any manner we so choose; to add political conditions to our assistance to multilateral lending institutions, however, violates the very purposes for which those institutions were created—that is, aid to needy people no matter what the regime.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I intend to vote for the passage of the conference report on H.R. 7797, the foreign operations appropriations bill, because I am convinced that on the whole it contains many needed provisions that warrant my support. I do, however, want to note my displeasure with several aspects of the bill and conference report and the manner in which that report was developed.

As a result of an apparent compromise with the White House, the conference committee acted to remove the possibility of the full House analyzing the amendments in disagreement with the Senate and debating them on an individual basis. Several of these provisions call for singling out specific countries for legislative reprimand based on human rights reports on those countries. Unfortunately, these well intentioned provisions may prove to be more counterproductive than helpful.

A case in point is Argentina. I opposed restrictive provisions against that nation during the initial passage of H.R. 7797, not because I differ with its proponents in their concern for the human rights situation in Argentina, but because of the personal concerns I have that the real effect of such an amendment will be to intensify the crisis that is taking place. Without taking into consideration the complex internal political struggles of Argentinian politics, these well intended efforts may in fact hinder rather than improve the human rights situation in Argentina.

Because of my belief that such an amendment would have little or no practical effect and my past efforts to oppose it, I welcomed the opportunity along with other members of the Subcommittee on Inter-American Affairs to visit Argentina during the recent August recess. One of the major objectives of that trip was to provide each member of the delegation with a personal assessment of the internal crisis that exists in Argentina and the human rights situation that it has caused.

Our scheduled activities during this fact-finding mission included private meetings with President Videla, the Foreign Minister, the Defense Minister, and the Minister of Finance. We were also briefed by the head of our mission and the full country team. In addition, we met with opposition party leaders and labor leaders. Finally we sought out the leaders of the religious community and representatives of several human rights organizations.

As a result of this visit, I am more convinced than ever that the complex nature of the problems in Argentina are not fully understood by this Congress. The present government, which is trying to bring some order to that nation after the political and economic chaos of the Isabel Peron government, remains critically fractionalized. President Videla has

emerged as a moderating force in the military government that includes clicks of radicals and hardline right wingers.

As pointed out in a New York Times editorial on May 25, 1977;

> If these hard-line generals seize power, they will surely further disrupt Argentina's economy, deal an even more disastrous blow to the cause of human rights and raise the chances of full-scale civil war. Only if they are headed off can President Videla regain his moderate bearings and be persuaded to move toward long-overdue national political reform and reconstruction.

However, there are encouraging signs that President Videla slowly is stablizing his position, thereby increasing his efforts to bring both extremes under control. Recently, the New York Times, in an article by Juan de Onis on October 2, 1977, revealed that the Argentine Government has made substantial gains against leftist extremists. Since the armed forces took power 18 months ago, they have eliminated over 80 percent of the left-wing guerrillas engaged in subversive activities.

The success they have had is not seen as a total victory, and in fact has revealed the complex terrorist problem in that country. As the Times article points out:

> With the decline in activity of the left-wing extremists, another form of terrorism from right-wing extremists is challenging the authority of President Jorge Rafael Videla. It has become a threat to his program for achieving political unity and eventually restoring democratic government, with free unions and independent universities.

Now is not the time to let our good intentions backfire and risk destablizing the efforts of a man who is seeking a return to democracy and an improved human rights situation. As part of the first step toward this goal, President Videla spoke to President Carter last month here in Washington about the goal of "peace by Christmas." This phrase is known to mean bring the right-wing groups and the security forces under control, as well as dismantling the remaining left-wing guerrilla pockets.

Continuing our interest in the political and human rights crisis that exists in Argentina after returning to Washington, Congressman ROBERT LAGOMARSINO—who also visited Argentina—and I recently met with Ambassador Jorge A. Aja Espil of Argentina. We expressed the need for his country to respond to the calls for a return to a democratic state and to protect the human rights of all their citizens. I am pleased to announce that last week I received a letter from the Ambassador, noting recent actions by his government to help ease the present situation. On September 27, 1977, the Government of Argentina restored the constitutional option to leave the country for those individuals who were being held without charges under the state of siege that began under the Peron government. Also, on the same date, a commission was established to study, on an individual basis the corresponding cases. Finally, he informed me that—

> In the continuous process that is taking place and according to information received yesterday, October eleventh, 132 persons were freed.

The inclusion of an assistance program for Argentina in this legislation would not by itself expend one dollar for that nation. Such action would however, provide the administration with the flexibility needed to implement its human rights program. If the situation in Argentina should continue to improve, the administration would then have the ability to implement the programs as a form of encouragement. As H.R. 7797 now stands, that flexibility is lost.

Mr. Chairman, my other displeasure about the conference report focuses on this Nation's contribution to international narcotics control programs.

The President, through his chief narcotics administrators, has assured the Select Committee on Narcotics Abuse and Control, of which I am a member, of his deep commitment toward waging "war" on drug abuse. Under H.R. 7797, the President requested an appropriation of $39 million for fiscal year 1978, an amount that was approved and adopted by the House last June; the Senate version proposed a $38 million appropriation. Unfortunately, the conference report accompanying this measure proposes to further reduce this Nation's efforts to control international narcotics trafficking to $37.1 million and to slash by 50 percent the administration's requested contribution to the United Nations Fund for Drug Abuse Control (UNFDAC) from $6 million to $3 million.

The administration has regarded these funds to be "the cutting edge of our efforts to develop more effective international control programs in order to curtail the flow of illicit drugs, particularly heroin, coming into this country."

The $39 million requested by the administration and adopted by the House for international narcotics control represents less than 5 percent of the total Federal Government's $805 million expenditure that is budgeted for fiscal year 1978 for narcotics abuse and control, and the requested $6 million contribution to UNFDAC represents three-quarters of 1 percent of the budgeted Federal drug effort.

Mr. Speaker, last February, along with the distinguished gentleman from New York (Mr. SCHEUER), I attended the 27th United Nations Commission on Narcotics and urged the nations of the international community to contribute to UNFDAC and to those nations that have already contributed, we urged them to increase their contributions to the Fund. We are now beginning to see some results in that direction. Only last summer, Norway and Sweden substantially increased their contributions to UNFDAC by providing needed funds for UNFDAC crop substitution programs that would replace the cultivation of poppies by opium producing nations. And other nations have joined with our law enforcement agencies in assisting in a concerted international effort to interdict narcotics trafficking and to eradicate opium production at its source.

Mr. Speaker, at a time when other nations are increasing their support in interdicting narcotics trafficking and eradicating opium production, it is a grievous error for this Congress to cut back support of the very programs that are beginning to accomplish these tasks—tasks that this Nation has so tireously sought to accomplish.

If we truly mean what we say concerning the global fight against narcotics trafficking and our commitment toward that effort, then we must back up that commitment with dollars, not words.

Mr. YOUNG of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, since the start of U.S. foreign aid programs in 1946, U.S. taxpayers have provided nearly $300 billion. The fiscal year 1978 appropriation probably will be close to $6.77 billion.

The President requested a $7.6 billion foreign aid appropriation, over $2 billion higher than in fiscal year 1977, despite promises to curtail Government spending. The Appropriations Committee pared this down and then the House approved our 5-percent reduction amendment.

This foreign aid bill, H.R. 7797, has come back from the conference at a figure $78.5 million over the House version. We are sorry to see this increase, but we are gratified that the conferees were able to hold it down as well as they did.

Our 5-percent reduction amendment the House attached to the bill has been reduced to approximately 4 percent, but I suppose we should be thankful that we were able to retain that much of what was a $352 million reduction. If we approve the measure at the $6.7 million agreed to by the conferees, it is still over a billion dollars higher than last year's appropriation.

Many of us are concerned with the size of this appropriation, particularly at a time of mounting inflation, high energy costs, and economic problems here at home. We want to insure that the money that is spent will be for productive and efficient programs, and for plans that benefit the needy of developing nations.

A major factor cited by opponents of high foreign aid appropriations is that we must borrow the money before we can give it away. Deficit spending has created a national debt of almost $800 billion on which the interest alone adds up to about $120 million a day.

Several nations which once received U.S. aid are now providing aid to other nations. But, not only that, we helped some so well that they have loaned us money for our national debt and we pay them interest.

For example, to West Germany and Berlin between 1946 and 1963, we provided aid to the tune of nearly $4 billion while they have loaned us over $22 billion on our national debt. Our interest payment to Germany in 1976 was $1.3 billion. To Japan, between 1946 and 1965, we provided $3.5 billion in aid. Today they have loaned us $12 billion and collected $800 million from us in interest in 1976.

By the late 1960's, nations giving foreign aid included earlier recipients: Germany and Japan (which now loan us money), France, the United Kingdom and Italy. The emphasis has changed from European aid to aid to the developing nations of Africa, Asia, and Latin America. But few observers expect the success of Europe to be repeated in the Third World.

I want to urge my colleagues here today to hold the line on these foreign aid expenditures and resist attempts to increase appropriations levels. We must be alert, also, that the administration might request supplemental appropriations to bring the expenditure level nearer to what they want.

Mr. LAGOMARSINO. Mr. Speaker, I rise in opposition to the conference report on H.R. 7797, appropriations for foreign assistance and related programs for fiscal year 1978.

I do, as I have in the past, support the bill's funds for Israel.

Among my many problems with the legislation are the amendments prohibiting funds for military training assistance and credit sales to Argentina.

The issue of human rights is the focal point of debate on the question of providing assistance to Argentina. I believe, as does the Carter administration, that it can best implement its human rights objectives by retaining the option to make funds for training programs available. I must repeat what Assistant Secretary of State for Latin American Affairs Terence Todman has said about security assistance. He says that it is "a political tool that provides us an opportunity to exert some influence on (governments') attitudes and actions." The administration should be allowed to retain these funds for Argentina so that it may have flexibility in pursuing its goals in human rights and in promoting hemispheric security. If we cannot maintain a dialog with Argentina on the question of human rights, we will restrict the possibility of exercising any significant influence on them.

Already, we see that the conditions in Argentina are improving. Late this summer I, along with several of my colleagues on the Inter-American Affairs Subcommittee, had the opportunity to visit Argentina. Our discussions with government officials there left me with the clear understanding that American ties with Argentina serve as a positive influence in that country. I strongly believe, and my personal visit reconfirms this, that an elimination of assistance to Argentina would be counterproductive. By singling out Argentina, we offend their national pride and enhance the prospects of a new military regime—a regime which would be more repressive and less willing to accept American representations for improved respect of human rights.

Just recently, the Argentine Government has taken significant steps to improve its internal conditions. On October 12, I received a letter from the Argentinian Embassy stating that 132 prisoners had been released from jail, as well as the release of 3 members of the Deutch family. Also, President Videla has given certain prisoners detained in prison under the state of seige the option of exile over a term in prison. These positive actions in the area of human and political rights illustrate that, given the right combination of pressure and persuasion, the situation in Argentina can be improved.

Some of my colleagues have argued that U.S. assistance helps to glorify the military in Argentina and ties our country to the repressive policies of the Argentine Government in the eyes of its people.

The repressive policies of that Government, as unacceptable as they are, do not occur in a vacuum, but are prompted by serious terrorist activities. Threats to American diplomats and business executives, kidnapings of businessmen and even an American child, and destruction of American property are all facts which we should equally deplore. In fact this last Friday, after the release of the 132 prisoners and the relaxation of controls, the Montonero guerrillas killed 2 people while blowing up the car of an official of Chrysler Corp. Therefore, one can easily see the problem that President Videla faces. We certainly will not protect American interests by passing legislation in this body which only serves to reduce the administration's leverage and credibility with the Government of Argentina.

During our visit to Argentina I met with many individuals and groups concerned with human rights. While none of them could be said to be satisfied with the situation in Argentina, almost all of them did say that they felt that President Videla was an honest man trying to do his best. They did say that things could and probably would be worse should Videla be replaced by others in the military.

Finally, I find it difficult to understand why, in particular, the training programs for Argentina should be so controversial. The courses included are: Aircraft rotor-propeller repair, aircraft electrician, aircraft instrument repair, maintenance management, quartermaster officer advanced, academic instructor school, English language, and personnel management officer. These courses are clearly not designed for police training or civilian police action.

I also oppose the manner in which the report deals with Brazil. In the past, Brazil has shown extreme sensitivity to our criticism of its human rights situation. The result of U.S. criticism has been the rejection of U.S. sales credits. Why must we further reprimand and single out Brazil and greatly increase tensions between our countries over foreign aid which the Brazilian Government has already rejected? Further, I find it ironic that Congress is openly and vehemently criticizing Brazil at the same time as President Carter is planning a visit to that country in order to improve our relationship.

I cannot accept a bill with such provisions. I strongly urge my colleagues to reject this conference report.

EMBAJADOR DE LA REPUBLICA ARGENTINA,
Washington, D.C., October 12, 1977.

Hon. ROBERT LAGOMARSINO,
U.S. Congress,
Washington, D.C.

DEAR MR. LAGOMARSINO: For your information I am enclosing the text of Law No. 21.650, as it was published in the Argentine morning daily "La Opinión". By this law, put into effect on September 27, 1977, the Government has restored the constitutional option to leave the country, granted to people held without charge under the state of siege.

I would also like to point out that on the same date a commission was established to study, on an individual basis, the corresponding cases.

Finally, I want to tell you that in the continuous process that is taking place and according to an information received yesterday, October eleventh, 132 persons were freed.

Sincerely,

JORGE A. AJA ESPIL,
Ambassador.

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, what is involved here today is not how we feel about a handful of unpopular countries. We have expressed ourselves on that. The President of the United States has taken official judicial notice and is going the second mile in a good faith effort to comply with our express wishes.

Moreover, this conference committee report contains every prohibition voted by the Members of this House against bilateral aid from this country to other countries of the world.

What is involved is whether we, the richest and most blessed of the nations, will continue to participate in the international development and lending institutions. Those institutions by their charters cannot receive contributions with legal limitations attached. If we were to insist upon those legal limitations, quite manifestly we would be rendering our participation inoperable.

Do we want to continue as participating members of the international lending institutions? I think we do. It is not a question of whether we can unilaterally direct every decision of the banks. Of course we cannot. The question is whether we want to be a part of an ongoing international effort to try to assist the developing world—good friends of the United States, countries like Mexico, Costa Rica, Colombia, Kenya, and Malaysia, countries which have established an excellent record of repaying these loans. The history of these banks and the loans they have extended is a history of success. In all these years there has not been a default on these loans and the banks have not lost any money.

During this period of time other successful nations have joined us and are bearing their share of the burden to an ever-increasing extent. In the beginning we financed 41 percent of the World Bank loans. Now we finance only 19 percent of the loans. Our portion of the burden for the Asian Development Bank is only 16 percent.

Our portion of the World Bank's burden began at 41 percent. Today we shoulder only 19 percent of the load. We provide only 16 percent of the funds for the Asian Development Bank.

The other question which we must answer today is whether we will uphold the President of the United States who, like his predecessor, President Ford, has

openly encouraged other nations—including Middle Eastern nations—to increase their share.

Shall we repudiate that position? Shall we turn our backs upon the President? Shall we pull the rug from under him in his effort to provide a constructive example and a sense of moral leadership to the world?

And if we do, when again would the voice of an American President be credible in the council of nations? Someone must speak for America.

Today we have a choice. We can stamp our feet in childish anger and forfeit any claim to world leadership. Or we can demonstrate the reason and maturity which must be the hallmarks of any nation which aspires to set an example for the world.

The conference committee report strikes a good balance between our wishes and our responsibilities. It deserves our support. I am confident that in this crucial test the House of Representatives will not be found wanting.

Mr. MONTGOMERY. Mr. Speaker, I would like to take this opportunity to point out that there is some confusion, because of restrictive language in our foreign aid laws, as to whether the President can send humanitarian aid to countries such as Vietnam, Laos, and Cambodia.

There seems to be a serious shortage of food and medicines in Vietnam and Laos; we have no information on Cambodia. Sources for this information are not only the Vietnamese but also the International Red Cross and the United Nations High Commissioner for Refugees.

I do not think there is any question that we are all in agreement this country is not going to give foreign or reconstruction aid to Vietnam. But, if humanitarian aid is needed and this country has a surplus in food, I have no problem with supplying medicines and food. In fact, the House Select Committee on Missing Persons in Southeast Asia in its final report to the House stated that if humanitarian aid was needed in Southeast Asia, the administration should consider this need.

In my opinion, Vietnam has not bowed to the wishes of Russia and China and is trying to survive some kind of independence. The Vietnamese have not let the Russians have a seaport at Cam Ranh Bay nor have they sold to our potential enemies great quantities of the American military equipment captured after the fall of Saigon. And in the last 6 months the Vietnamese have cooperated with the United States in the return of American remains.

I feel that if there is hunger in these countries, we should consider their needs. I do not believe that humanitarian aid would offend Americans or would be in conflict with our stated strong opposition to economic or reconstruction aid. The question of whether our previously approved foreign aid language and its barriers apply to humanitarian aid must be resolved.

Mr. McCLORY. Mr. Speaker, I will vote against this conference report on the bill (H.R. 7797) because I do not believe we can legislate on the basis of what is included in a letter from President Jimmy Carter.

Mr. Speaker, we should embody our legislative intent in the legislation which we develop—and vote upon. To compromise our prerogatives by an exchange of correspondence is both novel—and inconsistent with our governmental system.

Mr. Speaker, I do not favor loans to nations where basic civil rights are violated. Nor do I favor loans to nations which enable them to compete unfairly with our Nation in commodities which our citizens produce.

But, Mr. Speaker, I expect our President and his representatives to respect these principles of human rights and economic justice. If they fail, we must hold them accountable. However, I do not want us to act on the basis of letters, oral statements, or any informal arrangements which are at variance with the legislative process—or which confuse our existing tripartite system.

Mr. Speaker, the new President has brought new ideas and new personalities to the White House. But he seems also to have brought a lack of understanding of the legislative process. I would support this conference report without the President's letter to our colleague from Maryland (Mr. LONG). Also if the amendment proposed by our colleague from Florida (Mr. YOUNG) were in the bill, I could support that. But, Mr. Speaker, this way of legislating, and so forth, modifying the law by a letter should be rejected. I will vote against the conference committee report.

Mr. BONKER. Mr. Speaker, I would like to urge my colleagues to support the conference report accompanying foreign aid appropriations bill H.R. 7797. This bill provides essential funding for both bilateral and multilateral assistance efforts vital to U.S. foreign policy.

At the same time, I would like to express my deep concern regarding the "compromise" which has been reached on the question of providing direct or indirect assistance to various countries. President Carter's letter to Chairman LONG promises that U.S. delegates to international financial institutions will vote against all loans to seven countries. What is most disturbing is that the United States will have to cast its vote against assistance even if it would benefit those needing assistance most in these countries. Is Congress now prepared to say that assistance should be barred to countries even when such assistance will benefit needy people? Have we become so preoccupied with identifying countries for our human rights "hit list" that we have lost all sense of proportion as to what our foreign development assistance is supposed to accomplish in the first place?

Each year, as additional countries are added to the list we are establishing today, I believe we will be moving further away from the very purposes and objectives that we as a Nation have established in providing humanitarian assistance.

Mr. Speaker, I strongly oppose any further politicization of our development assistance through multilateral organizations, and efforts to dictate to international bodies which countries should be automatically prohibited from receiving development aid. If this process is allowed to continue, instead of promoting better international understanding through assisting those in the world who need this assistance most, we will be setting the stage for a vindictive, isolationist policy which will be totally counterproductive in achieving any significant progress in the human rights field.

The President's letter to Chairman LONG follows:

THE WHITE HOUSE,
Washington.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

To Chairman Clarence Long:

Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee(s) of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

Mr. BURKE of Florida. Mr. Speaker, it is with a great deal of concern that I will vote in favor of the conference report to H.R. 7797, the foreign assistance appropriations. When H.R. 7797 came before the House I strongly supported

both the Young amendment and the Wolff amendments, which would have prohibited any appropriations from being used to finance reparations to the Socialistic Republic of Vietnam. In addition, the Young amendment would have precluded the International Development and Lending Institutions from authorizing loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba.

Mr. Speaker, I still strongly support the prohibitions of loans and funds to these countries at the expense of the American taxpayer. But, Mr. Speaker, my opposition has been solved to some extent by the assurances of President Carter that he will instruct the U.S. representative to the international financial institutions to oppose and vote against loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba. I feel that the President who, after all, has the responsibility will do what he has assured the Members of the House he will. True, I have some concern because no such statements appear in the conference report, but I feel that the message has been clear by the previous House action on both the Wolff and Young amendments of the congressional intent.

Mr. Speaker, I have never been a strong supporter of our foreign aid programs since I have been in the Congress. However, I have not carried blinders or refused to recognize the need for a sensible program, the prime purpose of which would be to strengthen our economic and security position in the world. I, like many, am concerned with the problems existing in the Middle East today. I believe that the threat of Soviet intervention in that area could well upset the present world balance of power not only in that area but in the world. I believe the appropriations for that area and other areas involving our friends are vital to our future security and far outweigh my other objections to the conference report.

Mr. Speaker, I hope the future oversight hearing by the Congress of the loans by the various international organizations to which the United States contributes, or more accurately, overcontributes, will put a damper on loans to our enemies. Such loans are, in my opinion, detrimental to our own interests and to the security of our friends.

Mr. Speaker, I have never approved the package-type of foreign aid legislation which is practiced by the State Department. I am hopeful that it can and will be changed by the Congress. To me the present practice is deceptive and certainly difficult for the public to understand. To me it is wrong.

In any event, Mr. Speaker, there are some questions and suspicions which I have concerning the ability of the President to halt the international institutions from lending money to nations whose interests are incompatible with our own. In fact, I wish we could withdraw from many of our international commitments, but this wish does not carry with a cyanide bill for the suicide of our friends.

For the reasons stated I will, as I said earlier, vote no matter how reluctantly, for the conference report.

Mr. FRENZEL. Mr. Speaker, this conference report on foreign aid is too expensive. It is also flawed in that it sets a multiple standard for human rights for various recipient countries.

Had this not been a new President's first foreign aid bill, I would have voted against it. But, despite my dislike for the spending levels and inconsistencies, I believe assistance programs are a necessary tool for the President in the conduct of foreign policy. A new President especially needs those tools.

I also like the multinational development banks. They have made unwise loans, but, in general, they are the best form of foreign aid we indulge in. I think it is important that we continue to participate in these banks, even though I agree that U.S. directors must be instructed to vote such projects as palm oil development, or aid to Vietnam.

If the foreign aid appropriation next year is in the same shape as H.R. 7797, I shall not support it. We need an affordable, uniform, aid policy with an accent on multinational assistance. I hope the Congress comes closer to these goals next year.

Mr. STOKES. Mr. Speaker, I rise in support of the foreign assistance appropriation conference report for H.R. 7797. On October 12, 1977, the House recommitted the bill to conference to afford the House the opportunity to present a new compromise package regarding amendments in disagreement to the Senate. The compromise called for the House to delete the onerous Young amendment which barred indirect aid to Vietnam, Cambodia, Laos, Cuba, Uganda, Mozambique, and Angola. The compromise also deleted the Mathis/Moore provisions which barred U.S. funding of international financial institution loans for palm oil, sugar, and citrus. All of these restrictions were removed because President Carter has indicated that he will instruct the U.S. executive directors and representatives within the international organizations "to oppose and vote against" aid to the aforementioned countries and "to oppose and vote against" loans for the production of the three commodities.

Mr. Speaker, I voted for this compromise because the practical result will be to remove the restrictions on the U.S. contributions to the international financial institutions which would have made it impossible for them to accept U.S. funds. Moreover, I did not feel that we should remove the President's flexibility to correct global human rights violations by needlessly tieing his hands.

Mr. Speaker, as a result of the House's willingness to compromise—I believe that we have a bill which is deserving of passage. It is not all that it could be, but it does represent the annual renewal of our concern for the world's poor. In demonstrating our commitment to assist those least able to help themselves, we keep faith with a long tradition of humanitarianism which this country has exhibited time and time again.

Mr. Speaker, in supporting this bill I feel that I am giving some support to those who are not really represented anywhere. I am talking about the 15 million people annually who starve to death, or die of diseases related to malnutrition. Just think about that, yearly 15 million people or 41,000 people each day, starve to death in a world where there is enough food for all. This is a world where we have the know-how and the technical skills to end hunger.

Mr. Speaker, hunger is not the only enemy we face, we must realize that the maladies afflicting the human race are interrelated. For instance, it has been estimated that up to 20 percent of the food that actually does get to the hungry is wasted because when eaten it does not nourish bodies but is consumed by the parasites living in those bodies. A successful program to reduce the incidence of bodily parasites would have the effect of increasing the food supply by up to 20 percent.

Mr. Speaker, we must also attack the diseases that seem to be a constant fact of life in the developing world, river blindness that can displace entire villages, malaria, that the modern world has long since conquered, and cholera, the scourge of the young and the weak. But we know that miracles can occur if we work hard enough. Just a generation ago smallpox was considered to be a fact of life, and now, through the efforts of such organizations as the world health organization and the United Nations development program it has almost been wiped out. Through our bilateral and multilateral programs of development assistance we can continue to wage war on these blights.

Mr. Speaker, I am aware that the costs are not small. However, when we realize that by 1980 that the number of illiterate adults in the developing world will total 865 million and that there are Sahelian countries, like Upper Volta, with a per capita gross national product (GNP) of under $90 and an infant mortality of 182 per 1,000 live births, I do not believe that the one-quarter of 1 percent of our GNP which we spend to save a starving world is too much.

Mr. Speaker, I urge you to avoid the demagoguery of those who would restrict the power of the President to remedy human rights violations and deny assistance to the poor because they have political differences with the leaders of individual countries. Mr. Speaker and my distinguished colleagues, I urge you to support the foreign assistance appropriation conference report in an effort to help the poorest of the poor.

Mr. BADILLO. Mr. Speaker, I rise hesitantly and reluctantly to support this bill. As my colleagues well know, that reluctance is certainly not based on any lessening of my firm commitment to our continuing foreign aid throughout the world. My problem lies with certain assumptions underlying the acceptance of this report by the House.

There has been a great deal of discussion during this debate about the President's letter. This is a letter sent by President Carter to the esteemed chairman of the Appropriations Subcommit-

tee, Representative CLARENCE LONG. The text of that letter reads:

THE WHITE HOUSE,
Washington.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committees of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

The commitments that the President has made in exchange for our continued and necessary participation in the international lending institutions are very troubling to me.

TOM HARKIN and I, and many of our caring colleagues, successfully waged and won a most difficult battle to assure a broad, strong, and forthright human rights policy in our relations with the banks. I am concerned that the President's letter undermine the intent of the Badillo-Harkin amendment by providing exceptions to the uniform, single standard which we developed for that provision. By singling out specific countries, he is providing a dangerous precedent that could threaten the very existence of the multilateral institutions by setting a dangerous precedent that other countries could follow by voting on narrow national political grounds.

More important, however, is the fact that the President has chosen to ignore the very foundation of the Badillo-Harkin amendment, that part of the amendment that permits a "yes" vote on loans that will serve the basic human needs of a country's citizens. In his letter, the President takes note of that in discussing the authorization for the multilateral institutions, but fails to make that exception in the case of the seven countries under question now.

I am hopeful that this was only an oversight on the part of the administration, and that I can receive some clarification that our uniform standard will prevail. The very root of the "basic human needs" language is to encourage the kinds of programs in all developing countries—free or not—that will provide for increased literacy, better nutrition, more jobs; in short the tools of freedom.

I am aware that the President's language only applies through fiscal year 1978, but its implications could prove unfortunate for any supplemental appropriations bills that come before us. The policy of placing specific restrictions on multilateral funds is dangerous. And that danger is only compounded by immediately establishing a double standard in our newly developed human rights policy toward those institutions.

Mrs. LLOYD of Tennessee. Mr. Speaker, we have today been called upon to make a most difficult decision regarding this Nation's ability to continue to provide massive financial assistance to foreign nations. I oppose the continuation of the foreign assistance program, because I cannot support the giveaway of $6.8 billion to other countries while we face severe economic problems at home. We no longer have the capability to meet both domestic and international needs solely from our limited national resources.

Since the end of World War II, we have poured $172 billion into foreign aid. The results of some of these programs are little short of miraculous. The Marshall plan rebuilt a destroyed Europe and stabilized the Governments of U.S. allies in the Mediterranean.

However, in recent years, our aid has too often been readily accepted by nations who have consistently opposed U.S. interests. Foreign aid has been the basis for drawing this Nation into long and bloody conflicts under the guise of protecting "our investments." Many nations in receipt of foreign assistance have lined the pockets of corrupt leaders with U.S. taxpayers' dollars while doing nothing to meet their internal needs. U.S. assistance has come to be regarded as the norm by some nations who refuse to tax themselves so that they might stand on their own.

So long as there is desperate need in this Nation—elderly citizens who must choose between food and shelter, workers unable to support their families, sickness and illiteracy—I will not support the expenditure of our tax dollars on foreign needs.

I deeply regret that by voting against this bill I am in the position of voting against assistance to Israel, a nation which has borne the brunt of its own defense. Israel is a nation determined to fight for its existence, a fight which, without the outside interference of the Soviet Union, it would easily win. In light of these circumstances, I feel that continued U.S. assistance to Israel is fully justified and deserved. I would support such a proposal if offered independent of this bill. Since this is not the case, I must reluctantly vote against the Foreign Assistance Appropriations Act for fiscal year 1978.

The SPEAKER pro tempore (Mr. NATCHER). All time has expired. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken.

Mr. YOUNG of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 195, answered "present" 1, not voting 9, as follows:

[Roll No. 665]

YEAS—229

Addabbo	Conable	Hannaford
Akaka	Conte	Harkin
Alexander	Corman	Harrington
Ambro	Cornell	Harris
Ammerman	Cornwell	Hawkins
Anderson, Ill.	Cotter	Heckler
Annunzio	D'Amours	Heftel
Ashley	Danielson	Hightower
Aspin	Delaney	Hollenbeck
AuCoin	Dicks	Holtzman
Badillo	Diggs	Horton
Baldus	Dingell	Howard
Baucus	Downey	Ireland
Beard, R.I.	Drinan	Jenrette
Bedell	Duncan, Oreg.	Johnson, Calif.
Beilenson	Eckhardt	Jordan
Benjamin	Edgar	Kemp
Biaggi	Edwards, Calif.	Keys
Bingham	Eilberg	Kildee
Blanchard	Erlenborn	Koch
Blouin	Ertel	Kostmayer
Boggs	Evans, Colo.	Krebs
Boland	Fary	Krueger
Bolling	Fascell	LaFalce
Bonior	Fenwick	Le Fante
Bonker	Findley	Leach
Brademas	Fisher	Lederer
Breckinridge	Fithian	Leggett
Brodhead	Flood	Lehman
Brooks	Foley	Lent
Broomfield	Ford, Mich.	Levitas
Brown, Calif.	Ford, Tenn.	Lloyd, Calif.
Brown, Mich.	Forsythe	Long, La.
Buchanan	Fowler	Long, Md.
Burke, Calif.	Fraser	Luken
Burke, Fla.	Frenzel	Lundine
Burke, Mass.	Fuqua	McCloskey
Burlison, Mo.	Gammage	McFall
Burton, Phillip	Gephardt	McHugh
Caputo	Giaimo	McKay
Carney	Gilman	McKinney
Carr	Glickman	Maguire
Cavanaugh	Gore	Markey
Chisholm	Gradison	Marks
Clay	Guyer	Mattox
Cohen	Hamilton	Mazzoli
Collins, Ill.	Hanley	Meeds

Meyner	Quie	Steiger
Mikulski	Railsback	Stockman
Mikva	Rangel	Stokes
Mineta	Reuss	Studds
Minish	Richmond	Thompson
Mitchell, Md.	Rodino	Thornton
Moakley	Roe	Traxler
Moffett	Roncalio	Tsongas
Mollohan	Rooney	Tucker
Moorhead, Pa.	Rosenthal	Udall
Murphy, Ill.	Rostenkowski	Ullman
Murphy, N.Y.	Roybal	Van Deerlin
Myers, Michael	Ruppe	Vanik
Nedzi	Ryan	Vento
Nix	Sarasin	Walgren
Nolan	Scheuer	Waxman
Nowak	Schroeder	Weaver
O'Brien	Seiberling	Weiss
Oberstar	Sharp	Wilson, Bob
Obey	Shipley	Wilson, Tex.
Ottinger	Simon	Wirth
Patten	Skelton	Wright
Patterson	Smith, Iowa	Yates
Pattison	Solarz	Yatron
Pease	Spellman	Young, Mo.
Pettis	St Germain	Young, Tex.
Preyer	Stanton	Zablocki
Price	Stark	Zeferetti
Pritchard	Steed	
Pursell	Steers	

NAYS—195

Abdnor	Fountain	Myers, John
Allen	Frey	Natcher
Anderson, Calif.	Gaydos	Neal
	Gibbons	Nichols
Andrews, N.C.	Ginn	Oakar
Andrews, N. Dak.	Goldwater	Panetta
	Goodling	Perkins
Applegate	Grassley	Pickle
Archer	Gudger	Pike
Armstrong	Hagedorn	Poage
Ashbrook	Hall	Pressler
Badham	Hammer-schmidt	Quayle
Bafalis		Quillen
Barnard	Hansen	Rahall
Bauman	Harsha	Regula
Beard, Tenn.	Hefner	Rhodes
Bennett	Hillis	Rinaldo
Bevill	Holland	Risenhoover
Bowen	Holt	Roberts
Breaux	Hubbard	Robinson
Brinkley	Hughes	Rogers
Brown, Ohio	Hyde	Rose
Broyhill	Ichord	Rousselot
Burgener	Jacobs	Rudd
Burleson, Tex.	Jeffords	Runnels
Burton, John	Jenkins	Russo
Butler	Johnson, Colo.	Santini
Byron	Jones, N.C.	Satterfield
Carter	Jones, Okla.	Sawyer
Cederberg	Jones, Tenn.	Schulze
Chappell	Kasten	Sebelius
Clausen, Don H.	Kastenmeier	Shuster
	Kazen	Sikes
Clawson, Del	Kelly	Sisk
Cleveland	Ketchum	Skubitz
Cochran	Kindness	Slack
Coleman	Lagomarsino	Smith, Nebr.
Collins, Tex.	Latta	Snyder
Conyers	Livingston	Spence
Corcoran	Lloyd, Tenn.	Staggers
Coughlin	Lott	Stangeland
Crane	Lujan	Stratton
Cunningham	McClory	Stump
Daniel, Dan	McCormack	Symms
Daniel, R. W.	McDade	Taylor
Davis	McDonald	Thone
de la Garza	McEwen	Treen
Dellums	Madigan	Trible
Dent	Mahon	Vander Jagt
Derwinski	Mann	Volkmer
Devine	Marienee	Waggonner
Dickinson	Marriott	Walker
Dornan	Martin	Walsh
Duncan, Tenn.	Mathis	Wampler
Early	Michel	Watkins
Edwards, Ala.	Milford	White
Edwards, Okla.	Mil.er, Ohio	Whitehurst
Emery	Mitchell, N.Y.	Whitley
English	Montgomery	Whitten
Evans, Del.	Moore	Wiggins
Evans, Ga.	Moorhead, Calif.	Wilson, C. H.
Evans, Ind.		Winn
Fish	Moss	Wydler
Flippo	Mottl	Wylie
Florio	Murphy, Pa.	Young, Alaska
Flowers	Murtha	Young, Fla.
Flynt	Myers, Gary	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—9

Derrick	Metcalfe	Teague
Dodd	Miller, Calif.	Whalen
Huckaby	Pepper	Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Teague against.
Mr. Pepper for, with Mr. Derrick against.
Mr. Metcalfe for, with Mr. Huckaby against.

Until further notice:

Mr. Dodd with Mr. Miller of California.

Messrs. LUKEN, ZEFERETTI, and PURSELL changed their vote from "nay" to "yea."

Messrs. COUGHLIN, HUGHES, and MAHON changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: On page 2, line 21, strike out *"Provided,"* down through and including "Program." on page 3, line 2.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 3, line 19, *"Provided*, That of this amount $75,000,000 shall be available for loans repayable within forty years following the date on which the funds were initially made available under such loans; $87,000,000 shall be available for loans repayable within thirty years following such date; and $148,500,000 of such amount shall be available for loans repayable within twenty years following such date.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 4, line 7, insert ", of which amount $500,000 shall be for the Organization of American States Special Cultural Account, $500,000 shall be for the Organization of American States Special Development Assistance Fund, and $1,500,000 shall be for the Organization of American States Special Multilateral Fund: *Provided*,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 4, line 15, insert: *"Provided further*, That no part of any such appropriation for "International organizations and programs" may be available to make any contribution of the United States to the United Nations University,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 6, line 1, insert: *"Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total cash contributions to such program.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 6, line 7, strike "$39,000,000" and insert "$38,000,000".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$37,100,000".

The motion was agreed to.

The SPEAKER pro tempore. The

Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 6, line 8, insert: ": *Provided*, That not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control: *Provided further*, That $12,475,000 shall be available only for programs in Mexico."

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clark will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 7, line 1, strike "purposes for which appropriated" and insert: "appropriation account and under the same terms, conditions, and limitations as originally provided in appropriations Acts".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 7, line 8, strike out: "purpose as any of the subparagraphs under 'Economic Assistance,' 'Middle East Special Requirements Fund,' 'Security Supporting Assistance,' 'Operating Expenses of the Agency for International Development,' 'International Military Education and training,' and 'Indochina Postwar Reconstruction Assistance,' are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same purpose: *Provided*, That such purpose relates to a project or program previously justified to Congress, and the Committees on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs", and insert: "appropriation account and under the same terms, conditions, and limitations as originally provided in appropriations Acts: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligations of such funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 8, line 3, insert:

The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977."

The motion was agreed to.

The SPEAKER pro tempore. The clerk will report the next amendment in disagreement.

The clerk read as follows:

Senate amendment No. 29: Page 9, line 9, insert: "*Provided further*, That none of the funds appropriated under this heading may be used to carry out those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein.

The SPEAKER pro tempore. The clerk will report the next amendment in disagreement.

The clerk read as follows:

Senate amendment No. 31: Page 9, line 18, insert: "and those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: page 10, line 1, insert:

Loan Allocation, Security Supporting Assistance: Of the new obligational authority appropriated under this Act for Security Supporting Assistance, not to exceed $856,800,000 shall be available for grants: *Provided*, That of the amounts available for loans, not to exceed $865,400,000 shall be available for loans with maturities in excess of thirty years, but not to exceed 40 years, following the date on which funds were originally made available under such loans.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: Page 10, line 22, insert:

"*Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That none of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 for the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development.".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 16, line 22, insert: ", except that the President with the concurrence of both Houses of Congress may waive his prohibition with respect to any such country if he determines (and so reports to Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Maryland (Mr. LONG) will be agreed to.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, if objection is heard to agreeing to the Senate amendment,

then 1 hour would be allotted to the manager of the bill (Mr. LONG of Maryland), half of which time would be yielded to the gentleman from Florida (Mr. YOUNG). Is that correct?

The SPEAKER pro tempore (Mr. NATCHER). There would be 30 minutes allotted to each party, the Chair would advise the gentleman.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The gentleman from Maryland (Mr. LONG) is recognized for 30 minutes.

Mr. LONG of Maryland. Mr Speaker, this amendment allows the President with the concurrence of both Houses of the Congress to waive the direct aid prohibition to Mozambique and Angola. Therefore, Congress will keep control over the direct U.S. assistance to these two countries.

I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would point out that this gives the President with the concurrence of both Houses of Congress the right to waive the restrictions on aid with regard to Mozambique and Angola. I would take just a moment to point out that this is one of those inconsistencies we talked about before. The President was not given any right to waive the language as it related to the Philippines or to waive the language as it related to Brazil or Argentina or El Salvador or Guatemala or some of the others.

But he was given the right by this conference report with the concurrence of both Houses to waive aid restrictions in the case of Mozambique and Angola. I just point out again, Mr. Speaker, that is one of the glaring inconsistencies of this whole program.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman from Florida could tell me exactly what this phrase means, "with the concurrence of both Houses of Congress."?

I notice that the language requires that the President will have to make a determination that the aid to either Angola or Mozambique is in the interest of the U.S. foreign policy. Exactly what would be the role of the House and of the Senate?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield.

Mr. YOUNG of Florida. Mr. Speaker, it seems to me it would require some form of resolution, probably a concurrent resolution, to obtain the consent of Congress in this regard.

The gentleman is aware that we have used this type of language before. In effect, what it does is pretty much give to the White House the latitude to do whatever it pleases with respect to the handing out of foreign aid.

We have had this requirement in some cases on the military sales programs. I think the gentleman understands it gives the White House much more freedom, but this time only in the case of Mozambique and Angola. That is what I find hard to understand. Why in the world we are going to give him this latitude in the case of Mozambique, ruled by a Marxist dictator; Angola, who is controlled by the Russians through their clients the Cubans?

It is said that Cuba has stabilized the situation in Angola. There is no doubt they have stabilized it, much as the Communists stabilized Poland, as they stabilized Czechoslovakia and in many other places.

Yes, Ambassador Young is right. The Communists did stabilize certain parts of the world, but not in a manner acceptable to me or my country. That is not even part of the conversation the gentleman from Maryland and I are having; but it does give us the opportunity to talk about the problem of Mozambique.

Mr. BAUMAN. When a provision like this is inserted in a foreign aid bill, usually there is some method provided in the bill for concurrence or disapproval; is the gentleman saying that lack of action on the part of either House would amount to approval and this section would not require affirmative action from either body?

Mr. YOUNG of Florida. I would not understand it that way. The language is simply this, except that the President with the concurrence of both Houses of Congress may waive this prohibition. My understanding is that he can only do it with the concurrence of both Houses, so that one House by lack of action could prevent the President from waiving this prohibition.

Mr. BAUMAN. Mr. Speaker, I would say that this amendment points up the basic fallacy of this legislation and the pitfalls it contains. The administration has already made it plain in its original determination creating a Southern African fund, which this bill finances, to give aid to both these Communist-dominated African countries. Both of these countries currently are engaged in violence, one against its own citizens, as in the case of Angola, where the Communist dictator Neto is trying to put down a revolution. Revolutionary soldiers control perhaps one-third of the country fighting against Neto and Cuban mercenaries.

In the case of Mozambique, we have a Communist dictator, Samora Machel, who also is engaged in training terrorists to attack the government and people of Rhodesia. This American aid to finance Communist warfare underscores the folly of the total foreign policy contained in this legislation.

It is highly unfortunate that in the recent vote on the conference report itself that the House would have backed down on numerous prohibitions against direct or indirect aid to Communist nations. This bill offers a blank check for the President, although he may go through the charade of coming to the House with a message that giving aid to Communist countries is in the best interests of America.

Mr. Speaker, this bill points up the dubious future of the foreign aid program. The conferees have stricken out the word "indirectly" governing aid to these two Communist countries. This will allow aid indirectly through the multilateral institutions to both Angola and Mozambique, as the gentleman from Florida (Mr. YOUNG) and others have pointed out.

I would call attention of the House to a statement from John Gilligan, the Director of the Agency for International Development, in which Mr. Gilligan told the world what the foreign giveaway intentions of this administration are. He said by 1982 the Carter administration should recommend an annual level of foreign aid of $14.5 billion, and apparently most of this is going to be taken out of the hands of Congress and, instead, run through the hands of these international lending agencies over which we have no control.

I honestly think in this amendment and in similar amendments and in the conference report as a whole, we have no compromise. We have a complete sellout. We have a case of these multilateral lending institutions digging our graves with our own money and we are paying the gravediggers.

After 30 years and $200 billion, starting with the Marshall plan, this is what foreign aid has come to. It was supposed to be a program to protect the best foreign policy interests of the American people and instead it is being used to finance the destruction of the American people and this Nation.

I, for one, do not approve of this particular amendment. There should be an absolute prohibition of aid to these two Communist countries and to any other countries that are controlled by communism.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. May I say to the gentleman that he made a very detailed statement, but is it appropriate in this instance inasmuch as whatever action the President takes in this case must be approved by both Houses of Congress? The President cannot act on his own in this case. Before he can provide any assistance to either Mozambique or Angola, he has to get the approval of both Houses of the Congress. Now, what greater protection or control do we have in this kind of bill?

Mr. BAUMAN. I would point to page 16, line 21. This particular aid prohibition requiring the concurrence of Congress only deals with direct bilateral aid. That would include the Southern African fund, but "indirectly" has been omitted and aid may be given through international banks, undoubtedly. That is what I particularly object. This will be the reckless road the administration chooses, wasting the taxpayers' money financing Communist revolutions and even indeed aligning themselves with the Cubans who are, at least in the case of Angola, infesting that country and holding it in bondage.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield.

Mr. LONG of Maryland. The gentleman knows that the legislative process is the most inconsistent business in the world. When we are in there with a Senate committee trying to hammer out

a bill, everything that comes out is not apt to be totally consistent. In this case, what we did was insist on concurrence. Actually, that was the Senate language, which seemed to me to be good language.

I think we ought to make legislative history here by saying that what we mean by concurrence of Congress is a concurrent resolution and not something that the chairmen of committees can simply give assent to. That does seem to me to give us considerable protection here against an arbitrary waiver by the President.

Mr. BAUMAN. I thank the gentleman for lending me some small comfort.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I was interested in my colleague from Maryland, the manager of the bill, indicating the give-and-take. I am wondering what we took. It sounds to me as though we gave most. As far as the so-called restrictive amendments are concerned, it would be a fair generalization to say that any restrictive amendments relating to Communist countries we lost on, and any related to countries that might be called friendly, such as Argentina and others, we won on the House position. Would that be a fair generalization?

Mr. BAUMAN. I think the gentleman put his finger on what the net balance is in this foreign aid bill. The American people lost, and lost badly. The Communist countries have gained considerably because under this bill they will be getting aid out of the American taxpayers' pockets.

But the gentleman understands that we have a letter, a famous letter signed by Jimmy Carter—and you can believe that—and the letter contains full assurances that the President will direct all the directors of these multilateral lending institutions not to vote for the loans to the named countries. Of course, the President does not point out that we do not control by a majority vote any of these institutions.

All the delegates to these international banks say, "Well, the President had to say that to get it through Congress, and we all understand that. We will vote the way we want and laugh in their faces."

Mr. ASHBROOK. That letter will increase foreign aid $14.5 billion.

Mr. BAUMAN. The gentleman can depend on that just as he can depend on the President's announced plan to balance the budget by 1981. Perhaps this now famous letter should be called "the crimson letter."

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. As the gentleman knows, Members of the House have been subjected to one of the strongest lobbying efforts ever put on by the administration, and with the help of national and international organizations. One of these lobbying efforts includes a letter that said how our involvement in these international institutions was encouraging other countries to make larger contributions. I am sure the gentleman did not see that letter.

But I saw a copy of that letter. It was not addressed to me, by the way. In talking about this business of how much others are contributing, I want to tell the gentleman about a resolution that is pending at the United Nations right now, introduced by the Russians and some of the Soviet bloc countries, that calls on the United Nations through the UNDP, and all of the members of the U.N., to rebuild Vietnam. Now, talk about how much these other countries are contributing, Russia is the prime sponsor of that resolution that is pending. Last year, Russia contributel $4.2 million to the UNDP and the United States contributed $100 million to UNDP. So in effect what they are saying is, "Go ahead and rebuild Vietnam, but with U.S. money."

If we analyze this particular situation with regard to Vietnam—and there are those who say we ought to rebuild Vietnam—we had an amendment to prohibit reparations to Vietnam, and 33 Members even voted against that amendment.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, it seems to me that we certainly do not want to provide foreign aid to countries that oppress their citizens by denying their civil rights and human rights, and if we feel that way and we mean it, we should put it in this legislation—or some other appropriate legislative measure.

On the other hand, if we are going to repose this kind of responsibility in the executive to carry out a national policy in that respect, then the responsibility should be reposed there and the President and his administration should be held accountable.

But it seems to me to be a distortion of our legislative process to omit language from a piece of legislation and then try to remedy it through a letter or some other type of informal arrangement. We either ought to preserve the legislative process in the way it has been traditionally practiced and consistent with our tripartite system of government, or we should acknowledge that we are abandoning it, but not pretend that we are legislating and then adopt this kind of hybrid system in which we set forth our intent through legislation and then purport to modify it through a letter to a Member of the House of Representatives.

Mr. BAUMAN. Mr. Speaker, I would say to the gentleman from Illinois that I concur with his concern about the lack of adherence to traditional parliamentary procedure that is inherent when attempts are made to raise a Presidential letter to the level of statutory law. Perhaps there are those who consider the Congress of the United States to be no better than the Georgia Legislature, and letters were enough to carry the day there. I do not think it is quite the same in the Congress of the United States.

Mr. LONG of Maryland. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Speaker pro tempore being in doubt, the House divided, and there were ayes 35, noes 45.

Mr. LONG of Maryland. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 188, nays 219, answered "present" 1, not voting 26, as follows:

[Roll No. 666]

YEAS—188

Addabbo	Flood	Nix
Akaka	Florio	Nolan
Alexander	Ford, Mich.	Nowak
Ammerman	Ford, Tenn.	Oberstar
Annunzio	Fraser	Obey
Ashley	Gaydos	Ottinger
Aspin	Gephardt	Panetta
AuCoin	Giaimo	Patten
Badillo	Gore	Patterson
Baldus	Hamilton	Pattison
Baucus	Hanley	Pease
Beard, R.I.	Hannaford	Perkins
Bedell	Harkin	Pickle
Bellenson	Harrington	Preyer
Benjamin	Harris	Price
Bingham	Hawkins	Rahall
Blanchard	Heftel	Rangel
Blouin	Hightower	Reuss
Boggs	Holtzman	Richmond
Boland	Howard	Rodino
Bolling	Hughes	Roe
Bonior	Johnson, Calif.	Roncalio
Bonker	Jordan	Rooney
Brademas	Kastenmeier	Rosenthal
Breckinridge	Keys	Rostenkowski
Brodhead	Kildee	Roybal
Brooks	Kostmayer	Ryan
Brown, Calif.	Krebs	Santini
Buchanan	Krueger	Scheuer
Burke, Calif.	LaFalce	Schroeder
Burke, Mass.	Lederer	Seiberling
Burlison, Mo.	Leggett	Sharp
Burton, John	Lloyd, Calif.	Simon
Burton, Phillip	Long, La.	Siack
Carney	Long, Md.	Smith, Iowa
Carr	Lundine	Solarz
Cavanaugh	McCloskey	Spellman
Chisholm	McCormack	St Germain
Clay	McFall	Stark
Collins, Ill.	McHugh	Steed
Conte	McKay	Steers
Corman	Maguire	Stokes
Cornell	Mahon	Studds
Cornwell	Markey	Thompson
Cotter	Marks	Thornton
Danielson	Mattox	Tsongas
Delaney	Mazzoli	Tucker
Dellums	Meeds	Udall
Dicks	Meyner	Ullman
Diggs	Mikva	Van Deerlin
Downey	Milford	Vanik
Drinan	Miller, Calif.	Vento
Duncan, Oreg.	Mineta	Walgren
Eckhardt	Mitchell, Md.	Waxman
Edgar	Moakley	Weaver
Edwards, Calif.	Moffett	Weiss
Eilberg	Mollohan	Wilson, Tex.
Evans, Colo.	Moorhead, Pa.	Wirth
Fary	Murphy, Ill.	Wright
Fascell	Murtha	Yates
Fenwick	Myers, Michael	Young, Tex.
Findley	Natcher	Zablocki
Fisher	Nedzi	

NAYS—219

Abdnor	Frey	Murphy, Pa.
Allen	Fuqua	Myers, Gary
Ambro	Gammage	Myers, John
Anderson, Calif.	Gibbons	Neal
Anderson, Ill.	Gilman	Nichols
Andrews, N. Dak.	Ginn	O'Brien
Applegate	Glickman	Pettis
Archer	Goldwater	Pike
Armstrong	Goodling	Poage
Ashbrook	Gradison	Pressler
Badham	Grassley	Pritchard
Bafalis	Gudger	Pursell
Barnard	Guyer	Quayle
Bauman	Hall	Quie
Bennett	Hammer-schmidt	Quillen
Bevill	Hansen	Railsback
Bowen	Harsha	Regula
Breaux	Heckler	Rinaldo
Brinkley	Hefner	Risenhoover
Broomfield	Hillis	Roberts
Brown, Mich.	Holland	Robinson
Brown, Ohio	Hollenbeck	Rogers
Broyhill	Holt	Rose
Burgener	Hubbard	Rousselot
Burke, Fla.	Hyde	Rudd
Burleson, Tex.	Ichord	Runnels
Butler	Ire'and	Ruppe
Byron	Jacobs	Russo
Caputo	Jeffords	Sarasin
Carter	Jenkins	Satterfield
Cederberg	Jenrette	Sawyer
Clausen, Don H.	Johnson, Colo.	Schulze
Clawson, Del	Jones, N.C.	Shipley
Cleveland	Jones, Okla.	Shuster
Cochran	Jones, Tenn.	Sikes
Cohen	Kasten	Sisk
Coleman	Kazen	Skelton
Collins, Tex.	Kelly	Skubitz
Conable	Kemp	Smith, Nebr.
Corcoran	Ketchum	Snyder
Coughlin	Kindness	Spence
Crane	Lagomarsino	Staggers
Cunningham	Latta	Stangeland
D'Amours	Leach	Stanton
Daniel, Dan	Lent	Steiger
Daniel, R. W.	Levitas	Stockman
Davis	Livingston	Stratton
de la Garza	Lloyd, Tenn.	Stump
Derwinski	Lott	Symms
Devine	Lujan	Taylor
Dickinson	Luken	Thone
Dingell	McClory	Traxler
Dornan	McDade	Treen
Duncan, Tenn.	McEwen	Trible
Early	McKinney	Volkmer
Edwards, Ala.	Madigan	Waggonner
Edwards, Okla.	Mann	Walker
Emery	Marlenee	Walsh
English	Marriott	Wampler
Erlenborn	Martin	Watkins
Ertel	Mathis	White
Evans, Del.	Michel	Whitehurst
Evans, Ga.	Mikulski	Whitley
Evans, Ind.	Miller, Ohio	Whitten
Fish	Minish	Wiggins
Fithian	Mitchell, N.Y.	Wilson, C. H.
Flippo	Montgomery	Winn
Flowers	Moore	Wydler
Flynt	Moorhead, Calif.	Wylie
Forsythe	Moss	Yatron
Fowler	Mottl	Young, Alaska
Frenzel	Murphy, N.Y.	Young, Fla.
		Young, Mo.
		Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—26

Andrews, N.C.	Fountain	Pepper
Beard, Tenn.	Hagedorn	Rhodes
Biaggi	Horton	Sebelius
Chappell	Huckaby	Teague
Conyers	Koch	Vander Jagt
Dent	Le Fante	Whalen
Derrick	Lehman	Wilson, Bob
Dodd	Metcalfe	Wolff
Foley	Oakar	

The Clerk announced the following pairs:

On this vote:

Mr. Biaggi for, with Mr. Derrick against.

Mr. LeFante for, with Mr. Huckaby against.

Ms. Oakar for, with Mr. Teague against.

Mr. Pepper for, with Mr. Fountain against.

Mr. Wolff for, with Mr. Sebelius against.

Mr. Lehman for, with Mr. Bob Wilson against.

Mr. Whalen for, with Mr. Hagedorn against.

Mr. Metcalfe for, with Mr. Beard of Tennessee against.

Until further notice:

Mr. Dent with Mr. Conyers.

Mr. Dodd with Mr. Vander Jagt.

Mr. Foley with Mr. Andrews of North Carolina.

Mr. SISK changed his vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HAGEDORN. Mr. Speaker, on rollcall No. 666 I was unavoidably detained in my office. Had I been present, I would have voted "no."

MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the House insist on its disagreement to the amendment of the Senate No. 47.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. YOUNG) for 1 hour.

Mr. YOUNG of Florida. Mr. Speaker, the House has just voted against receding, so obviously the House wants to insist. Therefore, I offer a motion that we insist, which is exactly what the House has just voted on.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. YOUNG).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 17, line 8, insert:

SEC. 116. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 54: Page 19, line 11, strike "expended," and insert: "expended: *Provided*, That no such payment may be made while the United States Director to the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 57: Page 20, line 10, strike out: "expended" and insert: "expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position of level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 21, line 3, strike out: "expended." and insert: "expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank in a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 21, line 18, strike out: "$40,000,000" and insert: "$42,000,000,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert the following: "$38,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 64: Page 22, line 7, strike out: "expended" and insert: "expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment numbered 66: Page 23, line 1 insert:

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Senate that the United States' share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 10.6 percent;
Inter-American Development Bank:
Paid-in ordinary capital, 34.5 percent;
Callable ordinary capital, 34.5 percent;
Paid-in interregional capital, 34.5 percent;
Callable interregional capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 18.7 percent;
Callable capital, 18.7 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 74: Page 27, line 24, strike out:

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not more than $16,600,000 shall be used for military assistance, not more than $1,700,000 shall be used for foreign military credit sales, and not more than $600,000 shall be used for international military education and training to the Government of the Philippines.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines."

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Maryland (Mr. LONG) will be agreed to.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Maryland (Mr. LONG) seek recognition?

Mr. LONG of Maryland. Mr. Speaker, I do not, at this time.

The SPEAKER pro tempore. Does the gentleman from Florida (Mr. YOUNG) desire to be recognized

Mr. YOUNG of Florida. Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, during the second conference committee meeting, in an attempt to resolve the differences that we found ourselves faced with, I offered a solution to the conference committee. That solution was that I would be willing to withdraw from my position on the restrictive language relative to aid to Vietnam, Cambodia and Laos, and to the language including Mozambique and Cuba and a number of other countries, if the conference committee would also be willing to withdraw from the restrictions on Argentina, the Philippines, Brazil, Guatemala, El Salvador and a few other countries.

I thought if the arguments that the President's hands should not be tied, if those arguments were valid, then we should remove all the restrictions and have no restrictions mentioned in the bill whatsoever; but if we were going to have restrictions, we certainly ought to include them against the countries of Vietnam, Cambodia, Laos, and Uganda.

The case we are talking about at the moment is the Philippines. Does anybody question our friendship with the Philippines? Does anybody question the strength of the Philippines as an ally of the United States? Does anybody question the need to the security of this Nation to have the bases we have in the Philippines now? I do not think very many would question that. I do not think the American people do.

What we did in the conference and what we included in the House bill does not amount to a lot of money, but it is a symbolic slap in the face at an old friend, the Philippines. Now, their historic and unique ties with the United States, as well as their important military and strategic location, is well known. Any potential enemy we might have in that part of the world would love for us to give up our relationship with the Philippines.

Mr. Speaker, I will conclude my argument on this issue. I have made the argument so many times in the subcommittee and in the full committee and on the floor that I feel I am repeating myself, and I know I am; but this is a message that bears repeating. How in the world are we going to be able to keep what few friends we have left in the world if every one of them wonders, "When am I next? When does the U.S. Congress or the U.S. Government take me on next? When do they cut my assistance?"

I say that we are traveling dangerous waters. We ought to be realistically looking at the world. We ought to be improving present relationships and creating new relationships. We certainly should not be taking a symbolic slap at the face of our friends.

Mr. Speaker, I reserve the balance of my time.

Mr. LONG of Maryland. Mr. Speaker, I yield 7 minutes to the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, if we review this conference report, it is an increase of $1.5 million over what we voted in this House for military assistance to the Philippines. If we look at page 27 of the bill, when we voted on this bill we voted $16,600,000 for military assistance. This is an increase in the conference report to $18,100,000. So, what this conference report represents is a compromise between the position of this House and the position of the Senate.

Let me give the Members another clarification of where we are on this particular appropriation. This is more than the appropriation last year for the Philippines. The question becomes, How much of an increase should we give in military aid to the Philippines? The request by the administration was originally for an increase of some $2.6 million. However, the committee held extensive hearings and listened to many charges by people who were being detained in the Philippines.

The Philippines has been a recipient of our military aid since 1947. Since the imposition of martial law by President Ferdinand Marcos, however, U.S. military aid has escalated from $80.8 million in the 4-year period preceding martial law—fiscal years 1969–72—to $166.4 million in the 4-year period following its declaration—fiscal years 1973–76. This represents a 106-percent increase.

The Carter administration, although supporting the policy of phaseout in regards to the military assistance program, has requested that the Philippines receive a $2.6 million increase for fiscal year 1978. This is the only country in the world where military assistance program requests have increased.

The justification for this increased aid is, supposedly, demonstration of continued U.S. support in the defense of the Philippines. But even the Pentagon admits that the Philippines is not subject to any viable external threat. It seems that the defense envisioned is, rather, defense of the Marcos regime.

Military assistance program funds given to the Philippines have been questioned by the Government Accounting Office in regards to support for police-related units which may be in violation of legislation prohibiting U.S. assistance to foreign police forces and prisons.

The questionable practices of police support included support through common-use facilities, rotation of MAP-trained personnel, lack of clear identification of units which have dual military-police functions, and support to law enforcement units while under martial law. MAP-trained units, in effect, have often become law enforcement agencies as the delineation between the two faded. It is noteworthy that out of 85 alleged torturers identified by Amnesty International 42 were officers ranking from lieutenant to brigadier general.

The GAO study found military forces in the Philippines were given responsibility for maintaining internal security against "subversives." The training for these forces was often received through the international military education and training program. Between 1970 and 1975, 34 Filipino officers were trained in such courses as intelligence, criminal investigating, and military police functions at the U.S. Military Police School.

The continued training of armed forces personnel operating under conditions of martial law is disconcerting to the Filipino people, who are increasingly becoming the objects of the torture by these officers.

The instances of torture have increased so rapidly that even the World Bank threatened postponement of a $15 million resettlement loan to the Philippines at the suggestion of Canadian Director Earl Drake. Drake was concerned with the arrest on April 25 of Trinidad Herrera, a Manila slum leader. Ms. Herrera had been detained by authorities after having expressed some concern about aspects of the World Bank project in Manila's Tondo slum district. She was ordered freed only after reports of U.S. interest in her arrest and possible torture became apparent.

The State Department estimates that political prisoners in the Philippines range in number from 500 to 6,000. Amnesty International investigated the Philippines in late 1975 and "found unavoidable the conclusion that torture was used frequently and with extreme cruelty often over long periods."

Ms. Herrera, the 35-year-old spokesman for an estimated million persons living in Manila's slums does not, therefore, represent a rare case. The State Department, Amnesty International, and Friends of the Filipino People have found that torture of political prisoners is common.

The most distressing aspect of this practice is our support of it through the military assistance program and the international military and education training program. Among the several high-ranking officials who have been involved in the torture of political prisoners is Col. Greg R. Perez, a director of the National Intelligence and Security Authority—NISA. Colonel Perez has undergone training in the Johns Hopkins School for Strategic Studies which is known for its having produced CIA agents. In addition, Colonel Perez frequents military and civilian intelligence units such as those supervised by the 5th Military Intelligence Group, 5th Constabulary Security Unit, and the NISA/Civil Intelligence and Security Agency—CISA. He conducts interrogations and dictates the type and duration of torture.

The cuts in military aid to the Philippines are small when compared to the $36.9 million left. But they are, I believe, a sign to the Filipino people—a signal of disapproval by this country of the martial law tactics of Ferdinand Marcos. They in no way impair our alliance with the nation he leads.

There is just one additional thing that I think must be clarified. I think all of us know that when the State Department is concerned with the level of aid, we hear from them. When they are concerned about whether or not negotiations on military bases are in jeopardy, we hear from them. I know that Members have not heard from them because they have said that the military bases allocations will be voted on totally separately; that there is nothing that is involved in this allocation that will affect the negotiations. The State Department has said that they are perfectly willing to live with this. It is reasonable; it sends out the word, but at the same time penalizes no one. I ask the Members to sustain the conference committee report, which is a compromise between what this House voted and what the Senate voted in terms of military assistance and military training for the Philippines.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr Speaker, I do not want to get into the issue of whether or not the Philippines are a good friend or not, or whether we approve of their human rights position or not. I simply want to make sure that the House understands exactly what is in this bill right now. I simply want to read the six figures when this bill passed, and which have already been mentioned by the gentlewoman from California, but which bear repeating.

When this bill passed the House, we had for military assistance $17.6 million for the Philippines. In this bill now, it is $18.1 million. We are up from the amount originally approved by the House.

In credit sales, the House had $1,700,000. In this bill, we are now at $1,850,000. For training we were, when the bill left the House originally, at $600,000. We are now at $700,000. In other words, we are above the level which the House approved originally. So, anyone who feels that we are treating the Philippines unfairly ought to understand that we are giving them a better deal now than we gave them in the original bill which left the House.

In addition to that, the administration indicated they could live with the figures which the House provided in the bill when it passed the bill originally. And we are substantially above the amount which the administration said they could live with. I do not think the House ought to give in to a case of special pleading here. I think what we ought to do is to accept the judgment of the committee, which accepted the judgment of the administration and then added a little bit more as a safety factor.

The Philippines have been dealt with very well in this amendment. And again I repeat that it is the only real consideration at this time. We are above the amount that the House originally provided for the Philippines. And if the Members think we ought to be providing aid to the Philippines, what is wrong with that?

Mr. LONG of Maryland. Mr. Speaker, I certainly want to support the statements of the gentlewoman from California and the gentleman from Wisconsin. In no way is this a cave-in by the House, except to give more money to the Philippines than we originally did. I think the whole position here has been misconstrued as though somehow we came out of that conference hurting the Philippines. We came out of the conference giving the Philippines more money than the House originally voted a couple of months ago.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Texas.

Mr. MAHON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Maryland (Mr. LONG), the chairman of the subcommittee, is eminently correct. By all means, the House position ought to be sustained.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement of the gentleman from Maryland that this is more money than the House passed, but the House reduces the administration's request for aid to the Philippines. Everybody paid close attention today to the position of the President and

the White House on the overall foreign aid and the conference report, so the Members might want to know what the administration position is on this amendment No. 74. The executive branch favors the Senate amendment. The Senate amendment is not a symbolic slap at the Philippines. I conceded and acknowledged in my opening remarks that it is not a lot of money. I agree with that. It is not a lot of money, but it is symbolic. It is a slap at an old friend.

Mrs. BURKE of California. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentlewoman from California.

Mrs. BURKE of California. I thank the gentleman for yielding.

Mr. Speaker, will the gentleman concede that this is more than the House passed when it voted on the bill?

Mr. YOUNG of Florida. I just said that. But I also said it is less than the Senate. And the Senate did not make a symbolic slap at the Philippines. Again I concede it is not a lot of money. We are not talking about a lot of money. But it is symbolic. The gentlewoman from California urged us to send out a message. In her words, I think she said we should send out the word. I agree that we ought to send out the word all over the world that we are not going to be financing anybody who flagrantly violates human rights anywhere in the world. But why start with a friend? Why do we not send out the word to Uganda, where the leader of Uganda admits that he eats his opponents? Why not send out the word that we will start with Uganda?

PREFERENTIAL MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I object to the motion.

Mr. BAUMAN. Regular order, Mr. Speaker.

Mr. YOUNG of Florida. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. YOUNG of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 160, nays 254, not voting 20, as follows:

[Roll No. 667]

YEAS—160

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashley
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Blanchard
Bowen
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Crane
Cunningham
Daniel, R. W.
Davis
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Evans, Del.
Findley
Fish
Flynt
Forsythe
Fountain
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goodling
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hillis
Holland
Holt
Hubbard
Hyde
Ireland
Jeffords
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Leggett
Lent
Levitas
Livingston
Lloyd, Tenn.
Lott
Lujan
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Marks
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Myers, Gary
Myers, John
Myers, Michael
Nichols
O'Brien
Pettis
Pritchard
Pursell
Quayle
Quillen
Regula
Robinson
Rogers
Rousselot
Rudd
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Spence
Staggers
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Treen
Trible
Waggonner
Walsh
Wampler
White
Whitehurst
Wiggins
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—254

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bingham
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Broyhill
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
Cotter
D'Amours
Daniel, Dan
Danielson
de la Garza
Delaney
Dellums
Dent
Dicks
Diggs
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Frenzel
Gammage
Gaydos
Gephardt
Glickman
Gonzalez
Gore
Gradison
Grassley
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holtzman
Horton
Howard
Hughes
Ichord
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Lederer
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McClory
McCormack
McFall
McHugh
McKay
Maguire
Mahon
Markey
Marlenee
Mathis
Mattox
Mazzoli
Meeds
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Skelton
Slack
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Stark
Steed
Steers
Stokes
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Mo.

NOT VOTING—20

Ashbrook
Biaggi
Bolling
Derrick
Dodd
Evans, Ga.
Goldwater
Hollenbeck
Huckaby
Koch
Le Fante
Metcalfe
Oakar
Pepper
Rhodes
Teague
Vander Jagt
Whalen
Wilson, Bob
Wolff

Mr. SCHEUER changed his vote from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection the previous question is ordered on the motion offered by the gentleman from Maryland (Mr. LONG).

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 80: Page 29, line 2, insert:

"SEC. 507. It is the sense of the Congress that, where other means have proven ineffective in promoting international human rights, and except where the President determines that the cause of international human rights is served more effectively by actions other than voting against such assistance or where the assistance is directed to programs that serve the basic needs of the impoverished majority of the country in question, United States representatives to the International Bank for Reconstruction and Development, the International Development Association, the African Development Fund, the Asian Development Bank, and the Inter-American Development Bank should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental Human Rights."

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I would just like to have this amendment to section 507 clarified. This is the language that originally had surfaced on the authorization bill from the Senate. That was defeated here in the House by a substantial vote. It went back to conference. That language was removed, and that language does not now appear in the authorization bill. What I would just like to have clarified is, is my opinion correct that the authorization language is really the controlling language in the appropriations bill and not this technical language here? Is that the judgment of the chairman of the committee?

Mr. LONG of Maryland. Mr. Speaker, in response to the gentleman's statement, I would like to assure him the provision contained in this amendment is simply a sense of the Congress provision on human rights and in no way is it intended to overturn or preclude the provision contained in the International Financial Institutions Authorization Act, Public Law 95–118, dealing with the same subject. As I indicated previously, this is a sense of the Congress provision and could not overrule the provision contained in the authorization bill because it does not have the force of law. Also, it was not the intention of the House conferees in any way whatsoever to circumvent the effect of the gentleman's authorization provision.

Mr. HARKIN. I thank the Chairman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 81: Page 29, line 17 strike lines 17 through 22.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 29, line 23, insert:

"SEC. 508. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83; Page 30, line 6 insert:

SEC. 509. It is the sense of the Senate that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage, the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 31, line 1, insert:

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

SEC. 601. For expenses necessary to carry out the provisions of section 495D of the Foreign Assistance Act of 1961, as amended, $13,000,000 for the fiscal year 1977 for Romanian relief and rehabilitation assistance, to remain available until expended.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and also on the amendments in disagreement.

Mr. Speaker, I also ask unanimous consent that I may include certain extraneous matter and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9346, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–714), on the resolution (H. Res. 839) providing for the consideration of H.R. 9346, to amend the Social Security Act and the Internal Revenue

Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader if this concludes the business for the day and, if so, what the adjustment in the program will be for tomorrow.

Mr. WRIGHT. Mr. Speaker, will the distinguished gentleman from Illinois yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield.

Mr. WRIGHT. Mr. Speaker, the hour of 5:30 having arrived, it will be the purpose of the leadership to schedule no further legislative business for today.

It will be our intent to ask unanimous consent, immediately following this colloquy, that when we adjourn today, we adjourn until 10 o'clock tomorrow morning. The plan is to come in at 10 o'clock tomorrow morning, take up the cargo preference bill. Following that, we will go to the supplemental appropriations bill.

Thereafter, we will try to do as much as we can on the social security adjustment bill.

Mr. MICHEL. Mr. Speaker, the distinguished majority leader made mention that after the rule on cargo preference, we would go to the supplemental appropriations bill. Do I assume that the majority leader is indicating there is a chance of defeating that rule and, therefore, to put that matter to rest?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, the majority leader had no such thought in mind in speculating over a rule. I would assume the rule would be adopted.

Mr. MICHEL. Mr. Speaker, if it is, we would go to the remainder of the legislation?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, we would debate the remainder of the legislation. It is a 2-hour rule.

Mr. MICHEL. Mr. Speaker, is it my understanding we would be prepared to go to about 8 o'clock tomorrow evening?

Mr. WRIGHT. Mr. Speaker, the gentleman is correct. The plan of the leadership would be to continue through Wednesday until approximately 8 o'clock. This would facilitate the week's business. Depending on how far we go tomorrow by 8 o'clock on the social security adjustment bill, we would have relatively less to complete on Thursday. We should be able to complete the social security bill on Thursday and whatever else is on the schedule, so we can conclude the week's work.

Mr. MICHEL. Mr. Speaker, if the Dodgers win tonight, would that make any difference?

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I would like to inquire of the leadership if they can give the House any possibility of a vote on any conference bill, particularly the one with respect to the minimum wage. Can the gentleman tell us when that matter might be ready for action by the House?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, I do not have any information with respect to the bill and the intention to bring up the conference report.

Mr. PICKLE. Mr. Speaker, if the gentleman will yield further, I assume it will not be tomorrow.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, the gentleman is probably correct. I know of no plan to bring that conference report to the House tomorrow; but as has already been said when the program is announced, conference reports may be brought up at any time.

Mr. PICKLE. So far as the gentleman knows, it is not?

Mr. WRIGHT. I know of no plan to bring it up tomorrow. There has been, so far as I know, no requests to schedule it.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Along this same line, as I understand it, tomorrow evening, regardless of the hour and so far as it is reasonable, supposing that at 6 o'clock we complete the supplemental appropriation bill, would we nevertheless go to the social security bill at that time? Is it the intention of the leadership to give that flexibility?

Mr. WRIGHT. If the gentleman will yield, let us leave the flexibility to fit the circumstances. It is the present plan to go to social security tomorrow evening. It is conceivable that we might be late concluding the supplemental appropriation bill and we will not be able to reach that other matter. But, I hope we will be able to reach it.

Mr. JOHN T. MYERS. I thank the gentleman.

HOUR OF MEETING TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow, Wednesday, October 19, 1977.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Texas?

There was no objection.

DANVILLE, VA., REGISTER GOES "OFFSET" WITH NEW PRESS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, in 1848 gold was discovered at Sutter's Mill; chewing gum was first sold commercially; a primitive form of "air-conditioning" was installed in a New York theater; three colleges and universities presently in existence were founded; as was the American Association for the Advancement of Science; and the Associated Press was established.

All in all, while it is not a year recognized immediately, it was not without its accomplishments.

And in my hometown, Danville, Va., it was notable for another reason. For in that year, the Danville Register was established to provide, as its masthead states, a public service to the people of the area. This it did and has done, for these past 129 years.

Earlier this month, the Register Publishing Co., parent company of the Danville Register and the Bee, an evening paper, installed one of the most modern offset presses in the State of Virginia. This was reported with justifiable pride by Nelson Benyunes, editor of the Bee.

I respectfully request, that Mr. Benyunes' article, which reports this milestone in better style than I might do, be reprinted in the RECORD at this point. The article follows:

REGISTER GOES "OFFSET" WITH NEW PRESS

(By Nelson Benyunes)

The Register Publishing Co. today begins publication of The Danville Register and The Bee and allied publications on a new Goss Urbanite offset press.

The nine-unit press, one of the most modern and the largest of its kind in Virginia, is capable of producing a 72-page newspaper or a 144-page tabloid.

In addition, the press, housed at new facilities on Monument Street, has full-color publishing capabilities.

"We're extremely proud of this new press which will provide our readers with a superior newspaper product," said E. Stuart James Grant, president of The Register Publishing Co. "This investment is consistent with our policy of keeping our publications abreast of the latest in newspaper technology."

Even now, Mr. Grant continued, innovations are being considered to make the new press more flexible and to enhance further the quality of the newspapers.

"This press will greatly improve the production and delivery of The Danville Register and The Bee," said R. James Grant, executive vice president and general manager of The Register Publishing Co.

Grant said the offset press is capable of printing full-size papers at a rate of up to 45,000 per hour, including full color editions.

"It's a 30-year dream come true," said C. Leon Townsend, superintendent of printing and platemaking at the new plant on Monument Street. "The quality of reproduction is far superior to our old letterpress unit, especially in the areas of photographic reproduction."

The new press, purchased earlier this year from the MGD Graphics Division of Rockwell International and installed under the supervision of Tony Stoffel, is located in a new 8,400 square-foot building constructed by P. L. Anderson and Son, said Mr. Grant.

The new plant is adjacent to The Register Publishing Co.'s existing newsprint storage facilities, he added, and has sufficient parking facilities for the circulation department's delivery fleet and press employes.

Mr. Grant said that circulation and distribution of the daily newspapers from the new plant will alleviate traffic problems heretofore encountered at the Rorer A. James Building at the corner of S. Union and Patton Streets.

The business offices of the Register Publishing Co. as well as the news, advertising and composition departments will continue to operate from the James Building.

A TRIBUTE TO EARLE C. CLEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, former Congressman, Governor, and Senator Earle C. Clements will be celebrating his 81st birthday tomorrow, and I want to take this opportunity to say a few words about this remarkable man.

He has served with distinction in more public offices than any man I know of. He began his career as the sheriff of Union County, Ky., and then was elected county clerk and county judge. He became a State senator, State senate majority leader, a member of our own body, Governor of the State of Kentucky, and then a U.S. Senator from Kentucky.

He was a close friend and adviser to Presidents Harry S. Truman and Lyndon B. Johnson. Several Members of this body, and I am proud to be among their number, call upon him often for his counsel. His keen mind is finely tempered by decades of weighty decisions in some of the highest offices in our land.

He is a lover of horses and is considered an expert on horses.

He loves young people, and thousands of Job Corps graduates around the country can be grateful to him for his unremitting fight to preserve and protect the Job Corps program.

His own very beautiful daughter, Mrs. Bess Abel, is continuing his tradition of public service by occupying an important post in Vice President MONDALE's office.

I know my colleagues will join me in saying happy birthday to Earle Clements. You have our lasting affection, respect, and friendship.

NO CARGO PREFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, the fundamental issue is whether or not this country should adopt a policy of cargo preference as a means of strengthening our maritime industry. I believe this issue needs further study because, as the President's economic policy group memorandum states, cargo preference will not solve the longrun problems of the industry. Even with cargo preference the industry will soon be back seeking additional Federal assistance. For this reason I support the EPG suggestion of an indepth study of the maritime industry.

A reading of the various administration memorandums makes clear that the essential issue to the industry is whether or not we now set the precedent for cargo preference, no matter how limited by amount or commodity. I do not believe we should take this important step in the face of the general objection that this step will not solve the longrun problems of the industry and in the face of the many specific objections that have been raised.

The national security arguments in favor of cargo preference are false. The EPG memorandum states that—

> Defense believes that the essential national security problem is access to, not carriage of, oil, and does not support H.R. 1037 on national security grounds.

With respect to the adequacy of the U.S. merchant fleet for national security purposes, the Department of Defense has repeatedly indicated that we need not tankers, but break bulk ships, roll-on roll-off ships, LASH ships, and self-sustaining container ships.

In addition the EPG memorandum states:

> State believes that, on balance, oil cargo preference would not be beneficial to national security. U.S. cargo preference, if emulated by others, would reduce U.S. flexibility in future supply disruptions should U.S.-flag tankers be banned from suppliers' ports.

The net impact on the economy as a whole would be a decrease in total employment and GNP. This was the finding of both the President's Council of Economic Advisers and the General Accounting Office. The GAO reported specifically that—

> Purchasing power, which previously was spent on a range of goods and services, would under cargo preference be spent on the transport differential. Thus, the gross national product and the employment engaged in the production of these other goods and services would both decline. . . . Cargo preference will cause a net loss in employment.

If the President's energy program takes hold and we are importing 6 million barrels a day in 1985, by then only 2,100 seagoing jobs will have been created and no shipyard jobs, at a cost per seagoing job of $110,000, excluding the price increase of domestic oil. The GAO report predicts that, following the price increase of imported oil due to cargo preference costs, the price of domestic oil will be allowed to rise as well or a wellhead tax will be imposed to equalize prices. In either case Americans will be paying more. As the American Farm Bureau Federation points out, this includes the the farmer, who will have to pass the additional cost on to the consumer.

Including the expected price increase of domestic oil, the cost to the consumer has been estimated by the GAO to be $610 million a year by 1985. Furthermore New England consumers will bear the brunt of this cost increase, as New England uses much of the imported oil. As Deputy Assistant Secretary of the Treasury Gary Hufbauer wrote in a March 8, 1977 memorandum:

> The cost of building the tankers and paying the crew will fall on U.S. consumers and will mean a sharp increase for oil, particularly in the New England states, which are the big importers.

If the aim is to subsidize seagoing jobs, it would certainly be cheaper to do so by expanding the current operating subsidy program. If the aim is to expand our merchant marine fleet, it would certainly be cheaper to purchase foreign-flag ships, which are currently glutting the market, at a fraction of their value, transfer them to U.S. registry, and reconstruct them here to meet U.S. safety and antipollution standards. Reconstruction will provide jobs. An increased operating subsidy program that extends to U.S. reconstructed, foreign-flag ships, as outlined in option 2 of the EPG memorandum, would generate 5,000 additional seagoing jobs as well as the reconstruction jobs at a total annual cost of $100 million, or $20,000 per seagoing job.

On a related matter I would like to point out that improved environmental protection will not be achieved through this bill, under which no new tankers will be built until 1985. Rather the best way is through enforcement of the current U.S. Coast Guard regulations concerning new construction, safety, and equipment standards for all oil tankers entering U.S. waters.

In summary, Mr. Speaker, I oppose cargo preference and urge further study of other means better able to strengthen our marine industry.

CONGRESSMAN ENGLISH INTRODUCES LEGISLATION TO CREATE A CABINET-LEVEL DEPARTMENT OF EDUCATION

The SPEAKER per tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, I am today introducing H.R. 9618, to create a separate Cabinet-level Department of Education. This measure continues the legislative effort I began in the 94th Congress to provide a central authority to supervise our Nation's commitment to educational excellence.

Today, Mr. Speaker, there are 40 different agencies in Washington which are involved in education in one way or another—yet we do not have any central agency with the primary responsibility of overseeing the effectiveness of these many programs.

In fact, the U.S. Office of Education has too often been buried beneath the redtape at its overgrown parent agency, the Department of Health, Education, and Welfare. As other social programs have expanded, the importance of HEW's

Office of Education has been diminished, and our schools have often paid the price for this neglect.

As a member of the Government Operations Committee, I have been disturbed by the continuing revelations of fraud and abuse within HEW—abuses which have rarely taken place in educational programs. These difficulties emphasize the need to make this huge agency more manageable, and to end the burden which waste in other areas is placing on legitimate educational programs.

The bill I am introducing today would reaffirm the commitment which the founding fathers made to providing this Nation's children with the best possible preparation for life in our free society. I do not believe that we can afford to settle for less than the best, and I urge my colleagues to join me in working for the swiftest possible passage of legislation to set up an independent, Cabinet-level Department of Education.

LEGISLATION TO SUSPEND DUTY ON IMPORTED NITROCELLULOSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, I am today introducing legislation on behalf of myself, Mr. BROYHILL, and Mr. VANDER JAGT, to suspend until June 30, 1980, the duty imposed on nitrocellulose imported into the United States.

Nitrocellulose is the basis for a large number of fast drying, durable laquer coatings and is used for automotive refinishing, for primers, and other fast drying coatings for metal and plastics. It is also used for nonfurniture wood finishes, paper coatings, and many novelty coatings. However, one of the principal uses for nitrocellulose and one for which there is no substitute is in the manufacture of finishes for wood furniture. This is vital to the furniture manufacturers in the State of North Carolina and in the Nation.

The need to suspend the import tariff on this item has resulted from the termination of manufacture by the E. I. du Pont de Nemours & Co., Inc., one of only two domestic suppliers of nitrocellulose. Du Pont's supply will be exhausted by the end of 1977, leaving the remaining domestic manufacturer, Hercules, Inc., to make up the expected shortfall which will be at least 20 percent.

Hercules, Inc., has indicated that it is going to do everything possible to help meet the demand but acknowledges that it will take some time to expand their production. Therefore, Hercules supports the suspension of duty so that there will be as few disruptions in the marketplace as possible. There will simply not be enough nitrocellulose to meet the demand. If the shortfall has to be made up significantly through imports, the price increase caused by a 9.7-cents-per-pound duty will alter substantially the competitive stance in the marketplace for paint and coatings manufacturers. A suspension of the tariff would provide the necessary time to allow Hercules to make decisions on expanding production and permit time for other domestic manufacturers to enter the market.

I urge the Trade Subcommittee and the full House Ways and Means Committee to give this matter early consideration.

FINANCING SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 30 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I am here to address my distinguished colleagues in regard to a subject which is of great interest to virtually every American—social security.

It is true that in recent years the social security system has been paying out more in benefits than has been deposited in the funds as contributions. I am proud to say today that the Congress is about to act on legislation to reverse this deficit and to insure the financial stability of the social security trust funds.

The Committee on Ways and Means has adopted a rather traditional method of financing the social security system by increasing the tax rate and the taxable wage base. While the committee bill, H.R. 9346, assures the financial integrity of the system, I believe that it is placing too great a burden on the low- and middle-income worker. It is imperative that we put a stop to the regressivity of the social security tax, and provide tax relief at the employment level.

A proposal which I have supported for many years and was first introduced by Senator Robert F. Kennedy, is the one-third, one-third, one-third tax method—one-third from the employer, the employee, and general revenues. Such a proposal would reduce the OASDHI tax rate from 6.05 to 3.09 percent in 1979, eliminate the taxable wage base, and provide for a one-third contribution from general revenues to the trust funds.

Estimates which have been provided by the Social Security Administration show that my proposal would result in a surplus of $180 billion in the OASI, DI, and HI trust funds in 1987—which would earn close to $14 billion a year in interest—compared to a deficit of $121 billion under present law. The interest earned under my proposal would amount to close to $140 billion over a 10-year period. The universal coverage provision which was adopted by the House Committee on Ways and Means would further increase the revenues of my proposal.

The key to this proposal is the reduced tax rate. This reduction would introduce a great incentive to create jobs in this country. Under the present system an employer who wishes to expand output will find it in his interest to do this by utilizing his existing work force more intensively rather than by hiring new workers if his existing workers receive wages in excess of the payroll tax base. An increase in wage payments above the existing base entails no additional payroll tax, whereas the hiring of a new worker will force the employer to pay additional social security taxes which already are too high under present law. The reduced tax rate under my proposal would eliminate this disincentive and would actually result in the creation of about 2 million new jobs.

A reduced social security tax would mean more take-home pay for workers and would certainly make employment more attractive than welfare and food stamps. We must provide the incentive to get more people back to work—off the welfare rolls, off public service jobs, off unemployment compensation, off food stamps, and back to jobs where they are earning a living and contributing to the social security system.

The one-third, one-third, one-third proposal has been supported by leading economists in this country who have had the perception to understand the entire proposal. They realize that for every million jobs created by my proposal, the general treasury would receive $16 billion in revenues—a combination of added tax revenues and reduced welfare payments. Therefore the 2 million jobs to be created by the one-third approach would yield approximately $32 billion to the Federal Treasury.

Developed countries throughout the world have used general revenues for a portion of their social insurance programs for many years—Austria, Belgium, Canada, Finland, Great Britain, Ireland, Italy, Japan, the Netherlands, Norway, Sweden, Switzerland, West Germany, and others.

In fact, Canada has a social security tax rate of 1.8 percent on the employer and employee, each. You will note that the unemployment rate in the Canadian automobile industry was 5 percent. Compare this to the 17 percent unemployment rate out in Detroit, Mich. It is evident what the regressivity of the social security tax is doing to our economy.

It is important to note that the idea of general revenues is not a new concept to social security in the United States. The Advisory Council of 1939 recommended a tripartite approach by equal contributions by employers, employees, and the Government. There is nothing sacrosanct about the social security trust funds which prohibits the use of general revenues for social security.

I understand that President Carter's tax reform message will be sent to Congress in the very near future. Sources have indicated that the Carter plan will include approximately $22 billion in income tax relief. At this time I think it is extremely important for the Congress to provide tax relief for employers and

employees in the form of reduced social security taxes, rather than further reductions in income and corporate taxes.

Tax relief at the employment level would provide tremendous assistance to businesses in the country. It would have a domino effect on the economy creating more jobs, reviving manufacturing plants for textiles, shoes, steel, and all manufactured products increasing profits, providing more funds for capital formation, holding down utility rates, and so forth.

I realize that I am 5 years ahead of my time in supporting the general revenue approach for social security financing. However, I am confident that the time will come when Members of this House will recognize the need to reduce the tax burden on low- and middle-income workers. In the past I have had over 150 cosponsors for the one-third, one-third, one-third proposal. In the future, I know that more of my distinguished colleagues will come to recognize the far-reaching benefits of my proposal—benefits to employers and employees in all sectors of our economy.

Attached is a list of responsible Members of the House and the Senate who had the wisdom to cosponsor my one-third, one-third, one-third social security tax proposal in 1976:

LIST OF COSPONSORS

1. Congresswoman Bella S. Abzug.
2. Senator James Abourezk.
3. Congressman Glenn M. Anderson.
4. Congressman Joseph P. Addabbo.
5. Congressman Frank Annunzio.
6. Congressman Thomas L. Ashley.
7. Congressman William Barrett.
8. Congressman Herman Badillo.
9. Congressman Max Baucus.
10. Congressman David R. Bowen.
11. Congressman John Brademas.
* Congressman George E. Brown, Jr.
12. Congressman Edward P. Beard.
13. Congressman Mario Biaggi.
14. Congressman Edward G. Biester, Jr.
15. Congressman Jonathan B. Bingham.
16. Congressman James J. Blanchard.
17. Congressman Edward P. Boland.
18. Congresswoman Yvonne B. Burke.
19. Congressman John L. Burton.
20. Congressman Charles J. Carney.
21. Congresswoman Shirley Chisholm.
22. Congressman Bob Carr.
23. Congressman William Clay.
24. Congresswoman Cardiss Collins.
25. Congressman John Conyers, Jr.
26. Congressman James C. Corman.
27. Congressman Robert J. Cornell.
28. Congressman Norman E. D'Amours.
29. Congressman Dominick V. Daniels.
30. Congressman Mendel J. Davis.
31. Congressman Ronald V. Dellums.
32. Congressman Ron de Lugo.
33. Congressman John H. Dent.
34. Congressman Charles C. Diggs, Jr.
35. Congressman Thomas J. Downey.
36. Congressman Robert F. Drinan.
37. Congressman Robert Duncan.
38. Congressman Joseph D. Early.
39. Congressman Robert W. Edgar.
40. Congressman Don Edwards.
41. Congressman Jack Edwards.
42. Congressman Joshua Eilberg.
43. Congressman David W. Evans.
44. Congressman Frank E. Evans.
45. Congressman Walter E. Fauntroy.
46. Congressman Daniel J. Flood.
47. Congressman William D. Ford.
48. Congressman Donald M. Fraser.
49. Congressman Louis Frey, Jr.
50. Congressman Benjamin A. Gilman.
51. Congressman William J. Green.
52. Congressman Mark W. Hannaford.
53. Congressman Tom Harkin.
54. Congressman Michael Harrington.
55. Congressman Augustus F. Hawkins.
56. Senator Mark Hatfield.
57. Congressman Ken Hechler.
58. Senator William Hathaway.
59. Senator Vance Hartke.
60. Congressman Henry Helstoski.
61. Congressman Floyd V. Hicks.
62. Congresswoman Elizabeth Holtzman.
63. Congressman James J. Howard.
64. Congressman William L. Hungate.
65 Congressman Andrew Jacobs, Jr.
66. Congressman John W. Jenrette, Jr.
67. Congresswoman Barbara Jordan.
68. Congressman Joseph E. Karth.
69. Congresswoman Martha Keys.
70. Congressman Edward Koch.
71. Congressman John Krebs.
72. Congressman John J. LaFalce.
73. Congressman Robert L. Leggett.
74. Congressman William Lehman.
75. Congressman Norman Lent.
76. Congressman Jim Lloyd.
77. Congressman Mike McCormack.
78. Congressman Stewart B. McKinney.
79. Senator George McGovern.
80. Congressman Matthew F. McHugh.
81. Congressman Spark Matsunaga.
82. Congressman Ray J. Madden.
83. Congressman Andrew Maguire.
84. Congressman Ralph H. Metcalfe.
85. Congressman George Miller.
86. Congressman Norman Y. Mineta.
87. Congressman Parren J. Mitchell.
88. Congressman Joe Moakley.
89. Congressman Morgan F. Murphy.
90. Congressman Robert N. C. Nix.
91. Congressman Richard Nolan.
92. Congressman James G. O'Hara.
93. Congressman James Oberstar.
94. Congressman Richard L. Ottinger.
96. Congressman Edward J. Patten.
97. Congressman Claude Pepper.
98. Congressman Jerry Patterson.
99. Congressman Edward W. Pattison.
100. Congressman Joel Pritchard.
101. Congressman Carl Perkins.
102. Congressman Charles B. Rangel.
103. Congressman Frederick W. Richmond.
104. Congressman Robert A. Roe.
105. Congressman Peter W. Rodino, Jr.
106. Congressman Benjamin S. Rosenthal.
107. Congressman Don Riegle.
108. Congressman Charles Rose.
109. Congressman Ferdinand J. St Germain.
110. Congressman Ronald A. Sarasin.
111. Congressman Paul S. Sarbanes.
112. Congressman James H. Scheuer.
113. Congresswoman Patricia Schroeder.
114. Congressman John F. Seiberling.
115. Congressman Paul Simon.
116. Senator Hugh Scott.
117. Congressman Stephen J. Solarz.
118. Congresswoman Gladys N. Spellman.
119. Congressman James V. Stanton.
120. Congressman Pete Stark.
121. Congressman Louis Stokes.
122. Congressman Louis Stokes.
123. Congressman Gerry E. Studds.
124. Congressman Frank Thompson.
125. Congressman Bob Traxler.
126. Congressman Paul E. Tsongas.
127. Congressman Morris K. Udall.
128. Congressman Charles A. Vanik.
129. Congressman Joseph P. Vigorito.
130. Congressman Henry A. Waxman.
131. Congressman Timothy E. Wirth.
132. Congressman Lester L. Wolff.
133. Congressman Antonio B. Won Pat.
134. Congressman Jim Wright.
135. Congressman Gus Yatron.
136. Congressman Andrew Young.
137. Congressman Clement J. Zablocki.
138. Congressman Leo C. Zeferetti.
139. Congressman James A. Burke.
140. Congressman George E. Brown, Jr.

SENATORS

141. Senator Hathaway, S. 546.
142. Senator Hatfield, S. 546.
143. Senator McGovern, S. 546.
144. Senator Hartke, S. 2055.
145. Senator Abourezk, S. 2055.
146. Senator Scott (Pa.), S. 2055.

The attached table is submitted for the RECORD to show the savings which my proposal would yield for businesses—employers and employees—particularly in the low- and middle-income brackets:

SOCIAL SECURITY (OASDHI) CONTRIBUTIONS—1979

Earnings	Employer/employee, each		Savings to employee under Burke proposal	Savings to employer under Burke proposal	Total savings under Burke proposal
	Burke proposal	H.R. 9346			
$1,000	$39	$60.50	$21.50	$21.50	$43.00
$2,000	78	121.00	43.00	43.00	86.00
$3,000	117	181.50	65.50	64.50	129.00
$4,000	156	242.00	86.00	86.00	172.00
$5,000	195	302.50	107.50	107.50	215.00
$6,000	234	363.00	129.00	129.00	258.00
$7,000	273	423.50	150.50	150.50	301.00
$8,000	312	484.00	172.00	172.00	344.00
$9,000	351	544.50	193.50	193.50	387.00
$10,000	390	605.00	215.00	215.00	430.00
$11,000	429	665.50	236.50	236.50	473.00
$12,000	468	726.00	258.00	258.00	516.00
$13,000	507	786.50	279.50	279.50	559.00
$14,000	546	847.00	301.00	301.00	602.00
$15,000	585	907.50	322.50	322.50	645.00
$16,000	624	969.00	344.00	344.00	688.00
$17,000	663	1,028.50	365.50	365.50	731.00
$18,000	702	1,089.00	387.00	387.00	774.00
$19,000	741	1,149.50	408.50	408.50	817.00
$20,000	780	1,210.00	430.00	430.00	860.00
$21,000	819	1,270.50	451.50	451.50	903.00
$22,000	858	1,331.00	473.00	473.00	946.00
$23,000	897	1,385.45	488.45	488.45	976.90
$24,000	936	1,385.45	449.45	449.45	898.90
$25,000	975	1,385.45	410.45	410.45	820.90
$26,000	1,014	1,385.45	371.45	371.45	742.90
$27,000	1,053	1,385.45	332.45	332.45	664.90
$28,000	1,092	1,385.45	293.45	293.45	586.90
$29,000	1,131	1,385.45	254.45	254.45	508.90
$30,000	1,170	1,385.45	215.45	215.45	430.90
$35,000	1,365	1,385.45	20.45	20.45	40.90
$50,000	1,950	1,385.45	−564.55	−564.55	−1,129.10
$100,000	3,900	1,385.45	−2,514.55	−2,514.55	−5,029.10

Note: The ⅓, ⅓, ⅓ social security tax proposal will build up the trust funds to over $180 billion in approximately 10 yr. At the going rate of interest the trust funds would earn close to $140 billion in the 10-yr period, thereby eliminating any need for future increases in taxes. Such a proposal would stabilize the social security trust funds for hundreds of years into the future.

GENERAL LEAVE

Mr. BURKE of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RUSSIA WANTS THE CAPE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Russia, which is constantly seeking control of new lands and more people, looks enviously at the harbor facilities at the Cape of Good Hope at the southern tip of the African Continent. The reason is clear. The cape route, now followed by the supertankers, is considered to be the most crowded sea lane in the world. Twenty-four thousand ocean-going ships make the long trip around the tip of Africa each year. The major oil imports which travel this route are vital to all members of the Western Alliance and to the West's Asian ally, Japan.

Almost all of these imports come from the Persian Gulf. The United States Strategic Institute has estimated that by the 1980's 60 percent of American oil imports, equalling at least 40 percent of national consumption, will reach this country via the cape. Already more than 60 percent of French industry's energy demands are made by imported oil. For West Germany, the figure is over 50 percent.

Obviously, Russian control of the South African ports would place them in a position to dominate the lifeline of the west. With the conceivable exception of Mombassa in Kenya, no ports on the East African coast between the formerly French base at Djibouti and the South African harbor of Durban at present seem likely to be open to Western warships in an emergency situation. The West has imposed a political ban on the use of the harbor at the cape because of the apartheid policies of the South African Government. Apart from Diego Garcia there are no permanent naval shore facilities available to our naval vessels nearer than Australia or the Philippines. This shows how little control the Western powers can exercise over the shipping lanes of the area.

On the contrary, the Russians have a military presence in one African nation after another and the use of many important ports. We have none of consequence anywhere on the African continent. The Russians are in Iraq at the head of the Persian Gulf and Berbera in Somali and in Aden in South Yemen. This gives them a substantial hold on the northern extreme of the continent in the area known as the Horn of Africa. They are in Conakry in Guinea. There are Soviet interests in Mali, Nigeria, and Guinea-Bissau. They have important links with Tanzania and Mauritius. Angola is a classic example of Communist conquest and the use of a nation's port cities for Russia's gain. Their naval units make regular use of the anchorages near Seychelles. There are others.

It would seem that this threat of the stranglehold on an area through which the oil of the West must pass would have generated more concern by the United States and the Western World.

The cape is vulnerable because of the constant growth of the Soviet Navy and the constant increase of the number of ports in Africa which are available to Russian ships. This presents a real threat to the peace and prosperity of the world. Unfortunately, there has been no sign of realistic and coordinated Western policies designed to deter, or if need be, to overcome, this Soviet challenge to the future of the Western World.

The future could be ominous indeed. In this huge continent, the Cape of Good Hope may be the last important key to untroubled water traffic which can be kept in Western hands.

COMMITTEE RULES OF SELECT COMMITTEE ON ASSASSINATIONS

(Mr. STOKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STOKES. Mr. Speaker, I insert into the RECORD a copy of the committee rules of the Select Committee on Assassinations as adopted by the committee on March 7 and amended on September 9. As I have previously stated, I hope these rules can serve as a model for future investigative committees of the Congress.

The rules follow:

RULES OF THE SELECT COMMITTEE ON ASSASSINATIONS

(As Adopted March 7, 1977 and Amended September 9, 1977)

RULE 1. GENERAL PROVISIONS

1. The Rules of the House, and in particular the committee rules enumerated in Clause 2 of Rule XI, are the rules of the Select Committee on Assassinations, to the extent applicable, and by this reference are incorporated. Any subcommittee shall be part of the committee, and subject to the authority and direction of the committee and to its rules so far as applicable.

RULE 2. MEETINGS

2.1 The regular meeting time of the committee is 10 A.M. on the first Tuesday of each month when the House is in session. Additional meetings may be called by the Chairman as he may deem necesary or at the request of a majority of the committee in accordance with Clause 2(c) of Rule XI of the House of Representatives.

2.2 The committee and any subcommittee thereof may not sit, without special leave, while the House is reading a measure for amendment under the 5-minute rule.

2.3 In accordance with Clause 2(g) of Rule XI, each meeting of the committee or any subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting shall be closed to the public: *Provided however*, that no persons other than Members of the committee, and such congressional staff as they may authorize, shall be present at any meeting which has been closed to the public.

2.4 *Record votes.* A roll call vote of the committee may be had on the request of one Member. The result of each roll call vote shall be recorded and the record shall be made available for inspection by the public at reasonable times at the committee office. Such record shall include a description of the amendment, motion, order or other proposition; the name of each Member voting for or against, and whether by proxy or in person; and the Members present but not voting.

2.5 *Quorum.* One-third of the committee or subcommittee shall constitute a quorum for the purpose of transacting business other than reporting. However, a quorum for the purpose of taking testimony and receiving evidence by the committee or a subcommittee shall consist of two Members. *Ex officio* members of each subcommittee shall not be considered a member of the subcommittee for the purpose of determining whether a quorum is present.

2.6 *Records.* It shall be the duty of the clerk and staff director to keep or cause to be kept a verbatim transcript of all committee or subcommittee hearings; and where practicable, committee or subcommittee meetings, the practicability of which is to be decided by a roll call vote of the committee or subcommittee on the request of one Member. Whether a verbatim transcript of meetings is made or not, the clerk and staff director shall keep or cause to be kept the record of votes on any matter on which a record vote is taken and of all quorum calls together with all motions, points of order, parliamentary inquiries, rulings of the Chair and appeals therefrom. The record shall show those Members present at each meeting.

2.7 *Proxies.* A vote by any Member in the committee or in any subcommittee may be cast by proxy, but such proxy must be in writing for use during each roll call in which such Member's proxy is to be voted. Each proxy shall designate the Member who is to execute the proxy authorization and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a Member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the Member assigning his vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum. The Member does not have to appear in person to present the proxy.

RULE 3. HEARING PROCEDURES

3.1 *Participation of Members.* All other Members of the committee may have a privilege of sitting with any subcommittee during its hearing or deliberations and may participate in such hearings or deliberations, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee. *Ex officio* members of each subcommittee may vote on any matter before such subcommittee.

3.2 *Interrogation of Witnesses.* Committee Members may question witnesses only when they have been recognized by the Chair for that purpose, and only for a 5-minute period until all Members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one Member can be extended only with the unanimous consent of all Members present. The questioning of a witness in both full and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority party Member and all other Members alternating between the majority and minority. In recognizing Members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority Members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the Members of the majority. The Chairman may accomplish this by recognizing two majority Members for each minority Member recognized. The Chairman or any Member may recognize staff counsel for the purpose of questioning a witness for a period to be determined by the Chairman.

3.3. *Additional Rules.* The following additional rules shall apply to all investigative hearing procedures:

(1) The Chairman at an investigative hearing shall announce in the opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings, and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any persons, it shall—

(*a*) Receive such evidence or testimony in executive session;

(*b*) Afford such person an opportunity voluntarily to appear as a witness; and

(*c*) Receive and dispose of requests from such person to subpena additional witnesses.

(6) Except as provided in subparagraph (5), the Chairman shall receive and the committee shall dispose of requests to subpena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

3.4 Witness' counsel may submit written questions to be propounded to his or her client. Such questions will be asked by the committee if a majority of the members consent.

3.5 Any objection by witness' counsel must be specifically ruled upon by the Chairman or presiding Member and such rulings shall be the ruling of the committee, unless a disagreement thereon is expressed by a majority of the committee present. In the case of a tie, the rule of the Chair will prevail.

3.6. The Chairman of the committee or subcommittee shall offer each witness and/or counsel, at the conclusion of his or her testimony, the opportunity to explain or amplify that testimony. The time afforded each witness or counsel shall not exceed 5 minutes, unless extended for good cause by the Chairman. The committee or subcommittee may ask additional questions to the witness at the conclusion of any such explanation or amplification.

3.7 If a witness who desires counsel, but is financially or otherwise unable to secure counsel, informs the committee in writing at least 48 hours in advance of his or her inability to retain counsel, the committee will secure voluntary independent counsel for the witness. Such attempts by the committee to secure counsel will not include the payment of fees to an attorney representing a witness at a committee hearing. Failure of a witness to agree to the counsel provided will not excuse the witness from appearing and testifying.

3.8 A witness shall, upon request, be given an opportunity to inspect the preliminary transcript of his or her testimony to determine whether it was correctly transcribed and may be accompanied by his or her counsel during such inspection. A witness shall, upon request, be notified by the clerk when the transcription of his or her testimony is complete. If the testimony was given in executive session, the witness may only inspect the preliminary transcript at a location to be determined by the committee. Any corrections in the transcription of the testimony of the witness which the witness desires to make shall be submitted in writing to the committee within 5 days after the transcription of his or her testimony. However, changes shall only be made for the purpose of making minor grammatical corrections and editing, and not for the purpose of changing the substance of the testimony. Any questions arising with respect to such editing shall be decided by the Chairman.

The committee will furnish the witness a copy of the transcript of his or her testimony when it is made public, at no expense.

3.9 *Notice of Hearings.* The Chairman, in the case of hearings to be conducted by the committee, and the appropriate subcommittee Chairman, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date. In the latter event the Chairman or the subcommittee Chairman, whichever the case may be, shall make such public announcement at the earliest possible date. The Clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

RULE 4. STATEMENTS UNDER OATH BY DESIGNATED COUNSEL

4.1 Pursuant to House Resolution 222, counsel on the committee staff may be designated to obtain statements from a witness who is placed under oath by an authority who is authorized to administer oaths in accordance with the applicable laws of the United States or of any State.

4.2 Subpenas may not be utilized to obtain such statements. Counsel must advise the person that such statements are voluntary. The person giving a statement shall be provided a copy of that statement by designated counsel. Such statements are not to be considered testimony before the committee, but may be used by the committee or its staff in pursuing investigative leads and as a basis for questioning witnesses before the committee; and may be incorporated as part of the record only when (*a*) the person is dead or (*b*) the committee determines that in the interest of justice and economy, with due regard to the importance of presenting oral testimony, the statement should be so used.

4.3 Witnesses giving statements under oath to designated counsel must be advised by counsel that they have the right to have their own counsel while giving such statements.

RULE 5. SUBPENAS

5.1 *Procedure.* Subpenas shall be issued only in accordance with the procedure specified in Clause 2(m)(2)(A) of Rule XI of the Rules of the House of Representatives. Each subpena shall be served with a copy of House Resolutions 222 and 433, 95th Congress, First Session, and all other substantive resolutions of the House concerning the power and authority of the committee, and a copy of the Rules of this Committee which are in effect at the time of issuance of the subpena.

5.2 *Power to Sit and Act; Subpena Power.*

(*a*) For the purpose of carrying out any of its functions and duties under House Resolutions 222 and 433, and all other substantive resolutions of the House concerning the power and authority of the committee, the committee or subcommittee is authorized (subject to subparagraph (b) of this paragraph)—

(1) To sit and act at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(2) To require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tangible objects, and other things of any kind, as it deems necessary. The Chairman of the committee or subcommittee, or any Member designated by the Chairman, may administer oaths to any witness.

(*b*) A subpena may be authorized and issued by the committee or subcommittee under subparagraph (*a*)(2) in the conduct of any investigation or series of investigations when

(1) Authorized by a majority of the Members voting, a majority being present or

(2) Authorized and issued by the Chairman of the committee, provided that prior to its authorization and issuance, the Chairman have the clerk send a notice to the office of each member of the committee or subcommittee before which the subpena is returnable of the intent of the Chairman to authorize and issue a subpena. If two or more members of the committee or subcommittee before which the subpena is returnable object to the issuance of the subpena, and so notify the clerk prior to the Chairman's authorization and issuance of the subpena, the Chairman may not authorize and issue a subpena pursuant to this subsection.

Authorized subpenas shall be signed by the Chairman of the committee or by any Chairman of the committee or by any Member designated by the committee.

(*c*) Compliance with any subpena issued by the committee under subparagraph (*a*)(2) may be enforced only as authorized or directed by the House.

5.3 Except as otherwise specifically authorized by the committee, no Member of the committee, designated personal staff member of each committee member, or staff shall make public the name of any witness subpenaed by the committee.

5.4 Witnesses shall be subpenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing, employ counsel should he or she so desire, and/or produce the materials called for by a subpena *duces tecum*. The committee shall determine in each particular instance what period of time constitutes reasonable notice; however, in no case shall it be less than 48 hours, unless the witness waives such notice.

RULE 6. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS AND GENERAL PRESS POLICY OF THE COMMITTEE

6.1 Upon approval by the committee, all committee and subcommittee hearings which are open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage.

6.2 The Chairman of the full committee or the Chairmen of the subcommittees are authorized to determine on behalf of the full committee or its subcommittees, respectively, whether hearings which are open may be broadcast, unless the committee or its subcommittes respectively by majority vote determine otherwise.

6.3 Permission for such coverage shall be granted only under the following conditions:

(1) Live coverage by radio or television shall be without commercial sponsorship.

(2) No witness served with a subpena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off.

(3) Not more than four television cameras, operating from fixed positions, shall be permitted in the room. The allocation among the television media of the positions of television cameras in the room shall be in accordance with fair and equitable procedures as devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any Member of the committee or the visibility of that witness and that Member to each other.

(5) Television cameras shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Television and radio media equipment shall not be installed in, or removed from, the room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used, except that the television media may install additional lighting in the room, without cost to the Government, in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage at the then current state-of-the-art.

(8) Not more than five press photographers shall be permitted to cover a hearing or meeting by still photography. In the section of those photographers, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests is made by more than five of the media for coverage, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photograpers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage by the other media.

(11) Television and radio media personnel shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Still photography personnel shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

6.4 The staff of the committee, and designated personal staff member of each committee member, shall not discuss with anyone outside the staff either the substance or procedure of their work or that of the committee unless specifically authorized by the Chairman or the subcommittee Chairman.

RULE 7. INVESTIGATIVE GUIDELINES

7.1 *Tape Recordings.* No conversation of committee members or staff with any person shall be recorded without the prior knowledge and/or written consent of the person whose conversation is to be recorded. A transcribed copy of any recording so made will be furnished to the recorded party upon his or her request, at no expense to the recorded party.

7.2 (*a*) *Polygraphs.* No person will be required to take a polygraph test, nor shall any such tests be made or given without the specific, written authorization of the person concerned. No such tests may be made or given without the specific, prior and written authorization of a majority of the committee or subcommittee, a majority being present. No such test may be used as a basis for a finding of fact, or be referred to in any public report or public hearing. Results of any such test shall not be disclosed to any person, other than the person tested, who is not a member of the committee or staff employee authorized by the Chairman. Nor shall the failure or agreement to take a polygraph test form the basis of any finding of fact, or be referred to in any public report or public hearings, or be otherwise publicly disclosed.

(*b*) *Voice Analysis.* No recording made with the permission of the recorded party pursuant to Rule 7.1 shall be subject to mechanical voice analysis without a written consent from the recorded party specifically authorizing such analysis. No such tests may be made or given without the specific, prior and written authorization of the committee or subcommittee, a majority being present. Results of any such test shall not be disclosed to any person, other than the person tested, who is not a member of the committee or staff employee authorized by the Chairman. Neither the results of any such test nor the failure or agreement to take such test shall form the basis of any finding of fact, or be referred to in any public report or public hearing, or be otherwise publicly disclosed.

7.3 *Electronic Surveillance; Wiretapping.* There shall be no electronic surveillance or wiretapping of any person.

7.4 *Interrogations.* In all interrogations of prospective witnesses, committee investigators and counsel shall first identify themselves as representatives of the Select Committee on Assassinations of the United States House of Representatives and shall present official credentials issued by the Clerk of the House. The investigator or counsel shall advise each such person of the nature of the investigation being conducted.

7.5 Prior to the utilization of any investigative techniques not otherwise covered by these Rules, such techniques will be discussed and voiced upon by the full committee.

RULE 8. TRAVEL

8.1 *Travel of Member and Staff.*

(*a*) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel to be reimbursed for any Member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any Member and any staff member in connection with the attendance of hearings conducted by the committee or of any subcommittee thereof, and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) The location of the event for which the travel is to be made; and

(4) The names of Members and staff seeking authorization.

(*b*)(1) In the case of travel outside the United States of Members and staff of the committee or of a subcommittee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee or pertinent subcommittee, prior authorization must be obtained from the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) The purpose of the travel;

(B) The dates during which the travel will occur;

(C) The names of the countries to be visited and the length of time to be spent in each;

(D) An agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) The names of Members and staff for whom authorization is sought.

(2) Requests for travel outside the United States shall be initiated by the Chairman and shall be limited to members and permanent employees of the committee.

(3) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (or Members and staff attending meetings or conferences) shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(*c*) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Select Committee on Assassinations pertaining to such travel.

RULE 9. PROCEDURES, REGULATIONS, AND RULES

9. The Procedures, Regulations, and Rules of the Select Committee on Assassinations shall be established, modified, amended or repealed only by a majority vote of the committee, a majority of the committee being present, provided that prior written notice of the proposed change has been provided each member of the committee not less than 48 hours before those changes are to be discussed by the committee.

RULE 10. PROCEDURES FOR HANDLING ASSASSINATIONS INQUIRY MATERIAL

10.1 Before the commencement of any presentation at which testimony will be heard or papers and things considered, each committee member will be furnished with a list of all papers and things that have been obtained by the committee by subpena or otherwise. No Member shall make the list or any part thereof public unless authorized by a majority vote of the committee, a quorum being present.

10.2 The chief counsel, after discussion with the Chairman and the ranking minority Member, shall initially recommend to the committee the testimony, papers, and things to be presented to the committee. The determination as to whether such testimony, papers, and things shall be presented in open or executive session shall be made pursuant to the rules of the House and of this committee.

10.3 Before the committee is called upon to make any disposition with respect to the testimony or papers and things presented to it, the committee members shall have a reasonable opportunity to examine all testimony, papers, and things that have been obtained by the inquiry staff. No Member shall make any of that testimony or those papers or things public unless authorized by a majority vote of the committee, a quorum being present.

10.4 All examination of papers and things other than in a presentation shall be made in a secure area designated for the purpose. Restricted (including classified and confidential) information may not be reproduced without the written authorization of the Chairman and chief counsel to the security director.

10.5 Any committee member may bring additional testimony, papers, or things to the committee's attention.

10.6 Only testimony, papers, or things that are included in the record will be reported to the House; all other testimony, papers, or things will be considered as executive session material.

10.7 The committee or its subcommittees will at all times endeavor to obtain access to full, complete and unedited material considered relevant for its investigations and now held by any local, State or Federal criminal justice or intelligence agency.

Any agreements regarding committee or subcommittee access to agency files made between the committee and the appropriate local, State, or Federal agency will be made by majority vote of the full committee.

10.8 The chief counsel and deputy chief counsels shall have authority to designate materials and documents as sensitive. The contents of all such materials and documents, in addition to any materials or documents already classified or marked confidential by any agency or department of the United States Government, shall not be released or divulged in any way, form, shape or manner without the approval of the select committee or one of its subcommittees.

RULE 11. RULES FOR THE ASSASSINATIONS INQUIRY STAFF

In addition to rules of conduct for staff contained in other rules of this committee and the House, the following rules shall apply:

11.1 Staff offices of the committee shall operate under strict security precautions. One guard shall be on duty at all times to control entry. All persons entering the committee area shall identify themselves.

11.2 Restricted (including classified and confidential) and other material the committee deems sensitive shall be segregated in a secure storage area. Restricted (including classified and confidential) material may only be examined in the committee's security office or a secure reading room designated for such purpose. Sensitive material may be examined anywhere within the committee's offices. Copying or duplicating of restricted (including classified and confidential) documents is prohibited except upon authorization of the Chairman and chief counsel. Copying and duplicating of sensitive documents is prohibited except upon authorization of the chief counsel or a deputy chief counsel authorized to grant access to such materials.

11.3 Access to restricted (including classified and confidential) information supplied to the committee shall be limited by the committee and chief counsel to those committee staff members with appropriate security clearances and a need to know.

11.4 Testimony taken or papers and things received by the staff shall not be disclosed or made public by the staff or designated personal staff member of each committee member unless authorized by a majority of the committee.

11.5 Executive session transcripts and records shall be available to designated staff for inspection in person but may not be released or disclosed to any other person without the consent of a majority of the committee.

11.6 The professional and clerical staff of the committee shall be appointed and their remuneration determined in such manner as the committee shall determine by a majority vote, a majority of the committee being present, within the budget approved for such purposes by the committee.

The professional and clerical staff of the committee:

(*a*) Shall be appointed without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions; and

(*b*) Shall not be assigned any duties other than those pertaining to committee business.

The committee may terminate the services of any professional or clerical staff member by a majority vote, a majority of the committee being present.

RULE 12. SUBCOMMITTEE

12.1 Each subcommittee is authorized to exercise all powers conferred on subcommittees by the resolution establishing the Select Committee on Assassinations, including but not limited to the authority to meet, hold hearings, authorize subpenas, receive evidence, and report to the full committee on all matters referred to it or under its jurisdiction. Subcommittee Chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee Chairmen with a view toward avoiding simultaneous scheduling of full committee and subcommittee meetings or hearings whenever possible.

12.2 There shall be the following standing subcommittees of the Select Committee on Assassinations:

(*a*) Subcommittee on the Assassination of John F. Kennedy; and

(*b*) Subcommittee on the Assassination of Martin Luther King, Jr.

RULE 13. ACCESS BY MEMBERS OF THE HOUSE OF REPRESENTATIVES TO RESTRICTED (INCLUDING CLASSIFIED AND CONFIDENTIAL) OR SENSITIVE INFORMATION

13.1 Members of the House of Representatives who desire access to restricted (including classified and confidential) or sensitive information will be escorted to a reading room within the committee's offices after requesting access to such information from the chief counsel and director.

13.2 Before receiving access to such information, Members will be required to identify the material, document or information they desire to read, identify themselves to the staff member assigned, and sign the Access Information sheet.

13.3 The Access Information sheet to be signed by Members will state the Member has read all the committee's rules and in particular rule 13, and agrees to honor them.

13.4 Restricted (including classified and confidential) or sensitive information shall be treated as such by all Members who receive access.

13.5 Restricted (including classified and confidential) or sensitive information will be available only during regular committee hours. Only Members of the House of Representatives may have access to such information.

13.6 Information to which the Member receives access may not be removed from the reading room, and a staff member will be present at all times.

13.7 An access log will be kept identifying the material, staff member assigned, and the time of arrival and departure of all Members having access.

13.8 The staff member assigned will insure that the material examined by the Member is returned to the proper custodian for safekeeping.

13.9 No notes, reproductions or recordings may be made of any restricted (including classified and confidential) or sensitive information.

13.10 Restricted (including classified and confidential) or sensitive information will not be divulged by Members who receive access in any way, form, shape or manner.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. IRELAND) to revise and extend their remarks and include extraneous material:)

Mr. THOMPSON, for 5 minutes, today.

Mr. KOCH, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. YOUNG of Alaska.

Mr. RHODES.

Mr. HANSEN in five instances.

Mr. HAGEDORN.

Mr. ANDERSON of Illinois.

Mr. CUNNINGHAM.

Mr. CARTER in two instances.

Mr. MARKS.

Mr. SHUSTER.

Mr. HAMMERSCHMIDT.

Mr. MCCLOSKEY.

Mr. HARSHA.

Mr. DERWINSKI in two instances.

Mr. COHEN.

Mr. STOCKMAN.

Mr. FINDLEY.

Mr. ARCHER.

Mr. GILMAN in two instances.

Mr. RUDD.

Mr. SKUBITZ.

(The following Members (at the request of Mr. IRELAND) and to include extraneous matter:)

Mr. HARRIS in two instances.

Mr. TEAGUE.

Ms. KEYS.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. LUKEN.

Mr. MCDONALD in five instances.

Ms. OAKAR.
Mr. EILBERG in two instances.
Mr. BRECKINRIDGE.
Mr. MAZZOLI.
Mr. CORRADA.
Mr. DODD.
Mr. STAGGERS.
Mr. HAMILTON in two instances.
Mr. BRODHEAD.
Mr. RANGEL.
Mrs. MEYNER.
Mr. ROBERTS in two instances.
Mr. BAUCUS in two instances.
Mr. PATTEN.
Mr. MOAKLEY.
Mr. KOSTMAYER.
Mr. VENTO in two instances.
Mrs. LLOYD of Tennessee.
Mr. ROE.
Mr. CHARLES H. WILSON of California.
Mr. HARKIN.
Mr. ST GERMAIN.
Mr. PICKLE in five instances.
Mr. RICHMOND.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On October 14, 1977:

H.R. 6415. To extend and amend the Export-Import Bank Act of 1945.

On October 17, 1977:

H.R. 4836. To extend by seven months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H.R. 5675. To authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

ADJOURNMENT

Mr. IRELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 19, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2566. A letter from the Assistant Secretary of Defense (Comptroller), transmitting reports of transfers of various amounts appropriated to the Department of Defense, pursuant to section 733 of Public Law 94-419; to the Committee on Appropriations.

2567. A letter from the Secretary of the Treasury, transmitting the sixth quarterly report on antirecession fiscal assistance to State and local governments, pursuant to section 213 of the Public Works Employment Act of 1976, as amended; to the Committee on Government Operations.

2568. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2569. A letter from the Associate Administrator for Administration, National Highway Traffic Safety Administration, Department of Transportation, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2570. A letter from the Assistant Secretary of the Interior for Land and Water Resources, transmitting supporting information to accompany the authorization request of the Bureau of Land Management for fiscal years 1979 through 1982; to the Committee on Interior and Insular Affairs.

2571. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense articles sold commercially to the United Kingdom (MC-61-77), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2572. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense articles sold commercially to Israel (MC-1-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2573. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 213(d)(6) of the act (66 Stat. 182); to the Committee on the Judiciary.

2574. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to establish the position of General Counsel in the Environmental Protection Agency; to the Committee on Post Office and Civil Service.

2575. A letter from the National Adjutant, Disabled American Veterans, transmitting the report of the proceedings of the organization's 57th national convention, including a report of receipts and expenditures as of December 31, 1976, pursuant to 44 U.S.C. 1332 and section 3 of Public Law 88-504 (H. Doc. No. 95-244); to the Committee on Veterans' Affairs and ordered to be printed.

2576. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 78th national encampment of the United Spanish War Veterans (H. Doc. No. 95-245); to the Committee on Veterans' Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIGGS: Committee on the District of Columbia. Report on allocation of budget authority and outlays by major programs (Rept. No. 95-715). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on allocation of budget authority and outlays for fiscal year 1978 (Rept. No. 95-716). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLARZ: Committee on Post Office and Civil Service. H.R. 9282. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved, and for other purposes (Rept. No. 95-717, Pt. I). Ordered to be printed.

Mr. BOLLING: H.R. 9346. Committee on Rules. House Resolution 839. Resolution providing for the consideration of H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes (Rept. No. 95-718). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 9614. A bill to extend Regulation Q; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRODHEAD:

H.R. 9615. A bill to encourage and assist the States in the conservation of whole ecosystems including all species of native fish, wildlife, and plants, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 9616. A bill to establish a compensation system for victims of toxic substance pollution; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. BYRON (for himself, Mr. PANETTA, Mr. MANN, Mr. MCCLOSKEY, Mr. CARR, Mr. FISHER, Mr. COUGHLIN, Mr. WYLIE, Mr. BLANCHARD, Mr. ALEXANDER, Mr. HUGHES, Mr. STEERS, and Mr. EDWARDS of California):

H.R. 9617. A bill to amend the National Trails System Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ENGLISH:

H.R. 9618. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

H.R. 9619. A bill to amend the River and Harbor Act of 1960 relating to the conveyance of land by the Secretary of the Army for development of public port or industrial facilities; to the Committee on Public Works and Transportation.

By Mr. STAGGERS:

H.R. 9620. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GLICKMAN (for himself and Mr. NOLAN):

H.R. 9621. A bill to encourage the use of alcohol in motor vehicle fuels by requiring certain retailers to make alcohol-blended fuels available for sale, by allowing the rapid amortization of facilities producing alcohol for use in motor vehicle fuels, and by exempting alcohol-blended fuels from certain requirements of the Clean Air Act; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. EDWARDS of California, Mr. DANIELSON, Mr. DRINAN, Mr. BENNETT, Mr. RAILSBACK, Mr. WIGGINS, and Mr. BUTLER):

H.R. 9622. A bill to abolish diversity of citizenship as a basis of jurisdiction of Federal district courts, to abolish the amount in controversy requirement in Federal question cases, and for other purposes; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.R. 9623. A bill to amend title 13 of the United States Code to establish a decennial census procedure, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9624. A bill to incorporate the American Ex-Prisoners of War, Incorporated; to the Committee on the Judiciary.

By Mr. GARY A. MYERS:

H.R. 9625. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. GARY A. MYERS (for himself, Mr. LUKEN, and Mr. MANN):

H.R. 9626. A bill to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief if the Congress disapproves such action; to the Committee on Ways and Means.

By Mr. NEAL (for himself, Mr. MOFFETT, Mr. NOLAN, Mr. CARTER, Mr. LEDERER, Mr. BONIOR, Mr. WALGREN, Mr. MICHAEL O. MYERS, Mr. HARKIN, and Mr. PREYER):

H.R. 9627. A bill to establish a Solar Energy Development Bank to provide long-term low-interest loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PREYER (for himself, Mr. BROYHILL, and Mr. VANDER JAGT):

H.R. 9628. A bill to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 9629. A bill to delay for 6 months the effective date of the increase in the hospital deductible for 1978 under part A of the medicare program; to the Committee on Ways and Means.

By Mr. SKUBITZ (for himself, Mrs. SMITH of Nebraska, Mr. BRINKLEY, Mr. FASCELL, Mr. MCKAY, Mr. BAUCUS, Mr. SIKES, Mr. STAGGERS, Mr. FITHIAN, Mr. BRADEMAS, Mr. MURPHY of New York, Mr. STEERS, Mr. BYRON, Mr. MARRIOTT, Mr. GUDGER, Mr. LAGOMARSINO, Mr. LUJAN, Mr. QUILLEN, Mr. JONES of North Carolina, Mr. ANDREWS of North Dakota, Mr. MARLENEE, Mr. RONCALIO, Mr. YOUNG of Alaska, Mr. TAYLOR, and Mr. BAUMAN):

H.R. 9630. A bill to provide for increases in development ceilings in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SKUBITZ (for himself, Mr. DON H. CLAUSEN, Mrs. HOLT, Mr. JOHNSON of California, Mr. MEEDS, Mr. CHAPPELL, Mr. FREY, Mr. WHITE, Mr. LOTT, Mr. LATTA, Mr. HIGHTOWER, Mr. HOLLAND, Mr. NICHOLS, Mr. GRADISON, Mr. FAUNTROY, and Mr. LEDERER):

H.R. 9631. A bill to provide for increases in development ceilings in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GOODLING (for himself, Mr. MCHUGH, Mr. DERWINSKI, Mr. BALDUS, Mr. DUNCAN of Tennessee, Mr. PEPPER, Mr. JONES of North Carolina, Mr. YOUNG of Florida, Mr. RODINO, Mr. DANIELSON, Mr. MCCLORY, Mr. KETCHUM, Mrs. LLOYD of Tennessee, Mr. WINN, Mr. WHITEHURST, Mr. CARTER, Mr. WALSH, Mr. WALGREN, Mr. DORNAN, Mr. BEVILL, Mr. BENNETT, Mr. MOLLOHAN, Mr. SPENCE, Mr. STEIGER, and Mr. RAHALL):

H.J. Res. 631. Joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on Post Office and Civil Service.

By Mr. GOODLING (for himself, Mr. FLOOD, Mr. MCDADE, Mr. NIX, Mr. COUGHLIN, Mr. MOORHEAD of Pennsylvania, Mr. SHUSTER, Mr. EILBERG, Mr. SCHULZE, Mr. ROONEY, Mr. GAYDOS, Mr. YATRON, Mr. MURTHA, Mr. EDGAR, Mr. MICHAEL O. MYERS, Mr. MARKS, Mr. ERTEL, Mr. WALKER, Mr. KOSTMAYER, Mr. LEDERER, Mr. MURPHY of Pennsylvania, Mr. COLLINS of Texas, Mr. LAGOMARSINO, and Mr. MICHEL):

H.J. Res. 632. Joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on Post Office and Civil Service.

By Mr. DODD:

H. Con. Res. 382. Concurrent resolution expressing the sense of Congress that the United States should establish direct diplomatic relations with the Governments of the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic; to the Committee on International Relations.

By Mr. ABDNOR (for himself, Mr. RONCALIO, Mr. PATTISON of New York, Mr. WINN, and Mr. SEBELIUS):

H. Res. 840. Resolution expressing the sense of the House with respect to a reorganization of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ANDERSON of Illinois (for himself, Mr. RHODES, Mr. MICHEL, Mr. DEL CLAWSON, Mr. FRENZEL, Mr. LOTT, and Mr. COUGHLIN):

H. Res. 841. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. BEDELL:

H. Res. 842. Resolution reaffirming support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself and Mr. ERLENBORN):

H. Res. 843. Resolution to provide for the expenses of investigations, and studies to be conducted by the Select Committee on Population; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BOGGS:

H.R. 9632. A bill for the relief of Mrs. Elizabeth Dennis; to the Committee on the Judiciary.

By Mr. CEDERBERG:

H.R. 9633. A bill for the relief of Rohini; to the Committee on the Judiciary.

H.R. 9634. A bill for the relief of Sohini and Sheela; to the Committee on the Judiciary

By Mr. FUQUA:

H.R. 9635. A bill for the relief of Marija Artis; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

294. The SPEAKER presented a petition of the Denver Democratic Executive Committee, Denver, Colo., relative to public confidence in Government; which was referred jointly, to the Committees on the Judiciary, and Standards of Officials Conduct.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8681

By Mr. MATHIS:

Add the following new section at the appropriate place:

SEC. . Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of
which rule or regulation was transmitted to Congress on ., the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) IDENTICAL NEW RULE.—The Administrator may not promulgate a new rule or regulation identical to one disapproved pursuant to this paragraph unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule or regulation.

"(E) New rule on same subject matter.—If the Administrator proposes a new rule or regulation dealing with the same subject matter as a rule or regulation disapproved pursuant to the paragraph, the Administrator shall comply with the procedures required for the issuance of a new rule or regulation.

"(F) Effect of congressional inaction.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

H.R. 9346

By Mr. BLOUIN:

Page , after line , insert the following new section:

TAX CREDIT FOR EMPLOYEE SOCIAL SECURITY TAXES

SEC. 704. (a) Section 31 of the Internal Revenue Code of 1954 (relating to tax withheld on wages) is amended by adding at the end thereof the following new subsection:

"(c) CREDIT FOR SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the aggregate amount of tax imposed by sections 3101 and 1401 and paid by the taxpayer.

"(2) MAXIMUM AMOUNT OF CREDIT.—The amount of credit allowed by paragraph (1) to an individual for a taxable year shall not exceed—

"(A) $100 in the case of a single individual, a joint return where only one spouse is eligible for the credit under paragraph (1) for such year, or a married individual filing a separate return, or

"(B) $200 in the case of a joint return where both spouses are eligible for the credit under paragraph (1) for such year.

"(3) YEAR OF CREDIT.—Any amount to which paragraph (1) applies shall be allowed as a credit—

"(A) in the case of tax imposed by section 1401, for the taxable year for which such amount is paid, and

"(B) in the case of tax imposed by section 3101, for the taxable year beginning in the calendar year during which the wages were received on which such amount is paid.

For purposes of subparagraph (B), if more than one taxable year begins in the calendar year, any amount to which paragraph (1) applies shall be allowed as a credit for the last taxable year so beginning.

"(4) AMOUNT OF CREDIT TREATED AS TAX WITHHELD AT SOURCE.—For purposes of this subtitle, any amount allowed as a credit under this subsection shall be considered an amount withheld at source as tax under section 3402."

(b) The amendments made by this section shall apply to taxes (imposed by sections 3101 and 1401 of the Internal Revenue Code of 1954) paid with respect to renumeration received after December 31, 1977, in taxable years ending after December 31, 1977.

Page , line , strike out "704" and insert in lieu thereof "705".

Offered by Mr. CORMAN:

Page 133, strike out "may be less" in line 13 and all that follows down through page 134, line 2, and insert in lieu thereof the following:

may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).

Page 134, line 3, strike out "clause (i)(II)" and insert in lieu thereof "clause (i)".

Page 137, line 13, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 138, lines 1 and 2, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 139, line 6, strike out "and (II)" and insert in lieu thereof the following: ", (II) there shall be no statutory minimum primary insurance amount as otherwise set forth on the first line of column IV of that table, and for purposes of determining primary insurance amounts below the amount so set forth the Secretary shall extend columns II, III, IV, and V of the table backwards to zero by the insertion of additional figures on lines ahead of the first line therein, and (III)".

Page 149, lines 14 and 15, strike out "section 215(a)(1)(C)(i)(II)" and insert in lieu thereof "subsection (a)(1)(C)(i)".

Page 151, line 5, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 152, line 6, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 152, lines 8 and 9, strike out "such subparagraph (C)(i)(II)" and insert in lieu thereof "such subparagraph (C)(i)".

Page 162, strike out lines 5 through 21 and insert in lieu thereof the following:

SEC. 204. (a)(1) Section 202(m) of the Social Security Act is repealed.

(2) Section 202(k)(2)(A) of such Act is amended by striking out "or subsection (m)".

(3) Section 227(b) of such Act is amended by striking out "(and section 202(m))".

Page 163, line 2, strike out "section 215(a)(1)(C)(i)(II)" and insert in lieu thereof "section 215(a)(1)(C)(i)".

Page 163, line 4, strike out "section 215(a)(1)(C)(i)(II)" and insert in lieu thereof "section 215(a)(1)(C)(i)".

Page 184, strike out lines 1 through 17 and insert in lieu thereof the following:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.

Page 120, strike out lines 2 through 4 (as previously amended), and insert in lieu thereof the following: "5.50 percent;

"(5) with respect to wages received during the calendar years 1990 ,through 1999, the rate shall be 6.05 percent; and

"(6) with respect to wages received after December 31, 1999, the rate shall be 6.10 percent.".

Page 120, strike out lines 20 through 22 (as previously amended) and insert in lieu thereof the following: "5.50 percent;

"(5) with respect to wages paid during the calendar years 1990 through 1999, the rate shall be 6.05 percent; and

"(6) with respect to wages paid after December 31, 1999, the rate shall be 6.10 percent.".

Page 121, line 18, strike out the figure immediately preceding "percent" (as previously amended) and insert in lieu thereof "8.25".

Page 121, line 19, strike out "and".

Page 121, strike out lines 20 through 23 (as previously amended) and insert in lieu thereof the following:

"(5) in the case of any taxable year beginning after December 31, 1989, and before January 1, 2000, the tax shall be equal to 9.05 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1999, the tax shall be equal to 9.15 percent of the amount of the self-employment income for such taxable year.".

By Mr. PICKLE:

Strike out section 104 (beginning on page 127, line 16, and ending on page 131, immediately before line 4).

Page 131, line 5, strike out "105" and insert in lieu thereof "104".

Page 131, strike out the sentence beginning in line 7.

Conform the table of contents on page 117.

Page 169, strike out lines 1 through 5 and insert in lieu thereof the following: "of 1954 (the Federal Insurance Contributions Act) is amended by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by inserting after section 3124 the following new section:".

Page 169, line 6, strike out "1326" and insert in lieu thereof "3125".

Page 169, in the matter following line 22, strike out "3126", "3127", and "3128" and insert in lieu thereof "3125", "3126", and "3127", respectively.

Page 170, line 4, strike out "3127" and insert in lieu thereof "3126".

Page 170, line 15, strike out "3126" and insert in lieu thereof "3125".

Page 170, line 19, strike out "3127" and insert in lieu thereof "3126".

Page 171, line 5, strike out "3126" and insert in lieu thereof "3125".

Page 171, line 17, strike out "3126" and insert in lieu thereof "3125".

Page 171, lines 21 and 22, strike out "3127(a)", "3127(b)", and "3127(c)" and insert in lieu thereof "3126(a)", "3126(b)", and "3126(c)", respectively.

Page 171, line 25, strike out "3127".

H.R. 9375

By Mr. DINGELL:

Page 8, strike out line 2 and all that follows down through line 2 on page 9 and insert:

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $31,338,000: *Provided*, That $3,872,000 of such amount shall not be available except for compliance activities, in addition to the sums available herein for compliance contract activities, in connection with regulatory programs administered by the Federal Energy Administration: *Provided, further*, That of the total amount of this appropriation, not to exceed $6,000,000, shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94-163: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under such law shall not exceed the aggregate of $62,000,000.

By Mr. DUNCAN of Oregon:

On Page 11, strike line 5 through and including line 11, and insert in lieu thereof the following: "No money provided in this or any other appropriations Act shall be used by any officer, employee, or other official of the Federal Government to issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the States of Washington and Oregon."

EXTENSIONS OF REMARKS

RELAXATION OF TENSIONS IN KOREA

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mrs. MEYNER. Mr. Speaker, I was pleased to participate in a conference of Japanese and U.S. Parliamentarians on Korean problems, which was held in the Cannon Caucus Room on September 19 and 20. Various aspects of the current situation in Korea were discussed in four working sessions.

I took a particular interest in the third working session on "Prospects for Tension Reduction and Political Accommodation in Korea." I have been impressed by the vicious circles that seem to entrap us when we consider what policies to adopt on Korean problems.

Many interesting observations were made by the participants on the issue of tension reduction. Some of the most thoughtful views were expressed by Mr. Tokuma Utsunomiya, a member of the House of Representatives of the Japanese Diet, in his paper on "Relaxation of Tensions and Korean Reunification."

Although space limitations preclude the insertion of his complete paper, I would like to offer his opening section on "Causes of Tension in the Korean Peninsula" for the attention of my colleagues:

CAUSES OF TENSION IN THE KOREAN PENINSULA

Military and political tensions, said to stem from differences in the political systems of the two Koreas, continue to exist in the Korean Peninsula. The South Korean Government, for instance, constantly refers to the dangers of direct and indirect Communist aggression from the North and this fear of the "threat from the North" forms the cornerstone of its domestic and foreign policies.

However, in addition to the simple reason of two states with differing systems existing in what was once a single nation, there are a number of other factors contributing to the present tension in the Korean Peninsula and I believe that we need to clarify these different factors in finding ways of lessening this tension.

I would first like to list these causes of tension and, later; add explanations.

(1) North and South Korea are more identical in their language, their alphabet and their culture than East and West Germany. Whereas a unified Germany emerged only a little over 100 years ago, Korea has been one nation and substantively maintained its independence from the year 938, when Wang Kon established the Kingdom of Koryo, until 1910 when it was annexed by Japan. Thus, there is today among the peoples of both North and South Korea a keen realization of the irrationalities inherent in the division of their country into two separate entities and a deep desire for unification of the entire Korean race. The governments of both North and South Korea interpret these identical sentiments on the opposite side of their border as threats and indications of aggressive intent against themselves.

(2) The Korean Peninsula is the only region in the world where the East-West Cold War of the post-World War II era erupted into a large-scale hot war. Regardless of what may have sparked the Korean War, the fact remains the 38th Parallel has been for many years the most tense of all frontlines in the East-West Cold War.

Because of this, the Korean Peninsula is where a situation and a consciousness of tension still remains the strongest. This is particularly so in South Korea, while it was North Korea, which was able to observe at first-hand confrontation developing between the Soviet Union and China, that early realized the East-West Cold War had lost its original significance and had substantially become a facade. However, in South Korea, the reapproachment between Japan and China and between the United States and China and the sudden change in Vietnam, served only to arouse a sense of heightened danger and to lead to a further strengthening of South Korea's Cold War setup. This sense of danger is evident in the covert activities of such organs as the Korean CIA aimed at expanding the influence of those circles in Japan, the United States and elsewhere still interested in perpetuating and escalating the Cold War.

(3) Economically, South Korea has always been a country centered on small-scale rice farming and small-scale fisheries along its complex seacoast. It has not been blessed, as in the case of North Korea, with underground mineral wealth, hydro-electro power and forestry resources. However, in such an economy as that of South Korea, the farming and fishing villages provide a constant source of surplus labor. The situation is the opposite to that in North Korea, which constantly complains about its labor shortage. The North-South division of Korea has made it impossible for both parts of the country to mutually complement each other and has made the economic independence of the Korean peoples extremely difficult.

In order to continue its economic growth, South Korea has no alternative but to push its industrialization by relying on foreign aid and foreign capital. To cover the deficits in its balance of payment arising from the induction of foreign capital, South Korea has had to rely on foreign trade earnings and cumulative foreign loans, aside from U.S. military procurements and tourist revenue, some of it earned in a questionable manner. The need to earn through foreign trade has resulted in brutal labor conditions in South Korea, including low wages and long hours of work. In order to suppress the dissatisfaction of the general populace at these conditions, the South Korean Government has found it necessary to resort to repressive measures and spying on its own people by the KCIA. To justify this repression, the South Korean Government has had to place undue emphasis on "the threat from the North." These policies have not only made natural economic exchange with North Korea impossible, but has resulted in an expansion of military expenditures. This, in turn, has forced the South Korean Government into the vicious cycle of having to further emphasize "the threat from the North," in order to gain greater military and economic assistance from abroad.

As one means of improving its balance of payments position and earning foreign exchange, South Korea has been exporting to Japan, at prices based on low wages raising suspicions of dumping, light industrial products and imitations of Japanese quality goods, such as Japan's famous hand-woven Oshima "kasuri" kimono material. This practice has come as a heavy blow to Japan's small and medium enterprises. In addition, South Korea has succeeded in winning bids on construction and public works projects in the oil-producing countries of the Near and Middle East by undercutting all other bidders and has dispatched Korean workers to work on these projects under poor working and living conditions. All this is being done in order to earn foreign exchange. As a result, some 2,000 South Korean workers rioted in protest in Saudi Arabia on March 13 of this year. Further, the common practice of providing Korean prostitutes to foreign tourists, including Japanese, is regarded in Japan as a deliberate policy on the part of the South Korean Government to earn foreign exchange.

Practices unthinkable in a country that respects freedom of the press and human rights are rife in South Korea. All these practices may be regarded as arising out of the requirements of South Korea's economic expansion program. Whatever the case, these practices have aroused popular dissatisfaction and are one of the major causes of continued tension in the Korean Peninsula.

(4) Political freedoms, in the sense we know them, do not exist in North Korea and it is not difficult to imagine that repression of human rights, such as that described by Aleksandr Solzhenitsyn, is common in North Korea. However, repression is common in all Communist countries, in varying degree, and does not necessarily make North Korea a particularly dangerous country. When we examine North Korea's policies in the field of light industries, farming and housing, it is apparent North Korea needs peace to carry out its economic program.

However, North Korea fears war, for reasons which are apparent, and has built most of its war industries underground. There is no doubt the North Koreans are making preparations to maintain their war potential against sustained bombing over a long period of time.

At the same time, North Korea's execessive military expenditures and war preparations are obstructing its economic development and, it is apparent that the popular livelihood of the North Korean peoples is being subjected to heavy pressures. In addition, when North Korea has to purchase new and advanced arms from the Soviet Union, the conditions imposed by the Soviet Union both as to price and method of payment are most severe. There is no doubt these conditions have had a grave and adverse effect on North Korea's balance of payments position.

Further, the fact that North Korea has close to 600,000 men under arms or assigned to military tasks has deprived the country of its most productive and youthful industrial and farm workers. Judging from North Korea's population, announced as being 15,950,000 in 1975, the maintenance of this large military force has placed a great strain on North Korea's economy. South Korea's rapid economic growth, sustained by foreign capital, has made the leaders of North Korea worried and fretful and has prompted them to import industrial plants on a vast scale from West Germany, Japan and other countries on a commercial deferred-payment basis. However, the unexpected drop in the world prices of mining products, which are North Korea's prime export items, has made it extremely difficult for North Korea to keep up its payments for these imports of industrial plants. It appears North Korea must become more versed in international trading practices and, at the same time, must overcome its bureaucratic rigidity.

When we examine in detail North Korea's management of its present economy, it is difficult to imagine that North Korea has intentions of advancing south by force just for the sake of exporting its socialism to

South Korea. Further, it is impossible for North Korea to wage a long-range war without the participation or without the assistance of the Soviet Union and China. The possibilities of such participation or assistance are far less today than in the 1950s. Further, it is much more apparent today than in the 1950s that the North Korean Government authorities do not want to have their country become a military appendage to either the Soviet Union or China.

However, there is one problem that could arise. If the withdrawal of U.S. forces from South Korea is carried out without any approach or any understanding being reached with North Korea and if vast military and economic aid is given to South Korea in compensation for the withdrawal and, furthermore, if the Park Chung-hee Government continues to maintain its deep hostility toward the North, there is no guarantee North Korea's leaders might not succumb to the temptation of getting rid of the Park Chung-hee regime should they find themselves at a military advantage over the South. This same thing may be said of the South.

TOXIC SUBSTANCE POLLUTION VICTIM COMPENSATION ACT

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BRODHEAD. Mr. Speaker, today I am introducing the Toxic Substance Pollution Victim Compensation Act. The bill is designed to accomplish three purposes: First, to increase our knowledge about the dangers and risks associated with toxic substances; second, to encourage the safe manufacture and use of these substances; and third, to provide compensation to the victims of toxic substance pollution. I believe this legislation will greatly increase public safety without the imposition of unfair costs on either manufacturers or victims.

Each year an estimated 500 to 700 new chemical substances enter the marketplace, in addition to the hundreds of thousands of chemicals already in use. Increasingly, American industry is making use of heavy metals, minerals, fibers, petrochemicals, and synthetics that have proven useful for a number of purposes. Increasingly, however, Americans are exposed to substances that are toxic or potentially toxic, often with devastating results.

The PBB disaster in my home State of Michigan, the kepone poisoning in Virginia, and the leptophos contamination in Texas are well known. In recent years, numerous toxic substance pollution mishaps across the country have injured hundreds of people. Perhaps thousands more are undiagnosed or cannot be identified because of the limits of medical knowledge.

Diagnosis of toxic poisonings is often difficult or impossible. Seemingly safe, low-level discharges of toxicants may accumulate in the body undetected for years until a threshold level is passed and human injury results; some toxicants do not even have readily discernible "safe" threshold levels. Toxicants may also commingle or combine with water, the air or other substances to form new poisons of greater toxicity than any one of the original discharges. Toxic substances may also be transferred to future generations in the form of gene mutations or birth defects.

Too often victims of toxic substance poisoning are also the victims of our inadequate remedies and programs to assist them. Victims seeking compensation through tort law, social security, or workmen's compensation are frequently frustrated and face long and costly delays, primarily because these means of assistance are not equipped to deal with the special problems posed by toxic substance contamination. In effect, then, the victims are forced to pay the costs of toxic contaminations. This problem will not simply go away and shows every indication of getting worse.

Although the Toxic Substances Control Act (TSCA) which Congress passed last year, represents a legislative milestone in environmental protection, it has serious limitations. While the TSCA can rely on regulatory techniques ranging from premarket testing to the seizure of dangerous substances, they can only be invoked when an "unreasonable risk" or an "imminent hazard" becomes known to the EPA. Effectively, the TSCA is limited to regulating the most toxic of substances. A substance of low toxicity, however, although it may not pose an imminent hazard to health at the present time, may wreak more human devastation at some later date than one that is highly toxic. While the TSCA requires manufacturers to supply information about their new products, it does not encourage manufacturers, on their own, to conduct research into the presently unknown but scientifically ascertainable effects of toxic substances.

The Toxic Substances Pollution Victim Compensation Act would expand on the TSCA. It would encourage all manufacturers of toxic substances to strengthen safety procedures and conduct research into the effects of their products by levying a "pollution charge" based on the level of risk that the substance poses for human health. The Administrative Board for Compensation (ABC) established under the bill will set the highest pollution charge on substances which pose the highest risks.

Lower rates will be set for other substances of lesser risk. As a manufacturer implements safer ways of handling a toxic substance, the pollution charge is reduced to reflect the lesser risk.

Even more important from the standpoint of optimizing public safety, in the case of actual harm to people, the polluter would be required to pay the amount of the compensation award determined by the ABC. The bill will thus encourage manufacturers to develop innovative safety techniques to protect human health and, at the same time, provide victims of toxic substances poisoning with adequate compensation, expenses which properly should be borne by those who create the risks rather than by victims or society in general.

Mr. Stephen M. Soble, statute editor of the Harvard Journal on Legislation and author of this bill, further explains its operation in his article, "A Proposal for the Administrative Compensation of Victims of Toxic Substance Pollution: A Model Act," which appears in volume 14, page 683 of the Journal. I commend this article to the attention of my colleagues.

I believe the time has come for Congress to seriously consider this legislation. Toxic substances are one of our most pervasive and potentially most harmful health problems today. It is time we start looking for solutions.

UNIVERSAL SOCIAL SECURITY

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARSHA. Mr. Speaker, I wish to express my deep distress over the precipitate action of the House Ways and Means Committee in reporting a measure which is designed to rescue the social security system at the expense of our teachers and other Federal, State, and local government employees.

I have long been concerned over the fiscal soundness of the social security system and strongly support appropriate action to place it on a financially sound and viable basis. However, to sacrifice our Federal, State, municipal, and teachers retirement programs toward this goal does not make sense and represents a betrayal of government employees at all levels.

As reported, H.R. 9346, the Social Security Financing Amendments of 1977, provides for mandatory coverage of Federal, State, and local government employees, effective in 1982. This action would bring about 2.6 million Federal and approximately 4 million State and local government employees and teachers under mandatory social security coverage. While this expanded coverage would bring about a massive influx in social security taxes, the end result might well be the end of government retirement systems as they now exist.

To integrate such different retirement programs would, at best, pose a most difficult problem. This is evidenced by the fact that H.R. 9346 also provides for a study to be undertaken by the Department of Health, Education, and Welfare and the Civil Service Commission of methods of integrating the social security and civil service retirement programs and other Government retirement programs and requires the Secretary to present to the Congress a specific and detailed plan for the integration of these systems by January 1, 1980.

It may well be that this study will prove that these systems cannot be equitably and effectively merged. In my judgment, it would be foolhardy to mandate that these systems are to be integrated before the study is undertaken. If the supporters of H.R. 9346 feel this proposal merits such a study, then by all means let us wait until the results are available for evaluation before determining whether or not the integration of these systems is feasible. But let us not commit ourselves blindly to a course of action before the details are resolved.

I am adamantly opposed to H.R. 9346 in its present form. It would be extremely shortsighted of the Congress to attempt to solve the fiscal problems of the social security system at the expense of millions of teachers and Government workers who have set aside money in good faith to assure themselves of adequate retirement income under their existing retirement programs. They have paid into their own retirement programs, and they are entitled to count on the benefits they have been promised. It would be extremely unfair to them to change the rules without giving them an opportunity to study the detailed proposal and make their views known.

I strongly urge my colleagues to join with me in defeating this proposal.

TRIBUTE TO LOUIS PUSKAR

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. MARKS. Mr. Speaker, this coming weekend, Saturday, October 22, several hundred persons will gather to pay tribute to Louis Puskar on his retirement as subdistrict director, United Steelworkers of America District 20, AFL–CIO. He is a resident of Mercer County, Pa.

Because Lou is a personal friend and because he has distinguished himself over the years as a faithful union and community leader and as a man with true devotion to his family and his church, I should like to make note of the occasion of his retirement banquet with a brief sketch of his background.

Lou was a furnace operator at Sharon Steel from 1933 to 1956 when he became a staff representative for the Steelworkers. He served in that capacity until 1972, when he was appointed subdistrict director of district 20, which covers a large portion of western Pennsylvania. There has not been an area of unionism in which he has not been involved.

Perhaps his involvement in community activities would provide a good insight into this man's enthusiasm and zeal. He helped guide the Shenango Valley Community Fund and United Way to one successful campaign after another as well as other charitable fund drives. Also, he has been a member of the following boards of directors:

Citizens Advisory Council of the Sharon Community Service Center,

Mercer County Crippled Children's Society,

Multi-County Human Resources Corp.,

Sharon General Hospital,

Shenango Valley Charitable Capital Improvements Association,

Shenango Valley Industrial Development Corp.,

United Way of Mercer County.

Noteworthy also are the distinguished service and community service awards over the years:

USWA Local 1174 AFL–CIO "Testimonial of Deep Appreciation," 1956,

Mercer County Crippled Children's Society, "A Brace for an Ace," 1961,

Shenango Valley Junior Chamber of Commerce, Distinguished Service Award, 1962,

Mercer County Central Labor Council, Community Service Award, 1962,

State of Israel Bond Organization, Humanitarian Award, 1969

United Way of Shenango Valley Area, Distinguished Service Award, 1975,

United Way of Mercer County, George S. Warren, Jr. Community Service Award, 1976.

Perhaps the greatest award will be the Saturday night testimonial when hundreds of Lou's friends will rise to their feet and pay a very deserving living tribute to a very deserving man. I wish the best to Lou and his family.

COAL GASIFICATION—PART II

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CARTER. Mr. Speaker, two gentlemen visited me in my office last week to discuss the development of their coal gasification system in South Africa.

Mr. Carl Noffke and Mr. Piet Gerber from the South African Embassy had the greatest enthusiasm about coal gasification which is being used in their country with great success. Actually, 8 percent of that country's oil needs are currently met by gasification of coal with predictions that by 1980 South Africa will make 40 percent of its motor fuel from its own coal at competitive prices.

In the past, South Africa's reliance on foreign sources of energy spurred them to welcome the "Second Renaissance of Coal." Coal, Mr. Speaker, is the greatest known energy resource that the United States possesses yet much of it sits idle in the Earth's depths. It is time to begin to consider a second renaissance of coal here in the United States.

Mr. Noffke and Mr. Gerber left with me a report on the state of their country's experience with coal gasification. Yesterday I inserted into the RECORD part I of that report. Part II follows:

SASOL—PART 2

In its 25-year existence, the Sasol enterprise has grown into a group of companies and has spawned a number of others.

But everything was not plain sailing. In the first place, the erection of a plant of such size in the interior was a formidable task. The complex consisted of a synthetic oil plant, comprising some twenty interlinked production units, and a colliery, water works, steam and power stations, sewage and waste disposal plant, a railway siding, roads, administrative buildings and workshops, and a village.

When one looked at the tons of equipment turning up at the site, the huge towers and vessels being put into position, one could only marvel at how they had all got there, for the plant was, after all, hundreds of kilometres away from the harbours and many thousands from overseas factories. But ton upon ton of plant parts arrived, some items so large that they had to be dismantled for loading and unloading in special trucks.

Construction started in May 1952, and 15 million man-hours later, after 10,426 railway trucks had been off-loaded and 24,448 hacksaw blades sawed blunt, the plant was completed in basic design in August 1955, right on schedule.

Wild excitement prevailed as the first of the co-products were recovered and despatched—ammonium sulphate, phenol, a drum of creosote. But the main product, motor fuel, obstinately refused to put in an appearance. For seventeen days the men in the plant battled round the clock to put the Synthol reactors into operation. And only after many adjustments and modifications to the equipment, much stress, many a silent prayer and some honest swearing, did the plant begin to hum in a deep bass in the early hours of 23 August 1955, indicating that it was producing petrol.

Sasol's managing director at the time, who was to become chairman in later years, Dr. P. E. Rousseau, had warned about the plant: "This giant", he said, "has to be domesticated into a purring animal. To courage and perseverance have to be added deliberation and meticulous care and thoroughness if we are not to have a wild beast on our hands . . ."

In spite of the size and complexity of the Sasol plant, which represents an investment of about $300 million, a profit was shown after only five years of operation, in 1960. During the early sixties the animal was indeed purring gently while the world looked on with some amusement, for oil had become plentiful and was cheap. Old man coal was no match for strong man oil. The world lessened its dependence on coal as a major source of energy from seventy per cent in 1937 to thirty per cent three and a half decades later, and increased its dependence on oil from eighteen to forty-eight per cent during that time.

So what was Sasol, a very small producer of oil by world standards, to do? Expansion was necessary if the economics of large-scale operations were to be enjoyed. The major decision then to be taken was whether to increase the capacity of producing liquid fuels from coal, or whether to pursue further development of chemicals production. As the availability of crude oil was no problem, the growing demand for feedstocks for South Africa's secondary chemical industry influenced the decision to extend the production of chemicals. Furthermore, Sasol had developed know-how and had steadily increased its profitability, and was accordingly in a position to grasp many opportunities to diversify.

An important step in the expansion program was the erection of a synthetic ammonia plant in 1963. The sources of raw material for production already existed. Hundreds of tons of nitrogen were vented to the atmosphere by Sasol's huge air separation, or oxygen, plant, and the hydrogen produced in the coal gasification plant could be economically extracted. These two gases could be combined to form ammonia for the production of nitrogenous fertilizers. As a result, there are today three independent fertilizer factories operating at Sasolburg which draw their feedstocks from Sasol.

In the mid-sixties Sasol started producing butadiene and styrene for the synthetic rubber industry in South Africa. This enabled a synthetic rubber company to establish its factory at Sasolburg and have these feedstocks piped from the Sasol plant.

The needs of the plastics industry for raw materials, such as ethylene and styrene, led to naphtha cracking at Sasol through the use of petroleum naphtha available at South African refineries and imported from abroad. As a result, Sasolburg has become the nucleus of the country's chemical industry.

A development in the history of Sasol that must be highlighted is the formation of the South African Gas Distribution Corporation, called Gascor for short, in 1964 to dis-

tribute fuel gas produced by Sasol. Because South Africa has no natural gas, and cheap fuel oil was not readily available far inland in the country's most densely developed industrial area of the Witwatersrand and the southern Transvaal, a need had always existed for a refined gas for specialized purposes. The approximately 350 industrial customers linked to Gascor's distribution network use the gas mainly for metal processing and in glass and ceramic works. Of all fuels in South Africa, the growth of the Gascor market has been the fastest. This growth in demand of more than 20 per cent per annum has necessitated the erection by Sasol of additional gas-making facilities which will, when completed at the end of this year, be able to supply 150,000 normal cubic metres of pipeline gas per hour.

Being a producer of liquid fuels, it was only natural that Sasol became aware of the Iranian desire to move downstream in the oil business. And in 1966 Sasol and the National Iranian Oil Company, with the French CFP (Compagnie Francaise des Pétroles) as a third partner, agreed to erect a crude oil refinery at Sasolburg by making use mainly of Iranian feedstock. This led to a complex which, during the financial year 1975, had a sales turnover of R389 million. Of this amount, R223 million could be described as added value achieved because R166 million represented purchases of feedstock in the form of crude oil and naphtha.

In common with industry in general, Sasol's oil-from-coal operation had been faced with increasing costs over the years, while the price of oil had remained near-static. The price Sasol could ask for a gallon of petrol at its factory gate in 1970 was about the same as in 1955. Clearly, there was only one way of staying in competition with natural oil, and that was to improve operating efficiency continuously.

For example, in 1971 a R1 million per annum financial gain was reflected as a result of shortening the scheduled factory shutdown from a previous 28-day period to 11½ days by means of critical path planning. During the past eight years, through the use of the same mining methods, coal production was increased by 38 per cent while the number of mine workers decreased by 20½ per cent. During the period 1968 to 1975 final products produced and sold from the oil-from-coal and petrochemical units more than doubled while the number of Sasol employees decreased from 7,685 to 7,122.

So when, from 1970, a series of events on the international oil front showed signs of an impending energy crisis, which was precipitated by the outbreak of the Yom Kippur War in October 1973, the Sasol enterprise came into clear-cut focus. Prospective producers of gas and liquid fuels from coal were beginning to beat a path to Sasol's door in the quest for know-how.

In 1971 the Sasol entrepreneurs reported that oil-from-coal had benefited by the world-wide increases in the prices of petroleum products, but warned against undue optimism about its economic future. In 1972 they sounded more hopeful, but maintained that normal escalation of capital costs might well keep pace with the increases in the price of crude oil. In 1973 they reported that in spite of a material change for the better in the oil-from-coal situation, it would be unwise to erect new plants with undue haste. And in 1974 they disclosed that at the Government's request they had made a detailed study of the technical and financial implications of the establishment of a second oil-from-coal plant.

On 5 December 1974 the SABC's News at Nine featured Senator O. P. F. Horwood, then Minister of Economic Affairs, announcing: "The Cabinet has decided that a second Sasol must be built with least possible delay . . . The new plant, Sasol 2, will produce more than ten times the amount of petrol and petroleum products than the existing oil-from-coal plant, and will be one of the largest industrial undertakings yet embarked upon in South Africa . . . At present cost levels, its fixed capital requirements, township development excluded, will exceed R1 000 million . . ."

FIRE CHIEF ROBERT WEITZEL AND THE MACK VOLUNTEER FIRE DEPARTMENT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. LUKEN. Mr. Speaker, I would like to bring to the attention of the House the testimony given by Fire Chief Robert Weitzel of the Mack Volunteer Fire Department in Green Township, Ohio, during the Military Installations and Facilities Subcommittee's hearings on civil defense preparedness.

Chief Weitzel has been a member of the Mack VFD for 20 years, an officer for the last 15. He has been chief for 5 years. He is a member of the Western Hamilton County Fire Association and the Hamilton County Fire Chiefs Association as well as the Ohio State Fire Chiefs and the International Fire Chiefs.

Mack is one of the largest fire departments in the State of Ohio with over 120 members as listed at the end of these remarks. They provide fire and paramedical service while receiving no pay—not even gas money—to all of Green Township which covers 30 square miles and has a population of over 63,000. The Mack VFD operates out of three stations, and has assisted in rescue and paramedical operations following three tornadoes in 1974, 1976, and again in 1977. As the fire chief for Green Township, an area hard hit by tornados in 1974, 1976, and again this year on October 1, Chief Weitzel had much to contribute to the subcommittee's understanding of civil defense preparedness problems.

The Hamilton County civil defense siren system failed to warn residents of the approaching tornado on October 1. The tornado struck at 7:10 a.m., yet the warning system was not activated until 7:50 a.m.

We in Hamilton County have learned the hard way that we do not have an effective warning system either for tornados or enemy attack. A system that warns us only after we have been struck is unacceptable. I am thankful to the trustees of Green Township for making Chief Weitzel available to us. With the help of experts like the chief, I truly hope that the Armed Services Committee can begin to resolve this serious problem.

The list of volunteers at three stations follows:

STATION NO. 1

Ray Adams, Don Aisenbrey, Jim Beischel, Terry Brockhoff, Dale Brockhoff, Robert Brown, Ken Case, Steve Claytor, Joe Day, Mike Diehl, Mike Donohue, Dan Dreier, Dave Driskell, Bob Eisenecher, Charles Evans, Daniel A. Fluegeman, Rick Fox, Tom Fox, Bert Frondorf, Paul Garbon, Dave Gemmell, Ray Gemmell, George Gibeau, Ray Hollmeyer, Jim Huber, Brian Hummeldorf, Bob Kallendorf, and Richard Kist.

Tom Kotte, Dale Knapp, Shelby Louden, Dale Matthey, Bob Miles, Stan Mueller, Bill Neu, Harvey Pfaff, Jim Rack, Dick Rhoades, Roger Ruberg, Russ Ruberg, Butch Ruehlman, Marty Schloss, Bob Sweeney, Tom Sweeney, Tim Tate, Gary Theurer, Mike Thorp, Timothy Trame, Bob Viox, Dwight Waldorf, Stan Wasserman, Dough Weberding, Carl Weghorst, Ron Weidner, Bob Weitzel, Hal Welge, Mike Wernke, George Willenbrink, and Ed Wortman.

STATION NO. 2

Tom Arend, Jack Bohning, Dave Chastang, Tom Dietz, Dominic Donisi, Tom Eisbernd, Dave Filbert, Ed Fischer, Lou Geiger, Glenn Hanekamp, Carl Hoog, Tom Huth, Ken Inderhees, Tom Lecture, Mark Leytze, Larry Ludwig, Charles Mader, Dean Marshall, Wayne Misch, Cliff Pickens, Stanley Rauh, Jim Rutenschroer, Jeff Seller, Steve Senft, Carl Seng, Roger Seng, Jim Sunderhaus, Frank Sutton, John Troescher, Mike Williamson, Marty Wilz, Mike Wilz, and Duane Yeazel.

STATION NO. 3

Tom Carmack, Dennis Chastang, Tim Chastang, Bill Fulton, Steve Greek, Dan Hildebrand, Mark Hildebrand, Bud Hustedt, Rick Kreft, Gary Louderback, Jack Pflanzer, Steve Pflanzer, Mike Pursifull, Frank Rottmueller, Ed Thomas, Clarence Triplett, and Bud Westlund.

TRIBUTE TO POLICE SUPERINTENDENT JAMES M. ROCHFORD

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RUSSO. Mr. Speaker, recently James M. Rochford, the superintendent of the Chicago Police Department, retired after 30 years with the police force.

In his 45 months as superintendent he distinguished himself, as he had throughout his career, as a man of character, courage, and wisdom, and I agree enthusiastically with a comment by Columnist Bob Wiedrich of the Chicago Tribune that Mr. Rochford "has been the best police superintendent the city ever has known."

The people who elect to spend their lives in the service of protecting others often stand quietly in the background while praise is heaped on more obvious "heroes." I think men like Jim Rochford are far better heroes than any television drama could possibly depict.

I wish him the best in the future and I would like to share with my colleagues some of the facts about this extraordinary administrator by inserting Mr. Wiedrich's column of October 13:

A MAN WHO MADE POLICE PROUD AGAIN

(By Bob Weidrich)

James M. Rochford took a wild bull by the horns and did a top job of taming it.

He took command of the 13,000-member Chicago Police Department when it was at its lowest ebb.

He rebuilt its self-confidence and morale and, by skillful leadership, restored to the citizens of Chicago the quality of police service they deserved.

For our money, Rochford has been the best police superintendent the city has ever known.

From the first day Rochford became acting chief in 1973, he set sparks flying in an emotionally charged atmosphere that best could be described as a hand grenade factory.

In theory, he had everything going against him.

Honest police officers were dismayed and disgruntled by the shame of widespread corruption.

And those few remaining officers who viewed their badges as a license to steal were merely waiting for the heat of federal grand jury inquiries to abate before resuming their crooked lifestyles.

Rochford recognized that. So he immediately made it clear who was the boss.

He carefully selected a command and management team on which he knew his personal reputation and that of the department woud rise and fall.

He demanded of them no less than he demanded of himself or any patrolman on the street—selfless dedication to duty and a high degree of professionalism.

And he set forth to refashion the image and operations of a police department whose pride and motivation had been sorely tried by public humilitation and the tragic sight of more than 50 members of its ranks being dispatched to federal prisons for corruption.

Rochford knew that what was needed was a highly visible superintendent—a man who would be accessible to the community and the department and who would not play favorites or curry support by condoning incompetence.

Above all, the police needed a leader who would not resort to dilatory or protective tactics when things went wrong but would instead face up to the issues and speak out, even when what he believed might be unpopular.

Rochford filled that bill. He adhered to its requirements throughout much of his tenure.

Very often, he became the target of public and media ire. At other times, his own men rattled the cages with indignation.

However, he never deviated from his conviction that the citizens of Chicago deserved to know where he stood and that hiding behind a cloak of silence served no one.

And that while a leader should inspire his men, he never should do so at the expense of the public trust.

To start with, Rochford was a streetwise cop, having come up through the ranks from a fledgling patrolman who had joined the force in 1947. He knew cops and their joys and their failings.

He could spot the deviousness of the con men. And he recognized the abilities of honest men.

He also knew, however, that a police department is not a municipal island.

And that a police force cannot perform its mission effectively without the support of the public it serves.

So Rochford went out and actively solicited the views of taxpayers. He fended off attempts by outsiders to impose what he viewed as unreasonable restraints on the department's operations, but he listened to complaints from within and without.

He used those complaints he deemed legitimate to refine the quality of police service where it most counts—in the streets and the neighborhoods where the people of Chicago live.

In doing so, Rochford proved conclusively that an effective police commander needs a personal knowledge of his city and its people born of experience, and that the respect of the community is not automatically granted, but must be earned.

To that end, Rochford personally rode subway trains to check on the safety of passengers. He visited police district stations to let police officers see him. He appeared on the front lines of civil disturbances.

He demonstrated his personal leadership in a manner never before seen in this city.

Rochford's firm stand against hiring and promotional quotas for minorities brought him enemies. It also won him the admiration of those who believe advance should be based on competence and merit, rather than sex or race.

The 13,000 men and women of the Chicago police department should thank Rochford for restoring their self-respect.

And the people of Chicago owe him a debt of gratitude for thirty years of distinguished police service.

PERSONAL EXPLANATION

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mrs. MEYNER. Mr. Speaker, I was unavoidably absent from the session on Monday, October 17, 1977, because of illness. Had I been present, I would have voted:

Roll No. 659, saccharin ban moratorium, "yea."

Roll No. 660, Customs Procedural Reform Act, "yea."

Roll No. 661, Technical Corrections Act of 1977, "nay."

Roll No. 662, disaster payments exemption, "nay."

YOUTH AND JOBS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RANGEL. Mr. Speaker, every 4 years the usual campaign rhetoric and promises are made by men who seek high offices. Invariably, these promises always include words to soothe the unemployed. Especially the young black unemployed. Well, its been another 4 years and the job picture in our urban centers is not better. It is worse.

The temptations for an idle mind in an urban center are great. Reducing unemployment among youths will help to reduce our crime rates. Drug addiction and alcoholism will also be reduced as a result.

If the tremendous amount of efforts and money our country spends on defense were instead spent on employment programs, we would see a marked difference in the face and morale of our urban communities.

Before the minority youth revolts, let us lick this problem once and for all.

Jerome Cahill from the New York Daily News has written some further comments with respect to this matter. I would urge my colleagues to carefully consider his views on this most timely subject. His comments follow:

[From the New York Daily News, Oct. 6, 1977]

THE URBAN TIMEBOMB: YOUTHS WITHOUT JOBS

(By Jerome Cahill)

Trapped in the blighted neighborhoods of older cities and rural slums, victims of the profound economic and social changes of the post-World War II period, thousands upon thousands of young blacks have been passed over in the nation's slow but steady recovery from the 1975 recession.

In numbers that have surprised some government officials and alarmed others, they have flocked to the labor market in search of work, enticed by signs of a generally improving economy and perhaps the siren song of Jimmy Carter's election-year campaign promises.

But for many, the signs and promises have proved to be bitterly illusory. Since the *low* point of the recession two years ago, unemployment among black youths in the 16 to 21 age bracket has *increased* by 100,000 to a staggering 34.7 percent rate nationally. And it is even worse rates in some localities.

The experience of young blacks is a magnified picture of the black unemployment picture generally—an unemployment rate that in August equaled the postwar record of 14.5 percent, more than double the white rate of 6.1 percent. One out of four of the nation's 7 million unemployed was black. The 1.7 million officially listed on the government's jobless rolls represented a 300,000 increase from the April total. And most of these people are concentrated in the nation's central cities.

Rep. Parren Mitchell (D-Md.), chairman of the Congressional Black Caucus, calls the concentration of black joblessness in the cities social dynamite. "It's reached the crisis state," he says. "I don't think we've experienced anything like this even during the depression."

For Rep. Charles B. Rangel (D-Harlem) the jobs crisis in the cities is so grave he believes it constitutes a threat to America's security. At a recent meeting at the White House, Rangel warned President Carter that the lives of local officials may be in jeopardy because of hopes generated by the new administration, which are as yet unfulfilled.

President Carter himself appears to be deeply concerned with the problem. When Mitchell and Rangel led a delegation of Black Caucus members to the White House in the wake of the gloomy August employment report, they found him stunned by the figures. "He was jolted by those statistics," Mitchell recalls. "It was clear that they hit him and hit him hard."

Carter gave voice to that concern when he signed into law the Youth Employment and Demonstration Projects Act of 1977, a $1.5 billion measure that will provide job and training opportunities for unemployed young people over the next 12 months to three years.

Over the next 12 months, the Labor Department estimates, $1 billion dispensed under the new law will provide training or employment for 443,000 young people, or about one out of four on the current unemployment rolls. Young blacks and other minorities, whose job prospects are the most bleak, will account for about 60% of the total.

A myriad of job projects, some as old as the New Deal, some borrowed from the Great Society, and some involving schemes never before tested, will receive funds under the new law.

One of the most visible of the new projects is the Young Adult Conservation Corps, which will provide up to 12 months of work at the minimum wage in national, state and local parks for as many as 46,000 unemployed young people between the ages of 16 and 23.

Perhaps the most novel of the projects is an attempt to use the concept of "entitlements" that worked in the GI Bill of Rights for veterans as a way to keep disadvantaged young people, who now drop out of school at a rate of 700,000 a year, in the classroom. Called the Youth Incentive Entitlement Pilot projects, the $115 million program will provide about 20,000 in-school young people and dropouts guaranteed jobs under the government's Public Service Employment programs if they will earn their high school diplomas. The concept will be tested on a large scale in a half dozen cities.

And the new law also will finance 22,600 community improvement jobs that will be assigned mainly to out-of-school young people, and a big expansion of youth employment training programs, which will receive $537 million, or more than half of the [illegible] billion available under the law.

Although the unemployment rate has dropped in our country more than one percent already since last December, we still have enormous unemployment among young people," Carter told dignitaries who gathered in the Rose Garden for the signing ceremony. "More than half the total number of unemployed in our country are under 24 years of age. And, of course, this falls much more heavily on minority young people than it does on those of us who are male and white.

"This bill will take a great stride forward in trying to correct this serious affliction on our nation's economy which is mirrored within the nations of all the western democracies," the President declared. "I think all of us realize that if a young person reaches the age of 16, 17, 18—all the way up to 24 years of age—and can't get a job in the formative years of a life, there is a feeling of despair, discouragement, a loss of self-esteem, an alienation from the structure of society, a lashing out against the authorities who are responsible, which can shape that life for years to come."

As the President noted, high unemployment among young people has been a feature of the postwar American economy, and more recently in other industrial democracies. To some extent, it has been an inevitable reflection of work force, and from job to job, in an increasingly complex and demanding labor market. At least, that has been generally the case with white youth.

But for young blacks locked in the ghettoes of the nation's declining cities, the situation is far different. By the thousands, they are leaving school for the most part ill-prepared for any but the most menial jobs. And they are entering a job market in which the demand for unskilled labor is at a minimum.

New York is a prime example. Between 1969 and 1976, the city lost 542,000 manufacturing jobs to the suburbans or to other parts of the country. Those were the jobs that Herbert Bienstock, regional commissioner of the Bureau of Labor Statistics, describes as the traditional "port of entry" to the world of work for young Americans.

Pointing to that massive erosion of the city's economic base, Bienstock says flatly, "Employment as a fact of life no longer exists for most New York City youth." He estimates that of the 515,000 young people between the ages of 16 and 19 in New York City, only one in five has a job. Among young blacks, the picture is twice as bad. Only one in 10 can be found on an employer's rolls.

For Rangel, who grew up in Harlem, the loss of employment opportunities is a personally wrenching thing. "When I was a kid, I worked in a shoe store, a hardware store, a drug store, a hotel, a flower shop. Today those jobs are gone because the shops are gone," he says.

"I don't have the hotel I worked in, the Hotel Theresa. I don't have the hardware store, Lincoln Hardware on Lenox Ave. I don't have the drugstore, Bergman's Pharmacy. I don't have the ice cream parlor that I worked in. I don't have Adler's shoe store.

"All these things I did after school as a teen-ager, so no matter how bad things were nationally, these were jobs that were community jobs. They were available."

Today, unless a young person can enroll in a government training program or get back into school, his or her alternative is the street where, Rangel says, only the strong can survive the temptations of drugs, alcohol and crime.

James Norris, a 19-year-old high school dropout from Brooklyn, described the street life of the jobless teen-ager: "You hustle. Like if you ain't working or anything, you try to scrape out. You gamble, you play cards ... you find yourself swooping, that's like dipping in cash registers.

"There is always a con going on to get some more money ... you got to con and con and con, you know, in order to survive."

Norris is trying to make it, to achieve somehow his ambition to be a disc jockey in a disco-club. He was interviewed at the message center at City Hall where he is employed by Wildcat, Inc., a nonprofit private corporation that hires hardcore jobless, and helps them build work records and eventually move on to permanent jobs in the private sector.

Indeed, Labor Secretary Ray Marshall believes jobs program like Wildcat may be the answer to the urban crime problem. "If you are unable to find a job, then you make a living by hustling, or in illicit activity," Marshall says. "I don't know what the exact correlation is, but I would bet that if we could provide meaningful job opportunities for people, we could greatly reduce crime rates in many of these places."

Former New York Police Commissioner Patrick V. Murphy, now president of the Police Foundation, agrees. "When I was police commissioner in New York I had available census tract data that noted the areas of high unemployment," Murphy has said. "I also had the figures available on levels of crime in New York City. Invariably, where there was high unemployment and the degradation that accompanies unemployment, there were high crime rates . . . 50 to 100 times as high as those in other parts of the city."

Murphy's conclusion was straightforward: "There can be no significant long-lasting effort to reduce crime permanently without a major reduction in rates of unemployment, especially among the high crime age group that includes males under 25."

FEDERAL FLOOD INSURANCE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ROBERTS. Mr. Speaker, I rise to congratulate the distinguished gentleman from Missouri, the honorable GENE TAYLOR, on the signing into law last week of his amendment to the Federal flood insurance program.

The final approval of the Taylor amendment is an important victory for residents of small communities across the country. Federal officials will no longer be able to use economic coercion to force communities into the Federal flood insurance program.

Those of us who have experienced the operation of the flood insurance program within our congressional districts have witnessed the manner in which the power to sanction a community by cutting off Federal aid and also private bank lending has corrupted the administration of the program.

Insensitive Federal bureaucrats have fallen down on their obligation to consult with local communities. Without a full or fair opportunity to provide input, communities have been forced to accept what is in effect a Federal land use control program, designed and carried out by Federal bureaucrats.

We are indebted to Congressman TAYLOR for seizing the initiative to author legislation to solve the problems that arose in the administration of the program. Complaints and criticisms of the program had been mounting for some time, yet there was a feeling that a legislative solution was not within reach.

Representative TAYLOR decided to let the Members of the House of Representatives exercise their own judgment on this issue. He carefully drafted an amendment to restore balance to the Federal flood insurance program, without at the same time harming its essential features.

The Taylor amendment was brought up for a vote on the floor of the House of Representatives on May 11, 1977 where it was approved by a strong majority of 220 to 169.

A few weeks later, Senator EAGLETON of Missouri adopted the language of the Taylor amendment and offered it for consideration on the floor of the Senate where it passed by a vote of 49 to 36.

Mr. Speaker, I believe the Members of this body acted wisely and responsibly in passing the Taylor amendment. Under the terms of the amendment, there is no way for the Federal Government to suffer losses on property located in flood hazard areas. Federal disaster bailouts are prohibited for such property.

All that the sponsors and a good majority of the House of Representatives have sought and achieved is the elimination of some overreaching by the Federal Government by repealing the sanction on private lending to property located within a designated flood area. We do not feel that it is any of the Federal Government's business if a prudent lender wishes to make a loan on such property, providing the borrower is given notice that the property is not eligible for flood-related disaster assistance, leaving him to accept the risk of loss.

We are fortunate that Congress is unwilling to place the interests of the program administrators over that of the people.

Mr. Speaker, I was glad to have the opportunity to support the Taylor amendment, which reaffirms the principle that the Federal Government is the servant and not the master of the people.

ABE AND GITA STOLYAR

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. VENTO. Mr. Speaker, recent events in United States-Soviet relations seems to indicate a renewed spirit of cooperation in seeking and maintaining peace by seeking a reduction in the nuclear arms race. This is a highly laudable goal, and I applaud the efforts of both President Carter and President Brezhnev.

It is in this new atmosphere of cooperation that the 35-Nation Conference on European Security and Cooperation opened in Belgrade on October 4. It is my hope that in our quest for progress in the arms limitation talks with the U.S.S.R., the goal of human rights for all people will not be forgotten. Our

President has frequently and most eloquently declared that our concern for human rights should be a cornerstone of American foreign policy. The failure to speak out at Belgrade would seem to indicate that our dedication to human rights is fleeting at best and, at worst, our statements of concern could be called mere propaganda. The failure to speak out against the infringement of the rights of any individual in any and all countries will dash the hopes of the world's oppressed.

Thus as we sit across from the Soviet delegation in Belgrade, we must closely question them about their observance of the Helsinki Agreement, especially on their observance of the provision dealing with human rights, provision three. We must review the Soviet Union's treatment of all minorities and nationalities: Baptist, Lutheran, Catholic, Jew, German, Ukrainian, Tartar, Mongol, and Pole. The provisions of the Helsinki Agreement apply to all people regardless of race, color, or creed.

Mr. Speaker, I believe that the U.S.S.R. cannot stand up to any serious questioning on their observance of the Helsinki Agreement. Many of my colleagues have already presented documented cases of Soviet infringement of basic human rights. Each of these situations has been tragic and has cried out for justice. I have another example of Soviet abuse that I would like to present to my colleagues: The case of Abe and Gita Stolyar. Abe Stolyar is an American citizen and until his parents emigrated to the Soviet Union, Abe lived in the United States. Abe and his wife, Gita, applied to emigrate to Israel and in June 1975, they received exit permits. The joys and dreams of starting life anew were soon destroyed for the Stolyar family. On June 19, after they had already taken their seats on the plane for Vienna, the Stolyars were abruptly removed from the airplane by the KGB. Their visas were then nullified and they were prohibited from leaving the country. This act left them completely destitute since they had given up their apartment and had already shipped their possessions to Israel.

The KGB claimed that Gita had once worked in a plant where she was exposed to state secrets and because of this she is unable to emigrate. In August of this year the Stolyars once again requested permission to emigrate and once again permission was denied.

Mr. Speaker, the case of the Stolyar family and the other examples brought to our attention provide overwhelming proof of the Soviet disregard for its citizens' human rights. While the suffering and abuse that these people endure is tragic, they do have the comfort in knowing that someone is concerned about their plight and is trying to help them. How many more people in the U.S.S.R. and other nations are suffering and have no champion or defender? The cause of human rights does not end when an individual or nation are freed. It is a never ending struggle that demands constant vigilance and complete dedication. It is my hope that we will be able to meet this challenge.

COMMENDATION OF BLUE CROSS-BLUE SHIELD OF VIRGINIA

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARRIS. Mr. Speaker, I would like to take this opportunity to share with my colleagues some good news about the cost of health care. Blue Cross-Blue Shield of Virginia, under the dynamic leadership of its president Alden E. Flory, is taking an increasingly active role in the health planning process to hold down health care costs. Below are a few highlights of their current operations:

Since 1969, joint Blue Cross and Blue Shield of Virginia operating expense ratios have been reduced from 11.2 percent of the subscriber dollar to about 5 percent. These ratios are now among the lowest in the entire health care system.

Administrative costs per claim were reduced from $13.40 to $4.87 during this period.

Employee productivity in processing claims has increased more than 400 percent during this time. (Meanwhile, the actual number of employees is less now than it was in 1969.)

For the past five years, the Richmond-based plans have led all others of similar size in enrollment growth.

Our organizations were among the first in the country to develop a "plain-language" contract for nongroup consumers.

A recent review of their operations by the national Blue Cross and Blue Shield associations showed the plans to be among the most efficient and economically-run organizations in the Blue Cross and Blue Shield system.

They are taking an aggressive role in cost containment and regional health care planning. Currently they are opposing several major hospital construction projects in areas where there is a serious surplus hospital bed problem because they feel the projects are unnecessary and duplicative. They also have an active educational program on cost containment for area health care providers and consumers.

ON THE ANNIVERSARY OF WOMEN GAINING ADMISSION TO THE COAST GUARD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BIAGGI. Mr. Speaker, as chairman of the Coast Guard and Navigation Subcommittee of the House Merchant Marine and Fisheries Committee, it gives me great pleasure to observe the 53rd anniversary of the signing of Public Law 77–73 which established the Women's Reserve of the U.S. Coast Guard.

The association of women in the Coast Guard has been a beneficial one. The Women's Reserve which at its peak reached 10,000 enlistees, proved invaluable to our World War II effort. The reserve was terminated in the mid-1940's but was reestablished in 1949. Under the terms of Public Law 93–174, the Women's Reserve was again abolished. This time it was replaced with the transfer of women into the Coast Guard Reserve, permitting them to be commissioned and enlisted in the regular Coast Guard.

I was proud to have been the sponsor of legislation last year, permitting women to enter the Coast Guard Academy. The most recent development regarding women in the Coast Guard was the decision in May by Transportation Secretary Brock Adams, that women would be assigned to duty afloat in October, 1977.

The contributions of women in the Coast Guard have been varied and significant. At one time, the military was the primary bastion of discrimination against women. Its abandonment of this policy has worked to our Nation's benefit. The Coast Guard has always been a leader in providing opportunities for women. I therefore salute the thousands of dedicated women, past and present, who have added to the success of the Coast Guard.

At this point in the RECORD, I wish to insert an excellent article entitled, "Women in the Coast Guard and the Coast Guard Reserve." The article was written by Captain Mary E. Bachand of the Coast Guard Reserve and it provides an excellent historical examination of the role of women in Coast Guard service:

WOMEN IN THE COAST GUARD AND THE COAST GUARD RESERVE

(By Capt. M. E. Bachand, USCGR)

Women first entered full military duty in the Coast Guard Reserve during World War II, but during the First World War there had been a small number of women serving with the Coast Guard—their status and duties as yeomen closely paralleling those of the women who served with the Navy and Marine Corps.

During the bleak months of the summer and fall of 1942, when the nation's resources were being strained in two hemispheres, the Congress recognized not only the pressing need for women in all the military services, but also the right of women in a democracy to participate in the total war effort. In that atmosphere of dedication and commitment the Women's Reserve of the Coast Guard was born.

On November 23, 1942, Public Law 773 of the 77th Congress, was signed by the President, establishing the Women's Reserve of the Coast Guard, so as "to expedite the war effort by providing for releasing officers and men for duty at sea and their replacement by women in the shore establishment of the Coast Guard, and for other purposes." Appointed as Director of the Women's Reserve was Dorothy C. Stratton, then serving as Lieutenant in the Women's Naval Reserve, on leave from Purdue University where she was Dean of Women. Captain Stratton is credited with having coined the name "SPAR" from the first letters of the Coast Guard's motto and its English translation—*Semper Paratus—Always Ready.*

Under terms of an agreement between the Coast Guard and the Navy the first personnel of the Women's Reserve were to come from the Navy. Fifteen officers and one hundred fifty-three enlisted women requested discharge from the Navy and formed the nucleus of the CGWR. During the 25-month period following, that number had grown to approximately 10,000 enlisted and 1,000 officers by December, 1944.

Early training for enlisted women was conducted at Naval Training Schools in Bronx (Hunter), New York, Madison, Wisconsin, Cedar Falls, Iowa, Stillwater, Oklahoma, and

Bloomington, Indiana, while officer candidates were trained at Northampton with the Waves, followed by a period at the Coast Guard Academy in New London.

By March of 1943, it became evident to the Coast Guard that there was a need for separate training facilities—the training requirements for the Navy and Coast Guard differed substantially despite the fact that the Coast Guard was operating under the Secretary of the Navy. Adopting much from the Wave Training Program, the newly commissioned Coast Guard Training Station, Palm Beach, Florida (Palm Beach Biltmore), began indoctrination of Spars in late June 1943. In addition to "boot" training, there were four specialist schools located there—yeoman, storekeeper, cooks and bakers, and pharmacist mate striker.

Rate training expanded and diversified to the point where, by the end of the war, women were serving in a great variety of jobs in the Coast Guard. A partial listing of these ratings would include:

Yeoman, storekeeper, parachute rigger, radioman, link trainer, radarman.

Radio technician, air control tower operator, motion picture technician, chaplain's assistant, coxswain.

Gunner's mate, musician, cook, radarman, quartermaster.

In January 1945, the Palm Beach TRASTA closed and training was transferred to Manhattan Beach, New York.

Women officers of the Coast Guard had the distinction of being the only ones to be trained on the grounds of a regular service Academy. Enlisted women were encouraged to apply for OCS, and by the end of officer training, 21% of total number of general duty Spar officers had come from enlisted ranks. Adding the Spar Pay and Supply Officers, all of whom had been previously enlisted, the number increased to 31% overall. Approximately one-third of the women commissioned received additional specialized training in Pay and Supply or Communications, while the general duty officers served in a variety of billets—personnel, legal, intelligence, training, barracks management, recruiting, and morale and recreation. Late in December, 1943, Congress removed some of the limitations for women and provided for the highest rank in Women's Reserve to be Captain, but there was not to be more than one. About one year later the limitation of assigning women only to shore stations in CONUS was also removed and Spars were assigned "overseas" to Hawaii and Alaska. The limitation of military authority, however ("to be exercised over *women* of the Reserve *only* and limited to administration of the Women's Reserve"), remained on the books for a long while!

By June 30, 1946, most of the women in the Coast Guard had been released.

In July 1947, Congress terminated emergency Coast Guard legislation, including authority for Women Reservists. All women officers and enlisted personnel were discharged.

Legislation was enacted in July 1949 to re-establish Women's Reserve of the Coast Guard Reserve. Former members were invited to re-enlist or re-affiliate with prior date of rank for inactive duty only. Volunteer Training units and correspondence courses were the only training opportunities available for ALL Coast Guard Reservists.

In the early 50's, as the Coast Guard Reserve Program was developing, women could be enlisted for inactive duty assignment to Reserve Units. A few former enlisted women who had attained degrees were given inactive duty direct commissions. During the Korean conflict some 35–40 women Reservists—officer and enlisted returned to active duty and of those, eight remained to complete 20 years of active duty and retire. The enactment of Public Law 87–482 on June 12, 1962 granted constructive service credit for women who had served prior to July 1947. In the mid-60's, after a long period of practically no recruiting of women, a program was developed to bring some women on active duty to fill medical and administrative positions—HM's were trained by the Navy at Great Lakes, and two groups of YN's and SK's received a combination of Navy "boot" training at Bainbridge and Coast Guard rate training at Groton. Meanwhile, attrition continued to thin the ranks—by the end of Fiscal Year 1971 there were only 2 officers and 25 enlisted women on extended active duty and they were all Reservists. In all other Reserve categories—Selected, Ready and Standby—there were 96 officers and 43 enlisted women.

In 1972, a board was convened by the Coast Guard to study the utilization of women in the Coast Guard. That board recommended expansion of the Reserve program with a view toward opening the way for women to enter the regular Coast Guard.

A Reserve Inactive Duty Petty Officer program was initiated in 1973 and the number of enlisted women reached 414 by end of the year. In January 1973, women were assigned to OCS classes. This was the first time that women were totally integrated into an officer candidate program—selection had been made based upon the same criteria as males; housing in same barracks, curriculum identical except for minor modifications in physical education. In each of the classes since that time two or three women have consistently qualified for honor platoon, and many qualify as small arms experts and marksmen.

Enlistment of women for four year tours of active duty was authorized later in 1973. The ratings to be held by these women were limited to yeoman, storekeeper, hospital corpsman, photo-journalist, dental technician and musician.

On December 4, 1973, enactment of Public Law 93–174, amended chapters 3 and 21 of Title 14, USC. The most significant provisions of this landmark piece of legislation were the abolishment of the Women's Reserve and the transfer of women into the Coast Guard Reserve thus enabling them to be commissioned and enlisted into the regular Coast Guard.

The opening to women of the ratings of radioman, fire control technician, telephone technician, and boatswains mate, and enlistment of non-rated women in February 1974, was another step forward.

All aviation ratings were opened to women and the first female ensign reported for pilot training at Pensacola in January 1976.

Women officers presently on active duty perform a wide variety of duties and are eligible for assignment to all Coast Guard units except floating units and isolated duty stations. The women who are assigned to flight training will undergo that training in an unrestricted status—fixed wing and/or rotary—and upon completion will be assigned to any operational aviation command in an unrestricted flying status.

At this time women officers on active duty include 2 regulars and 50 Reservists, four of whom are direct commission lawyers in the grade of Lieutenant, and the others are Lieutenants Junior Grade and Ensigns—Four hundred enlisted women are serving on active duty. Inactive Duty Reservists include 26 officers and 948 enlisted as of December 1975. Women are assigned to practically every Reserve unit in the country and are performing duties commensurate with their rank or rating. In addition to the more traditional ratings for women—yeoman, storekeeper, photo-journalist, hospital corpsman—enlisted women have been rated as port security specialist, and telephone lineman. The basic training for enlisted and the indoctrination classes for officers are given in co-ed companies.

In November 1975, the Commandant approved a new uniform for women in the Coast Guard, designed by Edith Head, Hollywood fashion expert, and it is hoped that it will be available for all women by October 1977.

The Coast Guard is proud of the fact that it was the first of the Armed Services to open its Academy doors to women. Except for minor modifications in the physical aptitude tests, the program will be identical with that for the male cadets. Female cadets will make the summer practice cruises on the sailing barque EAGLE and on the high endurance cutters where facilities are available. At this time it is anticipated that of the 325 member class of 1980, 20–25 will be females.

Some recent policy changes have certainly improved the quality of life for women in the Coast Guard—the assigning of married couples to the same station or area wherever possible, and the permission for pregnant women to remain on active duty providing there is certification that future child care will not interfere with job performance. Prenatal and post-natal sick leave, as medically indicated, are now routine entitlements as opposed to requiring use of annual leave for part of an absence.

The future of women in the Coast Guard looks bright. Admiral Owen W. Siler, Commandant of the Coast Guard, stated recently: "Women in the Coast Guard have a long and proud record of service that dates back to lighthouse keeper days. Today, the opportunities for women are greater than ever . . . We have fully integrated women into the regular service . . . Old barriers to women serving in certain rating specialities have all but disappeared. Only those ratings with very poor sea/shore duty rotations are closed to women since our present policy restricts women from serving afloat or at isolated stations."

FEDERAL PAPERWORK COMMISSION REPORT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. KOSTMAYER. Mr. Speaker, yesterday the Federal Paperwork Commission presented its final report to the Government Operations Committee's Subcommittee on Government Information and Individual Rights. As a member of that subcommittee I am particularly interested in fighting excess paperwork in our Government. I thank the Federal Paperwork Commission and especially my colleague Congressman HORTON for his efforts in this regard.

Since coming to Washington a little over 10 months ago I have often been shocked at the appalling waste created by the overabundance of paper in our Government. Congress contributes liberally to this glut by exhibiting a blind disregard for the consequences of many of its actions. Millions of dollars every year go to send various forms of paper to our constituents. Much of its is repetitive, self-serving, and limited in value. However, it serves an allegedly important purpose for Members of Congress; it gets our name before the public. Last June I made an effort on the floor of the House to cut funding for the so-called "free" calendars Members of Congress send to their constituents each year. My proposal to cut what amounted to $1 million in printing and mailing costs met with stiff opposition. Its resounding defeat proved that many of us who speak out against excess paper are not willing to put our money where our mouths are. Instead 1 million more American homes will receive calendars from their Congressman this year.

I note the Federal Paperwork Commission makes no mention of the waste which spews forth from the Congress due to our exorbitant franking privileges. These privileges give Congressmen carte blanche to contribute to the flood of unnecessary paper in our Government. I would hope that although franking privileges are not part of the oversight responsibilities of the Subcommittee on Government Information that the subcommittee will recommend they be examined with an eye toward reduction.

The Commission makes many valuable suggestions on how to cut paperwork. I hope the Congress and the President move quickly to enact the recommendations calling for greater coordination of information, gathering, simplified language in rules and regulations, and consideration of the paperwork impact of legislation before it is passed by the Congress. While I applaud these admirable goals I must point to some problems I have with other aspects of the Commission's recommendations.

In calling for a Cabinet-level Department of Administration the Commission has fallen into its own trap. Such a department would create more paperwork instead of less. The desire to cut back on paperwork stems from the philosophy that "small is beautiful." Indeed, the less Government involves itself in our day-to-day lives the better. We can encourage each department to tighten up its operation without hiring thousands of more bureaucrats who, as we know, have an unsurpassed ability to produce paperwork. The proposed Department of Administration is a bureaucrat's bureaucracy, Mr. Speaker, and I feel it is ill-conceived. I urge my colleagues to oppose the creation of a new Cabinet-level agency.

Mr. Speaker, asking the Government to reform itself invites many problems. The Federal Paperwork Commission has done admirably well in defining the causes of excess paperwork and setting targets for action. It is my hope we will be able to cut back on wasteful and confusing paperwork for both the Government and the public without creating more offices and agencies to produce more paperwork and Government waste.

Additional rules and regulations requiring more paperwork strike at the heart of our free enterprise system and I believe inevitably at our most basic freedoms as well.

COMMANDOES TO BE PRAISED IN SOMALIA RAID

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CUNNINGHAM. Mr. Speaker, last evening like other Americans, I was relieved and pleased to hear that specially trained commando units from the Federal Republic of Germany successfully rescued the passengers of a hijacked Lufthansa plane while it was on the ground at Mogadishu, Somalia. I commend the incisive and direct action of the German Government, the cooperative attitude of the Somali Government, and the individuals involved in carrying out this daring rescue.

Mr. Speaker, since the ghastly raid on Israeli athletes at the Munich Olympics, the world has watched with horror as leftist terrorism has increased around the globe. I believe that its increase is tied to the number of times that governments have been unwilling to act to prevent the terrorists from gaining their objectives: flight to a country friendly to terrorists, cash, or the release of fellow terrorists from jails around the world.

Like other Americans, I rejoiced at the successful Israeli raid on the Entebbe airport in that "State of Blood" Uganda. The German raid on Mogadishu is in the same heroic mold.

The comparison with the extreme weakness of the Japanese Government when a JAL flight was recently hijacked has not escaped the attention of Americans and of the world. Japan, whose economy flourishes at the expense of that in other lands, chose to act in fear of the terrorists. Mr. Speaker, terrorists have no human rights, whether attacking Israeli athletes, capturing planes or trains, or striking nameless fear into the hearts of our citizens in urban streets. For any government to behave as if they have an argument worth hearing at the point of a gun is an act of supreme foolishness.

I commend the German commandoes, the cooperative Government of Somalia, and others concerned with protecting the lives of innocents. And I hope that if, God forbid, the United States ever is faced with such a situation, we choose the course of honor taken by the Israelis and Germans as opposed to the course of shame.

FOOD PROBLEMS IN NORTHERN GHANA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I had recently with John J. Gilligan, Administrator for the Agency for International Development, regarding press reports of starvation, food shortages, and food distribution problems in northern Ghana. A Manchester Guardian article of August 28, 1977, cited an Oxfam report which indicated that cases of starvation in northern Ghana were increasing and that large quantities of U.S.-supplied food were being diverted from those in need and stolen for personal use.

I was concerned with these reports and I wrote Gov. John J. Gilligan, Administrator for AID, requesting a verification of the accuracy of the press reports and his most recent information about the situation. I am pleased to say that Governor Gilligan's response was both forthright and informative.

Mismanagement and misuse of food aid was verified by an AID mission visit in late August and corrective measures were recommended to the Government of Ghana. Thousands of people still desperately need food assistance in northern Ghana although the extent of starvation there is difficult to judge accurately. AID has made an effort to monitor the situation and to urge the Government of Ghana to tighten its supervision and control of the food distribution program. AID is also conducting a month-long audit of the Public Law 480 program in Ghana. AID has obviously confronted a difficult situation and I trust the situation will be monitored closely. I do hope that the problems will be resolved so that the food assistance will reach those people in northern Ghana who need it.

My correspondence with Governor Gilligan and the Manchester Guardian article follow:

AUGUST 29, 1977.

Hon. JOHN J. GILLIGAN,
Administrator, Agency for International Development, Washington, D.C.

DEAR GOVERNOR GILLIGAN: I noted from a recent article in the Manchester Guardian that a confidential Oxfam report which was released indicates that cases of starvation in northern Ghana are increasing and the large quantities of U.S. supplied food is being diverted from intended recipients and stolen for personal use. One estimate suggest that up to fifty percent of internationally supplied food is being stolen.

I would like to know the following: Has the Agency seen the Oxfam report? Is it fairly accurate? Why is the food being stolen, by whom and for what apparent purposes? What is AID doing about it? Who are the groups responsible for distributing U.S. food supplies? And what is your assessment of the situation in this region and of the performance of international organizations and groups in reporting and dealing with the problems existing there?

I would appreciate the attention of your staff to this matter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

OXFAM FINDS AID GRAFT IN GHANA

(By Harold Jackson)

Because of growing concern about the food situation in Northern Ghana, Oxfam has taken the unprecedented step of releasing for publication the confidential reports of its field staff in the region.

The reports tell of increasing numbers of deaths from nutritional deficiency, food prices rocketing to five or six times the normal level, "gross irregularities" among officials responsible for distributing supplies, and a refusal by foreign governmental agencies to acknowledge the situation for fear of offending the Government in Accra.

The report gives a grim picture of life in the area of Bolgatanga, a town near the northern border with Upper Volta.

"Food is not reaching those who need it because those who don't need it are taking supplies for their own ends. This is not directly the fault of the national government, who are successfully getting food to the north, but reflects the gross irregularities among regional officials in the north, especially local district chief executives and regional commissioners, but pervading throughout the local structure," the report says.

The problems are not acute in the towns but appear to be reaching crisis proportions in the outlaying villages. "Deaths relating to starvation," the report says, "are only taking place in village pockets where the poorest, such as lepers, the blind, the elderly and the mad are not able to travel to the source of food in the towns.

"A few cases have been reported of suicide by parents with no food for their children. One local church leader showed a pile of perhaps a hundred letters from village heads pleading for food for their poorest people."

The report emphasizes that the problem is not so much the supply of food—supplies have arrived from the US Aid Agency and the Common Market, and more has been promised. The transport of food from the south to the north is also going well under the supervision of the Government.

But the losses once the supplies reach the north are causing widespread difficulties. One foreigner working in the region has estimated that 50 per cent is lost to "friends, workers, bank managers, etc." "The present situation in the north reflects a bad situation which has got worse," the Oxfam field worker cabled last week "and there is every likelihood that the situation will get worse day by day."

One of the worst hit areas appears to be south of Bolgatanga, around the area of Wale Wale. There has been no rain there for six weeks, though nearby areas have had enough. "Some women have walked 10 miles from Wale Wale to the north to collect grain left by the combine harvesters (i.e. the overspill as the machines worked) to carry back home to feed their families.

"Rainfall has varied from village to village and even from field to field. Early millet should be harvested by the end of August but the crop has been severely destroyed in some areas through lack of rain.

"Rice warehouses are empty because of the heavy rain at harvest time causing the grain to rot in the fields. Also grain has been exported from Ghana to the Ivory Coast for much-needed cash, although reliable statistics are not available. Some reports say the government will stop food distribution at the time of the harvest for early millet, which would greatly set back hopes of relieving the food shortages."

The report says that in many cases the local churches are best equipped to distribute food because they have the vehicles and more reliable distribution networks in the villages. "But they have been receiving only scant quantities of food at erratic intervals. Local church authorities are now showing signs of strain at having to say no to requests for food, knowing that most of the relief food is going to the wrong people.

The Oxfam official criticises the international organizations working in Ghana for their failure to draw attention to the starvation in the north.

"When one sees American grain sent supposedly for relief purposes being carried off from a distribution centre in the boot of an expensive German car, one wonders to what extent the West is really interested."

WASHINGTON, D.C.,
September 29, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of August 29, 1977 concerning an article in the Manchester Guardian with reference to an Oxfam report of increasing starvation in Northern Ghana and misuse of food donated for disaster relief.

Ghana is receiving food donations from several donors, including Canada, Netherlands and the EEC. Under Title II of Public Law 480, the U.S. has donated about 6,000 tons of grain sorghum and soy-fortified processed food to the Catholic Relief Services for free distribution to drought victims in Northern Ghana. In addition, we entered into an agreement with the Government of Ghana to provide up to 10,000 tons of grain sorghum for the same purpose. Before authorizing the program, the Government of Ghana was required to establish a formal organization to plan and manage the food distribution and to assure that port and storage facilities were adequate.

Our A.I.D. Mission assigned a food aid monitor to make end-use checks in Northern Ghana. When controls in the Takoradi port proved inadequate and some small diversions were reported, the Mission contracted for another end-use checker to work in the port. Our A.I.D. Mission has continuously urged the Ghanian Government, which is largely responsible for distributing the relief food, to augment its supervision and control of the program.

Our A.I.D. Mission in Ghana had commented upon the article in the Guardian before we had received the Oxfam report which has just become available to us. The article contains some statements—such as increasing deaths from starvation and suicides—which cannot be verified without more specific information. There is no doubt, however, that pilfering and distribution irregularities have occurred.

On a trip to Northern Ghana late in August, representatives of our A.I.D. Mission, the EEC delegation, UNICEF and the Government of Ghana found that program management had deteriorated markedly. The A.I.D. Mission immediately reported these findings to the Government of Ghana and asked for assurances that a proposed course of corrective actions would be undertaken at once. These actions include periodic inspections of each district, accurate and timely reporting and auditing; discontinuation of distribution of Title II food to government employees and other paid workers and the use of food to pay for contract services. In addition, it was strongly urged that greater use should be made of distribution networks established by the missionary organizations.

The A.I.D. Mission and Embassy in Ghana seriously considered asking whether the last two shiploads of grain sorghum which were about to be delivered could be rerouted for use elsewhere. But it was obvious there were still thousands of people in desperate need of food assistance. In view of the strong representations made to the Government about improving program management and the past record of its general responsiveness to such suggestions, they concluded that at least a substantial portion of the sorghum would be distributed to the needy. The program is not administratively perfect but for humanitarian reasons, it was decided that the U.S. should continue to participate in the relief effort.

The main reasons that emergency food supplies are subject to pilferage, distribution irregularities, and unauthorized use are that food is generally in short supply and prices are extremely high. Wages are low and workers do not earn enough to feed their families. There have been no reports of Title II food appearing in the black market—in other words, the food is consumed, not sold.

The Agency Auditor General began an audit of the P.L. 480 Title II program in Ghana on September 7, 1977 and anticipates completion of the audit by October 7, 1977. Meanwhile, our A.I.D. Mission continues to work with the Government of Ghana on problems associated with distribution of our Title II food assistance. Recently, in the second personnel move believed directly related to pressure brought by our Mission, the Government of Ghana relieved the current Regional Commissioner for the Upper Region and assigned a new officer.

If I can be of further assistance, please let me know.

Sincerely,

JOHN J. GILLIGAN.

PERSONAL EXPLANATION

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. DODD. Mr. Speaker, on yesterday, Monday, October 17, I missed three recorded votes as a result of my attendance at several meetings at the White House.

Had I been here to cast my vote, I would have done so in the following way: H.R. 8518, Saccharin Ban Moratorium, yes; H.R. 8149, Customs Procedural Reform Act, yes; and H.R. 6715, Taxes, Technical Corrections Act of 1977, yes.

Thank you.

WILFRED BURCHETT, KGB SPY, TO TOUR UNITED STATES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. McDONALD. Mr. Speaker, a notorious agent of the Soviet KGB, the Australian writer Wilfred Burchett, is scheduled to enter the United States tomorrow to start a lecture tour of American cities and campuses.

Starting in the 1930's, Burchett has often been assigned to countries in which Soviet-sponsored Communist forces have been actively conducting campaigns of terrorism and subversion. In those areas Burchett has served the Communists as a propagandist and adviser to aspects of their operations. Although previously granted highly restricted visas so that he could cover the United Nations in New York City, Burchett has for many years been denied a visa for free access to this country. Now Burchett is able to take advantage of the recently passed "McGovern waiver" which he received, according to the U.S. Marxist-Leninists organizing

his tour, with the assistance of the White House.

The public evidence of Burchett's vicious activities on behalf of the Communists includes proposing to the KGB that he blackmail his former mistress who had later married a U.S. Air Force general; identifying Western newsmen to the KGB as possible targets for subversion; identifying to the KGB possible anti-Communist intelligence agents among Western correspondents to Soviet controlled territory; participating as a member of Communist Chinese and North Korean interrogation teams who were brutally extracting false germ warfare confessions from captured U.S. airmen in Korea; performing similar services as an interrogator and coordinator of interrogations for the Vietnamese Communists; and serving as a propagandist and covert political agent for Ho Chi Minh and Chou En Lai.

In 1971, while in the United States on a restricted visa allegedly so that he could act as a United Nations correspondent, Burchett illegally visited Washington, D.C., at the instigation of then Secretary of State Henry Kissinger to discuss the withdrawal of U.S. troops from Vietnam. According to Burchett, he had been in contact with Kissinger also in 1967, when Kissinger was a private citizen employed by the Rockefeller Foundation, in an abortive attempt to arrange America's abandonment of the South Vietnamese. This contact was made 4 years after Burchett had been identified to Western intelligence services as a KGB agent by a defecting KGB officer.

Peter Wilfred Burchett, also known as Wilfred G. Burchett, was named in sworn testimony as an agent of the KGB by Yuri Visilevich Krotkov (George Karlin), who from 1946 until his defection in 1963 was a KGB officer assigned to subverting Western journalists and later to entrapping Western diplomats in Moscow.

Karlin described in his testimony before the Senate Internal Security Subcommittee in November 1969, how shortly after his "cooptation" into the KGB he was assigned to Berlin under the very thin cover of being a writer for the Soviet Informational Bureau (now renamed Novesty). He told how he was assigned to act as a "coat-trailer" hoping to be recruited by the British intelligence service, clearly designed to be the start of a KGB double agent career.

Burchett, whom Karlin described as a highly intelligent man, clearly surmised Karlin's role as an espionage agent of the Soviet secret police. For as Karlin testified, after a visit to the German rocket center at Peenemunde on a tour for Western journalists Karlin conducted, Burchett went out of his way to tell Karlin that a British Government official had asked him what he had seen at Peenemunde. Said Karlin:

> That's a man who wants to sell himself. He was looking for a buyer too.

Karlin then reported Burchett's overtures to his superiors in the KGB: Overtures that included Burchett's father, then visiting Berlin from Australia, proclaiming his own Communist views to Karlin so that "it would be easier for Peter." Karlin was then assigned elsewhere.

Following these 1947 overtures to the Soviet KGB secret police, Burchett covered the trial of Cardinal Mindszenty in Hungary. Looking back on his "free lance" work there, Burchett boasted:

> It completely knocked out the rubbish about tortures, drugs and extracted confessions and showed the Cardinal for the miserable, intriguing, ambitious little man he was.

Following his service in Budapest, Burchett moved on by way of Australia, where he did a little disarmament propaganda for the Soviet Union's international psychological warfare apparatus, the World Peace Council, to Peking and thence to North Korea where in 1952 he was a member of a joint Chinese-Korean Communist interrogation team which extracted phoney germ warfare confessions from U.S. POW's.

In 1956, Burchett again met with Karlin, this time in Moscow. Burchett, whose Australian passport had been denied after his activities in North Korea, was traveling on documents provided by the North Vietnamese Communists.

As set forth in Karlin's testimony, Burchett informed Karlin that he was a member of the secret Australian Communist Party underground. Burchett further informed him that when he had been in the People's Republic of China and North Korea as a "free lance" writer:

> He was supplied, he was paid by the Chinese Communist Party all that period. Then when he came to Vietnam * * * all his expenses were paid by the Vietnamese Communist Party, by Ho Chi Minh.

Burchett boasted of his close personal relationships with Chinese Premier Chou En-lai and with Vietnamese Communist boss Ho Chi Minh and said:

> That Ho gave him a house in Hanoi, and a car, a secretary, that he was "equipped" very beautifully by the Vietnamese Communist Party.

Burchett then proposed that he move to Moscow and act "in the same position as he was in China and in Vietnam. In other words, to be a free lance correspondent, representing the American newspaper 'National Guardian.'" The House Committee on Un-American Activities characterized the National Guardian in 1956 as having "manifested itself from the beginning as a virtual official propaganda arm of Soviet Russia." Now renamed the Guardian, the newspaper states its purpose is "to assist in bringing to birth a new revolutionary political party, based on the working class, armed with the science of Marxism-Leninism, committed to Socialist revolution." A national political organization in addition to a publication, the Guardian specializes in promoting Marxist-Leninist terrorist movements in the Third World and in publicizing the new Communist regimes in Angola, Mozambique, Vietnam, Laos, and Cambodia, as well as North Korea. Despite its alinement with the Soviet-sponsored Third World Communist forces, the Guardian attempts to keep open channels of communication with the People's Republic of China.

Burchett told Karlin that even with "accreditation" from the U.S. Communist newspaper, money would still be a problem, and asked to be paid by the Soviet Communist Party. Representatives of the Australian Communist Party then in Moscow for the Soviet Communist Party Congress were asked by Burchett to intervene on his behalf with Soviet officials. The KGB then supplied Burchett with a large luxury apartment during his Moscow residency.

Karlin further testified that in Moscow, Wilfred Burchett has a close relationship with Col. Borodin Barsegov, then head of the special KGB department responsible for subversion of foreign correspondents in Moscow.

Burchett's Moscow "case officer" was identified by Karlin as a "top rank KGB man" named Victor Alexandrevich Kartzev who was using the alias Victor Karev.

In November 1974, Wilfred Burchett lost a libel suit he had brought in Australia's supreme court in which he challenged the charges that he had been a Soviet KGB agent made by Karlin in sworn testimony which had been brought to the attention of the Australian Senate and then republished in a magazine. The trial lasted 10 days.

During the trial the defense brought out dramatic proof from former Korean war POW's that Burchett was a Communist agent who had participated in extorting germ warfare confessions. Karlin restated his charges in an affidavit; and a former North Vietnamese officer and a South Vietnamese former Vietcong officer both gave testimony as to their personal knowledge of Burchett's activities as an adviser to the Communists' propaganda and psychological warfare efforts.

Although Burchett denied that he had participated in brainwashing, torture of interrogations of allied prisoners, his evidence was contradictory and in several instances obviously false. He repeatedly denied that he had ever been paid by the Soviet, Red Chinese or North Vietnamese governments or that he had acted as an espionage agent. But there is no indication that Burchett was asked whether he was paid by the Communist parties of the U.S.S.R., Peoples' Republic of China, North Vietnam, Cuba or Iron Curtain countries acting as surrogate paymasters for their official governmental spy apparatus. Nor was he asked about his acting as a propaganda agent or "agent of influence."

The jury took less than 4 hours to find against Wilfred Burchett and to order him to pay the $100,000 cost of the trial.

At the time of the libel trial, when Australia's Government was controlled by an anti-U.S. Marxist social democratic party, Australia returned his passport to Burchett. It was suggested that if he won his libel action, Burchett could become the Australian Government's "roving ambassador in the Communist world" with the goal of healing the split between Moscow and Peking—one of Burchett's ambitions.

Burchett did not clear his name; the radical leftist government in Australia

was defeated in subsequent elections; and such an ambassadorship for Burchett is now out of the question. However, his ambition to reconcile Moscow and Peking remains and is reflected in the composition of the "Support Committee" formed to sponsor his American tour which reflects all points of the leftist ideological spectrum from the "willing dupes" through Maoists and Castroites to Moscow's détente-conscious camp followers.

Cosponsors of the Wilfred Burchett Support Committee, 33 West 17th Street, New York, N.Y. 10011 (212/691-0404) include Mia Adjali, Frances Beal, Norma Becker, Noam Chomsky, Ossie Davis, Ruby Dee, Dave Dellinger, Dick Gregory, William Kunstler, Corliss Lamont, Erwin Salk, Sidney Lens, Ruth Meyers, Beatrice Milwe, Sidney Milwe, Sidney Peck, Irwin Silber, Jack D. Spiegel, Amy Swerdlow, Cora Weiss, and Howard Zinn. Coordinators of the group are Guardian staffers Naseem Jamali and Abe Weisburd.

In 1969 and 1971 when Burchett was in the United States, he was issued with a restricted visa to cover the United Nations which limited his lawful travel to a 25-mile radius of New York City. This year, Burchett will be free to travel at will. His itinerary will take him to New York City, October 21; Buffalo, October 23; Chicago, October 28; Seattle, November 3; San Francisco, November 4; Los Angeles, November 11; and Boston, November 18. He will also lecture at Columbia University, Weselyan University, the University of Michigan, Harvard, Yale, and other colleges.

For his triumphal venture onto the U.S. leftist and collegiate lecture circuit, his visit to be made on an Australian passport reissued this summer in Paris, Burchett is being hailed by his Support Committee promoters as "one of the world's most respected and most knowledgeable journalists."

Apparently this version of Burchett's career is behind the White House's intervention to make his tour possible. According to Support Committee coordinator Naseem Jamli, there were initial delays in obtaining a visa for Burchett. But then "we went to the White House and when they heard of the roadblocks they went out of their way to help." Jamali would not say who went to the White House or who in the White House went out of their way to aid identified KGB agent Burchett. The State Department denied any official White House involvement.

In his most recent book, "Grasshoppers and Elephants," Burchett has written with great satisfaction of "the total defeat—by superior intelligence and morale—of the United States in every field: military, political, diplomatic, and psychological" in Vietnam. He can now claim yet another victory.

This paid agent of the Communists and propagandist for their terrorist forces in the Third World could have been excluded from this country had Congressman JOHN ASHBROOK's antiterrorism bill been reported out by the Judiciary Committee. Yet the Judiciary Committee has taken no action on this vitally needed legislation. Wilfred Burchett's entry is yet another glaring example of why the House needs a full Internal Security Committee which would develop necessary legislation to cope with terrorist and subversive threats.

A TRIBUTE TO MR. THOMAS C. LAWLER

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARRIS. Mr. Speaker, I would like to take this opportunity to share with my colleagues the outstanding tribute that was given to one of my constituents, Mr. Thomas C. Lawler, in a recent issue of Our Sunday Visitor. Mr. Lawler is a member of St. Rita's Catholic Church in Alexandria, Va. The text of the article follows:

THE MAN WHO DID SOMETHING

Tom Lawler was like a lot of other people these days. He didn't like the way religion was being taught. He talked about it with friends, said someone should get out a good, solid Catholic catechism for adults. His friends said it was true, someone ought to do something about it, and they suggested maybe he ought to do something about it himself.

So Tom, who had been talking about it with his brother, Capuchin Fr. Ronald Lawler, and Fr. Donald Wuerl, did something. Not by himself but with Father Wuerl and Father Lawler.

They got together in late August, 1973, and the three of them spent a couple of days, outlining what needed to be done, deciding on the general approach that should be taken, deciding who they would call on to carry out the work with them. By the first day of January, 1974, they were ready to begin.

From this start came "The Teaching of Christ: A Catholic Catechism for Adults." The editors brought to the task some of the top people in the Church and the work has been praised by a cross-section of the Church, from Archbishop Joseph L. Bernardin, president of the National Conference of Catholic Bishops, to Fr. Andrew Greeley, the Chicago priest-sociologist who doesn't offer praise easily.

For Tom Lawler it was a high point in a dedication to Catholic learning he's carried on for a quarter of a century. It led to his decision to give his full time to Catholic religious education, and last month he became director of the Department of Religious Education in the Diocese of Arlington, working with his old friend, Bishop Thomas Welch, and under the direction of Msgr. Richard J. Burke, chancellor and director of Catholic education for the Diocese of Arlington.

Thomas Comerford Lawler was born Dec. 19, 1920, in Cumberland, Md., the first son and the third of the six children of Leo Thomas and Lillian Laing Lawler. The father of the family was an electrical engineer.

The six children were Mrs. Mary Busch, who lives in Bethesda, Md.; Lillian-Marie Lawler, no longer living; Thomas Comerford Lawler, whose middle name was the maiden name of his father's mother; Mrs. Frances Laing Baker, Cumberland; Fr. Ronald Lawler, a Capuchin priest who teaches philosophy at Catholic University, and the youngest, Albert J. Lawler, who lives in Cumberland.

Tom Lawler began his elementary school work at SS. Peter and Paul school in Cumberland, and went to LaSalle Institute in Cumberland for the seventh and eighth grades.

When he was ready for high school he decided to go to the minor seminary and enrolled at the Cauchin's St. Fidelis school at Herman, Pa. There he wrote for the school paper, worked on the school annual and played the trumpet in the school band. He graduated summa cum laude and gave the valedictory address in Latin. Although Tom has become a recognized scholar, written books that would qualify as doctoral dissertations, his formal education ended in 1940 with his graduation from St. Fidelis.

He realized then he did not have a vocation to the priesthood and he returned to his hometown, took a job with Celanese there. That was a brief period, for the United States entered World War II the next year and a few months later Tom was in the Army.

He graduated from Officer Candidate School, was commissioned an officer in the Corps of Engineers, served the next four years both in the European Theater of Operations and the Pacific, his last assignment being in Okinawa. He ended his service years as a captain in 1946.

He returned to Cumberland and Celanese, but in 1949 he became a civilian instructor for the Army Engineers at Fort Belvoir, Va. In Cumberland he had met Patricia Fullerton, a newspaperwoman with the Cumberland Daily News and the daughter of Max Fullerton, the Associated Press bureau chief in Baltimore.

They were married Sept. 16, 1950, with Fr. Austin Murphy, now auxiliary bishop of Baltimore, as the priest who witnessed their marriage.

The next year Tom entered the Central Intelligence Agency where he remained until a few months ago. Those years are, by the nature of intelligence service, confidential and Tom, as all involved in intelligence work, is pledged not to speak of them publicly.

But those were years in which he delved deeply into theology. In 1952 he completed a work: "St. Augustine: Sermon and Letters," which became a volume in the series, Ancient Christian Writers. He also contributed another in this series, "The Letters of St. Jerome." He is today with the famed Msgr. Johannes Quasten of Catholic University, the co-editor of Ancient Christian Writers.

He wrote frequently for Homiletic and Pastoral Review, the Catholic Educational Review, the Josephinum Review, and was a contributor to the New Catholic Encyclopedia. Through his scholarly contributions he received the only degree he holds—an honorary doctorate of Humane Letters from St. Joseph's College.

He and his wife, Patricia, have three children: Peter Augustine, who is completing his doctoral dissertation in political theory at the University of Virginia. Thomas Aquin, who works with the federal reserve bank in Richmond and is completing graduate studies in economics, and Gregory Francis, a graduate student in mathematics at Princeton.

His only hobbies are reading and studying. Ruddy-complexioned, he is 5-10, weighs 170 pounds, has green eyes and brown hair showing some gray.

THE OPTICAL DELUSION—PARTS IV AND V

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to insert the final two articles in the major investigative series in the New York Daily News dealing with the retail eyeglass industry.

Part IV is a discussion of various State laws regulating the eyeglass industry. The article discusses the ineffectiveness of these laws especially those in New York State. The Federal Trade Commission in the near future is expected to hand down new rules relative to the eyeglass industry. State and Federal agencies have a responsibility to the consumer to enforce laws which are for their protection. The extent to which Americans have been exploited by the eyeglass industry certainly merits a concerned response by State and Federal lawmakers and agencies.

Part V is donated to giving consumers practical tips with respect to obtaining eye examinations and purchasing eyeglasses.

I commend the Daily News and especially the main author of these series, William Sherman for an outstanding eye examinations and the purchase of eyeglass equipment. Consumers should be grateful for these important guides.

I commend the Daily News and especially the main author of the series, William Sherman. They have performed an exemplary public service in the completion of this outstanding and informative series. The quality of a newspaper is measured by the degree to which it serves its readers. The Daily News series will result in many thousands of American consumers being less vulnerable to the ripoffs which pervade the retail eyeglass industry.

Parts IV and V of the optical delusion follow:

HOW TO BUY GLASSES WITH YOUR EYES OPEN

(By William Sherman)

You can buy a $15,000 pair of glasses with diamond and ruby studded frames and cool blue-tinted lenses on Fifth Ave., or you can take the IND subway down to Delancey St. on the lower East Side and pick up a plain pair for $15.

It's possible you will see better with the $15 pair, for it all depends on the examination and the workmanship in filling the prescription.

But it also depends on you—how you choose the frame and the lenses, whether you make sure the examination is thorough and whether you insist that the glasses you get meet the proper specifications at the right price.

In effect, your eyes are in your hands.

According to Jan Dorman, executive director of the New York State Optometric Association, "the ophthalmic industry is almost totally unregulated and without standards."

And today, much of the retailer's emphasis in this $4.2 billion-a-year industry is on selling what they call high-fashion frames and lenses. There are sexy salesgirls to wait on you in boutiques filled with stereo sounds. And there is same-day service.

There are glasses to keep the sun out, match your hair, change the color of your eyes, and the ads promise you transformation into a range of personalities from a whacked-out rock-and-roll star to a menacing Mafia hit-man.

You will drip sophistication, the ads implicitly promise women. Men, the ads subtly trumpet, you will seem more masculine, jazzier. And for both sexes, there are contact lenses which eliminate the "four-eyes" look altogether.

The transformation of the industry into its present go-go state has its roots in the common belief that people don't look as good with frames and glass on their faces.

"Men seldom make passes at girls who wear glasses," humorist Dorothy Parker wrote.

And the industry changed.

But with all of today's powerful hype, one element has been forgotten, a News investigation disclosed. That is: medically proper glasses, glasses that fit and help you see correctly.

Most people don't know what that means and the business of buying glasses is an impenetrable mystery. It can, however, be cleared up.

First, there is the aspect of price. Most lenses are plastic and most are "stock," prefabricated to a whole range of prescriptions and ready to be edged and slipped into frames with no special grinding.

About 80% of the lenses sold in America are manufactured by two companies, Bausch and Lomb and the American Optical Co. They compete with each other to get retailers' business. The quality of production from both houses is excellent and the process of making lenses is automated.

Most lenses a retailer buys for sale to the public are single-vision lenses. Most cost under $7 wholesale. Bifocal and trifocal lenses need special grinding at laboratories and usually have a wholesale price tag of about $18.

Before the lenses are sold to you, they are marked up in price by retailers, but there is no reason why you shouldn't be able to get a perfectly good pair of single-vision lenses for under $25, even with the markup. But you have to shop around and compare prices. You won't find them in the newspaper because of statutory prohibitions against optometric price advertising.

Contact lenses are another story. Fitting and prescribing these lenses is a complicated business, so most of what you're paying for is the retailer's dispensing fee.

Surveys by the Federal Trade Commission disclose that most contact lenses wholesale for under $50, but the average price paid by customers is over $200 and goes as high as $300.

Here again, shop around for prices, but beware of several things; nobody has yet perfected soft contact lenses that accurately correct for astigmatism and are comfortable.

Also, the fitting is very crucial and takes a lot of time. That fit should be checked several times by an optometrist or ophthalmologist.

If you're smart, say optometrists at the State University of New York's Optometric Center, you'll make sure the contacts come with a guarantee and can be returned at no cost to correct imperfections. It costs more, but it's worth it in the long run.

The next item is pricing frames and here there is great variation, both in the price at different stores for the same frame and the prices for different frames.

However, optometrists at the university center say you can buy a good serviceable frame for under $22. There will be a markup from the wholesale cost.

In New York City it's especially important to comparison-shop. One News reporter visited 20 retail stores in Manhattan and got 18 different prices for a frame that wholesaled for $11.60. The prices she was quoted ranged from $22 to $48.50.

Obviously, you will buy the frames and lenses at the same store, but it's a good idea to know the price of both. Don't be embarrassed to ask the retailer what he paid for them. Check his catalogues for a selection. If he doesn't have the frame you want in his store, he can always order it. There are 45 major frame manufacturers in the United States all anxious to sell their wares.

So unless you're going in for something fancy, you should be able to buy an excellent pair of glasses for under $40. Tinting lenses is extra, but again, if you shop around that shouldn't cost you more than another $10.

However, that pair of glasses won't do you a bit of good unless it accurately corrects your vision problem and fits properly. If it doesn't, you're throwing your money away.

There are several steps to insure that you get the right pair of glasses. All involve a certain amount of trust in the retailer, but if you know the right steps, you can ask the right questions which gives you some insurance.

First is the examination. There are choices here. You can go to an ophthalmologist, a medical doctor with advanced training in the care and treatment of the eye, or an optometrist, who cannot treat disease, but has four years special training in optometry in addition to a college degree. An ophthalmologist will be more expensive, but it's up to you.

When the tests are over, you have another choice: where to get your prescription filled. Most opthalmologists don't sell glasses, they only prescribe; most optometrists do sell glasses. But you can also buy your glasses from an optician, a man licensed only to fill prescriptions and check the fit of resulting glasses. Again, it's up to you, although some optometrists will charge you extra for an examination if you don't buy your glasses from them.

At this point, you select the frames and lenses. If your optometrist or optician tells you a particular frame or size lens is no good for your prescription or the size of your head, listen to him.

In choosing lenses, say optometrists at the university center, you should avoid orange, blue and red tints. They only tend to distort colors and have nothing but a cosmetic effect. They cannot be used as sunglasses. Neither can gray-tinted lenses.

If you buy your glasses from the same person who prescribed them, ask for an itemized bill. You ought to know what you're paying for and shouldn't settle for a line like, "It's all included in the total package".

Always ask for a copy of your prescription. It must be provided under state law and it's your only way of knowing whether the resulting glasses meet the specifications written down.

Some optometrists may be reluctant to give you this copy. For whatever reasons they cite, their basic thrust is they don't want anybody else to make money on filling the prescription.

When the prescription is filled and you've got the glasses in hand, you're at another critical juncture. The glasses must be checked against the prescription that was written to make sure they match. If the glasses don't, they're incorrect.

Ask to have the glasses checked for the following:

To see if the prescription of the lenses matches the prescription written. This is a simple procedure that shouldn't take more than five minutes. It involves placing the glasses under a lensometer, a calibrated device that looks like a long microscope. It provides a readout of the prescription.

The distance between the otpical centers of the lenses should match the distance between the pupils, or centers of your eyes. This takes less than a minute and involves only placing a ruler to your eyes and a ruler to the glasses.

In bifocals, the segment heights should be measured.

The length of the temple pieces and the front should also be measured.

You should look at the glasses to make sure there are no pocks or dents in the frame resulting from overheating the frame while slipping the lenses in.

You should look for any imperfections in the lenses including any flecks, bubbles, scratches or pits.

When you put the glasses on, make sure they don't slip down your nose, not even with a little bit of a tug. The frame shouldn't fit too tightly against the side of your head and you shouldn't feel any squeeze against your nose.

If it all checks out correctly, you've got a good pair of glasses. If there's a problem, ask to have it fixed.

EXAMINING YOUR EYE EXAM

Every expert in the ophthalmic field says that a thorough eye examination is a crucial component for prescribing accurate glasses or contact lenses that will correct your vision problem.

And it should take no less than 30 minutes, especially if it's your first visit to a particular practitioner, according to optometrists at the State University of New York's Optometric Center.

"It is impossible to do a decent examination in less time," says Alden Haffner, president of the center, "and if it's a good examination on the first visit it should take 45 minutes."

Haffner and other optometrists at the center believe that every person with vision problems should know what makes up a proper examination.

Here are the basic steps:

A case history or account of your vision problems. This should take about five minutes.

A test for glaucoma. It takes two minutes at the most with proper equipment and it is done by measuring the pressure of the fluid in your eye. High pressure is an indication of glaucoma.

Binocularity tests: This is a 10-minute battery of tests to see how well your eyes work as a team, whether they "see" on the same planes.

Visual acuity exam: A familiar test usually done by asking you to read a series of letters at a particular angle at a particular distance. It helps determine whether you are nearsighted or farsighted. Usually this takes about three minutes.

Examination for internal or external defects: A detailed look at the visible structures of your eyes including the retina, cornea and eyelids. This should take from five to eight minutes.

The subjective examination: A series of tests where the practitioner slips trial lenses into a device, asks you to look through the lenses at a chart and determines, through trial, what type of corrective lenses will help you most. It also helps determine whether you're nearsighted or farsighted. This should take from seven to 10 minutes.

A retinoscope test: This is an objective verification of your own choice of the best lenses. It is done by an examination of how light is received by your eye. This should take about two minutes.

Optical centers: The distance between the centers of your eyes should be measured so that the resulting lenses in glasses will match that distance. Should not take more than 30 seconds and is done with a ruler.

A look at your old glasses: This should be done only after all the other tests are completed and it is only a check to see if your prescription has changed.

NEED HELP?

If you're having problems with your glasses; if they don't fit correctly, or you're getting headaches, or you're not seeing well, the first thing to do is bring them back to the place you bought them and have them checked.

If you don't get satisfaction there, or you believe you were cheated on the price or other services, there are several agencies that will hear your problem and possibly solve it.

Optometrists and opticians are licensed by the State Education Department. Complaints against those professionals should be taken to the Division of Professional Conduct, State Department of Education, 261 Madison Ave., New York City. Their telephone number: 687-3513.

The New York State Optometric Association is a professional fraternal organization of optometrists that also hears complaints:

Bureau of Optometric Consumer Affairs, 90 Swan St., Albany, N.Y. 12210.

And they've set up a consumer "hot line" with a toll-free number: 800-342-9836.

HOW EYEGLASS LAWS KEEP YOU IN THE DARK

(By William Sherman)

With an eye on self-protection, the eyeglass industry has seen to it that the regulation of the business is by the retailer and for the retailer. The person who wears glasses is usually the last factor considered.

In nearly every state, including New York, the practice of optometry is regulated by appointed boards totally dominated by professionals from the business. The net effect is that eyeglass prices are kept high and consumer control and education is kept at a minimum.

In much the same way as doctors, lawyers, certified public accountants and pharmacists run their professions, so do optometrists and opticians regulate the merchandising and practice of eye care, from setting standards to penalizing those who break the rules.

These rules, established over the years by industry professionals and enacted into the state education laws by legislatures, are generally full of loopholes.

For example, in states such as Oklahoma, a person doesn't have the right to a copy of his eyeglass prescription. As a result, in those states you cannot buy your glasses from anyone except the person who examined your eyes.

In some states like Michigan, a customer must be given his prescription upon request, but local optometric associations advise members to resist such demands.

Federal Trade Commission surveys show that in areas of Kansas and Mississippi, optometrists reluctantly give out copies of prescriptions, but charge $5 to $12.50 extra for writing them up on a blank, a process that takes 30 seconds at most. In addition, some state retailer assoications urge their members to ask patients to sign waivers of liability on their prescriptions. If the prescription is improperly filled, the retailer can't be sued.

In New York, where a prescription must be handed over on request, a News reporter had to insist on his copy at nearly every store visited. Most retailers agreed reluctantly. One store manager refused the reporter saying, "The guy who examined you is a bum. He got fired. We don't have it."

The reporter had the advantage of knowing the rules, but most people don't Federal questionnaires disclosed that most eyeglass buyers don't know the first thing about the business. For example, the majority of people in the FTC surveys believed that most lenses are made of glass, while more than 90% are made of plastic, and hardly anyone was able to explain their prescription.

Meanwhile, practitioners who break state laws, cheat customers on price, or provide sloppy service or unfit glasses usually get nothing more than a slap on the wrist. That is, if a consumer's complaint is heard at all, for the redress mechanism is slow and cumbersome.

Despite 450 complaints last year, for example, the New York State Board of Examiners in Optometry heard only four cases.

So the person buying glasses is left out of the picture. Boards of optometry in 37 states, including New York, are composed entirely of optometrists; eight states require one lay member on the board, four state boards have two consumer members and California recently passed a law requiring that three of nine members be nonprofessionals. In 46 states, there is a political connection; board members are appointed by governors.

To further confuse the situation, there are no national standards for eyeglass merchandising and optometry. This results in as many sets of rules as there are states despite the FTC's repeated pleas for uniformity.

Often, there are no laws at all. For example, there is no law requiring that a manufacturer's name be stamped on a frame. Almost every other item of commerce must be stamped or tagged—milk, television sets, clothing, automobiles, appliances and on and on, ad infinitum. But not glasses.

Empowered by the state to recommend changes in the law, hear customer complaints and recommend license revocation or other penalties for opticians and optometrists they find guilty of malpractice, these boards seem unusually timid about coming down hard on their colleagues.

In New York State, processing complaints is a complicated business. A complaint first goes to the State Board of Education, then to that board's Division of Professional Conduct and, if the case has merit, to the seven members of the Board of Examiners in Optometry. If this board finds the practitioner guilty, they can make a recommendation to the State Board of Regents, which can revoke a license or impose other penalties.

Of course, the practitioner can appeal the decision in the courts and many cases drag on for years.

"By the time a case comes up, witnesses have vanished and the case quietly dies," said optometrist Edwin Simmons, chairman of the New York board of examiners.

In the last nine years, out of about 4,500 consumer complaints about eyeglasses, the Board of Regents took action against five optometrists. No licenses were revoked.

Four of the five optometrists were practitioners who were found guilty of violations of advertising laws or violations of criminal law in the courts such as ordering merchandise and not paying for it. The fifth, a referral from California, was a man who prescribed glasses that were unnecessary and charged for other services not rendered. His licenses in both New York and California were suspended for two years. He is appealing that decision.

New York State is not alone in the way it handles complaints against optometrists. For example, a Federal Trade Commission study of actions taken by the California Board of Optometry shows that between 1972 and 1975, 72 of the 86 disciplinary actions taken by the board concerned improper Yellow-Page advertisements by licensees.

Optometrist Edwin Simmons, chairman of the New York Board of Examiners in Optometry, said that regulating practioners is difficult because there are too few investigators to look into complaints. "The number is scandalous," he said, "and there can't be proper and rapid investigations."

Oscar London, in charge of the investigators at the Department of Education's Division of Professional Conduct agreed. "There are only six to eight investigators to watchdog nine state-licensed professions including optometry and opthalmic dispensing." The others include speech pathology, landscape architecture, public accounting, and land surveying. "Nine hundred to a thousand cases are handled each year; about half have to do with optometry and opthalmic dispensing. The problem is both manpower and expertise," he said.

London's unit initiates no investigations of its own, does no spot checking, and many of the cases eventually heard by the board of examiners are referrals from the courts or from other states.

"Another big problem we have," London added, "is that most of the mistakes in making glasses are errors by lab men who fill prescriptions. They're not licensed and we have no jurisdiction over them."

Jan Dorman, executive director of the State Optometric Association, a group separate from the state board, said, "There is no question New York is too lax on people who break the rules."

He added that his own association of 1,000 members expels sloppy practitioners, has peer-review procedures and recommends disciplinary action to the state board. "But what we do is just an administrative sanction," he said. "Meanwhile, there are 500 optometrists in the state who aren't members of our group and there's nothing we can do with them."

Many of those 500 belong to a rival group, the Optical Retailers' Association made up of optometrists who work in large incorporated stores. Dorman's group represents individual practitioners.

Said Dorman, "If you go to a large commercial house, who do you sue?" An optometrist works for the company. All he does is examine your eyes. If the prescription is filled wrong, you can't sue him, you've got to sue the corporation and that's more difficult."

Spokesmen for several of the large chain stores disagreed, saying that anybody with a complaint about glasses can have them looked at and fixed at no charge. They added that a corporation can be sued just as quickly as an individual.

Dorman insisted that the State Optometric Association acts to protect the consumer. "We want lay people on the state board. We have lay people on our own association board and we'd like to see people learn more about glasses. We'd like to see manufacturers' names on frames, we'd like to see commercial houses registered with the states."

Despite the statements, the loopholes are still there. And Nobel Prize-winning economist Milton Friedman has this to say about situations where the state assigns self-regulatory powers to the professions: "It almost inevitably becomes a tool in the hands of a special producer group to obtain a monopoly position at the expense of the public."

THE FRAME GAME

When somebody buys a pair of glasses, how do they know what they're buying, if they are getting their money's worth? "They don't," says Jan Dorman, executive director of the New York State Optometric Association.

Many frames have no name at all; some have "Frame/Italy" or "Frame/USA stamped on the side; some have a model name like "Captain."

But even when there is a name embossed on the frame it can be deceiving. One optometrist who testified before the FTC found the following in a frame catalogue;

Eleven frames made by 11 different companies with 11 different prices all designated on with the name "Aida" stamped on the side.

Nine "Alpha" frames made by domestic manufacturers in either metal or plastic.

Twenty-four frames named "Astro" made by 15 foreign and domestic companies.

Seventeen foreign and domestic companies that manufacture a frame called the "Apollo."

Then, there are the imitations. For example, there is a Christian Dior frame, which costs $48 wholesale, that is impossible to distinguish from copies, or "knockoffs" as they are known in the trade, that are made in Hong Kong. These Christian Dior "knockoffs" wholesale for $17.50 and retail for $50.

News reporter Kiki Levathes, who compared prices at Manhattan stores for duplicates of her Bausch and Lomb Ray Ban "Aviator" glasses, ran into several sales people who insisted that she was wearing something else.

At Sterling Optical, 795 Lexington Ave., a sales woman told her, "You're not wearing a Ray Ban frame. Listen, what you really want is a Maverick frame, or maybe a Horse frame."

Levathes had the advantage of knowing who made her frame even though it is not so marked.

Most people questioned by The News, however, didn't care who made their glasses, or never thought about it in the first place. Thirty poeple questioned said they didn't know who made their glasses, although they were able to quickly recite the manufacturer of their clothes, or car.

Many think there's no difference in frames. But a poorly made frame will not hold the lens properly for very long. The setting of the lens in relation to the eye is crucial for good vision, when it comes loose, you're not seeing properly.

Lenses are another item free of regulation, although there are two distinct grades produced, first and second quality.

A first quality lens contains no physical defects. Second quality lenses are marred either with clips, bubbles, flakes, or heat marks that are often invisible to the naked eye but can affect the prescription.

How does a customer know if he's getting a first or second quality lens in his glasses or contacts? "He doesn't," says Dorman, the executive director of the State Optometric Association. And Louis Feldman, owner of North Star Optical Co., an optical lab at 157 Chambers St., said, "Most chain stores won't throw a lens away just because there's a flake in it."

However, Alan Cohen, vice president of Cohen's Optical Co., one of the nation's largest eyeglass retailers, said, "We have to return about 10% of our frames and 20% of our lenses to the manufacturer because of minor imperfections. They replace them at no extra cost."

The president of Cohen's biggest rival, Sterling Optical Co., said something quite different. "We have returned stock—either frames or lenses—very infrequently. The last time we had a bad shipment of lenses was a couple of years ago," said Gerard J. Cevaseo.

Ironically, both Sterling and Cohen's buy their lenses and frames from the same manufacturing companies.

DEE MAGNANI: ABLE AND COMPASSIONATE LEADER OF THE ELDERLY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. PATTEN. Mr. Speaker, the Neighborhood Care Team Project of New Brunswick, N.J., is doing fine work for the elderly of the city, which number 6,000 persons.

Financed by a $240,000 Federal grant by CETA, this active group is providing the elderly with real help—from their legal and human rights, to a project for the winter months to be known as "Project Identification."

I know that many others are making valuable contributions to the Neighborhood Care Team, but the outstanding leader of this program is Dee Magnani, of New Brunswick, its coordinator and supervisor. Dee is remarkable in so many ways, for she is not only very able, but very compassionate. Her interest in the problems and hopes of the elderly is deep and strong and rare. She is one of my most talented and versatile constituents. I am exetrmely proud of Dee Magnani.

Recently, the Home News, of New Brunswick, N.J., published an article on the achievements of the Neighborhood Care Team, and it is hereby inserted in the CONGRESSIONAL RECORD:

[From the Home News, Oct. 3, 1977]

NEIGHBORHOOD CARE TEAM IS THERE TO SERVE ELDERLY

(By Valerie Hendy)

NEW BRUNSWICK.—Her apartment has been robbed once and she has been mugged twice on the streets of the city. She suffered minor injuries as a result of those muggings within the last three years, but Mrs. Genevieve Garcia, 71, is not bitter.

"I just want my legal rights," said Mrs. Garcia quietly at a staff meeting of the Neighborhood Care Team Project at the Joyce Kilmer House recently.

It is the legal and human rights of New Brunswick's 6,000 elderly citizens which concern the newly formed Neighborhood Care Team, according to Miss Dee Magnani, the project's coordinator and supervisor.

With a $240,000 grant from CETA, sponsored by the Community Development Agency of New Brunswick under Special Projects Title VI, Miss Magnani and her staff of 23 neighborhood workers, seek to identify and assist those senior citizens who are experiencing difficulty with public or private service agencies.

English and Spanish speaking team workers are available to help eligible elderly citizens with needs varying from disputes with unions over pensions to locating low-cost housing.

But Mis Magnani's team of young workers do not devote themselves exclusively to extricating the elderly from the crush and confusion of social service bureaucracy.

"This is an action group," Miss Magnani said, "they're out on the streets."

The project's enthusiastic team of workers, all referred to the project by Manpower, have created several news services for the aged which encompass members of the New community at large.

Joy McCracken, one of the team's block leaders, has established an escort service for the elderly.

Many of New Brunswick's senior citizens have suffered muggings similar to Mrs. Garcia's while shopping downtown.

McCracken thought that if youths who might be inclined to rob elderly people worked instead to know them and aid them, future robberies might be avoided.

Working with volunteers from the Community Youth Service Center, she said, "It might be good reinforcement for the kids." It is harder to rob someone whom you have known as a friend.

Ted Gorka and Will Bailey, both assistant block leaders, have found 25 rooms for uni-

versity students in the homes of 17 of New Brunswick's elderly citizens.

The room location program not only provides a source of revenue for persons on a fixed, low-budget income, but enables students to experience a bit of home life.

A unique dimension of the Neighborhood Care Team Project is the home maintenance program. Miss Magnani, who has worked with and for the elderly in New Jersey for the last 5 years, said she discovered many old people are unable to finance minor home repairs and care for shrubbery and lawns.

Team workers, skilled in landscaping, carpentry, plumbing, masonry and other skills, are available to make home repairs if the client supplies work materials.

Although the project workers often serve as arbiters for New Brunswick's elderly, they also assume the intensely personal role of just listening to their clients.

Mary Alexander, an assistant block leader, reported that a woman whom she'd visited recently was greatly depressed by the death of her sister.

"She's very afraid, very lonesome," said Miss Alexander.

"Can you interest her in the Senior Resource Center," asked Miss Magnani, thumbing through a book of contact people for various social agencies. "Visit her once a week. Make friends with her," Miss Magnani advised.

A project planned for the winter months will be known as "Project Identification." With the collaboration of the New Brunswick Police Department, the elderly will be able to have their Social Security numbers engraved on valuable household appliances as a deterrent to thieves. If items are stolen, the police will better be able to identify and return stolen property.

In several weeks, the Neighborhood Care Team will move into newly constructed offices on the second floor of the City Hall Annex at 155 Memorial Parkway.

Although the project has been funded for one year only, Miss Magnani and her staff are optimistic that they will be able to find sufficient funding to continue their work beyond that time. "We have found only half of New Brunswick's elderly," Miss Magnani said.

If the project's funding is not renewed, Bailey, the project's photographer said, "We've created a mechanism that can be continuous."

The project is in need of office equipment of all types and would welcome donations. If anyone you know might be in need of assistance, call the Neighborhood Care Team Project at 745-5090.

TWO VETERANS' ADMINISTRATION PHYSICIANS RECEIVE NOBEL PRIZE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ROBERTS. Mr. Speaker, as most of my colleagues know, two full-time career Veterans' Administration physicians have been awarded the 1977 Nobel Prize in medicine.

The winners are Dr. Rosalyn S. Yalow of the Bronx, N.Y. VA Hospital, and Dr. Andrew V. Schally of the New Orleans VA Hospital. The awards represent one of the few times Nobel awards have ever gone to scientists employed by the U.S. Government, and are the first ever to go to VA medical researchers.

Dr. Yalow is a senior VA medical investigator. She was awarded half the prize for her pioneering work in endocrinology, the study of glandular secretions, using the technique of radioimmunoassay which she and the late Dr. Solomon A. Berson, also of the Bronx VA Hospital, devised and introduced. She has spent her entire professional career in the Bronx VA Hospital, and has won numerous other high honors for her scientific contributions.

Dr. Yalow was the first woman to be appointed a VA senior medical investigator. She holds the rank of distinguished service professor at the Mt. Sinai School of Medicine, in addition to serving as chief of the nuclear medicine service and director of the Solomon Berson Research Laboratory at the Bronx VA Hospital.

Dr. Andrew V. Schally is the senior medical investigator at the New Orleans, La. VA Hospital. He shares the other half of the prize with Dr. Roger Guillemin of the Salk Institute. Dr. Schally and Dr. Guillemin have made many pioneering discoveries in peptide hormone chemistry. Dr. Schally has been chief of the endocrinology and polypeptide laboratory of the New Orleans VA Hospital since 1962. He holds the academic rank of professor of medicine at Tulane University School of Medicine.

Mr. Speaker, the Nobel Prize awarded for the brilliant accomplishments of Dr. Yalow and Dr. Schally is not only a tribute to two outstanding physicians, but is a great tribute as well to the Veterans' Administration and its research program. Many of us have long known that some of the best research in medicine is being conducted by physicians in VA hospitals. The $100 million annual VA research effort is, and will continue to be, a major part of the VA's total health care program. The results of the work being done by these two individuals, and all others involved in research projects within the VA are helping all mankind.

I am proud of Dr. Yalow, Dr. Schally, and all VA employees who are equally dedicated to our on-going research program within the Veterans' Administration.

THE PRESIDENT PLAYS THE POLITICS OF ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. TEAGUE. Mr. Speaker, today, I must address this body with a heavy heart. Without eloquence—of which I have little—or emotionalism—which I seek always to conceal—I feel that I must make known to you, my congressional colleagues, the deep sense of personal sorrow and abiding regret which I feel at this time.

Mr. President, whose office I admire above all others, has sought to achieve commendable, if ill-advised, energy goals by characterizing one of this Nation's leading economic benefactors as potential "war profiteers," and their belief in the free enterprise system as "the biggest rip-off in history."

These are not thoughtful words. Indeed, some might see them as inflammatory words. Nor do I find it possible to view them as words which properly symbolize the stature of what I and most other citizens rightfully regard as the most powerful office in the world.

It is not my purpose—nor does the need exist—to defend the record of the United States petroleum industry, even though as a Representative of the State of Texas I do profess more than a nodding acquaintance with the contributions which this industry has made to the military power and the economic might of our Nation. Nor do I desire at this time to offer specific remedies which I believe necessary to redirect and make whole the national energy program which our President has unwisely proposed and intemperately defended.

Rather, I seek today to smooth troubled waters. I should like, if it be my role, to apply a healing balm to wounds unnecessarily opened. I would, if I am able, serve as the catalyst to clarify in the minds of a confused and frustrated American people the basic issues that are at stake.

Certainly, there was much in the President's message that is good. I would be the first to agree with him that the acuteness of the Nation's energy crisis grows with each passing month. I would agree, also, with his assessment of the international implications of the United States' growing dependence on foreign oil. I would further commend his stern warnings and stalwart efforts to conserve every precious drop of petroleum that remains under the lands and waters of this Nation.

But I cannot, in good conscience, blind myself to the inadequacies of an energy program which taxes but does not serve, which costs but does not benefit, which takes and does not give. The ruggedly individualistic oilmen of this country have perceived the same woeful inadequacies in the program which the President's advisers have devised. As economic pragmatists, oilmen realize that we cannot—as a Nation—meet our growing energy demands unless capital is available for reinvestment. As technical realists, oilmen know that the President's energy program does not adequately address the important question of providing a transitional petroleum energy base until alternative sources can be realized at some point in the future.

I find that I must reject the President's spoken conclusion that pragmatism and realism equate to unconscionable profiteering. Indeed, the fiscal and economic facts and forecasts with which I am familiar lead me to a very different conclusion. I would direct your attention, first, to the behavior of oil-company stocks. If the stock market saw, as the President says he does, the potential for enormous oil-company profiteering, I believe that petroleum industry equities—as a group and as individual stocks—would be soaring despite the market's current deflated condition. Such, as you

know, is not the case. Oil stocks are down an average of 10 points or more below their levels at the beginning of this year.

I would point, second, to oil company earnings as measured by rates of return. COMPUSAT, the independent statistical service which compiles data on 900 companies whose stocks are used in the Standard & Poor's indices, shows that oil industry returns are lower than those for all manufacturing. Based on shareholder equity, COMPUSAT's group of 41 oil companies earned a rate of return last year of 13.9 percent. Based on total borrowed and invested capital, these same companies earned a rate of return of 11.2 percent last year.

I would invite your comparison of these rates of return with those for all U.S. manufacturing. Here, the rate of return on shareholder equity was 15 percent—1.1 percent higher than oil's—and the rate of return on borrowed and invested capital was 11.7 percent—or 0.5 percent higher than oil's. The earnings of the oil industry do not, to me, appear to warrant the terms the President has chosen to apply to them.

More to the point, perhaps, are forecasts by the Nation's financial and business community of what American oil companies must spend between now and 1985—the time period covered by the President's energy proposals. The facts are that, between now and 1985, the industry will need upwards of $900 billion to finance its exploration and capital expenditures programs. For these purposes, the U.S. petroleum industry is each year spending more than twice—may I repeat that, twice—its annual net profit. It is obvious to me, as I am sure it is to the Nation's oilmen, that they cannot go on indefinitely spending more than they earn. Only the Federal Government can long endure deficit spending.

The President has stated that under his proposal the oil companies of this Nation will, by 1985, have a total annual income of $100 billion. He has said, further, that the oil companies are seeking an annual income of $150 billion by 1985. Others have questioned the President's numbers, and I believe they have done so with justification. Yet today, I will not quarrel with the numbers he has used. Rather, I will suggest only that even the larger number—regardless of its reality—will be none too large if oil companies are to provide the petroleum necessary to this country's continued economic growth.

These are large numbers. They are, in fact, enormous numbers. But I would say to you that the job before us is enormous. It is not enough that we merely conserve our petroleum resources, as the President's plan has emphasized. We also must find and develop new petroleum supplies that are dependable. There is no alternative to oil suoplies controlled by Americans, save that of continued and increased imports. As the President has correctly noted, our foreign oil imports will cost U.S. consumers approximately $45 billion this year. Besides the disquieting effect of this drain on our balance of payments and on the international financial situation, these are dollars that create no American jobs.

I am concerned, as I am sure the President is, that we do everything in our power to provide more jobs for more Americans. Importing additional quantities of foreign oil will not help with our achievement of this objective. Expanded exploration and production here at home will.

The President has said that additional funds will not encourage increased production of oil, but will go instead into the pockets of the oil companies. This is a particularly difficult concept for me to comprehend. As we have already seen, the money going to American oil companies today is flowing out a lot faster than it is coming in. I am at a loss to understand where the President and his advisers think this money will go if the Congress does not approve his national energy plan as submitted. I have a great many oilmen among my constituents, and I do not find them wallowing in unthinkable luxuries. Those whom I know, in fact, lead rather ordinary lives. They owe their bankers, treasure their families, and love their country.

I do not believe that the oilmen I know are "war profiteers." I do not believe that they seek to rip off the American public of which they are, in fact, an integral part. Nor, in fact, do I believe that any fact or any figure with which I am familiar can conceivably support the President's accusations. Our Nation—God bless it—has its problems, its differences of opinions, and its differing lifestyles. I, for example, do not see much in the President's energy program except one of the most massive tax measures upon which I have ever been called to vote. I do not believe that the President's energy program will do what he believes it will do.

My President and I have an honest disagreement, in principle if not in purpose. Yet both of us, I am certain, fervently wish only that which we—in our hearts—believe best for the land we both love. This is how I would prefer to characterize the dispute between the President and this Nation's petroleum industry: An honest disagreement. I do not believe that all people who disagree with the President of the United States are profiteers, or rip-off artists, or anything even remotely approaching these unfortunate and ill-chosen terms.

If the time is at hand—and I for one do not believe that it is—when we, as a people, cannot honestly and forthrightly disagree on the solutions to our problems, then I would say to you that this in itself is the gravest problem we have.

I believe that we, as a Congress and as a nation, can solve our energy problems. I believe that we have an abundance of natural resources, and the ingenuity to discover and extract them. I would urge you, my colleagues of the House, and I would urge my President: Let us put recrimination behind us. Let us disagree if we must, but let us do so as gentlemen and patriots. And above all else, let us get on with the job of building a better America.

ONE WIFE'S REVENGE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, I recently came across a rather amusing story expressing well the frustrations of American citizens toward overregulation by the Federal Government. The story is fictional and meant partly for amusement but the points intended come through loud and clear and should be useful reading to those making laws.

Therefore, I include for the RECORD the article "One Wife's Revenge," by John Brennan, which appeared in the Review of the News on September 14, 1977. The article follows:

ONE WIFE'S REVENGE

It was a lazy late summer afternoon and I was watching a rerun of Dracula on television. I calculated it was about the 276th time I had seen it. I sat there mumbling each line from the script a half second before the actors and actresses, and from time to time I ventured a sound effect. I sometimes do the same thing during Jimmy Carter press conferences.

"Isn't that the 276th time you've watched that movie?" asked my wife as she paused in her vacuuming. "Lift your feet!" She began vacuuming under them. "Look at you. You are going to be mistaken for Bert Lance if you don't get some exercise. I should think you could find something useful to do about the house."

"I'm watching this movie." I explained, "because to me Dracula represents all the government agencies who are draining us dry. Too bad there aren't more people in Congress willing to start hammering stakes."

She snorted in derision. "Always so melodramatic." The dear thing gestured toward the TV screen upon which Dracula was descending into a dark and gloomy cellar. "Look at your pal. He's going down the cellar and you can bet he's not going to get his feet wet. We've had water knee deep on the floor of our cellar since the last rainstorm and I am getting sick and tired of wearing fisherman's waders to do the laundry."

"Exactly what I was talking about," I explained as Dracula climbed into his coffin. "There is nothing we can do about water in the cellar." I went over to my desk and rifled through a stack of unpaid bills and threatening letters. "Ah, yes. Here it is."

"Here's what?"

"The letter from the Environmental Protection Agency. It seems a man went into our cellar a week ago to read the meter and it turned out he was an ardent environmentalist. He sent samples of the cellar water to E.P.A. headquarters in Washington. Now the E.P.A. has absolutely forbidden us to do anything about draining the cellar"

"And why not, pray tell?"

"There are Snail Darters in it, that's why! The very same endangered species that held up construction of that Tennessee dam for so long."

My wife is nothing if not persistent. "Then how about getting up on the roof and patching that leak by the chimney?" she said. "And don't give me the old story about not having to patch it when it's not raining, because when it is not raining it's not leaking and when it is raining, and is leaking, it's too wet to go up there."

I held my palms out in deprecation. "That's not the reason at all. If it were just up to me, I would be out on that roof with

hammer, nails, and shingles in a flash," I shrugged. "But I think of you here home alone while I am languishing in jail, and for your sake I don't go up there."

"Jail?" She stared up at the ceiling as though she could see through to the roof. "How can you get sent to jail for patching your own roof?"

"You can if a Whooping Crane has built a nest atop your chimney and is trying to hatch an egg," I explained. "Government people were here this morning while you were down cellar with the Snail Darters doing the wash. We can't even turn on the furnace until that egg hatches."

I am married to a woman ill-equipped to appreciate my need for occasional leisure, and she stood over me more determined than ever. "Then why don't you go out in the yard and do some weeding?" she demanded, pointing toward the rear of the house. "Our yard looks like a film set from The African Queen, and I think I saw the Reverend Clennon Ryan prowling through the brush before dawn yesterday morning looking for benighted savages."

"That was probably the man from the National Park Service," I answered. "He says the Service has been checking land titles here and our back yard has been designated as conservation land. He handed me this." I extracted a paper from my wallet; a court order. "From now on our back yard is going to be forever wild."

"Forever wild?"

"That's right. I signed a paper agreeing never to cut the grass, plant flowers or vegetables, slap mosquitoes, or do anything that will change our back yard from its original primitive state."

"You never did anyway," snorted my wife, "except to plant that Kudzu vine." She rolled her beautiful hazel eyes. "What an idea that was. Somewhere out in that jungle you call a yard is a 1949 Edsel station wagon which may be worth a lot of money and we can't even find it!"

"Probably wouldn't meet the Clean Air standards anyway," I muttered.

"Well, if you can't drain the cellar, shingle the roof, or clean the yard, you can at least start painting the house. The old paint is so cracked and blistered an alligator came up out of the swamp in the side yard yesterday thinking it had found its mother."

"Paint the house for the Indians? I really don't want to spend money and effort painting a house we are going to have to hand over to those red devils."

"What are you talking about?"

"The Welfarin tribe has a suit in Federal Court claiming the land this house is built on was taken from them illegally in 1810 by an ancestor of mine. There's a good chance we will be tossed out of here on our ears."

The dear thing was on the ropes.

"You men are just hopeless," she exclaimed. "I know you get worn out fighting foolish government regulations down at the factory, but you should have some energy left to fight them here on the home front." She struck a Shakespearean pose. "I'm sure I could handle these situations," she said, "if only I were a modern, liberated woman."

"You may get your chance!" I warned. "That car in front of the house, the one with the air bags bulging out the windows. See what it says on the side: "O.S.H.A. U.S. Government!" "

"The Occupational Safety and Health Administration!" exclaimed my wife. "Something must be wrong at the factory. Don't let anyone in until I get rid of you-know-what in the kitchen."

The doorbell jangled. "O.S.H.A.! It's O.S.H.A. Open up!"

"You can't come in!" I bellowed, bracing my shoulder against the door. I pressed against it until I heard the garbage disposer begin to grind. Mother was dumping the last of our supply of apricot pits down the drain. When I heard the disposer stop grinding I gave the door a final shove and landed on the front lawn. I had forgotten it opened outward.

"Better get that door fixed," sneered the Oshacrat, making a notation in his notebook with a stubby pencil.

"How'd you like to get your nose fixed?" I growled, getting to my feet and brushing various biodegradable substances from my shirt and trousers. "A man's home is his castle. You can plague me down at the factory, but you can't come into my home without a warrant from the court."

"Then read this," crowed the Oshacrat. "We have evidence that on the Fourth of July you held a company picnic for your employees and that your wife made the potato salad right here in this house. According to law, that makes this house part of the factory and I can come in here and inspect. I'm referring to Section 8(a) of Public Law 91-596, which has already been upheld by the 10th Circuit Court of Appeals."

"Section Eight? Who mentioned Section Eight?" My wife appeared in the kitchen doorway. "Does this mean the Navy wants Uncle Jimmy back?"

"No," I explained. "It's not the old Section Eight by which the Army, Navy, and Marines discharged their kooks. This is Section Eight of the O.S.H.A. Act, and I'm afraid you'll have to let him see your kitchen."

My wife was simmering like soup on the stove as the agent brushed by her.

"Quick," I hissed. "Now is your chance. Deal with this fellow with your wiles, your intuition, your intellect. Be Portia. Be a second Eleanor Roosevelt if you have to."

The Oshacrat spun around the kitchen leaving tiny heel marks on the floor.

"Quick," I continued. "Do what you are going to do before it is too late." But my wife just stood and watched and listened like a bird before a snake.

"Is this really the kitchen?" sneered the Oshacrat. "I think I may have arrived too late." He whipped out his notebook. "I see waxy yellow build-up on the floor!" He picked up a plate. "And I can't see myself in the china." He took a glass from the dishwasher. "And *this* is all filmy and spotted."

My wife was making small burbling noises not unlike those heard on the slopes of Vesuvius prior to an eruption. But the agent danced over to us, reached out, and grabbed my shirt. "And you, sir, having ring around the collar!"

My bride's punch caught the Oshacrat on the side of the ear and sent him spinning down the front hall and out the door onto the front walk. He lay their motionless for a moment until the family aardvark came up and nuzzled him. Awakening at last, he took one last look at my wife standing in the open doorway and fled.

"So that's how you'd deal with them," I said in amazement. "That wasn't the way I would have handled it at all."

"You do it your way; I'll do it my way," replied my newly liberated woman. She dusted her knuckles on the sleeve of her dress, smiled sweetly, and headed for the cellar in her fisherman's waders.

SELECT COMMITTEE ON THE COMMITTEE SYSTEM

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, today I am joining with six of my colleagues from the Republican leadership in introducing a resolution to create a Select Committee on the Committee System. It is our strong feeling that this recommendation of the Obey Commission should be passed by the House in this session so that the select committee can report back its recommendations for House consideration and action next session.

At this point in the RECORD, Mr. Speaker, I insert the joint release issued by the cosponsors of the resolution along with the text of the resolution. We will be circulating a "Dear Colleague" letter to all House Members tomorrow inviting their cosponsorship of this resolution:

HOUSE GOP LEADERS URGE COMMITTEE OVERHAUL

WASHINGTON, D.C.—A group of House Republican leaders today introduced a resolution to create a Select Committee on the Committee System to make recommendations for overhauling the outdated and overlapping committee structure of the House.

The resolution is nearly identical to a provision contained in a resolution proposed by the House Commission on Administrative Review chaired by Rep. David Obey (D-Wis.). The Obey Commission's resolution was shelved by the House on October 12, 1977, on a procedural vote. In introducing today's resolution to revive the select committee proposal, the House Republican leaders issued the following joint statement:

"While we support many of the provisions of the Obey Commission resolution, we think the House must take priority action on the proposal to create a select committee to study and make recommendations on our tangled committee jurisdictions and the proliferation of subcommittees and committee staff. We are appalled, for instance, that over the last decade the number of subcommittees has increased from 106 to 144 and committee staff has increased from 182 to 1,674, and yet in the process there has been no comprehensive attempt to rationalize committee jurisdictions. All this has produced an overload on the sytem and Members' time and has greatly exacerbated conflicts between committees.

"While a Select Committee on Committee Reform in the 94th Congress made a noble and constructive attempt to reverse this trend, its efforts were unfortunately undermined by a Democratic Caucus substitute that left present jurisdictions virtually intact. We think a renewed effort to overhaul the committee structure can succeed in this Congress due to the infusion of New Members and the growing frustration over jurisdictional disputes.

Under the GOP proposal, the select committee would be comprised of seven Democrats and six Republicans and would report back to the House by July 1, 1978. Cosponsoring the resolution are: Rep. John J. Rhodes, Minority Leader; Rep. Robert H. Michel, Minority Whip; Rep. John B. Anderson, Republican Conference Chairman; Rep. Del Clawson, Republican Policy Committee Chairman; Rep. Bill Frenzel, Republican Research Committee Chairman; Rep. Larry Coughlin, Republican Reform Task Force Chairman; and Rep. Trent Lott, ranking Republican on the Rules Committee's Subcommittee on the Rules and Organization of the House.

H. Res. —

Resolved, That there is hereby established in the House of Representatives a select committee to be known as the Select Committee on the Committee System (hereinafter referred to as the "select committee").

FUNCTIONS

SEC. 102. The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of Rules X and XI of the Rules of the House of Representatives including committee structure of the House, the number and optimum size of committees, the appropriate committee and subcommittee assignments per Member, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.

APPOINTMENT AND MEMBERSHIP

SEC. 103. (a) The select committee shall be composed of thirteen Members, not more than seven of whom shall be of the same political party, who shall be appointed by the Speaker, one of whom he shall designate as chairman.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

(c) For purposes of this section, the term "Members" shall mean any Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

SEC. 104. (a) For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned.

(b) The provisions of clauses 1, 2, and 3 of Rule XI of the Rules of the House of Representatives, except the provisions of clause 2(m) relating to subpena power and clause 2(i), shall apply to the select committee.

(c) The majority of the Members of the select committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purposes of taking testimony.

ADMINISTRATIVE PROVISIONS

SEC. 105. (a) Subject to the adoption of expense resolutions required by clause 5 of Rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this resolution.

(b) In carrying out its functions under this resolution, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to prescribe the duties and responsibilities of such staff;

(3) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code; and

(4) to terminate the employment of any such staff as the select committee considers appropriate.

(c) The select committee and all authority granted in this title shall expire sixty days after the filing of the report of the select committee with the House.

REPORT AND RECORDS

SEC. 106. (a) The select committee shall report to the House as soon as practicable during the present Congress, but not later than July 1, 1978, the results of its study, together with such recommendations as it deems advisable.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

(c) The records, files, and materials of the select committee shall be transferred to the Committee on Rules.

THINK "POSITIVE"?

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RHODES. Mr. Speaker, for years those of us in the Congress who have expressed concern over the continuing growth of the Federal Government often have been characterized in the news media as being "negative" while those who support the expansion of Government are pictured as being "positive" and "for the people."

The editor's page of the October 17, 1977, issue of U.S. News & World Report carries an essay by Warren T. Brookes, which eloquently and cogently describes the true impact on the American people of the continuing expansion of central government, and ask who really is "positive" and "for the people."

I commend this essay to my colleagues and ask that it be placed in the RECORD:

THINK "POSITIVE"?

(The following is an eloquent commentary on big government written recently by Warren T. Brookes in the Boston Herald American. With their permission, excerpts are reprinted here.—Marvin Stone, Editor)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 60 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or "compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mrs. KEYS. Mr. Speaker, on Friday, October 14, 1977, I was unavoidably absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on roll No. 654, on agreeing to the conference report on H.R. 6415, to extend and amend the Export-Import Bank Act of 1945;

"Nay" on roll No. 655, on House Resolution 688, to disapprove reorganization plan numbered 1 of 1977;

"Yea" on roll No. 656, on H.R. 2176, passage of the Federal Banking Agency Audit Act; and

"Yea" on roll No. 657, on H.R. 4297, to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

AGRICULTURAL EXPORT POLICY

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. WAMPLER. Mr. Speaker, American farmers are vitally concerned about the adoption and pursuit of U.S. trade and farm policies that have the greatest potential for improving the export of American agricultural products to foreign markets.

In recent months we have seen a serious decline in farm prices, a growth in farm surpluses, and a strong indication that the Federal Government will soon ask the American farmer to take expensive farmland out of production. Simultaneously, we as a people are importing increasingly more oil to run our factories and to power our automobiles, trains, and buses to get back and forth to work. Unfortunately, farm exports which play such a vital role in this equation—since they are used to pay for much of these foreign oil imports—have been in serious decline.

We can and should take action to reduce our dependence on foreign oil imports by adopting practices that conserve energy, by increasing our own oil-producing capacity and by utilizing other energy resources, such as coal and solar. However, there will still remain a great need for foreign oil imports to help drive this Nation's huge industrial machine that provides the life's blood—jobs—for our economy.

The question is, Mr. Speaker, are we now practicing adequate U.S. trade and farm policies that will successfully meet our Nation's requirements to provide sufficient exports to pay for necessary oil imports; to provide for quality and economical farm products for our own consumer needs; and to provide for adequate income to allow the American farmers to stay in business?

I think not.

The other day former Assistant Secretary of Agriculture Richard E. Bell, an expert on farm export policies, while appearing before the House Agricultural Subcommittees on Oilseeds and Rice and Livestock and Grains, set forth some interesting views that bear on this subject.

Mr. Speaker, I insert his testimony in the RECORD:

STATEMENT OF RICHARD E. BELL

I appreciate this opportunity to be here today, Mr. Chairman, and present my views regarding the prospects and opportunities for exports of U.S. agricultural products.

Mr. Chairman, the views which I express here today are my own and not necessarily those of Riceland Foods or its Board of Directors. Riceland Foods is a farmer-owned marketing cooperative headquartered in Stuttgart, Arkansas. It receives, processes and markets rice, soybeans and feed grains grown by its 25,000 farmer-members in Arkansas, southeastern Missouri, northwestern Mississippi, northeastern Louisiana and western Tennessee. Riceland Foods' sales are around $500 million yearly, split about evenly between rice and soybean products. About half of the sales are exported.

Exports of agricultural products continue to be of paramount importance to the economic well-being of American farmers, American agribusiness and American consumers.

This hearing is particularly timely, Mr. Chairman, since it appears likely that the value of U.S. agricultural exports in fiscal 1978 will decline 5 to 10 percent from last year. If this occurs, it will be the first decline in nine years.

Such a decline would occur at a particularly unfortunate time. It would occur when the United States is experiencing its largest trade deficit in history. Secretary of the Treasury Blumenthal has said that the overall U.S. trade deficit may run as much as $30 billion this year.

It is impossible, Mr. Chairman, to overstate the contribution that our agricultural exports has made to U.S. international economic relations during the past five years. Since the summer of 1972, U.S. agricultural exports have doubled in volume and tripled in value.

The dramatic increase in U.S. agricultural exports during the past five years has been the result of a combination of factors. Weather was undoubtedly a factor. Adverse weather in the USSR and China in 1972 sharply increased our exports of farm products in 1972/73 and 1973/74. Bad weather in the Asian rice bowl in early 1973 resulted in a sharp increase in the export demand for both U.S. rice and wheat in 1973/74 and 1974/75. Adverse weather in the U.S. in 1974 kept export prices high for U.S. farm commodities and more than offset a decline in export volume in 1974/75. The Soviets had another poor crop in 1975, and drought took its toll in Western Europe in 1976. In 1977, adverse growing weather has been present in China, North Africa and parts of West Asia.

Weather has not been the sole contributor, however, to the steady increase in U.S. agricultural exports during the past five years. Policies of the U.S. Government have been of tremendous importance. Devaluation of the U.S. dollar in 1971 was an important stimulant to U.S. agricultural exports in subsequent years. The opening in 1971 of the USSR and other Communist countries in Eastern Europe to American farm products was also an extremely important factor. These new markets not only expanded the volume of U.S. agricultural exports, but perhaps more importantly, their extra dimension of demand boosted the unit values of U.S. agricultural exports to all destinations.

Domestic agricultural policy has also played a vital part in the expansion of U.S. agricultural exports during the past five years. The annual farm programs stemming from the Agricultural Act of 1970, the Agriculture and Consumer Protection Act of 1973 and the Rice Production Act of 1975 have kept U.S. farm products competitive in world markets.

This past fiscal year, U.S. agricultural exports made a positive contribution of $10 billion to the overall U.S. trade balance. This was more than any other individual sector. The contribution of U.S. agricultural exports to the overall trade balance was about $2 billion in fiscal 1972. It is easy to see that without the dramatic increase in U.S. agricultural exports during the past five years that the U.S. international economic situation would indeed be grim. The United States cannot afford to go backwards in its drive to expand export markets for U.S. farm products.

A successful export policy for U.S. farm products first of all depends on our having the right kind of domestic farm policies. We cannot sell if we are not competitive in world markets.

A successful agricultural export policy also requires strong leadership from the Executive Branch of the U.S. Government, particularly from the U.S. Department of Agriculture. It is important that the Department set a positive tone and environment for U.S. agricultural exports.

In my view, Mr. Chairman, there recently has been too much emphasis on negative aspects of U.S. agricultural exports. For example, there has been repeated references to the quality of U.S. grain in export markets, with emphasis on a few unfortunate incidents of a few years ago.

I am confident, Mr. Chairman, that overseas customers are generally well satisfied with the quality of U.S. grain, as they have been in the past. I am also confident that the work now being done by the new Federal Grain Inspection Service will ensure that this will continue to be the case.

It is important to remember that no other country in the world can match the U.S. in overall capacity to deliver a wide range of high quality grains in a quick, reliable manner at all seasons of the year and at generally competitive prices. These are the aspects we need to emphasize when discussing U.S. grain exports.

Likewise, Mr. Chairman, there has been too much talk during the past several months about the so-called export embargoes of several years ago. I agree that they were unfortunate and damaged our reputation at the time. But in recent months, their impact has been blown out of proportion to their real significance.

First of all, in each of the years they occurred, the U.S. set new records in the export value of farm products. Secondly, despite all the talk of their impact on wheat prices, there was not one case where export of U.S. wheat were interfered with.

A prolonged dock strike at the East and Gulf ports this fall and winter will do much more damage to our reputation as a reliable supplier than have the so-called export embargoes of the past several years.

The United States has been the most reliable supplier of farm products to the world since the end of World War II. It remains so today. This is well recognized and understood abroad. We should emphasize it in our efforts to sell more abroad.

If we are going to continue the momentum of U.S. agricultural exports of the past five years, there are several actions that need to be taken:

First of all, we should emphasize our advantages as a supplier to the world market,

We should complete the policy framework we began several years ago regarding sales of U.S. farm products to Communist countries,

We should provide most-favored-nation tariff treatment on industrial products from the USSR since no country can continue to buy if it cannot sell,

We need to provide short-term government credit to the Peoples' Republic of China for the purchases of U.S. farm products,

We need to emerge from the multilateral trade negotiations with improved access to the markets in Western Europe and Japan,

We need to develop a policy framework for the development of export markets in the developing world.

Perhaps this last point is the most important of all. It means the development of a realistic alternative to the UNCTAD program which in reality is a non-starter as far as trade expansion is concerned. It is a political policy, not an economic policy.

In fiscal 1977 we exported about $7.6 billion worth of U.S. farm products to developing countries. This is a substantial amount. In fact, it accounts for nearly one-third of our total exports of agricultural products.

Our greatest potential for increasing U.S. agricultural exports lies in the developing countries. The 1950's and 1960's were periods when we opened and developed markets for U.S. farm products in Western Europe and Japan. In the 1970's we opened and developed markets for U.S. agricultural products in the Communist countries. The 1980's will need to be a period when we concentrate our efforts in the developing countries. We need to begin now, which means developing a policy framework by which the trade can be developed.

About two-thirds of our present U.S. agricultural exports are accounted for by grains, oilseeds and oilseed products. These have been the commodities of most dramatic export growth during the past five years. If the export values of livestock products are added to the list, about 80 percent of our annual agricultural exports are accounted for by grains, oilseeds and grain-related products.

One of our most successful export efforts in recent years has been in rice. Although the U.S. accounts for only about 1½ percent of the world's rice production, we are the dominant supplier of rice to the world market and usually supply between one-fourth and one-third of the world's export of rice. About 60 percent of our yearly rice production is exported.

U.S. exports of rice on a milled basis were about 2.1 million metric tons in the 1976/77 marketing year ended last July 21. Exports should remain at about the same level in 1977/78.

The amazing story about rice exports, however, is that they have fully recovered to the level of several years ago when we were supplying huge quantities of rice to Southeast Asia as part of our defense effort there.

When the U.S. withdrew from Viet Nam and the Khmer Republic in the spring of 1975, American rice growers lost a large part of their export market for U.S. rice. Exports plummeted from a record of 2.2 million tons in 1974/75 to only 1.7 million tons in 1975/76.

During the past two years, however, the American rice industry has found new markets for U.S. rice in Iran, Syria and Nigeria; and Indonesia has reemerged as a major market for U.S. rice under the Food for Peace Program.

The U.S. rice industry was able to develop new markets for U.S. rice during the past two years because domestic farm programs for rice have been developed and administered in a manner which has kept U.S. rice competitive in world markets while at the same time providing a degree of income protection to American rice growers.

The sudden loss of export markets in Southeast Asia in the spring of 1975 caused a tremendous buildup in U.S. rice stocks during the 1975/76 marketing year. In the summer of 1976, carryover stocks of U.S. rice were equal to one-third of our utilization of U.S. rice in 1976/77. Roughly half of these stocks were in the hands of the Commodity Credit Corporation (CCC) as a result of loan defaults under the federal price support program.

U.S. rice stocks at the end of the 1977/78 marketing year next summer may well be down again to pipeline levels. This supply adjustment will take place without any government program directed at cutting U.S. rice acreage. American rice growers made the supply adjustments themselves by responding to signals in the market, and the American rice milling and export industries have opened and developed new markets for U.S. rice, particularly in export markets. Admittedly, weather this year has also been a factor in the supply-adjustment process. This year's U.S. rice crop may be down 20 to 25 percent from last year, and probably will be the smallest crop since 1972.

With this year's smaller rice crop, it is important that the rice industry get access to the stocks now held by the Commodity Credit Corporation. Access to these stocks will be necessary if the U.S. rice industry is to hold the new markets built during the past two years.

The Administration let the earlier sales policy for CCC-held rice to lapse in July. A new one has not yet been announced, despite our being in the third month of the 1977/78 marketing year. The lack of an announced sales policy for CCC-held rice stocks is badly hampering efforts to hold the newly-developed rice markets overseas.

A new record was set again this past marketing year in the export of U.S. soybeans and soybean products. New records should be set again in 1977/78. The larger supply and lower prices for U.S. soybeans in 1977/78 should stimulate demand for U.S. soybeans and meal abroad, particularly in the countries of the European Community where grain prices are kept artificially high by the price-support structure. The level of U.S. exports of soybeans and soybean products in 1977/78, however, ultimately will probably depend on the size of purchases of soybeans and soybean products from the world market by the USSR and the People's Republic of China.

Soybeans and their products have been one of the fastest growing sectors in U.S. agricultural exports in recent years. The value of U.S. exports of soybeans and soybean products has more than doubled since the summer of 1972. This has occurred despite a fourfold increase in soybean production in Brazil, with most of the increase in Brazilian production going into export.

The U.S. has expanded its export markets for U.S. soybeans and soybean products during the past five years because U.S. soybeans have remained competitive in world export markets. We have been fortunate that we have not had a price support structure that has caused us to be periodically uncompetitive in soybeans and soybean products.

Unfortunately, the U.S. Department of Agriculture has been talking of raising the CCC loan rate for soybeans. This could ultimately lead to our being uncompetitive in world markets. American soybean growers, processors and exporters are right in their unanimous opposition to raising the loan rate.

The major U.S. agricultural commodity with the most disappointing export performance during this past year was wheat and flour. Exports were down nearly 20 percent from the previous year, and for the first time in four years our exports of wheat and flour fell below a billion bushels.

Part of the decline in U.S. wheat and flour exports during 1976/77 was due to a general decline in world trade in wheat and flour as a result of record world wheat production. Unfortunately, however, the U.S. absorbed two-thirds percent of the world decline in trade. Canada, Australia and Argentina actually increased their exports of wheat and flour. The U.S. share of world exports, which had been averaging about half, fell to 42 percent. It may fall even lower in 1977/78.

The decline in the U.S. share of world trade in wheat and flour is basically the result of Canada, Australia, Argentina and several other countries pursuing much more aggressive export policies than in earlier years. Contrary to earlier beliefs, the higher government loan rate announced for wheat was not a factor in the decline in U.S. wheat and flour exports this past year. Early in the year, large quantities of wheat were readily available at discounts of up to 25 cents a bushel below the loan rate. The monopoly marketing boards in other exporting countries used other techniques such as special pricing to increase their market shares.

The U.S. is being handicapped again this year by not having the same access as other exporting countries to the large Chinese market. China's greater imports in 1977/78 will account for much of the growth in world trade in wheat and flour this year.

The U.S. Government needs to be firmer in questioning of sales practices by the monopoly export boards of other countries, and if necessary, introduce measures designed to offset those practices.

Perhaps the most phenomenal success story in U.S. agricultural exports, however, has been in feed grains. The U.S. exported 50 million metric tons of feed grains in each of the last two marketing years. This is more than double annual exports prior to the summer of 1972.

U.S. feed grain exports are concentrated in a few key markets: Western Europe, Japan, the USSR, Eastern Europe, the Republic of China (Taiwan), Korea and Israel.

U.S. feed grain exports in 1977/78 may not be down as much as the U.S. Department of Agriculture is estimating. The Soviet Union is likely to be a much larger buyer of corn than the Department is now estimating.

Future work for U.S. feed grain should be primarily aimed at doing something about the European Common Market's import levy on corn. The levy is now $2.70 a bushel. This is equivalent to 120 percent of the import value of U.S. corn being imported into the European Common Market and compares with prices of $1.60 to $1.70 a bushel that American corn growers are now receiving for their 1977 crop.

The European Common Market import levies are also exceedingly high for wheat and rice. At present, they are $3.30 a bushel on wheat and $4.45 a cwt. on long grain rice.

The U.S. will need to be exporting 100 million metric tons of grain—rice, wheat and flour and feed grains—on a sustained basis by the early 1980's if the U.S. grain/oilseed economy is to run at full capacity. An annual export rate of this level is clearly within our production capability, and with the right kinds of domestic farm policies and international trade policies it is makeable from a market standpoint.

Thank you, Mr. Chairman. I will be pleased to answer any questions.

PUBLIC BROADCASTING ACT

HON. HARLEY O. STAGGERS

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. STAGGERS. Mr. Speaker, today I introduced President Jimmy's Carter's legislative proposal (H.R. 9620) to strengthen our public broadcasting system and to insulate it from political manipulation. I welcome the President's interest in public broadcasting. At the request of the President's staff, we have had legislative counsel prepare the bill for introduction.

I have been deeply interested in broadcasting during my years in Congress. In presenting the first public broadcasting bill on the floor of the House in 1967, I commented that—

When all the factors that have made the 20th century such a great century have been considered and entered on the ledger books of history and a balance struck, I believe that the peculiar mark of this century will be that of wireless broadcasting. Without it, I believe we would be living in an entirely different world today, without a great many of the advances that we have made.

I still believe that today, 10 years later.

I urge my colleagues to give the President's message full consideration:

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to strifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

Devote more resources to high-quality national programming.

Set long-range goals by which its progress can be judged.

Plan how public television and radio signals can be brought within reach of all citizens.

Provide greater accountability to the public.

Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programming.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the ten years since the Public Broadcasting Act first provided Federal funds for programming, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, state, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf, and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programming, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal, and fewer than two-thirds can receive public radio.

Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

Increase employment, training, and ownership opportunities for minorities and women.

Support local, state, and regional programming. Programming of local interest is an important resource.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of $152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total $1.041 billion. This includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. It also includes a separate grant program of $30 million annually for technical facilities in fiscal 1979 and 1980, and $1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at $200 million after the second year. Such leveled funding will ensure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programming in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fund-raising from private sources and government agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programming staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

Reduces CPB's effectiveness as a political insulator.

Reduces its ability to focus on long-range planning and new educational services.

Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programming. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR ADDITIONAL PROGRAMMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only $17 million of its current $103 million appropriation directly to national programming. In addition, about $19 million of the $58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25% of funds appropriated to CPB in future years shall be used for a National Programming Fund for bloc grants for such productions. This will insure that by FY 1982 up to $50 million, depending on the appropriation level, would be earmarked for national programming. These programs will continue to be produced on a decentralized basis by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25% of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by other mechanism. This would provide a total of up to $100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have levelled off.

As a former governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requires the system to raise $2.50 for every $1.00 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to $2.25-to-$1.00. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present $30 million annual authorization.

I also propose changes in the Facilities Program to:

Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

Make regional networks and other groups of stations eligible for facilities funds.

Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. public television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPB, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decision-making levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should

make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, Blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately $25 million was contributed to public broadcasting directly by four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedules, as well as many local and state productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rules for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to party with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvments priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighted.

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I urge Congress to consider promptly, and to pass the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER.

THE WHITE HOUSE, *October 6, 1977.*

AID LEVELS AND EXPENDITURES TO THE MIDDLE EAST

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence I have had with the Office of Management and Budget (OMB) on the aid expenditures to states in the Middle East over the last 5 fiscal years. OMB has provided me with a series of useful charts on our program levels and budgetary expenditures for Israel, Egypt, Jordan, and Syria. Each category of assistance is detailed.

These statistics indicate that from fiscal year 1974 through fiscal year 1978, nearly $15 billion in assistance has been provided to this one region. Israel will receive over $10 billion in assistance from the United States. Egypt will have received $3.2 billion, Jordan $1.1 billion, and Syria $425 million. Over these same 5 years, Israel will receive 35.7 percent of total worldwide security supporting assistance funds (SSA), and 51.3 percent of total FMS financing, while Egypt will receive 33.5 percent of SSA funds. The Middle East accounts for over 78.6 percent of all SSA funds for this period.

This information provides a useful indicator of our deep involvement and high stakes in the Middle East and in the process of peace. Without some progress toward peace, it may be difficult to justify to the American people such large outlays indefinitely.

The material provided by OMB, which has been supplemented by my staff to include totals and percentages, follows:

COMMITTEE ON INTERNATIONAL RELATIONS,
August 19, 1977.

Mr. BERT LANCE,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. LANCE: I would like your office to prepare a list of all expenditures from the Budget from Fiscal Year 1974 to 1977 for Israel, Egypt, Syria and Jordan.

These figures should be broken down into major categories of expenditures so as to give a fair picture of the nature of assistance.

In addition, I would like to have your estimates for these expenditures in Fiscal Year 1978.

I thank you for considering this request and hope you will be able to provide an early reply. If you need further information, Mike Van Dusen, Staff Director of my subcommittee, can be reached at 225-3345.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman Subcommittee on Europe and the Middle East.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 4, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East Committee on International Relations, Washington, D.C.

DEAR MR. HAMILTON: The enclosed tables are forwarded in response to your August 19, 1977 query. The data presented in them were cross-checked with the appropriate agencies to insure that they were accurate and up to date. In some instances they may vary from statistics found in other publications, but this would be the result of their reflecting more recent information or their being rounded for brevity of presentation.

In your letter, you requested budgetary expenditures to Egypt, Israel, Jordan, and Syria. Since we believe that this statistic alone would not be a useful frame of reference for a comparison of U.S. programs to these countries, we have provided you with program level (obligations), budget authority, and outlays (expenditures).

U.S. funds provided to international organizations such as the United Nations or international financial institutions were not included in the enclosed tables. It would be extremely difficult to trace U.S. dollars through the budgets of these organizations to determine the specific U.S. portion of any country's program.

I hope that you find the enclosed material useful.

Sincerely,

HUBERT L. HARRIS, Jr.,
Assistant to the Director.

Enclosures.

TOTAL AID PROGRAM LEVELS BY CATEGORY OF ASSISTANCE FOR PERIOD FISCAL YEARS 1974–78

[In millions of dollars]

	Egypt	Israel	Jordan	Syria
Foreign military sales credit		4,300.0	265.5	
Emergency security assistance		2,182.7		
Military assistance program			273.9	
International military education and training	0.2		4.9	
Middle East special requirements fund			10.0	83.0
Security supporting assistance	2,503.3	2,669.5	426.3	265.0
Desalination		20.0		
Public Law 480 food	538.4	40.9	52.1	68.5
Housing guarantees		125.0		
Export-Import Bank:				
Direct loans	75.5	168.8	3.8	
Guarantees	50.2	412.4	40.0	1.0
Refugee assistance		108.3		
Israel-United States Binational Industrial Research and Development Foundation		30.0		
American schools and hospitals abroad	1.4	15.3		
USIA	3.4	4.4	2.4	1.5
State Department	48.2	15.3	6.7	6.0
Total	3,220.6	10,087.6	1,082.6	425.0

TOTAL AID PROGRAM LEVELS BY FISCAL YEAR

[In millions of dollars]

	1974	1975	1976	19TQ	1977 (estimate)	1978 (estimate)	Total (1974–78)
Egypt	119.7	271.1	459.1	538.8	924.4	907.5	3,220.6
Israel	2,726.8	797.9	2,476.8	307.7	1,937.8	1,840.6	10,087.6
Jordan	116.3	202.9	201.1	88.8	238.9	234.6	1,082.6
Syria	.4	91.1	42.0	78.9	100.9	111.7	425.0
Total	2,963.2	1,363.0	3,179.0	1,014.2	3,202.0	3,094.4	14,815.8

WORLDWIDE TOTALS FOR SECURITY SUPPORTING ASSISTANCE (SSA) AND FOREIGN MILITARY SALES (FMS) FINANCING (CREDIT) AND PERCENTAGES OF SUCH FUNDS GOING TO THE MIDDLE EAST

[Dollar amounts in millions]

	1974	1975	1976	19TQ	1977 (estimate)	1978 (estimate)	Total
FMS financing:							
World totals	$713.3	$750.0	$2,192.4	$593.7	$2,022.1	$2,102.3	$8,373.8
Middle East total	$300.0	$330.0	$1,582.5	$200.0	$1,075.0	$1,075.0	$4,562.5
Middle East percentage	42.1	44.0	72.2	33.7	53.2	51.1	54.5
Security supporting assistance:							
World total	$640.0	$1,226.0	$1,087.1	$871.0	$1,751.0	$1,890.0	$7,465.1
Middle East total	$111.7	$651.8	$1,021.1	$776.5	$1,585.0	$1,718.0	$5,864.1
Middle East percentage	17.4	53.2	93.9	89.1	90.5	90.9	78.5

[In millions of dollars]

	1974 actual			1975 actual			1976 actual			19TQ actual			1977 estimate			1978 estimate		
	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay
EGYPT																		
Foreign military sales credit (FMS)																		
Emergency security assistance																		
Military assistance (Grant MAP)																		
International military education and training (IMET)																0.2	0.2	0.2
Middle East special requirement fund																		
Supporting assistance (total)	8.5	8.5	8.5	249.8	249.8		258.2	258.2	61.1	536.8	536.8	32.6	700.0	700.0	359.3	750.0	750.0	629.6
Suez area reconstruction	8.5	8.5	8.5	53.5	53.5		101.7	101.7	6.8	94.0	94.0	13.5	55.0	55.0	19.8	190.0	190.0	69.0
Development				44.3	44.3					264.0	264.0		160.0	160.0	17.3	271.5	271.5	134.1
Commodity import				150.0	150.0		150.0	150.0	53.3	165.0	165.0	18.8	440.0	440.0	300.0	250.0	250.0	400.0
Cash grant																		
Budget support																		
Technical assistance				2.0	2.0		6.5	6.5	1.0	13.8	13.8	0.3	45.0	45.0	22.2	38.5	38.5	26.5
Desalination																		
Public Law 480 Food							[1] 196.4	[1] 196.4	[1] 196.4				212.0	212.0	212.0	130.0	130.0	130.0
Housing guarantees																		
Export-Import Bank:																		
Direct loans	59.0	59.0		16.5	16.5				2.7			2.3			10.6	NA	NA	NA
Guarantees	50.0	12.5					.1	(2)		.1	(2)					NA	NA	NA
Refugee assistance																		
Israel-United States Binational Industrial Research and Development Foundation																		
American schools and hospitals abroad	.6	.6	.6	.4	.4	.4	.4	.4	.4	NA	NA	NA	NA	NA	NA	NA	NA	NA
U.S.I.A.	.2	.2	.2	.4	.4	.4	.6	.6	.6	.3	.3	.2	.9	.9	.9	1.0	1.0	0.9
State Department	1.4	1.0	.8	4.0	8.4	1.9	3.4	2.3	2.2	1.6	.7	.8	11.5	29.6	7.5	26.3	4.4	12.8
ISRAEL																		
Foreign military sales credit (FMS)	300.0	30.0	116.0	300.0	120.0		1,500.0	[3] 825.0	200.1	[4] 200.0	110.0	745.4	[4] 1,000.0	550.0	504.7	[4] 1,000.0	550.0	500.0
Emergency security assistance	[3] 2,182.7	[3] 2,182.7	622.9		930.2				591.0			27.8			10.5			
Military assistance (Grant MAP)																		
International military education and training (IMET)																		
Middle East special requirements fund																		
Supporting assistance (total)	50.0	50.0	49.7	324.5	324.5	173.2	700.0	700.0	[1] 641.5	75.0	75.0	NA	735.0	735.0	693.0	785.0	785.0	917.0
Suez area reconstruction																		
Development																		
Commodity import	50.0	50.0	49.7	324.5	324.5	173.2	550.0	550.0	[1] 476.5	60.0	60.0	NA	435.0	435.0	493.0	485.0	485.0	517.0
Cash grant							150.0	150.0	[1] 165.0	15.0	15.0	NA	300.0	300.0	200.0	300.0	300.0	400.0
Budget support																		
Technical assistance																		
Desalination				20.0	20.0	1.0			1.0			1.0			1.0			1.0
Public Law 480 Food	1.5	1.5	1.5	8.6	8.6	8.6	[1] 15.5	[1] 15.5	[1] 15.5	NA	NA	NA	8.3	8.3	8.3	[5] 7.0	[5] 7.0	[5] 7.0
Housing guarantees	.0						25.0						25.0			25.0		
Export-Import Bank:																		
Direct loans	35.1	35.1	4.7	35.7	35.7	20.8	81.1	81.1	47.0	9.5	9.5	10.8	2.4	2.4	32.2	NA	NA	NA
Guarantees	71.0	17.8		69.6	17.4		136.0	34.0		20.8	5.2		115.0	28.7		NA	NA	NA
Refugee assistance	30.5	30.5	23.0	34.1	34.1	42.2	[1] 12.0	[1] 12.0	[1] 24.4	NA	NA	NA	13.2	13.2	13.2	18.5	18.5	16.5
Israel-United States Binational Industrial Research and Development Foundation													30.0	30.0	30.0			
American schools and hospitals abroad	3.3	3.3	3.3	2.5	2.5	2.5	3.6	3.6	3.6	1.3	1.3	1.3	4.6	4.6	4.6	NA	NA	NA
U.S.I.A.	.6	.6	.6	.7	.7	.7	.8	.8	.8	.3	.3	.2	.9	.9	.9	1.1	1.1	1.1
State Department	2.1	2.0	1.7	2.2	2.1	2.1	2.8	2.7	2.3	.8	.8	.7	3.4	3.3	3.1	4.0	4.0	3.5
JORDAN																		
Foreign military sales credit (FMS)			4.9	30.0	3.0	6.3	82.5	8.2	3.8				75.0	7.5	8.6	75.0	7.5	NA
Emergency security assistance																		
Military assistance (Grant MAP)	40.1	40.1	40.1	68.8	68.8	68.8	55.0	55.0	55.0				55.0	55.0	55.0	55.0	55.0	5.0
International military education and training (IMET)	.6	.6	.6	1.0	1.0	1.0	.8	.8	.8				1.0	1.0	1.0	1.5	1.5	1.5
Middle East special requirement fund				10.0	10.0	10.0												
Supporting assistance (total)	53.2	53.2	47.5	77.5	77.5	69.3	46.4	46.4	[1] 111.7	86.2	86.2	NA	70.0	70.0	82.1	93.0	93.0	108.2
Suez area reconstruction																		
Development	[6] 7.4	[6] 7.4	2.0	8.6	8.6		7.0	7.0	[1] 7.3	19.0	19.0	NA	20.5	20.5	27.0	46.0	46.0	52.8
Commodity import																		
Cash grant																		
Budget support	45.0	45.0	45.0	67.5	67.5	67.5	37.0	37.0	37.0	66.0	66.0	66.0	45.0	45.0	45.0	42.0	46.0	42.0
Technical assistance	[6] .8	[6] .8	.7	1.3	1.3	1.8	2.4	2.4	1.9	1.2	1.2	.8	4.5	4.5	2.3	5.0	5.0	5.7
Desalination																		
Public Law 480 Food	11.3	11.3	11.3	11.6	11.6	11.6	[1] 13.7	[1] 13.7	[1] 13.7	NA	NA	NA	7.8	7.8	7.8	7.7	7.7	7.7
Housing guarantees																		

	1974 actual			1975 actual			1976 actual			19TQ actual			1977 estimate			1978 estimate		
	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay
Export-Import Bank:																		
Direct loans	3.8	3.8	2.1			7.5												
Guarantees	6.2	1.6		2.9	.7		1.4	.3		1.4	.4		28.1	7.0		NA	NA	NA
Refugee assistance																NA	NA	NA
Israel-United States Binational Industrial Research and Development Foundation																		
American schools and hospitals abroad																		
U.S.I.A.	.3	.3	.3	.3	.3	.3	.3	.3	.3	.8	.8	.1	.3	.3	.3	.4	.4	.4
State Department	.8	.8	.8	.8	.8	.8	1.0	1.0	.9	.4	.4	.3	1.7	1.7	1.3	2.0	2.0	1.6
SYRIA																		
Foreign military sales credit (FMS)																		
Emergency security assistance																		
Military assistance (Grant MAP)																		
International military education and training (IMET)																		
Middle East special requirement fund				83.0	83.0	(2)			[1] .7			NA			20.5			NA
Supporting assistance (total)							16.5	16.5	.7	78.5	78.5		80.0	80.0	47.8	90.0	90.0	63.0
Suez area reconstruction																		
Development							14.5	14.5	NA	78.5	78.5	NA	74.7	74.7	NA	88.0	83.0	NA
Commodity import																		
Cash grant																		
Budget support																		
Technical assistance							2.0	2.0	NA				5.3	5.3	NA	2.0	2.0	NA
Desalination																		
Public Law 480 food				7.1	7.1	7.1	[1] 24.3	[1] 24.3	[1] 24.3				17.9	17.9	17.9	19.2	19.2	19.2
Housing guarantees																		
Export-Import Bank:																		
Direct loans																		
Guarantees										(2)	(2)		1.0	.2		NA	NA	NA
Refugee assistance																NA	NA	NA
Israel-United States Binational Industrial Research and Development Foundation																		
American schools and hospitals abroad																		
USIA	.2	.2	.2	.3	.3	.3	.2	.2	.2	.1	.1	.1	.3	.3	.3	.4	.4	.4
State Department	.2	.2	.1	.7	.7	.6	1.0	1.0	1.0	.3	.3	.3	1.7	1.7	1.2	2.1	2.1	1.7

[1] Includes transition quarter.
[2] Less than $50,000.
[3] $1.5 billion forgiven.
[4] 50 percent forgiven.
[5] Export market value.
[6] Funded under the development loan fund or development assistance but included in supporting assistance for brevity of presentation.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION: ARTICLE III

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. McDONALD. Mr. Speaker, until recently the policies, plans and operations of the Trilateral Commission established by Chase Manhattan Bank head David Rockefeller were the concern of a relatively small number of expert political analysts. Now thanks to the pioneering examinations by conservative political analysts of this powerful special interest group working to influence our Government's policies, the activities of the Trilateral Commission are beginning to receive a public airing.

In recent weeks several of my constituents have submitted extensive magazine articles and newspaper stories on the Trilateral Commission. Several of these are of particular interest and I intend to submit them for the attention of my colleagues.

Attached is the second article in the series by Craig Karpel which appeared in September 1977:

WHO RUNS JIMMY CARTER?

(By Craig S. Karpel)

The President and Vice-President of the United States and the Secretaries of State, Defense and the Treasury are Commissioners of an elite international organization that is on record as being opposed to democracy.

The key strategy of this organization has been to install one of its 67 United States Commissioners in the nation's highest elective office, thus enabling him to choose a Vice-President and Cabinet from its ranks. This strategy has been stunningly successful.

Jimmy Carter was selected more than four years ago to be this organization's candidate for the Presidency. At that time, Carter was governor of Georgia and a political unknown.

This organization has issued a report advocating the limitation of democracy by such means as Governmental secrecy, laws allowing public officials to sue reporters for libel, regulation of the press and reduced higher education.

In his speech accepting the Democratic Presidential nomination, Carter denounced "unholy, self-perpetuating alliances [that] have been formed between money and politics." Carter and Mondale are the only major U. S. political figures who are Commissioners of this organization, most of whose members are the world's most influential and powerful bankers and businessmen.

This remarkable organization is called the Trilateral Commission. It was founded and funded in 1973 by David Rockefeller. Rockefeller is a prominent Republican, youngest brother of Nelson Rockefeller and chairman of New York's giant Chase Manhattan Bank. He is widely considered to be the preeminent leader and spokesman of the international banking community. The purpose of the Trilateral Commission is to weld the corporate and financial sectors of the United States, Western Europe and Japan into a united front to cope with the escalating demands of disadvantaged groups at home and underdeveloped countries abroad.

Until two weeks before Carter's nomination, the Trilateral Commission was headed by Zbigniew Brzezinski, now the National Security Advisor to the President (the post to which Henry Kissinger was originally appointed). Brzezinski contrasts himself with Kissinger by noting that Kissinger was formerly an employee of Nelson Rockefeller, while he is an "associate" of David Rockefeller. In contrast to Carter's human-rights campaign, a recent article by Brzezinski in *Foreign Policy*, "America in a Hostile World," proposes that the U.S. stop championing democracy in the world arena.

A delegate to the Democratic National Convention attempted to deliver a speech revealing Carter's relationship to David Rockefeller, Zbigniew Brzezinski and the Trilateral Commission, but was cut off as he spoke.

Before the election, Carter's then-campaign manager and current staff chief Hamilton Jordan said in Playboy that he would quit if Carter were to appoint Trilateral Commissioners Brzezinski and Cyrus Vance to his Administration. In addition to Brzezinski and Vance, Carter's appointments of Trilateral Commissioners include Harold Brown as Secretary of Defense, W. Michael Blumenthal as Secretary of the Treasury, Warren Christopher as Deputy Secretary of State, Richard Cooper as Undersecretary of State for Economic Affairs, Richard Holbrooke as Assistant Secretary for East Africa and Pacific Affairs, Richard Gardner as ambassador to Italy and Paul Warnke as director of the Arms Control and Disarmament Agency and chief negotiator at the abortive Strategic Arms Limitation talks with the

Soviet Union. Most recently, Carter appointed Gerard C. Smith, North American chairman of the Commission, as ambassador at large for international nuclear-power negotiations. Jordan has not yet submitted his resignation.

Jimmy Carter has presented himself to the American people as, variously, a populist, a conservative, a liberal, a born-again Christian and an aficionado of Bob Dylan. In reality, he was chosen to be President by the quasi secret coordinating council of the financial and corporate elite of the United States, Western Europe and Japan. Contrary to his public positions, Carter is expected by this council to preside over the implementation of its basic program: the reduction and limitation of democracy at home and accommodation with undemocratic regimes abroad.

The time has come for the President of the United States to explain his continued association with the Trilateral Commission to the American people. Does Carter subscribe to the Commission's proposals for limiting democracy? If not, he must explain why he did not resign from the Commission long ago. He must publicly repudiate Brzezinski and dismiss other Trilateral Commissioners from his Administration.

If Jimmy Carter does subscribe to the Commission's proposals, the American public has a right to know how he justifies his participation in a plan to use the Presidency as a vehicle for limiting the democratic process.

THE TRILATERAL WORLD

The Trilateral Commission calls its headquarters on Manhattan's East 46th Street its Secretariat—a nomenclature designed to parallel that of the United Nations building down the block, and to subtly implant the notion in the minds of those who receive correspondence on its ostentatiously plain letterhead that it has proto-governmental powers.

According to Richard J. Barnet and Ronald E. Müller in Global Reach: The Power of the Multinational Corporations, the Trilateral Commission is an "attempt by David Rockefeller to organize 'leading citizens' of the United States, Japan and Western Europe . . . designed to minimize the friction and competition that divide the giants and make them more vulnerable to the organizing efforts of the poor."

The Trilateral Commission was founded in July 1973 by David Rockefeller and Zbigniew Brzezinski. Initial funding came directly from Rockefeller. Approximately 200 Commissioners were chosen by Rockefeller and Brzezinski from among the world's most influential industrialists and financiers. The inclusion of a few academics, labor leaders and politicians has not kept the Commission from being called "a rich man's club" in the pages of Foreign Affairs, published by the Council on Foreign Relations, itself often called a rich man's club.

Jimmy Carter has given an eloquent description of his fellow Trilateral Commissioners. It came during the speech by which he accepted the Democratic nomination, in which he described:

. . . a political and economic elite who have shaped decisions and never had to account for mistakes nor to suffer from injustices. When unemployment prevails, they never stand in line looking for a job. When deprivation results from a confused welfare system, they never do without food, or clothing, or a place to sleep. When the public schools are inferior or torn by strife their children go to exclusive private schools. And when the bureaucracy is bloated and confused, the powerful always manage to discover and occupy niches of special influence and privilege.

In the 1973 Prospectus of the Trilateral Commission, David Rockefeller said that he intended "to bring the best brains in the world together to bear on the problems of the future." Professor Richard Falk holds the Albert G. Milbank chair of International Law and Practice at Princeton University. He is a colleague of Brzezinski's on the editorial board of Foreign Policy but doesn't think much of Brzezinski's pet project.

"Unless 'the best brains' are defined as those inhabiting the most affluent bodies," says Professor Falk, "it has many intelligent individuals, but virtually none of the best brains among its membership. It does bring together a very impressive array of influentials, almost all of whom possess easy and effective access to the topmost levels of power, wealth and prestige.

"In Trialogue, the newsletter of the Commission, Rockefeller is reported as believing that 'private citizens are often able to act with greater flexibility than governments in the search for new and better forms of international cooperation.' What is not explicit . . . is a fear about the consequence of uncooperative governments that become beholden to domestic constituencies whose interests are at variance with those of the multinational corporation, because such constituencies become either nationalistic, or ideological, or humanistic. . . .

"First of all, its formation expresses a general recognition by the elites in the most powerful states that there is an emergent global crisis of unprecedented proportions that involves, in particular, the capacity of capitalism to adapt to the future . . . Second, the Commission's formation reflects the view that national governments are not necessarily capable on their own of working out the adaptations that are necessary to sustain the existing elites in power. . . . Such a nongovernmental initiative can be currently understood as a complement to the managerial geopolitics of Henry Kissinger, which, by its stress on a so-called 'structure of peace,' conceivably imperils the structure of wealth constituted by the capitalist sector of the highly industrialized portion of the world. The Trilateral Commission can be conceived, I think, as a geoeconomic search for a managerial formula that will keep this concentration of wealth intact, given its nonterritorial character and in light of the multiple challenges to it from Arab oil interests, the Communist bloc and various expressions of statism. In a sense, the vistas of the Trilateral Commission can be understood as . . . representing the transnational outlook of the multinational corporation.

"The Trilateral Commission embodies a strategy of transition that does not emphasize empathy and equity, much less equality, and hence has to rely upon patterns of dominance, repression and violence, administered if possible by territorial governments that provide local police protection."

JIMMY CARTER AND THE CRISIS OF DEMOCRACY

The most noteworthy project of the Trilateral Commission has been the report of its Task Force on the Governability of Democracies, which was set up in the spring of 1974. The task force included Zbigniew Brzezinski in its meetings and submitted its report, titled *The Crisis of Democracy*, in 1975. The report's section on the United States was written by Professor Samuel P. Huntington. Huntington holds the Frank G. Thomson chair of Government at Harvard University and its associate director of Harvard's Center for International Affairs. He is a founder and editor of *Foreign Policy*. He has been a consultant to the policy-planning council of the Department of State, the Agency for International Development and the office of the Secretary of Defense. It was Huntington who lent intellectual validity to the carpet-bombing of South Vietnam—to "dry up" the base of the Viet Cong in the countryside by driving the rural population into refugee camps and cities, where they would be under the control of the South Vietnamese military government. His books include *The Common Defense: Strategic Programs in National Politics* (1961) and *Political Power: USA/USSR* (1964), co-authored with Zbigniew Brzezinski.

The Trilateral report begins by describing the "democratic surge of the Sixties."

The predominant trends of that decade involved the challenging of the authority of established political, social and economic institutions, increased popular participation in and control over those institutions, a reaction against the concentration of power in the Executive Branch of the Federal Government and in favor of the reassertion of the power of Congress and of state and local government, renewed commitment to the idea of equality on the part of intellectuals and other elites, the emergence of "public interest" lobbying groups, increased concern for the rights of and provision of opportunities for minorities and women to participate in the polity and economy, and a pervasive criticism of those who possessed or were even thought to possess excessive power or wealth. The spirit of protest, the spirit of equality, the impulse to expose and correct inequities were abroad in the land.

"Views as to what constitutes the precise desirable balance between power and liberty, authority and democracy," the report continues, ". . . obviously differ. . . . Some fluctuation in the balance is not only acceptable but may be essential to the effective functioning of constitutional democracy. At the same time, excessive swings may produce either too much government or too little authority. The democratic surge of the Sixties raised once again in dramatic fashion the issue of whether the pendulum had swung too far in one direction"—i.e., in the direction of liberty and democracy.

The report of the Trilateral Commission concludes that the pendulum has indeed swung too far. "The vigor of democracy in the United States in the Sixties thus contributed to a democratic distemper, involving the expansion of Governmental activity on the one hand and the reduction of Governmental authority on the other." ["Distemper. 1. (a) . . . a specific infectious disease of young dogs . . . 2. a deranged condition of mind or body; a disorder or disease 3. disorder or disturbance, esp. of a political nature," *The Random House Dictionary of the English Language*, 1967 edition—C.S.K.]

"Finally, a government which lacks authority and which is committed to substantial domestic programs will have little ability, short of a cataclysmic crisis, to impose on its people the sacrifices which may be necessary to deal with foreign-policy problems and defense. . . . The U.S. Government has

given up the authority to draft its citizens into the Armed Forces and is now committed to providing the monetary incentives to attract volunteers with a stationary or declining percentage of the Gross National Product. . . . The question necessarily arises, however, of whether in the future, if a new threat to security should materialize, as it inevitably will at some point, the Government will possess the authority to command the resources and the sacrifices necessary to meet that threat.

"The implications of these potential consequences of the democratic distemper extend far beyond the United States. For a quarter century, the United States was the hegemonic power in a system of world order. The manifestations of the democratic distemper, however, have already stimulated uncertainty among allies and could well stimulate adventurism among enemies. If American citizens don't trust their Government, why should friendly foreigners? If American citizens challenge the authority of American Government, why shouldn't unfriendly governments? . . . A decline in the governability of democracy at home means a decline in the influence of democracy abroad."

Translated from the tortured Trilateralese of the report, what the Commission is saying is that the Untied States was forced out of Vietnam by too much democracy at home, thereby losing its credibility as a world military power—and that this trend must be stopped. Then comes the most ominous paragraph of all:

"Al Smith once remarked" the report continues in sober Roman type, which is italicized here, "that 'the only cure for the evils of democracy is more democracy.' Our analysis suggests that applying that cure at the present time could well be adding fuel to the flames. Instead some of the problems of governance in the United States today stem from an 'excess of democracy.' . . . Needed instead, is a greater degree of moderation in democracy.

"In practice, this moderation has two major areas of application. First, democracy is only one way of constituting authority, and it is not necessarily a universally applicable one. In many situations, the claims of expertise, seniority, experience and special talents may override the claims of democracy as a way of constituting authority. . . . The arenas where democratic procedures are appropriate are, in short, limited.

"Second, the effective operation of a democratic political system usually requires some measure of apathy and noninvolvement on the part of some individuals and groups. In the past, every democratic society has had a marginal population, of greater or lesser size, which has not actively participated in politics. In itself, this marginality on the part of some groups is inherently undemocratic, but it has also been one of the factors which has enabled democracy to function effectively."

Astonishingly, the Commission insists that it is inherently undemocratic factors that enable democracy to function. "Marginal social groups, as in the case of the blacks, are now becoming full participants in the political system. Yet the danger of overloading the political system with demands which extend its functions and undermine its authority still remains. Less marginally on the part of some groups thus needs to be replaced by more self-restraint on the part of all groups. . . .

"Democracy is more of a threat to itself in the United States than it is in either Europe or Japan, where there still exist residual inheritances of traditional and aristocratic values. . . . In the United States, the strength of democracy poses a problem for the governability of democracy in a way which is not the case elsewhere.

"The vulnerability of democratic government in the United States thus comes not primarily from external threats, though such threats are real, nor from internal subversion from the left or the right, although both possibilities could exist, but rather from the internal dynamics of democracy itself in a highly educated, mobilized and participant society. . . . A value which is normally good in itself is not necessarily optimized when it is maximized. We have come to recognize that there are potentially desirable limits to economic growth. There are also potentially desirable limits to the indefinite extension of political democracy."

The Commission ends with several recommendations of ways "to restore a more equitable relationship between governmental authority and popular control," including:

Centralized economic and social planning.

"Centralization of power within Congress."

Repeal of laws prohibiting political contributions by corporations, which "serve little useful purpose."

Improved working conditions to reduce pressure for "industrial democracy modeled on patterns of political democracy."

"A program . . . to lower the job expectations of those who receive a college education."

Such limitations on freedom of the press as "prior restraint" of what newspapers may publish in unspecified "unusual circumstances," the assurance "to the government [of] the right and the ability to withhold information at the source," "moving promptly to reinstate the law of libel as a necessary and appropriate check upon the abuses of power by the press," and press councils enforcing "standards of professionalism," the "alternative [to which] could well be regulation by the government."

The Crisis of Democracy was presented to the full membership of the Trilateral Commission on May 30–31, 1975, at a plenary meeting at the ultramodern convention complex outside Kyoto, Japan. "It looked like one of those meetings of S.M.E.R.S.H. they always have in Ian Fleming movies," says one observer. "You know—the ones where they carve up the world and say 'James Bond must die!'" Jimmy Carter and Walter Mondale were in attendance, Carter's presence was the most flamboyant of all. Newsweek was sufficiently impressed to begin its story of the Kyoto meeting with a reference to Carter's campaign activities at the meeting—almost a year before his primary pluralities brought him to national prominence. Carter spent much of his time huddled with Zbigniew Brzezinski, who, speaking from the dais, praised Carter's candidacy in front of the Commissioners.

When *The Crisis of Democracy* was presented, a lively discussion ensued. One Commissioner said that the report would do well to balance its focus on governability with an equal concern for protection of the rights of citizens. Another Commissioner agreed, suggesting that it might be more appropriate to examine the excesses of the governors than those of the governed. Another insisted that the need was not for "less democracy," that, contrary to the pessimism of the report, recent developments indicate "triumph" and a "finest hour" for American democracy.

Throughout the debate on the report, Jimmy Carter remained conspicuously silent. "He just sat there trying to look statesmanlike," says one observer. He did not have to be concerned that he would read about his abstention in the next day's New York Times, because the ground rules under which reporters were admitted to the meeting forbade them—as if in accordance with the report's advocacy of prior restraint and secrecy—from attributing statements to Commissioners by name.

THE MAKING OF JIMMY CARTER 1973

Jimmy Carter was appointed to the Trilateral Commission by David Rockefeller in the fall of 1973. It is surprising to find Carter, who did not become known nationally until the spring of 1976, sitting as an equal with global luminaries of the statute of Giovanni Agnelli, usually considered the most powerful man in Italy, the chief executive officers of two out of three of the world's largest banks, the former foreign minister of West Germany, the current foreign minister of Japan, the head of the world's largest oil company, the head of the United States' largest oil company, partners of several of the most powerful investment-banking houses on earth and the cream of Japanese industry and finance, including the heads of the Bank of Tokyo, Sony, Hitachi, Seiko, Datsun and Toyota. What was an obscure Southern peanut warehouseman and local politician with no national—let international—reputation doing in such company?

Carter's membership on the Trilateral Commission had its origin in David Rockefeller's desire to install Zbiginiew Brzezinski in a high State Department or White House foreign-policy-making role in the Administration taking office in January 1977. It was Rockefeller's feeling that his efforts to construct a post-Vietnam world order were being hampered by Henry Kissinger's neo-Metternichian balance-of-powers approach. Kissinger and Nixon wanted to broker a triangular alliance between the United States, China and Russia that would give those three national governments the strength to negotiate with their emerging common adversaries: the developing world—most immediately, the Arab and Iranian oil producers. Rockefeller believed that the international banking community, of which he is the most influential member, and the multinational corporations that form its clientele would pay the price for such a deal. The national interest of the U.S. as a sovereign state would be put before the profits of the multinationals that are headquartered in the U.S. but, because of their global operations, have been rapidly sloughing off their national allegiance.

David Rockefeller envisioned the formation of a smaller, tighter, less grandiose and more manageable triangle than the one his brother, Nixon and Kissinger were trying to pull together: a gentlemen's agreement among the United States, Japan and Western Europe that would be able to resist, and ultimately profit from, the economic demands of the rest of the world. The Trilateral world would be the new model of yesterday's Free World—with the anti-communism dropped and the under-developed countries added to the enemies list. Brzezinski has called his ultimate goal "a community of the developed nations." The ideological baggage of the post-World War Two era would be jettisoned and replaced with a naked economic self-justification that could have been lifted from the late Lyndon B. Johnson's characterization of the Communist bloc while addressing troops in Korea: "They want what we got, but we ain't gonna give it to 'em."

This Trilateral entente was not, however, to be brokered by the national governments of the three regions. It was to be directly negotiated by representatives of the industrial and financial communities involved. Rockefeller subscribed to the view expressed by U.S. industrialist John Diebold in the fall 1973 issue of *Foreign Policy* in an article titled "Multinational Corporations: Why Be Scared of Them?" in which Diebold maintained that "the logical and eventual development [of the increased role of multinational corporations] . . . would be the end of nationality and national governments as we know them." Which was all right by David Rockefeller, who was worried by the prospect of increased regulation and taxation of the multinationals by national governments. Rockefeller did not want to stick any feathers in the caps of the national governments that Diebold saw withering away—much to the convenience of the multinationals—by allowing them to broker the Trilateral entente. Multinational corporations don't want nations—they want multinations.

David Rockefeller considers himself to be a citizen of the world. His bank's and his family's business interests are worldwide. He is as comfortable conversing in French as in English. He spends as much of his time as possible on the tiny Caribbean island of St. Barthelemy, a French possession, where his tightly guarded compound is approachable only by sea. He does not spend any time *futzing* around in Albany or Washington like Nelson. To David Rockefeller, the national interests of the United States are parochial and particularistic, the sentimental preoccupations of smaller minds than his—such as that of his older brother, patron of that largest of small minds, Henry Kissinger—not to mention the vast majority of the American people.

David Rockfeller thus set about to replace Kissinger with the ambitious Zbigniew Brzezinski, a streamlined practitioner of *Realpolitik* who harbors no anachronistic attachment to those values tradtionally expressed through America's national Government which might get in the way of world trade.

It is, however, considered gauche to campaign publicly for the job of National Security Advisor to the President. One of the main reasons for setting up the Trilateral Commission, therefore, was to supply Brzezinski with a forum in which to campaign privately. There was, moreover, a technicality: Brzezinski would have to be appointed to one or both of these posts by a President. Therefore, no sooner had Rockfeller and Brzezinski set up the Trilateral Commission in the summer of 1973 than they began casting about for a politician whom they could project into the Presidency in 1976.

Carter came to Rockefeller and Brzezinski's attention via several paths. Carter met with Rockefeller at least once in 1971, as indicated in his appointments book, now in the Georgia state archives. The page for November 23, 1971, reads as follows:

7:45 a.m. Arrive Dobbins AFB ¼ Dobbins Gate.

8:00 a.m. Depart Lockheed Jet Star.

10:00 a.m. Teterboro Airport, N.Y.

12:30 p.m. Lunch; Board of Directors, Dining Room, The Chase Manhattan Bank, David Rockefeller.

3:00 p.m. Depart Teterboro.

5:00 p.m. Arrive Atlanta.

Carter was subsequently noticed by W. Averell Harriman, former governor of New York, former ambassador to the United Nations, a senior investment banker and certifiable grand old man of the Democratic Party, who touted Carter to Milton Katz, director of international-law studies at Harvard and chairman of the Carnegie Endownment for International Peace, publisher of the ubiquitous *Foreign Policy*. Katz, in turn, touted Carter to David Rockefeller.

Simultaneously Carter was organizing a series of unusual overseas-trade missions for which he traveled to Europe and Japan to promote the sale of Georgia products abroad. Foremost among Georgia products is, of course, Coca-Cola. In the course of developing his trade missions, Carter caught the eye of Coca-Cola chairman J. Paul Austin, a Trilateral Commissioner who was a sizable contributor to Carter's gubernatorial campaign. Austin commended the Georgia governor to David Rockefeller's attention. It might, in fact, be argued that Carter's personally conducted trade junkets were organized more for the purpose of commending himself to Austin and Rockefeller's attention than for flogging his state's products—i.e., that the main Georgia product he was promoting abroad was himself.

Sometime in 1973, Carter, while on one of his trade visits to Europe, accepted an invitation to dine with David Rockefeller at Rockefeller's palatial home in London. At this dinner, Rockefeller asked Carter to join his Commission, intimating that if he did so, Rockefeller would line up the entire global foreign-policy establishment behind Carter's Presidential candidacy.

Brzezinski was extremely impressed with Carter's political finesse. "He was discussing his Presidential candidacy with a group of American newsmen" during a Trilateral meeting, Brzezinski recalls. "There were hostile and sardonic questions. It struck me that here was an intelligent and cool guy who could not be provoked. He also had a clear scheme for how he would proceed to the nomination."

Rockefeller and Brzezinski's most important consideration was the need to induct a Presidential candidate into the foreign-policy establishment who, if elected, would be beholden to no other constituency. This ruled out such men who were considered Presidential contenders in 1973 as:

Senator Edward Kennedy, who was seen as having too large a personal following based on the Kennedy name and his effective liberal work in the Senate and as carrying with him the liability of Chappaquiddick;

Senator Hubert H. Humphrey, whose personal popularity was enormous and whose ties to the major unions were so strong that he would not fall in line with the Trilateral Commission's subordination of the interests of labor and those of management;

Senator Henry Jackson, whose relationship with huge West Coast defense contractors such as Boeing would make him relatively independent of the Trilateral Commission's support and allow him to mount a strong defense of Israel, which would conflict with the policies of David Rockefeller's Chase Manhattan Bank, which is financial advisor to Egypt and has extensive dealings with other Arab countriees.

Carter, by contrast, had no such powerful constituency to satisfy—or to rely on. He had no backlog of political debts to pay or to collect should he be elected President. The deal was simple: All Carter had to do was promise to appoint Brzezinski to high office and give him the sort of free rein that Nixon had given Kissinger, and the entire resources of David Rockefeller's pyramid of influence would be at his disposal both in the following three years—during which it would do all in its power to get him nominated and elected—and in the ensuing eight years, during which it would help him govern. Harvard professor Samuel P. Huntington, the Trilateral Commission's chief expert on domestic political operations, has written that Harry Truman "made a point of bringing a substantial number of . . . Republican bankers and Wall Street lawyers into his Administration. He went to the existing sources of power in the country to get the help he needed in ruling the country. . . . Truman had been able to govern the country with the cooperation of a relatively small number of Wall Street lawyers and bankers." This dynamic was driven home to Carter: If he wanted to be another Truman, he should play ball with the Trilateral Commission, under the cover of which today's Wall Street lawyers and Republican bankers had opened an uptown office.

Carter realized that he was being offered a unique opportunity to short-cut the tedious process of deal-making with backslapping local pols, which was the conventional way of securing a Presidential nomination. This way he could bypass the smoke-filled rooms of the past and proceed directly to a seat in the nonsmoking section. There would be, of course, a crucial difference between Truman's relationship with the Wall Street establishment and Carter's. When Truman made his arrangement with Wall Street, he was already President of the United States. He thus dealt from a position of formidable administrative and legal power. Wall Street helped Harry Truman, but it didn't invent him. Carter, by contrast, made his pact with the Trilateral Commission when he was a nobody. His listing on the roster of the Commission was the first time anyone outside of Georgia had thought enough of his name to put it on anything—and they could have as easily substituted the name of Reuben Askew, in which case Jimmy Carter would have been back in Plains shelling peanuts on January 20, 1977. Gerold Rafshoon, Carter's media specialist, told Playboy reporter Robert Scheer that Carter's selection to the Trilateral Commission was "one of the most fortunate accidents of the early campaign and critical to his building support where it counted." The business about "fortunate accidents" is nonsense. David Rockefeller does not appoint people to commissions by accident. The purpose of making an ambitious political unknown a member of the most powerful private association in the world was to indebt him deeply to it.

CENSORSHIP AT THE DEMOCRATIC CONVENTION.

Jimmy Carter's Rockefeller connection would be common knowledge today if Alex Garnish had had his way. Garnish, a refrigeration engineer by trade, was a Massachusetts delegate to the Democratic National Convention. On the night that Trilateral Commissioner Walter F. Mondale was nominated to the Vice-Presidency, Garnish was recognized by chairwoman Lindy Boggs to nominate one Gary Benoit, a fellow Massachusetts delegate, for the Vice-Presidential spot. Under the rules of the convention, this gave Garnish the right to speak before the cameras for ten minutes. He made his way to the podium and began as follows:

"It is an old cliché in politics that a good ticket is a balanced ticket. We need to balance our ticket. Now, what I am going to tell you is not going to be very popular. I hate to be the bearer of bad tidings on this joyous occasion. But I plead with you to judge what I am going to say on whether it is true, not on the fact it makes you very uncomfortable.

"A powerful, big-money group wants to take over the Democratic Party. Behind the scenes, the fat cats and limousine liberals of the Eastern establishment have moved in to manipulate our party. The grim truth is that the Carter bankwagon runs on Standard Oil, not peanut oil."

No sooner did this bon mot pass Garnish's lips than he was ruled out of order and

escorted hurriedly from the rostrum. Boggs acted on a rule to the effect that no speaker was permitted to say anything derogatory about anyone whose name has been placed in nomination.

But, though Garnish's words may have been out of order at the Carter-dominated Democratic Convention, they are very much in order now. Here is how the refrigeration engineer would have continued if he had not been frozen out:

While the people mistakenly believe the grass roots have spoken, it is a small cabal of men closely tied to the Rockefeller empire who engineered the nomination of Jimmy Carter. The Rockefellers want the American people to have the choice between the Rockedems and the Rockepubs.

The Rockefeller establishment is not content just to own the G.O.P. Because the Rockefellers own assets in 125 nations, they need to control American foreign policy whether the Republicans or the Democrats are in the White House.

After going into Carter's relationship with David Rockefeller, Zbigniew Brzezinski and the Trilateral Commission, Garnish would have continued:

The party of Jefferson and Jackson has been grabbed by monopolists. . . . The Carter clan does not want you to know that they sold out to the establishment in order to get the nomination. A Jimmy Carter Administration will be controlled by the big-money boys, not grassroots Americans. There will be no real tax reform and our foreign policy will be tailor-made to suit the Rockefeller empire, just as Henry Kissinger has done under Nixon and Ford.

We can balance our ticket by having one candidate who belongs to the Rockefellers and one who belongs to the people. Therefore, I place in nomination for the office of Vice-President Gary Benoit of Massachusetts.

If this speech had been delivered, it would have electrified the convention. It would have explained the Carter "phenomenon" to millions of voters and changed the course of a close election. For all the televised yawning about how totally orchestrated, how thoroughly predictable the Democratic Convention was, nobody could have anticipated Garnish's outpouring of disconcerting truth. But when the unexpected finally happened, when somebody actually started speaking lines that weren't in the script, the media assumed that Garnish must be a kook and a crank; they never bothered to find out what he had planned to tell his fellow delegates—let alone to determine whether his charges were true.

WHY NOT THE BEST?

The law firms, the investment banks, the corporations and the men who represent them on the Trilateral Commission are, with the exception of Jimmy Carter, not new to American Government. Far from it: For years, sophisticated analysts have observed that high officials of the State Department, the Defense Department and the Central Intelligence Agency have been drawn from their ranks and have conducted a so-called "bipartisan foreign policy" on their behalf. But never before has this foreign-policy elite tried to gain direct control of the Presidency.

There are several reasons why the foreign-policy establishment has seized the reins of domestic Government.

First, its efforts to conserve and extend its power overseas have been frustrated everywhere, from Indochina to Greece to Italy to Angola. So the foreign-policy elite took its experience at installing "cooperative" national leaders abroad and turned its sights inward on the biggest prize of all: the United States Presidency.

Zbigniew Brzezinski has expressed the underlying reason why it has become necessary for the foreign-policy establishment to have one of its own members in the White House. "Resist as it might," he write recently, "the American system is compelled gradually to accommodate itself to this emerging international context, with the U.S. Government called upon to negotiate, to guarantee and, to some extent, to protect the various arrangements that have been contrived even by private business." The multinational corporations now require a President who can be counted on as negotiator, guarantor and protector of their private arrangements. They can no longer leave the selection of the President up to chance—that is, up to the democratic process.

The multinationals' problem was compounded by the new campaign-financing law, which limits individual contributions to $1000. In the past, bankers, lawyers and executives of the multinationals could give as much as they wanted to a Presidential contender. This power of the purse over Presidential campaigns was an effective form of positive control over the selection process. But the new law made it necessary for the multinationals to find a way of supporting a candidate that didn't involve a direct cash contribution. The Trilateral Commission was set up, in large part, to enable the multinationals to make their contribution to the next President's campaign not in the form of dollars with which to build a prestigious image but in the form of prestige itself. What Carter's listing as a Trilateral Commissioner said to status-conscious editors of television networks, newsmagazines and newspapers was that it was not Udall, not Church, not Fred Harris, not Milton Shapp but this Carter guy who was to be taken seriously.

Lastly, Professor Alan Wolfe, of Berkeley, whose book "The Limits of Legitimacy" will be published by The Free Press, has argued that there is no longer any room for the foreign-policy elite in the Republican Party. "Excluded by the zealous ideologs of the Republican right from playing a major role in that party," Wolfe says, "Wall Street investment bankers, who traditionally had cast their lot with both parties, are leaning more toward open identification with the Democrats.

"One important sign of this shift is the role of David Rockefeller in organizing the Trilateral Commission, which now sees itself as the primary supplier of both people and ideas to the Carter Administration."

The Republican right has for years harbored a devil theory by which the Wall Street investment community is trying to create a socialist world government. Its chief culprits are not the Communists, as most people suppose, but the Rockefeller family. One of the right's basic tracts is, in fact, called "The Capitalist Conspiracy." In reality, the right's analysis is overblown. The foreign-policy establishment does not want an overtly socialist world government—merely a private alliance of the elites of the United States, Western Europe and Japan that will be able to get national governments to enforce their policies, which include socialist-style central economic planning. And the Rockefellers are not mustache-twirling comic-book villains plotting a sinister capitalist conspiracy; they are simply the most influential, ambitious and cunning capitalists. Nevertheless, the fears of the right have forced Wall Street out of the Republican Party, out of domestic bipartisanism and into Democratic national politics, where it has successfully—and, by and large, secretly—fielded its first President.

We need not ask Carter whether he approves of the Trilateral Commission's recommendations on limiting democracy. Carter's candidacy is itself an exercise in the limitation of democracy. An obscure politician comes out of nowhere to grab the nomination from men whose careers, if nothing to write home about, are at least known to the public. He utters populist mouthings while his true base of support is not among the electorate but among international bankers and officers of multinational corporations. The fact is that the United States today is starved for democracy. For two and a half years, it had an appointed President who vetoed 58 acts of an elected Congress. The government of New York City is in the hands of an appointed Emergency Financial Control Board composed of businessmen and bankers who hold no public office. (This board is, coincidentally enough, also intimately connected with David Rockefeller and the Trilateral Commission, as explained in this writer's article "There Are 8,000,000 Stories in the Naked City and This Is the Last One" in the November 1976 *Playboy*.) The public-school system of Boston is being run by a single Federal judge. Jimmy Carter recognized the desire of the public for democratic control of Government—the so-called "anti-Washington" sentiment the media say Carter plays to—and pandered to it with demagogic cynicism.

The first President in America's history to promise not to lie has told a whopper. Speaking on all three television networks at once, he vilified a nameless political and economic elite and catigated unholy, self-perpetuating alliances between money and politics. One is, presumably, permitted to infer that the speaker had not himself been recruited into such an elite and was not himself a member of such an alliance. Jimmy Carter's service on and sponsorship by the Trilateral Commission means that these statements are lies so bald, so shameless, so outrageous, that they shame the Presidency.

There is only one defense against Jimmy Carter's big lie, and America is entitled to it at once: the whole truth.

SAFEGUARD RELIGIOUS FREEDOM: SUPPORT H.R. 3384

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. STOCKMAN. Mr. Speaker, the House will soon consider H.R. 3384, a bill to provide that no employee shall be required to join or financially support a labor organization if he or she is a member of a religion or sect which conscientiously objects to doing so. I strongly urge my colleagues to support this bill when it comes before us.

This amendment to the National Labor Relations Act will extend legislative relief to the many sincere, reliable workers who are forced to choose between their jobs and adherence to their religious beliefs. Union security agreements frequently make it necessary for people with deep convictions to compromise their religious principles in order to remain employed. To keep a clear conscience, or simply to avoid having to fight the system, many other people have had to seek other kinds of work.

As the influence of organized labor has spread through our economy, it has become increasingly difficult for persons imbued with such convictions to remain employed in their fields of choice and expertise. Although the number of citizens affected is small in comparison to the total work force of the Nation, the problem becomes in personal terms, one of the utmost severity. Particularly to the half-million Seventh-day Adventists who, among others, suffer this injustice,

America cannot truly be said to afford religious freedom.

Congressional redress of this legitimate grievance is long overdue. Twelve years ago the Executive Council of the AFL–CIO declared a policy of encouraging member unions to accommodate themselves to individual religious scruples. Moreover, the council expressly sanctioned the principle, provided in H.R. 3384, of giving to religious objectors the option of contributing to a nonreligious charity sums equal to union dues and initiation fees.

The significance of the proposed legislation for all who cherish the right to live their religious belief is reflected in its widespread support. Religious organizations representing faiths which have no prohibition on union membership have spoken out on behalf of those which make it doctrine. The National Council of Churches, the National Catholic Welfare Conference, and the Central Conference of American Rabbis are among the many who recognize the fundamental nature and unassailable virtue of the freedom involved. We are charged with nothing less than the duty of safeguarding a most basic and most treasured heritage.

For these reasons, Mr. Speaker, I urge support of H.R. 3384.

PHILADELPHIA TO DEDICATE PLAYGROUND IN MEMORY OF ELIZABETH PICARIELLO

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to be able to inform my colleagues that this Thursday, the city of Philadelphia will officially open the Elizabeth M. Picariello Playground, dedicating it to the memory of a lady who contributed much to the youth of our city.

It was my privilege, Mr. Speaker, to have known Mrs. Picariello and to have observed the work which she did on behalf of young people. Mrs. Picariello, who died in 1973, had been active with youngsters of the Liberty Bell Youth Organization, of which she was a founder, and she coached girls' softball and girls' baseball teams until she became ill and was unable to continue.

During her lifetime, she served as president of the Liberty Bell Youth Organization Ladies Auxiliary and, at one time, also was the organization's vice president. She also had been active with the Morrell Park Civic Association and with other community groups.

Her husband, Samuel, who is one of my close friends, will be present on the platform to receive a copy of the ordinance naming the facility for his late wife. Also present will be her five children, Samuel, Jr., Rosina, Stephen, Patricia, and Elizabeth.

Recreation Commissioner Robert W. Crawford will be chairman of the program and Councilman Melvin J. Greenberg will be the speaker. Local guests will include Rev. Gerald Scherf, pastor of St. Martha's Roman Catholic Church; Rev. Robert J. McGee, pastor, Christ the King Roman Catholic Church; Raymond Scheetz, president and John Newns, vice president of the Morrell Park Civic Association; Eugene Falcone, secretary, Steven Super, treasurer, and Salvator Ferrante, athletic director of the Liberty Bell Youth Organization; Capt. Weldon Jones of the Seventh Police District; Capt. Michael Steinberg of the Fire Department; Robert J. Brockway, director of the Northeast YMCA and Marion Mostovoy, principal of J. Harry LeBrum School.

Rev. Harold Burkett, pastor of United Methodist Church of the Good Shepherd will offer the invocation prayer. Music will be provided by the Police and Firemen's Band.

PENN CENTRAL TAX NOTES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Ms. OAKAR. Mr. Speaker, this Thursday the Subcommittee on Transportation is scheduled to mark up H.R. 8882. I introduced this legislation on August 5, and in the intervening 10 weeks I have been joined by 64 of my colleagues in sponsoring this important measure. As my colleagues on this subcommittee begin consideration of this bill, I believe it will be useful to recount certain aspects of this issue and broach some new questions.

The bankruptcy of the Penn Central Transportation Co. has produced a number of unfortunate and complex problems. Of these difficulties, the plight of the State and local taxing authorities is the most compelling. There are approximately 2,500 taxing authorities to which the Penn Central has a tax delinquency of nearly $500 million. Yet, these taxing authorities have been prevented from pursuing the normal process of tax collection. An amalgam of public laws and court orders have changed the ground rules with regard to the tax collection and bankruptcy procedures. One of the consequences of these legislative and judicial initiatives has been the inability of cities and towns in the depressed Northeast and Midwest from collecting taxes that are due and owing to them.

H.R. 8882 is intended to bring some equity to this situation. The bill would authorize the Secretary of Transportation to guarantee long-term notes that the Penn Central trustees will offer in lieu of their tax delinquency. The guarantee will be of little or no risk to the Federal Treasury. This contention has been supported by those most familiar with this monumental and historic bankruptcy. The guarantee is not the bailout of a private corporation or a handout to the State and local taxing authorities. The purpose of the bill is not to put the Federal Government in the position of paying notes issued by private concerns. The likelihood of this is quite small. The bill will, however, give these notes immediate marketability. This would give the taxing authority the opportunity to sell these notes in private markets when they receive them. The need for this marketability cannot be overstated. Approximately 70 percent of the taxes owed by Penn Central are targeted for the operation of schools. We all know the financing difficulties that our schools face. I know of no better argument for this legislation than to demonstrate the financial needs of these school systems.

During the hearing on H.R. 8882, there were some questions raised with regard to the precedent that this legislation might set. In order to accommodate those members who are concerned about such precedents, I have drawn up amendments that would limit this bill in three ways: First, limit the guarantee to Penn Central; second, limit the applicability of the guarantee to postbankruptcy taxes; and third, limit the existence of this program to December 1992 (that is, 5 years from the maturity date of the 10-year notes). I believe that these amendments will make this bill acceptable to those concerned with precedent.

In sum, I would only say that this bill addresses a problem that is urgently in need of remedy. The inability of the Congress to act will be most acutely felt by schoolchildren. This is a modest effort to make on their behalf.

Mr. Speaker, I urge my colleagues on the Subcommittee on Transportation and Commerce to favorably report H.R. 8882. Moreover, I appeal to the members of the Committee on Interstate and Foreign Commerce to act quickly and favorably on this vital piece of legislation.

DEATH OF J. FLOYD BREEDING

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. SKUBITZ. Mr. Speaker, it is with great sorrow that I report the death of J. Floyd Breeding, our former colleague and a Kansan who served his State and his Nation with great distinction. We counted Floyd as one of our own from 1957 to 1962 when he represented the old Fifth Congressional District of Kansas in this House.

J. Floyd Breeding began his long career of service to the people of his beloved Kansas long before he became a Member of Congress. As a farmer-stockman from Rolla, Kans., Floyd was first elected by his friends and neighbors to represent them in the Kansas Legislature in 1947. He became the minority leader of that body in 1949 and was the Democratic nominee for lieutenant governor of Kansas in 1950.

Before coming to Congress, Floyd served as president of the Western Kansas Development Association and a strong spokesman for the National Association of Wheat Growers. He was also active in the Kansas Farm Bureau,

Farmers Union, and Kansas Livestock Association.

When J. Floyd Breeding first came to Congress in 1957, he quickly became known as a knowledgeable, vocal foe of the administration's farm policy. Congressman Breeding's agricultural expertise was widely recognized.

When he retired from Congress in 1963, he was appointed by President Kennedy to serve as an assistance to the Secretary of Agriculture, a position he held until he retired from public service in 1966.

Few Kansans have been more dedicated to representing the interests of the farmer and the rancher in Washington. J. Floyd Breeding had those rare qualities of leadership and agricultural expertise that enabled him to serve as an outstanding representative of the people.

All Kansans have lost a true friend and the presence of J. Floyd Breeding will be sorely missed.

REMOVING THE AIR FORCE GAG ON THE PANAMA CANAL TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, I call your attention to the contents of a priority message dated August 20 from Air Force Chief of Staff, Gen. David C. Jones, addressed to all major Air Force commands concerning the Panama Canal which in paragraph 5 is suggestive of Singlaub style squelching.

I am absolutely shocked and appalled by the contents of General Jones' message. It seems to me that free speech and honest opinions would be in the "best interest" of this Nation during the consideration of the highly controversial proposed Panama Canal treaties.

General Jones' statements are highly indicative of wide scale "Singlaubistic" thinking in the military and in addition they provide speculation of White House terror tactics and bullying.

Also included in paragraph 3 is a Carter statement obviously designed to gain military support giving unilateral assurance that the United States "will have the right to assure the maintenance of the permanent neutrality of the canal as we may deem necessary" which should be interesting in light of Panamanian thinking as shown in the Dole interception.

You might note in paragraph 2 the strongest possible statement of need for the canal which stands quite in contrast with the watered-down statements being fed to the civilian sector suggesting another dicotomy of sales pitch.

I suggest this message may warrant renewed questioning of the military to clarify General Brown's statement as to just how much pressure is being applied from the White House on down to prevent independent judgment and gain military support by coercion for these questionable and controversial treaties.

Mr. Speaker, it is indeed evident that President Carter's plans for the Panama Canal are in serious jeopardy, a fact to which even the President and many close aides have admitted. It is obvious that the administration is becoming desperate in its attempts to sell the proposed treaties. Even President Carter's recent effort to clarify the treaty language with Panamanian dictator Gen. Omar Torrijos failed when neither party signed the joint agreement. The killing blow came, however, when Torrijos stated publicly upon his return to Panama that he had agreed to nothing in his meeting with President Carter and the communications gap continues to widen.

Mr. Speaker, I include for the RECORD a copy of General Jones' message to all major Air Force commands. Additionally, I include a copy of my protest letter to General Jones and a news release given to members of the press on Monday, October 17.

The articles follow:

FOR COMMANDERS FROM GENERAL JONES ON PANAMA CANAL TREATIES

1. On 10 Aug. 1977 Panamanian and U.S. negotiators announced agreement in principle on a conceptual framework for two new treaties. One, the Neutrality Treaty, provides for the permanent neutrality of the canal; the second, the Panama Canal Treaty, deals with the operation and defense of the canal. Both treaties would enter into effect after ratification and document exchange processes are complete. The Neutrality Treaty will be of indefinite duration, whereas the Panama Canal Treaty will terminate in all aspects on 31 Dec. 1999.

2. The Panama Canal is a major defense asset, the use of which enhances United States capability for timely reinforcement of United States Forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans and to overseas areas. United States military interests in the Panama Canal are in its use, not its ownership. The proposed treaties would assure that access to and security of the Panama Canal are protected in time of war and peace.

3. As President Carter has stated, "We will have operating control and the right to protect and defend the Panama Canal with our own military forces until the end of this century. Under a separate neutrality treaty we will have the right to assure the maintenance of the permanent neutrality of the canal as we may deem necessary.

4. The Air Force actively participated in the development of all defense related aspects of the proposed treaties, and fully supports them. They would provide a basis for development of a continuing friendly relationship between the United States and Panama which would be of significant importance in insuring that the Panama Canal would be available to the United States when needed. Once the U.S. no longer operates the canal, the proopsed neutrality treaty would provide an adequate basis for safeguarding our interests in the canal.

5. It is important that our personnel, particularly our senior people, understand our support for the proposed treaties.

DEAR GENERAL JONES: I am deeply appreciative of your integrity and many years of service to our country. I regret that it is necessary to confront you with a matter of serious concern.

However, I am in possession of an August 20 message which you sent to all major Air Force commands regarding the Panama Canal, the contents of which I have this day released to the Press.

It is appalling that you have apparently "caged" all Air Force personnel, especially those senior officers whoses true opinion would be of great use to the public and the security of this nation.

The information I received along with your message indicates that, "Paragraph 5 of this message makes it quite clear that we, as military personnel, are expected to support these treaties," and that any action otherwise would be highly detrimental to a military career. It is quite apparent to me that this is a clever but still blatant attempt to deprive the American people of the full information to which they are entitled on a matter so serious.

In light of the controversy over the Dole interception, are the assurances contained in your message still valid? The question is particularly pertinent in light of the recent so-called agreement between Carter and Torrijos which was not signed by either person and which was gutted by statements of Torrijos on his return to Panama. If a Senior Officer did express a contrary opinion could he expect the same treatment as General Singlaub?

In light of your contention in paragraph 2 does this mean that the United States with no control over the Canal would have to make good any operational deficits of the Canal's operation or pay for any needed maintenance?

Did you receive any pressure from the White House for your own support or to send such a message to the members of your command?

Your comments in paragraph 2 show significant contradiction between what the military is telling itself about the military value of the Panama Canal and what they were telling the public in past Senate hearings. I would like to know just exactly what the official military position really is.

Furthermore, I have serious doubts that in light of recent controversies over treaty interpretation that the Panamanians would accept the unilateral authority of President Carter's statement in paragraph 3 which says that the United States ". . . will have the right to assure the maintenance of the permanent neutrality of the Canal *as we may deem necessary*." (Emphasis added.)

As I already have strong indications of numerous complaints of senior military personnel who are being "squelched," I must demand an immediate retraction of this "muzzling" order along with proper apologies from you and any higher authority responsible.

Finally, in your further statements to the Congress, the public, or your command, I would strongly suggest that you arrive at a consistency that is compatible with national security and with the basic rights of individuals in a free nation. I assure you that my colleagues will be most interested in observing the action of the high command of the nation's armed forces during deliberations over the proposed Panama Treaties in the days ahead.

Your expeditious reply to my questions will be greatly appreciated.

Sincerely,

GEORGE HANSEN,
Member of Congress.

HAS THE MILITARY BEEN MUZZLED ON PANAMA?

WASHINGTON, D.C.—U.S. Rep. George Hansen today released the contents of a priority message from Air Force Chief of Staff, General David C. Jones to all major Air Force commands concerning the Panama Canal.

Hansen quoted General Jones as saying, *"The Panama Canal is a major defense asset,* the use of which enhances United States capability for timely Reinforcement of United States forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific oceans and to overseas areas."

The Idaho Congressman noted with interest General Jones' statement in light of numerous recent statements by the Joint Chiefs of Staff downplaying the military importance of the Panama Canal.

"The highly controversial circumstances surrounding the proposed treaties added to General Jones' statement continue to prove beyond a shadow of a doubt that the proposed treaties are a fraud," Hansen stated.

"The American people have a right to know that the White House is attempting to subvert the truth, even to the point of gagging Senior military personnel and demanding their support of the Administration's misconceived foreign policy," Hansen said.

The following comments of a member of the Air Force from whom I received General Jones' message are very revealing as to the message's intent: "Although I agree with your position against ratification of the Panama Canal Treaties, I am unable by virtue of my position as a member of the United States Air Force to get involved publicly . . . Paragraph 5 of this message makes it quite clear that we, as military personnel, are expected to support these treaties." Paragraph 5 states, "It is important that our personnel, particularly our Senior people, understand our support for the proposed treaties."

"Does the threat of coercion exist in the military? The General's message suggests that support is mandatory and individual military members, especially senior military personnel are not allowed to express their own opinions," Hansen charged.

"It is quite evident that any Senior officer who dares to express his own feelings will suffer the same fate as General Singlaub. I wonder if the Joint Chiefs received a similar message from the White House demanding their allegiance?" queried Hansen.

And do the Joint Chiefs even know exactly what they are supporting? "President Carter's recent attempt to rectify the different U.S. and Panamanian interpretations of the proposed treaties have not eased the suspicion created by a recent shocking message interception of Senator Dole. General Torrijos and President Carter hurriedly met in Washington to issue a statement of agreement which neither signed and which was gutted by Torrijos' own comments upon returning to Panama," Hansen stated.

Finally, can the Panamanians accept the unilateral authority of the Carter statement in paragraph 3 of the Jones message that the U.S. "will have the right to assure the maintenance of the permanent neutrality of the Canal as we may deem necessary?" Hansen concluded.

EXPLANATION OF MISSED VOTE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CONYERS. Mr. Speaker, unfortunately, I was not present to cast my vote on the foreign assistance and related programs, H.R. 7797. If I were present I would have voted "aye" on this measure. In my judgment it is unfair to single out these two nations for punitive treatment, and this amendment would have provided the President a minimal amount of flexibility in shaping our relations with these two nations.

1977 LEGISLATIVE QUESTIONNAIRE RESULTS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RUDD. Mr. Speaker, earlier this year I asked all residents of Arizona's Fourth Congressional District to give me their views on pressing State and national issues before the Congress.

I received responses from more than 21,000 people, representing a good cross-section of my 36,500 square mile district. I would like to share the results of my 1977 legislative questionnaire with all my colleagues in the Congress, so that they might also benefit from this input from so many concerned citizens:

RESULTS OF CONGRESSMAN ELDON RUDD'S 1977 LEGISLATIVE QUESTIONNAIRE

[In percent]

1. Do you favor continued Federal funding and completion of the Central Arizona Project?

Yes	89
No	8
No Opinion	3

2. Do you favor increasing the Federal minimum wage from $2.30 to $2.50 per hour?

Yes	44
No	54
No Opinion	2

3. Last year the Federal government had a $76 billion budget deficit. For FY 1977 and FY 1978, the projected Federal budget deficit is $124 billion. Do you favor reducing government spending, even if it means cutting some programs that you support?

Yes	89
No	6
No Opinion	5

4. Do you believe that the following Federal agencies have too much authority and power, which should be reduced?

a. Environmental Protection Agency (EPA):

Yes	81
No	16
No Opinion	3

b. Occupational Safety and Health Administration (OSHA):

Yes	76
No	16
No Opinion	8

5. Do you favor increased Federal support for energy research and development, to move the nation promptly towards greater use of:

a. Nuclear Energy:

Yes	61
No	26
No Opinion	13

b. Solar Energy:

Yes	86
No	8
No Opinion	6

c. Geothermal Energy:

Yes	75
No	11
No Opinion	14

6. In order to help redirect the economy to more productivity, do you favor a permanent tax reduction for citizens as an alternative to the $50 tax rebate scheme proposed and later withdrawn by the President?

Yes	86
No	8
No Opinion	6

7. Do you favor either of the following changes in the election laws which have been proposed by the administration?

a. Federal financing of Congressional elections:

Yes	11
No	78
No Opinion	11

b. National universal postcard voter registration:

Yes	15
No	79
No Opinion	6

8. Do you favor re-evaluating the U.S. policy of detente with the Soviet Union and other nations, in light of charges that it is not a "two-way street"?

Yes	79
No	13
No Opinion	8

9. Please indicate whether you favor or oppose the legislation I have sponsored, which is summarized on Page 2 of this Report to the People:

a. Jobs Creation Act (H.R. 2598):

Favor	94
Oppose	4
No Opinion	2

b. End Federal Deficits (H.J. Res. 188):

Favor	95
Oppose	4
No Opinion	1

c. Repay National Debt (H.R. 3254):

Favor	84
Oppose	12
No Opinion	4

d. Repeal Automatic Pay Raises (H.R. 2430):

Favor	84
Oppose	12
No Opinion	4

e. Inflation-Proofing Pay Raises (H.R. 2407):

Favor	88
Oppose	8
No Opinion	4

f. Repeal Social Security Earnings Limitation (H.R. 2080):

Favor	96
Oppose	2
No Opinion	2

g. Retain U.S. Ownership of Panama Canal (H. Res. 185):

Favor	95
Oppose	2
No Opinion	3

h. Repeal Bilingual Ballot Requirements (H.R. 2007):

Favor	80
Oppose	12
No Opinion	8

i. Limit Food Stamps (H.R. 1347):

Favor	88
Oppose	8
No Opinion	4

j. Prohibit Military Unions (H.R. 3262):

Favor	98
Oppose	1
No Opinion	1

k. Stop Saccharin Ban (H.R. 5508):

Favor	80
Oppose	8
No Opinion	12

l. Limit Foreign Aid (H.R. 5337):

Favor	97
Oppose	2
No Opinion	1

m. National Patriotism Week (H.J. Res. 135):

Favor	72
Oppose	20
No Opinion	8

n. Additional Federal Judges (H.R. 4482):

Favor	88
Oppose	8
No Opinion	4

o. Navajo Community College (H.R. 3827):

Favor	72
Oppose	16
No Opinion	12

10. Priorities: Please rank, in order, the following issues as to the urgency of their consideration by Congress:

1. Curb Inflation.
2. Cut Government Wastes.
3. Adequate National Defense.
4. Increase U.S. Energy Supply.
5. Stronger Penalties Against Criminals, Especially Those Who Use Guns to Commit Crimes.
6. Welfare Reform.
7. Return Power to Local Government.
8. Tax Cut Linked to Spending Cut.
9. Income Tax Simplification.
10. Stronger Environmental Laws.

CAPITOL PAGES PROVE IT'S ACADEMIC

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. MOAKLEY. Mr. Speaker, on last Saturday, October 15, the Capitol Page School became only the second school in 5 years to win in its initial appearance on the NBC–TV high school competition, "It's Academic." In three lightning rounds the Page School team vanquished the opposing teams from St. Anselms and Churchill High Schools.

Page School, the smallest school ever to compete on "It's Academic," was capably represented by team captain Tom Daniels, Peter Neil, and Jennifer Gay. Tom and Peter are both House pages while Jennifer serves in the Senate. They were backed up by alternates Holly Glenn, Chris Clark, and Noreen Beatley, who are all House pages.

Out of 81 schools in the first competition, Page School has won the right to compete in the quarter finals. We all share the hope that the pages will be able to continue to the semifinals and ultimately the finals.

I think it is important to say that our Page School participants on "It's Academic" are representative of the fine young men and women who serve us so well and faithfully in the Congress. In spite of their long and demanding hours of work in the House and Senate, they still find time to distinguish themselves in worthy activities such as this. A word of commendation is well-deserved by Mr. Leo Balducci, of the Page School faculty who was the team coach.

I hope that many of my colleagues will be able to view the airing of "It's Academic" at 11 a.m. on Sunday, November 20 on NBC–TV Channel 4 in Washington. Those who do will certainly share my pride in our congressional pages.

CATHOLIC CHURCH IN NORTHEAST PHILADELPHIA MARKS 50TH ANNIVERSARY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. EILBERG. Mr. Speaker, the Roman Catholic parish of St. Agatha's, which lies in the Fourth Congressional District of Pennsylvania, has just observed its 50th anniversary.

In this connection, the Catholic Standard and Times, the weekly publication of the archdiocese of Philadelphia, carried an excellent article in its October 13, 1977, issue about the growth and development of this church in northeast Philadelphia.

It is with pride and pleasure that I place the full text of this article in the RECORD:

FIFTY YEARS NOTED BY GREATER NORTHEAST CHURCH

During the second week of October, 1927, Father John Mc Menamin, erstwhile assistant pastor at St. Agatha's Church, alighted from a rt. 66 trolley at the corner of Frankford and Cottman aves, and looked over the empty fields of his new parish, St. Matthew.

In the 50 years that have passed since that day, the empty fields of the Greater Northeast have blossomed into one of the largest parishes in the Archdiocese.

The first parish church was a rowhouse on Cottman ave. which doubled as a rectory and in which Masses were offered for over a year.

The first church (chapel) was placed on the site of the present convent. It was a wooden building used as a barracks at Hog Island during World War I, and had served as the original church building for a budding St. Ambrose parish after the war. The first Mass was offered in the chapel on Oct. 14, 1928.

After the new church was constructed, the old chapel building was used as a school annex and finally was dismantled for the construction of the convent.

Father Mc Menamin remained as pastor of St. Matthew's until 1934 when he was transferred as pastor to St. Francis Xavier Church and Father James J. Rice was named pastor to replace him.

Father Rice continued the labors that the founding pastor had laid out. He constructed the school and a new permanent church. The school building was completed by the beginning of the school year, 1937, and was staffed by Sisters, Servants of the Immaculate Heart of Mary.

Ground was broken for the church in June, 1941, and the building was completed in nine months.

Father Rice died on April 30, 1946, and was succeeded by Father Laurence A. Maher. In a moving speech to his new congregation, Father Maher said: "I come amongst you, today, as your new pastor, and with the help of God, to carry on the work so well begun by Fathers McMenamin and Rice . . . I am no stranger . . . I grew up in St. Leo's."

Under Father Maher the parish came to its fullness. Buildings were completed and added to, new projects undertaken and Catholic life flourished at all levels.

However, there was little cloud in the sky. Where would Father Maher put the terrific overload of students now coming to school. Enrollment had increased from 320 in 1937 to 750 in 1946. A school building fund was started and by October, 1948, enough money had been raised to start a new school which was completed and opened for the 1949 school year.

As the year of 1962 drew to a close—The 35th anniversary of the parish—all parish buildings were opened and in use and paid for. The work was over. Within a few months, on Feb. 15, 1963, Father Maher died.

Father John O'Melia, pastor of St. Malachy's Church in the inner-city was transferred to St. Matthew's as pastor to succeed Father Maher in 1963 and remained until his death in 1968.

Msgr. Francis Gaughan, who had been founding pastor of St. Paul in East Noriton, was appointed fifth pastor of St. Matthews in October, 1968.

Father Gaughan presided over all the changes made in the church buildings dictated by Second Vatican Council.

On March 22, 1976, recognition came to Father Gaughan. He was called to the chancery to meet Cardinal Krol and to be informed by him that Pope Paul had named him a domestic prelate with the title of Monsignor. The honor was a personal one, granted to a priest who had labored long and had produced excellent results.

With 50 years of activity in the Northeast passed, the parishioners of St. Matthew's look forward to many more years of expansion.

GOODLING ON THE CANAL—A PROFILE IN COURAGE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. SHUSTER. Mr. Speaker, as we all know there has been a great debate going on over the Panama Canal treaties for quite some time now. I have very serious reservations about not only the intent of both parties to these treaties, but also the constitutional justification given for the mechanism of approving a treaty that dispenses with U.S. territory.

In reference to this issue, I wanted to bring to the attention of my colleagues an article which appeared in the Hanover Evening Sun entitled, "Goodling Writes Chapter in Political Courage." Although Congressman GOODLING and I do not agree on this issue, I certainly admire his courage and respect his convictions in this area. I also know that the distinguished gentleman from the 19th District of the Commonwealth is highly respected by his colleagues on whatever issue he speaks on and will be listened to seriously on this matter as the crucial decision draws near.

The article follows:

GOODLING WRITES CHAPTER IN POLITICAL COURAGE

(By Kenneth B. Dalecki)

WASHINGTON.—If someone writes a sequel to John F. Kennedy's "Profiles in Courage," they might consider devoting a chapter to Rep. William F. Goodling of Pennsylvania.

Kennedy's book recounted rare incidents of political courage in American history.

Goodling may be risking his young political career by taking a highly unpopular stand on perhaps the most emotional issue before the electorate: the Panama Canal treaties.

Goodling has strongly endorsed the treaties which would relinquish U.S. control over the canal by the year 2000 while permitting U.S. military intervention to insure its neutrality.

His position conflicts with his conservative position on most other issues and, judging from his mail count, is contrary to what the vast majority of his constituents want.

The canal issue is a sensitive one House members can easily sidestep since only the Senate votes on treaty ratification.

"I feel strongly that we're wrong when we bury our heads in the sand," Goodling said in an interview. "The issue (of Panamanian demands) is not going to go away because we don't want to talk about it."

"We should be working for the cultivation of friendship and ties with Latin America," said Goodling. While some opponents of the canal treaties argue their approval would be a sign of American weakness, Goodling said he feels "just the opposite." He feels it would weaken anti-American elements in Central and South America.

The Pennsylvania Republican has not always favored relinquishing U.S. control of the canal. His initial feeling was to oppose the negotiations.

But earlier this year he began to study the issue after being selected to serve on the House International Relations Committee. He said his own research made him "a little reluctant to say boldly: 'It's ours, we paid for it and we're not going to talk about it."

In March, Goodling traveled to the Canal Zone and came back convinced that the Panamanians have "real legitimate gripes." Briefings by U.S. military officials convinced him that "a couple of sticks of dynamite" detonated in the right place could close the canal for years."

Goodling made no secret of his about-face on the treaties issue. He has devoted several weekly newsletters to the topic and has arranged for Ambassador Ellsworth Bunker, a negotiator of the treaties, to speak in his 19th Congressional District.

Bunker will speak Tuesday at 8 a.m. at The Yorktowne Hotel.

As a result of his outspoken position, Goodling has been dogged by what appear to be organized anti-treaty questioners during a series of "town meetings" he has held this summer in his district.

He said Rep. Steven D. Symns (R-Idaho), a leading opponent of the treaties, "has warned me that 'the canal issue will beat you'" when he seeks re-election next year.

But Goodling, in his second term, said he would rather go back to being a school superintendent than compromise his convictions concerning the need for a new agreement with Panama.

His mail has been four-to-one against the treaties but the flow of letters has diminished from some 200 a week earlier this year to about 35 a week now. A recent poll commissioned by the Associated Press showed 50 percent of voter-age Americans against the treaties, 29 percent in favor and 21 percent undecided.

Goodling said he detects a gradual change in public mood on the treaties in his south-central Pennsylvania district. "There are many more people now who use two sides of the issue," he said. "Many have been misled with a lot of publicity that has come out."

He is critical of the role former California Gov. Ronald Reagan has played in the canal issue. In 1976, Reagan found his anti-treaty stance to be one of his strongest GOP primary campaign issues against President Ford.

But Goodling thinks it is time for Reagan to step out of the foray—a prescription he also makes for Ford, who supports the treaties, and ex-Treasury Secretary John Connally of Texas. "I feel their time has come and gone," Goodling said. "I don't think they should be in the forefront of the Republican Party. We've got to come up with new leadership and they stand in the way."

Goodling's position on the treaties has won him supporters in and out of his district. "I admire him even though I've never met him," said a top aide to a southern senator who would like to support the treaties but is fearful of constituent reaction.

"I was really impressed with his courage," said the Rev. Charles Bieber, a pastor of the Black Rock Church of the Brethren, Brodbecks, in Goodling's district. Bieber went to Panama in April, 1976, as part of a National Council of Churches fact-finding mission.

"I had no strong opinion one way or the other when I went," Rev. Bieber said. But he came away convinced that the new treaties are necessary to improve U.S. relations in Latin America and to do what is just for Panamanians.

Bieber attributes the furor over the canal to "nostalgia for the heyday of American power. Many people fear that maybe America isn't as great as it once was. I believe giving something up like this is a mark of greatness."

IT IS NOW THE B–1, THE B–52, OR NOTHING

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. SIKES. Mr. Speaker, the House is scheduled to vote Wednesday on the procurement of five B–1 combat bombers. When the House voted 202 to 199 against funding for the B–1 in the fiscal year 1978 military budget conference report, it was assumed the B–1 was dead and buried. The Speaker's influence had changed enough votes to defeat the appropriation. However, subsequent events have brought about an entirely different ball game. The B–1 has obstinately refused to stay dead and it may be in process of resurrection. Supporters propose to add $1.4 billion for the B–1 to the pending supplemental appropriations bill.

President Carter's decision to kill the B–1 procurement program was made despite the recommendation of military experts that the program be continued. New life was breathed into the B–1 when the Secretary of Defense stated it would be "a prudent step" to appropriate $20 million for initial work on a stretch version of the existing FB–111 to be known as the FB–111H. It is now clear that DOD feels there is a requirement for a penetrating bomber for the security of America and the free world. It has to be assumed this disclosure did not come to Congress without the knowledge of the White House. This caused eyebrows to be raised.

Why, it is asked, do we not have the best if a penetrating bomber is required? The B–1—an entirely new aircraft—is clearly superior to the FB–111H, even though the FB–111H would use engines and other parts from the B–1. Actually, two FB–111H aircraft and additional tanker support would be required to match the performance of one B–1. And the total costs could be higher for the FB–111H. Both are multi-billion-dollar programs. Modern weaponry is not found in bargain basement.

House opponents of both bombers have sought to obtain assurances from the White House and from DOD that a penetrating bomber is not warranted. However, the responses leave room for doubt on their position. Both appear to hedge on a straightforward answer. Future courses are left in doubt.

The recent House defeat of the FB–111H narrows the field at this stage to the B–1 or the B–52.

In the bomber fleet, the United States now depends principally upon the aging B–52—a great airplane, but one which cannot penetrate the sophisticated, modern air defenses of Europe. The B–52 would use the new Cruise missile and stand off the coast of Europe during an attack. There are weaknesses here. The long-range Cruise missile is several years from procurement. It is still being tested. More importantly, it reputedly has been offered as a bargaining chip in the coming SALT talks. This may result in serious impairment of its value. The Russians know how to drive hard bargains.

In the meantime, according to reports, the Russians are building five Backfire bombers a month. The Backfire is inferior to the B–1, but it is a very advanced bomber capable of inflicting heavy damage on U.S. targets from bases behind the Iron Curtain.

Prior to the House action in defeating authorization of $20 million for the FB–111H, the House Appropriations Committee, by a vote of 34 to 21, rejected President Carter's request for rescission of the fiscal year 1977 B–1 funds. No further action on the rescission is required. The funds involved would provide principally for two advanced R. & D. models of the B–1, which would be capable of quick modification to combat models. Already in being are three R. & D. models of an earlier type and a fourth is under construction. It is the fiscal year 1978 procurement funds for five B–1 combat aircraft which we now seek.

There are many supporters of a stronger defense program who feel that America has been practicing unilateral disarmament in both conventional and strategic weapons. United States forces are at their lowest figure since the Korean war in manpower, in naval ships, in combat aircraft; this despite a very rapid increase in numbers in each category in the Russian forces.

The strategic force picture is only a little less gloomy. In the aftermath of SALT I the term "parity" was replaced by "essential equivalence" which symbolized acceptance by the United States of Soviet numerical superiority. Moreover, in the last 5 years, the Soviets have added to their numerical advantage, and have made important strides in overtaking our former qualitative advantage. At present, the term "essential equivalence" is at best a euphemism for marginal U.S. inferiority; at worst, it reflects U.S. acquiescence to Soviet strategic superiority.

The President has said time and again that he wants to strengthen the security of the Western world. Many military experts agree that failure to procure the

B-1 combat aircraft, originally scheduled for fiscal year 1978, can be exceedingly dangerous to our defense posture. Acquiring this aircraft will be a signal to Russia and our allies that we are not sleeping while Russia arms; that we will not be content to play out the second-best poker hand to its inevitable conclusion.

INDIAN LAND CLAIMS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. COHEN. Mr. Speaker, few issues confronting Congress and the Nation today have greater implication and are less understood than the proliferation of Indian land claims cases based on the Indian Non-Intercourse Act of 1790.

We in Maine are experiencing the difficulties brought on by one of the largest of these claims, but dozens of other States have encountered similar problems in suits of their own. There are few documents which provide a clear, concise overview of this complicated situation. The latest issue of Title News, a publication of the American Land Title Association, however, contains a very good summary of Indian claims.

Of course, this article reflects the viewpoint of those concerned with the validity of land titles, but it provides interesting reading for all those concerned about Indian land claims. The article concludes that some kind of legislative solution will be needed to clear up the current legal difficulties—a conclusion to which I certainly subscribe.

I urge my colleagues to read closely the Title News article:

INDIANS LAND CLAIMS: A PERSPECTIVE

Whatever one's view on the merits of the issues involved in the present Indian claims or how they ought to be resolved, the claims are of great significance politically, historically and in terms of their potential impact on the lives and economies of the land claim areas concerned.

Original news of this Indian litigation often prompted joking responses and substantial disbelief. However, following some preliminary success in court and an intensive review of history and precedent, a more sober and concerned reaction has surfaced.

In order to comprehend this concern and before summarizing the present status of the dispute, a brief review of the nature of the claims and the litigation history is appropriate.

One of the first orders of business of the first Congress after the Revolutionary War and the formation of the federal government was the passage of an act with the somewhat exotic title, "The Indian Non-Intercourse Act of 1790." This Act, with certain amendments over the years, remains as a part of the federal code today. It provided in relevant part (Act of July 22, 1790, Ch. 33, Section 4, 1 Stat. 138):

"No sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state . . . unless the same shall be made and duly executed at some public treaty, held under the authority of the United States."

In other words, the language of the Act on its face appears to comprehend the approval of the federal government of any land transfers from an Indian tribe as a prerequisite to the validity of the transaction.

The Non-Intercourse Act was essentially drafted by the first Secretary of War, General Henry Knox. In writings to General Washington, Knox had expressed appreciation for Indian battle efforts on behalf of the colonies during the Revolutionary War and was concerned for their well-being following the war.

The intent of Congress in creating the Act—as subsequently interpreted by the Supreme Court—was to obligate the federal government to protect a "simple, uninformed people, ill-prepared to cope with the intelligence and greed of other races" and to act "to forestall fraud," to "prevent the unfair, improvident or improper disposition by Indians of their lands."

The obligation to provide this sort of Indian protection was seen to arise from the Constitution which vests in the federal government—as opposed to the states—exclusive power and responsibility over Indian affairs.

As subsequently discussed by Chief Justice Marshall, the Indian tribes occupied a unique position which he denominated as "domestic dependent nations." As such, he suggested that their "relation to the United States resembles that of a ward to his guardian." In the time since Justice Marshall's opinion, numerous federal court opinions have referred to the federal government's guardian-like role vis-a-vis the Indians with the implication that it had a fiduciary's obligation to speak and act on behalf of the Indians' best interests.

The United States has performed this fiduciary's role with varying degrees of care and attention. In the years after the passage of the Non-Intercourse Act of 1790, this was particularly so with respect to Indian tribes remaining in the lands which had belonged to the 13 original colonies.

Those Eastern tribes—in land essentially east of the Mississippi—were largely ignored by the federal government and whatever was done for them or to them was done by the states concerned. On the other hand, the so-called Western Indians—generally west of the Mississippi—were traditionally conceived of as "federal Indians" and dealt with more or less exclusively by the federal government.

Against this historical background, we arrive quickly in the present. The title of this article could easily be, "The Opening of Louise Sockabasin's Trunk and What Happened Thereafter." For, as rumor has it, it was in the trunk of an old Indian woman by the name of Louise Sockabasin, residing in a remote part of eastern Maine, that a second key part of the legal underpinning of today's claims was discovered in 1957 by the present-day chief of the Passamaquoddy tribe of Maine.

In the trunk under her bed, reportedly wrapped in straw, was a copy of a long ago forgotten treaty between that tribe and the Commonwealth of Massachusetts on Sept. 29, 1794—some four years following the passage of the Non-Intercourse Act.

At different times and degrees prior to that date, the Passamaquoddies had roamed over various portions of what is now the state of Maine. As the Indians would describe it in litigation, "since time immemorial," they had engaged in hunting, trapping, fishing and, to a more limited extent, growing crops on this land.

During the Revolutionary War, the Passamaquoddies had joined the colonists in the fight against the Crown in exchange for promises by John Allen, an agent of the Continental Congress, that the tribe would be given ammunition and protection. After the war and the formation of the federal government, Allen urged Congress to fulfill the promises. Congress responded by firing him.

In 1792, the Passamaquoddy tribe petitioned Massachusetts for land upon which to settle. In a response not unusual in modern times, the Commonwealth appointed a committee to study the problem—a committee which, incidentally, included John Allen, the former agent of Congress.

Then, in 1794, Massachusetts entered into an agreement with the tribe whereby the Indians relinquished whatever interest they might have, if any, in lands in Massachusetts in exchange for approximately 23,000 acres of land specifically reserved to them with the proviso that all pine trees fit for masts were reserved to the state for a reasonable compensation.

Pursuant to the 1820 Act of Separation, Maine became a state and thereby assumed all the pre-existing obligations Massachusetts owed to Indians within its boundaries.

Since the 1794 Treaty, Maine has enacted numerous laws which relate specfically to the tribe, including laws which provide for appropriation of necessities such as housing, health care, indigent relief, roads and water. In contrast, the United States has virtually ignored the tribe. Much of the land concerned has, over the years, by various grants and acquisitions largely found its way into private ownership, passing from owner to owner.

The significance of the 1794 Treaty belatedly rediscovered under Louise Sockabasin's bed can be seen in the context of the language of the Non-Intercourse Act. The Indians would argue in court that *if* that Act were applicable to the Passamaquoddies, and *if* they constituted a tribe within the meaning of the Act, the Act renders void the original relinquishment of land to the state and all subsequent reconveyances of that land down to the present—*unless* the requisite approval or acquiescence of the federal government were established.

The Indian chief who came upon Mrs. Sockabasin's treaty considered it important because he believed that the State of Maine had unjustly taken from the Indians some 6,000 of the 23,000 acres of land promised them by the state.

The treaty ultimately found its way to an attorney for the tribe who comprehended its larger significance in the context of the Non-Intercourse Act. With considerable research behind him, supported in large part by the Ford Foundation and the federal government's legal aid program, the attorney, on behalf of the Indians, filed a lawsuit in the United States District Court for the District of Maine on June 22, 1972 against the Secretary of Interior and the Attorney General of the United States seeking a judgment that the tribe was entitled to federal help on its behalf to prosecute a Non-Intercourse Act claim for the ultimate return of all of its original tribal or aboriginal land.

The land claim area involved represented 12.5 million acres of land and $25 billion in alleged back rents and damages for improper use of the land since 1794. This constituted approximately 58 per cent of the land area of Maine, one-third of its population and over 100 of its cities and towns.

Defended quietly by the Justice Department and the attorney general of Maine, the case proceeded for several years through briefs and argument with little or no publicity or outside interest. Then on Jan. 20, 1975, the District Court held that the Non-Intercourse Act itself established a trust relationship between the United States and the Passamaquoddy tribe and that the United States acted improperly in refusing to prosecute the action against the state and private landowners solely on the grounds that such a relationship did not exist.

Almost exactly a year later, on Dec. 28, 1975, the Court of Appeals affirmed and no subsequent appeal was taken. In the wake of that decision the United States, through the Departments of Interior and Justice, reconsidered its decision and announced its intention to participate in the litigation—this time on the side of the Indians—and rather enthusiastically indicated its considerable confidence in the merits of the Indian claims.

It was at this point that the potential repercussions of the Indian claims began to become recognized beyond merely those persons directly involved in the litigation. The issuance of a $1 million bond issue to finance work on a waste treatment plant in Millinocket, Maine was suddenly suspended when legal counsel could not render an unqualified opinion because of the pending claim.

The same fate occurred with respect to the issuance of $27 million in bonds by the Maine Municipal Bond Bank on behalf of Maine towns and schools.

The inability to be assured that the tax base upon which repayment of the bonds would be secured accounted for these problems inasmuch as potential Indian ownership of the land might well render the land ultimately tax exempt.

Land transactions came to a standstill unless buyers and lenders were willing to accept the risk since sellers could not provide evidence of good title free and clear of adverse Indian claims.

All this led Rep. William S. Cohen (R-Maine) to state to his House colleagues, ". . . the very pendency of the suit threatens to bring the State of Maine to its knees. . . . Local municipalities in the disputed land areas will have difficulty issuing bonds to finance capital construction programs; banks will no longer finance home loans and mortgages; investment and commercial development will be terminated, and the flow of federal dollars into various government programs may be restricted."

In the meantime, claims involving different tribes and different claim areas began to spring up elsewhere. The Wampanoags claimed 13,000 acres in the Cape Code area of Mashpee and a smaller amount on the island of Martha's Vineyard; the Narragansetts of Rhode Island, 3,200 acres of Charlestown; two different Connecticut tribes, 1,200 acres of Kent and 800 acres of Ledyard, and the Oneidas in upper New York State, 300,000 acres of Oneida County land.

In early July this year, the solicitor of the Department of Interior asked the Department of Justice to bring actions on behalf of other Indian tribes to recover land in New York State. The department agreed. The tribes and land areas are St. Regis Mohawk, 10,500 acres; the Cayugas, 62,000 acres, and the Oneidas, 200,000 acres.

The suits will seek ejectment and damages against all persons claiming an interest in these lands. Rumors and talks involving Indian claims have also been circulated in South Carolina and other parts of Connecticut and New York.

All of these claims in effect allege that at some time after passage of the Non-Intercourse Act in 1790, lands in which the Indians previously had an interest were transferred in some fashion from them without approval of the federal government—a transfer that is therefore void.

In an escalating war of counterclaims and counters to the counterclaims, the defendant landowners have asked for damages representing all of the improvements to the lands over the years if they should belong to the Indians and the Indians have responded with damage claims for trespass, use and occupancy as well as injury to the land.

The actual dimensions of potential claims are as yet unknown and difficult to predict because of the extensive historical work which must be accomplished before an educated judgment can be reached.

The natural reaction from lawyers as well as laymen to discussion of this Indian litigation consistently is, "Well, how about the statute of limitations? Reliance on the soundness of real estate transactions for 200 years through thousands of conveyances without any questions being raised by the Indians, the United States or anyone else should count for something. And why can the Indians re-open this issue at this point in time?"

The Indian lawyers won an early and certainly psychologically important victory in this particular area. In Federal District Courts in Rhode Island and Connecticut, the defendant landowners responded to the Indian claims with defenses based upon state statutes of limitation and adverse possession.

The plaintiff Indians quickly moved to strike those defenses. In litigation terms that is to say, "Even if the defendants could prove they had such a defense, it would be legally insufficient."

Both federal courts granted the motion made by the Indians and the defenses were thrown out. The basis for these decisions was that the real party in interest in the litigation—whether actually a party to the case or not—was the United States, again due to its peculiar trust relationship with the Indians, and that such state-created defenses do not lie as against the United States because it, as the sovereign power, is immune.

As of this date, the pending litigation moves forward. Generally, both sides are engaged in conducting extensive historical research on the Non-Intercourse Act and the history of the tribes involved. Numerous critical issues remain to be litigated. Examples of such issues include:

Does the Act apply to Eastern tribes?

Did the United States in one form or another approve or acquiesce in the transfers?

Was the tribe a tribe at the time of the original transfer?

Is the tribe presently constituted so as to properly claim?

Did the tribe actually have an interest in the land at the time of the transfer or had it in fact been previously lost or abandoned?

It is not my purpose to suggest how these issues will or should be resolved if the litigation proceeds its course. However, I would suggest that litigation does not appear to be a fair process for a resolution of these claims and that legislative settlement would be far preferable. It should be one that provides for an equitable resolution by the federal government of legitimate claims and which removes present day landowners and their land from the case.

I say this first, because it is apparent to all who have been involved that continued litigation will be very expensive and very protracted. According to the Justice Department, this is "potentially the most complex litigation ever brought in the federal courts with social and economic impact without precedent and incredible litigation costs."

The judge in the Massachusetts case, Judge Skinner of Boston, recently indicated a belief that the trial itself of the Massachusetts case alone may last several years with appeals to both the Court of Appeals and the Supreme Court a foregone conclusion.

Very considerable amounts of time and effort remain in each of the cases presently filed before a trial commences. Apart from attorneys' fees and other costs usually related to complex litigation, enormous costs are required in the historical research required. As these costs escalate, the individual defendant landowners and state and local governments upon whom this burden falls will be increasingly hard pressed to defend.

I also would suggest litigation against private landowners is a poor vehicle with which to fairly resolve issues which are in many respects essentially political. In addition to the time and expenses to which I referred, the ancient nature of the facts and documents inherently a part of most of the essential issues to be tried makes it less than certain that one could ever establish in a court of law precisely what did or did not occur. Moreover, there appears to be a basic injustice in forcing current landowners to defend themselves against ancient claims that are in no sense based upon any wrongdoing on their part. To the extent that there may be any legal or moral basis to the Indian claims, they deserve to be addressed or remedied by the federal government which ought to bear the burden of having failed to act over the years.

Finally, merely the pendency or even hint of litigation—however it might ultimately be resolved—causes substantial uncertainty with respect to the marketability and taxability of affected land.

In fact, merely the presence of a lawyer and several Indians reviewing ancient documents at the county courthouse has caused adverse economic circumstances in some communities.

The public and private economic and emotional concerns which this has already created in Maine and elsewhere will only increase as the claims and the litigation continue. These concerns will have an increasingly damaging effect on the individuals and companies whose property is threatened or who might be liable for damages even if the ultimate result in litigation is favorable. All of this works a heavy social cost as well because of the strain placed in the interim on relations with Indians who live in the affected areas.

For these reasons, attention has increasingly centered on Washington and the possibility of a legislative settlement of the claims upon a broad basis. Earlier this year, President Carter appointed Justice William Gunter, recently retired from the Georgia Supreme Court, as his special representative to study the Maine and Massachusetts cases and to make recommendations as to a potential solution.

Since that time, Judge Gunter has been engaged in substantial discussions with various of the interested parties and has very recently delivered a recommendation for a legislative settlement of the Maine litigation to the President.

Judge Gunter has an unenviable task. All sides in the litigation exude confidence that they will prevail. The involvement of different tribes, public officials and landowners on each side from case to case increases the number of parties who have to be dealt with and whose positions have to be considered. Moreover, there appears to be practical political considerations which place limitations upon what the Carter Administration and Congress would be willing to commit to a legislative solution to the problem.

Nonetheless, I am hopeful that Judge Gunter's recommendations will contribute to an equitable legislative resolution of the claims and in this fashion spare the nation the need to wage Indian wars once more—even if this time the battle grounds would be the quiet halls of the federal courts.

BALANCE(S) OP POWER: PART VI (VIII)(a) THE NAVAL BALANCE: MOTIVES BEHIND GROWING SOVIET NAVY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BRECKINRIDGE. Mr. Speaker, in the preceding installment to the naval

balance series, selected writings of Soviet Fleet Admiral Gorshkov were cited to present a doctrinal picture of continuity and strategic purpose in the Soviet naval growth. In today's selection, "Maritime Strategy and the Super-Powers," from Adelphi Papers No. 123 (1975), Michael McGwire offers some caveats in reading Gorshkov and suggests that the Soviet shift to a naval position of forward deployment was adopted primarily in response to U.S. emphasis on strategic missile submarine systems.

McGwire's interpretation of Soviet naval deployments is not shared by many; however, by challenging several superficial views of Soviet naval expansion, he forces us to come to grips with the fundamental possibility that "Soviet military doctrine does not separate 'nuclear deterrence' from the general concept of defense," and that "victory is synonymous with survival." Mr. McGwire's article follows:

SUPER-POWER MOTIVES

This section concerns the motives which underlie the naval policies of the super-powers. I concentrate mainly on the Soviet Navy and start by dispelling three popular fallacies. The first is exemplified by the suggestion that because the Soviet Union is engaged in establishing her role as a global power, "the ability to project naval power in support of that role becomes an important requirement". The second is contained in the analogy drawn between the Soviet Navy and the Imperial German Fleet. And the third is the tendency to liken Gorshkov to Tirpitz. All three have the same roots and, taken together, give the misleading impression of a deterministic drive for Soviet naval supremacy, master-minded by a great naval leader. This in turn leads to false conclusions about the type of political commitment and economic investment underlying Soviet naval policy.

The first fallacy derives from what I call "the puberty theory of seapower". It is preeminently Western and argues that because the Soviet Union is a super-power, therefore she needs a world-wide naval capability. Although Admirals Mahan and Gorshkov might support this proposition, it no longer holds today, nor does the shipbuilding evidence suggest that the Soviet leadership believes in it. The theory assumes that all nations have the same interest in the use of force at sea and ignores the impact of geopolitical circumstances. The latter are particularly strong in the Russian case and account for the consistency of her naval objectives over the last two hundred years. Her naval policy has been largely dictated by her extended coastline and the fact that four quite separate seas wash her shores, requiring four self-sufficient fleets to defend them. This has meant that although Russia was (and is) predominantly a land power, her combined fleets have generally been the third or fourth largest in the world, and at times second only to Great Britain. Despite this, her navy has traditionally been seen as an expensive necessity, rather than as a symbol of great-power virility.

The analogy drawn between the build-up of the German and Soviet Navies depends heavily on the puberty theory, along with several other assumptions about great-power behaviour. Although it is prudent to bear the German case in mind, disparities between the geopolitical and economic circumstances of the two countries and the international circumstances of the two periods are too great for the analogy to be anything but misleading. It does, however, help to underline the difference between traditional Western perceptions of the utility of naval force and the way the Soviet Union perceives her requirements. On the one hand she believes that the struggle for world influence is primarily "economic, political and ideological"; and on the other, she is opposed by "the traditional maritime power", who clearly place a high value on naval forces and continue to possess overall naval predominance. Within the present correlation of forces, it is obviously in the Soviet Union's best interests to by-pass direct competition in this area.

This does not mean that she neglects her naval strength. The naval building programme initiated in 1945 was the fourth attempt in 65 years to rebuild the Russian fleet, and this programme picked up from where the previous programme (started in 1928) was interrupted by war. It is therefore all the more significant that in 1955 the Soviet leadership, having downgraded the threat of maritime invasion, proceeded to cut back the annual tonnage of new naval construction by over two-thirds, and reassigned over half the cruiser building ways to the merchant and fishing fleets. The Soviet Union thus gave priority to using the sea as a resource and for the conveyance of trade and aid, both as a means of gaining world influence and for internal economic reasons. This use relied wholly on the freedom of the seas, while the naval mission concentrated on the defence of the home fleet areas. The reformulation of this mission in 1961, and the decision that the Soviet Navy must shift to forward deployment, was not prompted by some newly acquired super-power status. It was a response to the American decision to invest half the nuclear delivery capability of the United States in seaborne systems.

Which brings us to Admiral Gorshkov. His reputation in the West derives entirely from his position as C-in-C during a period in which the Soviet Navy has achieved high visibility as the result of the decision to shift to forward deployment. But to give Gorshkov credit for the present size, shape and deployment of the Soviet Navy is to ignore the fact that, throughout his incumbency, the Soviet Union has been faced with a growing and substantial potential for nuclear attack from distant sea areas—a threat which has been of direct concern to the political leadership. One could as well suggest that it is the man with the paddle who provides the motive power to a canoe being borne along by a fast-flowing stream. In fact, it is uncertain that Gorshkov has been very successful in using his paddle to steer with. Let us review some of the evidence.

Until his recent series of articles, there were no indications that Gorshkov was a long-standing advocate of far-flung fleets; one could argue the reverse. Twenty years ago, he was brought to Moscow by Khrushchev to implement decisions which were primarily designed to release resources to the civilian economy, and would have resulted in a task-specific, defensively oriented navy, more firmly tied to home waters than at any time in its history. The concept of operations relied on long-range surface-to-surface missiles (SSM), which had yet to be developed, and assumed that the encounter zone would lie within range of shore-based air cover. By 1958 this assumption had already been falsified by advances in American naval capability. The result was a further set of new decisions, this time relying entirely on submarines and aircraft for distant operations. This new policy required that the nuclear submarine-building capacity be doubled.

While it can be argued that these particular procurement decisions derived directly from the political leadership, no such defense can be offered where combat capabilities and operational readiness were concerned. Yet the shift to forward deployment seems to have come as an unwelcome surprise to the Soviet Navy, which was operationally ill-prepared for the move. As late as 1963, seven years after he had taken over as C-in-C, Gorshkov had to lecture the fleet on the need to get to sea and stay there, so as to develop an ocean-going all-weather capability.[7] Gorshkov has subsequently referred to the need to 'meet the qualitatively new requirements', which involved the 'organic restructuring of the navy and the reorientation of traditional naval policy.'[8] This is hardly the picture of a navy straining at the political leash.

We may overlook Gorshkov's involvement with the decision to gamble on long-range SSM as the primary armament of the fleet, a mistake which the Soviet Navy is only now working out of its system. But it does remind us that his predecessor, Kuznetsov, was retired because of his resolute opposition to this narrow concept. By contrast, Gorshkov has remained C-in-C through a series of radical shifts in naval policy determined by the political leadership, and despite a continual under-allocation of resources to surface-warship construction in relation to the requirements being demanded of the fleet. One of the strongest criticisms of Gorshkov within the Soviet Navy could be that in his professional capacity he has been unwilling to stand up to the political leadership, whether it was a question of operational concepts or, more recently, of trying to do too much with too few ships. He is certainly no Jackie Fisher.

Turning finally from fallacies to motives, we must begin by trying to unravel the wartime strategies from the peacetime employment of naval force. For both the United States and the Soviet Union wartime strategy is a determinant of peacetime naval policies, but in different degrees. For the Western naval powers, the peacetime employment of naval forces has been a dominant consideration during the last thirty years and has generated in its own substantial force requirements. This continues to be the case with the U.S. Navy, and a large proportion of its fleet can only be explained in terms of the peacetime projection of traditional force.

In the Soviet case, by contrast, the general war requirements continue to dominate the structure of the fleet and the characteristics of its ships. In terms of deployment patterns and ships in service, contemporary Soviet naval policy stems from 1961 and President Kennedy's abrupt acceleration of U.S. procurement of strategic weapons. Soviet leaders remained unpersuaded that this U.S. build-up of land-based and submarine-launched strategic missiles was a purely "defensive" move, and were seriously concerned that the United States was seeking to develop the capability for a disarming strike. The shift in Soviet strategic-weapons policy can also be dated from that period.[9] In considering the navy's response to this new situation, it is useful to distinguish between the tasks of (a) striking at enemy territory, and (b) countering the enemy's sea-based strategic systems.

Starting with the latter, we note that Soviet military doctrine does not separate 'nuclear deterrence' from the general concept of defence. Defence of the Soviet Union relies on the capability to throw back any attack by the West, and then go on to win what will inevitably be a world nuclear war between two antagonistic social systems. Since 'world war' is seen as a fight to the finish, victory is synonymous with survival. In such circumstances Europe assumes a very special place in Soviet military strategy.

[7] *Krasnaya zvezda*, 5 February 1963.

[8] *Ibid.*, 11 February 1968.

[9] See my article, "Soviet Strategic Weapons Policy 1955–70" in M. McGwire, K. Booth and J McDonnell (eds.), *Soviet Naval Policy: Objectives and Constraints* (New York: Praeger, 1975), p.486.

In the initial stages of such a war, the extent to which Western Europe is devastated will largely depend upon the Soviet choice of weapons. It was the potential availability of this adjacent and partly undamaged area on which to rebuild the Socialist system that allowed the Soviet Union to plan on the assumption that, if 'world war' were forced on her, it need not imply mutual suicide. And it was in this context that the major American shift of emphasis towards seaborne strategic nuclear weapons was so disturbing. These weapons were the only ones which, if withheld, would have some certainty of surviving the initial nuclear exchange and remaining available to deny the Soviet Union the use of Europe. The simplest way of countering this threat to the ultimate survival of the Soviet system would be to remove the American option of withholding these weapons by making it unlikely that they would in fact survive. This would require that they be attacked at the outbreak of war, and would mean that Soviet forces would have to be within weapon-range contact at the vital moment.

The shift to forward deployment was decided in principle by the end of 1961, but the debate about means continued until 1963–4.[10] The operational concept which finally emerged was to extend the Soviet Union's defence perimeter to cover the sea area whence nuclear strikes could be launched and, by establishing an increasingly active presence in these areas, first to contest, and perhaps ultimately to deny, their use by the West for the deployment of strategic weapons. Meanwhile the capability would be developed to follow the movement of all strategic delivery units when they sailed from their bases.

These measures would have to be introduced progressively over the following fifteen years or so, as the necessary weapons systems and forces became available through a process of major conversion, modified new construction and finally, new design and development. To achieve economy in numbers, the policy was predicated on naval shore facilities being available in the forward operating areas. Moreover, counterforces were not limited to the navy, and it seems likely that shore-based systems, including ballistic missiles and satellites, were taken into account from the start.

In terms of operational deployment, the ordering of priorities was fairly clear. Set at 1,500 nm (the range of the *Polaris* A2) and centered on Moscow, the dividers took in the Norwegian Sea and Eastern Mediterranean—areas where Western strike forces were already operating. Extended to 2,500 nm (the A3 range), the dividers reached beyond the tip of Greenland, described an arc which passed through the Eastern Atlantic, cut the African coast about the Canary Islands and crossed the Arabian Sea between the Horn of Africa and Bombay. That was the extent of the area-defence problem. There was also the need to cover the fleet bases on the coasts of North America, and the transit routes to the operating areas. The initial phase lasted through 1967, access to Egyption ports being a vital bench mark. The second phase began in 1968 and the pattern was complete by 1972, although the full structure was still not in place.

Although this explanation of the initial shift to forward deployment is now widely accepted, many are reluctant to concede that the second phase followed the same strategic plan. But, unless we allow pure coincidence, there are too many diverse facts to be accommodated by any other explanation. For example: the clear-cut geographic pattern; the political (but not strategic) insignificance of the small states being courted in West Africa; the heavy political cost of insisting on naval support facilities in Egypt; the absence of a Soviet naval presence in the South China Sea. These and other more ambiguous bits of evidence all fit snugly into the strategic hypothesis, but will not support an influence-building one. One of the most frequent objections to this hypothesis is that *Polaris* cannot be countered. Perhaps so; but this objection ignores the many examples of Soviet willingness, where the defence of the country is concerned, to expend substantial resources on projects where the chances of success are small and the return on success low. It also ignores the Soviet Union's own unhappy experience with American anti-submarine measures, which would have given her a different understanding of the odds.

This brings us to the role of Soviet strategic delivery submarines. Their role stems from three sources: (1) the Russian Navy had a long and successful tradition of attacking warships in port, and this was incorporated in Soviet naval doctrine; (2) at the end of World War II the diesel submarine was the only delivery vehicle with the range and payload to bring weapons to bear on the North American continent; (3) Soviet military doctrine sees strategic nuclear weapons as the main force within a general war-fighting capability, on which the defence of Russia depends. Taken together, this means that, although the Soviet Union was the first systematically to exploit the submarine's potential for strategic delivery, the operational requirements were very different to those underlying the *Polaris* concept, which derived from a mixture of "nuclear deterrence theory" and "bureaucratic politics".

In the post-war period, Soviet strategic delivery submarines were given top priority in nuclear propulsion, warheads and ballistic missiles. Despite this, advances in American anti-submarine capabilities, coupled with Soviet technological inadequacies, meant that the first two generations could not meet the intended operational requirements. In 1958, therefore, priority was shifted away from strategic delivery, and it seems likely that it was originally planned to build only two Y-class SSBN a year, with delivery from 1968.[11]

However, the new threat of a disarming strike which emerged in 1961 gave renewed priority to seaborne systems; as a result, the SSBN production rate was raised to about six per annum, at the expense of other types of submarine construction. These submarine developments were paralleled by advances in missile systems and a steady increase in range: 1957–350 nm; 1962—650 nm; 1967—1,300 nm; and 1972—4,200 nm. While the first increase can be seen as normal design improvement, the second and third steps were almost certainly influenced by the American anti-submarine capability. The third step (which stems from the 1961 period) is particularly significant: this threefold increase allowed ballistic-missile submarines to strike at North America from the comparative safety of home-fleet anti-submarine defence zones.

Developments in missile capability were meanwhile reflected in the nature of the submarine's task. Units armed with the 350 nm and 650 nm systems were limited to contributing to the naval task of attacking maritime communications by striking at naval bases and port complexes.[12] The 1,300 nm system caused the missile submarine to be linked with the Strategic Rocket Forces as comprising the "main force for deterring the aggressor and decisively defeating him in war".[13] And with the advent of the 4,200 nm system, Gorshkov was able to claim that, because of their greater survivability, missile submarines were a more effective deterrent than inter-continental ballistic missiles (ICBM).[14]

The requirement for submarines to patrol within missile range of their targets is not the same for the Soviet Union as it is for the United States. The latter's calculations are dominated by the land battle in Europe and by concern over a *fait accompli*, and presumably it is this which requires such a high proportion of units on station. Soviet requirements are more simple. The deterrent mission relies on the certainty of retribution, not its speed; it is therefore only necessary to ensure that the missile submarines escape the initial exchange and are able to deliver their missiles in due course. Similarly with the war-fighting mission; there are relatively few time-urgent targets which require submarines to be within missile range at the outbreak of war, and only a few units need to be on station to meet these requirements.[15]

Furthermore, there are major advantages to keeping only a small proportion of the force deployed. For example: it allows a larger number of units to be at sea in times of tension; it requires only one crew per boat (a costly item); it reduces the maintenance load and increases operational availability; and it denies the enemy a full measure of his problem. But from the Soviet Union's point of view, probably the most important factor is the anti-submarine defences which face her. Past experience can give her no confidence that the United States, if she wanted to, could not take out all the Soviet patrolling submarines at one go; and, of course, this is the capability the Soviet Union has been seeking for herself. On the other hand, the chances of Soviet submarines reaching their firing positions will be greatly improved once war has begun and ASW forces and sensor systems have been put out of action, particularly if the submarines swamp the defences by deploying en masse.

This disposes of the two war-related tasks, which the Soviet Navy has to carry out continuously in peacetime. We must now glance at the other ways in which these naval forces are used while on forward deployment, and, from the evidence of 11 years' activity, we can distinguish three types of 'peacetime' task. The most important is inferred; the other two are referred to in the open press.

The most important peacetime task is 'to establish a strategic infrastructure overseas': i.e., to build up, consolidate and preserve the physical, political and operational infrastructure required to support the Soviet Navy's war-related task of countering Western seaborne strategic delivery systems. This task (which comes under the general rubric of 'protecting state interests', but otherwise

[10] See The Evolution of Soviet Naval Policy, 1960–74 in McGwire, Booth and McDonnell (eds.), *op. cit.*, p. 507.

[11] See my article, "Current Soviet Warship Construction" in McGwire, Booth and McDonnell (eds.), *op. cit.*, p. 425.

[12] V. D. Sokolovsky, *Voennaya Strategiya* (Moscow: Voenizdat, 1963), p. 400.

[13] *Ibid.*, 1968 edition, p. 235.

[14] *Morskoi sbornik*, February 1973, p. 21.

[15] For example, assume 62 Y- and D-class, 42 in the Northern and 20 in the Pacific Fleet. Of the 42 in North allow 6 on periodic refit/recore. Divide the remaining 36 into three groups: Ready, Standby and Maintain. In times of *low* tension 4 boats would be on patrol, the remainder in harbour at various degrees of readiness or day running.

Ready:
4 On patrol.
4 Immediate notice.
4 4 hrs. notice.
Standby:
6 8 hrs. notice.
6 24 hrs. notice.
Maintain:
6 up to 7 days.
6 up to 28 days.

is not referred to openly) would seem to provide the primary motive for a wide span of operational decisions, ranging from preventing the overthrow of a client regime, to acquiring base rights by barely concealed coercion. Since this task concerns the security of the homeland, it is backed by a high level of political commitment, and the evidence shows a willingness to accept political costs so long as the strategic objective is furthered thereby.

A second task, 'countering imperialist aggression', has been clearly articulated for eight years or more. It involves challenging the employment of Western naval forces to thwart the interests of 'the world liberation movement'. The political commitment seems fairly low, although on a limited number of occasions, forces have been specifically deployed for this task. In areas like the Eastern Mediterranean, which are within strategic strike range of the Soviet Union, it is sometimes hard to distinguish this task from the war-related one of posing a counter to the Sixth Fleet's nuclear strike potential. However, in times of tension the latter task takes precedence, since the need to avoid any confrontation which might escalate to general war, is overriding.

A third task of 'increasing prestige and influence' (also clearly articulated) uses naval forces to promote general foreign-policy objectives in a manner familiar to Western navies. This task appears to be almost entirely supportive and, with the exception of mine-clearing operations, exploits the presence of ships already on forward deployment.

During 1971–72, the build-up of these ships levelled off,[16] and, dating from the same period, there has been a marked increase in the use of naval forces on the last two peacetime tasks. This period also covers the 24th Party Congress, SALT I and the unprecedented series of articles by Admiral Gorshkov, and the coincidence invites questions as to whether there has been some major adjustment of policy. The evidence of long-term decisions has not yet had time to show up. But in the shorter term it is possible that the negotiating process at SALT persuaded the Soviet Union that the dangers of escalation were substantially less than she had feared, thus emboldening her to use her naval forces more assertively.

In this context I cannot agree with Johan Holst that there are inherent pre-emptive pressures in the design and operational characteristics of Soviet surface ships. As Gorshkov says, "the battle for the first salvo" is hardly a new dictum. I would argue that the weapon configuration of the newer surface ships (and the retrofitting of older classes) is designed to provide maximum protection against a sudden surprise attack, particularly by aircraft. This would seem to reduce, rather than increase, pre-emptive pressures.

Meanwhile, despite the greater use of surface ships in forward areas, there are as yet no indications that this arm of the navy is receiving increased priority. Surface-ship construction has had to make do with existing resource allocations and naval yard capacity, and this has entailed dropping the escort ship from the type inventory. The annual delivery rate of slightly more than one cruiser- and two destroyer-size ships (plus the occasional helicopter cruiser) is low, both in terms of past practice and present requirements.

My own impression is one of marking time and of expectancy, particularly in the submarine and aerospace fields. By 1978 some 60 Y- and D-class SSBN will have been built. This is the year when we would expect a new family of nuclear submarines to begin delivery, and, except that they are unlikely to be SSBN, we can only speculate as to their role (though at least two prototypes have now been around for several years). Meanwhile, there are doubts about the function of the main missile systems aboard the major surface units, and an increasing suspicion that the Soviet designation of these ships as anti-submarine vessels is accurate. This reinforces the general impression that countering the ballistic-missile submarine remains the number one priority. It does not, however, explain how the Soviet Union hopes to handle *Trident*, nor whether the evidence we now see reflects future intentions, or the inertia of discarded policies.

Assuming that there *are* new developments around the corner, the relatively low building rates for surface ships, coupled with the reluctance to provide substantial afloat support, suggest that they will center largely on the nuclear submarine and various types of aerospace support.

[16] See R. G. Weinland, "Soviet Naval Operations: Ten Years of Change," in McGwire, Booth and McDonnell (eds.), *op. cit.*, p. 375.

NEW YORK TIMES EDITORIAL ON OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, OSHA's moment of reckoning is drawing closer. In October the fall term of the U.S. Supreme Court starts and one of the major issues to be discussed is the Barlow case. Marshall against Barlow's, Inc. involves a challenge to OSHA's unconstitutional use of warrantless inspections in their enforcement of the 1970 job safety law. The question at stake is whether or not section 8(a) of the OSHA law is unconstitutional as declared by a unanimous lower court decision.

An editorial by the New York Times on August 8, 1977, exoresses the growing sentiment of the majority of the American people toward the weaknesses of OSHA and a very workable approach to assure better job safety and health. It is a very thought-provoking article which I highly commend to my colleagues. The article follows:

BELABORING WORKER SAFETY

The Occupational Safety and Health Administration is in trouble. Business doesn't like the way it has played big brother, promulgating petty regulations. Labor isn't very happy with the agency's performance, either; it has done little to reduce job-related injury and illness.

The agency's new boss, Assistant Secretary of Labor Eula Bingham, promises to do better. She plans to concentrate on serious hazards in major industries, rather than nitpicking about the distance between rungs on shoe-store ladders. Organized labor, correctly sensing the depth of public hostility to the agency has reluctantly chosen to support the new strategy. Far better to close ranks now, labor reckons, than lose the agency altogether.

The change of emphasis makes some sense. But a more "cost-effective" enforcement strategy, designed to offend the fewest possible members of Congress, will not allow her agency to do the job it was set up to do. At best, it will be able to cut accidents and illnesses in a few high-risk industries. Many workers will continue to be exposed, on occasion, to unreasonable dangers. And those who end up as victims, particularly of job-related diseases, will continue to bear most of the burden.

Is there no better solution? White House economists believe that effective safety regulation requires a fundamental change in approach. The debate so far has focused on how to balance the rights of workers to protection against the rights of employers to run their own businesses—as if more safety necessarily requires more Federal control. In fact, much of the work the agency does so poorly today could be done better without direct government participation, and the rest of its job could be restructured to minimize bureaucratic interference.

Where hazards can be easily diagnosed by employers, financial incentives to improve safety conditions would be far more effective than Federal regulation and inspection. Regulations can't be tailored to meet the needs of individual worksites; nor can a few thousand inspectors inspire much change in a vast, decentralized economy. But if businesses were required to compensate the injured for the *full* cost of accidents, regardless of fault, they would have good reason to invest in safe equipment and adequate training. Indeed, private insurance companies that sell workers' compensation policies would probably police job safety in much the same way they now monitor standards for fire and liability insurance coverage.

Financial incentives alone cannot in all cases change business behavior. The long term effects of exposure to chemicals or dust, for example, are hard to document, making it extremely difficult to pin the responsibility on the place of work. Here, the Federal safety agency should take the lead, identifying hazards and setting standards. There is no reason even in these cases, however, for government to specify how the standards should be met. By trying to be too specific, Washington has in the past forced companies to waste millions of dollars and has stimulated opposition to the most benevolent Federal intervention in worker safety.

If this combination of financial incentives and Federal rules can raise safety standards without increased government control, why has Assistant Secretary Bingham chosen more conventional reforms? Because organized labor, her agency's chief patron, bitterly opposes any move to an incentive system. It is wedded to New Deal-style regulation, the comforting image of an inspector in every plant to prevent abuse of the workers. That kind of regulation probably wouldn't work very well. But in any case, there is no way to persuade Congress to pay for the required army of inspectors. As a result, rigid labor opposition to the measured use of financial incentives perpetuates an inadequate status quo. American workers deserve better.

OIL COMPANIES SPEND $130 MILLION ON TELEVISION ADVERTISING

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. MURPHY of New York. Mr. Speaker, yesterday I placed in the RECORD a survey of newspaper advertising expenditures of the five major companies. Those massive expenditures were not for product advertising—that is, ads which try to sell more gasoline to the public. They were ads designed very carefully to create an image for the company, to promote their interests with the public, and to pressure the Congress as to the legislative interests of big oil. The point made in that study was that the five major

oil companies . . . Exxon, Mobil, Gulf, Shell, and Texaco . . . spent an enormous amount of money to influence the public and the Congress into believing that what is good for the oil companies is good for the Nation.

Unfortunately, I find that my distress with their newspaper advertising was somewhat misplaced. Compared to their expenses on national television, the oil companies expenses for newspaper advertising are peanuts.

Just three of the top oil giants—Exxon, Shell, and Mobil—spent $130,496,000 over the past 3 years of 1974, 1975, and 1976, on network and spot television advertising. Let me repeat that figure: one hundred thirty million, four hundred ninety-six thousand dollars and change.

I submit the breakdown for the benefit of the Members of Congress who wish to see how much of the enormous profits of the oil companies are spent on advertising designed to influence legislation to further enhance their profit picture, at the expense of the consuming public:

TV ADVERTISING REVENUES—EXXON-SHELL-MOBIL

For the years 1974–75–76

Year	*Network TV*	*Spot TV*
Exxon:		
1974	$10,369,000	$218,000
1975	12,308,000	1,879,000
1976	13,402,000	4,209,000
Total	36,079,000	6,306,000
Shell:		
1974	8,809,000	1,197,000
1975	6,519,000	2,219,000
1976	8,440,000	2,628,000
Total	23,768,000	6,044,000
Mobil:		
1974	Not available	
1975	4,800,000	19,739,000
1976	7,543,000	26,217,000
Total	12,343,000	45,956,000
Total	*72,190,000	*58,306,000
Grand total		$130,496,000

* Totals do not include expenditures for Mobil for 1974.

THE SOCIAL SECURITY FINANCING ACT OF 1977

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ARCHER. Mr. Speaker, today I plan to go before the Rules Committee to ask that the rule on H.R. 9346 make in order an amendment from the floor to strike provisions of the bill relating to social security coverage of employees of nonprofit organizations, States, and their political subdivisions.

Although I favor universal coverage for our national social insurance system, I do feel that there are rather serious administrative and legal problems associated with the coverage of employees in the groups mentioned above. Therefore, I hope that my amendment to strike this coverage will be made in order, and I have inserted in the RECORD the following amendment to accomplish that purpose:

AMENDMENTS TO THE COMMITTEE AMENDMENT TO H.R. 9346, OFFERED BY MR. ARCHER

Strike out sections 302 and 303 (beginning on page 168, line 4, and ending on page 175, line 3).

Redesignate the succeeding sections accordingly.

Conform the table of contents (on page 117).

Strike out line 4 on page 175 and all that follows down through line 25 on page 176 and insert in lieu thereof the following:

CREDITING OF CERTAIN FEDERAL SERVICE PERFORMED PRIOR TO EFFECTIVE DATE OF COVERAGE

SEC. 302. Section 213 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CREDITING OF CERTAIN FEDERAL SERVICE PERFORMED PRIOR TO EFFECTIVE DATE OF COVERAGE

"(d) In the case of any individual who—

"(1) performs service in the employ of the United States or any instrumentality thereof (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 210(a) (5) and (6) by the Social Security Financing Amendments of 1977, and

"(2) also performed service in the employ of the United States or any instrumentality thereof prior to such date,

each calendar quarter in which such individual performed service described in subparagraph (B) shall, if it is not otherwise a quarter of coverage, be treated (under regulations prescribed by the Secretary) as a quarter of coverage for all the purposes of this title.

Page 188, line 22, strike out "(8)" and insert in lieu thereof "(7)".

Page 188, line 23, strike out "(17)" and insert in lieu thereof "(18)".

Page 189, line 2, strike out "210(a)(6)" and insert in lieu thereof "210(a)(7)".

Page 189, line 5, strike out "(6)" and insert in lieu thereof "(7)".

Page 189, line 9, strike out "210(a)(11)(B)" and insert in lieu thereof "210(a)(12)(B)".

Page 189, line 12, strike out "210(a)(13)" and insert in lieu thereof "210(a)(14)".

Page 189, line 15, strike out "210(a)(8), (9), or (12)" and insert in lieu thereof "210(a)(9), (10), or (13)".

Page 189, line 18, strike out "210(a)(17)" and insert in lieu thereof "210(a)(18)".

Page 189, line 23, strike out "(8)" and "(17)" and insert in lieu thereof "(7)" and "(18)", respectively.

Page 190, line 5, strike out "3121(b)(11)(B)" and insert in lieu thereof "3121(b)(12)(B)".

Page 190, line 8, strike out "3121(b)(13)" and insert in lieu thereof "3121(b)(14)".

Page 190, line 11, strike out "3121(b)(8), (9), or (12)" and insert in lieu thereof "3121(b)(9), (10), or (13)".

Page 190, line 14, strike out "3121(b)(17)" and insert in lieu thereof "3121(b)(18)".

Page 190, line 18, strike out "(b)(6)" and insert in lieu thereof "(b)(7)".

Page 190, lines 22 and 23, strike out "subsection (b)(5)" and insert in lieu thereof "subsection (b)(6)(A)".

Page 190, line 23, strike out "210(a)(5)" and insert in lieu thereof "210(a)(6)(A)".

Page 191, lines 2 and 3, strike out "3121(b)(6)" and insert in lieu thereof "3121(b)(7)".

Page 191, line 7, strike out "210(a)(6)" and insert in lieu thereof "210(a)(7)".

Page 225, lines 12 and 13, strike out "(as amended by section 302(d)(3) of this Act)".

Page 232, line 12, strike out "304" and insert in lieu thereof "302".

Page 242, lines 1 and 2, strike out "(as amended by section 302(e)(4) of this Act)".

Page 119, strike out lines 16 through 18 and insert in lieu thereof the following:

"(3) with respect to wages received during the calendar year 1981, the rate shall be 5.15 percent;

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.23 percent;

Page 119, line 19, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 2, strike out "5.45" and insert in lieu thereof "5.53".

Page 120, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 4, strike out "6.00" and insert in lieu thereof "6.08".

Page 120, strike out lines 15 through 17 and insert in lieu thereof the following:

"(3) with respect to wages paid during the calendar year 1981, the rate shall be 5.15 percent;

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rates shall be 5.23 percent;

Page 120, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 20, strike out "5.45" and insert in lieu thereof "5.53".

Page 120, line 21, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 22, strike out "6.00" and insert in lieu thereof "6.08".

Page 121, strike out lines 12 through 15 and insert in lieu thereof the following:

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 7.70 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 7.82 percent of the amount of the self-employment income for such taxable year;

Page 121, line 16, strike out "(4)" and insert in lieu thereof "(5)".

Page 121, line 18, strike out "8.20" and insert in lieu thereof "8.32".

Page 121, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 121, line 21, strike out "9.00" and insert in lieu thereof "9.12".

THE ALLAN BAKKE CASE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. DERWINSKI. Mr. Speaker, the Allan Bakke case has had a great deal of attention as a result of the recent Supreme Court hearings of that issue, and I am sure that it will continue to receive much press speculation until a decision has been rendered.

The distinguished columnist, James J. Kilpatrick, in his column carried by the Chicago Daily News of October 11, delves into the intricacies of the Bakke case, and the effects that will result from the final outcome of the case. The article follows:

BAKKE SHOULD WIN, THEN WE CAN START ALL OVER

(By James J. Kilpatrick)

WASHINGTON.—When the U.S. Supreme Court hears arguments Wednesday in the

celebrated case of Allan Bakke, we will have come full circle from the landmark 1954 high court ruling that outlawed school desegregation.

Bakke, of course, is the 37-year-old Californian who five years ago applied for admission to the University of California's medical school at Davis. He was rejected for one reason only; the color of his skin. If it is denied at all, it is only feebly denied that Bakke would have been admitted if he had been born black. Unfortunately, so to speak, he was born white.

The Southerner who follows the Bakke case is struck by ironies at every hand. I am a Southerner, born, bred and brought up in a segregated society. Forgive me a backward glance.

In December, 1938, I was a sophomore at the University of Missouri in Columbia. I had just turned 18, and I was bursting with the accumulated prejudices of a Southern boy's upbringing. On Dec. 12, Chief Justice Hughes handed down a 7-2 opinion for the court in the case of Gaines V. Canada. The university that night was in shock.

It is hard to convey the sensation. Lloyd Gaines, you see, was a Negro. He had been graduated three years earlier from Lincoln University with a bachelor of arts degree. Now he had the temerity—the audacity, the cheek, the sheer gall—he had actually applied, this black man, for admission to the law school of the University of Missouri at Columbia. And the Supreme Court had ruled that he was entitled to be admitted.

It is worth taking a moment to recall a couple of things that Hughes said in the Gaines case. The University of Missouri had advanced all sorts of splendid reasons for keeping Gaines out: Not many Negroes really wanted to be lawyers; in any event, a separate but equal facility was being planned; meanwhile, Gaines could get a perfectly adequate law school education somewhere else.

Hughes dismissed these defensive arguments out of hand. "The essence of this constitutional right," he said, "is that it is a personal one." It is the individual, he said, who is entitled to equal protection of the laws.

Now the Bakke case is being heard, and the echoes come roaring in with the crash of heavy surf. The California regents who rejected Bakke also had the very best of reasons. They were engaged in "affirmative action." Their purpose was "benign." They meant nothing personal in discriminating against a white applicant because he was white. They simply felt it wise to be race-conscious.

Ah, my brothers, lawyers and educators have come a long way along a rough and wretched road, only to find themselves at the point of beginning. The Southern States used to bus children past their nearest neighborhood schools because the children were black, or because they were white, and the Supreme Court condemned the practice absolutely. Now the court approves the identical practice absolutely. Our institutions are as racist as they were before. We witness what is called "racism in reverse," and the phrase does nicely: We go backward, not forward.

Well, I, too, have come a long way from a boarding house in Missouri, and a long way from the Brown case in 1954. I long ago came to understand that for the states to discriminate by reason of race is wrong, dead wrong. I am sorry I ever defended the abominable practice. For a state to deny its facilities to a human being because of the color of his skin is barbarian. And that is exactly what the State of California did to Allan Bakke.

If the court meets this issue squarely, and does not duck or flinch, Bakke will win in 1978 as Gaines won in 1938. And then we will start again, perhaps, on the tortuous road we have traveled before—the road to a color-blind Constitution.

CONGRESSIONAL SALUTE TO THE GOLDEN AGE CIRCLE OF WAYNE, NEW JERSEY, INC., UPON THE CELEBRATION OF THE 20TH ANNIVERSARY OF THE FOUNDING OF THIS MOST ESTEEMED SENIOR CITIZENS ORGANIZATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ROE. Mr. Speaker, on Thursday, October 20 one of our Nation's most active, enthusiastic group of senior citizens will be celebrating the 20th anniversary of their founding as the Wayne Golden Age Circle and it is indeed my privilege and honor to call to the attention of you and our colleagues here in the Congress the outstanding public service that this most distinguished organization has provided for the seniors of our community throughout these many, many years.

At the outset, I know you will want to join with me in warmest greetings and felicitations to the membership and extend our heartiest congratulations to the outgoing officers and incoming officers to be installed at this 20th anniversary celebration, as follows:

Officers of the Golden Age Circle of Wayne, N.J.

1977

The Honorable: Marie Peters, President; Mrs. James McGuinn, 1st. Vice President; John Nickoviz, 2nd. Vice President; Anton Hosousek, Treasurer; Robert Conklin, Recording Secretary; Evelyn De Walsche, Corresponding Secretary; Ann Tracey, 3 year Trustee.

1978

The Honorable: Marie Peters, President; Mrs. James McGuinn, 1st. Vice President; Ed Moore, 2nd. Vice President; Anton Hosousek, Treasurer; Robert Conklin, Recording Secretary; James Ferrara, Asst. Recording Secretary; Evelyn De Walsche, Corresponding Secretary; Mrs. Paul Kuehm, 3 year Trustee.

Mr. Speaker, with your permission, I would like to insert at this point in our historic journal of Congress the following program, appropriately entitled, "This Is the Life of the Golden Age Circle of Wayne," which most eloquently portrays the history of this most esteemed organization:

GOLDEN AGE CIRCLE OF WAYNE, INC., PROGRAM FOR TWENTIETH ANNIVERSARY (OCTOBER 20, 1977)

Once upon a time there was a "fad" known as This Is Your Life. It was part of TV programs and was used at testimonial dinners, etc., for prominent people.

In contemplating a program for the celebration of the Twentieth Anniversary of the Golden Age Circle of Wayne, it was thought fitting to use the theme "This Is Your Life." While the organization is not a Human Being, nevertheless there is a great deal of humanity in the club and through the past twenty years it can be said to have been nurtured by the Milk of Human Kindness.

In 1957, it all began as the "brainchild" of Emily Grossi, fondly known as Our Godmother.

The club was brought into being by a letter addressed to the Town Forum in the Paterson Evening News on August 22 by Louis B. Bettberg (now deceased), excerpts of which are:

"Several interested persons in Wayne Township are attempting to form a Golden Age Circle for the benefit of any respectable person or persons who are looking for social companionship.

This society will be non-sectarian, nonpolitical and will have no stated dues. Social get-togethers will be held weekly. As it progresses, other activities can be incorporated such as hobby and craft work, painting, sewing, card playing, chess, checkers, wood carving and any other projects of interest to members."

In the beginning the Reverend Robert A. Fisher of the Preakness Baptist Church on the Hamburg Turnpike permitted the group to hold their meetings, rent free, in the largest Sunday School Room. The membership soon outgrew the capacity of the room, it was then that Robert A. Roe, who was Mayor of Wayne at the time, arranged for the use of the Meeting Hall of the Preakness No. 4 Firehouse. Since that time the organization has been sponsored by the Department of Parks and Recreation of the Township. For many years past through the kindness of Mayor Newton E. Miller and the cooperation of Charles W. Kelly and his staff, all the needs of the Golden Age Circle have been attended to. Also we have them to thank for the privilege of holding our meetings at the beautiful PAL building where we are ably cared for by Jerry Lawrence and his staff.

On September 19 Louis Rettberg was installed as the first president. He held the office for two years.

Seated at a special table are the Charter members who, thank the Lord, are still among us and in this area: Jean Shaw, Mabel Smallwood, Christine Anderson, Anna Christen, Violetta Hill, Sue Flad, Deborah Cialone, Hilda Wagner, Wilma Burger, and Ann Walder. Deceased are Bertha Morp, chaplain, and Ida Seidel, hospitality worker. For them and Louis Rettberg and all departed past members, as well as those who are ailing, it would be fitting if we bowed our heads for a moment of silent prayer. Mary Mosig is ill and Lena Egg, who was an artist and circus performer, is now living in California.

Jean Shaw was the first in charge of publicity. Harold MacCullough, a Paterson Evening News reporter now deceased, became an honorary member. He took the Golden Age Circle under his wing and gave it every possible space in the News. Others in charge of publicity were Anna Christen and Erastus Dilworth who kept an excellent record of the club's events making This Is Your Life a possibility.

On January 9, 1958, the second installation of officers occurred. The enrollment at that time was 56. Emily Grossi was highly praised by Rettberg, stating that without her efforts the organization would have failed. She was given a rising vote of thanks then. Let us repeat it now. It was Louis Rettberg who started the quarterly News Letters. Following his death, the work was taken up by Theresa and Frank Bohus. Currently the News Letter is carried on by Clara Barbato, Carolyn Fischer, and Gertrude Mulhall.

From 1959 to 1961 Helen Campbell (now deceased) was president. During her term the Circle was incorporated as the Golden Age Circle of Wayne, N.J. on May 1, 1961 and she was the Registered Agent. Membership had risen to 160. Madge Schaack (now deceased) was Secretary and Charles J. Schroeder was Treasurer. They continued to hold these offices for more than 15 years.

Along about this time Mayor Robert A. Roe, chose Louis Rettberg to represent the Township at Governor Meyner's Conference on "The Senior Citizen's Place in the Community." Of Rettberg, then 80 years old, Roe said "the octogenarian's keen interest in Community Affairs was an inspiration to him" and that his activities and those of his colleagues in the Golden Age Circle spotlights a lamentable situation prevailing in this country where a wealth of experience, ability and particularly wisdom is often left untapped. Discussed at the conference were

benefits affecting the elderly citizen and avenues for their talents and ability."

From 1961 to 1963, our beloved Christine Anderson was president. Shall we ever forget the way she was dressed at our Bi-Centennial celebration, her narration and antics? She was the Life of That Party, we are thankful she is here with us.

From 1963 to 1963 Violetta Hill was president. She has a meek and mild personality, but a strong interest in the Circle. It was she who instituted the Civic Workship activities for "shut-ins."

In 1965 to 1967, and again from 1968 to 1969 cheery voiced Florence McGuinn was given the reins of the Circle. In a newspaper article entitled "It's a Woman's World" she was quoted as saying "Anyone who says that when you reach 50, it's over the hill for you, is wrong, life begins at 50," for more than 191 Seniors who belong to the Golden Age Circle, busy, busy, busy, is her keyword. Before, during the interim and after her terms in office she was in and still has been in charge of Social Activities.

Other program chairmen were Martha Heille (now deceased), David and Vera Joachim, Anton and Tina Hodousek, Clara Barbato, Theresa and Frank Bohus.

In 1967–1968 Deborah Cialone, known to everyone as "Daisy" was president. Being a "Farmer's Wife" there were times during the harvesting season when the vice-president took over. You may recall that "Daisy" very appropriately represented the Garden State at the Bi-Centennial celebration.

In 1969 to 1971 and again from 1973 to 1974 Charlotte Lammers familiarly known as "Lotty" was president. She was not quite the required age when she expressed the desire to become a member. She was placed in the "Cradle" and given special permission to join. She was well-versed in Parliamentary Law and respects the by-laws at all times.

In 1971 to 1973 and again from 1974 to 1976, David Joachim served as president for four terms, with a rest of a year between two. Besides being most capable in his office "Dave" can be said to have been "naughty" at times, but the members loved his subtle jokes and sly remarks.

Now 1976–1977 and continuing into 1978 we have Marie Peters. In by-gone days it was said the "way to a man's heart is through his stomach," this might be said of Marie's ascendancy to the presidency after being in charge of Hospitality. She has handled her office with integrity. There were several weddings between Golden Agers—Henry and Katie Wynalda; Albert and Ida Siedle; Angelo and Virginia Traina.

In conclusion it might be said the Golden Age Circle has been good for Senior Citizens. Likewise the Senior Citizens have been good for the economy. It shows from "tip to toe" barbers and beauticians benefited. We have no long-haired bearded ones among us. The hairdos of the women are always in the height of fashion. All of which frame happy, smiling faces. The leisure suits of the men and the gowns of the women, be they long or short, are indicative of recent shopping. The shoes, while they might pinch a little, are nevertheless fashionable and beautiful. Restaurants and bus companies welcome our patronage. So when it comes to counting blessings, we can truthfully say God Bless America and God Bless the Golden Agers. Amen.

Mr. Speaker, I appreciate the opportunity of presenting these highlights of two decades in the history of the Golden Age Circle of Wayne which has captured the warmth of friendship, camaraderie, goodwill, and fellowship that can be achieved in the golden years of a lifetime by people with purpose and fulfillment in companionship with, and respect for each other—all so important to the quality of life and way of life for all of us. We do indeed salute the Golden Age Circle of Wayne, N.J., for their contribution to the educational, recreational, and cultural enrichment of our community, State, and Nation.

IOWA'S FIFTH DISTRICT POLL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARKIN. Mr. Speaker, some of the best advice I get, as a Member of Congress, comes from the people I represent who take the time to write or call me, or to visit my mobile congressional office.

In an effort to get more of that advice, I recently distributed questionnaires to residents of Iowa's Fifth Congressional District. I now have the results of that poll, based on a scientific sampling of the over 12,000 responses I received.

The questionnaire asked 12 questions and polled Fifth District Iowans on a number of issues. Energy, agriculture, foreign affairs, and other issues were covered.

I might just add, at this point, that the results indicate Fifth District Iowans overwhelmingly believe the energy crisis is real, and want the Federal Government to work harder to encourage development of alternatives to oil, such as wind and solar energy, and coal, to help solve it. They also strongly oppose deregulation of natural gas prices.

I believe the results of this poll will be helpful to our colleagues as they assess the mood of this Nation. Accordingly, I ask that the results of this questionnaire be printed at this point in the CONGRESSIONAL RECORD, so they might share in that good advice Fifth District Iowans have to offer:

QUESTIONNAIRE

[In percent]

1. Do you feel that President Carter is correct when he says there is a national energy crisis and that it demands legislation?

Yes	74
No	22
No opinion	4

2. Do you believe the Postal Service should cut back mail delivery to five days each week in order to save tax dollars?

Yes	35
No	61
No opinion	4

3. In your opinion, should the federal government provide more cost-sharing money for soil conservation rather than simply relying on independent farmers to finance their own conservation programs?

Yes	63
No	32
No opinion	5

4. Legislation has been introduced into Congress which affects our tax laws. Do you favor elimination of all or most tax deductions and credits in favor of a greatly simplified income tax form?

Yes	52
No	39
No opinion	9

5. Some people say by decontrolling natural gas prices, oil companies will have more money to increase production and because of higher prices, consumption will be reduced. Others say decontrol will only give companies more profits, will not significantly increase production and will be too inflationary. From what you know, do you believe we should decontrol oil and natural gas prices?

Yes	23
No	69
No opinion	8

6. Do you think U.S. economic and military aid to foreign governments should depend on their record of human rights?

Yes	69
No	25
No opinion	6

7. Do you favor "sunset laws" which eliminate the life government agencies, unless they can periodically justify their existence?

Yes	92
No	4
No opinion	4

8. Do you think we ought to withdraw our troops from South Korea over a five year period?

Yes	58
No	31
No opinion	11

9. Do you feel the $3,000 earnings limitation for Social Security recipients should be eliminated or at least raised?

Yes	80
No	15
No opinion	5

10. Out of the federal money that is spent on energy research and development, substantially more is spent on nuclear research than other forms of energy such as coal, solar, geothermal and wind. Do you think this is correct?

Yes	24
No	71
No opinion	5

11. Continental Illinois Bank and Trust Company recently attempted to invest tax exempt pension funds in farmland. Do you feel Congress should allow non-farm corporations like Continental Illinois unrestricted access to purchase farmland?

Yes	8
No	88
No opinion	4

12. In your opinion, are questionnaires like this one a good means for finding out what people are thinking?

Yes	92
No	4
No opinion	4

PURPOSE OF NEUTRON BOMB

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CHARLES H. WILSON of California. Mr. Speaker, on September 28 and

29, the House engaged in a 5-hour debate on the subject of enhanced radiation weapons, which some refer to as the "neutron bomb." In the heat of the debate many emotional statements were made and it was evident there is great misunderstanding of the purpose and potential use of this weapon system.

I have noted an editorial in the Los Angeles Times of October 13, 1977, which very precisely spells out the purpose of so-called neutron weapons in the NATO environment. I want to commend the Los Angeles Times for its responsible position and insert the editorial in the RECORD at this point:

SITTING ON THE BOMB

Government leaders in West Germany and other key NATO countries are widely reported to favor the deployment in Europe of the neutron bomb—more accurately called a reduced-blast, enhanced radiation weapon.

Yet, as demonstrated by this week's meeting of NATO's Nuclear Planning Group in Bari, Italy, they aren't anxious to come right out and say so as President Carter requested.

Defense Secretary Harold Brown told the Bari meeting that the neutron warhead was specifically designed for use against a potential Soviet attack in Europe—and that it won't be deployed unless there is a "substantial consensus" among European members of NATO in its favor.

In effect, Carter was putting European leaders on notice that they must be prepared to share the political heat for the deployment of a very controversial weapon. Their reaction was to postpone a decision for at least a few months.

Sooner or later, the Administration is likely to get the consensus it wants. The case for the deployment of the neutron bomb is too strong for responsible leaders of the Western alliance to ignore. However, the timidity that is so evident in Washington and allied capitals is a monument to the triumph, at least temporarily, of emotion over common sense in recent public discussion of the issue.

Both here and in Europe, crusading critics of the weapon have charged that it is designed to kill people while leaving buildings and other real estate unharmed, that it represents an inhumane placing of property values above human values. This is a flagrant distortion of the truth.

Neutron warheads produce twice the deadly radiation of the conventional nuclear bombs that they would replace—but less than a tenth as much blast power, heat and fallout. The deadly radiation would be confined to a relatively small area, and would last no more than a few hours, compared with weeks or months in the case of radiation from the tactical nuclear weapons that are currently deployed in Europe.

The neutron warhead was designed to kill invading Soviet tank crews without devastating nearby populated areas. As Brown told fellow defense ministers at Bari, the proposed weapon actually would "kill fewer people to accomplish the same military effect."

The argument that it is somehow more moral to kill innocent civilians of a country under attack along with the attacking enemy—and to render the countryside uninhabitable for weeks or months in the process—is ludicrous.

A more rational objection is that, precisely because the neutron bomb is a cleaner and more precise weapon, there would be a greater temptation to use it in order to stop a massive onslaught by Soviet conventional forces.

There may be some truth to this thesis. But it is outweighed by the fact that the neutron bomb would make the outbreak of war less likely in the first place—a fact of considerable moral and practical consequence.

Allied strategy holds out the hope that a nonnuclear Soviet thrust through West Germany could be halted without the use of nuclear weapons. Realistically, however, a large chunk of allied territory would have to be surrendered first. Thus, the Soviet Union has been on notice for years that an attack would be met, if necessary, with nuclear weapons.

As the Russians know perfectly well, however, the nuclear weapons currently deployed in Western Europe could not be used to kill invading Soviet soldiers without also killing allied civilians, probably millions, in the process. On a much larger scale, it would be like destroying a Vietnamese village in order to save it.

The worry is that, at some point, the Kremlin might reasonably decide that such an exercise in mass suicide was so unlikely that it could risk aggressive action. More likely, it might be emboldened to use the threat of military force to back up political or territorial demands in reasonable confidence that the West would give way rather than risk war.

The temptation to find out would not be nearly so great if NATO had a credible means of stopping an invasion in its early stages without destroying the very people and the territory that it was trying to save.

The neutron bomb has been under discussion within NATO for at least five years. Until the recent public controversy created political problems—especially for Carter and West German Chancellor Helmut Schmidt—it was taken for granted within the alliance that it would be deployed.

The European leaders will probably overcome their timidity within a few months, their decision to delay a decision in the hope that the political furore will die down is understandable. At some point, however, they must be willing to go public with their support. After all, the United States cannot be seen as deploying a new weapon on European soil against the will of the Europeans.

SAFE BANKING ACT OF 1977

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ST GERMAIN. Mr. Speaker, yesterday I introduced H.R. 9600, the Safe Banking Act of 1977 along with seven other Members. That bill is currently the subject of action by the Subcommittee on Financial Institutions and to assist the Members of the Subcommittee the following title-by-title summary was prepared:

H.R. 9600 retains the basic thrust of the original bill (H.R. 9086) but it does incorporate a number of changes, modifications, and clarifications. The redrafting is based on testimony from a variety of witnesses before the subcommittee—from bank trade associations to consumer organizations—and is an attempt to broaden the consensus among the Members. We have tried very hard to meet the problems identified by individual members of this subcommittee and I think it is a bill behind which serious proponents of reform can rally.

The bill is cosponsored by Mr. ANNUNZIO, Mr. PATTERSON, Mr. CAVANAUGH, Ms. OAKAR, Mr. MITCHELL of Maryland, Mr. MINISH, and Mr. BLANCHARD:

SAFE BANKING ACT OF 1977—H.R. 9600

TITLE I: SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

Sec. 101. Provides civil money penalties for violations of insider loan and loans to affiliate sections of the Federal Reserve Act.

Sec. 102. Provides civil money penalties for violations of reserve requirement provisions of the Federal Reserve Act.

Sec. 103. Provides civil money penalties for violations of National Bank Act (loan to one borrower limit and indebtedness of national bank).

Sec. 104. Insider Loan Limits—banks with assets of less than $50 million will be prohibited from extending credit, in any form, to an officer, director, employee or major stockholder in excess of 10 per cent of the bank's capital accounts. All insiders, their affiliated companies, political or campaign committees, and family members could borrow no more than 50% of capital accounts. Each of the supervisory agencies shall have the power to issue written waivers of these limits in the event of specific hardship.

Borrowing limits imposed on executive officers of National Banks and Federal Reserve Member Banks shall be raised to $60,000 for mortgages, $20,000 for education loans, and $10,000 for personal loans. Such amounts shall be counted against the loan limits imposed on insiders.

Banks shall be prohibited from honoring overdrafts by officers, directors, employees. (Insufficient fund items would be returned unpaid in the same manner as NSF checks of other non-insider customers).

Sec. 105. Gives the Federal Savings and Loan Insurance Corporation authority to make loans to a savings and loan buying the assets of a failing savings and loan.

Sec. 106. Provides authority for cease and desist actions against officers, directors, stockholders, or any person participating in the affairs of a financial institution (under current law such actions must be taken against the institution); all financial regulatory agencies would have this authority; the actions could be taken against violations of law and regulation, unsafe and unsound practices, or if the criticized acts would weaken an institution.

Provides for removal of officers and directors for breach of fiduciary duty (defined as personal dishonesty, or willful or continuing disregard for the safety of an institution).

Sec. 107. Applies the insider loan limit discussed in Sec. 104 to State non-member banks.

Sec. 108. Provides that the penalties authorized by this title shall affect only those violations occurring after enactment of the bill.

Sec. 109. Provides a hearing process for removal of an officer or director based on an indictment or conviction for a felony.

TITLE II: INTERLOCKING DIRECTORS

Prohibits interlocking directorates between banks, savings and loans, mutual savings banks, and credit unions. Interlocks between financial institutions and non-depository institutions such as insurance companies, title companies, companies which appraise real property, companies which close real estate transactions and legal firms would be judged against anti-competitive standards administered by appropriate supervisory agency and Justice Department. However, interlocks could remain if convenience and needs of the community outweigh anti-competitive effects.

Authorizes a five year period for correction of prohibited interlocks between depository institutions.

TITLE III: FOREIGN BRANCHING

Federal Deposit Insurance Corporation "Housekeeping" provisions (authority to approve foreign branches for State nonmember banks, authorizes subpoena power for investigations, authority to write regulations for laws they enforce).

TITLE IV: CONFLICTS OF INTEREST

Members of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Home Loan Bank Board could not for two years after leaving their position serve as an officer, director, employee, attorney, consultant or agent of a financial institution or financial institution holding company or own stock of a financial institution or financial institution holding company.

TITLE V: CREDIT UNION RESTRUCTURING

Creates a three-member National Credit Union Administration Board and subjects its members to the same provisions mentioned in Title IV and makes NCUA subject to GAO audit.

TITLE VI: CHANGE IN BANK CONTROL ACT

The Federal Deposit Insurance Corporation, the Board of Governors, and the Comptroller of the Currency would have authority to approve or deny in advance any change in control of banks under their jurisdiction.

Application is approved if agencies take no action in 90 days.

Applications may not be approved if the change would create a monopoly, lessen competition, if the financial condition of the applicant would threaten the safeness of the institution, or if the management capability of the applicant is not sound.

Provides that no more than 75 per cent of purchase price of financial stock may be borrowed, but would not affect application of full margin requirements that presently apply to banks and other financial institutions which meet the standards under Section 7 of the Securities and Exchange Act. Agencies, however, could grant waivers on the down-payment requirements in hardship cases.

Requires full disclosure to the appropriate bank regulatory agencies on bank stock loans.

TITLE VII: CHANGE IN SAVINGS AND LOAN CONTROL ACT

Provides authority like that in Title VI for the Federal Home Loan Bank Board with respect to savings and loans.

TITLE VIII: CORRESPONDENT ACCOUNTS

Requires examination process to include specific investigation of all aspects of existing inter-bank relationships including correspondent accounts to determine whether proper and full benefits are derived by the bank.

TITLE IX: DISCLOSURE OF MATERIAL FACTS

Require that insider loans, including those obtained by insiders from correspondent banks, and aggregate of each category of classified loans, and list of shareholders, be included in annual report filed for the public record with the appropriate Federal supervisory agency and be available on request from the bank.

TITLE X: FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Established a Council composed of the three banking agencies to establish uniform examining procedures for the agencies and to recommend uniform treatment of supervisory problems, country risk loans, loan participations, and questionable and illegal payments and practices.

TITLE XI: RIGHT TO FINANCIAL PRIVACY

No government official may have access to an individual's financial records maintained at a financial institution unless the individual consents in writing or a subpoena is granted.

Would apply the provisions of this act to the establishment of electronic funds transfer systems.

Exempts the Currency and Foreign Transactions Act, the U.S. securities laws, and national banking laws from the provisions of the title.

Would require that government officials obtaining information with a subpoena must pay a reasonable cost for copying and locating the information sought.

TITLE XII: CHARTERS FOR THRIFT INSTITUTIONS

Provides authority for Federal charters of mutual savings banks.

Subjects converting mutual savings banks to State redlining requirements if the State requirement is more stringent than the Federal requirement.

Gives Federal Home Loan Bank Board authority to require at least 60 per cent of assets to be invested in housing (primarily residential) by an institution converting to Federal charter.

Provides a five year shared risk program in the event a converting institution fails. The Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board would develop procedures to work out this provision.

TITLE XIII: HOLDING COMPANIES

Provides cease and desist and removal authority for the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board regarding holding companies.

Provides civil money penalties for violations of the Bank Holding Company Act.

Eliminates the exemption for agricultural, labor, and horticultural organizations under the Bank Holding Company Act, except grandfathers those financial institutions existing as of January 4, 1977.

Provides for waiver of the 30-day notice requirement for acquisitions of banks by bank holding companies when the action would facilitate the acquisition of a failing bank.

Provides new standards for acquisitions of banks, nonbanking subsidiaries, and new nonbanking activities (no approval if the acquisition gives the holding company 20% or more of the banking assets in a State; no approval if the financial impact of the acquisition would be detrimental to the subsidiary banks of the holding company).

Provides due process procedures for cease and desist, removal, and civil money penalty actions.

Provides for improved public involvement in holding company decisions.

THE GREAT TOMATO WAR

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RICHMOND. Mr. Speaker, on October 4, 1977, the House Agriculture Domestic Marketing, Consumer Relations, and Nutrition Subcommittee, which I chair, held hearings on H.R. 744, a bill to require imported tomatoes to be packaged in conformity with domestic standards. The debate between the interested parties on both sides of the question was so high spirited and vociferous that I feel justified in characterizing the issue as the great tomato war.

While our subcommittee members are carefully reviewing the record, I thought it would be useful to share with my colleagues a clear, thoughtful, and balanced overview of the arguments which was ably presented in a lead story in Saturday's issue of the Washington Star. Goody L. Solomon, the author of this article, is to be commended for her excellent analysis of this complex issue:

GREAT FORCES GATHERING TO FIGHT OVER THE TOMATO

(By Goody L. Solomon)

A seemingly simple item, a packing carton, has stirred up what Rep. Fred Richmond, D-N.Y., has called "the great tomato war." That simple item has embroiled the antagonists in questions regarding the nutritional value of tomatoes picked when vine ripe compared with those harvested green and then ripened with the aid of ethylene gas; free trade vs. protectionism; inter-American relations and even the control of illegal aliens from Mexico.

Tossed into the fray are consumer groups, the State Department, the U.S. Department of Agriculture and business interests in southern Arizona, along with the two principal contenders, Mexican and Floridian tomato growers.

Together Mexico and Florida provide all of this country's supply of fresh tomatoes during the winter season (October to June), with the imports ranging between 30 percent and 40 percent of the total.

California, the other major producer in the United States, plants and harvests during the summer months, when Mexican and Floridian fields are dormant. Washington's summer supplies also come from Virginia and other nearby states.

In Mexico, tomatoes are harvested when the blossom ends are tinged with yellow or pink. Called vine ripe (the trade calls them "breakers"), they have begun to produce their own ethylene gas, a compound that matures all fruits (pears and bananas, for example, as well as tomatoes). The bulk of this supply goes to Western states.

Other regions, including the Washington area, get as much as 83 percent of their winter tomatoes from Florida, where harvesting is done at the stage called "mature green." At that point, the tomatoes have not yet produced their own ethylene; therefore they are exposed to the gas in special rooms or trucks. According to some experts, gassed tomatoes may get red on the outside but not ripe on the inside.

Consumers, moreover, have complained about mealiness and poor flavor. And several researchers have shown that the longer the tomato stays on the vine, getting nourishment from the soil, the fuller its store of vitamins C and A as well as sugar, making the vine ripes more nutritious

If the Florida producers have their way, however, the whole country will get fewer vine ripes in future winters. Although the Floridians, of course, dispute the claims of extra nutrition and flavor in vine ripes, that's not their main point of attack. Fearful of import competition, they are asking that the rules governing growers in their state—grading and sizing regulations voluntarily set down by the growers in a so-called market order and based, in part, on the profitability of machine-packing green tomatoes—also apply to Mexico.

One specific rule lies at the core of the current donneybrook. It requires that Florid-

ian growers pack tomatoes in 30-pound cartons, each holding the same size fruit. A bill in Congress would require the same packing for imports (99 percent of which come from Mexico).

To understand how it would favor Florida, one must start south of the border, where tomatoes are picked vine ripe and have begun to soften. They need tight packing in order to prevent damage from jostling during shipping. To insure such a tight fit, sizes are sometimes mixed—small with medium, large with extra large and so on. Packing is done by hand.

Furthermore; harvesting of the vine ripes is done daily or every second day so as to select the fruits that are ready—another labor cost that Mexicans can afford because wages are low.

Now go to Florida. By harvesting green tomatoes, field hands can be sent out at 10-day intervals. That takes less labor. Often, incidentally, the workers cannot differentiate mature from immature green tomatoes, which are even less nutritious. As much as 78 percent can be picked immature, according to a survey by two university of Florida professors.

The most important reason for harvesting green tomatoes is that they are firm enough to be machine packed and loosely filled into the required shipping containers—another major labor saver.

Florida is the only tomato-producing state that has a market order. It was put into effect by request of the industry as a means of keeping what it considered to be inferior qualities off the market. The order established minimum sizes and quality requirement for tomatoes going to commercial channels.

Those which fail are usually left to rot on the ground. Those which pass the minimum test are further separated by sizes and qualities, the differences forming the basis of wholesale pricing.

Once the industry voted for the market order, it became mandatory for all growers in the state, with policing and inspection done by the U.S. Department of Agriculture.

Arguing for its passage, Florida growers contend that the Mexicans have a competitive edge not only because of low wages but also because of their ability to use pesticides that are forbidden in the United States—therefore the ability to cut losses from disease—and, above all because of the comingling of sizes for wholesale marketing.

Since size is the major criteria for wholesale pricing, say the Floridians, Mexicans can get the same price for larger and small fruits. In short, the argument goes, our neighbors south of the border use deceptive packaging.

Wayne Hawkins, executive vice president of the Florida Tomato Exchange, told the House Agriculture Committee early this month:

"Mexican imports usually sell for less money per package than comparable packages from Florida. Mexican producers can flood the United States market with tomatoes at prices that won't even return the cost of production in Florida. During periods of heavy supply, Mexican imports are frequently consigned to handlers throughout the United States. . . . It is not uncommon to have Mexican tomatoes offered for sale in Florida during our peak season at prices cheaper than Florida tomatoes."

* * * * *

In the House, the Mexicans have been more convincing so far. Their arguments go like this:

It is untrue that Mexican packaging leads to deceptive pricing. Their boxes make it easy to discern the different sizes and pricing is based on those differences.

The law would place a special burden on the Mexicans since U.S. tomato producers outside the state of Florida are not subject to any of the requirements of that state's market order.

Because vine ripes cannot be packed in the loosely fitted cartons used in Florida, the law would force Mexican growers to convert to harvesting green tomatoes and gassing them. Heavy expenditures would be incurred for gas chambers and other equipment.

This change would also cause severe unemployment, which, in turn, might encourage more illegal aliens to enter the United States. Mexicans would also lose purchasing power for many U.S. exports.

As an alternative, Mexicans might shift from tomatoes to another vegetable and thereby sharply curtail tomato exports to the U.S. Consumers here would be deprived of a complementary source of tomatoes. For example, during last year's severe frost in Florida, Mexican supplies came to the rescue.

Either way, American consumers would pay higher prices for less nutritious produce.

In essence, the bill would impose a nontariff trade barrier.

The administration agrees. Speaking in support of a free-trade policy, a State Department official said: "Passage of the bill would impair our efforts to secure the elimination of unnecessary standards, including packaging requirements, currently in effect in other countries. These measures hamper the growth of the American export trade. . . . As the world's largest exporter of agricultural goods, the United States has a vital take in the freer international movement of farm products."

Sharon Ahmad, director of the Office of International Trade, also stressed that "these packaging standards have nothing to do with the quality of tomatoes sold to the American consumer. We support the concept of uniform treatment of domestic and imported commodities with respect to quality requirements. Tomatoes imported from Mexico already meet those quality standards."

She further expressed fear of upsetting good relations with Mexico.

Siding with the Mexicans as well are such groups as Consumers Union and the Consumer Federation of America. Also Arizonans, especially folks in the border city of Nogales, which is the main distribution point for vegetables from western Mexico. A decline in tomato shipments would cut into the incomes of brokers and distributors, among others.

Testifying on behalf of his constituents, Rep. Morris K. Udall, D-Ariz., told the House Agricultural Committee:

"Decreased business means that workers will be laid off, hours will be cut, taxes from payrolls will decrease and the multiplier effect will spread repercussions of these serious and harmful actions throughout the state and the region. Arizona is currently in the midst of a recession caused by low prices for copper, and we already have over 8,000 copper workers unemployed. Mexico has just gone through a drastic peso-devaluation. This bill would be another blow to the already shaky economic health of southern Arizona and Sonora."

PANAMA CANAL TREATIES—A STUDY OF CONFLICTS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, fellow colleagues, my remarks today concern the proposed Panama Canal Treaties. Article IV, section 3, clause 2 of the U.S. Constitution states that only the Congress of the United States has the authority to dispose of American property. There are numerous reasons why we should assert ourselves and not let the President make an "end run" around the Constitution.

One of the most questionable circumstances surrounding the proposed treaties is the 6-month appointment of Sol Linowitz as Ambassador and cochairman of the U.S. negotiating team in the Panama Canal talks.

The conflicts of interest which infect the representation of the United States in negotiating a treaty over the Panama Canal fall into three separate classes, any one of which would and should have made Linowitz inappropriate to be a negotiator for the United States.

When this issue was first raised, it arose in the context of Linowitz' appointment with the personal rank of Ambassador. The Law, 22 United States Code 901a, clearly requires an appointed Ambassador to reveal his campaign contributions. Linowitz' to this day has refused to do so. The intent and purpose of the law was to preclude purchase of a position of eminence and power.

The devise of personal appointment served to prevent exposure of the matters which the law required revealed in 901a. It also prevented a confirmation hearing before the U.S. Senate in which any real and potential conflicts of interest would be revealed. That is, a confirmation hearing would have revealed those interests of the nominee which would have made the post worth purchasing in the first place. Instead, a State Department formality was substituted for a confirmation hearing.

At first, the State Department declared that there was nothing in Mr. Linowitz' interests which would conflict with his negotiating away U.S. interests in the Panama Canal. Within a week of my filing a suit contesting the legality of Linowitz' appointment, he resigned his seat on the Board of Directors of the Marine Midland Bank of New York. Marine Midland as part of a consortium of banks was a creditor of Panama for $8 million. Marine Midland is near the top of the Federal Reserve trouble list as overextended in soft loans to Third World countries, of which Panama is one. Until the suit, neither the State Department nor Linowitz thought that such a situation could be construed as a conflict. It is also difficult to see how his subsequent resignation could have cured the conflict-of-interest. Will any of the side-money benefits inure to the benefit of Marine Midland or the other banks overextended in Panama? Is it to their interest to prop up Torrijos as dictator of Panama lest a successor repudiate the loans?

To this day no one has seen the alleged State Department clearance on Linowitz. No one outside the administration knows how many "Marine Midlands" it contains. But the public record tells us a few more conflict-of-interest connections which do not lend confidence in the Treaty negotiated under the aegis of Mr. Linowitz.

First, Mr. Linowitz represented the Republic of Panama over the Panama Canal issue to President-elect Carter in late 1976. Mr. Boyd of Panama boasted of the fact. Two months later, Mr. Linowitz began representing the United States on the same issue between the same parties. By its terms such a situation is a conflict-of-interest. Added to the Marine Midland connection, Mr. Linowitz had to be influenced to see that Panama got enough money from the United States for taking back the Panama Canal. Among the terms of the proposed treaty is the fact that Panama will receive at least $2 billion in addition to the canal itself.

Second, Linowitz was negotiating the treaty while Linowitz' law firm, from which he has not resigned, remained a registered agent for South American governmental interests. Perhaps an oversight. Certainly the fact that Linowitz himself and his law firm have represented South and Central American interests for at least two decades in more than a half dozen cases is not an oversight. Panama, Chile, sugar interests all have been represented by Linowitz and his firm and all are interested in one way or another in a resolution of the canal issue favorable in their light to Panama. Linowitz could not be so insensitive to the realities of international interests to be ignorant of the obvious interconnection of all these issues.

The ultimate issue remains that Linowitz was a foreign agent for the very countries pressuring for U.S. divestiture of the canal. He is on boards which have vested interest in retaining favorable connections and even money recovery from Panama, a country with a deficit worse than the United States on a per capita basis. Finally, he represented Panama in these very negotiations. Both the reality and the appearance makes the treaty produced with his connivance more than suspect.

Much more suspect is a State Department which gave him a clean bill of health until the pressure was on. Then came the stuttering explanations that if matters touching Linowitz's business interests should arise, State was sure he would excuse himself from those parts of the treaty negotiations touching those interests. Did Linowitz withdraw from the Money negotiations? We have not heard of it.

What is to be said of an administration which trades on morality as its daily staple? Was it unaware of Linowitz' interests and the conflicts? Did not Vance tell the White House? Or did not it matter? Will the Senate now be asked to save the face of the President at the expense of the Nation? When should have they known the facts? Will the House be asked to pass enabling legislation and appropriations on a treaty with such suspect antecedents? When will we be forced to start digging a new canal for a new set of Linowitz' to profiteer at the expense of the citizens?

It is important that the Congress reflect the will of the American people in opposition of this treaty, and I have, therefore, organized an effort called Citizens Opposing Panama Canal Sellout (COPS).

The purpose of COPS will be to stop the robbers, those who would rob the United States of its national security and those who would rob American citizens as taxpayers and consumers.

I feel the cops and robbers analogy is realistic for the proposed treaty situation where increased tolls will raise the price of consumer goods and increased foreign aid programs will raise taxes in addition to reducing the Nation's control over the waterway for national security purposes.

I have also introduced a bill, H.R. 8958, which calls for a national referendum as part of the 1978 general election. The question on the ballot would read, "Shall the United States divest itself of the Panama Canal? Yes or No." Furthermore the bill calls for Congress to be guided by the results of the said advisory referendum in making their decision on the treaty.

My mail has been running overwhelmingly against the treaty and this holds true in every office of which I have any knowledge and also by public admission at the White House.

President Ford delayed the treaty negotiations last year precisely because of the effect such a proposal would have had on the 1976 election. President Carter has indicated his concern for the timing of Senate ratification, because of electoral implications. Both of these leaders seem to be aware of the popular resistance to their direction on this question.

I believe that a referendum such as I have proposed should be taken in the "public interest" so that Congress can better understand the voice of the people.

I am convinced that the Panama Canal Treaty is a fraud.

Webster defines fraud as "deceit, trickery, intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right by deceiving or misrepresenting: Trick."

Fraud is evident in many ways—in the deliberations themselves, in the financial aspects involving big money interests and in the fact that Sol Linowitz, a representative of some of those big money interests, was under pressure to get a treaty before the expiration of his appointment as a negotiator on the day the treaty was agreed to.

In addition, any talk of a new canal by the President is a fraud, because total control of new canal possibilities by the United States was given over to Panama. The payment provisions to Panama are a fraud, because the toll structure will not support the treaty and the American taxpayer will surely have to make up the difference in subsidies.

The treaty is also a national defense fraud. It is supposed to insure American security, but what it really guarantees is that enemies can use the canal against us.

Because the treaty is so obviously tainted and so highly opposed by the American people 160 of my colleagues representing 43 States are strongly supporting my resolution to bring the question of the disposal of American property to the House as well as the Senate for a vote and the list is continuing to grow each day.

The historic resolution which I have proposed will for the first time involve the House of Representatives in the treaty approval process under authority of article 4 of the U.S. Constitution.

The Panama Canal is so unique in itself and there are so many questions of possible fraud that this treaty cannot be allowed the routine consideration usually used. We must know if President Carter knew of any bugging. What concessions were made? What about the financial interests involved and the Linowitz timetable that resulted in a hastily contrived document?

Already the treaty has become a joke because of overlooked provisions such as one exempting all Americans there from paying taxes.

Because of the circumstances leading up to the agreements reached in the proposed treaty and because of the complex nature of economic aid payments to Panama which seems especially designed to circumvent the constitutional prerogatives of the Congress and confuse the American people, I have requested that the GAO launch an immediate investigation into the circumstances surrounding the proposed Panama Canal Treaties. They have informed me that they are proceeding with this investigation now.

Not only are we not selling our multibillion dollar interests in Panama, but we are, in fact, giving them away, even paying heavily to do so—all this without prior appropriation authorization from the Congress—and with possibilities of large windfall benefits to certain special interest groups.

If constitutional processes are being violated and if the security and financial well-being of American citizens are being jeopardized, then such circumstances should be made known.

A LONG HAUL—A WRONG APPROACH

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

● Mr. HANSEN. Mr. Speaker, the strains of "Panama Fever" definitely seem to be sweeping Washington. President Carter has succeeded in generating a frenzied give-away atmosphere among administration officials. The majority of the public, however, remains steadfastly opposed to any give-away of American rights and property.

Recently, in an editorial for the Washington Star, John P. Roche talked about the proposed Panama treaties. Mr. Roche identified himself as a supporter of the treaties. However, in contrast to the Carter administration's side-show and frantic efforts to secure unanimous representation by OAS heads of State, Roche states that "support of the Organization of American States isn't worth a nickel."

Although he favors the proposed treaties Roche declared that the President's unwarranted haste—

. . . has already generated a major strategic blunder. Despite the fact that the Constitution provides that Congress has the right to dispose of U.S. property, the President has decided to blind-side the House of Representatives. There are, as usual, some precedents for such evasive action, but in my judgment they are weak and *it is both unconstitutional and stupid.*" (emphasis added)

Mr. Speaker, the President must not be allowed to keep the House from playing its proper role in the ascertainment of whether or not to give the Panama Canal to the Marxist government of Gen. Omar Torrijos.

At this point Mr. Speaker, it would be useful to bring to my colleagues' attention an article by Mr. Vincent T. Hirsch, president of the U.S. Navy League which appeared in the September issue of Seapower. I believe that Mr. Hirsch's comments are extremely pertinent and represent the sentiments of the majority of Americans, as well as those of the naval profession. I commend this material highly to my colleagues and especially to President Carter. The article follows:

THE CANAL TREATY: TOO FAR, AND TOO FAST

By the time this issue of SEA POWER reaches its readers, President Carter will have signed, amidst much fanfare, the recently negotiated treaty which would in time cause the Panama Canal to be transferred to the Republic of Panama. In due course, but hopefully not during this present session of Congress, the treaty will come before the Senate for consideration; it must be ratified by that body before becoming effective. Meanwhile, as late as 10 days before the signing was to take place, the *precise* final terms of the treaty had not yet been made public.

The President has mounted an unusually intensive campaign to generate support for the treaty. The two diplomats who negotiated it, Ellsworth Bunker and Sol Linowitz, have been singled out for the highest praise for their accomplishments in finally bringing about an agreement with the Panamanians. They in turn, from their vantage point in the public spotlight, have been making dire predictions as to what will likely transpire along the Canal site and elsewhere if the treaty is not ratified. It has been suggested that the future of our relations with all of Latin America may well depend upon approval of the treaty. It is being alleged that the Canal's importance to the United States is declining regularly, and that in time our need for it would be minimal. It has been pointed out, rightly, that our largest aircraft carriers cannot traverse it because they are too large for the Canal's locks, the implication being that it no longer would be heavily used by naval vessels in time of emergency. It has been claimed that a force of 100,000 men could not defend it against sabotage, and suggested that sabotage is certain to result if the treaty does not become a reality. And, all the while, the administration appears genuinely puzzled over the reluctance of a high percentage of Americans to want to give to *any* nation, much less one not noted for either its political stability or its conservative leanings, something that represents a uniquely American accomplishment whose presence has played in the past and may well play in the future a major role in the maintaining of our national security.

In our view the President is seeking to go too far too fast. And we are disturbed over the tactics being used in seeking to bring about public acceptance of the treaty.

It seems to us that certain facts pertaining to the Canal, the Canal Zone, and the country in which it is located should be reviewed, in order to remove some of the emotional trappings this issue has been given:

The United States was predominantly instrumental in bringing about the creation of the Panamanian republic at the expense of Colombia, of which the land which is now Panama was a province. Its principal act in support of the fledgling government was a show of naval force which prevented Colombian armed forces from a military take-over after the Panamanians had declared themselves independent. Later, the United States did obtain, with apparently reluctant approval of the Panamanian government, the treaty which ceded the Panama Canal Zone to it in perpetuity. Despite the big-power politics, however, the fact remains that Panama did gain her independence because of direct action by the United States and in time also acquired a major economic asset in the form of the Canal.

Once the political maneuverings had become history, the construction of the Canal was completely a U.S. effort. Spurred into being by a far-sighted President and supported wholeheartedly by his two successors, the project became one of gigantic proportions. Furthermore, had not the United States elected to embark upon it, it is doubtful the Canal would have been built for many years to come. Earlier French efforts had ended in dismal and tragic failure, with perhaps 20,000 lives lost, principally to yellow fever and malaria. The British had bowed out of a treaty calling for joint development with the United States of such a canal. And no other nation had the will, the desire, or the wherewithal to undertake its construction. In the 11-year period required to complete it, the Canal became an object of intense national pride, and well it should have.

Not only did the United States pour millions of dollars into the creation of a means of transport that would prove a boon to the entire world, but it also eradicated yellow fever from the area and provided the rest of the globe a means for control of that disease. Had not that medical breakthrough been achieved, it is problematical that canal construction would have proceeded successfully.

It is true that our reliance on the Canal for the transport of goods has declined markedly, and that our largest carriers cannot transit it. But the figures depicting the steady fall-off in utilization are based on peacetime usage. Four former Chiefs of Naval Operations recently observed in a joint letter to President Carter: ". . . as each crisis developed during our active service—World War II, Korean, Vietnam, and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transit of our naval units and massive logistic support for the armed forces." They also observed: "From a strategic viewpoint, the . . . carriers can be wisely positioned as pressures and tensions built in any kind of short-range situation. Meanwhile, hundreds of combatants . . . can be funneled through the transit, as can the vital fleet train needed to sustain the combatants."

If the sabotage so crudely implied were to occur and the Canal closed because of it, the nation which would suffer the most from this action, aside from the United States in time of war, would be Panama. Next in line would be the countries of Central and South America, many of which rely heavily upon the Canal for shipment of a large percentage of their marketable goods from ocean to ocean.

In its relationships with Panamanian governments and people, the United States certainly can't look back with complete and utter pride. Obviously much more could have been done to contribute to an improvement in the standard of living of Panamanians, to make possible greater participation in the operation of the Canal, to cause more funds to be paid into the Panamanian treasury from Canal tolls. Those and other measures would have contributed markedly to an improved U.S. image in the Isthmus, and the Canal Zone and its occupants could have been made to appear less an example of Yankee wealth and arrogance. And it certainly isn't too late for positive steps to be taken in this direction.

However, we question whether the compensation with what appears to us to be an exorbitant sum of money to a government which has given no indication whatsoever that it would use it wisely and well is going to bring about a permanent amelioration of any hard feelings that ostensibly exist between the two governments and their people. And we also find it hard to accept that we who created such an unusual asset to world trade should be paying someone to take it off our hands, especially when we have no idea whether the political entity which now will be responsible for its operation will be able to sustain that operation successfully.

For the United States to be magnanimous with its assets is nothing new. Europe today is an astounding testimonial to the Marshall Plan. The vitality of Japan is a direct result of our willingness to rebuild the shattered country of a beaten enemy. There are countless other examples. But in no other circumstance has there been involved the transfer of an asset which was created from a harsh and forbidding environment and made into a dramatically visible means of transportation and communication from which almost all mankind has profited. Accordingly, giving up such a unique asset under any circumstances comes hard to Americans. Giving it up under conditions that have more than a vague resemblance to ransom and under pressures that appear to some degree to be artificially generated obviously is not acceptable to what appears to be a majority of our countrymen.

It is not our view that the philosophy of a treaty which ultimately would transfer control of the Canal to the Panamanian government be completely scuttled. After all, four Presidents generally have concurred in this philosophy. And there's no doubt at all that this would be a good will gesture of unusual magnitude which could well have highly beneficial results over the long haul. But we also believe the best interests of the United States should be looked after as well, and we don't believe this particular treaty accomplishes that goal. We believe firm guarantees of our right to protect our security by insuring that the Canal remains available to all under any circumstances and is efficiently operated must be spelled out, and we do not believe they are. In our view that must be the foremost consideration of any treaty, and not the feelings of the Panamanian people.

We also believe this issue should be exhaustively debated in the Senate without the steamroller tactics being used by the administration to bring about Senate ratification. And should it be defeated in the Senate, we devoutly hope President Carter will not view that vote as a diplomatic catastrophe, but rather as a reflection of the will of the people he leads, and then will set forth to negotiate a treaty that will be much more palatable than this one is.